

Privy Council Documents

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Privy Council Documents: Introduction

In 1907 the then-separate countries of Canada and Newfoundland agreed that the dispute over the location of their common boundary in the Labrador Peninsula should be sent to arbitration. The highest court of appeal in the British Empire was the Judicial Committee of the Privy Council in London, which agreed to hear the case. The hearing took place in 1926. Each side submitted arguments and counter-arguments, and thousands of documents. The decision was announced on 1 March, 1927.

The result of the case had important ramifications for both Canada and Newfoundland, and the 12 volumes of documents submitted to the court form a valuable historical resource used by students of Labrador history.

In 2003 the Newfoundland and Labrador Heritage Web Site began placing all 12 volumes on its web site in as close a layout to the original printed version as was reasonably possible. The project was huge totalling over 3300 web files.

In the summer of 2012 the Newfoundland and Labrador Heritage Web Site undertook to upgrade the web site from html 4 to html5 using a faceted design approach, and making the site responsive to mobile devices and tablets. To include the Labrador Boundary Dispute documents in this upgrade would have been prohibitively costly.

Instead we decided to convert all 12 volumes into one pdf file. Its size, however, is huge, totaling more than 56 thousand kb. We were required to combine all volumes because there were frequent hot links between them which would have been broken if each volume was placed into its own pdf file.

The screenshot shows a web browser window with a navigation menu on the left and a main content area on the right. The navigation menu includes links for 'Confederation 1864-1949', 'The Labrador Boundary', and 'Privy Council Documents' with sub-links for volumes I through XII. The main content area displays the title page of 'In the Privy Council' for the matter of the boundary between the Dominion of Canada and the Colony of Newfoundland in the Labrador Peninsula. The page is titled 'VOLUME I OF JOINT APPENDIX' and contains the text: 'IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF CANADA AND THE COLONY OF NEWFOUNDLAND IN THE LABRADOR PENINSULA BETWEEN THE DOMINION OF CANADA of the one part AND THE COLONY OF NEWFOUNDLAND of the other part. VOLUME I OF JOINT APPENDIX. CONTAINING CASE on behalf of the COLONY of NEWFOUNDLAND. CASE of the DOMINION OF CANADA. COUNTER-CASE on behalf of the COLONY of NEWFOUNDLAND. COUNTER-CASE of the DOMINION OF CANADA.'

Labrador Boundary Dispute, Vol I, p. ii

Sample of how a page originally looked as a html 4 web page.

[Larger Version](#)

In the original web documents up to five printed pages were included in one web page, yet with some documents over 60 pages in length, visitors would need to be able to move from one web page to the next within any single document. To achieve this we placed at the bottom of each web page a bar containing hot-linked numbers. Each number corresponds to a web page of the document

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Number bar that appears in many document pages.

We retained these links in the pdf file and they still perform the same function.

Visitors can use the Heritage Web Site's own search engine to search a subject in the pdf file. Alternatively, they can use a major search engine such as google.com. We have also kept a link to the old Labrador Boundary html pages in the Heritage Partners section of the site.

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1864-1949

The Labrador
Boundary

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COLONY OF NEWFOUNDLAND IN THE
LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA of the one part

AND

THE COLONY OF NEWFOUNDLAND of the other part.

VOLUME I

OF

JOINT APPENDIX

CONTAINING

CASE on behalf of the COLONY of NEWFOUNDLAND.

CASE of the DOMINION OF CANADA.

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In the Privy Council

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA and the
COLONY of NEWFOUNDLAND in the
LABRADOR PENINSULA.

CASE

ON BEHALF OF THE

COLONY OF NEWFOUNDLAND

JOINT APPENDIX.

I. p. 125.

SECTION I.—INTRODUCTORY.

1. By an agreement in writing, dated the 11th day of November, 1920, and made between the Government of the Dominion of Canada and the Government of the Colony of Newfoundland, the said respective Governments agreed to submit for reference by His Majesty to the Judicial Committee of His Majesty's Privy Council for their decision the following question, viz.:

What is the location and definition of the Boundary as between Canada and Newfoundland in the Labrador Peninsula, under the Statutes, Orders in Council and Proclamations?

And the two said Governments have further agreed to present a Petition to His Majesty praying him to refer the said matter to the said Judicial Committee to hear and consider the same and to advise His Majesty thereon.

2. The Colony of Newfoundland submits that the correct answer to the question referred to in paragraph 1 hereof is that the boundary should be a

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line drawn due north from Anse Sablon as far as the fifty-second degree of North latitude, and should be traced from thence northwards to Cape Chidley along the crest of the watershed of the rivers flowing into the Atlantic Ocean. This line of boundary is shown coloured blue on the map, marked "A," which will be found in the pocket of, and forms part of,

*Page 1
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Bay, NL*

I. pp. 210-
211.

I. pp. 149, 153, 158,
190, 205.

this Case. The Colony of Newfoundland submits that this contention is justified:

III. pp. 1250-1666
(Part VIII).

(i) by the terms of the documents effecting or dealing with the partition of territory in the Labrador Peninsula between Newfoundland and Quebec or Lower Canada;

(ii) by the evidence afforded by the maps of the Labrador Peninsula; and

(iii) by the evidence to be adduced of acts of administration and occupation.

3. For purposes of convenience the main historical events and documents to which reference is made in this Case are here set out in tabular form:

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DATE.	DOCUMENT.	
1632 ..	Treaty of St. Germain-en-Laye.	I. p. 326
1670 ..	Charter of Hudson's Bay Company.	II. p. 367
1697 ..	Treaty of Ryswick.	I. p. 328
1713 ..	Treaty of Utrecht.	I. p. 329
1763 ..	Treaty of Paris: Canada ceded by France to Great Britain.	I. p. 330
1763 ..	Proclamation under Treaty of Paris: establishing Quebec and defining its boundaries: and giving the Governor of Newfoundland jurisdiction over part of the Coast of Labrador.	I. p. 153
1774 ..	Imperial Statute. Quebec Act, 14 Geo. III., c. 83: annexing to the Province of Quebec what by the Proclamation had been made part of the Government of Newfoundland.	I. p. 158
1791 ..	Order in Council ordering the division of the Province of Quebec into the Provinces of Upper and Lower Canada.	I. p. 164

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DATE.	DOCUMENT.	
1809 ..	Imperial Statute. 49. Geo. III., c. 27: re-annexing to Newfoundland part of the Coast of Labrador.	I. p. 190
1825 ..	Imperial Statute. 6 Geo. IV., c. 59; re-annexing to Lower Canada part of the Coast of Labrador.	I. p. 205
1832 ..	Commission to Governor Cochrane under the Great Seal: establishing representative Government in Newfoundland.	IV. p. 1954
1840 ..	Imperial Statute. 3 & 4 Vict. c. 35:	I. p. 214

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Graham,

the Provinces of Upper and Lower Canada united to form the Province of Canada.

- 1854 .. Newfoundland becomes a responsible self-governing Colony. IV. p. 1985
- 1857 .. A select Committee of the House of Commons inquire into Hudson's Bay Co.'s territories. V. p. 2279
- 1867 .. British North America Act, 30 & 31 Vict. c. 3: the Province of Canada divided: what had been Lower Canada becomes the Province of Quebec. I. p. 217
- 1871 .. British North America Act, 34 & 35 Vict. c. 28. p. 242
- 1880 .. Order in Council: annexing to the Dominion of Canada all British territories and possessions in North America with the exception of the colony of Newfoundland and its dependencies. p. 244

p. 330.

4. The real starting point in considering the matters in dispute in this Arbitration is the Treaty of Paris, 1763. But in order to appreciate the position at that date, it is necessary to refer shortly to a few landmarks in the history of North America before 1763.

III. p. 884, 1. 43.

A.—The Island of Newfoundland, 1497-1698.

In 1497 John, or possibly Sebastian, Cabot sailed to Newfoundland from the west coast of England.

p. 4

IV. pp. 1691, 1693, 1. 6.

His enterprise was inspired by the determination to develop the British Navy which marked the reign of Henry VII., and was, as will be seen, the keynote of British policy in relation to Newfoundland until the nineteenth century. During the years between 1497 and 1583, Portuguese and Basque fishermen, and others from Normandy and Brittany, resorted to the Newfoundland coast in considerably greater numbers than the English. In 1583 Sir Humphrey Gilbert obtained a commission from Queen Elizabeth as Governor of the Island and a large grant of land there. In Hakluyt's words, "he was the first of our nation that carried people to erect an habitation and government in these northerly countries of America." But this attempt at colonization failed, and he himself perished on the return journey.

IV. p. 1701.

p. 1702, 1. 33.

cf. p. 1712, 1. 26.
p. 1715
p. 1717.

In 1610 a further attempt at colonization was made by Guy's Association, which obtained a Royal Charter from James I.

p. 1717, 11. 18-19.

p. 1718, 1. 3
p. 1719, 1. 14.

cf. p. 1719.

I. p. 250.
p. 251, 1. 23.

I. p. 255, 1. 1.
1. 8.

p. 253, 1. 26.

granting them the territory between Cape St. Mary's and Cape Bonavista. Under the protection of this Charter John Guy of Bristol settled in Conception Bay, issuing decrees as Governor and starting the long conflict with the transitory fishermen and seamen which supplies the key to the whole history of the island. This conflict, which continued for two centuries, was the result of divergent interests and opposing policies. On the one hand were those who wished to found a settlement in Newfoundland and make it a colony with ordered and established Government, and on the other those who preferred that it should be treated simply as a fishery and a training round for seamen from the west coast towns and villages of England. The latter party represented the consistent policy of the British Government for the next two hundred years, and as a result rules and regulations were drawn up in the Star Chamber in 1633, and confirmed with some variations (unnecessary to be specified for this purpose) by Act of Parliament in 1698 (10 and 11 Will. III. c. 25), which definitely decided the issue against colonization. By this Act, the system of fishing admirals was introduced. The first captain to arrive from England at any harbour for the spring was "ipso facto" admiral for the season, the second vice-admiral, and the third rear-admiral. The admirals performed

p. 5

not only executive but judicial functions, a right of appeal being reserved to the officer commanding the convoy of the King's ships. The Act further provided for the inclusion in the crews of the fishing vessels from England of a specified proportion of "green men," i.e., men untrained in and new to the work.

B.—Canada and New France, 1534-1670.

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I. p. 153.

p. 326.

Meantime, in 1534, Cartier had made his first voyage to the Bay des Chaleurs and Gaspé. In the next year is the first mention of "Canada," the river now known as the St. Lawrence being referred to as the Grand River Hochelaga, "the waterway of Canada." The word Canada was at that time used to describe the central portion of the territory between Montreal and Anticosti, though from the arrival of Champlain in 1603, Canada and New France seem often to be used interchangeably to connote the French possessions around the St. Lawrence. Champlain can fairly be called the founder of New France. In 1608 he formed a settlement at Quebec, and soon afterwards a further settlement at Three Rivers. In 1641, shortly after his death, a settlement was formed at Montreal. These three settlements (very sparsely populated, for there were only two hundred persons in Quebec in 1641) formed the districts upon which the French organisation was based, and the arrangements made by General Monckton and Lord Amherst

after the fall of Quebec in 1759 show that the same division was maintained by the British until Quebec was made into a Province by the Royal Proclamation of 1763. In 1628 an expedition sent from England under Sir David Kirke appeared in the St. Lawrence to challenge the French possession of their settlements, and in 1629 an expedition sent from Quebec was surrendered by Champlain to Kirke. But by Article III of the Treaty of St. Germain-en-Laye (concluded after the Duke of Buckingham's failure at La Rochelle), Charles I. rendered and restored to Louis XIII. all the places possessed in New France, Acadia (i.e. Nova Scotia), and Canada by the subjects of Great Britain, Port Royal, Port Quebec, and Cape Briton being particularly mentioned.

C.—The Charter of the Hudson's Bay Co., 1670, and the Treaty
of Utrecht, 1713.

During the latter half of the sixteenth century Frobisher saw Hudson's Straits, and Davis crossed the mouth of the Straits and sailed down the coast of Labrador to the fifty-second degree of North latitude, landing at what are now known as Davis and Hamilton Inlets. In 1610 Hudson sailed into Hudson's Bay.

In 1670 the Hudson's Bay Co. obtained from Charles II. a royal charter giving them sole rights of trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds in whatsoever latitude they should be, that lie within the entrance of Hudson's Straits, together with all the lands and territories upon the countries, coasts, and confines of the seas, etc., as aforesaid, that were not actually possessed by or granted to any of His Majesty's subjects or possessed by the subjects of any other Christian Prince or State. The Company were also granted the proprietorship of the territories so described and the full right and power to govern such territories.

It is unnecessary to trace in detail the history of the conflicts which followed between the British established under the authority of this Charter on the shores of Hudson's Bay and the French who were making their way north to Hudson's Bay from New France. In 1697, by the Treaty of Ryswick, the French obtained from Great Britain a cession of the territories bordering on Hudson's Bay. But war soon broke out again, and in 1713, by the Treaty of Utrecht, Article X, France restored to Great Britain to be possessed in full right for ever the Bay and Straits of Hudson, together with all lands, seas, sea-coast, rivers and places situate in the said Bay and Straits, and which belonged thereunto, no tracts of land or of sea being excepted, which were then possessed by the subjects of France. The Article went on to provide that it was agreed on both sides to determine by Commissaries to be forthwith named by each party the limits which were to be fixed between the said Bay of Hudson and the places appertaining to the French, which limits both the British and French subjects should

be wholly forbidden to pass over or thereby to go to each other by sea or by land. The same Commissaries were also to have orders to describe and settle in like manner the boundaries between the other British and French colonies in those parts. Commissaries were duly appointed and proposals and counter-proposals were made, but no definite decision was ever reached. The French proposal would have included in New

- JOINT APPENDIX.
- cf. III. p. 885, 1. 12.
1. 17.
1. 23.
II. p. 367.
p. 368, 1. 9.
p. 368, 1. 26.
p. 369, 1. 27.
III. p. 886.
- I. p. 328.
- p. 329.
- p. 329, 1. 24.
- I. p. 329, 1. 29.
- III. p. 889, 1. 23.
p. 890, 1. 11.
- cf. II. p. 415, 1. 14.

France the territory south-east of a line from Cape Chidley to a point half-way between the French post at Lake Nemiskau and Fort Rupert; by the British proposal the dividing line would be drawn from Cape Grimington to the middle of Lake Mistassini and thence south-west to the forty-ninth degree of North latitude.

The Treaty of Utrecht further declared Newfoundland to belong in exclusive sovereignty to Great Britain, but reserved fishing rights to the French between Cape Bonavista and Cape Riche.

D.—The Position in Newfoundland and on the Labrador Peninsula in 1763.

I. p. 330.

I. p. 329.

II. p. 367.

III. p. 889, 1. 28.

Nfld Atlas, No 26.

I. p. 153.

Can. Atlas.

III. p. 889, 1. 28.

I. p. 153.

III. p. 904, 1. 38, p.
927, 1. 18.

II. p. 387, 1. 18.

III. p. 905, 1. 12.

cf. III. p. 896, 1. 39.

The Labrador peninsula connotes all the area, some 420,000 square miles in all, east of a line joining St. James' Bay and the River St. Lawrence. No further modifications in the position between France and Great Britain in Newfoundland or Canada or on the Labrador peninsula were made by Treaty between 1713 and 1763, and accordingly though the war which was concluded by the Treaty of Paris involved the capture of Quebec by the British in 1759 after the battle of the Heights of Abraham, and the capture in 1762 of St. John's Carbonar and Trinity by the French and their recapture in the same year by Lord Colville, yet the situation which The Treaty of Paris was designed to modify was that established as a result of the Treaty of Utrecht. That position was that the island of Newfoundland itself was subject to the British Crown, but that the only territories on the Labrador peninsula subject to the British Crown were those granted to or acquired by the Hudson's Bay Company under their Charter of 1670, and that though the boundaries of those territories of the Hudson's Bay Company were not definitely ascer-

p. 8

tained, they did not extended anywhere (save possibly in respect of the area between Cape Chidley and Cape Grimington) further into the interior than the height of land, which formed their boundary in 1857. (See the map attached to the Report of the Select Committee of the House of Commons appointed in that year to consider the state of the British possessions in North America under that Company's control.) It is indeed probable that those responsible for the Royal Proclamation of the 7th October, 1763, accepted as the Southern Boundary of the Hudson's Bay Company's territories the line shown on the small map inset in Mitchell's Map (1755) of the British Colonies in North America, which represents the British proposal after the Treaty of Utrecht.

p. 897, 1. 22.
p. 962, 1. 18.
pp. 966, 993, 997.
p. 998, 1. 3.
p. 905, 1. 29.

cf. III. p. 956, 1. 15.

p. 1086, 1. 30.

cf. III. p. 1338, 1. 11.

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5. Before considering the words of the Proclamation under the Treaty of Paris, it will be convenient to state shortly the circumstances in relation to which those words have to be construed.

In 1763 the Labrador peninsula was regarded as of importance almost solely on account of the fisheries carried on, on the north shore of the Gulf of St. Lawrence, mainly for whale, sea-cow (walrus), and seals, in the straits of Belle Isle, and each year a little further north of those straits, principally for cod, and on the rivers along all the extend of coast mentioned for salmon. Before the Treaty of Paris, 1763, the French had made grants of territory along the northern shore of the Gulf of St. Lawrence to French subjects; few, if any, of such grants extended more than four leagues into the interior, and none of them seems to have extended further east than Blanc Sablon. Traffic with the native inhabitants in fur and hunting in the interior were interests not wholly overlooked by the French and English, but they were of very subsidiary importance compared with the fishing. The interior of the country was bleak and uninviting, swampy and unsuitable for cultivation, and was inaccessible except from the sea shore. The native population as small and migratory, and in the area no claimed by the Newfoundland Government no Europeans were settled. Even to-day the interior country is largely unknown, and between the River Saguenay and

p. 9

Cape Chidley there are no settlements out of sight of sea or river water, which even in the western part of Canadian Labrador, between Natashquan and the Saguenay, apart from the most rudimentary agriculture and a pulp mill established some ten years ago and Seven Islands, there is no industry except fishing and furring.

6. The aboriginal inhabitants of the Labrador Peninsula have altered very little, either in numbers or otherwise, since 1763. They may be roughly divided into three tribes: First the Esquimaux, to be found along the coast, particularly north of the Straits of Belle Isle (there are now no Esquimaux south of the Hamilton Inlet); next the Mountaineers, living further inland than the Esquimaux, and principally south of the Hamilton River, with their main hunting-grounds near the North West River, though they hunted on both sides of the height of land; and thirdly, the Nascopies, occupying the central portion of the area south of the Hudson's Straits. The number of these native inhabitants varied probably between two thousand and four thousand in all. These Indians (apart from the Esquimaux who depended principally upon fishing) lived by hunting and trafficking in furs. The Mountaineers and Nascopies (particularly the latter who had a large admixture of

I. p. 153.

1. 20.

Red Indian blood) had had but little connection with the white men.

SECTION II.—1763-1774.

7. By virtue of the Royal Proclamation issued under the Treaty of Paris on the 7th October, 1763: -

(a) The Government of Quebec was bounded on the Labrador Coast by the River St. John, and from thence by a line drawn from the head of that river, through the Lake St. John, to the South end of the Lake Nipissim; from whence the said line crossing the River St. Lawrence and the Lake Champlain in 45 degrees of North Latitude, passes along the high lands which divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the sea, and also along the north coast of the Baye des Chaleurs, and the

I. p. 154, l. 17.

p. 156, l. 23.

p. 10

coast of the Gulf of St. Lawrence to Cape Rosières, and from thence crossing the mouth of the River St. Lawrence by the West end of the Island of Anticosti, terminates at the aforesaid River St. John.

(b) All the Coast of Labrador from the River St. John to Hudson' Straits, together with the Islands of Anticosti and the Magdalen and all smaller islands lying upon the said coast, was put under the care and inspection of the Governor of Newfoundland.

(c) There was reserved to the Crown, "for the use of the Indians, all the lands and territories not included within the limits of our said three new Governments,"(i.e., E. and W. Florida and Quebec), or within the limits of the territory "granted to the Hudson's Bay Company; as also the lands and territories lying to the westward of the sources of the rivers which fall into the sea" (i.e., the Atlantic Ocean) "from the West and North West."

Nfld. Atlas

(I. p. 211, l. 1).

I. p. 153, l. 21, p.
154, l. 17.
III. p. 997.

pp. 1023, 1047, 1055.

p. 949, l. 24.

The effect of the Proclamation according to the submission of the Colony of Newfoundland, as to place under the Government of Quebec the area coloured blue, and under the Governor of Newfoundland the area as coloured green and red on the map marked "A," which will be found in the pocket of this Case.

8. The eighteenth and nineteenth century maps show that it was generally believed at the material dates between 1763 and

1825, that the River St. John had its source of the River Romaine, i.e., at or near the 52nd degree of north latitude. There were good reasons to account for the choice of the River St. John as the boundary; for west of it it was desirable both by reason of the French grants of land made before the Treaty, and on account of the nature of the fishery carried on there, that a "sedentary fishery," i.e., a fishery based upon established settlements, should be created, whereas east of the river the opportunity could be seized to create another nursery for seamen from the west

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p. 1335.

p. 1328.

p. 1328, 11. 13, 15.

of England, like that already in existence round the island of Newfoundland itself. For the maintenance of this nursery for seamen, it had been found essential to prohibit all settlement and colonization. The two systems, that of the established sedentary fishery and that of the nursery for seamen, were diametrically opposed, and they naturally came into conflict in the area between the River St. John and Blanc Sablon, since there had been some French posts further east than St. John. And the Quebec Act of 1774, referred to in paragraph 13 hereof, was passed with the object of putting an end to this conflict.

9. In the years between 1763 and 1774 the Government of Newfoundland showed considerable activity in its new dependency. In particular, Hugh Palliser, who became Governor some six months after the Royal Proclamation, not only issued Regulations for the Fishery on the coast of Labrador (on the 8th April and 28th August, 1765), but clearly regarded himself, and in the light of his instructions rightly regarded himself, as charged with duties towards the native inhabitants, viz.:

(i) to ensure that they were fairly and properly treated;

(ii) to foster trade with them;

(iii) to protect and encourage the missionaries who went among them ; and

(iv) to prevent the subjects of foreign states from trading with them.

(See his letter to the Lords of Trade, 1st September, 1764, and his orders of the 8th April and 10th August, 1765, and the Representation to His Majesty upon the complaints of the Court of France dated the 16th April, 1765.) Governor Palliser himself interviewed at Pitts Harbour four hundred or five hundred of the savages "who come yearly from the North to the Straits of Belle Isle" (*cf.* his reports of the 11th September and 30th October, 1765). The missionaries, whom Governor Palliser encouraged to go among the Esquimaux inhabitants, were Moravian Brethren of the Society of the Unitas Fratrum, and by an Order-in-Council dated the 3rd May, 1769, 100,000 acres at Esquimaux

Bay were granted to them (no doubt in response to their Petition of 23rd February, 1765). It appears from a report of two of the brethren to Lord Sydney, dated the 26th May, 1784,

- p. 1032.
p. 1304.
p. 1317.
p. 1319, 1. 23.
p. 955.
p. 959, 1. 42.
l. 6.
p. 1089, 1. 22.
p. 1059.
p. 1062, 1. 16.
pp. 1269-70.
p. 1269.
III. p. 1270, 1. 32.
l. 33.
p. 1059.
- that the Society established settlements in 1770 at Nain, in 1776 at Okkak, and in 1782 at Hopedale. The Governors of Newfoundland exercised jurisdiction by means of the missionaries in these jurisdiction by means of the missionaries in these settlements. See the Report by James Hutton, Secretary of the Unitas Fratrum, dated 6th December, 1773, from which it appears that as far north as 59 deg. 30 min. of North latitude, the governor's orders in reference to the punishment of crime were made known to the Esquimaux; and *cf.* Governor Palliser's Report of the 20th October, 1768, and Governor Shuldham's Proclamation of the 4th May, 1772.
10. It is clear from the documents dated 5th December, 1765, containing the account of the voyage of the four missionaries from May to November, 1765, that Governor Palliser did not restrict his interest to those native inhabitants who lived along the margin of the sea; his inquiries were directed to the possibility of trade and intercourse with the inhabitants of the interior. The first of these inquiries is shown in the Governor's Report in answer to the questions of the Board of Trade, on the 19th March, 1766; in his Report Governor Palliser suggested the establishment of a fur trade with the mountaineers, whom he described earlier in the Report as living "inland far from the coast." Such a fur trade was, in fact, established (*cf.* Governor Shuldham's remarks in obedience to his instructions for the years 1772-3, Article 25). It required, as George Cartwright pointed out in his Memorial of the 6th January, 1773, "a thorough knowledge of the interior part of the country, which, on account of the deep snows and the rigour of the furring season, is only to be acquired by slow degrees." In addition to Cartwright, other fishermen frequented Newfoundland established themselves early in the fur trade on the Labrador. Jeremiah Coghlan (who extended his operations from Fogo to Cape Charles and afterwards to Alexis River) in his letter to Governor Montague of Newfoundland of the 30th August, 1777, writes
- p. 13
- p. 984, 1. 44.
II. p. 446.
Cf. III. p. 1005.
p. 1163.
pp. 1360-1486.
p. 1360.
l. 31.
- of employing on the Labrador one hundred men in the seal and cod fisheries, and forty men in the salmon and furring business. And it appears from Cartwright's Memorial already referred to that Mr. Pinson, the pioneer of the import trading house of Noble & Pinson, was beginning to establish himself thus early on the Labrador.
11. In order further to consolidate the position of the British Crown in the area under his government, Governor Palliser suggested on the 13th May, 1766, the erection of blockhouses to encourage the adventurers and to establish the possessory right to the country at a place in the centre of the whole coast. This course was sanctioned in a letter from the Duke of Richmond to the Lords of Admiralty, dated the 28th May,

p. 939.
p. 939, 1. 29.
p. 940, 1. 3.

1766, and a blockhouse was in fact built at York Fort in Chateau Bay. This blockhouse was garrisoned from Newfoundland until the garrison was finally withdrawn in November, 1775.

p. 939.

12. The Governor of Newfoundland also took steps from the first for the administration of justice on the coast of Labrador, as witness the surrogate commission given by Governor Graves to Captain Saxon of H.M.S. "Pearl" for the area from the entrance of Hudson's Straits to the river St. John on the 20th June, 1763, and the similar commission, dated 13th April, 1765, and given by Governor Palliser to the Captain of the sloop "Zephyr," from the River St. John to Cape Charles, and to Sir Thomas Adams of H.M.S. "Niger," from the entrance of Davis Straits to York Harbour inclusive. It was natural that these early Governors, in establishing in their new dependency a second nursery for seamen similar to that already formed in the island of Newfoundland itself, should set up the same system of administering justice by means of naval surrogates as was in force in the island. In the island of Newfoundland, as in Labrador, large tracts of the interior country are to this day practically unknown and wholly uninhabited, and in both in the early stages the surrogate system was sufficient, since almost all those for whom justice has to be administered were to be found by the sea shore.

I. p. 153.

III. p. 948.

p. 14

p. 961.

SECTION III—1774-1809.

p. 1013.

p. 1058.

p. 1025.

p. 997, 1. 20.

I. p. 158.

p. 158.

13. The Royal Proclamation had not long been issued when it became apparent that some of the grants made by the French before the Treaty of Paris for the seal and sea-cow fishery extended further east than the River St. John; and those who had settled on the coast east of that river were early discontented with the energetic way in which Governor Palliser enforced the regulations for a non-sedentary cod fishery. *Cf.* Governor Palliser's Report of the 30th October, 1765, and the Representation of the Lords of Trade of the 27th March, 1766. On the 14th August, 1767, Governor Palliser refused the request of Governor Carleton of Quebec that these settlers should be protected in possession of their settlements. On the 19th December, 1772, the Lords of Trade took the matter again into their consideration, and on the 22nd April, 1773, there is a Minute of the Privy Council showing that the question was discussed of annexing to Quebec the area between the River St. John and Bay Phillippeaux (which is the same bay as Brador Bay).

p. 153.

p. 159, 1. 13.

p. 330.

Eventually in 1774 an attempt was made to solve the difficulty by an Imperial Statute annexing to Quebec all the territory added to the Government of Newfoundland by the Proclamation. In the Preamble of the Act of the Parliament of

Great Britain giving effect to this decision (the Quebec Act 1774, 14 Geo. III. c. 83), it was recited that certain parts of the territory of Canada where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said Province of Canada, under grants and concessions from the Government thereof, had been by the Royal Proclamation of the 7th October, 1763, annexed to the Government of Newfoundland and thereby subjected to regulations inconsistent with the nature of such fisheries. The Act then went on to enact that all such territories, islands, and countries which had since the 10th February, 1763 (the date of the Treaty of Paris), been made part of the Government of Newfoundland should be annexed to and made part and parcel of the Province of Quebec. Consequently the area now in question became part of that Province, and Governor Carleton received

II. p. 820.
pp. 832, 833, 834.

p. 833, 1. 36.

p. 832, 1. 38.
p. 833, 1. 39.

III. p. 1170.
p. 1183, 1. 27.
p. 1185, 1. 29.
pp. 1194, 1196.

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instructions as to policy in regard to it. But as appears from Articles 30, 34, 35 and 36 of the Instructions to Governor Carleton, after the passing of the Act referred to, these sedentary established settlements east of the River St. John covered but a small district of the coast, and the policy of the Home Government was to continue on the remainder of the coast the non-sedentary cod-fishery for the benefit of the west of England seamen and the British Navy. It is not surprising that the Quebec Government did nothing to support this latter policy, with which they were unfamiliar and had no sympathy, in an area too far distant from their seat of Government for effective control to be maintained without considerable effort and expenditure. It is clear that the Quebec Act was too heroic a remedy for the evil which it was designed to cure.

I. p. 158.

p. 159, 1. 12.

1. 13.

I. p. 158.

p. 190.

14. By the Quebec Act, the boundaries of the Province of Quebec as now extended, were defined as reaching "Northward to the Southern Boundary of the territory granted to the Merchant Adventurers of England trading to Hudson's Bay," and it was provided, as already stated, that "all such territories islands and countries which have since the 10th February 1763 been made part of the Government of Newfoundland" were. . . "during His Majesty's pleasure annexed to and made part and parcel of the Province of Quebec, as created and established by the Royal Proclamation of the 7th October, 1763." The result of this Act, according to the submission of the Colony of Newfoundland, was that the areas coloured green, red, blue, and yellow on the map, marked "A," which will be found in the pocket of this Case, were all under the government of the Province of Quebec.

15. By virtue of the Quebec Act the Government of Newfoundland was deprived from 1774 until 1809 of jurisdiction in Labrador, but the Act left Quebec with an area

which she could not administer, and this mistake, as will subsequently appear, was remedied later. Throughout the period from 1774 to 1809 the Governors of Newfoundland continued, in their capacity as admirals commanding in chief the ships on the station, to undertake without refer-

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p. 1176.

p. 1177.

p. 1170.

p. 1171.

p. 1174.

p. 1183.

III. p. 1174.

p. 1138.

ence to the Province of Quebec duties and responsibilities in those parts of Labrador formerly within the jurisdiction of Newfoundland, while the Province of Quebec in fact exercised no jurisdiction there. The responsibilities of the Governor of Newfoundland in the area referred to appear not only from the terms of the instructions to the various Governors during the period, but also from the instructions given on the 28th April, 1775, by the Earl of Dartmouth to the Lords of the Admiralty for transmission to Rear-Admiral Duff (then Governor of Newfoundland) to inspect the fisheries on the coast of Labrador and to protect the Unitas Fratrum, and from the instructions given through Lord George Germain to Governor Montagu of Newfoundland for the protection of one William Thomas in his fishing post on the coast of Labrador. The Governor of Newfoundland had further the duty of controlling the issue of ordnance material for fishermen on the Labrador, and the distribution of arms and ammunition for the defence of Alexis River, Temple Bay, and Chateau Bay - see the letter from Lord George Germain to Governor Edwards dated the 2nd April, 1779, and Governor Edwards' report dated the 12th September, 1779.

16. On the 3rd July, 1778, the merchants concerned in the fisheries on the coast of Labrador in a Petition to Lord George Germain complained that ever since the said coast had been put under the Government of Quebec, no notice had been taken of the area, nor had any steps whatever been taken for the protection and encouragement of the fisheries there, and they pressed for the appointment of a superintendent for these purposes. Lord George Germain, in a letter to the Lords of the Treasury dated the 9th July, 1778, informed them that the King had decided to appoint such a superintendent, and that an allowance was to be made for him on the Quebec estimate. On the 16th March, 1779, Nicholas Coxe was appointed to the post by the Home Government; but as appears from a report enclosed in Mr. Lymburner's letter of the 1st July, 1791, neither the Governor of Quebec nor the superintendent had it in their power to make or enforce a single regulation or rule for the

coast, as they had no vessel under their direction to carry the persons necessary to see their orders properly put into execution. Indeed, though the Government of the Province of Quebec actively administered the western part of the north shore of the St. Lawrence, nothing whatever was done (apart from the appointment of the superintendent) for the area east of the River Saguenay.

I. pp. 190, 244.

III. p. 1185.

17. On the 9th July, 1784, the Brethren of the Unitas Fratrum pointed out in a dispatch to the Secretary of the Home Department that the missionaries on the Labrador coast were out of reach of the Government of Quebec in every point of view, that no communication, inspection, or protection was possible, and that they had since the annexation to Quebec applied to the Governors of Newfoundland and always found them ready to do whatever was in their power so far as their commission reached. They therefore urged the advantage of reuniting the coast of Labrador with Newfoundland.

III. p. 1185, l. 29.

p. 1186.

SECTION IV. — 1809-1880.

p. 1194.

18. The evidence given by John Reeves, Chief Justice of Newfoundland, before the Committee appointed by the House of Commons in 1792 to inquire into the state of the trade to Newfoundland, confirmed the assertions of the Unitas Fratrum referred to in paragraph 17 hereof and supported their conclusion. He pointed out that the influence which the coast felt from a centre so far removed was very small, and that in truth there was no Government whatsoever there. His opinion was that it was the attempt of the Governors of Newfoundland to apply to the seal fisheries the system properly adapted to the non-sedentary cod fisheries, which was the cause of the trouble that gave rise to the Quebec Act. On the 9th September, 1807, Governor Holloway, of Newfoundland, in a dispatch to Lord Castlereagh, suggested the re-annexation of the coast of Labrador to Newfoundland as the most effectual mode of suppressing the illicit trade carried on by the Americans who fished on the Labrador, continuing a practice which they had originally enjoyed as of right when they were British

III. p. 1194, l. 32.

I. p. 190.

p. 205.

p. 190.

p. 195, l. 38.

p. 18

subjects. He pointed out that the annexation to Quebec was on account of a few grants to individuals which extended but to a small district. It is curious in view of this explanation that the Imperial Government, when in 1809 they adopted the main proposition pressed on them, did not at once detach from the area re-annexed to Newfoundland the small district covered by the grants, but for whatever reason this correction was not made until the Act of 1825.

p. 205.

p. 210, l. 44.

19. In 1809 by an Imperial Act (49 Geo. III. c. 27) "such parts of the Coast of Labrador from the River St. John to Hudson's Straits and the Island of Anticosti and all other smaller islands so annexed to the Government of Newfoundland by the Proclamation of the 7th October, 1763" (except the island of Magdalen) were separated from the Government of Lower Canada and again re-annexed to the Government of Newfoundland. The effect of this Act, according to the submission of the Colony of Newfoundland, was to restore to

the Government of Newfoundland the areas coloured green and red on the map, marked "A," which will be found in the pocket of this Case.

p. 210, 1. 44.

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20. In 1825 by an Imperial Act (6 Geo. IV. c. 59) "so much of the said coast of Labrador as lies to the westward of a line drawn due North and South from the bay or harbour of Anse Sablon inclusive as far as the fifty-second degree of North Latitude with the island of Anticosti, and all other islands adjacent to such part as last aforesaid of the Coast of Labrador" was "re-annexed to and made part of the said Province of Lower Canada." The effect of this Act, according to the submission of the Colony of Newfoundland, was to detach from the Government of Newfoundland the area coloured red on the map, marked "A," which will be found in the pocket of this Case.

21. It will be observed that the Legislature considered that the area to be re-annexed to Quebec was effectually defined by reference to so much of the coast of Labrador as lies to the westward of a line drawn due north and south from the bay or

p. 19

III. p. 1189.

p. 1191, 1. 24.

p. 1196.

harbour of Anse Sablon as far as the fifty-second degree of North latitude. The line so described is itself some forty miles in length, and the area lying to the westward of it, which is by the Act re-annexed to Quebec, involves in some places distances of not less than 120 miles between the sea-shore and the fifty-second degree of North Latitude. Yet the whole of this area is referred to as "so much of the said coast of Labrador."

IV. p. 1933.
1. 21.

p. 1934.

II. p. 667.

IV. pp. 1971-2, 1974.
p. 1974.

p. 1977, 1. 1.

III. pp. 1360-1638.

22. Before turning to the evidence of the active interest taken by Newfoundland in the restored territories a gradual change is to be recorded in the constitutional development of Newfoundland from its original position as a nursery for seamen from Great Britain with settlements prohibited towards the status of a normal and established colony. So early as the 10th January, 1798, Captain Ambrose Crofton, in his report to Governor Waldegrave, described the Island of Newfoundland as having "more the appearance of a colony rather than a fishery" by reason of the great number of persons remaining there during the winter and the increase in houses and occupied land. On the 18th November, 1808, Governor Holloway lamented to Lord Castlereagh the development of residency, while Governor Duckworth, on the 2nd November, 1812, assured Earl Bathurst that the fisheries were decidedly sedentary, and that after so long a war he doubted whether any change of the system would be possible on the restoration of peace. He accordingly advocated the permission of the cultivation of land and of grants of land by the Governor. The instructions to Governor Keats in 1813 show how important this question was considered by the Imperial Government, and

in the same year this Governor in fact made grants of land at St. John's, while on the 12th November, 1815, High Sheriff Bland, in his report to the same Governor, roundly asserted that if Newfoundland was not a colony in law it was so in fact. Side by side with this constitutional development there was a gradually extending and corresponding development on the coast of Labrador of an established administration for judicial and revenue purposes, and the foundation of religious, educational, and charitable institutions.

I. p. 190.

III. pp. 1360-1486.
I. p. 190.

p. 196, 1. 1.

p. 20

III. p. 1375.
p. 1382.
pp. 1388-9.

p. 1423.

The fishery remained and remains the principal and overshadowing interest both in Newfoundland and in its dependency, and consequently activity was still mainly confined to the sea-shore area; but the system of Government introduced became, as the constitution developed, more consonant with a colony than a fishery.

p. 1424.

pp. 1396-1422.
p. 1398.

pp. 1406, 1412-1414.

p. 1412, 1. 9.
1. 11.
1. 12.

p. 1418.

p. 1423.

23. From 1809 onwards the Newfoundland Government found it necessary from time to time to make provision for the administration of justice on the coast of Labrador. The Act of 1809 referred to in paragraph 19 hereof, conferred on the Supreme Court of Newfoundland jurisdiction within the area re-annexed to Newfoundland. Owing to an oversight the Act did not sanction the institution of surrogate Courts there, and it was found necessary to pass in 1811 an Imperial Act, 51 Geo. III. c. 45, to remedy this omission. By an Act of 1824 the Governor of Newfoundland was empowered to institute a Court of civil jurisdiction at any such parts or places on the coast of Labrador as had been re-annexed to the Government of Newfoundland. This Act remained in force until the Court created under it was abolished in 1834 by an Act of the newly-constituted Newfoundland legislature, because the work which it was called upon to do was insufficient to justify the expense of its upkeep. Between the years 1826 and 1834 this Court was actively engaged in the Labrador. Judge Patterson presided over it, and its records show that among the places to which he went to administer justice were various settlements on the Hamilton Inlet between the Narrows and the mouth of the river (e.g., Mullins Cove and Rigolet). In 1828 he arrived on the 19th July at Rigolet for Kinnamish, and on the 22nd July he was at Kinnamish and viewed the salmon brooks in dispute between J. C. Bennet & Co. and J. Baird, while on the 24th he went to North West Brook. Again in 1829 the Court went to Kinnamish and North West Water, but there being no cases then to be heard, returned to Rigolet.

24. After the abolition in 1834 of Judge Patterson's Court, though Bills were introduced in the Newfoundland legislature to deal with the adminis-

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p. 1465, 1. 41.

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tration of justice on the coast of Labrador (showing that the matter engaged the attention of the Newfoundland Government), it was not until 1863 that a statute was passed establishing a Civil Court again on the coast of Labrador. This Court over which first Judge Sweetland and later Judge Pinsent and Judge McNeil presided, continued in existence until 1874, after which judges were no longer sent to Labrador, since it was felt that the amount of business was not sufficient to justify the expenditure involved. Thereafter justice was administered by justices of the Peace (see, for instance, the 1879 documents in connection with Matthew Fortescue of Rigolet), and in occasional special cases by stipendiaries.

25. The Annual Reports of the Judges, both of the 1826-34 and the 1863-74 periods, show that their work was by no means confined to their judicial duties. Judge Patterson, as one of the Justices of the Court of Sessions established for Labrador in 1826, helped to collect licenses for the sale of liquor and the 6d. a month deducted from the wages of the fishermen employed in the Labrador fisheries for the benefit of Greenwich Hospital.

His instructions from Governor Cochrane of the 11th August, 1826, directed him in addition to inform himself as to the state of the fishery, the fur trade, the native inhabitants, the Moravian settlements, the number and stations of any Europeans and Americans remaining during the winter, and generally to collect all the information he could of that imperfectly known country that could in any way tend to the advancement of science or commerce. The same policy, by means of which the Judges were made the pioneers of government, was adopted in the 1863-74 period. Their annual reports, beginning with Judge Sweetland's for 1863, cover census returns, proposals for roads, reports on schools, poor relief, churches, and the fur trade. Judge Sweetland also reported in 1864 on the vegetables grown at North West River, and in 1865 on the salmon fisheries in Sandwich Bay and in the Hamilton Inlet at North West River and the Kinnemichie. Judge Pinsent in 1867, in addition

to the matters already referred to, reported on the distribution of medicines, and suggested sending a surgeon each year in the revenue and circuit vessel, and also advocated the establishment of postal communication with St. John's. In 1868 he proposed the appointment of further Justices of the Peace and of one or two laymen to celebrate marriages in the District Sandwich Bay, Hamilton Inlet, and thence northward where there was no resident clergyman. In consequences of this

pp. 1456, l. 1, 1475, l. 35.

p. 1615.

p. 1406.

p. 1510.

p. 1510, l. 31.

p. 1511, l. 14.

p. 1490, l. 13.

recommendation Thomas Graves, of Rigolet, was licensed on 22nd May, 1869, to celebrate marriages. In 1869 Judge Pinsent urged that it was the duty of the merchants with establishments on the Labrador to make winter provision in the shape of stocks of Indian meal for the resident inhabitants who dealt with them during the summer. In 1870 he made proposals for the permission of exclusive occupation of salmon posts. In 1871 he recommended an extension of the Labrador Mail Service, which had been established in 1870. In 1873 he recorded a visit to North West River, where Mr. Crowdy (who was appointed Government Vaccinator for the Labrador on the 10th June, 1873), vaccinated the Montaineer Indians trading with the Hudson's Bay Company's posts. During the years 1863-74 the vessel which carried the Labrador Judge on his circuit took also the collector of Customs duties, and the judges made constant references in their reports to the collectors' work. The medical man several times suggested by the Judges for the Labrador coast was appointed on the 19th July, 1875, in the person of Dr. William Allen.

III. p. 1511, l. 40.

p. 1491.

p. 1496.

p. 1489.

p. 1496.

26. In 1826 when Judge Patterson was initiating the civil court in Labrador, the collection of revenue there was begun by the appointment of William Langley as sub-collector. He collected £585 18s. 11d. the three years during which he held his appointment. No other officer was appointed until 1831, and again from 1833-1840 no officer was employed on this service, but duties seem nevertheless still to have been collected on the coast of Labrador during this period. In 1840 Mr. Elias Rendell was appointed to collect not only sums due in respect of Imperial Revenue, but also

p. 23

p. 1505, l. 23.

p. 1513.

IV. p. 1985.

III. p. 1515, l. 17.

p. 1515.

p. 1436.

p. 1438, l. 6.

l. 18.

p. 1527.

p. 1528.

colonial duties levied on the Labrador under the Annual Colonial Revenue Acts. The merchants on the coast protested to the Imperial Government in 1841 against the collection of these colonial duties, complaining that the Newfoundland Government had no legal right to impose duties on the Labrador at all, but the Colonial Secretary, Lord John Russell, on the 5th July, 1841, expressed the same view as his predecessor Lord Glenelg had taken in that the Labrador coast as a dependency of Newfoundland was subject to the same laws, whether fiscal or otherwise, to which every part of the island was amenable and that no payment had been exacted which was not strictly due. The Attorney-General for Newfoundland in 1842, after a careful survey of the history of the collection of revenue on the coast, reiterated the opinion previously given by the Colonial Secretaries. In 1850 a Preventive Officer was appointed for the West Coast of Newfoundland and the coast of Labrador, and part of his duty was to secure the due collection of customs revenue. After the establishment in 1855 of responsible Government in Newfoundland the Governor after notice by Proclamation that

p. 1539, 1. 10.

III. p. 1535 at p. 1539, 1.
10.

p. 1536, 1. 16.

p. 1543, 1. 35.

p. 1548.

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III. p. 1293, 1 22.

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pp. 1280-1, 1345-6,
1348-50.

pp. 1261, 1575.

pp. 1574-8, 1580.
p. 1579.

pp. 1581-6.

p. 1436.

it was intended to collect revenue there, sent Mr. Prendergast as acting sub-collector to the coast of Labrador in 1856. The Newfoundland Act of 1863, already referred to as establishing a civil court in Labrador, further authorised the Government to collect on the Labrador the same duties as in Newfoundland, the revenue so collected to be applied first towards defraying the cost of protecting the fisheries and of carrying out the objects of the Act, and thereafter to the general purposes of the colony. Objections were taken on constitutional grounds to this Act, but by an Order in Council, transmitted by the Duke of Newcastle as Colonial Secretary to the Governor, the Act was left to its operation on the coast. The Secretary of State at the same time informed the Governor-General of Canada that the Law Officers of the Crown were of opinion that it was competent to the Legislature of Newfoundland to pass laws binding on the Labrador coast. On the 11th August, 1864, at North-West River Mr. Smith (afterwards Lord Strathcona), the Head Agent of the Hudson's Bay Company, without

p. 24

hesitation paid the duties payable by the Company, saying that it was not their intention to present any opposition to the payment, the Act having received the Royal Assent. See Mr. Winter's Report of the 26th October, 1864, from which it appears that other traders also, including Messrs. De Quetvill, paid the duties without protest though some continued to resist. The amount collected from the Hudson's Bay Company in 1865 was considerable, and the duties for the year on the Labrador coast from all sources amounted to \$3,301, and this total increased in 1866 to \$7,900. Again, in 1868, the Hudson's Bay Company seem from Mr. Winter's Report to have paid duties without protest, and thenceforward they have paid regularly and made no protest. (In the same way they have later made the payments required of them under the Newfoundland Profits Tax Act, 1917.) Indeed, no difficulty was experienced in the collection of revenue after 1868 (see, e.g., the Report on the Newfoundland and Labrador Fisheries 1872), except from Revillon Frères, who only started to trade on the Labrador coast some twenty years ago at North-West River and for a time at Muddy Bay near Cartwright, and have always paid duties to the Newfoundland Government under protest.

27. A report of the 24th July, 1821, shows that Captain Martin of H.M.S. "Clinker" was sent by Governor Sir Charles Hamilton to the head-waters of the Hamilton Inlet to report on the conditions of the settlers and Indians there. The same vessel was sent in the same and the following years north of the Hamilton to visit the Moravians. Again in 1879, as appears from the Fortescue documents, Governor Glover thought it necessary himself to visit the Hamilton Inlet in view of the prevailing distress due to the failure of the salmon fisheries.

III. p. 1529. The same documents, together with a letter to Mr. F. C. Berteau from the Colonial Secretary of Newfoundland of the 10th September, 1881, show that the Newfoundland Government was ready to provide money to relieve this distress. The same policy was pursued throughout the bad years that followed.

p. 1530.

p. 1531.

pp. 1545-6.

p. 1546.

28. Since the re-establishment of the Labrador Court in 1863 votes of money have been made for

p. 25

p. 1451.

Labrador services in every session of the Newfoundland legislature, and Acts in relation to the territory have been passed as occasion has required.

p. 1629.

p. 1477.

pp. 1623-4.

pp. 1625-6.

p. 1630.

The Revenue Act of 1864 (27 Vict. c. 1) provided for payment of the collector at Labrador, the Customs Act of the same year (27 Vict. c. 2) included among the customs officials a collector for the Labrador and his sub-collectors, and the Supply Act (27 Vict. c. 17) provided for the sum of £400 towards defraying the expenses of the Revenue cruiser at Labrador. In 1865 in addition to similar sections to the above in the Revenue and Supply Acts, there were in the latter provisions of \$200 towards the encouragement of education at Labrador, and of \$250 towards providing medical attendance there. By the Indemnity Act of 1867 (30 Vict. c. 20) a sum of \$1,296.70 was voted on account of the Labrador Court.

p. 1628.

Such items as those mentioned above reappear annually in the Newfoundland statutes, and from time to time provision is made for new requirements and emergencies; e.g., in and after 1870 for steam communication to Labrador for postal and other purposes (including a special service for the Hamilton Inlet in and after 1907); in several years for poor relief; in 1874 for a retiring pension for Judge Pinsent of the Court of Labrador; in 1882 to regulate the sale of intoxicating liquors on the coast of Labrador; in 1887 for two educational districts each for the Church of England and the Methodists. After 1888 the items for schools and medical attendance show continual increases. In 1911 an Act was passed to prevent the removal of Esquimaux from the Labrador for exhibition purposes without the permission of the Newfoundland Government. This measure was found necessary after the experiences of the Esquimaux from Labrador at the Chicago Exhibition in 1893.

In 1898 a new system was adopted with regard to financial legislation in Newfoundland, and the various items involving expenditure already mentioned were thereafter included in a comprehensive annual Public Service Act. In 1903 and 1904 money was set aside in this Act for the building of a Customs House at Rigolet.

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I. p. 244.

I. pp. 153, 158, 190, 205.

I. p. 158.

p. 190.

pp. 210-11.

p. 246.

p. 248.

29. No protest or objection was ever made by the Governments of the Province of Lower Canada, Canada, or Quebec, or by the Government of the Dominion of Canada, to the exercise of jurisdiction by the Government of the Colony of Newfoundland on the Labrador in and by the acts referred to in paragraphs 23 to 28 (inclusive) hereof.

30. In 1880, by an Imperial Order in Council dated 31st July, 1880, all British territories and provinces in North America not already within the Dominion of Canada, and all Islands adjacent to any of such territories or possessions, with the exception of Newfoundland and its dependencies, became annexed to the Dominion of Canada. This Order in Council expressly protects the Colony of Newfoundland from the loss of any part of its jurisdiction, and it is submitted that the only effect of the said Order in Council upon the matters now in dispute is to limit the territories in Labrador claimed by the Colony of Newfoundland to territories acquired by the said Colony before the 31st July, 1880.

31. It is submitted that the effect of the Proclamation and Statutes hereinbefore referred to is to give the Colony of Newfoundland jurisdiction over all the Coast of Labrador, from the River St. John to Hudson's Straits and the adjacent islands, except—

(a) The Magdalen Islands, the only territory taken away by the Quebec Act 1774, and not restored by the Act of 1809, and

(b) The area west of the due North and South line from Anse Sablon to the 52nd degree of North Latitude, and the Island of Anticosti, which were taken away by the Act of 1825.

32. By a Canadian Statute passed in 1898 (61 Viet. c. 3) the Canadian Parliament purported to lay down certain boundaries as being the boundaries of the Province of Quebec. In 1912, by a Canadian Statute (2 Geo. V. c. 45), the Canadian Parliament purported to extend the boundaries of the Province of Quebec. It is submitted that in so far as the

I. p. 215.

p. 245.

p. 248.

Supra p. 26.
p. 244.

boundaries described in the said Canadian statutes encroach upon territories subject, at the dates of the passing of the said statutes, to the jurisdiction of the Colony of Newfoundland the said statutes are ultra vires and of no effect. The Dominion of Canada had no power to enlarge the jurisdiction and territories of one of its provinces to the detriment of a self-governing colony. In support of this submission the Colony of Newfoundland will rely (inter alia) upon the Colonial Laws

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Validity Act 1865 and the Colonial Boundaries Act 1895. It is also to be observed that the Canadian Statute of 1912 was passed some nine years after the present boundary dispute definitely began. For these reasons it is submitted that the said Canadian Statutes are to be wholly disregarded in determining the matters now in question. As appears from paragraph 30 the material date for the purposes of the present case is 31st July, 1880.

p. 154, l. 14.

33. Wherever the interior boundary may be found to be, it is submitted that the territory under the jurisdiction of the Newfoundland Government extends inland from the indented coast-line as a base, that is to say from the line where the salt water touches the land. The tracing of the coastline necessarily involves in this instance, as it involved in the case of the Alaska Boundary Dispute, following the windings of the coast round the heads of inlets or arms of the sea such as the Hamilton Inlet, whether or not the waters contained therein are territorial waters. A consideration of the reason for the annexation of the coast to the Government of Newfoundland supports this conclusion: for "coast put under the care and inspection of a Governor to the end that open and free fishing may be extended to and carried on" thereupon, clearly connotes the sinuosities of a coast line as the basis for the establishment of the fishery. But it is submitted that the use of the term "coast" would of itself lead to the same result, even without the assistance to be derived from the purpose of the annexation. Lord Alverstone observed in his opinion, in the Alaska Arbitration, at he knew of no recognised rule of international which would by implication give a recognized

V. p. 2121.

V. p. 2115.

p. 28

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meaning to the word "coast" as applied to the sinuosities and waters which he was discussing, different from the coast itself.

Mr. Taylor, in his argument for the United States in the same case, suggested that only two possible coast-lines were known to international law, namely (1) where the salt water touches the land, which is the coast-line for boundary purposes, and (2) the political coast-line—that invisible thing superimposed on the physical coast by the operation of law, which exists for the purpose of jurisdiction. It was unsuccessfully contended by the British Government in the Alaska Arbitration that "coast" means lands bordering on the ocean and cannot properly be applied to the shoreline of a narrow bay, gulf or river, and that an inlet or fiord less than six miles wide, though it is an indentation of the coast, is not a part of the coast itself. It was pointed out that where an inlet is less than six miles wide, the three marine leagues from low-water mark (over which international law gives a maritime state a certain property right in the ocean) are to be measured outside the line joining the headlands.

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It is submitted that the result of the Alaska Boundary Arbitration is to establish the United States contention that "coast" for boundary purposes means the line where in physical fact the salt water touches the land. The headland to headland line has no application to "coast" in this sense; it owes its origin to the conception of the territoriality of certain waters, for it is the natural and logical outcome of the notional three-mile limit of jurisdiction. There is no necessary distinction between the waters within the three miles limit from low-water mark and the waters of inlets where the entrance is less than six miles across and the entire land boundary forms part of the territory of the same state. The waters in each case are territorial on the same principle, namely that *potestas finitur ubi finitur armorum vis*, and on the same assumption that three miles is the limit *quousque tormenta exploduntur*. Accordingly it is submitted that in however wide a sense the waters within the maritime belt are to be regarded as part of the territory of the adjoining state, the expression "coast" still means the line where land meets salt

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I. pp. 149-213.
II. pp. 411 following
at
pp. 413, 453, 467.

water, and that in precisely the same way even if waters *inter fauces terræ* may be regarded as forming part of the adjoining territory, the meaning of the expression "coast" remains unaltered and the coastline is not to be determined for boundary purposes, any more than in physical fact, by notional lines drawn from headland to headland, but involves following the actual sinuosities of bays, inlets and creeks.

p. 421, 1. 39.

p. 440.
1. 38.

Nlfd. Atlas.

34. It is next submitted that it is clear that more than a mere strip of littoral was intended and understood to be annexed to and placed under the Government of Newfoundland by virtue of the Statutes Orders-in-Council and Proclamations hereinbefore referred to. In the Commissions issued to Thomas Graves dated the 25th April, 1763, to Hugh Palliser, dated the 20th March, 1764, and to their successors as Governors of Newfoundland, the following words appear: "and we do hereby require and command all officers civil and military and all other inhabitants of our said islands and the coast *and territories* of Labrador and the islands adjacent . . . to be obedient unto you in the execution of this our commission and the powers and authorities therein contained." In the same way in Article 12 of Governor Palliser's instructions 1764, he is directed "from time to time, as the nature of the services will allow, to visit all the coasts and harbours of the said islands and *territories*" under his Government. Again, in their Instructions to Governor Palliser of the 14th May, 1765, the commissioners for the office of Lord High Admiral refer to the coast of Labrador as "that country."

III. p. 1156.

35. The evidence to be derived from maps affords strong confirmation of this submission. Indeed, it appears from them that the expression "the coast of Labrador" was commonly used at the material dates as equivalent to "Terra Labrador" so as to include the whole or almost the whole of the Labrador peninsula.

But more definite indications of the considerable extent of the territory annexed to and placed under

p.30

I. p. 153.

the Government of Newfoundland under the description of "the coast of Labrador" appear from—

1. 21.

(a) The Privy Council Order of the 2nd December, 1774, approving a grant to John Agnew and others of all mines, minerals, metals, and ores whatsoever within the island of Newfoundland or upon such part of the *sea-coasts of Labrador as lie within sixty miles of low-water mark in the open sea* between the River St. John and the southern limits of the territory granted to the Hudson's Bay Company.

p. 205.
pp. 210-211.

(b) The words of the Royal Proclamation of the 7th October, 1763—the source of Newfoundland's original jurisdiction on the Labrador—whereby the Government of Quebec was "bounded on the Labrador coast by the River St. John and from thence by a line drawn from the head of that river, etc." These words show that the "coast" comprised an area extending inland at least so far as the length of the River St. John, as it was then understood to run, i.e., to about the source of the modern River Romaine, or some 120 miles.

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(c) The words of the Act of 1825 (6 Geo. IV. c. 59), whereby "so much of the said coast of Labrador" (i.e., from the River St. John to Hudson's Straits) "as lies to the westward of a line to be drawn due North and South from the Bay or Harbour of Anse Sablon inclusive, as far as the 52nd degree of North latitude," was re-annexed to Lower Canada. From these words it appears that the "said coast" comprised an area extending inland at least as far as from Ance Sablon to the 52nd degree of North Latitude or some forty miles.

36. Finally it is submitted on behalf of the Colony of Newfoundland that the boundary as between Canada and Newfoundland in the Labrador Peninsula under the Statutes,

Orders-in-Council and Proclamations, is so located and defined as to include within the jurisdiction of the Colony of Newfoundland the Eastern and South-Eastern watersheds of the Labrador Peninsula (together with the bays, harbours, inlets, creeks and rivers within that area), but less the territory west of a line drawn

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IV. p. 1985.

I. p. 244.

V. p. 2279.

pp. 2279-81.

Nfld. Atlas.

p. 2292, 1. 25.

p. 2279.

p. 2275.

p. 2266.

p. 2268, 1. 35 (also
p. 2276, 1. 35.)

Nfld. Atlas No. 26.

V. p. 2309, 1. 6.

due north and south from the bay or harbour of Ance Sablon inclusive, as far as the 52nd degree of North Latitude.

The evidence between the years 1854 (when the final step was taken to make Newfoundland a responsible self-governing colony) and 1880 when the Order-in-Council referred to in paragraph 30 hereof was issued makes any other view untenable. These years are of peculiar importance in this dispute, because in them the question of the interior boundaries of the peninsula first assumed practical importance. In 1857 the Committee of the House of Commons referred to in paragraph 4 hereof, was appointed to inquire into the affairs of the Hudson's Bay Company's territories. The question was raised whether Fort Nascopie (situate on the second northern bay of Lake Petitsikapau, practically at the height of land at the source of the Hamilton River) was within the jurisdiction of the Company or of Newfoundland, and the evidence on this point of Sir George Simpson for many years Governor of the Hudson's Bay Company should, it is submitted, be given great weight, as expressing the official view of the Company as to what was understood to be and was treated as the area comprised in the "coast" of Labrador. Sir George Simpson considered that Fort Nascopie was within the jurisdiction of the Newfoundland Government. *Cf.* his evidence before the Committee, and also a letter dated 17th January, 1849, to Sir Henry J. Tetley, forwarding from Earl Grey a despatch from the Governor General of Canada with letters from one Kennedy, making charges against the Hudson's Bay Company, and Sir George Simpson's reply. In this correspondence Mr. Kennedy described a journey from Hudson's Straits with Indians six hundred miles through the interior of Labrador, and the murder in 1840 of one Indian by another at Fort Nascopie. Sir George Simpson replied that even if he had known of this murder earlier he could have done nothing, because the murder was "committed within the jurisdiction of Newfoundland, where the Company have no exclusive rights of trade, but are merely as one in the crowd of traders," the only difference being that the Company penetrates to parts of the country inaccessible to many others.

(Oral Argument, p.
703.)

I. pp. 217-244.

In the same Report of the Hudson's Bay Company Committee, Questions and Answers 26, 739, and 3106 support the submission that it was generally believed and understood that the boundaries in Labrador were determined on a "watershed" or "height-of-land" basis. Moreover J. Arrowsmith's map (dated 1857), which was referred to in the proceedings, and is attached to the Report and was ordered by the House of Commons to be printed, emphasises this height of

Nfld. Atlas.
V. pp. 2293-2308.
p. 2295.

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land basis, and assigns to Newfoundland the boundaries claimed by her in this Arbitration. This map was included in the Atlases on both sides in the Alaska boundary dispute, in which it was described by Mr. Dickinson for the United States as fairly to be considered as an official map. It is supported by other authoritative maps of the period, and must, it may confidently be assumed, have been before those responsible between 1867 and 1880 for the British North America Acts, the Ruperts Land Acts, and the Order-in-Council of 1880. These statutes and Order-in-Council were definitely concerned with the interior limits of territory in the Labrador Peninsula, so that it is important to observe what strong confirmation is given to the evidence already mentioned by two official acknowledgments made by the Canadian Government, first by their official maps of the period, which assign to Newfoundland precisely the area which she now claims, and secondly by the correspondence in 1874 between the Canadian Government and the British Embassy at Washington in reference to the boundary now in dispute. In the course of this correspondence Lord Dufferin, then Governor General of Canada, stated that the line of division in the interior had only been defined as far north as the 52nd degree of north latitude, but that it had always been assumed that the boundary line in the interior would have taken the direction laid down on the accompanying map which followed the height of land. (It has not been possible to trace the actual map so described.)

37. In support of the submission in paragraph 36 hereof the Colony of Newfoundland will rely upon:

(a) a consideration of the maps which will be submitted to the Judicial Committee, as affording

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III. p. 984, 1. 44.

evidence that according to the general belief and reputation prevailing at all material times, the jurisdiction of the Government of Newfoundland extended as far inland as the height of land; and

pp. 975, 982.

(b) the facts referred to in paragraphs 9 to 12 (inclusive), 15 to 18 (inclusive), 23 to 29 (inclusive), as showing that from 1763 to 1880 Newfoundland and Newfoundland alone effectively controlled and occupied the area from the coastline back to the height of land. The Government of Newfoundland in exercising jurisdiction was consciously claiming possessory

V. pp. 2122-2134.

rights, as appears as early as 1766 from Governor Palliser's proposals for military blockhouses for the purpose (inter alia) of establishing the possessory right to the whole country (*cf.* the Appendices to the Report of the Lords of Trade dated 13th May, 1766).

I. p. 154, I. 14.

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38. Even apart from the considerations urged 20 in paragraphs 36 and 37 it is submitted that in any event the conclusion suggested in paragraph 36 necessarily follows from the use of the expression the "coast of Labrador." The line of the crest of the watershed is the only boundary in the interior for which any principle of reason or law can fairly be advanced. At the dates material to be considered for the purposes of the present arbitration, the occupation of a coast would have conferred upon the occupying state a right to the hinterland as far as the height of land, and it is contended that by parity of reasoning the grant of a coast would, in the absence of indication to the contrary, confer jurisdiction over an area similarly limited; and in the present instance, so far from there being any indication to the contrary, the reasons put forward in paragraphs 36 and 37 support the conclusion which would normally be reached, and there is in addition the consideration that the crest of the watershed would be a natural limit to impose in a "grant to the end that open and free fishing . . . might be extended to and carried on upon the coast of Labrador," since it would be contemplated that the fishing to be encouraged would be for cod on the sea-shore, but also for salmon along the rivers, as far as the fishermen cared to go.

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V. p. 2122.
I. 14.

In support of the proposition that at the material dates the occupation of a coast would have conferred upon the occupying state a right to the hinterland as far as the height of land, reference can be made to the Louisiana boundary controversy. The American Commissioners contended that the correct principle was that settlements on the seacoast should be taken to extend to the crest of the watershed. They pointed out that it was impossible to accept either of the extreme views, viz. : on the one hand that settlement only entitled the settler to the area actually occupied by him (which in the normal case of occupation by one or a few ships under a commission would have been so small as to be valueless), and, on the other hand, that settlement on a part of an unappropriated or partly unappropriated continent entitled the settler to the whole or the whole of the unappropriated parts of that continent. Messrs Pinckney & Monroe, in a letter of the 20th April, 1805, to Don Pedro Cevallos, setting out the American case say: "The principles are those which have been recognised by European Powers in similar transactions, and which, of course, ought to govern the present one . . . The first of these is that when any

p. 2124.

p. 2122.

European nation takes possession of any extent of sea-coast that possession is understood as extending into the interior country to the sources of the rivers emptying within that coast, to all their branches and the country they cover." They point out how necessary "it is that there should be some such defining principle, and how just this principle is as well as practicable. Nature seems to have destined a range of territory so described for the same society, to have connected its several parts together by the ties of a common interest, and to have detached them from others." Spain did not challenge the principle thus contended for. The United States' Secretary of State, in a letter to Don Luis de Onis of the 12th March, 1818, observed that in the letter of the 20th April, 1805, Messrs. Pinckney & Monroe "lay down and establish by a chain of reasoning that neither Mr. Cevallos at the time, nor your Government at any period since then, ever attempted to break, three principles sanctioned alike by immutable . . . "

V. p. 2130.

I. p. 158, I. 12.

p. 35

pp. 182, 185.
p. 183, I. 42, p. 185,
I. 32.

" . . . justice, and the general practice of European nations which have formed settlements and held possessions in this Hemisphere, and by the application of which to the facts also stated in their note this question of the Western Boundary ought to have been and ultimately must be settled." The first of these principles was that set out above, i.e., the watershed theory.

V. p. 2130.

p. 2127
pp. 2122-4.
p. 2125.

p. 2131, I. 16.

Nor is it immaterial to note that in the Ontario-Manitoba Boundary dispute, which came before the Privy Council in 1884 after a previous arbitration at Ottawa in 1878, the Dominion of Canada contended that the northern boundary of Ontario was the height of land dividing the rivers flowing into Hudson's Bay from the waters flowing into the Great Lakes. The issue largely turned upon the construction of the words of the Quebec Act 1774, defining the northern boundary of that Province as the "Southern boundary of the territory granted to the Merchant Adventurers Trading to Hudson's Bay," and the words of the Order-in-Council and Proclamation of 1791 which divided Quebec into Upper and Lower Canada, and carried the dividing line "north until it strikes the boundary line of Hudson's Bay." The Dominion of Canada did not regard this Northern boundary as of great consequence, but it is noteworthy that in their case, prepared for the 1878 Arbitrators, they supported the proposition that possession of a sea-coast is understood as extending into the interior country to the sources of the rivers emptying within that coast, by reference to Phillimore 2nd Edn., Vol. I, pp. 277-9, the U.S. case in the Louisiana dispute, Twiss Oregon, pp. 209-11, 226, 300. Their case further points out that the Commissioners appointed in 1871 by the Governments of the Dominion and

Ontario, to settle the north and west boundaries of that Province, received from the Dominion instructions, of which the following is an excerpt: "You will then proceed to trace out survey and mark eastwardly the aforementioned Southern boundary of the territory granted to the Merchant Adventurers of England trading to Hudson's Bay. This is well understood to be the height of land dividing the waters which flow into Hudson's Bay from those emptying into the valleys of the Great . . ."

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supra para. 34-36, pp.
29-32.

supra para. 36, pp. 30-
32.

supra para. 38, pp. 33-
36.

supra para. 37 (b), p.
33.

supra para. 37 (a), p.
32.

" . . . Lakes and forming the northern boundary of Ontario."

39. The Colony of Newfoundland accordingly submits that the Judicial Committee should define as the boundary north of the 52nd degree of north latitude the line of the crest of the watershed, which is the height of land, for the following (among other)—

REASONS.

(1) Because the expression "coast" at all times material for the purposes of the present inquiry was understood to include and connote the whole area between the sea and the height of land.

(2) Because the evidence adduced in respect of the crucial years 1854 to 1880 (from the proceedings of the Select Committee of the House of Commons of Great Britain inquiring into the affairs of the Hudson's Bay Company, from the maps issued by the Canadian Government and others, and from the correspondence between the Canadian Government and the British Embassy at Washington) is inconsistent with any other conclusion.

(3) Because in the law of nations at the times material to be considered for the purposes of the present inquiry, the occupation of a "coast" conferred a right to the hinterland as far as the height of land.

(4) Because Newfoundland and Newfoundland alone between 1763 and 1880 effectively controlled and occupied the area from the coast-line back to the height of land.

(5) Because the maps between 1763 and 1880 show that according to the general belief and reputation prevailing at all material times, the jurisdiction of the Government of Newfoundland extended as far inland as the height of the land.

(6) Because no other precise interior boundary had ever been suggested for which definite reasons can be advanced.

JOHN SIMON.
F. T. BARRINGTON-WARD.
W. J. HIGGINS.
W. T. MONCKTON.

**IN THE MATTER OF THE
BOUNDARY BETWEEN THE
DOMINION OF CANADA AND
THE COLONY OF
NEWFOUNDLAND IN THE
LABRADOR PENINSULA.**

CASE

ON BEHALF OF THE
COLONY OF NEWFOUNDLAND

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In the Privy Council.

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA and the
COLONY of NEWFOUNDLAND in the
LABRADOR PENINSULA.

BETWEEN

THE DOMINION OF CANADA - - - - OF THE ONE PART

AND

THE COLONY OF NEWFOUNDLAND - OF THE OTHER
PART

CASE

OF THE

DOMINION OF CANADA.

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**I.
THE QUESTION.**

1. The Government of the Dominion of Canada and the Government of the Colony of Newfoundland having agreed to petition His Majesty the King to refer to the Judicial Committee of His Privy Council, under the Judicial Committee Act 3-4 Wm. IV. (Imp.), chap. 41, sec. 4, the question:

"What is the location and definition of the boundary as between Canada and Newfoundland in the Labrador Peninsula, under the Statutes, Orders-in-Council and Proclamations?"

the following case, setting forth the contention of the Government of Canada upon the question, is delivered pursuant to the agreement dated the 11th

I. p. 125.

day of November, 1920, made between the two governments, as varied by the agreement dated the 2nd day of November, 1922.

The Labrador Peninsula referred to in the question is that portion of the British dominions in North America bounded by the waters of the River and Gulf of St. Lawrence and the Strait of Belleisle on the south and south-east, the North Atlantic Ocean on the east and north-east, Hudson's Strait and Hudson and James Bays on the north and north-west, and joined to the rest of Canada on the south-west by the isthmus which lies between James Bay and the St. Lawrence.

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EXPLANATORY.

p. 329. 2. During the French occupation of Canada, there were conflicting claims between France and Great Britain as to the limits of their respective territories in the Peninsula; these were never settled. By the Treaty of Utrecht concluded in 1713, France restored to Great Britain, to be possessed in full right forever, "la baye et le détroit d'Hudson avec toutes les terres, mers, rivages, fleuves et lieux qui en dépendent et qui y sont situés." It was also agreed to determine within a year, by a commission to be named for that purpose, the limits which were to be fixed between Hudson's Bay and the places appertaining to the French, but although the Commission was appointed, its negotiations led to no result.

p. 330. Under the Treaty of Paris of the 10th February, 1763, France ceded to Great Britain in the most ample form and without restriction, Canada with all its dependencies as well as the Island of Cape Breton and all the other islands and coasts in the Gulf and River of St. Lawrence, and in general, everything that depends on the said countries, lands, islands and coasts. The territory so ceded included the whole of the peninsula of Labrador except the portion which, by the Treaty of Utrecht, 1713, had been restored to Great Britain and belonged to the Hudson's Bay Company.

p. 329.

It is not in controversy, or open to controversy that:—

(i) In 1809, immediately before the passing of the Newfoundland Act, 1809, 49 Geo. III., chap. 27

p. 190.

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(Imperial), Newfoundland had no rights in or over any part of the Labrador Peninsula, and the extent of territory affected by that Act was then embodied in, and formed part of, the Provincial Territory of Lower Canada as constituted under and

in pursuance of the provisions of the Clergy Endowments Canada Act, 1791, also known as the Constitutional Act, of 1791, 31 Geo. III., c. 31 (Imperial).

Vol. 1, p. 164.

(ii) The provincial territory of Lower Canada as so constituted, subject to any rights lawfully created since by competent authority—and the only legislation which purports to create such rights is the Newfoundland Act, 1809, above cited—forms to-day by virtue of the British North America Act, 1840, 3 & 4 Vict. c. 35 (Imperial), and the British North America Act, 1867, 30 & 31 Vict. c. 3 (Imperial), part of the Dominion of Canada, and is subject, as such, to the exclusive governmental and legislative authority of the Dominion of Canada and of the Province of Quebec in which it lies.

Vol. 1, p. 214.

Vol. 1, p. 217.

(iii) All that portion of the Labrador Peninsula which formed part of the Hudson's Bay Company's territory by virtue of the Royal Charter from King Charles of the 2nd May, 1670, conferring on that Company—

Vol. 2, p. 368.

"The sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, that are not already actually possessed by or granted to any of our subjects or possessed by the subjects of any other Christian Prince or State . . . and that the said land be from henceforth reckoned and reputed as one of our Plantations or Colonies in America, called 'Rupert's Land'"

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was embodied in the Dominion of Canada by the Imperial Order-in-Council of the 23rd June, 1870, made under the authority conferred by sec. 146 of the British North America Act, 1867 and the Rupert's Land Act, 1868, 31-32 Vict. chap. 105 (Imperial).

Vol. 1, p. 221.

Vol. 1, p. 218.

Vol. 1, p. 219.

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(iv) On the 1st September 1880 all British territories and possessions in North America, not already included within the Dominion of Canada, and all islands adjacent to such territories and possessions (with the exception of the Colony of Newfoundland and its dependencies) were, by Imperial Order-in-Council of the 31st July, 1880, annexed to and made part of the Dominion of Canada and subject to the laws of Canada. The Colonial Boundaries Act, 1895 (58-59 Vict. (Imp.), chap. 34), puts beyond question the validity of this exercise of authority by the Crown.

Vol. 1, p. 244.

Vol. 1, p. 245.

It follows that the question to be submitted for decision reduces itself to this:— Over what portion, if any, of the Labrador Peninsula did Newfoundland, by the Act of 1809 above referred to, acquire any rights? That the whole Peninsula forms part of the Dominion of Canada, subject only to such rights as Newfoundland has so acquired, is beyond question. The extent of territory over which Newfoundland so acquired rights must be determined by examination, and interpretation—so far as that may be needful—of the different legislative enactments cited and discussed below. While such rights must, of course, rest upon the operative effect of the Newfoundland Act, 1809, the terms of that enactment make it necessary, for the definition of the extent of territory affected by such rights, to refer to the earlier measures cited below.

Vol. 1, p. 195.

II. LEGISLATION.

3. The pertinent legislation, cited in chronological order, is the following:—

(i) By Commission, dated 25th April, 1763, passed under the Great Seal of Great Britain, His Majesty appointed Captain Thomas Graves to be,—

Vol. 1, p. 149.

"Our Governor and Commander in Chief in and over Our said Island of Newfoundland and all the Coasts of Labradore, from the Entrance of Hudson's Streights to the River St. Johns which discharges itself into the sea, nearly opposite the west end of the Island of Anticosti including that Island with any other small Islands on the

p. 43

said Coast of Labradore and also the Islands of Madelaine in the Gulf of St. Lawrence as also all our Forts and Garrisons erected and established, or that shall be erected and established in Our said Islands of Newfoundland Anticosti and Madelaines or on the Coast of Labradore within the Limits aforesaid."

The powers and authority conferred upon the Governor by this Commission were subject to the following proviso:—

"Provided neither you nor they" (*i.e.*, officers whom he was authorized to appoint) "do any thing by Virtue of this Commission or the Powers hereby granted contrary or roppugnant to the Act for encouraging the Trade to Newfoundland passed in the 10th and 11th years of the reign of King William the third" (the Newfoundland Fishery Act) "nor any way obstruct the Powers thereby given and granted to the Admirals of

Harbours or Captains of Our Ships of War or any other matter or thing either prescribed by the said Act or by such instructions as you shall receive from Us as aforesaid."

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(ii) By the Royal Proclamation of the th October, 1763, His Majesty announced the provisions made for the government of the territories in America secured to the Crown by the Treaty of Paris of 1763, and the action which he had taken by the Commission, just cited, in respect of the coast of Labrador. That Proclamation is, in part, as follows:—

"WHEREAS We have taken into Our Royal Consideration the extensive and valuable Acquisitions in America, secured to our Crown by the late Definitive Treaty of Peace, concluded at Paris, the 10th day of February last; and being desirous that all Our loving Subjects, as well of our Kingdom as of our Colonies in America, may avail themselves with all convenient speed, of the great Benefits and Advantages which must accrue therefrom to their Commerce, Manufactures, and Navigation, We have thought fit, with the Advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving

Vol. 1, p. 250.

Vol. 1, p. 153.

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Subjects, that we have, with the Advice of our said Privy Council, granted our Letters Patent, under our Great Seal of Great Britain, to erect, within the Countries and Islands ceded and confirmed to Us by the said Treaty, Four distinct and separate Governments, styled and called by the names of Quebec, East Florida, West Florida and Grenada, and limited and bounded as follows, viz.:—

Vol. 1, p. 154.

"First—The Government of Quebec bounded on the Labrador Coast by the River St. John, and from thence by a Line drawn from the Head of that River through the Lake St. John, to the South end of the Lake Nipissim; from whence the said Line, crossing the River St. Lawrence, and the Lake Champlain, in 45 Degrees of North Latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea; and also along the North Coast of the Baye des Chaleurs, and the Coast of the Gulph of St. Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River St. Lawrence by the West End of the Island of Anticosti, terminates at the aforesaid River of St. John.

* * * *

Vol. 1, p. 156.

"And to the end that the open and free Fishery of our Subjects may be extended to and carried on upon the Coast of Labrador, and the adjacent Islands, We have thought fit, with the advice of our said Privy Council, to put all that Coast, from the River St. John to Hudson's Streights, together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the care and inspection of our Governor of Newfoundland.

* * * *

"And whereas it is just and reasonable, and essential to our Interest, and the Security of our Colonies, that the several Nations or tribes of Indians with whom we are connected, and who live under our Protection, should not be molested or disturbed in the possession of such parts of our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them,

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or any of them, as their Hunting Grounds—We do therefore, with the Advice of our Privy Council, declare it to be our Royal Will and Pleasure, that no Governor or Commander in Chief in any of our Colonies of Quebec, East Florida, or West Florida, do presume, upon any Pretence whatever to grant Warrants of Survey, or pass any Patents for Lands beyond the Bounds of their respective Governments, as described in their Commissions; as also that no Governor or Commander in Chief in any of our other Colonies or Plantations in America do presume for the present, and until our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantic Ocean from the West and North West, or upon any lands whatever, which, not having been ceded to or purchased by Us as aforesaid, are reserved to the said Indians, or any of them.

"And we do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under our Sovereignty, Protection and Dominion, for the use of the said Indians, all the Lands and Territories not included within the Limits of Our said Three new Governments, or within the Limits of the Territory granted to the Hudson's Bay Company, as also all the Lands and Territories lying to the westward of the Sources of the Rivers which fall into the sea from the West and North West as aforesaid;

"And We do hereby strictly forbid, on Pain of our Displeasure, all our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved, without our especial leave and Licence for that Purpose first obtained.

"And, We do further strictly enjoin and require all Persons whatever who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described, or upon any other Lands which, not having been ceded to or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements."

Vol. 1, p. 158.

(iii) The British North American (Quebec) Act, 1774 (also known as The Quebec Act, 14 Geo. III. chap. 83 (Imperial)), recites and enacts, by the preamble and first section, as follows:—

Vol. 1, p. 330 or 334.

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"Whereas His Majesty, by His Royal Proclamation, bearing date the Seventh Day of October, in the Third Year of His Reign, thought fit to declare the Provisions which had been made in respect to certain Countries, Territories and Islands in America, ceded to His Majesty by the definitive Treaty of Peace, concluded at Paris on the Tenth Day of February, One thousand seven hundred and sixty three: And whereas . . . certain Parts of the Territory of Canada, where sedentary Fisheries had been established and carried on by the subjects of France, Inhabitants of the said Province of Canada, under Grants and Concessions from the Government thereof, were annexed to the Government of Newfoundland, and thereby subjected to Regulations inconsistent with the Nature of such Fisheries: May it therefore please Your most Excellent Majesty that it may be enacted, " &c.

"That all the Territories, Islands, and Countries in North America, belonging to the Crown of Great Britain, . . . and also all such Territories, Islands and Countries, which have, since the Tenth of February, one thousand seven hundred and sixty three, been made Part of the Government of Newfoundland, be, and they are hereby, during His Majesty's Pleasure, annexed to, and made Part and Parcel of, the Province of Quebec, as created and established by the said Royal Proclamation of the Seventh of October, One thousand seven hundred and sixty three."

Vol. 1, pp. 195, 196.

(iv) The Newfoundland Act, 1809 (also known as The Newfoundland Judicature Act), 49 Geo. III., chap. 27 (Imperial), enacted, by sections 14 and 15, as follows:—

"XIV. And whereas His Majesty by His Proclamation of the Seventh Day of October, One thousand seven hundred and sixty-three, was pleased to declare that he had put the Coast of Labrador from the River Saint John to Hudson's

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Streights, with the Islands of Anticosti and Madelaine, and all other smaller Islands lying on the said Coast, under the Care and Inspection of the Governor of Newfoundland: And whereas by

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an Act passed in the Fourteenth Year of the Reign of His present Majesty, intituled, An Act for making more effectual Provision for the Government of the Province of Quebec in North America, all such Territories, Islands and Countries, as since the Tenth Day of February, One thousand seven hundred and sixty-three had been made part of the Government of Newfoundland, were, during His Majesty's Pleasure, annexed to and made Part of the Province of Quebec, as created by the said Proclamation: And whereas in pursuance of an Act passed in the Thirty-first Year of His present Majesty's Reign, intituled, An Act to repeal certain Parts of An Act, passed in the Fourteenth Year of His Majesty's Reign, intituled, An Act for making more effectual Provision for the Government of the Province of Quebec in North America, and to make further Provision for the Government of the said Province, the said Province of Quebec was divided into Two Provinces of Upper and Lower Canada, the latter including the Parts of the Coast of Labrador and the said Islands so formerly annexed to the Government of Newfoundland: And whereas it is expedient that the said Coast of Labrador, and the adjacent islands (except the Islands of Madelaine) should be reannexed to the Government of Newfoundland; be it therefore enacted, That such Parts of the Coast of Labrador from the River Saint John to Hudson's Streights and the said Island of Anticosti, and all other smaller Islands so annexed to the Government of Newfoundland by the said Proclamation of the Seventh Day of October, One thousand seven hundred and sixty-three (except the said Islands of Madelaine) shall be separated from the said Government of Lower Canada, and be again re-annexed to the Governluent of Newfoundland; anything in the said Act passed in the Thirty-first Year of His present Majesty's Reign, or any other Act, to the contrary notwithstanding.

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"XV. And be it further enacted, that it shall be lawful for the said Supreme Court of Judicature of the Island of Newfoundland to hold Plea of all Crimes and Misdemeanors, committed, and of all Suits and Complaints of a Civil Nature arising within such Parts of the Coast of Labrador from the River Saint John to Hudson's Streights and the said Island of Anticosti, and all other smaller Islands so re-annexed to the Government of Newfoundland or on the Islands, Seas, and

Harbours, to which Ships and Vessels repair from the Parts of the Coast of Labrador and the Island and Islands so re-annexed to the Government of Newfoundland for carrying on the Fishery, in the same Manner as the said Supreme Court holds Plea of Crimes and Misdemeanors committed, and of suits and Complaints of a Civil Nature arising within the Island of Newfoundland, and on the Islands and Seas aforesaid, and on the Banks of Newfoundland."

(v) The British North America (Seignorial Rights) Act, 1825, 6 Geo. IV., also known as The Canada Tenures Act, 6 Geo. IV., c. 59 (Imperial) enacted, by sec. 9, as follows:—

"IX. And whereas under and by virtue of a certain Act passed in the forty-ninth year of the reign of his late Majesty King George the Third, intituled 'An Act for establishing courts of judicature in the island of Newfoundland, and in the islands adjacent; and for re-annexing part of Labrador, and the islands lying on the said coast to the Government of Newfoundland'; and of the Act passed in the fifth year of the reign of his present Majesty, intituled 'An Act for the better administration of justice in Newfoundland, and for other purposes,' the coast of Labrador, from the river Saint John to Hudson's Streights, and the Island of Anticosti, and all the Islands adjacent to the said coast, except the islands of Madelaine, are annexed to and form part of the government of Newfoundland; and it is expedient that certain parts of the said coast of Labrador should be re-annexed to and form part of the province of Lower Canada: Be it therefore enacted that so much of the said coast as lies to

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the westward of a line to be drawn due north and south from the bay or harbour of Ance Sablon, inclusive, as far as the fifty-second degree of north latitude, with the island of Anticosti, and all other islands adjacent to such part as last aforesaid of the coast of Labrador, shall be and the same are hereby re-annexed to and made a part of the said province of Lower Canada, and shall henceforward be subject to the laws of the said province, and to none other;"

**III.
CANADA'S CONTENTION.**

4. Canada submits, as the basis of her contention, the two following propositions :—

1. The extent of territory within the peninsula of Labrador to-day subject to the authority of Newfoundland is the "coast" which, by the Commission of the 25th April, 1763, hereinabove recited, was, as declared by the Royal Proclamation of the 7th October of that year, put under "the care and inspection" of the Governor of Newfoundland, less the portion thereof re-annexed to the Province of Lower Canada by the British North America (Seigniorial Rights) Acts, 1825, 6 Geo. IV., chap. 59 (Imperial).

2. That the "coast," so described, is a strip of maritime territory, extending from Cape Chidley, at the entrance to Hudson Strait, to the eastern headland of the bay or harbour of Blanc Sablon on the Strait of Belleisle, and comprising, in its depth inland, only so much of the land immediately abutting on the sea, above low-water mark, as was accessible and useful to the British fishermen annually resorting to that coast, in the ordinary conduct of their fishing operations, for the purposes of "the open and free fishery" extended to that coast by the Royal Proclamation and carried on there, and for those purpose only.

These two propositions are, it is submitted, respectively established by the reasons set forth below.

**IV.
FIRST PROPOSITION.**

5. The Newfoundland Act, 1809, 49 Geo. III., chap. 27, sec. 14 (Imperial), constitutes Newfoundland's title to whatever

Vol. 1, p. 195.

Vol. 1, pp. 153 & 149.

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Vol. 2, p. 190. [sic]

rights within the Labrador Peninsula she to-day possesses, but the title which it confers is a title by relation—a title by relation to the Royal Proclamation of 1763 which, with the antecedent Commission, above cited, gives the definition of the extent of territory affected. This is made indisputably clear by the terms of that Act. By it, such parts of the coast of Labrador as His Majesty by His Royal Proclamation of the 7th October, 1763, had been pleased to declare he had put under the care and inspection of the Governor of Newfoundland, were re-annexed to the Government of that island.

The parts of the coast affected by this disposition are not otherwise described or defined by the Act than by recital of, and reference to, the Royal Proclamation of 1763. They are, in the words of the enacting clause of the statute, "such parts of the coast of Labrador from the River Saint John to the Hudson's Straights," etc.... "so annexed to the Government of Newfoundland by the said Proclamation," *i.e.*, of 1763—a limitation which explicitly throws the interpreter back upon the language of the Royal Proclamation. That Proclamation and the Commission of the 25th April, 1763, of which it proclaimed the effect, are, for the purpose of identifying and defining such parts of the coast, Newfoundland's title. Her rights extend over precisely the extent of coast described in those instruments, less, of course, the part which the British North America (Seignorial Rights) Act, 1825 (6 Geo. IV., chap. 59), withdrew and embodied in the Province of Lower Canada. The Newfoundland Act, 1809, dealt solely with the extent of coast (neither increased nor diminished), which the legislation of 1763 had put under the care and inspection of the Governor of Newfoundland.

These conclusions are fully borne out, it is submitted, by the terms of the Commission and Proclamation and of the Acts cited.

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Vol. 1, pp. 210, 211.

V. SECOND PROPOSITION.

6. The length of the extent of coast now under the authority conferred on the Government of Newfoundland is certain and not a matter of dispute.

It originally extended from the mouth of the River St. John, which empties into the Gulf of St. Lawrence nearly opposite the west end of the Island of Anticosti, to Cape Chidley at the entrance from the Atlantic Ocean to Hudson Strait.

The British North America (Seignorial Rights) Act, 1825, withdrew from Newfoundland's authority and re-annexed to the Province of Lower Canada, the part of the coast extending from mouth of the River St. John to the Bay of Blanc Sablon at

Vol. 5, pp. 2073-

the inner entrance to the Strait of Belleisle, including that bay, or as the statute describes it, "so much of the coast as lies to the westward of a line to be drawn due north and south from the bay or harbour of Ance Sablon inclusive, as far as the fifty-second degree of north latitude."

The landward depth of this coast is the matter in dispute, the boundary line between it and the main or inland territory never having been located.

Vol. 5, p. 2089.

Vol. 5, p. 2083.

Vol. 5, p. 2100.

Vol. 5, p. 2095.

Vol. 5, p. 2079.

Vol. 5, p. 2085.

Vol. 5, p. 2086.

Vol. 5, p. 2087.

7. The word "coast" as defined by lexicographers from the time Dr. Johnson's great work was first published in 1755 down to the present day, means, "The edge or margin of the land next to the sea, the shore." "It is not used," Johnson's work adds, "for the banks of less waters," *e.g.*, of rivers or lakes. "Sea-shore" is defined as, "The coast of the sea." The words "coast," "sea-shore," and "sea-coast," accordingly, mean and designate the same thing. Such is the primary and natural meaning of the word "coast" when used in its geographical sense; and that is the meaning which the term has invariably been given by the Courts both in England, Canada and the United States. (*Esquimalt and Nanaimo Railway v. Treat*, 121 L.T.R. (P.C.) 657, 658, affirming judgment of the Court of Appeal (B.C.), 1918, 3 W.W.R. 685; *The King v. Forty-nine Casks of Brandy*, 3 Hagg. Adm.

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257; 275, *Gammell v. Commissioners of Woods and Forests*, 3 Macq. A.C. 419, 460; *Regina v. Cox* (1859), 1 P.E.I. 170; *Soult v. l'Africaine* (1804), Bee's Adm. Rep. 204; *United States v. The James Morrison*, 1 Newb. Adm. Rep. 241, 253; *United States v. The William Pope*, *ib.*, 256, 259; *Ravesies v. U.S.* (1884), 35 Fed. Rep. 917, 919). There can, therefore, be no presumption or other reason for construing the term "coast," as used in the Commission and Proclamation of 1763 and in the Acts cited, in any larger sense than is strictly required for the full attainment of the object which the legislator had in view.

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8. Canada submits that the true meaning of the term "coast" as used in these instruments—*i.e.*, its meaning as applied to the subject-matter with regard to which it was used, and for the object the legislator had in view—is correctly stated in the second of the above propositions. The precise terms fixing the length of the coast, the declared purpose of the enactments, the description of the power in respect of the coast conferred on the Governor, the nature of his functions and of the power he exercised in Newfoundland itself, the conditions prevailing in that Island, and the purposes and policy of its Government; all these unite to show that the term "coast" was used in that sense.

Vol. 1, p. 49.

9. The precision with which the Commission to Graves fixed the terminal points of the length of that coast restricts its depth well within the limits assigned to by the Dominion's contention. The Commission defines the "coast" as extending "from the entrance of Hudson's Streights" to "the River St. John, which discharges itself into the sea, nearly opposite the west end of the Island of Anticosti." That definition is of a line of "coast" extending from one point to another point; its terms exclude the idea of depth of land upon the coast of Hudson Strait at the one end, or upon the banks of the River St. John at the other.

10. In the Royal Proclamation of 1763, the object which the Crown, as legislator, had in view

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Vol. 1, p. 154.

when it included the coast of Labrador in the Commission to the Governor of Newfoundland, cited above, is explicitly declared in the following words, viz., "to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador and the adjacent islands." It was "that coast"—a "coast" upon which it was physically possible to carry on the operations of the fishery, the coast available and useful for that purpose, that His Majesty was pleased to declare he had put under the "care and inspection" of the Governor of Newfoundland. The purpose so declared is the measure of the depth of that coast. It, that coast, comprises clearly the whole of the coastal area used or susceptible of use for the purposes of fishery referred to, but is as clearly restricted to that area.

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11. What was that fishery and what was the extent of coast to which it could be extended and upon which it could be carried on? From the terms of the Commission to Graves above cited, and many other State documents, it is abundantly clear that the fishery described as "the open and free fishery of our subjects" in the Proclamation of 1763 was the free British fishery then carried on upon the coasts of Newfoundland under the rules and regulations of the Newfoundland Fishery Act (10 & 11 Wm. III., chap. 25 (1699), (Imperial)). It is essential, in order to form a clear conception of the nature of this fishery, to advert to the peculiar conditions attaching to the Island of Newfoundland and to the maritime policy with which that fishery was identified.

Vol. 1, p. 149. Vol. 4,
pp. 1987-2071.

From its first discovery (Cabot, 1497-98) under Henry VII., Newfoundland became, and has ever since remained, the seat of a great cod fishery. The early annals of the Island are largely concerned with the struggles and vicissitudes of two contending interests in the Newfoundland trade: the one, that of the planters and inhabitants who, being settled there, needed

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the protection of a government and police, with the administration of justice; the other, that of the English adventurers and merchants who, carrying on the fishery from England and visiting the Island only for the season, needed

Vol. 4, pp. 1667-1810.

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no such protection for themselves and were opposed to its being afforded to others because of the encouragement it would give to the forming of settlements which would, they believed, involve interference with their operations. The controversy which grew out of these conflicting interests early presented for decision the question whether the Island should be allowed, by countenancing settlement, to become a colony, or whether it should be maintained solely and simply as a station for the convenience of English fishermen. The decision finally arrived at by the King in Council, not without some vacillation, was that there should be no colony, and, accordingly, it became the settled policy of the British Government to discourage and even to prevent, colonization of the Island and to treat it solely as a station for its fishery, which was regarded, of course, for its merchantable value but principally as a training ground for seamen and the source from which the Navy drew its best recruits. The Act of 10 & 11 Wm. III., C. 25, was founded upon this policy, and was little more than an enactment, with some alterations, of the regulations which had been theretofore prescribed by the King in Council. The policy of this measure was pursued and strengthened by several later Acts (viz., 15 Geo. III. (1775, chap. 31); 26 Geo. III. (1786, chap. 26); 29 Geo. III. (1789, chap. 53)), and was not abolished before the enactment of the Imperial Act 5 Geo. IV. (1824, chap. 51).

12. The fishery promoted and carried on under the regulations of the Act of 10 & 11 Wm. III., c. 25, was a deep-sea cod fishery, including the right to take bait. All British subjects, in general, were free to engage in this sea fishery, but the right to use the shore and the land contiguous thereto for the purposes of the fishery was reserved exclusively for British subjects going out to fish there in ships annually fitted out from some port in Great Britain. The coast of Labrador was put under the Governor of Newfoundland, because it was evidently thought that, as a fishery, it would form a natural appendage to this Newfoundland fishery.

Vol. 1, pp. 250-251.

13. Unlike the fishermen engaged in the sea fishing in the waters surrounding Great Britain,

where they had not, at common law, any right to use the land above high-water mark, the British fishermen who came out annually to Newfoundland were, under the Act of 10 & 11 Wm., c. 25, granted

"liberty to go on shore . . . for the curing, salting, drying and husbanding of their Fish, and for

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making of Oil, and to cut down Woods and Trees there for building and making or repairing of Stages, Ship-rooms, Trainfats, Hurdles, Ships, Boats, and other Necessaries for themselves and their Servants, Seamen, and Fishermen, and all other Things which may be useful or advantageous to their Fishing Trade."

For the purposes so specified, but none other, the fishermen were at liberty to use the sea-shore and the contiguous land, on the coasts of Newfoundland, and likewise on the coast of Labrador when that fishery was, in 1763, made a part of the Newfoundland fishery.

Vol. 5, pp. 2167 to
2260.

The depth of the coast above high-water mark that can be used for these purposes can be determined, it is submitted, only upon evidence of the extent of coast which has been used in connection with this and other like fisheries, and of what, in the judgment of experienced persons, can be used for such purposes. There will be found in the Joint Appendix to this case evidence of both classes, which, it is confidently submitted, affords convincing proof that the "coast" is nothing more than the limited strip of maritime territory defined in the second of the above propositions; and furthermore, that that "coast," having regarding to the maximum area required for the free and full pursuit of the fishery and for every possible economic use of the coast in connection with the fishery, can have, at the utmost, a depth from the high-water mark on the sea-shore of one mile.

Vol. 1, p. 154.

14. The terms used in the Proclamation of 1763 to describe the authority conferred on the Governor of Newfoundland further confirm the Dominion's contention with regard to the depth of the coast. The Proclamation declares that the King had put that coast and the adjacent islands "under the care and . . ."

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" . . . inspection" of the Governor of Newfoundland. These words are most apt as descriptive of supervision, to be given from the ocean to a strip of coast adjoining it, by a naval officer with his seat of government—so far as his functions can be called government—upon board a man-of-war. They are singularly ill-chosen, if there was any intention to make provision for the government of a vast Province, extending inland many miles from the sea. The inference to be drawn from these terms—indeed, the inference which they impose—finds striking confirmation not only in what has been said in the preceding paragraphs, but in what is stated in the next paragraph in regard to the nature of the Governor's authority and functions at Newfoundland itself, the conditions prevailing

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in that Island, and the peculiar maritime policy pursued by the Mother Country, before and throughout the whole period of the legislation (1763-1825) in regard to that Island and its government.

*Vol. 2, pp. 600.
623.
637.
674.*

15. The Commission of Governor of the Island was invariably given, at the request of the Admiralty, to the naval officer chosen by the Admiralty to command the King's ships on that station. His most important functions were the supervision and control of the fishery. He came out every year at the opening of the fishing season and left at its close. He had no power to make laws, neither was he authorised to make grants of land. He was given certain powers in regard to the administration of justice, but these were required to be exercised in subservience to the due execution of the fishery laws, and were, in truth, simply those necessary for the maintenance of order in the fishery. As a contemporary writer expressed it, in an elaborate treatise prepared in 1752 for the use of Pelham, the First Lord of the Treasury, and Granville, the President of the Council, "the object of that government relates to a kind of police amongst fisher men and to them only." That, indeed, was the entire object of his government. Official documents and contemporary statesmen and publicists speak of Newfoundland itself as a great ship, provisioned and outfitted by the Mother Country, and moored near the banks during the fishing season

Vol. 4, p. 1847.

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*Vol. 4, 1908, 1916,
1917.*

for the convenience of English fishermen; and of its government, as a floating government. Edmund Burke, speaking in the House of Commons, described the Governor as "A military officer living on board a man-of-war." He neither possessed nor exercised the powers essential for the civil government of any territory. He was equipped for the care and inspection of a fishery, but nothing more.

Vol. 3, p. 1139.

*Vol. 4, pp. 1869,
1878, 1879, 1943,
1954.*

Newfoundland, as has been stated, was not considered to be a colony, such as the other Provinces in America were. The entire policy pursued with regard to the Island, was to maintain it solely and simply as a fishing station for the use and benefit of the fishermen from England and of the trade of the merchants in that country who employed and supplied them. It was essentially a nautical policy, founded upon the principle that a temporary or transitory fishery provided the best nursery for able and experienced seamen to man the Royal Navy. That end was constantly kept in view, and anything in the nature of settlement in the Island was frowned upon and discouraged as tending to defeat it. Conditions on the Island were such as the policy indicated would naturally produce. Newfoundland was a temporary fishery, and nothing more. The Labrador coast

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Vol. 3, p. 909.

was to be a temporary fishery, and nothing more. In neither was any permanent residence or settlement intended, and therefore no civil government was either necessary or could be established in such places. Both were to be preserved as temporary fisheries, "under such regulations and such administration of justice" as the Lords of Trade stated in their report of the 8th July, 1763, "as is best suited to that end." The care and inspection that was sufficient for the one was sufficient for the other. These were the reasons, as the Lords of Trade stated, which induced His Majesty to put the coast of Labrador, as a fishery, under the supervision of the Governor of Newfoundland.

16. Newfoundland itself has consistently followed out the policy of dealing with the coast of Labrador as a fishing coast and nothing more. She was not, at the time that coast was first confided to the care and inspection of her Governor, and has never since

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Vol. 3, pp. 1639-1645.

been, equipped or in a position effectively to extend her government to the extensive inland territory of the Peninsula. It may without exaggeration be said that she has never attempted or pretended to do so. Her entire action—till within very recent years when she seems to have been tempted to reach out to appropriate the timber wealth of the interior—may be invoked as demonstrating that her own comprehension of the extent of the coast under her care and inspection was that which Canada herein contends it to be.

Vol. 3, pp. 893 to 1235.

17. Canada submits that its contention with regard to the meaning of the term "coast" as used in the Statutes, Orders-in-Council and Proclamations, is fully established by the reasons stated above, and that this is the precise and unambiguous meaning of the term which the language of those instruments with the evidence afforded or indicated by them, does itself declare. Though, in view of this conclusion, it is not necessary to refer to other evidence for the purpose of elucidating the intention of the legislator, there will be found in the Joint Appendix a series of documents which show that the contemporaneous interpretation of the legislation, so far as the same can be found in the words and actions of those concerned or charged with their enactment or execution, is not only consistent with, but abundantly confirms, the meaning which Canada has given to the term "coast" as being the meaning which the legislator himself attached to that term.

Vol. 1, p. 61.

The effect of this evidence is set forth in the form of an historical narrative in an Annex set out hereafter. It is thought that such a narrative may serve as a guide to the examination of the documents contained in the Joint Appendix, so far as much examination may be considered necessary.

18. The "coast" to which Newfoundland's rights extend being essentially limited to the narrow margin of land immediately bordering on the *sea-coast* of the Peninsula useful for purposes connected with the fishery—that is, the coast, as an adjunct of the sea and the sea fishery—it follows, as a logical corollary, that wherever rivers cut the coastline throughout its length from Blanc Sablon to Cape

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Canada Atlas, Maps
2A, 2B, and 13.

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Chidley, the rivers themselves are to be treated precisely in the same way as the land through which they flow, that is to say the physical line represented by the high-water mark on the sea-coast (from which the boundary line of the coast inland is to be measured and located) is to be taken as crossing the mouth of each river at the point which marks the limit between the river and the sea. Most of the rivers discharging on the coast are inconsiderable streams, but at one place, namely, at that point on the coast where the Hamilton River system through its outlet, the river known as the "Narrows," falls into the sea or inlet, the location of the coast-line is a matter of special importance. This is by reason of the fact that the area affected is probably the most valuable portion of the territory in dispute. It was attempted encroachments by Newfoundland within this territory that brought the question of the boundary now submitted to a definite issue. The Hamilton River system, of which the Narrows is the channel of discharge, is one of the principal river systems of the Peninsula. It includes, in addition to the great trunk stream of that name and its large expansion, Lake Melville, many tributaries of which the most important are the Northwest (the outlet of Grand Lake and its tributaries) and the Kenamou rivers. These rivers flow into Lake Melville near its head.

The outlet from Lake Melville by the Narrows is divided by a large island—Henrietta island—into two relatively shallow streams, one passing to the westward and the other to the eastward of the Island. These streams join on the north-east side of the Island in a single stream which flows in a channel, confined for the most part by bold, rocky banks, and of an average width of little over a mile for a distance of about seven miles to Double Mer and Lester Points. Below these Points, the channel widens out slightly and in this part is joined by the long, narrow water-way called Double Mer which opens up to the west-ward. Further on, the channel contracts to a width of about two miles and terminates, at a distance of about seven miles from Double Mer and Lester Points, in two points called Ticoralak and Turner headlands, where it discharges into the open expanse of the Hamilton inlet. Lake Melville is tidal though the rise is small. Sea fish, such as cod and other

Vol. 5, p. 2319 to
2413.

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Vol. 8
Canada Atlas 7A, 7B,
8 and 19, 29 and 35.

forms of marine life, do not inhabit its waters. The behaviour of the flow and the character of the water in the Narrows are distinctively characteristic of a tidal river.

That the coast-line crosses the river below a line connecting Lester and Double Mer Points is, it is submitted, clearly

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established by the results of the various surveys, tests and investigations carried out in these waters and set forth in the reports by the Canadian Hydrographic and Tidal Survey Branch, the Geodetic Survey of Canada, and the Geological Survey of Canada, and by the other documents which will be found in the joint appendix. Where this line is to be located cannot be stated with exactitude, but the conditions all indicate that the coastline would be properly drawn between Ticoralak and Turner headlands.

VI. CONCLUSION.

The Dominion of Canada, therefore, submits that the true boundary between Canada and Newfoundland in the Labrador peninsula is a line demarking the area of the coast accessible and useful for the fishery, in accordance with the second of the above propositions. It is recognized that it may be found impracticable to lay down such a line upon the land. Neither party should suffer by reason of this difficulty. Canada, however, suggests, though it involve some sacrifice of territory on her part, that the boundary be located and defined as a line to be drawn from the eastern headland of the bay or harbour of Blanc Sablon, on the south, to Cape Chidley, on the north, at a distance from high-water mark on the sea-coast of the peninsula of Labrador of one mile.

**CHAS. J. DOHERTY.
CHARLES LANCTOT.
AIMÉ GEOFFRION.
H. STUART MOORE.
C. P. PLAXTON.**

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A N N E X.

HISTORICAL NARRATIVE

It will be convenient to set out the facts to be adverted to under this heading in the order of the historical periods signalled by the several legislative changes affecting the governmental administration of the coast of Labrador.

FIRST PERIOD: FROM TREATY OF PARIS, 1763 TO THE BRITISH NORTH AMERICA (QUEBEC) ACT, 1774.

1. In consequence of the Treaty of Paris of the 10th February, 1763, it became necessary for the British Government to make

plans for the government and administration of Canada and the other newly acquired territories in North America. The first measures taken by Great Britain were to make effective, on her part, the exclusive possession of the valuable fisheries on the coasts of Labrador as well as on the coasts of Newfoundland and in contiguous waters.

Vol. 1, p. 330.

On the 8th March, 1763, the Lords Commissioners for Trade and Plantations (hereinafter referred to as the Lords of Trade) were instructed by the Secretary of State to consider the fifth and sixth Articles of the Treaty with relation to French fishing rights with a view to proposing any necessary changes in the instructions to the Governor of Newfoundland.

Vol. 2, p. 386.

On the 15th March, they reported that, these fisheries having become a matter of infinite extent and of the utmost importance, some additional measures and additional instructions were absolutely necessary for securing the exclusive possession of them to His Majesty's subjects and preventing the French from partaking of the benefit thereof. With regard to the coast of Labrador, it would be impossible, they said, to secure the exclusive possession of the fisheries on this coast within the Gulf or to prevent the French continuing to have the full benefit of their former commerce with the Indians on that coast, unless some British settlements

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should be made there or sufficient cruisers stationed with instructions to the commanders to seize all French ships coming within a certain distance of that coast.

2. As it was not of the policy of the Government to encourage settlements on that coast, the former alternative was set aside and the problem of a coast guard was solved by the King's decision to extend the jurisdiction of the Governor of Newfoundland to the coast of Labrador. This decision was communicated by the Secretary of State to the Lords of Trade on the 24th March, and they were, accordingly, instructed to prepare drafts of a fresh commission and amended instructions for the Governor of Newfoundland.

Vol. 2, p. 389.

3. The new Commission dated April 25th, 1763, appointed Captain Thomas Graves to be Governor and Commander-in-Chief in and over the Island of Newfoundland and the coast of Labrador in the terms hereinabove quoted. His powers, as set forth in his Commission, were similar to those given in the commissions of previous Governors. He was given power to appoint judges and commissioners of Oyer and Terminer for the hearing of all criminal causes (treason excepted) according to law, and for awarding execution thereupon, and justices of the peace with other necessary officers for the administration of justice and keeping the peace of the said Island and coast.

Vol. 1, p. 149.

But he was enjoined that, in the exercise of the powers conferred upon him by the Commission, neither he nor any of the officers whom he might appoint should do anything repugnant to the Act of 10 & 11 William III., chap. 25, and he was particularly forbidden to interfere with the Admirals of Harbours or Captains of His Majesty's ships of war, in the performance of their duties under this Act.

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The commissions given to the succeeding Governors, during this period (Captain Hugh Palliser, 1764-1768; Captain John Byron, 1769-1771, and Commodore Shuldham, 1771-1774) were similar, in all material respects, to Graves' commission.

4. His Instructions, dated 29th March, 1763, set forth in 76 articles, related mainly to the general

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supervision and protection of the fishery, the enforcement of the regulations of the Act of 10 & 11 William III., chap. 25, with relation to the trade and fishery at Newfoundland, and reporting on the state of the trade and fishery there.

Vol. 2, p. 411.

These Instructions were reinforced by the Instructions which he received from the Lords of the Admiralty, on the 2nd May, as Commander of the Kings's ships on the Newfoundland station. He was directed, *inter alia*, to settle and guard the fisheries on the coasts of Newfoundland and Labrador as far north as British subjects should be employed in catching and drying fish.

Vol. 2, p. 452.

Vol. 2, p. 466.

Vol. 2, p. 391.

5. So far the measures of the Government were confined to securing the exclusive possession of the fisheries on the coasts of Labrador and Newfoundland. On the 5th May, 1763, the Lords of Trade were ordered to report by what regulations the most extensive advantages might be derived from the cessions on the continent of North America made by France and Spain by the Treaty of Paris and How those advantages might be rendered most permanent and secure to His Majesty's trading subjects. In their report of the 8th June, 1763, the Lords of Trade discussed at length the different advantages arising from the cessions made by the Treaty of Peace. In considering how these advantages could be rendered most permanent and secure to His Majesty's trading subjects, they had to take into account three separate interests, fortunately so localised that conflict between them was unnecessary. These interests were: (1) the settled portion of the country, which was occupied by French inhabitants and a steadily increasing number of British people from Great Britain and the older colonies; (2) the tribes of Indians whose hunting grounds lay to the east, north, west and south of the settled districts; and (3) the British fishermen whose seasonal operations in Newfoundland waters were being extended to the waters on the coast of Labrador.

Vol. 2, p. 406.

Vol. 3, p. 899.

Vol. 3, p. 903.

6. The Lords of Trade submitted, as their opinion, that the advantages resulting from the cessions could only be secured and improved by an immediate establishment of regular civil governments in

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all such places where planting and settlement as well as trade and commerce were the immediate objects. They, accordingly, proposed the erection of a civil government in the settled portion of Canada. This section was but a small portion of the immense tract of country which had been possessed and claimed by the French as Canada. Within the limits proposed for this area the inhabitants were to have the advantages of a regular civil government.

"But as no such regular civil Government is either necessary or, indeed, can be established, where no perpetual residence or planting is intended; It will there be sufficient," the Lords of Trade stated dealing now with the other two interests referred to above, "to provide for the free Trade of all Your Majesty's subjects under such Regulations, and such Administration of Justice as is best suited to that End. *Such We apprehend to be the case of Newfoundland, where a temporary Fishery is the only object, and this We suppose has been the reason, which induced Your Majesty to annex the Coast of Labrador to that Government;* And such we apprehend will be the Case of that Territory in North America which in Your Majesty's justice and Humanity as well as sound Policy is proposed to be left, under Your Majesty's immediate Protection to the Indian Tribes for their hunting grounds; where no Settlement by planting is intended, immediately at least, to be attempted; and consequently where no particular form of Civil Government can be established. In such Territory we should propose, that a free Trade with the Indian Tribes should be granted to all Your Majesty's Colonies and Subjects under such Regulations as shall be judged most proper for that End, and under the protection of such Military Force, to be kept up in the different Posts & Forts in the Indian Country as may be judged necessary, as well for the Protection of Trade and the good Treatment of the Indians as the Maintenance of Your Majesty's Sovereignty and the general defence of North America."

Vol. 3, p. 915.

Pending the receipt of more exact information the Lords of Trade proposed that a large tract of

country around the Great Lakes and beyond the sources of the rivers which fall into the River St. Lawrence from the North, should be left as an Indian country, open to trade, but not to grants and settlements.

7. On the 14th July, 1763, the Lords of Trade were informed that their report had been considered by the King and that he approved of the proposed erection of the three new governments of Canada, East Florida, and West Florida. But,

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with regard to the Indian territory, His Majesty, foreseeing difficulties arising from the lack of some form of civil government in the Indian territory, as proposed, and from the possibility of some foreign power taking possession of this territory as derelict, was of the opinion, that the Great Lakes should be included, with the country, as far north and west as the limits of the Hudson's Bay Company and the Mississippi; and also that all lands whatsoever ceded by the late treaty and which were not already included within the limits of His Majesty's ancient colonies, or intended to form the Governments of East and West Florida, should be assigned to the Government of Canada, but, under the restriction recommended as to grants and settlements, unless their Lordships had some other suggestion to make for obviating the difficulties mentioned.

Vol. 3, p. 919.

8. In a representation of the 5th August, 1763, the Lords of Trade concurred in His Majesty's opinion as to the propriety of putting the Indian territory under a particular government by Commission under the Great Seal, but pointed out objections to attaching it to any one existing government and particularly that of Canada. They proposed, instead, that a commission for the government of this country should be given to the Commander-in-Chief of His Majesty's troops, but, as the preparation of the instructions to such Governor would require a great variety of information, they suggested that the issuing of such commission and instructions should be delayed until they were able to make a full and particular report on the subject. In the meantime, they proposed that a proclamation be immediately issued "as well on account of the late complaints of the Indians and the actual . . . "

Vol. 3, p. 920.

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" . . . disturbances in consequence, as of your Majesty's fixed determination, to permit no grants of lands nor any settlements to be made within certain fixed bounds . . . leaving all that territory within it free for the hunting grounds of those Indian nations subjects of Your Majesty," &c.

Vol. 3, p. 921.

On the 19th September, 1763, His Majesty, through the Secretary of State, approved of the proposal of the Lords of Trade and of the issue of the Proclamation recommended, and expressed his opinion that such proclamation might, with great propriety, provide for the other matters which are dealt with in it. The Royal Proclamation was accordingly, approved and published on the 7th October, 1763.

Ante pp. 43-45.

The material parts of this Proclamation are hereinabove set out.

9. Arrangements were made in accordance with the terms of the Proclamation. On November 21st, 1763, a Commission

Vol. 2, p. 754.

Vol. 2, p. 763.

issued appointing James Murray Captain and Governor-in-Chief of the Province of Quebec, and in his Instructions, which were passed on the 17th December, he was authorised to dispose of the Crown lands of the Province, as directed by the Proclamation. In the provisions for the establishment of a civil government, and the promoting of settlement by the granting of Crown lands to intending settlers in that Province, the difference may be seen between the royal intentions as respects Quebec, on the one hand, and Newfoundland, on the other, with which the fortunes of the coast of Labrador were identified. In the latter case, there was no Civil Government established, nor were any provisions made for permanent settlements.

Vol. 2, p. 411.

10. Captain Hugh Palliser was, on the 9th April, 1764, appointed Governor of Newfoundland and served in that capacity for the unusual period of four years (1764-1768). To him fell the task of carrying into execution the royal intentions with regard to the extension of "the open and free fishery" to the coast of Labrador. He undertook this duty with memorable spirit and ability. His proceedings and the controversies to which they

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Vol. 3, pp. 999, 1000,
1016, 1032.

Vol. 3, p. 956.
Vol. 3, p. 1086.

gave rise set in a clear light the policy which, with some modifications, was continuously pursued by the British Government with regard to that coast until 1824. Quite clear and definite was his conception of the area of the coast which had been placed under his authority, for in his official reports and correspondence with the home authorities, he repeatedly referred to the coast of Labrador as "the fishing coast," "that new fishing coast" and "the new fishing coast of Labrador"; and he formally defined the coast of Labrador under his authority as "an extent of 310 leagues of sea-coast." A later Governor, Commodore Shuldham, defined the coast in substantially the same terms.

Vol. 3, pp. 930 to
1046.

Palliser, in accordance with his Commission and Instructions, pursued the traditional policy of the British Government with regard to the Newfoundland fishery and endeavoured to extend that policy to the Labrador coast which had, in effect, been merged in that fishery. He was confronted by two obstacles: the hostility of the Eskimos inhabiting the Atlantic seaboard northward from the Strait of Belleisle, and the presence on the coast of the Gulf of inhabitants of Quebec claiming, either under French titles or leases granted by General Murray when he was Military Governor of Quebec, the right to exclusive possession and permanent occupation of certain extensive tracts that sea-coast with the adjacent islands, for the carrying on of the sedentary fishery. The latter was a fishery for seal and seacows (walrus), requiring fixed possession and permanent occupation of the places on the sea-coast where it

Vol. 1, p. 250.

was carried on, whereas the fishery carried on under the Act of 10 & 11 William III., chap. 25, was a transitory cod fishery, for the conduct of which it was essential that the whole sea-coast should remain open and free to the British adventurers from Europe to enjoy their privilege of the first choice of places on shore yearly for the fishery, according to the rules prescribed by that Act.

Vol. 3, pp. 930 to 933,
946.

Vol. 3, p. 942, 943.

In order to extend this free fishery to the new field and to maintain it upon its original principles, Palliser sought, on the one hand, to conciliate the Eskimos, and, on the other, to rid the coast of the sedentary fishermen; to this end, he made and published from time to time regulations for the

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Vol. 3, pp. 937, 943,
944, 986, 1004, 1010,
1014.

Vol. 3, p.
937.

Vol. 1, p.
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coast of Labrador. These regulations did not deal with the variety of matters which one would expect, if he had considered the area of the coast under his authority to be an extensive region. They were directed solely to the establishment of the fishery and the regulation of matters incidental thereto. His first regulations were published in 1765. They ordained, inter alia, that all the rules and regulations of the Act of 10 & 11 William III., c. 25, should be strictly observed on the coast; forbade all persons from the colonies (except whale fishers within the Gulf of St. Lawrence who were allowed a limited privilege of landing on that part of the coast to cut up their whales and to make oil) to resort to that coast and reserved the whole coast for the use of the qualified British fishing ships annually arriving from His Majesty's dominions in Europe. In addition, the regulations provided special privileges, in the nature of rewards, to encourage the industry of the British ship fishers in the cod fishery: the first arriving ship in any harbour, in addition to being Admiral, should have the privilege of leaving a crew for the winter seal and whale fishing; the second arriving ship, besides being Vice-Admiral, should have the exclusive right to all the salmon fishing in that harbour during that season, and the third arriving ship, besides being Rear-Admiral, should enjoy the exclusive privilege of trading with the Indians that might come within the limits of that harbour.

By these regulations and the measures he took to enforce them, Palliser conceived that he had laid the coast open and free to all the King's subjects from his dominions in Europe, agreeably to the Newfoundland Fishery Act above cited, which he held to extend, under his Commission and Instructions, to the coast of Labrador. The exclusive possessions on the fishing coast held by the colonists as mentioned above, operated, Palliser held, to the absolute exclusion of the adventurers' ships from Great Britain as well as all other of the King's subjects and, therefore, were directly contrary and repugnant to the true meaning and intent of the Act of 10 & 11 William III., c. 25,

and to the provisions of the Royal Proclamation of 1763.
Palliser designed, by his regulations, to annul the grants

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under which these exclusive possessions were claimed, and determined to remove all the settlers under them. Such of them as were within his reach he did dispossess. His proceedings caused many complaints to be brought before the Lords of Trade and led to a very long inquiry, extending over several years.

11. The transactions of the home authorities show, in the same striking manner as the Governor's proceedings, that they considered and dealt with the coast of Labrador solely as a fishery. In 1765 and again in 1766, the Lords of Trade took occasion to consider the state of the coast of Labrador. They seemed to have been unable at this time, for want of full information, to form a definite opinion as to what plan of commercial regulations it might be proper finally to adopt for securing to the Kingdom every advantage that could be derived from this coast. It appeared, however, to the Board in 1765, from the best information they had been able to collect, that the fisheries on that coast would require a separate consideration and could not properly fall under regulations approved for the Island of Newfoundland, for, although an advantageous cod fishery might be established on some parts of the coast of Labrador, more especially in the northward, yet it was certain that the whale, seal and sea-cow fishery had been, theretofore, and would most probably continue to be, the principal objects of attention and pursuit in those parts of His Majesty's dominions.

On the other hand, it appeared, as the Board in 1766 pointed out, to be the opinion of His Majesty's Governor that the greatest commercial benefit to be derived from this coast was that of a cod fishery, and that the seal and sea-cow fishery neither had been nor ever could be other than a secondary object of attention, confined to particular parts of the coast, and carried on at a season when it would not interfere with the other more important fishery for cod. Although they submitted to His Majesty's termination the question of how far the Governor's regulations were correct in point of policy or in any other respect proper and expedient, they considered at the only difficulty affecting the consideration

of the question was the nature of the tenure under which the exclusive posts on the coast were held and claimed, as these regulations did, in their opinion, point out a method by which the Kingdom might avail itself of the benefits of an oil fishery, without the continuance of exclusive possessions in the hands of Americans, operating as monopolies and to the establishment of an illicit trade in foreign products.

Vol. 3, p. 986.

12. A short time later, the Lords of Trade considered the complaints of the Quebec merchants and settlers on the coast. With regard to the exclusion of His Majesty's American subjects from the fishery on the Labrador coast, they were of the opinion that the design of the statute of 10 & 11 William, III., c.25, was only to encourage His Majesty's British subjects in preference to all others, but not (as Governor Palliser seemed to have understood) to exclude from the fishery ships fitted out from America. The Secretary of State approved of this construction of the statute, and, by his direction, the Lords of the Admiralty on the 2nd of June, 1766, issued an additional instruction to Palliser, requiring him "not to interrupt His Majesty's said American subjects in fishing, provided they conform to the established rules of fishing."

Vol. 2, pp. 446-449.

Pursuant to this instruction, Palliser, on the 1st August 1766, published an order giving notice that all vessels from the Plantations would be admitted to the Labrador coast on the same footing as they ever had been admitted at Newfoundland, "the ancient practices and customs established in Newfoundland respecting the cod fishery under the Act of Parliament passed in the 10 & 11 William III., commonly called the Fishing Act, always to be observed."

Vol. 3, p. 1163.

Vol. 3, p. 1010.

Under the authority of the same instruction, Palliser, during this season erected and garrisoned a blockhouse, which was called York Fort, at Pitt's Harbour in Chateau Bay, "for the security and encouragement of the adventurers to that coast." This fort, which was the only one ever erected on the coast, was maintained until August 1775, when, on a report that British ship fishers did not consider this establishment essential to the extension of

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their interests in the fishery or for the security of their possessions, Commodore Duff caused it to be closed.

13. On the 10th August, 1767, Palliser published further regulations for the encouragement of the ship fishery on the coast. These regulations permitted the ship adventurers (but no one else) who might first clear and make new fishing places and erect new stages and other works on the coast, to enjoy the same so long as they continued to resort to and use them from year to year successively, with fishing ships fitted out from Britain, and no longer, the same to become common and public on the first builders thereof once ceasing to use them during one season. The regulations further declared that, for better securing the ship fishers' works from being destroyed in their absence, no person could be permitted to stay on the coast in the winter, except that, as a reward and encouragement to the most adventurous and industrious ship fishers, the masters

of three of the first arriving fishing ships at or within the limits of each principal harbour might choose to leave each a crew of twelve men for the winter's seal fishery.

Vol. 3, p. 1021.

14. On the 3rd March, 1768, the Lords of Trade reported to the King that, having referred certain claims of the inhabitants of the province of Quebec to the exclusive possession of land and fishing posts on the coast of Labrador to the Attorney and Solicitor General for their advice, they were clearly of the opinion that these claims, standing as they did then, could not in any judicial inquiry be allowed as valid and effectual, and ought not, therefore, to stand in the way of any regulations and arrangements His Majesty might make in the government and direction of that coast. They were, moreover, of the opinion that the establishment of such private rights and possessions should not be allowed upon principles of policy and prudence, as they would not only deter adventurers from Britain from carrying on the fisheries on that coast, but would most probably be applied to the introduction of illicit trade and commerce.

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Vol. 3, p. 1023.

Vol. 3, p. 1055.

15. Subsequently, the Lords of Trade were required to consider an elaborate memorial on behalf of the land holders in Canada, who were proprietors of seal fisheries on the coast of Labrador, and their lessees, complaining of the great loss and detriment which had ensued in consequence of those fisheries being made subject to the regulations of the Governor of Newfoundland. On the 24th June, 1772, they reported to the King that these regulations, which were designed to encourage the fisheries for cod and whales by laying the coast open to the first arrivers, had been found absolutely incompatible with the principles upon which the seal fisheries could alone be conducted, and that to subject the latter fisheries to those regulations was, in effect, to destroy them. Although His Majesty, from such information as was before him when the Proclamation of 7th October, 1763, was published, did, upon the gracious motives therein set forth and with the advice of his Privy Council, think fit to put the coast of Labrador under the care and inspection of the Governor of Newfoundland, yet the experience of succeeding times and the various inconveniences which had since occurred, and which could not at that period be foreseen, had, as their Lordships humbly conceived, reversed the policy of that measure and made it for His Majesty's service and the welfare of his subjects that such part of the coast of Labrador as was situated between the River St. John and the Strait of Belle Isle, together with the islands of Anticosti and Madelaine and all other smaller islands lying upon the said coast, should be re-annexed to the Government of Quebec, leaving, for the present at least, that part of the coast between the Strait of Belle Isle and Hudson Strait, and where they conceived there were very valuable cod fisheries,

under the Government of Newfoundland.

Vol. 3, p. 1058.

16. This report was referred back to the Lords of Trade and they were ordered to confer with the Governor of Newfoundland and report how far the seal fisheries might be relieved from the detriment of their being made subject to the rules and regulations of the Government of Newfoundland for the cod and whale fisheries without prejudice to those

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considerations of policy which had induced His Majesty, by His Royal Proclamation in 1763, to put all the coast of Labrador under the care and inspection of the Governor of Newfoundland.

Vol. 3, p. 1069.

On the 2nd March, 1773, the Lords of Trade made a report on petitions from certain adventurers to be secured in their seal and salmon fishery establishments on that coast. They recommended as proper for securing the possessions of persons concerned in these fisheries, a regulation protecting such of His Majesty's subjects of Great Britain who had formed, or should thereafter form, establishments on the Labrador coast for the purpose of carrying on the seal and salmon fisheries, in the possession of such posts, provided they annually fitted out from Great Britain one or more ships to be employed in the cod fishery on the said coast. The proposed regulation was approved by the King and transmitted to the Governor of Newfoundland, who issued a proclamation setting forth the terms of the regulation.

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Vol. 3, p. 1072.

17. On the same day the foregoing report was made, the Lords of Trade, having conferred with the Governor of Newfoundland, reported to the King, re-affirming their opinion that the regulations which had been made for the encouragement of the fisheries for cod and whales were incompatible with that permanent residence and continued possession which were essential to the seal and salmon fisheries, and that these fisheries could not be relieved from the loss and detriment which the proprietors of the different posts upon that coast complained of, whilst the regulations aforesaid were continued in force. It was not, however, upon this ground altogether that they recommended the re-annexing to Quebec of that part of the coast described in their previous representation; for when it appeared, upon examination, that a great part of it was claimed as private property under grants from the French Government of Canada and that His Majesty was bound by treaty to admit those claims, the consideration of policy was out of the question, and His Majesty could not, in justice, enforce regulations that were subversive of those rights. As those

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Vol. 3, p. 1075.

claims did not appear, upon further examination, to comprehend all the coast between the River St. John and the Strait of Belle Isle but extended no farther than the Ance des Espagnols or Bay Phillippeaux (present Bradore Bay), what therefore lay to the eastward might properly continue with the Government of Newfoundland, and the diasadvantage in point of fishery of re-annexing the remainder to the Government of Quebec, if any, would be less, as by far the greater part of it was rocky and inaccessible, and therefore could be of no use to the cod fishery.

Vol. 1, p. 158.

18. On the 22nd April, 1773, His Majesty in Council approved of the report of the Lords of Trade of the 2nd of March, 1773, recommending that the Labrador coast from the River St. John to Bay Phillipeaux be re-annexed to the Government of Quebec, and accordingly ordered His Majesty's Attorney and Solicitor General to prepare and lay before him a draft of an instrument proper to be passed under the Great Seal of Great Britain for re-annexing to the Government of Quebec such part of the coast of Labrador as was situated between the River St. John and the Ance des Espagnols or Bay Phillippeaux (present Bradore Bay) together with the islands of Anticosti and Madelaine and all other smaller islands upon the said coast. Instead of this being done, the whole coast of Labrador from the River St. John to the entrance of Hudson Strait was annexed to the Province of Quebec by the British North America (Quebec) Act, 1774.

SECOND PERIOD: FROM THE BRITISH NORTH AMERICA (QUEBEC) ACT, 1774, TO THE NEWFOUNDLAND ACT, 1809.

19. On the 22nd June, 1774, the British North America (Quebec) Act, 1774, 14 Geo. III., chap. 83 (Imperial), was assented to.

Vol. 2, pp. 832, 833.

20. In consequence of the changes made by this Act, fresh instructions were given to the Governor of Quebec indicating how he was authorised to deal with the territory newly added to the province. In these Instructions (which were repeated in those

Vol. 1, p. 250.

given to all the succeeding Governors of Quebec and Lower Canada down to 1839) the term "coast of Labrador" was unquestionably used to designate only the immediate seaboard upon which the fishery operations were carried on—*i.e.*, the fishing coast—and not as including any land in the upper or interior country (*vide*, Arts. 30 to 36, Instructions to Guy Carleton, 3rd Jan. 1775). They assimilated the regulations

which had already been adopted before the Quebec Act was passed, subject to some modifications respecting Canadian possessions on that coast.

Vol. 1, p. 164.

Vol. 2, p. 878.

Vol. 2, p. 800.

Canadians were to be secured in their exclusive possessions on that coast and left free to carry on their sedentary fisheries, but on all such parts of the coast where there were no Canadian possessions, and more especially where a valuable cod fishery might be carried on, the Governor was to make the interests of British subjects going out to fish there in ships fitted out from Great Britain the first object of his care, and, as far as circumstances would admit, to establish on that coast the regulations, in favour of British fishing ships, contained in the Act of 10 & 11 William III., c. 25. Moreover, he was on no account to allow any possession to be taken, or sedentary fisheries to be established, upon any parts of the coast that were not already private property, by any persons whatever, except only such as should produce annually a certificate of their having fitted out from some port in Great Britain.

Vol. 1, p. 182.

Vol. 1, p. 158.

Vol. 1, p. 164.

In light of these instructions, those which were subsequently given to the Governor of Lower Canada after the passing of the Clergy Endowments (Canada) Act, 1791, 31 Geo. III., c. 31 (Imperial), authorising him in the most ample manner to make grants of land upon the banks of any navigable river within the Province without any exception of the rivers flowing to the coast of Labrador, and requiring him to inform the Lords of Trade yearly of the nature and extent of the several fisheries carried on either on the coasts, lakes or rivers of the Province, show very clearly that navigable rivers and lakes were not regarded as part of the coast of Labrador, and that the latter term was used in its narrow sense as applying only to the margin of land next to the sea accessible and useful for the purposes of the fishery.

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Ante p. 75.

Vol. 3, pp. 1147,
1150.

21. By Order in Council (Imperial) of the 24th August, 1791, the Province of Quebec was divided into two provinces to be called the provinces of Upper and Lower Canada, respectively, by a line of division which was carried up the Ottawa River to Lake Temiskaming and from the head of that lake by a line drawn due north "until it strikes the boundary line of Hudson's Bay." The Province of Lower Canada as thus constituted included the parts of the coast of Labrador which the Quebec Act, 1774, had withdrawn from the care and inspection of the Governor of Newfoundland and annexed to and made part and parcel of the Province of Quebec. By the Clergy Endowment (Canada) Act, 1791, 31 Geo. III., chap. 31 (Imperial), provisions were made for the government of the new provinces by legislative councils and assemblies.

In consequence of this division of the Province of Quebec,

Vol. 3, pp. 1194-1199.

fresh instructions were given to the Governor. These contained the provisions with regard to the fisheries on the coast of Labrador, the trade with the Indians of the interior country, and the granting of lands within the province and information respecting the fisheries, to which reference has been made above.

Vol. 1, p. 190.

22. Throughout the whole period, during which the coast of Labrador continued to be part of the Province of Quebec (1774-1809), the Governor of Newfoundland was required, not as Governor, but as Commander of the King's ships employed for the protection of the fisheries, to superintend those on the Labrador coast as well as those of Newfoundland; and an inspection of the correspondence of the Governor of Newfoundland with the home authorities which led to the enactment of the Newfoundland Act, 1809, shows that the provision for re-annexing the coast of Labrador to the Government of Newfoundland was inserted in that Act for the purpose of securing the better regulation of the fishermen and others frequenting that sea-coast, and particularly the suppression of the illicit trade which American fishermen had been reported to be carrying on there.

Vol. 1, p. 195.

Vol. 2, p. 639.

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THIRD PERIOD: FROM THE NEWFOUNDLAND ACT, 1809, TO THE BRITISH NORTH AMERICA (SEIGNORIAL RIGHTS) ACT, 1825.

Vol. 2, p. 675.

Vol. 2, p. 685.

Vol. 2, p. 716.

23. On the 30th March, 1809, the Newfoundland Act 1809, 49 Geo. III., chap. 27 (Imperial), received the royal assent. Such parts of the coast of Labrador. His Majesty had, by his Proclamation of 1763, been pleased to declare he had put under the care and inspection of the Governor of Newfoundland were, by section 14 of this Act, re-annexed to the Government of Newfoundland.

Vol. 5, p. 2102.

24. On the 4th June, 1810, Admiral Sir John Thomas Duckworth was appointed Governor of Newfoundland and of all the coast of Labrador and adjacent islands (the Magdalen Islands excepted) as described in the Royal Proclamation of 1763. His commission was, in all material respects, similar to those under which Graves and Palliser had acted; as were also the commissions given to his successors, Admiral Sir Richard Godwin Keats (1813-1816), Vice-Admiral Francis Pickmore (1816-1818), and Vice-Admiral Sir Charles Hamilton (1818-1825). In Duckworth's instructions as Governor, he was directed to encourage the trade and intercourse with the Indians residing in the Island of Newfoundland, but no instructions were given to him with regard to trade with the Indians who frequented the seaboard of Labrador or the land at the back thereof.

25. On 20th October, 1818, a convention was signed in London between Great Britain and the United States whereby it was agreed that:—

Vol. 5, pp. 2104-2106.

"The inhabitants of the said United States shall have for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland; from the said Cape Ray to the Quirpon Islands; on the shores of the Magdalen Islands; and also on the coasts, bays, harbours and creeks from Mount Joli, on the southern coast of Labrador, to and through . . ."

Vol. 1, p. 297.

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Vol. 3, p. 1215.

". . . the Strait of Belleisle, and thence northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company."

Vol. 3, p. 1222.

This liberty of fishing, though described as being "in common" with British subjects, did not (as the official records of the negotiations between the British and American plenipotentiaries explicitly show), include the right to fish in any rivers or waters flowing to the coast. The North America Fisheries Act, 1819, 59 Geo. III., chap. 38 (Imperial), was passed to enable His Majesty to carry into execution the stipulations of this convention and to make regulations for that purpose.

Vol. 7, pp. 3275 to 3355, 3410, 3411.

26. In 1820, the Governor of Newfoundland reported to the Colonial Secretary that it had been represented to him that there was an extensive inlet on the coast of Labrador called "Gross Water" (Hamilton Inlet) which was said to abound with very fine fir timber fit for naval purposes. An expedition was sent out by the Governor in 1821 and reported that the inlet had been discovered and that Canadian merchants were found settled there engaged in the salmon fishery and doing an extensive fur trade with the Indians. From the description of the expedition it is clear that it was Lake Melville that was "discovered."

Vol. 7, pp. 3357-3390.

Vol. 3, pp. 1219-1220.

Vol. 1, p. 300.

Canadian traders and trappers had occupied posts in that region continuously since 1773. The posts which had been established thirty years earlier by the Canadian merchant, Fornel, and abandoned on the outbreak of the Seven Years' War, were re-occupied in 1773, and were the centre of a considerable Indian trade. There is every reason for asserting that no white people other than Canadians had ever dwelt in that country up to and considerably beyond the period of this

exploratory voyage. These people were always recognized by the Governments of Quebec and (afterwards) of Lower Canada as under their care and jurisdiction.

27. In 1824, the Imperial Parliament, by the statute 5 Geo. IV., chap. 51, repealed the Act of 10 and 11 Wm. III., chap. 25, and enacted as follows:—

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"II. That no Alien or Stranger whatsoever shall at any time hereafter take Bait or use any Sort of Fishing whatsoever in Newfoundland, or the Coasts, Bays or Rivers thereof, or on the Coast of Labrador of in any of the Islands and Places within or dependent upon the Government of the said Colony: always excepting the Rights and Privileges granted by Treaty to the Subjects or Citizens of any Foreign State or Power in amity with His Majesty.

III. And whereas it is expedient to obviate any Doubts which have arisen or may arise as to what persons are entitled to the Right or Privilege of taking, curing and drying Fish on the Shores and Banks of Newfoundland; Be it enacted, That it shall and may be lawful for all His Majesty's subjects residing in the United Kingdom of Great Britain and Ireland or in any of His Majesty's Colonies, Plantations or Dominions, to have, use and enjoy the free Trade and Traffic and Art of Merchandise and Fishery to and from Newfoundland and the Coast of Labrador aforesaid and all and every the Islands or Places within or dependent upon the Government of Newfoundland and peaceably to have, use and enjoy the freedom of fishing and taking bait in any of the Seas, Rivers, Lakes, Creeks, Harbours or Roads in or about Newfoundland or the said Coast of Labrador or any of the islands adjacent thereunto respectively; the liberty to go on shore on any vacant or unoccupied part of Newfoundland or said Coasts of Labrador or any of the said islands adjacent thereunto respectively, for curing, salting, drying and husbanding of their fish, and for making oil; and to cut down wood and Trees on any such vacant or unoccupied Places as aforesaid for building and making or repairing Stages, Ship Rooms, Train Fats, Hurdles, Ships, Boats, and other necessaries for themselves and their servants, seamen and fishermen, and all other Things which may be useful or advantageous to their Fishing Trade to do, as fully and freely as at any Time heretofore by virtue of any former Act of Parliament hath been done there by any

Vol. 4, p. 2043.

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2049.

of His Majesty's Subjects, without any Hindrance,

Vol. 3, p. 1223.

Vol. 1, p. 190.
Vol. 3, p. 1224.

This was the first Act passed by the Imperial Parliament with relation to the fishery on the coast of Labrador. Passed for a period of five years, it was further continued in force until the 31st December, 1834, when it expired. According to the construction given this statute, in its application to Newfoundland, by the Supreme Court of the Island (*The King v. Luke Ryan, Nfld.*, Rep. (1829-45), per Tucker, C.J., at p. 54), it was "the intention of the legislature that the unoccupied part of the *sea-coast*, with an adequate portion of land for the ordinary purposes of the fishery, should be entirely dedicated to that object." (*Vide*, also, *The King v. Cuddihy, ib. sup.* 8, 21, 23).

Vol. 3, p. 1232.

28. In March, 1824, Lord Dalhousie, Governor of the Province of Lower Canada, transmitted to the Earl of Bathurst, Secretary of State, an address which had been presented to him by the Legislative Council of the Province, praying that the coast of Labrador should be re-annexed to the Province of Lower Canada. The principal ground of this prayer was that the Newfoundland Act, 1809, 49 Geo. III., Chap. 27, "has, in its operation, so separated the coast and islands aforesaid from the Province of Lower Canada and placed them under another government and jurisdiction that the proprietors of the soil *lying within the coast and islands aforesaid*, most of whom it is believed were resident in Canada, are thereby subjected to laws and regulations incompatible with their tenures and usages and which virtually amount in certain cases to a denial of justice"; and that the separation of the coast from Lower Canada had also imposed serious impediments upon the trade and fisheries on the coast in which-the inhabitants of Quebec were largely interested.

29. In May, 1825, the Chamber of Commerce of St. John's, Newfoundland, addressed a petition to the Earl of Bathurst praying that the coast of Labrador might be continued under the Government of Newfoundland. They represented "the very great importance to *these fisheries* of continuing

under the Government of Newfoundland all such parts of that coast as are resorted to from hence"; that between 60 and 70 vessels were annually fitted out from St. John's alone, and nearly 200 from Conception Bay, employing altogether nearly 5,000 men in the Labrador fishery; that since the whole business of supplying these fisheries was involved in a course of settlement to be made in the fall of each year in Newfoundland, it would be absolutely impossible to continue "*this fishery*" beyond the reach of the Supreme Court of Newfoundland. The memorialists represented the inconvenience and absolute ruin to many fishermen which

would be involved by a measure which would require them to attend the courts at Quebec.

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Dr. Evan
Simpson,
St. John's, NL*

I. p. 205.

30. On the 22nd June, 1825, the British North America (Seigniorial Rights) Act, 1825, 6 Geo. IV., chap. 59 (Imperial), received the royal assent. The part of the coast which lies to the westward of "Ance Sablon, inclusive" was, by section 9 of this Act, re-annexed to and made a part of the Province of Lower Canada, as hereinabove recited. The parliamentary history of this Act shows that, when leave was given by the House of Commons to introduce the bill, the House ordered that Mr. Brogden and Mr. Wilmot Horton "do prepare and bring it in." Mr. Wilmot Horton, M.P., as Under-Secretary of State for the Colonies, was principally charged by the Ministry with the preparation and sponsoring of the bill in Parliament. Contemporaneous documents show that, while the bill was in course of preparation, Mr. Horton consulted Lord Dalhousie and Vice-Admiral Sir Charles Hamilton, then Governors of the Province of Lower Canada and the Colony of Newfoundland, respectively, with regard to the proposal that the coast of Labrador should be reannexed to the Province of Lower Canada; that the Governor of Lower Canada agreed to accept, in modification of his Province's claims, the re-annexation of a part, instead of the whole, of the coast of Labrador, and that the decision arrived at, with the acquiescence of the Governor of Newfoundland, was to divide the coast "at a point" fixed upon by the two Governors, viz., Ance Sablon (Blanc Sablon), to the intent that all that part of the coast lying to

III. pp. 1226, 1229,
1230, 1234.

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III. p. 1235.

the westward of "Ance a Sablon, inclusive" should be re-annexed to and made part of the Province of Lower Canada, "so as to comprehend the last Canadian fishing post of any importance on that shore and to leave to Newfoundland its most westerly fishing establishment." There is, also, evidence that the Ministry did not consider that the transfer of this part of the coast of Labrador to the Province of Lower Canada was going to affect any but a wholly migratory population occupied in fishing. The "line to be drawn due north and south from the bay or harbour of Ance Sablon inclusive as far as the fifty-second degree of North latitude" was, it seems, merely the draftsman's device for effecting the division of the coast at the point agreed upon and was probably intended to serve as a boundary monument, as it were, for that purpose.

III. p.
1226.

FOURTH PERIOD: FROM THE BRITISH NORTH AMERICA (SEIGNORIAL RIGHTS) ACT, 1825. TO THE PRESENT TIME.

III. p.
1229.

31. As a result of the change made by the British North America (Seigniorial Rights) Act, 1825, 6 Geo. IV., chap. 59, a fresh commission was issued on the 20th August of that year to the Governor of Newfoundland. By this he was appointed to be

Governor in and over "Our Island of Newfoundland and the islands adjacent and all the coast of Labrador from the entrance of Hudson's Straits to a line to be drawn due north and south from Ance-Sablon on the said coast to the fifty-second degree of North latitude and all the islands adjacent to that part of the said coast of Labrador," etc. This description of the territory under the Governor's authority was carried into the Letters Patent of the 28th March, 1876, passed under the Great Seal of the United Kingdom, for the purpose of constituting permanently the office of Governor and Commander-in-Chief of the Island of Newfoundland and its dependencies. The authority of the Governor under the commission last cited was limited by the appointment of a legislative council to advise and assist in the government of the island. He was given no power to make laws, but was

I. p. 205.

II. p. 718.

p. 83

II. p. 754.

authorised, with the advice and consent of his Council, *inter alia*, to make grants to the inhabitants of such lands as the Crown had power to dispose of.

32. In 1832 the system of representative government was established, and in 1855 responsible government, as practised in Canada, was conceded to Newfoundland. Under the former, the Island was divided into nine electoral districts and the House of Assembly was to consist of fifteen members; under the latter, the nine electoral districts were increased to fifteen and the fifteen members to thirty. But no provision has ever been made for the representation of the coast of Labrador in the Newfoundland Legislature, nor has anyone been appointed to look after its interests. Only one Minister of the Crown, so far as known, has visited the coast. This event occurred in 1908, when the Minister of Marine and Fisheries supervised the placing of some lights on the coast.

II. pp. 723, 731, 749.
IV. pp. 1954, 1985.

II. p. 745.

II. p. 752. IV. p. 1986.

V. p. 2584.
V. p. 2581, 2585.

33. The history of Newfoundland's relations with the coast of Labrador, during the century which has elapsed since 1825, illustrates, indeed, the persistence, in some of its principles, of the historic policy so long pursued by the Mother Country towards Newfoundland itself and extended in 1763 to that coast. Permanent settlements on the coast, though not positively prohibited, have, at least, been passively discouraged, and to Newfoundland a temporary fishery there is the principal object. Throughout its whole length from the Strait of Belleisle to Cape Chidley, there is not a single town nor even a village properly so called. The artificial segregations of the Eskimo at the Moravian Mission stations form the nearest approach to settlements. Apart from these, the main centres are the places where the trading posts are established. Cartwright, one of the most important of these centres, has but fifteen families. The other permanent

inhabitants of the coast are spread along the coastline in isolated units often many miles apart; and Dr. Grenfell states there is not a single house on the coast that more than 250 yards from high-water mark.

V. pp. 2576, 2579,
2584,

34. Long famous for its cod fishery, the coast of Labrador produces from one-fourth to one-third

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V. p.
2583.

V. pp. 2568, 2572.

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V. pp. 2576, 2584.

V. p. 2576.

V. pp. 2578-2580.

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Dr. David
Graham,
St. John's, NL*

of the entire annual return of the Colony from the fisheries. It is the only transitory fishery now remaining in America. Every summer a fluctuating population of from twelve to twenty thousand Newfoundland fisherfolk annually migrate from Newfoundland to the coast of Labrador for the fishery. To them that coast is what Newfoundland was to their forefathers—a temporary fishery. They disperse themselves along the extensive coastline which forms the base of the enterprise, and from June to October are briskly engaged in reaping the harvest of the sea. These fishermen are of two classes—"stationers" and "floaters." The former have temporary establishments in certain harbours and fish nearby, shipping much of their cured product direct to market from the coast; the latter have no fixed location but carry on their venture from their schooners wherever fish is plentiful. They are "green fish catchers" and bring their fares to Newfoundland to be dried or "made." About 1,000 to 1,200 vessels classed as "floaters" are annually engaged in the Labrador fishery. In October the season is over and the fishermen return to their homes in Newfoundland. Many of the temporary establishments of the "stationers" have been long established, but probably none of them has a grant or any other title than that of occupation. The policy of the Newfoundland Government has always been, in theory, to leave the shore and contiguous land free to anyone, so that when one man leaves it another may make use of his former situation. The general rule is that the firstcomer has the choice of the berths. It is, no doubt, a survival of the rule which prevailed under the Act of 10 & 11 Wm. III., chap. 25, of keeping the coast free for the temporary use of the British fisherman.

VI. pp. 2655 to 3086.

35. As might be expected in the very nature of things, the services provided by the Newfoundland Government on the coast are almost wholly identified with facilities intended to subserve the convenience and general interests of the fishery. These consist, for the most part, of the operation during the fishing season, of post offices and a mailboat service from St. John's for the utility and primary convenience of the Newfoundland fishermen, of wireless telegraph

V. p. 2580.

stations at different points along the seaboard to facilitate the communication of information with regard to the fishery and of lights along the coast to aid the fishermen in navigation. In addition, medical aid for the fishermen is provided by a medical officer who travels on board the mail steamer; and occasionally, when the fishery fails and starvation threatens the planters on the immediate seaboard, the Government comes to their assistance with small supplies of food. The relief and care

II. p. 362.

of the Indians on the Peninsula has always been, and is, provided for by the Canadian Government. A few denominational schools are conducted on the southern extent of the coast for the benefit of the permanent inhabitants; the bodies in charge of these schools receive a small annual grant from the Newfoundland Government. The administration of justice on the whole coast is entrusted to one or two persons, notably Dr. Wilfred T. Grenfell, who hold commissions from the Newfoundland Government as Justices of the Peace. All told, the total appropriations for the coast of Labrador, exclusive of the school grant, are, according to Dr. Grenfell, under \$30,000 per annum. Newfoundland levies no local taxation on the coast of Labrador, but when trade on the coast is active during the summer months, its revenue officers collect a considerable sum, certainly not less than \$150,000.00 per annum, along the coast in the form of customs duties.

I. pp. 128, 147.

By 1892 the question of the delimitation of the boundary between Canada and Newfoundland had become acute and delegates representing the Governments of Canada and Newfoundland met at Halifax in November, 1892, to consider that and other questions at issue between the two Governments. At the meeting the Canadian delegates acquiesced in the proposal advanced by the delegates for Newfoundland to delimit the Labrador boundary whenever the Newfoundland Government was prepared to do so; an examination of the question being in the meantime made by geographical experts.

36. In 1902, the Government of Newfoundland, embarking on a new administrative departure, issued certain timber licences covering large areas land on the north and south sides of the Hamilton

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River near the head of Lake Melville. As the granting of these licenses constituted an encroachment on its territory, the Dominion Government brought the matter to the attention of the Colonial Secretary with a view to the cancellation of the licences. The Government of Newfoundland, to which the correspondence was referred, not only declined to admit there had been any encroachment on Canadian territory, but contended that the areas covered by their timber licenses were many miles to the eastward of the line which had been laid down by the Imperial Legislation as the boundary between the Dominion and the part of the coast of Labrador under its authority.

In 1907, on the advice of the Colonial Secretary, it was agreed by the two Governments to submit the question of the boundary to the Judicial Committee of His Majesty's Privy

Council, for decision, under the provisions of section 4 of the Judicial Committee Act, 1833, 3 & 4 Wm. IV., chap. 41; and on the 11th November, 1920, an agreement was signed on behalf of the two Governments settling the terms of the question to be referred to the Judicial Committee and the procedure upon the reference. This agreement was varied, as regards the procedure, by an agreement dated 2nd November, 1922.

**CHAS. J. DOHERTY.
CHARLES LANCTOT.
AIMÉ GEOFFRION.
H. STUART MOORE.
C. P. PLAXTON.**

I. p.
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In the Privy Council

**IN THE MATTER OF THE
BOUN-
DARY BETWEEN THE
DOMINION
OF CANADA AND THE COLONY
OF NEWFOUNDLAND IN THE
LABRADOR PENINSULA.**

BETWEEN

**THE DOMINION OF CANADA
OF THE ONE PART**

AND

**THE COLONY OF NEWFOUNDLAND
OF THE OTHER PART.**

CASE

OF THE DOMINION OF CANADA

**CHARLES RUSSELL & CO.,
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In the Privy Council.

JOINT APPENDIX.

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA and the
COLONY of NEWFOUNDLAND in the
LABRADOR PENINSULA.

C O U N T E R - C A S E

ON BEHALF OF THE

COLONY OF NEWFOUNDLAND.

I. p. 49, 1. 15.

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p. 154, 1. 14.

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I. pp. 158, 190, 205.

p. 153.

p. 154, 1. 17.

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pp. 158, 190, 205.
p. 159, 1. 16.

p. 195, 1. 40.

1. The Colony of Newfoundland submits that the Canadian Case affords no answer to the claim presented in the Newfoundland Case, and does not contain valid grounds for fixing any precise interior boundary line other than the line claimed by Newfoundland.

2. Newfoundland concedes the first proposition advanced in the Canadian Case, namely that the extent of territory within the peninsula of Labrador to-day subject to the authority of Newfoundland is the "coast" which, by the Commission of the 25th April, 1763, was, as declared by the Royal Proclamation of the 7th October of that year, put under the care and inspection of the Governor of Newfoundland, less the portion thereof re-annexed to the Province of Lower Canada by the British North America (Seignorial Rights) Act, 1825. But Newfoundland submits that the Canadian Case lays too much stress on the use of the expression "care and inspection" in a purely declaratory recital in the Royal Proclamation of the 7th October, 1763, while, on the other hand, it pays insufficient regard to the plain words of the Commission to Governor

Graves, and the Acts of 1774, 1809, and 1825, which made changes in the Government of the Area in question. The Proclamations of the 7th October, 1763, though it created and established four new governments, including the Government

p. 49, l. 26.

p. 52, ll. 19-28.

of Quebec, did not profess to effect any change in the provision already made in reference to "all that coast" (i.e., of Labrador) "from the River St. John to Hudson's Streights." By the Commission to Governor Graves of Newfoundland, dated the 25th April, 1763, that area had been added to his government. The words "care and inspection," do not occur in the Commission or in the Acts of 1774, 1809, or 1825 already referred to. The Quebec Act of 1774 treated the Commission to Governor Graves as having "made" the area in question "part of the Government of Newfoundland," while the Newfoundland Act, 1809, described the same area as having been "annexed to the Government of Newfoundland." Newfoundland submits that the interpretation thus given by the statutes is the natural meaning of the language of the Commission.

3. Canada's second proposition is that the "coast" is a strip of maritime territory comprising in its depth inland only so much of the land immediately abutting on the sea, above low-water mark, as was accessible and useful to the British fishermen annually resorting to that coast, in the ordinary conduct of their fishing operations, for the purposes of the "open and free fishery" extended to that coast by the Royal Proclamation and carried on there, and for those purposes only. Canada seeks to establish that proposition by reliance upon:—

(a) The precise terms fixing the length of the coast;

(b) The declared purpose of the enactments;

(c) The description of the power in respect of the coast conferred on the Governor;

(d) The nature of his functions and of the power which he exercised in Newfoundland itself;

(e) The conditions prevailing in that island and the purposes and policy of its Government.

I. p. 149, l. 32.

p. 153, l. 22.

p. 154, l. 17.

p. 195, l. 38.

p. 205.

pp. 210-11.

p. 91

(a) AS TO THE PRECISE TERMS FIXING THE LENGTH OF THE COAST.

4. As to the first of these grounds, Newfoundland contends that in any event the fixation of termini does not exclude the idea of depth of land at either end or in the intervening area. In the Commission to Governor Graves dated the 25th April, 1763, the Proclamation of the 7th October, 1763, and the Newfoundland Act, 1809, one of the termini was the River Saint John, some 120 miles in length, as it was then understood to run. In the same way in the British North America (Seignorial Rights) Act, 1825, one of the termini was a line

pp. 52-3.

some 40 miles in length down the North and South from the bay or harbour of Blanc Sablon inclusive, as far as the 52nd degree of North latitude. Accordingly it is submitted that the precise terms fixing the length of the coast, so far from establishing, are not consistent with, Canada's second proposition.

p. 154, l. 14.

(b) AS TO THE DECLARED PURPOSE OF THE ENACTMENTS.

5. Canada seeks to limit the depth of the coast under the jurisdiction of Newfoundland to the area used or susceptible of use for the purposes of the cod-fishery, on the ground that the declared object of the Crown as legislator was that such a fishery should be extended to and carried on upon the Coast of Labrador and the adjacent islands. Newfoundland submits that the words declaring this object, which occur not in any of the instruments making new provision for the "coast of Labrador," but in the passage already mentioned in the Royal Proclamation, do not in any way limit the depth of the area annexed to the Government of Newfoundland by the relevant Commission and Statutes. In the island of Newfoundland itself the law regarded the interest of the cod-fishery only and forbade colonization, and the purpose of the Government was the development of the cod-fishery; nor was any substantial interest taken in the interior land:

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yet no one would suggest that the Governor was not Governor of every part of the island. In the same way in the dependency of the island the mere fact that the purpose of the annexation was the same, viz., the development of the cod-fishery, did not prevent the Governor from being the Governor of the whole of the Coast of Labrador. Nor does the expressed purpose in the one case any more than in the other limit the depth of the area put under his Government.

IV. p. 1788, l. 10.
p. 1858, l. 29.
p. 1860, l. 3.

I. p. 149.
pp. 150-151.

6. Moreover as in Newfoundland, so on the Coast of Labrador, though the cod-fishery was always the main, it was never the exclusive object of the Government's interest. There was not from the first any attempt to prevent fishermen from fishing for salmon in the rivers or from hunting or trapping for fur. Nor was there at any time a rigid enforcement of Statutes or regulations prohibiting settlement. In 1679 1,700 persons were resident in Newfoundland. In 1765 Governor Palliser reported 16,000 as the number of men remaining in Newfoundland during the winter. In the Commission to Governor Graves dated the 25th April, 1763, reference is made to "all such Justices of the Peace and their inferior officers and ministers whom you or they shall appoint among the Planters or inhabitants resident and abiding there," so that at the very time when the coast was being annexed to the Government of

Cf. III. p. 1191, l. 25.
IV. p. 1938, l. 28.

p. 1961 and 2008.

pp. 1963 and 2010.

Newfoundland, the existence of the resident population in the island of Newfoundland was present to the minds of the Home Government, who contemplated not endeavouring to remove these residents altogether, but using them for the purposes of administering justice. Between the years 1763 and 1809 the resident population of Newfoundland increased, and by the 24th April, 1817, had risen to between 40,000 and 50,000.

II. pp. 400, 403, 404,
428, 431, 433, 457.

And this body of inhabitants—considerable throughout in numbers—subsisted, when the summer cod fishing was over, largely on salmon fishing and furring. Salmon fishing in Newfoundland had begun by 1720 and a Mr. Skeffington, who had the salmon fishing in two or three rivers, cleared lands of wood 40 miles inland; he obtained, within 30 years of the Newfoundland Act, 1699, a sole right of salmon

II. p. 403, l. 31.
p. 394, l. 7.

p. 93

III. p. 971.
p. 972, l. 26.
l. 37.

fishing for 21 years and leave to cut timber so long as he did not do so within six miles of the shore. Not only were those pursuits, whether in Newfoundland itself or in its dependency, not objected to by the authorities at home, but they were made the subject of special instructions to the successive Governors. The instructions given to Governor Graves dated the 29th March, 1763, included the encouragement of certain Newfoundland salmon fisheries and of the whale and sea-cow fishery in the Gulf of St. Lawrence on the Labrador Coast. He was further to inquire and report to the Commissioners of Trade and Plantations as to what establishments and forts were necessary in Newfoundland or the other islands and territories under his Government either for the protection of the fishery, the security of the country, or the establishment and carrying on of commerce with the Indians residing in or resorting to the said islands or inhabiting the coast of Labrador. He was further to report as to whether any trade was carried on for beaver or other furs by the Inhabitants or by any others who remained in the country and whether they had any traffic with the Indians. By the Admiralty Instructions given to the same Governor on the 2nd May, 1763 (Article 7), he was directed to encourage and support the Whale Fishery in the Straits of Belle Isle and more particularly the fishery in York Harbour and on the other parts of the coasts of Labrador, to prevent trade by persons other than British subjects with the inhabitants of that country, and to protect the salmon and seal fishery along the coasts. Similar instructions were given to Governor Palliser and his successors. And Governor Palliser rightly refers in his letter to the Lords Commissioners for Trade and Plantations), dated the 22nd April, 1766, to "my commission as Governor of the country" (i.e. the coast of Labrador) "and . . . my instructions . . . relative to every branch of fishery and trade within the limits of my Government."

7. The activities of the Governors of Newfoundland (and particularly of Governor Palliser) between 1763 and 1774 on the coast of Labrador and the establishment by the pioneers of the fur

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supra p. 82, 1. 38.
II. p. 391 follg. III.

supra p. 60, 1. 30.

supra p. 52, 1. 42 to
p. 55, 1. 38.

I. p. 154, 1. 14.

trade and salmon fisheries of the earliest settlements there are described in paragraphs 9 to 11 of the Newfoundland Case, and show that from the beginning no kind of restriction of interest to the cod fishery was sought to be imposed. It is plain from the manner in which the Reports of Governor Palliser and the Petitions of George Cartwright and Noble and Pinson were received by the authorities in England that there was no disposition on the part of the Government to discourage enterprise in the salmon or furring business or to compel settlers of the type of Coghlan, Cartwright, or Pinson to cease to reside on the coast of Labrador, where they began to be established in or about the year 1770.

8. In these circumstances, though the main object of annexing the coast of Labrador to the Government of Newfoundland was undoubtedly to foster the development of the cod-fishery, there is no valid reason for construing the relevant instruments as limiting the grant of jurisdiction so as to exclude areas which would be useful for salmon fishing, furring and trading with the native inhabitants. As has been pointed out above, in the island of Newfoundland itself salmon fisheries and fur trading had become, to the knowledge of the Government, ancillary to the main cod-fishery as offering winter occupation to the crews. It is hard to suggest any reason why adventurers on the coast of Labrador should be confined within any arbitrary distance from the seashore and prohibited from exploring the possibilities of the unknown rivers on that coast for salmon and of the surrounding country for fur. It may confidently be asserted in the light of the instructions to the early Governors and their activities approved by the authorities at home, that nothing would have astonished the Home Government, the Governors, or the merchant adventurers (not to mention the planters) more than a suggestion, had it been made in 1763 or the succeeding years, that the jurisdiction and consequently the activities of the Governor of Newfoundland were restricted and confined to an area bounded by a line drawn one mile from high-water mark.

V. pp. 2152-2166.
p. 2158, 1. 4.

supra p. 59, 1. 45.

9. Newfoundland accordingly submits that the declared purpose of the enactments does not in any way tend to establish the second Canadian proposition. Nevertheless apart from showing (as pointed out in paragraph 33 of the Newfoundland Case) the depth of the area inland must be measured from the sinuosities of the coast line as the basis for the establishment of the fishery, the declared purpose of the enactments does afford valuable assistance in this case. For a grant of governmental come over an area of coast "to the end that the one and free fishery of all subjects may be extended

supra p. 55, l. 39.

I. p. 154, l. 17.

supra p. 90, l. 11.

I. pp. 158, 190, 205.

p. 190.

p. 195.

and carried on upon the coast of Labrador," when made by the Crown of England, would naturally understood to embrace any area where the public right of fishery subsisted. And by English Law a public right of fishery extends to all tidal waters. "*Jus piscandi omnibus commune est in portu et in fluminibus.*" The public right of fishery in waters influenced by tide is co-extensive with the public right to fish in the sea. Accordingly, since it is conceded in the Canadian Case that Lake Melville is tidal, it cannot be doubted, quite apart from any question as to the depth of the hinterland comprised in the expression "coast," that the whole of Hamilton Inlet (including Lake Melville) was included within the jurisdiction of the Governor of Newfoundland.

(c) AS TO THE DESCRIPTION OF THE POWER IN RESPECT OF THE COAST
CONFERRED ON THE GOVERNOR.

supra p. 56, l. 21.

p. 56, l. 27.

10. It is next submitted that no inference can be drawn, as suggested in paragraph 14 of the Canadian Case, from the description of the power conferred on the Governor. The words "care and inspection" relied on for this purpose do not occur (as has already been pointed out) in any of the three instruments effecting changes in the Governmental control of the area in question; in the Newfoundland Act, 1809, the operative effect of which admittedly determined the rights of Newfoundland, the terms used are "annexed" and "re-annexed."

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(d) AS TO THE NATURE OF THE GOVERNOR'S FUNCTIONS AND OF THE
POWER WHICH HE EXERCISED IN NEWFOUNDLAND ITSELF.

supra p. 36, l. 10.

II. p. 368, l. 11.

11. Newfoundland further submits that the area of the coast of Labrador is not affected by the nature of the Governor's functions or of the power which he exercised in Newfoundland itself. The mere fact that he could not make grants of land or sanction settlement did not prevent him from governing or controlling an area of land on the coast of Labrador any more than in the island of Newfoundland. It is true that the system of Government was designed for the cod-fishery, but in the hands of such men as Governor Palliser it could readily be adapted to do what was necessary for a very sparsely populated hinterland. It was of course known that as in Newfoundland, so on the coast of Labrador, the vast preponderance of interest, business and population would be centred on the margin of the sea, but that did not afford any reason to limit the ordinary effect of the grant of a "coast" which, it is submitted, is correctly stated in the Newfoundland Case, as including the area back to the crest of the water-shed. It was realised that little governmental action would be necessary in the hinterland and the government selected was therefore chosen with a view primarily to the cod-fishery. It is not without importance to observe in this connection that before 1763, as after that year,

V. pp. 2265-2281.

I. pp. 153 follg.

the enterprises of the Hudson's Bay Co. for trading and administrative purposes were based on settlements established at the water side from which the trade of the interior was conducted. These adventurers trading into Hudson's Bay were granted in 1670 the trade and commerce of all the seas, straits, bays, rivers, lakes, creeks, and sounds, within the entrance of Hudson's Straits "together with" (showing that what follows was an adjunct of what has gone before) "all the lands, countries and territories upon the coasts and confines of the seas, bays, lakes," etc., "aforesaid." Nevertheless though in 1763 (and indeed with trifling exceptions at all times material for the purposes of this case) the posts of the Company were along the edge of the sea, yet the accepted boundaries of the Company

supra, p. 49, l. 26.
p. 56, l. 21.
p. 57, l. 9.

p. 97

were based on the crest of the water-shed. This point gains added significance from the fact that in the Proclamation and the Acts that follow, the Company is treated for jurisdiction purposes as though it were a separate Government under the Crown on a par with the Governments created by the Proclamation.

supra, p. 52, l. 14.

(e) AS TO THE CONDITIONS PREVAILING IN THE ISLAND OF
NEWFOUNDLAND AND THE PURPOSES AND POLICY OF ITS GOVERNMENT.

p. 49, l. 26.
p. 55.

l. 30.

pp. 149 follg.

supra, p. 51.

12. It is further contended that having regard to the matters hereinbefore set out the second proposition in the Canadian Case is not established or supported by the conditions prevailing in the island of Newfoundland and the purposes and policy of its Government. Such conditions, purposes, and policy did not limit the area over which the Governor exercised jurisdiction in the island, nor ought it to be held to have such an effect on the coast of Labrador.

l. 28.
l. 30.
l. 36.

supra, p. 52, l. 8.

13. For the reasons already advanced the Government of Newfoundland contends that the grounds indicated in paragraph 8 of the Canadian Case are wholly insufficient to establish the contention presented in paragraphs 4 (2) and 13 of the Canadian Case that the area connoted by the expression coast of Labrador in the Statutes, Orders-in-Council, and Proclamations is a strip of maritime territory limited to a depth of one mile from the high-watermark on the sea-shore. In ascertaining the meaning to be attached to the word "coast" in the expression "coast of Labrador" in the Statutes, Orders-in-Council, and Proclamations, which have to be construed in this Reference, it is convenient next to consider the propositions advanced in paragraph 7 of the Canadian Case to the effect (a) that the words "coast," "sea-shore," and "sea-coast" mean and designate the same thing, namely "the edge or margin of the land next to the sea"; (b) that "coast" is not used for the banks of, e.g., rivers or lakes; (c) that the term has invariably been

V. p. 2076.

used in the Courts of England, Canada and the U.S.A. with the meaning indicated

p. 2074.
p. 2109.

p. 98

in (a); and (d) that accordingly there can be no presumption or other reason for construing the term "coast," as used in the Commission or Proclamation of 1763 or in the Acts cited, in any larger sense than is strictly required for the full attainment of the object which the legislator had in view.

p. 2111.
VIII. Part XX., s. IX.

V. p. 2110.

p. 2110.

II. p. 367.
p. 369, l. 11.

14. It can hardly be disputed that the word "coast" is capable of very varying significance in accordance with the context in which it is found. (See Corpus Juris (New York: 1917), Vol. XI, pp. 935-6.) Originally, it meant "side" and was thereafter used for "side of the land." (See Murray's New Oxford Dictionary tit. Coast.) In the language of the Authorised Version of the Bible the word "coasts" is sometimes used to designate a neighbouring "or surrounding country" without any necessary connection with the sea-shore, as, for instance, in Deut. xi, 24, and in the expression "the coasts of Tyre and Sidon," Mark vii, 31. "Bethlehem and all the coasts thereof," in Matt. ii, 16, and Acts xiii, 50, where "the Jews . . . raised persecution against Paul and Barnabas and expelled them out of their coasts." And even in cases where the word is used in connection with the sea-shore, it is not confined to the edge of the sea in any narrow or limited sense, cf., the Gold Coast, Guinea Coast, West Coast of Africa, Coromandel Coast, Ivory Coast, and the *lisiere*, which was the subject of dispute in the Alaska Boundary dispute, e.g., at p. 71, in the British Case, "strip of coast not exceeding 10 marine leagues in width," and the letter from Sir C. Bagot to Canning in the British Appendix I, p. 67, "a line of coast extending 10 marine leagues into the interior." In the same dispute, see also United States Appendix, p. 167, Count Nesselrode to Admiral Mordvinoff, "the width of the coast line necessary for the safe existence and consolidation of our colonies . . . still form subjects of negotiation." In the Charter of the Hudson's Bay Co., 1670, a grant of exclusive trading privileges is given to the Company "to and with all the natives and people inhabiting or which shall inhabit within the territories, limits and places aforesaid, and to and with all other nations inhabiting any of the *coasts* adjacent to the said . . ."

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III. pp. 1124-5.
III. p. 440, 1. 38.
supra, p. 29, 1. 35.
pp. 29-30.
p. 36.

". . . territories limits and places." Here again the word "coasts" appears to denote territories rather than strips of sea-board. A striking illustration of this wider use of the word in connection with the very area now in dispute is afforded by the speech of Lord North in the Debate on the Quebec Bill, 1774, in which he observes: "There are added, undoubtedly, to it" (i.e., to the Province of Quebec) "two *countries* which were not in the original limits of Canada as settled in the Proclamation of 1763; one, the Labrador *coast*," etc. A similar description of the coast of Labrador as "that country" by the Commissioners for the Office of Lord High Admiral in 1765 is noticed in paragraph 34 of the Newfoundland Case; and it is desired to draw attention here to paragraphs 34 and 35 of that Case in support of the contention of the Government of Newfoundland that "coast" in the context, in which it appears in this dispute, is used as denoting more than a mere strip of littoral.

p. 51, 1. 30.

15. For the reasons set out in the preceding paragraph Newfoundland submits that the word "coast" does not necessarily mean or designate the same thing as "sea-shore" or "sea-coast" and that its meaning must be ascertained from the connection in which it is used and that in the present instance though it indicates territory bordering on the sea it connotes much more than a mere narrow strip. It is unnecessary to repeat here the arguments already adduced in the Newfoundland Case to show that the width of territory connoted by the coast of the Labrador is to be ascertained by tracing the crest of the water-shed of the waters flowing into the Atlantic Ocean.

pp. 27-29.

V. p. 2073.

16. The next proposition in paragraph 7 of the Canadian Case, is, that "coast" is not used for the banks of, e.g., rivers or lakes. The Government of Newfoundland suggests that for the present purpose no better parallel could be sought than the precisely similar question which arose in the Alaska Boundary Dispute and was determined in the manner set out in the Newfoundland Case. Even if it were admitted that to speak of the "coast" of a lake or river would be to make use of an unusual expression (though Ash's Dictionary, London, 1775

supra, p. 51, 1. 30.

supra, p. 98, 1. 7.

and 1795, would allow its use for "the bank of any large river or water") the coast-line for boundary purposes would still have to be ascertained, as the decision referred to shows, by following the actual sinuosities of bays, inlets and creeks.

I. pp. 149, follg.
supra, p. 55, 1. 38.

17. The next proposition in paragraph 7 of the Canadian Case to be considered is that the term "coast" has invariably been used in the Courts of England, Canada and the U.S.A. as

p. 60, l. 35.
p. 51.

V. p. 2083.

p. 2084.

p. 2095.

V. pp. 2096-7.

III. pp. 1639-1647
(Part VIII. J.)

III. p. 956, l. 20.

p. 1086, l. 38.

VIII. Part XX, s. IX.

IV. pp. 1987-2071
(Part X.)

supra p. 58, l. 22.

equivalent to "sea-shore" and "sea-coast" and as meaning "the edge or margin of the land next to the sea, the shore." It has never been any part of the Newfoundland Case that "coast" could not be used as equivalent to "sea-shore," or "sea-coast." But "coast," as has been pointed out above, is capable of different meanings in different contexts. It is necessary to distinguish between the use of the term to denote a line without width from which a measurement has to be made and to denote area of territory including some depth into the interior. It is beyond dispute that it is used in the latter sense in the Statutes, Orders-in-Council, and Proclamations relevant in this Reference inasmuch as Canada admits that some depth of interior country is under the jurisdiction of Newfoundland. But in the authorities referred to in paragraph 7 of the Canadian Case it is used in the former sense, that is to say, without any question arising of depth into the interior; and it is accordingly submitted that the authorities mentioned do not assist in determining the question at issue as to the width of the land under the jurisdiction of Newfoundland. In so far as the Authorities are cited to show the line from which the measurement inland should be made, Newfoundland contends that the meaning of the expression "coast" is determined by the particular context in which this word is found in each case, and further that *The King v. Forty Nine Casks of Brandy* (3 Hagg Adm. 257) supports Newfoundland's claim to measure her territory on the Labrador peninsula from the head of the tide in rivers and streams, while *Hamilton v. Meniffee* (11 Texas Reports 718) shows that the sinuosities of bays must be followed. In *The Queen, v. Cox* (1859 i P.E. I. Rep. 170) a distinction is drawn between

p. 101

"sea-shore" and "coast" and the latter term is said to apply to the land fronting on the open sea or inlets off the sea or bays though never to that fronting on rivers. It is therefore an authority for tracing the line from which measurement inland is to be along the margin of the Hamilton Inlet.

18. It is argued in paragraph 16 of the Canadian Case that Newfoundland has never been equipped nor has she attempted or pretended to extend her Government to the extensive inland territory of the Peninsula. Until recent years, when the possibilities of the timber and water power available in the interior have begun to attract business enterprise (which the Newfoundland Government has always been ready to encourage) there has been nothing to induce Newfoundland to develop the inland territory which has been but little inhabited save by the Indians, and was long regarded as wholly unsuitable for any settlement. In the same way Quebec has, no doubt for similar reasons, done little to develop the hinterland of that part of the coast of Labrador within her jurisdiction East of the River Saguenay. It was these reasons and not any misapprehension as to the extent of the coast under its

Government which have prevented Newfoundland from an earlier development of the interior of the area in dispute. It would be strange if Newfoundland had comprehended the extent of territory under her control as falling within so much narrower limits than those assigned to it by general reputation and belief prevailing at all material times as illustrated by the maps in the Newfoundland Atlas. It is suggested that the documents referred on paragraph 17 of the Canadian Case as showing the contemporaneous interpretation of the legislation in question do not show any disposition on the part of the legislator to limit the area of Newfoundland's dependency. In any event, unlike the Maps, these documents are not concerned with the extent of the territory given to Newfoundland so much as with the policy which was to direct the method of administration and the forms of Government.

supra p. 60, 1. 37.

supra p. 60.

Cf. supra pp. 20-25.

19. Paragraph 18 of the Canadian Case is concerned to show that the coast-line, from which

supra, p. 59.

p. 102

Nfld. Atlas.

V. [sic] p. 2818.

V. p. 2593.

the area of Newfoundland jurisdiction inland must be measured, is to be drawn, so far as the Hamilton Inlet is concerned, between Ticolorak and Turner Headlands. If this were the correct view, a very considerable depth of interior territory must be conceded in any event to Newfoundland, for Hamilton Inlet as far as North West River has been consistently treated as falling within the jurisdiction of Newfoundland. But the Colony of Newfoundland submits that Hamilton Inlet or Grosswater or Esquimaux Bay (as those descriptions imply) has always been and is to be regarded as a bay indenting the coast. It is admittedly tidal as far as its western extremity, Goose Bay, into which the Hamilton River flows. It is at the western end of Goose Bay that the coast line should be drawn. When general reputation and usage (as illustrated by nomenclature, and the evidence of the maps) is supported by the fact of the rise and fall of the tide in showing that the Hamilton Inlet is to be regarded for boundary purposes as a "bay," these criteria ought to be preferred to meticulous evidence as to the salinity of the water, the fauna, and the flora, the unsuitability of the Inlet for cod-fishing, and of indications which might suggest to some modern expert the features of a tidal river.

V. p. 2319.

It is significant that A. P. Low, a distinguished Canadian Geological Surveyor, in his Report in 1895, speaks of the Atlantic Coast as being deeply cut by many long narrow bays, or fiords, so that the coastline exceeds many times the direct

V. pp. 2319 follg.

supra, p. 60, 1. 8.

1. 5.

V. p. 2524, 1. 20.

pp. 2369-2385.

pp. 2510-2516.

p. 2516, 1. 14.

p. 2521.

p. 2507.

pp. 2489-2490.

pp. 2492-3.

pp. 2494-2499.

supra pp. 58-60.

line from Belle Isle to Cape Chidley. "Hamilton Inlet," he says, "is the largest and longest of these inlets, extending inland over 150 miles from its mouth. Among others, Sandwich, Kaipokok, Saglek, and Nachvak bays are from 30 to 50 miles deep." The Newfoundland Government submits that this earlier view, expressed by so competent an authority without any knowledge of its effect on the issues in this Reference, is entitled to very great weight in favour of the contention that the whole of the inlet is part of the coast-line, and against inferences sought to be drawn from the elaborate calculations included in the Canadian documents in the Joint Appendix.

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20. Newfoundland further submits that the results of the various surveys, tests and investigations set forth in the reports mentioned in paragraph 18 of the Canadian Case do not in any event justify the conclusion sought to be drawn therefrom, namely that the coast-line crosses the "river" below a line connecting Lester and Double Mer Points. So far as hydrographic conditions assist, not only is the whole of Lake Melville tidal, but inasmuch as it is permanently accessible to the largest vessels with motive power without the assistance of tugs it satisfies another practical test as to what is, in the ordinary acceptation of the term, an inlet of the sea. The materials collected in regard to fauna and flora are quite inconclusive: a comparison with the Baltic shows that if cod do not penetrate into Hamilton Inlet, they are not deterred by the decreased salinity of the water. In any event no investigation of the fauna West of the Narrows seems to have been made and accordingly there is no sufficient evidence that marine fishes do not penetrate beyond the Narrows.

21. From a geographical point of view there is a considerable degree of similarity between the Labrador Peninsula and Scandinavia where a watershed boundary has been for the most part adopted. The Labrador Peninsula comprises two main sections, a Western section consisting of a Plateau with a comparatively gentle undulating surface sloping down to Hudson Bay and Ungava Bay; and an eastern belt, sometimes called the "coastal region," facing the Atlantic, high and mountainous, and deeply indented by many arms of the sea. The inlets in the coastal region are true fiords; their arrangement is essentially different from that of tidal valleys. The Hamilton Inlet is the largest of these fiords: its entrance is not a "ria," but a "fiard." Lake Melville is an essential part of the inlet: as a deep basin filled with sea-water below a thin layer of fresh water, it is an arm of the sea.

22. Newfoundland accordingly submits that there is nothing

in paragraph 18 of the Canadian Case to justify any departure
in the case of the Hamilton Inlet from the principle, applicable
in the

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case of other inlets or arms of the sea, of tracing the coast-line along the margin of the inlet, including Grossewater Bay or Lake Melville as far as the western extremity of Goose Bay. As to the depth of Newfoundland's jurisdiction inland, the Canadian case suggests a boundary arbitrarily fixed at 1 mile in depth. Newfoundland contends that no precedent can be found for any such line, which is open to grave objection from the point of view of practical convenience and expediency and that the Canadian Case discloses no reason for preferring such a boundary to the boundary which law, reason and nature recommend, namely, the height of land.

23. Canada suggests that the commencement of the boundary line should be at the eastern headland of the bay or harbour of Blanc Sablon. Newfoundland contends that the line should commence at Lazy Point on the West of the bay or harbour of Blanc Sablon and that Woody Island should be included within the jurisdiction of Newfoundland.

**JOHN SIMON.
F. T. BARRINGTON-WARD.
W. J. HIGGINS.
W. T. MONCKTON.**

In the Privy Council

**IN THE MATTER OF THE
BOUNDARY BETWEEN THE
DOMINION
OF CANADA AND THE COLONY
OF NEWFOUNDLAND IN THE
LABRADOR PENINSULA.**

COUNTER-CASE

ON BEHALF OF THE
COLONY OF NEWFOUNDLAND

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In the Privy Council.

JOINT APPENDIX.

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA and the
COLONY of NEWFOUNDLAND in the
LABRADOR PENINSULA.

BETWEEN

THE DOMINION OF CANADA - - - - OF THE ONE PART

AND

THE COLONY OF NEWFOUNDLAND - OF THE OTHER
PART

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COUNTER-CASE

OF THE

DOMINION OF CANADA.

I. ante p. 1.

1. In pursuance of the agreement between the governments of
Canada and Newfoundland, the Dominion of Canada delivers
the following counter-case, accompanied by certain additional
documents.

THE COLONY'S CONTENTION.

I. ante p.
2.

2. The Colony of Newfoundland in its Case submits that the
correct answer to the question referred to the Judicial
Committee for decision is "that the boundary should be a line
drawn due north from Ance Sablon as far as the 52nd degree
of north latitude and should be traced from thence northwards
to Cape Chidley along the crest of the watershed of the rivers
flowing into the Atlantic Ocean."

The Colony adds that this line or boundary is shown coloured blue on a map marked "A," which is produced with the Case, and stated to form part of it.

Reading the description of the line claimed as explained by that shown on the map, the Colony's contention appears to be that the southern boundary of the territory claimed by the Colony is the 52nd parallel of north latitude, from the point where a line drawn due north from the bay or harbour of Ance Sablon (Blanc Sablon), on the strait of Belleisle, meets that parallel to a point between the 65th and 66th meridians of west longitude, and that from this last-mentioned point to Cape Chidley the western and north-western boundary of the territory so claimed follows the crest of the watershed of the rivers flowing into the Atlantic ocean.

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3. The line so shown, coloured blue on the map, embraces an area of approximately 111,300 square miles—in other words, territory greater in extent by some 22,300 square miles than the whole of England, Wales and Scotland combined (88,745 sq. m.) and almost three times as large as the island of Newfoundland itself (40,200 sq. m.). The distance in a straight line from the Atlantic seashore of this vast region to the watershed at its farthest point, is approximately 490 miles. Embraced within this territory is one of the most important river systems of the Peninsula, namely, that of the great Hamilton River which has a length, from the point of its discharge into the Hamilton Inlet to its most distant source (Lake Ashuanipi), of about 680 miles, being thus three times the length of the River Thames (228 m.) and nearly half as long again as the River Seine (482 m.). Its drainage-basin comprises a wide area of country extending from the head of the Hamilton Inlet westward to longitude 68° or nearly half way across the Peninsula. Such is the extent of the territory now claimed by the Colony of Newfoundland as subject to its jurisdiction and control under its title to exercise care and inspection over a fishing "coast."

4. The claim so made is, in par. 2 of the Case, alleged to be justified by the three classes of evidence

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particularly specified therein, but the Colony's final submission, in par. 39 of the Case, that the boundary north of the 52nd parallel of north latitude should be defined as "the line of the crest of the watershed, which is the height of land," is made to rest upon six reasons therein enumerated. This submission and the reasons so enumerated related only to the "watershed" portion of the boundary line claimed by the Colony. The Colony's contention in regard to the definition of the 52nd parallel of north latitude, as part of the boundary line claimed by it, is apparently founded upon the allegations set forth in

*ante p.
1.*

I. ante p. 36.

par. 20 of the Case (p. 18, lines 25-38), but no enumerations of reasons is made in support of this contention. It will be convenient, accordingly, for the purpose of making such observations in reply to the Colony's Case as seem to be desirable, to deal separately with the two distinct portions of the boundary line claimed by the Colony, viz. (I) the "watershed" line, and (II) the line of the 52nd parallel of north latitude.

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PRELIMINARY OBSERVATIONS ON THE COLONY'S CONTENTION.

5. In view of the grounds on which the Colony, in its Case, seeks to justify its contention, it appears to Canada to be desirable, at the outset, to call attention to the question actually at issue, to its true scope and nature, and the nature of the evidence that is relevant and admissible for its determination. The explicit terms of the stated question referred by the Order of His Majesty in Council, dated 24 th July, 1925, to the Judicial Committee of His Privy Council, for decision, leave no room for discussion as to the issue that question presents; that issue is solely the question, what is the boundary between Canada and Newfoundland in the Labrador peninsula, under the Statutes, Orders-in-Council and Proclamations?—*i.e.* the boundary established by those legislative enactments, and no other. The terms of those enactments make the determination of that issue depend entirely upon the meaning of the word "coast" as used in them. Read with the context and the evidence indicated or afforded by

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it, the word presents, as Canada has submitted, no ambiguity. The facts invoked by the Colony, if proved, would throw no light upon the intention of the legislator as expressed in the words used by him. For these reasons, evidence of such facts is, it is respectfully submitted, inadmissible. That evidence, moreover, even if admissible, does not, it is submitted, in any material respect, affect the soundness of Canada's contention as set forth in her Case.

The Colony, in its Case, seems to lose sight of the settled rules governing construction, and seeks to introduce a controlling principle, which the tribunal is asked to give effect to, not, in Canada's submission, by putting on the language employed any construction of which it is shown to be capable, but rather by disregarding such language altogether.

The purpose of the present Counter-Case is to show the unsoundness of the Colony's main contention and the ineffectiveness of the evidence by which it is sought to be supported.

I. — THE "WATERSHED" LINE.

6. The principal contention of the Colony is, as above stated, that the boundary, north of the 52nd parallel of north latitude, should be located and defined as the line of the crest of the watershed of the rivers that fall into the Atlantic ocean—in effect, that that height-of-land line constitutes the western and northwestern boundary of the portion of "coast" subject to its authority. Which in particular of the three classes of evidence enumerated in the second paragraph of the Colony's Case are considered to justify this contention does not very clearly appear. On the other hand, the six reasons which close the Case are all of them invoked as supporting it. It is proposed, accordingly, to examine briefly those six reasons.

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Martijn,
Québec City, QC*

REASON 1: Because the expression "coast" at all times material for the purposes of the present enquiry was understood to include and connote the whole area between the sea and the height-of land.

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7. The affirmation contained in this "Reason," whereby a meaning different from the ordinary meaning of the word "coast" is sought to be attached to that word as used in the Statutes, Orders-in-Council and Proclamations, Canada submits is unsupported by any evidence to be found in the Colony's Case or in any of the documents produced with or referred to by it. It is to be noted that what the legislator understood, what he meant by the word "coast," when he used it in the enactments on which Newfoundland's rights rest, is alone material. The terms of the "Reason" suggest that there is more than one time material for the purposes of the present enquiry. And yet the basis of the Colony's claim, as set forth in the body of its Case, makes the year 1763—as Canada contends it is—the only time material to be considered for the purpose of identifying the extent of the territory now subject to the Colony's authority. The territory which the Colony now claims as subject to its jurisdiction, is claimed, on its own allegations, by virtue of the alleged effect of the Royal Proclamation of the 7th October, 1763 (Nfld. Case, p. 10, lines 21-27; p. 8, lines 1-2). The subsequent pertinent Statutes, Orders-in-Council and Proclamations are referred to in the Colony's Case, but it is not alleged that any of them had effect to increase the area of the "coast" referred to in the said Royal Proclamation, although it is conceded that the British North America (Seignorial Rights) Act, 1825, did have effect to reduce that area. The Commission of the 25th April, 1763, to Captain Thomas Graves, and not the Royal Proclamation as alleged by the Colony, is, however, "the source of Newfoundland's original jurisdiction on the Labrador" (Nfld. Case, par. 35 (b) p. 30, lines 12-13). The Proclamation, as Canada has pointed out in its case, was declaratory only of the

ante, p. 36.

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effect of what the Crown had already done by the issue of the Commission to Captain Thomas Graves. The true position is, that these two instruments, the Commission to Graves and the Royal Proclamation, are to be read together as correlative documents and as explanatory of each other, and, so read, govern the definition of the area of "coast" that is to-day subject to the Colony's authority, subject

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I. p. 205.

I. p. 149.

to the deduction of the portion of the length of that "coast" which. was detached from the Government of Newfoundland and re-annexed to the Government of Lower Canada by the Act of 1825 cited above. Whatever meaning the expression "coast" of Labrador had in those instruments, that meaning, Canada submits, has persisted down to the present time and is still its meaning. None of the later Statutes, Orders-in-Council or Proclamations either defines the area over which the Governor or the Government of Newfoundland was intended to exercise jurisdiction otherwise than by the word "coast" or gives any meaning to that expression different from that which it had in the instruments of 1763—to which, indeed, they refer. That meaning—the meaning which the word naturally bears in those instruments with reference to the context, the declared object, and all the surrounding facts—has, it is submitted, been correctly stated in Canada's Case.

8. The Colony, on the other hand, seeks to attribute to the word "coast" as so used, a meaning that is inconsistent not only with the proper construction of that term, but likewise with the provisions of the Royal Proclamation which reserved "under the immediate sovereignty, protection and dominion" of the King, for the use of the Indians, "all the lands and territories not included within the limits of our said three new governments or within the limits of the territories granted to the Hudson's Bay Company." If the contention of the Colony with respect to the interpretation of the word "Coast" were right, then it would follow that the only land reserved for the Indians was the land coloured yellow on the map appended to the Case of the Colony, and that the Labrador Indians, although subjects and wards of the King, living under His protection within the areas coloured green and pink on that map, were deliberately excluded from the benefit and assurance of that reservation. This interpretation, repugnant in itself to the then established policy of His Majesty in regard to securing to the Indian tribes living under His protection the quiet possession of their hunting lands and to the obvious spirit of the Royal Pro-

clamation, is moreover, at variance with the plain intent and meaning of that instrument. Canada submits that the whole of the lands of the Labrador peninsula, not comprised within the limits of the Hudson's Bay Company's territory or within those established for the province of Quebec, was, by the terms of the Royal Proclamation, reserved and set apart, under His Majesty's immediate protection, for the use of the Indian tribes of that Peninsula for their hunting grounds, subject only to the carrying on upon the seacoast under the supervision of the

Governor of Newfoundland of "the open and free fishery" declared by the Proclamation to have been extended to that coast. All the surrounding facts shows this to have been the true intent and effect of that instrument, and contemporaneous interpretation, if material, confirms that conclusion. Under and by virtue of the subsequent Statutes, Orders-in-Council and Proclamations, the entirety of the lands so reserved for the use of the Labrador Indians was incorporated in the territories which to-day form the Dominion of Canada and is subject as such (save only as regards the narrow margin of land on the seacoast over which the rights of the Government of Newfoundland extend) to the exclusive governmental and legislative authority of the Dominion of Canada and of the Province of Quebec in which it lies.

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REASON 2: Because the evidence adduced in respect of the crucial years 1854 to 1880 (from the proceedings of the Select Committee of the House of Commons of Great Britain inquiring into the affairs of the Hudson's Bay Company, from the maps issued by the Canadian Government and others, and from the correspondence between the Canadian Government and the British Embassy at Washington) is inconsistent with any other conclusion.

9. The evidence invoked by this "Reason" is assumed to be that which is set out in paragraph 36 of the Colony's Case. It belongs entirely to the category of evidence of reputation, which, of course, is merely traditional hearsay. Evidence of this description, when admitted at all, is admitted only on the ground of the assumed absence of better

*ante p.
36.*

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evidence and, as it were, from necessity; in its very nature, it is intrinsically weak. In the present case, the enactments which govern the definition of the Colony's rights within the Labrador peninsula and all the circumstances which led to and surrounded them being fully known, evidence of reputation is irrelevant and ought to be rejected. Subject to that, Canada submits that the evidence cited affords no substantial ground on which the "Reason" stated above can rest.

*ante p.
30.*

10. First, the designation of the years 1854 to 1880 as crucial years, is, Canada submits, unjustified. The instruments which define the only rights ever conferred upon the Government of Newfoundland were issued in 1763. The Colony, in its Case, in effect admits, as already noted, that none of the subsequent acts added anything to the extent of "coast" over which such rights were created by the instruments of 1763. Neither in the years 1854 to 1880, nor at any time, was any extension given to the territory described in the instruments as 1763. Such modification as resulted in 1855 from the recognition of the

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principles of responsible government as applicable in Newfoundland effected no change of the extent of territory subject to the authority of that Government. Nor does anything appear in any evidence that has been adduced supporting the affirmation of the Colony's Case, that these years—1854 to 1880—are "of peculiar importance because in them the question of the interior boundaries of the Pensinsula, first assumed practical importance." The history of Newfoundland's administration on the coast within those years negatives the idea that it attached any importance to the coast, its administration, or its boundaries.

11. Secondly, with regard to the evidence invoked by this "Reason," it consists, for the most part, of opinions or impressions expressed by some individuals or represented by certain mapmakers respecting territorial divisions or the location of boundaries in the Labrador peninsula, and it is alleged that these opinions or impressions show that it was generally believed and understood that the boundaries in the Labrador peninsula were

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ante p. 36.

determined on a "watershed" or a "height-of-land" basis. That evidence, the Colony finally contends, is strongly confirmed by (1) certain maps compiled by employees of the Canadian Government, and (2) by certain correspondence in 1874 between the Canadian Government and the British Embassy at Washington, in which confirmation was given to an opinion which Lord Dufferin, then Governor General of Canada, had verbally expressed in conversation with the British Ambassador, with regard to the question whether Labrador formed part of Canada.

The opinions or impressions formed by some individuals respecting the location of boundaries in the Labrador peninsula, particularly when it does not appear that any of these persons had given any special consideration to the subject or was qualified to do so, can have no sort of bearing upon the determination of the present issue, even if they were not countervailed, as they undoubtedly are, by other opinions of greater authority, and altogether overborne by evidence of a higher nature.

So far as the Canadian maps or correspondence referred to indicate any view different from that set forth by Canada in its Case, it is shown by evidence contained in the joint appendix that such view was the result of an error subsequently recognised and corrected.

V. pp. 2301, 2307,
2308.
II. pp. 339-361.

Furthermore, with regard to the alleged official maps of the Canadian Government and the correspondence of 1874, Canada submits that no action of the Government of

Newfoundland or of Canada, and no admission on the part of either or both could effect any extension of the territory described in the instruments of 1763—still less any action or admission of any Governor, executive authority or officer or employee of either of the said countries. No action or admission affecting the territory of either the Dominion or of the Colony would be the action or admission of such Dominion or Colony unless taken or made by their respective legislatures, and even if taken or made by these bodies, could effect no change of territorial jurisdiction. Such a change could be made by imperial legislation and Imperial legislation alone.

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ante p. 36. REASON 3: Because under the law of nations at the times material to be considered for the purposes of the present inquiry, the occupation of a "coast" conferred a right to the hinterland as far as the height of land.

ante p. 33. 12. The argument which this "Reason" is apparently intended to invoke is set in par. 38 of the Colony's Case. In this paragraph, the Colony contends that, apart from all other considerations, the line of the crest of the watershed is "the only boundary in the interior for which any principle of reason or law can fairly be advanced," asserting that at the material dates international law had settled the point that the occupation of a "coast" would have conferred upon the occupying State a right to the hinterland as far as the height of land, and that, "by parity of reasoning," the grant of a "coast" would, in the absence of indication to the contrary, confer jurisdiction over an area similarly limited.

13. To this "Reason,"—the Colony's main contention—two answers, which it is submitted are conclusive, may be made: In the first place, the "Law of Nations" has absolutely no application to the questions that arise herein. The Law of Nations governs exclusively the relations of different States and is applicable only to the determination of questions arising between such States. Here no such question arises. The right of sovereignty over the whole of the area to which the present controversy relates was in 1763, has been at all times since, and is indisputably vested in the Crown of Great Britain. The Court is called upon to decide simply the effect of the acts done by the sovereign authority of one and the same State having for their purpose the fixing of the instrumentality through which the government of a particular part of that one and the same State should be carried on.

In the second place, even were the matter one to be governed or affected by the "Law of Nations," Canada submits that there

never was, and does not now exist, any recognized rule of international law to the effect stated in this "Reason." The cases in which the so-called rule has been invoked (begin-

Page	1	2	3	4
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ning with the Louisiana boundary controversy, 1805, where it was propounded for the first time) are nothing more than instances where one or more states as parties to a dispute put forward—because it served or appeared to serve their interests—a theory having some resemblance to what is now contended to have been a rule of law. This theory, however, never received any such recognition as to make it a part of the "Law of Nations." The decision of the Judicial Committee of the Privy Council in the Ontario-Manitoba Boundary Case, 1884 (to which case the Colony refers) and the dicta of their Lordships abundantly support this conclusion. The "watershed" theory was advanced in that case; all the authorities now put forward by the Colony as supporting it were cited in the course of the argument; but their Lordships expressed themselves in no unmistakable terms as being clearly of the opinion that this theory had received no such recognition as would entitle it to be cited, much less countenanced, as an accepted principle of the law of nations. Moreover, the theory, even as a theory, had never been dreamed of when the coast of Labrador was put under the care and inspection of the Governor of Newfoundland. It was a much more modern invention.

The years 1854 to 1880, having been described in the last preceding "Reason" as "the crucial years," it is, perhaps, to be assumed that the Colony's claim is that it was during these years the occupation of a "coast" produced the alleged effect. Canada does not hesitate to deny that in those or any other years the occupation of a "coast" produced the alleged effect. Canada does not hesitate to deny that in those or any others years the alleged rule formed part of the Law of Nations, but, in any event, it certainly cannot have governed acts and instruments executed and given full effect to something like one hundred years prior to the period mentioned, and at a time when it is not even pretended to have been known of either as a rule or even as a theory.

14. It may, furthermore, be noted that the alleged "Law of Nations" has to do with the effect of occupation of a coast as conferring a right to the hinterland of such coast. Here there is no question of acquisition by occupation. Settlements on the coast were, indeed, rigidly excluded under the

Instruments of 1763, and the regulations which were made for its government. Such rights as Newfoundland has she holds under the legislative action of His Majesty and the Parliament of Great Britain, and not by virtue of any occupation on her part. And finally, the rule that is invoked as forming part of the "Law of Nations" is not even stated to be that a coast in itself

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ante p. 33, lines 38-45.

includes the hinterland. On the contrary, the rule as stated implies that a coast and a hinterland are—as, of course, they are—two perfectly distinct things, the occupation of one whereof gives a claim to the other. It is not even suggested that there was a "Law of Nations" to the effect that when one said "coast," he meant hinterland, and it cannot be said too often, the entire question before this Court is: What did His Majesty mean when he spoke of the coast of Labrador in the Commission of Captain Graves and the Proclamation of 1763?

15. Finally, the Colony's contention "that the crest of the watershed would be a natural limit to impose in a grant 'to the end that the open and free fishery . . . might be extended to and carried on upon the coast of Labrador and the adjacent islands,' since it would be contemplated that the fishing to be encouraged would be for cod on the seashore, but also for salmon along the rivers as far as the fishermen cared to go," disregards all the conditions and limitations imposed by the policy of Great Britain as regards the fishery at Newfoundland and on the Labrador coast. The evidence in the case puts it beyond dispute that "the open and free fishery of our subjects" referred to in the Royal Proclamation of the 7th October, 1763, was the deep-sea fishery for cod, with the appurtenant right to take bait, then carried on upon the seacoasts of Newfoundland under the special title and regulations established or rather confirmed by the Imperial Act 10-11 Wm. III., c. 25; that the policy underlying all the measures relating to this fishery was to establish a nursery for seamen to man the Royal Navy; that, in pursuance of this policy, the object aimed at was the encouragement of a transitory fishery to be carried on by Englishmen whose homes were in England where they would

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I. p. 153.

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be available to the Navy; and that, under the regulations established for that coast, the salmon fishing was no more than a premium offered to attract fishermen from England to the prosecution of the paramount object—the deep-sea fishery for cod. It was thus an object of attention only in so far as it was or could be carried on within the same area as the cod fishery, *i.e.*, on the sea-coast. The "coast," under these circumstances, was a mere appendage of the sea, and its depth inland would naturally be limited to what was required to accommodate those who carried on the deep-sea fishery under the several laws and regulations governing this fishery.

REASON 4: Because Newfoundland, and Newfoundland alone, between 1763 and 1880, effectively controlled and occupied the area from the coastline back to the height of land.

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16. This "Reason" raises an issue of fact in regard to the extent of territory effectively controlled and occupied by the

NL

ante p. 36.

Colony of Newfoundland between the years mentioned. That this occupation covered the area from the coastline back to the height of land, Canada submits is unsupported by any evidence that has been or could be adduced. The great bulk of the acts of occupation claimed to have been performed, are, from Canada's point of view, quite innocuous, inasmuch as they were so performed within the strip of seacoast over which Canada does not dispute the Colony's authority. The acts of administration claimed to have been performed beyond these limits are, on the Colony's own showing, so few, so trifling, and so widely scattered in time as to offer no support whatever to the affirmation contained in this "Reason;" and were, moreover, if done at all, done without right, and constituted a mere usurpation of authority and trespass upon the territorial jurisdiction of Canada, which cannot be invoked as evidencing any right. Canada, on the other hand, establishes by documents produced in support of her Case and of this present Counter-Case, that she alone has had any effective occupation and has exercised any effective powers of administration and authority within the disputed territory. Moreover, as already pointed

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out, there is here no question of acquisition by occupation. Newfoundland's rights, whatever their extent, rest exclusively on the titles which conferred them.

VI. pp. 2655-3118.

VII. pp. 3119-3725.

I. pp. 221-224.

VIII.

REASON 5: Because the maps between 1763 and 1880 show that according to the general belief and reputation prevailing at all material times, the jurisdiction of the Government of Newfoundland extended as far inland as the height of land.

ante p. 36.

17. In support of this "Reason" the Colony has reproduced in the Atlas accompanying its Case a series of forty-six maps, or portion of maps of the Labrador peninsula, or parts thereof, dating from 1656 to 1912. A number of these maps purport to show geographical conditions called by the Colony "traditional boundaries" existing in the Peninsula of Labrador, or parts of that Peninsula, prior to the Commission and Proclamation of 1763, which so-called "traditional boundaries," it is claimed, are reproduced in subsequent maps. It may be said at once that, whatever divisions may have been made by map-makers or believed by them to have existed or may have actually existed prior to His Majesty having in 1763 by the Commission to Graves and the Royal Proclamation of that year dealt with the coast of Labrador as including and embracing the entire coast of the Atlantic and of the Gulf from Hudson's Straits, to the River St. John, and with Labrador as embracing the entire territory whereof that was the coast, that action on His part obliterated any such divisions.

It matters not at all what internal divisions of the Peninsula

may have existed or been believed to have existed prior to this action on His part. Furthermore, nothing shown on these maps indicates any division between interior territory and coast of Labrador, and that is the only boundary line in question in this case. Whatever weight may attach to maps generally as evidence of reputation where such maps are contemporaneous, and in agreement in what they purport to show, and where reputation is a material factor, it is submitted that nothing appears upon those produced by the Colony bearing upon, or which can or should affect the interpretation of the word "coast," as used by His Majesty in the

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Commission and Proclamation of 1763. These maps, it is further submitted, entirely fail to support the contention set forth in this "Reason, namely, that the maps between 1763 and 1880 show that according to the general belief and reputation prevailing at all material times, the jurisdiction of the Government of Newfoundland extended as far inland as the height of land." The maps in question neither shown or purport to show anything tending to establish any such belief or reputation existing at any time in regard to the extent of the jurisdiction of the Government of Newfoundland.

REASON 6: Because no other precise interior boundary has ever been suggested for which definite reasons can be advanced.

18. Canada submits that definite reasons have been advanced in the Dominion's Case and in this Counter-case in support of the boundary suggested by Canada, and that this is the only boundary not merely suggested by, but consistent with, any construction of which the Statutes, Orders-in-Council and Proclamations can be shown to be capable.

II. THE LINE OF THE 52ND PARALLEL OF NORTH LATITUDE.

ante p. 36.

19. The claim to this line as the Southern boundary appears to rest entirely upon the effect attached by the Colony of Newfoundland to the British North America (Seignorial Rights) Acts 1825. Canada has already, in its Case (p. 81, para. 30) explained what that legislation was intended to effect, and did, in reality, effect, viz.: the transference from the jurisdiction of Newfoundland to that of Lower Canada of the length of the coast of the Gulf of St. Lawrence extending from "Ance Sablon, inclusive" to the River St. John. By that explanation Canada stands. Canada submits that the Act cited dealt in no way with the question of the inland depth of the coast. Whatever was the depth of the coast prior to that Act continued to be the depth of that coast after it. All that the Act determined was that the "coast," whatever its then existing

depth, should in the length above mentioned be annexed to the Province of Lower Canada.

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ante, pp. 1-2.

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20. The submissions of the second paragraph of the Colony's Case, and what is said and adduced in support of them in the paragraphs which constitute the body of that Case, do not seem to Canada to call for detailed answer or discussion at this stage. Most of the matter contained in these paragraphs is irrelevant. The settlements made are, moreover, in many instances inaccurate and the inferences drawn from them and from the documents produced in support of them unjustified.

These matters may, however, in Canada's judgment, be more clearly and satisfactorily dealt with in the argument at the hearing. It is not the purpose of the present document to discuss them in detail.

With this Counter-Case are produced such documents as furnish evidence rebutting the Colony's statements and inferences above referred to, and explanatory of anything to be found in the evidence of the Colony which may seem to lend support to those statements and inferences.

CONCLUSION.

Upon the whole, Canada respectfully contends that nothing in the case of the Colony has weakened in any respect the case which Canada has put forward, and submits that the question referred should be answered in accordance with the suggestion of Canada's Case.

CHAS. J. DOHERTY.
CHARLES LANCTOT.
AIMÉ GEOFFRION.
H. STUART MOORE.
C. P. PLAXTON.

In the Privy Council.

IN THE MATTER OF THE
BOUNDARY BETWEEN THE
DOMINION
OF CANADA AND THE
COLONY
OF NEWFOUNDLAND IN THE
LABRADOR PENINSULA.

BETWEEN
THE DOMINION OF CANADA
OF THE ONE PART

AND
THE COLONY OF
NEWFOUNDLAND
OF THE OTHER PART.

COUNTER-CASE
OF THE DOMINION OF CANADA.

CHARLES RUSSELL & CO.,
37, Norfolk Street,
Strand, W.C. 2.

LONDON: PRINTED BY WILLIAMS CLOWES AND SONS,
LIMITED, DUKE STREET, STAMFORD STREET, S.E.1, AND GREAT
WINDMILL STREET.

JOINT APPENDIX.

JOINT

[11 Nov.,
1920.]

PART I.

DOCUMENTS AND CORRESPONDENCE RELATING TO THE LABRADOR BOUNDARY QUESTION.

*Page 125
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SECTION I.

NL

TERMS OF REFERENCE TO JUDICIAL COMMITTEE.

No. 1.

MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENTS OF CANADA AND NEWFOUNDLAND, DATED 11th NOVEMBER, 1920, AS AMENDED BY AN AGREEMENT DATED 20th NOVEMBER, 1922.*

(NOTE.—Clauses A, B, C, D and E were substituted by the second agreement for Clauses 1 and 2 of the first agreement.)

IN THE MATTER OF
the boundary between the Dominion of Canada and the Colony
of Newfoundland in the Labrador Peninsula:

The government of the Dominion of Canada and the
government of; Colony of Newfoundland having mutually
agreed to submit for reference

* The second agreement was signed on behalf of the government of Canada by the Hon. Sir Lomer Gouin, Attorney-General of Canada, and on behalf of the government of Newfoundland by the Hon. W. R. Warren, Attorney-

by His Majesty to the Judicial Committee of His Majesty's Privy Council for their decision, the following question, viz.:

"What is the location and definition of the boundary as between Canada and Newfoundland in the Labrador Peninsula under the statutes, orders-in-council and proclamations?"

it is hereby agreed by and on behalf of the respective governments aforesaid that, subject to the approval of the Judicial Committee and to such variations and additions as may be agreed upon, the procedure on such submission shall be as follows—

(A). Each government shall within a fixed time, to be mutually agreed upon, deliver to the other and to the solicitors of the other in London a printed case setting forth its contention upon the question agreed to be submitted, accompanied by a printed list describing, with particulars sufficient for their identification, the documents or other evidence upon which it relies.

(B). As soon as the cases with accompanying lists have been exchanged in accordance with the preceding paragraph, a joint appendix consisting of all the documents or other evidence so listed on both sides shall forthwith be compiled and printed under the joint direction of the two governments and at their joint expense, to be shared in such reasonable proportions as shall be equitable or as may be agreed, subject always to Clause 8 of the said agreement of the eleventh of November, one thousand nine hundred and twenty, and there shall be printed at the top of each such document or piece of evidence a letter, mark or statement to identify it as a Canada exhibit or as a Newfoundland exhibit, as the case may be, and the documents shall so far as convenient be arranged in groups according to the subject matter and shall be printed as nearly as may be in their chronological order; and, as soon as possible after the printing of the joint appendix, each Government shall cause to be added to its printed case such marginal printed references by page and line of the joint appendix to the documents or other evidence mentioned in its said list as it may consider necessary or convenient for the consideration of the case, and shall deliver to the other or to the solicitors of the other in London and cause to be lodged at the Privy Council Office copies of its printed case so marginally noted as aforesaid.

(C). Each government shall be at the liberty to deliver to the other and to the solicitors of the other in London within a time to be mutually agreed upon a printed counter-case

accompanied by a printed list describing, with particulars sufficient for their identification, the documents or other evidence upon which it relies.

(D). Another joint appendix, the second, including all the documents or other evidence described in the lists delivered with the counter-cases shall then be compiled and printed in the manner and subject to the stipulations hereinbefore provided or contained with respect to the principal joint

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appendix, and in like manner and subject to the like requirements, the counter cases shall then be side noted, exchanged and lodged.

(E). The documents and other evidence printed in the joint appendices shall be submitted to the Judicial Committee *quantum valeat* and subject to the reservation by each government of all objections to their admissibility, if any, which either of the governments may be advised to urge.

(3). The two Governments shall thereupon petition His Majesty the King to refer the question so put in issue to the Judicial Committee for hearing and determination.

(4). Upon reference of the matter by His Majesty to the Judicial Committee, either of the two governments shall be at liberty to apply, on notice to the other, to the Judicial Committee to have the case set down for hearing.

(5). The procedure to be followed at the hearing shall be left to the decision of the Judicial Committee who may, if they deem it necessary or desirable, direct evidence to be taken on commission.

(6). Either party shall be entitled to give notice in writing to the other party to produce for the inspection of the agent of the party giving such notice the original of any document in the possession or control of such other party, and relating to the question agreed to be submitted, and the party to whom such notice shall have been given shall produce such original document accordingly at a convenient time and place to be agreed upon.

(7). In the discussion before the Judicial Committee reference may be made to any evidence of which judicial notice may be taken or which (having regard to the nature of the case and the parties to it) the Judicial Committee may think material and proper to be considered, whether or not the same be contained in the printed papers.

(8). The costs of the case shall be in the discretion of the Judicial Committee which is to have power to award or withhold costs.

Signed on behalf of the Government of the Dominion of Canada, at the city of London, England, this 11th day of November, A.D. 1920, by:

(Sgd.) CHAS. J. DOHERTY,
Attorney-General of Canada.

Signed on behalf of the government of Newfoundland, at the city of London, England, this 11th day of November, A.D. 1920, by:

(Sgd.) W. R. WARREN,
Attorney-General of Newfoundland.

SECTION II.

CORRESPONDENCE BETWEEN DOMINION
GOVERNMENT AND COLONIAL OFFICE AND
NEWFOUNDLAND GOVERNMENT, LEADING UP TO
AGREEMENT OF REFERENCE.

*Page 128
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(A) SUBMITTED BY CANADA.

St. John's, NL

No. 2.

LORD MINTO TO J. CHAMBERLAIN.

[18 March,
1903.]

REFERENCE OF MINUTE OF THE PRIVY *re* GRANT OF TIMBER LICENSE BY
NEWFOUNDLAND OF LANDS CLAIMED BY QUEBEC, AND REQUESTING
THAT THE MATTER BE REPRESENTED TO NEWFOUNDLAND WITH A
VIEW TO CANCELLATION THEREOF.

10th March.

No. 107.

Ottawa,
18th March, 1903.

SIR,

I have the honour to forward herewith a copy of an approved Minute of the Privy Council, submitting a communication from the Lieutenant Governor of Quebec, in which attention is called to the issue, by the Government of Newfoundland, of a license to cut timber on lands lying along the Hamilton River, indicated on a tracing attached to the Minute, which are claimed to be within the jurisdiction of the Province of Quebec.

You will observe that my Ministers request that the matter may be represented to the Newfoundland Government with a view to obtaining a cancellation of the license as involving an encroachment upon the territory of Quebec.

I have etc.,
(Sd) MINTO.

No. 3.

(Enclosure 1 in No. 2.)

**EXTRACT FROM A REPORT OF A COMMITTEE OF
THE HONOURABLE THE PRIVY COUNCIL,**

[10 March,
1903.]

APPROVED BY HIS EXCELLENCY ON THE 10TH MARCH, 1903.

The Committee of the Privy Council have had under consideration a despatch, dated 18th. December, 1902, from the Lieutenant Governor of the Province of Quebec, submitting a Report by the Minister of Lands, Mines and Fisheries of the Province of Quebec setting out that the Government of the Colony of Newfoundland has issued certain licenses to cut timber to The Grand River Pulp and Lumber Co., Limited, upon both sides of the Hamilton River, and asking that the necessary steps be taken to prevent any encroachment by the Government of Newfoundland upon the territory of the Province of Quebec.

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The Minister of Justice, to whom the said despatch was referred, reports that an examination of the Statute shows that by an Act passed in the year 1774 (14 Geo. III, Chap. 83, Sec. 1) the whole of Labrador including the present Newfoundland Labrador was restored to the then Province of Quebec. By the Act of 1809 (49 Geo. III, Chap. 27, Sec. 14) the coast of Labrador from the River St. John to Hudson's Straits, with the Island of Anticosti and all other smaller islands annexed to the Government of Newfoundland by the proclamation of the 7th. October, 1763, except the Islands of Magdalen, were separated from Lower Canada and were re-annexed to Newfoundland. By the Act of 1825, (6 Geo. IV, Chap. 59, Sec. 9) so much of the coast of Labrador as lies westward of a line drawn due north and south from the bay or harbour of Anse Sablon inclusive as far as the 52 degree of north latitude, with the Island of Anticosti and all other islands adjacent to such part as last aforesaid of the coast of Labrador, was re-annexed to the Province of Lower Canada. It is thus evident that even on an interpretation of the legislation most favourable to the Colony of Newfoundland nothing can be included within the Newfoundland Labrador but coast and islands; and, he, the Minister, is of opinion that "Coast" cannot be possibly so interpreted as to include the territory through which the Hamilton River flows, hundreds of miles from the ocean.

The Committee, concurring in the said Report, advise that the Governor General be moved to forward a copy of this Minute to the Right Honourable the Secretary of State for the

Colonies with a view to the cancellation of the timber licenses
issued by the Government of Newfoundland.

All which is respectfully submitted for approval.

JOHN J. McGEE,
Clerk to the Privy Council.

The Honourable
The Minister of Justice.

No. 4.

(Enclosure 2 in No. 2; referred to in No. 3.)

**LIEUT.-GOVR. OF QUEBEC TO SECRETARY OF
STATE**

[18 Dec.,
1902.]

re TIMBER LICENSE ISSUED BY NEWFOUNDLAND.

*Page 130
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Tanya Saunders,
Conception Bay South,*

NL

P.C. 1369 L (a).
Copy.
No. 4286-02.

Hotel du Gouvernement,
Québec, 18 Décembre 1902.

MONSIEUR,

J'ai l'honneur de vous transmettre, pour la considération de Son Excellence le Gouverneur Général en Conseil, le mémoire ci-inclus et les pièces ci-annexées concernant une certaine partie de territoire de la Province de Québec, sur la rivière Hamilton.

J'ai l'honneur d'être,
Monsieur,
Votre obéissant serviteur,
L. A. JETTÉ,
Lieutenant Gouverneur.

L'honorable Secrétaire d'État,
Ottawa.

No. 5.

(Enclosure 3 in No. 2; referred to in Nos. 3 & 4.)

[Dec., 1909.]

**DEPARTEMENT DES TERRES FORETS ET
PECHERIES.**

P.C. 1369 L (c).

On the subject of certain licenses to cut timber alleged to have been granted by the Government of Newfoundland within the limits of the Province of Quebec.

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Karen
Follett,
St. John's,
NL*

The undersigned Minister of Lands, Mines and Fisheries of the Province Quebec, has the honor to represent :—

An article published in the "Canada Lumberman" of the 26th November last, having acquainted the Department with the fact that some lumbering operations were contemplated by a certain Company called:—"The Grand River Pulp and Lumber Co." on the territory South of River Hamilton now belonging to the Province of Quebec, in virtue of the Act 61 Vict. C.3. Canada, my Department wrote on the 6th December instant to the President of said Company to have some information about that affair.

To our enquiry we received a letter dated the 9th inst. from M. Alfred Dickie, president of the said Company, copy of said letter is attached to this Memo. in which he states that he, in fact, has obtained from the Government of Newfoundland a license for fifty years, to cut timber on 297 square miles both on North and South sides of the Hamilton River about half each—The Government of New-Foundland claiming to have jurisdiction all North of the 52nd parallel of latitude east of the 64th degree of longitude.

The territory for which such timber license was issued by the Government of New-Foundland, is approximately indicated in green on the enclosed map of the Province of Quebec.

The undersigned submits the whole for the serious consideration of the Government of the Dominion of Canada and asks that the necessary steps be taken to prevent any encroachment by the government of New-Foundland on the territory of the Province of Quebec.

S. N. PARENT,
Minister of Lands, Mines and Fisheries.

Quebec. Dec. 1902.

(Enclosure 4 in No. 2; referred to in No. 5.)

**GRAND RIVER PULP AND LUMBER CO. TO DEPUTY-
MINISTER OF LANDS, QUEBEC.**

[9 Dec., 1902.]

P.C. 1369 L (b).
Copy.

Lower Stewiacke, Nova Scotia,
Dec. 9, 1902.

E. E. Taché, Esqre.,
Deputy Minister of Lands, Mines and Fisheries.

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Charles A.
Martijn,
Québec City, QC*

DEAR SIR :—

Your favour of the 6th inst. just to hand, and we are surprised to learn, that the Province of Quebec claims all the land South of the Hamilton River.

The Grand River Pulp and Lumber Co. Ltd., is incorporated under and by the laws of the Legislature of Newfoundland, and we hold fifty year leases, from that Government for 297 square miles of Timber areas both on the North and South sides of the Hamilton River—about half each.

In Labrador, the Newfoundland Govt. claims all North of the 52nd parallel of latitude that is East of the 64th degree of longitude.

The extent of the jurisdiction of said Gov't, having been defined in 1876 by letters patent.

We are, therefore, not stealing anything, and we would ask you to take up the subject, directly with the Newfoundland Gov't., if their acts have, in any way encroached upon the rights of the Province of Quebec.

Yours faithfully,
The Grand River Pulp and Lumber Co. Ltd.
(Signed) "ALFRED DICKIE,"
President.

(Enclosure 5 in No. 2; annexed to No. 5.)

MAP INDICATING TERRITORY FOR WHICH LICENSE GRANTED BY NEWFOUNDLAND

Page 133 sponsored by Tanya Saunders, Conception Bay South,

NL

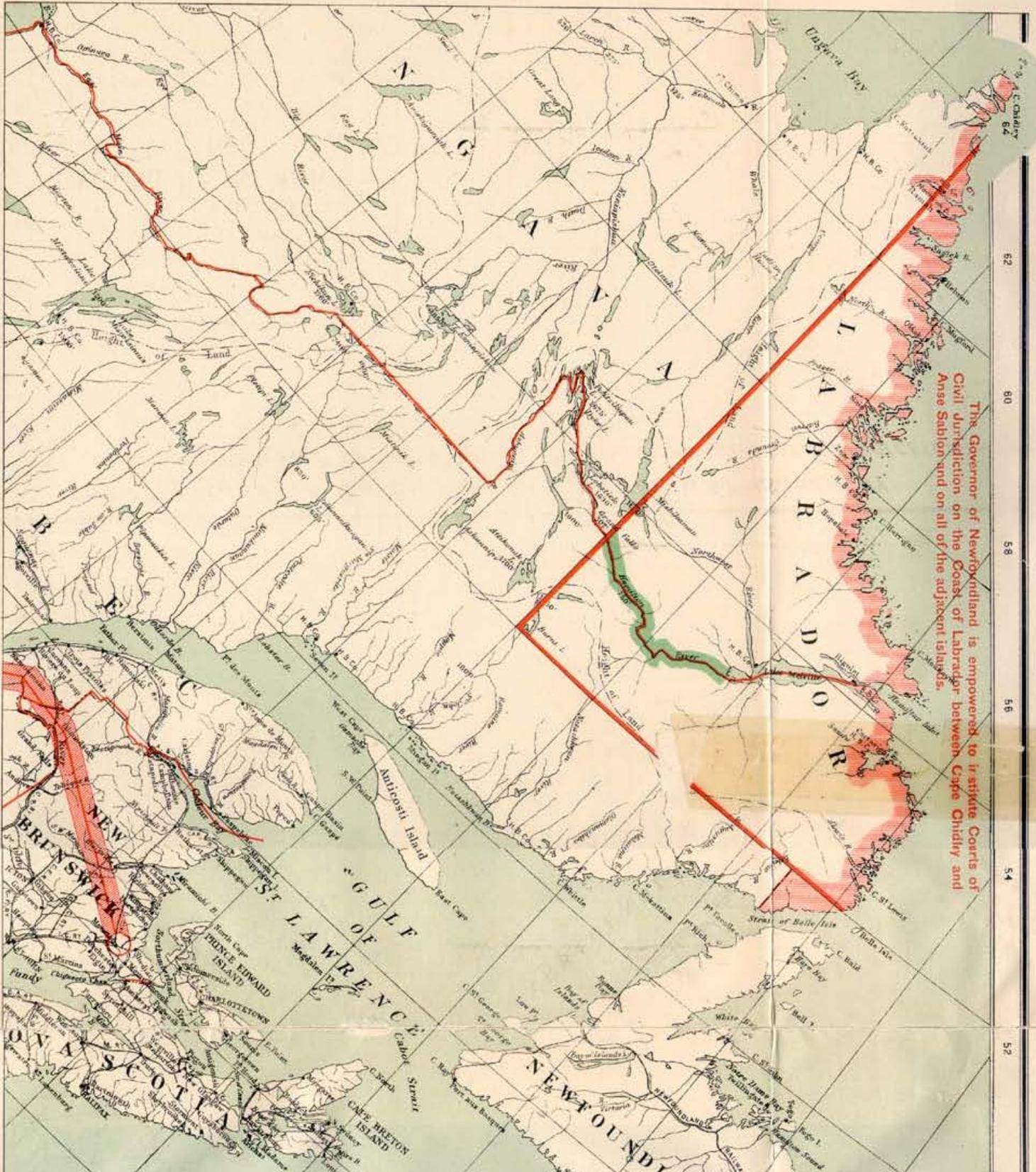


Much Larger Version 1024x1717 pixels (266 kb)

No. 7.

(Enclosure 5 in No. 2 ; annexed to No. 5.)

MAP INDICATING TERRITORY FOR WHICH LICENSE GRANTED BY NEWFOUNDLAND.



The Governor of Newfoundland is empowered to institute Courts of Civil Jurisdiction on the Coast of Labrador between Cape Chidley and Anse Sablon and on all of the adjacent islands.

J. CHAMBERLAIN TO LORD MINTO.

STATING MATTER *re* TIMBER GRANT REFERRED TO GOVERNOR OF
NEWFOUNDLAND.

[8 April,
1903.]

Canada.
No. 118.

Downing Street,
8th April, 1903.

MY LORD,

I have the honour to acquaint Your Excellency for the information of your Ministers that I have referred to the Governor of Newfoundland, for the consideration of his Ministers, your despatch No. 107 of the 18th of March with its enclosures, on the subject of the issue of a license by the Government of Newfoundland to cut wood on lands claimed to be within the jurisdiction of the Province of Quebec.

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Charles A.
Martijn,
Québec City, QC*

I have, etc.,
(Sd.) J. CHAMBERLAIN.

No. 9.

J. CHAMBERLAIN TO LORD MINTO.

REFERENCE OF DESPATCH RECEIVED FROM NEWFOUNDLAND *re* TIMBER
LICENSE GRANTED.

[21 Aug.,
1903.]

Canada.
No. 289.

Downing Street,
21st Aug., 1903.

MY LORD,

With reference to my despatch No. 118 of the 8th April, I have the honour to transmit to you, to be laid before your Ministers, copy of a despatch from the Governor of Newfoundland concerning the issue by his Government of a license to cut timber on lands claimed to be within the jurisdiction of the Province of Quebec.

If your Ministers are not satisfied with the reply of the Newfoundland Government they will doubtless take the necessary steps to obtain a legal decision on the matter.

I have, etc.,
(Sd.) J. CHAMBERLAIN.

No. 10.

(Enclosure 1 in No. 9.)

**GOVERNOR OF NEWFOUNDLAND TO J.
CHAMBERLAIN.**

TRANSMITTING MINUTE OF NEWFOUNDLAND COUNCIL *re*
REPRESENTATION OF CANADA.

[24 July,
1903.]

Copy.
Newfoundland.
No. 53.

Government House,
St. John's,
24th July, 1903.

SIR,

In reply to your despatch No. 24 of the 8th of April, on the subject of the issue by this Government of a license to cut timber on lands claimed to be within the jurisdiction of the Province of Quebec, I have the honour to transmit herewith a copy of an approved Minute of the Committee of Council in which my responsible advisers state with their reasons, their inability to admit the claim of the Dominion Government and deny that there has been any encroachment by this Government upon the Territory of the Province of Quebec.

I have, etc.,
(Sd.) CAVENDISH BOYLE.

No. 11.

(Enclosure 2 in No. 9; referred to in No. 10.)

**COPY OF APPROVED MINUTE OF COUNCIL.
[NEWFOUNDLAND.]**

[17 July,
1903.]

July 17th, 1903.

The Committee of Council had under consideration despatch No. 24 of date of the 8th April, received from the Right Honourable the Secretary of State for the Colonies and the accompanying copy of a despatch from the Governor General of Canada on the subject of the issue by the Govt. of this Colony of a license to cut timber on lands now for the first time claimed to be within the jurisdiction of the Province of Quebec. The Committee are unable to admit the claim set up by the Canadian Government, and deny that there has been any encroachment by this Government upon the territory of the Province of Quebec.

By the Royal Proclamation of 1763 the River St. John was made the Eastern limit of the Province of Quebec on the North shore of the St. Lawrence and all the rest of that shore and of the Atlantic Coast of Labrador to Hudson's Straits with Anticosti and the other islands in the Gulf of St. Lawrence, were annexed to Newfoundland.

Eleven years later (1774) the Labrador, the North shore of the River and Gulf of St. Lawrence, and the islands in the Gulf were all transferred to Quebec by the Quebec Act. They remained part of Quebec until 1791 and part of Lower Canada until 1809 in which year the Imperial Parliament passed an Act (49 George III, Cap. 27) which re-annexed to Newfoundland all that had been added to it by the Proclamation of 1763 with the exception of the Madalaine Islands. In the year 1825 the Imperial Parliament passed an Act (6 Geo. IV. Cap. 89) which restored to Lower Canada part of what, had been taken from it in 1809 namely so much of the coast of Labrador as "lies to the Westward of a line to be drawn due north and south from the Bay or Harbour of Ance Sablon, inclusive, as far as the fifty-second degree of North Latitude with the Island of Anticosti and all other Islands adjacent to such part as last aforesaid of the coast of Labrador."

It is clear from the foregoing that it was *a portion of the coast* of Labrador that was transferred to Canada and *only that portion* as "lies to the Westward of a line to be drawn due North and South from the Bay or Harbour of Ance Sablon, inclusive, as far as the Fifty-second degree of North Latitude."

This left the whole peninsula of the Labrador under the jurisdiction of the Government of this Colony. The license to

referred to in the report of the Committee of the Honourable the Privy Council of Canada now under consideration is many miles to the Eastward of line which was laid down by the Imperial Statute above quoted as the boundary line between the Province of Quebec and the Newfoundland Labrador.

On the 31st July 1880 an Imperial Order in Council was passed in the following terms, namely:—"From and after the First day of September 1880 all British territories and provinces in North America not already included within the Dominion of Canada and all Islands adjacent to any of such territories or possessions, shall, *with the exception of Newfoundland and its dependencies*, become, and be annexed to, and form part of, the said Dominion of Canada and become and be subject to the Laws for the time being in force in the said Dominion, in so far as such laws may be applicable thereto."

This in no way affected the Labrador Peninsula which was within the jurisdiction of the Government of Newfoundland.

(Sd.) R. BOND C.C.

Approved, (Sd.) CAVENDISH BOYLE, Governor, 24 July, 03.

No. 12.

LIEUT.-GOVERNOR OF QUEBEC TO SECRETARY OF STATE.

[29 Feb.
1904.]

TRANSMITTING FOR CONSIDERATION OF COUNCIL REPORT OF MINISTER OF LANDS OF QUEBEC *re* DISPUTED TERRITORY.

Hotel du Gouvernement,
Quebec, 29 Fevrier, 1904.

MONSIEUR:—

J'ai l'honneur de vous transmettre, pour la considération de Son Excellence le Gouverneur Général en Conseil, le mémoire ci-inclus, concernant un certain territoire sur la rivière Hamilton, au Labrador, en dispute entre le Gouvernement de Terre Neuve d'une part, et le Gouvernement du Canada et celui de la Province de Québec, d'autre part.

J'ai l'honneur d'être, Monsieur,
Votre obéissant serviteur,
L. A. JETTE,
Lieutenant Gouverneur.

L'Honorable Secrétaire d'Etat,

Ottawa.

(Enclosure in No. 12.)

[25 Feb.
1904.]

**REPORT BY THE MINISTER OF LANDS, QUEBEC, re
DISPUTED TERRITORY.**

Department des Terres, Mines et Pêcheries,
Quebec, 25 Fevrier, 1904.

Mémoire concernant un certain territoire sur la rivière
Hamilton, au
Labrador, en dispute entre le Gouvernement de Terre-
Neuve
d'une part et le Gouvernement du Canada et celui de la
Province de Québec, d'autre part.

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Le soussigné, Ministre des Terres, Mines et Pêcheries a
l'honneur de faire rapport :—

Que le Gouvernement de Terre-Neuve dispute au
Gouvernement de la Puissance du Canada et à celui de la
Province de Québec un certain territoire sur la rivière
Hamilton, dans la région du Labrador;

Que cette question a déjà, été référée aux autorités
fédérales de la part du Gouvernement de cette Province leur
demandant de prendre l'action nécessaire pour faire reconnaître
par le Gouvernement de Terre-Neuve les droits de propriété du
Gouvernement de la Province de Québec sur la partie du
territoire en dispute, qui se trouve située au sud et sur les bords
de la rivière Hamilton;

Que le Gouvernement de la Province de Québec a reçu des
autorités fédérales copie des mémoires échangés à ce sujet
entre le gouvernement fédérale le gouvernement Imperial et
celui de Terre-Neuve;

Que la conclusion du mémoire des autorités fédérales, par
le Ministre des Colonies, est à l'effet que si le Gouvernement
du Canada n'est pas satisfait de la réponse du gouvernement de
Terre-Neuve, qui maintient ses prétentions au territoire en
dispute, on devrait adopter les procédures nécessaires pour
soumettre la question à la décision des tribunaux;

Pour nous conformer à cette suggestion du Secrétaire
d'Etat pour les colonies, l'Honorable Procureur général de
cette Province, consulté en la matière, est d'avis que le
gouvernement de cette Province devrait prier le

gouvernement du Canada de se mettre en communication avec le gouvernement de Terre-Neuve, afin que ces deux gouvernements s'entendent pour soumettre ce différend au comité judiciaire du Conseil Privé, tel que prévu par le Statut impérial 3-4 Guillaume IV, chap. 41 Sec. 4 vide Privy Council Practice, Safford & Wheeler, 1901 page 766;

Le soussigné a l'honneur de recommander que le présent rapport soit transmis par la voie ordinaire aux autorités fédérales, pour y faire ce que suggéré, ou adopter toute autre action jugée nécessaire dans le but de faire régler cette difficulté.

Le tout humblement soumis,
S. N. PARENT,
Ministre des Terres, Mines & Pêcheries.

[20 April,
1904.]

No. 14.

LORD MINTO TO A. LYTTELTON

ENCLOSING COPY OF MINUTE OF PRIVY COUNCIL REQUESTING
REFERENCE OF BOUNDARY QUESTION TO JUDICIAL COMMITTEE.

18th April.

No. 118.
1904.

Ottawa, 20th April,

SIR,

With reference to your despatch No. 289 of the 21st August 1903 suggesting that, as the Newfoundland Government declined to admit the claim of Canada to certain territory lying near the eastern boundary of the Province of Quebec, over which licenses to cut timber had been granted by that Government, steps should be taken to obtain a legal settlement of the conflicting claims of the two Governments, I have the honour to enclose a copy of an approved Minute of the Privy Council, setting forth the request of the authorities of the Province of Quebec that the question of the position of the boundary between the Dominion and the Newfoundland Labrador may be submitted for decision to the Judicial Committee of the Privy Council under the provisions of section 4 of the Imperial Statute 3 and 4 William IV, c. 41.

You will observe that my Ministers concur in this request.

I have, etc.,
(Sd.) MINTO.

No. 15.

(Enclosure in No. 14.)

MINUTE OF PRIVY COUNCIL. [CANADA.]
REQUESTING REFERENCE OF BOUNDARY QUESTION TO JUDICIAL
COMMITTEE.

[18 April,
1920.]

P.C. 82 M.
Copy.

Extract from a Report of the Committee of the Privy Council,
approved by the Governor General on the 18th April,
1904.

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Norristown,
PA

The Committee of the Privy Council have had under consideration a communication dated 29th February, 1904, from the Lieutenant Governor of the Province of Quebec, respecting the differences between the Government of the Colony of Newfoundland on the one hand, and the Governments of Canada and of the Province of Quebec, on the other, regarding the boundary between the Newfoundland Labrador and the Dominion of Canada.

The Minister of Justice, to whom said matter was referred, submits that a Minute of Council dated 10th March 1903 was forwarded to the Right Honourable the Secretary of State for the Colonies, with a view to the cancellation of certain timber licenses granted by the Government of Newfoundland within Canadian territory.

The Minister further submits that on the 21st August 1903, the Right Honourable the Secretary of State for the Colonies transmitted a despatch from the Government of Newfoundland refusing to admit the claim of the Canadian Government and denying that the territory belonged to Canada.

In his despatch the Secretary of State for the Colonies suggested that if the Government of Canada were not satisfied with the reply of the Newfoundland Government they would doubtless take the necessary steps to obtain a legal decision in the matter.

The Minister further states that the Government of the Province of Quebec now requests that the question of the position of the boundary between the Newfoundland Labrador and the Dominion of Canada may be submitted for a hearing by the Judicial Committee of the Privy Council

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under the provisions of Section 4 of the Imperial Statute 3 and 4 William IV, chapter 41.

The Committee on the recommendation of the Minister of Justice, advise that the Governor General be moved to again bring the matter to the attention of the Right Honourable the Secretary of State for the Colonies with a view to having the questions in dispute referred for a hearing to the Judicial Committee of the Privy Council.

All which is respectfully submitted for approval.

RODOLPHE BOUDREAU,
Clerk of the Privy Council.
No. 16.

A. LYTTTELTON TO LORD MINTO

ADVISING THAT HIS MAJESTY'S GOVERNMENT APPROVES OF THE
PROPOSED REFERENCE OF BOUNDARY QUESTION TO JUDICIAL
COMMITTEE.

[20 May,
1904.]

Canada.
No. 143.

Downing Street,
20th May, 1904.

MY LORD,

I have the honour to acknowledge the receipt of Your Lordship's despatch No. 118 of the 20th of April and to inform you that His Majesty's Government concur in the view of your Ministers that the question of the boundary between the Dominion of Canada and Newfoundland in the Peninsula of Labrador is a proper one to be referred to the Judicial Committee of the Privy Council under section 4 of 3 and 4 William IV Cap. 41.

2. I have accordingly to suggest that your Government should agree with the Government of Newfoundland to submit the matter to His Majesty in Council and also as to the evidence and case to be submitted, and that each Government should then petition His Majesty for a decision.

3. I am addressing a similar despatch to the Governor of Newfoundland.

I have, etc.,
(Sd.) ALFRED LYTTTELTON.

No. 17.

Newfoundland.

GOVERNOR OF NEWFOUNDLAND TO LORD GREY

[2 Oct.,
1907.]

CONCURRING IN PROPOSAL OF CANADA TO SUBMIT LABRADOR
BOUNDARY QUESTION TO JUDICIAL COMMITTEE FOR DECISION.

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Charles P. Gushue,
Norristown,
PA*

P.C. 1694 M.
Copy.

St. John's,
2nd October, 1907.

MY LORD,

By a despatch dated 20th May 1904 the Right Honourable the Secretary of State for the Colonies informed my predecessor that His Majesty's Government and the Government of the Dominion of Canada were agreed as to the desirability of submitting to the Imperial Privy Council for decision, the question of the Labrador Boundary between Canada and Newfoundland; and I now have the honour to acquaint your Lordship with the fact that my Ministers concur with that proposal, and will be prepared to submit their case forthwith.

I trust that this decision of my Ministers may be acceptable to your Government, and that an early and satisfactory settlement of this long outstanding question may thus be reached.

I have, etc.,
(Sd.) WM. MACGREGOR.

No. 18.

LORD GREY TO GOVERNOR OF NEWFOUNDLAND,

[9 Dec.,
1907.]

3rd December
281

ENCLOSING MINUTE OF PRIVY COUNCIL REQUESTING ATTORNEY
GENERAL OF NEWFOUNDLAND TO COMMUNICATE WITH MINISTER
OF JUSTICE TO ARRANGE PROCEDURE FOR BRINGING BOUNDARY
QUESTION BEFORE HIS MAJESTY IN COUNCIL.

Ottawa, 9th December, 1907.

SIR,

With reference to Your Excellency's despatch of the 2nd October last notifying the readiness of your responsible advisers to submit to the Imperial Privy Council for decision the question of the Labrador Boundary between Canada and Newfoundland, I have the honour to enclose copy of an approved Minute of the Privy Council for Canada, requesting that Your Excellency's Attorney General may be put into communication with the Canadian Minister of Justice, so that the proper legal procedure for bringing the question before His Majesty in Council may be arranged.

I have, etc.,
(Sd.) GREY.

Sir WILLIAM MACGREGOR,
Governor of Newfoundland.

No. 19.

(Enclosure in No. 18.)

**EXTRACT FROM A REPORT OF THE COMMITTEE
OF THE PRIVY COUNCIL,**

[3 Dec.,
1907.]

APPROVED BY THE GOVERNOR GENERAL ON THE 3RD DECEMBER, 1907.

P.C. 1694 M.

The Committee of the Privy Council have had under consideration a Despatch dated 2nd October 1907, from the Governor of Newfoundland setting forth that by a Despatch dated 20th May, 1904, the Right Honourable the Secretary of State for the Colonies informed his predecessor that His Majesty's Government and the Government of the Dominion of Canada were agreed as to the desirability of submitting to the Imperial Privy Council for decision, the question of the Labrador Boundary between Canada and Newfoundland and stating that His Ministers concurred with that proposal and will be prepared to submit their case forthwith.

The Minister of Justice to whom the said Despatch was referred recommends that a Despatch be sent to the Governor of Newfoundland accepting the decision of the Government of Newfoundland to submit to the Judicial Committee of the Privy Council for consideration, the question of the Labrador Boundary between Canada and Newfoundland and requesting that the Government of Newfoundland will place their Attorney General, or such other person as they may think fit to designate, in communication with the Minister of Justice, for the Dominion of Canada, with a view to arranging the proper legal procedure to be followed for the purpose of bringing the question before the Imperial Privy Council for decision.

The Minister further recommends that a copy of such Despatch be sent to the Right Honourable the Secretary of State for the Colonies for his information and that a copy be also sent to the Lieutenant Governor of the Province of Quebec for the information of his Ministers.

The Committee advise that His Excellency be moved to forward a copy hereof to the Governor of Newfoundland and to the Right Honourable the Secretary of State for the Colonies, and that a copy be also sent to the Lieutenant Governor of the Province of Quebec.

All which is respectfully submitted for approval.

RODOLPHE BOUDREAU,
Clerk of the Privy Council.

The Honourable
The Minister of Justice.

(B) SUBMITTED BY NEWFOUNDLAND.

No. 20.

**SECRETARY FOR DEPARTMENT OF THE INTERIOR
TO GRAND RIVER PULP AND LUMBER COMPANY.**

[10 Oct.,
1902.]

Department of the Interior.
Ottawa, October 10th 1902.

Sir,

I am directed to inform you in reply to your letter of the 4th instant that your letter of the 24th July last, in which you stated that Mr. d'Aigneaux wished to open a store for traffic at the Western End of Lake Melville, somewhere between the Hamilton and North West Rivers, and asked to be informed if Lake Melville was in Canadian territory, and where the boundary line between Newfoundland and Canada runs, was referred to the Deputy Minister of Justice. He has advised this department that under the Imperial Act of 1825, (6 Geo. IV. Cap. 59, s. 9) so much of the coast of Labrador as lies westward of a line to be drawn due north and south from the bay or harbour of Anse Sablon inclusive as far as the 52nd degree of North Latitude with the land of Anticosti, etc., was re-annexed to Canada, and he considers there was given back to Canada all the Labrador coast except the strip of coast from Sandwich Bay to Anse Sablon. He also thinks that the term "coast" does not include the whole of an inlet like Hamilton Inlet which extends under that name and as Lake Melville and Goose Bay, for 150 miles from the sea. It is therefore his opinion that if goods are landed within the territory belonging to Newfoundland they are entitled to be carried to their destination within Canadian Territory without the payment of Newfoundland duties.

I am to express regret for the delay which has taken place in giving you the above information. Your letter has been referred to the Surveyor General and if he or the Geographer of the Department can furnish a map such as is asked for in your letter of the 24th of July last it will be sent to you free of cost.

I have, etc.,
(Sgd.) P.G. KEYES,
Secretary.

**DEPUTY MINISTER OF LANDS, QUEBEC, TO GRAND
RIVER PULP AND LUMBER COMPANY.**

[5 Dec.,
1902.]

Quebec,
December 5th, 1902.

Mr. ALFRED DICKIE,
President of the Grand River
Pulp and Lumber Co.,
Lower Stewiacke,
County of Colchester, N.S.

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Charles P. Gushue,
Norristown,
PA*

SIR,

Referring to an article published by the "Canada Lumberman" of November 26, in regard to certain lumbering operations contemplated by your Company in the Hamilton River region, I beg to call your attention to the fact that all the territory south of River Hamilton belongs to the Province of Quebec, and that the right to cut timber thereon can be acquired from this Government only, under our Laws and Regulations.

Any timber cut upon said territory without a license from this Department should therefore be considered as cut in violation of the Law and dealt with accordingly.

I have, etc.,
(Sgd) J. E. TACHE,
Deputy Minister of Lands,
Mines and Fisheries, Quebec.

**GRAND RIVER PULP AND LUMBER CO. TO DEPUTY
MINISTER OF LANDS, QUEBEC.**

[9 Dec.,
1902.]

P.C. 1369 L (b).
Copy.

Quebec,
Departement des Terres, Forets et Pecheries,
Lower Stewiacke, Nova Scotia,
Dec. 9, 1902.

E. E. Taché, Esqre.,
Deputy Minister of Lands, Mines and Fisheries.

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Norristown,
PA*

DEAR SIR:—

Your favor of the 6th inst. just to hand, and we are surprised to learn, that the Province of Quebec claims all the land South of the Hamilton River.

The Grand River Pulp and Lumber Co. Ltd., is incorporated under and by the laws of the Legislature of Newfoundland, and we hold fifty year leases, from that Government for 297 square miles of Timber areas both on the North and South sides of the Hamilton River—about half each.

In Labrador, the Newfoundland Govt. claims all North of the 62nd parallel of latitude that is East of the 64th degree of longitude.

The extent of the jurisdiction of said Gov't. having been defined in 1876 by letters patent.

We are, therefore, not stealing anything, and we would ask you to take up the subject, directly with the Newfoundland Gov't., if their acts have, in any way encroached upon the rights of the Province of Quebec.

Yours faithfully,
The Grand River Pulp and Lumber Co. Ltd.
(Signed) "ALFRED DICKIE,"
President.

EXTRACT FROM AFFIDAVIT OF W. J. CARSON.
(Printed in full, Vol. III, p. 1589.)

[18 June,
1926.]

18th June, 1926.

* * * *

2. I was at Northwest River about the time the Quebec Government claimed the timber areas there. The Canadian steamer Montcalm came there one summer with a party of surveyors, etc., who stayed all the next winter and marked all the logs they found with the letters "P. Q.," to signify they belonged to Quebec.

3. Dickie and Company, a Nova Scotia concern, was then operating at Mud Lake or Grand Village.

PART II.

STATUTES, ORDERS-IN-COUNCIL AND
PROCLAMATIONS

RELATING TO THE LOCATION AND DEFINITION OF THE BOUNDARY AS
BETWEEN CANADA AND NEWFOUNDLAND IN THE LABRADOR
PENINSULA.

[25 April,
1763.]

No. 24.
COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN

APPOINTING THOMAS GRAVES TO BE GOVERNOR AND COMMANDER-IN-
CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND, THE COAST OF
LABRADOR, ETC.

25 April 1763.

PATENT ROLL. 3 GEO. III. PART V. NO. 15.

Thomas Graves Esquire } GEORGE the Third by the Grace
Govern^r of } of God of Great Britain France
Newfoundland. } and Ireland King Defender of the
ffairth &c. To Our Trusty and well
beloved Thomas Graves Esquire Greeting Whereas Wee Did
by Our Letters Patent under Our Great Seal of Great Britain
bearing date at Westminster the twenty ninth day of May in the
first year of Our Reign constitute in Chief in and over Our
Island of Newfoundland in America Our ffort and Garrison at
Placentia and all other fforts and Garrisons Erected and to be
Erected in that Island for and during Our Will and Pleasure as
by the said Letters Patent Relation being thereunto had may
more fully and at large appear Now know You that Wee have
revoked determined and made void and by these Presents Do
revoke determine and made void the said Recited Letters
Patent and every Clause Article and Thing therein contained
And Wee reposing especial Trust and Confidence in the
Prudence Courage and Loyalty of You the said Thomas Graves
of Our especial Grace certain knowledge and meer Motion
have thought fit to constitute and appoint and by these presents
Do constitute and appoint you the said Thomas Graves to be
Our Governor and Commander in Chief in and over our said
Island of Newfoundland and all the Coasts of Labrador from
the Entrance of Hudsons Streights to the River Saint Johns

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which discharges itself into the Sea nearly opposite the West End of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Madelaines in the Gulf of Saint Lawrence as also of all Our Forts and Garrisons Erected and Established or that shall be Erected and Established in

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Our said Islands of Newfoundland Anticosti and Madelaine or on the Coast of Labrador within the Limits aforesaid And We Do hereby require and command you to do and Execute all Things in due manner that shall belong to your said Command and the Trust Wee have reposed in You according to the several Powers and Directions granted or appointed you by this resent Commission and the Instructions either herewith given to You or by such further Powers Instructions or Authorities as shall at any time hereafter be granted or appointed you under Our Signet or Sign manual or by our Order in our Privy Council And Wee Do further give and grant unto you the said Thomas Graves full Power and Authority from time to time and at all times hereafter by your self or by any other to be Authorized by you in that behalf to administer and give the Oaths mentioned in an Act passed in the first Year of the Reign of King George the first Intituled (An Act for the further Security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the Hopes of the pretended Prince of Wales and his open and secret Abettors) to all and Every such Person and Persons as you shall think fit who shall at any time Or times pass into our said Islands or shall be resident or abiding there or upon the Coast of Labrador within the Limits aforesaid And Wee Do by these Presents give and grant unto you full Power and Authority to constitute and appoint Judges and in Cases requisite Commissioners of Oyer and Terminer for the hearing and determining of all criminal Causes Treason Excepted according to Law and for awarding Execution thereupon with all reasonable and necessary Powers Authorities fees and Privileges belonging thereunto Justices of the Peace with other necessary Officers and Ministers for the better Administration of Justice and keeping the Peace and Quiet of the said Island and Coasts aforesaid which Justices of the Peace so Authorized may and shall hold and keep General Quarter Sessions of the Peace in such Places as you shall appoint according to the Custom of this part of Great Britain called England and to adjourn such Session from time to time and from place to place as shall be most convenient and necessary for the peace and welfare of Our Subjects Inhabiting there provided neither you nor they do any thing by virtue of this Commission or the Powers hereby granted contrary or oppugnant to the Act for encouraging the Trade to Newfoundland passes in the tenth and eleventh years of the Reign of King William the Third nor any way obstruct the powers thereby given and granted to the

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Goudie,
St. John's,
NL*

Admiral of Harbours or Captains of Our Ships of War or any other Matter or Thing either prescribed by the said Act or by such Instructions as you shall receive from Us as aforesaid And Wee Do hereby give and grant unto You full power and Authority where you shall see cause or shall judge any Offender or Offenders in Criminal Matters or for any ffines or fforfeitures due unto us fit Objects of Our Mercy to pardon all such Offenders and to remit all such Offences ffines and fforfeitures willfull Murder only Excepted in which case you shall likewise have power upon extraordinary Occasions to grant Reprieves to the Offenders until and to the Intent Our Royal Pleasure may be known therein and all such Justices

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of the Peace and their Inferior Officers and Ministers whom you or they shall appoint amongst the Planters or Inhabitants Resident and abiding there are strictly required and enjoyed in all Cases and times and when ever necessary to be aiding and assisting to the utmost of their Power to the Commodore or Commander of Our Ships of Warr and to the several Admirals in their respective Harbours in putting in Execution the several good Rules and Orders prescribed by the said Act for encouraging the Trade to Newfoundland And Provided also that no person or persons so by you appointed to be Justices of the Peace as aforesaid or other Officers of Ministers belonging or appertaining to them do presume or be suffered to Act in such Office or Place untill he or they have taken the aforesaid Oaths mentioned in the said Act for the further Security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for Extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors as also made and subscribed the Declaratio mentioned in an Act of Parliament made in the twenty fifth year of the Reign of King Charles the Second Intitled (An Act for preventing Danger which may happen from Popish Recusants) and also to take such Proper Oath or Oaths as are usually taken in this Kingdom by Person executing such Offices and Trusts which said Oasts and Declaration you shall administer or give or cause the same to be administered and given to all and every the Person and Persons who ought to take the same according to the Laws and Customs of this Kingdom And Wee Do hereby give and grant unto You and said Thomas Graves full power to Erect appoint and set apart one or more convenient Court House or Court Houses for the more orderly meeting or such Justices of the Peace in Order to hold such their Quarter or other Sessions with a convenient Prison adjoining thereto for the keeping of such Offenders as may be found necessary to be committed to safe Custody untill such Court or Sessions can conveniently be held *frying and delivering Offenders against Our Laws and the Peace of Our Subjects And Wee Do hereby require and command al Officers Civil and Military and all other Inhabitants of Our said Islands and the Coasts and

Territories of Labrador and Islands adjacent thereto or dependant thereupon within the Limits aforesaid to be obedient aiding and assisting unto you in the Execution of this Our Commission and of the Powers and Authorities herein contained and in Case of your Death Our Will and Pleasure is that the Person upon whom the Command of Our Ships under your Command shall devolve do take upon him the Administration of the Government of Our said Islands and Territories as aforesaid and Execute Our said Governor and Commander in Chief might or ought to do for and during Our Will and Pleasure

*for trying.

As Wee do hereby declare Ordain and appoint that you the said Thomas Graves shall and may hold Execute and Enjoy the Place of Our Governor and Commander in Chief in and over Our said Island of Newfoundland and all the Coast of Labrador from the Entrance of Hudsons Streights to the River

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Saint Johns which discharges itself into the Sea nearly opposite the West End of the Island of Antiscoti Including that Island with any other small Islands on the said Coasts of Labrador and also the Islands of Madelaines in the Gulph of Saint Lawrence as also of all Our fforts and Garrisons Erected and established or that shall be Erected and Established in Our said Islands of Newfoundland Anticosti and Madelaine or on the Coasts of Labrador within the Limits aforesaid with all and Singular the Powers and Authorities hereby granted unto you for and during Our Will and Pleasure In Witness &c Witness Our self at Westminster the twenty fifth day of April in the third Year of Our Reign.

By Writt of Privy Seal.

No. 25.
ROYAL PROCLAMATION OF 7th OCTOBER, 1763.

BY THE KING.

[7th October,
1763.]

ROYAL PROCLAMATION.

GEORGE R.

Whereas we have taken into our Royal consideration the extensive and valuable acquisition in America secured to our Crown by the late definitive treaty of peace concluded at Paris the tenth day of Febuary last; and being desirous that all our loving subjects, as well as our kingdom as of our colonies in America, may avail themselves with all convenient speed of the great benefits and advantages which must accrue therefrom to their commere, manufactures, and navigation; we have thought fit, with the advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving subjects, that we have, with the advice of our said Privy Council, granted our letters patent under our Great Seal of Great Britain, to erect within the countries and islands ceded and confirmed to us by the said treaty, four distinct and seperate governments, styled and called by the names of QUEBEC, EAST FLORIDA, WEST FLORIDA, and GREDADA, and limited and bounded as follows, viz.:

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Firstly.—The Government of QUEBEC, bounded on the Labrador Coast by the River St. John, and from thence by a line drawn from the head of that river, though the lake St. John, to the south end of the Lake Nipissim; from whence the said line, crossing the River St. Lawrence, and the Lake Champlain in forty-five degrees of north latitude, passes along the high lands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the sea; and also along the north coast of the Baye des Chaleurs, and the coast of the Gulph of St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John.

Secondly.—The Government of EAST FLORIDA, bounded to the westward by the Gulph of Mexico and the Apalachicola River; to the northward, by a

line drawn from the part of the said river where the Chatahouchee and Flint Rivers meet, to the source of the St. Mary's River, and by the course of the said river to the Atlantic Ocean; and

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to the eastward and southward by the Atlantic Ocean and the Gulph of Florida, including all islands within six leagues of the sea coast.

Thirdly.—The Government of WEST FLORIDA, bounded to the southward by the Gulph of Mexico, including all islands within six leagues of the of the coast from the River Apalachicola to Lake Pontchartrain; to the westward, by the said lake, the Lake Maurepas, and the River Mississippi; to the northward, by a line drawn due east from that part of the River Mississippi which lies in thirty-one degrees north latitude, to the River Apalachicola, or Chatahouchee; and to the eastward by the said river.

Fourthly.—The Government of GRENADA, comprehending the island of that name, together with the Grenadines, and the islands of Dominico St. Vincent and Tobago.

And to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador, and the adjacent islands, we have thought fit, with the advice of our said Privy Council, to put all that coast, from the River St. John's to Hudson's Streights, together with the islands of Anticosti and the Madelaine, and all other smaller islands lying upon the said coast, under the care and inspection of our Governor of Newfoundland.

We have also, with the advice of our Privy Council, thought fit to annex the islands of St. John's and Cape Breton, or Isle Royale, with the lesser islands adjacent thereto, to our Government of Nova Scotia.

We have also, with the advice of our Privy Council aforesaid, annexed to our Province of GEORGIA, all the lands lying between the rivers Alatomaha and St. Mary's.

And whereas it will greatly contribute to the speedy settling our said New Governments, that our loving subjects should be informed of our paternal care for the security of the liberties and properties of those who are and shall become, inhabitants thereof; we have thought fit to publish and declare, by this our Proclamation, that we have in the letters patent under our Great Seal of Great Britain, by which the said Governments are

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Goudie,
St. John's,
NL

constituted, given express power and direction to our governors of our said colonies respectively, that so soon as the state and circumstances of the said colonies will admit thereof, they shall, with the advice and consent of the members of our Council summon and call general assemblies within the said governments respectively, in such manner and form as is used and directed in those colonies and provinces in America, which are under our immediate government; and we have also given power to the said governors, with the consent of our said councils and the representatives of the people so to be summoned as aforesaid, to make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and good government of our said colonies, and of the people and inhabitants thereof, as near as

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may be, agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies, and in the meantime, and until such assemblies can be called as aforesaid, all persons inhabiting in or resorting to our said colonies may confide in our Royal protection for the enjoyment of the benefit of the laws of our realm of England: for which purpose we have given power under our great seal to the governors of our said colonies respectively, courts of judicature and public justice within our said colonies for the hearing and determining all causes as well criminal as civil according to law and equity, and, as near as may be, agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentences of such courts in all civil cases to appeal under the usual limitations and restrictions to us in our Privy Council.

We have also thought fit, with the advice to our Privy Council as aforesaid, to give unto the governors and councils of our said three new colonies upon the continent full power and authority to settle and agree with the inhabitants of our said new colonies, or with any other persons who shall resort thereto, for such lands, tenements and hereditaments as are now or hereafter shall be in our power to dispose of, and them to grant to any such person or persons, upon such terms and under such moderate quit rents, services, and acknowledgments as have been appointed and settled in other colonies, and under such other conditions as shall appear to us to be necessary and expedient for the advantage of the grantees and the improvement and settlement of our said colonies.

And whereas we are desirous upon all occasions to testify our Royal sense and approbation of the conduct and bravery of the officers and soldiers of our armies, and to reward the same. We do hereby command and empower our governors of our said three new colonies, and all other our governors of our several Provinces on the continent of North America, to grant without fee or reward to such reduced officers as have served in North

America during the late war, and to such private soldiers as have been or shall be disbanded in America and are actually residing there, and shall personally apply for the same, the following quantities of land, subject at the expiration of ten years to the same quit rents as other lands are subject to in the Province within which they are granted, as also subject to the same conditions of cultivation and improvement, viz.:—

- To every person having the rank of a field officer 5,000 acres.
- To every captain 3,000 acres.
- To every subaltern or staff officer 2,000 acres.
- To every non-commissioned officer 200 acres.
- To every private man 50 acres.

We do likewise authorize and require the Governors and Commanders-in-Chief of all our said Colonies upon the Continent of North America, to grant the like quantities of land and upon the same

conditions to such reduced officers of our navy of like rank as served on board our ships of war in North America, at the times of the reduction of Louisburg and Quebec in the late war, and who shall personally apply to our respective Governors for such grants.

And whereas it is just and reasonable, and essential to our interest and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them, or any of them, as their hunting-grounds; we do therefore, with the advice of our Privy Council, declare it to be our Royal will and pleasure that no Governor or Commander-in-Chief in any of our colonies of QUEBEC, EAST FLORIDA, or WEST FLORIDA, do presume upon any pretense whatever to grant warrants of survey, or pass any patents for lands beyond the bounds of their respective governments as described in their commissions: as also that no Governor or Commander-in-Chief in any of our other colonies or plantations in America do presume for the present, and until our further pleasure be known, to grant warrants of survey, or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west and northwest, or upon any lands whatever which, not having been ceded to or purchased by us, as aforesaid, are reserved to the said Indians or any of them.

And we do further declare it to be our Royal will and pleasure, for the present as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians, all the land and territories not included within the limits of our said three new governments, or within the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and northwest as aforesaid; and we do hereby strictly forbid, on pain and our displeasure, all our taking possession of any of the lands above reserved, without our especial leave and licence for that purpose first obtained.

And we do further strictly enjoin and require all persons whatsoever, who have either willfully or inadvertently seated themselves upon any lands within the countries above described, or upon any other lands which, not having been ceded to or purchased by us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements.

And whereas great frauds and abuses have been committed in the purchasing lands of the Indians, to the great prejudice of our interests and to the great dissatisfaction of the said Indians; in order, therefore, to prevent such irregularities for the future, and to the end that the Indians may be convinced of our justice and determined resolution to remove all reasonable cause of discontent, we do, with the advice of our Privy Council, strictly

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enjoin and require that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians within those parts of our colonies where we have thought proper to allow settlement; but that, if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians, to be held for that purpose by the Governor or Commander-in-Chief of our colony respectively, within which they shall lie: and, in case they shall be within the limits of any proprietary Government they shall be purchased only for the use and in the name of such proprietaries conformable to such directions and instructions as we or they shall think proper to give for that purpose: and we do, by the advice of our Privy Council, declare and enjoin that the trade of the said Indians shall be free and open to all our subjects whatever, provided that every person who may incline to trade with the said Indians, do take out a licence for carrying on such trade, from the Governor or Commander-in-Chief of any of our colonies respectively, where such person shall reside, and also give security by our commissaries to be appointed for this purpose to direct and appoint for the benefit of the said trade; and we do hereby

authorize, enjoin and require the Governors and Commanders-in-Chief of all our colonies respectively, as well those under our immediate government as those under the government and direction of proprietaries, to grant such licenses without fee or reward, taking especial care to insert therein a condition that such licence shall be void, and the security forfeited, in case the person to whom the same is granted shall refuse or neglect to observe such regulations as we shall think proper to prescribe, as aforesaid.

And we do further expressly enjoin and require all officers whatever, as well military as those employed in the management and direction of Indian affairs within the territories reserved as aforesaid for the use of the said Indians, to seize and apprehend all persons whatever who, standing charged with treason, misprisions of treason, murders, or other felonies or misdemeanors, shall fly from justice and take refuge in the said territory, and the sent them under a proper guard to the colony where the crime was committed, of which they stand accused, in order to take their trial for the same.

Given at our Court, at St. James's, the seventy day of October, one thousand seven hundred and sixty-three, in the third year of our Reign.

GOD SAVE THE KING.

No. 26.

**THE BRITISH NORTH AMERICA (QUEBEC) ACT 1774,
14 GEO. III, C. 83 (IMPERIAL).***

GEO. III, c. 83.

An Act for making more effectual Provision for the
Government of the Province of *Quebec* in *North America*.

Whereas His Majesty, by His Royal Proclamation, bearing Date the Seventh Day of *October*, in the Third Year of His Reign, thought fit to declare the Provisions which had been made in respect to certain Countries, Territories and Islands in *America*, ceded to His Majesty by the definitive Treaty of Peace, concluded at *Paris* on the Tenth Day of *February*, One thousand seven hundred and sixty-three: And whereas, by the Arrangements made by the said Royal Proclamation, a very large Extent of Country, within which there were several Colonies and Settlements of the Subjects of *France*, who claimed to remain therein under the Faith of the said Treaty, was left, without any Provision being made for the Administration of Civil Government therein; and certain Parts of the Territory of *Canada*, where sedentary Fisheries had been established and carried on by the Subjects of *France*, Inhabitants of the said Province of *Canada*, under Grants and Concessions from the Government thereof, were annexed to the Government of *Newfoundland*, and thereby subjected to Regulations inconsistent with the Nature of such Fisheries: May it therefore please Your most Excellent Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all the Territories, Islands, and Counties in *North America*, belonging to the Crown of *Great Britain*, bounded on the South by a Line from the Bay of *Chaleurs*, along the High Lands which divide the Rivers that empty themselves into the River *Saint Lawrence* from those which fall into the Sea, to a Point in Forty-five Degrees of Northern Latitude, on the Eastern Bank of the River *Connecticut*, keeping the same Latitude directly West, through the Lake *Champlain*, until, in the same Latitude, it meets the River *Saint Lawrence*; from thence up the Eastern Bank of the said River to the Lake *Ontario*; thence through the Lake *Ontario*, and the River commonly called *Niagara*; and thence along by the Eastern and South-eastern Bank of Lake *Erie*,

The Territories, Islands,
and Countries, in *North
America*, belonging to
Great Britain.

following the said Bank, until the same shall be intersected by the Northern Boundary, granted by the Charter of the Province of *Pensylvania*, in case the same shall be so intersected; and from thence along the said Northern and Western Boundaries of the said Province until the said Western Boundary strike the *Ohio*: But in case the said Bank of the said Lake shall not be found to be so intersected, then following the said Bank until it shall arrive at that Point of the said Bank which shall be nearest to the North-western Angle of the said Province of *Pensylvania*, and thence, by a right Line, to the said North-western Angle of the said Province; and thence along the Western Boundary of the said Province, until it strike the River *Ohio*; and along the Bank of the said River, Westward, to the Banks of the *Mississippi*, and Northward to the Southern Boundary of the Territory granted to the Merchants Adventures of *England*, trading to *Hudson's Bay*; and also all such Territories, Islands, and Countries, which have, since the Tenth of *February*, One thousand seven hundred and sixty-three, been made Part of the Government of *Newfoundland*, be, and they are hereby, during His Majesty's Pleasure, annexed to, and made Part and Parcel of, the Province of *Quebec*, as created and established by the said Royal Proclamation of the Seventh of *October*, One thousand seven hundred and sixty-three.

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Provided always, That nothing herein contained, relative to the Boundary of the Province of *Quebec*, shall in anywise affect the Boundaries of any other Colony.

annexed to the Province
of *Quebec*.

Provided always, and be it enacted, That nothing in this Act contained shall extend, or be constructed to extend, to make void, or to vary or alter any Right, Title, or Possession, derived under any Grant, Conveyance, or otherwise howsoever, of or to any Lands within the said Province, or the Provinces thereto adjoining; but that the same shall remain and be in Force, and have Effect, as if this Act had never been made.

Not to affect the
Boundaries of any
other Colony;

And whereas the Provisions, made by the said Proclamation, in respect to the Civil Government of the said Province of *Quebec*, and the Powers and Authorities given to the Governor and other Civil Officers of the said Province, by the Grants and Commissions issued in consequence thereof, have been found, upon Experience, to be inapplicable to the State and Circumstances of the said Province, the Inhabitants whereof amounted, at the Conquest, to about sixty-five thousand Persons professing the Religion of the Church of *Rome*, and enjoying an established Form of Constitution and System of Laws, by which their Persons and Property had been protected, governed, and ordered, for a long Series of Year, from the First Establishment of the said Province of *Canada*; be it therefore further enacted by the Authority aforesaid, That the said

nor to make void other
Rights formerly
granted.

Former Provisions made
for the Province to be
null and void after *May*
1, 1775.

Proclamation, so far as the same relates to the said Province of *Quebec*, and the Commission under the Authority whereof the Government of the said Province is at present administered, and all and every the Ordinance and Ordinances made by the Governor and Council of *Quebec* for the Time being, relative to the Civil Government and Administration of Justice in the said Province, and all Commissions to Judges and other Officers thereof, be, and the same are hereby revoked, annulled, and made void, from

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and after the First Day of *May*, One thousand seven hundred and seventy-five.

And, for the more perfect Security and Ease of the Minds of the Inhabitants of the said Province, it is hereby declared, That His Majesty's Subjects, professing the Religion of the Church of *Rome* of and in the said Province of *Quebec*, may have, hold, and enjoy, the free Exercise of the Religion of the Church of *Rome*, subject to the King's Supremacy, declared and established by an Act, made in the First Year of the Reign of Queen *Elizabeth*, over all the Dominions and Countries which then did, or thereafter should belong, to the Imperial Crown of this Realm; and that the Clergy of the said Church may hold, receive, and enjoy, their accustomed Dues and Rights, with respect to such Persons only as shall profess the said Religion.

Inhabitants of *Quebec* may profess the *Romish* Religion, subject to the King's Supremacy, as by Act I *Eliz*;

Provided nevertheless, That it shall be lawful for His Majesty, His Heirs or Successors, to make such Provision out of the rest of the said accustomed Dues and Rights, for the Encouragement of the Protestant Religion, and for the Maintenance and Support of a Protestant Clergy within the said Province, as he or they shall, from Time to Time, think necessary and expedient.

and the Clergy enjoy their accustomed Dues.

Provided always, and be it enacted, That no Person, professing the Religion of the Church of *Rome*, and residing in the said Province, shall be obliged to take the Oath required by the said Statute passed in the First Year of the Reign of Queen *Elizabeth*, or any other Oaths substituted by any other Act in the Place thereof; but that every such Person who, by the said Statute is required to take the Oath therein mentioned, shall be obliged, and is hereby required, to take and subscribe the following Oath before the Governor, or such other Person in such Court of Record as His Majesty shall appoint, who are hereby authorized to administer the same; *videlicet*,

Provision may be made by His Majesty for the Support of the Protestant Clergy.

I A. B. do sincerely promise and swear, That I will be faithful, and bear true Allegiance to His Majesty King GEORGE, and him will defend to the utmost of my Power, against all traitorous Conspiracies, and Attempts whatsoever, which shall be made

No person professing the *Romish* Religion obliged to take the

Oath of I *Eliz.*; but to take, before the Governor, &c., the following Oath.

against His Person, Crown, and Dignity; and I will do my utmost Endeavour to disclose and make unknown to His Majesty, His Heirs and Successors, all Treasons, and traitorous Conspiracies, and Attempts, which I shall know to be against Him, or any of Them; and all this I do swear without any Equivocation, mental Evasion, or secret Reservation, and renouncing all Pardons and Dispensations from any Power or Person whomsoever to the Contrary.

SO HELP ME GOD.

The Oath.

And every such Person, who shall neglect or refuse to take the said Oath before mentioned, shall incur and be liable to the same Penalties, Forfeitures, Disabilities, and Incapacities, as he would have incurred and been liable to for neglected or refusing to take the Oath required by the said Statute passed in the First Year of the Reign of Queen *Elizabeth*.

And be it further enacted by the Authority aforesaid, That all His Majesty's *Canadian* Subjects, within the Provinces of *Quebec*, the religious Orders and Communities only excepted, may also hold and enjoy their Property and Possessions, together with all Customs and Usages relative thereto, and all

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Persons refusing the Oath to be subject to the Penalties by Act I *Eliz.*

other their Civil Rights, in as large, ample and beneficial Manner, as if the said Proclamation, Commissions, Ordinances, and other Acts and Instruments, had not been made, and as many consist with their Allegiance to His Majesty, and Subjection to the Crown and Parliament of *Great Britain*; and that in all Matters of Controversy, relative to Property and Civil Rights, Resort shall be had to the Laws of *Canada*, as the Rule for the Decision of the same; and all Causes that shall hereafter be institute in any of the Courts of Justice, to be appointed within and for the said Province, by His Majesty, His Heirs and Successors, shall, with respect to such Property and Rights, be determined agreeably to the said Laws and Customs of *Canada*, until they shall be varied or altered by any Ordinances that shall, from Time to Time, be passed in the said Province by the Governor, Lieutenant Governor, or Commander in Chief, for the Time being, by and with the Advice and Consent of the Legislative Council of the same, to be appointed in Manner herein-after mentioned.

His Majesty's *Canadian* Subjects (religious Orders excepted) may

hold all their Possessions *etc.*

Provided always, That nothing in this Act contained shall extend, or be construed to extend, to any Lands that have been granted by His Majesty, or shall hereafter be granted by His Majesty, His Heirs and Successors, to be holden in free and common Soccage.

and in Matters of

Provided also, That it shall and may be lawful to and for every

Controversy Resort to
be had to the Laws of
Canada for the
Decision.

Person that is Owner of any Lands, Goods, or Credits, in the said Province, and that has a Rights to alienate the said Lands, Goods, or Credits, in his or her Lifetime, by Deed of Sale, Gift, or otherwise, to devise or bequeath the same at his or her Death, by his or her last Will and Testament; any Law, Usage, or Custom, heretofore or now prevailing in the Province, to the Contrary hereof in any-wise notwithstanding; such Will being executed, either according to the Laws of *Canada*, or according to the Forms prescribed by the Laws of *England*.

Not to extend to Lands
granted by His Majesty
in common Soccage.

And whereas the Certainty and Lenity of the Criminal Law of *England*, and the Benefits and Advantages resulting from the Use of it, have been sensibly felt by the Inhabitants, from an Experience of more than Nine Years, during which it has been uniformly administered; be it therefore further enacted by the Authority aforesaid, That the same shall continue to be administered, and shall be observed as Law in the Province of *Quebec*, as well in the Description and Quality of the Offence as in the Method of Prosecution and Trial; and the Punishments and Forfeitures thereby inflicted to the Exclusion of every other Rule of Criminal Law, or Mode of Proceeding thereon, which did or might prevail in the said Province before the Year of our Lord One thousand seven hundred and sixty-four; any Thing in this Act to the Contrary thereof in any Respect notwithstanding; subject nevertheless to such Alterations and Amendments as the Governor, Lieutenant-governor, or Commander in Chief for the Time being, by and with the Advice and Consent of the legislative Council of the said Province, hereafter to be appointed, shall, from Time to Time, cause to be made therein, in Manner herein-after directed.

Owners of Goods may
alienate the same by
Will, &c.

if executed according to
the Laws of *Canada*.

Criminal Law of
England to be
continued in the
Province.

And whereas it may be necessary to ordain many Regulation for the

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His Majesty may
appoint

future Welfare and good Government of the Province of *Quebec*, the Occasions of which cannot now be foreseen, nor, without much Delay and Inconvenience, be provided for, without intrusting that Authority, for a certain time, and under proper Restrictions, to Persons resident there: And whereas it is at present inexpedient to call and Assembly; be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Warrant under His or Their Signet or Sign Manual, and with the Advice of the Privy Council, to constitute and appoint a Council, to constitute and appoint a Council for the Affairs of the Province of *Quebec*, to consist of such Persons resident there, not exceeding Twenty-three, nor less than Seventeen, as His Majesty, His Heirs and Successors, shall be pleased to appoint; and, upon the Death, Removal, or Absence of any of the Members of the said Council, in like Manner to constitute and

a Council for the Affairs
of the Province;

appoint such and so many other Person or Persons as shall be necessary to supply the Vacancy or Vacancies; which Council, so appointed and nominated, or the major Part thereof, shall have Power and Authority to make Ordinances for the Peace, Welfare, and good Government, of the said Province, with the Consent of His Majesty's Governor, or, in his Absence, of the Lieutenant-governor, or Commander in Chief for the Time being.

which Council may
make Ordinances with
Consent of the
Governor.

Provided always, That nothing in this Act contained shall extend to authorize or empower the said legislative Council to lay any Taxes or Duties within the said Province, such Rates and Taxes only excepted as the Inhabitants of any Town or District within the said Provinces may be authorised by the said Council to assess, levy, and apply, within the said Town or District for the purpose of making Roads, erecting and repairing publick Buildings, or for any other Purpose respecting the local Convenience and Oeconomy of such Town or District.

The Council are not
impowered to lay
Taxes, Publick Roads
or Buildings excepted.

Provided also, and be it enacted by the Authority aforesaid, That every Ordinance so to be made, shall, within Six Months, be transmitted by the Governor, or, in his Absence, by the Lieutenant-governor, or Commander in Chief for the Time being, and laid before His Majesty for His Royal Approbation; and if His Majesty shall think fit to disallow thereof, the same shall cease and be void from the Time that His Majesty's Order in Council thereupon shall be promulgated at *Quebec*.

Ordinances made to be
laid before His majesty
for His Approbation.

Provided also, That no Ordinance touching Religion, or by which any Punishment may be inflicted greater than Fine or Imprisonment for Three Months, shall be of any Force or Effect, until the same shall have received His Majesty's Approbation.

Ordinances touching
Religion not to be in
Forces without His
Majesty's Approbation.

Provided also, That no Ordinance shall be passed at any Meeting of the Council where less than a Majority of the whole Council is present, or at any Time except between the First day of *January* and the First Day of *May*, unless upon some urgent Occasion, in which Case every Member thereof resident at *Quebec*, or within Fifty Miles thereof, shall be personally summoned by the Governor, or, in his Absence by the Lieutenant-governor, or Commander in Chief for the Time being, to attend the same.

And be it further enacted by the Authority aforesaid, That nothing herein contained shall extend, or be construed to extend, to prevent or hinder

[* Const'l. Docs. (1789-1791) 2nd Ed., Pt i., pp. 570-576. (Canadian Archives.)

The text of the Act is taken from the original folio black letter form in which it was first issued by the King's Printers. "London: Printed by Charles Eyre and William Strachan, Printers to the King's most Excellent Majesty. MDCCLXXIV."]

When Ordinances are to
be passed by a
Majority.

Nothing to hinder His
Majesty to

Privy Council
Documents

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Contents

constitute Courts of
Criminal Civil, and
Ecclesiastical
Jurisdiction.

All Acts formerly made
are hereby inforced
within the Province.

His Majesty, His Heirs and Successors, by His or Their Letters Patent under the Great Seal of *Great Britain*, from erecting, constituting, and appointing, such Courts or Criminal, Civil, and Ecclesiastical Jurisdiction within and for the said Province of *Quebec*, and appointing, from Time to Time, the Judges and Officers thereof, as His Majesty, His Heirs and Successors, shall think necessary and proper for the Circumstances of the said Province.

Provided always, and it is hereby enacted, That nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, within the said Province of *Quebec*, any Act or Acts of the Parliament of *Great Britain* heretofore made, for prohibiting, restraining, or regulating, the Trade of Commerce of His Majesty's Colonies and Plantations in *America*; but that all and every the said Acts, and also all Acts of Parliament heretofore made concerning or respecting the said Colonies and Plantations, shall be, and are hereby declared to be, in Force, within the said Province of *Quebec*, and every Part thereof.

Finis.

**THE CLERGY ENDOWMENTS (CANADA) ACT 1791,
31 GEO. III. C. 31 (IMPERIAL). THE
CONSTITUTIONAL ACT.***

[1791].

Preamble.

14 *Geo* III, Cap. 83,
recited.

An Act to repeal certain Parts of an Act passed in the Fourteenth Year of His Majesty's Reign, intituled, *An Act for making more effectual Provision for the Government of the Province of Quebec in North America*; and to make further Provision for the Government of the said Province.

So much of recited Act
as relates to the
Appointment of a
Council for *Quebec*, or
its Powers, repealed.

Whereas an Act was passed in the Fourteenth Year of the Reign of His present Majesty, intituled, *An Act for making more effectual Provision for the Government of the Province of Quebec, in North America*: And whereas the said Act is in many Respects inapplicable to the present Condition and Circumstances of the said Province: And whereas it is expedient and necessary that further Provision should now be made for the good Government and Prosperity thereof: May it therefore please Your most Excellent Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That so much of the said Act as in any Manner relates to the Appointment of a Council for the Affairs of the said Province of *Quebec*, or to the Power given by the said Act to the said Council or to the major Part of them, to make Ordinances for the Peace, Welfare, and good Government of the said Province, with the Consent of His Majesty's Governor, Lieutenant Governor or Commander in Chief for the Time being, shall be, and the same is hereby repealed.

Within each of the
intended Provinces a
Legislative Council and
Assembly to be
constituted, by whose
Advice His Majesty
may make Laws for the
Government of the
Province.

II. And whereas His Majesty has been pleased to signify, by His Message to both Houses of Parliament, His Royal Intention to divide His Province of *Quebec* into Two separate Provinces, to be called *The Province of Upper Canada*, and *The Province of Lower Canada*; be it enacted by the Authority aforesaid, That there shall be within each of the said Provinces respectively a Legislative Council, and an Assembly, to be severally composed and constituted in the Manner herein-after described; and that in each of the said Provinces respectively His Majesty, His Heirs or Successors, shall have Power, during the Continuance of this Act, by and with the Advice and Consent of the Legislative Council and Assembly of such Provinces respectively, to

His Majesty may authorize the Governor, or Lieutenant Governor, of each Province, to summon Members to the Legislative Council.

make Laws for the Peace, Welfare, and good Government thereof, such Laws not being repugnant to this Act; and that all such Laws, being passed by the Legislative Council and Assembly of either of the said Provinces respectively, and assented to by His Majesty, His Heirs or Successors, or assented to in His Majesty's Name, by such Person as His Majesty, His Heirs or Successors, shall from Time to Time appoint to be the Governor, or Lieutenant Governor, of such Province, or by such Person as His Majesty, His Heirs or Successors, shall from Time to Time appoint to administer the Government within the same, shall be, and the same are hereby declared to be, by virtue of and under the Authority of this Act, valid and binding to all Intents and Purposes whatever, within the Province in which the same shall have been so passed.

No Person under 21 Years of Age, *etc.* to be summoned.

III. And be it further enacted by the Authority aforesaid, that for the Purpose of constituting such Legislative Council as aforesaid in each of the said Province respectively, it shall and may be lawful for His Majesty, His Heirs or Successors, by an Instrument under His or their Sign Manual, to authorize and direct the Governor or Lieutenant Governor, or Person administering the Government in each of the said Provinces respectively, within the Time herein-after mentioned, in His Majesty's Name, and by and Instrument under the Great Seal of such Province, to summon to the said Legislative Council, to be established in each of the said Provinces respectively, a sufficient Number of discreet and proper Persons, being not fewer than Seven to the Legislative Council for the Province of *Upper Canada*; and that it shall also be lawful for His Majesty, His Heirs or Successors, from Time to Time, by an Instrument under His or their Sign Manual, to authorize and direct the Governor or Lieutenant Governor, or Person administering the Government in each of the said Provinces respectively, to summon to the Legislative Council of such Province, in like Manner, such other Person or Persons as His Majesty, His Heirs or Successors, shall think fit; and that every Person who shall be so summoned to the Legislative Council of either of the said Provinces respectively, shall thereby become a Member of such Legislative Council to which he shall have been so summoned.

Members to hold their Seats for Life.

His Majesty may annex to Hereditary

IV. Provided always, and be it enacted by the Authority aforesaid, That no Person shall be summoned to the said Legislative Council, in either of the said Provinces, who shall not be of the full Age of Twenty-one Years, and a natural-born Subject of His Majesty, or a Subject of his Majesty naturalized by Act of the *British* Parliament, or a Subject of His Majesty, having become such by the Conquest and cession of the Province of *Canada*.

Titles of Honour, the Right of being

summoned to the
Legislative Council.

V. And be it further enacted by the Authority aforesaid, That every Member of each of the said Legislative Councils shall hold his Seat therein for the Term of his Life, but subject nevertheless to the Provisions hereinafter contained for vacating the same, in the Cases herein-after specified.

VI. And be it further enacted by the Authority aforesaid, That whenever His Majesty, His Heirs or Successors, shall think proper to confer upon

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Such descendible Right
forfeited, and

any Subject of the Crown of *Great Britain*, by Letters Patent under the Great Seal of either of the said Provinces, any Hereditary Title of Honour, Rank, or Dignity of such Province, descendible according to any Course of Descent limited in such Letters Patent, it shall and may be lawful for His Majesty, His Heirs or Successors, to annex thereto, by the said Letters Patent, if His Majesty, His Heirs or Successors, shall so think fit, an Hereditary Right of being summoned to the Legislative Council of such Province, descendible according to the Course of Descent so limited with respect to such Title, Rank, or Dignity; and that every Person on whom such Right shall be so conferred or to whom such Right shall severally so descend, shall thereupon be entitled to demand from the Governor, Lieutenant Governor, or Person administering the Government of such Province, his Writ of Summons to such Legislative Council, at any Time after he shall have attained the Age of Twenty-one Years, subject nevertheless to the Provisions herein after contained.

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VII. Provided always, and be it further enacted by the Authority aforesaid, That when and so often as any Person to whom such Hereditary Right shall have descended shall, without the Permission of His Majesty, His Heirs or Successors signified to the Legislative Council of the Province by the Governor, Lieutenant Governor, or Person administering the Government there, have been absent from the said Province for the Space of Four Years continually, at any Time between the Date of his succeeding to such Right and the Time of his applying for such Writ of Summons, if he shall have been of the Age of Twenty-one Years or upwards at the Time of his so succeeding, or at any Time between the Date of his attaining the said Age and the Time of his so applying, if he shall not have been of the said Age at the Time of his so succeeding; and also when and so often as any such Person shall at any Time, before his applying for such Writ of Summons, have taken any Oath of Allegiance or Obedience to any Foreign Prince or Power, in every such Case such Person shall not be entitled to receive any Writ of Summons to the Legislative Council by virtue of such Hereditary Right, unless His Majesty, His Heirs or Successors, shall at any Time think fit, by Instrument under His or their Sign Manual, to direct that such Person shall be summoned to the said Council; and the

Governor, Lieutenant Governor, or Person administering the Government in the said Provinces respectively, is hereby authorized and required, previous to granting such Writ of Summons to any Person so applying for the same, to interrogate such Person upon Oath touching the said, several Particulars, before such executive Council as shall have been appointed by His Majesty, His Heirs or Successors, within such Province, for the Affairs thereof.

VIII. Provided also, and be it further enacted by the Authority afore said, That if any Member of the Legislative Councils of either of the said Provinces respectively shall leave such Province, and shall reside out of the same for the Space of Four Years continually, without the Permission of His Majesty, His Heirs or Successors, signified to such Legislative Council by the Governor or Lieutenant Governor, or Person administering His Majesty's

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Government there, or for the Space of Two Years continually, without the like Permission, or the Permission of the Governor, Lieutenant Governor, or Person administering the Government of such Province, signified to such Legislative Council in the Manner aforesaid; or if any such Member shall take any Oath of Allegiance or Obedience to any Foreign Prince or Power; his Seat in such Council shall thereby become vacant.

IX. Provided also, and be it further enacted by the Authority aforesaid, That in every Case where a Writ of Summons to such Legislative Council shall have been lawfully withheld from any Person to whom such Hereditary Right as aforesaid shall have descended, by Reason of such Absence from the Province as aforesaid, or of his having taken an Oath of Allegiance or Obedience to any Foreign Prince or Power, and also in every Case where the Seat in such Council of any Member thereof, having such Hereditary Right as aforesaid, shall have been vacated by Reason of any of the Causes Herein before specified, such Hereditary Right shall remain suspended during the Life of such Person, unless His Majesty, His Heirs or Successors, shall afterwards think fit to direct that he be summoned to such Council; but that on the Death of such Person such Right, subject to the Provisions herein contained, shall descend to the Person who shall next be entitled thereto, according to the Course of Descent limited in the Letters Patent by which the same shall have been originally conferred.

Seats in Council forfeited, and Hereditary Rights, extinguished, for Treason.

Questions respecting the Right to be summoned to Council, &c., to be determined as herein mentioned.

X. Provided also, and be it further enacted by the Authority aforesaid, That if any Member of either of the said Legislative Councils shall be attainted for Treason in any Court of Law within any of His Majesty's Dominions, his Seat in such Council shall thereby become vacant, and any such Hereditary Right as aforesaid then vested in such Person, or to be derived

to any other Persons through him, shall be utterly forfeited and extinguished.

The Governor of the Province may appoint and remove the Speaker.

XI. Provided also, and be it further enacted by the Authority aforesaid, That whenever any Question shall arise respecting the Right of any Person to be summoned to either of the said Legislative Councils respectively, or respecting the Vacancy of the Seat in such Legislative Council of any Person having been summoned thereto, every such Question shall, by the Governor or Lieutenant Governor of the Province, or by the Person administering the Government there, be referred to such Legislative Council, to be by the said Council heard and determined; and that it shall and may be lawful either for the Person desiring such Writ of Summons, or respecting whose Seat such Question shall have arisen, or for His Majesty's Attorney General of such Province in His Majesty's Name, to appeal from the Determination of the said Council, in Such Case, to His Majesty in His Parliament of *Great Britain*; and that the Judgement thereon of His Majesty in his said Parliament shall be final and conclusive to all Intents and Purposes whatever.

His Majesty may authorize the Governor to call together the Assembly,

XII. And be it further enacted by the Authority aforesaid, That the Governor or Lieutenant Governor of the said Provinces respectively, or the Person administering His Majesty's Government therein respectively, shall have Power and Authority from Time to Time, by an Instrument under

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and, for the Purpose of electing the Members, to issue a Proclamation dividing the Province into Districts, &c.

the Great Seal of such Province, to constitute, appoint, and remove the Speakers of the Legislative Councils of such Provinces respectively.

XIII. And be it further enacted by the Authority aforesaid, That, for the Purpose of constituting such Assembly as aforesaid, in each of the said Provinces respectively, it shall and may be lawful for His Majesty, His Heirs or Successors, by an Instrument under His or their Sign Manual, to authorize and direct the Governor or Lieutenant Governor, or Person administering the Government in each of the said Provinces respectively, within the Time herein after mentioned, and thereafter from Time to Time, as Occasion shall require, in His Majesty's Name, and by an Instrument under the Great Seal of such Province, to summon and call together an Assembly in and for such Province.

XIV. And be it further enacted by the Authority aforesaid, That, for the Purpose of electing the Members of such Assemblies respectively, it shall and may be lawful for His Majesty, His Heirs or Successors, by an Instrument under His or their Sign Manual to authorize the Governor or Lieutenant Governor of each of the said Provinces respectively, or the Person administering the Government therein, within the Time

Power of the Governor to appoint Returning Officers, to continue Two Years from the Commencement of this Act.

hereinafter mentioned, to issue a Proclamation dividing such Province into Districts, or Counties, or Circles, and Towns or Townships, and appointing the Limits thereof, and declaring and appointing the Number of Representatives to be chosen by each of such Districts, or Counties, or Circles, and Towns or Townships respectively; and that it shall also be lawful for His Majesty, His Heirs or Successors, to authorize such Governor or Lieutenant Governor, or Person administering the Government, from Time to Time to nominate and appoint proper Persons to execute the Office of returning Officer in each of the said Districts, or Counties, or Circles, and Towns or Townships respectively; and that such Division of the said Provinces into Districts, or Counties, or Circles, and Towns or Townships, and such Declaration and Appointment of the Number of Representatives to be chosen by each of the said Districts, or Counties, or Circles, and Towns or Townships respectively, and also such Nomination and Appointment of Returning Officers in the same, shall be valid and effectual to all the Purposes of this Act, unless it shall at any Time be otherwise provided by any Act of the Legislative Council and Assembly of the Province, assented to by His Majesty, His Heirs or Successors.

XV. Provided nevertheless, and be it further enacted by the Authority aforesaid, That the Provision herein-before contained, for empowering the Governor, Lieutenant Governor, or Person administering the Government of the said Provinces respectively, under such Authority as aforesaid from His Majesty, His Heirs or Successors, from Time to Time, to nominate and appoint proper Persons to execute the Office of Returning Officer in the said District, Counties, Circles, and Towns or Townships, shall remain and continue ill Force in each of the said Provinces respectively, for the Term of Two Year, from and after the Commencement of this Act, within such Province, and no

[* Const'l. Docs. (1759-1791) 2nd Ed., Pt. II., pp. 1031-1051.]

longer; but subject nevertheless to be sooner repealed or varied by any Act of the Legislative Council and Assembly of the Province, assented to by His Majesty, His Heirs or Successors.

XVI. Provided always, and be it further enacted by the Authority aforesaid, That no Person shall be obliged to execute the said Office of Returning Officer for any longer Time than One Year, or oftener than Once, unless it shall at any time be otherwise provided by any Act of the Legislative Council and Assembly of the Province, assented to by His Majesty, His Heirs or Successors.

XVII. Provided also, and be it enacted by the Authority aforesaid, That whole Number of Members to be chosen in the Province of Upper Canada shall not be less than Sixteen, and that the whole Number of Members to be chosen in the Province of Lower Canada shall not be less than Fifty.

XVIII. And be it further enacted by the Authority aforesaid, That Writs for the Election of Members to serve in the said Assemblies respectively shall be issued by the Governor, Lieutenant Governor, or Person administering His Majesty's Government within the said Provinces respectively, within Fourteen Days after the sealing of such Instrument as aforesaid for summoning and calling together such Assembly, and that such Writs shall be directed to the respective Returning Officers of the said Districts, or Counties, or Circles, and Towns or Townships, and that such Writs shall be made returnable within Fifty Days at farthest from the Day on which they shall bear Date, unless it shall at any Time be otherwise provided by any Act of the Legislative Council and Assembly of the Province, assented to by His Majesty, His Heirs or Successors; and that Writs shall in like Manner and Form be issued for the Election of Members in the Case of any Vacancy which shall happen by the Death of the Person chosen, or by his being summoned to the Legislative Council of either Province, and that such Writs shall be made returnable within Fifty Days at farthest front the Day on which they shall bear Date, unless it shall at any Time be otherwise provided by any Act of the Legislative Council and Assembly of the Province, assented to by His Majesty, His Heirs or Successors; and that in the Case of any such Vacancy which shall happen by the Death of the Person chosen, or by Reason of his being so summoned as aforesaid, the Writ for the Election of a new Member shall be issued within Six Days after the same shall be made known to the proper Office for issuing such Writs of Election.

No Person obliged shall serve as the Returning Officer more than One year unless otherwise provided by an Act of the Province.

Number of Members in each Province.

Regulations for issuing Writs for the Election of Members to serve in the Assemblies.

XIX. And be it further enacted by the Authority aforesaid, That all and every the Returning Officers so appointed as aforesaid, to whom any such Writs as aforesaid shall be

directed, shall, and they are hereby authorized and required duly to execute such Writs.

Returning Officers to execute Writs.

XX. And be it further enacted by the Authority aforesaid, That the Members for the several Districts, or Counties, or Circles of the said Provinces respectively, shall be chosen by the Majority of Votes of such Persons as shall

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By whom the Members are to be chosen.

severally be possessed, for their own use and Benefit, of Lands or Tenements within such District, or County, or Circle, as the Case shall be, such Lands being by them held in Freehold, or in Fief, or in Roture, or by Certificate derived under the Authority of the Governor and Council of the Province of *Quebec*, and being of the yearly Value of Forty Shillings Sterling, or upwards, over and above all Rents and Charges payable out of or in respect of the same; and that the Members for the several Towns or Townships within the said Provinces respectively shall be chosen by the Majority of Votes of such Persons as either shall severally be possessed, for their own Use and Benefit of a Dwelling House and Lot of Ground in such Town or Township, such Dwelling House and Lot of Ground being by them held in like Manner as aforesaid, and being of the yearly value of Five Pounds Sterling, or upwards, or, as having been resident within the said Town or Township for the Space of Twelve Calendar Months next before the Date of the Writ of Summons for the Election, shall *bona fide* have paid One Year's Rent for the Dwelling House in which they shall have so resided, at the Rate of Ten pounds Sterling *per Annum*, or upwards.

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XXI. Provided always, and be it further enacted by the Authority aforesaid, That no Person shall be capable of being elected a Member to serve in either of the said Assemblies, or of sitting or voting therein, who shall be a Member of either of the said Legislative Councils to be established as aforesaid in the said Two Provinces, or who shall be a Minister of the Church of *England*, or a Minister, Priest, Ecclesiastic, or Teacher, either according to the Rites of the Church of *Rome*, or under any other Form or Profession of Religious Faith or Worship.

Certain Persons not eligible to the Assemblies.

XXII. Provided also, and be it further enacted by the Authority aforesaid, That no Person shall be capable of voting at any Election of a Member to serve in such Assembly, in either of the said Provinces, or of being elected at any such Election, who shall not be of the full Age of Twenty-one Years, and a natural-born Subject of His Majesty, or a Subject of His Majesty's naturalized by Act of the *British* Parliament, or a Subject of His Majesty, having become such by the Conquest and Cession of the Province of *Canada*.

No Person under 21
Years of Age &c.
capable of voting or
being elected;

XXIII. And by it also enacted by the Authority aforesaid, That no Person shall be capable of voting at any Election of a Member to serve in such Assembly, in either of the said Provinces, or of being elected at any such Election who shall have been attainted for Treason or Felony in any Court of Law within any of His Majesty's Dominions, or who shall be within any Description of Persons disqualified by any Act of the Legislative Council and Assembly of the Province, assented to by His Majesty, His Council and Assembly of the Province, assented to by His Majesty, His Heirs or Successors.

nor any person attainted
for Treason or Felony.

XXIV. Provided also, and be it further enacted by the Authority aforesaid, That every Voter, before he is admitted to give his Vote at any such Election, shall, if required by any of the Candidates, or by the Returning

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Officer, take the following Oath, which shall be administered in the *English or French* Language, as the Case may require:

Voters, if required, to
take the following

I, A.B., do declare and testify, in the Presence of Almighty God That I am, to the best of my Knowledge, and Belief, of the full Age of Twenty-one Years, and that I have not voted before at this Election.

Oath.

And that every such Person shall also, if so required as aforesaid, make Oath, previous to his being admitted to vote, that he is, to the best of his Knowledge and Belief, duly possessed of such Lands and Tenements, or of such a Dwelling House and Lot of Ground, or that he has *bona fide* been so resident, and paid such Rent for his Dwelling House, as entitles him, according to the Provisions of this Act, to give his Vote at such Election for the County, or District, or Circle, or for the Town or Township for which he shall offer the same.

and to make the Oath to
the Particulars herein
specified.

XXV. And be it further enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs or Successors, to authorize the Governor or Lieutenant Governor, or Person administering the Government within each of the said Provinces respectively, to fix the Time and Place of holding such elections, giving not less than Eight days Notice of such Time, subject nevertheless to such Provisions as may hereafter by made in these Respects by any Act of the Legislative Council and Assembly of the Province, assented to by His Majesty, His Heirs or Successors.

His Majesty may
authorize the Governor
to fix the Time and
Place of holding
Elections,

XXVI. And be it further enacted by the Authority aforesaid, That it shall be lawful for His Majesty, His Heirs or Successors, to authorize the Governor or Lieutenant Governor of each of the said Provinces respectively, or the Person administering the Government therein, to fix the Place and Times of holding the First and every other Session of the Legislative Council and Assembly of such Province, giving

due and sufficient Notice thereof, and to prorogue the same from Time to Time and to dissolve the same, by Proclamation or otherwise, whenever he shall judge it necessary or expedient.

and of holding the Sessions of the Council and Assembly, &c.

XXVII. Provided always, and be it enacted by the Authority aforesaid, that the said Legislative Council and Assembly, in each of the said Provinces, shall be called together Once at least in every Twelve Calendar Months, and that every Assembly shall continue for Four Years from the Day of the Return of the Writs for chusing the same, and no longer, subject nevertheless to be sooner prorogued or dissolved by the Governor or Lieutenant Governor of the Province, or Person administering His Majesty's Government therein.

XXVIII. And by it further enacted by the Authority aforesaid, That all Questions which shall arise in the said Legislative Councils or Assemblies respectively shall be decided by the Majority of Voices of such Members as shall be present; and that in all Cases where the Voices shall be equal, the Speaker of such Council or Assembly, as the Case shall be, shall have a casting Voice.

Council and Assembly to be called together, Once in 12 Months, &c.

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XXIX. Provided always, and be it enacted by the Authority aforesaid, that no Member, either of the Legislative Council or Assembly, in either of the said Provinces, shall be permitted to sit or to vote therein until he shall have taken and subscribed the following Oath, either before the Governor or Lieutenant Governor of such Province, or Person administering the Government therein, or before some Person or Persons authorized by the said Governor or Lieutenant Governor, or other Person as aforesaid, to administer such Oath, and that the same shall be administered in the *English* or *French* Language, as the Case shall require:

and all Questions therein to be decided by the Majority of Votes.

I, A. B., do sincerely promise and swear That I will be faithful, and bear true Allegiance to His Majesty King George, as lawful Sovereign of the Kingdom of Great Britain, and of these Provinces dependant on and belonging to the said Kingdom; and that I will defend Him to the utmost of my Power against all traiterous Conspiracies and Attempts whatever which shall be made against His Person, Crown and Dignity; and that I will do my utmost Endeavour to disclose and make known to His Majesty, His Heirs or Successors, all Treasons and Traiterous Conspiracies and Attempts which I shall know to be against Him or any of them: and all this I do swear without any Equivocation, mental Evasion, or secret Reservation, and renouncing all Pardons and Dispensations from any Person or Power whatever to the contrary.

No Member to sit or vote till he has taken the following,

So help me GOD.

Oath.

XXX. And be it further enacted by the Authority aforesaid, That whenever any Bill which has been passed by the Legislative Council, and by the House of Assembly, in either of the said Provinces respectively, shall be presented, for His Majesty's Assent, to the Governor or Lieutenant Governor of such Province, or to the Person administering His Majesty's Government therein, such Governor or Lieutenant Governor, or Persons administering the Government, shall, and he is hereby authorized and required to declare, according to his Discretion, but subject nevertheless to the Provision contained in this Act, and to such Instructions as may from Time to Time be given in that Behalf by His Majesty, His Heirs or Successors, that he assents to such Bill in His Majesty's Name, or that he withholds His Majesty's Assent from such Bill, or that he reserved such Bill for the Signification of His Majesty's Pleasure thereon.

Governor may give or withhold His Majesty's Assent to Bills passed by the Legislative Council and Assembly, or reserve them for His Majesty's Pleasure.

XXXI. Provided always, and be it further enacting by the Authority aforesaid, That whenever any Bill, which shall have been so presented for His Majesty's Assent to such Governor, Lieutenant Governor, or Person administering the Government, shall, by such Governor, Lieutenant Governor, or Person administering the Government, have been assented to in His Majesty's Name, such Governor, Lieutenant Governor, or Person as aforesaid, shall and he is hereby required, by the first convenient Opportunity, to transmit to One of His Majesty's principal Secretaries of State an authentic Copy of such bill so assented to; and that it shall and may be lawful, at any Time with Two Years after such Bill shall have been so received by such Secretary

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of State, for His Majesty, His Heirs or Successors, by His or their Order in Council, to declare His or their Disallowance of such Bill, and that such Disallowance, together with a Certificate, under the Hand and Seal of such Secretary of State, testifying the Day on which such Bill was received as aforesaid, being signified by such Governor, Lieutenant Governor, or Person administering the Government, to the Legislative Council and Assembly of such Province, or by Proclamation, shall make void and annul the same, from and after the Date of such Signification.

Governor to transmit to the Secretary of State Copies of such Bills as have been assented to, which His Majesty in Council may declare

XXXII. And be it further enacted by the Authority aforesaid, That no such Bill, which shall be so reserved for the Signification of His Majesty's Pleasure thereon, shall have any Force or Authority within either of the said Provinces respectively, until the Governor or Lieutenant Governor, or

his Disallowance of
within Two Years from
the Receipt.

Person administering the Government, shall signify, either by Speech or Message, to the Legislative Council and Assembly of such Province, or by Proclamation, that such Bill has been laid before His Majesty in Council, and that his Majesty has been pleased to assent to the same; and that an Entry shall be made, in the Journals of the said Legislative Council, of every such Speech, Message, or Proclamation; and a Duplicate thereof, duly attested, shall be delivered to the proper Officer, to be kept amongst the publick Records of the Province: And that no such Bill, which shall be so reserved as aforesaid, shall have any Force or Authority within either of the said Provinces respectively, unless His Majesty's Assent thereto shall have been so signified as aforesaid, within the Space of Two Years from the Day on which such Bill shall have been presented for His Majesty's Assent to the Governor, Lieutenant Governor, or Person administering the Government of such Province.

Bills reserved for His
Majesty's Pleasure not
to have any Force till
His majesty's Assent be
communicated to the
Council and Assembly,
&c.

XXXIII. And be it further enacted by the Authority aforesaid, That all Laws, Statutes, and Ordinances, which shall be in Force on the Day to be fixed in the Manner herein-after directed for the Commencement of this Act, within the said Provinces, or either of them, or in any Part thereof respectively, shall remain and continue to be of the sane Force, Authority, and Effect, in each of the said Provinces respectively, as if this Act had not been made, and as if the said Province of *Quebec* had not been divided; except in so far as the same are expressly repealed or varied by this Act, or in so far as the same shall or may hereafter, by virtue of and under the Authority of this Act, be repealed or varied by His Majesty, His Heirs or Successors, by and with the Advice and Consent of the Legislative Councils and Assemblies of the said Provinces respectively, or in so far as the same may be repealed or varied by such temporary Laws or Ordinances as may be made in the Manner herein-after specified.

XXXIV. And whereas by an Ordinance passed in the Province of *Quebec*, the Governor and Council of the said Province were constituted a Court of Civil Jurisdiction, for hearing and determining Appeals in certain Cases therein specified, be it further enacted by the Authority aforesaid, That the Governor, or Lieutenant Governor, or Person administering the

Laws in Force at the
Commencement of this
Act to continue so,
except repealed or
varied by it, &c.

Establishment of a
Court of Civil
Jurisdiction in each
Province.

Government of each of the said Provinces respectively, together with such executive Council as shall be appointed by His Majesty for the Affairs such Province shall be a Court of Civil Jurisdiction within each of the said Provinces respectively, for hearing and determining Appeals within the same, in the like Cases, and in the like Manner and Form, and subject to such Appeal therefrom, as such Appeals might before the passing of this Act have been heard and determined by the Governor and Council of the Province of *Quebec*; but subject nevertheless to such further of other Provisions as may be made in this behalf, by Any act of the Legislative Council and Assembly of either of the said Provinces respectively, assented to by His Majesty, His Heirs or Successors.

XXXV. And whereas, the above-mentioned Act, passed in the Fourteenth Year of the Reign of His present Majesty, it was declared, That the Clergy of the Church of *Rome*, in the Province of *Quebec*, might hold, receive, and enjoy their accustomed Dues and Rights, with respect to such Persons only as should profess the said Religion; provided nevertheless, that it should be lawful for His Majesty, His Heirs or Successors, to make such Provision out of the rest of the said accustomed Dues and Right, for the Encouragement of the Protestant Religion, and for the Maintenance and Support of a Protestant Clergy within the said Province, as he or they should from Time to Time think necessary and expedient. And whereas by His Majesty's Royal Instructions, given under His Majesty's Royal Sign Manual on the Third Day of *January*, in the Year of our Lord One thousand seven hundred and seventy-five, to *Guy Carleton* Esquire, now Lord *Dorchester*, at that Time His Majesty's Captain General and Governor in Chief in and over His Majesty's Province of *Quebec*, His Majesty was pleased, among other Things to direct, "That no Incumbent professing the Religion of the Church of *Rome*, appointed to any Parish in the said Province, should be entitled to recieve any Tythes for Lands or Possessions occupied by a Protestant, but that such Tythes should be received by such Persons as the said *Guy Carleton* Esquire, His Majesty's Captain General and Governor in Chief in and over His Majesty's said Province of *Quebec*, should appoint, and should be reserved in the Hands of His Majesty's Receiver General of the said Province, for the Support of a Protestant Clergy in His Majesty's said Province, to be actually resident within the same, and not otherwise, according to such Directions as the said *Guy Carleton* Esquire, His Majesty's Captain General and Governor in Chief in and over His Majesty's said Province, should receive from His Majesty in that Behalf; and that in like Manner all growing Rents and Profits of a vacant Benefice should, during such Vacancy, be reserved for and applied to the like Uses:" And whereas His Majesty's Pleasure has

likewise been signified to the same effect in His Majesty's Royal Instructions, given in like Manner to Sir *Frederick Haldimand* Knight of the Most Honourable Order of the Bath, late His Majesty's Captain General and Governor in Chief in and over His Majesty's said Province of *Quebec*; and also in His Majesty's Royal Instructions, given

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Instructions to sir
Frederick Haldimand,
and to Lord
Dorchester, recited;

in like Manner to the said Right Honourable *Guy* Lord *Dorchester*, now His Majesty's Captain General and Governor in Chief in and over His Majesty's said Province of *Quebec*; be it enacted by the Authority aforesaid, That the said Declaration and Provision contained in the said above-mentioned Act, and also the said Provision so made by His Majesty in consequence thereof, by His Instructions above recited, shall remain and continue to be of full Force and Effect in each of the said Two Provinces of *Upper Canada* and *Lower Canada* respectively, except in so far as the said Declaration or Provisions respectively, or any Part thereof, shall be expressly varied or repealed by any Act or Acts which may be passed by the Legislative Council and Assembly of the said Provinces respectively, and assented to by His Majesty, His Heirs or Successors, under the Restriction herein-after provided.

and the Declaration and
Provisions therein
respecting the Clergy
of the Church of *Rome*
to continue in force.

XXXVI. And whereas His Majesty has been graciously pleased, by Message to both Houses of Parliament, to express His Royal Desire to be enabled to make a permanent Appropriation of Lands in the said Provinces for the Support and Maintenance of a Protestant Clergy within the same, in Proportion to such Lands as have been already granted within the same by His Majesty: And whereas His Majesty has been graciously pleased, by His said Message, further to signify His Royal Desire that such Provision may be made, with respect to all future Grants of Land within the said Provinces respectively, as may best conduce to the due and sufficient Support and Maintenance of a Protestant Clergy within the said Provinces, in Proportion to such Increase as may happen in the Population and Cultivation, hereof Therefore, for the Purpose of more effectually fulfilling His Majesty's gracious Intentions as aforesaid, and of providing for the due Execution of the same in all Time to come be it enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs or Successors, to authorize the Governor or Lieutenant Governor of each of the said Provinces respectively, or the Person administering the Government therein, to make, from and out of the Lands of the Crown within such Provinces, such Allotment and Appropriation of Lands, for the Support and Maintenance of a Protestant Clergy within the same, as may bear a due Proportion to the Amount of such Lands within the same as have at any Time been granted by or under the Authority His Majesty: And that whenever any Grant of Lands within either of the said Provinces shall hereafter be made, by or under the Authority of His Majesty, His Heirs or

His Majesty's Message
to Parliament recited.

His Majesty may authorize the Governor to make Allotments of Lands for the Support of a Protestant Clergy in each Province:

Successors, there shall at the same Time be made, in respect of the same, a proportionable Allotment and Appropriation of lands for the above-mentioned Purpose, within the Township or Parish to which such Lands so to be granted shall appertain or be annexed, or as nearly adjacent thereto as Circumstances will admit; and that no such Grant shall be valid or effectual unless the same shall contain a Specification of the Lands so allotted and appropriated, in respect of the Lands to be thereby granted; and that such Lands, so allotted and appropriated, shall be, as nearly as the Circumstances and Nature of the Case will admit, of the like Quality as the Lands in respect of which the same are so allotted and appro-

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priated, and shall be, as nearly as the same can be estimated at the Time of making such Grant, equal in Value to the Seventh Part of the Lands so granted.

XXXVII. And be it further enacted by the Authority aforesaid, That all and every the Rents, Profits or Emoluments, which may at any Time arise from such Lands so allotted and appropriated as aforesaid, shall be applicable solely to the Maintenance and Support of a Protestant Clergy within the Province in which the same shall be situated, and to no other Use or Purpose whatsoever.

and the Rents arising from such Allotments to be applicable to that Purpose solely.

His Majesty may authorize the Governor, with the Advice of the Executive Council, to erect Parsonages, and endow them;

XXXVIII. And be it further enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs or Successors, to authorize the Governor or Lieutenant Governor of each of the said Provinces respectively, or the Person administering the Government therein, from Time to Time, with the Advice of such Executive Council as shall have been appointed by His Majesty, His Heirs or Successors, within such Province, for the Affairs thereof, to constitute and erect, within every Township or Parish which now is or hereafter may be formed, constituted, or erected within such Province, One or more Parsonage or Rectory, or Parsonages or Rectories, according to the Establishment of the Church of *England*; and from Time to Time, by an Instrument under the great Seal of such Province to endow every such Parsonage or Rectory with so much or such Part of the Lands so allotted and appropriated as aforesaid, in respect of any Lands within such Township or Parish, which shall have been granted subsequent to the Commencement of this Act, or of such Lands as may have been allotted and appropriated for the same Purpose, by or in virtue of any Instruction which may be given by His Majesty, in respect of any Lands granted by His Majesty before the Commencement of this Act, as such Governor, Lieutenant Governor, or Person administering the Government, shall, with the Advice of the said Executive Council, judge to be expedient under the then existing Circumstances of such Township or Parish.

XXXIX. And be it further enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs or Successors, to authorize the Governor, Lieutenant Governor, or Person administering the Government of each of the said Provinces respectively, to present to every such Parsonage or Rectory an Incumbent or Minister of the Church of *England*, who shall have been duly ordained according to the Rites of the said Church, and to supply from Time to Time such Vacancies as may happen therein; and that every Person so presented to any such Parsonage or Rectory, shall hold and enjoy the same, and all Rights, Profits, and Emoluments thereunto belonging or granted, as fully and amply, and in the same Manner, and on the same Terms and Conditions, and liable to the Performance of the same Duties, as the Incumbent of a Parsonage or Rectory in *England*.

XL. Provided always, and be it further enacted by the Authority aforesaid, That every such Presentation of an Incumbent or Minister to any such Parsonage or Rectory, and also the enjoyment of any such Parsonage

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or Rectory, and of the Rights, Profits, and Emoluments thereof, by any such Incumbent or Minister, shall be subject and liable to all Rights of Institution, and all other Spiritual and Ecclesiastical Jurisdiction and Authority, which have been lawfully granted by His Majesty's Royal Letters Patent to the Bishop of *Nova Scotia*, or which may hereafter, by His Majesty's Royal Authority, be lawfully granted or appointed to be administered and executed within the said Province, or either of them respectively, by the said Bishop of *Nova Scotia*, or any other Person or Persons, according to the Laws and Canons of the Church of *England*, which are lawfully made and received in *England*.

and the Governor to present Incumbents to them, who are to enjoy the same, as Incumbents in *England*.

XLI. Provided always, and be it further enacted by the Authority aforesaid, That the several Provisions herein-before contained, respecting the Allotment and Appropriation of Lands for the Support of a Protestant Clergy within the said Provinces, and also respecting the constituting, erecting, and endowing Parsonages and Rectories within the said Provinces, and also respecting the Presentation of Incumbents or Ministers to the same, and also respecting the Manner in which such Incumbents or Ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express Provisions for that Purpose, contained in any Act or Acts, which may be passed by the Legislative Council and Assembly of the said Provinces respectively, and assented to by His Majesty, His Heirs or Successors, under the Restrictions herein-after provided.

Presentations to Parsonages, and the Enjoy-

ment of them, to be subject to the Jurisdiction granted to the Bishop of *Nova*

XLII. Provided nevertheless, and be it further enacted by the Authority aforesaid, That whenever any Act or Acts shall be

Scotia, &c.

Provisions respecting the Allotment of Lands for the Support of a Protestant Clergy, &c. may be varied or repealed by the Legislative Council and Assembly.

Acts of the Legislative Council and Assembly, containing Provisions to the Effect herein mentioned to be laid before Parliament, previous to receiving His Majesty's Assent, &c.

passed by the Legislative Council and Assembly of either of the said Provinces, containing any Provisions to vary or repeal the above-recited Declaration and Provision contained in the said Act passed in the Fourteenth Year of the Reign of His present Majesty; or to vary or repeal the above-recited Provision contained in His Majesty's Royal Instructions, given on the Third Day of *January*, in the Year of our Lord One thousand seven hundred and seventy-five, to the said *Guy Carleton* Esquire, now Lord *Dorchester*; or to vary or repeal the Provisions herein-before contained for continuing the Force and Effect of the said Declaration and Provisions; or to vary or repeal any of the several Provisions herein-before contained respecting the Allotment and Appropriation of Lands for the Support of a Protestant Clergy within the said Provinces; or respecting the constituting, erecting, or endowing Parsonages or Rectories within the said Provinces; or respecting the Presentation or Incumbents or Ministers to the same; or respecting the Manner in which such Incumbents or Ministers shall hold and enjoy the same: And also that whenever any Act or Acts shall be so passed containing any Provisions which shall in any Manner or Mode or Worship; or shall impose or create any Penalties, Burthens, Disabilities, or Disqualifications in respect of the same; or shall in any Manner relate to or effect the Payment; Recovery, or Enjoyment of any of the accustomed Dues or Rights herein-before mentioned; or shall in any

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Manner relate to the granting, imposing, or recovering any other Dues, or Stipends, or Emoluments whatever, to be paid to or for the Use of any Minister, Priest, Ecclesiastick, or Teacher, according to any Religious Form or Mode of Worship, in respect of his said Office or Function; or shall in any Manner relate to or affect the Establishment or Discipline of the Church of *England*, amongst the Ministers and Members thereof within the said Provinces; or shall in any Manner relate to or affect the King's Prerogative touching the granting the Waste Lands of the Crown within the said Provinces; every such Act or Acts shall, previous to any Declaration or Signification of the King's Assent thereto, be laid before both Houses of Parliament in *Great Britain*; and that it shall not be lawful for His Majesty, His Heirs or Successors, to signify His or their Assent to any such Act or Acts, until Thirty Days after the same shall have been laid before the said Houses, or to assent to any such Act or Acts, in case either House of Parliament shall, within the said Thirty Days, address His Majesty, His Heirs or Successors, to withhold His or their Assent from such Act or Acts; and that no such Act shall be valid or effectual to any of the said Purpose, within either of the said Provinces, unless the Legislative Council and Assembly of such Province shall, in the Session in which the same shall have been passed by them, have presented to the Governor, Lieutenant Governor, or Person administering the

Government of such Province, an Address or Addresses, specifying that such Act contains Provisions for such of the said Purposes herein-before specially described, and desiring that, in order to give Effect to the same, such Act should be transmitted to *England* without Delay, for the Purpose of being laid before Parliament previous to the Signification of His Majesty's Assent thereto.

XLIII. And be it further enacted by the Authority aforesaid, That all Lands which shall be hereafter granted within the said Province of *Upper Canada* shall be granted in Free and Common Soccage, in like Manner as Lands are now holden in Free and Common Soccage, in that Part of *Great Britain* called *England*; and that in every Case where Lands shall be hereafter granted within the said Province of *Lower Canada*, and where the Grantee thereof shall desire the same to be granted in Free and Common Soccage, the same shall be so granted; but subject nevertheless to such Alterations, with respect to the Nature and Consequences of such Tenure of Free and Common Soccage, as may be established by any Law or Laws which may be made by His Majesty, His Heirs or Successor, by and with the Advice and Consent of the Legislative Council and Assembly of the Province.

XLIV. And be it further enacted by the Authority aforesaid, That if any Person or Persons holding any Lands in the said Province of *Upper Canada*, by virtue of any Certificate of Occupation derived under the Authority of the Governor and Council of the Province of *Quebec*, and having Power and Authority to alienate the same, shall at any Time, from and after the Commencement of this Act, surrender the same into the Hands of His Majesty, His Heirs or Successors, by Petition to the Governor or Lieutenant Governor, or Person administering the Government of the said Province, setting forth

Lands in *Upper Canada* to be granted in Free and Common Soccage, and also in *Lower Canada* if desired.

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Persons holding Lands in *Upper Canada* may have fresh Grants.

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Such fresh Grants, not
to bar any Right or
Title to the Lands.

18 *Geo. III*, Cap. 12,
recited.

that he, she, or they is or are desirous of holding the same in Free and Common Soccage, such Governor or Lieutenant Governor, or Person administering the Government, shall thereupon cause a fresh Grant to be made to such Person or Persons of such Lands, to be holden in Free and Common Soccage.

XLV. Provided nevertheless, and be it further enacted by the Authority aforesaid, That such Surrender and Grant shall not avoid or bar any Right or Title to any such Lands so surrendered, or any Interest in the same, to which any Person or Persons surrendering the same, shall have been entitled, either in Possession, Remainder, or Reversion, or otherwise, at the Time of such Surrender; but that every such Surrender and Grant shall be made subject to very such Right, Title, and Interest, and that every such Right, Title, or Interest shall be as valid and effectual as if such Surrender and Grant had never been made.

XLVI. And whereas by an Act passed in the Eighteenth Year of the Reign of His present Majesty, intituled, *An Act for removing all Doubts and Apprehensions concerning Taxation by the Parliament of Great Britain, in any of the of the Colonies, Provinces, and Plantations in North America, and the West Indies; and for repealing so much of an Act, made in the Seventh Year of the Reign of His present Majesty, as imposes a Duty on Tea imported from Great Britain into any Colony or Plantation in America, or relates thereto* it has been declared, "That the King and Plantations in *North America* or the *West Indies*, except only such Duties as it may be expedient to impose for the Regulation of Commerce, the Net Produce of such Duties to be always paid and applied to and for the Use of the Colony, Province, or Plantation in which the same shall be respectively levied, in such Manner as other Duties collected by the Authority of the respective General Courts or General Assemblies or such Colonies, Provinces, or Plantations are ordinarily paid and applied:" And where as it is necessary, for the general Benefit of the *British* Empire, that such Power of Regulation of Commerce should continue to be exercised by His Majesty, His Heirs or Successors, and the Parliament of *Great Britain*, subject nevertheless to the Condition herein-before recited, with respect to the Application of any Duties which may be imposed for that Purpose: Be it therefore enacted by the Authority aforesaid, That nothing in this Act contained shall extend, or be construed to extend, to prevent or affect the Execution of any Law which hath been or shall at any Time be made by His Majesty, His Heirs or Successors, and the Parliament of *Great Britain*, for establishing Regulations of Prohibitions, or for imposing, levying, or collecting Duties for the Regulation of Navigation, or for the Regulation of the Commerce to be

This Act not to prevent
the Operation of any
Act of Parliament,
establishing
Prohibitions or
imposing Duties for the
Regulation of
Navigation and
Commerce, *etc.*

carried on between the said Two Provinces, or between either of the said Provinces and any other Part of His Majesty's Dominions, or between either of the said Province and any Foreign Country or State, or for appointing any directing the payment of Drawbacks of such Duties so imposed, or to

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give to His Majesty, His Heirs or Successors, any Power or Authority, by and with the Advice and Consent of such Legislative Councils and Assemblies respectively, to vary or repeal any such Law or Laws, or any Part thereof, or in any Manner to prevent or obstruct the Execution thereof.

Such Duties to be applied to the Use of the respective Provinces.

XLVII. Provided always, and be it enacted by the Authority aforesaid, That the Net Produce of all Duties which shall be so imposed shall at all Times hereafter be applied to and for the Use of each of the said Provinces respectively, and in such Manner only as shall be directed by any Law or Laws which may be made by His Majesty, His Heirs or Successors, by and with the Advice and Consent of the Legislative Council and Assembly of such Province.

His Majesty in Council to fix and declare the Commencement of this Act, &c.

XLVIII. And whereas, by Reason of the Distance of the said Provinces from this Country and of the Change to be made by this Act in the Government thereof, it may be necessary that there should be some Interval of Time between the Notification of this Act to the said Provinces respectively, and the Day of Commencement within the said Provinces respectively: Be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, with the Advice of His Privy Council, to fix and declare, or to authorize the Governor or Lieutenant Governor of the Province of *Quebec*, or the Person administering the Government there, to fix and declare the Day of the Commencement of this Act within the said Provinces respectively, provided that such Day shall not be later than the Thirty-first Day of *December* in the Year of our Lord One thousand seven hundred and ninety-one.

Time for issuing the Writs of Summons and Election, &c. not to be later than *Dec.* 31, 1792.

XLIX. And be it further enacted by the Authority aforesaid, That the Time to be fixed by His Majesty, His Heirs or Successors, or under his or their Authority, by the Governor, Lieutenant Governor, or Person administering the Government in each of the said Provinces respectively, for issuing the Writs of Summons and Elections, and calling together the Legislative Councils and Assemblies of each of the said Provinces respectively, shall not be later than the Thirty-first Day of *December* in the Year of our Lord One thousand seven hundred and ninety-two.

Between the

L. Provided always, and be it further enacted by the

Commencement of this Act, and the First Meeting of the Legislative Council and Assembly temporary Laws may be made.

Authority aforesaid, That during such Interval as may happen between the Commencement of this Act, within the said Provinces respectively, and the First Meeting of the Legislative Council and Assembly of each of the said Provinces respectively, it shall and may be lawful for the Governor or Lieutenant Governor of such Province, or for the Person administering the Government therein, with the Consent of the major Part of such Executive Council as shall be appointed by His Majesty for the Affairs of such Province, to make temporary Laws and Ordinances for the good Government, Peace, and Welfare of such Province, in the same Manner, and under the same Restrictions, as such Laws or Ordinances might have been made by the Council for the Affairs of the Province of *Quebec*, constituted by virtue of the above-mentioned Act of the Fourteenth

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Year of the Reign of His present Majesty; and that such temporary Laws or Ordinances shall be valid and binding within such Province, until the Expiration of Six Months after the Legislative Council and Assembly of such Province shall have been first assembled by virtue of and under the Authority of this Act; subject nevertheless to be sooner repealed or varied by any Law or Laws which may be made by His Majesty, His Heirs or Successors, by and with the Advice and Consent of the said Legislative Council and Assembly.

FINIS.

No. 28.

1791. IMPERIAL ORDER IN COUNCIL OF THE 24th AUGUST, 1791.¹

[24 Aug., 1791.]

At the Court of St. James's, the 24th of August, 1791.

PRESENT:

THE KING'S MOST EXCELLENT MAJESTY.

Lord Chamberlain,	Lord Dover,
Lord Frederick Campbell,	M ^r Secretary Dundas,
Lord Grenville,	M ^r Chancel ^r of the

Exchequer.

Page 182 sponsored by Michael Chandler, Iqaluit, NU

Whereas there was this Day read at the Board, a Report² from the Right Honorable the Lords of the Committee of council dated the 19th of this Instant in the words following: vizt.

"Your Majesty having been pleased by Your Order in Council bearing date the 17th of this Instant, to refer unto this Committee a Letter from the Right Honorable Henry Dundas, One of Your Majesty's Principal Secretaries of State, to the Lord President of the Council, transmitting a printed Copy of an Act passed in the last Session of Parliament Entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled An Act for making more effectual provision for the Government of the Province of Quebec in North America and to make further Provision for the Government of the said Province;" And also Copy of a Paper presented to Parliament previous to the passing of the said Act, describing the Line proposed to be drawn for dividing the Province of Quebec into Two separate Provinces, agreeable to Your Majesty's Royal Intention, signified by Message to both Houses of Parliament,³ to be called the Province of Upper Canada and the Province of Lower Canada, and stating that by section 48 of the said Act, It is provided, that by reason of the distance of the said Provinces from this Country and of the change to be made by the said Act in the Government thereof, it may be necessary that there should be some . . ."

". . . Interval of Time between the Notification of the said Act to the said Provinces respectively, and the day of its commencement within the said Provinces respectively, and

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by
Nina
Goudie,
St. John's,
NL

that it should be lawful for Your Majesty with the Advice of Your Privy Council to fix and Declare, or to Authorize the Governor or Lieutenant Governor of the Province of Quebec, or the person Administering the Government there, to fix and declare the day of commencement of the said Act within the said Provinces respectively, Provided that such Day shall not be later than the 31st of December 1791: The Lords of the Committee in Obedience to Your Majesty's said Order of Reference this Day took the said Letter into their Consideration, together with the Act of Parliament therein referred to, and likewise Copy of the said Paper describing the Line proposed to be drawn for separating the Province of Upper Canada, and the Province of Lower Canada; And Their Lordships do thereupon agree humbly to Report as Their Opinion to Your Majesty, That it may be advisable for Your Majesty by Your Order in Council to divide the province of Quebec into Two distinct Provinces by separating the Province of Upper Canada, and the Province of Lower Canada, according to the Line of Division described in the said paper (Copy of which is hereunto annexed); And The Lords of the Committee are further of Opinion, that it may be advisable for Your Majesty, by Warrent under Your Royal Sign Manual to Authorize the Governor or Lieutenant Governor of the Province of Quebec, or the person Administering the Government there, to fix and Declare such Day for the Commencement of the said beforementioned Act within the said Two Provinces of Upper & Lower Canada respectively, as the said Governor or Lieutenant Governor of the Province of Quebec, or the person Administering the Government there, shall judge most advisable, Provided that such day shall not be later, than the 31st Day of December in the present year 1791."

His Majesty this Day took the said Report into His Royal Consideration, and approving of what is therein proposed, is pleased, by and with the Advice of His Privy Council to Order (as it is hereby Ordered) that the Province of Quebec by divided into Two distinct Provinces, to be called the province of Upper Canada, and the province of Lower Canada, by separating the said two Provinces, according to the following Line of Division—viz^t

"To commence at a Stone Boundary, on the North Bank of the Lake St. Francis; At the Cove west of pointe au Bodet, in the limit between the Township of Lancaster and the Seigneurie of new Longueuil running along the said limit in the direction of North Thirty four degrees; West to the Westernmost Angle of the said Seigneurie of New Longueuil, thence along the North western boundary of the Seigneurie of Vaudreuil running North Twenty five Degrees, East until it strikes the Ottawas River to ascend the said River into the Lake Tomiscanning, and from the head of the said Lake, by a line drawn due North until it strikes the boundary line of Hudsons Bay, including all the Territory to the westward and southward of the said Line, to the utmost Extent of the Country commonly called or

known . . ."

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" . . . by the Name of Canada." Whereof the Governor, Lieutenant Governor or Commander in Chief of the Province of Quebec, and all other His Majesty's Officers in the said Provinces, and all whom it may concern, are to take Notice, and to Yield due obedience to His Majesty's Pleasure hereby signified.

Whereas there was this Day read at the Board, a Report from the Right Honorable the Lords of the Committee of Council, dated the 19th of this Instant, in the words following, viz^t

"Your Majesty having been pleased by Your Order in Council &c. &c. . . . 1791."

His Majesty this Day took the said Report into His Royal consideration, and approving of what is therein proposed, was pleased, by and with the Advice of His Privy Council to Order, that the Province of Quebec be divided into Two distinct Provinces, to be called the Province of Upper Canada and the Province of Lower Canada, by separating the said Two Provinces according to the Line of Division inserted in the said Order.

And His Majesty is hereby further pleased to Order, that the Right Honorable Henry Dundas, One of His Majesty's Principal Secretaries of State, do prepare a Warrant to be passed under His Majesty's Royal Sign Manuel to Authorize the Governor or Lieutenant Governor of the Province of Quebec or the Person administering the Government there to fix and Declare such day as They shall judge most adviseable for the Commencement within the Province of Upper Canada, and the Province of Lower Canada respectively, of the said Act passed in the last Session of Parliament entitled "An Act to repeal certain parts of An Act passed in the Fourteenth year of His Majesty's Reign, entitled An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province" — Provided that such Day, so to be fixed and declared for the Commencement of the said Act, within the said Two provinces respectively, shall not be later, than the Thiry first Day of December, One thousand seven hundred and ninety one.

[¹ Const'l. Docs. (1791-1818), pp. 3-5. (Can. Arch.)

² See Privy Council Register, 31 Geo. III. p. 304.

³ This Message was presented to both Houses of Parliament February 25, 1791. See Parliamentary History of England, Vol. XXVIII, p. 1271.]

[18th Nov.
1791.]

**PROCLAMATION OF LIEUT.-GOVERNOR OF
QUEBEC OF 18TH NOVEMBER, 1791,**

FIXING THE DAY FOR THE COMMENCEMENT OF THE NEW CONSTITUTION.¹

ALURED CLARKE

GEORGE THE THIRD by the Grace of GOD of Great Britain
France and Ireland KING Defender of the Faith and so forth —

To all Our loving Subjects whom these Presents may
concern

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Michael Chandler,
Iqaluit, NU*

GREETING—WHEREAS We have thought fit by and with the Advice of Our Privy Council by Our Order in Council dated in the month of August last to order that Our Province of Quebec should be divided into two Distinct Provinces to be called the Province of Upper Canada and the Province of Lower Canada by separating the said two Provinces according to the following Line of division viz^t To commence at a Stone boundary on the North Bank of the Lake S^t Francis at the Cove West of Pointe au Bodet in the limit between the Township of Lancaster and the Seigneurie of new Longueuil running along the said Limit in the direction of North Thirty four degrees West to the Westernmost Angle of the said Seigneurie of New Longueuil thence along the North western Boundary of the Seigneurie of Vaudreuil running North Twenty five degrees East until it strikes the Ottawas River to ascend the said River into the Lake Tomiscanning and from the Head of the said Lake by a line drawn due North until it strikes the boundary line of Hudson's Bay including all the Territory to the Westward and Southward of the said line to the utmost extent of the Country commonly called or known by the name of Canada AND WHEREAS by an Act passed in the last Session of Parliament intituled An Act to repeal certain parts of an Act passed in the fourteenth Year of His Majesty's Reign intituled An Act for making more effectual Provision for the Government of the Province of Quebec in North America and to make further Provision for the Government of the said Province It is provided that by reason of the distance of the said Provinces from Great Britain and the charge to be made by the said Act in the Government thereof it may be necessary that there should be some interval of Time between the notification of the said Act to the said Provinces respectively and the day of its commencement within the said Provinces

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with the advice of Our Privy Council to fix and declare or to authorize the Governor or Lieutenant Governor of Our Province of Quebec or the Person administering the Government there to fix and declare the day of the Commencement of the said Act within the said Provinces respectively provided that such day shall not be later than the Thirty first day of December One thousand seven hundred and ninety one¹ AND WHEREAS in pursuance of the said Act We have thought fit by another order in Council bearing date the Twenty fourth Day of August last to Authorize Our Governor or in His Absence Our Lieutenant Governor or the Person administering the Government or Our said Province of Quebec to fix and declare such Day as he should judge most advisable for the Commencement of the said Act within the Province of Upper Canada and the Province of Lower Canada respectively And to that effect have by Our Warrant to Our right Trusty and wellbeloved Guy Lord Dorchester Captain General and Governor in Chief in and over Our said Province of Quebec or in his absence to Our Lieutenant Governor or Commander in Chief of Our said Province for the time being under Our Signet and Royal Sign manual bearing date at S^t James's the Twelfth day of September last Signified Our Will and pleasure that He take the necessary measures accordingly KNOW YE therefore that Our Trusty and Wellbeloved Alured Clarke Esquire Our Lieutenant Governor of Our said Province of Quebec in the absence of Our said Governor Hath Judged it most adviseable to fix upon Monday the Twenty sixth day of December next for the Commencement of the said Act within the Provinces aforesaid respectively and it is accordingly hereby declared that the said Act of Parliament intituled An Act to repeal certain parts of an Act passed in the fourteenth Year of His Majesty's Reign intituled An Act for making more effectual Provision for the Government of the Province of Quebec in North America and to make further Provision for the Government of the said Province shall commence within the said Provinces of Upper Canada and Lower Canada respectively on Monday the said Twenty sixth Day of December in this present Year One thousand seven hundred and Ninety one of which all OUR loving Subjects and all others concerned are to take notice and govern themselves accordingly IN TESTIMONY Whereof We have caused these Our Letters to be made Patent and the Great Seal of OUR said Province of Quebec to be hereunto affixed
WITNESS OUR Trusty and Wellbeloved
ALLURED CLARKE ESQ OUR Lieutenant Governor and
Commander in Chief of OUR said Province of Quebec Major
General Commanding OUR Forces in North America &c &c
&c at OUR Castle of Saint Lewis in the City of Quebec this
Eighteenth Day of November in the Year of OUR Lord One

thousand seven hundred and Ninety one and in the Thirty
second Year of OUR Reign.

A. C.

HUGH FINLAY,
Acting Secretary.

[¹(185) From the original parchment, Canadian Archives, Proclamations, Lower Canada, 1791. The Proclamation was published in the *Quebec Gazette* of December 1, 1791.]

¹(186) See Article XLVIII. of the Constitutional Act. 31 Geo. III. cap. 31 (Imperial).

No. 30.

1803, IMPERIAL ACT 43 GEO. III., CAP. 138.[See 14 G. 3, c. 83, 31
G. 3, c. 31.]

[11 Aug. 1803.]

An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of *Lower* and *Upper Canada*, to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of *North America* adjoining to the said Provinces.

[11th August 1803.]

Offences committed within any Indian Territories, &c., may be tried as if committed in Lower or Upper Canada.

The Governor of Lower Canada may empower Persons to act as Justices for the Indian Territories, &c., for committing Offenders till conveyed to Canada for Trial, &c.

"Whereas Crimes and Offences have been committed in the *Indian Territories*, and other Parts of *America*, not within the Limits of the Provinces of *Lower* or *Upper Canada*, or either of them, or of the Jurisdiction of any of the Courts established in those Provinces, or within the Limits of any Civil Government of the United States of *America*, and are therefore not cognizable by any Jurisdiction whatever, and by reason thereof great Crimes and Offences have gone and may hereafter go unpunished, and greatly increase:" For Remedy whereof may it please your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty that by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this Present Parliament assembled, and by the Authority of the same, That, from and after the passing of this Act, all Offences committed within any of the *Indian Territories*, or Parts of *America* not within the Limits of either of the said Provinces of *Lower* or *Upper Canada*, or of any Civil Government of the United States of *America*, shall be and be deemed to be Offences of the same Manner and subject to the same Punishment, as if the same had been committed within the Provinces of *Lower* or *Upper Canada*.

II. And be it further enacted, That it shall be lawful for the Governor or Lieutenant-Governor, or Person administering the Government for the Time being of the Province of *Lower Canada*, by Commission under his Hand and Seal, to authorize and empower any Person or Persons, wheresoever resident or being at the Time, to act as Civil Magistrates and Justices of the Peace for any of the *Indian Territories* or Parts of *America* not within the Limits of either of the said Provinces, or of any Civil Government of the United States of *America*, as well as within the Limits of either of the said Provinces, either upon Informations taken or given within the said Provinces of *Lower* or *Upper Canada*, or out of the said Provinces in any Part of the *Indian Territories* or Parts of *America* aforesaid, for the

Purpose only of hearing Crimes and Offences, and committing any Person or Persons guilty

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Offenders may be tried in the Courts of Lower (or Upper) Canada, and punished accordingly.

of any Crime or Offence to safe Custody, in order to his or their being conveyed to the said Province of *Lower Canada*, to be dealt with according to Law; and it shall be lawful for any Person or Persons whatever to apprehend and take before any Persons so commissioned as aforesaid, or to apprehend and convey, or cause to be safely conveyed with all convenient Speed, to the Province of *Lower Canada*, any Person or Persons guilty of any Crime or Offence, there to be delivered into safe Custody for the Purpose of being dealt with according to Law.

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III. And be it further enacted, That every such Offender may and shall be prosecuted and tried in the Courts of the Province of *Lower Canada* (or if the Governor or Lieutenant-Governor, or Person administering the Government for the Time being, shall, from any of the Circumstances of the Crime or Offence, or the local Situation of any of the Witnesses for the Prosecution or defence, think that Justice may more conveniently be administered in relation to such Crime or Offence in the Province of *Upper Canada*, and shall by any Instrument under the Great Seal of the Province of *Lower Canada*, declare the same, then that every such Offender may and shall be prosecuted and tried in the Court of the Province of *Upper Canada*), in which Crimes or Offences of the like Nature are usually tried, and where the same would have been tried if such Crime or Offences had been committed within the Limits of the Province where the same shall be tried under this Act; and every Offender tried and convicted under this Act shall be liable and subject to such Punishment as may by any Law in Force in the Province where he or she shall be tried be inflicted for such Crime or Offence; and such Crime or Offence may and shall be laid and charged to have been committed within the Jurisdiction, and Execution, or other Punishment for such Crime or Offence in the same Manner in every Respect as if such Crime or Offence had been really committed within the Jurisdiction of such Court; and it shall also be lawful for the Judges and other Officers of the said Courts to issue Subpoenas and other Processes for enforcing the Attendance of Witnesses on any such Trial; and such Subpoenas and other Processes shall be as valid and effectual, and be in full Force and put in Execution in any Parts in the *Indian Territories*, or other Parts of *America* out of and not within the Limits of the Civil Government of the United States of *America* out of and not within the Limits of either of the said Provinces of *Lower* or *Upper Canada*, in relation to the Trial of any Crimes or Offences by this Act made cognizable in such Court, or to the more speedily and effectually bringing any Offender or Offenders to Justice under this Act, as fully

Offenders not being British Subjects, shall be acquitted, if Offence is committed within European Territories.

But Subjects shall be
tried.

and amply as any Subpoenas or other Processes are, within the Limits of the Jurisdiction of the Court, from which any such Subpoenas or Processes shall issue as aforesaid; any Act or Acts, Laws or Customs, Usage, Matter, or Thing to the contrary notwithstanding.

IV. Provided always, and be it further enacted, That if any Crime or Offence charged and prosecuted under this Act shall be proved to have been

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committed, by any Person or Persons not being a Subject or Subjects of his Majesty, and also within the Limits of any Colony, Settlement, or Territory belonging to any *European* State, the Court before which such Prosecution shall be had shall forthwith acquit such Person or Persons not being such Subject or Subjects as aforesaid of such Charge.

V. Provided nevertheless, That it shall and may be lawful for such Court to proceed in the Trial of any other Person, being a Subject or Subjects of his Majesty, who shall be charged with the same or any other Offence, notwithstanding such Offence shall appear to have been committed within the Limits of any Colony, Settlement, or Territory belonging to any *European* State as aforesaid.

No. 31.

**THE NEWFOUNDLAND ACT 1809, 49 GEO. III C. 27
(IMPERIAL).**

[30 March 1809.]

33 G. 3. c. 70.

An Act for establishing Courts of Judicature in the Island of *Newfoundland* and the Islands adjacent; and for re-annexing part of the Coast of *Labrador* and the Islands lying on the said Coast to the Government of *Newfoundland*. [30th *March* 1809.]

His Majesty, under the Great Seal, may institute a Court of Criminal and Civil Jurisdiction at Newfoundland.

Whereas an Act was made in the Thirty-third Year of the Reign of His present Majesty, intituled, *An Act for establishing Courts of Judicature in the Island of Newfoundland and the Islands adjacent*; which, by several subsequent Acts, has been continued until the Twenty-fifth Day of *March* One thousand eight hundred and nine: And whereas it is expedient that the Provisions of the said Act should be amended, and the like Courts of Judicature as were thereby instituted, be established and made perpetual; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lord's Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful for His Majesty, by His Commission under the Great Seal, to institute a Court of Criminal and Civil Jurisdiction, to be called, "The Supreme Court of Judicature of the Island of *Newfoundland*," with full Power and Authority to hold Plea of all Crimes and Misdemeanors committed within the Island of *Newfoundland* on the Island of *Saint Pierre* and *Miquelon*, and on the Islands and Seas to which Ships or Vessels repair from the Island of *Newfoundland* for carrying on the Fishery, and on the Banks of *Newfoundland*, in the same Manner as Plea is holden of such Crimes and Misdemeanors in that Part of *Great Britain* called *England*, and also with full Power and Authority to hold Plea in a summary Way of all Suits and Complaints of a Civil Nature arising within the Island of *Newfoundland*, on the Islands of *Saint Pierre* and *Miquelon*, and on the Islands and Seas, aforesaid, and on the Banks of *Newfoundland*, and in *Great Britain* or *Ireland*; which Court shall determine such Suits and Complaints of a Civil Nature according to the Law of *England*, as far as the same can be applied to Suits and Complaints arising in the Islands and Places aforesaid; and the said Court shall be a Court of Record, and shall be holden by a Chief Justice to be appointed by His Majesty, who shall have full Power and Authority to enquire of, hear, and determine all Crimes and Misdemeanors, Suits and Complaints cognizable in the said

Court and such Court shall have such clerks and Ministerial Officers as the Chief Justice shall think proper to appoint; and such Salary shall be paid to the said Chief Justice as His Majesty,

The Governor, with
Advice of Chief
Justice, may institute
Surrogate Courts, &c.

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His Heirs and Successors, shall approve and direct, and such Salaries be paid to the Clerks and Ministerial Officers aforesaid as shall be approved by the Chief Justice, with the Consent of the Governor of the Island of *Newfoundland*; which several Salaries shall respectively be in lieu of all other Profits and Emoluments whatsoever.

II. And be it further enacted, That it shall be lawful for the Governor of the Island of *Newfoundland* from Time to Time to institute Courts of Civil Jurisdiction, to be called '*Surrogate Courts*', in different Parts of the Island of *Newfoundland* and the Islands aforesaid, as Occasion shall require, with full Power and Authority to hear and determine, in the like summary way, all Suits and Complaints of a Civil Nature arising within the Island of *Newfoundland*, and on the Islands of *Saint Pierre* and *Miquelon*, and on the Islands and Seas aforesaid, and on the Banks of *Newfoundland*, and in *Great Britain* or *Ireland*, which Courts shall respectively be Courts of Record, and shall determine according to the Law of *England*, as far as the same can be applied to Suits and Complaints arising in the Islands and Places aforesaid; and the said Courts respectively shall be holden by a Surrogate to be appointed from Time to Time by the Governor of the said Island, and shall have full Power and Authority to hear and determine all Suits and Complaints cognizable in the said Court; and the said Court shall have such Clerks and Ministerial Officers, with such Salaries as the Governor shall appoint, which Salaries shall be in lieu of all Profits and Emoluments whatever.

Mode of Proceedings.

III. And be it further enacted, That it shall be lawful for the said Supreme Courts and Surrogate Courts respectively, when any Suit or Complaint shall be depending therein, to cause to appear from Day to Day all Persons interested in the Matter in Dispute, and to examine upon Oath such of them as it shall be deemed proper for better discovering the Truth, and thereupon and after due Consideration of all Circumstances to make such Order, Judgement or Decree therein, and award such Damages and Costs as the Case shall require; and that in all Cases where the Cause of any Suit or Complaint shall not exceed Five Pounds, the Party who is to answer such Suit or Complaint, shall be made to appear in Court by Summons; and in all Cases where such Summons shall be disobeyed, or where the Cause of any Suit or Complaint shall exceed Five Pounds, and shall be sworn to in an Affidavit made by the Plaintiff, then that the Party who is to answer such Suit or Complaint may be caused

For Summoning Jurors.

to appear, by Attachment of his or her Goods, Debts, or Effects, or by Arrest of the Person, and that the Execution of any Order, Judgement, or Decree may be enforced by Attachment of the Goods, Debts, or Credits of the Party, or by Arrest of the Person against whom such Order, Judgement, or Decree shall be made; and that it shall and may be lawful for the said Chief Justice and Surrogates respectively to authorize some Person in his or their Absence respectively to issue Process, and do all Acts appertaining to the said Supreme Court and Surrogate Courts respectively, save and except the enquiring of, hearing, and determining of any Crime or Misdemeanor, or any Suit or Complaint of a Civil Nature.

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Allowing Appeals.

IV. And be it further enacted, That where the Cause of Action shall exceed the Sum of Forty Shillings, and it shall be prayed by the Plaintiff or Defendant in such Suit or Complaint that a Jury may be summoned to try such Action, it shall be lawful for the said Chief Justice and Surrogates respectively, and he and they are hereby respectively, required to cause Twenty-four Persons to be summoned, of whom Twelve shall be a Jury for the Trial of such Action, and to proceed therein according to Law: Provided always, that if a Number of Jurors sufficient for the Trial of such Action, having been duly summoned, shall not appear to be sworn, it shall and may be lawful for the Governor of the said Island to nominate and appoint Two proper Persons to be Assessors to the said Chief Justice, and for each Surrogate in his Court in like Manner to nominate and appoint Two proper Persons to be his Assessors, which Assessors, together with the said Chief Justice or Surrogates respectively, shall proceed to the Trial of such Action in like Manner as if such Jury had not been prayed.

When Goods attached, if it shall appear the Party is insolvent, the Court shall order his Effects to be collected and distributed.

V. And be it further enacted, That upon any Decree or Judgement given in a Surrogate Court, for any Sum exceeding Forty Pounds, it shall be lawful for the Party against whom such Decree or Judgement shall be given to appeal therefrom to the Supreme Court, having first given Notice of such Intention, and having entered into a Security to the Surrogate in double the Sum for which such Judgement or Decree was given or made, within Two Days after making or giving such Judgement or Decree, for duly prosecuting such Appeal; and upon any Decree or Judgement given in the Supreme Court for any Sum exceeding One hundred Pounds, it shall be lawful for the Party against whom such Decree or Judgement shall be given or made to appeal therefrom to His Majesty in Council, having first given Notice of such Intention, and having entered into Security, to be approved by the Chief Justice, in double the Sum for which such Judgement or Decree was given or made within Two Days after the giving or making of such Judgement or Decree, for duly prosecuting such Appeal; and in all Cases of Appeal, as soon as Notice shall be given and

Security entered into as aforesaid, Execution shall be stayed, but not otherwise.

VI. And whereas it will greatly contribute to the Advancement of the Trade and Fishery of *Newfoundland*, if such Effects as Persons becoming Insolvent in the said Island of *Newfoundland* and the Islands aforesaid were possessed of or entitled unto within the said Island or in the Islands or Seas aforesaid, or on the Banks of *Newfoundland*, should be divided among their Creditors with more Equality than hath hitherto been practised; be it further enacted, That as often as the Goods, Debts, and Credits of any Person shall be attached, and it shall be made appear to the Court out of which the Process of Attachment hath issued, that the Goods, Debts, and Credits so attached are not sufficient to pay Twenty Shillings in the Pound to all those who shall be Creditors by reason of Debts contracted within the Island of *Newfoundland* and on the Islands and Seas aforesaid, or on the Banks of *Newfoundland*, or in *Great Britain* and *Ireland*, it shall be lawful for such

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Court to summon the Party whose Goods, Debts, and Credits are so attached, together with the Plaintiff or Plaintiffs who have sued out any Attachment, and also such Persons who are known to be Creditors as aforesaid of the defendant, to appear in Court at a certain Day; and if upon a due Examination of the Defendant and the said Creditors, it shall appear that he or she is insolvent, the Court shall declare him or her insolvent accordingly, and shall immediately proceed to take order for discovering, collecting, and selling the Effects and Debts of such Person, and distributing the Produce thereof rateably amongst all the said Creditors of such Person so declared insolvent, and for that Purpose shall authorize any One or more Creditors of the said Defendant, who shall be chosen by the major Part in Value of such Creditors, whose Debts amount respectively to the Sum of Ten Pounds and upwards, to perform the same; and that such Court shall from Time to Time make such Order therein as shall be deemed proper for better discovering, collecting, and selling the Effects and Debts, and making a rateable Distribution thereof among the said Creditors.

Distribution of Effects
of insolvent Parties.

Certificate of the Court
to be a Bar to Suits for
Debt, prior to
Declaration of
Insolvency.

VII. And be it further enacted, That in the Distribution to be made of the Estate and Effects of such Person so declared insolvent, every Fisherman and Seaman employed in the Fishery, who shall be a Creditor for Wages become due in the then current Season, shall first be paid Twenty Shillings in the Pound so far as the Effects will go; and in the next Place every Person who shall be a Creditor for Supplies furnished in the

current Season shall be paid Twenty Shillings in the Pound; and in the next Place every Person who shall have become a Creditor within Two Years shall be paid Twenty Shillings in the Pound; and lastly, all other Creditors shall be paid equally as far as the Effects will go.

Chief Justice may grant Administration of Effects.

VIII. And be it further enacted, That if such insolvent Person shall make a true Disclosure and Discovery of all his or her Goods and Effects whatsoever, and shall conform him or herself to the Order and Direction of the said Court, the same shall and may (with the Consent of One-half in Number and Value of his or her Creditors) be certified by the said Court, and such Certificate, when pleaded, shall be a Bar to all Suits and Complaints for Debts contracted within the Island of Newfoundland and on the Islands and Seas aforesaid, and on the Banks of *Newfoundland*, and in *Great Britain* or *Ireland*, prior to the Time when he or she was declared Insolvent.

33 G. 3. c. 76.
continued until the opening of the Supreme Court.

IX. And be it further enacted, That the said Chief Justice, or any Person or Persons appointed by him for that Purpose under his Hand and Seal, shall have Power to grant Administration of the Effects of Intestates, and the Probate of Wills, and that the Effects of deceased Persons shall not be administered within the Island of *Newfoundland* or on the Islands and Seas aforesaid, or on the Banks of *Newfoundland*, unless Administration thereof, or Probate of Wills respecting the same, shall have been duly granted by such Authority as aforesaid.

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For holding Pleas.

X. And be it further enacted, That an Act passed in the Thirty-third Year of His present Majesty's Reign, intituled, *An Act for establishing Courts of Judicature in the Island of Newfoundland, and the Islands adjacent*, which has by several subsequent Acts been continued to the Twenty-fifth Day of *March* One thousand eight hundred and nine, shall be and continue in Force until the opening of the Supreme Court instituted by virtue of this Act, and no longer; and every Suit or Complaint which shall at that Time be depending in the said Court of Civil Jurisdiction shall and may be proceeded upon in the said Supreme Court, in the same Manner as any Suit or Complaint originally commenced in the said Supreme Court.

XI. And be it further enacted, That it shall not be lawful for any Court in the Island of *Newfoundland*, or Islands aforesaid (except the Supreme Court and the Surrogate Courts appointed by virtue of this Act) to hold Plea of any Suit or Complaint of a Civil Nature, any Law Custom or Usage to the contrary notwithstanding: Provided nevertheless, that the Court of Vice

Determining Suits for
Debts under 40s.

Admiralty having Jurisdiction in the said Island, shall and may hold Plea of Maritime Causes (except only the Wages of Seamen and Fishermen, which are to be heard and determined in Manner herein-after directed,) and Causes of the Revenue, as heretofore practised and used: Provided also, that all Disputes which shall arise concerning the Wages of any Seaman or Fisherman, and all Offences which shall be committed by any Hirer or Employer of such Seaman or Fisherman, against this or any other Act relating to the Island of *Newfoundland* or the Islands and Seas aforesaid, or the Fishery thereof, and all Disputes concerning Seamen or Fishermen wilfully absenting themselves from their Duty or Employ, without the Leave or Consent of their Hirer or Employer, or wilfully neglecting or refusing to work, shall and may be heard and determined; and the Penalties and Forfeitures thereby incurred shall and may be recovered in the Court of Session, or before any Two Justices of the Peace.

Chief Justice to settle
Forms of Process, and
appoint Fees.

XII. Provided also, and be it further enacted, That it shall be lawful for the Court of Session in a summary Way to hear and determine all Suits for the Payment of Debts not exceeding Forty Shillings, and not contracted more than One Year before the Commencement of such Suits respectively; and it shall be lawful for the Court of Session, or such Two Justices respectively, to award Costs therein; and such Determination and Award shall be final, and shall be carried into Execution by Attachment and Sale of the Goods and Effects of the Party against whom the Determination was made.

XIII. And be it further enacted, That it shall be lawful for the said Chief Justice to settle such Forms of Process, and such Rules of Practice and Proceeding, for the Conduct of all Pleas, Suits, and Complaints, and for the Dispatch of the Business of the said Supreme Court and Surrogate Courts, and of the Business in the Courts of Session, or before any One or more Justices of the Peace respectively, and to appoint such reasonable Fees to be taken for the Conduct and Dispatch of Pleas, Suits, Complaints and other Business as aforesaid, and for the granting Administration of the Effects of Intestates,

and for the Probate of Wills, as shall seem necessary and proper for expediting matters with the most Convenience and least Expence to the Parties concerned therein and such Process and Rules of Practice and Proceeding shall be followed and obeyed, and such Fees shall be paid accordingly, and no other; and that such Fees received in any Surrogate Court shall be paid and accounted for by the Surrogate in the said Supreme Court; and that it shall be lawful for the said Chief Justice, and he is hereby required to settle and limit what Fees and Poundage shall be taken by the Sheriff of *Newfoundland*, and the same shall be taken, and none other; provided, that no such Fees for the Dispatch of Pleas, Suits and Complaints, or other Business as aforesaid, or for granting Administration or Probate of Wills, and no Fees or Poundage to be taken by the Sheriff, shall be taken until the Rate and Table of every Fee or Poundage so to be taken shall have been approved by the Governor of the said Island of *Newfoundland*, and such Approbation signified under his Hand and Seal.

XIV. And whereas His Majesty by His Proclamation of the Seventh Day of *October* One thousand seven hundred and sixty-three, was pleased to declare that he had put the Coast of *Labrador* from the River *Saint John* to *Hudson's Streights*, with the Islands of *Anticosti* and *Madelaine*, and all other smaller Islands lying on the said Coast, under the Care and Inspection of the Governor of *Newfoundland*: And whereas by an Act passed in the Fourteenth Year of the Reign of His present Majesty, intituled, *An Act for making more effectual Provision for the Government of the Province of Quebec in North America*, all such Territories, Islands and Countries, as since the Tenth Day of *February* One thousand seven hundred and sixty-three had been made part of the Government of *Newfoundland*, were, during His Majesty's Pleasure, annexed to and made Part of the Province of *Quebec*, as created by the said Proclamation: And whereas in pursuance of an Act passed in the Thirty-first Year of His present Majesty's Reign, intituled, *An Act to repeal certain Parts of an Act, passed in the Fourteenth Year of His Majesty's Reign, intituled, "An Act for making more effectual Provision for the Government of the Province of Quebec in North America," and to make further Provision for the Government of the said Province*, the said Province of *Quebec* was divided into Two Provinces of *Upper* and *Lower Canada*, the latter including the Parts of the Coast of *Labrador* and the said Islands so formerly annexed to the Government of *Newfoundland*: And whereas it is expedient that the said Coast of *Labrador*, and the adjacent Islands (except the Islands of *Madelaine*) should be re-annexed to the Government of *Newfoundland*; be it therefore enacted, That such Parts of the Coast of Labrador from the River *Saint John* to *Hudson's Streights* and the said Island of *Anticosti*, and all

Sureme Court to hold
Pleas arising within
such Parts.

other smaller Islands so annexed to the Government of *Newfoundland* by the said Proclamation of the Seventh Day of *October* One thousand seven hundred and sixty-three, (except the said Islands of *Madelaine*) shall be separated from the said Government of *Lower Canada*, and be again re-annexed to the Government of *Newfoundland*; any thing in the said Act passed in the Thirty-first Year of His present Majesty's Reign, or any other Act, to the contrary notwithstanding.

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Recovery and
Application of
Penalties.

XV. And be it further enacted, That it shall be lawful for the said Supreme Court of Judicature of the Island of *Newfoundland* to hold Plea of all Crimes and Misdemeanors committed, and of all Suits and Complaints of a Civil Nature arising within such Parts of the Coast of *Labrador* from the River *Saint John* to *Hudson's Streights* and the said Island of *Anticosti*, and all other smaller Islands so re-annexed to the Government of *Newfoundland* or on the Islands, Seas, and Harbours, to which Ships and Vessels repair from the Parts of the Coast of *Labrador* and the Island and Islands so re-annexed to the Government of *Newfoundland* for carrying on the Fishery, in the same Manner as the said Supreme Court holds Plea of Crimes and Misdemeanors committed, and of Suits and Complaints of a Civil Nature arising within the Island of *Newfoundland*, and on the Islands and Seas aforesaid, and on the Banks of *Newfoundland*.

Limitation of Actions.

General Issue.

Treble Costs.

XVI. And be it further enacted, That all Fines, Penalties, and Forfeitures imposed by any Act of Parliament made or which shall hereafter be made, relating to the Island of *Newfoundland* or the Fishery thereof, may be recovered in a summary Way in the said Supreme Court or in any Surrogate Court; and every Penalty and Forfeiture of the Sum of Ten Pounds or under may be recovered in the Court of Session or before any One or more Justices of the Peace; and all Fines, Penalties, and Forfeitures imposed, paid, or levied in any Surrogate Court, or in any Court of Session, or before any One or more Justices of the Peace, shall be forthwith estreated and paid into the said Supreme Court by the Surrogate, or by the Justice or Justices of the Peace respectively before whom they were recovered; and it shall be lawful for the said Supreme Court to issue Process for better compelling such Justices and Surrogates to bring to account all Monies which ought to be so paid and accounted for as aforesaid; and all Money arising from such Fees, Fines, Penalties, and Forfeitures shall be applied and appropriated towards defraying the Expende of carrying this Act into Execution.

XVII. And be it further enacted, That if any Action or Suit shall be brought or commenced against any Person for any Thing done in pursuance of this Act, such Action or Suit shall be commenced within Six Months next after the Matter or

Thing done; and the Defendant in such Suit or Action may plead the General Issue, and give this Act and the Special Matter in Evidence at any Trial to be had thereupon; and if a Verdict shall pass for the Defendant or Defendants, or the Plaintiff shall be nonsuited or discontinue his Action after the Defendant has appeared, or if Judgement shall be given upon any Verdict or Demurrer against the Plaintiff, the Defendant shall recover Treble Costs, and have the like Remedy for the same as Defendants have in other Cases by Law.

No. 32.

51 GEO. III. CAP. 45, 1811 (IMPERIAL).

[31 May, 1811.]

An Act for taking away the public Use of Certain Ships Rooms in the Town of Saint John, in the Island of Newfoundland; and for Instituting Surrogate Courts on the Coast of Labrador, and in certain Islands adjacent thereto (31 May, 1811).

Whereas certain Spaces of Ground in the Town of *Saint John's* in the Island of *Newfoundland*, called *Ships Rooms*, are liable, according to the ancient Custom there used, and conformably with the Provisions of an Act passed in the Tenth and eleventh Years of his Majesty King *William* the Third, intituled, *An Act to encourage the Trade to Newfoundland*, to be claimed by the Masters of fishing ships for the Use of their Ships and Boats during the current fishing Season, which said Spaces of Ground have not of late been employed for the Purpose of the Fishery: and whereas it would be more beneficial to the general Interests of the Trade and Fishery, if the said Spaces of Ground were wholly exempted from such Claim, and were let out for building Dwelling Houses and Store Houses, and for other Uses necessary to the Trade and Fishery: And whereas it has been proved, upon the Survey of Persons resident in the Town of *St. John's*, and well skilled in the Affairs of the Fishery, that there is Land at the Western Extremity of the Harbour better suited for drying, curing, and husbanding of Fish than any of the Ships Rooms above mentioned; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That, from and after the passing of this Act, the followed Ships Rooms, situated in the Town of *Saint John's*, that is to say, the Ships Rooms No. I *Rotten Row*, or *Pye Corner* Ships Room No. II; *Dorkus's* Ships Room, No. II; *Lady's* Ships Room, No. II; *Gallows-Hill* Ships Room, No. III; *Burstheart-Hill* Ships Room, No. III; *Churchill* Ships Room, No. IV; *Hudson's* Ships Room, No. V; *Admiral's* Ships Room, No. VI; as the same are laid down, distinguished and named in a Plan of the Town and Harbour of *Saint John's* in *Newfoundland*, dated *October* One thousand eight hundred and four, and deposited in the Government House there, shall no longer be deemed and taken to be Ships Rooms and occupied during the Fishing Season as such, but it shall be lawful for the same to be granted, let, and possessed as private Property, in like Manner as any other Portions of Land in

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St. John's,
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Newfoundland may be; any Thing in the said Act or the said ancient Custom to the contrary notwithstanding.

"II. And whereas it is expedient to provide for the better Administration of Justice in such Parts of the Coast of Labrador from the River *St. John* to *Hudson's Streights*, and in the Island of *Anticosti*, and in all other smaller Islands as are re-annexed to the Government of *Newfoundland* by an Act passed in the Forty-ninth Year of His Majesty's Reign, intituled, *An Act for establishing Courts of Judicature in the Island of Newfoundland and the islands adjacent; and for re-annexing part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland*"; Be it therefore further enacted, That it shall and may be lawful for the Governor of *Newfoundland* from Time to Time to institute Surrogate Courts in the said Parts and Places, with Power and Authority to proceed in and to hear and determine Civil Suits arising within the said Ports and Places, and all other Suits and Complaints, in like manner as Surrogate Courts instituted by virtue of the said Act in the Island of *Newfoundland*

ACT 1-2 GEO. IV., CAP. 66, 1821 (IMPERIAL).

[2 July, 1821.]

An Act for regulating the Fur Trade, and establishing a Criminal and Civil Jurisdiction within certain Parts of *North America*.

[2d July 1821.]

43 G. 3, c. 138.

His Majesty may make Grants for exclusive Trade with Indians in certain Parts of North America.

"WHEREAS the Competition in the Fur Trade between the Governor and company of Adventures of *England* trading into *Hudson's Bay*, and certain Associations of Persons trading under the Name of 'The North West Company of *Montreal*,' has been found for some Years past to be productive of great Inconvenience and Loss, not only to the said Company and Associations, but to the said Trade in general, and also of great Injury to the native *Indians*, and of other Persons Subjects of His Majesty: And Whereas the Animosities and Feuds, arising from such Competition, have also for some Years past kept the Interior of *America*, in a State of continued Disturbance: And Whereas many breaches of the Peace, and Violence extending to the Loss of Lives, and considerable Destruction of Property, have continually occurred therein: And Whereas, for Remedy of such Evils, it is expedient and necessary that some more effectual Regulations should be established for the apprehending, securing and bringing to Justice all Persons committing such Offences, and that His Majesty should be empowered to regulate the Trade: And Whereas Doubts have been entertained, whether the Provisions of an Act passed in the Forty third Year of the Reign of His late Majesty King *George* the third, intituled *An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada, to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of North America adjoining to to the said Provinces*, extended to the Territories granted by Charter to the said Governor and Company; and it is expedient that such Doubts should be removed, and that the said Act should be further extended:" Be it therefore enacted by The King's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act, it shall be lawful for His Majesty, His Heirs or Successors, to make Grants or give His Royal Licence, under the Hand and Seal of One of His Majesty's Principal Secretaries of State, to any Body Corporate, or Company, or Person or Persons of or for the exclusive

For what Periods such Grants may be made.

Privilege of Trading with the *Indians* in all such Parts of *North America* as shall be specified in any such Grants or Licences respectively, not being Part of the Lands or Territories heretofore granted to the said Governor and Company of Adventurers of *England* trading to *Hudson's Bay*, and not being Part of any of His Majesty's Provinces in *North America*, or of any Lands or Territories belonging to the United States of *America*; and all such Grants and Licences shall be good, valid and effectual for the Purpose of securing to all such Bodies Corporate, or Companies, or Persons, the sole and exclusive Privilege of trading with the *Indians* in all such Parts of *North America* (except as hereinafter excepted), as shall be specified in such Grants or Licences; any thing contained in any Act or Acts of Parliament, or any Law to the contrary notwithstanding.

Reservation of Rents.

Persons to whom such Grants made, to enter into Security,

II. Provided always, and be it further enacted, That no such Grant or Licence, made or given by His Majesty, His Heirs, or Successors, of any such exclusive Privileges of trading with the *Indians* in such Parts of *North America* as aforesaid, shall be made or given for any longer Period than Twenty one Years; and no Rent shall be required or demanded for or in respect of any such Grant or Licence, or any Privileges given thereby under the Provisions of this Act, for the first Period of Twenty one Years; and from and after the Expiration of such first Period of Twenty one Years; it shall be lawful for His Majesty, His Heirs or Successors, to reserve such Rents in any future Grants or Licences to be made to the same or any other Parties, as shall be deemed just and reasonable, with Security for the Payment thereof; and such Rents shall be deemed Part of the Land Revenues of His Majesty, His Heirs and Successors, and be applied and accounted for as the other Land Revenues of His Majesty, His Heirs and Successors, shall, at the time of Payment of any such Rent being made, be applied and accounted for.

for the Purposes herein mentioned.

III. And be it further enacted, That from and after the passing of this Act, the Governor and Company of Adventures trading to *Hudson's Bay*, and every Body Corporate and Company and Person to whom every such Grant or Licence shall be made or given as aforesaid, shall respectively keep accurate Registers of all Persons in their Employ in any Parts of *North America*, and shall, once in each Year, return to His Majesty's Secretaries of State accurate Registers of all Persons in their Employ in any Parts of *North America*, and shall, once in each Year, return to His Majesty's Secretaries of State accurate Duplicates of such Registers, and shall also enter into such Security as shall be required by His Majesty for the due Execution of all Processes criminal and civil, as well within the Territories included in any such Grant, as within those granted by Charter to the Governor and Company of

Adventurers trading to *Hudson's Bay*, and for the producing or delivering into safe Custody, for Purpose of Trial, of all Persons in their Employ or acting under their Authority, who shall be charged with any Criminal Offence and also for the due and faithful Observance of all such Rules, Regulations and Stipulations as shall be contained in any such Grant or Licence, either for diminishing or preventing the Sale or Distribution of Spirituous Liquors to the *Indians*, or for promoting their moral and religious Improvement, or

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Such Grants not to interfere with Trade of United States Westward of the Stony Mountains.

for any other Object which His Majesty may deem necessary for the Remedy or Prevention of the other Evils which have hitherto been found to exist.

Proviso.

43 G. 3. 138, extended to Territories granted to Hudson's Bay Company.

"IV. And Whereas by a Convention entered into between His Majesty and the United States of *America* it was stipulated and agreed, that any Country on the North West Coast of *America*, to the Westward of the *Stony Mountains*, should be free and open to the Citizens and Subjects of the Two Powers, for the Term of Ten Years from the Date of the Signature of that Convention;" Be it therefore enacted, That nothing in this Act contained shall be deemed or construed to authorize any Body Corporate, Company or Person, to whom His Majesty may have, under the Provisions of this Act, made a Grant or given a Licence of exclusive Trade with the *Indians* in such Parts of *North America* as aforesaid, to claim or exercise any such exclusive Trade within the Limits specified in the said Article, to the Prejudice or Exclusion of any Citizens of the said United States of *America*, who may be engaged in the said Trade: Provided always, that no *British* Subject shall trade with the *Indians* within such Limits, without such Grant or Licence as is by this Act required.

Courts of Judicature established in Upper Canada to take Cognizance of Causes in Indian Territories.

V. And be it declared and enacted, That the said Act passed in the Forty third Year of the Reign of His late Majesty, intituled *An Act for extending the Jurisdiction of the Courts of Justices in the Provinces of Lower and Upper Canada, to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of North America adjoining to the said Provinces*, and all the Clauses and Provisoes therein contained, shall be deemed and construed, and it is and are hereby respectively declared, to extend to and over, and to be in full force in and through all the Territories heretofore granted to the Company of Adventurers of *England* trading to *Hudson's Bay*; any thing in any Act or Acts of Parliament, or this Act, or in any Grant or Charter to the Company, to the contrary notwithstanding.

VI. And be it further enacted, That from and after the passing of this Act, the Courts of Judicature now existing, or which may be hereafter established in the Province of *Upper Canada*,

Actions relating to
Lands not within Upper
Canada decided
according to Law of
England.

Proceeding of Courts
issued as heretofore.

Justices of Peace
authorized by
Governor, &c. to act as
Commissioners for
executing Process, &c.

Persons residing in
Indian Territories
refusing to obey
Process.

Committed and
conveyed to Upper
Canada.

shall have the same civil Jurisdiction, Power and Authority, as well in the Cognizance of Suits, as in the issuing Process, mesne and final, and in all other Respects whatsoever, within the said *Indian Territories*, and other Parts of *America* not within the Limits of either of the Provinces of *Lower* or *Upper Canada*, or of any Civil Government of the United States, as the said Courts have or are invested with within the Limits of the said Provinces of *Lower* or *Upper Canada* respectively; and that all and every Contract, agreement, Debt, Liability and Demand whatsoever, made, entered into, incurred or arising within the said *Indian Territories* and other Parts of *America*, and all and ever Wrong and Injury to the Person or to Property real or personal, committed or done within the same, shall be and be deemed to be of the same Nature, and be cognizable by the same Court, Magistrates or Justices of the Peace, and be tried in the same Manner and subject to the same Consequences, in all

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Respects, as if the same had been made, entered into, incurred, arisen, committed or done within the said Province of *Upper Canada*; any thing in any Act or Acts of Parliament, or Grant or Charter, to the contrary notwithstanding: Provided always, that all such Suits and Actions relating to Lands, or to any Claims in respect of Land, not being within the Province of *Upper Canada*, shall be decided according to the Laws of that Part of the United Kingdom called *England*, and shall not be subject to or affected by any Local Acts, Statutes or Laws of the Legislature of *Upper Canada*.

VII. And be it further enacted, That all Process, Writs, Orders, Judgments, Decrees and Acts whatsoever, to be issued, made, delivered, given and done by or under the Authority of the said Courts, or either of them, shall have the same Force, Authority and Effect within the said *Indian Territory* and other Parts of *America* as aforesaid, as the same now have within the said Province of *Upper Canada*.

VIII. And be it further enacted, That it shall be lawful for the Governor or Lieutenant Governor or Person administering the Government for the time being of *Lower Canada*, by Commission under his Hand and Seal, to authorize all Persons who shall be appointed Justices of the Peace under the Provisions of this Act, within the said *Indian Territories*, or other Parts of *America* as aforesaid, or any other Person who shall be specially named in any such Commission, to act as a Commissioner within the same, for the Purpose of executing, enforcing and carrying into Effect all such Process, Writs, Orders, Judgments, Decrees and Acts, which shall be issued, made, delivered, given or done by the said Courts of Judicature, and which may require to be enforced and executed within the said *Indian Territories* or such other Parts of *North*

Costs.

Proviso for
Recognizance.

Such Recognizance may
be assigned,

America as aforesaid; and in case any Person or Persons whatsoever residing or being within the said *Indian Territories*, or such other Parts of *America* as aforesaid, shall refuse to obey or perform any such Process, Writ, Order, Judgment, Decree or Act of the said Courts, or shall resist or oppose the Execution thereof, it shall and may be lawful for the said Justices of the Peace or Commissioners, and they or any of them are and is hereby required, on the same being proved before him, by the Oath or Affidavit of One credible Witness, to commit the said Person or Persons so offending as aforesaid to Custody, in order to his or their being conveyed to *Upper Canada*; and that it shall be lawful for any such Justice of the Peace or Commissioner, or any Person or Persons acting under his Authority, to convey or cause to be conveyed such Person or Persons so offending as aforesaid to *Upper Canada*, in pursuance of such Process, Writ, Order, Decree, Judgment or Act, and such Person and Persons shall be committed to Gaol by the said Court, on his, her or their being so brought into the said Province of *Upper Canada*, by which such Process, Writ, Order, Decree, Judgment or Act was issued, made, delivered, given or done, until a final Judgment or Decree shall have been pronounced in such Suit, and shall have been duly performed, and all Costs paid, in case such Person or Persons shall be a Party or Parties in such Suit, or until the Trial of such Suit shall have been concluded, in case such Person

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or Persons shall be a Witness or Witnesses therein: Provided always, that if any Person or Persons so apprehended as aforesaid shall enter into a Bond Recognizance to any such Justice of the Peace or Commissioner, with Two sufficient Sureties, to the Satisfaction of such Justice of the Peace or Commissioner, or the said Courts, conditioned to obey and perform such Process, Writ Order, Judgment, Decree or Act as aforesaid, then and in such case it all and may be lawful for the said Justice of the Peace or Commissioner, or the said Courts, to discharge such Person or Persons out of Custody.

notwithstanding Charter
to Hudson's Bay
Company.

Appointment by His
Majesty of Justices of
Peace to determine
Causes.

IX. And be it further enacted, That, in case such Person or Persons shall not perform and fulfil the Condition or Conditions of such Recognizance, then and in such case it shall and may be lawful for any such Justice or Commissioner, and he is hereby required, to assign such Recognizance to the Plaintiff or Plaintiffs, in any Suit in which such Process, Writ, Order, Decree, Judgment or Act shall have been issued, made, delivered, given or done, who may maintain an Action in the said Courts in his own Name against the said Sureties, and recover against such Sureties the full Amount of such Loss or

Damage as such Plaintiff shall prove to have been sustained by him, by reason of the original Cause of Action in respect of which such Process, Writ, Order, Decree, Judgment or Act of the said Courts were issued, made, delivered, given or done as aforesaid, notwithstanding any thing contained in any Charter granted to the said Governor and Company of Adventurers of *England* trading to *Hudson's Bay*.

Effect of such Decree,
&c.

X. And be it further enacted, That it shall be lawful for His Majesty, if He shall deem it convenient so to do, to issue a Commission or Commissions to any Person or Persons to be and act as Justices of the Peace within such Parts of *America* as aforesaid, as well within any Territories heretofore granted to the Company of Adventurers of *England* trading to *Hudson's Bay*, as within the *Indian* Territories of such other Parts of *America* as aforesaid; and it shall be lawful for the Court in the Province of *Upper Canada*, in any case in which it shall appear expedient to have any Evidence taken by Commission, or any Facts or Issue, or any Cause or Suit ascertained, to issue a Commission to any Three or more of such Justices to take such Evidence, and return the same, or try such Issue, and for that Purpose to hold Courts, and to issue Subpoenas or other Processes to compel Attendance of Plaintiffs, Defendants, Jurors, Witnesses and all other Persons requisite and essential to the Execution of the several Purposes for which such Commission or Commissions had issued, and with the like Power and Authority as are vested in the Courts of the said Province of *Upper Canada*; and any Order, Verdict, Judgment or Decree that shall be made, found, declared or published by or before any Court or Courts held under and by virtue of such Commission or Commissions, shall be considered to be of as full Effect, and enforced in like Manner, as if the same had been made, found, declared or published within the Jurisdiction of the Court of the said Province; and at the Time of issuing such Commission or Commissions shall be declared the Place or Places where such Commission is to be opened, and the Courts and Proceedings thereunder

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His Majesty may issue
Commissions under
Great Seal,
empowering Justices to
hold Courts of Record
for Trial of Criminal
and Civil Offences.

Such Courts constituted
as his Majesty shall
direct. Power of Court
not to extend to Capital
Offences; nor to Civil
Actions where the
Amount in Issue
exceeds 200l.

Appeal.

Proviso for Hudson's
Bay Company.

held; and it shall be at the same time provided how and by what Means the Expences of such Commission, and the Execution thereof, shall be raised and provided for.

XI. And be it further enacted, That it shall be lawful for His Majesty, notwithstanding any thing contained in this Act, or in any Charter granted to the said Governor and Company of Adventurers of *England* trading to *Hudson's Bay*, from time to time, by any Commission under the Great Seal, to authorize and empower any such Persons so appointed Justices of the Peace, as aforesaid, to sit and hold Courts of Record for the Trial of Criminal Offences and Misdemeanors, and also of Civil Causes; and it shall be lawful for His Majesty to order, direct and authorize the Appointment of proper Officers to act in aid of such Courts and Justices within the Jurisdiction assigned to such Courts and Justices in any such Commission; any thing in this Act, or in any Charter of the Governor and Company of Merchant Adventurers of England trading to *Hudson's Bay*, to the contrary notwithstanding.

XII. Provided always, and be it further enacted, That such Courts shall be constituted, as to the Number of Justices to preside therein, and as to such Places within the said Territories of the said Company, or any *Indian* Territories, or other Parts of *North America* as aforesaid, and the Times and Manner of holding the same, as His Majesty shall from time to time order and direct; but shall not try any Offender upon any Charge or Indictment for any Felony made the Subject of Capital Punishment, or for any Offence or passing Sentence affecting the Life of any Offender, or adjudge or cause any Offender to suffer Capital Punishment or Transportation, or take Cognizance of or try any Civil Action or Suit, in which the Cause of such Suit or Action shall exceed in Value the amount or Sum of Two hundred Pounds; and in every case of any Offence subjecting the Person committing the same to Capital Punishment or Transportation, the Court or any Judge of any such Court, or any Justice or Justices of the Peace, before whom any such Offender shall be brought, shall commit such Offender to safe Custody, and cause such Offender to be sent in such Custody for Trial in the Court of the Province of *Upper Canada*.

XIII. And be it further enacted, That all Judgments given in any Civil Suit shall be subject to Appeal to His Majesty in Council, in like manner as in other cases in His Majesty's Province of *Upper Canada*, and also in any case in which the Right or Title to any Land shall be in question.

XIV. And be it further enacted, That nothing in this Act contained shall be taken or construed to affect any Right, Privilege, Authority or Jurisdiction which the Governor and

Company of Adventurers trading to *Hudson's Bay* are by Law entitled to claim and exercise under their Charter; but that all such Rights, Privileges, Authorities and Jurisdictions shall remain in as full force, virtue and effect, as if this Act had never been made; any thing in this Act to the contrary notwithstanding.

No. 34.

3 Geo. 4. c. 119.

THE BRITISH NORTH AMERICA (SEIGNIORIAL RIGHTS) ACT 1825 (IMPERIAL) ACT, 6 GEORGE IV., C. 59, 1825 (IMPERIAL.)

An Act to provide for the Extinction of Feudal and Seigniorial Rights and Burthens on Lands held à Titre de Fief and à Titre de Cens, in the Province of Lower Canada; and for the gradual Conversion of those Tenures into the Tenure of Free and Common Soccage; and for other Purposes relating to the said Province.

Persons holding fiefs or seigniories in Lower Canada, in which lands have been granted à titre de fief, &c. may, on application to his Majesty, and on surrender of the lands not so granted, obtain a commutation and release of the feudal burthens due to his Majesty in respect of such fief or seigniory;

WHEREAS in and by an Act passed in the third year of his Majesty's reign, intituled "An Act to regulate the trade of the provinces of Lower and Upper Canada, and for other purposes relating to the said provinces," certain provisions were made for a charge of the tenure of lands held in fief and seigniority, and also for the change of the tenure of lands held at cens et rentes, in the censive of his Majesty, in the provinces of Lower and Upper Canada: And whereas the said provisions, in so far as they relate to the change of tenure of lands in fief and seigniority, cannot, in the said province of Lower Canada, recieve execution where such lands or part thereof have, under grants of the seigniors, become the property of persons who hold the same à titre de fief, in arriere fief, or à titre de cens; and further provision in this behalf is necessary: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and authority of the same, that whenever any person or persons, holding of his Majesty as proprietor or proprietors any fief or siegniory in the said province of Lower Canada, and having legally the power of alienating the same, in which fief or seigniority lands have been granted and are held à titre de fief, in arriere fief, or à titre de cens, shall by petition to the King, through the governor, lieutenant governor, or person administering the governor of the said province, apply for a communication of and release from the droit de quint, the droit de relief, or other feudal burthens due to his Majesty on such fief or seigniority, and shall surrender into the hands of his Majesty, his heirs or successors, all such parts and parcels of such fief or seigniority as shall remain and be in his possession ungranted, and shall not be held as aforesaid à titre de fief, in arriere fief, or à titre de cens, it shall and may be lawful for his Majesty, or for such governor, lieutenant governor, or person administering the government as afroresaid, in pursuance of his Majesty's instructions transmitted through one of his principal secretaries of state, by and with the advice of the executive council of the said province, to commute the droit de quint, the

and the surrendered lands may be regranted to the proprietor in free and common soccage.

Feudal and seigniorial rights of the proprietor over the parts of such seigniority granted by him à titre de fief, &c., not to be affected until a commutation thereof shall be obtained as hereinafter provided.

Persons holding lands in fief, and obtaining a commutation as aforesaid, shall be bound, if required, to grant the like commutation to those holding lands under them à titre de fief, &c.;

droit de relief, and all other feudal rights and burthens due to his Majesty upon or in respect of such fief or seigniority, for such sum of money or consideration, and upon such terms and conditions, as to his Majesty, or to such governor, lieutenant governor, or person administering the government as aforesaid, in pursuance of such instructions, and by and with such advice as aforesaid, shall appear meet and expedient; and thereupon to release the person or persons so applying, his, her, and their heirs and assigns, and all and every the lands comprized in such fief or seigniority, from the said droit de quint, droit de relief, and all other feudal burthens due or to grow due thereupon to his Majesty, his heirs or successors, of whatsoever nature or kind, for ever; and to cause a fresh grant to be made to the person or persons so applying, of all such parts and parcels of such fief or seigniority as shall as aforesaid remain and be in his, her, or their possession ungranted, and which shall not be held à titre de fief, in arriere fief as aforesaid, or à titre de cens, to be thenceforward holden in free and common soccage, in like manner as lands are now holden in free and common soccage in that part of Great Britain called England, without its being necessary for the validity of such grant that any allotment or appropriation of lands for the support and maintenance of a protestant clergy should be therein made; any law or statute to the contrary thereof notwithstanding.

II. Provided always, and be it further enacted, that where such fresh grant as aforesaid shall be made, nothing in this Act contained shall extend or be construed to extend to take away, diminish, alter, or in any manner or way affect the feudal, seigniorial, or other rights of the seignior or person in whose favour such grant shall be made, upon and in respect of all and every the lands held of him à titre de cens or à titre de fief, in arriere fief as aforesaid, making part of his, her, or their fief or seigniority, on which a commutation of the droit de quint or droit de relief shall have been obtained, as aforesaid; but that all and every such feudal, seigniorial, and other rights shall continue and remain in full force upon and in respect of such lands so held à titre de fief, in arriere fief as aforesaid, or à titre de cens, and the proprietors and holders of the same, as if such commutation or grant had not been made, until a commutation, release, and extinguishment thereof shall have been obtained in the manner herein-after mentioned.

III. And be it further enacted, that in all cases where any seignior or seigniors, or person or persons, holding lands à titre de fief in the said province of Lower Canada shall, by reason or means of a commutation with his Majesty, or of a surrender of his, her, or their fief or seigniority, or any part thereof to his Majesty, or by reason or means of a commutation with his or their immediate superior lord or seignior, or otherwise

howsoever, have obtained or shall or may hereafter obtain, for himself, herself, or themselves, his, her, or their heirs or assigns, from his Majesty, or from the governor, lieutenant governor, or person administering the government of the said province of Lower Canada, or from his, her, or their immediate superior lord or seignior, a release from and extinguishment of the droit de quint, or droit

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for such price or indemnity as shall be fixed by experts.

Seigniors or others refusing to grant such commutation may be impleaded in a court of law, and on payment of the commutation money into court, the court may allow the benefit of the commutation to the party so paying the same.

de relief, due and payable by him, her, or them, his, her, or their heirs and assigns, for or in respect of lands so held à titre de fief, such seignior or seigniors, person or persons aforesaid, his, her, and their heirs and assigns, shall be held and bound, when thereunto required by any of his, her, or their censitaires, or the persons who now hold or hereafter may hold the said lands, or any of them, or any part thereof, à titre de fief, in arriere fief as aforesaid, à titre de cens, to consent to, grant, and allow to and in favour of such censitaire or other person or persons as aforesaid requiring the same, a commutation, release, and extinguishment of and from the droit de quint and droit de relief, or droit de lods et ventes, as the case may be, and all other feudal and seigniorial rights and burthens to which such censitaire or other person or persons, his or their heirs and assigns, and his and their lands so held by him or them, may be subject or liable, to such seignior or seigniors, person or persons aforesaid, his, her, or their heirs and assigns, for a just and reasonable price, indemnity, or consideration, to be paid for the same, which price, indemnity, or consideration, in case the parties concerned therein shall differ respecting the same, shall be ascertained and fixed by experts, to be in that behalf nominated and appointed, according to the due course of law in the said province of Lower Canada, regard being had to the value of the said lands so held à titre de cens or à titre de fief, in arriere fief as aforesaid.

IV. And be it further enacted, that if any such seignior or seigniors, person or persons, holding lands à titre de fief, who shall so as aforesaid have obtained a release of and from the droit de quint, or droit de relief, shall, when there unto required by any person or persons holding any of the said lands à titre de fief, in arriere fief, or by any censitaire or censitaires holding any of the said lands à titre de cens as aforesaid, upon the payment or lawful tender of the price, indemnity, or consideration in that behalf herein-before provided, refuse or neglect to consent to grant and allow to and in favour of such person or persons holding such lands à titre de fief, in arriere fief as aforesaid, or of such censitaire or censitaires, a commutation, release, and extinguishment of the droit de quint and droit de relief, or of the droit de cens and droit de lods et ventes, as the case may be, and of all other feudal and seigniorial rights and burthens as aforesaid, or shall refuse or neglect to join in the nomination of experts, to ascertain and

fix the price, indemnity, or consideration to be paid for such commutation, release, and extinguishment, or shall refuse or neglect to make and execute, to and in favour of such person or persons holding such lands à titre de fief, in arriere fief as aforesaid, or of such censitaire or censitaires, as the case may be, an instrument in writing, before two notaries, or a notary and two witnesses, containing such commutation, release, and extinguishment as aforesaid, it shall and may be lawful to and for such person or persons holding such lands à titre de fief, in arriere fief as aforesaid, or for such censitaire or censitaires, as the case may be, to implead such seignior or seigniors, person or persons as aforesaid, in any of his Majesty's courts of competent jurisdiction in the said province of Lower Canada, for the purpose of compelling him or them to accept the price, indem-

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When such commutation has been voluntarily agreed upon, or awarded by a court of law, all feudal rights and burthens upon the lands for which the same shall be granted shall cease;

nity, or consideration herein-before provided, to be ascertained and fixed as aforesaid, for the commutation, release, and extinguishment of the droit de quint and droit de relief, or droit de cens and droit de lods et ventes, as the case may be, and of all other feudal and seigniorial rights and burthens required and demanded by such censitaire or censitaires, or other person or persons as aforesaid, and to obtain the full and entire benefit of such commutation, release, extinguishment; and upon the payment or lawful tender and deposit of the price, indemnity, or consideration payable by such person or persons as aforesaid, or such censitaire or censitaires, in the hands of the prothonotary or clerk of such court, for the use of the said seignior or seigniors, person or persons, so impleaded as aforesaid, it shall and may be lawful for, the said court, and the said court is hereby required, by their judgment in that behalf, to award and adjudge to such person or persons as aforesaid, or to such censitaire or censitaires, the benefit of the said commutation, release, and extinguishment, for and in respect of the lands for which such payment or tender and deposit shall have been made, as fully and effectually, to all intents and purposes whatsoever, as if such commutation, release, and extinguishment had been voluntarily consented to be granted and allowed by the said seignior or seigniors, person or persons, so impleaded as aforesaid.

V. And be it further enacted, that in all cases where such commutation, release, and extinguishment as aforesaid shall have been voluntarily agreed upon by and between any seignior or seigniors, person or persons, holding lands à titre de fief, who shall have obtained a release of the droit de quint, or droit de relief, as aforesaid, and his or their censitaire or censitaires, or other person or persons as of aforesaid, in and by any written agreement or instrument in writing, executed before two notaries, or a notary and two witnesses, and also in all cases where such commutation, release, and extinguishment

and the tenure shall be converted to free and common soccage.

Nothing herein contained to extend to discharge arrears of any rights due.

Persons applying for such commutation to give public notice, calling on mortgagees and others having claims on such lands to signify their assent or dissent.

shall have been declared, awarded, and adjudged by any court of competent jurisdiction, by their judgment in that behalf as aforesaid, in favour of any person or persons as aforesaid, or any censitaire or censitaires, against his, her, or their seignior or seigniors impleaded as aforesaid, all and every droit de quint and droit de relief, droit de cens, and droit de lods et ventes, and mutation fine of every description, droit de retrait, censuel and conventionel, droit de banalite, droit de corvéé, and every feudal and seigniorial right and burthen whatsoever, upon or in respect of the lands for which such commutation, release, and extinguishment shall have been agreed upon, declared, awarded, or adjudged as aforesaid, shall, from and after the making of such agreement or instrument in writing, or the rendering of such judgment as aforesaid, be absolutely and for ever taken away, extinguished, and discharged, as well in respect of such censitaire and censitaires, or other person or persons as aforesaid, his, her, and their heirs and assigns, as in respect of the said lands; and the tenure of the said lands shall thenceforward be converted into free and common soccage and the said lands be held, and be taken and considered to be held, in free and common soccage, in like manner as lands are holden in free and common soccage in that part of Great Britain called

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England; any law, usage, or custom to the contrary in anywise notwithstanding.

VI. Provided always, and be it further enacted, that nothing herein-before contained shall extend or be construed to extend to discharge any arrears of cens et rentes, or any lods et ventes, or other feudal or seigniorial rights or dues, that may have accrued before such commutation as aforesaid shall have been required by any censitaire or censitaires, or in anywise to destroy, alter, affect the recourse which the seignior or seigniors to whom such arrears, lods et ventes, or rights shall be due might lawfully have had or taken for the recovery of the same, if such commutation had not been made.

VII. Provided nevertheless, and be it further enacted, that in all cases here such application for a commutation, release, and extinguishment of feudal or seigniorial rights, dues, or burthens shall be made in respect of lands held either immediately of the Crown, or as an arriere fief as aforesaid, public notice thereof shall be given by the person so applying, for the space of three calendar months, in the Quebec Gazette, published by authority, and in two other newspapers, published respectively in the cities of Quebec and Montreal, thereby calling on all persons who may have or claim to have any present or contingent right, interest, security, charge, or incumbrance, either by mortgage (hypothèque) general or special, express or implied, or under any other title, or by any

Commutation not to be allowed till assent obtained, or claims of dissentients discharged or disallowed.

other means whatsoever, in or upon the lands in respect of which such commutation, release, and extinguishment of feudal and seigniorial rights, dues, or burthens shall be so applied for, to signify in writing, within three calendar months from the date of such notification, their assent to or dissent from the surrender, re-grant, and change of tenure of such lands, and the commutation, release, and extinguishment of the feudal and seigniorial dues, rights, and burthens so applied for; which consent or dissent in writing shall, in case of an application made by petition to his Majesty, as herein-before mentioned, be lodged within the said last-mentioned period of three calendar months (and access shall be by all persons freely had thereto) in the office of the executive council of the said province; and in the case where such commutation, release, and extinguishment of feudal and seigniorial dues, rights, and burthens shall be required of a seignior, for and in respect of lands holden under him, à titre de fief, in arriere fief, such consent or dissent in writing shall be lodged within the said time (and access shall be by all persons freely had thereto) in the office of the prothonotary or clerk of the superior court of original jurisdiction holding civil pleas in the district where such lands shall be situate; and provided further, that no such surrender, re-grant, change of tenure, or commutation, release, and extinguishment of feudal and seigniorial dues, rights, and burthens, shall be good, valid, or effectual to any purpose whatsoever, unless such notification shall have been previously made, and the consent of all such persons having, holding, or claiming any right or interest, security, charge, or incumbrance in or upon the said lands, shall have been signified and deposited as aforesaid, or until the person applying for such commutation, release, or extinguishment of feudal or seigniorial dues, rights,

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49 Geo. 3. c. 27.

5 Geo. 4. c. 67.

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or burthens, shall show, to the satisfaction of his Majesty's executive council, or of his immediate superior lord or seignior, as the case may be, that no such claim hath been made or signified, or that having been made, it hath been satisfied or discharged, or been declared by a judgment of a competent court of law to be unfounded.

VIII. And whereas doubts have arisen whether lands granted in the said province of Lower Canada by his Majesty, or by any of his royal predecessors, to be holden in free and common soccage, shall be held by the owners thereof, or will subsequently pass to other persons, according to the rules of descent and alienation in force in England, or according to such rules as were established by the ancient laws of the said province for the descent and alienation of land situate therein: Be it therefore declared and enacted, that all lands within the said province of Lower Canada, which have heretofore been granted by his Majesty, or by any of his royal predecessors, to any person or persons, their heirs and assigns, to be holden in free and common soccage, or which shall or may hereafter be so granted by his Majesty, his heirs and successors, to any person or persons, their heirs and assigns, to be holden in free and common soccage, may and shall be by such grantees, their heirs and assigns, held, granted, bargained, sold, aliened, conveyed and disposed of, and may and shall pass by descent, in such manner and form, and upon and under such rules and restrictions, as are by the law of England established and in force: in reference to the grant, bargain, sale, alienation, conveyance, disposal, descent of lands holden by the like tenure therein situate, or to the dower or other rights of married women in such lands, and not otherwise, any law, custom, or usage to the contrary in anywise notwithstanding: Provided nevertheless, that nothing herein contained shall extend to prevent his Majesty, with the advice and consent of the legislative council and assembly of the province of Lower Canada, from making and enacting any such laws or statutes as may be necessary for the better adapting the before-mentioned rules of the law of England, or any of them, to the local circumstances and condition of the said province of Lower Canada, and the inhabitants thereof.

IX. And whereas under and by virtue of a certain Act passed in the forty-ninth year of the reign of his late Majesty King George the Third, intituled "An Act for establishing courts of judicature in the island of Newfoundland, and in the islands adjacent; and for re-annexing part of Labrador, and the islands lying on the said coast, to the government of Newfoundland"; and of the Act* passed in the fifth year of the reign of his present Majesty, intituled "An Act for the better administration of justice in Newfoundland, and for other purposes," the coast of Labrador, from the river Saint John to Hudson's Streights,

and the island of Anticosti, and all the islands adjacent to the said coast, except the islands of Madelaine, are annexed to and form parts of the said coast of Labrador should be re-annexed to and form part of the province of Lower Canada: Be it therefore enacted, that so much of the said coast as lies to the westward of a line to be drawn due north and south from

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the bay or harbour of Ance Sablon, inclusive, as far as the fifty-second degree north latitude, with the island of Anticosti, and all other islands adjacent such part as last aforesaid of the coast of Labrador, shall be and the same are hereby re-annexed to and made a part of the said province of Lower Canada, and shall henceforward be subject to the laws of the said province, and to none other; and so much of the said recited Acts passed in the forty-ninth year of the reign of His late Majesty King George the Third, and in the fifth year of the reign of His present Majesty, as relates to such part of the Coast of Labrador as last aforesaid, and the said Island of Anticosti, and ther adjacent islands, shall be and the same is hereby repealed.

Court of escheats may be constituted in the said province to try forfeitures of uncultivated lands liable to escheat to the Crown.

X. And whereas it is necessary to enable his Majesty more easily to resume from time to time such uncultivated lands within the said province, holden in free and common soccage, as now are or hereafter may be liable to escheat and become forfeited to his Majesty, by reason of the non-performance of the conditions of settlement and cultivation or other conditions mentioned and contained in the letters patent or grants thereof heretofore made, or which shall hereafter be made by his Majesty, either in virtue of this Act or otherwise: Be it enacted, that it shall and may be lawful for the governor, lieutenant governor, or person administering the government of the said province, with the advice of the executive council thereof, to constitute and appoint, by a commission under the great seal of the said province, one or more person or persons to be a commissioner or commissioners of escheats and forfeitures of land within the said province; which said commissioner and commissioners is and are hereby authorized and empowered, from time to time, on information being made and filed before him or them by the attorney general or solicitor general of the said province, or other person appointed for that purpose on behalf of his Majesty, his heirs or successors, concerning the performance or non-performance of the conditions of any grants or letters patent by which any such land as aforesaid shall at any time have been held, to inquire, on the part and behalf of his Majesty, by the oaths of twelve good and lawful men, to be duly summoned for that purpose by the sheriff, upon a precept to be issued and directed to him from the office

Procedure of court.

Inquests to be returned.

of the secretary of the province, whether the lands mentioned in the said information are or shall be liable to escheat and be forfeited to his Majesty, by reason of the non-performance of any of the conditions of the respective grants or letters patent thereof; and the said commissioner or commissioners shall proceed in the cognizance of the matters aforesaid, as nearly as circumstances will admit, according to the rules, course, and practice of the law of England in the like cases, and shall have power and authority to summon witnesses to attend and give evidence before the said inquest; and the testimony, on oath, of one or more competent witness or witnesses, either before the said inquest, or taken in writing before a person or persons to be appointed for that purpose by the said commissioner or commissioners, and returned and exhibited before the said inquest, shall be good and sufficient evidence of the matters alleged in such information; and the said commissioner or commissioners shall duly return the inquisitions which he or

Forfeited lands to re-vest in his Majesty.

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No new grant of escheated lands to be made for one year.

they shall from time to time take by virtue of this Act, under his or their seals, and the seals of those by whose oaths he or they shall have taken the same, into the office of the secretary of the province, within thirty days after the taking thereof, and also within the same time return a transcript thereof, and of the whole proceedings relating to the same, into the supreme court of original jurisdiction holding civil pleas in the district in which the lands and premises comprised in the information shall be situate; and thereupon such lands and premises as are thereby found to be forfeited to his Majesty for nonperformance of any of the conditions on which the same shall have been granted shall be and they are hereby declared to be re-vested in his Majesty, his heirs and successors, any former grant or letters patent thereof notwithstanding: Provided always, that no new grant of such lands shall be made for the space of one year from the date of such inquisition, except to the person or persons holding or claiming the same under the former letters patent thereof, or by a lawful title derived under the same.

Notice of inquests to be given.

Parties interested may traverse inquests.

XI. And be it further enacted, that the clerk of the said court of escheats and forfeitures, to be appointed in like manner as the said commissioner or commissioners, shall, within fourteen days after the filing of such information, insert in the Quebec Gazette, published by authority, a notice signed by him, and shall, as soon thereafter as may be, cause the same to be posted upon a public place as near to the lands mentioned in the said information as circumstances will admit, thereby notifying to all persons interested in such lands that such information has been filed for the purposes aforesaid, and of the time and place of holding an inquest of office before the said commissioner or commissioners, concerning the matters therein alleged, which time shall not exceed four or be less than two calendar months

31 Geo. 3 c. 31.

from the publishing of such notice; and such notice, being so published, and proof thereof made to the satisfaction of the said commissioner or commissioners, shall be instead of all other notice, process, writ, summons, or other proceeding whatever, for the notification and appearance of the person or persons interested in such lands, and shall conclude all such persons for ever; provided, that it shall be lawful for all persons interested in or entitled to such lands as are comprised in any office or inquisition so made and returned as aforesaid to traverse the same in the court into which it shall have been returned, within three calendar months from the date thereof; and the notice herein-before required, and the inquisition so to be taken in pursuance thereof, shall be deemed sufficient and conclusive notice to the traverser, and all others concerned in such traverse; and such court shall thereupon hear, try, and determine the said traverse, as nearly as circumstances will admit, according to the rules, course, and practice of the law of England in the like cases, and the judgment of the said court thereon shall be final.

XII. And whereas divers persons within the said province of Lower Canada hold or claim by occupancy, lawful prescription, or transfer, or by doubtful titles, divers of the lands which, in pursuance of the Act of Parliament made in the thirty-first year of the reign of his said late Majesty King George

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Certain parts of the clergy reserves in the said province may be surrendered to his Majesty in exchange for other lands; and the surrendered lands may be re-granted to other persons to confirm their title or may be used for public works, or to complete the settlement of any wastelands.

the Third, have been appropriated within the said province of Lower Canada for the maintenance of a protestant clergy: And whereas divers parts of the lands so appropriated as aforesaid for the support of a protestant clergy are from time to time required as the site of public buildings and other works carried on at the public expense within the said province: And whereas divers parts of such appropriated lands as aforesaid, which have not been brought into cultivation by or for the benefit of the protestant clergy within the said province, are sometimes required to enable his Majesty to complete the settlement of other waste lands in the immediate vicinity thereof; but by reason of the said land being so appropriated as aforesaid, it is impossible, except by the consent of Parliament, to quiet the possession of such persons so claiming the same by such titles as aforesaid, or to obtain a surrender and conveyance, or to effect an exchange, of such parts thereof as may be so required as aforesaid for the public service, or for the completion of any such settlements as aforesaid: Be it therefore enacted, that whenever and so often as it shall appear to the governor, lieutenant governor, or other person administering the

government of the said province that the surrender and cession of any part of the lands so appropriated as aforesaid for the benefit of a protestant clergy in the said province is necessary for quieting the titles of any of his Majesty's subjects to lands held or claimed by them by occupancy, lawful prescription, transfer, or by doubtful titles as aforesaid, or is necessary; or would be convenient for the carrying on of any public buildings or works, or for the more effectual settlement of any district or tract of land within the said province, or otherwise for his Majesty's service, or for the benefit of the said province, or of his Majesty's subjects therein resident, then, and in any or either of the cases aforesaid, it shall and may be lawful for the bishop of Quebec for the time being, on behalf of the said protestant clergy, in compliance with any requisition in writing to him for that purpose made by such governor, lieutenant governor, or other person administering the government of the said province, and he is hereby required, by a deed under his hand and seal, duly attested by two or more credible witnesses, to surrender, yield up, and convey to his Majesty, his heirs and successors, the lands comprized and described in any such requisition as aforesaid, in exchange for other lands situate in the said province of equal extent and value, to be by his Majesty appropriated and set apart for the support and maintenance of protestant clergy therein; and which deed, so executed by the said bishop of Quebec for the time being, shall be valid and effectual in law, to vest in his Majesty, his heirs and successors, all the lands therein included and comprized; and such lands shall and may, by his Majesty, his heirs and successors, be re-granted and re-conveyed to any other person or persons, for quieting their possession and titles, or otherwise, as may from time to time be expedient or necessary, without any further appropriation of land being thereupon made for the benefit of a protestant clergy.

* Printed in Part VIII. E, No. 21.

[23 July, 1840.]

**EXTRACT FROM
THE BRITISH NORTH AMERICA ACT 1840, 3-4 VICT.
C. 35 (IMPERIAL). (THE ACT OF UNION.)**

An Act to re-unite the Provinces of Upper and Lower Canada,
and for the Government of Canada.

*Page 214
sponsored
by
Nina
Goudie,
St. John's,
NL*

(23d July 1840.)

"Whereas it is necessary that Provision be made for the good Government of the Provinces of Upper Canada and Lower Canada, in such Manner, as may secure the Rights and Liberties and promote the Interests of all Classes of Her Majesty's Subjects within the same: And whereas to this end it is expedient that the said Provinces be re-united and form One Province for the Purposes of Executive Government and Legislation:" Be it therefore enacted by the Queen's most Excellent Majesty, by and with in this present parliament assembled, and by the Authority of the same, That it shall be lawful for Her Majesty, with the Advice of Her Privy Council to declare, or to authorize the Governor General of the said Two Provinces of Upper and Lower Canada to declare, by Proclamation, that the said Provinces, upon, from, and after a certain Day in such Proclamation to be appointed, which Day shall be within Fifteen Calendar Months next after the passing of this Act, shall form and be One Province, under the Name of the Province of Canada, and thenceforth the said Provinces shall constitute and be One Province, under the name aforesaid, upon, from, and after the Day so appointed as aforesaid.

* * * *

No. 36.

**COLONIAL LAWS VALIDITY ACT, 1865.
28 and 29 Victoria, Cap. 63. (Imperial.)**

[1865.]

An Act to Remove Doubts as to the Validity of Colonial Laws.

1. The term "colony" shall in this Act include all of Her Majesty's possessions abroad in which there shall exist a legislature, as herein-after defined, except the Channel Islands, the Isle of Man, and such territories as may for the time being be vested in Her Majesty under or by virtue of any Act of Parliament for the Government of India.

The terms "legislature" and "colonial legislature" shall severally signify the authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any colony.

The term "representative legislature" shall signify any colonial legislature which shall comprise a legislative body of which one half are elected by the inhabitants of the colony.

The term "colonial law" shall include laws made for any colony either by such legislature as aforesaid or by Her Majesty in Council.

An Act of Parliament, or any provision thereof, shall, in construing this Act, be said to extend to any colony when it is made applicable to such colony by the express words or necessary intendment of any Act of Parliament.

The term "governor" shall mean the officer lawfully administering the government of any colony.

The term "letters patent" shall mean letters patent under the Great Seal of the United Kingdom of Great Britain and Ireland.

2. Any colonial law which is or shall be in any respect repugnant to the provisions of any Act of Parliament extending to the colony to which such law may relate or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the colony the force and effect of such Act, shall be read subject to such Act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

3. No colonial law shall be or be deemed to have been void or inoperative on the ground of repugnancy to the law of England, unless the same shall be repugnant to the provisions of some such Act of Parliament, order, or regulation as aforesaid.

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4. No colonial law passed with the concurrence of or assented to by the governor of any colony, or to be hereafter so passed or assented to, shall be or be deemed to have been void or inoperative by reason only of any instructions with reference to such law or the subject thereof which may have been given to such governor by or on behalf of Her Majesty, by any instrument other than the letters patent or instrument authorizing such governor to concur in passing or to assent to laws for the peace, order, and good government of such colony, even though such instructions may be referred to in such letters patent or last-mentioned instrument.

5. Every colonial legislature shall have, and be deemed at all times to have had, full powers within its jurisdiction to establish courts of judicature, and to abolish and reconstitute the same, and to alter the constitution thereof, and to make provision for the administration of justice therein, and every representative legislature shall, in respect to the colony under its jurisdiction, have, and be deemed at all times to have had, full power to make laws respecting the constitution, powers and procedure of such legislature; provided that such laws shall have been passed in such manner and form as may from time to time be required by any Act of Parliament, letters patent, Order in Council, or colonial law for the time being in force in the said Colony.

6. The certificate of the clerk or other proper officer of a legislative body in any colony to the effect that the document to which it is attached is a true copy of any colonial law assented to by the Governor of such colony, or of any Bill reserved for the signification of Her Majesty's pleasure by the said governor, shall be prima facie evidence that the document so certified is a true copy of such law or Bill, and, as the case may be, that such law has been duly and properly passed and assented to, or that such Bill has been duly and properly passed and presented to the governor; and any proclamation purporting to be published by authority of the governor in any newspaper in the colony to which such law or bill shall relate, and signifying Her Majesty's disallowance of any such colonial law, or Her Majesty's assent to any such reserved Bill as aforesaid, shall be prima facie evidence of such disallowance or assent.

And whereas doubts are entertained respecting the validity of certain Acts enacted or reputed to be enacted by the legislature

of South Australia: Be it further enacted as follows:

7. All laws or reputed laws or purporting to have been enacted by the said legislature, or by persons or bodies of persons for the time being acting as such legislature which have received the assent of Her Majesty in Council, or which have received the assent of the governor of the said colony in the name and on behalf of Her Majesty, shall be and be deemed to have been valid and effectual from the date of such assent for all purposes whatever; provided that nothing herein contained shall be deemed to give effect to any law or reputed law which has been disallowed by Her Majesty, or has expired, or has been lawfully repealed, or to prevent the lawful disallowance or repeal of any law.

No. 37.

THE BRITISH NORTH AMERICA ACT, 1867, 30 VICT. C. 3 (IMPERIAL).

[29 March, 1867.]

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith.

(29th March, 1867.)

Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

Short Title.

And whereas it is expedient that Provision be made for the eventual admission into the Union of other Parts of British North America:

Construction of subsequent Provisions of Act.

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lord's Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I. — PRELIMINARY.

1. This Act may be cited as The British North America Act, 1867.

Four Provinces.

* * * * *
II. — UNION.
* * * * *

Provinces of Ontario

4. The subsequent Provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's

and Quebec.

Proclamation; and in the same Provisions, unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.

5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

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6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

* * * *

On the Completion of the Census in the Year One thousand eight hundred and seventy-one, and of each subsequent decennial Census, the Representation of the Four Provinces shall be re-adjusted by such Authority, in such Manner and from such Time, as the Parliament of Canada from Time to Time provides, subject and according to the following Rules:

Power to admit
Newfoundland, &c.,
into the Union.

(1) Quebec shall have the fixed Number of sixty-five Members.

(2) There shall be assigned to each of the other Provinces such a Number of Members as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the number Sixty-five bears to the Number of the Population of *Quebec* (so ascertained).

* * * *

XI. — ADMISSION OF OTHER COLONIES.

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies of Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they have

been enacted by the Parliament of the United Kingdom of
Great Britain and Ireland.

* * * *

No. 38.

RUPERT'S LAND ACT, 1868, 31-32 VICT., CAP. 105 (IMPERIAL).

[31 July, 1868,]

Recital of Charter of Hudson's Bay Company, 22 Car. 2.

An Act for enabling Her Majesty to accept a Surrender upon Terms of the Lands, Privileges, and Rights of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and for admitting the same into the Dominion of Canada. (31st July 1868.)

WHEREAS by certain Letters Patent granted by His late Majesty King Charles the Second in the Twenty-second Year of His Reign certain Persons therein named were incorporated by the Name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and certain Lands and Territories, Rights of Government, and other Rights, Privileges, Liberties, Franchises, Powers, and Authorities, were thereby granted or purported to be granted to the said Governor and Company in His Majesty's Dominions in North America:

Recital of Agreement of surrender.

And whereas by the British North America Act, 1867, it was (amongst other things) enacted that it should be lawful for Her Majesty, by and with the Advice of Her Majesty's most Honorable Privy Council, on Address from the Houses of Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such Terms and Conditions as are in the Address expressed and as Her Majesty thinks fit to approve, subject to the provisions of the said Act:

Short Title.

And whereas for the Purpose of carrying into effect the Provisions of the said British North America Act, 1867, and of admitting Rupert's Land into the said Dominion as aforesaid upon such Terms as Her Majesty thinks fit to approve, it is expedient that the said Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers, and Authorities, so far as the same have been lawfully granted to the said Company, should be surrendered to Her Majesty, Her Heirs and Successors, upon such Terms and Conditions as may be agreed upon by and between Her Majesty and the said Governor and Company as hereinafter mentioned:

Definition of "Rupert's Land."

Power to Her Majesty

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as

to accept Surrender
of Lands, &c., of the
Company upon
certain Terms.

follows:

1. This Act may be cited as "Rupert's Land Act, 1868."

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2. For the Purposes of his Act the Term "Rupert's Land," shall include the whole of the Lands and Territories held or claimed to be held by the said Governor and Company.

3. It shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty by any Instrument under Her Sign Manual and Signet to accept a Surrender of all or any of the Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers, and Authorities whatsoever granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, upon such Terms and Conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company; provided, however, that such Surrender shall not be accepted by Her Majesty until the Terms and Conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada shall have been approved of by Her Majesty, and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada in pursuance of the One hundred and forty-sixth Section of the British North America Act, 1867; and that the said Surrender and Acceptance thereof shall be null and void unless within a Month from the Date of Such Acceptance Her Majesty does by Order in Council under the Provisions of the said last recited Act admit Rupert's Land into the said Dominion; provided further, that no Charge shall be imposed by such Terms upon the Consolidated Fund of the United Kingdom.

Extinguishment of all
Rights of the
Company.

Power to Her Majesty
by Order in Council
to admit Rupert's
Land into and form
Part of the Dominion
of Canada.

4. Upon the Acceptance by Her Majesty of such Surrender all Rights of Government and Proprietary Rights, and all other Privileges, Liberties, Franchises, Powers, and Authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land and which shall have been so surrendered, shall be absolutely extinguished; provided that nothing herein contained shall prevent the said Governor and Company from continuing to carry on in Rupert's Land or elsewhere Trade and Commerce.

Jurisdiction of present
Courts and Officers
continued.

5. It shall be competent to Her Majesty by any such Order or Orders in Council as aforesaid, on Address from the Houses of the Parliament of Canada, to declare that Rupert's Land shall, from a Date to be therein mentioned, be admitted into and become Part of the Dominion of Canada; and thereupon it shall be lawful for the Parliament of Canada from the Date aforesaid to make, ordain, and establish with the Land and Territory so admitted as aforesaid all such Laws, Institutions, and

Ordinances, and to constitute such Courts and Officers, as may be necessary for the Peace, Order, and good Government of Her Majesty's Subjects and others therein: Provided that, until otherwise enacted by the said Parliament of Canada, all the Powers, Authorities, and Jurisdiction of the several Courts or Justice now established in Rupert's Land, and of the several Officers thereof, and of all Magistrates and Justices now acting within the said Limits, shall continue in full force and effect therein.

No. 39.

**IMPERIAL ORDER IN COUNCIL OF THE 23rd JUNE,
1870.**

(WITH SCHEDULES.)

[23rd June, 1870.]

At the Court at *Windsor*, the 23rd day of *June*, 1870.

PRESENT,

The QUEEN'S Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Lord Chamberlain.

Mr. Gladstone.

Whereas by the "*British North America Act, 1867*," it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honorable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such terms and conditions in each case as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act. And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland:

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And whereas by an Address from the Houses of the Parliament of Canada, of which Address a copy is contained in the Schedule to this Order annexed, marked A, Her Majesty was prayed, by and with the advice of Her Most Honorable Privy Council, to unite Rupert's Land and the North-Western territory with the Dominion of Canada, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government upon the terms and conditions therein stated:

And whereas by the "*Rupert's Land Act, 1868*," it was (amongst other things) enacted that it should be competent for the Governor and Company of Adventurers of England trading into Hudson's Bay (hereinafter called the Company) to surrender to Her Majesty, and for Her Majesty, by any Instrument under Her Sign Manual and Signet to accept a surrender of all of any of the lands, territories, rights, privileges, liberties, franchises, powers, and authorities whatsoever, granted or purported to be granted by certain Letters Patent therein recited to the said Company within

Rupert's Land, upon such terms and conditions as should be agreed upon by and between Her Majesty

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and the said Company; provided, however, that such surrender should not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land should be admitted into the said Dominion of Canada should have been approved of by Her Majesty and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada, in pursuance of the 146th Section of the "*British North America Act, 1867*":

And it was by the same Act further enacted that it should be competent to Her Majesty, by Order or Orders in Council, on Addresses from the Houses of the Parliament of Canada, to declare that Rupert's Land should, from a date to be therein mentioned, be admitted into and become part of the Dominion of Canada:

And whereas a second Address from both the Houses of the Parliament of Canada has been received by Her Majesty praying that Her Majesty will be pleased, under the provisions of the hereinbefore recited Acts, to unite Rupert's Land on the terms and conditions, expressed in certain Resolutions therein referred to and approved of by Her Majesty, of which said Resolutions and Address copies are contained in the Schedule to this Order annexed, marked B, and also to unite the North-Western Territory with the Dominion of Canada as prayed for by and on the terms and conditions contained in the hereinbefore first recited Address, and also approved of by Her Majesty:

And whereas a draft surrender has been submitted to the Governor-General of Canada containing stipulations to the following effect, viz.: —

1. The sum of 300,000*l.* (being the sum hereinafter mentioned) shall be paid by the Canadian Government into the Bank of England to the credit of the Company with six calendar months after acceptance of the surrender aforesaid, with interest on the said sum at the rate of 5 per cent. per annum, computed from the date of such acceptance until the time of such payment.

2. The size of the blocks which the Company are to select adjoining each of their forts in the Red River limits, shall be as follows:—

Acres.

Winnipeg, including the inclosed park around the shop and ground at the entrance of the town,	
Lower Fort Garry (including the farm the Company now have under cultivation),	500
White Horse Plain,	500

3. The deduction to be made as hereinafter mentioned from the price of the materials of the Electric Telegraph, in respect of the deterioration thereof, is to be certified within three calendar months from such acceptance as aforesaid by the agents of the Company in charge of the depots where the materials are stored. And the said price is to be paid by the Canadian Government into the Bank of England to the credit of the Company within six calendar months of such acceptance, with interest at the rate of 5 per cent. per annum on the amount of such price, computed from the date of such acceptance until the time of payment:

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And whereas the said draft was on the fifth day of July, one thousand eight hundred and sixty-nine, approved by the said Governor-General in accordance with a Report from the Committee of the Queen's Privy Council for Canada; but it was not expedient that the said stipulations, not being contained in the aforesaid second Address, should be included in the surrender by the said Company to Her Majesty of their rights aforesaid or in this Order in Council.

And whereas the said Company did by deed under the seal of the said Company, and bearing date the nineteenth day of November, one thousand eight hundred and sixty-nine, of which deed a copy is contained in the Schedule to this Order annexed, marked C, surrender to Her Majesty all the rights of government, and other rights, privileges, liberties, franchises, powers and authorities granted, or purported to be granted to the said Company in any parts of British North America not forming part of Rupert's Land, or of Canada or of British Columbia, and all the lands and territories (except and subject as in the terms and conditions therein mentioned) granted or purported to be granted to the said Company by the Letters Patent:

And whereas such surrender has been duly accepted by Her Majesty, by an instrument under her Sign Manual and Signet, bearing date at Windsor the twenty-second day of June, one thousand eight hundred and seventy:

It is hereby Ordered and declared by Her Majesty, by and with the advice of the Privy Council, in pursuance and exercise of the powers vested in Her Majesty by the said Acts of Parliament, that from and after the fifteenth day of July, one thousand eight hundred and seventy the said North-Western Territory shall be admitted into and become part of the Dominion of Canada up on the terms and conditions set forth in the first hereinbefore recited Address, and that the Parliament of Canada shall from the day aforesaid have full power and authority to legislate for the future welfare and good government of the said Territory. And it is further ordered that, without prejudice to any obligations arising from the aforesaid approved Report, Rupert's Land shall from and after the said date be admitted into and become part of the Dominion of Canada upon the following terms and conditions, being the terms and conditions still remaining to be performed of those embodied in the said second address of the Parliament of Canada, and approved of by Her Majesty as aforesaid:—

1. Canada is to pay to the Company 300,000*l.* when Rupert's Land is transferred to the Dominion of Canada.

2. The Company are to retain the posts they actually occupy in the North-Western Territory, and may, within twelve months of the surrender, select a block of land adjoining each of its posts within any part of British North America not comprised in Canada and British Columbia, in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the Schedule

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of the aforesaid Deed of Surrender. The actual survey is to be proceeded with, with all convenient speed.

3. The size of each block is not to exceed [10] acres round Upper Fort Garry, [300] acres round Lower Fort Garry; in the rest of the Red River Territory a number of acres to be settled at once between the Governor in Council and the Company, but so that the aggregate extent of the blocks is not to exceed 50,000 acres.

4. So far as the configuration of the country admits, the blocks shall front the river or road by which means of access are provided, and shall be approximately in the shape of parallelograms of which the frontage shall not be more than half the depth.

5. The Company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt, in which land is set out for settlement, grants of land not exceeding one twentieth part of the land so set out. The blocks

so granted to be determined by lot, and the Company to pay a rateable share of the survey expenses, not exceeding 8 cents Canadian an acre. The Company may defer the exercise of their right of claiming the proportion of each township for not more than ten years after it is set out; but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

6. For the purpose of the last Article, the Fertile Belt is to be bounded as follows:— On the south by the United States boundary; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan; on the east by Lake Winnipeg, the Lake of the Woods, and the waters connecting them.

7. If any township shall be formed abutting on the north bank of the northern branch of the Saskatchewan River, the Company may take their one-twentieth of any such township, which for the purpose of this Article shall not extend more than five miles inland from the river, giving to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.

8. In laying out any public roads, canals, &c., through any block of land reserved to the Company, the Canadian Government may take, without compensation, such land as is necessary for the purpose, not exceeding one twenty-fifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, or which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, they shall pay to the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

9. It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause shall be appropriated for public purposes.

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10. All titles to land up to the eighth day of March, one thousand eight hundred and sixty-nine, conferred by the Company are to be confirmed.

11. The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity, and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duties on goods introduced by them previous to the surrender.

12. Canada is to take over the materials of the electric telegraph at cost price — such price including transport, but not including interest for money, and subject to a deduction for

ascertaining deterioration.

13. The Company's claim to land under agreements of Messrs. Vankoughnet and Hopkins is to be withdrawn.

14. Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government; and the Company shall be relieved of all responsibility in respect of them.

15. The Governor in Council is authorized and empowered to arrange any details that may be necessary to carry out the above terms and conditions.

And the Right Honorable Earl Granville, one of Her Majesty's principal Secretaries of State, is to give the necessary directions herein accordingly.

SCHEDULES.

SCHEDULE (A).

ADDRESS to HER MAJESTY the QUEEN from the Senate and House of Commons of the Dominion of Canada.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing: —

That it would promote the prosperity of the Canadian people, and conduce to the advantage of the whole Empire, if the Dominion of Canada constituted under the provisions of the "*British North America Act, 1867,*" were extended westward to the shores of the Pacific Ocean.

That the colonization of the fertile lands of the Saskatchewan, the Assiniboine, and the Red River districts; the development of the mineral wealth which abounds in the region of the North-west; and the extension of commercial intercourse through the British possessions in America from the Atlantic to the Pacific, are alike dependent on the establishment of a stable government for the maintenance of law and order in the North-Western Territories.

That the welfare of a sparse and widely scattered population of British subjects of European origin, already inhabiting these remote and unorganized territories, would be materially enhanced by the formation therein of political institutions bearing analogy, as far as circumstances will admit, to those which exist in the several Provinces of this Dominion.

That the 146th section of the "*British North American Act, 1867*," provides for the admission of Rupert's Land and the North-western Territory, or either of them, into union with Canada, upon the terms and conditions to be expressed in addresses from the Houses of Parliament of this Dominion to your Majesty, and which shall be approved of by your Majesty in Council.

That we do therefore most humbly pray that your Majesty will be graciously pleased, by and with the advice of your Most Honorable Privy Council, to unite Rupert's Land and the North-western Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good Government; and we most humbly beg to express to your Majesty that we are willing to assume the duties and obligations of government and legislation as regards these territories.

That in the event of your Majesty's Government agreeing to transfer to Canada the jurisdiction and control over the said region, the Government and Parliament of Canada will be ready to provide that the legal rights of any corporation, company or individual within the same shall be respected, and placed under the protection of Courts of competent jurisdiction.

And furthermore that, upon the transference of the territories in question to the Canadian Government, the claims of the Indian tribes to compensation for lands required for purposes of settlement will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.

All which we humbly pray your Majesty to take into your Majesty's Most gracious and favorable consideration.

The Senate, Tuesday, December 17th, 1867.

(Signed), JOSEPH CAUCHON, Speaker.

House of Commons, Monday, December 16th, 1867.

(Signed), JAMES COCKBURN, Speaker.

SCHEDULE (B).

1. *Resolutions.*

May 28th, 1869.

Resolved,— That the Senate and Commons of the Dominion of Canada during the first session of the first Parliament of Canada, adopted an Address to Her Majesty, praying that Her Majesty would be graciously pleased, by

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and with the advice of Her Most Honorable Privy Council, under the provisions of 146th section of "*The British North America Act, 1867*"; and on the terms specified in the Address, to unite Rupert's Lands and the North-west Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, and assuring Her Majesty of the willingness of the Parliament of Canada to assume the duties and obligations of government and legislation as regards those territories.

Resolved,— That the Joint Address of the Senate and Commons of Canada was duly laid at the foot of the throne, and that Her Majesty, by despatch from the Right Honorable the Secretary of State for the Colonies, to the Governor General of Canada, under date of 23rd of April, 1868, signified Her willingness to comply with the prayer of the said Address; but She was advised that the requisite powers of government and legislation could not, consistently with the existing charter of the Hudson's Bay Company, be transferred to Canada without an Act of Parliament, which Act was subsequently passed by the Imperial Parliament, and received Her Majesty's Assent on the 31st July, 1868.

Resolved,— That by despatch dated 8th August, 1868, from the Honorable Secretary of State for the Colonies, the Governor-General was informed, that in pursuance of the Powers conferred by the Act for the surrender of the Hudson Bay Territories to Her Majesty, he proposed to enter into negotiations with the Company as to the terms of such surrender, whereupon, under authority of an order of the Governor-General in Council of the 1st October, 1868, the Honorable Sir George Et. Cartier, Baronet, and the Honorable William MacDougall, C.B., were appointed a Delegation to England, to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the admission of the North-west Territory into union with Canada, either with or without Rupert's Land, as it might be found practicable and expedient.

And whereas a draft surrender has been submitted to the Governor-General of Canada containing stipulations to the following effect, viz.: —

Resolved,— That the Delegates proceeded on their mission to England and entered into negotiations with his Grace the

Duke of Buckingham and Chandos, the Secretary of State for the Colonies, and afterwards with the Right Honorable Earl Granville, his successor in office, for the acquisition by Canada of the territorial and other rights claimed by the Hudson's Bay Company in Rupert's Land, and in any other part of British North America, not comprised in Rupert's Land, Canada, or British Columbia. That terms of agreement were conditionally assented to by the Delegates on behalf of the Dominion, and on their return to Canada were submitted with a Report dated 8th May, 1869, which was approved by His Excellency the Governor in Council, on the 14th day of the same month.

Resolved,— That the Senate will be prepared to concur in accepting the transfer of the territorial and other rights of the Hudson's Bay Company in Rupert's Land, and in any other part of British North America, not comprised

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in Rupert's Land, Canada or British Columbia, on the terms conditionally agreed to on behalf of the Government of Canada, by the Hon. Sir George Et. Cartier, Baronet, and the Hon. William MacDougall, C.B., and on behalf of the Hudson's Bay Company, by Sir Stafford H. Northcote, Governor of that Company, and approved by His Excellency in Council as aforesaid, which terms are set forth in a letter from Sir Frederic Rogers, Under-Secretary of State for the Colonies, of the 9th March, 1869, communicated to the Delegates by direction of Earl Granville, and in two subsequent Memorandums dated respectively 22nd and 29th March, 1869, containing a modification of such terms, and are in the words and figures following:

"Terms, as started in the Letter from Sir Frederic Rogers, of March, 1869.

"1. The Hudson's Bay Company to surrender to Her Majesty all the rights of Government, property, &c., in Rupert's Land which are specified in 31 & 32 Vict., cap. 105, sec. 4; and also all similar rights in any other part of British North America, not comprised in Rupert's Land, Canada or British Columbia.

"2. Canada is to pay to the Company 300,000*l.*, when Rupert's Land is transferred to the Dominion of Canada.

"3. The Company may, within twelve months of the surrender, select a block of land adjoining each of its stations, within the limits specified in Article 1.

"4. The size of the blocks not to exceed acres in the Red River Territory, and the aggregate extent of the blocks is not to exceed 50,000 acres.

"5. So far as the configuration of the country admits, the blocks are to be in the shape of parallelograms, of which the length is not more than double the breadth.

"6. The Hudson's Bay Company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt in which land is set out for Settlement, select grants of land, not exceeding one-twentieth of the land so set out. The blocks so granted to be determined by lot, and the Hudson's Bay Company to pay a rateable share of the survey expenses, not exceeding an acre.

"7. For the purpose of the present agreement, the Fertile Belt is to be bounded as follows: — On the south by the United States' boundary; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan; on the east by Lake Winnipeg, the Lake of the Woods, and the waters connecting them.

"8. All titles to land up to the 8th March, 1869, conferred by the Company, are to be confirmed.

"9. The Company is to be at liberty to carry on its trade without hindrance, in its corporate capacity and no exceptional tax is to be placed

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on the Company's land, trade or servants, nor any import duty on goods introduced by them previous to the surrender.

"10. Canada is to take over the materials of the electric telegraph at cost price, such price including transport but not including interest for money, and subject to a deduction for ascertained deteriorations.

"11. The Company's claim to land under agreement of Messrs. Vankoughnet and Hopkins to be withdrawn.

"12. The details of this arrangement, the including the filling up blanks in Article 4 and 6, to be settled at once by mutual agreement."

"MEMORANDUM.

"Details of Agreement between the Delegates of the Government of the Dominion, and the Directors of the Hudson's Bay Company.

"1. It is understood that, in surrendering to Her Majesty, all the rights, &c., of the Company in any part of British North America not comprised in Rupert's Land, Canada or British Columbia, the Company are to retain the posts they actually occupy in the North West Territory.

"2. It is understood that it will be a sufficient act of selection under Article III., that the Company should, within twelve months, name the number of acres which they will require adjoining each post. The actual survey to be proceeded with, with all convenient speed.

"3. It is understood that in the Red River Settlement, the size of the blocks to be retained round Upper Fort Garry shall not exceed (10) acres; and that round Lower Fort Garry shall not exceed (300) acres.

"4. It is understood that a list of the stations round which the Company will require blocks of land, with the size of the blocks they will require, shall be made out forthwith, and communicated to the Canadian Ministers.

"5. It is understood that Article V. shall be construed to mean that the blocks shall front the river or road, by which means of access are provided, and shall be approximately in the form of parallelograms, of which the frontage shall not be more than half the depth.

"6. It is understood that the Company may defer the exercise of their right of claiming their proportion of each township for not more than ten years after it is set out; but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

"7. It is understood that the Blank in Article 6 shall be filled up with 8 cents (Canadian).

"8. It is understood that any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian

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Government, in communication with the Imperial Government, and that the Company shall be relieved of all responsibility in respect of them.

(Signed.) "STAFFORD H. NORTHCOTE.
"G. E. CARTIER.
"W. MACDOUGALL.

"March 22, 1869.

"Memorandum of a further Agreement between Sir Geo. Et. Cartier and Sir Stafford Northcote.

"Inasmuch as the northern branch of the Saskatchewan River is the northern boundary of the Fertile Belt, and therefore any land of the northern bank is not within the territory of which the Company are to have one-twentieth part, it is understood

that, in forming the townships abutting on the northern bank, the Company shall be at liberty to take their one-twentieth of any such townships, giving up to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.

"It is understood that the townships on the northern bank shall not for the above purpose extend more than five miles inland from the river.

"It is understood that, in laying out any public roads, canals &c., through any block of land reserved to the Company, the Canadian Government may take, without compensation, such land as is necessary for the purpose, not exceeding one-twenty-fifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, or which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, they shall pay the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

"It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause shall be appropriated for public purposes."

(Signed.)

"GEO. ET. CARTIER.

"STAFFORD NORTHCOTE.

"London, March 29, 1869."

Resolved, — That this House learns with satisfaction, by letter from the Under-Secretary of State for the Colonies, of 9th March last, that, in fulfilment of the expectations held out in Mr. Cardwell's despatch of 17th June, 1865, Her Majesty's Government will be prepared to propose to Parliament that the Imperial guarantee be given to a loan of 300,000*l.*, the amount which is proposed to be paid over by Canada on the transfer of the Company's rights.

Resolved, — That the Senate will be ready to concur with the House of Commons in an Address to Her Majesty, that she will be graciously pleased,

by and with the advice of Her Most Honorable Privy Council, under the 146th clause of "*The British North America Act, 1867*," and the provisions of the Imperial Act, 31 & 32, Vict., cap. 105, to unite Rupert's Land on the terms and conditions expressed in the foregoing Resolutions, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by, and on the terms and conditions contained in the joint Address of the Senate and the House of Commons of Canada, adopted during the first sessions of the first Parliament of Canada, and hereinbefore referred to.

Resolved,—That upon the transference of the territories in question to the Canadian Government, it will be the duty of the Government to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer.

Resolved,—That the Governor in Council be authorized and empowered to arrange any details, that may be necessary to carry out the terms and conditions of the above agreement.

2. Address.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing: —

That, during the first session of the first Parliament of this Dominion, we adopted an Address to your Majesty, praying that your Majesty would be graciously pleased, by and with the advice of your Majesty's Most Honorable Privy Council under the provisions of the 146th Sections of "*The British North America Act, 1867*," and on the terms specified in that Address, to unite Rupert's Land and the North-west Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, and assuring your Majesty of the willingness of the Parliament of Canada to assume the duties and obligations of Government and legislation as regards those territories.

That our joint Address was duly laid at the foot of the Throne, and that your Majesty, by despatch from the Right Honorable the Secretary of State for the Colonies to the Governor General of Canada, under date of the 23rd April, 1868, signified your Majesty's willingness to comply with the prayer of the said Address, but that your Majesty was advised that the prayer of the said Address, but that your Majesty was

advised that the requisite powers of government and legislation could not, consistently with the existing charter of the Hudson's Bay Company, be transferred to Canada without an Act of Parliament, with Act was subsequently passed by the Imperial Parliament, and received your Majesty's assent on the 31st July, 1868.

That by a despatch dated 8th August, 1868, from the Honorable the Secretary of State for the Colonies, the Governor General was informed that

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in pursuance of the powers conferred by the Act for the surrender of the Hudson's Bay territories to your Majesty he proposed to enter into negotiations with the company as to the terms of such surrender, whereupon, under authority of an Order of the Governor-General in Council, of the 1st October, 1868, the Honorable Sir George Et. Cartier, Baronet, and the Honorable William MacDougall, C. B., were appointed a delegation to England to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the administration of the North West Territory into union with Canada either with or without Rupert's Land, as might be found practicable and expedient.

That the delegates proceeded on their missions to England, and entered into negotiations with his Grace the Duke of Buckingham and Chandos, then Secretary of State for the Colonies, and afterwards with the Right Honorable Earl Granville, his Successor in office, for the acquisition by Canada of the territorial and other rights claimed by the Hudson's Bay Company in Rupert's Land, and in any other part of British North America not comprised in Rupert's Land, Canada or British Columbia, on the terms conditionally agreed to on behalf of the Government of Canada by the Honorable Sir George Et. Cartier, Baronet, and the Honorable William MacDougall, C. B., and on behalf of the Hudson's Bay Company by Sir Stafford H. Northcote, Governor of that Company, and approved by His Excellency in Council as aforesaid, which terms are set forth in a letter from Sir Frederic Rogers, Under-Secretary of State for the Colonies, of the 9th March, 1868, communicated to the delegates by direction of Earl Granville, and in two subsequent Memorandums dated respectively 22nd and 29th March, 1868, containing a modification of such terms, and are in the words and figures following:

Resolved, — That by despatch dated 8th August, 1868, from the Honorable Secretary of State for the Colonies, the Governor-General was informed, that in pursuance of the Powers conferred by the Act for the surrender of the Hudson

Bay Territories to Her Majesty, he proposed to enter into negotiations with the Company as to the terms of such surrender, whereupon, under authority of an order of the Governor-General in Council of the 1st October, 1868, the Honorable Sir George Et. Cartier, Baronet, and the Honorable William MacDougall, C.B., were appointed a Delegation to England, to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the admission of the North-west Territory into union with Canada, either with or without Rupert's Land, as it might be found practicable and expedient.

"Terms, as stated in the Letter from Sir Frederic Rogers of 9th March, 1869.

(These terms as set forth on pages 228, 229 supra are here recited at length.)

"MEMORANDUM.

"Details of Agreement between the Delegates of the Government of the Dominion and the Directors of the Hudson's Bay Company.

(This memorandum as set forth on pages 229, 230 supra is here recited at length.)

"Memorandum of a further Agreement between Sir Geo. Et. Cartier and Sir Stafford Northcote.

(This memorandum, also above set forth on page 230, is here recited at length.)

That we learn with satisfaction by letter from the Under-Secretary of State for the Colonies, of the 9th March last, that, in fulfilment of the expecta-

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tions held out in Mr. Cardwell's despatch of the 17th of June 1865, your Majesty's Government will be prepared to Parliament that the Imperial guarantee be given to a loan of 300,000*l.* the amount which is proposed to be paid over by Canada on the transfer of the Company's rights.

That upon the transference of the territories in question to the Canadian Government it will be our duty to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer, and we authorize and empower the Governor in Council to arrange any details that may be necessary to carry out the terms and conditions of the above agreement.

We therefore most humbly pray that your Majesty will be graciously pleased, by and with the advice of your Most

Honorable Privy Council, under the 146th clause of "*The British North America Act, 1867*," and the provisions of the Imperial Act 31 and 32 Vict, cap. 105, to unite Rupert's Land on the terms and conditions expressed in the foregoing resolutions and also to unite the North-Western Territory with the Dominion of Canada as prayed for by and on the terms and conditions contained in our joint Address adopted during the first session of the first parliament of this Dominion, and hereinbefore referred to.

The Senate, Monday, May 31, 1869.

(Signed,) JOSEPH CAUCHON, Speaker.

House of Commons, Ottawa, May 29, 1869.

(Signed,) JAMES COCKBURN, Speaker.

SCHEDULE (C).

The Governor and Company of Adventurers of England trading into Hudson's Bay to HER MAJESTY QUEEN VICTORIA.

DEED OF SURRENDER.

To all whom these presents shall come unto, or concern, the Governor, and Company of Adventurers of England, trading into Hudson's Bay, send greeting.

Whereas the said Governor and Company were established and incorporated by their said name of "The Governor and Company of Adventurers of England, trading into Hudson's Bay," by Letters Patent granted by His late Majesty King Charles the Second in the twenty-second year of his reign, whereby His said Majesty granted unto the said company and their successors the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds in whatsoever latitude they should be, that lay within the entrance of the straits commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts, and confines of the

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seas, bays, lakes, rivers, creeks, and sounds aforesaid, that were not already actually possessed by, or granted to, any of His Majesty's subjects, or possessed by the subjects of any other Christian Prince or State, and that the said land should be from thenceforth reckoned and reputed as one of His Majesty's Plantations or Colonies in America, called Rupert's Land; and whereby His said Majesty made and constituted the said Governor and Company and their successors the absolute lords and proprietors of the same territory, limits and places

aforesaid, and of all other the premises saving the faith, allegiance and sovereign dominion due to His said Majesty, his heirs and successors for the same; and granted to the said Governor and Company and their successors, such rights of Government and other rights, privileges and liberties, franchises, powers and authorities in Rupert's Land as therein expressed. And whereas ever since the date of the said Letters Patent, the said Governor and Company have exercised and enjoyed the sole right thereby granted of such trade and commerce as therein mentioned, and have exercised and enjoyed other rights, privileges, liberties, franchises, powers, and authorities thereby granted; and the said Governor and Company may have exercised or assumed rights of Government in other parts of North America not forming part of Rupert's Land, or of Canada, or of British Columbia. And whereas by "*The British North America Act, 1867,*" it is (amongst other things) enacted that it shall be lawful for Her present Majesty Queen Victoria, by and with the advice and consent of Her Majesty's most Honorable Privy Council, on address from the Houses of Parliament of Canada, to admit Rupert's Land and the North Western Territory or either of them into the Union of the Dominion of Canada on such terms and conditions as are in the Address expressed, and Her Majesty thinks fit to approve, subject to the provisions of the said Act. And whereas, by the "*Rupert's Land Act, 1868,*" it is enacted (amongst other things) that for the purposes of that Act the term "Rupert's Land" shall include the whole of the lands and territories held or claimed to be held by the said Governor and Company, and that it shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty, by any instrument under Her Sign Manual and Signet to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers and authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, upon such terms and conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company; provided, however, that such surrender shall not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada shall have been approved of by Her Majesty, and embodied in an Address to Her Majesty from the Houses of Parliament of Canada, in pursuance of the 146th Section of "*The British North America Act, 1867,*" and that upon the acceptance by Her Majesty of such surrender, all rights of Government and proprietary rights, and all other privileges, liberties, franchises, powers and authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and

Company within Rupert's Land, and which shall have been so surrendered, shall be absolutely extinguished, provided that

nothing in the said Act contained shall prevent the said Governor and Company from continuing to carry on in Rupert's Land or elsewhere trade and commerce. And whereas Her said Majesty Queen Victoria and the said Governor and Company have agreed to terms and conditions upon which the said Governor and Company shall surrender to Her said Majesty, pursuant to the provisions in that behalf in the "*Rupert's Land Act, 1868,*" contained, all the rights of Government and other rights, privileges, liberties, franchises, powers and authorities, and all the lands and territories (except and subject as in the said terms and conditions expressed or mentioned) granted or purported to be granted by the said Letters Patent, and also all similar rights which have been exercised or assumed by the said Governor and Company in any parts of British North America not forming part of Rupert's Land, or of Canada, or of British Columbia, in order and to the intent that, after such surrender has been effected and accepted under the provisions of the last-mentioned Act, the said Rupert's Land may be admitted into the Union of the Dominion of Canada, pursuant to the hereinbefore mentioned Acts or one of them. And whereas the said terms and conditions on which it has been agreed that the said surrender is to be made by the said Governor and Company (who are in the following articles designated as the Company) to Her said Majesty are as follows (that is to say): —

1. The Canadian Government shall pay to the Company the sum of 300,000*l.* sterling when Rupert's Land is transferred to the Dominion of Canada.

2. The Company to retain all the posts or stations now actually possessed and occupied by them or their officers or agents whether in Rupert's Land or any other part of British North America, and may within twelve months after the acceptance of the said surrender select a block of land adjoining each of their posts or stations, within any part of British North America, not comprised in Canada and British Columbia in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the annexed schedule. The actual survey is to be proceeded with, with all convenient speed.

3. The size of each block is not to exceed in the Red River Territory the amount to be agreed upon between the Company and the Governor of Canada in Council.

4. So far as the configuration of the country admits, the blocks shall front the river or road by which means of access are provided, and shall be approximately in the shape of parallelograms, and of which the frontage shall not be more than half the depth.

5. The Company may, at any time within fifty years after

such acceptance of the said surrender, claim in any township or district within the fertile belt in which land is set out for settlements, grants of land not exceeding

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one-twentieth part of the land so set out; the blocks so granted to be determined by lot, and the Company to pay a ratable share of the survey expenses, not exceeding 8 cents Canadian an acre. The Company may defer the exercise of their right of claiming their proportion of each township or district for not more than ten years after it is set out, but their claim must be limited to any allotment from the lands remaining unsold at the time they declare their intention to make it.

6. For the purpose of the last article the fertile belt is to be bounded as follows:—On the south by the United States' boundary; on the west by the Rocky Mountains; on the north by the Northern Branch of the Saskatchewan River; on the east by Lake Winnipeg, the Lake of the Woods and the waters connecting them.

7. If any township shall be formed abutting on the north bank of the branch of the Saskatchewan River, the Company may take their one-twentieth of any such township, which, for the purpose of this article, shall not extend more than five miles inland from the river, giving to the Canadian Dominion an equal quantity of the portion of land coming to them of townships established on the southern bank of the said river.

8. In laying out any public roads, canals or other public works, through any block of land reserved to the Company, the Canadian Government may take without compensation such land as is necessary for the purpose, not exceeding one-twenty-fifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, the said Government shall pay to the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

9. It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause, shall be appropriated for public purposes.

10. All titles to land up to the eighth day of March, one thousand eighth hundred and sixty-nine, conferred by the Company, are to be confirmed.

11. The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity; and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duty on goods introduced by the said Company previously to such acceptance of the said surrender.

12. Canada is to take over the materials of the electric telegraph at cost price; such price including transport, but not including interest for money, and subject to a deduction for ascertained deterioration.

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13. The Company's claim to land under an agreement of Messrs. Vankoughnet and Hopkins is to be withdrawn.

14. Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government; and the Company shall be relieved of all responsibility in respect of them.

And whereas the surrender hereinafter contained is intended to be made in pursuance of the agreement, and upon the terms and conditions hereinbefore stated.

Now know ye, and these presents witness, that, in pursuance of the powers and provisions of the "*Rupert's Land Act, 1868*," and on the terms and conditions aforesaid, and also on condition of this surrender being accepted pursuant to the provisions of that Act, the said Governor and Company do hereby surrender to the Queen's Most Gracious Majesty, all the rights of Government, and other rights, privileges, liberties, franchises, powers and authorities, granted or purported to be granted to the said Governor and Company by the said recited Letters Patent of His late Majesty King Charles the Second; and also all similar rights which may have been exercised or assumed by the said Governor and Company in any parts of British North America, not forming part of Rupert's Land or of Canada, or of British Columbia, and all the lands and territories within Rupert's Land (except and subject as in the said terms and conditions mentioned) granted or purported to be granted to the said Governor and Company by the said Letters Patent. In witness whereof, the Governor and Company of Adventurers of England trading into Hudson's Bay, have hereunto caused their Common Seal to be affixed, the nineteenth day of November, One thousand eight hundred and sixty-nine.

THE SCHEDULE ABOVE REFERRED TO.

Northern Department, RUPERT'S LAND.

District.	Post.	Acres of Land.
English River	Isle à la Crosse . . .	50
	Rapid River . . .	5
	Portage La Loche . . .	20 say 10 acres each end of portage.
	Green Lake . . .	100
	Cold Lake . . .	10

Deer's Lake	5
	----- 190 acres in English River (Dist.)

Northern Department, RUPERT'S LAND.—*Continued.*

District.	Post.	Acres of Land.
Saskatchewan	Edmonton House . . .	3,000
	Rocky Mountain House	500
	Fort Victoria	3,000
	St. Paul	3,000
	Fort Pitt	3,000
	Battle River	3,000
	Carlton House	3,000
	Fort Albert	3,000
	Whitefish Lake	500
	Lac La Biche	1,000
	Fort Assiniboine . . .	50
	Lesser Slave Lake . . .	500
	Lac St. Anne	500
	Lac La Nun	500
	St. Albert	1,000
	Pigeon Lake	100
Old White Mud Fort . .	50	
	----- 25,700 acres in Saskatchewan District.	
Cumberland	Cumberland House . . .	100
	Fort La Corne	3,000
	Pelican Lake	20
	Moose Woods	1,000
	The Pas	25
	Moose Lake	50
	Grande Rapid Portage . .	100 50 acres at each end of portage.
	----- 4,325 acres in Cumberland District.	
Swan River	Fort Pelly	3,000
	Fort Ellice	3,000
	Qu'Appelle Lakes . . .	2,500
	Touchwood Hills	500
	Shoal River	50
	Manitobah	50
	Fairford	100
	----- 9,200 acres in Swan River District.	
Red River	Upper Fort Garry and Town of Winnipeg . .	
	Lower Fort Garry (including the farm the Company now have under cultivation) . .	Such number of acres as may be agreed upon between the Company and the Governor of Canada in Council.
	White Horse Plain . . .	
Manitobah Lake	Oak Point	50
Portage La	. . . . .	1,000

Northern Department, RUPERT'S LAND.—*Continued.*

District.	Post.	Acres of Land.
Lake La Pluie	Fort Alexander	500
	Fort Frances	500
	Eagle's Nest	20
	Big Island	20
	Lac du Bonnett	20
	Rat Portage	50
	Shoal Lake	20
	Lake of the Woods	50
	Whitefish Lake	20
	English River	20
	Hungry Hall	20
	Trout Lake	20
	Clear Water Lake	20
	Sandy Point	20
		----- 1,300 acres in Lac La Pluie District.
York	York Factory	100
	Churchill	10
	Severn	10
	Trout Lake	10
	Oxford	100
	Jackson's Bay	10
	God's Lake	10
	Island Lake	10
	----- 260	
Norway House	Norway House	100
	Beren's River	25
	Grand Rapid	10
	Nelson's River	10
	----- 145	
Total in Northern Department		42,170 acres.

Southern Department, RUPERT'S LAND.

Albany	Albany Factory	100
	Martin's Falls	10
	Osnaburg	25
	Lac Seul	500
	----- 635	
East Main	Little Whale River	50
	Great Whale River	50
	Fort George	25
	----- 125	
Moose	Moose Factory	100
	Hannah Bay	10
	Abitibi	10
	New Brunswick	25

Southern Department, RUPERT'S LAND.—*Continued.*

District.	Post.	Acres of Land.
Rupert's River	Rupert's House	50
	Mistassing	10
	Temiskamay	10
	Woswonaby	10
	Mechiskun	10
	Pike Lake	10
	Nitchequon	10
	Kaniapiscau	10
		----- 120
Kinogumissee	Matawagamique	50
	Kuchatoosh	10
	----- <u>60</u>	
Total in Southern Department		1,085 acres.

Montreal Department, RUPERT'S LAND.

Superior	Long Lake	10
Temiscaminque	Kakababeagino	10
		----- 20
Labrador	Fort Nascopie	75
	Outposts, ditto	25
	Fort Chimo (Ungava)	100
	South River (outposts)	30
	George's River	50
	Whale River	50
	North's River	25
	False River	25
	----- <u>380</u>	
Total in Montreal Department		400 acres.

Northern Department, NORTH-WEST TERRITORY.

Athabasca	Fort Chippewyan	10
	Fort Vermilion	500
	Fort Dunvegan	50
	Fort St. John's	20
	Forks of Athabasca	
	River	10
	Battle River	5
	Fond du Lac	5
	Salt River	5
		----- 605 acres in Athabasca District.

Northern Department, NORTH-WEST TERRITORY.—*Continued.*

District.	Post.	Acres of Land.
McKenzie's River	Fort Simpson	100
	Fort Liard	300
	Fort Nelson	200
	The Rapid's	100
	Hay River	20
	Fort Resolution	20
	Fond Rae	10
	Fond du Lac	10
	Fort Norman	10
	Fort Good Hope	10
	Peel's River	10
	Lapierre's House	10
	Fort Halkett	100
		----- 900 acres in McKenzie's R. District.
Total in North West Territory	1,505 acres.	

RECAPITULATION.

	Acres.
Northern Department, Rupert's Land	42,170
Southern Department, Rupert's Land	1,085
Montreal Department, Rupert's Land	400
Northern Department, Northwest Territory	<u>1,505</u>
	45,160

No. 40.**BRITISH NORTH AMERICA ACT, 1871.
34 & 35 Vic. Cap. 28 (Imperial).**

[29 June, 1871.]

**An Act Respecting the Establishment of Provinces in the Dominion of
Canada.**

Whereas doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in territories admitted, or which may hereafter be admitted, into the Dominion of Canada, and to provide the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest powers in the said Parliament:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: —

1. This Act may be cited for all purposes as "The British North America Act, 1871."

2. The Parliament of Canada may, from time to time, establish new Provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order and good government of such Province, and for its representation in the said Parliament.

3. The Parliament of Canada may, from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

4. The Parliament of Canada may, from time to time, make provision for the administration, peace, order and good government of any territory not for the time being included in any Province.

5. The following Acts passed by the said Parliament of Canada and intituled respectively, "An Act for the temporary government of Rupert's Land and the North-Western Territory when united with Canada," and "An Act to amend and continue the Act 32 and 33 Victoria, Chapter 3, and to establish and provide for the government of the Province of Manitoba," shall be and be deemed to have been valid and effectual for all the purposes whatsoever from the date at which they respectively recieved the assent, in the Queen's name, of the Governor-General of the said Dominion of Canada.

6. Except as provided by the third section of this Act it shall not be competent for the Parliament of Canada to alter the provisions of the last-mentioned Act of the said Parliament in so far as it relates to the Province of Manitoba, or any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law representing the qualifications of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.

No. 41.

IMPERIAL ORDER IN COUNCIL OF 31st JULY, 1880,

[31 July, 1880.]

ANNEXING ALL BRITISH TERRITORIES IN NORTH AMERICA (EXCEPT
NEWFOUNDLAND AND ITS DEPENDENCIES) TO CANADA.

At the Court at Osborne House, Isle of Wight, the 31st day of
July, 1880.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY,
Lord President,
Lord Steward,
Lord Chamberlain.

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sponsored
by
Nina
Goudie,
St. John's,
NL*

Whereas it is expedient that all British Territories and Possessions in North America and the Islands adjacent to such Territories and Possessions which are not already included in the Dominion of Canada should, (with the exception of the Colony of Newfoundland and its dependencies), be annexed to and form part of the said Dominion.

And whereas, the Senate and Commons of Canada in Parliament assembled, have, in and by an Address, dated the 3rd day of May, 1878, represented to Her Majesty "That it is desirable that the Parliament of Canada, on the transfer of the before-mentioned Territories being completed, should have authority to legislate for their future welfare and good government, and the power to make all needful rules and regulations respecting them, the same as in the case of the other territories (of the Dominion); and that the Parliament of Canada express its willingness to assume the duties and obligations consequent thereon."

And whereas, Her Majesty is graciously pleased to accede to the desire expressed in and by the said Address:

Now, therefore, it is hereby ordered and declared by Her Majesty, by and with the advice of Her Most Honourable Privy Council, as follows: —

From and after the first day of September, 1880, all British Territories and Possessions in North America, not already included within the Dominion of Canada, and all Islands adjacent to any of such Territories or Possessions shall (with exception of the Colony of Newfoundland and its

dependencies) become and be annexed to and form part of the said Dominion of Canada; and become and be subject to the laws for the time being in force in the said Dominion, in so far as such laws may be applicable thereto.

C. L. PEEL.

No. 42.

**COLONIAL BOUNDARIES ACT, 1895.
58 and 59 Victoria, Cap. 34.**

[6 July, 1895.]

**An Act to provide in certain cases for the Alteration of the Boundaries of
the Colonies.**

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1—1. Where the boundaries of a Colony have, either before or after the passing of this Act, been altered by Her Majesty the Queen by Order in Council or Letters Patent, the boundaries as so altered shall be, and be deemed to have been from the date of the alteration, the boundaries of the Colony.

2. Provided that the consent of a self-governing Colony shall be required for the alteration of the boundaries thereof.

3. In this Act "self-governing Colony" means any of the Colonies specified in the Schedule to this Act.

2. This Act may be cited as "The Colonial Boundaries Act, 1895."

*Page 245
sponsored
by
Nina
Goudie,
St. John's,
NL*

SCHEDULE.

SELF-GOVERNING COLONIES.

Canada.	Western Australia.
Newfoundland.	Tasmania.
New South Wales.	New Zealand.
Victoria.	Cape of Good Hope.
South Australia.	Natal.
Queensland.	

No. 43.**STATUTE OF CANADA, 61 Vic. Cap. 3 (1898).**

[13 June, 1898.]

**An Act respecting the North-Western, Northern and North-Eastern
Boundaries of the Province of Quebec.**[Assented to 13th June, 1898.]

WHEREAS in and by The British North American Act, 1871, it is enacted that the Parliament of Canada may, from time to time, with the consent of the legislature of any province, increase, diminish or otherwise alter the limits of such province, upon such terms and conditions as may be agreed to by the said legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any province affected thereby; and whereas it has been agreed between the Governments of the Dominion of Canada and the province of Quebec that the north-western, northern and north-eastern boundaries of the province of Quebec shall be those hereinafter described, and the Legislature of Quebec has, by chapter 6 of the statutes of 1898, expressed its consent that the Parliament of Canada should declare the said boundaries to be the north-western, northern and north-eastern limits of the said province: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:

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by
Nina
Goudie,
St. John's,
NL

1. The north-western, northern and north-eastern boundaries of the province of Quebec are hereby declared to be the following: — Commencing at the head Lake Temiscamingue, thence along the eastern boundary of the province of Ontario due north to the shore of the part of Hudson Bay commonly known as James Bay, and thence north-easterly following upon the said shore to the mouth of the East Main River, and thence easterly ascending along the middle of the said river up to the confluence of the brance thereof flowing from Patamisk Lake, and then ascending along the middle of the said branch up to Patamisk Lake, and thence along the middle of the said lake to the most northerly point thereof, the said point being about fifteen miles south from the Hudson's Bay company's post on Lake Nichigun, and approximately in latitude fifty-two minutes west of Greenwich; thence due east along the parallel of latitude of the said point to the intersection of the river discharging the waters of Lake Ashuanipi, which river is known under the names Hamilton or Ashuanipi or Great

Esquimaux River, and thence descending along the middle of the said river through Menihék, Marble, Astray and Dyke Lakes to the most southerly outlet of Dyke Lake, and thence along the middle of the said outlet to Birch Lake and thence along the middle of Birch and Sangrit Lakes to the most southerly outlet of Sangrit Lake and thence along the middle of the southern channel of the Hamilton River to Flour Lake, and thence along the middle of Flour Lake to its outlet, and thence along the middle of the Hamilton River to the Bay du Rigolet or Hamilton Inlet, and thence easterly along the middle of said bay or inlet until it strikes the westerly boundary of the territory under the jurisdiction of Newfoundland, and thence southerly along the said boundary to the point where it strikes, the north shore of the Anse Sablon, in the Gulf of St. Lawrence, the said line being shown in red as far as Hamilton Inlet, upon the plan accompanying the copy of the Order of Governor General in Council number two thousand six hundred and twenty-three, dated the eighth of July, one thousand eight hundred and ninety-six, transmitted to the Lieutenant Governor of Quebec, and now deposited among the archives of the Provincial Secretary of that province.

No. 44.

STATUTE OF CANADA 2, GEORGE V., CHAP. 45.

[1 April, 1912.]

AN ACT TO EXTEND THE BOUNDARIES OF THE PROVINCE OF QUEBEC.

Preamble.

(Assented to 1st April 1912.)

Short title.

Boundaries extended.

WHEREAS on the thirteenth day of July, One thousand nine hundred and eight, the House of Commons resolved that the limits of the Province of Quebec should be increased by the extension of the boundaries of the Province northwards so as to include the territory hereinafter described, as in the said resolution is more particularly set out, upon such terms and conditions as may be agreed to by the Legislature of Quebec and by the Parliament of Canada: Therefore, subject to the consent of the said Legislature His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: —

1898 c. 3.

1. This Act may be cited as The Quebec Boundaries Extension Act 1912.

Population as
affecting
representation.

2. The limits of the Province of Quebec are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said province, the territory bounded and described as follows: — Commencing at the point at the mouth of East Main River where it empties into James Bay, the said point being the western termination of the northern boundary of the province of Quebec as established by Chap. 3 of the Statutes of 1898 intituled *An Act respecting the North-western, Northern, and North-eastern Boundaries of the Province of Quebec*, thence northerly and easterly along the shores of Hudson Bay and Hudson Strait; thence southerly, easterly, and northerly along the shore of Ungava Bay and the shore of the said strait; thence easterly along the shore of the said strait to the boundary of the territory to the middle of Bay du Rigolet or Hamilton Inlet; thence westerly along the northern boundary of the province of Quebec as established by the said Act to the place of commencement; and all the land embraced by the said description shall, from and after the commencement of this Act, be added to the province of Quebec, and shall, from and after the said commencement, form and be part of the said province of Quebec upon the following terms and conditions and subject to the following provisions: —

Population under
decimal census.

(a) That the population of the territory hereby added to the province of Quebec shall be excluded in ascertaining the population of the said province for the purposes of any

readjustment of representation of the other provinces consequent upon any census.

B. N. A. Act s. 51.

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Indian rights in the new territory.

(b) That in the general consensus of the population of Canada which is required to be taken in the year One thousand nine hundred and twenty-one and in every tenth year thereafter the population of the territory hereby added to the province of Quebec shall be distinguished from that of the said province as heretofore constituted, and the representation of the said territory in the House of Commons shall be determined according to the rules enacted by Section 51 of "The British North America Act, 1867," regulating the representation of the provinces other than Quebec;

Surrenders.

Trusteeship.

(c) That the province of Quebec will recognize the rights of the Indian inhabitants in the territory above described to the same extent, and will obtain surrenders of such rights in the same manner, as the Government of Canada has heretofore recognised such rights and has obtained surrender thereof, and the said province shall bear and satisfy all charges and expenditure in connection with or arising out of such surrenders;

Hudsons Bay Co. rights reserved.

(d) That no such surrender shall be made or obtained except with the approval to the Governor in Council;

Commencement of Act.

(e) That the trusteeship of the Indians in the said territory, and the management of any lands now or hereafter reserved for their use, shall remain in the Government of Canada subject to the control of Parliament.

Consent of Quebec Legislature.

3. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that Company surrendered Ruperts Land to the Crown.

4. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council published in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Quebec shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid.

PART III.

**STATUTES RELATIVE TO NEWFOUNDLAND AND
THE GOVERNMENT OF THE FISHERY.***

[1699].

No. 45.

ACT 10 & 11 WM. III., CAP. 25 (IMPERIAL).

AN ACT TO ENCOURAGE THE TRADE TO NEWFOUNDLAND.

King's Subjects to
have free Trade to
Newfoundland.

"Whereas the Trade and Fishing at *Newfoundland* is a beneficial Trade to this Kingdom, not only in the employing great Numbers of Seamen and Ships, and exporting and consuming great Quantities of Provisions and Manufactures of this Realm, whereby many Tradesmen and poor Artificers are kept at work, but also in bringing into this Nation, by Returns of the Effects of the said Fishery from other Countries, great Quantities of Wine, Oil, Plate, Iron, Wooll, and sundry other useful commodities, to the Increase of his Majesty's Revenue, and the Encouragement of Trade and Navigation;" Be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from henceforth it shall and may be lawful for all his Majesty's Subjects residing within this his Realm of *England*, or the Dominions thereunto belonging, trading or that shall trade to *Newfoundland*, and the Seas, Rivers, Lakes, Creeks, Harbours in or about *Newfoundland*, or any of the Islands adjoining or adjacent thereunto, to have, use, and enjoy the free Trade and Traffick, and Art of Merchandize and Fishery, to and from *Newfoundland*, and peaceably to have, use, and enjoy, the Freedom of taking Bait and Fishing in any of the Rivers, Lakes, Creeks, Harbours, or Roads, in or about *Newfoundland*, and the said Seas, or any of the Islands adjacent thereunto, and Liberty to go on Shore on any part of *Newfoundland*, or any of the said Islands for the curing, salting, drying, and husbanding of their Fish, and for making of Oil, and to cut down Woods and Trees there for building and making or repairing of Stages, Ship-rooms, Trainfats, Hurdles, Ships, Boats, and other Necessaries

No Alien to bait or
fish in
Newfoundland.

No Ballast, &c., to be thrown out of any Ship into the Harbours, but carried on Shore.

for themselves and their Servants, Seamen, and Fishermen, and all other Things which may be useful or advantageous to their Fishing Trade, as fully and freely as at any Time heretofore hath been used or enjoyed there by any of the Subjects of his Majesty's Royal Predecessors, without any Hindrance, Interruption, Denial or Disturbance of or from any Person or Persons whatsoever; and that no Alien or Stranger whatsoever (not residing within the Kingdom of *England*, Dominion of *Wales*, or Town of *Berwick upon Tweed*) shall at any Time hereafter take any Bait, or use any Sort of Trade or Fishing whatsoever in *Newfoundland*, or in any of the said Islands or Places above mentioned.

No Person to destroy any Stage or Cook Room, &c.

II. And for the preserving the said Harbours from all Annoyances; Be it further enacted by the Authority aforesaid, That from and after the twenty-fifth Day of *March* one thousand seven hundred, now next coming, no Ballast, Prest Stones, or any Thing else hurtful to or annoying any of the Harbours there, shall be thrown out of any Ship or otherwise, by any Person or Persons whatsoever, to the Prejudice of any of the said Harbours, but that all such Ballast and other Things shall be carried on Shore, and be laid where they may do no Annoyance.

Every Fishing Ship first entering Harbour, shall be Admiral during that fishing Season, &c.

III. And be it further enacted by the Authority aforesaid, That no Person or Persons whatsoever shall (at his Departure out of the said Country, or at any other Time) destroy, deface, or do any Detriment to any such Stage or Cook-room; or to the Flakes, Spikes, Nails, or any other Thing whatsoever thereto belonging, as he or they shall fall into at his or their coming into the said Country, but that he or they shall (during his or their Stay there) content him and themselves with such Stage or Stages only as are needful for him or them, and shall also (at his or their Departure thence) leave all such his or their Stage or Stages, without doing or causing to be done any wilful Damage to any of them; and that for the repairing of such Stage or Stages as lie or they shall so take, during his or their Abode there, the same shall be done with Timber fetcht out of the Woods there, and not by the ruining, breaking down, demolishing, prejudicing, or any wise injuring the Stage or Stages of any other Person or Persons whatsoever.

Second Ship Vice Admiral.
Next Ship Rear Admiral.

IV. And be it further enacted by the Authority aforesaid, That (according to the ancient Custom there used) every such Fishing Ship from *England*, *Wales*, or *Berwick*, of such Fishermen as shall, from and after the said twenty fifth day of *March*, first enter any Harbour or Creek in *Newfoundland*, in Behalf of his Ship, shall be Admiral of the said Harbour or Creek during that Fishing Season, and for that Time shall reserve to himself only so much Beech or Flakes or both, as are needful for the Number of such Boats as he shall there use, with an Overplus only for the Use of one Boat more than he

needs, as a Privilege for his first coming thither; and that the Master of every such second Fishing Ship, as shall enter any such Harbour or Creek shall be Vice Admiral of such Harbour or Creek during that Fishing Season; and that the Master of every such Fishing Ship next coming, as shall enter any such Harbour

Person possessed of several Places shall make his election which to abide in,

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and give his Resolution to any After-comer in 48 Hours after Demand.

In case of Difference, Admirals to proportion the Place.

or Creek, shall be Rear Admiral of such Harbour or Creek during that Fishing Season; and that the Master of every Fishing Ship there, shall content himself with such Beech or Flakes, as he shall have necessary Use for, without keeping or detaining any more Beech or Flakes, to the Prejudice of any such other Ship or Vessel as shall arrive there; and that such Person or Persons as are possessed of several Places in several Harbours or Creeks there, shall make his or their Election of such Place as he or they shall choose to abide in; and shall also, within eight and forty Hours after any After-comer or After-comers into such Place or Places shall demand such his or their Resolution touching such his or their Election (if the Weather will so soon permit, or so soon after as the Weather will permit) give or send his or their Resolution to such After-comer or After-comers, touching such his or their Election of such Place as he or they shall so choose to abide in for the Fishing Season, to the End that such After-comer or After-comers may likewise choose his or their Place or Places of his or their Abode there; and in case any Difference shall arise touching the said Matters, the Admirals of the respective Harbours where such Differences shall arise, or any two of them, shall Proportion the Place to the several Ships; in the several Harbours they fish in, according to the Number of Boats which each of the said Ships shall keep.

Persons who since 1685 have detained any Stage, Cookroom, &c., shall relinquish the same to the publick Use of Fishing Ships, &c.

"V. And whereas several Inhabitants in *Newfoundland*, and other Persons, have, since the Year of our Lord one thousand six hundred eighty five, ingrossed and detained in their own Hands, and for their own private Benefit, several Stages, Cook-rooms, Beeches, and other Places in the said Harbours and Creeks (which before that Time belonged to fishing Ships, for taking of Bait, and fishing and curing their Fish) to the great Prejudice, of the fishing Ships that arrive there in the Fishing Season, and sometimes to the Overthrow of some of their Voyages, and to the great Discouragement of the Traders there;" Be it further enacted by the Authority aforesaid, That all and every such Person and Persons, as since the said Year of our Lord one thousand six hundred eighty-five, have or hath taken, seized or detained any such Stage, Cook-room, Beech, or other Place for taking Bait or Fishing, or for the drying, curing or husbanding of Fish, shall on or before the said

No Fisherman or Inhabitant of

Newfoundland, to possess any Stage, &c., until all Fishing Ships be provided, &c.

twenty-fifth Day of *March* relinquish, quit and leave, to the publick Use of the Fishing Ships arriving there, all and every the said Stages, Cook-room Beeches and other Places for taking Bait and Fishing, and for the drying, and husbanding of Fish.

Proviso.

VI. And for the preventing the ingrossing and detaining of all such Stages, Cook-rooms, Beeches and other Places, by any Person or Persons for the Time to come; Be it enacted by the Authority aforesaid, That no Fisherman or Inhabitant of *Newfoundland* or any other Person or Persons whatsoever, shall, at any Time after the said twenty-fifth Day of *March*, seize, take up or possess any of the Stages, Cook-rooms, Beeches or other Places, which at any Time since the said Year of Our Lord one thousand six hundred eighty-five, did or at any Time hereafter shall belong to any Fishing Ship or Ships, for taking Bait or Fishing, or for drying, curing or husbanding of Fish, before

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the Arrival of the Fishing Ships out of *England, Wales,* and *Berwick*, and until all such Ships shall be provided with Stages, Cook-rooms, Beeches and other Places for taking Bait and Fishing, and for drying, curing and husbanding of Fish.

By-boat Keepers not to meddle with House, Stage, &c., belonging to any Fishing Ships.

VII. Provided always, That all such Persons, as since the twenty-fifth Day of *March* one thousand six hundred eighty-five, have built, cut out or made, or at any Time hereafter shall build, cut out or make, any Houses, Stages, Cook-rooms, Train-fats, or other Conveniences, for fishing there, that did not belong to fishing Ships since the said Year one thousand six hundred eighty-five, shall and may peaceably and quietly enjoy the same to his or their own Use, without any Disturbance of or from any Person or Persons whatsoever.

And to carry 2 fresh Men in 6. Inhabitant obliged to employ 2 such fresh Men. Master of Fishing Ship to carry 1 fresh Man in 5.

VIII. And be it further enacted by the Authority aforesaid, That all and every Person or Persons whatsoever, that shall go over with their Servants to *Newfoundland*, to keep Boats on a fishing Voyage, commonly called *By-boat Keepers*, shall not pretend to or meddle with any House, Stage, Cook-room, Train-fat, or other Conveniency, that did belong to fishing Ships since the Year one thousand six hundred eighty-five, or shall be cut out or made by Ships, from and after the said twenty-fifth Day of *March* one thousand seven hundred.

And make Oath thereof.

IX. And be it further enacted by the Authority aforesaid, That every Master of a By-boat or By-boats shall carry with him at least two fresh Men in six (*viz.*) one Man that hath made no more than one Voyage, and one Man who hath never been at Sea before; and that every Inhabitant shall be obliged to employ two such fresh Men, as the By-boat Keepers are obliged for every Boat kept by them; and further, that all Masters of fishing Ships shall carry with them, in their Ship's

Certificate gratis.
Every fifth Man a Green-man.

Company, at least one such fresh Man that never was at Sea before, in every five Men they carry; and that the Master of each such By-boat, and each such fishing Ship, shall make Oath before the Collector, or other principal Officer of the Customs of the Port or Ports from whence such Ship intends to sail, that each Ship and By-boat's Company have such fresh Men therein as this Act directs; and that the said Officer or Officers is and are hereby impowered and required to administer the aforesaid Oath to the said Masters of Ships and By-boats, and give a Certificate thereof under his Hand, without any Fee, Gratuity or Reward for so doing.

Marks of Boats or Train-fats not to be obliterated, &c.

X. And be it further enacted by the Authority aforesaid, That every Master or Owner of any fishing Ship going to *Newfoundland* (after the said twenty-fifth Day of *March*) shall have in his Ship's Company every fifth Man a Green-man (that is to say) not a Seaman, or having been ever at Sea before.

without Consent of Owners.

XI. And be it further enacted by the Authority aforesaid, That no person or Persons whatsoever shall at any Time, after the said twenty-fifth Day of *March* obliterate, expunge, cut out, deface, or any wise alter or change the Mark or Marks of any Boat or Boats, Train-fat or Train-fats, belonging to

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Standing Trees not to be rinded, nor Woods fired.

any other Person or Persons, whereby to defraud or prejudice the right Owner or Owners thereof, nor convert to his or their own Use any Boat or Boats, Train-fat or Train-fats, belonging to any other Person or Persons, without his or their Consent or Approbation, nor remove nor take away any such Boat or Train-fat from the Place or Places where they shall be left by the Owner or Owners thereof, except in Case of Necessity, and also upon giving Notice thereof to the Admiral of the Harbour or Place where such Boat or Train-fat shall be left by the Owner or Owners, to the End that the right Owners thereof may know what is become of them.

Necessary Fuel excepted, &c.

Sayns not to be annoyed,

nor Nets, Baits, &c. stolen.

XII. And be it enacted by the Authority aforesaid, That no Person or Persons whatsoever shall, at any Time after the said twenty-fifth day of *March*, rind any of the Trees there standing or growing upon any Occasion whatsoever, nor shall by any Ways or Means whatsoever set on Fire any of the Woods of the said Country, or do or cause to be done any Damage, Detriment or Destruction to the same, for any Use or Uses whatsoever, except only for necessary Fuel for the Ships and Inhabitants, and for the building and necessary Repairs of Houses, Ships, Boats and Train-fats, and of the Stages, Cook-rooms, Beeches and other Places for taking Bait and Fishing, and for drying, curing and husbanding Fish there; and also that no Person or Persons whatsoever shall, at any Time after the said twenty-fifth Day of *March*, cast Anchor, or do any other Matter or Thing, to the Annoyance or hindring of the haling of Sayns in the accustomed baiting places, or shoot his or their

Sayn or Sayns within or upon the Sayn or Sayns of any other Person or Persons whatsoever; and also that no Person or Persons whatsoever shall, at any Time after the said twenty-fifth Day of *March*, steal, purloin, or take out of the Net or Nets of any other Person or Persons whatsoever, lying adrift, or drover, for Bait by Night, nor steal, purloin or take away any Bait out of any fishing Boat or Boats, or any Net or Nets belonging to any other Person or Persons.

Robberies, &c., in Newfoundland may be tried in any County in England, by Commission of Oyer and Terminer.

"XIII. And whereas several Persons that have been guilty of Theft Robberies, Murders and other Felonies upon the Land in *Newfoundland*, and the Islands thereunto adjacent, have many Times escaped unpunished because the Trial of such Offenders hath Heretofore been ordered and adjudged in no other Court of Justice, but before the Lord High Constable, and Earl Marshall of *England*;" For Reformation thereof, and for the more speedy and effectual Punishment of such Offences for the Time to come, Be it enacted by the Authority aforesaid, That all Robberies, Murders and Felonies, and all other capital Crimes whatsoever, which, at any Time or Times after the said twenty-fifth Day of *March* shall be done and committed in or upon the Land in *Newfoundland*, or in any of the Islands thereunto belonging, shall and may be enquired of, tried, heard, determined and adjudged in any Shire or County of this Kingdom of *England*, by virtue of the King's Commission or Commissions of *Oyer* and *Terminer*, and Gaol Delivery, or any of them, according to the Laws of this Land used for the Punishment of such Robberies, Murders, Felonies, and other capital Crimes done and committed within this Realm.

* For the convenience of the Court these statutes are collected and incorporated in the first volume.

Privy Council
Documents

Volume I
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Admirals in
Newfoundland to see
the Rules, &c. in this
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Differences between
Masters of Fishing
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Party aggrieved may
appeal.

Inhabitants to observe
the Lords Day, and
not sell any Liquors
thereon.

8 & 9 W. 3.
c. 24.

9 & 10 W. 3.
c. 23.

XIV. And be it further enacted by the Authority aforesaid, That the Admirals of and in every Port and Harbour in *Newfoundland* for the Time being, be and are hereby authorized and required (in order to preserve Peace and good Government amongst the Seamen and Fishermen, as well in their respective Harbours, as on the Shore) to see the Rules and Orders in this present Act contained, concerning the Regulation of the Fishery there duly put in Execution; and that each of the said Admirals do yearly keep a Journal of the Number of all Ships, Boats, Stages, and Train-fats, and of all the Seamen belonging to and employed in each of their respective Harbours, and shall also (at their return to *England*) deliver a true Copy thereof, under their Hands, to his Majesty's most Honourable Privy Council.

XV. And be it further enacted by the Authority aforesaid, That in Case any Difference or Controversy shall arise in *Newfoundland*, or the Islands thereunto adjoining, between the Masters of fishing Ships and the Inhabitants there, or any By-boat Keeper, for or concerning the Right and Property of fishing Rooms, Stages, Flakes, or any other Building or Conveniency for Fishing or curing of Fish, in the several Harbours or Coves, the said Differences, Disputes and Controversies, shall be judged and determined by the fishing Admirals, in the several Harbours and Coves: and in Case any of the said Masters of fishing Ships, By-boat Keepers or Inhabitants, shall think themselves aggrieved by such Judgment or Determination, and shall appeal to the Commanders of any of his Majesty's Ships of War, appointed as Convoys for *Newfoundland*, the said Commander is hereby authorized and empowered to determine the same, pursuant to the Regulation in this Act.

XVI. And to the End that the Inhabitants, Fishermen, Seamen, and all and every other Person and Persons residing or being at *Newfoundland*, or any of the said Islands, or other Places, may with all Devotion join in their solemn Prayers and Addresses to Almighty God, for the obtaining of his Blessing upon their Persons and Endeavours; Be it hereby enacted, That all and every the Inhabitants of *Newfoundland*, or the said Islands or Places adjacent nearthereto, shall strictly and decently observe every Lord's Day, commonly called *Sunday*; and that none of the said Inhabitants (who keep any Tavern, Alehouse, or other publick House for Entertainment) shall entertain or sell, vend, utter or dispose of to any Fisherman, Seaman, or other Person whatsoever upon any Lord's Day or Sunday, any Wine, Beer, Ale, Cyder, strong Waters or Tobacco, or any other Liquor or Liquors whatsoever.

"XVII. And whereas by an Act of Parliament made in the eighth and ninth Years of his Majesty's Reign, intituled, *An Act for granting to his Majesty a further Subsidy of Tunnage and*

Poundage upon Merchandize imported, for the Term of two Years and three Quarters, and an additional Land Tax for one Year, for carrying on the War against France; and by another Act made in the ninth and tenth Years of his Majesty's Reign, intituled, An Act for granting to his Majesty a further Subsidy of Tunnage and Poundage,

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5 Geo. 2. c. 28.

Whale Fins, Oil, and
Blubber, imported by
Greenland
Merchants, not liable
to the Duty of 12d.
per lb. charged in the
Tunnage Acts, nor
for Whale Fins, &c.,
taken in
Newfoundland.

towards the raising a yearly Sum of seven hundred thousand Pounds, for the Service of his Majesty's Household, and other Uses therein mentioned, during His Majesty's Life, an additional Duty of twelve Pence on every twenty Shillings Value of all Goods and Merchandizes imported (all Manner of Fish English taken excepted) is granted to his Majesty, his Heirs and Successors: And whereas some doubt has arisen, whether Oil, Blubber, and Fins, taken and imported by the Company of Merchants of London trading to Greenland, are not liable to the said Duty;" Be it therefore enacted by the Authority aforesaid, That all Whale Fins, Oil, and Blubber, taken and imported by the Ships of the Company of Merchants of London trading to Greenland, were not nor are intended to be charged or made liable to the Duty of twelve Pence for every twenty Shillings Value of Goods imported, charged in the aforesaid Acts, but that the Whale Fins, Oil, and Blubber, taken and imported as aforesaid, and also all Whale Fins, Oil, and Blubber of English Fishing, taken in the Seas of Newfoundland, or any of the Seas belonging to any of his Majesty's Plantations or Colonies, and imported into this Kingdom by any of his Majesty's Subjects in English Shipping, were, and are hereby declared to be free of the said Duties, as all Fish of English taking; the aforesaid Acts, or any Thing therein contained to the contrary in any wise notwithstanding.

No. 46.

**ACT, 15 GEO. III., CAP. 31 (IMPERIAL)
(SIR HUGH PALLISER'S ACT), [1775].**[1775.]
Preamble.

An Act for the Encouragement of the Fisheries carried on from
*Great Britain, Ireland, and the British Dominions in
Europe,* and for securing the Return of the Fishermen,
Sailors, and others employed in the said Fisheries, to the
Ports thereof, at the End of the Fishing Season.

"Whereas the Fisheries carried on by his Majesty's Subjects of *Great Britain* and of the *British Dominions in Europe* have been found to be the best Nurseries for able and experienced Seamen, always ready to man the Royal Navy when Occasions require; and it is therefore of the highest national Importance to give all due Encouragement to the said Fisheries, and to endeavour to secure the annual Return of the Fishermen, Sailors, and others employed therein, to the Ports of *Great Britain*, and of his Majesty's Dominions before mentioned, at the End of every Fishing Season:" Now, in order to promote these great and important Purposes, and with a View, in the first place, to induce his Majesty's Subjects to proceed early from the Ports of *Great Britain* to the Banks of *Newfoundland*, and thereby to prosecute the Fishery on the said Banks to the greatest Advantage, may it please your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the first Day of *January*, one thousand seven hundred and seventy-six, the respective Bounties herein after mentioned shall be paid and allowed annually, for eleven Years, for a certain Number of Ships or Vessels employed in the *British* Fishery on the Banks of *Newfoundland*, under the Limitations and Restrictions herein after expressed; that is to say, Such Vessels shall appear by their Register to be *British* built and owned by his Majesty's Subjects residing in *Great Britain or Ireland*, or the Islands of *Guernsey, Jersey, or Man*; and be of the Burthen of fifty Tons or upwards, and navigated with. not less than fifteen Men each, Three-fourths of whom, besides the Master, shall be his Majesty's Subjects; and in other Respects qualified, and subject to the same Rules and Restrictions, as are described by an Act, made in the tenth and eleventh Years of the Reign of the late King *William the Third* (intituled, *An Act to encourage the Trade to Newfoundland*);

After Jan. 1, 1776,
Bounties are to be
given to Vessels
fitted out from Great
Britain or Ireland for
the Newfoundland
Fishery.

qualified as by Act 10
& 11 Gul. III.

and shall be fitted and cleared out from some Port in *Great Britain* after the said first Day of *January*, one thousand seven hundred and seventy-six, and after that Day in each

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succeeding Year, and shall proceed to the Banks of *Newfoundland*; and having caught a Cargo of Fish upon those Banks, consisting of not less than ten thousand Fish by Tale, shall land the same at one of the Ports on the Southern or Eastern Side of the Island of *Newfoundland*, between *Cape Ray* and *Cape de Grat*, on or before the fifteenth Day of July in each Year; and shall make one more Trip at least to the said Banks, and return with another Cargo of Fish caught there to the same Port; in which Case, the twenty-five Vessels first arriving at the said Island of *Newfoundland* from the Banks thereof, with a Cargo of Fish caught there, consisting of ten thousand Fish by Tale at the least, and after landing the same at one of the Ports within the Limits before mentioned in *Newfoundland*, shall proceed again to the said Banks, and return to the said Island with another Cargo of Fish, shall be intitled to forty Pounds each; and one hundred Vessels which shall so arrive the next in Order of Time, on or before the said fifteenth Day of *July* in each Year, at the said Island, with a like Cargo, and shall proceed again to the said Banks, and return from thence in the Manner herein before mentioned, shall be intitled to twenty Pounds each; and one hundred other Vessels which shall so arrive the next in Order of Time, on or before the said fifteenth Day of July in each Year, at the said Island, with a like Cargo, and shall proceed again to the said Banks, and return from thence in the Manner herein before mentioned, shall be intitled to ten Pounds each, upon the Master or Owner of such Vessel's producing to the Collector of his Majesty's Customs at the Port in *Great Britain* from whence such Vessel was cleared out, a Certificate, under the Hand and Seal of the Governor of *Newfoundland*, that the Master of such Vessel had produced to him a Certificate under the Hands of the Collector and Comptroller of the Customs at the Port from whence such Vessel was cleared out, testifying that such Vessel was duly qualified to proceed on such Fishery, in pursuance of the before-mentioned Act, made in the tenth and eleventh Years of King *William* the Third; and that it has been made appear to his Satisfaction, by a Certificate under the Hand and Seal of the Naval Officer of the District in *Newfoundland* where such Fish was landed, or, where there is no Naval Officer, under the Hand and Seal of the Commander of any of his Majesty's Ships stationed there, or of such Officer as the Governor shall approve, specifying the Time of such Vessel's Arrival, in Manner before directed, that such Vessel was intitled by the Priority and Time of her Arrival to one or other of the Bounties therein mentioned, as the Fact may be; and that the Master and Mate of such Vessel had made Oath before such Naval or other Officer as aforesaid, that the Number of Fish taken on the first Trip amounted to ten

Certificates to be produced to the Collector of Customs from the Governor of Newfoundland, of the Qualification of Ships, &c.

Masters and Mates to make Oath.

Certificates and Oaths to be granted and administered without Fee.

Collectors of Customs to pay the Bounties.

thousand at least by Tale, that he had made two Trips at least, and that all the Fish on both Trips were caught on the Banks of *Newfoundland*; which Certificate and Oath the said Governor and Naval or other Officer as aforesaid are hereby impowered and required to grant and administer to the Master and Mate of such Vessel without Fee or Reward; and upon delivering up the said Certificate to such Collector, the respective Bounties therein mentioned shall be paid by such Collector out of any Money remaining in his Hands arising by the Duties of Customs or other Subsidies upon foreign

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Any Part of Newfoundland not in use may be used for curing and drying Fish.

Goods imported into this Kingdom; and in case such Collector shall not have sufficient Money in his Hands to pay the said Bounties, he shall certify the same to the Commissioners of his Majesty's Customs in *England* or *Scotland* respectively, who are hereby authorized and required to order the same to be paid by the Receiver General of the Customs, out of any Money in his Hands arising by any of the Duties and Revenues under their Management respectively.

What Bounties are to be given to Ships fitted out for the Whale Fishery.

II. And be it further enacted by the Authority aforesaid, That, for the better Accommodation of the Persons belonging to Vessels employed in the *Newfoundland* Fishery, it shall and may be lawful for the Masters and Crews belonging to any Vessels fitted out and employed in that Fishery, in pursuance of this or any other Act, to occupy and use, for the purpose of curing, salting, drying, and husbanding their Fish, any vacant or void Space whatever on any Part of *Newfoundland* which is not then occupied and used for the said Fishery, without any Let, Disturbance, or Hindrance, from any Person or Persons whatsoever, although such unoccupied Places may not before have been reputed Ships Rooms; and all such unoccupied Places shall from henceforth be deemed and taken to be Ships Rooms, any Custom or Usage to the contrary notwithstanding.

Masters and Mates

"III. And in order to induce his Majesty's Subjects in *Great Britain* and *Ireland*, and the Islands of *Guernsey*, *Jersey*, and *Man*, to carry on the Whale Fishery on the Coasts of *Newfoundland*, and the Seas adjacent," be it further enacted by the Authority aforesaid, That the several Bounties hereinafter mentioned shall be allowed annually, for eleven Years, for five Vessels employed in that Fishery, under the Limitations and Restrictions herein after expressed; that is to say, Such Vessels shall appear by their Register to be *British* built, and owned by his Majesty's Subjects residing in *Great Britain*, *Ireland*, or the Islands of *Guernsey*, *Jersey*, or *Man*, and navigated with Three-fourths of his Majesty's Subjects of *Great Britain*, *Ireland*, or the Islands of *Guernsey*, *Jersey*, or *Man*, besides the Master, and shall be fitted and cleared out from some Port in *Great Britain* or *Ireland*, or the Islands of *Guernsey*, *Jersey*,

making Oath, &c.

or *Man*, after the first Day of *January*, one thousand seven hundred and seventy-six, and after that Day in each succeeding Year, and shall take and kill one Whale at least in the *Gulph of Saint Lawrence*, or on the Coasts of *Labrador*, *Newfoundland*, or in the Seas to the Southward of the *Greenland Seas* and *Davis's Streights*, and shall return within the same Year to some Port in *England* with the Oil of such Whale or Whales so taken as aforesaid; and on the Master and Mate of such Vessel, and two of the Mariners belonging to her, making Oath before the Collector and Comptroller of the Customs at the Port of her Arrival (which Oath they are hereby authorised and required to administer), that such Oil is the Produce of one or more Whale or Whales taken and killed by the Crew then belonging to such Vessel, mentioning the Time when she departed from *Great Britain*, *Ireland*, or the Islands of *Guernsey*, *Jersey*, or *Man*, and from what Port, and the Time and Place where such Whale or Whales was or were taken and killed, such Oil

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Receiver General of his Majesty's Customs to pay the Bounties.

What Persons are intitled to the Privilege of drying Fish on the Banks of Newfoundland.

Provisions, and all Necessaries for fishing, may be

may be landed without Payment of any Duty whatsoever; and the Collector and Comptroller of such Port shall thereupon forthwith transmit such Oath to the Commissioners of his Majesty's Customs at *London*, any four or more of whom are hereby authorised and required to order the Receiver General of his Majesty's Customs to pay, out of any Money in his Hands arising by any Duties under their Management, for the Vessel which shall so arrive in each Year with the greatest Quantity of Oil taken as aforesaid, five hundred Pounds; for the Vessel which shall in like Manner arrive in the same Year with the next greatest Quantity of Oil so taken as aforesaid, four hundred Pounds; for the Vessel which shall in like Manner arrive in the same Year with the next greatest Quantity of Oil so taken as aforesaid, three hundred Pounds; for the Vessel which shall in like Manner arrive in the same Year with the next greatest Quantity of Oil so taken as aforesaid, two hundred Pounds; and for the Vessel which shall so arrive in the same Year with the next greatest Quantity of Oil so taken as aforesaid, one hundred Pounds; the said Oil so to be imported by each of the said Vessels being the Produce of one Whale at the least; which said several and respective Bounties shall be paid by such Receiver General, within two Months after the Expiration of each Year in which such Vessel shall arrive, to the Owner or Owners of such Vessels so intitled thereto, or their Assigns duly authorised to demand the same.

"IV. And in order to obviate any Doubts that have arisen, or may arise, to whom the Privilege or Right of drying Fish on the Shores of *Newfoundland* does or shall belong, under the before-mentioned Act, made in the tenth and eleventh Years of the Reign of King *William* the Third, which Right or Privilege has hitherto only been enjoyed by his Majesty's Subjects of *Great Britain*, and the other *British* Dominions in *Europe*;" be it enacted and declared by the Authority aforesaid, That the

exported from Ireland and the Isle of Man to Newfoundland, being British or Irish Product or Manufacture.

Masters of Vessels to produce Certificates from the Officer of Customs, that the Provisions, &c. are the Product, &c. of Great Britain or Ireland.

On Failure, &c. the Ship to be forfeited.

No Fishing Ships, or any Craft carrying Necessaries for the Fishery, to be liable to any Restraint as to

said Right and Privilege shall not be held and enjoyed by any of his Majesty's Subjects arriving at, *Newfoundland* from any other Country except from *Great Britain*, or one of the *British Dominions in Europe*.

V. And it is hereby further enacted by the Authority aforesaid, That it shall and may be lawful for any of his Majesty's Subjects residing in *Ireland* to ship and lade there, and to transport directly from thence to *Newfoundland* or to any Part of *America* where the Fishery is now or shall hereafter be carried on, on Board any Ship or Vessel which may lawfully trade or fish there, any Provisions, and also any Hooks, Lines, Netting, or other Tools or Implements necessary for and used in the Fishery by the Crews of the Ships or Vessels carrying out the same, and the Craft belonging to and employed by such Ships or Vessels in the said Fishery, such Provisions, Hooks, Lines, Netting, or other Tools or Implements, being the Product and Manufacture of *Great Britain* or *Ireland*; and that it shall and may be lawful for any of his Majesty's Subjects residing in the *Isle of Man*, in like Manner to export directly from thence any of the Articles herein before mentioned for the Purpose aforesaid, such Articles being the Product or Manufacture of

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Great Britain, or the said *Isle of Man*, any Law, Custom or Usage, to the contrary notwithstanding.

VI. Provided always, and it is hereby further enacted by the Authority aforesaid, That the Master or other Person taking Charge of such Ship or Vessel shall produce to the proper Officer of the Customs in the Colony or Plantation where he shall arrive, a Certificate, under the Hand and Seal of the Collector or other Principal Officer of the Customs in the Port where he shall have fitted out, that Oath hath been made before him by the Shipper of such Provisions, Hooks, Lines, Netting, or other Tools and Implements, that the same are of the Product and Manufacture of *Great Britain* or *Ireland*, or the *Isle of Man* respectively, as the Fact may be, and that the several Articles before mentioned (except the Provisions), specifying the Quantities and Particulars of each Sort, are to be used in the Fishery by the Crews of the respective Ship or Vessel carrying out the same, and by the Craft belonging to and to be employed by such Ship or Vessel in the said Fishery, and for no other Use or Purpose whatsoever (which Oath and Certificate such Collector or other Officer is hereby authorised and required to administer and grant without Fee or Reward); and on Failure of producing such Certificate, or if any such Hooks, Lines, Netting, Tools and Implements, are used or disposed of for any other Purpose, the same, and the Ship or Vessel having the same on Board, shall be liable to be seized and forfeited in the same Manner as they would have been subject and liable to if this Act had not been made, any Thing

Time of working, nor to make any Entry at the Customhouse, &c.

herein contained to the contrary notwithstanding.

VII. And it is hereby further enacted by the Authority aforesaid, That from and after the first Day of *January*, one thousand seven hundred and seventy-six, all Vessels fitted and cleared out as Fishing Ships in pursuance of this Act, or of the before-mentioned Act, made in the tenth and eleventh Years of the Reign of the late King *William* the Third, and which shall be actually employed in the Fishery there, or any Boat or Craft whatsoever employed in carrying Coastwise, to be landed or put on Board any Ships or Vessels, any Fish, Oil, Salt Provisions, or other Necessaries, for the Use and Purpose of that Fishery, shall not be liable to any Restraint or Regulation with respect to Days or Hours of working, nor to make any Entry at the Customhouse at *Newfoundland*, except a Report to be made by the Master on his first Arrival there, and at his clearing out from thence; and that a Fee not exceeding two Shillings and Sixpence shall and may be taken by the Officers of the Customs at *Newfoundland* for each such Report; and that no other Fee shall be taken or demanded by any Officer of the Customs there, upon any other Pretence whatsoever relative to the said Fishery, any Law, Custom, or Usage, to the contrary notwithstanding.

If Ships have on Board any other Goods than Fish or Oil, &c. they shall be under the usual Restrictions, &c.

VIII. Provided always, and be it enacted., That in case any such Fishing Ship or Vessel shall at her last clearing out from the said Island of *Newfoundland* have on Board, or export any Goods or Merchandise whatsoever, except Fish, or Oil made of Fish, such Ship or Vessel, and the Goods thereon laden, shall

Act 25 Car. II.
allowing Train Oil,
&c. to be imported
Duty-free, recited,

and after Sept. 1,
1775, extended to all
Ships belonging to
Great Britain,
Ireland, Guernsey,
&c.

After Sept. 1, 1775,
undressed Seal Skins
may be imported
Duty-free.

Not to extend to any
Seal Skins, except
those imported by
Ships, qualified as
aforesaid,

be subject and liable to the same Securities, Restrictions, and Regulations, in all Respects, as they would have been subject and liable to if this Act had not been made, any Thing herein before contained to the contrary notwithstanding.

"IX. And whereas by an Act, made in the twenty-fifth Year of the Reign of King Charles the Second (intituled, *An Act for the Encouragement of the Greenland and Eastland Trades, and for the better securing the Plantation Trade*), and by other Acts of Parliament, it is lawful for any Person or Persons to import into *England* Train Oil or Blubber of *Greenland*, and Parts adjacent, and those Seas, or of *Newfoundland*, or of any other his Majesty's Colonies and Plantations, made of Fish, or of any other Creature living in the Seas, and Whale Fins caught in any Ships or Vessels truly and properly belonging to *England* or *Wales*, or Town of *Berwick upon Tweed*, and imported in such Ships, without paying any Custom or Duty for the same, which Liberty, by a subsequent Act of Parliament, is extended to Ships belonging to *Great Britain*; and it is reasonable that the same Indulgence should be extended to Oil and Blubber of Fish, and other Creatures living in the Sea, and to Whale Fins caught in any Part of the Ocean by Ships belonging to *Great Britain, Ireland*, and the Islands of *Guernsey, Jersey*, and *Man*;" be it therefore enacted by the Authority aforesaid, That from and after the first Day of *September*, one thousand seven hundred and seventy-five, the Liberty granted by the said Act to import into this Kingdom Oil or Blubber of Fish, or other Creatures living in the Sea, or Whale Fins taken within the Limits therein mentioned, Duty-free, shall extend, and be construed to extend, to such Oil or Blubber, or Whale Fins, as shall be so taken in any Part of the Ocean by, and imported in any Ship or Vessel truly and properly belonging to, his Majesty's Subjects of *Great Britain, Ireland*, or the Islands of *Guernsey, Jersey*, or *Man*, any Law, Custom, or Usage, to the contrary notwithstanding.

X. And it is hereby further enacted by the Authority aforesaid, That from and after the first Day of *September*, one thousand seven hundred and seventy-five, it shall and may be lawful for any Person or Persons to import into this Kingdom any raw and undressed Seal Skins taken and caught by the Crews of Vessels belonging to and fitted out either from *Great Britain, Ireland*, or the Islands of *Guernsey, Jersey*, or *Man* respectively, and whereof the Captain or Master and Three-fourths at the least of the Mariners are his Majesty's Subjects, or by Persons employed by the Masters or Owners of such Vessels, without paying any Custom, Subsidy, or other Duty, for the same, any Law or Usage to the contrary notwithstanding.

XI. Provided always, That nothing in this Act shall extend, or be construed to extend, to give Liberty of importing any

and duly entered at
the Customhouse,
&c.

such Seal Skins Duty-free, unless the Captain or Person having the Charge or Command of such Ship or Vessel importing the same shall make Oath before the Collector or other Principal Officer of the Customs at the Port of Importation (who is hereby

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authorised and required to administer such Oath), that all the Skins imported in such Ship or Vessel were really and *bona fide* the Skins of Seals taken and caught by the Crews thereof, or by Persons employed by the Master or Owner of such Ship or Vessel, or of some other Ship or Vessel qualified as aforesaid; and such Seal Skins shall be also duly entered at the Customhouse for the said Port, and landed in the Presence of the proper Officer or Officers of the Customs appointed for that Purpose; and on Failure of any of these Conditions, such Skins shall be liable to pay the same Duties as they would have been subject and liable to if this Act had not been made, any Thing herein contained to the contrary notwithstanding.

No Shipmaster to
carry Fisherman, &c.
as Passengers to any
Part of the Continent
of America without
Permission, under the
Penalty of 200 *l*.

"XII. And whereas it has been a Practice of late Years for divers Persons to seduce the Fishermen, Sailors, Artificers, and others, employed in carrying on the Fishery, arriving at *Newfoundland*, on Board Fishing and other Vessels from *Great Britain*, and the *British* Dominions in *Europe*, to go from thence to the Continent of *America*, to the great Detriment of the Fishery and the Naval Force of this Kingdom;" Now, in order to remedy the said Evil, and to secure the Return of the said Fishermen, Sailors, Artificers, and others, employed as aforesaid, to the *British* Dominions in *Europe*, be it further enacted by the Authority aforesaid, That from and after the first Day of *January*, one thousand seven hundred and seventy-six, it shall not be lawful for the Master, or Person having the Charge or Command of any Ship or Vessel trading to or from any Place within the Government of *Newfoundland*, to carry or convey, as Passengers, any such Fishermen, Sailors, Artificers, and others, employed as aforesaid, from thence to any Part of the Continent of *America*, without the Permission under the Hand and Seal of the Governor of the said Island of *Newfoundland*, under the Penalty of forfeiting two hundred Pounds for every such Offence.

Regulations for
Persons employing
Seamen or Fishermen
at Newfoundland.

"XIII. And whereas in several Acts, passed in the eleventh and twelfth Years of *William* the Third, the eight of *George* the First, and second and twelfth of *George* the Second, Provision has been made to prevent Seamen and Mariners in the Merchant Service being wilfully left beyond Sea, and to secure and provide for their Return home to such Part of his Majesty's Dominions whereto they belong: And whereas, for want of such Provisions being extended to Seamen and Fishermen going out as Passengers to *Newfoundland*, and hired and employed in the Fisheries carried on there, great Numbers of them remain in that Country at the End of every Fishing

Season, who would otherwise return home, and some of them have frequently turned Robbers and Pirates;" for Remedy of which Evil, be it enacted by the Authority aforesaid, That no Person or Persons whatsoever shall, from and after the first Day of *January*, one thousand seven hundred and seventy-six, employ, or cause to be employed, at *Newfoundland*, for the Purpose of carrying on the Fishery there, any Seaman or Fisherman going as Passengers, or any Seaman or Fisherman hired there, without first entering into an Agreement or Contract, in Writing with every such Seaman or Fisherman declaring what Wages such Seaman or Fisherman is to have, and the Time for which he shall

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Employers to pay to Fishermen, &c. only Half of their Wages, and the other Half in Bills, &c. at their Return home.

serve, which shall be signed by both Parties; wherein it shall be stipulated (amongst other Things) that the Person so hiring or employing shall be at Liberty to reserve, retain, and deduct, and he is hereby authorised, required, and directed, to reserve, retain, and deduct, out of the Wages of every Person so hired or employed, a Sum of Money equal to the then current Price of a Man's Passage home, not exceeding forty Shillings for each Man, which at the Expiration of the covenanted Time of Service of such Seaman or Fisherman, pay, or cause to be paid, to the Master of a Passage or other Ship, who shall undertake or agree to carry such Seaman or Fisherman home to the Country whereto he belongs, and shall also convey such Seaman or Fisherman to and on Board such Passage or other Ship, taking the Master's Receipt for the Passage Money, which Receipt he shall immediately thereupon deliver to such Seaman or Fisherman.

Penalty on Employers obliged to produce the Contract.

XIV. And be it further enacted by the Authority aforesaid, That no Hirer or Employer of any such Seaman or Fisherman shall pay or advance, or cause to be paid or advanced, to such Seaman or Fisherman, in Money, Liquor, and Goods, or either of them, during the Time he shall be in his Service, more than one Half of the Wages which shall at any Time be due to him; but such Hirer or Employer shall, and is hereby required and directed, immediately at or upon the Expiration of every such Man's covenanted Time of Service, to pay either in Money, or in good Bills of Exchange, payable either in *Great Britain* or *Ireland*, or in the Country to which such Seaman or Fisherman belongs, the full Balance of his Wages, except the money herein before directed to be retained for his Passage home; and it shall not be lawful for any such Hirer or Employer to turn away or discharge any such Seaman or Fisherman, except for wilful Neglect of Duty, or other sufficient Cause, before the Expiration of his covenanted Time of Service; and in case the Hirer or Employer of any such Seaman or Fisherman shall refuse or neglect to comply with any of the Terms herein before mentioned, or shall otherwise offend against this Act, every such Person so offending shall forfeit and pay, for every such Offence, besides the Balance that shall be due to such

If any Dispute arise, Employers obliged to produce the Contract.

All Fish and Oil liable to the Payment of Wages.

Seaman or Fisherman, the Money herein before directed to be retained for his Passage home, the Sum of ten Pounds, to the Use of such Person or Persons who shall inform or sue for the same.

XV. And be it further enacted by the Authority aforesaid, That in all Cases where Disputes shall arise concerning the Wages of any such Seaman or Fisherman, the Hirer of Employer shall be obliged to produce the Contract or Agreement in Writing, herein before directed to be entered into with every such Seaman or Fisherman.

Penalty on Seamen or Fishermen absenting themselves from their Employers without Leave.

XVI. And be it further enacted by the Authority aforesaid, That all the Fish and Oil which shall be taken and made by the Person or Persons who shall hire or employ such Seaman or Fisherman, shall be subject and liable, in the first place, to the Payment of the Wages of every such Seaman or Fisherman.

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XVII. And be it further enacted by the Authority aforesaid, That in case any such Seaman or Fisherman shall at any Time wilfully absent himself from his Duty or Employ, without the Leave and Consent of his Hirer or Employer, or shall wilfully neglect or refuse to work according to the true Intent and Meaning of such Contract or Agreement, he shall, for every Day he shall so absent himself, or neglect or refuse to work as aforesaid, forfeit two Days Pay to such Hirer or Employer; and if any such Seaman or Fisherman shall wilfully absent himself from his said Duty or Employ for the Space of five Days, without such Leave as aforesaid, he shall be deemed a Deserter, and shall forfeit to such Hirer or Employer all such Wages as shall at the Time of such Desertion be due to him (except so much as is herein before directed to be reserved and retained for the Purpose of paying his Passage home); and it shall and may be lawful to and for the Governor of *Newfoundland*, or his Surrogates, or the Commissary of the Vice Admiralty Court for the Time being, or for any Justice of the Peace in *Newfoundland*, to issue his or their Warrant or Warrants to apprehend every such Deserter, and on the Oath of one or more credible Witness or Witnesses to commit him to Prison, there to remain until the next Court of Session which shall be holden in pursuance of the Commission of the said Governor for the Time being; and, if found guilty of the said Offence at such Session, it shall and may be lawful to and for the said Court of Session to order such Deserter to be publicly whipped as a Vagrant, and afterwards to be put on Board a Passage Ship, in order to his being conveyed back to the Country whereto he belongs.

Disputes, and all Offences, to be determined by the Court of Session, &c. at Newfoundland.

XVIII. And be it further enacted by the Authority aforesaid, That all Disputes which shall arise concerning the Wages of every or any such Seaman or Fisherman, and all Offences which shall be committed by every Hirer or Employer of such

Seaman or Fisherman, against this Act, shall and may be inquired into, heard, and determined, and the Penalties and Forfeitures thereby incurred shall and may be recovered in the Court of Session herein before mentioned, or in the Court of Vice Admiralty having Jurisdiction in the said Island of *Newfoundland*.

"XIX. And whereas by an Act of Parliament, passed in the sixth Year of the Reign of her late Majesty Queen *Anne*, intituled, *An Act for the Encouragement of the Trade to America*, it is, amongst other Things, enacted, That no Mariner or other Person who shall serve on Board, or be retained to serve on Board, any Privateer, or Trading Ship or Vessel, that shall be employed in any Part of *America*, nor any Mariner or other Person being on Shore in any Part thereof, shall be liable to be impressed or taken away by any Officer or Officers of or belonging to any of her Majesty's Ships of War, empowered by the Lord High Admiral, or any other Person whatsoever, unless such Mariner shall have before deserted from such Ship of War: And whereas the said Privilege or Exemption so given by the said Act to Mariners serving on Board Ships or Vessels employed in any of the Seas or Ports of the Continent of *America*, or residing on Shore there, is prejudicial to the Fisheries carried on by his Majesty's Subjects of *Great Britain* and

Act 6 Annæ,
respecting Sailors
employed in Trading
Ships, &c. in
America not liable to
be impressed,
repealed.

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Ireland, and others his Majesty's Dominions in *Europe*, and has proved an Encouragement to Mariners belonging thereto to desert in Time of War, or at the Appearance of a War, to the *British* Plantations on the said Continent of *America*;" be it therefore enacted by the Authority aforesaid, That the said Clause, so far as it relates to the exempting of Mariners or other Persons serving, or retained to serve, in any Ship or Vessel in the Seas or Ports of the Continent of *America*, or other Persons on Shore there, from being impressed, be and the same is hereby repealed.

Rum, &c. imported
into Newfoundland
from America to pay
a Duty of 1s. per
Gallon.

"XX. And whereas the immoderate Use of Rum and other Spirits, imported into *Newfoundland* from his Majesty's Colonies and Plantations in *America*, has been found to be highly detrimental to the Fisheries carried on there, and it is therefore proper to endeavour to diminish the Consumption thereof;" be it enacted by the Authority aforesaid, That from and after the first day of *January*, one thousand seven hundred and seventy-six, there shall be paid in to his Majesty, his Heirs and Successors, for every Gallon of Rum, or other Spirits, which shall be brought or imported into the Island of *Newfoundland* from any *British* Colony or Plantation on the Continent of *America*, the Sum of one Shilling Sterling Money of *Great Britain*; and the same shall be collected, recovered and paid, to the Amount of the Value of; which such nominal Sum bears in *Great Britain*, and may be received and taken

How such Duty is to
be collected,
recovered, and
applied.

according to the Proportion and Value of five Shillings and Sixpence the Ounce in Silver; and the said Duty hereby granted shall be raised, levied, collected, paid, and recovered, in the same Manner and Form, and by such Rules, Ways, and Means, and under such Penalties and Forfeitures, except in such Cases where any Alteration is made by this Act, as any other Duties payable to his Majesty upon Goods imported into any *British* Colony or Plantation in *America* are raised, levied, collected, paid, and recovered, by any Act or Acts of Parliament, as fully and effectually, to all Intents and Purposes, as if the several Clauses, Powers, Directions, Penalties and Forfeitures relating thereto, were particularly repeated and again enacted in the Body of this present Act; and that all the Monies that shall arise by the said Duty (except the necessary Charges of raising, collecting, levying, recovering, answering, paying, and accounting for the same), shall be paid into the Receipt of his Majesty's Exchequer, and applied and appropriated to the same Uses and Purposes as the Duties arising by that Part of the Customs, commonly called *The Old Subsidy*, payable in *Great Britain*, are applied and appropriated.

"XXI. And whereas the Bounties given by an Act of Parliament, made in the eleventh Year of the Reign of his present Majesty, intituled, *An Act for the better Support and Establishment of the Greenland and Whale Fisheries*, have been found of great Advantage to the Navigation, Trade, and Manufactures of this Kingdom; and it is just and expedient that the like Bounties which are granted by that Act to Ships fitted out from *Great Britain*, or any of his Majesty's Dominions in *America*, for those fisheries, should in like Manner be granted to Ships fitted out for that Purpose from

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After Dec. 25, 1775,
Bounties granted by
Act 11 Geo. III.
extended to Ireland.

Officers to certify that
Ships are properly
fitted out, before they
proceed on their
Voyage.

Commissioners of the
Revenue in Ireland,
on receiving such
Certificates, to grant
Licence, &c.

the Kingdom of *Ireland*;" be it therefore enacted by the Authority aforesaid, That from and after the twenty-fifth Day of *December*, one thousand seven hundred and seventy-five, the respective Bounties herein after mentioned shall be allowed for every Ship or Vessel *British* built, and owned by his Majesty's Subjects of *Ireland*, and whereof the Captain or Master and at least One-third of the Mariners are his Majesty's Subjects of *Great Britain* or *Ireland*, which shall proceed from any Port in the said Kingdom of *Ireland* within the Time limited by this Act on the Whale Fishery to the *Greenland* Seas, and *Davis's Streights*, and the adjacent Seas, under the several Rules and Restrictions herein after expressed; that is to say, Every such Ship or Vessel, before she proceeds on such Voyage, shall be visited by the proper Officer or Officers of the Customs belonging to such Port, who shall examine into such Ship or Vessel, and take an Account of the Tonnage thereof by Admeasurement, and shall certify such his or their Visitation, Examination, and Admeasurement, to the Commissioners of his Majesty's Revenue in *Ireland*; and if it appears by the Certificates of such Officer or Officers that she hath on Board such a Number of Men, Provisions, Boats, Fishing Lines, and Instruments to be used in such Fishery as herein after are mentioned; that she is strongly built, and otherwise a proper Ship for such Voyage and Fishery, and hath on Board among her Crew a sufficient Number of Harpooners, Steersmen, and Line-managers, who have been before employed in such Voyages (the Names of such Persons to be contained in such Certificate); and if it further appears by the Oath of one or more Owner or Owners, and of the Master or Chief Officer of such Ship, written at the Foot of such Certificate, and made before the Collector or Comptroller of such Port (who are hereby impowered and required to administer the same), that it is realty and truly their firm Purpose and determined Resolution, that such Ship shall, as soon as Licence shall be granted, forthwith proceed, so manned, furnished, and accoutred, on a Voyage to the *Greenland* Seas, or *Davis's Streights*, or the Seas adjacent, and there in the then approaching Season to use the utmost Endeavours of themselves and their Ship's Company to take Whales, or other Creatures living in the Sea, and on no other Design or View of Profit in such Voyage, and to import the Whale Fins, Oil, and Blubber thereof, into the Kingdom of *Great Britain* (naming the Port to which it is their Intention to return); and if the Master, after such Certificate had, and Oath made, do also become bound, with two sufficient Securities, unto his Majesty, his Heirs and Successors, in the Penalty of such Sum as shall be equal to treble the Bounty intended by this Act (which Bond the said Collector, with the Approbation of the Comptroller, is hereby required to take, and is to be in Force for the Term of three Years against the Master and Sureties for the faithful Dealings of the said Master and Ship's

What Number of Men, Lines, Boats, &c. Ships of certain Dimensions shall have on Board.

Company in regard to the said Ship and Voyage); then, and in all such Cases, it shall and may be lawful for any three or more of the said Commissioners of the Revenues in *Ireland* for the Time being, on receiving such Certificates and Oaths made, and it being certified to them by the Collector and Comptroller of such Port, that sufficient Security hath been given as aforesaid, to give and grant, and they are hereby

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required to give and grant to the Master and Owners of such Ship, full Licence and Authority to proceed on such Voyages as aforesaid.

On Return of Ships, proper Officers to go on Board and inspect the Cargo, &c. and take an Account of the Names of the Masters, Harpooners, &c.

"XXII. And to prevent any Disputes that may arise whether a Ship be properly qualified and duly fitted out for the Whale Fishery, according to the true Intent and Meaning of this Act, and intituled to a Certificate thereof from the Custom-house Officers," it is hereby enacted, That every Ship of the Burthen of two hundred Tons, designed for this Fishery, shall and is hereby obliged to have on Board forty Fishing Lines of one hundred and twenty Fathom each, forty Harpoon Irons, four Boats with seven Men, including a Harpooner, a Steersman, and a Line-manager, to each Boat, making in the Whole twenty-eight Men besides the Master and Surgeon, with six Months Provision at the least for such Number of Men; and every Ship of larger Burthen an Increase of six Men, one Boat, ten such Lines and ten Harpoon Irons more, for every fifty Tons above the said two hundred Tons, together with Provisions in proportion; and every Ship which shall be so employed in the said Fishery shall have on Board an Apprentice, indentured for the Space of three Years at the least, for every fifty Tons Burthen, who shall be accounted as one of the Number of Men required to be on Board such Ship as aforesaid.

XXIII. And be it further enacted by the Authority aforesaid, That on the Return of such Ship to the Port to which the Master and Mate declared on Oath their Intention to return, the proper Officers of the Customs at, such Port shall immediately repair on Board, and view the Condition of such Ship and her Lading, and certify the same, together with their Observations thereon; as also of the real Tonnage of the said Ship; and the said Officers are also to take an Account or Schedule of the Names of the Master, Mate, and other Persons on Board, distinguishing therein the Harpooners and Persons more immediately employed in the said Fishery, and to certify the same; and the Master and Mate shall make Oath before the Collector and Comptroller (who are hereby empowered and required to administer the same), on the Back of, or annexed to

Commissioners being satisfied of the faithful Deal.

ings of the Master, &c. to pay the Bounties as directed, according to the Admeasurement of the Ships.

Certain Provisoos respecting Ships before any Person be intitled to the Bounty.

the Licence granted as aforesaid, which they are hereby then required to deliver up, that they did in pursuance thereof, mentioning the Day of their Departure, proceed on a Voyage directly to the Places aforesaid, and have not since been on any other Voyage, or pursued any other Design or View of Profit; and that they did there (mentioning the Time of their Stay in those Seas) use the utmost Endeavour of themselves and their Ship's Company to take Whales, and other Creatures living in those Seas; and that all the Whale Fins Oil and Blubber, imported (if any) in such Ship, was really an *bona fide* caught and taken in the said Seas by the Crew of such Ship only, or with the Assistance of the Crew of some other Ship duly licenced for that Voyage, pursuant to the Directions of this Act; all which Schedule, Certificate, Licence, and Oath, shall be transmitted by the Collector and Comptroller of such Port to the respective Commissioners of the Customs for that Part of *Great Britain* where such Ship shall arrive; and such Commissioners being fully satisfied of the faithful Dealings of the Master and other

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Persons employed in such Ships with respect to such Voyage and Fishery, shall, on Demand, cause Payment to be made to the Master or Owners, or to his or their Assigns, by the Receiver General of the Customs for that Part of *Great Britain* where such Ship shall arrive, the Bounty or Premium following, according to the Admeasurement of such Ship, duly certified as aforesaid; (that is to say), For every such Ship as shall proceed on the said Fishery, from the twenty-fifth Day of *December*, one thousand seven hundred and seventy-five, to the twenty-fifth Day of *December* one thousand seven hundred and seventy-six, the Sum of forty Shillings *per* Ton; and for every such Ship as shall proceed on the said Fishery, from the twenty-fifth Day of *December* one thousand seven hundred and seventy-six, to the twenty-fifth Day of *December* one thousand seven hundred and eighty-one, the Sum of thirty Shillings *per* Ton; and for every such Ship as shall proceed on the said Fishery from the twenty-fifth Day of *December* one thousand seven hundred and eighty-one, to the twenty-fifth Day of *December* one thousand seven hundred and eighty-six, the Sum of twenty Shillings *per* Ton.

XXIV. Provided always, and it is hereby further enacted by the Authority aforesaid, That no Person or Persons shall be allowed or intitled to receive the Bounty herein before granted, for any Ship which shall proceed on the said Whale Fishery after the twenty-fifth Day of *December* one thousand seven hundred and seventy-five, unless such Ship shall sail from the Port where she shall be surveyed, and cleared directly on her intended Fishery, on or before the tenth day of *April* in each and every Year, and shall continue with her Crew in the *Greenland* Seas, or *Davis's Streights*, or the adjacent Seas, diligently endeavouring to catch Whales, or other Creatures

If Monies arising from the Old Subsidy be not sufficient to pay Bounties, any other Revenue Money may be taken.

living in those Seas, and shall not depart from thence before the tenth Day of *August* then following, unless such Ship shall be laden with the Blubber and Fins of one Whale, caught by the Crew thereof, or with the Assistance of the Crew of some other licensed Ship, before that Time, or shall be forced by some unavoidable Accident or Necessity to depart sooner from those Seas which Accident or necessity shall be verified on the Oaths of the Master and Mate belonging to such Ship, upon her Return from the said Fishery, before the Collector and Comptroller of the Customs at the Port where she shall arrive, who shall transmit the same, together with the Schedule, Licence, and other Documents by this Act required, to the respective Commissioners of the Customs for that Part of *Great Britain* where she shall arrive.

Commissioners, at the Beginning of every Session of Parliament, to lay before them an Account of the Ships employed in the Whale Fishery, &c.

XXV. And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the Commissioners of the Customs in *England* and *Scotland* respectively to order the respective Receivers General of the Customs, in case the Monies remaining in their Hands arising from the Old Subsidy shall not be sufficient at any Time or Times, during the Continuance of this Act, to satisfy the said Bounty of forty Shillings *per* Ton, and thirty Shillings *per* Ton, and twenty Shillings *per* Ton, during the several Periods herein before limited, payable on all. Ships employed in the said Fishery, according to the Directions of this present Act, to pay the same out

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of any Money that shall be in their Hands arising from any of the Duties and Revenues under their Management respectively.

Ships under 200 Tons intitled to a Bounty proportionable to their Admeasurement.

XXVI. And be it further enacted by the Authority aforesaid, That the Commissioners of his Majesty's Customs in *England* and *Scotland* respectively shall, at the Beginning of every Session of Parliament, lay before both Houses of Parliament an Account in Writing, under their Hands, of what Number of Ships employed in the Whale Fishery to *Davis's Streights* and the *Greenland* Seas, in pursuance of this Act, with their respective Names and Burthens, have returned to *Great Britain*, and at what Port in *Great Britain* they were discharged, and also what Quantity of Oil, Blubber, or Whale Fins, each Ship shall have imported, and from what Port in *Ireland* or the *Isle of Man* they were fitted out.

Ships above 400 Tons not intitled to a larger Bounty than a 400 Ton Ship; and Owners not obliged to equip, &c. more

"XXVII. And whereas it hath been found by Experience, that Ships under the Burthen of two hundred Tons are fit for the said Fishery;" be it therefore enacted and declared by the Authority aforesaid, that every Owner or Owners of any Ship or Ships under the Burthen of two hundred Tons, which shall be employed in the said Fishery, who have conformed themselves in all Respects to the Rules and Directions herein before prescribed to the Owners of Ships of two hundred Tons,

than a Ship of 400 Tons.

shall be intitled to the said Bounty, as herein before limited, according to the Admeasurement of such Ship or Ships respectively.

No apprentice, when indentured, to exceed 18, nor be under 14 Years; and no Bounty to be paid unless Ships employed belong to some of his Majesty's Subjects where fitted out.

XXVIII. Provided always, and be it enacted by the Authority aforesaid, That no ship to be employed in the said Fishery, although she be above the Burthen of four hundred Tons, shall be intitled to a larger Bounty than a Ship of four hundred Tons would be intitled to.

XXIX. Provided also, That nothing in this present Act shall extend, or be construed to extend, to oblige the Owner or Owners of any Ship above, the Burthen of four hundred Tons, in order to intitle him or them to the said Bounty, to fit out, equip, and man any such Ship, otherwise than as a Ship of the Burthen of four hundred Tons only is, by this present Act, required to be fitted out, equipped, and manned.

Bounties may be insured.

XXX. Provided also, and it is hereby further enacted by the Authority aforesaid, That every Apprentice indentured after the twenty-fifth Day of *December* one thousand seven hundred and seventy-five, to serve on Board any Ship or Vessel proceeding on the Fisheries, in pursuance of this or any other Act of Parliament now in Force, granting any Bounty or Bounties thereon, shall not exceed the Age of eighteen Years, nor be under fourteen, at the Time he shall be so indentured; and that no Bounty shall be allowed or paid for any Ship or Vessel so employed, either by virtue of this or any former Act of Parliament, unless the whole and entire Property of such Ship or Vessel shall belong to some of his Majesty's Subjects residing in that Part of his Majesty's Dominions from whence such Ship or Vessel shall be respectively fitted and cleared out, any Law, Custom, or Usage, to the contrary notwithstanding.

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Persons giving false certificates, &c. to forfeit 500 l.

"XXXI. And, to prevent any Application to Parliament for the Bounty on any Ship employed in either of the Fisheries before mentioned, which may happen to be lost at Sea before their Return to *Great Britain*," be it declared and enacted by the Authority aforesaid, That it shall and may be lawful for the Owner or Owners of any Ship, employed, or designed to be employed, in the said Fisheries, or either of them, to insure the Bounty which such Owner or Owners would have been intitled to upon the Return of such Ship to *Great Britain*, on the Performance of all other Matters directed and appointed by this present Act to be performed for obtaining the said Bounties.

XXXII. And it is hereby further enacted by the Authority aforesaid, That if any Person or Persons shall give or grant any false Certificate for any of the Purposes required or directed by this Act, such Person or Persons shall forfeit the Sum of five hundred Pounds, and be rendered incapable of serving his Majesty, his Heirs or Successors, in any Office whatsoever;

Forfeitures how to be applied.

and if any Person or Persons shall counterfeit, erase, alter, or falsify, any Certificate required or directed by this Act, or shall knowingly or willingly make use of any false Certificate, or of any Certificate so counterfeited, erased, altered, or falsified, such Person or Persons shall, for every such Offence, forfeit the Sum of five hundred Pounds; and every such Certificate shall be invalid, and of no Effect.

Forfeitures incurred in Newfoundland to be sued for in the Vice Admiralty Court in said Island.

XXXIII. And it is hereby further enacted by the Authority aforesaid, That one Moiety of the Penalties and Forfeitures inflicted by this Act (except in such Cases where other Directions are given by this Act) shall be to the Use of his Majesty, his Heirs and Successors, and the other Moiety to such Officer or Officers of the Customs as shall sue or prosecute for the same in any of his Majesty's Courts of Record at *Westminster* or *Dublin*, or in the Court of Exchequer in *Scotland*, or in any Court of Admiralty having Jurisdiction in his Majesty's Colonies or Islands respectively where the Offence shall be committed.

Persons aggrieved may appeal to the proper Admiralty Court in Britain.

XXXIV. And be it further enacted by the Authority aforesaid, That from and after the first Day of *January* one thousand seven hundred and seventy-six, the Penalties and Forfeitures inflicted by any Act of Parliament relating to the Trade or Revenue of the *British* Colonies or Plantations in *America*, which shall be incurred in the said Island of *Newfoundland*, shall be sued for, prosecuted, and recovered, in the Court of Vice Admiralty having Jurisdiction in the said Island, and in no other; and if any Person or Persons shall think him or themselves aggrieved by any Judgment, Sentence, or Determination of any Court of Vice Admiralty, or other Court having Jurisdiction in *Newfoundland*, upon any Suit or Prosecution commenced there for any Penalty or Forfeiture inflicted by any Act of Parliament relating to the Trade or Revenues of the *British* Colonies or Plantations in *America*, it shall and may be lawful for such Party to appeal from such Judgment, Sentence, or Determination, in the first Instance, to the proper Court of Admiralty in *Great Britain*, or to his Majesty in Council; and that no Appeal

Duties on Goods
exported or imported,
to be under the
Direction of the
Commissioners of
Customs, &c.

Deputations granted
by the
Commissioners for
North America
before Jan. 1, 1776,
to any Officers for
Newfoundland, to be
in Force.

Persons sued for any
Thing done in
pursuance of this Act,
may plead the
General Issue,

and recover treble
Costs.

shall in such Case lie or be brought in any other Court or Jurisdiction whatsoever, any Law, Custom, or Usage, to the contrary notwithstanding.

XXXV. And it is hereby further enacted by the Authority aforesaid, That from and after the first day of *January* one thousand seven hundred and seventy-six, the Customs and other Duties which now are or hereafter may be due and payable upon any Goods or Merchandises brought or imported into, or exported or carried from, the Island of *Newfoundland*, by virtue of this or any Act or Acts of Parliament, and the Officers of his Majesty's Customs appointed for executing and carrying into Execution the several Laws relating to the Trade and Revenue there, shall be under the Management and Direction of the Commissioners of his Majesty's Customs in *England* for the Time being, under the Authority and Direction of the High Treasurer of *Great Britain*, or the Commissioners of the Treasury for the Time being, any Law, Patent, Custom, or Usage, to the contrary notwithstanding.

XXXVI. Provided always, and it is hereby further enacted by the Authority aforesaid, That all Deputations and other Authorities granted by the Commissioners of the Customs for *North America*, before the said first Day of *January* one thousand seven hundred and seventy-six, to any Officer or Officers acting in and for the said Island of *Newfoundland*, shall continue in Force, as fully to all Intents and Purposes as if this Act had not been made, until the Deputations or other Authorities so granted to such Officer or Officers respectively shall be revoked, annulled, or made void by the High Treasurer of *Great Britain*, or Commissioners of the Treasury for the Time being.

XXXVII. And be it further enacted by the Authority aforesaid, That if any Action or Suit shall be commenced against any Person or Persons for any Thing done in pursuance of this Act of Parliament, the Defendant or Defendants in such Action or Suit may plead the General Issue, and give this Act and the special Matter in Evidence at any Trial to be had thereupon, and that the same was done in pursuance of and by the Authority of this Act: And if it shall appear so to have been done, the Jury shall find for the Defendant or Defendants; and if the Plaintiff shall be nonsuited, or discontinue his Action after the Defendant or Defendants have appeared, or if Judgment shall be given upon any Verdict or Demurrer against the Plaintiff, the Defendant or Defendants shall recover treble Costs, and have the like Remedy for the same as Defendants have in other Cases by Law.

No. 47.

ACT, 26 GEO. III., CAP. 26, (IMPERIAL).

[1786.]
Preamble.

15 Geo. 3. c. 31.

An Act to amend and render more effectual the several Laws now

in force for encouraging the Fisheries carried on at *Newfound-*

land and Parts adjacent, from *Great Britain, Ireland,* and the

the *British Dominions in Europe*; and for granting Bounties, for a

limited Time, on certain Terms and Conditions.

"Whereas the Bounties granted to a certain Number of Vessels employed in the *British* Fishery on the Banks of *Newfoundland*, by an Act passed in the fifteenth Year of the Reign of his present Majesty, intituled, *An Act for the Encouragement of the Fisheries carried on from Great Britain, Ireland, and the British Dominions in Europe; and for securing the Return of the Fishermen, Sailors, and others employed in the said Fisheries, to the Ports thereof at the End of the Fishing Season*, will expire on the first Day of January one thousand seven hundred and eighty-seven: And whereas, at the Expiration thereof, it is expedient that new Bounties should be granted, for a limited Time, under certain Conditions, Limitations, and Restrictions: And whereas it has been found by Experience, that several of the Provisions and Regulations contained in the Laws now in force for encouraging the Fisheries carried on at *Newfoundland*, and Parts adjacent, are insufficient to answer the good Purposes thereby intended, and that it is requisite that other Provisions and Regulations should be enacted:" To that End, be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That, from and after the first Day of *January* one thousand seven hundred and eighty-seven, the respective Bounties herein-after mentioned shall be paid and allowed annually, for ten Years, to a certain Number of Ships or Vessels employed in the *British* Fishery on the Banks of *Newfoundland*, under the Limitations and Restrictions herein-after expressed; that is to say, That such Vessels shall appear by their Register to be *British*-built, and wholly owned by his Majesty's Subjects residing in *Great Britain, Ireland,* or the Islands of *Guernsey, Jersey, or Man*; and shall be navigated

After Jan. 1, 1787,
Bounties to be given
to Vessels fitted out
from Great Britain
&c. for the
Newfoundland
Fishery, qualified,
&c. agreeable to 10
& 11 Gul. 3. c. 25.

each with a Master, and at least three Fourths of the Mariners being *British* Subjects, usually residing in his Majesty's *European* Dominions; and shall be in other Respects qualified and subject to the same Rules and Restrictions as are prescribed by an Act, made in the tenth and eleventh Years of the Reign of

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Bounties to be paid the first 100 Vessels which shall arrive at Newfoundland with a Cargo of Fish:

King WILLIAM the Third, intituled, *An Act to encourage the Trade to Newfoundland*; and shall be fitted and cleared out from some Port in *Great Britain*, or from the Islands of *Guernsey, Jersey, or Alderney*, after the said first Day of *January* one thousand seven hundred and eighty-seven, and after that Day in each succeeding Year, and shall proceed to the Banks of *Newfoundland*; and having caught a Cargo of Fish upon those Banks, consisting of not less than ten thousand Fish by Tale, shall land the same at any one of the Ports on the North, the East, or the South Side of the Island of *Newfoundland*, between *Cape Saint John* and *Cape Raye*, on or before the fifteenth Day of *July* in each Year, and shall make one more Trip, at least, to the said Banks, and return with another Cargo of Fish caught there, to same Port: In which Case, the one hundred Vessels which shall first arrive at the Island of *Newfoundland* from the Banks thereof, with a Cargo of Fish caught there, consisting of ten thousand Fish by Tale, at the least; and which, after landing the same at one of the Ports within the Limits before mentioned in *Newfoundland*, shall proceed again to the said Banks, and return to the said Island with another Cargo of Fish, shall, if navigated with not less than twelve Men each, be intituled to forty Pounds each; but if any of the said one hundred Vessels, so first arriving as aforesaid, shall be navigated with less than twelve Men each, and not less than seven, they shall be intituled to twenty-five Pounds each: Provided always, That if, in either of the Cases before mentioned, any of the one hundred Vessels, so first arriving as aforesaid, shall be wholly navigated by Men going out upon Shares; that is to say, receiving a certain Share of the Profits arising from the Voyage in lieu of Wages, such of the said Vessels as shall be so navigated by not less than twelve Men each, shall be intituled to fifty Pounds each; and if so navigated with a less Number than twelve Men, and not less than seven, shall be intituled to thirty-five Pounds each. And further, that the one hundred Vessels which shall next so arrive in order of Time, on or before the said fifteenth Day of *July* in each Year, at the said Island, with a like Cargo, and shall proceed again to the said Banks, and return from thence in the Manner herein before mentioned, shall, if navigated with not less than twelve Men each, be intituled to twenty-five Pounds each; but if such one hundred Vessels, so arriving as aforesaid the next in order of Time, shall be navigated each with less than twelve, and not less than seven Men, they shall be intituled to eighteen Pounds each: Provided also, That, if, in either of the Cases last mentioned, any of the Vessels so arriving next in

Ditto to the second 100 Vessels which shall so arrive.

Certificates to be produced to the Collector of Customs from the Governor of Newfoundland, of the Qualification of Ships, &c.

order of Time as aforesaid, shall be so navigated wholly by Men going out upon Shares, that is to say, receiving a certain Share of the Profits arising from the Voyage in lieu of Wages, such of the said Vessels as shall be so navigated by not less than twelve Men each, shall be intitled to thirty-five Pounds each; and if so navigated with a less Number than twelve Men, and not less than seven, shall be intitled to twenty-one Pounds each; upon the Master or Owner of every such Vessel respectively producing to the Collector or other Principal Officer of his Majesty's Customs, at the Port in *Great Britain* from whence such Vessel was cleared out, or, if cleared out from either of the said Islands of *Guernsey*, *Jersey*, or *Alderney*,

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Masters and Mates to make Oath.

Collectors of Customs to pay the Bounties.

Number of Mariners belonging to each Vessel to be inserted in the Certificate of Qualification.

to the Collector or other Principal Officer of the Customs in some Port of *Great Britain*, a Certificate, under the Hand and Seal of the Governor of *Newfoundland*, that the Master of such Vessel had produced to him a Certificate, under the Hands of the Collector and Comptroller of the Customs at the Port from whence such Vessel was cleared out or if cleared out from the Islands of *Guernsey*, *Jersey*, or *Alderney*, under the Hands of the Governor or Deputy Governor, and Principal Officer of the Customs there, testifying that such Vessel was duly qualified to proceed on such Fishery in pursuance of the before recited Act, made in the tenth and eleventh Years of the Reign of King WILLIAM the Third; and that it has been made to appear to his Satisfaction, by a Certificate under the Hand and Seal of the Naval Officer of the District in *Newfoundland* where such Fish was landed, or, where there is no Naval Officer, under the Hand and Seal of the Commander of any of his Majesty's Ships stationed there, or of such Officer as the Governor shall approve, specifying the Time of such Vessels Arrival in Manner before directed, that such Vessel was intitled, by the Priority and Time of her Arrival, to one or other of the Bounties therein mentioned as the Fact may be; and that the Master and Mate of such Vessel had made Oath, before such Naval or other Officer as aforesaid, that the Number of Fish taken on the first Trip amounted to ten thousand at least by Tale; that he had made two Trips at least, and that all the Fish on both Trips were caught on the Banks of *Newfoundland* by the Crew of such Vessel only; which Certificate and Oath the said Governor, and Naval or other Officer as aforesaid, are hereby impowered and required to grant and administer to the Master and Mate of such Vessel, without Fee or Reward; and upon delivering up the said Certificate to such Collector, the respective Bounties therein mentioned shall be paid by such Collector in such and the like Manner, and out of the same Funds, as the Bounties herein before mentioned to have been granted by the said recited Act, made in the said fifteenth Year of the Reign of his present Majesty.

Certificates given, and Affidavits taken in Newfoundland, when to be transmitted to the Governor.

II. And be it further enacted by the Authority aforesaid. That in each and every Certificate of a Ship being duly qualified as aforesaid to proceed on the said Fishery, there shall be inserted the real Number of the Mariners then belonging to such Vessel, and intended to be employed in the said Fishery, distinguishing how many of them are new or green Men, and whether they are hired upon Shares, or are to receive Wages; which Facts are to be verified on the Oath of the Master of the Vessel, made or taken before the Person who shall grant the said Certificate, and who is hereby authorised and required to administer the same, and to insert such Facts in such Certificate; and if such Vessels shall be cleared out from the said Islands of *Guernsey*, *Jersey*, or *Alderney*, then such Oath shall be taken before a Magistrate of the Royal Court, in the Presence of the Principal Officer of the Customs who shall grant such Certificate, the whole to be attested by the Governor of each of the said Islands respectively; on Failure whereof, such Vessels shall be excluded from the Benefit of this Act, and shall not be intitled to or receive any of the Bounties herein before granted.

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Masters of Vessels, previous to receiving the Bounties, to make Oath relative to the Number of their Men returned.

III. And be it further enacted by the Authority aforesaid, That the several Certificates to be given and Affidavits taken in *Newfoundland* as aforesaid, in order to satisfy the said Governor of the said Island, as to the Facts to ground his Certificate thereupon, as herein before directed, for the Payment of the said Bounties, shall and are hereby required, within the District of *Saint John's*, in the said Island of *Newfoundland*, to be transmitted to the said Governor at *Saint John's*, before the fifteenth Day of *September* in each Year, and within any other District in the said Island before the thirtieth Day of *September* in each Year, in order that he may perfectly examine the Documents, and thoroughly investigate the same, so as to be able clearly and justly to settle the Times of the Arrivals as aforesaid of the several and respective Vessels, and adjust the different Bounties, and to whom they are and ought severally to be paid.

What proportion of their Wages shall be advanced to green

IV. And be it further enacted by the Authority aforesaid, That every Master of a Vessel, intitled to any of the Bounties herein before granted, shall, before he shall receive the same, or any Part thereof, make Oath before the Collector and Comptroller, or other Chief Officer at the Port in *Great Britain* where he shall arrive on his Return from the said Fishery upon the Banks of *Newfoundland*, that all the Men belonging to his Ship who sailed out with him, or a Number of Men equal thereto, are returned to *Great Britain*, unless any of his Crew shall have died at *Newfoundland*, or in the said Voyage, either on the Passage out or Return Home, or have deserted without his Knowledge or Consent, or have been shipped in or on board *British* Vessels bound for foreign Markets; which Facts

Men during the Time
of their Service.

shall also be verified on Oath by every such Master, before the said Officers or Officer of the Customs, who are respectively hereby authorised and required to administer the same.

"V. And whereas, by the said recited Act, made in the fifteenth Year of the Reign of his present Majesty, it is enacted, That no Hirer or Employer shall pay or advance to any Seaman or Fisherman, or either of them, during the Time he shall be in his Service, more than Half the Wages which shall at any Time, be due to him: And whereas in the Case of green Men, the Advance of one Half of the Wages may not always be sufficient to fit them out and clothe them for the Season;" be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for the Hirer or Employer of any such green Men engaged in the said Fishery, to advance to any such green Man, during the Time he shall be in his Service, a Sum not exceeding five Pounds ten Shillings, although the same shall amount to more than one Half of the Wages which shall be due to him, provided a Sum equal to the then current Price of a Man's Passage Home, not exceeding forty Shillings for each Man, be reserved to bear the Charge of his Return Home, as directed by the said before recited Act of the fifteenth Year of his present Majesty's Reign.

Penalty on Seamen,
&c. absenting
themselves from or
neglecting their
Employ.

"VI. And whereas in and by the said recited Act, made in the Fifteenth Year of his present Majesty's Reign, it is directed, That in case any Seaman

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or Fisherman shall at any Time wilfully absent himself from his Duty or Employ, without the Leave and Consent of his Hirer or Employer, or the Agent of such Hirer or Employer, or shall wilfully neglect or refuse to work, according to the true Intent and Meaning of his Contract or Agreement, he shall, for every Day he shall so absent himself, or neglect or refuse to work, forfeit two Days Pay to such Owner or Employer: And whereas the said Penalties have been found insufficient;" be it therefore enacted, That, where any such Seaman or Fisherman shall so wilfully absent himself from his Duty or Employ, without the Leave or Consent of his Hirer or Employer, or shall wilfully neglect or refuse to work, for the space of one Day, he shall, for every Day he shall so absent himself, or wilfully neglect or refuse to work, forfeit any Number of Days Pay not exceeding five, as the said Governor of *Newfoundland*, or his Surrogate, may think just and reasonable; and such forfeiture shall be paid to the Hirer or Employer of such Seaman or Fisherman, in Recompence for the Loss or Damage which he may have sustained by means of, or through such Absence, Neglect of Duty, or Refusal to work.

Master to be sworn
before Oil or Blubber
admitted to Entry
Duty-free.

VII. And be it further enacted by the Authority aforesaid, That, before any Oil or Blubber, imported from *Newfoundland* into *Great Britain*, shall be admitted to Entry Duty-free, the

A similar Oath to be taken relative to Seal Skins.

Master, or other Person having or taking the Charge or Command of the Ship or Vessel importing the same, shall make Oath before the Collector or other Chief Officer of the Customs at the Port in Great Britain into which the said Oil or Blubber is imported (who is hereby authorised and required to administer such Oath), that the same and every Part thereof, is really and *bona fide* the Oil or Blubber of Fish or Creatures living in the Sea, actually caught and taken on the Banks and Shores of the Island of *Newfoundland*, and Parts adjacent, wholly by his Majesty's Subjects carrying on the said Fishery from his Majesty's *European* Dominions, and usually residing in the said Dominions; any Law, Custom, or Usage to the contrary notwithstanding.

Clause relative to Oil, &c. purchased at Newfoundland, and imported from thence into Great Britain.

VIII. And be it further enacted by the Authority aforesaid, That, before any Seal Skins, imported from *Newfoundland* into *Great Britain*, shall be admitted to Entry Duty-free, the Master, or other Person having or taking the Charge or Command of the Ship or Vessel importing the same, shall make Oath before the Collector, or other Chief Officer of the Customs at the Port in *Great Britain* into which such Seal Skins are imported (who is hereby authorised and required to administer such Oath), that the same are really and *bona fide* the Skins of Seals actually caught and taken on the Banks and Shores of the said Island of *Newfoundland*, and Parts adjacent, wholly by his Majesty's Subjects carrying on the said Fishery from his Majesty's *European* Dominions, and usually residing in the said Dominions; any Law, Custom, or Usage to the contrary notwithstanding.

IX. And be it further enacted by the Authority aforesaid, That in case any Oil, Blubber, or Seal Skins, shall be purchased in the said Island of *Newfoundland*, or the Parts adjacent, and imported into *Great Britain* from thence,

Bond to be given to his Majesty for Payment of the Old Subsidy, &c. on the importation of Salt.

the same shall and may be admitted to Entry Duty-free, provided the Master, or other Person having or taking the Charge or Command of the Ship or Vessel importing the same, shall make Oath of all and every the Particulars respecting the Purchase thereof, before the Collector or other Chief officer of the Customs at the Port in *Great Britain* into which such Oil, Blubber, or Seal Skins are imported (who is hereby authorised and required to administer such Oath); and shall produce and deliver to such Collector, or other Chief Officer, a Certificate, under the Hand and Seal of the Naval Officer of the District in *Newfoundland* where such Oil, Blubber, or Seal Skins, were purchased; or if there shall not be any Naval Officer at such Place, then under the Hand and Seal of the Commander of any of his Majesty's Ships, stationed there, testifying that Oath had been made before him (who is hereby authorised and required, in such Case, to administer the same), by the Person or Persons who actually caught the Fish from which the Oil, Blubber, or the Seals from which the Skins mentioned in such Certificate was produced or came, that such Oil or Blubber was really and *bona fide* the Oil or Blubber of Fish or Creatures living in the Sea, or that such Skins were really and *bona fide* the Skins of Seals, actually caught and taken on the Banks and Shores of the Island of *Newfoundland*, and Parts adjacent, wholly by his Majesty's Subjects carrying on the said Fishery from his Majesty's *European* Dominions, and usually residing in the said Dominions; and provided such Master, or other Person having or taking the Charge or Command of the Ship or Vessel so importing such Oil, Blubber, and Seal Skins, shall also make Oath, before such Collector or other Chief Officer (who is hereby authorised and required to administer the same), that the Oil, Blubber, or Seal Skins so imported, are the same Oil, Blubber, or Seal Skins, mentioned and referred to in the said Certificate.

Such Bonds to be cancelled, &c. on Exportation thereof within 12 Months.

X. And be it further enacted by the Authority aforesaid, That, upon the Importation of any foreign Salt into this Kingdom from any Place from whence, and in the Manner in which such Salt may be legally imported, the Importer or Proprietor of such Salt shall be at Liberty to give Bond to his Majesty, his Heirs and Successors, for the Payment of the Duty commonly called *The Old Subsidy*, and all further Subsidies, Imposts, and Duties, due and payable to and for the Customs upon such Salt, within the Space of twelve Calendar Months from the Date of such Bond, but without any Discount or Allowance for prompt Payment of the said Duties, or either of them; which Bond the Collector and Comptroller of his Majesty's Customs at the Port of Importation are hereby authorised to take in his Majesty's Name, and thereupon to permit such Salt to be entered and landed in the usual Manner; and if such Salt shall be exported again within the said Space of twelve Calendar Months, the Bonds which shall have been given for the said Duties thereon,

shall be cancelled and discharged; and in case the full Duties payable to the Customs for such Salt shall have been paid at or before the Expiration of the said twelve Calendar Months, and such Salt shall be afterwards exported into foreign Parts within the Time allowed by Law, a Drawback of all the said

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Not to use any Sean or Net for catching Cod, whose Mesh is less than four Inches in Dimension.

Duties which were so paid shall be allowed in the same Manner as the former Drawback of the Customs upon the Exportation of Salt, was, could, or might be paid; and such Salt shall be subject and liable to the same Rules, Regulations, Restrictions, Securities, Penalties, and Forfeitures (except where any Alteration is made by this Act), as such Salt was subject and liable to by any Act or Acts of Parliament in force before the making of this Act.

Preamble.

XI. And be it further enacted by the Authority aforesaid, That it shall not be lawful to or for any Person or Persons concerned or employed in carrying on the said Fishery, or for any Seaman or Fisherman hired for the Purpose of carrying on the said Fishery, to use, or cause to be made use of, on the Shores of the said Island of *Newfoundland*, any Sean or Net of any Kind or Description whatsoever, for the Purpose of catching Cod Fish by hauling such Sean or Net on Shore, or tucking such Sean or Net into any Boat or Boats, the Scale or Mesh of which said Sean or Net shall be less in Dimension than four Inches, under the Penalty of forfeiting the Sum of one hundred Pounds for every such offence; which Offence may be heard and determined, and the Penalty hereby incurred shall and may be recovered in the Court of Session of the said Island, provided that such Offence be complained of within the Space of three Calendar Months after the Commission of the same.

If any British Seaman, &c. shall desert, or agree to desert, from Newfoundland, with Intent to enter into the Service of any foreign State, he may be committed, &c.

"XII. And whereas it is essential to the Naval Strength of *Great Britain*, that the Desertion of Seamen and Fishermen employed in the Fishery of *Newfoundland*, and the Parts adjacent, should be prevented: And whereas, by reason of their superior Skill as Seamen and Fishermen, and as Artificers of the Implements and Utensils necessary to the carrying on of such Fisheries, they are, by great Temptations, exposed to be seduced into the Service and Employ of the Subjects of foreign States: And whereas the Regulations and Provisions made in and by an Act, passed in the fifteenth Year of his present Majesty's Reign, herein before mentioned, are not sufficient to prevent the Desertion of such Seamen and Fishermen to the Service of the Subjects of foreign States;" be it therefore enacted by the Authority aforesaid, That if any Seaman or Fisherman, hired or employed in the carrying on of the said Fishery, shall desert from the said Island of *Newfoundland*, or from the said Fishery, with Intent to enter into the Service of any foreign State, or of any of the Subjects of any foreign State, or shall have in any wise agreed to absent himself, or

desert with such Intent, or shall have actually entered into such Service as aforesaid, it shall and may be lawful to and for the Governor of *Newfoundland*, or his Surrogates, or for the Judge of the Vice Admiralty Court for the Time being, or for any Justice of the Peace in *Newfoundland* respectively, to issue his or their Warrant or Warrants to apprehend such Person so deserting, or having agreed to desert as aforesaid, and on the Oath or Oaths of one or more credible Witness or Witnesses, to commit him to Prison, there to remain until the next Court of Session which shall be holden in pursuance of the Commission of the Governor for the Time being; and if found, guilty of the said Offence at such Session, that it shall and may be lawful to and for the said Court of Session to order such Deserter as aforesaid to

and sent home:

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be detained in Prison, without Bail or Mainprize, for any Time not exceeding three Months, in case he shall have come from his Majesty's *European* Dominions for the Purpose of carrying on the Fisheries aforesaid.

XIII. Provided always, and be it enacted by the Authority aforesaid, That it shall and may be lawful for such Governor, within the Space of three Months, if he shall see fit, or as soon after as conveniently may be, to cause every such Person so having deserted, or agreed to desert, to be put on board a Passage Ship or Vessel, in order to his being conveyed back to the Country to which he belonged, and for which the Master, or other Person having or taking the Charge or Command of such Ship or Vessel, shall be paid in Manner herein after mentioned; and every Master, or other Person having or taking the Charge or Command of such Passage Ship or Vessel, shall be, and is hereby required to take on board such and so many of such Persons as the said Governor shall direct, not exceeding four for each one hundred Tons of the Tonnage of such Ship or Vessel, and so in Proportion for every such Ship or Vessel under one hundred Tons: Provided nevertheless, That no Person shall be so put on board of any Ship or Vessel which shall not be of the Burthen of forty Tons: But if any Person or Persons convicted of deserting, or agreeing to desert, as aforesaid, shall not have come from his Majesty's *European* Dominions for the Purpose of carrying on the Fisheries aforesaid, then, and in such Case, that it shall and may be lawful for the said Court of Session to commit such Person or Persons to Prison, there to remain, without Bail or Mainprize, for any Time not exceeding twelve Calendar Months.

But if not from his Majesty's *European* Dominions, he may be imprisoned for 12 Months.

Preamble.

"XIV. And whereas it is of great Importance to the Trade, Manufacture, and Navigation of *Great Britain*, and of his Majesty's Dominions in *Europe*, that all Trade and mercantile Intercourse between his Majesty's Subjects, residing or carrying on Fishery in the Island of *Newfoundland* with the Subjects of any foreign State, should be prohibited: And

Fishermen at New-
foundland not to sell
or barter any Vessel,
&c. to or with any
Foreigner.

Offenders herein to be
committed;

whereas it is essentially necessary to the Preservation of the Benefits arising from the Fishery aforesaid, to prevent the Sale of any Ships, Vessels, or Boats, or of the Tackle, Apparel, or Furniture of the same, and of all and all Manner of Utensils and Implements, which are or may be used in catching and curing Fish, and also of all Articles and Commodities of the Growth, Produce, and Manufacture of the said Island of *Newfoundland*, to the Subjects of any foreign State, or to any other than the Subjects of his Majesty, his Heirs and Successors, and also to prohibit the Purchase of any Goods or Commodities whatsoever, from the Subjects of any foreign State;" be it therefore enacted by the Authority aforesaid, That it shall not be lawful for any Person or Persons, residing in, or carrying on Fishery in the said Island of *Newfoundland*, or on the Banks thereof, there to sell, barter, or exchange any Ship, Vessel, or Boat, of what Kind or Description soever, or any Tackle, Apparel, or Furniture, used or which may be used by any Ship, Vessel, or Boat; or any Seans, Nets, or other implements or Utensils, used, or which may be used, in catching or curing Fish, or any Kind of Bait whatsoever, used, or which may be used, in the catching of Fish; or any Kind of Fish, Oil, Blubber,

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Seal Skins, Peltry, Fuel, Wood, or Timber, to or with any Person or Persons whatsoever, other than the Subjects of his Majesty, his Heirs and Successors.

and to forfeit Treble
the Value of the
Articles sold, &c.

XV. And be it further enacted by the Authority aforesaid, That if any Person or Persons, residing or carrying on Fishery in the said Island of *Newfoundland*, shall there sell, barter, or exchange, or cause to be sold, bartered, or exchanged, or shall endeavour to sell, barter, or exchange, or shall be aiding or assisting in selling, bartering, or exchanging, or causing to be sold, bartered, or exchanged, any such Ship, Vessel, Boat, or any Tackle, Apparel, or Furniture, used, or which may be used, for the Purpose of navigating any Ship, Vessel, or Boat; or any Scans, Nets, or other Implements or Utensils, used, or which may be used, in catching or curing Fish; or any Kind of Bait whatsoever, used, or which may be used, in catching Fish; or any Fish, Oil, Blubber, Seal Skins, Fuel, Wood, or Timber, to any Person or Persons, being the Subjects of any foreign State, it shall and may be lawful to and for the Governor of *Newfoundland*, or his Surrogates, or for any Justice of the Peace in *Newfoundland*, to issue his or their Warrant or Warrants to apprehend every such Offender, and, on the Oath of one or more credible Witness or Witnesses, to commit him to Prison, there to remain until the next Court of Session which shall be holden in pursuance of the Commission of the said Governor for the Time being; and all and every such Person or Person, if found guilty of the said Offence at such Session, shall forfeit and pay Treble Articles the Value of the Articles so sold, or caused to be sold, or attempted to be sold, as

Such Fishermen not to purchase any Goods of, or to barter with Foreigners for the same.

Offenders to be committed, and to forfeit Treble the Value of the Goods.

Not to extend to the Importation of Bread, &c.

No more than 40s. to be paid for the Passage of any Person from Newfoundland, &c.

aforesaid, or bartered or taken in Exchange, or in the selling, bartering, or exchanging of which, or causing to be sold, bartered, or exchanged, such Person or Persons was or were aiding or assisting, and the same shall be levied of the Offender's Goods and Chattels, by Warrant to be granted by the said Court of Session for that Purpose; and in case no Goods upon which such Distress can be made shall be found, then it shall and may be lawful for the said Court to order such Person or Persons to be punished and dealt with in the same Manner as is herein before directed with respect to Deserters, or Persons agreeing to desert.

"XVI. And whereas it is highly injurious to the Trade and Manufactures of his Majesty's Dominions in *Europe*, that Persons residing or carrying on Fishery in the Island of *Newfoundland*, or Parts adjacent, or on the Banks of the said Island of *Newfoundland*, should be supplied with any Goods or Commodities whatsoever by the Subjects of any foreign State;" be it therefore enacted by the Authority aforesaid, That no Person or Persons, residing or carrying on Fishery in the Island of *Newfoundland*, or Parts adjacent, or on the Banks of the said Island of *Newfoundland*, shall there purchase, or take in Exchange, or by way of Barter, or cause to be purchased or taken in Exchange, or by way of Barter, or be aiding or assisting in the purchasing, bartering for, or taking in Exchange, any Goods or Commodities whatsoever, from any Person or Persons being a Subject or Subjects of any foreign State; and that every Person or Persons residing or carrying on Fishery in the said Island of *Newfoundland*, or Parts

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adjacent, or on the Banks of the said Island of *Newfoundland*, who shall there purchase, barter for, or take in Exchange, or shall cause to be purchased; bartered for, or taken in Exchange, any such Goods or Commodities in Manner aforesaid, shall be apprehended and committed to Prison, and, on due Conviction before the Court of Session, shall forfeit Treble the Value of such Goods or Commodities so purchased, or taken in Barter or Exchange, or procured to be purchased, or taken in Barter or Exchange, or in the Purchase, Barter, or taking of which in Exchange, such Person shall have been aiding or assisting, and the same shall be levied of the Offender's Goods and Chattels, by Warrant to be granted by the said Court of Session for that Purpose; and in case no Goods upon which such Distress can be made shall be found, then it shall and may be lawful for the said Court to order such Person or Persons to be punished and dealt with in the same Manner as is herein before directed with respect to Deserters or Persons agreeing to desert.

XVII. Provided always, That nothing herein contained shall extend, or or [sic] be construed to extend, to hinder or prevent Bread, Flour, *Indian* Corn, and live Stock, from being imported into the said Island of *Newfoundland* in certain

British Vessels, in pursuance of an Act passed in this present Session of Parliament.

XVIII. And be it further enacted by the Authority aforesaid, That the Sum for which the said Governor shall agree with the Master, or other Person having or taking the Charge or Command of any Ship or Vessel, for the Passage of any Person or Persons from the said Island, to the Place or Places to which he or they belonged, shall in no Case exceed the Sum of forty Shillings for each Person, and shall be paid to the Master of such Ship or Vessel out of the Monies which shall arise from Forfeitures incurred for any Offence committed against this Act, or the Acts herein before recited, upon such Master producing to the, said Court of Session, a Certificate, under the Hand and Seal of such Governor of the Numbers and Names of the Persons respectively taken on board by his Direction, and of the Times they were taken on board respectively, and the several Sums agreed to be paid as of aforesaid; which Sums the Court of Session are hereby required to cause to be paid to such Master, if sufficient Funds for that Purpose shall remain in the Hands of the said Court.

Such Payments, in case of a Deficiency in the Fund for that Purpose, to be made by the Commissioners of the Navy.

XIX. And be it also enacted by the Authority aforesaid, That if no sufficient Fund for the Payment of any Sum or Sums, so agreed upon as aforesaid, shall remain in the Hands of the said Court of Session, then and in such Case, every such Master, or other Person having or taking the Charge or Command of such Ship or Vessel, who shall have taken on board any Number of Persons by Order of the Governor, in Manner herein before directed, upon producing a Certificate, under the Hand and Seal of the said Governor, in Manner herein before directed, and making an Affidavit at his Return, setting forth the Time during which he subsisted such Person or Persons, and that he did not, during that Time, want any of his own Complement of Men, or how many he did want of such Complement, and for what Time, shall receive

Recital of
4 Geo. 3. c. 15.

from the Commissioners of the Navy for the Time being (who are hereby required to cause the same to be paid) six Pence *per Diem* for the Passage and Provisions of such Person or Persons from the Day of their Embarkation homewards to the Day of their Arrival in *Great Britain*, the said Sum of six Pence *per Diem* only being deducted for such Time and so many Persons as he wanted of his Complement during his Voyage.

XX. "And whereas it is enacted, in and by an Act passed in the fourth Year of his present Majesty's Reign, intituled, *An Act for granting certain Duties in the British Colonies and Plantations in America; for continuing, amending and making perpetual, an Act passed in the sixth Year of the Reign of his late Majesty King GEORGE the Second, intituled, 'An Act for the better securing and encouraging the Trade of his Majesty's Sugar Colonies in America;'* for applying the Produce of such Duties, and of the Duties to arise by virtue of the said Act, towards defraying the Expences of defending, protecting, and securing the said Colonies and Plantations; for explaining an Act made in the twenty-fifth Year of the Reign of King CHARLES the Second, intituled, 'An Act for the Encouragement of the Greenland and Eastland Trades, and for the better securing the Plantation Trade;' *and for altering and disallowing several Drawbacks on Exports from this Kingdom, and more effectually preventing the clandestine Conveyance of Goods to and from the said Colonies and Plantations, and improving and securing the Trade between the same and Great Britain;* That if any British Ship or Vessel shall be found standing into, or coming out from, either of the Islands of *Saint Pierre and Miquelon*, or hovering or at Anchor within two Leagues of the Coast thereof, or shall be discovered to have taken any Goods or Merchandizes on board at either of them, or to have been there for that Purpose, such Ship or Vessel, and all the Goods so taken on board there, shall be forfeited and lost, and shall and may be seized and prosecuted by any Officer of his Majesty's Customs; and the Master, or other Person having the Charge of such Ship or Vessel, and every Person concerned in taking such Goods on board, shall forfeit treble the Value thereof: And whereas the Provisions of the said recited Act may not be sufficient to effectuate the good Purposes thereby intended, or to prevent the Export of Sale of Ships, Vessels and Boats, and of all other the Goods and Commodities herein before enumerated and prohibited to be sold to the Subjects of any foreign State, or the Purchase and Import of the Goods and Commodities of such foreign States;" be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for all and every Officer or Officers, having the Command of any of his Majesty's Ships stationed at the Island of *Newfoundland*, to stop and detain all and every Ship, Vessel, or Boast, of what Nature of Description soever, coming to, or going from the said Island, and belonging to, or in the Service or Occupation

Officers of his
Majesty's Ships
stationed at
Newfoundland may
detain suspected
Vessels, and search
them:

of any of his Majesty's Subjects residing in, trafficking with, or carrying on Fishery in the Island of *Newfoundland*, Parts adjacent, or on the Banks of the said Island of *Newfoundland*, which he shall have Reason to suspect to be going to, or coming from, the Islands of *Saint Pierre* or *Miquelon*,

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And if any contra-
band Goods are found
on board, such
Vessels and Goods
shall be forfeited.

for the Purposes before mentioned, in any Place within the Limits of their Station, and to detain, search, and examine, such Ship, Vessel, or Boat; and that if, upon such Search or Examination, it shall appear to such Officer or Officers that there is reasonable Ground to believe that such Ship, Vessel, or Boat, or any Tackle, Apparel, or Furniture, used, or which may be used, by any Ship, Vessel, or Boat, or any implements or Utensils used, or which may be used, in the catching or curing of Fish, or any Fish, Oil, Blubber, Seal Skins, Fuel, Wood, or Timber, then on board of such Ship, Vessel, or Boat, was or were intended to be sold, bartered for, or exchanged, to the Subjects of any foreign State, or shall be discovered to have been so sold, bartered for, or exchanged; or if any Goods or Commodities whatsoever shall be found on board such Ship, Vessel, or Boat, or shall be discovered to have been on board, having been purchased or taken in Barter or Exchange from the Subjects of any foreign State; then, and in every such Case, to seize and send back such Ship, Vessel, or Boat, to the Island of *Newfoundland*; and that such Ship, Vessel, or Boat, and such Goods and Commodities so found on board, shall, upon due Condemnation, be forfeited and lost, and shall and may be prosecuted for that Purpose, by the Officer or Officers so seizing the same, in the Vice Admiralty Court of the said Island of *Newfoundland*; such Forfeiture to be given, one Moiety to the said Officer or Officers, and the other Moiety to the Governor of *Newfoundland* for the Time being, to be applied, under the Direction of such Governor, in defraying the Passages home of such Person or Persons as by this or any former Act are directed to be sent back to the Country to which they belong.

Clause relative to
Suits in Newfound-
land on account of the
Seizure of Vessels,
&c.

XXI. And be it further enacted by the Authority aforesaid, That in case any Libel, Information, or other Suit or Proceeding whatsoever, shall be commenced and brought to Trial, in the Court of Vice Admiralty in the said Island of *Newfoundland*, on account of the Seizure of any Ship, Vessel, Boat, or Goods, for the Condemnation of the same, for any of the Causes herein, before mentioned, wherein a Decree shall be pronounced for or in favour of the Defendant or Defendants, Claimer or Claimers thereof, and it shall appear to the Judge or Court, before whom the same shall be tried, that there was a probable Cause for seizing the said Ship, Vessel, Boat, or Goods, the Judge, before whom the said Cause shall be tried shall certify on the Record that there was a probable Cause for the seizing of the said Ship, Vessel, Boat, or Goods; a Copy of which Certificate shall be delivered to the

Prosecutor, under the Hands and Seals of such Judge or Judges; and that, in such Case, the Defendant shall not be entitled to any Costs of Suit whatsoever, nor shall the Person or Persons who seized such Ship, Vessel, Boat, or Goods, be liable to any Action, Indictment, or other Prosecution, on account of such Seizure; and that if any Action, Indictment, or Prosecution, shall be brought or preferred against any Person or Persons, who shall have obtained such Copy of such Certificate as aforesaid, in any of his Majesty's Courts in *Great Britain*, such Copy shall be admitted in Evidence on behalf of the Defendant or Defendants, and shall have the like Force and Effect as the Certificate on

Plaintiff gaining a Verdict shall not be entitled to Costs. if there was probable Cause of Seizure.

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Record would have had in the Case of such Action, Indictment, or other Prosecution, being brought or preferred in the Island of *Newfoundland*.

XXII. And be it also enacted by the Authority aforesaid, That if any Action, Indictment, or other Prosecution, shall be commenced and brought to Trial against any Person or Persons whatsoever, on account of the Seizure of any such Ship, Vessel, Boat, or Goods, wherein a Verdict shall be given against the Defendant or Defendants, if the Court or Judge before whom such Action or Prosecution shall be tried shall certify on the Record that there was a probable Cause of such Seizure, that the Plaintiff, besides his Ship, Vessel, Boat, or Goods, so seized, or the Value thereof, shall not be intitled to above two Pence Damages, nor to any Costs of Suit, nor shall the Defendant in such Prosecution be fined above one Shilling.

Limitation of Actions.

XXIII. And it is hereby further enacted by the Authority aforesaid, That if any Person or Persons shall, at any Time or Times, be sued or prosecuted for any Thing by him or them done or executed in pursuance of, or by Colour of this Act, or of any Matter or Thing in this Act contained, such Action or Prosecution shall be commenced within the Space of three Months after the Offence shall have been committed; and in case the Person or Persons making such Seizure as aforesaid shall have quitted the said Island of *Newfoundland* before the Expiration of three Months from the Time of the Offence committed, then that such Action or Prosecution shall be commenced within three Months after his or their Return to *Great Britain*; and such Person or Persons shall and may plead the General Issue, and give this Act, and the special Matter in Evidence for his and their Defence, and that the same was done in Prosecution and by Authority of the said Act: And if it shall appeal so to have been done, then the Court shall adjudge and decree, or the Jury shall find, in the Courts of *Great Britain* or *Newfoundland* respectively, for the Defendant or Defendants; and if the Plaintiff shall be nonsuited, or discontinue his Action, Libel, or other Proceedings in the Courts of *Great Britain* or *Newfoundland*, after the Defendant

General Issue.

Treble Costs.

Fines and forfeited Goods, &c. how to be applied.

or Defendants hath or have appeared, or if Judgement shall be given upon any Verdict or Demurrer against the Plaintiff, the Defendant or Defendants shall recover Treble Costs, and have the like Remedy for the same as the Defendant or Defendants hath or have in other Cases by Law.

Part of the Act of 15
Geo. 3. repealed.

XXIV. And be it further enacted by the Authority aforesaid, That all and every the Fines or Penalties inflicted by this Act, or by the Acts herein before recited, and to be levied upon the Seamen or Fishermen, except those for Neglect of Duty; and that such Ships, Vessels, or Goods, as shall be seized, Condemned, and forfeited as before mentioned, except such the Distribution thereof is otherwise directed by this Act, shall be given, one Moiety to the Informer, and the other Moiety to the Governor of *Newfoundland* for the Time being, to be applied, under the Direction of such Governor, in defraying the Passages home of such Person or Persons as by this or any former Act are directed to be sent back to the Country to which they belong.

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The recited Acts
(except, &c.) to
remain in force.

XXV. And be it further enacted by the Authority aforesaid, That so much of the said recited Act of the fifteenth Year of the Reign of his present Majesty, as gives any Jurisdiction to the Court of Vice Admiralty for the said Island of *Newfoundland* with respect to enquiring into and determining Disputes concerning the Wages of any Seamen or Fishermen, or any Offence committed by any Hirer or Employer of such Seamen or Fishermen, or any Controversies or Differences arising from their Contracts or Agreements, shall be, and the same is hereby repealed.

[1789.]

XXVI. And be it further enacted by the Authority aforesaid, That all and every the Clauses, Matters, and Things in the said herein-before recited Acts contained, which are not altered or repealed by this present Act, shall continue and remain in full Force.

C

No. 48.

Preamble.

ACT 29 GEO. III., CAP. 53, (IMPERIAL).

No Fish, unless
caught by Subjects of
Great Britain, or of
the British
Dominions in
Europe, to be landed
or dried at
Newfoundland, the
Right as ceded to the

An Act for further encouraging and regulating the
Newfoundland, Greenland, and Southern Whale Fisheries.

"Whereas, as well by immemorial Usage as by the Provisions of former Laws, the Right and Privilege of drying Fish on the Island of *Newfoundland* do not belong to any of his Majesty's Subjects arriving there, except from *Great Britain*, or one of

French excepted.

his Majesty's Dominions in *Europe*; for preventing Frauds, and thereby better securing to his Majesty's said Subjects of *Great Britain*, and of the other *British* Dominions in Europe, the full Advantages of the Fishery carried on from thence, and of drying Fish on the Shores of the Island of *Newfoundland*," be it declared and enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That no Fish, taken or caught by any of his Majesty's Subjects, or other Persons, arriving at *Newfoundland*, or its Dependencies, or on the Banks of the said Island, except from *Great Britain*, or one of the *British* Dominions in *Europe*, shall be permitted to be landed or dried on the said Island of *Newfoundland*, always excepting the Rights granted by Treaty to the Subjects of his most Christian Majesty on that Part of the Island of *Newfoundland* beginning at *Cape Saint John*, passing to the North and descending by the western Coast of the said Island to the Place called *Cape Raye*.

No. 49.

ACT 31 GEO. III., CAP. 29, (IMPERIAL).

[1791.]

Preamble.

15 Geo. 3. c. 31.

An Act for establishing a Court of Civil Jurisdiction in the
Island of
Newfoundland, for a limited Time.

and 26 Geo. 3. c. 26.
recited.

"Whereas, by an Act, passed in the fifteenth Year of his present Majesty's Reign, intituled, *An Act for the Encouragement of the Fisheries carried on from Great Britain, Ireland, and the British Dominions in Europe, and for securing the Return of the Fishermen, Sailors, and others employed in the said Fisheries, to the Ports thereof, at the End of the Fishing Season*, it was, amongst other Things, enacted, That all Disputes which should arise concerning the Wages of every and any such Seaman or Fisherman, and all Offences which should be committed by every Hirer or Employer of such Seaman or Fisherman against that Act, should and might be enquired of, heard, and determined; and the Penalties and Forfeitures thereby incurred should and might be recovered in the Court of Session in the said Act mentioned, or in the Court of Vice Admiralty having Jurisdiction in the Island of *Newfoundland*: And whereas, by another Act, passed in the twenty-sixth Year of the Reign of his present Majesty, intituled, *An Act to amend and render more effectual the present Laws now in force for encouraging the Fisheries carried on at Newfoundland, and Parts adjacent, from Great Britain, Ireland, and the British Dominions in Europe; and for granting Bounties, for a limited Time, on certain Terms and Conditions*; so much of the said first mentioned Act, as gives any jurisdiction to the Court of Vice Admiralty for the said Island of *Newfoundland*, with respect to inquiring, hearing, and determining Disputes concerning the Wages of any Seaman or Fisherman, or any Offence committed by any Hirer or Employer of such Seaman or Fisherman, or any Controversies or Differences arising from their Contracts or Agreements, should be, and the same was thereby repealed: And whereas the Provisions made by the said first mentioned Act, for the Administration of Justice in Civil Cases, are insufficient, and it is highly expedient that a Court of Civil Jurisdiction, having Cognizance of all Pleas of Debt, Account, Contracts respecting personal Property, and all Trespasses against the Person, Goods, or Chattels, should be established in the said Island of *Newfoundland*, for a limited Time;" be it therefore enacted by the King's most Excellent Majesty, by and

His Majesty may
constitute a Court of
Civil Jurisdiction at
Newfoundland, &c.

with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of

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The Manner in which the Court is to proceed.

the same, That it shall and may be lawful for his Majesty, by his Commission under the Great Seal to institute a Court of Civil Jurisdiction with full Power and Authority to hear and determine, in a summary Way, all Pleas of Debt, Account, Contracts, respecting personal Property, and all Trespasses committed against the Person or Goods and Chattels in the Island of *Newfoundland* and Islands and Parts adjacent, or on the Banks of the said Island of *Newfoundland*; which Court shall consist of a Chief Judge, to be appointed by his Majesty, and two Assessors, to be appointed by the Governor of the said Island, from Time to Time; which Chief Judge, together with any one of such Assessors, shall have full Power and Authority to hear and determine all Pleas by this Act cognizable by the said Court of Civil Jurisdiction; and shall have such Clerks, and other ministerial Officers, as the Chief Judge shall think proper to appoint; and that such Salaries shall be paid to the Chief Judge aforesaid, as his Majesty, his Heirs and Successors, shall approve and direct; and such Salaries be paid to the Assessors, and to the Clerks, and ministerial Officers aforesaid, as shall be approved by the said Chief Judge, with the Consent of the Governor of the Island, of *Newfoundland*; which several Salaries shall respectively be in lieu of all other Profits and Emoluments whatever; and such Court shall be a Court of Record, and shall have all such Powers as by the Law of *England* are incident and belonging to a Court of Record; any Thing in the said first mentioned Act contained to the contrary notwithstanding.

An Appeal to his Majesty in Council may be made, where Judgement is given for more than 100 l.

II. And be it further enacted, That the said Court shall proceed by Complaint in Writing, and by Summons of the Defendant, in all Cases where the Complaint is for a Sum under five Pounds; and by Arrest of the Defendant, and Attachment of his Goods and Debts, or of his Effects in the Hands of any other Person where the Complaint is for more than the Sum of five Pounds; and such Court shall have Power and Authority to pass Judgement, and give Costs, in such Pleas, and award Execution, either by Levy and Sale of the Goods and Chattels, or Arrest of the Person of the Plaintiff or Defendant, and also of the Goods, Debts, and Effects of the Defendant so attached.

While the Governor is resident, disputes concerning Seamen's Wages to be heard only in the Court of Civil Jurisdiction;

III. Provided always, That in all Pleas, where the Sum for which Judgement shall be given shall amount to more than one hundred Pounds, it shall be lawful for the Plaintiff or Defendant, as the Case may be, to appeal to his Majesty in

when he is not
resident, they may be
heard in the Court of
Session.

Limitation of Actions.

Continuance of Act.

Council, and upon Notice of such Appeal being signified to the Chief Judge of such Court, within fourteen Days after such Judgement passed, and Security given to the Satisfaction of the said Chief Judge, for prosecuting such Appeal, the Execution of such Judgement shall be stayed.

IV. And be it further enacted, That during the Time the Governor of the said Island shall continue to be resident in the said Island or Parts adjacent, no Disputes which shall arise concerning the Wages of any Seaman or Fisherman shall be heard and determined in the Court of Session mentioned in the said first mentioned Act, but only in the Court of Civil Jurisdiction which shall be instituted by virtue of this Act.

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V. Provided always, That nothing in this Act contained shall extend to prevent the Court of Session aforesaid from hearing and determining such Disputes as aforesaid, when the Governor shall not be resident in the said Island or Parts adjacent.

VI. And be it further enacted, That no Suit shall be commenced in the said Court of Civil Jurisdiction where the Cause of Action shall have arisen more than two Years before such Commencement, nor shall be heard and determined in the said Court of Civil Jurisdiction, except during the Residence of the Governor within the Limits of his Government; and that this Act shall commence from the tenth Day of *June* one thousand seven hundred and ninety-one, and shall have Continuance for one Year, and unto the End of the then next Session of Parliament.

No. 50.

ACT 32 GEO. III., CAP. 46, (IMPERIAL).

[1792.]

Preamble.

His Majesty, under
the Great Seal, may
institute a Court of
Criminal and Civil
Jurisdiction at
Newfoundland, &c.

An Act for establishing Courts of Judicature in the Island of
Newfoundland, and the Islands adjacent.

"For the better Administration of Justice in the Island of *Newfoundland*, and the Islands adjacent;" be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful for his Majesty, by his Commission under the Great Seal, to institute a Court of Criminal and Civil Jurisdiction, to be called, *The Supreme Court of Judicature of the Island of Newfoundland*, with full Power and Authority to hold Plea of all Crimes and Misdemeanors committed within the Island of *Newfoundland*, and on the Islands and Seas to which Ships or Vessels repair from the Island of *Newfoundland*, for carrying on the Fishery, and on the Banks of *Newfoundland*, in the same Manner as Plea is holden of Crimes and Misdemeanors committed in that Part of *Great Britain* called *England*, and also with full Power and Authority to hold Plea, as herein-after mentioned, of all Suits and Complaints of a Civil Nature, arising within the Island of *Newfoundland*, and on the Islands and Seas aforesaid, and on the Banks of *Newfoundland*; which Court shall determine such Suits and Complaints of a Civil Nature, according to the Law of *England*, as far as the same can be applied to Suits and Complaints arising in the Islands and Places aforesaid; and the said Court shall be a Court of Record, and shall be holden by a Chief Justice to be appointed by his Majesty, who shall have full Power and Authority to enquire of, hear, and determine all Crimes and Misdemeanors, Suits, and Complaints, cognizable in the said Court; and such Court shall have such Clerks and Ministerial Officers as the Chief Justice shall think proper appoint; and such Salary shall be paid to the said Chief Justice, as his Majesty, his Heirs and Successors, shall approve and direct, and such Salaries be paid to the Clerks and Ministerial Officers aforesaid, as shall be approved by the Chief Justice, with the Consent of the Governor of the Island of *Newfoundland*; which several Salaries shall respectively be in lieu of all their Profits and Emoluments whatsoever.

The Governor with
the advice of the
Chief Justice may
institute Surrogate
Courts, &c.

II. And be it further enacted That it shall be lawful for the Governor of the Island of *Newfoundland* with the Advice of

such Chief Justice, from Time to Time, to institute Courts of Civil Jurisdiction, to be called *Surrogate Courts*,

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Mode of Proceed-ings
in the Supreme and
Surrogate Courts.

in different Parts of the Island of *Newfoundland*, and the Islands aforesaid, as Occasion shall require, with full Power and Authority to hear and determine, in the like summary Way, all Suits and Complaints of a Civil Nature arising within the Island of *Newfoundland*, and on the Islands and Seas aforesaid, and on the Banks of *Newfoundland*; which Courts shall respectively be Courts of Record, and shall determine according to the Law of *England*, as far as the same can be applied to Suits and Complaints arising in the Islands and Places aforesaid; and the said Courts respectively shall be holden by a Surrogate, to be appointed from Time to Time by the Governor of the said Island, with the Approbation of such Chief Justice, and shall have full Power and Authority to hear and determine all Suits and Complaints cognizable in the said Court; and the said Court shall have such Clerks and Ministerial Officers, with such Salaries as the Chief Justice shall appoint, which Salaries shall be in lieu of all Profits and Emoluments whatever.

In Actions exceeding
10 l. Jurors may be
summoned; but if a
sufficient Number
should not appear,
two Assessors, with
the Chief Justice or
Surrogates, may
proceed to Trial.

III. And be it further enacted, That it shall be lawful for the said Supreme Courts and Surrogate Courts respectively, when any Suit or Complaint shall be depending therein, to cause to appear from Day to Day, all Persons interested in the Matter in Dispute, and to examine upon Oath such of them as it shall be deemed proper, for better discovering the Truth, and thereupon, and after due Consideration of all Circumstance, to make such Order, Judgement, or Decree therein, and award such Damages and Costs, as the Case shall require; and that in all Cases where the Cause of any Suit or Complaint shall not exceed five Pounds, the Party who is to answer such Suit or Complaint shall be made to appear in Court by Summons; and in all Cases where such Summons shall be disobeyed, or where the Cause of any Suit or Complaint shall exceed five Pounds, then that the Party who is to answer such Suit or Complaint may be caused to appear by Attachment of his or her Goods, Debts, or Effects, or by Arrest of the Person, and that the Execution of any Order, Judgement, or Decree may be enforced by Attachment of the Goods, Debts, or Credits of the Party, or by Arrest of the Person against whom such Order, Judgement, or Decree shall be made; and that it shall and may be lawful for the said Chief Justice and Surrogates respectively, to authorise some Person in his or their Absence respectively, to issue Process, and do all Acts appertaining to the said Supreme Court, and Surrogate Courts respectively, save and except the enquiring of, hearing, and determining of any Crime or Misdemeanor, or any Suit or Complaint of a Civil Nature.

IV. And be it further enacted by the Authority aforesaid,

That, where the Cause of Action shall exceed the Sum of ten Pounds, and it shall be prayed by the Defendant in such Suit or Complaint, that a Jury may be summoned to try such Action, it shall be lawful for the said Chief Justice and Surrogates respectively, and he and they are hereby respectively required to cause twenty-four Persons to be summoned, of whom twelve shall be a Jury for the Trial of such Action, and to proceed therein according to Law: Provided always, That if a Number of Jurors sufficient for the Trial of such Action having been duly summoned shall not appear to be sworn, it shall and may be

Appeals may be made from Judgements for Sums exceeding 40 l. in the Surrogate Court, and exceeding 100 l. in the Supreme Court.

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lawful for the Governor of the said Island, and the Surrogates in their several Courts respectively, to nominate and appoint two proper Persons to be Assessors to the said Chief Justice, who, together with the said Chief Justice or Surrogates respectively, shall proceed to the Trial of such Action, in like Manner as if such Jury had not been prayed.

V. And be it further enacted, That upon any Decree or Judgement given in a Surrogate Court, for any Sum exceeding forty Pounds, it shall be lawful for the Party against whom such Decree or Judgement shall be given, to appeal therefrom to the Supreme Court, having first given Notice of such Intention, and having entered into a Security to the Surrogate, in double the Sum for which such Judgement or Decree was given or made, within two Days after making or giving such Judgement or Decree, for duly prosecuting such Appeal; and upon any Decree or Judgement given in the Supreme Court, for any Sum exceeding one hundred Pounds, it shall be lawful for the Party, against whom such Decree or Judgement shall be given or made, to appeal therefrom to his Majesty in Council, having first given notice of such Intention, and having entered into Security, to be approved by the Chief Justice, in double the Sum for which such Judgement or Decree was given or made, within two Days after the giving or making of such Judgement or Decree, for duly prosecuting such Appeal; and in all Cases of Appeal, as soon as Notice shall be given, and Security entered into as aforesaid, Execution shall be stayed, but not otherwise.

When Goods are attached, if it shall appear that the Party is insolvent, the Court shall order his Effects to be collected and distributed.

VI. "And whereas it will greatly contribute to the Advancement of the Trade and Fishery of *Newfoundland*, if such Effects as Persons becoming insolvent in the said Island of *Newfoundland*, and the Islands aforesaid, were possessed of or entitled unto, within the said Island, or on the Islands or Seas aforesaid, or on the Banks of *Newfoundland*, should be divided among their Creditors with more Equality than hath hitherto been practiced;" be it further enacted, That, as often as

the Goods, Debts, and Credits of any Person shall be attached, and it shall be made appear to the Court out of which the Process of Attachment hath issued, that the Goods, Debts, and Credits so attached are not sufficient to twenty Shillings in the Pound to all those who shall be Creditors by Reason of Debts contracted within the Island of *Newfoundland*, and on the Islands and Seas aforesaid, or on the Banks of *Newfoundland*, it shall be lawful for such Court to summon the Party whose Goods, Debts, and Credits are so attached, together with the plaintiff or Plaintiffs who have sued out any Attachment, and also such Persons who are known to be Creditors as aforesaid of the Defendant, to appear in Court at a certain Day; and if upon a due Examination of the Defendant, and the said Creditors, it shall appear that lie or she is insolvent, the Court shall declare him or her insolvent accordingly, and shall immediately proceed to take Order for discovering, collecting, and selling the Effects and Debts of such Person, and distributing the Produce thereof rateably amongst all the said Creditors of such Person so declared insolvent or to authorize some Person or Persons, being a Creditor or Creditors, to perform the same, such Person or Persons

Directions for the
Distribution of the
Effects of insolvent
Persons.

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first entering into a Recognizance in such Sum as the Court shall think fit, for the due Performance of his or their Duty therein; and that such Court shall from Time to Time make such Order therein as shall be deemed proper, for better discovering, collecting and selling the Effects and Debts, and making a rateable Distribution thereof among the said Creditors.

Certificate of the
Court to be a Bar to
Suits for Debt prior
to the Declaration of
Insolvency.

VII. And be it further enacted, That in the Distribution to be made of the Estate and Effects of such Person so declared insolvent, every Fisherman and Seaman employed in the Fishery, who shall be a Creditor for Wages become due in the then Current Season, shall first be paid twenty Shillings in the Pound, so far as the Effects will go; and in the next Place, every Person who shall be a Creditor for Supplies furnished in the Current Season, shall be paid twenty Shillings in the Pound; and lastly, the said Creditors for Supplies furnished in the then Current Season, and all other Creditors whatsoever, shall be paid equally in Proportion, as far as the Effects will go, provided that the said Creditors for Supplies furnished in the then Current Season shall not be paid more than twenty Shillings in the Pound on the Whole of their Debt.

Suits, where the
Cause shall arise

VIII. And be it further enacted, That if such insolvent Person shall make a true Disclosure and Discovery of all his or her Goods and Effects whatsoever, and shall conform him or

before Aug. 1, 1792,
to be commenced
within six Years.

herself to the Order and Direction of the said to the said Court, the same shall and may (with the Consent of one Half in Number and Value of his or her Creditors) be certified by the said Court, and such Certificate, when pleaded, shall be a Bar to all Suits and complaints for Debts contracted within the Island of *Newfoundland*, and on the Islands and Seas aforesaid, and on the Banks of *Newfoundland*, prior to the Time when he or she was declared insolvent.

IX. And be it further enacted, That where any Cause of Action shall have arisen before the first Day of August one thousand seven hundred and ninety-two, no Suit or Complaint shall be commenced thereon at the Distance of [unreadable] six Years from the Time when such Cause of Action arose.

31 Geo. 3. c. 29.
continued till the
Opening of the
Supreme Court.

X. And be it further enacted, That the said Chief Justice, or any Person Or Persons appointed by him for that Purpose, under his Hand and Seal, shall have Power to grant Administration of the Effects of Intestates, and the Probate of Wills; and that the Effects of deceased Persons shall not be administered within the Island of *Newfoundland*, or on the Islands and Seas aforesaid; or on the Banks of *Newfoundland*, unless Administration thereof, or Probate of Wills respecting the same, shall have been duly granted by such Authority as aforesaid.

XI. And be it further enacted, That an Act passed in the last Session of Parliament intituled, *An Act for establishing a Court of Civil Jurisdiction in the Island of Newfoundland, for a limited Time*, which Act was to have continued in force from the tenth Day of June one thousand seven hundred and ninety-one, for one Year, and unto the End of the then next Session of

No Court, except the
Supreme and
Surrogate Courts, to
hold Pleas of a Civil
Nature.

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Parliament, shall be and continue in force until the Opening of the Supreme Court instituted by virtue of this Act, and no longer; and every Suit or Complaint which shall at that Time be depending in the said Court of Civil Jurisdiction, shall and may be proceeded upon in the said Supreme Court, in the same Manner as any Suit or Complaint originally commenced in the said Supreme Court.

Vice-Admiralty Court
may hold Plea of
Maritime Causes
(except for Wages),
and Causes of
Revenue.

Disputes respecting
Wages of Seamen,
&c. may be heard in
the Court of Sessions,
or before two
Justices.

XII. And be it further enacted, That it shall not be lawful for any Court, in the Island of *Newfoundland*, or Islands aforesaid (except the Supreme Court, and the Surrogate Courts appointed by virtue of this Act) to hold Plea of any Suit or Complaint of a Civil Nature, any Law, Custom, or Usage, to the contrary notwithstanding: Provided nevertheless, That the Court of Vice Admiralty having Jurisdiction in the said Island, shall and may hold Plea of Maritime Causes (except only the Wages of Seamen and Fishermen, which are to be heard and determined in Manner herein-after directed) and Causes of the Revenue, as heretofore practised and used: Provided also, That

Suits for Debts not exceeding 40s. may be determined in a summary Way, &c.

all Disputes which shall arise concerning the Wages of any Seaman or Fisherman, and all Offences which shall be committed by any Hirer or Employer of such Seaman or Fisherman, against this or any other Act, relating to the Island of *Newfoundland*, or the Islands and Seas aforesaid, or the Fishery thereof, shall and may be heard and determined, and the Penalties and Forfeitures thereby incurred shall and may be recovered in the Court of Sessions, or before any two Justices of the Peace.

Chief Justice to settle Forms of Process, and appoint the Fees to be taken in the Courts, &c.

XIII. Provided also, and be it enacted, That it shall be lawful for the Court of Session, in a summary Way, to hear and determine all Suits for the Payment of Debts not exceeding forty Shillings, and not contracted more than one Year before the Commencement of such Suits respectively; and it shall be lawful for the Court of Session, or such two Justices respectively, to award Costs therein; and such Determination and Award shall be final, and shall be carried into Execution by Attachment and Sale of the Goods and Effects of the Party against whom the Determination was made.

Fees in Surrogate Courts to be accounted for in the Supreme Court.

XIV. And be it further enacted, That it shall be lawful for the said Chief Justice to settle such Forms of Process, and such Rules of Practice and Proceeding for the Conduct of all Pleas, Suits, and Complaints, and for the Dispatch of the Business of the said Supreme Court, and Surrogate Courts, and of the Business in the Courts of Session, or before any one or more Justice of the Peace respectively, and to appoint such reasonable Fees to be taken for the Conduct and Dispatch of Pleas, Suits, Complaints, and other Business as aforesaid, and for the granting Administration of the Effects of Intestates and for the Probate of Wills, as shall seem necessary and proper for expediting Matters with the most Convenience and least Expence to the Parties concerned therein; and such Process, and Rules of Practice and Proceeding, shall be followed and obeyed; and such Fees shall be paid accordingly, and no other; and that all such Fees received in any Surrogate Court shall be paid and accounted for by the Surrogate in the said Supreme Court; and that it

shall be lawful for the said Chief Justice, and he is hereby required to settle and limit what Fees and Poundage shall be taken by the Sheriff of *Newfoundland*, and the same shall be taken, and none other.

For the Recovery and
Application of
Penalties.

XV. And be it further enacted, That all Fines, Penalties, and Forfeitures, imposed by any Act of Parliament made, or which shall hereafter be made, relating to the Island of *Newfoundland*, or the Fishery thereof, may be recovered in a summary Way in the said Supreme Court, or in any Surrogate Court; and every Penalty and Forfeiture of the Sum of ten Pounds or under, may be recovered in the Court of Session, or before any one or more Justices of the Peace; and all Fines, Penalties, and Forfeitures imposed, paid, or levied in any Surrogate Court, or in any Court of Session, or before any one or more Justices of the Peace, shall be forthwith estreated, and paid into the said Supreme Court by the Surrogate, or by the Justice or Justices of the Peace respectively, before whom they were recovered; and it shall be lawful for the said Supreme Court to issue Process for better compelling such Justices and Surrogates to bring to account all Monies which ought to be so paid and accounted for as aforesaid; and all Money arising from such Fees, Fines, Penalties, and Forfeitures shall be applied and appropriated towards defraying the Expence of carrying this Act into Execution.

Limitation of Actions.

General Issue.

Treble Costs.

No Officer of the
Customs capable of
acting as a Justice.

Continuance of this
Act.

XVI. And be it further enacted, That if any Action or Suit shall be brought or commenced against any Person for any Thing done in pursuance of this Act, such Action or Suit shall be commenced within six Months next after the Matter or Thing done; and the Defendant in such Suit or Action may plead the General Issue, and give this Act and the special Matter in Evidence at any Trial to be had thereupon; and if a Verdict shall pass for the Defendant, or the Plaintiff shall be nonsuited, or discontinue his Action after the Defendant has appeared, or if Judgement shall be given, upon any Verdict or Demurrer, against the Plaintiff, the Defendant shall recover treble Costs, and have the like Remedy for the same as Defendants have in other Cases by Law.

XVII. And be it further enacted by the Authority aforesaid, That no Officer whatever, being in the Service of his Majesty's Customs in the Island of *Newfoundland*, shall be capable of acting as a Justice of the Peace in and for the said Island.

XVIII. And be it further enacted, That this Act shall continue in force until the tenth Day of *June* one thousand seven hundred and ninety-three, and from thence to the End of the then next Session, of Parliament.

No. 51.

**THE NEWFOUNDLAND ACT, 1809, 49 GEO. III., CAP.
27 (IMPERIAL).**

[1809.]

[1811.]

Vide, ante, No. 81, page 190.

No. 52.

C

ACT, 51 GEO. III., CAP. 45 (IMPERIAL).

Vide, ante, No. 32, page 197.

No. 53.

THE NORTH AMERICAN FISHERIES ACT, 1819.
59 Geo. III., Cap. 38 (Imperial).

[14th June, 1819.]

Convention,
dated 20th Oct. 1818.

An Act to enable His Majesty to make Regulations with respect to the taking and curing Fish on certain Parts of the Coasts of *Newfoundland, Labrador*, and His Majesty's other Possessions in *North America*, according to a Convention made between His Majesty and the United States of *America*.

Whereas a Convention between His Majesty and the United States of America, was made and signed at *London*, on the Twentieth Day of *October* One thousand eight hundred and eighteen; and by the First Article of the said Convention, reciting that Differences had arisen respecting the Liberty claimed by the United States for the Inhabitants thereof to take, dry, and cure Fish in certain Coasts, Bays, Harbours, and Creeks of His *Britannic* Majesty's Dominions in *America*, it is agreed, that the Inhabitants of the said United States shall have for ever, in common with the Subjects of His *Britannic* Majesty, the Liberty to take Fish of every Kind on that Part of the Southern Coast of *Newfoundland* which extends from *Cape Ray* to the *Rameau* Islands, on the Western and Northern Coasts of *Newfoundland* from the said *Cape Ray* to the *Quirpon* Islands, on the Shores of the *Magdalen* Islands, and also on the Coasts, Bays, Harbours, and Creeks from *Mount Joly* on the Southern Coasts of *Labrador*, to and through the Straits of *Belleisle*, and thence northwardly indefinitely along the Coast, without Prejudice however to any of the exclusive Rights of the *Hudson's Bay* Company; and it was also by the said Article of the said Convention agreed, that the *American* Fishermen should have Liberty for ever to dry and cure Fish in any of the unsettled Bays, Harbours, and Creeks of the Southern Part of the Coast of *Newfoundland* above described, and of the Coast of *Labrador*, but that so soon as the same, or any Portion thereof, should be settled, it should not be lawful for the said Fishermen to dry or cure Fish at such Portion so settled, without previous Agreement for such Purpose with the Inhabitants, Proprietors, or Possessors of the Ground: And whereas it is expedient that His Majesty should be enabled to carry into Execution so much of the said Convention as is above recited, and to make Regulations for that Purpose; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and

His Majesty in
Council may make
Regulations for
carrying the
Convention into
effect.

Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

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Foreign Vessels not to fish within a certain distance of any British Harbour in America not included in the Limits prescribed by the Convention;

under Penalty of Confiscation.

That from and after the passing of this Act, it shall and may be lawful for His Majesty, by and with the Advice of His Majesty's Privy Council, by any Order or Orders in Council to be from Time to Time made for that Purpose, to make such Regulations, and to give such Directions, Orders, and Instructions to the Governor of *Newfoundland*, or to any Officer or Officers on that Station, or to any other Person or Persons whomsoever, as shall or may be from Time to Time deemed proper and necessary for the carrying into Effect the Purposes of the said Convention, with relation to the taking, drying, and curing of Fish by Inhabitants of the United States of *America*, in common with *British* Subjects, within the Limits set forth in the said Article of the said Convention, and hereinbefore recited; any Act or Acts of Parliament, or any Law, Custom, or Usage to the contrary in anywise notwithstanding.

Not to extend to Vessels of any Power entitled thereto by Treaty.

American Fishermen may enter such Harbours for the Purposes of repairing or watering, subject to

II. And be it further enacted, That from and after the passing of this Act it shall not be lawful for any Person or Persons, not being a natural-born Subject of His Majesty, in any Foreign Ship Vessel, or Boat, nor for any Person in any Ship, Vessel, or Boat, other than such as shall be navigated according to the Laws of the United Kingdom of *Great Britain* and *Ireland*, to fish for, or to take, dry, or cure any Fish of any Kind whatever, within Three Marine Miles of any Coasts, Bays, Creeks, or Harbours whatever, in any part of His Majesty's Dominions in *America*, not included within the Limits specified and described in the First Article of the said Convention, and hereinbefore recited; and that if any such Foreign Ship, Vessel, or Boat or any Persons on board thereof, shall be found fishing, or to have been fishing, or preparing to fish within such Distance of such Coasts, Bays, Creeks, or Harbours, within such Parts of His Majesty's Dominions in *America* out of the said Limits as aforesaid, all such Ships, Vessels, and Boats, together with their Cargoes, And all Guns, Ammunition, Tackle, Apparel, Furniture, and Stores, shall be forfeited, and shall and may be seized, taken, sued for, prosecuted, recovered, and condemned by such and the like Ways, Means, and Methods, and in the same Courts, as Ships, Vessels, or Boats may be forfeited, seized, prosecuted, and condemned for any Offence against any Laws relating to the Revenue of Customs, or the Laws of Trade and Navigation, under any Act or Acts of the Parliament of *Great Britain*, or of the United Kingdom of *Great Britain* and *Ireland*, provided that nothing in this Act contained shall apply or be construed to apply to the Ships or Subjects of any Prince, Power, or State in Amity with His Majesty, who are entitled by Treaty with

such Regulations as may be issued to prevent the abuse of the Treaty.

His Majesty to any Privilege of taking, drying, or curing Fish on the Coasts, Bays, Creeks, or Harbours, or within the Limits in this Act described.

III. Provided always, and be it enacted, That it shall and may be lawful for any Fisherman of the said United States to enter into any such Bays or Harbours of his *Britannic* Majesty's Dominions in *America* as are last mentioned, for the Purpose of Shelter and repairing Damages therein, and of purchasing Wood and of obtaining Water, and for no other Purpose whatever; subject nevertheless to such Restrictions as may be necessary to

Penalty on Persons refusing to remove, or disobeying Orders, 2007.

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prevent such Fishermen of the said United States from taking, drying, or curing Fish in the said Bays or Harbours, or in any other Manner whatever abusing the said Privileges by the said Treaty and this Act reserved to them, and as shall for that Purpose be imposed by any Order or Orders to be from Time to Time made by His Majesty in Council under the Authority of this Act, and by any Regulations which shall be issued by the Governor or Person exercising the Office of Governor in any such Parts of His Majesty's Dominions in *America*, under or in pursuance of any such Order in Council as aforesaid.

IV. And be it further enacted, That if any Person or Persons, upon Requisition made by the Governor of *Newfoundland* or the Person exercising the Office of Governor, or by any Governor, or Person exercising the Office of Governor, in any other Parts of His Majesty's Dominions in *America* as aforesaid, or by any Officer or Officers acting under such Governor, or Person exercising the Office of Governor, in the Execution of any Orders or Instructions from His Majesty in Council, shall refuse to depart from such Bays or Harbours; or if any person or Persons shall refuse or neglect to conform to any Regulations or Directions which shall be made or given for the Execution of any of the Purposes of this Act; every such person so refusing or otherwise offending against this Act shall forfeit the Sum of Two hundred Pounds, to be recovered in the Superior Court of Judicature of the Island of *Newfoundland*, or in the Superior Court of Judicature of the Colony or Settlement within or near to which such Offence shall be committed, or by Bill, Complaint, or information in any of His Majesty's Courts of Record at *Westminster*; One Moiety of such Penalty to belong to His Majesty, His Heirs and Successors, and the other Moiety to such Person or Persons as shall sue or prosecute for the same: Provided always, that any such Suit or Prosecution, if the same be committed in *Newfoundland*, or in any other Colony or Settlement, shall be

commenced within Three Calendar Months; and, if commenced in any of His Majesty's Courts at *Westminster*, within Twelve Calendar Months from the Time of the Commission of such Offence.

ACT 5 GEO. IV., CAP. 51 (IMPERIAL).¹

[3 June, 1824.]

The following Acts
and Parts of Acts
repealed. viz.
10 & 11 W. 3. c. 25.:

15 G. 3. c. 31.
§ 2. 7. 12. 13, 14. 17,
18.

So much of 26 G. 3. c.
26. as relates to
Wages, &c.

29 G. 3. c. 53. § 1.

An Act to Repeal Several Laws relating to the Fisheries Carried on upon the Banks and Shores of *Newfoundland*, and to make Provision for the Better Conduct of the said Fisheries for Five Years, and from thence to the End of the then next Session of Parliament. [3d June 1824.]

"Whereas it is expedient to repeal and amend divers Statutes and Laws relating to the Fisheries on the Banks and Shores of *Newfoundland*, and to make such further Provisions as the present State and Condition of the Colony require;" Be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the Act passed in the Tenth and Eleventh Year of the Reign of His Majesty King *William* the Third, intituled *An Act to encourage the Trade to Newfoundland*; and so much of another Act passed in the Fifteenth Year of the Reign of His late Majesty King *George* the Third intituled *An Act for the Encouragement of the Fisheries carried on from Great Britain, Ireland and the British Dominions in Europe, and for securing the Return of the Fishermen, Sailors and others employed in the said Fisheries, to the Ports thereof, at the end of the Fishing Season*, as relates to the Masters and Crews of Fishing Ships occupying or using any vacant Spaces in *Newfoundland*, to the Privilege of drying Fish on the Shores, to Fishing Ships or Boats not being liable to Restraint or Regulations with respect to Days or Hours of working, or making Entry at the Custom House, to the carrying or conveying of Passengers to the Continent of *America*, to Agreements or Contracts between Hirers or Employers and Seamen or Fishermen, to the Penalties on such Hirers or Employers advancing Wages, and on such Seamen or Fishermen absenting themselves from their Duty, or neglecting or refusing to work, and the Manner of determining Disputes and Offences; and also so much of another Act passed in the Twenty sixth Year of the Reign of His said Majesty King *George* the Third, intituled *An Act to amend and render more effectual the several Laws now in Force for encouraging the Fisheries carried on at Newfoundland and Parts adjacent, from Great Britain, Ireland and the British Dominions in Europe, and for granting Bounties for a limited Time, on certain Terms and Conditions,*

as relates to the Wages of Green Men, the using of

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Aliens not to fish in
Newfoundland or its
Dependencies.

Exception.

Seans or Nets, Seamen or Fishermen absenting themselves or neglecting their Duty, or deserting or intending to desert; and also so much of another Act passed in the Twenty ninth Year of the Reign of His said Majesty *George* the Third, intituled *An Act for further encouraging and regulating the Newfoundland and Greenland and Southern Whale Fisheries*, as relates to the Privilege of landing and drying Fish in *Newfoundland*, shall be and the same are hereby repealed.

Proviso for taking,
curing, and drying
Fish, occupying
vacant Places, cutting
down Trees for
building, and doing
things useful for their
Fishing Trade by
English Subjects.

II. And be it further enacted, That no Alien or Stranger whatsoever shall at any Time hereafter take Bait, or use any Sort of Fishing whatsoever in *Newfoundland*, or the Coasts, Bays or Rivers thereof, or on the Coast of *Labrador*, or in any of the Islands or Places within or dependent upon the Government of the said Colony; always excepting the Rights and Privileges granted by Treaty to the Subjects or Citizens of any Foreign State or Power in Amity with His Majesty.

Certificates to be
granted for Vessels
cleared out for the
Fishery, for which 1s
shall be paid.

"III. And Whereas it is expedient to obviate any Doubts which have arisen or may arise, as to what Persons are entitled to the Right or Privilege of taking, curing and drying Fish on the Shores and Banks of *Newfoundland*;" Be it therefore enacted, That it shall and may be lawful for all His Majesty's Subjects residing in the United Kingdom of *Great Britain* and *Ireland*, or in any of His Majesty's Colonies, Plantations or Dominions, to have, use and enjoy the free Trade and Traffic and Art of Merchandize and Fishery to and from *Newfoundland* and the Coast of *Labrador* aforesaid, and all and every the Islands or Places within or dependent upon the Government of *Newfoundland*, and peaceably to have, use and enjoy the Freedom of fishing and taking Bait in any of the Seas, Rivers, Lakes, Creeks, Harbours or Roads in or about *Newfoundland* or the said Coast of *Labrador*, or any of the Islands adjacent thereunto respectively; and Liberty to go on Shore on any vacant or unoccupied Part of *Newfoundland* or said Coasts of *Labrador*, or any of the said Islands adjacent thereunto respectively, for curing, salting, drying and husbanding of their Fish, and for making Oil; and to cut down Wood and Trees on any such vacant or unoccupied Places as aforesaid, for building and making or repairing of Stages, Ship Rooms, Train Fats, Hurdles, Ships, Boats and other Necessaries for themselves and their Servants, Seamen and Fishermen, and all other Things which may be useful or advantageous to their Fishing Trade to do, as fully and freely as at any Time heretofore by virtue of any former Act of

Parliament hath been done there by any of His Majesty's Subjects, without any Hindrance, Interruption, Denial or Disturbance whatsoever.

IV. And be it further enacted, That whenever any Ship or Vessel shall be cleared out from any Port in the said Colony of *Newfoundland*, or in any other Part of His Majesty's Dominions, for the said Fisheries on the Banks or Coasts of *Newfoundland* or *Labrador*, or the Dependencies thereof, without having on board any Article of Traffic (except only such Provisions, Nets, Tackle and other Things as are usually employed in and about the said Fishery,

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On Arrival Report to be made of such Certificate, and for Registry thereof a Fee not exceeding 5s. shall be paid.

and for the conduct and carrying on of the same), the Master of any such Ship or Vessel shall be entitled to demand from the Collector, or other Principal Officer of His Majesty's Customs at such Port, a Certificate under His Hand, that such Vessel hath been specially cleared out for the *Newfoundland* Fishery, for which Certificate a Fee of Five Shillings and no more shall be payable to such Collector or other Principal Officer as aforesaid, and such Certificate shall be in force for the Fishing Season of the Year in which the same may be granted, and no longer; and upon the first Arrival in any Port in the said Colony of *Newfoundland*, or its Dependencies, of any Ship or Vessel having on board any such Certificate as aforesaid, a Report thereof shall be made by the Master of such Ship or Vessel, to the Principal Officer of His Majesty's Customs at such Port, who shall forthwith make an Entry of such Report in the Books of the Custom House to which he may be attached or belong, and for receiving and registering such Report, a Fee not exceeding Five Shillings shall and may be taken by such Officer of the Customs at *Newfoundland*; and all Ships and Vessels having on board any such Certificate as aforesaid, which hath in Manner aforesaid been duly reported to some Officer of His Majesty's Customs within the said Colony, and being actually engaged in the said Fishery, or in carrying coastwise, to be landed or put on board any other Ships or Vessels engaged in the said Fishery, any Fish, Oil, Salt, Provisions or other Necessaries for the Use and Purposes thereof, shall be exempt from all Obligation to make any Entry at or obtain any Clearance from any Custom House at *Newfoundland*, upon entering the Ports or Harbours of the said Colony or its Dependencies, during the Continuance of the Fishing Season for which such Certificate may have been granted: Provided nevertheless, that when any such Ship or Vessel as aforesaid shall finally quit the said Fishery, for any Country or Place not being within the said Colony or the Dependencies thereof, such Ship or Vessel shall obtain the usual Clearance from some Port in the said Colony or the

On finally quitting the Fishery the usual Clearance shall be obtained.

Vessels having on board any Goods other than Fish, &c. to forfeit the Fishing Certificate.

Persons throwing out Ballast, &c. to the Prejudice of the Harbours.

Dependencies thereof; and previously to obtaining such Clearance, the Master of such Ship or Vessel shall deliver up the before mentioned Certificate to the principal Officer of the Customs of such Port: Provided also, that in case any such Ship or Vessel shall have on, board, during the Time the same may be engaged in the said Fishery, any Goods or Merchandizes whatsoever other than Fish, Seals, Oil made of Fish or Seals, Salt, Provisions or other Things, being the Produce of or usually employed in the said Fishery, such Ships or Vessels shall forfeit the said Fishing Certificate, and shall thenceforth become and be subject and liable to all such and the same Rules, Restrictions and Regulations, as such Ship or Vessel would have been subject or liable to if this Act had not been made; any Thing hereinbefore contained to the contrary notwithstanding.

V. And for preserving the Harbours of the said Colony of *Newfoundland* and its Dependencies from all Annoyances, be it further enacted, That no Ballast Stones or any Thing else hurtful or injurious to any of the Harbours there, shall be thrown out of any Ship, vessel or Boat, or otherwise, by any Person or Persons whatsoever, to the Prejudice of any of the said Harbours,

Penalty,

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or Imprisonment.

For preventing Annoyances in hauling Nets, and taking Fish out of the Net of others.

but that all such Ballast and other Things shall be carried on Shore and be laid where they may do no Annoyance; and if any Person or Persons shall throw out of any Ship, Vessel or Boat, or otherwise, any Ballast, Stones or other Thing hurtful or injurious to any of the Harbours of the said Colony or its Dependencies, or shall wantonly or maliciously do or procure to be done any other Matter or Thing whereby any of the said Harbours shall or may be damaged or impaired, the Persons or Person so offending shall incur and become liable to the Payment of any Fine not less than Forty Shillings, nor more than Fifty Pounds Sterling *British* Money, or to Imprisonment for any Time not exceeding One Calendar Month, or both, at the Discretion of the Court before which any such or Offender may be convicted.

Agreements to be made with Seamen or Fishermen for Wages.

VI. And be it further enacted, no Person or Persons whatsoever shall cast anchor or do any other Matter or Thing to the Annoyance or hindering of the drawing or hauling of Nets or Scans in the customary Baiting Places in *Newfoundland*, or the Dependencies thereof, or shoot his or their Net or Sean within or upon the Net or Sean of any other Person or Persons whatever; and also that no Person or Persons whatsoever shall steal, purloin or take any Fish or Bait out of the Net or Sean of any other Person or Persons whatsoever, lying adrift or drover for Bait by Night.

VII. And be it enacted, That no Person or Persons

Employers not to advance more than Three-fourths of Wages during Time of Service; and the Balance at the Expiration of Agreement.

whatsoever shall employ or cause to be employed at Newfoundland, or any of the Dependencies thereof, for the Purpose of carrying on the Fishery there, any Seamen or Fishermen going as Passengers, or any Seamen or Fishermen, hired there, without first entering into an Agreement or Contract with every such Seaman or Fisherman declaring what Wages or Shares such Seaman or Fisherman is to leave, and the Time for which he shall serve, and in what Manner such Wages or Shares are to be paid or allowed; and every such Agreement or Contract shall be made in Writing, and shall be signed by all the Parties thereto.

Penalty.

VIII. And be it further enacted, That no Hirer or Employer of any such Seaman or Fisherman shall pay or advance, or cause to be paid or advanced to such Seaman or Fisherman in Money or Goods, during the Time he shall be in the Service of such Hirer or Employer, more than to the Amount of Three fourths of the Wages or Shares which by the said Contract or Agreement shall be agreed to be paid or allowed to such Seaman or Fisherman; but such Hirer or Employer shall and is hereby required and directed immediately at or upon the Expiration of every such Seaman or Fisherman's covenanted Time of Service, to pay either in Money or Goods (according as may be agreed upon as aforesaid in such Contract or Agreement in Writing), to every such Seaman or Fisherman, the full Balance of One fourth Part of his stipulated Wages or Shares aforesaid; and it shall not be lawful for any such Hirer or Employer to turn away or discharge any such Seaman or Fisherman, except for wilful Neglect of Duty or other sufficient Cause, before the Expiration of his stipulated Time of Service; and in case the Hirer or Employer of any such Seaman or Fisherman shall refuse or neglect to comply

Limitation of Actions.

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Agreements to be produced by Hirer in case of Dispute.

with any of the Terms hereinbefore mentioned, or shall otherwise offend against this Act, every such Person so offending shall forfeit for every such Offence any Sum not less than Five Pounds, nor more than Fifty Pounds Sterling Money, to the Use of such Person or Persons as shall inform or sue for the same, to be recovered in the Supreme Court of *Newfoundland*, or by Bill, Plaint or Information in any of His Majesty's Courts of Record at *Westminster*: Provided always, that every such Suit or Prosecution, if the same be commenced in *Newfoundland*, shall be commenced within One Year; and if commenced in any of His Majesty's Courts of Record at *Westminster*, within Two Years from the Time of the Commission of such Offence.

Fish and Oil subject in the first Place to Payment of Wages.

IX. And be it further enacted, That in all Cases where Disputes shall arise concerning the Wages of any such Seaman or Fisherman, the Hirer or Employer shall be obliged to produce the Contract or Agreement in Writing hereinbefore directed to be entered into with every such Seaman or

Fisherman, and also to give a Copy thereof to every such Seaman or Fisherman, if so required.

Persons absenting themselves from Duty without leave of Employer.

X. And be it further enacted, That all the Fish and Oil which shall be taken and made by the Person or Persons who shall hire or employ such Seaman or Fisherman, shall be subject and liable in the first Place to the Payment of the Wages or Shares of every such Seaman or Fisherman, and of the Demands of such Person or Persons as shall *bond fide* supply Bait to such Seaman or Fisherman for the Use and Benefit of the Hirer or Employer of such Seaman or Fisherman.

Penalty,
and if for 14 Days
deemed a Deserter.

XI. And be it further enacted, That in case any such Seaman or Fisherman shall at any time wilfully absent himself from his Duty or Employ without the Leave and Consent of his Hirer or Employer, or shall wilfully neglect or refuse to work, according to the true Intent and Meaning of his said Contract or Agreement, such Seaman or Fisherman shall for every Day he shall so absent himself, or neglect or refuse to work as aforesaid, forfeit any Number of Days' Pay or Shares not exceeding Thirty to such Hirer or Employer; and if any such Seaman or Fisherman shall wilfully absent himself from his said Duty or Employment for the Space of Fourteen Days without such Leave as aforesaid, he shall be deemed a Deserter, and shall forfeit to such Hirer or Employer all such Wages as shall at the Time of such Desertion be due to him; and it shall and may be lawful for any Justice or Justices of the Peace of *Newfoundland*, or the Dependencies thereof, to issue his or their Warrant or Warrants to apprehend every such Deserter, and on the Oath of One or more Credible Witness or Witnesses to commit him to Prison, there to remain until the next Court of Sessions; and if found guilty of the said Offence at such Court of Sessions, it shall and may be lawful to and for the said Court of Sessions to order such Deserter to be imprisoned for any Time not exceeding Three Calendar Months, and afterwards to be put on board a Passage Ship, in order to his being conveyed back to the Country whereto he belongs, in case such Deserter be not a Native of or settled within the said Colony.

Punishment.

[¹ This Act was further continued in force by chap. 79, Imperial Statutes, 1832, until the 31st December, 1834, when it expired.]

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XII. And be it further enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Advice of His or their Council, from time to time to give such Orders and Instructions to the Governor of *Newfoundland*, or to any Officer or Officers on that Station, as he or they shall deem proper and necessary to fulfil the Purposes of any Treaty or Treaties now in force between His Majesty and any Foreign State or Power; and in case it shall be necessary to that End, to give Orders and Instructions to the Governor, or other Officer or Officers aforesaid, to remove or cause to be removed any Stages, Flakes, Train Fats, or other Works whatever, for the Purpose of carrying on the Fishery, erected by His Majesty's Subjects on that Part of the Coast of *Newfoundland* which lies between *Cape Saint John* passing to the North, and descending to the Western Coast of the said Island to the Place called *Cape Raye*, and also all Ships, Vessels and Boats belonging to His Majesty's Subjects which shall be found within the Limits aforesaid; and also, in case of Refusal to depart from within the Limits aforesaid, to compel any of His Majesty's Subjects to depart from thence; any Law, Custom or Usage to the contrary notwithstanding.

XIII. And be it further enacted, That if any Person or Persons shall refuse, upon Requisition made by the Governor, or any Officer or Officers acting under him in pursuance of His Majesty's Orders or Instructions as aforesaid, to depart from within the Limits aforesaid, or otherwise to conform to such Requisitions and Directions as such Governor or other Officer as aforesaid shall make or give for the Purposes aforesaid, every such Person or Persons so refusing or otherwise offending against the same, shall forfeit the Sum of Fifty Pounds Sterling Money: Provided always, that every such Suit or Prosecution, if the same be commenced in *Newfoundland*, shall be commenced within One Year; and if commenced in any of His Majesty's Courts of Record at *Westminster*, within Two Years from the Time of the Limitation of Commission of such Offence.

'XIV. And Whereas by an Act passed in the Fifty first Year of the Reign of His said Majesty King *George* the Third, the Governor of the Island of *Newfoundland* is empowered to dispose of certain Places in the Harbour of *Saint John* in the said Island, called "Fishing Ships' Rooms," as therein particularly described: And Whereas it is expedient that all other Fishing Ships Rooms in *Newfoundland* should be disposed of in like Manner;' Be it further enacted, That the Governor of *Newfoundland* for the Time being shall have Power, and lie is hereby authorized to sell, lease or dispose of all such Places within the said Island of *Newfoundland*, commonly called "Ships' Rooms," as may not be already disposed of under and by virtue of the said last mentioned Act, to be held in the same Manner as other Property in

Newfoundland; provided however, that nothing herein contained shall extend or be construed to the Prejudice of any private Right of any Person whatever.

XV. And be it further enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, to grant to any Persons or Person

Penalties may be sued
for in Newfoundland.

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any waste and unoccupied Lands situate and being within the said Colony, and which have not hitherto been granted by His Majesty, or any of His Royal Predecessors, to any Persons or Person; any Thing in any Charter granted by any of His Majesty's Royal Predecessors, or in any Act of Parliament, to the contrary contained in any wise notwithstanding.

Continuance of Act.

XVI. And be it further enacted, That all Penalties hereby imposed shall and may be sued for and recovered in any of His Majesty's Courts of Record in the said Colony of *Newfoundland*, or its Dependencies, and shall go and be applied, One Half to the Benefit of any Person who may sue or inform for the same, and the other Half to His Majesty, for and towards the Support of the Government of the said Colony.

XVII. And be it further enacted, That this Act shall continue and be in force for Five Years, and from thence until the End of the then next Session of Parliament.

No. 55.

**THE NEWFOUNDLAND ACT, 1824. 5 GEO. IV.,
CAP. 67, (IMPERIAL).**

[17 June, 1824.]

His Majesty may
institute a Superior
Court of Judicature in
Newfoundland, to be
a Court of Oyer and
Terminer and
General Gaol
Delivery

An Act for the better Administration of Justice in
Newfoundland, and for other purposes.

[17th June 1824.]

Jurisdiction

Appointment of a
Chief Judge and two
Assistant Judges.

May be removed.

'Whereas it is expedient to make further Provision for the Administration of Justice in the Colony of *Newfoundland*;' Be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful for His Majesty, by His Charter or Letters Patent under the Great Seal, to institute a Superior Court of Judicature in *Newfoundland* which shall be called "The Supreme Court of *Newfoundland*;" and the said Court shall be a Court of Record, and shall have all Civil and Criminal Jurisdiction whatever in *Newfoundland*, and in all Lands, Islands and Territories dependant upon the Government thereof, as fully and amply, to all Intents and Purposes, as His Majesty's Courts of King's Bench, Common Pleas, Exchequer and High Court of Chancery, in that Part of *Great Britain* called *England*, have, or any of them hath; and the said Supreme Court shall also be a Court of Oyer and Terminer and General Gaol Delivery in and for *Newfoundland*, and all Places within the Government thereof; and shall also have Jurisdiction in all Cases of Crimes and Misdemeanors committed on the Banks of Newfoundland, or any of the Seas or Islands to which Ships or Vessels repair from *Newfoundland* for carrying on the Fishery.

Govenor may appoint
Judges in certain
Cases,

II. And be it further enacted, That the said Supreme Court shall be holden by a Chief Judge and Two Assistant Judges, being respectively Barristers in *England* or *Ireland* of at least Three Years standing, or in some of His Majesty's Colonies or Plantations, who shall be appointed to such their Offices by His Majesty, His Heirs and Successors: Provided always, that it shall be lawful for His Majesty, His Heirs and Successors, from time to time as Occasion may require, to remove and displace any such Chief Judge or Assistant Judge as aforesaid, and in his Stead to appoint any other fit and proper Person, being a Barrister as aforesaid, to be the Chief Judge or Assistant Judge of the said Court, as the Case may be: And provided also, that in case any such Chief Judge or Assistant Judge shall be absent from *Newfoundland*, or die, or resign

such his Office, or by reason of Sickness or otherwise shall become incapable of performing the Duties thereof, then and in every such

until resumption of Office or Successor appointed.

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Case it shall be lawful for the Governor or Acting Governor of *Newfoundland* for the Time being, to nominate and appoint some fit and proper Person to act as Chief Judge or Assistant Judge, as the Case may be, in the Place or Stead of the Judge so being absent, dying, resigning his office or becoming incapable of performing the Duties thereof, until such Judge shall resume the Duties of his Office, or until a Successor shall be appointed by His Majesty, His Heirs and Successors; and the said Chief Judge and Assistant Judges shall respectively have and exercise such and the like Powers and Authorities in *Newfoundland*, and in all Places dependant upon the Government thereof, as any Judge of any of His Majesty's said Courts of King's Bench, Common Pleas and Exchequer, or as the Lord High Chancellor of *Great Britain*, hath or exercises in *England*.

Issues of Fact to be tried at Saint John's by a Jury.

Appointed of Sessions.

III. And be it further enacted, That all Issues of Fact which may be joined between the Parties in any Action at Law originally brought before the said Supreme Court of Record, or which may be joined upon any Criminal Information or Prosecution depending in that Court, shall be tried at the Town of Saint John's in the Island of *Newfoundland*, by a Jury of Twelve Men; Appointment of and for the Purpose of hearing and trying all Suits, Actions and all Informations, Prosecutions and other Proceedings, of what Nature or Kind soever, which may be brought or commenced in the said Supreme Court, One or more Term or Terms, or Session or Sessions of the said Court, shall be held at, the Town of *Saint John's* aforesaid, in each Year, by the said Chief Judge and Assistant Judges, at such Times as the Governor or Acting Governor of the said Colony shall from time to time, by any Proclamation to be by him for that Purpose issued, direct and appoint.

How Actions in breach of Laws relating to Trade of Colonies in America, to be tried.

Appeal.

IV. And be it further enacted, That as often as any Information, Action or Suit shall be brought or prosecuted before the said Supreme Court, for the Breach or Violation of any Law relating to the Trade or Revenue of the *British Colonies* or Plantations in *America*, such Information, Action or Suit shall be heard and determined by the said Court, according to the Course of Proceeding in similar Cases in the Courts of Vice Admiralty in the said Colonies or Plantations; and that it shall and may be lawful for the Party or Parties feeling aggrieved by the Judgment or Decree of the said Supreme Court, in any such Case, to appeal from such Judgment or Decree to the High Court of Admiralty, or to His Majesty in Council, under such and the like Rules and Regulations as are observed in Appeals from the said Courts of Vice Admiralty.

Supreme Court may grant Administration of the Effects of Intestates and Probates of Wills, &c.

V. And be it further enacted, That the said Supreme Court shall have Power to grant Administration of the Effects of Intestates, and the Probate of Wills; and that the Effects of deceased Persons shall not be administered within the Island of *Newfoundland* or any Island Place or Territory dependant upon the Government thereof, unless Administration or Probate shall have been duly granted by the said Supreme Court; and in all Cases where the Executor or Executors of any Will in *Newfoundland*, or the Dependencies thereof, upon being duly cited, shall refuse or neglect to take out Probate

and appoint
Receivers.

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as aforesaid; or where the next of Kin shall be absent from *Newfoundland*, and the Effects of the Deceased shall appear to the said Supreme Court to be exposed and liable to Waste, it shall be lawful for the said Supreme Court to authorize and empower the Registrar or Clerk of the said Court, or some other fit and proper Person, to collect the said Effects, and hold, or deposit or invest the same in such Manner and Place, or upon such Security, and subject to such Orders and Directions as shall be made by the said Supreme Court in respect of the Custody, Control or Disposal of such Effects.

Supreme Court may
appoint Guardians for
Infants and Lunatics.

VI. And be it further enacted, That the said Supreme Court shall have Power and Authority to appoint Guardians and Keepers for Infants and their Estates, according to the Order and Course observed in such Cases in *England*; and also to appoint Guardians and Keepers of the Persons and Estates of natural Fools, and of such as are or shall be deprived of their Reason or Understanding, so as to be unable to govern themselves and their Affairs, which the said Supreme Court shall have Power and Authority to enquire of and determine, by Inspection of the Person, or by such other Ways and Means as to such Supreme Court shall seem best for ascertaining the Truth.

Governor by
Proclamation may
divide Colony into
Three Districts.

VII. And be it further enacted, That it shall and may be lawful for the Governor or Acting Governor for the Time being of *Newfoundland*, by any Proclamation or Proclamations to be by him for that Purpose issued, to apportion and divide the said Colony into Three several Districts, and to fix and ascertain the Boundaries and Limits of every such District, and such Boundaries or Limits from time to time to alter as Occasion may require Provided always, that such Apportionment of the said Colony into such Districts as aforesaid be made in such Manner as to such Governor or Acting Governor may appear to be best adapted for enabling the Inhabitants of the said Colony to resort with Ease and Convenience to the Circuit Courts to be therein established as after mentioned.

His Majesty may
institute Circuit
Courts.

Circuit Courts to be
Courts of Record,
Jurisdiction as the
Supreme Court,

VIII. And be it further enacted, That it shall and may be lawful for His Majesty, by any such Charter or Letters Patent as aforesaid, to institute Circuit Courts in each of the Three Districts in which the said Colony may be so divided as aforesaid; and each of the said Circuit Courts shall be holden once at least in each Year by the said Chief Judge, or by One of the said Assistant Judges of the said Supreme Court of *Newfoundland*, at such Times, and at such One or more Place or Places within each of the said Districts, as the Governor or Acting Governor for the Time being of *Newfoundland* shall from time to time direct and appoint.

Exceptions.

IX. And be it further enacted, That the said Circuit Courts shall be respectively Courts of Record, and shall, within the District in which it may be holden, have and exercise all such and the same Jurisdiction, Powers, and Authority, as is hereby vested in the said Supreme Court of *Newfoundland* throughout the whole of the said Colony: saving and excepting the trying Exceptions. and determining of Treasons, or Misprisions of Treason, and Felonies not within the Benefit of Clergy, and the hearing or determining of any Informa-

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How Crimes
cognizable in Circuit
Courts and Civil
Actions to be tried.

tion, Suit or Action, for the Breach or Violation of any Act of Parliament relating to the Trade and Revenue of the *British Colonies in America*; all which said Crimes and Offences, Informations, Suits and Actions, shall be tried, enquired of, heard and determined in the said Supreme Court of *Newfoundland*, and not elsewhere within the said Colony.

Where a Jury not
formed, Trials for
Crimes had by the
Circuit Judge and
Three Assessors,
being Justices of
Peace, and nominated
by Governor.

X. And be it further enacted, That all Crimes and Misdemeanors, cognizable in the said Circuit Courts and all Issues of Fact which may be joined between the Parties in any Civil Action, depending in the said Circuit Courts, shall be enquired of, heard and determined by the said Circuit Judge, and a Jury of Twelve Men, according to the Rules and Course of the Law of *England*, as far as the Situation and Circumstances of the said Colony will permit.

Such Assessors liable
to be challenged.

XI. Provided nevertheless, and be it further enacted, That if upon the Trial of any Crimes or Misdemeanors before any of the said Circuit Courts, Twelve good and lawful Men shall not appear to form a Jury, then and in all such Cases such Trial shall be had by the Circuit Judge and Three Assessors, being Justices of the Peace in and for the said Colony, or for some District thereof; and the said Justices shall be nominated from time to time to serve as such Assessors as aforesaid by the Governor or Acting Governor for the Time being of the said Colony, and shall severally be liable to be challenged or objected to upon the special Ground of direct Interest or

Verdict to be given in open Court.

Civil Actions tried by Judge of Court alone where Jury cannot be formed.

Evidence, where Matter at Issue is above the Value of 50 l. to be in Writing.

On Appeal Documents to be produced.

On Application of either of the Parties before Trial, through

Affection, to be specified in open Court at the Time of Challenge; and in case of such Challenge or Objection being allowed by the Judge of the said Circuit Court the Justice of the Peace so challenged or objected to shall be succeeded by another such Justice of the Peace, who shall in like Manner be nominated by the Governor or Acting Governor for the Time being as aforesaid, and be liable in the same Manner to Challenge or Objection, until Three such Justices of the Peace shall appear duly qualified for the Trial of any Offender in the said Circuit Courts respectively; and the said Justices of the Peace shall thereupon severally take and repeat in open Court the same Oath as is taken by Petit Jurors impannelled for the Trial of any Crime or Misdemeanor in a Court of Record in *England*; and the Judges of the said Circuit Courts respectively shall, together with the said Three Assessors, give their Verdict upon every such Trial in open Court; but no Person shall be found guilty by any such Verdict unless the Judge of the said Court, and Two at the least of his said Assessors, shall concur in such Verdict; and the Proceedings in the said Circuit Courts respectively shall be under the Controul and Direction of the respective Judges thereof, and all Matters of Law arising in the Course of any Trial shall be determined by such Judges respectively.

XII. Provided also, and be it further enacted, That if upon the Trial of any Issue or Issues of Fact joined between the Parties in any Civil Suit or Action depending in any of the said Circuit Courts, Twelve good and lawful Men shall not appear to form a Jury all such Issues of Fact shall be tried and decided by the Judge of such Court alone, and without a jury; and that in

all Cases where the Sum or Matter at Issue in any such Suit or Action shall exceed or be of the Value of more than Fifty Pounds Sterling *British* Money, the Judges of the said Courts respectively shall cause the Evidence on any such Hearing or Trial as aforesaid to be taken down in Writing by the Clerk or other proper Officer, in open Court, in the Presence of the Witnesses respectively giving the same, and the Evidence so taken shall be entered upon the Proceedings of the said Courts respectively, and be of record; and in every Case in which any Appeal shall be made and allowed under the Provisions this Act, from any Judgment of the said Circuit Courts, not founded on the Verdict of a Jury, Copies of all Documents and Papers which shall have been produced and given in Evidence shall be certified by the said Clerk or other proper Officer, as authentic; and also Copies of any Documents and Papers which shall have been produced and tendered in Evidence and rejected shall, if required by the Party producing the same, be in like Manner authenticated, but marked by such Officer as aforesaid as rejected, in order that all such Copies may be

the sum does not amount to 50 l. the Judge may permit the Evidence to be recorded.

Appeal.

Appeal to the Supreme Court may be made on giving Notice.

Costs.

annexed to the Record, as Part thereof, in case of Appeal.

XIII. And be it further enacted, That it shall be lawful for the Judges of the said Circuit Courts respectively, on the Application of either of the Parties, Plaintiff or Defendant, at or before the Trial of any Issue of Fact joined in any Civil Suit or Action commenced in the said Circuit Courts Judge may permit respectively, in case such Issue is not tried by a Jury, to permit the Evidence on such Trial to be recorded and certified as aforesaid, although the Sum or Matter at Issue may be less in Value than Fifty Pounds Sterling, provided it shall be made to appear to such Judge that the Judgment, Decree, Order or Sentence, which may be given, made or pronounced in such Suit or Action, may be of such Importance as to render it proper that an Appeal should be permitted; and if, after giving or pronouncing such Judgment, Decree or Order, the said Judge shall be of Opinion that such Judgment, Decree or Order is of such Importance as to make it proper that an Appeal should be permitted, it shall be lawful for the said Judge to allow either of the said Parties, Plaintiff or Defendant, to appeal to the Supreme Court, in like Manner, and under and subject to the like Rules and Regulations, as in and by this Act directed in other Cases of Appeal.

XIV. And be it further enacted, That it shall be lawful for the Plaintiff or Plaintiffs, Defendant or Defendants, against whom any Judgment, Decree or Order of the said Circuit Courts respectively shall be given, for or in respect of any Sum or Matter at Issue above or exceeding the Value of Fifty Pounds Sterling, to appeal therefrom to the said Supreme Court, and the Party or Parties appealing from such Judgment, Decree or Order, shall, within Fourteen Days from the passing thereof, give Notice to the adverse Party or Parties of such Appeal, and within Fourteen Days from and after such Judgment, Decree or Order, enter into sufficient Security, to be approved by the Judges of the said Circuit Courts respectively, to satisfy or perform the said Judgment, Decree or Order, in case the same shall be affirmed or the Appeal dismissed, together with such further Costs as shall be awarded thereon: and in all

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Cases of Appeal, where Notice shall be given and Security perfected as aforesaid, Execution shall be stayed, and not otherwise; and the said Supreme Court shall and may enquire into, hear and decide all Questions, whether of Law or of Fact, arising upon any such Appeal, but shall not admit or receive any Evidence which was not tendered to the Circuit Court from which such Appeal may be brought on the Hearing or Trial of any such Suit or Action therein: Provided always, that the said Supreme Court shall not reverse, alter or enquire into any Judgment of the said Circuit Courts, founded on the Verdict of a Jury, except only for Error of Law apparent upon the Record.

XV. And be it further enacted, That as often as any Action or Suit shall be brought in the Supreme Court, or in either of the said Circuit Courts respectively, and it shall be made to appear to the Court before which such Action or Suit may be pending, that such Action or Suit may be more conveniently heard and determined either in the said Supreme Court or in some other of the said Circuit Courts, it shall be lawful for such Court to permit and allow such Action or Suit to be removed to such other Court, and such Allowance shall be certified by the Judge, together with the Writ or Process and Proceedings in such Action or Suit, to the Court into which such Action or Suit shall be intended to be removed; and thereupon it shall be lawful for such last mentioned Court, and such Court is hereby required to proceed in such Action or Suit in like Manner as if the same had been originally commenced and prosecuted in such last mentioned Court.

XVI. And be it further enacted, That in all Actions at Law or Suits in Equity, which shall be brought in the said Courts respectively, where Goods to be attached the Debt or Sum demanded shall not be sworn to as hereinafter mentioned, or Persons arrested, the Defendant or Defendants in such Action or Suit shall be made to appear to such Action or Suit by Summons, to be issued by the Chief Judge of the said Supreme Court, or by the Judges of the said Circuit Courts respectively, and served by the proper Officer on the said Defendant or Defendants personally, or left at his, her or their usual Place of Abode; and in all Cases where such Summons shall be disobeyed, or where the Debt, Damages or Thing demanded shall exceed Ten Pounds Sterling Money, and shall be sworn to in an Affidavit made by the Plaintiff or Plaintiffs, or his, her or their lawful Attorney, then the said Defendant or Defendants shall be made to appear by Attachment of his, her or their Goods, Debts or Effects, or by Arrest of the Person of the said Defendant or Defendants; and in case of his, her or their Goods, Debts or Effects being attached as aforesaid, such Goods, Debts or Effects, or so much thereof as shall be judged by the said Court sufficient to satisfy the Debt or Damages, shall be held as Security for such Debt or Damages, and shall

abide the Order, Judgment or Decree of the Court issuing such Attachment, unless the Defendant or Defendants, or some Person on his, her or their Behalf, shall appear and give good and sufficient Bail, to be approved by such Court, to satisfy such Judgment, Decree or Order; and where the Defendant or Defendants has or have been arrested, he, she or they shall not be discharged out of Custody until he, she or they shall in

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Damages and Cost.

Powers given for making Rules and Orders for the Proceedings in the Supreme Court and Circuit Courts, &c.

like Manner have given good and sufficient Bail, to be approved by such Court, to satisfy the Judgment, Decree or Order of the Court in the Cause in which such Arrest was made; and it shall also be lawful for the said Courts respectively, when any such Action or Suit as aforesaid shall be depending therein, to cause to appear from Day to Day all Parties interested therein, and to examine upon Oath any of such Parties, in case such Examination shall appear to the said Court necessary for the Discovery of the Truth, but not otherwise; and thereupon, and after due Consideration of all Circumstances of the Case, to make such Order, Judgment or Decree therein, and award such Damages and Costs as shall be just and equitable; and such Order, Judgment or Decree shall be enforced by Attachment and Sale of the Goods, Debts and Effects, or by Arrest of the Person or Persons against whom such Order, Judgment or Decree shall be made, and Imprisonment of such Person or Persons until such Order, Judgment or Decree shall be performed and satisfied.

XVII. And be it further enacted, That it shall be lawful for His Majesty, His Heirs and Successors, by such Charter or Letters Patent as aforesaid or by any Order or Orders to be hereafter issued by and with the Advice of Proceedings in the His or Their Privy Council, to make and prescribe, or to authorize and empower the said Supreme Court of *Newfoundland*, under such Limitations as His Majesty shall deem proper, to make and prescribe such Rules and Orders touching and concerning the Forms and Manner of Proceeding in the said Supreme Court and Circuit Courts respectively, and the Practice and Pleadings upon all Indictments, Informations, Actions, Suits and other Matters to be therein brought; or touching or concerning the appointing of Commissioners to take Bail, and examine Witnesses; the taking Examinations of Witnesses *de bene esse*, and allowing the same as Evidence; the granting of Probates of Wills and Letters of Administration; the Proceedings of the Sheriff and his Deputies, and other Ministerial Officers; the summoning of Assessors for the Trial of Crimes and Misdemeanors in the said Circuit Courts; the Process of the said Court, and the Mode of executing the same; the impannelling of Juries; the Admission of Barristers, Attornies and Solicitors; the Fees,

51 G. 3. c. 45.
§ 2. repealed.

Poundage or Perquisites to be lawfully demanded by any Officer, Attorney or Solicitor in the said Courts respectively; and all other Matters and Things whatsoever touching the Practice of the said Courts, as to His Majesty, His Heirs and Successors, shall deem meet for the proper Conduct of Business in the said Courts; and such Rules and Orders from time to time to alter, amend or revoke, as to His Majesty, His Heirs and Successors, shall seem requisite.

Power to the Governor to institute a Court of Civil Jurisdiction on the Court of Labrador, &c.

"XVIII. And whereas it is expedient to make further Provision for the Administration of Justice on the Coast of *Labrador*;" Be it further acted, That so much of an Act passed in the Fifty first Year of the Reign of His said Majesty *George the Third*, intituled *An Act for taking away the Public Use of certain Ships Rooms, in the Town of Saint John's in the Island of Newfoundland, and for establishing Surrogate Courts on the Coast of Labrador*,

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Court to be held by One Judge, and to hear and determine Complaints of a Civil Nature.

and in certain Islands adjacent thereto, as relates to the Institution of Surrogate Courts, shall be, and the same is hereby repealed; and that it shall and may be lawful for the Governor or Acting Governor of *Newfoundland* for the Time being, to institute a Court of Civil Jurisdiction at any such Parts or Places on the Coast of *Labrador*, or the Islands adjacent thereto, which, in and by the said Act passed in the Fifty first Year of the Reign of His Majesty *George the Third* are reannexed to the Government of *Newfoundland*, as Occasion shall require; and such Court shall be held by One Judge, and shall be a Court of Record, and shall have Jurisdiction, Power and Authority to hear and determine all Suits and Complaints of a Civil Nature arising within any of the said Parts and Places on the Coast of *Labrador*, or the Islands adjacent thereto; and the said Court shall be holden by a Judge, who shall be appointed from time to time by the Governor or Acting Governor of *Newfoundland*, and shall have a Clerk and such other Ministerial Officers as the Governor or Acting Governor shall appoint; and the Proceedings of the said Court shall be summary, and such Forms of Process, and such Rules of Practice and Proceeding as shall be settled by the Chief Judge of the said Supreme Court, shall be followed by the said Court, and no other.

Appeal to Supreme Court in certain Cases.

Notice.

Security.

XIX. And be it further enacted, That it shall and may be lawful for the Plaintiff or Plaintiffs, Defendant or Defendants against whom any Judgment Decree or Order of the said Court shall be given, for or in respect of any Sum or Matter at Issue above Fifty Pounds Sterling, or where the Matter in Dispute shall relate to the Title to any Lands, Tenements, Right of Fishery, annual Rent or other Matter, where, in the Judgment of the said Court, Rights in future may be bound, to appeal therefrom to the said Supreme Court; and the Party or Parties appealing from such Judgment, Decree or Order, shall, within

Stay of Execution.

Appeal from Supreme Court to His Majesty in Council.

Seven Days from the passing thereof, give Notice to the Adverse Party or Parties of such Appeal, and within Fourteen Days from and after such Judgment, Decree or Order, enter into sufficient Security, to be approved by the Judge of the said Court or some Person to be appointed by him for that Purpose in his Absence, to satisfy or perform the said Judgment, Decree or Order, in case the same shall be affirmed or the Appeal dismissed, together with such further Costs as shall be awarded thereon; and in all Cases of Appeal, where Notice shall be given and Security perfected as aforesaid, Execution shall be stayed and not otherwise.

Governor, on Arrival of His Majesty's Charter,

XX. And be it further enacted, That it shall and may be lawful for His Majesty, by His said Charter or Letters Patent, to allow any Person or Persons, feeling aggrieved by any Judgment, Decree, Order or Sentence of the said Supreme Court, to appeal therefrom to His Majesty in Council, in such Manner, within such Time, and under and subject to such Rules, Regulations and Limitations as His Majesty by such Charter or Letters Patent respectively, shall appoint and direct.

to notify by Proclamation when the Courts shall be opened, and thereupon so much of 49 G. 3. c. 27. as relates to the Courts thereby instituted, shall be repealed, and Proceedings and Records of those Courts delivered over to the Courts instituted under this Act.

XXI. And be it further enacted, That the Governor or Acting Governor barter of *Newfoundland*, upon the Arrival in the said Colony of His Majesty's Charter

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or Letters Patent for the Establishment of the said Courts by virtue of this may Act, shall by Proclamation notify to the Inhabitants of the said Colony, the Time when the said Courts respectively shall be intended to be opened; and as soon as the Judges of the said Supreme Court shall have assumed and entered upon the Exercise of their Jurisdiction therein then and from thenceforth so much of the Act passed in the Forty ninth Year of the Reign of His late Majesty *George* the Third, intituled *An Act for establishing of Courts of Judicature in the Island of Newfoundland and in the Islands adjacent; and for reannexing Part of the Coast of Labrador, and the Islands lying on the said Coast, to the Government of Newfoundland*, as relates to the Courts thereby instituted, and respectively called the Supreme Court of Judicature of the Island of land, *Newfoundland*, and Surrogate Courts, shall cease to be in force and determine; and every Suit, Action, Complaint, Matter or Thing, which shall be depending in such last mentioned Courts respectively, shall and may be proceeded upon in the Supreme Court instituted under and by virtue of this Act or either of the said Circuit Courts which shall have Jurisdiction within the District or Place in *Newfoundland* where such Action or Suit respectively was depending; and all Proceedings which shall thereafter be had in such Action or Suit the respectively, shall be conducted in like Manner as if such Action or Suit had been originally commenced in one or other of the said Courts instituted under this Act; and all the Records, Muniments and Proceedings whatsoever, of and belonging to the said Courts

General and Quarter Sessions held as Governor shall appoint.

Jurisdiction.

instituted under the said recited Act respectively, shall, from and immediately after the opening of the said Courts respectively instituted under this Act, be delivered over and deposited for safe Custody in such of the said Courts respectively instituted under this Act as shall be found most convenient, and all Parties concerned shall and may have recourse to the said Records and Proceedings, as to any other Records or Proceedings of the said Courts respectively.

Proceedings in Cases of Insolvency.

XXII. And be it further enacted, That Courts of General and Quarter Sessions shall be holden at *Newfoundland* and its Dependencies at such Times and Places as the Governor or Acting Governor of *Newfoundland* and its Dependencies at such Times and Places as the Governor or Acting Governor of *Newfoundland* shall by his Proclamation appoint; and the said Courts of Sessions respectively shall have Power and Authority, in a summary Way, to take Cognizance of all Suits for the Payment of Debts not exceeding Forty Shillings, except the Matter in Dispute shall relate to the Title to any Lands or Tenements or to the taking or demanding of any Fee of Office or Annual Rent, and to award Costs therein; and also to hear and determine all Disputes, to any Amount, which may arise in *Newfoundland* concerning the Wages of Seamen or Fishermen, the supply of Bait, the Hiring of Boats for the Fishery, and all Disputes arising in *Newfoundland* aforesaid concerning the curing or drying of Fish, where the Sum or Matter in Question does not exceed or is not of the Value of more than Five Pounds Sterling; and the Judgment, Determination or Award of the said Courts of Sessions or Justices respectively, in all such Cases, shall be final.

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Notice to Parties to attend.

Trustees appointed.

Declaration of Insolvency.

"XXIII. And Whereas it is expedient to make Provision for declaring Insolvencies in *Newfoundland*;" Be it further enacted, That as often as any Writ of Attachment or other Process for the Recovery of any Debt or Sum due, shall be issued by the said Supreme or Circuit Courts respectively, against any Person or Persons residing or having a House of Trade, or carrying on Business in *Newfoundland*, or any Place within the Government thereof, and it shall be made to appear to the said Court out of which such Writ or Process shall have issued, at the Return thereof, that the Person or Persons against whom such Writ or Process Bath issued is or are unable to pay Twenty Shillings in the Pound to all his, her or their Creditors, it shall be lawful for such Court to cause the Person or Persons against whom such Process shall have issued, together with all his, her or their Creditors, to be summoned by public Notice to attend the said Court on a certain Day, and in the mean Time, if it shall appear necessary to the said Court, to appoint One or more of the said Creditors as Provisional Trustee or Trustees to discover, collect and receive the Estates and Effects of such Person or Persons so appearing to be insolvent, subject to the Orders and Directions of the said Court; and if after due

Distribution of Estate.

Insolvents, on making Disclosure of their Effects and conforming to Directions of Judges, may receive Certificates, with Consent of One half in Number and Value of the Creditors.

Examination of the Person or Persons against whom Process shall have issued as aforesaid, or his, her or their lawful Agent or Agents, or if such Person or Persons shall abscond or fail to attend the said Court pursuant to Summons as aforesaid, it shall be made to appear to the Satisfaction of the said Court, that such Person or Persons is or are insolvent, it shall be lawful for the said Court to declare such Person or Persons insolvent accordingly, and immediately to take order for discovering, collecting and selling the Estates, Debts and Effects of such Insolvent, and distributing the Produce thereof amongst all his, her or their Creditors, and for that Purpose to authorize any Two or more Creditors of the said Insolvent or Insolvents, who shall be chosen by the major Part in Value of such Creditors, or their Agents duly authorized in such Behalf whose Debts amount respectively to the Sum of Twenty Pounds and upwards, to act as Trustees of such insolvent Estate; and such Court shall from time to time make such Orders as it shall deem proper, for better discovering, collecting, realizing and distributing the Estates, Debts and Effects of the Person or Persons so declared insolvent, and as often as Occasion shall require, for vesting the same or any Part thereof, in the Public Funds or Securities in *England*, in the Name or Names of such Person or Persons as shall for that Purpose be appointed by the said Court until Distribution can be made, as hereafter mentioned.

XXIV. And be it further enacted, That if such insolvent Person or Persons shall make a full and true Disclosure, Discovery and Surrender of all his, her or their Estates, Goods, Debts and Effects, and shall conform to the Orders and Directions of the said Judges of the said Courts respectively, the same shall and may, with the Consent in Writing under the Hands of One Half in Number and Value of the Creditors of such Insolvent or Insolvents, be certified by the respective Judges, under the Seal of the said Courts respectively; and such Certificate may be pleaded, and shall be a Bar to

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Creditors for Supplies
for Fishery for
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privileged, and be
first paid 20s. in the
Pound.

Proviso for prior
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Proceedings in Cases
where Persons die
insolvent.

every Suit or Action which may at any Time thereafter be brought in any Court in the said Island or Colony of *Newfoundland* or its Dependencies, for any Debt or Contract for Payment of Money due or entered into by such Person or Persons prior to the Time of his, her or their being declared insolvent as aforesaid; and if any Person or Persons so declared insolvent as aforesaid shall fail to make a true Disclosure and Discovery of all his, her or their Estate or Estates, and Effects, or shall otherwise refuse to conform to the Orders or Directions of the said Judges respectively, it shall be lawful for the said Judges respectively to cause such Person or Persons to be arrested and imprisoned until he, she or they shall make such Disclosure and Discovery, and in all respects conform to the Orders of the said Judges respectively.

XXV. And be it further enacted, That in the Distribution to be made of the Produce of the Estates and Effects of ever Person or Persons hereafter declared insolvent in *Newfoundland* or its Dependencies as aforesaid, every Creditor for Supplies necessary, and furnished *bonâ fide* for the Fishery, during the current Season, (that is to say,) at any Time after the Close of the last preceding Season of the Fishery, shall be considered as a privileged Creditor, and shall first be paid Twenty Shillings in the Pound, so far as the Estates and Effects of such insolvent Person or Persons, which may be realized in *Newfoundland* or its Dependencies, will go, and that all other Creditors shall be paid equally and rateably: Provided always, that nothing in this Act contained shall affect the prior Claims of Seamen and other Servants, actually employed in the catching and taking of Fish and Oil, upon all Fish and Oil caught by the Hirers or Employers of such Seamen, Fishermen or Servants, or the Produce or Value thereof; and also provided that menial or domestic Servants shall in all Cases be paid the Balance of their last preceding Year's Wages, out of the Household Furniture, Goods and Effects of every Person so declared insolvent.

"XXVI. And Whereas it is expedient that the Estates and Effects of deceased Persons which may not be sufficient to pay all their just Debts should be distributed according to the Manner herein directed concerning the Estates and Effects of Persons declared insolvent;" Be it further enacted, That as often as any Person shall die in *Newfoundland*, or in any Place, or Seas, or Territory within the Government thereof, and the Estates and Effects of such Person shall not be sufficient to pay and satisfy all his or her just Debts, it shall be lawful for the said Courts respectively, at the Petition of the Executor or Executors, Administrator or Administrators of such deceased Person, or any One or more of his or her Creditors, to cause a true Statement of the Effects and Debts of such deceased Person be made in Writing by and upon the Oath of the said Executor or Executors, Administrator or Administrators, and

Proviso for Judgment
Creditors, &c.

laid before the said Courts respectively; and if it shall appear to the Court before which such Statement shall be laid, that the Estate and Effects of such deceased Person are not sufficient to pay all his or her just Debts, it shall be lawful for such Court to authorize and empower the Executor or Executors

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Registrars of Deeds
appointed.

collect, sell and dispose of all the Estates and Effects of such deceased Person, and to distribute the Produce thereof amongst his or her Creditors, according to the Manner of Distribution by this Act directed in respect of the Estates of Persons declared insolvent, and always subject to the Orders and Directions of such Court: Provided always, that nothing herein contained shall be construed to affect the Right of any Creditor having a Judgment or Special Security for his or her Debts.

Deeds to be registered
at the Office of
Registration within
the District in which
the Lands are situate,
within a certain
Time.

"XXVII. And Whereas it is expedient that Provisions should be made for the Registration, within the said Colony of *Newfoundland*, of all Deeds, Wills and other Assurances whereby any Lands or Tenements therein situate may be granted, conveyed, devised, mortgaged, charged or otherwise affected;" Be it further enacted, That the Chief Clerk of the Supreme Court of *Newfoundland* shall be also the Registrar of Deeds within the District or Circuit in which the Town of *St. John's* may be situate, and that the Chief Clerks of each of the Circuit Courts to be holden in and for the Two other Districts of the said Colony, shall respectively be the Registrars of Deeds within such other Districts or Circuits; and in each of the said Three Districts an Office shall be kept by such Chief Clerk respectively, for the due Registration of all such Deeds, Wills and other Instruments as aforesaid.

How Deeds verified
before the Registrar.

XXVIII. And be it further enacted, That all Deeds, Wills, Conveyances and other Assurances in Writing, of what Nature or Kind soever, whereby any Lands or Tenements situate in the said Colony, or the Dependencies thereof, may be hereafter granted, conveyed, devised, mortgaged, charged or otherwise affected or intended so to be, shall be registered at the Office of Registration within the District or Circuit in which such Lands may be situate; and that all such Deeds, Conveyances and other Assurances as aforesaid, shall be left for Registration at such Office within Six Months next after the Execution thereof, by the Party or Parties from whom any Interest may pass, in case such Party or Parties may, at the Time of such Execution thereof by him, her or them, be resident within the said Colony or its Dependencies, or within 30 Twelve Months in case such Party or Parties may at that Time be resident elsewhere; and all such Wills as aforesaid shall be left for Registration at such Office Twelve Months next after the Death of the Testator or Testatrix.

XXIX. And be it further enacted, That some or one of the Parties executing any such Deed, Conveyance or other

Assurance as aforesaid, shall appear before the Registrar of Deeds, and acknowledge the Execution thereof by them, him or her, or in case none of the Parties to any such Deed, Conveyance or Assurance shall be resident in the said Colony, then the same shall be acknowledged before the said Registrar of Deeds, by some Person duly appointed for that Purpose as the Attorney of such Parties; and in that Case the Execution of every such Deed, Conveyance or other Assurance shall be further verified by an Affidavit to be sworn before the Mayor or other principal Magistrate of any City, Town or Place in or near to which such Parties respectively may be resident; and such Affidavit shall also be preserved and registered at the Office of the said Registrar of Deeds.

Registrar to indorse
on the Deed a
Certificate of
Registry.

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XXX. And be it further enacted, That the Registrar of Deeds shall and he is hereby required to indorse and subscribe, on every such Deed Conveyance or other Assurance, a Certificate, in which shall be expressed the Day or Time when the same was so acknowledged before him, and the Names of the Person or Persons by whom such Acknowledgement was made, and the Time when the same was actually registered, and the Volume and Page in which the Registry thereof is entered; and every such Certificate so indorsed or subscribed shall be taken and allowed as Evidence of the due Registration of any such Deed, Conveyance or Assurance.

Registrar to enter in
the Book of Registry
a Memorial of the
Deed acknowledged
before him.

XXXI. And be it further enacted, That the Registrar of Deeds shall and he is hereby required to enter in a Book of Registry, to be by him regularly kept for that Purpose, a Memorial of every Deed, Conveyance or Assurance which shall be so acknowledged before him; and every such Memorial shall contain a Statement of the Year and Day of the Month on which such Deed, Conveyance or Assurance shall bear Date, the Names and Additions of all and every the Parties, as well as the Names and Additions, if any, of the several subscribing Witnesses thereto, the Descriptions at Length of the Lands or Tenements conveyed or intended to be conveyed, charged or affected by such Deed, Conveyance or Assurance, as the same are therein described, and the Consideration of every such Deed, Conveyance or Assurance, as the same may be therein stated; all which Memorials shall be entered and recorded in the said Book of Registry with all convenient Dispatch, in the Order of Time in which the same may have been acknowledged before the said Registrar.

Deeds hereafter to be
made, conveying
Lands, &c. not duly
resgistered, declared
void.

XXXII. And be it further enacted, That every Deed, Conveyance or Assurance hereafter to be made, whereby any Lands or Tenements situate in Newfoundland, or the Dependencies thereof, shall be granted, conveyed, released, charged or incumbered, or intended so to be, which shall not be registered within the Time and in the Manner hereinbefore mentioned, shall, be absolutely null and void to all Intents and

authorized to make Rules and Orders for the Registry of Deeds, &c.

Purposes: Provided always, that every such Deed, Conveyance or Assurance shall be deemed and taken to be a registered Deed, Conveyance or Assurance within the Meaning of this Act, from the Time when the Execution thereof shall be acknowledged in Manner aforesaid before such Registrar of Deeds as aforesaid.

XXXIII. And be it further enacted, That the Judges of the Supreme Court of *Newfoundland* shall be and they are hereby authorized to make any general Rules and Orders of Court for maintaining Order and Regularity in the Mode of taking such Acknowledgments, and registering such Deeds, Wills, Conveyances and other Assurances as aforesaid, and for executing the Duties of said Office of Registrar of Deeds; provided that such Rules and Orders be not in any wise repugnant to the Provisions of this present Act in that Behalf.

"XXXIV. And Whereas the Justices of the Peace in *Newfoundland* have been used to grant Licences for the Retail of Ale and Spirituous Liquors, and it is proper to regulate the Sums to be demanded upon such

Governor may make Ordinances for granting Licences for Retail of Ale and Spirits, and Appropriation of Sums arising thereby.

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Licences, and to make Provision for the Appropriation thereof, and for preventing Abuses in the granting of such Licences, and in the Sale of Spirits by unlicensed Persons in the said Colony;" Be it therefore enacted, That it shall and may be lawful for the Governor or acting Governor of *Newfoundland* to make, establish and ordain such Rules and Ordinances as to him may seem meet, respecting the granting of such Licences, and the recalling the same, and the Amount of the Sums to be demanded and taken for every such Licence, and the Appropriation of such Sums to His Majesty's Service in the said Colony, and for preventing the Retail of Ale and Spirituous Liquors by Persons not duly licensed, and to impose such pecuniary Fines or other Penalties as may be necessary for enforcing Obedience to any such Rules or Ordinances as aforesaid.

His Majesty may grant Charters for establishing Corporations for the Government of Towns.

XXXV. And be it further enacted, That it shall and may be lawful for His Majesty, by Charter or Letters Patent under the Great Seal to constitute and erect such Persons as to His Majesty shall seem meet a Body or Bodies Corporate and Politic, for the Government of any Town or Towns situate within the said Colony of *Newfoundland* or its Dependencies, and to grant to such Body or Bodies Politic and Corporate Power to make Bye Laws for regulating the Police of any such Town or Towns, and for the Prevention or Abatement of Nuisances therein, and for the Prevention of Accidents by Fire; and also to grant to any such Body or Bodies Politic and Corporate as aforesaid, the Power to impose and levy such reasonable and moderate Rates and Assessments upon the Inhabitants and Householders in such Town or Towns, as may

Continuance of Act.

be necessary for carrying into Effect the several Purposes aforesaid, or any of them; and it shall also be lawful for His Majesty, His Heirs and Successors, by any Order or Orders to be made by or with the Advice of His or Their Privy Council, to dissolve any such Corporation or Corporations as aforesaid, upon and subject to such Conditions and Regulations as may be made in and by any such Order or Orders in that Behalf.

XXXVI. And be it further enacted, That this Act shall continue and be in force for Five Years from the passing thereof, and no longer.

No. 56.

**THE NEWFOUNDLAND ACT, 1832, 2-3 WM. IV.,
CAP. 78 (IMPERIAL).**

[1 August, 1832.]

5 G. 4. c. 67.

5 G. 4. c. 68.

10 G. 4. c. 17.

An Act to continue certain Acts relating to the Island of *Newfoundland*, and to provide for the Appropriation of all Duties which may hereafter be raised within the said Island.

[1st August 1832.]

Recited Acts
continued.

"Whereas an Act was passed in the Fifth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better Administration of Justice in Newfoundland, and for other Purposes*: And whereas a certain other Act was passed in the said Fifth Year of His said late Majesty's Reign, intituled *An Act to repeal an Act passed in the Fifty-seventh Year of the Reign of His late Majesty King George the Third, intituled 'An Act to regulate the Celebration of Marriages in Newfoundland, and to make further Provision for the Celebration of Marriages in the said Colony and its Dependencies'*: And whereas by an Act passed in the Tenth Year of His said late Majesty to King *George* the Fourth the said Acts were continued in force until the Thirty-first Day of December One thousand eight hundred and thirty-two: And whereas it is expedient that the said Acts be further continued in force until the same shall be repealed, altered, or amended by any Act or Acts which may for that Purpose be made by His Majesty, with the Advice and Consent of any House or Houses of General Assembly which His Majesty may at any Time see fit to convoke within the said Colony of *Newfoundland*;" be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful for His Majesty, or for any Governor, Lieutenant Governor, or Officer administering the Government of *Newfoundland*, in pursuance of any Commission or Instructions to him for that Purpose addressed by His Majesty, with the Advice and Consent of any House or Houses of General Assembly which His Majesty may hereafter be pleased to convoke from among the Inhabitants of the said Colony, by any Act or Acts to be from Time to Time for that Purpose passed, to repeal in whole or in part, or to amend, alter, or vary, the said recited Acts or any of them, or any Part thereof; and that, until so repealed, amended, altered, or varied, the said recited Acts shall be and continue in full Force and

Appropriation of
Duties.

Effect.

II. "And whereas by virtue of divers Acts of Parliament divers Duties are now payable to His Majesty within the said Island of *Newfoundland*;"

An annual Sum to be set apart for the Maintenance of the Governor, the Judges, Attorney General, and Colonial Secretary.

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Commencement of Act.

be it therefore further enacted, That when and so soon as any House or Houses of General Assembly shall have been convoked by His Majesty from among the Inhabitants of the said Colony, and shall have actually met for the Dispatch of the public Business thereof, the nett Produce of all Duties levied within the said Colony, by any Act of Parliament now or hereafter to be in force there, shall be appropriated and applied in such Manner and to and for such Purposes as His Majesty, with the advice and Consent of such House or Houses of General Assembly, shall from Time to Time direct: Provided always, that from and out of such nett Proceeds shall be deducted in each and every Year a Sum not exceeding Six thousand five hundred and fifty Pounds, to be applied from Time to Time in and towards the Maintenance and Support of the Governor, or of the Officer for the Time being administering the Government of the said Colony, and of the Chief and other Judges, and of His Majesty's Attorney General, and of the Colonial Secretary of and for the said Colony, at such Times and in such Shares and Proportions as the Lords Commissioners of His Majesty's Treasury, or any Three of them, by any Warrant or Warrants to be by them from Time to Time issued, shall direct; provided also, that so far as respects such Appropriation as aforesaid of the said Duties, this present Act shall not take effect or come into operation till the First Day of *April* One thousand eight hundred and thirty-three; and provided also, that it shall and may at any Time hereafter be lawful to and for His Majesty, by any Act or Acts to be by Him for that Purpose made, with the Advice and Consent of any such House or Houses of General Assembly as aforesaid, to repeal so much of this present Act as relates to the Application of the said annual Sum of Six thousand five hundred and fifty Pounds, in case such House or Houses of General Assembly shall concur with His Majesty in making what shall appear to His Majesty to be an adequate Provision for the Maintenance of the several Officers aforesaid, permanently secured upon Funds adequate to that Purpose.

No. 57.

**THE NEWFOUNDLAND ACT, 1842, 5-6 VICT., CAP. 120
(IMPERIAL).**

[12 August, 1842.]

An Act for amending the Constitution of the Government of
Newfoundland.

[12th August 1842.]

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"Whereas by a Commission under the Great Seal of the United Kingdom of *Great Britain and Ireland*, bearing Date at *Westminster* the Second Day of *March* in the Year One thousand eight hundred and thirty-two, His late Majesty King *William* the fourth did give and grant unto the then Governor of the Island of *Newfoundland* full Power and Authority, with the Advice and Consent of the Council of the said Island, from Time to Time, as need should require, to summon and call General Assemblies of the Freeholders and Householders within the said Islands and its Dependencies, in such Manner and Form, and according to such Powers, Instructions, and Authorities as were granted or appointed by certain Instructions under His said late Majesty's Sign Manual and Signet accompanying the said Commission; and His said late Majesty did by the said Commission declare, that the Persons so elected, having taken certain Oaths therein mentioned, should be called and deemed the General Assembly of the said Island of *Newfoundland*; and the said Governor, by and with the Advice and Consent of the said Council and Assembly or the major Part of them respectively, was by the said Commission empowered and authorized to make, constitute, and ordain Laws, Statutes, and Ordinances for the public Peace, Welfare, and good Government of the said Island and its Dependencies, and the People and Inhabitants thereof, and such others as should resort thereto, and for the Benefit of His late Majesty, His Heirs and Successors: And whereas by the before-mentioned Instructions so referred to as aforesaid in the said Commission the said Governor was authorized to issue a Proclamation dividing the said Island into Districts or Counties, Towns or Townships, and appointing the Limits thereof, and declaring and appointing the Number of Representatives to be chosen by each of such Districts or Counties, Towns or Townships respectively: And whereas the Proclamation referred to in the said last-mentioned Instructions was accordingly issued by the said Governor in the Name and on the Behalf of His said Late Majesty, whereby the said Island was divided into Nine Districts for the Purpose of the Election of the Members of the said Assembly; and it was by the said Proclamation amongst other Things, declared, that every Man being of the full Age of Twenty-one Years and

upwards, and being of sound Understanding, and being a natural-born Subject of His said late Majesty, or having been lawfully naturalized, and never having been convinced in due Course

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of Law of any infamous Crime, and having for Two Years next immediately preceding the Day of Election occupied a Dwelling House within the said Island, as Owner or Tenant thereof, should be eligible to be a Member of the said House of Assembly; and it was by the said Proclamation further declared, that every Man who for One Year next immediately preceding the Day of Election had occupied a Dwelling House within the said Island, as Owner or Tenant thereof, and who in other respects might be eligible, according to the Regulations aforesaid, to be a Member of the said House of Assembly, should be competent and entitled to vote for the Election of Members of the said Assembly in and for the district within which the Dwelling House so occupied as aforesaid by him might be situated: And whereas, in pursuance of the said Commission, Instruction, and Proclamation, General Assemblies have since been enacted and holden in and for the said Island of *Newfoundland* in the Manner therein perscribed; and the said Commission and Instructions have from Time to Time been renewed on the Appointment of the successive Governors of the said Island, and divers Laws have been made in persuance thereof by the said Governor, Council and Assembly and whereas it is expedient that the Changes hereinafter mentioned should be made in the Constitution of the Government of the said Island;" be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall be lawful for Her Majesty in or by any Commission or Commissions under the Great Seal of the United Kingdom, to be hereafter issued for the Government of *Newfoundland*, and in and by any Instructions under Her Majesty's Signet and Sign Manual accompanying and referred to in any such Commission or Commissions, to establish a Qualification in respect of Income or Property in right of which any Person may be hereafter elected to serve as a Member of the said Assembly; provided that no such Qualification whatsoever, or One hundred Pounds, or the Possession of Property, clear of all Incumbrances, exceeding Five hundred Pounds in Amount or Value.

Her Majesty empowered to raise the Qualification of Members of Assembly.

Her Majesty empowered to lengthen Period of Residence of Electors.

Her Majesty may restrain Appropriation of Revenue.

II. And be it enacted, That it shall be lawful for Her Majesty, in manner aforesaid, to fix and determine the Length of the Period of Residence within any Electoral District in the said Island which shall be required in addition to any other Qualification for voting at Election within such District, or for being elected to serve as Member of the Assembly; provided that such Period shall not extend beyond the Period or Two

Years next preceding any such Election.

Her Majesty may direct Elections to be simultaneous.

III. And be it enacted, That it shall be lawful for Her Majesty, in manner aforesaid, to restrain the said assembly from appropriating to the public Service within the said Island any Part of the public Revenue thereof, in Cases where such Services shall not have been previously recommended, or such Grants of Money shall not have been previously asked, by or on Behalf of Her Majesty.

Her Majesty may appoint Executive Council.

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Her Majesty empowered to abolish the Council as a distinct Branch of the Legislature;

IV. And be it enacted, That it shall be lawful for Her Majesty, in manner aforesaid, to restrain and prohibit the Election of Members to serve in the said Assembly, in different Districts, on successive or different Days, and to require that all such Elections shall be simultaneous, and shall be completed within a Time to be limited.

V. And be it enacted, That it shall be competent to Her Majesty, in manner aforesaid, to establish an Executive Council for advising the Governor of the said Island, apart and distinct from the Legislative Council thereof.

and to re-establish it

VI. And be it enacted, That it shall be lawful for Her Majesty, in manner aforesaid, to abolish the Legislative Council of the said Island as a distinct House or Branch of the Legislative Council thereof, and to authorize and empower the Members of the said Legislative Council to sit and vote in the House of Assembly as Members thereof, as fully in all respects as the elected Members of the said House: Provided always, that the Number of Members so to be authorized to sit and vote in the said House of Assembly shall never be more than Two Fifths of the whole Number of the Members of such House of Assembly: Provided also, that it shall be competent to Her Majesty again, in manner aforesaid, to re-establish the Legislative Council as a separate House of the Legislature of the said Island.

Future Commissions to be laid before Parliament.

VII. And be it enacted, That any such future Commission of Instructions as aforesaid shall be laid before both Houses of Parliament within Thirty Days next after the Date thereof, should Parliament then be in Session, or if not, then within Thirty Days next after the Commencement of the then next Session of Parliament.

Change in Constitution not to continue beyond a limited Time &c.

Act not to interfere with Prerogative of Her Majesty.

VIII. Provided always, and be it enacted, That no Change which shall be made in the Constitution of the said Island under this Act shall continue for a longer Time than the First

Act not to affect the Act
2 & 3 W. 4. c. 78.

Day of *September*, One thousand eight hundred and forty-six, unless Parliament shall otherwise order; but this Enactment shall not be construed to annul or affect any Laws, Statutes, or Ordinances made by the Legislature of the said Island as constituted under the Authority of this Act.

Act may be amended,
&c.

IX. And be it declared and enacted, That nothing herein contained shall extend or be construed to extend to take away or diminish any Right or Perogative vested in Her Majesty or enlarging, as to Her Majesty shall seem meet, any Franchise heretofore granted by His late Majesty or hereafter to be granted by Her Majesty to Her Majesty's Subjects in *Newfoundland*.

X. And be it enacted, That nothing herein-before contained shall extend or be construed to extend to repeal or alter the Provisions of an Act passed in the Third Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to continue certain Acts relating to the Islands or Newfoundland, and to provide for the Appropriation of all Duties which may hereafter be raised within the said Island*.

XI. And be it enacted, That this Act may be amended or repealed by any Act to be passed during this Session of Parliament.

PART IV.

[29 March, 1632.]

SECTION I.—TREATIES.

Ce qui est promis de
la part du Roi de la
Grand Bretagne.

La nouvelle France.

No. 58.

**EXTRACT FROM TREATY OF ST. GERMAIN EN
LAYE, 29 MARCH, 1632.**

[29 March, 1632.]

III. De la part de sa Majesté de la Grand Bretagne, ledit Sieur Ambassadeur en vertu du pouvoir qu'il a, lequel sera inseré en fin des Presentes, Apromis et promet pour et au nom de sadite Majesté, de rendre et restituer à sa Majesté tres-Chrestienne tous les lieux occupés en la nouvelle France, la Cadie, et Canada, par les sujets de Sa Majesté de la Grand Bretagne: Iceux faire retirer desdits lieux; Et pour céet effect ledit Sieur Ambassadeur deliurera Chrestien en bonne forme, le Pouvoir qu'il a de sa Majesté de la Grand Bretagne pour la restitution desdits lieux; ensemble les Commandens de sa Majesté à tous ceux qui commandent dans le Port Royal, Fort de Quebec, et Cap Breton, pour estre lesdites Place et Fort rendus et remis es mains de ceux qu'il plaira à sa Majesté très-Chrestienne ordonner, huict iours après que lesdits Commandemens auront esté notifer à ceux qui commandent ou commanderont esdits Lieux: Ledit temps de huict iours leur estant donné pour retirer copendant hors desdits Lieux, Places, et Forts, leurs Armes, Bagages, Marchandises, Or, Argent, Utensiles, et generalement tout ce qui leur appartient: Ausquels, et à tous ceux qui sont esdits Lieux, est donné le terme de trois Semaines apres lesdits huict iours expirez, pour durant icelles, our plustost, si faire se peut, rentrer en leurs Navires avec leurs Armes, Munitions, Bagages, Or, Argent, Utensiles, Marchandises, Pelleteries, et generalement tout ce qui leur appartient, pour de là se retirer, en Angleterre sans sejourner davantage esdits Païs.

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(Translation)

III. On the part of his Majesty of Great Britain, the said Lord Ambassador, by virtue of the Power granted to him, which shall be inserted at the end of these Presents, hath promis'd, and doth promise, for and in the name of his said Majesty, to render and restore to his most Christian Majesty all the Places possess'd in New France, Acadia and Canada, by the Subjects

of his Majesty of Great Britain, and cause them to depart from those Places. And for their effect the said Lord Ambassador shall presently, upon passing and signing these Presents, deliver to the Commissioners of the most Christian King, in good Form, the Power which he hath receiv'd from his Majesty of Great Britain, for the Restitution of the said Places, together with the Orders of his said Majesty to such as command in Port Royal, Port Quebec and Cape Breton, to give up the said Places and Fort, and deliver them into the hands of those whom it shall please his most Christian Majesty to appoint, in eight days after the said Orders shall have been notify'd to those who do command, or shall command in the said Places; the said space or eight days being given them to remove, in the mean time, out of the said Places and Fort, their Arms, Baggage, Merchandizes, Gold, Silver, utensils, and in general every thing that belongs to them: to whom, and to all who live in the said Places, is granted the space of three Weeks after the expiration of the said eight days, for entering (during the said time, or sooner if possible) into their Ships, with their Arms, Ammunition, Baggage, Gold, Silver, Utensils, Merchandizes, Furs, and in general everything belonging to them, in order to depart thence into England, without any longer stay in the said Countries.

No. 59.

EXTRACT FROM TREATY OF RYSWICK,

 $\frac{10}{20}$ SEPTEMBER, 1697. $\left[\frac{10}{20} \text{ Sept., 1697.} \right]$

COLLECTION OF TREATIES. 1688-1771. Vol. 1. pp. 14-15.

VII. The Most Christian King shall restore to the said King of Great Britain, all countries, islands, forts and colonies, wheresoever situated, which the English did possess before the declaration of this present war; and in like manner the King of Great Britain shall restore to the most Christian King, all countries, islands, forts, and colonies, whatsoever situated, which the French did possess before the said declaration of war. And this restitution shall be made on both sides, within the space of six months, or, sooner if it can be done. And to that end immediately after the ratification of this treaty, each of the said Kings shall deliver, or cause to be delivered to the other, or to commissioners authorized in his name for that purpose, all acts of concession, instruments and necessary orders, duly made and in proper form, so that they may have their effect.

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VIII. Commissioners shall be appointed on both sides, to examine and determine the rights and pretensions which either of the said Kings hath to the places situated in Hudson's Bay; but the possession of those places which were taken by the French, during the Peace that preceded this Present war, and were retaken by the *English* during this War, shall be left to the French by virtue of the foregoing article. The capitulation made by the English on the fifth of September, 1696, shall be observed, according to its form and tenor; merchandises therein mentioned shall be restored; the governor of the fort taken there shall be set at liberty, if it be not already done; the differences arisen concerning the execution of the said capitulation, and the value of the goods, there lost, shall be adjudged and determined by the said commissioners, who immediately after the ratification of the present treaty shall be invested with sufficient authority for settling the limits and confines of the lands to the restored on either side by virtue of the forgoing article, and likewise for exchanging of lands, as may conduce to the mutual interest and advantage of both Kings.

And to this end the commissioners, so appointed, shall, within the space of three months from the time of the ratification of the present treaty, meet in the city of London; and within six months, to be reckoned from their first meeting,

shall determine all differences and disputes which may arise concerning this matter; after which, the articles the said commissioners shall agree to, shall be ratified by both Kings, and shall have the same force and vigor, as if they were inserted word for word in the present treaty.

No. 60.

EXTRACT FROM TREATY OF UTRECHT, 1713.

[31 March, 1713.
11 April,]TREATY OF PEACE AND FRIENDSHIP BETWEEN GREAT BRITAIN AND
FRANCE, CONCLUDED ^{31 March, 1713.}
11 April,

* * * *

X. The said Most Christian King shall restore to the kingdom and Queen of Great Britain, to be possessed in full right forever, the Bay and Streights of Hudson, together with all lands, seas, seacoasts, rivers and places situate in the said Bay and Streights, and which belong thereunto,² no tracts of land or of sea being excepted, which are at present possessed by the subjects of France. All which, as well as any buildings there made, in the condition they now are, and likewise all fortresses there erected, either before or since the French seized the same, shall, within six months from the ratification of the present treaty, or sooner if possible, be well and truly delivered to the British subjects, having commission from the Queen of Great Britain to demand and receive the same, entire and undemolished, together with all the cannon and cannon-ball which are therein, as also with a quantity of powder, if it be there found, in proportion to the cannon-ball, and with the other provision of war usually belonging to cannon. It is however provided, that it may be entirely free for the Company of Quebec, and all other the subjects of the Most Christian King whatsoever, to go by land, or by sea, whithersoever they please, out of the lands of the said Bay, together with their goods, merchandizes, arms and effects of what nature and condition soever, except such things as are above reserved in this article. But it is agreed on both sides, to determine within a year, by Commissarys to be forthwith named by each party, the limits which are to be fixed between the said Bay of Hudson, and the places appertaining to the French; which limits both the British and French subjects shall be wholly forbid to pass over, or thereby to go to each other by sea or by land. The same Commissarys shall also have orders to describe and settle in like manner, the boundarys between the other British and French colonies in those parts.

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[¹ "A General Collection of Treatys of Peace and Commerce," Vol. III, p. 431, London, for J. J. and Knapton, etc., 1732.]

[² There were two originals of this Treaty, one in Latin, the other in French. This translation is that published by authority of the English Government at the time. The expression here rendered "and which belong thereunto," is in the Latin copy "spectantibus ad eadem," and in the French copy, "et lieue qui en dependent." Le Clerq, Recueil, tom. 1; Proceedings of the Commissaries, 1719-1720.]

No. 61.**EXTRACTS FROM THE TREATY OF PARIS, 1763.¹**

(FRENCH TEXT WITH ENGLISH TRANSLATION.)

[10 Feby, 1763.]

F. O. State Papers.
TreatiesDEFINITIVE Treaty of Peace and Alliance between Great Britain,
France and Spain, concluded at Paris, with the Separate
Articles thereunto belonging.

* * * *

ARTICLE 2

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Les Traités de Westphalie de mil six cent quarante huit, ceux de Madrid entre les Couronnes de la Grande Bretagne & d'Espagne de mil six cent soixante sept, & de mil six cent soixante dix, les Traités de Paix de Nimegue, de mil six cent soixante dix huit, & de mil six cent soixant dix neuf, de Ryswick de mil six cent quatre vingt dix sept, ceux de Paix & de Commerce d'Utrecht de mil sept cent treize, celui de Bade de mil sept cent quatorze, le Traité de la triple Alliance de La Haye de mil sept cent dix sept, celui de la quadruple Alliance de Londres de mil sept cent dix huit, le Traité de Paix de Vienne de mil sept cent trente huit, le Traité Definitif d'Aix la Chapelle de mil sept cent quarante huit, & celui de Madrid entre les Couronnes de la Grand Bretagne, & d'Espagne de mil sept cent cinquante, aussi bien que les Traités entre les Couronnes d'Espagne & de Portugal du 13. Fevrier mil six cent soixante huit, du 6. Fevrier mil sept cent quinze, & du 12. Fevrier mil sept cent soixant un, & celui du 11. Avril mil sept cent treize entre la France & le Portugal, avec les Garanties de la Grande Bretagne; servent de Base & de Fondement à la Paix, & au present Traité; & pour cet Effet ils sont tous renouvelés & confirmés dans la meilleure Forme, ainsi que tous les Traités en general, qui subsistoient entre les hautes Parties contractantes avant la Guerre, & comme s'ils étoient inserés ici Môt à Môt, en sorte qu'ils devront être observés exactement à l'avenir dans toute leur Teneur, & religieusement executés de Part & d'autre dans tous leurs Points, auxquels il n'est pas derogé par le present Traité, nonobstant tout ce qui pourroit avoir été stipulé au contraire par aucune des Hautes Parties contractantes;

qu'il subsiste aucun Privilege, Grace, ou Indulgence contraires aux Traités ci-dessus confirmés, à l'Exception de ce qui aura été accordé et stipulé par le present Traité.

* * * *

ARTICLE 4

Sa Majesté Très Chretienne renonce à toutes les Pretensions, qu'Elle a formées autrefois, ou pû former, à la Nouvelle Ecosse, ou l'Acadie, en toutes ses Parties, & la garantit toute entiere, & avec toutes ses Dependances, au Roy de la Grande Bretagne. De plus, Sa Majesté Très Chretienne cede & garantit à Sa dite Majesté Britannique, en toute Propriété, le Canada avec toutes ses Dependances, ainsi que l'Isle du Cap Breton, & toutes les autres Isles, & Côtes, dans le Golphe & Fleuve S^t Laurent, & generalement tout ce qui depend des dit Pays, Terres, Isles & Côtes, avec la souveraineté, Propriété, Possession, & tous Droits acquis par Traité, ou autrement, que le Roy Très Chretien et la Couronne de France ont eus jusqu'à present sur les dits Pays, Isles, Terres, Lieux, Côtes, & leurs Habitans, ainsi que le Roy Très Chretien cede & transporte le tout au dit Roy & à la Couronne de la Grande Bretagne, & cela de la Maniere & d^s la Forme la plus ample, sans Restriction & sans qu'il soit libre de revenir sous aucun Pretexte contre cette Cession & Garantie, ni de troubler la Grande Bretagne dans les Possessions sus-mentionnées. De son Coté Sa Majesté Britannique convient d'accorder aux Habitans du Canada la Liberté de la Religion Catholique; En Consequence Elle donnera les Ordres les plus precis & les plus effectifs, pour que ses nouveaux Sujets Catholiques Romains puissent professer le Culte de leur Religion selon le Rit de l'Eglise Romaine, en tant que le permettent les Loix de la Grande Bretagne.-Sa Majesté Britannique convient en outre, que les Habitans François ou autres, qui auroient été Sujets du Roy Très Chretien en Canada, pourront se retirer en toute Sûreté & Liberté, où bon leur semblera, et pourront vendre leurs Biens, pourvû que ce soit à des Sujets de Sa Majesté Britannique, & transporter leurs Effets, ainsi que leurs Personnes, sans être genés dans leur Emigration, sous quelque Pretexte que ce puisse être, hors celui de Dettes ou de Procés criminels; Le Terme limité pour cette Emigration sera fixé à l'Espace de dix huit Mois, à compter du Jour de l'Echange des Ratifications du present Traité.

ARTICLE 5

Les Sujets de la France auront la Liberté de la Pêche, & de la Secherie, sur une Partie des Côtes de l'Isle de Terre-Neuve, telle qu'elle est specifiée par l'Article 13. du Traité d'Utrecht, lequel Article est renouvelé & confirmé par le present Traité, (à l'Exception de ce qui regarde l'Isle du Cap Breton, ainsi que les autres Isles & Côtes dans L'Embouchure et dans le Golphe S^t Laurent;) Et Sa Majesté Britannique consent de laisser aux

que les Sujets de la France n'exercent la dite Pêche, qu'à la Distance de trois Lieües de toutes les Côtes appartenantes à la Grande Bretagne, soit celles du Continent, soit celles des Isles situées dans le dit Golphe S^t Laurent. Et pour ce qui concerne la Pêche sur les Côtes de l'Isle du Cap Breton hors du dit Golphe, il ne sera pas permis aux Sujets du Roy Très Chretien d'exercer la dite Pêche, qu'à la Distance de quinze Lieües des Côtes de l'Isle du Cap Breton; Et la Pêche sur les Côtes de la Nouvelle Ecosse, ou Acadie, et par tout ailleurs, hors du dit Golphe, restera sur le Pied des Traités anterieurs.

ARTICLE 6

Le Roy de la Grande Bretagne cede les Isles de S^t Pierre & de Miquelon, en toute Propriété à Sa Majesté Très Chretienne, pour servir d'Abri aux Pêcheurs François; Et Sa dite Majesté Très Chretienne s'oblige à ne point fortifier les dites Isles à n'y établir que des Batimens civils pour la Commodité de la Pêche, & à n'y entretenir qu'une Garde de cinquante Hommes pour la Police.

ARTICLE 7

Afin de retablir la Paix sur des Fondemens solides & durables, & écarter pour jamais tout Sujet de Dispute par Rapport aux Limites des Territoires Britanniques et François sur le Continent de l'Amérique, il est convenû, qu'à l'avenir les Confins entre les Etats de Sa Majesté Britannique & ceux de Sa Majesté Très Chretienne en cette Partie du Monde, seront irrevocablement fixés par une Ligne tirée au milieu du Fleuve Mississippi depuis sa Naissance jusqu'à la riviere d'Iberville, & de là par une Ligne tirée au milieu de cette Riviere & des Lacs Maurepas & Pontchartrain jusqu'à la Mer; Et à cette Fin le Roy Très Chretien cede, en toute Propriété, & garantit à Sa Majesté Britannique la Riviere & le Port de la Mobile, & tout de qu'Il possede, ou a dû posseder, de Coté gauche du fleuve Mississipi, à l'exception de la Ville de la Nouvelle Orleans, & de l'Isle dans laquelle Elle est située, qui demeureront à la France; Bien entendû, que la Navigation du Fleuve Mississippi sera également libre tant aux Sujets de la Grande Bretagne comme à ceux de la France, dans toute sa Largeur, & toute son Etendüe, depuis sa Source jusqu'à la Mer, et nommement cette Partie, qui est entre la susdite Isle de la Nouvelle Orleans & la Rive droite de ce Fleuve, aussi bien que l'Entrée & la Sortie par son Embouchure. Il est de plus stipulé, que les Batimens appartenants aux Sujets de l'une ou de l'autre Nation ne pourront être arrêtés, visités, ni assujettis au Payement d'aucun Droit quelconque. — Les Stipulations inserées dans l'Article 4. en Faveur des Habitans du Canada auront Lieu de même pour

les Habitans des Pays cedés par cet Article.

ARTICLE 8.

Et pour cet Effet le Terme de dix-huit Mois est accordé aux Sujet de Sa Majesté Britannique à compter du Jour de l'Echange des Ratifications du present Traité. — Mais comme la Liberté, accordée aux Sujets de Sa Majesté Britannique, de transporter leurs Personnes & leurs Effets sur des Vaisseaux

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de leur Nation pourroit être sujette à des Abus, si l'on ne prenoit la Precaution de les prevenir, il a été convenû expressement, entre Sa Majesté Britannique & Sa Majesté Très Chretienne, que le Nombre des Vaisseaux Anglois, qui auront la Liberté d'aller aux dits Isles & Lieux restitués à la France sera limité, ainsi que le Nombre de Tonneaux de chacun, qu'ils iront en lest partiront dans une Terme fixé, & ne feront qu'un seul Voyage; Tous les Effets, appartenants aux Anglois, devant être embarqués en même Tems. Il a ete convenû en outre, que Sa Majesté Très Chretienne fera donner les Passeports necessaires pour les dits Vaisseaux; que, pour — plus grande sureté, il sera libre de mettre deux commis ou Gardes François sur chacun des dits Vaisseaux, qui seront visités dans les Atterages & Ports des dites Isles, & Lieux, restitués à la France; Et que les Marchandises, qui s'y pourront trouver, seront confisquées.

* * * *

ARTICLE 20

En Consequence de la Restitution stipulée dans l'article precedent, Sa Majesté Catholique cede et garantit, en tout Propriété, à Sa Majesté Britannique, la Floride, avec le Fort de S^t Augustin, & la Baye de Pensacola, ainsi que tout ce que l'Espagne possede sur le Continent de l'Amerique septentrionale, à l'Est, ou au Sud Est, du fleuve Mississippi, & generalement tout ce qui depend des dit Pays & Terres, avec la Souveraineté, Propriété, Possession, & tous Droits acquis par Traité ou autrement, que Le Roy Catholique & la Couronne d'Espagne, ont eus jusqu'à present sur les dits Pays, Terres, Lieux, & leurs Habitans; Ainsi que Le Roy Catholique cede & transporte le tout au dit Roy & à la Couronne de la Grande Bretagne, & cela de la Maniere & de la Forme la plus ample; Sa Majesté Britannique convient de son Coté d'accorder aux Habitans des Pays ci-dessus cedés la Liberté de la Religion Catholique; En Consequence Elle donnera les Ordres les plus exprés & les plus effectifs, pour que ses nouveaux Sujets Catholiques Romains puissent professer le Culte de leur Religion selon le Rit de l'Eglise Romaine, en tant que le permettent les Loix de la Grande Bretagne: Sa Majesté Britannique convient en outre, que les Habitans Espagnols, ou autres qui auroient été Sujets du Roy Catolique, dans les dits

Pays, pourront se retirer en toute Sureté et Liberté, où bon leur semblera et pourront vendre leurs Biens, pourvû que ce soit à des Sujets de Sa Majesté Britannique, & transporter leurs Effets, ainsi que leurs Personnes, sans êtres genés dans leur Emigration, sous quelque Pretexte que ce puisse être, hors celui de Dette ou de Procès criminels; Le Terme, limité pour cette Emigration étant fixé à l'Espace de dix-huit Mois, à compter du Jour de l'Echange des Ratifications du present Traité. —Il est de plus stipulé, que Sa Majesté Catholique aura la Faculté de faire transporter tous les Effets, qui peuvent Lui appartenir, soit Artillerie, ou autres.

* * * *

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(Translation.)¹

[10 Feby, 1763.]

The definitive Treaty of Peace and Friendship between his Britannick Majesty, the Most Christian King, and the King of Spain. Concluded at Paris the 10th day of February, 1763. To which the King of Portugal acceded on the same day. (Printed from the Copy.)

* * * *

II. The treaties of Westphalia of 1648; those of Madrid between the Crowns of Great Britain and Spain of 1667, and 1670; the treaties of peace of Nimeguen of 1678, and 1679; of Ryswick of 1697; those of peace and of commerce of Utrecht of 1713; that of Baden of 1714; the treaty of the triple alliance of the Hague of 1717; that of the quadruple alliance of London of 1718; the treaty of peace of Vienna of 1738; the definitive treaty of Aix la Chapelle of 1748; and that of Madrid, between the Crowns of Great Britain and Spain of 1750: as well as the treaties between the Crowns of Spain and Portugal of the 13th of February, 1668; of the 6th of February, 1715; and of the 12th of February, 1761; and that of the 11th of April, 1713, between France and Portugal with the guaranties of Great Britain, serve as a basis and foundation to the peace, and to the present treaty: and for this purpose they are all renewed and confirmed in the best form, as well as all the treaties in general, which subsisted between the high contracting parties before the war, as if they were inserted here word for word, so that they are to be exactly observed, for the future, in their whole tenor, and religiously executed on all sides, in all their points, which, shall not be derogated from by the present treaty, notwithstanding all that may have been stipulated to the contrary by any of the high contracting parties: and all the said parties declare, that they will not suffer any privilege, favour, or indulgence to subsist, contrary to the treaties above confirmed, except what shall have been agreed and stipulated by the present treaty.

* * * *

IV. His Most Christian Majesty renounces all pretensions which he has heretofore formed or might have formed to Nova Scotia or Acadia in all its parts, and guaranties the whole of it, and with all its dependencies, to the King of Great Britain: Moreover, his Most Christian Majesty cedes and guaranties to his said Britannick Majesty, in full right, Canada, with all its dependencies, as well as the island of Cape Breton, and all the other islands and coasts in the gulph and river of St. Lawrence, and in general, every thing that

[¹(330) The French text of the treaty as here given is taken from a series of photographs reproducing the original treaty as preserved in the Public Record Office, among the State Papers of the British Foreign Office, in the section "Treaties," vol. 123.]

[¹(334) The English version of the Treaty of 1763 is taken from the Collection of Treaties compiled by the Hon. Charles Jenkinson, afterwards Lord Liverpool, and which appeared under the following title: — "A Collection of all the Treaties of Peace, Alliance, and Commerce, Between Great-Britain and other Powers. From the Treaty signed at Munster in 1648, to the Treaties signed at Paris in 1783. By the Right Hon. Charles Jenkinson. In three Volumes." The Treaty of 1763 is contained in Vol. III, pp. 177-197.]

depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights acquired by treaty, or otherwise, which the Most Christian King and the Crown of France have had till now over the said countries, lands, islands, places, coasts, and their inhabitants, so that the Most Christian King cedes and makes over the whole to the said King, and to the Crown of Great Britain, and that in the most ample manner and form, without restriction, and without any liberty to depart from the said cession and guaranty under any pretence, or to disturb Great Britain in the possessions above mentioned. His Britannick Majesty, on his side, agrees to grant the liberty of the Catholick religion to the inhabitants of Canada: he will, in consequence, give the most precise and most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion according to the rites of the Roman church, as far as the laws of Great Britain permit. His Britannick Majesty farther agrees, that the French inhabitants, or others who had been subjects of the Most Christian King in Canada, may retire with all safety and freedom wherever they shall think proper, and may sell their estates, provided it be to the subjects of his Britannick Majesty, and bring away their effects as well as their persons, without being restrained in their emigration, under any pretence, whatsoever, except that of debts or of criminal prosecutions: The term limited for this emigration shall be fixed to the space of eighteen months, to be computed from the day of the exchange of the ratification of the present treaty.

V. The subjects of France shall have the liberty of fishing and drying on a part of the coasts of the island of Newfoundland, and such as it is specified in the XIIIth article of the treaty of Utrecht; which article is renewed and confirmed by the present treaty, (except what relates to the island of Cape Breton, as well as to the other islands and coasts in the mouth and in the gulph of St. Lawrence:) And his Britannick Majesty consents to leave to the subjects of the Most Christian King the liberty of fishing in the gulph of St. Lawrence, on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those on the continent as those of the islands situated in the said gulph of St. Lawrence. And as to what relates to the fishery on the coasts of the island of Cape Breton, out of the said gulph, the subjects of the Most Christian King shall not be permitted to exercise the said fishery but at the distance of fifteen leagues from the coasts of Cape Breton; and the fishery on the coasts of Nova Scotia or Acadia, and every where else out of the said gulph, shall remain on the foot of former treaties.

VI. The King of Great Britain cedes the islands of St. Pierre and Macquelon, in full right, to his Most Christian Majesty, to

serve as a shelter to the French fishermen; and his said Most Christian Majesty engages not to fortify the said islands; to erect no buildings upon them but merely for the conveniency of the fishery; and to keep upon them a guard of fifty men only for the police.

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VII. In order to re-establish peace on solid and durable foundations, and to remove for every all subject of dispute with regard to the limits of the British and French territories on the continent of America; it is agreed, that, for the future, the confines between the dominions of his Britannick Majesty and those of his Most Christian Majesty, in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the River Mississippi, from its source to the river Iberville, and from thence, by a line drawn along the middle of this river, and the lakes Maurepas and Pontchartrain to the sea; and for this purpose, the Most Christian King cedes in full right, and guaranties to his Britannick Majesty the river and port of the Mobile, and every thing which he possesses, or ought to possess, on the left side of the river Mississippi, except the town of New Orleans and the island in which it is situated, which shall remain to France, provided that the navigation of the river Mississippi shall be equally free, as well to the subjects of Great Britain as to those of France, in its whole breadth the said island of New Orleans and the right bank of that river, as well as the passage both in and out of its mouth: It is farther stipulated, that the vessels belonging to the subjects of either nation shall not be stopped, visited, or subjected to the payment of any duty whatsoever. The stipulations inserted in the IVth article, in favour of the inhabitants of Canada shall also take place with regard to the inhabitants of the countries ceded by this article.

* * * *

VIII. And for this purpose the term of eighteen months is granted to the subjects of His Britannic Majesty as from the day of the exchange of ratifications of the present Treaty. But as the liberty granted to the subjects of His Britannic Majesty to convey their persons and their effects on vessels of their nation may be subject to abuses unless the percaution were taken of preventing them, it has been expressly agreed between His Britannic Majesty and His Most Christian Majesty, that the number of English vessels which shall have liberty to go to the said Islands and places restored to France shall be limited, as well as the number of tons of each, that they will go in ballast, will depart within a fixed time and will make but one voyage; all the effects belonging to the English must be shipped at the same time. It has furthermore been agreed that His Most Christian Majesty will cause the necessary passports to be given for the said vessels; that for greater safety he will be at

liberty to place two French agents or guards on each of the said vessels which shall be inspected in the moorings and ports of the said islands and places restored to France; and that the goods which may be found thereon will be confiscated.

* * * *

XX. In consequence of the restitution stipulated in the preceding article, his Catholick Majesty cedes and guaranties, in full right, to his Britannick Majesty, Florida, with Fort St. Augustin, and the Bay of Pensacola, as well

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as all that Spain possesses on the continent of North America, to the East or to the South East of the river Mississippi. And in general, every thing that depends on the said countries and lands, with the sovereignty, property, possession, and all rights, acquired by treaties or otherwise, which the Catholick King and the Crown of Spain have had till now over the said countries, lands, places, and their inhabitants; so that the Catholick King cedes and makes over the whole to the said King and to the Crown of Great Britain, and that in the most ample manner and form. His Britannick Majesty agrees, on his side, to grant to the inhabitants of the countries above ceded, the liberty of the Catholick orders that his new Roman Catholic subjects may profess the worship of their religion according to the rites of the Romish church, as far as the laws of Great Britain permit. His Britannick Majesty farther agrees, that the Spanish inhabitants, or others who had been subjects of the Catholick King in the said countries, may retire, with all safety and freedom, wherever they think proper; and may sell their estates, provided it be to his Britannick Majesty's subjects, and bring away their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except that of debts, or of criminal prosecutions: the term limited for this emigration being fixed to the space of eighteen months, to be computed from the day of the exchange of the ratifications of the present treaty. It is moreover stipulated, that his Catholick Majesty shall have power to cause all the effects that may belong to him, to be brought away, whether it be artillery or other things.

* * * *

In the Privy Council.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA.**

BETWEEN

THE DOMINION OF CANADA of the one part

AND

**THE COLONY OF NEWFOUNDLAND of the other
part**

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OF

JOINT APPENDIX

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PART IV.

SECTION II.

**CORRESPONDENCE BETWEEN GOVERNOR OF
NEWFOUNDLAND AND COLONIAL OFFICE AND
GOVERNMENT OF CANADA RELATIVE TO
BOUNDARY AT COAST OF LABRADOR. 1888-1890.**

[18 July,
1888.]**No. 62.****LORD KNUTSFORD TO GOVERNOR GENERAL.**

Downing Street, 18th July, 1888.

Governor General the Right Hon. Lord Stanley
of Preston, G.C.B., &c., &c.

MY LORD,—I have the honour to transmit to your lordship herewith a copy of a despatch from the governor of Newfoundland respecting the uncertainty of the boundary between Canada and the territory belonging to Newfoundland on the Labrador coast.

This boundary was fixed by the imperial act 6, Geo. 4, cap. 59, sec. 9, but the boundary inland from the coast line is not clearly defined.

This would appear to be a question which might very properly be discussed between the governments of the Dominion and Newfoundland when the delegates from the latter colony visit Canada in connection with the question of union. I have written to the governor of Newfoundland in this sense, and I request that you will communicate this proposal to your ministers.

I have, &c.,

KNUTSFORD.

No. 63.

(Enclosure in No. 62)

GOVERNOR BLAKE TO LORD KNUTSFORD.

Government House, Newfoundland,
26th May, 1888.

The Right Hon. Lord Knutsford,
Colonial Office, London.

MY LORD,—I have the honour to forward a letter from Mr. Justice Pinsent on the subject of the boundary between this colony and the dominion of Canada. The matter does not appear to be of pressing importance, but having regard to the population now settled along that coast, it might be well that the extent of jurisdiction should be more clearly defined.

I have, &c.,

HENRY A. BLAKE, Governor.

No. 64.*(Enclosure referred to in No. 63.)*[22 May,
1888.]**Mr. JUSTICE PINSENT TO GOVERNOR BLAKE.**St. John's , Newfoundland,
22th May, 1888.His Excellency Henry A. Blake, Esq., C.M.G.,
Governor and Commander in Chief.*Page 341
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SIR,—I have the honour to bring under your excellency's notice a matter of no little importance touching the territorial limits of Labrador as a dependency of this colony.

Some years ago I submitted the point to Governor Sir John Glover, but either his illness or his removal about that time prevented his giving it much consideration.

The matter is one not without importance in its general bearing upon the rights of government, but it comes to be of practical and essential significance when questions of either civil or criminal jurisdiction arise, and they may at any time arise, particularly on the northern circuit of the supreme court where I so frequently preside.

The case in which the difficulty first became prominent was upon the trial in St. John's of an Eskimo Indian for the murder of his wife on the coast of Labrador.

The question of the jurisdiction of the supreme court was then raised on behalf of the accused, and not without much force, but the locality of the offence was so very near the coast that the court overruled the objection.

The extent of the jurisdiction of the government of Newfoundland in Labrador is thus defined by letters patent of the 28th March, 1876:—

"All the coast of Labrador, from the entrance of the Hudson's straits (cape Chidley) to a line to be drawn due north and south from Anse Sablon, on the said coast, to the 52nd degree of north latitude, and all the islands adjacent to that part of the said coast of Labrador."

For the purpose of illustrating the matter clearly, I enclose portion of a map of the dominion of Canada, published by Canadian official authority, in which all that part of the peninsula of Labrador coloured white is, as it were, allowed to belong to this government, but if that area is compared with the description taken from the royal letters patents constituting the office of governor and commander-in-chief of the island of Newfoundland and its dependencies, it will be seen that the

Labrador represents a vast deal more than would be ordinarily intended by the term "coast," and, moreover, extends inland and west of the line drawn due north and south from Anse Sablon eight to nine degrees.

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This Canadian topography is, I think, quite correct so far as the limits of the Dominion territory are concerned, and the remainder of the coast of Labrador would thus quite naturally belong to this government, but they are not so described and defined in the letters patent or commission of the governor of this colony, and indeed the description falls very short of covering the whole ground, and when questions of jurisdiction arise the court has to determine in every case whether the particular locality is upon the coast of Labrador or not.

The fact is, there are some settlements of importance far inland, *e.g.*, notably in Hamilton inlet, over 150 miles from the sea coast.

The geographical reasons for the division given in the Canadian map are clear enough, as the north-western portion of Labrador, or that which drains into Hudson's bay and Hudson's straits, now forms the north-east territory of the dominion of Canada, and the southern portion, draining into the gulf of St. Lawrence, is incorporated with the province of Quebec.

At the same time the Canadian authorities are not certain or precise as to their boundary lines, and they are marked, as your excellency will perceive, "supposed boundary," and possibly the course of the North-West river, so far as it runs from the 52nd parallel, would, regarded naturally, be the more consistent and definite dividing line.

The publication by Canadian official authority of the map in question or some such other may be useful as a definition of the rights of the dominion of Canada, but it would not have the effect of conveying to Newfoundland British territory not included in its own, and which might, from not being by imperial authority embraced in either, be a sort of "no man's land," over which neither of the colonies could exercise government nor their courts jurisdiction.

I have therefore to submit to your excellency and to her majesty's government the desirability of so defining the territorial boundaries of that part of Labrador intended to be attached to Newfoundland as a dependency of its government, that no doubt may be left as to the jurisdiction of its courts and the authority of its officers.

I have, etc.,

ROBERT J. PINSENT.

[7 Aug.,
1888.]**No. 65.****MEMORANDUM FROM THE OFFICE OF THE
GOVERNOR GENERAL'S SECRETARY, 7th AUGUST,
1888, TO THE CLERK OF THE PRIVY COUNCIL.**

The map mentioned in Mr. Justice Pinsent's letter was not received with this despatch, but a memorandum has been sent to the colonial office requesting that it may be forwarded.

C. L. LAWRENCE.

No. 66.

C

**CLERK OF THE PRIVY COUNCIL TO DEPUTY
MINISTER OF THE INTERIOR.**[4 Sept.,
1888.]

(Memorandum.)

Department of the Privy Council, Ottawa,
4th September, 1888.

To Deputy Minister of the Interior, Ottawa.

The following memorandum has been received from colonial office in reply to request for maps which should have been enclosed in despatch no. 190, 18th July.

"Only one copy of the map was received from Newfoundland. It is a small map entitled map of the dominion of Canada showing the extent and situation of its public lands, also its geographical relation to the British isles."

Published by order of the hon. the minister of the interior, 1880, by the Burland Lithographic Co., Montreal.

Please let me have, if possible, six copies of the above mentioned map.

JOHN J. McGEE, Clerk, P.C.

[9 April,
1889.]**No. 67.****LORD KNUTSFORD TO LORD STANLEY OF
PRESTON.**

Downing Street, 9th April, 1889.

Gov. Gen. the Right Hon. Lord Stanley of Preston, &c., &c.

MY LORD,—I have the honour to transmit to you for your consideration, a copy of a despatch from the governor of Newfoundland regarding the boundary line between that colony and Canada.

I shall be glad if your Lordship will be good enough to furnish me with the views of your ministers on this question. The boundaries of Canada and Newfoundland on the Labrador coast appear to be defined by the act 6. George IV, cap. 59.

I have, &c.,

KNUTSFORD.

No. 68.

C

[27 Feby.
1889.]

(Enclosure in No. 67.)

SIR T. O'BRIEN TO LORD KNUTSFORD.

Government House,
St. John's, Nfld., 27th February, 1889.

MY LORD,—I have the honour to forward herewith copy of a letter from Mr. Justice Pinsent, relative to the boundaries of this colony and of Canada in Labrador. The frontier laid down by the Dominion government, which line is quite acceptable to Newfoundland, does not correspond, as your lordship will observe, with that laid down in my instructions, thus leaving a large tract between the two lines which is under no one; hence a question of jurisdiction might at any moment arise, which might lead to a mis-carriage of justice or other complications.

Under these circumstances, I would suggest that the instructions to the governor of this colony be so modified as to make the boundaries conterminous with those of the Canadian dominion.

I have, &c.,

No. 69.*(Enclosure referred to in No. 68.)*[15 Feby.,
1889.]**Mr. PINSENT TO SIR T. O'BRIEN.**

Supreme Court, Judges' Chambers,
St. John's, Newfoundland, 15th February, 1889.

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SIR,—Referring to my conversation with your excellency touching the Labrador boundary line, when you informed me flat no change had been made in the commission or royal instructions, I have the honour again to suggest the desirability of a more definite description of that boundary.

The reasons are fully set out in my letter of May last to Governor Blake.

I would only add that no question or dispute arises in this matter between the dominion of Canada and Newfoundland.

The former has defined its line in official maps, and with that there is no fault to be found on the part of Newfoundland. The difficulty lies in the imperfect and insufficient description of that part of Labrador annexed to this colony, causing an apparent hiatus between Newfoundland Labrador and Canadian Labrador.

There appears to be no necessity for anything more than a definition by the imperial government of the jurisdiction of Newfoundland, made so as to include the territory not claimed by the Dominion and corresponding with the limits described in the Canadian maps.

I have, &c.,

ROBERT J. PINSENT.

No. 70.

MEMORANDUM BY SIR J. A. MACDONALD,

[10 May,
1889.]*re* DESPATCH 9TH APRIL, 1889, RECOMMENDING REFERENCE
THEREOF TO THE MINISTER OF THE INTERIOR.

Privy Council, Canada, 10th May, 1889.

The undersigned, to whom was referred the despatch from the secretary of state for the colonies on the subject of the boundary between Canada and Newfoundland, begs leave to report:

That, as stated in the said despatch, the boundaries of the two colonies on the Labrador coast are defined by the imperial act, 6 George IV, cap. 59, section 9. By that clause it is provided as follows:—

"That so much of the said coast as lies to the westward of a line to be drawn due north and south from the bay or harbour of Anse Sablon, inclusive, so far as the fifty-second degree of north latitude with the island of Anticosti, and all other islands adjacent to such part as last aforesaid of the coast of Labrador, shall be and the same are hereby re-annexed to and made a part of the said province of Lower Canada, and shall henceforward be subject to the laws of the said province, and to none other."

If any maps have been issued in Canada showing other boundaries than these they are inaccurate. The undersigned therefore recommends that this despatch be referred to the minister of the interior, with instructions to make full enquiries as to the issue of the said maps and to report as to the best means of correcting any such errors.

All of which is respectfully submitted.

JOHN A. MACDONALD.

No. 71.

MEMORANDUM—J. JOHNSTON TO A. M. BURGESS.[10 June,
1889.]

Department of the Interior,
Secretary's Branch, Ottawa, 10th June, 1889.

Dear Mr. Burgess,—With reference to the memorandum of Sir John Macdonald hereunder (10th May, 1889) and the despatch of the secretary of state for the colonies (9th April, 1889), I find the jurisdiction of Newfoundland in Labrador more fully defined in the "Imperial Letters Patent" (28th March, 1876) making permanent provision for the office of governor of Newfoundland and its dependencies, than it is in sec. 9 of chapter 59 of the Act 6, George IV, 1825, which bears more particularly on the eastern boundary of Lower Canada.

In these "Letter Patent" the boundary is described as follows:

"All the coast of Labrador from the entrance of Hudson's strait to a line to be drawn due north and south from Anse Sablon on the said coast to the 52nd degree of north latitude, and all the islands adjacent to that part of the said coast of Labrador."

It will be observed that Newfoundland's jurisdiction is clearly enough defined as being on the coast between Anse Sablon bay (in the straits of Belle isle) and the entrance to Hudson's strait; but no description whatever is given of the boundary on the mainland, except between Anse Sablon and the 52nd parallel of latitude.

On the sketch map which I have prepared to accompany this memorandum, taken from the maps of British North America, by Arrowsmith, of London, and W. & A. K. Johnston, of Edinburgh, it will be seen that the custom has been to mark the boundary of Labrador, southerly, from cape Chudleigh (at the ocean entrance to Hudson's strait, along the height of land) to the undefined northern boundary of Lower Canada (now Quebec), thence easterly and south along the said northern boundary of Lower Canada to Anse Sablon. It does not appear that this line was intended by the geographers to represent the boundary of the territory in Labrador, under the jurisdiction of Newfoundland, but most probably the dividing line between Labrador and what was supposed to be Hudson's Bay Company's territory. The name "Labrador" or "Peninsula of Labrador," in its full geographical application, has been generally understood to cover the whole region between the Atlantic ocean and the east coast of Hudson's bay, as

evidenced by the earliest maps of the country.

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On the maps of the Dominion, published from time to time by this department, the same system of drawing the Labrador line has been followed as on the British maps, but we have invariably taken the precaution to show it in a dotted line, with the words supposed or undefined applied to it.

It does not appear that it was contemplated by the imperial government that the colony of Newfoundland should possess any such large extent of territory on the mainland as is represented by the yellow tint on sketch map (herewith), the Labrador of modern maps. My impression is, that nothing more was intended than a comparatively narrow strip along the coast (coloured pink), which would include the fishing stations, missions, Hudson's Bay Company's posts, etc., and such a strip, probably, is all that is included in imperial instructions to the governor of Newfoundland, as indicated in his despatch to the colonial secretary, 27th February, 1889. He writes: "The frontier laid down by the Dominion government * * * does not correspond * * * with that laid down in my instructions, thus leaving a large tract between the two lines which is under no one."

The so-called neutral tract referred to here, I have no doubt, is that coloured yellow on the sketch map, and which is, beyond question, a part of the "territorial transfer" made to Canada by the imperial government in 1880.

Mr. Justice Pinsent, in his letter to the governor of Newfoundland of the 15th February, 1889, says: "The former (Canada) has defined its line in official maps. * * * The difficulty lies in the imperfect and insufficient description of that part of Labrador annexed to this colony."

It is hardly necessary to remark that Canada has not defined any line between the two colonies, either on official maps or otherwise, and, so far as I am aware, the question is now placed before the Dominion government by the colonial secretary for the first time.

At present the best maps of the interior of Labrador (as might be expected) are very inaccurate and misleading in their character, being largely made up from the crude sketches of Hudson's Bay Company's officers, supplemented by Indian reports. A map is now, however, being prepared in this department, under my own supervision, which will be ready for the printer in a few weeks, and which will contain the latest and most reliable information in relation to the geography of the Labrador region.

Respectfully submitted,

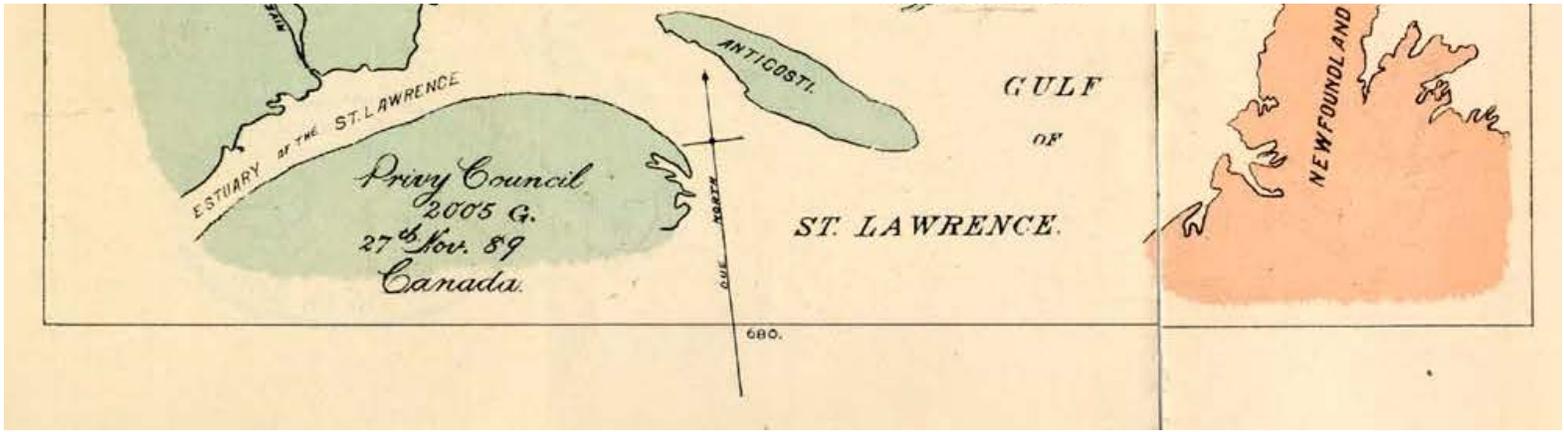
J. JOHNSTON, *Geographer.*

[Map follows as 348A. [sic]

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[2 July,
1899.]**No. 73.**
(Annex to No. 71).**IMPERIAL STATUTES RELATING TO LABRADOR
SINCE THE BRITISH CONQUEST OF CANADA IN
1760.**

(Definitive Treaty of Peace, signed at Paris, 10th February, 1763—by which the whole of "Canada" or New France, with the exception of the islands St. Pierre and Miquelon was ceded by the French to Great Britain).

By royal proclamation, 7th October, 1763: All the coast of Labrador from the river St. John to Hudson's strait, with the islands of Anticosti and Madeline and all the other small islands lying on the said coast were placed under the care and inspection of the governor of Newfoundland.

By the act commonly known as the "Quebec Act" 14 George III, cap. 83, sec. 1, 1774: All such territories, islands and countries as had since the 7th October, 1763, been made part of the government of Newfoundland, were annexed to and made part and parcel of the province of Quebec.

By an act passed in the 49th year of the reign of George III, cap. 27, A.D. 1809, sec. 14, it is enacted that the coast of Labrador, from the river St. John to Hudson strait, with the island of Anticosti and all other small islands annexed to the government of Newfoundland by the proclamation of 7th October, 1763 (except the island of Madeline), shall be separated from Lower Canada, and be re-annexed to Newfoundland.

By an act passed in the 5th year of the reign of George IV, cap. 67, sec. 18 (1824), the governor of Newfoundland is empowered to institute a court of civil jurisdiction at any such parts or places on the coast of Labrador as have been re-annexed to Newfoundland.

By an act passed in the 6th year of the reign of George IV, cap. 59, sec. 9 (1825), it is enacted that so much of the coast of Labrador as lies westward of a line to be drawn due north and south from the bay or harbour of Anse Sablon, inclusive, as far as the 52nd degree of north latitude, with the island of Anticosti and all other islands adjacent to said coast, shall be re-annexed to Lower Canada.

"Royal Letters Patent, 28th March, 1876, defines Newfoundland's jurisdiction in Labrador from the entrance of Hudson's straits to a line to be drawn due north and south from Anse Sablon on the coast to the 52nd degree of north latitude and all the islands adjacent to that part of the said coast of

Labrador."

(See Journal of the House of Assembly, Newfoundland,
1877.)

J. JOHNSTON.

12th July, 1889.

[1864.]

No. 74.
(Annex to No. 71).

LABRADOR.

JURISDICTION OF NEWFOUNDLAND.COPIES FROM GOVERNOR BANNERMAN'S COMMISSION (p. 613,
"JOURNAL OF THE ASSEMBLY OF NEWFOUNDLAND, 1864").*Page 350
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"Governor, commissioner-in-chief and vice-admiral over our island of Newfoundland and the islands adjacent, and all the coast of Labrador from the entrance of Hudson's straits to a line to be drawn due north and south from Anse Sablon, on the said coast, to the 52nd degree of north latitude, and all of the islands adjacent to that part of the said coast of Labrador; as also all forts and garrisons erected and established within the said island, etc., latitude 51° 25 north, longitude 57° 9 west, and includes 'Blanc Sablon' and the 'Woody islands.' The northern boundary is cape Chudleigh, in latitude 60° 37 north, longitude 65° west."

[15 Aug.,
1889.]**No. 75.****LORD KNUTSFORD TO LORD STANLEY OF
PRESTON.**

Downing Street, 15th August, 1889.

Governor General

The Right Honourable Lord Stanley of Preston, &c., &c.

MY LORD,—I have the honour to draw your attention to my despatch, no. 86, of the 9th of April last, and I should be glad to receive, when convenient, the views of your government therein asked for, in regard to the question of the rectification of the boundaries of Canada and Newfoundland on the Labrador coast.

I have, &c.,

KNUTSFORD.

CERTIFIED COPY OF A REPORT[27 Nov.,
1889.]

OF A COMMITTEE OF THE HONOURABLE THE PRIVY COUNCIL,
APPROVED BY HIS EXCELLENCY THE GOVERNOR GENERAL IN
COUNCIL ON THE 27TH NOVEMBER, 1889.

The committee of the privy council have had under consideration a despatch, dated 9th April, 1889, from the right honourable the secretary of state for the colonies, transmitting a copy of a communication from the governor of Newfoundland in regard to the boundary line between that colony and Canada.

The right honourable the prime minister, to whom the despatch was referred, recommended that the despatch should be referred to the minister of the interior, with instructions to make full enquiries into the matter.

The committee have had their attention called by a subsequent despatch, dated 15th August, 1889, to the question of the rectification of the boundaries of Canada and Newfoundland on the Labrador coast.

The sub-committee, to whom the question was referred, submit a memorandum made by the geographer of the department of the interior, Mr. John Johnston, which lucidly and comprehensively states the position of affairs in regard to the boundary between the dominion of Canada and the dependencies of the colony of Newfoundland in Labrador.

The sub-committee state that it will be observed from Mr. Johnston's memorandum that the line referred to by Mr. Justice Pinsent, in his letter to the governor of Newfoundland of the 15th February last, was never intended to show the boundary of that portion of Labrador within the jurisdiction of the colony of Newfoundland, but merely to indicate in a general way what was presumed to be the boundary of the whole territory known as Labrador. The limits of the jurisdiction of Newfoundland on the Labrador coast are clearly defined by the imperial act 6, Geo. IV, cap. 59, section 9, and the imperial letters patent of the 28th March, 1876, making permanent provision for the office of governor of Newfoundland and its dependencies.

The sub-committee are of opinion that it is not likely any complication will arise as between Canada and Newfoundland which would render necessary the delimitation of this boundary by actual survey, but upon this question they suggest that it might be well to obtain the views of the

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government of Newfoundland and any suggestions which that government may have to make in that relation.

The committee concur in the foregoing report, and they recommend that your excellency be moved to forward a copy hereof to the right honourable the secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE, *Clerk Privy Council.*

No. 77.

C

[1 March,
1890.]

**LORD KNUTSFORD TO LORD STANLEY OF
PRESTON.**

—————

Downing Street, 1st March, 1890.

Governor General the Right Honourable
Lord Stanley of Preston.

MY LORD,—With reference to your excellency's despatch of the 16th. of December, I have the honour to transmit to you, for communication to your excellency's government, copies of a correspondence between this department and Mr. R. J. Pinsent, assistant justice, Newfoundland, respecting the boundaries between Canada and Newfoundland on the Labrador coast.

On this question, I need hardly state that her majesty's government will be ready to give effect to any arrangement to which the two governments can mutually agree.

I have, etc.,

KNUTSFORD.

No. 78.*(Enclosure in No. 77.)*[9 Jan.,
1890.]**COLONIAL OFFICE TO Mr. PINSENT.**

Downing Street, 9th January, 1890.

R. J. Pinsent, Esq.

SIR,—With reference to the question of the adjustment of the boundaries between Canada and Newfoundland, on the Labrador coast, a matter to which you have called the attention of the governor of Newfoundland on more than one occasion, and to which you alluded in a recent interview with the secretary of state, I am directed by Lord Knutsford to transmit to you for any observations which you may wish to offer thereupon, a copy of a despatch from the governor general of Canada with its enclosures on the subject.

I am also to enclose for your perusal an order in council dated the 31st July, 1880, annexing to the dominion of Canada all British territories and possessions in North America not already included in the Dominion, with the exception of the colony of Newfoundland and its dependencies.

I have, etc.,

ROBERT G. W. HERBERT.

No. 79.*(Enclosure in No. 77.)*[11 Jan.,
1890.]**Mr. PINSENT TO COLONIAL OFFICE.**

19 Dawlish Road, Teignmouth, Devon,
11th January, 1890.

SIR,—I have the honour to acknowledge receipt of your letter of the 9th inst., with the enclosures.

I would take leave to observe upon them that it appears to me the point of difficulty remains untouched or rather unremoved by the report of the committee of the privy council of Canada and of the geographer of the department of the interior.

This, I submit, is made manifest by the fact that the delineation of the western boundary line of the strip of coast coloured pink on the map of Labrador is the merely fanciful suggestion of the geographer and finds no sanction from authority.

It appears to me that the presumptions are all in favour of the entire yellow as well as pink part being the dependency of Newfoundland, and for the following reasons: the name Labrador covered, as is admitted, in its full geographical application, the whole region between the Atlantic ocean and the east coast of Hudson bay.

In 1763 so much of that territory as extends from the river St. John to Hudson strait was attached to Newfoundland.

In 1774 this was transferred to Quebec. In 1809 it was re-annexed to Newfoundland, under chapter 27, George III.

The act of Geo. 4, cap. 59, sec. 9 again made a change and reduced the extent of Labrador territory held by Newfoundland, giving to Quebec so much of it as "lies westward of a line to be drawn due north and south from the harbour. of Anse Sablon so far as the 52nd degree of north latitude."

It seems to me at this point to be clear that Quebec acquired by virtue of the statute only that part of Labrador which lies west of the point drawn from Anse Sablon to the 52nd parallel, which would be:—

(1) Either so much of the territory as lies south of a line drawn from that point to the river St. John or (2) so much, looking at certain historical and geographical facts, as lies south of the watershed marked on the map as the northern boundary of the province of Quebec.

Probably as a matter of legal construction of the language employed, the first of these positions would be favoured.

The effect of this is that Newfoundland is left by statute that which was not by the subsequent enactment taken away and given to Quebec, viz.: from that point on the river St. John where it meets the Quebec boundary north to Hudson strait.

If this last were intended to be a straight line it would be sufficiently definite, but would have the effect of leaving out an angular piece of the yellow tract from the jurisdiction of Newfoundland.

If the watershed on this boundary be again adopted it would correspond with that given in the sketch map as that generally recognised.

It would be a matter of little consequence which of these plans was adopted, that of parallels and straight line or of boundaries regulated by the watershed. The latter is that which, if not "officially defined by Canada," has been always accepted by it and represented in its maps by a dotted line marked "supposed boundary line."

It appears to be unquestionable that the statutory rights of Newfoundland are to be found in one or other of these positions, and the principal doubt or difficulty existing in the case has arisen from the terms of the commission and instructions to the governor of Newfoundland, which taken literally provide for a line that, drawn from Hudson strait to the 52nd parallel, would pass partly through the ocean, but which, if read to intend the line of coast, still leaves the question to the exercise of ingenuity similar to that expended by the geographer of the Dominion upon the "sketch map."

In my correspondence with the governors of Newfoundland I have pointed out the difficulties which are interposed in the exercise of the jurisdiction of the supreme court of the colony and the administration of justice generally, and I would in conclusion most respectfully suggest that these maybe overcome by a change of instructions, based, if necessary, upon a determination of the judicial committee of the privy council or of the law authorities of the crown upon the only point which seems to be left for determination, viz., whether the principle of straight lines or of watershed is in the interior to regulate the boundaries between the Labrador of Canada and that of Newfoundland.

I have, etc.,

ROBERT J. PINSENT.

P.S.—If the colonial office could conveniently furnish me with copies of the enclosures and sketch map now returned I should be glad to have them.

No. 80.*(Enclosure in No. 77.)*[24 Jan.,
1890.]**COLONIAL OFFICE TO MR. PINSENT.**Downing Street,
24th January, 1890.

R. J. Pinsent, Esq.

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Sandi & Ken Tulk,
Manuels, NL*

SIR,—I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 11th inst., respecting the boundary between Canada and Newfoundland, on the Labrador coast.

Lord Knutsford desires me to observe that the effect of the acts 14 Geo. 3, cap. 83, and 43 Geo. 3, cap. 138, “was to give Canadian courts jurisdiction over the whole of the dominions of the crown in North America not forming part of any of the provinces.”

The act of 1809 only re-annexed to Newfoundland part of the coast of Labrador and the subsequent acts and instruments all speak of the coast only as belonging to Newfoundland.

What may be the exact extent inland of the coast appertaining to Newfoundland, may be a question, but the most liberal interpretation of the term “coast” could hardly in Lord Knutsford's opinion include all the part coloured yellow in Mr. Johnston's sketch. No adjustment of the boundary could well be made without the concurrence of the governments of Canada and Newfoundland, but if these two governments were to agree on a line to divide their respective jurisdictions, her majesty's government would be prepared to take any steps necessary to give effect to their decisions.

I am desired to enclose copies of the enclosures to my letter of the 9th inst., which you wish to retain, together with a copy of the sketch map which accompanied the governor general's despatch, no. 259, of the 16th ult.

I am, etc.,

ROBERT G. W. HERBERT.

No. 81.*(Enclosure in No. 77.)*[18 Feby.
1890.]**Mr. PINSENT TO COLONIAL OFFICE.**

Fittenden Rectory, Staplehurst, Kent, 18th February, 1890.

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Sir R. G. W. HERBERT, K.C.B.

SIR,—As I have been verbally informed at the colonial office that it would be satisfactory if (for the further exposition of the question before the despatches are forwarded to the governor general of Canada and the governor of Newfoundland) I would make any comment in writing which may occur to me as important, upon your letter of the 24th of January—

I now have the honour to again address you on the subject.

I would submit in the first place that while it is perfectly true that the effect of the acts 14 Geo. 3, cap. 83, and 43 Geo. 3, cap. 138, was to give Canadian courts jurisdiction over the whole of the dominions of the crown in North America not forming part of any of the other provinces, the question: What part of the territory of Labrador belonged to Newfoundland?—still remains.

The Act of 1809 annexed to Newfoundland all that part of Labrador which had been transferred from it to Quebec in 1774.

This was that which had by the royal proclamation of 1763 been vested in Newfoundland, viz.: "all the coast of Labrador from river St. John to Hudson's strait."

Now, it appears to me that the expression "all the coast," taken with the context and in view of the corresponding facts, is to be interpreted in a broader sense than its ordinary acceptance.

To restrict its sense in the manner suggested in the Canadian report would be to find that a large tract of British territory was omitted from the delimitations of all the provinces. The presumption, I think, should be the other way. Moreover, such a construction would leave the coastal jurisdiction utterly indefinite, whereas if the language is susceptible of a construction which would prevent this it ought to be given to it.

I respectfully submit, that "all the coast" in this instance means the territory of Labrador included within a western boundary extending from river St. John to Hudson's straits, and represented by a straight line drawn from one point to the other or preferably by the irregular line which formed the eastern boundary of the Hudson's bay (now Canadian) territory, and

that when the last transfer to Quebec took place and the Newfoundland boundary

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was made to commence at Anse Sablon, all that Quebec did not acquire remained to Newfoundland.

The Dominion report (in suggesting without apparent sanction of any kind the narrow strip indicated in pink) remarks that amongst other points this includes the "Hudson's Bay Company's posts;" but this is not so, for there is by way of example a post over 100 miles up Hamilton inlet, the ships bound to which pay duty to the Newfoundland government.

Again the language of the report "that (tract) coloured yellow on the sketch map and which is beyond question a part of the territorial transfer made to Canada by the imperial government in 1880" etc., is inaccurate.

The imperial transfer does not touch the question of the boundary of the possessions transferred and specially excepts "the colony of Newfoundland and its dependencies" leaving the rights of the Newfoundland government exactly where they were before.

Whatever the legal construction of all these parliamentary and executive acts may be, I am satisfied that there need be no serious difficulty in arriving by agreement with Canada at a delimitation of the now uncertain territory, for except to settle the question of jurisdiction I apprehend that territorially the matter is of little importance in regard to the barren tract colored yellow on the map, but to prevent any after question of jurisdiction upon the construction of the old statutes being raised in legal tribunals it would be most desirable that after an arrangement is made a short imperial statute should be passed to confirm it.

I have, etc.,

ROBERT J. PINSENT.

[11 April,
1890.]*Page 359
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Violet Moores,
Mount Pearl,
NL***No. 82.****SIR TERENCE O'BRIEN TO LORD STANLEY OF
PRESTON.**Government House,
St. John's, 11th April,

1890.

H.E. the Right Hon. the Lord Stanley of Preston.

MY LORD,—I have the honour to inform your excellency that, in consequence of the representations of the judges of the supreme court of this colony as to the limits of their jurisdiction in the Labrador territory, I referred the matter to the right hon. the secretary of state for the colonies, with a request that the boundary between Canada and Newfoundland in that locality might be definitely decided upon.

2. To this request the secretary of state replies that her majesty's government will be ready to give effect to any arrangements to which your excellency's government and mine can mutually agree. He at the same time forwards to me a copy of your despatch, no. 259 of the 16th December, 1889, in which reference is made to a certain sketch map prepared for the purpose of an illustration of his arguments by Mr. Johnston, geographer.

3. As a copy of this map has not been forwarded to me, I shall be much obliged if your excellency will cause one to be sent here, as it is impossible to fully appreciate the position taken up by your government and to make any suggestions thereon until this map is laid before my ministers, together with the other documents.

I have, &c.,

T. O'BRIEN, *Lt.-Col., Governor.*

No. 83.**GOVERNOR OF NEWFOUNDLAND TO GOVERNOR
GENERAL.**

Government House,
St. John's, 16th December,

1890.

The Right Honourable the Lord Stanley of Preston.

MY LORD,—On the 11th of April last I addressed a communication to your lordship with reference to the boundary line between the dominion of Canada and Newfoundland on the Labrador. In this communication I asked for a copy of a certain map prepared by Mr. Johnston, geographer to your government, in the illustration of his arguments, but up to the present moment I have received no reply, and therefore, supposing that the matter must have been somehow overlooked, I venture to again request that your lordship will forward this map to me, so that I may be able to lay the whole question before my ministers.

I have, &c.,

T. O'BRIEN.

J. JOHNSTON TO A. M. BURGESS.

[30 Nov.
1895.];

Copy of Reference 393742.

MEMORANDUM.

Department of the Interior,
Ottawa, 30th Nov., 1895.

To
A. M. Burgess, Esq.,
Deputy Minister,
Department of the Interior.

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DEAR MR. BURGESS,—I send you the only copy I have in my possession of the small map that was on the Labrador file, and I would like to have it returned to me when you are through with it.

(1) As you will no doubt recollect the strip of pink colour in parallelism with the Coast, was not intended by us for a proposed or suggested Boundary, but merely to convey an idea of the extent of Territory placed under the jurisdiction of Newfoundland by the Imperial Government, according to the Acts and the Governor's Commissions.

(2) It was a misconception marking the triangular Territory in Yellow Colour as a "part of the Imperial Transfer in 1880," as in point of fact, it was a part of the old Province of Quebec (See my Memo. to you on the Northern Boundary of Quebec dated 24th July/95), and it is very strange that this was not noticed by some of the officials in the Justice Department at the time.

Yours respectfully,

(Sgd.) J. JOHNSTON.

P.S.—I also send you herewith copy of our map of Labrador published in July, 1890. It may be of use to you.

PART IV.

SECTION III.

DISCUSSION OF THE LABRADOR BOUNDARY QUESTION
AT THE HALIFAX CONFERENCE, 1892, BETWEEN
DELEGATES REPRESENTING THE GOVERNMENTS OF
CANADA AND NEWFOUNDLAND.

[9 Dec.
1892.]

(Confidential.)

No. 85.

**REPORT OF A COMMITTEE OF THE HONOURABLE
THE PRIVY COUNCIL,**

APPROVED BY HIS EXCELLENCY THE GOVERNOR GENERAL
IN COUNCIL, ON THE 9TH DECEMBER, 1892.

The Committee of the Privy Council, on the recommendation of Sir John Thompson, K.C.M.G., submit the accompanying copy of the proceedings of the Conference recently held at Halifax between delegates from the Governments of Canada and Newfoundland, for Your Excellency's information.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

To His Excellency the Governor General in Council:

Pursuant to arrangement, delegates representing the Governments of Canada and Newfoundland respectively, met in the Legislative Council Chamber at Halifax on the 9th November, 1892, at 11 o'clock.

There were present, the Honourable Mackenzie Bowell, Honourable J. A. Chapleau and Honourable Sir John Thompson, K.C.M.G., representing the Government of Canada, and the Honourable Sir William Whiteway, K.C.M.G., Honourable A. W. Harvey and Honourable Robert Bond, representing the Government of Newfoundland.

The delegates thereupon filed their credentials (see

The Conference was organized by the selection of Sir William Whiteway as chairman, and Mr. Douglas Stewart, of the Department of Justice, Ottawa, as secretary.

It was agreed that the following subjects should be considered by the Conference: —

(1). The convention between Newfoundland and the United States, known as the Bond-Blaine convention.

(2). The Bait Question.

(3). The imposition of a tariff on Newfoundland fish by the Canadian Government, and the tariff of Newfoundland on Canadian products.

(4). The boundary between Canadian Labrador and Newfoundland, and collection of duties at Labrador.

Labrador.

(5). The status of Newfoundland fishermen on the coast of Canadian Labrador, and the status of Canadian fishermen on the coast of Newfoundland.

(6). The fees collected from United States vessels under the *modus vivendi*, for licences in 1888, and succeeding years.

It was understood that the conclusions which might be arrived at by the Conference should be *ad referendum* to the respective Governments.

It was agreed that the sessions of the Conference should begin at 10 o'clock a.m. and 3 o'clock p.m. each day until the Conference should conclude.

The question of the Labrador boundary was first considered.

Mr. Bowell explained that the present grievance was one more particularly relating to Customs exactions than one in connection with location of the boundary. While Minister of Customs his attention had been called to the report of Lieut. Gordon, R.N., in which it was stated that traders who supplied the coast of Labrador, and who usually made Rigoulette their first port of call, were required by the Newfoundland Customs officials to make entry there, and pay duty on the full cargo, although a portion of the cargo was intended for consumption on Canadian territory. This system was said to apply more particularly to supplies for the Labrador coast in the vicinity of Ungava Bay.

Sir William Whiteway said that it seemed to him that the Newfoundland Customs officials would only exact duty upon such goods as might be reported for entry at the port in Newfoundland territory to which they might be consigned — that this was more of a matter between the traders or importers and the Customs officials, than one for the consideration of the respective Governments. He pointed out that the Canadian Government had full power to exact Customs duties on all goods entering their territory at Ungava Bay or elsewhere, even though they had previously paid duty at Rigoulette, and that the Customs officer at Rigoulette had no instructions to

exact duties on goods other than those entered for consumption in Newfoundland territory.

Mr. Harvey stated that he had never heard of the grievance before, and

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that he was quite sure that the Customs officer on the coast of Labrador had no authority to act in the manner which had been alleged.

Mr. Bond repudiated any desire on the part of the Newfoundland Government to permit such a practice.

Mr. Bowell replied that while it was satisfactory to learn that no instructions had been given by the Newfoundland Government to its officers to collect Customs duties upon goods, the ultimate destiny of which was for consumption in Canada, it was important to know whether such duties had been collected and passed to the credit of the Newfoundland revenue. It would be seen by reference to the reports of Lieut. Gordon, of 1884 and 1886, that this had been done, whether through error on the part of Newfoundland Customs officials or not, was not known. In confirmation of what he had said he might mention the fact that Mr. Parmalee, Commissioner of Customs of Canada, had, during the past summer, visited some of the Hudson Bay posts, on the shores of James' Bay, and had, on inquiry, learned from Hudson's Bay offices, that duties had been paid by the company to Newfoundland officers upon goods destined to that portion of the Dominion on the shores of Ungava Bay, from which place they were distributed for trading purposes in the interior of that portion of Canada. If this were the case, and there did not seem to be any doubt of it, the practice should not be continued, whatever might be done in relation to such moneys as had been so collected in the past. He was scarcely prepared to accept the proposition laid down by Sir William Whiteway, that this was more of a matter between the "traders or importers and the Customs officials than for the consideration of the respective Governments." If duties had been improperly collected by Customs officials of either Government, upon goods which were for consumption in the territory of another country, it was clearly a question of consideration for those Governments interested, and not for the trader or official. Such powers could never be recognized as existing in an officer of any Government.

Mr. Chapleau added that the Hudson's Bay officers had informed Mr. Parmalee that the Newfoundland Customs officers had collected duties at Rigoulette upon goods which were known to be for consumption in Canadian territory in the neighbourhood of Ungava Bay.

The question was allowed to stand over, pending further information as to the actual practice in the past, at the Newfoundland ports referred to, and the value and quantity of goods which were so entered, if any, destined for consumption in Canada, it being agreed by the delegates from both

countries, that if irregularities of the character under discussion had occurred, it was a matter of administration solely, and would be so disposed of.

With reference to the boundary question, Sir William Whiteway said that the delimitation was marked on a map which had been published, he understood, by authority of the Canadian Government, and was now in the Colonial Secretary's office in St. John's, and which was quite acceptable to him as showing the true boundary.

Mr. Harvey stated that he had never doubted but that the delimitation, as shown on the map referred to, was final.

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Labrador
Boundary.

Sir John Thompson explained that the map was merely a possible boundary suggested by the geographer of the department of the Interior at Ottawa. That the Government of Canada had understood that the question of boundary was yet undecided.

The question of the boundary in Labrador was further discussed for some time, and an examination was made of three different maps, in which different boundaries are shown, none of which Sir William Whiteway said was the map referred to by him.

* * * *

Halifax, 11th Nov., 1892.

Conference resumed 10.30 o'clock:

* * * *

With reference to the Labrador boundary, Mr. Bowell started that, since the question had been last discussed, he had received a telegram from the Privy Council Office of Ottawa, stating that, although it had been recommended to Council that the map asked for by the Government of Newfoundland should be transmitted, the recommendation had not been approved, inasmuch as it was considered that the map was imperfect, and that its formal transmission might therefore be misleading.

Mr. Harvey expressed the opinion that the map referred to was a very satisfactory one, except that he should insist that Melville Bay should be under the exclusive Customs control of Newfoundland.

Mr. Chapleau pointed out that the delimitation, as shown on the map referred to, gave a considerable portion of the coast of Melville Bay to Canada, and that the control of the coast would naturally involve the control of the waters adjacent thereto.

Proposal "B."

Proposal "C."

Mr. Bowell called attention to the fact that, although the Hudson Bay post at North-west river might by this delimitation be located in the territory of Newfoundland, yet it was probable that a large portion of the goods landed there would be intended for consumption on the Canadian side of the border.

Sir John Thompson suggested that the Newfoundland Government should appoint a geographer to act jointly with

the geographer of the Department of the Interior at Ottawa in tracing up all available data, and to report the results of their examination to their respective Governments.

"B."

Sir John Thompson's suggestion was agreed to.

* * * *

Halifax, 14th November, 1892.

Conference resumed at 3 o'clock:

Sir William Whiteway on behalf of the Newfoundland delegates handed in counter proposal "B" (see Appendix 6).

Mr. Bowell on behalf of the Canadian delegates handed in counter proposal "C" (see Appendix 7).

* * * *

"C."

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APPENDIX 6.

* * * *

In case this meets with the approval of the Canadian delegates, the reports to the respective Governments should embrace an agreement for the delimitation of Labrador boundary . . .

* * * *

APPENDIX 7.

* * * *

The Canadian representatives acquiesce in the proposal to make representations to Her Majesty's Government with reference to a Consulate at St. Pierre, and to delimit the Labrador boundary, whenever the Newfoundland Government is prepared to do so—an examination of the question being in the meantime made by geographical experts.

* * * *

PART IV.

SECTION IV.

[2 May, 1670.]

**DOCUMENT RELATING TO THE HUDSON'S BAY
COMPANY.**

No. 86.

**EXTRACTS FROM CHARTER OF HUDSON'S BAY
COMPANY, 1670.**

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**The Royal Charter for Incorporating the HUDSON'S BAY COMPANY,
Granted by His Majesty King CHARLES the Second,
in the 22nd Year of His Reign, A.D. 1670.**

CHARLES THE SECOND, by the Grace of God King of England, Scotland, France and Ireland, Defender of the Faith, etc., TO ALL to whom these presents shall come, greeting: WHEREAS our dear and entirely beloved Cousin, Prince Rupert, Count Palatine of the Rhine, Duke of Bavaria and Cumberland, etc., Christopher Duke of Albermarle, William Earl of Craven, Henry Lord Arlington, Anthony Lord Ashley, Sir John Robinson, and Sir Robert Vyner, Knights and Baronets; Sir Peter Colleton, Baronet; Sir Edward Hungerford, Knight of the Bath; Sir Paul Kneele, Knight; Sir John Griffith and Sir Philip Carteret, Knights; James Hayes, John Kirke, Francis Millington, William Prettyman, John Fenn, Esquires; and John Portman, Citizen and Goldsmith of London; have, at their own great cost and charges, undertaken an expedition for Hudson's Bay, in the north-west part of America, for the discovery of a new passage into the South Sea, and for the finding some trade for furs, minerals and other considerable commodities, and by such their undertaking have already made such discoveries as do encourage them to proceed further in pursuance of their said design, by means whereof there may probably arise very great advantage to us and our kingdom: AND WHEREAS the said Undertakers, for their further

encouragement in the said design, have humbly besought us to incorporate them, and grant unto them and their successors the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the

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straits commonly called Hudson's Straits, together with all the lands, countries and territories upon the coasts and confines of the seas, straits, bays, lakes, rivers, creeks, and sounds aforesaid, which are not now actually possessed by any of our subjects, or by the subjects of any other Christian Prince or State.

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* * * * *

And to the end the said Governor and Company of Adventurers of England trading into Hudson's Bay may be encouraged to undertake and effectually to prosecute the said design, of our more especial grace, certain knowledge and mere motion WE HAVE given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said Governor and Company, and their successors, the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid that are not already actually possessed or granted to any of our subjects, or possessed by the subjects of any other Christian Prince or State, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes, in the seas, bays, inlets and rivers within the premises, and the fish therein taken, together with the royalty of the sea upon the coast within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems and precious stones, to be found or discovered within the territories, limits and places aforesaid, and that the said land be from henceforth reckoned and reputed as one of our plantations or Colonies in America, called "Rupert's Land:" AND FURTHER WE DO by these presents, for us, our heirs and successors, make, create and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places, and all and singular others the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties and appurtenances whatsoever, to them the said Governor and Company, and their successors forever, to be holden of Us, our heirs and successors as of our Manor of East Greenwich in our County of Kent in free and common soccage and not in capite or by knight's service yielding and

paying yearly to Us our heirs and successors for the same two
elks and two black beavers whensoever and so often as We our
heirs and successors shall happen to enter the said Countries
Territories and Regions hereby granted.

* * * * *

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AND FURTHERMORE, of our ample and abundant grace,
certain knowledge and mere motion, WE HAVE granted, and
by these presents, for us, our heirs and successors, do grant
unto the said Governor and Company, and their successors,
that they and their successors, and their factors, servants and
agents, for them and on their behalf, and not otherwise, shall
for ever hereafter have, use and enjoy, not only the whole,
entire and only trade and traffic, and the whole, entire and only
liberty, use and privilege of trading and trafficking to and from
the territory, limits and places aforesaid; but also the whole
and entire trade and traffic to and from all havens, bays,
creeks, rivers, lakes and seas, into which they shall find
entrance or passage by water or land out of the territories,
limits or places aforesaid; and to and with all the natives and
people inhabiting, or which shall inhabit within the territories
limits and places aforesaid; and to and with all other nations
inhabiting any of the coasts adjacent to the said territories,
limits and places, which are not already possessed as aforesaid,
or whereof the sole liberty or privilege of trade and traffic is
not granted to any other of our subjects: AND WE, of our
further royal favour, and of our more especial grace, certain
knowledge and mere motion, HAVE granted, and by these
presents, for us, our heirs and successors, DO grant to the said
Governor and Company, and to their successors, that neither
the said territories, limits and places, hereby granted as
aforesaid, nor any part thereof, nor the islands, havens, ports,
cities, towns or places thereof or therein contained, shall be
visited, frequented or haunted by any of the subjects of us, our
heirs or successors, contrary to the true meaning of these
presents, and by virtue of our prerogative royal, which we will
not have in that behalf argued or brought into question.

* * * * *

AND FURTHER, of our especial grace, certain knowledge,
and mere motion, WE DO, for us, our heirs and successors,
grant to and with the said Governor and Company of
Adventurers of England, trading into Hudson's Bay, that all
lands, islands, territories, plantations, forts, fortifications,
factories or colonies, where the said Company's factories and
trade are or shall be, within any the ports and places afore
limited, shall be immediately and from henceforth under the
power and command of the said Governor and Company, their
successors and assigns; SAVING the faith and allegiance due
to be performed to us, our heirs and successors as aforesaid;

and that the said Governor and Company shall have liberty, full power and authority to appoint and establish Governors and all other officers to govern them, and that the Governor and his Council of the several and respective places where the said Company shall have plantations, forts, factories, colonies or places of trade within any the countries, lands, or territories hereby granted, may have power to judge all persons belonging to the said Governor and Company, or that shall live under them, in all causes, whether civil or criminal, according to the laws of this Kingdom, and to execute justice accordingly; and in case any crime or misdemeanor shall be

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committed in any of the said Company's plantations, forts, factories, or places of trade within the limits aforesaid, where judicature cannot be executed for want of a Governor and Council there, then in such case it shall and may be lawful for the chief Factor of that place, and his Council to transmit the party, together with the offence, to such other plantation, factory or fort where there shall be a Governor and Council, where justice may be executed, or into this Kingdom of England, as shall be thought most convenient, there to receive such punishment as the nature of his offence shall deserve:

* * * * *

AND FURTHER our will and pleasure is, and by these presents for us our heirs and successors, WE DO grant unto the said Governor and Company, and to their successors, full power and lawful authority to seize upon the person of all such English, or any other our subjects which shall sail into Hudson's Bay, or inhabit in any of the countries, islands or territories hereby granted to the said Governor and Company, without their leave and license in that behalf first had and obtained, and that (sic) or that shall contemn or disobey their orders, and send them to England; and that all and every person or persons, being our subjects, any ways employed by the said Governor and Company, within any of the parts, places and limits aforesaid, shall be liable unto and suffer such punishment for any offences by them committed in the parts aforesaid, as the President and Council for the said Governor and Company there shall think fit, and the merit of the offence shall require, as aforesaid;

* * * * *

IN WITNESS WHEREOF we have caused these our Letters to be made Patent, WITNESS OURSELF at Westminister, the second day of May, in the two-and-twentieth year of our reign.

By writ of Privy Seal,

No. 87.

**EXTRACTS FROM DIARIES OF THE H.B. CO. POST
AT NORTH WEST RIVER, LABRADOR.**

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1865

July 1st (Saturday). —The cows were not found last night; the blacksmith went to look for them and returned with them at 9 o'clock. Mingan, John Baptiste came with a little fat and a small bear skin.

July 7th (Friday). —The Indians started to-day in the old whale boat for the Nascopie River, to bring down their deer meat. Spence preparing for his departure (July 8th) for Kennimish. I have decided on sending Gaghon with him, and Henry Hay and John Pierre to Kennimoe and not Ticguacmagan as I intended at first as the latter would most likely have a crowd of Indians about him and besides there is a probability of their not being able to set the nets for some time, owing to the strength of the current, and the company's men may be employed in cutting logs for the buildings that are to be erected next spring.

July 10th (Monday). —Set the net this morning. Got 6 salmon this afternoon.

July 13th (Thursday). —Got 5 salmon this afternoon.

July 18th (Tuesday). —Got 24 salmon to-day.

July 19th (Wednesday). —Went to Kennimish after dinner. They are not doing as well as I had expected, not even as many as at N.W. River. Kennimish and Kenimo have got about the same quantity, viz.: 3/4 Puncheon. Got 5 salmon to-day.

July 21st (Friday). —We are getting anxious about the Inlanders not making their appearance; those who are acquainted with the river say that some accident must have happened to keep them so long.

July 24th (Monday). —As the Inlanders have not made their appearance we have decided on sending up a canoe to see what has happened to detain them. The Indians are all about to commence building canoes so that none of them will go. As a last resource therefore I intend taking Henry

1865

them up, replacing them at the fishing post, by John Baptiste, Tiswisco and Johnny. I went over to Kennimish and Kennimo in the whale boat to-day and returned at 8:30 p.m. with John Pierre and Hay. Spence has got about 9 tierces of salmon and the other place ditto.

July 26th (Wednesday). —Henry Hay and J. Pierre about to start for the Grand River, but just as they were ready some Indians who came over the Portage informed us that the Nascopies were coming. They hove in sight about noon and arrived at the post at 1 p.m.

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Sandi & Ken Tulk,
Manuels, NL*

July 29th (Saturday). —The "Maggie" started this morning for the Lake. Mr. McPherson saw 2 vessels off of Mulligan at 8:30 a.m.; they are coming on slowly, the wind being ahead.

July 30th (Sunday). —The two crafts seen yesterday proved to be the Canada vessel "Jacques Cartier" and the "Volant," the Collectors schooner. Anchored off the point.

July 31st (Monday). —The two crafts came up the River this morning. Mr. McPherson and myself went on board the Collector after dinner, in compliance with his request — after a great deal of trouble I was obliged to give him a Bill of Exchange for £51 18s. 4d. before he would allow me to unload the Jacques Cartier.

Aug. 1st (Tuesday). —The Volant started (sailed) at 11 a.m.

Aug. 3rd (Thursday). —The non arrival of Mr. Smith or any other gentleman to take charge of the District cause us to fear some accident had happened to the vessel. Started at 10 a.m. in whale boat for Rigolet, but met Mr. Smith coming up in the Rigolet whale boat, so turned back and got here at 10:30 p.m.

Aug. 4th (Friday). —The Sea-boat went over last evening for the Kennimo salmon, returned to-day about 2 o'clock.

Aug. 11th (Friday). —All hands employed putting provisions, etc., on board the "Jacques Cartier." The Rigolet whale boat left for that post at 8:30 a.m.

Aug. 12th (Saturday). —J. Flett and his brother sent to the other side to cut grass. 50 bundles.

Aug. 13th (Sunday). —"Jacques Cartier" preparing for a start

when being towed out she got ashore and was stuck for upwards of an hour. Capt. Dodge arrived at 7 p.m. with the schooner "Silas Arnold."

Aug. 14th (Monday). —The Inland boat left for the Rapid with supplies for Winnebogan Lake. The Jacques Cartier got under weigh at 1 p.m. for Rigolet having on board Mr. Chief Trader McPherson and family.

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Aug. 16th (Wednesday). —About 5 a.m. the Lila Rich left having Mr. and Mrs. Smith on board.

Aug. 25th (Friday). —Greater part of North West River and Mingan Indians left for Grand Lake for a few days.

Aug. 26th (Saturday). —Early this morning the Nascopie Voyageurs left this in a body to return back by the Nascopie River—although I tried hard to induce them to wait a few days longer, but to no purpose. The men brought home another load of grass from Point Hebron.

Aug. 28th (Monday). —About 8 a.m. the "Lively" arrived from Rigolet having on board Mr. G. F. Smith and lady—Mrs. McPherson and family.

Aug. 29th (Tuesday). —All hands busy at the unloading of "Lively." All the Indians arrived in the evening.

Sept. 6th (Wednesday). —P. Alexander, M. Gaghon, G. Plenderleith, S. Scanlon, F. Flett, preparing to start for Inland.

Sept. 7th (Thursday). —Men under orders for Inland, but about 11 a.m. it commenced to blow so much that the boat for Inland could not start so they will have to wait until tomorrow.

Sept. 8th (Friday). —The parties for the Inland post of Fort Nascopie, and Winniwishaupon who have been detained by head winds since the 6th, set out on their journey. They consist of Chief Trader Henry Connolly, with M. Gaghon and Thos. Flett—Labourers—for Winnishapon, and Matthew Fortescue, Clerk, with Jas. Connolly and Ed. Richards, Jr. for Nascopie, E. Richards Sr. to proceed to Ungava, Louis the Iriquois who remains as a Trapper and a Nascopie Indian, and five men, viz.: Jean Pierre, A. Cameron, P. Alexander, Geo. Plenderleith and T. Scanlon who are to return to N. W. River after assisting Mr. Fortescue with the transport of the Goods to Nascopie, Scanlon the carpenter is also to make some necessary

repairs to the Inland posts besides the above mentioned individuals. Eleven Indians have gone as crew to the Winnokapau boat. They are seven men from Mingan and four from this post, viz.: S. Maskima, J. Baptiste Ashenie and John Ashenie and J. Bapt. Mingan. They were accompanied by the Maggie Boat—William Spence and John Flett to English Point.

Sept. 9th (Saturday). —J. B. Mingan and Witshesa got some supplies, the latter to account of Winnokhapau and will leave early to-morrow morning.

Sept. 10th (Sunday). —The Sea Boat Maggie returned to-day bringing the Kennimish and Kennimo nets and a few salmon which remained at the latter place. J. B. Mingan and Witshesa left this forenoon.

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1865

Sept. 13th (Wednesday). —Ticguapeuagon and Picheca left for their hunting grounds.

Sept. 14th (Thursday). —A good many of the Nascopie furs were found to be damp and mouldy and had to be hung out to dry and rubbed down.

Sept. 15th (Friday). —Baikie went out to look for the cows but was unable to find them.

Sept. 16th (Saturday). —Baikie off after the cows. He found them and returned with them at 10 a.m.

Sept. 17th (Sunday). —About 4 p.m. the Rigolet whale boat arrived. D. Munroe, Carl Bruman, and Wm. Goudie on board; they report that the bark "Ocean Nymph" that left Rigolet for Ungava some 3 weeks ago returned to Tub Harbour on her way back to Rigolet. Mr. Chief Trader McPherson arrived about 5 p.m.

Sept. 23rd (Saturday). —Preparing to send Lively to Rigolet with 3 barrels of potatoes and 1 of turnips. Snowing occasionally during the afternoon.

Oct. 15th (Sunday). —About 6 p.m. A. Cameron, George Plenderleith, Peter Alexander and Thos. Scanlon arrived from the Hamilton River.

Oct. 16th (Monday). —Flett and Hay preparing for their departure for Hamilton River.

Dec. 30th (Saturday). —The men variously employed at the post. About noon Wm. Spence and P. Alexander returned

from Nascopie River; they have caught 16 martens. A. Cameron and D. Munroe also came home this evening; they have got 13 martens, and at North West River we have got 33 martens, being 4 more than both the others put together.

1866

Feb. 19th (Monday). —Mr. A. Cameron and Munroe left with the Winnokapau packet.

Feb. 28th (Wednesday). —Men from the Lake came home at 1 p.m. with 111 flat boards.

Oct. 27th (Saturday). —Myself and party, viz.: Wm. Scott, F. Hope, Geo. Plenderleith, H. Hay and John Murry arrived here from Winowokapau Lake at 4 o'clock p.m. found the post in charge of Edward Brown, the house stores, etc. being all securely locked.

Nov. 2nd (Friday). —D. Irvine and crew returned from Sabaschon with the whale bout at 5 o'clock this morning, after breakfast Baikie commenced preparing for his departure from Muskrat Island, at about 1 p.m. I was surprised by the arrival of 3 canoes, belonging to Picheca

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1866

Tiguappemagon and their families, they have been very ill and unable to hunt so they came down with the intention I believe of proceeding on to Sabaschon to fish for trout. Baikie, and Wm. Scott and H. Hay and his daughter, left at 2 p.m. the two former for Rat Island and the latter for Sandy Bank.

1867

Jan. 1st (Tuesday). —New Year's Day. Some planters arrived to spend New Year. Indians came about noon and left again.

Jan. 15th (Tuesday). —F. Hope arrived last evening from Nascopie River hunting post. He got 15 martens and 1 mink.

Jan. 22nd (Tuesday). —About 11 a.m. 2 Indians, viz., Joseph Petu and Domineque St. Ange arrived from Kiminow River. Mr. Fortescue and 2 men accompanied them as far as Gull Island. Their provisions at Winniwpuu being exhausted, they were obliged to come down to Gull Island for a fresh supply.

Feb. 22nd (Friday). —The Indians all about here.

Feb. 24th (Sunday). —Indians all left to-day.

May 1st (Wednesday). —Indians all hanging about here still.

May 3rd (Friday). —Most of the Indians left to-day for York Island, where they are to camp during seal hunting.

May 4th (Saturday). —The last of the Indians left to-day for Pork Island, Baikie and Hope came over from Kennimish at noon. They came for provisions and to see if they were to remain there all spring.

May 7th (Tuesday). —The Indians who accompanied Mr. Connolly to Rigolet came back to-day. I received letters from Rigolet dated 4th inst. Irvine is to go down at once the scows are now finished.

May 11th (Saturday). —Irvine set off for Rigolet at 7 a.m. He is accompanied as far as Sabaschon by Plenderleith.

May 12th (Sunday). —All the Indians came up from Pork Island they have killed amongst them about 40 seals; the geese have come, about 50 of them flew past yesterday. Winter is at last over. (Grace a Dieu.)

May 14th (Tuesday). —I sent the Indian boys over to Kennimish to-day for Baikie and Hope. We cannot get on without them here, after the gardens are finished there is a great deal of work to do about the boat and the post in general that it is impossible to let the men remain at Kennimish and have the work done at the place as well.

June 2nd (Sunday). —Mr. M. Fortescue and men arrived to-day from Winniwkopau.

June 17th (Monday). —The schooner hauled out of the River at 3 p.m. At about 9 p.m. Mr. Fortescue, and 2 Indians went on board of her as

1867

passengers to Rigolet. Her crew consists of Thos. Baikie, F. Hope and Peter Alexander.

June 19th (Wednesday). — Plenderleith and Murry were to have left to-day for the Rapid with a Bbl. of flour and a keg of Pork for the Inland party, but it blew so very hard that they could not set off, weather permitting they will set out in the morning.

July 4th (Thursday). — All the men intended for Kenimish and Kenimo, started in the sea boat for their respective posts. William Spence and M. Garson for Kennimish and Henry Hay and Indian boy at the other place.

July 7th (Sunday). — Am very much frightened that this will not be a good season for salmon.

July 8th (Monday). — Got 15 salmon to-day.

July 9th (Tuesday). — The pickets (men) up the Lake were down to-day for the other salmon nets. Got 4 salmon to-day.

July 10th (Wednesday). — The sea boat left at 9:30 a.m. for the Rapid with provisions for Winnowkupau, viz: 48 bags flour, 1 bbl. ditto, ½ bbl. each, 1 bag Indian meal, 1 bag split peas, 7 bbls. Mess Pork, entire. At the Rapid they are to take the inland boat and proceed to Gull Isld. where the provisions are to be left until the brigade goes up in the summer. The Sea Boat was manned by 12 Winnowkupau Indians, viz. Jos. Peter Etienne, Charles Pastigen, Estemon Mochoquanie, Jean Bapt. Mingan, Wm. Pierre Marco, Pierre Captian, Jos. Mistupeau, Mistanapish.

July 17th (Wednesday). — About 6 p.m. we were surprised by the arrival of the Sea Boat, with the Indian lads who were sent up last week to Gull Island with supplies for Winnowkupau. It appears that they have had a quarrel with Mistanapish, who had charge of the trip, and have consequently abandoned the trip altogether and returned from the first portage. Joseph Peter Mistapwau Mochagani and Mistuanapish have gone on to Sandy Banks with the Inland boat taking the flour on to there and leaving the Pork at the Rapid.

July 19th (Tuesday). [sic]— I started for Kennamish at 9 a.m. but turned back from Pt. Hiboux having met the Fort Nascopie Boat, Mr. J. Connolly and Mr. A. Cameron on board; they have as crew 16 Nascopie Indians.

July 20th (Saturday). — This morning about 7 a.m. the S.S. Labrador anchored at the point. Mr. C. F. Smith and Mr. C. T. Connolly being on board, soon after the arrival of the steamer the Sea Boat was sent over to Kennimish with men, tins, etc., for the preserving business to be carried on there, as soon as the tide suited, the Labrador steamed up the River and is now moored opposite the dwelling house, all hands variously employed during the afternoon. A Roman Priest also came by the Labrador.

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July 21st (Sunday). — The priest had some sort of ceremony together with the Indians in the men's house — Prayers were read by Mr. Smith at 11 a.m. in the dwelling house at which Captain Wood together with the officers and men of the Labrador attended. At 8:30 p.m. the Sea Boat left for Kennimish, K. McKenzie on board.

July 22nd (Monday). — The sea boat came back at 6 this morning. The men busy unloading the steamer, with the Inland boat.

July 23rd (Tuesday). — All the goods intended to be landed at this place from the Labrador have all been stowed.

July 26th (Friday). — The outfits for Fort Nascopeie and Winnowkupa are at last packed. The air became much thicker this afternoon; it appears that the woods are on fire up the Lake, somewhere. I hope it may not reach this place.

July 28th (Sunday). — Henry Hay and W. Scott came over from the south side for materials for the salmon preserving. Mr. Smith accompanied by Capt. Wood and 4 men left in the Sea Boat for Kennimish.

July 29th (Monday). — The Sea Boat returned about 11 a.m. from Kennimish. We were unable to visit the nets to-day owing to the very heavy sea running at the point.

Aug. 6th. — 2 Nascopies arrived with letters from Inlanders. Opened Mr. Connolly's and sent them some Oakum and blocks and tackle which they forgot.

1869

Nov. 25th (Wednesday). — The Bay beginning to set fast (freeze over) since yesterday.

Dec. 7th (Monday). — Wm. Goudie and son arrived from Lake. Bay all fast (frozen over) as far as we can see.

Jan. 23rd (Saturday). — The weather has fairly frightened the old wives of planters. Plenderleith, Munroe, Jamison, and Murray getting ready to leave on Monday weather permitting for the Middle Point, to saw salmon box wood.

March 17th (Wednesday). — Toma and gang left at 10 a.m. for the marten ground beyond Kennimo River. I hope they will do better as they brought only 5 marten.

June 15th (Tuesday). — In the evening Mr. Cameron and crew arrived from Winokeupau, in flats, having left all the things at Travers Pine.

June 18th (Friday). — About 5 p.m. the Charlotte left for the Grand River to load with seals and for the things left by Mr. Cameron. Sandison and H. Hay covering barn with new bark. Toam and family came

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1869

and brought over 500 lbs. fat. They have taken about 15 seals out of the nets. They left again, others from Sandy Point brought 160 lbs. fat. About sunset Baikie and crew arrived from Grand River—got 30 fish.

June 24th (Thursday). — About 2 p.m. the Charlotte left for Kinnimish, with tins, etc. The following to remain there to do some work, Jos. Jamieson, Murray, and W. Frazer, Mr. Cameron, Murray, Plenderleith and Sandison to return — Michel and Jean Pierre and families took passage to Kinimish where they are to hunt a while. Shortly before starting out one of them killed a deer in the water. About 7 p.m. J. & J. Michelin passed down from Grand Lake on their way home. They have also killed 2 deer.

Aug. 8th (Sunday). — About 3 p.m. the Velocity arrived from Rigolet, with H. Connolly accompanied by Capt. Galbraith of the "Ocean Nymph" and Mr. Cameron. We brought up 6 bbls. flour, 1 bbl. pork, we left Snooks Cove on Friday, at which date the Labrador had not arrived. The Nascopies very impatient to start for Inland and are only willing to wait for a week longer.

Aug. 10th (Tuesday). — Got ready to leave to-morrow.

Sept. 8th (Wednesday). — The "Charlotte" arrived from Rigolet which she left on Monday, the constant unfavourable winds prevented her from coming up — had H. Connolly and family, Messrs. Cameron and Scott (the latter came by the Labrador). D. Munroe and O. Maldoon, she brought up all the goods from Rigolet. I found only three men, and

two boys out of twelve Fort Nascopie voyageurs, all the rest had gone off, as well as some of the Winnowkupa.

The Labrador arrived at Rigolet on the 11th, and ones. left on the 24th for Northern posts, and Mingan and the Ocean Nymph left on the 1st for Montreal.

Sept. 25th (Saturday). — About 10 a.m. Chas. Flowers and crew arrived from below and are bound for Kinomish. The planters are getting quite mad for getting up here. The Blakes are gone to Goose Bay — right before A. Messine who is a cripple and is unable to compete with them, so I am to send Taquapimagon and son to trap around the Blakes, which if not annoy, but will injure them a little.

Oct. 24th (Sunday). — We left St. John's Island at 12:30 last night with a fair wind and got here (N.W.R.) at 9 a.m. Found all right at the post and Jaquapemagon and family all at the post. About noon Jacko and family arrived from Kinnimish. On my arrival I found a letter dated from this place the 1st inst. from Mr. Cameron who had to return from Gull Island, his crew getting all sick and the boat such damage, as to preclude of its performing a voyage to Winnokupa,

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so he had to land all his Indians at Gull Island, where he is now. All his Indians left him after giving their supplies and are to come in at that place. One of the Nascopies voyageurs, Charles Raglan, whom he was bringing down to leave here, died at the English Point. The corpse Murray very stupidly kept in the store, which I immediately got buried.

Oct. 27th (Wednesday). — Froze hard during the night. Ther. 15° above zero this morning. The men hauled up the sea and whale boats, Muldoon and Murray getting ready to leave for Gull Island. H. Hay and gang also preparing to leave for Sandy Banks.

Oct. 29th (Friday). — At 9 a.m. D. Munro, Blacksmith and Sandison left for the sea boat to bring over the provisions, etc. to the Grand River for Muldoon, Murray and Hay, who took passage. The two former are to go out to Gull Island, and Murray to come back by the first ice. E. Brown remains here. About 9 a.m. the men returned from Sandy Point.

Oct. 31st (Sunday). — Taquapemagon and family left for the Goose Bay River where they are to trap.

Nov. 2nd (Tuesday). — The Blacksmith, and Sandison left to

set up the Long Path. Mr. Scott and D. Munro left with M. Michelin and wife to angle trout, which are to be had about this time of year.

Nov. 4th (Thursday). — E. Brown visited the Goose Bay Portage traps and got one marten. The blacksmith and Sandison returned in the afternoon with one marten.

Nov. 17th (Wednesday). — E. Brown visited the traps in Goose Bay Portage and got one marten.

Nov. 20th (Saturday). — Munro visited the long path traps, but got nothing.

Dec. 3rd (Friday). — Ducks still flying about. The Bay is all fast as far as we can see.

Dec. 12th (Sunday). — In the evening 4 Indians arrived viz. : old J. B. Pinepow, Paul, William and Etienne from Maschaikopee.

Dec. 13th (Monday). — The Indians gave in 27 martens and a few Beaver.

Dec. 15th (Wednesday). — At 9 a.m. Shan, J. B. Mingan, Pierre Washaslino, and 4 Mingan Indians, and 2 boys arrived. They brought 15 martens, 2 otters and a few beavers. About noon Misher, and F. Oliver arrived from Goose Bay. They left again for below.

1870

Feb. 16th (Wednesday). — About 4 p.m. arrived Mr. W. Bright of Kibokok accompanied by the Rev. J. O'Hara of Hopedale, Moravian missionary, who is on a tour among the planters — he had Jonathan Aggie with him. Jos. and Peter Michelin came with them from Sabasquashon.

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1870

June 24th (Friday). — Some of the Indians left on a hunting excursion. Mistanapaish to Goose Bay, and Michel Basil and J. Pierre up the Grand Lakes. Picheau and gang to the Sabasquashon Islands, and some more will leave tomorrow. Very few fish to dry.

June 26th (Sunday). — Louis and Family arrived from Goose Bay, but without any luck. Tacquapimagon and J. B. Mingan, and Purrish and families left on a hunting excursion up the Grand River and Goose Bay.

June 27th (Monday). — Tom and gang left for Kennimish.

Mistanapaish and J. Pierre arrived from Sandy Point; they brought a part of a deer they had killed; they left again.

Aug. 12th (Friday). — We arrived at Rigolet about 9 p.m. Found the Lady Sale and Revenue Cutter, "Wm. Stairs" with the Judge and Collector.

Aug. 25th (Thursday). — The "Lady Sale" left at 9 a.m. for Quebec taking 80 tierces and 2 bbls. salmon, etc. and six tin men and O. Muldoon who is sent up to Mingan as unfit for this place. At 10 a.m. the "Wm. Stairs" with the Collector and Judge in for a cruise below looking after adventurers like Don Quixote and his squire. Mr. Scott returned bringing some salmon of Peter's, Lucy's Brook. John Oliver and Tom Shoughton left for Sandwich Bay to see if we can hear anything of the Labrador, for it is really too bad to be keeping people.

Sept. 8th (Thursday). — About 10 p.m. the Collector left for Sandwich Bay, and most likely will be back again.

Sept. 13th (Tuesday). — Mr. Scott and cooper went down to Cullingham Tickle to C. Flowers who had just arrived from Indians Harbour. We may get some news of the whereabouts of the wonder working "Labrador," as the N.F. mailboat had been at Indian Harbour last week. They came back at 11 p.m. bringing a packet of letters all addressed to the crew of the "Labrador," and none for this place. I received a note from Capt. Norman (a Newfoundland trader at Indian Harbour) mentioned having heard that the "Labrador" had gone ashore in the Gulf and that a sailing vessel was to be sent here.

1871

July 25th (Monday). — Busy settling with the Indians that is the Nascopies who are anxious to be off. D. Goudie came and left again, he says the salmon fishery is slacking at Kennimish. Got 3 salmon.

1871

July 26th (Tuesday). — All the Nascopies left on their way up to their own lands. Taykahtahpay and wife also left with them. Some others left for Pointe Hiboux for a few days. Mr. Cameron is now ready to start for Gull Island with a load of provisions, goods, etc.

Aug. 17th (Thursday). — We have at last settled with the Collector. Mr. Scott and G. Pottle returned from Snooks Cove and report the "Charlotte" only got to that place where she is still.

Aug. 18th (Friday). — About 11 a.m. the Collector left for Indian Harbour from whence to Sandwich Bay.

1872

June 27th (Thursday). — J. Goudie and crew left for Rigolet. He is not coming up again, but intends going to Kibokok, so Travers Pine falls into the hands of the Company again after having been in those of the Goudies since 1844. About 9 a.m. Attiquapoo and Watchekat and families arrived from Misigraman Lake; they brought 65 martens, 2 otters, 1 cross and two red foxes and 23 lbs. deer skins.

Aug. 15th (Thursday). — The Fox left for Rigolet. Rev. Pere Arnaud and H. Connolly took passage. At the same time Mr. Cameron and a crew of 14 Indians and Fraser left for Winowkupa. They are to take three big canoes for the transport of the outfit, and all the Indians for the Interior.

Aug. 16th (Friday). — The Fox arrived at Rigolet and found the Labrador had returned from Davis Inlet, and also the land shark the Nfld. Customs Cruiser. The Marie Valentine left on the 14th inst. for Quebec. No sign of the "Lively" or the "Ocean Nymph." The Nfld. mail steamer arrived yesterday and after stopping two hours left again. This was her second trip here. She is to make two more.

1873

Jan. 10th (Friday). — About 4 p.m. Mr. Cameron and Jean Pierre arrived from Winowkupa which they left on the 23rd ult. after the guide losing himself, came out at the head of the Grade Lake, they had to leave Fraser at baikie who had scalded his foot on the way. I am sorry to say they bring but poor reports of Furs, and that about sixty families of Mingan and St. Augustine Indians are hunting in the vicinity of Winowakupa.

June 2nd (Monday). — This evening there was row between two men, Alex. Sandison and Donald McKennon when the who I believe was the beginner of the row, like an infernal coward took a knife and cut the other's cheek — this I must bring before the Judge.

Aug. 13th (Wednesday). — The doctor was sent here by the Newfoundland Government to vaccinate people. He has been busy all day.

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1873

Aug. 14th (Thursday). — The doctor finished vaccinating the Indians — about 17.

Aug. 22nd (Friday). — Busy settling with the Indians some of whom left for Inland. Atticuapew, John Thomas, and Tanaka.

Aug. 23rd (Saturday). — Men employed loading the "Lively" for Rigolet. Two more Indians left to-day.

Aug. 25th (Monday). — Busy settling with the Indians, and putting up Winnikopau outfit.

Aug. 27th (Wednesday). — Some Indians left for Inland and others getting ready. The men brought home some grass; the inlanders getting ready for a start.

Aug. 28th (Thursday). — About 10 a.m. Mr. Scott with a crew of Indians and Fraser in 2 big and 1 mid canoe left for Winnikopau. Some of the Indians are to follow to-morrow. The "Lively" ready to leave, but the wind too light. Men brought 2 flat loads.

Aug. 29th (Friday). — Last of the W. (Winnikopau) Indians and some of the N.W. River Indians left for Grand Lake.

1874

Aug. 8th (Saturday). — "Bella" left for Rigolet at 5 a.m. and got at Rigolet at 11 p.m. Found the Labrador had not yet arrived, but by the last news she was to leave England on the 5th ulto. The Nfld. Collector Mr. Knight had arrived some days ago. Judge McNeil came with him. Judge Pinsent having retired from active service.

Aug. 13th (Thursday). — Collector left for Indian Harbour.

Aug. 20th (Thursday). — About 5 p.m. the revenue vessel anchored off the post. No news about the "Labrador." The mail will be here to-morrow.

Aug. 22nd (Saturday). — The mail steamer left at 4 a.m. and got aground off Mullins Cove during thick fog, but got off again soon.

Sept. 8th (Tuesday). — At 10 a.m. the "Labrador" left for the North and the Collector also left for the South. Mr. Fortescue and I left by boat for N.W. River.

1875

July 13th (Tuesday). — About 6 p.m. the mail steamer "Ariel" arrived with letters from St. John's (Nfld.) dated 8th inst. Nothing strange.

Aug. 7th (Saturday). — Collector of Newfoundland customs arrived. Labrador ready for sailing for North.

1877

July 11th (Wednesday). — Indians returned from Grand River. Abraham and Richard returned in the whale boat; killed no seals this trip.

Aug. 7th (Saturday). — The Indians had their grand procession to-day. Marched twice around the church.

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1883

July 13th (Friday). — By the "Water Lily" presently in the employ of Messrs. Stebb and Son, I received the "Proclamation" by the Newfoundland Governor, wherein fishing of any kind is forbidden in the Rivers, streams, Lakes and water course. Early this morning I sent Peter John off to inform McLean and Louis, who are both fishing for the Company, about the reform the fishing laws had undergone. McLean came, however, over himself. I had thus verbally an opportunity of impressing on him the necessity of keeping the new law, and also to see that all in his Neighbourhood did the same. He said he was rather sorry as he had a net which, although not in the river, was close to it — but he would carry out the law as far as he was concerned and inform Louis in detail about what had taken place. We had a discourse about fishing for almost an hour. The Proclamation was sent me though Mr. Michaud who gave the Commander of the "H.M. Flamingo" my address thus — *John Olsen, North West River* — without H. B. Co. Besides the step I took in regards to the Co.'s fishermen across at Kennimish and Kennimoo I went round to the Indians, some of whom had a few old nets from us to catch a little fish for their food, and made them acquainted with the new regulations, and

further made them understand the great risk they made if they disregarded the laws of the Country. They all seemed impressed with what I said and some of them those who had nets from the Co. removed their nets at once and re-set them on the other side of the point out of the River's course altogether.

July 15th (Sunday). — Late last night I discovered some nets in the water this side of the point; accordingly early this morning I went down to the tents to see who the offenders were, but as they were in bed I did not see them. On my return to the house an Indian, Papineo had a net set not far from our house. I called him directly up and asked him if he was ignorant of the danger he places himself in by thus breaking the laws. He said that Joe Groves, Mr. Stabb's agent here, had told him yesterday that the law did not forbid the Indians to set nets to catch fish or food. I expressed my wonder at this, and said I could not understand his motive thus in persuading people to do what is radically wrong. Papineo however said he would take up his net tomorrow.

Aug. 29th (Wednesday). — Confound this new fishing law, which prevents us from setting even a trunt net in the river. I have a good mind to break it and blame the inner man, who is calling out Fish! Fish! without getting satisfied.

AFFIDAVIT OF W. E. SWAFFIELD.[16 Feb,
1926.]In the Privy Council.IN THE MATTER of the BOUNDARY
betweenthe DOMINION of CANADA and the
COLONY of NEWFOUNDLAND in the
LABRADOR PENINSULA.

I, WILLIAM ERNST SWAFFIELD, of 56 McGill Street, Montreal Canada, Manger of the Hudson's Bay Company's Fur Warehouse at Montreal, make Oath and say as follows: —

1. I was for 29 years in the service of Hudson's Bay Company on Labrador. I went to Davis Inlet in 1891 as Post Manager. After 9 years there I went to Cartwright for 5 years in the same capacity. I then went to Rigolet for 7 years and to Cartwright again for 8. During those last 10 years of my service on Labrador I was District Manager of the Labrador District consisting of 4 posts, viz: — Cartwright, North West River, Davis Inlet and Rigolet.

2. As District Manager I visited North West River once a year for inspection. I recall that C.S. Porter & Company of New York established a fur trading post at Cartwright in 1916 at North West River in 1917, and at Rigolet in 1919, and that the Revillon Company established a post at North West River over 20 years ago, which they still maintain.

3. I always paid duties to the Newfoundland Government for each of the Hudson's Bay Company's posts in my District and so to the best of my knowledge, information and belief, did my predecessor. I base this belief on my recollection of the Companies' books and the fact that when I took over there was no suggestion that the duties had not been or ought not to be paid. The annual payment for the District ranged between \$2000 and \$5000.

4. About 1911 a census was taken for the Newfoundland Government and a little later I took a rough census of the two

Bays, Sandwich and Eskimo, for the Canadian Government. To the best of my recollection there were about 350 people in Sandwich Bay and about 700 in Eskimo Bay

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(Hamilton Inlet), this 700 being about equally divided between North West River and Rigolet Sections.

5. I used to send stores to Mud Lake, a sub-post of North West River, about eighteen miles further up the Bay situate at the entrance of Grand River. Mud Lake is about the end of Salt Water. When the tides come up it "backs up" the River there in its flow outward.

6. The Indians used regularly to come to Davis Inlet from the interior. Sometimes considerable numbers of them amounting to not less than about 100 came from Ungava Bay and I often did \$5000 of trade with them in one session.

7. Indians used also to come out to North West River every Summer and Winter. In the Summer they would camp there for weeks, make their canoes, dress their deer skins, and do other work and in the Winter they would come out to trade. We opened accounts for many of them and made them advances every Fall against their Winter's catch of fur and the number of them coming out is increasing in recent years.

Our Company has recently bought the Revillon Company post at North West River and that Company has withdrawn from Labrador altogether.

8. During all the time I was on [sic] Labrador the Newfoundland Government always prohibited the cutting of timber within a three mile limit from the sea and forbade the Summer fishermen, the permanent settlers, the Eskimos or the Indians to trap for fur out of season.

9. The permanent residents who numbered on the average some 3000 always subsisted on furring in the Winter. Men, women, and children took part in it, and their hunting took many of them as far as the height of land.

10. At North West River the tide in the Fall of the year is brackish and the water too salt to be drinkable.

11. My Company was frequently called upon to relieve distress and when this happened used to recover the money from the Newfoundland Government. Such relief was given not only to the white settlers but also to the Eskimos when required.

12. The whole of the Hamilton Inlet as far as Goose Bay is navigable by steamers. The Newfoundland Government's mail steamers regularly go to North West River.

SWORN at Montreal Canada this
SWAFFIELD.
16th day of February 1926.

WM. E.

J.M. KILBOURN..

PART V.

[15 March,
1763.]

**COMMISSIONS AND INSTRUCTIONS TO
GOVERNORS OF NEWFOUNDLAND AND
INSTRUCTIONS FROM THE ADMIRALTY TO
COMMANDERS OF THE KING'S SHIPS.**

No. 89.

Newfoundland.

REPRESENTATION OF THE LORDS OF TRADE

UPON THE ALTERATION AND ADDITIONS EXPEDIENT TO BE MADE IN THE
INSTRUCTIONS TO THE GOVERNOR OF NEWFOUNDLAND IN
CONSEQUENCE OF THE TREATY OF PARIS.

C.O. 194, Vol. 26.
Copy.

To the King's Most Excellent Majesty.—
May it please your Majesty.

In Obedience to your Majesty Commands signified to Us by the Earl of Egremont, one of your Majesty's Principal Secretaries of State, in his Lordship's Letter of the 8th Instant, We have taken into Our Consideration "the Copies of the 5th & 6th Articles of the Definitive Treaty, relating to the Fishery at Newfoundland, & elsewhere in those Parts, and to the Cession of the Islands of S^t. Peter & Miquelon; as also an Extract of the 24th Article of the said Treaty, fixing a Time for the Cession of those Islands, and directing Us to lay before your Majesty such Alterations & Additions, as shall appear to Us expedient to be made, to the Instructions given to the Governors of Newfoundland, in order to conform them to the abovementioned Stipulations of the Definitive Treaty" after considering the Subject with that Attention & Exactness which the Nature & Importance of it so highly deserve, We humbly beg Leave to submit Our Opinion to your Majesty both with respect to the Plan of the Instructions, as they are now annually given to the Governor of Newfound-

land and to such Additional Ones as may be thought requisite, from the Provisions, & Acquisitions of the Definitive Treaty.

The Instructions hitherto given to the Governor of Newfoundland have been principally formed upon the Provision of the Statute of the 10th & 11th of William the Third, for regulating this Fishery and the Method prescribed to the Governor, of annually enquiring into, and reporting the State of the Fishery, is so very regular and practicable, that it rather wants to be enforced than changed, and if it be true, as it certainly is, that the Representations of the State of the Fishery have hitherto been imperfect, that Deficiency has arisen more from Circumstances in the Execution of the Plan, than any Defect in the Plan itself.

With respect to the Necessity of any additional Instructions upon which We are directed to give Our Opinion, We beg leave humbly to represent to your Majesty, that Your Subjects employed in the Fishery at Newfoundland, having of late engaged more extensively in the Fishery on the North eastern Part of Newfoundland, upon which Coast the French have also a Right, by the Treaty of Utrecht, to catch and dry Fish during the Season, under certain Restrictions; The great and extensive Whale Fishery in the Streights of Belleisle, with the other Branches of the Salmon & Seal Fishery, attending the Coast from the Mouth of those Streights to the River St. Lawrence, and the Fishery of the River St. Lawrence itself, of Gaspee, of Cançeaux, the Madelain Islands, St. Johns & Cape Breton being now annexed to His Majesty's Dominions by the Definitive Treaty; The general Fishery of Newfoundland, and the Gulf and the Coasts with it is become a Matter of infinite Extent, and of the utmost Importance; at the same time, that the preventing the French from partaking of the Benefit of these Fisheries (they being permitted to come within three Leagues of the Coasts & Islands within the Gulph,) seems to us to make some Additional Measure and Additional Instructions in the Execution of the Definitive Treaty, referred to us, absolutely necessary for the securing the exclusive Possession of these valuable Fisheries to Your Majesty's Subjects.

As to the Concurrent Fishing on the N^o East Coast of Newfoundland, in case any of your Majestys Subjects should engage in it, much will depend upon the Temper, Judgement & Discretion of the Officer of the Navy, who shall be appointed to superintend that Fishery, and who certainly should be instructed to adhere to the due Sense & Execution of the 13th Article of the Treaty of Utrecht with Justice to the Subjects of both Crowns. Upon the Coast of Labrador, it will be impossible to prevent the French continuing to have the full Benefit of their former Commerce with the Indians of that Coast, unless some British Settlement should be made there, or sufficient Cruizers stationed with Instructions to the

Commanders to seize all french Ships coming within a certain Distance of that Coast.

The same Observation is equally applicable to all the Coast from the Streights of Belleisle to the River St. Lawrence, from thence along the whole Coast of Canada and Acadia, and the Fisheries annexed to these Coasts which lye within the Gulph, the exclusive Possession of all which Fisheries,

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in our Judgement depends upon the Efficacy of whatever Plan shall be now followed, and the additional Instructions which shall be now given by the proper Boards to the proper Officer in the Execution of this great and essential Measure.

The Situation of the Islands of St. Peter & Miquelon, so convenient for carrying on an illicit Trade with North America, calls for particular Caution, and it were earnestly to be wished that the Communication between these Islands & Newfoundland could be prevented, from which the Inhabitants of St. Peter will otherwise receive the double Advantage of getting easily & cheaply the Materials for building their Boats, and of circulating french produce & Manufactures amongst the British Fishermen.

These Points naturally arising out of the Words of the Reference made to us by Your Majesty's Secretary of State, We have presumed to submit to Your Majesty's Consideration without in any Degree taking upon Ourselves actually to prepare any Plan for the Accomplishment of Measures, the grounds of which are so very imperfectly before Us, which, if ever They should take place, must be determined with an Attention to other Measures, and made a Part of one general Plan; The framing which will depend so much upon the united Labor and Experience of different Departments of Government; and the Execution of which will at last depend upon Orders to be issued from other Offices and to Officers not Subject to our Controul.

All which is most humbly submitted

C. TOWNSHEND
SOAME JENYNS
E^D. BACON
JOHN YORKE
EDMOND THOMAS
GEO. RICE
ORWELL.

Whitehall
March 15th 1763

Copy

Endorsed Copy Representation of the Lords Comm . for
Trade & Plantations upon the Alterations and Additions
expedient to be made, in the Gov^r. of Newfoundland's
Instruction in Consequence of the Treaty of Peace.

March 15 1763.

No. 90.

Newfoundland.

**LETTER, SECRETARY OF STATE TO LORDS OF
TRADE,**

DIRECTING PREPARATION OF DRAFT OF A NEW COMMISSION, APPOINTING
THOMAS GRAVES TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN
AND OVER THE ISLAND OF NEWFOUNDLAND, THE COAST OF
LABRADOR, ETC.

C.O. 194, Vol. 26.

Whitehall, March, 24th 1763.

Lords of Trade.

MY LORDS,

The King judged it proper, that all the Coast of Labradore, from the Entrance of Hudson's Streights, to the River of S^t John's, which discharges itself into the Sea, nearly opposite to the West End of the Island of Anticosti, including that Island, with any other small Islands on the said Coast of Labradore, and also the Islands of Madelaine in the Gulph of S^t Lawrence, should be included in the Government of Newfoundland, I am commanded to signify His Majesty's Pleasure to your Lordships, that you do forthwith prepare, to be laid before the King for His Royal Approbation the Draught of a New Commission for Capt. Thomas Graves, to be Governor of the Island of Newfoundland, & of the Coast of Labradore with the several Islands as above described: And I herewith return to your Lordships the Draught of Instructions for the Governor of Newfoundland, transmitted in your Report of the 21st inst^t (which The King entirely approves) in order that your Lordships may make such Additions to the same as you shall judge expedient, & necessary, to render Them conformable to the new Commission abovementioned.

I am &c^a

EGREMONT.

Draft.

Endorsed Dra^t to the Board of Trade.March 24th 1763.

Privy Council Documents

Volume II Contents

[29 March, 1763.]

1763.

March 29th.

Representⁿ to His Majesty with the Draught of Instructions for Tho^s Graves Esq^r Gov^r of Newfdland.

No. 91.

Newfoundland.

REPRESENTATION OF THE LORDS OF TRADE,

SUBMITTING DRAFT OF A COMMISSION, APPOINTING THOMAS GRAVES TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

C.O. 195, Vol. 9, pp. 161, 162.

To the King's most Excellent Majesty,

May it please Your Majesty,

In Obedience to Your Majesty's Commands signified to us by the Earl of Egremont, one of Your Majesty's principal Secretaries of State, in his Letter dated the 24th instant, We have prepared, and humbly beg leave to lay before Your Majesty, a Draught of Instructions for Thomas Graves Esquire, whom Your Majesty has been pleased to appoint Governor and Commander in Chief in and over the Island of Newfoundland and all the Coast of Labradore, from the Entrance of Hudson's Streights to the River S^t Johns, which discharges itself into the Sea nearly opposite the West end of the Island of Anticosti, including that Island, with any other small Islands on the said Coast of Labradore, and also the Islands of Madelaines in the Gulph of S^t Lawrence.

In this Draught We have added to that lately approved by Your Majesty, the 1st 3^d 10th & 11th Articles, and made such Alterations, as appeared necessary in order to render the Instructions of Your Majesty's said Governor conformable to the Extent of his Commission.

* * * * *

All which is most humbly submitted,

CH^s. TOWNSHEND.
SOAME JENYNS.
ED. BACON.
JOHN YORKE.
EDMOND THOMAS.
GEO. RICE.
ORWELL.

Copy.

Whitehall }
March 29. 1763. }
Ex^d.

No. 92.

Newfoundland.

DRAFT OF INSTRUCTIONS

PASSED UNDER THE ROYAL SIGN-MANUAL AND SIGNET FOR THOMAS
GRAVES AS COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

C.O. 195, Vol. 9.
pp. 164-216.

1763.
March 29th.

blank in orig.

Instructions to Our Trusty & Well-beloved Thomas Graves Esquire Our Governor and Commander in Chief in and over Our Island of Newfoundland in America, and all the Coast of Labradore from the Entrance of Hudson's Streights to the River S^t Johns, which discharges itself into the Sea nearly opposite the West end of the Island of Anticosti, including that Island with any other small Islands on the said Coast of Labradore, and also the Islands of Madelaines in the Gulph of S^t Lawrence, as also of all Our Forts and Garrisons erected and established, or that shall be erected and established in Our said Islands, or on the Coast of Labradore within the Limits aforesaid. Given at Our Court at S^t James the day of 1763, and in the third year of Our Reign.

With these Our Instructions you will receive Our Commission under Our Great Seal of Great Britain, constituting you Our Governor and Commander in Chief in and over Our Island of Newfoundland in America, and all the Coast of Labradore from the Entrance of Hudson's Streights to the River S^t John, which discharges itself into the Sea nearly opposite the West end of the Island Anticosti, including that Island, with any other small Islands on the said Coast of Labradore, and also the Islands of Madelaines in the Gulph of S^t Lawrence, as also of all our Forts and Garrisons erected and established, or that shall be erected and established in Our said Islands, or on the Coast of Labradore within the Limits aforesaid, with Directions to obey such Orders and Instructions as shall from time to time be given you under Our Signet and Sign Manual, or by Our Order in Our Privy Council.

First. You are therefore to fit yourself with all convenient

speed, and to repair to your said Command, and, being arrived, you are to take upon

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you the Execution of the place & Trust We have reposed in you, and, as soon as conveniently may be, to assemble the principal Inhabitants in the Island of Newfoundland, and in such other places as you shall judge proper or necessary within your said Government, and with all due Solemnity to cause Our said Commission under Our Great Seal of Great Britain, constituteing you Our Governor & Commander in Chief as aforesaid, to be read and published at such meetings.

2. Whereas by the Treaty with France made at Utrecht in 1713, it is stipulated, "That the Island called Newfoundland, with the adjacent Islands, shall from that time forward, belong of Right wholly to Britain, and that it shall not be lawful for the Subjects of France to fortify any place in the Islands of Newfoundland, or to erect any Buildings there, besides Stages made of Boards and Huts necessary & usual for drying of Fish, or to resort to the said Island beyond the time necessary for Fishing and drying of Fish; but that it shall be allowed to the Subjects of France to catch Fish and to dry them on Land, in that part only, and in no other besides that of the said Island of Newfoundland, which stretches from the place called Cape Bonavista to the Northern point of the said Island, and from thence, running down by the Western side, reaches as far as the place called Point Riche," which Stipulations have been renewed and confirmed by the 5th Article of the definitive Treaty lately concluded at Paris, It is therefore Our express Will and Pleasure, that in all things which regard the said Fishery from Bonavista to Point Riche, you do conform yourself, with great care and attention, and with Justice to the Subjects of both Crowns, to the Stipulations contain'd in the said Articles, Copies of which are hereunto annexed.

3. And whereas by the said 5th Article of the Treaty lately concluded at Paris, We have consented to leave to the Subjects of the most Christian King the Liberty of fishing in the Gulph of S^t Lawrence, on Condition that the Subjects of France do not exercise the said Fishery but at the distance of three Leagues from all the Coasts belonging to Great Britain, as well those of the continent as those of the Islands, situated in the said Gulph S^t Lawrence, You are hereby required to carry the Stipulations of the said Clause into full execution, within the Limits of your Government.

4. You are to use your best Endeavours to prevent any Aliens or Strangers whatever from fishing or drying Fish on any of the Coasts, or in any of the Harbours of the Islands and Territories under your Government, unless in the Exceptions made by the 13th Article of the Treaty of Utrect, and the 5th

Article of the late definitive Treaty, confined to the Subjects of France permitted to fish within the District and Limits mark'd out by those Treaties, and under the several Restrictions specified in the Articles themselves.

5. And whereas by the 6th Article of the said Treaty lately concluded at Paris, a Copy of which Article is hereunto annexed, the Islands of

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S^t Peter and Miquelon are ceded to France, "to serve as a shelter to the French Fishermen, His most Christian Majesty engaging not to fortify the said Islands, to erect no Buildings upon them but merely for the Convenience of the Fishery, and to keep upon them a Guard of fifty Men only, for the Police" you are therefore from time to time to enquire and report to Us, by Our Commissioners for Trade and Plantations, whether the Stipulations contained in the said Article are duly observed; And you are to use your best Endeavours to prevent any Commerce between Our Subjects under your Government and the said Islands, by means whereof the Inhabitants of those Islands may have the double Advantage of getting easily and cheaply the materials for building Vessels, & erecting Houses & Works necessary for the Fishery, and of circulating French Produce & Manufactures amongst the British Fishermen.

6. And whereas by the 24th Article of the said definitive Treaty, lately concluded at Paris, an Extract of which is hereunto annexed, it is stipulated, "that France shall enter into possession of the said Islands of S^t Peter and Miquelon, at the end of three months after the Exchange of the Ratifications of the said Treaty," you are therefore to conform yourself to the said Stipulation, and to give all possible Aid and Assistance to Our Subjects, who may now be resident on the said Islands, in the removal of their Persons and Effects.

7. It is Our further Will and Pleasure that you do, from time to time, as the nature of the Service will allow, visit all the Coasts and Harbours of the said Islands and Territories under your Government, in order to inspect and examine the State and Condition of the Fisheries, which are or may be carried on upon the said Coasts and Islands; You shall also use your best Endeavours to procure accurate draughts or Maps of the several Harbours, Bays and Coasts of Newfoundland, and the other Islands and territories under your Government, and you are more particularly to direct the Officer of any Vessel under your Command, which lyes between Hudson's Streights and the Streights of Bellisle, to search and explore the great Inlet commonly known by the name Davis's Inlet, in order to discover, whether the same has or has not any passage to Hudson's Bay, or any other inclosed sea.

8. You are also to enquire and report to Us, by Our Commissioners for Trade & Plantations, whether any or what further Establishment may be necessary to be made, or Forts erected in any part of Newfoundland, or the other Islands or Territories under your Government, either for the Protection of the Fishery, the Security of the Country, or the establishing and carrying on a Commerce with the Indians residing in or resorting to the said Islands, or inhabiting the Coast of Labradore.

9. You are not to permit the Subjects of any foreign Prince or State whatever to carry on any commerce with the said Indians, and to use your

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best endeavours to conciliate their Affections, and to induce them to trade with Our Subjects, reporting to Us, by Our Commissioners for Trade and Plantations, the best Account you can obtain of the Number of the said Indians, the places they frequent, the Nature and extent of the Commerce that is or may be carried on with them, and how the same may, in your Opinion, be further extended and improved.

10. And whereas We have been informed that a very considerable and advantageous Whale and Sea Cow fishery may be carried on in the Gulph of S^t Lawrence and upon the Labradore Coast, it is therefore Our Will and Pleasure, that you do give all possible encouragement to such Fishery, and report to Us, by our Commissioners for Trade & Plantations, your opinion in what way, and by what means, so valuable a Branch of Commerce may be extended and improved.

11. You are also to make a very particular enquiry into, and report to Us as aforesaid, the actual State and nature of the Fisheries carried on by the Subjects of France in every distinct Branch thereof, as well that which is carried on for Morue Verte upon the Banks without the Gulph S^t Lawrence, as the dry Fishery carried on at Miquelon and S^t Peter's upon the Coast of Newfoundland, from Bonavista to Point Riche, or in other parts of the Gulph of S^t Lawrence, and you are to be as particular as may be in Your Accounts of the Number and Nature of the Ships and Boats employed in those different Fisheries, the Number of Men, the Quantity of Fish caught, cured and carried to Market, and, in general, of every other Circumstance that may furnish a precise State of this Branch of the Commerce of France.

12. You shall strictly enjoin all Our Officers and Soldiers and other persons whatsoever, belonging to the present and future Garrisons in Newfoundland, and the other Islands and Territories under your Governm^t not to engage in the Fishery there, no interrupt the Fishermen in the curing of their Fish,

nor to take up for themselves any Beaches, Stages or Cookrooms upon any pretence whatsoever, upon pain of Our highest Displeasure.

13. And you are particularly to suppress the engrossing of Commodities, as tending to the prejudice of the Fishery and the Persons employed therein.

14. And shall transmit unto Us, and to Our Commissioners for Trade & Plantations, in order to be laid before Us, an Account of the Arms, Ammunitions and Stores that have been sent from Our Office of Ordnance here, to Our Forts and Garrisons in Newfoundland, and likewise an Account of the State of Our said Forts, how the said Stores have been employed, and whether any of them, and how many of them have been sold, spent, lost, decay'd or disposed of, and to whom and to what uses, together with an Inventory of all such Arms, Ammunition & Stores as are remaining in Our Magazines there, as also a Duplicate thereof to Our Master General or principal Officers of Our Ordnance, which Accounts are to express the particulars of Ordnance, carriages, Ball Powder & all other sorts of Arms

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& Ammunition in Our publick Stores at your Arrival, and so yearly of what shall be sent thither, specifying the time of the Disposal and the Occasion thereof.

15. Whereas by the Act *for the Encouragement of Trade*, pass'd in the fifteenth year of King Cha^s the second, no Commodities of the Growth, Production or Manufacture of Europe, except Salt for the Fishery of New England and Newfoundland, Wines of the Growth of the Madeiras or Western Islands or Azores, Servants, Horses and all Sorts of Victuals of the Growth and Production of Ireland, shall be imported into any of Our Colonies or Plantations, but what shall be bonâ fide and without Fraud, laden and shipped in Great Britain and in ships duly qualified; And whereas Complaint has been made of Masters of Ships and others carrying on a Clandestine Trade amongst the fishing Ships from Great Britain with others from Our Colonies & Plantations in America, contrary to the intent & meaning of the said Act, you shall use your utmost endeavour for the due Observation of the said Act.

16. You are to permit a free Exercise of Religion to all Persons, except Papists, so they be contented with a quiet and peaceable Enjoyment of the same, not giving Offence or Scandal to the Government.

17. It is Our Will and Pleasure that you do cause the Laws made against Blasphemy, Prophaneness, Adultery,

Fornication, Poligamy, Incest, Prophanation of the Lord's day, swearing and Drunkenness to be vigourously executed, and that you take due care for the Punishment of the aforementioned Vices, by presentment upon Oath to be made to the Justices of the Peace in their Sessions, by their Constables, or other inferior Officers of the several Harbours, at the proper times of the year to be appointed for that purpose; And, for the further Discouragement of Vice and Encouragement of Virtue and good Living, you are not to admit any Person to act as a Justice of the Peace, whose ill Fame or Conversation may occasion Scandal; and especially you shall take Care that the Lord's day be devoutly and duly observed, that the Book of Common Prayer, as by Law established in this Kingdom, be ready each Sunday and Holiday, and the blessed Sacrament administered according to the Rites of the Church of England, in all such Chappels or publick places of worship as are already or may be settled there.

18. And if any orthodox Minister there shall appear to give Scandal, either by his Doctrine or manners, or shall preach or administer the holy Sacrament in any Orthodox Church or Chappel, without being in due Orders, you shall give Account thereof to the Lord Bishop of London.

19. And you are to take especial Care, that a Table of Marriages, established by the Canons of the Church of England, be hung up in every orthodox Church or Chappel and duly observed.

20. If anything shall happen which may be of advantage or Security to Our said Islands and Territories under your Government, which is not

herein, or by Our Commission provided for, you are hereby allowed to take order for the present herein, giving to Our Commissioners for Trade and Plantations speedy notice thereof, in order to be laid before Us, that so you may receive Our Ratification, if We shall approve of the same; Provided always that you do not, by Colour of any Power or Authority hereby given you, allow or encourage anything to be done contrary to the true intent and meaning of an Act of Parliament passed in the 10th & 11th years of the Reign of King William the third, entituled an *Act to encourage the Trade to Newfoundland*, nor contrary to any of the Laws or Statutes of this Our Realm.

21. And you are upon all Occasions to send unto Our Commiss^{rs} for Trade & Plantations only, a particular Account of all your Proceedings, and of the Condition of the Affairs of the Islands and Territories under your Government, and the Trade and Fishery thereof, and of the Banks, Seas and Parts adjacent, in order to be laid before Us. Provided nevertheless that, when any Occurrences shall happen within your Government, of such a nature and Importance as may require Our more immediate Direction by one of Our principal Secretaries of State, you shall in all such Cases transmit to Our Secretary of State only, an Account of all such Occurrences and of your Proceedings relative to such Orders.

22. Whereas by the said *Act to encourage the Trade to Newfoundland*, many things are enacted for the due & orderly carrying on of the said Trade, which are necessary for your Observation in inspecting the same, during your stay in those parts, you are therefore, in order to the better regulating your Conduct in that Service, to carry with you a Copy of the said Act, for your own use and Government.

23. You are likewise carefully and diligently to enquire and observe, whether the several Rules and Orders contained in the said Act for the more advantageous management of the Fishery, be duly observed by all those concerned therein, viz^t.

24. You are to see that due care be taken by the Admirals in their respective Harbours, and by the Masters of the fishing Ships using that Trade, that no sort of Ballast, nor press Stones, or anything else hurtfull, to or annoying any of the Harbours there, be thrown out of any Ship or otherwise, to the prejudice of any of the said Harbours, and likewise to make the following Enquiries.

25. Whether any Person, at his departure out of the said Country, or at any other time, do destroy, deface or do any detriment to the Stages, Cookrooms, Flakes, &c., or to the materials thereunto belonging, which had been possessed by

himself or others, and whether they repair the defects, that may be in their Stages or other Conveniences, by Timber fetched out

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of the Woods, and not by committing any manner of Spoil or Waste upon the Stages already built.

26. Whether the Admirals, Vice Admirals or Rear Admirals of the Harbours and the Commanders of the other fishing Ships in each Harbour, do observe the Rules prescribed by the said Act against engrossing more Beach and Flakes than each of them have necessary use for, also against possessing several places at once, to the hindrance and prejudice of others, and relating to the Election of such places as any of them, whose right it is, shall choose to abide in; and, in case of any difference, whether the Admirals in their several Harbours do proportion the place to the Ships, according to the number of Boats which each of the said Ships do keep?

27. Whether these Inhabitants or others, who since the year 1685, had engrossed several Stages, Cookrooms, Beaches and other places, which, before that time, belonged to the fishing Ships, to the prejudice of such fishing Ships are arrive there in the fishing season, have, according to the direction of the aforesaid Act, relinquished & left the same for the publick use of the fishing Ships arriving there?

28. Whether the Inhabitants have possessed or do possess themselves of any such Stages, Cookrooms &c., or of any Trainfats or other Conveniences, which have belonged to any fishing Ships at any time since the year 1685, before the yearly arrival of the fishing Ships, and until all such Ships are provided with Stages, Cookrooms, &c., according to the said Act?

29. Whether the By-boat keepers pretend to or meddle with any House, Stage, Cookroom, Trainfat, or other Conveniency, that did belong to the fishing Ships since the year 1685, or that has been cut out or made by Ships after the 25 of March 1700?

30. Whether the By-boat keepers and the Masters of fishing Ships do carry over with them such numbers of fresh Men, in proportion to their respective Companies of Seamen, as the Act directs? Whether they are furnish'd with Certificates of their having made Oath before their Sailing from this Kingdom, that they do carry with them such a Number of Green Men? to whom they do produce such Certificates? and do the Admirals or the Customs House Officers keep any Account or make any return thereof?

31. Whether the Inhabitants do also employ such numbers of fresh or green Men as the said Act directs, and whether the

Admirals take care that they punctually comply therewith.

32. Whether any Persons do presume to expunge, cut out, deface or alter the Mark of any Boats or Trainfats of other persons and convert them to their own use, or remove the same from the places where they were left by the Owners, contrary to the Directions of the said Act?

33. Whether any Person whatsoever rind any of the Trees, set fire to any of the Woods, or do or cause to be done any detriment or destruction to

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the same for any use whatsoever, excepting only for necessary Fewel, for building and repairing Houses, Ships, Boats, Trainfats, Stages, Cookrooms and other Conveniences for the Fishery?

34. Whether the Rules ordained by this Act for preventing any Annoyance or Hindrance in the Hauling of Sains in the customary baiting places, and against the stealing of Baits and Nets, be duly observed?

35. Whether the Admirals are careful, in order to preserve the peace and good Government, both in their respective Harbours, and on shore, to see that the Rules and Orders contained in the aforesaid Act be duly put in Execution? and whether each of the said Admiral do keep Journals and exact Accounts of the number of all Ships, Boats, Stages & Trainfats, and of all the Seamen and Inhabitants employed in their respective Harbours, that the same may be delivered, at their Return to Great Britain, as the Act directs?

36. And whereas it has been represented to Us, that the By-boatkeepers and Master of fishing Ships do not carry over with them, and that the Inhabitants do not employ such a number of fresh or green men as the aforesaid *Act of encourage the Trade to Newfoundland* directs, and that the Admirals in the respective Harbours do not take care to enforce a due Compliance therewith, or to preserve Peace and good Government in their respective Harbours or on shore, and that they do not keep any Journals of the Number of Ships employed in the several Harbours, concerning themselves only with their own Fishery, and whereas such Omission and Neglect tend greatly to the prejudice of Our Service, and to defeat the good Intentions of this Provision of the said Act, which is calculated for increasing the number of Seamen for the Service of Our Navy, and the promoting the Trade & Navigation of this Kingdom, it is therefore Our Will and Pleasure, and you are hereby directed and required to use your utmost endeavour to enforce a due and exact Compliance with the said Act *for encouraging the Trade to Newfoundland*, and

that you do in these and all other particulars recommend to the Admirals in the respective Harbours to keep regular Accounts, & do all such others things as the Acts directs, upon pain of Our highest Displeasure.

37. You are also to enquire whether, upon any Differences that do arise in any of the Harbours touching any of the aforesaid Matters, the Admirals of those respective Harbours do determine the same according as the said Act directs, and, in case any persons think themselves agrieved by the Sentences of the Admirals, whether those Persons appeal unto you or unto the Commanders of Our Ships of War, for a final Determination, and both Parties submit accordingly thereunto?

38. Whether the Lord's day be strictly and duly observed, and whether the Inhabitants, who keep any sort of publick houses for entertainment, do forbear on that day to utter or sell any sort of strong Liquor or Tobacco, as by the said Act is directed?

39. Whether any Aliens or Strangers, not residing in the Kingdom of

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Great Britain or Ireland, do resort to Newfoundland or to the Islands adjacent thereto, and take Bait, or use any sort of Trade or fishing whatsoever in those parts?

40. And as you are to transmit your Answers to the foregoing Enquiries, which are founded upon the foresaid Act of 10 & 11th of King William the third, so you are likewise to take an exact Account of the Number of the British fishing Ships and sack Ships, and Ships and Vessels from America, that arrive this year in the Islands and Territories under your Government.

The Burthen of the said Ships and the number of their men.

The number of the Passengers transported by the fishing Ships.

The number of Boats employ'd by the British fishing Ships, by the Ships from America, by the By-boat keepers and by the Inhabitants.

The number of the By-boat keepers and their Servants.

The Quantity of Fish and Train Oil made by the British fishing Ships, by the Ships from America, by the By-boat taken by the Inhabitants.

The Value of Seal Oil and of Furs taken by the Inhabitants last Winter.

The number of Stages and Trainfats belonging to the Fishery.

The total quantity of Fish carried to foreign Markets.

The prices the said Fish and Oil are sold at, both in Barter for Goods, and for good Bills payable here.

The number of publick & private Houses.

The number of Inhabitantsts, and how many have been born or have died there, since the departure of the last year's Convoy.

Which you are to send by the first conveyance that offers, according to the usual form hereunto annexed.

Moreover you are particularly to inform yourself,

41. In what manner the Inhabitants are subsisted, what Land is there improved? Whether the Country produces such Provisions as they want, and whether they have any number of Cows, Sheep and Swine, or whether they receive any Provisions from Our Plantations in America, of what sorts or kind, and the quantities thereof?

42. Whether the said Inhabitants are wholly supplied with Sail Cloth, Nets and Tackle for their Fishery, and with Woolen, Linen, Leather and other Manufactures for their use and wear from this Kingdom, or whether they are furnished with any of the aforesaid necessaries from the plantations or from any foreign Country whatsoever?

43. What wages do the said Inhabitants allow to their Servants and in what manner do they pay them?

44. How much does the Charge of fitting out and maintaining one of their fishing Boats for the whole Season, amount to?

45. Whether the Inhabitants have any other Employment in the fishing Season for their Servants than taking and curing of Fish? whether

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they are diligent therein? how many men they allow to each of their fishing Boats? whether they can afford their Fish as cheap as the fishing Ships and the By-boats, or what difference is made between the price of the one & the other?

46. In what manner they employ themselves and their Servants after the fishing Season is over and during the Winter? whether they are industrious in providing and making necessaries for the next fishing Season? or, on the contrary, whether they mispend a great part of their time in Debaucheries & Excesses?

47. Whether any Trade is carried on for Beaver and other Furs by the Inhabitants, or by any other who remain in the Country? what quantity they have taken this last winter, and whether they have any Traffick with the Indians?

48. Whether the Houses, Buildings and Inclosures of the Inhabitants are at such distance from the water side as not to hinder or obstruct the Fishermen in making their Flakes, or in

drying and curing their Fish?

49. Whether the Inhabitants claim a right to all such Stages, Cookrooms, Flakes &c. as they have made or built in their fishing places, which have not been possessed by the fishing Ships since the year 1685, tho' they make no use of them?

50. Whether such fishing places and conveniences are free for the publick use of the fishing Ships arriving there, and nothing insisted on, or demanded by the said Inhabitants for their use and Hire?

51. How many Flakes are allowed to each fishing Boat, & of what length? whether they are extended in length, according to the ancient Custom, from the shore up into the Land? or whether any of the Inhabitants or Fishermen extend their Flakes along the shore, or possess a larger Front to the water side, according to the number of Boats, than was formerly allowed?

52. Whether it was ever ascertained or determined in the several, or in any of the Harbours in Newfoundland, what fishing places did belong to the fishing Ships before the year 1685; and whether any Account is kept of those fishing places, which they have been in possession of since that year, in order to prevent such disputes as must otherwise very frequently happen between the Masters of the said Ships & the Inhabitants?

53. Whether the fishing Ships that proceed directly from this Kingdom to Newfoundland are victualled here, and provided with all other necessaries of British produce and Manufacture for the whole Voyage? or whether the Masters or Freighters do not furnish themselves with Provisions, that are brought from the Plantations or other parts to Newfoundland?

54. Whether any British Ship arriving at St John's, or in any other

Harbour in Newfoundland from Portugal or other foreign parts, before any Ship that was cleared form this Kingdom, has been at any time permitted to be Admiral of the Harbour? or whether, according to the Custom of Newfoundland, such Ships only as are cleared from Great Britain, have a right to be Admirals?

55. Whether the Admirals, or any other Ships who arrive early at S^t John's or in the other Harbours, do put their Passengers, or any of them, into possession of the most convenient, or of any other fishing places, stages &c^a upon pretence they are Freighters of their Ships, before the Arrival of the other fishing Ships, or before they are all provided?

56. Whether any of the By-boat keepers, who remain in the Country during the Winter, and that are not Inhabitants, do retain to their own use, or for the use of themselves and their Partners, who are expected by the fishing Ships, the fishing places, Stages, Beaches, Flakes, &c^a which they possessed the preceding year? or whether they take Possession of any others that may be more convenient for them in the ensuing fishing season, before the arrival of the fishing Ships, or before the said Ships are well supplied?

57. Whether any of the fishing Ships pursue or follow the old laudable Custom of allowing their Ships Companies Shares of what they make in the Voyage, instead of Wages, and, in such case, how much doth the Charge of fitting out and maintaining a Ship of one hundred Tons with fifty Men and ten Boats amount to for the whole voyage?

58. Whether any Commodities of the Growth, Production or Manufacture of Europe, that are not bonâ fide & without Fraud laden and ship'd in this Kingdom, be imported and brought into Newfoundland, all such Commodities being prohibited by the 15th Car. 2^d, Chap 7th except Salt for the fishery, Wine of the Growth of and from the Madeiras and the Azores or Western Islands, and Victuals &c., from Ireland?

59. How these Commodities are disposed of, whether only to the Fishery, viz^t to the Seamen and Inhabitants? or whether any Trade be driven by selling those Goods to the Ships belonging to New England and other Plantations, in order to supply the said Plantations with such Commodities as they ought to have directly from Great Britain, and not otherwise?

60. What quantities of Rum and other Plantation Goods are brought to Newfoundland? more especially of those enumerated in former Acts of Parliam^t? Whether any of these enumerated Commodities are sold to the Ships bound to Portugal and other foreign parts, so as to make an indirect

Trade to those Countries in Goods which ought not to be carried thither before they have been first landed in Great Britain?

61. In what manner is the Trade between Newfoundland and any other or Our American Colonies carried on? What Quantities of Rum, Melasses[sic],

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Wine, Sugar, Tobacco, Flour and other Provisions have been imported this year? to whom and at what prices are the said goods sold? are they paid for in Fish or in Bills? If in Fish, is it disposed of again, or loaded in the Sack Ships for Europe? and what Value is it computed, that the goods sold may annually amount to?

62. How many Taverns or publick Houses for Entertainment may there be kept in Newfoundland, or, at least, in the Harbour of St. John's? are they kept only by the Inhabitants or by the By-boat keepers, and the people of New England also? do they trust the Fishermen upon their own Credit, or do the Master of the Ships and of the By-boats permit them to trust their Crews, and deduct the same out of their respective Wages, Hire or Shares, in order to satisfy the said Tavern-keepers? are not the poor Seamen hereby tempted to spend the greatest part, or the full Amount of their wages, and frequently run so far in debt, that they are forced to remain as Servants to the Inhabitants, and at last constrained to betake themselves to New England?

63. Whether the Inhabitants do not usually trust their own Servants with Rum and other Stores to a greater Value than their Wages amount to? and whether they are not generally paid in the manner as in the foregoing Article?

64. How much do the By-boatmen and the Inhabitants allow to the Masters of the fishing Ships for the Passage of their Servants, both out and home? in what manner do the said Inhabitants pay the Masters of the fishing Ships for the same, and for the several necessaries they supply them with? and whether a considerable part of these Debts is not secured by suffering their Seamen to run in debt to the Inhabitants?

65. Whether this method of trusting Fishermen is not the occasion of many Thefts & Disorders? are they not by their Debaucheries often withdrawn from and rendred[sic] unfit for their Labour, to the great Discouragement and Obstruction of the Fishery?

66. Whether the Masters of the fishing Ships and By-boats do not connive at or encourage their Men to remain in the Land, that they may save the Charge of carrying them home? What number of Men do stay behind yearly, and particularly last year? what number of Irish Catholicks is there in all the

Towns in Newfoundland, and what proportion do they bear to the Protestants?

67. Whether the American traders do still continue to entice and carry thither numbers of Handicraft men, Seamen and Fishermen, and whether any of the Inhabitants do favor or assist them therein?

68. And whereas this practise must be prevented, if possible, you are to require all the Masters of the American Ships and Vessels, before their departure from Newfoundland, to enter into Obligation not to carry away

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any of the Seamen &c, and all possible care must be taken to have those Obligations so witnessed, that, in case it be thought proper to put them in execution, they may not be invalidated for want of Evidence. And you are likewise to be as strict as is practicable to oblige all such American Ships as may be in Newfoundland to sail from thence at the same time you shall leave the Land, and to get all the proof that can be had of the Breach of any Obligations, enter'd into as aforesaid, and to transmit an Account thereof to Our Commissioners for Trade and Plantations.

69. And whereas Complaints have formerly been made that, by reason of the ill curing of the Fish in Newfoundland, the Consumption thereof has been considerably lessen'd; and that the Trade would be lost if effectual care was not taken to reform the same.

You are therefore to command the Admirals of the Harbours strictly to enjoin the Masters of the fishing Ships, the By-boat keepers & Inhabitants to take the greatest care in curing their Fish with good Salt and with a sufficient quantity, and in preparing, husbanding & ordering the same; that the credit thereof may be again recovered; and that it may be well received and esteemed in several places to which it is carried for Sale.

And as the said Admirals are obliged to have a watchful Eye upon such as are negligent herein, so they are to return to you the Names of those, who will not comply with this Admonition.

And further you are upon this occasion very particularly to enquire into their manner and method of taking and curing their Fish; What quantity of Salt they allow for the curing every hundred Quintals? whether they are guilty of any Abuse in the ordering thereof? whether the Fish taken at a distance from the Land by their small Vessels, is not prejudiced before it is brought on shore? whether the Inhabitants, the fishing Ships, or the By-boat keepers are most to be blamed? and, in short, from whence these Complaints did arise, and what methods are to be taken to prevent or rectify whatsoever is

amiss?

70. And whereas there is a Salmon Fishery erected in Freshwater Bay, Ragget Harbour, Gander Bay and Dog-Creek, between Cape Bona Vista and Cape John in Newfoundland, and a second, which is since erected by other Persons at Grand Salmonier, Little Salmonier &c^a in the same Island, which may prove of Advantage to Great Britain, it will be necessary that you give all due Encouragement and protection to those undertakings, whereof you will inform yourself, & transmit the fullest Account you can get of the same to Our Commissioners for Trade & Plantations.

71. And whereas Our late Royal Grandfather did, by His Letters Patent under the Great Seal of Great Britain bearing date at Westminster the 31st day of May in the second year of his Reign, constitute and appoint Henry Osborne Esq^r to be Governor & Commander in Chief in and over the said island of Newfoundland, with power to constitute and appoint Justices of the Peace, with other necessary Officers and Ministers, for the better Administration of Justice, and keeping the Peace and Quiet of the said

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Island, which powers have been continued to all the subsequent Governors there, and are contained in our Commission to you; You are, upon your Arrival in the Island, to make Enquiry what Effect that Commission has had; what Justices of the Peace are now in actual Commission, and do execute the same in the respective Towns in Newfdland, particularly at Placentia; how and in what manner such Justices of the Peace behave in the execution of that Power; Whether the Inhabitants & Planters have duly submitted thereto; and what (if any) Obstructions have been given to the Execution of that Authority; and to return your Observations thereupon, with what you think may be further done for keeping the Peace & Quiet of the said Island, & of the Inhabitants residing therein, to Our Commiss^{rs} for Trade & Plantations.

72. And whereas Complaints have been made to Us that, notwithstanding all the precautions taken by Our said Governors for preserving the Peace in Newfoundland, Disputes have arisen between the fishing Admirals and Our Justices of the Peace in the said Island, and that some of Our said Justices had been guilty of great Irregularities, to the Oppression of Our good Subjects; Now you are, upon your arrival at Newfoundland, to enquire into the truth of all such Complaints, and to supersede such Justices of the Peace as shall appear to you to have acted unwarrantably in the execution of their Office. And you are strictly to prohibit those, who are or shall be appointed Justices, from interfering in any degree with the fishing Admirals, appointed Justices,

from interfering in any degree with the fishing Admirals, in such matters relating to the Fishery as are reserved for their Jurisdiction by the aforesaid Act *for encouraging the Trade to Newfoundland*; taking care at the same time, that the said fishing Admirals do their duty also, according to the intention of the said Act. You are to be very particular in your Observations upon these Subjects, which you are to return to Our Commissioners for Trade & Plantations, in order to be laid before Us.

73. Whereas Complaint has been heretofore made, that the Sack Ships, always jealous of each other, and contriving who shall carry their Fish first to Market, frequently ship it before it is cured, whereby it suffers in the passage, and brings the Fishery into discredit in foreign Markets, you shall make particular enquiry into this Complaint, and suggest to Us the best means that occur to you, for preventing the said Evil for the future.

74. Whereas in the Answers returned to the like Queries by some former Commodores, some of the Columns in the Scheme of the Fishery have been returned blank, in case you find it necessary to do so likewise, you are then to mention in such Column, whether the Numbers, Prices and Quantities belonging thereto are included in any other Column, and in which Column they are so included, or whether there was no fishing this year in those Harbours, or that there was fishing, but that you had not obtained any Account thereof. And, if there be any Fishing in any other River or Harbour in Newfoundland, or the other Islands and Coasts under your Government, not in this Scheme mentioned, you are to add a Column or Columns for the same, and insert therein the best Account you can get, with

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your Remarks on such as you think imperfect or doubtful in any of the particulars.

75. And whereas the Answers to the several Heads of Enquiry contained in the Instructions to former Governors of Newfoundland, and the Returns made of the Trade and Fishery thereof, according to the usual form hereunto annexed, have frequently been very defective and inaccurate, you are hereby strictly commanded to be very exact in your Enquiry and Examination into every particular to which these Our Instructions have reference; to endeavour to collect the Material, from which your Answers are to be formed, from the best Authorities; and to enjoin the Admirals or other proper Officers, in those Harbours, to which your personal Inspection make to you, that those Returns be properly attested and signed by them, and that the number of Ships, their Tonnage, their number of Men, the Places from whence they come, and the

Quantity of Fish taken, cured and carried to Market by each ship, be particularly expressed. And you are likewise to transmit to Our Commissioners for Trade & Plantations, in order to be laid before Us, all such other Information, with respect to the Fishery, as may enable Us to judge of the true and precise State of it in every particular, and of what may be further necessary for extending and improving so valuable a Branch of the Commerce of these Kingdoms.

76. Whereas We have thought fit by Our Commission to you, to give & grant unto you full Power & Authority to constitute and appoint Judges, and, in cases requisite; Commissioners of Oyer and Terminer for the Hearing and determining of all Criminal Causes, Treason excepted, Justices of the Peace, and other Officers and Ministers for the Administration of Justice, with Power also to pardon Offenders, and to remit all Offences, Fines & Forfeitures, willful Murther only excepted, in which case you have likewise power, on extraordinary Occasions, to grant Reprieves; it is Our express Will and Pleasure that you do not appoint any such Commissioners of Oyer & Terminer to meet or hold Assizes more than once a year, and that only during the time you or the Governor for the time being shall be resident there, and that you do not suffer any of the Officers of Our Ships of War or of any of the trading Ships of Our Subjects, which shall happen to be there, to be deprived of Life or Limb by any Sentence of such Court, but in such case you shall relieve the Criminal until Our Pleasure be known therein. And you shall take especial Care, that all Persons guilty of Treason be sent over to this Kingdom with Witnesses and sufficient proof of the Crime along with them. And it is also Our express Will and Pleasure, that you do, with your Answer to the foregoing Enquiries, return also a full Account of what you shall have done in pursuance of this Power of appointing Judges; what Proceedings have been had before the said Judges, what Obstructions or difficulties you or they have met with (if any) in putting the said Powers in Execution; and which way you conceive We may contribute to render it more usefull and beneficial to all Our Subjects, residing in or resorting to the Islands & Territories under your Government.

COPY.

Privy Council Documents

Volume II Contents

[25 April, 1763.]

Instructions for proceeding wth the Antelope & Spy Sloop to Newfoundland & for command^g in chief there.

Pearl.
On the coast of Labrador, between Belleisle, and the River S^t Johns, and round the Island of Anticoste.

[2 May, 1763.]

Tweed.
Between Cape Ray and Cape Race.

Terpsichore.
Between Cape Race and Carpoon.

Lark.
In the Straits of Belleisle, and thence along the West Coast of Cape Ray.

Tamer.
With t he fishing vessels on the Grand Bank, on the East side of the Island.

Pool, Topsham
Dartmouth
Plymouth.

No. 93.

COMMISSION APPOINTING
THOMAS GRAVES GOVERNOR OF
NEWFOUNDLAND.

Vide Vol. I., page 149.

No. 94.

C

Newfoundland.

ADMIRALTY INSTRUCTIONS TO CAPTAIN THOMAS
GRAVES

AS COMMANDER-IN-CHIEF OF HIS MAJETY'S SHIPS ON THE
NEWFOUNDLAND STATION.

ADM. SEC. OUT LETTERS. VOL. 90, pp. 174-184.

By &c^a.

Whereas we have appointed His Majesty's Ship Antelope under your Command together with the Ships and Sloop named in the Margin for Convoy and Protection of the fishing Ships bound this Year to and from Newfoundland, You will receive herewith for your Information Copies of the Instructions We have give to the Commanders of the Pearl, Tweed, Terpsichore, Lark, and Tamer Sloop for proceeding immediately to different parts of that Island as mentioned against their Names, and for following your Orders upon your Arrival there; And We having also directed the Commander of the Spy Command, and to cause the best dispatch to be used in getting the Antelope, and the said Sloop, ready for Service, agreeable to the directions We have already given; And then you are to put to Sea with them, taking particular care to do so without a moments [sic] loss of time, and proceed down the Channel, calling off the several Ports named in the Margin for any Ships or Vessels that may be ready to accompany you, without staying for others that may not be so, And then you are without loss of Time to go on to Newfoundland, and having seen the Trade as near the Land as you shall think proper for their Security you are to proceed with the Antelope and Spy Sloop in such manner as you shall judge best for the Service in the Execution of these Instructions.

1.

And Whereas you have received His Majesty's Commission appointing you Governor and Commander in Chief in and over

the Island of Newfoundland, the Coast of Labrador and the Entrance of Hudson's Streights to the River S^t Johns, the Island of Anticosti, Madelaine &c^a: and of all the Forts and Garrisons erected, or that shall be erected in the said Islands or on the said Coast: And also his Majesty's Instructions for your Government therein; You are to take particular care to act in all respects conformable to what is required by the said Commission and Instructions, and any other Instructions

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that you may receive from His Majesty relating to the aforesaid Island of Newfoundland, taking care to prevent all illegal Trade, during your continuing on that Coast, and also to secure the Fishery and Island from Piratical Ships or Vessels, and if any such there shall be, you are to use your utmost care to take or destroy them wherever you can meet with them.

2.

You are agreeable to an Act of Parliament of the 10th & 11th Years of King William the Third, entituled an Act to encourage the Trade to Newfoundland (which you will receive herewith) to be aiding and Assisting to the Admirals, Vice Admirals and Rear Admirals, of the respective Ports & Harbours of Newfoundland, from time as need shall require, in preserving the Peace and good Government among the Seamen and Fishermen, and in apprehending Offenders.

3.

You are to be careful that there be not taken into the Ships under your Command to be transported to Newfoundland, any Seamen or others than such as do belong to them, and as you are not to lend any of the Ship's Companys to any of the Fishing Ships, so neither are you to suffer to be taken on board them, any sort of Fish either by way of Merchandize, Freight or otherwise, excepting what shall be necessary for the Use and Spending of the Ships Companys.

4.

And Whereas the Lords Commissioners for Trade and Plantations have represented to us, that it is very prejudicial to this Kingdom, that the fishing Ships do not bring home from Newfoundland the Complement of men they carry out, many of them being enticed away to New England and others left in the Country; for which reason they have desired We should give you directions to signify to the Masters of all British Ships at Newfoundland, that they take care to bring home the Number of Men they carry out (except in case of Death) for that otherwise they will be prosecuted at their return; you are to let the Masters know the same accordingly, and to use your best endeavours to oblige them thereto, as far as in you lies.

5.

And Whereas no Foreign Ships or Vessels whatever, except as in hereinafter-mentioned, have any right to Fish at or about Newfoundland, and the Commanders of the Ships of War bound as Convoy thither have at all times past been directed, not to allow of their fishing in those Parts; It is therefore His Majesty's Pleasure that you take especial care to prevent the same, and that his Orders given herein be strictly complied with, and if you shall meet with any Foreign Ships fishing at or about Newfoundland, you are to oblige them to desist and depart from off the Coast, excepting Ships &

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Vessels belonging to the Subjects of His Most Christian majesty, fishing agreeably to the 13th Article of the Treaty of Peace concluded with France at Utrecht in the year 1713, and to the 4th 5th and 6th Articles of the Treaty of Peace concluded at Paris the 10th day of February, 1763, Copies of which you will receive herewith.

6.

And Whereas, by the said Articles of the Treaty of Paris, it is stipulated that the Province of Canada with all it's [sic] Dependencies, as well as the Island of Cape Breton, and all the other Islands & Coasts in the Gulph and River of Saint Lawrence, and all that depends upon them, shall belong to the Crown of Great Britain, but that the Subjects of France shall have the liberty of catching and drying their Fish upon a part of the Coast of Newfoundland only, to wit from Cape Bonavist[sic] to the Northward and as far as Point Riche, but not to remain there beyond the time necessary for that purpose, agreeable to the said 13th Article of the Treaty of Utrecht, by which the property of the whole Island of Newfoundland is ceded to Great Britain; And His Majesty has by the said fifth Article of the Treaty of Paris consented to leave to the Subjects of the Most Christian King, the liberty of fishing in the Gulph of Saint Lawrence, upon condition that they do not exercise the said Fishery, but at the distance of three Leagues from all the Coasts belonging to Great Britain, as well those of the Continent as those of the Islands situated in the Gulph of Saint Lawrence, and as to the Fishery out of the said Gulph, it is thereby stipulated that the Subjects of the Most Christian King shall not be permitted to exercize the said Fishery but at the distance of Fifteen Leagues from the Coasts of Nova Scotia or Acadia, and everywhere else out of the said Gulph, shall remain upon the footing of the former Treaties; you are therefore to use your utmost care, diligence and Attention, that the several Stipulations hereinbefore-mentioned be duly & strictly performed, according to the Tenor and Intention

thereof, as far as they shall come within the limits of your Command.

7.

And you are to exert your best endeavours to encourage and support the Whale Fishery, in the Straits of Belleisle and more particularly the Fishery in York Harbour and on the other parts of the Coasts of Labrador and to hinder any Trade and Intercourse being carried on by any Persons whatever other than the Subjects of Great Britain, with the Inhabitants of that Country, which of right belongs solely to His Majesty; And you are likewise to protect the Salmon and Seal fishery along the Coasts, and likewise the Fisheries carried on by His Majesty's Subjects in the Gulph of Saint Lawrence, near the Islands of Madelaine &c^a: and to settle and guard the Fishery not only at Placentia and Saint Johns, but as far to the Northward upon the Coasts of Newfoundland, and upon those of the Continent of Labrador, as His Majesty's Subjects shall be employed in catching and drying Fish, taking care to prevent the Subjects of France from giving them

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any disturbance by Acts of Violence, or Injustice, or by any evasion contrary to the Spirit and Intention of the said Treaties; And also to prevent the French from catching or drying their Fish, except within the distances and and[sic] in the manner beforementioned.

8.

You are at the same time to be careful that the Subjects of His Most Christian Majesty be permitted quietly and peaceably to enjoy the privilege of fishing in the Gulph of Saint Lawrence with the distance hereinbefore-mentioned, and of catching and drying fish on that part of the Coast of Newfoundland allowed by the Treaty of Utrecht and confirmed by the Articles of the Treaty of Paris beforementioned, but not to remain there beyond the time necessary for this purpose; And you are to use your best endeavours to prevent His Majesty's Subjects from giving them any Disturbance by Acts of Violence, or Injustice, or by any evasion contrary to the Spirit and Intention of the said Treaties.

9.

And in order that this Service may be more effectually performed, We have directed the Commanders of the Four Ships and Sloops named in the margin at the beginning of these Instructions to proceed upon the Stations thereinmentioned; and have ordered such of them whose Stations will allow of it, carefully to visit the several Harbours, Coasts, and Fishing Grounds, as well those upon the Coasts of

Newfoundland, as those upon the Coasts of Labrador, and to the Northward, with directions to them to prevent the French from drying their Fish or settling thereon, otherwise than as is hereinbeforementioned between Cape Bonavista, and Point Riche, or to fish nearer than the distances allowed by the beforementioned Treaties: and at the same time We have ordered them to make Charts of all the said Coasts, with Drafts of the Harbours, noting the Depths of Water, Conveniences for fishing and whatever Observations may occur worthy of our knowledge, which are to be transmitted by them to you, that they may be laid before us; all of which you are to take care they punctually comply with, unless from unforeseen Events, you shall find it absolutely necessary for the King's Service to employ them in any other manner, which you are at liberty to do, but will be responsible to us for your Conduct therein; And We expect that each of them should give us as exact and satisfactory information upon the several heads hereinbeforementioned as they can possibly procure, for which purpose notwithstanding the Stations allotted to them, you are at liberty to employ any of them, as far as it is consistent with the protection of the fishery, in such manner and on such part of the Coasts beforementioned as will best enable them to comply with Our Instructions on this Subject; and you are yourself, if practicable, to visit your duty will admit of in the Course of the Seasons, that you may compare the Reports made to you with your own Observations,

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And Whereas by the Twenty fourth Article of the said Treaty of Paris (Copy of which you will also receive herewith) possession of the Island of Saint Peters and Miquelon is to be given up to France at the end of three Months after the exchange of the Ratifications of the said Treaty you are therefore to Assist as far as shall be necessary, in delivering up the same, and bringing His Majesty's Subjects and their effects, if there are any in those Islands, to Newfoundland, and in case any endeavours shall be used to carry on an Illicit Trade from the said Islands of St Peters & Miquilon[sic], with the Island of Newfoundland, or with any other part of His Majesty's Dominions in North America, you are to be particularly attentive to the same, and prevent (if possible) all communication whatever between the said Islands of Saint Peters and Miquelon, and any part of His Majesty's Dominions in North America.

11.

When the early Trade shall be ready about the latter end of August, you are to order One of the Frigates to take them under Convoy, and proceed off Cape Finisterre, where he is to leave those bound to the Ports of the North Coast of Spain, and proceed off the Coasts of Portugal with the rest, calling at

Lisbon for any Trade that may be ready in Ten days, beyond which time, She is upon no Account to tarry there, and is then to proceed to Sea with such as may be ready and accompany them to the Downes and remain there for farther Orders.

12.

Whenever the Service will admit of it, you are to dispatch the *Terpsichore* to the Mediterranean, to follow the Orders of the Commanding Officer of His Majesty's Ships there; and to send home the other Frigates and Sloops, ordering their Commanders to proceed to Spithead, and to take with them any Trade ready, and desirous to accompany them.

13.

By the end of October you are to take under your Convoy the Fishing Ships which may then be bound to Portugal and Spain, and seeing them off their respective Ports as far to the Southward as Cadiz, You are at liberty to tarry there ten days (but on no Account to exceed that time) and then put to Sea with any Trade that may be there, for which you are not to tarry at farthest above Eight days, and then make the best of your way with any Trade ready to proceed with you to the Downes where you are to remain for farther Order.

Given &c^a this 2^d May 1763.

SANDWICH
CARYSFORT
HOWE
DIGBY
THO^s PITT.

Captⁿ Graves — *Antelope* — Plymouth.

By &c^a P.S.

COPY.

No. 95.

Newfoundland.

**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN**

APPOINTING HUGH PALLISER TO BE GOVERNOR AND COMMANDER-IN-
CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND, THE COAST
OF LABRADOR, ETC.

PATENT ROLL. 4 Geo. III. PART II. No. 3.

Hugh Palliser, Esq ^r Governor of Newfoundland.	} GEORGE the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith &c To Our Trusty and Wellbeloved Hugh Palliser Esquire Greeting
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Whereas We did by Our Letters Patent under Our Great Seal of Great Britain bearing date at Westminster the twenty fifth day of April One thousand seven hundred and sixty three in the third Year of Our Reign Constitute and Appoint Thomas Graves Esquire to be our Governor and Commander in Chief in and over Our Island of Newfoundland and all the Coast of Labrador from in Entrance of Hudsons Streights to the River Saint John's which discharges itself into the Sea nearly opposite the West End of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Madelaine in the Gulph of Saint Lawrence as also of all our Forts and Garrisons erected & Established or that should be erected and established in Our Islands of Newfoundland Anticosti and Madelaine or on the Coasts of Labrador within the Limits aforesaid for and during Our Will and Pleasure as by the said Letters Patent relation being thereunto had may more fully and at large appear Now Know You that We have revoked determined and made void and by these Presents do revoke determine and make Void the said recited Letters Patent and every Clause Article and thing thereincontained And We reposing especial Trust and Confidence in the Prudence Courage and Loyalty of You the said Hugh Palliser of Our Especial Grace certain Knowledge and meer Motion have thought fit to Constitute and Appoint And by these Presents do Constitute & Appoint You the said Hugh Palliser to be Our Governor and Commander in Chief in and over Our said Island of Newfoundland and all the Coast of Labrador from the Entrance of Hudson's Streights to the River St. John's which discharges itself into the Sea nearly opposite

* sic

of the Islands of Anticosti including that Island with any other small Islands on the said Coast of Labrador And also the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our fforts and Garrisons erected and established or that shall be Erected ad established in Our said Islands of Newfoundland Anticosti and Madelaine or on the Coasts of Labrador within the Limits aforesaid And We do hereby require and Command You to do and execute all things in due manner that shall belong to your said Command and the Trust We have reposed in You according to the several Powers and directions granted or appointed you by this present Commission and the Instructions either herewith given you or by such further Powers, Instructions* Authorities as shall at any time hereafter be granted or appointed you under Our Signet or Sign Manual or by Our Order in Our Privy Council And We do further give and Grant unto You the said Hugh Palliser full Power and Authority from time to time and at all times hereafter by yourself or by any other to be Authorized by you in that behalf to Administer and give the Oaths mentioned in an Act passed in the first Year of the Reign of King George the ffirst intituled (An Act for the further security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his Open and secret Abbettors to all and every such Person and Persons as you shall think fit who shall at any time or times pass into Our said Islands or shall be resident or abiding there or upon the Coasts of Labrador within the Limits aforesaid And We do by these Presents give and grant unto you full Power and Authority to Constitute and Appoint Judges and in cases requisite Commissioners of Oyer and Terminer for the hearing and determining of all Criminal Causes Treason Excepted according to Law and for awarding Execution thereupon with all reasonable and necessary Powers Authorities ffees & Privileges belonging thereunto Justices of the Peace with other necessary Officers and Ministers for the better Administration of Justice and keeping the Peace and quiet of the said Islands and Coasts aforesaid with Justices of the Peace so authorised may and shall hold and keep general Quarter Sessions of the Peace in such Places as you shall appoint according to the Custom of this Part of Great Britain called England and adjurn such Sessions from time to time and form Place to Place as shall be most convenient and necessary for the Peace and Welfare of Our Subjects inhabiting there Provided neither you nor they do anything repugnant to the Act for Encouraging the Trade to Newfoundland passed in Tenth and Eleventh Years of the Reign of King William the Third nor any way Obstruct the Powers thereby given and granted to the Admirals of Harbours or Captains of Ships of

War or any other matter or thing either prescribed by the said Act of by such Instructions as you shall receive from Us as afores^d And We do hereby give and grant unto you full Power and Authority when you shall see Cause or shall judge any Offender or Offenders in Criminal Matters or for any ffines or fforfeitures due unto Us fit objects of Our Mercy to Pardon all such Offenders and to remit all such

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Offences ffines and fforfeitures Wilful Murder only Excepted in which case you shall likewise have Power upon extraordinary Occasions to grant Reprieves to the Offenders untill and to the intent Our Royal Pleasure may be known therein And all such Justices of the Peace and their inferior Officers and Ministers whom you or they shall appoint amongst the Planters or Inhabitants resident and abiding there are strictly required and enjoyed in all Cases and times whenever necessary to be Aiding and assisting to the utmost of their Power to the Commodore or Commander of Our Ships of War and to the several Admirals in their respective Harbours in putting in Execution the several good Rules and Orders Prescribed by the said Act for Encouraging the Trade to Newfoundland And Provided also that no Person or Persons so by You appointed to be Justices of the Peace aforesaid or other Officers or Ministers belonging or appertaining to them do presume or be suffered to Act in such Office or Place until he or they have taken the aforesaid Oaths mentioned in the aforesaid Act for the further security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his Open and secret Abettors as also made and subscribed the Declaration mentioned in an Act of Parliament made in the twenty fifth Year of the Reign of King Charles the Second intituled (An Act for preventing Dangers which may happen from Popish Recusants) and also taken such proper Oath or Oaths as are usually taken in this Kingdom by Persons executing such Offices and Trusts which said Oaths and Declaration You shall administer or give or cause the same to be administer and given to all and every Person and Persons who ought to take the same according to the Law[s] and Customs of this Kingdom And We do hereby give and Grant unto you the said Hugh Palliser full power to Erect Appoint and set apart one or more convenient Court House or Court Houses for the more Orderly Meeting of such Justices of the Peace in Order to hold such their Quarter or other Sessions with a convenient Prison adjoyning thereto for the keeping of such Offenders as may be found necessary to be Committed to safe Custody until such Court or Sessions can conveniently be held for Trying and delivering Offenders against Our Laws and the Peace of Our Subjects And We do hereby require and Command all Officers Civil and Military and all other

Inhabitants of Our said Islands and the Coasts and Territories of Labrador and Islands adjacent thereto or dependant thereupon within the Limits aforesaid to be Obedient Aiding and assisting unto you in the Execution of this Our Commission and of the Powers and Authorities herein contained And in case of your Death Our Will and Pleasure is that the Person upon whom the Command of Our Ships under your Command shall devolve shall take upon him the Administration of the Government of Our said Islands and Territories as afores^d and Execute Our said Commission and Instructions and the several Powers and Authorities therein contained in the same manner to all intents and Purposes as you Our said Governor and Commander in Chief might or ought to do for and during Our Will and Pleasure And we do hereby declare Ordain and Appoint that You the said

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Hugh Palliser shall and may hold Execute and enjoy the Place of Our Governor and Commander in Chief in and over Our said Island of Newfoundland and all the coast of Labrador from the Entrance of Hudsons Streights to the River Saint John's which discharges itself into the Sea nearly opposite the West end of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our fforts and Garrisons erected and established or that shall be Erected and established in Our said Islands of Newfoundland Anticosti and Madelaine or on the Coast of Labrador within the Limits aforesaid with all and singular the Powers and Authorities hereby granted unto you for & during Our Will and Pleasure. In Witness &c Witness Ourself at Westminster the ninth day of April

By Writt of Privy Seal

No. 96.

Newfoundland.

**ADDITIONAL INSTRUCTIONS PASSED UNDER THE
ROYAL SIGN-MANUAL AND SIGNET FOR HUGH
PALLISER,**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, &C.

C.O. 195 VOL. 9.

Additional Instructions to Hugh Palliser Esq^r Our Governor and
Commander in Chief in and over Our Island of
Newfoundland and the Territories and Islands dependent
thereon in America.

1st. Whereas by the 2^d Article of Our Instructions to Thomas Graves Esq^r, late Governor of Newfoundland given at Our Court at St James's the [left blank] day of [left blank] 1763, in the third Year of Our Reign, it was directed, that in all things regarding the Fishery, which the Subjects of France were, by the Treaty of Utrecht in 1713 and that of Paris in 1763, allowed to carry on upon those parts of the Coast of Newfoundland, which stretch from the Place called Bonavista to the Northern Point of the said Island, and from thence running down by the Western side reach as far as the place called point Riche he should conform himself with great care and attention, and with Justice to the Subjects of both Crowns as well to the Stipulations contained in the said Treaties as to the Provisions contained in the Statute of 10. 11. W. C. 25, in order therefore for the better explanation of Our Royal Intentions therein, and to manifest Our firm Resolution to preserve the said Treaties inviolable, to secure to the Subjects of France the full possession and enjoyment of the Fishery thereby stipulated to be allowed to them within the Limits aforesaid and to Our Subjects their respective Rights and Privileges and to prevent any disputes which may arise between Our Subjects and the Subjects of France carrying on the Fishery within the said Limits, It is Our Express Will and Pleasure, and We do hereby strictly require and enjoin that you do immediately, upon your arrival within your said Government give the most full and positive Orders and Injunctions to all Officers under your Command, and in a particular manner to the Admirals in the several Harbours, that they do not in their several Stations, and as far as depends upon each respectively, permit or allow, that any Obstructions or Interruption be upon any pretence given to the Subjects of

France in the enjoyment of that Fishery which is

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allowed them by the stipulations of the said Treaties in common with Our Subjects, and that they do give them all reasonable Countenance and protection therein.

2^d. And whereas it is of great importance to the Interest, Peace and tranquility as well of Our Crown as of that of France, that the said Treaties should be faithfully executed according to the true intent and meaning thereof all disputes between the Subjects of both Nations and the Fishery within the Limits aforesaid amicably carried on between the two Nations according to Treaties We do therefore particularly command and require that the Admirals of the several Harbours upon the Coast, whereon the subjects of France are by the said Treaties allowed to catch Fish, to dry them on Land, and to erect stages made of Boards, and Huts necessary for that purpose, do take the most exact and particular Care, that the said Subjects of France be permitted and allowed, in common with Our Subjects, to chuse[sic] their place or places of Abode there during the Fishing season (which shall be understood to expire on the 30th of September) according as they shall respectively arrive in the said Harbours, and to occupy such a space of Beach as shall be proportioned to the Number of Boats they employ agreeably in these respects to the Treaty's of Utrecht and Paris, and the established practice in Consequence thereof, and in Case any dispute or difference shall arise between Our Subjects and the Subjects of France, touching these matters, We do expressly Will and ordain that the said Admirals shall in the decision of such dispute proceed with the strictest Justice and impartiality, taking care upon all occasions of such dispute, that the subject matter in question and all proceedings and judgements thereon be taken in writing and transmitted by such Admirals duly authenticated to you or the Commander in Chief for the time being, in order that the Judgement or Decree of such Admirals may be confirmed or annulled by You or the said Commander in Chief, as the Justice of the Case shall allow, and in either Case you or the said Commander in Chief shall certify Your or his decision to such Admiral, to the end that the same be duly executed.

3^d. It is nevertheless Our Express Will and Pleasure, that the said Admirals in the respective Harbours shall not upon any pretence whatever, presume to interfere or interpose their Authority in any Disputes or difference which may arise between one Subject of France and another concerning their Fishery.

4th. And it is Our further Will and Pleasure, that the said Subjects of France carrying their Fishery within the Limits

aforesaid according to the said Treaties, shall not in any wise or upon any pretence whatsoever be molested or disturbed in their Persons, properties or Effects.

5. And whereas it hath been represented unto Us, that several Boats belonging to the Subjects of France, and which on their departing from the Coast last year, were left in the several Harbours on that part of the Coast whereon the said Subjects of France were permitting to fish, were burnt and

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destroyed by the Commanders of some of Our Ships Stationed upon the said Coast; and it appearing to Us, that such a proceeding is inconsistent with that Harmony and good understanding which we wish to see preserved between the two Nations, it is therefore Our express Will and Pleasure, and you are hereby strictly enjoined and required to forbid all such Practices and Proceedings for the future.

6. And it is Our further Will and Pleasure, that the Rules, Regulations and Orders contained in the foregoing Instructions, be made public as soon as possible after Your Arrival in Your Government, and be fixed up in some conspicuous and well frequented place in every Harbour within the Limits aforesaid, to the end that not only Our Subjects but also those of the Crown of France may be fully informed of Our Royal Intentions and directions herein.

And it is Our further Will and Pleasure, that you do by every opportunity that shall Offer, or as soon as possible after your Return to their Kingdom transmit to Our Commissioners for Trade and Plantations, in Order to be laid before Us An Account of all your Proceedings and of all such Orders judgements and decrees as you shall have made in pursuance of these Our Instructions.

No. 97.

Newfoundland.

INSTRUCTIONS PASSED UNDER THE ROYAL SIGN-MANUAL AND SIGNET FOR HUGH PALLISERAS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

C.O. 195. VOL. 9, p. 276-289.

Instructions to Our Trusty and wellbeloved Hugh Palliser Esq^r Our Governor and Commander in Chief in and over Our Island of Newfoundland in America, and all the Coast of Labrador from the Entrance of Hudson's Streights to the River S^t Lawrence, as also of all Our Forts and Garrisons erected and established, or that shall be erected and established in Our Said Islands or on the Coast of Labrador within the Limits aforesaid. Given at Our Court at S^t James's the day of 1764, and in the fourth Year of our Reign.

With these Our Instructions you will receive Our Commission under Our Great Seal of Great Britain, Constituting You Our Governor & Commander in Chief in and Over Our Island of Newfoundland in America, and all the Coast of Labrador from the Entrance of Hudson's Streights to the River of S^t John's, which discharges itself into the Sea nearly opposite the West end of the Island of Anticosti, including that Island, with any other small Islands on the said Coast of Labrador, and also the Islands of Mandelaine in the Gulph of S^t Lawrence, as also of all Our Forts and Garrisons erected and established, or that shall be erected and established in Our said Islands, or on the Coast of Labrador within the Limits aforesaid, with directions to obey such Orders and Instructions as shall from time to time be given You under Our Signet and Sign Manual or by Our Order in Our Privy Council.

First, you are therefore to fit yourself with all convenient speed and to repair to Your said Command; and being arrived you are to take upon you the Execution of the place and Trust We have reposed in you; and, as soon as conveniently may be, to assemble the principal Inhabitants in the Island

of Newfoundland, and in such other places as you shall judge proper or necessary within your said Government, and with all

due Soleminity to cause Our said commission under Our Great Seal of Great Britain, constituting you Our Governor and Commander in Chief, as aforesaid, to be read and published at such meetings.

2. Whereas by the second Article of Our Instructions to Thomas Graves Esq^r, late Governor of Newfoundland, given at Our Court at S^t James's the day of 1763 in the third year of Our Reign, it was directed, that in all things regarding the Fishery which the Subjects of France were, by the Treaty of Utrecht in 1713, and that of Paris in 1763, allowed to carry on upon those parts of the Coast of Newfoundland, which stretch from the place called Bonavista to the Northern point of the said Island, and from thence running down by the Western side reach as far as the place called point Riche, he should confirm himself with great care and attention, and with Justice to the Subjects of both Crowns as well to the Stipulations contained in the said Treaties, as to the provisions contained in the Statute of 10 & 11 W. C. 25; in Order therefore for the better explanation of Our Royal Intentions therein, and to manifest Our firm Resolution to preserve the said Treaties inviolable, to secure to the Subjects of France the full possession and enjoyment of the Fishery thereby stipulated to be allowed to them within the limits aforesaid, and to Our Own Subjects their respective Rights and Privileges, and to prevent any disputes, which may arise between Our Subjects and the Subjects of France carrying on the Fishery within the said limits; It is Our express will and Pleasure, and We do hereby strictly require and enjoin, that You do, immediately upon your arrival within your said Government, give the most full and positive Orders and Injunctions to all Officers under your Command, and in a particular manner to the Admirals in the several Harbours, that they do not, in the several Stations, and as far as depends upon each respectively, permit or allow, that any obstructions or Interruption be upon any pretence given to the Subjects of France in the enjoyment of that Fishery, which is allowed them by the Stipulations of the said Treaties in Common with Our Subjects, and that they do give them all reasonable Countenance and protection therein.

3. And whereas it is of great importance to the Interest, Peace & Tranquility as well of Our Crown as that of France, that the said Treaties should be faithfully executed according to the true intent and meaning thereof, all disputes between the Subjects of both Nations avoided; and the Fishery within the limits aforesaid amicably carried on between the two Nations according to Treaties; We do therefore particularly command and require, that the Admirals of the several Harbours upon the Coast, whereon the Subjects of France are by the said Treaties allow'd to catch Fish, to dry them on Land, and to erect Stages made of Boards and Huts necessary for that purpose, do take the most exact and particular Care, that

*These words were omitted and in lieu thereof the following words were inserted at a meeting of His Majesty's Ministers. be permitted and allowed in common with our Subjects to chuse their stations their during the Fishing Season according as they shall respectively arrive in the said Harbours, and

to occupy such a space of Beach as shall be proportion'd to their Number of Boats, so long as the said Subjects of France shall be actually employed in Fishing and drying of Fish, agreeably in these respects to the Treaties of Utrecht & Paris and the Established practice in consequence thereof.

the said Subjects of France* [be permitted and allowed in common with Our Subjects to chuse[sic] their place or places of abode there during the Fishery Season, which shall be understood to expire on the 30th of September according as they shall respectively arrive in the said Harbours, and to occupy such a space of Beach as shall be proportioned to the Number of Boats they employ, agreeably in these respects to the Treaties of Utrecht and Paris, and the established practice in consequence thereof.] And in case any dispute or difference shall arise between Our Subjects and the Subjects of France touching these matters. We do expressly Will and Ordain, that the said Admirals shall, in the decision of such dispute, proceed with the Strictest Justice and impartiality, taking care upon all occasion of such dispute that the Subject matter in question and all proceedings and Judgements thereon, be taken down in Writing, and transmitted by such Admirals, duly Authenticated, to you or the Commander in Chief for the time being, in Order that the Judgement or Decree of such Admirals may be confirmed or annulled by you or the said Commander in Chief, as the Justice of the Case shall require, and the Law shall allow; and in either Case you or the said Commander in Chief shall certify Your or his decision to such Admiral; to the end that the same may be duly executed.

4. It is nevertheless Our Express Will and Pleasure, that the said Admirals in the respective Harbours shall now, upon any pretence whatsoever, presume to interfere or interpose their Authority in any disputes or difference, which may arise between one Subject of France and another concerning their Fishery.

5. And it is Our further Will and Pleasure, that the said Subjects of France, carrying on their Fishery within the Limits aforesaid, according to the said Treaties, shall not in any wise upon any pretence whatsoever be molested or disturbed in their persons, properties, or Effects.

6. And Whereas it hath been represented unto Us, that several Boats, belonging to the Subjects of France; and which on their departing from the Coast last Year, were left in the several Harbours, on that part of the Coast whereon the said Subjects of France were permitted to Fish, were burnt and destroyed by the Commanders of some of Our Ships stationed upon the said Coast, and it appearing to Us, that such proceeding is inconsistent with that harmony and good understanding which We wish to see preserved between the two Nations, it is therefore Our Express Will and Pleasure, and you are hereby strictly enjoined and required to forbid all such practices and proceedings for the future.

7. And it is Our further Will and Pleasure, that the Rules, Regulations and Orders, contained in the foregoing

Instructions, be made publick, as soon as possible after Your arrival in Your Government, and be fixed up in some conspicuous and Well frequented place in every Harbour within the Limits aforesaid, to the end that not only Our Subjects, but also those of the

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Crown of France may be fully informed of Our Royal Intention and directions herein.

8. And it is our further Will & Pleasure that you do by every opportunity that shall offer, or as soon as possible after your return to this Kingdom transmit to our Commission for Trade and Plantations in order to be laid before US, an account of all your proceedings and of all such orders judgements and decrees as you shall have made in pursuance of these Our Instructions.

9. And whereas by the said 5th Article of the Treaty lately concluded at Paris, We have consented to leave to the Subjects of the Most Christian King the Liberty of Fishing in the Gulph of S^t Lawrence on Condition that the Subjects of France do not exercise the said Fishery but at the distance of three leagues from all the Coasts belonging to Great Britain, as well as those of the Continent as those of the Islands situated in the said Gulph of S^t Lawrence, you are hereby required to carry the stipulations of the said clauses into full Execution, within the Limits of your Government.

10. You are to use your best endeavours to prevent any Aliens or Strangers whatever from fishing or drying fish on any of the Coasts or in any of the Harbours of the Islands and Territories under your Government unless in the Exceptions made by the 13th Article of the Treaty of Utrecht and the 5th Article of the late definitive Treaty confined to the Subjects of France permitted to fish within the Distinct and Limits marked out by those Treaties and under the several Restrictions specified in the Articles themselves.

11. And Whereas by the 6th Article of the said Treaty lately concluded at Paris a copy of which Article is hereunto annexed, the Islands of S^t Peter and Miquelon are ceded to France to serve as a shelter to the French Fishermen, His Most Christian Majesty engaging not to fortify the said Islands, to erect no Buildings upon them but merely for the convenience of the Fishery, and to keep upon them a Guard of fifty men only for the Police. You are therefor from time to time to enquire and report to US, by our Commissioners for Trade and Plantations whether the Stipulations contained in the said Article are duly observed, And you are to use your best endeavours in prevent any commerce between Our Subjects under your Government and the said Islands, by means

whereof the Inhabitants of the materials for building vessels and erecting Houses and Works necessary for the Fishery, and of circulating French produce & manufactures amongst the British Fishermen.

12. It is Our further Will and Pleasure, that You do from time to time as the nature of the Service will allow, visit all the Coasts and Harbours of the said Islands and Territories under Your Government, in order to inspect and examine and State and Condition of the Fisheries which are or may be carried on upon the said Coasts and Islands. You shall also use Your best endeavours

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to procure accurate Draughts or Maps of the several Harbours, Bays and Coasts of Newfoundland, and the other Islands and Territories under Your Government, and you are more particularly to direct the Officer of any Vessel under Your Command, which may be appointed to visit that part of the Coast of Labrador which lyes between Hudson's Streights and the Streights of Bellisle, to search and explore the great Inlet, commonly known by the name of Davis's Inlet, in order to discover, whether the same has or has not any passage to Hudson's Bay or any other inclosed Sea.

13. You are also to enquire and report to Us, by Our Commissioners for Trade and Plantations, whether any or what further Establishment may be necessary to be made, or Forts erected in any part of Newfoundland, or other Islands or Territories under Your Government, either for the protection of the Fishery, the Security of the Country, or the establishing and Carrying on a Commerce with the Indians residing in or resorting to the said Islands or inhabiting the Coast of Labrador.

14. You are not to permit the Subjects of any foreign Prince or State whatsoever to carry on any Commerce with the said Indians, and to use your best endeavours to conciliate their Affections, and to induce them to Trade with Our Subjects, reporting to Us, by Our Commissioners for Trade and Plantations, the best Account you can Obtain of the Number of the said Indians, the places they frequent, the nature and extent of the Commerce that is or may be carried on with them, and how the same may, in Your Opinion, be further extended and improved.

15. And Whereas we have been informed, that very Considerable and advantageous Whale and Sea Cow Fishery may be carried on in the Gulph of St. Lawrence, and upon the Labrador Coast; It is therefore Our Will and Pleasure, that You do give all possible encouragement to such fishery, and report to Us, by Our Commissioners for Trade and Plantations, Your

Opinion in what way and by what means, so valuable a Branch of Commerce may be extended and improved.

16. You are also to make a very particular enquiry into, and report to Us, as aforesaid, the actual State and Nature of the Fisheries carried on by the Subjects of France in every distinct Branch thereof, as well that which is carried on for Morue Verte upon the Banks without the Gulph of S^t Lawrence, as the dry Fishery carried on at Miquelon and S^t Peters' upon the Coast of Newfoundland from Bonavista to Point Riche, or in other parts of the Gulph of S^t Lawrence; and you are to be as particular as may be in your accounts of the Number and Nature of the Ships and Boats employed in those different Fisheries; the number of Men; the Quantity of Fish caught, cured, and carried to Market; and in general of every other Commerce of France.

17. You shall strictly enjoin all Our Officers, and Soldiers, and other persons whatsoever belonging to the present and future Garrisons in New-

foundland, and the other Islands and Territories under your Government, not to engage in the Fishery there, nor interrupt the Fishermen in the curing of their Fish, nor to take up for themselves any Beaches, Stages, or Cookrooms upon any pretence whatsoever, upon pain of Our highest Displeasure.

18. And you are particularly to suppress the engrossing of Commodities, as tending to the prejudice of the Fishery, and the persons employed therein.

19. You shall transmit unto Us, and to Our Commissioners for Trade and Plantations in order to be laid before Us, an Account of the Arms, Ammunition, and Stores, that have been sent from Our Office of Ordnance here to Our Forts and Garrisons in Newfoundland; and likewise an Account of the State of Our said Forts; how the said Stores have been employed; and whether any of them, and how many of them, have been sold, spent, lost, decayed, or disposed of; and to whom, and to what uses; together with an Inventory of all such Arms, Ammunition, and Stores, as are remaining in Our Magazines there; as also a Duplicate thereof to Our Master General or principal Officers of Our Ordnance; which accounts are to express the particulars of Ordnance, Carriages, Ball, Powder, and all other sorts of Arms and Ammunition in Our publick Stores at your Arrival, and so yearly of what shall be sent thither, specifying the time of the disposal, and the occasion thereof.

20. Whereas by the Act for the encouragement of Trade passed in the fifteenth year of the Reign of King Charles the Second, no Commodities of the Growth, production, or Manufacture of Europe, except salt for the Fishery of New England and Newfoundland, Wines of the growth of the Madeiras, of the Growth and Production of Ireland, shall be imported into any of Our Colonies or Plantations, but what shall be bonâ fide and without Fraud laden and shipped in Great Britain, and in Ships duly qualified; And whereas Complaint has been made of Masters of Ships and others carrying on a clandestine Trade amongst the Fishing-Ships from Great Britain, with others from Our Colonies and Plantations in America, contrary to the intent and meaning of the said Act, you shall use your utmost endeavour for the due observation of the said Act.

21. You are to permit a free exercise of Religion to all persons, except Papists, so they be contented with a quiet and Peaceable Enjoyment of the same, not giving Offence or Scandal to the Government.

22. It is Our Will and Pleasure, that you do cause the Laws made against Blasphemy, Profaneness, Adultery, Fornication,

Polygamy, Incest, Profanation of the Lord's Day, Swearing, and Drunkenness, to be vigorously executed, and that you take due care for the punishment of the aforementioned Vices by presentment upon Oath to be made to the Justices of the Peace in their Sessions, by their Constables, or other inferior Officers, at the several Harbours at the proper times of the Year to be appointed for that purpose;

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And for the further Discouragement of Vice and Encouragement of Virtue, and good living, you are not to Admit any Person to Act as a Justice of the Peace, whose Ill Fame or Conversation may occasion Scandal; and especially You shall take care, that the Lords Day be devoutly and duly observed; that the Books of Common Prayer, as by law established in this Kingdom, be read each Sunday and Holiday; and the Blessed Sacrament Administered according to the Rites of the Church of England in all such Chapels or publick places of Worship, as are already, or may be settled there.

23. And if any Orthodox Minster there shall appear to give Scandal either by his Doctrine, or Manners, or shall Preach, or Administer the Holy Sacrament in any Orthodox Church or Chapel with being in due Orders, you shall give an Account thereof to the Lord Bishop of London.

24. And you are to take especial care, that a Table of Marriages, established by the Canons of the Church of England, be hung up in every Orthodox Church or Chappel, and duly observed.

25. If any thing shall happen, which may be of Advantage or Security to Our said Islands under Your Government, which is not herein, or by Our Commission provided for, you are hereby allowed to take order for the present herein, giving to Us, by one of Our Principal Secretaries of State, speedy notice thereof, that so you may receive Our Ratification, if We shall approve of the same; provided always, that you do not, by colour of any power or authority hereby given you, allow or encourage any thing to be done contrary to the true intent and meaning of an Act of Parliament passed in the Tenth and Eleventh Years of the Reign of King William the Third, intituled, "An Act to encourage to trade to Newfoundland," nor contrary to any of the Laws or Statutes of this Our Realm.

26. And you are, upon all Occasions, to send unto Our Commissioners for Trade and Plantations only, a particular Account of all your proceedings, and of the Condition of the Affairs of the Islands under your Government, and the Trade and Fishery thereof, and of the Banks, Seas, and parts adjacent.

27. Whereas by the said Act to encourage trade to Newfoundland, many things are enacted, for the due and orderly carrying on of the said Trade, which are necessary for your observation in inspecting the same during Your Stay in those parts; You are therefore, in order to the better regulating your conduct in that Service, to carry with you a copy of the said Act for your own Use and Government.

28. You are likewise carefully and diligently to enquire and observe, whether the several Rules and Orders, contained in the said Act for the more advantageous management of the Fishery, be duly observed by all those concerned, therein Viz^t

29. You are to see that due care be taken by the Admirals in their respective Harbours, and by the Masters of the Fishing Ships using that

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Trade, that no sort of Ballast, nor press Stones, or anything else hurtful to, or annoying any of the Harbours there, be thrown out of any Ship, or otherwise, to the prejudice of any of the said Harbours, and likewise to make the following enquiries.

30. Whether any person, at his departure out of the said Country, or at any other time, do destroy, deface, or do any detriment to the Stages, Cookrooms, Flakes &c^a or to the materials thereunto belonging, which had been possessed by himself or others; and whether the repair the defects, that may be in their Stages, or other Conveniencys by Timber fetched out of the Woods, and not by committing any manner or spoil, or waste upon the Stages already built.

31. Whether the Admirals, Vice Admirals, or Rear Admirals or the Harbours, and the Commanders of the other fishing Ships in each Harbour, Beach and Flakes, then each of them have necessary use for; or against possessing several Places at once, to the hindrance and prejudice of others; and relating to the Election of such Places, as any of them, whose Right it is shall choose to abide in. And in case of any difference, whether the Admirals in their several Harbours do proportion the Place to the Ships, according to the number of Boats, which each of the said Ships do keep.

32. Whether those Inhabitants, or others, who since the year 1685 had engrossed several Stages, Cookrooms, Beaches, and other Places, which before that time belonged to the fishing-ships, to the prejudice of such fishing-Ships, as arrive there in the fishing season, have, according to the direction of the aforesaid Act, relinquished & left the same for the publick Use of the fishing-Ships arriving there.

33. Whether the Inhabitants have possessed, or do possess themselves of any such Stages, Cookrooms &c., or of any

Trainfats, or other Conveniencies, which have belonged to any fishing-Ships at any time since the year 1685, before the yearly Arrival of the fishing Ships, and until all such Ships are provided with Stages, Cookrooms, &c. according to the said Act.

34. Whether the Bye-Boatkeepers pretend to, or meddle with any House, Stage, Cookroom, Trainfat, or other Conveniency that did belong to the fishing-Ships since the year 1685, or that has been cut out, or made by Ships after the 25th of March 1700.

35. Whether the Bye-Boatkeepers, and the Masters of fishing-Ships do carry over with them such Numbers of Fresh men, in proportion to their respective Companies of Seamen, as the Act directs; Whether they are furnished with Certificates of their having made Oath before their sailing from this Kingdom, that they do carry with them such a Number of green-Men; to whom they do produce such Certificates; and do the Admirals, or the Custom-House Officers keep any Account, or make any Return thereof?

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36. Whether the Inhabitants do also employ such Numbers of fresh or green Men, as the said Act directs; and whether the Admirals take care, that they punctually comply therewith.

37. Whether any persons do presume to expunge, cut out, deface, or alter the Mark of any Boats or Trainfats of other persons; and do convert them to their own use, or remove the same from the places, where they were left by the Owners, contrary to the directions of the said Act.

38. Whether any person whatsoever rind any of the trees, set fire to any of the Woods, or do, or cause to be done any detriment or destruction to the same for any use whatsoever, excepting only for necessary Fuel, for building and repairing Houses, Ships, Boats, Train fats, Stages, Cookrooms, and other conveniences for the Fishery.

39. Whether the Rules, ordained by this Act, for preventing any Annoyance or hindrance in the hailing of Sayns in the customary baiting Places, and against the Stealing of Baits and Nets to be duly observed.

40. Whether the Admirals are careful, in order to preserve the Peace and good Government both in their respective Harbours, and on Shore, to see, that the Rules and Orders contained in the aforesaid Act be duly put in Execution, and whether each of the said Admirals do keep Journals, and exact accounts of the number of all Ships, Boats, Stages, and Trainfats, and of all the Seamen and Inhabitants employed in

their respective Harbours, that the same may be delivered at their return to Great Britain as the Act directs.

41. And Whereas it has been represented to Us, that the Bye-Boat-keepers and Masters of fishing Boats do not carry over with them, and that the Inhabitants do not employ such a number of fresh or green Men, as the aforesaid Act to encourage the Trade to Newfoundland directs; and that the Admirals in the respective Harbours do not take Care to enforce a due compliance therewith, or to preserve Peace and good Government in their respective Harbours or on Shore; and that they do not keep any Journals of the number of Ships employed in the several Harbours, concerning themselves only with their own Fishery; And whereas such Omissions and Neglect tend greatly to the prejudice of Our Service, and to defeat the good Intentions of this Provision of the said Act, which is calculated for increasing the number of Seamen for the Service of Our Navy, and the promoting the Trade & Navigation of this Kingdom; It is therefore Our Will and Pleasure, and you are a due and exact compliance with the said Act for encouraging the Trade to Newfoundland; And that you do in these and all other particulars recommend to the Admirals in the respective Harbours, to keep regular Accounts, and do all such other things, as the Act directs, upon pain of Our highest displeasure.

42. You are also to enquire, whether upon any differences, that do arise in any of the Harbours, touching any of the aforesaid matters, the

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Admirals of those respective Harbours do determine the same, according as the said Act directs; And in case any Persons think themselves aggrieved by the Sentences of the said Admirals, whether those Persons do appeal unto You, or unto the Commanders of Our Ships of War for a final determination, and both Parties submit accordingly thereunto.

43. Whether the Lord's day be strictly and duely observed; and whether the Inhabitants who keep any sort of Public Houses for entertainment do forbear on that day to utter or sell any sort of strong Liquor, or Tobacco, as by the said Act is directed?

44. Whether any Aliens or Strangers, not residing in the Kingdom of Great Britain, or Ireland, do resort to Newfoundland, or to the Islands adjacent thereto, and take Bait, or use any sort of Trade, or fishing whatsoever in those Parts.

45. And as you are to transmit your Answers to the foregoing Enquiries, which are founded upon the aforesaid Act of the

tenth and eleventh years of the reign of King William the third; so you are likewise to take an exact account of the number of the British fishing-Ships, and Sack Ships, and Ships and Vessels from America, that arrive this year in the Islands under your Government;

The Burthen of the said Ships; and the number of their men; —The number of the Passengers transported by the fishing-Ships.

The number of Boats employed by the British fishing Ships, by the Ships from America, By the Bye Boatkeepers, and by the Inhabitants.

The number of the Bye Boatkeepers, and their Servants.

The quantity of Fish and Train-Oil made by the British fishing Ships, by the Ships from America, by the Boatkeepers, and by the Inhabitants.

The value of Seal Oil, and of Ferts taken by the Inhabitants last Winter.

The Number of Stages and Train-Fats belonging to the Fishery.

The total quantity of Fish carried to foreign Markets.

The prices the said Fish and Oil are sold at, both in barter for Goods, and for good Bills payable here.

The number of public and private Houses.

The number of Inhabitants, and how many have been born, or have died there, since the departure of the last year's Convoy.

Which you are to send by the first conveyance that offers, according to the usual Form hereunto annexed.

Moreover you are particularly to inform yourself.

46. In what manner the Inhabitants are subsisted; what Land is there improved? Whether the Country produces such Provisions, as they want; and whether they have any number of Cows, Sheep, and Swine; or whether they receive any Provisions from Our Plantations in America; of what Sorts, or kind, and the Quantities thereof?

47. Whether the said Inhabitants are wholly supplied with Sail Cloth, Nets, & Tackle, for their Fishery, and with Woollen, Linen, Leather, & other Manufactures, for their use and wear, from this Kingdom; or whether they are furnished with any of the aforesaid necessaries from the Plantations, or from any foreign Country whatsoever?

48. What Wages do the said Inhabitants allow to their Servants; and in what manner do they pay them?

49. How much does the Charge of fitting out and maintaining one of their Fishing-boats for the whole Season amount to?

50. Whether the Inhabitants have any other Employment in the Fishing-Season for their Servants than taking and curing of Fish? whether they are diligent therein? how many Men they allow to each of their Fishing Boats? whether they can afford their Fish as cheap as the Fishing Ships, and the Bye-Boats, or what difference is made between the price of the one and the other?

51. In what manner they employ themselves and their Servants after the Fishing-Season is over & during the Winter? whether they are industrious in providing and making necessaries for the next Fishing Season? or, on the contrary, whether they mispend a great part of their Time in Debaucheries and Excesses.

52. Whether any Trade is carried on for Beaver and other Furs by the Inhabitants, or by any others who remain in the country? what Quantity they have taken this last Winter, and whether they have any Traffick with the Indians?

53. Whether the Houses, Buildings and inclosures of the Inhabitants are at such distance from the Waterside, as not to hinder or obstruct the Fishermen in making their Flakes, or in drying and curing their Fish?

54. Whether the Inhabitants claim a right to all such Stages, Cookrooms, Flakes &c^a as they have made or built in their fishing-Places, which have not been possessed by the Fishing Ships since the Year 1685, tho' they make no use of them?

55. Whether such Fishing Places and Conveniences are free for the Public Use of the Fishing Ships arriving there, and nothing insisted on, or demanded by the said Inhabitants for their use and hire?

56. How many Flakes are allowed to each Fishing-Boat, and of what length? whether they are extended in length according

to the ancient Custom from the Shore up into the Land? or whether any of the Inhabitants or Fishermen extend their Flakes along the Shore, or possess a larger Front to the Waterside, according to the number of their Boats, than was formerly allowed.

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57. Whether it was every ascertained or determined in the several, or in any of the Harbours in Newfoundland, what Fishing Places did belong to the Fishing Ships before the year 1685? And whether any Account is kept of those Fishing Places, which they have been in possession of since that year, in order to prevent such disputes, as must otherwise very frequently happen between the Masters of the Ships and the Inhabitants.

58. Whether the Fishing Ships, that proceed directly from this Kingdom to Newfoundland, are victualled here, and provided with all other necessaries of British Produce and Manufacture for the whole Voyage? or whether the Masters or Freighters do not furnish themselves with Provisions, that are brought from the Plantations, or other Parts to Newfoundland?

59. Whether any British Ships arriving at S^t Johns, or in any other Harbours in Newfoundland from Portugal, or other foreign Parts, before any Ship, that was cleared from this Kingdom, has been at any time permitted to be Admiral of the Harbour? or whether according to the Custom of Newfoundland, such Ships only as are cleared from Great Britain have a Right to be Admirals?

60. Whether the Admirals, or any other Ships, who arrive yearly at S^t John's, or in the other Harbours, do put their Passengers, or any of them into possession of the most convenient, or of any other Fishing Places, Stages, &c^a upon pretence they are Freighters of their Ships, before the Arrival of the other Fishing Ships, or before they are all provided?

61. Whether any of the Bye Boatkeepers, who remain in the Country during the Winter, and that are not Inhabitants, do retain to their own use, or for the use of themselves & their Partners, who are expected by the Fishing-Ships, the Fishing Places, Stages, Beaches, Flakes &c^a which they possessed the preceding year? or whether they take possession of any others, that may be more convenient for them in the ensuing Fishing Season, before the arrival of the Fishing Ships, or before the said Ships are well supplied?

62. Whether any of the Fishing Ships pursue or follow the old laudable Custom of allowing their Ship's Companies Shares of what they make in the Voyage, instead of Wages; and, in such Case, how much doth the Charge of fitting out and

maintaining a Ship of one hundred Tons with fifty Men, and ten Boats, amount to for the whole Voyage?

63. Whether any Commodities of the Growth, Production or Manufacture of Europe, that are not bonâ fide and without Fraud laden and shipt in this Kingdom, be imported and brought into Newfoundland, all such Commodities being prohibited by the 15th Car: 2^d Chap. 7th, except Salt for the Fishery, Wine of the Growth of, and from the Medeiras, and the Azores, or Western Islands, and Victuals &c^a from Ireland?

64. How these Commodities are disposed of, whether only to the Fishery, viz^t to the Seamen and Inhabitants? or whether any Trade be driven by

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selling those Goods to the Ships belonging to New England, and other Plantations, in order to supply the said Plantations with such Commodities, as they ought to have directly from Great Britain, and not otherwise?

65. What Quantities of Rum and other Plantation-Goods are brought to Newfoundland? more especially of those enumerated in former Acts of Parliament? Whether any of the enumerated Commodities are sold to the Ships bound to Portugal, and other foreign parts, so as to make an indirect Trade to those Countries in Goods, which ought not to be carried thither, before they had been first landed in Great Britain?

66. In what manner is the Trade between Newfoundland and any other of our American Colonies carried on? what quantities of Rum, Melasses, Wine, Sugar, Tobacco, Flour and other Provisions have been imported this year? To whom, and at what prices are the said Goods sold? Are they paid for in Fish, or in Bills? If in Fish, is it disposed of again, or loaded in the Sack Ships for Europe? and what value is it computed, that the Goods sold may annually amount to?

67. How many Taverns, or Public Houses for entertainment may there be kept in Newfoundland, or at least in the Harbour of St John? are they kept only by the Inhabitants, or by the Bye-Boatkeepers, and the People of New England also? do they trust the Fishermen upon their own Credit; or do the Masters of the Ships, and of the Bye-Boats permit them to trust their Crews, and deduct the same out of their respective Wages, Hire, or Shares, in order to satisfy the said Tavern-keepers? are not the poor Seamen hereby tempted to spend the greatest part, or the full amount of their Wages, and frequently run so far in debt, that they are forced to remain, as Servants to the Inhabitants, and at last constrained to betake themselves to New England?

68. Whether the Inhabitants do not usually trust their own Servants with Rum and other Stores, to a greater Value than their Wages amount to? and whether they are not generally paid in the manner, as in the foregoing Article?

69. How much do the Bye-Boatmen and the Inhabitants allow to the Masters of the Fishing Ships for the passage of their Servants; both out and home? In what manner do the said Inhabitants pay the Masters of the Fishing-Ships for the same, and for the several necessaries they supply them with; and whether a considerable part of these Debts is not secured by suffering their Seamen to run in Debt to the Inhabitants?

70. Whether this method of trusting the Fishermen is not the occasion of many Thefts and Disorders? are they not by their Debaucheries often withdrawn from, and rendered unfit for their Labour, to the Great discouragement & obstruction of the Fishery?

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71. Whether the Masters of the Fishing Ships & Bye Boats do not connive at, or encourage their men to remain in the Land, that they might save the Charge of carrying them home? What number of men do stay behind yearly, and particularly last year? What number of Irish Catholicks is there in all the Towns in Newfoundland; and what proportion do they bear to the Protestants?

72. Whether the American Traders do still continue to entice and carry thither numbers of Handycraft Men, Seamen, and Fishermen? and whether any of the Inhabitants so favour, or assist them therein?

73. And whereas this practice must be prevented, if possible, you are to require all the Masters of the American Ships and Vessels, before their departure from Newfoundland, to enter into Obligations not to carry any of the Seamen &c^a, and all possible care must be taken to have those Obligations so witnessed, that, in case it be thought proper to put them in execution, they may not be invalidated for want of Evidence. And you are likewise to be as strict, as is practicable, to oblige all such American Ships, as may be in Newfoundland, to sail from thence at the same time you shall leave the Land, and to get all the proof, that can be had, of the breach of any Obligations, entered into, as aforesaid, and to transmit an account thereof to Our Commission for Trade and Plantations.

74. And whereas Complaints have formerly been made, that, by reason of the ill curing of the Fish in Newfoundland, the consumption thereof has been considerably lessened; and that the Trade would be lost, if effectual Care was not taken to reform the same; You are therefore to command the Admirals

of the Harbours strictly to enjoin the Masters of the Fishing Ships, the Bye-Boatkeepers, and Inhabitants, to take the greatest Care in curing their Fish with good Salt, and with a sufficient Quantity; and in preparing, husbanding, & ordering the same, that the Credit thereof may be again recovered, and that it may be well received and esteemed in the several Places, to which it is carried for Sale.

And as the said Admirals are obliged to have a watchful Eye upon such, as are negligent herein, so they are to return to you the names of those, who will not comply with this Admonition.

And further you are upon this occasion very particularly to enquire into their manner and method of taking and curing their Fish. What quantity of Salt they allow for the curing every hundred Quintals? Whether they are quality of any abuse in the ordering thereof; Whether the Fish taken at a distance from the Land by their small vessels, is not prejudiced before it is brought on Shore? Whether the Inhabitants, the Fishing-Ships, or the Bye-Boatkeepers are most to be blamed? And in short from whence these Complaints did arise, and what methods are to be taken to prevent or rectify whatsoever is amiss?

75. And whereas there is a Salmon-Fishery erected in Fresh Water Bay, Ragget Harbour, Gander Bay, and Dog Creek, between Cape Bona

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Vista and Cape John in Newfoundland, and a second, which is since erected by other persons at Grand Salmonier, Little Salmonier, &c^a in the same Island, which may prove of advantage to Great Britain; It will be necessary, that you give all due Encouragement and protection to those undertakings, whereof you will inform yourself, and transmit the fullest Account you can get of the same to Our Commissioners for Trade and Plantations.

76. And Whereas Our late Royal Grandfather did, by His Letters Patent under the Great Seal of Great Britain, bearing the date at Westminster the 31st day of May in the second year of His Reign, constitute and appoint Henry Osborne Esquire to be Governor and Commander in Chief in, and over the said Island of Newfoundland, with power to constitute and appoint Justices of the Peace, with other necessary Officers and Ministers for the better administration of Justice, and keeping the Peace and Quiet of the said island; which Powers have been continued to all the subsequent Governors there, and are continued in Our Commission to you: you are, upon your Arrival in the Island, to make enquiry, what Effect that Commission has had; What Justices of the Peace are now in actual Commission, and do execute the same in the respective Towns in Newfoundland, particularly at Placentia; how, and in what manner such Justices of the Peace behave in the

execution of that Power; Whether the Inhabitants and Planters have duly submitted thereto: and what, if any, obstructions have been given to the execution of that Authority: And to return your observations thereupon, with what you think may be further done for keeping the Peace and Quiet of the said Island, and of the Inhabitants residing therein, to Our Commissioners for Trade and Plantations.

77. And whereas Complaints have been made to Us, that notwithstanding all the precautions taken by Our said Governor for preserving the Peace in Newfoundland, disputes have arisen between the fishing Admirals and Our Justices of the Peace in the said Island; and that some of Our said Justices had been guilty of great Irregularities, to the Oppression of Our good Subjects: now you are, upon your arrival at Newfoundland, to inquire into the Truth of all such Complaints, and to supersede such Justices of the Peace, as shall appear to you to have acted unwarrantably in the execution of their Office. And you strictly to prohibit those, who are, or shall be appointed Justices, from interfering in any degree with the fishing Admirals, in such matters relating to the Fishery, as are reserved for their Jurisdiction, by the aforesaid Act for "encouraging the Trade to Newfoundland"; taking care at the same time; that the said fishing-Admirals do their duty also, according to the intention of the said Act. You are to be very particular in your Observations upon these Subjects, which you are to return to Our Commissioners for Trade and Plantations in order to be laid before Us.

78. Whereas Complaint has been heretofore made, that the Sack-Ships, always jealous of each other, and contriving, who shall carry their Fish first to Market, frequently ship it, before it is cured, whereby it suffers in the passage, and brings the Fishery into discredit in foreign Markets; you shall

make particular enquiry into this Complaint, and suggest to Us the best means, that occur to you, for preventing the said Evil for the future.

79. Whereas in the Answers returned to the like Queries by some former Commodores, some of the Columns in the Scheme of the Fishery have been returned Blank; In case you find it necessary to do so likewise, you are then to mention in such Column, whether the Numbers, Prices, and Quantities belonging thereto, are included in any other Column; and in which Column they are so included or whether there was no fishing this year in those Harbours; or that there was fishing, but that you had not obtained any account thereof: And if there be any fishing in any other River or Harbour in Newfoundland or the other Islands & Coasts under your Government not in the Scheme mentioned, you are to add a Column or Columns for the Same, and insert therein the best account you can get with your remarks on such, as you think imperfect or doubtful in any of the particulars.

80. And Whereas the Answers to the several Heads of enquiry contained in the Instructions to former Governors of Newfoundland, and the Returns made of the Trade and Fishery thereof, according to the usual form hereunto annexed; have frequently been very defective and inaccurate; you are hereby strictly commanded to be very exact in your Enquiry and Examination into every particular, to which these Our Instructions have reference; to endeavour to collect the Materials, from which your Answers are to be formed, from the best Authorities, and to enjoin the Admirals or other proper Officers in those Harbours, to which your personal Inspecting cannot extend, to be as accurate as may be in the Returns, which they shall make to you, that those Returns be properly attested and signed by them; and that the number of Ships, be particularly expressed. And you are likewise to transmit to Us, by by[sic] one of Our principal Secretaries of State all such other Information, with respect to the Fishery, as may enable Us to judge of the true and precise State of it in every particular, and of what may be further necessary for extending and improving so valuable a Branch of the Commerce of these Kingdoms.

81. Whereas We have thought fit, by Our Commission to you, to give and grant unto you full Power & Authority to constitute and appoint Judges, and, in cases requisite, Commissioners of Oyer & Terminer, for the hearing & determining of all Criminal Causes; Treason excepted, Justices of the Peace, and other Officers and Ministers for the Administration of Justice, with Power also to pardon Offenders, and to remit all Offences, Fines, & Forfeitures, wilful Murther only excepted, in which Case you have

likewise Power, on extraordinary Occassions, to grant Reprieves; It is Our express Will and Pleasure, that you do not appoint any such Commissioners of Oyer and Terminer to meet or hold Assizes more than once a year, and that only

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during the time you, or the Governor for the time being shall be resident there; And that you do not suffer any of the Officers of Our Ships of War, or of any of the trading Ships of Our Subjects, which shall happen to be there, to be deprived of Life or Limb by any Sentence of such Court; but in such Case, you shall reprieve the Criminal, until Our Pleasure be known therein. And you shall take especial Care, that all Persons guilty of Treason be sent over to this Kingdom, with Witnesses, and sufficient Proof of the Crime, along with them, And it is also Our express Will and Pleasure, that you do, with your Answer to the foregoing Enquiries, return also a full Account of what you shall have done in pursuance of this Power of appointing Judges; what Proceedings have been had before the said Judges; what Obstructions or Difficulties you or they have met with (if any) in putting the said Power in execution; and which way you conceive We may contribute to render it more useful and beneficial to all Our Subjects residing in, or resorting to the Islands under your Government.

Privy Council
Documents

Volume II
Contents

[25 April, 1764]

Newfoundland.

**REPORT OF THE LORDS OF THE COMMITTEE OF
THE PRIVY COUNCIL FOR TRADE AND
PLANTATIONS**

Newfoundland.

Commee Rep^t upon the
Draughts of
Instructions for Hugh
Palliser Esq^r Govern^r
there.

ON DRAFT OF INSTRUCTIONS FOR HUGH PALLISER THE GOVERNOR AND
COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND AND THE COAST OF LABRADOR, ETC.

[Extracted from Privy Council Minutes of 25th April, 1764.]

P.C. 2. Vol. 110, pp. 413-414.

Your Majesty having been pleased by your Order in Council of the 11th of this instant to refer unto this Committee a Report from the Lords Commissioners for Trade & Plantations together with a Draught of Instructions prepared by them for Hugh Palliser Esq^r whom your Majesty has been pleased to Appoint Governor and Commander in Chief in and over your Majesty's Island of Newfoundland and the Territories dependant thereon in America The Lords of the Committee in Obedience to your Majesty's said Order of Reference, this Day took the same into their Consideration, and do find that in the said Draught the said Lords Commissioners have made no Alterations from the Instructions given by your Majesty to Thomas Graves Esq^r the late Governor of the said Island, except in the following respects (Viz^t)

That they have omitted the Second Article, and in the room of it have inserted Articles 2. 3. 4. 5. 6. 7. which respect the Regulations your Majesty has been pleased to approve in Order to be Incorporated into this Draught for securing to the Subjects of his most Christian Majesty that Fishery on the Coast of Newfoundland, to which they are entitled by the Stipulations of the late Definitive Treaty of Peace in Common with your Majesty's Subjects within the Limits therein described; And that they have likewise Omitted the Sixth Article requiring the Governor to Assist your Majesty's Subjects in the removal of their Persons and Effects, the Object of which Article no longer exists.

The Lords of the Committee upon mature Consideration of the said Alterations and Additions, are of Opinion, that the same are not only proper but necessary to be made in the said Draught of the Instructions, except only such part of the third Article as directs that the Fishing Season shall be understood

to expire on the 30th of September, which the Commee are of

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Opinion ought not to be understood to expire on any limited Day, but to continue so long as the Subjects of France shall be Actually employed in Fishing and drying Fish; Their Lordships have therefore thought proper to alter that part of the said Article by leaving out some Words and inserting others which will make the same run as follows (Viz^t) "To chuse their Stations there during the Fishing Season according as they shall respectively Arrive in the said Harbours, and to occupy such a space of Beach as shall be proportioned to their number of Boats so long as the said Subjects of France shall be Actually employed in Fishing and Drying of Fish agreeably[sic] in these respects to the Treaties of Utrecht and Paris and the established Practice in consequence thereof."

With this Additional alteration the Lords of the Committee do agree humbly to lay the said Draught of Instructions before your Majesty as proper for your Royal Approbation.

[10 May, 1765]

No. 99.

Newfoundland.

**ADDITIONAL INSTRUCTIONS PASSED UNDER THE
ROYAL SIGN-MANUAL AND SIGNET FOR HUGH
PALLISER,**

G. R.

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC. DATED 6 MAY 1765.

C.O. 324. Vol 9, p. 44.

Additional Instruction to Our Trusty and well beloved Hugh Palliser Esq^r Our Governor and Commander in Chief in and over Our Island of Newfoundland, and of the Territories dependent thereupon in America. Given at Our Court at St James's the tenth day of May 1765 and in the fifth Year of Our Reign.

Whereas it hath been represented unto Us, that several of Our Subjects, Inhabitants of, or resorting to Our said Island of Newfoundland under Your Government, have, upon various unwarrantable pretences, possessed themselves of, and do claim as their private property large Tracts of Land commodious for the Fishery, lying within the several Harbours and Rivers upon the Coast of Newfoundland, and the Islands adjacent thereto between Bonavista and Point Riche, to the great prejudice and discouragement of the Ship Fishery, not Only of Our Subjects in general, but also of the Subjects of the Crown of France, allowed by Treaty a concurrent Fishery within the Limits aforesaid; In order therefore to put a stop for the future to such irregular practices and unwarrantable Claims, to prevent all vexatious and expensive Litigations amongst Our Subjects, and to avoid Disputes between them and the Subjects of France, It is Our express Will and Pleasure, that You do not upon any pretence whatsoever allow any exclusive possession to be taken, as private Property, of any Lands, Rivers, or Islands in the northern parts of Newfoundland between Bonavista and point Riche; taking especial Care, that such Ships, as shall resort to that part of Our said Island for carrying on the Fishery, do chuse their Stations as they respectively arrive, and do take up and Occupy, subject to Your Control, such Space only of Beach as shall be proportioned to the Number of their Boats, conformable to what hath been prescribed by an Act passed in the 10th and 11th Years of King William the third, in respect to

those parts of the Coast which were in possession of Our Royal Predecessor at the Time that Act was passed.

G. R.

[14 May,
1765.]**No. 100.****ADMIRALTY INSTRUCTIONS TO ADMIRAL HUGH
PALLISER.**14TH MAY, 1765.

COLONIAL OFFICE RECORDS, 194/27, p. 32.

WHEREAS We have thought fit that His M's Ships & Vessels named in the inclosed List shall be employed this year under your Command for the Protection of the Fisheries at & about Newfoundland and of the Fishing Ships and Vessels belonging to His Maj^{ty}'s Subjects in their Voyage to and from that Island,

And whereas you have been already directed to take all command and have received from Us copies of the Instructions which We have given to the Commanders of the Pearl, Lark & Zephir for proceeding to different Parts of the said Island and cruising on the Stations against their Names expressed, as also a Copy of those which we have given to the Captain of the Niger for proceeding to such Station as you should appoint to the end that you might give them such further Instructions for their Proceedings as you should find necessary; And whereas we have Ordered the Commanders of Aquilon at Sheerness and Spy at Plymouth to put themselves under your Command, you are hereby required and directed to take them under your Command also, and put to Sea the first opportunity of Wind and Weather with the Guernsey and such of the Ships and Vessels abovementioned as are fitt for the Sea and are not already sailed leaving Orders for the others to follow you and Calling in your way down Channel off the Ports named in the

Margin for any Fishing Ships or Vessels bound to Newfoundland which may be ready and willing to accompany you. You are to make the best of your way to that Island and having seen the said Fishing Ships & Vessels as near to the Coast as may be necessary for their Security you are to proceed with the Ship you Command and such of the others as have not had particular Stations assigned them by us in such manner as you shall judge best for carrying into Execution the following Instructions, viz.

Pool.
Topsham.
Dartmouth.
Plymouth.

1.

And whereas you have received His Maj^{ty}'s Commission appointing you Governor & Commander in Chief in and over the Island of Newfoundland, the Coast of Labrador, from the Entrance of Hudson's Streights to the River S^t John's, the Islands of Anticosti, Madelaine &c.^a and of all the Forts & Garrisons erected, or that shall be erected in the said Islands, or

on the said Coast, and also His Majesty's Instructions for your Government therein; you are to take particular Care to act in all respects conformable to what is

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required by the said Commission & Instructions, and any other Instructions that you may receive from His Majesty relating to the aforesaid Island of Newfoundland or any other Parts within the limits of your Command, taking Care to prevent all illegal Trade, during your Continuance on that Station, and also to secure and protect the Fisheries and Coasts, from Piratical Ships or Vessels, which you are to use your utmost Endeavours to take or destroy . . .

2.

You are agreeable to an Act of Parliament of the 10th & 11th years of King William the third Entituled an Act to encourage the Trade to Newfoundland (which you will receive herewith) to be aiding & assisting to the Admirals, Vice Admirals, and Rear Admirals of the respective Ports & harbours of Newfoundland, from time to time as need shall require, in preserving the Peace & good Government among the Seamen & Fishermen, and in apprehending offenders.

3.

You are to be Careful that there be not taken into the Ships under your Command, to be transported to Newfoundland, any Seamen or others, than such as do belong to them; and as you are not to send any of the Ships Companies to any of the Fishing Ships, so neither are you to suffer to be taken on board them, any sort of Fish, either by way of Merchandize, Freight or otherwise; excepting what shall be necessary for the use and spending of the Ships Companies.

4.

And whereas the Lords Commissioners for Trade & Plantations have represented to us, that it is very prejudicial to this Kingdom that the Fishing Ships do not bring home from Newfoundland the Complement of Men they carry out, many of them being enticed away to New England, and others left in the Country; for which reason they have desired we would give you Directions to signify to the Masters of all British Ships at Newfoundland that they take Care to bring home the Number of Men they carry out (except in Case of Death) for that otherwise they will be prosecuted at their return; You are to let the Masters know the same accordingly, and to use Your best Endeavours to oblige them thereto, as far as in You lies.

5.

And whereas no Foreign Ships or Vessels whatever (except as in herein aftermentioned) have any right to fish at or about Newfoundland, and the Commanders of the Ships or War bound as Convoy thither, have at all Times past been directed

not to allow of their fishing in those Parts; It is therefore His Majesty's Pleasure that You take especial Care to prevent the same, and that, His Orders given herein be strictly complied with; And if You shall meet with any Foreign Ships fishing at or about Newfoundland, You are to oblige them to desist & depart from off the Coast, excepting Ships & Vessels

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belonging to the subjects of His Most Christian Majesty, fishing agreably to to[sic] the 13th Article of the Treaty of Peace concluded with France at Utrecht in the Year 1713, and to the 4th 5th & 6th Articles of the Treaty of Peace concluded at Paris the 10th day of Febry. 1763, Copies of which you will receive herewith.

6.

And whereas by the said Articles of the Treaty of Paris, it is stipulated that the Province of Canada with all it's Dependencies, as well as the Island of Cape Breton, and all the other Islands and Coasts in the Gulph and River of S^t Lawrence, and all that depends upon them, shall belong to the Crown of Great Britain; but that the Subjects of France shall have the Liberty of catching & drying their fish upon a Part of the Coast of Newfoundland only, to wit, from Cape Bonavista to the northward, and as far as Point Riche, but not to remain there beyond the Time necessary for that Purpose, agreable to the said 13th Article of the Treaty of Utrecht, by which the Property of the whole Island of Newfoundland is ceded to Great Britain; and His Majesty has, by the said 5th Article of the Treaty of Paris consented to leave to the Subjects of the Most C. King the Liberty of fishing in the Gulph of S^t Lawrence, and as to the Fishery out of the said Gulph it is hereby stipulated that the Subjects of the Most C. King shall not be permitted to exercise the said Fishery but at the Distance of Fifteen Leagues from the Coasts of the Island of Cape Breton; and that the Fishery upon the Coasts of Nova Scotia or Acadia, and every where else out of the said Gulph, shall remain upon the Footing of the former Treaties; You are therefore to use Your utmost Care, diligence, and Attention that the several Stipulations hereinbefore mentioned & referred to be duly & strictly performed according to the Tenor & Intention thereof, as far as they shall come within the Limits of Your command.

7.

And you are to exert Your best Endeavors to encourage & support the Whale Fishery in the Straits of Belle Isle, and more particularly the Fishery in York Harbour, and on the other Parts of the Coast of Labrador, and to hinder any Trade and Intercourse being carried on by any Persons whatever, other than the Subjects of Great Britain, with the Inhabitants of that Country, which of Right belongs solely to His Majesty; and you are likewise to protect the Salmon & Seal Fishery along

the Coast and likewise the Fisheries carried out by His Majesty's Subjects in the Gulph of S^t Lawrence, near the Islands of Madelaine &c.^a and to settle & guard the Fishery not only at Placentia & S^t John's, but as far to the Continent of Labrador, as your Command extends, taking care to prevent the Subjects of France from giving them any Disturbance by Acts of Violence or Injustice, or by any Evasion,

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contrary to the Spirit and Intention of the said Treaties and the Provisions contained in the Statute of 10th & 11th of William 3^d Chap. 25th and also to prevent the French from catching or drying their Fish, except within the Limits & Distances, & in the manner beforementioned.

8.

You are at the same Time to be careful, that the subjects of His Most C. Majesty may not be interrupted in their Fishery as stipulated by, or to be exercised pursuant to the Treaties of Utrecht and Paris beforementioned, or in the drying their Fish upon the Coast of Newfoundland according to the said Treaties; and You are to use Your best Endeavors to prevent His Majesty's subjects from giving them any Disturbance in their said Fishery, or in drying their Fish, as aforesaid, by any Acts of Violence or Injustice, or by any Evasion contrary to the Spirit & Intention of the said Treaties.

9.

And Whereas great Complaints have been made by the Court of France, that several Acts of Violence were committed, in the year 1763, on the French Fishermen at Newfoundland, by the Commanders of His Majesty's Ships stationed on that Coast, in burning their Boats, & driving them off the Coast before the Season of Fishing and drying of Fish was expired, whereby the Fishery of the Subjects of France with those of Great Britain was greatly interrupted; And Whereas it is the firm Intention of the King to maintain, with the utmost Justice, Probity, and good Faith, as well the Subjects of France as those of His own Dominions in the Enjoyment of that Fishery which is allowed them, in common with His Majesty's own Subjects, upon the Coast of Newfoundland, between Cape Bonavista and Point Riche, & elsewhere, within the Distances prescribed by the Treaties of Utrecht, and Paris beforementioned; You are hereby positively, enjoined, in Pursuance of His Majesty's express Commands signified to us for that Purpose, to abstain, and to use Your utmost Endeavors to prevent the Commanders of His Majesty's Ships, or any other of His Majesty's Subjects, from giving any Interruption to the Subjects of France, in carrying on that Fishery, which they are allowed by Treaties to enjoy, in common with the King's Subjects, within the Limits therein described as aforesaid, either by burning their Boats, or by any violent or unfair Proceedings; And You are to take Care that the French be suffered to remain on the said Coast so long

Pearl.
Lark.
Niger.
Zephir, Slo.

as they shall be actually engaged in the Employment of Fishing, and drying of Fish.

10.

And in order that this Service may be more effectually performed, We have ordered the Commanders of the Ships & Sloop named in the margin carefully to visit the several Harbours, Coasts, and Fishing Grounds, as well those upon the Coasts of Newfoundland, as those upon the Coasts of Labrador,

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& to the Northward, with Directions to them to prevent the French from drying their Fish, or continuing thereon, otherwise than is herein before-mentioned, between Cape Bonavista & Point Riche, or to fish nearer than the Distances allowed by the before-mentioned Treaties; and at the same Time We have ordered them to make Charts of all the said Coasts, with Drafts of the Harbors, noting the Depths of Water, Conveniences for Fishing, and whatever Observations may occur worthy of our Knowledge, which are to be transmitted by them to You, that they may be laid before Us: all of which You are to take Care they punctually comply with, unless, from unforeseen Events, You shall find it absolutely necessary for the King's Service to employ them in any other manner, which You are at Liberty to do, but will be responsible to Us for your Conduct therein: And we expect, that each of them should give Us as exact & Satisfactory Information upon the several Heads herein before-mentioned, as they can possibly procure; for which Purpose, notwithstanding the Stations allotted to them, You are at Liberty to employ any of them, as far as is consistent with the Protection of the Fishery, in such Manner, & on such Part of the Coasts before-mentioned, as will best enable them to comply with our Instructions on this Subject; And You are yourself if practicable, to visit such of the said Coasts as your necessary Attention to the other Branches of your Duty will admit of, in the Course of the Season, that You may compare the Reports made to You with your own Observations.

11.

And Whereas, pursuant to the 24th Article of the said Treaty of Paris, Possession of the Islands of S^t Peter & Miquelon has been given to France; and from their Vicinity to the Island of Newfoundland, and other Parts of His Majesty's Dominions in North America, an illicit Trade may be attempted to be carried on between the British, Indian, or any other Inhabitants of His Majesty's Dominions, and the Subjects of France, residing in the said Islands of S^t Peter & Miquelon, or employed in the Fishery, by virtue of the said Treaties, or between His Majesty's said Subjects, and other Subjects of France, or of other Powers trading or pretending to trade, to or with the said Islands of S^t Peter & Miquelon; In case any Endeavours shall

be used to carry on such illicit Trade as aforesaid, You are to be particularly attentive to the same, & prevent (if possible) all Communication whatever between the said Islands of S^t Pere & Miquelon, and any Part of His Majesty's Dominions in North America, contrary to the plain and direct Meaning of this Instruction.

12.

When the early Trade shall be ready, about the later End of August, You are to order one of the Frigates to take them under Convoy, and proceed off Cape Finisterre, where he is to leave those bound to the Ports of the North Coast of Spain, & proceed off the Coast of Portugal with the rest, calling at Lisbon for any Trade that may be ready in ten Days, beyond which Time she is on no account to tarry there, but is then to proceed to Sea with such Trade

as may be ready, & accompany them to the Nore, where she is to remain for farther Order.

13.

And when the Service will admitt, You are to send Home the other Ships and Vessels, viz: Two of the former & the Spy Sloop to Plymouth, and the rest to Spithead, directing their Commanders to take under their Convoy any homeward bound Trade that may be ready & willing to accompany them, & to see them in Safety as far as their Way lies together.

14.

By the End of October, You are to take under your Convoy the Fishing Ships which may be then bound to Portugal & Spain, and seeing them off their respective Ports, as far to the Southward as Cadiz, You are at Liberty to tarry there Ten Days; (but on no account to exceed that Time) at the Expiration whereof, You are to put to Sea with such homeward bound Trade as may be ready and willing to accompany You, and to call at Lisbon for such Trade as may be ready to said with You from thence homeward in Eight Days, at farthest, after your arrival there; and taking them also under your Protection, see the whole in Safely to Spithead, where You are to remain till farther Orders, sending Us an Account of your Arrival & Proceedings. But in Case You shall find it necessary or more eligible to send a Frigat to perform this Service, You are at Liberty to do so, and in that Case to proceed in the Ship you command directly to Spithead, with any Trade homeward bound from Newfoundland that may be ready & desirous of accompanying You. Given under our Hands the 14th of May 1765.

To Captain Pallisser, Commander of His Majesty's
Ship Guernsey, & Commander in Chief of His
Majesty's Ships & Vessels employed, & to be
employed, at & about Newfoundland.

EGMONT.
HOWE.
THO^s PITT.

By Command of Their Lordships
PH^p STEPHENS.

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A LIST OF HIS MAJESY'S SHIPS AND VESSELS TO BE EMPLOYED THIS
YEAR UNDER THE COMMAND OF COMMODORE PALLISER FOR THE
PROTECTION OF THE FISHERIES AT AND ABOUT NEWFOUNDLAND.

Rate.	Ship's Names.	Commanders.	Stations.
4	Guernsey	Cap ^l Hugh Palliser	
5	Pearl	Cha ^a Saxton	Between Cape Ray and Cape Race.
—	Lark	Sam ^l Thompson	Between Cape Bonavista and

			Quirpont inclusive.
—	Niger	S ^r Tho ^s Adams	
6	Aquilon	H ^{ble} P.F. Perceval	
Slo.	Zephir	John Hamilton	From Point Riche to S ^t Barbe on the coast of Newfound- land, & from the River S ^t John to York Harbour on the Coast of Labrador.
—	Spy	Tho ^s Allwright	
Schooner	Hope	L ^t John Candler	
Snow	Egmont	Arch ^d Dickson	

[Endorsed] Copy of Instructions to Commodore Pallisser
Dated 14th May 1765.

No. 101.

[1 April, 1766.]

Newfoundland.
ADMIRALTY INSTRUCTIONS TO HUGH PALLISER,
AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.

To take a Squadron under his command & employ them for the protection of the Newfoundland fish^y this Yre agreeable to the Instructions he reced last Yre & to such others as he may receive.

ADM. SEC. OUT LETTERS. VOL. 93, p. 182.

By &c.

Whereas His Majesty's Ships, Sloops, and Vessels named on the other side hereof are intended to be employed for the Convoy and protection of the Newfoundland Fishery this year; You are hereby required and directed to take them under your command, their Commanders being directed to obey your Orders; hoisting a Broad Pendant on board such of them as you shall think fit, And you are to employ them, as you shall judge best for the Service, conformable to the Orders and Instructions which you received last year and to such farther Instructions as you may receive from this Board before you leave for England.

And whereas it is intended that the Grenville Schooner, now refitting at Deptford, shall be continued on the service of surveying the Coasts of the Island of Newfoundland, you are to take her under your command also, and employ her, in such manner as you shall find best on the said Service; M^r Cooke her Master being directed to obey your Orders. Given &c. 1st April 1766.

CHA^s SAUNDERS
A. KEPPEL
J. YORKE.

Copy

To
Hugh Palliser Esq^r
Commander in Chief of His Maj^s Ships &
Vessels employed and to be employed
at & about the Islands of Newfoundland,
Madelaine, Aticosti, &c^a.

By &c. P.S.

SHIPS NAMES.	COMMANDERS.	AT WHAT PLACES.
Guernsey	Cap ^t John Gell	} Portsmouth.
Pearl	— Cha ^s Saxton	
Gibraltar	— R ^d Brathwaite	

Slo: Merlin	— Jn ^o Hamilton	}
Cutter Wells	Lieu ^t James Lawson	

On their way to Niger Cap^t S^r Tho^s Adams
Portsmouth. Frig^t: Favorite — W^m Hamilton

} Plymouth. Slo: Zephyr — Corthw^e Ommanney

On her way to Plym^o

Spy — Tho^s Allwright }
Scho^r Hope Lieut W^m Stanford }

Copy

Newfoundland.

No. 102.

**DUKE OF RICHMOND'S LETTER TO LORDS OF THE
ADMIRALTY.**

[28 May,
1766.]

Colonial Office Records 194/27.

With regard to a Blockhouse on the Coast of Labrador, it is His Majesty's Pleasure that Your Lordships do authorize Governor Palliser to build one there, in such Situation as he may judge best calculated for the Security and Encouragement of Adventures to that Coast,

I am &c^a (Signed) RICHMOND &c.

[Endorsed] 28th May 1766.

To the Lords of the Admiralty.

[2 June, 1766.]

No. 103.

Newfoundland.

ADMIRALTY INSTRUCTIONS TO HUGH PALLISER,AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.Instructions, for
command^s in Chief
at & about
Newf^dland &c^a.

ADM. SEC. OUT LETTERS. VOL. 93, pp. 280-282.

By &c^a.

You are hereby required and directed to repair forthwith to Portsmouth, and hoist^s your Broad Pendant on board His Majesty's Ship the Guernsey, proceed in her as soon as possible to Newfoundland, and employ your self and the Ships & Vessels which have already been put under your Command for the protection of the Fisheries at and about Newfoundland, and of the Fishing Ships & Vessels belonging to His Majesty's Subjects, to and from that Island, conformable to the Orders and Instructions you received last Year.

In case you shall at any time find that a greater Number of Ships and Vessels than those above mentioned are necessary to enable you to execute the Service on which you are employed; You are to apply to Vice Admiral Durell, (Commander in Cheif[sic] of His Majesty's Ships & Vessels, employed and to be employed in the River S^t Lawrence, and along the coast of Nova Scotia, the Islands of S^t John & Cape Breton and thence to Cape Florida and the Bahama Islands) at Halifax for such Reinforcements as you shall stand in need of, who has our Orders to supply you therewith.

In Case of the Death of any Officer of the Ships or Vessels under your Command, or the dismissal of them by a Court Martial, You are hereby empowered to appoint such other Persons as by the Quality of their employment, ought to succeed therein; particularly observing to appoint Commanders to be Captains of Post Ships, in preference to Lieutenants; And you are to take notice that we will not Confirm any Officers, appointed to vacancies, arising in any other manner: In Case of suspension you are only to give orders to proper persons to act, until such suspension shall be removed, or we shall think fit to give directions therein: And you are constantly to transmit to Us by the first opportunity, after appointing any Officer as aforesaid, an Account thereof, with your reasons for Appointing him.

For the better maintaining a proper Government and strict Discipline in the Squadron under your Command; We do hereby Authorize and

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empower you, to call and assemble Courts Martial in Foreign parts, as often as you shall see occasion; and Whereas Commanders in Chief of Squadrons of His Majesty's Ships in foreign parts, have sometimes neglected to hold Courts Martial for enquiring into the occasion of the loss of His Majesty's Ships when such misfortunes have happen'd, whereby the Crown has been put to an unnecessary expence, and the Officers & Companies been put to great inconveniencies by being kept out of their Wages; You are in Case of such accident, to try the Officers and Company for the same, and to transmit to our Secretary the Proceeding & Judgement thereupon, by the first Conveyance.

You are to send by all opportunities to our Secretary for our Information, an account of your proceedings relative to the Service, and such Intelligence as you may have collected proper for our knowledge; And you are moreover upon your return to England, to transmit to our Secretary to be laid before Us, a Journal of your Proceedings with the Squadron under your Command, or any part thereof, and of the Services upon which you may send any of the Ships or Vessels, with your Reasons for the same, and to Note therein all such particulars and remarkable occurrences as may be proper for our Information. Given &c^a. the 2^d of June 1766.

EDMONT
CHA^s SAUNDERS
W^M MEREDYTH
J. BULLER.

To Hugh Pallisser Esq^r,
Commander in Chief of His Majesty's
Ships & Vessels employed & to be
employ'd at and about the Islands
of Newfoundland, Madelaine, Anti-
costi & c^a

By &c^a

P.S.

Copy.

Privy Council
Documents

Volume II
Contents

[2 June,
1766.]

Additional Instructions.

No. 104.

Newfoundland.

**ADDITIONAL ADMIRALTY INSTRUCTIONS TO
HUGH PALLISER,**

AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.

ADM. SEC. OUT LETTERS, VOL. 93, pp. 282-283.

By &c^a.

Additional Instructions to Hugh Pallisser Esq^r Commander
in Chief of a Squadron of His Majesty's Ships &
Vessels, employed and to be employed, at and about the
Island of Newfoundland, the Islands Madelaine &
Anticosti, and upon the Coast of Labrador, from the
River S^t John to the Entrance of Hudsons Straits.

With respect to the Claim made by the French of exercising
a Fishery upon the Coast of the Island of Belle Isle, at the
Entrance of the Straits of that Name, between the North part of
the Island of Newfoundland and the Coast of Labradore,
mentioned in your Letters to the Earl of Halifax of the 11th
September last; You are hereby required & directed in
pursuance of the Kings Pleasure signified to Us by the Duke of
Richmond one of His Majesty's Secretaries of State, in his
Letter of the 28th past, to examine on your arrival in these parts,
whether the said Island is situated nearer to the Coast of
Labradore, or to that of Newfoundland, which will determine
to which it belongs, and accordingly you are to permit or
restrain the French, Fishing on the Coast of that Island.

And with respect to the regulations established by you last
Year, for a Fishery on the Coast of Labradore, (which were
transmitted with your aforesaid Letter) whereby His Majesty's
American Subjects, seem to be precluded from exercising the
said fishery, You are in pursuance of the King's farther
pleasure signified as aforesaid, not to interupt His Majesty's s^d
American Subjects in fishing, provided they conform to the
established Rules of Fishing.

And with regard to your proposal for building a Blockhouse
on the Coast of Labradore, which together with a Plan and an
Estimate of the Expencc, you laid before us in April last, You
are in pursuance of His Majesty's further pleasure signified as
aforesaid, to cause one to be built there, in such situation as
you shall judge best calculated for the security &
Encouragement of the Adventurers to that Coast; taking care
that exact Accounts of the Expencc, attending the same, with
proper Vouchers be transmitted to the proper Office, by the
first convenient Opportunity. Given &c^a the 2^d of June 1766.

EGMONT
CHA^S SAUNDERS
W^M MEREDYTH.

By &c^a
P. Stephens.

Copy

No. 105.

Newfoundland.

[7 April, 1769.]

REPRESENTATION OF THE LORDS OF TRADE,

SUBMITTING DRAFTS OF A COMMISSION AND INSTRUCTIONS FOR JOHN BYRON TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

B.T. NEWFLD., VOL. 33, pp. 1-4.

To the King's most Excellent Majesty.
MAY IT PLEASE YOUR MAJESTY,

In obedience to Your Majesty's Commands signified to us by one of Your Majesty's principal Secretaries of State, we have prepared and herewith humbly beg leave to lay before Your Majesty Draughts of a Commission and Instructions for John Byron Esquire whom Your Majesty has been pleased to appoint Governor and Commander in Chief in and over Your Majesty's Island of Newfoundland, and the Territories depending thereon in America; in which Draughts we have made no alteration form the Commission and Instructions given by Your Majesty to Hugh Palliser Esquire late Governor of Your Majesty's said Island, save only in the following Particulars.

* * * * *

We have also added the seventeenth, eighteenth, nineteenth, twentieth, twenty first, twenty second, twenty third, twenty fourth, twenty fifth and twenty eighth Articles, the first nine of which contain Directions for Enquiry into the State of those Territories which have been added to the Government of Newfoundland since the Treaty of Paris, and the last mentioned Article contains the substance of an additional Instruction given to Your Majesty's late Governor in 1765, relative to the Fishery between Bona Vista and Point Riche.

* * * * *

All which is most humbly submitted.

HILLSBOROUGH,
SOAME JENYNS,
ED: ELIOT,
JOHN ROBERTS,
WM FITZHERBERT,
THOMAS ROBINSON,
LISBURNE.

Whitehall,
April 7th 1769.

No. 106.

Newfoundland.

[3 May, 1769.]

ORDER OF HIS MAJESTY IN COUNCIL

APPROVING DRAFT OF A COMMISSION AND INSTRUCTIONS FOR JOHN
BYRON TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE
ISLAND OF NEWFOUNDLAND, THE COAST OF LABRADOR ETC.



C.O. 5 VOL. 26, pp. 41, 42.

At the Court at St James's
the 3rd Day of May 1769.

Present

The Kings most Excellent Majesty in Council

Whereas there was this Day read at the Board, a Report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs, dated the 24th of last Month, upon consideration the Draughts of a Commission and Instructions prepared by the Lords Commissioners for Trade and plantations for John Byron Esquire Governor and Commander in Chief in and over His Majestys Island of Newfoundland, and the Territories depending thereon in America—By which Report it appears that the said Lords Commissioners have made some Alterations and Additions to these Draughts from the Commissions and Instructions given by His Majesty to the late Governor, and which Alterations and Additions the Lords of the Committee have Reported as proper and necessary to be made therein—His Majesty taking the same into Consideration, was pleased, with the Advice of His privy Council to Approve of the said Draughts of a Commission and Instructions, and also of the said Alterations and Additions, and to Order, as it is hereby Ordered, that the Right Honourable the Earl of Hillsborough one of His Majesty's Principal Secretaries of State, do cause a Warrant to be prepared for His Majesty's Royal Signature, in Order to pass the said Commission under the Great Seal, And that His Lordship do likewise cause the said Draught of Instructions to be prepared for His Majesty's Royal Signature.

STEPH: COTTRELL.

O. Signed.

Endorsed. Order in Council

3 May 1769.

Approving the Dra^t of Commission &
Instructions for the Hon^{ble} John Byron,
Gov^r of Newfoundland.

No. 107.

Newfoundland.

[13 May, 1769.]

**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN**

APPOINTING JOHN BYRON TO BE GOVERNOR AND COMMANDER-
IN- CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND, THE
COAST OF LABRADOR, ETC.

PATENT ROLL. 9 GEO. III, PART II, NO. 1.

John Byron Esq ^r Governor of Newfoundland	}	GEORGE the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith &c To Our Trusty and Welbeloved John Byron Esquire Greeting Whereas We did by Our Letters Patent under Our
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Great Seal of Great Britain bearing date at Westminster the Ninth day of April in the fourth Year of Our Reign constitute and appoint Hugh Pallisser Esq^r to be Our Governor and Commander in Chief in and over Our Island of Newfoundland and all the Coast of Labrador from the entrance of Hudsons Streights to the River Saint John which discharges itself into the Sea nearly opposite the West End of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our forts and Garrisons erected and established or that should be erected and established in Our Islands of Newfoundland Anticosti and Madelaine or on the Coasts of Labrador within the Limits aforesaid for and during Our Will and Pleasure as by the said Letters Patent relation being thereunto has may more fully and at large appear Now Know You that We have revoked determined & made void And by these Presents do revoke determine and make void the said recited Letters Patent and every Clause Article and thing therein contained And We reposing especial Trust and Confidence in the Prudence Courage and Loyalty of you the said John Byron of Our especial Grace certain knowledge and meer Motion have thought fit to constitute and appoint and by these Presents do constitute and appoint You the said John Byron to be Our Governor and Commander in Chief in and over Our said Island of Newfoundland and all the Coast of Labrador from the Entrance of Hudsons Streights to the River Saint John which discharges itself into the Sea nearly opposite the West end of the Island of Anticosti including that Island with any other small

Islands on the said Coast of Labrador and also the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our fforts and Garrisons erected

p. 453

and established or that shall be erected and established in Our said Islands of Newfoundland Anticosti and Madelaine or on the Coasts of Labrador within the Limits aforesaid And We do hereby require and Command you to do and execute all things in due manner that shall belong to your said command and the Trust We have reposed in you according to the several Powers and directions granted or appointed you by this present Commission and the Instructions either herewith given You or by such further Powers Instructions or Authorities as shall at any time hereafter be granted or appointed You under Our Signet or Sign Manual or by Our Order in Our Privy Council And We do further give and grant unto You the said John Byron full Power & Authority from time to time and at all times hereafter by Yourself or by any Other to be authorized by You in that behalf to administer and give the Oaths mentioned in an Act passed in the ffirst Year of the Reign of King George the ffirst entitled An Act for the further Security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the Pretended Prince of Wales and his open and secret Abettors And in an Act passed in the Sixth Year of Our Reign entitled "An Act for altering the Oath of Abjuration and the Assurance and for amending so much of an Act of the seventh Year of her late Majesty Queen Anne entitled" an Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the Delivery of certain Lists and Copies therein mentioned to Persons indicted of High Treason or Misprision of Treason to all and every such Person and Persons as You shall think fit who shall at any time or times pass into Our said Islands or shall be resident or abiding here or upon the Coasts of Labrador within the Limits aforesaid. And We do by these Presents give and grant unto You full Power and Authority to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer for the hearing and determining of all Criminal Causes Treason excepted according to Law and for awarding Execution thereupon with all reasonable and necessary Powers Authorities ffees and Privileges belonging thereunto and Justices of the Peace with other necessary Officers and Ministers for the better Administration of Justice and keeping the Peace & quiet of the said Island and Coasts aforesaid.

[Then the same as in Commission to Hugh Palliser of 9th April, 1764, ante page 413, line 30, to page 414, line 33.]

And We do hereby require and command all Officers Civil

and Military and all other Inhabitants of Our said Islands and the Coasts and Territories or Labrador and Islands adjacent thereto or dependent thereupon within the Limits aforesaid to be obedient aiding and assisting unto You in the Execution of this Our Commission and of the Power and Authorities herein contained. And in case of your Death Our Will and Pleasure is that the Person upon whom the Command of Our Ships under Your Command shall devolve do take upon him the Administration of the Governm^t of Our said

p. 454

Islands and Territories as aforesaid and Execute Our said commission and Instructions and the several Powers and Authorities therein contained in the same manner to all intents and purposes as you Our said Governor and Commander in Chief might or ought to do for and during Our Will and Pleasure And We do hereby declare Ordain and Appoint that You the said John Byron shall & may hold execute and enjoy the Place or Our Governor and Commander in Chief in and over Our said Island of Newfoundland and all the Coast of Labrador from the Entrance of Hudsons Streights to the River Saint John which discharges itself into the Sea nearly opposite to the West End of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our fforts and Garrisons erected and established or that shall be erected and established in Our said Islands or Newfoundland Anticosti and Madelaine or on the Coast of Labrador within the Limits aforesaid with all and singular the Powers and Authorities hereby granted unto You for and during Our Will and Pleasure In Witness &c Witness Ourself at Westminster the Thirteenth day of May

By Writt of Privy Seal

No. 108.

Newfoundland.

1769.
May 10.**EXTRACT FROM INSTRUCTIONS PASSED UNDER
THE ROYAL SIGN-MANUAL AND SIGNET FOR JOHN
BYRON**

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC. DATED
10 MAY 1769.

C. O. 195, vol. 10.

Instructions to Our Trusty and Welbeloved John Byron Esquire Our Governor and Commander in Chief in and over Our Island of Newfoundland in America and all the Coast of Labrador from the entrance of Hudson's Streights to the River St. John's, which discharges itself into the Sea, nearly opposite to the West End of the Island of Anticosti, including that Island, and any other small Islands on the said Coast of Labrador, and also the Islands of Madelaine in the Gulph of St. Lawrence, as also of all Our Forts and Garrisons erected and established, or that shall be erected and established in our said Islands or on the Coast of Labrador, within the Limits aforesaid; Given at Our Court at St. James's the 10th Day of May and in the Ninth Year of Our Reign.

With these Our Instructions you will receive Our Commission under Our Great Seal of Great Britain, constituting you Our Governor and Commander in Chief in and over Our Island of Newfoundland in America, and all the Coast of Labrador, from the entrance of Hudson's Streights to the River St. John's which discharges itself into the sea nearly opposite the West End of the Island of Anticosti including that Island, with any other small Islands on the Coast of Labrador, and also the Islands of Madelaine, in the Gulph of St. Lawrence, as also of all Our Forts and Garrisons erected and established, or that shall be erected and established in our said Islands, or on the Coast of Labrador, within the Limits aforesaid, with Directions to obey such Orders and Instructions as shall from Time to Time be given You under Our Signet and Sign Manual, or by Our Order in Our Privy Council.

First, You are therefore to fit yourself with all convenient speed and to repair to your said Command, and being arrived, You are to take upon You the execution of the Place and Trust We have reposed in You and as soon as conveniently may be, to assemble the principal Inhabitants in the Island of

25. What Traffick or Commerce is or may be established or carried on with those savages? And if any such Traffick is established or carried on, at what Places and under what Regulations?

26

to } same { 17
as } as { 18 to Hugh Palliser, ante pp. 422, 423.
27 }

28. Whereas it hath been represented unto Us, that several of Our Subjects, Inhabitants of, or resorting to Our said Island of Newfoundland under Your Government, have, upon various unwarrantable pretences, possessed themselves of; and do claim, as their private property, large Tracts of Land commodious for the Fishery lying within the several Harbours, and Rivers upon the coast of Newfoundland, and the Islands adjacent thereto between Bonavista and Point Riche, to the great prejudice and discouragement

p. 457

of the Ship-Fishery, not only of Our Subjects in general, but also of the Subjects of the Crown of France, allowed by treaty a concurrent Fishery within the Limits aforesaid; in order therefore to put a Stop for the future to such irregular practices, and unwarrantable Claims; to prevent all vexatious and expensive Litigations amongst Our Subjects; and to avoid Disputes between them and the Subjects of France; It is Our express Will and Pleasure, that you do not, upon any pretence whatsoever, allow any exclusive possession to be taken, as private property, of any Lands, Rivers, or Islands in the Northern parts of Newfoundland between Bonavista and Point Riche; taking especial care, that such Ships, as shall resort to that part of Our said Island for carrying on the Fishery, do cause their Stations, as they respectively arrive; and do take up and occupy, subject to your control, such space only of Beach, as shall be proportioned to the Number of their Boats, conformable to what has been prescribed by an Act passed in the Tenth and Eleventh Years of King William the third in respect to those parts of the Coast, which were in possession of Our Royal predecessor, at the time that Act was passed.

29

19

to } same { to
as } as { to Hugh Palliser, ante p. 423.
61 } 51

62. Whether any Trade is carried on for Beaver and other Furs by the Inhabitants, or by any others, who remain in the Country? what Quantity they have taken this last Winter; and whether they have any Traffick with the Indians? And whereas it has been represented unto Us, that Our Subjects, residing in Our said Island, during the Winter Season, instead of

cultivating such a friendly Intercourse with the Savages inhabiting that Island, as might be for their mutual Benefit and Advantage, do treat the said Savages with the greatest Inhumanity, and frequently destroy them without the least provocation or remorse; In order therefore to put a Stop to such inhuman Barbarity, and that the perpetrators of such atrocious Crimes may be brought to due punishment, It is Our Will & Pleasure, that you do, as soon as conveniently may be, after your Arrival, in those Parts, cause a Proclamation in Our Name to be published & dispersed thro' the several Settlements in Our said Island, expressing Our abhorrence of such inhuman Barbarity, strictly enjoyned and requiring All Our Subjects to live in Amity & Brotherly kindness with the native Savages of that Island, and commanding and requiring all Officers and Magistrates to use their utmost diligence to discover and apprehend all Persons, who may be guilty of murdering any of the said Native Indians, in order that such Offender may be sent over to this Kingdom, to be tried for such capital Crime in the manner directed by the aforesaid Statute of the 10th and 11th years of the Reign of King William the 3^d, for encouraging the Trade to Newfoundland.

63

53

to } same { to
as } as { to Hugh Palliser, ante p. 428.
91 } 81

except that where "the Commissioners for Trade and Plantations" are referred to "one of Our principal Secretaries of State" is to be substituted.

No. 109.

[23 May, 1769.]

Newfoundland.

ADMIRALTY INSTRUCTIONS TO JOHN BYRON

AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE NEWFOUNDLAND STATION.

Instructions for commanding in Chief the Squadron to be employed this yre at & about Newfoundland &c. &c.

ADM. SEC. OUT-LRS. VOL. 95, pp. 88-103.

By &c^a

Pool
Topsham
Dartmouth
Plymouth.

Whereas we have thought fit to appoint you to be Commander in Chief of the Squadron of His Majesty's Ships and Vessels intended to be employed in protecting the Fisheries of His Majesty's Subjects at and about the Island of Newfoundland the Islands of Anticosti and Magdalen and upon the Coast of Labrador from the River St John to the Entrance of Hudson's Straits and have already directed you to take the said Squadron under your command You are hereby required and directed to repair on board the Antelope, one of the Ships of the said Squadron now at Spithead and proceed in her, without loss of time to Newfoundland; taking with you such other Ships and Vessels of the said Squadron as may be ready for the Sea, and leaving orders for the rest to follow you as soon as they are so.

You are to call off the several Ports named in the Margin, in your way down Channel, for any Fishing Ships or Vessels bound to Newfoundland which may be ready and whose Masters may be willing to accompany you, and, having seen them as near to the Coast as may be necessary for their Security—You are to proceed in such manner as you shall judge best for carrying into Execution the following Instructions.

1.

Whereas you have received His Majesty's Commission appointing you Governor and Commander in Chief in and over the Island of Newfoundland, the Coast of Labrador from the Entrance of Hudsons Straits to the River St John, the Islands of Anticosti Magdalen &c^a and of all the Forts and Garrisons erected or that shall be erected in the said Islands or on the said Coast, and also His Majesty's Instructions for your Government therein You are to take particular care to act in all respects conformable to what is

required by the said Commission and Instructions and any other Instructions you may receive from His Majesty relating to the aforesaid Island of Newfoundland or any other parts within the limits of your Command: taking care to prevent all illegal Trade during your continuance on that Station, and also to secure and protect the Fisheries and Coasts from Piratical Ships or Vessels, which you are to use your utmost endeavours to take or destroy.

2.

You are, agreeable to an Act of Parliament of the 10th and 11th years of King William the 3^d, entitled "an Act to encourage the Trade to Newfoundland" (which you will receive herewith) to be aiding and assisting to the Admirals, Vice Admirals and Rear Admirals of the respective Ports and Harbours of Newfoundland, from time to time as need shall require, in preserving the peace and good Government among the Seamen and Fishermen, and in apprehending Offenders.

3.

You are to be careful that there be not taken into the Ships under your command to be transported to Newfoundland, any Seamen or others than such as do belong to them, And, as you are not to lend any of the Ships Companies to any of the fishing ships, so neither are you to suffer to be taken on board them any sort of Fish either by way of Merchandize, Freight or otherwise excepting what shall be necessary for the use and spending of the Ship's Companies.—

4.

And whereas the Lords Commissioners for Trade and Plantations have represented to us that it is very prejudicial to this Kingdom that the Fishing Ships do not bring home from Newfoundland the Complement of Men they carry out, many of them being enticed away to New-England and others left in the Country; for which reason they have desired we would give you directions to signify to the Masters of all British Ships at Newfoundland that they take care to bring home the number of Men they carry out (except in case of Death), for that otherwise they will be prosecuted at their return you are to let the Masters know the same accordingly, and to use your best endeavours to oblige them thereto, as far as in you lies.

5.

And whereas no foreign Ships or Vessels whatever (except as is herein after excepted) have any right to fish at or about Newfoundland and the Commanders of the Ships of War bound as Convoy thither have, at all times past, been directed not to allow of their fishing in those parts; it is therefore His Majesty's pleasure that you take especial care to prevent the same and

that his orders given herein be strictly complied with; And, if

you shall meet with any Foreign Ships fishing at or about Newfoundland, you are to oblige them to desist and depart from off the Coast, excepting Ships and Vessels belonging to the Subjects of His Most Christian Majesty, fishing agreeably to the 13th Article of the Treaty of Peace concluded with France at Utrecht in the Year 1713 and to the 4th, 5th, and 6th Articles of the Treaty of Peace concluded at Paris the 10th day of February 1763; Copies of which you will receive herewith.

6.

And whereas, by the said Articles of the Treaty of Paris, it is stipulated that the Province of Canada, with all its dependencies as well as the Island of Cape-Breton, and all the other Islands and Coasts in the Gulph and River of S^t Lawrence, and all that depends upon them shall belong to the Crown of Great Britain; but that the Subjects of France shall have the Liberty of catching and drying their Fish upon a part of the Coast of Newfoundland only, to wit, from Cape Bonavista to the Northward and as far as Point Riche but not to remain there beyond the time necessary for that purpose, agreeable to the said 13th Article of the Treaty of Utrecht by which the property of the whole Island of Newfoundland is ceded to Great Britain; and His Majesty has, by the said 5th Article of the Treaty of Paris, consented to leave to the Subjects of the Most Christian King, the Liberty of fishing in the Gulph-of S^t Lawrence, upon condition that they do not exercise the said Fishery but at the distance of Three Leagues from all the Coasts belonging to Great Britain, as well those of the Continent as those of the Islands situated in the Gulph of S^t Lawrence, and, as to the Fishery out of the said Gulph, it is thereby stipulated, that the Subjects of the most Christian King shall not be permitted to exercise the said Fishery but at the distance of fifteen Leagues from the Coasts of the Island of Cape Breton; and that the fishery upon the Coasts of Nova Scotia or Arcadia and every where else out of the said Gulph, shall remain upon the footing of the former Treaties, You are therefore to use your utmost Care, diligence and attention, that the several Stipulations herein beforementioned and referred to, be duly and strictly performed, according to the Tenor and Intention thereof, as far as they shall come within the limits of your Command.

7.

You are to exert your best endeavours to encourage and support the Whale Fishery in the Straits of Belle Isle, and more particularly the Fishery in York Harbour and on the other parts of the Coast of Labrador, and to hinder any Trade or Intercourse being carried on by any Persons whatsoever, other than the Subjects of Great Britain, with the Inhabitants of that Country, which of right belongs solely to His Majesty; and you are likewise to protect the Salmon and Seal Fishery along the Coasts, and likewise the Fisheries

carried on by His Majesty's Subjects in the Gulph of St Lawrence near the Islands of Madelaine &c^a; and to settle and guard the Fishery, not only at Placentia and St Johns, but as far to the Northward, upon the Coasts of Newfoundland and upon those of the Continent of Labrador as your Command extends; taking care to prevent the Subjects of France from giving them any disturbance by Acts of Violence or Injustice, or by any Evasion, contrary to the Spirit and Intention of the said Treaties and the provisions contained in the Statute of 10th & 11th of William 3^d Chap. 25th, and also to prevent the French from catching or drying Fish, except within the Limits and distances and in the manner beforementioned—

8.

You are, at the same time, to be careful that the Subjects of His Most Christian Majesty may not be interrupted in their Fishery, as stipulated by, or to be exercised pursuant to the Treaties of Utrecht and Paris beforementioned, or in the drying their Fish upon the Coast of Newfoundland according to the said Treaties; and you are to use your best endeavours to prevent His Majesty's Subjects from giving them any disturbance in their said Fishery or in drying their Fish as aforesaid, by any Acts of Violence or Injustice or by any Evasion contrary to the Spirit and Intention of the said Treaties; and,

9.

Whereas great Complaints were made by the Court of France that several Acts of Violence were committed in the Year 1763 on the French Fishermen at Newfoundland by the Commanders of His Majesty's Ship's stationed on that Coast, in burning their Boats and driving them off the Coast before the Season for fishing and drying their Fish was expired, whereby the Fishery of the Subjects of France with those of Great Britain was greatly interrupted; And whereas it is the firm Intention of the King to maintain, with the utmost Justice, Probity and good Faith, as well the Subjects of France as those of his own Dominions, in the enjoyment of that Fishery which is allowed them in common with His Majesty's own Subjects upon the Coast of Newfoundland between Cape Bonavista and Point Riche, & elsewhere within the Distances prescribed by the Treaties of Utrecht and Paris beforementioned You are hereby positively enjoined, in pursuance of His Majesty's express Commands signified to us for that purpose, to abstain, and to use your utmost endeavours to prevent the Commanders of His Majesty's Ships or any other of His Majesty's Subjects, from giving any Interruption to the Subjects of France in carrying on that Fishery which they are allowed by Treaties to enjoy in common with the King's Subjects within the limits therein described as aforesaid; either by burning their Boats or by any violent or unfair proceedings; And you are to take care that the French be suffered to remain on the said Coast so long as they shall be actually engaged in the employment of fishing or drying their fish. But,

10.

The French having, in the Year 1765 claimed a Right of fishing on the Coasts of the Island of Belle Isle, at the Entrance of the Straits of that name, between the North part of Newfoundland and the Coast of Labrador on the Ground of it's being an appendage to the former, Commodore Palliser was directed the succeeding year to examine whether that Island was situated nearest to the Coast of Labrador or to that of Newfoundland, to determine which it belonged to, and to permit or restrain the French fishing on the Coast of that Island accordingly; and M^r Palliser having, in consequence thereof, reported to us by his Letter of the 25th of August 1766, that he had forbid them resorting to that Island it lying indisputably nearest to Labrador We signify the same for your Information and Guidance, in case the French should attempt to fish on the Coasts of the said Island of Belle Isle in the approaching Season.

11.

And whereas, pursuant to the 24th Article of the said Treaty of Paris, Possession of the Islands of St Peter and Miquelon has been given to France, and, from their Vicinity to the Island of Newfoundland and other Parts of His Majesty's Dominions in North America an illicit Trade may be attempted to be carried on between the British, Indian, or any other Inhabitants of His Majesty's Dominions, and the Subjects of France residing in the said Islands of St Peter and Miquelon, or employed in the Fishery by virtue of the said Treaties, or between His Majesty's said Subjects and other Subjects of France, or of other powers trading or pretending to trade to, or with the said Islands of St Peter and Miquelon. In case any endeavours shall be used to carry on such illicit Trade as aforesaid, You are to be particularly attentive to the same, and prevent, if possible, all Communication whatever between the said Islands of St Peter and Miquelon and any part of His Majesty's Dominions in North America, contrary to the plain and direct meaning of this Instruction. But,

12.

The French having, in the Year 1766 claimed a Right of fishing on the abovementioned Islands of S^t Peter and Miquelon the Duke of Richmond, one of His Majesty's then principal Secretaries of State signified to us, that, thô we cannot admit that by the Treaties subsisting, the French have any right to the said Claim of fishing between those Islands and the Coast of Newfoundland and therefore that no such Concession ought to be made to them, Yet, as Commodore Palliser had reported that he had not found it immediately necessary to His Majesty's Service to interrupt the French Boats fishing on the Coasts of those Islands. It was His Majesty's pleasure that we should instruct him to hold the same Conduct 'til further Orders, or 'til the behaviour of the

French, by an abuse of that Liberty should make it necessary
for him to alter it, You are also to hold

the like Conduct in this respect until further Order, or 'til the Behaviour of the French, by an Abuse of the said Liberty shall make it necessary for you to alter it.

13.

And, in order that these Services may be more effectually performed, you are to assign to the several Ships and Vessels under your Command such Stations on the Coasts of Newfoundland and Labrador, including the Islands of Magdalen and Anticosti in the Gulph of S^t Lawrence, as shall be most proper, giving to their respective Commanders full and clear Instructions on the several points herein beforementioned conformable to the foregoing Articles of these our Instructions to yourself, and directing them also very carefully to visit the several Coasts, Harbours & Fishing Grounds within the limits of their respective Stations and to make Charts of such parts of the Coasts and Draughts of such of the Harbours, as have not already been surveyed, noting the Depths of Water, Conveniency for fishing, and whatever Observations occur worthy our knowledge which are to be transmitted to you to be laid before us; And you are yourself, if practicable to visit such parts of the said Coasts &c^a as your necessary Attention to the other Branches of your Duty will admit of, in the Course of the Season, that you may compare the Reports made to you, with your own Observations, before you transmit them to us.

14.

When the Early Trade shall be ready about the latter End of August, you are to order one of the Frigates to take them under Convoy and proceed off Cape Finisterre where she is to leave those bound to the Ports on the North Coast of Spain, and proceed off the Coast of Portugal with the rest, calling at Lisbon for any Trade that may be ready in Ten Days; beyond which time she is on no Account to tarry there but is then to proceed to England with such Trade as may be ready and accompany them to Spithead, where she is to remain for farther Order.

15.

And, when the Service will admit, you are to send home the other Ships and Vessels Viz^t One Ship and one Sloop to Plymouth and the remainder to Portsmouth, directing their Commanders to take under their Convoy any homeward bound trade that may be ready and willing to accompany them, and to see them in safety as far as their way lies together.

16.

By the End of October you are to take under your Convoy any Fishing Ships which may then be bound to Portugal & Spain and seeing them off their respective Ports as far to the

Southward as Cadiz, you are at Liberty to tarry there Three Weeks -(but on no Account to exceed that time); At the expiration whereof you are to put to Sea with such homeward bound

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Trade as may be ready and willing to accompany you, and to call at Lisbon for such Trade as may be ready to sail with you from thence homeward in eight days at farthest after your arrival there, and, taking them also under your protection see the whole in safety to Spithead, where you are to remain 'til further Orders, sending us an Account of your arrival and proceedings. But, in case you shall find it necessary or more eligible, to send a Frigate to perform this Service, you are at Liberty to do so; and, in that case, to proceed in the Ship you command directly to Spithead, with any Trade homeward bound from Newfoundland that may be ready and desirous of accompanying you.

17.

In case you shall, at any time, find that a greater number of Ships and Vessels than those which may be under your command shall be necessary to enable you to execute the Service on which you are employed, you are to apply to Commodore Hood, or the Commander in Chief for the time being of His Majesty's Ships and Vessels employed and to be employed in the River S^t Lawrence and along the Coasts of Nova Scotia the Islands of St John and Cape Breton and thence to Cape Florida and the Bahama Islands for such Reinforcements as you shall stand in need of, who has our Orders to supply you therewith.

18.

For the better maintaining a proper Government and strict discipline in the Squadron under your Command; We do hereby authorize and empower you to call and assemble Courts Martial in foreign parts as often as you shall see occasion; And whereas Commanders in chief of Squadrons of His Majesty's Ships in Foreign parts have sometimes neglected to hold Courts Martial for enquiring into the Occasion of the Loss of His Majesty's Ships when such Misfortunes have happened whereby the Crown has been put to an unnecessary Expence and the Officers and Companies been put to great inconveniences by being kept out of their Wages; You are, in case, of such Accident, to cause a Court Martial to be assembled as soon afterwards as possible to try the Officers and Company for the same and to transmit to our Secretary the proceeding and judgment thereupon, by the first conveyance.

19.

In case of the death of any Officer of the Ships or Vessels under your command or the dismissal of them by a Court Martial you are hereby empowered to appoint such other persons, as, by the quality of their employment, ought to

succeed therein particularly observing to appoint Commanders to be Captains of Post Ships in preference to Lieutenants; And you are to take Notice that we will not confirm any Officers appointed to Vacancies arising in any other manner. In Case of Suspension you are only to give orders to proper persons to act, until such suspension shall be removed, or we shall think fit to give directions therein; And you are constantly to transmit

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to us, by the first opportunity after appointing any Officer as aforesaid, an Account thereof, with your reasons for appointing him.

20.

You are to send, by all opportunities to our Secretary for our Information an Account of your proceedings relative to the Service, and such Intelligence as you may have collected proper for our knowledge; And you are, moreover upon your return to England, to transmit to our Secretary, to be laid before us, a Journal of your proceedings with the Squadron under your Command or any part thereof, and of the Services upon which you may send any of the Ships or Vessels, with your reasons for the same, and to note therein all such particulars and remarkable Occurrences as may be proper for our information. Given &c^a the 23^d May 1769.

E. HAWKE
J: BULLER
GEO: YONGE.

To the Honble John Byron Commander
in Chief of His Majesty's Ships &
Vessels intended to be employed at
and about the Island of Newfound-
land, the Islands of Madelaine and
Anticosti and upon the Coast of
Labrador from the River S^t John
to the Entrance of Hudsons Straits.

By &c^a
P. S.

Copy

No. 110.

Newfoundland.

[16 March,
1772.]**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN,**

APPOINTING MOLYNEUX SHULDHAM TO BE GOVERNOR AND
COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

PATENT ROLL 12 GEO. III. PART II. No. 7.

Molineux Shuldham, Esqr Governor of Newfoundland	}	George the third by the Grace of God of Great Britain France and Ireland King Defender of the Faith &c To our Trusty and
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Wellbeloved Molineux Shuldham Esquire Greeting Whereas we did by our Letters patent under our Great Seal of Great Britain bearing date at Westminster the thirteenth day of May in the ninth year of our Reign Constitute and appoint John Byron Esquire to be our Governor and Commander in Chief in and over our Island of Newfoundland and all the Coast of Labrador from the Entrance of Hudsons Streights to the River Saint John's which discharges itself into the Sea nearly opposite the west end of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Madelaine in the Gulph of Saint Lawrence as also of all our Forts and Garrisons Erected and Established or that should be [E]rected and Established in our Islands of Newfoundland Anticosti and Madelaine or on the Coasts of Labrador within the Limits aforesaid for and during our will and pleasure as by the said Letters Patent relation being thereunto had may more fully and at large appear Now know you that we have revoked determined and made void and by these Presents do revoke determine and make void the said recited Letters Patent and every Clause Article and thing therein contained and we reposing Especial Trust and Confidence in the Prudence Courage and Loyalty of you the said Molineux Shuldham of our Especial Grace certain knowledge and meer motion have thought fit to Constitute and appoint and by these Presents do Constitute and appoint you the said Molineux Shuldham to be our Governor and Commander in Chief in and over our said Island of Newfoundland and all the Coast of Labrador from the Entrance of Hudsons Streights to the River Saint Johns which discharges

itself i[n]to the Sea nearly opposite the west End of the Island of Anticosti Including that Island with any other Small Islands on the said Coast of Labrador and also the Islands of Madelaine in the Gulph

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of Saint Lawrence as also of all our fforts and Garrisons Erected and Established or that shall be Erected and Established in our said Islands of Newfoundland Anticosti and Madelaine or on the Coast of Labrador within the Limits aforesaid And we do hereby require and Command you to do and Execute all things in due manner that shall belong to your said Command and the trust we have reposed in you according to the several Powers and directions Granted or appointed you by this Present Commission and the Instructions either herewith Given You or by such further powers Instructions or Authorities as shall at any time hereafter be Granted or appointed you under our Signet or Sign Manual or by our Order in our Privy Council And we do further Give and Grant unto you the said Molineux Shuldham full Power and Authority from time to time and at all times hereafter by yourself or by any other to be Authorized by you in that behalf to administer and Give the Oaths mentioned in an Act passed in the first year of the Reign of King George the first Entitled An Act for the further Security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for Extinguishing the hopes of the Pretended Prince of Wales and his open and Secret Abettors and in an Act passed in the sixth year of our Reign Intitled An Act for altering the Oath of Abjuration and the Assurance and for amending so much of an Act of the seventh Year of her late Majesty Queen Anne Intitled An Act for the Improvement of the Union of the two Kingdoms as after the time therein Limited require the Delivery of certain Lists and Copies therein mentioned to Persons Indicted of high Treason or Misprison of Treason to all and every such Person and Persons as you shall think fit who shall at any time or time's pass into our said Islands or shall be resident or abiding thereon upon the Coast of Labrador within the Limits aforesaid And we do by these Presents Give and Grant unto you full Power and Authority to Constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer for the hearing and determining of all Criminal Causes Treason Excepted according to Law and for awarding Execution thereupon with all reasonable and necessary Powers Authorities ffees and Priviledges belonging thereunto and Justices of the Peace with other necessary Officers and Ministers for the better Administration of Justice and keeping the Peace and Quiet of the said Islands and Coasts aforesaid

[Then the same as in Commission to Hugh Palliser of 9th April, 1764, ante page 412, line 31, to page 413, line 33.]

And we do hereby require and command all officers Civil and Military and all other Inhabitants of our said Islands and the Coasts and Territories of Labrador and Islands adjacent thereto or Dependant thereupon within the Limits aforesaid to be obedient aiding and assisting unto you in the Execution of this our Commission and of the Powers and Authorities herein contained And in Case of your death our will and Pleasure is that the Person upon whom the Command of our Ships under your Command

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shall devolve do take upon him the Administration of the Government of Our said Islands and Territories as aforesaid and Execute our said Commission and Instructions and the several powers and Authorities therein contained in the same manner to all Intents and Purposes as you our said Governor and Commander in Chief might or ought to do for and during our Will and Pleasure And we do hereby declare Ordain and appoint that you the said Molineux Shuldham shall and may hold Execute and Enjoy the place of our Governor and Commander in Chief in and over our said Island of Newfoundland and all the Coast of Labrador from the Entrance of Hudsons Streights to the River Saint Johns which discharges itself into the Sea nearly opposite the west End of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Madelaine in the Gulph of Saint Lawrence as also of all our fforts and Garrisons Erected and Established or that shall be Erected and Established in our said Islands of Newfoundland Anticosti and Madelaine or on the Coasts of Labrador within the Limits aforesaid with all and singular the Powers and Authorities hereby Granted unto you for and during our will and pleasure

In Witness &c Witness ourself at Westminster the Sixteenth day of March.

By Writ of Privy Seal.

1772
March 18th.**No. 111.**

Newfoundland.

**INSTRUCTIONS PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET FOR MOLYNEUX
SHULDHAM,**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC. DATED 18
MARCH 1772.

C.O. 195, Vol. 10.

Instructions to Our Trusty and Wellbeloved Molineux Shuldham Esquire, Our Governor and Commander in Chief in, and over Our Island of Newfoundland, in America, and all the Coast of Labrador, from the entrance of, Hudson's Streights to the River Saint John's, which discharges itself into the Sea, nearly opposite the West End of the Island of Anticosti, including that Island, with any other small Islands on the said Coast of Labrador, and also the Islands of Madelaine in the Gulph of Saint Lawrence, as also of all our Forts and Garrisons erected and established, or that shall be erected and established in Our said Islands, or on the Coast of Labrador, within the Limits aforesaid; Given at Our Court at Saint James's the day of and in the Year of Our Reign.

First, With these Our Instructions you will receive Our Commission, under Our Great Seal of Great Britain, constituting you Our Governor and Commander in Chief in, and over our Island of Newfoundland in America, and all the Coast of Labrador, from the entrance of Hudson's Streights to the River Saint John's, which discharges itself into the Sea, nearly opposite the West end of the Island of Anticosti, including that Island, with any other small Islands, on the said Coast of Labrador, and also the Islands of Madelaine in the Gulph of Saint Lawrence, as also of all Our Forts and Garrisons erected and established, or that shall be erected and established in Our said Islands, or on the Coast of Labrador, within the Limits aforesaid, with directions to obey such Orders and Instructions as shall from time to time be given you under Our Signet and Sign Manual, or by Our Order in Our Privy Council; You are therefore to fit yourself with all convenient speed, and to repair to your said command, and being arrived, you are to take upon you the execution of the place and trust We have reposed in you, and as soon as

conveniently may be, to assemble the principal Inhabitants in the Island of Newfoundland, and in such other places as you shall judge proper or necessary, within your said Government, and with all due solemnity, to cause Our said Commission under Our Great Seal of Great Britain, constituting you Our Governor and Commander in Chief as aforesaid, to be read and published at such meetings.

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2. Whereas by Our former Instructions to our Governors of Newfoundland, We have thought fit to direct, that in all things regarding the Fishery, which the Subjects of France were by the Treaty of Utrecht in 1713, and that of Paris in 1763, allowed to carry on in those parts of the Coast of Newfoundland, which stretch from the place called Bonavista, to the northern point of the said island, and from thence, running down by the western side, reach as far as the place called Point Riche, they should conform themselves with great care and attention and with justice to the subjects of both Crowns, as well to the stipulations contained in the said Treaties, as to the provisions contained in the Statute of the tenth and eleventh of William the Third C. 25, in order therefore for the better explanation of Our Royal Intentions therein, and to manifest Our firm Resolution to preserve the said Treaties inviolable, to secure to the Subjects of France the full possession and enjoyment of the Fishery, thereby stipulated to be allowed to them within the Limits aforesaid, and to Our own Subjects their respective Rights and Privileges, and to prevent any disputes which may arise between Our Subjects and the Subjects of France carrying on the Fishery within the said Limits, It is Our express Will and Pleasure, and We do hereby strictly require and enjoin, that you do immediately, upon your arrival within your said Government, give the most full and positive Orders and Injunctions to all Officers under your command, and in a particular manner to the Admirals in the several Harbours, that they do not in their several Stations, and as far as depends upon each respectively, permit or allow, that any Obstructions or Interruptions be, upon any pretence, given to the Subjects of France in the enjoyment of that Fishery which is allowed them by the stipulations of the said Treaties in common with Our Subjects, and that they do give them all reasonable countenance and protection therein.

3. And whereas it is of great importance to the interest peace and tranquility as well of our Crown as that of France, that the said Treaties should be faithfully executed according to the true intent and meaning thereof, all disputes between the subjects of both nations avoided, and the Fishery within the limits aforesaid, amicably carried on between the two nations according to Treaties, We do therefore particularly command and require that the Admirals of the several Harbours upon the Coast whereon the Subjects of France are by the said Treaties

allowed to catch Fish, to dry them on land and to erect Stages made of Boards and Huts necessary for that purpose, to take the most exact and particular care that the said Subjects of France be permitted and allowed in common with Our Subjects to chuse their Stations, accordingly, as they shall respectively arrive in the said Harbours, and to occupy such a space of Beach as shall be proportioned to their number of Boats, so long as the said Subjects of France shall be actually employed in fishing and drying Fish, agreeably, in these respects, to the Treaties of Utrecht and Paris, and the established, practice in consequence thereof ; And in case any dispute or difference shall arise between Our Subjects and the Subjects of France touching these matters, We do expressly Will and Ordain, that the said Admirals

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shall, in the decision of such dispute, proceed with the strictest Justice and Impartiality, taking care upon all occasions of such dispute, that the subject matter in question, and all proceedings and judgements thereon, be taken down in writing, and transmitted, by such Admirals, duly authenticated, to you or the Commander in Chief for the time being, in order that the Judgement or Decree, of such Admirals, may be confirmed or annulled by you or the said Commander in Chief, as the Justice of the case shall require, and the Law shall allow, and in either case you or the said Commander in Chief shall certify your or his decision to such Admiral, to the end that the same may be duly executed.

4. It is nevertheless our Express Will and Pleasure, that the said Admirals in the respective Harbours shall not, upon any pretence whatever, presume to interfere or interpose their authority in any disputes or difference which may arise between one Subject of France and another concerning their Fishery.

5. And it is Our further Will and Pleasure, that the said Subjects of France, carrying on their Fishery within the Limits aforesaid according to the said Treaties, shall not in any wise or upon any pretence whatsoever be molested or disturbed in their Persons, Properties or Effects.

6. And whereas it hath been represented unto Us, that several Boats belonging to the Subjects of France and which, on their departing from the Coast have been left in the several Harbours, on that part of the Coast whereon the said Subjects of France were permitted to fish, have been at different times burnt and destroyed by the Commanders of some of Our Ships stationed upon the said Coast; And it appearing to Us, that such proceeding is inconsistent with that harmony and good understanding which We wish to see preserved between the two Nations, It is therefore Our express Will and Pleasure, and you are hereby strictly enjoined and required to forbid all such

practices and proceedings for the future.

7. And it is Our further Will and Pleasure, that the Rules, Regulations and Orders contained in the foregoing Instructions, be made public as soon as possible after your arrival in your Government, and be fixed up in some conspicuous and well frequented place in every harbour within the limits aforesaid to the end that not only Our subjects but also those of the Crown of France may be fully informed of Our Royal Intention and Directions herein.

8. And it is Our further Will and Pleasure that you do by every opportunity that shall offer, or as soon as possible after your return to this Kingdom, transmit to Us by one of Our principal Secretaries of State, an account of all your proceedings and of all such Orders, Judgements and Decrees as you shall have made in pursuance of these Our Instructions.

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to } same { 9
91 } as { 91 to the Hon. John Byron, ante p. [456](#), et seq.

No. 112.

Newfoundland.

**ORDER OF HIS MAJESTY IN COUNCIL**

APPROVING DRAFT OF INSTRUCTIONS FOR MOLYNEUX SHULDHAM AS
GOVERNOR AND COMMANDER-IN-CHIEF OF NEWFOUNDLAND, THE
COAST OF LABRADOR, ETC.

[25 March,
1772.]

C.O. 5, VOL. 27, p. 219.

At the Court at St James's
the 25th day of March 1772.

Present

The King's Most Excellent Majesty in Council

Whereas there was this day read at the Board a Representation from the Lords Commissioners for Trade and plantations, dated the 18th of this Instant together with a Draught of Instructions prepared by them for Molineux Shuldham Esquire Governor and Commander in Chief in and over the Island of Newfoundland and the Territories depending thereon in America. And it appearing that the said Lords Commissioners have made no material Alteration in the said Instructions from those given by His Majesty to John Byron Esquire the late Governor of the said Island;—His Majesty is therefore pleased with the advice of His privy Council to approve of the said Draught of Instructions (which is hereunto annexed) and to Order as it is hereby Ordered that the Right Honourable the Earl of Hillsborough, One of His Majesty's principal Secretaries of State do prepare the same for His Majesty's Royal Signature.

STEPH: COTTRELL, D.S.

Order in Council 25 March 1772.
Approving the Dra^t of Instruct^s for Molineux
Shuldham Esq^r Gov^r of Newfoundland.

No. 113.

Newfoundland.

ORDER OF HIS MAJESTY IN COUNCIL

APPROVING DRAFTS OF A COMMISSION AND INSTRUCTIONS FOR ROBERT
DUFF AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE
ISLAND OF NEWFOUNDLAND.



[5 April, 1775.]

C.O. 5, VOL. 30, p. 21.

At the Court an St James's
the 5th of April 1775.

Present

The King's Most Excellent Majesty in Council

Whereas there was this Day read at the Board a Representation from the Lords Commissioners for Trade and plantations, Dated the 16th of last month in the words following—Viz^t

"In Obedience to Your Majesty's Commands signified to Us by the Earl of Dartmouth, One of Your Majesty's principal Secretaries of State, we have prepared, and herewith humbly beg leave to lay before Your Majesty Draughts of a Commission and Instructions for Robert Duff Esquire, whom Your Majesty has been pleased to appoint Governor of Your Majesty's Islands of Newfoundland and Madelaine in America in which Draughts we have made no material alterations from the Commission and Instructions given by Your Majesty to the late Governor, save only, that we have, in consequence of the Act passed in the fourteenth Year of Your Majesty's Reign, intituled—'An Act for making more effectual provision for the Government of the province of Quebec in North America'—omitted all such parts of the said Commission and Instructions, as relate to the Island of Anticosti, and the Coast of Labrador."

His Majesty taking the same into Consideration, was pleased with the Advice of His privy Council to approve of the said Draughts of a Commission and Instructions, and also of the alterations made therein from the Commission and Instructions given to the late Governor, and to Order, as it is hereby Ordered, that the Right Honourable the Earl of Dartmouth, one of His Majesty's principal Secretaries of State do cause a Warrant to be prepared for His Majesty's Royal Signature in Order to pass the said Commission under the Great Seal; And that His Lordship do likewise cause the said Draught of Instructions to be prepared for His Majesty's Royal Signature

STEPH: COTTRELL,

O. Signed.

Order in Council

5th April 1775.

Approving the Dra^t of Commission &
Instructions for Robert Duff Esq^r
to be Gov^r of Newfoundland.

[20 April,
1775.]**No. 114.**

Newfoundland.

**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN.**APPROVING ROBERT DUFF TO BE GOVERNOR AND COMMANDER-
IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

PATENT ROLL. 15 GEO. III. PART III. No. 17.

Rear Admiral Robert Duff Governor of Newfoundland	}	George the Third by the Grace of God of Great Rear Admiral Britain France and Ireland King Defender of the Robert Duff Governor Faith &c To Our Trusty and Welbeloved Robert Duff Esquire Rear Admiral of the Blue Squadron of Our Fleet Greeting Whereas We did by Our Letters Patent under Our Great Seal of Great Britain bearing date at Westminster the Sixteenth day of March in the Twelfth Year of Our Reign constitute and appoint Molineux Shuldham Esquire to be Our Governor and Commander in Chief in and over Our Island of Newfoundland and all the Coast of Labrador from the Entrance of Hudsons Streights to the River Saint John, which discharges itself into the Sea nearly opposite to the West End of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our Forts and Garrisons Erected and established or that should be erected and established in Our Islands of Newfoundland Anticosti and Madelaine or on the Coasts of Labrador within the Limits aforesaid for and during Our Will and Pleasure as by the said Letters Patent relation being thereunto had may more fully and at large appear Now Know You that We have revoked and determined and made void and by these Presents do revoke determine and make void the said recited Letters Patent and every Clause Article and thing therein contained And We reposing especial Trust and Confidence in the Prudence Courage and Loyalty of You the said Robert Duff of Our Especial Grace certain knowledge and meer Motion have thought fit to constitute and appoint and by these Presents Do constitute and appoint You the said Robert Duff to be Our Governor and Commander in Chief in and over Our said Island of Newfoundland and of the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our Forts and Garrisons erected and established in Our said Islands
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of Newfoundland and Madelaine as aforesaid And We do hereby require

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and command You to do and execute all things in due manner that shall belong to your said Command and the Trust We have reposed in You according to the several Powers and Directions granted or appointed You by this present Commission and the Instructions either herewith given You or by such further Powers Instructions or Authorities as shall at any time hereafter be granted or appointed You under Our Signet and Sign Manual or by Our Order in Our Privy Council And We do further give and grant unto You the said Robert Duff full Power and Authority from time to time and at all times hereafter by Yourself or by any other to be authorized by You in that behalf to administer and give the Oaths mentioned in an Act passed in the first Year of the Reign of King George the first intituled [An Act for the further Security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the Pretended Prince of Wales and his open and secret Abettors] as the same is altered and explained by an Act passed in the Sixth Year of Our Reign intituled [An Act for altering the Oath of Abjuration and the Assurance and for amending so much of an Act of the Seventh Year of her late Majesty Queen Anne intituled An Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the Delivery of certain Lists and Copies therein mentioned to Persons Indicted of High Treason or Misprision of Treason to and every such Person or Persons as You shall think fit who shall at any time or times pass into Our said Islands or shall be resident or abiding there And We do by these Presents give and grant unto You full Power and Authority to constitute and appoint Judges and in Cases requisite Commissioners of Oyer and Terminer for the hearing and determining of all Criminal Causes Treason Excepted according to Law and for awarding Execution thereupon with all reasonable and necessary Powers Authorities fees and Priviledges belonging thereunto Justices of the Peace with other necessary Officers and Ministers for the better Administration of Justice and keeping the Peace and Quiet of the said Islands which Justices of the Peace so authorized may and shall hold and keep general Quarter Sessions of the Peace in such Places as You shall appoint according to the Custom of this Part of Great Britain called England and adjourn such Sessions from time to time and from Place to Place as shall be most convenient and necessary for the Peace and Welfare of Our Subjects inhabiting there Provided neither You nor they do anything by virtue of this Commission or the Powers hereby granted contrary or repugnant to the Act for encouraging the Trade to Newfoundland passed in the Tenth and Eleventh Years of the Reign of King William the Third nor any way obstruct the powers thereby given and granted to

the Admirals of Harbours or Captains of Our Ships of War or any other matter or thing either Prescribed by the said Act or by such Instructions as You shall receive from Us as aforesaid And We do hereby give and grant unto You full Power and Authority when You shall see Cause or shall judge any Offender or Offenders in Criminal Matters or for any ffines or fforfeitures due unto Us fit Objects of Our Mercy to pardon all such Offenders and to remit all such Offences ffines and fforfeitures Wilful Murder only

p. 476

Excepted In which Case You shall likewise have Power upon extraordinary Occasions to grant Reprieves to the Offenders until and to the intent Our Royal Pleasure may be known therein and all such Justices of the Peace and their inferior Officers and Ministers whom you or they shall appoint amongst the Planters or Inhabitants resident and abiding there are strictly required and enjoined in all Cases and times whenever necessary to be aiding and assisting to the utmost of their Power to the Commodore or Commander of Our Ships of War and to the several Admirals in their respective Harbours in putting in Execution the several good Rules and Orders prescribed by the said Act for encouraging the Trade to Newfoundland And provided also that no Person or Persons so by You appointed to be Justices of the Peace as aforesaid or other Officers or Ministers belonging or appertaining to them do presume or be suffered to Act in such Office or Place until he or they shall have taken the aforesaid Oaths mentioned in the aforesaid Act intituled [An Act for the further Security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the Pretended Prince of Wales and his open and secret Abettors] as the same is altered and explained by the said Act intituled [An Act for altering the Oath of Abjuration and the Assurance and for amending so much of an Act of the Seventh Year of her late Majesty Queen Anne intituled An Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the Delivery of certain Lists and Copies therein mentioned to Persons indicted of High Treason or Misprision of Treason] as also made and subscribed the Declaration mentioned in an Act of Parliament made in the Twenty fifth Year of the Reign of King Charles the Second intituled [An Act for preventing Dangers which may happen from Popish Recusants] And also taken such proper Oath or Oaths as are usually taken in this Kingdom by Persons executing such Offices and Trusts which said Oaths and Declaration you shall administer and give or cause the same to be administered and given to all and every Person and Persons who ought to take the Same according to the Laws and Customs of this Kingdom And We do hereby give and grant unto You the said Robert Duff full Power to erect appoint and set apart one or more convenient Court house or Court Houses

for the more Orderly Meeting of such Justices of the Peace in Order to hold such their Quarter or other Sessions with a convenient Prison adjoining thereto for the keeping of such Offenders as may be found necessary to be committed to safe Custody until such Court or Sessions can conveniently be held for trying and delivering Offenders against Our Laws and the Peace of Our Subjects And We do hereby require and command all Officers Civil and Military and all other Inhabitants of Our said Islands to be obedient aiding and assisting unto You in the Execution of this Our Commission and of the Powers and Authorities herein contained And in case of Your Death Our Will and Pleasure is that the Person upon whom the Command of Our Ships under Your Comand[sic] shall devolve do take upon him the Administration of the Government of Our said Islands and execute Our said Commission and Instructions and the several Powers and

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Authorities therein contained in the same manner to all intents and purposes as You Our said Governor and Comander in Chief might or ought to do for and during Our Will and Pleasure And We do hereby declare ordain and appoint that You the said Robert Duff shall and may hold and enjoy the Place of Our Governor and Commander in Chief in and over Our said Island of Newfoundland and of the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our fforts and Garrisons erected and established or that shall be erected and established in Our said Islands of Newfoundland and Madelaine as aforesaid with all and singular the Powers and Authorities hereby granted unto You for and during Our Will and Pleasure In Witness &c Witness Oursel at Westminster the Twentieth day of April

By Writ of Privy Seal.

No. 115.

Newfoundland.

**INSTRUCTIONS PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET FOR ROBERT DUFF,**

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.



[21 April, 1775.]

C.O. 5, VOL. 206, No 5.

Instructions to Our Trusty and Wellbeloved Robert Duff Esquire, Rear Admiral of the Blue, our Governor and Commander in Chief in, and over Our Island of Newfoundland in America, and of the Islands of Madelaine in the Gulph of S^t Lawrence; as also of all our Forts and Garrisons erected, and established, or that shall be erected, and established in Our said Islands of Newfoundland and Madelaine. Given at Our Court at S^t James's the twenty first day of April 1775, in the Fifteenth Year of Our Reign.

First, With these Our Instructions you will receive Our Commission under Our Great Seal of Great Britain, constituting you Our Governor and Commander in Chief in, and over Our Island of Newfoundland in America, and of the Islands of Madelaine in the Gulph of S^t Lawrence, as also of all Our Forts and Garrisons erected, and established, or that shall be erected and established in Our said Islands, with Directions to obey such Orders and Instructions, as shall from time to time be given You under Our Signet and Sign Manual, or by Our Order in Our Privy Council, You are therefore to fit your self with all convenient Speed, and to repair to your said Command; and being arrived, you are to take upon you the execution of the place and Trust We have reposed in you, and, as soon as conveniently maybe, to assemble the principal Inhabitants in the Island of Newfoundland, and in such other places, as you shall judge proper or necessary within your said Government, and, with all due Solemnity, to cause Our said Commission under Our Great Seal of Great Britain, constituting you Our Governor and Commander in Chief, as aforesaid, to be read and published at such meetings.

2. Whereas by Our former Instructions to Our Governors of Newfoundland, We have thought fit to direct, that in all things regarding the Fishery, which the subjects of France were by the Treaty of Utrecht in 1713, and that of Paris in 1763, allowed to carry on upon those parts of the Coast of Newfoundland, which stretch from the place, called Bonavista, to the Northern

point of the said Island, and from thence running down by the Western side, reach as far as the place, called Point Riche, they should conform themselves with great care and attention, and with Justice to the Subjects of both Crowns, as well to the Stipulations contained in the said Treaties, as to the Provisions contained in the Statute of 10th and 11th of William 3^d C. 25; In order therefore for the better explanation of Our Royal Intentions therein, and to manifest Our firm Resolution to preserve the said Treaties inviolable; to secure to the Subjects of France the full possession and enjoyment of the Fishery thereby stipulated to be allowed to them within the limits aforesaid; and to Our Own Subjects their respective Rights and Privileges, and to prevent any disputes, which may arise between between[sic] Our Subjects, and the Subjects of France carrying on the Fishery within the said limits, It is Our express Will and Pleasure, and We do hereby strictly require and enjoin, that you do immediately, upon your arrival within your said Government, give the most full and positive Orders and Injunctions to all Officers under your Command, and in a particular manner to the Admirals in the several Harbours, that they do not in their several Stations, and as far as depends upon each respectively, permit or allow, that any Obstructions or Interruptions be upon any pretence given to the Subjects of France in the enjoyment of that Fishery, which is allowed them by the Stipulations of the said Treaties in common with Our Subjects; and that they do give them all reasonable countenance and protection therein.

3. And whereas it is of great importance to the Interest, Peace, and Tranquillity as well of Our Crown, as that of France, that the said Treaties should be faithfully executed according to the true intent and meaning thereof; all disputes between the Subjects of both nations avoided; and the Fishery within the limits aforesaid amicably carried on between the two Nations according to Treaties; We do therefore particularly command and require, that the Admirals of the several Harbours upon the Coast, whereon the Subjects of France are by the said Treaties allowed to catch Fish, to dry them on Land; and to erect Stages made of Boards and Huts necessary for that purpose, to take the most exact and particular care, that the said subjects of France be permitted and allowed, in common with Our Subjects, to chuse their Stations there during the Fishing Season, according as they shall respectively arrive in the said Harbours, and to occupy such a space of Beach, as shall be proportioned to their Number of Boats, so long as the said Subjects of France shall be actually employed in fishing and drying Fish, agreeably in these respects to the Treaties of Utrecht, and Paris, and the established practice in consequence thereof; and in case any dispute or difference shall arise between Our Subjects and the Subjects of France, touching these matters, We do expressly Will and Ordain, that the said Admirals shall, in the decision of

such dispute, proceed with the strictest Justice and impartiality, taking care upon all occasions of such dispute, that the Subject-matter in question, and all proceedings and judgments thereon, be taken down in writing, and transmitted by such Admirals, duly authenticated, to you or the Commander

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in Chief for the time being; in order that the Judgment or Decree of such Admirals may be confirmed or annulled by you, or the said Commander in Chief, as the Justice of the case shall require, and the Law shall allow; and, in either case, you or the said Commander in Chief shall certify your or his decision to such Admiral, to the end that the same may be duly executed.

4. It is nevertheless Our express Will and Pleasure, that the said Admirals in the respective Harbours shall not, upon any pretence whatever, presume to interfere or interpose their Authority in any disputes or difference, which may arise between one Subject of France and another concerning their Fishery.

5. And it is Our further Will and Pleasure, that the said Subjects of France, carrying on their Fishery within the Limits aforesaid according to the said Treaties, shall not in any wise or upon any pretence whatsoever be molested or disturbed in their Persons, Properties, or Effects.

6. And whereas it hath been represented unto Us, that several Boats belonging to the Subjects of France, and which, on their departing from the Coast, have been left in the several Harbours on that part of the Coast, whereon the said Subjects of France were permitted to Fish, have been at different times burnt and destroyed by the Commanders of some of Our Ships stationed upon the said Coast; and it appearing to Us, that such proceeding is inconsistent with that Harmony and good understanding, which We wish to see preserved between the two Nations; it is therefore Our express Will and Pleasure, and you are hereby strictly enjoined and required to forbid all such practices and proceedings for the future.

7. And it is Our further Will and Pleasure, that the Rules, Regulations and Orders, contained in the foregoing Instructions, be made publick, as soon as possible after your Arrival in your Government, and be fixed up in some conspicuous and well-frequented place in every Harbour within the Limits aforesaid, to the end that not only Our Subjects, but also those of the Crown of France, may be fully informed of Our Royal Intention and directions herein.

8. And it is Our further Will and Pleasure, that you do by every opportunity, that shall offer, or as soon as possible after your return to this Kingdom, transmit to Us, by one of Our

principal Secretaries of State, an account of all your proceedings, and of all such orders, judgments, and decrees, as you shall have made in pursuance of these Our Instructions.

9. And whereas by the said Fifth Article of the Treaty concluded at Paris, We have consented to leave to the Subjects of the most Christian King the Liberty of Fishing in the Gulph of S^t Lawrence, on condition that the Subjects of France do not exercise the said Fishery, but at the distance of three Leagues from all the Coasts belonging to Great Britain, as well those of the Continent, as those of the Islands situated in the said Gulph of S^t Lawrence, you are hereby required to carry the Stipulations of the said Clauses into full Execution within the Limits of your Government.

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10. You are to use your best endeavours to prevent any Aliens or Strangers whatever from fishing, or drying Fish on any of the Coasts, or in any of the Harbours of the Islands under your Government, unless in the Exceptions made by the Thirteenth Article of the Treaty of Utrecht, and the Fifth Article of the late definitive Treaty, confined to the Subjects of France, permitted to Fish within the District and Limits marked out by those Treaties, and under the several Restrictions specified in the Articles themselves; and whereas it hath been represented unto Us, that foreigners are sharers in the Fishery and Commerce of Our said Island, by being part-Owners of Ships employed therein under English. names, by means whereof the said Ships are supplied from foreign Countries with all kinds of materials, as well for the use of the Fishery, as for the use of the said Vessels; It is therefore Our Will and Pleasure, that you do make the most diligent enquiry into the nature and extent of such illicit practice, and unwarrantable combination, and report to Us by one of Our principal Secretaries of State, the result of your enquiry, in order to such further directions, as We may think fit to give thereupon; And in the meantime you are to use your best endeavours to put a Stop to such unlawful proceedings, and to take the most effectual measures for the discovery and prevention of all illicit and contraband Trade of every kind.

11. And whereas, by the Sixth Article of the said Treaty concluded at Paris, a copy of which Article is hereunto annexed, the Islands of S^t Peter and Miquelon are ceded to France, to serve as a shelter to the French Fishermen, His most Christian Majesty engaging not to fortify the said Islands; to erect no buildings upon them, but merely for the convenience of the Fishery; and to keep upon them a Guard of fifty Men only for the Police; you are therefore from time to time to enquire, and report to Us, by one of Our principal Secretaries of State, whether the Stipulations contained in the said Article be duly observed; And you are to use your best endeavours to prevent any Commerce between Our Subjects under your

Government, and the said Islands, by means whereof the Inhabitants of those Islands may have the double advantage of getting easily and cheaply the materials for building Vessels, and erecting Houses and Works necessary for the Fishery and of circulating French Produce and Manufactures amongst the British Fishermen.

12. It is Our further Will and Pleasure, that you do from time to time, as the nature of the Service will allow, visit all the Coasts and Harbours of the said Islands under your Government, in order to inspect and examine the State and Condition of the Fisheries, which are, or may be carried on upon the said Coasts and Islands; you shall also use your best endeavours to procure accurate Draughts or Maps of the several Harbours, Bays, and Coasts of Newfoundland, and the other Islands under your Government; and you are more particularly to direct the Officer of any Vessel under your command, which may be appointed to visit that part of the Coast of Labrador, which lies between Hudson's Streights, and the Streights of Bellisle, to search and explore the great Inlet, commonly known by the name of Davis's Inlet,

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in order to discover, whether the same has, or has not any passage to Hudson's Bay, or any other inclosed Sea.

13. You are also to enquire and report to Us, by one of Our principal Secretaries of State, whether any, or what further Establishment may be necessary to be made, or Forts erected in any part of Newfoundland, or the other Islands under your Government, either for the protection of the Fishery, the Security of the Country, or the establishing and carrying on a Commerce with the Indians residing in or resorting to the said Islands.

14. You are not to permit the Subjects of any Foreign Prince or State whatever to carry on any Commerce with the said Indians; and to use your best endeavours to conciliate their Affections, and to induce them to Trade with Our Subjects, reporting to Us, by one of Our principal Secretaries of State, the best account you can obtain of the number of the said Indians; the places they frequent; the nature and extent of the Commerce, that is, or may be carried on with them; and how the same may, in your opinion, be further extended and improved.

15. And whereas we have been informed, that a very considerable and advantageous Whale and Sea Cow Fishery may be carried on in the Gulph of St Lawrence, and upon the Labrador Coast; It is therefore Our Will and Pleasure, that you do give all possible encouragement to such Fishery, and report to Us, by one of Our principal Secretaries of State, your opinion, in what way, and by what means so valuable a Branch

of Commerce may be extended and improved.

16. You are also to make a very particular enquiry into, and report to Us, as aforesaid, the actual State and Nature of the Fisheries carried on by the Subjects of France in every distinct Branch thereof, as well that which is carried on for Morne Verte upon the Banks without the Gulph of S^t Lawrence, as the dry Fishery carried on at Miquleon and S^t Peters' upon the Coast of Newfoundland from Bonavista to Point Riche, or in other parts of the Gulph of S^t Lawrence; and you are to be as particular as may be in your accounts of the Number and Nature of the Ships and Boats employed in those different Fisheries; the number of Men; the Quantity of Fish caught, cured, and carried to Market; and in general of every other Circumstance, that may furnish a precise State of this Branch of the Commerce of France.

17. You shall strictly enjoin all Our Officers, and Soldiers, and other persons whatsoever belonging to the present and future Garrisons in Newfoundland, and the other Islands and Territories under Your Government, not to engage in the Fishery there, nor interrupt the Fishermen in the curing of their Fish, nor to take up for themselves any Beaches, Stages, or Cookrooms upon any pretence whatsoever upon pain of Our highest Displeasure.

18. And you are particularly to suppress the engrossing of Commodities, as tending to the prejudice of the Fishery, and the persons employed therein.

19. Whereas it hath been represented unto Us, that several of Our Subjects, Inhabitants of, or resorting to Our said Island of Newfoundland under Your Government, have, upon various unwarrantable pretences, possessed themselves of, and do claim, as their private property, large Tracts of Land commodious for the Fishery lying within the several Harbours, and Rivers upon the Coast of Newfoundland, and the Islands adjacent thereto between Bonavista and Point Riche, to the great prejudice and discouragement of the Ship-Fishery, not only of Our Subjects in general, but also of the Subjects of the Crown of France, allowed by Treaty a concurrent Fishery within the Limits aforesaid; in order therefore to put a Stop for the future to such irregular practices, and unwarrantable Claims; to prevent all vexations and expensive Litigations amongst Our Subjects; and to avoid Disputes between them and the Subjects of France; It is Our express Will and Pleasure, that you do not, upon any pretence whatsoever, allow any exclusive possession to be taken, as private property, of any Lands, Rivers, or Islands in the Northern parts of Newfoundland between Bonavista and Point Riche; taking especial care, that such Ships, as shall resort to that part of Our said Island for carrying on the Fishery, do chuse their Stations, as they respectively arrive; and do take up and occupy, subject to your control, such space only of Beach, as shall be proportioned to the Number of their Boats, conformable to what has been prescribed by an Act passed in the Tenth and Eleventh Years of King William the third in respect to those parts of the. Coast, which were in possession of Our Royal predecessor, at the time that Act was passed.

20. You shall transmit unto Us, by One of Our principal Secretaries of State, an Account of the Arms, Ammunition, and Stores, that have been sent from Our Office of Ordnance here to Our Forts and Garrisons in Newfoundland; and likewise an Account of the State of Our said Forts; how the said Stores have been employed; and whether any of them, and how many of them, have been sold, spent, lost, decayed, or disposed of; and to whom, and to what uses; together with an Inventory of all such Arms, Ammunition, and Stores, as are remaining in Our Magazines there; as also a Duplicate thereof to Our Master General or principal Officers of Our Ordnance; which accounts are to express the particulars of Ordnance, Carriages, Ball, Powder, and all. other sorts of Arms and Ammunition in Our publick Stores at your Arrival; and so yearly of what shall be sent thither, specifying the time of the disposal, and the occasion thereof.

21. Whereas by the .Act for the encouragement of Trade passed in the fifteenth year of the Reign of King Charles the Second, no Commodities of the Growth, production, or Manufacture of Europe, except salt for the Fishery, of New England and Newfoundland, Wines of the growth of the

Madeiras, or Western Islands, or Azores, Servants, Horses, and all sorts of Victuals of the Growth and Production of Ireland, shall be imported into any of Our Colonies or Plantations, but what shall be bonâ fide and without Fraud laden and Shipped in Great Britain, and in Ships duly qualified;

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And whereas Complaint has been made of Masters of Ships and others carrying on a clandestine Trade amongst the Fishing-Ships from Great Britain, with others from Our Colonies and Plantations in, America, contrary to the intent and meaning of the said Act, you shall use your utmost endeavour for the due observation of the said Act.

22. You are to permit a free exercise of Religion to all persons, except Papists, so they be contented with a quiet and Peaceable Enjoyment of the same, not giving Offence or Scandal to the Government.

23. It is Our Will and Pleasure, that you do cause the Laws made against Blasphemy, Profaneness, Adultery, Fornication, Polygamy, Incest, Profanation of the Lord's Day, Swearing, and Drunkenness, to be vigorously executed, and that you take due care for the punishment of the aforementioned Vices by presentment upon Oath to be made to the Justices of the Peace in their Sessions by their Constables, or other inferior Officers, at the several Harbours at the proper times of the Year to be appointed for that purpose; And for the further Discouragement of Vice, and Encouragement of Virtue, and good living, you are not to Admit any Person to Act as a Justice of the Peace, whose III Fame or Conversation may occasion Scandal; and especially You shall take care, that the Lord's Day be devoutly and duly observed; that the Book of Common Prayer, as by Law established in this Kingdom, be read each Sunday and Holiday; and the Blessed Sacrament Administered according to the Rites of the Church of England in all such Chapels or publick places of Worship, as are already, or may be settled there.

24. And if any Orthodox Minister there shall appear to give Scandal either by his Doctrine, or Manners, or shall Preach, or Administer the Holy Sacrament in any Orthodox Church or Chapel without being in due Orders, you shall give Account thereof to the Lord Bishop of London.

25. And you are to take especial care, that a Table of Marriages, established by the Canons of the Church of England, be hung up in every Orthodox Church or Chapel, and duly observed.

26. If any thing shall happen, which may be of Advantage or Security to Our said Islands under Your Government, which is not herein, or by Our Commission provided for, you are

hereby allowed to take order for the present herein, giving to Us, by one of Our principal Secretaries of State, speedy notice thereof, that so you may receive Our Ratification, if We shall approve of the same ; provided always, that you do not, by colour of any power or authority hereby given you, allow or encourage any thing to be done contrary to the true intent and meaning of an Act of Parliament passed in the Tenth and Eleventh Years of the Reign of King William the Third, intituled, "An Act to encourage the Trade to Newfoundland," nor contrary to any of the Laws or Statutes of this Our Realm.

27. And you are, upon all Occasions, to send unto Us, by one of Our principal Secretaries of State, a particular Account of all your proceedings,

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and of the Condition of the Affairs of the Islands under your Government, and the Trade and Fishery thereof, and of the Banks, Seas, and parts adjacent.

28. Whereas by the said Act to encourage the Trade to Newfoundland, many things are enacted, for the due and orderly carrying on of the said Trade, which are necessary for your observation in inspecting the same during Your Stay in those parts; You are therefore, in order to the better regulating your conduct in that Service, to carry with you a copy of the said Act for your own use and Government.

29. You are likewise carefully and diligently to enquire and observe, whether the several Rules and Orders, contained in the said Act for the more advantageous management of the Fishery, be duly observed by all those concerned therein; Viz^t

30. You are to see, that due care be taken by the Admirals in their respective Harbours, and by the Masters of the Fishing Ships using that Trade, that no sort of Ballast, nor press Stones, or anything else hurtful to, or annoying any of the Harbours there, be thrown out of any Ship, or otherwise, to the prejudice of any of the said Harbours, and likewise to make the following enquiries.

31. Whether any person, at his departure out of the said Country, or at any other time, do destroy, deface, or do any detriment to the Stages, Cookrooms, Flakes, &c^a or to the materials thereunto belonging, which had been possessed by himself or others ; and whether they repair the defects, that may be in their Stages, or other Conveniences by Timber fetched out of the Woods, and not by committing any manner of spoil, or waste upon the Stages already built.

32. Whether the Admirals, Vice Admirals, or Rear Admirals of the Harbours, and the Commanders of the other fishing Ships in each Harbour, do observe the Rules prescribed by the said Act against engrossing more Beach and Flakes, than each

of them have necessary use for; also against Possessing several Places at once, to the hindrance and prejudice of others; and relating to the Election of such Places, as any of them, whose Right it is shall choose to abide in. And in case of any difference, whether the Admirals in their several Harbours do proportion the Place to the Ships, according to the number of Boats, which each of the said Ships do keep.

33. Whether these Inhabitants, or others, who since the year 1685 had engrossed several Stages, Cookrooms, Beaches, and other Places, which before that time belonged to the fishing-Ships, to the prejudice of such fishing-Ships, as arrive their in the fishing season, have, according to the direction of the aforesaid Act, relinquished and left the same for the publick Use of the fishing-Ships arriving there.

34. Whether the Inhabitants have possessed, or do possess themselves of any such Stages, Cookrooms, &c., or of any Trainfats, or other Conveniences, which have belonged to any fishing-Ships at any time since the year 1685,

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before the yearly Arrival of the fishing Ships, and until all such Ships are provided with Stages, Cookrooms, &c. according to the said Act.

35. Whether the Bye-Boatkeepers pretend to, or meddle with any House, Stage, Cookroom, Trainfat, or other Conveniency that did belong to the fishing-Ships since the year 1685, or that has been cut out, or made by Ships after the 25th of March 1700.

36. Whether the Bye-Boatkeepers, and the Masters of fishing-Ships do carry over with them such Numbers of Fresh men, in proportion to their respective Companies of Seamen, as the Act directs; Whether they are furnished with Certificates of their having made Oath before their sailing from this Kingdom, that they do carry with them such a Number of green-Men; to whom they do produce such Certificates; and do the Admirals, or the Custom-House Officers keep any Account, or make any Return thereof?

37. Whether the Inhabitants do also employ such Numbers of fresh or green Men, as the said Act directs; and whether the Admirals take care, that they punctually comply therewith.

38. Whether any persons do presume to expunge, cut out, deface, or alter the Mark of any Boats or Trainfats of other Persons; and do convert them to their own use, or remove the same from the places, where they were left by the Owners, contrary to the directions of the said Act.

39. Whether any person whatsoever rind any of the Trees, set fire to any of the Woods, or do, or cause to be done any

detriment or destruction to the same for any use whatsoever, excepting only for necessary Fuel, for building and repairing Houses, Ships, Boats, Train fats, Stages, Cookrooms, and other conveniences for the Fishery.

40. Whether the Rules, ordained by this Act, for preventing any Annoyance or hindrance in the hayling of Sayns in the customary baiting Places, and against the Stealing of Baits and Nets to be duly observed.

41. Whether the Admirals are careful, in order to preserve the Peace and good Government both in their respective Harbours, and on Shore, to see, that the Rules and Orders contained in the aforesaid Act be duly put in Execution, and whether each of the said Admirals do keep Journals, and exact accounts of the number of all Ships, Boats, Stages, and Trainfats, and of all the Seamen and Inhabitants employed in their respective Harbours, that the same may be delivered at their return to Great Britain as the Act directs.

42. And Whereas it has been represented to Us, that the Bye-Boatkeepers and Masters of fishing Boats do not carry over with them, and that the Inhabitants do not employ such a number of fresh or green Men, as the aforesaid Act to encourage the Trade to Newfoundland directs ; and that the Admirals in the respective Harbours do not take Care to enforce a due compliance therewith, or to preserve Peace and good Government in their

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respective Harbours, or on Shore; and that they do not keep any Journals of the number of Ships employed in the several Harbours, concerning themselves only with their own Fishery; And whereas such Omissions and Neglect tend greatly to the prejudice of Our Service, and to defeat the good Intentions of this Provision of the said Act, which is calculated for increasing the number of Seamen for the Service of Our Navy, and the promoting the Trade & Navigation of this Kingdom; It is therefore Our Will and Pleasure, and you are hereby directed and required to use your utmost Endeavour to enforce a due and exact compliance with the said Act for encouraging the Trade to Newfoundland; And that you do in these and all other particulars recommend to the Admirals in the respective Harbours to keep regular Accounts, and do all such other things, as the Act directs, upon pain of Our highest displeasure.

43. You are also to enquire, whether upon any differences, that do arise in any of the Harbours touching any of the aforesaid matters, the Admirals of those respective Harbours do determine the same, according as the said Act directs; And in case any Persons think themselves aggrieved by the Sentences of the said Admirals, whether those Persons do appeal unto You, or unto the Commanders of Our Ships of

War for a final determination, and both Parties submit accordingly thereunto?

44. Whether the Lord's day be strictly and duely observed; and whether the Inhabitants, who keep any sort of Public Houses for entertainment, do forbear on that day to utter or sell any sort of strong Liquor, or Tobacco, as by the said Act is directed?

45. Whether any Aliens or Strangers, not residing in the Kingdom of Great Britain, or Ireland, do resort to Newfoundland, or to the Islands adjacent thereto, and take Bait, or use any sort of Trade, or fishing whatsoever in those Parts?

46. And as you are to transmit your Answers to the foregoing Enquiries, which are founded upon the aforesaid Act of the tenth and eleventh years of the Reign of King William the third, so you are likewise to take an exact account of the number of the British fishing-Ships, and Sack Ships, and Ships and Vessels from America, that arrive this year in the Islands under your Government;

The Burthen of the said Ships; and the number of their Men;—The number of the Passengers transported by the fishing-Ships.

The number of Boats employed by the British fishing Ships, by the Ships from America, By the Bye Boatkeepers, and by the Inhabitants.

The number of the Bye Boatkeepers, and their Servants.

The quantity of Fish and Train-Oil made by the British fishing Slips, by the Ships from America, by the Boatkeepers, and by the Inhabitants.

The value of Seal Oil, and of Furs taken by the Inhabitants last Winter.

The number of Stages and Train-Fats belonging to the Fishery.

The total quantity of Fish carried to foreign Markets.

The prices the said Fish and Oil are sold at, both in Barter for Goods, and for good Bills payable here.

The number of Public and Private Houses.

The number of Inhabitants, and how many have been born, or have died there, since the departure of the last year's Convoy.

Which you are to send by the first conveyance that offers, according to the usual Form hereunto annexed.

Moreover you are particularly to inform yourself,

47. In what manner the Inhabitants are subsisted; what Land is there improved? Whether the Country produces such Provisions, as they want; and whether they have any number of Cows, Sheep, and Swine; or whether they receive any Provisions from Our Plantations in America; of what Sorts, or kind, and the Quantities thereof?

48. Whether the said Inhabitants are wholly supplied with Sail Cloth, Nets, and Tackle for their Fishery, and with Woollen, Linen, Leather, & other Manufactures, for their use and wear, from this Kingdom; or whether they are furnished with any of the aforesaid necessaries from the Plantations, or from any foreign Country whatsoever?

49. What Wages do the said Inhabitants allow to their Servants; and in what manner do they pay them?

50. How much does the Charge of fitting out and maintaining one of their Fishing-Boats for the whole Season amount to?

51. Whether the Inhabitants have any other Employment in the Fishing-Season for their Servants than taking and curing of Fish? whether they are diligent therein? how many Men they allow to each of their Fishing Boats? whether they can afford their Fish as cheap as the Fishing Ships, and the Bye-Boats, or what difference is made between the price of the one and the other?

52. In what manner they employ themselves and their Servants after the Fishing-Season is over, & during the Winter? whether they are industrious in providing and making necessaries for the next Fishing Season? or, on the contrary, whether they mispend a great part of their Time in Debaucheries and Excesses.

53. Whether any Trade is carried on for Beaver and other Furs by the Inhabitants, or by any others, who remain in the Country? what Quantity they have taken this last Winter; and whether they have any Traffick with the Indians? And whereas it hath been represented unto Us, that Our Subjects, residing in Our said Island, during the Winter Season, instead of

cultivating such a friendly Intercourse with the Savages inhabiting that Island, as might be for their mutual Benefit and Advantage, do treat the said Savages with the greatest Inhumanity, and frequently destroy them without the least provoca-

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tion or remorse; In order therefore to put a Stop to such inhuman Barbarity, and that the perpetrators of such atrocious Crimes may be brought to due punishment, It is Our Will and Pleasure, that you do, as soon as conveniently may be, after your Arrival, in those Parts, cause a Proclamation in Our Name to be published & dispersed thro' the several Settlements in Our said Island, expressing Our abhorrence of such inhuman Barbarity, strictly enjoyning and requiring all Our Subjects to live in Amity & Brotherly kindness with the native Savages of that Island, and commanding and requiring all Officers and Magistrates to use their utmost diligence to discover and apprehend all Persons, who may be guilty of murdering any of the said native Indians, in order that such Offender may be sent over to this Kingdom, to be tried for such capital Crime in the manner directed by the aforesaid Statute of the 10th and 11th years of the Reign of King William the 3^d, for encouraging the Trade to Newfoundland.

54. Whether the Houses, Buildings, and inclosures of the Inhabitants are at such distance from the Waterside, as not to hinder or obstruct the Fishermen in making their Flakes, or in drying and curing their Fish?

55. Whether the Inhabitants claim a right to all such Stages, Cookrooms, Flakes &c^a as they have made or built in their fishing-Places, which have not been possessed by the Fishing Ships since the year 1685, tho' they make no use of them?

56. Whether such Fishing Places and Conveniences are free for the Public Use of the Fishing Ships arriving there, and nothing insisted on, or demanded by the said Inhabitants for their use and hire?

57. How many Flakes are allowed to each Fishing-Boat, and of what length? whether they are extended in length according to the ancient Custom from the Shore up into the Land? or whether any of the Inhabitants or Fishermen extend their Flakes along the Shore, or possess a larger Front to the Water side, according to the number of their Boats, than was formerly allowed?

58. Whether it was ever ascertained or determined in the several, or in any of the Harbours in Newfoundland, what Fishing Places did belong to the Fishing Ships before the year 1685? And whether any Account is kept of those Fishing Places, which they have been in possession of since that year,

in order to prevent such disputes, as must otherwise very frequently happen between the Masters of the said Ships and the Inhabitants?

59. Whether the Fishing Ships, that proceed directly from this Kingdom to Newfoundland, are victualled here, and provided with all other necessaries of British Produce and Manufacture for the whole Voyage? or whether the Masters or Freighters do not furnish themselves with Provisions, that are brought from the Plantations, or other Parts to Newfoundland?

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60. Whether any British Ships arriving at St John's, or in any other Harbours in Newfoundland from Portugal, or other foreign Parts, before any Ship, that was cleared from this Kingdom, has been at any time permitted to be Admiral of the Harbour? or whether according to the Custom of Newfoundland, such Ships only as are cleared from Great Britain, have a Right to be Admirals?

61. Whether the Admirals, or any other Ships, who arrive yearly at St John's, or in the other Harbours, do put their Passengers, or any of them into possession of the most convenient, or of any other Fishing Places, Stages, &c^a upon pretence they are Freighters of their Ships, before the Arrival of the other Fishing Ships, or before they are all provided?

62. Whether any of the Bye Boatkeepers, who remain in the Country during the Winter, and that are not Inhabitants, do retain to their own use, or for the use of themselves and their Partners, who are expected by the Fishing-Ships, the Fishing Places, Stages, Beaches, Flakes, &c^a which they possessed the preceding year? or whether they take possession of any others, that may be more convenient for them in the ensuing Fishing Season, before the arrival of the Fishing Ships, or before the said Ships are well supplied?

63. Whether any of the Fishing Ships pursue or follow the old laudable Custom of allowing their Ship's Companies Shares of what they make in the Voyage, instead of Wages; and, in such Case, how much doth the Charge of fitting out and maintaining a Ship of one hundred Tons with fifty Men, and ten Boats, amount to for the whole Voyage?

64. Whether any Commodities of the Growth, Production, or Manufacture of Europe, that are not bona fide and without Fraud laden and shipt in this Kingdom, be imported and brought into Newfoundland, all such Commodities being prohibited by the 15th Car: 2^d Chap. 7th, except Salt for the Fishery, Wine of the growth of, and from the Madeiras, and the Azores, or Western Islands, and Victuals &c^a from Ireland?

65. How these Commodities are disposed of, whether only to the Fishery, viz^t to the Seamen and Inhabitants? or whether any

Trade be driven by selling those Goods to the Ships belonging to New England, and other Plantations, in order to supply the said Plantations with such Commodities, as they ought to have directly from Great Britain, and not otherwise?

66. What quantities of Rum and other Plantation-Goods are brought to Newfoundland? more especially of those enumerated in former Acts of Parliament? Whether any of these enumerated Commodities are sold to the Ships bound to Portugal, and other foreign parts, so as to make an indirect Trade to those Countries in Goods, which ought not to be carried thither, before they have been first landed in Great Britain?

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67. In what manner is the Trade between Newfoundland and any other of our American Colonies carried on? what quantities of Rum, Melasses, Wine, Sugar, Tobacco, Flour, and other Provisions have been imported this year? To whom, and at what prices are the said Goods sold? Are they paid for in Fish, or in Bills? If in Fish, is it disposed of again, or loaded in the Sack Ships for Europe? and what value is it computed, that the Goods sold may annually amount to?

68. How many Taverns or Public Houses for entertainment may there be kept in Newfoundland, or at least in the Harbour of St John? are they kept only by the Inhabitants, or by the Bye-Boatkeepers, and the People of New England also? do they trust the Fishermen upon their own Credit; or do the Masters of the Ships, and of the Bye-Boats permit them to trust their Crews, and deduct the same out of their respective Wages, Hire, or Shares, in order to satisfy the said Tavern-keepers? are not the poor Seamen hereby tempted to spend the greatest part, or the full amount of their Wages, and frequently run so far in debt, that they are forced to remain, as Servants to the Inhabitants, and at last constrained to betake themselves to New England?

69. Whether the Inhabitants do not usually trust their own Servants with Rum and other Stores, to a greater Value than their Wages amount to? and whether they are not generally paid in the manner, as in the foregoing Article?

70. How much do the Bye-Boatmen and the Inhabitants allow to the Masters of the Fishing Ships for the passage of their Servants; both out and home? In what manner do the said Inhabitants pay the Masters of the Fishing-Ships for the same, and for the several necessaries they supply them with? and whether a considerable part of these Debts is not secured by suffering their Seamen to run in Debt to the Inhabitants?

71. Whether this method of trusting the Fishermen is not the occasion of many Thefts and Disorders? are they not by their

Debaucheries often withdrawn from, and rendered unfit for their Labour, to the great discouragement & obstruction of the Fishery?

72. Whether the Masters of the Fishing Ships and Bye Boats do not connive at, or encourage their men to remain in the Land, that they might save the Charge of carrying them home? What number of men do stay behind yearly and particularly last year? What number of Irish Catholicks is there in all the Towns in Newfoundland; and what proportion do they bear to the Protestants?

73. Whether the American Traders do still continue to entice and carry thither numbers of Handycraft Men, Seamen and Fishermen? and whether any of the Inhabitants do favor or assist them therein?

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74. And whereas this practice must be prevented, if possible, you are to require all the Masters of the American Ships and Vessels, before their departure from Newfoundland, to enter into Obligations not to carry away any of the Seamen, &c^a, and all possible care must be taken to have those Obligations so witnessed, that, in case it be thought proper to put them in execution, they may not be invalidated for want of Evidence. And you are likewise to be as strict, as is practicable, to oblige all such American Ships, as may be in Newfoundland, to sail from thence at the same time you shall leave the Land, and to get all the proof, that can be had, of the breach of any Obligations, entered into, as aforesaid, and to transmit an account thereof to Us by one of Our principal Secretaries of State.

75. And whereas Complaints have formerly been made, that, by reason of the ill curing of the Fish in Newfoundland, the consumption thereof has been considerably lessened; and that the Trade would be lost, if effectual Care was not taken to reform the same; You are therefore to command the Admirals of the Harbours strictly to enjoin the Masters of the FishingShips, the Bye-Boatkeepers, and Inhabitants, to take the greatest Care in curing their Fish with good Salt, and with a sufficient Quantity; and in preparing, husbanding, & ordering the same; that the Credit thereof may be again recovered, and that it may be well received and esteemed in the several Places, to which it is carried for Sale.

And as the said Admirals are obliged to have a watchful Eye upon such, as are negligent herein, so they are to return to you the names of those, who will not comply with this Admonition.

And further you are upon this occasion very particularly to enquire into their manner and method of taking and curing their Fish; What quantity of Salt they allow for the curing every hundred Quintals? Whether they are guilty of any abuse in the ordering thereof? Whether the Fish taken at a distance

from the Land by their small Vessels, is not prejudiced before it is brought on Shore? Whether the Inhabitants, the Fishing-Ships, or the Bye Boatkeepers are most to be blamed? And in short, from whence these Complaints did arise, and what methods are to be taken to prevent or rectify whatsoever is amiss?

76. And whereas there is a Salmon-Fishery erected in Fresh Water Bay, Ragget Harbour, Gander Bay, and Dog Creek, between Cape Bona Vista and Cape John in Newfoundland, and a second, which is since erected by other Persons at Grand Salmonier, Little Salmonier, &c^a in the same Island, which may prove of advantage to Great Britain; It will be necessary, that you give all due Encouragement and Protection to those undertakings, whereof you will inform yourself, and transmit the fullest Account you can get of the same to Us by one of Our Principal Secretaries of State.

77. And whereas Our late Royal Grandfather did, by His Letters Patent under the Great Seal of Great Britain, bearing date at Westminster

the 31st day of May in the second year of His Reign, constitute and appoint Henry Osborne Esquire to be Governor and Commander in Chief in, and over the said Island of Newfoundland, with Power to constitute and appoint Justices of the Peace, with other necessary Officers and Ministers for the better administration of Justice, and keeping the Peace and Quiet of the said island; which Powers have been continued to all the subsequent Governors there, and are continued in Our Commission to you: you are, upon your Arrival in the Island, to make enquiry, what Effect that Commission has had; What Justices of the Peace are now in actual Commission, and do execute the same in the respective Towns in Newfoundland, particularly at Placentia; how, and in what manner such Justices of the Peace behave in the execution of that Power; Whether the Inhabitants and Planters have duly submitted thereto: and what, if any, Obstructions have been given to the execution of that Authority: And to return your observations thereupon, with what you think may be further done for keeping the Peace and Quiet of the said Island, and of the Inhabitants residing therein, to Us, by one of Our principal Secretaries of State.

78. And whereas Complaints have been made to Us, that, notwithstanding all the precautions taken by Our said Governors for preserving the Peace in Newfoundland, disputes have arisen between the fishing Admirals and Our Justices of the Peace in the said Island; and that some of Our said Justices had been guilty of great Irregularities, to the Oppression of Our good Subjects; now you are, upon your Arrival at Newfoundland, to enquire into the truth of all such Complaints, and to supersede such Justices of the Peace, as shall appear to you to have acted unwarrantably in the execution of their Office. And you are strictly to prohibit those, who are, or shall be appointed Justices, from interfering in any degree with the fishing Admirals, in such matters relating to the Fishery, as are reserved for their Jurisdiction, by the aforesaid Act for "encouraging the Trade to Newfoundland"; taking care at the same time; that the said fishing-Admirals do their duty also, according to the Intention of the said Act. You are to be very particular in your Observations upon these Subjects, which you are to return to Us by one of Our principal Secretaries of State.

79. Whereas Complaint has been heretofore made, that the Sack-Ships, always jealous of each other, and contriving, who shall carry their Fish first to Market, frequently ship it, before it is cured, whereby it suffers in the passage, and brings the Fishery into discredit in foreign Markets; you shall make particular enquiry into this Complaint, and suggest to Us the best means, that occur to you, for preventing the said Evil for the future.

80. Whereas in the Answers returned to the like Queries by some former Commodores, some of the Columns in the Scheme of the Fishery have been returned Blank; In case you find it necessary to do so likewise, you are then to mention in such Column, whether the numbers, Prices, and

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Quantities belonging thereto, are included in any other Column; and in which Column they are so included; or whether there was no fishing this year in those Harbours; or that there was fishing, but that you had not obtained any Account thereof: And if there be any fishing in any other River or Harbour in Newfoundland, or the other Islands and Coasts under your Government not in this Scheme mentioned, you are to add a Column or Columns for the Same, and insert therein the best Account you can get, with your remarks on such, as you think imperfect, or doubtful in any of the particulars.

81. And whereas the Answers to the several Heads of enquiry contained in the Instructions to former Governors of Newfoundland, and the Returns made of the Trade and Fishery thereof, according to the usual form hereunto annexed; have frequently been very defective and inaccurate; you are hereby strictly commanded to be very exact in your Enquiry and Examination into every particular, to which these Our Instructions have reference; to endeavour to collect the materials, from which your Answers are to be formed, from the best Authorities, and to enjoin the Admirals or other proper Officers in those Harbours, to which your personal Inspection cannot extend, to be as accurate as may be in the Returns, which they shall make to you, that those Returns be properly attested and signed by them; and that the number of Ships, their Tonnage, their number of Men, the places, from whence they come, and the quantity of Fish taken, cured, and carried to Market by each Ship, be particularly expressed, And you are likewise to transmit to Us, by one of Our principal Secretaries of State, all such other Information, with respect to the Fishery, as may enable Us to judge of the true and precise State of it in every particular, and of what may be further necessary for extending and improving so valuable a Branch of the Commerce of these Kingdoms.

82. Whereas We have thought fit, by Our Commission to you, to give and grant unto you full Power & Authority to constitute and appoint Judges, and, in Cases requisite, Commissioners of Oyer and Terminer, for the hearing & determining of all Criminal Causes; Treason excepted, Justices of the Peace, and other Officers and Ministers for the administration of Justice, with Power also to pardon Offenders, and to remit all Offences, Fines, & Forfeitures, wilful Murder only excepted, in which Case you have likewise Power, on extraordinary Occasions, to grant Reprieves; It is Our express Will and Pleasure, that you do not appoint any such

Commissioners of Oyer and Terminer to meet or hold Assizes more than once a year, and that only during the time you, or the Governor for the time being shall be resident there; And that you do not suffer any of the Officers of Our Ships of War, or of any of the trading Ships of Our Subjects, which shall happen to be there, to be deprived of Life or Limb by any Sentence of such Court ; but in such Case, you shall reprove the Criminal, until Our Pleasure be known therein. And you shall take especial Care, that all Persons guilty of Treason

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be sent over to this Kingdom, with Witnesses, and sufficient Proof of the Crime, along with them, And it is also Our express Will and Pleasure, that you do, with your Answer to the foregoing Enquiries, return also a full Account of what you shall have done in pursuance of this Power of appointing Judges; what Proceedings have been had before the said Judges; what Obstructions or Difficulties you or they have met with (if any) in putting the said Power in execution; and which way you conceive We may contribute to render it more useful and beneficial to all Our Subjects residing in, or resorting to the Islands under your Government.

G. R.

No. 116.

Newfoundland.

[22 May,
1775.]**ADMIRALTY INSTRUCTIONS TO ROBERT DUFF,**AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.

ADM. SEC. OUT LETTERS. VOL. 99, pp. 408-428.

By &c.

Poole
Topsham
Dartmouth
Plymouth

Whereas we have appointed you Commander in Chief of His Majesty's Ships & Vessels employ'd and to be employed at and about the Island of Newfoundland the Islands of Madelaine & Anticosti and upon the Coast of Labrador from the River S^t John to the entrance of Hudsons Straits and intend that the Ships & Vessels named in the annexed List, whose Commanders are directed to obey your Orders, shall be employed for the protection of the Fisheries carried on by His Majestys Subjects within those Limits during the ensuing Season; You are hereby required & directed to take the said Ships & Vessels under your command, and hoisting your Flag on board the Romney on her arrival at Spithead, proceed with her & such of the others as may be ready to accompany you, without loss of time, to Newfoundland, leaving Orders for the rest to follow you as soon as possible.

You are to call off the several Ports named in the Margin, in your way down Channel for any fishing Ships or Vessels bound to Newfoundland, which may be ready & whose Masters may be willing to accompany you, and having seen them as near to the Coast as may be necessary for their security You are to proceed in such manner as you shall judge best for carrying into execution the following Instructions.

1st

Whereas, you have received His Majesty's Commission appointing you Governor & Commander in Chief in and over the Island of Newfoundland and of the Islands of Madelaine in the Gulph of S^t Lawrence, and of all the Forts & Garrisons erected & established in the said Islands, And also His Majesty's Instructions for your Government therein you are to take particular care to act in all respects conformable to what is required by the said Commission & Instructions, and any other Instructions you may receive from His Majesty relating to the aforesaid Island of Newfoundland or any other Parts within the limits of your command, taking care to prevent all illegal Trade during your continuance on that Station, and also to secure

& protect the Fisheries & Coasts from Piratical Ships or Vessels which you are to use your utmost endeavours to take or destroy.

2^d

You are, agreeable to an Act of Parliament of the 10th & 11th years of King William the 3^d, entitled "An Act to encourage the Trade to Newfoundland" (which you will receive herewith) to be aiding & assisting to the Admirals—Vice Admirals & Rear Admirals of the respective Ports and Harbours of Newfoundland from time to time as need shall require, in preserving the peace and good Government among the Seamen & Fishermen and in apprehending Offenders.

3^d

You are to be careful that there be not taken into the Ships under your command, to be transported to Newfoundland any Seamen, or others than such as do belong to them; And as you are not to lend any of the Ships Companies to any of the Fishing Ships so neither are you to suffer to be taken on board them any sort of Fish, either by way of Merchandize Freight, or otherwise excepting what shall be necessary for the use & spending of the Ships Companies.

4th

And Whereas the Lords Commissioners for Trade & Plantations have represented to Us, that it is very prejudicial to this Kingdom that the Fishing Ships do not bring home from Newfoundland the Complement of Men they carry out, many of them being enticed away to New England and. others left in the Country, and, for that reason, have desired We would give you directions to signify to the Masters of all British Ships at Newfoundland that they take care to bring home the number of Men they carry out (except in case of Death) for that otherwise they will be prosecuted at their return; You are to let the Masters know the same accordingly and to use your best endeavours to oblige them thereto, as far as in you lies.

5th

And Whereas no Foreign Ships or Vessels whatever (except as is herein after excepted) have any right to Fish at, or about Newfoundland, and the Commanders of the Ships of War bound as Convoy thither have at all times past, been directed not to allow of their Fishing in those parts, it is therefore His Majestys Pleasure, that you take especial care to prevent the same, and that his Orders given herein be strictly complied with; And if you shall meet with any Foreign Ships fishing at or about Newfoundland you are to oblige them to desist, & depart from off the Coast, excepting Ships & Vessels belonging to the Subjects of His Most Christian Majesty fishing agreeably to the 13th Article of the Treaty of Peace concluded with France at Utrecht in the year 1713, and to the

4th 5th & 6th Articles of the Treaty of Peace concluded at Paris the 10th Day of February 1763, Copies of which you will receive herewith.

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6th

And Whereas, by the said Articles of the Treaty at Paris, it is stipulated that the province of Canada with all its dependencies as well as the Island of Cape Breton & all the other Islands & Coasts in the Gulph & River S^t Lawrence and all that depends upon them shall belong to the Crown of Great Britain, but that the Subjects of France shall have the liberty of catching and drying their Fish upon a part of the Coast of Newfoundland only, to wit, from Cape Bona Vista to the Northward and as far as Pointe Riche but not to remain there beyond the time necessary for that purpose agreeable to the said 13th Article of the Treaty of Utrecht by which the property of the whole Island of Newfoundland is ceded to Great Britain, And His Majesty has by the said 5th Article of the Treaty of Paris consented to leave to the Subjects of the most Christian King the liberty of fishing in the Gulph of S^t Lawrence, upon condition that they do not exercise the said Fishery but at the distance of three Leagues from all the Coasts belonging to Great Britain as well those of the Continent as those of the Islands situated in the Gulph of S^t Lawrence; and as to the Fishery out of the said Gulph, it is thereby stipulated that the Subjects of the most Christian King shall not be permitted to exercise the said Fishery, but at the distance of Fifteen leagues from the Coasts of the Island of Cape Breton; And that the Fishery upon the Coasts of Nova Scotia or Acadia, and every where else out the said Gulph, shall remain upon the footing of former Treaties; You are therefore to use your utmost care, diligence & attention, that the several stipulations herein beforementioned and referr'd to, be duly & strictly performed according to the Tenor & intention thereof, as far as they shall come within the limits of your command; And Whereas, in consequence of a dispute which had arisen concerning the Claims of the Subjects of France to have a concurrent Fishery in the Harbour of Bona Vista, the Earl of Dartmouth one of His Majestys Principal Secretaries of State did, by his Letter of the 2^d Sept^r 1772 acquaint Comm^o Shuldham that it being the opinion of all His Majestys Confidential Servants that the Subjects of France had an indisputable right to a concurrent Fishery in the Harbour of Bona Vista it was His Majestys Pleasure that he did not dispute that point, and that the Subjects of France be permitted to carry on a concurrent Fishery in that Harbour, in like manner & under the same regulations as had been established in regard to the other Ports & Harbours of Newfoundland which are situated between Cape Bona Vista & Pointe Riche; We signify the same for your information & guidance in order that you may take particular care that His Majestys pleasure in regard to the French Subjects fishing in the said Harbour, be strictly & punctually complied with.

You are to settle and guard the Fishery not only at Placentia & St Johns but as far to the Northward upon the Coasts of Newfoundland & upon those of the Continent of Labrador as your command extends; And to

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exert your best endeavours to encourage & support the Whale Fishery in the Straits of Belle Isle, the Cod Fishery in York Harbour and on the other parts of the Coast of the abovementioned Continent, as also the Seal, Sea Cow & Salmon Fisheries on the said Coast; And to hinder any Trade or intercourse being carried on by any Persons whatsoever other than the Subjects of Great Britain with the Inhabitants of that Country which of right belongs solely to His Majesty: And whereas the Coast of Labrador and the Islands adjacent have, by a late Act of Parliament been re-annexed to the Province of Quebec, And His Majesty hath by His Instructions to the Governor of that Province dated the 3^d of January last signified to him, that the Fisheries on the said Coast & Islands are objects of the greatest importance, not only on account of the Commodities they produce but also as Nurseries of Seamen upon whom the strength & security of His Kingdom's depend: That Justice & Clemency demand, that the real & actual property of the Canadian Subjects on that Coast (whose Claims however extend but to a small district on the greatest part of which a Cod Fishery is stated to be impracticable) should be preserved intirely[sic] and that they should not be molested or hindered in the exercise of any sedentary Fisheries they may have established there: And that on all such parts of the Coast where there are no Canadian Possessions and more especially where a valuable Cod Fishery may be carried on, it will be his Duty to make the Interest of the British Subjects going out to Fish there in Ships fitted out from Great Britain the first object of his care and as far as circumstances will admit to establish on that Coast the regulations in favor of British Fishing Ships which have been so wisely adopted by the beforementioned Act of the 10th, & 11th of K^g William the 3^d; And that he is on no account to allow any possession to be taken or sedentary Fisheries to be established on any part of the Coast that are not already private property by any Persons whatsoever except only such as shall produce Annually a Certificate of their having fitted out from some Port in Great Britain; You are therefore, in pursuance of His Majestys pleasure signified to Us by L^d Dartmouth in his Letter of the 28th of last Month, to make those Fisheries particular objects of your attention & enquiry; Affording them every reasonable & necessary protection, and transmitting to Us, in order to be communicated to his Lordship for His Majestys information, the fullest report of the State & Condition & progress thereof.

And Whereas the Society of Unitas Fratrum urged by a

laudable Zeal for promoting Christianity, have already, under His Majestys protection and with his permission formed establishments in the Northern parts of the Coast of Labrador for the purposes of civilizing the Savages & converting them to the Christian Religion, in which their success has been answerable to their Zeal; And His Majesty hath signified His express Will & Pleasure to the Governor of Quebec, that he do give them every countenance & assistance in his power and not allow any Establishment to be made but with their consent, within the limits of their possessions; You are, in pursuance of His Maj^s further pleasure signified to Us as aforesaid, to give

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such support & protection to the establishment of the said Society as shall correspond with His Majesty's most gracious intentions to them.

You are to protect the Fisheries carried on by His Majestys Subject in the Gulph of S^t Lawrence near the Islands of Madelaine &c^a, And to take particular care of the Sea Cow Fisheries which have been, or may be established on the said Islands by His Majestys Subjects, be not disturbed by the Crews of any North American Ships or Vessels, or others destroying those Animals in the Water or by any means deterring them from the usual places of landing; And to dispose of some of the Ships or Vessels under your command in such manner as shall best serve for that purpose without prejudice to the more material Parts of the important Services committed to your care.

8th

You are to take care to prevent the Subjects of France from giving those of His Majesty employed in carrying on the abovementioned Fisheries any disturbance by Acts of Violence or injustice or by any evasion contrary to the Spirit & intention of the said Treaties and the provisions contained in the abovementioned Statute of the 10th & 11th of William the 3^d and also to prevent the French from catching or drying Fish except within the limits & distances & in the manner beforementioned You are at the same time, to be careful that the Subjects of His Most Christian Majesty may not be interrupted in their Fishery as stipulated by, or to be exercised pursuant to, the Treaties of Utrecht & Paris before mentioned, or in their drying their Fish upon the Coast of Newfoundland, or in fishing or drying their Fish in the Harbour of Bona Vista according to the said Treaties; and you are to use your best endeavours to prevent His Majestys Subjects from giving them any disturbance in their said Fishery, or in drying their Fish as aforesaid, by any Acts of Violence or Injustice or by any evasion contrary to the Spirit & intention of the said Treaties; And

9th

Whereas great Complaints were made by the Court of France that several Acts of Violence were committed in the Year 1763 on the French Fishermen at Newfoundland by the Commanders of His Maj^{ty}s Ship stationed on that Coast in burning their Boats & driving them off the Coast before the Season for fishing and drying their Fish was expired whereby the Fishery of the Subjects of France with those of Great Britain was greatly interrupted; And Whereas it is the firm intention of the King to maintain, with the utmost justice probity & good Faith, as well the Subjects of France as those of His own Dominions, in the enjoyment of that Fishery which is allowed them in common with His Maj^{ty}s own Subjects upon the Coast of Newfoundland between Cape Bona Vista & Pointe Riche & else where within the distances prescribed by the Treaties of Utrecht & Paris beforementioned; You are hereby positively enjoined, in pursuance of His Maj^{ty}s express Commands signified to Us for that purpose, to abstain and to use your

utmost endeavours to prevent the Commanders of His Majestys Ships or any other His Majestys Subjects, from giving any interruption to the Subjects of France in carrying on that Fishery which they are allowed by Treaties to enjoy, in common with the Kings Subjects within the limits therein described and also in the Harbour of Bona Vista as aforesaid either by burning their Boats or by any Violent or unfair proceedings; And for that purpose, you are to take great care that the subjects of France be not hindered from or obstructed in, resorting to any part of, those Harbours within the above limits, or in remaining on the Coasts thereof so long as they shall be actually engaged in the employment of fishing or drying their Fish, provided they be contented with such a just & moderate use of those priviledges as is warranted by the Letter & Spirit of Treaties, and that they conform to such regulations founded on the said Treaties as may preserve that fair & equitable concurrence in the fishery as is the peculiar object of them; That such Ships & Vessels of both Nations as shall resort to any parts within those limits for carrying on the Fishery, do chuse their Stations as they respectively arrive, and that they do occupy such space only of Beach as shall be proportioned to the number of their Boats; And that the Subjects of France be not included within any of those restrictions which are, in their nature peculiar to, and were originally intended for, the fishery of His Majestys Subjects only, and are founded in the abovementioned Act of the 10th & 11th of King William the 3^d which does not, in the opinion of His Majestys Law Servants extend to those parts of the Coast of Newfoundland which were not in the possession of the Crown of Great Britain at the time it was enacted, But

10th

The French having, in the Year 1765, claimed a right of fishing on the Coasts of the Island of Belle-Isle at the entrance of the Straits of that name between the North Part of Newfoundland and the Coast of Labrador on the ground of its being an appendage to the former Comm^o Palliser was directed the succeeding Year to examine whether that Island was situated nearest to the Coast of Labrador or to the Coast of Newfoundland to determine which it belonged to, and to permit or restrain the French fishing on the Coast of that Island accordingly; And M^r Palliser having in consequence thereof reported to Us by his Letter of the 25th of August 1766, that he had forbid them resorting to that Island it lying indisputably nearest to Labrador; We signify the same for your information & guidance in case the French should attempt to Fish on the Coasts of the said Island of Belle Isle in the approaching Season.

11th

And whereas, pursuant to the 24th Article of the said Treaty

of Paris, possession of the Islands of S Peter & Miquelon has been given to France, and from their vicinity to the Island of Newfoundland & other parts of His Majestys Dominions in North America, as illicit Trade may be attempted

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to be carried on between the British, Indian, or any other Inhabitants of His Majestys Dominions & the Subjects of France residing in the said Islands of S^t Peter & Miquelon, or employed in the fishery by Virtue of the said Treaties or between His Majestys said Subjects & other Subjects of France or of other Powers trading or pretending to Trade to, or with, the said Islands of S^t Peter & Miquelon; In case any endeavours shall be used to carry on such illicit Trade as aforesaid, you are to be particularly attentive to the same & prevent, if possible all communication whatever between the said Islands of S^t Peter & Miquelon and any part of His Majestys Dominions in North America, contrary to the plain & direct meaning of this Instruction But,

12th

The French having in the Year 1766 claimed a right of fishing on the Coasts of the abovementioned Islands of S^t Peter & Miquelon; the Duke of Richmond, one of His Majestys then Principal Secretaries of State signified to Us, that tho' we cannot admit, that, by the Treaties subsisting, the French have any right to the said Claim of fishing between those Islands and the Coast of Newfoundland & therefore that no such concession ought to be made to them yet, as Comm^o Palliser had reported that he had not found it immediately necessary to His Majestys Service to interrupt the French Boats fishing on the Coasts of those Islands, it was His Majestys pleasure that we should instruct him to hold the same conduct 'til further Orders or 'til the behaviour of the French, by an abuse of that liberty, should make it necessary for him to alter it; You are also to hold the like conduct in this respect until further Order or til the behaviour of the French, by an abuse of the said liberty shall make it necessary for you to alter it.

13th

And, in order that these Services may be more effectually performed you are to assign to the several Ships & Vessels under your command such Stations on the Coast of Newfoundland & Labrador including the Islands of Madelaine & Anticosti in the Gulph of S^t Lawrence as shall be most proper; giving to their respective Commanders full & clear Instructions on the several points herein beforementioned conformable to the foregoing Articles of these our Instructions to yourself, and directing them also very carefully to visit the several Coasts Harbours & Fishing Grounds within the limits of their respective Stations, and to make Charts of such parts of the Coasts & Draughts of such of the Harbours as have not already been surveyed; noting the depths of Water, conveniency for fishing & whatever observations occur worthy

our knowledge, which are to be transmitted to you to be laid before Us; And you are yourself, if practicable, to visit such parts of the said Coasts &c^a as your necessary attention to the other branches of your Duty will admit of in the course of the Season; that you may compare the reports made to you with your own observations, before you transmit them to Us.

*sic.

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14th

When the early Trade shall be ready about the latter end of August you are to order the Commander of one of the Frigates to take them under Convoy & proceed off Cape Finisterre, where he is to leave those bound to the Ports on the North Coasts of Spain, and proceed off the Coast of Portugal with the rest calling at Lisbon for any homeward bound Trade that may be ready, and after a stay there not exceeding* Ten Days at farthest, to make the best of his Way with such as may be willing to accompany him to England seeing them in safety as far as his way and theirs may lie together.

15th

And, when the Service will admit, you are to send home the other Ships & Vessels; directing their Commanders to take under their Convoy any homeward bound Trade that may be ready & willing to accompany them, and to see them in safety as far as their way lies together; which Ships & Vessels as well as the others of your Squadron, are, on their return to England to repair to the following Ports Viz^t

Romney	Plymouth or Portsmouth
Surprize	Portsmouth
Alborough	Plymouth
Slo: Martin	Ditto
Lyon Transport	Deptford

16th

By the end of October, you are to take under your Convoy any Fishing Ships which may be then bound to Portugal & Spain & see them off their respective Ports as far to the Southward as Cadiz; And in case you shall find at that Port any homeward bound Trade ready & willing to accompany you to England you are to take them under your care & putting to Sea with the first opportunity of Wind & Weather proceed to Lisbon where you are in like manner to take under your care such homeward bound Trade as may be there, And then after a stay not exceeding Eight Days at furthest you are to leave that Port and make the best of your way with the whole of the aforesaid Trade to England; seeing them in safety as far as your way theirs may lie together; In case however it shall be necessary or more eligible for you to send a Frigate to perform this Service you are at liberty to do so, and to proceed yourself directly in the Romney to England with such homeward Trade as may be desirous & in readiness to accompany you; repairing into Hamoze, or going on to Portsmouth as you shall find most convenient, and sending Us an Account of your arrival and

proceedings.

But, in pursuance of the Kings Pleasure signified to Us by the Earl of Rochford one of His Maj^s Principal Secretaries of State in his Letter of the 30th of August 1771 (a Copy of which as well as of the 16th, Article of the Treaty of 1667 which accompanied it, you will receive herewith) You are to

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give the strictest Orders to the respective Captains & Commanders of the Ships & Vessels under your command who may be sent to the Coast of Spain, to take especial care to conform themselves, in going into & remaining in the Ports of that Kingdom, to the Treaties subsisting between the two Crowns; And to regulate your own proceedings accordingly in case you shall go thither yourself.

17th

In case you shall, at any time find that a greater number of Ships & Vessels than those which may be under your command shall be necessary to enable you to execute the Service on which you are employed, you are to apply to Vice Adm^l Graves or the Commander in Chief for the time being of His Maj^{ty}s Ships & Vessels employed & to be employed in the River S^t Lawrence and along the Coasts of Nova Scotia, the Islands of S^t John & Cape Breton, and thence to Cape Florida & the Bahama Islands for such reinforcements as you shall stand in need of, who has our Orders to supply you therewith.

18th

For the better maintaining a proper Government & strict discipline in the Squadron under your command, We do hereby authorize & empower you to call & assemble Courts Martial in Foreign Parts as often as you shall see occasion; And Commanders Ships in Foreign Parts have sometimes neglected to hold Courts Martial for enquiring into the occasion of the loss of His Majesty's Ships when such misfortunes have happened, whereby the Crown has been put to an unnecessary expence and the Officers & Companies to great inconveniences by being kept out of their Wages, You are, in case of such an Accident, to cause a Court Martial to be assembled, as soon afterwards as possible, to try the Officers & Company for the same; and to transmit to our Secretary the proceedings & judgment thereupon by the first safe conveyance afterwards.

19th

In case of the Death of any Officer of the Ships or Vessels under your command or the dismissal of them by a Court Martial, You are hereby empowered to appoint such other Persons as, by the quality of their Employments ought to succeed therein; particularly observing to appoint Commanders to be Captains of Post Ships in preference to Lieutenants; And you are to take notice that we will not

*sic.

confirm any Officers appointed to Vacancies arising in any other manner. In case of suspension you are only to give Orders to proper Persons to act until such suspension shall be removed or we shall think fit to give directions therein; And you are constantly to transmit to Us by the first opportunity after appointing any Officer as aforesaid, an Account thereof, with your reasons for appointing him; But Whereas, notwithstanding Commanders in Chief of His Majestys Ships employed Abroad have been only empowered to fill up Vacancies occasioned by the Death of Officers or their dismissal by Courts Martial as

p. 505

above directed, it hath frequently happened that they have permitted Captains & Lieutenants to resign their Employments on account of ill health & have appointed Officers, by Commission to fill up the Vacancies which have arisen by such resignation & sometimes removed Officers from one Ship to another on such occasions, which has not only been attended with with[sic] disappointment* to the new made Officers as they could not be confirmed but has subjected the King's Service to inconveniences and this Office to much perplexity; You are therefore hereby required & directed to be particularly careful never to allow of any such resignation unless you shall find it absolutely necessary from a thorough conviction that the Parties applying to quit are really in such ill health as to be incapable of any longer continuing to execute properly their respective Duties; And whenever you shall give such permission to the Captain or Commander of any Ship or Vessel under your command, you are to direct the Lieutenant of such Ship or Vessel to take upon him the Command, or, in case of giving such permission to a Lieutenant, to direct a Midshipman of the Ship or Vessel to which such Lieutenant belongs to act in his room (provided such Lieutenant or Midshipman be fitly qualified to take upon them such charge) until our pleasure be known.

20th

You are to send, by all opportunities to our Secretary for our information an Account of your proceedings relative to the Service, and such intelligence as you may have collected proper for our knowledge; And you are moreover upon your return to England, to transmit to our Secretary to be laid before Us, a Journal of your proceedings with the Squadron under your command or any part thereof, & of the Services upon which you may send any of the Ships or Vessels with your reasons for the same; And to note therein all such particular & remarkable occurrences as may be proper for our information. Given &c. 22^d May 1775.

J. BULLER
PALMERSTON
H. PALLISER

To

Robert Duff Esq^r
Rear Adm^l of the Blue, and Commander in
Chief of His Maj^{ty}s Ships & Vessels employed
and to be employed at, and about the Island
of Newfoundland: the Islands of Madelaine
& Anticosti, and upon the Coast of Labrador
from the River of S^t John to the entrance of
Hudson Straits.

By &c. P. S.

Copy

No. 117.

Newfoundland.



[8 March, 1776.]

ORDER OF HIS MAJESTY IN COUNCIL

APPROVING DRAFT OF A COMMISSION AND INSTRUCTIONS FOR JOHN
MONTAGU, AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND
OVER THE ISLAND OF NEWFOUNDLAND.

C.O. 5, VOL. 30, pp. 85, 86.

At the Court at S^t James's the 8th day of March 1776.

Present

The Kings most Excellent Majesty in Council.

Whereas there was this day read at the Board, a Representation of the Lords Commissioners for Trade and Plantations, dated the 5th of this Instant in the words following—viz^t

"In Obedience to your Majesty's Commands signified to Us by Lord George Germain, One of Your Majesty's principal Secretaries of State, We have prepared, and herewith humbly beg leave to lay before your Majesty a Draught of a Commission appointing John Montagu Esquire Vice Admiral of the Blue, to be Captain General and Governor in Chief of Your Majesty's Island of Newfoundland, and the Territories depending thereon in America, and also a Draught of Instructions for the Regulation of his Conduct in that Government; in which such Draughts We have made no Alteration from the Commission and Instructions given by Your Majesty to Robert Duff Esquire, late Governor of Your Majesty's said Island of Newfoundland and the Territories depending thereon"

His Majesty taking the same into Consideration was pleased with the Advice of His Privy Council to approve of the said Draughts of a Commission and Instructions (which are hereunto annexed) and to Order as it is hereby ordered, that the Right Honourable Lord George Germain, One of His Majesty's principal Secretaries of State, do cause a Warrant to be prepared for His Majesty's Royal Signature, for passing a Commission, agreeable to the said Draught under the Great Seal of Great Britain, and that his Lordship do likewise cause the

said Instructions to be prepared. for His Majesty's Royal signature.

W. BLAIR. O. signed.

No. 118.

Newfoundland.



[8 March, 1776.]

INSTRUCTIONS PASSED UNDER THE ROYAL SIGN-MANUAL AND SIGNET FOR JOHN MONTAGU,AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND.

C.O. 5, VOL. 206, No. 8.

Copy.

George R.

Instructions to Our Trusty and Welbeloved John Montague
EsquireVice Admiral of the Blue, Our Governor and Commander in
Chief, in & over our Island of Newfoundland in America;
andof the Islands of Madelaine in the Gulph of S^t Lawrence; as
also of all our Forts & Garrisons, erected & established or
thatshall be erected & established in Our said Islands of New-
foundland and Madelaine. Given at our Court at St James's
the

Eighth day of March 1776. In the Sixteenth Year of Reign.

First. With these Our Instructions you will receive Our Commission under Our Great Seal of Great Britain constituting you our Governor and Commander in Chief in & over Our Island of Newfoundland in America, and of the Islands of Madelaine in the Gulph of St Lawrence; as also of all Our Forts & Garrisons erected & established, or that shall be erected & established in Our said Islands, with Directions to obey such Orders & Instructions, as shall from time to time be given you under Our Signet and Sign Manual, or by Our Order in our Privy Council; you are therefore to fit yourself, with all convenient speed & to repair to your said Command, & being arrived, you are to take upon you the execution of the Place & Trust We have reposed in you, and as soon as conveniently may be, to assemble the principal Inhabitants in the Island of Newfoundland, in such other places as you shall judge proper or necessary within your said Government, & with all due solemnity, to cause Our said Commission under Our Great Seal of Great Britain constituting you Our Governor & Commander in chief as aforesaid, to be read & published at such Meetings.

[The remaining Articles of these Instructions, Numbers 2 to 82, are identical with Articles Numbered 2-82 of the Instructions to Rear Admiral Robert Duff on 21 April, 1775, ante pages 479 to 496.]

Privy Council
Documents

Volume II
Contents

No. 119.

[28 January, 1778.]

Newfoundland.

Newfoundland.
Report of the State of
the Mines granted to
John Agnew
& Associates.

Ref^d.

ORDER OF HIS MAJESTY IN COUNCIL,

DIRECTING THAT A REPORT OF THOMAS HALSE BE REFERRED TO A
COMMITTEE OF THE LORDS OF HIS MAJESTY'S PRIVY COUNCIL
FOR PLANTATION AFFAIRS FOR CONSIDERATION.

P. C. 2. VOL. 121.

[Extracted from Privy Council Minutes of 28 January 1778.]

Upon reading this day at the Board a Report of Thomas Halse Overseer and Director, and of John Dun the Clerk to the Mines and works now carrying on at Shoal Bay on the South East side of Newfoundland, in virtue of a Grant from His Majesty to John Agnew of Sheuchan in the county of Wigtown in North Britain and his Associates; made in pursuance of a Reservation contained in the said Grant. It is Ordered by his Majesty in Council that the said Report Be, and it is hereby referred to a Committee of the Lords of His Majestys most Honourable Privy Council for Plantation Affairs, to consider the same, and Report what they conceive adviseable to be done therein.

No. 120.

[7 February, 1778.]

Newfoundland.

Newfoundland.

**COMMITTEE ORDER OF THE LORDS OF HIS
MAJESTY'S PRIVY COUNCIL**

Committee Order for the Board of Trade to prepare the Dra^t of an Additional Instruction for the Governor to receive the tenth part of the Ores reserved to His Majesty by the Grant of John Agnew and Associates and to pay the same to such person as the Lords Commissioners of the Treasury shall direct.

FOR PLANTATION AFFAIRS TO THE LORDS OF TRADE, DIRECTING PREPARATION OF DRAFT OF ADDITIONAL INSTRUCTION TO THE GOVERNOR OF NEWFOUNDLAND.

P. C. 2. VOL. 121.

[Extracted from Privy Council Minutes of 7 February 1778.]

His Majesty having been pleased by His Order in Council of the 28th of last Month, to refer unto this Committee, a Report of Thomas Halse Overseer and Director, and of John Dun Clerk to the Mines and Works now carrying on at Shoal Bay, on the South East Side of Newfoundland, in virtue of a Grant from His Majesty to John Agnew of Sheuchan in the County of Wigtown in North Britain and his Associates, prepared in pursuance of the Directions contained in the said Grant; The Lords of the Committee in Obedience to His Majesty's said Order of Reference, this Day took the said Report into Consideration and are hereby pleased to refer the same (a Copy whereof is hereunto annexed) to the Lords Commissioners for Trade and Plantations who are forthwith to prepare and lay before this Committee, a Draught of an Additional Instruction to the Governor of Newfoundland directing him to receive the Tenth part of all such Metals Ores and Minerals as shall be extracted from the said Mines, reserved to His Majesty by the said Grant and to pay the same to such person as the Lords Commissioners of the Treasury shall think proper to appoint.

No. 121.

[13 May, 1778.]

Newfoundland.

ORDER OF HIS MAJESTY IN COUNCIL,

APPROVING DRAFT OF AN ADDITIONAL INSTRUCTION FOR JOHN
MONTAGU, AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND
OVER THE ISLAND OF NEWFOUNDLAND.



C.O. 5, VOL. 31.

At the Court at S^t James's
the 13th of May 1778.

Present

The King's most Excellent Majesty in Council.

Whereas there was this day read at the Board, a Report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs, dated the 4th of this instant, humbly offering to His Majesty for His Royal Approbation, a Draught of an Additional Instruction for John Montagu Esquire Captain General and Governor of Newfoundland in America, directing and empowering him, or the Commander in Chief for the time being of the said Island, to take and receive one tenth part of all such Metals, Ores and Minerals, as now are or hereafter shall be raised and Extracted from certain Mines and Works, now carrying on at Shoal Bay on the South East side of that Island (in Virtue of a Grant passed in the fifteenth Year of His Majesty's Reign to John Agnew of Sheucan in the County of Wigtown in North Britain and his Associates) and them to pay and make over to such person or persons as the Commissioners of the Treasury shall appoint for that purpose; His Majesty taking the said Report and Draught of Additional Instruction into Consideration, was pleased with the advice of His privy Council, to Approve of the said Draught of additional Instruction (which is hereunto annexed) and to Order, as it is hereby ordered that the Right Honourable Lord George Germain one of His Majesty's principal Secretaries of State do cause the same to be prepared for His Majesty's Royal Signature.

STEPH: COTTRELL.

O. signed.

Endorsed. Order in Council
13th May 1778.

Approving the Dra^t of an Additional Instruction
for Governor Montagu.

No. 122.

Newfoundland.

[19 March,
1779.]**ORDER OF HIS MAJESTY IN COUNCIL,**

APPROVING DRAFT OF A COMMISSION APPOINTING RICHARD EDWARDS
TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE
ISLAND OF NEWFOUNDLAND.



At the Court at St James's
the 19th of March 1779.

Present

The Kings most Excellent Majesty in Council.

Whereas there was this Day read at the Board, a Representation from the Lords Commissioners for Trade and plantations, dated the 12th, of this Instant, together with a Draught of a Commission prepared by them, appointing Richard Edwards Esquire to be Captain General and Governor in Chief of His Majesty's Island of Newfoundland, and the Territories depending thereon in America; And it appearing that the said Lords Commissioners have made no Alteration in the said Draught from the Commission given by His Majesty to John Montagu Esquire late Governor of His Majesty's said Island of Newfoundland and the Territories depending thereon; His Majesty taking the same into Consideration was pleased with the Advice of His privy Council, to Approve of the said Draught of a Commission, and to Order, as it is hereby Ordered, that the Right Honourable Lord George Germain, one of His Majesty's principal Secretaries of State, do cause a Warrant to be prepared for His Majesty's Royal Signature, in Order to pass the said Commission under the Great Seal of Great Britain.

STEPH: COTTRELL.
O. signed.

Endorsed. Order in Council
19th March 1779.

No. 123.

Newfoundland.

[1 April,
1779.]**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN,**APPOINTING RICHARD EDWARDS TO BE GOVERNOR AND COMMANDER-
IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

PATENT ROLL 19 GEO. III, PART 3. No. 15.

Richard Edwards Esq ^r Governor of Newfoundland	}	George the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith &c To Our Trust and Welbeloved Richard Edwards
---	---	--

Esquire Greeting Whereas We did by Our Letters Patent under Our Great Seal of Great Britain bearing Date at Westminster the fourteenth Day of March in the Sixteenth Year of Our Reign constitute and appoint John Montagu Esquire to be Our Governor and Commander in Chief in and over Our Island of Newfoundland and of the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our Forts and Garrisons erected and established or that should be erected and established in Our Islands of Newfoundland and Madelaine for and during Our Will and Pleasure as by the said Letters Patent relation being thereunto had may more fully and at large appear Now Know Ye that We Have revoked determined and made void and by these Presents Do revoke determine and make void the said recited Letters Patent and every Clause Article and thing therein contained And We reposing especial Trust and Confidence in the Prudence Courage and Loyalty of You the said Richard Edwards of Our especial Grace certain Knowledge and meer Motion have thought fit to constitute and appoint And by these Presents Do Constitute and Appoint You the said Richard Edwards to be Our Governor and Commander in Chief in and over Our said Island of Newfoundland and also of the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our Forts and Garrisons erected and established in Our said Islands of Newfoundland and Madelaine as aforesaid And Wee do hereby require and command you to do and execute all things in due manner that shall belong to Your said Command and the Trust We have reposed in You according to the several Powers and Directions granted or appointed You by this Present

Commission and the Instructions either herewith given you or by such further Powers Instructions or Authorities as shall at any time hereafter be granted or appointed You under Our Signet and Sign Manual or by Our Order in Our Privy Council And We do further give and grant unto You the said Richard Edwards full Power and Authority from time to time and at all times hereafter by yourself or by any other to be Authorized by you in that behalf to Administer and give the Oaths

[Then the same as in Commission to Rear-Admiral Robert Duff of April, 1775, ante page 475, line 10, to page 476, line 39.]

And We do hereby require and Command all Officers Civil and Military and all other Inhabitants of our said Islands to be obedient aiding and assisting unto You in the Execution of this Our Commission and of the Powers and Authorities herein contained And in Case of your Death Our Will and Pleasure is that the Person upon whom the Command of Our Ships under your Command shall devolve do take upon him the Administration of the Government of Our said Islands and execute Our said Commission and Instructions and the several Powers and Authorities therein contained in the same manner to all Intents and Purposes as you Our said Governor and Commander in Chief might or ought to do for and during Our Will and Pleasure And We do hereby declare Ordain and Appoint that You the said Richard Edwards shall and may hold and enjoy the Place of Our Governor and Commander in Chief in and over Our said Island of Newfoundland and of the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our fforts and Garrisons erected and established or that shall be erected and established in Our said Islands of Newfoundland and Madelaine as aforesaid with all and singular the Powers and Authorities hereby Granted unto you for and during Our Will and Pleasure

In Witness &c Witness Ourselves at Westminster this first Day of April

By Writ of Privy Seal.

No. 124.

[5 May, 1779.]

Newfoundland.

ORDER OF HIS MAJESTY IN COUNCIL,

APPROVING DRAFT OF INSTRUCTIONS TO RICHARD EDWARDS AS
GOVERNOR AND COMMANDER IN CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.



C.O. 5 VOL. 31.

At the Court at S^t James's
the 5th of May 1779.

Present

The King's most Excellent Majesty in Council.

Whereas there was this day read at the Board, a Representation of the Lords Commissioners for Trade and Plantations, Dated the 27th of last Month in the words following—Viz^t

In Obedience to Your Majesty's Commands signified to Us by Lord George Germain, One of Your Majesty's principal Secretaries of State, We have prepared and herewith humbly beg leave to lay before Your Majesty a Draught of Instructions for Richard Edwards Esquire, Rear Admiral of the Blue, whom Your Majesty has been pleased to appoint Governor and Commander in Chief in, and over Your Majesty's Island of Newfoundland, and the Territories depending thereon in America. In this Draught we have omitted the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 11th and 16th Articles, and part of the 10th and 19th articles of the last Draught, as containing Regulations for securing to the French their Concurrent Fishery, which, We humbly conceive, are now no longer proper to be continued; and we have inserted an Article N^o 72, empowering the Governor to receive and take, for the use of Your Majesty, the tenth part of all Metals, Ores and Minerals extracted from certain Mines in the said Island of Newfoundland, and to pay and deliver the same to such Person or Persons, as may be appointed, by the Lords of Your Majesty's Treasury; likewise an Article N^o 71 requiring the said Governor to carry into strict Execution an Act of Parliament passed in the Sixteenth Year of Your Majesty's Reign for the prohibition of all Trade and intercourse, with several of Your Majesty's Colonies, therein mentioned; which two Articles are conformable to what Your Majesty has already approved; These are the only material Alterations in the present Draught from the Instructions given

to Your Majesty's late Governor.

p. 515

His Majesty taking the same into Consideration, was pleased, with the Advice of His privy Council, to Approve of the said Draught of Instructions, and also of the Alterations made therein, from the Instructions given to the late Governor, and to Order, as it is hereby Ordered, that the Right Honourable Lord George Germain, One of His Majesty's principal Secretaries of State, do cause the said Instructions (which are hereunto annexed) to be prepared for His Majesty's Royal Signature.

STEPH: COTTRELL
O. signed.

Endorsed: Order in Council
5th May 1779.

Approving the Dra^t of Instruct^s for Richard Edwards Esq^r Gov^r
of Newfoundland.

No. 125.

[6 May, 1779.]

Newfoundland.

**INSTRUCTIONS PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET FOR RICHARD EDWARDS,**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.*Added later
in red ink.

C.O. 195 VOL. 10.

Instructions to Our Trusty and Welbeloved Richard Edwards
Esquire Our Governor and Commander in Chief in and
over our Island of Newfoundland in America, and of the
Islands of Madelaine in the Gulph of S^t Lawrence as
also of all our Forts and Garrisons erected & Established
or that shall be erected and established in our Said
Islands of Newfoundland and Madelaine, Given at our
Court at S^t James the * sixth * day of * May 1779 *
in the * nineteenth * Year of Our Reign.

1st With these Our Instructions You will receive our
Commission under our Great Seal of Great Britain constituting
you Our Governor and Commander in Chief in and over our
Island of Newfoundland in America and of the Islands of
Madelaine the Gulph of S^t Lawrence as also of all our Forts
and Garrisons erected and Established or that shall be erected
and established in our said Islands, with directions to obey
such Orders and Instructions, as shall from time to time be
given you under our Signet and Sign Manual, or by Our Order
in Our Privy Council, you are therefore to fit yourself with all
convenient Speed and to repair to Your said Command and
being arrived you are to take upon you the Execution of the
Place and Trust we have reposed in You and as soon as
conveniently may be to assemble the Principal Inhabitants of
the Island of Newfoundland, and in such other places as you
shall Judge proper or necessary within your said Government
and with all due solemnity to cause our said commission under
Our Great Seal of Great Britain constituting you Our Governor
and Commander in Chief as aforesaid, to be read and
published at such meetings.

2. It is Our Will and Pleasure that you do from time to time
as the nature of the Service will allow visit all the Coasts and
Harbours of the Said Islands under Your Government in order
to inspect and Examine the state and condition of the Fisheries
which are or may be carried on upon the Said

Coasts and Islands You shall also use your best Endeavours to procure Accurate Draughts or Maps of the Several Harbours Coasts and Bays of Newfoundland and the other Islands under your Government and you are more particularly to direct the Officer of any Vessel under your Command which may be appointed to visit that part of the Coast of Labradore which lies between Hudson's Streights and the Streights of Bellisle to search and Explore the Great Inlet commonly known by the name of Davis Inlet in order to Discover, whether the Same has or has not any Passage to Hudson's Bay or any other Inclosed Sea.

3. You are also to enquire and report to Us by one of Our Principal Secretaries of State whether any or what further Establishment may be necessary to be made or Forts erected in any Part of Newfoundland or the other Islands under Your Government either for the protection of the Fishery the Security of the Country or the Establishing and carrying on a commerce with the Indians residing in or resorting to the said Islands.

4. You are not to permit the Subjects of any Foreign Prince or State Whatever to carry on any Commerce with the said Indians and to use your best endeavours to conciliate their affections and to induce them to trade with our Subjects, reporting to us by one of our Principal Secretaries of State the best Account you can obtain of the Number of the Said Indians, the Places they Frequent the nature and Extent of the Commerce that is or may be carried on with them and how the same may in your opinion be further Extended and improved.

5. You are to use your best Endeavours to prevent any Aliens or Strangers whatever from fishing or drying fish on any of the Coasts or in any of the Harbours of the Islands under your Government. And whereas it has been represented unto us that Foreigners are Sharers in the Fishery and Commerce of our said Island by being part Owners of the Ships Employed therein under English Names, by means whereof the Said Ships are supplied from Foreign Countries with all kinds of Materials as well for the Use of the Fishery as for the use of the said Vessels, It is therefore our Will and Pleasure that you do make the most diligent Enquiry into the Nature and Extent of such illicit practice and unwarrantable Combination and report to us by one of our Principal Secretaries of State the result of your Enquiry in order to such further Directions as We may think fit to give thereupon and in the mean time you are to use your best Endeavours to put a Stop to such unlawful Proceedings and to take the most Effectual mesaures[sic] for the Discovery and prevention of all Illicit and Contraband Trade of every kind.

6. And whereas we have been informed that a very

considerable and advantageous Whale and Sea Cow Fishery may be carried on in the Gulph of S^t Lawrence and upon the Labrador Coast, It is therefore Our Will and Pleasure that you do give all possible Encouragement to such Fishery and report to us by one of Our Principal. Secretaries of State in what way and by what means so valuable a branch of Commerce may be extended and improved.

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17

7	} same as	{	18
8			19 to Rear Admiral Robert Duff, ante
9			pp. 482-483.
10			20
11			21

12. It being our Intention that all Persons inhabiting Our Islands under your Government should have full liberty of conscience and the free exercise of all such modes of Religious Worship as are not Prohibited by Law, We do therefore hereby require you to permit all Persons within our said Islands to have such liberty and to exercise such modes of Religious Worship as are not prohibited by Law provided they be contented with a quiet and peaceable enjoyment of the same not giving offence or scandal to the Government.

13		23
to	} same as	{ to
16			26
	and	to Rear Admiral Robert Duff, ante pp. 484-494.
17		28
to	} same as	{ to
70			81

71. Whereas an Act was passed in the Sixteenth Year of Our Reign intituled, An Act to Prohibit all Trade and intercourse with the Colonies of New Hampshire Massachusets Bay Rhode Island Connecticut, New York, New Jersey, Pensylvania, the three Lower Countries on Delaware Maryland, Virginia, North Carolina, South Carolina, and Georgia, during the Continuance of the Present Rebellion,

within the said Colonies respectively, for repealing An Act made in the fourteenth Year of the Reign of his Present Majesty to discontinue the Landing and discharging lading or shipping of Goods, Wares & Merchandise, at the Town and within the Harbour of Boston, in the Province of Massachusetts Bay and also two Acts made in the last Session of Parliament for Restraining the Trade & Commerce of the Colonies in the Said Acts Respectively mentioned, and to enable any Person or Persons appointed and authorized by his Majesty to grant Pardons, to issue Proclamations in the Cases & for the Purposes therein Mentioned, It is Our Royal Will and Pleasure; and you are hereby instructed and required to have especial care that the Said Act be duly observed by all persons within Your Government and it will be your particular duty in granting Lice[n]ses in writing under Your hand and Seal to Ships and Vessels for going to any Port or Place in the Afore mentioned Colonies to see that the Said Licenses be granted to Such Ships and Vessels only, as are specified and described in the said Act; and that the Form or Forms observed by you in granting the said Licenses be strictly Agreeable to what is therein Prescribed and laid Down for your better Government & Direction wherein we have hereunto Annexed the Form to be observed by You as follows Viz:

*blank in original.

" "

" "

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*blank in original.

" "

" "

To all Flag Officers, Captains, Commanders, and other Commissioned Officers in his Majesty's Pay, and also to all others whom these Presents Shall or may concern. In pursuance of an Act passed in the Sixteenth Year of his Majesty's Reign intituled, An Act to prohibit all Trade and Intercourse with the Several Colonies in North America therein mentioned, I do hereby Authorize and permit* *Master of the Ship* & *of the burthen* *[to proceed with the Said Ship and Cargo consisting of the Particulars Specified in the Schedule annexed, from the Port of* *to the Port of* *there to unload and deliver the said Cargo and to return from thence with his Said Ship to*

This license to subsist and be in force from the day of the Date Hereof, until her return, as aforesaid.]

In the case of Transports employed in our Service, the Words between Hooks shall be omitted and the following ones shall be adopted Viz [being a Transport employed in his Majesty's Service to proceed in his said Ship to some Port or Ports in North America, and to return from thence with his said Ship to* *This License to Subsist and be in force from the day of the date hereof, until the day of* *or for so long as she shall be employed in his Majesty's Service, as aforesaid, Given under my Hand Seal * the * day of.*

72. Whereas we have thought fit by Our Commission to you to give & grant unto you full power and authority to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer, for the hearing and

determining of all criminal Causes, Treason excepted, Justices of the Peace, and other Officers & Ministers for the Administration of Justice with power also to pardon all Offenders and remit all Offences, Fines and Forfeitures, wilful Murther only excepted, in which case you have likewise power on extraordinary Occasions to grant reprieves, It is Our Express Will & Pleasure that you do not appoint any such Commissioners of Oyer & Terminer to meet or hold Assizes more than Once a Year and that only during the time You or the Governor for the time being shall be resident there; and that you do not Suffer any of the Officers of our Ships of War or of any of the Trading Ships to our Subjects, which shall happen to be there, to be deprived of life or limb by any Sentence of such Court, but in such case, You shall reprieve the Criminal, until our Pleasure be known therein and you shall take especial Care that all Persons guilty of Treason be sent over to this Kingdom with witnesses and sufficient proof of the Crime along with them, and it is also Our Express Will & Pleasure, that you do with your Answer to the foregoing Enquiries return also a full account of what you shall have done in pursuance of this Power of appointing Judges; What proceedings have been had before the said Judges, what Obstructions or difficulties you or they have met with (if any) in putting the said Power in Execution and which way you conceive we may contribute to render it more useful and beneficial to all our Subjects residing in or resorting to the Islands under Your Government.

p. 520

73. Whereas report hath been made to us in Our Privy Council by Thomas Halse Overseer & director and John Dunn Clerk to the Mines & Works now carrying on at Shoal Bay on the South East side of our Island of Newfoundland in virtue of a Grant Passed by us in the fifteenth Year of our Reign to John Agnew Sheuchan in the County of Wigtown in North Britain and his Associates which Report was prepared in pursuance of certain directions contained in the said Grant, And whereas the said report Sets forth that Certain Quantities of Copper Ores have already been raised and extracted from these mines One tenth part of all which is by the special Condition of Our Grant aforesaid reserved to ourselves, Our Heirs & Successors We do therefore hereby direct and impower You our Governor or our Commander in Chief for the time being of our Said Island of Newfoundland to take & receive one tenth part of all Such Metals Ores and Minerals as now are or hereafter shall be raised and extracted from the said Mines and then to pay & make over to such person or persons as the Commissioners of our Treasury shall think proper to appoint for that Purpose.

74. And you are upon all occasions to send unto us by one of our Principal Secretaries of State a particular Account of all your Proceedings and of the Condition of the Affairs of the Islands under your Government & the Trade and Fishery

thereof and of the Banks Seas & Parts Adjacent.

Copy.

Privy Council
Documents

Volume II
Contents

No. 126.

[30th May,
1779.]

Newfoundland.

**ADMIRALTY INSTRUCTIONS TO RICHARD
EDWARDS**

Sybil
Surprize
Licorne

AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.

ADM. SEC. 2. VOL. 107.

By &c.

Poole
Topsham
Dartmouth
Plymouth

Whereas you have already detached His Majesty's Ships named in the Margin (part of those put under your command) with the early convoys to Newfoundland, pursuant to Our Orders. And Whereas we intend that you shall proceed thither yourself as soon as possible in the Portland accompanied by the Cygnet Sloop; You are hereby required and directed, when that Sloop arrives at Spithead, to put to Sea with the very first opportunity of Wind & Weather & proceed on your Voyage to that Island, calling off the several Ports named in the Margin in your way down Channel, for any Fishing Ships or Vessels bound the same way, which may be ready & whose Masters may be willing to accompany you, and taking them under your convoy, proceed to the Grand Bank, in the Latitude of 46° 30", where you are to leave such of the said Fishing Ships whose Masters may be inclined to begin the Fishery, And also the Cygnet Sloop, with Orders to her Commander to Cruize on the said Bank, & to use his best Endeavours to take or destroy any Ships or Vessels belonging to France or French Subjects or to the rebellious Colonies of North America which may resort thither, either for the purpose of Fishing or Trading, or for annoying & disturbing the Fishery, continuing on that Service three Weeks, or longer if you shall judge it necessary, & then to execute such further Orders as you shall think fit to give him.

You are in the Portland to go on to S^t Johns calling in your way at Renouse, Ferriland, & the Bay of Bulls, in order to obtain intelligence & to give such protection & Assistance to His Majestys Subjects on that part of the Coast as they may stand in need of, And you are then to proceed yourself & to dispose of the Ships & Vessels abovementioned as well as those named in the inclosed List (which were left at Newfoundland last Year by Vice Admiral Montagu & which you are to take under your command in such manner as you shall, judge best for carrying into execution the following

1st

Whereas you have received His Majestys Commission appointing you Governor & Commander in Chief in, & over, the Island of Newfoundland, & of the Islands of Madelaine in the Gulf of S^t Lawrence, & of all the Forts & Garrisons erected and Established in the said Islands, and also His Majestys Instructions for your Government therein, You are to take particular care to Act in all respects conformable to what is required by the said Commission & Instructions, & any other Instructions you may receive from His Majesty relative to the aforesaid Island of Newfoundland or any other parts within the limits of your command, taking care to prevent all illegal Trade during your continuance on that Station, & also to secure & protect the Fisheries & Coasts from any attempts which may be made upon them by any Ships or Vessels belonging to the French King or His Subjects, or the Rebellious Colonies of North America, which you are to use your utmost endeavours to take or destroy./

2	2
3	3
4	4

} same { 3 to Rear Admiral Robert Duff, ante page
} as { 4 497.

5th

And whereas no foreign Ships or Vessels whatever have any Right to Fish at or about Newfoundland, & the Commanders of the Ships of War bound as Convoy thither have at all times past been directed not to allow of their fishing in those parts, it is therefore His Majesty's Pleasure that you take especial care to prevent the same and that His Orders given herein be strictly complied with. And if you shall meet with any foreign Ships fishing at or about Newfoundland, you are to oblige them to desist & depart from off the Coast.

6th

You are to settle and Guard the Fishery, not only at Placentia and S^t Johns, but as far to the Northward, upon the Coasts of Newfoundland & upon those of the Continent of Labradore, as your Command extends. And to exert your best endeavours to encourage & support the Whale Fishery in the Straits of Bell Isle, the Cod Fishery in York Harbour, & on the other parts of the Coast of the above mentioned Continent, as also the Seal, Sea Cow & Salmon Fisheries on the said Coast; And to hinder any Trade or intercourse being carried on by any persons whatsoever, other than the Subjects of Great Britain, with the Inhabitants of that Country, which of Right belongs Solely to

His Majesty. And whereas the Coast of Labradore & the Islands adjacent, have by a late Act of Parliament, been re-annexed to the Province of Quebec; And His Majesty hath, by His Instructions to the Governour of that Province dated the 3^d Jan^y 1775 signified to him

p. 523

that the Fisheries on the said Coasts & Islands are Objects of the greatest importance not only on account of the Commodities they produce, but, also as Nurseries of Seamen, upon whom the Strength of His Kingdoms depend; that Justice & Clemency demand that the real & actual property of the Canadian Subjects on that Coast (whose Claims however extend but to a small District, on the greatest part of which, a Cod Fishery is stated to be impracticable) should be preserved entirely, & that they should not be molested or hinderd in the exercise of any Sedentary Fisheries they may have established there; and that on all such parts of the Coast where there are no Canadian possessions, and more especially where a valuable Cod Fishery may be carried on it will be his Duty to make the Interest of the British Subjects going out to fish there in Ships fitted out from Great Britain, the first Object of his Care, & as far as circumstances will admit, to establish on that Coast the Regulations in favour of British Fishing Ships which have been so wisely adopted by the before mentioned Act of the 10th & 11th of King William the third ; And that he is on no account to allow any Possession to be taken, or sedentary Fisheries to be established, on any part of the Coast that are not already private property, by any Persons whatsoever except only such as shall produce Annually a Certificate of their having fitted out from some Port in Great Britain. You are therefore in pursuance of His Majesty's Pleasure signified to Us, by Lord Dartmouth in his Letter of the 28th April 1775 to make these Fisheries particular Objects of your attention & enquiry; affording them every reasonable & necessary Protection & transmitting to Us, for His Majestys Information the fullest Report of the State & Condition & progress thereof.

7th

The Society of Unitas Fratrum, urged by a laudable zeal for promoting Christianity having already, under His Majestys Protection, & with His Permission, formed Establishments in the Northern parts of the Coast of Labradore for the purposes of Civilizing the Savages, & converting them to the Christian Religion in which their success has been answerable to their Zeal; And His Majesty having signified His express Will and Pleasure to the Governour of Quebec, that he do give them every countenance & Assistance in his power & not allow any Establishment to be made but with their Consent within the Limits of their Possessions. You are in pursuance of His Majestys further pleasure signified to Us by Lord Dartmouth in his Letter before mentioned, to give such support and Protection to the Establishment of the said Society as shall correspond with His Majestys most gracious intentions to

them.

8th

Besides the Superintendance & regulations of the Fisheries of the Island of Newfoundland, & the Coast of Labradore abovementioned, you are, in pursuance of His Majesty's Pleasure signified to Us by Lord George Germain one of His Principal Secretaries of State in his Letter of the 23^d of February

p. 524

1776 to afford every Protection in your power to those which are carried on in the Gulph of S^t Lawrence within the limits of your command, & also upon the Islands in that Gulf, & to keep Cruizers constantly employed on that Service, taking particular care that no Vessels belonging to any of the Associated Colonies be permitted to fish or carry on any Trade or Commerce in those Seas, & that every effort be made to take or destroy any such, as also any Piratical Armed Vessels which may be fitted out by the Rebels with a view to disturb the British Fisheries & intercept defenceless Vessels in their passage to Quebec; And you are to take particular care that the Sea Cow Fisheries, which have been or may be, established on the Islands of Madelaine &c. by His Majesty's Subjects, be not disturbed by the Crews of any Ships or Vessels whatever destroying those Animals in the Water, or by any means deterring them from the usual places of landing, disposing of some of the Ships or Vessels under your command in such manner as shall best serve for that purpose, without prejudice to the more material parts of the important Service committed to your Care.

9th

And, in order that these Services may be more effectually performed, you are to assign to the several Ships & Vessels under your command such Stations on the Coast of Newfoundland & Labradore, including the Islands of Madelaine & Antcosti in the Gulph of S^t Lawrence as shall be most proper, giving to their respective Commanders full & clear Instructions on the several points herein before mentioned conformable to the for-going Articles of these Our Instructions to yourself. And directing them also, very carefully to visit the several Coasts, Harbours, & Fishing Grounds, within the limits of their respective Stations, and to make Charts of the parts of the Coasts, and Draughts of such of the Harbours as have not already been Surveyed, Noting the depths of Water conveniency for fishing, & whatever Observations occur worthy our knowledge; which are to be transmitted to you to be laid before Us. And you are Yourself if practicable, to visit such parts of the said Coasts &c, as your necessary attention to the brances* of your Duty will admit of* in the course of the Season, that you may compare the Reports made to you, with your own observations, before you transmit them to Us.

*Sic.

*Sic.

10th

When the early Trade shall be ready about the latter end of August you are to appoint two Frigates, or one Frigate & a Sloop as you shall Judge most proper, to take them under Convoy, & proceed off Cape Finisterre; when the Senior Officer *Officer is to direct the other to see the Trade bound into the Bay to the Ports of their destination & afterwards repair to Spithead; the Senior Officer himself proceeding off the Coast of Portugal with the rest, calling at Lisbon for any homeward bound Trade that may be ready, & after a stay there, not exceeding Eight days at farthest, making the best of his way to Spithead with such as may be willing to accompany him.

p. 525

11th

Towards the end of October you are to appoint a proper Convoy to the, Fishing Ships which may then be bound to Portugal & Spain; instructing the Senior Officer to see them in safety off the Ports to which they are respectively destined as far to the Southward as Cadiz. And in case there are at that Port any homeward bound Trade ready & willing to accompany him You will direct him to take them under his Care, & putting to Sea with the first Opportunity of Wind & Weather proceed to Lisbon, where he is in like manner to take under his care such Trade as may be homeward bound, and after a Stay not exceeding Eight Days at most, leave that Port & make the best of his way with all the said Trade to England, seeing them in safety as far as their way & his may lie together, & repairing himself with such other Ship or Ships of your Squadron as may be with him to Spithead for further Orders.

12th

In pursuance of the Kings pleasure signified to Us by the Earl of Rochford, late one of His Majestys principal Secretaries of State in his Letter of the 30th August 1771 (a Copy of which as well as of the 16th Article of the Treaty of 1667 which accompanied it, you will receive herewith) you are to give the Strictest Orders to the respective Captains & Commanders of the Ships & Vessels under your command, who may be sent to the Coast of Spain, to take especial care to conform themselves, in going into, & remaining in the Ports of that Kingdom to the Treaties subsisting between the two Crowns.

13th

You are, by the end of October to quit the Coast of Newfoundland & return to Spithead with such of the Ships & Vessels of your Squadron as have not been detached with Convoys except the Armed Vessels, Schooners & Shallops which (with one of the Sloops or more if you shall judge it necessary) are to be left at Newfoundland during the Winter, at

such place or places as you shall judge best, with Orders to their Commanders to get them equipt in the Spring as early as possible, & to exert their best endeavours for the protection of the Coast from any attempts of the Rebels, or others until you return, assigning them such Stations & giving them such Instructions as you shall think most likely to answer that purpose. And you are to take under your Convoy any homeward bound Trade that may be ready & willing to accompany you, & to see them in safety as far as their way & your way lies together.

14th

In case you shall at any time find that a greater number of Ships & Vessels than those which may be under your command shall be necessary to enable you to execute the Service on which you are employed you are to apply to Vice Admiral Arbuthnot or the Commander in Chief for the time being of

His Majesty's Ships & Vessels employed & to be employed in North America from the North Cape on the Island of Cape Breton to Cape Florida & the Bahama Islands, for such reinforcements as you shall stand in need of, *you has Orders to supply you therewith.

*Sic.

15		18		
16	} same as	} 29	to to Rear Admiral Robert Duff, ante pp.504, 505.	
17				20

Given &c the 30th May 1779.

SANDWICH
LISBURNE
MULGRAVE
R. MAN.

To
Richard Edwards Esq^{re} Rear
Admiral of y^e Blue, &
Com- Copy.
mander in Chief of His
Majesty's Ships & Vessels
employed & to be employed
at & about Newfoundland, &c &c

By &c
P. S.

By a Messenger 3^d June at 11 o'clock P.M./

Privy Council
Documents

Volume II
Contents

No. 127.

[27 March,
1781.]

Newfoundland.

REPRESENTATION OF THE LORDS OF TRADE,

SUBMITTING DRAFT OF AN ADDITIONAL INSTRUCTION FOR RICHARD
EDWARDS AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER
THE ISLAND OF NEWFOUNDLAND.

C.O. 195. VOL. 10.

To the Kings most Excellent Majesty

May it please Your Majesty

In obedience to Your Majestys Commands signified to us by
the Right Honorable Lord George Germain one of your
Majestys principal Secretaries of State. We have prepared and
herewith humbly beg leave to lay before Your Majesty the
draught of an additional Instruction to Richard Edwards
Esquire Governor of Newfoundland directing his observance
of four Acts passed in the fifteenth, eighteenth, & nineteenth
Years of Your Majestys Reign for the encouragement of the
Fisheries and for extending the Trade of Ireland to Your
Majestys Colonies & Plantations in America

Which is most humbly submitted

GRANTHAM
THOMAS DE GREY Jun^r
E. GIBBON
HANS SLOANE.

Whitehall }
March 27th 1781 }

Copy.

No. 128.[27 March,
1781.]

Newfoundland.

**ADDITIONAL INSTRUCTION PASSED UNDER THE
ROYAL SIGN MANUAL AND SIGNET FOR RICHARD
EDWARDS***Blank in
original.AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND.

C.O. 195. VOL. 10.

Additional Instruction to our Trusty and welbeloved Richard Edwards Esquire Our Governor and Commander in Chief in and over Our Island of Newfoundland in America or to the Commander in Chief of the said Island for the time being.
Given.*

Whereas by an Act of Parliament passed in the fifteenth year of Our Reign Intituled "An Act for the encouragement of the Fisheries carried on from Great Britain, Ireland and the British Dominions in Europe and for securing the return of the Fishermen, Sailors, and others employed in the said Fisheries to the Ports thereof at the end of the fishing Season"; certain Regulations were made with respect to the wages of Seamen and Fishermen employed in taking and making Fish and Oil at Newfoundland. It is Our Will and Pleasure and We do hereby direct and require You to cause the said Act to be strictly attended to and observed as well as the Act passed in the Eighteenth Year of Our Reign, Intituled "An Act to permit the Exportation of certain Goods directly from Ireland into any British Plantation in America or any British Settlement on the Coast of Africa; and for further encouraging the Fisheries & navigation of Ireland"; and two several Acts passed in the nineteenth Year of Our Reign for the further purpose of extending the Trade of Ireland to our Colonies and Plantations in America, Intituled "An Act to repeal certain Acts made in Great Britain which restrain the Trade and Commerce of Ireland with foreign Parts" and an Act intituled "An Act for allowing the Trade between Ireland and the British Colonies in America and the West Indies and the British Settlements on the Coast of Africa, to be carried on in like manner as it is now carried on between Great Britain and the said Colonies and Settlements."

No. 129.

Newfoundland.



[26 April, 1781.]

ORDER OF HIS MAJESTY IN COUNCIL

APPROVING DRAFT OF ADDITIONAL INSTRUCTION FOR RICHARD
EDWARDS AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER
THE ISLAND OF NEWFOUNDLAND.

C.O. 5. VOL. 32.

At the Court at St James's
the 6th of April 1781.

Present

The King's most Excellent Majesty in Council.

Whereas there was this Day read at the Board, a Report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs, dated the 3^d of this instant, humbly offering to His Majesty for His Royal Approbation, a Draught of an Additional Instruction prepared by the Lords Commissioners for Trade and Plantations, for Richard Edwards Esqr Governor of Newfoundland, directing his observance of four Acts passed in the fifteenth, Eighteenth & nineteenth Years of His Majesty's Reign, for the encouragement of the Fisheries, and for extending the Trade of Ireland to His Majesty's Colonies and Plantations in America;—His Majesty taking the same into His Royal Consideration, was pleased, with the Advice of His privy Council, to approve of the said Draught of an Additional Instruction (which is hereunto annexed) and to Order, as it is hereby Ordered, that the Right Honourable Lord George Germain One of His Majesty's principal Secretaries of State, do cause the same to be prepared for His Majesty's Royal Signature.

STEPH: COTTRELL/
O. signed.

Endorsed: Order in Council
6th April 1781.

Approving the Dra^t of an Additional Instruction for the
Gov^r of Newfoundland.

No. 130.

Newfoundland.



[24 April, 1782.]

ORDER OF HIS MAJESTY IN COUNCIL

APPROVING DRAFT OF A COMMISSION APPOINTING JOHN CAMPBELL TO
BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE
ISLAND OF NEWFOUNDLAND.

C.O. 5. VOL. 32.

At the Court at S^t James's
the 24th of April 1782.

Present.

The Kings most Excellent Majesty in Council.

Whereas there was this Day read at the Board, a Representation from the Lords Commissioners for Trade and Plantations, dated the 12th of this Instant, together with a Draught of a Commission prepared by them, appointing Vice Admiral John Campbell to be Captain General and Governor in Chief of His Majesty's Island of Newfoundland, and the Territories depending thereon in America; And it appearing that the said Lords Commissioners have made no Alteration in the said Draught, from the Commission given by His Majesty to Richard Edwards Esquire the late Governor of the said Island. His Majesty is thereupon pleased, with the Advice of His Privy Council, to Approve of the said Draught of a Commission (which is hereunto annexed) and to Order, as it is hereby Ordered, that the Right Honourable the Earl of Shelburne, One of His Majesty's Principal Secretaries of State, do cause a Warrant to be prepared in the Usual manner for His Majesty's Royal Signature, in Order to pass a Commission conformable to the said Draught under the Great Seal of Great Britain

STEPH: COTTRELL/

O. signed.

Endorsed: Order in Council 24th April 1781.

Approving the Dra^t of a Commⁿ for John Campbell
Esq^r to be Gov^r of Newfoundland.

No. 131.

[6 May, 1782.]

Newfoundland.

COMMISSION PASSED UNDER THE GREAT SEAL OF GREAT BRITAIN

APPOINTING JOHN CAMPBELL TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

PATENT ROLL 22 GEO. III, PART VI, N° 14.

John Campbell Esqr
Governor of
Newfoundland

} George the Third by the Grace of God
of Great Britain France and Ireland
King Defender of the Faith &c To
Our Trusty and Welbeloved John

Campbell Esquire Greeting Whereas Wee did by Our Letters Patent under Our Great Seal of Great Britain bearing date at Westminster the first day of April in the nineteenth Year of Our Reign Constitute and appoint Richard Edwards Esquire to be Our Governor and Commander in Chief in and over Our Island of Newfoundland and of the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our Forts and Garrisons Erected and Established or that should be Erected or Established in Our Islands of Newfoundland and Madelaine for and during Our Will and Pleasure as by the said Letters Patent relation being thereunto had may more fully and at large appear Now Know You that Wee have Revoked Determined and made void and by these presents do Revoke determine and make void the said recited Letters Patent and every Clause Article and thing therein contained And Wee reposing especial Trust and Confidence in the prudence Courage and Loyalty of you the said John Campbell of Our especial Grace certain knowledge and meer Motion Have thought fit to Constitute and appoint and by these presents to Constitute and appoint You the said John Campbell to be Our Governor and Commander in Chief in and over Our said Island of Newfoundland and of the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our Forts and Garrisons Erected and Established in Our said Islands of Newfoundland and Madelaine as aforesaid And Wee do hereby require and Command you to do and Execute all things in due manner that shall belong to your said Command and the Trust Wee have Reposed in you according to the several powers and directions granted or appointed you by this present Commission and the Instructions either herewith given you or by such further powers Instruction or Authorities

as shall at any time hereafter be granted or appointed you under Our Signet and Sign Manual or by Our Order in Our Privy Council And Wee do further Give and Grant unto you the said John Campbell full power and Authority from time to time and at all times hereafter by yourself or by any other Authorized by you in that behalf to Administer and give the Oaths

[Then the same as in Commission to Rear Admiral Robert Duff of 20 April 1775, ante p. 475, line 10, to page 476, line 39.]

And We do hereby require and Command all Officers Civil and Military and all other Inhabitants of Our said Islands to be Obedient Aiding and Assisting unto you in the Execution of this Our Commission and of the Powers and Authorities herein contained And in Case of your Death Our Will and Pleasure is that the person upon whom the Command of Our Ships under Your Command shall devolve do take upon him the Administration of the Government of Our said Islands and Execute Our said Commission and Instructions and the several Powers and Authorities therein contained in the same manner to all Intents and Purposes as you Our said Governor and Commander in Chief might or ought to do for and during Our Will and Pleasure And Wee do hereby declare Ordain and Appoint that you the said John Campbell shall and may hold and enjoy the place of Our Governor and Commander in Chief in and over Our said Island of Newfoundland and of the Islands of Madelaine in the Gulph of Saint Lawrence as also of all Our fforts and Garrisons Erected and Established or that shall be Erected and Established in Our said Islands of Newfoundland and Madelaine as aforesaid with all and singular the Powers and Authorities hereby granted unto you for and during Our Will and Pleasure In Witness &c. Witness Ourself at Westminster the Sixth day of May in the Twenty second Year of our Reign.

By Writ of Privy Seal.

No. 132.

Newfoundland.



[3 May, 1782.]

**ORDER OF HIS MAJESTY IN COUNCIL APPROVING
DRAFT OF INSTRUCTIONS FOR JOHN CAMPBELL**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND.

C.O. 5. VOL. 32.

At the Court at St James's
the 3rd of May, 1782.

Present,

The King's most Excellent Majesty in Council.

Whereas there was this Day read at the Board, a Report from the Right Honorable the Lords of the Committee of Council for Plantation Affairs, Dated the 25th of last Month, in the words following, viz:—

"Your Majesty having been pleased to refer unto this Committee, a Representation of the Lords Commissioners for Trade and plantations, dated the 19th Instant, in the words following viz:—"

"Your Majesty having signified to us your Royal Pleasure by the Earl of Shelburne, one of your Majesty's principal Secretaries of State, that We should prepare Draughts of a Commission and Instructions to be submitted to your Majesty's approbation, for Vice Admiral John Campbell appointed by Your Majesty Governor of Newfoundland, and the Islands thereunto belonging; We beg leave humbly to represent:—"

"That having already prepared and submitted the Draught of a Commission for the said Governor in the usual form and tenour, We beg leave herewith to lay before Your Majesty, a Draught of Instructions, in which, after Consultation had with Your Majesty's present and preceeding Governor, we have judged it expedient to alter some Articles, and omit many others."

"Whilst we forbear to enter into an Enumeration of Minute Corrections, we think it necessary to observe, that we have proposed to omit the

eleventh Article of the late Instructions, and in lieu thereof,"

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"to substitute the Article as it now stands, as being more comprehensive, and including a general Direction for the due Observance of the several Acts passed in the fifteenth, eighteenth and nineteenth Years of Your Majesty's Reign, and which apply to the Trade of Newfoundland."

"The seventeenth Article of the late Instructions, we have Omitted, as it contains simply a direction to the Governor to carry with him a Copy of the Act of the tenth and eleventh of King William the third, and we have inserted in lieu thereof the Article as it now stands, and which we presume will comprehend every Direction necessary to be given upon the said Act."

"We have omitted the Articles from the eighteenth to the thirty fourth, both inclusive of the former Copy, as only containing Queries arising from the said Act of the tenth and eleventh King William the third, and which, although they might have been proper to give in Instruction to the Governor of Newfoundland in 1699, when that Act was recently passed, do not now appear to us any longer necessary."

"We have altered and retrenched the thirty fifth Article, in Consequence of these Omissions; And we have left out the Articles from the Thirty Sixth to the Sixty third inclusive, as containing Queries under the like description as those already stated, and which appear to us equally superfluous, and we have in lieu thereof substituted the nineteenth and twentieth Articles as they now stand, the first for general Information, with respect to the Regulations at present observed, and the latter with respect to the Treatment of the Native Indians."

"The other Articles stand as they did before."

"And it having been represented to us, that several of Your Majesty's Subjects have settled themselves upon the Islands of S^t Pierre and Miquelon for the purpose of carrying on Fisheries, we have thought it necessary to insert the thirty first Instruction, in Order that they may conform themselves, as far as local Circumstances may Admit, to the several Regulations contained in

these Instructions."

"The Lords of the Committee, in obedience to Your Majesty's said Order of Reference, this Day took the said Representation and Draught of General Instructions into Consideration, and concurring in opinion with the said Lords Commissioners that the Omission of the several Articles above mentioned, the alteration of others, and the insertion of the thirty first Article for the guidance of such of your Majesty's Subjects as have settled themselves upon the Islands of St Pierre and Miquelon for the purpose of carrying on Fisheries are proper and necessary. Do humbly agree to Report to Your Majesty that the said Draught of Instructions is proper for Your Majesty's Royal Approbation."

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His Majesty taking the said Report into consideration, is pleased, with the Advice of His privy Council, to approve of the said Draught of Instructions, and also of the Alterations made therein, and to Order as it is hereby ordered, that the Right Honorable the Earl of Shelburne, one of His Majesty's principal Secretaries of State, do cause the said Draught of Instructions (which are hereunto annexed) to be prepared for His Majesty's Royal Signature.

W. FAWKENER/
O. signed.

Endorsed. Order in Council,
3^d May, 1782.

Approving the Dra^t of a Instructions for Vice-
Adm^l Campbell, Governor of Newfoundland.

No. 133.[10 May,
1782.]

Newfoundland.

**INSTRUCTIONS PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET FOR JOHN CAMPBELL,**George R.
(L.S.)AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.C.O. 5. VOL. 207. No. 10.
(Copy)

Instructions to Our Trusty and Welbeloved John Campbell Esq^r, Our Governor and Commander in Chief, in and over Our Island of Newfoundland in America, and of the Islands of Madelaine—in the Gulph of S^t Lawrence; as also of all Our Forts and Garrisons erected and established or that shall be erected and established in Our said Islands of Newfoundland and Madelaine. Given at Our Court at S^t James's the Tenth day of May 1782, in the Twenty Second Year of Our Reign.

First. With these Our Instruction[s] you will receive Our Commission under Our Great Seal of Great Britain, constituting you Our Governor, and Commander in Chief, in and over Our Island of Newfoundland in America, and of the Islands of Madelaine in the Gulph of S^t Lawrence, as also of all our Forts and Garrisons erected and established or that shall be erected and established in Our said Islands with Directions to obey such Orders and Instructions as shall from time to time be given you Under Our Signet and Sign Manual, or by Our Order in Our Privy Council; you are therefore to fit yourself with all convenient speed and to repair to your said Command; and being arrived you are to take upon you the Execution of the Place and Trust We have reposed in You, & as soon as conveniently may be, to assemble the principal Inhabitants of the Island of Newfoundland, and of any other such Island or Islands within Your Government as you shall judge necessary, and, with all due Solemnity to cause Our said Commission under Our Great Seal of Great Britain constituting You Our Governor and Commander in Chief as aforesaid, to be read and published at such Meetings.

2nd It is Our Will and Pleasure that you do from time to time, as the Nature of the Service will allow, visit all the Coasts and Harbours of the Islands under your Government, in order to inspect and examine the state

and condition of the Fisheries, which are or may be carried on upon the said Coasts and Islands. You shall also use your best endeavours to procure accurate Draughts or Maps of the several Harbours, Bays & Coasts of Newfoundland, and the other Islands under Your Government, if the same shall not already have been obtained: And You are more particularly to direct the Officer of any Vessel under your Command which may be appointed to visit that part of the Coast of Labradore which lies between Hudsons Streights and the Streights of Belisle, to search and explore the great Inlet, commonly known by the Name of Davis's Inlet, in order to discover whether the same has or has not any Passage to Hudsons Bay or any other inclosed Sea.

3rd You are also to enquire and Report to Us, by One of Our Principal Secretaries of State, whether any or what further Establishment may be necessary to be made, or Forts erected in any Part of Newfoundland, or the other Islands under Your Government, either for the Protection of the Fishery, the Security of the Country, or the establishing and carrying on a Commerce with the Indians residing in or resorting to the said Islands.

4th You are not to permit any Persons whatever except Our Subjects, to carry on commerce with the said Indians, and You are to Use your best Endeavors to conciliate their Affections and to induce them to trade with Our Subjects, reporting to Us, by One of Our Principal Secretaries of State, the best Account you can obtain of the Number of the said Indians, the places they frequent, the nature and extent of the Commerce that is or may be carried on with them, and how the same may in your Opinion be further extended and improved.

5th You are to use your best Endeavors to prevent any Aliens or Strangers whatever from fishing or drying fish on any of the Coasts or in any of the Harbours of the Islands under Your Government; And whereas it hath been represented unto Us that foreigners are Sharers in the Fishery and Commerce of our said Island by being part Owners of Ships employed therein under English Names, by means whereof the said Ships are supplied from Foreign Countries with all kinds of Materials, as well for the Use of the Fishery as for the Use of the said Vessels; It is therefore Our Will and Pleasure that you do make the most diligent Enquiry into the Nature and Extent of such illicit practise and unwarrantable Combination and report to Us, by One of Our Principal Secretaries of State, the result of Your Enquiry whereupon to found such further directions as We may think fit to give, and in the mean time you are to use your best Endeavors to put a Stop to such unlawful Proceedings and to take the most effectual Measures for the discovery and prevention of all illicit and contraband Trade.

6	}	same	{	17		
7				18 to Rear Admiral Robert Duff, ante		
8					pp. 482-483.	
9						19
10							20

p. 538

11. You are to take especial Care, and use Your utmost Endeavours for the due Observance of the different Acts of Trade and in particular that passed on the 15th Year of King Charles the Second intituled, "An Act for the Encouragement of Trade," and one passed in the 10th and 11th of King William the Third, intituled, "An Act to encourage the Trade to Newfoundland," at the same time conforming Yourself to the Regulations and Provisions contained in an Act passed in the 15th Year of Our Reign, intituled "An Act for the Encouragement of the Fisheries carried on from Great Britain, Ireland and the British Dominions in Europe, and for securing the return of the Fishermen Sailors and others employed in the said Fisheries to the Ports thereof at the end of the Fishing Season." Also of an Act passed in the 18th Year of Our Reign intituled "An Act to permit the Exportation of certain Goods directly from Ireland into any British Plantations in America, or any British Settlement on the Coast of Africa," also of two Acts passed in the 19th Year of Our Reign intituled "An Act to repeal certain Acts made in Great Britain which restrain the Trade and Commerce of Ireland with Foreign Parts," and "An Act for allowing the Trade between Ireland and the British Colonies in America and the West Indies and the British Settlements on the Coast of Africa, to be carried on in like manner as it is now carried on between Great Britain and the said Colonies and Settlements," which Acts You shall cause to be strictly attended to and observed.

12. It being Our Intention that all Persons inhabiting Our Islands under Your Government, should have full Liberty of Conscience, and the free Exercise of all such modes of religious Worship as are not prohibited by Law, We do therefore hereby require You to permit all Persons within Our said Islands to have such Liberty and to exercise such Modes of Religious Worship as are not prohibited by Law, provided they be contented with a quiet and peaceable Enjoyment of the same not giving Offence or Scandal to Government.

13	}	same	{	23
14				24 to Rear Admiral Robert Duff, ante, p.
15					484.
				25

16. If any thing shall happen which may be of Advantage or Security to her said Islands under Your Government, which is not herein, or by Our Commission provided for, You are hereby allowed to take order for the present therein, giving to Us by One of Our Principal Secretaries of State, speedy Notice thereof, that so You may receive Our Ratification if We shall approve of the same; Provided always that You do not by Colour of any power or authority hereby given You allow or encourage any thing to be done contrary to the true intent and meaning of the Act of 10th and 11th of King William the Third.

17. You are carefully and diligently to enquire and observe whether the several Rules and Orders contained in the said Act of the 10th and 11th of King William the Third for the more advantageous Management of the

p. 539

Fishery be duly observed, and whether it may be proper and necessary to make any Alteration therein, or substitute other and what Orders and Regulations in lieu thereof: and You are to inform Us, by One of Our Principal Secretaries of State, that Laws, if necessary may be proposed and enacted for those Purposes, and the Interest of Our Subjects concerned in the said Fishery.

18. You shall Yearly and every Year transmit to Us by One of Our Principal Secretaries of State an exact Account of the Number of the British fishing Ships and Sack Ships and Ships and Vessels from America that arrive in the Islands under Your Government.

The Burthen of the said Ships and the number of their Men; the number of the Passengers transported by the fishing Ships.

The Number of Boats employed by the British Fishing Ships, by the Ships from America, by the Bye Boat Keepers and by the Inhabitants.

The Number of the Bye Boat Keepers and their Servants.

The Quantity of Fish and Train Oil made by the British Fishing Ships, by the Ships from America, by the Boat Keepers and by the Inhabitants.

The Value of Seal Oil, and of Furs taken by the Inhabitants last Winter.

The Number of Stages and Trainfats belonging to the Fishery.

The total Quantity of Fish carried to Foreign Markets.

The Prices the said Fish and Oil are sold at, both in barter for Goods and/or for Good Bills payable here.

The Number of Public and Private Houses.

The Number of Inhabitants and how many have been born or have died there, since the Departure of the last Years Convoy.

Which You are to send by the first Conveyance that offers according to the usual form hereunto annexed.

19. And You are moreover to inform Yourself whether the Regulations at present observed by Our Subjects resorting to Newfoundland, and those resident there with respect to the Fishery, are agreeable to those contained in the said Act of the 10th & 11th of King William the Third and whether any, and what other Regulations may be necessary to be observed by them and also transmit such Information, as speedily as may be to Us, by One of Our Principal Secretaries of State.

20. In order to prevent any improper Conduct towards the Indian Natives of Newfoundland, It is Our Will and Pleasure that You do as soon as conveniently may be after Your Arrival cause a Proclamation in Our Name to be published and dispersed through the several Settlements in Our said Island strictly enjoining and requiring all Our Subjects to live in Amity and Kindness with the native Savages of that Island and commanding and requiring all Officers and Magistrates to use their utmost Diligence to discover and apprehend any Persons who shall be guilty of the Murder of any of the said native Savages that such Offender may be sent over to this Kingdom and

p. 540

tried for such Crime as is directed by the said Act of the 10th and 11th of King William the Third.

21		75
22	} same as	76
23		77 to Rear Admiral Robert Duff, ante pp. 492, 493.
24		78
25		79

26. Whereas in the Scheme of the Fishery heretofore returned by some former Governors some of the Columns are left Blank, in Case You find it necessary to do so likewise, You are then to mention in such Column, whether the numbers, prices and Quantities belonging thereto are included in any other Column, and in which Column they are so included, or whether there was no fishing this Year in those Harbours, or that there was fishing, but that You had not obtained any Account thereof, and if there be any fishing in any other River or Harbour in Newfoundland, or the other Islands and Coasts under Your Government, not in this Scheme mentioned, You are to add a Column or Columns for the same, and insert therein the best Account You can get, with Your Remarks on such as You think imperfect, or doubtful in any of the particulars.

27. And You are hereby strictly commanded to be very exact in Your Enquiry and Examination into every particular, to which these Our Instructions have reference to endeavour to collect the Materials from which Your Answers are to be formed, from the best Authorities: And to enjoin the Admirals or other proper Officers in those Harbours to which Your personal Inspection cannot extend, to be as accurate as may be in the Returns which they shall make to You: that those Returns be properly attested and signed by them: and that the number of Ships, their Tonnage, their number of Men the places from whence they come and the Quantity of Fish taken, cured, and carried to Market by each Ship be particularly expressed, And You are likewise to transmit to Us by One of Our Principal Secretaries of State all such other Information with respect to the Fishery, as may enable Us to judge of the true and precise State of it in every particular, and of what may be further necessary for extending and improving so valuable a Branch of the Commerce of these Kingdoms.

28 71
29 } same { 72 to Rear Admiral Richard Edwards,
as { ante, pp. [518-520](#).
30 } { 73

31. And Whereas the Island of St Pierre and Miquelon which were ceded by Us to The French King by the Treaty of Paris have since the commencement of the present Hostilities been surrendered to Our Arms, since which period We are informed several of Our Subjects have settled themselves upon the said Islands for the purpose of carrying on Fisheries: Our Will and Pleasure is, and You are to take especial Care that they do in all Things as far as local Circumstances will admit, conform themselves to the several

Regulations mentioned in these Our Instructions, And You are to give them Notice of Our Pleasure, in this respect as soon after Your Arrival as possible.

32. And You are upon all Occasions to send unto Us, by One of Our Principal Secretaries of State, a particular Account of all Your proceedings, and of the Condition of the Affairs of the Islands under Your Government, and the Trade and Fishery thereof, and of the Banks, Seas, and Parts Adjacent.

G. R.

Privy Council
Documents

Volume II
Contents

No. 134.

25 May, 1782.]

Newfoundland.

Lecoadia
Æolus
Dædalus
Arethusa
slo. Cygnet
Fairy

ADMIRALTY INSTRUCTIONS TO JOHN CAMPBELL

AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.

ADM^{TY} SEC^{RY} OUT LETTER. VOL. 112.

By &c^a

Poole
Topsham
Dartmough
Plymouth

Instructions for him as
Commander in Chief
of His Majesty's
Ships & Vessels at
Newfoundland.

Whereas His Majesty's Ships and Sloops named in the margin (part of those put under your command) have been already detached with the early Convoys to Newfoundland pursuant to our Directions; And Whereas we intend that you shall proceed thither yourself as soon as possible in the Portland accompanied by the Oiseau, Danpe, and Merlin Sloop; You are hereby required and directed to put to Sea, with the very first opportunity of Wind and Weather, and proceed on your Voyage to that Island accordingly; calling off the several Ports named in the margin in your way down Channel, for any Fishing Ships or Vessels bound the same way which may be ready and whose Masters may be willing to accompany you; and taking them under your Convoy, proceed to the Grand Bank in the Latitude of 46° 30' where you are to leave such of the said Fishing Ships whose Masters may be inclined to begin the Fishery, and also one, or both of the Frigates which proceed with you, or one of them and the Sloop, or all three of them if you judge it necessary, with orders to the Commanding Officer to cruize on the said Bank and to use his best endeavours to take or destroy any Ships or Vessels belonging to France or French Subjects; Spain or Spanish Subjects; the States General of the United Provinces, or their Subjects, or to the Rebellious Colonies of North America which may resort thither either for the purpose of fishing or trading or for annoying or disturbing the fishery; to continue on that service three weeks or longer if you shall judge it necessary; and then to execute such further orders as you shall think fit to give him.

You are, in the Portland, to go on to S^t John's, calling in your way at Renouse, Ferryland and the Bay of Bulls, in order to obtain Intelligence and to give such protection & Assistance to His Majestys Subjects on that part of the Coast as they may stand in need of & you are then to proceed yourself, and to dispose of the Ships and Vessels put under your command in such manner as you shall judge best for carrying into execution the following Instructions Viz^t

1st

[Same as Art. 1 to Rear Admiral Richard Edwards, ante p. 522, but substituting for "any ships or vessels belonging to the French King, &c.," to end of Article, "His Majesty's enemies, and using your best endeavour to take or destroy all ships or vessels belonging to the Kingdoms States or Colonies abovementioned, which may fall in your way."]

p. 543

2nd

You are, agreeable to an Act of Parliament of the 10th and 11th Years of King William the 3^d entitled An Act to encourage the Trade to Newfoundland (a printed Copy of which you will receive herewith) to be aiding and assisting to the Admirals, Vice Admirals, and Rear Admirals of the respective Ports and Harbours of Newfoundland from time to time as need shall require in preserving the peace & good Government among the Seamen and Fishermen and in apprehending Offenders—And you are, so far as the same may relate to you as Commander in Chief of His Majesty's Ships and Vessels at and about Newfoundland to comply with the following Acts of Parliament (a printed Copy of each of which is also herewith sent to you) viz^t

15 Geo: 3 ^d	—————	Cap : 31
18	—————	55
20	—————	6
"	—————	
10		

3rd

[Same as Art. 3 to Rear Admiral Richard Edwards, ante p. [522.](#)]

4th

And whereas it is very prejudicial to this Kingdom that the Fishing Ships do not bring home from Newfoundland the Complement of men they carry out, many of them being enticed away to other places and others left in the Country. You are to let the masters know that it will behove them to bring home the number of men they carry out (except in case of death) for that otherwise they will be prosecuted at their return, and you are to use your best endeavour to oblige them thereto, as far as in you lies except, only with regard to such of their men as shall have entered into His Majesty's service.

5		5	
to		to	
11	} same as	18	} [to Rear Admiral Richard Eduards, ante pp. 522-526.
12		13	

to) (to
16 17

except in 9, omit reference to Anticosti, in 13; for "Rebels" read "His Majesty's Enemies," and in 14, "Rear Admiral Digby" for Vice-Admiral Arbuthnot. 10 and 11, though not identical, will contain similar instructions to those to Rear Admiral Edwards.]

Given &c^a 28th May 1782.

KEPPEL
J. TOWNSHEND
CHA^s BRETT

To

John Campbell Esqr
Vice Admiral of the White and Commander in Chief of His Majesty's Ships & Vessels employed and to be employed at & about Newfoundland &c^a.

Copy.

No. 135.

[16 May, 1783.]

Newfoundland.



**ORDER OF HIS MAJESTY IN COUNCIL APPROVING
DRAFT OF AN ADDITIONAL INSTRUCTION FOR
JOHN CAMPBELL**

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND.

C.O. 5. VOL. 32.

At the Court at St James's
the 16th of May 1783.

Present

The Kings most Excellent Majesty in Council.

*missing

Whereas there was this Day read at the Board, a Report from the Right Honourable the Lords of the Committee of Council for plantation Affairs, humbly offering to His Majesty for His Royal Approbation, a Draught of an Additional Instruction for John Campbell Esquire, Governor and Commander in Chief of the Island of Newfoundland, or to the Commander in Chief of the said Island for the Time being, directing the Conduct of the said Governor to be in all things conformable to the Provisional Articles agreed upon with the United States of America, and the preliminary Articles of Peace between His Majesty and the most Christian King; and for making Void such of the Governors General Instructions as are repugnant thereunto.

His Majesty taking the same into His Royal Consideration, is pleased, with the advice of His Privy Council, to Approve of the said Draught of Additional Instruction (which is hereunto annexed)* and to Order, as it is hereby Ordered, that the Right Honourable Lord North, One of His Majesty's principal Secretaries of State, do cause the same to be prepared for His Majesty's Royal Signature.

W. FAWKENER/
O. signed.

Endorsed. Order in Council
16th May 1783.

No. 136.

[22 March, 1786.]

Newfoundland.



**ORDER OF HIS MAJESTY IN COUNCIL APPROVING
DRAFT OF A COMMISSION APPOINTING JOHN
ELLIOT**

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND.

C.O. 5. VOL. 33.

At the Court at S^t James's
the 22nd March 1786.

Present,

The Kings most Excellent Majesty in Council.

Whereas there was this Day read at the Board, a Report from the Right Honorable the Lords of the Committee of Council, appointed for the consideration of all matters relating to Trade and Foreign plantations, humbly offering to His Majesty for His Royal Approbation, the Draught of a Commission for John Elliot Esquire to be Governor and Commander in Chief in and over His Majesty's Island of Newfoundland, and of the Islands of Madelaine in the Gulph of S^t Lawrence; and It appearing that the said Draught is similar to the Commission given by His Majesty to the late Governor of the said Islands. His Majesty is thereupon pleased, with the Advice of His privy Council, to approve of the said Draught of Commission, and to Order, as It is hereby Ordered, That the Right Honorable Lard Sydney, One of His Majesty's principal Secretaries of State, do cause a Warrant to be prepared for His Majesty's Royal Signature, for passing a Commission agreeable to the said Draught (which is hereunto annexed) under the Great Seal of Great Britain.

STEPH: COTTRELL/

Order signed.

Endorsed. Order in Council,
22^d March 1786.

Approving the Draft of a Commission for John Elliot Esq^r to be
Governor of Newfoundland.

24th

R

Enclosing:—

[2 June,
1786.]**No. 137.**

Newfoundland.

**INSTRUCTIONS PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET FOR JOHN ELLIOT**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.

C.O. 195. VOL. 11.

INSTRUCTIONS to Our Trusty and Welbeloved John Campbell Esqr, Our Governor and Commander in Chief, in and over Our Island of Newfoundland in America, and of the Islands of Madelaine in the Gulph of Saint Lawrence; as also of all Our Forts and Garrisons erected and established or that shall be erected and established in Our said Islands of Newfoundland and Madelaine. Given at Our Court at Saint James's the Second day of June 1786, in the Twenty Sixth Year of Our Reign.

First—With these Our Instructions you will receive Our Commission under Our Great Seal of Great Britain, constituting you Our Governor and Commander in Chief, in and Over Our Island of Newfoundland in America, and of the Islands of Madelaine in the Gulph of Saint Lawrence, as also of all Our Forts and Garrisons erected and established in our said Islands, with directions to obey and follow such Orders and Instructions as shall front time to time be given you under Our Signet and Sign Manual, or by Our Order in Our Privy Council; You are therefore to fit yourself with all convenient speed and to repair to Your said Command, and being arrived, You are to take upon You the Execution of the Place and Trust we have reposed in You, and as soon as conveniently may be to assemble the principal Inhabitants of the Island of Newfoundland, and of any other Islands within your Government, as you shall judge necessary, and with all due Solemnity to cause Our said Commission, constituting You Our Governor and Commander in Chief as aforesaid to be read and published at such meeting.

2.—It is Our Will and Pleasure, that you do from time to time, as the nature of the Service will admit, visit all the Coasts and Harbours of the Islands under your Government, in order to inspect and examine the State and Condition of the Fisheries, which are or may be carried on upon the said Coasts and Islands; You shall also procure accurate Draughts or Maps

of the several, Harbours, Bays, and Coasts of Newfoundland if the same have

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not already been obtained, and you are particularly to direct the Officer which may be appointed to visit that part of the Coast of Labrador which is between Hudsons Streights and the Streights of Bell'isle to search and explore the great Inlet commonly known by the name of Davis's Inlet in order to discover whether the same has or has not any Passage to Hudsons Bay, or any other inclosed Sea; and such Officer under your Command who shall visit any part of the said Coast of Labrador, or the Gulph of Saint Lawrence, where any Whale or Sea-Cow Fisheries are carried on, shall be by you directed to enquire and report particularly the State of such Fisheries, by whom the same are carried on, the Supposed produce of them, the number of Vessels employed therein, and such other particulars, as may serve to convey a clear and perfect information of such Fisheries, which Information you are to transmit to us, thro' One of Our Principal Secretaries of State, together with any other Information, which you may obtain on this Subject, and which you shall judge may tend to the extension and improvement thereof.

3.—You are to enquire and report to us, by One of Our Principal Secretaries of State, whether it may be necessary to erect any new Forts or Posts in any part of Newfoundland or the other Islands under your Government, either for the protection of the Fishery, the Security of the Government or the establishing and carrying on a Commerce with the Indians residing in, or resorting to the said Islands; And you are not to permit any Persons whatever, except Our Subjects, to carry on Commerce with the said Indians; and you are to use your best Endeavours to conciliate their Affections, and to induce them to trade with Our Subjects; and in order to prevent any improper Conduct towards the said Indians, It is Our Will and Pleasure that you do, as soon as conveniently may be after your Arrival, cause a Proclamation in Our Name to be published and dispersed through the said Islands, strictly enjoining and requiring all Our Subjects to live in Amity and Kindness with the said Indians; and commanding and requiring all Officers and Magistrates to maintain and support good Order and Behaviour towards them; and in case any Person or Persons shall murder any of the said Indians, to use their utmost Endeavours to discover and apprehend those who shall be guilty of such Murder, that they may be sent over to this Kingdom and tried for such Crime as directed by the Act of the 10th and 11th of King William the Third. It is Our further Will and Pleasure, that you do report to Us, thro' one of Our Principal Secretaries of State, the best Accounts you can obtain of the Number of the said Indians, the places they usually frequent to trade, the nature and extent of the Trade, that is, or may be carried on with them, and how the same may in your

Opinion be extended and improved.

4.—Whereas the more effectually to extend, encourage and improve the Fisheries and Commerce of Our said Islands, it is necessary to prevent any Foreigners, from being concerned therein, and especially from being part Owners of or interested in any Vessel or Vessels employed therein, You are therefore to use your utmost endeavours that no such illicit practices be carried on within your Government, and for this purpose you are to be particularly

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careful to enforce the several Provisions of the Acts of the 10th and 11th of William the Third, and of the 15th of Our Reign, and of an Act passed in the present Session of Parliament, intituled, "An Act to amend and render more effectual the several Laws now in force for encouraging the Fisheries carried on at Newfoundland, and parts adjacent, from Great Britain, Ireland, and the British Dominions in Europe; and for granting Bounties for a limited time, on certain Terms and Conditions," and of any other Acts of Parliament in force for encouraging the Shipping and Navigation of Great Britain: And you are not to suffer any Foreigners whatsoever to fish, or dry, or cure any Fish, on any of the Coasts, or Shores within the same, except in cases, where by any Treaty subsisting between Great Britain and any Foreign Power, the same shall be allowed and permitted to the Subjects only of such Foreign Powers.

5.—You are not to permit or allow any of Our Officers and Soldiers, or other Persons whatever belonging to the Garrisons at present existing, or which may hereafter exist within your Government to engage in the Fishery directly, or indirectly, or to interrupt the Fishermen in catching, drying, or curing their Fish, or to take up for themselves any Beaches, Stages, or Cook Rooms upon any pretence whatsoever; And if any such Officers, Soldiers, or other Persons, shall act in contradiction to this Our Instruction, you are to report the same to Us, thro' one of Our principal Secretaries of State, that he, or they may be made sensible of Our highest Displeasure.

6.—And whereas the Monopolizing and engrossing of any Provisions, Stores, and Commodities, necessary for the subsistence of the Fishermen and others employed in the Fishery, or for carrying on the same, will be highly prejudicial to the general Interest thereof, you are by every legal means in your power to prevent and suppress any attempt that may be made for that purpose.

7.—And whereas it hath been represented unto us, that divers of Our Subjects have upon various unwarrantable pretences, and under pretended Grants or permissions given by former Governors of Our Island of Newfoundland, possessed

themselves of and claim as their private property large Tracts of Land and Beaches commodious for the Fishery upon the Coasts, and within the several Harbours and Rivers of the said Island and the Islands adjacent contrary to Law. In order therefore to prevent such unwarrantable practices in future; It is Our Will and Pleasure that you do not upon any pretence whatsoever allow any Person or Persons to take as private property any Land, Rivers or Islands on the Island of Newfoundland or the Coasts thereof, between Cape Saint John along the Southern Coast of the said Island to Cape Raye on the Westernmost Coast thereof, and you are to take care that the Ancient Ship Rooms and Fishery Rooms do continue under the provisions of the Act of Parliament passed in the 10th and 11th Years of the Reign of King William the Third Cap: 25 for the encouragement of new Adventurers that they may be sure of finding proper and convenient places for curing,

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salting, drying and Husbanding their Fish whenever they resort thither. And it is Our further Will and Pleasure that the remaining Shores of Newfoundland shall be held by such of Our Subjects resorting thither from Our Dominions in Europe who shall first arrive and take possession of the same, for the like purpose of carrying on the Fishery in proportion to the number of Ships and Boats they shall employ, and they shall continue to hold the same in like manner and for the like purpose, so long as they shall continue to carry on the Fishery there: But in case they shall neglect so to carry on the Fishery for one entire Season, such shores or parts thereof, which shall be neglected or deserted by such possessors shall be held for the like purpose, and in like manner by any of Our Subjects resorting thither from our Dominions in Europe, who shall first occupy the same for the purpose of carrying on the Fishery, and you are to put and maintain such Persons in possession thereof And you are not to allow or suffer any Buildings to be erected (except Fishing Stages, Cook Rooms, Ship Rooms and Flakes or such erections as shall be absolutely necessary for curing, salting, drying and Husbanding of Fish) within 600 Yards distance from High Water Mark, and you are not to allow any possession, as private property to be taken of, or any right of property whatever acknowledged in any Land whatever even beyond that distance. It is Our further Will and Pleasure nevertheless that all and any Buildings, Erections Wharfs, Slips or Fences already erected may remain, provided the same are not erected or built upon Ancient Ship Rooms or fishing Rooms, and provided they are not in your Judgment considered to be Nuisances and detrimental to the Interest of the Fishery in general: But in case they shall clearly appear to you to be so, You shall cause the same to be removed, giving due and reasonable notice to the parties claiming or pretending any Interest therein if upon the spot, or to the Persons in possession and Occupation thereof, and putting the said Parties or Persons to as little inconvenience as the Case will admit, if

such Parties or Persons do not chose to remove the same in due time, after such Notice is given.

*sic.

8.—You are upon every Occasion to inforce a due and strict Observance within your Government of the beforementioned as well as of all other Acts now in force for the encouragement and regulation of the Trade, and Fisheries of Newfoundland and for the encouragement of the Shipping and Navigation of these Kingdoms.

*sic.

9.—And whereas the immoderate use of Liquors is pernicious to the Health and Morals of Our Subjects resorting to Newfoundland for the purpose of carrying on the Fishery, and that they are thereby induced to expend therein a considerable part of their Wages, You are therefore to reduce the number of Public Houses in every part of Your Government to so many only as may be absolutely necessary for the Accommodation and supply of Our said Subjects and no more: And in particular you are not to allow of more than* than Twelve such Public Houses in the Town and Harbour of Saint Johns, and you shall take due Care that every Person who shall be allowed to keep a Public House within your Government do give

p. 550

full and ample Security for his or her good Security, and that no Person whatever be allowed to keep such Public House who does not or shall not keep one fishing Shallop at the least and in order further to encourage the Fishery and that it may be* Interest of every Individual resorting to Our said Islands to promote the same, You are also to take care, that every Person who shall keep on his, her, or their own Account any Shop or Store for Selling or retailing any Goods or Commodities whatsoever, do keep one fishing Shallop at least.

10.—And whereas the different Species of Birds frequenting the Shore of Newfoundland and the adjacent Islands are useful not only by their being a warning in Fogs to vessels that they are near the Land but upon many Occasions for Food and Bait, and it having been represented to us that they are frequently destroyed for the purpose only of taking their Feathers; It is Our Will and Pleasure that you do take such measures as in your Opinion will effectually prevent their being so destroyed in future.

11.—It being our intention that all Persons inhabiting and frequenting Our Islands under your Government, should have full liberty of Conscience, and the free Exercise of all such Modes of Religious Worship as are not prohibited by Law, We do hereby require you to permit all Persons within Our said Islands to have such liberty and to exercise such Modes of Religious Worship as are not prohibited by Law, provided they be contented with a quiet and peaceable Enjoyment of the

same not giving Offence or Scandal to Government.

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as

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to Rear Admiral Robert Duff, ante
p.484.

15.—If any circumstance shall happen which shall appear to you immediately to affect the prosperity or security of Our said Islands, which is not herein or by Our Commission provided for, You are hereby allowed to take Order for the present therein, giving to us by One of Our Principal Secretaries of State, speedy Notice thereof, that so you may receive Our Ratification, if We shall approve of the same; Provided always that you do not by Colour of any Power or Authority hereby given you, allow or encourage any thing to be done contrary to the true intent and meaning of the Act of the 10th and 11th of King William the Third, or of any the beforementioned Acts, or of any Act now in force, for the regulation of Trade, Shipping or the Fishery of Newfoundland.

16.—You are carefully and diligently to enquire and observe whether the several provisions of the said Act of the 10th and 11th of King William the Third, or of the beforementioned Acts, or of any other Act now in force, for the encouragement and more advantageous management of the Fishery, be duly observed; and whether it may be proper and necessary to make any

alteration therein, or substitute other, and what Orders and Regulations in lieu thereof, and you are to inform us of such alterations by One of Our Principal Secretaries of State, that Laws, if necessary may be proposed and enacted for the purpose.

17.—You shall Yearly and every Year transmit to us, by one of Our Principal Secretaries of State an exact Account of the number of British Fishing Ships and Sack Ships, and Ships and Vessels from Our Colonies in America that Arrive in the Islands under your Government.—The Burthen of the said Ships and the number of their Men, the number of the Passengers transported by the Fishing Ships.

The number of Boats employed by the British Fishing Ships, by the Ships from Our Colonies in America, by the Bye Boat keepers and by the Inhabitants.

The number of the Bye Boat Keepers and their Servants.

The Quantity of Fish and Train Oil made by British Fishing Ships, by the Ships from our Colonies in America, by the Boat Keepers and by the Inhabitants.

The Value of Seal Oil and of Furs taken by the Inhabitants last Winter.

The number of Stages and Train Fats belonging to the Fishery.

The Total Quantity of Fish carried to Foreign Markets.

The prices the said Fish and Oil are sold at, both in Barter for Goods and for good Bills payable here.

The number of Public and Private Houses.

The number of Inhabitants and how many have been born and died there, since the Departure of the last Years Convoy, which you are to send by the first Conveyance that offers according to the usual Form hereunto annexed.

*sic.

18.—And whereas it is of great importance to the prosperity and extension of the Fishery, That the Fish caught by Our Subjects should be properly cured, and fitted for Sale at the Foreign Markets in all Seasons of the Year, You are therefore to Command the Admirals of the Harbours strictly to enjoin the Masters of the Fishing Ships, the Bye Boat Keepers and Inhabitants to take the greatest Care in Curing their Fish with good Salt and with a proper and sufficient Quantity, and in preparing, husbanding and ordering the same, that the Credit thereof may be maintained and augmented, and that it may* well received and esteemed in the several Places to which it is carried for Sale.

And as the said Admirals are obliged to have a Watchful Eye upon such as are negligent herein, so they are to return to you the Names of those who will not comply with this admonition.

And further you are upon this Occasion very particularly to enquire into their manner and method of taking and curing their Fish, what Quantity of Salt they allow for the curing of every Hundred Quintals, whether they are guilty of any abuse

in the ordering thereof, Whether the Fish taken at a distance from the Land by their small vessels is not prejudiced before it

p. 552

is brought on Shore; Whether the Inhabitants, the fishing Ships or the Bye Boat Keepers are most to be blamed, and what methods are to be taken to prevent or rectify whatever is amiss.

19.—And whereas the Salmon fishery carried on in several parts of Our Island of Newfoundland may prove of great advantage to Our Kingdoms, and we have reason to suppose there is at present a great Demand for Salmon properly cured in several of the Ports of Italy, You are therefore to give all due encouragement and Protection to Our Subjects concerned in the said Salmon fishery, and you are to inform yourself of the Actual state of this Fishery and how far the same may properly be extended and encouraged, And you are to report the same to us, through One of Our Principal Secretaries of State by the first Opportunity.

20.—Whereas you are by Our Commission authorized to constitute and appoint Justices of the Peace and other necessary Officers and Ministers for the better administration of Justice and maintaining Peace and good Order in Our said Island of Newfoundland, You are therefore upon your Arrival in the said Island to enquire what Justices of the Peace are now in Actual Commission and do execute the same in the respective Towns in Newfoundland particularly at Placentia and the other out Ports, how and in what manner such Justices of the Peace behave in the Execution of that Power, whether Our Subjects in that Island have duly submitted thereto, and what, if any, obstructions have been given to the execution of that Authority and to return your observations thereupon with what you think may be further done for keeping the Peace and quiet of the said Island and of the Inhabitants residing therein, to us by One of Our Principal Secretaries of State.

21.—And whereas notwithstanding all the precautions that may be taken for preserving the Peace in Newfoundland, Disputes may arise between the Fishing Admirals and Our Justices of the Peace in the said Island, and that Our said Justices of the Peace may be guilty of great Irregularities to the oppression of Our good Subjects, You are in that Case to supersede any Justice of the Peace, who shall appear to you to have acted unwarrantably in the Execution of his Office; And you are strictly to prohibit those who are or shall be appointed Justices from interfering in any degree with the Fishing Admirals in such matters relating to the Fishery as are reserved for their Jurisdiction by the Act "for encouraging the Trade to Newfoundland" taking care at the same time that the said Fishing Admirals do their Duty also, according to the intention of the said Act; And it is Our Will and Pleasure that you should be very particular in attending to this Our Instruction,

*sic. And that you do report to us, by One of Our Principal Secretaries of State any proceeding of yours in consequence thereof.

*sic. 22 25
23 } same { 26
24 } as { 27 p. 540.
25 } { 29

p. 553

*sic. 26.—Whereas We did in the fifteenth Year of Our Reign grant to John Agnew of *Streuchan in the County of Wigton in North Britain Esquire and his Associates, certain Mines, at Shoal Bay, on the East Coast of Our said Island of Newfoundland, supposed to contain Copper Ore, One tenth part of which *are by the special Condition of Our said Grant is thereby reserved to us, Our Heirs and Successors, We do therefore hereby direct and empower you Our Governor or Our Commander in Chief for the time being of Our said Island of Newfoundland, to take and receive one tenth part of such Metals Ore and Minerals as now are, or hereafter shall be raised or extracted from the said Mines, and them to pay and make over to such Person or Persons as the Commissioners of Our Treasury shall think proper to appoint for that purpose.
*sic.

27.—And whereas by the Articles of the Treaty of Peace, concluded at Versailles on the day of* between us and His Most Christian Majesty, it was stipulated, that We should preserve in full right the Island of Newfoundland and the adjacent Islands, in the same manner as the whole was ceded to Great Britain by the 13th Article of the Treaty of Utrecht, with the exceptions of the Islands of S^t Pierre and. Miquelon, which by the* Article of the said Treaty of Versailles, We agreed to cede in full right to His Most Christian Majesty, and the right of Fishing preserved to His Most Christian Majesty by the said Treaty of Utrecht, being now allowed to Commence at Cape Saint John on the East Coast of Newfoundland, And going round by the North and down the Western Coast of the said Island of Newfoundland to be bounded by Cape Raye. It is Our Will and Pleasure, that upon every Occasion you do take particular Care that the Subjects of His Most Christian Majesty have full and ample enjoyment of the Fishery within the limits and Boundaries assigned to them as aforesaid, as they have a right to enjoy the same, under the said Treaty of Utrecht; And for this purpose, you are to give the most positive Orders and Injunctions, to all Officers and others under your Command, that they do not in their several Stations, and as far as depends on each of them respectively, permit or allow that any Obstructions or Interruptions, be upon any pretence, given to the Subjects of His Most Christian

Majesty in the enjoyment of the said Fishery, as it is allowed to them by the Treaties beforementioned within the limits above described, but that they do give them all reasonable Countenance therein, you are nevertheless to take due care that no Subject of His Most Christian Majesty be permitted to reside or remain in any part whatever of the said Island of Newfoundland, after the Fishing Season is over, and during the Winter; and also that Our Subjects be not allowed to take charge of, preserve or prepare any Boat, Stage, Flake, or Erection whatever for the purpose of the Fishery, on account, or for the use of any Subject of His Most Christian Majesty for the ensuing Fishing Season.—And we do further especially direct, that you do not allow any of the Subjects of His Most Christian Majesty to cut down and carry off any Wood, or Timber from Our said Island of Newfoundland, and Islands adjacent, for any purpose whatever, unless Our Will and Pleasure therein, shall in that respect be duly signified to you, allowing them however to cut any Wood necessary for the

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repair upon the spot of their Scaffolds, Huts, and Fishing Vessels. And if it shall happen that any of Our Subjects shall in any wise act Contrary to the true intent and meaning of the Stipulations made by the Treaty of Versailles, or the Treaty of Utrecht aforesaid, and the Subjects of His Most Christian Majesty shall in that respect have just cause of Complaint, You are immediately to remove the same by granting them due redress, and exercising the Authority vested in you by Our Commission, and these Our Instructions, or by any Act of Parliament in force for that purpose, You are nevertheless to take due Care that no Subject or Officer of His Most Christian Majesty do exercise any Act of Authority upon Our Island of Newfoundland, or the adjacent Islands, or the Coasts thereof in derogation to Our Sovereignty over the same, but that in every Case of just Complaint on their parts, they do apply to you or Our Officers in Command under you for redress.

28.—And in order effectually to prevent any disputes from arising between Our Subjects and those of His Most Christian Majesty carrying on the Fisheries on the Coasts of the Island of Newfoundland; It is Our Will and Pleasure, that you do prevent as far as possible any of Our Subjects from fishing within the limits herein before described and within which the Subjects of His Most Christian Majesty are now allowed to carry on the Fishery.

29.—And whereas by the Definitive Treaty of Peace between us and the United States of America concluded at Paris the 3^d of September 1783. The Provinces of New Hampshire, Massachusetts Bay, Rhode Island & Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia were declared by us to be free and independent

*sic.

States, And by the Third Article of the said Treaty "The People of the United States were allowed to continue to enjoy unmolested the right to take Fish of every kind on the grand Bank and on all the other Banks of Newfoundland, also in the Gulph of Saint Lawrence and at all other places in the Sea, where the Inhabitants of both Countries used at any time theretofore to Fish, and also that the Inhabitants of the said United States should have liberty to take Fish of every kind on such part of the Coast of Newfoundland as British Fishermen should use (but not to dry or cure the same on that Island) and also on the Coasts, Bays and Creeks of all other of Our Dominions in America, and that the American Fishermen should have Liberty to dry and cure Fish in any of the unsettled Bays, Harbours and Creeks of Nova Scotia, Magdalen Islands and Labrador, so long as the same should remain unsettled, but so soon as the same or either of them should be settled, it should be* not be lawful for the said Fishermen to dry or cure Fish at such Settlement without a previous agreement for that purpose with the Inhabitants Proprietors or Possessors of the Ground." It is Our Will and Pleasure that you do take due care that the People of the United States of America shall fully and amply enjoy every right of Fishing, drying and curing of Fish allowed them

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by the said Third Article of the Treaty above recited, not allowing them however to dry and cure their Fish on Our Island of Newfoundland, or in any Bay, Harbour or Creek of any other part of your Government which is settled, And you are on every occasion to exact and require a full and specific Performance of the said Treaty on their parts within the limits of your Government.

30th.—And you are upon all Occasions to send unto us by One of Our Principal Secretaries of State a particular Account of all your proceedings and of the Condition of Affairs of the Islands under your Government, and the Trade and Fishery thereof, and of the Banks, Seas, and parts adjacent.

G. R.—/
Copy.

No. 138.

Newfoundland.

[26 May,
1788.]**ADMIRALTY INSTRUCTIONS TO JOHN ELLIOT**AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE NEW-
FOUNDLAND STATION.AD^{TY} SEC^{RY} OUT LETTERS. VOL. 117.By &c^a [p. 36.]

Instructions for John Elliot Esq^r Commander in Chief of a Squadron of His Majesty's ships and vessels employed and to be employed at and about the Island of Newfoundland, the Islands of Madelaine and Anticosti, and upon the Coast of Labrador from the River St^t John to the Entrance of Hudson's Straits.

* * *

[Art. 1 same as Art. to Rear Admiral Richard Edwards, ante p. 522, but substituting "Piratical Ships or Vessels" for "Ships or vessels belonging to the French King, etc." Art. 2 same as Art. 2 to Vice Admiral John Campbell, ante p. 542 with the addition of Statute 26 Geo. III., c, 26. Art. 3 same as Art. 3 to Rear Admiral Robert Duff, ante p. 497. Art. 4 same as Art. 4 to Vice Admiral John Campbell, ante p. 543.]

5th

And whereas no Foreign Ships and Vessels whatever (except as hereinafter excepted) have any right to fish at or about Newfoundland and the Commanders of the Ships of War bound as Convoy thither have, at all times past, been directed not to allow of their fishing in those parts; It is, therefore, His Majesty's pleasure that you take especial care to prevent the same, and that his orders given therein be strictly complied with: And, if you shall find any Foreign ships fishing at or about Newfoundland, you are to oblige them to desist and depart from off the Coast, excepting Ships and Vessels belonging to the Subjects of the most Christian King and to the People of the United States of America, fishing according to the Stipulations contained in the Definitive Treaties of Peace concluded at Versailles on the 3^d September 1783 between His Majesty, the most Christian King, and the United States abovementioned; printed Copies of which you will receive herewith.

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6th

And whereas, by the 4th 5th & 6th Articles of the first mentioned Treaty, His Majesty is maintained in his Right to

*sic.

the Island of Newfoundland and to the adjacent Islands, as the whole were assured to him by the 13th Article of the Treaty of Utrecht excepting the Islands of S^t Pierre and Miquelon which are ceded in full Right to His Most Christian Majesty, who, in order to prevent the Quarrels which had before arisen, has consented to renounce the right of fishing which belonged to him in virtue of the aforesaid Article of the Treaty of Utrecht from Cape Bonavista to Cape S^t John, situated on the Eastern Coast of Newfoundland in 50 Degrees N^o Latitude; And His Majesty has consented, on his part, that the Fishery assigned to the Subjects of His Most Christian Majesty, beginning at the said Cape S^t John, passing to the North and descending by the Western Coast of the Island of Newfoundland, shall extend to the place called Cape Raye situated in 47 Degrees 50 Min. Latitude; And that, with regard to the Fishery in the Gulph of S^t Lawrence, the French shall continue to exercise it conformably to the 5th Article of the Definitive Treaty of peace between His Majesty & the most Christian King, and the King of Spain, concluded at Paris on the 10th of Febr'y 1763; You are, therefore, to use your utmost diligence and attention that the several stipulations hereimentioned* and referred to be suitably performed as far as they shall come within the Limits of your Command, and, upon every occasion, to take particular care that the Subjects of His Most Christian Majesty have full & ample enjoyment of the Fishery within the Limits and Boundaries assign'd to them as aforesaid as they have a right to enjoy the same under the said Treaty of Utrecht: And, for this purpose, you are to give the most positive Orders and Injunctions to all Officers and others under your Command, that they do not, in their several Stations and as far as depends on each of them respectively, permit or allow that any obstructions or Interruptions be, upon any pretence, given to the Subjects of His Most Christian Majesty, in the Enjoyment of the said Fishery as it is allowed to them by the Treaties beforementioned within the limits above described; but that they do give them all reasonable countenance therein. You are, nevertheless, to take due care that no Subject of His Most Christian Majesty be permitted to reside or remain in any part whatever of the said Island of Newfoundland after the Fishing Season is over and during the Winter; and also that His Majesty's Subjects be not allowed to take charge of, preserve, or prepare any Boat, Stage, Flake, or Erection, whatever for the purpose of the Fishery on account, or for the use of any Subject of His Most Christian Majesty for the ensuing Fishing Season. And you are strictly charged not to allow any of the Subjects of His Most Christian Majesty to cut down and carry off any Wood or Timber from the said Island of Newfoundland and the Islands adjacent for any purpose whatever, unless His Majesty's pleasure therein shall in that respect be duly signified to you; allowing them, however, to cut any Wood necessary for the repair of their Scaffolds, Huts and Fishing vessels on the spot; And, in case it shall happen that any of His Majesty's Subjects shall, in any wise, act contrary to

the true Intent and meaning of the Stipulations made by the Treaty of Versailles, or the Treaty of Utrecht aforesaid; and the Subjects of His Most Christian Majesty shall, in that respect, have just cause of Complaint; you are immediately to remove the same by granting them due redress, and exercising the authority vested in you by His Majesty's Commission and Instructions, or by any Act of Parliament in force for that purpose. You are, nevertheless, to take due care that no Subject or Officer of His Most Christian Majesty do exercise any Act of Authority upon the Island of Newfoundland or the adjacent Islands or the Coasts thereof, in derogation to His Majesty's Sovereignty over the same; but that, in every case of just Complaint on their parts, they do apply to you, or His Majesty's Officers in Command under you, for redress.

And in order effectually to prevent any Disputes from arising between His Majesty's Subjects and those of His Most Christian Majesty carrying on the Fisheries on the Coasts of the Island of Newfoundland; you are, in pursuance of His Majesty's pleasure, to prevent as far as possible, any of His Subjects from fishing within the limits herein before described, and within which the Subjects of His Most Christian Majesty are now allowed to carry on the fishery.

And whereas, by the abovementioned Treaty of Peace between His Majesty and the United States of America, the Provinces of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia, were declared by His Majesty to be free and independent States, and, by the Third Article of the said Treaty, "The People of the said United States were allowed to continue to enjoy unmolested the Right to take Fish of every kind on the Grand Bank, and on all the other Banks of Newfoundland; also in the Gulph of St Lawrence, and at all other places in the sea, where the Inhabitants of both Countries used at any time theretofore to fish; and also liberty to take Fish of every kind on such part of the Coast of Newfoundland as British Fishermen should use (but not to dry or cure the same on that Island) and also on the Coasts, Bays and Creeks of all other of His Majesty's Dominions in America; and the American Fishermen were to have liberty to dry and cure Fish, in any of the unsettled Bays, Harbours and Creeks of Nova Scotia, Magdalen Islands and Labrador, so long as the same should remain unsettled; but so soon as the same, or either of them, should be settled, it should not be lawful for the said Fishermen to dry or cure Fish at such Settlement without a previous Agreement for that purpose, with the Inhabitants, Proprietors, or Possessors of the Ground." You are, therefore in pursuance of His Majesty's pleasure to take due care that the People of the United States of America do fully and amply enjoy every Right of fishing, drying and curing of Fish, allowed them by the said Third Article of the Treaty above recited, not allowing them however to dry or cure their Fish on His Majesty's Island of Newfoundland, or in any Bay,

Harbour or Creek of any other part within the Limits of your Government, which is settled. And you are on every occasion to exact and require a full and specific performance of the said Treaty on their parts within those Limits.

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7th

You are for the abovementioned purposes, to visit the several Bays and places in Newfoundland between Cape S^t John (passing to the North and descending by the Western Coast) and Cape Raye or cause them to be visited by any of the Ships of your Squadron, as you shall judge best; having due regard also to such part of His Majesty's Declaration and the Counter Declaration of His Most Christian Majesty subjoined to the abovement Treaty between their Majesty's which was concluded at Versailles on the 3^d September 1783, as relates to the Fishery between the Islands of S^t Pierre and Miquelon. And as, from the vicinity of those Islands to Newfoundland, and other parts of His Majesty's Dominions in North America, an illicit Trade may be attempted to be carried on between the British, Indian, or any other Inhabitants of His Maj^s Dominions, and the Subjects of France residing on the said Islands of St Pierre and Miquelon, or employed in the Fishery by virtue of Treaty, or between His Majesty's said Subjects and other Subjects of France; or other Powers trading, or pretending to trade to, or with the said Islands of S^t Pierre and Miquelon; In case any endeavours shall be used to carry on such illicit. Trade as aforesaid, you are to be particularly attentive to the same and to prevent if possible all Communication whatever between the said Islands of S^t Pierre and Miquelon, and Newfoundland, or any part of His Maj^s Dominions in North America contrary to the plain & strict meaning of this Instruction.

* * *

[Arts. 8 and 9 same as Arts. 6 and 7 to Rear Admiral Richard Edwards, ante pp. [522](#), [523](#).]

10th

Besides the Superintendance and Regulation of the Fisheries of the Island of Newfoundland and the Coast of Labrador, you are to afford every protection in your power to those which are carried on in the Gulph of St. Laurence within the limits of your command, and also upon the Islands in that Gulph, and to take particular care that the Sea Cow Fisheries which have been or may be established on the Islands of Madelaine, &c., by His Majesty's Subjects be not disturbed by the crews of any ships or vessels whatever, destroying these animals in the water, or by any means deterring them from the usual places of landing; disposing of some of the ships or vessels under your command in such manner as shall best serve for that purpose, without prejudice to the more material parts of the important service committed to your care.

[Art. 11 same as Art. 11 to Rear Admiral Richard Edwards, ante p. 525, but omitting reference to Anticosta.

Art. 12, 14, 16 similar to Art. 10 to Rear Admiral Richard Edwards, ante p. 524, as Art. 20 to Rear Admiral Robert Duff, ante p. 505.]

p. 560

13th

And when the Service will admit, you are to send home the other Ships and Vessels of your Squadron; directing their Commanders to repair to Spithead and remain there 'til further orders, bringing with them any homeward bound Trade that may be ready and willing to accompany them, and seeing such Trade in Safety as far as their way may lie together.

* * *

Given &c^a 26th May 1786.

HOWE
CHA BRET
R^D

By Command of their Lordships
HOPKINS

P: STEPHENS.

J. L. GOWER
ARDEN.

Copy

No. 139.

[18 June, 1788.]

Newfoundland.



**ORDER OF HIS MAJESTY IN COUNCIL APPROVING
DRAFT OF AN ADDITIONAL INSTRUCTION FOR
JOHN ELLIOT**

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.

C.O. 5. VOL. 33.

At the Court at St James's,
the 18th of June 1788.

Present,

The King's most Excellent Majesty in Council.

Whereas there was this Day read at the Board, a Representation from the Right Honorable the Lords of the Committee of Council appointed for the Consideration of all matters relating to Trade and Foreign Plantations dated the 17th of this Instant; humbly offering to His Majesty for his Royal Approbation, the Draught of an Additional Instruction to the Governor of Newfoundland, for preventing His Majestys Subjects employed in the Fishery at Newfoundland, from Interrupting the Subjects of France in carrying on the said Fishery, conformably to the Stipulations of the late treaty of Peace, within the Limits thereby Assigned to them for that purpose. His Majesty taking the same into Consideration, was pleased with the Advice of His privy Council, to Approve of the said Draught of Additional Instruction, and to Order That the Right Honorable Lord Sydney, One of His Majestys Principal Secretaries of State, do cause the said Draught of Instruction (which is hereunto annexed) to be prepared for His Majesty's Royal Signature.

W. FAWKENER/
O. signed.

Endorsed. Order in Council.
18th June 1788.

Approving the Dra^t of an Additional Instruction
to the Governor of Newfoundland.

No. 140.

[18 June, 1788.]

Newfoundland.

Newfoundland.
Additional
Instruction to Gov^t
Elliot approved.
*Blank.**ADDITIONAL INSTRUCTION PASSED UNDER THE
ROYAL SIGN MANUAL AND SIGNET FOR JOHN
ELLIOT**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.Extracted from Minutes of Privy Council of 18th June, 1788.
P.C. 2. VOL. 133.

Additional Instruction to Our Trusty and Welbeloved John Elliot Esquire Governor and Commander in Chief of our Island of Newfoundland—Given at Our Court at St James's, the * day of * 1788, in the 28th Year of Our Reign.

Whereas by the 27th Art. of Our Gen^l Instructions to You, bearing date the 22^d day of June 1786, you are directed to permit the Subjects of His Most Christian Majesty to have full and ample Enjoyment of the Fishery upon the Coasts of the Island of Newfoundland from Cape St John on the East Coast of the said Island round by the North and down the Western Coast to Cape Raye, agreeably to the 5th Art. of the Definitive Treaty of Peace concluded at Versailles on the 3rd day of Sept^r 1783 between Us and the most Christian King. And Whereas by the 28th Article of the said Instructions you are in conformity to the Declaration made by Our Ambassador Extraordinary, on the Exchange of the Ratifications of the said Treaty of Peace, directed to prevent as far as possible any of our subjects from fishing within the limits assigned to the French Fishermen by the said Treaty. And Whereas the better to enable us to oblige our Subjects repairing to Newfoundland, for the purpose of carrying on the Fishery to conform to the Conditions of the said Treaty and Declaration, An Act has passed in the present Session of Parliament, entitled "An Act to enable His Majesty to make such Regulations as may be necessary to prevent the Inconvenience, which might arise from a Competition of Our Subjects, and those of the most Christian King, in carrying on the Fishery on the Coasts of the Island of Newfoundland." A Copy of which has already been transmitted to You. And Whereas We are desirous to fulfill with the utmost good faith and punctuality the Condons of the said Treaty and Declaration, and for that purpose to take the most positive Measures for preventing Our Subjects from interrupting in any manner the Fishery of the French during the

Temporary Exercise of it, granted to them upon the Coasts of the said Island, and thereby to remove

p. 563

*sic. all Occasions of daily quarrels, between the Fishermen of the two Nations, It is Our Royal Will and Pleasure, and We do hereby direct you in pursuance of the Powers vested in us, by the said Act, immediately after Your arrival upon the Coasts of the said Island, to give Notice to all Our Subjects resorting thereto, that they are not to interrupt in any manner by their competition the aforesaid Fishery of the Subjects of His Most Christian Majesty on the Coasts of the said Island, within the limits assigned to them by the said Treaty, and during the temporary exercise thereof, which is thereby granted to them ; but to depart from within the said Limits. And in case any of Our Subjects after such Notice has been given, shall refuse to depart within a reasonable time. It is our farther Will and Pleasure that you do instruct the Officers under Your Orders who may be dispatched to that part of the Coasts of the said Island to cause any Stages, Flakes, Train Vatts, or other Works wtever erected by them for the purpose of carrying on the said Fishery to be removed, and also all Ships, Vessels and Boats belongs to them, which shall be fund * within the Limits aforesaid, and to use such Means, as may be found necessary for compelling them to depart from that part of the Coasts of the said Island, and also to cause them to be prosecuted in the Courts of Law for such their refusal in the manner which the Act before mentioned Particularly directs.

*sic. It is further Our Royal Will and Pleasure, that you do enjoin the Commanders of such of the Ships of Our Squadron under your Orders, as may be employed within the Limits assigned to the Subjects of His most Christian Majesty, upon the Coasts of the said Island, to be particularly Attentive to their Proceedings, and in case they shall at any time discover, that any of His most Christian Majesty's said Subjects shall be employed in carrying on their Fishery at more than the distance of half a mile above the entrance or mouth of any River, or shall in any manner employ themselves except for the purpose of cutting of wood, for building their Scaffolds, and for repairing their Fishing Vessels, as allowed by the said Treaty; to Order them forthwith to desist from pursuing the same; and in case they shall refuse a Compliance with such Orders, the Officers employed upon this service, are to seize and retain their Netts, and other Implements, and to make a Special report thereof to You, that the matter may be communicated to Us, thro' one of our principal Secretaries of State.

It is also Our Will and Pleasure, that one or more of the Ships of the Squadron, under your Orders, shod repair to the several parts, which shall have been occupied by the subjects of His most Christian King, within the Limits assigned to them by the said Treaty, after the Season for their exercising the Fishery shall be over, and in case they shall find, that any of

His mosts * Christian Majesty's said Subjects remain upon the said Island contrary to the said Treaty of Peace, they are to bring them to you; but if you shall have left your Station, to Great Britain, together with any Netts or Implements seized as aforesaid where upon their arrival, farther Instructions will be given concerning them.

Copy.

No. 141.

[15 May, 1789.]

Newfoundland.

Newfoundland.

Order approving the
Draughts of a
Commission and
Instructions for Mark
Milbanke Esq^{re}
Governor.

**ORDER OF HIS MAJESTY IN COUNCIL APPROVING
DRAFTS OF A COMMISSION AND INSTRUCTIONS
TO MARK MILBANKE**

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.

P.C. 2 VOL. 134.

Extracted from Minutes of Privy Council of 15 May 1789.

Whereas there was this Day read at the Board a Report from the Right Honorable the Lords of the Committee of Council appointed for the Consideration of all Matters relating to Trade and Foreign Plantations, dated the 8th of this Instant. viz^t

"Your Majesty having been pleased by your Order in Council to refer unto this Committee a Letter from the Right Honourable Lord Sydney, One of Your Majesty's Principal Secretaries of State to the Lord President of the Council in the Words following, viz^t

My Lord,

The King having been pleased to appoint Mark Milbanke Esquire, Vice Admiral of the White Squadron of His Majesty's Fleet, to be Governor and Commander in Chief of the Island of Newfoundland and of the Islands of Madelaine in the Gulph of S^t Lawrence in the room of Vice Admiral Elliott, I am to desire that Your Lordship will be pleased to lay before His Majesty in Council a Draught of the Commission and Instructions proposed to be given to the Vice Admiral.

The Commission is similar to that which has been held by Vice Admiral Elliott, but some variations will be found in the Instructions, which I shall now particularly point out."

"The first has been made in consequence of a Representation of the principal Merchants and others of the Town and District of S^t Johns, of the Insufficiency of the twelve public Houses at present licensed for the accommodation of persons resorting thither and of the expediency of

increasing the number. This Measure having been strongly recommended by the present Governor, an Authority is given to Vice Admiral Milbanke to grant such further Licenses as

p. 563

may be judged necessary, not however exceeding Twenty four in the whole, subjecting the Master or persons keeping such public Houses to the same conditions as those already licensed."

"An Addition has also been made to the 27th Article, conformably to a separate Instruction given to Governor Elliot last Year, with a view to the preventing a concurrent Fishery on that part of the Coast allotted to the French, and a variation has been made in the Scheme for the state of the Fishery, which the Governor is directed annually to transmit, the Form of which I think is better calculated for conveying the Information desired than that which has hitherto been observed by his Predecessors."

"The Directions contained in His Majesty's Order in Council of the 13th of last Month with respect to the Importation of Bread Flour and Indian Corn, the Produce of the American States into the Island of Newfoundland will be the subject of an additional Instruction, that Regulation being of a temporary nature."

"The Lords of the Committee, in obedience to Your Majesty's said Order of Reference, this Day took the said Draughts of Commission and Instructions for Mark Milbanke Esquire, together with the Letter accompanying the same into their Consideration, and being of Opinion that the said Alterations made in the Instructions are proper and necessary do agree to lay the same, together with the Draft of the said Commission, before Your Majesty for your Royal Approbation."

His Majesty taking the said Report into Consideration was pleased, with the Advice of His Privy Council to approve thereof and of the said Draught of a Commission and Instructions and of the Alterations proposed to be made in the said Draught of Instructions. And His Majesty doth hereby Order That the Right Honorable Lord Sydney, One of His Majesty's Principal Secretaries of State, do cause a Warrant to be prepared for His Majesty's Royal Signature for passing a Commission agreeable to the said Draught (which is hereunto annexed) under the Great Seal of Great Britain. And that His Lordship do also cause the said Instructions (which are hereunto also annexed) to be prepared for His Majesty's Royal Signature.

Copy.

No. 142.

[25 May, 1789.]

Newfoundland.

ADMIRALTY INSTRUCTIONS TO VICE-ADMIRAL MILBANKE

AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE NEWFOUNDLAND STATION.

AD. 2. VOL. 119.

By &c.

Instructions for Vice Adm^l Milbanke as Commander in Chief of His Majesty's Ships & Vessels at Newfoundland.

Instructions for Mark Milbanke Esq^r Vice Admiral of the White, & Commander in Chief of a Squadron of His Majesty's Ships and Vessels employed, and to be employed, at & about Newfoundland, the Islands of Madelaine and Anticosti, and upon the Coast of Labrador, from the River S^t John, to the entrance of Hudson's Straits.

1st

Whereas, you have received the King's Commission appointing you Governor and Commander in Chief in, and over, the Island of Newfoundland, and of the Islands of Madelaine in the Gulph of S^t Lawrence, and of all the Forts and Garrisons erected and established in the said Islands; and also His Majesty's Instructions for your Government therein; You are to take particular care to act in all respects conformably to what is required by the said Commission and Instructions, and any other Instructions you may receive from His Majesty relating to the aforesaid Island of Newfoundland or any other Parts within the Limits of your Command, doing every thing in your Power to prevent any illegal Trade during your continuance on that Station; and also to secure and protect the Fisheries and Coasts, from piratical Ships or Vessels, which you are to use your utmost endeavours to take or destroy.

2^d

3^d

4th

&

5th

6th

Same as to Commodore Elliot, dated the 26th May 1786, ante pp. 556, 557.

And whereas by the 4th 5th & 6th Articles of the firstmentioned Treaty, His Majesty is maintained in His Right to the Island of Newfoundland & to the adjacent Islands, as the whole were assured to him by the 13th Article of the Treaty of Utrecht, excepting the Island of S^t Pierre and Miquelon,

p. 567

which are ceded in full Right to His Most Christian Majesty, who, in order to prevent the Quarrels which had before arisen, has consented to renounce the Right of Fishing which belonged to him in Virtue of the aforesaid Article of the Treaty of Utrecht, from Cape Bona Vista, to Cape S^t John, situated on the Eastern Coast of Newfoundland in 50 Degrees North Latitude: And His Majesty has consented on his part, that the Fishery assigned to the Subjects of His Most Christian Majesty, beginning at the said Cape S^t John, passing to the North & descending by the Western Coast of the Island of Newfoundland, shall extend to the Place called Cape Raye, situated in 47 Degrees 50 Min. Latitude And that, with regard to the Fishery in the Gulph of S^t Lawrence, the French shall continue to exercise it conformably to the 5th Article of the Definitive Treaty of Peace between His Majesty and the Most Christian King, and the King of Spain, concluded at Paris on the 10th February 1763; You are therefore to use your utmost Diligence & Attention that the several Stipulations herein mentioned, & referred to, be suitably performed as far as they shall come within the Limits of your Command; And upon every occasion, to take particular care that the Subjects of His Most Christian Majesty have full and ample Enjoyment of the Fishery within the Limits & Boundaries assigned to them as aforesaid; as they have a Right to enjoy the same.

And whereas on Act passed in the last Sessions of Parliament (12 Copies of which, are herewith sent to you) intituled "An Act to enable His Majesty to make such Regulations as may be necessary to prevent the Inconvenience which might arise from the Competition of His Subjects, and those of the Most Christian King in carrying on the Fishery on the Coast of the Island of Newfoundland." And His Majesty is desirous to fulfill with the utmost good Faith and Punctuality the Conditions of the Treaty with the Most Christian King concluded at Versailles as above mentioned, and the Declaration subjoined thereto; and for that Purpose to take the most positive Measures for preventing His Subjects from interrupting in any manner the Fishery of the French during the temporary Exercise of it granted to them upon the Coasts of the said Island, and thereby to remove all occasions of daily Quarrels between the Fishermen of the two Nations; You are therefore; in pursuance of His Majesty's Pleasure signified to Us by Lord Sydney one of His Majesty's Principal Secretaries of State, hereby required and directed, immediately after you arrive upon the Coasts of the said Island; to give Notice to all His Majesty's Subjects resorting thereto, that they are not to

interrupt in any manner, by their Competition, the aforesaid Fishery of the Subjects of His Most Christian Majesty on the Coasts of the said Island within the Limits assigned to them by the said Treaty, and during the temporary Exercise thereof which is thereby granted to them; but to depart from within the said Limits. And in case any of His Majesty's Subjects (after such Notice shall have been given) shall refuse to depart within a reasonable time, you are to instruct the Officers under your Orders who may be dispatched to that part of the Coasts of the said Island, to cause any Stages, Flakes, Train Vats, or other Works whatever, erected by His Majesty's Subjects

p. 568

for the Purpose of carrying on the said Fishery, to be removed; and also all Ships, Vessels & Boats belonging to them which shall be found within the Limits aforesaid; and to use such means as may be found necessary for compelling them to depart from that part of the Coasts of the said Island: And, in pursuance of His Majesty's further Pleasure signified as aforesaid, you are to enjoin the Commanders of such of the Ships of your Squadron as may be employed within the Limits assigned to the Subjects of His Most Christian Majesty as aforesaid, to be particularly attentive to their Proceedings; And, in case they shall at any time discover that any of them shall be employed in carrying on their Fishery at more than the distance of half a Mile above the Entrance or Mouth of any River, or shall in any manner employ themselves except for the Purpose of cutting of Wood for building their Scaffolds and for repairing their Fishing Vessels as allowed by the said Treaty, to order them forthwith to desist from pursuing the same. And in case they shall refuse a Compliance with such Orders, you are to direct the said Commanders to seize and retain their Nets and other Implements, and to make a Special Report thereof to you; that the Matter may be communicated to His Majesty through one of His Principal Secretaries of State.—And you are to send one or more of the Ships of your Squadron to the several Ports which shall have been occupied by the Subjects of His Most Christian Majesty within the Limits assigned to them as aforesaid after the Season for their exercising the Fishery shall be over, with Orders to their Commanders in case they shall find that any of His Most Christian Majesty's Subjects remain upon the said Island contrary to the Treaty of Peace abovementioned, to bring them to you, together with any Nets or Implements seized as aforesaid, or to Great Britain in ease you shall have left Newfoundland, that further Instructions may be given concerning them.

You are also to take due care that no Subject of His Most Christian Majesty, be permitted to reside or remain in any part whatever of the said Island of Newfoundland after the Fishing Season is over and during the Winter; And also that His Majesty's Subjects be not allowed to take charge of, preserve, or prepare any Boat, Stage, Flake, or Erection whatever, for

the Purpose of the Fishery, on Account, or for the Use, of any Subject of His Most Christian Majesty for the ensuing Fishing Season. And you are strictly charged not to allow any of the Subjects of His Most Christian Majesty to cut down or carry off any Wood or Timber from the said Island of Newfoundland and the Islands adjacent, for any Purpose whatever, except for building their Scaffolds and repairing their Fishing Vessels as abovementioned: And in case it shall happen that any of His Majesty's Subjects shall, in any wise act contrary to the true Intent & Meaning of the Stipulations made by the Treaty of Versailles, or the Treaty of Utrecht aforesaid; And the Subjects of His Most Christian Majesty shall, in that respect, have just cause of Complaint; You are immediately to grant them due Redress by exercising the Authority vested in you by His Majesty's Commission & Instructions, or by any Act of Parliament in force for that Purpose; taking due care nevertheless, that no subject or Officer of His Most Christian Majesty

p. 569

do exercise any Act of Authority upon the Island of Newfoundland, or the adjacent Islands, or the Coasts thereof, in derogation to His Majesty's Sovereignty over the same ; But that, in every case of just Complaint on their Parts, they do apply to you, or His Majesty's Officers in Command under you, for Redress.

And, in order effectually to prevent any Disputes arising between His Majesty's Subjects, and those of His Most Christian Majesty, carrying on the Fisheries on the Coasts of the Island of Newfoundland; You are, in pursuance of His Majesty's Pleasure, to prevent as far as possible any of His Subjects fishing within the Limits herein before described; and within which, the Subjects of His Most Christian Majesty are now allowed to carry on the Fishery.

And whereas, by the abovementioned Treaty of Peace between His Majesty and the United States of America, the Provinces of New Hampshire &c. &c.—same as to Comm^o Elliot.

7th

8th

9th

10th

&

11th

Same as to Commodore Elliot,
dated the 26th May 1786.
[ante p. 559]

Whereas the early Trade shall be ready about the latter end of August you are to order the Commander of one of the frigates to take them under his care, and repairing off Cape Finisterre to leave those bound to the Ports on the North Coast of Spain, and proceed off the Coast of Portugal with the rest; calling at Lisbon where he is to remain not exceeding Ten Days, for such Trade as may be ready & willing to accompany him, and then proceed to England with them, repairing to Spithead where he is to remain 'til further Order, and seeing the said Trade in safety as far as his way & their's may lie together.

13th14th

} same as to Comm^o Elliot.
[ante p. 560]

By the end of October you are to take under your Convoy any Fishing Ships which may be then bound to Portugal and Spain, and see them off their respective Ports, as far to the Southward as Cadiz. And in case you shall find at that Port any homeward bound Trade ready and willing to accompany you to England, you are to take them under your Care; And putting to sea with the first opportunity of Wind & Weather, proceed to Lisbon, where you are in like manner to take under your Care such homeward bound Trade as may be there; and then after a stay not exceeding Eight Days at farthest, you are to leave that Port & make the best of your way with the whole of the aforesaid Trade to England, repairing to Spithead, where you are to remain until further Orders, and seeing the said Trade in safety

p. 570

as far as your way & theirs may lie together. In case however it shall be necessary, or more eligible, for you to send a Frigate to perform this Service, you are at liberty to do so, and to proceed yourself directly in the Salisbury, to England, with such homeward bound Trade as may be desirous, and in readiness to accompany you; repairing to Spithead, and sending to us an Account of your arrival & proceedings.

But whereas the Court of Spain, in consequence of repeated Complaints &c.—same as to Comm^o Elliot.

15th

& }
16th

} Same as to Comm^o Elliot.
[ante p. 560]

Given under Our Hands the 25th May 1789.

CHATHAM
R^D HOPKINS
HOOD

By &c.
P. S.

No. 143.

Newfoundland.

[7 Aug.,
1790.]George R.
(L. S.)**ADDITIONAL INSTRUCTIONS PASSED UNDER THE
ROYAL SIGN MANUAL AND SIGNET FOR MARK
MILBANKE,**

*Blank.

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND.

C.O. 195. VOL. 15.

Additional Instructions to Our Trusty and Welbeloved Mark Milbanke Esq^r Governor and Commander in Chief of Our Island of Newfoundland. Given at Our Court at St James's the Seventh day of August 1790. In the Thirtieth Year of Our Reign.

Whereas by Our Letters Patent under Our Great Seal of Great Britain, bearing date, the * day of this Instant August, We have thought fit to Erect a Court of Civil Jurisdiction within Our Island of Newfoundland for hearing and determining in a Summary way, all Pleas concerning Debts, Accounts, or other Contracts, and all other Personal Pleas whatsoever, excepting such as may now be heard and determined by any Jurisdiction established in Our said Island by any Act or Acts of Parliament.

And whereas in conformity to the said Letters Patent, We have appointed Our Trusty and Welbeloved Aaron Graham Esq^r to preside in the said Court, and have directed him to proceed forthwith to Our said Island of Newfoundland. It is Our Royal Will and Pleasure that on Your arrival there, you do appoint Two fit and proper Persons under Your Hand and Seal as Assessors to Our Judge of the said Court; taking Care that in the Choice of the Persons so to be appointed they be Men of good fame; that they have no concern in the Fisheries carried on in the said Island, and that they and our said Judge appointed as aforesaid, or other Officers or Ministers belonging to, or appertaining to them, do not presume or be suffered to act in such Office or place, until he or they have taken the Oaths mentioned in the Act of Parliament entitled "An Act for the Security of His Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants, and for extinguishing the hopes of tie pretended Prince of Wales and his Open and Secret Abettors" as the same is altered by an Act entitled "An Act for altering the Oath of Abjuration and the Assurance and for amending so much of an Act of the"

"Seventh Year of Her late Majesty Queen Ann entitled 'an Act for the Improvement of the Union of the Two Kingdoms'" as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned to Persons indicted of High Treason or Misprision of Treason, as also made and subscribed the Declaration mentioned in an Act of Parliament made in the Twenty Fifth Year of the Reign of King Charles the Second entitled "An Act for preventing Dangers which may happen from Popish Recusants" and also taken such proper Oaths as are usually taken in this Kingdom by Persons executing such Offices and Trusts, which said Oaths and Declaration you shall administer, and give or cause the same to be administered and given to all and every Person or Persons who ought to take the same according to the Laws and Customs of this Kingdom.

It is Our further Will and Pleasure that in case there shall not already be any Building erected within Our said Island of Newfoundland proper and convenient for a Court House for the more orderly meeting of Our Judge of Our said Court of Civil Jurisdiction and his Assessors and also a convenient Prison for the safe Custody of such Persons as may be committed, under the Authority of the said Court, that you do cause a Plan of such Buildings to be forthwith prepared with an Estimate of the Expence which may be likely to be incurred in constructing the same, which Plan and Estimate you will deliver to Our Secretary of State for the Home Department to be laid before Us for Our Royal Consideration on your return from Newfoundland.

And Whereas We have thought fit, that a proper and sufficient Salary should be given to the Judge of Our said Court, to compensate his Services, and that he should be restrained from taking any Fee, or Gratuity whatsoever for any Judgment given, or business done in Our said Court under pain of losing his Employment: It is Our Will & Pleasure that you do, as far as depends upon you enforce a due Compliance with this restriction; But as no such Salaries have been fixed for the Two Assessors to be appointed by you as before mentioned, It is Our further Will and Pleasure, that you do allow for the present Season such Fees to be taken by them as You and the Judge of the said Court may deem reasonable and moderate for the Duties they may perform; and that You do upon Your return from Newfoundland at the end of the present Season, lay before Us, for Our Royal Approbation, a Table of such Moderate Fees, as may be proper to be established in future.

As in the heighth of the Fishing Season the Attendance of Persons concerned therein will be likely to be of great Inconvenience to them and to be very detrimental to their Interests. It is Our Royal Will & Pleasure that you do recommend it to the Judge to conduct the Business of the said Court during that time, in such manner as to interrupt as little as possible the carrying on of the said Fisheries: And if it should happen that the Judge should die during the Fishing

Season, You are in such case to appoint a Person then resident in Our said Island to act in his Place during the remainder of such Fishing Season. And in Order to afford time to Our said Judge to finish the Business of the Court in the Interval after the heighth of the Fishing Season shall be over, You are to continue on the Coast as long as the Season

p. 573

will permit consistently with the Safety of the Ships and Vessels under Your Command.

And Whereas We have thought fit that Our Subjects residing in Our said Island of Newfoundland in case they should feel themselves aggrieved by any Judgment passed in Our said Court of Civil Judicature shall have liberty of Appealing unto Us in Our Privy Council, provided the Sum to be recovered exceeds £100 Sterlg. It is Our Royal Will and Pleasure that you do on Application being made to you for that purpose permit and allow Appeals from any Sentence of the said Court provided the same be made within the Space of Fourteen Days, and that the Sum or Value so appealed far exceeds the Sum above mentioned, and good Security be given by the Appellant that he will effectually prosecute the same and answer the Condemnation, as also pay such Costs and Damages as shall be awarded by Us in case the Sentence of the Court should be affirmed, provided nevertheless where the matter in question relates to the taking or demanding any Duty payable unto Us, or to any Fee of Office or Annual Rents, or such other like matter or thing where Our Rights in future may be bound, in all such Cases You are to admit an Appeal unto Us in Our Privy Council though the immediate Sum or value appealed for be of a less Value, and it is Our further Will and Pleasure, that in all Cases whereby Your Instructions You are to admit Appeals in Our Privy Council, execution be suspended until the final Determination of such Appeal, unless good and sufficient Security be given by the Appellee to make ample Restitution of all that the Appellant shall have lost by means of such Decree or Judgment in Case upon the Determination of such Appeal, such Decree or Judgment should be reversed and restitution awarded to the Appellant.

G. R.

Copy.

No. 144.

[22 June, 1792.]

Newfoundland.

ORDER OF HIS MAJESTY IN COUNCIL APPROVING DRAFTS OF A COMMISSION AND INSTRUCTIONS FOR SIR RICHARD KING

Newfoundland.
Commission and Instructions for Rear Admiral Sir Rich^d King Governor approved.

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

P.C. 2. VOL. 137, pp. 117-118.

Extracted from the Minutes of Council of 22 June 1792.

* * * *

Whereas there was this Day read at the Board, a Letter from the Right Honourable Henry Dundas, One of His Majesty's Principal Secretaries of State to the Lord President of the Council transmitting the Draught of a Commission appointing Rear Admiral Sir Richard King to be Governor and Commander in Chief of the Island of Newfoundland, and Islands of Madelaine in the Gulph of Saint Lawrence, And also the Draught of Instructions for the said Governor. His Majesty having taken the said Draught of Commission and Instructions into Consideration was pleased, with the Advice of His Privy Council to approve thereof, and His Majesty doth hereby Order, that the Right Hon^{ble} Henry Dundas, One of His Majesty's principal Secretaries of State, do cause a Warrant to be prepared for His Majesty's Royal Signature for passing a Commission agreeable to the said Draught (which is hereunto annexed) under the Great Seal of Great Britain; And that he do likewise Cause the said Draught of Instructions (which are also hereunto annexed) to be prepared for His Majestys Royal Signature.

* * * *

[19 July, 1792.]

No. 145.

Newfoundland.

COMMISSION PASSED UNDER THE GREAT SEAL OF GREAT BRITAIN APPOINTING SIR RICHARD KING

TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

PATENT ROLL. 32 GEO. III. PART I. NO. 4.

Sir Richard King Knight } George the Third by the Grace of
Governor of } God of Great Britain France and
Newfoundland } Ireland King Defender of the
faith and so forth To our Trusty and Welbeloved Sir Richard
King Knight Rear Admiral of the Red Squadron of our fleet
Greeting Whereas wee did by our Letters Patent under our
Great Seal of Great Britain bearing date at Westminster the
first Day of June in the Twenty ninth Year of our Reign
Constitute and appoint Mark Milbanke Esquire to be our
Governor and Commander in Chief in and over our Island of
Newfoundland and Islands of Madelaine in the Gulph of Saint
Lawrence as also all our forts and Garrisons erected and
established or that should be erected and established in our
Island of Newfoundland and Madelaine for and during our will
and Pleasure as by the said Letters Patent Relation being
thereunto had may more fully and at large appear Now Know
you that Wee have revoked and Determined and made void
and by these presents Do revoke determine and make void the
said recited Letters Patent and every Clause Article and Thing
therein contained and we reposing Especial Trust and
Confidence in the Prudence Courage and Loyalty of you the
said Sir Richard King of our especial Grace certain Knowledge
and meer motion have thought fit to constitute and appoint and
by these Presents do constitute and appoint you the said Sir
Richard King to be our Governor and Commander in Chief in
and over our said Island of Newfoundland and the Island[s]
adjacent as also of all our forts and Garrison[s] erected and
established in our said Island [of] Newfoundland and Islands
adjacent as aforesaid and we do hereby require and Command
you to do and execute all things in due manner that shall
belong to your said Command and the Trusts we have reposed
in you according to the several powers and Directions granted
or appointed you by this present Commission and the
Instructions herewith given you or by such further powers
Instructions and Authorities as shall

*sic.

*sic.

at any time hereafter be granted or appointed you under our Signet and Sign Manual or by *Order in our Privy Council And Wee do further Give and Grant unto you the said Sir Richard King full Power and Authority from time to time and at all times hereafter by yourself or by any other to be authorized by you in that behalf to Administer and give the Oaths mentioned in an Act passed in the first Year of the Reign of King George the ffirst Intitled [An Act for the further security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors] as the same is altered and explained by an Act passed in the sixth Year of our Reign Intitled [An Act for the altering the Oath of Abjuration and the Assurance and for amending so much of an Act of the seventh Year of her late Majesty Queen Anne intituled An Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the Delivery of certain Lists and Copies therein mentioned to persons indicted of High* Court* of Misprision of Treason] to all *intents such Person or Persons as you shall think fit who shall at any time or times pass into our said Islands or shall be resident or abiding there And wee do by these Presents give and grant unto you full power and Authority to constitute and appoint in Cases requisite Commissioners of Oyer and Terminer for the hearing and determining of all Criminal Causes (Treasons Excepted) according to Law and for awarding Execution thereupon with all reasonable and necessary Powers Authorities flees and Priviledges belonging thereunto and Justices of the Peace with other necessary Officers and Ministers for the better Administration of Justice and keeping the peace and Quiet of the said Islands which Justices of the peace so authorized may and shall hold and keep General Quarter Sessions of the Peace in such places as you shall appoint according to the Custom of this part of Great Britain called England and adjourn such Sessions from time to time and from place to place as shall be most *Covenient and necessary for the peace and Welfare of our Subjects inhabiting there Provided neither you nor they do anything by Virtue of this Commission or the Powers hereby granted contrary or repugnant to the Act for encouraging the Trade to Newfoundland passed in the tenth and eleventh Years of the Reign of King William the Third or to the Act passed in the ffifteenth Year of our Reign Intituled [An Act for the Encouragement of the ffisheries carried on from Great Britain Ireland and the British Dominions in Europe and for securing the return of the ffishermen Sailors and others employed in the said ffisheries to the ports thereof at the end of the ffishing Season] or to an Act passed in the twenty eighth Year of Our Reign Intituled [An Act to amend and render more effectual the several Laws now in force for encouraging the ffisheries carried on at Newfoundland and parts adjacent from Great Britain Ireland and the British Dominions in Europe and for

*sic.

*sic. granting Bounties for a limited time on certain Terms and Conditions or to another Act passed in the last Session of Parliament Intituled [An Act for establishing Courts of Judicature in the Island of Newfoundland and the Islands adjacent nor anyway obstruct the powers thereby given and granted

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to the Admirals of Harbors or Captains of our Ships of War or Act contrary to any other Matter or thing prescribed By the said Acts or so much of them as shall be in force at the respective times of Executing this Commission And wee do hereby give and Grant unto you full power and Authority when you shall see cause or Judge any Offender or Offenders for Criminal Matters or for any ffines or fforfeitures due *and unto us fit object[s] of our Mercy to pardon all such Offenders an remit all such Offences ffines and fforfeitures wilful Murder only excepted in which Case you shall likewise have power upon Extraordinary Occasions to grant reprieves to the Offenders until and to the intent our Royal pleasure may be known therein and all such Justices of the peace and their inferior Officers and Ministers whom you or they shall appoint amongst the Inhabitants of the said Islands are strictly required and enjoined in all Cases and times whenever necessary to be aiding and assisting to the utmost of their power to our Chief Justice of the said Island and to the persons whom you shall appoint Surrogates in the same or in the Island adjacent to the Commanders of our Ships of War and to the several Admirals in their respective Harbours in the discharge of their several and respective Duties and provided also that no person or persons so by you appointed to be Justices of the peace as aforesaid or other Officers or Ministers belonging or Appertaining to them do presume or be suffered to act in such Office or place until he or they have taken the aforesaid Oaths mentioned in the aforesaid Act Intituled [An Act for the further security of His Majesty's person and Government and the succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the Hopes of the pretended Prince of Wales and his open and secret abettors] as the sames* is altered and explained by the said Act Intituled [An Act for altering the Oath of Abjuration and the Assurance and for Amending so much of an Act of the seventh Year of her late Majesty Queen Anne Intituled [An Act for the Improvement of the Union of the two Kingdoms as after the time therein limited requires the Delivery of certain Lists and Copies therein mentioned to persons indicted of High Treason or Misprision of Treason] as also made and subscribed the Declaration mentioned in an Act made in the Twenty fifth Year of the Reign of King Charles the second Intituled [An Act for preventing Dangers which may* from Popish Recusants] and also taken such proper Oath or Oaths as are usually taken in this Kingdom by Persons executing such Offices and Trusts which said Oaths and Declaration you shall

*sic.

*sic.

*sic.

Administer and give or cause the same to be Administered and given to all and every Person or Persons who ought to take the same according to the Laws and Customs of this Kingdom And wee do hereby Give and Grant unto you the said Sir Richard King full Power to erect Appoint or set apart one or more Convenient Court House or Court houses for the holding of the said Supreme Court and the several Surrogate Courts and also for the more orderly meeting of the Justices of the Peace in order to hold their quarter or other Sessions with a Convenient Prison adjoining thereto for the keeping of Offenders against Our Laws and the Peace of Our Subjects and wee do hereby require and Command all Officers Civil and Military and all other Inhabitants of our said

*sic.

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Islands to be obedient aiding and assisting unto you in the Execution of this our Commission and of the Powers and authorities herein contained and in Case of your Death our Will and Pleasure is that the Person upon whom the Command of our Ships under your Command shall devolve do take upon him the Administration of the Government of our said Islands and execute this our said Commission and Instructions and the several Powers and Authorities therein contained in the same manner to all Intents and Purposes as you our said Governor and Commander in Chief might or ought to do for and during our Will and Pleasure and wee do hereby declare ordain and appoint that you the said Sir Richard King shall and may hold and enjoy the Place of our Governor and Commander in Chief in and over our said Islands* of Newfoundland and the Islands adjacent as also of all our forts and Garrisons erected and Established in our said Islands or that shall be erected or established in our said Islands with all and singular the Powers and Authorities hereby granted unto you for and during our Will and Pleasure In Witness &c Witness &c the nineteenth day of July one thousand and seven hundred and ninety two.

By Writ of Privy Seal

No. 146.

[18 June, 1792.]

Newfoundland.

ADMIRALTY INSTRUCTIONS TO REAR ADMIRAL KING

AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE NEWFOUNDLAND STATION.

ADM. SEC. 2. VOL. 122, p. 338.

By &c.

Instructions for Sir Rich^d King, Kn^t Rear Admiral of the Red & Commander in Chief of a Squadron of His Majesty's Ships and Vessels employed and to be employed at and about Newfoundland, the Islands of Madelaine & Anticosti, and upon the Coast of Labrador, from the River S^t John to the Entrance of Hudson's Straits.

Instructions for Rear Adm^l Sir Rich^d King as Commander in Chief of His Majesty's Ships & Vessels at Newfoundland.

1st

Whereas you have received the King's Commission appointing you Governor and Commander in Chief in and over the Island of Newfoundland and of the Islands of Madelaine in the Gulph of S^t Lawrence and of all the Forts and Garrisons erected and established in the said Islands, and also His Majesty's Instructions for your Government therein, You are to take particular care to act in all respects conformably to what is required by the said Commission and Instructions, and any other Instructions you may receive from His Majty relating to the aforesaid Island of Newfoundland, or any other parts within the Limits of your Command; doing everything in your power to prevent any illegal Trade during your continuance on that Station; and also to secure and protect the Fisheries and Coasts from Piratical Ships or Vessels, which you are to use your utmost endeavours to take or destroy.

2^d

You are, agreeable to an Act of Parliament of the 10th & 11th Years of King William the 3^d, entitled "An Act to encourage the Trade to Newfoundland"—(a Copy of which you will receive herewith) to be aiding and assisting to the Admirals, Vice and Rear Admirals of the respective Ports and Harbours of Newfoundland, from time to time as need shall require, in preserving the Peace & good Government among the Seamen and Fishermen and in apprehending Offenders: And you are, so far as the same may relate to you as Commander in Chief of His Majty's Ships and Vessels at and about Newfound-

land, to comply with the following Acts of Parliament (Copies of which you will also receive herewith) viz^t

15th Geo: 3^d Cap^t : 31st
18th 55th
20th 6th
„ 10th
26th 26th

3^d

You are to be careful that there be not taken on board the Ships and Vessels under your Command, to be transported to Newfoundland, any Seamen or others than such as do belong to them: And, as you are not to lend any of their men to the Fishing Ships, so neither are you to suffer to be taken on board the Ships or Vessels of your Squadron any sort of Fish by way of Merchandize, Freight or otherwise, excepting what shall be necessary for the use and spending of their respective Companies.

4th

And whereas it is very prejudicial to this Kingdom that the Fishing Ships do not bring Home from Nf^d Land the Complement of men they carry out, many of them being enticed array to other places, and others left in the Country; You are to let the Masters know that it will behove them to bring Home the number of Men they carry out (except in case of Death) for that otherwise they will be prosecuted at their return: And you are to use your best Endeavours to oblige them thereto so far as in you lies, except only with regard to such of their Men as shall have entered into His Majesty's Service.

5th

And whereas no Foreign Ships and Vessels whatever (except as hereinafter excepted) have any right to fish at or about Newfoundland, and the Commanders of the Ships of War, bound as Convoy thither, have, at all times past, been directed not to allow of their fishing in those parts; It is, therefore, His Majesty's Pleasure that you take especial care to prevent the same, & that his Orders given therein be strictly complied with; And, if you shall find any Foreign Ships fishing at or about Newfoundland, you are to oblige them to desist & depart from off the Coast, excepting Ships and Vessels belonging to the Subjects of the most Christian King and to the People of the United States of America, fishing according to the Stipulations contained in the Definitive Treaties of Peace concluded at Versailles on the 3^d September 1783 between His Majesty, the most Christian King & the United States above mentioned; printed Copies of which you will receive herewith.

6th

th th th

And whereas, by the 4 , 5 and 6 Articles of the first mentioned Treaty, His Majesty is maintained in His Right to the Island of Newfoundland and to the adjacent Islands, as the whole were assured to him by the 13th Article

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of the Treaty of Utrecht, excepting the Islands of S^t Pierre and Miquelon, which are ceded in full Right to His Most Christian Majesty, who, in order to prevent the Quarrels which had before arisen, has consented to renounce the Right of fishing which belonged to him in virtue of the aforesaid Article of the Treaty of Utrecht from Cape Bona Vista to Cape S^t John situated on the Eastern Coast of Newfoundland in Degrees North Latitude: And His Majesty has consented on his part that the Fishery assigned to the subjects of His Most Christian Majesty, beginning at the said Cape S^t John, passing to the northward and descending by the Western Coast of the Island of Newfoundland shall extend to the Place called Cape Raye, situated in 47 Degrees 50 Min. Latitude: And that with regard to the Fishery in the Gulph of S^t Lawrence, the French shall continue to exercise it conformably to the 5th Article of the Definitive Treaty of Peace between His Majesty and the Most Christian King and the King of Spain concluded at Paris on the 10th February 1763; You are therefore to use your utmost diligence and attention that the several Stipulations hereinmentioned, and referred to, be suitably performed as far as they shall come within the Limits of your Command And upon every occasion to take particular care that the Subjects of His Most Christian Majesty have full and ample Enjoyment of the Fishery within the Limits & Boundaries assigned to them as aforesaid, as they have a right to enjoy the same.

And whereas an Act passed in the 28th Year of His present Majesty's Reign (twelve Copies of which are herewith sent to you) entitled "An Act to enable His Majesty to make such Regulations as may be necessary to prevent the Inconvenience which might arise from the Competition of His Subjects and those of the Most Christian King in carrying on the Fishery on the Coasts of the Island of Newfoundland." And His Majesty is desirous to fulfill with the utmost good faith and punctuallity the Conditions of the Treaty with the most Christian King concluded at Versailles as above mentioned, and the Declaration subjoined thereto, and for that purpose to take the most positive measures for preventing His Subjects from interrupting in any manner the Fishery of the French during the temporary Exercise of it granted to them upon the Coasts of the said Island, and thereby to remove all occasions of daily Quarrels between the Fishermen of the two Nations; You are therefore, in pursuance of His Majesty's Pleasure, signified to Us by Lord Sydney, late one of His Majesty's Principal Secretaries of State, hereby required and directed, immediately after you arrive upon the Coasts of the said Island, to give notice to all His Majesty's Subjects resorting thereto, that they are not to interrupt in any manner, by their Competition, the

aforesaid Fishery of the Subjects of His Most Christian Majesty on the Coasts of the said Island within the Limits assigned to them by the said Treaty and during the temporary Exercise thereof, which is thereby granted to them, but to depart from within the said Limits. And in case any of His Majesty's Subjects (after such notice shall have been given) shall refuse to depart within a reasonable time, you are to instruct the Officers under your Orders, who may be dispatched to that part of the Coasts of the said Island,

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to cause any Stages, Flakes, Train Vats, or other Works whatever, erected by His Majesty's Subjects for the purpose of carrying on the said Fishery to be remov'd; and also all Ships, Vessels and Boats belonging to them which shall be found within the Limits aforesaid, and to use such means as may be found necessary for compelling them to depart from that part of the Coasts of the said Island: And in pursuance of His Majesty's further pleasure, signified as aforesaid, you are to enjoin the Commanders of such of the Ships of your Squadron as maybe employ'd within the Limits assign'd to the Subjects of His Most Christian Majesty, as aforesaid, to be particularly attentive to their Proceedings: And in case they shall at any time discover that any of them shall be employ'd in carrying on their Fishery at more than the distance of half a mile above the Entrance or mouth of any River, or shall in any manner employ themselves except for the purpose of cutting Wood for building their Scaffolds & for repairing their Fishing Vessels, as allowed by the said Treaty, to order them forthwith to desist from pursuing the same: And in case they shall refuse a Compliance with such Orders, you are to direct the said Commanders to seize and retain their Nets and other Implements, & to make a special Report thereof to you, that the matter may be communicated to His Majesty through one of His Principal Secretaries of State; And you are to send one or more of the Ships of your Squadron to the several Ports which shall have been occupied by the Subjects of His Most Christian Majesty within the Limits assigned to them as aforesaid after the Season for their exercising the Fishery shall be over, with Orders to their Commanders in case they shall find that any of His Most Christian Majesty's Subjects remain upon the said Island contrary to the Treaty of Peace abovementioned to bring them to you, together with any Nets or Implements seized as aforesaid, or to Great Britain in case you shall have left NfdLand, that further Instructions may be given concerning them.

You are also to take due care that no Subject of His Most Christian Majesty be permitted to reside or remain in any part whatever of the said Island of Newf^dLand after the Fishing Season is over, and during the Winter; And also that His Majesty's Subjects be not allow'd to take charge of, preserve or prepare any Boat, Stage, Flake or Erection whatever for the

purpose of the Fishery on account or for the use of any Subject of His Most Christian Majesty for the ensuing Fishing Season. And you are strictly charged not to allow any of the Subjects of His Most Christian Majesty to cut down or carry off any Wood or Timber from the said Island of Newfoundland and the Islands adjacent for any purpose whatever except for building their Scaffolds and repairing their Fishing Vessels, as abovemention'd: And in case it shall happen that any of His Majesty's Subjects shall in any wise act contrary to the true Intent and Meaning of the Stipulations made by the Treaty of Versailles or the Treaty of Utrecht, as aforesaid: And the Subjects of His Most Christian Majesty shall in that respect have just Cause of Complaint; You are immediately to grant them due redress, by exercising the Authority vested in you by His Majesty's Commission & Instructions, or by any Act of Parliament in force for that purpose; taking due care nevertheless that no Subject or Officer of His Most Christian Majesty do exercise any Act of

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Authority upon the Island of Newfoundland or the adjacent Islands or the Coasts thereof in derogation to His Majesty's Sovereignty over the same; But that in every case of just Complaint on their parts, they do apply to you, or His Majesty's Officers in Command under you, for Redress.

And in order effectually to prevent any Disputes arising between His Majesty's Subjects and those of His Most Christian Majesty carrying on the Fisheries on the Coasts of the Island of Newfoundland; You are, in pursuance of His Majesty's Pleasure, to prevent as far as possible any of His Subjects fishing within the Limits hereinbefore described, and within which the Subjects of His Most Christian Majesty are now allow'd to carry on the Fishery.

And whereas by the abovementioned Treaty of Peace between His Majesty and the United States of America, the Provinces of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pensylvania, Delaware; Maryland, Virginia, North Carolina, South Carolina and Georgia, were declared by His Majesty to be free and independent States, and by the 3^d Article of the said Treaty "The People of the said United States were allowed to continue to enjoy unmolested the Right to take Fish of every kind on the Grand Bank and on all the other Banks of Newfoundland; also in the Gulph of S^t Lawrence, and at all other places in the Sea where the Inhabitants of both Countries used at any time theretofore to fish; & also liberty to take Fish of every hind on such part of the Coast of Newfoundland as British Fishermen should use (but not to dry or cure the same on that Island) and also on the Coasts, Bays and Creeks of all other of His Majesty's Dominions in America; and the American Fishermen were to have liberty to

dry, and cure Fish in any of the unsettled Bays, Harbours and Creeks of Nova Scotia, Magdalen Islands and Labrador, so long as the same should remain unsettled; but so soon as the same, or either of them, should be settled, it should not be lawful for the said Fishermen to dry or cure Fish at such Settlement without a previous Agreement for that purpose with the Inhabitants, Proprietors or Possessors of the Ground." You are therefore, in pursuance of His Majesty's Pleasure to take due care that the People of the United States of America do fully and amply enjoy every Right of fishing, drying & curing of Fish allowed them by the said 3^d Article of the Treaty above recited; not allowing them however to dry or cure their Fish on His Majesty's Island of Newfoundland, or in any Bay, Harbour or Creek of any other part within the Limits of your Government, which is settled. And you are on every occasion to exact and require a full & specific performance of the said Treaty on their parts within those Limits.

7th

You are for the abovementioned purposes to visit the several Bays and Places in Newfoundland between Cape S^t John (passing to the North and descending by the Western Coast) and Cape Raye, or cause them to be visited by any of the Ships of your Squadron, as you shall judge best, having due regard also to such part of His Majesty's Declaration and the Counter

Declaration of His Most Christian Majesty subjoined to the abovementioned Treaty between their Majesties, which was concluded at Versailles on the 3^d September 1783, as relates to the Fishery between the Islands of S^t Pierre & Miquelon: And as from the vicinity of those Islands to Newf^dLand and other parts of His Majesty's Dominions in North America, an illicit Trade may be attempted to be carried on between the British, Indian, or any other Inhabitants of His Majesty's Dominions and the Subjects of France residing on the said Islands of S^t Pierre and Miquelon, or employed in the Fishery by virtue of Treaty, or between His Majesty's said Subjects and other Subjects of France, or other Powers trading, or pretending to trade to or with the said Islands of S^t Pierre and Miquelon. In case any endeavour shall be used to carry on such illicit Trade as aforesaid, you are to be particularly attentive to the same, and to prevent if possible all communication whatever between the said Islands of S^t Pierre and Miquelon and Newfoundland, or any part of His Majesty's Dominions in North America contrary to the plain & strict meaning of this Instruction.

8th

You are to settle and guard the Fishery not only at Placentia and S^t Johns, but as far to the northward upon the Coasts of Newfoundland and upon those of the Continent of Labrador as your Command extends; to use your best Endeavors to encourage and support the Whale Fishery in the Straits of Belleisle, the Cod Fishery in York Harbour and on the other parts of the Coast of the abovementioned Continent; as also the Seals and Sea Cow and Salmon Fisheries on the said Coast; and to hinder any Trade or Intercourse being carried on by any Persons whomsoever, other than the Subjects of Great Britain and the Inhabitants of the United States of America as beforement^d with the Inhabitants of that Country, which of rights belongs solely to His Majesty: And whereas the Coast of Labrador and the Islands adjacent have by Act of Parliam^t been reannexed to the Province of Quebec, and His Majesty hath by His Instruction to the Governor of that Province signified to him that the Fisheries on the said Coast & Islands are objects of the greatest Importance, not only on account of the Commodities they produce but also as Nurseries of Seamen upon whom the Strength of His Majesty's Kingdoms depends; that Justice & Clemency demand that the real and actual property of the Canadian Subjects on that Coast (whose Claims however extend but to a small District, on the greatest part of which a Cod Fishing is stated to be practicable) should be preserved entire, and that they should not be molested or hindered in the exercise of any Sedentary Fisheries they may have established there; and that on all such parts of the Coast where there are no Canadian Possessions, and more especially where a valuable Cod Fishery may be carried on, it will be his duty to make the Interest of the British Subjects going out to

fish there in Ships fitted out from Great Britain the first object of his Care, and as far as circumstances will admit, to establish on that Coast the Regulations in favor of British Fishing Ships which have been so wisely adopted by the beforementioned Act of the 10th and 11th of King William the Third, and that he is on no account to allow any Possession

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to be taken, or Sedentary Fisheries to be establish'd on any part of the Coast, that are not already private Property by any Persons whatsoever, except only such as shall produce annually a Certificate of their having fitted out from some Port in Great Britain; You are, in pursuance of His Majesty's Pleasure, signified to us by Lord Dartmouth, late one of His Majesty's Principal Secretaries of State, to make those Fisheries particular objects of your attention and Enquiry; affording them every reasonable and necessary Protection, and transmitting to us for His Majesty's Information the fullest Report of the State and Condition and the progress thereof.

9th

The Society of Unitas Fratrum, urged by a laudable Zeal for promoting Christianity, having already under His Majesty's Protection, and with His Permission formed Establishments in the Northern Parts of the Coast of Labrador for the purposes of civilizing the Savages and converting them to the Christian Religion, in which their Success has been answerable to their Zeal: And His Majesty having signified His express Will and Pleasure to the Governor of Quebec that he do give them every countenance and assistance in his power, and not allow any Establishment to be made, but with their Consent, within the Limits of their Possessions; You are, in pursuance of His Majesty's further Pleasure signified to us by Lord Dartmouth, as abovemention'd, to give such Support and Protection to the Establishment of the said Society as shall correspond with His Majesty's Most gracious Intentions towards them.

10th

Besides the Superintendance and Regulation of the Fisheries of the Island of Newfoundland and the Coast of Labrador, you are to afford every Protection in your power to those which are carried on in the Gulph of S^t Lawrence within the Limits of your Command, & also upon the Islands in that Gulph, and to take particular care that the Sea Cow Fisheries which have been or may be established on the Islands of Madelaine &c. by His Majesty's Subjects, be not disturbed by the Crews of any Ships or Vessels whatever destroying those Animals in the water, or by any means deterring them from the usual places of landing; disposing of some of the Ships or Vessels under your Command in such manner as shall best serve for that purpose, without prejudice to the more material parts of the important Service committed to your Care.

11th

And in order that these Services may be more effectually performed, you are to assign to the several Ships and Vessels under your Command such Stations on the Coast of Newfoundland and Labrador, including the Islands of Madelaine in the Gulph of S^t Lawrence as shall be most proper; giving to their respective Comm^{rs} full and clear Instructions on the several points herein beforemention'd conformable to the foregoing Articles of these Our Instructions to yourself, and directing them also very carefully to visit the several Coasts, Harbours & Fishing Grounds within the Limits of their

p. 586

respective Stations: And you are yourself (if practicable) to visit such parts of the said Coasts &c. as your necessary Attention to the other Branches of your Duty will admit of in the course of the Season, that you may compare the Reports made to you with your own Observations before you transmit them to Us.

12th

When the early Trade shall be ready about the latter end of August, you are to order the Commander of one of the Frigates to take them under his Care, and, repairing off Cape Finisterre, to leave those bound to the Ports on the North Coast of Spain, and proceed off the Coast of Portugal with the rest, calling at Lisbon, where he is to remain not exceeding ten days for such Trade as may be ready and willing to accompany him, and then proceed to England with them, repairing to Spithead, where he is to remain 'til further order; and seeing the Trade in safety as far as his way and theirs may lie together.

13th

And when the Service will admit, you are to send Home the other Ships and Vessels of your Squadron, directing their Commanders to repair to Spithead & remain there til farther order, bringing with them any Homeward bound Trade that may be ready and willing to accompany them, and seeing such Trade in safety as far as their way may lie together.

14th

By the end of October you are to take under your Convoy any Fishing Ships which may be then bound to Portugal and Spain and see them off their respective Ports, as far to the Southward as Cadiz: And, in case you shall find at that Port any Homeward bound Trade ready & willing to accompany you to England, you are to take them under your Care. And, putting to Sea with the first opportunity of Wind and Weather, proceed to Lisbon, where you are, in like manner, to take under your Care such Homeward bound Trade as may be there, and then, after a Stay not exceeding eight days at farthest, you are to leave that Port and make the best of your way with the whole of the aforesaid Trade to England, repairing to Spithead, where you are to remain until further orders, and seeing the

said Trade in safety as far as your way and theirs may lie together. In case, however, it shall be necessary or more eligible for you to send a Frigate to perform this Service, you are at liberty to do so; & to proceed yourself, directly, in the Assistance to England, with such Homeward bound Trade as may be desirous and in readiness to accompany you; repairing to Spithead, and sending to Us an Account of your Arrival and Proceedings.

But whereas the Court of Spain, in consequence of repeated Complaints, from their Ports, of a Contraband Trade being carried on by the Commanders of Foreign Ships of War, did formerly notify to the different Courts of Europe that Orders would be given for their respective Ships of War to be permitted to enter into and stay in the Ports of Spain only as they were entitled to do by Treaty; you are to give the strictest Orders to the respective Captains

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and Commanders of the Ships under your command who may be sent to the Coast of Spain, to take especial care to conform themselves, in going into and remaining in the Ports of that Kingdom, to the 16th Article of the Treaty of Peace & Commerce between Great Britain and Spain concluded at Madrid the 23^d May 1667, which has been confirmed by subsequent Treaties and by the Regulations of the Port, of which they are to inform themselves for their Government during their continuance therein: And you are to be governed, in your own Proceedings accordingly, if you shall go yourself into any of the Ports of Spain.

15th

For the better maintaining a proper Government & strict Discipline in the Squadron under your Command, We do hereby authorize and empower you to call and assemble Courts Martial in Foreign Parts as often as you shall see occasion: And whereas Commanders in Chief of Squadrons of His Majesty's Ships in Foreign Parts have, sometimes, neglected to hold Courts Martial for enquiring into the occasion of the Loss of H.M. Ships when such misfortunes have happen'd, whereby the Crown has been put to an unnecessary Expense & the Officers and Companies to great Inconvenience by being kept out of their Wages; You are, in case of such an Accident, to cause a Court Martial to be assembled, as soon afterwards as possible, to try the Officers and Company for the same and to transmit to Our Secretary the Proceedings and Judgement thereupon by the first Conveyance afterwards.

But you are most strictly charged and enjoin'd not to permit, or suffer, any Lieutenant acting as a Commander of any Ship, Sloop or Vessel, to assist at, or compose a part of such Court Martial, the twelve Judges of England having, upon a Question refer'd to them by His Majesty's Order in Council of the 2^d of September 1791, given it as their opinion, that Persons, under those Circumstances, are not Commanders within the Meaning of the Act of the 22^d Year of the Reign of His late Majesty

King George the 2^d.

16th

You are to send, by all opportunities, to Our Secretary, for Our Information, an Account of your Proceedings relative to the Service, & such Intelligence as you may have collected proper for Our knowledge: And you are, moreover, upon your return to England, to transmit to Our Secretary, to be laid before Us, a Journal of your Proceedings with the Squadron under your Command, or any part thereof, and of the Services upon which you may send any of the Ships or Vessels, with your reasons for the same, & to note therein all such particular and remarkable Occurrences as may be proper for Our Information.

Given &c. 18th June 1792.

By Command of their Lordships,
Ph^p Stephens.
TOWNSHEND.

CHATHAM.
HOOD.
J. THO^s

ALAN GARDNER.

Privy Council
Documents

Volume II
Contents

No. 147.

[13 June, 1794.]

Newfoundland.

**ORDER OF HIS MAJESTY IN COUNCIL APPROVING
DRAFT OF INSTRUCTIONS FOR SIR JAMES
WALLACE**

Newfoundland.
Instructions for the
Governor, Sir James
Wallace—approved.

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.

P.C. 2. VOL. 140.

Extracted from Minutes of Council of 13 June 1794.

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Whereas there was this Day read at the Board a Letter from the Right Honorable Henry Dundas, one of His Majesty's principal Secretaries of State, transmitting the Draft of Instructions for Sir James Wallace Kn^t/ Governor of the Island of Newfoundland and the Islands adjacent; and it appearing that the said Draft of Instructions is drawn conformably to the Instructions given to the late Governor of the said Island. His Majesty was thereupon pleased, with the advice of His Privy Council, to approve of the said Draught of Instructions, and to order, as it is hereby ordered, that the Right Honorable Henry Dundas, one of His Majesty's principal Secretaries of State, do cause the said Instructions (which are hereunto annexed) to be prepared for His Majesty's Royal Signature.

* * * *

No. 148.

Newfoundland.

[14 June, 1794.]

COMMISSION PASSED UNDER THE GREAT SEAL OF GREAT BRITAIN APPOINTING SIR JAMES WALLACE

TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

PATENT ROLL. 34 GEO. III. PART 9. NO. 11.

Sir James Wallace Knight Governor of Newfoundland

*sic.

George the third by the Grace of God King of Great Britain France and Ireland Defender of the faith &c. To our Trusty and

Well beloved Sir James Wallace Knight Rear Admiral of the White Squadron of our fleet Greeting Whereas Wee did by our Letters Patent under our Great Seal of Great Britain bearing date at Westminster the nineteenth day of July in the thirty second year of our Reign Constitute and appoint Sir Richard King Knight (now Baronet) to be our Governor and Commander in Chief in and over our Island of Newfoundland and Islands adjacent as also of all our forts and Garrisons erected and established in our Island of Newfoundland and the Islands adjacent during our will and pleasure as by the said recited Letters Patent relation being thereunto had may more fully and at large appear Now Know you that Wee have revoked and determined and made void and by these* do revoke determine and make void the said recited Letters Patent and every Clause Article and thing therein contained And Wee reposing especial Trust and Confidence in the prudence Courage and Loyalty of you the said Sir James Wallace of our especial Grace certain knowledge and meer motion have thought fit to constitute and appoint and by these presents do constitute and appoint you the said Sir James Wallace to be our Governor and Commander in Chief in and over our said Island of Newfoundland and the Islands adjacent including the Islands of Saint Pierre and Miquelon as also of all our Sorts and Garrisons erected and established in our said Island of Newfoundland and Islands adjacent including the said Islands of Saint Pierre and Miquelon as aforesaid and Wee do hereby require and Command you to do and execute all things in due manner that shall belong to your said Command And the Trust wee have reposed in you according to the several powers and directions Granted or appointed you by this present Commission and the Instructions herewith given you or by such further powers Instructions and authorities as shall at any time hereafter be Granted

or appointed you under our Signet and Sign Manual or by order* in our Privy Council and Wee do further Give and Grant unto you the said Sir James Wallace full power and authority from time to time and at all times hereafter by yourself or by any other to be authorized by you in that behalf to administer and Give the oaths

[Then the same as in Commission to Rear Admiral Sir Richard King, ante p. 577, line 5, to page 678, line 44.]

and wee do hereby require and Command all officers Civil and Military and all other Inhabitants of our said Islands to be obedient aiding and assisting unto you in the Execution of this our Commission and of the powers and authorities herein contained and in case of your death our Will and Pleasure is that the person on whom the Command of our Ships under your Command shall devolve do take upon him the administration of the Government of our said Islands and execute this our Commission and Instructions and the several powers and authorities therein contained in the same manner to all Intents and purposes as you our said Governor and Commander in Chief might or ought to do for and during our will and pleasure And Wee do hereby declare ordain and appoint that you the said Sir James Wallace shall and may hold and enjoy the place of our Governor and Commander in Chief in and over our said Islands of Newfoundland and the said Islands adjacent including the said Islands of Saint Pierre and Miquelon as also of all our fforts and Garrisons erected and Established in our said Islands with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure In Witness &c. Witness ourself at Westminster the fourteenth day of June one thousand seven hundred and ninety four.

By Writ of Privy Seal

[20 June
1794.]**No. 149.**

Newfoundland.

**ADMIRALTY INSTRUCTIONS TO SIR JAMES
WALLACE**AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.

ADM. SEC. OUT LETTERS. VOL. 126, p. 165.

By &c.

Instructions for Sir James Wallace, Kn^t, Rear Admiral of the
White & Commander in Chief of a Squadron of His
Majesty's ships and Vessels employed and to be employed at
and about Newfoundland, the Islands of Madelaine and
Anticosti and upon the Coast of Labrador, from the River S^t
John to the Entrance of Hudson's Straits.

* * * *

[Arts. 1-4 same as Arts. 1-4 to Rear Admiral Sir Richard
King,

ante pp. [579](#), [580](#).

Art. 5 same as Art. 5 as last recital and instructions in Art. 6
to Rear Admiral Sir Richard King, ante pp. [580](#) and [581](#).

Arts. 6-9 same as Arts. 8-11 to Rear Admiral Sir Richard
King,

ante pp. [584](#), [585](#).]

10th

The Islands of S^t Pierre and Miquelon having surrendered at
discretion to His Majesty's Forces on the 14th of May 1793,
you are to take such steps as you shall think necessary for the
protection of the said Islands and for securing them in the
possession of His Majesty: And you will likewise dislodge the
French from such parts of the Island of N.^fLand as they may
continue to reside in or resort to, in consequence of the
Treaties which subsisted between His Majesty and the late
Most Christian King, and in making Capture both of them and
their Effects.

* * * *

[Art. 11 same as Art. 12, ante p. [586](#) omitting the words
"about

the latter end of August."

Arts. 12-14 and 16 same as Arts. 13-15 & 16, ante pp. [586](#),
[587](#).

Art. 15 same as Art. 18 to Rear Admiral Robert Duff, ante p.
[504](#).]

Given &c. 20th June 1794.

By Command of their Lordships.
P. S.

ARDEN.
P. AFFLECK.
C. MIDDLETON.
Copy.

No. 150.

[3 May, 1797.]

Newfoundland.

Newfoundland.
Commission &
Instructions for
Governor
Waldegrave —
approved.**ORDER OF HIS MAJESTY IN COUNCIL APPROVING
DRAFTS OF A COMMISSION AND INSTRUCTIONS
FOR WILLIAM WALDEGRAVE**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.

P.C. 2. VOL. 148, p. 290.

Extracted from Minutes of Council of 3 May 1797.

* * * *

Whereas there was this Day read at the Board, a Letter from His Grace The Duke of Portland, One of His Majesty's principal Secretaries of State, to the Lord president of the Council, transmitting the Draught of a Commission appointing The Honorable William Waldegrave, Vice Admiral of the Blue Squadron of His Majesty's Fleet, to be Governor and Commander in Chief of the Island of Newfoundland and the Islands adjacent, in the room of Vice Admiral Sir James Wallace; and also transmitting the Draught of Instructions proposed to be given to the said Governor; And it appearing that the said Draughts are drawn precisely similar to those given to the said late Governor; His Majesty having taken the same into Consideration, was pleased, with the Advice of His privy Council, to approve of the said Draughts of Commission and Instructions, and to Order, as it is hereby Ordered That His Grace the Duke of Portland, One of His Majesty's principal Secretaries of State, do cause a Warrant to be prepared for His Majesty's Royal Signature, for passing a Commission conformably to the said Draught (which is hereunto annexed) under the Great Seal of Great Britain, and that His Grace do prepare the said Instructions (which are hereunto also annexed) for His Majesty's Royal Signature.

* * * *

No. 151.

Newfoundland.

[16 May, 1797.]

COMMISSION PASSED UNDER THE GREAT SEAL OF GREAT BRITAIN APPOINTING WILLIAM WALDEGRAVE

TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

PATENT ROLL. 37 GEO. III. PART 9. No. 12.

Honorable William Waldegrave Governor of Newfoundland } George the Third by the Grace of God King of Great Britain France and Ireland Defender of the Faith &c. To Our Trusty and Welbeloved William Waldegrave Esquire Vice Admiral of the Blue Squadron of Our Fleet Greeting Whereas Wee did by Our Letters Patent under Our Great Seal of Great Britain bearing date at Westminster the fourteenth day of June in the thirty fourth Year of Our Reign constitute and appoint Sir James Wallace Knight Rear Admiral of the White now Vice Admiral of the White Squadron of Our Fleet to be Our Governor and Commander in Chief in And over Our Island of Newfoundland and Islands adjacent including the Islands of St Pierre and Miquelon as also of all Our Forts and Garrisons erected and established in Our Island of Newfoundland and the Islands adjacent including the Islands of St Pierre and Miquelon during Our Will and Pleasure as by the said Letters Patent relation being thereunto had may more fully and at large appear Now know You that Wee have revoked and determined and made void And by these Presents Do revoke determine and make void the said recited Letters Patent and every Clause Article and Thing therein contained And Wee reposing especial Trust and Confidence in the Prudence Courage and Loyalty of You the said William Waldegrave Of Our especial Grace certain Knowledge and meer Motion Have thought fit to constitute and appoint And by these Presents Do constitute and appoint You the said William Waldegrave to be Our Governor and Commander in Chief in and over Our said Island of Newfoundland and the Islands adjacent including the Islands of Saint Pierre and Miquelon as also of all Our Forts and Garrisons erected and established in Our said Island of Newfoundland and Islands adjacent including the said Islands of St Pierre and Miquelon as aforesaid And Wee do hereby require and command you to do and execute all things in due manner that shall belong to your said Command and the Trust Wee have reposed in you according to the several

Powers and Directions granted or appointed You by this present Commission and the instructions herewith given You or by such further Powers Instructions and Authorities as shall at any time hereafter be granted or appointed you under Our Signet and Sign Manual or by Order in Our Privy Council And Wee do further give and grant unto You the said William Waldegrave full Power and Authority from time to time and at all times hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the Oaths

[Then same as in Commission to Rear Admiral Sir Richard King, ante p. 576 line 5, to p. 577 line 44.]

And Wee do hereby require and command all Officers Civil and Military and all other Inhabitants of Our said Islands to be obedient aiding and assisting unto you in the execution of this Our Commission and of the Powers and Authorities herein contained And in case of your death Our Will and Pleasure is that the Person on whom the Command of Our Ships under your Command shall devolve do take upon him the administration of the Government of Our said Islands and execute this Our said Commission and Instructions and the several Powers and Authorities therein contained in the same manner to all Intents and Purposes as You Our said Governor and Commander in Chief might or ought to do for and during Our Will and Pleasure And Wee do hereby declare ordain and appoint that You the said William Waldegrave shall and may hold and enjoy the Place of Our Governor and Commander in Chief in and over Our said Islands of Newfoundland and the said Islands adjacent including the Islands of Saint Pierre and Miquelon as also of all Our fforts and Garrisons erected and established in Our said Islands with all and singular the Powers and Authorities hereby granted unto You for and during Our Will and Pleasure In Witness &c. Witness &c. the sixteenth day of May in the thirty seventh Year of Our Reign.

By Writ of Privy Seal.

[23 May,
1797.]**No. 152.**

Newfoundland.

**ADMIRALTY INSTRUCTIONS TO VICE ADMIRAL
WALDEGRAVE**AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.

ADM. SEC. 2. VOL. 133.

Instructions for the Honble William Waldegrave, Vice Admiral of the Blue, and Commander in Chief of a Squadron of His Majesty's Ships and Vessels employed and to be employed at and about Newfoundland, the Islands of Madelaine and Anticosti, and upon the Coast of Labrador, from the River S^t John to the Entrance of Hudson's Straits.

1st

Whereas you have received the King's Commission appointing you Governor and Commander in Chief in and over the Island of Newfoundland, and of the Islands of Madelaine in the Gulph of S^t Lawrence and of all the Forts and Garrisons erected and established in the said Islands, and also His Majesty's Instructions for Your Government therein, You are to take particular care to act in all respects conformably to what is required by the said Commission &c. (same as to Rear Admiral Sir James Wallace Kn^t Order Book N^o 125, page 165). [ante p. 591]

[Arts. 2-9 same as Arts. 2-9 to Rear Admiral Sir James Wallace, ante p. 591]

10th

The Islands of S^t Pierre and Miquilon having surrendered at discretion to His Majesty's Forces on the 14th of May 1793, you are to take such steps as you shall think necessary for the protection of the said Islands and for securing them in the possession of His Majesty.

11th

When the early Trade shall be ready You are to Order the Commander of one of the Frigates at such time as from Circumstances you may judge most proper to take them under his Care and proceed with them off the Coast of Portugal, calling at Lisbon where he is to remain not exceeding ten days for such Trade as may be ready and willing to accompany him and then proceed to England with them, repairing to Spithead

where he is to remain 'til further Order, and/seeing the Trade in safety as far as his way and theirs may lie together.

p. 596

12th

And when the Service will admit, you are to send home the other Ships and Vessels of your Squadron &c. &c. (same as to Rear Admiral Sir James Wallace). [ante p. 591]

13th

By the end of October you are to take under your Convoy any Fishing Ships which may be then bound to Portugal and to see them off their respective Ports: And in case you shall find at Lisbon or Oporto any homeward bound Trade ready and willing to accompany you to England, you are to take them under your Care, and after a stay not exceeding eight days at one or other of those ports, you are to put to Sea and make the best of your way with the aforesaid Trade to England, repairing to Spithead where you are to remain until further Orders, and seeing the said Trade in safety as far as your way and theirs may lie together. In case however it shall be necessary or more eligible for you to send a Frigate to perform this Service, you are at liberty to do so, and to proceed yourself directly in the Romney to England with such Homeward bound Trade as may be desirous and in readiness to accompany you, repairing to Spithead and sending to us an Account of your arrival and proceedings.

14th

You are to send by all opportunities to our Secretary an account of your proceedings relative to the service &c. &c. (same as the 16th Article to Rear Admiral Sir James Wallace). [ante p. 592]

Given &c. 23rd May 1797.

SPENCER
J. GAMBIER
W. YOUNG.

By &c.
E. N.

No. 153.

[21 May, 1800.]

Newfoundland.

**ORDER OF HIS MAJESTY IN COUNCIL APPROVING
DRAFT OF A COMMISSION AND INSTRUCTIONS
FOR CHARLES MORRICE POLE**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.p. 668.
Newfoundland.
Commission and
Instructions for
Charles Morice Pole
Esq^{re} Governor
Approved.

P.C. 2. VOL. 154.

[Extracted from Minutes of Privy Council of 21 May 1800.]

Whereas there was this Day read at the Board a Letter from His Grace the Duke of Portland, one of His Majesty's principal Secretaries of State, to the Lord President of the Council, transmitting the Draught of a Commission appointing Charles Morrice Pole Esquire, Rear Admiral of the Red Squadron of His Majesty's Fleet, to be Governor and Commander in Chief of the Island of Newfoundland and the Islands adjacent, in the room of Vice Admiral The Honorable William Waldegrave; and also transmitting the Draught of Instructions proposed to be given to idle said Governor; And it appearing that the said Draughts are precisely similar to those given to the said late Governor; His Majesty having taken the same into Consideration, was pleased, with the Advice of His Privy Council, to approve of the said Draughts of Commission and Instructions, and to order, as it is hereby Ordered, That His Grace the Duke of Portland, One of His Majesty's principal Secretaries of State, do cause a Warrant to be prepared for His Majesty's Royal Signature for passing a Commission conformably to the said Draught (which is hereunto annexed) under the Great Seal of Great Britain and that His Grace do prepare the said Instructions (which are hereunto also annexed) for His Majesty's Royal Signature.

No. 154.

Newfoundland.

[24 May,
1800.]**ADMIRALTY INSTRUCTIONS TO REAR-ADMIRAL
POLE**AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.

ADM. SEC. 2. VOL. 139.

By &c.

Instructions for Charles Morrice Pole Esq^r Rear Admiral of the Red and Commander in Chief of a Squadron of His Majesty's Ships and Vessels employed and to be employed and to be employed at and about Newfoundland, the Islands of Madelaine and Anticosti & upon the Coast of Labrador from the River S^t John to the Entrance of Hudson's Straits.

1st

Whereas you have received the King's Commission appointing you Governor and Commander in Chief in and over the Island of Newfoundland, and of the Islands of Madelaine in the Gulph of S^t Lawrence and of all the Forts and Garrisons erected and established in the said Islands and also His Majesty's Instructions for your Government therein, You are to take particular care to act in all respects conformably to what is required by the said Commission &c. (same as to Rear Admiral Sir James Wallace Kn^t Order Book N^o 125, page 165).

[Arts. 2-9 same as Arts. 2-9 to Rear-Admiral Sir James Wallace, ante p. 591]

10th

The Islands of S^t Pierre and Miquilon having surrendered at discretion to His Majesty's Forces on the 14 May, 1790, you are to take such steps as you shall think necessary for the protection of the said Islands and for securing them in the possession of His Majesty.

11th

When the early Trade shall be ready, you are to order the Commander of one of the Frigates at such time as from Circumstances you may judge most proper to take them under his care and proceed with them off the Coast of Portugal, calling at Lisbon, where he is to remain, not exceeding ten days,

for such Trade as may be ready and willing to accompany him, and then proceed to England with them, repairing to Spithead where he is to remain til further order, and seeing The Trade in safety as far as his way & theirs may lie together.

12th

And when the service will admit you are to send home the other Ships and Vessels of your Squadron &c. &c. (same as to Rear Admiral Sir James Wallace) [ante p. 592].

13th

By the end of October you are to take under your Convoy any Fishing Ships which may be then bound to Portugal and see them off their respective Ports; and in case you shall find at Lisbon or Oporto any Homeward bound Trade ready and willing to accompany you to England, you are to take under your care, and after a stay not exceeding eight days at one or other of those Ports you are to put to sea and make the best of your way with the aforesaid Trade to England, repairing to Spithead where you are to remain until farther orders and seeing the said Trade in safety, as far as your way and theirs may lie together: In case however it shall be necessary or more eligible for you to send a Frigate to perform this service you are at liberty to do so, and to proceed yourself directly in the Agincourt to England with such Homeward bound Trade as may be desirous and in readiness to accompany you, repairing to Spithead and sending to us an account of your arrival & proceedings.

14th

You are to send by all opportunities to our Secretary an account of your proceedings relative to the service &c. (same as to Sir James Wallace) [ante p. 591].

Given &c. the 24th May, 1800.

By &c.
E. N.

J. GAMBIER.
T. WALLACE.
R. MANE.

No. 155.[6 April,
1802.]

Newfoundland.

**LETTER, THE LORDS COMMISSIONERS OF THE
ADMIRALTY TO THE RIGHT HON. LORD PELHAM,
REQUESTING HIS MAJESTY'S COMMISSION FOR
JAMES GAMBIER**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.

COR : NEWFOUNDLD. VOL. 20.

Admiralty Office 6th April 1802.

My Lord,

Having appointed James Gambier Esq^r Vice Admiral of the White, to be Commander in Chief of His Majesty's Ships and Vessels employed and to be employed at and about Newfoundland, the Islands of Madelaine and Anticosti, and upon the Coast of Labrador, from the River S^t John to the entrance of Hudson's Straits, in the room of Vice Admiral Sir Charles Morice Pole Bar^t; We desire your Lordship will please to obtain His Majesty's Commission for him to be Governor of Newfoundland &c. in the same manner as hath been granted to former Commanders in Chief upon that Station, and also to signify to Us/His Majesty's pleasure whether the Instructions that are preparing for Vice Admiral Gambier, should in any respect be altered from those under which Vice Admiral Sir Charles Morice Pole sailed last year.

We are,
Your Lordship's
most humble Servants,
PHP. STEPHENS
T. TROUBRIDGE
J. MARKHAM.

Right Hon^{ble} Lord Pelham
&c. &c. &c.

Endorsed:

Admiralty 6th April 1802.
The Lords Commissioners.

Re
Apply for Commission of Gov^r of Nfdld for Vice Adl
Gambier.

No. 156.

Newfoundland.

[27 May, 1802.]

COMMISSION PASSED UNDER THE GREAT SEAL OF GREAT BRITAIN APPOINTING JAMES GAMBIER

TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

PATENT ROLL. 42 GEO. III. PART 10. N° 15.

James Gambier Esquire Governor of Newfoundland	}	George the Third by the Grace of God of the United Kingdom of Great Britain and Ireland King Defender of the ffaith To our
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Trusty and welbeloved James Gambier Esquire Vice Admiral of the White Squadron of our fleet Greeting Whereas we did by our Letters patent under our Great Seal of Great Britain bearing date at Westminster the third day of June in the fortieth year of our reign constitute and appoint Charles Maurice Pole Esquire to be our Governor and Commander in Chief in and over our Island of Newfoundland and Islands adjacent as also of all forts and Garrisons erected and established or that should be erected and established thereon for and during our will and pleasure as by the said Letters patent relation being thereunto had may more fully and at large appear Now know You that we have revoked and determined and made void and by these presents do revoke determine and make void the said recited Letters patent and every Clause Article and Thing therein contained And we reposing especial trust and confidence in the prudence courage and loyalty of you the said James Gambier of our especial Grace certain knowledge and meer motion have thought fit to constitute and appoint and by these presents do constitute and appoint you the said James Gambier to be our Governor and Commander in Chief in and over our said Island of Newfoundland and the Islands adjacent and also of all our fforts and Garrisons erected and established in our said Island of Newfoundland and the Islands adjacent as aforesaid during our will and pleasure And we do hereby require and command you to do and execute all things in due manner that shall belong to your said Command and the trust we have reposed in you according to the several powers and directions granted or appointed you by this present Commission and the Instructions herewith given you or by such further powers Instructions and authorities as shall at any time hereafter be granted or appointed you under our signet

and sign manual or by our order in our privy Council And we do further Give and Grant unto you the said James Gambier full power and authority from time to time and at all times hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the Oaths.

[Then same as in Commission to Rear Admiral Sir Richard King, ante p. 576, line 5, to, page 577, line 44.]

And we do hereby require and command all Officers Civil and Military and all other Inhabitants of our said Islands to be obedient aiding and assisting unto you in the Execution of this our Commission and of the powers and authorities herein contained and in Case of your Death our will and pleasure is that the person upon whom the Command of our Ships under your Command shall devolve do take upon him the administration of the Government of the said Islands and execute this our said Commission and Instructions and the several powers and authorities therein contained in the same manner to all intents and purposes as you our said Governor and Commander in Chief might or ought to do for and during our will and pleasure and we do hereby declare ordain and appoint that you the said James Gambier shall and may hold and enjoy the place of our Governor and Commander in Chief in and over our said Island of Newfoundland and the Islands adjacent and also of all our forts and Garrisons erected and established or that shall be erected or established in our said Islands with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure In witness etc: Witness etc: the twenty seventh day of May.

By Writ of Privy Seal

[27 May,
1802.]George **No. 157.**

Newfoundland.

**INSTRUCTIONS PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET FOR JAMES GAMBIER**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.

C.O. 195. VOL. 16,

Instructions to Our Trusty and Welbeloved James Gambier Esquire Vice Admiral of the White Squadron of Our Fleet Our Governor and Commander in Chief in and over Our Island of Newfoundland in America and the Islands adjacent as also of all Our Forts and Garrisons erected and established or that shall be erected and established in Our said Island of Newfoundland and the Islands adjacent Given at Our Court at Saint James's the 27th day of May 1802 in the Forty second Year of Our Reign.

First. With these Our Instructions you will receive Our Commission under Our Great Seal of Our United Kingdom of Great Britain and Ireland constituting you Our Governor and Commander in Chief in and over Our Island of Newfoundland in America and the Islands adjacent And also of all Our Forts and Garrisons erected and established or which shall be erected and established in Our said Islands with directions to obey & follow such Orders and Instructions as shall from time to time be given you under Our Signet and Sign Manual or by Our Order in Council You are therefore to prepare yourself with all convenient speed and to repair to your said Command and being there arrived you are to take upon you the execution of the Office and Trust which We have reposed in you and as soon as conveniently may be you are to assemble the principal Inhabitants of the said Island of Newfoundland and such other of the Islands under your Command as you shall judge expedient and with all due Solemnity you are to cause Our said Commission constituting you our Governor and Commander in Chief as aforesaid to be read and published at such Meeting.

2^d It is Our Will and Pleasure that you do from time to time as the nature of the Service will allow visit all the Coasts and Harbours of the Islands under your Government You shall also procure accurate Drafts or Maps of the said several Harbours Bays and Coasts if the same have not been already

obtained and in case you cannot visit all the said Coasts and Harbours you are to give directions to the Officers under your Command for the purposes before mentioned and you are to report to Us through One of Our Principal Secretaries of State the condition of the said Forts and whether it may be necessary to erect any new Forts or Posts in the Islands under your Command You are also to transmit to the Master General of Our Ordnance an account of the Arms Ammunition & Stores in Our said Forts and you are to follow such Directions in this respect as you shall receive from Our said Master General of the Ordnance.

3^d You are to be particularly careful to carry into execution the several Provisions of the Acts passed in the 10th and 11th of William 3^d and in the 15th 26th 28th and 33^d Years of Our Reign respecting Our Island of Newfoundland and the Right of fishing and drying or curing Fish there as well as of divers subsequent Acts of Parliament for continuing the said last mentioned Act And to see that all the regulations of the said Acts are strictly complied with And you are likewise to enforce the Provisions of all Acts of Parliament for encouraging the Shipping Navigation and Trade of Our Dominions and to prevent all Evasions and Frauds contrary to the same and you are not to suffer any Foreigners whatever to fish or dry or cure any Fish on any of the Coasts or Shores within your Government except in cases in which the Subjects of any foreign Power are entitled by Treaty to fish or dry or cure Fish there.

4th And Whereas by the 15th Article of the Treaty of Peace concluded at Amiens on the 27th of March last, between Us and the French Republic His Catholic Majesty and the Batavian Republic it was stipulated that the Fisheries on the Coast of Newfoundland and the adjacent Islands and the Gulph of Saint Lawrence should be replaced on the same footing on which they were previous to the War and that the French Fishermen and the Inhabitants of S^t Pierre and Miquelon shall have the privilege of cutting such Wood as they may stand in need of in the Bays of Fortune & Despair for the space of One Year from the date of the Notification of the said Treaty And Whereas by the 4th Article of the Treaty of Peace concluded at Versailles on the 3^d of September 1783 between Us and His Most Christian Majesty It was stipulated that We should preserve in full Right the Island of Newfoundland and the adjacent Islands in the same manner as the whole was ceded to Great Britain by the 13th Article of the Treaty of Utrecht with the exception of the Islands of S^t Pierre and Miquelon which by the 4th Article of the said Treaty of Versailles We agreed to cede in full right to His most Christian Majesty and the right of Fishing preserved to His Most Christian Majesty by the said Treaty of Utrecht being now allowed to commence at Cape S^t John on the East Coast of Newfoundland and going round by the North and down the Western Coast of the said Island of Newfoundland to be bounden by Cape Raye It is Our Will and Pleasure that

upon every occasion you do take particular care that the Citizens of the French Republic have full and ample enjoyment of the Fishery within the limits and boundaries

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assigned to them as aforesaid in the manner they are entitled to enjoy the same under the said Treaty of Utrecht And for this purpose you are to give positive Orders and Injunctions to all Officers and others under your Command that they do not in the several Stations and as far as depends upon each of them respectively permit or allow that any obstructions or interruptions be upon any pretence given to the Citizens of the French Republic in the enjoyment of the said Fishery as it is allowed to them by the Treaties before mentioned within the limits before described But that they do give them all reasonable countenance therein You are nevertheless to take due care that no French Citizen be permitted to reside or remain in any part whatever of the said Island of Newfoundland after the Fishing Season is over and during the Winter And also that none of Our Subjects be allowed to take charge of preserve or prepare any Boat Stage Flake or Erection whatever for the purpose of the fishing on account or for the use of any Citizen of the French Republic for the ensuing Fishing Season And We do further especially direct that you do not allow any of the Citizens of the French Republic to cut down and carry off any Wood or Timber from Our said Island of Newfoundland and Islands adjacent for any purpose whatever save and except in the Bays of Fortune and Despair in which you are to take especial Care that they shall enjoy the Privilege of cutting such Wood as they may stand in need of for the space of One Year only from the date of the Notification of the afore mentioned Treaty of Amiens being the 26th day of April last unless Our Will and Pleasure therein shall in that respect be duly signified to you allowing them however to cut any Wood necessary for repairing upon the Spot their Scaffolds Huts and Fishing Vessels And further if it shall happen that any of Our Subjects shall in any wise act contrary to the true intent and meaning of the Stipulations made by the Treaty of Versailles or the Treaty of Utrecht as aforesaid And the Citizens of the French Republic shall in that respect have just cause for Complaint you are immediately to remove the same by granting them due redress and exercising the Authority vested in you by Our Commission and these Our Instructions or by any Act of Parliament in force for that purpose You are nevertheless to take due care that no Officer or Citizen of the French Republic do exercise any act of Authority upon Our Island of Newfoundland or the adjacent Islands or the Coasts thereof in Derogation of Our Sovereignty over the same but that in every Case of just Complaint or their parts they do apply to you or Our Officers in Command under you for redress.

5th And Whereas the better to enable Us to oblige Our

Subjects in repairing to Newfoundland for the purpose of carrying on the Fishery to conform to the conditions of the said Treaty of 1783 and of the Declaratin made by Our Ambassador Extraordinary on the exchange of the Ratification of the said Treaty an Act was passed in the 28th Year of Our Reign (Cap: 35) Intituled "An Act to enable His Majesty to make such Regulations as may be necessary to prevent the inconvenience which might arise from a competition of His Majesty's Subjects and those of The most Christian King"

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"in carrying on the Fishery on the Coast of the Island of Newfoundland" And Whereas We are desirous to fulfil with the utmost good faith and punctuallity the Conditions of the said Treaty and Declaration and for that purpose to take the most positive measures for preventing Our Subjects from interrupting in any manner the Fishery of the French during the temporary exercise of it granted to them upon the Coasts of the said Island and thereby to remove all occasions of daily Quarrels between the Fishermen of the two Nations It is Our Royal Will and Pleasure and We do hereby Direct you in pursuance of the Powers vested in Us by the said Act immediately after your arrival upon the Coasts of the said Island to give Notice to all Our Subjects resorting thereto that they are not to interrupt in any manner by their competition the aforesaid Fishery of the Citizens of the French Republic on the Coasts of the said Island within the limits assigned to them by the said Treaty & during the temporary exercise thereof which is thereby granted to them but to depart from within the said limits And in case any of Our Subjects after such Notice has been given shall refuse to depart within a reasonable time It is Our further Will and Pleasure that you do instruct the Officers under your Orders who may be dispatched to that part of the Coasts of the said Island to cause any Stages Flakes Train Fatts or other Works whatever erected by them for the purpose of carrying on the said Fishery to be removed And also all Ships Vessels and Boats belonging to them which shall be found within the limits aforesaid And to use such means as may be found necessary for compelling them to depart from that part of the Coasts of the said Island And also to cause them to be prosecuted in the Courts of Law for such their refusal in the manner which the Act before mentioned particularly directs It is Our further Will and Pleasure that you do enjoin the Commanders of such of the Ships of Our Squadron under your Orders as may be employed within the limits assigned to the Citizens of the French Republic upon the Coasts of the said Island to be particularly attentive to their proceedings And in Case they shall at any time discover that any of the Citizens of the French Republic shall be employed in carrying on their Fishery at more than the distance of half a mile above the entrance or mouth of any River or shall in any manner employ themselves except for the purpose of cutting Wood for building their Scaffolds and for repairing their Fishing Vessels

as allowed by the said Treaty and the Treaty of Amiens hereinbeforementioned to order them forthwith to desist from pursuing the same And in case they shall refuse a compliance with such Orders the Officers employed on this Service are to seize and retain their Nets and other Implements and to make a special Report thereof to you that the matter may be communicated to Us through One of Our Principal Secretaries of State It is also Our Will and Pleasure that one or more of the Ships of the Squadron under your Orders should repair to the several parts which shall have been occupied by the Citizens of the French Republic within the limits assigned to them by the said Treaty after the Season for their exercising the Fishery shall be over And in Case they shall find that any of the Citizens of the French Republic remain upon any of the said Islands contrary to the said Treaty of Peace they are to bring

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them to you But if you shall have left your Station then to Great Britain together with any Nets or Implements seized as aforesaid where upon their arrival further Instructions will be given concerning them And you are to direct the Captains of Our Ships of War under your Command whenever they shall visit the French Fisheries either upon the Coast of Newfoundland or on the Great Banks thereof to collect as accurate an account of the said Fisheries as possible noting the number of Vessels Boats and Men employed and Quantities of Fish and Oil taken distinguishing whether such Fish be cured wet or dry and making such other Remarks as to their manner of carrying on the Fishery as may be necessary to enable you to report to Us a true state of the said French Fisheries You are also to direct the said Captains of Our Ships of War to obtain the best account of the number and force of the Ships of War belonging to the French Republic employed in the protection of the said Fisheries all which circumstances you are to report to Us through One of Our Principal Secretaries of State.

6th And Whereas by the 3^d Article of the Definitive Treaty of Peace between Us and the United States of America concluded at Paris the 3^d day of September 1783 the People of the said United States were allowed to continue to enjoy unmolested the right to take fish of every kind on the Grand Bank and on all the other Banks of Newfoundland also in the Gulph of St^e Lawrence and at all other places in the Sea where the Inhabitants of both Countries used at any time theretofore to fish And also that the Inhabitants of the said United States should have liberty to take Fish of every kind on such part of the Coast of Newfoundland as British Fishermen should use (but not to dry or cure the same on that Island) and also on the Coasts Bays and Creeks of all other Our Dominions in America and that the American Fishermen should have liberty to dry and cure Fish in any of the unsettled Bays Harbours and Creeks of Nova Scotia Magdalen Islands on the Coast of Labrador so long as the same shall remain unsettled But as

soon as the same or either of them should be settled it should not be lawful for the said Fishermen to dry or cure Fish at such Settlements without a previous Agreement for that purpose with the Inhabitants Proprietors or Possessors of the Ground It is Our Will and Pleasure that you do take due care that the People of the United States of America shall fully and amply enjoy every right of fishing drying and curing of Fish allowed them by the said 3^d Article of the Treaty above recited not allowing them however to dry or cure their Fish on Our Island of Newfoundland or in any Bay Harbour or Creek of any other part of your Government which is settled And you are on every occasion to exact and require a full and specific performance of the said Treaty on their parts within the limits of your Government.

7th And Whereas it hath been represented to Us that divers of Our Subjects have upon various unwarrantable pretences and under pretended Grants or Permissions given by former Governors of Our Island of Newfoundland possessed them of and claim as their private Property large tracts of Land and Beaches commodious for the Fishery upon the Coasts and within;

the several Harbours and Rivers of the said Island and the Islands adjacent contrary to Law in order therefore to prevent such unwarrantable practices in future It is Our Will and Pleasure that you do not upon any pretence whatever allow any Person or Persons to take as private Property any Lands or Rivers or parts thereof on the Island of Newfoundland or the Coasts thereof or on the Islands adjacent And you are to take care that the Ancient Ship Rooms and Fishing Rooms do continue under the Provisions of Statutes of 10th and 11th William the 3^d Cap: 25 for the encouragement of New Adventurers that they may be sure of finding proper and convenient places for curing salting drying and husbanding their Fish whenever they resort thither It is Our further Will and Pleasure that the remaining Shores of Newfoundland shall be held by such of Our Subjects resorting thither from Our Dominions in Europe as shall first arrive and take possession of the same for the like purpose of carrying on the Fishery in proportion to the number of Ships and Boats they shall employ and they shall continue to hold the same in the like manner and for the like purpose so long as they shall carry on their fishing there But in case they shall neglect so to carry on the Fishery for One entire Season such Shores or parts thereof as shall be neglected or deserted by such Possessors shall be held for the like purpose and in like manner, by any of Our Subjects resorting thither from Our Dominions in Europe who shall first occupy the same for the purpose of carrying on the Fishery And you are to put and maintain such Persons in possession thereof And you are not to allow or suffer any Buildings to be erected (except Fishing Stages Cook Rooms Ship Rooms and Flakes or such Erections as shall be absolutely necessary for curing salting drying and husbanding Fish) within Two hundred Yards* distance from high Water mark And you are not to allow any possession as private property to be taken of or any right of Property whatever acknowledged in any Land whatever even beyond that distance It is Our further Will and Pleasure nevertheless that all and any Buildings Erections Wharfs Slips or Fences already erected may remain provided the same are not erected and built upon Ancient Ship Rooms And provided they are not in your judgment considered to be nuisances and detrimental to the interests of the Fishery in general But in case they shall clearly appear to you to be so you shall cause the same to be removed giving due and reasonable notice to the Parties claiming or pretending any interest therein if upon the Spot or to the Persons in possession and occupation thereof and putting the said Parties or Persons to as little inconvenience as the case will admit if such Parties or Persons do not cause to remove the same in due time after such Notice is given.

8th And Whereas it has also been represented to Us that divers of Our Subjects residing in Newfoundland Sell

Mortgage and Lease for considerable Sums Houses Lands Fishing Stages Cook Rooms and Flakes of which they have been in possession as if they had an exclusive and Indefeasible Title therein contrary to the Intention of Us and Our Predecessors contrary to the Laws made for preventing the same* Now in order that We may be

*These words are underlined in the original document.

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better informed concerning the Premises and that We may be able to determine what measures in this respect shall be pursued in future It is Our Will & Pleasure that you in conjunction with Our Chief Justice of the said Island do cause such enquiry to be made as you and he shall judge most proper (but in such a manner as not to create unnecessary alarm) for ascertaining the pretended Titles and Claims under which such Property is held the length of time the present Possessors or those under whom they claim have enjoyed the same and the nature extent supposed Rent & Value of such Property And you are further to enquire whether it has ever been ascertained in the several Harbours of Newfoundland what fishing places did belong to the fishing ships before the Year 1685 And whether any account is kept of those fishing places that have been possessed since that Year in order to prevent the disputes that may otherwise happen between the Masters of Ships and the Inhabitants And whether there is any want of convenient places unoccupied on the Beach or Shores of Newfoundland fit for the purpose of carrying on the Fishery by the Adventurers who may arrive from His Majesty's European Dominions And whether the Fishing Admirals and others discharge their duty according to the Provisions of Statute 10 and 11 William 3 Cap. 25.

9th You are not to permit or allow any of Our Officers or Soldiers or other Persons whatsoever belonging to the Garrisons within your Government to engage or be any way concerned or employed directly or indirectly in any Branch of the Fisheries carried on within your Government or to take up for themselves any Beaches Stages or Cook Rooms upon any pretence whatever or in any way to interrupt the Fishermen in catching drying or curing their Fish And if any such Officers Soldiers or other Persons shall act in contradiction to this Our Instruction you are to report the same to Us through One of Our Principal Secretaries of State that such Persons may be made sensible of Our highest Displeasure.

10th And Whereas it is of great importance to the prosperity and extension of the Fishery that the Fish caught by Our Subjects should be properly cured and fitted for Sale at the Foreign Markets You are therefore to command the Admirals of the Harbours strictly to enjoin the Masters of the Fishing Ships the Bye Boat Keepers and Inhabitants to take the greatest care in curing their Fish with, good Salt and with a

proper and sufficient quantity and in preparing husbanding and ordering the same that the credit thereof may be maintained and augmented in the several places to which it is carried for Sale And you are to require the said Admirals to report to you the Names of those who will not comply with this Admonition And further you are upon this occasion very particularly to enquire into their manner and method of taking and curing their Fish what quantity of Salt they allow for the curing of every hundred Quintals whether they are guilty of any abuse in the ordering thereof And whether any improvements can be made in any of the foregoing particulars And whether the Fish taken at a distance from the Land by their small Vessels is not damaged before it is brought on Shore and whether in the Seal of their Fish to those who are to carry it to the Foreign

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Market experienced Cullers are employed in ascertaining the good quality thereof and whether the Sack Ships jealous of each other and contriving who shall carry their Fish first to Market do not frequently ship it before it is cured whereby it suffers in the passage. And lastly whether the Inhabitants the Masters of the Sack Ships or Fishing Ships or the Bye Boat Keepers are most to be blamed in whatever is amiss and what methods are to be taken to prevent or rectify the same.

11th And Whereas the Salmon Fishery carried on in different parts of Our Island of Newfoundland has already proved of great advantage to Our Kingdoms and We have reason to suppose that there is at present a great demand for Salmon properly cured in the Foreign Markets particularly in several of the Ports of Italy You are therefore to give all due encouragement and protection to Our Subjects concerned in the said Salmon Fishery taking care that none of the places where the said Salmon are caught be improperly monopolized contrary to Our Intentions expressed in the foregoing Instructions with respect to the Fisheries in general And you are to inform yourself of the actual state of this Salmon Fishery and how far the same may be properly extended and improved.

12th You are further to enquire whether any Whale Fishery Sea Cow Fishery or Seal Fishery is or can be carried on in the Seas within your Government or adjacent thereto and how far the same can be extended and improved.

13th You are to use your best endeavours to encourage a Trade with the Indians residing within Our Island of Newfoundland or resorting thither And you are to use your best endeavours to conciliate their affections so as to induce them to trade with Our Subjects and in order to prevent any improper conduct towards the said Indians you are as soon after your arrival as conveniently may be to cause a Proclamation in Our Name to be published and dispersed through Our said Island of Newfoundland and parts adjacent

*sic.

strictly enjoining and requiring all Our Subjects to live in Amity and kindness with the said Indians and commanding and requiring all Officers and Magisstrates[sic] to maintain and support good order and behaviour towards them And in case any Person or Persons shall murder or commit any Outrage upon any of the said Indians You and the said Magistrates are to use your utmost endeavours to apprehend and bring to justice such Offenders You are also to obtain the best account you are able of the number of the said Indians the places they usually frequent for Trading the Countries from whence they come the nature and extent of the Trade that is or may be extended and improved.

14th Whereas We did in the 15th Year of Our Reign grant to John Agnew of Strencham* in the County of Wigton in North Britain Esquire and his Associates certain Mines at Shoal Bay in the East Coast of Our said Island of Newfoundland supposed to contain Copper Ore One tenth part of which Ore by the special condition of Our said Grant is thereby reserved to

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Us Our Heirs and Successors We do therefore hereby direct and empower you Our Governor or Our Commander in Chief for the time being of Our said Island of Newfoundland to take and receive One tenth part of all such Metals Ore and Minerals as now are or hereafter shall be raised or extracted from the said Mines and to pay and make over the same to such Person or Persons as the Lords Commissioners of Our Treasury shall appoint for that purpose And you are further to enquire whether there are any other Mines in the said Island of Newfoundland or Islands adjacent and whether they may be worked to advantage.

15. And Whereas the different species of Birds frequenting the Shores of Newfoundland and the adjacent Islands are used for food and for bait and are useful in Fogs by warning Vessels that they are near the Land And it having been represented to Us that they are frequently destroyed for the purpose only of taking their Feathers It is Our Will and Pleasure that you do take such measures as in your Opinion will effectually prevent their being so destroyed in future.

16th And Whereas you are by Our Commission authorized to constitute and appoint Justices of the Peace and other necessary Officers and Ministers for the administration of Justice and maintaining the Peace within the different parts of your Government You are therefore upon your arrival in your Government to enquire what Justices of the Peace are now in Commission and in the New Commission to be issued you are to nominate them or such Persons as shall appear to you to be proper for executing the Office of Justice of the Peace and you are by your Authority and Influence to give all due support as

well to Our Chief Justice as to the said Justices of the Peace and to all other Magistrates and Officers in the legal discharge of their duty And you are to endeavour to prevent any disputes between Our said Justices of the Peace and the Fishing Admirals in the discharge of their respective Functions And Whereas you are by your Commission authorized to appoint Commissioners of Oyer and Terminer It is Our Will and Pleasure that you make no such Appointment so as to interfere with the Criminal Jurisdiction belonging to the Supreme Court of Judicature but only in Cases where it may be inconvenient to try Offenders in the said Supreme Court.

17th Whereas You are empowered by Our Commission to pardon all Offenders and remit all Offences Wilful Murder only excepted in which case you have power upon extraordinary occasions to grant Reprieves to such Offenders until Our Royal Pleasure may be know therein It is Our express Will and Pleasure that you do not suffer any of the Officers of Our Ships of War or of any of the Trading Ships of Our Subjects which shall happen to be within your Government to be deprived of Life or Limb by the Sentence of any Court But in such Case you shall reprieve the Criminal until Our pleasure be known therein And it is Our further Will and Pleasure that you take especial care that all Persons guilty of Treason be sent over to this Kingdom with such Witnesses and proof of the Crime as can be obtained in order to their being tried here.

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18. And Whereas the immoderate use of Liquors has been found to be pernicious to the Health and Morals of Our Subjects dwelling in and resorting to Newfoundland for the purpose of carrying on the Fishery and has been the cause that the Fishermen have expended a considerable part of their Wages You are not to allow in any part of your Government more Public Houses than may be necessary for the accommodation and supply of Our said Subjects and particularly in the Town of Saint John's the number of such Public Houses is on no account to exceed Twenty four And it is Our Will and Pleasure that every Person who shall be allowed to keep a public House within your Government do give full and ample Security for his or her good behaviour and that every Person keeping such Public House shall keep and employ in the Fishery One Shallop at least.

19. And Whereas the monopolizing and engrossing of any Provisions Stores & Commodities necessary for the subsistence of the Fishermen and others employed in the Fishery or necessary for carrying on the same will be highly prejudicial to the general Interests thereof You are by every legal means in your power to prevent and suppress any attempt that may be made for that purpose And you are to consider & report to Us whether any proper method can be adopted for

supplying more cheaply the Articles before mentioned and for preventing any Frauds that may be committed in the Sale of these Articles or any Combinations to enhance the price of Provisions or of any of the Articles before mentioned tending to the distress of the Fishermen And you are to take Oath that according to the ancient practice every Person who shall keep on his or her own account any Shop or Store for selling or retailing any Goods or Commodities whatsoever shall keep and employ in the Fishery one Shallop at least.

20. It is Our Intention that all Persons inhabiting and frequenting the Island under your Government should have full liberty of Conscience and the free exercise of all such modes of Religious Worship as are not prohibited by Law We do hereby require you to permit all Persons within Our said Islands to have such liberty and to exercise such modes of Religious Worship as far as is consistent with Law provided they be contented with a quiet and peaceable enjoyment of the same not giving Offence or Scandal to the Government.

21. It is Our Will and Pleasure that you do cause the Laws made against Blasphemy Profaneness Adultery Fornication Polygamy Incest Profanation of the Lord's Day Swearing and Drunkenness to be rigorously executed and that you take due care for the punishment of the aforementioned Vices by presentment upon Oath to be made before the Justices of the Peace in their Sessions by their Constables or other inferior Officers at the several Harbours at the proper time of the Year to be appointed for that purpose And for the further discouragement of Vice and promotion of Virtue and good Morals you are not to admit any Person to act as Justice of Peace whose ill fame or conversation may occasion scandal and especially you shall take care that

the Lord's Day be devoutly and duly observed that the Book of Common Prayer as by Law established in this Kingdom be read each Sunday and Holyday and the Blessed Sacrament administered according to the Rites of the Church of England in all such Chapels or public places of Worship as are already or may be settled there for Public Worship according to the Rites of the Church of England.

22. And if any Minister of the Church of England shall appear to give Scandal either by his Doctrine or Manners or if any Persons not being in Orders shall preach or administer the Holy Sacrament in any Church or Chapel you shall give an account thereof to the Lord Bishop of London.

23. And you are to take especial care that a Table of Marriages as established by the Canons of the Church of England be hung up in every Church or Chapel or other public place of Worship and be duly observed.

24. And Whereas it is of the highest importance to the Naval Power of Great Britain that the Seamen and Fishermen employed in the Fisheries carried on at Newfoundland should return annually at the end of the Fishing Season to some part of Our European Dominions You are to use your utmost endeavours at the end of every Fishing Season to encourage and promote the return of every such seaman and Fisherman to such part of Our European Dominions to which he belongs You are to take care that the wise Provisions of the Acts passed in the 15th and 26th Years of Our Reign for the purpose above mentioned be carried into strict execution and that the Monies retained and deducted out of the Wages of such Seamen or Fishermen by their Hirers or Employers for paying their passage home be applied to that salutary purpose And you are to report whether the said Provisions are any ways defective And whether any frauds are practised in order to evade them and whether the Hirers or Employees consider themselves as entitled to retain and deduct such Monies although no part thereof is paid or Agreement made with the Master of any Passage Ship for a Passage home And you are to discourage the practice which has lately prevailed among the Inhabitants of the said Island of Newfoundland of retaining during the Winter the said Seamen and Fishermen under the name and description of Dieters And you are also to discourage and as far as you are able to prevent any of the said Seamen and Fishermen from deserting to any Foreign Country or from going to reside and establish themselves in the Countries belonging to the United States or even in any of Our own Colonies in North America.

25. You shall use your best endeavours to obtain an accurate account of the numbers of Persons resorting in each Season to the Island of Newfoundland and the Islands adjacent

distinguishing those who come from the Ports of Great Britain from the Ports of Ireland and from Jersey Guernsey Alderney and Sark and distinguishing such as are Seamen from such as are Passengers and of the numbers which continue to reside there all the Year distinguishing the number of Catholics and Protestants and the number of Births Marriages and Burials in every Year And you are to obtain an account of the British

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Sack Ships and Fishing Ships and of their Tonnage that annually arrive in the Harbours under your Government and of the number of their Tonnage that depart annually for the different Markets either Foreign or British distinguishing to what Countries or Places the same are bound and of the quantities of each sort of Fish Oil or other Articles with which they are respectively laden And you are also to obtain an account of the number of Boats employed in the said Fisheries either by Our Subjects resorting thither from Our European Dominions or by the Inhabitants of the said Island respectively You are also to obtain an account of the number of Quintals of the different sorts of Fish taken in each Season and of the quantity of Oil made whether of Seal or Cod or other Animals living in the Sea And you are also to obtain an account of the quantity of each of the before mentioned Articles reserved and not sent to Market at the end of the Fishing Season You are also to obtain an account of the average prices at which each of these Articles sell during each Season in the Island You are hereby strictly commanded to be very exact in making all these enquiries and to enjoin Our Officers under your Command as also the Admirals and the proper Officers in those Harbours to which your personal Inspection cannot extend to be as accurate as may be in the Returns which they shall make to you that those Returns be properly attested and signed by them And all these particulars you are to report to Us through One of Our principal Secretaries of State according to the Form of the Schedule marked A hereunto annexed And with respect to such of the said particulars of which it is possible more accurate accounts may be obtained after your Departure from the said Island by the Collector or other Officers of the Customs and by Our Naval Officer You are to give directions to Our said Officers of the Customs and Our Naval Officer that they prepare accounts thereof attested by each of them according to the form of the said Schedule and transmit the same to you to be laid before One of Our Principal Secretaries of State for Our information You are also to endeavour to obtain as accurate an account as you are able of the Fishery carried on by the Citizens of the French Republic and to report the same to Us through One of Our Principal Secretaries of State according to the form of the Schedule hereunto annexed marked B You are to give all due and legal support to the Officers of Our Customs in the discharge of their duty and they are hereby required with all convenient speed at the end of the Fishing Season to transmit to the Lords Commissioners of Our

Treasury an annual account of all Articles imported into the Island of Newfoundland and the Islands adjacent distinguishing the Countries from whence the same were brought and particularly the Provisions imported under the Regulations of an Act passed in the 28th Year of Our Reign Cap: 6. See: 13 from the Countries of the United States of America with an account of the duties paid on such Articles as are liable to duty You are also to endeavour to obtain the best account you are able of the Wages paid to the Seamen & Fishermen and in what manner the same are paid and whether the old custom of carrying on the Fishery upon Shares is now continued and to what extent You are also to endeavour to obtain an account of the Prices

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at which Provisions and other important Articles are sold in the course of the Fishing Season and also during the Winter and whether the same are paid for in Cash Fish or Bills and if in Fish whether the Fish is rated at the Market price or at what rate It is Our further Will and Pleasure that you pay attention to every circumstance that may in your judgement contribute to the prosperity of the said Trade and Fishery and to the well being of all Persons concerned in them and that you consider of such measures as it may be proper for Us to pursue for attaining those important purposes And you are upon all occasions to send unto Us thro' One of Our Principal Secretaries of State a particular account of all your proceedings and of the condition of the affairs of the Islands under your Government and the Trade and Fishery thereof and of the Banks Seas and Ports adjacent And also a Copy of the same to the Lords of Our Privy Council appointed for the consideration of all Matters relating to Trade and Foreign Plantations.

(Countersigned) G.R./
Copy.

June,
1802.]**No. 158.**

Newfoundland.

**EXTRACT FROM ADMIRALTY INSTRUCTIONS TO
VICE-ADMIRAL JAMES GAMBIER**AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.

ADM. SEC. OUT LETTERS (2). VOL. 143.

By &c^a

Instructions for James Gambier Esq^r Vice Admiral of the White
& Commander in Chief of a Squadron of H.M. Ships &
Vessels employed & to be employed at and about
Newfoundland, the Islands of Madeline & Anticosti and
upon the Coast of Labrador, from the River S^t John to the
Entrance of Hudson's Straits.

* * * *

[Arts. 1-4 same as Articles 1-4 to Rear Admiral Sir Richard
King, ante pages 579, 580.]

Art. 5 same as Article 5, ante page 589 down to word
"Coast" then read "except ships and vessels belonging to
the People of the French Republic fishing according to the
stipulations contained in the Definitive Treaty of Peace
concluded at Versailles on the 3rd Sept. 1783 between
H.M. and the United States abovementioned and the
Definitive Treaty of Peace concluded at Amiens between
H.M. and the First Consul of the French Republic in the
name of the French People, copies of which you will
receive herewith."]

6th

And whereas by the 3rd Article of the Treaty with the United
States of America the Province of New Hampshire [then
as in Article 6, ante pp. 580-583, line 13].

7th

And whereas by the 4 & 5 Articles of the Treaty of Peace
signed at Versailles on the 3rd of Septem^r 1783, His Majesty is
maintained in His Right to the Island of Newfoundland, and to
the adjacent Islands as the whole were assured to him by the
13 Article of the Treaty of Utrecht, excepting the Islands of S^t
Pierre and Miquelon which were ceded in full right to His late
most Christian Majesty, who, in order to prevent the Quarrels
which had before arisen, had renounced the right of fishing
which belonged to him, in virtue of the aforesaid Article of the
Treaty of Utrecht from Cape Bona Vista to Cape S^t John,
situated on the Eastern Coast of Newfoundland in Fifty

degrees North Latitude; His Majesty consented on His part, that the Fishery assigned to the French, beginning at the said Cape S^t John, passing to the North and descending by the Western Coast of the Island of Newfoundland, should extend to the place called Cape Raye situated in 47°—50 Latitude, and that

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the French Fishermen should enjoy the Fishery which is assigned to them by the said 5: Article, as they had a right to enjoy that which was assigned to them by the Treaty of Utrecht ; and that with regard to the Fishery in the Gulf of S^t Lawrence, the French should continue to exercise it conformably to the 5. Article of the Treaty of Paris.

And whereas by the Treaty concluded at Amiens between His Majesty and the First Consul on behalf of the French People on the 27th of March last, the two Contracting Parties have agreed that the Fisheries on the Coast of Newfoundland and of the adjacent Islands and of the Gulf of S^t Lawrence should be replaced on the same footing on which they were previous to the War; that the French Fishermen and the Inhabitants of S^t Pierre & Miquelon shall have the privilege of cutting such Wood as they may stand in need of in the Bays of Fortune & Despair, for the space of One Year from the date of the Notification of the said Treaty, You are therefore to use your utmost care, diligence & attention, that the several stipulations herein mentioned and referred to, be suitably performed as far as they shall come within the limits of your Command, having due regard in doing thereof to such part of His Majesty's Declaration and the Counter Declaration of His late Most Christian Majesty subjoined to the first mentioned Treaty as may relate thereto, and also to the Fishery between the Island of Newfoundland and the Islands of S^t Pierre and Miquelon by visiting the several Bays and places in Newfoundland between Cape S^t John (passing to the North and descending by the Western Coast) and Cape Raye, or causing them to be visited by any of the ships of your Squadron as you shall judge best for that purpose But as from the vicinity of the Islands of S^t Pierre & Miquelon to Newfoundland and other parts of H.M. Dominions in North America, an illicit Trade may be attempted to be carried on between the British, Indian or any other Inhabitants of H .M. Dominions and the people of France residing on the said Islands of S^t Pierre & Miquelon or employed in the Fishery by virtue of Treaty, or between H.M. said Subjects and other people of France or subjects of other Powers, trading, or pretending to trade, to, or with, the said Islands of S^t Pierre & Miquelon; In case any endeavours shall be used to carry on such illicit Trade as aforesaid, You are to be particularly attentive to the same, and to prevent if possible, all communication whatever between the said Islands of S^t Pierre & Miquelon, and any part of H.M. Dominions in North America, contrary to the plain and strict meaning of this Instruction.

* * * *

[Arts. 8-15 and 17 same as Arts. 8-15 and 16 to Rear
Admiral Sir Richard King, ante pp. [584-587](#). Art. 16
deals with appointment and removal of officers.]

Given &c. 8 June 1802.

P. STEPHENS
T. TROUBRIDGE
J. ADAMS.

By &c.
Ent.

Copy.

[31 May, 1804.]

*sic.

No. 159.

Newfoundland.

COMMISSION PASSED UNDER THE GREAT SEAL OF THE UNITED KINGDOM APPOINTING SIR ERASMUS GOWER

TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

PATENT ROLL. 44 GEO. III. PART 6. NO. 8.

Sir Erasmus Gower Knight Governor and Commander in Chief of Newfou*dland and the Islands adjacent.

} George the Third by the Grace of God of the United Kingdom of Great Britain and Ireland King Defender of the ffaith To our trusty and welbeloved Sir Erasmus Gower

Knight Vice Admiral of the White Squadron of our fleet Greeting Whereas we did by our Letters patent under our Great Seal of our United Kingdom of Great Britain and Ireland bearing date at Westminster the Twenty seventh day of May in the forty second year of our reign constitute and appoint James Gambier Esquire to be our Governor and Commander in Chief in and over our Island of Newfoundland and Islands adjacent as also of all our fforts and Garrisons erected and established or that should be erected and established thereon for and during our will and pleasure as by the said Letters patent relation being thereunto had may more fully and at large appear. Now know ye that we have revoked and determined and made void and by these presents do revoke determine and make void the said recited Letters patent and every Clause Article and Thing therein contained and we reposing especial trust and confidence in the prudence courage and loyalty of you the said Sir Erasmus Gower of our especial Grace certain knowledge and meer motion have thought fit to constitute and appoint and by these presents do constitute and appoint you the said Sir Erasmus Gower to be our Governor and Commander in Chief in and over our said Island of Newfoundland and the Islands Adjacent including the Islands of Saint Pierre and Miquelon as also of all the fforts and Garrisons erected and established in our said Island of Newfoundland and the Island adjacent including the said Islands of Saint Pierre and Miquelon as aforesaid And we do hereby require and Command you to do and execute all things in due manner that shall belong to your said Command and the trust we have reposed in you according to the several powers and directions

granted or appointed

p. 619

*sic. you by this present Commission and the Instructions herewith given you or by such further powers Instructions and authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign manual or by order in our privy Council And we do further Give and Grant unto you the said Sir Erasmus Gower

[Then same as in Commission to Rear Admiral Sir Richard King, ante p. 567, line 3, to p. 577, line 44.]

and we do hereby require and command all Officers Civil and Military and all other Inhabitants of Our said Islands to be obedient aiding and assisting unto you in the Execution of this our Commission and of the powers and authorities herein contained and in Case of your Death our will and pleasure is that the person on whom the Command of our ships under your Command shall devolve do take upon him* the administration of the Government of our said Islands and execute this our said Commission and Instructions and the several powers and authorities therein contained in the same manner to all intents and purposes as you our said Governor and Commander in Chief might or ought to do for and during our will and pleasure And we do hereby declare ordain and appoint that you the said Sir Erasmus Gower shall and may hold and enjoy the place of our Governor and Commander in Chief in and over our said Island of Newfoundland and the Islands adjacent including the Islands of Saint Pierre and Miquelon as also of all our forts and Garrisons erected and established in our said Islands with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure.

In witness etc: Witness etc: the thirty first day of May.

By the King himself.

No. 160.

Newfoundland.



INSTRUCTIONS PASSED UNDER THE ROYAL SIGN MANUAL AND SIGNET FOR SIR ERASMUS GOWER

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

p. 79
[1 May, 1804.]

C.O. 195. VOL. 16.
George R.

Sir Eras^s. Gower
Knight
Instructions.

Instructions to Our Trusty and Wellbeloved Sir Erasmus Gower Knight Vice Admiral of the White Squadron of Our Fleet, Our Governor and Commander in Chief in and over Our Island of Newfoundland in America and the Islands adjacent including the Islands of Saint Pierre and Miquelon as also of Our Forts and Garrisons erected and established or that shall be erected and established in Our said Island of Newfoundland and the Islands aforesaid. Given at Our Court at Saint James's the Thirty first day of May 1804, in the forty fourth year of Our Reign.

1st With these Our Instructions you will receive Our Commission under Our Great Seal of Our United Kingdom of Great Britain and Ireland constituting you Our Governor and Commander in Chief in and over Our Island of Newfoundland in America and Islands adjacent including the Islands of Saint Pierre and Miquelon and also of all Our Forts and Garrisons erected and established or which shall be erected and established in Our said Islands with directions to obey and follow such Orders and Instructions as shall from time to time be given you under Our Signet and Sign Manual or by Our Order in Our Privy Council, you are therefore to prepare yourself with all convenient speed and to repair to your said Command and being there arrived you are to take upon you the execution of the Office and Trust which We have reposed in You and so soon as conveniently may be you are to assemble the principal Inhabitants of the said Island of Newfoundland and of such other of the Islands under your Command as you shall judge expedient and with all due solemnity you are to cause Our said Commission constituting you Our Governor and Commander in Chief as aforesaid to be read and published at such Meeting.

Copy of this Article
sent to the said Offi^{rs}
20 May 1806.

3 } same { 3 to Vice-Admiral James Gambier, ante
as { 6 pp.603-604, 607.
4 }

5th And whereas it hath been represented unto us that divers of Our Subjects have upon various unwarrantable Pretences and under pretended Grants or Permissions given by former Governors of Our Island of Newfoundland possessed them of and claim as their private Property large Tracts of Land and Beaches commodious for the Fishery upon the Coasts and within the several Harbours and Rivers of the said Island and the Islands adjacent contrary to Law. In order therefore to prevent such unwarrantable practices in future it is Our Will and Pleasure that you do not upon any pretence whatever allow any Person or Persons to take as Private Property any Lands or Rivers or parts thereof on the Island of Newfoundland or the Coasts thereof or on the Islands adjacent including Saint Pierre and Miquelon And you are to take care that the ancient Ship Rooms and Fishing Rooms do continue under the Provisions of Statute tenth and Eleventh William the third Chapter Twenty fifth for the encouragement of New Adventurers that they may be sure of finding proper and convenient Places for curing salting drying and husbanding their Fish whenever they resort thither. It is Our further Will and Pleasure that the remaining Shores of Newfoundland shall be held by such of Our Subjects resorting thither from Our Dominions in Europe as shall first arrive and take possession of the same for the like purpose of carrying on the Fishery in proportion to the number of the Ships and Boats they shall employ and they shall continue to hold the same in like manner and for the like purpose so long as they shall carry on their Fishery there, but in case they shall neglect so to carry on the Fishery for one entire Season such Shores or parts thereof as shall be neglected or deserted by such Possessors shall be held for the like purpose and in like manner by any of Our Subjects resorting thither from Our Dominions in Europe, who shall first occupy the same for the purpose of carrying on the Fishery and you are to put and maintain such Persons in possession thereof And you. are not to allow or suffer any Buildings to be erected except Fishing Stages Cook Rooms Ship Rooms and Flakes or such erections as shall be absolutely necessary for Curing Salting Drying and Husbanding Fish within two Hundred Yards distance from High Water Mark and you are not to allow any possession as private Property to be taken of or any Right of Property whatever acknowledged in any Land whatever even beyond that distance It is Our further Will and Pleasure nevertheless that all and any Buildings Erections Wharfs Ships or Fences already erected may remain provided the same are not erected or built upon ancient Ship Rooms and provided they are not in Your Judgement considered to be nuisances and detrimental to the Interest of the Fishery in general But in case they shall clearly appear to you to be so you shall cause the same to be

removed giving due and reasonable notice to the Parties claiming or pretending any Interest therein if upon the spot or to the Persons in possession and occupation

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thereof and putting the said Parties or Persons to as little inconvenience as the case will admit if such Parties or Persons do not cause to remove the same in due time after such notice is given.

6th And whereas it has also been represented to Us that divers of Our Subjects residing in Newfoundland sell mortgage and lease for considerable Sums Houses Lands Fishing Stages Cook Rooms and Flakes of which they have been in possession as if they had an exclusive and indefeasible Title therein contrary to the intention of Us and Our Predecessors and contrary to the Laws made for preventing the same Now in order that We may be better informed concerning the premises and that We may be able to determine what measures in this respect shall be pursued in future. It is Our Will and Pleasure that you in conjunction with Our Chief Justice of the said Island do cause such enquiry to be made as you and he shall judge most proper (but in such a manner as not to create unnecessary alarms) for ascertaining the pretended Titles and Claims under which such Property is held the length of time that the present Possessors or those under whom they claim have enjoyed the same and the nature extent supposed Rent and Value of such Property and you are further to enquire whether it has ever been ascertained in the several Harbours of Newfoundland what fishing Places did belong to the Fishing Ships before the Year One Thousand six hundred and Eighty five and whether any account is kept of those Fishing Places that have been possessed since that year in order to prevent the disputes that may otherwise happen between the Masters of Ships and the Inhabitants and whether there is any want of convenient places unoccupied on the Beach or Shores of Newfoundland fit for the purpose of carrying on the Fishery by the adventurers who may arrive from His Majesty's European Dominions and whether the fishing Admirals and others discharge their duty according to the Provisions of Statute Tenth and Eleventh William the third Chapter twenty fifth.

7
to { same } to
23 { as } 25 to Vice-Admiral James Gambier, ante
pp.609-613.

G. R.

Copy.

No. 161.

Newfoundland.

[25 March,
1807.]**LETTER, THE LORDS COMMISSIONERS OF THE
ADMIRALTY TO EARL SPENCER,**REQUESTING HIS MAJESTY'S COMMISSION FOR JOHN HOLLOWAY TO BE
GOVERNOR OF NEWFOUNDLAND.COL. COR : NEWFOUNDL^D. VOL. 23.
Admiralty Office, 25th March 1807.

My Lord,

Having appointed John Holloway Esq^r Vice Admiral of the Red, to be Commander in Chief of His Majesty's Ships & Vessels employed & to be employed at & about Newfoundland the Islands of Madelaine and Anticosti, and upon the Coast of Labrador from the River Saint John to the entrance of Hudsons Streights, in the room of Vice Admiral Sir Charles Cotton, who has been forced to resign the Command in consequence of ill health, We desire your Lordship will please to obtain His Majesty's Commission for him to be Governor of Newfoundland &c^a in the same manner as hath been granted to former Commanders in Chief upon that Station, and also to signify to us, His Majesty's Pleasure whether the Instructions that are preparing for Admiral Holloway should in any respect be altered from those under which Vice Admiral Sir Erasmus Gower sailed last year.

We are
My Lord,
Your Lordships
Most Obedient Servants

J. MARKHAM
H. NEALE
THO. F^RA FREMANTLE

The Earl Spencer, K.G.
&c. &c. &c.

No. 162.

Newfoundland.

[7 May, 1807.]

**INSTRUCTIONS PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET FOR JOHN HOLLOWAY**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND.C.O. 195. VOL. 16, p. 151.
George R.

Instructions to Our Trusty and Wellbeloved John Holloway Esq^{re} Vice Admiral of the Red Squadron of Our Fleet Our Governor and Commander in Chief in and over Our Island of Newfoundland in America & the Islands adjacent including the Islands of S^t Pierre and Miquelon as also of Our Forts and Garrisons erected & established or that shall be erected or established in Our said Island of Newfoundland and the Islands aforesaid Given at Our Court at Saint James's the Seventh day of May 1807 In the 47th Year of Our Reign.

1st With these Our Instructions You will receive Our Commission under Our Great Seal of Our United Kingdom of Great Britain and Ireland constituting you Our Governor and Commander in Chief in and over Our Island of Newfoundland in America & Islands adjacent including the Islands of S^t Pierre and Miquelon And also of all Our Forts & Garrisons erected and established or which shall be erected or established in Our said Islands with directions to obey and follow such Orders and Instructions as shall from time to time be given you under Our Signet and Sign Manual or by Our Order in Our Privy Council You are therefore to prepare yourself with all convenient speed to repair to your said Command and being there arrived You are to take upon you the Execution of the Office and Trust which We have reposed in you and as soon as conveniently may be you are to assemble the principal Inhabitants of the said Island of Newfoundland and of such other of the Islands under your Command as you shall judge expedient and with all due solemnity you are to cause Our said Commission constituting you Our Governor and Commander in Chief as aforesaid to be read and published at such Meeting.

*sic.

2^d It is Our Will and Pleasure that you do from time* as the nature of the Service will allow visit all the Coasts and Harbours of the Islands

under your Government You shall also procure accurate Drafts or Maps of such of the said several Harbours Bays and Coasts as are situated between Cape Bonavista and Cape St John it having been represented to Us that the other parts of the Coast of the said Island have already been carefully surveyed for the due Execution of which Service you will have Authority to employ a competent Officer with proper Assistants and to hire a small Vessel to attend him And in Case You cannot visit all the said Coasts and Harbours you are to give Directions to the Officers under your Command for the purposes beforementioned taking care to report to us through One of Our Principal Secretaries of State the Condition of Our said Forts and whether it may be necessary to erect any new Forts or Posts in the Islands under your Command You are also to transmit to the Master General of Our Ordnance an account of the Arms Ammunition and Stores in Our said Forts In which respect you are to follow such Directions as you shall receive from Our said Master General of the Ordnance.

*sic.

3^d You are to be particularly careful to enforce the Provisions of all Acts of Parliament for encouraging the Shipping Navigation and Trade of Our Diminions* and to prevent all Evasions and Frauds contrary to the same And you are not to suffer any Foreigners whatever to fish or dry or cure any Fish on any of the Coasts or Shores within your Government except in Cases in which the Subjects of any Foreign Power are entitled by Treaty to fish or dry or cure Fish there.

4th And Whereas by the Third Article of the Definitive Treaty of Peace between Us and the United States of America concluded at Paris the third day of September 1783 the People of the said United States were allowed to continue to enjoy unmolested the right to take Fish of every Kind on the Grand Bank and all the other Banks of Newfoundland also in the Gulph of St Lawrence and at all other Places in the Sea where the Inhabitants of both Countries used at any time theretofore to fish and likewise that the Inhabitants of the said United States should have liberty to take Fish of every Kind on such part of the Coast of Newfoundland as British Fishermen should use (but not to dry or cure the same on that Island) And also on the Coasts and in the Bays and Creeks of all other of Our Dominions in America And that the American Fishermen should have liberty to dry and cure Fish in any of the unsettled Bays Harbours and Creeks of Nova Scotia and Magdalen Islands on the Coast of Labrador so long as the same should remain unsettled but so soon as the same or either of them should be settled it would not be lawful for the said Fishermen to dry or cure Fish at such Settlements without a previous Agreement for that purpose with the Inhabitants Proprietors or Possessors of the Ground It is Our Will and Pleasure that you do take due Care that the People of the United States of

America shall fully and amply enjoy every right of fishing drying and curing of Fish allowed them by the said third Article of the Treaty above recited not allowing them however to dry or cure their Fish on Our Island of Newfoundland or in any Bay Harbour or Creek of any other part of your Government which is settled.

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And you are on every occasion to exact and require a full and specific performance of the said Treaty on their parts within the limits of your Government.

5th Several Observations apparently of Importance having been made by the two Governors who preceded you in the Government of Our Island of Newfoundland respecting various Measures likely in their Opinion greatly to promote the Success of the Fishery there as well as to encrease the advantages thereof to Great Britain many of which Measures (stated to have arisen from an unavoidable Change of Circumstances) requiring Alterations in the Laws now in force for regulating the said Fisheries and appearing to Us to deserve the most serious Consideration before any Proposal on the Subject shall be submitted to Parliament We have directed Copies of these Observations to be transmitted to you herewith. And it is Our Pleasure that you shall during the approaching Season while you remain on the Station obtain the best Information in your power from the most authentic Sources respecting the expediency of proposing to the Legislature any & what Alterations in the several Acts of the 10th & 11th W. 3^d and the 15th 26th 28th and 33^d Years of Our Reign particularly with respect

1st To confirming the Title of Persons to Ship Rooms and Buildings which have for a considerable Time been in the Possession of the present Holders without any legal Right thereto or who derive their Claims from the Usurpation of Others as well as with respect to the Governors of the Island being authorized to grant Leases of such Ship Rooms as have not been occupied and on what Conditions and for what Terms.

2^{dly} With respect to the Provisions in the 10th & 11th W. 3. relative to the Fishing Admiral which it is represented have long been in Dis-use and substituting some competent Jurisdiction (if it shall be thought necessary) for settling disputes about Fishing Rooms.

3^{dly} Respecting the Employment of Two Green Men in each Boat under a Provision in the same Act which for the Reasons stated neither has been for some Time nor can apparently be hereafter acted upon.

4^{thly} The Provisions in the Act of the 15th Year of Our Reign C. 31. Sec. 13 respecting the retaining 40^s/to pay the Passage of the Fishermen Home and in the 14th Section of the same Act respecting Restrictions in the mode of paying the Men neither of which it is stated can be enforced.

And it is Our Will and Pleasure that you do not upon any pretence whatever allow any new Possession to be taken of Lands or Rivers or Parts thereof on Our Island of Newfoundland or the Coast thereof or on the Islands adjacent including S^t Pierre and Miquelon until it shall be decided whether any Alteration of the Laws above referred to shall be proposed to Parliament. And you are in the mean time to take care that the Ancient Ship Rooms and Fishing Rooms do continue under the Provisions of Statute 10th & 11th W. 3. C. 25 for the Encouragement of New Adventurers that they may be sure of finding proper and convenient Places for curing salting drying and husbanding their Fish whenever they shall resort thither It is Our further Will and

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Pleasure that the remaining Shores of Newfoundland shall be held by such of Our Subjects resorting thither from Our Dominions in Europe as shall first arrive and take possession of the same for the like purpose of carrying on the Fishery in proportion to the number of Ships and Boats they shall employ and they shall continue to hold the same in like manner and for the like purpose so long as they shall carry on their Fishing there But in Case they shall neglect so to carry on the Fishery for one entire Season such Shores or Parts thereof as shall be neglected or deserted by such Possessors shall be held for the like purpose and in like manner by any of Our Subjects resorting thither from Our Dominions in Europe who shall first occupy the same for the purpose of carrying on the Fishery And you are to put and maintain such Persons in possession thereof. And Whereas it appears by the Observations of your Predecessors already alluded to that the Instructions from time to time given to prevent the Erection of any Buildings except Fishing Stages Cook Rooms Ship Rooms and Flakes or such Erections as shall be absolutely necessary for curing salting drying and husbanding Fish within two hundred Yards distance from High Water Mark have not for a considerable Period been enforced and Reasons have been submitted why that System should be departed from It is Our Will and Pleasure that you should while you remain on the Station inform yourself as fully as you can on that Subject also and report your Opinion thereupon on your return It is Our further Will and Pleasure nevertheless that all or any Buildings Erections Wharfs Slips or Fences already erected may remain provided the same are not erected or built upon ancient Ship Rooms and provided they are not in your Judgment considered to be Nuisances and detrimental to the Interest of the Fishery in general But in case they shall clearly appear to you to be so you shall cause the same to be removed giving due and reasonable Notice to the Parties claiming or pretending any Interest therein if upon the Spot or to the Persons in Possession and Occupation thereof putting the said Parties or Persons to as little inconvenience as the Case will admit if such Parties or Persons do not choose to remove the same in due time after

such Notice shall be given.

6th And Whereas it has also been represented to Us that divers of Our Subjects residing in Newfoundland Sell Mortgage and Lease for considerable Sums Houses Lands Fishing Stages Cook Rooms and Flakes of which they have been in possession either under Grants or Permission from former Governors or otherwise as if they had an exclusive and indefeasible Right therein contrary to the Intention of Us and Our Predecessors and contrary to the Laws made for preventing the same Now in order that We may be better informed concerning the Premises as well with a view to enable a Judgment being formed relative to Lands &^{ca} of which Persons have already possessed themselves as to a due Consideration of what Measures in this respect should be pursued in future It is Our Will and Pleasure that you in conjunction with Our Chief Justice of Our said Island do cause such Enquiry to be made as You and he shall judge most proper using very great Caution

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in the manner of conducting this Enquiry so as to avoid most carefully creating unnecessary Alarms in the minds of Persons in Possession of the Lands &^{ca} suggesting to them that it is equally the Interest of themselves and of the Public that the Question should be put at rest and that if any Proceeding on the part of the Public shall be thought necessary there is every reason to believe attention will be paid to the Interests of the Parties liable to be affected thereby In the course of that Enquiry it will be important to ascertain as accurately as you can the nature of the Titles and Claims under which such Property is held The length of time that the present Possessors or those under whom they claim have enjoyed the same and the Extent supposed Rent and value of such Property And you are further to enquire whether it has ever been ascertained in the several Harbours of Newfoundland what Fishing Places did belong to the Fishing Ships before the Year 1685 and whether any Account is kept of such Fishing Places as have been possessed since that Year in order to prevent the disputes that may otherwise happen between the Masters of Ships and the Inhabitants And whether there is any want of convenient Places unoccupied on the Beach or Shores of Newfoundland fit for the purpose of carrying on the Fishery by the Adventurers who may arrive from His Majesty's European Dominions.

7th You are not to permit or allow any of Our Officers or Soldiers or other Persons whatever belonging to the Garrisons within your Government to engage or be in any way concerned or employed directly or indirectly in any Branch of the Fisheries carried on within your Government or to take up for themselves any Beaches Stages or Cook Rooms upon any pretence whatever or in any manner to interrupt the Fishermen in catching drying or curing their Fish And if any such Officers

Soldiers or other Persons shall act in Contradiction to this Our Instruction you are to report the same to Us through one of Our Principal Secretaries of State that such Persons may be made sensible of Our highest displeasure.

8th And Whereas it is of great Importance to the Prosperity and extension of the Fishery that the Fish caught by Our Subjects should be properly cured and fitted for Sale at the Foreign Markets you are therefore to cause strict Injunctions to be given to the Masters of the Fishing Ships the Bye Boat Keepers and Inhabitants to take the greatest care in curing the Fish with a proper and sufficient Quantity of good Salt and in preparing husbanding and ordering the same that the Credit thereof may be maintained and augmented in the several Places to which it is carried for Sale And in order to render the attainment of that Object effectual as far as possible It is Our Pleasure that you shall consider & report to Us for Our Royal Consideration whether any & what means can be devised for observing whether the said Injunction is duly complied with And you are while on the Station to make very particular enquiries into the manner and method of taking and curing the Fish what Quantity of Salt is allowed for the curing of every One hundred Quintals Whether the Parties are guilty of any abuse in the ordering thereof and whether any Improvements can be made in any

of the foregoing particulars And whether the Fish taken at a distance from the Land by the small Vessels is not damaged before it is brought on Shore And whether in the Sale of the Fish to those who are to carry it to the Foreign Markets experienced Cullers are employed in ascertaining the good Quality thereof And whether the Sack Ships jealous of each other and struggling who shall carry their Fish first to Market do not frequently ship it before it is properly cured whereby it suffers in the Passage And lastly whether the Inhabitants the Masters of the Sack Ships or the Bye Boat Keepers are most to be blamed in whatever is amiss and what methods would be most likely to prevent and to rectify the same The result of all which Enquiries you are not to fail to report to Us on your first return to Great Britain.

9th And Whereas the Salmon Fishery carried on in different parts of Our Island of Newfoundland has already proved of great advantage to Our United Kingdom and We have reason to suppose the same may be considerably extended You are therefore to give all due Encouragement and Protection to Our Subjects concerned in the said Fishery taking care that none of the Places where the Salmon are caught shall be improperly Monopolized contrary to Our Intentions expressed in the foregoing Instructions with respect to the Fisheries in general And you are to inform yourself of the actual State of this Fishery and how far the same may be properly extended and improved.

10th You are further to enquire particularly into the State of the Whale Fishery and of the Seal Fishery carried on in the Seas within your Government or adjacent thereunto And whether any means can be suggested for promoting the Success and Extension thereof particularly of the latter as it furnishes employment for a most useful body of Men before the Cod Fishery commences.

11th You are to cause your best Endeavours to encourage a Friendly Intercourse with the Indians residing in Our Island of Newfoundland or resorting thither using your best endeavours to conciliate their Affections so as to induce them to trade with Our Subjects And in order to prevent any improper Conduct towards them you are as soon after your arrival as conveniently may be to cause a Proclamation in Our Name to be published and dispersed through Our said Island of Newfoundland and Parts adjacent strictly enjoining and requiring all Our Subjects to live in Amity and Kindness with the said Indians and commanding and requiring all Officers and Magistrates to maintain and support good Order and Behaviour towards them And in Case any Person or Persons shall murder or commit any Outrage upon any of the said Indians you and the said Magistrates are to use your utmost Endeavours to apprehend and bring to Justice such Offenders

*sic.

You are also to obtain the best Account you are able of the number of the said Indians the Places they usually frequent for trading the Countries from whence they come the nature and extent of the Trade that is or may be carried on with them and how far the same may in your Opinion be extended and improved.

p. 630

12th Whereas We did in the 15th Year of Our Reign grant to John Agnew Esquire of Strencham* in the County of Wigton in North Britain and his Associates certain Mines at Shoal Bay on the East Coast of Our said Island of Newfoundland supposed to contain Copper Ore one tenth part of which Ore by the special Condition of Our said Grant is thereby reserved to Us Our Heirs and Successors We do therefore hereby direct and empower you Our Governor or Our Commander in Chief for the time being of Our said Island of Newfoundland to take and receive one tenth part of all such Metals Ore and Minerals as now are or hereafter shall be raised or extracted from the said Mines and to pay and make over the same to such Person or Persons as the Lords Commissioners of Our Treasury shall appoint for that purpose And you are further to enquire whether there are any other Mines in Our said Island of Newfoundland or Islands adjacent and whether they may be worked to advantage.

13th And Whereas it has been represented to Us that different Species of Birds frequenting the Shores of Newfoundland and the adjacent Islands which afford a Supply of Food and of Bait and are useful in Fogs by warning Vessels that they are near the Land are frequently destroyed for the purpose of taking their Feathers It is Our Will and Pleasure that you do take such Measures as in your Opinion will effectually prevent their being so destroyed in future.

14th And Whereas You are by Our Commission authorized to constitute and appoint Justices of the Peace and other necessary Officers and Ministers for the Administration of Justice and maintaining the Peace within the different Parts of your Government You are therefore upon your arrival in Our said Island to enquire what Justices of the Peace are now in the Commission in order that in the new One to be issued you may nominate them or such other Persons as shall appear to you to be proper for executing the Office of Justice of the Peace And you are by your Authority and Influence to give all due Support as well to Our Chief Justice as to the said Justices of the Peace and to all other Magistrates and Officers in the legal discharge of their Duty And you are to endeavour to prevent any Disputes between Our said Justices of the Peace and all other Persons in Authority in the discharge of their respective Functions And Whereas you are by your Commission authorized to appoint Commissioners of Oyer and Terminer It is Our Will and Pleasure that you shall not make any such

Appointment as shall interfere with the Criminal Jurisdiction belonging to the Supreme Court of Judicature except only in Cases where it may be inconvenient to try Offenders in the said Supreme Court.

15th Whereas you are empowered by Our Commission to pardon all Offenders and remit all Offences Wilful Murder only excepted in which Case you have Power upon extraordinary occasions to grant Reprieves to such Offenders until Our Royal Pleasure may be known It is Our Express Will and Pleasure that you do not suffer any Commission or Warrant Officer of

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any of Our Ships of War or the Master of any trading Ship of Our Subjects which shall happen to be within your Government to be deprived of Life or Limb by the Sentence of any Court But in such Case you shall relieve the Criminal until Our Pleasure be known therein And it is Our further Will and Pleasure that you take especial Care that all Persons guilty of Treason be sent over to this Kingdom with such Witnesses and Proof of the Crime as can be obtained in order to their being tried here.

16th And Whereas the immoderate use of Liquors has been found pernicious to the Health and Morals of Our Subjects dwelling in and resorting to Newfoundland for the purpose of carrying on the Fishery and has been the cause of the Fishermen expending a considerable part of their Wages You are not to allow in any part of your Government more Public Houses than may be requisite for the accommodation and Supply of Our said Subjects particularly in the Town of Saint John the number necessary for which you will when on the Spot be able to judge of It has been suggested as you will find in the accompanying Observations that Thirty six will be amply sufficient And it is Our Will and Pleasure that every Person who shall be allowed to keep a Public House within your Government do give full and ample Security for his or her good behaviour.

17th And Whereas the Monopolizing & engrossing of any Provisions Stores or Commodities necessary for the Subsistence of the Fishermen and Others employed in the Fishery or necessary for carrying on the same will be highly prejudicial to the general Interests thereof You are by every legal means in your Power to prevent and suppress any attempt that may be made for that purpose And you are to consider and report to Us whether any proper method can be adopted for supplying more cheaply the Articles beforementioned and for preventing any Frauds that may be committed in the Sale thereof or any Combinations to enhance the Price of Provisions or of any of the Articles beforementioned tending to the distress of the Fishermen.

18th And as it is Our Intention that all Persons inhabiting and frequenting the Islands under your Government should have full liberty of Conscience and the free exercise of all such Modes of Religious Worship as are not prohibited by Law We do therefore require you to permit all Persons within Our said Islands to have such liberty and to exercise such Modes of religious Worship as far as is consistent with Law provided they be contented with a quiet and peaceable Enjoyment of the same not giving Offence or Scandal to the Government.

19th It is Our further Will and Pleasure that you do cause the Laws made against Blasphemy Profaneness Adultery Fornication Polygamy Incest Profanation of the Lord's Day Swearing and Drunkenness to be rigorously executed and that you do take due care for the Punishment of the above mentioned Vices by presentment upon Oath to be made before the Justices of the Peace in their Sessions by the Constables or other inferior Officers at

p. 632

the several Harbours at the proper time of the Year to be appointed for that purpose and for the further Discouragement of Vice and Promotion of Virtue and good Morals You are not to admit any Person to act as a Justice of the Peace whose ill fame or Conversation may occasion Scandal And especially you will take care that the Lord's Day, be devoutly and duly observed That the Book of Common Prayer as by Law established in this Kingdom be read each Sunday and Holy day And the blessed Sacrament administered at stated Periods according to the Rites of the Church of England in all such Chapels and Public Places of Worship as are already or may be settled for Public Worship according to the Rites of the Church of England.

20th And if any Minister of the Church of England shall appear to give Scandal either by his Doctrine or Manners or shall be remiss in the performance of his Duty or if any Persons not being in Orders shall preach or administer the Holy Sacrament in any Church or Chapel you shall give an account thereof to His Grace the Archbishop of Canterbury.

21st And you are to take especial Care that a Table of Marriages as established by the Canons of the Church of England shall be hung up in every Church or Chapel or other Public Place of Worship and be duly attended to.

22^d And Whereas it has been thought of the highest Importance to the Naval Power of Great Britain that the Seamen and other Persons employed in the Fisheries carried on at Newfoundland should return annually at the end of the Fishing Season to some part of Our European Dominions for the Attainment of which Object various Laws have been passed and Instructions given but the same having failed to a

great extent in producing the effect proposed You are to make the most attentive Enquiries you can whether any Measures could now be taken for further encouraging and promoting the return of every such Seaman & Fisherman to the part of Our European Dominions to which he belongs if it shall be thought advisable to adopt such Measures under the Change of Circumstances that has taken place and how far the Provisions of the Acts passed in the 15th & 26th Years of Our Reign for the purpose above mentioned can be made effectual And you are also to discourage and as far as you are able to prevent any of the said Seamen or Fishermen from deserting to any Foreign Country or from going to reside and establish themselves in the Countries belonging to the United States

23^d You shall use your best endeavours to obtain an accurate account of the number of Persons resorting in each Season to Our Island of Newfoundland and the said Islands adjacent distinguishing those who shall arrive from the Ports of Great Britain and of Ireland respectively and from Guernsey Jersey Alderney & Sark distinguishing also such as are Seamen from Passengers and those who continue to reside there all the Year and the number of Roman Catholics and Protestants with the number of the Ministers of each Religion respectively together with the number of Places of Worship and of

p. 633

Schools belonging to each with the best account you can obtain of the Funds for the Maintenance of the same and the number of Births Marriages and Burials in every Year You are likewise to obtain an account of the British Sack Ships and Fishing Ships and of their Tonnage that Annually arrive at the Harbour under your Government and sail for the different Markets either Foreign or British shewing[sic] the Ports they are bound to and the Quantities of each Sort of Fish Oil or other Articles with which they are respectively laden You are also to obtain an account of the number of Boats employed in the said Fisheries either by Our Subjects resorting thither from Our European Dominions or by the Inhabitants of the said Island respectively You are in like manner to obtain an account of the number of Quintals of the different Sorts of Fish taken in each Season and of the Quantity of Oil made whether of Whale Seal or Cod or other Animals living in the Sea together with an account of the Quantity of each of the above mentioned Articles reserved and not sent to Market at the end of the Fishing Season You are also to obtain an Account of the Average Prices at which these several Articles sell during each Season in the Island In making which Enquiries you are to be extremely careful and exact enjoining Our Officers under your Command as well as the proper Officers in those Harbours to which your Personal Inspection cannot extend to be as accurate as possible in the Returns which they shall make to you properly attested and signed by them And all these particulars You are to report to Us through One of Our Principal

Secretaries of State according to the Form Schedule A Marked A hereunto annexed And as to such of the said Particulars respecting which more accurate Information may possibly be obtained after your departure from the Island by the Collector or other Officers of the Customs or by Our Naval Officer You are to give directions to the said Officers to prepare accounts thereof attested by each of them according to the Form of the said Schedule and to transmit the same to you to be laid before One of Our Principal Secretaries of State for Our Information And you are to give all due and legal Support to the Officers of Our Customs in the discharge of their Duty who are hereby required with all convenient speed at the end of the Fishing Season to transmit to the Lords Commissioners of Our Treasury an Account of all Articles imported into Our Island of Newfoundland and the Islands adjacent distinguishing the Countries from whence the same were brought and particularly the Provisions imported under the Regulations of an Act passed in the 28th Year of Our Reign Cap. 6 Sec. 13 from the Countries of the United States of America with an Account of the Duties paid on such Articles as are liable to Duty You are also to endeavour to obtain the best Accounts you are able of the Wages paid to the Seamen and Fishermen and in what manner the same are paid And whether the Old Custom of carrying on the Fishery upon Shares is now continued and to what Extent. You are also to endeavour to obtain an account of the Prices at which Provisions and other Important Articles are sold in the course of the Fishing Season and also during the winter And whether the same are paid for in Cash Fish or Bills and if in Fish whether the Fish is rated at the Market price or at what Rate It is Our further Will and Pleasure

that you pay attention to every Circumstance that may in your Judgement contribute to the Prosperity of the said Trade and Fishery and to the well being of all Persons concerned in them and that you consider of such Measures as it may be proper for Us to pursue for attaining those important purposes And you are upon all occasions to send unto Us through One of Our Principal Secretaries of State a particular account of all your Proceedings and of the Condition of the Affairs of the Islands under your Government and the Trade and Fishery thereof and of the Banks Seas and Ports adjacent And also a Copy of the same to the Lords of Our Privy Council appointed for the Consideration of all Matters relating to Trade and Foreign Plantations.

G. R.

Copy.

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[28 May,
1807.]**No. 163.**

Newfoundland.

LETTER, W. FAWKENER TO EDWARD COOKE,TRANSMITTING DRAFT OF INSTRUCTIONS FOR VICE-ADMIRAL HOLLOWAY
AS GOVERNOR OF NEWFOUNDLAND.COL. COR. NEWFOUNDL^D, VOL. 23.Office of Committee of Privy Council for Trade
Whitehall 28th of May 1807.

Sir,

The Observations made by Admiral Gambier and Vice Admiral Sir Erasmus Gower, during the Periods in which they were Governors of Newfoundland, respecting the Instructions they were furnished with, for their Conduct in that Trust, induced the Lords of the Committee of Council for Trade to revise those Instructions with great care.—Lord Visc^t Castlereagh will observe that many of the Alterations proposed by these respectable Officers cannot be effected without the Interposition of the Legislature, and that the Remainder are of sufficient Importance to render it desirable to have the whole attentively considered by the New Governor on the Spot, before they are adopted: On framing the accompanying Instructions therefore to Vice Admiral Holloway whom His Majesty has been pleased to appoint to the Government of the said Island, regard has been had to the Change of Circumstances that has taken place within the last few Years, and the Admiral's Attention is called to the Observations of his two Predecessors; These Instructions so altered I am directed to transmit to you for the Information and Consideration of Lord Castlereagh, and to request you will call his Lordship's Attention to the 2^d Article thereof, by which the Governor is directed to cause a Survey to be made of the Harbours, Bays and Coasts situated between Cape Bonavista and S^t John, because, if that shall be approved of, it will be necessary that proper Authority should be given to the Governor to employ a competent Officer, with proper Assistants, and to hire a small Vessel for that purpose; and it will also be necessary that proper Directions should be given for defraying the Expence to be incurred in carrying that measure into Execution.

The Lords of the Committee are further of Opinion that it may be adviseable that the Governor should be furnished with a Warrant authorizing him to permit the Importation into Newfoundland from the United States,

of such Articles of Provision as may now be lawfully imported, for the whole Year, instead of confining such Importation to the Fishing Season only, as is the Case at present.

I herewith inclose a Schedule of such Papers as in the Opinion of the Lords of this Committee it may be proper to communicate to the Governor, for the purpose of assisting him in his Enquiries on the several Points to which by the Instructions he is particularly called on to direct his Attention.

I am, Sir,
Your most obedient humble Servant,

W. FAWKENER.

Edward Cooke Esq^r

No. 164.[3 April,
1810.]

Newfoundland.

**LETTER, THE LORDS COMMISSIONERS OF THE
ADMIRALTY TO THE EARL OF LIVERPOOL,**

REQUESTING HIS MAJESTY'S COMMISSION FOR SIR JOHN THOMAS
DUCKWORTH TO BE GOVERNOR OF NEWFOUNDLAND, THE COAST OF
LABRADOR, ETC.

COL. COR. NEWFOUNDL^D, Vol. 26.Admiralty Office 3^d April 1810.

My Lord,

Having appointed Sir John Thomas Duckworth K:B: Vice
Admiral of the Red, to be Commander in Chief of His
Majesty's Ships and Vessels employed, and to be employed at
and about Newfoundland, the Islands of Madelaine and
Anticosti; and upon the Coast of Labrador, from the River
Saint John, to the Entrance of Hudson's Streights, in the room
of Admiral John Holloway: We desire Your Lordship will
please to obtain His Majesty's Commission for him to be
Governor of Newfoundland &c. in the same manner as hath
been granted to former Commanders in Chief upon that Station
And also to signify to Us His Majesty's Pleasure whether the
Instructions that are preparing for Sir John Thomas
Duckworth, should in any respect be altered from those under
which Adm^l Holloway sailed last year.

We are, My Lord,

Your Lordship's Most Humble Servants,

R. BICKERTON
W^M DOMETT
R^T MOORSOM.

The Earl of Liverpool
&c. &c. &c.

Endorsed:

Admiralty 3^d April 1810 Lords Commissioners4th

R

Newfoundland.

No. 165.

Newfoundland.



**ORDER OF HIS MAJESTY IN COUNCIL APPROVING
DRAFTS OF A COMMISSION AND INSTRUCTIONS
FOR SIR JOHN THOMAS DUCKWORTH**

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

[2 May, 1810.]

COL. COR. NEWFOUNDL^D, VOL. 26.

At the Court at the Queen's Palace
the 2nd of May 1810.

Present

The Kings Most Excellent Majesty in Council.

Whereas there was this Day read at the Board a Letter from the Right Honourable the Earl of Liverpool, One of His Majesty's Principal Secretaries of State, to the Lord President of the Council, transmitting the Draught of a Commission and Instructions for Vice Admiral Sir John Thomas Duckworth K.B. Governor and Commander in Chief in and over the Island of Newfoundland, and its Dependencies, in America; His Majesty having taken the same into Consideration, was pleased, with the Advice of His Privy Council, to approve of the said Draught of Commission, and Instructions, and to Order, as it is hereby Ordered, That the Right Honourable the Earl of Liverpool, One of His Majesty's Principal Secretaries of State, do Cause a Warrant to be prepared, for passing/a Commission conformably to the said Draught (which is hereunto annexed) under the Great Seal of Great Britain; and that his Lordship, do likewise cause the said Instructions (which are hereunto also annexed) to be prepared for His Majesty's Royal Signature.

W. FAWKENER.

Endorsed:

Order in Council,
2 May 1810.

Approving of Sir John
Duckworth's Comⁿ &
Instructions
Newfoundland

No. 25.

[4 June,
1810.]**No. 166.**

Newfoundland.

**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN APPOINTING SIR JOHN THOMAS
DUCKWORTH**

*sic.

TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

PAT. ROLL. 50 GEO: 3. PART 8. NO. 12. 1810. June 4.

Sir John Thomas Duckworth K.B., }
Governor of Newfoundland.

George the Third by the Grace of God &^c* the United Kingdom of Great Britain and Ireland King Defender of the ffaith To Our Trusty and Welbeloved Sir John Thomas Duckworth Knight of the Most Honorable Order of the Bath Vice Admiral of the Red Squadron of Our ffleet Greeting Whereas we did by Our Letters Patent under Our Great Seal of Our United Kingdom of Great Britain and Ireland bearing date at Westminster the sixth day of May in the forty seventh year of Our Reign Constitute and Appoint John Holloway Esquire to be Our Governor and Commander in Chief in and over Our Island of Newfoundland and Islands adjacent And also of all Our fforts and Garrisons erected and established Or that should be erected and established thereon for and during our will and pleasure as by the said Letters Patent (relation being thereunto had) may more fully and at large appear.

Now know you that we have revoked and determined and made void and by these presents Do revoke determine and make void the said recited Letters Patent and every Clause Article and Thing therein contained And We reposing especial trust and confidence in the prudence courage and loyalty of you the said Sir John Thomas Duckworth of Our especial grace certain knowledge and meer motion have thought fit to constitute and appoint and by these presents Do constitute and appoint you the said Sir John Thomas Duckworth to be Our Governor and Commander in Chief in and Over our said Island of Newfoundland and the Islands adjacent including the Islands of Saint Pierre and Miquelon and all the Coast of Labrador from the River S^t. John to Hudsons Streight, the Island of Anticosti and all other Adjacent Islands (the Islands of Madelaine excepted) according to the provisions of An Act passed in the forty ninth year of our Reign Intituled "An Act for establishing Courts of Judicature in the Island of Newfoundland and the Islands adjacent and for reannexing"

"part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland" As also of all our efforts and Garrisons erected and established in Our said Islands of Newfoundland Anticosti and the Islands adjacent on the Coast of Labrador within the limits aforesaid including the said Islands of Saint Pierre and Miquelon as aforesaid And we do hereby require and command you to do and execute all things in due manner that shall belong to your said command and the Trust we have reposed in you according to the several powers and directions granted or appointed you by this present Commission and the Instructions herewith given you or by such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under Our Signet and Sign Manual or by Our Order in our privy Council And We do further Give and Grant unto you the said Sir John Thomas Duckworth full power and authority from time to time and at all times hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the oaths

[Then the same as in Commission to Rear Admiral Sir Richard King, ante p. [576](#), line 5, to page [577](#), line 45.]

And we do hereby require and command all Officers civil and Military and all other Inhabitants of Our said Islands to be obedient aiding and assisting unto you in the execution of this our Commission and of the powers and authorities herein contained And in case of your death Our will and pleasure is that the person on whom the Command of Our Ships under your Command shall devolve Do take upon him the Administration of the Government of Our said Islands and execute this Our said Commission and Instructions and the several powers and authorities therein contained in the same manner to all intents and purposes as you Our said Governor and Commander in Chief might or ought to do for and during Our Will and pleasure And we do hereby Declare Ordain and Appoint that you the said Sir John Thomas Duckworth shall and may hold and enjoy the place of Our Governor and Commander in Chief in and over Our said Island of Newfoundland and the Islands adjacent including the Islands of S' Pierre and Micquelon and all the Coast of Labrador from the River Saint John to Hudsons Streights The Island of Anticosti and all other adjacent Islands The Islands of Madilaine excepted according to the provisions of the said Act passed in the forty ninth year of our Reign Intituled "An Act for establishing Courts of Judicature in the Island of Newfoundland and the Islands adjacent and for reannexing part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland" as also of all Our efforts and Garrisons erected and established in Our said Islands with all and singular the powers and Authorities hereby

granted unto you for and during our will and pleasure

In witness &c Witness &c the fourth day of June

By writ of Privy Seal.

No. 167.

Newfoundland.

**INSTRUCTIONS PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET FOR SIR JOHN THOMAS
DUCKWORTH**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

C.O. 194. VOL. 49.

INSTRUCTIONS.

Instructions to our Trusty and well beloved Sir John Thomas Duckworth knight of the most Honorable Order of the Bath, Vice Admiral of the Red Squadron of our Fleet, Our Governor and Commander in Chief in and over our Island of Newfoundland in America, and the Islands adjacent, including the Islands of Saint Pierre and Miquelon and all the Coast of Labrador from the river Saint John to Hudson's Streights, the Island of Anticosti and all other adjacent Islands, the Islands of Madilaine excepted, as also of our Forts and Garrisons erected or established, or that shall be erected or established in our said Island of Newfoundland, Anticosti, and the Islands adjacent, or on the Coast of Labrador with the limits aforesaid.

Given at our Court at Saint James's the fifth day of June 1810, In the fiftieth year of our Reign.

1st With these our Instructions you will receive our Commission under our

OBSERVATIONS.

Art 1st On the 23rd of June I sailed from Torbay in His Majesty's Ship Antelope, and arrived in S^t

[5 June,
1810.]

*Sic.

John's Harbour Kingdom of Great Britain
Newfoundland on the 20th of and Ireland constituting you
July, landed on Monday the our Governor and
23rd and caused His Commander in Chief in and
Majesty's Commission, over our Island of
appointing me Governor Newfoundland in America
and Commander in Chief, to and Islands adjacent,
be read and published; the including the Islands of
principal Inhabitants having Saint Pierre and Miquelon
been previously assembled and all the Coast of
for that purpose. Labrador from the river
Saint John to Hudson's
Streights, the Island of
Anticosti and all other
adjacent Islands, the Islands
of Madilaine excepted
according to the Provisions
of an Act passed in the
Forty ninth year of our
Reign intituled "An Act for
establishing Court* of
Judicature in the Island of
Newfoundland and the
Islands adjacent and for re-
annexing part of the Coast of
Labrador and the Islands
lying on the said Coast to
the Government of
Newfoundland" and also of
all our Forts and Garrisons
erected and established or
which shall be erected
or/established in our said
Island of Newfoundland,
Anticosti and the Islands
adjacent, or on the Coast of
Labrador within the limits
aforesaid, with directions to
obey and follow such
Orders and Instructions as
shall from time to time be
given you under our Signet
and Sign Manuel, or by our
Order in our Privy Council,
you are therefore to prepare
yourself with all convenient
Speed to repair to your said
Command, and being there
arrived you are to take upon
you the execution of the

Office and Trust we have reposed in you, and as soon as conveniently may be, you are to assemble the principal Inhabitants of the said other of the Islands under your Command as you shall judge expedient: and with all due solemnity you are to cause our said Commission constituting

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Art. 2nd Having executed the usual routine of business of S^t John's, and made arrangements to provide for a month's absence, I sailed from thence on Tuesday the 7th of August to visit the several Harbours to the Northward. Arrived at Harbour Grace on the 8th, at Trinity on the 11th, at Croque Harbour on the 16th, at Pitts Harbour (Labrador) on the 21st, and returned to S^t John's on Friday the 7th of September. The several Coasts and Harbours on the other parts of the Station have been duly visited by the Officers under my Command.

With respect to the procuring drafts of the several Harbours and Coasts situate between Cape Bonavista and Cape S^t John, I have not been furnished with authority to employ a competent Officer with proper assistants for the execution of this Service, nor have I received any directions on the subjects from the Admiralty. It has not indeed been in my

you our Governor and Commander in Chief as aforesaid to be read and published at such meeting.

2nd It is our will and pleasure that you do from time to time as the nature of the Service will allow, visit all the Coasts and Harbours of the Islands under your Government, you shall also procure accurate Drafts or Maps of such of the said several Harbours, Bays and Coasts as are situated between Cape Bonavista and Cape Saint John; It having been represented to us that the other parts of the Coast of the said Island have already been carefully surveyed; for the due execution of which service, you will have authority to employ a competent Officer with proper Assistants, and to hire a small Vessel to attend him, and in case you cannot visit all the said Coasts and Harbours, you are to give directions to the Officers under your Command for the purposes beforementioned, taking care to report to us through one of our Principal Secretaries of State, the Condition of our said Forts, and whether it may be

power this year to take any measures for the accomplishment of this object, but I shall not fail to make application to their Lordship's to enable me to do so on my return to Newfoundland.

In compliance with the latter part of this Article, directing me to state the Condition of the Forts, and whether it may be desirable to erect any new Forts or Posts in the Island, I have procured from Chief Engineer his report of the works at S^t Johns (Appendix A.) and beg to submit my own remarks which are annexed to it; Offering them however with the utmost deference to the

necessary to erect any new Forts or Ports in the Islands under your Command, you are also to transmit to the Master General of our Ordnance an account of the Arms, Ammunition and Stores in our said Forts, in which respect you are to follow such directions as you shall receive from our said Master General of the Ordnance.

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professional skill of the Chief Engineer.

I have obtained an Account of the Arms, ammunition and Stores in the Forts at Newfoundland; and shall transmit the same to the Master General of the Ordnance as this Article directs.

With respect to the Our Ports, the only appearance that I have found of defence has been here and there a dismantled Gun; which has generally too been spiked.

The ruinous Fort at Placentia indeed has not yet been dismantled, but it is not in any degree fit for Service, and ought certainly to be abandoned, for it might at any time be plundered by a Privateer, and the Stores taken away. In the present tranquil state of these Seas in which the

enemy has so rarely appeared, there is little necessity perhaps for the expence of erecting batteries: the Navy should be considered as the prime security of the Station in general; a fishery can only be protected by the Navy.

But it is necessary to confess that in the absence of the British Cruizers there is no one of the Our Harbours that I have visited which would not lie at the mercy of the most insignificant Privateer: Those for instance of Conception Bay, in which frequently twenty ships are laden in the course of the Season for Europe, are so perfectly, and as it were so invitingly open to attack, that it is almost surprising that no attempt upon them should every have been made. It is not well that security should be grounded only on the absence of an Enemy. The naval Force usually employed on the Station does not admit of a Vessel

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being stationed at each of the principal Harbours for its exclusive protection; and unless it could be so the question is simply, whether the probability of an Enemy every coming upon the Coast is, or is not, sufficiently great to warrant the expenditure of such a sum as would defend the entrance of the principal Harbours against an occasional cruizer. At those which I have visited, Harbour Grace, Carbonear, and Trinity, there are so

many natural facilities that works might at very little expence be raised for their defence. For instance at Harbour Grace, a Martello tower upon the Summit called the Peak of Teneriffe, and a Battery of three Guns upon a lower point called Labour-in-vain would afford in my opinion an ample security. A Tower on the Island of Carbonear would defend the entrance of that Harbour and would be all that appears necessary.

Appendix F.

For the defence of Trinity Harbour (one of the finest certainly in the world, and where from fourteen to twenty sail of Vessels are laden in the season) a Tower placed upon the Hill called Rider's Hill would perhaps be sufficient.

These are the only stations of those I have visited which seem to require any works on the Land, and perhaps there are none other North of S^t John's which would be deemed worth of any.

Art. 3rd The Provisions of the several Acts of Parliament for the encouragement of Shipping and Navigation have been observed. no foreigners have attempted to fish on the Coasts or shores within this

3rd You are to be particularly careful to enforce the Provisions of all Acts of Parliament for encouraging the Shipping Navigation and Trade of our Dominions, and to prevent all evasions and frauds con-

Government, except the Americans, in right of the Treaty of Versailles.

trary to the same, and you are not to suffer any Foreigners whatever to fish, or dry or cure any Fish on any of the Coasts or Shores within your Government, except in cases in which the subjects of any Foreign Power are entitled by Treaty to fish or dry or cure fish there.

Art. 4th The stipulations of the treaty of Versailles have been punctually enforced; but I am informed that great activity is necessary in the earlier part of the season to prevent the Americans from Trading improperly with the British Fishermen.

4th And whereas by the third Article of the definitive Treaty of Peace between us and the United States of America concluded at Paris the third day of September 1783 the People of the said United States were allowed to continue to enjoy unmolested the right to take fish of every kind on the Grand Bank and all the other Banks of Newfoundland, also in the Gulph of S^t Lawrence and at all other places in the sea where the Inhabitants of both Countries used at any time theretofore to fish, and likewise that the Inhabitants of the said United States should have liberty to take fish of every kind on such part of the Coast of Newfoundland as British Fishermen should use; (but not to dry or cure the same on that Island) and also on the Coasts and in the Bays and Creeks of all other of our Dominions in America, and that the American Fishermen should have liberty to dry and cure fish in any of the unsettled Bays, Harbours and Creeks of Nova Scotia and Magdalen Islands on the Coast of

Labrador so long as the same should remain unsettled; but as soon as the same or either of them should be settled it would not be lawful for the said Fishermen to dry or cure fish at such Settlements without a previous agreement for that purpose with the Inhabitants, Proprietors or

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Possessors of the Ground. It is our will and pleasure that you do take due care that the People of the United States of America shall fully and amply enjoy every right of Fishing, drying and curing of fish, allowed them by the said third Article of the Treaty above recited, not allowing them however to dry or cure their fish in our Island of Newfoundland, or in any Harbour, Bay or Creek of any other part of our Government which is settled, and you are on every occasion to exact and require a full said specific performance of the said Treaty on their parts within the limits of your Government.

Art. 5th The policy which has hitherto been observed with respect to Newfoundland, of discouraging whatever might be supposed to lead to the increase of population, and ultimately to a necessity for its establishment as a colony, is in my opinion too wise to be abandoned until much stronger reasons can be given than I have yet heard advanced for a change of system. The fisheries it is true have taken a direction

5th Several observations apparently of importance having been made by the Governors who have preceded you in the Government of our Island of Newfoundland and respecting various measures likely in their opinion greatly to promote the success of the Fishery there as well as to encrease the advantages thereof to Great Britain, many of which

so evidently tending to this result that the evil may perhaps be inevitable, but it is still I trust remote, and the great object should be to keep it as far remote as possible. With this object sincerely at heart, it still appears to me desirable that in consideration of the material change of circumstances some little alteration of the Acts by which Newfoundland has been hitherto regulated should now take place. The observations of my predecessors which are stated to accompany my Instructions were not delivered to me. Those only of

measures (states to have arisen from an unavoidable change of circumstances) requiring alterations in the Laws now in force for regulating the said Fisheries and appearing to us to deserve the most serious consideration before any proposal on the subject shall be submitted to Parliament. We have directed copies of these observations to be transmitted to you herewith; and it is our pleasure that you shall during the approaching Season, while you remain on the Station obtain the best information in your power from the most authentic sources, respecting the expediency of proposing to

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Admiral Holloway are in my possession, and I receive them for himself. It is with great hesitation therefore that I can venture, upon the strength of so small experience, to give a decided judgement upon this important subject. The opinions of my predecessors may perhaps in many instances be directly at variance with my own, and perhaps too they have been formed on better principles.

However, to reply regularly to the questions proposed as well as I am able; and first, With respect to confirming the title of Persons to shipsrooms and buildings which have for a considerable time been in the possession of the present holders without any legal right thereto, or who derive their claims from the usurpations of others; It is in

the Legislature any and what alterations in the several Acts of the tenth and eleventh of William the third, and the fifteenth, twenty sixth, twenty eighth, and thirty third years of our reign, particularly with respect, first — to confirming the title of persons to ship-rooms and buildings, which have for a considerable time been in the possession of the present holders without any legal right thereto, or who derive their claims from the usurpation of others, as well as with respect to the Governors of the Island being authorized to grant leases of such ship-rooms as have not been occupied, and on what conditions and for what terms. Secondly — with respect to the Provisions in the tenth and eleventh of William the

my opinion expedient to confirm, or perhaps more correctly, give, a title to persons possessing such Ship's-rooms and the buildings thereon; exacting however a certain ground rent, such as for instance two per Cent on the sum which could be obtained by the possessors as rent from others; for example

£15 and under, to pay 5 shillings				
		per Annum		
15 to 25	"	10	"	"
25 to 50	"	20	"	"
50 to 75	"	30	"	"
75 to 100	"	40	"	"

The unoccupied Ships-rooms remaining in S^t John's amount to no more than nine.

It is long since any Ships have arrived to claim them, and they have continued altogether useless.

Whether in the event of peace it is to be expected that the ancient system of carrying on the fishery in

third, relative to the fishing Admirals, which, it is represented, have long been in disuse, and substituting some competent Jurisdiction (if it shall be thought necessary) for settling disputes about Fishing-rooms. Thirdly — respecting the employment of two Green men in each boat under a provision of the same Act which for the reasons stated, neither has been for some time nor can apparently be hereafter acted upon. Fourthly — the Provisions in the Act of the fifteenth year of our reign Chap: 31, Sect. 13 respecting the retaining forty shillings to pay the Passage of the fishermen home and in the 14th Section of the same Act respecting restrictions in the mode of paying the men, neither of which it is stated can be enforced; and it is our will and pleasure that you do not upon any pretence whatever allow any new possession to be taken of Lands or Rivers or parts thereof on our Island of Newfound

Ships would return, or whether it is likely to continue on its present footing, is the only question to be considered as to the propriety of retaining these ancient Ship's rooms as they now are, or of authorizing the Governor to grant leases of them. It is decidedly my opinion that no benefit can ever arise from keeping them vacant; and that it would be infinitely preferable that the greater part of them, which from the

land or the Coast thereof, or on the Islands adjacent, including Saint Pierre and Miquelon, until it shall be decided whether any alteration of the Laws above referred to shall be proposed to Parliament, and you are in the mean time to take care that the Ancient Ships-rooms and fishing-rooms do continue under the Provisions of Statute Tenth and eleventh of William the Third. Cap: 25 for the encouragement of new

present construction of the Town can never again be rendered available to their original purposes, should be leased, and the rents applied to various public uses in S^t John's. The conditions of these leases should depend on local circumstances and the terms could not perhaps be limited to less than thirty years to admit of those expensive buildings which it would be for the advantage both of individuals and of the public to erect. I have brought with me a plan of the Town which was some time since constructed with great labour, and will more clearly illustrate this subject.

To compensate for the appropriation of those Ship's-rooms which I should point out as useless for the banking fishery, it will here be seen that towards the upper part of the Harbour there is an excellently convenient space which might at little expence be rendered admirably fit for the ancient fishery if that system should ever return. Secondly, with respect to the provisions in the 10th and 11th of William 3rd relative to the fishing Admirals, which have long been in disuse, and substituting some competent jurisdiction for settling disputes about fishing rooms; The civil establishment of Newfoundland in its present state is so

adventurers, that they may be sure of finding proper and convenient places for curing, salting, drying and husbanding their fish whenever they shall resort thither.

It is our further will and pleasure that the remaining Shores of Newfoundland shall be held by such of our subjects resorting thither from our Dominions in Europe as shall first arrive and take possession of the same for the like purpose of carrying on the Fishery in proportion to the number of ships and Boats they shall employ and they shall continue to hold the same in like manner and for the like purpose so long as they shall carry on the Fishery for one entire Season, such shores or parts thereof as shall be neglected or deserted by such possessors shall be held for the like purpose and in like manner by any of our Dominions in Europe who shall first occupy the same for the purpose of carrying on the fishery, and you are to put and maintain such Persons in possession thereof; And whereas it appears by the observations of your predecessors already alluded to that the Instructions from time to time

fully competent, and the jurisdiction of the Fishing Admirals Court has now so

given to prevent the erection of any buildings except Fishing Stages, Cook-

properly devolved to the Supreme and Surrogate Courts and Courts of Session, that in my opinion it is quite unnecessary to substitute any other. Indeed it does not appear that the Admiral's jurisdiction was at any time attended with much benefit, and there is certainly now no reason to regret its loss. Thirdly, with respect to the employment of two Green men in each boat, under a provision in the same Act; It does indeed appear to be utterly impossible that this provision of the Act should be enforced again. In the first place, because in the present sedentary way of carrying on the fishery it would not be practicable to procure such Green men, and more especially after so many years of War; and in the second because a very considerable share of the fishery is now managed in Skiffs never carrying more than three men, and very frequently a Man and two Boys, or only a Man and Boy; and not generally in Chaloups as in former times. Fourthly, with respect to the provisions in the 13th Sec. of the Act of the 15th of His Majesty, for the retaining forty Shillings to pay the passage of the Fishermen home; and in the 14th Sec. of the same Act respecting restrictions in the mode of paying the Men. It is not perhaps necessary to make any alteration in that part of the Act which specifies forty shillings as the sum to be retained for passage money home. The wages of the Fishermen will not bear a greater burden;

rooms, Ship rooms and flakes or such erections as shall be absolutely necessary for curing, salting, drying and husbanding Fish within two hundred yards distance from High Water mark, have not for a considerable period been enforced, and reasons have been submitted why that system should be departed from. It is our Will and pleasure that you should, while you remain on the Station, inform yourself as fully as you can on that subject also, and report your opinion thereupon on your return. It is our further will and pleasure nevertheless that all, or any building, erections, Wharfs, Slips or Fences already created may remain, provided the same are not erected or built upon Ancient Ship rooms, and provided they are not, in your judgement, considered to be nuisances and detrimental to the Interest of the Fishery in General; but in case they shall cause the same to be removed, giving due and reasonable notice to the parties claiming or pretending any Interest therein, if upon the spot, or to the Persons in Possession and occupation thereof, putting the said parties or persons to as little inconvenience as the case will admit, if such parties or persons do not chuse to remove the same in due time after such notice shall be given.

but if the return of the fishermen be an object to be enforced, the deficiency in the passage money might be made up by

Government out of the rents accruing from the Ship's rooms; and the Governor should by proclamation establish the rate of passage at the end of every Season. One great impediment at present to the return of the Fishermen is the absolute want of Tonnage. They come out in the Spring when the Cargoes of the Vessels are more valuable, and less bulky; but when those Vessels return they are laden even to their Cabins with Fish, and cannot in any manner afford the Space.

There can I think be no necessity for an alteration of the law as far as it relates to the restrictions in the mode of paying the Men. But again, with respect to the return of the Fishermen, there is yet another cause which must in some measure operate against it, and that is, the continued increase of the Seal Fishery, which can only be carried on by persons who remain during the Winter in the Island, to be ready for the breaking up of the ice, and to seize the first moment for putting to Sea. It may be perhaps to be deplored that the fishery is now constituted so as to render the continued residence of the Fishermen in a great degree necessary, but there is still the consolation that in any event of emergency a very excellent body of Men might at a moment be drafted from hence into the Navy.

I have not suffered any new possession to be taken

of Lands or Rivers or parts thereof. I have taken care that the ancient Ship's rooms should continue under the Statute 10th and 11th of William 3rd but it does not appear that Ships are likely to arrive from the British

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Dominions in Europe to occupy either those or the other vacant Shores of Newfoundland.

It is true that notwithstanding whatever instructions may have been given from time to time to prevent the erection of any building except Fishing Stages, Cook rooms, Ship rooms and flakes within two hundred yards distance from high water mark, such buildings have been erected in every part of the North side of St John's Harbour.

In the present altered state of St John's, no longer considerable for its fishery, but very particularly so as the great mercantile depot of the Island from whence all the supplies are drawn, (arising, no doubt, from a long course of War and a necessity for concentrating those supplies in a place of security) it is not necessary, and in fact it is not possible, that a regulation of this nature should be enforced.

The Wharfs and capacious Store houses of the Merchants, for obtaining as well the provisions and various articles of Supply with which they furnish the planters, as the great quantities of fish which they receive in barter for those supplies, occupy nearly the

whole extent of the strand; and as it is indispensable in the present circumstances of the fishery that such magazines should exist, they can be no where more properly placed. But there are also innumerable smaller buildings, retail shops of various descriptions, which are crowded very closely, and very perniciously together, immediately behind the great Stores of the Merchants; and form a street so unhappily narrow and confined as

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greatly to endanger the health of the inhabitants, and in case of fire to leave no chance of its being extinguished. It is in my opinion an object of essential importance that these houses should be removed. They cannot be considered in any other light than as great public nuisances; but as the value of the whole is so considerable, and the interests of so many person would be affected by removing them, it could not be done suddenly, nor without an adequate compensation.

The owners of such property might for instance be given reasonable warning that it would be necessary for them to remove, and portions of land, with the right of erecting what might be deemed sufficient buildings thereon for their respective purposes should be allotted to them in the higher part of the Town, in the Street called Gower

Street. But as the mere right of building in Gower Street might not be a sufficient inducement to them to quit their present habitations without some positive remuneration for the expence of the removal, it could be made either by granting to them land of adequate extent out of the Town, or by devoting to this purpose for a certain time a portion of the rents arising from the proposed lease of the Ships-rooms. Although in my replies to this Article I have strictly confined myself to the several queries, yet they are so comprehensive as to leave little room for further observation.

There is however one suggestion which I should desire to make; It is, that the unoccupied Ship rooms in the Out Harbours might be rendered more available if the law

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respecting them were thus altered. Instead of preserving them wholly vacant for the adventurers, by whom they have not for many years been claimed, the Planters or inhabitants might be permitted to use them on condition of delivering them up on their being claimed by fishing Ships which might arrive. They should be restricted from establishing any building whatever upon them other than those indispensable for the fishery, and for whatever buildings or conveniencies they might erect of this

denomination, they should be allowed such compensation by the claimant as should be deemed equitable by a certain number of Arbitrators to be named by each of the parties. In every point of view an arrangement of this sort would in my opinion be attended with advantage. In the first place many of the excellent Ships-rooms now lying useless might be turned to account, and it is not surely necessary to impede the Fishery in its present system, unless it be by means which obviously tend at the same time to its revival on the ancient system. A measure such as I propose would certainly not increase the difficulty of bringing back the ancient System; but on the contrary it would be the means of removing one very serious impediment; that to which fishing Ships arriving would be subject from the necessity of erecting their own Flakes, and Stages, and Cook rooms; in the preparation of which consideration time is necessarily lost, nor after all is it possible that sufficient pains should be bestowed to render them so commodious or in any manner so fit for the purpose as

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they ought to be, when those who erect them are in the first instance greatly pressed in point of time, and in the next uncertain whether their Labours will profit them beyond the present Season.

The advantages of curing

the fish in situations which have been regularly adapted for the process are so essential, that the mode of drying it on the beach, or of using temporary conveniences only, can scarcely again be resorted to; and in the generality of the Harbours the wood has been so entirely cleared from their immediate neighbourhood that much difficulty has occasionally prevailed in finding it for the flakes. As a remarkable instance of this fact; upon observing at Carbonear (in Conception Bay) a large enclosure of young fir Trees, the common wood of the whole Country, and enquiring of the Fisherman who owned it what had been his motives for undertaking so laborious a work, he assured me that indeed he had spent on that enclosure the labour of his youth; but that it well repaid him in the end, for he found there sticks to repair his Flake when otherwise he must have lost much valuable fishing time in hunting for them.

Constrained as I am to report my opinions on these various subjects (many of which involve considerations of the very first importance) on this my first return from Newfoundland, I have stated them with more precision than perhaps in real wisdom I ought to have done.

It is not impossible that in many points a more familiar acquaintance with its affairs may induce me to alter in some degree my present

sentiments. In such case however I shall feel it my duty candidly to confess the errors of this my first judgement, which cannot possibly be so well grounded as if it were the result of longer experience

Art. 6th It is most true that a very considerable extent of property is held in Newfoundland by Individuals whose claim is simply that of having cleared the land with their own labour, and erected their buildings thereon without interruption; or of having inherited or purchased it from those who could still give them no better title.

It appears that the late Governor and his predecessor had issued Proclamations requiring from the several Surrogates a general return of the property held in their respective districts. In some instances the difficulty is said to have been so great that these returns have not yet been made.

I have however enforced the Proclamations of my Predecessors, and have especially endeavoured with the assistance of the Chief Justice to procure an exact knowledge of the particulars required.

In the Office of the records of S^t John's are Lodged those reports that have hitherto been given in; which serve moderately well to answer the enquires contained in this article, and would, as far as they extend,

6th And whereas it has also been represented to us that divers of our Subjects residing in Newfoundland sell, mortgage, and lease for considerable sums, Houses, Lands, Fishing Stages, Cook rooms and Flakes, of which they have been in possession, either under Grant or permission from former Governors or other wise, as if they had an exclusive and indefeasible right therein, contrary to the intention of us and our Predecessors, and contrary to the Laws made for preventing the same: now in Order that we may be better informed concerning the premises, as well with a view to enable a judgement being formed relative to Lands &ca, of which persons have already possessed themselves, as to a due consideration of what measures in this respect should be pursued in future. It is our Will and pleasure that you, in conjunction with our Chief Justice of our said Island, do cause such enquiries to be made as you and he shall judge most proper, using very great caution in the manner of/conducting this enquiry so as to avoid most carefully creating unnecessary alarms in the

afford considerable facilities to any arrangement respecting property which might be ultimately made. It is the opinion of the Chief Justice that although divers of His Majesty's subjects in Newfoundland do sell, mortgage and lease Houses, Lands, Stages &c &c of which they have been

minds of persons in possession of Lands &ca, suggesting to them that it is equally the interest of themselves and of the public that the question should be put at rest, and that if any proceedings on the part of the public shall be thought necessary, there is every reason to believe attention

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in possession either under grant from former Governors to otherwise, yet is not as if they had an exclusive and indefeasible right therein; but that they merely sell, Mortgage or demise for a term of years their interest in such premises, without defining what that interest may be; and that the rule of caveat emptor seems to be the guide and understanding of the parties. I have caused copies to be made of the books containing returns of the property held in Conception Bay; and they will be transmitted to the Lords of the Committee of Council for Trade &ca to afford some idea to their Lordships of the nature of the general tenure of property throughout the Island, with the exception, in some degree of S^t John's.

I do not find that any record has been preserved of the fishing places that belonged to the Fishing Ships before the year 1685; but those which have since been claimed by fishing Ships, and are now known as Ship's-rooms, appear to be generally acknowledged and respected; excepting

will be paid to the interests of the parties liable to be affected thereby.

In the course of that enquiry it will be important to ascertain as accurately as you can the nature of the Titles and claims under which such property is held, the length of time that the present possessors or those under whom they claim have enjoyed the same, and the extent supposed rent and value of such property; And you are further to enquire whether it has ever been ascertained in the several Harbours of Newfoundland what Fishing places did belong to the Fishing Ships before the year 1685 and whether any Account is kept of such Fishing places as have been possessed since that year in Order to prevent the Disputes that may otherwise happen between the Masters of Ships and the Inhabitants and whether there is any want of convenient places unoccupied on the Beach or Shores of Newfoundland fit for the purpose of carrying on the fishery by the adventurers who may arrive from His Majesty's European Dominions.

some palpable encroachments at S^t John's which are known to have been for many years solely at the mercy of the Governor. In the Harbour of S^t John's there certainly remains but little of the shore unoccupied; but in all the other Harbours, as well those which I have myself inspected, as others which have been visited by my Orders, there is an abundance of very convenient places unoccupied which are perfectly fit for the purpose of carrying on the fishery by Adventurers who may arrive from Europe; especially in the District of Ferryland, the most contiguous to

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the Grand Bank, and most convenient in every instance for the banking fishery.

Art. 7th It does not appear that any Officers or Soldiers of the Garrison are in any way concerned or employed in the fishery.

7th You are not to permit or allow any of our Officers or Soldiers or other Persons whatever belonging to the Garrison within your Government to engage or be in any way concerned or employed directly or indirectly in any branch of the Fisheries carried on within your Government, or to take up for themselves any Beaches, Stages, or Cook rooms upon any pretence, whatever, in any manner to interrupt the Fishermen in catching, drying or curing their Fish, and if any such Officers, Soldiers, or other persons shall in contradiction to this our Instruction, you are to report the same to us

Art. 8th I have caused those injunctions to be given to the Masters of the Fishing Ships, By Boat Keepers, and Inhabitants which this Article directs; and have given considerable attention myself to the subject, and availed myself to the subject, and availed myself of many opportunities for investigating it. It does indeed appear that the fish is in every instance properly cured and fitted for sale at the Foreign Markets, and that good salt is used, and in sufficient quantity.

*Sic.

With respect to the manner and method of taking and curing the Fish; In the early part of the Season, and before the bait has come in, the abundance of the Cod is so great as to admit of them being jigged, that is to say hooked up by means of a jig, or instrument with

through one of our Principal Secretaries of State, that such Persons may be made sensible or our highest displeasure.

8th And whereas it is of great importance to the prosperity and extension of the Fishery, that the fish caught by our Subjects should be properly cured and fitted for sale at the Foreign Markets, you are therefore to cause strict injunctions to be given to the Masters of the Fishing Ships, the Bye Boat keepers and Inhabitants to take the greatest care in curing the Fish with a proper and sufficient quantity of good salt, and in preparing, husbanding and ordering the same that the Credit thereof may be maintained and augmented in the several places to which it is carried for sale, and in Order to render the attainment of that object effectual as far as possible. It is our Will and Pleasure that you shall consider and report to us for

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many hooks which is kept continually jirking until it strikes the Fish. As the season advances, and the Fish become less plenty, they are taken almost exclusively with bait; and the degree of success to be expected in the fishery depends on the regular coming in of the smaller fish which are used for this purpose. The Capelin, the Herring, and the Squid are the principal reliance of the Fishermen, and they succeed each other on the

our Royal consideration whether any and what means can be devised for observing whether the said Injunctions* is duly complied with; and you are, while on the Station, to make very particular enquiries into the manner and method of taking and curing the Fish, what quantity of Salt is allowed for the curing of every one hundred Quintals, whether the Parties are guilty of any abuse in the ordering thereof, and whether any

Coast.

It occasionally happens, and has in some instances this year, that one species of bait has quitted the Shore before the other has come in. In this case the fishermen are greatly at a loss, and there may yet remain abundance of Cod without the means of taking them.

The method of curing, is, in the first instance to head and split the fish, and to extract the back bone. It is then salted in bulk, and left for five days, or longer as circumstances may require, until it is supposed to be sufficiently impregnated with the Salt; when it is washed, to remove from the surface the undissolved particles, which if suffered to remain would render it too dry.

It then only requires to be spread carefully upon the Flakes, occasionally to be taken in, and exposed again according to the Weather, until it shall be thoroughly cured. The quantity of Salt allowed to the hundred quintals of Fish is generally ten, eleven, or twelve hogsheads; and depends on its strength.

I am not aware of any improvement that could be made in any of the foregoing particulars. I have heard no complaint of any want of diligence in the Fishermen, and

improvements can be made in any of the foregoing particulars, and whether the Fish taken at a distance from the Land by the small Vessels is not damaged before it is brought on shore, and whether in the sale of the Fish to those who are to carry it to the Foreign markets experienced Cullers are employed in ascertaining the good quality thereof and whether the Sack Ships, jealous of each other, and struggling who shall carry their Fish first to Market, do not frequently Ship it before it is properly cured, whereby it suffers in the passage, and lastly whether the Inhabitants, the Masters of the Sack Ships or the Bye Boat Keepers are most to be blamed in whatever is amiss, and what methods would be most likely to prevent and to rectify the same; the result of all which enquiries you are not to fail to report to us on your first return to Great Britain.

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those who are employed in curing appear to be skilful and industrious.

The fish taken at a distance from the land in the small Vessels is salted on

board, and continues in bulk until the Vessel comes in; when it is spread upon the Flakes for curing.

I have not understood that it is subject to any damage in this way; nor do I believe that it suffers at all. However, by far the greater portion of fish is caught in small skiffs which go out in the morning and return at night, and in such case it is never suffered to remain until the morning, but is directly headed, split and salted.

In answer to the question whether in the sale of the fish to those who are to carry it to the foreign markets experienced Cullers are employed in ascertaining the good quality thereof:

The principal exporters of fish to the Foreign Markets are the Merchants of S^t John's, and a few principal Merchants at the Out Harbours, to whom it is sold by the Planters, or made over in barter for supplies that have been rendered to them. When the Fish is brought by the Planter for Sale to the merchant, a Culler is employed, whose duty it is to judge between the parties, and to assort the Fish according to its qualities; viz^t into three distinct classes, bearing each a distinct price; the merchantable (that which is carried to the foreign markets), the Madeira Fish, and the West India.

I have made it an object to be frequently present at these sortings of the Fish; and the Cullers whom it happened to me to overlook were certainly no novices in

their Trade, from the
rapidity, and as I found on

Page	1	2	3	4	5	6	7
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examination, the accuracy with which they distributed the several kinds.

I have been particular in my enquiries respecting the Sack Ships, whether jealous of each other, and struggling who shall carry their fish first to market they do not frequently ship it before it is properly cured.

I cannot ascertain that this had occurred; and am strongly inclined to think that it is not the case; for this reason, that the Sack Ships are generally consigned by Houses in England or otherwise, to Houses with which they are connected in Newfoundland; and therefore, that as the Merchant who ships the fish is himself interested in its sale, he is naturally careful that it should be properly cured, and in a fit state for shipping.

Art. 9th I have not understood that the Salmon Fisheries are, from the best enquiries that I have been able to make, improperly monopolized. There appears to be considerable impediment thrown in its way from the present extremely high price of the materials for carrying on that Fishery; which can only be managed with nets.

I have endeavoured in vain to discover any means of improving it.

9th And whereas the Salmon Fishery carried on in different parts of our Island of Newfoundland has already proved of great advantage to our United Kingdom and we have reason to suppose the same may be considerably extended, you are therefore to give all due encouragement and protection to our Subjects concerned in the said Fishery, taking care that none of the places where the Salmon are caught shall be improperly monopolized contrary to our intentions expressed in the foregoing Instructions with respect to the Fisheries in general, and you are to inform yourself of the actual state of this

Fishery, and how far the same may be properly extended and improved.

10th You are further to enquire particularly into the state of the

Art. 10th The Whale fishery is not carried on by any of His Majesty's

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Subjects on the Coast of Newfoundland. I have submitted to His Majesty's Principal Secretary of State, and to the Lords of the Committee of Council for Trade the request of Doctor Carson of St John's to be granted a Patent for taking Whales within the precincts of this Government on the principals of a plan which he has invented; and am greatly desirous that he should be protected in his undertaking; for I am convinced that it only requires enterprize in this case to insure success. I have seen myself in my way to the Coast of Labrador this summer so many Whales, that it appears strange that persons have not been induced to make experiment of this important fishery.

Whale Fishery and of the Seal Fishery carried on in the Seas within your Government or adjacent thereunto, and whether any means can be suggested for promoting the success and extension thereof, particularly of the latter as it furnishes employment for a most useful Body of Men before the Cod fishery commences

The Seal Fishery continues to flourish and improve considerably.

The People of Newfoundland are so sensible of its value that no other stimulus appears necessary to urge them to pursue it. It would have been more productive this year but for the very unusual frequency of the Ice Islands impeding the progress of the Vessels towards the Field Ice, on which alone the Seals are to

B

be found.

Art. 11th I have issued a Proclamation as directed by this Article respecting the Native Indians; (Appendix B) and have given every attention to this interesting subject which it assuredly deserves.

It appears that the Governors my predecessors have for many years endeavoured to establish an intercourse with these Indians, and have invariably failed. If the work be therefore to be accomplished at all, (and I am strongly inclined to hope

11th You are to use your best endeavours to encourage a friendly intercourse with the Indians residing in our Island of Newfoundland or resorting thither, using your best endeavours to conciliate their affections so as to induce them to trade with our Subjects, and in Order to prevent any improper conduct towards them, you are as soon after your arrival as conveniently may be, to cause a Proclamation in our Name to be published and dispersed through

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that it may) it is evident that other measures must be resorted to than those which have yet been tried. Proclamations have been issued, rewards have been offered, and inducements otherwise held out which have occasionally tempted individuals to make the trial, but no good result has ever followed these efforts, because they have been always made by persons totally unfit for such a work.

The obstacles to surmount in this case are so many, and so difficult, that for any promise of success to attend the enterprize, it must be undertaken by a man of no ordinary turn of mind, of considerable fortitude and perseverance, who would engage in it with some degree of enthusiasm, and be sensible to the honor with which he might expect his success to be crowned, as well as to the less worthy motives of interest.

our said Island of Newfoundland and parts adjacent, strictly enjoining and requiring all our Subjects to live in amity and kindness with the said Indians, and commanding the requiring all Officers and Magistrates to maintain and support good Order and behaviour towards them, and in case any Person or Persons shall Murder or Commit any outrage upon any of the said Indians, you and the said Magistrates are to use your utmost endeavours to apprehend and bring to Justice such Offenders; you are also to obtain the best account you are able of the number of the said Indians, the places they usually frequent for trading, the Countries from whence they come, the nature and extent of the Trade that is or may be carried on with them and how far the same may, in your opinion, be extended

I have very sanguine hopes of having met with such a person in Lieutenant Buchan of the Adonis Schooner. The Orders which I have given to this Officer are in the (Appendix C.) He will execute them I am sure to the very utmost of his ability, and I have pledged my best interest to obtain promotion for him in the event of his success. and improved.

The number of the Native Indians remaining does not appear to be known, nor can I find the means of forming any judgment of what it may be; but the prevailing idea is that they are about five hundred. A few families of the Micmac Indians from the Coast of Canada have been long settled in the neighbourhood of S^t George's and Fortune Bay; but they do no amount to more than seventy or eighty persons and the

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only Trade which they carry on is in the Sale of a few furs occasionally to the Merchants. Other Indians from Nova Scotia and Canada come over occasionally to the northern parts of this Island to hunt; and perhaps it would be quite as well if they were prohibited from doing so, as little advantage is gained from an intercourse with them, and they destroy great numbers of animals for the sake of their furs, even when with young.

A few of the Esquimaux also came over from Labrador, but our settlements are so remote that they do not frequently

visit them. With these latter Indians I am informed that the Society of Unitas Fratrum carry on a considerable trade on the Continent, and I am sorry to add, impose upon them in a very shameful degree if the reports which have been made to me are founded in truth.

Art.12th No mines of any sort appear to have been worked in Newfoundland, nor have I been able to discover that any valuable mines exist. Coals have indeed been found, but never within less than twelve miles from the Water side, and by no means in a situation to be procured with advantage.

12th Whereas we did in the fifteenth year of our reign grant to John Agnew Esquire of Shewchan in the County of Wigton in North Britain and his Associates certain mines at Shoal Bay on the East Coast of our said Island of Newfoundland supposed to contain Copper Ore, one tenth part of which Ore by the special Condition of our said Grant is thereby reserved to us, our Heirs and Successors; We do therefore hereby direct and empower you our Governor or our Commander in Chief for the time being of our said Island of Newfoundland to take and receive one Tenth part of all such Metal Ore and Minerals as now are or hereafter shall be raised or extracted from the said mines, and to

p. 665

pay and make over the same to such Person or Persons as the Lords Commissioners of our Treasury shall appoint for that purpose, and you are further to enquire whether there are any other mines in our said Island of Newfoundland or Islands adjacent and whether they may be worked to advantage.

Art. 13 I have not found that Birds of any kind frequent the Shores of Newfoundland in any considerable numbers.

Having however understood that the Penguin Islands have been a great deposit for their eggs, and that persons have come in the spring from Halifax and otherwise, who made a constant practice of taking them away, and of destroying the Birds merely for the sake of their feathers,

I have authorized a fisherman to take eggs there for his own use the next spring, on condition of his preventing al other persons from taking them, or from molesting the birds.

Art. 14th I have appointed Justices of the Peace as usual, and principally those gentlemen whom I found in the Commission.

There appeared however to be a great want of proper persons to perform this important Office, as it would be quite inadmissible to entrust it to those who were concerned in the fishery, and thereby render them judges in their own cause; and in Newfoundland, in the Out Ports especially, there are very few Persons indeed who are not concerned in the fishery. It was certainly an object of moment to find in some sort a remedy for this inconvenience; and that which has

13 And whereas it has been represented to us that different Species of Birds frequenting the Shores of Newfoundland and the adjacent Islands which afford a supply of Food and of Bait and are useful in Fogs by warning Vessels that they are near Land, are frequently destroyed for the purpose of taking their feathers; It is our Will and pleasure that you do take such measures as in your opinion will effectually prevent their being so destroyed in future.

14th And whereas you are by our Commission authorized to constitute and appoint Justices of the Peace and other necessary Officers and Ministers for the administration of Justice and maintaining the Peace within the different parts of your Government, you are therefore upon your arrival in our said Island to enquire what Justices of the Peace are now in the Commission, in Order that in the new one to be issued you may nominate them, or such other Persons as shall appear to you to be proper for executing the Office of Justice of the Peace, and you are by your authority and influence to give all due support as well to our

suggested itself to me appears likely to be sufficiently effectual.

I have selected from the most respectable of the Merchants at each of the several Out ports where it seemed necessary (and where in many instances there was before no Magistrate) the person whom I conceived best qualified, and have given to them Commissions for keeping the Peace with full power and authority as to the other Justices, except only that a clause of limitation is inserted forbidding them strictly to hold plea of any disputes concerning Fishermen's or Seamen's wages, or concerning Seamen or Fishermen absenting themselves from their duty or employ; or to inflict any of the penalties and forfeitures incurred by any Act of Parliament relating to Newfoundland.

Art. 15th There has not been any case this year to require that this Article should be acted upon; and it is pleasing to add that there has not been a single cause before the Criminal Court.

Chief Justice as to the said Justices of the Peace, and to all other Magistrates and Officers in the legal discharge of their duty; and you are to endeavour to prevent any disputes between our said Justices of the Peace, and all other Persons in authority in the discharge of their respective Functions.

And whereas you are by your Commission authorized to appoint Commissioners of Oyer and Terminer, It is our Will and pleasure that you shall not make any such appointment as shall interfere with the Criminal Jurisdiction belonging to the Supreme Court of Judicature, except only in cases where it may be inconvenient to try Offenders in the Said Supreme Court.

15th Whereas you are empowered by our Commission to pardon all Offenders and remit all Offences, Wilful murder only excepted, in which case you have power upon extraordinary occasions to grant reprieves to such Offenders until our Royal Pleasure may be known.

It is our express will and pleasure that you do not suffer any Commission or Warrant Officer of any of our Ships or War, or the Master or any Trading Ship

of our Subjects which shall happen to be within your Government, to be deprived of Life or Limb by the sentence of any Court; but in such case you shall relieve the Criminal until our pleasure be known therein, and it is our further Will and pleasure that you take especial care that all Persons guilty of Treason be sent over to this Kingdom with such Witnesses

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and proof of the Crime as can be obtained, in order to their being tried here.

Art. 16th I am of opinion that thirty six Public Houses is a very proper number to be licenced for the Town of St Johns, and have directed that number to be licenced this year accordingly.

16th And whereas the immoderate use of Liquors has been found to be pernicious to the Health and Morals of our Subjects dwelling in and resorting to Newfoundland for the purpose of carrying on the fishery; and has been the cause of the Fishermen expending considerable part of their wages, you are not to allow in any part of your Government more Public Houses than may be requisite for the accommodation and supply of our said Subjects, particularly in the Town of Saint John, the number necessary for which, you will when on the spot, be able to judge of; It has been suggested, as you will find in the accompanying observations that Thirty six will be amply sufficient; And it is our will and pleasure that every person who shall be allowed to keep a Public House within your Government do give

Art. 17th The Provisions Stores and Commodities necessary for the use of the Fishermen are in my opinion supplied to them at as low a rate as can reasonably be expected. The Houses of the Merchants established at S^t John's are on a scale so respectable, and their Trade is so extensive that they can better afford to furnish such supplies at a moderate profit than any other persons from whom the Fishermen could procure them; and their number is such as always to secure a proper competition.

It is certainly proof that the great mercantile establishment at S^t

full and ample security for his or her good behaviour.

17th And whereas the monopolizing and engrossing of any Provisions, Stores, or Commodities necessary for the subsistence of the Fishermen and others employed in the Fishery, or necessary for carrying on the same will be highly prejudicial to the general interests thereof, you are by every legal means in your power to prevent and suppress any attempt that may be made for that purpose, and you are to consider and report to use whether any proper methods can be adopted for supplying more cheaply the Articles before mentioned, and for preventing any Frauds that may be committed in

p. 668

John's carries with it this advantage when the Fishermen at the Our Ports find it worth their while to go thither for their suppliers rather than procure them, as they might, much nearer home.

the sale thereof, or any combinations to enhance the price of Provisions or of any of the Articles beforementioned, tending to the distress of the Fishermen.

Art. 18th All persons inhabiting and frequenting Newfoundland have been allowed the free exercise of their religion.

18th And it is our intention that all Persons inhabiting and frequenting the Islands under your Government should have full liberty of conscience and the free exercise of all such modes of Religious Worship as are not prohibited by law. We do therefore require you to permit all persons within our said Islands to have such liberty, and to exercise

such modes of religious
Worship as far as is
consistent with law,
provided they be contented
with a quiet and peaceable
enjoyment of the same, not
giving Offence or Scandal
to the Government

Art. 19th The directions
contained in this Article
have been observed, and the
people are in general so well
disposed and orderly that it
has not been attended with
any difficulty.

19th It is our further will
and pleasure that you do
cause the laws made against
Blasphemy, Profaness,
Adultery, Fornicaion
Polygamy, Incest,
Profanation of the Lords
day, Swearing and
Drunkenness, to be
rigorously executed, and
that you do take due care
for the punishment of the
above-mentioned Vices, by
presentment upon Oath, to
be made before the Justices
of the peace in their
Sessions by the Constables
or other inferior Offices at
the several Harbours at the
proper time of the year to be
appointed for that purpose,
and for the further
discouragement of Vice and
promotion of Virtue and
good morals; you are not to
admit any Person to Act as
a Justice of the Peace whose
ill fame or conversation
may occasion Scandal; and
especially you will take care
that the Lords day be
devoutly and duly

p. 669

observed, that the book of
Common Prayer as by law
established in this Kingdom
be read each Sunday and
Holy day, and the blessed
Sacrament administered at
Stated periods according to
the rules of the Chapels and
public places or Worship as
are already or may be settled

for Public Worship,
according to the rites of the
Church of England.

[The 20th Art. relates to the
behaviour of Ministers of the
Church of England.

* * *

The 21st Art. relates to
Marriages.]

* * *

Art. 22nd My sentiments
upon the subject of this
Article are contained in my
answer to the fourth
question in Art. 5th.

I can scarcely suggest
any effectual means for
enforcing the return of the
Fishermen. — The nature
of the present system of the
Newfoundland fishery is
such as to render the object
nearly impracticable: If
however it is to be attained
at all, it must in some
measure be at the expence
of Government.

22nd And whereas it has
been thought of the highest
importance to the Naval
Power of Great Britain that
the Seamen and other
persons employed in the
fisheries carried on at
Newfoundland should return
annually at the end of the
Fishing Season to some part
of our European Dominions,
for the attainment of which
object various laws have
been passed and Instructions
given; but the same having
failed to a great extent in
producing the effect
proposed; you are to make
the most attentive enquiries
you can, whether any
measures could now be
taken for further encouraging
and promoting the return of
every such Seaman and
Fisherman to the part of our
European Dominions to
which he belongs, if it shall
be thought advisable to
adopt such measures under
the change of circumstances
that has taken place, and
how far the Provisions of the
Acts passed in the fifteenth
and twenty sixth years of

p. 670

our reign, for the purpose
abovementioned can be

made effectual, and you are also to discourage, and as far as you are able to prevent any of the said Seamen or Fishermen from deserting to any foreign Country or from going to reside and establish themselves in the Countries belonging to the United States of America, or even in any of our own Colonies in North America.

Art. 23rd The more material part of the information required by this Article is given in the Schedule containing the return of the Fishery, for the remainder see the appendix E.

J. T. DUCKWORTH
Doc. Signed.

23rd You shall use your best endeavours to obtain an Accurate Account of the number of persons resorting in each Season to our Island of Newfoundland and the said Islands adjacent distinguishing those who shall arrive from the ports of Great Britain and of Ireland respectively, and from Guernsey and Jersey, Alderney and Sark, distinguishing also such as are Seamen from Passengers and those who continue to reside there all the year, and the number of Roman Catholics and Protestants, which the number of the ministers of each religion respectively, together with the number of places of worship and of Schools belonging to each with the best account you can obtain of the Funds for the maintenance of the same, and the number of Births, Marriages and Burials in every year; you are likewise to obtain an Account of the British Sack Ships and Fishing Ships, and of their Tonnage, that annually arrive at the Harbour under your Government, and sail for the different Markets, either Foreign or British, shewing

the Ports they are bound to
and the quantities of each
sort of fish, Oil or other
Articles with which they are
respectively laden; you are
also to obtain an Account of

Page	1	2	3	4	5	6	7
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the number of Boats employed in the said Fisheries either by our subjects resorting thither from our European dominions, or by the Inhabitants of the said Island respectively; you are in like manner to obtain an Account of the number of Quintals of the different sorts of Fish taken in each Season and of the quantity of Oil made, whether of Whale, Seal or Cod, or other animals living in the Sea, together with an Account of the quantity of each of the abovementioned articles reserved and not sent to market at the end of the Fishing Season: You are also to obtain an Account of the average prices at which these several Articles sell during each Season in the Island; in making which enquiries you are to be extremely careful and exact, enjoining our Officers under your Command as well as the proper Officers in those Harbours to which your personal inspection cannot extend, to be as accurate as possible in the returns which they shall make to you, properly attested and signed by them; And all these particulars you are to report to us through one of our Principal Secretaries of State according to the form of the Schedule marked A, hereunto annexed, and as to such of the said particulars respecting which more accurate information may possibly be obtained after your departure from the Island by the Collector or

other Officers of the Customs or by our Naval Officer; You are to give directions to the said Officers to prepare Accounts thereof attested by each of them according to the form of the said Schedule and to transmit the same to you to be laid before one of our Principal Secretaries of State for our Infor-

p. 672

mation, and you are to give all due and legal support to the Officers of our Customs in the discharge of their duty, who are hereby required with all convenient speed at the end of the Fishing Season to transmit to the Lords Commissioners of our Treasury an Account of all articles imported into our Island of Newfoundland and the Islands adjacent, distinguishing the Countries from whence the same were brought and particularly the Provisions imported under the regulations of an Act passed in the twenty eighth year of our reign Cap 6 Sect 13 from the Countries of the United States of America, with an Account of the duties paid on such Articles as are liable to duty; You are also to endeavour to obtain the best accounts you are able of the Wages paid to the Seamen and Fishermen and in what manner the same are paid, and whether the old Custom of carrying on the Fishery upon Shares is now Continued and to what extent You are also to endeavour to obtain an account of the prices at

which Provisions and other important Articles are sold in the course of the Fishing Season and also during the Winter, and whether the same are paid for in Cash, Fish or bills, and if in Fish, whether the Fish is rated at the Market Price, or at what rate. It is our further will and pleasure that you pay attention to every circumstance that may in your judgment contribute to the prosperity of the said Trade and Fishery and to the well being of all Persons concerned in them, and that you consider of such measures as it may be proper for us to pursue for attaining those important purposes, and you are upon all occasions to

p. 673

send unto us through one of our Principal Secretaries of State a particular account of all your proceedings, and of the condition of the Affairs of the Islands under your Government and the Trade and fishery thereof, and of the Banks, Seas, and Ports adjacent, and also a Copy of the same to the Lords of our Privy Council appointed for the consideration of all matters relating to Trade and Foreign Plantations.

Copy

[11 Feb.,
1813.]**No. 168.**

Newfoundland.

**LETTER, THE LORDS COMMISSIONERS OF THE
ADMIRALTY TO VISCOUNT SIDMOUTH,**REQUESTING HIS MAJESTY'S COMMISSION FOR SIR RICHARD GOODWIN
KEATS TO BE GOVERNOR OF NEWFOUNDLAND, ETC.COL. COR. NEWFL^D. VOL. 31.Admiralty Office, 11th Feb^y 1813.

My Lord

Having appointed Sir Richard Goodwin Keats K.B., Vice Admiral of the Blue, to be Commander in Chief of His Majesty's Ships and Vessels, employed and to be employed at & about the Island of Newfoundland & upon the Coast of Labrador, from Mount Joli to the Entrance of Hudson's Streights, in the room of Admiral Sir John Tho^s Duckworth K.B. We desire Your Lordship will please to obtain the Royal Commission for him to be Governor of Newfoundland &c^a in the same manner as hath been granted to former Commanders in Chief upon that Station; And also to signify to Us the pleasure of His Royal Highness the Prince Regent in the Name & on the behalf of His Majesty, whether the Instructions that are preparing for Sir Richard Goodwin Keats should in any respect be altered from those under which Sir John Tho^s Duckworth sailed last Year.

We are

My Lord

Your Lordships

Most humble Servants

J. S. YORKE
GEO. J. HOPE
J. OSBORN.R^t H^{ble} Lord Viscount Sidmouth
&c. &c. &c.

[18 March,
1813.]**No. 169.**

Newfoundland.

**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN APPOINTING SIR RICHARD
GOODWIN KEATS**TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

Dated 18 March, 1813.

PATENT ROLL. 53 GEO. III. PART 8. N 16.

Sir Richard Goodwin Keats K
B
Governor of Newfoundland } George the third by the
Grace of God of the United
Kingdom of Great Britain
and Ireland King Defender of the ffaith To our trusty and well
beloved Sir Richard Goodwin Keats Knight of the most
honorable Order of the Bath Vice Admiral of the Blue
Squadron of our ffleet Greeting Whereas we did by our Letters
patent under our Great Seal of our United Kingdom of Great
Britain and Ireland bearing date at Westminster the ffourth
Day of June in the ffiftieth Year of our Reign constitute and
appoint Sir John Thomas Duckworth Knight of the Most
Honorable Order of the Bath to be our Governor and
Commander in Chief in and over our Island of Newfoundland
and Islands adjacent and also of all our fforts and Garrisons
erected and established or that should be erected and
established thereon for and during our Will and Pleasure As by
the said Letters patent relation being thereunto had may more
fully and at large appear Now know you that we have revoked
determined and made void And by these presents do revoke
determine and make void the said recited Letters patent and
every Clause Article and thing therein contained And we
reposing especial trust and Confidence in the Prudence
Courage and Loyalty of you the said Sir Richard Goodwin
Keats of our especial Grace certain knowledge and meer
motion have thought fit to constitute and appoint And by these
presents Do constitute and appoint you the said Sir Richard
Goodwin Keats to be our Governor and Commander in Chief
in and over our said Island of Newfoundland and the Islands
adjacent including the Islands of Saint Pierre and Miquelon
and all the Coast of Labrador from the River Saint John to
Hudsons Streights the Island of Anticosti and all other the
adjacent Islands the Islands of Madelain excepted according to
the Provisions of an Act passed in the fforty ninth Year of our
Reign intituled "An Act for establishing Courts of Judicature
in the Island of Newfoundland

and the Islands adjacent and for reannexing part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland" as also of all our forts and Garrisons erected and established in the said Islands of Newfoundland Anticosti and the Island adjacent or on the Coast of Labrador within the Limits aforesaid including the said Islands of Saint Pierre and Miquelon as aforesaid And we do hereby require and command you to do and execute all things in due manner that shall belong to your said Command and the Trust We have reposed in you according to the several powers and Directions granted or appointed you by this present Commission and the Instructions herewith given you or by such further powers Instructions and Authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual or by our Order in our Privy Council And we do further give and grant unto you the said Sir Richard Goodwin Keats full power and Authority from time to time and at all times hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the Oaths

*sic.

[Then the same as in Commission to Rear-Admiral Sir Richard King, ante page 576, line 5, to page 577, line 45.]

And we do hereby require and command all Officers Civil and Military and all other Inhabitants of our said Islands to be obedient aiding and assisting unto you in the Execution of this our Commission and of the Powers and Authorities herein contained And in Case of your Death Our Will and Pleasure is that the person on whom the Command of our Ships under your Command shall devolve to* take upon him the administration of the Government of our said Islands and execute this our said Commission and Instructions and the several Powers and Authorities therein contained in the same manner to all intents and purposes as you our said Governor and Commander in Chief might or ought to do for and during our Will and Pleasure And We do hereby declare ordain and appoint that you the said Sir Richard Goodwin Keats shall and may hold and enjoy the place of our Governor and Commander in Chief in and over our said Island of Newfoundland and the Islands adjacent including the Islands of Saint Pierre and Miquelon and all the Coast of Labrador from the River Saint John to Hudsons Streights the Island of Anticosti and all other adjacent Islands the Islands of Madelaine excepted according to the Provisions of the said Act passed in the forty ninth Year of our Reign entituled "An Act for establishing Courts of Judicature in the Islands of Newfoundland the Islands adjacent and for reannexing part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland" as also of all our forts and Garrisons erected and established in our said Islands with

all and singular the Powers and Authorites hereby granted unto
you for and during Our Will and Pleasure

In Witness & Witness &^c the eighteenth Day of March.

By Writ of Privy Seal

Privy Council Documents

Volume II Contents

No. 170.

Newfoundland.

[19 March, 1813.]

Sir Rich^d. G. Keats, K.B Instructions

INSTRUCTIONS PASSED UNDER THE ROYAL SIGN MANUAL AND SIGNET FOR SIR RICHARD GOODWIN KEATS

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

C.O. 195. VOL. 16, p. 352 [page numbers end here.]

George P R

Instructions to Our Trusty and Wellbeloved Sir Richard Goodwin Keats Knight of the Most Honorable Order of the Bath Vice Admiral of the Blue Squadron of Our Fleet Our Governor and Commander in Chief and over Our Island of Newfoundland in America and the Islands adjacent including the Islands of S^t Pierre and Miquelon and all the Coast of Labrador from the River Saint John to Hudsons Streights the Island of Anticosti and all other adjacent Islands the Islands of Madilaine excepted as also of Our Forts and Garrisons erected and established or that shall be erected or established in Our said Island of Newfoundland Anticosti and the Islands adjacent or on the Coasts of Labrador within the limits aforesaid Given at Our Court at Carlton House the Nineteenth day of March 1813 In the Fifty Third Year of Our Reign.

1		1
2	} same as	{ 2 to Sir John Thomas Duckworth, ante pp.641 to 645.
3		

4th. Several observations apparently of importance having been made by the Governors who have preceded you in the Government of Our Island of Newfoundland and respecting various Measures likely in their opinion greatly to promote the Success of the Fishery there as well as to increase the advantages thereof to Great Britain many of which Measures stated to have arisen from an unavoidable change of circumstances requiring alterations in the Laws now in force regulating the said Fisheries and appearing to Us to deserve the most serious consideration before any Proposal on the Subject shall be submitted to Parliament We have directed Copies of these observations to be transmitted to your herewith And It is Our Will and Pleasure that you shall during the approaching

obtain the best Information in your power from the most authentic sources respecting the expediency of proposing to the Legislature any and what alterations in the several Acts of the 10th and 11th William 3^d and the 15th, 26th, 28th, & 33^d. years of Our Reign particularly with respect.

1st to confirming the Title of Persons to Ship Rooms and Buildings which have for a considerable time been in the possession of the present Holders without any legal Right thereto or who derive their Claims from the usurpation of others as well as with respect to the Governors of the Island being authorized to grant Leases of such Ship Rooms as have not been occupied and on what conditions and for what Terms.

2^{dly} With respect to the Provisions in the 10th and 11th W^m 3^d relative to the Fishing Admiral which it is represented have long been in disuse and substituting some competent Jurisdiction (if it shall be thought necessary for settling disputes about fishing Rooms).

3^{dly} Respecting the Employment of two Green Men in each Boat under a Provision in the same Act which for the reasons stated neither has been for some time nor can apparently be hereafter acted upon.

4^{thly} The Provisions in the Act of the 15th Year of Our Reign Ch 31 Sect 13 respecting the retaining 40^s to pay the Passage of Fishermen home and in the 14th Section of the same Act respecting Restrictions in the mode of paying the Men neither of which it is stated can be enforced

And It is Our further Will and Pleasure that you do not upon any pretence whatever allow any new Possession to be taken of Lands or Rivers or Parts thereof in Our Island of Newfoundland or of the Coast thereof or on the Islands adjacent including S^t Pierre and Miquelon until it shall be decided whether any alteration of the Laws above referred to shall be proposed to Parliament and you are in the mean time to take care that the ancient Ship Rooms and Fishing Rooms do continue under the Provisions of Statute 10th and 11th W^m 3^d Ch 25 for the Encouragement of new Adventurers that they may be sure of finding proper and convenient Places for curing salting drying and husbanding their Fish whenever they shall resort thither It is Our further Will and Pleasure that the remaining Shores of Newfoundland shall be held by such of Our Subjects resorting thither from Our Dominions in Europe as shall first arrive and take possession of the same for the like purpose of carrying on the Fishery in proportion to the number of Ships and Boats they shall continue to hold the same in like manner and for the like purpose so long as they shall carry on

their Fishing there But in case they shall neglect so to carry on the Fishery for one entire Season such Shores or Parts thereof as shall be neglected or deserted by such Possessors shall be held for the like purpose and in like manner by any of Our Subjects resorting thither from Our Dominions in Europe who shall first occupy the same for the purpose of carrying on the Fishery and you are to put and maintain such Persons in possession thereof And Whereas it appears by the observations of your Predecessors

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already alluded to that the Instructions from time to time given to prevent the Erection of any Buildings except Fishing Stages Cook Rooms Ship Rooms and Flakes or such Erections as shall be absolutely necessary for curing salting drying and husbanding Fish within two hundred Yards distance from High Water mark have not for a considerable period been enforced and Reasons have been submitted why that System should be departed from It is Our Will and Pleasure that you should while you remain on the Station inform yourself as fully as you can on that Subject also and report your opinion thereupon on your Return It is Our further Will and Pleasure nevertheless that all or any Buildings Erections Wharfs Slips or Fences already erected may remain provided the same are not erected or built upon Ancient Ship Rooms and provided they are not in your judgement considered to be nuisances and detrimental to the Interest of the Fishery in general But in case they shall clearly appear to you to be so you shall cause the same to be removed giving due and reasonable notice to the Parties claiming or pretending to claim any Interest therein if upon the Spot or to the Persona in possession and occupation thereof putting the said Parties or Persons to as little inconvenience as the case will admit if such Parties or Persons do not cause to remove the same in due time after such notice shall be given

5th And Whereas it has also been represented to Us that divers of Our Subjects residing in Newfoundland sell mortgage and lease for considerable Sums Houses Lands Fishing Stages Cook Rooms and Flakes of which they have been in possession either under Grants or permission from former Governors or otherwise as if they had an exclusive and indefeasible Right therein contrary to the intention of Us and Our Predecessors and contrary to the Laws made for preventing the same Now in order that We may be better informed concerning the Premises as well with a view to enable a Judgement being formed relative to Lands &^c of which Persons have already possessed themselves as to a due consideration of what Measures in this respect should be pursued in future It is Our Will and Pleasure that you in conjunction with Our Chief Justice of Our said Island do cause such Enquiries to be made as you and he shall judge most proper using very great caution in the manner of conducting this Enquiry so as to avoid most carefully creating unnecessary

alarms in the Minds of Persons in possession of the Lands &c suggesting to them that it is equally the Interest of themselves and of the Public that the Question should be put at rest and that if any Proceeding on the part of the Public shall be thought necessary there is every reason to believe attention will be paid to the Interest of the Parties liable to be affected thereby in the course of that Enquiry it will be important to ascertain as accurately as you can the nature of the Titles and Claims under which such Property is held the length of time that the present Possessors or those under whom they claim have enjoyed the same and the Extent supposed Rent and value of such Property and you are further to enquire whether it has ever been ascertained in the several Harbours of Newfoundland what Fishing Places did belong to the Fishing Ships before the year 1685 and

p. 680

whether any account is kept of such Fishing Places as have been possessed since that year in order to prevent the disputes that may otherwise happen between the Masters of Ships and the Inhabitants and whether there is any want of convenient Places unoccupied on the Beach or Shores of Newfoundland and fit for the purpose of carrying on the Fishery, by the Adventurers who may arrive from His Majesty's European Dominions.

6
to } same { 7
16 } as { 17 to Sir John Thomas Duckworth, ante
pp.658-667.

17th And it is Our Intention that all Persons inhabiting and frequenting the Islands under your Government should have full liberty of conscience and the free Exercise of all such modes of Religious Worship as far as is consistent with Law Provided they be contented with a quiet and peaceable enjoyment of the same not giving offence or scandal to the Government.

18
to } same { 19
22 } as { 23 to Sir John Thomas Duckworth, ante
pp.668-670.

G. P. R.

Copy.

No. 171.

[19 March, 1813.]

Newfoundland.

p. 35.
Sir R. G. Keats.

EXTRACTS FROM ADMIRALTY INSTRUCTIONS TO SIR RICHARD GOODWIN KEATS

Instructions to him as
Commander in Chief
at Newf^d.

AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS ON THE
NEWFOUNDLAND STATION.

ADM. SEC. 2. VOL. 164.

By &^c

1st

Whereas you have received a commission from His Royal Highness Prince Regent acting in the name and on behalf of His Majesty, appointing you Governor and Commander-in-Chief in and over the Island of Newfoundland etc. and of all the forts and garrisons erected and established in the said Island and also His Royal Highness's Instructions for your Government therein: You are therefore to take particular care to act in all respects conformably to what is required by the said Commission and Instructions, and any other Instructions you may receive from His Royal Highness relating to the aforesaid Island of Newfoundland or any other parts within the limits of your Command doing every thing in your power to prevent any illegal Trade during your continuance on that Station and also to secure and protect the Fisheries and Coasts from any annoyance of the enemy, as well as from piratical Ships or Vessels, which you are to use your utmost endeavour to take or destroy.

2^d

You are to use your Utmost endeavours, agreeably to the powers vested in you, in preserving the peace, & good Government among the Seamen & Fishermen, & in apprehending Offenders, and you are as far as the same may relate to you as Comm^{dr} in Chief of H. M. Ships & Vessels at & about Newfoundland, to comply with the following Acts of Parliament Copies of which you will also receive herewith Viz^t

15 th	Geo:	3 ^d	Cap	31
18	„	„	„	55
20	„	„	„	6
20	„	„	„	10
26	„	„	„	26
49	„	„	„	27

3^d

And Whereas it is very prejudicial to this Kingdom that the Fishing Vessels do not bring home from Newfoundland, the Complement of men,

p. 682

they carry out, many of them being enticed away to other places; You are to use your best endeavours to oblige them to return with the Ships in which they went out, so far as in you lies, except only with regard to such of their Men, as shall have entered into H. M. Service ; and you are to prevent as much as possible such men from emigrating to the Territories of the United States causing all such, to be impressed into H. M. Service, as shall be found embarked on board any Ships or Vessels except Ships of War, belonging to Neutral States, with that intent.

4th

And Whereas no foreign Ships or Vessels whatever have any right to fish at or about Newfoundland and the Commander of Ships of War bound on Convoy, have at all times been directed not to allow of their fishing in these situations: It is therefore H.R.H. the Prince Regent's pleasure that you do take especial Care to prevent the same, and that his orders given therein be strictly complied with, and if you should find any neutral Ships or Vessels fishing at or about Newfoundland you are to oblige them to desist and to depart from off the Coast.

[There was no Article 5 to these Instructions.]

6th

You are to take such steps as you shall judge necessary for the protection of St. Pierre and Micqulen[sic].

7th

You are to settle and guard the Fisheries not only at St. John's but on all the Coasts of Newfoundland and upon those of the Continent of Labrador as far to the Northward as your command extends, to use your best endeavour to encourage and support the Cod Fishery in York Harbour, and on the other part of the Coasts of the above mentioned Continent, as also the Seal and Salmon Fisheries on the said Coast and to hinder any trade and intercourse being carried on by any persons whomsoever other than the Subjects of the United Kingdom, with the Inhabitants of that Country which of right belongs solely to His Majesty.

9

8	} same	{	10	[to Rear Admiral Sir Richard King, ante
9			pp. 585, 586, but omitting the	
10			reference	
	} as	{	11	to Anticosti in Art. 11.]

11th

You are on your arrival at Newf^dland to obtain from the Merchants a Notice of the periods at which they will require Convoys for the Season to the West Indies, Portugal, Spain into the Mediterranean & to Great Britain, & to make such arrangements as your means will best admit of, for complying
p. 683

with their wishes. The Ships which accompany the Convoys to Portugal, Spain & into the Mediterranean are after having seen them in safety to their destinations (as far as Gibraltar if any Vessel should be bound thither) to repair to Spithead & wait for further orders, & those which bring home the Trade to Great Britain, are, in like manner to be ordered to Spithead, the provision for these Convoys being the Chief cause for detaining any of the Squadron at Newf^dland after the fishing Season, you are to send home all such Ships & Vessels as are not wanted for this purpose, so soon as the Service will admit-excepting such as under existing circumstances You may deem it absolutely necessary for the welfare of H. M. Service, to order to Winter at Newfoundland.

[Art. 12 relates to officers in Naval Departments on foreign stations.]

13th

You are to take care that Prisoners of War be not put on board Neutral Vessels to be conveyed to England excepting in cases of urgent Necessity, nor unless the Masters of such Vessels will agree to receive them without charge to this Country & you are to give orders accordingly to all the Captains & Commanders of H. M. Ships & Vessels under your command.

14th

You are to consider the limits of your Station to be as follows Viz^t

At and about the Island of Newf^dland, but having for it's Western boundary a strait line drawn from the Latitude of 40° North and Longitude West to a position midway between Cape Ray on the Newfoundland Coast & the Island of S^t Paul off the Northern point of Cape Breton Island; & from thence in a direct Line to Mount Joli, on the Labrador Coast; and you are to restrict your Cruizers to these limits accordingly.

15th

By the end of October you are to leave the Station & repair to Spithead, taking under your Convoy if it should be necessary such of the homeward bound Trade, as may be in readiness to accompany You; And You are to send to Our Secretary, for our information an account of your arrival and Proceedings.

Given & 19 March 1813.

MELVILLE
W^M DOMETT
J. S. YORKE
J. OSBORN

To Vice Admiral
Sir R. G. Keats K.B.
&c. &c. &c.
By command &c.
J. W. Croker.

Copy

[6 May, 1816.]

Newfoundland.

**ORDER OF HIS MAJESTY IN COUNCIL APPROVING
DRAFTS OF A COMMISSION AND INSTRUCTIONS
FOR VICE-ADMIRAL FRANCIS PICKMORE**

Newfoundland
Commission
Instructions.
Order approving D^t
Commission and
Instructions Vice
Admiral Francis
Pickmore, Governor.

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

Extracts from the Minutes of Council 6th May, 1816.

* * * *

Whereas there was this day read at the Board, a Letter from the Right Commission Honourable Earl Bathurst, one of His Majesty's Principal Secretaries of State to the Lord President of the Council, transmitting the Draughts of a Commission and Instructions for Vice Admiral Francis Pickmore Governor and Commander in Chief in and over the Island of Newfoundland and its Dependencies in America; His Royal Highness the Prince Regent having taken the same into consideration, was pleased, in the Name and on the behalf of His Majesty and by and with the Advice of His Majesty's Privy Council to approve of the said Draughts of Commission and Instructions, and to Order, as it is hereby Ordered, That the Right Honourable Earl Bathurst, One of His Majesty's Principal Secretaries of State, do Cause a Warrant to be prepared, for His Royal Highness's Signature for passing a Commission conformably to the said Draught (which is hereunto Annexed) under the Great Seal of Great Britain, and also to cause the said Instructions to be prepared (which are hereunto also Annexed) for His Royal Highness's Signature.—

* * * *

No. 173.

[18 May,
1816.]

Newfoundland.

**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN APPOINTING VICE-ADMIRAL
FRANCIS PICKMORE**

TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

PATENT ROLL. 56 GEO. III. PART 9. NO. 3.

Vice-Admiral ffrancis
Pickmore
Governor of Newfoundland. } George the Third by the
Grace of God of the United
Kingdom of Great Britain
and Ireland King Defender of the ffaith To Our Trusty and
Wellbeloved ffrancis Pickmore Esq^r Vice Admiral of the
White Squadron of Our ffleet Greeting Whereas we did by Our
Letters Patent under our Great Seal of Our United Kingdom of
Great Britain and Ireland bearing date at Westminster the
eighteenth day of March One thousand eight hundred and
thirteen in the fifty third year of our reign constitute and
appoint Sir Richard Goodwin Keats Kn^t of the Most Honorable
Military order of the Bath to be Our Governor and Commander
in Chief in and over Our Island of Newfoundland and Islands
adjacent as also of all our fforts and Garrisons erected and
established or that shall be erected and established thereon for
and during our will and pleasure as by the said Letters Patent
relation being thereunto had may more fully and at large
appear Now Know You that we have revoked and determined
and made void and by these presents Do revoke determine and
make void the said recited Letters Patent and every clause
article and thing therein contained And we reposing especial
trust and confidence in the prudence courage and loyalty of
you the said ffrancis Pickmore of our especial grace certain
knowledge and meer motion have thought fit to constitute and
appoint and by these presents Do constitute and appoint you
the said ffrancis Pickmore to be our Governor and Commander
in Chief in and over our said Island of Newfoundland and the
Islands adjacent and all the Coast of Labrador from Mount Joli
to the Entrance of Hudsons Streights the Island of Anticosti
and all other Adjacent Islands (the Islands of Madelaine
excepted) according to the Provisions of an Act passed in the
forty ninth year of Our reign Intituled "An Act for establishing
Courts of Judicature in the Island of Newfoundland and the
Islands adjacent and for

reannexing part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland as also of all our fforts and Garrisons erected and established in the said Islands of Newfoundland Anticosti and the Islands adjacent or on the Coast of Labrador within the limits afore said And we Do hereby require and command you to do and execute all things in due manner that shall belong to your said Command and the Trust we have reposed in you according to the several powers and directions granted and appointed you by this present Commission and the Instructions herewith given you or by such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual or by our order in our Privy Council And we Do further give and grant unto you the said ffrancis Pickmore full power and authority from time to time and at all times hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the oaths

[Then the same as in Commission to Rear Admiral Sir Richard King, ante page 576, line 5, to page 577, line 45.]

*sic.

And We Do hereby require and command all Officers Civil and Military and all other Inhabitants of our said Islands to be obedient aiding and assisting unto you in the execution of this our Commission and of the powers and authorities herein contained And in case of your death Our Will and pleasure is that the person on whom the Command of our Ships under your Command shall devolve Do take upon him the administration of the Government of our said Islands and execute this Our Commission and Instructions and the several powers and authorities therein contained in the same manner to all intents and purposes as you Our said Governor and Commander in Chief might or ought to do for and during our will and pleasure

And We Do hereby Declare and Appoint that you the said ffrancis Pickmore shall and may hold execute oy* the place of Our Governor and Commander in Chief in and over Our said Island of Newfoundland and the Islands adjacent and the Coast of Labrador from Mount Joli to the entrance of Hudsons Streights the Islands of Anticosti and all other adjacent Islands (the Islands of Madelaine excepted) according to the provisions of the said Act passed in the forty ninth year of our reign Intituled "An Act for establishing Courts of Judicature in the Island of Newfoundland and the Islands adjacent and for re-annexing part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland["] and also of all Our fforts and Garrisons erected and established in Our said Islands with all and singular the powers and authorities hereby granted unto you for and during our Will and pleasure

In Witness &c Witness &c the eighteenth day of May.

By Writ of Privy Seal

[22 June,
1816.]**No. 174.**

Newfoundland.

**EXTRACTS FROM ADMIRALTY INSTRUCTIONS TO
FRANCIS PICKMORE**AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS AND THE
NEWFOUNDLAND STATION.

ADM. SEC. 2. OUT LETTERS. VOL. 1327.

By &^{ca}

Instructions for Francis Pickmore Esq^r Vice Admiral of the White, and Commander in Chief of a Squadron of His Majesty's Ships and Vessels employed and to be employed at and about the Island of Newfoundland and upon the Coast of Labrador from Mount Joli to the entrance of Hudson's Streights.

* * * *

1 1

2	} same as	{	2	[to Vice Admiral Sir R. G. Keats, ante pp. 681, 682, but omitting in Art. 3 all words after "entered His Majesty's Service."]
3			3	

4th

And whereas no Foreign Ships or Vessels whatever (except as hereinafter excepted) have any right to fish at or about Newfoundland, and the Commanders of Ships of War proceeding hither have at all times been directed not to allow of their fishing in those situations. It is therefore the Prince Regent's Pleasure that you take especial care to prevent the same, and that His Orders given therein be strictly complied with, and if you should find any Foreign Ships or vessels fishing at or about Newfoundland you are to oblige them to desist, and depart from off the Coast excepting Ships or Vessels belonging to the subjects of the King of France, fishing according to the Stipulations contained in the Definitive Treaty of Paris concluded at Versailles on the 3rd September, 1783, between His Majesty and the King of France.

5th

With regard to the said Ships and Vessels belonging to the Subjects of His Most Christian Majesty, you are to observe that by the 4th and 5th Articles of the Treaty of Peace before mentioned, His Majesty is main-

tained in his right to the Island of Newfoundland, and to the adjacent Islands, as the whole were assured to him by the 13th Article of the Treaty of Utrecht, excepting the Islands of S^t Pierre and Miquelon, which were ceded in full right to His Most Christian Majesty, who in order to prevent the quarrels which had before arisen had renounced the right of fishing which belonged to him, in virtue of the aforesaid Article of the Treaty of Utrecht, from Cape Bona Vista to Cape S^t John, situated on the Eastern Coast of Newfoundland in fifty degrees North Latitude; and that His Majesty consented, on his part, that the Fishery assigned to the French beginning at the said Cape S^t John, passing to the North, and descending by the Western Coast of the Island of Newfoundland, should extend to the Place called Cape Raye situated in 47° 50 North Latitude, and that the French Fishermen should enjoy the Fishery which is assigned to them by the said 5th Article, as they had a right to enjoy that which was assigned to them by the Treaty of Utrecht, and that with regard to the Fishery in the Gulph of S^t Lawrence, the French should continue to exercise it conformably to the 5th Article of the Treaty of Paris.

And whereas by the 13th Article of the Definitive Treaty of Peace between His Majesty and the King of France, signed at Paris on the 30th of May 1814, it was stipulated that the French right of Fishery, upon the Great Bank of Newfoundland, upon the Coasts of the Island of that name, and of the adjacent Islands in the Gulph of S^t Lawrence, should be replaced upon the footing in which they stood in 1792: and by the 11th Article of the Definitive Treaty between Great Britain and France, signed at Paris on the 20th of November 1815, it was again stipulated that the Treaty of Paris of the 30th of May 1814, should be confirmed and maintained in all such of its enactments as should not have been modified by the Articles of the said Treaty of the 20th of November; You are therefore to use your utmost care, diligence, and attention, that the several stipulations herein mentioned or referred to be suitably performed, as far as they shall come within the limits of your Command; having due regard to such part of His Majesty's Declaration and the Counter Declaration of His Most Christian Majesty, subjoined to the Treaty of Versailles of the 3th of September 1783, as may relate thereto, and also to the Fishery between the Island of Newfoundland and the Islands of S^t Pierre and Miquelon; and visiting the several Bays and Places in Newfoundland, between Cape S^t John (passing to the North and descending by the Western Coast,) and Cape Raye, or causing them to be visited by any of the Ships of your Squadron, as you shall judge best for that purpose. But as from the vicinity of the Islands of S^t Pierre and Miquelon to Newfoundland and other parts of His Majesty's Dominions in North America, an illicit Trade may be attempted to be carried on between the British, Indian, or any other Inhabitants of His Majesty's Dominions, and the People of France residing on the said Islands of S^t Pierre and Miquelon, or employed in the Fishery by virtue of Treaty, or between His Majesty's said Subjects and other People of France, or Subjects of other

Powers, trading, or pretending to Trade to, or with, the said Islands of

p. 689

St Pierre and Miquelon; In case any endeavour should be used to carry on such illicit Trade, as aforesaid, You are to be particularly attentive to the same, and to prevent if possible all communication whatever between the said Islands of St Pierre and Miquelon, and any part of His Majesty's Dominions in North America, contrary to the plain and strict meaning of this Instruction.

6th

With respect to the Subjects of the United States of America and their ships and vessels We refer you to the Instructions addressed by Earl Bathurst, His Majesty's Principal Secretary of State for the Colonial Department to Vice Admiral Sir Richard Goodwin Keats on the 17 June 1815 with reference to the recent Treaty between this Country and the United States, and also to our Secretary's letter to you on the 23rd of last month conveying to you our directions for your attending to such communication as you might from time to time receive from Mr. Bagot His Majesty's Minister at Washington as to the limits within which the Fisheries will hereafter be allowed to be carried on in North America by Subjects of the United States, And We hereby require and direct you to be guided by Lord Bathurst's said Instructions until you shall receive the Communications alluded to from Mr. Bagot, and upon receiving such communications to pay even attention thereto, and to issue the necessary Orders therein to the Squadron under your Command.

[7th same as Article 7 to Rear Admiral Sir R. G. Keats, ante p. 682. 8th same as Article 9 to Rear Admiral Sir Richard King, ante p. 585.]

9th

Besides the superintendence and regulations of the Fisheries of the Island of Newfoundland and the Coast of Labrador you are to afford every protection in your power to those Fisheries which are carried on in the Gulf of St. Lawrence, within the limits of your command, disposing of some of the Ships or Vessels under your orders, in such manner as shall best serve for that purpose without prejudice to the more material parts of the important service committed to your care.

[10th same as Article 11 to Vice Admiral Sir Richard King. ante p. 585, but omitting the instructions as to the Islands of Madelaine. 11th relates to Naval Establishments on Foreign Stations.]

12th

You are to consider the Limits of your Station to be as follows viz.

At and about the Island of Newfoundland, but having for its Western boundary a straight line drawn from the Latitude of 40° North and Longitude 50° West to a position midway between Cape Ray on the Newfoundland Coast and Cape North on Cape Breton Island and from thence in a direct line to Mount Joli on the Labrador Coast, and you are to restrict Your Cruizers to these limits accordingly.

* * * *

p. 690

13th

You are to retain the Ships and Vessels under your Command upon the Station until the Fishing Season shall be completely over, or for such further period as the Colonial Service may require, ordering them, severally, as they can be spared, to return to Spithead, And by the end of October, or as soon after as you shall find consistent with the duties of your Command, You are yourself to quit the Island, in the Ship bearing your Flag, and return to Spithead reporting your arrival to our Secretary for our information.

If however you should consider it adviseable for the purposes of the Colony, to leave at the Island one or more of the small Vessels under your orders, You are authorized so to do, giving to the Senior Officer such Instructions as you may think necessary for his guidance.

14th

You are to send by all opportunities to our Secretary for our information, accounts of your proceedings relative to the service on which you are employed, and such intelligence as You may have collected proper for our knowledge; and You are on your return to England to transmit to our Secretary, to be laid before Us, a Journal of your proceedings with the Squadron under your Command or any part thereof, and of the services on which you may send any of the Ships or Vessels, with your reasons for the same, and to note therein all such particulars and remarkable occurrences as may be proper for our information.

Given under our Hands the 22nd of June 1816.

MELVILLE
J. S. YORKE
G. MOORE.

By Command of their Lordships
J. W. Croker.

Copy.

[1 June,
1817.]**No. 175.**

Newfoundland.

**ROYAL INSTRUCTIONS AUTHORIZING GOVERNOR
OF NEWFOUNDLAND**TO MAKE GRANTS OF LAND IN THE ISLAND OF NEWFOUNDLAND FOR
PURPOSES OF CULTIVATION.

C.O. 195. VOL. 17.

Downing Street

1st June 1817.V. Adm^l. Pickmore

Sir,

His Majesty's Government have had under consideration the representations which have from time to time been made to them as to the distressed State of the population of Newfoundland and being most anxious to devise means by which some supply of provisions may in future be secured to the Island independent of Foreign supplies; and it having been represented that notwithstanding the ungenial climate and Soil of that Colony it might nevertheless be possible to raise many articles of subsistence and especially Potatoes if Lands were granted for cultivation. I have to signify to you the Commands of His Royal Highness The Prince Regent that you should immediately upon your arrival in Newfoundland take measures for ascertaining those parts of the Island in which cultivation is most likely to be attended with success and that you should proceed to make Grants of the same to any individuals who may be desirous or willing to engage in the cultivation taking care always that the Grants made be not beyond the means of the individual to cultivate and that a small quit Rent per Acre be reserved for the use of His Majesty.

I have the Honor to be &c.

BATHURST.

Copy.

Privy Council
Documents

Volume II
Contents

[9 May,
1818.]

No. 176.

Newfoundland.

**INSTRUCTIONS PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET FOR SIR CHARLES
HAMILTON**

[2 Feby,
1824.]

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC., WITH REMARKS.
Dated 9 May, 1818.

C.O. 194. VOL. 67.

Copy of His Majesty's Instructions to Vice Admiral Sir Charles
Hamilton Bart. as Governor of Newfoundland with Remarks
thereon pursuant to the Earl of Bathurst's dispatch of the 30th
June 1823.

Enclosure in Governor Sir C. Hamilton's Despatch N^o. 125
of the 2nd February 1824.

In the name & on the behalf
of His Majesty

George P. R.

Instructions to our trusty &
well beloved Sir Charles
Hamilton Bart. Vice
Admiral of the Blue
Squadron of our Fleet,
Our Governor and
Commander in Chief in
and over our Island of
Newfoundland in
America, and the Islands
adjacent, and all the Coast
of Labrador from Mount
Joli to the Entrance of
Hudson's Straits the Island
of Anticosti and all other
adjacent Islands, the
Islands of Madelaine
excepted. Given at our
Court at Carlton House
the Ninth day of May
1818 in the fifty eighth

Unobjectionable.

1st

With these our Instructions you will receive our Commission under our Great Seal of our United Kingdom of Great Britain and Ireland constituting you our Governor and Commander in Chief in and over our Island of Newfoundland in America and Islands adjacent and all the Coast of Labrador from Mount Joli to the entrance of Hudson's Straits, the Island of Anticosti and all other adjacent Islands, the Islands of Madelaine excepted, according to the provisions of an Act passed in the 49th year of our Reign intituled "An Act for establishing Courts of Judicature in the Island of Newfoundland & the Islands adjacent, and for re-annexing part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland" and also of all our Forts and Garrisons, erected and established or which shall be erected and established in our said Island of Newfoundland Anticosti, and the Islands adjacent or on the Coast of Labrador within the limits aforesaid, with directions to obey and follow such Orders and Instructions as shall from time to time be given you under our Signet and Sign Manual, or by our Order in our Privy Council, You are therefore to prepare yourself with all convenient speed to repair to your said Command, and being there

arrived, you are to take upon you the execution of the Office and Trust we have reposed in you, and as soon as conveniently may be you are to assemble the principal Inhabitants of the said Island of Newfoundland and of such other of the Islands

p. 694

under your Command as you shall judge expedient, and with all due solemnity you are to cause our said Commission, constituting you our Governor & Commander in Chief as aforesaid to be read and published at such Meeting.

2nd

Unobjectionable. But it is suggested that in place of the clause underlined in Red Ink, the substance of the following be inserted, viz. "The Survey of which has already been begun, and for the completion of which Competent authority and means will be afforded you by the Lords Commissioners of the Admiralty."

It is our Will and pleasure that you do from time to time as the nature of the Service will allow visit all the Coasts and Harbours of the Islands under your Government. You shall also procure accurate drafts or Maps of such of the said several harbours Bays and Coasts as are situated between Cape Bonavista and Cape St John, it having been represented to us that the other parts of the Coast of the said Island have already been carefully surveyed for the due execution of which Service you will have authority to employ a Competent Officer with proper Assistants, and to hire a small vessel to attend him* And in case you cannot visit all the said Coasts & harbours, you are to give directions to the Officers under your Command for the purposes

beforementioned taking care to report to us through one of our Principal Secretaries of State the Condition of our said Forts, and whether it may be necessary, to erect any new Forts or Posts in the Islands under your Command. You are also to transmit to the Master General of our Ordnance an Account of the Arms, Ammunition and Stores in our said Forts in which respect you are to follow such directions, as you shall receive from our said Master General of the Ordnance.

* These words are underlined in red ink in the original document.

p. 695

3

Unobjectionable. But as His Majesty was pleased to issue certain Instructions respecting the Privileges granted to the People of the United States, of fishing and drying Fish in the British American Dominions, as communicated to me in Earl Bathurst's Dispatch of the 21st June 1819, it might be proper that the same should be introduced into the Standing Instructions.

You are to be particularly careful to enforce the provisions of all Acts of Parliament for encouraging the Shipping Navigation and Trade of our dominions and to prevent all evasions and frauds contrary to the same, and you are not to suffer any foreigners whatever to fish, or dry or cure any fish on any of the Coasts or Shores within your Government except in cases in which the subjects of any Foreign Power are entitled by Treaty to fish, or dry or cure fish there.

4th

My opinion that alterations were required on several points in the Laws relating to Newfoundland has been at different times communicated to the Earl Bathurst but more particularly at the

Several Observations apparently of importance having been made by the Governors who have preceded you in the Government of our Island of Newfoundland, & respecting various Measures likely in their opinion

commencement of the year 1822, and I had been led to that Conclusion by observing that so far from the return of a state of Peace having realized the once general expectation of a return of the ancient System of carrying on the Fishery in Qualified Fishing Ships from England, the number of such Ships had annually decreased from 48 which was the number in the year 1817, to 15 the number that arrived last year. Whereas in the year 1792 there were no less than 276 Fishing Ships employed, of which 187 were Bankers. The protracted warfare, in which the Country was in the interim engaged, rendered this System greatly hazardous to the Interests of those concerned by the frequent losses they were liable to sustain from the Enemy, while the already increased population of the Island was every year augmenting, and gradually

greatly to promote the success of the fishery there as well as to encrease the advantages thereof to Great Britain, many of which measures (stated to have arisen from an unavoidable change of circumstances) requiring alterations in the Laws now in force, regulating the said Fisheries, and appearing to us to deserve the most serious Consideration before any proposal on the subject shall be Fishing submitted to Parliament: We have directed Copies of these observations in to be transmitted to you herewith, and it is our Will and Pleasure that you shall during the approaching Season while you remain on the station, obtain the best information in your power, from the most authentic sources respecting the expediency of proposing to the Legislature any and what alterations in the

p. 696

establishing a Fishery in Boats along shore or at inconsiderable distances from the Island, this being also favoured by a Winter and Spring Seal Fishery, which employed considerable numbers before the Season for Cod fishing commenced. Thus the Ship Fishery has diminished to little more than a name, the result of the two systems being last year the production of 750,000 Quintals from the Boat or Island Fishery, while that of the Ships made only 34,000 Q^s It was

several Acts of the 10 & 11 W^m 3 and the 15 26th 28th and 33rd Years of our Reign, particularly with respect.

evident therefore that Laws created as well for the encouragement of a Ship Fishery from England as with a view to discountenance settlement and a resident Fishery, were become nearly a dead Letter, and that some provisions on the other hand were wanting for the regulation of the latter. The subject having been brought into the Bill now before Parliament for consolidating the Laws relating to Newfoundland, this Article would appear to be no longer necessary. I have therefore only to remark on the several heads which it embraces and on which enquiry is Sought.

1st As to confirming the Title of Persons to Ship Rooms and Buildings, the Bill proposes that the Governor shall lease out all the Ship Rooms, in order to do which, it will become necessary to abate encroachments on them, when the question the of right from long possession will be legally determined.

2^{ndly} The Jurisdiction of the Fishing Admirals is abolished by the

1st To confirming the title of persons to Ship rooms and buildings which have for a considerable time been in the possession of the present holders without any legal right thereto, or who derive their claims from the usurpation of others, as well as with respect to the Governors of the Island being authorized to grant leases of such Ship rooms as have not been occupied, and on what Conditions and for what terms.

2nd With respect to the provisions in the 10th & 11th W^m 3 relative to

Establishment of Regular Courts of Judicature, therefore Obsolete. the Fishing Admirals, which it is represented have long been in disuse, and substituting some competent Jurisdiction if it shall be thought necessary, for settling disputes about Fishing Rooms.

3^{rdly} Nearly all the rising population being brought up to the use of Boats, it would become a measure next to impossibility to comple an Inhabitant to employ Green men, in compliance with the provisions of the 10 and 11 Will. 3rd and the rejection of that measure is an object of the new Bill.

3^{rdly} Respecting the employment of two green Men in each boat under a Provision in the same Act which for the reasons stated neither has been for some time nor can apparently be hereafter acted upon.

4^{thly} With regard to the Provisions of the 15th Geo. 3 respecting the retaining of 40^s to pay the Fisherman's Passage home, I conceive in the present encreased state of the resident population and the before mentioned change in the fishing system, it is impracticable to compel the return of the Fishermen annually. And this provision is omitted in the new Bill. Indeed the Native or resident population is considered in itself almost sufficient to answer the call for hands in the Fishery. With regard to the mode of paying the Fishermen, the Bill proposes that in lieu of only One half, three fourths (but I should recommend 2/3) of a mans wages should be allowed to be Advanced; the remainder would be applicable either to find him a passage out of it, or to his provision for the Winter if he remained.

4th The Provisions in the Act of the 15th Year of our Reign Cap 31 Sec 13, respecting the retaining Forty Shillings to pay the passage of the fishermen home, & of the 14th Sec: in the same Act respecting restrictions in the mode of paying the men, neither of which it is stated can be enforced.

This Restriction would appear to be obsolete on two principles. 1st as regards the privilege of His

And it is our further Will and that you do not on any pretence whatever allow any new

p. 698

Majesty's Subjects to take possession of any vacant part of the Coast for the purposes of the Fishery, and 2^{ndly} as respects the small Grants of Land which the Governor has been authorized to make for the purposes of Cultivation, with both which it is at variance.

And with regard to the Ships Rooms, it has already been proposed to lease them out, since the few Bankers that annually fit out for the Fishery, cure their voyage at this day (with one or two exceptions) upon their own rooms: for no prudent man would spend his money in expensive Buildings, to which he had no exclusive claim beyond the current Season.

This clause will be unnecessary, as the New Bill provides that any person who shall build or cut out any Fishing room at Newfoundland shall hold the same according to Ancient Custom. And it may happen, & it is not unfrequently the case that untoward circumstances may prevent an individual from prosecuting his fishery for one entire Season—in which Case, under this clause, all his previous labour and expence would be thrown away, were another person to possess his room.

possession to be taken of lands or Rivers or parts thereof, in our Island of Newfoundland or of the Coast thereof or on the Islands adjacent until it shall be decided whether any alteration of the laws above referred to, shall be proposed to Parliament, and you are in the mean time to take Care that the ancient Ship Rooms and Fishing Rooms do continue under the Provisions of Statute 10th & 11th of W^m 3 Cap 25 for the encouragement of new adventurers that they may be sure of finding proper and convenient places for curing salting, drying and husbanding their Fish, whenever they shall resort thither.

It is our further Will and pleasure that the remaining Shores of Newfoundland shall be held by such of our subjects resorting thither from our Dominions in Europe as shall first arrive and take possession of the same for the like purpose of carrying on the fishery, in proportion to the number of Ships and Boats they shall employ, and they shall continue to hold the same in like manner and for the like purpose, so long as they shall carry on their fishery there but in case they shall

The result of my Observations and enquiries on this Subject, is that the

neglect so to carry on the fishery for one entire Season, such Shores or parts thereof as shall be neglected or deserted by such possessors, shall be held for the like purpose and in like Manner by any of our Subjects resorting thither from our Dominions in Europe who shall first occupy the same for the purpose of carrying on the fishery, and you are to put and maintain such persons in possession thereof. And whereas it appears by the observations of your Predecessors.

p. 699

Restriction herein contained, as I view it, namely,

"To prevent as far as circumstances will admit the erection of buildings not necessary to a Fishery, in Situations where they would create inconvenience or detriment to it"

is a very proper one to be continued, but the present Instruction is inadequate to the object, without a legal enactment, for unless the right of the ground could be proved to be in the Crown, the executive Officer, who might be deputed by the Governor to remove any such buildings could not justify himself under the Governor's directions I would therefore submit that the proceeding in such cases Should be not dependent upon the opinion of the Governor alone as to the Nuisance, but that it should

already alluded to that the Instructions from time to time given to prevent the erection of any buildings except fishing Stages, Cook Rooms, & Flakes or such erections as shall be absolutely necessary for curing, salting, drying and husbanding Fish within Two hundred yards distance from High Water Mark, have not for a considerable period been enforced, and reasons have been submitted wery that system should be departed from. It is our Will and pleasure that you should while you remain on the station, inform yourself as fully as you can on that subject also, and report Your opinion thereupon on your return. It is our further will and pleasure nevertheless that all or any buildings, Erections Wharfs Slips or fences already erected may remain provided the same are not erected or built upon Ancient Ship Rooms and

be by Indictment or due Course of Law, and that this part of the Instruction should be suited accordingly.

provided they are not in Your Judgment considered to be Nuisances and detrimental to the interests of the fishery in general, but in Case they shall clearly appear to you to be so, you shall cause the same to be removed giving due and reasonable notice to the parties claiming or pretending to claim any interest therein, if upon the Spot, or to the persons in possession and occupation thereof, putting the said Parties or persons to as little inconvenience as the case will admit, if such Parties or Persons do not cause to remove the same after such notice shall be given.

5th

It is perfectly true that Sales, Mortgages, and Leases are made of Houses, Lands, &c in Newfoundland, and in the town of S^t John's alone,

And whereas it has also been represented to us that divers of our Subjects residing in Newfoundland, sell, mort-gage and lease for con-

p. 700

the rents amount to many thousands a year, of Houses, Stores, &c built on land, to which most of the Proprietors can spew no other Title than long possession. But the New Bill appears to Sanction the ancient usage—and indeed in most Cases it would not be now adviseable to disturb the long possession, however improperly acquired in the first instance, particularly as such Sales, Mortgages, &c have long since been recognized in the Courts in England. And a late Act of Parliament 1 Geo. IV. for regulating the rebuilding of

siderable Sums, Houses, Lands, fishing Stages, Cook Rooms & Flakes of which they have been in possession, either under Grants or permission from former Governors or otherwise, as if they had an exclusive and indefeasible right therein contrary to the intention of us and our Predecessors and contrary to the laws made for preventing the same. Now in order that we may be better informed concerning the premises as well with a view to enable a judgment being formed relative to lands &c of which persons have already possessed

the Town of St. John's has provided for the indemnifying persons giving up ground for the Public use, and thereby implied, at least, an acknowledgment of their right. This Article would therefore appear to be unnecessary—and in place of it, it would perhaps be as well to substitute the Instruction given to Vice Admiral Pickmore dated June 1817 to make Grants of Land for Cultivation, with such further directions on that score, as may be deemed necessary under existing circumstances; and upon this Subject, I beg to refer to my dispatch N^o 119 of the 28 Nov^r last wherein I have submitted the applications of several persons for grants of Land upon a more extended Scale than has hitherto been observed.

themselves, as to a due consideration of what measures in this respect should be pursued in future. It is our Will and pleasure that you in conjunction with our Chief Justice of our said Island do cause such enquiries to be made as you and he shall judge most proper using very great caution in the manner of conducting this enquiry, so as to avoid most carefully creating unnecessary alarm in the minds of persons in possession of the lands &^c suggesting to them that it is equally the interest of themselves & of the Public that the question should be put at rest, and that if any proceeding on the part of the Public shall be thought necessary there is every reason to believe that attention will be paid to the interests of the Parties liable to be affected thereby—in the course of the enquiry it will be important to ascertain as accurately as you can the nature of the titles and claims under which such property is held, the length of time that the present possessors or those under whom they claim have enjoyed the same and the extent, supposed Rent,

p. 701

and value of such property, and you are further to enquire whether it has ever been ascertained in the several harbours of Newfoundland what fishing places did belong to the Fishing Ships before the year 1685, and whether any account is kept of such Fishing places as have been

possessed since that year, in order to prevent the disputes that may otherwise happen between the Masters of Ships and the Inhabitants, and whether there is any Coast of convenient places unoccupied on the Beach or Shores of Newfoundland fit for the purpose of carrying on the Fishery by adventurers who may arrive from His Majesty's European Dominions.

Unobjectionable.

6th

You are not to permit or allow any of our Officers or Soldiers or other persons whatever belonging to the Garrisons in your Government, to engage or be in any way concerned or employed directly or indirectly in any branch of the Fisheries carried on within your Government, or to take up for themselves any beaches Stages or Cook Rooms upon any pretence whatever in any manner to interrupt the Fisher-men in catching drying or curing their fish, and if any such Officers Soldiers, or other Persons shall act in contradiction to this our Instruction, you are to report the same to us through one of our Principal Secretaries of State, that such persons may be made sensible of our highest displeasure.

The interest of the Merchant who sends the Fish to market, and indeed of the Planter who cures it, would

7th

And whereas it is of the greatest importance to the prosperity and extension of the fishery that the fish

seem to offer the best Security against practices that would eventually operate against themselves and consequently that the most Advantageous mode of curing and assorting the Fish would on all occasions be resorted to. This article therefore, unless as matter of curiosity or information, appears in the present day to be unnecessary, particularly as the Injunctions it contains could not be forced into practice without Authority.

caught by our subjects should be properly cured & fitted for Sale at the Foreign Markets, you are therefore to cause strict injunctions to be given to the Masters of the Fishing Ships the Bye-boat-keepers and Inhabitants to take the greatest care in curing the fish with a proper quantity of good Salt, and in preparing, husbanding and ordering the same, that the credit thereof may be maintained and augmented in the several places to which it is carried for Sale: And in Order to render the attainment of that object effectual as far as possible, It is our Will and pleasure that you shall consider and report to us for Our Royal Consideration whether any and what means can be devised for observing whether the said injunction is duly complied with and you are while on the Station to make very particular enquiries into the manner & method of taking and curing the Fish, what quantity of Salt is allowed for the curing of every 100 Quintals, whether the parties are guilty of any abuse in the ordering thereof and whether any improvements can be made in any of the foregoing particulars, and whether the Fish taken at a distance from the land by the small Vessels is not damaged before it is brought on Shore, and whether in the sale of the fish to those who are to carry it to the Foreign Markets experienced Cullers are employed to

ascertain the good quality thereof, and whether the Sack Ships jealous of each other & struggling who shall carry their fish first to Market do not ship it before it is properly cured, whereby it suffers in the Passage, and lastly whether the Inhabitants, the Masters

p. 703

of the Sack Ships or the Bye Boat Keepers are most to be blamed in whatever is amiss—and what methods would be most likely to prevent and rectify the same, the result of all which Enquiries you are not to fail to report to us on your first return to Great Britain.

8th

This Fishery requires to be regulated by Local circumstances, and by Local Authority, and is highly worthy of the consideration of His Majesty's Government, and of the Legislature. Persons who have been long in possession of Salmon Brooks, and Rivers, whether by Old Grants or otherwise, have lately been considerable Sufferers from Adventurers, who under pretence that by the Act of the 10 & 11 Will. 3rd every description of Fishery is free to them, have set their nets at the entrance of Rivers at the head of which extensive Buildings and Establishments had been made by long Possessors, whose whole prospects have thus been marred by these Casual intruders. Under these circumstances, and in the absence of all beneficial

And whereas the Salmon fishery carried on in different parts of our Island of Newfoundland has already proved of great advantage to our United Kingdom, And we have reason to suppose the same may be considerably extended, you are therefore to give all due encouragement & protection to our Subjects concerned in the said fishery, taking care that none of the places where the Salmon are caught shall be improperly monopolized contrary to our intentions expressed in the foregoing Instructions with respect to the fisheries in general, and you are to inform yourself of the Actual State of this Fishery, and how far the same may be properly extended & improved.

regulations for the encouragement of this valuable branch of the Fishery (which in all its operations is essentially different from the Cod-Fishery) it has declined most considerably. And it is my opinion that nothing short of legal Authority to the Governor to make regulations and fix boundaries for the conduct of it founded on actual Surveys and practical knowledge and information according to the Local circumstances of each River, Brook, &c. is likely to restore it to its former prosperity. If any Authority of such a nature

p. 704

should be created, this Article would be so framed as to accommodate itself to it. If not, it may be considered as Unobjectionable.

Unobjectionable.

9th

You are further to enquire particularly into the State of the Whale fishery and of the Seal fishery carried on in the Seas within your Government or adjacent thereunto, and whether any means can be suggested for promoting the success and extension thereof, particularly of the latter as it furnishes employment for a most useful body of men before the Cod fishery commences

10

Unobjectionable.

You are to use your best endeavours to encourage a friendly intercourse with the Indians residing in our Island of Newfoundland or

resorting thither, using your best endeavours to conciliate their affections so as to induce them to trade with our Subjects and in order to prevent any improper conduct towards them, You are as soon after your arrival as conveniently may be, to cause a proclamation in our Name to be published & dispersed through our said Island of Newfoundland and Ports adjacent, strictly enjoining and requiring all our subjects to live in Amity and Kindness with the said Indians, and commanding and requiring all Officers and magistrates to maintain and support good order and behaviour towards them, and in Case any person or persons shall murder or commit any Outrage upon any of the said Indians you and the said Magistrates are to use your utmost endeavors to Apprehend and bring to Justice such

p. 705

offenders. You are also to obtain the best account you are able of the number of the said Indians, the places they usually frequent for trading, the Counties from whence they come, the nature and extent of the trade that is or may be carried on with them, and how far the same may in your opinion be extended and improved.

*sic.

11th

Whereas we did in the 15 Year of our Reign grant to John Agnew Esq. of Shewchan in the County of Wigton, North Britain, and

Unobjectionable.

his Associates certain mines at Shoal Bay on the East Coast of our said Island of Newfoundland supposed to contained* Copper Ore, one tenth part of which said Ore by the special Condition of our said Grant is thereby reserved to us our heirs and Successors, We do therefore hereby direct and empower you our Governor or Commander in Chief for the time being of our said Island of Newfoundland to take and receive one tenth part of all such metals, ore & minerals as now are or hereafter shall be raised or extracted from the said Mines, and to pay and make over the same to such person or persons as the Lords Commissioners of our Treasury shall appoint for that purpose, and you are further to enquire whether there are any other mines in our said Island of Newfoundland or Islands adjacent, and whether they may be worked to advantage.

12th

Proclamations have been issued in the spirit of this Article and an instance occurred many years ago of

And whereas it has been represented to Us that different species of Birds frequenting the Shores of

p. 706

the punishment of a man for the violation of it.

Proclamations of the Governors in Newfoundland are however now considered effective only where they enforce the Law, or on some very urgent occasions.

Without a Legislative enactment therefore, this Article would appear to be useless.

Newfoundland and the adjacent Islands which afford a Supply of food and of bait, and are useful in Fogs by warning Vessels that they are near the land, are frequently destroyed for the purpose of taking their feathers, It is our Will and pleasure that you do take such measures as in your opinion will effectually

prevent their being so destroyed in future.

Unobjectionable.

13th

And whereas you are by our Commission authorized to constitute and appoint Justices of the Peace, and other necessary Officers and Ministers for the administration of Justice, and maintaining the peace within the different parts of your Government You are therefore upon your arrival in our said Island to enquire what Justices of the Peace are now in the Commission in order that in the new one to be issued you may nominate them or such other persons as shall appear to you to be proper for executing the Office of Justice of the Peace and you are by your Authority and influence to give all due support as well to our Chief Justice as to the said Justices of the Peace, and to all other Magistrates, and Officers in the legal discharge of their duty and you are to endeavour to prevent any disputes between our said Justices of the Peace, and all other persons in Authority in the discharge of their respective functions. And whereas you are by your Commission authorized to appoint Commissioners of Oyer and Terminer. It is our Will and pleasure that you shall not make any such appointment as shall interfere with the Criminal Jurisdiction belonging to

the Supreme Court of Judicature, except only in cases where it may be inconvenient to try Offenders in the said Supreme Court.

14th

Unobjectionable—with exception to the Clause underlined in red Ink, which may be considered Obsolete.

Whereas you are empowered by our Commission to pardon all Offenders and remit all offences (Wilful Murder only excepted) in which Case you have power upon extraordinary occasions to grant reprieves to such Offenders until our Royal pleasure may be made known. It is our express Will and pleasure that you do not suffer any Commission or Warrant Officer of any of our Ships of War or the Master of any trading Ship of our Subjects which shall happen to be within your Government to be deprived of life or limb by the sentence of any Court, but in such Case you shall relieve the Criminal until our pleasure be known therein.* And it is our further will and pleasure that you take especial care that all persons guilty of Treason be sent over to this Kingdom with such Witnesses and proof of the Crime as can be obtained in order to their being tried here.

Unobjectionable—But as the increased population has rendered it necessary to augment the number of Public Houses, I should recommend that the number to be licensed in future

15th

And whereas the immoderate use of Liquors has been found to be pernicious to the health & morals of our Subjects dwelling in and resorting to

should be left at the discretion of the Magistrates, Subject to the Control of the Governor.

Newfl^d for the purpose of carrying on the fishery, and has been the cause of the Fishermen expending a Considerable part of their wages, You are not to allow in any part of your Government more Public houses than may be

* These words are underlined in red ink in the original document.

p. 708

requisite for the accommodation and supply of our said subjects, particularly in the town of S^t John, the number necessary for which you will when on the Spot be able to judge of. It has been suggested that fifty will be amply sufficient. And it is our Will and Pleasure that every person who shall be allowed to keep a Public house within your Government, do give full and ample Security for his or her good behaviour.

Unobjectionable.

16th

And whereas the monopolizing and engrossing of any provisions, Stores or Commodities, necessary for the subsistence of the fishermen and others employed in the Fisheries, or necessary for carrying on the same will be highly prejudicial to the general Interests thereof, you are by every legal means in your power to prevent and suppress any attempt that may be made for that purpose, and you are to consider and report to us whether any proper Methods can be adopted for supplying more cheaply the

Unobjectionable.

Articles beforementioned, and for preventing any frauds that may be committed in the Sale thereof, or any Combination to enhance the price of provisions or of any of the Articles before mentioned, tending to the distress of the Fishermen.

17

And it is our intention that all persons inhabiting and frequenting the Islands under your Government should have full liberty of Conscience and the free exercise of such modes of religious worship as far as is consistent with law, provided they be contented with a quiet and peaceable enjoyment of the same

p. 709

not giving Offence or Scandal to the Government.

18

Unobjectionable.

It is our further will and pleasure that you do cause the Laws made against blasphemy, profaneness Adultery, Fornication, Polygamy, Incest, profanation of the Lords day, Swearing and Drunkenness to be rigourously executed and that you do take due care for the punishment of the above mentioned vices by presentment upon Oath to be made before the Justices of the Peace in their Sessions by the Constables or other inferior Officers at the several Harbours at the proper time of the year appointed for that purpose, and for the further discouragement of Vice and

Unobjectionable.

promotion of Virtue and good Morals you are not to admit to any person to Act as a Justice of the Peace whose ill fame or conversation may occasion scandal, and especially you will take care that the Lords day be devoutly and duly observed. That the Book of Common Prayer as by Law established in this Kingdom be read each Sunday and Holy day, and the blessed Sacrament administered at Stated periods according to the rites of the Church of England in all such Chapels and public places of Worship, as are already or may be settled for public Worship according to the rites of the Church of England.

19

And if any Minister of the Church of England shall appear to give Scandal either by his doctrine or manners or shall be remiss in the performance of his duty, if any person not being in Orders shall preach or administer the Holy Sacra-

p. 710

ment in any Church or Chapel, you shall give an Account thereof to His Grace the Archbishop of Canterbury.

20

Unobjectionable.

You are to take especial care that a table of Marriages as established by the Canons of the Church of England shall be hung up in every Church or Chapel or other public place of Worship and be duly

The first part of this article appears to have become obsolete, as the impracticability of compelling the return of the Fishermen under the change of circumstances that has taken place, has already been described, and I fear a measure so desirable as this was for Great Britain can never again be enforced. Still I am of opinion that a clause which should remain to discourage and prevent Seamen, Fishermen, & others from deserting to Foreign Countries, or from going to reside and establish themselves in the Countries belonging to the United States of America.

attended to.

21

And whereas it has been thought of the highest importance to the Naval power of Great Britain that the Seamen and other persons employed in the fisheries carried on at Newfoundland should return annually at the end of the fishing Season to some part of our European Dominions, for the attainment of which object various laws have been passed and Instructions given, but the same having failed to a great extent in producing the effect proposed, you are to make the most attentive enquiries you can whether any measures could now be taken for further encouraging and promoting the return of every such Seaman and Fisherman to the part of our European dominions to which he belongs, if it should be thought advisable to adopt such measures under the change of circumstances that has taken place and how far the provisions of the Acts passed in the 15th & 26th years of our reign for the purpose above mentioned can be made effectual and you are also to discourage and as far as you are able prevent any of the said Seamen or Fishermen from deserting to any Foreign Country, or from

p. 711

going to reside and establish themselves in the Countries belonging to the United States, or even in any of our own Colonies in North

Unobjectionable—with the trifling correction hereafter noticed, which appears to be necessary from the recent change in the system of our Laws of Navigation & Trade.

You shall use your best endeavours to obtain an accurate account of the number of Persons resorting in each Season to our Island of Newfoundland, and the said Islands adjacent distinguishing those who shall arrive from the Ports of Great Britain and of Ireland respectively, and from Guernsey, Jersey Alderney and Sark, distinguishing also such as are Seamen from Passengers and those who continued to reside there all the year, and the number of Roman Catholics and Protestants with the number of the ministers of each religion respectively together with the number of places of Worship and of Schools belonging to each, with the best account you can obtain of the Funds for the maintenance of the same, and the number of Births. Marriages and Burials in every year You are likewise to obtain an Account of the British Sack Ships and Fishing Ships and of their Tonnage that annually arrive at the harbours under your Government and sail for the different Markets either Foreign or British shewing the Ports they are bound to And the quantities of each sort of fish, Oil or other Articles with which they are respectively laden, You are also to obtain an Account of the Number of Boats employed in the said fisheries either by our subjects resorting thither from our European

dominions or by the
Inhabitants of the said
Island respectively You are

Page	1	2	3	4	5
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in like manner to obtain an Account of the number of Quintals of each sort of fish taken in each Season, and of the quantity of Oil made whether of Whale, Seal or Cod or other Animals living in the Sea, together with an Account of the quantity of each of the abovementioned Articles reserved and not sent to Market at the end of the fishing Season. You are also to obtain an Account of the average prices at which these several Articles sell during each Season in the Island. In making these enquiries you are to be extremely careful and exact enjoining our Officers under your command as well as the proper Officers in those harbours to which personal inspection cannot extend to be as accurate as possible in the returns which they shall make to you, properly attested and signed by them And all these particulars you are to report to us through one of our Principal Secretaries of State, according to the form of the Schedule marked, A hereunto annexed, and as to such of the said particulars respecting which more accurate information may possibly be obtained after your departure from the Island by the Collector or other Officers of the Customs, or by our Naval Officer: You are to give directions to the said Officers to prepare Accounts thereof attested by each of them according to the form of the said Schedule and to transmit the

same to you to be laid before one of our Principal Secretaries of State for our information, And you are to give all due and legal Support to the Officers of our Customs in the discharge of their duty who are hereby required with all convenient

p. 713

I submit the insertion of the following—in place of the Words underlined in Red Ink—viz. "And other Commodities imported under the Regulations of any Act or Acts of Parliament from the Countries of the United States of America, or other Foreign Countries."

C. HAMILTON.

speed at the end of the fishing Season to transmit to the Lords Commissioners of our Treasury an Account of all Articles imported into our Island of Newfoundland and the Islands adjacent distinguishing the Countries from whence the same were brought, and particularly the provisions imported under the regulations of an Act passed in the 28th year of our Reign Cap 6 Sec 13 from the Countries of the United States of America* with an account of the duties paid on such Articles as are liable to duty. You are also to endeavour to obtain the best accounts you are able of the Wages paid to the Seamen and fishermen and in what manner the same are paid and whether the old Custom of carrying on the fishery upon Shares is now continued and to what extent. You are also to endeavour to obtain an Account of the prices at which provisions and other important Articles are Sold in the course of the Fishing Season, and also during the Winter and whether the same are paid for in Cash, Fish, or Bills, and if in Fish whether the fish is rated at the market price or at what

rate. It is our further Will
and pleasure that you pay
attention to every
Circumstance that may in
Your Judgment contribute
to the prosperity of the said
trade and fishery, to the
well being of all persons
concerned in them, and that
you consider of such
measures as it may be
proper for us to pursue for
attaining those important
purposes, and you are on all
occasions to send unto us
through one of our Principal
Secretaries of State a
particular Account of all
your proceedings and

* These words are underlined in red ink in the original document.
p. 714

of the Condition of the
affairs of the Island Under
your Government, and the
Trade and fishery thereof,
and of the Banks, Seas and
Ports adjacent and also a
Copy of the same to the
Lords of our Privy Council
appointed for the
consideration of all matters
relating to Trade and
Foreign Plantations.

No. 177.

Newfoundland.

[27 May,
1818.]**EXTRACTS FROM ADMIRALTY INSTRUCTIONS TO
SIR CHARLES HAMILTON**AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS AND THE
NEWFOUNDLAND STATION. Dated 27 May 1818.

ADM. SEC. OUT LETTERS. VOL. 1327.

By &ca.

Instructions for Sir Charles Hamilton Bart. Vice Admiral of the Blue, and Commander in Chief of a Squadron of His Majesty's Ships and Vessels employed and to be employed at and about the Island of Newfoundland, and upon the Coast of Labrador from Mount Joli to Cape Charles.

* * * *

1	}	same	{	1	to [to Vice-Admiral Francis Pickmore, ante pp. 687-689 , et seq.]
5				5	

6th

With respect to the subjects of the United States of America, and their Ships and Vessels, We refer you to our order of yesterday's date, conveying directions for your guidance in regard to the permitting Fishing Vessels of the said States to frequent, for the ensuing season only, the unsettled Bays, Harbours, and Creeks of His Majesty's possessions in North America.

* * * *

7	}	same	{	7	to [to Vice-Admiral Francis Pickmore, ante p. 689 , et seq.]
11				11	

12th

The Limits of the Station entrusted to your charge being defined in Our Commission of the 25 ultimo appointing you to the command thereof, you are to confine your cruisers strictly within those limits.

[13. The same as Art. 13 to Vice-Admiral Francis Pickmore, ante p. [690](#).]

Given under our hands the 27th of May, 1818.

G. WARRENDER.
G. MOORE.

WORCESTER.

By Command of their Lordships,
John Barrow,

Copy.

No. 178.

[1 June, 1818.]

Newfoundland.

*sic.

COMMISSION PASSED UNDER THE GREAT SEAL OF GREAT BRITAIN APPOINTING SIR CHARLES HAMILTON

*sic.

TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.

PATENT ROLL. 58 GEO. III. PART 9. NO 7.

*sic.

Sir Charles Hamilton Baronet Governor of Newfoundland. George the third by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our trusty and welbeloved Sir Charles Hamilton Baronent* Vice Admiral of the Blue Squadron of our Fleet Greeting Know ye that we reposing especial trust and confidence in the prudence courage and loyalty of you the *the said Sir Charles Hamilton of our especial grace certain knowledge and mere motion have thought fit to constitute and appoint and by these presents do constitute and appoint you the said Sir Charles Hamilton to be our Governor and Commander in Chief in and over our Island of Newfoundland and the Islands adjacent and all the Coast of Labrador from Mount Joli to the entrance of Hudsons Streights and the Island of Anticosti and all other Islands adjacent to the said Coast (the Islands of Madeline* excepted) according to the provisions of an act passed in the forty ninth year of our reign intituled "An Act for establishing Courts of Judicature in the Island of Newfoundland and the Islands adjacent and for reannexing part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland." As also of all our fforts and Garrisons erected and established in the said Island of Newfoundland and the Islands adjacent or on the Coast of Labrador within the limits aforesaid or in the Island of Anticosti and other Islands adjacent to the said Coast And we do hereby require and command you to do and execute all things in due manner that shall belong to your said Command and the trust we have reposed in you according to the several powers and directions granted or appointed you by this present Commission and the instructions herewith given you or by such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual or by our Order in our Privy Counsel And we do further

give and grant unto you the said Sir Charles Hamilton full power and authority from time to time and at all times hereafter by yourself or by any other to be authorised by you in that behalf to administer and give the Oaths

[Then the same as in Commission to Rear Admiral Sir Richard King, ante p. 576, line 5, to p. 577, line 45.]

*sic.

And we do hereby require and command all Officers Civil and Military and all other Inhabitants of our said Islands to be obedient aiding and assisting unto you in the execution of this our Commission and of the powers and authorities herein contained And in case of your death Our Will and Pleasure is that the person on whom the Command of our Ships under your Command shall devolve do take upon him the Administration of the Government of our said Islands and execute this our said Commission and Instructions and the several powers and authorities therein contained in the same manner to all intents and purposes as you our said Governor and Commander in Chief might or ought to do for and during our Will and Pleasure And we do hereby declare ordain and appoint that you the said Sir Charles Hamilton shall and may hold and enjoy the place of our Governor and Commander in Chief in and over our said Island of Newfoundland and the Islands adjacent and the Coast of Labrador from Mount Joli to the entrance of Hudson's Streights and the Island of Anticosti and all other Islands adjacent to the said Coast (the Islands of Madelaine excepted) according to the provisions of the said Act passed in the forty ninth year of our reign intituled "An Act for establishing Courts of Judicature in the Island of Newfoundland and the Islands adjacent and for reannexing part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland" as also of all our forts and Garrisons* erected and established in our said Islands or on the said Coast with all and singular the powers and authorities hereby granted unto you for and during our Will and Pleasure In Witness &^c Witness &^c the first day of June

By Writ of Privy Seal

No. 179.[20 Aug,
1825.]

Newfoundland.

**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN APPOINTING SIR THOMAS
COCHRANE**TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND AND THE COAST OF LABRADOR, ETC.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 35, page 1.

GEORGE THE FOURTH by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, To our trusty and well beloved Sir Thomas John Cochrane, Knight, Captain in our Royal Navy, Greeting. Whereas, our most dearly beloved father, His late Majesty King George the third, did by his Letters Patent, under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster, the first day of June, in the fifty eighth year of his reign, constitute and appoint Sir Charles Hamilton Bart Vice Admiral of the Blue Squadron of His Majesty's Fleet, to be His Majesty's Governor, and Commander in Chief, in and over the Island of Newfoundland, and the Islands adjacent, and all the Coast of Labrador from Mount Joli, to the entrance of Hudson's Streights, and the Island of Anticosti, and all other Islands adjacent to the said Coast (the Islands of Madelaine excepted), as also, of all His Majesty's Forts and Garrisons erected, and established thereon, and during His Majesty's Will and Pleasure, as by the said Letters Patent, relation being thereunto had, will more fully and at large appear. Now KNOW YOU that we have revoked and determined, and by these presents do revoke and determine, the said recited Letters Patent and every clause, Article and thing contained therein; and further, KNOW YOU, that We, reposing especial trust and confidence in the prudence, courage and Loyalty of you, the said Sir Thomas John Cochrane, of our especial grace, certain knowledge and meer motion, have thought fit to constitute, and appoint, and by these presents, do constitute and appoint you, the said Sir Thomas John Cochrane, to be our Governor and Commander in Chief, in and over, of our Island of Newfoundland, and the Islands adjacent, and all the Coast of Labrador, from the entrance of Hudsons Streights, to a line to be drawn due North and South from Anse Sablon, on the said Coast, to the Fifty second degree of North latitude, and all the Islands adjacent to the said part of the Coast of Labrador, as also, of all our Forts and Garrisons,

erected, and established, or to be erected, and established, in the said Island of Newfoundland, and the Islands adjacent, or on the Coast of Labrador within the limits aforesaid, or in the said Islands adjacent to that part of the said Coast. And We do hereby require and Command you, to do and execute all things in due manner that shall belong to your said Command and the trust we have reposed in you according to the several powers and directions

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granted or appointed you by this present Commission and the Instructions herewith given you, or according to such further powers, instructions and authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual, or by our Order in our Privy Council or by us through one of our Principal Secretaries of State. And our will and pleasure is that there shall henceforward be a Council within our said Islands and Territories to advise and assist the Government thereof. And we hereby will and require that you the said Sir Thomas John Cochrane shall upon your arrival in our said Island of Newfoundland forthwith call together so many as can be conveniently assembled of the persons whom by our Instructions under our Signet and Sign Manual herewith given to you, we have nominated and appointed to be Members of our said Council, and you shall cause these our Letters Patent to be read and published at such meeting, after which you are to take the Oaths appointed to be taken by an Act passed in the first year of the reign of King George the first intituled "An Act for the further security of His Majesty's person and Government and the succession of the Crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Princes of Wales and his open and secret abettors," as altered and explained by an Act passed in the sixth year of the reign of our most dearly beloved Father, His late Majesty King George the third intituled "An Act for altering the Oath of abjuration and the assurance and for amending so much of an Act of the seventh year of Her late Majesty Queen Anne, intituled "An Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the delivery of certain lists & Copies therein mentioned to persons indicted of High Treason or Misprison of Treason" as also you are to make and subscribe the declaration mentioned in an Act of Parliament made in the twenty fifth of the Reign of King Charles the second, intituled "An Act for preventing dangers which may happen from Popish Recusants" and likewise to take the usual oath for the due execution of the office and trust of our Governor and Commander in Chief in and over our said Islands and territories, and for the due and impartial administration of Justice, and further, to take the Oath required to be taken by Governors of Plantations to do their utmost that the several Laws relating to Trade and the Plantations be observed, which said Oaths and Declaration our Council of our

said Islands and territories or any three or more of the Members thereof have hereby full power & authority and are required to tender and administer to you and in your absence to our Lieutenant Governor if there be any in the place, all which being duly performed you shall yourself administer unto each of the Members of our said Council the Oaths mentioned in the first recited Act of Parliament altered as above, and also cause them to make and subscribe the aforementioned declaration, and administer to them the usual Oath for the due execution of their places and trusts respectively, all which Oaths shall also be administered by the Governor or person administering the Government of our said Islands and territories for the time being to all such persons as shall hereafter be appointed to be of our said Council, and he shall cause them to make and

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subscribe the aforementioned declaration before they respectively enter upon the execution of the duties of such their offices. And we do further give and grant unto you the said Sir Thomas John Cochrane full power and Authority and require you from time to time by yourself or by any other to be authorised by you in that behalf to administer & give to all Judges, Justices of the Peace, Sheriffs & other persons holding any Civil Office or place of trust or emolument within the said Islands & territories by virtue of any Commission or Warrant issued or to be issued by us or in our name the Oaths mentioned in the first recited Acts of Parliament altered as above, and to cause them to make and subscribe the aforementioned declaration and to administer to them such other Oath or Oaths as are usually taken for the due execution and performance of the Offices and places held by such persons respectively. And we do authorise you also to given and administer the Oaths mentioned in the said first recited Acts of Parliament altered as above and tender the said declaration to any other Person or persons resident within our said Islands or territories or who shall at any time or times pass into or enter the same. AND we do hereby give and grant unto you full power and authority to suspend any of the Members of our said Council from sitting, voting or assisting therein, if you shall find just cause for so doing, and if in consequence of a vacancy or of such suspension as aforesaid, or of the unavoidable absence or inability to attend of any of the Members of our said Council, there should not be a sufficient number of Councillors on the spot to form a quorum which we do hereby appoint to be three, you are hereby authorised if you shall deem it necessary by Warrant or Commission under the Seal of our said Island of Newfoundland and its dependencies to appoint to be Members of our said Council, so many fit and proper persons as shall make up the number present to be five and no more it being nevertheless our will and pleasure that you do signify to us by the first opportunity every such vacancy with the occasion thereof, as also the names and qualifications of the persons appointed by you to the intent that

such appointment may be either disallowed or confirmed by us—and until such disallowance or confirmation by us shall be signified and made known to you, the persons so appointed by you shall be to all intents and purposes Councillors within our said Islands and territories. AND it is our further will and pleasure that you shall and may keep and use the Public Seal of our said Island of Newfoundland and its dependencies for sealing all things whatsoever that pass the Seal of our said Island & its dependencies—and we do by these presents give and grant unto you full power and Authority to constitute and appoint Justices of the Peace and all other necessary Officers and Ministers for the better maintaining and keeping the peace and quietness of the said Islands and territories under your Government some of which Justices of the Peace shall as mentioned in an Act of Parliament passed in the fifth year of our Reign intituled "An Act for the better administration of Justice in Newfoundland and for other purposes" be nominated from time to time by you to serve as Assessors of the Circuit Courts instituted or to be instituted by us by our Charter or Letters Patent and the Justices of the Peace shall hold and keep general

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Quarter Sessions of the Peace at such times and places at Newfoundland and its dependencies as you shall by your Proclamation appoint according to the provisions of the said Act of Parliament. AND we do hereby give and grant unto you full power & authority when you shall see cause or shall judge any offender or offenders in Criminal Matters or for any Fines or Forfeitures due unto us fit objects of our Mercy to pardon such offenders and to remit all such offences fines and forfeitures (Treason and wilful murder only excepted) in which cases you shall likewise have power upon extraordinary occasions to grant reprieves to the offenders until and to the intent that our Royal pleasure be known therein. And we do hereby give and grant unto the said Sir Thomas John Cochrane full power and authority by and with the advice and consent of our said Council to erect and appoint or set apart convenient Court Houses for the holding the Supreme Court and Circuit Courts within the said Islands and territories, and also for the more orderly meeting of the Justices of the Peace in order to hold their Quarter or other Sessions with one or more convenient prison or prisons for the keeping of offenders against our laws, or the peace of our Subjects. AND we do by these presents authorise and empower you to collate to any Church[sic], Chapels or Ecclesiastical benefices within our said Islands and territories as often as any of them shall happen to be void, such person or persons as we shall think fit. AND we do hereby give and grant unto you the said Sir Thomas John Cochrane by, yourself, or by your Captains or Commanders by you to be authorised, full power and authority to levy, arm, muster, command and employ all persons whatsoever residing within our said Islands and territories under your Government

and as occasion shall serve to march them from one place to another or to embark them for the resisting and withstanding of all Enemies, Pirates and Rebels both by Sea and Land, and to transport such forces to any of our Plantations in America if necessity shall require for the defence of the same, against the invasion or attempts of any of our Enemies, and such Enemies Pirates and Rebels if there shall be occasion to pursue and prosecute in or out of the limits of our said Islands and territories and to vanquish, apprehend and take them, and being taken according to law, to put to death or keep and preserve them alive at your discretion, and to execute Martial law in time of Invasion or at other times when by law it may be executed and to do and execute all and every thing & things which to our Governor and Commander in Chief of our said Islands & territories doth or ought of right to belong. AND we do hereby give and grant unto you full power and authority to erect, raise and build in our said Islands and territories, such and so many Forts, and Platforms, Castles, Cities, Boroughs, Towns and Fortifications as you shall judge necessary and the same or any of them, to fortify and furnish with Ordnance and Ammunition, and all sorts of Arms, fit and necessary for the security and defence of our said Islands and territories, and the same again or any of them to demolish or dismantle as may be most convenient. AND we do hereby likewise give and grant unto you full power and authority with the advice and consent of our said Council to settle and agree with the Inhabitants of our said Islands and territories, for such lands,

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tenements and hereditaments as are now or hereafter shall be in our power to dispose of, and them to grant to any person or persons upon such terms and under such moderate Quit Rents, Services and acknowledgements to be thereupon reserved unto us as you shall think fit, which said Grants are to pass and be sealed by our Seal of our said Island of Newfoundland and its dependencies; and being entered upon Record by such Officer or Officers as you shall appoint thereunto shall be good in Law against us our heirs and successors. AND we do hereby give you the said Sir Thomas John Cochrane full power to order and appoint Fairs, Marts and Markets, as also such and so many Ports, Harbours, Bays, Havens, and other places for the convenience and security of Shipping, and for the loading and unloading of Goods and Merchandises as by you with the advice and consent of our said Council shall be thought fit and necessary. AND we do hereby require and Command all Officers and Ministers Civil and Military and all other Inhabitants of our said Islands & territories to be obedient, aiding and assisting unto you the said Sir Thomas John Cochrane in the execution of this our Commission and of the Powers & authorities herein contained, and in case of your death or absence out of our said Islands and territories to be obedient, aiding and assisting unto such person as shall be appointed by us to be our Lieutenant Governor or to administer

the Government of our said Islands and Territories to whom we do therefore by these presents give and grant all and singular the powers and authorities herein granted to be by him executed and enjoyed during our pleasure or until your arrival within our said Islands and Territories, and if upon your death or absence out of our said Islands and territories there be no person therein commissioned or appointed by us to administer the Government within our said Islands and territories in case of the death or absence of you or our Lietutenant[sic] Governor OUR Will and PLEASURE is that the Councillor whose name is first placed in our said Instructions to you and who shal[sic] be at the time of your death or absence residing within our said Islands and Territories or such other Councillor as may be required so to do in our said Instructions shall take upon him the administration of the Government and execute this our Commission and our said Instructions and the several powers and authorities therein contained in the same manner and to all intents and purposes as our Governor & Commander in Chief, Lieutenant Governor or person appointed by us to administer the Government should or ought to do in case of your absence, until your return or until our further pleasure be known thereon. AND we do hereby declare ordain and appoint that you the said Sir Thomas John Cochrane shall and may execute hold and enjoy the office and place of our Governor and Commander in Chief in and over our said Islands and territories together with all and singular the powers and authorities hereby granted unto you for and during our Will and pleasure. IN WITNESS whereof we have caused these our letters to be made patent. WITNESS ourself at Westminster the twentieth day of August in the sixth year of our Reign.

By Writ of Privy Seal,
(Signed) BATHURST.

No. 180.

[28 March, 1832.]

Newfoundland.

COMMISSION PASSED UNDER THE GREAT SEAL OF GREAT BRITAIN APPOINTING SIR THOMAS COCHRANE

Commission to Sir Thomas John Cochrane.

TO BE GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND AND THE COAST OF LABRADOR, ETC., AND AUTHORIZING HIM TO CONVOKE A LEGISLATIVE ASSEMBLY OF THE COLONY.¹

WILLIAM R. WILLIAM THE FOURTH, by the Grace of GOD of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, to our trusty and well-beloved Sir THOMAS JOHN COCHRANE, Knight, greeting:

Limits of his Jurisdiction.

Whereas We did by Our Letters Patent, bearing date at Westminster, the 28th day of December, in the 1st year of Our reign, constitute and appoint you, the said Sir Thomas John Cochrane, to be Governor and Commander-in-Chief in and over the Island of Newfoundland and Territories within the limits therein described, as by the said recited Letters Patent, relation being thereunto had, may more fully and at large appear: Now know you, that We have revoked and determined and by these presents do revoke and determine, the said recited Letters Patent, and every clause, article and thing therein contained: and further know you, that We, reposing especial trust and confidence in the prudence, courage and loyalty of you, the said Sir Thomas John Cochrane, of Our especial grace, certain knowledge and mere motion, have thought fit to constitute and appoint you, the said Sir Thomas John Cochrane, to be Our Governor and Commander-in-Chief in and over Our Island of Newfoundland and the Islands adjacent, and all the Coast of Labrador, from the entrance of Hudson's Straits to a line to be drawn due north and south from Anse Sablon on the said Coast, to the 52nd. degree of north latitude, and all the Islands adjacent to that part of the said Coast of Labrador, as also of all Forts and Garrisons erected and established, or to be erected and established, in the said Island of Newfoundland and the Islands adjacent, or on the Coast of Labrador within the limits aforesaid, or in the said Islands adjacent to that part of the said Coast, for and during Our will and pleasure.

His duties.

¹Reprinted from Revised Statutes of Newfoundland 1916, vol. 1, App. pp. iii

Oaths to be taken.

And We do hereby require and command you to do and execute all things in due manner that shall belong unto your said command and the trust We have reposed in you, according to the several powers and authorities granted or appointed you by this present Commission and the Instructions herewith given you, or according to such further powers, directions and authorities as shall at any time hereafter be granted or appointed you under Our Sign Manual and Signet, or by Our Order in Our Privy Council, or by Us, through one of Our Principal Secretaries of State, and according to such reasonable laws and statutes as shall hereafter be made and agreed upon by you with the advice and consent of the Council and Assembly of Our said Island and its Dependencies under your government, when such Assembly shall be called.

And Our will and pleasure is, that you, the said Sir Thomas John Cochrane, after the publication of these Our Letters Patent, do take the oaths appointed to be taken by an Act passed in the 1st year of the reign of King George the First, intituled, "An Act for the further security of His Majesty's Person and Government, and the succession of the Crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors," as altered and explained by an Act passed in the 6th year of the reign of King George the Third, intituled, "An Act for altering the Oath of Abjuration and the Assurance, and for amending so much of an Act of the 7th year of her late Majesty Queen Anne, intituled "An Act for the improvement of the Union of the two Kingdoms," as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned to Persons indicted of High Treason or Misprision of Treason," or in lieu thereof the oath required to be taken by an Act passed in the 10th year of the reign of his late Majesty, intituled, "An Act for the relief of His Majesty's Roman Catholic Subjects," according as the said former Acts or the said last mentioned Act shall be applicable to your case; and likewise that you take the usual oath for the due execution of the office and trust of our Governor and Commander-in-Chief in and over Our said Islands and Territories, and for the due and impartial administration of justice; and further, that you take the oath required to be taken by Governors of Plantations, to do their utmost, that the several laws relating to trade and the plantations be duly observed; which oaths Our Council of Our said Island and its Dependencies, or any Three of the Members thereof, have hereby full power and authority and are required to tender and

administer unto you, and in your absence to Our Lieutenant Governor, if there be one on the place; all which being duly performed, you shall administer to each of the members of Our said Council such of the said oaths mentioned in the said several Acts as shall be applicable to the case of the individual Member of Our said Council taking the same; and you are also to administer to them the usual oath for the due execution of their places and trust respectively; all which oaths shall also be administered by the Governor or person administering the government of Our said Island and its

The Council, quorum, suspension of members filling of vacancies, emergency appointments, etc.

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Dependencies for the time being, to all such persons as shall hereafter be appointed to be of Our said Council, before they respectively enter upon the execution of the duties of such their offices.

And We do hereby give and grant unto you full power and authority to suspend any of the Members of Our said Council from sitting, voting and assisting therein, if you shall find just cause for so doing; and if it shall at any time happen that by the death, departure out of Our said Island and its Dependencies, suspension of any of Our said Councillors, or otherwise, there shall be a vacancy in Our said Council, any three of whom We do hereby appoint to be a quorum, Our will and pleasure is that you signify the same unto Us by the first opportunity, that We may, under our Signet and Sign Manual, constitute and appoint others in their stead: but that Our affairs at that distance may not suffer for want of a due number of Councillors, if ever it shall happen that there be less than seven of them residing in Our said Island and its Dependencies, We do hereby give and grant unto you, the said Sir Thomas John Cochrane, full power and authority to choose as many persons out of the principal freeholders, inhabitants of our said Island and its Dependencies, as will make up the number of Our Council to be seven, and no more, which persons so chosen and appointed by you shall be to all intents and purposes Councillors for Our said Island and its Dependencies until either they are confirmed by Us, or that by the nomination of others by Us under Our Sign Manual and Signet, Our said Council shall have seven or more persons in it.

General Assemblies.

And We do hereby give and grant unto you full power and authority, with the advice and consent of Our said Council, from time to time as need shall require, to summon and call general assemblies of the freeholders and householders within the said Island and its Dependencies under your government, in such manner and form, and according to such powers, instructions and authorities as are granted or appointed by your General Instructions accompanying this your Commission, or according to such further powers, instructions and authorities as shall be at any time hereafter granted or appointed under Our Sign Manual and Signet, or by Our Order in Our Privy

Council; and Our will and pleasure is, that the persons thereupon duly elected by the major part of the freeholders and householders of the respective Towns or Districts, and so returned, shall before their sitting take such of the oaths mentioned in the said several Acts as shall be applicable to the case of the individual taking the same, which oaths you shall commission fit persons, under the seal of Our said Island and its Dependencies, to tender and administer unto them; and until the same shall be so taken, no person shall be capable of sitting, though elected: and We do hereby declare that the persons so elected and qualified shall be called and deemed the General Assembly of Our said Island of Newfoundland, and you the said Sir Thomas John Cochrane, by and with the advice and consent of Our said Council and Assembly, or the major part of them respectively, shall have full power and authority to make, constitute and ordain laws, statutes and ordinances for

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Powers of Crown and Governor in relation to Statutes.

the public peace, welfare and good government of Our said Island and its Dependencies, and the people and inhabitants thereof, and such others as shall resort thereto, and for the benefit of Us, our heirs and successors, which said laws, statutes and ordinances are not to be repugnant, but as near as may be agreeable, to the laws and statutes of this our United Kingdom of Great Britain and Ireland.

Provided that all such laws, statutes and ordinances, of what nature or duration soever, be, within three months or sooner after the making thereof, transmitted to Us, under the public seal of Our said Island and its Dependencies, for Our approbation or disallowance of the same, as also duplicates thereof by the next conveyance. And in case any or all of the laws, statutes and ordinances not before confirmed by Us shall at any time be disallowed and not approved, and so signified by Us, Our heirs or successors, under Our or their sign manual and signet, or by order of Our or their Privy Council unto you, the said Sir Thomas John Cochrane, or the Commander-in-Chief of Our said Island for the time being, then such and so many of the said laws, statutes and ordinances as shall be so disallowed and not approved shall from thence forth cease, determine and become utterly void and of none effect, anything to the contrary thereof notwithstanding. And to the end that nothing may be passed or done by Our said Council and Assembly to the prejudice of Us, Our heirs or successors, We will and ordain that you, the said Sir Thomas John Cochrane, shall have and enjoy a negative voice in the making and passing such laws, statutes and ordinances as aforesaid, and that you, or, in your absence, the officer administering the Government, shall and may from time to time, as you or he shall judge it necessary, adjourn, prorogue or dissolve all general assemblies as aforesaid.

Public Seal and Oaths.

Courts and officers of the law.

And We do hereby authorize and empower you to keep and use the public seal for sealing all things whatsoever that shall pass the seal of Our said Island and its Dependencies. And We do further give and grant unto you, the said Sir Thomas John Cochrane, full power and authority from time to time, and at any time hereafter, by yourself, or by any other to be authorized by you in that behalf, to administer and give such of the said oaths in the said several Acts contained as shall be applicable to the case of the individual to whom the same shall be administered, to all and every such person or persons as you shall think fit who shall hold any office or place of trust or profit, or who shall at any time or times pass into Our said Island and its Dependencies, or shall be resident or abiding therein.

Pardons and reprieves.

And We do by these presents give and grant unto you, the said Sir Thomas John Cochrane, full power and authority, with the advice and consent of Our said Council, to constitute and appoint, in cases requisite, Commissioners of Oyer and Terminer, Justices of the Peace, Sheriffs, and other necessary officers and ministers in Our said Island and its Dependencies, for the better administration of justice, and putting the said laws into execution, and to Pardon and administer, or cause to be administered, unto them such oath or oaths as are usually given for the due execution and performance of offices and places,

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Presentation to Benefices.

and for the clearing of truth in judicial causes. And we do hereby give and grant unto you full power and authority where you shall see cause or judge any offender or offenders in criminal matters, or for any fines or forfeitures due unto Us, fit objects of Our mercy, to pardon all such offenders, and to remit all such offences, fines and forfeitures, (treason and wilful murder only excepted), in which cases you shall likewise have power upon extraordinary occasions to grant reprieves unto the offenders, until and to the intent Our Royal pleasure may be known therein.

Levies and Military operations.

And We do by these presents authorize and empower you to present to the Bishop of the Diocese of Nova Scotia for institution any person or persons to any churches, chapels, or other ecclesiastical benefices within Our said Island and its Dependencies as often as any of them shall happen to be void.

Making of local

And We do hereby give and grant unto you, the said Sir Thomas John Cochrane, by yourself, or by your Captains and Commanders by you to be authorized full power and authority to levy, arm, muster, command and employ all persons whatsoever, residing within Our said Island and its Dependencies, and as occasion shall serve, them to march from one place to another, or to embark them for the resisting and withstanding of all enemies, pirates and rebels, both at sea and

divisions and districts.

Control of ships and mariners and application of martial law.

land, and to transport such forces to any of Our plantations in America, if necessity shall require, for the defence of the same against the invasion or attempt of any of our enemies, and such enemies, pirates and rebels, if there shall be occasion, to pursue and prosecute in or out of the limits of Our said Island and its Dependencies, or any of them, and if it shall so please God, them to vanquish, apprehend and take, and to execute martial law in the time of invasion, war, or other times when by law it may be executed, and to do and execute all and every other thing and things which to Our Governor and Commander-in-Chief doth and ought of right to belong. And We do hereby give and grant unto you full power and authority, by and with the advice and consent of Our said Council, to erect, constitute and establish in Our said Island and its Dependencies, such and so many counties, townships, parishes, cities, boroughs and towns, as you, by the advice aforesaid, shall judge necessary.

And forasmuch as divers mutinies and disorders may happen by persons shipped and employed at sea during the time of war, and to the end that such as shall be shipped and employed at sea during the time of war may be better governed and ordered, We do hereby give and grant unto you, the said Sir Thomas John Cochrane, full power and authority to constitute and appoint captains, lieutenants, masters of ships, and other commanders and officers, and to grant unto such captains, lieutenants, masters of ships and other commanders and officers, commissions to execute the law martial during the time of war, according to the directions of an Act passed in the twenty-second year of the late majesty King George the Second, intituled, "An Act for amending, explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships, Vessels, and Forces by

Punishment of
offences committed
at sea.

Sea" as the same is altered by an Act passed in the nineteenth year of the reign of King George the Third, intituled, An Act to explain and amend an Act made in the twenty-second year of the reign of His reign of King George the Second, intituled, "An Act for amending, explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships, Vessels, and Forces by Sea," and to use such proceedings, authorities, punishments, corrections, and executions upon any offender or offenders who shall be mutinous, seditious, disorderly, or anyways unruly, either at sea or during the time of their abode or residence in any of the ports, harbours or bays of Our said Island and its Dependencies, as the case shall be found to require, according to martial law, and the said directions during the time of war, as aforesaid; Provided that nothing herein contained shall be construed to the enabling you, or any by your authority, to hold plea, or have any jurisdiction of any offence, cause, matter or thing committed or done upon the high seas, or within any of the havens, rivers or creeks of Our said Island and its Dependencies under your government, by any captain, commander, lieutenant, master, officer, seaman, soldier or other person whatsoever, who shall be in actual service or pay in or on board any of our ships of war or other vessels acting by immediate commission or warrant from Our Commissioners for executing the office of High Admiral of Our United Kingdom of Great Britain and Ireland, or from Our High Admiral of Our United Kingdom of Great Britain and Ireland for the time being, under the Seal of Our Admiralty, but that such captain, commander, lieutenant, master, officer, seaman, soldier, or other person so offending shall be left to be proceeded against and tried as their offences shall require, either by Commission under Our Great Seal of this Kingdom as the statute of the twenty-eighth of King Henry the Eighth directs, or by Commission from Our said Commissioners for executing the office of High Admiral of Our United Kingdom of Great Britain and Ireland, or from Our High Admiral of Our United Kingdom of Great Britain and Ireland for the time being, according to the aforementioned Act, passed in the twenty-second year of the reign of King George the Second, as altered by the said Act passed in the nineteenth year of the reign of King George the Third; Provided nevertheless, that all disorders and misdemeanors committed on shore by any captain, commander, lieutenant, master, officer, seaman, soldier, or other person whatsoever, belong Navy when belonging to any of Our ships of war, or other vessels acting by immediate Commission or Warrant from Our Commissioners for executing the office of High Admiral of Our United Kingdom of Great Britain and Ireland, or from Our High Admiral of Our United Kingdom of Great Britain and Ireland for the time being, under the Seal of Our Admiralty, may be tried and punished according to the laws of the place

Punishment of
offences committed
by officers or men of
the Navy when on
shore.

Public Moneys.

where such offences, disorders, and misdemeanors shall be committed on shore, notwithstanding such offender be in our actual service, and borne in Our pay on board any such Our ships of war or other vessels acting by immediate commission or warrant from Our Commissioners for executing the office of High Admiral of Our United Kingdom of Great Britain and Ireland, or from Our High Admiral of Our United Kingdom of Great Britain and Ireland for

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Grants of lands.

the time being as aforesaid, so as he shall not receive any protection for the avoiding of justice for such offences committed on shore, from any pretence of his being employed in Our Service at sea.

Markets and ports.

And Our further will and pleasure is, that all public moneys raised, or which shall be raised by any Act hereafter to be made within Our said Island and its Dependencies, be issued out by warrant from you by and with the advice and consent of the aforesaid Council (and not otherwise), and disposed of by you for the support of the Government, or for such other purpose as shall be particularly directed or appointed in and by such Act, and not otherwise; And We do likewise give and grant unto you full power and authority, by and with the advice and consent of Our said Council, to settle and agree with the inhabitants of Our said Island and its Dependencies for such lands, tenements and hereditaments as are now, or hereafter shall be, in Our power, to dispose of, and them to grant, to any person or persons, upon such terms, and under such moderate quit-rents, services and acknowledgments to be thereupon reserved to Us, as you or they, by the advice aforesaid, shall think fit, which said grants are to pass and be sealed by Our Public Seal of Our said Island and its Dependencies, and being entered upon record by such officer or officers as shall be appointed thereunto, shall be good and effectual in law against Us, Our heirs and successors. And We do hereby give you the said Sir Thomas John Cochrane full power and authority to order and appoint fairs, marts and markets, as also such and so many ports, harbours, bays, havens and other places for the conveniency and security of shipping, and for the better loading and unloading of ships and merchandizes, in such and so many places as by and with the advice and consent of Our said Council shall be thought fit and necessary.

All persons to assist and obey the Governor.

The Lieutenant-Governor.

And We do hereby require and command all officers and ministers, civil and military, and all others the inhabitants of Our said Island and its Dependencies, to be obedient, aiding and assisting unto you the said Sir Thomas John Cochrane in the execution of this Our Commission, and of the powers and authorities herein contained; and in case of your death or absence out of Our said Island and its Dependencies and Government, to be obedient, aiding and assisting as aforesaid unto such person as shall be appointed by Us to be Our

Lieutenant-Governor, or to the Commander-in-Chief for the time being of Our said Island and its Dependencies, to whom We do therefore, by these Presents, give and grant all and singular the powers and authorities herein granted, to be by him executed and enjoyed during Our pleasure, or until your arrival within Our said Island and its Dependencies; and if upon your death or absence out of Our said Island and its Dependencies there be no person on the place commissioned or appointed by Us to be Our Lieutenant-Governor, or specially appointed by Us to administer the government within Our said Island and its Dependencies, Our Will and pleasure is, that the Councillor whose name is first placed in Our Instructions to you, unless it shall therein be otherwise directed, and who shall be at the time of your death or absence residing within Our said Island and its Dependencies, shall take

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upon him the administration of the government, and execute Our said Commission and Instructions, and the several powers and authorities therein contained, in the same manner to all intents and purposes as other Our Governor or Commander-in-Chief should or ought to do, in case of your absence, or until your return, or in all cases until Our further pleasure be known thereon; and We do hereby declare, ordain and appoint that you, the said Sir Thomas John Cochrane, shall and may hold, execute and enjoy, the office and place of Our Governor and Commander-in-Chief in and over the Island and Territories aforesaid, together with all and singular the powers and authorities hereby granted unto you, for and during Our will and pleasure.

In witness, &c.,

Dated 2nd March 1832.

(countersigned) BATHURST.

[26 July,
1832.]**No. 181.**

Newfoundland.

**INSTRUCTIONS PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET FOR SIR THOMAS JOHN
COCHRANE**AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC.¹

INSTRUCTIONS to Our trusty and well-beloved Sir *Thomas John Cochrane*, Knight, Our Governor and Commander-in-Chief of Our Island of Newfoundland, or in his absence to the Lieutenant-governor or Officer administering the Government of Our said Island for the time being. Given at Our Court at St. James's, the 26th day of July 1832, in the third year of Our reign.

1. With these Our instructions you will receive Our Commission under Our Great Seal of the United Kingdom of Great Britain and Ireland constituting you Our Governor and Commander-in-Chief in and over Our said island of Newfoundland and its dependencies. You are therefore with all convenient speed to assume and enter upon the execution of the trust We have reposed in you. And you are forthwith to call together the following persons, whom We do hereby appoint to be members of Our Council in Our said island, any three of Whom to be a quorum: viz. The Chief Justice for the time being of Our said island; the Chief Officer in command of Our land forces for the time being in Our said island next after Our Governor thereof for the time being; the Attorney-general for the time being of Our said island; the Collector or other Chief Officer of Customs for the time being of Our said island; the Colonial Secretary for the time being of Our said island, and William Haly, Esquire.

2. And you are with all due and usual solemnity to cause Our said Commission, constituting you Our Governor and Commander-in-Chief as aforesaid, to be read and published at the first meeting of Our said Council, and shall then take, and also administer to each of the members thereof, the several oaths therein required.

3. You shall administer or cause to be administered the several oaths mentioned in Our said Commission to all judges, justices, and other persons

who hold any place of trust or profit in Our said island, without the doing of which you are not to admit any person whatsoever into any public office, nor suffer those who may have already been admitted to continue therein.

4. You are to communicate forthwith such of these Our instructions to Our said Council, wherein their advice and consent are mentioned to be requisite, and likewise all such others from time to time as you shall find convenient for Our service to be imparted to them.

5. You are to permit the members of Our said Council to have and enjoy freedom of debate, and vote in all affairs of public concern that may be submitted to their consideration in Council

6. And that we may be always informed of the names and characters of persons fit to supply the vacancies in Our said Council, you are from time to time, whenever any vacancy shall happen therein, forthwith to transmit unto Us, through one of Our Principal Secretaries of State, the names of three persons, inhabitants of the said Island, whom you shall esteem the best qualified for the trust.

7. And whereas by Our Commission you are empowered in case of the death or absence of any of the members of Our said Council to fill up the vacancies therein to the number of three, and no more, you are therefore from time to time to send to Us, through one of Our Principal Secretaries of State, the names and qualifications of any members by you put into Our said Council by the first opportunity after so doing.

8. And in the choice and nomination of the members of Our said Council, as also of the judges, justices, and other officers, you are always to take care that they be men of good life, well affected to Our government, of good estates, and abilities suitable to their employments.

9. You are neither to augment nor diminish the number of the members of Our said Council as already established, nor to suspend any of them without good and sufficient cause, nor without the consent of the majority of the said Council, signified in Council after due examination of the charge against such Councillor, and his answer thereunto : and in case of the suspension of any of them you are to cause your reasons for so doing, together with the charges and proofs against such Councillor, and his answer thereunto, to be duly entered upon the Council-book, and forthwith to transmit copies to Us, through one of Our Principal Secretaries of State. Nevertheless, if it should happen that you should have reasons for suspending any of the members of Our said Council, not fit to be communicated to Our said Council, you may in that case

suspend such member without their consent. But you are there upon immediately to send to Us, through one of Our Principal Secretaries of State, an account of your proceedings therein, together with your reasons at large for such suspension, and also your reasons for not communicating the same to Our Council.

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10. And whereas effectual care ought to be taken to oblige the members of Our said Council to a due attendance therein, and thereby to prevent the inconveniences that may happen from want of a quorum to transact business as occasion may require, it is Our will and pleasure that if any of the members of Our said Council shall hereafter absent themselves from the said Island, and continue absent above the space of six months together without leave from you or Our Commander-in-Chief for the time being first obtained under your or his hand or seal, or shall remain absent for the space of two years successively without leave given them under Our Royal Sign Manual and Signet, their place or places in the said Council shall immediately thereupon become void; and that if any of the members of Our said Council then residing within Our said island shall hereafter absent themselves when duly summoned without a sufficient cause, and shall persist in such absence after being thereof admonished by you, you suspend the said Councillors so absenting themselves till Our further will and pleasure therein be known, giving immediate notice thereof to Us, through one of Our Principal Secretaries of State: And we do hereby will and require that Our royal pleasure be signified to the members of Our said Council and entered in the Council-book as a standing rule.

11. And whereas by Our aforesaid Commission you are authorized and empowered to summon and call General Assemblies of the freeholders and householders within Our said island, in such manner and form, and according to such powers, instructions and authorities as are granted or appointed by these Our instructions in that behalf, you are therefore, for the purpose of electing the members of such Assemblies, hereby authorized to issue a proclamation dividing Our said island in districts or counties, town or townships, and appointing the limits thereof, and declaring and appointing the number of representatives to be chosen by each of such districts or counties, town or townships respectively, and from time to time to nominate and appoint proper persons to execute the office of returning officer in each of the said districts or counties, towns or townships; and you are, so soon as you shall see expedient, to issue writs in Our name, directed to the proper officers in each district or county, town or township, directing them to summon the free holders and householders thereof to proceed to the election of persons to represent them in the General Assembly according to the regulations and directions to be signified in the proclamation to be issued by

you as aforesaid.

12. You are to observe in the passing of all laws, that the style of enacting the same be by the Governor, Council, and Assembly.

13. And We do hereby require and command that you do not, on any pretence whatever, give your assent to any law or laws to be passed by which the number of the Assembly shall be enlarged or diminished, the duration ascertained, the qualifications of the electors or the elected fixed or altered. or by which any regulations shall be established with respect thereto, until you shall have first transmitted unto Us, through one of Our Principal Secre-

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taries of State, the draft of such Bill or Bills, and shall have received Our royal pleasure thereupon, unless you take care in the passing such Bill or Bills that a clause or clauses be inserted therein suspending and deferring the execution thereof until Our will and pleasure shall be known thereupon.

14. And you shall not re-enact any law to which the assent of Us or Our royal predecessors has once been refused, without express leave for that purpose first obtained from Us, upon a full representation by you, to be made to Us, through one of Our Principal Secretaries of State, of the reason and necessity for re-enacting such law.

15. And it is Our express will and pleasure, that no law for constituting and court or courts of judicature, or for establishing the militia, shall be a temporary law; and that no law for granting unto Us any sum or sums of money by duties of impost, tonnage, or excise, be made to continue for less than one whole year; as also that no other laws whatsoever be made to continue for less than two years, except only in cases where it may be necessary for some unforeseen emergency to make provision by law for a service in its nature temporary and contingent.

16. You are also, as much as possible, to observe in the passing of all laws, that each different matter be provided for by a different law, without intermixing in one and the same Act such things as have no proper relation to each other; and you are more especially to take care that no clause or clauses be inserted in, or annexed to, any Act which shall be foreign to what the title of such respective Act imports; and that no perpetual clause be part of any temporary law; and that no Act whatever be suspended, altered, continued, revived, or repealed by general words, but that the title and date of such Act so suspended, altered, continued, revived, or repealed, be particularly mentioned and expressed in the enacting part.

17. And you are particularly enjoined not to pass any law, or

do any act, by grant, deed, conveyance, or otherwise, whereby Our revenue may be lessened or impaired without Our especial leave or command thereon

18. It is Our will and pleasure that you do not give your assent to any Bill or Bills for raising money by the institution of any public or private lotteries whatsoever until you shall have first transmitted unto Us, through one of our Principal Secretaries of State, a draft or drafts of such Bill or Bills, and shall have received our directions thereupon.

19. It is Our will and pleasure that you do not, on any pretence whatever, give your assent to, or pass any Bill or Bills in Our island under your government, by which the lands, tenements, goods, chattels, rights and credits of persons who have never resided within Our said island, shall be liable to be seized or taken in execution for the recovery of debts due from such persons, otherwise than is allowed by law in cases of a like nature within Our realm of England, until you shall have first transmitted unto Us, through one of Our Principal Secretaries of State, the draft of such Bill or Bills, and shall have

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received Our royal pleasure thereupon, unless you take care, in the passing of such Bill or Bills, that a clause or clauses be inserted therein, suspending and deferring the execution thereof until Our royal will and pleasure shall be known thereupon.

20. It is Our further will and pleasure that you do not, upon any pretence whatsoever, give your assent to any Bill or Bills that may have been or shall hereafter be passed by the Council and Assembly of the island under your government for the naturalization of aliens, nor for the divorce of persons joined together in holy matrimony, nor for establishing a title in any person to lands, tenements, and real estates in Our said island, originally granted to or purchased by aliens antecedent to naturalization.

21. Whereas great mischiefs have arisen by the frequent passing of Bills of an unusual and extraordinary nature and importance in the plantations, which Bills remain in force there, from the time of enacting, until Our pleasure be signified to the contrary, We do hereby will and require you not to pass or give your assent to any Bill or Bills passed in the Assembly of an unusual and extraordinary nature and importance, whereby Our prerogative or the property of Our subjects may be prejudiced, nor to any Bill or Bills whereby the trade of shipping of this kingdom shall be in anywise affected, until you shall have first transmitted unto Us, through one of Our Principal Secretaries of State, a draft of such Bill or Bills, and shall have received Our royal pleasure thereupon, unless you

take care in the passing any such Bills as afore mentioned that there be a clause inserted therein, suspending and deferring execution thereof until Our pleasure shall be known concerning the same.

22. You are also to take care that no private Act be passed, whereby the property of any private person may be affected, in which there is not a saving of the right of Us, Our heirs and successors, all bodies politic and corporate, and of all other, except such as are mentioned in the said Act, and those claiming by, from, and under them; and further, you shall take care that no such private Act be passed without a clause suspending the execution thereof until the same shall have received Our royal approbation. It is likewise Our will and pleasure that you do not give your assent to any private Act until proof be made before you in Council, and entered in the Council-book, that public notification was made of the parties' intention to apply for such an Act in the several parish churches where the premises in question lie, for three Sundays at least successively, before any such Act shall be brought into the Assembly, and that a certificate, under your hand, be transmitted with, and annexed to every such private Act, signifying that the same has passed through all the forms above mentioned.

23. You are to take care that in all Acts or Orders to be passed within Our said island, in any case for levying money or imposing fines and penalties, express mention be made that the same is granted or reserved to Us, Our heirs and successors, for the public uses of the said island, and the support of the government thereof, as by the said Act or Order shall be directed.

24. You are not to suffer any public money whatsoever, whether it be appropriated to any particular service or not by the Act granting the same, to be issued or disposed of otherwise than by warrant under your hand, by and with the consent of the said Council. But the Assembly may nevertheless be permitted from time to time to view and examine the accounts of money or value of money disposed of by virtue of laws made by them, as there shall be occasion.

25. You are not to permit any clause whatsoever to be inserted in any law for levying of money, or the value of money, whereby the same shall not be made liable to be accounted for unto Us, here in this kingdom, and to Our Commissioners of Our Treasury, or Our High Treasurer for the time being; and we do particularly require and enjoin you, upon pain of Our highest displeasure, to take care that fair books of accounts of all receipts and payments of all such money be duly kept, and copies thereof be transmitted to Our Commissioners of Our Treasury, or to Our High Treasurer for the time being, and in which books shall be specified every particular sum raised or disposed of, together with the names of the persons to whom any payment shall be made, to the end We may be satisfied of the right and due application of the revenue of Our said island, with the probability of the increase and diminution of it, under every head and article thereof

26. It is Our will and pleasure that you do in all things conform yourself to the provisions contained in an Act of Parliament passed in the fourth year of the reign of his late Majesty King George the Third, intituled, "An Act to prevent Paper Bills of Credit hereafter to be issued in any of His Majesty's Colonies or Plantations in America from being declared to be a legal tender in payment of money, and to prevent the legal tender of such Bills as are now subsisting from being prolonged beyond the periods limited for recalling in and sinking the same;" and also of an Act passed in the thirteenth year of the reign of his late Majesty to explain and amend the above-recited Act passed in the fourth year of his reign as aforesaid; and you are not to give your assent to, or pass any Act whereby bills of credit may be struck or issued in lieu of money, or for payment of money, either to you, Our Governor, or to any person whatsoever, unless a clause be inserted in such Act, declaring that the same shall not take effect until the said Act shall have been approved and confirmed by Us, Our heirs or successors.

27. You are to transmit an authenticated and separate copy of every Law, Statute or Ordinance that at any time hereafter shall be made or enacted within the island under your Government, under the Public Seal, unto Us, through one of Our Principal Secretaries of State, within three months, or sooner, after their being enacted, upon pain of Our highest

displeasure, and of the forfeiture of that year's salary wherein you shall omit to send over the said Laws, Statutes and Ordinances as aforesaid, within the time above mentioned, as also of such other penalty as We shall please to inflict: but if it shall happen that no shipping shall come from Our said island within three

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months after the making such Laws, Statutes and Ordinances, the same are to be transmitted by the next conveyance after the making thereof, whenever it may happen, for Our approbation or disallowance of the same.

28. And it is Our further will and pleasure that the copies and duplicates of all Acts that shall be transmitted as aforesaid be fairly abstracted in the margents, and there be inserted the several dates or respective times when the same passed the Council and Assembly, and received your assent; and you are to be as particular as may be in your observations, to be sent to us through one of Our Principal Secretaries of State, upon every Act; that is to say, whether the same is introductive of a new law, declaratory of a former law, or does repeal a law then before in being, and you are likewise to send to Us, through one of Our Principal Secretaries of State, the reasons for the passing of such laws, unless the same do fully appear in the preambles of the said Acts.

29. You are to require the Secretary of the island under your government, or his deputy for the time being, to furnish you with transcripts of all such Acts and Public Orders as shall be made from time to time, together with copies of the journals of the Council, and that all such copies be fairly abstracted in the margents, to the end the same may be transmitted to Us, through one of Our Principal Secretaries of State, which he is duly to perform upon pain of incurring the forfeiture of his office.

30. You are also to require from the clerk of the Assembly of the said island, or other proper officer, transcripts of all the journals and other proceedings of the said Assembly, and that all such transcripts be fairly abstracted in the margents, to the end the same may in like manner be transmitted as aforesaid.

31. You shall not appoint any person to be a Judge or Justice of the Peace without the advice and consent of the majority of the Council of Our said island, signified in Council. And it is Our further will and pleasure that all commissions to be granted by you to any person or persons to be Judges, Justices of the Peace, or other necessary officers, be granted during pleasure only.

32. You shall not suspend any of the Judges, Justices, or other officers or ministers, without good and sufficient cause,

which you shall signify in the fullest and most distinct manner to us, through one of Our Principal Secretaries of State.

33. It being of the greatest importance to Our Service, and to the welfare of Our subjects, that justice be everywhere speedily and duly administered, and that all disorders, delays, and other undue practices in the administration thereof, be effectually prevented, We do particularly require you to take especial care that in all courts where you are authorized to preside justice be impartially administered; and that in all other courts established within Our said island, all Judges and other persons therein concerned do likewise

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perform their several duties without any delay or partiality. You shall not erect any court or office of judicature not before erected or established, nor dissolve any court or office already erected or established, without Our especial order.

34. You are, for the better administration of justice, to endeavour to get a law passed in our said island, wherein shall be set the value of men's estates, either in goods or lands, under which they shall not be capable of serving as jurors.

35. You are to take care that all writs be issued in Our name throughout Our said island under your government.

36. Whereas, in pursuance of an Act passed in the 5th year of the reign of his late Majesty, King George the Fourth, intituled, "An Act for the better Administration of Justice in Newfoundland, and for other purposes," by Our Charter or Letters Patent, issued under the Great Seal of the United Kingdom of Great Britain and Ireland, a supreme court of jurisdiction, called the "Supreme Court of Newfoundland," was erected and established in Our said island, with certain powers and authorities, and under certain regulations therein specified, you are hereby required to take care that the same be duly complied with, and put in execution.

37. You are, with the advice and consent of Our Council, to take especial care to regulate all salaries and fees belonging to places, or paid upon emergencies, that they be within the bounds of moderation, and that no extortion be made on any occasion whatsoever, as also that tables of all fees be publicly hung up in all places where such fees are to be paid; and you are to transmit copies of all such tables of fees to Us, through one of Our Principal Secretaries of State.

38. You shall not by colour of any power or authority, hereby or otherwise granted or mentioned to be granted to you, take upon you to give, grant, or dispose of any office or place within Our said island, which now is or shall be granted under the Great Seal of this kingdom, or to which any person is or shall be appointed by warrant under Our Sign Manual and

Signet, any further than you may, upon the vacancy of any such office or place, or upon the suspension of any such officer by you, put in any fit person to officiate in the interim till you shall have represented the matter to Us, through one of Our Principal Secretaries of State, which you are to do by the first opportunity, and have received our further directions therein.

39. You are to transmit unto Us, through one of Our Principal Secretaries of State, with all convenient speed, a particular account of all establishments of jurisdictions, courts, offices and officers, powers, authorities, fees, and privileges, granted and settled, or which shall be granted and settled within our said island, as likewise an account of all the expenses attending the establishments of the said courts, and of such funds as are settled and appropriated to discharge the same.

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40. It is Our express will and pleasure that you be at all times aiding and assisting unto the officers appointed for the managing, levying, collecting and receiving public revenues, and such duties and revenues as are or shall hereafter be laid and imposed within your government, and the seizures, forfeitures and arrears which shall accrue and grow due by reason thereof.

41. And whereas complaints have been made by the officers of Our Customs in Our plantations in America that they have been frequently obliged to serve on juries, and personally to appear in arms whensoever the militia is drawn out, and thereby are much hindered in the execution of their employments, Our will and pleasure is that you take effectual care, and give the necessary directions that the several officers of Our Customs be excused and exempted from serving on any juries, or personally appearing in arms in the militia, unless in case of absolute necessity, or serving any parochial offices which may hinder them in the execution of their duties.

42. And in case of the vacancy of the Collector, or any of Our officers of the Customs by death, removal, or otherwise, and in order that there may be no delay given on occasion of such vacancy to the masters of ships or merchants in their despatch, you are hereby empowered, subject to such instructions as you shall receive from Our Commissioners of Our Treasury, or Our High Treasurer, or from the Commissioners of our Customs for the time being in this behalf, to appoint other persons duly qualified to execute such offices, until further directions shall be received from Our Commissioners of Our Treasury, or Our High Treasurer, to whom you are to give notice of such appointments by the first opportunity, taking care that you do not, under pretence of this instruction, interfere with the powers and authorities given to Our said Collector by Our Commissioners of Our Treasury, or

Our High Treasure, or by the Commissioners of Our Customs.

43. You shall not remit any fines or forfeitures whatever above the sum of 50*l.*, nor dispose of any forfeitures whatsoever until upon signifying unto Our Commissioners of Our Treasury, or Our High Treasurer for the time being, the nature of the offence and the occasion of such fines and forfeitures, with the particular sums or value thereof (which you are to do with all speed), you shall have received Our directions therein, but you may in the mean time suspend the payment of the said fines and forfeitures.

44. It is Our will and pleasure that you do not dispose of forfeitures or escheats to any persons until the Provost Marshal or other proper officer have made inquiries by a jury upon their oaths into the true value thereof, nor until you shall have transmitted to Our Commissioners of Our Treasury, or to Our High Treasurer for the time being, a particular account of such forfeitures and escheats and the value thereof, and shall have received Our directions thereupon, and you are to take care that the produce of the said forfeitures and escheats, in case We shall think proper to give you direction to dispose of the same, be duly paid to the receiver of Our casual revenue; and that a full account thereof be transmitted to Our Commissioners of Our

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Treasury, or to Our High Treasurer for the time being, with the names of the persons to whom disposed of.

45. Whereas you will receive from Our Commissioners for executing the office of High Admiral a commission constituting you Vice Admiral of Our said island, you are hereby required and directed carefully to put in execution the several powers thereby granted to you.

46. And whereas commissions have been granted in our colonies and plantations for trying pirates in those parts, pursuant to the Acts for the more effectual suppression of piracy, Our will and pleasure is, that in all matters relating to pirates you govern yourself according to the intent of the Acts before mentioned, and any commission you may receive in reference thereto.

47. And whereas there have been great irregularities in the manner of granting commissions to private ships of war, you are to govern yourself whenever there shall be occasion according to the commission and instructions granted in this kingdom: but you are not to grant commissions of marque or reprisal against any prince or state or their subjects in amity with Us to any person whatsoever without Our special command.

48. Whereas We have thought it necessary for Our service to

constitute and appoint a Receiver-general of Our rights and perquisites of the Admiralty, it is therefore Our Will and pleasure that you be aiding and assisting to the said Receiver-general, his deputy or deputies, in the execution of the said office of Receiver-general; and We do hereby enjoin and require you to make up your accounts with him, his deputy or deputies, of all such rights of Admiralty (effects of pirates included) as you or your officers have received, or shall or may receive for the future, and to pay over to the said Receiver general, his deputy or deputies, for Our use, all such sum or sums of money as shall appear upon the foot of such accounts, to be and remain in your hands, or in the hands of any of your officers: And whereas Our said Receiver-general is directed, in case the parties chargeable with any part of such Our revenue refuse, neglect, or delay payment thereof, by himself, or sufficient deputy, to apply in Our name to Our Governors, Judges, Attorney-general or any other Our officers or magistrates, to be aiding or assisting to him in recovering the same, it is therefore Our will and pleasure that you, Our Governor, Our Judges, Our Attorney-general, and all other officers whom it may concern, do use all lawful authority for the recovering and levying thereof.

49. And whereas by Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster the 10th day of May 1825, the Island of Newfoundland was constituted to be part of the See of the Bishop of Nova Scotia, and the said bishop was thereby duly authorized to exercise jurisdiction, spiritual and ecclesiastical, in the said colonies, it is Our will and pleasure that in the administration of the government of our said island you should be aiding and assisting to the said

bishop, and to his commissary or commissaries, in the execution of their charge, and the exercise of such ecclesiastical jurisdiction, excepting only the granting licences for marriages and probates of wills.

50. We do enjoin and require that you do take especial care that Almighty God be devoutly and truly served throughout your government, the Book of Common Prayer, as by law established, read each Sunday and holiday, and the Blessed Sacrament administered according to the rites of the Church of England. You shall be careful that all orthodox churches already built there be well and orderly kept, and that more be built, as Our island shall, by God's blessing, be improved. And that besides a competent maintenance to be assigned to the minister of each orthodox church, a convenient house be built at the common charge for each minister, and a competent portion of land for a glebe be allotted to him. And you are to take care that the parishes be so limited and settled as you shall find most convenient for the accomplishing this good work, and in all matters relating to the celebration of Divine Worship, the erection and repair of churches, the maintenance of ministers, and the settlement of parishes throughout your government, you are to advise with the Right Reverend Father in God the Bishop of Nova Scotia for the time being.

51. Upon the vacancy of any ecclesiastical benefice in Our said island, you will present to the said Bishop of Nova Scotia for the time being, for institution to such vacant benefice, any clerk in holy orders of the United Church of England and Ireland, who shall have been actually resident within the said diocese, and officiating there as a clerk in holy orders, for six calendar months at the least next before such benefice shall have become vacant, whom the said bishop may certify to you to be a fit and proper person to fill such vacancy, and to be a person of good life and conversation, and conform able to the doctrine and discipline of the said United Church. But if at the time of any such vacancy occurring there shall not be resident within the said diocese any clerk in holy orders of the said United Church who shall have been resident and officiating therein as aforesaid, in whose favour the said bishop shall think proper so to certify to you, or if no such certificate shall be received by you from the said bishop within three calendar months next after such vacancy shall occur, then and in either of such cases you shall forthwith report the circumstances to Us, through one of Our Principal Secretaries of State, to the intent that We may nominate some fit and proper person, being a clerk in holy orders as aforesaid, to fill the said vacancy. And We do enjoin and command you to present to the said bishop for institution to any such vacant ecclesiastical benefice, any clerk who may be so nominated by Us, through one of Our Principal Secretaries of State.

52. You are to inquire whether there be any minister within your government who preaches and administers the Sacrament in any orthodox church or chapel, without being in due orders, and to give an account thereof to the said Bishop of Nova Scotia.

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53. And whereas doubts have arisen whether the powers of granting licences for marriages and probates of wills, commonly called the Office of Ordinary, which We have reserved to you, Our Governor, can be exercised by deputation from you to any other person within Our said island under your government, it is Our express will and pleasure, and you are hereby directed and required not to grant deputations for the exercise of the said powers, commonly called the Office of Ordinary, to any person or persons whatsoever in Our said island under your government.

54. And you are to take especial care that a table of marriages established by the canons of the Church of England be hung up in every orthodox church and duly observed.

55. The Right Reverend Father in God, Edmund, then Lord Bishop of London, having presented a petition to his Majesty King George the First, humbly beseeching him to send instructions to the governors of all the several colonies and plantations in America, that they cause all laws already made against blasphemy, profaneness, adultery, fornication, polygamy, incest, profanation of the Lord's-day, swearing and drunkenness in their respective governments to be rigorously executed, and We, thinking it highly just that all persons who shall offend in any of the particulars aforesaid should be prosecuted and punished for their said offences, it is therefore Our will and pleasure that you take due care for the punishment of the afore-mentioned vices, and that you earnestly recommend that effectual laws be passed for the restraint and punishment of all such of the afore-mentioned vices against which no laws are as yet provided. And also you are to use your endeavours to render the laws in being more effectual, by providing for the punishment of the afore-mentioned vices, by presentment upon oath to be made to the temporal courts by the churchwardens of the several parishes, at proper times of the year to be appointed for that purpose ; and for the further discouragement of vice and encouragement of virtue and good living, you are not to admit any persons to public trusts or employments in the island under your government whose ill fame and conversation may occasion scandal.

56. It is Our further will and pleasure that you recommend to the Legislature to enter upon proper methods for the erecting and maintaining schools in order to the training up of youth to reading, and to a necessary knowledge of the

principles of religion. You are not, however, to give your consent to any Act respecting religion without a clause suspending its operation until Our pleasure shall have been signified thereupon, unless a draft thereof shall have been previously transmitted by you for Our consideration and approval.

57. And We do further direct that in all matters arising within your government connected with the education of youth in the principles of the Christian religion according to the doctrine of the said United Church of England, or connected with the prevention of vice and profaneness, or the conversion of negroes and other slaves, or connected with the worship of Almighty God, or the promotion of religion and virtue, you be advising with

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the Bishop for the time being of the said diocese of Nova Scotia, and be aiding him in the execution of all such designs and undertakings as may be recommended by the said Bishop for the promotion of any of the objects before mentioned, so far as such designs and undertakings may be consistent with the law and with your said commission, and these Our instructions.

58. You are to transmit to Us, through one of Our Principal Secretaries of State, regular monthly returns of the militia of Our said island whenever and so long as the same shall be embodied, with a particular state of their arms and accoutrements; and for the due preservation and security of which you are to establish such regulations as you shall judge to be most effectual for that purpose.

59. You shall not upon any occasion whatsoever establish or put in execution any articles of war, or other law martial, upon any of Our subjects, inhabitants of Our said island, without the advice and consent of Our Council.

60. And in case of any distress of any other of Our plantations, you shall, upon application of the respective Governors thereof unto you, assist there with what aid the condition and safety of Our island under your government can spare.

61. You shall, from time to time, give unto Us, through one of Our Principal Secretaries of State, an account of the wants and defects of the island under your government, what are the chief products thereof, what improvements have been lately made, and what further improvements you conceive may be made, or advantages gained by trade, and in what way We may contribute thereunto.

62. If any thing shall happen which may be of advantage or security to Our island under your government, which is not

herein or by Our Commission provided for, We do hereby allow you, with the advice and consent of Our Council, to take orders for the present therein, giving unto us, through one of Our Principal Secretaries of State, speedy notice thereof, that so you may receive Our ratification, if We shall approve the same : Provided always, that you do not, under colour of any power or authority hereby given to you, commence or declare war without Our knowledge and particular commands therein first obtained leave for so doing from Us, under Our Sign-Manual and Signet, or by Our Order in Our Privy Council.

63. And whereas we have thought fit, by Our Commission, to direct, that in case of your death or absence, and there be at that time no person within Our said island commissioned or appointed by Us to be Lieutenant governor, or specially appointed by Us to administer the government within our said island, that the Councillor whose name is first placed in Our instructions to you, (unless it shall therein be otherwise signified), and who shall be, at the time of your absence, residing within Our said island, and who shall take the oaths appointed to be taken by you or the Commander-in-Chief or Our said island, shall take upon him the administration of the government,

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and execute Our said Commission and instructions and the several powers and authorities therein contained, in the manner therein directed. It is, nevertheless, Our express will and pleasure that in such case the Councillor so administering the government shall forbear to pass any Act or Acts but what are immediately necessary for the peace and welfare of the said island, without Our particular order for that purpose; and that he shall not take upon him to dissolve the Assembly then in being, or to remove or suspend any of the members of Our Council, nor any judges, justices of the peace, or other officer, civil or military, without the advice and consent of at least seven of the Council, nor even then without good and sufficient reason for the

64. And whereas We are willing to provide in the best manner for the support of the government of Our said island, by setting apart sufficient allowances to such as shall be Our Governor or Commander-in-Chief, residing for the time being within the same, Our will and pleasure is, that when it shall happen that you shall be absent from Our said island, one full moiety of the salary, and of all perquisites and emoluments whatsoever, which would otherwise become due unto you, shall, during the time of your absence, be paid and satisfied unto such Lieutenant-governor or President of the Council for the time being, which we do hereby order and allot unto him for

65. And you are upon all occasions to send to Us, through

one of Our Principal Secretaries of State, a particular account of all your proceedings, and of the conditions of affairs within your government.

[26 July,
1832.]**No. 182.**

Newfoundland.

**ROYAL PROCLAMATION ESTABLISHING
ELECTORAL DISTRICTS;**REGULATING VOTING AND THE QUALIFICATIONS OF PERSONS FOR
ELECTION AS MEMBERS IN THE HOUSE OF ASSEMBLY IN THE
ISLAND OF NEWFOUNDLAND.(Copy.)
*WILLIAM, R.*A PROCLAMATION¹William the Fourth, by the Grace of God, of the United
Kingdom of Great Britain and Ireland King, Defender of the
Faith, &c.

To all to whom these presents shall come, greeting;

WHEREAS by Our Letters Patent under the Great Seal of Our United Kingdom aforesaid, bearing date at Westminster, the 2d of March 1832, in the second year of Our reign, We have given and granted to Our trusty and well-beloved Sir Thomas John Cochrane, Knight, Our Governor and Commander-in-Chief of Our island of Newfoundland, full power and authority to summon and call a General Assembly of the freeholders and householders within Our said island; it is therefore Our pleasure, and We do hereby declare and make known to all Our loving subjects within the same, that for the purpose of the election of the members of the said Assembly, the said island shall be divided into nine districts, to be called respectively

The district of St. John.
The district of Conception Bay.
The district of Fogo.
The district of Bonavista.
The district of Trinity Bay.
The district of Ferryland.
The district of Placentia and St. Mary.
The district of Burin.
The district of Fortune Bay.

And it is Our further will and pleasure, and We do hereby declare, that the before-mentioned district of St. John shall consist of and include all that

¹ Reprinted from Com. Pap. No. 704 printed 7th August, 1832.

part of Our said island bounded by the shore which is situate and lying between Petty Harbour and Broad Cove.

And that the beforementioned district of Conception Bay shall consist of and include all that part of Our said island which, bounded in like manner, is situate and lying between Broad Cove and Bay Verd's Head.

And that the before-mentioned district of Fogo shall consist of and include all that part of our said island which, bounded in like manner, is situate and lying between Cape St. John and Fogo Island, including that island.

And that the before-mentioned district of Bonavista shall consist of, and include all that part of Our said island which, bounded in like manner, is situate and lying between Cape Freels and Cape Bonavista.

And that the before-mentioned district of Trinity Bay shall consist of and include all that part of Our said island which, bounded in like manner, is situate and lying between Cape Bonavista and Cape Verds Head.

And that the before-mentioned district of Ferryland shall consist of and include all that part of Our said island which, bounded in like manner, is situate and lying between Petty Harbour and Cape Race.

And that the before-mentioned district of Placentia and St. Mary shall consist of and include all that part of Our said island which, bounded in like manner, is situate and lying between Cape Race and Rushven.

And that the before-mentioned district of Burin shall consist of and include all that part of Our said island which, bounded in like manner, is situate and lying between Rushven and Garnish.

And that the before-mentioned district of Fortune Bay shall consist of and include all that part of Our said island which, bounded in like manner, is situate and lying between Garnish and Bonne Bay.

And We do further signify and declare Our pleasure to be that the said district of St. John shall be represented in the said Assembly by three members.

And that the said district of Conception Bay shall be represented in the said Assembly by four members.

And that each of the said districts of Fogo, of Bonavista, of Trinity Bay, and of Ferryland, shall be represented in the said Assembly by one member.

And that the said district of Placentia and St. Mary shall be represented in the said Assembly by two members.

And that each of the said districts of Burin and Fortune Bay shall be represented in the said Assembly by one member.

And it is Our will and pleasure that the Governor for the time being of Our said island do appoint some fit person to be the returning officer within each of the said districts.

And We do further declare Our pleasure to be that Our said Governor do issue in Our name writs for the election of the members of the several districts before mentioned, which writs shall be addressed to the several returning officers aforesaid, and shall by them be returned to the Colonial Secretary for the

time being of Our said island.

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And it is Our will and pleasure that every man, being of the full age of 21 years and upwards, and being of sound understanding, and being Our natural born subject, or having been lawfully naturalized, and never having been convicted in due course of law of any infamous crime, and having for two years next immediately preceding the day of election occupied a dwelling house within Our said island as owner or tenant thereof, shall be eligible to be a member of the said House of Assembly.

And it is Our further will and pleasure, that every man who for one year next immediately preceding the day of election hath occupied a dwelling house within Our said island as owner or tenant thereof, and who in other respects may be eligible, according to the regulations aforesaid, to be a member of the said House of Assembly, shall be competent and entitled to vote for the election of members of the said Assembly in and for the district within which the dwelling-house so occupied as aforesaid by him may be situate.

And it is Our pleasure that the votes for the members of the said Assembly shall be taken by the said several returning officers at such one or more place or places within each of the said districts as shall for that purpose be appointed in the body of the writ addressed to the returning officer of every such district respectively, and at or within such time or times as shall for the purpose be therein limited: but inasmuch as by reason of the difficulty of internal communication within Our said island, many persons entitled to vote might be prevented from the exercise of such their franchise, if in every case it were necessary to attend in person for that purpose, We do therefore declare Our pleasure to be, that in respect of any dwelling-house situate at the distance of more than
miles from the nearest place of election, within any of the said districts, the vote of any householder, duly qualified as aforesaid, may be given without his personal attendance, by a written notice subscribed by such voter, in the presence of two credible witnesses, and duly attested by their signatures; which notices shall be in such form as Our Governor for the time being of Our said island shall from time to time direct.

And it is Our further pleasure, that if any candidate or voter at any such election shall object to any vote then tendered, it shall be the duty of the returning officer to hear such objection, and what may be alleged in support of, or in answer to, the same, and to examine on oath the parties by or against whom such objection may be raised, and any person or persons who may be adduced as a witness or as witnesses on either side; and upon such hearing, to admit or to overrule any such objection as may to such returning officer appear just and right.

And We do further declare Our will to be, that the persons in favour of whom the greater number of votes shall be given in

any such district shall be publicly declared by such returning officer to be duly elected to be the representatives thereof in the said General Assembly, and shall thereupon be returned and take their seats accordingly; Provided always, that in case of peculiar doubt or difficulty, it shall be competent for any such returning

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officer to make a special return, setting forth the grounds of such doubt, upon which the said House of Assembly shall afterwards decide.

And it is Our will, and We do further declare, that the Assembly so to be chosen as aforesaid shall continue only during Our pleasure, and that the said Assembly shall not proceed to the despatch of any business, unless six members at the least shall be present at and during the whole of the deliberations of the said House thereupon.

And whereas it may be necessary, in order to the complete execution of the several purposes aforesaid, that further regulations should be made for the conduct of the said elections, and the return of members to serve in the said House of Assembly, We have therefore authorized, and do hereby authorize, Our Governor for the time being of our said island, by any proclamation or proclamations to be by him from time to time issued in Our name and on Our behalf, to make such further regulations as may be necessary for the conduct of the said elections, and for the return of members to serve in the said House of Assembly, and for the due discharge of the duties of the said returning officer; and which regulations shall be of full force, virtue and effect until provision be otherwise made by law, it being, nevertheless, Our pleasure that the regulations so to be made as aforesaid be not repugnant to, or inconsistent with, the several provisions hereinbefore contained, or any of them.

Given at our Court, at St. James's, on the Twenty-sixth day of July, One Thousand Eight Hundred and Thirty-two, in the Third Year of Our Reign.

No. 183.

[5 May, 1855.]

Newfoundland.

**EXTRACTS FROM INSTRUCTIONS PASSED UNDER
THE ROYAL SIGN MANUAL AND SIGNET FOR SIR
CHARLES HENRY DARLING**Appointment of
Legislative Council.

AS GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND OF
NEWFOUNDLAND, THE COAST OF LABRADOR, ETC., GIVEN AT
BUCKINGHAM PALACE THE FIFTH DAY OF MAY, 1855: IN VIRTUE
OF WHICH INSTRUCTIONS THE SYSTEM KNOWN AS RESPONSIBLE OR
PARLIAMENTARY GOVERNMENT WAS ESTABLISHED IN THIS
COLONY.¹

X.

Quorum of Council.

President of Council.

And whereas We have by Our said Commission [Note: *the Commission to Charles Henry Darling, Esquire, as Governor, dated May 5th 1855*] ordained and appointed that the existing Council for Our said Island shall constitute and be a Legislative Council for Our said Island: and that the said Legislative Council shall be composed of such Public Officers within our said Island, and of such other Persons within the same, as shall from time to time be nominated or designated by Us, by any Instruction or Instructions, or Warrant or Warrants, to be by Us for that purpose issued under our Sign Manual and Signet, and with the advice of Our Privy Council; all which Councillors shall hold their places in the said Council at Our pleasure: Now We do hereby authorise and empower you, by any Instrument or Instruments to be made and issued in Our name and under the Public Seal of Our said Island, to constitute and appoint provisionally, not less than Ten nor more than Fifteen Persons to be the first Members of the said Legislative Council for Our said Island, subject to Our Pleasure.

XI.

And We do declare Our pleasure to be that Five Members of Our said Legislative Council shall be a Quorum for the dispatch of the business thereof.

Standing Rules and
Orders of Council.

XII.

And We do authorise and empower you, by an instrument under Public Seal of Our said Island, to appoint One Member of Our said Council to preside therein, and to remove him and appoint another in his stead.

¹ Reprinted from Revised Statutes of Newfoundland, 1916, vol. 1, App. pp.

XIII.

Minutes of Council.

And for ensuring punctuality of attendance of the Members of the said Legislative Council, and for the prevention of meetings of the said Council being held without convenient notice to the several members thereof, it is Our pleasure, and We do hereby direct, that you do frame, for the guidance of the said Council, such standing Rules and Orders as may be necessary for those purposes with such other standing Rules and Orders as may be best adapted for maintaining order and method in the dispatch of business, and in the conduct of all debates in the said Council, which Rules and Orders, not being repugnant to these Our Instructions, or to any other Instructions which you may receive from Us, shall at all times be followed and observed, and shall be binding upon the said Council.

Authority to call
General Assembly.

XIV.

And We do further direct that Minutes shall be regularly kept of the proceedings of the said Legislative Council, and that the said Council shall not ever proceed to the dispatch of business until the Minutes of the last preceding Meeting have first been read over and confirmed or corrected as may be necessary.

XV.

Legislative powers of
the Governor,
Legislative Council
and Assembly.

You are authorised and directed, with the advice and consent of Our said Executive Council, from time to time, as need shall require, to summon and call General Assemblies of the Freeholders and Householdors within the said Island and its Dependencies within your Government, in such manner and form, and according to such powers and authorities, as are hereinafter appointed by these Our Instructions, or according to such further powers and authorities as shall be at any time hereafter granted or appointed under Our Sign Manual and Signet, or by Our Order in Our Privy Council, and according to the Laws of Our said Island in that behalf made and provided; and Our will and pleasure is that the persons thereupon duly elected by the major part of the Freeholders and Householdors of the respective Towns and Districts, and so returned, shall, before their sitting, take the Oath commonly called the Oath of Allegiance, which Oath you shall commission fit persons under the Seal of Our said Island and its Dependencies, to tender and administer unto them; and until the same shall be taken, no Person shall be capable of sitting, though elected. And We do hereby declare that the Persons so elected and qualified, shall be called and deemed the General Assembly of Our said Island of Newfoundland; and that you, by and with

Allowance and
disallowance of
Statutes.

the advice and consent of Our said Legislative Council and Assembly, or the major part of them respectively, shall have full power and authority to make, constitute and ordain Laws, Statutes, and Ordinances, for the public peace, welfare and good government of Our said Island and its Dependencies and the People and Inhabitants thereof, and such others as shall resort thereto, and for the benefit of Us, Our Heirs and Successors; which said Laws, Statutes and Ordinances, are not to be repugnant, but as near as may be agreeable, to the Laws and Statutes of this Our United Kingdom of Great Britain and Ireland.

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XVI.

And it is Our further Will and Pleasure that all such Laws, Statutes and Ordinances, of what nature or duration soever, be, within three months, or sooner, after the making thereof, transmitted to Us under the Public Seal of Our said Island and its Dependencies for our approbation or disallowance of the same, as also duplicates thereof by the next conveyance; and in case any or all of the Laws, Statutes and Ordinances not before confirmed by Us shall at any time be disallowed and not approved, and so signified by us, Our Heirs or Successors, under Our or their Sign Manual and Signet, or by order of Our or their Privy Council, unto you, then such and so many of the said Laws, Statutes, and Ordinances as shall be so disallowed and not approved, shall from thenceforth cease, determine and become utterly void and of none effect, anything to the contrary thereof notwithstanding; and to the end that nothing may be passed or done by Our said Legislative Council and Assembly to the prejudice of Us, Our Heirs and Successors, We will and ordain that you shall have and enjoy a negative voice in the making and passing such Laws, Statutes, and Ordinances as aforesaid, and that you shall and may from time to time, as you shall judge it necessary, adjourn, prorogue, or dissolve all General Assemblies as aforesaid.

Instructions and
Statutes to be
compiled with as to
the calling of General
Assemblies.

XVII.

And whereas by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date the Second day of March One thousand eight hundred and thirty-two, in the Second year of the Reign of His Majesty King William the Fourth, and by Instructions under His Royal Sign Manual and Signet, bearing date the Twenty-Seventh day of July, One thousand eight hundred and thirty-two, His said late Majesty did authorise and empower Sir Thomas John Cochrane, Knight, then Governor of Newfoundland, to summon General Assemblies of Freeholders and Householdiers within the said Island: And Whereas General Assemblies were afterwards elected and holden in and for the said Island under and by virtue of the said last mentioned Commissions and Instructions, and under and by virtue of other Commissions and Instructions from time to time issued by Us: And Whereas by an Act passed in the Sixth Year of Our Reign, intituled "An

Act for amending the Constitution of the Government of Newfoundland," it was enacted amongst other things, that it should be lawful for Us, in the manner therein provided, to establish a qualification in respect of income or property, in right of which any person might thereafter be elected to serve as a member of the Assembly of Our said Island, and in manner aforesaid to determine the length of the period of residence which should be required, in addition to any other qualification, for voting at such elections or for being elected to serve as a Member of the Assembly, and to restrain, in manner therein provided, appropriations of moneys to the Public Service by the said Assembly, and to require that all Elections of Members to serve in the said Assembly should be simultaneous: And Whereas so much as is hereinbefore recited of the said Act

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was made permanent by an Act passed in the Eleventh Year of Our Reign, and entitled "An Act to make permanent certain parts of the Act for amending the Constitution of Newfoundland:" And Whereas by a Commission under the Great Seal aforesaid bearing date the Twenty-seventh day of August, One Thousand, eight hundred and forty-two, and by Instructions under our Sign Manual and Signet bearing date the first day of September, One thousand eight hundred and forty-two, We did, in pursuance of the powers reserved to Us by the said first recited Act, make certain changes in the Constitution of the Government of Newfoundland, in respect of the qualifications of Members of the Assembly, and the period of residence necessary to qualify Electors for and Members by such Assembly, and in respect of holding elections for such Assembly simultaneously, and limiting the duration thereof, and in respect of restraining the appropriation of public funds by the said Assembly And Whereas General Assemblies have been since elected and holden in and for the said Island under and by virtue of the said last mentioned Commission and Instructions, and under and by virtue of other Commissions and Instructions from time to time issued by Us, and lastly of our Commission and Instructions aforesaid, bearing date the Ninth day of November, One Thousand Eight Hundred and Fifty-two: Now by these Our Instructions under Our Signet and Sign Manual, We do, in pursuance and exercise of the powers vested in Us by the said recited Acts, and other powers and authority to Us in that behalf appertaining, direct that in relation to the summoning of such General Assemblies, you do follow the provisions of Our said recited Instructions, and of an Act of the Legislature of Newfoundland passed in the Eighteenth Year of our Reign, and intituled "An Act to Increase the present number of Representatives in the General Assembly of this Island, and to regulate the Representation thereof."

No. 184.[14 Feb.,
1857.]**EXTRACT FROM COMMISSION OF GOVERNOR
SIR ALEXANDER BANNERMAN, 1857.**PAT. ROLL 20 VICT. PART 3. No. 25 No. 4995.
Victoria &c.

* * * *

And further Know You that We, reposing especial trust and confidence in the prudence, courage and loyalty of you the said Sir Alexander Bannerman, of Our especial grace, certain knowledge and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you the said Sir Alexander Bannerman to be Our Governor and Commander in-Chief in and over Our Island of Newfoundland and the Islands adjacent, and all the Coast of Labrador from the entrance of Hudson's Straits to a line to be drawn due North and South from Anse Sablon, on the said Coast to the Fifty-second degree of North Latitude, and all the Islands adjacent to that part of the said Coast of Labrador, as also of all Forts and Garrisons erected and established or which shall be erected and established within the said Island of Newfoundland and the Islands adjacent, or on the Coast of Labrador within the limits aforesaid, or in the said Islands adjacent to that part of the said Coast, for and during Our Will and Pleasure.

Witness Ourselves at Westminster, the fourteenth day of February in the twentieth year of Our Reign.

By Warrant under the Queen's Sign Manual,

(Sd.) C. ROMILLY.

No. 185.[28 March,
1876.]**EXTRACT FROM LETTERS PATENT.**

**Passed Under the Great Seal of the United Kingdom, Constituting the
Office of Governor and Commander-in-Chief of the Island of
Newfoundland
and its Dependencies.**

PAT ROLL. 39 VICT. PART 3. NO. 6. NO. 5063.

*VICTORIA, by the Grace of God, of the United
Kingdom of Great Britain and Ireland,
Queen
Defender of the Faith.*

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas We did, by certain Letters-Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing the date at Westminster the sixth day of September, 1869, in the thirty-third year of Our reign, constitute and appoint Our trusty and well-beloved Colonel STEPHEN JOHN HILL (now Sir STEPHEN JOHN HILL, Knight Commander of Our Most Distinguished Order of Saint Michael and Saint George), Companion of Our Most Honourable Order of the Bath, to be, during Our pleasure, Our Governor and Commander-in-Chief in and over Our Island of Newfoundland and its Dependencies. And whereas We are desirous of making effectual and permanent provision for the office of Governor and Commander-in-Chief in and over Our said Island of Newfoundland and its Dependencies without making new Letters-Patent on each demise of the said office: Now know ye that We have revoked and determined, and by these presents do revoke and determine, the said recited Letters-Patent, and every clause, article, and thing therein contained: And further know ye, that We, of Our special grace, certain knowledge, and mere motion, have thought fit to constitute, order, and declare, and do by these presents, constitute, order, and declare, that there shall be a Governor and Commander-in-Chief (hereinafter called Our said Governor) in and over Our Island of Newfoundland, and the islands adjacent, and all the coast of Labrador from the entrance of Hudson's Straits to a line to be drawn due north and south, from Anse Sablon on the said coast to the fifty-second degree of north latitude, and all

the islands adjacent to that part of the said coast of Labrador,
as also of all forts and garrisons

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erected and established, or which shall be erected and established within or on the islands and coast aforesaid (which said islands and coast, together with the island of Newfoundland, are hereinafter referred to as Our said Colony), and that the person who shall fill the said office of Governor shall be, from time to time, appointed by Commission under Our Sign-Manual and Signet. And We do hereby authorize and command Our said Governor to do and execute in due manner all things that shall belong to his said command, and to the trust We have reposed in him, according to the several powers and authorities granted or appointed him by virtue of these present Letters-Patent, and of such Commission as may be issued to him under Our Sign-Manuel and Signet, and according to such instructions as may from time to time be given to him under Our Sign-Manuel and Signet, or by Our order in Our Privy Council, or by Us through one of Our principal Secretaries of State, and according to such laws and ordinances as are or shall hereafter be in force in Our said Colony.

* * * *

Witness 28th March
By Her Majesty's Command.

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Volume II
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[21 Nov. 1763.]

PART VI.

COMMISSIONS AND INSTRUCTIONS TO THE GOVERNORS OF QUEBEC (AND LOWER CANADA).

No. 186.

COMMISSION, PASSED UNDER THE GREAT SEAL OF GREAT BRITAIN, APPOINTING JAMES MURRAY

TO BE CAPTAIN-GENERAL AND GOVERNOR IN CHIEF OF THE PROVINCE
OF QUEBEC¹.

Commission to be
Captain-General and
Governor in chief of
the Province

GEORGE THE THIRD by the grace of God of Great Britain France
and Ireland King Defender of the Faith and so forth; To our
Trusty and well beloved James Murray Esquire, Greeting.

Boundaries of the
Province

We, reposing especial trust and Confidence in the prudence,
Courage and loyalty of you the said James Murray, of our
especial grace, Certain Knowledge and meer motion, have
thought fit to Constitute and appoint, and by these presents do
Constitute and appoint you, the said James Murray to be our
Captain General and Governor in Chief in and over our
Province of Quebec and America.

The Governor is to act
according to the powers
and directions of this
Commission &
according to the Kings
Instructions

Bounded on the Labrador Coast by the River Saint John, and
from thence by a line drawn from the head of that River
through the lake Saint John to the south end of Lake Nepissin,
from whence the said line Crossing the River Saint Lawrence
and the lake Champlain in Forty five Degrees of Northern
Latitude, passes along the high lands which Divide the Rivers
that empty themselves into the said Rivers Saint Lawrence
from those which fall into the sea, and also along the north
Coast of the Bay des Chaleurs and the Coast of the Gulfts of
Saint Laurence to Cape Rosieres, and from thence, Crossing
the mouth of the River Saint Lawrence by the west end of the
Island of Anticosty terminates at the aforesaid River Saint
John.

Together with all the Rights members, and appurtenances
whatsoever thereunto belonging.

And we, do hereby require and Command you to do and
execute all things in due manner that shall belong to your said

Command and the Trust we have reposed in you, according to the several powers and Directions granted

¹ Copied from the Register of Commissions in the office of the Secretary of State, Canada.
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Oaths to be taken by the Governor

or appointed You by this present Commission and the instructions and authorities herewith given unto you, Or by such other powers instructions or authorities as shall at any time hereafter be granted or appointed under our Signet and Sign Manual, or by our Order in our Privy Council, and according to such reasonable laws and statutes as shall hereafter be made and agreed upon by you with the advice and Consent of the Council and Assembly of our said Province under your Government, in such manner and form as is herein after expressed.

Those appointed by 1. Geo. 1.

Declaration against popery Stat 25 Car: 2^d

And our will and pleasure is that You the said James Murray do after the publication of these our Letters patent, and after the appointment of our Council for our said province in such manner and form as prescribed in the instructions which you will herewith receive, in the first place take the oaths appointed to be taken by an act passed in the first Year of the Reign of King George the First Intituled (an act for the further security of His Majesty's Person and Government, and the succession of the Crown, in the Heirs of the late Princess Sophia, being protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors) as also that you make and subscribe the Declaration mentioned in an act of Parliament made in the twenty-fifth Year of the Reign of King Charles the Second Intituled (an act for preventing Damages which may happen from Popish recusants) and likewise that you take the oath usually taken by our Governors in other Colonies for the due execution of the Office & Trust of our Captain General and Governor in Chief in and over our said province, and for the due & impartial administration of justice; and further that you take the oath required to be taken by Governors of the Plantations be duly observed: which said oaths and Declarations our Council of our said Province or any three of the members thereof, have hereby full power and authority, and are hereby required to tender and administer to You. —

Oath of Office

Oath to observe the laws relating to Trade and Plantations

Oaths to be taken by the Counsellors & Lieu^t Governors of Montreal & Trois Rivières

Power to administer or to authorize the others to administer to any person in the Province the Oaths appointed by Stat 1. Geo: I.

All which being duly performed you shall yourself administer to each of the members of our said Council, and to the Lieutenant Governors of Montreal & Trois Rivières the said Oaths, mentioned in the said Act Intituled (an act for the further Security of His Majesty's person & Government and the succession of the Crown in the Heirs of the late Princess Sophia, being protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors) and also Cause them to make and subscribe the aforementioned Declaration, and also shall administer unto

them the usual Oaths, for the due execution of their places and trust.

And We do further give and grant unto you the said James Murray full power and authority from time to time, and at any time hereafter by Yourself, or by any other to be authorized by you in this behalf, to administer and give the Oaths mentioned in the said act (for the further security of His Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia of Wales and his open and secret abettors) to all and every such person and persons as you shall thing fit, who shall at

Power to keep & use the publick seal

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Power to call an assembly of the Freeholders

any time or times pass into our said Province or shall be resident or abiding there.

And we do hereby authorize and Impower you to keep and use the Publick seal, which will herewith be delivered to you, or shall be hereafter sent to you, for sealing all things whatsoever that shall pass the Great seal of our said Province

The Members of such assembly shall take the Oaths appointed by Stat: 1 Geo: I.

and the declaration against popery

And we, do hereby give and grant unto you the said James Murray full power and authority with the advice and Consent of our said Council to be appointed as aforesaid, so soon as the Situation and circumstances of our said Province under your Government will admit thereof, and when & as often as need shall require, to summon and call General Assemblies of the Freeholders and Planters, within your Government, in such manner as you in your Direction shall judge most proper, or according to such further powers, Instructions, and authorities as shall be at any time hereafter granted or appointed you under our Signet and Sign Manual, or by our Order in Our Privy Council.

power to make Laws

And our will and pleasure is, That the persons thereupon duly Elected by the Major Part of the Freeholders of the respective parishes, or precincts, and so returned, shall before their sitting take the oath mentioned in the said act intituled (an act for the Further security of his Majesty's person & Government and the succession of the Crown in the Heirs of the late princess Sophia being protestants, and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) as also make and subscribe the forementioned declaration: Which oaths & declaration you shall Commissionate fit persons under the publick seal of that our province, to tender and administer unto them and untill the same shall be so taken and subscribed, no person shall be Capable of sitting though Elected.

not repungnant to the
Laws of Great Britain

The Laws so made to be
transmitted to England
within three months

If disallowed by the
King they shall
thenceforth become
void

And we do hereby declare that the persons so Elected & Qualified shall be called the Assembly of that our province of Quebec; and that you the said James Murray, by & with the advice and Consent of our said Council and Assembly, or the major part of them, shall have full power & authority, to make, Constitute or Ordain, Laws Statutes & ordinances for the publick peace, Welfare, & good Government of our said province, and of the people and Inhabitants thereof, and such others as shall resort thereunto and for the benefit of us our heirs & successors: which said Laws Statutes and Ordinances are not to be repungnant, but as near as may be agreeable, to the laws & Statutes of this our Kingdom of Great Britain.

Provided that all such Laws Statutes and Ordinances of what nature or Duration soever they shall be within three months or sooner after the making thereof, Transmitted to us, under our seal of our said province for our approbation or disallowance of the same, as also duplicates thereof by the next Conveyance.

And in Case any, or all of the said Laws Statutes and Ordinances not before Confirmed by us, shall at any time be disallowed and not approved, and so signified by us, our Heirs, and Successors, under our, or their Signet and sign Manual, or by order of our, or their privy Council, unto you the said James Murray or to the Commander in Chief of our said Province for the time

The Governor shall
have a negative voice
against both Council
and Assembly

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being; Then such and so many of the said Laws, Statutes, and Ordinances, as shall be so disallowed, and not approved, shall from thence forth cease determine and become utterly void and of no effect, anything to the contrary thereof notwithstanding.

power with the Consent
of the Council to Erect
Courts of Judicature

And to the end that nothing may be passed or done by our said Council or Assembly, to the prejudice of us, our Heirs and Successors, We will and ordain that you the said James Murray, shall have, and enjoy a Negative Voice in the making and passing all laws, Statutes and ordinances as aforesaid; and that you shall and may likewise from time to time, as you shall judge necessary, adjourn, prorogue or dissolve all General assemblies as aforesaid.

power to
Commissionate fit
persons to administer
the Oaths appointed by
Stat: 1. Geo: I, & the
declaration ag^t popery
to persons belonging to
such Courts

And We, do by these presents give and grant unto you, the said James Murray, fully power and authority, with the advice & Consent of our said Council, to Erect, Constitute and Establish, such and so many Courts of Judicature and publick Justice within our said province in under your Government as you & they shall think fit and necessary, for the hearing & determining of all causes as well Criminal as Civil according to Law and Equity and for awarding execution thereupon, with all reasonable & necessary powers, authorities, Fees, and

Power to appoint
Judges, Commiss^{rs} of
Oyer & Terminer,
Justices of the peace,
Sheriffs & other
officers of Justice —

priviledges belonging thereunto; as also to appoint and commissionate fit persons in the several parts of your Government to administer the oaths mentions in the aforesaid act Intitled (an act for the further security of His Majesty's person & Government, and the succession of the Crown in the Heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors) as also to Tender & administer the aforesaid declaration to such persons belonging to the said Courts as shall be obliged to take the same.

power to pardon Crime

And We do hereby grant unto you full power and authority to constitute and appoint judges, and in Cases requisite Commissioners of Oyer & Terminer, Justices of the peace, Sherriffs and other necessary Officers and ministers in our said Province for the better administration of Justice, and putting the Laws in Execution; and to administer or cause to be administered unto them such oath or Oaths as are usually given for the due Execution and performance of Offices & places and for clearing the truth in Judicial Causes.

power of Collating to
Ecclesiastical
Benefices

And We do hereby give and grant unto you full power and authority, when you shall see cause, or shall Judge any Offender or Offenders in Criminal matters, or for any Fines or Forfeitures due unto us, fit Objects of our Mercy, to pardon all such offenders and remit all such offences, Fines and Forfeitures; Treason and Willful murder only excepted; In which cases you shall likewise have power upon Exterordinary Occasions to Grant Reprives to the offenders untill and to the intent our Royal pleasure may be Known therein.

power to levy Troops
and Employ them
against Enemies pirates
& Rebels.

And We do by these presents Give and Grant unto you full power and authority to Collate any person or persons to any Churches, Chappels, or other Ecclesiastical Benefices within our said province, as often as any of them shall happen to be void.

And to execute Martial
Law in time of War.

And We do hereby give and grant unto you, the said James Murray, by yourself, or by your Captains and Commanders by you to be authorized, full power & Authority to Levy, Arm, Muster Command, and Employ all

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power with the Consent
of the Council, to build

persons whatsoever, residing within our said province, and as occasion shall serve them to march, Embark, or Transport, from one place to another for the resisting and withstanding of all enemies, pirates, & Rebels both at land and sea: and to Transport such Forces to any of our Plantations in America, if necessity shall require for Defence of the same against the invasion or attempts of any of our Enemies; and such Enemies,

Forts & Castles

And to Fortify &
Furnish them with
Arms &c., and to
Demolish or Dismantle
them.—

power in time of War,
to appoint Captains and
other Officers of ships,
and to grant them
Commissions to
execute the Law
Martial according to
the Stat: 22 Geo.: 2.

This shall not affect any
seamen or other
persons on board ships
Commissioned by the
Admiralty, when they
Commit offences either
on the High Sea, or in
any River, Creek or
Haven.

pirates & Rebels, if there should be occasion, to pursue and prosecute in or out of the limits of our said province; and if it shall so please God, them to vanquish, apprehend and take; and being taken, according to law to put to death, or Keep and preserve alive, at your discretion: and to execute Martial Law in time of Invasion, War, or other times, when by Law it may be executed and to do and execute all and every other thing and things which to our Captain General & Governor in Chief doth, or of right ought to belong.

And We do hereby give and grant unto you full power and authority, by and with the advice and Consent of our said Council, to Erect, Raise, and build in our said province, such and so many Forts, Platforms, Castles, Cities, Borroughs, Towns, and Fortifications, as you, by the advice aforesaid, shall judge necessary: and the same or any of them, to Fortify and Furnish with Ordnance, ammunition, and all sorts of arms, fit and necessary for the security & defence of our said province: And by the advice aforesaid, the same again or any of them, to Demolish or Dismantle as may be most Convenient, —

And for as much as divers Mutinies & Disorders may happen by persons Shipped and Employed at sea during the time of War: And to the end, that such as shall be shipped and Employed at sea during the time of War may be better governed and ordered: We hereby give and grant unto you the said James Murray, full power and authority to Constitute and appoint Captains, Lieutenants, Masters of Ships, and other Commanders & officers, Commissions to execute the Law Martial during the time of War, according to the Directions intituled (an act for amending Explaining and Reducing into an act of Parliament, the Laws relating to the Government of His Majesty's Ships, Vessels, and Forces by Sea) and to use such proceedings, authorities, punishments, mutinous, Seditious, Disorderly, or any way unruly either at Sea or during the time of their abode or residence in any of the ports, Harbours, or Bays in our said Province, as the Case shall be found to require, according to Martial Law and the said Directions during the time of War as aforesaid. —

Provided that nothing herein Contained shall be Construed to the enabling you, or any by your authority, to hold plea, or have any Jurisdiction, or any offence, Cause, matter or thing, Committed or done, upon the High sea, or within any of the havens, Rivers, or Creeks of our said province, under Your Government, by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or person Whatsoever, who shall be in actual service and pay, in or on board any of our ships of War, or other vessels, acting by immediate Commission or Warrant from our Commissioners for executing the office of High Admiral of Great Britain, or from our High Admiral of Great Britain for the time being; under the seal of our Admiralty. But that such Captain,

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But these persons shall be tried either by Commissions under the Great Seal of Great Britain, according to the Stat. 28 Hen 8; or by Commission from the admiralty according to the Stat 22 Geo. 2.

But for offences Committed on Shore, these persons shall be tried & punished according to the laws of the place where the offence shall be committed.

power with the Consent of the Council to dispose of publick money for the support of the Government.

power with the Consent of the Council to grant lands.

The grants to be under the Publick seal, and to be registered.

These grants must be made conformably to the King's Instructions.

And these Instructions relating to the granting of Lands shall be published.

Commander, Lieutenant, Master, Officer, Seaman, or Soldier, or other person, so offending shall be left to be proceeded against and Tried, as their offences shall require, either by Commission under our Great seal of this Kingdom, as the Statute of the Twenty eight of Henry the Eight directs, or by Commission from our said Commissioners for Executing the Office of High Admiral of Great Britain, or from our High Admiral of Great Britain for the time being according to the aforementioned Act Intituled (an Act for amending, explaining and reducing into one act of parliament, the Laws relating to the Government of His Majesty's Ships, Vessels, and Forces by Sea) and not otherwise.—

Provided Nevertheless that all disorders and misdemeanors Committed on shore by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or other persons whatsoever belonging to any of our Ships of War, or other Vessels acting by immediate Commission or Warrant from our Commissioners for executing the Office of High Admiral of Great Britain, or from our High admiral of Great Britain for the time being; under the seal of our admiralty, may be Tried and punished, according to the laws of the place where any such disorders, offences, and misdemeanors shall be Committed on shore, notwithstanding such offender be in our actual service, and Born in our pay on board any such our ships of war, or other vessels acting by immediate Commission or Warrant from our Commissioners for Executing the Office of High Admiral of Great Britain, or from our Admiral of Great Britain for the time being as aforesaid; so as he shall not receive any protection for the avoiding of Justice for such offence Committed on shore from any pretence of his being employed in our service at sea.

And our Further will & pleasure is that all publick monies raised, or which shall be raised, by any act hereafter to be made within our said province, be issued out by Warrants from you, by and with the advice & Consent of our Council as aforesaid for the support of the Government & not otherwise.

And We likewise give and grant unto you full power and authority, by and with the advice & Consent of our said Council to settle and agree with the inhabitants of our said province for such lands, Tenements and Hereditaments as now are or hereafter shall be in our power to dispose of, and them to grant to any person or persons upon such terms, and under such moderate Quit Rents, services, and acknowledgements to be thereupon reserved unto us, as you with the advice aforesaid shall think fit: which said grants are to pass and be sealed by our publick seal of our said province; and being entered upon Record by such officer or Officers as shall be appointed thereunto, shall be good and effectual in the Law against us,

our Heirs and Successors.—

power with the consent of the Council to appoint fairs & markets, harbours & wharfs.

Provided the same be conformable to the Instructions herewith delivered to you, or to such other instructions as may hereafter be sent to you under our Signet & Sign Manual, or by our order in our Privy Council, Which instructions, or any articles Contained therein, or any such order made in our Privy Council, so far as the same shall relate to the Granting of Lands as aforesaid, shall from time to time be published in the province and Entered of record, in like manner as the Said Grants themselves are hereby Directed to be entered.

And We do hereby give you the said James Murray full power & authority

All officers Civil & military, and all other inhabitants of the province, are to be aiding and assisting to the Governor in the execution of his Commission & in case of the death or absence of the Governor, to the Commander in Chief for the time being.

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to order Fairs, Marts, & Markets, and also such and so many Ports, Harbours, Bays, Havens, and other places for the conveniency and Security of shipping, and for the better loading & unloading of goods & Merchandizes, in such and so many places as, by and with the advice and Consent of our said Council, shall be thought fit and necessary.—

Who shall be Commander in Chief of the Province in case of the death or absence of the Governor.

And We do hereby require & Command all Officers and Ministers Civil & Military, and all other inhabitants of our said Province, to be obedient, aiding, and assisting unto you, the said James Murray in the Execution of this our Commission, and of the powers & Authorities therein Contained, and in Case of your Death or Absence from our said province & Government, to be obedient, aiding and assisting as aforesaid to the Commander in Chief for the time being, to whom we do therefore by these presents, give and grant all and singular the powers and Authorities herein Granted, to be by him Executed & Enjoyed during our pleasure or untill your Arrival within our said province.

This Office of Captain General and Governor in Chief to be held only during the Kings pleasure.

And in Case of your Death or absence from our said province, our will and pleasure is, that our Lieutenant Governor of Montreal or Trois Rivières, According to the priority of their Commissions of Lieutenant Governors, do Execute our said Commission with all the powers and authorities therein mentioned as aforesaid, and in Case of the Death or absence of our Lieutenant Governor of Montreal or Trois Rivières from our said province, and that there shall be no person within our said province appointed by us to be Lieutenant Governor or Commander in Chief of our said province, Our Will and pleasure is, that the Eldest Counsellor, who shall be at the time of your Death or absence, residing within our said province, shall take upon him the administration of the Government, and Execute our said

Commission and Instructions and the several powers and Authorities therein Contained, in the same manner to all intents and purposes, as other our Governor or Commander in Chief should or ought to do in Case of your Absence, or untill your Return, or in all Cases untill our further pleasure be Known therein. —

And We do hereby declare, ordain and appoint, that you the said James Murray, shall and may hold Execute and Enjoy the Office & place of our Captain General, and Governor in Chief in and over our said Province of Quebec, and all the Territories depended thereon, with all and singular the powers and authorities hereby Granted unto you, for & during our will and pleasure. In Witness Whereof, We have Caused these our Letters to be made patent, Witness our Self at Westminister the Twenty first Day of November, in the fourth Year of our Reign.

By Writ of privy Seal
(Signed)

YORKE & YORKE.

Recorded at the Treasury Chambers Whitehall the 28th Day of November 1763

(Signed)

T. TOMKYNS

Recorded in the Registry Office in Quebec the 7th Day of June 1766

(Signed),

J. GOLDFRAP D.Reg

No. 187.

[7 Dec. 1763.]

**INSTRUCTIONS, PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET, FOR JAMES MURRAY**

(L.S.)

AS CAPTAIN GENERAL, AND GOVERNOR IN CHIEF OF THE PROVINCE OF
QUEBEC AND THE TERRITORIES DEPENDENT THEREUPON.¹

GEORGE R.

Instructions to Our Trusty and Wellbeloved JAMES MURRAY, ESQ^r, Our Captain General and Governor in Chief in and over Our Province of Quebec in America, and all of Our Territories dependent thereupon. Given at Our Court at S^t James's the Seventh Day of December 1763 in the Fourth Year of Our Reign.

1. With these Our Instructions You will receive Our Commission under Our Great Seal of Our United Kingdom of Great Britain and Ireland constituting you Our Captain General and Governor in Chief in and over Our Province of Quebec in America, bounded on the Labrador Coast by the River S^t John, and from thence by a Line drawn from the Head of that River through the Lake S^t John to the South End of the Lake Nipissin; from whence the said Line crossing the River S^t Lawrence and the Lake Champlain in forty five Degrees of North Latitude, passes along the High Lands, which divide the Rivers that empty themselves into the said River S^t Lawrence, from those which fall into the Sea; and also along the North Coast of the Baye des Chaleurs and the Coast of the Gulph of S^t Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River S^t Lawrence by the West End of the Island Anticosti, terminates at the aforesaid River of S^t John: You are therefore to take upon You the Execution of the Office and Trust We have reposed in You, and the Administration of Government, and to do and execute all Things in due manner that shall belong to your Command, according to the several Powers and Authorities of Our said Commission under Our Great Seal of Great Britain, and these Our Instructions to You, or according to such further Powers and Instructions as shall at any Time hereafter be granted or appointed You under Our Signet and Sign Manual, or by Our Order in Our Privy Council.

2. And You are, with all due Solemnity, to cause Our said Commission to be published at Quebec, which We do appoint to be the Place of your Residence and the principal Seat of Government, in the Districts of Montreal

and Trois Rivieres, and in such other parts of your Government as You shall think necessary and expedient, as soon as possible; which being done, You are in the next place to nominate and establish a Council for Our said Province, to assist You in the Administration of Government, which Council, is, for the present, to be composed of the Persons, whom We have appointed to be Our Lieutenant Governors of Montreal and Trois Rivieres, Our Chief Justice of Our said Province, and the Surveyor General of Our Customs in America for the Northern District, and Eight other Persons to be chosen by You from amongst the most considerable of the Inhabitants of, or Persons of Property in Our said Province; which Persons so nominated and appointed by You as aforesaid (Five of which We do hereby appoint to be a Quorum), are to be Our Council for Our said Province, and to have and enjoy all the Powers, Privilege and Authority usually exercised and enjoyed by the Members of Our Councils in Our other Plantations, and also such others as are contained in Our said Commission under Our Great Seal of Great Britain, and in these Our Instructions to You; and they shall meet together at such Time or Times, Place or Places, as You, in your Discretion, shall think necessary and expedient: It is nevertheless Our Will and Pleasure, that the said Chief Justice, or Surveyor General of Our Customs, shall not be capable of taking the Administration of the Government upon the Death or Absence of You Our Governor, or the Commander in Chief for the Time being.

3. And You are forthwith to call Our said Council together, or such of them as can be conveniently assembled, and to cause Our said Commission to You to be read at such Meeting; which being done, You shall then take yourself, and also administer to Our Lieutenant Governors respectively, and to the Members of Our said Council, the Oaths mentioned in an Act, passed in the first Year of the Reign of His Majesty King George the First, intituled, "An Act for the further Security of His Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for extinguishing the Hopes of the pretended Prince of Whales, and his open and secret Abettors;" — as also to make and subscribe, and cause them to make and subscribe the Declaration mentioned in an Act of Parliament made in the Twenty fifth Year of the Reign of King Charles the second, intituled, "An Act for preventing Dangers which may happen from popish Recusants." And You and every one of Them are likewise to take an Oath for the due Execution of your and their Places and Trusts, with regard to your and their equal and impartial Administration of Justice; — and You are also to take the Oath required by an Act passed in the seventh and eighth Years of the Reign of King William the Third to be

taken by Governors of Plantations, to do their utmost that the Laws relating to the Plantations be observed.

4. And You are forthwith to transmit unto Our Commissioners for Trade and Plantations, in order to be laid before Us for Our Approbation or Disallowance, the Names of the Members of the Council, so to be appointed by You, as aforesaid; as also a List of the Names and Characters of Eight

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other Persons in Our said Province, whom You judge properly qualified to serve in that Station; to the End that, if any of the Persons appointed by You, as aforesaid, shall not be approved and confirmed by Us, under Our Signet and Sign Manual, the Place or Places of such Persons so disapproved may be forthwith supplied from the said List, or otherwise, as We shall think fit.

5. And if it shall at any time happen, that, by the Death, Departure our of Our said Province, Suspension of any of Our said Councillors, or otherwise, there shall be a Vacancy in Our said Council, Our Will and Pleasure is, that You signify the same to Our Commissioners for Trade and Plantations by the first Opportunity, that We may, under Our Sign Manual, constitute and appoint Others in their Stead; to which End, You are, whenever such Vacancy happens, to transmit to Our said Commissioners, in order to be laid before Us, the Names of three or more Persons, Inhabitants of Our said Province, whom You shall esteem best qualified for such Trust.

6. But that Our Affairs may not suffer for want of a due Number of Councillors, if ever it shall happen, that there be less than Seven residing in Our said Province, We do hereby give and grant unto you, the said James Murray, full Power and Authority to chuse as many Persons out of the principal Inhabitants of Our said Province, as will make up the full Number of the Council to be Seven, and no more; which Persons, so chosen and appointed by You, shall be, to all Intents and Purposes, Councillors in Our said Province, till either they shall be confirmed by Us, or, by the Nomination of Others by Us, under Our Signet and Sign Manual, Our said Council shall have Seven or more Persons in it.

7. And it is Our Will and Pleasure, that You do, and You are hereby authorized and impowered to suspend and remove any of the Members of Our said Council from sitting, voting, and assisting therein, if You shall find just Cause for so doing; (and also in like manner to suspend any of Our Lieutenant Governors of Our said Province from the Execution of their Commands), and to appoint Others in their Stead, until Our Pleasure shall be known. It is nevertheless Our Will and Pleasure that You do not suspend or remove any of the Lieutenant Governors of Our said Province respectively, or

any of the Members of Our Council, when they shall have been confirmed by Us, as aforesaid, without good and sufficient Cause, nor without the Consent of the Majority of the said Council, signified in Council, after due Examination of the Charge against such Lieutenant Governor, or Councillor, and his Answer thereunto; and in case of Suspension of any of them, You are to cause your Reasons for so doing, together with the Charges and Proofs against such Person, forthwith to transmit Copies thereof to Our Commissioners for Trade and Plantations, in order to be laid before Us; nevertheless if it should happen, that You should have Reasons for suspending any of the said Persons, not fit to be communicated to the Council, You may in that Case suspend such

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person without the Consent of the said Council; but you are thereupon immediately to send to Our Commissioners for Trade and Plantations, in order to be laid before Us, an Account of your Proceedings therein, together with your Reasons at large for such Suspension, as also your Reasons at large for not communicating the same to the Council; and Duplicates thereof by the next Opportunity.

8. Whereas We are sensible, that effectual Care ought to be taken to oblige the Members of the Council to a due Attendance therein, in order to prevent the many Inconveniencies that may happen from the Want of a Quorum of the Council, to transact Business as Occasion may require; It is Our Will and Pleasure, that if any of the Members of Our said Council shall hereafter absent themselves from the said Province, and continue absent above the Space of six Months together, without Leave from You, or from Our Commander in Chief of Our said Province for the time being, first obtained under your or his hand and seal; or shall remain absent for the Space of one Year, without Our Leave given them under Our royal Signet and Sign Manual, their Place or Places in the said Council shall immediately thereupon become Void; and that, if any of the Members of Our said Council, then residing in the Province under your Government, shall hereafter wilfully absent themselves, when duly summoned, without a just and lawful Cause, and shall persist therein after Admonition, You suspend the said Councillors so absenting themselves, till Our further Pleasure be known, giving Us timely Notice thereof: And We do hereby will and require You, that this Our Royal Pleasure be signified to the several Members of Our Council aforesaid, and entered in the Council Books of the Province under your Government, as a standing Rule—

9. You are forthwith to communicate such and so many of these Our Instructions to Our said Council, wherein their Advice and Consent are mentioned to be requisite; as likewise all such others, from time to time, as You shall find convenient for Our Service to be imparted to them.

10. You are to permit the Members of Our said Council to have and enjoy Freedom of Debate and Vote, in all Affairs of public Concern that may be debated in Council.

11. And whereas it is directed, by Our Commission to You under Our great Seal, that so soon as the Situation and Circumstances of Our said Province will admit thereof, You shall, with the Advice of Our Council, summon and call a General Assembly of the Freeholders in Our said Province; You are therefore, as soon as the more pressing Affairs of Government will allow to give all possible attention to the carrying this important object into Execution: But, as it may be impracticable for the present to form such an Establishment, You are in the mean time to make such Rules and Regulations, by the Advice of Our said Council, as shall appear to be necessary for the Peace, Order and good Government of Our said Province, taking Care that nothing be passed or done, that shall any ways tend to affect the Life,

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Limb or Liberty of the Subject, or to the imposing any Duties or Taxes; and that all such Rules and Regulations be transmitted to Us, by the first Opportunity after they are passed and made, for Our Approbation or Disallowance. And it is Our Will and Pleasure, that when an Assembly shall have been summoned and met, in such manner as You, in your Discretion, shall think most proper, or as shall be hereafter directed and appointed, the following Regulations be carefully observed in the framing and passing all such Laws, Statutes and Ordinances, as are to be passed by You, with the Advice and Consent of Our said Council and Assembly; Viz^t

That the Style of Enacting the said Laws, Statutes and Ordinances be by the Governor, Council, and Assembly, and no other;—

That each different Matter be provided for by a different Law, without including in one and the same Act such Things as have no proper Relation to each other;—

That no Clause be inserted in any Act or Ordinance, which shall be foreign to what the Title of it imports; and that no perpetual Clause be part of any temporary Law;—

That no Law or Ordinance whatever be suspended, altered, continued, revived, or repealed by general Words; but that the Title and Date of such Law or Ordinance be particularly mentioned in the enacting part;—

That no Law or Ordinance, respecting private Property, be passed without a Clause suspending it's Execution, until Our Royal Will and Pleasure is known; nor without a Saving of the Right of Us, Our Heirs and Successors, and of all Bodies politic and corporate, and of all other Persons, except such as are mentioned in the said Law or Ordinance, and those claiming by, from, and under them; and before such Law or Ordinance is passed, Proof must be made before You, in Council, and entered in the Council Books, that public

Notification was made of the Party's Intention to apply for such Act in the several Parish Churches, where the Lands in Question lie, for three Sundays at least successively before any such Law or Ordinance shall be proposed; and You are to transmit, and annex to the said Law, or Ordinance, a Certificate under your hand, that the same passed through all the Forms abovementioned;—

That in all Laws or Ordinances for levying money, or imposing Fines, Forfeitures or Penalties, express mention be made, that the same is granted or reserved to us, Our Heirs and Successors, for the public Uses of the said Province, and the Support of the Government thereof, as by the said Law, or Ordinance shall be directed; and that a Clause be inserted, declaring, that the Money arising by the Operation of the said Law, or Ordinance shall be accounted for unto Us in this Kingdom, and to Our Commissioners of Our Treasury, or our High Treasurer for the time being, and audited by Our Auditor General of Our Plantations, or his Deputy;—

That all such Laws, Statutes and Ordinances be transmitted by You within three Months after their passing, or sooner, if Opportunity offers, to Our Commissioners for Trade and Plantations; that they be fairly abstracted in the Margents, and accompanied with very full and particular Observations

upon each of them, that is to say, whether the same is introductive of a new Law, declaratory of a former Law, or does repeal a Law then before in being; and you are also to transmit, in the fullest manner, the Reasons and Occasion for enacting such Laws, or Ordinances, together with fair Copies of the Journals of the Proceedings of the Council and Assembly, which You are to require from the Clerks of the said Council and Assembly.

12. And to the end that nothing may be passed or done to the Prejudice of the true Interests of his Our Kingdom, the just Rights of Us, Our Heirs and Successors, or the Property of Our Subjects; it is Our express Will and Pleasure, that no Law whatever, which shall in any wise tend to affect the Commerce or Shipping of this Kingdom, or which shall any ways relate to the Rights and Perogative of Our Crown, or the Property of Our Subjects, or which shall be of an unusual or extraordinary Nature, be finally ratified and assented to by You, until You shall have first transmitted a Draught of such Law, and shall have received Our Directions thereupon, unless You take care, that a Clause be inserted, suspending and deferring the Execution thereof, until Our Pleasure is known concerning the same.

13. And whereas Laws have formerly been enacted in several of Our Plantations in America for so short a time, that Our Royal Assent or Refusal thereof could not be had before the Time, for which such Laws were enacted, did expire; You shall not give your Assent to any Law, that shall be enacted for a less Time than two Years, except in Cases of imminent Necessity, or immediate temporary Expediency; and You shall not reenact any Law, to which Our Assent shall have been once refused, without express Leave for that purpose first obtained from Us, upon a full Representation by You to be made to Our Commissioners for Trade and Plantations, in order to be laid before Us, of the Reasons and Necessity for passing such Law; nor give your Assent to any Law for repealing any other Law, which shall have passed in your Government, and shall have received Our Royal Approbation, unless You take Care that there be a Clause inserted therein, suspending and deferring the Execution thereof, until Our Pleasure shall be known concerning the same.

14. And We do particularly require You to take Care, that fair Books of Accounts of all Receipts and Payments of all Publick Money be duly kept, and the Truth thereof attested upon Oath; and that all such Accounts be audited, and attested by Our Auditor General of Our Plantations, or his Deputy, who is to transmit Copies thereof to Our Commissioners of Our Treasury, or to Our High Treasurer, for the time being; and that You do, every half Year or oftener, send another Copy

thereof, attested by yourself, to Our Commissioners for Trade and Plantations, and Duplicates thereof by the next Conveyance; in which Books shall be specified every particular Sum raised or disposed of, together with the Names of the Persons to whom any Payment shall be made; to the end We may be satisfied of the right and due Application of the Revenue of Our said Province, with the Probability of the Increase or Diminution of it under every Head and Article thereof.

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15. And whereas the Members of several Assemblies in the Plantations have frequently assumed to themselves Privileges no ways belonging to them, especially of being protected from Suits as Law during the Term they remain of the Assembly, to the great Prejudice of their Creditors and the Obstruction of Justice; and some Assemblies have presumed to adjourn themselves at Pleasure, without Leave from Our Governor first obtained; and Others have taken upon them the sole framing of Money Bills, refusing to let the Council alter or amend the same; all which Practices are very detrimental to Our Prerogative; If therefore You find, that the Members of the Assembly of Our Province of Quebec insist upon any of the said Privileges, You are to signify to them that it is Our express Will and Pleasure, that You do not allow any Protection to any Member of the Council or Assembly, further than in their Persons, and that only during the Sitting of the Assembly; and that You do not allow them to adjourn themselves otherwise than *de die in diem*, except Sundays and Holy-days, without Leave from You, or the Commander in Chief for the time being, first obtained; It is also Our further Pleasure, that the Council have the like Power of framing Money Bills as the Assembly.

16. And whereas by Our aforesaid Commission under Our Great Seal of Great Britain, You are authorized and impowered, with the Advice and Consent of Our Council, to constitute and appoint Courts of Judicature and Justice; it is therefore Our Will and Pleasure, that You do, as soon as possible, apply your Attention to these great and important Objects; and that, in forming the necessary Establishments for this purpose, You do consider what has taken place in this respect in Our other Colonies in America, more particularly in Our Colony of Nova Scotia.

17. And whereas it is for the Ease, Satisfaction and Benefit of all Our Subjects, that Appeals should be allowed, in all Civil Causes, from the Courts in our Plantations; it is therefore Our Will and Pleasure, that, when the several Courts and Offices necessary for the Administration of Justice shall have been settled, appointed and confirmed, in Consequence of the Power vested in You by Our Commission under Our Great Seal and by these Our Instructions, You do, as near as different

Circumstances will admit, conform yourself to the Regulations prescribed in the Instructions given to Our Governor of Nova Scotia in respect to such Appeals, Copies of which Instructions are hereunto annexed.

18. You are, with the Advice and Consent of Our Council in the Province under your Government, to take especial Care to regulate all Salaries and Fees belonging to Places, or paid upon Emergencies, that they be within the Bounds of Moderation, and that no Exaction be made on any Occasion whatsoever; as also that Tables of all Fees be publickly hung up in all Places where such Fees are to be paid; and You are to transmit Copies of all such Tables of Fees to Our Commissioners for Trade and Plantations, in order to be laid before Us.

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19. It is Our express Will and Pleasure, that You do, by the first Opportunity, and with all convenient Speed, transmit unto Us, by Our Commissioners for Trade and Plantations, authentic Copies of all Acts, Orders, Grants, Commissions or other Powers, by Virtue of which any Courts, Offices, Jurisdictions, Pleas, Authorities, Fees and Privileges have been settled or established, for Our Confirmation or Disallowance; and in case all or any of them shall, at any time or times, be disallowed and not approved, then such and so many as shall be so disallowed and not approved, and no signified by Us, shall cease, determine, and be no longer continued or put in Practice.

20. You shall not appoint any Person to be a Judge or Justice of the Peace, without the Advice and Consent of the Majority of the Members of Our Council, present in Council; nor shall You execute yourself, or by Deputy, any of the said Offices; and it is Our further Will and Pleasure, that all Commissions, to be granted by You, to any Person or Persons to be Judges or Justices of the Peace, or other necessary Officers, be granted during Pleasure only.

21. You shall not displace any of the Judges, Justices of Peace, or other Officers or Ministers, without good and sufficient Cause, which You shall signify in the fullest and most distinct manner to Our Commissioners for Trade and Plantations, in order to be laid before Us, by the first Opportunity after such Removals.

22. And whereas frequent Complaints have heretofore been more of great Delays and undue Proceedings in the Courts of Justice in several of Our Plantations, whereby many of Our good Subjects have very much suffered; and it being of the greatest Importance to Our Service, and to the Welfare of Our Plantations, that Justice be every where speedily and duly administered, and that all Disorders, Delays, and other undue Practices in the Administration thereof, be effectually

prevented; We do particularly require You to take especial Care, that in all Courts, where You are authorized to preside, Justice be impartially administered; and that in all other Courts, established within Our said Province, all Judges, and other Persons therein concerned, do likewise perform their several Duties without any Delay or Partiality.

23. You are to take Care, that all Writs be issued in Our Name throughout the Province under your Government.

24. Whereas there are several Offices in Our Plantations granted under the Great Seal of Great Britain, and Our Service may be very much prejudiced by reason of the Absence of the Patentees, and by their appointing Deputies not fit to officiate in their Stead; You are therefore to inspect such of the said Offices as are in the Province under your Government, and to enquire into the Capacity and Behaviour of the Persons exercising them, and to report thereupon, to Our Commissioners for Trade and Plantations, what

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you think fit to be done or altered in relation thereunto; and you are, upon the Misbehaviour of any of the said Patentees or their Deputies, to suspend them from the Execution of their Office, till you shall have represented the whole Matter unto Us, and received Our Directions therein; And in case of the Death of any such Deputy, it is Our express Will and Pleasure, that You take Care that the Person appointed to execute the Place, until the Patentee can be informed thereof and appoint another Deputy, do give sufficient Security to the Patentee, or, in case of Suspension, to the Person suspended, to be answerable to him for the Profits accruing during such Interval by Death, or during such Suspension, in case We shall think fit to restore the Person suspended to his Place again. It is nevertheless Our Will and Pleasure, that the Person executing the Place during such Interval by Death or Suspension, shall, for his Encouragement, receive the same Profits as the Person dead, or suspended did receive; And it is Our further Will and Pleasure, that, in case of a Suspension of a Patentee, the Person appointed by you to exercise the Office during such Suspension, shall receive a Moiety of the Profits which would otherwise become due to such Patentee, giving Security to such Patentee to be answerable to him for the other Moiety, in case We shall think fit to restore him to his Office again; And it is Our further Will and Pleasure, that you do countenance and give all due encouragement to all our Patent Officers in the Enjoyment of their legal and accustomed Fees, Rights, Privileges and Emoluments, according to the true Intent and Meaning of their Patents.

25. You shall not, by Colour of any Power or Authority hereby or otherwise granted, or mentioned to be granted unto you, take upon you to give, grant or dispose of any Office or

Place within Our said Province, which now is or shall be granted under the Great Seal of this Kingdom, or to which any Person is or shall be appointed by Warrant under Our Signet and Sign Manual, any further than that you may, upon the Vacancy of any such Office or Place, or upon the Suspension of any such Officer by You, as aforesaid, put in any fit Person to officiate in the Interval, till you shall have represented the Matter unto Our Commissioners for Trade and Plantations, in order to be laid before Us, as aforesaid, (which You are to do by the first Opportunity,) and till the said Office or Place be disposed of by Us, Our Heirs or Successors, under the Great Seal of this Kingdom, or until some Person shall be appointed thereto by Warrant under Our Signet and Sign Manual, or Our further Directions be given therein.

26. And whereas several Complaints have been made by the Surveyor General, and other Officers of Our Customs in Our Plantations in America, that they have frequently been obliged to serve as Jurors, and personally to appear in Arms whenever the Militia is drawn out, and thereby are much hindered in the Execution of their Employments; Our Will and Pleasure is, that You take effectual Care, and give the necessary Directions, that the several Officers of Our Customs be excused and exempted from serving on any Juries, or personally appearing in Arms in the Militia, unless in case of

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absolute Necessity, or serving any parochial Offices, which may hinder them in the Execution of their Duty.

27. And whereas the Surveyor General of Our Customs in the Plantations are impowered, in case of the Vacancy of any of Our Offices of the Customs by Death, Removal, or otherwise, to appoint other Persons to execute such Offices, until they receive Directions from Our Commissioners of the Treasury, or Our High Treasurer, or Commissioners of Our Customs, for the time being; but in regard the Districts of Our said Surveyors General are very extensive, and that they are required at proper times to visit the Officers in the several Governments under their Inspection; and that it might happen that some of the Officers of Our Customs in the Province under your Government may die, at the Time when the Surveyor General is absent in some distant Part of his District, so that he cannot receive Advice of such Officer's Death within a reasonable Time, and thereby make Provision for carrying on the Service, by appointing some other Person in the room of such Officer who may happen to die; therefore, that there be no Delay given on such Occasion to the Masters of Ships or Merchants in their Dispatches, it is Our further Will and Pleasure, in case of such absence of the Surveyor General, or if he should happen to die, and in such Cases only, that, upon the Death of any Collector of Our Customs within Our said Province, You, or, in your Absence, our Lieutenant Governor

or Commander in Chief, shall make Choice of a Person of known Loyalty, Experience, Diligence and Fidelity, to be Employed in such Collector's room, for the Purposes aforesaid, until the Surveyor General of Our Customs shall be advised thereof, and appoint another to succeed in such Place, and that further Directions shall be given therein by Our Commissioners of Our Customs, for the time being, which shall be first signified; taking care that You do not, under any Pretence of this Instruction, interfere with the Powers and Authorities given by the Commissioners of OUR Customs to the said Surveyors General, when they are able to put the same in Execution.

28. And whereas We have stipulated, by the late Definitive Treaty of Peace concluded at Paris the 10th Day of February 1763, to grant the Liberty of the Catholick Religion to the Inhabitants of Canada, and that We will consequently give the most precise and most effectual Orders, that Our new Roman Catholick Subjects in that Province may profess the Worship of their Religion, according to the Rites of the Romish Church, as far as the Laws of Great Britain permit; It is therefore Our Will and Pleasure, that you do, in all things regarding the said Inhabitants, conform with great Exactness to the Stipulation of the said Treaty in this respect.

29. You are, as soon as possible, to summon the Inhabitants to meet together, at such Time or Times, Place or Places, as you shall find most convenient, in order to take the Oath of Allegiance, and make and subscribe the Declaration of Abjuration mentioned in the aforesaid Act passed in the

first Year of the Reign of King George the First, for the further Security of His Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for extinguishing the Hopes of the pretended Prince of Wales, and his open and secret Abettors; which Oath shall be administered to them by such Person or Persons as you shall commissionate for the Purpose; and in case any of the said French Inhabitants shall refuse to take the said Oath, and make and subscribe the Declaration of Abjuration, as aforesaid, You are to cause them forthwith to depart out of Our said Government.

30. And it is Our further Will and Pleasure, that all such Inhabitants, professing the Religion of the Romish Church, do, at all such Meetings, or at such other Time or Times as You shall think proper, and in the Manner you shall think least alarming and inconvenient to the said Inhabitants, deliver in upon Oath an exact Account of all Arms and Ammunition, of every Sort in their actual Possession, and so, from time to time, of what they shall receive into their Possession, as aforesaid.

31. You areas soon as possible to transmit to Us, by Our Commissioners for Trade and Plantations, an exact and particular Account of the Nature and Constitution of the several Religious Community of the Romish Church, their Rights, Claims, Privileges and Property, and also the Number, Situation and Revenue of the several Churches heretofore established in Our said Province, together with the Number of Priests of Curates officiating in such Churches.

32. You are not to admit of any Ecclesiastical Jurisdiction of the See of Rome, or any other foreign Ecclesiastical Jurisdiction whatsoever in the Province under your Government.

33. And to the End that the Church of England may be established both in Principles and Practice, and that the said Inhabitants may be Degrees be induced to embrace the Protestant Religion, and their Children be brought up in the Principles of it; We do hereby declare it to be Our Intention, when the said Province shall have been accurately surveyed, and divided into Townships, Districts, Precincts or Parishes, in such manner as shall be hereinafter directed, all possible Encouragement shall be given to the erecting Protestant Schools in the said Districts, Townships and Precincts, by settling, appointing and allotting proper Quantities of Land for that Purpose, and also for a Glebe and Maintenance for a Protestant Minister and Protestant School-Masters; and you are to consider and report to Us, by Our Commissioners for Trade and Plantations, by what other Means the Protestant Religion may be promoted, established and encouraged in Our Province

under your Government.

34. And You are to take especial Care, that God Almighty be devoutly and duly served throughout your Government, the Book of Common Prayer, as by Law established, read each Sunday and Holyday, and the blessed Sacrament administered according to the Rites of the Church of England.

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35. You are not to prefer any Protestant Minister to any Ecclesiastical Benefice in the Province under your Government, without a Certificate from the Right Reverend Father in God the Lord Bishop of London of his being conformable to the Doctrine and Discipline of the Church of England, and of a good Life and Conversation; And if any Person hereafter preferred to a Benefice shall appear to you to give Scandal, either by his Doctrine or Manners, you are to use the best Means for his Removal.

36. You are to give Orders forthwith, that every Orthodox Minister within your Government be one of the Vestry in his respective Parish, and that no Vestry be held without him, except in case of Sickness, or, after Notice of a Vestry summoned, he omit to come.

37. And to the End that the Ecclesiastical Jurisdiction of the Lord Bishop of London may take place in Our Province under your Government, as far as conveniently may be, We do think fit, that You give all Countenance and Encouragement to the Exercise of the same, excepting only the collating to Benefices, granting Licences for Marriage, and Probates of Wills, which We have reserved to You, Our Governor, and to the Commander in Chief of Our said Province for the Time being.

38. And We do further direct, that no Schoolmaster, who shall arrive in Our said Province from this Kingdom, be henceforward permitted to keep School, without the Licence of the said Lord Bishop of London; and that no other Person now there, or that shall come from other Parts, shall be admitted to keep School in your Government, without your Licence first obtained.

39. And you are to take especial Care, that a Table of Marriages, established by the Canons of the Church of England, be hung up in all Places of publick Worship, according to the Rites of the Church of England.

40. And it is Our further Will and Pleasure, that, in order to suppress, as much as in you lies, every Species of Vice and Immorality, You forthwith, do cause all Laws already made against Blasphemy, Profaneness, Adultery, Fornication, Polygamy, Incest, Profanation of the Lord's Day, Swearing and Drunkenness, to be vigorously put in Execution in every part

of your Government; And that you take due Care for the Punishment of these, and every other Vice and Immorality, by Presentment upon Oath to be made to the Temporal Courts, by the Church Wardens of the several Parishes, at proper Times of the year to be appointed for the Purpose; and, for the further Discouragement of Vice, and Encouragement of Virtue and good living, (that by such Examples the Infidels may be invited and persuaded to embrace the Christian Religion), You are not to admit any Persons to publick Trusts and Employments in the Province under your Government, whose Ill-Fame and Conversation may occasion Scandal.

41. And whereas it is stipulated by the aforesaid Treaty concluded at Paris the 10th Day of February 1763, that the French Inhabitants, or Others,

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who have been Subjects of the Most Christian King in Canada, may retire with all Freedom and Safety wherever they shall think proper, and may sell their Estates, provided it be to Our Subjects, and bring away their Effects, as well as their Persons, without being restrained in their Emigration under any Pretence whatsoever, except that of Debts, or criminal Prosecution, and that the Time limited for the Emigration shall be fixed to the Space of Eighteen Months, to be computed from the Day of Exchange of the Ratifications of the Treaty; You are therefore in all things to conform yourself to this Stipulation, and to take care, that such of the French Inhabitants, as intend to remove within the Time limited, be not obstructed or impeded, provided they do not sell their Estates to Others than His Majesty's Subjects, and that, so long as they remain under your Government, they do in all things conform thereto in like manner as Our other Subjects.

42. And it is Our further Will and Pleasure, that all and every the French Inhabitants in Our said Province, who are now possessed of Lands within the said Province, in Virtue of Grants or Concessions made before the signing of the Preliminary Articles of Peace on the third Day of November 1762; do, within such limited Time as you in your Discretion shall think fit, register the several Grants, or other Deeds or Titles, by which they hold or claim such Lands, in the Secretary's Office; which said Grants, Deeds or other Titles, shall be entered at large in the said Office, so that the particular Quantity of Land, it's Site and Extent, the Conditions upon which it is granted, either as to Rents, Services, or Cultivation, may appear fully and at length.

43. And in case it shall appear, upon a strict and accurate Examination of the said Grants and Title Deeds, to be taken in such manner as You shall think proper, that any of the Grantees, or Persons claiming Lands under such Grants and Title Deeds, are in Possession of more Land than is contained

within such Grants or other Concessions; or that the Terms and Conditions, upon which the Lands were granted, have not been complied with, agreeable to what is stipulated in such Grants or Concessions; It is Our Will and Pleasure, that you forthwith represent the same to Us, by Our Commissioners for Trade and Plantations, to the End that you may receive such Directions thereupon, as the Nature and Circumstances of the Case shall appear to require.

44. And whereas it is necessary, in order to the advantageous and effectual Settlement of Our said Province, that the true State of it should be fully known; You are therefore, as soon as conveniently may be, to cause an accurate Survey to be made of the said Province by such able and skilful Person as is or shall be appointed for that Service, who is to report to you in writing, for your Judgement in the Measures which you may in general pursue for the making of Settlements, not only the Nature and Quality of the Soil and Climate, the Rivers, Bays and Harbours, and every other Circumstance attending the natural State of it; but also his opinion, in what manner it may be most conveniently laid out into Countries, and to annex to his Report a Map of such Survey, with the several Divisions proposed marked upon it: But as the Making such Survey will be a Work of great Length, You are in

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the meantime to carry on Settlements upon that Plan, which shall appear to you to be most expedient from the best Information You can collect.

45. And whereas it has been found by Experience, that the settling Planters in Townships hath very much redounded to their Advantage, not only with respect to the Assistance they have been able to afford Each other in their civil Concerns, but likewise with regard to the Security they have thereby acquired against the Insults and Incursions of neighbouring Indians, or other Enemies; You are therefore to lay out Townships of a convenient Size and Extent in such Places, as you, in your Discretion, shall judge most proper. And it is Our Will and Pleasure, that each Township do consist of about Twenty Thousand Acres having, as far as may be, natural Boundaries extending up into the Country, and comprehending a necessary Part of the River St Lawrence, where it can be conveniently had.

46. You are also to cause a proper Place in the most convenient Part of each Township, to be marked out for building a Town sufficient to contain such a Number of Families as you shall judge proper to settle there, with Town and pasture Lots convenient to each Tenement, taking Care, that the said Town be laid out upon, or, as near as conveniently may be, to some navigable River, or the Sea Coast; And you

are also to reserve to Us proper Quantities of Land in each Township for the following Purposes Viz; For erecting Fortifications, and barracks, where necessary, or for other military or naval Services, and more particularly for the Growth and Production of Naval Timber, if there are any Wood-Lands fit for that Purpose.

47. And it is Our further Will and Pleasure, that a particular Spot, in, or as near each Town as possible, be set apart for the building a Church, and four Hundred Acres adjacent thereto allotted for the Maintenance of a Minister, and two Hundred for a Schoolmaster.

48. And you are to give strict Orders to the Surveyors, whom you shall employ to mark out the said Townships and Towns, to make Returns to you of their Surveys as soon as possible, with a particular Description of each Township, and the Nature of the Soil within the same.

49. And You are to oblige all such Persons as shall be appointed to be Surveyors of the said Lands in each Township, to take an Oath for the due Performance of their Offices, and for obliging them to make exact Surveys of all Lands required to be set out.

50. And whereas nothing can more effectually tend to the speedy settling Our said Colony, the Security of the Property of Our Subjects, and the Advancement of Our Revenue, than the disposing of such lands as are Our Property upon reasonable Terms, and the establishing a regular and proper Method of proceeding with respect to the passing of Grants of such land; It is therefore our Will and Pleasure, that all and every Person and Persons, who shall apply to You for any grant or Grants of Land, shall, previous to their obtaining the same, make it appear before you in Council,

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that they are in a Condition to cultivate and improve the same, by settling thereon, in Proportion to the Quantity of Acres desired, a sufficient Number of White Persons and Negroes; And in case you shall, upon a Consideration of the Circumstances of the Person or Persons applying for such Grants, think it adviseable to pass the same, in such Case You are to cause a Warrant to be drawn up, directed to the Surveyor General, or other proper Officers, so petitioned for, and to return the said Warrant within six Months at furthest from the Date thereof, with a Plot or Description of the Lands so surveyed thereunto annexed; Provided that you do take Care, that before any such Warrant is issued, as aforesaid, a Docquet thereof be entered in the Auditor's and Register's Office: And when the Warrant shall be returned by the said Surveyor, or other proper Officer, the Grant shall be made out in due Form, and the Terms and Conditions required by these Our

Instructions be particularly and expressly mentioned in the respective Grants. And it is Our Will and Pleasure, that the said Grants shall be registered within six Months from the Date thereof in the Register's Office there, and a Docquet thereof be also entered in Our Auditor's Office there, in Case such Establishment shall take Place in Our said Province, or that, in Default thereof, such Grant shall be void; Copies of all which Entries shall be returned regularly, by the proper Officer, to Our Commissioners of Our Treasury and to Our Commissioners for Trade and Plantations, within six Months from the Date thereof.

51. And whereas great Inconveniences have arisen in many of Our Colonies in America from the granting excessive Quantities of Land to particular Persons, who have never cultivated or settled it, and have thereby prevented Others more industrious from improving the same; in order therefore to prevent the like Inconveniences for the future, You are to take especial Care, that in all Grants to be made by you, by and with the Advice and Consent of Our Council, to Persons applying for the same, the Quantity be in Proportion to their Ability to cultivate; And you are hereby directed to observe the following Directions and Regulations in all Grants to be made by you; Viz^t

That one hundred Acres of Land be granted to every Person being Master or Mistress of a Family, for himself or herself, and fifty Acres for every white or black Man, Woman or Child, of which such Person's Family shall consist, at the actual Time of making the Grant; and in case any Person applying to you for Grants of Land shall be desirous of taking up a larger Quantity than the actual Number of Persons in his or her Family would intitle such Persons to take up; it is Our Will and Pleasure, and you are hereby allowed and permitted, to grant unto every such Person or Persons, such further Quantity of Land as they may desire, not exceeding one Thousand Acres over and above what they are intitled to by the Number of Persons in their respective Families;—Provided it shall appear to you, that they are in a Condition and Intention to cultivate the same; and provided also, that they do pay to the Receiver of Our Quit Rents, or to such other Officer as

shall be appointed to receive the same, the Sum of five Shillings only for every fifty Acres, so granted, on the Day of the date of the Grant;—

That all Grantees be subject to the payment of two Shillings Sterling for every Hundred Acres, to commence at the Expiration of two years from the Date of such Grant, and to be paid yearly and every year, or in Default of such payment, the Grant is to be void;—

That every Grantee, upon giving Proof that he or she has fulfilled the Terms and Conditions of his or her Grant, shall be entitled to another Grant, in the Proportion and upon the conditions abovementioned;—

That for every Fifty Acres of Land accounted plantable, each Patentee shall be obliged, within three years after the Date of his Patent, to clear and work three Acres at the least, in that part of his Tract which he shall judge most convenient and advantageous; or else to clear and drain three Acres of swampy or sunken Grounds, or drain three Acres of Marsh, if any such be within the Bounds of his Grant;—

That for every Fifty Acres accounted barren, every Patentee shall be obliged to put and keep on his Land, within three years after the Date of his Grant, three neat Cattle; which Number he shall be obliged to continue on his Land, until three Acres for every Fifty be fully cleared and improved;—

That if any Person shall take up a Tract of Land, wherein there shall be no Part fit for present Cultivation without manuring and improving the same, every such Grantee shall be obliged, within three years from the Date of his Grant, to erect on some part of his Land one good Dwelling-House, to contain at least twenty Feet in Length, and sixteen Feet in Breadth; and also to put on his Land the like Number of three neat Cattle for every fifty Acres;—

That every three Acres, which shall be cleared and worked, as aforesaid, and every three Acres, which shall be cleared and drained, as aforesaid, shall be accounted a sufficient Seating, Planting, Cultivation and Improvement, to save for ever from Forfeiture Fifty Acres of Land in any Part of the Tract contained within the same patent; and the Patentee shall be at Liberty to withdraw his Stock, or to forbear working in any Quarry or Mine, in Proportion to such Cultivation and Improvement, as shall be made upon the plantable Lands, or upon the Swamps, sunken grounds and Marshes, which shall be included in the same Patent;—

That when any Person, who shall hereafter take up and patent any Lands, shall have seated, planted and cultivated or improved the said Land, or any part of it, according to the Directions and Conditions above-mentioned, such Patentee may make Proof of such Seating, Planting, Cultivation and Improvement in the general Court, or in the Court of the County, District or

Precinct, where such Lands shall lie, and have such Proof certified to the Register's Office, and there entered with the Record of the said Patent, a Copy of which shall be admitted, on any Trial, to prove the seating and planting of such Land;—

And lastly, in order to ascertain the true Quantity of plantable and barren Land contained in each Grant hereafter to be made, every Surveyor be required and enjoined to take particular Notice, according to the best of his Judgement and Understanding, how much of the Land so surveyed is plantable, and how much of it is barren and unfit for Cultivation; and accordingly to insert in the Survey and Plott by him to be returned into the Register's Office, the true Quantity of each kind of Land.

52. And it is Our further Will and Pleasure, that in all Grants of Land to be made by You, as aforesaid, regard be had to the profitable and unprofitable Acres, so that each Grantee may have a proportionable Number of one Sort and the other; as likewise that the Breadth of each Tract of Land, to be hereafter granted, be one Third of the Length of such Tract; and that the Length of each Tract do not extend along the Banks of any Rivers, but into the main Land, that thereby the said Grantees may have each a convenient Share of what Accommodation the said River may afford for Navigation or otherwise.

53. And whereas it hath been represented to Us, that many Parts of the Province under your Government are particularly adapted to the Growth and Culture of Hemp and Flax; It is therefore Our Will and Pleasure, that, in all Surveys of Land for Settlement, the Surveyor be directed to report, whether there is any, or what Quantity of Lands contained within such Survey, fit for the Production of Hemp and Flax; And you are to take particular Care to insert a Clause in every Grant of Land, where any part thereof is fit for such Production, obliging the Grantee annually to sow a proportionable Part of his Grant with Hemp or Flax Seed.

54. And whereas it hath been further represented to Us, that a great part of the Country in the Neighbourhood of Lake Champlain, and between that Lake and the River S^t Lawrence, abounds with Woods producing Trees fit for Masting for Our Royal Navy, and other useful and necessary Timber for Naval Construction; You are therefore expressly directed and required to cause such Parts of the said Country, or any other within your Government, that shall appear upon a Survey to abound with such Trees, and shall lye convenient for Water Carriage, to be reserved to Us, and to use your utmost Endeavour to prevent any Waste being committed upon the said Tracts, by punishing in due Course of Law any Persons who shall cut down or destroy any Trees growing thereon; and you are to consider and advise with Our Council, whether some Regulation that shall prevent any Saw mills whatever

from being erected within your Government, without a Licence from you, or the Commander in Chief of Our said Province for the Time being, may not

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be a Means of preventing all Waste and Destruction in such Tracts of Land as shall be reserved to Us for the Purposes aforesaid.

55. And whereas it appears from the Representations of OUR Governor of the District of Trois Rivieres, that the Iron Works of S^t Maurice in that District are of the great Consequence to Our Service; It is therefore Our further Will and Pleasure, that no part of the Lands, upon which the said Iron Works were carried on, or from which the Ore used in such Works was procured, or which shall appear to be necessary and convenient for the Establishment, either in respect to a free Passage to the River S^t Lawrence, or for producing a necessary Supply of Wood, Corn and hay, or for Pasture for Cattle, be granted to any private Person whatever; and also that as large a District of Land as conveniently may be, adjacent to and lying round the said Iron Works, over and above what may be necessary for the above Purposes, be reserved for Our Use, to be disposed of in such manner as WE shall hereafter direct and appoint.

56. And whereas it is necessary, that all Persons who may be desirous of settling in Our said Province, should be fully informed of the Terms and Conditions, upon which Lands will be granted in Our said Province; You are therefore, as soon as possible, to cause a Publication to be made, by Proclamation or otherwise, as you in your Discretion shall think most adviseable, of all and every the foregoing Terms, Conditions and Regulations of every kind, respecting the Grants of Lands; in which Proclamation it may be expedient to add some short Description of the natural Advantages of the Soil, and Climate, and it's peculiar Conveniences for Trade and Navigation; and you are to take such Steps as you shall think proper for the publishing such Proclamation in all the Colonies in North America.

57. And it is Our further Will and Pleasure, that all the foregoing Instructions to you, as well as any which You may hereafter receive, relative to the Form and Method of passing Grants of Lands, and the Terms and Conditions to be annexed to such Grants, be entered upon Record, with the Grants themselves, for the Information and Satisfaction of all Parties whatever, that may be concerned therein.

58. And it is our further Will and Pleasure, that you do consider of a proper and effectual Method of collecting, receiving and accounting for our Quit Rents, whereby all Frauds, Concealment, Irregularity or Neglect therein may be prevented, and whereby the Receipt thereof may be effectually

checked and controlled; And if it shall appear necessary to pass an Act for the more effectually ascertaining, and the more speedily and regularly collecting Our Quit Rents, you are to prepare the Heads of such a Bill, as you shall think may most effectually conduce to the procuring the good Ends proposed, and to transmit the same to Our Commissioners for Trade and Plantations, in order to be laid before Us for Our further Directions therein.

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59. And it is Our further Will and Pleasure, that the Surveyor General, or such other Person or Persons as you shall think proper to appoint, do, once in every year or oftener as Occasion shall require, inspect the State of all Grants of Lands made by you, and make report thereof to you in Writing, specifying whether the Conditions therein contained have or have not been complied with, or what Progress has been made towards fulfilling the same; and you are annually to transmit Copies of such Reports to Our Commissioners for Trade and Plantations.

60. And whereas Our Province of Quebec is in part inhabited and possessed by several Nations and Tribes of Indians, with whom it is both necessary and expedient to cultivate and maintain a strict Friendship and good Correspondence so that they may be induced by Degrees, not only to be good Neighbours to Our Subjects, but likewise themselves to become good Subjects to Us; You are therefore, as soon as you conveniently can, to appoint a proper Person or Persons to assemble, and treat with the said Indians, promising and assuring them of Protection and Friendship on Our part, and delivering them such Presents, as shall be sent to you for that purpose.

61. And you are to inform yourself with the greatest Exactness of the Number, Nature and disposition of the several bodies or Tribes of Indians, of the manner of their Lives, and the Rules and Constitutions, by which they are governed or regulated. And You are upon no Account to molest or disturb them in the Possession of such Parts of the said Province, as they are present occupy or possess; but to use the best means You can for conciliating their Affections, and uniting them to Our Government, reporting to Us, by our Commissioners for Trade and Plantations, whatever Information you can collect with respect to these People, and the whole of your Proceedings with them.

62. Whereas We have, by Our Proclamation dated the seventh day of October in the Third year of Our Reign, strictly forbid, on pain of Our Displeasure, all Our Subjects from making any purchases or Settlements whatever, or taking possession of any of the Lands reserved to the several Nations of Indians, with whom We are connected, and who live under

Our Protection, without Our especial Leave for that Purpose first obtained; It is Our express Will and Pleasure, that you take the most effectual Care that Our Royal Directions herein be punctually complied with, and that the Trade with such of the said Indians as depend upon your Government be carried on in the Manner, and under the Regulations prescribed in our said Proclamation.

63. You are to use your best Endeavours in improving the Trade of those Parts, by settling such Orders and regulations therein, with the Advice of Our said council, as may be most acceptable to the Generality of the Inhabitants. And it is Our express Will and Pleasure, that you do not, upon any Pretence whatever, upon pain of Our highest Displeasure,

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give your Assent to any Law or Laws for setting up any Manufactures and carrying on any Trades, which are hurtful and prejudicial to this Kingdom; and that You do use your utmost Endeavours to discourage, discountenance and restrain any Attempts which may be made to set up such Manufactures, or establish any such Trades.

64. Whereas by the 5th and 6th Articles of the Treaty of Peace and Neutrality in America,¹ concluded between England and France the 6th 16 Day of November 1686, the Subjects and inhabitants of each Kingdom are prohibited to trade and fish in all Places possessed, or which shall be possessed by the other in America; and if any Ships shall be found trading contrary to the said Treaty, upon due Proof the said Ships shall be confiscated; but in case the subjects of either King shall be forced by Stress of Weather, Enemies, or other Necessity into the Ports of the other in America, they shall be treated with Humanity and Kindness, and may provide themselves with Victuals, and other Things necessary for their Sustenance, and the Reparation of their Ships, at reasonable Rates; provided they do not break bulk, nor carry any Goods out of their Ships, exposing them to Sale and Goods; It is therefore Our Will and Pleasure, that You signify to Our Subjects under your Government the Purport and Intent of the abovesaid two Articles; and that you take particular Care, that none of the French Subjects be allowed to trade from their said Settlements to the Province under your Government, or to fish upon the Coast thereof.

65. And it is Our Will and Pleasure, that You do not dispose of any Forfeitures or Escheats to any Person, until the Sheriff, or other proper Officer, have made Enquiry, by a Jury upon their Oaths, into the true Value thereof, nor until you have transmitted to Our Commissioners of Our Treasury, and to Our Commissioners for Trade and Plantations, a particular Account of such Forfeitures and Escheats, and the Value thereof. And you are to take Care, that the Produce of such Forfeitures and

Escheats, in case We shall think proper to give You Directions to dispose of the same, be duly paid to Our Treasure or Receiver General of Our said Province, and a full Account transmitted to our Commissioners for Trade and Plantations, with the Names of the Persons to whom disposed.

66. And whereas Commissions have been granted unto several Persons in Our respective Plantations in America for the trying or Pirates in those Parts, pursuant to the Acts for the more effectual Suppression of Piracy; and by a Commission already sent to Our Province of New York, Our Governor there is impowered, together with Others therein mentioned,

[¹ This Treaty of London had reference only to the dominions of the two Crowns in America. It is given in full in *Collection de Documents Relatifs à l'Histoire de la Nouvelle-France*. Vol. I, p. 372.]

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to proceed accordingly in Reference to Our said Province; Our Will and Pleasure is, that you do use your best Endeavours to apprehend all Persons whatever who may have been guilty of Piracy within your Government, or who having committed such Crimes at other Places, may come within your Jurisdiction; and until We shall think proper to direct the like Commission to be established for Our Government of Quebec, You are to send such Pirates, with what Proofs of their Guilt You can procure or collect, to our Governor of New York to be tried and punished under the Authority of the Commission established for those Parts.

67. And whereas you will receive from Our Commissioners for executing the Office of High Admiral of Great Britain and of Our Plantations, a Commission constituting you Vice Admiral of Our said Province; You are hereby required and directed carefully to put into Execution the several Powers thereby granted to you.

68. Whereas great Inconveniencies have happened heretofore by Merchant Ships and other Vessels in the Plantations wearing the Colours borne by Our Ships of War, under Pretence of Commissions granted to them by the Governors of the said Plantations, and, by trading under those Colours, not only amongst Our own Subjects, but also those of other Princes and States, and committing divers Irregularitys, they may very much dishonor Our Service; For preventing thereof You are to oblige the Commanders of all such Ships, to which you shall grant Commissions, to wear no other Colours than such as are described in an Order of Council of the seventh of January 1730, in relation to Colours to be worn by all Ships and Vessels, except Our Ships of War.

69. And whereas there have been great Irregularitys in the manner of granting Commissions in the Plantations to private Ships of War, You are to govern yourself, whenever there shall be Occasion, according to the Commissions and Instructions granted in this Kingdom; But you are not to grant Commissions of Marque or Reprizal against any Prince or State, or their Subjects, in Amity with Us, to any Person whatsoever, without Our special Command.

70. Whereas We have been informed that, during the time of War, Our Enemies have frequently got Intelligence of the State of Our Plantations by Letters from private Persons to their Correspondents in Great Britain, taken on board Ships coming from the Plantations, which has been of dangerous Consequence; Our Will and Pleasure therefore is, that you signify to all Merchants, Planters and Others, that they be very cautious, in time of War, whenever that shall happen, in giving any Accounts by Letters of War, whenever that shall happen, in giving any Accounts by Letters of the public State and

Condition of Our Province under your Government; And you are further to give Directions to all Masters of Ships, or other Persons to whom you may entrust your Letters, that they put such Letters into a Bag, with a sufficient weight to sink the same immediately in Case of imminent danger from the Enemy; And you are also to let the Merchants and Planters

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know, how greatly it is for their Interest that their Letters should not fall into the Hands of the Enemy, and therefore that they should give like Orders to Masters of Ships in relation to their Letters; And you are further to advise all Masters of Ships, that they do sink all Letters, in case of Danger, in the Manner before mentioned.

71. And whereas, in Time of War, the Merchants and Planters in Our Plantations in America did correspond and trade with Our Enemies, and carry Intelligence to them, to the great Prejudice and Hazard of Our said Plantations; You are therefore by all possible Methods to endeavour to hinder such Trade and Correspondence in Time of War.

72. And You are to report to Us, by Our Commissioners for Trade and Plantations—

What is the Nature of the Soil and Climate of the Province under your Government. If it differs in these Circumstances for Our other Northern Colonies, in what that Difference consists? And what beneficial Articles of Commerce the different Parts of it are capable of producing?

What rivers there are, and of what Extent and Convenience to the Planters?

What are the principal Harbours; how situated, of what Extent; and what is the Depth of Water, and Nature of the Anchorage in each of them?

What Quantity of Land is now under actual Improvement and Settlement? What are the chief Articles of Produce and Culture; the annual amount of the Quantity of each; and upon what Terms and Conditions the Inhabitants hold their Lands, either of Cultivation, Rent, or Personal Service?

What is the Quantity, Nature and Property of the Land uncultivated; how much of it is capable of Culture; and what part thereof is private Property?

What is the Number of Inhabitants, Whites and Blacks, distinguishing each? What Number of the Former is capable of bearing Arms, and what Number of the Latter is annually necessary to be supply'd in proportion to the Land cultivated?

What was the Nature, Form and Constitution of the Civil Government; what Judicatures were there established, and under what Regulations did the French Inhabitants carry on their Commerce?

73. You are from time to time to send unto Us, by Our Commissioners for Trade and Plantations, as aforesaid, an

Account of the Increase and Decrease of the Inhabitants, Whites and Blacks, and also an Account of all Persons born, christened and buried.

74. Whereas it is absolutely necessary, that We be exactly informed of the State of Defence of all Our Plantations in America, as well in relation to the Stores of War that are in each Plantation, as to the Forts and Fortifications there; and what more may be necessary to be built for the Defence and Security of the same; You are as soon as possible to prepare an Account

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thereof with relation to Our said Province in the most particular manner; And You are therein to express the present State of the Arms, Ammunition and other Stores of War, belonging to the said Province, either in public Magazines, or in the Hands of private Persons; together with the State of all Places, either already fortified, or that you judge necessary to be fortified for the Security of Our said Province; And you are to transmit the said Accounts of Our Commissioners for Trade and Plantations, as also a Duplicate thereof to Our Master General or principal Officers of Our Ordnance; Which Accounts are to express the Particulars of Ordnance, Carriages, Balls, Powder, and other Sorts of Arms and Ammunition in Our public Stores, and so from time to time of what shall be sent you, or bought with the public Money, and to specify the Time of the Disposal, and the Occasion thereof: And You are half yearly to transmit a general Account of the State of the Fortifications and Warlike Stores, specify'd in the manner above mentioned.

75. You are from time to time to give an Account, what Strength your Neighbours have by Sea and Land, and of the Condition of their Plantations, and what Correspondence You keep with them.

76. And in case of any Distress of any other of Our Plantations, You shall, upon Application of the respective Governors thereof unto you, assist them with what Aid the Condition and Safety of Our Province under Your Government can spare.

77. If anything shall happen, which may be of Advantage or Security to Our Province under your Government, which is not herein, or by your Commission provided for, We do hereby allow unto you, with the Advice and Consent of Our Council, to take Order for the present therein, giving unto Our Commissioners for Trade and Plantations speedy Notice thereof, in order to be laid before Us, that you may receive Our Ratification, if We shall approve the same:—provided always, that you do not, by Colour of any Power or Authority hereby given you, commence or declare War without Our Knowledge and particular Commands therein.

78. And whereas We have, by the second Article of these Our Instructions to you, directed and appointed that your chief Residence shall be at Quebec; you are nevertheless frequently to visit the other parts of your Government, in order to inspect the Management of all public Affairs, and thereby the better to take Care, that the Government be so administered, that no disorderly Practices may grown up contrary to Our Service and the Welfare of Our Subjects.

79. And whereas great Prejudice may happen to Our Service, and the Security of the Province, by your Absence from those Parts, You are not, upon any Pretence whatsoever, to come into Europe, without having first obtained Leave for so doing from Us under Our Sign Manual and Signet, or by Our Order in Our Privy Council; Yet nevertheless in case of Sickness, You may go to South Carolina, or any other of Our Southern Plantations,

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and there stay for such Space as the Recovery of your Health may absolutely require.

80. And whereas We have thought fit by Our Commission to direct, that in case of your Death or Absence, and the Death or Absence of Our Lieutenant Governors of Montreal and Trois Rivieres, and in Case there be at that time no Person within Our said Province, commissioned or appointed by Us to be Commander in Chief, that the Eldest Councillor, who shall be at the time of your Death or Absence, or at the Death or Absence of Our Lieutenant Governors, as aforesaid, residing with Our said Province under your Government, shall take upon him the Administration of Government, and execute Our said COMmission and Instructions, and the several Powers and Authorities therein directed; It is nevertheless Our express Will and Pleasure, that in such Case the said President shall forbear to pass any act or Acts, but what are immediately necessary for the Peace and Welfare of the said Province, without Our particular Order for that purpose; And that he shall not remove or suspend any of the Members of Our Council, nor any Judges , Justices of the Peace, or other Officers Civil or Military, without the Advice and Consent of at least Seven of the Members of Our said Council, nor even then without good and sufficient Reasons for the same, which the said President is to transmit, signed by himself and the rest of Our said Council, to Our Commissioners for Trade and Plantations, by the first Opportunity in order to be laid before Us.

81. And whereas We are willing in the best manner to provide for the Support of the Government of Our Province aforesaid, of which You are Governor, by setting apart sufficient Allowances to such as shall be Our Governor or Commander in Chief, residing for the time being within the same; Our Will and Pleasure is, that when it shall happen that

you are absent from Our said Province, One full Moiety of the Salary, and all Perquisites and Emoluments whatsoever, which would otherwise become due unto You, shall, during the time of your Absence, be paid and satisfied unto Our Commander in Chief, who shall be resident within Our said Province for the Time being; which We do hereby order and allot unto him for his Maintenance, and for the better Support of the Dignity of that Our Government.

82. And You are upon all Occassions to send unto Our Commissioners for Trade and Plantations only, a particular Account of all your Proceedings, and of the Condition of Affairs within your Government, in order to be laid before Us; provided nevertheless, whenever any Occurrences shall happen within your Government of such a Nature and Importance as may require Our more immediate Directions by One of Our Principal Secretaries of State and also upon all Occassions and in all Affairs wherein you may receive Our Orders by One of Our Principal Secretaries of State, you shall in all such Cases transmit to Our Secretary of State only an Account of all such Occurances, and of your Proceedings relative to such Orders:

—

G. R.

No. 188.

[1768.]

**INSTRUCTIONS, PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET, FOR GUY CARLETON,**AS CAPTAIN GENERAL AND GOVERNOR IN CHIEF OF THE PROVINCE OF
QUEBEC AND THE TERRITORIES DEPENDENT THEREUPON.

C.O. 43. VOL. 1, pp. 402-516.

INSTRUCTIONS to Our Trusty and Well beloved Guy
Carleton Esquire, Our Captain General and Governor
in Chief in and over Our Province of Quebec in
America and of all Our Territories Dependent
thereupon Given

First—With these Instructions You will receive Our Commission under Our Great Seal of Great Britain, constituting You Our Captain General and Governor in Chief in and Over Our Province of Quebec in America, bounded on the Labrador Coast by the River S^t John, and from thence by a Line drawn from the Head of that River through the lake S^t John to the South End of the Lake Nipisson; from whence the said Line crossing the River S^t Lawrence and the Lake Champlain in forty five Degrees of North Latitude passes along the Highlands which divide the Rivers that Empty themselves into the said River S^t Lawrence from those which fall into the Sea, and also along the North Coast of the Bay des Chaleurs and the Coast of the Gulph of S^t Lawrence to Cape Rosieres and from thence crossing the Mouth of the River S^t Lawrence by the West End of the Island of Anticosti, terminates at the aforesaid River S^t John. You are therefore to take upon you the Execution of the Office and Trust We have reposed in You, and the Administration of Government, and to do and Execute all things in due manner that shall belong to Your Command according to the several powers and Authorities of Our said Commission under Our Great Seal of Great Britain and these Our Instructions to You, or according to such further powers and Instruction as shall at any time hereafter be Granted or appointed You under Our Signet and Sign Manual or by Our Orders in Our Privy Council, and you are to call together at Quebec, which We do appoint to be the place of Your residence, and the principal Seat of Government the following persons whom We hereby appoint to be Our Council for Our said Province of Quebec, viz^t. William Hey, Our Chief Justice of Our said Province, Hector Theophilus

Esquires—It is nevertheless Our Will and Pleasure, that Our Chief Justice or Chief Justice for the time being shall not be capable of taking upon him the Administration of the Government upon your Death or Absence, or the Death or Absence of the Commander in Chief for our said province for the time being—

2. And You are with all due and usual Solemnity to cause Our said Commission to be read and published at the said meeting of Our Council which being done, You shall then take and also administer to each of the members of Our said Council, the Oaths mentioned in an Act passed in the first year of the Reign of His Majesty King George the first, intituled "An Act for the further Security of His Majestys person and Government, and the Succession of the Crown, in the Heirs of the late Princess Sophia being Protestants, and for extinguishing the hopes of the pretended Prince of Wales and his Open and secret abettors," And in an Act passed in the sixth Year of Our Reign, intituled, "An Act for altering the Oath of Abjuration and the Assurance, and for amending so much of An Act of the seventh year of Her late Majesty Queen Anne, Intituled, An Act for the Improvement of the Union of the two Kingdoms, as, after the time therein Limited requires the Delivery of certain Lists and Copies therein mentioned to persons Indicted of High Treason or Misprison of Treason;" as also make and Subscribe, and cause them to make and Subscribe, the Declaration mentioned in an Act of Parliament made in the 25th year of the Reign of King Charles the second intituled, "An Act for preventing Dangers which may happen from Popish Recusants"—And You and every one of them are likewise to take an Oath for the due Execution of Your and their places and Trusts, with regard to Your and their equal and impartial Administration of Justice; And You are also to take the Oath required by An Act passed in the seventh and eight Years of the Reign of King William the third to be taken by Governors of Plantations to do their Utmost that the Laws relating to the plantations be observed.

3. And that We may be always Informed of the Names and Characters of persons fit to Supply the Vacancies which shall happen in Our said Council, You are to transmit to Us by One of Our principal Secretaries of State the Names and Characters of three persons Inhabitants of Our said province who You shall esteem the best Qualified for that Trust and You are also to Transmit a Duplicate of the said Account to Our Commissioners for Trade and plantations for their Information.

4. And if it shall at any time happen, that by the Death,

Departure out of Our said province, suspension of any of Our said Councillors, or otherwise, there shall be a Vacancy in Our said Council, Our Will and Pleasure is that You signify the same to Us, by One of Our principal Secretaries of State, by the first Opportunity, that We may under Our Sign Manual, constitute and appoint others in their Stead; to which end You are whenever such Vacancy happens, to transmit unto Us by One of Our principal Secretaries

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of State, the Names of three or more persons, Inhabitants of Our said province whom you shall esteem best Qualified, for such Trust, and you are also to Transmit duplicates of such Accounts to Our Commissioners for Trade and plantations for their Information.

5. But that Our Affairs may not Suffer for want of a due number of Councillors; if ever it shall happen that there be less than Seven residing in Our said province, We do hereby give and grant unto You the said Guy Carleton full power and Authority to chuse as many persons out of the principal Inhabitants of our said province, as will make up the full number of the Council to be seven and no more, which persons so chosen and appointed by You, shall be to all intents and purposes, Councillors in Our said Province 'till either they shall be confirmed by Us, or, by the Nomination of others by Us under our sign Manual and Signet, Our said Council shall have seven, or more persons in it.

6. And it is Our Will and Pleasure, that You do, and You are hereby Authorized and Impowered to Suspend and amove any of the Members of Our said Council, from Sitting, Voting, and Assisting therein, if You shall find just Cause for so doing, and to appoint others in their Stead until our pleasure shall be known, It is nevertheless Our Will and Pleasure, that You do not Suspend or Remove any of the Members of Our Council when they shall have been Confirmed by Us as aforesaid, without good and sufficient cause, nor without the Consent of the Majority of the said Council, signified in Council, after due Examination of the Charge against such Councillor, and his Answer thereunto; and in Case of suspension of any of them, You are to cause Your Reasons for so doing, together with the Charges and proofs against such person, and his Answer thereto be duly entered upon the Council-Books, And forthwith to transmit Copies thereof to Us, by one of Our principal Secretaries of State, and also Duplicates to Our Commissions for Trade and Plantations for their Information nevertheless if it should happen that You should have Reasons for Suspending any of the said Persons, not fit to be communicated to the Council, You may in that Case suspend such person without the Consent of Our said Council; but You are thereupon immediately to send Us by One of Our Principal Secretaries of State An Account of Your proceedings therein;

together with Your Reasons at large for such suspension as also your Reasons at large for not communicating the same to the Council and Duplicates thereof by the first opportunity and you are also to transmit a Duplicate of such Account to Our Commissioners for Trade and plantations for their Information.

7. Whereas We are Sensible that Effectual Care ought to be taken to oblige the Members of Our Council to a due attendance therein, in order to prevent the many Inconveniences that happen for the want of a Quorum of the Council to transact business as occasion may require; It is Our Will and Pleasure that if any of the Members of Our said Council shall hereafter absent themselves from the said Province and Continue absent above the

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Space of Six Months together, without leave from you, or from Our Commander in Chief of Our said Province for the time begin first obtained, under your or his Hand and Seal, or shall remain absent for the Space of One Year without Our Leave given them under Our Royal Signet and Sign Manual their place or places in the said Council shall immediately thereupon become Void: and that if any of the members of Our said Council, then residing in the province under Your government shall hereafter wilfully absent themselves when duly summoned, without a just and lawful Cause and shall persist therein after admonition, you suspend the said Councillors so absenting themselves 'till Our further pleasure be known giving Us timely Notice thereof; And we do hereby Will and Require You that this Our Royal Pleasure be Signified to the several Members of Our Council aforesaid, and entered in the Council Books of the province under Your Government as a Standing rule—

8. You are forthwith to communicate such and so many of these Our Instructions to Our said Council, wherein their Advice and Consent are mentioned to be requisite, as likewise all such others, from time to time, as You shall find Convenient for Our Service to be Imparted to them—

9. You are to permit the Members of Our said Council to have and Enjoy freedom of Debate and Vote in all Affairs of publick concern that may be debated in Council—

10. And Whereas it is directed by Our Commission to You under Our Great Seal, that as soon as the Situation and Circumstances of Our said Province will admit thereof You shall with the Advice of Our Council, Summon and call a general Assembly of the Freeholders of Our said province, You are therefore as soon as the more pressing Affairs of Government will allow, to give all possible attention to the carrying this Important Object into Execution, but as it may be Impracticable for the present to form such an Establishment

You are in the mean time to make such Rules and Regulations by the Advice of our said Council as shall appear to be necessary for the peace Order and good government of our said province; taking Care that nothing be done or passed that shall any way tend to affect the Life Limb or Liberty of the Subject, or to the Imposing any Duties or Taxes; and that all such rules and Regulations be transmitted to Us by the first Opportunity after they are passed and made for our Approbation or Disallowance. And it is Our Will and Pleasure that when An Assembly shall have been Summoned and met in such manner as you in Your discretion shall think most proper, or as shall be hereafter directed and appointed, the following Regulations be carefully observed in the framing and passing all such Laws Statutes and Ordinances, as are to be passed by You with the Advice and Consent of Our said Council and Assembly, Viz^t That the Stile of Enacting the said Laws, Statutes and Ordinances be by the Governor, Council and Assembly and no other—That each different matter be provided for by a different Law without including in one and

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the same Act, such things as have no proper relation to each other;—That no Clause be inserted in any Act or Ordinance which shall be foreign to what the title of it Imports and that no perpetual Clause be part of any temporary Law;—That no Law or Ordinance whatever be suspended, altered Continued, revived or repealed by general Words; but that the title and Date of such Law or Ordinance be particularly mentioned in the Enacting part; That no Law or Ordinance respecting private property be passed without a Clause suspending it's Execution, until Our Royal Will and pleasure is known, nor without a Saving of the Right of Us, Our Heirs and Successors, and of all Bodies Politick and Corporate, and of all other persons except such as are mentioned in the said Law or Ordinance, and those claiming by, from, or under them, and before such Law or Ordinance is passed, proof must be made before You in Council and Entered in the Council-Books, that publick Notification was made of the partys Intention to apply for such Act in the several parish Churches, where the Lands in Question lye for three Sundays at least successively before any such Law or Ordinance shall be proposed; and you are to transmit and Annex to the said Law or Ordinance a Certificate under your Hand that the same passed through all the Forms above mentioned; That in all Laws or Ordinances for the Levying Money, or Imposing Fines, forfeitures or penalties, express mention be made, 20 that the same is granted or reserved to Us Our Heirs and Successors for the publick Uses of the said province, and the Support of the Government thereof, as by the said Law or Ordinance shall be directed; and that a clause be inserted, declaring that the Money arising by the Operation of the said Law or Ordinance shall be accounted for unto Us in this Kingdom, and to Our Commissioners of the Treasury or Our High Treasurer for the Time being and

audited by Our Auditor General of our Plantations or his Deputy—That all such Laws, Statutes and Ordinances be transmitted by You within three Months after their passing or sooner if opportunity offers, to Us, by One of Our principal Secretaries of State and Duplicates thereof to Our Commissioners for Trade and plantations for their Information—That they be fairly abstracted in the Margents and accompanied with very full and particular observations upon each of them (that is to say) whether the same is Introductive of a new Law, Declaratory of a former Law, or does repeal a Law then in being And you are also to transmit in the fullest manner the Reasons and Occasion for Enacting such Laws or Ordinances together with fair Copies of the Journals of the proceedings of the Council and Assembly which You are to require from the Clerks of the said Council and Assembly—

11. And to the End that nothing may be passed or done to the prejudice of the true Interests of this Our Kingdom the Just Rights of Us Our Heirs and Successors or the property of Our Subjects It is Our Express Will and pleasure, That no Law whatsoever which shall in any wise tend to Affect the Commerce or Shipping of this Kingdom, or which shall any ways relate to the Rights and prerogative of Our Crown or the property of Our Subjects or which shall be of an Unusual or Extraordinary Nature be finally ratified

or Assented to by You, until You shall have first transmitted unto Us by one of Our principal Secretaries of State, and to Our Commissioners for Trade and plantations for their Information a Draught of such Law, and shall have received Our Directions thereupon Unless You take Care that a Clause be Inserted therein, suspending and Deferring the Execution thereof until Our pleasure is known concerning the same.—

12. And Whereas Laws have formerly been Enacted in several of Our Plantations in America for so short a time that Our Royal Assent or Refusal thereof could not be had before the time for which such Laws were Enacted did expire, You shall not give Your Assent to any Law that shall be Enacted for a less time than two Years, except in Cases of imminent Necessity, or imminent temporary expediency and You shall not re-enact any Law to which Our Assent shall have been once refused, without Express leave for that purpose first obtained from Us upon a full representation by You to be made to Us by One of Our principal Secretaries, and to Our Commissioners for Trade and Plantations for their Information, of the Reasons and necessity for passing such Law; nor give Your Assent to any Law for repealing any other Law, which shall have passed in Your Government, and shall have received Our Royal Approbation unless You take Care that there be a Clause inserted therein Suspending and Deferring the Execution thereof until Our pleasure shall be known concerning the same.—

13. And We do particularly require you to take care, that fair Books of Accounts of all Receipts and Payments of all publick Money be duly kept, and the truth thereof attested upon Oath and that all such Accounts be audited and attested by Our Auditor General of our plantations or his Deputy, who is to Transmit Copies thereof to Our Commissioners of Our Treasury, or to Our High Treasurer for the time being And that You do every half Year or oftener, send another Copy thereof, Attested by Yourself to Our Commissioners for Trade and plantations, and duplicates thereof by the next Conveyance; in which Books shall be specified, every particular Sum raised or Disposed of together with the Names of the persons to whom any payment shall be made, to the End We may be satisfied of the Right and due application of the Revenue of Our said province with the probability of the Increase or diminution of it under every head and Article thereof

14. And Whereas the Members of several Assemblies in the plantations have frequently Assumed to themselves privileges no ways belonging to them especially of being protected from Suits at Law during the Term they remain of the Assembly to the great prejudice of their Creditors and the Obstruction of Justice; and some Assemblies have presumed to adjourn themselves at pleasure without leave from Our Governor first

obtained; and others have taken upon themselves the sole framing of Money Bills, refusing to let the Council Alter or amend the same; all which practices are very detrimental to Our Prerogative. If therefore you find that the Members of Our Province of Quebec Insist upon any of the said Privileges, You

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are to signify to them that it is Our Express Will and Pleasure, that You do not allow any protection to any member of the Council or Assembly further than in their persons, and that only during the sitting of the Assembly, and that You do not allow them to adjourn themselves otherwise than de diem, except Sundays and Holidays, without Leave from you or the Commander in Chief for the time being first obtained: It is also Our further pleasure that the Council have the like power of framing Money Bills as the Assembly.—

15. And Whereas by Our aforesaid Commission under Our Great Seal of Great Britain, You are authorized and impowered with the Advice and Consent of Our Council to Constitute and appoint Courts of Judicature and Justice; It is therefore Our Will and Pleasure, that You do as soon as possible apply Your attention to these great and Important Objects and that in forming the necessary Establishments for this purpose, You do consider what has been Established in this respect in Our other Colonies in America more particularly in Our Colony of Nova Scotia—

16. Our Will and Pleasure is, that You or the Commander in Chief for the time being do in all civil Causes, on application being made to You or the Commander in Chief for the time being for that purpose, permit and allow appeals from any of the Courts of Common Law in Our said Province until You or the Commander in Chief, and the Council of the said Province, and You are for that purpose to Issue a Writ in the manner which has been usually accustomed, returnable before Yourself and the Council of the said province, who are to proceed to hear and Determine such Appeal, wherein such of the said Council, as shall be at that Time Judges of the Court from whence such appeal shall be so made to You Our Captain General, or to the Commander in Chief for the time being and to Our said Council as aforesaid shall not be admitted to Vote upon the said Appeal, but they may nevertheless be present at the hearing thereof, to give the Reason of the Judgment given by them, in the Causes wherein such Appeal shall be made provided nevertheless that in all such appeals the Sum or Value appealed for do exceed the sum of three hundred pounds Sterling, and that Security be first duly given by the Appellant to Answer such Charges as shall be awarded in Case the first Sentence be affirmed; and if either party shall not rest satisfied with the Judgment of You or the Commander in Chief for the time being and Council as aforesaid, Our Will and Pleasure is that they may then appeal unto Us in Our privy Council;

Provided the Sum or Value so appealed for unto Us do exceed five hundred pounds Sterling, and that such appeal be made within fourteen Days after Sentence and good security given by the Appellant, that he will Effectually prosecute the same and answer the Condemnation as also pay such Costs and Damages as shall be awarded by Us in Case the sentence of You or the Commander in Chief for the time being and Council be affirmed; provided nevertheless where the matter in Question relates to the taking or Demanding any Duty payable to Us or to any Fee of Office, or annual Rents or other such like matter or thing where the Rights in future may be bound in all such Cases

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You are to admit An Appeal to Us in Our privy Council, though the Immediate Sum or Value appealed for be of less Value; And it is Our further Will and Pleasure, that in all places where, by Your Instructions you are to admit Appeals unto Us in Our privy Council, execution be suspended until the final Determination of such Appeal, unless good and sufficient Security be given by the Appellee to make ample Restitution of all that the Appellants shall have lost by means of such Decree or Judgment in Case upon the Determination of such Appeal such Decree or Judgment should be reversed and restitution awarded to the Appellant.

17. You are also to admit Appeals unto Us in Our privy Council in all Cases of Fines Imposed for Misdemeanours provided the Fines so Imposed, Amount to or Exceed One hundred pounds Sterling; the Appellant first giving good Security, that he will Effectually prosecute the same, and answer the Condemnation If the Sentence by which such fine was Imposed in Quebec shall be Confirmed.

18. You are, with the Advice and Consent of Our Council in the Province under Your government to take Especial care to regulate all Sallaries and fees belonging to places, or paid upon Emergencies, that they be within the bounds of Moderation, and that no Exaction be made on any Occasion whatsoever; as also that Tables of all Fees be publickly hung up in all places where such Fees are to be paid and You are to transmit Copies of all such Tables of Fees unto Us by One of Our principal Secretaries of State and duplicates thereof to Our Commissioners for Trade and Plantations for their Information

19. It is Our Express Will and Pleasure that You do by the first Opportunity and with all convenient Speed transmit unto Us by One of Our principal Secretaries of State and duplicates thereof to Our Commissioners for trade and plantation for their Information Authentick Copies of all Acts Orders Grants Commissions or other powers by Virtue of which any Courts Offices, Jurisdictions, pleas, Authorities, Fees and privileges,

have been Settled or Established, for our Confirmation or Disallowance; and in case all or any of them shall at any time or times be disallowed and not approved then such and so many as shall be disallowed and not approved, and so Signified by Us shall cease determine and be no longer continued or put in practice.—

20. You shall not appoint any person to be a judge or Justice of the peace, without the advice and Consent of the Majority of the Members of Our Council, present in, nor shall You Execute yourself or by Deputy and of the said Offices; and it is Our further Will and Pleasure that all Commissions to be Granted by You to any person or persons to be Judges or Justice of the peace, or other necessary officers, be granted during pleasure only—

21. You shall not displace any of the Judges Justices of the peace or other Officers or Ministers without good and sufficient Cause, which You shall Signify in the fullest and most Distinct manner to Us by one of our principal Secretaries of State and to Our Commissioners for Trade and Plantation for their Information—

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22. And Whereas frequent Complaints have heretofore been made of Great Delays and undue proceedings in the Courts of Justice in several of Our plantations, whereby many of Our Good Subjects have very much Suffered, And it being of the greatest Importance to Our Service and to the Welfare of Our Plantations that Justice be every where speedily and Duly administered, and that all Disorders Delays and other undue practices, in the administration thereof be Effectually prevented; We do particularly require You to take Especial Care, that in all Courts, where you are Authorized to preside, Justice be Impartially administered, and that in all other Courts, established within Our said Province all Judges and other persons therein concerned do likewise perform their several Duties without any Delay or partiality.

23. You are to take Care, that all Writs be issued in Our Name throughout the Province under Your Government.

24. Whereas there are several Offices in Our plantations Granted under the Great Seal of Great Britain, and Our Service may be very much prejudiced by reason of the absence of Patentees, and by their appointing, Deputies not fit to officiate in their Stead, You are therefore to inspect such of the said Offices as are in the province under Your Government, and to Enquire into the Capacity and behaviour of the persons exercising them, and to report thereupon to Us by One of Our principal Secretaries of State and to Our Commissioners for Trade and Plantations what You think fit to be done or Altered in Relation thereunto; and You are upon the misbehaviour of

any of the said Patentees or their Deputies to Suspend them from the Execution of their Office 'till You shall have represented the whole matter unto Us as aforesaid and received our Directions therein And in Case of the Death of any such Deputy, It is Our Express Will and pleasure, that you take Care, that the person appointed to Execute the place until the patentee can be Informed thereof and appoint another Deputy do give sufficient Security to the patentee, or, in Case of Suspension to the person Suspended to be answerable to him for the profits accruing during such Interval by death or during Suspension, in Case We shall think fit to restore the person Suspended to his place again—It is nevertheless Our Will and pleasure that the person Executing the place during such Interval, by Death or Suspension shall for his Encouragement receive the same profits as the person suspended or dead did receive; And it is Our further Will and Pleasure, that, in Case of a Suspension of a patentee, the person appointed by You to Execute the office during such Suspension shall receive a Moiety of the profits which would otherwise become due to such patentee, giving Security to such patentee to be answerable to him for the other Moiety, in case We shall think fit to restore him to his Office again, And it is our further Will and pleasure that You do countenance and give all due Encouragement to all Our Patent Officers in the Enjoyment of their legal and Accustomed Fees, Rights privileges and Emoluments according to the true Intent and meaning of their patents—

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25. You shall not by Colour of any power or Authority hereby or other wise Granted or mentioned to be Granted unto You, take upon You to give, grant or Dispose of any office or place within Our said Province which now is or shall be Granted under the Great Seal of this Kingdom, or to which any person is or shall be appointed by Warrant under Our Signet and Sign Manual, any further than that You may, upon the Vacancy of any such Office or place, or upon the Suspension of any such Officer by you, as aforesaid put in any fit person to Officiate in the Interval 'till You shall have represented the matter unto Us by one of our principal Secretaries of State; and to Our Commissioners for Trade and Plantations, for their Information as aforesaid, which You are to do by the first Opportunity, and 'till the said Office or place be disposed of by Us Our Heirs or Successors under the Great Seal of this Kingdom, or until some person shall be appointed thereto by Warrant under Our Signet and Sign Manual or Our further Directions be given therein—

26. And Whereas several Complaints have been made by the Officers of Our Customs in Our plantations in America, that they have frequently been obliged to serve as Jurors, and personally to Appear in Arms whenever the Militia is drawn Out and thereby are much hindred in the Execution of their

Employments, Out Will and Pleasure is that You take Effectual Care and give the necessary Directions that the several officers of Our Customs be Excused and exempted from serving on any Juries, or personally appearing in Arms in the Militia, unless in Cases of absolute Necessity or serving any parochial Offices which may hinder them in the Execution of their Duty—

27. And Whereas We have Stipulated by the late Definitive Treaty of Peace concluded at Paris on the 10th Day of February 1763 to Grant the Liberty of the Catholick Religion to the Inhabitants of Canada, and that We will consequently give the most precise, and most Effectual Orders, that Our New Roman Catholick Subjects in that Province may profess the Worship of their Religion according to the Rites of the Romish Church, as far as the Laws of Great Britain permit; It is therefore Our Will and Pleasure that You do in all things regarding the said Inhabitants Conform with Great Exactness to the Stipulations of the said Treaty in this respect—

28. You are as soon as possible to Summon the Inhabitants to meet together at such time or times, place or places, as You shall find Convenient in Order to take the Oath of Allegiance, and make and Subscribe the Declaration of Abjuration mentioned in the aforesaid Act passed in the first Year of the Reign of King George the 1st for the further Security of His Majestys person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for Extinguishing the Hopes of the pretended Prince of Wales and his Open and Secret Abettors, and in the aforesaid Act passed in the Sixth Year of Our Reign for Altering the Oath of Abjuration and the Assurance and for amending so much of An Act of the seventh Year of her late Majesty Queen Anne Intituled An Act

for the Improvement of the Union of the two Kingdoms as after the time therein Limited requires the Delivery of certain Lists and Copies therein mentioned to persons Indicted of High Treason, or Misprison of Treason; which Oath shall be Administered to them by such person or persons as You shall Commissionate for that purpose, and in Case any of the said French Inhabitants shall refuse to take the said Oath and make and Subscribe the Declaration of Abjuration as aforesaid, You are to cause them forthwith to Depart out of Our said Government—

29. And it is Our further Will and Pleasure that all such Inhabitants professing the Religion of the Romish Church, do at all meetings, or at such other time or times You shall think proper and in the manner you shall think least alarming and Inconvenient to the said Inhabitants Deliver in upon Oath an Exact Account of all Arms and Ammunition of every sort in their Actual possession, and so from time to time, of what they shall receive into their Possession as aforesaid—

30. You are as soon as possible to Transmit to Us by one of Our principal Secretaries of State, and to Our Commissioners for Trade and plantations for their Information, an Exact and particular Account of the Nature and Constitution of the several Religious Communities of the Romish Church, their Rights Claims privileges and property, and also the Number Situation and Revenues of the several Churches heretofore established in Our said province together with the Number of Priests or Curates Officiating in such Churches—

31. You are not to Admit of any Ecclesiastical Jurisdiction of the See of Rome, or any other foreign Ecclesiastical Jurisdiction whatever in the province under your Government—

32. And to the End that the Church of England may be Established both in principles and practice, and that the said Inhabitants may by Degrees be Induced to Embrace the Protestant Religion, and that their Children be brought up in the principles of it We do hereby declare it to be Our Intention, when the said Province shall have been accurately Surveyed and Divided in Townships, Districts precincts or parishes in such manner as shall be herein after directed, all possible Encouragement shall be given to the Erecting protestant Schools in the said Districts Townships and precincts by Settling appointing and Allotting proper Quantities of Land for that purpose; and also for a Glebe and maintenance for a Protestant Minister and protestant School Masters; and You are to Consider and to Report to Us by One of our principal Secretaries of State and to Our Commissioners for Trade and Plantations for their Information, by what other means the Protestant Religion may be promoted, established, and Encouraged in Our said province under Your Government.

33. And You are to take especial Care that God Almighty be devoutly and duly served throughout Your Government; the Book of Common Prayer

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as by Law Established read each Sunday and Holiday; and the blessed Sacrament administered according to the Rites of the Church of England—

34. You are not to prefer any Protestant Minister to any Ecclesiastical Benefice in the Province under your Government without a Certificate from the Right Reverend Father in God the Lord Bishop of London, of his being Conformable to the Doctrine and Discipline of the Church of England, and of good Life and Conversation—And if any person hereafter preferred to a Benefice shall appear to You to give Scandal either by his Doctrine and manners You are to use the best means for his Removal.—

35. You are to give Orders forthwith that every Orthodox Minister within Your Government be one of the Vestry in his respective parish, and that no Vestry be held without him, except in Case of Sickness or after Notice of a Vestry Summoned he omit to come—

36. And to the End that the Ecclesiastical Jurisdiction of the Lord Bishop of London may take place in Our Province under your Government as far as conveniently may be, We do think fit that You give all Countenance and Encouragement to the Exercise of the same, excepting only the collating to Benefices, granting Licences for Marriage and probates of Wills which We have reserved to You our Governor and to the Commander in Chief of Our said province for the time being—

37. And We do further Direct that no Schoolmaster who shall arrive in Our said Province from this Kingdom, be henceforward permitted to keep School, without the Licence of the said Lord Bishop of London, and that no other person now there or that shall come from other parts shall be admitted to keep School in Your Government without Your Licence first obtained.

38. And You are to take Especial Care, that a Table of Marriages, established by the Cannons of the Church of England be hung up in all places of Publick Worship according to the Rites of the Church of England.

39. And it is Our further Will and Pleasure, that in Order to Suppress as much as in You lies, every Species of Vice and Immorality, You forthwith do cause all Laws already made against Blasphemy, Prophaneness, Adultry, Fornication, Polygamy, Incest, profanation of the Lords Day, Swearing and Drunkenness to be rigorously put in Execution in every part of

Your Government, and that You take due care for the punishment of these, and every other Vice and Immorality by presentment upon Oath, to be made to the Temporal Courts by the Church Wardens of the several parishes, at proper times of the Year to be appointed for that Purpose; and for the further Discouragement of Vice, and Encouragement of Virtue and good living (that by such Examples the Infidels may be Invited and persuaded to Embrace the Christian Religion,) You are not to admit any persons to publick Trusts and Employments in the Province under Your Government whose ill Fame and Conversation may Occasion Scandal—

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40. And it is Our further Will and Pleasure, that all and every the French Inhabitants in Our said Province who are now possessed of Lands within the said Province in Virtue of Grants or Concessions made before the Signing of the preliminary Articles of Peace on the 3rd Day of Nov^r, 1762, within such Limited time as You in Your Discretion shall think fit, Register the several Grants or other Deeds, or Titles, by which they hold or Claim such Lands, in the Secretarys Office which said Grants, Deeds or other Titles, shall be Entered at large in the said Office, so that the particular Quantity of Land, it's Scite and Extent, the Conditions upon which it is Granted, either as to Rents, Services, or Cultivation, may appear fully and at length—

41. And in Case it shall Appear, upon a Strict and Accurate Examination of the said Grants and Title Deeds, to be taken in such manner as You shall think proper, that any of the Grantees or Persons claiming Lands under such Grants and Title Deeds, are in Possession of more Land than is contained within such Grants or other Concessions, or that the Terms and Conditions upon which the Lands were Granted have not been complied with agreeable to what is Stipulated in such Grants or Concessions, It is Our Will and Pleasure, that You forthwith represent the same to Us, by One of Our principal Secretaries of State to the End You may receive such Directions thereupon as the nature and circumstances of the Case shall appear to require, and You are to send a Duplicate of such Representation to Our Commissioners for Trade and plantations for their Information—

42. And Whereas it is necessary in Order to the advantageous and Effectual Settlement of Our said province, that the true State of it should be fully known; You are therefore as soon as conveniently may be, to cause an Accurate Survey to be made of the said Province, by such Able and Skilful person as is or shall be appointed for that Service, who is to Report to You in Writing for Your Judgment in the measures which You may in General pursue for the making of Settlements, not only the Nature and Quality of the Soil and Climate, the Rivers Bays and Harbours, and every other

Circumstance attending the Natural State of it; but also his opinion in what manner it may be most conveniently laid out into Counties, and to annex to his Report a Map of such Survey, with the several Divisions proposed marked upon it, But as the making such Survey, with the several Divisions proposed will be a Work of Great Length, You are in the mean time to carry on Settlements upon that plan, which shall appear to you to be most Expedient from the best Information You can collect—

43. And Whereas it has been found by Experience, that the Settling Planters in Townships hath very much redounded to their Advantage, not only with respect to the Assistance they have been able to Afford each other in their Civil Concerns, but likewise with regard to the Security they have thereby acquired againsy[sic] the Insults and Incursions of neighbouring[sic] Indians or other Enemies; You are therefore to lay out Townships of a Convenient

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Size and Extent in such places as You in Your Discretion shall Judge most proper; And it is Our Will and Pleasure that each Township do consist of about twenty thousand Acres, having as far as may be natural Boundaries, extending up into the Country, and comprehending a necessary part of the River St Lawrence where it can be conveniently had—

44. You are also to cause a proper place in the most convenient part of each Township to be marked out for building a Fort sufficient to contain such a Number of Families as You shall judge proper to Settle there, with Town and Pasture Lots convenient to each Tenement, taking Care that the said Town be laid out upon, or as near as conveniently may be to some Navigable River or the Sea Coast, and You are also to reserve to Us proper Quantities of Land in each Township for the following purposes, Viz^t For Erecting Fortifications and Barracks where necessary or for other Military or Naval Services, and more particularly for the Growth and Produce of Naval Timber, if there are any Wood Lands fit for that purpose
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45. And it is Our further Will and Pleasure that a particular Spot in or as near each Town as possible be set apart for the Building a Church, and four hundred Acres adjacent thereto, allotted for the Maintenance of a Minister and two hundred Acres for a Schoolmaster.

46. And You are to give Strict Orders to the Surveyors whom You shall Employ to mark out the said Townships and Towns, to make returns to you of their Surveys as soon as possible with a particular Description of each Township, and the Nature of the Soil within the same.

47. And You are to oblige all such persons, as shall be appointed to be Surveyors of the said Lands in each Township, to take an Oath for the due performance of their Offices and for obliging them to make exact Surveys of all Lands required to be set out—

48. And Whereas nothing can more effectually tend to the Speedy settling our said Colony, the Security of the property of Our Subjects and the advancement of Our Revenue than the disposing of such Lands as are our property upon Reasonable Terms, and the establishing a regular and proper method of proceeding with respect to the passing of Grants of such Land; It is therefore Our Will and Pleasure that all and every person and persons who shall apply to you for any Grant or Grants of Land shall previous to their obtaining the same make it appear before You in Council, that they are in a Condition to Cultivate and Improve the same by setting thereon in proportion to the Quantity of Acres desired, a sufficient Number of white persons and Negroes; and in Case You shall upon a Consideration of the Circumstances of the person or persons applying for such Grants, think it adviseable to pass the same, in such Case You are to cause a Warrant to be drawn up, directed to the Surveyor General or other proper Officers, empowering him or them to make a faithful and Exact Survey of the Lands so petitioned for, and to return the said Warrant within six

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Months at furthest from the Date thereof, with a plot or Description of the Lands so Surveyed thereunto annexed, provided that You do take Care, that before any such Warrant is Issued as aforesaid, a Docquet thereof be entered in the Auditors and Registers Office, and when the Warrant shall be returned by the said Surveyor or other proper Officer, the Grant shall be made out in due form, and the Terms and Conditions required by these Our Instructions be particularly and Expressly mentioned in the respective Grants: And it is Our Will and pleasure, that the said Grants shall be registered within Six Months from the Date thereof in the Registers Office there, and Docquet thereof be also entered in Our Auditors Office there, in case such Establishment shall take place in Our said Province, or that in Default thereof such Grant shall be Void, Copies of all which Entries shall be returned regularly by the proper Officer to our Commission of Our Treasury and to Our Commissioners for Trade and plantations within six Months from Date thereof.

49. And Whereas great Inconveniences have arisen in many of Our Colonys in America from the granting excessive Quantities of Land to particular persons who have never cultivated or Settled it, and have thereby Prevented others more Industrious from Improving the same; in Order therefore to prevent the like Inconveniences for the future, You are to

take especial Care, that in all Grants to be made by You, by and with the Advice and Consent of Our Council, to persons applying for the same, the Quantity be in proportion to their Ability to Cultivate: And You are hereby directed to observe the following Directions and Regulations in all Grants to be made by You Viz:

That One hundred acres of Land be granted to every person being Master or Mistress of a Family for himself or herself and fifty Acres for every White or Black Man Woman or Child of which such persons Family shall consist, at the Actual time of making the Grant, and in Case any Person applying to You for Grants of. Land shall be desirous of taking up a larger Quantity than the Actual Number of Persons in his or her Family would Intitle such persons to take up, It is Our Will and Pleasure and You are hereby allowed and permitted to grant unto every such person or persons such further Quantity of Land as they may desire, not exceeding one thousand Acres over and above what they are entitled to, by the number of persons in their respective Families, provided it shall appear to you that they are in a Condition and Intention to Cultivate the same; and provided also that they do pay to the Receiver of Our Quit rents or to such other Officer as shall be appointed to receive the same the Sum of five Shillings only for every 40 fifty Acres so Granted on the Day of the Date of the Grant.—

That all Grantees be Subject to the payment of two Shillings Sterling for every hundred Acres to commence at the expiration of two Years from the Date of such Grant and to be paid Yearly and every Year, or in Default of such payment the Grant to be void—

That every Grantee upon giving proof that he or she has fulfilled the

Terms and Conditions of his or her Grant, shall be Entitled to another Grant in the proportion and upon the Conditions above mentioned.—

That for every fifty Acres of Land accounted plantable each patentee shall be Obligated within three Years after the Date of his patent to clear and Work three Acres at the least in that part of his Tract which lie shall Judge most Convenient and Advantageous, or else to clear and drain three Acres of Swampy or sunken Grounds or drain three Acres of Marsh if any such be within the Bounds of His Grant—

That for every fifty Acres of Land accounted Barren every patentee shall be obliged to put and keep on his Land within three years after the Date of his Grant three neat Cattle which number shall be obliged to continue on his Land until three Acres for every fifty be fully cleared and Improved

That if any person shall take up a tract of Land wherein there shall be no part fit for present Cultivation without manuring and improving the same every such Grantee shall be obliged within three years from the Date of his Grant, to Erect on some part of his Land one Good Dwelling House to contain at least twenty feet in length and Sixteen Feet in Breadth and also to put on his Land the like Number of three neat Cattle for every fifty Acres—

That if any person who shall take up any Stony or Rocky Grounds not for planting or pasture shall, within three years after the passing of his Grant begin to Employ thereon, and so continue to work for three years then next ensuing in Digging any Stone Quarry or other Mine one good able Hand for every hundred Acres of such Tract, it shall be accounted a sufficient Cultivation and Improvement.

That every three Acres which shall be Cleared and Worked as aforesaid, and every three Acres which shall be Cleared and Drained as aforesaid, shall be accounted a sufficient Seating, plantation, Cultivation and Improvement to save for ever from Forfeiture fifty Acres of Land in any part of the Tract contained within the same patent; and the patentee shall be at Liberty to withdraw his Stock, or to forbear working in any Quarry or mine, in proportion to such Cultivation and Improvement, as shall be made upon the Swamps, sunken Grounds and Marshes which shall be Included in the same patent—

That when any person who shall hereafter take up and patent any Lands, shall have seated planted and Cultivated, or Improved the said Land or any part of it according to the Directions and Conditions above mentioned such patentee may make proof of such Seating planting Cultivation and Improvement in the General Court, or in the Court of the County, District or precinct where such Lands shall lie, and have such proof certified to the Registers Office and there entered with the Record of the said patent, a Copy of which shall be admitted on any Trial to prove the Seating and

planting of such Land.

And Lastly to ascertain the true Quantity of Plantable and Barren Land contained in each Grant hereafter to be made within Our said province You are to take especial Care that in all Surveys hereafter to be made every Surveyor be required and enjoyned to take particular Notice according to the best of his Judgment and understanding how much of the Land so Surveyed is plantable and how much of it is Barren and unfit for Cultivation,

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and accordingly to Insert in the Survey and plot to him to be returned into the Registers Office the true Quantity of each kind of Land.

50. And Whereas it hath been represented to Us that the Governors of several of Our Colonies in America have Granted Lands away close to the Forts belonging to Us by which means the Garrisons of such Forts have been obliged to pay the proprietors of those Lands extravagant prices for Wood cut for a necessary supply of Fuel, and thereby a great and Unreasonable Expense has been brought upon the Military Contingencies It is Our Express Will and Pleasure that You do take Especial Care, that in all Warrants for Surveying of Lands adjacent or Contiguous to a Fort or Fortification, whether such Warrant be Granted upon an Original Petition to you in Council, or upon Our Order in Our privy Council there be an Express Direction to the Surveyor that he do reserve to Us Our Heirs and Successors for the Use of the Fort, near to which the Lands shall lye such a part of the Land petitioned for (being Woodland) and in such a situation as the Commander in Chief of the said Fort (with whom he is required to Consult and Advise in all such Cases) shall Judge Convenient and sufficient for a permanent and Certain Supply of Fuel for such a Garrison as the said Fort may be able to Contain. And it is Our further pleasure, that a regular plot of such reserved Land, describing the Bounds, expressing the Quantity of Acres, and properly signed and attested by such Surveyor, be delivered to the Commanding Officer of each Fort, to be there publickly hung up and a Duplicate thereof also Recorded in the Secretary's Office or other proper Office of Record in Our province under Your Government; and as we judge the due Execution of this Our Order to be essential to Our Service, You are hereby required to take Care, that the Regulations above prescribed be duly entered upon the Council Books of Our said Province, as a Standing Order to all persons, who may be Intrusted with the powers to which they referr—

51. And it is Our further Will and Pleasure that in all Grants of Lands to be made by You as aforesaid, regard be had to the profitable and unprofitable Acres so that each Grantee may have a proportionable Number of One Sort and the other; as likewise that the Breadth of each Tract of Land to be hereafter

Granted be one third of the Length of such Tract, and that the Length of each Tract do not Extend along the Banks of any River but into the Main Land that thereby the said Grantees may have each a Convenient Share of what accommodation the said River may Afford for Navigation or otherwise—

52. And Whereas it hath been represented to Us, that many Parts of the Province under your Government are particularly adapted to the Growth and Culture of Hemp and Flax, It is therefore Our Will and pleasure that in all Surveys of Land for Settlement, the Surveyor be directed to Report whether there is any or what Quantity of Lands contained within such Survey, fit for the production of Hemp and Flax and you are to take particular Care to insert a Clause in every Grant of Land where any part thereof is fit for such

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production, obliging the Grantee annually to sow a proportionable part of his Grant with Hemp or Flax Seed—

53. And Whereas it hath been further represented to Us that a great part of the Country in the Neighbourhood of Lake Champlain, and between that Lake and the River S^t Lawrence, abounds with Woods, producing Trees fit for nesting for Our Royal Navy, and other Useful and necessary Timber for naval Construction; You are therefore expressly directed and required to cause such parts of the said Country or any other within Your Government, that shall appear upon a Survey to abound with such Trees and shall lye convenient for Water Carriage, to be reserved to Us, and to Use Your best Endeavour to prevent any Waste being Committed upon the said Tracts by punishing in due Course of Law any persons who shall Cut Down or Destroy any Trees growing thereon, and You are to Consider and advise with Our Council, whether some Regulation that shall prevent any Saw Mills whatever from being Erected within your Government without a Licence from you or the Commander in Chief of Our said Province for the time being, may not be a means of preventing all Waste and Destruction in such Tracts of Land as shall be reserved to Us for the purposes aforesaid—

54. And whereas it appears from the Representations of Our late Governor of the District of Trois Rivieres that the Iron Works at S^t Maurice in that District are of great Consequence to Our Service; It is therefore Our Will and Pleasure that no part of the Lands, upon which the said Iron Works were carried on, or from which the Ore Used in such Works was procured, which shall appear to be necessary and Convenient for that Establishment, either in respect to a free passage to the River S^t Lawrence, or for producing a necessary Supply of Wood, Corn and Hay, or for pasture for Cattle, be Granted to any private person whatever, and also that as large a District of Land, as conveniently may be adjacent to and lying round the

said Iron Works, over and above what may be necessary for the above purposes be reserved for Our Use to be disposed of in such manner as We shall hereafter direct and appoint—

55. And Whereas it is necessary that all Persons who may be desirous of Settling in Our said province, should be fully Informed of the Terms and Conditions upon which Lands will be granted in Our province, You are therefore as soon as possible to cause a publication to be made by proclamation or otherwise as you in Your Discretion shall think most adviseable of all and every the foregoing Terms, Conditions and Regulations of every kind respecting the Grants of Lands, in which proclamation it may be Expedient to add some short Description of the natural Advantages of the Soil and Climate, and its peculiar Advantages for Trade and Navigation; and you are to take such Steps as You shall think proper for the publishing such proclamation in all the Colonies in North America—

56. And it is Our further Will and Pleasure that all the foregoing Instructions to You as well as any which You may hereafter receive relative to the

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form and method of passing Grants of Lands, and the Terms and Conditions to be annexed to such Grants be entered upon Record with the Grants themselves for the Information and Satisfaction of all parties whatever that may be concerned therein.

57. And it is Our further Will and Pleasure that You do consider of a proper and Effectual Method of Collecting receiving and accounting for Our Quit Rents whereby all Frauds Concealment Irregularity or Neglect therein may be prevented and whereby the Receipt thereof may be Effectually chequed and Controlled, and if it shall appear necessary to pass An Act for the more effectually ascertaining and the more speedily and regularly collecting Our Quit Rents, You are to prepare the Heads of such a Bill, as you shall think most Effectually conduce to the procuring the good Ends proposed, and to Transmit the same to Us by one of Our principal Secretaries of State, for Our further Directions therein, and You are also to Transmit a Duplicate thereof to Our Commissioners for Trade and plantations for their Information

58. And it is Our further Will and Pleasure that the Surveyor General or such other person or persons as you shall think proper to Appoint, do, once in every Year or oftener, as Occasion shall require, inspect the State of all Grants of Land made by you, and make Report thereof to You in Writing, Specifying whether the Conditions therein contained have or have not been complied with, or what Progress has been made

towards fulfilling the same; and you are annually to transmit Copies of such Reports to Us by One of Our principal Secretaries of State, and Duplicates thereof to Our Commissioners. for Trade and Plantations for their Information—

59. And Whereas Our Province of Quebec is in part Inhabited and Possessed by several Nations and Tribes of Indians, with whom it is both necessary and Expedient to cultivate and maintain a Strict Friendship and good Correspondence, so that they may be Induced by Degrees not only to be good Neighbours to Our Subjects, but likewise to be good Subjects to Us, You are therefore as soon as You conveniently can, to appoint a proper person or persons to Assemble and treat with the said Indians, promising and Assuring them of Protection and Friendship on our part and delivering them such presents as shall be sent to You for that purpose—

60. And You are to Inform yourself with the greatest Exactness of the Number, Nature and Disposition of the several Bodies or Tribes of Indians, of the manner of their Lives, and the Rules and Constitutions by which they are governed and regulated, and You are upon no Account to molest. or disturb them in the possession of the said province as they at present Occupy, or Possess, but to Use the best means You can for Conciliating their Affections and Uniting them to Our Government, reporting to Us, bar One of Our principal Secretaries of State, and to Our Commissioners for Trade and Plantations whatever Information You can collect with respect to these people, and the whole of Your proceedings with them.—

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61. Whereas We have by Our proclamation dated the 7th day of October in the 3^d Year of Our Reign, strictly forbid, on pain of Displeasure, all our Subjects from making any purchases or Settlements whatever, or taking possession of any of the Lands reserved to the several Nations of Indians, with whom we are connected, and who live under our protection without our especial leave for that purpose first obtained It is Our Express Will and Pleasure that you take the most Effectual Care, that Our Royal Directions herein be punctually complied with, and that the Trade with such of the said Indians as depend upon Your Government be carried on in the manner and under the Regulations prescribed in Our said proclamation—

62. You are to use Your best Endeavours in Improving the Trade of those parts by settling such Orders and Regulations therein, with the Advice of our said Council as may be most acceptable to the Generality of the Inhabitants. And it is Our Express Will and Pleasure, that You do not upon any pretence Whatever, upon pain of Our Highest Displeasure, give Your

Assent to any Law or Laws for setting up any Manufactures and carrying on any Trades which are hurtful and prejudicial to this Kingdom, and that You do use Your Utmost Endeavours to discourage, discountenance and restrain any Attempts which may be made to set up such Manufactures or establish any such Trades—

63. And it is Our Will and Pleasure, that You do not dispose of any Forfeitures or Escheats to any Person, until the Sheriff or other proper Officer have made Enquiry by a Jury upon their Oaths, into the true Value thereof, nor until You have transmitted to Our Commissioners of Our Treasury a particular Account of such Forfeitures and Escheats, and the Value thereof. And You are also to take Care that the produce of such Forfeitures and Escheats, in Case We think proper to give You Directions to dispose of the same, be duly paid to Our Treasurer or Receiver General of Our said province, and a full Account transmitted to Our Commissioners of Our Treasury, or Our High High Treasurer for the Time being with the Names of the persons to whom disposed.

64. And Whereas Commissions have been Granted unto several persons in Our Respective Plantations in America for the Trying of pirates in those parts pursuant to the Acts for the more Effectual Suppression of Piracy. And by a Commission already sent to Our province of New York Our Governor there is Impowered together with others therein mentioned to proceed accordingly in Reference to Our said Province; Our Will and pleasure is that you do Use Your best Endeavours to apprehend all persons whatever who may have been guilty of Piracy within Your Government or who having Committed such Crimes at other places may come within your Jurisdiction; and until we shall think proper to direct the like Commission to be Established for Our Government of Quebec, You are to send such pirates with what proofs of their Guilt You can procure or Collect, to Our Governor of New York to be tryed and punished under the Authority of the Commission established for those parts—

65. And Whereas You will Receive from our Commissioners for Executing the Office of High Admiral of Great Britain, and of Our Plantations, a Commission constituting You Vice Admiral of Our said Province, You are hereby required and Directed Carefully to put in Execution the several powers thereby Granted you—

66. Whereas great Inconveniences have happened heretofore by Merchant Ships and other Vessels in the Plantations, wearing the Colours born by Our Ships of War under pretence of Commissions granted to them by the Governors of the said plantations, and by trading under those Colours not only amonst[sic] Our Own Subjects, but also those of other princes and States, and committing divers Irregularities, they may very much dishonor Our Service; For preventing thereof You are to oblige the Commanders of all such Ships, to which You shall grant Commissions, to wear no other Colours than such as are described in an Order of Council of the 7th of January 1730 in relation to Colours to be Worne by all Ships and Vessels, Except Our Ships of War.

67. And Whereas there have been some great Irregularities in the manner of Granting Commissions in the plantations to private Ships of War, You are to govern yourself, whenever there shall be Occasion according to the Commission and Instructions granted in this Kingdom but You are not to grant Commissions of Marque or Reprisal against any prince or State or their Subjects in Amity with Us to any person whatsoever without Our Especial Command.

68. Whereas We have been Informed that during the time of War Our Enemys have frequently got Intelligence of the State of our plantations by Letters from private persons to their Correspondence in Great Britain, taken on Board Ships coming from the plantations, which has been of Dangerous Consequence; Our Will and Pleasure therefore is, that You signify to all Merchants, Planters and others, that they be very Cautious in time of War whenever that shall happen in giving any account by the Letters of the publick State and Condition of Our province under your Government; And You are further to give directions to all masters of Ships or other persons to whom you may Entrust Your Letters, that they put such Letters into a Bag, with a Sufficient Weight to sink the same Immediately in case of Imminent Danger from the Enemy, and You are also to let the Merchants and Planters know, how greatly it is for their Interest that their Letters should not fall into the Hands of the Enemy; and therefore that they should give like Orders to Masters of Ships in Relation to their Letters; and You are further to advise all Masters of Ships that they do sink all Letters in Case of Danger in the manner before mentioned—

69. And Whereas the Merchants and Planters in Our plantations in America have, in time of War, Corresponded and traded with our Enemies, and carried Intelligence to them, to the great Prejudice and Hazard of Our

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said plantations; You are therefore by all possible Methods, to endeavour to hinder such Trade and Correspondence in time of War—

70. And You are to Report to Us, by one of Our principal Secretaries of State; What is the Nature of the Soil and Climate of the province under your Government, if it differs in those Circumstances from Our other Northern Colonies, in what that Difference consists, and what beneficial Articles of Commerce the different parts of it are capable of producing?—

What Rivers there are, and of what extent and convenience to the planters?

What are the principal Harbours, how situated, of what extent, and what is the Depth of Water and Nature of the Anchorage in each of them?

What Quantity of Land is now under actual Improvement and Settlement? what are the chief Articles of produce and Culture, the annual amount of the Quantity of each, and upon what Terms and Conditions the Inhabitants hold their Lands, either of Cultivation Rent, or personal Service?—

What is the Quantity, Nature and property of the Land uncultivated, how much of it is capable of Culture, and what part thereof is private property?—

What is the number of Inhabitants, Whites and Blacks distinguishing each; what number of the former is capable of bearing Arms, and what number of the latter is annually necessary to be supplied in proportion to the Land Cultivated.

What was the nature, form and Constitution of the Civil Government; what Judicatures were there Established, and under the Regulations did the french Inhabitants carry on their Commerce; and You are to transmit a Duplicate of such Account to Our Commissioners for Trade and plantations for their Information.

71. You are from time to time to send unto Us by One of Our principal Secretaries of State as aforesaid; An account of the Increase and Decrease of the Inhabitants, Whites and Blacks; And also an Account of all persons, Born, Christened and Buried and You are to Transmit duplicates of such Accounts to Our Commissioners for Trade and plantations for their Information.

72. Whereas it is absolutely necessary that We be exactly Informed of the State of Defence of all our plantations in America, as well in Relation to the Stores of War that are in each plantation, as to the Forts and Fortifications there, and what more may be necessary to be built for the Defence and

Security of the same, You are as soon as possible to prepare an Account thereof with Relation to Our said province in the most particular manner, and You are therein to Express the present State of the Arms, Ammunition, and other Stores of War, belonging to the said Province, either in publick Magazines, or in the Hands of private persons; together with the State of all places, either already forfeited or that you Judge Necessary to be for-

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feited for the Security of Our said province; and You are to transmit the said Accounts to Us by One of Our Principal Secretaries of State, and also Duplicates thereof to Our Commissioners for Trade and Plantations, for their Information, and also a Duplicate thereof to Our Master General or Principal Officers of Our Ordnance; which Accounts are to Express, the particulars of Ordnance, Carriages, Balls, Powder, and other Sorts of Arms, and Ammunition in Our publick Stores, and so from time to time of what shall be sent to you, or bought with the publick Money, and to Specify the time of the disposal and the Occasion thereof ; and You are half yearly to transmit a General Account of the State of the Fortifications and Warlike Stores, specified in the manner above mentioned—

73. You are from time to time to give an Account what Strength your Neighbours have by Sea and Land, and of the Condition of their plantations, and what Correspondence You keep with them—

74. And in case of any Distress of any other of Our plantations, You shall, upon application of the respective Governors thereof unto you, assist them with what aid the Condition and Safety of Our province under Your Government can spare.

75. If any thing shall happen which may be of advantage or Security to Our province under Your Government, which is not herein, or by Your Commission provided for, We do hereby allow unto You with the Advice and Consent of Our Council, to take Order for the present therein, giving unto Us by One of Our Principal Secretaries of State Speedy Notice thereof, that You may receive Our Ratification, if We shall approve the same; Provided always that You do not, by Colour of any power or Authority hereby given You, Commence or Declare War without Our Knowledge and particular Commands therein; and you are also to Transmit duplicate of such Notice, as aforesaid, to Our Commissioners for Trade and plantations for their Information.—

76. And whereas We have by the first Article of these Our Instructions to You directed and Appointed, that Your Chief Residence shall be at Quebec, You are nevertheless frequently

to Visit the other parts of Your Government, in Order to Inspect the Management of all publick Affairs and thereby the better to take care, that the Government be so administered, that no disorderly practice may grow up contrary to Our Service and the welfare of Our Subjects—

77. And Whereas great Prejudice may happen to Our service, and the security of the Province by Your absence from those parts, You are not upon any pretence whatsoever to come into Europe, without having first obtained leave for so doing from Us under Our Sign Manual and Signet or by Our Order in Our privy Council; Yet nevertheless in Case of Sickness, You may go to South Carolina, or any other of Our Southern plantations, and there Stay for such Space as the Recovery of Your Health may absolutely require—

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78. And Whereas We have thought fit by Our Commission to direct, that in Case of Your Death or absence from Our said province, and in Case there be at that time no person within Our said province Commissionated or Appointed by Us to be Our Lieutenant Governor or Commander in Chief that the Eldest Councillor, who shall be at the time of Your Death or absence residing within Our said Province under Your Government, shall take upon him the Administration of Government, and execute our said Commission and Instructions, and the several powers and Authorities therein directed It is nevertheless Our Will and Pleasure that in such Case the said President shall forbear to pass any Act or Acts but what are immediately necessary for the peace and Welfare of the said Province, without our particular Orders for that purpose, and that he shall not remove or Suspend any of the Members of Our Council, nor any Judges, Justices of the peace, or other Officers Civil or Military, without the advice and consent of at least Seven of the Members of Our said Council, nor even then without good and sufficient Reasons for the same which the said President is by the first Opportunity to transmit Signed by himself and the rest of Our said Council, to Us by One of Our principal Secretaries of State, and he is also to transmit a Duplicate of such Reasons to Our Commissioners for Trade and plantations for their Information.—

79. And Whereas We are willing in the best manner to provide for the Support of the Government of Our Province aforesaid, of which You are Governor, by setting apart sufficient allowances to such as shall be Our Governor or Commander in Chief residing for the time being within the same, Our Will and Pleasure is, that when it shall happen, that You shall be Absent from Our said Province, One full Moiety of the Salary and all perquisites and Emoluments whatsoever, which would otherwise become due unto you, shall during the time of Your absence, be paid and satisfied unto Our Commander in Chief, who shall be resident within our said

province for the time being, which we do hereby Order and allot to him for his Maintenance and for the better Support of the Dignity of that Our Government.

80. And You are upon all Occasions to send unto Us by One of Our principal Secretaries of State a particular Account of all Your proceedings, and of the Condition of Affairs within Your Government, and also a Duplicate thereof to Our Commissioners for Trade and plantations, for their Information, except in cases of a Secret Nature—

MEMORANDUM—The Instructions relative to the Acts of Trade and Navigation for Gov^r Carleton are the same with those given to Gov^r Shirley for the Bahama Islands—

Plantation Book, 1767-1771 Privy C. O.

Quebec. General Instructions, Gov. Carleton, approved by His Majesty in Council the day of 1768.

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No. 189.

COMMISSION PASSED UNDER THE GREAT SEAL OF GREAT BRITAIN APPOINTING SIR GUY CARLETON

TO BE CAPTAIN AND GOVERNOR IN CHIEF OF THE PROVINCE OF QUEBEC.

PATENT ROLL, 15 GEO. 3. PART II. NO. 13.

Guy Carleton Esqr. }
Governor of Quebec }

also omitted in Sir Guy Carleton's Commission of 22 April 1786

omitted in Haldimand's Commission of 18 Sep^r. 1777

George the third by the Grace of God of Great Britain France and Ireland King Defender of the Faith etc^a [To Our Trusty and Wellbeloved Guy Carleton Esquire Greeting Whereas Wee did by Our Letters patent under our Great Seal of Great Britain bearing date at Westminster the Twelfth day of April in the Eighth Year of Our Reign Constitute and Appoint you to be our Captain General and Governor in Chief in and over our province of Quebec in America bounded on the Labrador Coast by the River Saint John and from thence by a Line drawn from the Head of that River through the Lake Saint John to the South East of Lake Nipissin from whence the said Line crossing the River Saint Lawrence and Lake Champlin in forty five Degrees of Northern Latitude passes along the High Lands which divide the Rivers that empty themselves into the said River Saint Lawrence from those which fall into the Sea and also along the North Coast of the Bay des Chaleurs and the Coast of the Gulph of Saint Lawrence to Cape Roziers and from thence Crossing the Mouth of the River Saint Lawrence by the West End of the Island of Anticosti terminates at the aforesaid River Saint John together with all the Rights Members and appurtenances whatsoever thereunto belonging for and during our Will and pleasure as by the said Recited Letters patent (Relation being thereunto had) may more fully and at large appear And Whereas We did also by Our Letters patent under our Great Seal of Great Britain bearing date at Westminster the Sixteenth day of March in the Twelfth Year of Our Reign Constitute and Appoint Molineux Shuldam Esquire to be Our Governor and Commander in Chief in and over our Island of Newfoundland all the Coast of Labrador from the entrance of Hudsons Streights to the River Saint John which discharges itself into the Sea nearly Opposite the West End of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Modelaine in the Gulph of Saint Lawrence as also of all Our Forts and Garrisons erected and established in our said Islands of Newfoundland Antiscotti and Madelaine or on the Coast of Labrador within the Limits aforesaid for and during

also omitted in Carleton's

Commission of 1786

omitted in
Haldimand's
Commission.

our Will and pleasure as by the said Letters patent (Relation being thereunto had) may more fully

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variation in Carleton's
Commission of 1786

the Boundaries differ
in Sir Guy Carleton's
Commission of 22
April 1786.

and at large appear Now know you that We have revoked and determined and do by these presents Revoke and determine the said Recited Letters patent granted to you the said Guy Carleton as aforesaid and every Clause Article and thing therein contained and We have also Revoked and determined and do by these presents Revoke and determine so much and such part of the said recited Letters patent granted to Molineux Shuldham Esquire as aforesaid as relates to the Coast of Labrador including the Island of Anticosti with any other the said small Islands on the said Coast of Labrador and every Clause Article and thing therein contained so far as the same relates to the said Coast of Labrador and the Islands therein before recited] And further know you that We reposing especial Trust and Confidence in the prudence Courage and Loyalty of You the said Guy Carleton of our especial Grace certain knowledge and meer motion have thought fit to constitute and appoint you the said Guy Carleton our Captain General and Commander in Chief in and over Our Province of Quebeck in America comprehending all our Territories Islands and Countries in North America bounded on the South by a Line from the Bay of Chaleurs along the Highlands which divide the Rivers that empty themselves into the River Saint Lawrence from those which fall into the Sea to a point in fforty five degrees of Northern Latitude on the Eastern Bank of the River Connecticut keeping the same Latitude directly West through the Lake Champlain until in the same Latitude it meets with the River Saint Lawrence from thence up the Eastern Bank of the said River to the Lake Ontario thence through the Lake Ontario and the River commonly called Niagara and thence along by the Eastern and South Eastern Bank of Lake Erie following the said Bank until the same shall be intersected by the Northern Boundary Granted by the Charter of the province of Pensylvania in case the same shall be so intersected and from thence along the said Northern and Western Boundaries of the said Province until the said Western Boundary strikes the Ohio but in Case the said Bank of the said Lake shall not be found to be so intersected then following the said Bank until it shall Arrive at that point of the said Bank which shall be nearest to the North Western Angle of the said Province of Pensylvania and thence by a Right Line to the said North Western Angle of the said Province and thence along the Western Boundary of the said Province untill it Strikes the River Ohio and along the Bank of the said River Westward to the Banks of the Mississippi and Northward along the Eastern Bank of the said River to the Southern Boundary^{1]}

¹ This portion of the boundary description as varied in the Commission of the 22nd April, 1786, appointing Sir Guy Carleton to be Captain General and Governor in Chief of the Province of Quebec, reads as follows:

"from those which fall into the Atlantic Ocean, to the north Westmost

head of Connecticut River, thence down along the middle of that River to the forty fifth Degree of North Latitude, from thence by a line due West on said latitude until it strikes the River Iroquois or Cataraqui thence along the middle of the said River into Lake Ontario through the middle of said Lake until it strikes the communication by water between that lake and Lake Erie through the Middle of said Lake until it arrives at the water communication between that Lake and Lake Huron thence along the middle of said water communication into the Lake Huron thence through the Middle of said Lake to the water communication between

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of the Territory granted to the Merchants Adventurers of England trading to Hudsons Bay and also all such Territories Islands and Countries which have since the Tenth of february One thousand Seven hundred and Sixty three been made part of the Government of Newfoundland as aforesaid together with all the Rights Members and Appurtenances whatsoever thereunto belonging And we do hereby require and Command You to do and execute all things in due manner that shall belong to your said Command and the Trust that We have reposed in you according to the several powers and directions granted or Appointed You by this present Commission and the Instructions and Authorities herewith given unto you or by such further powers Instructions and Authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual or by Our Order in Our Privy Council and according to such Ordinances as shall hereafter be made and Agreed upon by you with the Advice and Consent of the Council of our said province under Your Government in such manner and form as is hereinafter expressed And Our Will and pleasure is that you the said Guy Carleton do after the publication of these Our Letters patent in such manner and fform as been heretofore accustomed to be used on like Occasions in the first place to take the Oaths appointed to be taken by an Act passed in the ffirst year of the Reign of King George the first Intituled (An Act for the further Security of his Majestys person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for Extinguishing the hopes of the pretended prince of Wales and his open and secret Abettors) And by an Act passed in the Sixth Year of Our Reign Intituled (An Act for Altering the Oath of Abjuration and the Assurance and for Amending so much of an Act of the seventh Year of her late Majesty Queen Anne intituled an Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the Delivery of certain Lists and Copies therein mentioned to persons Indicted of High Treason or Misprision of Treason) as also that you make and Subscribe the Declaration mentioned in an Act of Parliament made in the Twenty fifth Year of the Reign of King Charles the Second Intituled (An Act for preventing Dangers which may happen from Popish Recusants) And likewise that you take the Oath Usually taken by Govenors in the plantations for the due Execution of the Office and Trust of Our Captain General and

has

Governor in and over our said province and for the due and impartial Administration of Justice and further that you take the

that Lake and Lake Superior thence through Lake Superior northward of the Isles Royal and Phillipeaux to the Long Lake thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods to the said Lake of the Woods thence through the said Lake to the Most Northwestern point thereof and from thence on a due west course to the River Mississippi and northward to the Southern boundary" . . .

The foregoing variation of the boundary description was made in consequence of the Treaty of Versailles, 1783, between Great Britain and the United States of America, signed at Paris the 3rd September, 1783. By this Treaty His Britannic Majesty acknowledged the United States to be free, sovereign and independent states, and Article II fixed the boundaries between the British and United States territories in North America.

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Oath required to be taken by Governors of the plantations to do their utmost that the several Laws relating to Trade and the plantations be duly observed which said Oaths and Declaration Our Council of Our said province or any three of the Members thereof have hereby full power and Authority and are required to tender and Administer to you all which being duly performed you shall Yourself Administer to each of the Members of Our said Council (Except as herein after Excepted) the said Oaths mentioned in the said Acts Intituled (An Act for the further Security of his Majestys person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for Extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors) And (An Act for Altering the Oath of Abjuration and the Assurance and for Amending so much of an Act of the Seventh Year of her late Majesty Queen Anne Intituled An Act for the Improvement of the union of the two Kingdoms as after the time therein Limited requires the delivery of certain Lists and Copies therein mentioned to persons Indicted of High Treason or Misprision of Treason) as also cause them to make and Subscribe the afore mentioned Declaration and to Administer unto them an Oath or Oaths for the due Execution of their places and Trusts And Whereas Wee may find it expedient for Our Service that our Council of Our said province should be in part composed of Such of Our Canadian Subjects or their Descendants as remain within the same under the ffaith of the Treaty of Paris and who may profess the Religion of the Church of Rome It is therefore Our Will and pleasure that in all Cases where such persons shall or may be Admitted either into Our said Council or into any other offices they shall be exempted from all Tests and from taking any other Oath than that prescribed in and by an Act of Parliament passed in the ffourteenth Year of Our Reign Intituled (An Act for making more Effectual provision for the Government of the province of Quebec in North America) And also the usual Oath for the due Execution of their places and

omitted in Sir G.
Carleton's
Commission of 1786

*to time

*omitted in Sir Guy
Carleton's
Commission of 1786

omitted in
Haldimand's
Commission

Trusts respectively [which last mentioned Oath Wee do hereby Authorize and require You to Administer to such Officers and persons accordingly] And Wee do further give and grant unto You the said Guy Carleton full power and Authority from time* and at any time hereafter by Yourself or by any other to be Authorized by you in that behalf to Administer (and give the Oaths mentioned in the said Acts* Intituled (An Act for the better Security of his Majestys person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for Extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors) And (An Act for altering the Oath of Abjuration and the Assurance and for amending so much of an Act of the Seventh Year of Her late Majesty Queen Anne Intituled An Act for the improvement of the Union of the Two Kingdoms as after the time therein limited requires the Delivery of certain Lists and Copies therein mentioned to persons Indicted of High Treason or Misprision of Treason) [or the said Oath mentioned in the said Act passed in the ffourteenth Year of Our Reign Intituled (An Act for making more effectual provision for the Government of the province of Quebec in North America)]* to all

*therein

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and every such person and persons respectively as You shall think fit who shall at any time or times pass into our said province or shall be resident or* abiding And Wee do hereby Authorize and empower you to keep and use the publick Seal of Our province of Quebeck for Sealing all things whatsoever that shall pass the Great Seal of Our said province and Wee do hereby give and grant unto You the said Guy Carleton full power and Authority with the Advice and Consent of Our said Council to make Ordinances for the peace Welfare and good Government of the said province and of the people and Inhabitants thereof and such others as shall resort thereunto and for the benefit of Us our Heirs and Successors Provided always that nothing herein contained shall extend or be construed to extend to the Authorizing and empowering the passing any Ordinance or Ordinances for laying any Taxes or Duties within the said province such Rates and Taxes only excepted as the Inhabitants of any Town or District within our said province may be Authorized by any Ordinance passed by You with the Advice and Consent of the said Council to Assess levy and apply within the said Town or District for the purpose of making Roads erecting and repairing publick Buildings or for any other purpose respecting the local Convenience and economy of such Town or District Provided Also that every Ordinance so to be made by You by and with the Advice and Consent of the said Councill shall be within Six Months from the passing thereof transmitted to Us under our Seal of Our said Province for Our Approbation or Disallowance of the same as also Duplicates thereof by the next Conveyance and in Case any or all of the said Ordinances

shall at any time be Disallowed and not Approved and so Signified by us Our Heirs and Successors by Order in their or Our Privy Council unto you the said Guy Carleton or to the Commander in Chief of Our said province for the time being then such and so many of the said Ordinances as shall be so disallowed and not Approved shall from the promulgation of the said Order in Council within the said province Cease determine and become Utterly Void and of no Effect Provided Also that no Ordinance touching Religion or by which any punishment may be inflicted greater than ffine or Imprisonment for three Months shall be of any fforce or effect untill the same shall have been allowed and Confirmed by Us Our Heirs and Successors and such Allowance or Confirmation Signified to You or to the Commander in Chief of Our said Province for the time being by their or Our Order in their or Our privy Council Provided Also that no ordinance shall be passed at any meeting of the Council where less than a Majority of the whole Council is present or at any time except between ffirst day of January and ffirst day of May unless upon some urgent Occasion in which case every Member thereof Resident at the Town of Quebec or within ffifty Miles thereof shall be personally Summoned to Attend the same And to the End that nothing may be passed or done by Our said Council to the prejudice of Us Our Heirs and Successors Wee Will and Ordain that You the said Guy Carleton shall have and enjoy a Negative Voice in the making and passing of all Ordinances as aforesaid And Wee do by these presents Give and Grant unto you the said Guy Carleton full power and Authority with the Advice and consent of our said Council

Privy Council
Documents

Volume II
Contents

omitted in Sir Guy
Carleton's
Commission of 1786

omitted in
Haldimand's
Commission

*be

†and in Cases
requisite
Commissioners of
Oyer and Terminer
Justices of the peace
Sheriffs

‡such Oath or Oaths
as are usually given

§and for the clearing
of Truth in Judicial
Causes

*(for)

* these notes in
Haldimand's
Commission & in S^r
G. Carleton's of 1786

‡this note inserted in
Carleton's of 1786

*by

to Erect Constitute and Establish such and so many Courts of Judicature and publick Justice within Our said Province under your Government as you and they shall think fit and necessary for the hearing and determining of all Causes as well Criminal as Civil and for Awarding Execution thereupon with all reasonable and necessary powers Authorities fees and privileges belonging thereunto as also to Appoint and Commissionate fit persons in the several parts of Your Government to Administer the Oaths mentioned in the aforesaid Acts [Intituled (An Act for the further Security of his Majesty's person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors) And (An Act for altering the Oath of Abjuration and the Assurance and for the amending so much of an Act of the Seventh Year of her late Majesty Queen Anne Intituled An Act for the Improvement of the Union of the two Kingdoms as after the time therein limited requires the delivery of Certain Lists and Copies therein mentioned to persons Indicted of High Treason or Misprision of Treason) [and the Oaths mentioned in the said Act made and passed in the ffourteenth Year of Our Reign Intituled (An Act for making more Effectual provision for the Government of the province of Quebeck in North America)]] as also to tender and Administer the aforesaid Declaration to such persons belonging to the said Courts as shall respectively * obliged to take the same And Wee do hereby grant unto You full power and Authority to Constitute and Appoint Judges † and other necessary Officers and Ministers in our said province for the better Administration of Justice and putting the Laws in Execution and to Administer or Cause to be Administered unto them [an Oath or Oaths] for the due Execution and performance of their Offices and places respectively* And Wee do hereby give and grant unto you full power and Authority where you shall see cause or shall judge any Offender or Offenders condemned in Criminal matters or in any*ffines or fforfeitures due unto us fit Objects of Our Mercy to pardon all such Offenders and remit all such Offences ffines and fforfeitures Treason and Wilful Murder only Excepted in which Cases you shall likewise have power upon Extraordinary Occasions to grant reprieves to the Offenders untill and to the intent Our Royal pleasure may be known therein And Wee do by these presents give and grant unto you full power and Authority to Collate any person or persons to any Churches Chapels or other Ecclesiastical Benefices within our said province as often as any of them shall happen to be void And Wee do hereby give and grant unto you Guy Carleton by yourself or * your Captains and Commanders by you to be Authorized full power and Authority to levy Arm Muster Command and employ all persons whatsoever residing within our said province and as occasion shall serve them to

March Embark or transport from one place to another for the resisting and withstanding of all Enemies pirates and Rebels both at Land and Sea and to transport such (forces to any of Our Plantations in America if Necessity shall require for defence of the same against the Invasion or Attempts of any of Our Enemies pirates or Rebels and such Enemies pirates and Rebels if there shall be occasion to pursue and prosecute

*and

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in or out of the Limits of Our said provinces and if it shall so please God them to Vanquish Apprehend and take and being taken according to Law to putt to Death or keep or * preserve alive at your Discretion and to Execute Martial Law in time of Invasion War or other times when by Law it may be executed and to do and Execute all and every other thing and things which to our Captain General and Governor in Chief doth or of Right Ought to belong And Wee do hereby give and grant unto you full power and Authority by and with the Advice and Consent of Our said Council to erect raise and Build in our said province such and so fforts platforms Castles Cities Boroughs Towns and ffortifications as you by the Advice aforeaid shall Judge necessary and the same or any of them to ffortify and furnish with Ordnance Ammunition and all sorts of Arms fit and necessary for the Security and defence of our said province and by the advice aforesaid the same again or any of them to demolish or dismantle as may be most Convenient And forasmuch as divers Mutinies and Disorders may happen by persons Shipped and employed at Sea during the time of War And to the End that such as shall be * Shipped and employed at Sea during the time of War may be better governed and ordered Wee do hereby give and grant unto you the said Guy Carleton full power and Authority to Constitute and Appoint Captains Lieutenants Masters of Ships and other Commanders and Officers and to grant to such Captains Lieutenants Masters of Ships and other Commanders and Officers Commissions to Execute the Law Martial during the time of War according to the directions of An Act passed in the Twenty second Year of the Reign of Our late Royal Grandfather Intituled (An Act for Amending explaining and reducing into One Act of Parliament the Laws relating to the Government of his Majestys Ships Vessels and fforces by Sea) and to Use such proceedings Authorities punishments Corrections and Executions upon any Offender or Offenders who shall be Mutinous Seditious disorderly or any way unruly either at Sea or during the time of their abode or Residence in any of the ports Harbours or Bays in our said province as the case shall be found to require according to Martial Law and the said directions during the time of War as aforesaid Provided that nothing herein contained shall be construed to the enabling you or any by Your Authority to hold plea or have any Jurisdiction of any Offence cause matter or thing Committed or done upon the High Sea or within any of the Havens Rivers or Creeks of Our said province under your Government by any

*so

Captain Commander Lieutenant Master Officer Seaman Soldier or person whatsoever who shall be in Actual Service and pay in or on board any of Our Ships of War or other Vessels Acting by immediate Commission or Warrant from our Commissioners for Executing the Office of Our High Admiral of Great Britain or from Our High Admiral of Great Britain for the time being under the Seal of Our Admiralty but that such Captain Commander Lieutenant Master Officer Seaman Soldier or other persons so Offending shall be left to be proceeded against and Tried as their Offences shall require either by Commission under our Great Seal of this Kingdom as the Statute of the Twenty Eighth of Henry the Eighth directs or by Commission from our said Commissioners for Executing the

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Office of High Admiral of Great Britain or from Our High Admiral of Great Britain for the time being according to the aforementioned Act Intituled (An Act for amending explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships Vessels and fforces by Sea) and not otherwise provided Nevertheless that all Disorders and Misdemeanours Committed on Shore by any Captain Commander Lieutenant Master Officer Seaman Soldier or other person whatsoever belonging to any of Our Ships of War or other Vessels Acting by immediate Commission or Warrant from Our Commissioners for Executing the Office of High Admiral of Great Britain or from Our High Admirall of Great Britain for the time being under the Seal of Our Admiralty may be Tryed and punished according to the Law of the place where any such disorders Offences and Misdemeanours shall be Committed on Shore notwithstanding such Offender be in Our Actual Service and borne in our Pay on Board any such Our Ships of War or other Vessels Acting by immediate Commission or Warrant from Our Commissioners for executing the Office of High Admiral of Great Britain or from Our High Admiral of Great Britain for the time being as aforesaid So as he shall not receive any protection for the Avoiding of Justice for such Offences Committed on Shore from any pretence of his being employed in our Service at Sea And Our further Will and pleasure is that all publick Monies granted and raised for the publick Uses of Our said province be issued out by Warrant from You by and with the Advice and Consent of Our Council as aforesaid for the Support of the Government and not otherwise And Wee likewise give and grant unto You full power and Authority by and with the Advice and Consent of Our said Council to Settle and Agree with the Inhabitants of Our said province for such Lands Tenements and Hereditaments as now are or hereafter shall be in Our power to dispose of and them to grant to any person or persons upon such Terms and under such Moderate Quit Rents Services and Acknowledgements to be thereupon reserved unto us as You with the Advice aforesaid shall think

*these notes in
Carleton's
Commission of 1786

*and as you shall be
directed by Our
Instructions in that
respect
*(with)
*provided
Nevertheless that no
Grants or Leases of
any of the Trading
posts in our said

province shall under
colour of this
Authority be made to
any person or persons
whatsoever until our
pleasure therein shall
be signified to you
*ports Harbours Bays
Havens and other
places

fit * which said Grants are to pass and be Sealed by * our
publick Seal of Our said province and being entered upon
Record by such Officer or Officers as shall be Appointed
thereunto shall be good and effectual in Law against Us Our
Heirs and Successors* And Wee do hereby give you the said
Guy Carleton full power and Authority to Order and Appoint
ffairs Marts and Markets as also such and so many ports
Harbours Bays Havens and other places for the Conveniency
and Security of Shipping and for the better Loading and
Unloading of Goods and Merchandizes in such and so
many*places as by You with the Advice and Consent of Our
said Council shall be thought fit and necessary And Wee do
hereby require and Command all Officers and Ministers Civil
and Military and all other Inhabitants of Our said province to
be Obedient Aiding and Assisting unto You the said Guy
Carleton in the Execution of this Our Commission and of the
powers and Authorities therein contained And in Case of Your
Death or absence from Our said province and Government to
be Obedient Aiding and Assisting as aforesaid to the
Lieutenant Governor or Commander in Chief for the time
being to whom Wee do therefore by these presents Give and
Grant all and singular the powers

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*Our Colonies and

and Authorities herein granted to be by him Executed and
enjoyed during Our pleasure or until Your Arrival within Our
said province And if upon Your Death or absence out of our
said province there be no person upon the place
Commissionated or Appointed by Us to be Lieutenatnt
Governor or Commander in Chief of Our said province Our
Will and pleasure is that the Eldest Councillor being a Natural
born Subject of Great Britain Ireland or* the plantations and
professing the Protestant Religion who shall be at the time of
Your Death or Absence residing within our said Province shall
take upon him the Administration of the Government and
Execute Our said Commission and Instructions and the several
powers and Authorities therein Contained in the same manner
and to all intents and purposes as other our Governor or
Commander in Chief should or Ought to do in Case of your
Absence untill your Return or in all Cases untill Our further
pleasure be known therein* And Wee do hereby declare
Ordain and Appoint that you the said Guy Carleton shall and
may hold Execute and enjoy the Office and place of Our
Captain General and Governor in Chief in and over our said
province of Quebeck and all the Territories dependant thereon
with all and singular the powers and Authorities hereby
granted unto You for and during Our Will and pleasure In
Witness etc.—Witness Our self at Westminster the Twenty
seventh day of December in the fifteenth Year of Our Reign—

*Addition to Sir Guy
Carleton's
Commission of 22
April 1786

By Writ of Privy Seal

(Patent roll 29 April 16 Geo. III., Part 4, N° 17, contains

Carleton's Commission as Commander in Chief and revokes that to Gage.)

Patent roll 17 Geo. III., Part 5, N° 6, contains Haldimand's Commission as Governor of the Province of Quebec, &c., dated 18th September, 1777. This Commission is in the same terms as Carleton's of 27 Dec^r 1774,—certain omissions and additions are noted in the margin.

Haldimand's Commission as Commander in Chief (Pat. 17, Geo. III., Part 5, N° 5 (18 Sept^r, 1777) revokes Carleton's of 29 April, 1776.

No. 190.**INSTRUCTIONS, PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET, FOR GUY CARLETON**

AS CAPTAIN GENERAL AND GOVERNOR IN CHIEF OF THE PROVINCE OF
QUEBEC AND THE TERRITORIES DEPENDENT THEREUPON.¹

Instructions to Our Trusty and Welbeloved Guy Carleton
Esquire, Our Captain General and Governor in Chief
in, and over Our Province of Quebec in America and
of all Our Territories dependent thereupon. Given at
Our Court at S^t James's the Third Day of January
1775. In the Fifteenth year of Our Reign.

First, With these Our Instructions you will receive Our
Commission under Our Great Seal of Great Britain,
constituting you Our Captain General and Governor in Chief
in, and over Our Province of Quebec in America, and all Our
Territories thereunto belonging, as the said Province and
Territories are bounded and described in, and by the said
Commission. You are therefore to take upon you the Execution
of the Office and Trust We have

[¹ Canadian Archives, M 230, p. 116*****On Dec. 5, 1774, the Board of Trade submitted to the King the draught of a new Commission for Governor Carleton with such formal changes only, as compared with the last, as were required by the terms of the Quebec Act. On Dec. 22nd, the Board of Trade laid before the King the draught of the General Instructions for Governor Carleton. "This draught," they say, "contains not only such Instructions as are usually given to other governors, so far as the same are applicable to this Province under its New Constitution of Government; but also such other directions for the establishment of Judicature; the reform and regulation of Ecclesiastical matters; and the arrangements proper to be made in respect to the Coast of Labrador, and the interior Country, as appear to us to be necessary in consequence of the Act passed in the last Session of the late Parliament; it also contains an appointment of the Council conformable to that Act, and directs the provisions to be made for the support of the Civil Establishment of Government."

"We also humbly beg leave to lay before your Majesty a draught of such Instructions to your Majesty's Governor of Quebec as are usually given to the governors of your Majesty's other Colonies respecting the observance and the execution of the Laws for regulating the Plantation Trade."

"All which is most humbly submitted, Whitshed Keene, C. F. Greville, Soame Jenyns, W. Joliffe." Q 18 B., p. 108.

On Jan. 7th, 1775, Dartmouth sent a despatch to Carleton enclosing his Commission and Instructions. After repeating the statements of the Board of Trade, given above, he adds, "These documents contain such arrangements, in consequence of the Act of the 14th of his present Majesty, for providing for

the more effectual Government of the Province of Quebec, as were necessary to accompany the new Commission, & also the outlines of that System of Judicature, & general Regulation of Ecclesiastical Affairs, which the King thinks fit should be provided for by Ordinances of the Legislative Council." Q 11, p. 59.]

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reposed in you, and the Administration of the Government, and to do and execute all things in due manner, that shall belong to your Command according to the several Powers and Authorities of our said Commission under Our Great Seal of Great Britain, and these Our Instructions to you, or according to such further Powers and Instructions, as shall at any time hereafter be granted or appointed you under Our Signet and Sign Manual, or by Our Order in Our Privy Council; and you are to call together at Quebec, (Which We do hereby appoint to be the place of your ordinary Residence, and the principal Seat of Government,) the following persons whom We do hereby, with the Advice of Our Privy Council, constitute and appoint to be Our Council for the Affairs of Our said Province of Quebec, and the Territories thereunto belonging; Viz. Hector Theophilus Cramahé Esquire, Our Lieutenant Governor of Our said Province or Our Lieutenant Governor of Our said Province for the time being, Our Chief Justice of Our Province for the time being, Hugh Finlay, Thomas Dunn, James Cuthbert, Colin Drummond, Francis Les Vesques; Edward Harrison, John Collins, Adam Mabean,—De Lery,—St Ours, Picodyde Contrecoeur, Our Secretary of Our said Province for the time being, George Alsopp,—De La Naudière, La Corne St Luc, Alexander Johnstone, Conrad Guky,—Bellestres,—Rigauville, and John Fraser Esquires; All and every of which Person and Persons shall hold and enjoy his & their Office and Offices of Councillor or Councillors for Our said Province of Quebec, for and during Our Will and Pleasure, and his or their Residence within Our said Province, and not otherwise.

2. It is Our further Will and Pleasure, that any five of the said Council shall constitute a Board of Council for transacting all Business, in which their Advice and consent may be requisite, Acts of Legislation only excepted, (in which Case you are not to act without a Majority of the whole,) And it is Our further Will and Pleasure, that the Members of Our said Council shall have and enjoy all the Powers, Privileges, and Emoluments enjoyed by the Members of Our Councils in Our other Plantations; and also such others as are contained and directed in Our said Commission under Our Great Seal of Great Britain, and in these Our Instructions to you ; and that they shall meet together at such time and times, place and places, as you in your discretion shall think necessary, except when they meet for the purpose of Legislation, in which Case they are to be assembled at the Town of Quebec only.

3. And You are with all due and usual Solemnity to cause Our said Commission to be read and published at the said Meeting of Our Council, which being done, you shall then take

and also administer to each of the Members of Our said Council, (not being a Canadian, professing the Religion of the Church of Rome,) the Oaths mentioned in an Act passed in the first year of the Reign of His Majesty King George the first, intituled, "An Act for the further Security of His Majesty's Person, and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants; and for extinguishing the hopes of the pretended Prince of

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Wales, and his open and secret Abettors," as altered and explained by an Act passed in the sixth year of Our Reign, intituled, "An Act for altering the Oath of Abjuration, and the Assurance; and for amending so much of an Act of the seventh year of Her late Majesty Queen Anne, intituled, An Act for the Improvement of the Union of two Kingdoms, as, after the time therein limited, requires the delivery of certain Lists and Copies, therein mentioned, to persons indicted of High Treason, or Misprision of Treason;" as also make and subscribe, and cause them to make and subscribe the declaration mentioned in an Act of Parliament made in the twenty fifth Year of the Reign of King Charles the second, intituled, "An Act for preventing Dangers, which may happen from Popish Recusants;" and you and every one of them are likewise to take an Oath for the due Execution of your and their Places and Trusts, with regard to your and their equal and impartial Administration of Justice; and you are also to take the Oath required by an Act passed in the seventh and eighth years of the Reign of King William the third, to be taken by Governors of Plantations to do their utmost, that the Laws relating to the Plantations be observed.

4. And Whereas by an Act passed in the fourteenth year of Our Reign, intituled, "An Act for making more effectual provision for the Government of the Province of Quebec in North America," it is enacted and provided, that no person, professing the Religion of the Church of Rome, and residing in the said Province, shall be obliged to take the Oath of Supremacy required by an Act passed in the first year of the Reign of Queen Elizabeth, or any other Oaths substituted by any other Act in the place thereof; but that every such Person, who by the said Statute is required to take the Oaths therein mentioned, shall be obliged, and is thereby required, under certain Penalties, to take and subscribe an Oath in the form and Words therein prescribed, and set down; It is therefore Our Will and Pleasure, that you do administer to each and every Member of Our said Council, being a Canadian, and professing the Religion of the Church of Rome, and cause each of them severally to take and subscribe the Oath mentioned in the said Act passed in the fourteenth year of Our Reign, intituled; "An Act for making more effectual provision for the Government of the Province of Quebec in North America;" and also cause them severally to take an Oath for the due Execution of their

places and Trusts, and for their equal and impartial administration of Justice.

5. And that We may be always informed of the Names and Characters of Persons fit to supply the Vacancies, which may happen in Our said Council, You are from time to time to transmit to Us, by one of Our Principal Secretaries of State, the names and Characters of such persons, Inhabitants of Our said Colony, whom you shall esteem the best qualified for that Trust; And you are also to transmit a duplicate of the said Account to Our Commissioners for Trade and Plantations, for their Information.

6. And if it shall at any time happen, that by the death or departure out of Our said Province, of any of Our said Councillors, there shall be a

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Vacancy in Our said Council, Our Will and Pleasure is; that you signify the same to Us by one of Our Principal Secretaries of State, and to Our Commissioners for Trade and Plantations, by the first Opportunity, that we may by Warrant under Our Signet and Sign Manual, and with the Advice of Our Privy Council, constitute and appoint others in their stead.

7. You are forthwith to communicate such and so many of these Our Instructions to Our said Council, wherein their Advice and Consent are mentioned to be requisite, as likewise all such others from time to time, as you shall find convenient for Our Service to be imparted to them.

8. You are to permit the Members of Our said Council to have and Enjoy Freedom of Debate and vote in all Affairs of Public Concern, that may be debated in Council.

9. And whereas by the aforesaid Act passed in the fourteenth year of Our Reign, intituled, "An Act for making more effectual Provision for the Government of the Province of Quebec in North America," It is further enacted and Provided, that the Council for the Affairs of the said Province, to be constituted and appointed in Manner therein directed, or the Major Part thereof, shall have power and Authority to make Ordinances for the peace, Welfare, and good Government of the said Province with the Consent of Our Governor, or, in his absence, of the Lieutenant Governor, or Commander in Chief for the time being; provided, that no Ordinance shall be passed, unless upon some urgent Occasion at any Meeting of the Council, except between the first day of January and the first day of May. *(And Whereas the State and condition of Our said Province do require, that immediate provision should be made by Law for a Great Variety of Arrangements and Regulations essentially necessary to the Government thereof; It is therefore Our Will and Pleasure, that you do within a

convenient time issue Summons for the Assembling of our said Council in their Legislative Capacity either on the first day of April next, or as soon after as may be convenient, in Order to deliberate upon, and frame such Ordinances, as the Condition of Affairs within Our Said Province shall require, and as shall, in your and their judgement, be fit and necessary for the Welfare of Our said Province, and the Territories thereunto belonging.)¹

10. You are nevertheless to take especial Care,

That no Ordinance be passed at any Meeting of the Council, where less than a Majority of the Council is present, or at any time, except between the first day of January and the first day of May, as aforesaid, unless upon some urgent Occasion; in which Case every Member thereof resident at Quebec, or within fifty Miles thereof shall be personally summoned to attend the same.

[* The latter part of this section (in bracket) omitted in the instruction to Haldimand.

¹ The first session of the Legislative Council was convened 17 August, 1775. Two other brief meetings were held Sept. 2nd and 5th but no legislative results were accomplished before Jan., 1777, when the Council resumed its sessions.]

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That no Ordinance be passed for laying any Taxes or Duties, such Rates and Taxes only excepted, as the Inhabitants of any Town or District may be authorized to assess, levy, and apply within the said Town or District, for the making Roads, erecting and repairing public Buildings, or for any other purpose respecting the Local Convenience and Oeconomy of such Town or District.

That no Ordinance touching Religion, or by which any punishment may be inflicted greater than Fine or Imprisonment for three Months, be made to take effect, until the same shall have received Our Approbation.

That no Ordinance be passed relative to the Trade, Commerce, or Fisheries of the said Province, by which the Inhabitants thereof shall be put upon a more advantageous footing, than any other His Majesty's Subjects either of this Kingdom, or the Plantations.

That no Ordinance respecting private property be passed without a Clause suspending its Execution, until Our Royal Will and Pleasure is known; nor without a saving of the Right of Us, Our Heirs, and Successors, and of all Bodies, politic and corporate, and of all other persons, except such as are mentioned in the said Ordinance, and those claiming by, from, and under them; And, before such Ordinance is passed, proof must be made before you in Council, and entered in the Council-Books, that public Notification was made in the Party's Intention to apply for such Ordinance in the several Parish Churches, where the Lands in Question lye, for three Sundays at least successively, before any such Ordinance shall be proposed; and you are to transmit and annex to the said

Ordinance a Certificate under your hand that the same passed through all the Forms abovementioned.

That no Ordinance shall be enacted for a less time than two years, except in Cases of imminent Necessity, or immediate temporary Expediency; and you shall not reenact any Ordinance, to which Our Assent shall have been once refused, without express leave for that purpose first obtained from Us, upon a full Representation by you to be made to Us by one of Our Principal Secretaries of State, and to Our Commissioners for Trade and Plantations, for their Information, of the Reasons and Necessity for passing such Ordinance ; nor give your Assent to any Ordinance for repealing any other Ordinance, which bath passed in your Government, and shall have received Our Royal Approbation, unless you take Care, that there be a Clause inserted therein suspending and deferring the Execution thereof, until Our Pleasure shall be known, concerning the Same.

That in all Ordinances imposing Fines, Forfeitures, or Penalties, express Mention be made, that the same is granted or reserved to Us, Our Heirs, and Successors for the public Uses of the said Province, and the Support of the Government thereof, as by the said Ordinance shall be directed; and that a Clause be inserted declaring, that the Money, arising by the Operation of the said Ordinance, shall be accounted for unto Us in this Kingdom, and to Our Commissioners of Our Treasury for the time being; and audited by Our Auditor General of Our Plantations, or his Deputy.

That all such Ordinances be transmitted by you within six Months

after their passing, or sooner, if opportunity offers, to Us by One of our Principal Secretaries of State, and Duplicates thereof to Our Commissioners for Trade and Plantations, for their Information; that they be abstracted in the Margents, and accompanied with very full and particular Observations upon each of them, that is to say, whether the same is introductive to a new Law, or does repeal a Law then before in being; and you are also to transmit in the fullest manner the Reasons and Occasions for enacting such Ordinances, together with fair Copies of the Journals of the proceedings of the Council, which. you are to require from the Clerk of the said Council.

11. In the Consideration of what may be necessary to be provided for by Law within Our said Province, as created and established by the aforesaid Act, intituled, "an Act for making more effectual Provision for the Government of the Province of Quebec in North America," a Great Variety of important Objects hold themselves forth to the Attention of the Legislative Council.

12. The Establishment of Courts, and a proper Mode of administering Civil and Criminal Justice throughout the whole Extent of Our Province, according to the Principles declared in the said Act "for making more effectual Provision for the Government thereof," demand the greatest Care and Circumspection; for, as on the one hand it is Our Gracious purpose conformable to the Spirit and Intention of the said Act of Parliament, that Our Canadian Subjects should have the benefit and use of their own Laws, Usages, and Customs in all Controversies, respecting Titles of Land, and the Tenure, descent, Alienation, Incumbrances, and Settlement of Real Estates, and the distribution of the personal property of Persons dying intestate; so on the other hand, it will be the duty of the Legislative Council to consider well in framing such Ordinances, as may be necessary for the Establishment of Courts of Justice, and for the better Administration of Justice, whether the Laws of England may not be, if not altogether, at least in part the Rule for the decision in all Cases of personal Actions grounded upon Debts, Promises, Contracts, and Agreements, whether of a Mercantile or other Nature; and also of Wrongs proper to be compensated in damages; and more especially where Our natural-born Subjects of Great Britain, Ireland, or Our other Plantations residing at Quebec, or who may resort thither, or have Credits, or Property within the same, may happen to be either Plaintiff or defendant in any civil Suit of such a nature.¹

[¹ This and the following article with reference to the writ of Habeas Corpus, form the first step in that piecemeal process of impairing the complete restoration of the French Canadian civil law granted by the Quebec Act, particularly the 8th clause of it. As may be seen from several subsequent documents, this was the basis of continued conflict in the Council and in the

Courts until 1791, when the controversy took another turn. In a document in the Dartmouth papers, endorsed "Extract from the Instructions to the Governor of Quebec, so far as relates to the Establishment of Courts of Law," this clause appears in the following form:—"The Legislative Council are to frame the Ordinances for the Establishment of Courts of Justice, and for the administration of Justice, so as that the Laws of England, if not altogether, may be as nearly as possible the Rule of Decision in all personal Actions, grounded upon Debts, Contracts, &c., and especially where the natural-born subjects are concerned." M 385, p. 485.]

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13. Security to personal Liberty is a fundamental Principle of Justice in all free Governments, and the making due provision for that purpose is an object the Legislature of Quebec ought never to lose Sight of; nor can they follow a better Example than that, which the Common Law of this Kingdom hath set in the Provision made for a Writ of Habeas Corpus,¹ which is the Right of every British subject in this Kingdom.

14. With Regard to the Nature and number of the Courts of Justice, which it may be proper to establish, either for the whole Province at large, or separately for its dependencies, and the times and places for holding the said Courts, no certain Rule can be laid down in a Case, in which the Judgment must in many Respects at least be altogether guided by Circumstances of local Convenience and Consideration.

15. In General it may be proper, that there should be a Superior or Supreme Court of criminal Justice and Jurisdiction for the Cognizance of all Pleas of the Crown, and for the Trial of all manner of Offences whatsoever, to be held before the Chief Justice for the time being at such times and places, as shall be most convenient for the due and speedy Administration of Justice, and the preventing long imprisonments; the said Court to be called and known by the name of the Court of King's Bench; That for the more orderly establishment and Regulation of Courts of Civil Jurisdiction, the Province of Quebec, as limited and bounded by the aforesaid Act of Parliament "for making more effectual Provision for the Government of the Province of Quebec in North America," be divided into two Districts by the names of Quebec and Montreal, each district to be limited and bounded in such manner, as shall be thought best adapted to the Object of the Jurisdiction to be established therein; That there be established in each of the said Districts a Court of Common pleas to be held at such times and places, as shall be judged most convenient, and to have full power, Jurisdiction and Authority to hear and determine all Civil Suits and Actions cognizable by the Court of Common Pleas in Westminster Hall, according to the Rules prescribed by the said Act of Parliament "for making more effectual Provision for the Government of the Province of Quebec in North America," and according to such Laws and Ordinances, as shall from time to time be enacted by the Legislature of the said Province in

manner therein directed; That there be three Judges in each of the said Courts of Common Pleas, that is to say, two of Our natural-born Subjects of Great Britain, Ireland, or Our other Plantations, and one Canadian; and also one Sheriff appointed for each district; That besides the foregoing Courts of Criminal and Civil Jurisdiction for the Province at large, there be also an Inferior Court of Criminal and Civil Jurisdiction in each of the Districts of the Illinois, St Vincenne, Detroit, Missilimakinac, and Gaspée, by the Names

[¹ Yet when this was most vigorously contended for at the passing of the Quebec Act it was absolutely denied by the Government. In the document referred to in the previous note, this article reads as follows,—"Security to personal Liberty to be provided for: And the Writ of Habeas Corpus, as a part of the criminal Law, to be adopted in its full Extent." M 385, p. 485.]

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of the Court of King's Bench for such district. to be held at such times, as shall be thought most convenient, with Authority to hear and determine in all Matters of Criminal Nature according to the Laws of England, and the Laws of the Province hereafter to be made and passed; and in all Civil matters according to the Rules prescribed by the aforesaid Act of Parliament "for making more effectual Provision for the Government of Quebec in North America;" That each of the said Courts shall consist of one judge, being a natural-born Subject of Great Britain, Ireland, or Our other Plantations, and of one other Person, being a Canadian, by the name of Assistant or Assessor, to give advice to the Judge in any Matter, when it may be necessary; but to have no Authority or Power to attest or issue any Process, or to give any Vote in any order, Judgement, or decree; That the said Judges, so to be appointed, as aforesaid, for each District, shall have the same power and Authority in Criminal Cases, as is vested in the Chief Justice of Our said Province; and also the same Power and Authority in Civil Cases, as any other Judge of Common Pleas within Our said Province, excepting only that, in Cases of Treason, Murder, or other Capital Felonies, the said Judges shall have no other Authority, than that of Arrest and Commitment to the Goals of Quebec, or of Montreal, where alone Offenders in such Cases shall be tried before Our Chief Justice; That a Sheriff be appointed in each of the said Districts for the Execution of Civil and Criminal Process; That the Governor and Council (of which, in the absence of the Governor and Lieutenant Governor, the Chief Justice is to be President,) shall be a Court of civil Jurisdiction for the hearing and determining all Appeals from the Judgement of the other Courts, where the matter in dispute is above the value of Ten Pounds; That any Five of the said Council, with the Governor, Lieut' Governor, or Chief Justice, shall constitute a Court for that purpose; and that their Judgement shall be final in all Cases not exceeding the value of £500 sterling, in which Cases an Appeal from their Judgement is to be admitted to Us in Our Privy Council. It is however Our Will and Pleasure, that no Appeal be

allowed, unless security be first duly given by the Appellant, that he will effectually prosecute the same, and answer the Condemnation, as also pay such Costs and Damages, as shall be awarded by Us, in case the Sentence be affirmed; Provided nevertheless, where the matter in question relates to the taking or demanding any Duty payable to Us, or to any Fee of Office, or annual Rents, or other such like matter or thing, where the Rights in future may be bound, in all such Cases appeal to Us, in Our Privy Council is to be admitted, tho' the immediate sum or value appealed for be of less value.—And it is Our further Will and Pleasure, that in all Cases, where Appeals are admitted unto Us in Our Privy Council, execution be suspended until the final determination of such Appeal, unless good and sufficient security be given by the Appellee to make ample restitution of all, that the Appellant shall have lost by means of such decree or judgement, in case, upon the determination of such Appeal, such decree or judgement should be reversed, and restitution awarded to the Appellant. Appeals unto Us in Our Privy Council are also to be

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admitted in all cases of Fines imposed for misdemeanors; Provided the fines, so imposed, amounted to, or exceed the sum of £100 sterling, the Appellant first giving good Security, that he will effectually prosecute the same and answer the Condemnation, if the sentence, by which such Fine was imposed in Quebec, be affirmed.

16. It is Our Will and Pleasure, that all Commissions to be granted by you to any person or persons to be Judges or justices of the peace, or other necessary Officers, be granted during pleasure only.

17. You shall not displace any of the Judges, Justices of the peace or other Officers or Ministers without good and sufficient cause, which you shall signify in the fullest and most distinct manner to Us by one of Our principal Secretaries of State, and to Our Commissioners for Trade and Plantations, for their information.

18. And whereas frequent complaints have heretofore been made of great delays and undue proceedings in the Courts of Justice in several of Our Plantations, whereby many of Our good Subjects have very much suffered; and it being of the greatest importance to Our Service, and to the welfare of Our Plantations, that Justice be every where speedily and duly administered; and that all disorders, delays, and other undue Practises in the administration thereof be effectually prevented; We do particularly require you to take especial Care, that in all Courts, where you are or shall be authorized to preside, justice be impartially administered; and that in all other Courts established, or to be established within Our said Province, all Judges, and other Persons therein concerned do likewise

perform their several Duties without any delay or partiality.

19. You are to take care, that all Writs be issued in Our Name throughout the Province under your Government.

20. The establishment of proper regulations in matters of ecclesiastical concern is an Object of very great importance, and it will be your indispensable duty to lose no time in making such arrangements in regard thereto, as may give full satisfaction to Our new Subjects in every point, in which they have a right to any indulgence on that head; always remembering, that it is a toleration of the free exercise of the religion of the Church of Rome only, to which they are entitled, but not to the powers and privileges of it, as an established Church, for that is a preference, which belongs only to the Protestant Church of England.

21. Upon these principles therefore, and to the end, that Our just Supremacy in all matters ecclesiastical, as well as civil, may have its due scope and influence, it is Our Will and Pleasure,——

First, that all Appeals to, or correspondence with any foreign ecclesiastical jurisdiction, of what nature or kind so ever, be absolutely forbidden under very severe Penalties.

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Secondly, That no Episcopal or Vicarial Powers be exercised within Our said Province by any Person professing the Religion of the Church of Rome, but such only, as are essentially and indispensably necessary to the free exercise of the Romish Religion; and in those cases not without a Licence and Permission from you under the Seal of Our said Province, for, and during Our Will and Pleasure, and under such other limitations & restrictions, as may correspond with the spirit and provision of the Act of Parliament, "for making more effectual provision for the Government of the Province of Quebec;" And no person whatever is to have holy Orders conferred upon him, or to have the Cure of Souls without a License for that purpose first had or obtained from you.

Thirdly, That no person professing the Religion of the Church of Rome be allowed to fill any ecclesiastical Benefice, or to have and enjoy any of the Rights or Profits belonging thereto, that is not a Canadian by birth, (such only excepted, as are now in possession of any such Benefice,) and that is not appointed thereto by Us, or by, or under Our Authority, and that all Right, or claim of right in any other Person whatever to nominate, present, or appoint to any vacant Benefice, other than such as may lay claim to the patronage of Benefices, as a Civil Right, be absolutely abolished. No Person to hold more than one Benefice, or at least not more than can reasonably be served by one and the same Incumbent.

Fourthly, That no person whatever, professing the Religion of the Church of Rome, be appointed Incumbent of any Parish,

in which the Majority of the Inhabitants shall solicit the appointment of a Protestant Minister; in such case the Incumbent shall be a Protestant, and entitled to all Tythes payable within such Parish; But nevertheless the Roman Catholicks may have the use of the Church for the free exercise of their Religion at such time, as may not interfere with the Religious Worship of the Protestants: And in like manner the Protestant Inhabitants in every Parish, where the Majority of Parishioners are Roman Catholicks, shall notwithstanding have the use of the Church for the exercise of their Religion at such times, as may not interfere with the Religious Worship of the Roman Catholicks.

Fifthly, That no Incumbent professing the Religion of the Church of Rome, appointed to any Parish, shall be entitled to receive any Tythes for Lands, or Possessions occupied by a Protestant; but such Tythes shall be received by such Persons, as you shall appoint, and shall be reserved in the hands of Our Receiver General, as aforesaid, for the support of a Protestant Clergy in Our said Province to be actually resident within the same, and not otherwise, according to such directions as you shall receive from Us in that behalf. And in like manner all growing Rents and Profits of a vacant Benefice shall, during such vacancy, be reserved for, and applied to the like uses.

Sixthly, That all Persons professing the Religion of the Church of Rome, which are already possessed of, or may hereafter be appointed to any

ecclesiastical Benefice, or who may be licensed to exercise any Power or Authority in respect thereto, do take and subscribe before you in Council, or before such Person as you shall appoint to administer the same, the Oath required to be taken and subscribed by the aforesaid Act of Parliament passed in the fourteenth year of Our Reign, intituled, "An Act for making more effectual Provision for the Government of the Province of Quebec in North America."

Seventhly, That all Incumbents of Parishes shall hold their respective Benefices during good behaviour, subject however, in cases of any Conviction for Criminal Offences, or upon due proof of seditious Attempts to disturb the Peace and Tranquility of Our Government, to be deprived, or suspended by you with the Advice and Consent of a Majority of Our said Council.

Eighthly, That such Ecclesiasticks, as may think fit to enter into the holy state of Matrimony, shall be released from all Penalties, to which they may have been subjected in such Cases by any Authority of the See of Rome.

Ninthly, That freedom of Burial of the Dead in Churches and Church yards be allowed indiscriminately to every Christian Persuasion.

Tenthly, That the Royal Family be prayed for in all Churches and Places of Holy Worship, in such manner and form, as are used in this Kingdom; and that Our Arms and Insignia be put up not only in all such Churches and Places of holy Worship, but also in all Courts of Justice; and that the Arms of France be taken down in every such Church or Court, where they may at present remain.

Eleventhly, That the Society of Romish Priests, called the Seminaries of Quebec and Montreal, shall continue to possess and occupy their Houses of Residence, and all other Houses and Lands, to which they were lawfully intituled on the 13th of September 1759; and it shall be lawful for those Societies to fill up Vacancies, and admit new Members according to the Rules of their Foundations, and to educate Youth, in order to qualify them for the Service of Parochial Cures; as they shall become vacant. It is nevertheless Our Will and Pleasure, that not only these Seminaries, but all other Religious Communities, so long as the same shall continue, be subject to visitation by You Our Governor, or such other Person or Persons, as you shall appoint for that purpose, and also subject to such Rules and Regulations, as you shall, with the Advice and Consent of Our Council, think fit to establish and appoint.

Twelfthly, it is also Our Will and Pleasure, that all other Religious Seminaries and Communities (that of the Jesuits only excepted) do for the present and until We can be more fully informed of the true State of them, and how far they are, or are not essential to the free exercise of the Religion of the Church of Rome, as allowed within Our said Province, remain upon their present Establishment; but you are not to allow the

admission of any new Members into any of the said Societies or Communities, the Religious Communities of Women only excepted, without our express orders for that

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purpose. That the Society of Jesuits be suppressed and dissolved, and no longer continued, as a Body corporate and politic, and all their Rights, Possessions and Property shall be vested in Us for such purposes, as We may hereafter think fit to direct and appoint; but We think fit to declare Our Royal Intention to be, that the present Members of the said Society, as established at Quebec shall be allowed sufficient stipends and Provisions during their natural Lives;—That all Missionaries amongst the Indians, whether established under the Authority of, or appointed by the Jesuits, or by any other ecclesiastical Authority of the Romish Church, be withdrawn by degrees, and at such times and in such manner, as shall be satisfactory to the said Indians, and consistent with the Public Safety; and Protestant Missionaries appointed in their places; That all ecclesiastical Persons whatsoever, of the Church of Rome, be inhibited, upon Pain of Deprivation, from influencing any Person in the making a Will, from inveigling Protestants to become Papists, or from tampering with them in matter of Religion, and that the Romish Priests be forbid to inveigh in their Sermons against the Religion of the Church of England, or to marry, baptize, or visit the sick, or bury any of Our Protestant Subjects, if a Protestant Minister be upon the Spot.

22. You are at all times and upon all occasions to give every Countenance and Protection in your Power to such Protestant Ministers, and School Masters, as are already established within Our said Province, or may hereafter be sent thither, to take Care, that such Stipends and Allowances, as We may think fit to appoint for them, be duly paid; that the Churches already appropriated, or which may hereafter be appropriated to the use of Divine Worship according to the Rites of the Church of England, as by Law established, be well and orderly kept; and, as the Number of Protestants shall, by God's Blessing, increase, to lay out new Parishes in convenient Situations, and set apart and appropriate proper Districts of Land therein for the Scite of Churches, and Parsonage Houses, and for Glebes for the Ministers and Schoolmasters.

23. You are to take especial Care, that God Almighty be devoutly and duly served in all Protestant Churches and Chapels throughout Our said Province, in which Divine Service is performed according to the Rites of the Church of England; the Book of Common Prayer, as by Law established, be read each Sunday and Holiday; and the Blessed Sacrament duly administered.

24. You are not to prefer any Protestant Minister to any

ecclesiastical Benefice in the Province under your Government, without a Certificate from the Right Reverend Father in God the Lord Bishop of London, of his being conformable to the Doctrine and Discipline of the Church of England, and of a good Life and Conversation; and if any Person hereafter preferred to a Benefice shall appear to you to give Scandal either by his doctrine or manners, you are to use the best means for his Removal.

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25. You are to give orders forthwith, that every Protestant Minister within your Government, be one of the Vestry in his respective Parish; and that no Vestry be held without him, except in case of Sickness, or, after Notice of a Vestry summoned, he omit to come.

26. And to the end, that the ecclesiastical Jurisdiction of the Lord Bishop of London may take place in Our Province under your Government, as far as conveniently may be; We do think fit, that you give all Countenance and Encouragement to the exercise of the same, excepting only the collating to Benefices, granting Licenses for Marriages, and Probates of Wills, which We have reserved to you Our Governor, and to the Commander in Chief of Our said Province for the time being.

27. And We do further direct, that no School-master, who shall arrive in Our said Province from this Kingdom, be henceforward permitted to keep School without the Licence of the said Lord Bishop of London; and that no other Person now there, or that shall come from other Parts, shall be admitted to keep School in your Government without your Licence first obtained.

28. You are to take especial Care, that a Table of Marriages, established by the Canons of the Church of England, be hung up in all places of public Worship according to the Rites of the Church of England.

29. And it is our further Will and Pleasure, that, in order to suppress, as much as in you lies, every species of Vice and Immorality, You forthwith do cause all Laws already made against Blasphemy, Prophaneness, Adultery, Fornication, Polygamy, Incest, Profanation of the Lord's day, Swearing, and Drunkenness, to be vigorously put in execution in every part of your Government; and that you take due Care for the punishment of these and every other Vice and Immorality by presentment upon Oath, to be made to the Temporal Courts by the Church Wardens of the several Parishes at proper times of the Year to be appointed for that purpose; And for the further discouragement of Vice and encouragement of Virtue and good Living, (that by such Examples the Infidels may be invited and perswaded to embrace the Christian Religion,) You are not to admit any Persons to public Trusts and

Employments in the Province under your Government, whose ill fame and conversation may occasion Scandal.

30. The Extension of the Limits of the Province of Quebec necessarily calls forth your Attention to a Variety of new Matter and new Objects of Consideration; The protection and control of the various Settlements of Canadian Subjects, and the regulation of the Peltry Trade in the upper or interior Country on the one hand, and the protection of the Fisheries in the Gulph of S^t Lawrence, and on the Labrador Coast on the other hand, point to Regulations, that require deliberation and despatch.

31. The institution of inferior Judicatures with limited Jurisdiction in Criminal and Civil Matters for the Illinois, Poste S^t Vincenne, the Detroit, Missilimakinac, and Gaspée has been already pointed out, and the Appoint-

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ment of a Superintendent at each of these Posts is all, that is further necessary for their Civil concerns; But it will be highly proper, that the Limits of each of those Posts, and of every other in the interior Country should be fixed and ascertained; and that no Settlement be allowed beyond those Limits; seeing that such Settlements must have the consequence to disgust the Savages; to excite their Enmity; and at length totally to destroy the Peltry Trade, which ought to be cherished and encouraged by every means in your Power.

32. It is Our Royal Intention, that the Peltry Trade of the interior Country should be free and open to all Our Subjects, Inhabitants of any of Our Colonies, who shall, pursuant to what was directed by Our Royal Proclamation of 1763, obtain Licences from the Governors of any of Our said Colonies for that purpose, under penalties to observe such Regulations, as shall be made by Our Legislature of Quebec for that purpose; Those Regulations therefore, when established, must be made public throughout all Our American possessions, and they must have for their object the giving every possible facility to that Trade, which the nature of it will admit, and as may consist with fair and just dealing towards the Savages, with whom it is carried on. The fixing stated times and places for carrying on the Trade, and adjusting modes of settling Tariffs of the prices of Goods and Furs, and above all the restraining the Sale of Spirituous Liquors to the Indians will be the most probable and effectual means of answering the ends proposed. These and a variety of other regulations, incident to the nature and purpose of the Peltry Trade in the interior Country, are fully stated in a Plan proposed by Our Commissioners for Trade and Plantations in 1764, a copy of which is hereunto annexed,¹ and which will serve as a Guide in a variety of cases, in which it may be necessary to make provision by Law for that important Branch of the American Commerce.

33. The Fisheries on the Coast of Labrador, and the Islands adjacent thereto are objects of the greatest Importance, not only on account of the Commodities they produce, but also as Nurseries of Seamen, upon whom the Strength and Security of Our Kingdom depend.

34. Justice and Equity demand, that the real and actual property and possession of the Canadian Subjects on that Coast should be preserved intirely; and that they should not be molested or hindered in the exercise of any Sedentary Fisheries they may have established there.

35. Their Claims however extend to but a small District of the Coast, on the greatest part of which District a Cod Fishery is stated to be impracticable.

36. On all such parts of the Coast, where there are no Canadian Possessions, and more especially where a valuable Cod Fishery may be carried on, it will be your Duty to make the Interests of Our British Subjects going

¹ The plan is given below, following these Instructions; see p. 716.

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out to fish there in Ships fitted out from Great Britain the first object of your care, and, as far as circumstances will admit, to establish on that Coast the Regulations in favour of British fishing Ships, which have been so wisely adopted by the Act of Parliament passed in the Reign of King William the Third "for the encouragement of the Newfoundland Fishery;" and you are on no account to allow any possession to be taken, or sedentary Fisheries to be established upon any parts of the Coast, that are not already private Property, by any persons whatever, except only such as shall produce annually a Certificate of their having fitted out from some Port in Great Britain.

37. We have mentioned to you the Fisheries upon the Coast of Labrador, as the main object of your attention; but the Commerce carried on with Savages of that Coast, and the state and condition of those Savages deserve some regard; the Society of Unitas Fratrum, urged by a laudable Zeal for promoting Christianity, has already, under Our Protection, and with Our Permission, formed Establishments in the Northern parts of that Coast for the purposes of civilizing the Natives, and converting them to the Christian Religion. Their success has been answerable to their Zeal; and it is Our express Will and Pleasure, that you do give them every countenance and Encouragement in your power, and that you do not allow any Establishment to be made, but with their consent, within the limits of their possessions.

38. By Our Commission to you under Our Great Seal of

Great Britain you are authorised and impowered, with the advice and consent of Our Council, to settle and agree with the Inhabitants of Our said Province of Quebec for such Lands, Tenements, and Hereditaments, as now are, or shall hereafter be in Our Power to dispose of. It is therefore Our Will and Pleasure, that all Lands, which now are, or hereafter may be subject to Our Disposal, be granted in Fief or Seigneurie, in like manner as was practiced antecedent to the Conquest of the said Province; omitting however in any Grant, that shall be passed of such Lands, the Reservation of any Judicial powers, or privileges whatever. And it is Our further Will and Pleasure, that all Grants in Fief or Seigneurie, so to be passed by you, as aforesaid, be made subject to Our Royal Ratification, or Disallowance, and to a due Registry thereof within a limited time, in like manner as was practised in regard to Grants and Concessions held in Fief and Seigneurie under the French Government.

39. It is Our Will and Pleasure however, that no Grants be made of any Lands, on which there is any considerable growth of white Pines fit for Masting Our Royal Navy, and which lie convenient for water carriage; But that you do cause all such Lands to be set apart for Our Use, and proper regulations made, and penalties inflicted, to prevent trespasses on such Tracts, and the cutting down, or destroying the Trees growing thereon.

40. And whereas it appears from the Representation of Our late Governor of the District of Trois Rivières that the Iron Works at Saint Maurice in

that District are of great consequence to Our Service. It is therefore Our Will and Pleasure that no part of the Lands, upon which the said Iron Works were carried on, or from which the Ore used in such Works was procured, or which shall appear to be necessary and convenient for that Establishment, either in respect to a free passage to the River Saint Lawrence, or for producing a necessary supply of Wood, Corn, and Hay, or for Pasture for Cattle, be granted to any private person whatever. And also that as large a District of Land, as conveniently may be, adjacent to, and lying round the said Iron Works, over and above what may be necessary for the above purposes, be reserved for Our Use, to be disposed of in such manner as We shall hereafter direct and appoint.

41. And it is Our further Will and Pleasure, that you do consider of a proper and effectual method of collecting, receiving, and accounting for Our Quit rents, whereby all Frauds, Concealments, Irregularity, or neglect therein may be prevented, and whereby the receipt may be effectually checked and controlled. And if it shall appear necessary to pass an Act for the more effectually ascertaining, and the more speedily and regularly collecting Our Quit rents, you are to prepare the heads of such a Bill, as you shall think may most effectually conduce to the procuring the good ends proposed; and to transmit the same to Us by one of Our principal Secretaries of State for Our further Directions therein. And you are also to transmit a Duplicate thereof to Our Commissioners for Trade and Plantations for their information.

42. You are to use your best endeavours in improving the Trade of the Province under your Government by settling such Orders and Regulations therein, with the advice of Our said Council, as may be most acceptable to the generality of the Inhabitants; And It is Our express Will and Pleasure, that you do not upon any pretence whatever, upon pain of Our Highest Displeasure, give your assent to any Law or Laws for setting up any Manufactures, and carrying on any Trades, which are hurtful and prejudicial to this Kingdom; and that you do use your utmost endeavours to discourage, discountenance, and restrain any attempts, which may be made to set up such Manufactures, or establish any such Trades.

43. And it is Our Will and Pleasure, that you do not dispose of any Forfeitures or Escheats to any person, until the Sheriff or other proper Officer have made enquiry by a Jury upon their Oaths into the true value thereof; nor until you have transmitted to Our Commissioners of Our Treasury a particular account of such Forfeitures, and Escheats, and the Value thereof; and you are to take care, that the produce of such Forfeitures and Escheats, in case We shall think proper to give you directions to dispose of the same, be duly paid to Our Treasurer or Receiver General of Our said Province; and a full

account transmitted to Our Commissioners of Our Treasury, or Our High Treasurer for the time being, with the names of the persons, to whom disposed.

44. And whereas Commissions have been granted unto several persons in Our respective Plantations in America for the trying of Pirates in those

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parts, pursuant to the Acts for the more effectual suppression of Piracy; and by a Commission already sent to Our Province of New York Our Governor there is empowered, together with others therein mentioned, to proceed accordingly in reference to Our said Province; Our Will and Pleasure is that you do use your best endeavours to apprehend all persons whatever, who may have been guilty of Piracy within your Government, or who, having committed such Crimes at other places, may come within your Jurisdiction, and until we shall think proper to direct the like Commission to be established for Our Government at Quebec, you are to send such Pirates, with what proofs of their Guilt you can procure or collect, to Our Governor of New York, to be tryed and punished under the authority of the Commission established for those parts.

45. And whereas you will receive from Our Commissioners for executing the Office of High Admiral of Great Britain and of Our Plantations a Commission, constituting you Vice Admiral of Our said Province; you are hereby required and directed carefully to put in execution the several powers thereby granted you.

46. Whereas great Inconveniences have happened heretofore by Merchant Ships and other vessels in the Plantations wearing the Colours borne by Our Ships of War, under pretence of Commissions granted to them by the Governors of the said Plantations, and by trading under those Colours, not only among Our own Subjects, but also those of other Princes and States, and committing divers Irregularities, they may very much dishonour Our Service; For preventing thereof, you are to oblige the Commanders of all such Ships, to which you shall grant Commissions, to wear no other Colours, than such as are described in an Order of Council of the 7th of January 1730, in relation to Colours to be worn by all Ships and Vessels, except Our Ships of War.

47. And whereas there have been great Irregularities in the manner of granting Commissions in the Plantations to private Ships of War, you are to govern yourself, whenever there shall be occasion, according to the Commissions and Instructions granted in this Kingdom; But you are not to grant Commissions of Marque or Reprisal against any Prince or State, or their Subjects in amity with Us to any person whatsoever without Our special Command.

48. Whereas We have been informed, that during the time of War, Our Enemies have frequently got Intelligence of the State of Our Plantations by Letters from private persons to their Correspondents in Great Britain, taken on board Ships coming from the Plantations, which hath been of dangerous consequence; Our Will and Pleasure therefore is, that you signify to all Merchants, Planters, and others, that they be very cautious in time of War, whenever that shall happen, in giving any accounts by Letters of the Public State and Conditions of Our Province under your Government; and you are further to give directions to all Masters of Ships, or other persons, to whom you may entrust your Letters, that they put such Letters

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into a Bag with a sufficient weight to sink the same immediately, in case of imminent danger from the Enemy: And you are also to let the Merchants and Planters know, how greatly it is for their Interest, that their Letters should not fall into the hands of the Enemy; and therefore that they should give like Orders to Masters of Ships in relation to their Letters; and you are further to advise all Masters of Ships, that they do sink all Letters, in case of danger, in the manner before mentioned.

49. And whereas the Merchants and Planters in Our Plantations in America, have in time of War, corresponded and traded with Our Enemies, and carried Intelligence to them, to the great prejudice and hazard of Our said Plantations; you are therefore by all possible methods to endeavor to hinder such Trade and Correspondence in time of War.

50. Whereas it is absolutely necessary, that We be exactly informed of the State of Defence of all Our Plantations in America, as well in relation to the Stores of War, that are in each Plantation, as to the Forts and Fortifications there, and what more may be necessary to be built for the Defence and Security of the same; you are as soon as possible to prepare an account thereof with relation to Our said Province in the most particular manner; and you are therein to express the present State of the Arms, Ammunition, and other Stores of War belonging to the said Province, either in public Magazines, or in the hands of private persons, together with the State of all places either already fortified, or that you judge necessary to be fortified for the Security of Our said Province; and you are to transmit the said accounts to Us by one of Our principal Secretaries of State, and also Duplicates thereof to Our Commissioners for Trade and Plantations, for their information, and also a Duplicate thereof to Our Master General, or principal Officers of Our Ordinance, which accounts are to express the particulars of Ordinance, Carriages, Balls, Powder, and other sorts of Arms and Ammunition in Our public Stores, and so from time to time of what shall be sent to you, or bought with the public Money; and to specify

the time of the disposal, and the occasion thereof; and you are half yearly to transmit a general account of the State of the Fortifications and Warlike Stores specified in the manner above mentioned.

51. And in case of any Distress of any other of Our Plantations, you shall, upon application of the respective Governors thereof unto you, assist them with what aid the condition and safety of Our Province under your Government can spare.

52. If any thing shall happen, which may be of advantage or security to Our Province under your Government, which is not herein, or by your Commission provided for, We do hereby allow unto you, with the advice and consent of Our Council, to take order for the present therein, giving

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unto Us, by one of Our principal Secretaries of State, speedy notice thereof, that you may receive Our Ratification, if We shall approve the same; Provided always, that you do not by colour of any power or authority hereby given you, commence or declare War without Our Knowledge and particular Commands therein; and you are also to transmit a Duplicate of such notice, as aforesaid, to Our Commissioners for Trade and Plantations for their information.

53. And whereas We have by the first article of these Our Instructions to you directed and appointed, that your chief Residence shall be at Quebec, you are nevertheless frequently to visit other parts of your Government, in order to inspect the management of all public affairs, and thereby the better to take care, that the Government be so administered, that no disorderly practices may grow up contrary to Our Service and the welfare of Our Subjects.

54. And whereas great prejudice may happen to Our Service, and the security of the Province by your absence from those parts, you are not upon any pretence whatsoever to come into Europe without having first obtained leave for so doing from Us under Our Sign Manual and Signet, or by Our Order in Our Privy Council; Yet nevertheless, in case of Sickness, you may go to South Carolina, or any other of Our Southern Plantations, and there stay such a space of time, as the recovery of your Health may absolutely require.

55. And whereas We have thought fit by Our Commission to direct, that, in case of your death, or absence from Our said Province, and in case there be at that time no person within Our said Province commissioned or appointed by Us to be Our Lieutenant Governor, or Commander in Chief, that the eldest Councillor, being a natural born Subject of Great Britain, Ireland, or the Plantations, and professing the

Protestant Religion, who shall be at the time of your death or absence residing within Our said Province under your Government, shall take upon him the administration of Government, and execute Our said Commission, and Instructions, and the several powers and authorities therein directed; It is nevertheless Our express Will and Pleasure, that in such case the said President shall forbear to pass any Act or Acts, but what are immediately necessary for the Peace and Welfare of the said Province, without Our particular Order for that purpose.

56. And whereas We are desirous, that a proper provision should be made for the support of Our Government within Our said Province of Quebec, We do therefore hereby declare it to be Our Royal Intention, that the following annual Salaries and Allowances be discharged and paid out of any Revenues arising to Us within the same, or out of such other Monies, as shall be granted or appropriated to the Uses and Services of Our said Province of Quebec, that is to say,

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	£	s.	d.
To the Governor p Annum	2,000	0	0
To the Lieutenant Governor	600	0	0
To the Chief Justice	1,200	0	0
To six Judges of Common Pleas, £500 each	3,000	0	0
To the Attorney General	300	0	0
To the Clerk of the Crown and Pleas	100	0	0
To two Sheriffs at £100 each	200	0	0
To the Secretary and Register	400	0	0
To the Clerk of the Council	100	0	0
To the Surveyor of Lands	300	0	0
To the Surveyor of Woods	200	0	0
To the Commissary for Indians	300	0	0
To the Captain of the Port	100	0	0
To the Naval Officer	100	0	0
To the Receiver General of the Revenues	400	0	0
To twenty-three Councillors at £100 each	2,300	0	0
To the Lieutenant Governors or Superintendents			
At the Illinois	}	at £200 each	....
Post Saint Vincenne			
Detroit			
Missilimakinac			
Gaspée			
at £200 each	1,000	0	0
To one Judge of the Inferior Courts of King's bench and Common Pleas			
at each of the above five Posts at £100 each Judge	500	0	0
To an Assistant or Assessor at each Post at £50 p Annum	250	0	0
To a Sheriff at each District at £20 p Annum each	100	0	0
To a Grand Voyer	200	0	0
To a French Secretary	200	0	0
To four Ministers of the Protestant Church at £200 p. Ann. each	800	0	0
To two Schoolmasters at £100 p. Annum each	200	0	0

To an Allowance to the Person licenced to superintend the Romish Church	....	....	....	....	....	....	....	200	0	0
To Pensions to the Officers of a Corps of Canadians employed in the last War, and discharged without any Allowance, as follows, Viz ^t										
To Mons ^r Rigauville, the Commandant of said Corps	....							200	0	0
To five Captains £100 each	....	....	....	....	....	....	....	500	0	0
To ten Lieutenants £50 each	....	....	....	....	....	....	....	500	0	0
To the Commandant of the Savages	....	....	....	....	....	....	....	100	0	0
To Annual Contingent Expenses	....	....	....	....	....	....	....	1,000	0	0
										£17,350 0 0

All which Salaries and Allowances are to commence on, and be payable from, and after the first day of May next ensuing.¹

[¹ Among the Dartmouth Papers is an "Estimate of the Expençe of the Civil Establishment of the Province of Quebec, and Its Dependencies." M 385, p. 494. In this a number of the salaries are rated at different amounts from those here given. Among the variations are the following—Lt. Governor, £800, Chief Justice, £1,000; the six Judges, £300 each, Commissary for Indians, £200. There are two additional offices, Judge of the Admiralty, £200, Register of the Court of Admiralty, £100. There was no provision for Schoolmasters, or for Contingent Expenses. From another document we find that the appointments to these positions were divided between Lord Dartmouth, the Treasury Board, and the Governor, as follows,—

Lord Dartmouth—Lt. Governor, Chief Justice, Seery & Register, 3 Judges, Attorney Gen^l, Clerk of Crown, Commissary for Indian Affairs, Naval Officers, 5 Superintendst, 4 Ministers, 2 Schoolmasters.

Treasury—Surveyor of Lands, D^o of Woods, Receiv^r Gen^l.

Governor—Clerk of Council, Captain of ye Port, 2 Sheriffs, 5 Judges, 5 Assessors, 5 Sheriffs Grand Voyer, French Secretary." M 385, p. 492.]

57. And whereas We are further willing in the best manner to provide for the support of the Government of Our said Province, by setting apart a sufficient Allowance to such, as shall be Our Lieutenant Governor, Commander in Chief, or President of Our Council for the time being within the same; Our Will and Pleasure therefore is, that, when it shall happen, that you shall be absent from Our said Province, one full Moiety of the Salary, and of all Perquisites and Emoluments whatsoever, which would otherwise become due unto you, shall, during the time of your absence from Our said Province, be paid and satisfied unto such Lieutenant Governor, Commander in Chief, or President of Our Council, who shall be, resident upon the place for the time being, which We do hereby order and allot unto him towards his Maintenance, and for the better Support of the Dignity of that Our Government.

G.R.

PLAN FOR THE FUTURE MANAGEMENT OF INDIAN
AFFAIRS, REFERRED TO IN THE THIRTY-SECOND
ARTICLE OF THE FOREGOING INSTRUCTIONS

1. That the Trade and Commerce with the several Tribes of Indians in North America under the protection of His Majesty shall be free and open to all His Majesty's subjects, under the several Regulations and Restrictions hereafter mentioned, so as not to interfere with the Charter to the Hudson's Bay Company.

2. That for the better Regulation of this Trade, and the Management of Indian Affairs in general, the British Dominions in North America be divided into two Districts, to comprehend and include the several Tribes of Indians mentioned in the annexed Lists A. and B.

3. That no Trade be allowed with the Indians in the southern District, but within the Towns belonging to the several Tribes included in such District; and that in the Northern District the Trade be fixed at so Many Posts, and in such Situations, as shall be thought necessary.

4. That all Laws, now in Force in the several Colonies for regulating Indian Affairs, or Commerce, be repealed.

5. That there be one general Agent or Superintendent appointed by His Majesty for each District.

6. That the Agent or Superintendent for the Northern District shall be allowed three Deputies to assist him in the Administration of Affairs within his District; and that the Agent or Superintendent for the Southern District shall be allowed two Deputies.

7. That there shall be a Commissary, Interpreter, and Smith, appointed by His Majesty to reside in the Country of each Tribe in the Southern District and at each Post in the Northern District.

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8. That it be recommended to the Society for the propagation of the Gospel in foreign parts to appoint four Missionaries in each District, to reside at such places, as the Agent or Superintendant for each District shall recommend.

9. That the Commissaries, Interpreters, and Smiths in each District do Act under the immediate Direction and Orders of the Agent or Superintendant, who shall have a power of Suspending them in Case of Misbehaviour, and, in Case of Suspension of a Commissary, or of a Vacancy by Death, or Resignation, the Office shall be executed, until the King's pleasure is known, by one of the Deputies to the Agent or Superintendant.

10. That the said Agent or Superintendant shall have the Conduct of all public Affairs relative to the Indians; and that neither the Commander in Chief of His Majesty's Forces in America, nor any of the Governors and Commanders in Chief of any of the Colonies, or persons having military Commands in any of the Forts within each of the said, Districts, do hold any General Meetings with the Indians, or send any public Talks to them without the Concurrence of the Agent or Superintendant, unless in cases of great Exigency, or when the said Agent or Superintendant may be in some remote part of his District.

11. That the said Agents or Superintendants do in all Affairs of political consideration, respecting peace and war with the Indians, purchases of Lands, or other Matters, on which it may be necessary to hold any general Meetings with the Indians, advise and act in concert with the Governors, (or the Governors and Councils, as the Occasion may require), of the several Colonies within their respective Districts; And that the said Agents or Superintendants shall be Councillors extraordinary within each Colony in their respective Districts, in like manner as the Surveyors General of the Customs for the Northern and Southern Districts of America.

12. That the Governor or Commander in Chief of every Colony be directed to communicate to the Agent or Superintendant of that District, within which his Government lyes, all such Information and Intelligence, as he may receive respecting Indian Affairs; And that the Agents or Superintendants shall in like manner communicate to the Governors all Intelligence and Information, respecting the State of Indian Affairs, which may in any wise regard the Security and Interest of the said Colonies.

13. That no Order shall be issued by the Governor or Commander in Chief of any of His Majesty's Colonies, or by any Officer having Military Command in any Forts within the Indian Country, for stopping the Trade with any Tribe of Indians in either of the said Districts, without the Concurrence and Consent of the Agent or Superintendant for Indian Affairs.

14. That the said Agents or Superintendants shall by themselves, or sufficient Deputies visit the several Posts or Tribes of Indians within their respective Districts once in every year, or oftener, as Occasion shall require,

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to enquire into, and take an Account of the Conduct and Behaviour of the subordinate Officers at the said Posts, and in the Country belonging to the said Tribes; to hear Appeals; and redress all Complaints of the Indians; make the proper Presents; and transact all Affairs relative to the said Indians.

15. That for the maintaining peace and good Order in the Indian Country, and bringing Offenders in criminal Cases to due Punishment, the said Agents or Superintendants, as also the Commissaries at each Post, and in the Country belonging to each Tribe, be empowered to Act as Justices of the Peace in their respective Districts and Departments, with all powers and priviledges vested in such Officers in any of the Colonies; and also full power of Committing Offenders in Capital Cases, in order that such Offenders may be prosecuted for the same; And that, for deciding all civil actions, the Commissaries be empowered to try and determine in a Summary way all such Actions, as well between the Indians and Traders, as between one Trade and another, to the Amount of Ten Pounds Sterling, with the Liberty of Appeal to the Chief Agent or Superintendant, or his Deputy, who shall be empowered upon such appeal to give Judgement thereon; which Judgement shall be final, and process issue upon it, in like manner as on the Judgement of any Court of Common Pleas established in any of the Colonies.

16. That for the easy attainment of Justice, the evidence of Indians, under proper Regulations and Restrictions, be admitted in all Criminal as well as civil causes, that shall be tried and adjudged by the said Agents or Superintendants, or by the said Commissaries; and that their Evidence be likewise admitted by the Courts of Justice in any of His Majesty's Colonies or Plantations in Criminal cases, Subject to the same Pains and Penalties in Cases of false Evidence, as His Majesty's Subjects.

17. That the said Agents or Superintendants shall have power to Confer such Honors and Rewards on the Indians, as shall be necessary; and of granting Commissions to principal Indians in their respective Districts to be War Captains or

Officers of other Military Distinctions.

18. That the Indians of each Town in every Tribe in the Southern District shall choose a beloved Man to be approved of by the Agent or Superintendant for such District, to take care of the Mutual Interests both of Indians and Traders in such Town; and that such beloved Men, so elected and approved in the several Towns, shall elect a Chief for the whole Tribe, who shall constantly reside with the Commissary in the Country of each Tribe, or occasionally Attend upon the said Agent or Superintendant, as Guardian for the Indians and Protector of their Rights, with Liberty to the said Chief to be present at all Meetings and upon all Hearings or Trials relative to the Indians before the Agent or Superintendant, or before the Commissaries; and to give his Opinion upon all Matters under Consideration at such Meetings or Hearings.

19. That the like Establishments be made for the Northern District, as far as the Nature of the Civil Constitution of the Indians in this District, and the Manner of Administering civil affairs will admit.

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20. That no person having any Military Command in the Indian Country shall be capable of Acting as Commissary for the Affairs of the Indians; in either of the above mentioned Districts respectively; nor shall such person having military Command be allowed to carry on trade with the Indians or to interpose his Authority in any thing, that regards the Trade with, or civil Concerns of the Indians; but to give the Commissary or other Civil Magistrate all Assistance in his power, whenever thereunto required.

21. That the said Commissaries shall keep exact and regular Accounts by way of Journal, of all their Transactions and Proceedings, and of all Occurrences in their respective Departments, and shall by every opportunity communicate such Transactions and Occurrences to the Agent or Superintendant in their respective Districts; which Agent or Superintendant shall regularly by every Opportunity correspond with the Commissioners for Trade and Plantations.

22. That the Agent or Superintendant, to be appointed for each District, as also the Commissaries residing at the Posts, or in the Indian Country within each District, shall take an Oath before the Governor or Chief Judge of any of the Colonies within their respective Districts, for the due Execution of their respective Trusts; and they and all other subordinate Officers employed in the Affairs of the Indians, shall be forbid, under proper Penalties to carry on any Trade with them, either upon their own Account, or in Trust for others, or to make any Purchase of, or accept any Grants of Lands from the Indians.

23. That for the better regulation of the Trade with the said Indians conformable to their own Requests, and to prevent those Frauds and Abuses, which have been so long and so loudly complained of in the manner of carrying on such Trade, all Trade with the Indians in each District be carried on under the Direction and Inspection of the Agents or Superintendants, and other subordinate Officers to be appointed for that purpose, as has been already mentioned.

24. That all Persons intending to trade with the Indians shall take out Licences for that purpose under the Hand and Seal of the Governor or Commander in Chief of the Colony, from which they intend to carry on such Trade, for every of which Licences no more shall be demanded or taken than two Shillings.

25. That all persons taking out Licences shall enter into Bond to His Majesty, His Heirs, and Successors in the Sum of _____ with one Surety in the Sum of _____ for the due observance of the Regulations prescribed for the Indian Trade.

26. That every Person willing to give Security, and finding a Security willing, if required, to take an Oath, that he is possessed of property to double the value of the Sum he stands security for, shall be intitled to a Licence.

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27. That every such Licenced Trader shall at the time of taking out the Licence, declare the Post or Truck house, at which or the Tribe of Indians with which he intends to trade, which shall be specified in the Licence itself.

28. That no Licence be granted to continue longer than for one Year.

29. That no Person trade under such Licence, but the person named in it, his Servants, or Agents, whose Names are to be inserted in the Margents; and in Case any of the Servants or Agents named in such Licence shall die, or be discharged, the same shall be notified to the Governor, by whom the Licence was granted, or to the Commissary of the Post, or in the Tribe, where such Trader carries on Trade, to the end that the Name or Names of any other Servants or Agents, employed by the said Trader in the place of those dead or discharged, may in like manner be inserted in the Margent of the Licence.

30. That all Licences be entered in the Secretary's Office, or other proper Office of Record in each Colony, where they are taken out; for which Entry no more shall be demanded or taken than Six pence for each Licence; and all persons to have free Liberty to inspect such Entry, paying a Fee of Six pence for the same.

31. That persons trading with the Indians without a Licence,

and without giving the Security above required, or trading at any other Posts or places, than those expressed in their Licences, do forfeit all the Goods they shall be found then trading with, and also pay a Fine of _____ to His Majesty, His Heirs, and Successors, and suffer _____ Months Imprisonment.

32. That all Traders immediately upon Arrival at the posts or Truck houses in the Northern district, or in the Tribes in the Southern district, for which Licences have been taken out, and before any Goods are sold to, or bartered with the Indians, do produce such Licences to the Commissaries appointed for the Direction and Inspection of the Trade at such posts, or Truck houses, or in such Tribes.

33. That all Trade with the Indians shall be carried on by Tariffs, to be settled and Established from time to time by the Commissaries at the several Posts, or Truck houses, or in the Countries belonging to the several Tribes in Concert with the Traders and Indians.

34. That the Commissaries appointed to direct and inspect the Trade at each Truck house in the Northern District, shall be empowered to fix and prescribe Limits round each. Post or Truck house, within which Limits all Trade with the Indians may be commodiously carried on in the most public Manner.

35. That all Traders have free Liberty to erect Hutts and Warehouses within such Limits, in such Order and Manner as the Commissary shall, with the concurrence of the Officer Commanding at such Post, Direct and appoint.

36. That no Trader shall Traffic, or have any Dealings with the Indians without the Limits prescribed by the Commissary or other Chief Officer appointed for the Inspection and Direction of the Trade.

37. That each Truck house or post of Trade in the Northern District be fortified and garrisoned; and that all Traders have free Liberty to retire into such Garrison with their Effects, when ever any Disturbance shall Arise, or the Commissary at such post shall represent it to be necessary.

38. That no Trader shall sell or otherwise supply the Indians with Rum, or other spirituous Liquors, Swan Shot, or rifled Barrelled Guns.

39. That in Trade with the Indians no Credit shall be given them for Goods in Value beyond the Sum of fifty Shillings; and no Debt beyond that Sum shall be recoverable by Law or Equity.

40. That all Disputes concerning Weights or Measures in the buying or selling Goods shall be decided by Standard Weights and Measures, to be kept in each Post or Truck-house in the Northern District, and in each Tribe in the Southern District.

41. That no private person, Society, Corporation, or Colony be capable of acquiring any Property in Lands belonging to the Indians, either by purchase of, or Grant, or Conveyance from the said Indians, excepting only where the Lands lye within the Limits of any Colony, the soil of which has been vested in proprietors, or Corporations by Grants from the Crown; in which Cases such Proprietaries or Corporations only shall be capable of acquiring such property by purchase or Grant from the Indians.

42. That proper Measures be taken, with the Consent and Concurrence of the Indians, to ascertain and define the precise and exact Boundary and Limits of the Lands, which it may be proper to reserve to them, and where no Settlement whatever shall be allowed.

43. That no purchases of Lands belonging to the Indians, whether in the Name and for the Use of the Crown, or in the Name and for the Use of proprietaries of Colonies be made but at some general Meeting, at which the principal Chiefs of each Tribe, claiming a property in such Lands, are present; and all Tracts, so purchased, shall be regularly surveyed by a Sworn Surveyor in the presence and with the Assistance of a person deputed by the Indians to attend such Survey; and the said Surveyor shall make an accurate Map of such Tract, describing the Limits, which Map shall be entered upon Record, with the Deed of Conveyance from the Indians.

It is estimated, that the annual Expence of supporting the Establishments, proposed in the foregoing plan, providing presents for the Indians, and other contingent Expences, may amount to about twenty thousand pounds; and it is proposed to defray this Expence by a Duty upon the Indian Trade, either collected upon the Exportation of Skins and Furs, (Beaver excepted,) from the Colonies, or payable by the Traders at the posts and

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places of Trade, as shall, upon further Examination and the fullest Information, be found most practicable, and least burthensome to the Trade.

A.

List of Indian Tribes in the northern District of North America.

Mohocks.	Canassadagas.
Oneidas.	Arundacks.
Tuscaroras.	Algonkins.
Onondagas.	Abenaquis.
Cayugas.	Skaghquanoghronos.
Senecas.	
Oswegachys.	Hurons.
Nanticokes.	Shawanese.
Conoys.	Delawares.
Powtewatamis.	Wiandots.
Ottawas.	Kickapous.
Chipeweighs, or Missisagis.	Mascoutens.
Meynomenys.	Piankashaws.
Folsavoins.	Wawaightonos.
Puans.	Keskeskias.
Sakis.	Illinois.
Foxes.	Sioux.
Twightwees.	Micmacs.
Tuteeves.	Norwidgewalks.
Saponeys.	Arseguntecokes.
Caghnawagas.	Penobscots.
	S ^t John's.

B.

List of Indian Tribes in the southern District of North America.

Cherokees.	Attucapas.
Creeks.	
Chickasaws.	Bayugas.
Chactaws.	Tunicas.
Catawbas.	Peluches.
Beluxis.	Ofugulas.
	Querphas.

Endorsed: Dr^t

Instructions for Guy Carleton Esq Gov of Quebec, Dated 3
Jan^y 1775.

In Order of Council of 28th Decem^r 1774.

George R

C. O.

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No. 191.

[15 April,
1778.]**INSTRUCTIONS, PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET, FOR FREDERICK
HALDIMAND**AS CAPTAIN GENERAL AND GOVERNOR IN CHIEF OF THE PROVINCE
OF QUEBEC AND THE TERRITORIES DEPENDENT THEREUPON.¹

(L.S.)

George R.

Instructions to Our Trusty and Welbeloved Frederick Haldimand Esquire, Our Captain General & Governor in Chief in & over Our Province of Quebec in America & of all Our Territories dependent thereupon Given at Our Court at St James's the Fifteenth day of April 1778. In the Eighteenth Year of Our Reign.—

First With these Our Instructions You will receive Our Commission under Our Great Seal of Great Britain, constituting you Our Captain General & Governor in Chief in and over Our Province of Quebec in America, & all Our Territories thereunto belonging, bounded & described, as in Our said Commission is set forth; in Execution therefore of the Trust We have reposed in you, You are to take on You the Administration of the Government, & to do & execute all things belonging to your Command, according to the several Powers & Authorities of Our said Commission & these Our Instructions to you, or according to such further Powers & Instructions as you shall at any time hereafter receive under Our Signet or Sign Manual, or by Our Order in Our Privy Council; and you are to call together at Quebec (which We do hereby appoint to be the Place of your ordinary Residence, & the Principal Seat of Government) the following Persons, whom We do hereby constitute & appoint to be Our Council for the Affairs of Our said Province & the Territories thereunto belonging, Viz^t Hector Theophilus Cramahé Esq^r Our Lieutenant Governor of Our said Province, or Our Lieutenant Governor of Our said Province for the time being, Peter Livius Esq^r Our Chief Justice of Our said Province, or Our Chief Justice of Our said Province for the time being, Hugh Finlay, Thomas Dunn, James Cuthbert, Francis L'Evesque, Edward Harrison, John Collins, Adam Mabane, Chaussegros de Lery, George Pownall Esq^r Our Secretary of Our said Province, or Our Secretary of Our said Province for the time being, George Alsopp, La Corne St Luc, Alexander Johnston, Conrad Guty, Picotté de Belestres, John

¹ Canadian Archives, Q 26 B, p. 213, and C.O. 43, vol. 2, p. 323.

Fraser, Henry Caldwell, John Drummond, William Grant, Rocque St Ours Junior, Francis Baby, & De Longueuil Esq^r every one of which respectively shall enjoy his Office of Councillor aforesaid for & during Our Will and Pleasure, & his Residence within Our said Province of Quebec, & not otherwise.—

(The following section, 2-15 as 16-57 of the Instructions to Haldimand, are identical with 2-15 as 18-58 of the General Instructions to Carleton of 3^d Jan^y, 1775, ante pp. 821-826 et. seq.—omitting the latter part of section 9—and adding section 16, as follows.)

16. And Whereas, in pursuance of the foregoing Instructions, Ordinances have been framed and ordained for the Establishment of Courts, and directing a proper mode of Administring Civil and Criminal Justice within Our said Province of Quebec, conformable to the Spirit and Intention of the aforesaid Act of Parliament, Intituled, "An Act for making more Effectual Provision for the Government of the Province of Quebec in North America," It is Our Will and Pleasure that you do from time to time, with Our said Council in their Legislative Capacities, deliberate upon, and frame such Ordinances, as the Circumstances and Condition of Affairs may require, either for continuing, Amending or enforcing such Ordinances, as have been Ordained, as aforesaid, or making any further and necessary Changes and Regulations in the Courts as established, or in the mode of administering Justice within Our said Province; provided, that such Ordinances be strictly conformable to the Act of Parliament aforesaid, And to the Tenor of these Our Instructions.

Endorsed: Frederick Haldimand Esq^r Governor of Quebec
Dated 15th April 1777. (1778).

The Usual Trade Instructions were signed & dated as above.

No. 192.[22 April,
1786.]

Exhibit 153.

**EXTRACT FROM COMMISSION TO GOVERNOR
CARLETON OF QUEBEC.**

PATENT ROLL 26 GEORGE III. pt. 5, No. 8. No. 3826. COLONIAL
OFFICE RECORDS 42/17.

Sir Guy Carleton George the third, etc., to Sir Guy Carleton (Governor of Quebec) Greeting, etc. WHEREAS we did by our letters patent under our great seal of Great Britain bearing date at Westminster the eighteenth day of September in the seventeenth year of our reign constitute and appoint Frederick Haldimans, esquire, to be our Captain General and Governor in Chief in and over the province of Quebec, etc., And further know ye that we reposing especial trust and confidence in the prudence, courage and loyalty of you the said Sir Guy Carleton of our especial grace, certain knowledge and mere motion, have thought fit to appoint you the said Sir Guy Carleton to be Our Captain General and Governor in Chief in and over Our Province of Quebec in America comprehending all our Territories, Islands and Countries in North America—Northward to the southern Boundary of the Territory granted to the Merchants, Adventurers of England trading to Hudson's Bay, and also all such Territories, Islands, and Countries, which have since the tenth of February one thousand seven hundred and sixty three been made Part of the Government of Newfoundland, together with all the Rights, Members and Appurtenances whatsoever thereunto belonging.

Witness ourself at Westminster the 22nd day of April in the twenty sixth year of our reign.

BY WRIT OF PRIVY SEAL.

No. 193.

23 August,
1786.**INSTRUCTIONS, PASSED UNDER THE ROYAL SIGN
MANUAL AND SIGNET, FOR LORD DORCHESTER**C.O.
(Instructions Quebec
1786-1791.)AS CAPTAIN GENERAL AND GOVERNOR IN CHIEF OF THE PROVINCE
OF QUEBEC AND THE TERRITORIES DEPENDENT THEREUPON.¹

Instructions to Our Right Trusty and Welbeloved Guy Lord
Dorchester, Knight of the Most Honorable Order of the Bath
— Our Captain General and Governor in Chief in and over
Our Province of Quebec in America, and of all Our
Territories dependent thereupon—Given at Our Court at St
James's the 23rd Day of August 1786. In the Twenty Sixth
Year of Our Reign.

First. With these Our Instructions you will receive Our
Commission under our Great Seal of Great Britain constituting
You Our Captain General and Governor in Chief in and over
Our Province of Quebec in America, and all Our Territories
thereunto belonging bounded and described as in Our said
Commission is set forth; In execution therefore of the Trust
We have reposed in You, You are to take upon You, the
Administration of the Government, and to do and execute all
Things belonging to your Command according to the several
Powers and Authorities of Our said Commission, and these
Our Instructions to You, or according to such further Powers &
Instructions, as you shall at any time hereafter receive under
Our Signet & Sign Manual, or by Our Order in Our Privy
Council, and you are to call together at Quebec the following
Persons whom We do hereby constitute and appoint to be Our
Council for the Affairs of Our said Province and the Territories
thereunto belonging Viz^t Henry Hope Esq^r Lieutenant Gov^r of
Our said Province of Quebec, or the Lieutenant Governor of
Our said Province for the time being: William Smith Esq^r Our
Chief Justice of Our said Province of Quebec or the Chief
Justice of Our said Province for the Time being, Hugh Finlay,
Thomas Dunn, Francis Les Vesques, Edward Harrison, John
Collies, Adam Mabane, Chaussegros de Lery, George Pownall
Secretary of Our said Province

[¹ Canadian Archives, Q 26B. formerly M 230, p. 231. Just before leaving
for America Sir Guy Carleton was raised to the Peerage as Baron Dorchester.
He arrived in Quebec on Oct. 23rd, 1786. On comparing these Instructions
with those given to Carleton in 1775 and Haldimand in 1778, it will be
observed that the changes are not very numerous, beyond embodying the
additional instructions issued in the interval, as in articles 2, 16, 37, and 40 to
43; or readjusting the wording to harmonize with certain ordinances passed in
the meantime, as in articles 12 and 14.]

of Quebec, or the Secretary of Our said Province for the Time being, Picotté de Bellestres, John Fraser, Henry Caldwell, William Grant, Rocque St Ours Jun^r Francis Baby De Longueuil, Samuel Holland and George Davison Esquires, Sir John Johnson Bart, Charles de Lanaudiere de Boucherville & Compte du Pré Esquires, every one of which respectively shall enjoy his Office of Councillor aforesaid during Our Will and Pleasure and his residence within Our said Province of Quebec and not otherwise.

2^d It is Our further Will and Pleasure that any five of the said Council shall constitute a Board of Council for transacting all Business in which their Advice and Consent may be requisite, Acts of Legislature only excepted (in which Case you are not to act without a Majority of a whole) you are however not to select or appoint any such Members of Our said Council by Name to the Number of five as you may think fit to transact such Business, or term any select Number of such Members by the Name of a Privy Council, but you are on every Occasion where the Attendance of the Members is necessary or required, to summon all such who may be within a convenient Distance; And It is Our further Will and Pleasure that the Members of Our said Council shall have and enjoy all the Powers, Privileges and Emoluments enjoyed by the Members of Our Councils in Our other Plantations, and also such others as are contained and directed in Our said Commission under Our Great Seal of Great Britain and in these Our Instructions to you, and that they shall meet together at such time and times, place and places as you in your Discretion shall think necessary, except when they meet for the purpose of Legislation, in which case they are to be assembled at the Town of Quebec only.

Art.	}	same	{	3	[to Guy Carleton, ante pp. 821-823 ,
to				to	except for "Our Commissioners for
6				6	6

7. You are at your first calling together Our Council to communicate to them such and so many of these Our Instructions wherein their Advice and Consent are mentioned to be requisite, or which contain any Directions as to the framing of Ordinances for the Peace, Welfare and good Government of Our said Province, as likewise all such others from time to time as you shall find convenient for Our service to be imparted to them.

8. You are to permit the Members of Our said Council to have and enjoy freedom of Debate and Vote in all Affairs of publick Concern that may be debated in Council.

9. And whereas by the aforesaid Act passed in the fourteenth year of Our Reign Intituled, "An Act for making more effectual provision for the Government of the Province of Quebec in North America" It is

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further enacted and provided that the Council for the Affairs of the said Province to be constituted and appointed in manner therein directed, or the Major part thereof shall have power and Authority to make Ordinances for the peace, Welfare and good Government of the said Province with the Consent of Our Governor or in his Absence the Lieutenant Governor or Commander in Chief for the time being, Provided that no Ordinance shall be passed, unless upon some urgent Occasion at any Meeting of the Council, except between the first Day of January and the first Day of May, You are to take especial Care that the Directions of the said Act be duly observed and that no Ordinance be passed at any Meeting of the Council where less than a Majority is present, or at any time except between the first Day of January and the first Day of May as aforesaid, unless upon some urgent Occasion in which case every Member thereof resident at Quebec or within fifty Miles shall be personally summoned to attend the same.

10. That no Ordinance be passed for laying any Taxes or Duties, such Rates and Taxes only excepted as the Inhabitants of any Town or District may be authorized to assess, levy and apply within the said Town or District for the making of Roads, erecting & repairing of publick Buildings, or for any other purpose respecting the local Convenience and economy of such Town or District.

That no Ordinance touching Religion or by which any Punishment may be inflicted greater than Fine or Imprisonment for three Months, be made to take Effect, until the same shall have received Our Approbation.

That in all Ordinances imposing Fines, Forfeitures or Penalties, express Mention be made that the same is granted or reserved to Us, Our Heirs and Successors for the publick Uses of the said Province, and the Support of the Government thereof, as by the said Ordinance shall be directed, and that a clause be inserted declaring that the Money arising by the Operation of the said Ordinance shall be accounted for unto Us in this Kingdom, and to Our Commissioners of Our Treasury for the time being, and audited by Our Auditor General of Our Plantations or his Deputy.

That no Ordinance be passed relative to the Trade Commerce, or Fisheries of the said Province, by which the Inhabitants thereof shall be put upon a more advantageous footing than any other of Our Subjects, either of this Kingdom or of the Plantations, who have retained their Allegiance.

That no Ordinance respecting private property be passed without a Clause suspending its Execution until Our Royal Will and Pleasure is known, nor without a Saving of the right

of Us, Our Heirs & Successors and of all Bodies Politick and Corporate, and of all other persons, except such as are mentioned in the said Ordinance and those claiming by, from, and under them, And before such Ordinance is passed Proof must be made before you in Council and entered in the Council Books, that publick Notification was made of the Parties' Intention to apply for such Ordinance in the several Parish Churches, where the Lands in question lye for three Sundays at least successively before any such Ordinances shall be proposed, And you are to

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transmit and annex to the said Ordinance a Certificate under your Hand that the same passed through all the forms abovementioned.

That, except in Cases of imminent Necessity or immediate temporary Expediency, you shall not enact any Ordinance for less time than two years, and you shall not re-enact any Ordinance, to which Our Assent shall have been once refused, nor give your Assent to any Ordinance for repealing any other passed in Your Government, which shall have received Our royal Approbation, unless you take care that there be a Clause inserted therein suspending the Execution thereof until Our Pleasure shall be known, and in either case it will be your Duty to make full representation to Us by One of Our principal Secretaries of State, and to the Lords of the Committee of our Privy Council for Trade & Plantations for their Information of the reasons and Necessity which appeared to you for passing such Ordinance.

That all such Ordinances be transmitted by you within six Months after their passing, or sooner if Opportunity offers, to Us by one of Our principal Secretaries of State and Duplicates thereof to the Lords of the Committee of Our Privy Council for Trade & Plantations for their Information; That they be abstracted in the Margins and accompanied with very full and particular Observations where they may be necessary, together with fair Copies of the Journals of the proceedings of the Council, which you are to require from the Clerk of the said Council.

11. In the Consideration of what may be necessary to be provided for by Law within Our said Province, as created and established by the aforesaid Act, Intituled, "An Act for making more effectual Provision for the Government of the Province of Quebec in North America," a great Variety of important Objects hold themselves forth to the Attention of the Legislative Council.

12. The Establishment of Courts and a proper Mode of administering Civil and Criminal Justice throughout the whole Extent of Our Province according to the Principles declared in the said Act for making more effectual provision for the Government thereof demand the greatest Care and

Circumspection, for as on the one Hand it is Our gracious purpose, conformable to the Spirit and Intention of the said Act of Parliament, that Our Canadian Subjects should have the Benefit and Use of their own Laws, Usages and Customs in all Controversies respecting Titles of Land, and the Tenure, Descent, Alienation, Incumbrances and Settlements of real Estates and the Distribution of personal property of Persons dying intestate, so on the other hand it will be the Duty of the Legislative Council to consider well in framing such Ordinances, as may be necessary for the Establishment of Courts of Justice, and for the better Administration of Justice, whether the Laws of England may not be, if not altogether, at least in part the Rule for the Decision in all Cases of personal Actions grounded upon Debts, Promises, Contracts and Agreements, whether of a Mercantile or other Nature, and also of Wrongs proper to be compensated in Damages, and more especially where Our Natural born Subjects of Great Britain, Ireland,

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or other Plantations residing at Quebec, or who may resort thither or have Credit or Property within. the same, may happen to be either Plaintiff or Defendant in any Civil Suit of such a Nature.

13. Whereas an Ordinance hath been passed in Our Province of Quebec, Intituled, "An Ordinance for securing the Liberty of the Subject and for the prevention of Imprisonments out of this Province," It is Our Will and Pleasure that you do take effectual Care that the said Ordinance be duly enforced, so that every Security to personal Liberty, which is thereby provided for, may be fully enjoyed by Our Subjects in that Province.

14. Whereas, in pursuance of Our former Instructions to Our Governors and Commanders in Chief, Courts of Justice have been established within Our province of Quebec, It is Our Will and Pleasure that you do take due care that in all Cases whatever the Powers and Authorities granted by Us, or by any Ordinance confirmed by Us, to the said several Courts be duly observed and enforced, and that the Proceedings therein be in all things conformable to the said Act of Parliament "for making more effectual provision for the Government of the Province of Quebec," and to such Ordinances as may have been or hereafter may be enacted by the Legislature for those purposes; And that the Governor and Council (of which in the Absence of the Governor and Lieutenant Governor the Chief Justice is to be President) shall continue to be a Court of Civil Jurisdiction for the hearing and determining of all Appeals from the Judgment of the other Courts, where the Matter in dispute is above the Value of ten Pounds; That any five of the said Council (if no more shall upon Summons be present) with the Governor, Lieutenant Governor or Chief Justice shall constitute a Court for that purpose, and that their Judgment

shall be final in all Cases not exceeding the Value of five hundred Pounds Sterling; In which Cases an Appeal from their Judgment is to be admitted to Us in Our Privy Council; It is however Our Will and Pleasure that no Appeal be allowed unless Security be first given by the Appellant that he will effectually prosecute the same, and answer the Condemnation, as also pay such Costs and Damages as shall be awarded by Us, in case the Sentence be affirmed; Provided nevertheless, where the Matter in Question relates to the taking or demanding of any Duty payable to Us, or to any Fee of Office, or Annual Rents or other such like Matter or Thing, where the Right in future may be bound, in all such Cases Appeal to Us in Our Privy Council is to be admitted, though the immediate Sum or Value appealed for be of less Value; And it is Our further Will and Pleasure that in all Cases where Appeals are admitted unto Us in Our Privy Council Execution be suspended until the final Determination of such Appeal, Unless good and sufficient Security be given by the Appellee to make ample restitution of all that the Appellant shall have lost by means of such Decree or Judgment, in case upon the Determination of such Appeal such Decree or Judgment should be reserved, and restitution awarded to the Appellant: Appeals unto Us in Our Privy Council are also to be admitted in all Cases of Fines imposed for Misdemeanours, Provided the Fines so imposed amount to or exceed the Sum

of One hundred Pounds Sterling, the Appellant first giving good Security that he will effectually prosecute the same, & answer the Condemnation, if the Sentence by which such Fine was imposed in Quebec be affirmed.

15. And it is Our Will and Pleasure that you do, from time to time as the Circumstances and Condition of Affairs may require, with Our said Council in their Legislative Capacity deliberate upon and frame such Ordinances as may be expedient for continuing, amending or enforcing any Ordinances now in force, or making any further or necessary Changes and regulations in the Courts of Judicature already established, or in the Mode of administering Justice within Our said Province, provided that such Ordinances be strictly conformable to the Act of Parliament aforesaid and these Our Instructions.

16. It is Our Will and Pleasure that all Commissions, to be granted by you to any person or persons to be Judges or Justices of the Peace or other necessary Officers, be granted during Pleasure only.

17. You shall not displace any of the Judges, Justices of the peace or other Officers or Ministers without good and sufficient Cause, which you shall signify in the fullest and most distinct Manner to Us by one of Our Principal Secretaries of State and to the Lords of the Committee of Our Privy Council for Trade & Plantations for their Information.

18. Whereas it is of the greatest Importance to Our Service and to the Welfare of Our Plantations that Justice be everywhere speedily and duly administered, and that all Disorders, Delays and other undue Practices in the Administration thereof be effectually prevented, We do particularly require you to take especial Care that in all Courts where you are or shall be authorized to preside Justice be impartially administered, And that in all other Courts established or to be established within Our said Province all Judges and other Persons therein concerned do likewise perform their several Duties without Delay or Partiality.

19

Art. 19 } same { to [To Guy Carleton, ante pp. 828-
to } as { 832.]
29 } { 29

30. The Extension of the Limits of the Province of Quebec necessarily calls forth your Attention to a Variety of new Matter and new Objects of Consideration: The Protection and Controul of the Various Settlements of Canadian Subjects and

the Regulation of the Peltry Trade in the Upper or interior Country on the one hand, And the Protection of the Fisheries in the Gulf of S^t Lawrence and on the Labrador Coast on the other hand point to Regulations that require Deliberation and Dispatch.

31. You are not to allow any Settlements to be made beyond the Boundaries ascertained to the different Posts among the Indian Nations within the Limits of Our Province of Quebec in Alliance with Us, as such Settlements may tend to disgust those Savages, excite their Enmity and

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perhaps finally destroy the Peltry Trade which ought to be cherished & Encouraged by every Means in your Power.

32. It is Our Royal Intention that the Peltry Trade of the interior Country should be free and open to all Our Subjects, Inhabitants of any of Our Colonies, who shall, pursuant to what was directed by Our Royal Proclamation of 1763, obtain trading Licences from the Governors of any of Our said Colonies under penalties to observe such Regulations, as shall be made by Our Legislature of Quebec for that purpose. These regulations therefore when established must be made publick throughout all Our American Possessions and they must have for their Object the giving every possible Facility to that Trade, which the Nature of it will admit, and which may be consistent with fair and just Dealing towards the Savages, with whom it is carried on; The fixing stated Times and Places for carrying on the Trade and adjusting Modes of settling Tarifs of the Prices of Goods and Furs, and above all the restraining the sale of spirituous Liquors to the Indians will be the most probable and effectual Means of answering the finds proposed; These and a Variety of other Regulations incident to the Nature and purpose of the Peltry Trade in the interior Country are fully stated in a Plan proposed by Our Commissioners for Trade and Plantations in 1764, a Copy of which will be herewith delivered to you, and which will serve as a Guide in a Variety of Cases, where it may be necessary to make Provision by Law for that important Branch of the American Commerce.

33. The Fisheries on the Coast of Labrador and the Islands adjacent thereto are Objects of the greatest Importance, not only on Account of the Commodities they produce, but also as Nurseries of Seamen, upon whom the Strength & Security of Our Kingdom depend.

34. Justice & Equity demand that the real and actual Property & Possession of the Canadian Subjects on that Coast should be preserved entire, and that they should not be molested or hindered in the Exercise of any sedentary Fisheries they may have established there.

35. Their Claims however extend to but a small District of the Coast, on the greatest part of which District a Cod Fishery is stated to be impracticable.

36. On all such Parts of the Coast where there are no Canadian Possessions, and more especially where a Valuable Cod Fishery may be carried on, it will be your Duty to make the Interest of Our British Subjects going out to fish there in Ships fitted out from Great Britain the first Object of your Care, and as far as Circumstances will admit to establish on that Coast the Regulations in favour of British fishing Ships, which have been so wisely adopted by the Act of Parliament passed in the Reign of King William the Third for the Encouragement of the Newfoundland Fishery And you are on no account to allow any Possession to be taken, or Sedentary Fisheries to be established upon any parts of the Coast that are not already private Property

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by any Persons whatever, except only such as shall produce annually a Certificate of their having fitted out from some Port in Great Britain.

37. Whereas it will be for the general Benefit of Our Subjects carrying on the Fishery in the Bay of Chaleur in Our Province of Quebec that such Part of the Beach & Shore of the said Bay as is ungranted should be reserved to Us, Our Heirs & Successors, It is therefore Our Will and Pleasure that you do not in future direct any Survey to be made or Grant to be passed for any Part of the ungranted Beach or Shore of the said Bay of Chaleur, except such Parts thereof as by Our Orders in Council dated the 29th of June and 21st of July last are directed to be granted to John Schoolbred of London, Merchant, and to Mess^{rs} Robin Pipon and C^o of the Island of Jersey, Merchants, but that the same be reserved to Us, Our Heirs and Successors together with a sufficient Quantity of Wood Land adjoining thereto necessary for the purpose of carrying on the Fishery; The Limits of such Wood Land so to be reserved, to be determined upon and ascertained by you and Our Council for Our said Province of Quebec in such manner as from the most authentick Information shall appear to you & them most convenient and proper for that purpose; It is nevertheless Our Intention and We do hereby signify to you Our Will and Pleasure that the free Use of such Beach or Shore and of the Wood Land so to be reserved shall be allowed by you or any Person authorized by you to such of Our Subjects as shall resort thither for the Purpose of carrying on the Fishery in such proportions as the Number of Shallops, he or they shall respectively employ, may require; provided that, if any Fisherman who shall have permission to occupy any Part of the said Beach or Shore and Wood Land for the purpose of the said Fishery shall not during any one Season continue so to

occupy & employ any Part of the said Beach or Shore and Wood Land so allotted to him, You or any Person authorized by you as above may & shall allow the Use of such Part to any other Fisherman who shall apply for the same for the purpose of carrying on the Fishery. And Whereas it may be necessary to establish local Regulations to prevent Abuses as well as Disputes and Misunderstanding between the Fishermen resorting to the said Beach or Shore; It is Our Will and Pleasure that you, by and with the Advice and Consent of Our said Council, do frame such Regulations from time to time as to you shall appear necessary to answer those salutary Purposes and that you transmit the same to Us thro' One of Our principal Secretaries of State for Our Pleasure therein by the first Opportunity.

38. We have mentioned to you the Fisheries upon the Coast of Labrador as the Main Object of your Attention, but the Commerce carried on with the Savages of that Coast and the State and Condition of those Savages deserve some regard: The Society of Unitas Fratrum urged by a laudable Zeal for promoting Christianity have already under Our protection and with Our permission formed Establishments in the Northern Parts of that Coast for the purpose of civilizing the Nations and converting them to the Christian Religion. Their Success had been answerable to their Zeal, and It is Our

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express Will and Pleasure that you do give them every Countenance Encouragement in your power, and that you do not allow any Establishment to be made but with their Consent within the Limits of their Possessions.

39. By Our Commission to you under Our Great Seal of Great Britain you are authorized & empowered with the Advice and Consent of Our Council to settle & agree with the Inhabitants of Our said Province of Quebec for such Lands, Tenements and Hereditaments as now are or shall hereafter be in Our Power to dispose of, It is therefore Our Will and Pleasure that all Lands which now are or hereafter may be subject to Our Disposal, be granted in Fief or Seigneurie, in like manner as was practised antecedent to the Conquest of the said Province, omitting however in any Grant that shall be passed of such Lands the reservation of any judicial Powers or Privileges whatever; And It is Our further Will and Pleasure that all Grants in Fief or Seigneurie, so to be passed by you as aforesaid, be made subject to Our Royal ratification or Disallowance and a due Registry thereof within a limited time, in like manner as was practised in regard to Grants and Concessions held in Fief or Seigneurie under the French Government.

40. Whereas many of Our Loyal Subjects, Inhabitants of the Colonies and Provinces now the United States of America, are

desirous of retaining their Allegiance to Us and of living in Our Dominions, and for this purpose are disposed to take up and improve Lands in Our Province of Quebec, And We being desirous to encourage Our said Loyal Subjects in such their Intentions and to testify Our Approbation of their Loyalty to Us and Obedience to Our Government by allotting Lands for them in Our said Province, And Whereas We are also desirous of testifying Our Approbation of the Bravery and Loyalty of our Forces serving in Our said Province, and who may have been reduced there, by allowing a certain Quantity of Land to such of the Non-Commissioned Officers and Private Men of our said Forces who are inclined to become Settlers therein, It is Our Will and Pleasure that immediately after you shall receive these Our Instructions you do direct Our Surveyor-General of Lands for Our said Province of Quebec to admeasure and lay out such a Quantity of Land as you, with the Advice of Our Council, shall deem necessary and convenient for the settlement of Our said Loyal Subjects, and the Non-Commissioned Officers and Private Men of Our Forces which may have been reduced in Our said province, who shall be desirous of becoming Settlers therein; Such Lands to be divided into distinct Seigneuries or Fiefs to extend from two to four Leagues in front and from three to five Leagues in Depth if situated upon a Navigable River, otherwise to be run square or in such shape and in such Quantities as shall be convenient and practicable, and in each Seigneurie a Glebe to be reserved & laid out in the most convenient Spot, to contain not less than 300, nor more than 500 Acres; The Property of which Seigneuries or Fiefs shall be and remain vested is Us, Our Heirs & Successors, And you shall allot such Parts of the same as shall be applied for by any of Our said Loyal Subjects, Non Commissioned Officers and Private

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Men of Our Forces reduced as aforesaid, in the following Proportions, that is to say,

To every Master of a Family One Hundred Acres and fifty Acres for each Person of which his Family shall consist;

To every single Man fifty Acres;

To every Non Commissioned Officer of Our Forces reduced in Quebec Two Hundred Acres;

To every private Man reduced as aforesaid One Hundred Acres,

And for every Person in their Families fifty Acres.

The said Lands to be held under Us, Our Heirs and Successors, Seigneurs of the Seigneurie or Fief in which the same shall be situated, upon the same Terms, Acknowledgements & Services as Lands are held in Our said Province under the respective Seigneurs holding and possessing Seigneuries or Fiefs therein, and reserving to Us, Our Heirs and Successors from and after the expiration of Ten

Years from the admission of the respective Tenants a Quit Rent of one half penny per Acre.

41. And whereas upon the raising and establishing the Corps late the 84th Regiment of Foot, We did promise and declare that the Officers and Privates of the said Corps should when reduced be intitled to and receive Grants for certain allotments of Lands in proportion to their respective Ranks therein, It is Our Will and Pleasure that you do in manner as herein before directed Grant Warrants of Allotment and Survey to such of the Officers and privates of the said late Eighty fourth Regiment of Foot now reduced, who shall be willing to settle and become Inhabitants of Our said Province of Quebec, and shall apply for the same for such Quantities of Land as they shall be respectively intitled to, In consequence of our said promise and declaration contained in Our Instructions to Our Governors of New York and North Carolina dated the 3^d April 1775 that is to say,

To Field Officers	5000 Acres
Captains	3000
Subalterns	2000
Non Commission Officer	200
Privates	50

and that the Surveys be made and Grants for the same delivered free of Expence as herein before directed, Provided nevertheless that every Commissioned and Non Commissioned Officer or private belonging to the said late 84th Regiment of Foot, who shall claim and apply for Land in Our Province of Quebec as aforesaid, shall declare upon Oath, that no Land has been obtained by him in any of our other Provinces in America under Our Royal declaration as aforesaid.

42. It is Our further Will and Pleasure, that every Person within the meaning of these Our Instructions upon making application for Land shall take the Oaths directed by Law before you or Our Commander in Chief for the time being, or some person by you before him authorized for that purpose

and shall also at the same time make and subscribe the following Declaration (Viz^t.) "I, A B, do promise and declare that I will maintain and defend to the utmost of my power the authority of the King in His Parliament, as the supreme Legislature of this Province," which Oaths and declaration shall also be taken, made, and subscribed by every Future Tenant before his, her, or their admission upon Alienation, Descent, Marriage or otherwise howsoever, and upon refusal the Lands to become revested in us Our Heirs and Successors. And it is Our further Will and Pleasure that the expense of laying out and surveying as well the Seigneuries or Fiefs aforesaid, as the several Allotments within the same and of the Deed of admission shall be paid by the Receiver General of Our Revenue in the said Province of Quebec; out of such Monies as shall be in his hands, upon a Certificate from you or Our Commander in Chief for the time being in Council, Oath being made by Our Surveyor General to the Account of such Expense ; Provided however that only one half of the usual and accustomed Fees of Office shall be allowed to Our said Surveyor General or any other of Our Officers in the said Province entitled thereunto upon any Survey or Allotment made, or upon admission into any Lands by Virtue of these Our Instructions.

43. And whereas we have some time since purchased the Seigneurie of Sorel from the then Proprietors, the Lands of which are particularly well adapted for improvement and cultivation; and the local situation of the said Seigneurie makes it expedient that the same should be settled by as considerable a number of Inhabitants of approved Loyalty as can be accommodated therein, with all possible dispatch—It is therefore Our will and Pleasure, that you do cause all such Lands within the same as are undisposed of, to be run into small Allotments, and that you do allot the same to such of the Non Commissioned Officers and private Men of Our Forces who may have been reduced in Our said Province, or to such other of Our Loyal Subjects as may be inclined to settle and improve the same, in such Proportions as you may judge most conducive to their Interest and the more speedy Settlement of Our said Seigneurie. The Lands so allotted to be held of Us, Our Heirs, and Successors, Seigneurs of Sorel upon the same Conditions and under the same reserved Rent at the Expiration of ten years, as the other Tenants of Seigneuries now hold their Lands and pay to Us, and also of taking the Oaths and making and subscribing the Declaration as hereinbefore is mentioned and directed; The Expense of making the said Allotments and of Admission thereunto be also paid and defrayed in like manner as those in the Seigneuries directed to be laid out by these Our Instructions. It is nevertheless Our Will and Pleasure that the Allotments to be made of such of Our Loyal Subjects

from the Provinces or Colonies now the United States of America, as may be disposed to settle and improve Lands in Our said Province of Quebec, shall be limited to those only who may have withdrawn themselves from the said Provinces or Colonies after the signing of the definitive Treaty of Peace with the said United States, & no other.

And it is Our Will and Pleasure that a Record be kept in the Office of the

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Receiver General of Our Revenue of every Admission into Lands as well by Virtue of these Our Instructions with respect to Our Loving Subjects retiring from the Provinces & Colonies, now the United States of America, and to Our Forces disbanded as aforesaid, as in Cases of future Admission by Alienation or otherwise, A Docquet of which shall be transmitted yearly to Us, thro' one of our principal Secretaries of State, & also a Duplicate thereof to Our High Treasurer or the Commissioners of Our Treasury for the time being.

44. It is Our Will and Pleasure however that no Grants or Allotments be made of any Lands, on which there is any considerable Growth of White pines fit for Malting Our Royal Navy, and which lie convenient for Water Carriage, but that you do cause all such Lands to be set apart for Our Use and proper Regulations to be made and Penalties inflicted to prevent Trespasses on such Tracts and the cutting down or destroying of the Trees growing thereon.

45. And Whereas it appears, from the Representations of Our late Governor of the District of Trois Rivières, that the Iron Works at S^t Maurice in that District are of great Consequence to Our Service, It is therefore Our Will and Pleasure that no part of the Lands upon which the said Iron Works were carried on, or from which the Ore used in such Works was procured, or which shall appear to be necessary & convenient for that Establishment either in respect to a free Passage to the River S^t Lawrence or for producing a necessary Supply of Wood, Corn and Hay, or for Pasture for Cattle, be granted to any private person whatever; And also that as large a District of Land as conveniently may be, adjacent to & lying round the said Iron Works, over & above what may be necessary for the above purposes, be reserved for Our Use to be disposed of in such manner as We shall hereafter direct and appoint.

46. And it is Our further Will and Pleasure that you do consider of a proper and effectual Method of collecting, receiving and accounting for Our Quit Rents, whereby all Frauds, Concealments, Irregularity or Neglect therein may be prevented, and whereby the Receipt may be effectually checked and controlled—And if it shall appear necessary to pass an Ordinance for the more effectually ascertaining, and

the more speedily and regularly collecting Our Quit Rents, you are to prepare the Heads of such a Bill as you shall think may most effectually conduce to the procuring of the good Ends proposed, and to transmit the same to Us by One of Our Principal Secretaries of State for Our further Directions therein; and you are also to transmit a Duplicate thereof to the Lords of the Committee of Our Privy Council for Trade and Plantations for their Information.

47. You are to use your best Endeavours in improving the Trade of the Province under your Government by settling such Orders & Regulations therein, with the Advice of Our said Council, as may be most acceptable to the Generality of the Inhabitants; And it is Our express Will and Pleasure that you do not on any pretence whatever, upon pain of Our highest Displeasure, give your Assent to any Law or Laws for setting up any Manu-

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factures and carrying on any Trades which are hurtful & prejudicial to this Kingdom, and that you do use your utmost Endeavours to discourage discountenance & restrain any Attempts which may be made to set up such Manufactures or establish any such Trades.

48. And it is Our Will and Pleasure that you do not dispose of any Forfeitures or Escheats to any Person until the Sheriff or other proper Officer has made Enquiry by a Jury upon their Oaths into the true Value thereof, nor until you have transmitted to Our Commissioners of Our Treasury a particular Account of such Forfeitures & Escheats and the Value thereof; And you are to take care that the produce of such forfeitures and Escheats, in case We shall think proper to give you Directions to dispose of the same, be duly paid to Our Treasurer or Receiver General of Our said Province, and a full Account transmitted to Our Commissioners of Our Treasury or Our High Treasurer for the time being, with the Names of the persons to whom disposed of.

49. And Whereas Commissions have been granted unto several Persons in Our respective Plantations in America for the trying of Pirates in those parts pursuant to the Acts for the more effectual Suppression of Piracy and by a Commission already sent to Our Governor there is impowered, together with others therein mentioned, to proceed accordingly in reference to Our Will and Pleasure is that you do use your best Endeavours to apprehend all Persons whatever, who may have been guilty of Piracy within your Government, or who having committed such Crimes at other Places may come within your Jurisdiction, and until We think proper to direct the like Commission to be established for Our Government of Quebec, you are to send such Pirates with what Proofs of their Guilt you can procure or collect to Our

Governor of _____ to be tried and punished under the Authority of the Commission established for those Parts.

50. And whereas you will receive from Our Commissioners for executing the Office of High Admiral of Great Britain & of Our Plantations a Commission constituting you Vice Admiral of Our said Province, you are hereby required and directed carefully to put in execution the several Powers thereby granted you.

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Art. 51 } same { to To Guy Carleton, ante pp. 836-838.
to } as { 54

60. And whereas We have thought fit by Our Commission to direct that, in case of your Death or Absence from Our said Province, and in case there be at that time no Person within Our said Province commissioned or appointed by Us to be Our Lieutenant Governor or Commander in Chief, the eldest Councillor, being a natural born Subject of Great Britain, Ireland or the Plantations and professing the Protestant Religion, who shall be at

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the time of your Death or Absence residing within Our said Province under your Government, shall take upon him the Administration of Government and execute Our said Commission and Instructions and the several Powers and Authorities therein directed; It is nevertheless Our express Will and Pleasure that in such case the said President shall forbear to pass any Act or Acts, but what are immediately necessary for the Peace and Welfare of the said Province, without Our particular Order for that purpose.

61. And whereas We are desirous that a proper Provision should be made for the Support of Our Government within Our said Province of Quebec, We do therefore hereby declare it to be Our Royal Intention, that the following Annual Salaries & Allowances be discharged & paid out of any Revenues arising to Us within the same, or out of such Monies as shall be granted or appropriated to the Uses and Services of Our said Province of Quebec, that is to say,¹

To the Governor p ^r Annum	....	....	....	....	....	....	....	£2,000	0	0
Lieut Governor	....	....	....	....	....	....	....	1500	0	0
To the Chief Justice	....	....	....	....	....	....	....	1200	0	0
To 6 Judges of Common Pleas, £500 each	....	....	....	....	....	....	....	3000	0	0
To the Judge of the Admiralty	....	....	....	....	....	....	....	200	0	0
To the Attorney General	....	....	....	....	....	....	....	300	0	0
To the Clerk of the Crown and Pleas	....	....	....	....	....	....	....	100	0	0

To two Sheriffs at £100 each	....	....	....	....	....	....	....	200	0	0
To the Secretary & Register	....	....	....	....	....	....	....	400	0	0
To the Clerk of the Council	....	....	....	....	....	....	....	100	0	0
To the Surveyor of Lands	....	....	....	....	....	....	....	300	0	0
To the Surveyor of Woods	....	....	....	....	....	....	....	200	0	0
To the Commissary for Indians	....	....	....	....	....	....	....	300	0	0
To the Captain of the Port	....	....	....	....	....	....	....	100	0	0
To the Naval Officer	....	....	....	....	....	....	....	100	0	0
To the Receiver General of the Revenues	....	....	....	....	....	....	....	400	0	0
To twenty-three Councillors at £100 each								}	500	0	0
To the Lieutenant Governors or Superintendents at Detroit											
To one Judge of the Inferior Courts of King's Bench and Common Pleas at each of the above Posts, at £100 each Judge											
To an Assistant or Assessor at each Post, at £50 p ^r Ann:											
To a Sheriff for each District at £20 p ^r Annum											
To a Grand Voyer	....	....	....	....	....	....	....	800	0	0
To a French Secretary	....	....	....	....	....	....	....	200	0	0
To 4 Ministers of the Protestant Church at £200 p ^r Ann: each	....							800	0	0
To 2 Ministers of the Church of England settled at Sorel and Catarqui £100 each	....	....	....	....	....	....	....	200	0	0
To 2 Schoolmasters at £100 each	....	....	....	....	....	....	....	200	0	0
To an Allowance to the Person licenced to superintend the Romish Church	....	....	....	....	....	....	....	200	0	0

[¹ On comparing this list with the one given in the Instructions of 1775, (see p. 715), it will be found that several changes have been made, but without much alteration in the salaries. In the case of the Lt. Governors or Superintendents of the western Posts, though the Posts mentioned in the Instructions of 1775 were nearly all within the territory ceded to the United States by the treaty of 1783, yet as they had not been given up, these positions were still to be filled. The names of the Posts, with the Exception of Detroit, are left blank.]

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To Pensions to the Officers of a Corps of Canadians employed in the last War, and discharged without any Allowance, as follows, Viz^t:

To Mons ^r Rigauville, the Commandant of said Corps	....	200	0	0
To five Captains £100 each	....	500	0	0
To ten Lieutenants £50 each	....	500	0	0
To the Commandant of the Saveges	....	100	0	0
To Annual Contingent Expences	....	1000	0	0

£

62. And whereas We have made sufficient Provision for the Support of Our Lieutenant Governor of Our said Province of Quebec for the time being by the Allowance inserted in the foregoing Estimate, It is Our Will and Pleasure, when it shall happen that you shall be absent from Our said Province, that no Part of the Salary or any Perquisites and Emoluments, which are due unto you, shall during the Time of your Absence be claimed by, or paid and satisfied to such Lieutenant

Governor: And it is Our further Will and Pleasure that if Our Lieutenant Governor of the said Province of Quebec should happen to die during such your Absence, and the Administration of the Government thereby devolve on the President or Eldest Member of Our Council, such President or Councillor shall, during his continuing in the Chief Command, receive the Salary or Allowance hereby provided for Our Lieutenant Governor, and no other allowance, Perquisite, or Emolument whatever.

G. R.

ENDORSED: 1786 Quebec
Draught of General Instructions.
[L.S.]

No. 194.

**COMMISSION, PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN, APPOINTING LORD DORCHESTER**

TO BE CAPTAIN GENERAL AND GOVERNOR IN CHIEF OF THE PROVINCES
OF UPPER AND LOWER CANADA.¹

Guy Lord Dorchester } George the Third by the Grace of God
Commission. } of Great Britain France and Ireland
King Defender of the Faith and so
forth To Our Right Trusty and

Welbeloved Guy Lord Dorchester Knight of the most honorable Order of the Bath Greeting Whereas wee did by our Letters Patent under our Great Seal of Great Britain bearing date the twenty second Day of April in the Twenty sixth year of our Reign Constitute and appoint you Guy Lord Dorchester (then Sir Guy Carleton) to be our Captain General and Governor in Chief in and over our Province of Quebec in America comprehending all our Territories Islands and Counties in North America then bounded as in our said recited Letters Patent was mentioned and expressed Now Know ye that wee have revoked and determined and by these Presents do revoke and Determine the said recited Letters Patent and every Clause Article or thing therein contained And Whereas wee have thought fit by our Order made in our Privy Council on the Nineteenth day of August One thousand seven hundred and ninety one to divide our said Province of Quebec into two separate Provinces to be called the Province of Upper Canada and the Province of Lower Canada by a Line to commence at a Stone Boundary on the North Bank of the Lake Saint Francis at the Cove West of Point Au Baudet in the Limit between the Township of Lancaster and the Seigneurie of New Longueuil running along the said Limit in the Direction of North thirty four Degrees West to the Westernmost Angle of the said Seigneurie of New Longueuil thence along the North Western Boundary of the Seigneurie of Vaudreuil running North twenty five Degrees East until it strikes the Ottowas River to ascend the said River into the Lake Tommiscanning and from the head of the said Lake by a line drawn due North until it strikes the Boundary Line of Hudsons Bay the Province of Upper Canada to Comprehend all such Lands Territories and Islands lying to the Westward of the said Line of Division as were part of our said Province of Quebec and *the Province of Lower Canada to comprehend all such Lands*

¹ From the Patent Roll 31, Geo. III, Part 10, No. 4. Copy in the Canadian Archives, M. 229, p. 54.

Territories and Lands (Islands?)¹ lying to the Eastward of the said Line of Division as were part of our said province of Quebec² And Whereas by an Act passed in the present year of our Reign Intituled [An Act to repeal certain Parts of an Act passed in the fourteenth year of his Majesty's Reign Intituled [An Act for making more effectual Provision for the Government of Quebec in North America and to make further Provision for the Government of the said Province] further Provision is thereby made for the Good Government and Prosperity of our said Provinces of Upper Canada and Lower Canada ffurther Know ye that wee reposing especial Trust and Confidence in the Prudence Courage and Loyalty of you the said Guy Lord Dorchester of our especial Grace certain Knowledge and mere Motion have thought fit to constitute and Appoint you the said Guy Lord Dorchester to be our Captain General and Governor in Chief of our said Province of Upper Canada and of our said Province of Lower Canada respectively bounded as hereinbefore described And wee do hereby require and command you to do and execute all things in due manner that shall belong to your said Command and the Trust wee have reposed in you according to the several Powers Provisions and Directions granted or appointed you by Virtue of this Present Commission and by Virtue of the above recited Act passed in the Present year of Our Reign and of such Instructions and Authorities herewith given unto you or which may from time to time be given you in respect to the said Provinces or either of them under our Signet or Sign Manual or by Our Order in Our Privy Council and according to such Laws as shall hereafter be made and established within our said Provinces of Upper Canada and Lower Canada under and by Virtue of such Powers Provisions and Discretions (Directions) as aforesaid And our Will and Pleasure is that you the said Guy Lord Dorchester as soon as may be after the Publication of these our Letters Patent do take the Oaths appointed to be taken by an Act passed in the first year of the Reign of King George the first intituled [An Act for the further security of his Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the Hope's of the Pretended Prince of Wales and his open and secret Abettors] as altered and explained by an Act Passed in the Sixth year of our Reign Intituled An Act for altering the Oath of Abjuration and the Assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne Intituled [An Act for the Improvement of the Union of the two Kingdoms as after the times therein limited requires the Delivery of certain Lists and Copies therein mentioned to Persons indicted of Treason or Misprision of Treason] as also that you make and subscribe the Declaration mentioned in An Act of Parliament made in the twenty fifth year of the Reign of King Charles the Second Intituled [An Act for Preventing Dangers which may happen from Popish Rescuants (Recusants ?)] And likewise that you take the usual Oath for the due

¹ Throughout the Commission the words inserted in brackets are added in the margin of the copy in the Canadian Archives.

² The italics are ours.

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General and Governor in Chief of our said Province of Upper, Canada and our said Province of Lower Canada and for the due and impartial Administration of Justice and further that you take the Oath required to be taken by Governors of Plantations to do their utmost that the several Laws relating to Trade and the Plantations be observed all which said Oaths and Declarations the Executive Councils of our said Provinces of Upper Canada and Lower Canada respectively or any three or more of them (the?) Members of either of them have hereby full Power and Authority and are required to tender and Administer unto you and in your absence to our Lieutenant Governor if there be any upon the place All which being duly Performed you the said Guy Lord Dorchester or in your absence our Lieutenant Governors of the said Provinces or Persons Administering the respective Governments therein shall administer unto each of the Members of such Executive Councils as aforesaid the Oaths mentioned in the said first recited Act of Parliament altered as aforesaid as also cause them to make and subscribe the aforementioned Declaration and Administer to them the Oath for the due Execution of their Places and Trusts and you shall also administer the above mentioned Oaths and Declarations to our Lieutenant Governors if there be any within the said Provinces wherein you shall reside And Whereas wee may find it convenient for our Service that certain Offices or Places within our said Provinces of Upper Canada and Lower Canada should be filled by Our Subjects who may have become such by being Naturalized by an Act of the British Parliament or by the Conquest and Cession of the Province of Canada and who may profess the Religion of the Church of Rome It is therefore our Will and Pleasure that in all Cases where such Persons shall or may be admitted into any such Office or Place the Oath Prescribed in and by An Act of Parliament passed in the fourteenth year of our Reign Intituled [An Act for making more effectual Provision for the Government of the Province of Quebec in North Americas and also the usual Oath for the due Execution of their Places and Trusts respectively shall be duly Administered to them and wee do further Give and Grant unto you the said Guy Lord Dorchester full Power and Authority from time to time hereafter by yourselves (or) by any other to be Authorized by you in that behalf to Administer and give the Oaths mentioned in the aforesaid Acts to all and every such Person and Persons as shall at any time or times pass into our said Provinces of Upper Canada and Lower Canada or shall be resident or binding (abiding?) there And we do hereby Authorize and empower you to Keep and Use the

Public Seals (Seals?) of our Said Provinces of Upper Canada and Lower Canada for Sealing all things whatsoever that shall pass the Seal of our said Provinces respectively and in Case of your Absence from either of our said Provinces to deliver the same into the Charge and Custody of our Lieutenant Governor or Person Administering the Government there for the Purposes before mentioned until we shall think fit to Authorize you by an Instrument under our Royal Sign Manual to commit the Custody thereof to such Person or Person (Persons?) as may be appointed by us for that purpose And Whereas by the said recited Act passed in the present year of Our Reign it is enacted that there shall be within

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each of our said Provinces of Upper Canada and Lower Canada respectively a Legislative Council and an Assembly to be composed and Constituted in the manner in the said Act described and that in the said Provinces wee our Heirs and Successors shall have Power during the Continuance of the said Act by and with the advice and Consent of the Legislative Councils and Assemblies to make Laws for the Peace Welfare and good Government of the said Provinces respectively such Laws not being repugnant to the said Act and that all such Laws being passed by the said Legislative Councils and Assemblies and being assented to by us our Heirs and Successors or assented to in our name by such person as wee our Heirs and Successors shall from time to time appoint to be Governor or Lieutenant Governor of the said Provinces respectively or by such Person as wee our Heirs or Successors shall from time to time appoint to Administer the Government within the same are by the said Act declared to be by virtue of and under the Authority of the said Act valid and binding to all Intents and Purposes whatsoever within the said Provinces wee do hereby Give and Grant unto you the said Guy Lord Dorchester full Power and Authority to issue Writs of Sumons and Election and to call together to (the?) Legislative Councils and Assemblies of our said Provinces of Upper Canada and Lower Canada in such manner as is in the said Act Authorised and directed Subject to the Provisions and regulations therein contained in that behalf and to such Instructions and Authorities as shall herewith at any time hereafter be given unto you by us in that behalf under our Signet and Sign Manual or by our order in our Privy Council And further for the Purpose of Electing the Members of the Assemblies of our said Provinces of Upper Canada and Lower Canada Wee do hereby Give and Grant unto you the said Guy Lord Dorchester full Power and Authority to Issue a Proclamation dividing our said Provinces of Upper Canada and Lower Canada into Districts or Counties or Circles and Towns or Townships and appointing the Limits thereof and Declaring and appointing the Number by Representatives to be chosen by each of such Districts or Counties or Circles and Towns (Towns?) or

Townships respectively within our said Provinces of Upper Canada and Lower Canada and from time to time to nominate and appoint proper Persons to execute the Office of returning Officer in each of the said Districts or Counties or Circles and Towns or Townships respectively Subjects to the Provisions Directions and Regulations of the said last mentioned Act in that behalf and to such Instructions and Authorities as shall be herewith or at any time hereafter given by us unto you in that behalf under our Signet and Sign Manual or by Our Order in Our Privy Council and Wee do hereby give and Grant unto you the said Guy Lord Dorchester full Power and Authority to fix the time and Place of holding the Elections for the said Districts or Counties or Circles and Towns or Townships within our said Provinces of Upper Canada and Lower Canada and the times and Places of holding the first and every other Session of the Legislative Councils and Assemblies of our said Provinces of Upper Canada and Lower Canada and to Prorogue the same from time to time and to dissolve the same by Proclamations or otherwise Subject nevertheless to the Regulations Provisions and Directions

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of the said last mentioned Act and to such Instructions and Authorities as in respect of the Premises may be hereby or at any time hereafter given by us unto you under our Signet and Sign Manual or by our Order (in our?) Privy Council Wee do by these Presents Authorize and empower you from time to time with the advice of the Executive Councils appointed by us for the affairs of our said Provinces of Upper Canada and Lower Canada respectively from time to time to form Constitute and Erect Townships or Parishes within our said Provinces and also to Constitute and Erect within every Township or Parish which now is (or?) hereafter may be formed constituted or erected within our said Provinces one or more Parsonage or Rectory or Parsonages or Rectories according to the Establishment of the Church of England and from time to time by an Instrument under the Seal of our said Provinces respectively to endow every such Parsonage or Rectory with so much or such part of the Lands so allotted and appropriated as by the said last recited Act is in that behalf mentioned in respect of any Lands within such Township or Parish which shall have been granted subsequent to the Commencement of the same Act or of such Lands as may have been allotted and appropriated for the same Purpose by or in Virtue of any Instruction which may be given by us in respect of any Lands granted by us before the Commencement of the last mentioned Act as you with the advice of our said Executive Council of such Province shall judge to be expedient under the then existing Circumstances of such Township or Parish Subject nevertheless to such Instructions touching the Premises as shall or may be given you by us under our Signet and Sign Manual or by Our Order in Our Privy Council and

Wee do also by these Presents authorize and impower you to present Subject to the Provisions in the above mentioned Act in that behalf to every such Parsonage or Rectory and to every Church Chapel or other Ecclesiastical Benefice according to the Establishment of the Church of England within either of our said Provinces an Incumbent or Minister of the Church of England who shall have been duly ordained according to the Rites of the said Church and to Supply from time to time such Vacancies as may happen of Incumbents or Ministers of the said Parsonages Rectories Churches Chapels or Benefices or any of them respectively and wee do hereby Give and Grant unto you the said Guy Lord Dorchester by yourself or by your Captains and Commanders by you to be Authorized full power and Authority to levy Arm Muster Command and employ all persons whatsoever residing within our said Provinces of Upper Canada and Lower Canada and as occasion shall serve to March from one Place to another or to Embark them for the resisting and withstanding of all Enemies Pirates and Rebels both at Land and at Sea and to transport such fforces to any of our Plantations in America if necessity shall require for the Defence of the same against the Invasion or Attempts of any of our Enemies and such Enemies Pirates and Rebels (if there shall be occasion) to pursue and Prosecute in or out of the limits of our said Provinces and Plantations or any of them and if it shall so please God to vanquish apprehend and take them and being taken according to Law to put to death or Keep and Preserve them alive at your Discretion and to execute Martial

Law in time of Invasion or at other times when by Law it may be executed and to do and execute all and every other things (thing?) or things which to our Captain General and Governor in Chief doth or ought of Right to belong and wee do hereby give and grant unto you full Power and Authority Subject Nevertheless to such Instructions as wee may at any time be pleased to give unto you under our Signet and Sign Manual or by our Order in our Privy Council with the advise of the Executive Council appointed by us for our Provinces of Upper Canada and Lower Canada respectively to erect raise and Build in our said Provinces such and so many fforts and Platforms Castles and ffortifications as you by the advice aforesaid shall judge necessary and the same or any of them to fortify and furnish with Ordinance Ammunition and all Sorts of Arms fit and necessary for the security and defence of our said Provinces and by the advice aforesaid the same again or any of them or (to?) demolish or Dismantle as may be most convenient and for as much as Divers Mutinies and Disorders may happen by Persons shipped and employed at Sea during the time of War and to the end that such as shall be shipped and employed at Sea during the time of War may be better Governed and ordered wee do hereby give and grant unto you the said Guy Lord Dorchester full Power and Authority to constitute and appoint Captains Lieutenants Masters of Ships and other Commanders and Officers and to grant unto such Captains Lieutenants Masters of Ships and other Commanders and Officers Commissions to execute the Law Martial during the time of War according to the Directions of an Act passed in the twenty second year of the Reign of Our late Royal Grandfather Intituled [An Act for amending explaining and reducing into one Act of Parliament the Laws relating to the Government of his Majesty's Ships Vessels and fforces by Sea] as the same is altered by an Act passed in the nineteenth year of our Reign Intituled [An Act to explain and amend an Act made in the twenty second year of the Reign of his late Majesty King George the Second Intituled An Act for amending explaining and reducing into one Act of Parliament the Laws relating to the Government of his Majesty's Ships Vessels and fforces by Sea] and to use such Proceedings Authorities Punishments and Executions upon any Offender or Offenders who shall be Mutinous Seditious disorderly or any way unruly either at Sea or during the time of their abode or residence ir any of the Ports Harbours or Bays of our said Provinces of Upper Canada and Lower Canada as the Case shall be found to require according to the Martial Law and the said Directions during the time of War as aforesaid provided that nothing herein contained shall be construed to the enabling you or any by your Authority to hold plea or have any Jurisdiction of any Offence Cause Matter or thing committed or done upon the High Sea or within any of the Havens Rivers or Creeks of either of our said Provinces under your

Government by Any Captain Commander Lieutenant Master Officer Seaman Soldier or Person whatsoever who shall be in our actual Service and pay in or on board any of our Ships of War or other Vessels acting by immediate Commission or Warrant from our Commissions for executing the Office of High Admiral or from our High Admiral of Great Britain for the time being under the Seal of our Admiralty but that

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such Captain Commander Lieutenant Master Officer Seaman Soldier or other Person so offending shall be left to be proceeded against and tried as their Officers shall require either by Commission under our Great Seal of Great Britain as the Statute of the twenty eight of Henry the eighth directs or by Commission from ours (our) said Commissioners for executing the Office of our High Admiral or from our High Admiral of Great Britain for the time being according to the aforementioned Act intituled [An Act for explaining amending and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships Vessels and forces by Sea] as the same is altered by an Act passed in the nineteenth year of our Reign intituled [An Act to explain and amend an Act made in the twenty second year of His late Majesty King George the second intituled An Act for amending explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships Vessels and forces by Sea] Provided nevertheless that all Disorders and Misdemeanors committed on shore by any Captain Commander Lieutenant Master Officer Seaman Soldier or other Person whatsoever belonging to any of our Ships of War or other Vessels acting by immediate Commission or Warrant from our said Commissioners for executing the Office of our High Admiral or from our High Admiral of Great Britain for the time being under the Seal of our Admiralty may be tried and Punished according to the Laws of the Place where any such disorders Offenders (Offences?) and Misdemeanors shall be committed on shore notwithstanding such Offenders be in our actual Service and born in our pay on Board any such our Ships of War or other Vessels acting by immediate Commission or Warrant from our said Commissioners for executing the Office of High Admiral or our High Admiral of our Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of Justice for such Offences committed on Shore from any pretence of his being employed in our Service at Sea you are to give Warrants under your Hand for the issuing of Public Monies for all Public Services and Wee do particularly require you to take care that regular accounts of all Receipts and Payments be duly Kept and that there be transmitted every half year or oftener Copies thereof properly Audited to our Commissioners of our Treasury or to our High Treasurer for the time being to the end that wee may be satisfied of the Right and due application of the Revenue of our said Provinces with the Probability of the

Increase or Dimunation (Diminution?) of it under every Head and Article thereof and wee do further give to you the said Guy Lord Dorchester full Power and Authority when and so often as any Bill which has been passed by the Legislative Counsel and by the House of Assembly of either of our said Provinces of Upper Canada or Lower Canada shall be presented unto you for our Royal Assent to declare according to your Discretion but Subject Nevertheless to the provisions contained on (in?) the said recited Act passed in the present year of Our Reign and Subject also to such Instructions Directions and Authorities as wee shall herewith or at any time hereafter give unto you in that behalf under Our Signet and Sign Manual or by an Order in our Privy Council that you Assent to such Bill in our Name or that you withhold our Assent from such

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Bill or that you reserve such Bill for the Signification of our Royal Pleasure thereon and wee do by these presents give and Grant unto you the said Guy Lord Dorchester full power and Authority with the advice of the Executive Councils appointed by us for the affairs of our said Provinces of Upper Canada and Lower Canada but Subject nevertheless to the provisions of the said Act and to such further powers Authorities and Instructions as we may herewith or at any time hereafter give to you in that behalf under our Signet and Sign Manual or by our Order in our Privy Council to erect Constitute and appoint such Court or Courts of Judicature or Public Justice within our said Provinces as you and they shall think fit and necessary for the hearing and determining of all Causes as well Criminal as Civil according to Law and Equity and for awarding Execution thereupon with all reasonable and necessary powers Authorities flees and privileges belonging thereunto as also to appoint and Commission fit persons in the several parts of your said Government to administer the several Oaths herein before mentioned as also to tender and administer the aforesaid Declaration unto such persons belonging to the said Courts as shall be obliged to take the same and wee do hereby authorise and empower you to constitute and appoint Judges and in Cases requisite Commissioners of Oyer and Terminer Justices of the Peace and other necessary Officers and Ministers in our said Provinces of Upper Canada and Lower Canada for the better administration of Justice and putting the Laws in execution and to administer or cause to be administered unto them such Oath or Oaths as are usually taken for due execution and performance of Offices and places and for the clearing of truth in Judicial Causes and wee do hereby give and grant unto you full power and authority where you shall see cause or shall judge any Offender or Offenders in Criminal Matters or for any ffines or fforfeitures due unto us fit Objects of our Mercy to pardon all such Offenders and to remit all such Offences ffines or fforfeitures Treason and Wilful Murder only excepted in which cases you shall likewise have power upon

extraordinary Occasions to grant reprieves to the offenders until and to the Intent that our Royal Pleasure may be Known therein and wee do likewise give and Grant unto you full Power and Authority with the advice of our Executive Councils for the Affairs of our said Provinces of Upper Canada and Lower Canada to grant Lands within the said Provinces respectively which said Grants are to pass and be sealed with our Seal of such Province and being entered upon Record by such Officer or Officers as shall be appointed thereunto shall be good and effectual in Law against us Our Heirs and Successors Provided nevertheless that no Grants or Leases of any of the Trading Ports in our said Provinces shall under Colour of this Authority be made to any Person or Persons whatsoever until our Pleasure therein shall be signified to you and wee do hereby give you the said Guy Lord Dorchester full Power to order and appoint (fairs Marts and Markets as also such and so many Ports Harbours Bays Havens and other Places for the Convenience and Security of Shipping and for the better Loading and unloading of Goods and Merchandizes within our said Provinces of Upper Canada and Lower Canada as by you with the Advice of Our Executive Council for Our said Provinces respectively shall be

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thought fit and necessary for the same And Wee do hereby require and command all our Officers and Ministers Civil and Military and all other Inhabitants of our said Provinces of Upper Canada and Lower Canada to be obedient aiding and assisting unto you the said Guy Lord Dorchester in the Execution of this Our Commission and of the powers and Authorities herein contained and in Case of your Death or Absence out of Our said Province of Upper Canada or Our province of Lower Canada¹ to be obedient aiding and assisting unto such Persons (as) shall be appointed by us to be our Lieutenant Governor or Commander in Chief of such Province respectively To Whom Wee do therefore by these presents in Case of your Death or Absence from such Province give and grant all and singular the powers and Authorities herein granted to be by him executed and enjoyed during our Pleasure or until your Arrival within such Province respectively And if upon your Death or Absence out of our said Provinces of Upper Canada or Lower Canada or either of them there be no Person upon the Place Commissioned and appointed by Us to be Our Lieutenant Governor or appointed by Us to Administer Our Government within the said Province² in case of the Death or Absence of you and our Lieutenant Governor of the said Province Our Will and Pleasure is that the oldest Member of our Executive Council for Our said Province of Upper Canada or Our said Province of Lower Canada being a natural born Subject of Great Britain Ireland or Our Colonies and Plantations and Professing the Protestant Religion who shall then be residing with Our said Provinces³ Shall take upon him the Administration of the Government and execute our said

Commission and Instructions and the several Powers and Authorities therein contained and to all Intents and Purposes as other Our Governors Lieutenant Governors or persons administering Our Governments until Our further pleasure be known therein Nevertheless as it may happen in Case of the Death Absence Removal or Suspension of our Lieutenant Governor of either of the Provinces above mentioned that the Succession of such oldest member as aforesaid to the Administration of the Government may not be for the good of Our Service and the Welfare of such Province Wee do hereby authorize and empower you in Case of such Death Absence or Removal if it shall appear to you that it would not be expedient for such oldest Councillor in Succession to administer the Government to nominate and appoint by a Commission under the Seal of such Province you being yourself at the Time of such Appointment Personally resident in it any Member of the Executive Council by Us appointed for Our said Province of Upper Canada or Our Province of Lower Canada respectively whom you shall judge the most proper and fitting to be Our Lieutenant Governor thereof such Person

[¹ In Sherbrooke's and subsequent Commissions the following clause is here inserted: "or in case from any special Circumstances we shall judge it expedient by Warrant under the Sign Manual or otherwise to provide for the Civil Administration of the government notwithstanding your actual presence in either of our said provinces."

² Drummond's Commission (1814) directs that the government devolve on the senior officer commanding the forces for the time being.

³ Provost's and Sherbrooke's Commissions add here "(the Chief Justice and Bishop for the time being excepted)."]

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being a Natural born Subject of Great Britain Ireland or of Our Colonies and Plantations and professing the protestant Religion until Our pleasure thereupon shall be Known and you are to transmit to us by the first Opportunity through one of our Principal Secretaries of State your Reasons for such Appointment And Wee do hereby Give and Grant unto you the said Guy Lord Dorchester full Power and Authority in Case any Person or Persons Commissioned or appointed by Us to any Office or Offices within Our said Provinces of Upper Canada or Lower Canada from which they may be liable to be removed by Us shall in your Opinion be unfit to continue in Our Service to suspend or remove such person or persons from their several Employments without stating to him or them your Reasons for such Suspension or Removal And Wee do hereby declare ordain and appoint that you the said Guy Lord Dorchester shall and may hold execute and enjoy the Office and place of our Captain General and Governor in Chief in and over Our said Provinces of Upper Canada and Lower Canada with all its Rights Members and Appurts whatsoever together with all and singular the Powers and Authorities hereby granted unto you for and during Our Will and Pleasure.

In Witness &c. Witness &c. this Twelfth Day of September

One thousand seven hundred and ninety one.

BY THE KING HIMSELF.

No. 195.

The following ten Commissions contain boundary descriptions similar to that contained in the next preceding Commission of the 12th September, 1791.

15th December, 1796.

Robert Prescott, Esquire.—Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.¹

29th August, 1807.

Sir James Henry Craig.—Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.²

21st October, 1811.

Sir George Prevost.—Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.³

28th December, 1814.

Gordon Drummond, Esquire.—Administrator of the Government of the Provinces of Upper and Lower Canada.⁴

25th March, 1816.

Sir John Coape Sherbrooke.—Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.⁵

8th May, 1818.

Charles, Duke of Richmond.—Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.⁶

¹ Book marked "Quebec Commissions, from 27th Dec., 1775, to 4th Nov., 1797," in Privy Council Office, Ottawa.

² Lib. E. (5), Imperial Commissions, Fol. 40.

³ Ibid., Fol. 89.

⁴ Ibid., Fol. 138.

⁵ Ibid., Fol. 157.

⁶ Ibid., Fol. 189.

12th April, 1820.

George, Earl of Dalhousie.—Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.¹

24th November, 1830.

Matthew, Lord Aylmer.—Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.²

24th November, 1830.

Matthew, Lord Aylmer.—Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.³

1st July, 1835.

Archibald, Earl of Gosforth.—Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.⁴

¹ Ibid., Fol. 228.

² Lib. E. (5), Imperial Commissions, Fol. 296.

³ Lib. E. (6), Imperial Commissions, Fol. 47.

⁴ Ibid., Fol. 108.

[16 Sept.
1791].**No. 196.****EXTRACTS FROM INSTRUCTIONS, PASSED UNDER
THE ROYAL SIGN MANUAL AND SIGNET, FOR
LORD DORCHESTER**AS CAPTAIN GENERAL AND GOVERNOR IN CHIEF OF THE PROVINCE OF
LOWER CANADA.¹

[L.S.]

George R.

C.O. INSTRUCTIONS, QUEBEC, 1786-1791.

Instructions to Our Right Trusty and Welbeloved Guy, Lord
Dorchester, Knight of the Most Honourable Order of the
Bath, Our Captain General and Governor in Chief in and
over Our Province of Lower Canada; Given at Our Court at
St. James's, the Sixteenth day of September, 1791, In the
Thirty First Year of Our Reign.

* * * *

31. And Whereas nothing can more effectually tend to the
speedy settling of Our said Province of Lower Canada, the
Security of the Property of our Subjects and the Advancement
of our Revenue, than the disposal of such Lands as are Our
Property upon reasonable terms, and the establishing of a
regular and proper method of Proceeding, with respect to the
passing of Grants of such Lands. It is therefore Our Will and
Pleasure, that all and every Person and Persons who shall
apply for any Grant or Grants of Land, shall previous to their
obtaining the same, make it appear that they are in a condition
to cultivate and improve the same, and in case you shall, upon
a consideration of the Circumstances of the Person or Persons
applying for such Grants, think it adviseable to pass the same,
you are in such Case to cause a Warrant to be drawn up
directed to the Surveyor General or other Officers, empowering
him or them to make a faithful and exact Survey of the Lands
so petitioned for, and to return the said Warrant within Six
Months at farthest from the date thereof, with a Plot or
Description of the Lands so surveyed thereunto annexed, and
when the Warrant shall be so returned by the said Surveyor, or
other proper Officer, the Grant shall be make out in due form,
and the Terms and Conditions required by these Our
Instructions be particularly and expressly mentioned therein—
And it is Our Will and Pleasure that the said Grants shall be
registered within Six Months from the date thereof in the
Register's Office, and a Docket thereof be also entered in Our
Auditor's

¹ From a contemporary copy in the Canadian Archives, G. 181, p. 1.

Office, Copies of all which Entries shall be returned regularly by the proper Office to Our Commissioners of Our Treasury.

32. And for the further Encouragement of Our Subject, It is Our Will and Pleasure that the Lands to be granted by you as aforesaid, shall be laid out in Townships, and that each inland Township shall, as nearly as Circumstances shall admit, consist of Ten Miles Square; and such as shall be situated upon a navigable River or Water shall have a front of Nine Miles, and be twelve Miles in Depth, and shall be subdivided in such manner as may be found most adviseable for the accommodation of the Settlers, and for making the several Reservations for Public Uses and particularly for the Support of the Protestant Clergy agreeably to the above recited Act passed in the present Year of Our Reign.

33. And Whereas great Inconveniences have heretofore arisen in many of the Colonies in America from the granting excessive Quantities of Land to particular Persons who have never cultivated or settled the same, and have thereby prevented others more industrious from improving such Lands—In order therefore to prevent the like inconveniences in future, it is Our Will and Pleasure that you observe the following Directions and Regulations in all Grants to be made by you as aforesaid; vizt

That no Town Lot shall be granted to any one Person being Master or Mistress of a Family in any Township to be laid out as aforesaid which shall contain more than one Acre of Land.

That no Park Lot shall be granted to any one Person being Master or Mistress of a Family in any Township so to be laid out, which shall contain more than Twenty four Acres.

That no Farm Lot shall be granted to any one Person being Master or Mistress of a Family in any Township so to be laid out, which shall contain more than 200 Acres.

It is Our Will and Pleasure, and you are hereby allowed and permitted to grant unto every such Person or Persons such further Quantity of Land as they may desire, not exceeding one Thousand Acres over and above what may have heretofore been granted to them, and in all Grants of Land to be made by you as aforesaid, you are to take care that due regard be had to the quality and comparative Value of the different parts of Land comprized within any Township, so that each Grantee may have as nearly as may be a proportionable quantity of lands of such different Quality and comparative value, as likewise that the breadth of each Tract of Land to be hereafter granted be one third of the length of such Tract, and that the length of such Tract do not extend along the Banks of any River, but into the main Land, that thereby the said Grantees may have each a convenient Share of what accomodation the said River may afford for navigation or otherwise.

* * * *

56. It is Our Royal Intention that the Peltry Trade of the Interior Country shall be free and open to all Our Subjects, Inhabitants of any of Our

Colonies, who shall, pursuant to what was directed by Our Royal Proclamation of 1763 obtain trading Licenses from the Governors of any of Our said Colonies under Penalties to observe such Regulations as shall be made by Our Legislature of Our Province of Lower Canada for that Purpose—These Regulations therefore, when established, must be made Public throughout all Our American Possessions, and they must have for their Object the giving every possible facility to that Trade which the nature of it will admit, and which may be consistent with fair and just dealing towards the native Indians with whom it is carried on; The fixing stated times and places for carrying on the Trade and adjusting Modes of settling Tariffs of the Prices of Goods and Furrs, and above all the restraining the Sale of Spirituous Liquors to the Indians, will be the most probable and effectual Means of answering the ends proposed.

57. The Fisheries on the Coast of Labrador and the Islands adjacent thereto, are Objects of the greatest Importance, not only on account of the Commodities they produce, but also as Nurseries of Seamen upon whom the Strength and Security of Our Kingdom depend.

58. Justice and Equity demand that the real and actual property and possession of the Canadian Subjects which existed at the time of the Cession of the said Province on that Coast should be preserved entire, and that they should not be molested or hindered in the Exercise of any Sedentary Fisheries they may have established there.

59. Their Claims however extend to but a small district of the Coast, on the greatest part of which District, a Cod Fishery is stated to be impracticable.

60. On all such parts of the Coast where there are no Canadian possessions, and more especially where a valuable Cod Fishery may be carried on, it will be your Duty to make the Interest of Our British Subjects going out to fish there in Ships fitted out from Great Britain, the first Object of your Care, and as far as circumstances will admit to establish on that coast the Regulations in favour of British fishing Ships which have been so wisely adopted by the Act of Parliament passed in the Reign of King William the Third, for the Encouragement of the Newfoundland Fishery, and by the several Acts passed in the 15, 26, 28 and 29th years of Our Reign for that purpose; And you are to be Account to allow any Possession to be taken, or Sedentary Fisheries to be established upon any parts of the Coast that are not already private Property by any Persons whatever, except only such as shall produce annually a certificate of their having fitted out from some Port in Great Britain.

61. Whereas it will be for the general Benefit of our Subject carrying on the Fishery in the Bay of Chaleurs in Our Province of Lower Canada, that such Part of the Beach and Shore of the said Bay as is ungranted, should be reserved to Us, Our Heirs, and Successors, it is therefore Our Will and Pleasure that you do not in future direct any Survey to be made or Grant to be passed for any part of the ungranted Beach or Shore of the said Bay

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of Chaleurs, except such parts thereof as by Our Orders in Council dated the 29th of June and 21st of July 1786 are directed to be granted to John Shoolbred of London, Merchant, and to Mess^{rs} Robin, Pipon and Company of the Island of Jersey Merchants, but that the same be reserved to Us, Our Heirs and Successors, together with a Sufficient Quantity of Wood Land adjoining thereto, necessary for the purpose of carrying on the Fishery; The Limits of such Wood Land so to be reserved to be determined upon and ascertained by you and Our Executive Council for Our said Province of Lower Canada, in such manner as from the most authentic Information shall appear to you and them most convenient and proper for that purpose—It is nevertheless Our Intention, and We do hereby signify to you Our Will and Pleasure, that the free use of such Beach or Shore, and of the Wood Land so to be reserved, shall be allowed by you or any Person authorized by you, to such of Our Subjects as shall resort thither for the purpose of carrying on the Fishery in such proportions as the number of Chaloups he or they shall respectively employ may require; Provided that, if any Fisherman who shall have permission to occupy any part of the said Beach or Shore, and Wood Land for the purpose of the said Fishery, shall not during any one Season continue so to occupy and employ any part of the said Beach or Shore, and Wood Land so allotted to him, you or any Person authorized by you as above may and shall allow the use of such part to any other Fisherman who shall apply for the same for the purpose of carrying on the Fishery. And Whereas it may be necessary to establish local Regulations to prevent Abuses as well as disputes and misunderstanding between the Fishermen resorting to the said Beach or Shore, it is Our Will and Pleasure that you, by and with the Advice and Consent of Our said Executive Council, do frame such Regulations from time to time as to you shall appear necessary to answer those salutary purposes, and that you transmit the same to Us through one of Our principal Secretaries of State for Our Pleasure therein, and Copies thereof to Our Committee of Our Privy Council for Trade and Foreign Plantations by the first Opportunity.

62. And Whereas it is expedient for our Service that We should from time to time be informed of the State of the Trade and Fisheries, as well as of the Population of Our said

Province of Lower Canada; It is our Will and Pleasure, that you do transmit to Us through one of Our Principal Secretaries of State, and to Our Committee of Our Privy Council for Trade and Foreign Plantations for their Information, yearly and every year, a full and particular Account of the State of the Fur and Peltry Trade, The Nature and Extent of the several Fisheries carried on by Our Subjects or others, either on the Coasts Lakes or Rivers of the said Province, the State of Cultivation, particularly specifying the Quantity of Grain, Hemp, and Flax produced, and of any other important Branch of Trade which may in your opinion be undertaken and advantageously carried on by Our Subjects; the number of Inhabitants, distinguishing them under different heads, of Men, Women, and Children, inserting in such Account the number of Persons born, christened, and buried, and any extraordinary Influx or Emigration from Our said

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Province, specifying at the same time the number of Slaves, and the number of Our Subjects capable of bearing Arms in the Militia, the Number and Tonnage of Shipping and Craft employed upon the Lakes or Rivers in or contiguous to the Province of Upper Canada, and of the Number and Tonnage of the Shipping entering inwards or clearing outwards from the Ports of Our Provinces of Lower Canada; together with any other Information on these or any other points of the like nature which may be proper to be communicated to Us.

63. And Whereas for some years past, the Governors of some of Our Plantations have seized and appropriated to their own use, the produce of Whales of several kinds taken upon those Coasts, upon pretense that whales and¹ Royal Fishes, which tends greatly to discourage that Branch of Fishery in Our Plantations, and to prevent Persons from settling there. It is therefor Our Will and Pleasure that you do not pretend to any Claim nor give any manner of Discouragement to the Fishery of Our Subjects upon the Coasts of the Province under your Government, but on the contrary, that you give all possible Encouragement thereto.

Endorsed: Instructions for the Right Honourable
Lord Dorchester, Governor of Lower Canada.

Dated 16th September, 1791.

[L.S.]

¹ An error for "are."

No. 197.

**MEMORANDUM ON INSTRUCTIONS TO
GOVERNORS OF THE PROVINCE OF LOWER
CANADA, 1791-1839.**

The articles of the Instructions to Lord Dorchester of 16 September 1791, numbered 31-33 and 56-63 inclusive, are repeated in the Instructions to the following Governors of the Province of Lower Canada, and are therein numbered 30-32 and 55-62 inclusive, viz. to:—

Sir James Henry	1807
Craig	
Sir George Prevost	1811
Lt.-Gen. Gordon Drummond 29 Aug.	
Sir John Coape Sherbrooke . 22 Oct.	1814
The Duke of 29 Oct.	
Richmond 6	1816
The Earl of March	
Dalhousie 9 May	1818
Poulett 13 April	
Thomson 7 Sept.	1820
	1839

The Instructions given to Lord Aylmer 1830, the Earl of Amherst 1835, the Earl of Gosford 1835, the Earl of Durham and Sir John Colborne 1838, required them to conform to and abide by the Standing Instructions addressed to the Earl of Dalhousie 13 April 1820.

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PENINSULA.**

BETWEEN

THE DOMINION OF CANADA of the one part

AND

**THE COLONY OF NEWFOUNDLAND of the other
part**

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Numbers 198-703. Pages 883-1666.

[1927lab]

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**IN THE MATTER of the BOUNDARY between the
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PART VII.

CORRESPONDENCE, DOCUMENTS AND PAPERS
RELATING TO THE HISTORY OF THE
ADMINISTRATION
OF THE COAST OF LABRADOR.

No.	Date.		Descriptions of Document.	Page.
198	23rd July 1752	N	Report of Lords of Trade on Petition of Merchants	883
199	5th June 1762	C	General Murray's Report on the state of the Government of Quebec	893

PAPERS HEREUNDER (pp. 899-925) RELATE TO THE
ESTABLISHMENT OF CIVIL GOVERNMENT IN THE
TERRITORIES CEDED TO BRITAIN BY THE
TREATY OF 1763.

200	5th May 1763	C	Earl of Egremont to Lords of Trade	899
201	8th June 1763	C	Lords of Trade to Earl of Egremont, with Report	903
202	8th June 1763	J	Report	903
203	14th July 1763	J	Earl of Egremont to the Lords of Trade	915
204	5th Aug. 1763	C	Lords of Trade to Egremont	918

No.	Date.		Descriptions of Document.	Page.

205	5th Aug. 1763	C	Report	919
206	19th Sept. 1763	J	Earl of Halifax to Lords of Trade	921
207	4th Oct. 1763	C	Lords of Trade to Earl of Halifax	923
208	5th Oct. 1763	C	Proceedings in the Privy Council	924
209	1763	C	Extracts from "The Annual Register " or a view of the History, Politics and Literature	926
210	18th Nov. 1763	C	Extract from Journal of Board of Trade at a meeting of His. Majesty's Commissioners for Trade and Plantations	928
211	25th Nov. 1763	C	Lords of Trade to Lords of the Committee of Council, upon Memorial of Captain Richard Gridley	929
212	1st July 1764	C	Proclamation of Palliser to bring about friendly intercourse with Esquimaux Indians	930
213	1st Sept. 1764	J	Dispatch, Palliser to Lords of Trade giving account of his proceedings	932
214	9th Oct. 1764	C	Dispatch, Palliser to Lords of Trade reporting as to friendly communication with Indians	933
215	1764	C	Palliser's Remarks, etc., made in obedience to his instructions	934
216	8th Apr. 1765	J	Regulations for the Fishery on the Coast of Labrador, etc.	937
217	13th Apr. 1765	J	Surrogate Commissions granted by Governor Palliser	939
218	29th Apr. 1765	C	Representations of the Lords of Trade, reporting on the state of the Fisheries	940
219	28th Aug. 1765	J	Letter from Governor of Newfoundland to Governor of Canada	942
220	28th Aug. 1765	C	Palliser's Order forbidding persons from Quebec and other colonies to winter on the Coast of Labrador	943
221	28th Aug. 1765	J	Regulations for Labrador Fishery	944
222	11th Sept. 1765	J	Extracts from Governor Palliser's Dispatch to the Earl of Halifax	946
223	24th Oct. 1765	C	Minute of Committee of Privy Council relative to the state of the Fishery of Newfoundland	947
224	30th Oct. 1765	J	Dispatch from Governor Palliser to Lords of Trade	948
225	20th Dec. 1765	C	Letter, Burke to Palliser, enclosing copy of Philibot's case	951

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No.	Date.		Descriptions of Document.	Page.
226	21st Dec. 1765	C	Palliser's answer to Philibot's case	952
227	8th Feb. 1766	C	Letter from Palliser to Messrs. Bayne and Breymer offering to support them in any undertaking from Britain to Coast of Labrador	954
228	19th Mar. 1766	J	Dispatch from Governor Palliser to Board of Trade	955
229	19th Mar. 1766	J	Governor Palliser's Answers to Heads of Enquiry	956
230	27th Mar. 1766	J	Representation of the Lords of Trade reporting on state of Coast of Labrador	961
231	1765	N	State of the Fishery on the Labrador Coast	965
232	1766 (?)	C	Memorial of Sundry Merchants of the Province of Quebec concerned in Fisheries on Coast of Labrador	966

233	3rd Apr. 1766	C	Dispatch from Palliser to Pownall, observations upon the Memorial of Settlers	969
234	22nd Apr. 1766	C	Dispatch from Palliser to Lords of Trade, further observations	971
235	30th Apr. 1766	C	Memorial of Fowler Walker on behalf of Quebec Merchants	973
236	13th May 1766	J	Representation of Lords of Trade on claims of merchants and inhabitants of Quebec, and Palliser's regulations	975
237	1766	C	Proposals for encouraging the Fisheries on the Coast of Labrador and for improving that at Newfoundland	982
238	1st Aug. 1766	J	Proclamation by Palliser admitting vessels from plantations to Fishery on Coast of Labrador, etc.	986
239	25th Aug. 1766	J	Report from Palliser to Secretary of Admiralty relating to Fishery on Coast of Labrador, etc.	988
240	6th Sept. 1766	C	Dismissal of claim of Messrs. Bayne and Brymer recommended	989
241	10th Sept. 1766	C	Order in Council dismissing claim of Messrs. Bayne and Brymer	990
242	13th Oct. 1766	N	Extract from M. Cugnet's account of the King's Posts	991
243	21st Oct. 1766	C	Dispatch from Palliser to the Lords of Trade reporting on his exclusion of vessels from Plantations	992
244	1766-1768	C	Petition from Jean Taché and heirs of Bissot and Joliet to the King	993
			Translation of No. 244	995

No.	Date.		Descriptions of Document.	Page.
245	15th Jan. 1767	N	Opinion of Attorney General of Quebec on Bissot's claim to Mingan, and Taché's claim to St. Modet	997
246	9th Feb. 1767	C	Palliser to the Earl of Shelburne in defence of his regulations	999
247	23rd July 1767	J	Order against firing the woods on the Coast of Labrador	1004
248	2nd Aug. 1767	C	Instructions to Mr. Lucas with regard to care of King's Shallop and Boats at York Fort	1005
249	2nd Aug. 1767	J	Instructions by Governor Palliser to Governor Carleton of Quebec	1006
250	Aug. 1767	C	Memorial from British Ship Adventurers to Palliser praying to be supported in their rights and privileges on Coast of Labrador	1008
251	10th Aug. 1767	C	Regulations for the establishment of the British Ship Fishery on Coast of Labrador	1010
252	14th Aug. 1767	J	Governor Palliser to Governor Carleton of Quebec	1013
253	27th Aug. 1767	C	Additional rules for Labrador Fishery	1014
254	15th Dec. 1767	C	Palliser to Earl of Shelburne reporting on state of British Ship Fishery	1016
255	5th Jan. 1768	N	Extract from Report of Attorney General and Solicitor General to Lords of Trade	1018
256	24th Feb. 1768	C	Paliser [sic] to Shelburne recommending extension of regulations of Act of 10 & 11 Wm. III. to the	

			Coast of Labrador, etc.	1019
257	3rd Mar. 1768	C	Representation of the Lords of Trade upon claims of Inhabitants of Quebec to exclusive property on the Coast of Labrador	1021
258	19th Mar. 1768	C	Case of proprietors and possessors of Seal Fisheries on Coast of Labrador	1023
259	6th Apr. 1768	C	Palliser to Lords of Trade <i>re</i> claim of settlers to lands on Labrador Coast	1030
260	20th Oct. 1768	J	Governor Palliser to Lord Hillsborough	1032
261	Dec. 1768	C	Memorial of Messrs. Bayne and Brymer praying relief for losses sustained in consequence of Palliser's regulations	1034
262	Jan. 1769	C	Petition of Governor Palliser to Lords of Trade in defence of his regulations	1039
263	16th Nov. 1769	C	Pownall to Cooper signifying approval of Palliser's conduct	1046

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No.	Date.		Descriptions of Document.	Page.
264	9th July 1770	C	Petition concerning Fishing Posts on Coast of Labrador	1047
			Translation of No. 264	1050
265	1772	N	Extract from a short account of the territory of Labrador, etc. (Attributed to Roger Curtis)	1053
266	24th June 1772	C	Representation of Lords of Trade recommending annexation to the Province of Quebec of Labrador Coast	1055
267	19th Dec. 1772	J	Order of Reference back to Lords of Trade	1058
268	6th Jan. 1773	J	Memorial of Geo. Cartwright praying for grant of lands	1059
269	29th Jan. 1773	C	Pownall to Pinson inviting observation upon Cartwright's memorial	1067
270	1773(?)	C	Petition of Noble and Pinson to be confirmed in possessions in Temple Bay	1068
271	2nd Mar. 1773	C	Representations of Lords of Trade to the King upon memorials of Cartwright and Noble and Pinson	1069
272	18th Feb. 1773	N	Minutes of the Commissioners respecting Cartwright's application for grant of Fisheries	1071
273	2nd Mar. 1773	C	Representations of Lords of Trade to Committee of the Privy Council upon reconsideration of their representation of 24th June 1772	1072
274	9th Mar. 1773	J	Lord Dartmouth to Governor Shuldham	1074
275	22nd Apr. 1773	J	Order in Council for preparation of an instrument of re-annexing to the Government of Quebec such parts of Coast of Labrador as are situate between River St. John and Bay Phillipeaux, etc.	1075
276	1773(?)	C	Petition of John Agnew and associates for grant of mineral rights	1079
277	3rd June 1773	N	Report of Lords of Trade to Privy Council Committee for Plantation Affairs	1080
278	3rd July 1773	N	Privy Council Order for instrument granting mines to Agnew	1081
279	21st Aug. 1773	J	Governor Shuldham's Proclamation respecting property on Coast of Labrador	1082

280	1773(?)	J	Remarks by Governor Shuldham in obedience to His Majesty's instructions	1083
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No.	Date.		Descriptions of Document.	Page.
281	25th Aug. 1773	N	Report from Roger Curtis to Governor Shuldham respecting Northern Labrador	1090
282	31st Dec. 1773	C	Memorial from citizens of Quebec to Lord Dartmouth for inclusion of Labrador in Province of Quebec	1091
283	Undated	C	Extract from Memorial in support of Petition by His Majesty's subjects in Canada	1093
			Translation of No. 283	1094
284	(1774)	C	Memorandum of Government of Quebec	1095
285	(1774)	C	First draught of Quebec Bill	1097
286	(1774)	C	Second draught of Quebec Bill	1099
287	(1774)	C	Proposed extension of Provincial limits	1104
288	(1774)	C	Third draught of Quebec Bill	1106
289	(1774)	C	Notes on third draught of Quebec Bill	1111
290	(1774)	C	The clause concerning religion in the third draught	1112
291	(1774)	C	Lord Hillsborough's objections to the Quebec Bill in its present form	1115
292	1st May 1774	C	Dartmouth's reply to Hillsborough	1117
293	1774	C	The Quebec Bill as returned from the Commons	1117
294	26th May to 10th June 1774	C	Extracts from Cavendish's debates on the Quebec Bill	1124
295	Undated	N	Extracts from considerations on the rights and interests of adventurers in the Labrador Fisheries by Lieut. John Cartwright	1142
296	16th June 1774	C	Dartmouth to The Admiralty signifying King's pleasure that Governor Shuldham should superintend Fisheries on Coast of Labrador	1147
297	3rd Aug. 1774	J	Instructions to Mr. Alexander Ged respecting York Fort	1148
298	25th Aug. 1774	C	Governor Shuldham to Lord Dartmouth	1149
299	12th Sept. 1774	N	Letter from George Cartwright to Lord Dartmouth	1151
300	2nd Dec. 1774	N	Report <i>re</i> Agnew's Grant	1154
301	2nd Dec. 1774	N	Privy Council Order about mineral grants to Agnew, etc.	1156

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No.	Date.		Descriptions of Document.	Page.
302	28th Apr. 1775	N	Earl of Dartmouth to The Admiralty	1157
303	2nd June 1775	C	Lord Dartmouth to Governor Carleton	1158
304	May 1775	C	Petition of Wm. Burgess for Grant of Fishing Post on Coast of Labrador	1159
305	14th Sept. 1775	N	Extract from Letter from George Cartwright to Lord Dartmouth	1160
306	15th Sept. 1775	C	Letter, Governor Duff to Carleton relative to withdrawal of Garrison from York Fort	1162
307	14th Nov. 1775	C	Letter, Duff to Dartmouth reporting on withdrawal of Garrison from York Fort	1163

308	14th Mar. 1777	C	Letter, Cumberland to Knox transmitting copy of memorial of Wm. Thomas	1164
309	18th Mar. 1775	J	Lord G. Germain to Governor Montagu	1165
310	Undated	N	The particulars of the case of Nicholas Darby, Merchant	1166
311	27th Jan. 1778	N	Minutes of the Commissioners for Trade and Plantation, respecting royalties on minerals	1169
312	3rd Mar. 1778	N	Minutes of the Commissioners of Trade and Plantation	1169
313	3rd July 1778	N	Petition of Merchants for Superintendant of Fisheries on Coast of Labrador	1170
314	9th July 1778	N	Lord G. Germain to the Admiralty respecting appointment of Superintendant	1171
315	12th Aug. 1778	C	Order of the King providing for the establishment of a Lieutenant Governor or Superintendant of Fisheries	1172
316	16th Mar. 1779	N	Appointment of Nicholas Coxe as Superintendant of the Trade and Fishery of Labrador	1174
317	2nd Apr. 1779	N	Lord George Germain to Governor Edwards (Ordnance for Labrador)	1176
318	12th Sept. 1779	N	Governor Edwards of Newfoundland to Lord G. Germain	1177
319	20th Mar. 1788	N	Captain Cartwright's application for a grant at Touktoke Bay (Hamilton Inlet)	1178
320	1791(?)	N	Extract from Report enclosed in letter of Adam Lymburner to the Rt. Hon. Henry Dundas	1183

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No.	Date.		Descriptions of Document.	Page.
321	19th Aug. 1791	N	Report on the proposed line of division of Province of Quebec	1184
322	Circa 1792	N	Proceedings of the Committee of the House of Commons	1185
323	4th Sept. 1794	N	Appointment of Francis le Maistre as Lieutenant-Governor of Gaspé and Inspector of Labrador Fisheries	1187
324	10th Jan. 1798	N	Captain Ambrose Crofton's Report to Governor Waldegrave	1189
325	6th Apr. 1802	N	The Admiralty to Lord Pelham, asking for Gambier's appointment as Governor	1192
326	18th Feb. 1805	N	Commission to Alexander Forbes as Lieutenant-Governor of Gaspé and Inspector of Fisheries at Labrador	1193
327	9th Sept. 1807	J	Governor Holloway to Lord Castlereagh suggesting re-annexation to Newfoundland	1194
328	26th Sept. 1807	C	J. Williams and H. J. Phillips to Governor Holloway <i>re</i> seizure of Schooner "Malinda"	1195
329	18th Nov. 1808	J	Governor Holloway to Lord Castlereagh, respecting conditions in Newfoundland and annexation of Coast of Labrador	1196
330	20th Jan. 1809	C	Holloway to Cottrell with papers <i>re</i> Seizure of "Malinda"	1198
331	11th May 1809	C	Holloway to Cottrell, asking for Sir William Scott's opinion	1199
332	18th July 1809	N	Governor Holloway to Governor-General of Lower	

No.	Date.		Descriptions of Document.	Page.
361	26th Oct. 1848	N	Bishop of Newfoundland to Earl Grey . .	1245
362	28th Apr. 1879	N	Dispatch from Sir Michael Hicks Beach to Governor Glover respecting German Consulate	1247
363	23th Apr. 1879	N	T. V. Lister, Foreign Office, to the Under Secretary, Colonial Office	1248
364	18th Apr. 1879	N	Count Munster to the Marquess of Salisbury	1248

PART VIII.

DOCUMENTS, PAPERS AND CORRESPONDENCE
RELATING TO ACTS OF ADMINISTRATION AND
OCCUPATION ON THE COAST OF LABRADOR.

A.—REPORTS OF GOVERNORS.

365	1st Sept. 1764	N	Dispatch from Palliser to Lords of Trade . .	1250
366	11th Sept. 1765	N	Dispatch from Palliser to Lord Halifax	1250
367	30th Oct. 1765	N	Dispatch from Palliser to Lords of Trade . .	1250
368	18th Dec 1765	N	Palliser's remarks on the state of the Newfoundland Fishery	1250
369	19th Mar. 1765	N	Palliser's Report to the Lords of Trade (with Appendix 4)	1250
370	31th Mar. 1766	N	Governor Palliser to Mr. Pownall	1251
371	20th Oct. 1768	N	Palliser to Lord Hillsborough	1253
372	17th Feb. 1773	N	Memorandum by Governor Shuldham . .	1253
373	13th Sept. 1773	N	Governor Shuldham to Secretary of State . .	1254
374	1773	N	Remarks by Governor Shuldham in obedience to his instructions	1255
375	5th May 1823	N	Extract from letter from Governor Hamilton to Wilmot	1256
376	25th Nov. 1823	N	Governor Hamilton to Earl Bathurst	1257
377	23rd Nov. 1823	N	Governor Hamilton to the Secretary of the Admiralty	1258

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No.	Date.		Descriptions of Document.	Page.
378	29th Oct. 1841	N	Sir John Harvey to Lord Stanley	1259
379	4th May 1848	N	Governor Le Marchant to Earl Grey	1260
380	29th Aug. 1879	N	Governor Glover to Sir M. E. Hicks Beach . .	1261
381	18th Dec. 1880	N	J. H. Glover to the Earl of Kimberley	1262

B.—REGULATIONS, CONTROL AND PROTECTION OF FISHERIES.

382	8th Apr. 1765	N	Palliser's Fishery Regulations	1265
383	28th Aug. 1765	N	Palliser's Regulations for Fishery and Trade . .	1265
384	1765	N	Extract from return of state of Fishery on Labrador Coast	1265
385	23rd July 1767	N	Palliser's Order against firing woods on the Coast of Labrador	1265
386	23rd July 1767	N	Petition from the Masters of three whaling vessels	1266

387	2nd Aug. 1767	N	Palliser's Orders to Lieut. Saml. Davys	1268
388	25th Aug. 1773	N	Report from Roger Curtis to Governor Shuldham	1268
389	13th Sept. 1773	N	Dispatch from Governor Shuldham to Secretary of State	1268
390	15th Sept. 1773	N	Governor Shuldham's Proclamation	1268
391	3rd Aug. 1774	N	Shuldham's Orders to Alexander Ged	1268
392	30th Aug. 1777	N	Jeremiah Coghlan to Governor Montagu . .	1269
393	4th Sept. 1777	N	Governor Montagu to Jeremiah Coghlan . .	1272
394	27th Sept. 1777	N	Lieut. Schomberg to Governor Montagu . .	1273
395	19th Sept. 1777	—	Lieut. Schomberg's Order	1274
396	12th Sept. 1779	N	Letters from Governor Edwards to Lord George Germain	1276
397	14th Sept. 1804	N	Sir E. Gower to Admiralty	1276
398	20th Nov. 1804	N	Admiralty approving Sir E. Gower's proceedings in Labrador Coast	1277
399	11th June 1819	N	Order by Governor Hamilton to Captain Gordon	1277
400	15th June 1820	N	Sir Charles Hamilton's Orders to Capt. Hercules Robinson	1278
401	24th July 1821	N	Letter from Captain Martin to Governor Hamilton	1280

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No.	Date.		Descriptions of Document.	Page.
402	1st Sept. 1821	N	Captain Martin to Governor Hamilton	1280
403	1840	C	Extract from a report of Captain Alexander Milne	1281
404	Sept. 1841	N	Captain Wyville to Sir J. Harvey	1282
405	7th June 1856	N	Extract from Minutes of Newfoundland Executive Council	1283
406	23rd June 1857	N	Memorandum by J. Kent, Colonial Secretary	1284
407	June 1863	N	Acting Colonial Secretary to Stephen Marsh, Esq.	1285
408	17th Oct. 1863	N	Minute respecting employment of H.M. "Vesuvius"	1286
409	29th Mar. 1865	N	Address of House of Assembly of Governor as to protecting Salmon Fishing	1287
410	10th Sept. 1865	N	Report of Judge Sweetland on the Salmon Fisheries	1288
411	31st Oct. 1867	N	Report of General Superintendent on protection of Fisheries on Coast of Labrador (Farms) . .	1290
412	1872	N	Report on Fisheries	1292
413	18th July 1873	N	Captain Miller's Report. The Extract about Pinweir (Pinware) only	1294
414	1876	N	Fisheries Report (shows Magisterial duties and judicial performed again by a naval officer) . .	1295
415	20th Mar. 1926	N	Affidavit of F. C. Brien	1296

C.—RELATIONS WITH NATIVE INHABITANTS.

416	1st Sept. 1764	N	Palliser to Lords of Trade	1297
417	8th Apr. 1765	N	Order of Governor Palliser for establishing communication and trade with the Esquimaux savages on the Coast of Labrador	1297
418	16th Apr. 1765	N	Representation to His Majesty upon the complaints and propositions of the Court of France respecting the Newfoundland Fishery	1299

419	10th Aug. 1765	N	Governor Palliser's Order forbidding French to traffic with Esquimaux and for protection of Esquimaux if they come to Newfoundland . . .	1301
420	11th Sept. 1765	N	Palliser to Lord Halifax	1302

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No.	Date.		Descriptions of Document.	Page.
421	5th July 1769	N	Proclamation by Governor Byron for protection of native savages	1302
422	10th Apr. 1772	N	Proclamation by Governor Shuldham for protection of native savages	1303
423	4th May 1772	N	Proclamation of Governor Shuldham to keep Esquimaux within Moravian Settlement . .	1304
424	14th May 1779	N	Proclamation by Governor Edwards for protection of Esquimaux Indians	1305
425	30th Jan. 1781	N	Proclamation by Governor Edwards for protection of Esquimaux Indians	1306
426	15th May 1784	N	Proclamation by Governor Campbell for protection of Esquimaux Indians	1307
427	17th Aug. 1909	N	Affidavit of C. A. Martin	1308
428	21st Mar. 1926	N	Affidavit of W. R. Barlow, M.D.	1309

D.—DOCUMENTS RELATING TO THE SETTLEMENTS AND WORK OF THE MORAVIAN MISSIONARIES.

429	23rd Feb. 1765	N	Extract from the Petition of the Society of the Unitas Fratrum to the Lords of Trade	1311
430	27th Apr. 1765	N	Admiralty to Lords of Trade	1314
431	29th Apr. 1765	N	Certificate of Lords of Trade that Moravian Missionaries are appointed to establish a mission on the Coast of Labrador under their protection	1315
432	30th Apr. 1765	N	Proclamation of Governor Palliser in reference to Moravians	1316
433	(1765)	N	Account of the voyage of the four missionaries	1317
434	3rd May 1769	J	Order in Council granting land to Moravians at Esquimaux Bay	1321
435	21st Apr. 1770	N	Proclamation by Governor Byron for protection of Moravians	1325
436	10th Apr. 1772	N	Proclamation by Governor Shuldham, respecting movement of Esquimaux southward	1326
437	10th Apr. 1772	N	Proclamation by Governor Shuldham against molesting Moravian settlements	1327

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No.	Date.		Descriptions of Document.	Page.
438	4th May 1772	N	Proclamation by Governor Shuldham requiring Moravians to keep Esquimaux from going southward	1327
439	25th Aug. 1773	N	Report from Roger Curtis to Governor Shuldham	1327
440	13th Sept. 1773	N	Dispatch from Governor Shuldham to Secretary of State	1327
441	6th Dec. 1773	N	Report of the state of the Brethren's Mission on the Coast of Labrador in September, 1773 . .	1328
442	9th Mar. 1774	N	Report about further grants of territory to the Moravians	1329

443	9th Mar. 1774	N	Order in Council as to further grants of territory to the Moravians	1331
444	17th Mar. 1774	N	Proclamation by Governor Shuldham respecting settlements of the Unitas Fratrum	1332
445	1775	N	Report of Moravians, 1775	1333
446	14th May 1779	N	Proclamation by Governor Edwards against molesting Moravian Missionaries	1333
447	29th July 1779	N	Proclamation by Governor Richard Edwards as to protection of the Moravian Missions	1334
448	30th Jan. 1781	N	Proclamation by Governor Edwards against molesting Moravian settlements	1335
449	15th May 1784	N	Proclamation by Governor Campbell against molesting Moravian settlements	1335
450	26th May 1784	N	La Trobe and Hutton's Report to Lord Sydney	1335
451	28th May 1784	N	Lord Sydney to Governor Campbell	1337
452	9th July 1784	N	Unitas Fratrum to Secretary of the Home Department	1338
453	1752-1778	C	Extracts from Moravian Missions MSS. (Can. Archives)	1340
454	1818	N	Letter from Mr. La Trobe, Secretary of the Unitas Fratrum to Mr. Goulburn	1343
455	29th Aug. 1821	N	Report by Unitas Fratrum on visit by Captain Martin to the Moravian settlements	1345
456	1st Sept. 1821	N	Report, Captain Martin to Governor Hamilton	1347
457	3rd Dec. 1821	N	Proclamation by Governor Hamilton as to grant to Moravians	1347
458	3rd Dec. 1821	N	Governor Hamilton to Rev. B Kohlmeister	1348

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No.	Date.		Descriptions of Document.	Page.
459	16th Aug. 1822	N	Mr. Kohlmeister and others to Governor Hamilton	1349
460	25th Mar. 1870	N	Minute respecting letter from Mr. Henry Shawe	1351
461	14th July 1892	N	Minute of Newfoundland Executive Council respecting Letter from T. F. Pensel	1351
462	Aug. 1909	N	Extracts from Report on official visit of Governor MacGregor to the Coast of Labrador	1352
463	17th Aug. 1909	N	Affidavit of C. A. Martin	1352
464	19th Aug. 1909	N	Affidavit of George Voisey	1353
465	21st Mar. 1926	N	Affidavit of W. R. Barlow, M.D.	1353
466	1790,1845,1846	C	Extracts from "Periodical Accounts relating to the Missions of the Church of the United Brethren established among the heathen."	1354

E.—ADMINISTRATION OF JUSTICE AND ADMINISTRATIVE WORK OF JUDGES.

467	20th June 1763	N	Surrogate Commission to Captain Saxon	1360
468	13th Apr. 1765	N	Surrogate Commissions given by Palliser	1361
469	26th Aug. 1766	N	Surrogate's Commission and Instructions	1361
470	9th Aug. 1767	N	Governor Palliser to Captain Jno. Hamilton, Surrogate for for Labrador	1364
471	9th Aug. 1767	N	Governor Palliser to Captain Jno. Hamilton	1365
472	23rd Aug. 1767	N	Governor Palliser's decision in <i>re</i> Mr. Brush against Mr. Goodfellow	1366

473	26th July 1810	N	Supreme Surrogate's Warrant, by Governor Duckworth	1367
474	10th Sept. 1810	N	Extract from Surrogate Records	1368
475	25th Nov. 1810	N	Governor Duckworth to Earl of Liverpool	1370
476	1810 (?)	N	Limited Commission of the Peace, by Governor Duckworth	1371
477	1811	N	Extract from an Act for . . instituting Surrogate Courts on the Coast of Labrador and in certain Islands adjacent thereto	1375
478	1813	N	Extract from "History of Newfoundland," by D. W. Prowse	1375

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No.	Date.		Descriptions of Document.	Page.
479	2nd Dec. 1814	N	Appointment of Samuel Prowse by Governor Keats	1376
480	7th Sept. 1816	N	Magistrates with limited Commissions appointed by Governor Pickmore	1376
481	23rd Sept. 1816	N	Instructions to the Surrogates by Governor Pickmore	1377
482	20th July 1818	N	Magistrates appointed by Governor Hamilton	1378
483	15th June 1820	N	Governor Hamilton's Orders to Captain Robinson	1378
484	20th Oct. 1820	N	Appointment by Sir Charles Hamilton of Phillip Beard as Justice of the Peace for Coast of Labrador	1379
485	11th Nov. 1820	N	Governor Hamilton to Earl Bathurst	1380
486	17th June 1824	N	Imperial Act 5 Geo. IV, cap. 67	1382
487	2nd Jan. 1826	N	Governor Cochrane's Proclamation appointing times and places for holding the Labrador Court	1396
488	2nd Jan. 1826	N	Commission from Governor Cochrane to Captain Patterson to be Judge of the Labrador Court	1398
489	10th July 1826	N	Commission appointing Wm. Patterson and Jas. Blaikie to be Justices of the Peace for the Coast of Labrador	1399
490	18th July 1826	N	Governor Cochrane's Commission to Wm. Dickson to be Sheriff of the Coast of Labrador	1400
491	18th July 1826	N	Governor Cochrane's Commission to James Blaikie to be Clerk of the Labrador Coast	1402
492	18th July 1826	N	Governor Cochrane's Commission to Thos. Morton to be Constable and Bailiff of the Labrador Coast	1403
493	11th Aug. 1826	N	Governor Cochrane's Instructions to Judge Paterson on proceeding of his circuit on the Labrador	1404
494	30th Aug. 1826	N	Extract from Records of Court of Civil Jurisdiction for Labrador	1406
495	18th June 1827	N	Proclamation by Governor Cochrane appointing times and places for holding the Labrador Court. (Includes Rigolet)	1407
496	27th Aug. 1827	N	Extracts from Report by Mr. George Simms, J.P., of Court of General Sessions, Labrador	1409
497	5th Oct. 1827	N	Governor Cochrane's account with the Treasury. Extract	1410
498	24th June 1828	N	Proclamation by H.H. R. A. Tucker appointing times and places for the Labrador Courts	1411

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499	6th July 1828	N	Extract from Records of the Court of Civil Jurisdiction for Labrador	1412
500	11th Dec. 1828	N	Report of the Judge of the Labrador district with the places visited (1826-28)	1413
501	13th Dec. 1828	N	Governor Cochrane to Secretary of State transmitting returns of actions in Newfoundland and Labrador	1415
502	10th Aug. 1829	N	Proclamation by Governor Cochrane for a Labrador Court	1417
503	27th Aug. 1829	N	Extract from Records of the Court of Sessions for the district of Labrador	1418
504	23rd Sept. 1829	N	Sale under levy of execution	1418
505	26th July 1830	N	Extract from Records of the Court of Sessions for the district of Labrador, etc.	1419
506	31st July 1830	N	Extract from Records of the Court of Civil Jurisdiction for Labrador, etc.	1419
507	20th June 1833	N	Commission to Elias Rendell to be Sheriff of the Labrador district	1420
508	1883	N	Schedule of expenditure. Labrador Court	1421
509	1884	N	Return of Appointments, showing Labrador Court Officials	1422
510	1884	N	Newfoundland Act 4 Wm. IV, c. 20, repealing former Acts as to jurisdiction of Court on Coast of Labrador	1423
511	(1884)	C	“Explanatory observations on Acts of third Session, 1834”	1424
512	16th July 1838	C	Governor Prescott to Earl of Durham	1425
513	1864	C	Extracts from Report of Mr. E. Rendell to Governor Prescott	1426
514	3rd Apr. 1845	C	Petition of Newfoundland Merchants for a Labrador Court	1427
515	16th Apr. 1845	N	Petition of Merchants and others for the establishment of a Court of Justice	1428
516	30th Aug. 1848	N	Captain Lock to Governor le Marchant	1429
517	1852	C	Petition of Newfoundland Merchants for a Labrador Court	1430
518	1852	C	Extract from Report of an official visit to the Coast of Labrador by Governor MacGregor	1431

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519	1855	C	The State of the Labrador Coast in 1855	1432
520	24th Sept. 1855	N	Oath of Constables for Sandwich Bay	1433
521	27th Aug. 1861	N	Oaths of Constables for Sandwich Bay	1434
522	17th May 1862	C	Extract from Minutes of the Executive Council of Newfoundland	1435
523	25th Mar. 1863	N	Newfoundland Act 26 Vict., c. 2, to provide for collection of revenue and better administration of justice at the Labrador	1436
524	25th Mar. 1863	N	Newfoundland Act 26 Vict., c. 3, extending jurisdiction of circuit courts of Newfoundland to Labrador	1439

525	18th Apr. 1863	N	Letters Patent for the Institution of a Court at Labrador	1440
526	30th May 1863	N	Minute of Newfoundland Executive Council recording appointment of James Winter Collector for the Labrador and Mr. Jonas Purchase as Bailiff of Labrador	1441
527	4th June 1863	N	Acting Colonial Secretary R. Carter to James Purchase	1442
528	1863	N	Judge Sweetland's proceedings of the Circuit Court	1443
529	1864	N	Judge Sweetland's Report of proceedings of the Labrador Court	1446
530	1865	N	Judge Sweetland's Labrador Circuit Report	1449
531	1866	N	Expenditure on Labrador Court	1450
532	20th Apr. 1867	N	Extract from an Act to indemnify His Excellency the Governor of Newfoundland for certain sums of money advanced	1451
533	20th Dec. 1867	N	Judge Pinsent's Report of Court of Labrador	1452
534	31st Dec. 1868	N	Judge Pinsent's Report	1457
535	27th Nov. 1869	N	Judge Pinsent's Report	1460
536	31st Dec. 1870	N	Judge Pinsent's Report	1464
537	31st Dec. 1870	N	Account of expenditure on Labrador Court	1468
538	30th Dec. 1872	N	Judge Pinsent's Report	1469
539	31st Dec. 1872	N	Judge Pinsent's Report	1472
540	31st Dec. 1873	N	Judge Pinsent's Report	1474

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541	29th Apr. 1874	N	Extract from an Act to provide for the retirement of certain officials of the Government	1477
542	31st Dec. 1874	N	Acting Judge McNeil's Report	1478
543	19th July 1875	N	Minute respecting appointing of Judge	1480
544	18th Mar. 1926	N	Affidavit of Cluny Macpherson, G.M.G., M.D.	1481
545	18th Mar. 1926	N	Affidavit of John Grieve, M.D.	1483
546	20th Mar. 1926	N	Affidavit of Frederick Colman Brien	1484
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F.—COLLECTION OF REVENUE.

548	13th June 1822	N	Appointment by Governor Hamilton to collect Greenwich Hospital duty on Labrador Coast	1487
549	1833	N	Account of duties collected on Coast of Labrador	1488
550	29th June 1836	N	Lord Glenelg to Governor Prescott	1489
551	5th Jan. 1841	N	Account showing duties collected on Coast of Labrador	1490
552	4th Mar. 1841	N	Lord John Russell to Governor Prescott	1491
553	4th Mar. 1841	—	Collection of Customs Duties at Labrador	1491
554	7th May 1841	N	Governor Prescott to Lord John Russell	1495
555	5th July 1841	N	Letter from Secretary of State <i>re</i> application of Newfoundland Laws to Labrador	1496
556	10th Mar. 1842	N	Chas. Hunt to Lord Stanley	1497
557	2nd Mar. 1841	N	Colonial Office to Chas. Hunt	1498
558	4th May 1841	N	J. McMillan to the Colonial Secretary	1498
559	25th July 1837	N	Collector of Customs, Newfoundland, to	

			Commissioners of H.M. Customs	1499
560	22nd June 1837	N	James Simms to Mr. Secretary Crowdy	1500
561	29th Dec. 1837	N	Collector of Customs to C. Scorell	1500
562	31st Oct. 1837	N	C. Scorell to Custom House, London.	1501

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563	20th Mar. 1842	N	Lord Stanley to Governor Harvey	1502
564	14th May 1842	N	James Simms to the Governor	1503
565	May 1842	N	Report of Attorney General of Newfoundland relative to customs payable at the Labrador	1504
566	11th Apr. 1826	N	Collector of Customs, St. John's, to Custom House, London	1507
567	9th Aug. 1828	N	Custom House, London, to Collector of Customs, St. John's	1507
568	10th Nov. 1826	N	Collector of Customs, St. John's, to Custom House, London	1507
569	6th June 1829	N	Custom House, London, to Collector of Customs, St. John's	1509
570	10th Sept. 1829	N	Collector of Customs, St. John's, to Custom House, London	1510
571	—	N	Statement of amounts of Duties levied on Coast of Labrador (1826-40)	1511
572	4th June 1842	N	Governor Harvey to Lord Stanley	1512
573	10th May 1850	N	Commission to Preventive Officer of Colonial Revenue for Coast of Labrador	1513
574	7th June 1856	N	Extract from Minutes of Newfoundland Executive Council	1514
575	1st Sept. 1856	N	Prendergast's Report on Collection of Revenue	1514
576	25th Mar. 1863	N	Newfoundland Statute 26 Vict., cap. 2	1518
577	25th Apr. 1863	N	Appointment of Mr. Matthew Warren as Collector of Labrador	1518
578	6th May 1863	C	Extract from Thomas Fraser's letter from London to D. A. Smith at Esquimaux Bay	1519
579	30th May 1863	N	Minutes of Newfoundland Executive Council respecting appointment of James Winter	1521
580	4th June 1863	N	Governor Bannerman to James Winter	1521
581	22nd July 1863	C	Extract from Mr. D. A. Smith's letter to Thomas Fraser	1523
582	30th Sept. 1863	N	Extracts from Captain Hamilton's Report to the Admiral and Governor, relative to the Fisheries	1524
583	17th Oct. 1863	N	Minutes of Newfoundland Executive Council respecting employment of H.M. "Vesuvius"	1525
584	5th Nov. 1863	C	Extract from Mr. D. A. Smith's letter to Mr. Thomas Fraser	1526

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585	5th Dec. 1863	N	Duke of Newcastle to Governor Bannerman	1527
586	5th Dec. 1863	N	F. Roger to Sir E. Head and others	1528
587	13th Apr. 1864	N	An Act for granting to Her Majesty certain Duties (27 Vict., c. 1.)	1529
588	13th Apr. 1864	N	An Act to amend and consolidate the Laws of the	

			Customs (27 Vict., c. 2)	1530
589	13th Apr. 1864	N	An Act for granting to Her Majesty a sum of money. (27 Vict., c. 17)	1531
590	13th May 1864	C	Extract from Thomas Fraser's letter to D. A. Smith	1532
591	15th Oct. 1864	C	Extract from Mr. Donald A. Smith's letter to Mr. Thomas Fraser	1533
592	26th Oct. 1864	N	Report of the Collector of Revenue on the Coast of Labrador	1534
593	26th Oct. 1864	N	Report of the Collector of Revenue on the Coast of Labrador	1535
594	21st Aug. 1865	C	Extract from Mr. D. A. Smith's letter to Mr. Thomas Fraser	1541
595	24th Nov. 1865	N	Report of J. Winter on the Labrador Revenue Service	1542
596	7th Apr. 1865	N	Extract from an Act for granting to Her Majesty certain duties on goods, etc. (28 Vict., c. 1) . .	1545
597	7th Apr. 1865	N	Extract from an Act for granting to Her Majesty a sum of money (28 Vict., c. 20)	1546
598	23rd Aug. 1866	C	Extract from Mr. D. A. Smith's letter to Mr. Thomas Fraser	1547
599	17th Aug. 1868	C	Extract from Mr. Donald A. Smith's letter to Mr. W. G. Smith	1547
600	1868	N	Extract from Report of Collector	1548
601	23rd Aug. 1869	C	Henry Connolly to Mr. D. A. Smith	1548
602	4th Nov. 1869	N	Report of Collector of Revenue on the Eastern Coast of Labrador	1549
603	5th Nov. 1869	C	Extract from Mr. D. A. Smith's letter to Mr. Wm. G. Smith	1550
604	1870	N	Revenue Report	1551
605	12th Aug. 1881	C	Extract from Mr. M. Fortescue's letter to W. Armit	1553
606	20th May 1882	N	Newfoundland Act, 45 Vict., cap. 6 (Collection of Customs in Labrador)	1554

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607	1908	C	Extract from Report of an official visit to Labrador by Sir William Macgregor	1555
608	16th Aug. 1909	N	Affidavit of Henry Webb	1556
609	25th Aug. 1909	N	Affidavit of S. J. Bromfield	1557
610	26th Aug. 1909	N	Affidavit of Edward Mitchell	1558
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612	10th Sept. 1909	N	Affidavit of Joseph Goudy	1560
613	13th June 1923	C	Letter from A. Brabant to E. L. Newcombe . .	1561
614	4th Mar. 1926	N	Affidavit of Ralph Parsons	1562
615	18th Mar. 1926	N	Affidavit of John Grieve	1563
616	19th Mar. 1926	N	Affidavit of Thomas Winter	1564
617	20th Mar. 1926	N	Affidavit of Frederick Colman Brien	1565
618	30th Mar. 1926	N	Affidavit of Sir P. T. McGrath, K.B.E	1566
			Voluntary statement of Captain J. G. Joy . .	1567
			Voluntary statement of W. Collingwood . .	1568
619	1st Apr. 1926	N	Affidavit of E. R. Burgess	1571
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G.—RELIEF OF DISTRESS.

621	29th Apr. 1868	N	Newfoundland Act, 31 Vict., cap. 16	1573
622	30th Sept. 1878	C	M. Fortescue to R. Prowse and Sons	1574
623	28th Aug. 1879	N	Colonial Secretary to Matthew Fortescue . .	1575
624	29th Aug. 1879	N	Governor Glover to Sir M. E. Hicks Beach, Bart	1576
625	15th Sept. 1879	N	Minute respecting apprehended distress in Rigolet	1576
626	8th Oct. 1880	N	Colonial Secretary to Matthew Fortescue . .	1577
627	30th July 1881	C	M. Fortescue to Hon. E. D. Shea	1578
628	10th Sept. 1881	N	Colonial Secretary to Francis C. Berteau . .	1579

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629	2nd Oct. 1882	N	Secretary to Matthew Fortescue	1580
630	18th Aug. 1885	N	Newfoundland Executive Council Records . .	1581
631	28th Aug. 1885	N	Newfoundland Executive Council Records . .	1581
632	12th Nov. 1885	N	Newfoundland Executive Council Records . .	1581
633	18th Jan. 1886	N	Newfoundland Executive Council Records . .	1581
634	8th Sept. 1886	N	Colonial Secretary to Rev. Mr. Curling	1582
635	12th Sept. 1887	N	Colonial Secretary to Rev. J. P. Quinton . .	1583
636	July 1896	N	Extract from Letter by Dr. Grenfell	1584
637	2nd Nov. 1896	N	Extracts from Letter by Dr. Grenfell	1585
638	1897	N	“Our Mission Work in Labrador” by Dr. W. T. Grenfell	1586
639	16th Feb. 1926	N	Affidavit of W. E. Swaffield	1587
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641	18th Mar. 1926	N	Affidavit of John Grieve	1587
642	20th Mar. 1926	N	Affidavit of Frederick Colman Brien	1587
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H.—ESTABLISHMENT OF SCHOOLS, CENSUS ARRANGEMENTS,
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646	18th Feb. 1922	N	Census Figures on Labrador from 1857 to 1884	1591
647	11th Aug. 1860	N	License to Donald A. Smith, J.P., for Coast of Labrador, within Government of Newfoundland to celebrate marriages	1602
648	8th July 1867	N	J. Bemister to Hon. D. E. Price	1603
649	5th Aug. 1867	J	J. Bemister to Thomas E. Gaden, Esq. . . .	1604
650	7th Aug. 1867	J	Route of “Ariel” on Labrador Coast	1605
651	14th Aug. 1868	C	J. Bemister to John Colton	1606

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652	22nd May 1869	N	Appointment of Thomas Groves	1606
653	31st May 1869	N	Circular as to census	1607
654	27th May 1871	N	Minute respecting Labrador Mail Steamer . .	1610
655	17th Apr. 1872	N	Minutes respecting Allowances for Educational Purposes	1611

656	10th Oct. 1872	N	H. Connolly, Chief Officer of Hudson's Bay Company at Labrador to Judge Pinsent	1612
657	10th June 1873	N	Appointment of Government Vaccinator, Labrador	1613
658	13th June 1873	N	Minute respecting Appointment of Frederick Crowdy as Vaccinator	1613
659	5th June 1874	N	E. D. Shea to Michael Knight. Census arrangements	1614
660	23rd Apr. 1874	C	Extract from Report of Select Committee of House of Assembly, Newfoundland, respecting Labrador Steam Service	1615
661	19th July 1875	N	Minute respecting Appointment of Dr. Wm. Allen	1615
662	4th Sept. 1880	N	Memorandum on Disturbances respecting Rights of Property likely to arise in Hamilton Inlet	1616
663	9th Sept. 1880	N	Colonial Secretary to Matthew Fortescue . .	1617
664	22nd Oct. 1880	N	Report of Staff Commander Boulton on Survey of Ungava Bay	1618
665	1880	N	Reports of Schools on Labrador	1620
666	20th May 1882	N	Newfoundland Act, 45 Vict., c. 8 (Regulating Sale of Intoxicating Liquor in Labrador)	1623
667	1887	N	Extracts from Newfoundland Statutes respecting education	1625
668	14th July 1891	N	Colonial Secretary to Mr. Robert Guy	1627
669	1903	N	Public Service Act, 3 Ed. VII, c. 18	1628
670	1904	N	Public Service Act, 4 Ed. VII, c. 20	1628
671	26th Mar. 1907	N	Extract from an Act for granting to His Majesty certain sums of money, 7 Ed. VII, c. 30	1629
672	29th Mar. 1911	N	An Act respecting the Esquimaux and Indians resident in Labrador (1 Geo. V, c. 4.)	1630
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674	18th Mar. 1926	N	Affidavit of Cluny Macpherson	1632
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676	25th Mar. 1926	N	Affidavit of Frederick Colman Brien	1632
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679	15th Feb. 1890	N	Colonial Secretary to G. Mackinson	1639
680	11th Nov. 1897	N	Minute of Newfoundland Executive Council	1640
681	24th Jan. 1898	N	Minute of Newfoundland Executive Council	1640
682	7th May 1898- 17th July 1903	N	Minutes of Newfoundland Executive Council	1641
683	19th June 1906	N	Memo. of Governor MacGregor to be attached to Minutes of Council	1647
684	4th Mar. 1926	N	Affidavit of Ralph Parsons	1647

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685	11th Sept. 1765	N	Extracts from Governor Palliser's dispatch to Lord	
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686	13th Sept. 1773	N	Dispatch from Governor Shuldham to Secretary of State	1648
687	1810	N	Extract from Governor Duckworth's observations on his instructions	1648
688	27th July 1820	N	Memo <i>re</i> Governor Hamilton at Cape Charles Harbour	1649
689	30th Oct. 1833	N	Governor Cochrane to R. W. Hay, Esq.	1649
690	17th June 1846	N	{ Extracts from the "Royal Gazette," St. John's, Newfoundland.	1650
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691	3rd Feb. 1857	N	Extract from Governor Darling's speech in opening the Newfoundland Legislature	1651
692	31st Oct. 1867	N	Report of General Superintendent of Fisheries	1651
693	30th Aug. 1879	N	Extract from "The Daily Ledger" (Steamer Notes)	1652
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694	Sept. 1841	N	Captain Wyville to Sir J. Harvey	1653
695	4th June 1863	N	Instructions from Governor Bannerman to James Winter	1653
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697	1864	N	Report of the Commissioner for the Protection of the Fisheries at Labrador	1654
698	26th Oct. 1864	N	Report of the Collector of Revenue (J. Bemister)	1655
699	26th Oct. 1864	N	Report of the Collector of Revenue (J. Winter)	1655
700	16th Mar. 1926	N	Affidavit of William Frederick Penny	1656
701	19th Mar. 1926	N	Affidavit of Thomas Winter	1656
702	17th June 1926	N	Affidavit of E. G. Grant	1656
703	31st May 1926	N	Affidavit of John Butt	1657

P A R T V I I .

[23 July 1752]
Report of the Lords of
Trade upon the
Petition of Several
Merchants of London
containing proposals
for opening a new
Trade and making
settlements upon the
Coast of Labrador.
C.O. 5/6

**CORRESPONDENCE, DOCUMENTS AND PAPERS
RELATING TO THE HISTORY OF THE
ADMINISTRATION OF THE COAST OF LABRADOR**

**No. 198.
REPORT OF LORDS OF TRADE ON PETITION OF
MERCHANTS.**

RECORD OFFICE REFERENCE C.O. 5 / 6.

To their Excellencies the Lord Justices.

May it please your Excellencies.

In obedience to your Excellencies commands signified to us by a letter from Mr. Anyand, your Excellencies Secretary, dated the 11th of May last we have taken into our consideration a Petition presented to your Excellencies by several Merchants of London, containing Proposals for opening a new Trade and making Settlements upon the Coast of Labrador or New Britain in North America, between 52 and 60 Degrees of Northern Latitude, and praying that the said Grant of Land may be granted to them and their Associates in perpetuity with the sole Privilege in exclusion of all other His Majesty's Subjects, of carrying on a Trade and Commerce to this Country for any Term or number of years not less than sixty three.

We have also been attended by the Petitioners, and have heard what they had to offer in support of their Petition and by other Persons who appeared to us to be interested or concerned in the subject matter of it, or who might be able to give us any information relative thereto; whereupon we beg leave humbly to represent.

That the Questions arising upon a Consideration of this Petition are, First how far the making a Grant to the Petitioners of this Country, may or may not interfere with any claims either of Right or Possession, which have been made to it by any other Prince or State, or by any of His Majesty's Subjects by virtue of former Grants or Concessions. Secondly How far the End and Object of the undertaking, considered in a commercial Light, may be of national advantage or disadvantage, and Thirdly, whether, supposing it

should be thought advisable to comply with this request, the Terms and Conditions proposed by the Petitioners are proper and reasonable.

As these three Questions appear to Us to take in every Circumstance necessary for your Excellencies Consideration, We shall in the course of Our Representation confine ourselves to them, and shall state to your Excellencies in the most full and explicit manner We are able, whatever appears upon the Books of Our Office, or hath occurred to us relative thereto.

As to the first Question, we beg leave humbly to represent: That the country called Nova Britannia or Terra Labrador, and by some ancient Geographers Estoitland and Terra Corterealis, lies on the North side of the Gulf and River of St Lawrence, extending North and North West to Hudson's Streights and Bay, and bounded on the East by the Atlantic Ocean: Some Geographers indeed, particularly the French, make the Southern Boundary of that Region to be a Line drawn from the Streights of Belle Isle, which divide Newfoundland from the Continent, due west across the said Continent, in order to separate it from the Settlements which that Nation has upon the Northern Banks of the Gulph and River of St. Lawrence.

It does not appear that any permanent Settlement has hitherto ever been made by any Nation in the Eastern Parts of this Country; for as on the one hand the English, who were the earliest navigators to that part of the World were led by the Hopes of discovering a Passage to the East Indies to pursue their Voyages and Searches still further to the Westward, and to which We owe the discovery and Settlement of Hudson's Bay, so on the other hand, the French arrived, and restrained by the Inhospitability and implacable Enmity of the Natives, have not as yet had any Settlements to the Northward of the Streights of Belle Isle.

The first Discovery of this Country is said to have been made by some Danes from Friezeland many ages before Columbus's Discovery of America; that these Danes gave it the name of Estoitland, and that it was afterwards visited in the year 1390 by Nicholas and Antonio Zeni, two Venetians, who in a Voyage to the North were driven by Tempest upon this Coast.

This account is given by Hackluyt in the first Volume of his collection of Voyages; but as he cites no other authority for it than Hearsay, except the simple Testimony of Abraham Ortelius who published a Book of Cosmography called *Theatrum Orleis* in the year 1520; and as the Account itself and the manner in which it is related carries evident marks of Invention, there is great Room to doubt its Veracity, and indeed it seems to be rejected by all late historians, and particularly by Pere Charlevoix in his History of New France. As little credit ought for the same Reason to be given to what is related by some other Writers of a Discovery of this Country by Francis Scanlon a Pole in the year 1477.

The first authentic account we have of a Discovery of this Country was of that made by Sebastian Cabot in the year 1497,

who had a Commission from Henry the Seventh to make Discoveries to the Westward. In the first Voyage he made in consequence of this Commission he fell in with the Land in Latitude 67 North, from whence he continued his course southward along

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the Coast of Labrador to Newfoundland and the Bacalaos Islands, and from thence down to Florida. At his Return to England he brought with him three savages whom it is said he took in Newfoundland; but as that Island is only visited by the Natives from the Continent at certain Seasons of the year, and then only on the Western Coast, it is most probable that he brought them from some part of the Coast of Labrador, and there is the greater Reason to believe this, as Gaslar Corterealis who is said to have visited this Coast in the year 1500, and from whence it has the name of Terra Corterealis, brought from thence a piece of a gilded Sword, and saw amongst the Natives several Toys, and other evident Vestiges of Europeans having been lately amongst them.

After this several Voyages were made by the English to these Northern Parts of America, particularly by Martin Frobisher, John Davis, George Weymouth and James Hill in the years 1576, 1577, 1585, 1586, 1587, 1588, 1602 and 1605; but as the Object of these Navigators was merely to discover a Passage to the Westward, it does not appear that any of them visited the Coast of Labrador, except John Davis who in 1586 landed in a Harbour in Latitude 56, where he stayed trafficking with the Natives for several Days; and this is the first authentic Account we have of any actual Possession being taken of that Country on the Eastern side. The rest of these Navigators pursued their course still further to the Westward giving English names to several Places at which they touched.

In 1610 Henry Hudson sailed thro' Davis Streights into the Bay which has since been called by all Geographers of all Nations Hudson's Bay, of which he took possession in the name of the Crown of England, and stayed there a whole Winter. Possession was again taken in the name of the Crown of England of this Bay by Sir Thomas Button, who also wintered there in 1612 in a River since called Nelson's River in Remembrance of his Captain who died there.

In 1631 Captain Luke Fox by command of King Charles the First made a voyage to Hudson's Bay, and amongst other places entered Port Nelson, and finding there a Cross which had been erected by Sir Thomas Button with the Inscription almost defaced and worn out, he erected it again with a new Inscription declaring the Right and Possession of His then Majesty King Charles the First, and named the adjacent Country New North Wales.

The Troubles and Civil War, which broke out soon after this, put a stop to any further Undertakings of this sort, nor does it appear that any Voyages were made to this Country from the year 1631 until the year 1667, when Zachary Gilman

being fitted out by the Merchants of London sailed thro' Hudson's Streights to the Bottom of the Bay and settled a Trade and built a Fort there, which he called Rupert's Fort in Honour to Prince Rupert who joined with the Merchants in the Adventure.

In 1669 another Voyage was undertaken by the same Adventurers, and one Captain Newland entered there making a publick Declaration of His Majesty's Right, and affixing up the Arms of England as a mark of Sovereignty.

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In 1670 the Adventurers in the aforementioned Voyages were incorporated into a Company by Letters Patents, by which Letters Patents the sole Trade and Commerce of all those Seas, Streights, Bays, Rivers, Lakes, Creeks, and Sounds, in whatsoever Latitude they shall be, that lye within the Entrance of the Streights commonly called Hudson's Streights, together with all the Lands and Territories upon the Countries, Coasts, and Confines of the Seas, Bays, Lakes, Rivers, Creeks and Sounds aforesaid, that are not already actually possessed or granted to any of His Majesty's Subjects or possessed by the Subjects of any other Christian Prince or State, with the Fishing of all sorts of Fish, Whales, Sturgeons and all other Royal Fishes in the Seas, Bays, Islets and Rivers within the Premises and the Fish therein taken, together with the Royalty of the Sea upon the Coasts within the Limits aforesaid, was granted to the said Company and their Heirs for ever.

In consequence of this Grant the Company in 1672 appointed William Bayley to be Governor of all their Forts and Factories, who established a Trade with the Natives and made Settlements at Port Nelson and other Places.

In the year 1682 in time of profound Peace the French sent two Ships from Quebec into Hudson's Bay and dispossessed the English of the Fort and Settlements in Nelson's River. They continued to make further Depredations, until the year 1686, when all the Company's Factories and Settlements at the Bottom of the Bay were surprised and taken by a Party of French sent over land from Canada.

Upon these repeated injuries and depredations several memorials were presented by the Company to King James 2nd and Complaints having been made to the Court of France they were referred to Commissaries appointed on both sides to meet in London in order to settle such Points as were then in dispute between the Crowns relative to America.

This Negotiation however was of very short Duration and the Conferences, the chief object of which was the Redress of the Damages done in Hudson's Bay, were broke off by the happy Revolution, which took place soon after, and before any satisfaction could be obtained or the Points in Dispute adjusted.

During the War which broke out a few years after between the two Nations the French took York Fort from the Company

to which they then gave the name of Bourbon; the Company however recovered this Fort again in 1696, but it was soon after re-taken by the French, and the Peace which was made in 1697 put an End to all further Hostilities.

By the 8th Article of the Treaty concluded at Ryswick, it is stipulated, that Commissaries should be appointed on both sides to examine and determine the Rights and Pretensions which either Crown hath to the Places in Hudson's Bay, but that the Possession of those Places which were taken by the French during the Peace that preceded the late War and were retaken by the English during the said War should be left to the French by Virtue of the foregoing Article. That the Capitulation made by the English on the 5th of

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September, 1696, (relating to Fort York) should be observed and the Merchandize therein mentioned restored and that the Differences arisen concerning the Execution of the said Capitulation and the Value of Goods there lost, should be adjudged and determined by the said Commissaries to be appointed for that and other Purposes in Pursuance of the said Treaty.

In Consequence of these Stipulations, Commissaries did meet at London, but the Peace was of so short a Duration as to prevent their coming to a final Determination upon any of the Points which were the subject of their Conference.

It appears upon an Examination of the Memorials and other authentick Papers which were delivered by the Commissaries in support of their respective claims to Hudson's Bay as well in the Conferences in 1687 as those in 1699, that the English Commissaries insisted, that all that part of North America, which comprehended Hudson's Bay, was discovered by Sebastian Cabot in 1497, that this Discovery conveyed a Right to the Crown of England to that Country, that that Right was afterwards established by the Discovery made and the actual Possession taken by the subsequent Navigators at times when no other Christian Princes or States had any Possession or even Knowledge of those Parts, the French in particular not having any Settlements in Hudson's Bay until 1682, and that this Right was further confirmed by the Treaty of Neutrality in 1686, by which it is stipulated that both Nations shall retain all the Dominion, Rights, and Preeminencies in the American Seas, Roads and Waters in as full and ample manner as of Right belonged to them.

In answer to this it is alleg'd by the French that this part of North America is call'd in all ancient Geography the Coast of Labrador, and was so named by the Spaniards who discovered it long before the English. That the Voyages mentioned to have been made by the English were merely the Discovery of a Passage to the South Seas, whereas they could prove an infinite number of Voyages to have been made at that time to the Coast of Labrador by the Normans and Basques, that the Possession taken of Hudson's Bay in 1612, was at a time when

the French were in actual Possession of the Country, that the English did not know the Northern Country from the year 1497. That the several Authors who write of Canada give it no Bounds to the North; That all the Northern Bay was comprehended in the Limits set down in a Grant made in the year 1628, by which a Canada Company was established and that if the English had had any knowledge of the Bay, or any Pretention to it, they would not have failed to have reserved their Right in the Treaty of 1632, which restored Canada to France.

That altho' the French had not at that time nor for a long time after any Forts in this Country, yet they traded with the Indians and had Settlements upon the Rivers which fall into Hudson's Bay, and they produced several Acts to prove the Indians acknowledged the Sovereignty of France before the English ever thought of going thither.

The said Commissaries also referred to several Grants, Edicts and

Letters Patent of the Crown of France in the years 1540, 1598 and 1627, by which all that part of North America including the Coast of Labrador and the Bay since called Hudson's Bay is granted to Certain Companies and private Adventurers.

The said Commissaries also refer to several subsequent Grants and Letters Patent of the like Nature, from whence they argue an uninterrupted Possession and therefore alledge that the Treaty of Breda in 1667 and that of Neutrality in 1686 favor their claim.

The English Commissaries in their Reply to the French Memorials, insist upon the Right of the Crown of Great Britain founded upon prior Discovery and Possession and although the Discovery and Possession upon which that Right is founded might be made in search of a north West Passage, yet that did not hinder that a Discovery made and Possession taken in such Pursuit was rightfull and proper. They further alledged that the Grants and Letters Patent cited by the French are of no Force, there never having been any actual Possession taken, and that in Effect all the other Letters Patent can signify nothing in Prejudice to His Majesty's Right, seeing no Prince whatsoever can be hindered from giving to his Governors, Agents and Companies such Titles as he shall think best; but nobody is so weak as to think anything passed by these Grants, but what the King is truly and rightfully possess'd of, for nil dat quod non habet, and that it was much more just and reasonable to rely upon actual Discovery and Possession taken in view of all the World.

That as to what has been alleged of Canada having no Bounds to the northward it is plain by all Maps that Terra Labrador and Estoitland are in the North of Canada lying northward between Canada and Hudson's Bay, and they did never hear that the French had laid claim to these two Countries. That as to what had been urg'd with respect to this Country not being reserved in the Treaty of 1632, there was no need of reserving that which was so remote and not so much as known to the French, and that the Treaty of Breda favoured the English who were in actual Possession before the 1st of January 1665.

That as to what had been alledged by the French that the Normans and Basques made voyages to Labrador at the time of the first Discovery of this Country by the English, it was not disputed, but that this Country was three or four Hundred Leagues distant from the Bay.

It does not appear that any considerable alteration was made in the state of things with respect to any part of this Country during Queen Ann's War at the Conclusion of which, Hudson's Bay was ceded to the Crown of Great Britain by the 10th Article of the Treaty of Utrecht which stipulates, that

“The said most Christian King shall restore to the Kingdom and Queen of Great Britain, to be possessed in full Right for ever, the Bay and Streights of Hudson's together with all

Lands, Sea, Coasts, Rivers and Places, situate in the said Bay and Streights, and which belong thereunto, no Tracts of Land or of Sea being excepted, which are at present possessed

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by the Subjects of France all which as well as any Buildings there made, in the Condition they now are and likewise all Fortresses there erected either before or since the French seized the same, shall within six months from the Ratification of the present Treaty, or sooner if possible, be well and truly delivered to the British Subjects having Commission from the Queen of Great Britain to demand and receive the same entire and undemolished, together with all the Canon and Canon-Ball which are therein, as also with the Quantity of Powder, if it be there found, in Proportion to the Canon-Ball and with the other Provisions of War usually belonging to Canon; it is however provided that it may be entirely free for the Company of Quebeck, and all other the Subjects of the most Christian King whatsoever to go by Land or by Sea whithersoever they please out of the Lands of the said Bay, together with all their Goods, Merchandise, Arms and Effects of what nature or Condition soever except reserved in this Article. But is agreed on both sides to determine within a year, by Commissaries to be forthwith named by each Party, the Limits which are to be fixed between the said Bay of Hudson and the Places appertaining to the French, which Limits both the British and French subjects shall be wholly forbid to pass over or thereby to go over to each other by Sea or by Land. The same Commissaries shall also have Orders to describe and settle in like manner the Boundaries between the other British and French Colonies in those Parts.”

In 1719, Commissaries were appointed by both Crowns in order to settle and adjust the several Points in Dispute relative to America, which were referred to Commissaries by the foregoing Article, and by the Instructions given to His Majesty's Commissaries they were directed to endeavour to get the Limits and Boundaries between Hudson's Bay and the Places appertaining to the French settled in the following manner, vizt :—“That the same begin from the Island called Grimington's Island or Cape Perdrix in the Latitude of 58 ½ North, which the Company desire may be the Boundary between the British and French Subjects on the Coast of Labrador towards Rupert's Land on the East main and Nova Brittainia on the French side, and that no French Ship, Barque, Boat or Vessel whatsoever shall pass to the North-westward of Cape Perdrix or Grimington's Streights or Bay of Hudson on any Pretence whatsoever, and further that the southwestward of the Island of Grimington or Cape Perdrix (so as to include the same within the Limits of the Bay) to the great Lake Miscosinke, alias Mistrovenny, dividing the Lake into two parts, and that where the said Line shall cut the 49th degree of Northern Latitude another Line shall begin and be extended westward from the said Lake upon the 49th degree of Northern

Latitude over which said Line so to be described as above mentioned. The French and all persons by them employed shall be prohibited to pass to the Northward of the said 49th Degree of Latitude and to the North or Northwestward of the said lake or supposed line by Land or Water, on or through any Rivers, Lakes, or Countries, to trade or erect any Forts or Settlements, and the British

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Subjects shall like be forbid to pass the supposed Line either to the Southward or Eastward. But they were to take especial care in wording such Articles as should be agreed on with the Commissary or Commissaries of His Most Christian Majesty upon this head, that the said Boundaries be understood to regard the Trade of the Hudson's Bay Company only, that His Majesty did not thereby recede from his Right to any Lands in America not comprized within the said Boundaries and that no Pretension be thereby given to the French to claim any Tracts of Land in America Southward or Southwest of the said Boundaries.”

Memorial agreeable to the foregoing Instruction was accordingly presented by the British Commissaries, but it does not appear that anything was done in consequence of it.

From the foregoing state it will appear to your Excellencies, that the Right to the Eastern Parts of Terra Labrador where the Petitioners propose to make a Settlement, had never been an object of particular Dispute or Discussion, with any other Prince or State, the Disputes with the Crown of France in the years 1687, 1699, and 1719 being solely confined to Hudson's Bay and the Territory dependent thereon, but it does appear however that many of the arguments urged and the Proofs offered on both sides in these Disputes, do from the nature of them imply more extensive claims, and tend to affect the Right to the whole of that part of North America, and it does not appear that these disputes have at any time been finally adjusted or a Boundary Line fixed between his Majesty's Dominions and those of His Most Christian Majesty in these Parts.

As to that part of the Question which has a relation to any claims of Right to this Country by any of His Majesty's Subjects, we must beg leave humbly to represent.

That the only Persons which appeared to us to have any Interest or concern therein are the Hudson's Bay Company. We therefore thought it proper to call upon them to inform us whether they claimed any or what Right to the Tract of Land desired by the Petitioners. In consequence of which we have received from them a Memorial, a copy whereof is hereunto annexed, and to which we beg leave humble to refer.

Upon Consideration of this Memorial it appears to us, that the Hudson's Bay Company seem to admit that the Eastern part of this Country cannot be construed to be within the limits of their Charter, and their chief objection to this Undertaking seems to arise from an apprehension that it may in its

Consequences interfere with and prejudice their Trade.

As to the Advantages or Disadvantages attending the Proposals of the Merchants considered in a commercial light, we are humbly of opinion that the Discovery and opening of any new Sources of Trade and Commerce to this Country will be of great National Advantage, more especially in the present case from the Nature and Design of the Trade itself, the chief Object of which is to increase the Importation of Beaver and other Furs, the scarcity whereof has been severely felt in a very important though declining manufacture, which We have Hopes may by the opening of a new

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Channel of Trade be revived, and those Advantages which other Nations have got over us in this Trade be recovered; and we have that Confidence in the known Characters and Abilities of the Gentlemen concerned in this Undertaking that we doubt not but they will attempt the Execution of it with Zeal and judgment.

With respect to the Terms of the Proposal, it appears upon the face of the Petition that the Petitioners desire a Grant of the Lands in Perpetuity, and upon observing that in that part of the Petition which proposes that the Trade shall be laid open at the End of Sixty three years, a Reservation is made to the Petitioners of the sole exclusive Propriety in all the Bays, Inlets, Lakes, Rivers, Island, Ports and Places included within the Limits set forth in their Petition. We expressed our Opinion to the Petitioners that such an exclusive Propriety would be inconsistent with the open Trade designed and might be made in effect the very Monopoly intended to be guarded against, upon which the Petitioners made the strongest Professions of their willingness to have any provisions inserted in their Grant which may be thought necessary for the security of a full Trade at the Expiration of their Term, and therefore care must be taken in preparing the said Grant, in case your Excellencies shall think it advisable to give one, that the said Bays, Inlets, Rivers, &c. be given in such a manner and under such Regulations as they cannot be made use of to the Prejudice of a free Trade in Exclusion of His Majesty's Subjects after the expiration of the Term for which the Petitioners desire an exclusive Trade.

As to any other Regulations, as well with respect to Cultivation as all other necessary Restrictions, they will become objects of further consideration in case your Excellencies shall think it advisable to comply with the Prayer of the Petitioners.

Upon the whole We cannot but be of Opinion that this Proposal is the most reasonable and least interested of any usually made in cases of this kind, for altho' the Petitioners do desire an exclusive Trade for Sixty Three years, yet some such Encouragement is absolutely necessary, not only as a Recompense for the great Expence and Risque which must attend such an Undertaking in its Infancy, but also in

consideration of the great Delay of the Returns upon this Trade arising from the nature of the Trade itself and the Difficulty's attending an Establishment of it in a savage, inhospitable Country, where everything must be begun from the very foundation; and We are and be rather of this opinion as the Petitioners profess themselves ready to submit to any Terms or Conditions which shall be thought proper to be inserted in the Grant obliging them to cultivate the Land, to build necessary Forts and to promote and establish a civil Correspondence and Amity with the Natives, the Benefit of all which Labour, Expence and Improvement will devolve to the Publick at the Expiration of this exclusive Trade, and His Majesty's Subjects will accede to an established Trade with many additional advantages.

We cannot conclude this Representation without observing to your Excellencies that the Petitioners have not assigned any Western Limit to the

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territory of which they desire a Grant, and therefore as the Hudson's Bay Company do by virtue of their Charter, claim the Coasts, and Confines of the Bay, it will be necessary, if any Grant should be made agreeable to the Prayer of the Petition, that such Grant should have a Western Limit appointed, which will not break in upon the Charter and Property of that Company.

All of which is most humbly submitted.

DUNK HALIFAX,
CHARLES TOWNSHEND,
ANDREW STONE,
JAMES OSWALD.

Whitehall,
July 23rd, 1752.

FIRST PERIOD: FROM THE TREATY OF PARIS, 1763, TO
THE QUEBEC ACT, 1774.[5 June,
1762.]

No. 199.
GENERAL MURRAY'S REPORTOF THE STATE OF THE GOVERNMENT OF QUEBEC IN CANADA,
5 JUNE, 1762.¹

CONST. DOCS. (1759-1791), 2nd edition, p. 47, CAN. ARCH.

MY LORD,—In obedience to his Majesty's Commands signified in Your Lordship's dispatch to Sr. Jeffrey Amherst of the 12th December last I have the honor to transmit the following account of His Majesty's Government of Quebec and dependancies thereof; however, deficient it may prove Your Lordship may be assured it has been my earnest desire, as it is my constant study to fulfil my Royal Masters intentions.

The better to effect the same, and in order to state the several interesting matters of this Report in the clearest light, I shall divide the whole under the following heads.

- 1st—Return of His Majesty's Forces in His Government of Quebec and dependancies thereof.
- 2nd—State of the Fortifications
- 3rd—State of the Government under the French Administration.
- 4th—The Revenues and Expenses.
- 5th—Church Government.
- 6th—Indian Nations.
- 7th—Nature of the Soil and its produce.

[¹ In the despatch of Lord Egremont to Sir Jeffrey Amherst of 12th Dec., 1761, in which the King approves of the system of military government established in the districts of Quebec, Three Rivers, and Montreal, he instructs him to send, for His Majesty's information, a full account of the newly acquired countries. In response to this command communicated to Murray, we have this Report, which was transmitted to the Government by Sir Jeffrey Amherst. This Report was among the documents submitted to the Board of Trade for their information in preparing a plan of government for the territories ceded to Britain by the Treaty of Paris of 1763.]

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- 8th—Population.
- 9th—Trade.
- 10th—Character of the People.

I shall subjoin some remarks pointing out the Errors of the Ancient System, and wherein by my own observations and the

best information I have been able to procure, there is room for alterations or amendments.

* * *

4. REVENUES AND EXPENCE OF THE GOVERNMENT UNDER THE FRENCH ADMINISTRATION.

Tho' I should properly give a state of the Revenues and expense of the Government of Quebec only, yet the whole under the French administration was so blended together it does not appear practicable to separate the same, and have therefore collected here all that has come to my knowledge on this head, without distinction of Governments. 1st—Five ports, (a) part of the Kings domaine which were under the immediate management of the director General of it; He furnished them at the Kings expense with the Merchandize and effects proper for the Indian Trade or Fisheries which were carried on at these several ports and received from thence likewise on the Kings account the Furs, Oil, Fish or other produce of the same.

They had been farmed but the Lease expired in 1756, they were advertised and no one bidding for them on account of the War, the Intendant lest the Indians should quit their usual haunts, ordered them under the foregoing management, which continued untill our arrival, tho' the expense far exceeded the produce.

* * *

Observations.

1st I had the Honor to inform the Lords of the Treasury very fully of the state of the Kings ports, in a Letter to M^r Martin their Secretary, of the 7th November last, at the same time that I transmitted all accounts relative thereto by M^r Ainslie whom I intrusted with the management of them until I could receive instructions from home, I am thoroughly persuaded the proposal I therein made to their Lordships of selling them to the highest bidder, for a Term of Years, is the surest expedient to make them profitable to His Majesty.

6th

INDIAN NATIONS RESIDING WITHIN THE GOVERNMENT.

In order to discuss this point more clearly I shall first take notice of the Savages on the North shore of the River S^t Laurence from the Ocean upwards, and then of such as inhabit the South side of the same River, as far as the present limits of the Government extend on either side of it.

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1st The Savages on the North shore. The first to be met with on this side are the Esquimaux, these are the wildest and most untamable of any, and are emphatically stilled by the other Nations, Savages. They never dress their food but eat fish rotted in the Sun and drink the oil it produces. Travellers represent them hardy, active and expert navigators: In the summer they come with their whole Families in Chaloups to

fish in the streights of Belisle, these they leave in the Bays, and go out themselves to a considerable distance in Canoes made of skins wherein they sew themselves up. Their clothes and sails of their Vessels are made of the skins of wild beasts; They are reckoned treacherous, and have had many encounters with the French and Canadians employ'd on the fisheries in those parts. Their Language is not understood but a few words they make use of nearly resemble the dialect of some of the most northern European Nations. A few here have trafficked with them and made a considerable advantage by it, but they never agreed well together; any trade with the Esquimaux however must be precarious; The Coast is rocky and difficult of access, the season for navigation short, and the risks too great to entice adventurers; they have never been known to come on this side of La Forteau.

2^d The Montagnais or Monsonies inhabit a vast tract of Country from Labrador to the Saguenay; they are again distinguished into those who live in the inland parts called Nascapies, and the inhabitants of the water side, for this reason stilled Chuchouxlapishouets. They take as many different names as they have Villages but are all the same people, and speak the same language. As in the interior parts of the Country there are many Lakes and Rivers which communicate with Hudson's bay, the former often trade on that side, which the latter also would have been obliged to do, if the interruption caused by the War, had continued for any time, tho' from the more convenient situation, they would have ever reverted to those who were Masters of the River S^t Laurence, those are the mildest and most tractable of all Savages and never enter into War. Tho' their country is extensive their number is inconsiderable; From Labrador to Mingan the Traders do not reckon more than from Eighty to one Hundred Families, and of those who resort to the King's Posts, there may be about 220 Families in all, but as their habitations are easily moved they are ever changing and shifting from one place to another.

A Jesuit Missionary meets them at Tadousac when they come there for the trade and he resides in the neighbourhood all the Year.

3^d The most civilized of all the Indians in this part of the World are the Hurons settled at a little Village called Jeune Lorette about 3 leagues from Quebec. These are called Roman Catholicks and are a decent well behaved people, it is now many Years since they removed there from their ancient habitations about Lake Huron or Erie, are settled upon lands belonging to the Jesuites, and live in much the same manner as the Canadians. They have excellent good Houses, Cultivate their own lands and live upon the Produce: In the Hunting season they go into the woods and hunt themselves

or traffic with the more remote Indians for their Pelletries. Some of the Elders have been so tenacious of their Mother tongue, they hardly speak a word of French, but most of the Younger ones speak it tolerably well; indeed it has ever been the policy of the French Government to make them retain that and as much of their ancient customs as possible, that they might prove of greater use to them in case of war with other nations, at the same time they endeavour'd to attach them to their Interest by every tie. A Missionary resides among them, they have a neat Chapel, where divine service is constantly performed at which all the Savages assist with a punctuallity and decorum worthy of imitation by more enlightened people; They seem to be well satisfied with the change of Masters, and were so particularly pleased at their Village having been spared during the Winter 1759, tho' forced by the French to abandon it, that they never could prevail on them to act with any degree of vigor against us. They have at present but 32 Warriors and the whole Village, Men, Women and Children are short of 100. Their number is decreased at least one half within these forty Years, and the Tribe would by this time have been almost extinguished but for the supplies they got by captures in War, and the sale of unhappy infants whose Parents chose to conceal their own shame at the expence of such iniquitous bargains.

* * *

9th

TRADE.

The French bent their whole attention in this part of the World to the Fur Trade, they never enter'd heartily or with any spirit into the fisheries; most of what was done in this way was by adventurers from the ports of France; some Fish indeed Lumber and provisions were exported to the French islands. Had this trade been opened and agriculture promoted here with any degree of warmth, this branch of Commerce must have become both valuable and extensive but it was monopolized into the hands of a few, by the connivance and management of the Chiefs, the sole view of these being to enrich themselves by every means. The interest of the State could not fail to be sacrificed upon all occasions.

* * *

The provinces of New York and Philadelphia now share with Canada a great part of the Fur Trade formerly in the hands of the French, but that proportion if it, which the Quebec government enjoy'd must remain here unalterably.

The foregoing is an attempt to sketch the trade of Canada, while subject to French Government, but under the full enjoyment of His Majesty's mild and gentle administration, its commerce must flourish to a far greater extent.

1st A Most immense and extensive Cod Fishery can be established in the River and Gulph of S^t Laurence, and may in time prove an inexhaustible

source of wealth and power to Great Britain; Settlements may be formed in the neighbourhood of the best fishing places to which the industrious and intelligent in that branch may be invited and encouraged to repair; a rich tract of country on the South side of the Gulph will in consequence be settled and improved, a Port or Ports established and furnished with every material requisite to repair Ships, that have suffer'd by stress of weather or the difficulties attending navigation in such narrow seas, a point much wanted which will lessen the risks, and considerably increase the profits of the Commerce of this Colony.

It is further to be observed that the Fish caught upon these coasts and in the bays, far exceed the bank Cod and fetch an advanced price in foreign markets; The fishermen being on the spot will commence fishing the very instant the season permits and will continue to the very last of it whereby at least two Months will be gained to the trade, which are just now a heavy expence to it, without producing the least profit to it.

2^d Next to the Cod in importance is the Whale fishery which can be carried on to the greatest advantage in the River St Laurence with less risk and expence than in any other seas, where the animals resort; Under this head may be placed the seal and sea-Cow fisheries of which there is a prodigious abundance, and an immense (sic) of oil and Whale-bone may be annually exported to Great Britain.

3^d There are several small rivers on the Coast of Labrador abounding with vast quantities of salmon; this if followed with spirit and industry, might very soon become a considerable object to the British Trader.

* * *

5th Tho' as has been before observed, this province must now share the Fur Trade, which she formerly possessed under the French Government, with the neighbouring Colonies, Yet that which was carried on with the different nations inhabiting the northern Coast of Canada, must still remain with her; she may likewise hereafter regain a great part of that with the upper Country, on account of the more easy conveyance.

It is likewise probable that this very branch may be much farther extended, than ever it was under the French, by reason of the superior diligence and application of the British Traders.

It must be allowed the French were laudable in restraining the vent of Spiritous Liquors to the Savages beyond a certain quantity: by this means many broils were avoided, for they are fond to excess of everything strong and are all mad in their intoxication.

* * *

Before this report is closed it will not be Improper to observe to Your Lordship how impossible it is to ascertain exactly what part of North America, the French stiled Canada, no Chart or Map whatever having fallen into our hands or public

record of any kind to chew what they understood by it.

However it is to be hoped, the limits on this side at least will need no canvassing nor admit of any dispute.

Should I be able to procure farther lights relative either to those limits or the several other matters contained in this Report worthy of notice, You may be assured they shall be forthwith transmitted to Your Lordships, happy if my labors can any way conduce to His Majesty's Service, or the good of my Country.

I have the Honor to be with great truth and regard
My Lord,—Your Lordships, most obedient
and most faithful humble Servant

JA: MURRAY

Quebec 6th June
1762.

*Papers refer'd to in this Report.*¹

No.1 Kings Arret of the 15th March 1732 directing the letting of the Lands granted already within a certain time limitted on pain of forfeiture.

2 Tariff of Duties on Imports and Exports.

3 List of Revenue Officers in Canada the Year 1758 with their Salaries.

4 Ordonnance current for 1^{lb}: 10^s or about 7½ Sterling.

5 Extract of a Letter to Governor Murray giving some account of the India trade in the Upper Country.

6 Number of souls in the Government of Quebec 1761.

7th Quantity of Furs exported in 1754 with the Quebec prices

of the several species.

8 Imports and Exports in 1754.

Seven Plans.

Project for Building a Citadel.

¹ The papers here mentioned do not accompany the Report as preserved in the Public Record Office.

**PAPERS RELATING TO THE ESTABLISHMENT OF
CIVIL GOVERNMENT IN THE TERRITORIES CEDED
TO BRITAIN BY THE TREATY OF 1763.¹**

[5 May, 1763.]

No. 200.

EARL OF EGREMONT TO LORDS OF TRADE.

WHITEHALL May 5th 1763.

Lords of Trade

MY LORDS,—His Majesty having brought the Negotiation with France & Spain to a happy Conclusion, and having given the necessary Orders for carrying into Execution the several Stipulations of the late Treaty, is now pleased to fix His Royal Attention upon the next important Object of securing to His Subjects, and extending the Enjoyment of the Advantages, which Peace has procured.

His Majesty therefore, upon the same Principle of Sollicitude for the Interests of His Colonies, which engaged him in a just & necessary War, in support of their Rights, and obliged him to insist on such Terms of Peace as he thought peculiarly calculated for the future Security of that important Object, directs me to transmit to Your Lordships herewith the Definitive Treaty of Peace; and I am commanded to signify to Your Lordships His Majesty's Pleasure, that You do, without Loss of Time, take into Your most serious Consideration, those Articles which relate to the Cessions made by their Most Christian & Catholick Majesties, & that You do report Your Opinion.

By what Regulations, the most extensive Commercial Advantages may be derived from those Cessions, and

How those Advantages may be rendered most permanent & secure to His Majesty's Trading Subjects.

The Means of arriving at these desireable Ends, will perhaps be most distinctly pointed out, by considering, separately, the several Cessions stipulated by the Articles of Peace and examining the different Circumstances by which each Cession becomes more or less susceptible of the great Advantages of Commerce & Security above mentioned.

[¹ This and the following papers contain an account of the steps taken by the British Government to provide a suitable constitution and policy of administration for Canada and the other recently acquired territories in North America. They furnish the basis for the Proclamation of Oct. 7th, 1763, as also for the Commission and the Instructions of the same date, given to General James Murray as Governor of the Province of Quebec. The papers are copied from the originals in the Public Record Office, and except where noted, are from the series "America and the West Indies." The first is from vol. 268, p. 93.]

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North America naturally offers itself as the principal Object of Your Lordships Consideration upon this Occasion, with regard to which, I shall first obey His Majesty's Commands in proposing to Your Lordships some general Questions, before I

Murray's report said to be inclosed in letter of 20th. July 1762. Amherst to Egremont in A. & W. I. Vol. 97 but apparently missing.

Burton's April 26, 1762. In Amherst's letter to Egremont is June 1762 enclosure No. 20 A. & W. I, Vol. 97.

Gage's—Enclose No. 38 March 20, 1762 in Amherst's to Egremont of 12 May 1762 A. & W. I. Vol. 97.

Canada & Newfoundland.

proceed to desire You will furnish that Information, which His Majesty expects from Your Lordships, with regard to the Northern or Southern Parts of this Continent considered separately.

The Questions which relates to North America in general, are,

1st What New Governments should be established & what Form should be adopted for such new Governments ? and where the Capital, or Residence of each Governor should be fixed?

2^{dly} What Military Establishm^t will be sufficient ? What new Forts should be erected ? and which, if any, may it be expedient to demolish?

3^{dly} In what Mode least Burthensome and most palatable to the Colonies can they contribute towards the Support of the Additional Expence, which must attend their Civil & Military Establishment, upon the Arrangement which Your Lordships shall propose?

Under the first of those Heads, Viz^t What new Governments shall be established ? It will be proper to examine, what Priviledges are reserved to His Majesty's New Subjects by the Terms of their Capitulations; I therefore send Your Lordships herewith the Capitulation of Quebec & Montreal.

It may also be a proper Object of Consideration, how far it is expedient to retain, or depart from the Forms of Government which His Most Christian Majesty had established in those Colonies; and in order to furnish Your Lordships with those Lights, which may enable You to form a just Opinion on this Head, I send herewith Copies of the several Reports of Gov^{rs} Murray Burton & Gage.

The Second Question, which relates to the Security of North America, seems to include Two Objects to be provided for.; The first is, the Security of the whole against any European Power; The next is the Preservation of the internal Peace & Tranquility of the Country against any Indian Disturbances. Of those Two Objects, the latter appears to call more immediately for such Regulations & Precautions as Your Lordships shall think proper to suggest &c^a.

Tho' in order to succeed effectually in this Point, it may become necessary to erect some Forts in the Indian Country, with their Consent, yet His Majesty's Justice & Moderation inclines Him to adopt the more eligible Method of conciliating the Minds of the Indians by the Mildness of His Government, by protecting their Persons & Property & securing to them all the Possessions, Rights and Priviledges they have hitherto enjoyed, & are entitled to, most cautiously guarding against any Invasion or Occupation of their Hunting Lands, the Possession of which is to be acquired by fair Purchase only; and it has been thought so highly expedient to give them the earliest and most convincing Proofs of His Majesty's Gracious and Friendly Intentions on this Head, that I have already received and transmitted the King's Commands to this Purpose to the Governors of Virginia, the Two Carolinas & Georgia,

and to the Agent for Indian Affairs in the Southern Department, as Your Lordships will see fully in the inclosed Copy of my Circular Letter to them on this Subject.

Having thus executed the King's Commands, with regard to such Questions as relate to North America in general, I am to signify to Your Lordships His Majesty's further Pleasure that You do take into Consideration the following Queries, which concern some parts of that Continent in particular.

The first and most important Object is the Fishery, with regard to which Your Lordships will furnish all the Lights you possibly can in order to shew,—

Florida.

Whether the French had made any Incroachments with regard to the Fishery, contrary to what is stipulated, on this Head by the Treaty of Utrecht ? How those Incroachments may be most easily prevented by such timely Precautions, as may most effectually obviate all Disputes between the Subjects of both Crowns, in those Parts & preserve Peace & Tranquility there for the future.

What Inconvenience or Disadvantage may arise to His Majesty's Northern Colonies, or to the Fishery in those Parts, from the Vicinity of S^t Pierre & Michelon, ceded to France, under certain Restrictions by the 6th Article of the Definitive Treaty ? And by what Precautions may that Inconvenience be most effectually guarded against, either with respect to Our Fishery, or a Contraband Trade with Our Colonies.

Can Your Lordships furnish any Lights with regard to the Climate or Soil of the Inland Parts of Florida, which tho' hitherto neglected and useless, are said to be extremely fertile?

Is there any Reason to believe that the Mouth of the Catahocke River is, or might be easily made Commodious for Shipping, or, that a Harbour may be found in the Southern Parts of the Peninsula of Florida ? What particular Advantages might arise from such a Harbour, or from that of Pensacola or Mobile, or from any other, on that part of the Coast of North America lately ceded to His Majesty, which bounds the Gulph of Mexico to the North.

The general Queries with regard to North America, having taken in all the Points of Information wanted, relative to the Louisiana & the Illinois, I shall only add, that His Majesty desires to have Your Lordships Opinion whether any immediate Advantages may be derived from the free Navigation of the Mississippi, and how they are to be improved & extended?

Having thus gone thro' the several Points relative to N. America, upon which His Majesty desires to have the Opinion of Your Lordships, the obvious Application of most of the same Queries to the other Cessions made to His Majesty by the Peace, makes it unnecessary to repeat them, it will be sufficient therefore to desire that Your Lordships will report for His Majesty's Information, Your Opinion, with regard to the most effectual Means of improving and securing the

Commercial Advantages, which may be derived from the Conquered Islands and from Senegal. With regard to the latter I am to inform Your Lordships, that His Majesty has thought proper to accept the Proposal of the African Committee made in the Petition of which I send You Copy inclosed, and Orders are already given to the Governor of Senegal to have a

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Detachment under a proper Officer to keep Possession of that Place till the African Committee shall be prepared to take Possession thereof. Your Lordships will report Your Opinion of this Arrangement, and suggest whatever may occur to You for the Advantage of this Part of the African Trade.

In Order to supply Your Lordships with all the Materials in my Office, which can in any Shape assist You, in making Your Report as ample, and as satisfactory as possible, I inclose herewith Copies of Accounts transmitted by the King's Command from Colonels Scot & Worge, as also the Capitulation of Martinico, Grenade having surrendered under the same Terms, which had been granted to that Island.

C

As it must require some time to examine & deliberate upon the several Points which are referred to Your Lordships in this Letter, it is the King's Pleasure, that without waiting to make a full Answer to the whole You do, as soon as possible, report your Opinion upon such Points as shall appear to you most pressing that proper Directions may be given, without Loss of Time, with regard to the Arrangements immediately necessary for the New Acquisitions.

I am &c.

EGREMONT.¹

N^o 7.—

Enclosures in letter of 5 May 1763—

Definitive Treaty

Capitulation of Quebec. in B. Gen^l Townshend's Sept. 20.

1759

Capitulation of Montreal. in Gen^l Amherst's of Sep^r 8. 1760

Gov^r Murray's Report. Quebec June 5. 1762

Gov^r Burton's Report. Trois Rivieres Apr.

1762

Gen^r Gage's Report. Montreal. March 20.

1762

} transmitted
by S^r Jeff.
Amherst.

Capitulation of Martinico. in Gen^l Monckton's of Feb. 9. & 27.

1762

Gov^r Scott's Letter. Grenada. July 7. 1762

Gov^r Scott's Report. Grenada. Jan^y 19. 1763

Gov^r Worge's Report. Senegal Jan^y 11, 1762

Mem^l of Committee of Merchants trading to Africa, & Estimate

Circular, March 16., to Gov^{rs}, of Virginia, Two Carolinas, & Georgia, & Agent for S^o District of Indians.

endorsed: List of Papers sent to Board of Trade—May 5:

1763.

[¹ Charles, Earl of Egremont succeeded Wm. Pitt as Secretary of State for the Southern Department, Oct. 9th, 1761. At this time there were two Principal Secretaries of State, one for the "Northern" and the other for the "Southern" Department, these distinctions referring to the division between them of British foreign affairs in Europe. The American Colonies came under the attention of the senior secretary, being usually the secretary for the Southern Department. In Jan. 1768, a third Secretary of State was appointed to take charge of Colonial affairs; but, with the virtual loss of the American Colonies, this office was abolished in 1782. Thereafter a new division was made into the Home and Foreign Departments. The colonies came under the care of the former department until 1801, when they were transferred to that of the Secretary for War, a new department established in 1794. From 1801 to 1854 this department was known as that of the Secretary of State for War and the Colonies.]

No. 201.

[8 June, 1763.]

**LORDS OF TRADE TO EARL OF EGREMONT, WITH
REPORT.**

WHITEHALL, June 8 1763.

MY LORD,—Having, in Obedience to His Majesty's Commands, signified to Us by your Lordship's Letter of the 5th of May last, prepared Our Representation upon such of the Points, thereby referr'd to Our Consideration, as appear to Us the most pressing. We beg leave to inclose Our said Representation to your Lordship, & desire you will be pleased to lay it before His Majesty.

We are

My Lord,

Your Lordship's most Obedient and
most humble ServantsSHELBURNE
SOAME JENYNS
ED: ELIOT
E^d BACONJOHN YORKE
GEO: RICE
ORWELL
BAMBER GASCOYNEEarl of Egremont, One of His
Majesty's Principal Secretaries of
State }

[8 June, 1763.]

Endorsed: June 8th 1763. Lords of Trade, To the Earl of
Egremont,

With an Inclosure. (Report on Acquisitions in America)

A N^o 8.

No. 202.

JOINT

[Enclosures in No. 201.]

[L.S.] To the King's most Excellent Majesty.

MAY IT PLEASE YOUR MAJESTY,—Having received Your Majesty's Commands, signified to Us by a Letter from the Earl of Egremont, dated May 5th 1763, to take into Consideration, without loss of Time, those Articles of the late Definitive Treaty of Peace, which relate to the Cessions made by France and Spain, and to report Our Opinion by what Regulations the most extensive Advantages may be derived from them, and those Advantages rendered most permanent and secure to Your

Majesty's trading Subjects; And Your Majesty having further directed Us with regard to North America in general, to point out, what new Governments it may be necessary to establish, with the Form

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most proper for such Governments, and the Places most convenient for the Capitals; What Military Establishments will be sufficient for that Country; What new Forts it may be proper to erect, and what (if any) to demolish; And by what Mode of Revenue, least burthensome and most palatable, the Colonies can contribute to the Additional Expense of such Civil and Military Establishments: And Your Majesty having commanded that, particularly As to Canada and Newfoundland, after furnishing every Information in our Power relating to the Fishery, We should consider the Encroachments made by the French in this Article, contrary to the Stipulations in the Treaty of Utrecht, and give our Opinion by what Means such Encroachments may be prevented in future, and any Inconvenience which may arise from the Vicinity of S^t Pierre and Micquelon, may be most effectually guarded against.—That in respect to Florida, We should report upon it's Produce, the Situation of it's Harbours, and Rivers, with the Benefits which may arise from the free Navigation of the River Mississippi;—That in regard to the Islands conquered in the West Indies, and Senegal on the Coast of Africa, We should state the means which appear to Us most effectual for securing and improving the Commercial Advantages which may be derived from them;—But that upon the whole, it was Your Majesty's Pleasure (as some Time would be required to examine and deliberate on the several Points referred to Us) that We should, as soon as possible, report to Your Majesty Our Opinions on such of them as appear to Us most pressing, in order that Directions may be given without loss of Time:

In Obedience to Your Majesty's Commands, We have taken the several Points referred to Us into our most serious Consideration, and are of Opinion that We shall best comply with Your Majesty's Intention and Directions by stating particularly the Advantages which severally result to Your Majesty's Colonies and the Commerce of Your Subjects by the Cessions stipulated in the late Treaty, and then submitting Our humble Opinion to Your Majesty of the Means, which appear to Us immediately necessary to be put in Execution for securing and improving those Advantages.

Many of the particular Questions contained in the Reference will receive a particular Answer under one or other of those general Heads, and such as do not, We shall beg Leave, in Obedience to Your Majesty's Direction, to reserve for a future Report, when We may be better enabled to give Your Majesty Information upon such Points.

The most obvious Advantages arising from the Cessions made by the Definitive Treaty are, The exclusive Fishery of

the River S^t Laurence on all the Coasts in the Gulph of S^t Laurence and all the Islands in that Gulph. From all these Fisheries Your Majesty's Subjects were hitherto entirely excluded; partly by the express Stipulations of the Treaty of Utrecht by which Cape Breton, S^t Johns and the other Islands in the Gulph were dismember'd from Nova Scotia and ceded to France, partly by the Claim immediately set up by France to the whole Southern Shore of the Gulph under pretence that it had never made a part of Nova Scotia, but had always been considered as a seperate District of New France. In consequence of

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this Claim and of the Possession instantly taken of that Territory by the French, which till the late War they were permitted to retain, they established their most Valuable Fisheries in the different and most convenient Bays of that Country, as well in respect to Catching and Curing of Fish and fitting out Boats, Shallops and other Vessels, as to raising Provisions at the Cheapest Rates. From all these Circumstances this Fishery upon the Coasts of the Gulph and of the Islands in the Gulph of S^t Laurence, well known by the Name of La Peche Sedentaire, has ever since been deemed one of the most valuable parts of the French Fishery and We have reason to conclude from the Spirit and Industry which Your Majesty's Subjects have shown ever since the Reduction of Louisbourg that it will become equally valuable in their Hands, especially when We consider that, the Fishery of the River S^t Laurence consisting of Whales, Seals, Sea-Cows &ca has been in the short Period since the taking of Quebec, carried to a much greater Extent by your Majesty's Subjects, than ever it was by the French, during their Possession of Canada.

This Claim, and the Possession in consequence of it, of the whole Southern Coast of the Gulph of S^t Laurence, from the Streights of Canceau to Cape Roziere, at the Mouth of the River, appears to Us to have been the chief Encroachment made by the French in Violation of the Stipulations in the Treaty of Utrecht; But the Monopoly of the Fishery which they endeavoured to establish upon this Encroachment was greatly strengthened by other Circumstances. By suffering the whole of Nova Scotia (the Fort of Annapolis excepted) to remain entirely in the Possession of French Inhabitants from the Treaty of Utrecht to the Year 1749, Your Majesty's Subjects were discouraged and prevented from availing themselves of the advantageous and abundant Fishery which might have been carried on upon that part of the Coast of Nova Scotia expressly and exclusively reserved to them in the Treaty of Utrecht, for the french constantly excited the Indians to disturb the Fishermen that resorted thither; And by their Possession of the whole Coast of Labrador, they not only carried on an extensive Trade with the Esquimeaux Indians in Oyl, Furs &ca. (in which they allowed Your Majesty's Subjects no Share) but by the Vicinity of the Eastern Part of that Coast, to that part of

Newfoundland, (where a permissive Right of drying their Fish, only during the Fishery Season was granted by the Treaty of Utrecht) They assumed in some Measure an Exclusive Right to the Navigation in the Streights of Bellisle.

These several Encroachments, will, We apprehend, entirely cease, on the one Hand, by the compleat Settlement of Your Majesty's Colony of Nova Scotia, according to it's true and ancient Boundaries, and on the other by the Annexation of the Labrador Coast to the Government of Newfoundland, and by the faithfull Execution of those Instructions, which Your Majesty has been pleased to give to Your Governor of that Island, With respect to the Islands of S^t Pierre and Miquelon, We do not apprehend that any great Advantages can result to the French Fishery, or great Inconvenience to that of Your Majesty's Subjects by the Possession of them according to the Terms of the Treaty; We do not imagine they are fitted to restore or revive that Branch which the French call La Peche Sedentaire, and of which they have

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been deprived by the Cessions, not only as these Islands are without Wood, either for Firing or for any sort of Naval Construction, but as they are utterly incapable of producing Provision sufficient for the Consumption of any considerable Number of Inhabitants. And as to any Conveniences of Drying and Curing such Fish upon those Islands, as may be caught upon the Banks of Newfoundland during the Banking Season, It appears, by what Information We have had, that the best Fish so caught may be earlier and more conveniently dried upon that part of Newfoundland, where a permissive Right for so doing during the Season was granted as well by the Treaty of Utrecht, as by the late Treaty. It seems, therefore, only to remain, that proper Precautions be taken against any Contraband Trade, which may be carried on from those Islands by any of the Ships of Your Majesty's Subjects trading thither or otherwise. To prevent which Your Majesty's Governor of Newfoundland should be instructed to employ the utmost Vigilance with regard to all such Trade during his Continuance upon the Station, and to give express Directions to the Officers of the Garrisons and the Magistrates in their several Departments that in his Absence they should have the utmost Attention to this Object, and to put the Laws against contraband Trade into strict Execution, for which purpose it will be necessary to establish in that Government a Court of Vice Admiralty or some other Jurisdiction competent to the Cognizance and Punishment of Breaches of the Acts of Trade.

The next obvious Benefit acquired by the Cessions made to your Majesty is the Fur & Skin Trade of all the Indians in North America. The first of these Articles before the present Cession, was enjoyed by the French almost entirely; The only part left in the Hands of Your Majesty's Subjects, being that carried on by the Exclusive Company of Hudson's Bay, and a very inconsiderable Quantity through the Province of New

York. This Trade was acquired in virtue of the Possession which they had taken (contrary to the Stipulations of the Treaty of Utrecht) of all the Lakes in North America, communicating with the River S^t Laurence, tho' the circumjacent Territory avowedly belonged to the six Nations of Indians, Acknowledged by the French to be Your Majesty's Subjects in that Treaty, and by virtue of the Claim which they afterwards set up and were suffered to maintain for a long time of forcibly excluding Your Majesty's Subjects from any Navigation in those Lakes. But this Trade which the French with the utmost Industry had carried to the greatest Extent, by means of numerous well chosen Posts and Forts sufficient as well to overawe as to supply all the Indians upon that immense Continent, is now fallen entirely and exclusively into the Hands of Your Majesty's Subjects and may be secured and communicated to all Your Majesty's Colonies according to the Industry of each, by means of those Posts and Forts with proper Regulations for the Trade with the Indians, under the Protection of such a Military Force as may preserve their Tranquility, not only against Indian Incursions but be ready for their Defence against any European Attack.—The Skin Trade was Chiefly in the Hands of Your Majesty's Subjects in the Southern Colonies even previous to the Cessions, but was often disturbed and interrupted by the frequent Incursions of Indians incited by the French—

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As these Circumstances no longer exist, a great Extension and Improvement of that Article may likewise be expected.

Another obvious Advantage of the Cession, will be the supplying of all the Indian Tribes upon the Continent of North America with European Commodities immediately through the Hands of English Traders.—This Article, if not wholly engrossed by the French, was possessed by them in the greatest Degree, and was of so much Importance that the Traders of New York chose rather to supply the Inhabitants of Canada with English Goods and Manufactures fit for the Indian Trade, than to risque the Loss of what they esteemed so valuable a Branch, by attempting a direct Trade with the Indians themselves. And this strange Principle was adopted by many of the Merchants of London, as appeared upon a Hearing on that Subject before Your Majesty's Board of Trade in 1721.

Another Advantage attending the late Treaty is the secure settling of the whole Coast of North America, as it's produce may invite, or Convenience for Settlement may offer, from the Mouth of the Mississippi to the Boundaries of the Hudson's Bay Settlements, with the whole Variety of Produce which is capable of being raised in that immense Tract of Sea Coast, either by the Industry of Emigrants from Europe, or from the Overflowing of Your Majesty's ancient Colonies—previous to the late War, Nothing is more certain than that many of Your Majesty's ancient Colonies appeared to be overstock'd with Inhabitants, occasioned partly from an extremely increasing

Population in some of those Colonies, whose Boundaries had become too narrow for their Numbers, but chiefly by the Monopoly of Lands in the Hands of Land Jobbers from the extravagant and injudicious Grants made by some of Your Majesty's Governors, whereby a great many of Your Majesty's industrious Subjects were either forced into Manufactures, being excluded from planting by the high Price of Land (A Situation which they otherwise would have preferr'd) or forced to emigrate to the other Side of the Mountains, where they were exposed to the Irruptions of the Indians as well as the Hostilities of the French. And though, on the one Hand, Your Majesty's Province of Nova Scotia according to it's true and just Boundaries, and on the other, that of Georgia, would have contained many more of Your Majesty's Subjects than were in this disagreeable Situation, and more advantageously for the Trade and Interest of Your Kingdoms, Yet the Hostilities which the French contrived to excite at first, by the Indians in their Alliance, and at last by regular Troops in Nova Scotia, and a Dread of the like Calamities on the Side of Georgia from the Indians and Spaniards, have hitherto prevented the salutary progress of these new Settlements, and the happy Consequences which otherwise might have been expected from. them.

We have already mentioned the great Scope and Room which there is for beneficial Settlements in the Article of Fishery in Nova Scotia, another great Advantage however of the late Treaty, producing Strength to Your Kingdom and Riches to Your Subjects, is the future Supply which the new Acquisitions will afford of Naval Stores, more particularly that of masting for the Royal Navy, and of that Species of Timber and Wood commonly called

Lumber, so essential to the Commerce and Cultivation of the Sugar Colonies, both which Articles are to be found in great Quantities, and with peculiar Advantage and Convenience in the Province of Canada, upon Lake Champlain, and in those Parts of Nova Scotia, the exclusive Possession of which is now confirmed to Your Majesty, and this Benefit arising from the Treaty is of the greatest Consideration, as the Supply of Masting and Stores for the Royal Navy from America had been almost entirely stop'd by bad Management and Waste committed in Your Majesty's Woods in New England and New York and the Price of Lumber had been greatly enhanced from the Necessity of procuring it at a greater Distance from the Ocean, and from convenient Ports of Shipping.

In the Province of Georgia and the Neighbouring Florida Commercial Advantages of a still more valuable Nature will probably follow the secure Extension of Settlement, which will be attained by the Cession of Florida, and the End which will be thereby put to Interruptions from the Indians. For there can be no Doubt, that Indigo, Silk, Cotton, and many of the Commodities now found in the West Indies only, may be raised in these Climates. An Object which will prove a strong Temptation to the Settlement of those Territories.

A capital Advantage highly deserving Your Majesty's Attention is the Increase of the Trade of Sugar, Coffee, Cotton and other Indian Products by the speedy Settlement and Culture of the new acquired Islands.—It is known Truth, that the Produce of our West India Islands has hitherto been but barely sufficient to answer our growing Consumption in the first of these valuable Articles, and that as these Islands were all, excepting Jamaica, intirely cultivated, additional Territory was therefore become absolutely necessary to this Branch of Trade, which may be extended to a very great Degree if those new Islands are speedily settled.

The last advantageous Consequence arising from the Cessions which We shall now lay before Your Majesty is that of securing the whole Gum Trade on the Coast of Africa from a Monopoly in the Hands of the French by means of the River Senegal as well as the Acquisition of a considerable Share of the Slave Trade formerly in their hands, with a Variety of other Articles which there is great reason to believe may be obtained by the prosecution of further Discoveries on that River.

Having thus stated the most obvious Advantages resulting from the Cession made to Your Majesty by the late definitive Treaty, We submit to Your Majesty, as Our humble Opinion, that they can only be secured and improved by an immediate Establishment of regular Governments, in all such Places, where planting and Settlement, as well as Trade and Commerce are the immediate Objects. For in order to invite new Settlers to risque their persons and Property in taking up new Lands, as well as to secure the old Inhabitants in the Enjoyment of those Rights and Priviledges reserved to them by

the Treaty, such regular Government appears, both from Reason and Experience, of absolute Necessity. And it seems likewise necessary for the same reasons, as well as to secure Your Majesty's Sovereignty and the

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Publick Tranquility, that a large Military force should be kept up in each Government, 'till by the increase of Inhabitants, each Colony shall be enabled to maintain their own Governments by their own internal Force. But as no such regular civil Government is either necessary or indeed can be established, where no perpetual Residence or planting is intended; It will there be sufficient to provide for the free Trade of all Your Majesty's Subjects under such Regulations, and such Administration of Justice as is best suited to that End. Such We apprehend to be the case of Newfoundland, where a temporary Fishery is the only Object, and this We suppose has been the reason, which induced Your Majesty to annex the Coast of Labrador to that Government Such is the case of Senegal and the Principle upon which we suppose Your Majesty thought proper to put that River and Country under the Administration of the African Committee. And such we apprehend will be the Case of that Territory in North America which in Your Majesty's Justice and Humanity as well as sound Policy is proposed to be left, under Your Majesty's immediate Protection, to the Indian Tribes for their hunting Grounds; where no Settlement by planting is intended, immediately at least, to be attempted; and consequently where no particular form of Civil Government can be established. In such Territory we should propose, that a free Trade with the Indian Tribes should be granted to all Your Majesty's Colonies and Subjects under such Regulations as shall be judged most proper for that End, and under the protection of such Military Force, to be kept up in the different Posts & Forts in the Indian Country as may be judged necessary, as well for the Protection of Trade and the good Treatment of the Indians as the Maintenance of Your Majesty's Sovereignty and the general defence of North America.

We shall defer at present entering into any particulars, as to the number of Troops which it may be necessary to maintain for this purpose. The Number and Situation of the Posts and Forts, and the Regulations proper to be established for a free Trade from all Your Majesty's Colonies into the Indian Country; 'till by further Information from Your Majesty's Commander in Chief of America, and from Your Majesty's Agents for Indian Affairs, We shall be enabled to make a more full and particular Report upon so interesting and important a Subject. And We apprehend that no such Delay can be attended with very material Inconvenience, since, if Your Majesty shall be pleased to adopt the general proposition of leaving a large Tract of Country round the great Lakes as an Indian Country, open to Trade, but not to Grants and Settlements, the Limits of such Territory will be sufficiently

ascertained by the Bounds to be given to the Governors of Canada and Florida on the North and South, and the Mississippi on the West; and by the strict Directions to be given to Your Majesty's several Governors of Your ancient Colonies for preventing their making any new Grants of Lands beyond certain fixed Limits to be laid down in the Instructions for that purpose. And We apprehend that in the mean time the Security of this Trade will be sufficiently provided for by the Forts already erected, and such Garrisons as Your Commander in Chief may, at his Discretion, think proper to keep in them.

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But that no time may be lost in finally settling this important point of the Indian Country, it will be absolutely necessary that immediate Orders be sent as well to Your Majesty's Commander in Chief of America as to Your Agents for Indian Affairs, that without delay they furnish every Information in their power on this Subject, and that they be directed to correspond directly with Your Majesty's Board of Trade for this purpose.

Canada, Florida and the new acquired Islands in the West Indies appear to Us to be the Places where Planting, perpetual Settlement and Cultivation ought to be encouraged and consequently where regular Forms of Government must immediately be established.

Canada as possessed and claimed by the French consisted of an immense Tract of Country including as well the whole Lands to the westward indefinitely which was the Subject of their Indian Trade, as all that Country from the Southern Bank of the River S^t Lawrence where they carried on their Encroachments.

It is needless to state with any degree of precision the Bounds and Limits of this extensive Country, for We should humbly propose to Your Majesty that the new Government of Canada should be restricted, so as to leave on the one hand, all the Lands lying about the great Lakes and beyond the Sources of the Rivers which fall into the River S^t Lawrence from the North, to be thrown into the Indian Country, and on the other hand, all the Lands from Cape Roziere to Lake Champlain, along the Heights where the Sources of the Rivers rise, which fall into the Bay of Fundy and Atlantic Ocean, to be annexed to Nova Scotia and New England in such a manner as upon any future directions after particular Surveys have been made shall appear most proper, If this general Idea shall be approved the future Bounds of the new Colony of Canada will be as follows,

On the South East it will be bounded by the high Lands which range across the Continent from Cape Roziere in the Gulph of S^t Lawrence to that point of Lake Champlain above S^t Johns which is in Latitude 45 Degrees North; which high Lands separate the heads of the Rivers which fall into the great River S^t Lawrence from the heads of those which fall into the Atlantick Ocean or Bay of Fundy. On the North West It will be

bounded by a Line drawn South from the River S^t Johns in Labrador by the heads of those Rivers which fall into the River S^t Lawrence as far as the East end of Lake Nipissin upon the Ottawa River, and on the South West by a Line drawn due West to the River S^t Lawrence from that point on Lake Champlain which is directly opposite to where the South Line falls in and so cross the said River S^t Lawrence and pursuing a North West Course along the Heights where the Rivers rise, that fall into the Ottawa River, to be continued to the East end of Nipissin Lake where the North Line terminates.

In order however that Your Majesty may judge with the greater precision of the Limits of Canada as above described and also of those We shall propose for Florida, and of the Country we think right to be left as Indian Territory, We humbly beg leave to refer to the annex'd Chart in which those Limits are particularly delineated, and of which Your Majesty will have a clearer Conception than can be conveyed by descriptive Words alone.

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The Advantage resulting from this restriction of the Colony of Canada will be that of preventing by proper and natural Boundaries, as well the Ancient French Inhabitants as others from removing & settling in remote Places, where they neither could be so conveniently made amenable to the Jurisdiction of any Colony nor made subservient to the Interest of the Trade & Commerce of this Kingdom by an easy Communication with & Vicinity to the great River S^t Lawrence. And this Division by the heights of Land to the South of the River S^t Lawrence will on the one hand leave all Your Majesty's new French Subjects under such Government, as Your Majesty shall think proper to continue to them in regard to the Rights & Usages already secured or that may be granted to them. On the other hand, the reannexing to Nova Scotia all that Tract of Land from Cape Roziere along the Gulph of S^t Lawrence with the whole Coast of the Bay of Fundy to the River Penobscot, or to the River S^t Croix will be attended with this peculiar Advantage, of leaving so extensive a Line of Sea Coast to be settled by British Subjects: and all the new Settlers upon this Tract of Land will with greater facility be made amenable to the Jurisdiction of Nova Scotia than to that of Canada; and upon the same Principle, It will likewise be necessary to reannex the Islands of Cape Breton and S^t John's to the Government of Nova Scotia.¹

And here, We cannot help offering it as Our humble Opinion that the utmost Attention should immediately be given to the Speedy Settlement of this Tract of Country and that Instructions be prepared for Your Majesty's Governor for that purpose, with particular regard to such Officers & Soldiers who have served so faithfully & bravely during the late War and who may now be willing to undertake such new Settlements under proper Conditions.

It is obvious that the new Government of Canada, thus

bounded, will, according to the Reports of Generals Gage, Murray and Burton, contain within it a very great number of French Inhabitants and Settlements, and that the Number of such Inhabitants must greatly exceed, for a very long period of time, that of Your Majesty's British and other Subjects who may attempt Settlements, even supposing the utmost Efforts of Industry on their part either in making new Settlements, by clearing of Lands, or purchasing old ones from the ancient Inhabitants, From which Circumstances, it appears to Us that the Chief Objects of any new Form of Government to be erected in that Country ought to be to secure the ancient Inhabitants in all the Titles, Rights and Privileges granted to them by Treaty, and to increase as much as possible the Number of British and other new Protestant Settlers, which Objects We apprehend will be best obtain'd by the Appointment of a Governor and Council under Your Majesty's immediate Commission & Instructions. But the particular Regulations and Provisions to be adapted to the different Circumstances and Situation of this as well as Your Majesty's other new Acquisitions, will more properly and distinctly come under Your Majesty's

[¹ It will be observed that Nova Scotia, or Acadia, still included the territory afterwards erected into the separate Province of New Brunswick. The island of St. Johns, here mentioned, is now Prince Edward Island.]

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Consideration in the Draught of the Commission and Instructions to be prepared for each Governor, than in this first general Report.

It will however be necessary that a large military Force be kept up 'till the number of British Inhabitants and new Settlers be very considerably increased, as well to secure the Obedience and Fidelity of the ancient French Inhabitants as to give full Protection & Security to the new British Settlers.

Canada was, under the French, divided into the three Governments of Quebec, Montreal and Trois Rivieres, but the Residence of the chief Governor was at Quebec, and the two other Governments had each a Lieutenant Governor only, subordinate to the Governor in Chief, and we should humbly propose that the same Method be continued under the new Governm^t; not only as by this means the Administration of Justice and of Commerce will be less embarrass'd, but that a less proportion of military Force will be requisite to be maintained and be more easily applicable against all external or internal Disturbances.

Florida and that part of Louisiana to the eastward of the Mississippi, both which Tracts are ceded to Your Majesty by the late Treaty, may be compared to Canada, in respect to Extent of Territory, and the number of Indian Tribes, with which they have immediate Communication, but in other respects, they seem entirely different. The number of settled Inhabitants, either French or Spaniards, we apprehend, has never been considerable, and there is little probability, from

the Facility of their Removal, that any of them will remain, after the Cessions are compleated, tho' we are of Opinion, as well from this Circumstance of their Paucity, as with a view to the immediate Settlement of the Country, that every Expedient should be used, to induce as many to remain as can be prevailed upon.—

The Produce of Canada, with its Trade, the Navigation of the River S^t Lawrence, with its Communication to the great Lakes of North America, are, from authentick Information, in many particulars tolerably well understood; but we are sorry it is not in our power, either from any materials in our Office, or from any other to be depended upon, to give Your Majesty that certain Information we could wish either with regard to the Coast, Harbours and Rivers of Florida, or as to the Variety of Produce which there is the greatest probability may be raised in that extended Country. We shall therefore content ourselves with suggesting at present, that whenever a Government is established in this Country, Instructions should be given for surveying with all possible Accuracy, as well the Sea Coast and places fit for Harbours as the internal Country and Rivers, particularly of that part which lies between the great Mountains and the Mississippi, of which there are not extant any Charts or Accounts on which we can depend, for which purpose it will be necessary that a proper number of able and skilfull Surveyors be appointed.

The great Tract of Sea Coast from S^t Augustine, round Cape Florida, along the Gulph of Mexico, to the Mouth of the Mississippi makes it, we apprehend, indispenseably necessary that this Country should be divided into two distinct Governments, and, for the present, the Chief Residence of the Governor of the one should be at S^t Augustine, with orders to give particular Attention

to Cape Florida (as that Cape commands the whole Navigation from the Bay of Mexico) the Residence of the other at Pensicola, with particular Instructions regarding the Mississippi the free Navigation of which ought, we apprehend, to be most accurately understood, not only in respect of that River being the future Boundary betwixt Your Majesty's Dominions, and those of the French, but as this River by its Communication with the Ohio, the Illinoris &c^a is of the utmost Importance to all Connection with the Indian Nations and the only Outlet to the great internal Trade, which may be carried on amongst them.

If it shall be thought proper to divide Florida into two distinct Governments, they may be distinguished by the names of East and West Florida and may be bounded as follows,

East Florida to be bounded by the Coast of the Atlantick Sea from Cape Florida to the North Entrance of S^t John's River, on the East; by a Line drawn due West from the North Entrance of S^t John's River to the Catahowche or Flint Rivers, on the North; and on the West and South West by that part of the Coast of the Gulph of Mexico, which extends from Cape Florida to the Mouth of the Catahowche River, and from thence following the Course of the said Rivers to where the North Line falls in.

West Florida to comprehend all the Sea Coast of the Gulph of Mexico, extending West from the Catahowche River or Flint River towards the Mississippi, as far as Your Majesty's Territories extend, and stretching up into the Land as far as the 31st Degree of North Latitude, which, We humbly apprehend, is as far North as the Settlements can be carried, without interfering with Lands claimed or occupied by the Indians.

By this Plan of Division, which is formed with a view to make the two Colonies as distinct as possible, by establishing a natural Line of Separation between them, and by giving to each a due proportion of the natural Advantages and Conveniences of Commerce and Navigation, a large Tract of Land lying between the North Boundary Line of East Florida and the River Alatamaha, the present South Boundary of Georgia, which has hitherto been unoccupied as to any permanent Settlement, either by Your Majesty's Subjects or those of Spain, remains to be put under some proper Establishment: and we think it cannot in any respect be better disposed of, than by putting it under the Jurisdiction and within the Government of Georgia, By this means the principle Obstacles, which have hitherto impeded the Progress of that advantageous and well regulated Colony, will be removed, and its Settlements extended to the great Benefit and Advantage of the Mother Country.

With respect to the Form of each of these Governments, We are of Opinion, that in regard to their being Infant Settlements the most suitable will be that of a Governor and Council, by Your Majesty's Commission, with Instructions adapted to the

most quick and speedy Settlement of these Countries. But a considerable military Force must be likewise kept up in these Governments, as well in respect to the neighbourhood of the French and Indians, as to the Security of the Settlers, till their numbers enable them to have Security by their own internal Force.

The chief Object of the new acquired Islands in the West Indies, being

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that of extending West Indian Products of all kinds, as quickly as possible, to the Benefit of the Trade of Your Majesty's Kingdoms; And such Extension being impossible to be obtain'd but by the means of a very large Capital immediately to be laid out by Settlers in the Purchase of Negroes and Erection of Buildings, it is obvious that Security in this is more peculiarly to be attended to, and that as all those Islands, the Grenadaes excepted, which are inhabited by French, are almost entirely uncleared and uncultivated, It is equally obvious, that this Security cannot be obtained for some time at least but by the means of regular Troops—and We are clearly of opinion that this is so necessary, that We do not believe any Persons of sufficient Stock will be found willing to hazard the Capital necessary for a Sugar Plantation in any of these Islands without it.—The next Circumstance necessary to the Establishment of general Security is that of the regular Administration of Justice under a civil Government, the only Form of which that can be adapted to the present Situation of these Islands is, We apprehend, by a Governor and Council, under Your Majesty's immediate Appointment. But all particulars relative to it will best come under Your Majesty's Consideration, when We receive Your Orders to prepare the Commission and Instructions for the Governor.

We are of Opinion that the erecting all these Islands into one general Government, with a subordinate Lieutenant Governor in each, as is now practised in the Leeward Islands, will be better adapted, as well to the purposes of Civil Government as to the Application of military Power to the Protection of the whole, than either the separating of them into distinct Governments, or leaving those of S^t Vincent, Dominico and Tobago under the Commission of the Governor of Barbadoes.—For, by this means, the military Force will be best applied to the general Security, especially if their relative Situation be such as we are inform'd it is, that there is an easy Communication from y^e one to the other, even of those which appear to be most remote.—Their being subject to one Government for the present will likewise contribute best to the carrying most speedily into Execution those Instructions, which will be necessary, as well for surveying those Lands as for dividing them into Lotts proper for Sugar Plantations or other Products, and for granting such Lotts to such Persons as shall be willing to undertake the Settlement of them, either upon Sale, Lease or gratuitous Grants as Your Majesty shall

think most proper to direct.—By this Disposition not only Your Majesty's Orders will go thro' the Channel of one Person, but one Person will be responsible for the due Execution of them.

Having thus given our humble opinion in general as to the Government, which it may be necessary for Your Majesty to establish in Canada, Florida and the West Indies, We should now conclude this point, reserving all other particulars relative to it to be offer'd to Your Majesty's Consideration in the Draughts of y^e Commissions and Instructions for the respective Governors, which must necessarily be prepared, if Your Majesty shall approve the general Proposition, but our Duty and the Experience of our Office, as well as the Authority of our Predecessors, oblige Us on this Occasion to make one other general Observation, which We humbly submit to Your Majesty.

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That if all the Governors of Your Majesty's Colonies are not for the future obliged to constant Residence, as well as all subordinate Officers whatsoever, particularly in these new Governments, and appointed in such manner as to be removeable at Your Majesty's Pleasure there will be no proper Security either for the due Execution of their Offices upon the spot, or for their furnishing in a regular and punctual manner such Information to Your Majesty's Boards and Offices in this Kingdom, as is absolutely necessary for Your Majesty's Service, and for the Security and Improvement of Your old as well as new Colonies; and, We apprehend, it was upon a Conviction of this Truth, that when the Governments of Georgia and Nova Scotia were lately erected, all the new Officers then created, were appointed in this manner.

It now only remains that, in Obedience to Your Majesty's Commands, We should give our Opinions upon the mode of Revenue least burthensome and most palatable to the Colonies, whereby they can contribute to the additional Expence, which must attend the Civil and Military Establishments adopted on the present Occasion, but on this point of the highest Importance, it is intirely out of our Power to form any Opinion, which We could presume to offer for Your Majesty's Consideration, as most of the Materials necessary to form a just and accurate Judgement upon it, are not within the reach of our Office. Such as can be procured shall be collected with all possible Dispatch, and shall at any time be laid before Your Majesty, in such manner as You shall please to direct,

[14 July, 1763.]

All which is most humbly submitted,

Whitehall	}	SHELBURNE	JOHN YORKE
June		SOAME JENYNS	GEO: RICE
8 th , 1763		ED: ELIOT	ORWELL
		E ^p BACON	BAMBER
		GASCOYNE	

No. 203. JOINT
EARL OF EGREMONT TO THE LORDS OF TRADE.¹

WHITEHALL, July 14th 1763.

Lords of Trade.

MY LORDS,—Your Report, dated the 8th of last Month, having been laid before the King, and His Majesty having taken the Same into Consideration; I am, in Consequence thereof, to acquaint your Lordships, That the King approves the Erecting Three New Governments in N^o America, under the Denominations your Lordships propose, of Canada, East Florida, and West Florida; But, with regard to the Limits of these Governments,

¹ A. and W. I., vol. 268, p. 205.
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as described in the Report, and marked out in the Chart thereunto annexed; Altho' His Majesty entirely concurs in your Lordships Idea, of not permitting any Grant of Lands, or New Settlements to be made, for the present, beyond the Bounds proposed by your Lordships; Yet the King thinks, that great Inconveniences might arise, from so large a Tract of Land being left, without being Subject to the Civil Jurisdiction of some Governor, in Virtue of His Majesty's Commission, under the Great Seal of Great Britain; And that, (besides the Difficulties there might be, for Want of such a Civil Jurisdiction, in bringing to Justice Criminals, & Fugitives, who may take Refuge in that Country,) Their not being included within some established Government might, in Time to come, furnish Matter of Dispute, with Regard to the Property; And other Powers, who might hereafter find Means of Access to those Countries, might take Possession thereof, as derelict Lands: The King therefore is of Opinion, that, in the Commission for the Governor of Canada, all the Lakes, viz^t, Ontario, Erie, Huron, Michigan, and Superior, should be included, with all the Country, as far North, & West, as the Limits of the Hudsons Bay Company, and the Mississippi; And also that all Lands whatsoever, ceded by the late Treaty, and which are not already included within the Limits of His Majesty's ancient Colonies, or intended to form the Governments of East and West Florida, as described in your Lordships Report, be assigned to the Government of Canada, unless your Lordships should suggest any other Distribution, which might answer the purpose more effectually; On which Matter your Lordships will lose no Time in making a Report to His Majesty¹.

Having thus informed your Lordships of the King's Intentions, with regard to the Extent of the New Governments to be erected in North America; I am now to repeat to you, That His Majesty entirely concurs in your Lordships Idea, of not permitting, for the present, any Grant of Lands, or New

Settlements, beyond the Bounds proposed in your Report; And that all the Countries, beyond such Bounds, be also, for the present, left unsettled, for the Indian Tribes to hunt in; but open to a free Trade for all the Colonies And the King would have the Instructions to the Three New Governors in North America, formed so, as to contain the strongest Injunctions and Restrictions for this Purpose:—And His Majesty having been pleased to appoint The Hon^{ble} James Murray to be Governor of Canada; Francis Grant Esq^r to be Governor of East Florida; and George Johnstone Esq^r to be Governor of West Florida; I am to signify to your Lordships, the King's Pleasure, that you do, forthwith, prepare, to be laid before His Majesty for His Approbation, Draughts of Commissions, and Instructions, for the said Three Governors, agreeable to the King's Intentions communicated to you in this Letter, and to the Form of Government, proposed by your Lordships, of a Governor and Council by the King's Commission; Adapting the Instructions to the different Circumstances and Situation of the respective Countries; And your Lordships will insert an Instruction to the said Governors of Canada,

[¹ The reasons for not following the plan suggested are given in the reply of the Lords of Trade, of Aug. 5th, which follows this letter.]

and of East and West Florida, to cause accurate Surveys to be made, of the Countries under their Government.

With regard to the ancient Colonies; I am to acquaint your Lordships, that the King approves the extending the Limits of Georgia in the Manner you suggest; as also the Additions, your Lordships propose to be made, to Nova Scotia; and, in Case such Addition to Georgia, and Nova Scotia, shall make it necessary to issue New Commissions to any of the present Governors in N^o America, your Lordships will prepare Draughts thereof, for the King's Approbation: And your Lordships will also prepare Draughts of such Instructions, as shall be necessary, for the several Governors of the ancient Colonies, for preventing their making any New Grants of Lands beyond certain fixed Limits to be therein laid down for that purpose; And in these Instructions, as well as in Those for the New Governors, your Lordships will insert a Clause directing most particular Regard to be had, in the granting of any Lands, to such Officers and Soldiers, more especially Those residing in America, who have served so faithfully, and bravely, during the War, and who may now be willing to undertake any New Settlements under proper Conditions.

His Majesty thinks it highly proper, that the Agents for Indian Affairs should correspond with your Lordships, in regard to the Indian Country, and should transmit such Information on this Subject, as your Lordships shall require from them; for which purpose you will send them the necessary Orders and Instructions; But, with regard to the Commander in Chief of His Majesty's Forces, the King thinks, that His Correspondence should remain, as it has hitherto done,

with the Secretary of State; who will not fail to communicate to your Lordships all such Informations, & Lights, as he shall, from time to time, furnish, relative to the State of the new Acquisitions in America: And as soon as your Lordships shall be able, from such Information, to make a more full and particular Report, as to the Number of Troops necessary to be maintained in the several Governments, and Posts, in America; and that the King shall have taken His Resolution thereupon; the Secretary of State will signify the same to the Commander in Chief And, in the mean Time, I shall acquaint him, with your Lordships general Idea, that a large Military Force should be kept up in the New Governments; and such Garrisons, as he shall, in his Discretion, think proper, in the Forts already erected, and proposed to be kept up, for the Security of the Indian Trade.

Having now gone thro' the several Points, relative to North America, I come to the new acquired Islands in the West Indies; On which Subject I have only to inform your Lordships, that the King approves your Proposal of Erecting all These Islands, viz^t Grenada and the Grenadines; S^t Vincent; Dominico; and Tobago; into one general Government; with a subordinate Lieutenant Governor in Each, as is now practiced in the Leeward Islands, under the same Form of Civil Government by a Governor and Council:—And His Majesty having been pleased to appoint Robert Melvill Esq. to be Governor of the said Islands; Your Lordships will prepare, to be laid before

¹ This reply from the Lords of Trade, with its enclosure, are not contained in the A. and W. I. series "Canada," vol. I. They are taken from Canadian Archives Q. 1, p. 109.

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No. 205.

[*Enclosure in No. 204.*]
To the King's most Excellent Majesty.

MAY IT PLEASE YOUR MAJESTY,—In Obedience to Your Majesty's Commands contained in a Letter from the Earl of Egremont, dated the 14th of July last signifying to Us Your Majesty's Most gracious Approbation of Our Idea, that that large Tract of Country bounded by the Mississippi and the Limits of the Hudson Bay Company on the one hand and on the other by the Limits of Canada, East and West Florida and His Majesty's ancient Colonies, should for the present be made subject to no grants of Lands nor to any Settlements, But acquainting us, that it was Your Majesty's Pleasure, that it should be put under some civil Jurisdiction, by a Commission under the Great Seal of Great Britain, so as to prevent any Objection, which might be formed, as to the Property of it, or its being considered as abandoned or direlict, or it's becoming a refuge for Criminals and Fugitives, and for these Reasons, that the whole of this Territory should be inserted in the Commission of the Governor of Canada, and assigned to that Government, unless we should suggest to Your Majesty some disposition which would answer these Purposes more effectually and directing us on this Matter to lose no time to report to Your Majesty.

We have taken this important Subject into our most serious Consideration and do most humbly concur in Your Majesty's Opinion, of the propriety of putting this Country under a particular Government, by a Commission under Your Great Seal, with a most precise Description of its Boundaries, in Order to ascertain the actual possession of its property, and with such Powers as may be necessary, as well to maintain and secure the free Exercise of the Indian Trade, which it is proposed all Your Majesty's Subjects shall enjoy within it, under proper Regulations, as to prevent its becoming a Refuge to Criminals and Fugitives.—But at the same time, we beg Leave to submit to Your Majesty, the following Objections which have occurred to us, against the annexing this Country to any particular Government, especially to that of Canada—

1st We are apprehensive that, should this Country be annexed to the Government of Canada, a Colour might be taken on some future Occasion, for supposing that Your Majesty's Title to it, had taken it's Rise, singly from the Cessions made by France, in the late Treaty, whereas Your Majesty's Title to the Lakes and circumjacent Territory as well as to the Sovereignty over the Indian Tribes, particularly of the Six Nations, rests on a more solid and even a more equitable Foundation; and perhaps nothing is more necessary than that just Impressions on this Subject should be carefully preserved

in the Minds of the Indians, whose Ideas might be blended and confounded,

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if they should be brought to consider themselves as under the Government of Canada—

2^d We are apprehensive as the whole of this Country would become subject to the Laws of a particular Government or Province, it would give that Province such superior Advantage in respect to the whole of the Indian Trade, which Your Majesty in Your Justice and Wisdom has determined to leave as open as possible, to all Your Subjects, as might controul and obstruct it to the Prejudice of Your other Colonies—

3^d If this great Country should be annexed to the Government of Canada, we are apprehensive, that the Powers of such Government could not be carried properly into execution, either in respect to the Indians or British Traders, unless by means of the Garrisons at the different Posts and Forts in that Country, which must contain the greatest Part of Your Majesty's American Forces and consequently the Governor of Canada would become virtually Commander in Chief or constant and inextricable Disputes would arise, between him, and the commanding Officers of Your Majesty's Troops—

If these Objections should appear of Weight to Your Majesty, We would humbly propose, that a Commission under the Great Seal, for the Government of this Country, should be given to the Commander in Chief of Your Majesty's Troops for the time being adapted to the Protection of the Indians and the fur Trade of your Majesty's subjects; And We submit to your Majesty whether any Inconveniencies would arise, from such Commission, which would not equally arise from a like Commission to a Governor of any of Your Majesty's particular Colonies—

But as the Instructions to such Governour, if Your Majesty should approve of this Proposition, would require a great Variety of Information, both with respect to the Management of the Indian Tribes and Trade, which can only be had from Your Majesty's Commander in Chief, and Your Agents for Indian Affairs, We would further submit, whether the issuing such Commission and Instructions, may not be delayed; 'till by the receipt of such Information, which Your Majesty has been graciously pleased to direct, We are enabled to make a full and particular Report on that very important subject.—And we flatter Ourselves, that no such delay will produce any bad Consequences, either in Respect to this Country's being considered as direct, while Your Majesty's Troops are in the actual possession of every Post and Fort formerly enjoyed by the French, or in respect of Criminals and Fugitives, taking refuge in this Country with Impunity, as this may be easily

prevented by an Instruction to the present Commander in Chief, empowering and directing him to send back all such Persons to their respective Colonies—

In the mean time We humbly propose that a Proclamation be immediately issued by Your Majesty as well on Account of the late Complaints of the Indians, and the actual Disturbances in Consequence, as of Your Majesty's fixed Determination to permit no grant of Lands nor any settlements to be made within certain fixed Bounds, under pretence of Purchase

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or any other Pretext whatever, leaving all that Territory within it free for the hunting Grounds of those Indian Nations Subjects of Your Majesty, and for the free trade of all your Subjects, to prohibit strictly all Infringements or Settlements to be made on such Grounds, and at the same time to declare Your Majesty's Intentions to encourage all such Persons who shall be inclined to commence new Settlements from Your old Colonies, together with all foreign Protestants, coming by themselves or with such Undertakers, in Your new Colonies of East and West Florida or your old Colony of Nova Scotia with particular regard to be shewn to those Officers and Soldiers, more especially those residing in America, who have so faithfully and bravely distinguished themselves, during the War, by allowing; Five thousand Acres lying together to every Field Officer; Three thousand Acres to every Captain, Two thousand five hundred Acres to every Subaltern or Staff Officer; One hundred Acres to every non-commission Officer, and Fifty Acres, to every private Man; in such parts as they shall chuse, on condition that they shall personally apply for and reside upon them subject to such terms of Cultivation, as your Majesty shall think proper to impose on all Persons undertaking such Settlements, which Encouragements may be also extended to reformed Commission Officers in Your Majesty's Navy in Case Your Majesty shall judge it reasonable and expedient.

All which his most humbly submitted,

SHELBURNE

ED. ELIOT

GEO. RICE

ORWELL

BAMBER GASCOYNE

[19 Sept. 1763.]

Whitehall

Aug^t 5th 1763

No. 206.

JOINT

EARL OF HALIFAX TO LORDS OF TRADE.¹

St JAMES'S Sept^r 19th 1763.

Lords of Trade,

MY LORDS,—Having laid before the King Your Lordships, Representation of the 5th of August last, transmitted to the late Earl of Egremont in Your Letter of the same Date, I am commanded to acquaint Your Lordships that His Majesty, upon Consideration of the Reasons therein set forth, is pleased to lay aside the Idea of including within the Government of Canada, or of any established Colony, the Lands which are to be reserved, for the present, for the Use of the Indians. And His Majesty thinks proper to direct that

¹A. and W. I., vol. 268, p. 217.

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the Extent of the Commission, which Your Lordships are to prepare for the Hon^{ble} James Murray, shall be exactly such as is marked out in your first Report of the 8th of June last, and in the Map thereto annexed, under the Denomination of Canada. That such Government be described in the Commission, as comprehending all such Part of Canada on the North Side of the River St Lawrence, and all such Parts of His Majesty's antient Colonies of Nova Scotia, New England, and New York, on the South Side of the said River, as lie within the Limits above mentioned, and that It be called the Province of Quebec.

His Majesty approves Your Lordships' Proposition of issuing immediately a Proclamation, to prohibit for the present, any Grant or Settlement within the Bounds of the Countries intended to be reserved for the Use of the Indians; and to declare the Encouragement, which His Majesty, in his Royal Bounty, is graciously pleased to give to reduced Officers, and Soldiers, who served in North America, during the late War, and are desirous of settling in the Colonies. But His Majesty is of opinion, that several other Objects, of much Importance to his Service, might, with great Propriety, be provided for at the same time: And that the speedy Settlement of the new Colonies might be promoted; the Friendship of the Indians more speedily and effectually reconciled, and Provision be made for preventing Inconveniences, which might otherwise arise from the Want of Civil Jurisdiction in the interior, and reserved Countries, by extending such Proclamation to the following Purposes, viz^t.

To make known the Establishment and Limits of the four new Colonies, and the Additions made to the Governments of Newfoundland, Nova Scotia, and Georgia.

To declare the Constitution of the new Governments, as established for the present, & intended in future, and the general Powers which the Governors will have of granting Lands within Them.

To prohibit private Purchases of Lands from Indians.

To declare a free Trade for all His Majesty's Subjects with all the Indians, under Licence, Security, and proper Regulations.

—And

To empower all Military Officers and Agents for Indian

Affairs, within the reserved Lands, to seize such Criminals, and Fugitives, as may take Refuge in that Country, and to send them to be tried in any of the old Colonies (if That can legally be done) or else to that Government, from which They respectively fled.

It is therefore His Majesty's Pleasure that Your Lordships do immediately prepare, and transmit to me the Draught of such a Proclamation as may extend to the several Points above-mentioned.—But with respect to One of Them, namely the Encouragements to be offered to reduce Officers, and Soldiers, I am to acquaint Your Lordships, that His Majesty's Intentions are, To grant to such reduced Officers only, as have served in North America during the late War, and to such private Soldiers only, as have been, or shall be, disbanded in America, and are actually residing there, the following Quantities of Land, in any of the Colonies on the Continent, upon the usual Reservation of Quit—

p. 923

Rents, after the Expiration of ten Years, and upon sure Terms of immediate Settlement, & Cultivation; viz^t

To every Person having the Rank of a Field Officer....	5,000
Acres	
To every Captain	3,000
To every Subaltern or Staff Officer.....	2,000
To every non-commissioned Officer.....	200
To every private Man	50

His Majesty is also graciously pleased to offer the like Quantities of Land, upon the same Terms, to such reduced Officers of his Navy, of like Rank, as served on board his Ships of War in North America, at the time of the Reduction of Louisbourg, and Quebec in the late War.

I am farther to acquaint Your Lordships, that, as it is of the greatest Importance, that the General Plan, upon which His Majesty's Subjects are to carry on a free Trade with all the Indians of North America, should be established as soon as possible, His Majesty expects that Your Lordships will avail Yourselves of every Information in Your Power, and lay before Him, with all possible Dispatch, a System of Regulations for that purpose.

As to the Commission proposed in Your Lordships', Report of the 5th of August to be given to the Commander in Chief of His Majesty's Forces, for the government of the interior Country, if upon Experience, & future Information, it shall still appear to Your Lordships to be expedient, & practicable, You will be pleased to prepare, and lay it before His Majesty.

[4 Oct. 1763.]

I am &c.,
DUNK HALIFAX.¹

WHITEHALL October 4th 1763.

MY LORD,—In obedience to His Majesty's Commands, signified to us by Your Lordship's Letter of the 19th of last Month, we have prepared, and herewith transmit to your Lordship, the Draught of a Proclamation, conformable to the Directions contained in your Lordship's Letter; And having laid the said Draught before His Majesty's Attorney General, He has reported

[¹ George Dunk, Earl of Halifax, succeeded Hon. George Grenville as Secretary of State (Northern Department) Oct. 14th, 1762. On Aug. 21st, 1763, the Earl of Egremont died suddenly from apoplexy and the Earl of Halifax temporarily took over the duties of the department, being formally transferred to the Southern Department about Sept. 9th. He was succeeded in the Northern Department by the Earl of Sandwich.]

² A. & W. I., vol. 268, p. 227.

to us, That, the same is agreeable to Law, and to the usual Form of Proclamations.

We have only to observe to your Lordship, that, in order to save time, we have fixed the Limits of East Florida according to Our Letter to your Lordship of the 28th of last Month, presuming that our Opinion, mentioned therein, will be approved of by His Majesty.

We beg leave further to add, That as it appears to us, upon a Revision of the Report of this Board of the 8th of June last, That, it will be expedient for His Majesty's Service, and give Confidence and Encouragement to such Persons as are inclined to become Settlers in the new Colonies, That an immediate and public Declaration should be made of the intended permanent Constitution and that the power of calling Assemblies should be inserted in the first Commissions, We have therefore drawn the Proclamation agreeable to this Opinion, and have prepared the Commissions accordingly: and we humbly hope Our Conduct herein will meet with His Majesty's approbation, as we conceive, that any temporary Power of making Ordinances and Regulations, which must of necessity be allowed to the Governors and Councils before Assemblies can be called, as well as the mode of exercising that Power, will be better inserted in the Instructions, which we are now preparing.—

We are

My Lords

Your Lordship's

most obedient and

most humble Servants

HILLSBOROUGH

E^D BACON

JOHN YORKE.

ORWELL.

[5 Oct. 1763.]

R^t Honble Earl of Halifax

Proclamation
relative to the settling
the New
Governments in
America—Approved.

C

No. 208.

PROCEEDINGS IN THE PRIVY COUNCIL.¹

AT THE COURT AT S^T JAMES'S

the 5th day of October 1763.

Present

THE KING'S MOST EXCELLENT MAJESTY

&c.

&c.

Whereas there was this day read at the Board a Draught of a Proclamation relative to the settling the New prepared by the Lords Commissioners for Trade and Plantations relative to Governments in the erecting within the Countries and Islands ceded and confirmed to His

[¹ Privy Council Register; Geo. III, p.100.]

Proclamation
Mem^d this
Proclamation was
signed by His Maj^{ty}
and dated the 7th Ins^t.

Seals
Draughts to be
prepared for East and
West Florida, Quebec
and the Grenadas—

Majesty by the late Definitive Treaty, four distinct and separate Governments by the Names of Quebec, East Florida, West Florida, Grenada, and declaratory of the Constitution of the said New Colonys, of the encouragements to be given to reduced Officers and Soldiers and the Regulations to be observed in respect to the Indian Commerce and Country—His Majesty taking the said Draught of a Proclamation into His Royal Consideration, was pleased with the advice of His Privy Council to approve thereof, and to Order, as it is hereby Ordered that the Right Honourable the Earl of Halifax, One of His Majestys Principal Secretarys of State do cause the said Draught of a Proclamation (which is hereunto annexed) to be prepared for His Majesty's Royal Signature.—

Whereas there was this day read at the Board a Representation from the Lords Commissioners for Trade and Plantations, setting forth that His Majesty having been graciously pleased to approve a Plan for the erecting and establishing four Civil Governments in the Islands and Territories in America, ceded to His Majesty by the late Definitive Treaty, and it appearing to be necessary and expedient that a Publick Seal should be prepared for Sealing all publick Instruments in each of those Governments agreeable to the Method practiced and established in all other His Majesty's Colonies in America; The said Lords Commissioners therefore propose that Directions may be given to prepare with all possible Dispatch a Draught of a Seal for each of the said Governments conformable to the following Descriptions Viz^t—

For the Province of Quebec

Drafts of Comiçons
for the Gov^{rs} of
Quebec, East Florida,
West Florida & and
Grenadas.

a Commee

On the One side His Majestys Effigies, pointing to a Chart of that Part of America through which the River of S^t Lawrence flows, including the Gulph and with this Legend or Motto underneath, Extensæ gaudent agnoscere Metæ; and this Inscription around the Circumference, Sigillum Provinciæ nostræ Quebecensis in America; and on the Reverse His Majesty's Arms, Crown, Garter, Supporters and Motto with this Inscription round the circumference, Geo. III. Dei Gratia Magnæ Britanniæ Franciæ et Hiberniæ Rex, Fidei Defensor Brunsvici et Luneburgi Dux, Sacri Romani Imperii, Archi Thesaurusarius et Elector.

Upon reading this day at the Board a Representation^l from the Lords Commissioners for Trade and Plantations dated the 4th of this Instant together with Draughts of Commissions prepared by them for the Honourable James Murray, Esq^r to be Governor of Quebec, James Grant Esq^r to be Governor of East Florida, George Johnstone Esq^r to be Governor of West Florida, and Robert Melvill Esq^r to be Governor of Granada, Dominico, S^t Vincent a commee and Tobago—It is Ordered by His Majesty in Council that the said Representation and Draughts of Commissions Be, and they are hereby referred to the Right Honourable the Lords of the Committee of Council

for Plantation Affairs to consider the same and Report their
Opinion thereupon to His Majesty at this Board.—

[¹ This Representation is quoted in the Report of the Lords of the Committee upon the
Drafts of Commission for the Governors of Quebec, &c., 6th October, 1763.]

[1763]

No. 209.
EXTRACTS FROM"THE ANNUAL REGISTER OR A VIEW OF THE HISTORY, POLITICS, AND
LITERATURE, FOR THE YEAR 1763."

(SIXTH ED., VOL. VI., LONDON, 1810.)

Chap. V.

"By the IV. and VII. articles of the last treaty of peace, Canada was ceded to Great Britain in its utmost extent. This stretched the northern part of our possessions on the continent of America from one ocean to the other. The cession of Louisiana to the Mississippi, and of the Spanish Florida on both seas, made our American empire complete. No frontiers could be more distinctly defined, nor more perfectly secured. The only object of attention, which seemed left to Great Britain, was to render these acquisitions as beneficial in traffic, as they were extensive in territory. An immense waste of savage country was evidently to a commercial nation no great object for the present; but it was a considerable one in hope, because it contained an inexhaustible variety of soils, climates, and situations, and thereby afforded ample materials for the exertion of wealth and skill in its improvement to all the purposes of trade. These exertions were not likely to be wanting, or to be ineffectual. Independent of national motives, the administration in England had a particular interest in improving those acquisitions to the utmost; they were to justify the choice they had made in preferring them to the West India islands. They therefore took very great pains to come at an exact knowledge of every thing, which could tend to render our new conquests on this continent flourishing and commercial. To this end they judged it expedient to divide them into three separate and independent governments.

The first, and most northerly of these divisions was called the government of Quebec. It is bounded on the Labrador coast by the river of St. John, or Saguenay. This river continues the boundary of the colony, as it runs from the westward, until you come to a lake, which it meets in its course, called the Lake of St. John.

To form the western boundary, an imaginary line is here drawn from that lake to another, which is situated to the southwest of it, and is called Nipissim. At this lake they changed the direction of the line, so as to make it cross the river St. Lawrence and the Lake Champlain in forty-five degrees of north

latitude; and this formed the southern boundary. From thence striking the line to the north-east, they carried it quite to the gulph of St. Lawrence, through the high lands, which separate the rivers which fall into the great river of Canada from those which fall into the ocean. This government is very short, almost upon every side, of the extent of the government of Canada, whilst it continued in the hands of the French.

They divided the southern part of our conquests on this continent into two governments, those of East and West Florida. The former was bounded towards the north by our colony of Georgia; to the east and south by the Atlantic ocean and the gulph of Florida; and on the west by the river Apalachicola.

The latter, or West Florida, was bounded on the east by the same river. Its southern frontier ran along the gulph of Mexico to the Lake Pontchartrain on one of the mouths of the Mississippi. This great river formed its boundary to the west unto the 31st degree of latitude, from which a line was struck across from the northern limit, due east, until it met the abovementioned river Apalachicola.

As to the shore of Labrador and the adjacent islands in the gulph of St. Lawrence, their value consists, in a manner wholly, in the fishery carried on upon their coasts. It is of importance to that branch of commerce to be under strict regulations; and this could never be well compassed, unless the coast, near which it is carried on, was under a single direction. With great judgement, therefore, all the coast of Labrador from the river Saguenay to Hudson's streights, and all the neighbouring islands, were put under the care and inspection of the Governor of Newfoundland. But the islands of St. John and Cape Breton were annexed, as their situation required, to Nova Scotia.

The reader will observe, and possibly with some surprise, that in this distribution, much the largest, and perhaps the most valuable part of our conquests, does not fall into any of these governments; that the environs of the great lakes, the fine countries on the whole course of the Ohio and Ouabache, and almost all that tract of Louisiana, which lies on the hither branch of the Mississippi, are none of them comprehended in this distribution. The government of West Florida extends in no part much above half a degree from the sea.

Many reasons may be assigned for this apparent omission. A consideration of the Indians was, we presume, the principal, because it might have given a sensible alarm to that people, if they had seen us formally cantoning out their whole country into regular establishments. It was in this idea that the royal proclamation of the 7th of October, 1763, strictly forbids any purchases or settlements beyond the limits of the three abovementioned governments, or any extension of our old colonies beyond the heads of the rivers which fall from the westward into the Atlantic ocean; reserving expressly all the territory behind these as an hunting ground for the Indians. The crown, however, retains its right of making purchases and agreements with the Indians.

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Friday, Nov^r
18, 1763.

[8 Nov.
1763]

Quebec.

No. 210.

EXTRACT FROM JOURNAL OF BOARD OF TRADE.

AT A MEETING OF HIS MAJESTY'S COMMISS^{RS} FOR TRADE AND
PLANTATIONS.

C.O. 391. VOL. 70, p. 302.

Present.

Earl of Hillsborough.			
M ^r Jenyns.		M ^r Bacon.	
M ^r Rice.		M ^r Gascoyne.	
*	*	*	*

Read two Memorials, one of M^r Hugh Finlay, desiring the Island of Miscow¹ may be granted to him, to carry on the Fishery of Sea Cows; and that he may have a Right to lay up his vessels in the River of Karaket,²—the other of M^r Isbister, desiring a Grant of a Tract of Land upon the Labrador Coast, between the River S^t John and Mount Joli.

Their Lordships, upon Consideration of the said Memorials, and also of the Requests of Mess^{rs} Gray, and Cramahe, for Posts upon the Labrador Coast, as recommended by Governor Murray, were of Opinion, that, as there is yet no Civil Government established in this country, or in the Isles of the Gulph of the River S^t Lawrence dependent thereon, it would not be adviseable to recommend the making such Grants as are desired.

* * * *

¹ Miscou, N.B.

² Caraquet, N.B.

Privy Council
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Volume III
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No. 211.

[Nov^r 25th 1763.]

**LORDS OF TRADE TO LORDS OF THE COMMITTEE
OF COUNCIL**

UPON MEMORIAL OF CAPT. RICHARD GRIDLEY.

Report to the Lords of
the Committee of
Council for
Plantation Affairs
upon the memorial of
Cap^t Rich^d Gridley.

B.T.N.S. VOL. 37, p. 253.

To the Right Honble the Lords of the Committee of His Majesty's Most Honble Privy Council for Plantation Affairs.

MY LORDS.—Pursuant to your Lordships Order on the 31st of December 1762, we have considered the Memorial of Richard Gridley a reduced Captain of General Shirley's first Regiment of Foot, now on half pay, praying that His Majesty would confirm to him by grant his possession of the Islands of Madelaine in the Gulph of S^t Lawrence Where he alleges to have made an Establishment, and improved a considerable Fishery for Seals and Sea Cows; and we beg leave to report to your Lordships, that tho' we think that all possible encouragement ought to be given to every usefull undertaking of this Kind, and that the petitioner may have merit in the improvements he has made, yet, as His Majesty has not thought proper to establish any Form of Civil Government in the Lands and Islands comprized within the Commission of the Governor of Newfoundland, it does not appear to us to consist with propriety to make for the present the grant prayed for by Captain Gridley.

We are
My Lords,
Your Lordship's
most obedient & most
humble Servants

HILLSBOROUGH
SOAME JENYNS
GEO: RICE
BAMBER GASCOYNE

Whitehall, }
Nov^r 25th 1763.

No. 212.

[1 July
1764.]**PROCLAMATION OF PALLISER**

TO BRING ABOUT FRIENDLY INTERCOURSE WITH ESQUIMAUX INDIANS.

B.T. NEWFOUNDL. VOL. 18. T. 8.

By His Excellency Hugh Pallisser Governor and Commander in
Chief in and over the Island of Newfoundland in North
America &c^a &c^a

Whereas many and great Advantages would arise to His Majesty's Trading Subjects if a Friendly Intercourse could be Establish'd with the Esquemeaux Indians, Inhabiting the Coast of Labradore and as all Attempts hitherto made for that Purpose have Prov'd Ineffectual owing in a great Measure to the Imprudent Treacherous or Cruel conduct of some People who have resorted to that Coast by Plundering and killing several of them from which they have Entertain'd an opinion of our Disposition and Intentions being the same with respect to them, as theirs are towards us that is to circumvent and Kill them: and whereas such Wicked Practices are most contrary to His Majesty's Sentiments of humanity to his Concilating their Affections and his Endeavours to Induce them to Trade with his Subjects. In Conformity to these His Majesty's Sentiments, I hereby Strictly forbid such Wicked Practices for the Future, and declare all such as are found offending herein shall be Punish'd with the Utmost Severity of the Law.

And whereas I have taken Measures for bringing about a Friendly Communication between the said Indians and His Majesty's Subjects and for removeing those Prejudices that have hitherto proved Obstacles to it. I hereby Strictly enjoin and require all His Majesty's Subjects, who meet with any of the said Indians to treat them in the most civil and Friendly manner and in all their dealings with them to act with the Utmost Probity and good Faith particularly with such of them as may Produce this Certificate of their having enter'd into Treaty with me and that I have in His Majesty's Name Assur'd them that they may by Virtue thereof safely Trade with His Majesty's Subjects without danger of being hurt or Ill Treated; And I hereby require and enjoin all His Majesty's Subjects to Conform and pay the strictest regard thereto, at the same time Recommending it to both Parties to Act with Proper

Caution for their own Security till by frequent Communication
a Perfect Confidence may be Establish'd between them.

Given under my Hand
at S^t Johns 1st July 1764.

H. P.

Endorsed:

Newfoundland.

Copy of the Gov^{rs} Order requiring that the
Esquemeaux Indians be treated in a friendly
manner.

In the Gov^{rs} Letter
of 1 Sept^r 1764.

Read Dec^r 4. T. 8.

[1 Sept.
1764]**PALLISER TO LORDS OF TRADE**GIVING ACCOUNT OF HIS PROCEEDINGS TO ESTABLISH FRIENDLY
RELATIONS WITH THE ESQUIMAUX INDIANS.B.T. NEWFOUNDL^D VOL. 18. T. 1.

MY LORD,—In Obedience to His Majesty's Commands to send your Lordships an Account of my Proceedings, and of the Condition of Affairs of the Islands and Territories under my Government.

* * * *

In Obedience to the 13th and 14th Article of His Majesty's Instructions for endeavouring to Conciliate the Affections of the Esquemeaux Savages on the Coast of Labrador without the Streights of Bell Isle, and to Introduce a commerce with them; before I left London meeting with a Man Named Hans Harven one of the Brothers of the Moravian sect who has lived some Years amongst the Savages of Greenland, and talks their Language, which very probably is the same with the Esquemeauxs, and finding in him a Strong disposition (to a degree of Enthusiasm) to undertake to introduce some knowledge of Religion amongst those Savages I Encouraged him in it, and to come out here, where I have also encouraged some Merchants to send a Vessel with him to that Coast, (having none of the Kings to Spare this Season) and in case he should be able to Converse with those Savages, I have furnished him with a writing to be explained and distributed amongst them, to serve as an Introduction to Encourage them to Trade with us, a Copy of which is here Inclosed mark'd G* and I have Promiss'd the Merchants, that if he meets with any thing to Encourage them to send to that Coast the next year for Trade and Fishing, I will send a King's Ship to Countenance and protect them, and the Moravian if he can be of any use.

* * * *

I am
My Lords

St. Johns Newfoundland
1st September 1764.

Your Lordships
Most Obed^t and Most
Humble Servant

HUGH PALLISSER.

Endorsed: R^t Hon^{ble} the Lords Commissioners for Trade and Plantations.

* This writing is Palliser's Proclamation of 1st July, vide supra, No. 6.

[9 Oct.,
1764.]**PALLISER TO LORDS OF TRADE**REPORTING FRIENDLY COMMUNICATION WITH INDIANS WILL PROVIDE
SECURITY FOR BRITISH SHIP FISHERS ON THE COAST OF LABRADOR.B.T. Newfoundl^d VOL. 18. T. 15.

MY LORD,—My last Letter was of the 1st Sept^r giving your Lordships an Account of my proceedings and the State of Affairs in this Government.

* * * *

From Accidents the Frigate Station'd in the Streights of Bell Isle did not get to York Harbour and Quirpont some of our People Fishing at the first Place were frightened away by the Esquemeaux Savages who came in a Body of about two hundred to Trade and Plunder as is their Practice, the French found means to Invite them over to Querpont where they Trafficked with them for what Whale Bone and Furrs they had, but this may be easily prevented the next year. The Moravian who I mentioned to your Lordships in my last being then gone to the Labradore Coast did not meet with them till late he was Able to converse with them very well in their own Language to their great Astonishment and Satisfaction, having never before met with any European that could converse with them otherways than by Signes, I think a good use may be made of this Man the next Year, inclosed is a Memorandum of what passed between him and those Savages at the interview he had with them, he goes home in the Lark with this, should your Lordships think proper to Examine him I am of opinion Measures may be taken for opening a friendly Communication with them, for gratifying them with what they want in the way of traffic and thereby provide a Security for our Fishers for Cod, Whale and Seal upon that Coast. Every encouragement to a Ship Fishery there and the North part of Newfoundland seems to me a Consideration worthy of Attention.

I am

My Lords

St Johns Newfoundland
9th October 1764.Your Lordships
Most Obedient and
most Hum^{ble} Serv^{ts}

HUGH PALLISSER.

Endorsed: To The Right Honble Lords Commissioners for
Trade & Plantations London.

[1764.]

**REMARKS, &c., BY PALLISER, MADE IN OBEDIENCE
TO THE SEVERAL ARTICLES OF HIS MAJESTY'S
INSTRUCTIONS TO HIM.**Reply to Article 12.
See pp. 61-62.

Remarks.

RELATIVE TO THE TRADE, FISHERY, &c. OF NEWFOUNDLAND IN
THE YEAR 1764.For my Proceedings
and, all Occurrences
that have Relation to
the first Eight
Articles I refer your
Lordships to my
several Letters of the
1st of Sept^r 9th & 21st
Octo^r & 7th of Nov^r.

B.T.N. VOL. 19.

What is here directed is very necessary for encouraging, extending & improving the Fishery, for administering Remedies to Abuses in the Out-Ports, and for enabling the Governor to judge of and to lay before your Lordships the true State of the Fisheries and Affairs of the Government; I fully intended in Obedience thereto to have gone quite round the Island and to have visited all the Coasts, but while the French had ships of War at St Pierres it was not proper to go far from them, lest they should offer any Insult or Encroachment.

Mr Cook the Surveyor employed by the Admiralty has this Year surveyed the Coast from Greguet (which is three Leag^s to the S^o ward of Cape de Grate) round that North point of the Island as far as Point Ferrole in the Gulph, which he has executed very completely, all which Coast we had not the least knowledge of before. His Drafts are delivered into the Admiralty Board.

Reply to Article 13.

Having had no Ship to spare this Year to the Northern Part of the Coast of Labrador, I have had no authentick Account about the Place mentioned in this Article by the Name of Davis's Inlet, but from the Conversation which the Moravian had with the Exquimaux Savages, as mentioned in my Letter of the 9th of Octo^r, and from the Description they gave of the Place they came from, it is probable they came from about that Place & I have Reason to believe none of them abide any where to the Southward of it. See more upon this Subject in Answer to the 13th & 14th Articles.

I am not yet sufficiently informed of all Things necessary for judging where new Establishments or Forts may be useful for securing the Country or extending the Trade & Fisheries, but upon this Subject, I take leave to observe, that, as I apprehend the Security of a Fishing Colony must ever depend upon a Naval Force, (to the Support of which such a Colony is supposed greatly to contribute) to do it by Fortifications and Inhabitants would be impracticable in such a Country as Newfoundland, which abounds with more Harbours than any known Country of equal Extent, all which in that Case, should be fortified, and would require more Expence than the whole

charge of the Navy; Yet it seems necessary to have two or three principal Posts to secure the Command of those Coasts where the Fishery is carried on. These Posts, I am of Opinion, should be sufficiently Strong to withstand a regular Attack, so long as the Season in that country will admit of such Operations by Forces to be sent that same Season from Europe & such Posts should also be so situated as to secure the Possession of a principal Harbor. No Place Answers this Description better than S^t John's which has many natural Advantages beyond any Port in the Country for its Security, and the same Expence that has been laid out upon it, for ineffectually securing it (for it never stood an Attack but was taken without Resistance) would have made it impregnable to ten times the Force that ever has been sent against it.

Having said a fishing Colony is best defended by a Naval Force, which is supposed to spring from it, I take leave to add my humble Opinion, that under the present Management of our extensive one at Newfoundland it does not afford that annual Return of Seamen to England that is generally imagined, not near the Number it might, nor scarce above half the Number the French have from their limited Fishery which I have explained in my Answer to the 16th Article & as appears by the general Scheme of the French and English Fisheries for this Year sent herewith.

Upon the Coast of Labradore, which is inhabited by Savages, some Posts, I judge, will be necessary as well for introducing a Trade with them for Fur &c. as for securing our People from their Attacks and Plunder & I am informed those inhabiting the Coast within the Streights of Bell-Isle are a docile People much inclined to traffic; those along the Coast Northward without the Streights have never been in Friendship with any Nation, but from the Interview had with them this Year, as mentioned in my letter of the 9th of Octo^r I am of Opinion a friendly Intercourse might be easily introduced & I would recommend an advanced Post as far to the Northward as possible for a trucking Place, where those Savages may be stopt from coming further Southward by supplying them there with what they want or will be most useful to them & we may procure what we want of them and thus keep the rest of the Coast open & free for our Adventurers to try whether it affords a Fishery which I have good Reasons for believing it does, both for Cod & Whale, & also for Seal which is said to be here in great Abundance. See more on this head in Answer to the last & next Article.

Reply to Article 14

The whole Trade for Fur & the Fishery, upon that part of the Coast lying within the Streights of Bell-Isle, are carried on by a few Merchants from Quebec, who having had Grants from General Murray for exclusive Priviledges for that whole Coast, have prevented any other Adventurers that way. They employ none but Canadians in that Trade and Canadean Vessels having Passes from the Governor of Quebec to come to the Fisheries, I fear will facilitate a clandestine Trade between them and the French at Newfoundland, by which French

Produce. will be introduced amongst them, and the French will by mixing themselves with them preserve an Influence & Correspondence with both Canadians and Indians, & get their Furs.

No Aliens, or Strangers have had any Communication with the Indians,

p. 936

Reply to Article 15

or Savages in this Government this Year, except what proceeded from Accident with the French at Quirpont as mentioned in my Letter of the 9th of Octo^r. For further Particulars of what is required in this Article I refer your Lordships to my Letters of 1th Sept^r & 9th Octo^r, & to my Answer to the last Article, to which I have only to add that I met with a New-England Man who some Years ago made several Voyages in a small Vessel along the Coast of Labradore, as far as the Place called Davis's Inlet, he describes it, as affording many excellent Harbors, both on the Main & in Islands, which abound with almost incredible Quantities of Cod, in Size, equal to four of those caught on the Banks of Newfoundland (some of which I have seen) also abundance of Seals & Whales. He trafficked with the Indians for a great deal of Whale-bone, and says they are not so cruel and barbarous as they have been represented. I have a Sketch of the Coast, which though rough and incorrect (being only an Eye Draught) may be of some Use, as it Marks the Situation of some good Harbors, and Stations, where he never failed to meet with the Savages.

Reply to Article 52

The Whale Fishery, in the Gulph of S^t Lawrence, is very considerable & is wholly carried on by New England Men; this Year they have had good Success & have employed about 100 Sail of Sloops & Schooners from 50 to 100 Tons each. They commonly go two in Partnership & from the best Accounts I could collect I understood they generally got as much Oil as loaded one of the Vessels, besides Whale-bone. After the Whale Fishery is over the other Vessel goes upon the Cod Fishery.

The Sea Cow Fishery at the Magdalen Islands is carried on by one Mr Gridley of New England, who, having had a Grant of those Islands from General Murray, has prevented any other Persons improving that Fishery. He employs in it only a few New England Men, the rest being French Men, who do not acknowledge themselves to be the King's Subjects, & refuse to take the Oaths of Allegiance, of which I informed your Lordships in my letter of the 21th of Octo^r.

The Indians on the Coast of Labradore within the Streights, traffick, I am informed, with a good deal of Fur, the principal Post for which having been granted by Gen^l Murray to particular People, I find they monopolise that Trade & have prevented other People either from Newfoundland or directly from Britain, going thither. Very little Traffick has been had this year, with the Esquimaux Savages without the Streights. For farther Particulars relative to these People, and for Measures for establishing a Trade and Fishery on that Coast I

refer your Lordships to my Letters of the 1th of Sept^r & 9th of
Octo^r & also to my Remarks on the 13th & 14th Articles.

No. 216.

**REGULATIONS FOR YE FISHERY ON THE COAST OF
LABRADOR, ANTICOSTI, MADELAINES AND
WHALE FISHERY IN GULF ST. LAWRENCE.**

PRIVY COL. RECORDS 1/52.

BY HIS EXCELLENCY HUGH PALLISER GOVERNOR AND COMMANDER IN
CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND ETC.

Rules, Orders and Regulations observed on the Coast of
Labradore, and on the Islands of Anticosti and the Madelaines.

WHEREAS the property of all the land on the said Coast of
Labradore and the Islands of Anticosti and the Madelaines is in
the Crown, and since the conquest thereof no part of it has
been lawfully given or granted away and no power being
vested in me to give or grant any exclusive possessions or
privileges to any person whatever, and Whereas it has ever
been the policy of the nation to give to His Majesty's subjects
from Britain in preference to all others every encouragement to
carry on the fisheries.

In order to invite Adventurers into that extensive Field for
Fishing and Trade, I hereby order and direct that ye whole
shall be publick and free to all the King's British subjects in
preference to all others till His Majesty's further pleasure shall
be known, under the following Regulations subject to such
alterations and additions as may hereafter be found necessary
for extending and improving that valuable branch of Trade:

1. All the Rules and Regulations ordained by that excellent
Act of the 10th and 11th of William III, intituled An Act for the
Encouragement of the Trade and Fisheries to Newfoundland
shall be strictly observed on ye Coasts and Islands
abovementioned, except that Proviso in the said Act which
says (provided always that all such persons as since the 25th
day of March 1685 have built, etc.), is not to be in force on the
Coast and Islands above mentioned.

2. All British Whale Fishers are to choose places on the
shore for landing to cut up their Whales and other Oil fish and
to make their Oil as they respectively arrive with Fish to land,
observing that they are never to occupy or use any place that
ever has or hereafter may be used by any British Cod fisher.
Whale Fishers from the plantations may fish within the Gulph
of St. Lawrence for Whale only, but not for cod or any other

fish, and they may land on the said Coast and Islands within the Gulph and nowhere else,

p. 938

to cut up their Whales and to make their oil, and for that purpose may use any place that they find unoccupied and that never have been used by any British Fishing ships for either Whale, Cod or Seals, taking especial care that they do nothing to annoy or hinder any British Fishers whatever.

3. Whereas complaint has been made to me that the Whale Fishers from the plantations have a practice of turning adrift ye useless part of the carcasses of Whales to the annoyance and damage of neighbouring fishers for Cod and Seal, or else leave them on ye shore which is a great nuisance. I hereby order and direct that all Whale fishers shall convey the carcasses of the whales to at least three leagues from the shore.

4. No vessel shall be considered as a British fishing ship nor be entitled to the privileges thereof, or of being Admirals of harbors on the coast and islands above mentioned, except such as clear out from Britain the same season and carry out men to be actually employed in ye fishery and to return to Britain when the fishing season is over.

5. If any person commits murther, whether of any of His Majesty's Christian or Indian subjects on the Coasts or Islands above mentioned, or any other criminal crime, all His Majesty's subjects are hereby required and authorized to apprehend such offenders and carry them before the Commanders of any of His Majesty's Ships, or before the Admiral of any Harbor, and Oath being made before them of the fact, the Captain of any of His Majesty's ships are hereby ordered and directed to secure them, and when they join me to bring such offenders with them in order to the being tried at the general Assizes.

Given under my hand, 8th April, 1765.

HUGH PALLISER.

By Command of His Excellency,
JOHN HORSNAILL.

Endorsed:
Newfoundland.

Letter from Hugh Palliser, Esq., Governor of Newfoundland,
to the Board dated 30th October, 1765, relative to the
trade and fisheries of his government.

Received November 30th, 1765.
Read March 4th, 1766.

[13 April,
1765.]

No. 217.

SURROGATE COMMISSIONS.

BY HIS EXCELLENCY HUGH PALLISER, ETC.

By Virtue of the power and authority to me given by His Majesty's Letters made Patent, bearing date at Westminster the ninth day of April in the fourth year of the reign of our Sovereign Lord George III. by the Grace of God of Great Britain, France and Ireland, King Defender of the Faith I do hereby constitute and appoint you to be my Deputy or Surrogate with full power and authority to assemble Courts within to enquire into all such complaints as may be brought before you to hear and determine the same to all intents and purposes as I myself might or would do. By virtue of the power and authority vested in me you have likewise power and authority to seize and detain in order to proceed to condemnation all unaccustomed prohibited or run goods that may be found within the aforesaid limits or ports adjacent. And I do grant and give unto you full power and authority to administer the several oaths to any person or persons you shall think fit agreeable to the several Acts of Parliament made in that behalf. And I do strictly enjoin all Admirals of Harbours, all Justices of the Peace, all Officers Civil and Military, and all other His Majesty liege subjects to be aiding and assisting you the said and to obey and put into execution all such lawful orders as you shall give unto them as I myself might or would do by virtue of the power and authority vested in me.

Given under my hand this 13th April, 1765.

By Command of His Excellency,

JOHN HORSNAILL.

Commissions delivered to:—

Captain Hamilton of His Majesty's Sloop Zephyr from point Riche to St. Barbe on Newfoundland and from St. John's River to Cape Charles on the Coast of Labradore.

Captain Saxton from Cape Ray to Ferryland.

Captain Thompson of His Majesty's Ship Lark from Trinity to Quirpont, both inclusive.

Sir Thos. Adams, Bart., of His Majesty's Ship Niger on the Coast of Labradore from the entrance of Davis' Streights to York Harbour inclusive.

Daniel Burr, Esq., on the Coast of Newfoundland from Cape Bonavista to Cape St. Francios.

HUGH PALLISER.

By Command of His Excellency,

JOHN HORSNAILL.

No. 218.

C

**REPRESENTATION OF THE LORDS OF TRADE TO
H.M. THE KING**

[29 April,
1765.]

REPORTING ON THE STATE OF FISHERIES AND ON THE NECESSITY OF
SEPARATE REGULATIONS FOR FISHERIES ON THE COAST OF LABRADOR.

C.O. 195. VOL. 9.

To the King's most excellent Majesty
May it please Your Majesty,¹

* * * *

With regard to that part of the Coast of Labrador and the Islands adjacent thereto and in the Gulph of S^t Lawrence, which Your Majesty has thought necessary to include within this Government, it does appear to us, from the best Information we have been able to collect of the State of the Fisheries established therein, which Information however is but very imperfect, that they will require a separate Consideration, and cannot properly fall under any Regulations Your Majesty may approve for the Island of Newfoundland; for, though it be true, that an advantageous Cod Fishery may be established on some Parts of the Coast of Labrador, more especially to the northward; yet it is certain, that the Whale, Seal, and Sea Cow Fishery have been hitherto, and will most probably continue to be the principal Objects of Attention and Pursuit in these Parts of Your Majesty's Dominions.

The Plan adopted by the French for the Establishment and Improvement of these Fisheries, more especially of those for Seals and Sea-Cows, was the

¹ A portion of this Representation relating to the state of Newfoundland will be found in the series of documents relating to the History of Newfoundland. Vide infra p. 1848.

granting exclusive Leases for a certain number of Years of those Parts of the Coast and of the Islands, where these Animals frequented; and this Method was, as we conceive, adopted upon the Apprehension, whether justly founded or not

we cannot as yet determine, that any Rivalship or Interfering in those Places would, from the Nature and delicate Sensations of these Animals, absolutely destroy the Fishery; and, We find, that Your Majesty's Governor of Quebec, probably adopting the same Opinion, had pursued the same Plan; and that all these fishing Posts are now in Possession of particular Persons under Leases, subject to your Majesty's royal Approbation, from the said Governor, made before Your Majesty had declared Your Royal Intention of putting that Part of your Territories within the Government of Newfoundland.

Under these Circumstances therefore, and imperfectly informed as we are of the actual State of these Posts, either in respect to their Number, Extent, or Produce, or of the Terms for which, or the Conditions whereon, they are leased, we cannot take upon us to form an Opinion, what Regulations it may be proper finally to make in respect thereto; but as we shall not fail to direct Your Majesty's Governor of Newfoundland to make a particular Enquiry into, and to report to us a full State of all that concerns this part of Your Majesty's Dominions, and of his Government, as well with respect to the Fisheries, as the Commerce that may be opened and established with the Savage Inhabitants, we shall hope to be able next year humbly to submit to Your Majesty our Opinion thereupon, and to propose such Measures as may produce to this Nation every Advantage, that can be derived from these newly acquired Territories.

All which is most humbly submitted

HILLSBOROUGH.
SOAME JENYNS.
EDW^D BACON.
GEO: RICE.
ORWELL.
BAMBER GASCOYNE.
I. DYSON.

Copy.

Whitehall, }
April 29th 1765 } Ex^d

[28 Aug.,
1765.]**LETTER FROM GOVERNOR OF NEWFOUNDLAND
TO GOVERNOR OF CANADA.**

To His Excellency ye Governor of
Canada to make known to him
the Order issued out in this Gov-
ernment for ye fishery on the
coast of Labradore, in order to
put a stop to Canadians resorting
this coast.

GUERNSEY, PITT'S HARBOR,
28th August, 1765.

I find many people from Canada resort to the Fisheries under my government, and it being contrary to the laws relating thereto for any other than the King's subjects from his Dominions in Europe to carry on these fisheries, I must desire the favour of you to make the inclosed orders publicly known, in order to put a stop to people from Canada resorting to this coast, otherways all my measures for establishing the Trade and Fishery in my Government on the most advantageous footing for the benefit of the nation in pursuance of His Majesty's Commands to me will be rendered abortive.

I am &c.,

HUGH PALLISER.

Privy Council
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Volume III
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No. 220.

Order ag. any Person
from Quebec or any
of ye Colonies
Wintering on ye
Coast of Labradore
left with Thos.
Adams to be by him
distributed.
p. 308.

[28 Aug., 1765.]

PALLISER'S ORDER

FORBIDDING PERSONS FROM QUEBEC AND OTHER COLONIES TO WINTER
ON THE COAST OF LABRADOR.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND, VOL. 3.

By His Excellency Hugh Pallisser, &c. &c.

I hereby strictly forbid all Persons from Quebec or any of
the Colonies to Winter on the Coast of Labradore within my
Government and if any such are met with there they are
Immediately on Sight hereof to quit it as they will Answer the
Contrary at their peril, on pain of being Apprehended wherever
they are found and Brought to me to be punished for their
Contempt of this Order.

Given &c. in Pitts Harbour,
28th August, 1765.

HUGH PALLISSER.

By Command of His Excellency,
Jno. Horsnail.

[1927lab]

[28 Aug.,
1765.]**REGULATIONS FOR LABRADOR FISHERY, 1765.**

C.O. RECORDS 194/16, T. 61.

Regulations for carrying on a Fishery
and Trade on the Coast of Labradore
distributed throughout this Government.

BY HIS EXCELLENCY HUGH PALLISER, ETC., ETC.

WHEREAS a most valuable Fishery and Trade may be carried on upon the Coast of Labradore for establishing of which on the best footing for the benefit of the nation some Rules, Orders and Regulations are immediately necessary, and above all things first to banish all disorderly people who can't be depended upon for preserving good order and peace with the savages (upon which the success of His Majesty's intentions for opening this extensive field of commerce to his subjects wholly depends), I therefore hereby order and direct that the following Rules, Orders and Regulations shall be strictly observed on all the Coast of Labradore within my Government, subject to such alterations as may hereafter be found necessary for the aforementioned purposes.

1. That no inhabitant of Newfoundland no By Boatkeeper nor any person from any of the colonies shall on any pretence whatever go to the Coast of Labradore (except Whale fishers within the Gulph of St. Lawrence from the colonies as allowed by my order of 8th April last) and if any such are found there, they shall be corporally punished for the first offence and the second time their boats shall be seized for the public use of British ship fishers upon that coast.

2. That no person whatever shall resort to Labradore to fish or trade but ship fishers annually arriving from His Majesty's Dominions in Europe lawfully cleared out as Ship fishers, carrying at least 21 men all engaged to return after the season is over to the King's Dominions in Europe.

3. That all the Rules, Orders and Regulations (respecting British Ship Fishers) ordained by that excellent Act of the 10th and 11th of William III. entitled an Act for the encouragement of the Trade and Fisheries of Newfoundland shall be strictly observed on the Coast of Labradore.

4. And as a further encouragement to British Ship Fishers the first arriving Ship in any Harbour on that Coast (besides being Admiral of that Harbour) shall have the privilege of leaving in that Harbour one small vessel not exceeding eighty tons with a gang of twelve men and no more for the next winter seal and whale fishery and no other people whatever shall stay the winter in that Harbour on pain of corporal

punishment such vessel to be properly armed for defence, and the Master to be a prudent, discreet person, to prevent anything being done to break the Peace which I made with the Carolit or Esquimaux Savages on the 21st instant, who have promised to

p. 945

live in friendship with us by night and by day, so long as we forbear to do them any harm. The Master of the 2nd arriving British Fishing Ship in any Harbour as above mentioned shall (besides being Vice-Admiral of the Harbour) have the exclusive right to all the Salmon fishery in that Harbour during that season. The Master of the 3rd arriving British Fishing Ship as aforementioned (besides being Rear-Admiral of the Harbour) shall enjoy in common with the 1st and 2nd ships the exclusive privilege of trafficking with the savages, under the Regulations prescribed in the following article.

5. The Master of the 1st, 2nd and 3rd arriving British Fishing Ships in any Harbour on the Coast of Labradore shall equally enjoy an exclusive privilege of Trading with the natives that may come within limits of that Harbour (the precise limits belonging to each harbour to be hereafter ascertained and made publick), and no other persons whatever shall have any trade or truck with the savages on forfeiture of all goods so trucked for to be equally divided among the three Admirals of that harbour, and to lose their liberty of fishing on the Coast for that year.

That within the limits of each harbour a proper place shall be fixed upon by the Admirals at a proper distance from all the fishing stages where they are to make a barrier for trucking with conveniency and safety with the savages, and on no account to suffer their people and the savages to mingle together. And if either of the Admirals truck with them at any other place within or without the limits of their own port such Admiral shall forfeit all the goods trucked for to be equally divided between the other Admirals, and also to forfeit all his privilege as Admiral for that season, and for better preventing confusion and for preserving peace with the savages all further Regulations or Orders that may be made by the Commanders of any of His Majesty's Ships stationed on the Coast of Labradore for the time being shall be strictly conformed to.

6. All British Fishing Ships as well as the Admirals of the Harbours during the summers fishery for Cod, that is from the time of their arrival to the time of their departure may also carry on the whale fishery. This the early arriving ships may do with great advantage their being abundance of Whales on the Coast in the months of April, May and June.

Given, etc., in Pitt's Harbour the 28th August, 1765.

HUGH PALLISER.

This regulation published throughout this Government.

By Command of His Excellency,

JOHN HORSNAILL.

Endorsed.

No. 4 Newfoundland.

Regulations for the Fishery on the Coast of
Labrador 28th August, 1765, in the
Governor's letter of 30th October, 1765.
Read March 4th, 1766.

[11 Sept.,
1765.]

**EXTRACTS FROM GOVERNOR PALLISER'S
DISPATCH TO EARL OF HALIFAX
(AT THE ADMIRALTY).**

C.O. RECORDS 194/27.

In consequence of the French Ambassador's Memorial, in April last, relative to their people trafficking with the Labradore Savages, and my answer to it of the 13th of April, I hope Your Lordship will approve of this Order upon that subject.

From the Coast of the Petit Nord I went to the Coast of Labradore, for better enabling me to form judgments & make reports to Your Lordship for His Majesty's information, what advantages His Subjects may reap from that Coast, as also to endeavour to have an interview with the wild Savages of that Country, and, in obedience to His Majesty's commands, to endeavour to conciliate their affections, & establish peace & friendship with them; accordingly I had the luck to meet with a Party of near 500 (Men, Women & Children included) of the Wild Carolit or Esquimaux Savages, from the North Coast of Labradore, & by means of one of the Brethen of the Unitas Fratrum, who speaks their language, & who came from Germany on purpose with a view of sending Missionaries amongst them, I first explained to them His Majesty's affection & gracious intentions towards them, & in his name offered them protection from all People whatever, & invited them to live in peace & friendship with us, they joyfully accepted the Offer, & promised to live in peace & friendship with us by night & by day, so long as we forbear to do them any harm, notwithstanding these People have the character of being the most treacherous, cruel & barbarous of all Savages ever known, and with whom no Europeans have ever had any friendly intercourse longer than for a day; yet with the advantage of conversing in their own language, (which no European ever did before) with kind usage & fair honest dealing, I have not the least doubt of these People being soon reconciled, & made a very useful People to His Majesty's Subjects, as an introduction to measures for this end, I found it necessary to make them a small present, and not being furnished with anything for this use, I was obliged to take things of the Merchants, amounting to £18 12s. which I pray Your Lordship will please to Order to be repaid to me, after this I carried them to Our Merchants, who trucked for Whalebone & Skins, with English Goods at a profit of eight or nine hundred P.C^t. I will not trouble Your Lordship with an

Account of the several useful informations collected from these People, nor of the discoveries made by a King's Vessel I

p. 947

sent to explore the Coast to the Northward towards Davis's Streights, and to make remarks usefull to Trade & Navigation, with another of the Brethren of the Unitas Fratrum, on board, as I shall lay all before the Board of Trade at my return to England, upon the whole I will only observe to Your Lordship, that under proper Regulations (for on that all will depend) I am of opinion that Coast will prove a most valuable source of wealth and strength to the Nation, and as some regulations were immediately necessary for preventing the more savage ungovernable inhabitant Fishers of Newfoundland getting footing there, & defeating all future measures for these ends, I issued an Order (No. 7) to be in force till some other shall be made under authority of Parliament.

I am &c.

(Signed) HUGH PALLISER.

To the R^t. Hon^{ble} LORD HALIFAX, &c., &c.

[Endorsed.] St. John's, Newfound-
land. 11th Sep^r. 1765.

Commodore Palliser to the Earl of
Halifax. Copy.

In the Lords of the Admt^ys of the
7th Oct^r 1765.

[24 Oct. 1765.]

Newfoundland.
Committee Minute
relative to the State
of the Fishery.

No. 223.

C

MINUTE OF COMMITTEE OF PRIVY COUNCIL

RELATIVE TO THE STATE OF THE FISHERY OF NEWFOUNDLAND.

P.C. 2. VOL. III.

Extracted from the Minutes of 24 October, 1765.

The Lords of the Committee this day took into their Consideration several Representations from the Lords Commissioners for Trade and Plantations relative to the State of the Fishery of Newfoundland, and finding that the information at present before them not sufficient to enable their Lordships to report a decisive opinion to His Majesty thereupon, were pleased to postpone the further Consideration of this affair for the present.

[30 Oct.,
1765.]**GOVERNOR PALLISER TO LORDS OF TRADE.**COLONIAL OFFICE RECORDS 194/16, T. 57 & PRIVY COUNCIL
RECORDS 16/52

MY LORDS—

Before I left England, His Majesty signified his commands to me upon matters relative to the French in this Government, by one of his Principal Secretaries of State through the Board of Admiralty. I have therefore from time to time transmitted accounts of all occurrences upon such matters through the same channel for His Majesty's information.

And now the fishing season is over I shall according to His Majesty's instructions receiv'd from your board lay before your Lordships accounts of all such matters as seem proper for your information concerning the trade and fisheries.

Having had no particular instructions concerning the new conquered lands annex'd to this government, and having the last year experienced the want of some regulations on those coasts, I thought it necessary to make some before I left England for the guidance of the commanders of His Majesty's ships on their respective stations, a copy is the inclos'd paper marked (No. 1) by those coasts and islands being annex'd to the Newfoundland government. I understood the fisheries there are intended to be governed by the same principals of policy as that of Newfoundland ought to be, that, to be a British not an American fishery. I have, therefore, by those regulations admitted only American whale fishers within certain limits and under certain restrictions : this I judged proper, apprehending people from Britain will not so readily undertake it within the Gulph of St. Laurence, therefore that so valuable a branch of the fishery might not in the mean time be lost, I thought it proper to allow this privilege to the Americans, but strict measures must be taken for preventing them doing mischief on the coast and from carrying on the cod fishery in the government, which is ruinous to the British cod fishery, more especially as they do and always will deal, with the French at St. Pierres, and at the Petit Nord, I have therefore given strict orders that no vessels from the plantations shall resort to any part of Newfoundland between Cape Bonavista and Point Riche.

The salmon fisherys in this country being capable of great improvement I have published an order (No. 2) for encouraging new undertakers which has not yet had time to produce the effects intended, but many people have

assured me, that they will the next year come out provided with nets and tackle now they know they can have liberty to use them.

The Paper (No. 3) is a Copy of what I caused to be dispers'd amongst our People who went to Labradore this year, as Preparatory for Facilitating measures for carrying into Execution that part of His Majesty's Instructions for Conciliating the affections of the Savages, and for Introducing a Communication and Commerce with them.

For enabling me to make proper Reports in Order to your Lordships forming a Judgment of the nature and Disposition of those People and of what Advantages His Majesty's Subjects may hope to reap from that Coast, I went there myself, and met with a party of between Four and Five Hundred of those Savages who come yearly from the North down to the Streights of Bell Isle and by means of the Brethren of the Unitas Fratrum, I had many interviews and conversations with them, for an account of the informations we got from them. I refer your Lordships to a narrative of what passed at the interviews I had with them, which I shall lay before you at my return to England; therefore will here only add my opinion that those people who have hitherto been so much dreaded, may in a very short time by kind treatment and fair dealing, be made exceeding usefull people to His Majesty's Subjects, they are expert whale catchers and naturally fishers, are almost amphibious creatures, living constantly on little Islands along the coast, and subsist almost wholly upon fish.

I am likewise of opinion that under proper regulations that coast may prove a source of great wealth and naval strength to the nation, and as some regulations seemed immediately necessary for preventing our far more savage and ungovernable inhabitants of Newfoundland, from getting footing there, I have published some rules and orders which I judged proper in the present state of things till your Lordships shall make others, a copy thereof is (No. 4) by it your Lordships will observe that I have endeavoured to link the cod, whale, seal and salmon fisherys together, in such manner as to me seemed best for encouraging adventurers and for raising a spirit of emulation amongst them, could some societys of merchants from the trading Towns in England (where they are not already engaged in the sloathfull monopolizing method of carrying on the Newfoundland Fishery) be engaged with a due mixture of Greenland Whale fishers and cod fishers, to try the Coast of Labradore, I think they and the publick would soon find their account in it, but these are imperfect hints which I submit to your Lordships better judgment.

I must acquaint your Lordships that the Brethren of the Unitas Fratrum have taken great pains as well in the business of their mission as in assisting me in matters for His Majesty's service. I therefore take leave to mention them as very worthy of that countenance and protection which His Majesty and your Board are pleased to honour them.

I am also to acquaint you that the inhabitants carrying on a fishery upon the Coast of Labrador, established there by grants from General Murray, are also clandestine traders as well with the Islands St. Pierre and Miguelon as
p. 950

directly from France, one of their vessels from Bordeaux going in at the Streights of Bell Isle run ashore on the Coast of Labradore near to the place where I was, between 50 and 60 tons of wine of her cargo was saved and seiz'd.

I am,
My Lords, Very respectfully,
Your Lordships
Most obedient and most humble servant,
HUGH PALLISSER.

St. John's, Newfoundland,
30th October, 1765.

Endorsed.

Newfoundland.

Letter from Hugh Pallisser, Esq., Governor of Newfoundland to the Board, dated October 30, 1765, relative to the Trade and Fisheries of his Government.

Recd. November 30
Read 1765.
— March 4, 1766.

Privy Council
Documents

Volume III
Contents

No. 225.

[20 Dec.
1765.]

BURKE TO PALLISER

ENCLOSING COPY OF PHILIBOT'S CASE FOR REPORT AS TO HOW FAR
PHILIBOT IS FOUNDED IN HIS ALLEGATIONS.

See Copy in
C.O. 194.
vol. 16, T 55.

S.P. DOM. ENT. BK. VOL. 141.

ST JAMES'S 20th Dec^r 1765.

Case of Cap^t Philibot.

Commod^{re} Palliser,

SIR,—By M^r Secretary Conway's directions I inclose You a Copy of the Case of Capt. Philibot, and am to desire you to let me know for M^r Secretary Conway's Information how far he is founded in his Allegations.

I am, &c^a.

WILLIAM BURKE.

*sic.

Copy.

The Case of Captain Philibot.

In August 1763 Governor Murray (for the reasons mentioned in his Letter of recommendation to Gen^l Conway) gave to Cap^t Philibot the Post of Forteaux on the Coast of Labrador for 4 Years for the purpose of curring Seals caught in certain limits; on the following conditions. That the Governor only granted this Priviledge as far as in him lay, till the Kings further Pleasure was known, & provided no other just claim could be laid thereto.

In August 1765 Gov^r Palliser who stills* himself Commander in Chief of Newfoundland the Coast of Labrador &c^a published an Instrument for the reasons he gave General Conway before he left the Coast) importing that no Person from any of the Colonies should on any pretence go to the Coast of Labrador except whale Fishers, on pain of the Penalties therein set forth, or be suffered to Winter there.

Therefore these subsequent Orders of Gov^r Palliser having rendered void the Grant of Gov^r Murray above-mentioned Cap^t Philibot by virtue of this Grant of the latter has entered a formal Protest against the former for having refused him any longer access and admittance to the Post of Forteaux & an account is delivered in to Gen^l Conway by Capt. Philibot, & his Owners of the prime or first Cost of his Ship; of the Expense of fitting her out, & the Effects she had on board when she was forced to return to Quebec, & of the Effects belonging to him & the other Proprietors, left at

the Post of Forteaux, all which objects they value at about £1870 of Province Money.

Observation.

No absolute demand seems to be made for the 1870£ nor indeed could it be demanded because tho' Gov^r Palliser annulled the Priviledge granted by Gov^r Murray (who seem'd diffident of his Authority to allow such Privileges) still the only positive Injury done Cap^t Phillibot, & the other Owners by Palliser was the seizing or destroying their Effects left bona fide, if he did destroy them which I cannot find was or was not the Case by these Papers at the Post of Forteaux which they estimated at no more than TM680 of Province Money for the Vessel & her Cargoe; tho' disappointed in the View with which she was fitted out, returned untouched to Quebec, tho' it is apparent the Proprietors must from this Circumstance have been at an obvious useless Expense. How far Captain Philibot as an Individual is an Object of the Governments Notice, is another Consideration.

Copy.

[21 Dec.,
1765.]

No. 226.

C

PALLISER'S ANSWER TO PHILIBOT'S CASE.

B. T. NEWFOUNDL^D VOL. 18. T. 56.

Copy.

Murray.

21st December 1765.

Murray.

As to the Particulars said to be set forth in the Case of Capt. Philibot, I know nothing of, nor of Him, having never heard his name before; but I can undertake to assure M^r Secretary Conway that no Damage has been done to any Vessels, or Effects of the said Philibot, as is suggested, either by me, or any other Person under my Government; His real Complaint seems to be against the Regulations made by me last Summer, for the Coast of Labrador, by which He is no longer to enjoy the exclusive Privileges pretended to be granted to Him by Gov^r *Merry*; I am informed many Grants of the same kind for all the best Fishing Places, including above 140 Leagues of Sea Coast within my Government, are extant from Gov^r *Merry*; How, or upon what Terms, those Grants have been obtained I know not, but I have been informed, they are for Three Years, The Grantees have enjoyed the Advantages of the Grants during that Time, therefore may be supposed to be reimbursed any pretended Expences, besides they have had ample Notice of those Grants not being valid, as well by His Ma^ty's Proclamation in 1763, for establishing the Bounds of The New Governments in which it is expressly

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said The Fisheries shall be open & free to His Majestys

Subjects on The Coast of Labrador,) as by Notice from the Officers that I have Yearly sent along that Coast.

Murray.

The Consequence of those Grants, is, that hitherto no other Persons have ventured to undertake any Fishery upon that Coast, & the People to whom these Grants were made, instead of carrying on The Fishery, have used those Posts (as all Setlers upon These Coasts allways do) only for carrying on a Clandestine Trade with the French at Petit Nord, at St Pierres, & even directly with France, for supplying all Canada with French Goods & Manufactures; they also admit many Frenchmen amongst them, of all which, I have the fullest Proofs in my Hands; It was therefore Time, & my indispensable Duty, to anull those monopolizing pernicious Grants from Gov^r *Merry*, so injurious to the Rest of the King's Subjects, so prejudicial to the Shipping, Trade & Manufacturers of this Kingdom, & to lay the Fisheries open to all His Ma'ty's Subjects from Britain, & not suffer it to run into a Colony Fishery, but keep it a free British Fishery agreable to the Laws, & to what has ever been the Policy of the Nation respecting the Fisheries.

Since publishing my above mentioned regulations, several Gentlemen have assured me (& I am informed of many more) that will now immediately undertake the Fisheries on that Coast, with Ships & men from Britain, as Capt. Philibot may do under those Regulations, a copy of which I had the Honor to transmit to M^r Secretary Conway from that Coast, by which I have linked together the several Branches of the Fishery and Trade as seemed best for encouraging new adventurers, & which I am satisfied will have the desired Effect, if an End is put to all Expectations of obtaining exclusive Grants & Privileges; in that Case, (but not otherways) I am confident that Coast will very soon prove a most valuable Source of great Wealth, & naval Strength for the Safety of this Kingdom.

HUGH PALLISSER.

P.S.—The Post of Forteaux is about the Middle of the above mentioned Extent of 140 Leagues of Sea Coast.

Endorsed.

Newfoundland.

Copy of Comm. Pallisser's Answer to Philibots Case

21st Dec^r 1765.

In M^r Roberts's Letter of 17 Feby 1766.

Read Feby 25 1766.

T. 56.

[8 Feb.,
1766.]**PALLISER TO MESSRS. BAYNE AND BREYMER,**OFFERING TO SUPPORT THEM IN ANY UNDERTAKING FROM BRITAIN
TO COAST OF LABRADOR.B. T. Newfoundl^d VOL. 18. T. 94.

GENTLEMEN,—Since I saw you I have seen M^r Darby, who says he is going out of Town to morrow, but will call upon you to Day, he will Account with you any way that will be most Agreeable, (without being a looser himself) for your Effects received into his Care at the request of W^m Lead Your Agent on the Coast of Labradore, in Consequence of my Order to him to quit the Exclusive Possession pretended to be granted to you by Governor Murray, should you meet with any Difficulty in Adjusting Your Accounts with Darby, or if any of Your Effects in Leads Inventory are not Accounted for, if you will give yourselves the trouble at any time to call upon me, you shall have every Assistance in my Power for preventing any Real Loss attending, Your disappointment, occasion'd by my Order for Your quitting those Irregular Monopolizing Possessions on that Coast, and I wish to be usefull to you in any undertaking from Britain to that Coast, in that Case you shall have the utmost Protection & Assistance that can be regularly given without Prejudice to other Adventurers.—

I am

Gentlemen

Your most Obed^t Serv^t

HUGH PALLISSER.

a Copy.

London 8th Febry 1766.To Mess^{rs} Bayne and Breymer.

Endorsed:

Newfoundland.

Copy of a Letter from Gov^r Pallisser to Mess^{rs},
Bayner & Breymer relative to the Loss they
sustained by being Warned to quit the Post they
possessed on the Coast of Labrador.

In Gov^r Pallisser's letter of 2^d May 1766.

Read May 2. T. 94.

[19 March,
1766.]**GOVERNOR PALLISER'S REPORT TO BOARD OF
TRADE.**C. O. RECORDS, 194/16 T. 79 & 80.
PRIVY COUNCIL RECORDS, 1/52.

SIR,

Please to acquaint the Lords Commissioners for Trade and Plantations, that before the Date of your Letter of the 1st May last, Inclosing by their directions, heads of enquiry's for me to make respecting that part of the Coast of Labradore within my Government, the King's Ships were sailed for their respective Stations, therefore I had not the Oportunity of giving the Captains the necessary Instructions for Collecting such Accounts as to enable me to give Satisfactory Answers to all their Lordships' Query's.

I therefore could make no other certain Report thereon, than what you will find relative to that Coast in my Letter of the 30th Oct^r last from Newfoundland, and in the latter part of my General Report upon the Fishery's sent to the Board the 18th Dec last.

But as their Lordships' yesterday seem'd to express a desire to have some farther Information with my Remarks and Opinion respecting that Coast, be pleas'd to lay before their Lordships, the Inclos'd Copy of their Query's with my Answers and Remarks annexed as far as I am able to give any; which I wish may prove of any use for enabling their Lordships to propose such Instructions as may be a proper Encouragement to English Adventurers to carry on the Fishery's and Trade on that Coast.

* * * * *

Signed: HUGH PALLISSER

P.S.—I also herewith send a draft of the Place where the Esquemeaux's reside, which I beg to have again, as I shall want it for the use of the Captain of y^e Ship which I intend to send thither this year.

* * * * *

London 19th March 1766.

No. 229.

(Enclosure in No. 227.)

HEADS OF ENQUIRY

RESPECTING THE STATE OF THAT PART OF THE COAST OF TERRA
LABRADOR, COMPRIZ'D WITHIN THE COMMISSION TO THE
GOVERNOR OF NEWFOUNDLAND, WITH GOVERNOR PALLISER'S
ANSWERS.

B. T. NFDL^D. Vol. 18. T. 80.

QUERY'S.

1st What is the Extent of
the Coast of Terra Labrador
under Your Government.—

2^d What is the Nature of
the Soil and Climate; what
are its natural or improv'd
Productions, & are any, or if
any, what Parts thereof
Adapted to Inhabitancy—

ANSWERS.

From the River St John,
which is the Western
Boundary, to Cape Charles
which is the Eastern
Extremity is 150 Leag^s &
from Cape Charles to the
Entrance of Hudsons
Streights is 160 Leag^s more,
making together an extent
of 310 Leagues of Sea
Coast.—

The Climate is much the
same as in Newfoundland,
is too severe to Admit of
any Cultivation or
Improvements, the summer
being so Short, that nothing
except a little Garden Stuff
can ever be brought to
Maturity; it is not capable of
any Produce to Subsist
European Inhabitants,
therefore no part of it is
adapted to Inhabitancy, its
natural Produce is nothing
but Woods, there is great
tracts without any Wood,
being nothing but bare
Rock, or covered only with
a deep Moss.—

3^d What are Ye Principal Rivers, Bays or Harbours; their Situation & Capacity; and what Convenience do they afford either for Navigation or Fishery.

The Coast not being yet Survey'd & but little frequented, I cant be particular in my Answer to this Article, but in general can say, that the whole Coast abounds with Excellent Harbours, Infinite (sic) Numbers of Islands and all sorts of Conveniency's for Fishery's.

p. 957

QUERY'S.

4th What is the Nature and Extent of Y^e different Fishery's carry'd on upon that Coast whether of Whales, Seals, Sea Cows, or any other Species.

ANSWERS.

The Fishery's that may be carry'd on upon this Coast is for Cod, Whale, Seal, and Salmon, each are in great Abundance and of the best Kinds—that for Cod, was carry'd on to a considerable Amount by French Ship Fishers from Old France—that for Whales within the Gulph, the French reap'd little or no Advantage from, being a Monopoly to certain People who Paid an Acknowledgement to the Gov^r of Quebec for a Licence, so that I am inform'd never above two or three Ships were Employ'd on it. The Seal & Salmon Fishery and the Indian Trade, was in like manner carry'd on under Exclusive Grants from the Governor of Quebec, the Whole Coast as far as Cape Charles was divided into Districts or Posts, and Granted in Monopoly as aforementioned, the Exact Limits of each or any of those Posts I have not been able to Learn.—

5th What Establishments have been made for these Fishery's, at what Places and under what Authority.

Governor Murray of Quebec has (as I am Inform'd) taken upon him,

in imitation of the Maxims of the French Government, to make exclusive Grants of that Coast from S^t Johns River as far as Cape Charles, therefore no British Adventurers have hitherto Offer'd to go there, the Conditions or tenor of those Grants I am a Stranger to, other than by Reports.—for the reasons set forth in my Letter to the Board of the 30th Oct^r and in my Answer to the Case of Cap^t Philibot which their Lordships have now before them; I hope their Lordships will Approve of my having Annulled those Grants, and warn'd those People settl'd there under them, to quit that Coast till His Majesty's Pleasure shall be known thereon.—

6th Are any Posts Occupy'd or possess'd under exclusive Grants or leases from the Governor of

What is said in the foregoing Article is in part an Answer to this, I know of no titles deriv'd from the Crown of France to Monopolies in Fishery and Trade that can be

p. 958

QUERY'S.

Quebec, or claimed or held under any Title derived from the Crown of France while that Country was in her Possession, if so, by whom, under what conditions, and for what Term? and if any Rents are reserved what is the Amount? to whom payable, and whether any, or what part thereof has been Paid, and to whom? and what Remains due.

ANSWERS.

binding to the English Government, such English settlers from Quebec as have Adress'd themselves to me, since I warn'd them to quit the Coast, Pleaded Governor Murray's Grants; on explaining to them/that such Grants are Injurious to the rest of the King's Subjects, were illegal, even if that Coast had been within his Government; they then said they Claimed under the common Rights

of British Subjects, to take and hold Possession of any place not before Possessed by any other Person, on telling them my Opinion, that, that could not be allowed, without the King's Permission, which in that case would be signified to me, as all the Land is in the Crown, and rejecting some overtures to be concerned wth them if permitted under my Authority to hold those possessions, they seemed then to intend to try to derive a right under some Seigniorys, Granted by the Crown of France, to great Officers and others in the French Service, this is what I don't understand, but it should seem M^r Murray (who had in his Custody the Archives and Records of the Country) thought such Pretensions of no Weight, when he made those Grants by his own Authority, the several Particulars in the latter part of this Query, I am not able to make any Answer to.—

7th What is the extent of each Post so held or Claimed as well along the Coast, as within the Land, the Number of Men and Vessels employed at each, and the Quantity of Fish or Oil anually produced therefrom? and what is the peculiar Fishery carry'd on in each.—/

I have never been able to Learn with certainty the extent of each or any of the Posts Granted as aforementioned by Gov^r Murray, but have understood they were from 30 to 40 Leag^s Sea Coast Each; Inclos'd is a Copy of the Exactest State of the Labradore Fishery's that I have been able to get, with a Letter that inclos'd it, from one of those settlers from Quebec, from this Account & Letter, I extracted what I mentioned relating to Labradore; in my Report to the Board on the Fishery's in General the 18th Dec^r last.—/

QUERY'S.

8th What is the Nature & Disposition of the several Nations on Tribes of Savages Inhabiting the Country.—

ANSWERS.

The Savage Inhabitants on this Coast may be distinguished into two distinct Nations on People.

(1st) All those within the Streights of Bell Isle Inhabit inland, far from the Sea Coast, and are called the Mountainere Savages.

(2^d) All those inhabiting without the Streights of Bell Isle, and to the Northward towards Hudsons Streights, are called by the Europeans Esquimeauxs, but they call themselves Carolits, we have yet but a very Imperfect knowledge about those People, I must therefore refer their Lordships to the Narrative on Journal delivered them by the Missionaries of the Unitas Fratrum.

The Savages called Mountaineres are represented as a Pucelanemous, harmless People, adicted much to stealing & drinking to excess, both which they have been taught by the Examples of Europeans, of their Numbers on Places of abode very little is kown, they come down to the Coast in greater on less Numbers, according to the treatment they have met with the Preceeding Year.—

The Carolits on Esquemeauxs, are also great thieves, but will taste no Liquor, are a more subtle enterprizing People, yet exceeding timerous & Jealous of y^e Europeans, both which may with great Justice be atributed to the Barbarous treatment they

9th What Traffick on
Comerce is on may be
Establish'd on carried on
with those Savages; and if
any

continually experience from
our People, notwithstanding
which, I am satisfied they
may be easily Civilized,
which would be of great
advantage to the Trade of
His Maj^s Subjects, and for
this End I most Humbly
recommend to their
Lordships favour, the
Brethren of the Unitas
Fratrum, for such Grants or
Encouragements as may not
be Inconsistent with the
rights & Interests of the
nest of the King's Subjects,
respecting Fishery and
Trade.

Tho' our Accounts are yet
very Imperfect on this
Head, I am satisfy'd a very
Advantageous Traffic may
be carry'd on (under proper
Regulations) with Y^e
Mountainier

p. 960

QUERY'S.

such Traffic is Establish'd or
carry'd on, at what Places,
and under what
Regulations?

ANSWERS.

Savages for Furs, but this
will depend on Keeping at
the beginning all disorderly
People off the Coast.—
What little Trade has
hitherto been carry'd on
with them, has been by the
settlers from Quebec, and
the New England Whale
Fishers, who by their
Barbarities and
Irregularities, will keep that
Coast in a constant State of
War, and render it
inaccessible to any of the
King's Subjects, I can partly
answer for the Conduct of
regular English Ship
Fishers, but none else.

This together with what I
have before said in my
Letters to the Board of the
30th Oct^r, and 18 Dec^r last, is
all the lights at Present in

my Power to furnish their
Lordships in these matters.

HUGH PALLISSER.
19th March 1766

Endorsed:

NEWFOUNDLAND.

Heads of Enquiry respecting the state of that part of the
Coast of Terra Labrador comprized within the commission to
the Gov^r of Newfoundland, with Gov^r Pallisser's Answers.

In the Gov^{rs} Letter of 19 March 1766. Read March 21, 1766.
T. 80.

[27 March,
1766.]

No. 230.

**REPRESENTATION OF THE LORDS OF TRADE TO
H.M. THE KING,
REPORTING ON STATE OF THE COAST OF
LABRADOR.**

C. O. 195. VOL. 9.

To the King's most Excellent Majesty.

MAY IT PLEASE YOUR MAJESTY*

* * *

Having thus humbly brought into Your Majesty's View every Fact and Material relative to Newfoundland separately considered, it only remains for us to make some Observations upon what relates to the State of the Coast of Labrador, and the other Territories annexed to this Government after the Conclusion of the last War: and we observe, that in that Part of the Representation made to Your Majesty by our Predecessors on the 29th of April 1765, which relates to the State of these Territories, they proposed to offer to Your Majesty's Consideration this Year such Measures as in their Judgement might be proper to be pursued in respect thereto; And to the End that they might be enabled to do this with the greater certainty and Precision, we find that they did soon after give Instructions to Your Majesty's Governor for the Obtaining and Reporting to them full Information of the State of these Territories in every minute Circumstance of commercial Advantage, that either had been or could be derived from them; but it having unfortunately happened, that the Ships, appointed for the Service of those Coasts and Islands, were gone out before Your Majesty's Governor received these Instructions, so that it was impossible for him to make that compleat Return which they require; we find ourselves deficient in those Lights and that Information which can enable us fully to answer what Appears to have been the Intention of our Predecessors in respect to this Object.

Difficult however as it would be, under this Circumstance of Want of Information, to form any perfect or permanent Plan of Measures to be pursued for Securing to this Kingdom all the Advantages which the Coast of Labrador is capable of producing; yet we trust that Your Majesty will be of Opinion,

[¹ The portions of this representation dealing with the state of Newfoundland will be found in the series of documents relating to the History of Newfoundland, vide p. 1856, *et seq.*]

that so valuable a part of Your Majesty's newly-acquired Territory should not remain without some commercial Regulations, until from further Information a more perfect Plan can be formed; and for the better enabling Your Majesty to form Your Judgement, as well upon the temporary Regulations which Your Majesty's Governor has thought it necessary to establish in respect to these Territories, as upon what may be thought further Necessary, we humbly beg leave to annex the Reports which he has made to us, since his Return, of the State of Labrador and the Madelaine Islands, and of the Nature and Extent of the Fisheries carried on there.

It appears to be the Opinion of Your Majesty's Governor, that the greatest Object of commercial Benefit to be derived from this Coast is that of a Cod Fishery, more abundant and more advantageous in every Respect than that carried on upon the Coasts of Newfoundland; and that the Seal and Sea-Cow Fishery, which our Predecessors in Office appear in their Representation to Your Majesty to have considered as the principal Object of commercial Regulation in these Territories, neither has been nor ever can be other than a secondary Object of Attention, confined to particular Parts of that Coast, and carried on at a Season when it will not interfere with the other more important Fishery for Cod; for, although it be true, that the French had established several exclusive Posts upon the Coast of Labrador for the purpose of carrying on in the Winter Season a Fishery for Seals and Sea-Cows, and a Traffic with the Savages; yet the Governor represents, that a considerable Ship Fishery for Cod was carried on upon the Coast of Labrador by Ships fitted out from the Ports of old France.

This appearing to Your Majesty's Governor to be the Plan of Policy adopted by the French and prosecuted with great Success and Advantage, and seeing that it did in the general Principles of it conform to the Policy which had been antiently adopted in respect to the Cod Fishery in Newfoundland, he thought it his Duty to establish those Regulations for the Fishery upon these Coasts, which are before referred to, and which at the same Time that they promised to, secure to this Nation the Benefit of a Ship Fishery for Cod, tend to induce those whom Interest should engage in this Pursuit to avail themselves of every Advantage that could be derived from the Oil Fishery, and from a Traffick with the Savages, leaving to the American Fishers, who appeared to have largely engaged in the Whale Fishery on that Coast, the full Pursuit of that beneficial Object, subject only to such Restrictions and Regulations as were thought necessary to prevent abuses in particular Persons, which had operated to the prejudice of the public Interest in general. These Regulations, Copies of which we humbly lay before Your Majesty, will inform Your Majesty of every Step which has been yet taken with regard to this Part of Your Majesty's Territory; But how far these Regulations are in point of Policy or in any other Respect proper and expedient, must be submitted to Your Majesty's Determination.

The Circumstances, which seem to us to require a separate Attention in the general Consideration of whatever general

First—The exclusive Posts established upon this Coast by the French for the purposes of Seal and Sea Cow Fishing, and continued under temporary Leases from the Governor of Quebec.

Secondly—The State of the Malelaine Islands, and

Thirdly—The Mission established on the northern Part of the Labrador Coast the last Year by the Society of the Unitas Fratrum under the Countenance and Protection of Government.

The only Difficulty, which occurs to us in the Consideration of what may be proper to be done in respect to the exclusive Posts on the Coast of Labrador, is the nature of the Tenure under which they are held and claimed; for if, as we apprehend, they depend only upon the temporary Leases granted by the Governor of Quebec, it appears to us, that they ought to be, as they actually have been, set aside by the Regulations established by your Majesty's Governor, which do in our humble Opinion point out a Method, by which this Kingdom may avail itself of the Benefits of an Oil Fishery, without the Continuance of exclusive Possessions in the Hands of Americans, operating as Monopolies and to the Establishment of an illicit Importation of foreign European Manufactures and Productions, to the Prejudice of the Revenue and the Commerce of this Kingdom; but if, on the Contrary, the Tenure of these Posts shall appear to be such as to fall within the Description of that Property, reserved to the Inhabitants of Canada by the Treaty of Paris, it may be a doubt, how far it may be in Your Majesty's Power to abolish them.

With respect to the Madelaine Islands it appears unto us, from the best Information we have been able to receive, that no other use or Advantage either ever has been or can be made of these Islands than for the Establishment of Oil Fishery, which, from the nature of it, as well as from the small Extent and peculiar Situation of these Islands, must be exclusive in some one Person; and therefore Your Majesty may, if you think it advisable, either grant the said Islands in Fee simple or upon Lease for years, on such Terms and Conditions and for such Rent as shall appear to be adequate to the Advantages accompanying a beneficial Grant of this Kind.

It is unnecessary for us to trouble Your Majesty with every Circumstance relative to the Mission of the Society of the Unitas Fratrum; it will be sufficient for us to say, that the Object of it is so commendable in itself, and the Conduct of those, who went out last Year upon this difficult and hazardous Service, appears by the Report of Your Majesty's Governor to have been so meritorious and prudent, that, independent of the

public Advantage arising from the Discovery of a Coast hitherto unknown and unexplored, does seem to us to recommend them to Your Majesty's further favour and Protection; and therefore we submit to your Majesty, whether it may not be advisable, that Your Majesty's Governor should be instructed to allow this Society to occupy such a District of Land, not exceeding one hundred thousand Acres, upon the Coast of Labrador, as they shall think best situated for the purpose of their Mission; reserving however to all Your Majesty's Subjects a full

p. 964

Right of carrying on Fisheries within the said District, and making such Regulations for the Peace and Welfare of the Persons, who shall establish themselves in this District, as shall appear to be reasonable, and necessary, and tending to promote so pious and laudable an Institution.

All which is most humbly submitted.

DARTMOUTH.
GEO: RICE.
J. DYSON.
W^M FITZHERBERT.
PALMERSTON.

Copy.

Whitehall }
March 27th 1766. }

Ex^d

No. 231.

/52 UNBOUND PAPERS.

**E FISHERY ON THE LABRADORE COAST COMMENCING THE 14th DAY
Y, 1765, WHEN THE FIRST VESSEL ARRIVED TO THE 10th JULY
ENSUING, WHEN THE FLEET BEGAN TO DISPERSE.**

ance from post of radore.	Vessels.	From whence.	Tonnage.	Boats.	Number of Men.	What Scheme.	Success.	Remarks.
gs. West	1 Schooner	New England	40	2	10	Cod fishing	Uncertain	No harbour, tho' the river is pretty large and frequented by Indians, who hunt upon it, a long way into the country.

PRIVY COUNCIL I,
STATE OF THE
OF MA

Harbour.	Dista the Lat
River St. John	125 1

6 L

Rotated version

PRIVY COUNCIL 1/52 UNBOUND PAPERS.

**STATE OF THE FISHERY ON THE LABRADORE COAST COMMENCING THE 14th DAY
OF MAY, 1765, WHEN THE FIRST VESSEL ARRIVED TO THE 10th JULY
ENSUING, WHEN THE FLEET BEGAN TO DISPERSE.**

Harbour.	Distance from the post of Labradore.	Vessels.	From whence.	Tonnage.	Boats.	Number of Men.	What Scheme.	Success.	Remarks.
River St. John	125 lgs. West	1 Schooner	New England	40	2	10	Cod fishing	Uncertain	No harbour, tho' the river is pretty large and frequented by Indians, who hunt upon it, a long way into the country.

[Back](#)

No. 232.

**MEMORIAL OF SUNDRY MERCHANTS OF THE
PROVINCE OF QUEBEC**CONCERNED IN FISHERIES ON COAST OF LABRADOR.¹

COL COR: NEWFOUNDLAND. VOL. 2.

Copy.

No. 1.

To the Right Honourable the Lords Commissioners for Trade and Plantations.

The Memorial of Sundry Merchants, whose Names are hereunto Subscribed, settlers in His Majesty's Province of Quebec, and of others Concerned in the trade of the said province, Humbly Sheweth,—

That whilst the province of Quebec was in the Possession of His Most Christian Majesty, the Coast of Labrador was a part of the dependencies of the Government of Canada, and that several Inhabitants of the said province procured Grants from the Governors of Canada of sundry Settlements & fishing posts upon the said Coast, particularly upon that part thereof which is situate within the Streights of Belleisle, which Grants were afterwards duly ratified & confirmed by His Most Christian Majesty.

That upon the Reduction of Canada by His Majesty's Arms it was stipulated amongst other things that the Inhabitants of that Country should retain the possession of that real & personal property, and that such of them, as were inclined to remove to Old France, should be at liberty within a Certain limited time to alienate their property to British Subjects.

That upon the faith and Confidence of the terms of Capitulation, some of Your Memorialists purchased within the time limited by the said Articles of several of the proprietors of the said Settlements and posts their Right & Interest therein for a Valuable Consideration, and others procured from His Excellency General Murray Governor of the province of Quebec Grants of several other settlements and posts which were at that time unoccupied, and which said Grants given by General Murray were Antecedent to His Majesty's most gracious proclamation of the 7th October 1763, whereby the Coast of Labrador was annexed to the newly-established Government of Newfoundland.

*sic.

That His Majesty having been most graciously pleased by His Royal Proclamation above mentioned expressly to invite His Subjects without distinction to extend the Fishery carried

of Your Memorialists and others His Majesty's Subjects residing in the province of Quebec being desirous of availing themselves, of the Seal fishery, which at great Hazard & expence had been established within the Streights of Belleisle, put themselves to a very Considerable expence, in Order to Carry on, extend & improve the fishery, which if they should be permitted to exercise without hindrance or Molestation, would prove not only Advantageous to the Individuals Concerned therein, but highly beneficial to Great Britain.

That some of your Memorialists and others His Majesty's Subjects, Adventurers in the said fishing, being possessed of the Rights, and encouraged by the proclamation hereinbefore mentioned were in the Course of the last Years fishery dispossessed of their posts, their fishing tackle, and Utensils necessary for Carrying on the said fishery, which had been provided at a great expence, were seized, burnt and destroyed, & they otherwise greatly Molested in the enjoyment of what they Apprehend were their legal rights, and much injured and oppress'd by His Excellency Hugh Palliser Esq^r Governor of the Island of Newfoundland, and the Coast of Labrador, &^c and certain other persons Acting under his Authority.

That the said Governor Pallisser published Certain Orders, Rules, & Regulations to be Observed on the Coast of Labrador, &ca. bearing date the 8th of April and 28th of August 1765, whereby, among other things, the said Governor arbitrarily imposes illegal and unwarrantable Restraints and Restrictions upon His Majesty's Subjects inhabiting His Colonies in America, and takes upon himself to declare, that Offenders against the said Orders, Rules and regulations shall be punished with Corporal punishments, & Confiscation of their goods and effects.

That your Memorialists have Ready to produce Copies of the said Orders, Rules, and Regulations, by which it will appear (as they are advised) that the same are illegal, oppressive and prejudicial to the Rights & priviledges which the Inhabitants of the province of Quebec are entitled unto, as British Subjects.

That Nevertheless the said Governor Pallisser pretends that the said Orders, Rules, & Regulations, and the Molestation and Disturbance given to some of Your Memorialists and others, as herein above set forth, were issued and given by him in Consequence of Certain instructions alledged by him to have been Received for that purpose from this Honourable Board, or under some powers otherwise vested in him, sufficiently Authorising him so to do, And your Memorialists further Shew unto your Lordships,

That they doubt not to prove to the satisfaction of this Honourable Board, that the Rules established by Governor Pallisser for the Regulation & of the fishery upon the Coast of

Labrador are very prejudicial to the extension and improvement of the said fishery, and particularly injurious to His Majesty's Subjects the Inhabitants of the province of Quebec, as above three hundred families of His Majesty's newly Acquired Subjects are employed in or Supported by the Winter's Seal fishery upon that Coast, which, if the said Rules shall be permitted to operate as laws, and continued to be enforced as they hitherto have been, will be Reduced to the greatest distress by being deprived of the

N. Jacquin
P. Rustan
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p. 968

employment in which they have been bred up from their infancy and by which they have hitherto earned their Subsistence.

That your Memorialists are well convinced, that the protection and improvement of the Seal fishery aforesaid is of great importance to the trade of the Province of Quebec; but they are Apprehensive, that, without the interposition of this Honourable Board, several of the grievances herein Complained of will be continued and Remain unredressed, & Consequently the said fishery be entirely lost.

Your Memorialists therefore humbly pray Your Lordships to take the premises into your Consideration, that they may be heard by their Council in Support of the several Matters and things herein alledged; That Your Memorialists and all others Concerned in the Subject Matter of this Memorial may be effectually reinstated in their Respective Rights & Possessions, and permitted to enjoy the same Unmolested.

That Orders may be given to Governor Pallisser, declaratory of the sense of this Honourable Board in respect of the Aforesaid Rules Regulations established by him.

And that Your Memorialists may have such other and further relief in the premises, as the Nature of the Case may require And Your Memorialists &c.

JOSEPH PHILIBOT	W ^M BRYMER
JA ^S TRYE	J. GRAY
W. MACKENZIE	DAN ^L BAYNE
DUNCAN & BELLER	CHA ^S GRANT
F ^S L'EVESQUE	BENJ ^N PRICE
ROLLOT	JAMES JOHNSTON
	GEORGE FULTON

[3 April,
1766]**PALLISER TO POWNALL.**

OBSERVATIONS UPON MEMORIAL OF SETTLERS IN PROVINCE OF
QUEBEC CLAIMING EXCLUSIVE RIGHT TO TRACTS OF COAST AND
FISHERIES THEREON, IN LABRADOR.

B.T. NEWFOUNDL^D. VOL. 18. T. 88.

SIR,—Having perused the Memorial presented to the Right Honble the Lords for Trade and Plantations in behalf of several Persons, Signers thereto, Settlers in the Province of Canada, Claiming an Exclusive right to great tracts of Coast and to the Fishery's thereon in Labrador, within my Government.—

In Addition to what their Lordships have already before them from me upon that Head, be Pleas'd to lay before their Lordships one or two Observations upon the said Memorial.—

Whether the Coast in Question was a dependancy or not on the Government of Canada whilst the French possess'd Quebec.

Whether Exclusive Grants and Monopoly to Trade and Fishery's on that Coast made by French Governors are binding to the English Nation, or proper Examples for me as an English Governor to follow.—

Whether the Coast in Question is within the Limits of Canada according to the French Governor Generals Accounts of its Bounds deliver'd in when he Capitulated for Canada.—

Whether a Coast conquer'd and possess'd, (or of right belonging, before to the English) long before Y^e Capitulation of Canada or even before the Surrender of the City of Quebec (which was the Case of this Coast) can be comprehended either in the Capitulation for Canada or that for Quebec.—

Whether the Tenure of such Exclusive Grants (suposing the Authority had been good) as have been usually given by the French Governors and by General Murray to parts of the Coast in Question, convey a Real Estate of Vast Tracts of Coast, and.—

Whether the said Coast in Question is not free and at His Majesty's disposal, are all matters that must be submitted to the determination of His Majesty's Ministers, I shall speak only to other parts of the Memorial.

The Assertion of their Fishing Tackle, Utensils and Necessary's, having been Seiz'd, Burnt and destroy'd, is an Audacious attempt to impose a falsity

from any Man, nor any thing hapen'd to give a Colour to such an Insinuation, except the Memorial means to alude to a trifling Accident, by which a few Old Barrell Staves, belonging to Mess^{rs} Brymer and Bayne were Burnt at Charles River, which was Occasion'd by the folly and Imprudence of their own People, and no fault in any of the Kings Officers, the Circumstances of which they have been fully inform'd of by myself, nor has any one of them been the least Molested or affronted, certain I am, that they will do me the Justice to own, that such of them as have Aply'd to me, I have taken infinite Pains to give them the utmost Satisfaction in my Power, and to Encourage them to pursue the Fishery's in a Publick and fair way, and to lay aside their Schemes of Monopoly and Clandestine Trade, and find I have Succeeded with some but not with all.—

*sic.

As to the Restraints Complain'd of in the Memorial laid by me upon the Lawless Banditi Murdering Crews, resorting to that Coast from the Colony's, by which certain Punishments and Penalty's are threaten'd against Offenders, the Execution of those Restrictions and Punishments is reserved for His Majesty's Pleasure, nothing of what is therein threatened having yet been done nor intended till His Majesty's pleasure should be known.—

I have stop'd no Lawfull Commerce of the Kings Subjects from the Plantations, but I have stop'd them Fishing for and Assisting the French Fishery, for which Fish and Assistance they are Paid with French Goods and Manufactory's.*

As to my making Regulations for the Coast of Labradore (having receiv'd none from His Majesty or this Board) I Aprehend I had Authority to make temporary Regulations, but that General Murray had no such Authority.

*sic.

The Regulations that I did make, are (or at least I intended they should be) for the Encouragement, Improvement, and Extension of every Branch of the Fishery; most for the Benefit of the Nation in general, and of the Adventurers in Particular, by which the most industrious and most Orderly will find a Proportionable Reward.—

Whatever Regulations His Majesty may please to make for that Coast, shall be most punctually executed according to the Comands I may receive upon that Head.—

I Will only trouble the Board with adding, that as Mr. Murray's Plan, has had an uninterrupted tryal of three Fears, the Pernicious Effects of which has been represented by me to the Board, and as in confidence * of my having laid the Coast open and free to all the Kings Subjects, with certain Encouragements to British Adventurers in preference to others, several English Adventurers have fitted out several Ships for that Coast, at a far greater expence than those settlers from Canada at their first outset, so I most Humbly hope, my Plan with their Lordships amendments may have an Equal tryal with M^r Murray's, and as I Aprehend the true Policy of the Nation respecting Fishery's has ever been to encourage Shipping and Men from England, if an Effectual Stop is but put to all Expectations of Monopoly, Exclusive Grants and

residence on that Coast, & some Encouragements and preferences given to British Adventurers I think I may venture to say, that in three years there will be above a Hundred Ships from Britain Employ'd upon that Coast, and that Number will be constantly increasing.

I am

Sir

Your most Obedt

Humble Servt

HUGH PALLISSER.

London 3^d April 1766.—

To J. Pownall Esq^r &^c &^c

Endorsed.

[22 April,
1766]

No. 234.

C

PALLISER TO LORDS OF TRADE.

FURTHER REMARKS ON CLAIMS OF CANADIAN SETTLERS TO EXCLUSIVE RIGHTS AND POSSESSIONS ON COAST OF LABRADOR.

B. T. NEWFOUNDL^D VOL. 18. T. 89.

MY LORDS,—Having heard the Pleadings before your Lordships, in support of Claims to certain Exclusive Rights and Possessions on the Coast of Labradore, and observing that somehow there was omitted a Paragraph of my Letter to the Secretary of State dated 21st Dec^r last, in Answer to one of those Claims, which Letter I requested your Lordships would admit, and that it might be farther Consider'd as Applicable to every other such Claim, which request I again repeat, because all the Claimants were, at first, under M^r Murrays Sole Authority, independent of any Old French Claims; the Paragraph of my Letter that was omitted, and which I request may be read and Considered at your Board, and that your Lordships Sentiments thereupon may be set forth in your Report is as follows:—

*I now desire to add
*and all other such
Claimants.*

*sic.

How far M^r Philibot* may as an Individual be considered as an Object of the Governments Consideration, I shall only take leave to Observe, that if he has Paid any thing for the Grants he Obtain'd, it may be a matter of Consideration whether he ought or not to be reimburs'd* that Sum.—

To this I would now Add, for your Lordships Information and Considerations that I have very Good Grounds for Intimating, that those extraordinary

*sic.

and unlawfull Grants of Posts, were not Obtain'd Gratis; whatever Injury may be suppos'd to have been done, by annulling and setting aside the Old French Claims (if any thing is to be admitted under them) has not been done by me, who was Ignorant of them, but by M^r Murray who knowingly did Annul and set them aside, for reasons which it seems he has given your Board some Account of.

If Particular People, by acting under M^r Murrays particular Grants, have suffer'd Inconveniencies or disappointments, they may Possibly be entitled to some satisfaction on that Account, but not from the Government I hope on Account of what I have done, or from me, but from M^r Murray, who took upon him to make those Grants without any Power Vested in him either by his Commission, by his Instructions, or by the Laws to Authorize his so doing.

M^r Murrays Proceedings and mine, seem to have been influanc'd* by very different Motives, and will produce very different Effects, M^r Murrays Promoting the very great Profit of a very few Individuals, without the least Authority for so doing, and thereby Injuriously precluding all the rest of the Kings Subjects.—

*sic.

My Proceedings in regard to myself, have produced me much trouble and Vexation, and some Expence, but not the smallest Pecuniary Advantage whatever, the Object of them is to lay open to all His Majesty's Subjects, a New and extensive Field for the great Increase of Fishery, Trade and Seamen, which will prove of Immense Advantage to this Kingdom by the Smallest Encouragement from Government, and in this I presume myself fully Authoriz'd not only by His Majesties Proclamation which Admits of no Monopolies or Exclusive Possessions; but by my Commission also as Governor of the Country, and by my Instructions under His Majesties Signe Manuel relative to every Branch of Fishery and Trade within the Limits of my Government; but all these things I make no Doubt your Lordships will duly Consider and take Notice of in your Report.—

I did not look upon the Pleadings before Your Lordships Yesterday as a matter of suit against me, therefore I did not offer to trouble Your Lordships with the tedious Pleading of a Lawyer, I rather close* to trust wholly to your Lordships Candor and Justice, for Impartially. Stating the Matter for His Majesty's Information.—

I am

Very Respectfully

My Lords,

Your Lordships' most Obed^t

and most Humble Serv^t

HUGH PALLISSER.

London 22^d April 1766.

To The Right Honble the Lords Commissioners for Trade and

Plantations.

Endorsed.

[30 April,
1766]**MEMORIAL OF FOWLER WALKER,**ON BEHALF OF QUEBEC MERCHANTS, ET AL., PROTESTING AGAINST
PALLISER'S REGULATIONS FOR COAST OF LABRADOR.B.T. NEWFOUNDL^D. VOL. 18. T. 92.To the right honourable the Lords Commissioners for Trade
and Plantations.The Memorial of Fowler Walker Agent on behalf of the
merchants, traders & other inhabitants of the province of
Quebec. Humbly Sheweth,—

That Your Memorialist hath been informed that this honorable board hath now under consideration certain rules & orders lately established by his excellency Hugh Palliser Esq^r Governor of Newfoundland & of the coast of Labrador for the regulation of the fishery on the said coast. That the s^d rules & orders tend not only to deprive a great number of the inhabitants of the province of Quebec of their private rights but that the same (as Your Memorialist is advised) will also entirely destroy a very considerable branch of commerce carried on by the inhabitants of the said province which will be to the great detriment of all & to the entire ruin of many who are at present engaged therein.

That if the inhabitants of the said province should be permitted to exercise the fishery on the said coast of Labrador in such manner as they have been accustomed that no inconvenience can possibly arise to the fishery exercised by the british Ships on the said coasts.

And that if the rules established by Gov^r Palliser shall take place very considerable Sums will annually be lost to Great Britain which otherwise would be remitted in return for british manufactures.

That Your Memorialist hath also been informed that the proper measures are taking for procuring the sanction of parliament to confirm the s^d rules & orders or to some other plan for regulating the fishery upon the s^d coast of Labrador as will imediately occasion great loss & prejudice to his Majesty's subjects in the province of Quebec & eventually exclude them from exercising the fishery upon the s^d coast as they have heretofore done.

Your Memorialist therefore most humbly prays your
Lordships to take the premisses into your consideration
That he may be permitted to lay before your Lordships

such Arguments & proofs as he is at present furnished
with in support of what is herein alleged.

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And that whatever plan it may be thought expedient to
adopt for regulating the fishery on the s^d Coast of
Labrador, It may please your Lordships to recommend
that such attention may be paid to the private rights of the
individuals & the general Welfare of the province of
Quebec as natural justice & good policy require.

And your Memorialist &^c &^c

FOWLER WALKER.

Lincoln's Inn }
30th April 1766 }

Endorsed.

[13 May,
1766]

No. 236.

**REPRESENTATION OF LORDS OF TRADE TO H.M.
THE KING,**REPORTING ON CLAIMS OF MERCHANTS, AND INHABITANTS OF QUEBEC,
AND ON PALLISER'S REGULATIONS FOR COAST OF LABRADOR.¹

COL. COR: NEWFOUNDLAND. VOL. 2.

To the King's Most Excellent Majesty.

MAY IT PLEASE YOUR MAJESTY,—We have taken into our Consideration a Memorial (Copy whereof we beg leave herewith to lay before Your Majesty) (No. 1.) presented to us on the Behalf of Sundry Merchants, whose Names are thereunto annexed, Settlers in Your Majesty's Province of Quebec, and of others concerned in the Trade of the said Province, setting forth, “That several of these Memorialists and others, Your Majesty's Subjects, Adventurers in the Fishery carried on upon the Coast of Labrador, being possessed of Sundry Fishing-Posts and Settlements thereupon; and being desirous of availing themselves of the Fishery for Seals, which at Great Hazard and Expence had been Established on the said Coast, (particularly upon that Part of it which is situate within the Streights of Belleisle,) after having put themselves to considerable Charge in order to carry on, extend, and improve the same, had, in the Course of last Year's Fishery, been dispossessed of their Posts, their Fishing-Tackle, and Utensils necessary for carrying on the said Fishery, seized, burnt and destroyed and themselves otherwise greatly molested and oppressed, by Hugh Palliser Esquire, Your Majesty's Governor of Newfoundland and the Coast of Labrador, and by certain other Persons acting under his Authority complaining withal of certain Orders, Rules, and Regulations to be observed on the said Coast, and elsewhere, published by Governor Palliser, on the 8th of April and 28th of August 1765, whereby, as they conceive, among other Things, the said Governor arbitrarily imposes illegal and unwarrantable Restraints and Restrictions upon Your Majesty's American Subjects; and praying that they may be effectually reinstated in their respective Rights and Possessions, and permitted to enjoy the Same, unmolested, for the future.”

Whereupon we beg Leave humbly to represent to Your Majesty, that having taken into our serious Consideration the Several Matters complained of in this Memorial; and having heard whatever the Complainants, by their

[¹ The four papers referred to in this document, i.e. Nos. 1, 2, 3 and 4, are listed as Nos. 24, 15, 10 and 30 respectively.]

Counsel, had to urge in Support of the several Allegations therein contained, as well as what Your Majesty's Governor of Newfoundland had to offer in Answer thereunto; it does appear to us, that the several Matters advanced by the said Memorialists are reducible to two General Heads: the first containing their Complaints, that in Consequence of the Orders and Regulations lately made by your Majesty's Governor of Newfoundland, they have been dispossessed of certain Rights and Privileges which they alledge to have been legally vested in them; and the other representing, that the Continuance and Enforcement of such Orders and Regulations will involve many of your Majesty's Subjects in the Province of Quebec in the utmost Distress, and be extremely prejudicial to the Extension and Improvement of the Fishery upon that Coast. In considering the first Head of Complaint, which respects the supposed Infringement of Rights, the Memorialists have stated themselves as affected in two different Capacities.

The first Capacity, in which they represent themselves to be aggrieved by the aforesaid Rules & Orders of Your Majesty's Governor of Newfoundland, is, as Owners or Proprietors of certain Posts and Settlements on the Coast of Labrador, which they profess to hold either under the Title of certain Grants in propriety made while Canada was in the Possession of His most Christian Majesty, or by Sundry temporary Concessions made and granted, since the Reduction thereof, by His Majesty's Governor of Quebec; all which Posts and Settlements, with the exclusive Privileges thereunto annexed, are, by these Placarts of Governor Pallisser, determined, and resumed to Your Majesty's Use; and of one of which in particular under the latter Description, two of Your Majesty's Subjects, Subscribers to the said Memorial, complain, that, by his express Order they have been forcibly, and to their great Loss and Detriment dispossessed.

The second Object of their Complaint is, the Injustice done to them in their general Capacity, as Your Majesty's American Subjects, by excluding them from the Privilege of resorting to the Coast of Labrador for the Convenience of fishing, or for any other Purpose whatever, under certain Pains and Penalties.

These prohibitory Regulations compose the first and second Articles of a Placart published

(No. 2.) by Governor Palliser on the 28th of August last, a Copy whereof (as well as of that of the

(No. 3.) 8th day of April 1765 above mentioned) we beg Leave hereunto to annex.

With respect to the Title which these Memorialists claim to certain Posts and Settlements on the Labrador Coast, under Grants to Canadian Proprietors, (which was the first Predicament under which they state themselves to be aggrieved by Governor Pallisser's Rules and Regulations) their

Memorial in general sets forth, "That several of these Posts and Settlements on the Coast of Labrador, (particularly upon that Part thereof which is situate within the Streights of Belleisle,) having in times past, while the Province of Quebec

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was in Possession of His Most Christian Majesty, been granted by the Governor of Canada (of which Government they conceive the said Coast of Labrador made a part of the Dependencies) sundry of Your Majesty's Subjects, upon the Reduction of Canada, and upon the Faith and Confidence of the Terms of the Capitulation thereof, purchased, within the time limited by the said Articles, of several of the Canadian Proprietors of the said Settlements and Posts, their Right and Interest therein, for a valuable Consideration." This is the Assertion contained in their Memorial above mentioned, and, material as it should seem for these Claimants, for the due ascertaining their Right and Title to the said Posts and Settlements, that they should support and confirm the said Assertion by clear and authentic Facts and Proofs; yet we must observe to your Majesty, that, throughout the Agitation of this Question, no such Facts have been laid before us on the Part of these Memorialists: no Proofs whatever of any valuable Consideration given, or of any Title derived either by Purchase or by Lease of these Posts from the Canadian Proprietors, have been produced for our Information in the Matter; so that the Fact must still continue to stand unsupported by any other Evidence than the bare Credit of their Assertion.

Nevertheless it may be proper for us to observe to your Majesty, that from a Copy or Register of sundry Canadian Grants, which has been transmitted to us by your Majesty's Governor of Quebec, we have no manner of Doubt but that many and various Tracts of Land on the Coast of Labrador have at different times been granted and conceded by the Governors of Canada, while France was in Possession of that Province; yet very few of these, as far as appears to us, having been granted in Propriety (the rest being only temporary Concessions for a Term of Years, all of which are laps'd and expired;) it follows, that none of these Grants can be supposed now to subsist in Force, or be made the Subject of our present Consideration, except the few in Propriety above mentioned.

The first of these was made in the year 1662, to Messrs. Bissot and Jolliet, of the Post and Settlement of Mingan on the Coast of Labrador to the Bay of Phelippaux in Propriety to them and their Heirs. And in the year 1679, another Grant was made to the said Jolliet, jointly with the Sieur La laude, of all the Islands bordering on the said Coast from the Isle of Mingan to the said Bay of Phelippaux, the same to be held in Fief and Seignery with an exclusive Privilege of the Fishery for Seals and Sea-Cows. This joint Grant was in the year next ensuing followed by a separate one of the whole Island of Anticosti in Propriety as before to the former of these Granties (Jolliet) with the same exclusive Privileges as are recited in the first

Instance. From these Grants, which we have thus briefly enumerated to your Majesty, one Person only, as we understand, amongst the Subscribers to the above Memorial affects to claim, or derive Right and Title to any Settlement or Post on the Coast of Labrador; and no charge has, to our Knowledge been produced either by him or by any person claiming under the like Pretensions, of any actual Molestation being given to them in their Settlements, from the Rules and Orders above mentioned.

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In the next Place we are to consider the Complaints of such of your Majesty's Subjects, who profess themselves to suffer from these Regulations of Governor Pallisser, as Proprietors or Occupiers of Sundry Fishing Posts and Settlements on the said Coasts under the Grants of the Hon^{ble} James Murray, Your Majesty's Governor of Quebec.

The Memorial sets forth, that “the said Governor granted to sundry of Your Majesty's Subjects, Inhabitants of the Province of Quebec, certain Posts and Settlements on the said Coast, which were at that time unoccupied and which said Grants were antecedent to your Majesty's most Gracious Proclamation of the 7th of October 1763, whereby the Coast of Labrador was annexed to the newly established Government of Newfoundland.” How far these Grants of the exclusive Possession of these fishing Posts could be considered as continuing in Force after your Majesty's most Gracious Proclamation above mentioned was published; or in Case they were not thereby revoked, whether Governor Pallisser was not, by your Majesty's Appointment of him to the Government of this Territory, sufficiently authorized in your Majesty's Name to put an end to the Continuance of these Grants, which appear upon the Face of them to have been no more than temporary Licences to carry on the Fishery, determinable at Your Majesty's Pleasure, must be submitted to your Majesty.

Amongst the Representations which have been made to us of the Injuries which this Order of Complainants have derived from M^r Pallisser's Regulations, one Instance only has been produced of his having actually removed any of these Claimants from their Posts on the Coasts above mentioned: and that is in the Case of Messrs. Bayne and Brymer, Subscribers to the Memorial above recited. These Complainants claim Possession of a Fishing-Post at Cape Charles on the said Coast of Labrador, by virtue of a Grant from Governor Murray; and complain, that their Agent or Factor, stationed there, was compelled to evacuate and abandon the said Post, and to remove their Fishing Tackle, Utensils and Effects, under the Alternative of having them destroyed in Case of Refusal; and the said Agent further declares, that a considerable Number of Casks were actually burnt and destroyed, and that other Damages ensued to the said Bayne and Brymer from the Interruption thereby given to their further Prosecution of this Trade; A Sloop, which they had

fitted out from Quebec for this purpose, & which the said Agent met, on his Return from Cape Charles, in the River St Lawrence, having desisted from her Voyage upon the Report of these Proceedings, and returned. back to Quebec, where her cargo and Effects were sold at public Vendue, to the great Loss and Detriment of the Owners.

To this Charge Governor Pallisser replies, that when he ordered these Complainants to quit their irregular Monopolizing Possessions on the above Coast, he accompanied that Order with a strict Injunction, that every Assistance should be given them in removing their Effects; That accordingly these Effects were received into the Care of a Master of a British Fishing Ship then at the Port of Chateau, pursuant to an agreement made betwixt him and their Agent above mentioned, Your Majesty's Officers and Men giving all the

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Help and Assistance in their Power in the Course of this Removal; That the Master of the British Fishing Ship above mentioned is ready and has repeatedly offered to account with them for these Effects so received into his Care; That the Damages, which ensued to them from the Consumption of their Casks by Fire, were owing to a very natural Mistake in Your Majesty's Officer, who, discovering these Casks, and perceiving them to be French Hogsheads did presume that they were the Property of some Party of that Nation, belonging to their Fishing Ships employed on the Coast of Newfoundland, who had secretly settled themselves there for the Summer's Fishery, Information having been received of such parties being on the Coast, and in search of whom the said Officer was sent; That he accordingly destroyed these Casks, upon the above Presumption, no people being there to be found to own them; That with Respect to the Disappointment of these Complainants from the Return of their Vessel, which their Agent met in the River St. Lawrence bound to Charles River, and which in consequence of that Meeting did not proceed to that Post to take in their Effects, M^r Pallisser observes, that his Order, so far from forbidding this Vessel to proceed for the purpose of carrying their Effects back to Quebec, did on the contrary warrant the so doing; they being enjoined to remove them and prohibited only from wintering there, or resorting thither in future.

The last Predicament, under which we proposed to consider these Memorialists as affected by the Orders and Regulations of Governor Palliser, is in their general Capacity, as Your Majesty's American Subjects, by excluding them from the Right of Fishery on the Coast of Labrador, or on any Pretence whatever resorting thereunto (except in the Case of Whale Fishers within the Gulph of St. Lawrence) under certain Pains and Penalties annexed to the Breach of this Ordinance.

In answer to the Complaints of these People, who claim a Right, in Common with the rest of your Majesty's Subjects

wheresoever dispersed, of resorting to & navigating these Seas, either for the Purposes of Fishing, or on any other Occasion or Pretence whatever, M^r Pallisser opposes the authority of the Statute of the 10th and 11th of King William, made and enacted for the better Regulation of the Trade and Fishery to and from Newfoundland; which M^r Pallisser appears to have understood as absolutely excluding all Ships, but such as are fitted out from Great Britain, from the said Fishery and which he thought it his Duty to extend to the Coast of Labrador, now made a Part of his Government; with an Exception however as to that Clause, which confirms “the Owners or Builders of Houses, Stages &c. for fishing there in the quiet Enjoyment of the same” and which Clause could in no respect be applicable to this part of his Government.

Upon this Case we have only to observe to your Majesty, that, if Governor Pallisser (who seems to have understood this Statute of King William as operating to the Exclusion of Your Majesty's American Subjects from the Right of Fishery on the Coast of Newfoundland) be right in his Construction of this Statute, we should think him justified in extending the like Regulations to Your Majesty's Territory of Labrador, which forms a Part of his Govern-

ment; nor can these Memorialists upon that Supposition have any just Cause of Complaint: But if (as we conceive to be the Case) he should have mistaken the sense and meaning of this Statute, and that the purport of it should be only to encourage Your Majesty's British Subjects in this Fishery preferably to all others; but not to go to the Exclusion of Ships fitted out from America; In that Case we conceive M^r Pallisser had no sufficient Authority to exclude your Majesty's American Subjects from a Right of Fishery in the Seas and on the Coasts above mentioned.

In the mean time the Damages and Inconveniences, which appear to have actually ensued to your Majesty's American Subjects at large from the Execution of this Order and Regulation, as distinguished from what respects the Claims to particular Posts and exclusive Privileges, do not, (as far as they have come to our knowledge) seem to have been at all considerable. Having thus in as clear and concise a manner as we are able, humbly laid before your Majesty, a State of the Damages which these your Majesty's Subjects, Subscribers to the said Memorial, profess to have sustained from the past Execution of Governor Pallisser's Regulations; and having considered these Complainants under the respective Capacities of Proprietors under Canadian Grants, Claimants under Governor Murray's Concessions, and as making a Part of your Majesty's General Body of American Subjects; it remains for us to take Notice of the second General object of their Memorial above mentioned, which regards the Expediency of discontinuing and annulling the Orders & Regulations in Question.

It has been asserted on the Part of the Memorialists, that the Seal Fishery, as carried on by your Majesty's Subjects of the Province of Quebec, supports several hundreds of useful and industrious Families, and annually furnishes Exports to the Value of six thousand pounds sterling. To this M^r Pallisser replies, that the Fishery for Cod and Whales on the Coast of Labrador, if carried on by Vessels from Great Britain only, might be productive, as he conceives, of more Advantages to this Country, and improved to greater Value and Perfection, than the Fishery at present established on the Coast of Newfoundland;—That from the Experiments which have been already made, there is the greatest Reason to believe, that the Fish on the Labrador Coast exceeds the last mentioned both in Quantity and Quality, and have ever borne a better Price in the European Markets;—That the Returns made to this Kingdom from a Trade of this sort, and the Benefits which might result from it (if put under proper Regulations) to your Majesty's Navy, by the Increase of Seamen are Considerations, as he conceives, infinitely superior to any which are stated on the Part of the Province of Quebec; That upon these Principals, and upon Conviction of the practicability of procuring these Advantages, he published the Regulations in Question, well

knowing that if these Settlers were continued in their Posts to the Exclusion of British Adventurers, the Ship Fishery could no longer subsist, and the Advantages which might from thence redound to Great Britain must be lost, or diverted into the Channel of your Majesty's American Provinces, whose proximity to these Seas would render them Rivals in the Fishery, too formidable for your Majesty's British Subjects to contend with.

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Upon this Part of the Case, which respects the Expediency and good Policy of continuing these Regulations, we shall not presume to offer any opinion, having already submitted to Your Majesty's Consideration that most extensive and important Question concerning the most advantageous Method of carrying on these Fisheries.

But whatever may be the Plan which your Majesty may judge proper finally to adopt for that Purpose, we think it our Duty, from what has appeared to us in the Course of our Inquiry upon the Subject of the present Memorial, to observe to your Majesty, that however these Memorialists have failed to make out any such Title to themselves under any of the French Grants above mentioned as might support the Complaint of their Rights having been actually infringed; yet as we have no Doubt but that claims to the exclusive Property of some of the Posts in question have been and will be made by some of your Majesty's Subjects under Titles derived from these Grants, we cannot think it adviseable, that, until the Question of the Validity of such Titles shall have been decided, such Parts of these Regulations as would immediately supercede and defeat them, should be carried into Execution; And if your Majesty should be of opinion, that by virtue of the Act of the 10th and 11th of King William the 3^d together with your Majesty's Royal Proclamation of the 7th of October 1763, all your Majesty's Subjects residing in every Part of your Dominions are intitled to the Right of an open and free Fishery on the Coasts of Newfoundland and Labrador, it will then remain for your Majesty's Consideration, whether upon that account also, it would not be adviseable to discontinue that Part of the said Regulations, which does in express Terms exclude a Part of Your Majesty's Subjects from the Labrador Fishery.

Before we close this our humble Representation to your Majesty, we beg Leave to lay before your Majesty a Paper very lately presented to us by (No. 4) Governor Pallisser, entitled "Proposals for encouraging the Fisheries on the Coast of Labrador, and for improving that at Newfoundland." The Subject of these Proposals is no doubt of the greatest national Importance; but these as well as whatever is contained in this our humble Representation, must be submitted to your Majesty in Your great Wisdom, and with the advice of Your Council to decide and determine thereupon.

All which is most humbly submitted,

Whitehall, }
May 13, 1766 }

DARTMOUTH
SOAME JENYNS
J. DYSON
PALMERSTON
JOHN ROBERTS

No. 237.

[1766.]

**PROPOSALS FOR ENCOURAGING THE FISHERIES
ON THE COAST OF LABRADORE,**AND FOR IMPROVING THAT AT NEWFOUNDLAND
(No. 4.)Copy.
COL. COR. NFD. VOL. 2.

The following Proposals are founded on a knowledge of the Valuable Fisheries that may be carried on upon the Coast of Labradore, and suggested by taking a view of and reflecting upon, a compared State of ours and the french Fisheries in Newfoundland, and the great disproportion of the Advantages arising therefrom to each Nation respectively; also on a Conclusion, that Fisheries (abstracted from pecuniary Advantages) are of the utmost Importance to all Maritime Nations, and more particularly to this, they being the greatest and most certain Nurseries for Seamen; yet observing that, by Neglects, Abuses, and the want of proper Regulations, the Advantages, that are absolutely necessary for the Safety of the State, may be lost, as is verified by the present State and management of our Newfoundland Fishery, which, instead of being a Nursery for, is the true Cause of the often-experienced Scarcity of Seamen for manning our Fleets on sudden & dangerous Occasions, and is an effectual Bar to all such increase of Seamen as is provided for by the Laws of this and all Nations relating to Fisheries.

My poor and humble Opinion here offer'd for establishing a new British Fishery, & towards recovering the most important Advantages of an old One, is most humbly submitted to Consideration.

First, as to the New-one

If Regulations are made for the Coast of Labradore, calculated to encourage Adventurers from His Majesty's Dominions in Europe, it will in a short time prove a great Source of Wealth and Naval Strength to this Kingdom; but in order to secure these Advantages to the State, the Regulations that may be made, should in my humble Opinion, above all things first provide against the Existence of any pretensions whatever to Property or exclusive Right, or Possessions, or Monopolies on that Coast, which should be declared Publick and Free to all the King's Subjects with all proper Preferences and Advantages to those from His Majesty's Dominions in Europe—and next

In order to put a Stop to the horrid Massacres, and many other Mischiefs committed on the poor Natives of that Country

from all Parts resorting thither, no Residents whatever (as yet) should be permitted during the Winter, and the absence of the King's Ships, except what may be particularly mention'd in the Regulations, till a farther knowledge can be obtain'd concerning the nature of the Country, the Indian Inhabitants, &c^a &c^a, in order to make such farther Regulations as may hereafter be judged best for the Benefit of the Fisheries, and the Trade of His Majesty's Subjects.

That to encourage Adventurers to begin this Fishery in the proper way, a Bounty be immediately offer'd to British Ships resorting thither, directly from His Majesty's Dominions in Europe, properly equip'd for both the Whale and Cod Fishery; Such a Bounty to depend on the number of men actually going out from, and returning directly to His Majesty's Dominions in Europe with a Proportion of new Men, viz^t every fifth Man to be a New or Green Man, that is to say, not a Seaman, or having ever been at Sea before, with such other Restrictions, and Conditions as may effectually guard against Abuses and fully answer the main Objects of bringing home and increasing of Seamen. If part of this Bounty was to be paid on the Ships sailing, first giving proper Security for performing the Conditions prescribed for the Voyage, (as is the practice in France,) it would send out great Numbers of new Adventurers of industrious Fishermen, independent of rich Merchants; and this will prevent the Fishery being a Monopoly to a few.

Such a Bounty would produce to the Nation all the Advantages proposed by that now given to the Greenland Ships; but in a far greater Degree, both as to the number of Men to be employ'd, and thereby secured in constant readiness for defence of the State, as by the great Profits that will arise from the labour of such increas'd Number of Men; for the Bounty now paid, on an Average of the three last Years, to the Greenland Ships is not less than £26,000 p. Annum for not more than 1800 Men employ'd therein, which amounts to £14 8s.—p. Man; if a Bounty is given as above propos'd at £3 a Head, which I think would be proper to begin with, when it amounts to that Sum, it will provide 8,666 Men in constant readiness for manning our Fleets, besides a Yearly Increase of 1733 such Men.

Whatever Bounty is at first given to this Fishery, in a few years it may be lessen'd, after it is once set on foot; and that the Blockhouses hereafter proposed are finished upon that Coast.

It must be observed, that the two principal Branches of this Fishery is for Whales and Cod; the others for Seals and Salmon, also the Indian Truck are very inconsiderable Objects compar'd with the two first; therefore the Regulations with respect to them, should consider them only as Articles to be bestow'd as Rewards to the most adventurous and industrious in the other two; This seems proper for raising an useful Spirit of Emulation, and is what I studied to do by my Regulations for that Coast the last year, by granting certain Privileges

respecting those Articles, to the 1st 2^d & 3^d arriving Ships in each Port from Europe; for it must also be observ'd, that the Ports, that admit of proper Situations for Sealing, or Rivers for Salmon, or Places resorted to by Indians, are but few.

p. 984

As a farther Encouragement and Security to British Adventurers upon that Coast, as well during the fishing Season, as for such Winter's Crews, as, by the Regulations to be made, they may be permitted to leave, I would propose,

That the Coast be divided into 3 Districts, Viz^t the North, the South, and the West, each containing about 100 Leagues of Sea Coast; that a King's Ship be stationed on each during the fishing Season; as well for Protection of the Fishery as for regulating Disputes and Disorders amongst the Fishers; that at some of the principal Ports in each District be erected a strong Blockhouse for the Security of such Winter's Crews, and of the Boats, &c^a left on the Coast by the Fishers: such Block-houses to be in such Situations as may be found best for these purposes; this will also be establishing the possessory Right to the whole Country.

The Block-houses here proposed are of a new Construction, far stronger than any other hitherto used, affording (from the Improvements made in those projected by the Earl of Egmont) double the Defence and Conveniences of any other hitherto constructed of the same Dimensions, yet not more expensive.

Besides the Bounty above propos'd for setting on foot the new Whale and Cod Fishery on the Labradore Coast, if a Bounty was to be given, for a few years only, to all ships bringing home not less than 21 Men directly from the Fisheries of Newfoundland., at the rate of 30 Shillings a head, that being the present Price of a Man's passage home, it would prove a great encouragement to the Trade, greatly contribute to restore the Ship Fishery there, prevent our Men running to America, lessen the Number of Residents in Newfoundland, draw from thence many thousands of Men, who remain there only for want of the Means of returning; and this, together with what may be expected from the Labradore Fishery, will soon provide such a Number of Men, always at hand in this Country for manning our Fleets as would be in effect be* a register'd Marine Guard, for security of the Nation against all sudden Dangers, without distressing other Branches of Trade, and prove a real Nursery for Seamen.

*sic.

Scheme for executing what is here proposed, for establishing the Blockhouses.

The Commanders of the King's Ships on that Coast to be directed this Year to look out for, and make Report of Places within their Districts fit for such Posts; each of the stationed Ships the next Year to carry out all Materials, that can't be had there, with proper Workmen for erecting one of these Block-houses in their respective Districts; and this Method to be observed yearly, till as many are erected as may be thought necessary.

I have visited and examined York or Chateaux Bay, with all its contained Harbours; and as this will always be the principal Port on that Coast, if I am empower'd, I will undertake myself to see one of these useful Block-houses finished at that Place this Year; this will be an immediate Encouragement to the Adventurers, and establishing the possessory Right to the Country at a Place in the Center of the whole Coast.

p. 985

I would propose to leave in these Block-houses, either a Sea Officer with a Party of Seamen or a Marine Officer with the like Number of Marines belonging to the station'd Ship, or a Detachment from the Garrison of St' Johns; such Officers and Men to be relieved every Year.

Such part of these Block-houses as are to be of Wood, may either be framed and prepared here, carryed out and immediately set up there, or a proper number of Workmen may be sent out in each Frigate; and build them with the Timber there, carrying such other Materials as may be wanted; either of these ways, I apprehend the Expence will not be great, may be exactly estimated, and the precise time of their execution ascertained. If they are to be wholly of Stone, the Expence I apprehend will be considerable; besides the uncertainty of meeting proper Stone there; but this may be better judged of hereafter; I would therefore recommend, that one Block-house on the aforementioned Plan, this Year be first erected of Wood, at York Bay, in case of a disappointment of Stone.

It will greatly facilitate the establishment of the Fisheries, and procure a safe and peaceable Access for His Majesty's Subjects to the Coast of Labradore, if the Brethren of the Unitas Fratrum are encouraged to settle amongst the Indians, as Missionaries, (which they are very solicitous to do) I would therefore propose to grant them any Priviledges, that may not be inconsistent with the Prosperity and Freedom of the Fisheries, and to give them one of the aforementioned Block-houses to themselves to live in, at any Place they may pitch upon.

The French now give a great Bounty to their Newfoundland Fishery; their particular Regulations I have not yet been able to get; but the Object thereof is to secure the return of their Men to France, with a certain yearly Increase of such Men; from the best Account I have been able to get, the Bounty, which their Merchants actually received the last Year, amounted to between 3 and 4 Pounds p. Man, upon 13,362 Men, which they had employ'd the last Year.

Now if the Court of France finds her Account in paying 40 or 50 thousand Pounds p. annum for the return of 13,362 Men, from her Fisheries, with a yearly Increase of one in every five on that number, it becomes a matter of consideration, whether an equal Sum would not be well laid out by Britain, for providing double that Number, to give us the Superiority over France in that important Article of Men fit for and always ready to man our Fleet, which we are now absolutely robbed of

(*sic.)

by the present Method of the Fisheries being carried on; the Men remaining there, therefore never to be had for that Service; nor have we such yearly Increase as France has, but on the contrary a loss of great Numbers that yearly run to America.

HUGH PALLISSER.

Endorsed. *Representation of the Board of Trade to the King.
13th March 1766. In the Board of Trade's Letter to M^r Sec^y
Conway, of the same date.

No. 238.

[1 Aug.,
1766.]

PROCLAMATION

ADMITTING VESSELS FROM PLANTATIONS TO FISHERY ON COAST OF
LABRADOR, ETC.

*sic.

B.T. NEWFOUNDLAND. VOL. 20, p. 66.

By His Excellency Hugh Pallisser Governor and Commander in
Chief in and Over the Island of Newfoundland the Coast of
Labradore and of all the Territories dependent thereupon.

Whereas a great many Vessels from his Majestys
Plantations Employed in the Whale Fishery resort to that part
of the Gulf of Saint Lawrence and the Coast of Labradore
which is within this Government, And as I have been informed
that some apprehensions have arison* amongst them, that by
the Regulations made by me relating to the different Fisheries
in those parts they are wholly precluded from that Coast.

*sic.

Notice is hereby given that the King's, Officers Station'd
in those parts, have always had my Orders to protect Assist and
Encourage by every means in their power, all Vessells from
the Plantations employed in the Whale Fishery coming within
this Government And pursuant to his Majesty's Orders to me,
all Vessells from the Plantations will be admitted to that Coast
on the same footing as they ever have been admitted in
Newfoundland; The ancient Practices and Customs Established
in Newfoundland respecting the Cod Fishery under the Act of
Parliament passed in the 10th and 11th years of William 3^d
Commonally* called the Fishing Act, always to be Observed.

*sic.

And by my Regulations for the Encouragement of the
Whale Fishers they are also under certain necessary
Restrictions therein Prescrib'd permitted to Land and Cut up
their Whale in Labrador, This is a Liberty that never has been
allowed them in Newfoundland because of the Danger of
Prejudicing the Cod Fishery carry'd on by our Adventurers
Ships And by Boat Keepers from Britain Lawfully Qualified
with Fishing Certificates according to the aforementioned Act,
who are fitted out at a very great risque and Expencc in
Complying with the said Act, Therefore they must not be liable
to have their Voyages overthrown or rendered Precarious by
any means, or by any other Vessels whatever. And—

Whereas great Numbers of the Whaling Crews ariving*
from the Plantations on the Coast of Labrador early in the
Spring considering it as a lawless Country were Guilty of all
sorts of Outrages before the arival*

of the Kings Ships, Plundering whoever they found on the Coast too weak to resist them, obstructing our Ship Adventurers from Britain by sundry ways, Banking amongst their Boats along the Coast, which ruins the Coast Fishery And is contrary to the most Ancient and most strictly observ'd Rules of the Fishery, and must not be suffered on any Account, also by destroying their Fishing Works on the Shore, Stealing their Boats, Tackle, Utensils, Firing the Woods all along the Coast and Hunting for and Plundering the poor Indian Natives of the Country, by these Violences, Barbarities, and other Notorious Crimes and Enormities, that Coast is in the Utmost Confusion, and with respect to the Indians is kept in a State of War.

*sic.

For preventing these practices in future Notice is hereby given, That the Kings Officers in those parts are authoriz'd and strictly directed to Apprehend all such Offenders within this Government, and to bring them to me to be Tryed for the same at the General Assizes at this place, And for the better Government of that Country, for Regulating the Fisherys and for protecting his Majestys Subjects from Insults from the Indians, I have his Majestys Commands to Erect Block Houses and to Establish Guards along that Coast.

This Notification is to* put up in the Harbours in Labrador within my Government.

Given under my Hand at Saint John's in Newfoundland 1st August 1766.

HUGH PALLISSER.

By Order of his Excellency

JN^o HORSNAILL.

Note.—The above was published in the papers at Boston for the information of all concern'd.

Endorsed:

In Gov^r Pallisser's Letter of 6 Janry 1769.

Read Janry 24 1769.

D. in Bayne and Brymer's Memorial infra.

[25 Aug.,
1766.]**PALLISER TO SECRETARY OF ADMIRALTY,**

RELATING TO FISHERY ON COAST OF LABRADOR, ETC.

COL. COR. NEWF^{LD}. VOL. 2.

Copy of a Letter from Commodore Pallisser, Commander in Chief of His Majesty's Ships and Vessels at Newfoundland, to M^r Stephens, Secretary of the Admiralty, dated on board His Majesty's Ship the Guernsey in St. Johns Harbour the 25th August 1766.

* * * *

When the King's Ships arrived on their Stations this Year upon the Coast of Labradore, they found between Two and Three Hundred Whaling Vessels from the Plantations, great part of which were employed fishing for Cod and carrying it over to the French Ships in Newfoundland; also destroying the fishing Works belonging to English Fishers; firing the Woods, and doing every kind of mischief to prevent and discourage English Adventurers from going to that Coast; also in hunting and plundering the poor Indians on that Coast. The King's Officers immediately put a stop to all this, and sent them away a Whaling, then our new Ship Adventurers from Britain under this protection went to work, and have succeeded beyond expectation, taking amazing Quantities of Cod, but they were too late this Year for the Whale.

August 26th
1766.

The Block House ordered to be built in Labradore could not (because of my late arrival) be executed this Season on the Plan proposed, but a very sufficient one of Timber shall be completed in Pitts Harbour, in which I propose to leave an Officer with a Guard of Twenty Men to secure the Boats, Craft and fishing Utensils of the British fishing Ships from being stole or destroyed by the Indians, or by the far more mischievous plundering Crews from the Plantations.

* * * *

Since writing the foregoing, I have had farther Advices from the Northern Parts of this Island, by which I find the Fishery there has proved very bad to both English and French, but our People have found a noble resource at Labradore, which makes their Voyages good, whilst the French are all exceeding bad.—An effectual stop being put to our People trafficking with the French there, has occasioned many to leave the Coast very early for want of Bread, being disappointed of Supplies from New England, one of their Agents has been here to solicit me for leave to purchase a Supply for Four of their Ships, but I have not granted him a Biscuit; our People begin to see their folly in dealing with

them by which they were enabled to pursue the Fishery to their own prejudice, and now begin to carry on the Fishery in those Parts with proper Spirit.

Endorsed. In the Lords of the Adm^{ty}s of the 29th Sept^r 1766.

[6 Sept. 1766.]

**DISMISSAL OF CLAIM OF MESSRS. BAYNE AND
BRYMER RECOMMENDED.**Privy Council
Register.
From Aug. 1766 to
Jan. 1768.
Vol. 112, p.20.Extract from the Minutes of the 6th of September 1766.

Newfoundland.

Report of the Lord of
the Committee for
dismissing the
petition of Daniel
Bayne and William
Brymer praying to be
Reimbursed the
Losses they have
Sustained by the
Governor of
Newfoundlands
having interrupted
their Fishery on the
Labrador Coast.

*sic.

Your Majesty having been pleased by Your Order in Council of the 11th of July 1766 to refer unto this Committee the Memorial of Daniel Bayne and William Brymer, Setting forth, amongst other things, that on the 26th of April 1763 (which was antecedent to Your Majestys Proclamation Declaring the Labrador Coast to be annexed to the government of Newfoundland,* His Excellency the Honourable James Murray Esquire, Governor of the Province of Quebec, Granted and Conceded to Your Memorialist, William Brymer for the Terms of four Years, until Your Majestys Pleasure should be further known a Certain Fishing Post then vacant and unoccupied, commonly known by the Name of Cape Charles Situate near the Streights of Bellisle on the Coast of Labrador (at the Time deemed part of the Dependencies of the Government of Quebec) whereupon the Memorialists did at very considerable Expence, Erect Stages at the said Post, Equip a Sloop and other vessels, and purchase large Nets and other Implements necessary for carrying on a Fishery, but in the Month of August 1765 the Memorialists Agent, William Lead was obliged to Abandon the said Post, together with the Memorialists Property in Consequence of an Order Issued by his Excellency Hugh Palliser Esquire, Governor of Newfoundland, declaring it to be Contrary to Law for any other than Your Majestys Subjects from your Dominions in Europe to Carry on the said Fishery, that the Memorialists were intirely Ignorant of any such Law (the same having never been Promulged) and therefore humbly praying Your Majesty to take the Premises into Consideration, and to Grant them such Relief and Redress for the Damages and Loss they have Sustained in the manner aforesaid As to Your Majesty shall seem meet. The Lords of the Committee in Obedience to Your Majestys said Order of Reference, this Day took the said Memorial and papers thereto annexed into Consideration and do agree humbly to Report, as their opinion to Your Majesty, That if the Memorialists have any Right to what they Claim in their said Memorial (which does not appear to this Committee) Yet, that Your Majesty in Your Privy Council not having any Jurisdiction in this matter the said Memorial ought to be dismissed.

Privy Council
Documents

Volume III
Contents

No. 241.

[10 Sept., 1766.]

**ORDER OF HIS MAJESTY IN COUNCIL DISMISSING
CLAIM OF MESSRS. BAYNE AND BRYMER.**

Privy Council
Register.

From Aug. 1766 to
Jan. 1768.
Vol. 112, p.36.

Extract from the Minutes of the 10th Day of September 1766.

Newfoundland.

Whereas there was this Day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs Dated the sixth of this Instant, in the Words following Viz^t

Report for dismissing
the Memorial of
Daniel Bayne and
William Brymer
praying to be
Reimbursed the
Losses they have
Sustained by the
Governors of having
interrupted their
Fishery on the
Labrador Coast.

Memorandum.—Here the Committee* Report for Dismissing the Memorial of Daniel Bayne and William Brymer praying to be Reimbursed the Losses they have Sustained by the Governor of Newfoundlands having interrupted their Fishery on the Labrador Coast to be Incerted at Length as Vide Entered—Page 20.

His Majesty taking the said Report into Consideration was pleased with the Advice of His Privy Council to Approve thereof and to Order that the Memorial of the said Daniel Bayne and William Brymer, be and it is hereby dismissed this Board

*sic.

[13 October, 1766.]

M. CUGNET'S ACCOUNT OF THE POSTS OF THE DOMAIN DURING THE FRENCH GOVERNMENT.

C.O. RECORDS 42/4, p. 639.

Les Postes et Traittes du Roy communément appellees les Traittes de Tadoussac

* * * * *

Et les sept Isles ou Rivière Moizy, pris et Egalement reunis au Domaine à la Requēte de mon Père, de la Concession et Seigneurie de la Terre ferme de Mingan appartenant aux héritiers Bissot par ordonnance de Monsieur Hocquart Intendant il y a environ Trente Ans qui se doit Trouver dans les papiers de l'Intendance, Jusqu'au Cap des Corps morans a 35 lieues plus bas que le havre de S. Nicolas, a quoi les heritiers Bissot n'ont fait alors aucune opposition, n'ayant dans cette Distance aucun Etablissement.

Ce qui faisoit une Etendue de Terre le long du fleuve de 97 lieues de front sur Environ 190 de Profondeur connue.

* * * * *

Quebec ce 13 Octobre 1766.

Signed: P. CUGNET.

Endorsed: Mr. Cugnet's Acco^t of the Posts of the Domain during the French Government.

[21 Oct.
1766.]**PALLISER TO THE LORDS OF TRADE,**REPORTING ON HIS EXCLUSION OF VESSELS FROM PLANTATIONS UPON
COAST OF LABRADOR IN FAVOUR OF BRITISH SHIP FISHERS.

Copy.

COL. COR. NEWFLD. VOL. 2.

MY LORDS,

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*

When the King's Ships arrived on their Stations this Year, upon the Coast of Labradore, they found between two and three hundred whaling Vessels from the Plantations, great Part of which were employed fishing for Cod and carrying it over to the French Ships in Newfoundland, also destroying the fishing Works belonging to English Fishers there, and in the North part of Newfoundland, firing the Woods, and doing every kind of Mischief, to prevent and discourage English Adventurers from going to that Coast; also in Hunting and Plundering the poor Indians on that Coast; the King's Officers immediately put a Stop to all this, and sent them away a Whaling; then our new Ship Adventurers, from Britain under this Protection went to work, and have succeeded beyond Expectation, taking amazing Quantities of Cod, but they were too late this Year for the Whale. I think proper here to refer your Lordships to my Letter of the 30th October last upon this Subject, and farther to observe, that the Abundance and Quality of the Cod, at Labradore, so far exceeds that at Newfoundland, that if Ships from the Colonies are admitted to carry on that Fishery, none can be employed from Britain, which must soon cause the Ruin of the British Newfoundland Fishers, and prove of the same Consequence, as if American Vessels were admitted to carry on the Newfoundland Fishery, that is, the whole will be conducted by Men and Ships that would never see Britain; and that grand Nursery for Seamen be wholly lost to Britain, and center in America. This is what the Act called the Fishing Act has hitherto in some Degree prevented; the footing I have put the American Vessels on for this Year on the Labradore Coast, is contained in the inclosed Notification I have published, to which I beg leave to refer your Lordships.

*

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I am with great Respect,

St. John's Newfoundland
21st October 1766

} Your Lordships

My Lords,

most obedient Servant,

HUGH PALLISSER.

To the Right Honble the Lords
Commissioners for Trade and
Plantations London

}

Endorsed: Copy of a Letter from Hugh Pallisser Esq^r, Gov^r
of Newfoundland, to the Lords Commiss^{rs} for Trade &
Plantations, dated St. John's Newfoundland Oct^r 21. 1766.

[1766—1768.]

**PETITION FROM JEAN TACHÉ AND HEIRS OF
BISSOT AND JOLIET TO THE KING,**PRAYING TO BE MAINTAINED IN QUIET ENJOYMENT OF THEIR POSTS ON
COAST OF LABRADOR.ARCHIVES PUBLIQUES DU CANADA,
C. O. 42. VOL. 6.

Requête Au Roy
de Jean Taché et des heritiers Bissot et Joliet, Nouveaux sujets
Canadiens, présentée par Antoine Pierre houdin fondé de leur
procuration.

SIRE,—Les heritiers Bissot et Joliet seigneurs, depuis plus
d'un siècle, de la Terre ferme de Mingan, des Isles et Ilets de
Mingan et de L'isle d'anticosty; et Jean Taché propriétaire à
Vie du Poste de St. Modet, (Les dits biens situés dans la
Rivière St. Laurent) sont forcés de recourir à la Justice de
Vôtre Majesté, pour etre maintenus dans La possession de
Leurs biens.

Les limites tirés en 1763 entre les Provinces de Quebec et
de terre Neuve ont mis sous le gouvernement de cette derniere
Province La plus grande partie de leurs seigneuries. En 1765,
L'on a commencé de les troubler dans leurs possessions, Une
fregatte ayant renvoyé les batimens partis de Quebec, (quoi
que munis de passeports) pour aller exploiter les Postes de St.
Modet et autres Postes des dites seigneuries, et les placards et
menaces continuels ayant obligé Leur fermier de La Seigneurie
de Mingan de se refugier dans les Limites de la Province de
Quebec, d'où il en a resulté un tort très considérable pour les
dits heritiers en particulier; pour plus de 500, de Vos
Nouveaux sujets, privés de leur travail ordinaire, et pour la
Province de Quebec en général par la perte totale de la Pêche;
Perte qui ne peut être reparee; la pêche qui se fait dans cette
partie n'ayant lieu que dans un certain temps de l'hyver où le
poisson passe, et qui ne peut par conséquent être faite que par
les gens établis sur le Lieu.

Le seul droit des gens; Une possession réelle et
immémoriale; Une jouissance d'un siècle; La capitulation
généralle du Canada confirmée par le traité de Paix, et ce
traitté Luy même sembloient assurer aux sujets du même
Monarque, sous deux gouvernemens séparés, Its sont troublés
dans leur jouissance sous de faux prétextes, et cette privation
est assurément egalle pour eux, à les en depouiller.

Vôtre Majesté est trop juste, Sire, pour souffrir l'oppression, et trop compatissante pour exposer à ses yeux la situation de 50 des dits heretiers reduits à la mendicité par les malheurs de la Guerre; que leurs ancêtres ont obtenu ces seigneuries pour prix du sang qu'ils ont versé en combattant et soumettant les Sauvages de ces parties, et par leurs découvertes; chosén qui ont contribué à l'établissement d'un Pais passé en la possession de Vôtre Majesté par la gloire de ses armes. Non Sire, Vos nouveaux sujets n'employent point ces ressources attendrissantes auprès d'un Monarque conduit par l'esprit de justice! La seule exposition de leurs droits est suffisante auprès de Vôtre Majesté.

Ces droits sont, pour les heritiers Bissot et Joliet. 1° La Seigneurie de la terre ferme de Mingan, à prendre du cap des corps morans, jusqu'à la baye Phelippaux, ou ance des Espagnols. 2° La Seigneurie des isles et ilets de Mingan, sur le même front que la Terre ferme. 3° La Seigneurie de l'isle d'anticosty. 4° La reunion à la terre ferme de Mingan, d'une portion de la dite seigneurie, nommée le Poste du grand Mecatinat, qui en avoit été detachée pour 9 années, seulement et dont la jouissance a ensuite été accordée en 1762, pour 7 années au Sr John Gray négociant, par son Excellence le général Murray, qui conduit que cette partie du Commerce estoit negligée, les Canadiens ruinés, étant alors hors d'état de la faire Valoir: Ne demandent cependant cette reunion, qu'après l'expiration des 7 années de jouissance accordées au dit sr John Gray, qui paye une rente aux dits heritiers. Les droits du sr Jean Taché, sont. La jouissance pendant sa vie du Poste de S^t Modet.

Les heritiers Bissot et Joliet et le Sr Jean Taché convaincus que Votre Majesté, moins glorieuse par ses Conquêtes, que par le bien et la tranquillité dont elle entend faire jouir ses nouveaux sujets s'adressent done avec la confiance la plus entiere et la plus respectueuse aux pieds du Thrône, et suplient Votre Majeste, de vouloir bien donner ses ordres au Gouvernement de Terre Neuve, pour empêcher qu'ils soient troublés à l'avenir dans leurs possessions et qu'ils puissent jouir au contraire de leurs dites seigneuries et pontes paisiblement et en toute propriété, soit par eux mêmes ou leurs fermiers, comme ils en ont joui depuis un siècle, et que l'ordre de vôtre Majesté soit intimé au Gouverneur de la dite Province de Terre Neuve, affin qu'il n'en puisse prétendre cause d'Ignorance, C'est la justice que Vous demandent, Sire, les dits heritiers Bissot et Joliet et le S^r Jean Taché; leurs Coeurs penetrés de la plus respectueuse reconnoissance ne cesseront de contunier les Voeux sincères qu'ils font pour la Gloire et l'heureux Règne de Vôtre Majesté, ainsi que le supliant, qui en travaillant pour d'infortunes compatriotes, n'a d'autre intérêt que de faire eclater la justice de Vôtre Majesté.

[1766—1768.]

[*Translation of No. 244.*]**PETITION TO THE KING**

FROM JEAN TACHE AND THE HEIRS BISSOT AND JOLIET, NEW
CANADIAN SUBJECTS, PRESENTED BY PIERRE HOUDIN, THEIR
ATTORNEY.

CANADIAN ARCHIVES.

C. O. 42. Volume 6.

SIRE,—The heirs Bissot and Joliet, seigniors for over a century of the mainland of Mingan, of the Mingan isles and islets and of the isle of Anticosty; and Jean Taché owner for life of the Post of St. Modet (the said property being situated on the river St. Lawrence) are compelled to appeal to Your Majesty's sense of justice so that they may be maintained in the possession of their property.

As a result of the boundaries drawn in 1763 between the provinces of Quebec and Newfoundland, the greater part of their seigniories have been placed under the government of the latter province. In 1763 they commenced to be disturbed in their possessions, a frigate having ordered back the vessels which had left Quebec (although provided with passports) to go and work the post of St. Modet and other posts in the said seigniories, and continuous libels and threats having forced their lessee of the Mingan seigniorie to take refuge within the limits of the province of Quebec, the result of which has been a considerable prejudice to the said heirs in particular: to over 500 of your new subjects, deprived of their usual labour, and to the province of Quebec generally through the entire loss of the fisheries; such a loss cannot be made up as the fisheries in this district can only be carried on a certain time in the winter when fish is migrating and consequently can only be worked by people residing in the region.

Your Majesty is too just to countenance oppression and too humane to be shown the situation of 50 of the said heirs reduced to beggary through the misfortunes of war and that their ancestors were granted these seigniories as a reward for having shed their blood in fighting and subjecting the Indians in these parts and for their discoveries, all of which made for the building up of a country now passed into Your Majesty's possession by the victory of his arms. Nay, Sir, your new subjects need not have recourse to such pitiable arguments with a Monarch actuated by a sense of justice! The mere recital of their rights is sufficient for Your Majesty.

As far as the heirs Bissot and Joliet are concerned these rights consist of:

1° The seigniority of the mainland of Mingan, extending from the cape of the Cormorant, as far as the bay Phelippaux or Spaniards' inlet. 2° The seigniority of the isles and islets of Mingan, on the same front as the mainland. 3° The seigniority of the isle of Anticosti. 4° The reunion to the mainland of Mingan, of a part of the said seigniority called the post of Greater Mecatina, which had been separated therefrom for nine years only and the enjoyment of which was subsequently granted in 1762, for 7 years to the sieur John Gray, merchant, by His Excellency, General Murray, who was aware that this part of the trades was neglected, the Canadians ruined, they being then unable to develop the same; such reunion being asked only after the expiration of the 7 years of enjoyment granted to the said sieur John Gray who pays rent to the said heirs. The rights of the sieur Jean Taché consist in the enjoyment for life of the post of St. Modet.

The heirs Bissot and Joliet and the sieur Jean Taché satisfied that Your Majesty takes more glory from the welfare and tranquillity he intends to be enjoyed by his new subjects than from his conquests, most confidently and respectfully beg of Your Majesty, at the foot of the throne, that he may be pleased to give to the Newfoundland government instructions that they be no longer disturbed in their possessions and that they may on the contrary, enjoy peaceably and as their exclusive property their said seigniories and posts, either themselves or through their lessees as they have enjoyed the same for a century, and that the Governor of the said province be served with Your Majesty's order so that he may not plead ignorance thereof. Such is the justice requested of you Sire, by the heirs Bissot and Joliet and the sieur Jean Taché who their hearts filled with the most respectful gratitude, shall not cease to pray for the glory and welfare of your Majesty's realm, and so shall the petitioner who, in lending assistance to unfortunate fellow countrymen, has no other end in view than to proclaim Your Majesty's justice.

P. HOUDIN.

[15 January, 1767.]

ATTORNEY GENERAL OF QUEBEC ON BISSOT'S CLAIM TO MINGAN AND TACHE'S CLAIM TO ST. MODET.

C. O. RECORDS 42/6.

A State of the Claim made by the Heirs and Representatives of Francis Bissot &c. . . . to the Seigniorship or Lordship of the Main-land of Mingan, Situated on the North Shore of the River and Gulph of S^t Lawrence, the Seigniorship or Lordship of the Isles or Islets of Mingan, Situated in the River and Gulph of S^t Lawrence near the Front of the Seigniorship of Mingan &c. . . . and of the Claim made by Mr. John Tachet to the Post of S^t Modet on the Coast of Labrador within the Straights of Belle-Isle.

* * * *

These persons complain that they have been grievously injured by the Orders Issued last year by the Governor of Newfoundland to the Inhabitants of the Labrador Coast to quit their Settlements.

* * * *

Of the Seigniorship of Mingan.—The Seigniorship or Lordship of Mingan is a Large Tract of Land situated on the North Side of the River and Gulph of S^t Lawrence, and containing in length 167 Leagues and a half, to-wit, the whole Extent of Country from the Point of the Main-Land that is adjacent to Egg Island (which is within the Boundaries of the Province of Quebec) to the Spaniards Bay commonly called Labrador or Baye Phelipeaux, which is very far without the Boundaries of the province of Quebec, and a little to the Westward of the Straights of Belle Isle. The depth of this Lordship is unknown, because the Original Grant of it is lost, and only the Front of it towards the River and Gulph of S^t Lawrence has been inhabited or occupied.

* * * *

Of the Posts called the Great Mecatina & Saint Modet.

* * * *

The Post of S^t Modet is Situated on the Coast of Labrador within the Straights of Bellisle, beyond the Bay of Philipeaux which is the Eastern Boundary of the Extensive Lordship of Mingan

* * * *

The next Instrument produced in Support of these Claims is the King 30 of France's Grant of St Modet to Mr. Hocquart for his life, dated the 20th July 1753.

By it the King grants him, in consideration of his long and Faithfull

p. 998

Services during the time of his being Intendant of Canada (which Office he held near 20 years) the same spot of Ground, on the Coast of Labrador, consisting of four Leagues in front, and four Leagues in depth, together with the Isles and Islets adjoining to the four Leagues in front

* * * *

Of that part of the two Lordships of the mainland and of the Isles and Islets of Mingan, which lies between Egg Island and Cape Comorant.

About 30 years ago the Western part of the two Lordships of the Mainland and the Isles and Islets of Mingan, from the River Moisie to Cape Cormorant, Twelve Leagues from the River St John, (which is the Eastern Boundary of the Province of Quebec,) was reunited to the Demesne of the King of France for the benefit of the King's Posts

Mr. Cugnet has likewise put into my hands another paper relating to the Title of the Heirs of Mr. Bissot and Mr. Jolliet to the Lordship of Mingan. . . . He says that on the 18th of February 1662, the French West India Company, who, by the Cession of the King of France, were at that time the Owners and Governors of Canada (les Regisseurs du Canada) Granted to Mr. Francis Bissot, Sieur de la Riviere, the Mainland on the North Side of the River and Gulph of St Lawrence from Egg Island to the Bay des Espagnols, called also the Bay Phelippeaux or Bay of Labrador, with power to make Settlements there for a Whale, Porpoise, and Seal fisherv in such places as he should find convenient for that purpose in that whole Tract of Country, and with a right of Hunting and Trading with the Indian.

* * * *

Signed: FRANCIS MASERES,
Attorney-general of Quebec.

Jan: 15th, 1767.

Endorsed:

In the Lieut. Governor's letter of 17th January, 1767.

[1927lab]

[9 Feb,
1767.]**PALLISER TO THE EARL OF SHELBURNE**IN DEFENCE OF HIS REGULATIONS AND PROCEEDINGS ON COAST OF
LABRADOR.

C. O. 194 VOL. 27.

MY LORDS,—In the year 1765 on a Visit I made to the Southern parts of my Government, in the Neighbourhood of S^t Pierres and Miquelon, I found great numbers of French from those Islands encroaching on His Majesty's Territories and on the Fisheries belonging to His Subjects, our People engaged in all sorts of Clandestine Trade with them, our Inhabitants of Newfoundland and vast numbers of Vessels from the Plantations all employ'd in fishing for y^e French, with several French Ships of War on the Coast to countenance and force this Clandestine Trade and Encroachments; I immediately put a stop to all this, and oblig'd the French Ships of War to quit the Coast; In the Execution of this Service, I discover'd that several People from Quebec, had settled themselves on the Coast of Labrador within my Government, for the conveniency of carrying on Clandestine Trade with the French both from S^t Pierres and directly from France; After I had put things into good Order in the Southern parts of my Government, and station'd Cruizers, and issued the necessary Orders to the Commanders, I proceeded to the Northward to do the same there, and in August I arrived in Labrador with several British Adventurers Ships under my Protection for carrying on the Fisheries there.

On my arrival I was inform'd of all y^e best Harbours and convenient Places along that Coast being possess'd in the Name of a few People belonging to the Province of Quebec, by Grants or Charters from General Murray His Majesty's Governor of Quebec, made when he was only Military Governor of that Place, each Grant including vast Tracts of Sea Coast with all the Islands Adjacent.—

I also found that those Settlers did not use those Places for carrying on the Fishery, but for the conveniency of carrying on a most Infamous and extensive Clandestine Trade with France, for supplying Canada with French Commodities, and other dealings with the French to the great Advantage of their Fishery, Commerce & Navigation, and without which the French cannot carry on the Fishery in those parts; those People were also in a State of War with y^e Natives of the Country, as well as with the many Lawless Crews resorting thither from the different Colonies.—

Such exclusive Possessions of the Fishing Coast held under Grants or Charters from a Governor of any of the Colonies, I consider'd no other than as partial and unjust Monopolies, restraining into y^e Hands of a few (and those Colonists) enormous Tracts of Land and Sea Coast, with all the Trade and the rich Fisheries within those Districts, to the obstruction of all Measures

p. 1000

for extending and improving the Fisheries, and to the utter exclusion of our Adventurers Ships from Britain, contrary to the special Priviledges which by y^e Fishing Laws they have a right to; also to the exclusion of all other the King's Subjects even from Quebec, and the other Colonies—therefore—

I consider'd such exclusive Possessions respecting the Fishery, as contrary and repugnant to the plain Words, Sense and Meaning, as well as to the Policy of every part of the Act of the 10th & 11th of William 3^d, and to every Rule and Regulation ordain'd thereby.—

I also consider such Settlers and Possessions (in that Country in particular) as contrary to the Kings Proclamation of the 7th October 1763.—

Thus applying the Effect of these Monopolies to the intent and meaning of the Fishing Laws, they appear'd to me exceeding Prejudicial to the Trade, Shipping and Navigation of this Kingdom, for I saw they must operate to subvert the very principles of the Fishing Act, and prove destructive of the great National object and advantage arising from the Fishery, for when once such a practice is allow'd in favour of the Colonies, or of any one of them, the Fishery will immediately become merely an American Fishery, the French reap the greatest share of the profits, and the whole be conducted by Men and Ships that will never see this Country; In that Case, all our British Ships and Men now employ'd in the Fishery, being above 300 Ships and 17,000 Men, must very soon be laid up, and that Grand Nursery for Seamen remain in America instead of this Kingdom, out of reach and where they may be withheld (under the Sanction of the Statute of 6 Ann. C37. S9) from ever being of Service for defence of the Nation, especially in such times of sudden danger as lately have, and in y^e natural course of things will often happen, and this will immediately be the case if I am not justified in having put a stop to so new & dangerous a Practice.—

Considering those Charters in this light, I conceiv'd it became my indispensable Duty to put an immediate stop to a practice of so exceeding dangerous a tendency.—

The whole matter appear'd to me reduceable to one Question, (*viz*^t) whether Settlers under Charters from a Governor of any of the Colonies, or on any other pretence whatever, shall take possession of, & constantly hold, exclusively, on the Fishing Coasts, either the Land and Coast with any Branch of the Fishery for Cod, Seal, or Salmon, together or seperately, or whether the whole shall remain open

and free to our British Adventurers to enjoy their Priviledge of the first choice of Places Yearly for the Fisheries, according to the Rules prescribed by the Fishing Act, and the constant usage under that Act, For when the Colonists are once allow'd to come and take possession of, and constantly hold places, and enjoy exclusively under any pretence whatever, either the Coast or any Branch of the Fishery, or to have the first choice of places yearly, our British Adventurers will be robbed of all the necessary Encouragements and Preferences that are granted to them by the Fishing Act, which if not preserv'd to them, they are not on a Par with the Colonists, nor can we have any Fishery from Britain; upon this view of the case.—

After duly considering the trust repos'd in me, I consulted my Commission

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under the great Seal, and my Instructions under His Majesty's Sign Manual for Authority to dispossess those monopolizing, smuggling Settlers, and to annul those extraordinary grants, and for establishing Peace and good Order on that Coast.—

By both I found myself refer'd in all things respecting the Fishery, to the Act of the 10th & 11th of Will^m 3^d, without any exception or distinction respecting any part of my Government,—

I found myself strictly commanded not to do anything, nor to suffer anything to be done contrary or repugnant to the said Act.—

I likewise found myself authoriz'd in all things, not particularly provided for in my Commission and Instructions, to take present Order therein, and to report for His Majesty's Information my Proceedings, in order to receive His Ratification if Approv'd of.—

Hence I thought myself fully authoriz'd to annul all such charters, and to remove all Settlers under them, for it appear'd to me that nothing could possibly be more contrary or repugnant to the Act refer'd to, and to the Priviledges thereby granted to British Fishers, and no Person but myself was authoriz'd to take present Order in such matters.—

*sic.

How those Grants were originally obtain'd, and whether at any Expence to the Grantees I know not,—but relying on this Authority, on the rectitude of the Measures for the Benefit of the Publick, for fulfilling the intent of the Fishing Act, and on the receiv'd usage under the said Act, as well as the Customs of the Fishery for One Hundred Years before the passing that Act; I did annul those Charters and Grants, and determin'd to remove all the Settlers under them, and such of them as were within my reach, I did dispossess; I studied how to do this without damage or loss to them, and it was done to their real Profit instead of Loss, for they having no ship or Vessel there, I consulted with their Agent upon the Spot, and gave him my Opinion and Advice on everything he propos'd, and every possible Assistance was given him in doing what he thought best, and which was for the real profit, instead of loss to the

Owners.—

As soon as it was known at Quebec, that I had dispossess* the Grantees of their Lands, they complain'd to Governor Murray, who had never recall'd those Grants; He told them, that he had reported for His Majesty's Information, an Account of his having issued them, and no disapproval thereof had ever been signified to him, and therefore in support of them he took Cognizance of their Complaint, and with his Council of that Province proceeded to examine into, and to adjust their Accounts in order to obtain Damages from me, and attested their Proceedings under their hands, so that I must consider this as a Suit of the Governor and Council of Quebec, with a few more Monopolists, against the Governor of Labrador and all British Fishers; it also appears that some of the Council of Quebec, were concern'd in those extraordinary Grants; the Object of such a proceeding cannot be the benefit of the Trading part of His Maj^s Subjects, but it may answer some private purposes and be intended to intimidate me in the execution of my Duty, and to remove me from the King's Service, but His Majesty's Pleasure in this respect is the Law.

p. 1002

Here I cannot avoid pointing out one flagrant inconsistency in this matter; The People who complain against me, are complainants also with many others in the Name of all the People of the Province of Quebec, against restraints on Trade, Monopolies & exclusive grants of tracts of Coasts and Islands to the prejudice of a free Fishery within Mr Murrays present Government, and yet they prosecute me for annulling such pernicious Grants made by him, within the Limits of my Government; and the Validity of them seem still to be supported at Quebec, the Complainants encouraged & assisted by the Proceedings of the Governor and Council there, to prosecute me for removing the Settlers under them from Their Possessions, and for putting those few Grantees on the same excluded footing (with respect to that Coast) as Governor Murray's Grants had before put all the rest of the People of his own Province and this was only for a very short time (viz^t) from the end of one Season to the beginning of the other, that is till the Kings Pleasure could be known, and which was also a temporary and absolutely necessary expedient for establishing Peace and Order in a Country where no Government, Law or Regulation had yet taken place, and where War Repine, Robbery all sorts of Crimes and Enormities and the utmost Disorder and Confusion reign'd by mixt multitudes of Lawless Crews from all the neighbouring Colonies.

On my return to England in 1765, I found some of those Grantees arrived from Quebec Encouraged as aforementioned to prosecute me; They first represented to me that great damage had been done them in Labrador; I told them over and over again, that if by being dispossess'd of the Lands the

smallest thing belonging to them on the Coast, had been embezzled or lost, or not accounted for to their satisfaction, I would see it made good, if they would let me know what it was, but nothing would satisfy them without consequential damages for being remov'd from the Possessions granted to them by Governor Murray, and which they still continue to demand.—

After I left England in 1766 to return to my Government, they presented a Memorial of Complaint to His Majesty against me, which before my return to England His Majesty was pleas'd to dismiss, and the Complainants were refer'd by the Lord President to their Action at Law; Had it pleas'd His Majesty to have caus'd the matter to have been enquir'd into in Council, I should most cheerfully have submitted to whatever might have been Judged proper, and it may be presumed the Complainants would have acquiesced; as they had chosen that method by way of appeal from my decision in a Matter relative to a Claim to Land and exclusive Priviledges within my Government, and upon which no Person but myself had Authority to decide in that Country, And the Complainants still say they wish it had been so decided, rather than by a long expensive Law Suit, but under the Circumstance of being already dismiss'd I know not how far it may be proper for me to apply for it. Yet if in strictness of Law it should be determined that those People are intitled to any damages, I will hope His Majesty will determine whether Mr Murray or I ought to Pay it, since he tho' Ignorant of the Nature of the Fisheries, of the Laws relating to them, and without the least shadow of Authority made those extraordinary and unlawfull grants, which was the occasion of, and made all my proceedings respecting the Coast of Labrador necessary, had

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it not been for those grants the Fishery ther would have gone on in the proper and usual way, without any difficulty or troubl'd to me in the Execution of my duty—

When I return'd to England in December last, I found myself giving up to Vexatious and expensive Law suits in Westminister Hall, y^e expence of which I can but ill afford to support, if it had pleas'd His Majesty to have indulged me with hearing in Answer to the Complaints before the Complainants had been advised to seek their remedy at Law, I trust I should havemade it appear that I have done nothing but what is agreeable to my Instructions, to the Fishery Laws, and consistant with the Duty of my Office for His Majesty's Service, and the benefit of his Subjects.—

I understand I am the first of His Majesty's Governors that has ever appear'd in Westminster Hall on such an occasion, therefore I must appear there insuch a light, as it will not be to His Majesty's Honour to continue me in his employ, however, if a total change in the mode of carrying on the Fisheries is to take place, and thereby the whole put into the Hands of the Colonists (which must be the consequence of my not being

justified for putting a stop to this new Practice begun and Encouraged by y^e Governor and Council of Quebec) I had rather it should be done under the sanction of an English Judge and Jury, than by an act, neglect or connivance in me.

I wish, not only on my own Account, but also on Account of Government (seeing that not only the Measures of Government and the Kings Instructions must be brought into Question) that the matter might have been heard at y^e Council Board, conformable to what I am inform'd has been the constant Practice in the like cases, and conformable to the wishes of the complainants themselves, but since I am precluded from that usual mode of Proceeding, and that this matter which is more of a Political than Personal nature, must be submitted to the decision of a Court of Law, I must beg the favour of your Lordship to lay this my humbl^e representation of my situation before the King, and to move His Majesty for leave to produce in Court my Commission and His Majesty's Instructions and (if I don't stand in a light unworthy of it) that he will be Graciously Pleas'd to order that I may have such Assistance from the Law Servants of the Crown, as shall appear to be necessary in a case in which the Publick Interest is no less concern'd, than my character and Conduct as an Officer and Servant of the Crown.—

I am with the utmost respect

My Lord

Your Lordships

Most Obedient & most

Humble Servant,

HUGH PALLISSER.

London, 9th Feb^y 1767.

L.S.

To The Right Honble the Earl of Shelburn, &c^a &c^a./

Endorsed:—London, Feb^y 9th 1767.

Governor Palliser.

No. 247.

[23 July,
1767.]**ORDER AGAINST FIRING THE WOODS ON THE
COAST OF LABRADOR.**

BY HIS EXCELLENCY HUGH PALLISER, ETC., ETC.

Whereas the woods are frequently set on fire upon this coast by the crews of whaling vessels from the plantations and the same is an offence against the Statute of the 10th and 11th of William III., and is equally prejudicial to the public whether done wilfully maliciously or negligently. Notice is hereby given that if any persons by any ways or means whatever, shall set on fire any of the woods within my Government, they will be apprehended and sent to me at St. John's to be tried for such offence against the Statute.

Given, etc., in Pitt's Harbour, Labrador, 23rd July, 1767.

HUGH PALLISER.

N.B.—Copies of this order are put up along this Coast where Whaling vessels resort.

N.B.—No fires must be made on shore where there is a possibility of its communicating to the adjacent woods.

By Order of His Excellency,
JOHN HORSNAILL.

INSTRUCTIONS TO MR. LUCAS

[2 Aug., 1767.]

To Mr. Fra's. Lucas in
York Fort, Labrador,
to take upon him ye
care Charge of the
King's Shallop &
Boats to be left there
this Winter.

Mr. Robt. Baldock,
Mr. Thos. Dodd,
Surgn's Mate.
Wm. Tinnion,
Saml. Foster,
Thos. Butler,
Josh. Tracey.

WITH CARE AND REGARD OF KING'S SHALLOP AND BOATS
AT YORK FORT.

RECORD BOOK, ST JOHN'S, NEWFOUNDLAND. VOL. 4.

By His Excellency Hugh Pallisser, &c., Commander in Chief of
all His Maj's Forts and Garrisons and Ships and Vessels
Employ'd within the said Districts.

Whereas I have judged proper to appoint a Petty Officer,
with a Boats Crew, part of the Complement of His Majesty's
Ship Guernsey, to stay at York Fort in Pitts Harbour, Labrador,
during the Winter, to take care of the King's Shallop and Boats
to be left there for the service of the Garrison after the King's
Ships leave the Coast.

You are hereby required and directed to proceed with the
Six Men named in the margin to the said Fort, and take care of
a Yawl and two Wooding Boats, and when the Zephyr leaves
the Coast, the King's Shallop, also with all materials belonging
to them.

You are to follow the Orders and directions of Lieut. Saml.
Davys, the Commanding Officer of the Garrison, in all things
for the King's Service, and in case of his Absence or Death, I
hereby appoint you to succeed to the Command of the
Garrison, and to Execute the Instructions he has from me, and
in case of your absence or Death also, Mr. Robt. Baldock is in
like manner to succeed to the Command, and after him
Newman Serjeant of Marines.

As early in the Spring as the Season will permit, you are to
put the Shallop into the best order you can for Service, to be
Employ'd on the Coast, as the Commander of the King's Ships
Station'd here shall think proper after his arrival.

You are to keep an exact Journal of the Wind and Weather,
& of all Occurrences.

Given &c. in Pitts Harbr., Labradore, 2nd August, 1767.

2 August,
1767.**No. 249.****GOVERNOR PALLISER TO LIEUT. SAML. DAVYS,**TO TAKE UPON HIM YE COMMAND OF YORK FORT IN
PITTS HARBOUR, LABRADOR.RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 4, page 19
(reverse of book).

By His Excellency Hugh Pallisser, &c., &c.

Commander in Chief of all His Majesty's Forts and Garrisons &
Ships & Vessels employ'd within the said Districts.

IN PURSUANCE of the King's Commands for Establishing Posts with Guards on the Coast of Labrador, for the Encouragement and Security of His Subjects Employ'd in the Fisheries on that Coast, against insults from the Savages as well as to secure their Ships, Boats, Craft, Tackle and Fishing Works, from being damaged or destroy'd by Lawless Crews from the Plantations or elsewhere, I have erected a Strong Block House and Stockaded Fort at Pitts Harbour on the said Coast.

You are hereby required and directed to take upon you the Command of the said Fort, named York Fort, & observe the following instructions.

1st. You are by every means in your Power, to protect, and defend His Maj's Subjects resorting thither, with their Ships from Britain, and their Effects, Fishing Works, &c. as above-mention'd.

2nd. Whereas many lawless Crews from the Plantations and elsewhere, resorting to the Coast of Labrador, have been guilty of all kinds of disorders, such as Robbing, Plundering and Murthering each other, and the Natives of the Country; also destroying the Fishing Works in the absence of the Ships, Firing the Woods, and sundry other Crimes and Enormities to the obstruction of the Fishery, you are as much as in you lies to prevent the same in future, and for better, enabling you to do this, and to preserve the Peace, you will herewith receive a Commission appointing you His Majesty's Justice for keeping the Peace, and any Persons that set fire to the woods, or that Commit Robbery, or do any damage to the Ship Fishing Works, or Commit Murther on any of His Majesty's Christian or Indian Subjects, or any other Capital offence, you are to

apprehend and deliver such Offenders to the Commander of any of His Maj's Ships that may come to the Coast, in order to their being convey'd to St. John's to be try'd for the same at the General Assizes there.

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3rd. You are not by Virtue of these Instructions or of your Commission, as Justice of the Peace, to do anything contrary or repugnant to the Statute of the 10th and 11th, of William 3rd, which you will herewith receive, nor to oppose or interfere with the powers thereby granted to the Fishing Admirals in what relates to the Fishery, and the Rules and Regulations ordained by the said Act, nor interfere in anything but for preserving the Peace, and the particular offences mentioned in the preceding Article.

4th. The Officer who you will Relieve, will deliver you an account of the Ordnance Arms, Ammunition and Stores in the Fort, which you are to be carefull of, and keep a regular account of the Expenditure thereof.

5th. I have appointed the Guard to consist of Twenty two men, all apart of the Complement of His Majesty's Ship Guernsey (viz) Yourself, a Serjeant, a Corporal, and twelve Marines, a Midshipman and Six Seamen, the whole to be in all things under your authority and Command. Mr. Lucas, Midshipman of the Guernsey has my directions to take on him the dare and Charge of the King's Shallop a Yaul and two Wooding Boats, which I have ordered to be left with you to be employ'd on the Service as you shall see occasion to direct; I have also order'd provision to be laid in for the aforementioned number of Men, to serve till the first day of August next. You are to be very careful the same is regularly issued according to the Established Allowance of the Navy.

6th. You are to be very careful to keep a proper Guard and make a proper disposition for being always secure against any Surprise or Attacks from the Savages you will herewith receive my Regulations relating to ye Natives of the Country for your information and guidance in what is thereby directed, taking care (especially after the Ships have left the Coast) never to put yourself or any of your People into their power, however friendly they may pretend or appear to be, and above all things never to admit above one or two within your Works, and that not often, only now and then, to convince them that no harm is intended to them, and dismiss them with kind and friendly treatment, yet be always strictly on your Guard, nor don't encourage them to abide in your Neighbourhood, and on no Account ever let your People go out without Arms, either by land or in Boats.

7th. When any Vessels from the Plantations come into your Port (and when their is no King's Ship there) you are to take an

Account of them in the Form you will herewith receive, and let the Masters read the Advertisement relating to them dated the 1st Aug., 1766, which you will also herewith receive, and inform the Masters, that if any of them are guilty of any of the Offences therein mentioned, they will be apprehended by you, and sent to me, to be Punished with the utmost severity of the Law.

8th. If at any time any French or other Foreign Vessels should come on the Coast you are to detain them (except in cases of very apparent distress)

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and deliver them to the Commander of the first King's Ship that may arrive on ye Coast to be sent to St. John's for my Examination, and to be proceeded against according to Law.

9th. You are to Communicate these Instructions to ye Commander of any of the King's Ships that may come to your Harbour, & follow any Orders they may Judge necessary to give you for the King's Service.

10th. In case of your absence or Death, I have appoint'd Mr. Fran's. Lucas to succeed to the Command of the Garrison and after him Mr. Robt. Baldock, and after him Newman, Serjeant of Marines.

Given &c. in Pitts Harbr., Labrador,
2nd August, 1767.

No. 250.

C

**MEMORIAL FROM BRITISH SHIP ADVENTURERS
TO PALLISER,**

[Aug., 1767].

Col. Cr.
Newfoundland.
Vol. I, p. 9.
America &
West Indies.
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PRAYING TO BE SUPPORTED IN THEIR RIGHTS AND PRIVILEGES ON COAST
OF LABRADOR.

B.T. NEWFOUND^{LD}. VOL. 20.

To His Excellency Hugh Pallisser Governor and Commander in Chief in & over the Island of Newfoundland, the Coast of Labrador & of all the Territories dependent thereupon.—

We the Undersigners, being Adventurers in the Fishery from Britain to the Coast of Labrador, beg leave to represent to your Excellency, that we and a great many others are determined to pursue the Ship Fishery with Spirit to this Coast, since by your measures it is made Manifest that We may depend on being supported therein, under the Rules and

Regulations prescribed by the Statute of the 10th & 11th of William 3^d and that the Government will provide a Sufficient security for the Persons, Ships, Effects & Fishing Works of the Adventurers, as well from the several Nations of Savages of the Country, as from the depredations, outrages and encroachments which we have been expos'd to from the many Lawless Crews resorting hither from the different Plantations and elsewhere.

And as we are satisfied your measures are proper for preserving good Order, and for the Publick benefit, without giving undue preferences to individuals We beg leave to offer to your consideration our opinion, that it will be a great Encouragement to the Ship Fishery, if such Fishing Ships as

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may first make a new place and Fishing Conveniencies thereon, can be only allowed to enjoy the same to their own use and benefit, so long as they continue to occupy and use the same with Fishing Ships Yearly but no longer; a declaration of Your sentiments upon this Head, and that you think such a Custom will be conformable to the intention of the said Statute for extending and improving the Fishery, will, we know determine great numbers immediately to become Ship Adventurers to this Coast from Britain.

On this occasion, we also beg leave to return our thanks for the Advantages we have already experienced from the pains the Kings Officers upon this Coast under your Excellencies directions, have taken for putting a stop to the great disorders that have of late Years been committed on this Coast by Lawless Crews from the Colonies, by which great advantages to Ye Nation have been lost, the Coast kept in a State of War, and the utmost confusion reigned amongst the many different People from the different Colonies all disputing, contending and obstructing each other, and the whole conspiring to exclude and Ruin Adventurers from Britain.—

We beg the continuance of your measures for suporting us in our Rights and Privileges as Ship Fishers from Britain arriving Yearly, equipped and Manned as the aforemention'd Statute directs; against all obstructions and Inter lopers, and particularly that care may be taken for preserving the Woods for the uses of the Fishery, which is already very scarce, many tracts of many Leagues each, having been already fired and destroy'd by the aforemention'd disorderly Crews, and above all we hope that you will not allow of any Patents or Grants from the Governors of any of the Plantations for any Persons whatever to hold exclusively any particular districts or Harbours on this Coast, or any branches of the Fishery thereon such as we have been inform'd the Governor of Quebec has made, since such a practice would prove not only the immediate ruin of us, but of the whole British Fishery in general.—

Signed by Twenty Five Ship Adventurers in Labrador, in

behalf of themselves and their Partners—

at BRISTOL
DARTMOUTH
TEIGNMOUTH
EXETER
POOL
LONDON.

Aug^t 1767.

Endorsed:

at Copy of a Memorial from the Ship Adventurers
Rights Labrador praying to be supported in their
and Privileges.
1767.

No. 251.**REGULATIONS**

FOR THE ESTABLISHMENT OF THE BRITISH FISHERY ON COAST
OF LABRADOR, 1767.

[10 Aug.,
1767.]

C.O. 194. VOL. 18.

By His Excellency Hugh Pallisser Governor of Newfoundland and Labrador, & all the Islands and Territories dependent thereupon, Commander in Chief of all His Majesty's Forts and Garrisons, and Ships & Vessels Employ'd within the said Limits.

Sundry Merchants and Adventurers in the Fishery, having by Memorial in behalf of themselves and others, represented to me several matters for the Encouragement of the Fishery on this Coast of Labrador, particularly that it would be an Encouragement to the Ship Fishery, if Fishing Ships who may first clear and make New Fishing Places and erect New Stages and other conveniences on this Coast of Labrador, could be permitted to enjoy them to their own use, so long as they continue to resort to and use them with Fishing Ships Yearly and no longer, and on ceasing so to use them, the same to become Publick and common. To the said Memorial I think proper to make the following declaration.

I have advised with the present Ship Adventurers upon the Coast, & have consider'd the said proposal, and applied it to the Words, intent and meaning of the Statute of the 10th & 11th of William 3^d in favour of Ship Fishers, and find that the several good Rules and Regulations ordained by that Statute (and which must be observed here) were founded on and are a confirmation of the Ancient customs and usages established and observed by the Ship Fishers amongst themselves, before there was any Statute Law for regulating the Fishery; therefore, it being the general opinion and consent amongst the Ship Adventurers that the aforesaid proposal should become a rule and custom amongst them, that is, for the Ship Adventurers (but none else) who now have on hereafter may first make New Fishing Places, and erect New Stages and other Works on this Coast of Labrador, to enjoy the same whilst they continue to use them from Year to Year successively, with Fishing Ships arriving Yearly from Britain, Lawfully qualified as such, with the usual Fishing Certificates on the Oath of the Master, of their being Mann'd as is prescribed by the said

Statute, and the Fishing Admirals themselves strictly to conform to this Rule, and in the exercise of their Authority to hear and determine

p. 1011

in the first instance, all disputes arising in their respective Harbours, about the choice of Rooms in turns as Ships respectively arrive &c^a to pay regard to the plea of those Ship Adventurers who have, or hereafter may first make any New places and erect New Stages and other Works thereon, and to adjudge the same to them on their return, or such part thereof as may be in proportion for their number of Men according to their Fishing Certificates then to be produced, and for that Year; I therefore approve of this proposal becoming an Established Rule, because it appears to me as represented (viz^d) Reasonable and agreeable to the intent of the said Statute, for the Encouragement and Establishment of the Ship Fishery, but it is always to be understood, that nothing is to be construed to take away any of the Lawfull Authority and rights belonging to the Fishing Admirals, to judge all matters which concerns the privileges belonging to the Fishing Ships according to the said Statute and the above Rule, nor to invest any Person whatever, with an exclusive property or possession of any places or Fishing Works in this Country, so as to give any right or pretence for any Persons to damage or take away such Works once erected, or to let for Rent, Sell, Mortgage, give away or bequeath the same, nor to Establish any Inhabitants thereon, or on this Coast, nor to dismiss or leave any of their Men in this desolate Country (except such as is hereafter provided for) all which is inconsistent with a Publick and free Ship Fishery, causes the Fishing places to be ingross'd by a few, the Ship Fishers to be excluded, and the Fishing Trade to be contracted into the Hands of a few to the very great loss of the Publick, and advantage of our Rivals in that valuable Trade, therefore all places and Works thereon must become common and Publick after the first Erectors thereof once cease to use them, or any part of them during one Season, with qualified Ships and Men as above prescribed, and a Register to be kept of the whole.—

All Inhabitants, Settlements and possession upon this Coast of Labrador, between the Limits of the Government of Quebec, and the Limits of the Hudson's Bay Companies Charter, are forbid by His Maj^s Proclamation of the 7th Oct^r 1763, and all Persons who had then made any Settlements here, under pretended Grants from any of the Governors of the Colonies, or on any other pretence, are by the said Proclamation warned to withdraw and quit the same; therefore, and for better securing the Ship Fishers Works from being destroy'd in their absence, no person can be permitted to stay on this Coast in the Winter, till His Majesty's farther pleasure shall be known, except the Masters of three of the first arriving Fishing Ships at or within ye Limits of each principal Harbour hereafter Named, may chuse to leave each a Crew of Twelve Men (who

agree to stay) and no more, for the Winter Sealing Voyage &c^a the Foremen or Skippers of such privileged Crews to be prudent trusty Men, and to be furnished with a Certificate from the Master of the Fishing Ship to which they belong, who is to be answerable for the conduct of his Crew so left, and to make good any damages they may commit to the Fishing Works; The Masters of the three first arriving Ships who intend to use this privilege, must in future declare it in Writing, to the Fishing Admiral at each principal Port, on or before the first day of August each Year, this is allowing full as

p. 1012

many Crews as there are Posts within the Limits of each Port fit for the Seal Fishery, and this preference thereof given to the first arrivers, is intended as a reasonable and usefull reward and Encouragement to the most Adventurous and Industrious Ship Fishers; besides this Limitation of the number of Winterers, is absolutely necessary for preventing constant quarrels about those Sealing Posts, and likewise many other quarrels, outrages, disorders, and even frequent shocking murthers that yearly happen, amongst numbers of such People staying in this desert Country, likewise to prevent quarrels, murthers and Acts of Violence against the Natives of the Country, by which they will be provoked to be always our Enemies, and to obstruct the Fishery.—

And as a farther Encouragement to the Ship Adventurers on this Coast, a strong Block House is erected in Pitts Harbour, with an Officer and a Guard Established there, under the protection of which they may leave any number of Boats, Craft and Fishing Utensils in perfect security during the Winter; and it is intended to erect others such for the same purpose, at other convenient Places along the Coast.—On this footing the Fisheries on this Coast must remain till the King may please to order it otherways.

Given under my hand in Pitts Harbour Labrador 10th Aug^t 1767.

HUGH PALLISSER.
D.S.

Endorsed: Establishment of the Ship Fishery in Labrador.
1767.

No. 252.

[14 Aug.,
1767.]**GOVERNOR PALLISER TO GOVERNOR CARLETON
OF QUEBEC.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND.
Volume 4, page 22 (reverse)

Pitts Harbour, Labrador,
14th Aug., 1767

Your letter of the 2nd October, 1766 and 18th May, 1767 in favour of several Persons therein Named (Inhabitants of Quebec) to hold Posts on this Coast for the Fishery, I did not receive till this Day.

The exceeding confused state in which I found things on this Coast in my coming to this Government, occasioned by great numbers of the most abandoned People from all the Colonies resorting to it, all considering it as a Lawless Country, and all disputing, quarrelling, contending & obstructing each other, has produced so many outrages and disorders, that the most vigorous measures, and the utmost endeavours of the King's Officers in those parts, have not yet been able to reduce them into any tolerable order, or to enforce the Fishing Laws, this, together with the difficulty of preserving Peace between such People and the Natives who are the most Savage of all Savages, a Tribe of about Five Hundred of which are come down and now encamped under the protection of the King's Ships at this place, so that I am now so fully engaged, that I have only time to say in Answer to yours, that your request cannot be granted, and for the reasons must beg to refer you to the inclos'd Memorial from the Merchant Adventurers, and my declaration in answer thereto, explaining the footing upon which the Fishery is Established, and as it must remain until ye King shall please to order it otherways, all which I wish to be understood, and made as Publick as you think proper to make it for the information of the People of your Government, and also, that they may know that I shall always have the utmost pleasure in rendering any services that I can regularly do, to any Person worthy of your recommendation, notwithstanding some inconsiderate New Settlers in your Province, endeavour to be as troublesome to me in England, as they are here; for detecting and putting an end to their infamous Clandestine Schemes in combination with the French, and for enforcing the British Laws, for supporting the British Fishery and Navigation, upon which the Nations Marine Strength and security so much depends.

I am,
With great regard,
Sir, &c., &c.

[27 Aug., 1767.]

ADDITIONAL RULES FOR LABRADOR FISHERY.

N.B. This Rule relates only to Esquimeaux Island, Henley Island, Castle Island and the Seal Islands without any regard to room for drying and curing of Fish, those Islands being all deemed Stage Room only.

RECORD BOOK. VOL. 4.

Additional Rules proposed in Labrador, agreed to and register'd.
Chateaux Bay, Labrador, 22nd August, 1767.

1. According to the opinion of all Adventurers in this District, it is agreed, that from sufficient experience, it appears that Esquimeaux Island, Henley Island, Castle Island, and the Seal Islands, are not places where any Person can cure a Voyage of Fish, but that they are exceeding convenient places for erecting many stages and Works upon, for Splitting and Salting Fish only, therefore to prevent the same being engross'd by a few, and that as many Ships may as can possibly with conveniency be admitted to the use of those Islands for the aforesaid purpose, after duly considering all circumstances, and the course of the Fishery upon this Coast, it is agreed as follows:

That it is necessary to have Stage Room enough to lay occasionally at one time, two Hundred Quintals of Fish in Salt pile per Boat, and that a space equal to 25 feet square which is 625 square feet is necessary and sufficient for that and all other purposes, excluding the Stage Head, the measurement to commence at 36 feet from the outermost Beam of the Stage Head.

That all Stages now built, or that hereafter may be built on the said Islands, shall be measured, register'd and Rated according to the above proportion, but no Stage to be Register'd till a Platform of at least two Beams length is laid, and a Roof frame over it at the end of the Season, and to be allowed the following Season to finish it, then to be Rated according to this proportion.

That if Ships should occasionally make their Stages on the said Islands serve for a greater number of Boats than the above proportion, that shall not give them a right to hold any adjacent or other vacant Ground for those overplus Boats, from having Stages Built thereon by others.

That if the Measurement of a Stage exceeds the even proportions above mentioned so much as one half of a proportion for a Boat, such excess to be rated for another Boat.

That any Ship may build Stages on any vacant space on the said Islands, observing to leave sufficient room between his in and out Stage and another for two Shallops to be abreast.

All Hutts, Cookrooms, &c. belonging to each Stage, are to

be built on the Shore as near as possible, within the extent of their respective Stages along the Shore.

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2. In order to put an end to all unfair practices and engrossing places to obstruct discourage and exclude other Adventurers on the said Island, as well as on other parts of this Coast.

No marks whatever that may be put up on any places on this Coast, except Stages and Fishing Works actually built or in hand a Building, shall exclude another Ship on the spot, from immediately Building thereon, and whoever begins a Stage without finishing it at the end of a Season, it is not to be register'd except a Platform of at least two Beams length is laid and finished, this and nothing else to be deemed a lawfull mark, then it is to be register'd and allowed the following Season to finish it, and all unregister'd places are deemed void and free for a new comer to chuse and Build thereon, notwithstanding any marks put up thereon.

3. Whereas great disorders and damages frequently arise to the Adventurers, by strong Liquors being sold amongst the Fishermen and Seamen, it is agreed that no Person shall sell or pretend to give Strong Liquors to the Fishermen and Seamen of another Ship on the Coast, and whoever does so, on being convicted thereof before any two of the Fishing Admirals of the Harbour, or the Commander of a King's Ship, if he is a proprietor of all the Stages and Works on this Coast belonging to him, shall be forfeited to the Publick, and the same to be enter'd in the Register Book accordingly, and if such Person is a Master of a Ship, an Agent or a Servant, he shall forfeit all his wages to the Master of the Seamen or Fishermen, to whom the Liquor may be sold or pretended to be given, and if the Employers of such Masters, Agents, or Servants, continue them afterwards in their service upon this Coast, all the Stages and Works on this Coast belonging to such Employers to be forfeited to the Publick.

N.B. This Rule does not extend to Esquemeaux Island, Henley Island, Castle Island and the Seal Islands, which are appropriated for Stage Room only.

4. In order to prevent as much as possible disputes, arising hereafter about the space of beach or Flake Room to be allowed to Fishing Ships on this Coast, in proportion to their number of Men and Boats, there being no Rule prescribed for it by the Fishing Act, and seeing the difficulty of prescribing a rule for each of the various kinds of places; In order that every Adventurer may have full and sufficient Room for carrying on their business with conveniency, the nature of the Fishery on this Coast also consider'd; It is agreed that a space of one Hundred and Twenty Feet Square for each Boat and every Seven Men, contained in a Ships Fishing Certificate, is on a medium a full and sufficient proportion to be allowed for all the various kinds of Ground on which the Adventurers who are Proprietors or Occupiers may make any kind of Flakes and Fishing Works they think best adapted to the Places, and in

cases of disputes arising concerning Room, the Fishing Admirals are to decide the same by this Rule.

No. 254.[15 Dec.,
1767.]**PALLISER TO EARL OF SHELBURNE,**

REPORTING ON STATE OF BRITISH SHIP FISHERY, 1767.

B.T.N. VOL. 20.

This accompanies the general Scheme of the British Fishery within my Government for this Year 1767, To which I have only to add for your Lordships Information, that amongst the many abuses in the management thereof, I have been particularly attentive to endeavour to remedy that great one so much complained of (Viz^t) the great number of Idle useless People remaining in the Country during the Winter, which is a dead charge on the Fish Trade, a good deal has been done towards it, and I flatter myself it may be accomplished in a short time; I have a satisfaction in being able to inform your Lordship, that the number of Ships employ'd therein has Yearly increased, and the number of Men returning Yearly to Britain and Ireland is full double what it ever has been for Sixty Years past, tho' yet not quite equal to what France has from her limited Fishery, the particular measures which I have pursued this Year for accomplishing this end, is contained in the paper herewith sent, titled an Order issued in 1767 for sending home all Men that are useless in the Country, after the Fishing Season is over.

A part of the Coast Fishery this Year has proved very bad from the scarcity of Fish, but the success in other parts has in a great measure made up that loss.

I visited the Coast of Labrador this Year, and find reason to confirm my former Reports of the Value of that new Fishing Coast, Twenty Seven British Fishing Ships were there this Year, those who first objected to establishing the Ship Fishery there, have now address'd me to support it, I have accordingly established it upon the System of the Act of the 10th & 11th of Will^m 3^d and under such Regulations conformable thereto, as the Adventurers themselves desired, so there is a good prospect of that Fishery being much extended for the Publick benefit; the measures taken for this end with the advice and consent of the Adventurers on the spot, is contained in the paper titled Establishment of the Ship Fishery in Labrador 1767.

With respect to the Trade and Fisheries carried on within this Government by Vessels and People from ye Plantations, the particulars thereof is annexed to the General Scheme of the Fishery herewith sent, it may be proper here, only to report

upon this Subject, that the mix'd Multitudes of disorderly Crews from the different Colonies resorting to this Government, have this

p. 1017

Year behaved more orderly than heretofore, fewer Insolences to the Kings Officers, and fewer mischiefs and obstructions to each other have hapened; upon the whole they are now reduced into some degree of order, and all seem to be convinced that the necessary Regulations made by me, are Calculated for their benefit, and submit thereto, a few offenders excepted amongst the New England Men, who are the most difficult to manage.

HUGH PALLISSER.

D.S.

London 15th December 1767.

To The Right Honble the Earl of Shelburne &c^a &c^a/

Endorsed: Governor Pallissers Report of Occurrances &c^a respecting the State of the British Fishery 1767.

[5 Jan., 1768.]

**REPORT OF ATTORNEY GENERAL AND SOLICITOR
GENERAL TO LORDS OF TRADE.**

To the Right Honourable the Lords Commissioners for
Trade and Plantations.

MAY IT PLEASE YOUR LORDSHIPS,—In Obedience to your Lordships' Command, Signified to us by Mr. Pownal's Letters of the Seventeenth day of April and the Twenty Second day of May last, Inclosing a paper drawn up by His Majesty's Attorney General for the Province of Quebec, upon certain Claims of property in, and exclusive Possession of, Land and Fishing Ports, on the Coast of Labrador, in the Gulph of St. Lawrence in North America, set up and exhibited by several Inhabitants of that Province heretofore Subjects of France; and desiring us to take it into our Consideration;

* * * *

The Claim as it is now made, is of an Exclusive Right of propriety in the Soil, Containing, Originally, in Extent, along the North shore of the River Saint Lawrence from the Isle of Eggs to the Bay Phelippeaux, which appears to be about five hundred Miles, and in depth, into the Country without Bounds or Limitations; . .

W. De GREY,
E. WILLES.

Jan. 5th 1768.

Endorsed: Quebec.

Report of the Attorney and Solicitor General.

No. 256.

PALLISER TO SHELBURNE,[24 Feb^y.
1768.]RECOMMENDING EXTENSION OF REGULATIONS OF ACT OF 10 & 11 WM. III.
TO THE COAST OF LABRADOR, ETC.

COL. COR. N. VOL. 3

MY LORD,—I beg Leave to represent to Your Lordship, that as there is no Statute Law for regulating the Fishery on the Coast of Labrador, there seems to be an absolute necessity for a Clause to be inserted in some Act of Parliament, for extending such part of the Act of the 10th & 11th of William 3^d to the Coast of Labrador and the Islands now annex'd to the Government of Newfoundland, as respects British Fishing, Ships, without which, the utmost confusion and mischief must immediately ensue, as well amongst a multitude of Lawless Crews from the different Colonies and our Fishers from Britain, as between them and the French in Combination with the Canadians and the Quebec Traders against all the rest, also with ye natives of the Country, for neither I, nor any Officer under me, will venture to interfere and prevent them, not being myself supported or secured from vexatious suits, but on the contrary, have (unheard) been turned over to the Courts of Law, for only moving a few Setlers from thence, who had pretended to take possession of 140 Leagues of that Coast, without any Licence from the King, and by Authority only of a Colonel in the Army, I therefore beg Leave humbly to submit what is above proposed to Your Lordship's Consideration, and am with great Respect.—

My Lord

You Lordships

Most Obedient and most

Humble Servant

HUGH PALLISSER.

London 24th Feby 1768.—

P.S.—That Your Lordship may Judge of what is above proposed, I take Leave to add my farther reasons for it.

Because by the above mentioned Act, Fishing Ships are described to be Ships from England, Wales, & Berwick, now from Britain.

Because such Ships only are qualified to be Admirals, and they only have a Judicial Authority in the respective Harbours, to decide all Disputes on the

*sic.

spot in the first instance, and to preserve Peace and Order, and to see the Rules of the Act duly Executed.—

Because such Ships have the Lawfull right to the choice of all Places as they respectively arrive, & are not to be excluded from any.

Because no Person whatever can possess and use any place till such Ships arriving from England, Wales & Berwick (now from Britain) are all Provided.

These and other Powers and Privileges granted by the said Act to Fishing Ships, is what has kept the Fishery in the hands of British Adventurers in Newfoundland, and without a Clause to Establish the same, or some other form of Government for the Fishery in Labrador, the consequences * to be apprehended is* dreadfull,—27 such Ships having established Fisheries there the last Year, and I suppose not less than 50 are now Equiping for that Coast, trusting to their being Protected in their Rights and Privileges, which, under the Authority of my Patent as Governor and the Kings Instructions to me, I assured them of.

To The Right Hon^{ble} the Earl of Shelburne, one of His Majesty's
Principal Secretaries of State.

Endorsed: London 24th Feb^{ry} 1768.
Commodore Pallisser,

A.—1.



[3 March, 1768.]

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No. 257.**REPRESENTATION OF THE LORDS OF TRADE TO
H.M. THE KING**UPON CLAIMS OF INHABITANTS OF QUEBEC TO EXCLUSIVE PROPERTY ON
COAST OF LABRADOR

C.O. 42 VOL. 28.

To the King's most Excellent Majesty.

MAY IT PLEASE YOUR MAJESTY,—In obedience to Your Majesty's Commands, signified to us by the Earl of Shelburne, one of Your Majesty's principal Secretaries of State, in his Letters of the 31th of March and 28th of April 1767, We have taken into Our Consideration the Petitions of Mess^{rs} Cugnet and Tachet, together with several Papers & Documents respecting the Claims and Pretensions, which sundry Inhabitants of Your Majesty's Province of Quebec, and heretofore Subjects of France, set up and exhibit, of Property in, and exclusive Possession of Land and Fishing Posts on the Coast of Labrador in the Gulph of S^t Lawrence; and being required to report Our Opinion for Your Majesty's Information, touching the Validity of these Claims & Pretensions We beg leave humbly to represent to Your Majesty;

That the Examination of these Claims appearing to us to relate entirely to Matters of Law and Property, which do not come under Our Cognizance, we judged it proper to refer the same to Your Majesty's Attorney and Solicitor General, for their Advice and Opinion upon the Matter, And having now obtained their Report upon the Cases referred, in which Report they have in a full, clear and circumstantial Manner entered into an examination of the said several Claims and Pretensions, we beg leave to annex a Copy of the said Paper to this Our humble Representation, observing at the same time to Your Majesty, that, from such Judgement as We are able to form upon this subject, We do entirely agree with the Arguments and Observations of Your Majest's Attorney and Solicitor General, set forth in the above Report; and are clearly of Opinion, that these Claims standing as they do at present, cannot, in any Judicial Enquiry, be allowed as valid and effectual, and should not therefore prevent Your Majesty from making any such Regulations and Arrangements in the Government and Direction of that Coast and Country, as shall seem adviseable for the general Benefit of these Kingdoms, and the promotion of Navigation and Commerce.

This Point being established, little Difficulty, as we conceive, can occur, whether these Claims, thus deemed inadmissible in point of Law and Justice,

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should be allowed upon Principles of Policy and Prudence, The State and Extent of the Coasts and Islands thus claimed, their Situation with respect to the Fisheries carried on in the Gulph of S^t Lawrence, and the Influence, which such exclusive Property, as is therein set forth, must necessarily have over those Fisheries leave us no room to doubt, but that the Establishment of such private Rights and Possessions would be attended with very prejudicial Consequences. And in this Opinion we are the more confirmed by the Information and Report of M^r Pallisser, Your Majesty's Governor of Newfoundland, who has attended us on this Business, and represented, that the regrating any part of this Coast or any Branches of the Fisheries there to any particular Person or Persons, will, in his Opinion, not only deter any Adventurers from Britain from carrying on the Fisheries on that Coast, for which, it seems, a great Number of Ships are now fitting out for the ensuing Season, and from which very considerable Advantages are derived to this Country; but that (in addition to this Objection) it is to be apprehended, that all such Posts and Settlements, if granted away, instead of being directed to the Purposes of such Grants, will most probably be applied to the Introduction of illicit Trade and Commerce, and converted into Receptacles for the Merchandize and Manufactures of France.

All which is most humbly submitted.

CLARE
SOAME JENYNS
W^m FITZHERBERT
THOMAS ROBINSON.

Whitehall
March 3, 1768.

}

D.S.

Endorsed: Representation of the Lords of Trade, to the King, on the Claims of Mess^{rs} Cugnet & Tachet, of the Land & Fishing Posts on the Coast of Labraor.

[19 March,
1768.]**CASE OF PROPRIETORS AND POSSESSORS OF SEAL
FISHERIES ON COAST OF LABRADOR**

*sic.

B.T. NEWFOUNDL^D. VOL. 20.

Case of The Land holders in Canada, Proprietors of Seal Fisherys on the Coast of Labrador, and their Leasees,* As also of the Possessors of certain Seal fisherys on that Coast, under Grants from the Governor of Quebec, with respect to certain Rules & Regulations established by the Governor of Newfoundland.

The Rules and Regulations which give birth to the present question, may have been well intended, to promote two capital objects, viz. The improvement of the fisherys of Newfoundland & the Labrador Coast, and the training up of Seamen, from which nursery His Majestys fleets might be Supply'd. But the best of purposes may sometimes fall short of the Sanguine expectations of Projectors.

In the present case, it is presum'd there will be little difficulty to show, that neither of those Advantages could follow the observance of these Rules, as to the Seal fisherys; That His Majestys Subjects in Canada, must be deprived of their natural rights, The propertys vested in many Canadians, must be annihilated, And Adventurers in the trade, who upon the greatest good faith have employed large Sums in re-establishing the Seal fisherys on the Labrador Coast, which had been destroyed by the war, must be heavy Sufferers, while the Seal fisherys must be unavoidably lost to Great Britain.

*sic.

It can be no matter of dispute, that the Coast of Labrador was one of the dependances of Canada, anterior to the reduction of that Country, by His Majesty's Forces, and it is equally undeniable that the Several Governors appointed by His Most Christian Majesty exercised every Act of power upon that Coast, which they lawfully could do in any other part of Canada or New France; of consequence after the Reduction Labrador was held and deemed as much a dependance of Canada, as any other part of that Country, until regular Governments were established, and the Coast of Labrador United to that of Newfoundland.

While Canada remained in the hands of the French, the improvement of the various fisherys, along the Coast of Labrador, became an object of national concern; Among others a Seal fishery was attempted and brought

to a degree of perfection, and the returns from this branch, sent yearly to France in payment of the products of that Country consumed in Canada might Ammount* to about £10,000 Sterling.

This Species of fishery is almost unknown in any other Country, and is practiced in a manner widely different from any other fishing, in the Gulph or River St Lawrence: Great caution, experience & Judgement are absolutely necessary to bring the Seal fishing to any account, and it will appear evident that any attempt to make it general must ruin it. Other fisherys such as Cod, Whale & the like may be prosecuted in the open Seas, and in various different places and Shapes, and were general under the French Government But the Seal fishery's are chiefly formed by the Contiguity of small Islands or Rocks to the main Land, which occasion strong Currents called Passes, where only such fisherys can be exercised, and hitherto only about twelve that are of any consideration have been discovered. The Seal fishery is chiefly followed in the Winter Season, and the operation of catching these Animals, commences the first week in December and continues only about fifteen days; But the fishers employed in this business, must be at their Station in the course of the month of September, & cannot get away from it before the end of May.

Thus besides the fishing implements and matterials, a Sufficient Stock of provisions and other necessarys must be laid in, and for the same reason as well as for the purpose of making preparing and Storing the oyl, The Occupiers of Seal fisherys must have dwelling houses warehouses & a variety of utensils, whence it is apparent that the exercise of these fisherys will ever be attended with a very great expence. The method of fishing is thus, A certain number of nets remarkable for Strength, and of a particular contexture fitted to the depth of the Water and the width of the respective Passes, are fitted to strong Cables or hawsers, & placed in the Pass at certain distances, having one end Secured on the Rock or Island by Anchors, and the other on the main Land by Capstones, The uppermost or lower nets (as may Suit the occasion) are sunk quite to the Bottom, the others are kept at full stretch across the Pass—This done, the people carefully watch the appearance & motions of the Seal Shoals as they approach the Pass, either in coming up or in going down the River, and as soon as the bulk of the Seals have got over the outermost or end nets, all hands are set to work to heave these nets to the Surface of the Water, by which means the Seals are enclosed, and entangle themselves in the nets till they are caught. In this operation Singular care is necessary to any Success, The fishers must not allow the trace of a foot, to appear on the Shore, nor any Carrion to lye within their Smell otherwise the Seals often change their course and defeat for that time the Success of the fishery, even the smallest interruption in the neighbourhood of the entrance of a Pass would have the same Effect and hence it

was, that the french Government found it impracticable to make these fisherys general because the least competition among Contending Adventurers destroyed the Success of each. Besides every Occupier of Such fishing must Suit his tackle to his particular Pass, which will by no means answer at any other but at such an expence & loss of Matterials as to destroy in one Season perhaps what

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would serve at one pass for three years with moderate repairs, for there are not two Passes on the whole Coast that do not differ most matterially in the essential Articles, the depth of the Water, the Strength of the Current, the width & length of the Passes, being as various and different, as the Passes themselves are distinct and Separate. Some of them require fourteen or fifteen nets to fill them, others more and Some are occupied by a Smaller number; so that unless a Seal fisher knows with certainty the Pass which he is to occupy, he neither can judge of the Outfits necessary to be made, or the number of people to be employed, nor can he afford the expence when he has done it, if by the Regulations his possessing any one Pass more than one Season depends on the uncertainty of a first arriving Ship.

The Seal fishery was first discovered and practiced many years agoe, by Mess^{rs} Jolliet, Anticosti Cartier, Niverville & others, and it is certain, that in respect of their discoveries or other services rendered to the Government of France, they did obtain Grants of Several Islands in the River or Gulph of St Lawrence and some tracts on the main land, with the exclusive privilege of the Seal fisherys, hunting and trade with the Indians, They connected their familys by inter marriages, and the rights of property which were vested in them, have been transmitted thro a long line of Successors, have been the Subject of Sale and transaction with indifferent people and have passed into other familys by variety of marriage settlements as patrimonial inheritances. These Heirs or Proprietors have always either occupied or Leased out their Seal fishing Posts to Tenants at pleasure. Others of these original Seal fishers only obtained Grants or leases for life or a term of years, and upon expiration were occasionally renewed by the different Governors of Canada. There came also to be a different Sort of property established in these fisherys for so soon as the Seal fishing became known as an object of any value, the Proprietors of Islands which from their Situation became useful to any Grantee of a Seal fishery, claimed a property in that fishing by virtue of their right in the said Islands.

This gave rise to various Suits at Law, and it was at length determined that the Grantees of such Seal fisherys, should pay in the nature of rent to the Proprietors of the Islands, a Sum equal to three p. cent upon the gross yearly produce of every such fishing, to be ascertained according to the market price for the time being at Quebec. These propertys too have passed thro different hands by Succession and otherways and the three

p. cent has been regularly paid for many years before, and ever since the Conquest.

Soon after the Reduction of Canada, several trading people resorted to Quebec from Great Britain with large quantities of merchandize. The products of Canada and its dependances were soon discovered to be more narrow than had at first been imagined. Formerly the trade with the Savages in the upper Countrys from Montreal to Fort Illinois had been carried on with Success, and chiefly engrossed by the Canadians, But after the reduction, the Interruptions from the Indian war, and the participation of the other British Colonies in that trade greatly reduced its value to Canada, and hence the new Settlers finding difficulty to make their returns to Britain, and Seeing that the Seal

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fishery was abandoned in consequence of the war, which had disabled the Canadians from carrying it on, apply'd to the Governor of Quebec for leave to embark therein.

Enquiry being made into the nature & state of these fisherys, it appeared that some of them were by undisputed titles, clothed with uninterrupted possession the property of Individuals, & that others were in the gift of the Crown, and it also appearing from the nature of these fisherys, impracticable to re-establish them except upon the principle which the french Government had adopted, The proprietors were encouraged to lease them out in the usual manner and those in the gift of the Crown were bestowed on such as made the first application, for a certain number of Years or until the Kings pleasure should be known.

*sic.

Here it may not be improper to observe that as this happened anterior to the dismembering the Labrador Coast from the Government of Canada & uniting it to that of Newfoundland The Governor of Quebec did report his proceedings to the Board of Trade, the motives inductive of his conduct, and every grant he had made; And as no contrary orders appeared until the Regulations of Governor Pallisser were published, the Grantees were in the mean time induced to believe their Grants were approved. In this Confidence they were at much labour and expence in the prosecution of the fisherys, They followed the established practice of Canada, by purchasing from the former Grantees the whole of the dwelling houses, fishing implements utensils &c for preparing & warehouses for Storing the oyl, in a word at some of these Posts Adventurers in this way laid out to the ammount* of three thousand pounds to re-establish a fishery at one Post or Pass; a Sum which no man would have risked but from the encouragement he had reason to expect in behalf of a wise measure tacitly approved of, and that if his Grant when expired should be given to another the Successor would be obliged to purchase of him in the same manner as he had done from a Canadian at his entry, agreeable to the ancient custom of the Country.

This custom had always been practiced and obtained the force of a law, which owed its existence to the peculiar circumstances of the Seal fishery because the implements of fishing as well as the houses could not be used at any different Post and it would have been a singular hardship upon a possessor to suffer so great a loss upon the expiration of his Grant, as must have been brought upon him if the new Grantee was at liberty to refuse the purchase upon a Valuation, when they could not be otherwise disposed of but at the greatest disadvantage. As an example of this, it stands in the clearest manner authenticated, that the present possessor of one fishing Post has a property there to the extent of £1400 St^s exclusive of Repairs laid out on houses and fixtures. In this Situation it would be extremely hard, that the Grantees under the Governor of Quebec should be hastily deprived the benefit of a fishery they had established at so great an expence, which leads one to consider the advantage that would accrue, if the Regulations of Governor Pallisser should continue in force with respect to the Seal fisherys. In this point of view the Rights of property vested in Canadians shall be laid out of the question,

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and the matter treated on the general purpose Governor Pallisser seems to have had in view.

The language of the Regulations appears to be that as a premium upon industry and an encouragement to activity, the first arriving Ships from Britain shall have the exclusive privilege of occupying the Seal fishing Passes nearest to the harbour, in which each Ship shall first take Post Now if the Ships from Britain are to make any advantage by the proposed encouragement, they must be perfectly certain of the following particulars First, which ship shall first arrive & at what harbour Secondly what Seal fishing Posts fall within the district of that harbour, thirdly the breadth of the Pass and depth of the water, and when these particulars are known, they must next prepare a Vessel of 80 Tons burden, Seal nets fitted to the Pass with many other materials and a crew of men capable to conduct the fishery under the Severity of a Labradore Coast winter, with a Stock of provisions Sufficient to maintain them for at least fourteen or fifteen months; For example any vessel contending to gain this premium ought to Set out from Britain in the month of march the latest, her 80 Ton consort must accompany or follow her, the Crew must be employed in the Summer in the Cod or Whale fishery and must be at their Station for the Seal fishing in the month of September from which they cannot get away before the latter end of May following. And supposing the many accidents attending Sea passages or other casualtys were to create no uncertainty as to a first arriving Ship, it comes next to be stated the degree of Advantage that would result from one years possession under every fortunate circumstance that can be figured. From Good experience it is known that any new Adventurer, who makes his outfit from Quebec to establish a Seal fishery at any pass

where about 2000 Seals are usually caught in a season, it will cost him at least £2000—and for other Passes in proportion, provided he has every thing to begin anew, such as houses to buy or build, his stock of provisions, Vessel, Boats, and all other materials to lay in, all which he must do, unless he be allowed to benefit by the industry and effects of his predecessors; His 2000 Seals will yield him at the most about 300 hogsheads of oyl and if they net him at market £3 10 each, being as much as is commonly done after deducting leakage & other expences, he will receive £1050. The first years adventure will therefore expose him to a loss of £950, with no other prospect of relief, but the price which the fishing implements &c. might bring, or from pursuing the same plan another year, under the certainty of a great additional expence, purely for the sake of a precarious chance, that his Ship may Sail faster than any other the Succeeding season. It is to be observed that in this state no notice has been taken of the Shares or Wages of the fishermen, which generally amount to one third of the produce, to pay which there only remains the Seal Skins, & they commonly sell for 1/- to 1/6 each, which will still reduce the returns.

If indeed an Adventurer in the Seal fishery obtains a grant for 7 years, at the end of these if no accident intervenes, and no Conditions are imposed on him that may Subject him to any expense but what is necessary to carrying on this fishery, he may with great management, recover his first outlay and

yearly advances, with perhaps a profit, over & above, But to the great hurt of those who unhappily for them have embarked in the Seal fishery that does not appear to be the intention of the Regulations.

If it should be objected to this view of the charges attending the Seal fishing, that outfits may be made cheaper from Britain than from Quebec, it is answered that several Individuals concerned, from a desire to retire their property, & at same time to comply with the Regulations have put it to the tryal, and found of the two their equipments from Great Britain the most expensive.

Should the rights of property claimed by the Canadians be deemed valid upon a minute enquiry, the disputes, law suits & confusions that must follow the enforcing the present Regulations in their full rigour and extent are more easy to be imagined than expressed. But on the Supposition that no Such property do exist, and that the wisdom of Government sees meet to confine in future; the exercise of every species of fishery on that Coast to the Inhabitants of Britain alone; Yet the dictates of humanity & natural justice must plead in favor of Individuals who in faith of Grants or permissions given them, and trusting in the lenity of the British Legislature have ventured & invested their property to so great an extent, as will require time to recover. And it is humbly hoped that those who shall be found in that predicament will be permitted to possess the Posts or Passes they have re-established at such great expence & labour, for at least three or five years, without being liable to be displaced by a first arriving Ship, of any new comer; And that if the Policy of the nation shall ultimately require them to make their equipments from Britain they may not before that period is expired, be Subjected to the further expence of entering into the precarious branches of the Cod or Whale fisherys against their judgement & inclination—which as they are circumstanced they can only do, for the sake of retiring a property, of itself but too uncertain even under all the indulgences that can be given them.

So far as regards the Cod and Whale fisherys the Regulations of Governor Pallisser are certainly well calculated and must be productive of good consequences, But as to the Seal fisherys, whether they be given as encouragement to Cod & Whale fishers, or whether they be permitted to be carried on singly, certain it is, the necessary outfits & preparations must be made, and it is demonstrable that in either Case Such preparation will stand the Adventurer in the Same expence, independent of any other plans he may be concerned in. So that unless such Adventurer can obtain peaceable possession for a term that will give him a probable chance to get in his money again, he will find his first outset so heavy as to Sicken him of a Second attempt under the same uncertaintys. From the nature of the Seal fisherys it is impossible to Subject them to the Same Rules as the Cod & Whale fisherys, without

destroying them entirely. The latter are of a fluctuating & changeable nature, as to place & time and all they went on Shore is convenient places to cure their cod & melt their oyl, which the other cannot hurt or interfere with them in the exercise of: The former being Sedentary require great expence more bulky materials & comfortable houses for the people in the winter, which cannot

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be transported at pleasure, neither does it seem at all clear, that men following the Sedentary Seal fishery, where they must stay the greatest part of the year, and have no active employment but for about fifteen days, should ever add to the number of useful Seamen; nor if they did, can their numbers its presumed be an object to Government, Sufficient to recommend a scheme, that will ruin individuals, in order to gain a point so inconsiderable. In any event if the Regulations are enforced as they now stand, with regard to the Seal fisherys, they must be totally ruined, and very grievous hardships in the mean time, thrown upon those who at present possess & have been at such expence to set them on foot. They must either abandon the enterprize at once, or if they mean to preserve the property they have invested, they must increase their risk & expences in Schemes Still more precarious. And even after they shall have comply'd with this very hard condition, that the trivial circumstance of another Ships arriving at their fishing places a few hours or days before them, shall still subject them to be dispossessed, and expose them to the loss of their property, or to its being rendered of little or no use to them, (which is the same thing in effect) would, in their humble conceptions be enacting a law as grievous & burdensome in its operations as they fear it will be found inadequate to the purposes expected from it.

Endorsed:

Newfoundland.
Case
of The Proprietors & present Possessors of Seal
fisherys on the Coast of Labradore.

In a Note from the Merchants interested in the
Trade to Quebec dated 19th March 1768.

Reced
Read June 12. } 1772

V. 43.

No. 259.

PALLISER TO LORDS OF TRADE,[6 April,
1768.]*re* CLAIM OF SETTLERS FROM QUEBEC TO LANDS ON LABRADOR COAST,
UNDER GRANTS FROM GENERAL MURRAY.

B.T.N. VOL. 20.

MY LORDS,—In obedience to the King's Commands by the 25th & 26th Articles of His Majesty's Instructions, to give Notice to your Lordships of my Proceedings, and of the condition of the affairs of the Islands & Territories under my Government, and the Trade and Fisheries thereof in order to be laid before His Majesty; I now beg leave to observe to Your Lordships, that sundry claims and pretentions have been set up by a few Smugling Traders settled at Quebec, to an exclusive property of above 500 miles of the Coast of Labrador, and the numerous adjacent Islands, with a Monopoly of the Fisheries thereon, founded 1st on a mistaken notion, that before the late Treaty of Peace with France, the said Countries and Islands belonged to the Crown of France, and were ceded as a part of Canada, which I apprehend was not the case, 2^{dly} on a pretended old French Grant which I understand is either groundless and never existed, or is obsolete, and such as was never admitted even amongst the French themselves. 3^{dly} on other Grants pretended to have been made to a few particular People by General Murray, when he was Commanding Officer in the Town and Garrison of Quebec, which being Monopolies, I have always consider'd as illegal and injurious to the common rights of the rest of the King's Subjects, particularly to British Adventurers. 4^{thly} on a Grant pretended to have been made the 1st May 1764 by His present Majesty, which I have no knowledge of; I therefore in conformity to the King's Instructions, have not dared to allow or encourage any such exclusive possessions of Lands, Territories or Fisheries, to be taken or held by any Persons whatever, on the aforementioned or any other pretentions whatever.

Yet as the said Claims and pretentions to such exclusive Possessions and Monopolies, have been thought of sufficient weight for preventing the 30 passing of an Act of Parliament intended for remedy of the great mischiefs and confusion which reigns there, for encouraging British Adventurers & for removing the many obstructions and discouragements to extending and improving the Fisheries; and as the Suits and Complaints against me, for disallowing of those Claims and

pretensions have been lately revived. I hope I shall stand excused for stating the Delemma I am in, and for desiring it may be taken into consideration, whether I ought to have any and what

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informations for my guidance in future in these matters, that if I am to allow of any exclusive Possessions of the Coast or Islands, or Monopolies of the Fishery, or of any Branches thereof to the exclusion of British Adventurers, I desire it may be distinguished what parts thereof and to whom, for altho' I have hitherto avoided being troublesome by applications for explanations of my Instructions, and only studied (as I always shall) how I can best execute them by a steady pursuit of what upon the best Judgment I am able to form of those matters, and of the true intent and meaning of my Instructions most for the general benefit of His Majesty's Subjects, without partiality or unlawfull distinctions, yet, as matters now stand, I am doubtfull how far I can with safety support British Adventurers in the enjoyment of the Rights and Privileges which they have ever enjoyed under the Laws, Customs, and usages of the Fishery, and which I have assured them of in the King's Name, as hitherto I thought I ought and was authorized to do, and not to abandon them and that whole Coast to the rapine and plunder of Lawless Crews from the Plantations mixed with French. His Majesty's Instructions expressly directing me, not to allow, or encourage any thing to be done contrary or repugnant to the Act of the 10th & 11th of William 3^d in any of the Islands, or Territories under my Government.

What I have now the honour to lay before Your Lordships, I beg may not be construed to imply, that I entertain in my mind, the least apprehensions that any projects of those People to the prejudice of the Fishery of Great Britain, will ever find Encouragement from any of His Maj^s Ministers, it is from the fullest confidence I have ever had of the contrary, that I have hitherto treated with disdain, all the attempts made by those People, to prevail on me, or to terrify me into a compliance with any of their Projects, which I have conceived to be contrary to the King's Instructions, Repugnant to the Laws, Customs and usages of the Fishery, prejudicial to the common Rights of His Majesty's Subjects, particularly to British Adventurers and to the Navigation of this Kingdom, and favourable to the French and to Clandestine Trade.

I have the honor to be with the greatest Respect.

My Lords,
Your Lordships
Most obedient and Most Humble Servant,
HUGH PALLISSER.

London, 6th April 1768.

Endorsed:

To The Right Honorable the Lords Commissioners For Trade
and Plantations.

[20 October,
1768.]**GOVERNOR PALLISER TO LORD HILLSBOROUGH.**

C.O. RECORDS 194/12, p. 53.

MY LORD,

I think it proper to inform your Lordship, that I have continued to keep up the fortified Blockhouse on the new Fishing Coast of Labrador, which by the King's Orders I established there in the year 1766, with a Guard for the protection of the British Adventurers Fishing Works and Craft, as well from the depredations of Crews from New England as from the Natives of the Country.

In the month of November last, an attempt was made by some of the Savages from the North Coast, to steal some shallops and Fishing Craft, when three Englishmen were killed, a detachment of men from the Blockhouse went out, attacked the Savages, killed many of them and drove the rest away, who left behind them three Women and Six Children, belonging to some of the Men who were killed, one of the Women proves to be very intelligent, from her I have obtained more satisfactory accounts than any that have yet been got of those People respecting their numbers, their places of abode, etc.

These poor Women and Children are the first of those People that have ever been taken and kept alive by any Europeans, they express great astonishment at being kindly treated and suffer'd to live, and seem yet doubtfull whether they are not reserved for a publick sacrifice; there was no possibility of sending them home this Season, I have therefore been obliged to provide for their subsistance till the next year, then they will be capable of carrying a proper message to their People, either for establishing a friendly intercourse between them and the King's Subjects, or to forbid them ever coming near us, as may be judged best for facilitating undertakings of Merchant Adventurers from England to that Coast, under such privileges as Government may think proper to grant them, for extending the Oil and Whale Bone Trade with those People, which are become very considerable articles of Commerce.

Many attempts have been made at different times for this purpose to that Coast, which abounds with Whales and Seals, as well from London as from New England, particularly in the years 1752, 1753, and 1754, all which miscarried by the imprudent conduct of those employed towards the Natives. Now by means of these People and the Brethren of the Society

of the Unitas Fratrum, (who your Lordships may remember, through a zeal for propagating the Christian faith amongst the heathen, have solicited for encouragement to undertake something of this kind) it is very probable some

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considerable Merchants of London, would readily engage in such undertakings, as your Lordship may approve of for the publick benefit.

This will confirm to those People the truth of what I assured them by interpretation of some of the Brethren of that Society, who speaks their language, who voluntarily went with me to that Coast in the year 1765, when I had a conference with a large tribe of them.

That we did not intend to molest or hurt them, but to trade with them in a fair and friendly way.

That if ever they offer'd to kill any People or to steal anything they would suffer for it.

That when the King should please to give Orders, I should send men enough to destroy them all at once.

That such of them who behave inoffensively might depend always on Protection and being kindly treated as Friends, etc.

Signed: HUGH PALLISER,
St John's, Newfoundland 1768.
20th October 1768.

Endorsed: St John's, Newfoundland.
20th October, 1768. Governor Palliser.
R. 10th November. A-5

No. 261.

[Dec. 1768.]

MEMORIAL OF MESSRS. BAYNE AND BRYMER,

PRAYING RELIEF FOR LOSSES SUSTAINED IN CONSEQUENCE OF
PALLISER'S REGULATIONS.

B.T. NEWFOUNDL^D. VOL. 20.

To the Right Honourable the Lords Commissioners for Trade
and Plantations.

The Memorial of Daniel Bayne and William Brymer late of the
City and Province of Quebec Merchants. Humbly
Sheweth—

That whilst the Province of Quebec was in the Possession
of his most Christian Majesty the Coast of Labradore was part
of the Dependancies of the Government of Canada and that a
very Valuable Seal Fishery was carried on in that part thereof
which is situate within the Streights of Belleisle.

That in Order to carry on the said Fishery it was necessary
that certain Buildings should be Erected on the Sea Shore and
Nets procured of Dimensions adapted to the several Passes or
Guts thro' which the Seals passed and repassed and Boilers and
other Implements and Utensills should be provided at a great
Expence.

That to Encourage the Adventurers in the said Fishery to
make the necessary Disbursm^{ts} for Exercising the same and to
assure them of the Possession & Occupation of the several
Posts and Passes for which their Nets and other Gear were
fitted and adapted, it was usual for the said Adventurers to
procure Grants from the Governor of Canada of the sev^l Posts
and Settlements respively occupied by them which said Grants
were afterwards ratified and Confirmed by his most Christian
Majesty.

That after the Conquest of Canada the Hon^{ble} James Murray
Esq^r his Majesty's Governor thereof being sensible of the Great
Advantage that would accrue to the said Province from the
Exercise and Extension of the said Seal ffishery gave every
Encouragem^t in his Power to his Majesties Subjects resident in
Canada to become Adventurers therein and being convinced of
the necessity that the Adventurers should respectively possess
certain Posts and Settlements on the said Coast—the said
Governor made out Grants thereof in such manner as had been
usually done by the Governor of Canada before the Conquest
thereof by his Majestys Arms.

That Your Memorialists were by these means induced to
Embark in the said Seal ffishery and for that purpose did

procure from Governor Murray a Grant bearing date the 6th day of April 1763 of a certain Tract of Land or Post

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on the said Coast of Labradore therein described by the Name of Cape Charles for the space of four years from the Date of the Grant or until his Majesty's further pleasure should be known therein.

That the said Grant was made when the Coast of Labradore was part of the Dependancies of the Government of Canada and antecedent to his Majesties most Gracious Proclamation of 7th Oct^r 1763 whereby the Coast of Labradore was put under the Care and Inspection of his Majesty's Governors of Newfoundland to the end that the open and ffree Fishery of his Majestys Subjects might be extended and carried on upon the said Coast and the adjacent Islands.

That the said Governor Murray did Transmit to this Hon^{ble} board a Copy of the said Grant and that it hath not been Signified to Your Memorialists that his Majesty hath disapproved of the same.

That Your Memorialists relying on the Validity of the said Grant did at a very considerable Expence cause Buildings to be Erected at the said Post at Cape Charles and ffurnish and supply the same with Men Provisions Implements and Utensils necessary for Exercising the said Fishery and did Exercise the same to their very great Advantage under the Superintendency & Management of William Lead.

That Your Memorialists remained in the quiet Possession and Occupation of the said Post until the 11th of August 1765 when Lord Rutherford at that time Lieutenant of his Majesty's Ship the Niger one of the Squadron then on the Newfoundland Station under the Command of Admiral Pallisser did wilfully and without giving any Notice to your Memorialists Agent burn and destroy about 90 Hogsheads of the value of 60^{lb} or thereabouts the Property of your Memorialists then being at the said Post & did Seize and carry away some of Your Memorialists Effects.—

That on the 17th of the said month of Augst Lieutenant Waters of his Majesty's Ship the Guernsey then under the Command of the said Admiral Pallisser together with 16 Armed Mariners came to the said Post at Cape Charles and Seized the said William Lead and ffrancis Carpentier who was Servant to Your Memorialists and Assistant to the said W^m Lead and insisted that they the s^d Lead and Carpentier should immediately abandon the said Post and go with him to the Admiral then on board the Guernsey in Chateau bay at the distance of 7 Leagues from the said Post of Cape Charles in pursuance of Orders he declared to have received from Admiral Pallisser for that purpose.

That the said Lead remonstrated with the said Lieutenant Waters thereupon and denied that the said Admiral could by any Lawful Authority oblige him to quit the said Post at Cape Charles and abandon the Service & business of Your

Memorialists but the said Lieutenant Waters persisting therein the said Lead and Carpentier being unable to resist his force were by threats and Violence and illegal Restraint and Imprisonment of their Persons obliged to abandon the Post and the Effects of Your Memorialists and consent to go on board the Admirals Ship then lying in Chateau bay.—

That upon Lead's arrival on board the Guernsey he produced his Papers to Admiral Pallisser and underwent an Examination by him whereby it

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appearing that some Canadians (at that time British Subjects) were Employed by Lead as Servants to Your Memorialists in carrying on the said Fishery the said Admiral declared that he should no longer occupy the said Post and Exercise the said Fishery.

That thereupon the said Lead acquainted the said Admiral that no Notice had been given him of any Regulations made by the said Admiral, that Your Memorialists had Effects lying at the s^d Post of Considerable Value he therefore prayed that he might be set at Liberty and Permitted to return to Cape Charles and take the most Effectual means in his power for Securing the same which request being granted the said Lead went to Cape Charles took an Inventory of Your Memorialists effects there lying to the Amount of 750^{lb}, and returned to Chateau bay on 28th of the said month of August.

That he was thereupon again Examined by the said Admiral Pallisser and Ordered immediately to return to Cape Charles and remove from thence all the Effects belonging to Your Memorialists which the said Lead having no Authority from Your Memorialists refused to do whereupon the said Admiral P. declared that he would have his Orders Obeyed, that he would Secure the Person of the said Lead until they were removed and furthermore that if the said Effects were not immediately removed they should be destroyed.

That the said Lead apprehending that the proceedings of the said Admiral were unwarrantable and that it was necessary that he should be able to justify his Conduct to Your Memorialists, his Employers insisted that the said Admiral Palliser should reduce his Orders into Writing whereupon the said Admiral delivered him a certain paper Writing in the Words and figures following:—

“By his Excellency Hugh Pallisser Gov^r and
Commander in Chief in and over the Island of
Newfoundland, the Coast of Labradore and all the
Territories dependant thereupon—

William Lead and Carpentier in the Employ of
Mess^{rs} Bayne and Brymer residing at Quebec are hereby
Ordered immediately to quit the Coast of Labradore and
take away with them all their Effects, or they may sell
them to any British ffishing Ship in this Harbour.

Given under my Hand in Pitts Harbour within
Chateau bay on the Coast of Labradore this 28th
August 1765.

HUGH PALLISSER.

By Command of his Excellency
JOHN HORSNAILL.”

That the said Lead acquainted the said Admiral that it was impossible for him to Comply with the said Order as he was unprovided with any Vessell wherewith to Transport the said Effects to Quebec the place of Your Memorialists residence and which was distant about 300 Leagues from Cape Charles.

That the said Admiral Pallisser persisted in his Resolution of Obliging the said Lead to abandon his Employment and remove the said Effects from

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Cape Charles ordered him to apply in his the said Admirals Name to Captain Nicholas Darby who then Commanded a ffishing Vessell lying in Chateau bay to take the said Effects on board his Ship which was bound for Newfoundland and from thence to some part of Europe.

That Your Memorialists have been Informed that the said Captain Darby did take on board his Ship some Effects belonging to Your Memorialists but they are entirely Ignorant in what manner he has disposed of the same, nor have they ever received any remittance on Account of the Produce thereof.

That Your Memorialists being unacquainted with the above recited Transactions on the Coast of Labradore were fitting out at Quebec a certain Sloop called the Esquimeaux with a supply of Provisions Utensills, and other necessaries for carrying on the Seal fishery at the said Post at Cape Charles which said Sloop being Equipped at a very great Expencc proceeded on her Voyage as far as Mingan 120 Leagues down the River Saint Lawrence at which Place the said W^m Lead arrived in his return to Quebec and acquainted the Master of the said Ship of the Treatment he had received from the Admiral and furthermore that the said Admiral had published a certain Proclamation dated 28th August 1765 whereby he prohibited all persons residing in the Colonies from going to the said Coast of Labradore under Pain of Corporal Punishment and Confiscation of their Effects.

That the Master of the said Sloop finding that the further Prosecution of his Voyage could not in any wise be for the Advantage of your Memorialists and being Terrified by the above mentioned Proc^l did immediately return to Quebec where your Memorialists on having no other Occasion for the said Vessell and Cargo disposed of the same by Public Sale but as the same were particularly adapted for the Seal Fishery on the Coast of Labradore, and as the Colonists were prevented from Exercising the said Fishery, the said Vessell and Cargo

necessarily sold to a considerable Loss.

That upon Admiral Pallisser's arrival in England Your Memorialists did apply to him for Satisfaction for the Injury and Damage which they had received by the means aforesaid but the said Admiral Pallisser instead of complying with so reasonable a request pretended that he could well Justify the several Acts herein before recited done by him or by his Orders by Virtue of his Majestys Commission under the Great Seal appointing him Gov^r and Commander in Chief in and Over his Majestys Island of Newfoundland & the Coast of Labradore and certain Instructions given and delivered to him as Gov^r & Commander in Chief in and over the said Island and Coast.

That Your Memorialists did thereupon by a Memorial setting forth their Case addressed to his Majesty in Council humbly pray that his Majesty would be graciously pleased to grant them Relief.

That the right Honble the Lords of a Committee of his Majestys Council to whom the said Memorial was referred did not think proper to enter into the Particulars of Your Memorialists Case but were pleased to Declare that if your Memorialists had been Aggrieved they should seek for redress in his Majesty's Courts of Law.

That Your Memorialists being advised that Notwithstanding the Justifi-

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cation set up by Gov^r P. he was Answerable at Law for the Damage they had sustained by his Means did in Michas Term in 1766 Commence an Action against the said Gov^r Pallisser in his Majesty's Court of Kings Bench.

*sic.

That the said Cause being at Issue and coming on to be tryed at Guildhall on the 15th day of this Instant December by a Special Jury of Merchants of the City of London before the Lord Chief Justice Mansfield, his Lordship having previously inspected the Pleadings in the said cause wherein the Justification set up by the Gov^r under his Majestys Commission and Instructions were specially Pleaded & having perused a State of the ffacts delivered in by both Parties and being made acquainted with the Application to his Majesty in Council was pleased to Order that the Jury should not be called and to Declare that many very weighty and Important questions must necessarily be agitated in the Course of the Trial of the said Cause which for Reasons drawn from particular Circumstances he was of Opinion were by no means proper to be Discussed before a Jury therefore his Lordship did Recommend that the said Cause should stand over, and that immediate Application should be made by both Parties, Plaintiffs and Defendants to this Honble board for Relief and that they should desire to be respectively heard by their Council.*

And Your Memorialists further Shew unto Your Lordships that they are prepared to prove the several Allegations set forth

in this their Memorial and a Particular of the Loss and Damage which they have sustained by the Means herein before recited.

Your Memorialists therefore most humbly Pray that your Lordships will be Pleased to take the Premes into Your Consideration and grant them such Relief as their Case shall require.

Endorsed:

Newfoundland.

Memorial of Bayne and Brymer, stating the Losses sustained by them in consequence of Gov^r Pallisser's regulations concerning the fishery on the Labrador Coast, & praying relief.

Read Janry 24, 1769.

V. 9.

Jenkins
New Inn.

No. 262.

**PETITION OF GOVERNOR PALLISER TO
LORDS OF TRADE**

IN DEFENCE OF HIS REGULATIONS AND TRANSACTIONS ON COAST
OF LABRADOR.

[1769.
Jan:(?)]

BT. NEWFOUNDL^D. VOL. 20.

To the Right Honble The Lords Commissioners for Trade and
Plantations.

The Humble Petition of Hugh Pallisser Esq^r Governor and
Commander in Chief of Newfoundland and Coast of
Labrador &c. and Commodore of the Convoy appointed
for the Fisheries—Sheweth,—

That by the late Treaty of peace concluded on the 10th
February 1763 between this Kingdom and France all Canada
with its Dependencies was ceded to his Majesty.

That by the Royal proclamation issued on the 7th of
October following for Settling the New Government in
America His Majesty with the Advice of his privy Council To
the End that the open and free Fishery of his Majesty's
Subjects might be extended to and carried on upon the Coast of
Labradore did think fit to put all that Coast under the Care and
Inspection of the Governor of Newfoundland And did declare
it to be his royal Will and pleasure that no Governor in his
Majesty's three Colonies of Quebec East or West Florida
should presume upon any pretence whatsoever to grant
Warrants of Survey or pass any patents for Land beyond the
Bounds of their respective Governments as described in their
Commission And that it was his Majesty's Will and pleasure
for the present to reserve under his Sovereignty protection and
Dominion all the Lands & Territories, not included within the
Limits of the said three new Governments and did strictly
forbid all his Subjects from making any Settlements
whatsoever or taking possession of any of the Lands so
reserved without his Majesty's special Leave and Licence for
that purpose first obtained and did enjoin and require all
persons who had either wilfully or inadvertently seated
themselves upon any Lands within the Countries above
described forthwith to remove themselves from such
Settlements.

That his Majesty by his Royal Commission under the Great
Seal bearing date the 9th day of April in the 4th year of his
Reign and in the year of our Lord 1764 was graciously pleased

to constitute and appoint your petitioner Governor and Commander in Chief in and over the said Island of Newfoundland and the Coast of Labradore to hold and exercise the said place during his Majesty's pleasure.

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His Majesty was further pleased by his Royal Instructions to your petitioner bearing date the 27th day of the same Month of April in the 25th Article thereof to direct him not to allow or encourage any thing to be done contrary to the true Intent and meaning of the Statute of William 3^d for regulating the ffishery And in case any thing should happen which might be of Advantage or Security to the said Territories under your petitioner's Government which was not therein or by his said Commission provided for To allow your petitioner to take Order for the present therein Giving to Your Lordships speedy notice thereof to be laid before his Majesty to receive his Ratification thereof if he should approve the same.

*sic.

That to prevent the Disorders and Confusion which your petitioner had received Information to have arisen during the first year of his Government amongst the Fishers and others in the Northern parts of his Government and particularly on the Coast of Labradore your petitioner did think it necessary to give some Order therein and on the 8th April 1765 did issue a Temporary Regulation Whereby after taking Notice that the property of all the Land on the Coast of Labradore was in the Crown and that since the Conquest thereof no part of it had been lawfully granted away And that it had ever been the policy of the Nation to give to his Majesty's British Subjects (in preference* to all others) every Encouragement to carry on the Fishery It was ordered and directed that in Conformity to the Intent and meaning of the said Statute the whole should be publick and free to all the King's British Subjects in preference to all others 'till his Majesty's further pleasure should be known A Copy of which Regulation marked (A) is hereunto annexed.

That afterwards in the Course of the said Year 1765, your petitioner being in the Neighbourhood of the French Islands of S^t Pierre and Miquelon employed in the Execution of his duty for keeping the French within their proper Limits, and for putting a Stop to the Grand plan set on foot by the French for supply^g The British resident Fishers in Newfoundland as well as all the Continent of America with ffrench produce and Manufactures from those Islands and extending the French Fishery beyond their Limits, To the great prejudice of the British Trade and Fishery in those parts, your petitioner discovered it was in part carried on by some smuggling Traders residing at Quebec, who for that purpose had under various unwarrantable pretences possessed themselves of, and claimed as private property, all the Lands Rivers and Islands Commodious for the Fishery on the Labradore Coast within the Government of Newfoundland, to the Exclusion of all others from that Coast, from whence they carried on a

Clandestine Trade with the said French Islands and with the French Ships in the North part of Newfoundland and even directly with Old France, for introducing into Canada and other parts of his Majesty's plantations all Sorts of French produce and Manufactures—Whereupon your petitioner having made a proper disposition of Cruizers about the said French Islands, proceeded directly to Labradore, where he found the above Informations to be true and met with and took one of the Ships belonging to some of those Settlers coming directly from Bourdeaux with a French Cargo and also found those people to be

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meer Settlers, who carried on no Fishery at all, (Except an inconsiderable Seal Fishery in the Winter) yet their pretensions were to exclude all other his Majesty's Subjects, and they gave Sanction to French Fishers pretending to be Canadians, to encroach on that Coast To the great prejudice of the Navigation, Shipping, Marine Strength, Trade and Manufactures of this Kingdom, and farther the Coast was resorted to by such mixt Multitudes of the most disorderly crews composed of the lowest of the people from the plantations, all contending together obstructing fighting and robbing each other, and also plundering and illtreating the poor Natives, all scrambling for exclusive possessions of Lands where none such cou'd be allow'd, and destroying the British Adventurers Works and Effects, insomuch that none from Britain dared to go to that Coast Except three Vessels that went immediately under the protection of the King's Ships, and to this Confusion must be added the Circumstance of 100 French Ships, with near 8000 men in the Adjacent part of Newfoundland who mixing with those people from our Colonies and the Canadians, were always encroaching on our Coast and Fishery and combined with them in every kind of Clandestine Trade and particularly with those from Quebec.

That your petitioner after duly reflecting on this disordered State of things, and consulting his Commission, The Kings Instructions and Royal proclamation, and the said Statute or Act of parliament for regulating the Fisheries (which your petitioner conceived to extend to all parts where the King's Subjects had ever had a right of Fishery in these parts) and the Established Customs and Usages under that Statute, And no distinction being made by your petitioner's Commission and Instructions between any part of the Sea Coast or Lands under your petitioner's Government, Your petitioner concluded that if the Coast of Labradore was not comprehended within the meaning of the Statute aforementioned, but that it should be considered as newly taken from an Enemy at the publick Expence, yet that it was not to be scrambled for and taken possession of by force or Stealth, or partially given away by any person whatsoever (without his Majesty's express Authority) to Individuals, more especially as by his said Majesty's said proclamation Settlements were forbid to be

made on the Labradore without a special Licence from the King, and all Settlers were warned to retire therefrom, And your petitioner further concluded that such exclusive possessions as had been taken by the Colonists were an absolute Exclusive of all British Adventurers, and therefore directly contrary and repugnant to the true Intent and meaning of the said Statute, and that as your petitioner was present on the Coast, if he did not immediately remove them according to the directions in the King's proclamation, it might be construed into a Confirmation by your petitioner of their pretensions, and been deemed a Neglect or Breach of his duty laid upon him by the King's Commission and Instructions.

At the same time your petitioner has been informed that Representations have been made to your Lordships of an alledged necessity for Seal Fishers to have exclusive and continued possessions of Tracts of Lands for carrying it on, or otherways that Branch of the Fishery would be lost, And further

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that no people but those from Quebec knew how to catch Seals, whereas the long Experience of a far more extensive Seal ffishery carried on in Newfoundland, under the Rules of the aforesaid Act of Parliament which admits of no such propriety possessions there, proves that these are Misrepresentations advanced meerly for introducing Monopolizing projects, to impose on his Majesty's Ministers and to support a most pernicious plan of these Clandestine Traders settled at Quebeck which appears to be to seperate this Branch of the Fishery from the rest, to make it private property and to grant it with the possession of the Coast to the Colonists, and thereby exclude all British Adventurers from the whole Fishery of the Labradore, for wherever such Grants of the Coasts are made no other than the Grantees can carry on any ffishery and shou'd so fatal a Scheme gain Admittance the present System of the Fishery by Ships from Great Britain will be totally at an End.

Upon these Considerations your petitioner conceiving it to be incumbent on him to take Care, not only to give no Sanction to but to prevent any of those people's Schemes so destructive to the British Fishery and Navigation, and at the same time so favourable to the Carrying on Clandestine Trade and to the advantage of France, resolved to take order therein for the present to put a Stop thereto, 'till his Majesty's Commands might be had in future.

It happened that amongst these Settlers were found two men at a place called Cape Charles on the Labradore, the one a Scotchman and the other a Frenchman, who had in behalf of Daniel Bayne and William Brymer Residents at Quebec, taken possession of and held as their property a Tract of about 40 Miles of Sea Coast, with all the Rivers Harbours and Islands adjacent, under a pretended grant from the Military Governor of Quebec at 250 Leagues distance from the place, which was far without the River and Gulph of S^t Lawrence, and even

without the Streights of Belle Isle situated on the Atlantick Ocean, These two men did not nor could indeed use the said large District for the ffishery, (Except taking a few Salmon at the Head of a River) They having neither Ships, Boats, Men, Tackle, Salt, Stages, Flakes or other Necessaries or Materials on the Coast for carrying on the Fishery and having no Vessel by the papers whereof it might appear to whom they belonged, and the few things they had with them appeared to be mostly of French make Especially their Arms of which they had sufficient for a greater Quantity of men and were all French Arms; which Circumstances appeared very suspicious of their being employed by the French, and being questioned about the Natives these men said they were at War with them, and declared they wou'd kill all they could of them.

Notwithstanding such extravagant Claims in direct Opposition to his Majesty's proclamation, and the suspicious Circumstances under which these 2 Men were found, and their own Declarations of being Enemies & Murtherers of the Natives, yet after your petitioner had examined them and explained to them that the Grant under which they claimed was not valid, and being directly contrary to the fishing Statute could not be allowed, and the King's proclamation issued two years before having warned them to withdraw,

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your petitioner sent them back to the place and left them there, and they were never afterwards sent for from thence by him.

That afterwards, one of them whose name was William Lead voluntarily quitted the said place with part of the Effects there by reason of the Savages being then come down on the Coast and the Governor of Quebec's Grant being disallowed as aforesaid, And as your petitioner saw the danger these two men were in from a Tribe of 4 or 500 Savages then come upon the Coast and were actually at Cape Charles And the said William Lead having assured your petitioner that he had provided for the Security of the few Effects that then were remaining on the Coast to his own Mind, he having agreed with one Nicholas Darby to take them away for the benefit of the Owners, and who has since repeatedly offered and desired to account with them for the same, Your petitioner at the request of the said Will^m Lead (he representing that it would be for the benefit of his Employers that he should proceed directly to Quebec) gave him an Order bearing date the 28th day of August 1765 to quit the Coast of Labrador and take away the Effects or otherwise secure them A copy of which is hereto annexed markt Letter (B).

That the said order has been since construed by them as a (force upon them to abandon what they call their lawful possessions and their Effects, tho' the Moment Your petitioner knew of these two men and of their having Effects at Cape Charles, Your petitioner dispatched with them Officers and Boats manned and armed expressly for protecting them and their Effects from the Savages which was timely done for the

Savages were actually then come to Cape Charles, and your petitioner thereby preserved the Effects and Lives of those two Men from the Savages, and afterwards at the said William Lead's desire (he having no Men Boats or Vessels on the Coast) Your petitioner gave directions for the Kings Boats to assist in moving the Effects from Cape Charles according to his own Agreement with Nicholas Darby.

For these good Offices your petitioner expected to have received Thanks from them and their Owners in case it should prove that the said persons and their Effects truly belonged to any British fair Trader, but your petitioner never tho't of being prosecuted for it, yet upon your petitioner's Return to England in 1765 a Complaint was made against him to Your Lordships by the said Daniel Bayne & William Brymer and others, and some Enquiries were made into the same by Your Lordships, but nothing fully concluded therein, tho' before your petitioner's Return to Newfoundland in 1766 at an Examination by the Lords of the Privy Council upon sundry matters respecting the said Government, a Minute was made for the Draft of an additional Instruction from his Majesty to Your petitioner respecting the Labradore, but never being carried into Execution Your petitioner was obliged to return to his Government without it, & therefore on Your petitioner's Arrival on the Coast of Labradore that year, he published a Temporary Regulation explaining the Order of the former Year 'till your petitioner should receive further Instructions from his Majesty, A Copy of which Explanatory Regulation is hereunto annexed Marked Letter (C).

In 1767 upon Your petitioner's being returned again to England he was

surprized with an Action brought against him by the said Daniel Bayne and William Brymer in his Majesty's Court of King's Bench at Westminster, for your petitioners having as they alledged, amoved or caused the said William Lead and Francis Carpenter their Servants to amove with their Effects from the said post or place on the Labradore Coast, which they alledged to have been granted to them by the Governor of Quebec, and Alledged that by the said amoval they had sustained great Loss and Damage, which they sued Your petitioner to answer and make Satisfaction for, To which Action your petitioner appeared and pleaded in his Defence his Majesty's s^d Commission and Instructions to your petitioner as Governor of Newfoundland and the Coast of Labrador as aforesaid, And that what he did was as Governor as aforesaid and in Obedience to his Majesty's said Commission and Instructions, and set forth the ffacts of the Case to be as herein before stated, and insisted that the plaintiffs had no right to the said post or place on the Labradore Coast, & therefore hoped that the said Action should be dismissed.

That before any further proceedings were had in the said Suit, the Season for the said Newfoundland Fishery coming on again, Your petitioner was under the necessity of leaving England to go to his said Government, and which he did without receiving any Additional Instructions from the Crown, for want thereof Your petitioner was left exposed to wicked Combinations and vexatious Suits at Law upon matters altogether new and of an unsettled nature, in a newly Ceded Country, and which had taken their rise from the mistaken proceedings of another person viz^t the Governor of Quebec who had not the least power or Authority for what he did, and who was so mislead by those Companys of Clandestine Traders, that they first obtained from him those illegal Grants and Afterwards in resentment for your petitioner's having detected and defeated their pernicious projects, they further obtained his Authority for the most extraordinary proceedings of the Council of the province of Quebec in the year 1765, apparently for supporting those Grants and propagating Clamour and grounding thereon prosecutions against your petitioner by each of the Grantees, and with whom your petitioner has reason to believe several of the Members of that Council were connected and concerned in those Grants.

That in the year 1768, your petitioner being returned to England did before he set out again for Newfoundland, as well for the Encouragement of the Adventurers in the Fishery as for your petitioner's Security in future and for obviating all Doubts about the Invalidity of the Governor of Quebec's Grants and the Fishing Laws extending to the Labradore ffisheries, make application for an Act of Parliament to be passed explaining the said former Act or Statute relating to the Newfoundland Fishery, and to extend the same to the Seas Islands and Coasts of Labradore which is Adjacent to Newfoundland and

separated therefrom by a Streight of only four Leagues and an half broad in some places, and (the obtaining of which Act of Parliament was approved of by the Lords of his Majesty's Privy Council and a Bill was brought into the House for that purpose, but which was afterwards dropt and your petitioner proceeded to Newfoundland in that Year without any new Instructions.

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That your petitioner returning again to England in the latter End of the said Year 1768 the said Action at Law was on the 15th day of December last brought on for Tryal before the Lord Chief Justice Mansfield and a special Jury at Guildhall London, when it was proposed by the Court, That the proceeding to the said Trial should be put off as a matter very improper to be canvassed in an Action at Law in that Court, and that instead thereof the parties should lay the whole Case before your Lordships as the most proper Judges and for putting it into a Channel to be settled, and also for giving what Instructions were necessary to future Governors in regard thereto.

*missing.

Your Petitioner has therefore troubled your Lordships with this State of the Case, and humbly hopes it will appear to Your Lordships, that he has acted in this matter agreeable to the Statute, for regulating the Fisheries or at least as that Act has always been understood, and likewise agreeable to his Majesty's Instructions and his Royal proclamation and in obedience and Conformity thereto, and that he shall stand justified and be indemnified by Government against all Damages and Expences.

HUGH PALLISSER.

N.B.—For better explaining the nature situation and extravagant Extent of the several Grants made by the Governor of Quebec, a Chart is annexed* upon which the Extent of each Grant is distinguished by different Colours with an Explanation thereof.

Endorsed:

Petition of Hugh Pallisser Esqr.

No. 263.

POWNALL TO COOPER,[16 Nov.,
1769.]SIGNIFYING LORD HILLSBOROUGH'S APPROVAL OF GOVERNOR
PALLISER'S CONDUCT, ETC.

Mr. Cooper

C.O. NEWFLD. 1786-1801. VOL. 1. ENTRY BOOK, p. 24.

Whitehall November 16, 1769

Sir,

Having Communicated to the Earl of Hillsborough the inclosed Petition of Hugh Palliser Esq^r late Governor of Newfoundland transmitted to me in your Letter of the 2^d Ult^o I am commanded by His Lordship to acquaint you for the Information of the Lords Commissioners of His Majesty's Treasury that the Case to which the said Petition refers having been sometime ago under the Consideration of a Committee of Council at which. his Lordship was present, the Governor's intentions in the measures complain'd of by Mess^{rs} Bayne & Brymer, appeared in so favorable & honorable a light that it was the unanimous sense of the Committee to propose an accommodation & to recommend to the Treasury to pay whatever Damages should be agreed upon by the Parties & that Gov^r Palliser should be reimbursed all expences he has been at on this Account.

To this Testimony of Governor Palliser's merit Lord Hillsborough desires to add His opinion, that from the Spirit and Ability with which that Gentleman executed the important Trust committed to him, and the attention he at all times shewed to the spirit of his Instructions, he justly deserves their Lordships favor and countenance.

I am &c^a

J. POWNALL

No. 264.

[9 July, 1770.]

**PETITION CONCERNING FISHING POSTS ON THE
COAST OF LABRADOR.**B.T. NEWFOUNDL^D. VOL. 20, p. 259. 1770, 9th July.

A Son Excellence Guy Carleton, Capitaine Général &
Gouverneur En Chef de la Province de Québec,
Vice amiral d'Icelle & Brigadier Général des
Armées de Sa Majesté &^c &^c &^c

Les Sujets de Sa Majesté en cette Province, que vous voulés bien honorer de Vôtre Protection, Se Voians privés (par les ordres Et Réglemens du Gouverneur de Terre Neuve) d'Exploiter, ainsi qu'ils ont toujours faits depuis le Commencement de L'Etablissement du Canada, la Pêche Sédentaire du Loup Marin En hiver, Sur les Costes de Mingan & de la Brador, dans le fleuve & Golfe S. Laurent, qui se trouvent par les Nouvelles limites de cette Province, Etre du Gouvernement de Terre Neuve, ont l'honneur de S'adresser très Respectueusement à Votre Excellence, Et vous Suplient de Vouloir bien leur Etre favorable & apuier la Demande qu'ils font à Sa très Gracieuse Majesté, que ces Côtes Soient réunies à cette Province, comm' En faisant une partie indispensable à Son Commerce.

Leur Demande Est d'autant mieux fondée, que Si les Etablissements qu'ils ont faits sur ces Côtes pour la pêche Sédentaire du Loup marin, qui dans tour les Tems ont faits la plus forte partie des Ressources de leur Commerce, par les Retours qu'ils ont procuré; Ne leur Etoient pas rendus, ils se trouveraient dans l'Impossibilité de S'acquitter des sommes considérables qu'ils doivent aux Négocians de Londres. Comment pourroient ils le faire, Si on ôte à cette Province une Branche de commerce qui lui Est propre par sa contiguité, qu'Elle a toujours fait & qui lui Est indispensablement Nécessaire? Cette Pêche Sédentaire du loup marin qui ne Se fait qu'En hiver, depuis le quinze Décembre Jusqu'au trois ou quatre Janvier, Ne peut certainement être préjudiciable En quoique ce Soit à la Liberté des Pêches de Baleines & de moruë qui ne Se font que L'Eté. Les Pêcheurs de Loup marin reviennent à Québec dans le Courant du mois de May, avant que les Vaisseaux Pêcheurs tant à la Baleine qu'a la moruë Soient rendus dans le Golfe, Et n'y retournent que dans le Courant du mois d'octobre pour y passer l'hiver; Les Grèves de tout ce continent Sont par conséquent libres tout l'Eté aux Pêcheurs de la Grande Bretagne, tant pour la fonte des Graisses de Baleine que pour la Sécherie de moruë. Dans

& de moruë Etoient, dans le Golfe & fleuve S. Laurent, libres à tous les Sujets, & les Propriétaires des Etablissemens pour la Pêche sédentaire du loup marin, ne pouvoient rien Exiger de leurs Grèves, quoiqu' Elles leur fussent concédées En Propriété, outre la perte qu'En souffriroit le Commerce, que Deviendroient un nombre de Canadiens Mariniers & Matelots, qui n'aïans d'autres professions & d'autres talens, Seraient forcés de quitter leur païs natal & passer dans d'autres Royaumes, lorsqu'ils N'auront plus la Ressource des dites Pêches? Combien d'ouvriers de toute Espèce Employés & Nécessaires dans l'Exploitation des Pêches du loup marin Se trouveroient Sans Employ! Tous les hommes Ne Sont point propres à la Culture des Terres: D'ailleurs qui pourroit dédommager cette Province de la Sortie du Merain, des feuillards & des Vivres que demandent ces Exploitations, qui Enprocurent le Débouché. L'Exploitation des Pêches Sédentaires du loup marin En hiver, est seulement propre aux Canadiens. Ils en Sont les premiers Inventeurs. Ils Sont Nez dans les Glaces & conséquemment durs au froid qui Est Excessif dans ces Endroits. Cette Pêche qui se fait dans les Glaces & dans la Saison la plus dure de L'année, ne peut être faite par les anciens Sujets. Ils n'y réussiroient pas Jamais les Européens n'ont pû y résister. En frustrer cette Province, Seroit perdre Entièrement L'avantage de ces Pêches, que les Canadiens Seuls en peuvent tirer, y Etans accoutumés & Elevés dès leur tendre Jeunesse. La Pêche finie, les Mêmes Canadiens Egalement propres à la Chasse des Bois, la font, & la majeure partie au Retour de leur hivernement Sont Encor en Etat d'aider à leur famille à augmenter leurs terres.

Les Suplians Se pessuadent que le motif qui Engage le Gouverneur de Terre Neuve à les Exclure de l'Exploitation de leurs Etablissemens, Est peut être la crainte, que Sous le prétexte des Pêches, ils ne fassent un Commerce prohibé avec les Isles S. Pierre & Miquelon, ou autres Endroits à Terre neuve où Se trouvent des Vaisseaux françois en pêche. Ils osent Se flatter que Vôtre Excellence voudra bien donner à cet Egard de fortes assurances, & Répondre pour Eux qu'il N'Est point d'Intérêt qui puisse Engager les Canadiens à rien Entreprendre contre les Défenses de leur souverain. Ils voient avec une Extrême affliction que l'Etenduë de Cette Province a Eté, dans son Entrée, bornée du Côté du nord à la Rivière S. Jean, Sans doute, parceque Sa très Gracieuse Majesté n'Etoit point alors informée que toute la Côte du Nord, jusqu'a la pointe S^t Charles au dessous du Détroit de Belisle, Et même Jusqu'a la Baïe de Kitche Katchou, auoit été En partie concédée par Sa Majesté très Chrétienne à des Canadiens, pour y faire la pêche Sédentaire du loup marin: que toutes ces Concessions tant En fiefs à perpétuité qu'En Rôtieres à un tems limité, Etoient données quant aux fiefs à la charge de la foy & hommage, & quant aux Roture à la charge de Redevances au

château S. Louïs de Québec, qu'Elles En relevoient & que ces Côtes avoient toujours fait partie de cette Province, ainsi qui Vôtre Excellence l'apû. Vérifier dans les Extraits qu'il a fait faire des Regîtres du Conseil Supérieur & dans ceux d'Intendance, dans les quels ces titres sont Regîtrés.

Cette Province a Eté resserrée au préjudice de Son Commerce, Sans que les Canadiens en Aïent Eté instruits. S'ils auoient pû prevoir une telle opération,

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Ils auroient prix la Liberté de faire à Sa Majesté leurs très humbles Réprésentations, Et lui auroient fait connoître que cette Province ne pouvoit absolument Se Soûtenir, Si ce continent En Etoit séparé, parceque Sans Son produit, Elle ne pourrait jamais S'acquitter avec la Mère Patrie des Sommes qu'Elle lui doit pour les marchandises qu'Elle En tire qui lui Sont indispensablement Nécessaires. Non Seulement Cette Province Est privée de ce Continent mais Ses citoyens Sont Encor Exclus de faire la pêche & Tuërie de Loups marins, dans les Etablissements qu'ils ont faits Eux mêmes, qui lour appartiennent, par une ordonnance du Gouverneur de Terre Neuve, qui Est d'autant moins fondée sur L'Equité & la Justice, qu'il Est contre le Droit Naturel de Vouloir Empêcher les Natifs d'un Païs, de faire une Pêche que la Providence leur apreparée dans leur Continent, dont Ils Sont les premiers Inventeurs, & qu'ils Exploitent depuis plus de Cent ans.

Les Supliants persuadés & Convaincus qu'ils Sont, de la Justice de leur Demande Et de la Bonté de sa très Gracieuse Majesté, asent se flatter, que Si Vôtre Excellence, En Saqualité de leur Gouverneur, Veut bien, pendant son Sejour à Londres, apüier leurs représentations, que la Demande qu'ils prennent la liberté de faire, que ce Continent dans la Côte du nord Jusqu'a la Baye Kitche Katchou, & les différens Etablissements de pêches Sédentaires du loup marin, Soient rendus & Réunis à Cette Province Et qu'ils En Relévent leur sera accordée, ainsi que la liberté d'Exploiter les dites Pêches ainsi qu'ils ont toujours faits. Et les Suplians Ne Cesseront d'adresser leurs Veux au Ciel pour la Conservation de Vôtre Excellence

PERRAS.

Québec le 9 Juillet 1770.

BOUCHERVILLE COURVAL
LÉRY PARANT
JAMES JOHNSTON H^y MORIN LE C^{te} DUPRÉ
f. BABY LA NAUDIERRE PERRAULT

Endorsed:
Newfoundland.

Petition concerning
the fishing posts on the

Coast of Labradore

Reced } 1772.
Read June 12. }

V. 42.

[Translation of No. 264.]

B.T. NEWFOUNDLAND. VOL. 20, p. 259. 1770. 9th July.

To His Excellency Guy Carleton, Commander and
Governor in Chief of the Province of Quebec,
Rear- Admiral of the said Province & Brigadier
General of His Majesty's Forces &c &c &c

Whereas His Majesty's subjects in this Province, whom you have been pleased to honour with your protection, find themselves (following the Orders and Regulations made by the Governor of Newfoundland) barred from carrying on, as was done by them at all times since the early settlement of Canada, sedentary seal fisheries, in winter time, on the coasts of Mingan and la Brador, in the river and gulf of St. Lawrence, which coasts, as a result of the new boundaries of the said Province, are under the Government of Newfoundland;

Your petitioners have the honour most respectfully to apply to Your Excellency and most humbly pray that you may be pleased favourably to consider and support their application to His Most Gracious Majesty for the reunion of the said coasts to this Province, as they form a part thereof that is necessary to His Majesty's commerce.

Their request is all the more justified by the fact that should such posts as they formed on the said coasts for sedentary seal-fishing and which, through the profits made from them, were the chief sources of their trade, not be restored to them, they would be unable to pay the large sums of money they owe to the merchants in London. How could they possibly do so when this Province is deprived of a line of commerce that naturally belongs to it on account of being carried on in a contiguous territory, at all times, and that is of an absolute necessity? The said sedentary seal-fisheries are only in operation in winter time, between the fifteenth of December and the third or fourth of January, and, therefore, could be of no prejudice whatever to the freedom of whale and cod fishing which only takes place in summer time. Those engaged in seal fishing return to Quebec during the month of May, at which time the whale and the cod-fishing vessels have not yet reached the Gulf, and they never leave again until October for their winter fishing season. Therefore, throughout the continent, the fishermen have the free use of the beaches both for the reducing of the whale blubber and drying cod-fish. Under the old government the said whale and cod

fisheries in the river and gulf of St. Lawrence were free to all of the subjects and the owners of sedentary seal-fishing posts, although they had been granted the ownership of the beaches, could claim no indemnity for any loss resulting to their trade through the use of said beaches.

What would become of so many Canadian mariners and sailors, who having no other occupation or other training, would be compelled, when no longer able to earn their living from the said fisheries, to leave their native land for other kingdoms? What a large number of workers of every description, now engaged in and required for sedentary seal-fishing would be thrown out of employment! Such men are in no way trained for the tilling of the soil. Furthermore what would make us the loss of this Province of the export duties on the stave-wood, hoop-iron and provisions for which such undertakings provide a market.

The winter operation of sedentary seal-fishing can only be successfully carried out by the Canadians, who first discovered them. Born as they are in cold climes, they are the best suited men for the hardships of winter in this region. This fishery is carried on in icy waters and at the most severe season of the year so that the Canadians alone can withstand the hardships it entails. No former subjects could engage in such fisheries and be successful, and the Europeans never could stand it. To deprive the Province of said fisheries would mean the loss of all benefits obtainable only through the the Canadians who are accustomed to them from their very childhood. The fishing season over, these same Canadians who are also skilled trappers, go hunting in the woods, and when they return from their winter expedition are still in a position to assist their family in developing their lands.

Your petitioners are satisfied that the reason why the Governor of Newfoundland was induced to bar them from the operation of their posts is due to his fear that, under the pretense of fishing, they might carry on illicit trading with the islands of St. Pierre and Miquelon and other points in Newfoundland frequented by French fishing vessels. They venture to hope that your Excellency may be pleased to give positive assurance in this connection and to state in their behalf that no consideration could induce the Canadians to engage in anything contrary to the prohibitions made by their Sovereign.

They view with great regret the fact that the Province, at its entrance from the North side, was bounded by the river St. John, evidently because His Most Gracious Majesty had not been informed at the time that the whole of Côte du Nord, as far as Cape St. Charles, below the Strait of Belisle, and even as far as the Bay of Kitche Katchou, had partly been granted by His Most Christian Majesty to Canadians for the purposes of sedentary seal fishing; that all such concessions, both en fiefs forever and en rôtures for a limited time were made, as to the fiefs, subject to fealty and homage, and as to the rôtures (soccage), subject to the payment of rents at the Castle of St. Louis under the dependency of which they were, and that the

said coasts formed part of this Province as Your Excellency must have ascertained from the extracts you caused to be taken from the Records of the Superior Council and of the Intendance where such titles are registered.

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The new boundaries of the Province were settled without the Canadians being informed of the matter. Had they been made aware of it, they could have anticipated such a settlement and would have taken the liberty of submitting their most humble representations to His Majesty and informed him that, if this mainland were detached from its territory and the province practically deprived of the revenue obtained therefrom, it could not subsist, and would never be in a position to pay the Mother Country for the necessary commodities supplied from that source. Not only would the Province be deprived of this mainland, but its inhabitants would be barred from fishing and killing seals in the posts which they established and are their own property, through an ordinance made by the government of Newfoundland, which ordinance is all the less fair and just as it is contrary to common law to prevent the natives of a country from enjoying, on their own territory, a fishery meant to be theirs by Providence and which they have carried on for a hundred years back.

Your petitioners, believing in the fairness of their request and in His Most Gracious Majesty's generosity, venture to hope that, during your stay in London, Your Excellency may be pleased to support their cause, that they shall be granted their request for the return and reunion of this mainland on the Côte du Nord, as far as the Bay Kitchekatchou, to this Province, to be made a dependancy thereof, and also the free operation of their said fisheries as they have always had in the past.

And so in duty bound your petitioners will ever pray for the preservation of Your Excellency.

PERRAS.

Quebec, 9 July 1770.

BOUCHERVILLE COURVAL
LÉRY PARENT
JAMES JOHNSTON H^Y MRIN LE C^{TE} DUPRÉ
F. RABY LA NAUDIÈRE PERRAULT

Endorsed:

Newfoundland.

Petition concerning
the fishing posts on the
coast of Labradore

Reced.

1772.

Read June 12. }

V. 42.

No. 265.

EXTRACT FROM

[1772.]

A SHORT ACCOUNT OF THE TERRITORY OF LABRADORE, ITS
INHABITANTS AND PRODUCTIONS, TOGETHER WITH SOME
OBSERVATIONS ON THE DIFFERENT FISHERYS WHICH ARE CARRY'D
ON UPON THAT COAST, AND HOW THE AUTHOR PRESUMES THEY
MAY BE IMPROVED, AND EXTENDED, BY AN OFFICER¹ OF THE
SQUADRON UNDER THE COMMAND OF COMMODORE SHULDHAM.

Humbly inscribed to the Righ Hon'ble
the Earl of Dartmouth.

COL. COR N., VOL. 5.

It was thought necessary to erect at Chateau a Blockhouse for the protection of the Fishery upon this Coast. Doubtless it was a wise procedure. It flattered the Fishery with a Mark of the Attention of Government & was a requisite Encouragement towards promoting its Establishment.

We know that about the time this Fort was erected, the Indians committed some Irregularities, and two or three Men were killed. It was justly thought that a beneficial Fishery might be carried on upon that Coast, and it was certainly very proper to make every probable method for encouraging Adventurers to prosecute it. The Esquimeaux are not very well known at present, but at that time they were believed to be a more Savage, ferocious, cruel people than perhaps they really were. The Merchants dreaded the loss of their Craft, & the Servants considered their lives to be in danger.

Now whether the Fort was capable of effectually preserving either the one or the other, might not be enquired into. It is sufficient if its being built induced them to continue on the Coast, and whether it be really necessary or useless is of no consequence. Its being abandoned may alarm the Fishery. The Fisherman will probably look upon themselves as devoted to Destruction, and perhaps those who are most timourous will refuse to continue on the Coast. If a panick once seizes them, wheter there is occasion or not, is of no signification, the Fishery will be ruined.

* * * *

It must be considered they have been long accustomed to ramble in the Summer & they cannot well transport themselves without Boats. They

¹ The manuscript copy of this paper is endorsed at the end with the following note: "Drawn up probably by Lieutenant Roger Curtis."

know not how to build them, and they are as yet Strangers to Industry. The only means by which they may be acquired. The Esquimeaux live at this Day, as the original Inhabitants of the most polished Nations. They have no care beyond the necessities of life. Let proper Methods be taken wit them, and they will soon be weaned from their Brutality. As you expand their Ideas you will multiply their Necessities, and they will consequently attach themselves to those Occupations by which they may relieve them.

*sic. The have been threatened with punishment if they steal again, and were this Year forbid going to Newfoundland. This Restriction was very displeasing to them, but they submitted with the Appearance of much Anxiety not to offend.

Unless a misunderstanding should arise between us (i.e. between the Esquimaux and the English), it is probable these people will never think of offending again. If they ever do, the mischief will be done by surprise, and then the Fort can be of no Service to whom they attack. It is true the Idea of a Military Guard may awe the Indians, and at the same time it will inspire the Fishermen with confidence, because they will consider the Fort as a place of Refuse* in case of Molestation.

sic. With respect to an European Enemy this Fort perhaps was never meant to be any Safeguard. Its want of Strength & situation render it utterly useless for that purpose. But it is our Happiness that a few Salt fish will never induce a Privateer to visit this Coast at such a Distance from home, and the Ships of War may probably find other Employment. This Fort seems to have been erected purely as an Encouragement to the Fishery, and with a View of restraining the Disorders of the Indians; and consiered in that light, there can be no objection to its plan or Situation. But without meaning to give offence to anybody, we cannot help observing, in its Establishment there is room for vast Amusement.

It has been before hinted that the Fort appeared to be Serviceable only as an asylum, and that for the purpose of preventing and Molestation to the Fishery, it was rather insignificant.

No. 266.

1772.
June 24th.**REPRESENTATION OF LORDS OF TRADE TO THE
KING**

*sic. RECOMMENDING ANNEXATION TO THE PROVINCE OF QUEBEC OF
LABRADOR COAST BETWEEN RIVER ST. JOHN AND STRAITS OF
BELLE ISLE, WITH ADJACENT ISLANDS.

B.T. NEWFOUNDLAND. VOL. 33.

To the King's Most Excellent Majesty.

May it please Your Majesty,

We have had under our consideration a paper communicated to us by the Merchants of Great Britain interested in the Trade to Quebec, intituled, The case of Landholders in Canada, proprietors of Seal-fisheries on the Coast of Labrador, and their Leasees*; as also of the possessors of certain Seal Fisheries on that Coast under grants from the Governor of Quebec, describing the particular nature and circumstances of those fisheries, and setting forth the great loss and detriment which have ensued by those fisheries being made subject to such rules and regulations, as the Governor of Newfoundland has thought necessary to be laid down for the fisheries of Cod and Whale, since the said Coast of Labrador has been annexed to that Government: we have likewise taken into our consideration a memorial presented to Guy Carleton Esquire Your Majesty's Governor of Quebec and signed by Sundry Inhabitants thereof, Subjects of Your Majesty, to the like effect, whereupon we beg leave humbly to represent to Your Majesty,

That while Canada remained in the hands of The French, and the Coast of Labrador was considered as a dependancy thereupon, a fishery for Seals was, amongst other objects of national concern, attempted and brought to a degree of perfection, and the returns from this branch of the exports of Canada amounted annually to about ten thousand pounds sterling. In consequence of these attempts, Grants of several Islands in the River and Gulph of Saint Lawrence, and some tracts on the main land, with the exclusive privilege of Seal-Fisheries &c^a were made in times past by the Crown of France to certain persons, and the rights of property thereby vested in them have passed as Inheritances, and been sold and leased to Tenants at pleasure Various other species of claims have been exhibited as derived from French tenures, which it is needless now to enumerate, and which have passed by succession through different hands; And since the cession of Canada, these fisheries have been again taken up, and sundry of Your

from proprietors under French titles or by grants from Your Majesty's Governor of Quebec for a term certain, or 'till such time as Your Majesty's Pleasure should be known: In confidence of the validity of these tenures, it is stated that many adventurers have followed the established practice of Canada, by purchasing from the former Grantees, the whole of their dwelling Houses, fishing implements, utensils and warehouses appropriated to particular posts or passes, and large sums are said to have been employed in reestablishing these fisheries.

The fishery for Seals it is asserted, cannot be prosecuted in the open Seas and made general like those for Cod and Whales, but it is practised in a manner widely different from any other fishery in the Gulph or River Saint Lawrence, and requires much judgement and circumspection; it is chiefly formed by the contiguity of small Islands or Rocks to the main land, which occasion strong currents called Passes, where only such fisheries can be exercised, and to which the make and contexture of the Netts must be particularly fitted; it is chiefly followed in the Winter Season, and the immediate operation of catching these animals commences in December, and lasts only about fifteen days; but the fishers employed in the business must be at their station in the course of the Month of September, and cannot get away from it before the end of May.

This, it may please Your Majesty, is in brief, the nature of the fishery for Seals, and these the circumstances of the people engaged in that business, as described and explained in the papers under consideration, copies whereof we beg leave hereunto to annex. By Your Majesty's Royal Proclamation of the 7th of October 1763, Your Majesty thought fit to put all the Coast of Labrador, from the River Saint John's to Hudson's Straits, together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the care and inspection of your Governor of Newfoundland to the end, as Your Majesty therein graciously declares, that the open and free fishery of Your Majesty's Subjects might be extended to, and carried on upon the said Coast of Labrador and the adjacent Islands; And from this period, the Posts and Settlements on the above Coast, and the fisheries thereupon depending, were detached from the Government of Quebec, and became subject to the Ordinances and Regulations of Your Majesty's Governor of Newfoundland.

From the foregoing account of the nature and circumstances of these Posts, and the Fisheries depending thereon, it will, as we humbly conceive, appear, that to subject them to the same Rules and Regulations, as may be well adapted to the fisheries for Cod and Whales, is, in effect, to destroy them: that the Seal-fishery being of necessity a sedentary fishery, requiring great expence, Nets of a particular

quality and construction immediately fitted for the Pass they belong to, employing materials of a bulky nature and requiring Houses for wintering the fishers, cannot be made open and general in the manner of the fisheries above mentioned, nor can the Posts occupied by Adventurers, in this business, be quitted at pleasure, or transferred to first comers, as is practised in the Newfoundland fishery; And accordingly

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we find, not only from the papers under present consideration, but from various other documents in Our Office, that many and great complaints have been preferred against the Rules and Regulations, which have been extended to this Coast, since it has been annexed to the Government of Newfoundland; and which Rules being calculated with a view to encourage the two great fisheries for Cod and Whales, and contrived to quicken the activity and emulation of Adventurers from Great Britain, by laying the several Posts and Passes open to the first arrivers, have been found absolutely incompatible with the principles on which the Seal-fishery can alone be conducted. To prevent therefore any further disturbance to Individuals in their private claims and possessions, and to save to the Mother Country the advantages to be drawn from this Branch of Commerce, which seems to be no inconsiderable object, we do humbly submit to Your Majesty, whether it may not be adviseable for Your Majesty to cause to be reannexed to Your Government of Quebec such parts of the said Coast of Labrador, as are situated between the River Saint John's and the Streights of Bellisle, together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast; for although Your Majesty, from such information, as was before Your Majesty when the Proclamation of the 7th of October 1763 was published, did, upon the gracious motives therein set forth, and with the advice of Your Privy Council, think fit to put that part of the Coast of Labrador under the care and inspection of Your Governor of Newfoundland, yet the experience of succeeding times, and the various inconveniences which have since occurred, and which could not at that period be foreseen, have, as we humbly conceive, reversed the policy of that measure, and made it for your Majesty's Service, and the welfare of Your Subjects to restore the said Coast as far as the Streights of Bellisle, to it's dependency on the Government of Quebec, leaving for the present at least, that part of the Coast of Labrador, which lies between the Streights of Bellisle and Hudson's Streights, and where, we conceive, there are very valuable Cod fisheries under the Government of Newfoundland.

All which is most humbly submitted.

HILLSBOROUGH,
JOHN ROBERTS,
BAMBER GASCOYNE,
ROBERT SPENCER.

Whitehall }
June 24th 1772. }



[19 Dec., 1772.]

No. 267.**REFERENCE BACK TO LORDS OF TRADE.**

FOR FURTHER CONSIDERATION OF REPORT ON CASE OF LANDOWNERS
IN CANADA.

B.T. NEWFOUNDL^D. VOL. 20, p. 317. 1772. Dec. 19th.

At the Council Chamber Whitehall,
the 19th Day of December, 1772.

By the Right Honble the Lords of the Committee of Council
for Plantation Affairs.

His Majesty having been pleased by His Order in Council of the 8th of July last, to refer unto this Committee a Representation from the Lords Commissioners for Trade and plantations upon considering the Case of the Landholders in Canada proprietors of Seal Fisheries on the Coast of Labrador and their Lessees, As also of the possessors of certain Seal Fisheries on that Coast under Grants from the Governor of Quebec— The Lords of the Committee in Obedience to His Majesty's said Order of Reference this Day took the said Representation into Consideration and are hereby pleased to Order that the said Representation be referred back to the said Lords Commissioners for Trade and plantations, who are to confer with His Majestys' Governor of Newfoundland on the Subject of the Seal Fisheries carried on upon the Coast of Labrador, and Report their opinion to this Committee, how far the Seal Fisheries on the said Coast may be relieved from the great loss and detriment, which are represented to have ensued by those Fisheries being made Subject to such Rules and Regulations as the Governor of Newfoundland has thought necessary to be laid down for the Fisheries of Cod and Whale, since the said Coast of Labrador has been annexed to that Government, without prejudice to those Considerations of Policy which induced His Majesty by His Royal proclamation of 7th October, 1763 to put all the Coast of Labrador from the River St Johns to Hudsons Streights together with the Islands of Anticosti and Madelaine and all other smaller Islands lying upon the said Coast under the Care and Inspection of the Governor of Newfoundland.

STEPH. COTTRELL.

[6 Jan. 1773.]

MEMORIAL OF GEO. CARTWRIGHT

PRAYING FOR GRANT OF LANDS ON THE COAST OF LABRADOR, ETC.

p. 321. 1773. Jan 6th.

To the Right Honourable Earl of Dartmouth, His Majesty's
Secretary of State for the American Department, First Lord
of Trade and Plantations, &^c &^c &^c

The Memorial of Geoge Cartwright Esq^r Merch^t

Sheweth

That, in the Spring of the Year 1770, when no British Subject in Labrador would venture to reside farther northward than Chatteau Bay and the islands immediately adjacent, your Lordships' Memorialist, at great hazard and expence settled himself in the River Charles on the said Coast, in order to establish Seal and Salmon Fisheries; to fish for Cod; to carry on the Furring Business; to open a friendly and Commercial intercourse with the Eskimaux Indians with whom we were then upon very bad terms; and to commence, if possible a Shore Whale-fishery.

That Your Lordship's Memorialist has had nothing but a series of difficulties to encounter, and has sustained a variety of heavy losses in these his undertakings; partly from the rigour of the climate; partly from the inexperience common in all new enterprizes; and partly from the unjust and malicious interruption of later adventurers; one of whom, M^r Pinson of Dartmouth, forcibly dispossessed this Memorialist of, and, to his great detriment, detained from him a considerable time, his Salmon fishery in the said River Charles.

That your Lordship's Memorialist seeing no security from the repetition of such like proceedings, there being at this time seated in the posts he furnished with the requisite buildings and erections for the Sealing business, other Crews of the said Pinson, who has not scrupled to declare, as this Memorialist is credibly informed, his fixed resolution of persecuting him by superiour force, until he shall have hunted him off the coast: and this Memorialist thinking it by no means equitable that he should be driven in quest of new discoveries and into fresh difficulties, while another, without toil or risk, shall thus step in and reap the harvest of his past labours, finds himself under the necessity of applying to your Lordship for protection and

encouragement: But, at the same time that the above facts are related, this Memorialist begs to be understood that he has no cause whatever to be dissatisfied with the Governor's Officer upon that Coast for not affording him redress: He does not complain of the breach of any positive law; but of a violation of natural justice in Pinson: and this Memorialist flatters himself that, the following representation of the nature of each distinct branch of the Labradore business, will throw so much light upon it as to dispose your Lordship to believe that, what he has to solicit will be only a reasonable encouragement to every adventurer; of general benefit to Trade; and no way detrimental or injurious to other persons having an inclination to become adventurers on that coast.

The Seal Fishery is of the first importance; and may become extremely valuable if an undisturbed enjoyment can be granted to the discoverer and first occupier; but, if he be open to the invasion of anyone more powerful than himself as soon as he have learnt the advantages of his situation, he will ever be discouraged from embarking in it with spirit, and prevented from bringing it to any degree of perfection. The whole coast of Labrador abounds with Seals, and most so, there is reason to believe, to the northward: as may be inferred from the situations chosen by the several tribes of the native Eskimaux, who depend chiefly upon the seal fishery for their subsistence. But, it is to be observed that, every particular part of the coast requires that the nets be of particular forms and dimensions, according to the depths of water, the width of passes, the confined or extended track of the Seals; that the shore apparatus be likewise contrived differently for different posts; and in short, that the whole business in a great measure, be conducted on principles adapted to the peculiarities of each distinct post: so that nets made for one place cannot be fitted for another without very great loss and inconvenience, & a quantity sufficient for one post may not be half enow for another; and in several other particulars an adventurer, not having a certainty where he shall fix himself, will labour under very great disadvantages. There is so little dependence to be had, from previous observation, of the rout the Seals will take along the shore, that nothing but the experience of several seasons can ascertain the most advantageous mode of intercepting them within any particular tract of the coast, though but of a few miles in extent: so that much labour, fruitless expence and disappointment, must necessarily attend the Seal-fishery in its commencement to those who are real adventurers: but to those indeed, who watch their opportunity of seizing upon posts already prepared to their hands, the case is widely different. These inconveniences have been felt most severely by your Lordship's Memorialist who has spared no cost or pains, having as he verily believes, besides all his own time and trouble since the spring of the year 1770, sunk at least four fifth parts of his capital in trade. This branch, being a winter & spring employment, must be carried on by residents, and not by men carried out annually from Europe, as to the Cod fishery: and therefore, admitting the force of the foregoing

reasons, it would be the ruin of it to make the occupancy of the posts to depend on priority of possession taken by ships arriving on the coast. Here, it may

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be necessary to attend to these material distinctions. When the Fishing Act introduced into the Newfoundland Codfishery that Regulation, it was a very proper one; because the intent of it was to give a stimulus to the Adventurer in an infant fishery, as well as to increase the number of British Seamen: in the Labradore Seal-fishery it is evidently a discouragement; and the inuring the fishermen to Voyages on the ocean is not the object here, as they must remain in the country; but not without adding to the shipping & seamen of these Kingdoms, for they thereby increase very considerably both our exports and imports. In the Cod-fishery, this Regulation extends no farther than to give the first comer his choice of a room on the shore, for the curing of his Voyage, which is almost a matter of indifference; but, at Labradore it would extend to determine where he should Kill his voyage, to the exclusion of all others. There, it does not put the excluded person to any kind of difficulty in Catching his fish, as the fishing ground is still open & free to all alike: here, it subjects him to all the disadvantages of being driven in quest of a new Sealery, as pointed out above. Hence it is plain there is no similarity in the two cases. And even in Newfoundland, the right of occupancy for the season, from the priority of taking possession, is very far from universal: nay, throughout that country, the number of Ships' Rooms bears but a small proportion to that of those held, enjoyed and inherited as private property.

The Salmon Fishereies of Labradore are extremely numerous; but the difficulty in approaching the coast for ice all the early part of the summer, and the short continuance of that season, make an essential difference between them and those of Newfoundland. There, the fishing ships from Europe can always take possession early enough in the season: here, they cannot. 'Tis very precarious even in the southern parts, and when the rivers come to be occupied northwards, towards Hudson's Streights, it will be still more so. It may possibly be proper in Newfoundland, where Cod fishing is the grand employment of the people, that the Salmon-fishing should be dependent thereupon (although that may well be disputed), and that it should there fall under like regulations: but, in Labradore, it will in general be found most beneficial that the Cod-fishery be made subservient to the other more certain and important objects; and therefore the present laws of Newfoundland will not, it is apprehended, be found to promote the interests of the Labradore Salmon-fishery, whose natural and necessary connection with the Sealing and Furring, will best point out the proper regulations for its encouragement. It appears, from the best observations which this Memorialist hath been able to make, that a permanent possession is equally necessary in the Salmon-fisheries as in the Sealing Posts; for

the nets in this, as well as in the other, must be made for each particular place; otherwise the advenventurer would be exposed to all the inconveniences above described in the case of the Seal-nets. Dwelling houses, Store houses, Salmon houses, Cooperages, Wharfs, Stages and other erections must be provided in each River; besides boats Stores, Provisions, Craft, &c: hence it is easy to imagine the distress that an Adventurer upon a small capital, or indeed any adventurer,

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must suffer, if he be frequently obliged to quit his station and resign the fruits of his industry to a new comer, while he himself is forced to seek another River, to lose great part of the fishing season in erecting all his buildings afresh, and in removing thither his effects ; taking, after all, but the chance of finding it a place proper for his purpose. And the necessity of an exclusive property in the Salmon Streams will be farther manifest, when the close connection or rather union of this fishery with the Sealing Whaling and Furring is duely considered. The Sealing and Whaling must be on the same spot; and the others within their vicinity; in order to yield the mutual assistance which they require one from another. The hands are frequently shifted from one post to another during the course of the year, as the successive employments of consequence, which fall out in different seasons, and the requisite preparations for the same, demand attention: so that to leave them to the perpetual chance of being widely separated would, alone, be an effectual bar to their prosperity and increase.

The Furring Business requires a thorough knowledge of the interior part of the country which, on account of the deep snows and the rigour of the furring season, is only to be acquired by slow degrees. The country furnishes no other subsistence to the furrier than what his traps provide him, and these require a wide extent of ground to have any tollerable success. In order to penetrate to any distance, each furrier (for they all separate and hunt singly) must, at short distances one from another, build himself huts to live in, proof against bad weather, so that he shall never be far from shelter in case of storms. Hence, it is easy to conceive that, to fur that country properly, each adventurer should have an exclusive right: and otherwise that it never will be practiced, except in a very insignificant manner just around the Sealing Posts, by way of something to do at idle times.

The Shore Whale-fishery is an object of great expectation; though it has not as yet been carried on by any native of Great Britain. The Americans have however shewn its practicability and advantages to the westward of Chatteau, and there is no reason to doubt but that it may, with proper encouragement, be extended along the north-east and north coast to a great distance, as it is from thence the Whales come. We purchase much Whalebone from the Eskimaux, particularly from the tribe to which the people now under the care of your

Lordship's Memorialist belong; and they have frequently intimated that they kill as many whales as they think proper. As we have not yet got sufficient insight into the nature of this fishery, it is not attempted independently: and, until further experience, can only be made an appendage to the Sealerly. The proposed mode of practicing it for the present is to provide Whale-boats and Lines at the Sealing Posts, and to employ in the Sealing Crews a proportionable number of Harpooners, Steersmen and Whale-boat men, who have all extra pay. When a Whale shall appear they are to quit the Seal Nets, man the Whale boats and pursue it. But the Sealeries must first be made exclusive property, or else this very desirable appendage cannot be added to them: for it would be only from some particular Sealing Posts that we should have the opportunity of watching

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for, or the power of killing, Whales: so that who ever should be subject to be dispossessed of any such Post, and driven to another where there would not be these advantages, could not think of engaging American Whalers in his service, or of being at the expence of boats and geer. If it be asked why it answers to the Americans themselves who do not carry on any Sealeries, it is because they make this Shore-fishery an appendage as it were to their general whaling voyage at sea. Early in the season, and before the Whales are to be found at sea, they are seen to pass along the shore in the Gulf of St Lawrence and the Straights of Belleisle. During this time the Whalers lie with their Vessels in the harbours, & keeping their boats in readiness, look out from the shore for the approach of the Fish, in like manner as is proposed to be done from the Sealing Posts. The Fish being regularly found in the Streights, at the only part of the Whaling Season in which they are not to be met with at sea, is a sufficient reason why the Shore-fishery has not, by these Whalers been extended beyond the Streights to the northward of Chatteau, but from the observation of this Memorialist, from very good intelligence and from the proof to be gathered from our trade with the Eskimaux, it is to be presumed this fishery will be found to attend the progress of our Sealeries, as fast as they shall advance along the coast towards Hudson's Streights.

The Indian Trade with the Eskimaux, could it be brought to any degree of regularity and certainty, would be valuable to this Country, in opening a vent for its Woolens, Hardware & other Manufactures, in exchange for Whalebone, Oil and Furs. It is of great consequence too that it should be so; in order to free our Adventurers in Labradore from the dread of these Savages, which has hitherto been so great a discouragement to all our undertakings in that Country. It totally prevented till lately, and still does prevent in a great measure, the settling of English Sealing & Salmon-fishing Crews; and must continue to operate to the same effect, until a thorough and sincere reconciliation be effected between us, and we have established

with them a free commercial intercourse. This your Lordship's Memorialist hopes he shall be principally instrumental in bringing about, by the pains he takes to conciliate the affection of the Indians: and, next to such means, he apprehends that it will be best effected by making the Sealing and Salmon Posts private property; whereby the proprietors will be induced to settle upon them with powerful crews and will be enabled to strengthen themselves by erecting for their dwellings such houses as will answer the end of Block houses, in case of any alarm from the the Savages. Our fishers, thus protected, will venture to settle where they dare not at present; and the savages will be awed from renewing those attacks, which they have heretofore made with too much success, upon the defenceless huts of the fishermen. Mutual injuries may thus in time be worn out of the memories of both parties: the hope of profit restraining the European, and the fear of punishment the Indian, from taking up arms.

Your Lordship's Memorialist, having drawn this Account within a much narrower compass than a subject of so much importance may possibly require,

at this critical period when the Legislature is about to frame Regulations for the future government of Labradore, begs to assure your Lordship he has been particularly cautious not to deliver any such sentiments as might, in the smallest degree, tend to mislead your Lordship's judgment; and should esteem himself highly criminal were he capable of being knowingly biassed so far towards his own private interest as to endeavour to advance it by prejudicing that of the Public. His representation is of facts, and from the result of his most careful observations: and he cannot but be confident that, those who know most on the subject will most nearly agree with him in opinion: but he thinks it necessary to observe that, he has reason to believe the affairs of Labradore, and consequently its true interests, are not as yet well understood by the Newfoundland Merchants in general, or even by most of those in particular who may have had some concerns there under the conduct of their servants.

And now this Memorial proceedeth to shew

That your Lordship's Memorialist is bold to think he hath done more than any man towards extending the above mentioned branches of commerce along the Coast of Labradore. He took the lead in advancing beyond the protection of His Majesty's Fort at Chatteau, at a time when the last occupiers of the River Charles where he seated himself had been surprized and three of them killed by the Savages; which had struck such a panick into the rest that the post had been abandoned for two years. The first year of his residence there, he prevailed upon nine of the Savages to winter with him, when no other adventurer would run any risk of that kind. The two successive seasons he ventured to pitch his tent in their camp; having never more than a single attendant, and being sometimes alone. He lived amongst them in this manner for some weeks, and very frequently entertained large parties of them at his own house; by which means he at length obtained such an ascendancy over them that they became entirely observant of his commands, and have ever since shewn themselves firmly attached to his person: insomuch that, when he had the misfortune to be burnt out of his house, and at other times when any kind of distress has befallen him, they have melted into tears and given every other demonstration of feeling a real concern; and while Mr. Pinson's servants were in the act of dispossessing him of his salmon fishery and its buildings, it was with some difficulty he could restrain them from revenging him, by the death of his opponents. They never rested until they had made him promise to visit them at their own settlemt, and have given him the most solemn assurances of safety. They seem tollerably well satisfied with England; and now reproach themselves with not crediting the various reports of their country-woman Micoc, with regard to the numbers and power of the English Nation, which they formerly entertained a contemptible opinion of, but now

express their astonishment at, as far exceeding her description: so that their notion of having it at any time in their power to cut off all the English in Labradore, which they did not fail to make known when displeased, will probably give place to ideas of the expediency of keeping well with a people to whom they now say "The Eskimaux are but as Two."

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And Your Lordship's Memorialist has no doubt but that, from their treatment amongst us; they will leave England with sentiments of real friendship, tending very much to prevent the bloodshed which has heretofore so frequently happened between us; and to confirm, throughout their whole community, that confidence which a part of them immediately reposed in us upon the return home of Micoc, and to cement between the two nations a cordial and lasting peace.

That this Memorialist can make appear to your Lordship that, he has by great industry & observation, and by many chargeable experiments, invented several considerable improvements in the mode of carrying on the Seal Fishery; whereby it will be managed with greater ease, the oil will be much more pure, and produce a greater profit by at least 20 ^{per} Cent. but that he can reap no benefit from these inventions, nor will they come into general use among our seal fishers, except a full security be given to every adventurer of holding undisturbed possession of his posts; as the first cost of the necessary erections will be very considerable, and take some time to perfect; and must of necessity be provided at every Sealing Post.

That this Memorialist, submitting to the judgment of Your Lordship whether leaving the Stations occupied by the adventurous and laborious discoverer open to every interloper, will not tend to damp the the spirit of enterprize and to distress the industrious; without having any other effect than to encourage, at their expence, the lazy, the cowardly, the avaricious and the oppressor, who have before them immense Tracts of an unoccupied Coast: and submitting likewise all his general reasonings to spew how much adventurers stand in need of His Majesty's protection; as well as the particular pretensions which, individually, he humbly presumes he has to encouragement, he has, in obedience to Your Lordship's generous commands, for which he is truly grateful, taken the liberty thus to approach Your Lordship with a Memorial, flattering himself with an entire confidence that when his case (the common case of every real adventurer) shall have been taken into consideration, and it shall appear to Your Lordship that he is deserving of so much favour, that your Lordship will be pleased to move His Majesty, in his great goodness and known desire to promote the happiness and. Welfare of his subjects, to command that a Royal Grant be made to this Memorialist and his Heirs, of the small Tract of the said Coast of Labradore which lies between Cape Charles & Cape St Lewis; reserving to the Cod-fishers and Whalers by Sea, (not

*sic.

interrupting the Sealing & Salmon fishing within those limits,) every right and privelege that shall be necessary for following those occupations; this being the part he has made it his business to become acquainted with, and within which he has built seven dwelling houses, with suitable Store houses, Fish-houses, Vats, Wharfs and every other erection belonging to the Seal and Salmon fisheries, part of which are now in possession of the above mentioned M^r Pinson.

That, in consideration also of the great national advantage which may reasonably be expected to result from the conduct of this Memorialist towards the Eskimaux he trusts that he shall therein meet with Your Lordship's

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approbation, and, provided he shall be so happy, that he shall find, from your Lordship's great benevolence, a disposition in your Lordship to obtain him from Government some assistance towards defraying his Expences on the Indians he has now with him, during their short stay in England, as the maintainance* of them, in such a way as to make them satisfied with their treatment, falls very heavy upon your Lordship's Memorialist after all his losses in Trade.

All which is most humbly submitted by

Your Lordship's most respectful
and most obliged Servant
GEO: CARTWRIGHT

January 6th 1773

Endorsed:

Newfoundland
Memorial of George Cartwright Esq^r

Reced
Read Janry 28 } 1773.

V. 52.

Privy Council
Documents

Volume III
Contents

[January 29
1773.]

No. 269.

POWNALL TO PINSON,

INVITING OBSERVATION UPON CARTWRIGHT'S MEMORIAL.

To M^r Andrew Pinson, Merchant, at Dartmouth.

SIR,

The Lords Commissioners for Trade and Plantations having under their consideration, a memorial presented to the Earl of Dartmouth, by George Cartwright Esquire, Merchant, complaining of his having been disturbed by you and your Agents in the possession of a fishing Post occupied by him on the Coast of Labrador in North America, comprehending the Lands and Islands lying between Cape Charles and Cape Lewis, and, praying that he may be confirmed in such possession by His Majesty's Authority; I am directed by their Lordships to communicate to you this application, to the end, that, if you have any objection to the recommending what is proposed by Mr. Cartwright, you may have an opportunity of stating that objection before their Lordships make their Report to His Majesty upon his Memorial, in the preparing of which Report, their Lordships will allow, a reasonable time for an answer to this Letter, which answer you will transmit to me as soon as conveniently may be.

I am, Sir,

Your most obedient humble Servant,

J. POWNALL.

Whitehall,
Jan^y 29th, 1773. }

[1773?]

No. 270.**PETITION OF NOBLE AND PINSON TO LORDS OF
TRADE**

TO BE CONFIRMED IN THEIR POSSESSIONS IN TEMPLE BAY.

Copy.

COL. CORRESP. NEWFOUNDLAND. VOL. 6.

To the Right Honorable the Lords Commissioners of Trade and
Plantations.

The Humble Petition of John Noble of Bristol, and Andrew
Pinson of Dartmouth, Merchants and Co-partners.

Sheweth

That your Petitioners two years since laid before your Lordships their humble Petition for a Grant of that part of Temple Bay, called Lance Cove, on the Coast of Labradore, and certain other matters therein specified. That the Reply to such Petition was, that it contained Matters worthy their Consideration; but that it was then too late for their Determination; or, if such Petition should be granted, would be too late for your Petitioners to carry any scheme into Execution; they therefore recommended an early Application the ensuing Fall. Your Petitioners however did not renew their Application, as recommended, chusing to be more certain of the Success of their Scheme of drying Fish on that Coast, which to that time was thought impracticable, and was carried thence to the Coast of Newfoundland for that purpose. Your Petitioners therefore, (one of whom has annually been on the Spott,) being since convinced, that the Cod, and also the Seal and Salmon Fisheries may be carried on there with advantage to themselves, and this Nation in general under proper Encouragements from your Lordships, Beg Leave to acquaint your Lordships, that since that time they have enlarged their Fishery to the annual Employments of 150 Men, with four stout Ships, agreeable to the Act in such case provided; That your Petitioners have cleared and now occupie the said part of Temple Bay, and have at a great Expense built certain Stages, Flakes, Houses, and other fishing Works necessary for carrying on a very extensive Cod Fishery on that Coast, which they presume is their property, agreeable to the Proviso in the Fishing Acts; but should your Lordships be convinced of the Contrary. They humbly and earnestly crave to be confirmed in such their Possessions, free from the Molestation of any other

Person whatsoever.

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Your Petitioners now beg leave to assure Your Lordships, that the Cod Fishery on that Coast cannot be carried on with Advantage, unless connected with the Salmon and Seal Fisheries; Your Petitioners therefore earnestly request Your Lordships will confirm to them the Sealing Posts, called Seal Islands, near Cape Charles, which they at present Occupie; and that the rest of the Sealing Posts, (of which there are great Numbers on that Coast hitherto unoccupied,) together with the Salmon Rivers, be laid under the following Restrictions, which with due Submission they refer to your Lordships superior Judgements.

That every Adventurer in the Cod Fishery on that Coast be allowed to take and remain in quiet possession of any Salmon & Sealing Posts, so long as they continue to occupie the same with Ships annually from Great Britain, or Ireland properly cleared out with such equal Number of Men, as they may employ in the Salmon and Seal Fisheries, and those to be actually employed in the Cod Fishery, and Your Petitioners will, as in Duty bound, ever pray.

No. 271.

C

**REPRESENTATION OF LORDS OF TRADE TO
THE KING**

[2 March,
1773.]

UPON MEMORIALS PRESENTED BY CARTWRIGHT AND MESSRS.
NOBLE & PINSON.

AMERICA AND WEST INDIES, NO. 411. NEWFOUNDLAND, VOL. 1,
p. 148.

Representation of the Lords of Trade.

To the King's Most Excellent Majesty.

May it please Your Majesty,

We have had under Our Consideration the Memorial of George Cartwright Esquire Merchant, setting forth that he has, at great hazard & expence settled himself upon the Coast of Labrador between the Capes Charles & Saint Lewis where he has erected sundry Dwelling Houses, Store houses, and other Conveniencies for the purpose of establishing & carrying on the Seal & Salmon Fisheries & other useful & commercial undertakings that having suffered great Loss and Interruption in his said undertakings by the operation of the Law for encouraging the Trade to Newfoundland, which gives the Election of Posts to the Ship saccording to the priority of their Arrival, he humbly prays to be recommended to Your Majesty to be secured in his said Establishments by a Grant from Your

Majesty of a small Tract of the said Coast lying between Cape Charles & Cape Saint Lewis for the purposes above specified
We have likewise had under our Consideration the Memorial of John Noble of Bristol & Andrew Pinson of Dartmouth Merchants

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& Copartners praying to be confirmed in their sealing Posts on the said Coast, & suggesting certain regulations with regard to the Seal & Salmon Fisheries; Copy of which Memorial as likewise of that of M^r Cartwright above recited, We beg Leave hereunto to annex, & humbly to represent to Your Majesty,

That having been attended by the several Memorialists in person, & entered fully into an Examination of the nature & Circumstances of the Fisheries for Seal & Salmon in the Rivers & Bays upon the Coast of Labrador, as likewise of the Fishery for Cod by Ships fitted out from Great Britain, it does appear to Us from the different Seasons proper for these Fisheries, & the different modes of carrying them on, that they may not only be conducted without interruption & detriment to each other, but that the only method of making these undertakings an object of Consideration to the Public, or of advantage to Individuals concerned in them, will be by thus carrying them on in Connection with each other by Ships annually fitted out from Great Britain, & as it does further appear to be manifest, that actual residence & continued possession are essentially necessary to the carrying on the Seal & Salmon Fisheries on the Coast of Labrador, We beg Leave humbly to submit to Your Majesty the following regulation as proper for securing the possessions of persons concerned in the said resident Fisheries of Seal and Salmon on the above Coast Viz. That such of Your Majesty's Subjects of Great Britain & Ireland who have taken or shall hereafter take such actual possession in any of the Rivers & Bays on the Coast of Labrador to the North of the Streights of Bellisle, & who have erected, or shall hereafter erect Houses & Warehouses, & have made or shall hereafter make other Establishments necessary to the carrying on the Seal & Salmon Fisheries, shall be protected in such possession, provided such persons do for the future annually fit out from Great Britain one or more Ship or Ships to be employed in the Cod Fishery on the said Coast of Labradore & provided also, that the greatest Care be taken that the Proprietor or Proprietors of such fishing Posts do not claim or occupy a greater Extent of the Coast within the said Bays or Rivers, than shall in the Judgement of Your Majesty's Governor of Newfoundland or the Officer by him deputed, be thought absolutely necessary in proportion to the Number of Vessels, or Men employed at the said Posts.

Which is most humbly submitted

SOAME JENYNS
BAMBER GASCOYNE
GREVILLE
W. JOLLIFFE

GARLIES

Whitehall
March 2^d. 1773

[18 Feb.,
1773.]**MINUTES OF THE COMMISSIONERS,**

[Newfoundland.]

RESPECTING CARTWRIGHT'S APPLICATION FOR GRANT OF FISHERIES.

C. O. 391/80. MINUTES OF THE COMMISSIONERS FOR TRADE AND
PLANTATIONS.

18 *February*, 1773.

Their Lordships took into further consideration Mr. Cartwright's Memorial relative to the Seal & Salmon Fisheries on the Coast of Labrador and praying to have a grant of a certain district of that coast, in order to the carrying on the said Fisheries and Mr. Pinson of Dartmouth and Mr. Noble of Bristol, in partnership with Mr. Pinson, attending a memorial of those gentlemen respecting the said Fisheries and suggesting regulations with regard thereto was presented and read; and their Lordships having fully examined into and deliberated upon the nature and circumstances of the said Fisheries, were of opinion. That actual residence and continual possession were essentially necessary to the carrying on the Seal & Salmon Fisheries on the Coast of Labrador. That such of His Majesty's subjects of Great Britain and Ireland, who have taken or shall hereafter take such actual possession in any of the Rivers and Bays on the Coast of Labrador to the North of the Streights of Bellisle and who have erected or shall hereafter erect Houses and warehouses and have made or shall make other establishments necessary to the carrying on the Seal & Salmon Fisheries, ought to be protected in such possession, provided such persons do for the future annually fit out from Great Britain one or more ship or ships to be employed in the Cod Fishery on the said Coast of Labrador, and provided also that the greatest care be taken, that the Proprietors or Proprietor of such fishing Posts do not claim or occupy a greater extent of the coast within the said Bays and Rivers than shall be absolutely necessary in proportion to the numbers of vessels or men employed at the said Posts.

Ordered, that the Draught of a Representation to His Majesty be prepared conformable to the above Resolutions.

[2 March,
1773.]**REPRESENTATION OF LORDS OF TRADE TO
COMMITTEE OF THE PRIVY COUNCIL,**REPORTING UPON RECONSIDERATION OF THEIR REPRESENTATION OF
24TH JUNE, 1772.

B.T. NEWFLD, VOL. 33, p. 247. 1773. March 2nd.

To the Right Honorable the Lords of the Committee of His Majesty's most Honorable Privy Council for Plantation Affairs.

My Lords,

Pursuant to your Lordships Order of the 19th day of December 1772, we have taken into our consideration, an humble Representation of this Board to His Majesty, dated June 24th 1772, respecting the case of the Landholders in Canada, proprietors of Seal-fisheries on the Coast of Labrador and their Lessees, as also, of the possessors of certain Seal-fisheries on that Coast under Grants from the Governor of Quebec, and having conferred with His Majesty's Governor of Newfoundland, on the subject of the Seal-Fisheries carried on upon the said Coast of Labrador, we beg leave to report to your Lordships,

That, we have in pursuance of your Lordships Order reconsidered the proposition made for reannexing to the Colony of Quebec, such part of the Coast of Labrador as lies between the River St. John and the Streights of Belleisle, with the Islands thereunto belonging; and having conversed with His Majesty's Governor of Newfoundland on the subject of the Seal-fishery carried on upon the said Coast of Labrador, we are clearly of opinion, that the regulations which have been made for the encouragement of the fisheries for Cod and Whales, are in their present state, incompatible with that permanent residence and continued possession which are essential to the Seal and Salmon fisheries; and that those fisheries cannot be relieved from the loss and detriment which the proprietors of the different Posts upon that Coast complain of, whilst the regulations abovementioned are continued in force: It was not however upon this ground altogether, that we recommended the re-annexing to Quebec that part of the Coast described in the Representation abovementioned; for when it appeared, upon examination, that a great part of it was claimed as private property under Grants from the Government of Canada, and, that His Majesty was bound by Treaty to admit those claims,

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the consideration of Policy was out of the question; and His Majesty could

p. 1073

not, as we conceive in justice, warrant the enforcing any regulations, which both in their nature and principle were subversive of those Rights.

We beg leave however to acquaint your Lordships, that those claims do not appear, upon further examination, to comprehend all the Coast between the River Saint John, and the Streights of Bellisle, and that they extend no further than the Anee*des Espagnols or Bay Phellippeaux; what therefore lies to the Eastward of that limit may, in our opinion, very properly continue within the Government of Newfoundland, and the dis-advantage in point of fishery of re-annexing the remainder to the Government of Quebec, (if any,) will be the less as by far the greater part of it, is rocky and inaccessible, and therefore can be of no use to the Cod-fishery.

We are,
My Lords,
Your Lordships,
Most obedient and most humble
Servants,

SOAME JENYNS,
BAMBER GASCOYNE,
GREVILLE,
W. JOLLIFFE,
GARLIES.

Whitehall
March 2^d 1773.

[9 March,
1773.]**LORD DARTMOUTH TO GOVERNOR SHULDHAM
(OF NEWFOUNDLAND).**

C.O. Records, 5/251.
Domestic Despatches, p. 280.

Whitehall 9th March 1773.

SIR,—

It having been represented to the King that several of His Majesty's Subjects, have, with a laudable view to promote the trade and commerce of the Kingdom, been at considerable expence in making establishments on the coast of Labradore to the north of the streights of Belle Isle, for the purpose of carrying on the Seal and Salmon fishery, and therefore that it is equally just and expedient that such persons should be secured in their possessions, as far as the nature and interests of the Fishery in general, upon that coast, will admit; I am commanded by the King to signify to you His Majesty's Pleasure, that such of His Majesty's Subjects of Great Britain, or Ireland, who have taken, or shall hereafter take actual possession in any of the rivers and Bays on the coast of Labradore, or to the north of the Streights of Belle Isle, and who have erected, or shall hereafter erect Houses and Warehouses, and have made or shall hereafter make other permanent Establishments with a view to carrying on the Seal and Salmon Fisherys be protected in such possessions, provided such persons do, for the future, annually fit out from Great Britain, one or more ship or ships to be employed in the cod fishery on the said coast of Labradore; but you are to take the greatest care that the proprietor or proprietors of such fishery posts, do not claim or occupy any greater extent of the shore within the Rivers and Bays on the said coast, than you in your discretion shall judge necessary in proportion to the number of Vessels and Men employed at the said Posts.

I am &c.

DARTMOUTH.

Labrador.

Order to the Attorney General to prepare an Instrument for re-annexing to the Government of Quebec such parts of the Coast of Labrador as are situated between the River St^t John & Bay Phillippeaux.

[22 April, 1773.]

Plantations.

Committee Report for re-annexing to the Government of Quebec such parts of the Coast of Labrador as are situated between the River St^t John and Bay Phillippeaux.

ORDER OF HIS MAJESTY IN COUNCIL

FOR PREPARATION OF AN INSTRUMENT FOR RE-ANNEXING TO THE GOVERNMENT OF QUEBEC SUCH PARTS OF COAST OF LABRADOR AS ARE SITUATE BETWEEN RIVER ST. JOHN AND BAY PHILLIPEAUX, ETC.

P.C. 2. VOL. 117, p. 181.

[Extracted from Privy Council Minutes of 22 April, 1773.]

Whereas there was this Day read at the Board, a Report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs, dated the 7th of this Instant in the Words following Vizt.

Your Majesty having been pleased by Your Order in Council of the 8th of July 1772 to refer unto this Committee a Representation of the Lords Commissioners for Trade and Plantations, dated the 24th of June 1772, Setting forth, That they have had under their Consideration a Paper Communicated to them by the Merchants of Great Britain interested in the Trade of Quebec, intituled, The Case of the Landholders in Canada, Proprietors of Seal Fisheries on the Coast of Labrador and their Lessees; as also of the possessors of certain Seal Fisheries on that Coast under Grants from the Governor of Quebec, describing the particular nature and Circumstances of those Fisheries, and Stating the great Loss and Detriment which have ensued, by those fisheries being made Subject to such Rules and Regulations, as the Governor of Newfoundland has thought necessary to be laid down for the Fisheries of Cod and Whale, since the said Coast of Labrador has been annexed to that Government, That they have likewise taken into their Consideration a Memorial presented to Guy Carleton Esquire, Your Majesty's Governor of Quebec, and signed by Sundry Inhabitants thereof, Subjects of your Majesty, to the like Effect, Whereupon the said Lords Commissioners represent That while Canada remained in the Hands of the French, and the Coast of Labrador was considered as a dependency thereupon, a Fishery for Seals was amongst other objects of National concern, attempted and brought to a Degree of perfection, and the returns from this branch of the Exports of Canada amounted annually to about Ten thousand pounds Sterling; In consequence of these Attempts, Grants of several Islands in the River and Gulph of S^t Lawrence and some Tracts on the Main Land, with the exclusive Privilege of Seal Fisheries &c^a were made in times past by the Crown of France to certain persons and the rights

of Property thereby vested in them have passed as Inheritances, and been Sold and Leased to Tenants at pleasure; Various other Species of Claims have been exhibited as derived from French Tenures, which it is needless now to Enumerate and which have passed by Succession through different Hands; and since the Cession of Canada, these Fisheries have been again taken up, & sundry of your Majesty's Subjects have

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Possessed themselves of Posts and Settlements, either in virtue of Leases from proprietors under French Titles, or by Grants from your Majesty's Governor of Quebec for a Term certain, or until such time as your Majesty's pleasure should be known; In Confidence of the validity of these Tenures, it is stated that many Adventurers have followed the Established practice of Canada by Purchasing from the former Grantees the whole of their Dwelling Houses, Fishing Implements, Utensils and Warehouses, appropriated to particular Posts or passes, and large Sums are said to have been employed in re-establishing these fisheries;—That the Fishery for Seals it is asserted, cannot be prosecuted in the Open Seas, and made general like those for Cod and Whales, but is practised in a manner widely different from any other fishery in the Gulph or River St Lawrence, and requires much judgment and circumspection, it is chiefly formed by the contiguity of small Islands or Rocks to the main Land, which Occasion Strong Currents called Passes, where only such fisheries can be exercised and to which the make and Contexture of the Nets must be particularly fitted; it is chiefly followed in the winter Season, and the immediate Operation of Catching these Animals commences in December and lasts only about fifteen Days; but the fishers employed in the Business must be at their Station in the course of the Month of September, and cannot get away from it before the end of May. That this is in brief the nature of the fishery for Seals, and these the Circumstances of the People engaged in that Business, that by your Majesty's Royal Proclamation of the 7th of Oct^r 1763 Your Majesty thought fit to put all the Coast of Labrador from the River St John's to Hudsons Straits together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the Care and Inspection of your Governor of Newfoundland, to the End as your Majesty therein graciously declares, that the open and free fishery of Your Majesty's Subjects might be extended to, and carried on upon the said Coast of Labrador and the adjacent Islands, and from this period the Posts and Settlements on the above Coast and fisheries thereupon depending were detached from the Government of Quebec, and became Subject to the Ordinances and Regulations of Your Majesty's Governor of Newfoundland. That from the foregoing Account of the nature and Circumstances of these Posts and the fisheries depending thereon it will, as the said Lords Commissioners conceive, appear, that to Subject them to

the same Rules & Regulations, as may be well adapted to the fisheries for Cod and Whales, is in effect to destroy them; That the Seal Fishery being of necessity a sedentary fishery, requiring great Expence, Nets of a particular quality and Construction, immediately fitted to the pass they belong to, employing materials of a bulky nature, and requiring Houses for wintering the fishers, cannot be made open and general in the manner of fisheries above mentioned; nor can the Posts Occupied by Adventurers in the Business be quitted at pleasure, or Transferred to first Comers, as is practised in the Newfoundland fishery; and accordingly they find not only from the papers under present Consideration but from various other Documents in the Plantation Office, that many and great Complaints have been preferred against the Rules and Regulations, which have been extended

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to this Coast, since it has been annexed to the Government of Newfoundland; and which Rules being calculated with a view to encourage the two great fisheries for Cod and Whales, and contrived to Quicken the Activity and emulation of Adventurers of Great Britain, by laying the several Posts and Passes open to the first Arrivers, have been found absolutely incompatible with the principles on which the Seal fishery can alone be conducted; to prevent therefore any further disturbance to Individuals in their private Claims and Possessions and to save the Mother Country the Advantages to be drawn from this branch of Commerce; which seems to be no inconsiderable Object; The said Lords Commissioners Submit whether it may not be adviseable for your Majesty to cause to be reannexed to Your Government of Quebec such parts of the said Coast of Labrador, as are situated between the River St: John's and the Straits of Bellisle, together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coasts; for altho' your Majesty, from such information as was before your Majesty, when the proclamation of the 7th of October 1763 was published, did, upon the gracious motives therein Set forth, and with the Advice of Your Privy Council, think fit to put that part of the Coast of Labrador under the Care and Inspection of Your Governor of Newfoundland; Yet the experience of succeeding times, and the various inconveniences, which have since Occurred, and which could not at that period be foreseen, have, as the said Lords Commissioners conceive, reversed the policy of that Measure, and made it for Your Majesty's Service and the welfare of your Subjects to restore the said Coast, as far as the Streights of Bellisle, to it's dependency on the Government of Quebec, leaving for the present at least that part of the Coast of Labrador, which lies between the Straits of Bellisle & Hudson's Streights, and where there are very valuable Cod fisheries, under the Government of Newfoundland;—The Lords of the Committee in Obedience to your Majesty's said Order of Reference, did on the 19th of December 1772, take the

said Representation into Consideration, and thought proper to refer the same back to the Lords Commissioners for Trade and Plantations, to conferr with Your Majesty's Governor of Newfoundland, on the Subject of the said Seal Fisheries carried on upon the Coast of Labrador, and Report their Opinion to this Committee, how far the Seal Fisheries on the said Coast, may be relieved from the great loss and detriment, which are represented to have ensued by those (fisheries being made Subject to such Rules and Regulations as the Governor of Newfoundland has thought fit to be laid down for the Fisheries of Cod and whale, since the said Coast of Labrador has been annexed to that Government, without prejudice to those Considerations of Policy which induced your Majesty by Your Royal Proclamation of 7th October 1763 to put all the Coast of Labrador from the River S^t John's so Hudson's Streights together with the Islands of Anticosti & Madelaine and all other smaller Islands lying upon the said Coast under the Care and Inspection of the Governor of Newfoundland Whereupon the said Lords Commissioners have reported to this Committee, That they have in pursuance of the said Order re-considered the proposition made for re-annexing to the Colony of Quebec such part of the Coast of Labrador, as lies between the River S^t John and the Streights of Bellisle,

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with the Islands thereunto belonging, and having conversed with your Majesty's Governor of Newfoundland on the Subject of the Seal Fishery carried on upon the said Coast of Labrador the said Lords Commissioners are clearly of Opinion that the Regulations, which have been made for the encouragement of the Fisheries for Cod and Whales, are in their present State incompatible with that permanent residence and continued possession, which are essential to the Seal and Salmon Fisheries and that those fisheries cannot be relieved from the loss and detriment, which the proprietors of the different posts upon that Coast complain of, whilst the Regulations above mentioned are continued in force; It was not however upon this Ground altogether that they recommended the annexing to Quebec, that part of the Coast described in the Representation above mentioned; for, when it appeared upon examination, that a great part of it was claimed as private property under Grants from the Government of Canada, and that your Majesty was bound by Treaty to admit those Claims, the Consideration of policy was out of the Question; And Your Majesty could not as they conceive, in Justice, warrant the enforcing any Regulations which both in their Nature and principle were Subversive of those Rights;—That those Claims do not appear upon further examination to comprehend all the Coast between the River S^t John and the Streights of Bellisle, and that they extend no further than the Ance des Espagnols or Bay Philippeaux; whatever therefore lies to the Eastward of that Limit may very properly continue within the Government of Newfoundland, & the disadvantage in point of fishery, of re-

annexing the remainder to the Government of Quebec (if any) will be the less, as by far the greater part of it is Rocky and inaccessible, and therefore can be of no use to the Cod Fishery; —The Lords of the Committee upon mature Consideration of this matter, do humbly report to your Majesty, that they concur in Opinion with what is proposed by the said Lords Commiss^{rs} for Trade and Plantations, and to that End, do agree humbly to advise your Majesty to direct your Attorney and Sollicitor General, to prepare and lay before your Majesty in Council a Draught of an Instrument proper to be passed under the Great Seal of Great Britain, for re-annexing to the Government of Quebec, such parts of the said Coast of Labrador as are situated between the River S^t John and the Ance des Espagnols or Bay Philippeaux, together with the Islands of Anticosti and Madelaine, and all other smaller Islands upon the said Coast.

[The above Report is extracted from Minutes of the 7th April 1773.]

His Majesty taking the said Report into Consideration, was pleased with the Advice of His Privy Council, to approve thereof, and to Order as it is hereby Ordered, that His Majesty's Attorney and Sollicitor General, do prepare and lay before His Majesty at this Board a Draught of an Instrument proper to be passed under the Great Seal of Great Britain, for re-annexing to the Government of Quebec such Parts of the said Coast of Labrador as are situated betⁿ the River S^t John and the Ance des Espagnols or Bay Phillippeaux, together with the Islands of Anticosti and Madelaine, and all other smaller Islands upon the said Coast.

[1927lab]

No. 276.

[1773?]

PETITION OF JOHN AGNEW AND ASSOCIATES

FOR GRANT OF MINERAL RIGHTS IN THE COUNTRY OF LABRADOR.

To the King's most Excellent Majesty in Council.

The Humble Petition of John Agnew of Sheuchan and
Associates in the County of Wigtown North Britain.

Sheweth

That your petitioners have particular Information that there are several places in the Island of Newfoundland and Coast or Country of Labrador between the River St Laurence and Hudsons Streights where Copper, Copper Ores, and other Valuable Metals and Minerals may be procured which Your petitioners conceive will be highly advantageous to Your Majesty's Kingdoms if in the hands of proper persons.

That your petitioners are willing to hazard a Share of their private property in working such Mines as now are or hereafter shall be discovered in the Island of Newfoundland, and the said Country of Labrador at a certain limited distance not exceeding sixty Miles from the Sea or flowing of the Sea Water on any part of the said Coast of Labrador upon Your Majesty's most graciously condescending to patronize Your petitioners by Your Royal Grant or Charter for that purpose.

Your Petitioners therefore most humbly pray Your Majesty that you would be graciously pleased to grant unto them all Mines, Minerals and Metals already discovered or hereafter to be discovered in the said Island of Newfoundland, or in the said Country of Labrador within the Limits aforesaid under such reservations and restrictions as have been usual in like Occasions. And Your petitioners as in all duty bound shall ever pray, & so forth.

ALEX^R DUN.For John Agnew Esq^r, George Stewart
Esq^r & for myself.

Endorsed:

Newfoundland.

Order of the King in Council, dated May 19, 1773, referring to this Board, for their consideration & report to a Committee of Council for Plantation Affairs, the petition of John Agnew & his Associates for a grant of all Mines, Minerals & Metals already discovered, or to be discovered in Newfoundland & on the Coast of Labrador within the limits therein specified, and under the usual regulations.

Rec^d May 26
Read D^o. 27. } 1773.

No. 277.

**LORDS OF TRADE TO PRIVY COUNCIL COMMITTEE
FOR PLANTATION AFFAIRS.**

PRIVY COUNCIL RECORDS, 1 / 60. B. 10.
C.O. RECORDS, 195 / 10.

MY LORDS,

Pursuant to your Lordships Order of the 19th of May 1773, we have taken into our consideration the humble Petition of John Agnew of Sheuchan, and Associates in the County of Wigtown in North Britain, humbly praying, that His Majesty would be graciously pleased to grant unto them all Mines, Minerals, and Metals already discovered in the Island of Newfoundland, and on the Coast or Country of Labrador, between the River S^t Lawrence and Hudson's Streights, at a certain limited distance not exceeding Sixty Miles from the Sea, or flowing of the Sea-water on any part of the said Coast of Labrador, under such reservations and restrictions, as have been usual on like occasions. Whereupon we beg leave to report to your Lordships,

That the proposition contained in the petition, which your Lordships have referred to our consideration, does not in the general view of it appear liable to objection; we beg leave however to observe to your Lordships, that the description of the limits, within which the petitioners propose the Grant to be made to them, appears to us, so far as it regards the Labrador Coast, to be attended with some difficulty; for, as on the one hand the proposing the River Saint Lawrence as the Boundary to the South is not sufficiently precise; so, on the other hand, by extending the Grant Northward to Hudson's Streights, they will take in a very large part of what has been already granted to the Hudson's Bay Company, who are intitled by their Charter to all Mines and Minerals within the Territories granted to them But we see no objection to your Lordships advising His Majesty to grant to the Petitioners all Mines and Minerals, which either have been, or shall hereafter be discovered by them or their Associates within the Island of Newfoundland, and upon the Coast of Labrador between the River Saint John's and the Southern Limits of the Territory granted to the Hudson's Bay Company; etc. . . .

Signed DARTMOUTH
 SOAME JENYNS
 BAMBER GASCOYNE
 GREVILLE.

WHITEHALL

June 3rd 1773.

Endorsed

Reports of the Lords Commissioners for Trade and Plantations upon the Petition of John Agnew and his Associates praying a grant of all the Mines &c. in the Island of Newfoundland and upon the Labrador Coast.

Received 9th June 1773.

Ditto Referred to Committee.

3rd July 1773 Read at the Committee and the Attorney and Solicitor General ordered to prepare the draft of a Grant.

No. 278.**PRIVY COUNCIL ORDER FOR INSTRUMENT
GRANTING MINES AND MINERALS BETWEEN
RIVER ST. JOHN'S AND SOUTHERN LIMITS OF
HUDSON'S BAY COMPANY TO AGNEW &c.**[3 July,
1773.]

PRIVY COUNCIL 2 / 117. p. 239.

At the Council Chamber, Whitehall, the 3rd day of July 1773.

By the Right Honourable the Lords of the Committee of
Council for Plantation Affairs.

Present, etc.

Whereas there was this day laid before their Lordships a report from the Lords Commissioners for Trade and Plantations, dated the 3rd of June 1773 upon the petition of John Agnew of Sheuchan and associates in the county of Wigtown, North Britain, humbly praying that his Majesty would be graciously pleased to grant unto them all mines, minerals and metals already discovered in the Island of Newfoundland or on the coast or country of Labrador, between the river St. Lawrence and Hudsons Streights, at a certain limited distance, not exceeding sixty miles from the sea or flowing of the sea-water, on any part of the said coast of Labrador, under such reservations and restrictions as have been usual on like occasions:—

The Lords of the Committee having taken the said report into consideration, and are hereby pleased to order that his Majesty's attorney and solicitor general do prepare and lay before the Committee a draft of a proper instrument to be passed under the Great Seal of Great Britain, containing a grant to the pet^{rs.} their heirs and assigns, of all mines and minerals which either have or shall hereafter be discovered by them or their associates within the Island of Newfoundland, and upon the coast of Labrador, between the River St. Johns, and the southern limits of the territory granted to the Hudsons Bay Company, inserting in the said draft, the conditions and restrictions proposed in the said Report of the Lords Commissioners for Trade and Plantations, a copy whereof is hereunto annexed. [See also P.C. 1/60 and 2/118.]

[21 August,
1773.]**GOVERNOR SHULDHAM'S PROCLAMATION.**

C.O. RECORDS 194 / 31.

BY MOLYNEUX SHULDHAM ESQ^R & C. & C^A

WHEREAS the Earl of Dartmouth, one of His Majesty's Principal Secretaries of State, has been pleased to signify to me that it has been represented to the King, that several of His Majesty's Subjects have been at a Considerable Expence in making Establishments on the Coast of Labrador for the Purpose of carrying on the Seal and Salmon Fishery; and as it is equally just and Expedient that such Persons should be encouraged and secured in their Possessions, as far as the nature and Interests of the Fishery in general upon that Coast will admit. Pursuant to His Majesty's Pleasure I do hereby give notice, that such of His Majesty's Subjects of Great Britain or Ireland, or the Islands of Guernsey and Jersey, who have taken, or shall, hereafter take actual possession, in any of the Rivers and Bays on the Coast of Labrador, or to the Northward of the Streights of Belleisle, and who have Erected or shall Erect Houses and Warehouses and made or shall make other permanent Establishments, with a view to carry on the Seal and Salmon Fishery, shall be protected in such possessions, Provided such Persons do for the future, annually fit out from Great Britain or Ireland, or the Islands of Guernsey or Jersey one or more Ship or Ships, to be employed in the Cod Fishery on the Coast of Labrador; But all Persons are to take notice, and I do by these Presents proclaim, that no Proprietor or Proprietors of such Fishing Posts shall have any right to Claim, or be suffered to occupy any greater Extent of the shore than I, or His Majesty's Governor for the time being shall judge necessary, in proportion to the number of Vessels and Men employed in the Fishery and at the said Posts.

Given under my Hand, on board His Majesty's Ship Alborough, in Chateaux Bay, this 21st Aug^t 1773.

Endorsed: No. 1. In Governor
Shuldham's of 15th Sept^r 1773.

No. 280.

[1773(?)]

**REMARKS &c. MADE IN OBEDIENCE TO HIS
MAJESTY'S INSTRUCTIONS TO GOVERNOR
SHULDHAM**

RELATIVE TO THE TRADE, FISHERY &c. OF NEWFOUNDLAND
IN THE YEARS 1772 & 1773.

C.O. 199. VOL. 17, NEWFD.

ARTICLES OF HIS MAJESTY'S
INSTRUCTIONS.

REMARKS.

Article (12th)

It is our further Will and Pleasure that you do from time to time, as the nature of the service will allow, visit all the Coasts and Harbours of the said Islands and Territories under your Government, in order to inspect and examine the Condition of the Fisheries, which are or may be carried on upon the said Coasts and Islands; You shall also use your best endeavours to procure accurate Draughts or Maps of the several Harbours, Bays, and Coasts of Newfoundland, and the other Islands and Territories under your Government; and you are more particularly to direct the Officer of any Vessel under your Command, which may be appointed to visit that part

I have in Obedience to His Majesty's Commands employed as much of my time in visiting the Coasts, Harbours and Territories under my Government as my necessary attention to the other parts of my Duty would admit of, and have procured maps of these places from the best Surveys by an Officer properly Qualified for that service, by whose report, as well as from other information I have received (it is supposed) there is no passage from the place we understand by the name of Davis's Inlet to Hudson's Bay, or any other inclosed Sea.

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ARTICLES OF HIS MAJESTY'S
INSTRUCTIONS.

REMARKS.

Article (12) contd.
of the Coast of Labrador

which lies between Hudson's Streights and the Streights of Belleisle, to search and explore the great Inlet, commonly known by the name of Davis's Inlet; in order to discover whether the same has or has not any Passage to Hudson's Bay, or any other inclosed Sea.

Article (13th)

You are also to enquire and report to Us by one of our Principal Secretaries of State, whether any or what further Establishment may be necessary to be made, or Forts erected in any parts of Newfoundland, or the other Islands and Territories under your Government, either for the Protection of the Fishery the security of the Country or the establishment and carrying on a Commerce with the Indians residing in, or inhabiting the Coast of Labrador.

I am of opinion while Great Britain preserves the Sovereignty of the Sea she need, or ought not to be at the Expence of erecting any extensive Fortifications upon this Island; where the Climate is so severe that no Work of that kind can be performed without an immense Expence, as this Country does not produce one single material necessary for it; where from the intenseness of the Frosts the repairs must be infinite; where a Garrison must be kept complete however difficult or Expensive, which cannot Act above Five Months in the Year and the other seven totally useless and undisciplined, and by Idleness Drunkenness and irregularity rendered unfit for future service; add to this that, perhaps no Island in the World abounds with more Harbours than Newfoundland, all of which to be properly fortified, would require a much greater Expence than the whole Benefit of the Fishery would defray Those Harbours which are best fortified by nature, ought certainly to be made the Refuge and Rendezvous of the Shipping and not any from its Central situation

answers in this respect, and for this use, so well as St. John's, which at a small Expence may, and I hope is now making, sufficiently defensible against shipping, and while our Fleet main-

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ARTICLES OF HIS MAJESTY'S
INSTRUCTIONS.

REMARKS.

tains its superiority, it ought not to be apprehended that any Force will be suffered to Land upon any of the habitable part of it, but what the Inhabitants and a very small Garrison will be able to repel or at least to resist during the short season of a possibility of carrying on any Military Operations in this Country.

There is not at present the least appearance of a necessity for any other Fort on the Coast of Labrador than what is already at Chateaux, which ought to be on a better Establishment—and I beg leave to propose,

First, That the Fort, which is on a good Plan, should be certain of having Annually its necessary repairs, as likewise Boats.

2dly The Officers and Men to be Volunteers, and to stay there the time, or term of each Governor, under whose Orders they receive the Command of it.

3dly That there should be some gratuity allowed the Officers, as well as more Provisions of all species to them and the Men; for during the cold Weather (vizt.) Seven Months Ships allowance of Provisions is not sufficient; and the Men

Article (14th)

You are not to permit the Subjects of any foreign Prince or State whatever, to carry on any Commerce with the said Indians, and to use your best endeavours to conciliate their Affections and to induce them to Trade with our Subjects reporting to Us, by one of our: Principal Secretaries of State, the best accounts you can obtain of the number of

should be allowed some encouragement for wooding, such as shoes, Jacket and Frock.

I am sure none of the Subjects of any foreign Prince or State whatever have had any intercourse or Commerce with the Indians or Savagesects since my Government; few or none of them are now seen upon the Island of Newfoundland, and but few upon that part of the Coast of Labrador frequented by our Shipping. For the Trade carried on with those on the Coast of Labrador, See Art. 25th.

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ARTICLES OF HIS MAJESTY'S INSTRUCTIONS.

REMARKS.

the said Indians, the places they frequent, the nature and extent of the commerce that is, or may be carried on with them; and how the same may, in your Opinion, be further extended and improved.

* * *

Article (17th)

You are likewise to enquire and report to Us, by one of our Principal Secretaries of State, what is the Extent of the Coast of Terra Labrador, under your Government.

The Island of Resolution lies in Lat^d 65° 44' N° Long^{de} 66° 26' Wt., Burton's Isles lies in Latd. 60° 30' No. Longde. 66° 26' Wt. these Two Islands forms the Entrance of Hudson's Streights. From Burton's Isles to Cape Charles (or the Island off Cape Charles) lying in Lat. 52° 15' No. Longde. 55°: 00 Wt. the Coast extends to the So. Et. or So. 37° 23' Et., 208 Leagues: and from Cape Charles thro' the Streights of Belleisle to St.

John's River, lying in Latd. 50° 35' No. Longde. 61° 56' Wt. 92 Leagues; so that it appears the Coast of Labrador, or from the Entrance of Hudson's Streights to St. John's River, that empties itself nearly opposite to the West End of the Island of Anticosti, is 300 Leagues.

Article (18th)

What is the nature of the Soil and Climate? What are its natural or improved productions? Whether any, and, if any, what parts thereof are adapted to Inhabitancy ?

There is little or no Soil on the Coast of Labrador, and many Leagues a barren and mountainous Rock; the Climate is very Cold from the month of November to May, and very intense when there are Snow Drifts, or Snow Storms. There are no Natural Productions, except the several species of Pine, Spruce and Birch; some shrubbery, such as Currants and Rasberries. No kind of Improved productions, nor no part fit for Inhabitancy, without a Supply of every sort of Provisions.

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ARTICLES OF HIS MAJESTY'S
INSTRUCTIONS.

REMARKS.

Article (19th)

What are the principal Rivers, Bays or Harbours, their Situation and Capacity? and what convenience do they Afford either for Navigation or Fishery?

There are several Rivers between Brador and the Bay of St. Louis none of them navigable; within Cape Charles, and the Small Islands near it, there are several places Ships may Anchor in safety. In St. Louis's Bay and Forteau Bay, Ships might Anchor Red Bay and Temple Bay are safe places, but Chateaux or Pitt's Harbour is the largest and best for ships to lye in. There are

salmon in all the Rivers, but in what Quantity is not certain, the greatest number that have been as yet caught, was at Cape Charles and Bay of St. Louis, where a Salmon Fishery is carried on; the other Rivers are very shoal and so much blocked up with loose Rocks, that Nets cant be set without disadvantage. A Cod Fishery might and has been carried on by the French at almost all the places along the Coast. In regard to Davis's Inlet, there is no Person on the Coast can give any account of it.

Article (20th)

What is the nature and extent of the different Fisheries carried on upon that Coast; whether of Whales, Seals, Sea-Cows, or any other Species?

There is a great plenty of Cod Fish to Bay of St. Louis, and likewise several Posts or places for setting of Nets for catching of Seals; from the River of St. John's to the Bay of St. Louis many of which are occupied. Whales pass thro the Streights of Belleisle to the Eastward in the Spring of the Year and several Vessels from New England are fitted and come every Year early in the Spring to catch Whale, and if they do not meet with Success in the Streights, they proceed to the Northward, or sometimes off the Western Islands, or go a Cod Fishing on the Banks to the Southward, as it will not answer the Owners of any Vessel to fit out for Whaling only. There are no Sea Cows on this Coast.

ARTICLES OF HIS MAJESTY'S
INSTRUCTIONS.

REMARKS.

Article (21th)

What establishments have been made for these Fisheries; at what places and under what Authority?

Stages are Built for the Cod Fishery at Cape Charles, Henley Harbour, Temple Bay and St. Modeste, but there are no Fish dried, and cured for a Foreign Market but at the two latter, and I know of no other Authority than Permission of Government. All the other Fish that are caught, are carried to Newfoundland and dried there.

Article (22d)

Whether any places are occupied or Possessed under exclusive Grants, or Leases from the Governor of Quebeck? or claimed or held under any Title derived from the Crown of France, while that Country was in her Possession? if so, by whom, under what Conditions, and for what Term? And if any Rents are reserved, what is the amount; to whom payable and whether any and what part thereof has been paid, and to whom and what remains due?

It cannot be learned there, that ever the Crown of France gave more than two exclusive Grants for any part of Labrador: One of these was in full right for ever the other was for Life only. The first was given to one Bisott a Geographer, who was employ'd surveying the Coast, and this Grant was presented him as a Compliment for his Assiduity and perseverance: it comprehended the whole coast from Mingan to Shecatica. His heir, a daughter was married to one LaFontaine (Secretary to the Governor of Quebeck) who farmed the Seal Posts. LaFontaine died much in Debt, so that for a considerable lapse his Descendants laid no Claim to the Property devolved to them. Neither before nor in the time of LaFontaine, where there any more than three Sealing Posts,

between the Limits of the Grant (vizt.) Great Mecatina, Notagamen and Shecatica, and Notagamen his Successors have sold. The Post of Bradore was the other Grant, which was in favor of a Person named Bruiac or Bruage for his Life only, and this Bruiac has been long Dead.

Article (23d)

What is the extent of each Post so held or claimed, as well along the Coast, as within the Land,

Except the Posts of Great Mecatina & Shecatica, there are none at present held or claimed by any Grant whatever, and the said Posts are now held as publick. At

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ARTICLES OF HIS MAJESTY'S INSTRUCTIONS.

REMARKS.

Article (23rd)contd.

the number of Men and Vessels employ'd at each; and the quantity of Fish or Oil produced therefrom? and what is the peculiar Fishery carried on in each?

Mecatina they last Winter, (1772) caught 1,800 Seals, and at Shecatica 391, which might produce 146 H^{nds} of Oil, and employed 26 Men; there is no other than Seal Fishery carried on in that part of the Coast.

Article (24th)

What is the nature and disposition of the several Nations or Tribes of Savages Inhabiting this Country?

The Mountaineer Indians live in separate families by Hunting, and are more civilized than the Esquimaux; between whom their is a perpetual Enmity. The former are very fond of Strong Liquors, and will part with anything to obtain it. The Esquimaux are very Indolent, altho' a wandring People, and live chiefly on Raw Seal, Fish &c. and drink the Oil of them with Pleasure. They live in Tribes & appear to Civilize fast.

Article (25th)

What Traffick or Commerce is or may be established or carried on with those Savages? And if any such Traffick is established or carried on, at what places and under what Regulations?

The Mountaineer Indians, bring Furs of all sorts, and Traffick for it at Brador, and the other Sealing Posts to the Westward of it. The Ougbucktoo Tribe are them that live nearest to Cape Charles to which place, to the Camp Islands that lie near it, and Chateaux they bring Whale Bone, some skins and little Fur, which they exchange for Blankets or any of Wollen Clothing. They have Implements with which they kill Whale, but it does not appear they kill more than one or two in a Year; there is no Regulations in their Traffick, farther than the Merchant and them bargain in the best manner they can; and as they seem to be in want of Woollens, saws, Hatchets, and other utensils in all probability in a few Years they will become more industrious particularly when they find they cannot purchase the above, but by the exchange of Whalebone &c. The Nuninoo Tribe are next to the Northward and among them the Fratrum Unitas are Settled.

[25 Aug.,
1773.]**ROGER CURTIS TO GOVERNOR SHULDHAM.**Sandwich Schooner,
25th Aug., 1773.

ADMIRALTY 1/470.

Sir,

Pursuant to your directions to me dated the 14th July, 1773, I have been up the coast of Labrador as far as Kewedloke—an Indian settlement in the latitude of $58^{\circ} 10'$.

In my progression to the North, I observed that the land became more and more barren, and after you come to the 56th degree of latitude, the sea coast appears a barren rock, being almost totally deprived of that little verdure which is seen on the more southern parts of this immense country.

It is not to be doubted but that many excellent seal fisheries may be established upon this coast:—the cod do not visit these northern parts until late in the season. There are a few excellent salmon rivers, and at Nuckbawk which I apprehend from Indian information to be about the 59th degree of latitude, there are sea cows in the winter. The whales sometimes visit the coast in vast numbers in the fall of the year.

The Moravians are settled within some islands about the latitude $56^{\circ} 50'$ at a place the Indians called Nonyoke, and to which they have given the name of Unity Bay; they have a commodious house surrounded with palisades; they are much respected by the Indians, and have made a surprising progress in civilising, and rendering them good subjects, indeed I am bound in justice to declare that this settlement appears to be of infinite use to the fishery upon this coast as by softening the manners of the savages, the adventurers will run but little risk of future annoyances, and I think extremely deserving of the protection and the encouragement of government.

ROGER CURTIS.

MOLX. SHULDHAM, ESQ.,
Commander in Chief, etc., etc.

[31 Dec.,
1773.]

No. 282.

**MEMORIAL FROM CITIZENS OF QUEBEC TO LORD
DARTMOUTH.**

To the Right Honb^{le} the Earl of Dartmouth one of his Majesty's
principal Secretarys of State.¹

The Memorial of the Freeholders, Merchants Planters and
others his Majesty's antient and loyal Subjects now in the
District of Quebec in the Province of Quebec in North
America.

Humbly Sheweth.

That after the Capitulation of Canada and the definitive
Treaty of Peace by which this Province was ceded to Great
Britain his Majesty was graciously pleased by his royal
Proclamation of the 7th October 1763, to give express power &
direction to his Governors of the four several Provinces therein
mentioned, (whereof this Province is one) with the advice and
Consent of the Members of his Councils, to summon and call
general Assembly's, for making constituting and ordaining
Laws Statutes and Ordinances for the public peace, Welfare
and good Government thereof as near as might be agreeable to
the Laws of England And also was graciously pleased to
declare and promise, That in the mean time and untill such
Assemblies could be called all Persons inhabiting in or
resorting to the said Colonies should have the enjoyment and
benefit of the Laws of England.

That your Memorialists thus encouraged, having settled
themselves, purchased Lands, planted and improved them, and
engaged deeply in Commerce in this Province, and humbly
conceiving it at this Time seasonable & expedient to supplicate
his Majesty to accomplish his most gracious Promise, Have
prepared their most humble Petition to his Majesty (which they
take the liberty to transmitt herewith to Your Lordship)
praying that he would be graciously pleased to order his
Governor with the Advice and Consent of his Majesty's
Council to call a general Assembly of the People in such
manner and of such Constitution and form as his Majesty in his
royal Wisdom shall think proper to direct.

* * * *

Your Memorialists have also the Honour to represent to
Your Lordship, That the Trade Cultivation and Prosperity of
the Colony have been much interrupted by the sequestration of
the upper Indian trading Posts, Lake

Champlain and the Coast of Labradore from this Government, by which not only the natural resources of the Province have been greatly restrained but many of the Inhabitants as well old as new Subjects have thereby been deprived of their personal Property and even of their real Estates which the latter held and enjoyed for many Years before the Conquest and which the former purchased on the faith of the Capitulation and Treaty of Peace, And Your Memorialists will venture to assure Your Lordship That if the Province is not restored to its antient Limits and the parts which have been dismembered from it reunited to that Government to which nature points they should belong, and all be put under some salutary and well judged Regulations. The Morals of the Indians will be debauched, and the Fur-Trade as well as the Winter Seal Fishery for ever lost not only to this Province but to Great Britain, as neither can be carried on to advantage but by the Inhabitants of Canada.

Your Memorialists might add much more in support of the Subject matter of this Memorial as well as on many other Matters very interesting to the Province, but as your Memorialists will not incroach on your Lordships Time and Patience they conclude by humbly and ardently praying your Lordship to be pleased to lay their most humble Petition herewith transmitted before his Majesty and humbly intreating Your Lordships Intercession and good Offices in that behalf as well as in behalf of the other important Objects pointed out to your Lordship in this their Memorial, And reposing themselves entirely on your Lordships known honour, Understanding and Uprightness.

They as in Duty bound will ever Pray &c—

Quebec 31st Decem^r 1773.

A Committee named at a Meeting of his Majesty's antient Subjects residing in the District of Quebec.	Jenkin Williams John Welles John Lees John McCord Cha ^s Grant Malcolm ffraser Zach. macaulay
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(Original)

Endorsed:—Memorial of the Kings Ancient Subjects in the District of Quebec to His Majesty. R/1st June 1774.

[Undated.]

EXTRACT FROM MEMORIAL.

IN SUPPORT OF PETITION BY HIS MAJESTY'S SUBJECTS IN CANADA.
CONST. DOCS. [1759—1791], 2nd EDITION, p. 509, CAN. ARCH.

'MÉMOIRE POUR APPUYER LES DEMANDES DES TRÈS
SOÛMIS ET TRÈS FIDÉLES NOUVEAUX SUJETS DE
SA MAJESTÉ EN CANADA.

* * * *

'La colonie, telle qu'elle est fixée maintenant par la ligne de quarante cinq degrés, est trop resserrée dans ses limites. Cette ligne, qui la borne, passe à environ quinze lieües au dessus de Montréal: et cependant c'est de ce seul côté que les terres se trouvent fertiles, et que peut s'étendre avec plus d'avantage l'agriculture. Nous supplions que, comme sous le tems du gouvernement François, on laisse à nôtre colonie tous les païs d'enhaut connus sous les noms de Missilimakinac, du Détroit, et autres adjacents jusques au fleuve du Mississippi. La réunion de ces postes seroit d'autant plus nécessaire à nôtre païs que, n'y ayant point de justice établie, les voyageurs de mauvaise foi, auxquels nous fournissons des marchandises pour faire le commerce avec les sauvages, y restent impunément avec nos effets; ce qui ruine entièrement cette colonie, et fait de ces postes une retraite de brigands capables de soulever les nations sauvages.

Nous désirons aussi qu'il plût à sa majesté re-unir à cette colonie la côte de Labrador, (qui en étè aussi soustraite), telle qu'elle y étoit autre-fois. La pesche du loup marin (qui est le seule que se fait sur cette côte,) ne s'exerce que dans le fond de l'hyver, et ne dure souvent pas plus d'une quinzaine de jours. La nature de cette pesche, qui n'est connuë que des habitants de cette colonie; — — — son peu de durée; — — — et la rigueur de la saison, qui ne permet point aux navires de rester sur les cotés; — — — combinent à exclurre tous les pescheurs qui viennent de l'Angleterre.

* * * *

Fr. Simonnet, &c., &c.'

[*Translation of No. 283.*]MEMORIAL IN SUPPORT OF THE REQUESTS MADE BY HIS MAJESTY'S
MOST OBEDIENT AND MOST FAITHFUL SUBJECTS IN CANADA.

* * * *

'The province, as it is now bounded by a line passing through the fortyfifth degree of north latitude, is confined within too narrow limits. This line is only fifteen leagues distant from Montreal. And yet it is only on this side that the lands of the province are fertile, and that agriculture can be cultivated to much advantage. We desire therefore that, as under the French government our colony was permitted to extend over all the upper countries known under the names of Michilimakinac, Detroit, and other adjacent places, as far as the river Mississippi, so it may now be enlarged to the same extent. And this re-annexation of these inland posts to the province is the more necessary on account of the fur-trade which the people of this province carry on to them; because, in the present state of things, as there are no courts of justice whose jurisdiction extends to those distant places, those of the factors we sent to them with our goods to trade with the Indians for their furs who happen to prove dishonest continue in them out of the reach of their creditors, and live upon the profits of the goods entrusted to their care: which intirely ruins this colony, and turns these posts into harbours for rogues and vagabonds, whose wicked and violent conduct is often likely to give rise to wars with the Indians.

We desire also that his majesty would be graciously pleased to re annex to this province the coast of Labrador, which formerly belonged to it, and has been taken from it since the peace. The fishery for seals, which is the only fishery carried on upon this coast, is carried on only in the middle of winter, and sometimes does not last above a fortnight. The nature of this fishery, which none of his majesty's subjects but the inhabitants of this province understand; the short time of its continuance; and the extreme severity of the weather, which makes it impossible for ships to continue at that time upon the coasts; are circumstances which all conspire to exclude any fishermen from Old England from having any share in the conduct of it.

* * * *

FR. SIMONNET, &c., &c.

SECOND PERIOD: FROM QUEBEC ACT, 1774, TO
NEWFOUNDLAND JUDICATURE ACT, 1809.

No. 284.

MEMORANDUM ON GOVERNMENT OF QUEBEC.¹

A MEMORANDUM of things necessary for establishing Laws &
Government in the Province of Quebec, either by Act of
Parliament, Order of the King in Council or by the
proposed Council at Quebec.²

First, To get rid of the Proclamation of 1763 with the
Commissions & Ordinances depending thereon and to restore
the old Law and Constitution.

¹ The following memoranda, suggestions, and draughts of bills relating to the Quebec Act, have been found among the papers of Lord Dartmouth, under whom, as Colonial Secretary, the Quebec Bill took shape, and by whom it was finally introduced in the House of Lords on May 2nd, 1774. Most of these are without date, address, or signature, to indicate when, for whom, or by whom they were prepared, nor are they arranged in chronological order. However, by internal evidence, by comparisons between them, and with other documents, and with the aid of a few notes which passed between the parties chiefly concerned in framing the measure, it has been possible to identify most of them and trace the normal order of their development. [Const. Docs. (1759-1791), 2nd edition, p. 533.]

² Canadian Archives, M 385, p. 326. This memorandum would appear to have been the outcome of one or more of the conferences of an inner circle of the Ministry, with special advisers such as Carleton, in dealing with American policy. The features suggested are not in accordance with any one of the Reports on the subject which had been made to the Government. Notwithstanding the numerous declarations, during the previous seven years, that the system of law and government in Quebec was on the point of being settled, the members of the Government chiefly responsible for the policy of the Quebec Act had not apparently given the matter very full consideration before the latter part of 1773, as may be gathered from the following statements. On Aug. 4th 1773 the Lord Chancellor sent the following note to Dartmouth, "The Chancellor's Compliments to L^d Dartmouth, takes the liberty to send him some Papers relative to Canada, which together with the Reports of the Kings Advocate, the Attorney Gen^l & the Sollicitor Gen^l will, he believes, enable his Lordship to form a plan of Government for that Province, fit to be laid before Parliament; & the Chancellor is happy in having received assurance from his Lordship that He means to undertake it." M 384, p.178. On Aug. 26th, Maseres writing to Dartmouth, says: "Mr. Maseres begs leave to acquaint his Lordship that on Tuesday se'ennight (which he apprehends to be since his Lordship left town,) he had the honour of waiting on Lord North by appointment at Bushey Park, to confer with him on the affairs of Quebec; and that Lord North seemed fully determined to do something towards the settlement of that Province

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^{2^{dly}} To accommodate the Duties & Taxes paid at the time
of the Conquest to the change of Dominion.

^{3^{dly}} To constitute a Governor and Council at Quebec with
Power to make Laws and Ordinances under such restrictions as
shall be thought necessary.

4^{thly} To erect proper Courts of Judicature. The nearer such Courts are to the Old ones in Form, the more agreeable they will be to the Inhabitants and more likely to have their Effect.

5. To make an Alteration in the mode of trying Capital Offences by allowing the Party the Benefit of being tried by Juries according to the Law of England so as no' Judgement shall, after the Verdict given, be arrested upon any Objection of Informality.

6^{thly} To abolish the use of the Torture & the Punishment of breaking upon the Wheel.

7^{thly} To allow the Inhabitants the Privilege of the Common Law Writ of Habeas Corpus.

8^{thly} To provide, that all Incumbents be nominated by the Governor in Writing under his Hand and Seal, unless the Right of Patronage be in any private Person And that all Incumbents be irremovable except for Misdemeanor to be tried by the Governor and Council.

9th To give all Ecclesiastical Jurisdiction in regard to Marriages, the Probate of Wills, granting Letters of Administration and other Civil Rights, except only in the Case of Tythes to the Courts of Law, and all Questions concerning Tythes to be determined by the Governor & Council.

10th Every Protestant Parishioner to pay his Tythes to the King's Officer towards providing a Maintenance for the Protestant Clergy.

in the next session of parliament, and particularly with respect to the establishment of a revenue and a legislature. His Lordship was clearly of opinion that this ought to be by a legislative council, and not an assembly; and he liked very well the proposal (contained in Mr. Maseres's draught of an act of parliament for establishing such a council,) that they should not be invested with the power of taxation, but only that of legislation, and that the necessary taxes should be laid by the Parliament of Great Britain.

"Lord Mansfield has also very lately declared an intention of reading over all the papers relating to the province of Quebec, and using his endeavours towards procuring a Settlement of it. And, about two months ago, Lord Chancellor made a similar declaration. And the leisure of this season of retirement seems to be favourable to this good design of their Lordships to give this subject a thorough consideration. If therefore, Lord Dartmouth should bring on the determination of this business in the privy council in the course of this vacation, it seems likely that he would meet with a great concurrence and support from his Majesty's other servants and counsellors, and that the whole settlement of that province might be prepared and digested in the manner necessary for the consideration of parliament by the beginning of next Session." M 384, p. 194. [Const. Docs. (1759-1791), 2nd edition, p. 533.]

No. 285.

FIRST DRAUGHT OF QUEBEC BILL.¹

An act for granting for a limited time, therein ment^d Powers of
Legislation to the Governor & Council of His Majesty's
Province of Quebec for the time being—

Whereas His Majesty was graciously pleased, by a Royal Proclamation bearing Date at St. James's the 7th Day of Oct^r in the third year of His Majesty's Reign, to publish & declare, that certain Lands & Countries in America, therein mentioned & described, had been erected into a Province by the name of the Province of Quebec, & that the Gov^r thereof was expressly empowered & directed, by Commission under the Great Seal, that so soon as the State & Circumstances of the said Province would admit thereof, he should, with the Advice & Consent of His Majesty's Council for the said Province, summon & call a General Assembly within the said Province in such manner & form as is used & directed in those Colonies & Provinces in America, which are under His Majesty's immediate Government, & that power had been also given to the said Governor with the consent of the Council & of the Representatives of the People so to be summoned & elected as aforesaid, to make constitute & ordain Laws, Statutes & Ordinances, for the public peace Welfare & good Government of the said Province & of the People & Inhabitants thereof. And Whereas the State & Condition of the said Province of Quebec has not hitherto been, is not now, nor is likely for some time to be such as to admit of a Lower House of Assembly or House of Representatives being convened, conformable to His Majesty's gracious Intentions declared in His Commission under the Great Seal & promulgated in the said Proclamation, by means whereof His Majesty's Subjects in the said Province are & must be exposed to great Inconveniences, the Welfare & Improvement of it obstructed, & a heavy burthen brought upon this Kingdom. In order therefore that these Wants & Defects may be remedied, & the Good Order and Welfare of the said Province provided for. Be it enacted by the King's most excellent Majesty, by and- with the Advice and Consent of the Lords Spiritual & Temporal and Commons in this present Parliament assembled & by the

¹ Canadian Archives, Dartmouth Papers, M 383, p. 51. This draught is evidently the work of Sol. Gen. Wedderburn whose ideas, chiefly, it expresses, as may be gathered from comparing it with his Report and especially with the "Abstract of such of the Regulations proposed in Mr. Solicitor Gen^{ls} Report as it may be expedient to establish by Act of Parliament." See Can. Const'l Doc'ts, 2nd ed., vol. 1, p. 434. This draught however was completely changed, both in form and content, under the direction of Lord Dartmouth, who in turn was influenced by different forces, personal and political. [Const. Docs. *ibid.* p. 535.]

Authority of the same that from & after the Day of it shall and may be lawful for the Governor or Commander in Chief of the said Province of Quebec, for the time being, by and with the *Advice and* Consent of the Council of the said Province for the time being, or the Majority thereof to make constitute & ordain Laws, Statutes and Ordinances, for the public peace, Welfare & good Governm^t of the said Province, and of the people & Inhabitants thereof, in all cases whatsoever. Provided always & be it enacted that the said Council shall consist of not more than 21 nor less than 12 members, & that all Laws Statutes & Ordinances to be made under the Authority hereof, shall be so made & passed in ye s^d Council when not less than 13 of the said Members shall be present. Provided nevertheless, and it is hereby enacted & ordained, by the Authority aforesaid, that no Law, Statute or Ordinance so to be framed & enacted as aforesaid by the said Governor or Commander in Chief & Council as aforesaid, by which, the Life Limb or property of the Subject may be affected or any Duties or Taxes shall be imposed for the public use of the said Province, shall be of any force, validity or effect until approved by His Majesty, & such approbation signified by Order of His Majesty in Council. And be it further enacted by the Authority aforesaid, that Copies of all Laws, Statutes & Ordinances so to be framed & enacted by the said Governor Commander in Chief and Council as aforesaid shall, within three Months from the passing thereof (or sooner if opportunity offer) be transmitted duly authenticated under the Seal of the said Province by the said Governor or Command^r in Chief for the time being to the Commissioners for Trade & Plantations, together with Accounts duly attested of all public Monies levied & expended in virtue of any Law, Statute or Ordinance as aforesaid, in which said Account shall be specified the particular Service to which the said Monies have been issued & applied. And be it further enacted by the Authority aforesaid, that the said Laws, Statutes & Ordinances as also the Accounts abovementioned of all public Monies levied and expended within the said Province of Quebec, shall be laid by the said Commissioners for Trade and Plantations before both Houses of Parliament, as soon as may be after the same shall have been received by them from the said Province as aforesaid. And be it further enacted by the Authority aforesaid that this Act shall continue & be in force for the space of fourteen Years, and from thence to the End of the next Session of Parliament unless His Majesty, His Heirs & Successors shall think fit before the expiration of that Term to direct a Lower House of Assembly or House of Representatives to be convened within the said Province of Quebec in which case the Legislative powers hereby conferred upon the Governor or Commander in Chief & Council, for the time being, shall cease & determine & be of none effect, any thing herein contained to the contrary thereof notwithstanding.

Endorsed:—Dra^t of Bill—
Quebec

No. 286.**SECOND DRAUGHT OF THE QUEBEC BILL.¹**

An Act to remove the Doubts which have arisen relative to the
Laws and Government of the Province of Quebec since His
Majesty's Royal Proclamation of the Seventh day of
October 1763.

Whereas by the Conquest of Canada and the Cession thereof by the Definitive Treaty of Peace concluded at Paris on the Tenth day of February 1763, His Majesty became Intitled to the Sovereignty thereof, *as a Dominion belonging to the Crown of Great Britain, and might alter the Laws and Constitution of the said Province in such manner as He should think most agreeable to natural Justice and sound Policy.* And Whereas many other Countries and Territories, the greatest part whereof lay waste and uncultivated, were likewise ceded by the said Treaty to His Majesty:—And Whereas His said

¹ Canadian Archives, Dartmouth Papers, M 385, p. 300. This is the first draught of the Quebec Bill in which the wording of the Quebec Act as it finally passed begins to appear. That it was drawn by Wedderburn under instructions from Dartmouth, will appear from the following letter from Wedderburn to Dartmouth, dated March 2nd, 1774. "My Dear Lord, I have attempted to express the alterations you were pleased to tell me were desired. to be made in the Bill for Quebeck, But I am very doubtful whether I have succeeded in the Attempt. For I must confess my objections to the alterations and to some parts of the Bill, are much strengthened by the Consideration I have lately given to the subject.

"It seems very strange to have a Criminal Code in which for Treason the Law of England is followed; for other capital offences the Law of France (which avoids all definition) is to define the Crime, and the Law of England to prescribe the punishment and the mode of Trial; In offences not capital, the Crime, its Trial and punishment are all referred to the Law of France which lets in all their arbitrary punishments of cutting out Tongues, slitting noses &^{cc}. I have had much conversation with Mr. Hey who says that the Idea of reviving any part of the French Criminal Law besides the difficulty of uniting It to the Law of England would be as little agreeable to the Canadians as it would to the English Inhabitants. That the former are in general very sensible of the advantages they derive from our Criminal Justice and make very good jurymen. He thinks there would be no objection to adopting the whole criminal Law of England because none has hitherto been discovered, but It would be still better to subject It to the revision of the Council to be established who might by degrees reject all the parts that are unfit for the constitution of Canada. I have with His assistance prepared a clause upon this Idea which is submitted to your Lordship." M 384, p. 251. (The remaining paragraphs of the letter are given as notes on the clauses of the draught to which they refer.)

If we compare this draught of the Quebec Bill with the various Reports of the Board of Trade, the Atty. Gen. of Quebec and the Sol., Atty., and the Advt. Gen. of England, we find that, as declared by Knox, the Under Secretary of State for the Colonies, and a stout advocate of the Ministerial policy towards America, "thus it fell out, that after all the pains which had been taken to procure the best and ablest advice, the Ministers were in a great measure left to act upon their own judgment." See Knox's "The Justice and Policy of the late Act" &c., 1774, p. 9. This will partly account for the great changes in the measure between this draught and the form in which it was passed. [Const. Docs., p. 536.]

day of October, in the third year of His Reign, Reciting that great part of the said acquisitions had been cast into four distinct and separate Governments, called Quebec, West Florida, East Florida, and Grenada. And that other parts had been annexed to the Governments of Newfoundland, Nova Scotia and Georgia, And further Reciting that it would greatly contribute to the speedy settling of the said new Governments that His Majesty's loving Subjects should be Informed of His Paternal Care for the Security of the Liberty and Property of those, who were and should become Inhabitants thereof, His Majesty thought fit to Publish and Declare, that He had in the Letters Patent under His Majesty's Great Seal of Great Britain, by which the said Governments were constituted, given express Power and direction to his said Governors of the said Colonies respectively that so soon as the state and circumstance of the said Colonies would admit thereof, They should, with the advice and consent of the Members of His Majesty's Council, Summon and call General Assemblies within the said Governments respectively in such manner and form as was used and directed in those Colonies and Provinces in America, which were under His Majesty's immediate Government; with Power to make constitute and ordain Laws, Statutes and Ordinances for the Public peace, Welfare and good Government of His Majesty's said Colonies and of the People and Inhabitants thereof; as near as might be, agreeable to the Laws of England and under such regulations and restrictions, as were used in other Colonies, and that in the mean time and until such Assemblies could be called as aforesaid, all Persons Inhabiting in or resorting to His Majesty's said Colonies, might confide in his Royal Protection for enjoying the benefit of the Laws of His Majesty's Realm of England. And that for such Purpose, His Majesty had given power under His Great Seal, to the Governors of his said Colonies respectively, to Create and Constitute (with the advice of His Majesty's said Councils respectively) Courts of Judicature and Publick Justice, within His Majesty's said Colonies, for the Hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity; and, as near as might be agreeable to the Laws of England; with Liberty to all Persons, who might think themselves aggrieved by the Sentence of such Courts, in all Civil Cases, to appeal under the usual Limitations and restrictions to His Majesty in His Privy Council.

And Whereas such commissions were accordingly passed under the Great Seal of Great Britain to the respective Governors of the said Provinces and amongst the rest to the Governor of Quebec, requiring among other things, that each member of the Assemblies so to be called, should take the Oaths commonly called the Oaths of Allegiance Supremacy and Abjuration; and to make and subscribe the Declaration against Transubstantiation, mention'd in an Act of Parliament made in the Twenty fifth Year of the Reign of King Charles the Second Intituled "An Act, for preventing Dangers which

may happen by Popish Recusants."

And whereas by an Ordinance made and Published by the Governor and Council of Quebec, bearing date the seventeenth day of September in the

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Year of Our Lord One thousand seven Hundred and sixty four, several Courts of Criminal and Civil Jurisdiction were created, with Power to proceed according to the Laws of England, and agreably to Equity, having regard nevertheless to the Laws of England as far as the Circumstances and then present situation of things would admit.

And whereas several Commissions were, in pursuance thereof given and granted under the Great Seal of the said Province of Quebec to Chief Justices and other Judges and Justices, to hold the said Courts and exercise authority by virtue of the same.

And whereas great Doubts have arisen whether the whole Law of Canada was subverted and the Law of England introduced by the said Proclamation to take place as the Constitution of that Country till an Assembly should be called And also whether the Legislative Ordinances issued by the Governor and Council under the Kings Authority since the Proclamation were valid or void and by reason of such Doubts great confusion and uncertainty path arisen and distracted the Minds of the People of the said Province.

And Whereas the Plan of Civil Government proposed by such Construction of the Proclamation and which bath been attempted to be carried into Execution in manner above mentioned is inapplicable to the Condition and Circumstances of the Province of Quebec which did contain at the Conquest thereof above One Hundred Thousand Inhabitants professing the Roman Catholick Religion and enjoying an established form of Constitution and a System of Civil and Criminal Law by which their Persons and Property had been for ages protected governed and ordered.

May it therefore please your most excellent Majesty, That it may be Enacted; And it is hereby Enacted by His Most Excellent Majesty, by and with the advice and Consent of the Lords Spiritual and Temporal and Commons in Parliament assembled, and by the Authority of the Same, ^{x. a} ¹ That the said Proclamation so far as the same relates to the Civil Government & Administration of Justice of and in the said Province of Quebec and the Commissions have been granted to the Governors of the said Province of Quebec for the time being, and *the said Ordinance* ³ ² made by the said

¹ These marks have no reference connected with them either in the margin or at the foot of the draught; but they evidently refer to an additional clause or clauses to be introduced by

which the limits of the Province would be greatly extended. The proposal for an extension of the limits, which was largely adopted in the third draught of the bill, is given in the paper which follows this draught.

² This figure, which is in the original, seems to have no special significance, as the changes here introduced are but slight; it probably refers to some remark on the ordinance.

³ Wedderburn, in his letter to Dartmouth, cited in note 1, p. 536, comments on this as follows:— "Mr. Hey mentioned to me two objections to the former part of the Bill which I think are material. The Proclamation, Commissions &^{cc} are annulled and by the next Clause It is declared that 'His Majesty's subjects in Canada shall enjoy their Laws and Customs as beneficially as if the Proclamation had not been made and as is consistent with their Allegiance and Subjection to the Crown and Parlia-

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Governor and Council of Quebec *bearing date the Seventeenth day of September in the year of our Lord one Thousand, seven Hundred and sixty four; and all other Ordinances* relative to the Civil Government and Administration of Justice in the said Province and all Commissions to Judges and other officers, in pursuance thereof, be, and the same are hereby Revoked, Annulled and made void from and after the day of next.

And be it further Enacted by the Authority aforesaid, That His Majesty's Subjects of and in the said Province of Quebec, as the same is described in, and by the said Proclamation and Commissions And also of all the Territories part of the Province of Canada at the time of the Conquest thereof which His Majesty, His Heirs or Successors may think proper to annex to the said Government of Quebec may have hold and enjoy their Property, Laws, Customs, and Usages, in as large, ample and beneficial manner, as if the said Proclamation, Commissions Ordinances and other Acts & Instruments had not been made, and as may consist with their allegiance to His Majesty and subjection to the Crown and Parliament of Great Britain³ (*see* previous page).

vide¹ Class A.

And Whereas the Abolition of the use of the torture and of those severe punishments to which the Inhabitants of Canada were formerly exposed and the Introduction of a more mild and certain Law in criminal cases would be highly beneficial to them and they are truly sensible of the same, Be it therefore Enacted by the Authority aforesaid that no Crimes or Offences shall be High Treason or Misprision of Treason in the Province of Quebec and the dependencys thereof, But such as are high Treason or Misprision of High Treason by the Laws and Statutes now in force in Great Britain; and that the said Laws and Statutes shall be used and observed in Cases of High Treason and Misprision of High Treason in all respects whatsoever. And be it further Enacted That in regard to all other offences for which by the Laws in force in Canada and on the said 13th September 1759 the Offender was liable to suffer the pains of Death the party accused shall be tried and acquitted or condemned and punished, according to the Laws of England. Provided always that where by the Laws of England the benefit of Clergy is allowed upon any Conviction the Offender in such case shall only be fined and Imprisoned or bound to his good Behaviour, And Provided also That no

Judgement shall after the Verdict given, be arrested upon any objection of Informality in the Indictment or Discontinuance in the Record.

ment of Great Britain.' These words he thinks will much perplex the Canadian. Is his Religion lawful or tolerated, or unlawful. Are the rights of Succession, of Marriage, of Contract, that have accrued since 1764 and been enjoyed according to the Law of England rescinded, for the act is in some measure declaratory as to the sense of the Proclamation.

What is to be the condition of the English Canadian? Is he or is he not included in the description of His Majesty's Subjects of and in Canada? He thinks it would be much better to express clearly what rights shall be restored to the Canadian and that He would be better satisfied with a less extensive and a more certain Provision for him." M 384, p. 253. Can. Arch.

¹ This refers to the new clause drawn by Wedderburn and Hey, as indicated in note 1, p. 536, which was substituted for this section in the third draught, and which provided for the complete retention of the criminal law of England. See third draught.

p. 1103

And whereas it may be necessary to ordain many Regulations for the future Welfare and good Government of the Province of Quebec, the occasions of which cannot now be foreseen nor without much Delay and Inconvenience provided for, without entrusting that Authority for a certain time and under proper Restrictions to Persons Resident there.

And Whereas it is at present inexpedient to call an Assembly Be it therefore Enacted by the Authority aforesaid That it shall and may be lawful for His Majesty His Heirs and Successors by *his or their Letters Patent¹ under the Great Seal of Great Britain* to constitute and appoint a Council for the affairs of the Province of Quebeck and its dependency to consist of such Persons resident there not exceeding () nor less than () as His Majesty His Heirs and Successors shall be pleased to appoint and *of such other Persons resident there as upon the death removal, or absence, of any of the Members thereof, shall be nominated by His Heirs or Successors under His or their Sign Manual to supply the vacancy*; Which Council so appointed and nominated or the major part thereof shall have full Power and Authority to make Ordinances for the Peace, Welfare and good Government of the said Province in all cases whatsoever, with the consent of His Majesty's Governor or Commander in Chief or in his Absence of the Lieutenant Governor for the time being.

Provided always That every Ordinance so to be made shall within () months be transmitted by the Governor Commander in Chief or in his absence by the Lieutenant Governor and laid before His Majesty for his royal approbation and if His Majesty shall think fit to disallow thereof The same shall cease and be void from the Time that His Majesty's Order in Council thereupon shall be promulgated at Quebec And Provided also That no Ordinance touching Religion or by which any Punishment may be Inflicted greater than fine or imprisonment for Three Months, or by which any Duty, Tax, or Rate may be Levied shall be of any force or effect until the same shall have received His Majesty's Approbation And Provided also That no Ordinance shall be passed at any

Meeting of the Council except between the day of and
the day of unless upon some urgent occasion, in which
Case every Member thereof resident at Quebeck or within
Miles thereof shall be personally summoned by the Governor
or in His absence by the Lieutenant Governor to attend the
same.

¹ Concerning this section, Wedderburn, in his letter to Dartmouth, cited in note 1, to Second Draught of the Quebec Bill, says:—"The empowering His Majesty to create the Legislative Council by Letters Patent instead of appointing It directly by the Act of Parliament seems to me an immaterial Alteration, supposing that it is necessary (as I conceive it is) to describe in the Act the Powers and Authority of that Council. In either way the Nomination of the Members must be vested in the King and no greater Power in effect is acquired by the first mode than by the latter tho' in appearance the Power of erecting a Legislative Council seems to import more than the power of naming the Members and will from the appearance excite more opposition.

"The latter Clause I take to be unnecessary as I do not see how the Act restrains the King from appointing Judges and erecting Courts of Justice, I have therefore drawn It as a saving and not as an enacting Clause." M 384, p. 252. Can. Arch.

And be it further Enacted &c^a That nothing herein contained shall extend or be construed to extend to prevent or hinder His Majesty His Heirs and Successors by his or their Letters Patent under the Great Seal of Great Britain from erecting, constituting and appointing such Courts of Criminal, Civil and Ecclesiastical Jurisdiction within and for the said Province of Quebeck and its dependencys and appointing from time to time the Judges and Officers thereof as His Majesty His Heirs and Successors shall think necessary and proper for the circumstances of the said Province.

Endorsed:—Dra^t of Bill

No. 287.

C

PROPOSED EXTENSION OF PROVINCIAL LIMITS.¹

The Limits of the Government of Quebec as declared in the Proclamation of 1763 are as follows, Vizt. “bounded on the Labrador Coast by the River St. John, & from thence by a line drawn from the head of that River thro' the Lake of St. John to the South end of the Lake Nipissing; from whence the said Line crossing the River St. Lawrence and the Lake Champlain in 45 Degrees of No Latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea; and also along the North Coast of the Bay des Chaleurs, and the Coast of the Gulph of St. Lawrence to Cape Rosiers, and from thence crossing the Mouth of the River St. Lawrence by the West end of the Island of Anticosti terminates at the aforesaid River of St. John.”

The Kings Servants were induced to confine the Government of Quebec within the above Limits, from an apprehension that there were no Settlements of Canadian Subjects, or lawful possessions beyond those Limits, and from a hope of being able to carry into execution a plan that was then under Consideration for putting the whole of the Interior Country to the Westward of our Colonies under one general control & Regulation by Act of Parliament². It was also conceived that there was no claim of Possession on

¹ Canadian Archives, Dartmouth Papers, M 385, p. 346. The boundary line as here proposed, indicates the limits within which it was desired to confine the English colonies. That it was largely adopted, despite the opposition of some supporters of the Ministry, will be seen from the third draught of the bill which follows. No clue is given as to the author of this proposal but, as maybe observed from a letter of Dartmouth to Cramahé of Dec. 1st, 1773, (See Can. Const'l Doc's., 2nd ed., vol. 1, p. 485) this extension of the limits of the Province, like the Establishment of the Roman Catholic religion, was represented as a direct concession to the Canadian noblesse and clergy in response to their petition.

² For the actual statement of the reasons for this policy, see the papers relative to the establishment of civil government in Quebec. [Const. Docs., p. 542.]

the Coast of Labrador to the East of the River St. John, and therefore from an apprehension that a valuable Cod Fishery might be carried on upon that Coast, it was annexed to the Government of Newfoundland.

The plan for the regulation of the Interior Country proved abortive & in consequence thereof an immense tract of very valuable Land within which there are many Possessions and actual Colonies existing under the Faith of the Treaty of Paris has become the Theatre of disorder & Confusion leading to causes that must affect the public Tranquility and weaken the Authority of this Kingdom, whilst those Colonies which exist under the Faith of the Treaty remain either without the protection or the control of Civil Government.¹

It has also been discovered that there are a variety of claims to possessions upon the Coast of Labrador between the River St. John and the Straits of Belle Isle, and that by far the greatest part of that Coast is impracticable for a Cod Fishery and can only be used for that species of sedentary Seal Fishery which is in its nature inconsistent with the Regulations of the Fishery at Newfoundland.

In order therefore to obviate the dangers and disadvantages arising from the present defective state of the Interior Country. To give force and effect to the Power and Authority of the Crown within it. To give scope to the many Commercial advantages which may be derived from it. To extend the benefits of Civil Government to the Settlements of Canadian Subjects that have been formed in the different parts of it,² and to give Stability & advantage to the Sedentary Fisheries on the North side of the Gulph of St. Lawrence, it is proposed that the

Limits and Boundaries of the Government of Quebec shou'd be altered and enlarg'd in the following manner, that is to say,

That the said Government should be bounded on the side of His Majesty's other Colonies by a Line drawn from the Head of Bay Chaleurs (including the North side of the said Bay and all the Lands between that and the River

¹ This is a matter on which a great variety of evidence is recorded and many different opinions expressed. The chief of these references are scattered throughout the letters and reports contained in the State Papers of the Q series, the Home Office Papers, and the Haldimand Papers, some of which are duplicates. [Const. Docs., p. 542.]

² In addition to the statements made in such letters as that of Dartmouth to Cramahé of Dec. 1st, 1773, (see p. 485) we find the statement of Wm. Knox the Colonial Under Secretary, after the Quebec Act was passed, that "the whole of the derelict country, is, by the first clause of the Act, put under the jurisdiction of the Government of Quebec, with the avowed purpose of excluding all further settlement therein, and for the establishment of uniform regulations for the Indian trade." "The Justice and Policy of the late Act" &c. p. 20. See also notes to Lord Hillsborough's objections to the Quebec Bill, &c., *post*. [Ibid. p. 543.]

St. Lawrence) along the High Lands which divide the Rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantick Ocean until the said line reaches lake Champlain in 45 Degrees of No Latitude.

The said line to be continued from thence in a direct course to the first spring or Head of Hudson's River, and from thence in a direct course to the entrance of Lake Ontario from the said River St. Lawrence. That the said Line should pass from thence across the said Lake to the Mouth or entrance of the Strait of Niagara and should pass along the East side of the said Strait until it falls into the Northern Boundary of the Province of Pennsylvania, and from thence it should follow the course of the said Boundary line as well on the North as the West, to the Point where it intersects the River Ohio, and so following the course of the said River, from the said Point to its confluence with the River Mississippi. That the said Government should comprehend all the Coast of Labrador as far East as Esquimaux River & be bounded on the North by a Line drawn due West from the mouth of the said River to the southern Limits of the Territory granted to the Hudsons Bay Company and to follow the course of the said Limits as far as the River Mississippi, the said River to be the Boundary on the West from the point where it is intersected by the Southern Limits of the Territory granted to the Hudson's Bay Company as aforesaid, as low down as the Mouth of the River Ohio.

Endorsed:—Paper relative to the extension of the Limits of Quebec.

No. 288.

C

THIRD DRAUGHT OF THE QUEBEC BILL.¹

An Act for making more effectual Provision for the Government of the Province of Quebec in North America; and for removing Doubts which have arisen relative to the Laws and Constitution of the said Province since His Majesty's Royal Proclamation of the 7th of October 1763.

Whereas His Majesty by His Royal Proclamation bearing date the 7th day of October in the Third year of His Reign, thought fit to declare the

¹ Canadian Archives, Dartmouth Papers, M 385, p. 311. The alterations and additions by which the second draught was developed into the third are given in part of the notes on the second draught. Other explanations are furnished in the memorandum which follows this draught of the bill.

Provisions which had been made in respect to certain Countries, Territories and Islands in America Ceded to His

Majesty by the Definitive Treaty of Peace concluded at Paris on the 10th day of Febr'y 1763 And Whereas by the Arrangements made by the said Royal Proclamation a very large part of the Territory of Canada, within which there were several Colonies and Settlements of the Subjects of France who claimed to remain therein under the faith of the said Treaty, was left without any Provision being made for the administration of Civil Government therein, and other parts of the said Country where sedentary Fisheries had been established and carried on by the subjects of France, Inhabitants of the said Province of Canada under Grants and Concessions from the Govern^r thereof, were annexed to the Gov^t of Newfoundland, and thereby subjected to regulations inconsistent with the nature of such Fisheries. May it therefore please your most excellent Majesty that it may be enacted; and it is hereby enacted by The Kings most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same That all the said Territories, Islands and Countries, heretofore part of the Province of Canada in North America, extending Southward to the banks of the River Ohio, Westward to the banks of the Mississippi and northward to the Southern Boundary of the Territory granted to the Merchants Adventurers of England trading to Hudsons Bay, and which said Territories, Islands and Countries are within the limits of some other British Colony as allowed & confirmed by the Crown, or which have since the 10th Feby 1763, been made part of the Government of Newfoundland, be, and they are hereby annexed to, and part and parcel of the Province of Quebec as created and established by the said Royal Proclamation of the 7th of October 1763, for and during His Majesty's Pleasure; And Whereas the Provisions made by the said Proclamation in respect to the Civil Government of the said Province of Quebec and the Powers & Authorities given to the Governor & other Civil Officers of the said Province by the Grants and Commissions issued in consequence thereof, have been found upon experience to be inadequate to the State & Circumstances of the said Province the Inhabitants whereof amounting at the Conquest to above One hundred Thousand Persons professing the Religion of the Church of Rome and enjoying an established form of Constitution & system of Laws by which their Persons and Property had been protected, governed and ordered for a long series of years from the first Establishment of the said Province of Canada, Be it therefore further enacted by the Authority aforesaid, That the said Proclamation so far as the same relates to the Civil Government & Administration of, Justice of & in the said Province of Quebec, & the Commission under the Authority whereof the Government of the said Province is at present administered & all & every the Ordinance & Ordinances made by the Governor & Council of Quebec for the time being relative to the Civil Government & Administration of Justice in the said Province and all Commissions to Judges & other Officers thereof, be, and the

same are hereby revoked, annulled & made void from and after the Day of next.

p. 1108

Subject to the King's Supremacy, as declared & established by an Act made in the first year of the Reign of Queen Elizabeth, over all the Dominions & Countries which then did or thereafter should belong to the Imperial Crown of this Realm

And be it further enacted by the authority aforesaid that His Majesty's subjects professing the Religion of the Church of Rome of & in the said Province of Quebec as the same is described in & by the said Proclamation and Commissions, and also of all the Territories part of the Province of Canada at the time of the Conquest thereof, which are hereby annexed during His Majesty's Pleasure to the said Government of Quebec may have, hold & enjoy the free Exercise of the Religion of the Church of Rome, *so far* as the same is not inconsistent with the Kings Supremacy as established by act of Parliament and that Clergy & other Religious of the said Church may hold receive & enjoy their accustomed Dues & Rights *with respect to such Persons only as shall possess the said Religion*. Provided nevertheless that no thing herein contained shall extend or be construed to extend to the Disabling His Majesty's His Heirs or Successors from the making such Provision for the Maintenance & Support of a Protestant Clergy within the said Province as He or they shall from time to time think necessary & expedient.

And be it further enacted by the Authority aforesaid that all His Majesty's Canadian Subjects within the Province of Quebec, & the Territories thereunto belonging, may also hold, and enjoy their Property & Possessions together with all Customs & Usages relative thereto, and all other their Civil Rights in as large ample & beneficial manner as if the said Proclamation, Commissions, Ordinances & other Acts & Instruments had not been made, and as may consist with their Allegiance to His Majesty & Subjection to the Crown and Parliament of Great Britain.

For which purpose be it further enacted by the Authority aforesaid that, in all matters of controversy relative to the Property & Civil Rights of any of His Majesty's Subjects whether Canadian or English, Resort shall be had to the Laws of Canada and not the Laws of England for the Decision of the same, and all Causes that shall hereafter be instituted in any of the Courts of Justice to be appointed within & for the said Province by His Majesty, His Heirs & Successors, shall, with respect to such Property & Rights be determined by th a Judges of the same agreeably to the said Laws & Customs of Canada & the several Ordinances that shall from time to time be passed in the said Province by the Gov^r Lieut-Gov^r or Commander in Chief by & with the advice & consent of the

Legislative Council of the same to be appointed in manner herein before mentioned & by no other Laws Customs or Usages whatsoever.

¹ This clause which is written in the margin of this draught of the bill appears in the body of the fourth draught.

Provided always that it shall & may be lawful to & for every Person in the said Province, whether Canadian or English, that is Owner of any Goods or Credits in the same, and that has a right to alienate the said Lands, Goods or Credits in his Life time by Deed of Sale, Gift or otherwise to devise or bequeath the same at his or her death by his or her last Will & Testament to such Persons, & in such manner as he or she shall think fit, any Law, Usage or Custom; heretofore; or now prevailing in the Province, to the contrary hereof in any wise notwithstanding. And provided also that nothing in this Act shall extend or be construed to extend to any Lands that have been granted by His Majesty or shall hereafter be granted by His Majesty His Heirs & Successors to be holden in free & common soccage¹ & that it shall & may be lawful to & for any of His Majesty's Subjects at his, her or their respective Ages of 25 years to change the Tenure of Estate held of His Majesty, His Heirs or Successors into free & common soccage by any deed executed in the presence of two Witnesses & presented to the Chief Justice of the Province who shall summon a Jury to assess the sum to be paid to His Majesty in lieu of the Profits of the Seigniory & upon Payment thereof shall direct the Deed to be enrolled & the same being enrolled the Land shall from thenceforth be held as Lands in free & common soccage are held by the Laws of England.

And Whereas the Certainty & Lenity of the Criminal Law of England & the Benefits and Advantages resulting from the use of it have been sensibly felt by the Inhabitants from an Experience of more than nine years, during which it has been uniformly administered. Be it therefore enacted by the Authority aforesaid. That the same shall continue to be administered, and shall be observed as Law in the Province of Quebec and its Dependencies as well in the description & quality of the Offence, as in the method of Prosecution & Trial, and the Punishments & Forfeitures thereby inflicted to the exclusion of every other rule of Criminal Law, or mode of Proceeding thereon which did, or might prevail in the said Province before the year of Our Lord 1764. Anything in this Act contrary thereof in any respect notwithstanding Subject nevertheless to such Alterations & Amendments as the Gov^r Lieut Gov^r or Commander in chief of the s^d Province, by & with the advice & Consent of the Legislative Council of the said Province hereafter to be appointed, shall from time to time cause to be made therein in manner herein after directed.

And Whereas it may be necessary to ordain many Regulations for the future Welfare and good Government of the Province of Quebec, the occasions of which cannot now be foreseen, nor without much Delay & Inconvenience be provided for without intrusting that Authority for a certain time & under proper Restrictions to Persons resident there

And whereas it is at present inexpedient to call an Assembly; Be it therefore enacted by the Authority aforesaid that it shall & may be lawful

¹ The remainder of this clause is left out in the 4th draught, in accordance with the criticisms of Hillsborough and Carleton, as accepted by Dartmouth. See p. 573 & note 1, p. 554. Const. Docs.

p. 1110

for His Majesty, His Heirs and Successors by Warrant under His or Their Signet, or Sign Manual and with the Advice of the Privy Council to constitute and appoint a Council for the Affairs of the Province of Quebec & its Dependencies to consist of such Persons resident there, not exceeding (23) nor less than (17) as His Majesty, His Heirs and Successors shall be pleased to appoint, and upon the Death, Removal, or Absence of any of the Members of the said Council, in like manner to constitute & appoint such and so many other Person, or Persons as shall be necessary to supply the Vacancy, or Vacancies; which Council so appointed & nominated, or the major part thereof shall have full Power and Authority to make Ordinances for the Peace, Welfare and good Government of the said Province, with the Consent of His Majesty's Governor, or in his absence of the Lieutenant Governor or Commander in Chief for the time being.

Provided always That every Ordinance so to be made shall within Months be transmitted by the Governor or in his Absence by the Lieutenant Governor or Commander in Chief for the time being, and laid before His Majesty for his Royal Approbation; And if His Majesty shall think fit to disallow thereof, the same shall cease & be void from the time that His Majesty's Order in Council thereupon shall be promulgated at Quebec And provided also, That no Ordinance touching Religion, or by which any punishment may be inflicted greater than fine, or imprisonment for three Months shall be of any force or effect until the same shall have received His Majesty's Approbation: And provided also that no Ordinance shall be passed at any Meeting of the Council except between the day of and the day of unless upon some urgent occasion, in which Case, every Member thereof resident at Quebec, or within Miles thereof shall be personally summoned by the Governor, or in his absence by the Lieutenant Governor, or Commander in Chief for the time being to attend the same.

And be it further enacted &c^a That nothing herein contained shall extend or be construed to extend to prevent or hinder His Majesty His Heirs or Successors by His or their Letters Patent under the Great Seal of Great Britain from erecting, constituting & appointing such Courts of Criminal, Civil and Ecclesiastical Jurisdiction within and for the said Province and its Dependencies, and appointing from time to time the Judges & Officers thereof as His Majesty, His Heirs and Successors shall think necessary & proper for the Circumstances of the

said Province.

Endorsed:—Dra^t of Bill.

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No. 289.

NOTES ON THIRD DRAUGHT OF QUEBEC BILL.¹

The first preamble, and enacting clause of the present Bill are entirely new, and are introduced in order to annex to Quebec during The King's Pleasure the Territories therein described, which are now, for the greatest part, without either the protection or comtrol of any Government whatever and for the rest subjected to the incompetent and improper Jurisdiction of Newfoundland. This possibly might have in general been done by the sole authority of the Crown, but it is conceived that it would have been liable to doubts that cannot exist in the present mode which is conceived to be more effectual, & of more proper notoriety.

The whole preamble of the former Bill, reciting and condemning the Proclamation and other consequential Acts of Government is omitted, and in lieu of it a very short preamble introduced stating the general inadequacy of those Regulations to the present State and Circumstances of the Colony.

The first enacting Clause of the present Bill does not materially differ from the first enacting Clause of the other, the only difference is that it does not revoke any other Commission to the Governor but the one now existing.

The Second and Third Clauses of the present Bill are proposed by M^r Hey in the place of the Second Clause in the old Bill that restores to the Canadians generally their Property, *Laws*, Customs and Usages, including as it is conceived under the word *Laws* not only all Civil Rights, but also all Ecclesiastical Laws and Authorities incident thereto, which general Provision is restrained by the present Act to the free Exercise of the Romish Religion, as far as is consistent with the King's Supremacy, exempting Protestants from Payment of Tythes and making the Laws and Customs of Canada in Civil Cases the Rule for Judgement in the Courts, under certain Limitations & Exceptions in respect to disposition of Property by will, and a mode of changing the Tenure of Lands held by Seigniority into Common Soccage.

The fourth Clause of the present Bill introduces the whole Criminal Laws of England which by the Corresponding Clause of the old Bill was only in part introduced & under Limitations.

The rest of the Clauses in both Bills respecting the Legislative Council are very much the same; there is no material difference except by the new Bill their appointment is to be by sign Manual in like manner as Councillors in other Colonies are appointed—by the former Bill they were to be

appointed under the Great Seal of Great Britain, which besides deviating from the rule in other Cases is liable to other obvious Objections.

Endorsed:—Notes of Alterations in the Quebec Bill.

¹ Canadian Archives, Dartmouth Papers, M 385, p. 337. These notes are evidently by Sol. Gen. Wedderburn, as may be gathered from his criticisms on the second draught of the bill addressed to Lord Dartmouth.

No. 290.

**THE CLAUSE CONCERNING RELIGION IN THE
THIRD DRAUGHT.¹**

The Proviso in favour of the Protestant Subjects of Quebec, if it is intended to operate only as a saving to the clause which gives to the Canadians the free exercise of their Religion appears to me to be unnecessary—from a Church merely tolerated, as the Romish Church is by this Act, There can be little occasion to resort to any special protection, immunity or Privilege in behalf of any body, for existing only by Permission of the state, it can claim nothing, enforce nothing, exercise no controul or Authority over its own members but by consent, & it should seem useless to reserve to others by express Provision of Law, what cannot be taken from them but by their own choice & approbation.

In this light therefore the clause seems to be unnecessary.

But if it is intended to operate as a saving to the clause immediately preceding which gives the Canadians the Enjoyment of their ancient civil Rights customs and Usages, I apprehend it will be found an Exception as large as the Rule; and leave it still in doubt, whether in a matter of civil Right the Canadian or English Law where they differ together with the form & mode of Proceeding, shall have the Preference. A Case which came before me in Judgement, & which is very likely to happen again will possibly put the objection I mean to state in a clear light before your Lordship.

By the custom of Paris which your Lordship, I presume, means to restore, the Mason Carpenter & other Artificers employed in building a House for another, Have, by an implied Contract between them & the owner for whom they build, of which they need only make a minute in a Notary's Office a mortgage upon the house which no incumbrance whatever prior or subsequent can Affect, but they may follow their demand thro an hundred mesne assignments into the hands of the present Possessor, & insist upon its being sold to pay them upon failure of the Person with whom they first contracted to build. should those Canadian Artificers bring an action in their usual form (wholly different from our own) against an Englishman who had purchased such a house for a Valuable consideration, might not He, & would not He be authorized to say, I will not answer in this mode of Process nor be bound by this Law?

¹ Canadian Archives, Dartmouth Papers, M 385, p. 340. It appears very probable, from the reference in the second paragraph, as well as from the whole tone

and purpose of the proposals, that these criticisms were made by Lord Mansfield, and this is confirmed by his letter to Lord Dartmouth; see note 1 to Lord Hillsborough's Objections to the Quebec Bill, &c., *post*.

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Every *Privilege Protection & advantage of what Nature soever or kind* that I am intitled to by the Laws & Constitution of the Realm of England, are expressly reserved to me, amongst which I reckon the Tryal by a Jury as an Eminent one. Let these men bring their Ejectment upon their mortgage Title & let the trespass be enquired into by a Jury according to the good old forms & usages of the Realm of England, & not by Laws & in a mode of Proceeding unknown & not used there & which derogate from the Rights of a british subject.

What answer could' be given to a demand of this kind which would not militate either with the Law or the Exception & who would say which was intitled to the Preference?

And with submission to your, Lordship I do not see how it is possible to alter the Provisional clause to any advantage or find any form of words to reconcile it in substance with the other.

Whatever is to operate as an Exception to a positive general Law ought I apprehend to be clearly & expressly pointed out. it is your Lordships Intention (I presume) to revive the whole canadian Law in matters of a civil Nature, to make it the general law of the country to govern british as well as canadian Property by its Rules, if your Lordship intends any reservation with respect either to the Laws or the Administration of them, in favour of the british subjects, it must, I apprehend be clearly ascertained where & in what instances it should take Place. a General reservation like that contained in the clause will either operate nothing, or go to the destruction of the whole. for if the Legislature does not draw the Line I know not well how any Judge can do it.

The Legislative Council cannot do it. They cannot restrain or define privileges reserved by the Act of Parlt. nor as I should conceive even explain or determine them.

With great submission therefore to your Lordships better Judgment I conceive that clause must be wholly struck out or more particularly explained.

Will your Lordship permit me to add a word or two upon the subject of Religion as it is affected by this Act of Parliam^t.

That your Lordship intends only a bare Toleration for the R. C. Religion without any maintenance or support for the Clergy appears obvious from the manner of penning the statute.

The Clause which mentions & allows the Exercise of Religion is totally silent with respect to the Clergy or any right belonging to them & the cautious use of the words *civil Rights* in the clause that restores them to their old Laws & customs, seems to distinguish & exclude Ecclesiastical ones.

But will your Lordship (upon reflection) think it sufficient barely to tolerate a large & powerful Body of Men the R. C. Clergy in Canada, in the exercise of their Religion, without any other means of support than what is to arise from the

Voluntary contribution of their Parishioners, or does your Lordship apprehend any mischief or great inconvenience would arise from acknowledging their right to a decent & moderate maintenance under the sanction of a british Act of Parliament.

p. 1114

To say nothing of the discontent it would occasion will your Lordship think it quite consistent with the terms of the treaty—under which the property of the Clergy as well as Laity seems to have been reserved to the owners—& the Right to a decent support by Tithes seems to be as much the Property of the Clergy, as the seigneurial lands of the seigneurs, or any lay Property whatsoever of a Layman.

Power & Authority neither belongs to them by treaty nor is it consistent with a Protest^t Govt. to suffer them to be retained—but subsistence seems to be their right, & under this Idea, I have taken the Liberty to make an additional clause, reserving the Tithe of Protestants for a Protestant clergy when his Majesty shall think proper to intitle any to demand it.¹

For the manner in which the whole of what your Lordship gave me when I had the Honour to be with you on Saturday will then stand I refer your Lordship to the Paper itself

¹ This is evidently the clause which has been incorporated into the third draught of the bill and which makes provision for the collection of tithes by the Roman Catholic clergy, and reserves the right to provide for a protestant clergy as well. On April 28th the following note was sent from Lord Mansfield to Lord Dartmouth:—“My Lord I rec^d the enclosed Dr^t last night at 10 o'clock— I have read it over. * * * * * I would suggest two alterations upon the Plan as it stands—One, which I have just put into the Dr^t in a piece of Paper relative to the Supremacy— I mean it to avoid, what L^d North & y^f Lo^d seemed very desirous of avoiding the necessity of the Canadian Gentlemen taking the Oath of Supremacy. The other relates to the Right of Tithes &^{ce} depending upon the Man's professing the Popish Religion. Any man who denies professing it will be excused. They should pay to the Priest till the time is ripe for their paying to the Minister of some other Religion. * * * * * Your Lo^{ps} most ob^t hu. Serv^t., Mansfield.” M 384, p. 268. To this Lord Dartmouth made the following reply

“L^d Mansfield

1 May 1774

“My Lord

“I have laid before his Majesty's Confidential Servants the alteration your Lord^{ps} has been so good to suggest in the Quebec Bill, & they were unanimously of opinion to adopt the first relative to Supremacy. The other they thought unnecessary, because it is his Majesty's Intention to make immediate provision for a Protestant Clergy, from the tithes of the Estates of Protestants so that none can elude the payment by denying the Profession of the Popish Religion. Their Lord^{ps} thought fit to alter the stile of the clause w^{ch} enacts the free exercise of the Romish Religion to make it declaratory—this, we conceive, will obviate any doubts that might have been created by it, & prevent any ill consequences, it might be thought likely to have in other parts of his Majesty's Dominions. With these alteration I hope the Bill will have your Lord^{ps} approbation. I have the Honour to be &^{ce} D.”

M 385, p. 278. The suggestion with reference to the oath of supremacy which Lord Mansfield had enclosed, is preserved in the Dartmouth Papers, endorsed “Clause (A),” M 385, p. 329. This was introduced as it stands into the Quebec Bill while going through Parliament, and provides a special oath for the Roman Catholics, instead of that of the 1st of Queen Elizabeth.

First enacting Clause.

**LORD HILLSBOROUGH'S OBJECTIONS TO THE
QUEBEC BILL IN ITS PRESENT FORM.¹**Third & fourth,
enacting Clauses.

The extention of the boundaries to the North so as to comprehend the Labrador coast his Lordship approves, but has insuperable objections to the extention to the Mississippi and Ohio. His reasons as far as I can recollect them are these. If an extention of the boundaries for the sake of Jurisdiction only over the Inhabitants was intended. There is no occasion for doing it by Act of Parliament as it is in the power of the Crown at present to give such jurisdiction if thought fit. And it is better to do it by the authority of the Crown *only*, because the jurisdiction so given may be limited & restrained in such manner as to answer all the purposes of Government and to avoid the inconveniencies with which a general extention or annexation will be attended.

2. Proviso of 5th
Enacting Clause.

But from the Terms in which the extention is made and what is said in the subsequent Clauses his Lordship supposes that it is intended to make Parliament *declare* that it is right and proper to *settle* The Territories annexed, for these Lands & Inhabitants are put in exactly the same state as those within the present Limits. An inducement is held out to the Roman Catholick subjects of Quebec and to all other Roman Catholics to remove into these annexed Countries by granting them the French Laws & Customs of Canada and the Free exercise of their Religion.

If this be the case every reason & argument his Lordship had to offer against the Ohio Grant urges him with Tenfold strength to oppose this proceeding.

His Lordship objects to the granting of any Lands in the Province in free & common Soccage & refers to a Report of the Board of Trade for his

3. Proviso to the 5th
Clause.

¹ Canadian Archives, Dartmouth Papers, M. 385, p. 356. As the accompanying letter will show, these objections of Hillsborough and Carleton to parts of the third draught of the Quebec Bill were stated in their present form by Wm. Knox, the Under Secretary of State for the Colonies. "My Lord In consequence of my having sent Lord Hillsborough a Copy of the Quebec Bill by Your Lordship's Orders, I had a message from his Lordship this morning and lest I should not be able to find your Lordship before dinner I have put down upon the inclosed paper what I collect to be his sentiments respecting the Bill. I have also added what Gen^l Carleton beggd I would mention from him to your Lordship respecting one Clause. I have ventured to point out such Amendments as would in my opinion render the Bill unexceptionable to both, and without injuring any of your Lordships purposes. I must however acquaint your Lordship that Lord Hillsborough said he had not sufficiently considered all other parts of the Bill having had it only yesterday afternoon, but that if he found anything else to wish alter'd, he would communicate his ideas thro' me to your Lordship as he desired to do those I have stated. Your Lordships very faithful and obedient Servant. Will Knox 30th April 1774." M 385, p. 270.

3^d Proviso to the 5th
Clause.

reasons for continuing the French mode of Seigneuries as the most fit for the purposes of Government & as corresponding with the whole scope & purpose of the Bill.

These reasons are still more forceable for leaving out intirely the provision for converting Lands held in Seigneurie into Free & common Soccage. His Lordship thinks the Crown ought not to change those Tenures even when the Lands come into the hands of English subjects, much less relinquish all right of continuing them, and vesting a power in the French as well as English possessors to compel the Crown to change them at their pleasure.

General Carleton makes the same objections to these Proviso's as Lord Hillsborough does, and adds with respect to the latter That the French Seigneurs do not now desire to change their Tenures. That they should be sensible of the favour and ask it before it is granted. That even when that comes to be the case The Crown can change the Tenure whenever it is thought fit to do so without this clause and can make a proper discrimination in granting the favour to those only who by their conduct may merit it. That the Tenure by Seigneurie gives the Crown great power over the Seigneur, which power will be done away by changing the Tenure into free & common Soccage. That the Evil disposed Seigneurs will therefore be the first to avail themselves of the permission to change their Tenures in order to get rid of that power and be able to do mischief with less restraint.

The Amendments which will be the consequence of adopting what appears to be the Ideas of Lord Hillsborough are these, To leave out in the Preamble from the words *Territory of Canada* to the words *where sedentary Fisheries*, And in the first enacting clause after the words *Canada in North America* insert *as described in the said Proclamation and extending northward to the Southern boundary &c.* leaving out the intermediate words *Southward to the Banks of the River Ohio, Westward to the banks of the Mississippi.*

These amendments will obviate the objections to the First Third & Fourth Enacting Clauses.

By leaving out the 3rd Proviso to the 5th enacting Clause General Carleton's objection will be wholly obviated and the most material part of Lord Hillsborough's will be also removed, for although they both *wish* the Lands may be hereafter granted in Seigneuries as heretofore yet they do not stand out to limit the Crown from granting them otherways if thought fit.¹

¹ As indicated in the reply of Lord Dartmouth which follows, the amendment indicated in this paragraph was made in the fourth draught of the bill, but the amendment with reference to the boundaries was not accepted.

No. 292.

[1 May,
1774.]**DARTMOUTH'S REPLY TO HILLSBOROUGH.¹**L^d Hillsborough.

1 May 1774.

My DEAR LORD, M^r KNOX has stated to me your Lordp^s two objections to the Canada Bill, w^{ch} I propose to lay before the House of Lords tomorrow & I have communicated them to the Cabinet, who are unanimously of opinion that the extension of the Province to the Ohio & Mississipi, is an essential & very useful part of the Bill; it provides for the establishment of civil government over many numerous settlements of french subjects, but does by no means imply an intention of further settling the Lands included within this extension, & if it is not wished that British Subjects should settle that country nothing can more effectually tend to discourage such attempts, w^{ch} in the present state of that Country, y^r Lordp^s knows very well, it is impossible to prevent. Y^r Objection to The clause allowing a change of Tenure their Lordp^s thought proper to come into & it is accordingly struck out of the Bill.

I am, my dear Lord,

Y^r &c &c.

D.

[1774.]

No. 293.

**THE QUEBEC BILL AS RETURNED FROM THE
COMMONS.²**

A Bill intituled An Act for making more effectual Provision for the Government of *Quebec*, in *North America*.

N.B.—The Words printed within Crochets [], in [Old English] Letter, denote what was left out by the Commons, and those printed with a Parenthesis in (Italick), what have been inserted by them.

Whereas His Majesty, by His Royal Proclamation, bearing Date the Seventh Day of *October*, in the Third Year of His Reign, thought fit to

¹ Canadian Archives, Dartmouth Papers, M. 385, p. 276.

² Canadian Archives, Dartmouth Papers, M 385, p. 283. On June 13th the Quebec Bill was returned from the Commons with the following note:—"My Lord. I have Lord North's orders to transmit to Your Lordship the inclosed papers being the Quebec Act compleat as it passed the House of Commons this day, and have the Honour to be with the highest respect My Lord Your

certain Countries, Territories, and Islands in *America*, ceded to His Majesty by the definitive Treaty of Peace concluded at *Paris*, on the Tenth Day of *February*, One thousand seven hundred and sixty-three:

And whereas, by the Arrangements made by the said Royal Proclamation, a very large [Part of the Territory of Canada], (extent of Country), within which there were several Colonies and Settlements of the Subjects of *France*, who claimed to remain therein under the Faith of the said Treaty, was left, without any Provision being made for the Administration of Civil Government therein, and [other] (certain) Parts of the [Said Country] (Territory of Canada), where sedentary Fisheries had been established and carried on by the Subjects of *France*, Inhabitants of the said Province of *Canada*, under Grants and Concessions from the Government thereof, were annexed to the Government of *Newfoundland*, and thereby subjected to Regulations inconsistent with the nature of such Fisheries:

May it therefore please Your most Excellent Majesty,

That it may be enacted; and be it enacted by the King's most Excellent Majesty; by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same. That all the [said] Territories, Islands, and Countries, [heretofore Part of the Province of *Canada*], in *North America*, [extending Southward to the Banks of] (belonging to the Crown of *Great Britain*, bounded on the South by a Line from the Bay of *Chaleurs*, along the High Lands which divide the Rivers that empty themselves into the River *Saint Lawrence*, from those which fall into the Sea, to a Point in Forty-five Degrees of Northern Latitude, on the Eastern Bank of the River *Connecticut*; Keeping the same Latitude directly West, through the Lake *Champlain*, until, in the same Latitude, it meets the River *Saint Lawrence*; from thence up the Eastern Bank of the said River, to the Lake Ontario; thence through the lake

Lordships Most Faithful and most obedient humble Servant John Robinson.” 13th June 1774. M 385, p. 282. As the note at the head of this document indicates, by reference to the two sets of brackets, it expresses at once the fourth draught of the bill, as it was introduced to the House of Lords on May 2nd., and such amendments and additions to it as were made while it was passing through the Commons and were accepted by Lord North, the Prime Minister. In addition to the alterations already noticed in connection with the criticisms on the third draught of the bill, and the introduction of a clause in the latter part of the bill relating to taxes or duties, a few other slight changes will be observed, as between the third and fourth draughts. Several of the changes made after the bill reached the Commons were undertaken by the Government itself, notably the new form of oath drawn up by Lord Mansfield and accepted by the Government. In the Dartmouth Papers two other clauses are given, marked (b) and (c), which were incorporated into the bill during its sojourn in the Commons. That marked (b) is the last clause in the bill, and relates to the regulation of trade. That marked (c) is the clause in the fifth paragraph of the bill safeguarding any right, title, or possession acquired under any grants made prior to this act. The additions and amendments introduced into the bill while in the Commons, as well as the numerous criticisms and amendments rejected by the Government, can best be followed in Cavendish's Debates on the Bill, which is indispensable to a proper understanding of the policy of the measure.

Ontario, and the River commonly called *Niagara*; and thence along by the Eastern and South Eastern Bank of Lake *Erie*, following the said Bank, until the same shall be intersected by the Northern Boundary, granted by the Charter of the Province of *Pensylvania*, in case the same shall be so intersected; and from thence along the said Northern and Western Boundaries of the said Province, until the said Western Boundary strike the *Ohio*: But in case the said Bank of the said Lake shall not be found to be so intersected, then following the said Bank, until it shall arrive at that Point of the said Bank which shall be nearest to the North Western Angle of the said Province of *Pensylvania*; and thence by a right Line to the said North Western Angle of the said Province; and thence along the Western Boundary of the said Province, until it strike) the River *Ohio*, (and along the Bank of the said River) Westward, to the Banks of *Mississippi*, and Northward to the Southern Boundary of the Territory granted to the Merchants Adventurers of *England* trading to *Hudson's Bay*; and [which said] (also all such) Territories, Islands, and Countries, [are not within the Limits of some other *British* Colony, as allowed and confirmed by the Crown or] which have, since the Tenth of *February*, One thousand seven hundred and sixty-three, been made Part of the Government of *Newfoundland*, be, and they are hereby, during His Majesty's Pleasure, annexed to, and made Part and Parcel of, the Province of *Quebec*, as created and established by the said Royal Proclamation of the Seventh of *October*, One thousand seven hundred and sixty-three.

(Provided always, and be it enacted, That nothing herein contained relative to the Boundary of the Province of *Quebec*, shall in any wise affect the Boundaries of any other Colonies.)

(Provided always, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to make void, or to vary or alter, any Right, Title, or Possession, derived under any Grant, Conveyance, or otherwise howsoever, of or to any Lands within the said Province, or the Provinces thereto adjoining, but that the same shall remain and be in Force, and have Effect, as if this Act had never been made.)

And whereas the Provisions made by the said Proclamation, in respect to the Civil Government of the said Province of *Quebec*, and the Powers and Authorities given to the Governor and other Civil Officers of the said Province; by the Grants and Commissions issued in consequence thereof, have been found, upon Experience, to be inapplicable to the State and Circumstances of the said Province, the Inhabitants whereof [amounting] (amounted) at the Conquest, to above [One hundred] (sixty-five) thousand Persons, professing the Religion of the Church of *Rome*, and enjoying an established Form of Constitution, and System of Laws, by which their Persons and Property had been protected, governed, and ordered, for a long Series of Years, from the first

Establishment of the said Province of *Canada*; be it therefore further enacted by the Authority aforesaid, That the said Proclamation, so far as the same relates to the said Province of *Quebec*, and the Commission under the Authority whereof the Government of the said Province is at present administered, and all and every the Ordinance and Ordinances made by the

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Governor and Council of *Quebec* for the Time being, relative to the Civil Government and Administration of Justice in the said Province, and all Commissions to Judges and other Officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the First Day of *May*, One thousand seven hundred and seventy five.

And for the more perfect security and Ease of the Minds of the Inhabitants of the said Province, it is hereby declared, That His Majesty's Subjects professing the Religion of the Church of *Rome*, of, and in the said Province of *Quebec*, [as the same is described in and by the said Proclamation and Commissions, and also of all the Territories, Part of the Province of *Canada*, at the time of the Conquest thereof, which are hereby annexed, during His Majesty's Pleasure, to the said Government of *Quebec*], may have, hold, and enjoy, the free Exercise of the Religion of the Church of *Rome*, subject to the Kings Supremacy, declared and established by an Act made in the First Year of the Reign of Queen *Elizabeth*, over all the Dominions and Countries which then did, or thereafter should, belong to the Imperial Crown of this Realm; and that the Clergy of the said Church may hold, receive, and enjoy their accustomed Dues and Rights, with respect to such Persons only as shall profess the said Religion.

Provided nevertheless, That [nothing herein contained shall extend, or be construed to extend, to the disabling] (it shall be lawful for) His Majesty, His Heirs or Successors, [from making] (to make) such Provision (out of the rest of the said accustomed Dues and Rights,) for the Encouragement of the Protestant Religion, and for the Maintenance and Support of a Protestant Clergy within the said Province, as he or they shall, from Time to Time, think necessary and expedient.

(Provided always, and be it enacted, That no Person professing the Religion of the Church of *Rome*, and residing in the said Province, shall be obliged to take the Oath required by the said Statute, passed in the First Year of the Reign of Queen *Elizabeth*, or any other Oaths substituted by any other Act in the Place thereof, but that every such Person, who by the said Statute is required to take the Oath therein mentioned, shall be obliged, and is hereby required to take and subscribe the following Oath before the Governor or such other Person, or in such Court of Record as His Majesty shall appoint, who are hereby authorised to administer the same; *videlicet*,

“I A. B. do sincerely promise and swear, That I will be faithful, and bear true Allegiance to His Majesty King *George*,

and Him will defend to the utmost of my Power, against all Traiterous Conspiracies and Attempts whatsoever, which shall be made against His Person, Crown, and Dignity; and I will do my utmost Endeavour to disclose and make known to His Majesty, His Heirs, and Successors, all Treasons, and Traiterous Conspiracies and Attempts, which I shall know to be against Him, or any of Them; and all this I do swear, without Equivocation, mental Evasion, or secret Reservation; and renouncing all Pardons and Dispensations from any Power or Persons whomsoever to the Contrary.

So help me God.”

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And every such Person who shall neglect or refuse to take the said Oath before mentioned, shall incur and be liable to the same Penalties, Forfeitures, Disabilities, and Incapacities, as he would have incurred and been liable to, for neglecting or refusing to take the Oath required by the said statute, passed in the First Year of the Reign of Queen *Elizabeth*.)

And be it further enacted by the Authority aforesaid, That all His Majesty's *Canadian* Subjects within the Province of *Quebec*, the Religious Orders and Communities only excepted, may also hold and enjoy their Property and Possessions, together with all Customs and Usages, relative thereto, and all other Civil Rights, in as large, ample and beneficial Manner, as if the said Proclamation, Commissions, Ordinances, and other Acts and Instruments, had not been made, and as may consist with their Allegiance to His Majesty, and Subjection to the Crown and Parliament of *Great Britain*; and that in all Matters of Controversy relative to Property and Civil Rights, Resort shall be had to the Laws of *Canada*, (as the Rule) for the Decision of the same; and all Causes that shall hereafter be instituted in any of the Courts of Justice, to be appointed within and, for the said Province by His Majesty, His Heirs and Successors, shall, with respect to such Property and Rights, be determined [by the Judges of the same], agreeably to the said Laws and Customs of *Canada*, [and the several] (until they shall be varied or altered by any) Ordinances that shall, from Time to Time, be passed in the said Province by the Governor, Lieutenant Governor, or Commander in Chief for the time being, by and with the advice and Consent of the Legislative Council of the same, to be appointed in Manner hereinafter mentioned.

(Provided always, That nothing in this Act contained shall extend, or be construed to extend, to any Lands that have been granted by His Majesty, or shall hereafter be granted by His Majesty, His Heirs and Successors, to be holden in free and common Soccage.)

Provided [always] (also) That it shall and may be lawful to and for every Person that is Owner of any Lands, Goods, or Credits in the said Province, and that has a Right to alienate the said Lands, Goods, or Credits, in his or her Lifetime, by Deed of Sale, Gift or otherwise, to devise or bequeath the same, at

his or her Death, or by his or her Last Will and Testament; any Law, Usage, or Custom heretofore or now prevailing in the Province, to the Contrary hereof in any-wise notwithstanding.

[Provided also, That nothing in this Act contained shall extend, or be construed to extend, to any Lands that have been granted by His Majesty, or shall hereafter be granted by his Majesty, his heirs and Successors, to be holden in free and common Soccage:] (Such Will being executed either according to the Laws of *Canada*, or according to the Forms prescribed by the Laws of *England*.)

And whereas the Certain and Lenity of the Criminal Law of England, and the Benefits and Advantages resulting from the Use of it, have been sensibly felt by the Inhabitants from an Experience of more than Nine

Years, during which it has been uniformly administered; be it therefore further enacted by the Authority aforesaid, That the same shall continue to be administered, and shall be observed as Law, in the Province of Quebec, as well in the Description and Quality of the Offence, as in the Method of Prosecution and Trial, and the Punishments and Forfeitures thereby inflicted, to the Exclusion of every other Rule of Criminal Law, or Mode of Proceeding thereon, which did or might prevail in the said Province before the Year of our Lord One thousand seven hundred and sixty-four; any Thing in this Act to the Contrary thereof in any Respect notwithstanding; subject nevertheless to such Alterations and Amendments, as the Governor, Lieutenant Governor, or Commander in Chief for the Time being, by and with the advice and Consent of the Legislative Council of the said Province, hereafter to be appointed, shall, from Time to Time, cause to be made therein, in Manner herein-after directed.

And whereas it may be necessary to ordain many Regulations, for the future Welfare and good Government of the Province of *Quebec*, the Occasions of which cannot now be foreseen, nor without much Delay and Inconvenience be provided for, without intrusting that Authority for a certain Time, and under proper Restrictions, to Persons resident there:

And whereas it is at present inexpedient to call an Assembly; be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Warrant under His or Their Signet, or Sign Manual, and with the Advice of the Privy Council, to constitute and appoint a Council for the Affairs of the Province of *Quebec*, to consist of such Persons resident there, not exceeding Twenty-three, nor less than Seventeen, as His Majesty, His Heirs and Successors, shall be pleased to appoint; and, upon the Death, Removal, or Absence of any of the Members of the said Council, in like Manner, to constitute and appoint such and so many other Person or Persons as shall be necessary to supply the Vacancy or Vacancies; which Council, so appointed and nominated or the major Part thereof, shall have [full] Power and Authority to make Ordinances for the Peace, Welfare, and good Government of the said Province, with the Consent of His Majesty's Governor, or, in his Absence, of the Lieutenant Governor, or Commander in Chief for the Time being.

Provided always, That nothing in this Act contained shall extend to authorise or impower the said Legislative Council to lay any Taxes or Duties within the said Province, (such Rates and Taxes only excepted, as the Inhabitants of any Town or District within the said Province, may be authorised by the said Council to assess, levy, and apply, within the said Town or District, for the Purpose of making Roads, erecting and repairing publick Buildings, or for any other Purpose

respecting the local Convenience and Oeconomy of such Town or District.)

Provided also, and be it enacted by the Authority aforesaid, That every Ordinance so to be made shall, within Six Months, be transmitted by the Governor, or, in his Absence, by the Lieutenant Governor or Commander in

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Chief for the Time being, and laid before His Majesty, for His Royal Approbation; and if His Majesty shall think fit to disallow thereof, the same shall cease and be void from the Time that His Majesty's Order in Council thereupon shall be promulgated at *Quebec*.—

Provided also, That no Ordinance touching Religion, or by which any Punishment may be inflicted greater than Fine or Imprisonment for Three Months, shall be of any Force or Effect, until the same shall have received His Majesty's approbation.

Provided also, That no Ordinance shall be passed, at any Meeting of the Council, (where less than a Majority of the whole Council is present, or at any Time), except between the First Day of *January*, and the First Day of *May*, unless upon some urgent Occasion; in which Case, every Member thereof, resident at *Quebec*, or within Fifty Miles thereof, shall be personally summoned by the Governor, or, in his Absence, by the Lieutenant Governor or Commander in Chief for the Time being, to attend the same.

And be it further enacted by the Authority aforesaid, That nothing herein contained shall extend, or be construed to extend, to prevent or hinder His Majesty, His Heirs and Successors, by His or their Letters Patent, under the Great Seal of *Great Britain*, from erecting, constituting, and appointing, such Courts of Criminal, Civil, and Ecclesiastical Jurisdiction, within and for the said Province of *Quebec*, and appointing, from Time to Time, the Judges and Officers thereof, as His Majesty, His Heirs and Successors, shall think necessary and proper, for the circumstances of the said Province.

(Provided always, and it is hereby enacted, That nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, within the said Province of *Quebec*, any Act or Acts of the Parliament of *Great Britain* heretofore made, for prohibiting, restraining, or regulating the Trade, or Commerce of His Majesty's Colonies and Plantations in *America*; but that all and every the said Acts, and also all Acts of Parliament heretofore made, concerning or respecting the said Colonies and Plantations, shall be, and are hereby declared to be, in Force, within the said Province of *Quebec*, and every Part thereof.)

Finis.

Endorsed:—A Bill,

(with emendations;)
Intituled

An Act for making more effectual Provision for the
Government of the Province of *Quebec*, in *North America*.
(1774)

[26 May to
June 10,
1774.]

No. 294.

DEBATE ON THE QUEBEC BILL, 1774.

EXTRACTS FROM CAVENDISH'S DEBATES OF THE HOUSE OF COMMONS
ON THE BILL, SO FAR AS RELATES TO THE BOUNDARIES.(*).

Thursday, May 26, 1774.

On the order of the day, for the second reading of the Bill “for making more effectual provision for the Government of the Province of Quebec, in North America,”⁽¹⁾.

LORD NORTH.⁽²⁾

* * * *

The first thing objected to by the honourable gentleman⁽³⁾ is, the very great extent of territory given to the province. Why, he asks, is it so extensive? There are added, undoubtedly, to it two countries which were not in

(*) Published by J. Wright, Editor of the Parliamentary History, Etc., London, 1839.

¹ The bill was brought into the House of Lords by the Earl of Dartmouth, on the 2nd of May. It passed without opposition, and without any witnesses having been called to support the allegations upon which it was founded, on the 17th of the same month. On the 18th of June, it was returned to the House of Lords, with the amendments introduced by the House of Commons; and then the Earl of Chatham, though extremely ill at the time, came down to oppose it, stating, in a short speech, his conviction, that “it would involve this country in a thousand difficulties; that it was a most cruel, oppressive, and odious measure, tearing up justice and every good principle by the roots; that the whole of it appeared to him to be destructive of that liberty, which ought to be the groundwork of every constitution; and that it would shake the affections and confidence of his Majesty’s subjects in England and Ireland, and finally lose him the hearts of all the Americans.” The bill was passed by a majority of nineteen; the contents being twenty-six, the non-contents seven. The minority consisted of the Duke of Gloucester, the Earls of Chatham, Coventry, Effingham and Spencer, and the Lords Sandys and King.

On the 22nd of June, the Lord Mayor, attended by several aldermen, the recorder, and upwards of one hundred and fifty of the common council, went up with an address and petition to the King, supplicating his Majesty not to give his assent to the bill. On their arrival at St. James’s, the Lord Chamberlain acquainted them, by order of the King, that “as the petition related to a bill agreed on by the two Houses of Parliament, of which his Majesty could not take notice until it was presented for his royal assent, they were not to expect an answer.” The King, who was then on the point of going down to Westminster to prorogue Parliament, immediately proceeded to the House of Lords, and gave his assent to the Bill; observing, that “it was founded on the clearest principles of justice and humanity, and would, he doubted not, have the best effect, in quieting the minds and promoting the happiness of his Canadian subjects.”—Extract from Editor’s Preface; Cavendish, *op. cit.*, pp. iii-iv.

² First Lord of the Treasury, and Chancellor of the Exchequer.

³ (Mr. Thomas Townshend, jun.) Son of the Honourable Thomas Townshend, second son of the second Viscount Townshend, and member for the University of Cambridge. Mr. Townshend, jun. was at this time member for Whitchurch.

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the original limits of Canada, as settled in the proclamation of

1763; one, the Labrador coast, the other, the country westward of the Ohio and the Mississippi, and a few scattered posts to the West. Sir, the addition of the Labrador coast has been made in consequence of information received from those best acquainted with Canada, best acquainted with the fishery upon that coast, who deem it absolutely necessary for the preservation of that fishery, that the Labrador coast should no longer be considered as part of the government of Newfoundland, but be annexed to that country. With respect to the other additions, three questions very fairly occur. It is well known that settlers are in the habit of going to the interior parts from time to time. Now, however undesirable, it is open to Parliament to consider, whether it is fit that there should be no government in that country, or, on the contrary, separate and distinct governments; or whether the scattered posts should be annexed to Canada. The House of Lords have thought proper to annex them to Canada; but when we consider that there must be some government, and that it is the desire of all those who trade from Canada to those countries, that there should be some government, my opinion is, that if gentlemen will weigh the inconveniences of separate governments, they will think the least inconvenient method is to annex those spots, though few in population great in extent of territory, rather than to leave them without government at all, or make them separate ones. Sir, the annexation likewise is the result of the desire of the Canadians, and of those who trade to those settlements, who think they cannot trade with safety as long as they remain separate.

Tuesday, May 31.

Mr. BAKER presented a petition to the House from Thomas Penn, esq., on behalf of himself and of John Penn, esq., true and absolute proprietaries of the province of Pennsylvania, and the three lower counties of Newcastle, Kent, and Sussex, in Delawar, in America, setting forth:—

“That his late Majesty, King Charles the Second, by letters patent under the great seal, bearing date the 4th day of March, in the 33rd year of his reign, was graciously pleased to grant unto William Penn, esq., (late father of the petitioner Thomas Penn, and grandfather of the petitioner John Penn), in fee, the said province of Pennsylvania, the extent and bounds whereof were expressed in the said letters patent; and taking notice of the bill; for making more effectual Provision for the Government of the Province of Quebec, in North America; and alleging that, from the best observations which have been made, and the most correct maps which have been laid down of those parts, and from other evidence, it appears that the river Ohio intersects a very large tract of the north-western, western, and south-western parts of the said province, as granted by the said letters patent, the limits or boundaries whereof in that part have not, as yet, been allowed and confirmed by the Crown; and that, in order to have the limits and boundaries of the said province ascertained, the petitioners did, on the 27th day of

March, 1773, present a petition to his

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Majesty in Council, praying that his Majesty would be graciously pleased to appoint such disinterested persons in those parts, as his Majesty should think proper to join with such persons as should be named by the petitioners, to mark out and ascertain the northern, western, and south-western boundaries of the said province; which petition has been referred, by his Majesty, to the consideration of the lords commissioners for trade and plantations, and is now under consideration of that board; and that the petitioners conceive that the said bill will be injurious to them, if it should pass into a law, without containing some provision, that the same may not affect the petitioners' rights under the said letters patent: And therefore praying, that the description of the territories, islands, and countries, to be annexed to the said province of Quebec, may be so confined, as not to affect the petitioners' said province; or that a provision may be made in the said bill, that the same shall not affect the petitioners' province, granted to them by the said letters patent; and that the petitioners may be at liberty to be heard by their counsel, upon the matter of their petition."

Lord NORTH.—I do not rise to oppose bringing up this petition. It was never intended that the bill should intrench upon other colonies. Whenever any proposal is made to us, whatever can tend to secure Pennsylvania and the other proprietaries, shall meet with no opposition from me. The demand is so just and so reasonable, that, without hearing counsel, it ought to be complied with.

Mr. EDMUND BURKE.—I am glad to hear the noble Lord say this. There are several other colonies anxious to petition; but if, in the committee on the bill, satisfaction is given, there will be no need of bringing up their petitions.

Mr. BAKER.—It would be too much for me to say that the petitioners do not desire to be heard by counsel; for no gentleman can answer for what may be done in the committee. If, upon the report, nothing is done satisfactory to the petitioners, then I shall move, that they may be heard by counsel. Their intention was to be heard by counsel in the committee; what they have to state is very short.

Mr. EDMUND BURKE.—The boundary line of the colony of New York does come within the line marked out by the bill; and the proclamation has departed from the limitary line there, as well as in the other parts. All I wish upon the part of that colony is, that they should not suffer any injury by this irregularity.⁽¹⁾

Lord NORTH.—I have no objection to their being heard by

counsel; but it is better for the petitioners to be heard upon the report, if they should not have satisfaction in the committee.

¹ Mr. Burke was, at this time, member for Wendover. He was also agent for the colony of New York in this country.

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Mr. BAKER.—I trust such alterations may be made in the committee, as may make it unnecessary to have them heard at all.

The petition was ordered to lie upon the table, until the report be received from the committee of the whole House, to whom the bill is referred; and that the petitioners be then heard by their counsel, if they think fit.

* * * *

Captain PHIPPS.⁽¹⁾—From what has just passed, I think this will be a proper time to express my doubts, as to the propriety of going into the committee upon this bill.

* * * *

I should have expected that evidence would have been taken in the place where the bill originated, from all persons who have filled high offices there, or resided in the country; but none such have given evidence in the other House. You are now going into a committee, without having such evidence brought here. I should have expected some evidence, that the fisheries of this country would have been injured by the coast being put under the government of Newfoundland. I should have expected that three or four persons now in England, would have been called to the bar to give evidence, as to how far the sedentary fishery upon the coast, supposed to be in the hands of the Frenchmen—how far that fishery ought to be so preferred, as to destroy the fishery of this country. I should have been glad, if the merchants of Poole and the merchants of the western counties in England, had given evidence as to how far the taking away that fishery from the government of Newfoundland, was proper—whether there should not be a fleet to watch the French fishermen; who certainly will be favoured in preference to our own. They will be instrumental in carrying on smuggling, which will give the scale against the English who come there: if so, the French, will carry on what trade they please there; and the governor will be debarred from protecting the English fishery, because it is put under another power. I should have expected some evidence to have been brought to that point.

Friday, June 3.

The order of the day being read for going again into the committee upon the bill, the House resolved itself into the said committee. As soon as the Chairman had taken the chair, General Carleton was called in and further examined.

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¹ The Honourable Constantine John Phipps, eldest son of Constantine, first Lord Mulgrave, of New Ross, in the county of Wexford. He was a captain in the royal navy; in

which station he made a voyage, in 1773, to discover the existence of a north-east passage into the South Seas, of which he published an account in the following year. He afterwards filled successively the offices of first Lord of the Admiralty, Joint-paymaster of the forces, Lord of Trade and Plantations, and Commissioner of the India board. He died in 1792, without issue, and was succeeded in the Irish barony by his brother Henry, father of the Marquis of Normanby.

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Further Examination of General Carleton.

Have you adverted to that part of the bill describing the boundaries which the province of Quebec is to have for the future?—Yes.

* * * *

What inconvenience arises, in your opinion, from the limits given to Canada in the proclamation?—I had frequent complaints from the Canadians, that the province cut off in that manner, and contracted, deprived them of the greatest part of their property, which was promised to be protected. The English, as well as the Canadians, complained that their property went up to the upper country, and that, if the persons entrusted with this property did not, of their own accord, act honestly, they had no means of procuring justice.

What do you mean by that property? Was it the property of lands granted to them by the King of France; or what?—Lands granted to them by the King of France, and the profits of the land.

Was any part of this land cultivated and inhabited by Canadians? I never examined that matter thoroughly. Whether their demands were just or not just, it was without my reach. I know, from very good information so far, that there were, upon the Labrador coast, certain posts established, where they carried on the sedentary fishery and trade with the Indians. I believe very little is cultivated upon that side; nor do I think the country capable of much cultivation.

* * * *

Was the information respecting the seal fishery from your own knowledge?—From the best information I could pick up. That system of fishery which compelled the people to remove from Newfoundland, could not be applicable to the sedentary fishery.

* * * *

Monday, June 6.

The House resolved itself into a committee on the bill, Sir Charles Whitworth in the chair. The preamble being postponed, and the first clause read, viz:—

“And whereas, by the arrangements made by the said royal proclamation, a very large part of the territory of Canada, within which there were several colonies and settlements, of the subjects of France, who claimed to remain therein under the faith of the said treaty, was left, without any provision being made for the administration of civil government therein, and other parts of the said country where sedentary fisheries

had been established and carried on by the subjects of France, inhabitants of the said province of Canada, under grants and concessions from the government thereof, were annexed to the government of Newfoundland, &c. be it enacted, that all the said territories, islands, and countries, heretofore part of the territory of Canada, in North America, extending southward

“to the banks of the river Ohio, westward to the banks of Mississippi, and northward to the southern boundary of the territory granted to the merchants adventurers of England trading to Hudson's Bay, and which said territories, islands, and countries, are not within the limits of some other British colony, as allowed and confirmed by the Crown, or, which have since the 10th of February 1763, been made part of the government of Newfoundland, be, and they are hereby, during his Majesty's pleasure, annexed to, and made part and parcel of the province of Quebec, as created and established by the said royal proclamation of the 7th of October, 1763—”

Lord NORTH.—There are great difficulties, as to the mode of proceeding. I apprehend the alteration I am about to propose will save every right where there is a right. I will explain the amendment I intend to make; if that should not give satisfaction, gentlemen will state what it is they propose to substitute in its stead. We shall then ascertain how far we shall be able to make anything more precise. The question is an extremely difficult one. It is usual to have different boundaries laid down indifferent manners. Where the King is master of the country, there they are drawn by his Majesty's officers only; where there has been any grant or charter, and it has been necessary to draw a boundary line, then, not only his Majesty's officers but commissioners have been appointed, and together they draw a line, subject afterwards to an appeal to the privy council; therefore, that distinction is made here. It is intended, immediately after the passing of this act, to go on with the project of running the boundary line between Quebec and New York and Pennsylvania, &c., belonging to the Crown. This is made to prevent the province of Quebec from encroaching on the limits of any of those grants, where no boundary has been settled. I find many gentlemen are desirous of having something still more precise, if possible. To this I have no objection; but we are so much in the dark as to the situation of this country, that it is not possible to do anything more safe, than saving the rights of the other colonies, leaving them to be settled on the spot by commissioners. Persons possessing local knowledge can act better than we can. For that reason, I propose to leave out the words, “heretofore part of the territory of Canada,” and insert “extent of country;” and also to leave out the words “said country,” and insert “territory of Canada.”

Mr. EDMUND BURKE.—We are now settling the clause that is to give limits to the excellent system of government about to be provided for the Canadians by this bill. But, in order to ascertain more precisely what those limits are, I should be glad to get some further information, and I shall move you, that Mr. Pownall be called to this committee: no man is more able, no man more willing to give that information. I move, “That John Pownall, esq., under secretary for the American colonies, do attend this committee.”

Lord NORTH.—I do not exactly see what the honourable gentleman's object is in calling Mr. Pownall; but if the limits can be rendered more clear

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and distinct by so doing, it is possible I shall be very willing to have him before us. To what point does the honourable gentleman mean to examine him?

Mr. EDMUND BURKE.—I will give the noble lord all the satisfaction in my power. I wish the attention of the committee, as I distrust my powers of explanation, when applied to such an object. The impropriety of the bill has taken its course already. If we had originated this measure above stairs, where maps might have been laid upon the table, no doubt the whole dispute of this day would have been avoided. I shall ask for the attention of the committee; partly that they may understand me; partly that I may understand myself. In the first place, when I heard that this bill was to be brought in on the principle that parliament were to draw a line of circumvallation about our colonies, and to establish a siege of arbitrary power, by bringing round about Canada the control of other people, different in manners, language, and laws, from those of the inhabitants of this colony,—I thought it of the highest importance that we should endeavour to make this boundary as clear as possible. I conceived it necessary for the security of those who are to be besieged in this manner; and also necessary for the British subject, who should be restricted within the limits to which he was meant to be restricted, and not be allowed to venture unknowingly into the colony to disturb its possessors. I wish these limits to be ascertained and fixed with precision, for the sake of both parties. Having this object in my view, I shall first consider the line drawn in the proclamation of 1763. It was drawn from a point taken in the lake called Nipissim: that lake stands to the north of this point. I entreat the attention of the committee; for the escape of a word is the escape of a whole argument. Sir, this boundary was fixed by a line drawn obliquely from lake Nipissim, which line crossing the river St. Lawrence and the lake Champlain, formed an angle in the latitude of forty-five degrees. This constituted the south-west boundary of Canada: Beyond that the province was to extend no further; and, confined within this limit, it remained from the year 1763 to this time. That was then the boundary of Canada; and when that boundary was formed, that was the boundary of the government; and that boundary was fixed there, because it was the boundary of the possession. There was then no considerable settlement to the southwest of that line. This line the people of Canada acquiesced in. They have since come before his Majesty's government, and have laid before it a complaint in which they state, that this was a line drawn especially for the purpose of territorial jurisdiction, and the security of property; but they

represent that it is a line ill suited for a growing country. They do not complain that they have not the legal limits, but they complain of the climate to which they are restricted. "The province," they say, "as it is now bounded, by a line passing through the forty-fifth degree of north latitude, is confined within too narrow limits; this line is only fifteen leagues distant from Montreal: and yet it is only on this side that the lands of the province are fertile, and that agriculture can be cultivated to much advantage." Sir, if no injustice will thereby be done to any one, I don't know a more reasonable request, than that their complaint

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should be attended to. I am not one who opposes the principle of the bill throughout: if I opposed the principle throughout, I should not oppose it in this stage; it would be irregular. So far as this bill conveys to the natives of that country every right, civil and religious, held either by the great charter of nature, or by the treaty of 1763, or by the King's proclamation, or by what above all it ought to be held by, the lenity, the equity, the justice of good government—I would give the enjoyment of those rights in the largest and most beneficial manner; but the very same line of justice which I would extend to the subjects of Great Britain ought not, in my opinion, to be conceded to the old Canadians.

Having drawn the line that best becomes the regulation of right, the question comes now—whether what they ask is a favour which can be granted them, without doing a material injury to the most substantial rights of others?—whether the effect of the power given by this clause may not be to reduce British free subjects to French slaves? Now, if the line drawn from lake Nipissim is to be altered, at whose expense will it be altered? The colony of New York claims all the country south of that line, till it meets with some other British colonies of known boundaries; and these are claims which ought at least to be heard, before the people of that colony are handed over to the French government.

However, after this line had been settled to forty-five degrees, it was found that the French and English maps differed very considerably as to the position of this degree; and this difference occasioned a great deal of confusion, so that the colony of New York, which bounds next to Canada, had perpetual controversy about the limitary line. Though they agreed that the line should be settled to forty-five degrees, they never agreed where the forty-fifth degree of latitude was. To remedy this confusion, in 1767, the colonies by a very provident order of the Crown, determined to hold a meeting on the frontiers, at which they took an actual observation, and fixed the latitude of forty-five degrees to the head of the northern part of lake Champlain. When they had fixed this limit, the colony of New York gave up all that part included in the triangle, the base of which was a line drawn through the angle of forty-five degrees. All this was given up for the sake

of peace. A definition of that line so settled was brought home and submitted to the board of trade; who examined it, and reported that they thought it a proper line to be drawn; which report was confirmed by his Majesty in council. Having got that line drawn, a parallel was to be run from east to west, till stopped by some other colony; but when the line was fixed of forty-five degrees, the line itself was not drawn, but only the point settled from whence it should be drawn. The east line, however, is actually drawn on the map; but the line on the north-west part was left totally undefined—the point being fixed simply to the head of lake Champlain. The consequence was, that the whole west boundary of New York extending about two hundred miles, a little more or less, including all the best settled part of that province, and inhabited by various persons, civil and military—all this has been supposed to go under that description to the province of Quebec, by the provisions of

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this bill. To those who objected to so frightful a conclusion, it was said, it was in the power of the Crown, after this act, to adjudge to this province what belonged to it, on the other side of the line. The first thing that occurred to me, after hearing this declaration was, that a law-suit would be the beginning of this happy settlement; and that the claim between Canada and New York, which cost so much blood formerly, would now give rise to an interminable series of law-suits.

With very uneasy sensations on this head I came down to the House. The noble lord showed me the amendment, which by no means relieved my apprehensions. The reason why I feel so anxious is, that the line proposed is not a line of geographical distinction merely; it is not a line between New York and some other English settlement; it is not a question whether you shall receive English law and English government upon the side of New York, or whether you shall receive a more advantageous government upon the side of Connecticut; or whether you are restrained upon the side of New Jersey. In all these you still find English laws, English customs, English juries, and English assemblies, wherever you go. But this is a line which is to separate a man from the right of an Englishman. First, the clause provides nothing at all for the territorial jurisdiction of the province. The Crown has the power of carrying the greatest portion of the actually settled part of the province of New York into Canada. It provides for individuals, that they may hold their property; but they must hold it subject to the French laws, subject to French judges, without the benefit of the trial by jury. Whether the English mode of descent is better than the French, or whether a trial by a judge is better than a trial by a jury, it is not for me to decide: but an Englishman has a privilege that makes him think it is better; and there is, Sir, as much reason to indulge an Englishman in favour of his prejudice for liberty, as there is to indulge a Frenchman in favour of his prejudice for slavery.

The bill turns freedom itself into slavery. These are the reasons that compel me not to acquiesce by any means, either in the proposition originally in the bill, or in the amendment. Nay, the proposition in the amendment is a great deal worse; because you therein make a saving of the right of interference with, and may fix your boundary line at the very gates of New York, perhaps in the very town itself, and subject that colony to the liability of becoming a province of France. It was this state of things, Sir, that made me wish to establish a boundary of certainty. The noble lord has spoken upon the occasion with a great deal of fairness. He says, that if any gentleman will find a boundary of certainty, he will accept it. Whether, if we shall be able to find such a boundary, the colony of New York will be satisfied with it, I know not; but, speaking here as a member of parliament, I do think the colony had better have a boundary much less in extent, yet reduced to such a certainty, that they may exactly know when and where they cease to be English subjects. The boundary originally settled between Canada and New York, by Governor Murray and General Carleton, gave a very considerable part of what New York was entitled to contest with the Crown, under the first proclamation. That was given up. I am glad the noble

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lord has got a map before him. They gave up a vast extent of country. I recommended them to give up for peace all that part which lies between that country and the river St. Lawrence, and to take their departure from a line drawn through Lake Champlain in forty-five degrees of latitude, as far as the river St. Lawrence, then following the course of that river through lake Ontario and lake Erie to make it the western bound of the colony of Pennsylvania. These limits and bounds would give New York a territory sufficient to enable it to meet every exigency of government: it would give it a territory saleable and valuable; it would give the Crown a boundary of certainty; it would give the people of Canada a certainty of knowing upon what side of the water their territory began; and it would give the subjects of Great Britain a power of knowing where they can be free. If the noble lord gives me this boundary, he takes off the northern part of the objection; and, in that case, I shall not call upon Mr. Pownall. If the noble lord does not admit this description to be clearly expressed, there are persons enough able to do it; for it is ridiculous to imagine, that any sense can be conceived, and not expressed in parliamentary words.

In the next place, Sir, having explained myself as well as I can, without having a map in every gentleman's hands who hears me, I shall now only say one word to the noble lord's objection. He does not know enough of the state of that country to be able to adopt the line which he has drawn whereas nothing can be more geographically distinguished than water and land. This boundary is physically distinguished; it is astronomically distinguished. It has been fixed by actual

observation, and agreed upon by the surveyors. We have everything that geography, astronomy, and general convenience stronger sometimes than either can give, to make this boundary definite.

I shall, therefore, now move the boundary which I have proposed, viz., “by a line drawn from a point on the east side of Lake Champlain, in 45° north latitude, and by a line drawn in that parallel west to the river St. Lawrence, and up that river to Lake Ontario, and across that lake to the river Niagara, and from Niagara across Lake Erie, to the north-west point of the boundary of Pennsylvania, and down the west boundary of that province, by a line drawn from thence till it strikes the Ohio.” If the noble lord admits this proposition, the committee will, no doubt, be able to express it in proper words; if not, I must beg that we may receive information from a gentleman who can abundantly inform the House, who has a greater knowledge of the subject than any gentleman within this House, and who is as ready to communicate it as any man I ever knew.

Lord NORTH.—What has passed between us, the honourable gentleman has stated fairly. We agree in principle, and I hope we shall succeed in drawing a clear boundary line; but I am doubtful whether a clear boundary line can be drawn by parliament. It strikes me, that the only method is to leave it to be drawn after the passing of the act—leaving it in such a manner, that the line when drawn shall actually form a clear line between the province

of Canada and New York. The line, as far as it appears by the map, is very distinct. The objection I have is precisely what the honourable gentleman has mentioned. I am not clear whether there are not upon the south-east part of the river St. Lawrence Canadian settlements. I have been informed there are. I am sure there are no New York settlements in that part of the world. I think it more prudent to have the boundary line settled upon the spot; reserving, in the act, all those lands that have been granted, under any authority, to the old settlers. If any line can be drawn, I have no doubt the Canadians will prefer their own laws. At first sight, I have no objection to the words proposed, and, if the honourable gentleman desires it, I shall also not object to the witness being called in, nor indeed to any evidence, not likely to involve us in difficulties, that may be calculated to settle a distinct line for the security of the province. It is my opinion, that all this uninhabited country added to Canada, or added to New York, should not be immediately considered as country which the government are to grant away. I do not think that we at all endeavour to discourage settlements, by making those regulations. I hope there will be great caution and restriction on the part of governors against making grants in this western country. The necessity of settling the government goes upon other principles, which I shall have occasion to enter into in the course of the debate; but at present I rise up to confirm the declaration I have made, that if a clear line can be made to the satisfaction of gentlemen, so that they are not likely to involve themselves by drawing a line in Westminster which would be better drawn in America, I shall not opiniatre it, but shall be very thankful to the gentleman who can draw that line.

Mr. EDMUND BURKE.—I shall satisfy the noble lord that there is no inconvenience in the world in drawing this line; no injustice in the world to the Canadians; more injustice in drawing an imaginary line, that may involve the whole colony of New York in confusion. I should be extremely tender of the privilege of the subject; and therefore I would not disturb any man living in his property. But the fact is, that no man is injured by what I propose; but by what the noble lord proposes, if Canada is in future to have boundaries determined by the choice of the Crown, the Crown is to have the power of putting a great part of the subjects of England under laws, which are not the laws of England. The government of France is good—all government is good—but, compared with the English government, that of France is slavery. We have shed oceans of blood for that government, and are ready, I hope, to shed oceans of blood again for it. Upon the noble lord's proposition, half the colony of New York may be adjudged, and some of it must be adjudged, to belong to the colony of Canada. The fate of forty or fifty thousand souls is involved in this question. At present the colony of New York is the

Crown's. The noble lord may adjudge it to belong to Pennsylvania; but he cannot deprive it of the laws of England. Now, however, by an act of parliament, he is going to do so. The Crown has the power, at a stroke, to reduce that country to slavery. It is the power of a magical word; which I hope I shall

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never see any where exercised but in the playhouses. This is a possible case; the other is certain—that a few Frenchmen may happen to be considered as Englishmen. The noble lord does not suppose there are many. The parties here are English liberty and French law; and the whole province of New York, further than it is defined by actual bound, is in the power of the Crown, not to adjudicate, but to grant, and hand over to the French. I do not suppose, if the Crown were under the necessity of adjudging, that it would adjudge amiss; but it is in the power of the Crown to grant even its power of adjudging. When put on the English side, they are put in the power of the laws; when put on the French side, they are put out of the power of the laws. Let us consider, then? whether it is not worth while to give a clear boundary, and to let man know whether he is or is not an Englishman. I shall take the sense of the committee upon it. I am as much in earnest as ever I was in my life. I have produced a practical idea—I can produce practical words.

After a long and desultory conversation, the words proposed by Mr. Burke were inserted. The words—

“Until it strike the Ohio; and along the bank of the said river, westward to the banks of the Mississippi, and northward, to the southern boundary of the territory granted to the Merchants Adventurers of England trading to Hudson's Bay; and also all such territories, islands, and countries, which have, since the 10th of February, 1763, been made part of the government of Newfoundland, be, and they are hereby, during his Majesty's pleasure, annexed to, and made part and parcel of the province of Quebec.” —were next read.

Sir CHARLES SAUNDERS.¹—I rise to say a few words upon this part of the clause. Though I dislike the whole of it, I shall speak only to that part which relates to the fishery. Your annexing the liberty of fishing to Canada, will take the fishery from the mother country; will take it to America. That part carried on by Canada must go to the French, and thereby be very detrimental to this country. In the first place, no return is ever made here; in the next place, you lose the employing of your own shipping, the furnishing the men with materials, and breeding your seamen. The liberty of fishing should remain under the inspection of the governor of Newfoundland. The act of King William is the best for the fishery: if you give up this, I am afraid you will lose your breed of seamen, and I know no way that this country has of breeding seamen but two; one the fishery, and the other the coasting trade. All other trade is at

the expense of men, and whatever hurts your fishery must reduce the naval force of this country. Sir, the fishery is worth more to you, than all the possessions you have put together. Without that fishery your possessions are not safe; nor are you safe in your own country.

¹ This distinguished naval commander was, at this time, member for Heydon. He died in the following year, and was interred in Westminster Abbey, near the monument of his friend and "brother of the war," General Wolfe.

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Instead of doing anything to hurt your fishery, new methods should be taken to rear more seamen. God knows, how much you'll find the want of seamen, whenever this country finds it necessary to equip its fleets! For these reasons, I am against annexing the liberty of fishing to Canada, and I hope that this clause, for this reason, will not pass.

Mr. GASCOYNE.—I agree with the honourable admiral; but I do not conceive, from what I have learned, that the liberty of fishing given in the clause has anything to do with that sort of fishery the honourable admiral means. They are sedentary fishers, taking seals and sea-cows. It does not appear, that there is any cod fishery along that coast.

Mr. PRESCOT.¹—As I have, in the course of business, some knowledge of the question before the House, I can take upon me to say, that the honourable gentleman who spoke last is mistaken. From the first conquest of the coast, there were several cod-fisheries near the strait of Belleisle. Whether they are continued I cannot say, but I believe they are. A relation of mine, much concerned in the fishery, a Captain Darby, was examined by the board of trade in my presence. The French may possibly have interfered with us. It may become a valuable fishery. The evidence was, that the fish was of a better kind, and ought to be encouraged for the Spanish market. It would be better to unite this fishery to the government of Newfoundland. We ought to discourage carrying on the fishery of the continent of America with Europe; as it gives rise to a great deal of contraband trade.

Sir CHARLES SAUNDERS.—I should not have troubled the committee, if I had not been sure of what I said. We have had a man-of-war there, ever since that country has been put under the inspection of the governor of Newfoundland; who has settled all disputes, agreeably to the act passed in the reign of King William; and that is the reason I mentioned that act.

Lord NORTH.—If the consequence stated by the honourable gentlemen is likely to ensue, and there is no method of preventing it, undoubtedly it is a consideration of most serious importance. But this liberty of fishery was grounded upon two points, and for two reasons: the first and principal reason was justice; the other was the nature of the fishery, which is

supposed to be peculiar to the fishery of that coast. When Canada was conquered, and Montreal surrendered upon capitulation—while the inhabitants of Canada were secured in their property, there were at that time grants for fishing for seals and sea-cows; which grants were profitable to the Canadians, and were as much secured to them as any other species of property. They let the fishing-coast from time to time upon lease. These expired about the year 1762, and new leases were granted. The seal and sea-cow fishery was, I understand, entirely sedentary; carried on in the little creeks between the coast and the island. It is a sort of decoy for fish. It is a decoy that requires

¹ George Prescott, esq., of Theobald's, in the county of Herts; grandfather of the present Sir George Prescott, and founder of the banking-house of Prescott, Grote and Co.

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all the nicety, all the care, all the silence possible. The trade cannot be carried on by competition. It must be carried on separately and distinctly, or the fishery will be ruined. It requires all the people to go away at a certain time in September, and return in December; and therefore it must be carried on by persons who stay there in the winter. The ship fishers, I mean those who go from this country to that, have been permitted to fish in different harbours; but the competition almost entirely destroyed the fishery. It is therefore obvious, that this fishery cannot be carried on in the manner of the Newfoundland fishery, and consequently cannot be subject to the laws of that fishery. This was the reason for inserting this clause; but if it has a tendency to destroy the cod fishery, and diminish our stock of seamen, it ought not to stand in the bill. I do not, however, conceive that giving this right to the inhabitants of Labrador will have any such effect.

Captain PHIPPS.—Let us consider, Sir, whether it be politic to suffer this cod fishery on the coast of Labrador to be in the hands of the Canadians. The consequence will be, that the French will be received in Canada with open arms; that they will carry their manufactures thither; and that an intimate intercourse will be kept up between the two countries, to the great injury of the English settlers. They will also have opportunities of stirring up discontents among the Indians. All this shews the necessity of another bill, placing these fisheries under the government of Newfoundland. As far as my little experience in my profession goes, I do not hesitate to declare, that this clause, while it will be one of the severest blows this country ever met with, will be one of the most material benefits that ever accrued to France.

Mr. COOPER.—It is not the intent of this clause to protect the sedentary fishery to the injury of the other. Suppose, therefore, a proviso were added, that nothing in this act should extend to prevent the government of Newfoundland &c. If I am rightly informed, the cod fishing is not carried on at the

same time. If so, it may be fixed at a season which shall not interrupt that carried on in the same situation by the sedentary fishers. As to the condition of our navy, I have the satisfaction of stating, that the number of seamen has greatly increased of late years.

Capt. PHIPPS.—It is impossible to carry on the sedentary fishing, without a property on the waterside. The clause will destroy the right of those who come to try for fish there, and will occasion endless disputes. If any sedentary fishing is necessary, it ought to be put under the government of St. John's. The mischiefs that may arise from this clause should be frequently rung in your ears, until they make an impression upon you.

Mr. PRESCOT.—The cod fishery and the seal fishery are carried on upon the same coast. It is usual for them to leave some of their people there in the winter. It is for the interest of this country, that they should be detached from the government of Canada; they should, therefore, have a government to protect them in winter as well as in summer.

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Mr. BYNG.—We have heard a great deal of the small number of Protestants in Canada. That is one reason why the sedentary fisheries should be put under the government of Newfoundland; for unless that is done, we are handing more of our people over to the Canadian laws.

Lord NORTH.—The last alarm is not well founded. The British may and will carry on the fishery to Canada. The law they are under at present is rather more arbitrary than the Canadian law.

Sir CHARLES SAUNDERS.—I do not see how it is possible to carry on the fishery there. Where are the disputes to be decided? At Quebec? The distance of the fishery from Quebec is so great, that the loss of time and the expence would ruin any fishery in the world; whereas the governor of Newfoundland, upon any dispute arising, can settle it in half-an-hour; neither time, trouble, nor expence, is lost; immediately they go to work again. I never knew a trial to last half-an-hour in my life.

Lord JOHN CAVENDISH.—I do not know the question at present. No question has been put upon the clause. I hope we are not quite ready to agree to it. This whole description of Canada goes very much against my judgment. I will, however, say a few words to the particular clause. The remedy proposed seems to fall short of the necessity of the case. I think this proviso would not reach the point. I believe the only pretence the governor of Newfoundland had for extending his authority there, was, that by the proclamation this coast was put under

his direction; but when this authority shall be withdrawn by an act of parliament, he will have nothing to do with it. It will be left to doubt. The seal fishery had better be provided for by itself, than that this great nursery of our seamen should be endangered.

Mr. THOMAS TOWNSHEND, jun.—This, Sir, is undoubtedly a very material part of the bill, and we have had both sides of the question stated to us. The honourable admiral has told us, that that great nursery of British seamen will be in much danger from the passing of this clause. The noble lord on the other side, and the honourable secretary of the treasury, have not denied any one of the assertions which have come from the gentlemen of the navy, and from the honourable member concerned in the trade under the gallery. The noble lord has obliged the committee with a very agreeable description of the seal fishery; he has told you a great deal of the animal itself. He says, that the decoy requires great nicety and care, and all the silence possible, and therefore he proposes, that Frenchmen not being noisy, not being loquacious, it is better to trust that fishery to them, than leave it to the English. The honourable secretary to the treasury has congratulated the country upon the great increase of seamen, which he attributed to the favourable state of the Newfoundland fishery. Sir, I believe the seal fishery has been carried on by the French since the peace; now, from the very nature of the sedentary fishery, if once they are established there, if once they have a property in the stations, they must have the refusal of the market; they

must set out with an advantage over the individuals that come from this country. Is it necessary to take great pains to show you that they have their eyes upon this country; that there is no part of their trade to which they pay more attention; that they will strive to avail themselves, from the similarity of manners and religion, of every opportunity of introducing their fishery, to the exclusion of that carried on by British subjects? Is it necessary to say that French manufacturers will, by this means be introduced into Canada? If the noble lord has a mind to regulate the seal and sea-cow fishery, for God's sake let him confine this bill to one or two points, and leave the rest to a future session. Surely this cannot be too great a compliment to pay to that fishery which is of so much importance to us. The very existence of this nation depends on its naval power; and everybody knows that the great foundation of the British navy are the fisheries and the coasting trade.

Mr. EDMUND BURKE.—I cannot think that the gentlemen opposite will not give way to so reasonable a request. We have proceeded with this mischievous bill thus far. Is not this enough, without obliquely bringing into it another branch—without deranging the whole nautical policy of the country? It is true, that the government of Newfoundland is of a more arbitrary nature than that of Quebec; a military officer, living on board a man-of-war, being the governor of that place? But to say that these people will, by the bill, be put in a better condition, is to say nothing to the purpose. They are sent there to form a nursery for the navy; and that is the best government for them which best accomplishes that end. Cannot the government of Quebec be settled without this clause? The best way would be to bring in a separate bill for Newfoundland; and then the sedentary and the transitory fisheries, would be legitimate objects of inquiry; but here, while we are discussing the boundaries of Canada, we find ourselves in the middle of the fisheries on the banks of Newfoundland. Let trade be regulated upon principles of trade, government upon principles of government, and the navy upon principles best calculated to rear recruits for the navy; but let us not jumble together, in so oblique a manner, parties so very discordant. Let us not, for the sake of hooking in the fishery, give a boundary to Canada which is by no means necessary or expedient, and thereby create further difficulties.

The SOLICITOR-GENERAL.⁽³⁾—It is extremely difficult, upon such a point as this, to contend, or to appear to contend, against the authority of the honourable gentleman, to whom it may, perhaps, be very truly said, that this country owes all the fishery it has upon the coast of Newfoundland. Yet I will beg the indulgence of the committee while I state, in a few words, how the different opinions entertained upon it may, in my view of them, be recontiled. It is not, I maintain, foreign to the purpose of this bill, to consider whether it is better to annex the Labrador coast to Canada, or to throw it into

³ Alexander Wedderburn. He was appointed Solicitor-general in 1771, and held the office till 1778, when he was advanced to that of Attorney-general; and, in 1780, was made Chief Justice of the Court of Common Pleas, and raised to the peerage by the title of Baron Loughborough: in 1793, he was appointed Lord Chancellor, which high situation he held till 1801, when he was created Earl of Rosslyn. He died in 1805.

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any other government. To come to a correct conclusion, the committee should take into its consideration the present state of that coast, and the manner in which the fishery is carried on.

In 1763, the coast of Labrador was made part of the government of Newfoundland. Upon that coast an advantage is to be derived by fixing a fishery, to be exercised at a particular season of the year, which does not interfere with the regular cod fishery; and if this object is obtained, it is so much gain to the country. But, though annexed to the government of Newfoundland, gentlemen know that the governor stays there no longer than to the end of the fishery: after that time there is no resident government; so that the Labrador coast must either be annexed to the government of Newfoundland or to that of Quebec, or there must be an especial governor appointed for that district. If annexed to the government of Quebec, there will be magistrates, under the authority of the governor, acting there to inquire into and settle any disputes that may happen. The cod fishery, as exercised there, I take to be a subject perfectly distinct. I think no evil could arise to that fishery if, by express words, the government of Newfoundland had the same power and authority given to them upon the coast of Labrador as is given, by the act of King William, with regard to the Newfoundland fishery; and I shall submit these words—"Provided always, that nothing shall extend to take from the powers of the governor of Newfoundland, during the season of fishery, all persons concerned in the cod fishery; but that they be extended to the cod fishery in the territories last before mentioned."

Captain PHIPPS.—These words will not at all cure the evil; because the residents, who carry on the sea-cow and seal fishery, will have possession of the land, and will thereby have every opportunity of carrying on the cod fishery with impunity, to the injury of this country. My learned friend holds out a plausible protection to the cod fishery, and at the same time cuts it up by the roots.

Mr. CAVENDISH, after some further debate, divided the committee on the question that that part of the clause which relates to Newfoundland should stand part of the bill: Ayes, 89; Noes 48. (1)

Friday, June 10.

Sir CHARLES WHITWORTH reported to the House the amendments which the Committee had made to the bill. The first clause being read, there was much puzzling about settling the boundary line. Mr. Edmund Burke, Mr. Jackson, Mr.

Baker, and Sir Charles Whitworth went up stairs, in order to settle it, while the House was supposed to be proceeding upon it. The House continued for at least half an hour doing nothing in the meantime. The difference was, whether the tract of country not inhabited should belong

¹ “The danger of losing the fisheries, and the feeble manner in which the proviso was supported, induced me to vote against the words being in the bill.”—H. C.

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to New York or Canada? At five o'clock, Mr. Edmund Burke returned with the amendments; some of which were agreed to, others not. The following is the clause as finally agreed to by the House:—

“That all the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs, along the high lands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut, keeping the same latitude directly west, through the lake Champlain, until, in the same latitude, it meets the river St. Lawrence; from thence up the eastern bank of the said river to the lake Ontario; thence through the lake Ontario, and the river commonly called Niagara; and thence along by the eastern and south-eastern bank of lake Erie, following the said bank, until the same shall be intersected by the northern boundary, granted by the charter of the province of Pennsylvania, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said province, until the said western boundary strike the Ohio; but in case the said bank of the said lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said province of Pennsylvania, and thence, by a right line, to the said north-western angle of the said province; and thence along the western boundary of the said province, until it strike the river Ohio; and along the bank of the said river, westward to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the merchants adventurers of England trading to Hudson's Bay; and also all such territories, islands, and countries, which have, since the 10th of February 1763, been made part of the government of Newfoundland, be, and they are hereby, during his Majesty's pleasure, annexed to, and made part and parcel of, the province of Quebec, as created and established by the said royal proclamation of the 7th of October 1763.

“Provided always, that nothing herein contained, relative to the boundary of the province of Quebec, shall in anywise affect the boundaries of any other colony.”

No. 295.

**EXTRACTS FROM
CONSIDERATIONS ON THE RIGHTS AND
INTERESTS
OF ADVENTURERS IN THE LABRADOR
FISHERIES.***

BY LIEUT. JOHN CARTWRIGHT.

(Sent to Lord Dartmouth.)

* * * *

78. When Labrador first came into our hands and the arrangements we have spoken of took place, it still required some consideration and prudence to be able to turn this acquisition to the best account. Having already as extensive a fishery in Newfoundland, as we could well occupy, it was not immediately apparent by what means we should avail ourselves of those of Labrador. We there found a few Canadians scattered along the coast in the gulph of St. Lawrence, and along the Straits of Bellisle, who carried on the Seal and salmon fisheries: and we understood besides, that the french had occasionally fished for cod from a few particular parts. The prospect of meeting other salmon streams along the unoccupied parts of the coast was encouraging, and the sealing posts, affording specimens of a fishery which depended not upon the accident of there being fresh water rivers, and in all probability abounding more and more in proportion as we should advance towards the north, promised no inconsiderable returns to the adventurer: but the informations concerning the cod fishery, carried with them no reasons for believing it was worth while to quit the certainties of Newfoundland, for the hopes of better things in Labrador. Besides, there was ample room in Newfoundland for its improvement; and it had perhaps been wiser to have seen well to it's prosperity there, by a thorough reformation of those enormous abuses which had crept into it, and still continue its canker worm and its disgrace, than to have been at any pains to have extended it, in such a state, to Labrador. But other sentiments at that time prevailed; and the protection of the king's ships in 1764 and 1765, together with that spirit of enterprize which distinguishes the commercial part of the british nation, induced some few to make trial of the cod-fishery about Chatteau Bay. Various was the success of these experiments; but they ended in giving currency to an opinion, that this was a good station to fish from in the latter part of the season, at a time that the fishing in the northern parts of Newfoundland was generally experienced to fail; as this was observed to do in the early part.

79. Thus then, it was now thought to be seen how we might best begin to avail ourselves of Labrador; by making it's cod fishery an appendage to that of Newfoundland; and the seal and salmon branches subordinate again to the cod fishery; and Henley Harbour, defended by Chateau Island, was approved of as a convenient port for mooring the ships and manufacturing the fish. It was accordingly resorted to with eagerness; in so much that in a short time it was quite crowded; but these adventures, like the leading experiments, were attended with various success; sometimes being very very profitable, and sometimes attended with great loss. However these attempts served to enlarge our knowledge: the experience of every day tending to remove former prejudices and to methodize future conjectures; as well as to lead on towards farther discoveries. The seal and salmon fisheries, upon examination, appeared to be of much more value, than had at first been apprehended; as well as far less precarious and expensive than the cod fishery. The country likewise produced good samples of fur, besides which, there was a traffick opened with the Eskimaux Indians; and some reason to look for the establishment of a Whale-fishery; so that, upon the whole, the merchants promised themselves, from appearances, no inconsiderable advantages, as soon as they should be able to effect proper settlements, and be put in a capacity of reaping the benefit of their labours by suitable assistance and protection from government.

* * * *

91. Experience hath taught us, on the contrary, that the seal fishery is the grand staple of Labrador; every successive season showing its great importance more and more: and that the next in rank and consequence is the salmon fishery, as abounding to a considerable degree, and not being subject to much uncertainty; while the cod fishery is so expensive, and so precarious, except at a few particular stations westward of Chateau, as to make it the height of rashness for any one to practice it, unless it be in a subordinate way, as employment for the labourers during the intervals in their other occupations.

* * * *

108. But not to forget my hints and sketches towards a plan for regulating the fisheries of Labrador, they are as follows—
Let it be enacted.

* * * *

That all the land backwards through the whole extent of every sealing post, to the distance of one mile from highwater mark, shall be accounted as part of such post and belong in full right to the proprietor: except that a right be reserved of cutting wood for the use of His Majesty's Ships or Forts; and a general right of free passage to all through every uninclosed part of the same; and excepting also that a right be reserved to any* cod-fisher of

* 'Tis probable that it will rarely happen that cod-fishers should thus interfere with Sealers; for, if a post be advantageously situated for both fisheries, the first occupant will undoubtedly erect works for, and carry, on, both: so that it may possibly be thought unnecessary to leave the posts open in this respect to any other than the first proprietor.

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erecting upon and adjoining to the same; every building and work necessary in the cod-fishery; and of cutting wood sufficient for such buildings and works upon the shore, and for fuel; but nothing more.* But the Seal-fisher being the proprietor of the soil, that his necessary works and erections shall not be encroached upon, or interfered with, by those of the cod-fisher, nor he be any way obstructed by him in the execution of any part of his business.

* * * *

109. Let it be enacted— 1st. That any qualified person, having possessed himself by premier seisin, limitation and occupancy, of any river, rivulet or brook as a salmon fishery, shall hold the same to himself and his heirs for ever on the same conditions as a sealing post is to be held upon (as expressed in art. 2d, 3d, 6th, 8th, 9th, 10th, 11th.) with this difference only, that instead of the regulation in the 4th and 5th articles of the foregoing section, the following shall in this case take place; viz.

2d. Every distinct river, rivulet, and brook shall be accounted a separate salmon fishery; and the inferior shall never be esteemed dependent upon the superior except united in the possession and real occupancy of the same proprietor: so that the minor streams, if unoccupied, may be taken possession of by another, notwithstanding the principal river into which they empty themselves shall be in the hands of a proprietor. But then the proprietors of these lesser streams shall confine themselves in fishing to the same; and the proprietors of the rivers into which they flow shall not by nets or works of any kind block up the mouths of these lesser streams so as to prevent the salmon from running into the same; but shall leave a clear passage into them wide enough at least for a skiff to row in and out with room for her oars on each side.

3d. All that part of the land bordering on every river so occupied as a salmon fishery, which shall be more than a quarter of a mile below the upper salmon house upon the same, & shall be free and open to the use of the publick for the general service of the cod fisheries, navigators or others, (except it become appropriated for the use of other fisheries). Then the land on each side of the river, from the said limit of the free and open part upwards, by the fishing house, and so along the course of the river for three miles in length, that is to say, a quarter of a mile below the said salmon house, and two miles and three quarters above the same towards the river's source, shall belong to the proprietor of the salmon post; and this property shall likewise extend one mile from the water backwards, on each side of the river. Except it would interfere with a like property on the other side of an isthmus or point as aforesaid, in which case to be equally partitioned longitudinally as aforesaid. But such property in the land shall

not extend in length higher than or beyond the source of any river, although it shall be less than three miles from the limit abovementioned. A free

* Wood of a tolerable size is scarce in this country: so that 'tis reasonable he who has the property in the soil should not be obliged to accommodate the cod-fishers farther than is necessary; as they can repair to the unappropriated places for timber and plank for boat building masts, oars &c.

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road and passage to all through every unenclosed part of the same being reserved as above, and the same to hold good in every other appropriation of land.

110. Let it be enacted— 1st That any qualified person may possess himself of any post for Whale fishing under the same conditions and limitations exactly as of a sealing post, and with all the same priveleges; agreeable to the first clause (108) and no person but the proprietor of such whaling post to have a right to take possession of or to occupy any part of the same for a Seal-fishery.

* * * *

112. Let it be enacted—1st That every proprietor of land under the sanction of any of the foregoing clauses shall have the sole right of furring, hunting, and shooting within the same.

2d. That, in the unappropriated part of the Country, the Furrier shall have a permanent property in all death-fall paths pit falls, traps and snares; in all tilts, huts, and other works necessary or useful to a furrier which he hath made, raised or constructed, on condition of continuing to occupy the same.

3d. That upon non-occupancy for three successive winter seasons they shall revert to the publick.

4th. That every furrier who shall discover and* mark before any other, any beaver house, shall have a property in the same for the season, commencing the 1st September and ending the 31st March.

5th. That every wilfull destroyer or robber of any Beaver house, Deathfall path, pitfall, trap or snare; tilt, hut, or other work belonging to the furring business, shall upon conviction render damages sevenfold; and be incapable ever afterwards of exercising the business or of enjoying any of the rights and priveleges of a furrier in Labrador.

113. Let it be enacted—1st That the Cod-fishers shall have a right to fish for bait in all places and to draw their sains to the shore if necessary; except only that they shall not have a general liberty of interfering with the salmon nets; but, in case of occasion, may remove any salmon net once in every day, in order to draw a sain. That in this case they shall have the trouble of removing it and, when they have drawn their own net, of replacing it in a proper manner and that it shall not be displaced more than one hour at a time, nor more than once a day; under a penalty of one quintal of merchantable dry cod fish for every trespass or illegal removal. And if they shall do any wilful damage, to the said nets, or wilfully injure or

obstruct the salmon fishery in any other particular, that they shall upon conviction pay seven fold for the same. Nor shall they set any bait net across any

* This is a law among the furriers themselves; but the dishonest, being liable to no punishment, frequently break it. The necessity of it arises from this, that after the discovery of a beaver house, time, ingenuity, and security from interruption, are necessary to the trapping of the beavers one after another.

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river or stream in which there is a salmon fishery from side to side, so as to obstruct the entrance of the salmon; nor shall any of their bait nets, crossing the stream and moored, be put out within a quarter of a mile of any salmon net; nor shall they, under pretence of taking bait, have a right to catch salmon at all within any salmon fishery; but all such salmon as shall be caught in their nets shall upon demand be delivered to the proprietor; on penalty of being ever after excluded from taking bait in that river or stream.

114. Let it be enacted that every property now held of any lands in Labrador, or that may hereafter be acquired, shall be registered with the Governor or his officers appointed for that purpose either in Labrador, Newfoundland, or London, within eighteen months at the farthest after a day appointed, or after the time of taking possession; and that the parties shall make oath, if required, to the truth of their registry.

No. 296.

[16 June,
1774]**DARTMOUTH TO LORDS OF THE ADMIRALTY,**

SIGNIFYING THE KING'S PLEASURE THAT GOVERNOR SHULDHAM
SUPERINTEND FISHERIES ON COAST OF LABRADOR AS WELL AS
THOSE OF NEWFOUNDLAND.

C.O. (51) VOL. 120. 1274. ADMIRALTY.

Whitehall, 16th June 1774.

Lords of the Admiralty.

MY LORDS,

I have not failed to lay before the King Your Lordships' Letter to me of the 9th of last Month, desiring to know His Majesty's Pleasure, whether you should make any Alteration in, or addition to the Instructions under which Commodore Shuldham sailed last year to New-Found-Land.

Since the date of that Letter a Bill has been under the Consideration of, and has passed both Houses of Parliament, by which the Coast of Labrador, made part of the Government of Newfoundland, by the Royal Proclamation of the 7th of October 1763, is re-annexed to the Government of Quebec.

In consequence of this Regulation, when the Act shall have been passed, all Authority on that Coast given to Commodore Shuldham, in his Capacity of Governor, will cease: But it is the King's Pleasure that he do, as Commander in Chief of His Majesty's Ships employed for the Protection of the Fisheries, superintend those on the Labrador Coast, as well as those of Newfoundland; and that he do, in a particular manner, give all possible Encouragement & Protection, as well to the Seal & Sea Cow Fisheries, as to the Cod Fisheries carried on by the King's Subjects from this Kingdom, on such parts of the Coast, as are not claimed as private Property, under regular Canadian Titles; and that he do also protect and countenance, as much as in him lays, the Establishments, formed under the King's Authority, by the Society of the Unitas Fratrum to the Westward of the Straits of Belle Isle.

I am, &c^e

DARTMOUTH.

Draft.

Endorsed.—Dra^t to Lords of the Admty
Whitehall, 16th June 1774. Ent^d.

[3 August,
1774.]**INSTRUCTIONS TO MR. ALEXANDER GED**

By His Excellency Molyneux Shuldham, Esquire, Governor
and Commander-in-Chief, etc., etc.

COLONIAL OFFICE RECORDS. 194/73. Enclosed E.

3rd August 1774.

Whereas, by my order of the 30th August, 1772, I appointed you Commander of York Fort, established at Pitt's Harbour, in Chateaux Bay, on the Coast of Labrador, with the garrison for the defence of it, consisting of twenty men belonging to His Majesty's Ship Panther, for the protection of His Majesty's subjects concerned in the Fisheries established on, and the Fishing Ships resorting to that coast. And whereas the Right Honorable the Lords Commissioners of the Admiralty have been pleased to signify to me, that the Earl of Rochford, one of His Majesty's Principal Secretaries of State, hath acquainted them, by his letter, of the 16th June last, that a Bill hath been under the consideration of, and has passed, both Houses of Parliament, by which the Coast of Labrador, (made part of the Government of Newfoundland by the Royal Proclamation of the 7th October, 1763) is re-annexed to the Government of Quebec, in consequence of which regulation, when the Act shall have passed, all authority on that Coast given to me in my capacity as Governor will cease. But that it is His Majesty's pleasure that I do, as Commander of the Ships employed for the protection of the Fisheries, superintend those on the Labrador Coast as well as those of Newfoundland; and that I do in a particular manner, give all possible encouragement and protection as well to the Seal and Sea-Cow Fisheries as to the Cod Fisheries, carried on by the King's subjects from Great Britain, on such parts of the Coast as are not claimed as private property, under regular Canadian titles; and that I do also countenance and protect, as much as in me lies, the Establishments formed, under the King's authority, by the Society of the Unitas Fratrum, to the westward of the Straits of Belleisle. You are hereby required and directed to take particular care that His Majesty's pleasure, in regard to the several particulars aforementioned, be strictly complied with, as far as is dependent on you as Commander of York Fort, and conformable to the instructions you have already received from me for your government in that capacity. And you are to hold yourself, with the Garrison under your command, in readiness to be relieved whenever you shall receive orders for that purpose;

having the strictest attention to the care of the provisions, ordnance, and other stores committed to your charge; and keeping a very particular account of the expenditure thereof.

Given under my hand, at Saint Johns,

3rd August, 1774.

(Signed) M. SHULDHAM.

To Mr. Alexander Ged,
Commanding Officer at York Fort,
in Chateau Bay, on the Coast of
Labrador.

By His Excellency's Command,

EDWARD BRAGGE.

No. 298.

C

**DISPATCH FROM GOVERNOR SHULDHAM TO
LORD DARTMOUTH.**

NEWFOUNDLAND COLONIAL CORRESPONDENCE, Volume 7, 1774-1775.

[25 Aug.,
1774]

Record Office,
Reference
C.O. 194
32

Panther,
St. John's Harbour,
25th August, 1774.

Duplicate.

My Lord,

I have the honor to acquaint Your Lordship of my arrival at this Place in his Majesty's Ship Panther the 2nd Instant, when I resumed the Government of this Island and its Dependencies, the different Fisheries of which, from all the Enquiries, I have yet been able to make, I have the pleasure to inform your Lordship are in their usual State, and the Inhabitants as well as other Persons concerned in them, Quiet and satisfied in their several Departments: His Majesty's Ships and Vessels under my Command are all arrived and employed on their respective Stations, and from the information of their Commanders, the French Subjects behave with Conformity to the stipulations of the Treaties subsisting between the two Crowns in that part of the Island allotted to them for carrying on their Fishery.

I need not inform your Lordship, that a Blockhouse, called York Fort, is erected and established in Chateau Bay on the

Coast of Labrador, which is garrisoned with Twenty Men from His Majesty's Ships under my command, for the protection of the Persons concerned in the Fisheries on that Coast, and in consequence of my Instructions from the Lords Commissioners of the Admiralty of the 17th June last, importing, that a Bill hath been under the consideration of, and has passed both Houses of Parliament, by which the Coast of Labrador, (made part of the Government of Newfoundland by the Royal Proclamation of the 7th October, 1763) is re-annexed to the Government of Quebec; in consequence of which Regulation, when the Act shall have been passed all Authority on that Coast given to you in your capacity of Governor will cease, I have sent an Order (Copy of which I send your Lordship enclosed), to the Officer Commanding that Fort, for his Government, and shall continue to protect and superintend the different Fisheries carried on upon the Coast of Labrador, as well as those of Newfoundland, agreeable to the said Instructions. I have the honor to be My Lord,

Your Lordship's Most Obedient and most humble Servant,

M. SHULDHAM.

Rt. Hon. The Earl of Dartmouth.

Endorsed: St. John's, Newfoundland, 25th August, 1774.

GOVERNOR SHULDHAM.

No. 299.

[12 Sept.,
1774.]**LETTER FROM GEORGE CARTWRIGHT, TO LORD
DARTMOUTH.**

LABRADOR, DARTMOUTH PAPERS, 1774, SEPT. 12TH, pp. 116-224.

Charles Harbour

12th Sept. 1774.

My Lord

* * * *

As Your Lordship kindly gave me leave to inform you of the success and progress of the fisheries on this Coast, I think myself peculiarly happy in enjoying such an indulgence, and shall endeavour to give Your Lordship all the information in my power.

When first I came, in the year 1770, the fisheries were on the decline; all the Newfoundland Merchants, except Noble & Pinson were grown tired of them finding it would not answer their end to carry on business here without erecting a variety of buildings, and being liable to loose them all the next Season, if any other Vessel should arrive before them; they therefore contented themselves with sending their Boats to catch fish when the Season was over in Newfoundland, and withdrew all their people towards the latter end of September. Mr. Pinson hearing that great Voyages of Seals had always been Kill'd on this Coast, and finding that Codfish were plentiful about Chateau as in Newfoundland, determin'd to remove the greatest part of their business from Couche hither; they having four Vessels, and determining to send them out every Spring as early as possible, were not afraid of loosing their possessions by the prior arrival of any other, and saw they should be able to seize all the best Posts, by getting first on the Coast, but the murder of Mr. Darby's Crew at Cape Charles by the Indians, deter'd him from extending their business farther from Chateau than Bad-Bay, a place net quite a mile's distance from the Blockhouse; that, and Seal Island Chateau, were the only Sealing Posts, without the Streights of Belleisle, in possession of the English when I came, and they had not one Salmon Post.

I settled in Charles River, the Salmon season being then over made preparations for the Winter, fix'd a Sealing Crew at Seal Island, Cape Charles, & kept a Sawing, and a Furring Crew in Charles River. In 1771 I established a Salmon fishery in Charles River, a Cod fishery at this place, kept one Crew Sealing on the Island, and another Boatbuilding in St. Lewis's Bay. The same year Noble & Pinson built a Cod-fishing room in Lance Cove, Temple Bay, kept a boat building Crew, and continued their two Sealing Posts as before.

The next Spring (1772) finding that I liv'd undisturb'd by the Indians, and observing how much those People were reform'd by the pains I had taken with them, they took the advantage of my Vessel's not arriving, owing to her being cast away on the Island of Fogo on the Coast of Newfoundland, and seiz'd upon both my Sealing, and Salmon Posts, which obliged me to establish new ones, the former in White Bear Sound, the latter in the River Colleroon, which empty's itself into the head of St. Lewis's Bay. Noble & Pinson the same year held their former possessions except Seal Island Chateau (which was taken from them by Mr. Slade) and fix'd another Sealing Crew in Lance Cove: These viz: four Sealing and two Salmon Posts were all that were occupied at the time I first troubled Your Lordship for redress and protection; at the same time setting forth that the establishing property was the only effectual way to encourage Adventurers, and make the fisheries flourish. The event has fully prov'd the truth of my assertions, for the resolutions of Your Lordship's Board, and His Majesty's Order in Council in consequence thereof, were no sooner known than no less than two Salmon and five Sealing Posts were added to the former number, yet, notwithstanding the above order, Noble & Pinson took the advantage of my misfortune last year, in being delay'd coming out, by the sickness and death of the Indians, and dispossessed me of my Salmon Post in the Colleroon, but this Summer the Governor has been pleased to restore both that, and Charles River to me again, and confirm'd them in the possession of Seal-Island, to which, I cannot help thinking, I have a prior, and better title than they.

This Year Seven new Salmon rivers have been occupied, and there will also be some more Sealing Posts, but how many I do not yet know, our House have taken up one.

Last Winter prov'd a very bad one for the Seal-fishery, all the Adventurers in that branch lost a deal of money. This summer has turn'd out well for both salmon and Cod-fish. The latter begins to revive again, and Your Lordship may depend upon it 'tis not only unnecessary, but even impolitic to force people into that branch of business, as it must of course increase in proportion to the Sealing with all Adventurers from Great Britain, but those from Quebec, I fancy will never enter much into it, as their Servants are hired on different terms, and they rather chose to return to their family in Summer, than remain here to go through the drudgery of a Cod-fishery. The obliging all who keep business here, to have annually one, or more Vessels regularly clear'd out from Great Britain &c. is a point which, in my private opinion, ought by no means to be dispens'd with.

I find that this Coast is now annex'd to Quebec, and that the Canadians are to be reinstated in all their former possessions. This, I'm afraid, will affect many of us greatly, particularly our House, as we have put ourselves to a very great expence in erecting Houses, and other conveniences, and may possibly be

oblig'd to quit all, in favor of a Canadian, who may produce an old, unheard of Grant which he never made use of. Charles river is the only place we have that ever was occupied by them, and that only occasionally. As it will be a difficult matter for all the British

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Adventurers to meet in order to consult on a Memorial, I take the liberty of humbly requesting the favor that Your Lordship and Your Board will take us under your protection, and do with us as it shall seem best.

His Majesty having now an incontestible right of disposing of any part of this Coast by Grant, I once more renew my request to Your Lordship to procure me all that part of the Coast, contain'd between Cape Charles and Cape St. Lewis, and the Islands which ly within those limits, reserving to all people a right of carrying on a Cod-fishery in any part thereof, and cutting what wood they may have occasion for, for the use of the same.

We have lately sent a Crew to Sandwich Bay, to take possession of the rivers there, and Kill Furs this Winter. The Esquimaux Indians have not been near us this Summer, the great indulgencies the Moravians met with from Government have enabled them to engross all the Trade of those People to our no small disappointment and loss, for we have upwards of £30 in goods on our hands which are not saleable anywhere else.

We should have occupied three more Salmon rivers this Summer but unfortunately the Vessel, which one of my Partners and myself were coming out in ran upon a Rock off the Lands end, and 'twas a miracle she carried us safe into Cork where we were oblig'd to leave her, and purchase another, in which we proceeded to this place, and had the misfortune to carry away our Masts about half Seas over; these accidents caused so much delay, 'twas too late in the season to attempt new Rivers.

Our Shalloway is this instant return'd from Sandwich Bay where she left our Furriers in possession of the Salmon Rivers; they saw no sign of any European ever having dwelt there; it is a place much frequented by the Nescaupick Indians, a People who subsist by hunting, they are good Furriers, speak broken French, are Roman Catholics, and have traded with the Canadians many years. One family have been here this Summer and sold us about fifty pounds worth of Fur.

Next Summer I propose taking a cruise as far to the Northward as the Season will permit, to visit all the Indian Tribes, and try if I can find out proper places for Summer Sealeries, and Whale fishery. Enclos'd is a List of all the Posts occupied by those British Merchants who carry on business without the Streights of Belleisle.

Wishing Your Lordship a good winter, and that Health and Happiness may attend yourself, and family, I beg leave, with the utmost respect and gratitude, to subscribe myself

My Lord
Your Lordships
much obliged and most Obedient
Humble Servant

GEO: CARTWRIGHT

[2 Dec.,
1774.]**REPORT *re* AGNEW'S GRANT.**

PRIVY COUNCIL 2 / 118. pp. 283-286.

See also C. O. RECORDS 195 / 10.

At the Council Chamber, Whitehall, the 2nd day of December
1774.

By a Committee of the Lords of his Majesty's most Honourable
Privy Council for Plantation affairs.

Present, etc.

Your Majesty having been pleased by your order in council of the 19th of May 1773 to refer to the Lords Commissioners for Trade and Plantations the humble petition of John Agnew of Sheuchan and associates in the county of Wigton in North America * humbly praying that your Majesty would be pleased to grant unto them all mines, minerals and metals, already discovered or hereafter to be discovered in the island of Newfoundland and on the coast or country of Labrador between the River St. Lawrence and Hudsons Streights, at a certain limited distance not exceeding sixty miles from the sea or flowing of the sea-water on any part of the said coast of Labrador under such reservations and restrictions as have been usual on like occasions, with directions to them to consider thereof, and report their opinion thereon to this Committee.

Whereupon the said Lords Commissioners have reported:

That the proposition contained in the petition does not in the general view of it appear liable to objection, but observe that the description of the limits within which the petitioners propose the grant to be made to them, appears so far as it regards the Labrador coast, to be attended with some difficulty, for, as on the one hand the proposing the River St. Lawrence as the boundary to the South is not sufficiently precise, so, on the other hand, by extending the grant northward to Hudsons Streights they will take in a very large part of what has been already granted to the Hudsons Bay Company, who are entitled by their charter to all mines and minerals within the territories granted to them; but they see no objection to advising your Majesty to grant to the petitioners all mines and minerals, that either have been or shall hereafter be discovered by them or their associates within the Island of Newfoundland and upon the coast of Labrador between the River St. John's and the southern limits of the territory granted to the Hudsons

Bay Company; Provided such grant be accompanied with the following condition and restrictions, viz.:—

First. That the petitioners shall annually lay before your Majesty in

* Must be mistake for North Britain; every other case North Britain.

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Council an account, attested upon oath, of the state of their works, the number of persons employed therein, the quantity of ore, mineral, and metal dug up, and to what places exported.

Second. That in case the petitioners shall not lay before your Majesty in Council satisfactory proof of their having within seven years from the date of their charter caused diligent search to be made for, and used their endeavours to discover some mine or mines, and shall not within fourteen years from the said date lay full evidence, if required, before your Majesty as aforesaid, of their having opened, dug, and effectually worked some mine or mines or extracted some mineral, or metal, then and in either case upon an order or declaration of your Majesty in Council the Letters Patent shall cease, determine and become void.

Third. That there be reserved to your Majesty, your heirs and successors, one tenth of all ores, minerals and metals that shall be discovered, dug up or extracted by the pet^{rs}.

Fourth. That the said grant shall be made without prejudice to any right or possession of your Majesty's Canadian subjects, which may be claimed by them upon the coast of Labrador in virtue of the late Treaty of Paris.

Fifth. That a proper clause be inserted in the grant such as your Majesty's law servants shall judge proper, and effectual for preventing any establishments being made by the grantees to the prejudice and obstruction of the fishery.

Sixth. That it be expressly provided; that the said grant shall not be construed—to extend to prevent your Majesty, your heirs and successors from granting to any other persons within the said limits a liberty of searching and digging for minerals and metals; Provided such persons do not search for or dig within four miles of any shaft, pit, or place, where the petitioners or any of them, or their agents now have or hereafter shall have discovered any mine or mines, minerals or metals, or ores whatsoever.

The Lords of the Committee did on 3rd July 1773 take the said Report into consideration, and thought proper to order your Majesty's Attorney and Solicitor General to prepare a draught of a proper instrument to be passed under the Great Seal of Great Britain, containing a grant to the petitioners their heirs and assigns of all mines and minerals, which either have, or shall hereafter be discovered by them or their associates within the island of Newfoundland and upon the coast of Labrador between the River St. Johns and the Southern limits of the territory granted to the Hudsons Bay Company, inserting in the said draught conditions and restrictions proposed in the

said report of the Lords Commissioners for Trade and Plantations; And your Majesty's Attorney and Solicitor General, having accordingly prepared a draught of a grant to pass the Great Seal, of such mines, minerals and ores, and of a licence to dig and search for the same for the term of nine hundred and ninety nine years. The Lords of the Committee taking the same into consideration do agree humbly to lay the same draught of a grant before your Majesty for your Royal confirmation. [See also P.C. 1/60.]

No. 301.

**PRIVY COUNCIL ORDER ABOUT MINERAL GRANT
TO AGNEW &c.**

[2 Dec.,
1774.]

PRIVY COUNCIL 2/118, p. 289.
See also C. O. RECORDS 15/29.

At the Court of St. James's, the 2nd day of December 1774.

Present, etc.

Whereas there was this day read at the Board, a report from a Committee of the Lords of His Majesty's most Honourable Privy Council for Plantation affairs dated this day, upon considering the draft of a grant prepared by his Majesty's attorney and solicitor general of all mines, minerals, metals and ores whatsoever within the island of Newfoundland or upon such part of the sea coasts of Labrador, as lie within sixty miles of low water mark of the open sea, between the river St. John and the Southern limits of the territory granted to the Hudson Bay Company unto John Agnew of Sheuchan in the county of Wigtown in Scotland, George Stewart of the county of Wighton and Alexander Dunn, collector of the customs of the Island of Newfoundland Esqre., their executors, administrators and assigns, for the term of nine hundred and ninety nine years, under the reservations and upon the conditions therein expressed and contained.

His Majesty taking the same into consideration, is pleased with the advice of his Privy Council, to approve of the said draft (which is hereunto annexed), and to order as it is hereby ordered, That the Right Honourable, the Earl of Dartmouth, one of His Majesty's principal Secretaries of State, do cause a warrant to be prepared for passing a grant under the Great Seal of Great Britain conformable to the said draft.

No. 302.

[28 April,
1775.]**EARL OF DARTMOUTH TO LORDS OF ADMIRALTY.**

C.O. RECORDS 5/121.

Whitehall, 28 April, 1775.

MY LORDS,—

I have not failed to lay before the King your Lordship's Letter to me of the 24th Instant, desiring I would receive, and communicate to you, His Majesty's pleasure, whether you should make any alteration in, or addition to the Instructions given last year to the Commander of His Majesty's Ships upon the Newfoundland Station.

Upon this occasion, I have it in command from the King, to send your Lordships, Extracts of such parts of His Majesty's Instructions to His Governor of Quebec as relate to the Fisheries upon the Coast of Labrador and Islands adjacent thereto, from which your Lordships will observe, that tho' that Coast and those Islands have by Act of Parliament been re-annexed to the Province of Quebec, yet it is His Majesty's intention, that no material alteration should be made in the regulations, which had been wisely adopted for the encouragement and advantage of the Fisheries carried on there, whilst they remained parts of the Government of Newfoundland and therefore it is His Majesty's pleasure that you do instruct Rear Admiral Duff to make these Fisheries particular objects of his attention and enquiry, affording them every reasonable and necessary protection, and transmitting to your Lordships in order to be communicated to me for His Majesty's Information, the fullest reports of the state, condition and progress thereof. It is also His Majesty's Pleasure, that Rear Admiral Duff should likewise be instructed to give such support and protection to the Establishments of the Society of the Unitas Fratrum upon the Coast of Labrador, as shall correspond with His Majesty's gracious intention towards that Society, expressed in the Instructions to Gov^r. Carleton and in my letter to your Lordships of the 16th of June 1774.

* * * *

[Signed:] DARTMOUTH.

No. 303.

[2 June,
1775.]

LORD DARTMOUTH TO GOVERNOR CARLETON.

CAN. ARCH. Q 11, p. 141.

Whitehall, 2nd June, 1775.

(Separate)

Governor Carleton.

SIR,

The King having thought fit to authorize you to make such arrangements respecting the fisheries upon the Labrador Coast as without prejudice to the just Rights of the Canadians may encourage the Ship Fisheries of this Kingdom; I cannot take any other step upon the memorial of which I transmit you a copy, than to recommend Mr. Burgess's undertaking to your attention and to desire that he may receive such countenance and protection in it, as shall correspond with the rules you may think fit to adopt, for the better ordering and governing the fisheries and possessions on that coast.

I am, &c.,

DARTMOUTH.

Endorsed:—Draught to Govr. Carleton.

(Separate)

Whitehall 2d. June, 1775.

Enc.

No. 304.

[May, 1775.]

*(Enclosure in No. 302.)***PETITION OF WM. BURGESS FOR GRANT OF
FISHING POST ON COAST OF LABRADOR.**

CAN ARCH. Q 11, p. 142.

The Right Honourable the Earl of Dartmouth;
one of His Principal Secretaries of State.

The Memorial of WILLIAM BURGESS of London Merchant

Humbly Sheweth—

That your Memorialist having been some years concern'd in the Fishery on the coast of Labrador under the controul of the Governor of Newfoundland, is in a great measure prevented carrying his undertakings to any extent unless favor'd by Government with a Grant of Land because, on that part of Labrador for which he now petitions to obtain Seals & other animals that breed in those Seas, it is necessary to keep a Settlement the year round to be ready for the opening of the Ice in the Spring, inhabited by a number of settlers; & to build such places for shelter as may secure them from the inclemency of the weather, & the Incroachments and Depredations of the Indians who wander about that Country, & who have at times cut off many people which might have been averted by this plan of settlement.

Your Memorialist begs leave to represent, that to accomplish his Design he must be at a considerable expence to raise those buildings, & victual & cloath the people, & the only chance he can see of reimbursing this expence, is by a grant confirming it to him, securing a certain possession—& that this design when put into execution will be of great advantage to the Commerce of this Nation, as the produce of it will be a supply of Oils for the lamps of this metropolis & other Cities of the Kingdom—Sealskins &c. besides the shipping & seamen necessary for carrying it on from hence,

The Situation your Memorialist petitions for is on the Coast of Labrador beginning at Island point to the Northward of petit Modeste crossing the river Desfrancois southward to a point of Land call'd Ance-du-Loup including the small Islands of grand —& petit St. Modeste.—this coast is inhospitable & the Islands barren sands unfit for Cultivation.

Your Memorialise humbly hopes that your Lordship will

consider the reasonableness of his plea & grant him his petition.

London May 1775.

[14 Sept.,
1775.]

No. 305.

**EXTRACT FROM
LETTER FROM GEORGE CARTWRIGHT TO LORD
DARTMOUTH.**Sandwich Bay
14th Sept. 1775.

LABRADOR, DARTMOUTH PAPERS, 1775, SEPT. 14TH, pp. 134-142.

My Lord

I received with the greatest pleasure Your Lordships favor of the 17th of April last, and beg your acceptance of my sincerest thanks for the honor you have done me by writing so long and kind a Letter.

The Seal fisheries all over this Coast and Newfoundland failed entirely last winter; the Oil Killed by all the Crews will not pay one half the damage of the craft, yet the assurances the Adventurers have of being protected in the enjoyment of their Posts have made them fit out again this Season with as much spirit as if they had been successful last. Several new Posts will be established, but how many I could not learn as I have been here most parts of the Summer; We have taken one near this place. Five new Salmon Rivers have been fish'd this season, and turn'd out well, but as it always must be with new establishments, the most advantage has not been made of them for want of their being in proper order. Next year if no new regulations are made prejudicial to our interests every branch of the fisheries will be increas'd near one fourth of what they are at present. I know of some Posts taken on this side the Seal-Islands which are thirty Leagues to the Northward of Chateau. We built a new Cod Stage this Spring and Mr. Coghlan an other, the season was very late but it proved a good one at last. The lee continued much longer on the Coast than usual, I am inform'd many Ships have been lost on the Newfoundland Coast, one of ours received a good deal of damage, and I was catch'd with it at Mid summer, forc'd on shore on the Isle of Ponds, lay three Days upon rocks wedg'd in with lee and had a Gale of wind with frost and snow the whole time, the boat open'd and leak'd so fast I expected she would have fallen asunder every instant, I was oblig'd to heave half the cargo, which was Salt in Hogsheads, overboard, it was twelve days afterwards before we were able to proceed, & then ran through large pieces of scatter'd Ice as close as we could steer through it for eleven Leagues with a fresh of wind in dread every minute of either striking upon it and foundering, or its closing and squeezing us to pieces. We should have occupied an other Salmon River, but for a melancholic affair which happen'd to the furring Crew we sent here last, year,

they wasted their provisions, were starved to Death before I got round with a supply.

p. 1161

We have taken possession of all the Salmon Rivers in this Bay; and shall keep twenty-seven people here this winter to put them in order for next Season and have order'd ninety four new nets to be on purpose for them besides eighteen we had out this Spring. I am told that both Mr. Pinson and Mr. Coghlan, hearing how well this place turn'd out, intend sending Crews round next spring to dispossess us, pretending that we did not occupy the other four rivers this summer they have as good a right to them as us, but as we first discover'd them, have set up our marks, order'd nets and every requisite for fishing them next Season, and keep an extraordinary number of hands here this winter in order to prepare them in time, and they have never have been here, or even knew of them but from the report of our Servants, I am well assured Your Lordship will not allow of such proceedings.

* * * *

Your Lordship's
Most oblig'd and
Most Devoted
Humble Servant

GEO. CARTWRIGHT.

No. 306.

(reversed).

DUFF TO CARLETON,

[15 Sept.,
1775.]

RELATIVE TO WITHDRAWAL OF GARRISON AND STORES FROM YORK
FORT.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND, VOL. 6.

St. John's,
15th September, 1775.

SIR,

I am to acquaint your Excellency that on my leaving England I received His Majesty's Commands that the Garrison of Seamen and Marines, now doing duty at the Blockhouse called York Fort, established on the Coast of Labrador, should be withdrawn upon my return from my Station, and in case I should be of opinion; that the Continuance of an establishment of this kind, should be of publick advantage, I was instructed upon the present Garrisons being withdrawn, to place in the said Fort a non Commission Officer and a few private Men of the Detachment of Troops, now doing duty in the Island of Newfoundland. In consequence of these Commands, immediately on my Arrival in this Country, I directed Captain Parker of His Majesty's Sloop Martin, one of my Squadron stationed for the Superintendance of the Fisheries on the Coast of Labrador to endeavour to procure me the Sentiments and opinions of the several Merchants and Traders there on the above matter, that I might be the better enabled to form a proper Idea of what should be most necessary to be done for the protection and interest of His Majesty's Subjects engaged in the aforesaid Fisheries, particularly such of them whose employments require their Residence in Labrador during the Winter. Captain Parker accordingly has furnished me with Letters from the Principal Merchants concerned in the different Fisheries upon the Coast of Labrador, saying that a Garrison in York Fort during this Winter would not contribute to the protection and safety of the Winter residents on that Coast, and his own opinion concurring therewith, and considering what a small number of the Military is now left in Newfoundland, I have not thought it necessary to send the party above mentioned, but have given Orders for the Garrison now in York Fort to be withdrawn, and have directed the Cannon to be secured in the Blockhouse, and the other Ordnance Stores to be returned into the Charge of the Ordnance Storekeeper at this place.

I am, with great Regard and Esteem,

Sir,
Your most obedient humble servant,
ROBERT DUFF.

His Excellency Guy Carleton, Governor, &c. &c.
Quebec.

No. 307.

DUFF TO DARTMOUTH,[14 Nov.
1775.]

REPORTING ON WITHDRAWAL OF GARRISON, ETC., FROM YORK FORT.

COL. COR. N'FOUNDL'D. VOL. 7.

Portsmouth,

14th November, 1775.

MY LORD

Captain Parker, Commander of His Majesty's Sloop Martin, who has been stationed this Summer on the Coast of Labrador, having, in pursuance of my Directions to him, made a very strict and particular enquiry respecting the establishment of the Blockhouse called York Fort on the said Coast, and procured Letters containing the Sentiments and opinions of the principal Adventurers in the Fisheries there with regard to the same, which, with Captain Parker's own opinion thereon, concurring that this Blockhouse is not, at the present period, of any Moment to the Settlers in Labrador; and on my considering what a small Number of the Military are now left in Newfoundland; I have thought proper, My Lord, to cause the people who composed the Garrison of the aforementioned Blockhouse to be withdrawn, the small species of Ordnance Stores which remained in it to be brought to St' John's, and delivered into the charge of the Ordnance Store-keeper there, and the Cannon with their Carriages, together with the Building, to be secured in the best Manner possible during the ensuing Winter, and untill your Lordship shall be pleased to signify His Majesty's pleasure in what manner the same are to be disposed of. This Matter My Lord, I have not failed to communicate by Letter to the Commander in Chief of His Majesty's Forces in North America and the Governor of Quebec, to whom I have given a particular Account of the Steps I have taken therein. I am, with the greatest Respect,

My Lord

Your Lordships

Most Obedient and most

humble Servant

ROBERT DUFF.

The Right Honorable The Earl of Dartmouth.

Endorsed: Portsmouth 14th Nov^r. 1775.

Governor Duff

Privy Council
Documents

Volume III
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No. 308.

CUMBERLAND TO KNOX,

[14 March,
1777.]

TRANSMITTING COPY OF MEMORIAL OF WM. THOMAS, MERCHANT, FOR
INSTRUCTIONS OF LORD GERMAIN THEREUPON.

B.T. NWFLD., VOL. 33.

To William Knox Esquire,

SIR,

The inclosed Memorial of M^r W^m Thomas Merchant of Poole having been presented to My Lords Comm^{rs} for Trade and Plantations accompanied with an attested Copy of a Notification given by Captain Parker on the Coast of Labrador to the Ag^t of the said Memorialist on the first day of Sept. 1775 I am commanded by their Lordships to transmit these Papers to you for the Information of the Right Honourable Lord Geo. Germain that his Lordship may give such instructions thereupon as to him shall seem meet.

I am
Your most obedient humble Servant
RICHARD CUMBERLAND

No. 309.**LORD G. GERMAIN TO GOVERNOR MONTAGU.**[18 March,
1777.]

C.O. RECORDS 194/33.

Whitehall, 18th March 1777.

SIR,—

The Object of the inclosed Memorial of William Thomas, Merchant of Poole, appearing to the Lords Commissioners of Trade and Plantations to be nothing more than the being protected in the Fishing Posts he has occupied the two last Seasons on the Labradore Coast, and that the continuing him in such Possession is perfectly consistent with the general Regulations of the Fishery upon that Coast; I am to signify to you His Majesty's Pleasure that you do instruct the Commander of such of his Majesty's Ships under your Command, as you shall appoint to visit the Coast of Labradore the ensuing Season, to protect Mr. Thomas and his servants, in the Possession of the fishing Posts described in his Memorial, if, upon Examination, the facts shall be, found to be as he hath set them forth, and for so long as he shall continue to perform the Conditions required of the Occupiers of Fishing Posts upon that Coast in the Earl of Dartmouth's Letter of the 9th March 1773.

I am, &c.

Signed: GEO. GERMAIN.

Endorsed: Dra^t to Governor Montagu.

18th March 1777.

No. 310.**THE PARTICULARS OF THE CASE OF NICHOLAS
DARBY, MERCHANT.**

RECORDS OFFICE. REFERENCE C.O. 5/114.

He was the first Person who began to Establish a Fishery on the Coast of Labradore from Great Britain. He first embarked in this Hazardous undertaking in the year 1765, taking with him 150 men, All his Majesty's European Subjects, and found that Coast to answer the highest Expectation, he had formed of the Richness of its Fishery for Whale, Seal, Cod and Salmon but not being able to prevail on any of his Men to Winter there he sustained a considerable Loss during the Winter by Burning of his Houses and, Boats and Destruction of, his Salt by the Esquemaux Indians. This check did not however Intimidate him from prosecuting his Designs but having commenced Partnership with Mr. Michael Miller a very eminent Merchant at Bristol in order to enlarge his Capital, he embarked the following Summer 1766 with 180 men from England, and Ireland and an outset in Vessels Fishing Tackle &c to the amount of upwards of £8000 which can be produced by an account of Particulars, He was then encouraged by Governor Palesser who assured him he should have his particular attention and protection. This year he met with Tolerable Success and the most flattering prospect of future Advantages and some of his men consented to winter there but not being accustomed to the nature of the Fisherys on that coast in the Winter Season (and having no French or Canadian to Instruct them in the art of that Fishery he sunk a considerable sum). In the year 1767 he still pursued his Fishery with 160 Men, and in October of the same year the Esquimaux Indians came down upon a Party of his Men who were making preparations for the Whale and Seal Fisherys, murdered three of the said Men, and drove the rest from their post, they then Burned and Destroyed his Boats and Effects—which Effects amounted with the Disappointment of wanting them to more than £4000; This Disaster entirely dissolved the Partnership of the said Michael Miller and Company; In the year 1768 the said Darby applied to King and Council for some Relief setting forth his Losses that he sustained from these Wild Lawless People but had not any Relief; In the year 1769 he rose some Friends which enabled him to fit out from London in a small way and he sailed from the Port of London in May of the same year in a Vessel properly qualified with a Fishing Certificate &c he then proceeded to the Coast of Labradore and dispatched a Vessel in July with a cargo of Wet Fish for the London Market. This Vessel intituled him to take a proper place to carry on the Whale and Seal Fishery in the Winter which he did agreeable to the

on that Coast but as he had attempted several times to carry on the Winter's Fishery by people from Great Britain and had failed in the Execution of the same from want of their being acquainted with the Nature of the Fisherys on that Coast he then engaged one Lawrence Bidy with two or three more Canadians on Shares to carry on the Seal Fishery on the usual Custom and Method as they had when the French was possessed of that Coast, those men had wintered on that Coast more than 18 years when the French was in possession of Canada and they assured him at the time of his engaging them that they had taken the Oaths of Allegiance and that they were happy to serve as Subjects of Great Britain and during their Servitude they behaved with the greatest respect and obedience to him, Lieutenant Samuel Davis who had then the command at York Fort was acquainted at the time the said Darby Engaged those Men as was Captain Chapman of Ottolons Sloop of War who then had the Station on that Coast and several more Gentlemen employed in his Majesty's Service and the said Davis Chapman and others never once pretended to hinder the said Darby from employing the said Lawrence Bidy and those others beforemention'd till on or about the 11th August 1770 when Lieutenant Samuel Davis found that the said Lawrence Bidy and others had made a great Voyage, killing upwards of 1500 seals which would contain near 50 Tons of oyl with Skins &c. would amount to near £1000 a large sum taken merely by the knowledge of this Lawrence Bidy and others mentioned, and eight English or Irish which made the Complement of said Darby's Crew to 12 in number—about the said 11th August as the said Darby was sending his Oyl to Bradore a Post belonging to John Lymburner a Merchant in Quebec, and had agreed with one William Grant Agent to the said John Lymburner that the said Darby's Oyl should be shipt of for London. That on said 11th August about 8 o'clock in the Evening the said Samuel Davis came to the House of Nicholas Darby aforesaid at Forteaux Bay with about 12 Marines under his Command with Bayonets fix't and then Entred the said Darby's House with two of his Marines, pretending that he came in search of contraband goods and the said Samuel Davis with one of his men searched the said House but found nothing contraband therein. Whereupon the said Samuel Davis proceeded to the said Darby's Warehouse where he seized all the said Darby's Oyl to the amount of about 145 Casks with about 1500 Seal Skins with Boats Cordage &c. The said Darby asked the said Davis in a civil manner if he had either Gov^r. Byron or Captain William's authority for acting as he did; said Davis answered that he neither wanted Byron nor William's Orders for the colour of his Coat was sufficient to convince the said Darby of his authority he then called the said Darby an Impertinent puppy or to that effect and that he would send him off the Coast in Irons and Flog him as a Justice of

Peace and the next day he sent an Officer of Marines to Bradore, and brought off 39 Casks of oyl which in a piratical manner took off the post of John Lymeburner Merchant in Quebeck the said John Lymeburner's man came the next day to Forteaux Bav and made a Demand of the said 39 Casks which he refused to deliver and the

p. 1168

Ex. : said Davis then took all the said Darby's Oyl and what Effects the Boat would carry and proceeded to Ghatteaux Bay leaving an officer of Marines in possession of Darby's House and Effects that remained the said Darby was drove to the greatest Distress in attempting to pursue his Oyl and seek for Justice in a small open Boat; and on his applying to the said Davis for a Passage round to Saint John's with his Oyl which the said Davis refused, the said Darby then asked the said Tavis for one of his large Boats He then told Darby that he had forfeited all his Boats and Effects for employing three Frenchmen and Threatened him the second time to Flog him and that he might starve on the Coast like a Villain as he was for all which proceedings the said Darby is now deprived of all his Substance and drove of the Coast with only one single Dollar in his Pocket and is now in London destitute of Friends or money for other Particulars he refers to the affid^{ts}. of three of the said Darby's servants which are sworn before Lord Mansfield as well as the Certificate from Captain Williams Commanding Officer on the Coast when the said Davis took Darby's Oyl which is hereunto annexed.

Endorsed:

Case of NICHOLAS DARBY.

No. 311.[Jan. 27,
1778.]**MINUTES OF THE COMMISSIONERS FOR TRADE
AND PLANTATION.**

COLONIAL OFFICE RECORDS 391/85.

Tuesday, January 27th, 1778.

NEWFOUNDLAND.

The Secretary laid before the Board certain papers relating to a grant to John Agnew, Esqre., and others, of mines which they shall discover and work within the Island of Newfoundland, and such parts of the sea coast of Labrador as lie within sixty miles of the low water mark, between the River St. John and the Southern Limits of the Territory granted to the Hudsons Bay Company, vizt.

Copy of the grant to John Agnew, Esqre., and others for 14 years dated December 19th, 1774.

Report of the State of the copper mine at Shoal Bay dated October 22nd, 1776.

Letter from Mr. Dunn to Govr. Montagu, dated October 3, 1777, respecting the King's Tenth.

Their Lordships having considered the said papers were of opinion that as the matters therein contained related to Royal Rights, the sense of the Treasury should be taken, as to the mode of paying the Tenths before any Instruction was prepared for His Majesty Governor of Newfoundland.

[March 3,
1778.]**No. 312.****MINUTES OF THE COMMISSIONERS OF TRADE AND
PLANTATION.**

COLONIAL OFFICE RECORDS 391/85.

Tuesday, March 3rd, 1778.

NEWFOUNDLAND.

The Draught of an additional Instruction to the Governor of Newfoundland directing him to receive the King's Tenth of all such metals, ores and minerals as shall be extracted from the mines granted to John Agnew, Esqre., and others, having been prepared pursuant to order by the minute of the 24th February last was approved; And a report to the Lords of the Committee of Council for Plantation affairs, accompanying the same was signed.

[July 3,
1778.]**PETITION OF MERCHANTS FOR SUPERINTENDENT
OF FISHERIES ON COAST OF LABRADOR.**

C.O. RECORDS, 42/37, p. 659.

To the Right Honourable Lord George Germain,
One of His Majesty's principal Secretaries of State.

The Petition of the Merchants concerned in the Fisheries on
the Coast of Labradore—on behalf of themselves and their
Correspondents in Canada.

Humbly Sheweth

That ever since the said Coast has been put under the
Government of Quebec, no notice has been taken thereof, nor
has any steps whatever been taken for the protection and
encouragement of said Fisheries. That for want of a Super-
Intendant or some person with proper powers for the above
purposes and to prevent or settle disputes that naturally arise
and which are more frequent where there is no legal authority
the produce of those Fisheries has been gradually reduced, and
is now only about one third of what it was some years ago.

Your Petitioners are of opinion that any Person vested with
proper powers to reside for two Months in the Summer on the
above Coast would sufficiently answer the purposes they have
in view And they humbly pray your Lordships will take the
same into your Consideration, and recommend such an
appointment—which will prove the most effectual means of
promoting and extending the Fisheries on that Coast.

And your Petitioners as in duty bound; &c.

ROBT. HUNTER.
JAMES MATHER.
DUNLOP WATSON.
DAVIS STRACHAN.

Endorsed: Petition of the Merchants
concerned in the Fisheries on the Coast of Labradore.

R. 3rd July 1778.

No. 314.[9 July,
1778.]**LORD G. GERMAIN TO LORDS OF TREASURY.**

C.O. RECORDS 1/150, p. 233/5.

Whitehall, 9th July 1778.

MY LORDS,

I inclose to your Lordships Copy of a Petition to me from the Merchants concerned in the Fisheries on the Coast of Labrador on behalf of themselves and their correspondents in Canada setting forth the great want of a Superintendent upon the said Coast, which I have laid before the King; and His Majesty conceiving that a Lieut. Governor or Superintendent of the Fisheries on the said Coast would be of equal utility there, as at the Bay of Gaspée, is graciously pleased to consent to the Prayer of the said Petition and your Lordships will be pleased to receive His Majesty's further pleasure for making such allowance upon the Quebec estimate for a Superintendent of the Fisheries on the Coast of Labrador as your Lordships shall think proper.

I am &c.,

(Signed) GEO. GERMAIN.

(No enclosure.)

No. 315.

[12 Aug.,
1778.]**ORDER OF HIS MAJESTY THE KING,**

DATED 12TH AUGUST, 1778, PROVIDING FOR THE ESTABLISHMENT OF A
LIEUTENANT GOVERNOR OR SUPERINTENDENT OF FISHERIES ON
THE COAST OF LABRADOR.

B. 222, p. 49.

(G. R.)

Whereas the Merchants concerned in the Fisheries on the Coast of Labradore on behalf of themselves and their Correspondents in Canada, have represented the great want of a Superintendent or some person with proper powers for the protection and encouragement of the said Fisheries. And Whereas We have taken the same into our royal consideration, and conceiving that a Lieutenant Governor, or Superintendent of the Fisheries on the said Coast, would be of equal Utility there, as at the Bay of Gaspée, where such an Officer is appointed; We have been graciously pleased to consent to the Establishment of a Lieutent. Governor or Superintendent of Fisheries on the said Coast of Labradore. And Whereas a yearly Sallery of Two Hundred Pounds is inserted upon the Establishment of Civil Officers for our Province of Quebec, to the Lieutenant Governor or Superintendent at Gaspée, And we being of Opinion with the advice of the Commissioners of Our Treasury, that a like Sallery shall be annexed to the Office of Lieut. Governor or Superintendent of the Fisheries on the Coast of Labradore. Our will and pleasure is that the Lieutenant Governor or Superintendent of the Fisheries on the Coast of Labradore be established at a Yearly Sallery of Two Hundred Pounds accordingly; and our Will and pleasure further is that out of any revenue arising unto us within our said Province of Quebec, or out of such other Monies, as by an Act intituled an Act for making more effectual Provision for the Government of the Province of Quebec in North America, have been granted, & appropriated to the use & service of our said Province, You do issue & pay, or cause to be issued & payed unto the Lieutenant Governor or Superintendent of the Fisheries on the Coast of Labradore for the time being, or to their Assigns, the Annual Sum of Two hundred Pounds, the same to commence from the day of the date of our Commission, appointing such Lieut. Governor or Superintendent, & to be payable & paid Quarterly or otherwise as the same shall become due, during our pleasure.

And this shall be as well to you for making such payment, as to our Auditors & all others concerned in passing your Accounts for allowing the same thereupon a sufficient Warrant. Given at our Court at St. James's the Twelfth day of August 1778 in the Eighteenth Year of our Reign.

By His Majesty's Command

(Signed) NORTH
C. W. CORNWALL
PALMERSTON

To our trusty & well-beloved Sir Thos. Mills, Knight Receiver & Collector of our Revenues Arising within our Province of Quebec, & to the Receiver thereof for the time being.

Establishment of £200 a year for the Lt. Governor & Superintendent of Fisheries on the Coast of Labradore.

No. 316.

[16th March,
1779.]**APPOINTMENT OF NICHOLAS COXE, TO BE
SUPERINTENDENT OF THE TRADE AND
FISHERY OF LABRADOR.**

C.O. RECORDS B. 324/44, p. 203.

(Sgd) George R.

(L.S.)

George the Third, by the Grace of God, King of Great Britain,
France and Ireland, Defender of the Faith, etc.To our trusty and well beloved Nicholas Coxe, Esquire,
Greeting.

We reposing especial trust and confidence in your loyalty, integrity and ability, do by these presents constitute and appoint you to be Superintendent of the Trade and Fishery on the Coast of Labrador, within our Province of Quebec in America, to have, hold, exercise and enjoy the same during Our Pleasure; and you are to obey such orders and directions as you shall from time to time receive from Our Captain General and Governor in Chief of our Province of Quebec, from the Lieutenant and Governor or Commander in Chief of our said Province for the time being, or from our Governor of Newfoundland for the time being.

Given at our court of St. James's the sixteenth day of March, 1779, in the nineteenth year of our reign.

By His Majesty's Command,

(Signed) GEORGE GERMAINE.

Nicholas Coxe, Esq.,

Superintendent of the Trade and Fishery on the Coast of
Labrador.

The foregoing commission is a true copy from the original
Book of Records, recopied and examined by

GEO. POWNALL.

Fiat.

Recorded in the Office of Enrollment at Ottawa on
Tuesday, the 10th day of October, 1780, in the second Register
of Commission. p. 165.

(Signed) GEO. POWNALL.

Registered also in the Register of Commissions and Letters
Patent from His Majesty, page 71.

p. 1175

(Endorsement on back).

Fiat.

To Nicholas Coxe, Dated 16th March, 1779,
Department of the Secretary of State of Canada,
Registrar's Branch, Ottawa, 23rd June, 1921.

I hereby certify the within to be a true and faithful copy of the record of the original Fiat entered in Vol. 2, Commissions and Letters Patent, 25th April, 1775, to 25th August, 1784, folio 165.

A. G. LEAROYD,
Acting Deputy Registrar General of Canada.

Department of the Secretary of State of Canada,
Registrar's Branch, Ottawa, 25th June, 1921.

I hereby certify the within to be a true and faithful copy of the record of the original as entered in "C" commissions and Letters Patent from His Majesty, 20th November, 1784, to 25th June, 1790, Folio 71.

A. G. LEAROYD,
Acting Deputy Registrar General of Canada.
B-W.

[2 April,
1779.]

No. 317.

**LORD GEORGE GERMAIN TO GOVERNOR
EDWARDS.**

ORDNANCE FOR LABRADOR.

RECORD BOOK, Volume 7, page 170.

Whitehall, 2nd April, 1779.

SIR,

Your predecessor Vice Admiral Montagu, in Order to encourage the Occupiers of the principal Fishing Ports on the Island of Newfoundland, and the Labrador Coast to throw up some Works for security of their Craft and Stages, against the attacks of Privateers and the absence of the King's Ships gave them reason to expect they should be supplied with Arms and Ammunition for their defence, and for that purpose retain'd about forty Pieces of Iron Ordnance, which had been Ordered to be sent to Quebec last year, His Majesty approving of this measure has been graciously pleased to direct the Board of Ordnance to send out to Newfoundland 700 stand of Small Arms & with a proportion of Ammunition to be distributed by you, with the Iron Cannon among the principal Fishermen according as they shall appear to you to merit, taking an obligation from them to return the Small Arms and Cannon to the King's Stores when peace shall be restor'd.

Among those who by their own exertion have intitled themselves to particular notice is Mr. Coghlan, who carried on the most considerable Fishery on the Coast of Labrador from whence he beat off the Rebels Privateer Commanded by Grimes last Year, and he has engaged upwards of 250 Men to submit themselves to military discipline, and assist him in the defence of His Posts the next Season, he is therefore desirous of obtaining twelve pieces of Cannon and 250 Musquets with Ammunition in proportion, and as he has given so good a proof of his determination to use them properly, I think his request ought to be complied with.

I am, &c.,

GEORGE GERMAINE.

Governor Edwards.

No. 318.

[12 Sept., 1779.]

GOVERNOR EDWARDS OF NEWFOUDLAND
To LORD G. GERMAIN.

St. John's, Newfoundland,
12 Sept^r 1779.

MY LORD,

* * * *

Agreeable to your Lordship's Letter to me dated 2nd April last, and in consequence of Petitions from the principal Merchants and Inhabitants I have disposed of the small Arms and Ammunition which was sent out in the Britannia Store Ship, in the following manner: viz. For the defence of Alexis River on the Coast of Labrador 200 Stand, Temple Bay 120 Stand, and Chatteau 80 Stand, with a proportionable quantity of Ammunition. The Cannon I have not been able to send to them, and no Vessel, or party has yet applied to me to receive and carry them away. . . .

* * * *

(Signed) R. EDWARDS.

Endorsed: St. John's, Newfoundland,
12th Sept^r 1779. Governor Edwards.

R. 12th Oct^r.

(2 Inclosure.)

No. 319.

**CAPTAIN CARTWRIGHT'S APPLICATION FOR A
GRANT AT TOUKTOKE BAY (HAMILTON INLET).**

PRIVY COUNCIL E, pp. 148, 305.

Thursday, 20th March, 1788.

Present:

His Excellency The Right Honourable Guy, Lord Dorchester,
Governor.The Honourable, Henry Hope Esquire Lieutenant Governor.
William Smith Esquire, Chief Justice.20 March,
1788.Captain Cartwright's
application.

Hugh Finlay

Thomas Dunn

Edwd. Harrison

John Collins

Adam Mabane

J. G. C. De Lery

George Pownall

Picotté De

Bellestre

John Fraser

Henry Caldwell

William Grant

Paul Roc De St. Ours

Francis Baby

Jos. De Longueuil Esquire

Sir John Johnson Bart.

Chas. De La Naudiere

René Am. Boucherville

Le Cte. Dupré—Esquires

24 May,
1788.Captain Cartwright's
application for
Touktoke Bay.

The Report of the Committee on Captain Cartwright's application, for a Grant at Touktoke Bay on the Coast of La Bradore, and an exclusive privilege of fishing in that Bay, with the translation, again read; Ordered—that it be referred to the consideration of the whole Council in Committee, to report upon with all convenient speed.

24th May, 1788.

The Report of the Committee of the whole Council to whom was referred The Report of the Special Committee upon Captain Cartwright's application for the exclusive Property of Touktoke Bay, on the Coast of Labrador, and for a Grant of Lands there; read as follows, viz.:—

To His Excellency The Right Honourable Guy Lord Dorchester, Captain General & Governor in chief of the Colonies of Quebec, Nova Scotia & New Brunswick and their dependencies; Vice-Admiral of the same; General and Commander in chief of all His Majesty's forces in the said Colonies and the Island of New Foundland, &c. &c. &c.

Report of the whole Council, in Committee, to whom by Your Excellency's order in Council of the 20th of March last, was referred. The Report of the Special Committee upon Captain Cartwright's application for the exclusive property of Touktoke bay, on the Labrador Coast, for the purpose of a Fishery, and for a Grant of Lands there. The Committee met, at the Council Chamber Thursday the 3d of April 1788.

Present:

The Honourable Henry Hope Esquire Lieut. Governor.

William Smith Esquire Chief Justice.

Edward Harrison	Paul Roc De St. Ours
John Collins	Francis Baby
Adam Mabane	Jos. De Longueuil
J. G. C. De Lery	George Davison—Esquires
George Pownall	Sir John Johnson Bart.
Picotte De Bellestre	Chas. De La Naudiere
John Fraser	René Am. De Boucherville
Henry Caldwell	&
William Grant	Le Cte. Dupré—Esquires.

His Honour The Lieut. Governor in the Chair.

The Report of the special Committee was read in both Languages, by the Clerks.

The 36th Article of His Majesty's Instructions to Your Lordship dated at St. James's the 23d. of August 1786 with a translation was read, whereof follows a Copy:—

“On all such parts of the Coast where there are no Canadian possessions, and more especially where a valuable Cod-fishery may be carried on, it will be your duty to make the interest of our British Subjects going out to fish there, in Ships fitted out from Great Britain, the first object of your care, and as far as circumstances will admit to establish on that Coast the regulations in favour of British Fishing ships which have been so wisely adopted by the Act of Parliament passed in the Reign of King William the Third, for the encouragement of the Newfoundland fishery; and you are on no account to allow any possession to be taken, or Sedentary fisheries to be Established, upon any parts of the Coast, that are not already private property, by any persons whatsoever, except only such as shall produce annually a Certificate of their having fitted out from some port in Great Britain.”

And Your Excellency's order of Reference to the Special Committee dated the 25th of June 1787, read in the following words, viz:—

“25th June 1787.

“His Excellency communicated to the Council a letter from Lord Sydney, dated Whitehall 5th April 1787 concerning Captain Cartwright's

application for a Grant, and the exclusive property of Touktoke bay, on the Labrador Coast, for the purpose of a fishery, with several other papers upon that subject;— Referred to the Committee named the 31st of May for the Fisheries.“

The Lieutenant Governor proceeded to read over, a second time, the Report of the special Committee, by paragraphs. The first part read in the words following:—

“At a Committee of Council appointed to consider the Subject of the Fisheries in the Province, and to whom was referred sundry papers, transmitted by Lord Sydney one of His Majesty's principal Secretaries of State, relative to an application made by Captain Cartwright for a Grant in Sandwich-bay and for the exclusive property of Touktoke-bay, both on the Coast of Labradore.

“Present:

“Messieurs Finlay
Dunn
Harrison, Pownall,
Grant
Baby &
Dupré

“Who beg leave to report to His Excellency The Right Honourable Lord Dorchester,

“That they have attentively perused the papers referred to them, and beg permission to lay before Your Lordship, a concise sketch of Captn. Cartwright's case, taken from his own statement.”

In the year 1770 he embarked in England, and sailed for Charles-River on the Coast of Labrador, on a scheme to prosecute very extensive fisheries on that shore.

In 1771 he established a Seal-Fishery at Cape Charles, a Salmon Fishery in Charles River, and Cod Fishery round Charles Harbour. He explored a considerable extent of Coast in order to discover the Scites for Sedentary fisheries, and with a view to secure a friendly intercourse with the Esquimaux Indians.

He exerted himself by every means in his power, for thirteen years, to improve the fisheries on the Labrador Coast; but tho' his unwearied endeavours benefited the Mother Country they ended in *his* ruin; for after struggling with unforeseen crosses, he and those concerned with him, sunk upwards of £20,000. He represents that repeated Shipwrecks, Depredations of the Enemy, Fire, and the Manouvres of Messrs. Noble & Pinson (sedentary Fishers on that Coast) obliged him to abandon Labrador, and on his return to England he was made a Bankrupt.

He sets forth that the discoveries he made, extended the Fisheries on that coast for more than seventy leagues, and that by his success in gaining the confidence of the Esquimaux, and in bringing about a friendly intercourse between that Nation and the Mountaineers—the fur trade is greatly increased, and the King's Subjects frequenting that Coast, now pursue their business unmolested by the Natives.

Captain Cartwright seems to think that he is intitled to some recompence for the advantages he has procured to the Mother Country, and he wishes to have it in his power to look for a fortune on that Coast where he lost one, and with that intent he prays for a Grant in Sandwich bay which Noble & Pinson now possess, notwithstanding 'twas he who first Established a Seal fishery there. He says it would be but rendering him bare justice, and a merited punishment of that House for their reprehensible conduct towards him; and he further prays to have the Exclusive right to Touktoke-bay with all the Islands there in lying, and a tract of Land running half a mile back from high water mark, all round the Bay; his sole view in praying for this Grant is to carry on the seal Fishery, and a Trade with the friendly Indians, who reside chiefly in that bay. He pretends that if they are left open to the inroads of petty Adventurers, these people will be totally undone by getting nought in Exchange for their commodities but Rum, whilst they stand in need of coarse cloth, blankets, and other English manufactures.

Lord Sydney's Letter of the 5th of April last, notes that His Lordship would be very glad to favour Captain Cartwright's wishes, if it could be done without affecting the property of other people.

The Lieutenant Governor after having read the foregoing part of the Report of the special Committee, proceeded to read the following paragraph,

It is to be presumed that though Captain Cartwright may have been the first to establish a Seal-fishery in Sandwich-bay, Noble & Pinson could not have set themselves down there, whilst Capt. Cartwright occupied it, according to the rules established for regulating the Fisheries on that Coast.

The Question was put “Whether this Committee concur in opinion with the special Committee on the foregoing clause, or not?”— Debates arose—It was carried in the affirmative by 16 Ayes agst. 2 Naves.

COLONEL CALDWELL

and

Mr. JUDGE MABANE in the Negative.

The Lieutenant Governor then read the next paragraph in the words following,

“From the want of Information respecting the local

situation of Touktoke-bay, the Committee cannot with any accuracy ascertain whether the Canadian Grants extend so far, but they have understood that Cape Charles is the furthest establishment for the fishery of Seals, made under the antient Government. The Committee conceive from the Circumstances related in Captain Cartwright's case, of Canadians

p. 1182

having wintered in Touktoke-bay in 1785 and 1786, and of two Englishmen having been there in great distress, that it is an inlet of the Sea ten leagues deep, within the great Esquimaux bay, far North of Cape Charles, where a Canadian Crew, fitted out from hence, actually did winter, and where two Englishmen were cast on shore and suffered great hardship.

The Question of concurrence was put on this paragraph, and it was carried unanimously in the affirmative.

The Lieutenant Governor read the following paragraph.

“By the 36th Article of His Majesty's Instructions to Your Lordship bearing date the 23rd of August 1785, the Committee find that possession is not to be taken or sedentary fisheries established, on any parts of the Coast of Labrador, except by such as shall produce a Certificate of their having fitted out from some port in Great Britain.”

Then the Lieutenant Governor proceeded to read the following paragraph,

“The Committee therefore humbly conceive that if it shall be Your Excellency's desire to grant Captain Cartwright's prayer for the Touktoke fishery, with an extent of Land half a mile in depth from High-water mark all around the Bay, with its Islands, the Possessor, whilst the 36th Article of His Majesty's Instructions is in force, could not exclude Adventurers fitted out in Britain from establishing fisheries in such parts of the Bay as might remain unoccupied by him, notwithstanding any grant of the shore made to him.

And the Question of concurrence was put thereon. It was carried unanimously in the Negative, without a division.

The Lieutenant Governor read the next paragraph in the following words,

“It seems to the Committee that the appointment of Justices of the peace (as Captain Cartwright wishes) on that extensive Coast, where there's no civil Officer to support the authority of a Magistrate, by executing his Warrants, nor places for holding Offenders in confinement, would answer but little purpose in checking improper proceedings in that distant part of the province.

The Question of concurrence was put, and carried unanimously in the Affirmative.

The Lieutenant Governor then read the last paragraph of the Report in the words following,

They most humbly submit whether a small armed Vessel commanded by an officer of Your Excellency's appointment, and in the Commission of the peace, might not be of service in cruising along that Coast, visiting each

fishing post frequently in the course of the summer, punishing small offences according to Law, and bring up all atrocious Offenders in the Fall to be tried. And this mode might be followed until a better could be adopted for regulating the affairs of that Coast. At present the Committee are not sufficiently informed of the situation of things in that quarter to qualify them to propose a better plan than this temporary expedient, which would in the mean time shew the Fishermen and others, that Offenders will not escape unpunished.

Council Chamber } The question of concurrence was put,
24 May, 1788. } and carried unanimously in the
Negative adjourned, May 1st.

[1791(?)] The same Members except the Chief Justice, Judge Fraser and Sir John Johnson met & humbly submit the above to Your Excellency's consideration.

By order of the Committee
(signed) HENRY HOPE Lt. Govr. & Chairman.

No. 320.

N

**EXTRACT FROM REPORT INCLOSED IN A LETTER
WRITTEN BY ADAM LYMBURNER, QUEBEC AGENT
IN LONDON, TO THE RT. HON. HENRY DUNDAS.**

C.O. RECORDS 42/88, pp. 139/45.

It would be extremely necessary to have an armed schooner about 100 Tons Burthen stationed in the Gulph of St Lawrence to protect the fisheries from the depredations of the Americans—this Vessel should be entirely under the direction of the Governor of Lower Canada—and the Master have the powers of a Justice of the Peace

* * * * *

The Labrador Coast has been under the Government of Quebec since the year 1775. A Superintendant of that Coast was appointed in 1778, but neither the Governor of that Province nor the Superintendant have had it in their power to make or enforce a single regulation or rule for that Coast as they had no Vessel under their direction to carry the Persons necessary to see their orders properly put into execution.

Endorsed: In M^r LYMBURNER'S of the 1 July 1791.

[19 August,
1791.]**REPORT ON THE PROPOSED LINE OF DIVISION.**

PRIVY COUNCIL RECORDS 2/136, pp. 304-305.

19 August, 1791.

At the Council Chamber, Whitehall,

Quebec.

Report of the Lords of the Committee of Council for dividing the Province of Quebec into two distinct provinces, by separating the Province of Upper Canada and the Province of Lower Canada according to the line of Division presented to Parliament, as follows:—

THE PROPOSED LINE OF DIVISION.

“To commence at a stone boundary at the North side of the Lake St. Francis at the cove west of Pointe au Bodet in the limit between the Township of Lancaster and the seigneurie of New Longuevil running along the said limit in the direction of North thirty-four degrees West to the westward angle of the said seigneurie of New Longuevil, thence along the North Western boundary of the seigneurie of Vaudreuil running North twenty-five degrees, East, until it strikes the Ottawas River, to ascend the said river into the Lake Tomiscanning and from the head of the said Lake by a line drawn due North until it strikes the boundary line of Hudsons Bay, including all the territory to the Westward and Southward of the said line to the utmost extent of the country commonly called or known by the name of Canada.”

[Circa
1792.]**PROCEEDINGS OF THE COMMITTEE OF THE
HOUSE OF COMMONS.**

COLONIAL OFFICE RECORDS 325/7.

Undated, Circa 1792.

The Committee appointed to enquire into the state of the Trade to Newfoundland, and to report the same, as it shall appear to them, to the House; and who were empowered to report their proceedings, from time to time, to the House;

* * * *

John Reeves Esqre., Chief Justice of the Island of Newfoundland being called on was asked if he had any information to give to the Committee respecting the government and the administration of justice of the Island of Newfoundland. He desired to be permitted to deliver in the following paper of remarks.

* * * *

Another point to which I beg leave to draw the attention of the Committee is the perfect condition of those who carry on the fishery on the coast of Labrador. Although this is not within the commission of the Governor of Newfoundland, yet it so happens that he is the only person who is in the way of knowing anything about it. The ship which is sent round the French limits never fails of looking in on some part of the Labrador coast; and it appears from the representations of the captains who command those ships, that there is great need of some authority to interpose, and see justice done between master and servant, at least as much need as there ever was at Newfoundland. The employment and relation of persons is the same; the abuses and grievances are the same; amongst these is that old one of keeping servants on the coast from year to year; all which is more uniform and insurmountable, in proportion as the merchants are few, and can therefore combine to keep all their people in a more absolute state of dependence.

The coast of Labrador is under the government of Canada; but the influence it feels from a center so far removed is very small; in truth, there is no government whatsoever on the coast of Labrador, as I am informed by those who have been there.

This coast was, after the Peace 1763, put under the Governor of Newfoundland, it being very properly thought that, as a fishery, it would make a natural appendage to this government. But the Governor, having set about

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applying to the seal fishery on that coast the system of laws made for Newfoundland, which upon consideration, were

thought not adapted to the fishery on that coast; it was judged proper to disjoin it from the Newfoundland government; and this was accordingly done by Stat, 14 Geo. III. for new modelling the Government of Quebec; and in the same Act, power was given to His Majesty to re-annex it again to the government of Newfoundland, when he should so please.

It may perhaps be doubted, whether this was the only or best way of curing the evil; and it is very much to be wished, that this measure was reconsidered, and some plan devised for affording to that deserted coast, something like the effect of a civil government.

Privy Council
Documents

Volume III
Contents

No. 323.

[4 Sept.,
1794.]

**APPOINTMENT OF FRANCIS LE MAISTRE TO BE
LIEUTENANT-GOVERNOR OF GASPE AND
INSPECTOR OF TRADE AND FISHERIES OF
LABRADOR.**

Fiat. Recorded in the Office of Enrollment at Quebec 31st day of October, 1791, in the first Register of Letters Patent and Commissions, folio 142, Geo. Pownall. I do hereby certify that the within Francis Le Maistre, Esq., personally appeared before me this day and took the oath of office of Lieut. Governor and Inspector of Trade and Fisheries in the District of Gaspe and upon the Coast of Labrador in the Province of Lower Canada and likewise took and subscribed the oath of allegiance supremacy and abjuration and made and subscribed the declaration against transubstantiation appointed in this behalf. Quebec, 25th May 1785 by virtue of Deds Protest.
(Signed)
Geo. Pownall.

(Signed) Dorchester,
Governor.

George the Third, by the Grace of God, of Great Britain, France and Ireland, King Defender of the Faith, etc.

To all to whom these, present letters may come, Greeting.

Know ye, that we have taken into our royal confidence and reposing special trust in the loyalty, integrity and ability of Francis Le Maistre, Esq., of our special grace and mere motion, have constituted and appointed and by these presents do constitute and appoint him to be Lieutenant Governor of the District of Gaspe and Inspector of Trade and Fisheries on the Coast of Labrador, in our Province of Lower Canada, in the room and place of Nicolas Coxe, Esq., lately deceased.

To have, hold, exercise and enjoy the said offices, etc., during Our Pleasure with all that rights, privileges, profits, perquisites and advantages to the same belonging or appertaining, and we hereby enjoin, require and constrain our said Francis Le Maistre that he shall obey such orders and directions as you shall from time to time receive from our Captain General and Governor in Chief of our Province of Lower Canada, or from the Lieutenant Governor or Commander in Chief of our said Province for the time being.

Witness our trusty well beloved the Rt. Hon Guy, Lord Dorchester our Captain General and Governor in Chief of our said Province and at our castle of St. Louis, in the city of Quebec, the 4th day of September in the year of our Lord one thousand seven hundred and ninety four, and of Reign the thirty fourth. (1794.)

(Signed) DORCHESTER,
Governor.

Geo. Pownall,
Secretary.

(Endorsement on back.)

Department of the Secretary of State of Canada,
Registrar's Branch, Ottawa, July 20th, 1921.

I hereby certify the within to be a true and faithful copy of
the record of the original Commission as entered in Liber "E,"
Imperial Commissions, 1791 to 1837. Folio 121.

(Signed) A. G. LEAROYD,
Acting Deputy Registrar General of Canada.

[10 Jan.,
1798.]**CAPTAIN AMBROSE CROFTON'S REPORT TO
GOVERNOR WALDEGRAVE.**

RECORD BOOK, ST. JOHN'S NEWFOUNDLAND. Volume 14, page 122.

SIR,

During my continuance in Temple Bay a large Shallop arrived from the Northward, with and belonging to a Tribe of Esquimaux Indians, consisting of six men, five women, and seven children, they were on their passage to the Harbour of Bradore, where it was their intention to remain the Winter with the English Fishermen, and to be employed in the Seal Fishery. They had been so provident as to bring with them some Oil and Whalebone, to barter for English Provisions and necessaries, which they are now very partial to, preferring European Cloathing to the Seal Skin dresses they formerly appear'd in, and are now so much civilised as to abhor raw meat and always dress their victuals in a very decent manner, having several cooking utensils with them. They have likewise laid aside the Bow and Arrow for Musquets & are excellent Marksmen.

The devastation committed by the French Ships in this Place, I suppose has discouraged the original Proprietors, Messrs. Pynsant and Noble, from carrying on Trade with any Spirit, having only one Shallop fishing here this Summer, which has discouraged the Indian Trade, as those People now require cloathing, Biscuit, Powder & Shot, &c. and from their present deportment, it's most probable that in future they will become a very great acquisition to our Commerce. I am sorry to observe that want of knowledge of their language, and their short stay, prevented my obtaining all the information respecting them that I wish'd, but am confident they are Numerous, being not less than Four Thousand along the Coast to the Southward of the Moravian or Unitas Fratrum Settlement, of whom they seem not to have any knowledge. Mr. Noble's Agent who resided here the three last winters, has not seen more than twenty Esquimaux Indians at one time at that Place. He says they form themselves into small Tribes under the Control of a Chief of their own choosing, to whom the most implicit obedience is paid, and are strictly honest and well behaved, which I had an opportunity of observing, having the whole Tribe to visit me twice on Board the Pluto, and sent them on Shore much pleased with their reception.

I likewise beg leave to make known to you that the Esquimaux Indians are more inclined to pursue Commerce at a greater distance than any others that I have met with, not being particularly partial to their own Country, as the first object is to

obtain a large Shallop sufficient to transport not less than six men with their Wives and Children. The one that I met with had six Canoes hoisted in, and for those Shallops they pay a considerable amount in Oil, Whalebone and Furs. A Merchant from Quebec who has a small settlement about seventy leagues to the Northward of Temple Bay, has

p. 1190

hitherto been the principal supplier but from the great alteration I have observed in the Esquimaux Indians since I met them twenty years ago, it's probable in a short time they will navigate the Coast in Vessels of their own construction, as I discovered in their Shallop, Carpenter and Shipwrights Tools of all discriptions. Before I conclude my observations respecting the Coast of Labradore, I think it proper to acquaint you that Vessels from the United States of America have arrived here every Year since the Treaty of Peace, with that country and as there has been no Ship hitherto appointed to attend their Motions, it's most probable they take every opportunity of Trading with the Indians. I have likewise heard that they have interrupted the British in the Salmon Fishery, having placed their Nets in Rivers which our Fishermen consider contrary to Treaty, Harbours, Bays and Creeks being particularly specified, Rivers not being mentioned.

It will therefore be satisfactory to have the Right of Fishing in Rivers more fully explain'd as reference will be made to the first Officer that happens to be on the spot during the time of catching Salmon, which was finish'd before my arrival on the Coast of Labradore, and the American vessels departed.

Having caused the British Colours to be hoisted and formally retaken possession of the Coast in His Majesty's Name, and obtained every information in my power respecting the state of the fishery's along the Coast of Labradore (Viz No. 3 which I had the honor of sending you at St. John's) I took advantage of the first Easterly wind on the 25th August, and passed through the Streights of Bellisle close along the Labradore Shore, as far as the Esquimaux Islands, without meeting any particular circumstance & then cross'd over to Point Rich on the Island of Newfoundland, look'd into the Bay of Ingornactroix & from thence close along shore to the Bay of Isles, without meeting any appearance of Inhabitants.

* * * *

The 5th Article which relates to the Americans fishing at Newfoundland, seems not perfectly understood with respect to the Salmon Fishery, as on the Coast of Labradore and most parts of Newfoundland those Fish are caught in Rivers, where I have been informed the Americans have placed their Nets, although Coasts and Bays and Creeks are particularly mentioned which excludes them from the Salmon Fishery, therefore the Officer that may be employed on that Coast must expect reference made to him.

Having mentioned the state of the Magdaline Islands in the

preceding part of this Narrative, it will be unnecessary saying anything on that head.

The 6th Article particularly specifying the Coast of Labradore, has been in a great measure reply'd to, have only to observe that from its great extent there are sufficient and convenient situations for many adventurers, and I hope that the state of the Esquimaux Indians may be greater inducement to trade on that Coast than formerly. I am sorry to observe that the British have not attempted a Whale Fishery, although the Americans constantly send Vessels to Hermitage Bay, Newfoundland, and this year two small Schooners from Boston between the 11th May and 7th of August, killed

p. 1191

nineteen Whales which produced 374 Barrels of Oil. The Crew did not receive Wages, were on shares, and provided their own Provisions.

My reply to the 19th Article is, that it has been a constant practice, for the last four years, and I believe long before that time to sell, Mortgage and Lease Houses, Lands, &c. in all parts of Newfoundland, particularly at St. John's, where Public Notice is frequently given of such proceedings, and even from the Supreme Court of Judicature, the High Sherriff has received Instructions to sell Houses &c. when the defendant was not otherways able to pay. In short landed Property in Newfoundland is now considered as valuable there, as in any part of England, and the Rents are no where now regularly paid, but should an investigation take place with respect to the landed property & Houses, it would be very difficult for many of the Proprietors to prove a Title.

When I was at the Coast of Labradore, I made enquiry concerning the Society of Unitas Fratram, but could not receive any information respecting them, therefore conclude their Settlement is farther North, than were Messrs. Noble & Pysant have any trade, but apprehend information respecting them may be obtained in London.

Having reply'd to the several Articles of Instructions in succession, it only remains for me to speak more fully to the latter part of the 17th Article, which require that I should consider and make report of such measures as it may be proper to pursue for the prosperity of the Trade and Fishery, which in my opinion now becomes a very difficult task.

The Island of Newfoundland having more the appearance of a Colony than a Fishery, from the great number of People that have annually imperceptibly remain'd the Winter, who now have Houses, land and Families, it's true those people are employed in the Fishery, but so much attach'd to Newfoundland, that it's with the greatest difficulty a few of them can be persuaded to make a voyage to Market, even in a Vessel belonging to the Island, and the population of this Island has rapidly increased, that in a few years an extensive Fishery may be carried on there by the Inhabitants alone, without receiving annual supplies of Men from England and

Ireland, as heretofore. This Idea certainly makes landed property so desirable, and consequently the great object of being a Nursery for Seamen, and having an opportunity of making use of those Men during War, is totally frustrated by the fishermen remaining at Newfoundland the Winter, who are now so numerous, that it would be a serious and difficult task to dispossess them. This great evil has arisen from the land being cultivated and Houses suffered to be built.

Sir,

Your most obedient and most humble Servant,

To

(Signed) AMB.

CROFTON.

The Hon. Wm. Waldegrave,
Vice Admiral of the Blue,
Commander in Chief, &c., &c.,
at Newfoundland.

No. 325.

[6 April,
1802.]**LORDS COMMISSIONERS OF THE ADMIRALTY TO
LORD PELHAM.**

C.O. RECORDS 194/43.

Admiralty Office 6th April 1802.

MY LORD,

Having appointed James Gambier Esq^r Vice Admiral of the White, to be Commander in Chief of His Majesty's Ships and Vessels employed and to be employed at and about Newfoundland, the Islands of Madelaine and Anticosti, and upon the Coast of Labrador, from the River S^t John to the entrance of Hudson's Straits, in the room of Vice Admiral Sir Charles Morice Pole, Bar^t, We desire your Lordship will please to obtain His Majesty's Commission for him to be Governor of Newfoundland &c. in the same manner as hath been granted to former Commanders in Chief upon that Station, and also to signify to Us His Majesty's pleasure whether the Instructions that are preparing for Vice Admiral Gambier, should in any respect be altered from those under which Vice Admiral Sir Charles Morice Pole sailed last Year.

Signed. CH^R STEPHENS
T. TROUBRIDGE
MARKHAM

Endorsed: Admiralty 6th April 1802.

The Lords Commissioners apply for
Commission for Gov^r of Nfdld for
Vice Ad^l Gambier.

[18 Feb.
1805.]

**ALEXANDER FORBES TO BE LIEUTENANT-
GOVERNOR OF GASPE AND INSPECTOR OF TRADE
AND FISHERIES OF LABRADOR.**

Commission to
Alexander Forbes,
Esq., to be Lieut.
Governor, etc. Fiat.
Recorded in the
Office of Enrollment
at Quebec, the 31st
Day of May 1809, in
the first Register of
Commissions from
His Majesty.

p. 121.
(Signed)
John Taylor,
Deputy Register.

(Signed) George Rex.

George the Third, by the Grace of God, of the United
Kingdom,
of Great Britain and Ireland, King, Defender of the Faith.

To our Trusty and well beloved Alexander Forbes, Esq.,
Greeting.

We reposing especial trust and confidence in your loyalty,
integrity and ability, do by these presents constitute and
appoint you to be Lieutentant Governor of the District of
Gaspe and Inspector of the Trade and Fisheries upon the coast
of Labrador in our Province of Lower Canada, in the room of
Francis Le Maistre, Esq., deceased.

To have, hold, exercise and enjoy the same during our
Pleasure, with all the rights, privileges, profits, perquisites, and
advantages to the same belonging or appertaining and you are
to obey such orders and directions as you shall from time to
time receive from our Captain General and Governor in Chief
of our Province of Lower Canada or from the Lieutentant
Governor or Commander in Chief of our said Province for the
time being.

Given at our Court of St. James's in the eighteenth day of
February, one thousand eight hundred and five, in the forty-
fifth year of our region.

By His Majesty's Command,
(Signed) CAMDEN.

Commision to Alexander Forbes, Esq.,
Department of the Secretary of State of Canada,
Registrar's Branch, Ottawa, 20th July, 1921.

I hereby certify the within to be a true and faithful copy of
the record of the original Commission as entered in Liber "E"
Imperial Commissions, 1791 to 1837, Vol. I., Folio 121.

Signed. A. G. LEAROYD.

[9 Sept.
1807.]H.M. Ship
Topaze.**GOVERNOR HOLLOWAY TO LORD CASTLEREAGH,**

SUGGESTING RE-ANNEXATION TO NEWFOUNDLAND.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 19, page 197.

Fort Townshend, 9th Sept. 1807.

MY LORD,

By His Majesty's Ship Topaze I have the honour to relate to Your Lordship a circumstance which I feel of importance for Your Lordship's consideration.

The Americans that fish on the coast of Labrador having long since been suspected (and upon good information) of carrying great quantities of Provisions as well as other contraband Articles, which they sell and barter to the British Merchants who with great facility tranship them in small quantities to this Island.

It has been usual for the Commander in Chief of Newfoundland to send Vessels to the Coast of Labrador, not only to protect His Majesty's Subjects, but the Commanders also have orders, to prevent any illicit Trade between them and other Powers.

The Adonis Cutter Lieutenant McKillop, a few days since detained two American Vessels upon correct information, of their having sold and bartered a great quantity of Provisions and other Articles, and had laden with Fish, not caught or cured by the people of the United States: they are sent here for adjudication where it is alledged they cannot be tried as the Offence was committed without the Jurisdiction of this Government, if they are liberated it will be giving great encouragement to the Americans to pursue this system which must prove highly injurious to this Majesty's Commercial Interest. It is impracticable at this Season of the year to send Vessels to Quebec and it would also be attended with great inconvenience in the event of liberation from the situation of that Port.

The Coast of Labrador was formerly annexed to this Government, and, I understand by my Papers from the Admiralty was removed to Quebec on account of a few Grants to Individuals, which extend but to a small District. I therefore humbly beg leave to suggest to Your Lordship the advantage which will arise to His Majesty's Government by annexing the Coast of Labrador to this Command as the most effectual mode of suppressing this Illicit Trade which otherwise will prove a great evil to the Trade of Great Britain.

I have the honor to be,
My Lord,

Your Lordship's most obedient humble servant,

J. HOLLOWAY.

The Right Honorable Viscount Castlereagh.

No. 328.

[26 Sept.
1807.]

**J. WILLIAMS AND H. J. PHILLIPS TO GOVERNOR
HOLLOWAY,**

RE SEIZURE OF SCHOONER "MALINDA," CHARGED WITH BREACH OF
NAVIGATION LAWS.

RECORD BOOK, ST. JOHN'S, NFLD. Vol. 19, p. 124.

St. John's, 26th Sept. 1807.

SIR,

We beg to leave to inform Your Excellency that Lieut. John McKillop of His Majesty's Cutter Adonis has seized at Labrador and brought into this Port the Schooner Malinda belonging to Hampden in the United States of America laden with Green Fish charged with a breach of the Navigation Laws.

The Fish being in a perishable state and no judicial proceeding to be obtained in this Island, we beg your Excellency's permission for the landing thereof.

We have the honor to be
Your Excellency's
most obedient humble servants,

J. WILLIAMS Agent for Seizg. Officer,
H. J. PHILLIPS Agent for the Owner.

His Excellency Vice Admiral Holloway.
&c &c &c.

No. 329.

[18 Nov.
1808.]**GOVERNOR HOLLOWAY TO LORD CASTLEREAGH.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 20, page 113.

Isis at Spithead,
18th Nov. 1808.

MY LORD,

Having this Year had more time to examine and reflect on the Observations made by my two Predecessors, together with the pointed Remarks made by the Lords of Privy Council on the subject of the State of Newfoundland, which were communicated to me on my appointment to that Government, I cannot but lament that it was ever recommended to His Majesty's Ministers by my Predecessors to grant Leases of Land on that Island: it was striking at the Root of the Law which had for so many Years regulated this Fishery as a Nursery for Seamen, and meant to discountenance Residency; the great and improper Increase of which tends to Colonization; it likewise gives the Inhabitants a kind of Sanction, to claim from Occupancy, Lands that are no longer used for the Fishery, for which purpose alone they received their Grants from the different Governors, agreeably to His Majesty's Instructions; consequently can have no legal Right to sell, mortgage, lease and transfer, as is now become a daily Practice. This subject requires most serious Consideration, and I shall be happy to meet their Lordships on it whenever it may suit their Conveniency.—This Island is utterly incapable of raising sufficient Food for its own Consumption, and the Inhabitants will most probably look where they ought not for Supplies. I have read with great Attention the Remarks made on my Predecessors' Observations, by the Lords of Council for Trade and Foreign Plantations, and am fully convinced that they are perfectly correct in their Opinion whenever the Ancient System is departed from and Colonization encouraged.

* * * *

If it is their Lordships' intention (and I am every day more and more convinced of its propriety,) to annex the Coast of Labrador to the Government of Newfoundland, as heretofore, it will be necessary to include it in the new Judicature Act.—At present the most atrocious Deeds may be committed, and the

Lease Money.

Offenders go unpunished, Irregularities being constantly practiced; as also by the Americans who frequent that Coast, which I have no Authority to take Cognizance of, although only to be detected by my Cruizers; Quebec being too remote for the Establishment of any Civil or other Authority.—The number of Vessels from the United States frequenting or

Coasts of Newfoundland and Labrador, have been but few in comparison with former Years; the number this Year not having exceeded two or three hundred.

* * * *

I have paid out of the Lease Money the several sums as directed by Your Lordship's letter dated 10th June last, and a stated Account with Copy of the said Letter is herewith annexed in Appendix C, several Persons are in Arrear for Lease Rents alluding that they have not yet inclosed the Ground, which till done is a Plea for non payment, such an Excuse having been accepted by my Predecessor.—How far this may be allowable, and what steps should be taken, I have for Your Lordship's Decision, and further Instructions thereon.

I have the honor to be, My Lord,

Your Lordship's most obedient humble servant,

J. HOLLOWAY.

The Right Honorable

Viscount Castlereagh, &c &c &c.

No. 330.

[20 Jan.
1809.]**HOLLOWAY TO COTTRELL.**

ENCLOSING PAPERS RE SEIZURE OF AMERICAN SCHOONER "MALINDA."

RECORD BOOK, ST. JOHN'S, Nfld. VOL. 20, page 136.

Hatchet's Hotel, 24th. Jany. 1809

SIR,

I have the honor to inclose to you a parcel of Papers from N^o 1 to N^o 8, which relate to a Seizure of an American Schooner named the Melinda, made on the Coast of Labrador by Lieut. McKillop, Commanding His Majesty's Schooner Adonis, and sent by him to St. John's for adjudication; but the Vice Admiralty Court there, not having Jurisdiction over the Coast of Labrador, the Vessel alluded to has lain ever since in St. John's Harbour waiting for some steps to be taken by Government in her behalf— It was too late in the Season of 1807 after her arrival at St. John's to have sent her to Quebec, and the last year she was not in a state to go with safety.— These circumstances together with the accompanying Papers will shew that this Seizure was a proper Detection of an illicit Trade carried on at Labrador, and that the steps pursued by the Captors were proper, who had no Means or Alternative of bringing this Business to a legal Decision.

I therefore have to solicit their Lordships that the whole of these Papers may be laid before Sir William Scott, that he may see the hardship of the case, and decide thereon accordingly, in order that the Captors might be exonerated from any Consequences that might be incurred by this unavoidable Delay.

I have the honor to be

Sir,

Your most obedient humble servant,

J. HOLLOWAY.

Sir Stephen Cottrell K^t,
&c &c &c.

No. 331.

[11 May,
1809.]**HOLLOWAY TO COTTRELL.**INQUIRY FOR SIR WM. SCOTT'S OPINION RE SEIZURE OF THE AMERICAN
SCHOONER "MALINDA."

RECORD BOOK, ST. JOHN'S, Nfld. VOL. 20, page 152.

Durant's Hotel, Albemarl St.,
Piccadilly, 11th May 1809.

SIR,

I had the honor of enclosing in a letter to you the 24th Jany. last a "parcel of Papers from N^o 1 to N^o 8, which relate to a seizure of an American Schooner named the Melinda made on the Coast of Labrador by Lieut McKillop, Commanding His Maj's Schooner Adonis, and sent by him to St. John's for adjudication, but the Vice Admiralty Court there not having Jurisdiction over the Coast of Labrador, the Vessel alluded to has lain ever since in St. John's Harbour waiting for some steps to be taken by Government in her behalf. It was too late in the Season of 1807 after her arrival at St. John's to have sent her to Quebec, and the last Year the said Vessel was not in a state to go thither with safety— These circumstances together with the aforementioned Papers will shew that the Seizure was a proper detection of illicit Trade carrying on at Labrador, and that the steps pursued by the Captors were proper, who had no other means or alternative of bringing this business to a legal Decision, in which Letter I solicited you to move their Lordship's to direct that these Papers might be laid before Sir Wm. Scott for him to decide on the hardship of the case, in order that the Captors may be exonerated from any Consequences that might possibly accrue from this unavoidable delay. And beg leave to know before I sail for Newfoundland, the result of Sir Wm. Scott's opinion.

I have the honor to be,

Sir,

Your most obedient humble servant,

J. HOLLOWAY.

Sir Stephen Cottrell Knt,
&c &c &c.

No. 332.

[18 July,
1809.]**GOVERNOR HOLLOWAY TO GOVERNOR-GENERAL
OF LOWER CANADA.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 20, page 162.

Fort Townshend, St. John's,
Newfoundland,
18th July, 1809.

SIR,

I have the honor to enclose for your Excellency's Information, an Act past this last Session of Parliament, for re-annexing the Coast of Labrador to the Government of Newfoundland, which in the Year — was annexed to Canada on Account of some Grants of Lands given by Lord Dorchester to a few Canadians; Your Excellency may assure the Possessors of those Grants, that they will not be interrupted in this quiet Enjoyment of them.

A new Commission is made out for the Judge of the Vice Admiralty Court at Quebec, excluding that part of the Coast of Labrador now annexed to Newfoundland as mentioned in the said Act.

I have the honor to be, Sir,
Your most obedient humble servant,
J. HOLLOWAY.

His Excellency

Lieut.-General Sir J. H. Craig, K.B.,
Governor General & Commander in Chief, &c., &c., &c.
Quebec, Canada.

Privy Council
Documents

Volume III
Contents

No. 333.

[23 Sept., 1813.]

To R. Alsop, Jr.,
in reply Labrador
Fishries.

**GOVERNOR KEATS TO R. ALSOP, JR.,
ACKNOWLEDGING MEMORIAL AND GRANTING
PRAYER OF SAME.**

RECORD BOOK, ST. JOHN'S, NFD. Volume 24, p. 408.

Fort Townshend, Saint John's, Newfoundland,
23rd September, 1813.

SIR,

I have received your Memorial of this day stating the inconvenience and injury to which your connections have been formerly exposed by the Irregularities of which you complain and praying that I will grant such authority as may seem to me necessary to enable you to build without being subject to insult or to be dispossessed of your buildings—In reply to which I inform you that conformable to the tenor of His Majesty's instructions No person is allowed to take possession as private property of any part of the Coast of Labrador where there are no Canadian possessions nor to form any sedentary establishments thereon, except only such as shall produce annually a certificate of their having fitted out from some Port of Great Britain, conformably to the Act of the 10 and 11th of William the third. Being so qualified, you are authorized and privileged to erect Stages and other conveniences for the Fishery, on any vacant part of that Coast, which cannot be proved to be private property, and to continue in possession of the same so long as you shall continue to carry on the Fishery thereon and if any person shall exact from you any rent for an unoccupied spot, to which he can produce no title he will have acted contrary to Law.

* * * *

I am, Sir,

Your most obedient servt.,

R. G. KEATS.

Mr. John Alsop. Junr.,
St. John's.

[16 Aug.
1815]**REGISTRATION OF GRANT OF LAND.**

Regd. 16 August, 1815.

**REGISTRY OF DEEDS AND COMPANIES, SUPREME
COURT, ST. JOHN'S, NEWFOUNDLAND.**VOLUME 8, LABELLED "MISCELLANEOUS DEEDS, 1813 TO 1815, p.
504.

Be it remembered that on the sixteenth day of August One thousand eight hundred and fifteen, The Honorable Caesar Colclough Chief Justice of the Island of Newfoundland, Etc., etc., here recordeth, that on this day came Mr. James Milledge, of Saint John's, Newfoundland, Merchant, and brought certain instruments of writing which he prayed might be recorded in His Majesty's Supreme Court Newfoundland, and they are recorded in these words, vizt:—

This Indenture made the fifth day of April in the year of Our Lord one thousand eight hundred and fifteen, Between Thomas Slade of the Town and County of Poole, Merchant of the one part and John Slade of the same place, merchant of the other part. Witnesseth that the said Thomas Slade in consideration of the sum of Five shillings of lawful British money to him in hand paid by the said John Slade, at or before the Execution hereof the receipt whereof is hereby acknowledged. Hath granted, bargained and sold and by these presents, Doth grant, bargain, and sell unto the said John Slade All that his, the said Thomas Slades one undivided Moiety or half part and all other his the said Thomas Slades right, title and interest of in and to All those fishing Rooms, Messuages, or Dwelling houses, plantations, storehouses, flakes, stages, wharves, buildings, beaches, lands and premises, situate, lying and being at or near Twillingate in the Island of Newfoundland, and Battle Harbour on the Coast of Labrador in North America commonly called or known by the name of Slade Rooms and premises and now in the occupation of the said John Slade and Thomas Slade. And also of and in all rivers waters, banks, fishing, woods, rights of pasturage and other rights and privileges thereto respectively belonging and appertaining or to or with the same or any part or parcel thereof held, used, occupied or enjoyed or known as part, parcel, or member thereof. And also of and in all Gardens, orchards, backsides, Lands, tenements, meadows, pastures, feedings, trees, woods, ways, paths, passages, waters, fishhns,

rights, privileges, profits, advantages, hereditaments and appurtenances whatsoever to the said several fishing rooms or plantations and premises or any or either of them belonging or in any wise appertaining and to the reversion and reversions, remainder and remainders, rents, issues and profits thereof and of every part and parcel

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thereof To have and to hold the said one undivided moiety or half part and all other the Estate right and interest of the said Thomas Slade herein before granted, bargained and sold, or intended so to be of in and to the Fishing rooms, or plantations and all and singular other the hereditaments and premises herein before described or mentioned to be situate at Twillingate and Battle Harbour aforesaid and of in and to their and every of their appurtenances unto the said John Slade, his Executors, Administrators and Assigns from the day next before the date hereof for and during and unto the full end and term of one whole year from thence next ensuing and fully to be completed and ended. Yielding and paying at the expiration thereof the rent of one pepper corn only if demanded To the intente that by virtue of these presents and of the statute made for transferring uses into possession. He the said John Slade may be in the actual possession of the said Moiety and premises hereby granted, bargained and sold with their and every of their appurtenances and every part and parcel thereof and may be enabled to accept and taken a grant and release of the reversion and inheritance thereof to him, his heirs and assigns to the only proper use and behoof of him the said John Slade, his heirs and assigns for ever.

In Witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

THOS. SLADE. (L.S.)

Sealed and Delivered being first duly
stampd, in the presence of

WM. PARRE,
WM. WILLIS.

Let this instrument be recorded in His Majesty's Supreme Court, St. John's, Newfoundland, Book of Inrollments, D.D. pages 504, 505, and 506. St. John's, Newfoundland, 16th August, 1815.

CAESAR COLCLOUGH,
Chief Justice.

Those are to certify that the above and the two preceding pages, is a true and correct copy of the original in every particular having carefully examined the same with the said original.

GEO. LILLEY, N.P.
JAMES BLAIKIE, J.P.

[27 May,
1816]**REGISTRATION OF SALE OF SHIPPING ROOM.**

Regd. 27 May, 1816.

**REGISTRY OF DEEDS AND COMPANIES, SUPREME
COURT, ST. JOHN'S, NEWFOUNDLAND.**VOLUME 9, LABELLED "MISCELLANEOUS DEEDS, 1815 TO 1817, p.
307.

BE IT REMEMBERED that on this twenty seventh day of May, one thousand eight hundred and sixteen, J.P. Clerk of the Supreme, Probate and Surrogate Courts Newfoundland by authority under a special Commission from the Honorable Caesar Colclough, Chief Justice, of the said Island. Here recordeth that on this day came Patrick Morris of St. John's, merchant and brought two certain Instruments of writing marked E and F, which he prayed might be Recorded in His Majesty's Supreme Court, St. John's, Newfoundland, and it is recorded in these words, viz:—

THIS INDENTURE made at St. John's, in the Island of Newfoundland, the Twenty first day of May in Fifty Sixth year of the Reign of our Sovereign Lord George the Third and in the year of our Lord, one thousand eight hundred and sixteen—Between John Nugent, of St. John's, in the Island of Newfoundland, planter of the one part and Patrick Morris of St. John's, aforesaid, merchant of the other part. WITNESSETH that the said John Nugent of and in the consideration of the sum of Fifty Pounds of lawfull money of Great Britain to him in hand will and truly paid by the said Patrick Morris the receipt thereof the said John Nugent do hereby acknowledge and thereof and of every part thereof do truly and absolutely acquit and discharge the said Patrick Morris his Executors, Administrators, and Assigns hereby have granted, bargained sold, and assigned, and by these presents do Grant, bargain, sell and assign unto him the said Patrick Morris his executors, administrators and assigns all his, the said John Nugents right, title and interest in unto a fishing room lying and being situated at the S.W. Camp Island at the Labradore, known by the name of Captain Tanners room and which room is now and has been in the occupation and possession of him, the said John Nugent, To Have and to hold the said Fishing room with all its appurtenances thereunto belonging for ever, with two fishing skiffs and two whale boats with their masts, sails, anchors, rigging, etc., and that the said Patrick Morris, his

executors, administrators, and assigns shall and lawfully may from time to time and at all times receive and take the rents and profits thereof without the let, suit, trouble, interruption or denial of him the said John Nugent, his Executors, Administrators, and Assigns, or any other Person or Persons whomsoever claiming under him

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St. John's to wit.

and have, hold use and occupy the said fishing skiffs and whale boats with all their craft and materials aforesaid, In witness whereof the parties aforesaid have set their hands and seals the day and date before written.

JOHN NUGENT (L.S.)
PATRICK MORRIS, (L.S.)

Sealed and delivered
in presence of us.

LAWRENCE WARREN.
MICHAEL MURPHY.

In the Supreme Court, St. John's, Newfoundland Michael Murphy of St. John's, aforesaid gentleman, maketh Oath and Saith that he was personally present and did see John Nugent of St. John's, planter, and also Patrick Morris, of St. John's, merchant, sign, seal and in due form of Law execute the Instrument of writing which is hereunto annexed, being bargain and sale of the said John Nugent's right, title and interest in and to a Fishing Room on the Labradore and also of two fishing skiffs and two whale Boats, for the sum of Fifty Pounds Sterling.

MICHAEL MURPHY.

Sworn at St. John's aforesaid
this 7th day of August, 1816,
before me.

JAMES BLAIKIE, J.P.

Authorised by Special Commission from the Honorable Caesar Colclough, Chief Justice, now absent from this Island.

Let this Instrument be recorded in His Majesty's Supreme Court, Saint John's, Newfoundland, Book of Inrollments, E.E. folios 307 and 308. St. John's, Newfoundland, 27th May, 1816.

JAMES BLAIKIE, J.P.

No. 336.[1 Nov.
1816.]**REGISTRATION OF BOND CHARGING FISHING
ROOM.**

Regd., 1 November, 1816.

REGISTRY OF DEEDS AND COMPANIES, SUPREME COURT, ST. JOHN'S,
NEWFOUNDLAND.
VOLUME 9, LABELLED "MISCELLANEOUS DEEDS, 1815 TO 1817, p.
514.

KNOW ALL MEN by these presents that I Thomas Connell of St. John's, in the Island of Newfoundland, planter, am held and firmly bound unto Anthony William Godfrey of St. John's, Newfoundland aforesaid merchant, in the penal sum of Three hundred pounds sterling, good and lawful money of Great Britain for the payment thereof well and truly to be made to him the said Anthony William Godfrey aforesaid. I bind myself, my heirs, executors, administrators, good; chattels and effects more especially my fishing room at Indian Tékke, Labrador, with all its appurtenances, forty hhds salt or thereabouts on said room, two fishing skiffs, two punts, one caplin seine, one herring net and firmly by these presents, sealed with my seal dated this fifth day of June in the fifty year of the reign of our Sovereign Lord George the Third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the faith and in the year of our Lord one thousand eight hundred and sixteen. WHEREAS dealings have been had and transacted between the above bounden Thomas Connell and the said Anthony Wm. Godfrey in the course of which I became indebted and do now owe to the said Anthony Wm. Godfrey the sum of Two Hundred Pounds sterling on the balance of the account now subsisting between us which I acknowledge to be just and for liquidating and paying of the same. I hereby covenant, promise and agree to pay or cause to be paid the sum of Fifty pounds sterling yearly and every year with lawful interest until the aforesaid sum of Two hundred Pounds is paid, the payments to be made on last day of September every Year in good dry merchantable codfish, oil or bills of exchange at the option of the said Anthony Wm. Godfrey./

Now the condition of the foregoing obligation is such that if the within bounden Thomas. Connell, his executors, administrators, or assigns shall on or before the above term of four years pay him the said Anthony Wm. Godfrey his heirs, executors, or assigns, this bond to be of no effect.

Signed, sealed. and delivered in presence of us the day and year above mentioned. Where stamp paper is not used.

his

THOMAS X CONNELL
mark
ANTHONY W.M. GODFREY

Present:

ROBERT ROCKETT.
JAMES WHALEN.

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NEWFOUNDLAND

James Whalen of St. John's, aforesaid gentleman maketh oath and saith, that he was present and did see Thomas Connell make his mark to and Anthony William Godfrey sign seal and in due form of law execute the within Instrument of writing, it having been previously read over and explained to the said Thomas Connell.

Sworn at St. John's aforesaid this
fourth day of June, 1817 Before

JAMES WHALEN,

JAMES BLAIKIE, J.P.

Clerk of the Supreme, Surrogate and Probate Court. No
chief Justice in this island.

Let this instrument be recorded in His Majesty's Supreme Court, St. John's, Newfoundland, Book of Inrollments EE folios 514 and 515, St. John's, 1st November, 1816.

JAMES BLAIKIE, J.P.

No chief Justice in this Island.

[circa 1818.]

**PETITION OF PHILIP BEARD AND CO. TO HIS
ROYAL HIGHNESS THE PRINCE REGENT IN
COUNCIL.**

**THE HUMBLE PETITION OF PHILIP BEARD AND CO.
OF DARTMOUTH.**

Sheweth—

That your Petitioners are proprietors of a Fishing Establishment situate at Sandwich Bay in Lat. 55 upon the Coast of Labrador.

That finding their rights envaded by transient Vessels from Nova Scotia and the United States no Kings Ships having been stationed upon that Coast for the protection of Persons who like your Petitioners have Permanent establishments there since the Summer of 1816, and that your Petitioners will therefore be obliged to abandon their establishments and Fishing Trade unless protection be afforded them.

Your Petitioners humbly beg leave to bring the subject under your Royal Highness consideration, and deeming it necessary to this end to state to your Royal Highness the origin and progress of their said Fishery at Sandwich Bay, and the grounds of their exclusive right thereto, your Petitioners most respectively beg leave to represent that by the Act 10 and 11 Wm. 3 Cap. 25 it was declared within the realm of England or the Dominions thereunto belonging to Trade and Fish freely at and about the Island of Newfoundland and the adjoining Islands and that aliens or Strangers should be excluded from such trade and Fishery.

That by the Act 49 Geo. 3, Cap. 27, Labrador was annexed to and made part of the Government of Newfoundland and remains so at present time.

That in the Year 1770 Mr. George Cartwright sailed from England and took possession of several Posts on the Coast of Labrador for the purpose of prosecuting the Cod Salmon and Seal Fisheries, and was the first Settler there.

That the said George Cartwright having contracted a friendship and resided some time with the Esquimaux Islands during which time he had several Vessels employed in the Fisheries, he ultimately settled in Sandwich Bay (the spot now occupied by your Petitioners) and built convenient Houses on

the different Rivers in the Bay, and also at its entrance for the various purposes of the Fishery.

That in order to prevent himself from interruption the said Cartwright in the Year 1772 made application to the Right Honorable the Earl of

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Dartmouth, then President of the Board of Trade, and in consequence a proclamation was issued the following Fishing Season whereof the following is a copy.

VIDE RECORDS, Vol. 5, page 167.

That protected by said proclamation Mr. Cartwright continued to enjoy the peaceable possession of His Salmon Fishery in the Rivers at Sandwich Bay, his cod fishery at the entrance thereof, and his sealing posts on the usual Coasts, strictly conforming to the stipulations of having his shipping every Season from England and returning thither at the end of it, leaving a sufficient number of Artificers and Men to protect his possessions from the Natives and to prepare necessaries of Wood and for repairing the Stages in the Spring.

That during the American War his said Settlements were plundered by the Crew of the Boston Privateer Minerva, when Mr. Cartwright's property to a large amount being carried off he was ruined and became a Bankrupt.

That upon this occasion the said Settlements at Sandwich Bay were purchased of his assignees by Messrs. Noble Pinson and Co. of Dartmouth who thereupon rebuilt the Warehouses necessary for the Fishery and continued to carry on the Fishery regularly until the Year 1811, and 1812. When the Partnership being dissolved the Settlements at Sandwich Bay were assigned to Messrs. Noble and Hunt as their part of the concern who continued the Fishery until the Year 1816, when the Establishment was sold to your Petitioners, and who have since annually carried on Fishing thereat as required by the Proclamation of the Year 1773. That in the Month of July, 1816, your Petitioner per Beard went out to Sandwich Bay with three Vessels and about 80 men, in order to prosecute the Fishery when he found that a Mr. McPherson had arrived from Nova Scotia and had taken possession of part of the Bay, and was Fishing for Salmon, and preventing the Salmon from taking the usual course to the Rivers which had been for so long a period uniformly Fished by your Petitioners predecessors. Your Petitioners also found that a Vessel had arrived from Halifax in Nova Scotia.

That However His Majesty's Ship "Hazard," commanded by Capt. Cookesley (who had appointed Surrogate for Labrador Coast by the Governor of Newfoundland) having

arrived out soon after a representation Was made to him of these encroachments upon your Petitioners Fishery, whereupon Capt. Cookesley compelled the Vessel to desist, but did not think himself authorised to send away Mr. McPherson, but previously to leaving the Harbour issued certain general instructions wherein it was declared that no strangers are to lay down their Nets within three miles on either side the Boundaries of Rivers Fished by the proprietors that is, so long as the said proprietors do actually Fish the same.

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That notwithstanding with these directions as no King's Ships has been stationed upon the Coast since the "Hazard," and the distance from the seat of Government at St. John's is so great as Five Hundred Miles, the rights of Your Petitioners are violated with impunity by Vessels from various parts the Masters whereof place their Nets at the Mouths of the Rivers and Bays, and thereby destroy the Salmon Fishery which is the principal object of your Petitioners in their said Establishments.

That the consequence is that instead of the annual average of 750 Tierces of Salmon as caught prior to 1817, the quantity caught last Year was only 450 to 250 Tierces having been caught by Mr. McPherson and by Vessels from the United States and from Nova Scotia, at the very Mouths of the Rivers and Bays, and your Petitioners are therefore under the apprehension of being obliged to relinquish their Property and Fishery altogether, it being impossible for them successfully to compete with Vessels, which are neither fitted out from nor are required to bring their Cargo to Great Britain.

Your Petitioners therefore humbly submit the matter to your Royal Highness wisdom, and earnestly solicit that protection may be afforded them and which appears to your Petitioners to be more necessary at the present time, as the first article in the Convention recently concluded with the United States considers to the Americans the liberty to take Fish of every kind on that part of the Coast of Labrador on which your Petitioners Establishment is situated, in common with the subjects of His Britannic Majesty.

Your Petitioners therefore humbly pray that protection may be afforded them by such a grant of the Settlement to your Petitioners by a specific deed (subject to the stipulations of the Proclamation of 1773) as shall enable them to enforce by Legal process a just regard to their rights and privileges as the Proprietors of the said Fishing Establishments in Sandwich Bay.

And your Petitioners as in Duty bound will ever pray.

&c.

&c.

&c.

(Sgd) C. HAMILTON.

[11 June,
1819]**ORDER BY GOVERNOR HAMILTON TO CAPTAIN
GORDON.**

RECORD BOOK, ST. JOHN'S NEWFOUNDLAND VOLUME 30, p. 169.

By Sir Charles Hamilton, Bart. Vice Admiral of the Blue, and Commander in Chief of His Majesty's Ships and Vessels employed and to be employed at and about the Island of Newfoundland &c. &c.

Having communicated with His Majesty's Sloop Carnation as directed by my Order No. 1, of this date, you are hereby required and directed to proceed in His Majesty's Ship Tamar under your Command to the Coast of Labrador for the protection of the fisheries carried on by His Majesty's Subjects, visiting for that purpose the different Establishments from Lat. 55° if you should find any so far North, South and Westward to Esquimaux Bay on the same Coast in the Gulf of St. Lawrence, or as much further towards Mount Joli as our fisheries may extend, and deciding in conformity with your duty as a Surrogate and Justice of the Peace, any Causes or Complaints that may be brought before you.

You will endeavour to obtain the most correct Information of which Circumstances will admit of the number of Fishing Vessels and Subjects of the United States of America employed in fishing on the Coasts of Labrador, and the part of the Coast of this Island which that nation has the privilege by Treaty of using, and also of the Fishery of the French, carefully observing the Instructions you have received respectively concerning them. Reports on these heads you will make as conveniently as you can correspondent to the accompanying form.

If you should find it necessary you are authorised to take a Pilot for the Coasts to which you are bound, and to bear him on the Books of the Ship you Command for Victuals only for which Service he will be paid at the rate of 5/— per day, and you are to discharge him with Triplicate Certificates the moment you are able to dispense with his assistance.

You will continue on this Service until the decreasing state of your Provisions shall in your opinion make it proper to return to St. John's for a further supply.

Given under my Hand on board the
Sir Francis Drake in St. John's
Harbour the 11th June, 1819.

C. HAMILTON.

To the Hon. John Gordon,
Captain of His Majesty's Ship Tamar.
By Command of the Vice Admiral,

P. C. LE^{GE}YT.

N.B.—You will receive herewith a Commission authorising you to collect the Greenwich Hospital duty to which you will have due attention.

14th June,
1819.**NORTH AMERICAN FISHERIES ACT 1819. 59 GEO.
III. C. 38 (IMPERIAL).**Convention, dated
20th Oct., 1818.

An Act to enable His Majesty to make Regulations with respect to the taking and curing Fish on certain Parts of the Coasts of *Newfoundland, Labrador*, and his Majesty's other Possessions in *North America*, according to a Convention made between His Majesty and the United States of *America*.

Whereas a Convention between His Majesty and the United States of *America*, was made and signed at *London*, on the Twentieth Day of *October* One thousand eight hundred and eighteen; and by the First Article of the said Convention, reciting that Differences had arisen respecting the Liberty claimed by the United States for the Inhabitants thereof to take, dry, and cure Fish in certain Coasts, Bays, Harbours, and Creeks of His *Britannic* Majesty's Dominions in *America*, it is agreed, that the Inhabitants of the said United States shall have for ever, in common with the Subjects of His *Britannic* Majesty, the Liberty to take Fish of every Kind on that Part of the Southern Coast of *Newfoundland* which extends from *Cape Ray* to the *Rameau* Islands, on the Western and Northern Coasts of *Newfoundland*, from the said *Cape Ray* to the *Quirpon* Islands, on the Shores of the *Magdalen* Islands, and also on the Coasts, Bays, Harbours, and Creeks from *Mount Joly* on the Southern Coasts of *Labrador*, to and through the Straits of *Belleisle*, and thence northwardly indefinitely along the Coast, without Prejudice however to any of the exclusive Rights of the *Hudson's Bay* Company; and it was also by the said Article of the said Convention agreed, that the *American* Fishermen should have Liberty for ever to dry and cure Fish in any of the unsettled Bays, Harbours, and Creeks of the Southern Part of the Coast of *Newfoundland* above described, and of the Coast of *Labrador*, but that so soon as the same, or any Portion thereof, should be settled, it should not be lawful for the said Fishermen to dry or cure Fish at such Portion so settled, without previous Agreement for such Purpose with the Inhabitants, Proprietors, or Possessors of the Ground: And whereas it is expedient that His Majesty should be enabled to carry into Execution so much of the said Convention as is above recited, and to make Regulations for that Purpose; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

His Majesty in council may make Regulations for carrying the Convention into Effect.

Foreign Vessels not to fish within a certain distance of any British Harbour in America not included in the Limits prescribed by the Convention;

under Penalty of Confiscation.

That from and after the passing of this Act, it shall and may be lawful for His Majesty, by and with the Advice of His Majesty's Privy Council, by any Order or Orders in Council to be from Time to Time made for that Purpose, to make such Regulations, and to give such Directions, Orders and Instructions to the Governor of *Newfoundland*, or to any Officer or Officers on that Station, or to any other Person or Persons whomsoever as shall or may be from Time to Time deemed proper and necessary for the carrying into Effect the Purposes of the said Convention, with relation to the taking, drying, and curing of Fish by Inhabitants of the United States of *America*, in common with *British* Subjects, within the Limits set forth in the said Article of the said Convention, and hereinbefore recited; any Act or Acts of Parliament, or any Law, Custom, or Usage to the contrary in anywise notwithstanding.

Not to extend to Vessels of any Power entitled thereto by Treaty.

American Fishermen may enter such Harbours for the Purposes of repairing or watering, subject to

II. And be it further enacted, That from and after the passing of this Act it shall not be lawful for any Person or Persons, not being a natural-born Subject of His Majesty, in any Foreign Ship, Vessel, or Boat, not for any Person in any Ship, Vessel, or Boat, other than such as shall be navigated according to the Laws of the United Kingdom of *Great Britain and Ireland*, to fish for, or to take, dry, or cure any Fish of any Kind whatever, within Three Marine Miles of any Coasts, Bays, Creeks, or Harbours whatever, in any part of His Majesty's Dominions in *America*, not included within the Limits specified and described in the First Article of the said Convention, and hereinbefore recited; and that if any such Foreign Ship, Vessel, or Boat, or any Persons on board thereof, shall be found fishing, or to have been fishing, or preparing to fish within such Distance of such Coasts, Bays, Creeks, or Harbours, within such Parts of His Majesty's Dominions in *America* out of the said Limits as aforesaid, all such Ships, Vessels, and Boats, together with their Cargoes, And all Guns, Ammunition, Tackle, Apparel, Furniture, and Stores, shall be forfeited, and shall and may be seized, taken, sued for, prosecuted, recovered, and condemned by such and the like Ways, Means, and Methods, and in the same Courts, as Ships, Vessels, or Boats may be forfeited, seized, prosecuted, and condemned for any Offence against any Laws relating to the Revenue of Customs, or the Laws of Trade and Navigation, under any Act or Acts of the Parliament of *Great Britain*, or of the United Kingdom of *Great Britain and Ireland*; provided that nothing in this Act contained shall apply or be construed to apply to the Ships or Subjects of any Prince, Power, or State in Amity with His Majesty, who are entitled by Treaty with His Majesty to any Privilege of taking, drying, or curing Fish

such Regulations as may be issued to prevent the abuse of the Treaty.

on the Coasts, Bays, Creeks, or Harbours, or within the Limits in this Act described.

III. Provided always, and be it enacted, That it shall and may be lawful for any Fisherman of the said United States to enter into any such Bays or Harbours of his *Britannic Majesty's Dominions in America* as are last mentioned, for the Purpose of Shelter and repairing Damages therein, and of purchasing Wood and of obtaining Water, and for no other Purpose whatever; subject nevertheless to such Restrictions as may be necessary to

p. 1214

Penalty on Persons refusing to remove, or disobeying Orders, 200*l.*

prevent such Fishermen of the said United States from taking, drying, or curing Fish in the said Bays or Harbours, or in any other Manner whatever abusing the said Privileges by the said Treaty and this Act reserved to them, and as shall for that Purpose be imposed by any Order or Orders to be from Time to Time made by His Majesty in Council under the Authority of this Act, and by any Regulations which shall be issued by the Governor or Person exercising the Office of Governor in any such Parts of His Majesty's Dominions in *America*, under or in pursuance of any such Order in Council as aforesaid.

IV. And be it further enacted, That if any Person or Persons, upon Requisition made by the Governor of *Newfoundland*, or the Person exercising the Office of Governor, or by any Governor, or Person exercising the Office of Governor, in any other Parts of His Majesty's Dominions in *America* as aforesaid, or by any Officer or Officers acting under such Governor, or Person exercising the Office of Governor, in the Execution of any Orders or Instructions from His Majesty in Council, shall refuse to depart from such Bays or Harbours; or if any person or Persons shall refuse or neglect to conform to any Regulations or Directions which shall be made or given for the Execution of any of the Purposes of this Act; every such person so refusing or otherwise offending against this Act shall forfeit the Sum of Two hundred Pounds, to be recovered in the Superior Court of Judicature of the Island of *Newfoundland*, or in the Superior Court of Judicature of the Colony or Settlement within or near to which such Offence shall be committed, or by Bill, Complaint, or information in any of His Majesty's Courts of Record at *Westminster*; One Moiety of such Penalty to belong to His Majesty, His Heirs and Successors, and the other Moiety to such Person or Persons as shall sue or prosecute for the same: Provided always, that any such Suit or Prosecution, if the same be committed in *Newfoundland*, or in any other Colony or Settlement, shall be commenced within Three Calendar Months; and, if

commenced in any of His Majesty's Courts at *Westminster*,
within Twelve Calendar Months from the Time of the
Commission of such Offence.

[13 Jany.
1820.]

THIRD PERIOD: TO CANADA TENURES ACT, 1825.

No. 340.**HAMILTON TO BATHURST,**REPORTING HIS INTENTION TO SEND CAPT . BUCHAN TO GROS WATER
INLET, LABRADOR TO INVESTIGATE TIMBER RESOURCES.

RECORD BOOK, ST . JOHN'S, NFLD. VOL. 31, p. 83.

No. 41.

Fort Townshend, St. John's,
Newfoundland, 13 January 1820.

MY LORD,

* * * *

It has also been represented to me that there is an extensive inlet on the Coast of Labrador called Gross Water which is said to abound with very fine fir Timber fit for Naval purposes, and it is my intention, if the force sent out will admit of it, to employ Captain Buchan whose experience and abilities are well adapted to such an expedition on this service next summer. I have lately heard that he is safely moored and covered over in the River Exploits.

* * * *

I have the honor to be with great respect,
My Lord, Your Lordship's most obedient
humble servant,

C. HAMILTON.

To the Right Honorable
The Earl Bathurst K.G., &c &c &c.

[15 June,
1820.]**REGULATIONS FOR THE SALMON AND HERRING
FISHERIES IN SANDWICH BAY.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 31, page 182.

By His Excellency Sir Charles Hamilton Bart., Vice Admiral
of the White Governor and Commander in Chief in and
over the Island of Newfoundland & its dependence &c.

Whereas many complaints have been made to me of
improper practices in the mode of conducting the Salmon and
Herring fisheries on the Coast of Labrador, particularly in
Sandwich Bay, I the Governor aforesaid do publish the
following regulations, and hereby order and direct that the
strictest attention be paid thereto, by all persons whomsoever
resorting thither during the fishery season.

Nets whether for taking Salmon or Herring are not to be
laid down within forty yards of each other. Salmon Nets laid
down at this distance are not to exceed thirty fathoms in
length, nor Herring Nets twenty fathoms, otherwise they will
be seized, and not permitted to be laid down again until
reduced to the proper size, but this is not intended to prevent
nets of any length being laid down at such a distance from
others as not in the least to interfere with them.

Nets are not to be laid down after Sunset, nor hauled before
Sunrise, observing the following stated hours for the time of
the rising and setting of the Sun viz.—

July Sunrise ½ past 3.

Sunset ½ past 8.

August Sunrise 4 o'clock.

Sunset ½ past 7.

September & as long
after as the fishery Sunrise, 7 o'clock.
may continue to be Sunset, 5 o'clock.
governed by Sunrise
and Sunset.

These regulations are applicable only to such parties as
intermix in fishing. The proprietors of settled fisheries are at
liberty to lay down their nets in such manner. as they may
think proper, but it is strongly recommended

Monday morning, in order that means may thereby be afforded to a portion of the fish to get up the River to spawn.

In order to prevent disputes respecting the settled fisheries in the said Bay, I do hereby further also order that no strangers shall lay down their Nets within three miles on either side of the boundaries of Rivers fished by the proprietors so long as the said proprietors shall actually continue to fish the same, and I do further establish the boundaries of the undermentioned Rivers as follows viz.—

Eagle River, Eastern Boundary .. Coopers Island.

Western do. .. Separation Pt.

White Bear, Eastern Boundary .. Separation Pt.

River Western do. .. Dove Pt.

Paradise River, Eastern Boundary .. Duck Island.

Western do. .. Red Island.

Given under my hand at Fort Townshend St.
John's, Newfoundland, 15 June 1820.

C. HAMILTON.

By Command of His Excellency
P. C. LeGeyt.

[1 February,
1821.]**REMARKS BY JAS. IRVINE OF QUEBEC**

ON ACT 49 GEO. III. CAP. 27.

C.O. RECORD 42/189. LOWER CANADA, 1821.
PUBLIC OFFICE AND MISCELLANEOUS.

Memoranda humbly submitted, and referred to, by Mr. Irvine, in his letter to Henry Goulburn Esquire, of the 1st of February 1821.

By An Act of the Imperial Parliament, the Coast of Labradore, from the River St. John's to Hudson's Straits, together with the Island of Anticosti, and other smaller Islands along that Extensive Coast, are annexed to the Government of Newfoundland and all crimes and Misdemeanors, as well as civil Suits, originating on the said Coast or Islands, are made cognizable in this Courts of Newfoundland.

This Enactment, it is believed, originated from an application made on behalf of the Merchants of Newfoundland, setting forth that the Courts in that Island could not take cognizance of any Crime or Misdemeanor committed by their people who were employed in the Fisheries upon the said Coast of Labrador and the adjacent Islands and praying that Jurisdiction might be given to the Courts in Newfoundland for the hearing of, and adjudging upon, all Crimes and Misdemeanors Committed by their people upon the Coast and Islands aforesaid.

It must be manifest, how much greater and more serious injury has been created by the Enactment that followed that application, to the Proprietors and Lessees of the Soil, lying within the said Coast and Islands, who are all Residenters in Lower Canada, and from whence they carry on their Trade and fisheries in those parts, than could possibly have given rise to the said application from Newfoundland.

Prior to the Conquest of Canada, His most Christian Majesty had made grants and "Concessions," of all the Coast, (or the greater part thereof) And of the Islands, in question, to divers of his Canadian Subjects, who established Fisheries and Trading Posts thereon:—Without perhaps, adverting to this Circumstance, His Britannic Majesty thought fit on the Cession of Canada, to annex these Territories, to the Government of Newfoundland, by His Royal Proclamation bearing date on the 7th day of October 1763.

His Majesty's Canadian Subjects, then felt, as they do now; the hardship of having their property separated from the Government under which they lived, and put under another

Jurisdiction, thereby subjecting them to Laws and Regulations incompatible with their Tenures and Usages,—And, upon

p. 1219

a representation of their call the said Coast and Islands were re-annexed by a subsequent Act of Parliament, to the then Province of Quebec.

These Lands and Islands were originally granted “en Fief” or “Seigneurie” and have passed by sale and otherwise, from one possessor to Another, to this day: the Proprietors still residing in Lower Canada. The Seigniorie of Mingan, extending perhaps fifty Leagues along the Labradors Coast, is at present held on Lease from the Crown (of this Seigneurie about the two thirds of the front fall on the Newfdld. side of the R. St. John) by the Company Commonly called the North West Company of Montreal, who carry on the Fisheries and Fur Trade on that Coast and the interior; Many other Fisheries and trading posts are Established and carried on by the people of Canada as well on the Main Land, as on the Islands, and as far as Esquimaux Bay on the outside, North of the Straits of Bellisle, and on the Island of Anticosti, some Families, (two I think) are supported and paid by the Government of Canada, and furnished with Provisions and other Articles for the relief of Shipwrecked Mariners and others, when unfortunately cast upon that Island.

A number of Vessels and Boats, with their Crews and equipments, belonging to Quebec, are necessarily employed in these Establishments all their “outfits,” in goods and provisions, go from Quebec: the Returns are made to Quebec, and the men employed belong to, and are paid in Quebec:—

In short, the Territories in question are so dependent upon Lower Canada for everything, that whenever an Embargo has been laid up, on the exportation of Provisions from the Province, since the Act first before mentioned was passed, it has always been found necessary to insert a proviso in favor of the Labradore Coast and Islands, to save them from Starving.¹

¹ During the War of 1812-1814 between Great Britain and the United States, several embargoes were laid on the exportation from Canada of wheat and other exportations, but on all those embargoes an exception was made permitting the supply of such articles to “those parts of the Coast of Labrador which are occupied as Trading Posts and Fisheries, and have recently been annexed to our Government of Newfoundland.” The following is a copy of the proclamation which laid the first embargo.

A PROCLAMATION

(Can. Arch. Rep. 1921, pp. 168-9.)

Province of
Lower-Canada. } GEORGE PREVOST.

GEORGE the THIRD of the Grace of GOD, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith: To all our loving subjects, and to all others to whom these presents may concern, Greeting:—Whereas War has been declared and now exists, between the United Kingdom of Great Britain and Ireland and the Dependencies thereof, and the United States of America and their Territories;—And the exportation of Grain and Provisions of any description whatsoever, from our Province of Lower Canada, may at this time prove highly injurious to the interest of Our Empire, and to the welfare of our loving subjects in the said Province. We have thought fit, by and with the

advice of Our Executive Council of Our said Province of Lower Canada, to issue this Our Royal Proclamation, and to order, and we do hereby order, that an Embargo be forthwith laid on all Wheat, Flour, and Meal of every kind, Barley, Rye, Oats, Pease, Potatoes, Biscuit, Salted Pork and

p. 1220

Under such circumstances, it may naturally be supposed that many Crimes go unpunished: and, many who suffer by trespass, and other Wrongs, cannot obtain redress, the seat of Justice in Newfoundland being so very remote, that no Man from Canada will think of resorting to it, and the former Jurisdiction of our Canadian Courts, in such cases, is now unfortunately taken from them. And in matters of Civil Actions, relative to the Lands situated on the said Coast and Islands, it is a Query, how far the Courts in Newfoundland would be competent to hear and determine questions arising on these Lands held “En Fief” the proprietors of which, in Common with their fellow Subjects of Canada, have from His Majesty's benevolence, the guarantee of the French Law, so far as these Laws existed in Canada at the time of the Conquest, as the Rule of trial in all such cases.

It has already been observed, that these Lands and Islands are held, “En Fief” or, by Seigniorial Tenure, wherefore upon a change of property by sale or any transaction equivalent to a sale, a mutation Fine, styled a “Quint” is payable to the Crown. And, to complete his Title, the new Proprietor, is bound under the said Laws to perform “Fealty and Homage” to the King, or to His Majesty's Representative administering the Government: to pay this Fine and perform this Homage, and thereby to be duly and legally put into possession, the parties must now go near one thousand

Beef, from any port or place, in and within Our said Province of Lower Canada, to any Country, place, Kingdom, Dominion, or Territory whatsoever: And we do hereby strictly prohibit and forbid the sailing or departure of any ship or ships, vessel or vessels, having on board any of the before mentioned articles, from any port or place aforesaid, in and within our said Province of Lower Canada, to any such place, Country, Kingdom, Dominion or Territory aforesaid, save and except such vessels having on board so much of the before recited articles, as may be necessary only for the supply of those parts of the coast of Labrador, which are occupied as Trading Posts and Fisheries, and have recently been annexed to our Government of Newfoundland, and also in like manner necessary for the supply of the settlements of our Island of Anticosti; in the Gulph of St. Lawrence. And it is our will and pleasure, and we do hereby order, that the said Embargo do continue and remain from the date of these presents; until the TENTH day of SEPTEMBER next ensuing, of all which our loving subjects, and all others concerned, are to take due notice and govern themselves accordingly; we by the tenor of these presents firmly enjoining and commanding them, and all and every our officers and ministers whatsoever, to be in all things, and to the utmost of their power, aiding and assisting in the due execution of this Our Royal Proclamation.—In Testimony whereof, we have caused these our letters to be made patent, and the Great Seal of our said Province of Lower Canada to be hereunto affixed Witness our trusty and well beloved Sir George Prevost, Baronet, Captain General and Governor in Chief, in and over our Provinces of Lower Canada, Upper Canada, Nova-Scotia and New-Brunswick, and their several Dependencies, Vice Admiral of the same, General and Commander of all our Forces in the said Provinces, and in the Islands of Newfoundland, Prince Edward, Cape Breton and the Bermudas, &c. &c. &c. at our Castle of Saint Lewis, in our City of Quebec, in our said Province, the Thirty-first Day of March, in the Year of Our Lord, One Thousand Eight Hundred and Thirteen, and of Our Reign the Fifty-third.

Jno. TAYLOR, Depy. Secy.

G.P.

Similar Proclamations containing the like exception respecting the coast of Labrador were issued on the 8th of September, 1813; the 15th of October, 1813; the 4th of April, 1814, and the 21st of September, 1814. *Vide*, Can. Arch Rep. for 1921, pp. 172-173, 176-177, 183-184; 188-189.

p. 1221

miles by Sea to Newfoundland, the proprietor being no longer under the Government of Canada; the hardship of which is self evident:

Here another question may possibly arise, how far the Governor of Newfoundland under those Laws which Govern that Island, could legally receive such fealty and homage, and duly invest the purchaser in the property under the Rules prescribed by the French Law, as in force in Canada?

For the reasons herein set forth, and others that might possibly be urged, it is hoped that the said Act, in so far as relates to the Coast and Islands in question may be repealed, and the said Territories re-annexed to the Province of Lower Canada, to which they appear naturally, and of right, to belong.

All which is most humbly submitted by

JAMES IRVINE

A Member of His Majesty's Executive Council for
the Province of Lower Canada; And, of the
Legislative Council, of that Province.

Edinburgh,
4, George Street
1st February 1821.

[¹ 1/5 of the purchase Money or valued amount less, usually granted to the Purchaser, for prompt paymt. 1/3d of that fifth.—Q. 159, pt. 2, pp. 297-305.]

No. 343.

[24 July,
1821.]**CAPTAIN WILLIAM MARTIN TO GOVERNOR
HAMILTON.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 32, page 39.

His Majesty's Brig Clinker,
Ivertoke Inlet, 24 July, 1821.

SIR,

I arrived in the entrance of this Inlet the 12th inst., having but light and variable winds from our leaving St. John's, passage extremely difficult from the quantity of ice on the Coast, had we not run inside the Islands from Spotted Island to Ivertoke, we could not have proceeded, as we skirted along 30 miles of field Ice, and I found after anchoring at Grady Harbour, one of the Islands at the entrance of the Inlet, farther to the Northward navigation yet unopened. From the 13th to the 23rd I have been employed in ascertaining the extent and source of this Inlet. I run up in the Brig 140 miles from N.N.W. to W. & S. distance across from 3 to 20 miles in widest part, thence I proceeded in a shallop (which a Canadian Merchant kindly offer to accompany us) with Canoes to the source, where we arrived at a Grand Waterfall or rapids, one backing the other 90 feet high. I have had communication with the Red Indians, at first they hid themselves from us, after a little coaxing and as far as we were able gave them to understand we came to assist them, they became in a short time familiar, next day I prevailed on them to come on board, 7 Canoes of them visited us. I regaled them with plenty of beef, pudding and grog, three accompanied us up the river, 50 miles from the Brig. The Canadians have extensive establishments in the Salmon fishery, but their principal gain is the Fur Trade with the Red Indians. The Fishing (Cod) Establishments up the river for 40 miles are numerous principally Americans for the Season. I am now at Anchor, in a place called the Narrows. I expect to be enabled to proceed for Port Manvers about the 1st August. This goes by a Shallop to Sandwich Bay for the first conveyance.

I have the honour to be, Sir,
Your most obedient humble servant,
(Signed) WM. MARTIN.To Sir Charles Hamilton Bart.,
Commander in Chief.
&c. &c.

[10 March,
1824.]

LORD DALHOUSIE TO LORD BATHURST.

COLONIAL OFFICE RECORDS 42/200. LOWER CANADA 1824.

Executive Government.

No. 163.

Quebec, 10th March, 1824.

MY LORD,

I have the honour to transmit to Your Lordship copy of an address presented to me by the Legislative Council of this Province setting forth the evils and inconveniences that have arisen from the Separation of a portion of the Coast of Labrador and the adjacent Islands, from Lower Canada of which they once formed a part, and praying that the same may be re-annexed to this Province; And as I am myself convinced that this representation is well-founded in every respect, I beg leave to give it my strongest recommendation and support.

I have the honour to be, etc.,

DALHOUSIE.

The Right Honourable

The Earl of Bathurst.

[25 Feb.
1824.]**No. 345.****ADDRESS OF LEGISLATIVE COUNCIL OF LOWER
CANADA TO LORD DALHOUSIE.**

COLONIAL OFFICE RECORDS 42/200. LOWER CANADA 1824.

DESPATCHES.

23 February, 1824.

To George Earl of Dalhousie, G.C.B., Captain General
and Governor in Chief in and over the Province
of Upper and Lower Canada, etc., etc., etc.

May it please Your Excellency,

We His Majesty's most dutiful and loyal Subjects the Legislative Council of Lower Canada in Provincial Parliament assembled, beg leave to approach Your Excellency humbly to represent, That prior to the Cession of Canada to the British Crown, His most Christian Majesty had made Grants and Concessions within those parts of the Coast of Labrador lying between the River Saint John and Hudsons Streights of a great part thereof, and of the Island of Anticosti and other small Islands lying on the said coast, to divers of His Canadian subjects under Titles "*en fiefs et Seigneurie*," and that through the benevolence of His late Majesty when passing the act of 14th Geo. III, Cap. 83, which re-annexed the said Coast and Islands to the Government of Canada then the Province of Quebec, the benefit of the ancient Laws of Canada their usages and customs relative to their Property and Possessions were secured to the proprietors of the soil within the Coast and Islands aforesaid, equally with their fellow subjects in Canada.

That the act of His Late Majesty 49 Geo. III, Cap. 27th, intituled "an Act for establishing Courts of Judicature in the Island of Newfoundland and the Islands adjacent, and for re-annexing part of the Coast of Labrador and the islands lying on the said Coast to the Government of Newfoundland," has in its operation so separated the Coast and Islands aforesaid from the Province of Lower Canada and placed them under another Government and Jurisdiction that the Proprietors of the soil lying within the Coast and Islands aforesaid most of whom it is believed are resident in Canada, are thereby subjected to Laws and regulations incompatible with their Tenures and usages and which virtually amount in certain cases to a denial of Justice,

a situation which the benign Government of His Majesty never could have contemplated when the said Act was passed into a Law.

That the said separation from this Province of the Coast and Islands aforesaid tends to produce great and serious impediments and difficulties to the Trade and Fisheries carried on from Quebec thereto.

That Vessels and Boats with their crews and equipments belonging to Quebec are necessarily employed in the said Trade and Fisheries because their outfits in goods and provisions are sent therefrom and the returns thereof are brought to that Port, that it may reasonably be supposed under existing circumstances many crimes go unpunished, and many individuals who suffer from Trespass and other wrongs cannot without much sacrifice of time and money obtain redress owing to the great distance from Quebec of the Courts in Newfoundland, to which they would be obliged to have recourse for Justice and in cases relating to real property held under the Tenure before mentioned, it may be doubtful how far the Laws governing His Majesty's Courts in Newfoundland might enable them to grant redress.

That such is the dependance of the Coast of Labrador and Islands aforesaid upon this Province even for articles necessary for subsistence, that since the period of passing the Act of 49 Geo. III. Cap. 27th, it has invariably been deemed expedient and needful whenever an Embargo has been laid upon the exportation of Grain, flour and provisions from this Province, to insert a Proviso in the Proclamation in favour of the said Coast and Islands to prevent the Inhabitants of those places suffering from want of food, as they could not have obtained their supplies elsewhere.

We therefore respectfully entreat Your Excellency that the above representations may be laid at the foot of the Throne, with our humble prayer that His Majesty will be graciously pleased to recommend to His Parliament the revision and repeal of the aforesaid Act of His Late Majesty of Glorious Memory (49 Geo. III, Cap. 27th) in so far as that Act relates to the separation from the Government of Lower Canada of those parts of the Coast of Labrador from the River Saint John to Hudson's Streights and the Island of Anticosti and all other small Islands lying on the said Coast, and which re-annexes the said Coast and Islands to the Government of Newfoundland, and also for the repeal of that part of the aforesaid Act which gives Jurisdiction to His Majesty's Courts in the said Island of Newfoundland to hold Plea of all Crimes and Misdemeanours committed and of all suits and complaints of a Civil nature arising within such parts of the Coast of Labrador from the River Saint John to Hudsons Streights and the said Island of Anticosti and all other smaller Islands so re-annexed to the Government of Newfoundland by the said Act.

Legislative Council Chamber,
23 February, 1824.

(Signed) J. SEWELL.
Speaker.

[25 March,
1825.]**No. 346.****A. W. COCHRAN TO LORD DALHOUSIE.**

RECOMMENDING MODIFICATION OF LOWER CANADA'S CLAIM
RESPECTING ANNEXATION OF COAST OF LABRADOR TO THAT
PROVINCE.

[DALHOUSIE PAPERS.]

12, Bury Street,
St. James,
25th March 1825.

MY LORD,

I had yesterday the honour of receiving your Lordship's letter of the 21st. I am obliged now to trouble you with a matter which 'though of very little importance in itself requires your Lordship's decision. It relates to the application made by the Legislative Council, by an address in the Session of 1824 for the re-annexation of the whole coast of Labrador, up to Hudson's Streights, to the Province of Lower Canada. I have drawn up a statement of the pretensions advanced on the part of Lower Canada and of Newfoundland, which I enclose. The question is whether the claims of the former should not be cut down, and confined to that part of the coast lying West of Bay Forteau—Isle au bois, or Ance à Sablon, inclusive (it is no matter which boundary is taken) so as to comprehend the last Canadian fishing post of any importance on that Shore, and to leave to Newfoundland its most Westerly fishing establishment. This question it is necessary to solve now, both on account of the Act which is to be brought in for re-annexing to Lower Canada what she ought to have, and on account of the necessity of making out Sir Thomas Cochrane's Commission as Governor of Newfoundland—which must be delayed until the true boundary of his Government in that quarter is fixed. The question however is one that no authority short of your Lordship's—acting for Lower Canada—can determine.

The fact appears to be that the Council asked more than they would have done had they been aware of the actual circumstances, but they acted upon general and vague information—or notoriety—without particular evidence—and without knowing how far the interests of the Province were at all concerned in regaining the coast beyond Mingan. I think the real interests of the Province will be amply covered by re-annexing to it all within the limits I have mentioned, and that this will be perfectly satisfactory to all parties, and perfectly equitable.

If such is your Lordship's opinion, and you will be good

enough to intimate it to me in the first place, both the Act and Sir Thomas's commission will go

p. 1227

forward, and an official statement of the question will be afterwards made to you for an official answer. This reference I make merely for the purpose of expediting the business. Mr. W. Horton wishes to bring in the Act before the recess if possible.

* * * *

I am, My Lord,
Your Lordship's obliged & devoted servant,
A. W. COCHRAN.

[5 April,
1825.]

No. 347.

N

**MESSRS. NEWMAN, HUNT & CO. TO SECRETARY
OF STATE.**

COLONIAL OFFICE RECORDS 42/206. LOWER CANADA 1825. Vol. 4.
MISCELLANEOUS.

12, New Broad Street,
5 April, 1825.

SIR

We take leave to acquaint you that the Fisheries carried on from England, Jersey and Newfoundland at Labrador extend Westward to the Straits of Belle Isle, as far as Esquimaux Bay and occasionally (by temporary establishments) as far as Micatina Harbour and that the persons concerned in those Fisheries would find it the extreme of inconvenience to be compelled to have recourse to the Canadian Courts of Law for the settlement of any disputes that may arise.

We have, etc.,

NEWMAN, HUNT, CHRISTOPHER & CO.

R. W. Horton, Esq.

Note.—Original bound in Newfoundland.

No. 348.[21 April,
1825.]**R. W. HORTON TO MESSRS. NEWMAN, HUNT,
CHRISTOPHER & CO.**

PUBLIC ARCHIVES OF CANADA . Q. SERIES. VOL. 172. PT. 1, p. 110.
21st April, 1825.

“Having laid before Lord Bathurst your letter of the 5th instant, I am to acquaint you in reply that his Lordship does not anticipate that you will suffer the inconvenience which you apprehend from the proposed annexation of the Western part of the Coast of Labrador to the Province of Lower Canada, as instructions will be given to the Governor of that Province to propose to the Provincial Legislature to pass the necessary Laws for securing the speedy and economical administration of Justice on that part of the Coast which shall have been annexed to the Province.”

[21 April,
1825.]

5th April.

21st April.

No. 349.

C

R. W. HORTON TO LORD DALHOUSIE.

PUBLIC ARCHIVES OF CANADA . Q. SERIES. VOL. 172. PT. 1, p. 109.

Downing Street,
21st April, 1825.

My Lord,

I transmit to your Lordship enclosed a Copy of a communication which has been received from Messrs. Newman, Hunt, Christopher & Co., and of a reply which has been returned by my direction and I have to request that in due time your Lordship will take the necessary measures to bring under the consideration of the Legislature of Lower Canada the expediency of passing proper Laws to secure the due Administration of Justice on that part of the Coast of Labrador which may be annexed to the Province.

I have the honour to be,

My Lord

Your Lordship's Most Obedient Servant
R. W. HORTON.

The Earl of Dalhousie.

Privy Council
Documents

Volume III
Contents

No. 350.

[16 May,
1825.]

WILMOT HORTON TO GOVERNOR HAMILTON

REQUESTING INFORMATION IN REGARD TO COAST OF LABRADOR.

C.O. 324. VOL. 95.

Downing Street,
16 May 1825.

Vice Admiral Sir C. Hamilton

DEAR SIR,

Mr. Hume intends to oppose the proposed Annexation of a part of the Coast of Labrador to Lower Canada on the ground that it has the effect of transferring a considerable population from one code of Laws & system of Government to another without their declared acquiescence— This objection will be made in the House of Commons to-night, & it is therefore desirable that you should immediately furnish me in writing with such information as shall enable me to state upon your Authority what is the nature & extent of the Population in that part of the Coast which it is proposed to annex to Lower Canada, & especially how far it is in it's habits & occupations a resident or a migratory population—

I remain &c.

R. W. HORTON

P.S—My own impression is decidedly that the population is wholly migratory & occupied in Fishing—

RWH.

Copy.

No. 351.

[17 May,
1825.]

WILMOT HORTON TO SIR CHARLES HAMILTON

REQUESTING INFORMATION IN REGARD TO COAST OF LABRADOR.

Downing Street,
17 May 1825.

C.O. 324. VOL. 95.

Vice Admiral Sir C. Hamilton

DEAR SIR

The discussion in the House respecting the proposed Annexation of the Coast of Labrador to Lower Canada will not take place till Friday next, & in the interim I shall be glad to receive any further information on the subject which a reference to Documents may enable you to supply

I remain
R. W. HORTON.
Copy.

No. 352.

[20 May,
1825.]

WILMOT HORTON TO GOVERNOR HAMILTON

REGARDING INFORMATION REQUIRED FOR DISCUSSION IN HOUSE OF
COMMONS RE COAST OF LABRADOR.

C.O. 43. VOL. 66, p. 144.

Immediate
Vice Admiral Sir C. Hamilton

Downing Street,
20 May 1825

M^r Wilmot Horton presents his Compliments to Sir Charles Hamilton & begs to acquaint him that the information which Sir Charles Hamilton adverted to in his note of the 18 Inst. & in M^r Horton's of the 17th as being in his power to obtain by reference to documents respecting the population of the Coast of Labrador will not be available unless it can be furnished immediately as the discussion of the Subject in the House of Commons will take place this Evening.

Copy.

Privy Council
Documents

Volume III
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[20 May,
1825.]

No. 353.

CROSS TO WILMOT HORTON

TRANSMITTING MEMORIAL OF CHAMBER OF COMMERCE, ST. JOHN'S,
NEWFOUNDLAND, RELATIVE TO RE-ANNEXING COAST OF
LABRADOR TO GOVERNMENT OF LOWER CANADA.

Received June 20 1825

C.O. 194. VOL. 71.
1121 Newfoundland.

St Johns Newfoundland
20th May 1825

SIR,

In the absence of His Excellency the Governor, I beg to transmit to your care a Memorial from the Chamber of Commerce to the Right H^{ble} Earl Bathurst relative to the re-annexing the Coast of Labrador to the Government of Canada—a subject, which is considered so intimately connected with the welfare of the Trade and Fisheries prosecuted by many of the Inhabitants of this Island that, I flatter myself it will obtain His Lordship's consideration, and be a sufficient apology for the trouble I again give to you

I have the honor to be

Sir

Your most obed^t H^{ble} Serv^t

JAMES CROSS

President of the Chamber of Commerce
St. John's Newf^dLand. L.S.

To

R. J. Wilmot Horton Esq^r M.P.
Under Secretary of State for the Colonial Department.

[20 May,
1825.]**MEMORIAL OF CHAMBER OF COMMERCE, ST.
JOHN'S, NEWFOUNDLAND,**

*sic.

OPPOSING PROPOSAL TO RE-ANNEX COAST OF LABRADOR TO
GOVERNMENT OF LOWER CANADA.C.O. 194. VOL. 71.
1121 Newfoundland.in JAS. CROSS.
Received June 20, 1825.To The Right Honorable Earl Bathurst K.G. His Majesty's
Principal Secretary of State for the Colonial Department,
&^a &^a &^aThe Memorial* of the Chamber of Commerce of Saint Johns
Newfoundland.

Humbly Sheweth

That your Lordships Memorialists having observed by the public Newspapers that leave has been granted to bring a Bill into Parliament to annex part of the Coast of Labrador to the Government of Canada, and not knowing how much of the said Coast it may be intended to comprehend in such Bill, beg leave to state to Your Lordship the very great importance to these Fisheries of continuing under the Government of Newfoundland all such parts of that Coast as are resorted to from hence

That between Sixty and Seventy Vessels are annually fitted out from the Port of Saint Johns alone, and nearly two hundred from Conception Bay employing together nearly Five thousand Men in the Labrador Fishery, besides which others proceed thither from other parts of the Island-and that of late Years, the Bank Fishery having been less productive than formerly the Vessels employed therein are for the most part sent to the Labrador in the Summer Season.

That since the cession to France of the North part of this Island (usually denominated the French Shore) nearly all the Vessels employed in the Seal Fishery are afterwards sent to the Labrador, and that the Seal Fishery has lately assumed a degree of importance which entitles it to the highest consideration, having this Spring yielded employment to Five Thousand Men at a Season during which this Climate would afford them no other means of support.

That the Fishery at Labrador commences at a later period of the Season than on the Shores of this Island now occupied by

the British, and affords time for the Seal Fishery to be fully completed, as that to the French Shore

p. 1233

*sic. formerly did, and that the Labrador and Seal Fisheries are thereby well adapted to each other: and that moreover the Vessels which are necessary for the Seal Fishery would now be absolutely useless in any other branch of the Cod Fishery than that to Labrador, and so remain unemployed except during the continuance of the Seal Fishery which is but two Months in the Year and for the single use of which their Owners could not afford to keep them—whence it will appear to Your Lordship that every impediment to the Labrador Fishery path a direct tendency to reduce the Seal Fishery.

That the whole business of supplying these Fisheries is involved in a course of Settlement to be made in the fall of the Year, the supplies being advanced in the Spring by the Merchants to the Fishermen on credit, and for the most part entirely on the faith of the Voyage; that it would therefore be absolutely impossible to continue this Fishery in any place beyond the reach of our Supreme Court of Judicature; which has moreover by a long course of decisions become the depository* of all its customs and usages; and that the several Laws made for the protection of the Fisheries, being engrafted on those customs and usages, are, and only can be applied or properly understood within the Government of Newfoundland.

That the annexation to Canada of any part of the Coast of Labrador usually resorted to from hence would oppose such difficulties to the settlement of Accounts as necessarily to lessen the confidence and ultimately destroy the Credit upon which the Fisheries are carried on and without which they could not subsist, and that this evil could not be remedied, even by the establishment/of Courts of Judicature on that Coast, because the greater number of Causes should originate in the Courts here where the transactions have taken place and because the Appeal from Labrador Courts it is apprehended would after such annexation lie to Quebec, whither it would be equally impossible for Plaintiff or Defendant to repair.

That every event of a Criminal Prosecution would also be attended not only with great inconvenience but with absolute ruin to many individuals should they be carried from their Fisheries on the Labrador to Quebec for the purpose of giving evidence on such prosecutions; whereas they always return here in the regular course of their business at that Season of the Year in which it is usual for our Supreme Court to hold its sittings of Oyer and Terminer.

Your Lordship's Memorialists therefore humbly pray that the Coast of Labrador may be continued under the Government of Newfoundland as settled by the Act 49 Geo. 3 Cap 27

And your Memorialists will ever pray

JAMES CROSS

President of the Chamber of Commerce of
St John's Newfoundland.

St Johns
Newfoundland
May 20th 1825

} Signed.

Doc.

No. 355.

[1825.]

MEMORANDUM BY R. WILMOT HORTON

ON THE PROPOSED BILL (THE CANADA TENURES BILL, 1825).

C.O. 42. VOL. 207.

1st The first object of the Canada Tenure Bill is to enable His Majesty, when granting to the Superior Lords a release of their feudal burdens, to impose on them an obligation of making a corresponding concession in favor of their own tenants.

The Act of the 3 Geo: 4th (the Canada Trade Bill) enabled the King to make releases in favor of the Lords; but did not impose a corresponding obligation upon them. The effect therefore was, that the Agricultural Population might remain subject to all those feudal duties by which the progress of Agriculture was impeded, while the Lords were exempted from all their feudal duties to the Crown.—

It is proposed therefore by the present Bill, to give to the Censitaire a right of action against the Lord, if the latter shall refuse to release his own feudal rights, after having himself obtained a release from the King as Superior Lord.—

If the Lord and the Censitaire cannot agree respecting the price to be paid for this release, it is proposed to invest the Supreme Court with the power of appointing arbitrators.

To prevent the inconvenience which might arise from this commutation, it is provided that public notice shall be given to all Mortgagees, and other persons having charges upon the feudal rents & dues to be extinguished. Their dissent will prevent the commutation, until their claims upon the property are paid off or arranged. Their assent will of course remove the difficulty.

A provision is also made for saving the rights of reversioners, and others interested in the property, who do not join in the release of the feudal rights to the censitaire.

*an error for 1809.

2^{ndly} It has been a question much agitated in Canada, whether if Land were granted by the Crown to be held in free & common soccage, it would pass by descent, or by Deed, according to the Law of England, or the Law of France. It is proposed to enact that the alienation and descent of such Lands, shall be regulated by English, & not by French Law.

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3^{rdly} Certain parts of the Coast of Labrador, were settled by French Canadians, & the Lands are held upon French tenures.

—It is therefore highly convenient that this part of the Labrador Coast should be annexed to the Government of Canada. But the Act of 1747* annexes the whole of this Coast to Newfoundland. Therefore, without the assistance of Parliament, it is impossible to carry this object into execution.—The Bill therefore provides, that the Coast shall be divided at a point which the Governors of the respective Colonies have fixed upon.—The point of division is the point at which the Canadian Settlements end.—

4^{thly} In the Province of Lower Canada there are large Tracts of Land upon which no Settlement duties have been performed, & which are therefore forfeited to the Crown. It is stated that this circumstance has greatly retarded the advance of the Province. But the Canadian Legislature will not apply a remedy. It is therefore proposed to enable the King to appoint Commissioners of locheat, who will proceed according to the rules of the Law of England, in similar cases.

5th There being no person in the Province of Lower Canada competent to make a Surrender of any part of the Clergy reserves, cases continually occur in which the progress of public Buildings, & other public objects, are impeded from the impossibility of making exchanges of Land with the Clergy, when it is necessary to take possession of a part of the Clergy Reserves. It is therefore proposed to enable the Bishop of Quebec to carry such exchanges into effect in compliance with any requisition made upon him for that purpose by the Bishop.

[29 Dec.,
1825.]**R. A. TUCKER TO GOVERNOR COCHRANE.**

DUPLICATE DESPATCHES, ST. JOHN'S, NFLD, FROM 1818-1827.

Saint John's,
29th December 1825.

SIR,

In consequence of there not having been any Surrogate at the Labrador for some time past I have reason to think that many disputes will arise at the opening of the next Fishery respecting the property usually deposited there during the winter, as it has been very much the practice of late for the person who arrives first to take forcible possession of every article to which he has or believes himself to have any sort of claim. I would therefore beg leave to suggest to your Excellency the propriety of directing the Judge of the Labrador to proceed thither at the very commencement of the Fishing season, as I am satisfied that his presence there, at that period, will have a powerful tendency to redress that lawless disposition which the circumstance I have already adverted to has occasioned. In other words I conceive that it will be necessary for Captain Paterson to leave this place about the 10th of next June and to continue at the Labrador until the latter end of September. He will of course be obliged to visit several different Harbours, and it will consequently be requisite that there should always be a Vessel in readiness to carry him from one Port to another.

I have the honour to be,

Sir,

Your most obedient humble servant,

(Signed) R. A. TUCKER,

Chief Justice.

His Excellency

THE GOVERNOR.

[6 Sept.,
1831.]**SUNDRY AGREEMENTS 1831-1854.**

HUDSON'S BAY COMPANY CARTWRIGHT RECORDS.

(COPY.)

It is hereby mutually agreed between Thomas Reeves of the one part and Francis Quirk of the other part as follows. Thomas Reeves and Francis Quirk to be in partnership on these terms, all expenses to be equally borne between them, and done to be equally divided by the salmon and fur to be delivered to C. and E. Hunt and Company on the same terms as Thomas Reeves former agreements with C. and E. Hunt and Company.

[28 Sept.,
1827.]

Given under our hands at Dumplin Island this 6th day of September 1831.

his
THOMAS X REEVES
mark

Witness.
ED. HENLEY.

his
FRANCIS X QUIRK
mark

Copy of Thomas Reeves' agreement for 1828/9/30/1.

This is to certify that it is hereby agreed between Arthur Hunt and Thomas Reeves to the following effect, namely, Arthur Hunt does hereby agree to give Thomas Reeves the right of fishing Sand Hill Brook on the following terms, that is Thomas Reeves is to go there and take charge of the place with everything that may be there. (Inventory to be taken of the same) taking care of the same and keeping the place etc in thorough repair and fish the brook to the utmost of his ability. In consideration of which the said Thomas Reeves is to be allowed in account one half of the salmon that may be caught provided the whole of the salmon so caught is delivered without any embezzlement whatever to Arthur Hunt or whom he may appoint. It is further agreed between the said parties that the expenses attending fishing the brook, such as nets, twine, and cordage shall be equally divided, also one man's wages and provision which Arthur Hunt is to send there the summer to help fish the said brook. Respecting the winter, Arthur Hunt allows the said Thomas Reeves the use of the traps that may be there, or so many of them as he may want on

the following hire, namely one-third of the fur that may be caught provided also the whole of the fur is delivered to Arthur Hunt for any default or non-

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[14 Sept.,
1833.]

performance of this agreement the said Thomas Reeves binds himself in the penal sum of £100.

Witness his hand at Dumplin, September 28th, 1827.

his
THOMAS X REEVES
mark

Continued for 1829/30/31.

It is hereby agreed between C. and E. Hunt and Co. of Sandwich Bay of one part and James Edward of the other part, that C. and E. Hunt and Company shall let on hire, and E. and E. Hunt and Co. of Sandwich Bay do hereby agree to let to James Edwards for five years from the date of this agreement the salmon fishery in Paradise Brook with the houses, nets, and other property mentioned in the inventory at foot on the following terms.

The said James Edwards shall properly fish the brook for salmon to the utmost of his power and keep the house, craft and other property in good condition, the expense of keeping the same in repair and of providing for any new craft, such which may be found necessary shall be borne one third by C. and E. Hunt and Co. and two thirds by James Edwards.

The whole of the voyage to be delivered to C. and E. Hunt & Co. who shall be allowed one-third of the same for rent of the post share of the expenses etc., James Edwards to be allowed in account for the remaining two thirds of the same price as C. and E. Hunt and Co. give their other dealers.

In case either of the parties wish to determine this agreement they shall be at liberty to do so giving six months notice to the other at the end of which the place shall be given up to C. and E. Hunt and Co.

C. and E. Hunt and Co. shall also supply James Edwards with goods for trading with the Mountaineers, the whole produce of which shall be delivered to C. and E. Hunt and Co. who shall allow James Edwards for one half of the same at same price as given to other dealers, the other half of the produce to be allowed C. and E. Hunt and Co. and the expenses of the trading to be divided equally between the parties.

[1841 (?)]

Dumplin Island, 14th September 1833.

C. AND E. HUNT AND COMPANY,
JAMES EDWARDS.

[NOTE.—The following agreement was apparently made at
Dumplin Island in 1841.]

It is hereby agreed between C. and E. Hunt and Co. and Henry Ferris for the latter to go to Eagle River the winter and there build a Salmon House, and preserving House etc. and recover the Dwelling House, the Salmon House to have a good loft and be made perfectly tight in the roof and sides of the loft, the preserving house to be build as large as possible a loft and partition to be put in the Dwelling House and the whole to be finished in a strong and workmanlike manner, in consideration of which Henry Ferris is to be paid by C. and E. Hunt and Co Ten Pounds sterling and provided with Provisions, Nails and Board, the latter to be sawed by James Martin and Ml. Turner. It is further agreed for Henry Ferris to fish in White Bear River the Summer for Salmon one sixth of his catch if it exceeds six tierces to be allowed C. and E. Hunt and Co. as hire, if less than six tierces nothing.

[2 Sept.,
1853.]

HENRY FERRIS.
C. AND E. HUNT.

We, Robert Clarke and Richard Kennedy do hereby covenant and agree with Messrs. Hunt and Henley of London their heirs, administrators, and assigns, to rebuild their room situate in Peckham's Tickle and last occupied by Nicholas Kennedy and to have and hold the same for the term of Seven years from the day and date hereof and to pay the said Messrs. Hunt and Henley their heirs, administrators, or assigns the sum of Twenty shillings yearly, Newfoundland Currency or produce to that amount as rent of the same, and we further agree to keep the aforesaid premises in good repair during our occupation thereof, and to quit the said premises (if required) on the expiration of the aforesaid term of seven years in like good repair.

In witness whereof we humbly set our hands and seal this Twenty Second day of September, the year of our Lord one thousand eight hundred and fifty three.

[3 Oct., 1854.]

his
ROBERT X CLARKE
mark

Witness

JOHN H. COURSENS.

his
RICHARD X KENNEDY
mark

It is hereby agreed between John Lethbridge and Messrs. Hunt and Henley the said John Lethbridge agrees to cut 2500 Turn of Firewood or more at Eagle River to have assistance in hauling it out of the woods for which he is to receive Five Pounds (£5) per M. The said Hunt and Henley agrees to ship him from the Fifteenth June to 15th September following as an able seaman for which he is to have Six Pounds Currency per Month and two quintals of fish.

CARTWRIGHT 3rd October 1854.

pp HUNT AND HENLEY
GEORGE GOODRIDGE
JOHN LETHBRIDGE

[10 May,
1837].**REPORT OF A COMMITTEE OF THE EXECUTIVE
COUNCIL, LOWER CANADA.**

C.O. RECORDS 45/121.

May it please your Excellency

The Committee have taken into consideration your Excellency's Reference of the Memorial of Samuel Robinson of Spar Point outfitter in the Labrador Fisheries and also the Petition of certain Inhabitants of the place commonly called Labrador on the North Coast of the River S^t Lawrence soliciting the interference of His Majesty's Government for the purpose of regulating the rights of the People concerned in the Fisheries in that Quarter and settling the disputes that arise among themselves respecting the Privilege of Fishing and also between them and interloping Foreigners.

The Committee have obtained information respecting these remote Settlements from such Individuals in Quebec as were capable of affording it, and they have been led to enquire into the origin of the Establishments and the manner in which they have been carried on. It appears that the Fisheries on that part of the Coast of Labrador have been carried on by outfits from Quebec from an early period after the Conquest.—By His Majesty's Proclamation of October 1763 the whole Coast from the River S^t John to Hudson Straits was placed under the (*sic*) and Inspection of the Governor of Newfoundland with a view as therein stated that an open and free Fishery might be carried on by His Majesty's Subjects on that Coast.

In pursuance of this Proclamation Regulations were made in the year 1765 by the Governor of Newfoundland and were published in this Province for the Regulation of that Fishery and for settling the Rights of the Persons engaged in it, but these Regulations soon became the subject of a remonstrance addressed to the Government of this Province on the part of the Merchants concerned in that Fishery.

From that period however the Government of Newfoundland appears to have continued to exercise jurisdiction over that Coast and in 1809 by an Act of Imperial Parliament it was severed from Lower Canada and annexed to the Government of Newfoundland from whence periodical visits appear to have been made by Persons holding authority as Surrogates which enabled them to settle disputes among the Inhabitants and owners of the Fishery.

In 1835 (? 1825) however an Act of the Imperial Parliament was passed reannexing to Lower Canada those parts of the Labrador Coast from the River S^t John to the anse à Sablon

which had been annexed to Newfoundland

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by the Statute of 1809 within which Limits all the Persons who have signed the Petition before the Board appear to be settled.

From the information received by the Committee it appears that there are eight or ten sedentary Fishing Establishments on that part of the Coast the supplies for which are principally drawn from Quebec, and the Persons engaged in these pursuits amount to several hundreds, some of them have resided there many years and the Trade is of considerable value to the Province but none of them appear to have any legal Title to the Soil except that of occupation and possession, beyond the limits of the Seigniorship of Mingan nor any legal means of securing their Rights from Encroachments, except by resorting to the Courts at Quebec to ascertain their possession and Privileges; nor is there any Person resident there clothed with public authority either on Civil or Criminal matters, and the Rights of Individuals seem to depend on ancient usage among themselves.

The Committee have not been able to ascertain whether in the Interval between 1809 and 1825 any local Regulations were made by the Government of Newfoundland applicable to these Settlements and it might be susceptible of doubt whether such Regulations if made could be considered as in force since the annexation of that Territory to this Province and altho' by the 56th 57th 58th & 59th Articles of the standing Royal Instructions to your Excellency some security was intended to be afforded to the actual possessions and Property of His Majesty's Canadian Subjects on that Coast the Committee do not perceive that there is any effectual power vested in His Majesty's Government to interfere for the relief or protection of the Petitioners otherwise than by the appointment of a Justice of the Peace, for the Provincial Act relating to the trial of small Causes, even if it could be brought into operation in these Settlements would not appear to be applicable to the difficulties of which the Petitioners complain. The Committee therefore cannot advise your Excellency to adopt any measure of Executive Authority, but they consider it highly important both to the adjustment of these local difficulties among the resident and transient subjects of His Majesty engaged in these Fisheries and also the protection against the Encroachments of Foreigners to which it appears that they are greatly exposed in violation of public Treaties that the subject should be brought before the Legislature in order to the adoption of some efficient Regulations respecting it.

All which is respectfully submitted to your Excellency's Wisdom.

By Order

Signed: W. SMITH,
Chairman.

Council Chambers
10th May 1837.

[16 Sept.,
1841.]**GOVERNOR SIR JOHN HARVEY'S PROCLAMATION
OF HIS APPOINTMENT.**GOVERNMENT RECORDS, ST. JOHN'S, NEWFOUNDLAND.
Volume 43, page 307.

PROCLAMATION.

By His Excellency Major General Sir John Harvey,
 L.S. Knight, Commander of the most
 Honorable Military Order of the Bath, Knight
 J. Harvey. of the Royal Hanoverian Guelphic Order,
 Commander Governor and Commander in Chief in and over
 the Island of Newfoundland and its depend-
 encies.

WHEREAS Her Majesty by Her Commission made Letters Patent bearing date at Westminster the twentieth day of July in the Fifth year of Her Reign, hath been graciously pleased to appoint me to be her Governor and Commander in Chief in and over the Island of Newfoundland and the Islands adjacent, and all the Coast of Labrador, from the entrance of Hudson's Straits to a line to be drawn due North and South from Ance Sablon, on the said Coast, to the Fifty-second degree of North Latitude, and all the Islands adjacent to that part of the said Coast of Labrador, as also of all Forts and Garrisons erected and established, or which shall be erected and established within the said Island and its Dependencies aforesaid; I have therefore thought fit, by and with the advice of Her Majesty's Council, to publish this my Proclamation, in order to make known to all Officers and Ministers, Civil and Military and to all the Inhabitants of this Government that in pursuance of Her Majesty's said Commission I have this day assumed the administration of the Government of the said Island and its Dependencies; and all persons are hereby enjoined and commanded strictly to conform themselves thereunto accordingly.

Given under my Hand and Seal at the Government House at St. John's, in the aforesaid Island, the 16th day of September, 1841, in the Fifth year of Her Majesty's Reign.

By His Excellency's Command,
 JOSEPH TEMPLEMAN,
 Pro. Secy.

[28 June,
1845.]**No. 360.****GOVERNOR SIR JOHN HARVEY TO LORD
(? STANLEY).**

DESPATCHES FORWARDED, ST. JOHN'S, NEWFOUNDLAND, 1845.

No. 45.

Govt. House,
28 June, 1845.

MY LORD,

The Bishop of this Diocese having apprised me of his intention of visiting the Western Coast of this Island in the course of the present Summer & of his expectation that he will be solicited by the Clergyman & Congregation of the Bay of St. George to consecrate the Church which has been erected in that place, an application which he should feel himself embarrassed in complying with under the circumstances in which these poor people have placed themselves without some authority from me.

I have accordingly placed in the hands of the Bishop of which I have the honour to enclose a copy & in which your Lordship will I trust perceive that I have endeavoured to avoid any direct recognition of any Settlement, viz. Her Majesty's Subjects on that part of the Coast otherwise than as fishermen resorting to it for the purpose of exercising their concurrent right of taking fish during the season, and I am quite convinced that not only will no umbrage be taken by the French authorities of this proceeding but that they will hail with satisfaction any measures on the part of those of this Island which may tend to establish any thing like control over persons who have, as they believe, placed themselves beyond the reach of all laws, human and Divine.

With regard to that part of the Coast of Labrador which is included in my Commission as Governor of Newfoundland and its Dependencies, I have abstained from including in it the Warrant to the Lord Bishop as well in consequence of the uncertainty which he feels as to whether it be that his Commission should be coextensive with mine. Labrador not being named in it, as from my own recollection that before the erection of this Island into a separate Diocese, that of Quebec extended and included not only the whole of the Coast of Labrador but all the Hudson Bay Settlements and those on the Western shores of Davis's Straits.

This however is at present a matter almost wholly unessential as there is no considerable settlement of British subjects, except those of the Indians, & those of the Moravians on any part of the Labrador Coast, which accordingly the Bishop does not propose to visit.

I have &c.

(Signed) J. HARVEY.

No. 361.[26 Oct.,
1848.]**BISHOP OF NEWFOUNDLAND TO EARL GREY.**

C.O. RECORDS 194 / 130.

St. Johns, Newfoundland,
26th Oct. 1848.

MY LORD,

I have the honor to inform your Lordship that I have this summer visited, as part of my Diocese, the coast of Labrador, with the view of ascertaining the moral and religious conditions of the inhabitants, and the best manner of meeting their wishes and wants. May I be permitted to mention that for some time a doubt existed whether Labrador, (being on the American Coast) was to be regarded as part of my Diocese. Neither Lord Stanley, nor the Archbishop of Canterbury at the time of my appointment could inform me—and I cannot say that I have been able to obtain any positive instructions to this very day. I have therefore gone upon the presumption that as the Labrador coast is included in, or under, the Government of Newfoundland, it ought also be under the Bishop's superintend once. And, having ascertained that the Bishop of Montreal did not regard it as in his Diocese or intend to visit it, I determined that it should no longer remain neglected.

* * * * *

My visitation (of the Labrador Coast) has extended from Blanc Sablon, where the Government of Newfoundland commences on the South, to Sandwich Bay on the North. Within those limits or a little farther only to the North, a line of coast stretching nearly 250 miles, (without taking into account the circuit of Bays and Harbours), I have found upwards of twelve hundred settled inhabitants, while in Summer probably as many thousand (12,000) are fishing on the coast for several months.

Nearly all the settled inhabitants are or profess to be, or at least profess a desire to be members of the Church of England, but very few of them had ever, before my visit, seen a Clergyman of our Church. Seventeen years ago Mr. Archdeacon Wix called at one settlement, I presume in a Ship of War. Eight years ago a Roman Catholic clergyman visited several harbors—but with those exceptions I do not know, that within the last 20 years, any clergyman has been on the shore. At the present time there is no Schoolmaster, or Minister of Religion, or teacher, of any character or denomination, till you come to the Moravian establishments at Nain and Hopedale. And the nearest of these is 300 miles beyond the limits of my visitation; though I believe my Diocese extends even to them, and beyond them.

I am unwilling to weary your Lordship, but I pray to be allowed to mention the means which seem to me necessary, and which I should desire to take, if it were in my power, to improve the moral and religious condition of the poor people. .

. . * * * * *

My desire then would be to place three clergymen on the shore.

The First should have his headquarters at Forteau, and the Labrador coast, from Blanc Sablon to Chateau Bay (about 75 miles), and the opposite coast of Newfoundland (about 40 miles) should be under his pastoral superintendence. His settled, though scattered, flock would number 400 all the year—and in summer many more. The next Clergyman should be placed at Battle Harbor and have the shore from Chateau Bay to Seal Islands (the latter included) in his charge—a distance of 85 miles—with 400 settled inhabitants and immense numbers (not less than 5000) fishing all the summer on the coast. This charge would include 3 merchants' establishments. Battle Harbor is the most populous and most important place on the whole shore.

The third Clergyman might reside in Sandwich Bay and have the whole of that and of the next (Eskimaux) Bay under his charge and superintendence, and consider his Mission to extend from Seal Islands to Cape Harrison, about 100 miles, with about 500 inhabitants, Eskimaux and Anglo-Eskimaux. In Eskimaux Bay the Hudson's Bay Company have an establishment.

I should desire also to put a School and Schoolmaster in Deacon's orders at Battle Harbour, at which children from neighbouring islands, to the distance of 30 or 40 miles on either side, might be lodged as well as educated. There is no other way in which the scattered families can obtain instruction. At present, I need hardly say, with the exception of a few English settlers, they are all in complete ignorance.

I am in great hopes that the inhabitants and merchants will exert themselves to make what provision they can towards the support of the Clergy and Schoolmaster. There will be some considerable difficulty in making the commencement and raising the necessary buildings.

* * * * *

I have &c.

Signed: ED., NEWFOUNDLAND.

[28 April,
1879.]**DESPATCH FROM SIR MICHAEL HICKS BEACH TO
GOVERNOR GLOVER ON THE SUBJECT OF
ESTABLISHING A GERMAN CONSULATE AT
LABRADOR.**

(EXTRACT FROM JOURNAL OF HOUSE OF ASSEMBLY, 1880,
Appendix, page 355.)
[COPY.]

NEWFOUNDLAND.
No. 43.

Downing Street,
28th April, 1879.

SIR,

I have the honor to transmit to you a copy of a letter from the Foreign Office, enclosing the translation of a note from the German Ambassador, enquiring whether there would be any objection on the part of Her Majesty's Government to the establishment of a German Consulate in Labrador, and, if not, whether the appointment of Mr. Bourguin to that port would be approved.

Before replying to the Secretary of State for Foreign Affairs on this subject, I should be glad to be informed whether your Government have any objection to this appointment, or to the establishment of the Consulate at Nain.

You will observe that the German Ambassador is anxious to receive the answer of Her Majesty's Government, in order to admit of the appointment being made before the 15th of June. It would be advisable therefore that you should return a reply to this despatch by telegram.

I have, &c.,
(Signed) M. E. HICKS BEACH.

Governor

Sir J. H. Glover, G.C.M.G.,
&c., &c., &c.

No. 363.[April 23,
1879.]**T. V. LISTER, FOREIGN OFFICE, TO THE UNDER
SECRETARY, COLONIAL OFFICE.**Foreign Office,
April 23rd, 1879.

SIR,

I am directed by the Marquis of Salisbury to request that you will lay before Sir Michael Hicks Beach the accompanying translation of a note from the German Ambassador, in which he enquires whether Her Majesty's Government would make any objection to the establishment of a German Consulate in Labrador, and whether, in case of their not objecting, they would approve of the appointment of M. Bourguin, President of the German Moravian Missionaries. His Excellency also enquires whether the Consulate might be placed at Nain.

I am to call attention to His Excellency's request that an early answer may be returned to his note.

I have, etc.,
(Signed) T. V. LISTER.

The Under Secretary of State,
Colonial Office.

[April 18,
1879.]**No. 364.****COUNT MUNSTER TO THE MARQUESS OF
SALISBURY.***Translation.*

German.
German Embassy,
April 18th, 1879.

MY LORDS,

The Secretary of the German Moravian Fraternity has applied through me to the Foreign Office at Berlin, to solicit the appointment of a German Consul in Labrador.

The following reasons seem to favour the institution of the Consulate. The Mission of the German Moravian Fraternity consists of about forty German Missionaries, who wish to retain the German nationality for themselves and their families. Now, the fulfillment of this wish would be very much facilitated by the appointment of a Consul, and the Missionaries would thereby be released from many a difficulty. At present St. John's is the nearest German Consulate, but there is no regular postal communication between

that town and Labrador, the Consulate there is of no use to the Mission. Moreover, there is no official at all of any kind in Labrador, so that it is impossible to obtain legally valid papers. Only lately it happened that a Missionary in Labrador was unable to make arrangements concerning a small estate in Germany, because he could not procure in Labrador any document that the German authorities would recognize as a general power of attorney. A Consulate would also be very serviceable for the issue of certificates of births and deaths.

Before an answer is returned to the application from the Secretary of the German Moravian Fraternity, the Imperial Government would be thankful for the favour of a communication from your Excellency, stating whether there is any objection on the part of the Royal British Government to the admission of a Consul in Labrador. At the same time, I would enquire of your Excellency whether the eventual appointment of Bourguin, the President of the Mission, would be approved; he was born in Livonia on the 26th of November, 1833, and whether the Royal British Government would be satisfied if the seat of the Consulate were at Nain. An answer to these queries would be considered a favour.

As there is direct communication between Europe and Labrador only once a year, and the ship engaged therein leaves the German coast on the 15th of June, I would respectfully request your Excellency to oblige me with a reply as soon as possible, so that the appointment of the Consul may, if feasible, be made before the departure of the ship.

With the, &c.,

(Signed) MUNSTER.

The Marquess of Salisbury,
&c., &c., &c.

PART VIII.

**DOCUMENTS, PAPERS AND CORRESPONDENCE
RELATING TO ACTS OF ADMINISTRATION AND
OCCUPATION ON THE COAST OF LABRADOR.**

A.—REPORTS OF GOVERNORS.

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- | | | |
|-----------------------|--|---|
| | No. 365. | N |
| 1st September, 1764. | DISPATCH FROM PALLISER TO
LORDS OF TRADE. | |
| | See page 932, <i>infra</i> . | |
| | <hr/> | |
| | No. 366. | N |
| 11th September, 1765. | DISPATCH FROM PALLISER TO
LORD HALIFAX. | |
| | See page 946, <i>infra</i> . | |
| | <hr/> | |
| | No. 367. | N |
| 30th October, 1765. | DISPATCH FROM PALLISER TO
LORDS OF TRADE. | |
| | See page 948, <i>infra</i> . | |
| | <hr/> | |
| | No. 368. | N |
| 18th December, 1765. | PALLISER'S REMARKS ON THE
STATE OF THE NEWFOUNDLAND
FISH-ERY. | |
| | See page 1858. | |
| | <hr/> | |
| | No. 369. | N |
| 19th March, 1765. | PALLISER'S REPORT TO THE
LORDS OF TRADE (WITH APPENDIX 4). | |
| | See page 955-956, <i>infra</i> . | |

[31 March,
1766.]**GOVERNOR PALLISER TO MR. POWNALL.**

COLONIAL OFFICE RECORDS 194/16. T. 87.

31 March, 1766.

SIR,

Please to acquaint the Right Honble. the Lords for Trade & Plantations, that in Order to put a Stop to the many Murthers, Robbery's and other disorders comitted on the Indian Inhabitants on the coast of Labradore within my Government, by a Bandetti Lawless People resorting thither, from the Plantations, particularly those from New England and the Winter Inhabitants from Newfoundland, I Judged it became my Duty, was Absolutely necessary and strictly Justifiable and Lawfull, to lay some Restrictions on them by the Regulations I made for that Coast the last year, till His Majesty's Pleasure should be known; this I understand hath been represented to His Majesty's Ministers, by one Mr. Milner and others, as Arbitrary, op[p]ressive and Injurious to the rights and Liberties of British Subjects.

In the year 1764 a Vessel belonging to Boston or Marble Head, after Robbing, Plundering and otherwayes Ill treating the Indians on the Coast of Labradore, took away five of them, who they either Murther'd or carry'd home to make Slaves of; the Name of the Vessel or of the Master I have not been Able to Learn, but the Mate of her was Named Coffen and is now Master of a Vessel from Nantucket.

The last year a Schooner from Boston at Mingan and other Places on the said Coast, strip'd and Plunder'd all the Indians they met with, of their Furs, etc. I have not yet been able to get either the Name of the vessel or the Master, but my informer one Mr. Limeburner, who is a Man of Credit, informs me, that the Master produced a Licence from Governor Bernard to go to that Coast to Trade with the Indians, under Sanction of which, they comfit these violences.

The last year I went to Pitts Harbour on the said Coast, and met with a Tribe of about 500 Indians, whilst I was treating and making Peace with them, and in Pursuance of His Majesty's Instructions, endeavouring to Conciliate their affections towards His Subjects, for Introducing an Intercourse and Commerce with them, by kind treatment and fair dealing, and sent them away well pleas'd therewith, some new England vessels and Inhabitants Boats from Newfoundland, one of which belong'd to Mr. Milner went contrary to my Orders, along the Coast from whence those People came, and from what

I have heard since I left that Coast, I have too good reasons for thinking, those Indians at their return would find their Old People, Wives and Children, who they left at home, Robbed, Murther'd and some carry'd away.

In the year 1763, a Brig named the Decoy, William Knight Master, belonging to New York, the first Mate named Fenny, the Second Mate named John Pringle, the Owners named Farmer and Phinzance, went to the Coast of Labradore, met with a large tribe of Indians, after three days friendly communication and Traffick with them, they contrived to haul their Ship close to the Shore where those Poor Creatures were Encamp'd, who intending no harm and suspecting none, assembled together to look at the Ship, and several of them mix'd with the English on board of her, when, on an apointed Signal being given, they made a General discharge of Guns, Swivels and small arms amongst the Indians, and of those on board, they stabb'd and killed about Eleven, and took Seven alive, then put to Sea, afterwards reflecting on what they had done, and dreading a discovery, they made the Seven who they had kept alive Jump overboard with weights about them, this account with many more horred Particulars, I have from a Man who was one of the Crew of that Vessel at the time, was with me the last year belonging to the ship I then comanded and he shew'd me the Spot where this Bloody transaction hapen'd, he is now in London, and will attest the truth of it.

They (the People from New England) set fire to the woods along that Coast, in Order to discourage and disapoint Adventurers Ships from Britain undertaking the Fishery there, I saw a tract of above Ten Miles of Wood that was Burnt by them the last year a little before my Arrival.

Another time a Winters Crew surpriz'd a party of Indians, and Surrounded them so that there was only one way for them to escape up a steep cliff, three of them who could not get up after several attempts and tumbling down, surrendered themselves, one of the Gang cry'd out to their leader, Master, don't let us kill them, they can't escape, the other answered No, what spare an Indian, and fir'd upon them, as the rest did, and kill'd them all three. Such are all our settlers and Inhabitants in Newfoundland, these and the others aforemention'd from the Colony's, are the People who I have banish'd from Labradore, till His Majesty's Pleasure is known, and these are the People in behalf of whom, a Petition is to be brought into Parliament by way of Complaint against me, for what is call'd by Mr. Milner, Partial, Arbitrary, Opressive Orders, suspending and controlling Acts of Parliament, interdicting the Lawfull Commerce of the Subjects of this Kingdom, and denying them the Rights and Priviledges belonging to British Subjects, but they are unworthy of that Name, they are a disgrace to human Nature, they are a Scandal to the Country to which they belong.

I am, Sir,
Your most obedient Servant,

HUGH PALLISSER.

London, 31 March, 1766.
To. J. Pownall, Esq., etc., etc.

No. 371.

20 October, 1768. **DISPATCH FROM PALLISER TO
LORD HILLSBOROUGH.**

See page 1032, *infra*.

No. 372.

N

[17 Feb.,
1773.]

MEMORANDUM BY GOVERNOR SHULDHAM.

COLONIAL OFFICE RECORDS 195/12.

Craven Street.

17 February, 1773.

MY LORD,

I need not inform your Lordship that a Block-House called York Fort is erected and established in Chateau Bay on the coast of Labrador within my Government which is garrisoned with twenty seamen and marines, belonging to His Majesty's ships under my command and who are relieved yearly.

I am, etc.,
M. SHULDHAM.

No. 373.

[13 Sept.,
1773.]**GOVERNOR SHULDHAM TO SECRETARY OF STATE.****SECRETARY—IN LETTERS.**

ADMIRALTY 1/470.

"Panther", St. John's,
13th September, 1773.

Sir,

In my letter to you of the 26th June, I acquainted you for their Lordships' information, of my intention as soon as I had settled the operation of the squadron, and the causes depending in the courts of Justice, of visiting the coasts of Labrador and some other parts of my Government, from which service I returned to this place a few days ago; my first visitation was to the harbour of Croque on the North East part of this island where the subjects of France have a right to catch and cure their fish, and where I found them without any material complaint either of or from them; I then proceeded to Chateaux Bay on the coast of Labrador, and agreeable to their Lordships orders to me of the 12th of May last, I settled the different branches of the fisheries carried on there with all the impartiality in my power and I hope to the general satisfaction of the adventurers.

I have also in obedience to their Lordships' orders of the 12th May, given strict orders to the commander of the Cruizer stationed at the Magdalen Islands, to take the most effectual care for the support and protection of the establishment formed there by Mr. Read and for preventing the disorders and abuses complained of by him.

Immediately on my arrival here this year, I sent a very sensible officer of squadron in a small vessel, to explore that part of the coast of Labrador to the northward of the streights of Belle Isle, to visit the society of the Unitas Fratrum, settled there for the propagation of the Gospel amongst the savage inhabitants of that country, and to offer them any reasonable assistance they might stand in need of, for promoting the laudable object of their mission; and I have the satisfaction of informing you, that they have made great progress in civilizing and instructing those barbarous people, that they are obeyed, respected and beloved by them, and that they have no doubt, but that their undertaking will be attended with every public and commercial advantage expected by Government to be derived from it.

p. 1255

Herewith, Sir, I send you a short narrative of the

observations of Mr. Curtis the officer I sent upon this service (No. 1) together with a copy of a letter (No. 2) from Captain Morris of his Majesty's sloop "Otter," stationed on the coast of Labrador, representing his having seized, in obedience to the orders he was under, several French fishing boats which he found fishing at the island of Belle contrary to treaty.

On complaint having been made me some weeks ago by a French merchant employed at a fishery at a port about twenty leagues from hence, that some of our lawless and disorderly subjects who continue here the winter, had, in his absence destroyed his fishing room and other conveniences.

I sent a Lieutenant in a small vessel to find out the offenders, bring them to punishment and oblige them to make restitution for the injury they had committed, which I make no doubt he has effectually performed, a circumstance I only trouble you with, as an instance to their Lordships that no attention is or will be wanting to preserve the harmony and friendship subsisting between the two Crowns.

His Majesty's sloop the "Otter," having performed the service upon which she has been employed this season, I have ordered her captain to proceed forthwith to Portsmouth. Herewith I send you the state and condition of His Majesty's ship "Panther", and am, Sir,

Your most obedient humble servant,

M. SHULDHAM.

No. 374.

N

1773. **REMARKS BY GOVERNOR SHULDHAM IN
OBEDIENCE TO HIS INSTRUCTIONS.**

See page 1083, *infra*.

No. 375.

[5 May
1823.]**EXTRACT FROM LETTER FROM GOVERNOR
HAMILTON TO R. WILMOT.**

COLONIAL OFFICE RECORDS 194/66.

Answer to No. 1.

No. 6 Foley Place,
London.

SIR,—

Called on by you to make my observations on the accusations in an anonymous pamphlet written with all the rancour and malice of personal enmity.

The Admiral has always been appointed Receiver of the Greenwich Hospital Dues and is entitled to 7½ per cent., but these perquisites have always been given to the Secretary. A difference of opinion has lately existed respecting the liability of those boats now in general use at Newfoundland, but these dues have been paid for nearly a century and I am not aware that the objections made are valid. But if the collection from such boats is illegal, either the question ought to be tried, or the dues relinquished. The statement with regard to the surrogates being collectors of Greenwich Hospital Duty is untrue, with one only exception, that only of the officer employed on the coast of Labrador, for in all districts of Newfoundland there are resident collectors wholly unconnected with the Navy, and they all have the Acts of Parliament and opinion of His Majesty's law officer for their guidance.

None of the Commanders of the Men of War have anything to do with the Collection of the Duty, except the one employed on the Coast of Labrador, where there is no resident Collector, and the amount generally received on that Station is from £20 to £30 the percentage on which is usually given to the Clerk for the trouble of keeping the accounts.

* * * *

(Signed) HAMILTON.

ROBT. WILMOT, Esq.
Under Secretary of State, etc.

[25 Nov.
1823.]

GOVERNOR HAMILTON TO EARL BATHURST.

No. 121. Ranger at Sea,
25 November, 1823.

My Lord,

I have the honor to transmit herewith for your Lordship's information returns of the Fishery and Inhabitants, and of the imports and exports of the Island of Newfoundland for the Year ending 30 June 1823. These returns do not of course include the result of the Cod Fishery of the present Season, which I have the satisfaction to state has been very abundant the Spring Seal Fishery though on a comparison of Last Year's not so considerable nevertheless produced nearly 200,000 Skins and 2,300 tons of Oil.

I am etc.,

(Sgd) C. HAMILTON.

The Right Honorable,
The EARL BATHURST, K.G.

[25 Nov.,
1823.]**GOVERNOR HAMILTON TO THE SECRETARY OF
THE ADMIRALTY.**

ADMIRALTY 1/479.

Ranger, at Spithead,
30 November, 1823.

Sir,

I have the honour to report to you for the information of the Lords Commissioners of the Admiralty, etc.

Having ordered Lieutenant Cany (?) of the Pelter Gun brig, in the course of the service on which he was employed on the coast of Labrador to proceed up the Invucktoke Inlet, to cut a couple of spars as samples for the Navy Board, I have forwarded in a small box to your address, a chart of that inlet to be laid before their Lordships. There are also on board the Ranger two other boxes, addressed to you, one containing some specimens of the several species of spruce and other trees he found there, and the other some geological specimens collected by him on the different parts of the Labrador coast which he requested might be forwarded to their Lordships.

I think it right to remark that the subjects of the United States of America have not yet availed themselves of the privilege granted to them by the Convention of 1818, of drying fish on that part of Newfoundland lying between Cape Ray and the Rameau Islands, nor have I learnt that they have had any fishing vessells on that coast, though they continue to prosecute their fishery on the Labrador with great effect.

I have the honour to be, etc.,

C. HAMILTON, Vice-Admiral.

29 October
1841.**SIR JOHN HARVEY TO LORD STANLEY.**C.C.N.,
Vol. 89.

("REPORT, October 29, 1841, etc.," Vol. M. 778A, pp. 67-71.)

My principal object will be personally to ascertain the condition and wants of the great number of Persons (and their families) engaged in the Fisheries upon the Labrador Coast, and from whom it would scarcely appear to consist with justice to compel the payment of duties without in return affording them protection, instruction, Spiritual Consolation and legal redress of wrongs and injuries—from those in a word from whom the blessings of Civil Government appear substantially to have been withheld.

It has been humanely suggested that until some permanent arrangement can be made, the despatch of a Vessel from hence, having on board a surgeon, a Missionary, a Schoolmaster, and a Stipendiary Magistrate, to remain upon the Coast during each fishing Season would be attended with great benefits to the Fishermen and their families, but even this, as every other measure of advantage and relief to this Colony must await the restoration to it of its representative constitution to it.

I have the honour to be, my Lord,
Your Lordship's
Most obedient humble Servant
J. HARVEY.

The Right Hon. Lord Stanley,
etc., etc.

Extract: Government House, Newfoundland,
October 29, 1841, No. 16.

Sir John Harvey to Lord Stanley.

[4 May, 1848.]

GOVERNOR LE MARCHANT TO EARL GREY.

C.O. RECORDS 194/1.

Government House,
St. John's, Newfoundland,
4th May 1848.

MY LORD,

Herewith I have the Honor to forward to your Lordship the Blue Book for the year 1847, at the same time accompanied with my report upon the state of the Colony throughout that year, as also its present condition and its future prospects.

* * * * *

Labrador.

In pursuance of the power conferred upon the Governor by the 18th Section of the Judicature Act (5th Geo. IV., c. 67) a Court of Civil jurisdiction was established for those parts of the Labrador within the limits of this Government, presided over by one Judge at a Salary of £700 Sterling, and having as Officers a Clerk and Registrar at a Salary of £150 and a Sheriff at a Salary of £100. This Court heard and determined in a summary way all suits and complaints of a civil nature arising within the limits of its jurisdiction, and for this purpose visited all the different Harbours on the Coast once a year during the months of August, September and October. An Appeal lay from the decisions of this Court to the Supreme Court of Newfoundland in matters at issue above £50, and in cases affecting the title to lands and tenements, rights of fishery, annual rents and matters where rights in future might be bound.

This Court was in existence from the year 1826 to 1834, when it was abolished by the Local Act 4 Wm. 4th, c. 20, which repealed so much of the Judicature Act as provided for its Establishment.

Since 1834 the Labrador Coast has been entirely without any provision for the local Administration of Justice, and although a very extensive fishery is annually carried on there by the Inhabitants of this Island, and there are moreover many permanent settlers, there is not even a single resident Justice of the Peace.

* * * * *

[29 Aug.,
1879.]**GOVERNOR GLOVER TO SIR M. E. HICKS BEACH.**

29th August, 1879.

Sir,

Having received information from Mr. Fortescue, Justice of the Peace at Rigolette, Labrador, and from the Rev. W. C. Shears, of the total failure of the salmon fishery this season, and the consequent prospect of starvation of the inhabitants of Hamilton Inlet, Labrador, during the approaching winter; and as I have not yet visited this part of my Government which I fear has heretofore been very much neglected, I am this day proceeding in H.M.S. "Druid," accompanied by one of my Ministers to inspect the neighbourhood of that locality and am taking with me fifty barrels of flour and two barrels of molasses, supplied by the Government in case immediate assistance may be needed.

I shall furnish a full report of that part of the Colony on my return to St. John's, on or about the 9th September.

Trusting that this may meet your approval.

I have &c.,
(Sd.) J. H. GLOVER.

The Right Honourable
SIR M. E. HICKS BEACH, BART.

[18 Dec,
1880.]**J. H. GLOVER TO THE EARL OF KIMBERLEY.**Newfoundland.
No. 156.

18 December 1880.

10 Nov. 1880.
Encl. No. 1.

SIR,

I have the honour to forward, for Your Lordship's information, a copy of a letter addressed to me by the Naval Commander in Chief of this station in connection with the visit of H.M.S. "Flamingo" to Hamilton Inlet, Labrador, during the recent fishery season, and calling my attention to an opinion expressed by Commander Hall, R.N., that, as numerous disputes respecting land or water rights may arise in that district, he (Commander Hall) submits it is desirable that early next year a member of the Supreme Court, or other person invested with the necessary authority to settle land and fishery disputes should visit Hamilton Inlet.

1 Dec. 1880.
Encl. No. 2.

2. I also enclose a copy of my letter to the Commander in Chief in reply, together with copies of various documents relating to this subject.

Enclosures
Nos. 3-8.
N.B.—These
enclosures
throughout not
available without
much further search
—probably in Record
Office, London.
(Sgd.) C.W.H.
St. John's.

3. I would observe that up to this moment neither myself nor my Government have received any information in regard to disputed rights of land or fishery on the Coast of Labrador which would necessitate the holding of the Supreme Court in that portion of my Government and the Collector of Customs, who visited the district referred to in the Revenue Cruiser in the course of last summer, and who remained at Rigolet from the 5th to the 18th of August, reports that the only dispute brought to his notice was between one Rich and a man named Flowers, who were fishing the Jordan Brook. Flowers had a fleet of three salmon nets, Rich had two, and the latter lifted Flowers third net as being set contrary to custom.

4. The Collector of Customs further states that Mr. Fortescue, Justice of the Peace at Rigolet, made no observations to him in regard to any disputes or disturbances in Hamilton Inlet, and the Honourable Stephen Rendell, the Agent for Messrs. Job Brothers in St. John's when handing to my Private Secretary the original letters he had received from Mr. Fortescue (see enclosure No. 4) remarked that he did not consider the question as mooted by Mr. Fortescue in these letters as of sufficient importance, to trouble either the Governor or the Government with it,

5. The question of an exclusive right to a sea fishery, as put forward by Mr. Fortescue, is contrary to the law of Newfoundland, and the statement that a case of this nature was decided by the Supreme Court in 1874, is incorrect, inasmuch as the Attorney General in his letter to me on this subject (see enclosure No. 3.) states that he is unable to discover, nor does he believe, that any claim to an exclusive right of fishery in Jordan's Tickle has ever been preferred in the Supreme Court.

6. The Coast Fishery Act, Cap. 102, of the Consolidated Statutes of 1872, amended in Act 38 Vic. Cap VII, recognises no exclusive or private rights of fishery, but provides only as to distance between nets. (See section 10 of the Consolidated Statutes.)

7. It would appear that the letters from Mr. Fortescue to the Hon. S. Rendell, previously referred to (see enclosure No. 4) were given by the latter gentleman to the Paymaster of H.M.S. "Druid" and through that Officer reached Capt. Kennedy, R.N., who subsequently called upon me, and after reading certain extracts from them, stated that he was prepared to send a ship to Hamilton Inlet to put things right.

8. I am at a loss to conceive why the whole of the information obtained by Captain Kennedy through his Paymaster was withheld when it was unreservedly given to me some time afterwards by Mr. Rendell, or why Captain Kennedy should be desirous of interfering in a matter upon which I had previously expressed an opinion, without being desired to do so by me at the request of my Government.

9. I at once placed before my Council such information as Captain Kennedy could be induced to give me, and with a view to minimise any injury or injustice that might arise through the hasty action of any (Officer) Official sent to Hamilton Inlet, a minute (see enclosure No. 5) was framed pointing out that no Justice of the Peace had any authority whatever to interfere between occupants and the claimants of land or water privileges. A copy of this Minute was transmitted to Captain Kennedy with a request (see enclosure No. 6) that, in the event of his sending a ship to Labrador, it might be notified to the Officer Commanding for his guidance, and also to Mr. Fortescue J.P. at Rigolet.

10. My Government called upon Mr. Fortescue for an explanation of the statements put forward by him in his letters to Mr. Rendell, and I now enclose a copy of this correspondence. (See enclosure No. 7.)

11. The Opinion relative to rights of fishery referred to by Mr. Fortescue as having been expressed by me, was not contrary to the Colonial Statutes to which neither Capt. Kennedy nor Commander Hall appear to have given any of

their attention, and these officers would seem to have confined themselves to the statements of Mr. Fortescue the Agent of the Hudson's Bay Company. who was naturally interested in obtaining the exclusive right to a fishery that he was about to purchase on behalf of the Company which he represents,

p. 1264

12. If however any expression of action of mine, supported by a Minute of my Executive Council, shall have prevented the perpetration of a grave wrong against ignorant and struggling fishermen, and that the free use of an open run of the sea between Jordan Island and the mainland, shall have been secured for the enjoyment of rich and poor alike, subject only to the proviso laid down in Cap. 102, section 10 of the Consolidated Statutes, I may be well content to pass without further comment the injudicious attempt on the part of the Officer Commanding the fishery squadron to support, at the expense of poor fishermen, a large and influential Company in their endeavour to obtain the exclusive right to a fishery within my jurisdiction, and common to all.

I have &c.,
(sd.) J. H. GLOVER.

The Right Honourable
The Earl of Kimberley.

B.—REGULATION, CONTROL AND PROTECTION OF
FISHERIES.

No. 382. N

8th April, 1765. **PALLISER'S FISHERY REGULATIONS.**

See page 937 *infra*.

No. 383. N

28th August, 1765. **PALLISER'S REGULATIONS FOR
FISHERY AND TRADE.**

See page 944 *infra*.

No. 384. N

1765. **EXTRACT FROM RETURN OF STATE OF
FISHERY ON LABRADOR COAST.**

See page 965.

No. 385. N

23rd July, 1767. **PALLISER'S ORDER AGAINST FIRING
WOODS ON THE COAST OF LABRADOR.**

See page 1004 *infra*.

[23 July,
1767.]**PETITION FROM THE MASTERS OF THREE
WHALING VESSELS**CONCERNING THE WOODS SET ON FIRE BY THEM IN
TEMPLE BAY, LABRADOR,

AND

THE GOVERNOR'S REPLY.RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 4, page 48.
Pitts Harbour, Labrador,
23rd July, 1767.To His Excellency Hugh Pallisser,
Governor of Newfoundland & Labrador, &c., &c.

Whereas the Woods in Temple Bay were last night set on Fire by some People belonging to some Whaling Vessels from the Plantations, contrary to the Statute of the 10th & 11th of William 3rd, We the Undersigners Masters of the Said Whaling Vessels, beg leave to assure Your Excellency that it was not wilfully nor maliciously done, that We have the utmost abhorance to all such audacious unlawfull proceedings as have been practiced on this Coast contrary to the said Statute, and to the exceeding great prejudice of ye Publick, and assure Your Excellency that you may always depend on our strictly conforming to your Regulations for preventing them, and the like shall never happen in future within your Government from negligence in us, which we are sensible is equally prejudicial to the Publick, as if done wilfully; and as your Officer can testify that immediately on his coming to us with your Order, we took every possible means in our Power to stop the Progress of the Flames & our People are now actually employ'd therein, therefore when we have succeed in totally extinguishing the Fire according to your Orders, We humbly intreat you will be pleased to forbear any further proceedings for this offence against the said Statute, and if you please to permit us to proceed on our respective Voyages, We will enter into any obligations you please to prescribe for conforming to what we have above promised.

ISAAC FREEMAN, Master of the Speedwell of Boston.

BENJ'N. BERRY, Master of ye Good Intent of Boston.

JOS'H. DOANS, Master of ye Sarah of Boston.

Sloops.

To the owners of the
three for-going
Whaling Vessels.

New England Whaling Vessels, who with many others were concerned and present at doing the mischief therein mention'd, the rest escaped before they could be apprehended, and left the Woods Burning, upon these three acknowledging their fault, and appearing to be penitent and sincere in what they promised, Gov'r. Pallisser (tho' he was by no means satisfied that the woods was not set on fire wilfully) permitted them to proceed on their Voyages, in confidence that the Gentlemen in Boston concerned in those Vessels, will testify their disapproving all such proceedings of the Masters of their Vessels on this Coast, by turning them out of their employ, which if they do not do, more rigorous measures must be pursued in future, without shewing so much regard to the Interest of the Employers; there is some room for hoping this may be prevented, since the Whalers in general have behaved this Year more orderly, and with fewer insolences and Provocations to the King's Officers than heretofore, and such of them as have been question'd and talked to by the Governor himself have promised to behave in future within this Government better, and as become good Subjects, & acknowledge the advantages they find by submitting to the Government Established here, for immediate decisions of disputes that arise amongst themselves in the course of their Whale Fishing, which otherways would be totally stop'd, by all kinds of violences and mischiefs ensuing amongst a multitude of such Crews of the most disorderly People from the different neighbouring Colonies, all disputing, contending and obstructing each other, none but a few from New England have been offenders this Year, who still are the most difficult to reduce to Order, such is the baneful effects of one or two turbulent spirits, capable of infecting a whole People.

This is address'd to you by the Governor's direction as Owners of the three above Named Vessels, for your particular information, and of any others concerned in the Whale Fishery, to whom you may please to communicate it, hoping thereby to find assistance for stoping those disorders, and that the Masters of the Whalers from New England may be instructed by their respective Owners, to behave when within this Government, as becometh them. To what I write by ye Govrs Orders, I have only to add, that,

I am Gentlemen,
&c. &c.

No. 387. N

2nd August, 1767. **PALLISER'S ORDERS TO LIEUT.
SAML. DAVYS.**

See page 1006, Part VII.

No. 388. N

25th August, 1773.—**REPORT FROM ROGER CURTIS
TO GOVERNOR SHULDHAM.**

Vide Part VII, page 1090.

No. 389. N

13th September, 1773—**DISPATCH FROM GOVERNOR
SHULDHAM TO SECRETARY OF STATE.**

Vide Part VIII, page 1264.

No. 390. N

15th September, 1773—**GOVERNOR SHULDHAM'S
PROCLAMATION.**

See page 1082 *infra*.

No. 391. N

3 August, 1774—**SHULDHAM'S ORDERS TO
ALEXANDER GED.**

See page 1148 *infra*.

[30 August,
1777.]**CORRESPONDENCE BETWEEN JEREMIAH
COGHLAN OF FOGO AND GOVERNOR MONTAGU,****ABOUT THE INTERFERENCE WITH COGHLAN'S
FISHERIES ON LABRADOR.****No. 392.****JEREMIAH COGHLAN TO GOVERNOR MONTAGU.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 7, page 52.

Fogo, August 30, 1777.

May it please Your Excellency,

Having already done myself the Honour of writing you at large by this conveyance, being one of My Sealing Schooners called—the Advice, I am under the disagreeable necessity of laying before you an Account of some Illegal proceedings which have happened of late at my Settlements on the N.E. Coast of Labrador: referring to the farther—relation of such given by my Agent at that place which I now hand you, and first begging leave to pray you will excuse my troubling you on this occasion, I shall take the liberty of communicating to you the Mode of my first establishing a Fishery at the former Coast, flattering myself that your Excellency, in your wise consideration will judge it equitable to confirm the possession granted unto me by your Predecessor, as you find in every respect I make use of the same to the no small Advantage of supporting so valuable a Nursery to the British Marine.

Early in the Government of my very respected good friend Sir Hugh Pallisser, and by His recommendation I was the first English Subject that settled in the Seal Fishery at Chateaux, so long back as the year 65, and finding it most eligible to pursue the Cod and Salmon Fisheries farther North on the said Coast, I fitted out an armed Sloop to guard against the Esquimaux Indians, and having Lord Rutherford on board, then Lieutenant of the Niger, the late Sir Thomas Adams, Commander at Chateaux, the said Sloop proceeded on a Discovery from the former Port to Cape Charles, Alexis St. Frances, and Porcupine Bays, on the North Coast of Labrador, and on her return encouraged by Sir Thomas Adams, I communicated my intentions to Sir Hugh Pallisser of Settling a Residence at the former places, for the

purpose of carrying on a Cod and Salmon Fisheries, in whose answer to me on the occasion he says “pursue your undertakings on the Coast of Labrador which are highly recommendary to me, and no after Commer, shall dispossess you.” Still the Difficulty of getting proper People at that time to reside at the said Places was a hard task, however in 1769; being join'd by a Captain Cartwright, of the Army, and a Lieut. Lucas of the Navy, who were acquainted on the Coast, we formed a Settlement at Cape Charles, and fitted out an Armed Schooner to go among the Northern Tribe of the Esquimaux Indians to trade, the said Schooner having been unluckily lost, and Lieut. Lucas in her, who was a Man of Honour, I thought it most advisable to dissolve my connections with Mr. Cartwright having been subject to a heavy loss, each Persons settlements being allotted on the Coast of Labrador, he remained with Cape Charles and Sandwich Bay Rivers, confirmed by Lord Dartmouth, then at the head of the Board of Trade, and I kept possession of Alexis and the other Rivers to Porcupine Bay, a little at this side of Mr. Cartwright, since which possession our Labours have differed very widely, as I have employed four times the number of hands, being Bread in this Business, and of course added more to the increase of Seamen; pursuing both the Salmon, Cod, Furring and Sealing Business, with old experienced Men carried from hence to instruct the young beginners; New Comers not being content to have the same opportunity of exploring the Coast, and making a Trial of new found Rivers. In 1775 one Baskomb, a Salmoner employed by a Mr. Hooper of Poole without any proper Authority, while my People were gone to their Store Home for Salt, opposed them by setting Salmon Nets at the Mouth of one of my Rivers, but on my representing such to Lord Shuldham, I obtained an Order from Capt. Parker of His Majesty's Ship the Martin, then at Chateaux, to cause immediately said Baskomb to quit and leave me all the Salmon he had taken, since that time I have remained in peaceable possession of all my Posts, on the Coast of Labrador, occupying the same with Industry, having had this year two Ships there cleared out of England, the one called the Admiral Montague and the other the Young Joseph, for which Ships with my Winter Residence I had 100 Men employed in the Seal and Cod Fisheries & 40 men in the Salmon and Furring Business, occupying all my Posts with a proper Discipline and Decorum; and in Course subject to the greatest expense of erecting Buildings and other necessary Works, for the purpose of carrying on my Business to the best advantage, all which I take the liberty of referring to your Excellency, and I am now come to inform you of the cause of my present application to you in consequence of the following Letter received from my Agent at Spear Harbour, entrance of Alexis River, Labrador.

[22 August,
1777.]

SIR,

Your having suffered John Peaton, Salmon Catcher for you at the exploits to come to this Coast in your Brig, Joseph, he is likely to be very prejudicial to your ensuing years Business, as the said Peaton being divested of every sensation of Gratitude, due to you for the Opportunities given him to serve himself by being concerned on the Half Shares with you, he has so inflamed the minds of all your Salmon Catchers and Furriers, as well as Sharemen, with the notion of going in future on their own accounts, and keeping possession of your Posts in his and their Names, so as to have all the Emoluments arising therefrom to themselves apart from you, in expectation of your not having it in your power to provide understanding men to make use of the Salmon Rivers within your limit on this Coast, that owing to such an unwarrantable Carriage in him, joined by a few others, I fear it will be out of my power to make things agreeable among the People, as the said John Peaton has already hired your Servants that were Salmon Catching at Alexis and Black Bear Rivers (though not for some time entitled to their discharge) and he has engaged them to go the Winter to your Settlements at Sandy Hill Cove in Porcupine Bay, to be employed in Salmon catching the Summer ensuing, saying he has nothing to fear, as their Voyage will be made and he will get a small vessel out of England to protect him, before you can dispossess them next Season, in consequence of which I have been obliged to come under terms of letting many of your old Servants to be half concerned with you the approaching Season, otherwise you must have the trouble of providing others, and it would be some time before they can be acquainted on this Coast, all which I think proper to lay before you, and hope you will put it in my power to prevent this evil arising to your Business under my direction, as I think it a great hardship that these People who were your Servants this Season should have an Opportunity of dispossessing you the next. I may as well claim a right to carry on your Trade myself—likewise it is a great stop to Industry to have those kind of Masters or Planters residing at Newfoundland to mix at this Place among Ship Fisheries as they are prone to indulge a great means of encouraging Sloth; And, further this Peaton has taken all the Servants Wages connected with you and hired by him into his own hands the better to be enabled to oppose you in your residence, so that if he does not succeed the poor deluded fellows will be great sufferers, as your presence here will be a great ease to me, and likewise to be very serviceable to yourself I shall, I shall Sir humbly wish for your appearance and am

Your faithful Servant,

(Signed) TIMOTHY SHEA.

From the foregoing information your Excellency can readily judge what a prejudice such proceedings in those People I encouraged to be industrious in my Business (by

giving them as a consideration an extraordinary part of

p. 1272

the profits on their labour) must be to me if not put a stop to; and as I ever understood from my first settling on that Coast, that no Person had a right of Possession or residence there but such as were protected annually by Ships fitted out from Great Britain, as also that in Consequence of my having been one of the first settlers on the North part of said Coast, which I explored at a very great expence my said Possessions were confirmed to me. I beg leave to trouble your Excellency to grant me such redress as may appear to you equitable, and as those kind of People were forbidden in Sir Hugh Pallisser time to reside on the Coast of Labrador, except employ'd under the protection of a British Ship Fishery, I further pray you to grant me and order to cause them to evacuate my Settlements, except they continue employed under the protection of a British Ship, and not as Planters or Residents, according to the Custom of this country which is pursuant to the late regulations made for the Coast of Labrador. The Peoples names that have taken upon themselves to reside as Planters on my Settlements are John Peaton, John Wrixson, John Nooks and William Phippard, Salmoners, with sundry other of my Servants hired by them, and John Dean, William Measey and George Marsh, Sealers. These People were hired by me and carried from thence as understanding Men in the former Business, and in consideration of their being industrious I allowed them a Share or part of the Profit of their Labours, and as is too much the case with People of their uneducated principles I have experienced the treatment before mentioned from them.

I am at a loss how to apologize for giving your Excellency the Trouble of the foregoing information only flattering myself that your wonted readiness to encourage the industrious will excuse the liberty now taken by

Your Excellency's most obliged and very humble servant,
(Signed) JEREMIAH COGHLAN.

To His Excellency John Montagu, Esq.,
Governor, &c. &c.

[4 Sept.,
1777.]

No. 393.

N

GOVERNOR MONTAGU TO JEREMIAH COGHLAN.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 7, page 58.
St. John's,
4th September, 1777.

SIR,

In answer to your several Letters dated the 20th, 29th & 30 Ultimo, I am to acquaint you that I have been obliged to appoint Lieut. Schomberg Commanding the Labrador Schooner to be my Surrogate on that part of the Coast of this Island, laying between St. John's and Fogo, not being able to

spare a Man of War, as has been customary.

p. 1273

I am sorry to hear you are so unhappily circumstanced with respect to your Servants employed on the Coast of Labrador, and particularly so, as that Coast and Islands have by a late Act of Parliament been reannexed to the Province of Quebec, which puts out of my power as Governor to render you any Service.

I have ordered Lieutenant Schomberg to attend you to your settlement there and to give you every assistance in his Power consistant with my Instructions.

I have also inclosed you an Order to empower you to claim payment for the French Salt taken by the Inhabitants of Twilingate, White Bay &c. &c., as mentioned in your Letter of the 20th Ultimo, with full power to attach their Effects if they refuse to comply with what has been Customary.

I am also to acknowledge the receipt of your Bill on London for fifteen Pounds on Account of the Whale Oil found on your part of the Coast.

I am, Sir,
Your most humble servant,
J. MONTAGU.

To Jeremiah Coghlan, Esq.,
Island of Fogo.

[27 Sept.,
1777.]

No. 394.

N

LIEUT. SCHOMBERG TO GOVERNOR MONTAGU.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 7, page 71.
Labrador, Fogo Harbour,
27 Sept., 1777.

SIR,

I arrived at Fogo on the Morning of the 15th Instant, and immediately communicated my Orders from you to Mr. Coghlan who has given over his intention of going to the N.E. Coast of Labrador, as a Schooner of his arrived here from thence a few Days ago, and has given some satisfactory accounts relative to Mr. Coghlan's settlements on that Coast, by his desire and according to your Excellency's Order, I thought it my Duty to make some enquiry into the Circumstances, and found these Servants of Mr. Coghlan to be the very Crew who were dispossessed by those complained of, and from what I could learn from them, it appeared to be not only a Breach of Trust, but a most Illegal proceeding.

Mr. Coghlan has sent the Schooner with the same Crew to the Dispossessed Settlement to procure Furs this Winter, and by a Brig of his which Sailed at the same time, I sent the inclosed Order; It will I flatter myself meet with your Excellency's approbation, and I think it strictly conformable to the Orders and Instructions I received relative to my Proceedings on that Coast.

From Complaints made me by Mr. Coghlan concerning some French Salt which was left on the Coast of Newfoundland, to the Northward of this Island and plundered by many of the Inhabitants of Twilingate, Mr. Coghlan desired my Assistance in procuring him the Collection of the accustomed Duty of Five Shillings per Hogshead, which he had found some Difficulty in as well

as those who possessed the Salt positively denying it, the Mr. Coghlan at the same time had not only taken some of it now in his possession, but had also been credibly informed of their having Cured their Fish with it this Year.

Mr. Coghlan likewise complained to me of the irregularity of collecting the Greenwich Hospital Money at the same place. From these Complaints, I thought it a Duty incumbent on me to visit Twilingate, provided it would not interfere with the Surrogatory Business, and accordingly sailed for that Port, with Mr. Coghlan on board, the 20th in order to settle the Disputes, about an Hour after I left Fogo, it came on a very hard gale to the E.N.E., and so exceeding thick, as to render it unsafe, running in for the Islands, I with the advice of Mr. Coghlan put back, and the Wind continuing in the same Quarter, with as thick Weather, for three of four days, I thought it most Advisable to dispatch a Man who was recommended by Mr. Coghlan, in order to make some enquiry about the Salt, and to collect the Hospital Money.

The Man returned on the 25th but brought no Satisfactory Accounts from the People who had taken on board the said Salt, only gave him some Nocks, which plainly indicate their having had it, and in a much greater quantity than was mentioned in your Excellency's Order to Mr. Coghlan, as they denied making Salt to having received any more Salt than therein mentioned.

I have received all the Hospital Money from this Island & Twilingate except from Mr. Slade, who I wrote to, desiring he would settle, but received rather an evasive Answer. I shall therefore leave Fogo the first Wind, which I had proposed dong on the 25th, but the Wind continuing to the S. E. ward prevented me.

I am, Your Excellency's most obedient humble servant,

I. SCHOMBERG.

To His Excellency,
Governor Montagu.

[19 Sept.,
1777.]

No. 395.

LIEUT. SCHOMBERG'S ORDER.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 7, page 73.

By Isaac Schomberg, Esq., Surrogate to His Excellency John Montagu, Esq., Governor and Commander in Chief in and over the Island of Newfoundland Coast of Labrador, &c., &c.

WHEREAS it has been represented to me by Charles Hellinss and his Crew who were employ'd by Mr. Jeremiah Coghlan on the N.E. Side of the Coast of Labrador as Furrers and Salmon

Catchers on Shares, that the said Charles Hellinss and Crew having met with bad success at a part of the said Coast, called Partridge Bay where they were employ'd, Furring and Salmon
p. 1275

Catching the last Season, did on the 4th Day of August last, proceed to the Northward of the Mealy Mountains, in search of some other Place on the said Coast of Labrador, more likely to encourage their Industry to the Advantage of their Employers, and having after much Fatigue and trouble, discovered a Bay about Twenty Leagues to the Northward of the aforesaid Mealey Mountains fitting for the taking of Furrs the Winter, and Cod Fish and Salmon the Summer, which Bay or River that runs therein, no English Subject did ever discover or occupy, and that he the said Charles Hellinss and Crew or some other Crew of Hands belonging to the said Jeremiah Coghlan at whose Expencc the said Discovery has been made, are to be employed at the aforesaid River the approaching Season for the purpose of taking Furrs, Salmon and Fish.

By the Power and Authority to me given by His Excellency Governor Montagu bearing Date at St. John's the 4th day of September, 1777.

I do hereby Order and Direct that no Person or Persons employed by John Payton, John Wrixon, or in their Names, or in the Name of any other Person or Persons whatever, do at any time after the Date of these presents disturb, molest, or pretend to hinder any Person or Persons whatsoever to or employ'd by the said Jeremiah Coghlan, the first Discoverer of the said Bay or River, from making of the said Premises, for his use only, and I forbid all Servants and others known by the Name of Planters, who may pretend to reside on the Coast of Labrador without the protection of a British Ship annually cleared out of some Port in Great Britain to be known as his or their Property, as the Law directs, not to occupy or make use of any Bay, Harbour, Creek or River for his or their use to the prejudice of the first Establisher; And should such Servants or Planters persist in residing on the said Coast, they are ordered herewith to evacuate the same otherwise they will be compelled.

And Whereas it appears to me that the said Jeremiah Coghlan, not only conforms to the Laws and Regulations in every particular, heretofore made regarding the said Coast of Labrador for the benefit and increase of His Majesty's Marine, but also has been at great expence in erecting Stages, Buildings and other Fisheries, for the purpose of carrying on the Sealing, Furring and Cod Fishery, and Salmon Fishery providing yearly two Ships from Great Britain to the said Coast, for the use of His Fisheries.

I do hereby also further Order and Direct that no Person or Persons whatsoever of His Majesty's British Subjects, shall on any pretence, as Settlers on the said Coast of Labrador take possession of, or settle at any Salmon River, Sealing Posts, Furring Paths, or Fishing Harbour, that has been first Discovered, occupied and established by the said Jeremiah

Coghlan, or the people employ'd by him, on the said Coast of Labrador, he at all times taking care to conform to the Laws regarding his said residence.

Given under my hand on board His Majesty's Schooner Labrador, in Fogo Harbour, this 19th day of September, 1777.

I. SCHOMBERG,
Surrogate to His Excellency the Governor.

No. 396.

12th September, 1779. **LETTER FROM GOVERNOR
EDWARDS TO LORD GEORGE GERMAIN.**

See page 1177 *infra*.

[14 Sept.,
1804.]

No. 397.

N

SIR E. GOWER TO ADMIRALTY.

Vice-Admiral Gower to the Secretary of the Admiralty.

ADMIRALTY 55/475.

Isis, St. John's Harbour,
Newfoundland. 14th September 1804.

SIR,—

I beg you will acquaint the Lords Commissioners of the Admiralty, that having received information from the coast of Labrador, that the American fishermen have resorted thither in vast numbers this season, I despatched Lieut. Morrison on the Queen Charlotte hired cutter to that coast, for the purpose of making enquiry into the conduct of the Americans, and receiving any complaints the British fishermen might have to make against them. Lieutenant Morrison accordingly, on his return from this service delivered me the representations he had received from the British merchants carrying on the fishery there, copies of which, as well as of the Lieutenant's letter to me on this subject, I have the honour to transmit you herewith to be laid before their Lordships, the whole of which seem to suggest the necessity of stationing a frigate or sloop of war on that coast, during the fishing season, to enforce the due observance of the third article of the Treaty of Versailles on the part of the Americans.

[20 Nov.,
1804.]

I have the honour also to enclose herewith for their Lordships' information a copy of Lieutenant Morrison's report of the British Fisheries in those harbours on the coast of Labrador which he visited as well as his answers to certain queries respecting the American Fishery on that coast.

I am, Sir,

Your most obedient humble servant,

E. GOWER.

Note in different hand.

Approve of the steps he has taken; direct him to station a sloop there for the protection of the fishery and conclude that in his capacity of Governor, he has transmitted copies of these

papers to H.M. Secretary of State.

[20 Nov.,
1804.]**No. 398.****ADMIRALTY APPROVE SIR E. GOWER'S
PROCEEDINGS IN LABRADOR COAST.***Secretaries' Letters to Com^{rs} in Chief, Newfoundland.*

1795-1815, p. 178.

ADMIRALTY 2/930.

SIR,—

Having laid before my Lords Commissioners of the Admiralty your letter of the 14th September last, with its several inclosures, and acquainting their Lordships of the steps you had taken in consequence of the information you had received from the Coast of Labrador that the American fishermen had resorted there in vast numbers this season; I have their Lordships' commands to acquaint you that they approve of your proceedings, and to signify their direction to you to station a sloop there for the protection of the fishing as you have recommended.

Their Lordships conclude that in your capacity of Governor of Newfoundland you have transmitted copies of these papers to H.M. Secretary of State.

W. M.

V.A. Sir E. Gower—Isis—Spithead.

No. 399.

N

11th June, 1819—**ORDER BY GOVERNOR HAMILTON
TO CAPTAIN GORDON.**

Vide Part VII, page 1211.

No. 400.[15 June,
1820.]**SIR CHARLES HAMILTON'S ORDERS TO CAPT.
HERCULES ROBINSON.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 31, page
179.

By Sir Charles Hamilton Bart., Vice Admiral of the White
and Commander in Chief of His Majesty's Ships
and Vessels employed and to be employed at and
about the Island of Newfoundland
&c.

Whereas the fisheries carried on by His Majesty's Subjects on the Coast of Labradore require the protection of a Man of War, and the authority of a Surrogate and Justice of the Peace, you are therefore hereby required and directed to proceed in His Majesty's Ship Favourite under your command to visit the said fisheries going first to Sandwich Bay, where a considerable Salmon Fishery has been for many years established and is now prosecuted by Messrs. P. Beard & Co. who have lately complained that their boundaries have been encroached upon by Vessels fitted out in Nova Scotia as well as by Subjects of the United States. You will make this fishery a particular object of your attention, and report to me relative to any points contained in the accompanying Memorial from Beard & Co.,* upon which your immediate observation may enable you to form a correct judgment, and you will cause the enclosed Regulations to be made public, and as far as in you lies enforce the observance of them. You will afterwards visit the different Establishments South and Westward as far as L'Ance a Loup within the Straits of Belleisle, calling occasionally at Cape Charles for the purpose of communication with the Magistrate there, to whose care I shall address any subsequent orders I may have occasion to send you; and you will if a favourable opportunity offer, without interfering too much with your other duties, call at Croque Harbour with the view of observing the fisheries of the French and obtaining the best accounts you can of their extent, of which as well as those of the Americans on the Labrador Coast you will make Returns agreeable to the prescribed form.

If you should find it necessary you are authorized to take a Pilot for the Coast to which you are bound, and bear him on the Books of the Ship you command for Victuals only for which service he will be paid at the rate of 5/- per day and you are to discharge him with triplicate Certificates the moment you are able to dispense with his assistance.

You will continue on this service until the 15th Sept. by which time you will quit the Station assigned to you, and return to St. John's unless from any unforeseen circumstances you should consider it necessary to remain longer on it.

Given under my hand on board the Sir Francis
Drake in St. John's Harbour the 15th June, 1820.

C. HAMILTON.

To Hercules Robinson Esqr.,

Captain of His Majesty's Ship Favourite,
By Command of the Commander in Chief.

P. C. Le Geyt.

N.B.—You will receive herewith a Warrant and
Instructions
to collect the Greenwich Hospital duty to which you will pay
due attention.

No. 401.[1 Sept.,
1821.]24th July, 1821. **LETTER FROM CAPTAIN MARTIN TO
GOVERNOR HAMILTON.**See page 1222 *infra*.

No. 402.

N

**CAPTAIN MARTIN, OF H.M.S. CLINKER, TO
GOVERNOR HAMILTON.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND, Volume 32, page 99.

H.M. Brig, Clinker, Cuff Harbour, Entrance of Invertoke
Inlet,
1st Sept. 1821.

SIR,

In my last dated 24th July, I informed you of its being my intention to proceed to the Northward about the 1st of August. The 26th July we proceeded out of the Inlet from Information obtained by a Shallop which arrived here from the Northward the day previous to my sailing of the great quantity of lee still remaining in the offing, I judged it advisable (to ensure a passage) to proceed between the Islands and the Main land if possible. From the 26th July to the 11th Aug. I was employed beating and running through the Islands when weather permitted anchoring at evening & weighing at dawn of day.

When we arrived at Port Manvers, going between Newark of Island and the Main, coming to the anchorage through Pierre point Canal, the innumerable quantity of Icebergs and other Ice, rendered our passage outside nearly impossible, and from the observations I made from the tops of hills, which I was obliged to mount every evening to observe our way (our Pilot not knowing the Coast further than Cape Harrison, 60 miles to the Northward of Invertoke) and the Charts so extremely erroneous I could not depend on them. The Islands and Rocks extend 50 miles from the Main land, we experienced 8 days foggy blowing weather during our passage,

At Port Manvers not one Inhabitant resides, and judging it your wish I should communicate with the Moravian Missionaries on this Coast, I proceeded from thence the next morning further to the Northward intending to find their settlements out. After running round an innumerable number of Islands in a Northerly direction till the 15th (following the

and weighing as before) when I anchored on the N. E. side of Okkack Island where we found the Northernmost Moravian Settlement, the gratitude they expressed at Your Excellency's attention to them in sending a Man of War to visit their Settlements was unbounded and the whole of the Congregation of Indians desired I should express such to you. On the 21st I proceeded to Nain, the second Settlement, on our way back, the 26th, sailed for Hopedale their Southernmost settlement, arrived at it 27th. We were accompanied by the Harmony Merchant Brig their annual Vessel, from those two places likewise the utmost gratitude was expressed at our visiting them, the 30th weighed, and anchored at this place for the night.

I trust my visiting the three Settlements will meet Your Excellency's approbation, as I shall be enabled to arrive at the appointed Rendezvous by the 3rd. I weigh for Sandwich Bay to-morrow morning.

I have the honour to be, Sir,

Your most obedient humble servant,

(Signed) WM. MARTIN.

Vice Admiral Sir Charles Hamilton Bart.,
Commander in Chief, &c. &c.

No. 403.

C

EXTRACT FROM A REPORT

MADE BY CAPTAIN ALEXANDER MILNE, OF HER MAJESTY'S SHIP
" CROCODILE," RELATIVE TO THE FISHERIES OF NEWFOUNDLAND—
1840.*

“I am not aware that there is any settlement, properly so called, on this part of Labrador. The word I conceive to mean a number of houses, with inhabitants, residing permanently in one locality; but there are, I believe, numerous establishments, the same as at Dumplin, Round, Black, and Indian Islands, along the Coast from Belle Isle northward. These establishments consisting of one principal house, it is, in general, a store for the sale of the various necessaries of life, and implements of fishing, &c., and for the purpose of purchasing fish, from any casual fishermen who come here. The Superintendents of these establishments generally come to these houses every Spring, bringing with them a number of fishermen, all of whom reside in temporary houses during the season, and when it is concluded return to England, St. John's, or their native place.”

* Journals of Leg. Council, Nfld, 1841, App. No. 30.

[September,
1841.]C.C.N.,
Vol. 89.**CAPTAIN WYVILLE TO SIR J. HARVEY.**H.M.S. Cleopatra, St. John's,
September, 1841.

On the Coast of Labrador from Blanc Sablon to Sandwich Bay the fisheries are carried on in Schooners by the Inhabitants of St. Johns and other adjoining Ports with a few establishments from Europe. There are four or five hundred people employed on the Coast. The fisheries are very productive in Cod, Salmon, Seals, and Herrings. In six weeks the general average is about 100 Quintals of Cod a man, and in the spring several thousand Seals. At Eagle River, Sandwich Bay, Messrs. Hunt take about 30 tons of Salmon and from the adjoining Rivers nearly as much. At one haul with the Seine at Lance à Loup Messrs. Stabbs establishment caught 200 Barrels of Herrings, and nearly the same quantity at Blanc Sablon was caught by Messrs. de Quitville. On this part of the Coast the Herrings are uncertain, but not so in St. Georges Bay.

The Herrings come into the Barrasway early in May very regularly. Last year there was shipped from this port 30,000 Barrels in 47 Schooners for Quebec, Halifax and other parts in America. The trade in Herrings might be on a large scale here.

The French encroach on the Labrador Coast early in August. The fish leave their side about that time, the distance across is about fifteen miles where the Fish are in great abundance for a month later. They frequent the unsettled Bays, or get permission from the Settlers by giving the livers of the cod they take.

At Blanc Sablon the people employed by Messrs. de Quitville complained of the tyrannical treatment they suffered from the Agent, for not working on Sundays he had put them in irons (and kept them on Bread and Water until they consented to work). As there is not a magistrate on the coast I advised the Agent to compromise with the men which he did by giving them £2 each, and promised that such treatment should not be repeated. There is a great want of both a magistrate and a medical person on the Coast of Labrador during the fishing Season. There cannot be less than 5,000 people employed on the Coast. There are many disputes arising from the peculiar description of property on the Coast which a Magistrate would easily settle, and in many places I found that the inhabitants wanted medical advice. By the English Fishermen the Season is said to have been a good one.

The French on the Banks have made a fair Season, but to the Northward not good. They have had about 300 Vessels on the Banks and 100 to the Northward employing about 12,000 Men, two-thirds of which are shore going people. They get a Bounty of 11 Francs per Quintal for the fish taken to the West Indies, and 8 for that to the Mediterranean. Very little of the Newfld. fish is used in France.

The American have had a bad Season and had not more than 200 Vessels this year on the Coast, the number being 2/3rds less than last year.

I have the &c.

(Signed)

C. WYVILLE, Captain,
H.M. Ship Cleopatra.

His Excellency Sir John Harvey,
K.C.B. & K.C.H.
Governor &c. &c. &c.

[June 7, 1856.]

No. 405.

N

Vessels to be hired to protect the fisheries to collect Revenue at Labrador and or the conveyance of the Judges on Circuit. J. L. Pendergast to be Supdt. of fisheries and Act S. Collector.

**EXTRACT FROM MINUTES OF NEWFOUNDLAND
EXECUTIVE COUNCIL.**

12th June 1855 to 10th Oct. 1861. RECORD BOOK, 3, p. 116.

June 7th, 1856.

His Excellency the Govr.,
Atty. Gl. Col. Sec. Honble. L. O'Brien.,
Solgl. RI. General.

It was resolved that a vessel be despatched to Labrador and to the West Coast of this Island to guard fisheries at Bell Isle and to enable the Govt. to enforce the collection of the Revenue, also a suitable boat to guard the fisheries at Cape John, and that tenders be advertised for suitable craft for that purpose and also for suitable vessels to convey Judges on circuit. James L. Pendergast Esq., M.H.A., was appointed Acting Superintendant of fisheries and Acting Sub Collector for Coast of Labrador and Western Coast of this Island. Remuneration £100 and 10 per cent. on any duties he may collect.

[23 June
1857.]**MEMORANDUM BY J. KENT, COLONIAL
SECRETARY.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 51, page 37.

[Copy.]

Secy.'s Office,
23rd June, 1857.

The Colonial Government have made the following arrangements for the protection of the Fisheries at the Labrador and in the Straits of Belle Isle during the present Summer.

A Schooner called the Alice (65 tons) under the command of William Coady with a Superintendant on board sailed about the 20th May to Cape Ray in order in the first place that the Superintendent might take means for ascertaining the Census of the population and other statistics on the Western Coast as far as Cape Norman and thence along the Northern Coast to Quirpon. He would thence proceed to the Straits and remain there until about the beginning of September employed in protecting British Fishery Interests in that neighbourhood. Mr. M. J. Kelly a member of the Colonial Assembly is the Superintendent on board of the Alice.

A second vessel called the Nelson (39 tons) a clipper schooner Wm. Giles master under the direction of the Superintendent of Fisheries for the Labrador James L. Pendergast Esqr., M.H.A. sailed a day or two after the Alice for Cape John (at which important point the boundary between the English and French Fishing grounds the Colonial Government have placed a boat and four hands under the command of Henry Knight who has been employed for several successive years in the same service) from whence he would proceed to Quirpon taking the Census of the population and other statistics on his route He would thence proceed to Labrador and be employed in taking the Census (as far as the entrance of Hudson's Straits) and protecting the Fisheries during the remaining period of his service along that line of Coast. The Act for taking a Census having been passed during the last Session of the Legislature and which provides that it shall be taken in the course of the present year it has been found expedient to combine the two duties in order to ascertain the British population resident or what is commonly called the French Shore and upon the Coast of Labrador within the Government of this Island. A Boat and four hands under the Command of Caleb Young has been stationed at Belle Isle and Mr. Young has been instructed to keep a constant look out round the Island and its neighbourhood to prevent French Encroachment.

A sum of money has been appropriated by the Legislation
for the erection of a Breakwater at Belle Isle.

(Signed) J. KENT

Commander Paisley, H.M.S. Atalanta.

Privy Council
Documents

Volume III
Contents

No. 407.

[June, 1863.]

**ACTING COLONIAL SECRETARY R. CARTER TO
STEPHEN MARSH, Esq.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 52, page
766.

Secretary's Office,
June, 1863.

SIR,

I have to direct your attention to the above copy of the Governor's instructions defining his Jurisdiction in the Island of Newfoundland and the Coast of Labrador. On the latter Coast the Western limit is 59 25' Longitude 57° 9' West.

The position of Cape Chudleigh at the entrance of Hudson's Strait, to which the Jurisdiction extends is laid down in Latitude 60° 37' North, Longitude 65° West; and in performing your duties which will be explained to you in the protection of the Fisheries, you are strictly to adhere to the limits laid down.

I have &c.
(Signed) R. CARTER,
Acting Col. Sec.

To Stephen Marsh, Esq.
Superintendent of Fisheries.

No. 408.[Oct. 17,
1863.]**MINUTE RESPECTING EMPLOYMENT OF H.M.
"VESUVIUS."**

Pages 216 & 217, 4 RECORD BOOK, Oct. 26th, 1861, to Aug. 3rd, 1869.

Oct. 17th, 1863.

The following Minute was adopted with respect to the Employment of H.M.S. "Vesuvius" during the past season.

The Governor reported to the Council that Her Majesty's Ship "Vesuvius" had returned from the Westward on Tuesday last where Captain Hamilton had been despatched on special duty at the requisition and in aid of the Civil power and on Thursday he had unexpectedly proceeded to Halifax to convey the mails from England landed here from Royal Mail Steam Company's Ship "Africa" which had unfortunately sustained considerable damage by touching on the Coast near Cape Race, and bore up for St. John's.

The fishing season being now terminated the Council are desirous to take an early opportunity of expressing on behalf of the Government and the community, their acknowledgements to His Excellency Vice Admiral Sir Alexander Milne for the efficient services which have been rendered by H.M.S. "Vesuvius" for the protection of Commerce and the Fisheries.

The Admiral will doubtless have seen by the able Reports of Captain Hamilton that his co-operation with the authorities on the Coasts of this Island as well as those of the Labrador have enabled the Government to adopt measures for raising a Revenue on the latter for the administration of Justice, and protection of their Fishery, which but for the presence of H.M. Ship might have been difficult to accomplish.

Captain Hamilton has also rendered essential service on the Southern Coast by the support given to the civil power in checking the plundering of wrecks which crime had become too prevalent on these coasts and which the Government will use every effort in their power to put down.

The Council take the liberty of requesting that Admiral Milne will communicate to Captain Hamilton their regret that they had not the opportunity before his departure of personally offering to himself and Officers their thanks; and to convey to His Ship's Company the sense they entertain of their good conduct during the times when the "Vesuvius" was necessarily in harbour.

A. BANNERMAN, Governor.

No. 409.**ADDRESS OF HOUSE OF ASSEMBLY TO GOVERNOR
AS TO PROTECTING SALMON FISHING.**

COLONIAL OFFICE RECORD 197 / 39. JOURNAL OF ASSEMBLY,
NEWFOUNDLAND.

[29 March,
1865.]

Wednesday, 29th March, 1865.

Resolved that the following address be presented to His
Excellency the Governor.

To His Excellency Anthony Musgrave, Esq.,
Governor and Commander-in-Chief,
In and over the Island of Newfoundland
and its dependencies, etc.

MAY IT PLEASE YOUR EXCELLENCY,

The House of Assembly having had under their consideration the general decrease of late years in the produce of the salmon fisheries of this colony, and the causes to which that decrease may be attributed, are of opinion that it would be desirable, with the object of protecting this valuable fishery, that the laws for its regulation should be rigidly enforced by means of a small marine police force, the expense of which should be defrayed by a small rent to be imposed upon the salmon rivers in Newfoundland and the Labrador with a view to their obtaining such information as may enable them to legislate to advantage upon this subject, they respectfully request that Your Excellency will be pleased to direct a return to be laid before them of the number and situation of salmon rivers on the coasts of Newfoundland and Labrador, and the names of the parties by whom they are respectively fished, of the titles by which the occupants hold, and of the average annual produce of each river for the space of five years past.

Ordered, that the address be engrossed and presented to His Excellency the Governor by such members of this House as are of the Honble. Executive Council.

[10 Sept.
1865.]**No. 410.****REPORT OF JUDGE SWEETLAND ON THE SALMON
FISHERIES.**

COLONIAL OFFICE RECORD 197 / 41. JOURNAL OF THE ASSEMBLY,
NEWFOUNDLAND. Appendix.

Report of B. Sweetland, Esq., J.P., on the Salmon Fisheries on
the Coast of Labrador.

Schooner "Volant,"
St. John's,
10th September, 1865.

SIR,

I beg leave to acknowledge receipt of your letter of the 18th May last, directing our attention to the salmon fishery on the Coast of Labrador, and to report thereon. I have the honour to state, for His Excellency the Governor's information, that not having any account of the catch of former years, I am not able to say if there is decrease or increase in the quantity taken in the brooks, other than may be influenced by the number taken at the headlands as they approach the bays to seek their usual breeding places; nor have I been able to discover, except in one instance, any unfair means to prevent their access to the rivers, in the spawning season, neither is there any exclusive claim set up to any station that I can discover, all being situate in tide water; except that of Eagle River in Sandwich Bay, where there are nets in the eddies, leaving three-quarters of the river open for ingress or egress, and at Kenewichie in Lake Metvill [*sic*] in Exquimaux Bay; although no exclusive right is set up.

The fishery in Sandwich Bay is monopolised by Messrs. Hunt & Henley, and that in Exquimaux Bay is nearly so by the Hudson Bay Company. To these monopolies may be attributed in a great measure, the quantities taken in these two bays, as the gentlemen managing these fisheries are fully alive to the importance of preserving the small fish. The take on the whole coast as far as I can calculate, will be this year 1,657 tierces. On the south part of the coast the fishery has been a failure.

Although not within the limits of the directions contained in your letter, I cannot but remark the 4½ inch mesh used on this coast is a serious injury to the fish.

The first brook within our jurisdiction is that at Blanc Sablon, the tide flowing a mile or two before it meets a rapid. Not fished within its waters, one net set off its mouth by De Quetville & Co. does not supply their table.

Forteau is a large and rapid river, no fishing is carried on there; and not much in its neighbourhood.

Pinware Brook, so called, is the entrance to a Bar Harbor, the river being 3 miles up the arm. The fishing is in tide water, consequently a free fishery. It yields, on an average, 43 tierces. It is used by Messrs. Stab, Row & Co., by Odalls and by Dorsey. Messrs. Stab, Row & Co. attempted but failed to establish an exclusive right, the Odalls having fished it in common with them for 30 years. No use is made of the river.

Wiseman's Brook, about 3 miles from Red Bay, is occasionally fished by one and another; the take is very insignificant. Chateau Bay always yielded a fair catch until this year, has two considerable streams running into it; no use is made of either of them.

Lewis Inlet, "the Main River," is fished for salmon, and yields on an average 7 tierces. It is not always used by the same persons; it was formerly claimed by Messrs. Slade, who have ceased to exercise their right to it.

Hawk's Harbor or Bat, near the main river, is a station yielding three tierces. Messrs. Slade also claimed this station but have abandoned it. Sand Hill, situated between Indian Tickle and Cape North has a river, near which is taken 40 tierces, mostly small.

Sandwich Bay yields the largest catch on the coast. There are three considerable rivers flowing into it, viz.:—

Eagle River,
White Bear River, and
Paradise River.

Eagle River is the only one used, the average about 40 tierces; the whole would average 700 tierces—24,000 tins of preserved salmon were put up this year.

Esquimaux Bay and Lake Melville above the narrows, into which there are several rivers flowing, two only of them are fished, viz.: the N.W. River and Kenewichie by the Hudson Bay Company. The former giving only a supply for the table; the latter averaging 8 tierces. Both these stations were purchased of the estate of Bird & Co.

The whole collection in this way is 450 tierces. Mr. Norman participates in this fishery. Messrs. Hunt & Hill had a station here, but were purchased out by the Hudson Bay Company.

The N.W. River as well as Hamilton River, are said to be navigable for boats 40 miles, terminating in falls, over which salmon are known to ascend. The lakes and rivers above these falls abound in fish, affording means of support to the tribes of Indians occupying that part of the country.

I have, etc.,
(Signed) B. SWEETLAND, J.P.

Hon. John Beaminster,
Colonial Secretary, etc.

No. 411.

[31 Oct.
1867.]**REPORT OF GENERAL SUPERINTENDENT ON
PROTECTION OF FISHERIES ON COAST OF
LABRADOR (FARMS).**COLONIAL OFFICE RECORD 197/45. JOURNAL OF
THE ASSEMBLY, NEWFOUNDLAND. Appendix.Copy of Report of the General Superintendent of Fisheries on
the Protection of the Fisheries on the Coast of Labrador,
and in the Straits of Belle Isle, during the summer of
1867.St. John,
31st October, 1867.

SIR,

I have the honour to report for the information of His
Excellency the Governor, that on receipt of the mails for
Labrador per R.M.S. "Delta" for which the "Brilliant" had
been delayed, I lost no time in getting her under way and sailed
on the 9th July.

* * * *

On enquiring what these fishermen did when the fishery
partially failed, I was glad to hear that the greater part of them
had small farms which yielded them no small profits. It is to be
regretted that all of our people are not similarly situated. I
cannot conceive how so many of them are in continual
poverty, dependent on the Government [year] by year, while
their neighbours, who have no better chances to rise, are
tolerably well off, unless it be that their habitual indolence and
improvidence are the causes; for if the thousands of acres of
fine land on this coast were cultivated and attended to by our
poorer classes, Newfoundland would be in a flourishing
condition.

* * * *

16th. Left L'Anse Amour at 5 a.m. and arrived Forteau 1
p.m. Visited the lighthouse which cost £20,000 and found
everything in excellent order. The keeper, Mr. Blamfield, is a
worthy man and has been in charge 12 years. The captains of
H.M. ships, who have called at this place, speak of him in the
highest terms. By his industry he has shown what can be done
in respect of husbandry and he now enjoys the fruits of his
labours. Our people have the benefit of this light as well as that
of Belle Isle, and I hope they know how to appreciate it.

p. 528.

17th. Left Forteau and steered East.

* * * *

While I was on Belle Isle, His Excellency the Governor visited the Labrador. If I had seen him it would have afforded me much pleasure to have taken him up some of the bays and rivers, where it would be unsafe for a man-of-war to venture.

I have the honour, etc.,

STEPHEN MARSH.

The Honble. John Bemister,
Colonial Secretary.

No. 412.

[1872.]

REPORT ON FISHERIES.

Report on the Newfoundland and Labrador Fisheries, 1872.

COLONIAL OFFICE RECORD 197 / 57. Appendix No. 56.

NEWFOUNDLAND, JOURNAL OF ASSEMBLY.

Crossed over from St. Barbes on the 17th, detached boats to visit Bradore and the neighbouring islands, and anchored in Blanc Sablon Bay. The Jersey firm of Le Boutellier Bros. have established a new room at Green Island since my visit last year, which is working very well. I was informed that the cod fishery in this place had improved considerably during the last three years; previously to that, it had been failing, and the herring fishery during the same interval had not been good. The want of a church and school is much felt, especially during the summer; it is a pity that a church had not been erected here, instead of at Forteau, where a schoolhouse would have answered the purpose, especially if situated on the Jersey side. A number of fishing schooners and larger vessels belonging to the Jersey and other establishments, were at anchor in the Bay of Bradore, and the neighbouring islands, whose aggregate catch was about 40,000 quintals; some of the schooners had two cod seines each, and the smaller ones one. The trout fishing in this river is excellent, and is only second to that of Forteau; the great advantage being its proximity to the ship. The principal salmon river to the westward is in Salmon Bay, it is called St. Paul's River, and is fished by a Canadian named Louis Chevalier; very few salmon have been caught at Bradore River lately, although it was considered by Lieut. Hughes of the "Niobe" as an excellent fishing river, both for salmon and trout. I was asked while in this place what was the proper boundary line between Canada and Labrador, and whether any fishery laws existed, so that the rights of the fishermen could be ascertained.

The opinion here is that this year's "voyage" is likely to be much better than that of last year, very few salmon had been taken from the river; the country abounds in game, but very little trapping had been done lately. Sub-Lieut. Warren visited L'Anse Loup and I visited L'Anse Amour during our stay. Mr. Frederick Davis, the resident at the latter place, had heard that some persons from Newfoundland intended to come and settle on his

ground, but I told him that on my return to St. John's I would see what the law was on the subject, as his father had owned and resided on the property for 70 years previously.

* * * *

Lieut. Wickham, ascended the Pinware river for some distance, but found no obstruction in the shape of weirs or set nets. Thomas Elworthy, the fisherman, quoted his catch at 40 barrels, but I have reason to believe that he and all the salmon fishers in the rivers on the coast greatly underrate their "net" proceeds. There is much complaining in this place about the French hauling bait; they come over from the other side in Chaloupes of 20 tons and batteaux of 8 tons and return with hundreds of tons of bait to the French shore, with which they strew the ground in the vicinity of their trawls or bultows; this is said to attract the fish off this coast to their own shore.

* * * *

The inhabitants of this harbour are rather a large community; they have a church and chapel, and are very orderly and respectable. They remove to winter houses at the head of the bay in the fall of the year; this is also the custom in some other places. There are said to be about 1,500 settlers on the shore between Red Bay and Cape Harrison and about 500 more between this and Blanc Sablon. It is estimated that during the fishing season, there is on the Labrador, a fluctuating population of no less than 30,000 persons, a large proportion of whom are said to be women and children, who are employed on board the fishing craft to split and prepare for salting, and otherwise assist in "making" the fish. I met Mr. Canning, the Sub-Collector of Customs; he said that Judge Pinsent and Mr. Knight, the Collector, were then at Rogoulette, or some other place in that neighbourhood, in the "William Stairs," revenue vessel; Mr. Canning visits the coast from Red Bay to Blanc Sablon in an open whale boat; he experiences no difficulty in collecting the revenue. There is a rumour on this coast that the French are again trying to get leave to fish on the Labrador. I mention this as one of the various "canards" that are winging their way along the coast.

* * * *

Chateau Bay, August 1st.

* * * *

I met a sad case of distress on Castle Island. Two fine boys, aged 16 and 12 respectively, sons of a man named Charles Stone, who winters on Cape Norman, and does a great deal of trapping during the season, were lost in the snow for several hours, and on recovery have suffered from frost bites to such an extent that both have lost their feet, and are now helpless cripples. I arranged to take the poor boys down to St. John's in the "Lapwing" for hospital treatment, but on landing with the surgeon to convey them on board, the lads were unwilling to leave their home, and their parents would not decide to entrust them to our care, so I had most reluctantly to leave them to their fate. The state of one of the boys is such that he probably

will not live long without medical assistance and generous diet.

No. 413.

[18 July,
1873.]**CAPTAIN MILLER'S REPORT: THE EXTRACT
ABOUT PINWEIR (PINWARE) ONLY.**

COLONIAL OFFICE RECORD 197 / 59. JOURNAL OF THE LEGISLATIVE
COUNCIL. NEWFOUNDLAND. Appendix.

H.M.S. "Sirius,"
Sydney, Cape Breton,
18th July, 1873

SIR,

PINWEIR.

No fish yet (cod); good haul of salmon in the river, which for about 11 or 12 miles from the mouth is of some size and depth; many nets set, all according to law. Mr. Ellworthy, who fishes the mouth, says he never knew them to take a fly; the river above what I have stated, is strong and shallow for the most part. A Government school is kept by Mr. Odell; no doctor; occasional visits by a clergyman. Mr. Ellworthy grew some good potatoes.

I have the honour to be, Sir,

Your most obedient servant,

D. MILLER,

Captain and Senior Officer.

Vice-Admiral E. G. Fanshawe, C.B.,
Commander-in-Chief.

No. 414.

[1876.]

**FISHERIES REPORT (SHOWS MAGISTERIAL DUTIES
AND JUDICIAL PERFORMED AGAIN BY A NAVAL
OFFICER).**

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COLONIAL OFFICE RECORD 197 / 66. JOURNAL OF THE COUNCIL
NEWFOUNDLAND.

Appendix No. 56.

Report on the Newfoundland and Labrador Fisheries for the
year 1876.

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3rd Cruise, H.M. "Eclipse."

* * * *

The Labrador.

* * * *

October 8th. His Excellency and suite arrived from White
Bay, after a laborious journey of 14 days across the country.Population rapidly increasing here, numerous complaints of
all descriptions brought before us, principally family disputes
and quarrels as to land, etc.

Large trade in winter herrings carried on here.

* * * *

Magisterial duties, H.M.S. "Eclipse," 1876.

* * * *

Forteau, Labrador.

* * * *

Chateau.

Philip Gillett v. John and Felix McCarthy.

This was a case in which Philip Gillett stood to recover
from John and Felix McCarthy the sum of about £90 currency.

* * * *

Colin M. Dundas, Lieut. R.N. & J.P.

* * * *

Charles Butt v. Smuel Parsons.

Butt complained that Parsons had prevented him from
erecting a stage for drying fish.

* * * *

Ordered Butt to remove his timber and materials. Told him
he might erect a stage anywhere not less than 30 yards from
another man's property.C. M. DUNDAS,
Lieut. N.R., J.P.

[March,
1926.]

AFFIDAVIT OF F. C. BRIEN.

In the Privy Council.

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA
and the COLONY of
NEWFOUNDLAND in the LABRADOR
PENINSULA.

I, FREDERICK COLMAN BRIEN, special Officer of the
Department of Finance and Customs of Newfoundland, make
oath and say as follows:

1. Acting under instructions of the Hon. Minister of Finance
and Customs to compile a statement from the various
Departments of the Government of the amounts paid on
account of public services for Labrador for the fiscal years
ending June 30th, 1924 and 1925, I have prepared the
statements attached hereto:

A summary statement marked "A,"
A detailed statement marked "B 1 to 11."

2 These statements are correct to the best of my knowledge
and belief, and give, as far as was possible for me to ascertain
from the various Departments, the amounts spent by the
Colony of Newfoundland in public services for Labrador
during these years.

F. C. BRIEN.

Sworn at St. John's, Newfoundland,
this 20th day of March, 1926.

D. O. KENT,
Commissioner S.C.

C.—RELATIONS WITH NATIVE INHABITANTS.

No. 416.1st September, 1764. **DISPATCH FROM PALLISER TO
LORDS OF TRADE.**See page 932, *infra*.

No. 417.[8 April
1765.]**ORDER OF GOVERNOR PALLISER FOR
ESTABLISHING COMMUNICATION AND TRADE
WITH THE ESQUIMAUX SAVAGES ON THE COAST
OF LABRADOR.**

COLONIAL OFFICE RECORD 194/16.

ADMIRALTY, GREENWICH MISCELLANEOUS VARIOUS 121, p. 30. T.
60.

BY HIS EXCELLENCY HUGH PALLISER, ETC.

Whereas many and great advantages would arise to His Majesty by establishing a friendly intercourse with the Indians on the Coast of Labrador, and as all attempts hitherto made for that purpose have proved ineffectual, especially with the Esquimaux in the Northern Ports without the Straits of Belle Isle, owing in a great measure to the imprudent, treacherous or cruel conduct of some people who have resorted to that Coast, by plundering and killing several of them, from which they have entertained an opinion of our dispositions and intentions being the same towards them as theirs is towards us, that is to circumvent and kill them. And whereas such wicked practices are most contrary to His Majesty's sentiments of humanity, to his endeavours to induce them to trade with his subjects in conformity to these His Majesty's sentiments and Commands. I hereby strictly forbid such wicked practices for the future and declare that all such as are found offending herein shall be punished with the utmost severity of the law.

And Whereas I am endeavouring to establish a friendly communication between His Majesty's subjects and the said natives on the Coast of Labrador,

No. 418.

Newfoundland.

[16 April,
1765.]**REPRESENTATION TO HIS MAJESTY UPON THE
COMPLAINTS AND PROPOSITIONS OF THE
COURT OF FRANCE RESPECTING THE
NEWFOUNDLAND FISHERY.**

PRIVY COUNCIL 1/51, UNBOUND PAPERS.
See also 194/16. T. 35. 13th April, 1765.

16 April, 1765.

Ent. H. 369.

To the King's most Excellent Majesty.

May it please your Majesty.

In obedience to Your Majesty's commands signified to us by the Earl of Halifax, one of your Majesty's principal Secretaries of State, in his lordship's letter of the 8th instant, we have taken into consideration the subject matter of a letter to his Lordship from his Excellency the French ambassador and of several papers therein referred to, containing complaints and propositions on the part of the court of France respecting the French fishery on the coast of Newfoundland and in the Gulph of St. Lawrence; and having received from Commodore Palliser, to whom your Majesty was graciously pleased to entrust the superintendency of the Newfoundland fishery and the government of that island, the last year, such information as he is able to give us respecting the facts stated in these papers, we humbly submit to your Majesty the observations which have occurred to us upon each complaint and proposition, in the order they have placed in the Comte de Guerchy's letter;

* * * *

The sixth and last head of complaint contained in the French Ambassador's letter is, that a captain of a certain French vessel was forbid by your Majesty's Governor from having commerce with the Eskimaux Indians.

It is difficult to conceive upon what grounds or opinion or with what view this circumstance, admitting it to be as it is stated by the French Ambassador, could have been introduced as subject matter of complaint, for we are unwilling to suppose it is meant to insinuate or introduce a claim on the part of France to carry on commerce and establish connections with the inhabitants of that territory, the sole property and possession of which is in your Majesty; but whatever may have been the view or opinion of the court of France on this occasion it does appear to us that under this circum-

stance of clear territorial right in your Majesty, your Majesty's Governor was not only justified, but is to be commended for having forbid the subjects of France to trade or treat with these Indians, which might have introduced a connection prejudicial to your Majesty's rights and disadvantageous to the commerce of these kingdoms; and we are humbly of opinion that it ought on no account to be admitted or allowed, as is declared by the French Ambassador that your Majesty's Governor has not a right by his own authority to interpose his jurisdiction in the case of any foreigners whatever who may resort to the coasts of a country the sole property and possession of which is in your Majesty or who shall attempt to establish a communication or commerce with the inhabitants of it who are under the protection of and dependent upon your Majesty.

As to the particular fact alluded to in the French Ambassador's paper your Majesty's Governor has informed us that a Frenchman named Galliot offered a considerable sum of money to one Capt. Thompson one of your Majesty's officers to permit him to go to the coast of Labrador and though his offer was treated with the contempt it deserved and he was denied and strictly forbid to go yet he did send his boats over and trafficked with the savages and even invited them over to Newfoundland to the great terror of all the English and French fishermen; which does so far alter the case from the state of it given by the Court of France as to make it a real and important foundation of complaint on the part of your Majesty and gives your Majesty just cause to demand that satisfaction which the Comte de Guerchy says in his letter the Court of France is well disposed to give in the case of any complaints that may be made against the French.

* * * *

(5) That they [the French] have left a ship at New Ferrole where she is hauled up and secured for the winter, and her stores, materials and effects are deposited in storehouses erected there for that purpose, and that there is no doubt, but that the crew belonging to her is employed on the coast of Labrador to collect furs from the Indians.

* * * *

10. That from the North part of Newfoundland the French fishermen resort to, and fish at the island Belle Isle on the coast of Labrador.

* * * *

All which is most humbly submitted.

HILLSBOROUGH,
SOAME JENYNS,
ED. ELIOT,
ED. BACON,
GEO. RICE,
BAMBER GASCOYNE,
J. DYSON.

Whitehall,

April 16, 1765.

No. 419.

[10th August,
1765.]**GOVERNOR PALLISER'S ORDER FORBIDDING
FRENCH TO TRAFFIC WITH ESQUIMAUX AND
FOR PROTECTION OF ESQUIMAUX IF THEY
COME TO NEWFOUNDLAND.**

C.O. RECORDS, 194/27. BOOK II.

Whereas the Subjects of France fishing at Quirpont the last year, invited the Savages named Carolits or Esquemeauxs over to Newfoundland, and had a considerable Trade with them, and used many Infamous Wicked Savage Arts to prejudice those ignorant barbarous People against the English Nation.

And as the Subjects of France are entitled to no Priviledges in Newfoundland but that of Fishing as stipulated by the 13th Article of the Treaty of Utrecht, their carrying on any Commerce there of any kind with any People whatever, is an illicit Trade and contrary to Treaties, their Tampering with those People to spirit them up to disturb His Majesty's Government to the danger of His Subjects Lives, I am satisfied is most contrary to His Most Christian Majesty's Sentiments of Humanity and Christianity, as well as inconsistent with the Treaties of Peace and Friendship subsisting between the two Crowns, under the sanction of which the Subjects of France are admitted into that Part of His Majesty's Dominions, and the French Ambassador having declared at the Court of London that His Most Christian Majesty would give the most positive Orders to all *Armateurs Françoise* not to have any Communication or Trade with the said Carolit or Esquemeaux Savages.

I hereby give notice to all Masters of French Ships resorting to Fish at Newfoundland agreeable to Treaties, that if any of them are discovered to have any Commerce with the Carolits or Esquemeauxs, I shall proceed against them as illicit Traders, and if any of the Subjects of France are discovered to be guilty of any of the other Practices abovementioned they will be treated with the utmost severity of the Law against Publick disturbers of the Peace.

I also hereby give notice that in case any of the said Carolits or Esquemeaux Savages should go over to Newfoundland, they are not to be molested or ill treated, they (as well as the Subjects of France, whilst in His Majesty's Dominions,) being under His Protection, and I am in pursuance of His Majesty's commands taking proper Measures for Civilizing those People, and for protecting both English and French from being Plundered Molested or Hurt by them.

Given under my Hand in Pitts Harbour within Chateau Bay
on the Coast of Labradore the 10th August 1765.

(Signed) HUGH PALLISER.

[Endorsed.] No. 6. Order forbidding
the French to have any Traffick
with the Esquemeauxs or to Molest
or Hurt them 10th August 1765.

In Comm^{rs} Palliser's, of the 11th Sept^r. 1765.

No. 420.

11th September, 1765. **DISPATCH FROM PALLISER TO
LORD HALIFAX.**

Vide PART VII. No. 222, page 946.

No. 421.**PROCLAMATION BY GOVERNOR BYRON**

[5 July,
1765.]

FOR PROTECTION OF NATIVE SAVAGES.

By His Excellency the Honbl. JNO. BYRON,
Governor and Commander-in-Chief in
and over the Island of Newfoundland,
the Coast of Labrador, &c., &c.

A PROCLAMATION.

Whereas it has been represented unto the King that his subjects residing in the said Island of Newfoundland, &c., instead of cultivating such a friendly intercourse with the savages inhabiting that Island and Coast of Labrador as might be for their mutual benefit and advantage, do treat the said savages with the greatest inhumanity and frequently destroy them without the least provocation or remorse. In order therefore to put a stop to such inhuman barbarity and that the perpetrators of such atrocious crimes may be brought to due punishment it is His Majesty's Royal Will and Pleasure that I should express his abhorrence of such inhuman barbarity, and I do hereby strictly enjoin and require all His Majesty's subjects to live in amity and brotherly kindness with the native savages of the said Island of Newfoundland and Coast of Labrador. I also command all officers and magistrates to use their utmost diligence to discover and apprehend all persons who may be guilty of murdering any of the said native Indians, in order that such offenders may be sent over to England to be tried for such capital crime as by the Statute of the 10th and 11th of William the 3rd for encouraging the Trade of Newfoundland is directed. Given under my hand at St. John's this 5th day of July 1769.

(Sgd) HEN. STACY.

By His Excellency's Command.

No. 422.

PROCLAMATION BY GOVERNOR SHULDHAM[10 April,
1772.]

FOR PROTECTION OF NATIVE SAVAGES.

By His Excellency MOLYNEUX SHULDHAM, Esq.,
Governor and Commander-in-Chief in
and over the Island of Newfoundland,
the Coast of Labrador, &c., &c.

A PROCLAMATION.

Whereas it has pleased His Majesty in Council to grant unto the Unitas Fratrum and their Society for the furtherance of the Gospel among the heathen a parcel of land on the Coast of Labrador for the establishment of a mission among the Esquimaux savages and in consequence of the said grant a settlement is formed on the said coast. Therefore be it known unto all men that the said settlement is under His Majesty's immediate protection and I hereby strictly enjoin and require all His Majesty's subjects to live in amity and brotherly love with the said settlers and the native savages inhabiting that country, in no wise whatsoever molesting or disturbing the said Mission or those who shall settle with them, and I do require that all His Majesty's subjects who shall come upon the Coast of Labrador do act towards the Esquimaux Indians agreeable to the Proclamation issued at St. John's the 8th day of July 1769 respecting the savages inhabiting the aforesaid Island and Coast. Given under my hand the 10th April 1772.

(Sgd) M. SHULDHAM.

By His Excellency's Command.

(Sgd) EDWD. BRAGGE.

No. 423.

[4 May,
1772.]**PROCLAMATION BY GOVERNOR SHULDHAM TO
KEEP ESQUIMAUX WITHIN MORAVIAN
SETTLEMENT.**

BY HIS EXCELLENCY MOLYNEUX SHULDHAM, ESQUIRE, GOVERNOR AND
COMMANDER IN CHIEF, ETC.

Whereas I am informed that the Esquimaux savages inhabiting that part of the Coast of Labrador where the Unitas Fratrum and its Society have formed a settlement for the furtherance of the Gospel among the heathen, having lately strolled from the said settlement to the southward with a view of trading with the shipping which touch upon that coast. And whereas many barbarous murders have been committed on both sides by the English upon the savages and the savages upon the English, occasioned by disputes and misunderstandings in bartering their traffic; for the rutting a stop thereto for the future I do hereby desire and require the said Unitas Fratrum to use every fair and gentle means in their power to prevent the said Esquimaux savages from going to the southward, without first obtaining their permission in writing for so doing, and till such time as other settlements shall be formed and extended down along the coast.

Given under my hand, this 4th May, 1772,

M. SHULDHAM.

By His Excellency's Command,
EDWARD BRAGGE.

No. 424.

[14 May,
1779.]**PROCLAMATION BY GOVERNOR EDWARDS.**

FOR PROTECTION OF ESQUIMAUX INDIANS.

BY HIS EXCELLENCY RICHARD EDWARDS, ESQR.
Governor and Commander in Chief in and over the Island of
Newfoundland &c. &c.

WHEREAS HIS MAJESTY in COUNCIL on the third day of May 1769 was graciously pleased to grant unto the UNITAS FRATRUM and its Society for the furtherance of the Gospel among the heathen One hundred thousand Acres of Land on the Coast of Labrador for the Establishment of a Mission among the Esquimeaux Savages; AND WHEREAS it has pleased His Majesty in Council on the Ninth day of March 1774 to permit and allow the Missionaries of the said Unitas Fratrum to extend their said Settlements to the Southward and Northward of their first Location called NAIN, as may be found necessary for the purposes of the undertaking and they have taken up agreeable to the said Order of Council One hundred thousand Acres Northward of Nain near the 58th Degree N. Lat. and have established a Mission Settlement thereupon called OKKAK, and have taken up One hundred thousand Acres of Land South of Nain between the 55th and 56th Degree, but upon which no Mission Settlement has been formed as yet, tho' they are making preparations for such a Settlement; AND WHEREAS HIS MAJESTY did at the same time Order that the Governor and Commander in Chief of Newfoundland for the time being, do give them all reasonable assistance and Support in forming the said Mission Settlements and in His Majesty's Name to warn all persons from molesting or disturbing the said Mission Settlements; THEREFORE be it known unto All Men, that their said Settlements are under His Majesty's immediate direction and protection and I do hereby enjoin All His Majesty's Subjects to live in Amity and Brotherly Love with the said Missionaries and the Native Indians inhabiting that Country, in no wise molesting or disturbing the said Missionaries, or those who shall settle with them; AND I do require that all His Majesty's Subjects, who shall come upon the Coast of Labrador, to act towards the Esquimeaux Indians justly humanely and agreeable to these Laws, by which His Majesty's Subjects of all Classes are bound throughout His Majesty's Dominions and to the Proclamation issued at St. Johns in the Island of Newfoundland on the 24th of June 1772, respecting the Savages inhabiting the aforesaid Island and Coast.

Given under my hand

London the 14 of May 1779
(Sgd) R. EDWARDS.

By His Excellency's Command.
(Sgd) A. GRAHAM.

No. 425.[30 Jany.
1781.]**PROCLAMATION BY GOVERNOR EDWARDS.**
FOR PROTECTION OF ESQUIMAUX INDIANS.

By RICHARD EDWARDS, Esq., Rear Admiral
of the Red and Commander-in-Chief of
His Majesty's Ships and Vessels em-
ployed and to be employed at and
about Newfoundland.

PROCLAMATION.

Whereas His Majesty in Council on the third day of May 1769 was graciously pleased to grant into the Unitas Fratrum and its Society for the furtherance of the Gospel among the heathen, one hundred thousand acres of land on the Coast of Labrador, for the establishment of a Mission amongst the Esquimaux savages:

And Whereas it has pleased His Majesty in Council on the ninth day of March 1774 to permit and allow the missionaries of the said Unitas Fratrum to extend their said settlements to the southward and northward of Nain, as may be found necessary for the purposes of the undertaking, and they have taken up agreeable to the said Order in Council one hundred thousand acres of land north of Nain near the 58 Degree of N. Lat. and have established a Mission settlement thereupon called Okkak, and have taken up one hundred thousand acres of land South of Nain, between the 55th and 56th Degree, but upon which no Mission settlement has been formed as yet, though they are making preparations for such a settlement.

And Whereas His Majesty did at the same time order that the Governor or Commander in Chief of Newfoundland for the time being do give them all reasonable assistance and support in forming the said Mission settlement and in His Majesty's name to warn all persons from molesting or disturbing the said Mission settlements:

Therefore be it known unto all men that their said settlements are under His Majesty's immediate direction and protection; and I do hereby enjoin all His Majesty's subjects to live in amity and brotherly love with the said Missionaries and with the native Indians inhabiting that country, in no wise molesting or disturbing the said Missionaries, or those who shall settle with them, and I do require that all His Majesty's subjects who shall come upon the Coast of Labrador do act towards the Esquimaux Indians justly, humanly and agreeable to these laws, by which His Majesty's subjects of all classes are bound throughout His Majesty's Dominions and to the Proclamation issued at St. John's in the Island of Newfoundland on the 24th of June 1772, respecting the

savages inhabiting the aforesaid Island and Coast.

Given under my hand this 30th January, 1781.

(Sgd) R. EDWARDS.

By His Excellency's Command,

(Sgd) A. GRAHAM.

No. 426.

[15 May,
1784.]**PROCLAMATION BY GOVERNOR CAMBELL.**

FOR PROTECTION OF ESQUIMAUX INDIANS.

BY HIS EXCELLENCY JOHN CAMPBELL, ESQRE.

Governor and Commander in Chief in and over the Island of
Newfoundland, &c. &c.

WHEREAS His Majesty in Council on the third day of May 1769 was graciously pleased to grant unto the Unitas Fratrum and its Society for the furtherance of the Gospel among the Heathen, One Hundred Thousand Acres of Land on the Coast of Labrador for the Establishment of a Mission among the Esquimeaux Savages. AND WHEREAS it has pleased His Majesty in Council on the Ninth Day of March 1774, to permit and allow the Missionaries of the said Unitas Fratrum to extend their said Settlements to the Southward and Northward of their first Location called Nain, as may be found necessary for the purposes of the Undertaking; AND they have taken up agreeable to the said Order of Council One Hundred Thousand Acres of Land North of Nain, near the 56th Degree N. Lat. and have established a Mission Settlement thereupon called Okkak, and have taken up One Hundred Thousand Acres of Land, South of Nain, between the 55th and 56th Degree and have established a Mission Settlement thereupon called Hopedale. AND WHEREAS His Majesty did at the same time order that the Governor or Commander in Chief of Newfoundland for the time being, do give them all reasonable Assistance and Support in forming the said Mission Settlements, and in His Majesty's Name to warn all Persons from molesting or disturbing the said Mission Settlements; THEREFORE be it known to all Men that their said Settlements are under His Majesty's immediate Direction and Protection ; And I do hereby enjoin all His Majesty's Subjects to live in Amity and Brotherly Love with the said Missionaries and with the Native Indians inhabiting that Country, in no wise molesting or disturbing the said Missionaries, or those who shall settle with them. And I do require that all His Majesty's Subjects, who shall come upon the Coast of Labrador do act towards the Esquimaux Indians, justly, humanely, and agreeable to these Laws, by which His Majesty's Subjects of all Classes are bound throughout His Majesty's Dominions and to the Proclamation issued at St. John's in the Island of Newfoundland on the 24th June 1772, respecting the Savages inhabiting the aforesaid Island and Coast.

Given under my hand in

London the 15th May 1784.

By His Excellency's Command. (Sgd.) JN.
CAMPBELL.

(Sgd.) A. GRAHAM.

No. 427.[17 Aug.,
1909.]**AFFIDAVIT OF C. A. MARTIN.**
_____IN THE MATTER OF the Enquiry into Newfound-
land Territorial Rights on the Labrador.

District of Labrador, Nain, to wit:

I, C. A. MARTIN, at present of Nain aforesaid, Bishop, in charge of the Unitas Fratrum Mission, make oath and say as follows:—

1. I have been Superintendent of the Unitas Fratrum Mission at Nain, a settlement about twenty miles from the sea coast, for the past twenty one years.

2. I am well acquainted with the habits and customs of the Esquimaux and natives of the Labrador, and as far as I know they have always obeyed the laws of Newfoundland and have been subject to the jurisdiction of the Governor and Government of Newfoundland. As far as I know they have never acknowledged the sovereignty of the Province of Quebec or any other portion of the Dominion of Canada and have never paid nor been requested to pay any duties whatever to Canadian authorities and no attempt has ever been made by Canada to claim jurisdiction on this part of the Coast.

3. The natives of the coast hunt, trap and fish as far as three hundred miles into the interior in the winter time.

4. On reference to the records of our Mission I find that the original grant to our Society of one hundred thousand acres of land on Labrador, dated May 3rd, 1769, was from Government of Newfoundland, since which date, in 1774, this grant has been increased by the Government of Newfoundland by two hundred thousand acres, and I also find several Proclamations from different Governors of Newfoundland issued for the purpose of protecting and furthering the objects of the Mission. Copies of these documents are attached hereto.

(Sgd) C. A. MARTIN, Ep. Un. Fa.

SWORN before me at Nain aforesaid this
17th day of August A.D. 1909.

(Sgd) F.J. MORRIS,

Judge of the Court of Labrador.

AFFIDAVIT OF W. R. BARLOW, M.D.[21 March,
1926.]**In the Privy Council.**

IN THE MATTER of the BOUNDARY
between

the DOMINION of CANADA and the
COLONY of NEWFOUNDLAND in the
LABRADOR PENINSULA.

I, WILLIAM RAWSON BARLOW, M.D. of Port-aux-Basques,
Newfoundland Medical Practitioner make oath and say as
follows:—

1. I was for over two years physician in charge of the
Hospital at Okkak, Northern Labrador, maintained by the
Moravian Mission at that place. I went out from England by
the Mission ship Harmony in the early summer of 1914, and
came back in the autumn of 1916.

2. In April 1915, and in the same month of 1916, I
accompanied the Esquimaux on their annual deer hunt inland
from Okkak. Usually about twenty or thirty men, those with
the best guns, dog-teams and equipment, take part in this
annual hunt. They travel inland for seven days or roughly 200
miles. My estimate is based on an hourly progress of three
miles with the dog-teams and a daily journey of ten hours.
Greater progress is not possible, because the teams are heavily
laden with supplies and necessaries both for the journey inland
and the return.

3. These expeditions were undertaken partly to secure deer
meat for food and partly to secure the sinews from the backs of
the animals, which sinews are indispensable to the Esquimaux
in sewing seal skins for boots and garments, as nothing so
satisfactory for this purpose exists as the back sinews of the
deer.

4. A similar party of Esquimaux went inland each year
from Nain, 120 miles south of Okkak, but larger because Nain
is a bigger station, having

a greater population. The two parties met each year at a junction point in the interior best suited for the deer hunt, and this was successful each season, the parties securing all the deer they required.

5. I understand that for generations it has been the custom for the Esquimaux to make a similar deer hunt each year. In former times they carried only provisions for the inland journey and travelled until they met the deer, or if they failed to do so perished in many cases from lack of food on the return journey; but latterly the practice is to take a fortnight's provisions, make the week's trip inland and then, if deer are not to be found to return without any, using the reserve stock of food for the trip back.

6. My understanding is that the Esquimaux regarded the whole region as far inland as they proceeded, as their own country, that is to say, part of the territory of the Government of Newfoundland, to whose rule they consider themselves as subject.

WILLIAM RAWSON BARLOW (L.S.)

SWORN at Port-aux-Basques.

This Twenty first day of March 1926.

W. PIKE.

Justice of the Peace for the
Colony of Newfoundland.

W. R. BARLOW.

D.—DOCUMENTS RELATING TO THE SETTLEMENTS
AND WORK OF THE MORAVIAN MISSIONARIES.

No. 429.

**EXTRACT FROM THE PETITION OF THE SOCIETY
OF THE UNITAS FRATRUM TO THE LORDS OF
TRADE.**TO THE RIGHT HONOURABLE THE LORDS COMMISSIONERS OF
TRADE AND PLANTATIONS.

* * * * *

SHEWETH,

That the said Unitas Fratrum, desiring to the utmost of their power to propagate the Gospel of Our Lord And that to the same end Jens Haven, one of the above mentioned Petitioners, was sent last summer to Terra Labrador, in order if possible to find out whether the Language of the so called Eskimaux be the same with that of our Indian Brethren in Davis's Straits, in which undertaking of his by the favour of the Lords of the Admiralty, & the kindness of Governor Palliser, he was enabled to make some progress, & found to our great Satisfaction, that the Language was the same, & met with an unusually kind treatment from those Savages he came to the Speech of.—The endeavours of the said Jens Haven having met with so much success, the Unitas Fratrum also perceiving that this undertaking has been agreeable to the Lords Commissioners of Trade & Plantations (who were pleased to express a desire that the Brethren would settle in those parts) have after mature deliberation resolved in the name of God, & Our Lord Jesus Christ, to do everything in their power towards the conversion & Civilizing the Savage Natives of that inhospitable Country But seeing the Esquimaux are not only a Savage Nation but even provoked by the former behaviour of the Europeans in general to such a degree, that even killing as well Robbing & stealing is become their ordinary Custom Therefore it is humbly hoped, that the English Nation if they on their side ever wish to see the Fishery on that Coast Secure from the Depredations of those barbarous People by their becoming Civilized will not only do all in their power to prevent our Mission among them from being disturbed or molested in any wise, but will also in all respects be inclined to wish well to the same, and readily grant us all needful & proper protection & assistance Your Petitioners beg leave to make the following Proposals. (1) That a proper Vessel be appointed & Fitted out by the Government either from hence or from Newfoundland in order

that the Coasts of Labrador be more thoroughly & Solidly visited than hitherto, in order to be better acquainted with the Situation of the Country, with the Rivers & Harbours, and also with the divers Inhabitants in different parts of the said Coasts

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The aforesaid Jens Haven, & Christian Brackhart who having been a Missionary many years understands & speaks their Language, & besides them two other Brethren, one of whom is an Englishman & the other a German, who hath some knowledge in the mathematics offer themselves to go in the said Ship

To which purpose it is humbly proposed that a proper Commission thereto be given to those four Brethren by the Government & consequently the Captain of the said Vessell be instructed to regulate his motions according to the desire of the said Commission and also as to his stay in each place, and how far the Boats may go up the Rivers they may meet with We therefore Petition,

That Four Different Tracts of Land on the Coast of Labrador for the use of the Mission be now beforehand Allotted & Secured to us, by the Government And as Terra Labrador is a Country where hardly any other Europeans will make a fixed Settlement We desire that these four Tracts of Land in four different parts making altogether 400,000 Acres may be granted to us in the above manner.

And as we ought to take care that the Missions be Settled in such places and parts of the Country where the Natives are most likely to find whereon to Subsist, & of Consequence to resort in greatest numbers, therefore we should have leave to fix upon such Districts & Situations as may seem to us most convenient, & Serviceable to our Aim.

We should have leave also in the Grant & be properly empower'd to fix upon at pleasure Bays & Navigable Rivers with the Shores on both Sides thereof. to give these Districts their Distinct names, to make Draughts & Maps thereof, in order to lay them before the Government, the whole not to exceed 400,000 acres in all We desire also to have liberty (on that part of the Coast where we are to be put in possession in four different places of the said Tracts of Land according to the aforesaid Dimensions as our duely granted property) and be invested with the right of forming Harbours, & to be owners thereof under the gracious protection of the Crown of Great Brittain, not by any means with the right of excluding others or to hinder the Ships of any British Subject to enter the said Harbours, but yet that such Ships and their Crews be bound while there to Conform to the Orders and Regulations made in our Settlements agreable to the Laws, and in case of offence to be oblidged to answer for it either to the Governor of Newfoundland or at Home.

We should also have full Liberty to send Ships of English Bottom & under English Colours to Labrador and into the Bays as well as the inland Seas of that Country, and back again

to any other Part of the English Dominions.

And that good Order may be maintained in our future Settlements there from the beginning we think it will be a proper method for our Brethren which shall be establish'd in those parts, from time to time to propose to the Governor of Newfoundland such Persons in our Settlements as may be fit for it, out of whom he may choose one or more in every place of our Missions, as

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Circumstances may require, to be legally & in the name of his Majesty appointed to the office of a Justice of the Peace.

As to any objections which might be started concerning any of the aforesaid Points, or in general whether it can be expected that his Majesty or the Right Honourable the Lords Commissioners of Trade & Plantations should grant us such Privileges as seem to belong only to British born Subjects; the natural answer seems to be, that we are the first Adventurers and consequently the first Inhabitants & Subjects to the Crown of England in Terra Labrador; neither do we think. it unreasonable, that seeing we venture our lives in order to obtain this Salutary end, so useful to the English Nation in the end, and even directly, that the said English Nation should consider our Brethren as faithful, good & useful Subjects & fellow Citizens, and gladly so far encourage our undertaking; so much the rather as there are no other Inhabitants in Terra Labrador, who could object thereto, or whose priviledges might suffer by such Concessions, especially also as this Country was never Subject to any known Laws; etc

LINDSEY HOUSE CHELSEA

the 23d of February 1765.

[27 April,
1765.]**ADMIRALTY TO LORDS OF TRADE.**

C.O. RECORDS 194/46. T. 46.

ADMIRALTY OFFICE, 27 April, 1765.

SIR,

I have communicated to my Lords Commissioners of the Admiralty your Letters of the 23rd and 24th Instant, signifying the desire of the Lords for Trade and Plantations, that a Passage may be order'd in one of the Ships of Commodore Palliser's Squadron, for the four Persons therein named, who are appointed by the Society of the United Fratum, to establish a Mission on the Coast of Terra Labrador, and that the Commander of such Ship as may be appointed to visit that Coast, may have Orders to give them such Protection and Assistance as shall be necessary for their purpose, and consistent With His Majesty's Service; And in return, I am commanded to acquaint you for the Information of the Lords for Trade, that my Lords of the Admiralty have given the necessary Directions to Commodore Palliser for that purpose; .

..

* * * *

(Signed) PH. STEVENS.
Secretary.

[29 April,
1765.]**No. 431.****CERTIFICATE OF LORDS OF TRADE THAT THE
MORAVIAN MISSIONARIES,**APPOINTED TO ESTABLISH A MISSION ON THE COAST OF LABRADOR
UNDER THEIR PROTECTION.

B.T. Nfld. VOL. 18. T. 74.

“WHEREAS the Society of Unitas Fratrum under the protection of his Britannic Majesty have from a pious zeal for promoting the knowledge of the true God & of the Religion of our blessed Lord & Saviour Jesus Christ amongst the Heathen; form'd a Resolution of establishing a Mission of their Brethren upon the Coast of Terra Labrador, & for that purpose have appointed John Hill, Christian Drachart, Jens Haven & Christian Andrew Schloezer to effect this their pious Purpose. And whereas the Lords Commiss^{rs}. for Trade & Plantations have upon application from the said Society signified their intire approbation of an undertaking so commends able in itself, & that promisses so great Benefit to the public, & are desirous of giving all reasonable encouragement & assistance thereto; these therefore are to certify to all persons whom it may concern, that their Lordships have taken the said John Hill, Christain Drachart, Jens Haven & Christian Andrew Schloezer under their protection & all Officers Civil and Military in his Majesty's service & all his Majesty's Subjects in general are hereby requested to give the said John Hill, Christian Drachart, Jens Haven & Christian Andrew Schloezer all aid comfort and assistance in their Power in the promotion of the Arduous & difficult Service they have so zealously engaged in.

By Order of their Lordships,

J. POWNALL, Secretary.

Whitehall, April 29th, 1765.”

* * * *

[30th April,
1765.]**PROCLAMATION OF GOVERNOR PALLISER IN
REFERENCE TO MORAVIANS.** Dated 30 April, 1765.

BY HIS EXCELLENCY HUGH PALLISER, ETC., ETC.

Whereas the Society of the Unitas Fratrum, under the protection of His Majesty have, from a pious zeal for promoting the knowledge of a true God and of the religion of our Beloved Lord the Saviour, Jesus Christ, amongst the Heathens, formed a resolution of establishing a mission of their brothers upon the Coast of Labrador; for that purpose we have appointed John Hill, Christian Drachart, Jens Haven and Christian Schlozer to effect this pious purpose; and whereas the Lords Commissioners of the Admiralty and the Lords Commissioners of Trade and Plantations have signified to me their entire approbation of an undertaking so commendable in itself and that promises so great benefit to the publick; These are, therefore, to certify all persons whom it may concern that the said John Hill, Christian Drachart, Jens Haven, and Christopher Schlozer, are under His Majesty's protection and all Officers Civil and Military, and all others His Majesty's subjects within my Government, are hereby strictly charged and required not to give any interruption or hindrance to the said John Hill, Christian Drachart, Jans Haven and Christian Schlozer, but to afford them every aid and friendly assistance for the success of their pious undertaking for the benefit of mankind in general and of His Majesty's subjects in particular.

Given under my hand and seal, 30th April, 1765.

HUGH PALLISER.

By Command of His Excellency,
JOHN HORSNAILL.

No. 433.

[1765.]

**ACCOUNT OF THE VOYAGE OF THE FOUR
MISSIONARIES.**

C.O. 194/16. T. 74.

Account of the voyage of the four Missionaries sent by the Unitas Fratrum to the Esquimaux on the Coast of Labrador, and under the protection of his Britannic Majesty. From the month of May to November, 1765.

* * * *

23^d July. Sr Thomas sent for us, and read to us that part of Commodore Palliser's Orders relative to the Schooner; by these orders she is to proceed to 56 deg. N. to explore the Coast make proper Draughts, and every needful discovery for the future Benefit of Trade and Fishery

* * * *

As we came into Pitt's Harbour we were met by the Governor, who returned with us into the Harbour surrounded by the Indian Kaiahs, . . . Bro^r Prachart spoke with them he formed them in a Circle round the Governor and then read to them the following Articles which the Governor had drawn up for the purpose: . . .

16. If you will let me know what things you want our people shall bring you everything the next year to truck for your things. . . .

Memorandum for our Brethren of the Unitas Fratrum Missionaries on the Coast of Labrador.

After giving the Savages such impressions and Informations as you judge best for making yourselves acceptable and for facilitating the pious and Laudable Object of your Mission you'll please to make the following enquiry's for his Majesty's Information and for the Benefit of the Publick

1. What do they call themselves as a Nation or as a particular People?

2. Where they Inhabit. How they name the place or places of their abode the distance from hence, or the time they are coming here or any other particulars for ascertaining the situation of the places from whence they come?

3. Whether they reside altogether or in different places?

4. If they reside at different Places their number at each and the supposed number of the whole on the Coast northward from hence, and that usually assemble together when they come this way?

5. Whether they have any notion or tradition concerning their Origin?

6. If they have knowledge of any other Nations or People, what is their names, numbers and places of abode?

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7. Whether they have any intercourse with other nations or are in peace or war with them?

8. Whether they have knowledge of any other Savages directly inward from this place or to the Westwards?

9. What is the nature of the Coasts Harbours and Rivers and the inland Country and whether there are any People inward?

10. What is the produce of the Countries and Seas; if Foxes, Beaver, Deer, Elk or other animals, and if each are abundant or scarce, also as to Whales, Seals, Cod, Salmon or other Fishes?

11. How they subsist; what is their Food and Cloathing?

12. What is their employment and occupation in the different seasons?

13. What is the places and seasons for taking Whale and their manner of doing it whether they do or can preserve the Oil, or if they can't keep the Fish in certain appointed places for our people to come to cut them up?

14. By remarking all things they have in use, you'll be directed in your enquiries, how they got them, particularly if they have any metal?

15. What things they seem to covet most and for what uses they want you?

16. Whether they have knowledge of any Savages Inhabiting Newfoundland?

17. Whether they have any notion of any Europeans in former times inhabiting this place or any part of the Coast to the Northward?

18. With respect to the quantity of Tyles &c. found here how do they account for them, is there any such at any other place on the Coast and what account do they give of the Stones shaped like Ridge Tyles, whether they have been brought here by them and from whence, or by Europeans?

You'll endeavour to explain to them my Manifesto and the intended use thereof also to give them a proper Idea of His Majesty's greatness and his regard and affection for them; with anything else which you think best for fulfilling His Majesty's and your Societies' humane Intentions for the Benefit of mankind in general and of these poor ignorant People in particular, and from time to time suggest to me what measure will best answer these Ends.

(Signed) HUGH PALLISER.

Augst 11th 1765 In Pitts Harbour
within York or Chateau Bay
on the Coast of Labradore.

N.B.—The answer to these and other questions which from time to time We made are added at the end of this Journal.

* * * *

Sep. 30th. We sailed from Pitt's Harbour and came the 4th Oct. to St John's where we had the Honour to wait on the Governor, to whom We delivered the two annexed Charts One of Esquemaux Bay with the several Indian names of the Islands &c., and their meaning in English. The other a Draught we took of Davis's Inlett. Also as specific an Account as we from

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time to time could get from the Esquemaux in answer to divers enquiries proposed by the Governor and what we ourselves could learn about the affairs of the Esquemaux.

* * * *

London Decem^r 5th 1765.

Questions proposed from time to time by the Missionaries to the Esquemaux Indians with their Answers.

* * * *

3. From whence do they come?

Those who come here live at Esquemaux Bay which they call Nucingame and at Mille Isles, etc. . . .

4. What is the nature of the Inland Country?

Inward in the Country are plenty of Trees but near the shore it's Barren, the Isles are also Barren. There are many fresh water Lakes.

5. Of the Coast Harbours and Rivers near their Habitations. Please to look at the annexed Chart.

6. On how many places do they live?

Those who come here have only the two above mentioned places.

* * * *

8. How long were they in their passage hither?

Twenty days, but they make short stages, one of them say'd if wind and weather favour'd him he could come here in 3 days.

9. Have they seen any Europeans in their passage?

They met one Ship with which they traded but whether English or French they don't know.

* * * *

17. Do they know of Indians inhabiting the interior part of the Country?

They speak of Caralit who live northward of them besides these they know of no Indians inland or on the Coast.

18. Do they trade with the Hudson's Bay Company?

These who come here do not; but the Caralit north of Davis's Inlet very likely do.

19. Have any French ships been on the Coast?

They tell us a ship (we suppose French) frequently comes to Esquemaux Bay and trades with them.

20. Are there any Europeans among them?

None live among or near them. Our Brethren's attempt in

the year 1752 was the first and only we hear of.

* * * *

25. What are the most proper things our Merchants should take to barter for their Whalebone Furr &c.?

* * * *

p. 1320

To the Right Honourable the Lords for Trade & Plantations.

Your Lordships will be pleased to remember that on the report of our Brother Jens Haven having been able in the year 1764 to converse with the Eskimaux in their own language, the Rt. Honble. the Lords for Trade and Plantations desired to speak with him, and having heard from his own mouth divers particulars which seemed to them to make it a matter worthy of their very great attention, desired that our Brethren of the Unitas Fratrum would go and settle there, which being reported to our Brethren abroad, they in consequence thereof desired and engaged the four underwritten Brethren and members of the church of the Unitas Fratrum to offer their service accordingly in order to reconnoitre the coast of Labradore and chase such tracts of land as might be agreeable to the Esquimaux and suitable for them to make a settlement on, and live together; in order, if possible in time thro' the preaching of the Gospel to make them real Christians and consequently good and quiet neighbours Which was looked upon to be of very good benefit to the trade of those nations.

* * * *

An account of the voyage of the four missionaries sent by the Unitas Fratrum to the Esquimaux on the coast of Labrador and under the protection of His Britannic Majesty from the month of May to November 1765.

[Certificates follow from the Rt. Honble, the Lords Commissioners for trade and plantations and Governor Palliser dated 29 & 30 April, 1765, respectively.]

[3 May,
1769.]**ORDER-IN-COUNCIL GRANTING LAND TO
MORAVIANS AT ESQUIMAUX BAY.**

C.O. RECORDS 194/18, p. 285.

See also GREENWICH HOSPITAL MISCELLANEA VARIOUS. Vol. 121,
p. 72.

At the Court of St. James,

The 3rd day of May, 1769.

WHEREAS there was this day read at the Board a Report from the Right Honorable the Lords of the Committee of Council for Plantation Affairs; Dated the 24th of last month, in the words following, viz:—

“Your Majesty having been pleased by Your Order in Council of the 20th February last to refer unto this Committee a Representation from the Lords Commissioners for Trade and Plantations setting forth that they have had under their consideration a memorial presented by the Earl of Hillsborough, one of Your Majesty's Principal Secretaries of State, On behalf of the Society of Unitas Fratrum, stating, That the said Society are desirous of prosecuting their intention of establishing a Mission on the Northern Coast of Labrador for the purpose of civilizing and instructing the Savages called Esquimaux, inhabiting that Coast, in which undertaking the Memorialists represent that they have already taken some steps in consequence of encouragement received from the Board in 1765; but that there is a necessity of having permission to occupy such a quantity of land on that Continent as may induce the Esquimaux to settle around the Missionaries; that for this purpose they have pitched upon Esquimaux Bay and praying for a grant on that spot of one hundred thousand acres of land, or about twelve miles square; with liberty in common of other British subjects of fishing and trading on that Coast, submitting at the same time the expediency of the Government erecting a blockhouse near the said intended settlement to protect the Esquimaux and their Missionaries from violences and encroachments of any disorderly people who might happen to come into that Bay.

WHEREUPON the said Lords Commissioners represent that in the yea 1765 the Society above mentioned having with the approbation of the Government deputed four of their

brethren to visit and explore the Coast of Labrador with a view to propagate the Gospel among the savage inhabi-

p. 1322

tants; those persons though unavoidably prevented from completing their design in its full extent did however by the assistance and under the direction of Mr. Palliser Your Majesty's Governor of Newfoundland make some progress in the laudable purpose of their mission by establishing an intercourse and concluding a treaty with those savages. Whereupon in the year following upon the favourable report made by Your Majesty's said Governor touching the conduct and behaviour of these said Missionaries and in consequence of a petition from the said Society, the Board of Trade did in an humble representation to Your Majesty dated March 27th 1766, submit whether it might not be adviseable to allow this Society to occupy such a district of land not exceeding one hundred thousand acres upon the Coast of Labrador as they should think best situated for the purposes of their Mission from this opinion of their predecessors in office they see no reason to dissent and as they do in like manner with them think it advisable to encourage and promote a settlement of this sort as well from the pious and laudable object of its institution as from the public and commercial advantage to be derived from it they beg leave humbly to recommend to Your Majesty that the Society or the persons deputed by the Society for that purpose may be allowed by an order of Your Majesty in Council to occupy and possess during Your Majesty's pleasure one hundred thousand acres of land in such part of Esquimaux Bay on the Coast of Labrador as they shall find most suitable to their purpose and that Your Majesty's Governor of Newfoundland may be directed by the said Order to give them all reasonable assistance and support in forming such establishment and by a Proclamation to be published in Your Majesty's name signifying that this establishment is formed under Your Majesty's express authority and direction to Warn all persons from molesting and disturbing the said settlers; and in case it shall appear to him to be necessary for their welfare and security that one or more of the principal Missionaries shall be vested with the authority of Justice of the Peace that he should in that case issue the proper commission for that purpose conformable to the powers delegated to him by Your Majesty's Commission under the Great Seal, with respect to the expediency of erecting a blockhouse near the said intended settlement for the defence of the Esquimaux and the Missionaries and for the general protection of the British Trade and Fishery they do not think themselves justified in advising Your Majesty to comply a request that would probably be attended with considerable public expense and for which there does not appear to them to be any immediate necessity; but as they think it highly proper that reasonable and necessary measures should be taken for the security of those persons who shall establish themselves on this savage and uncivilized Coast

they would humbly recommend to Your Majesty to direct that the persons who shall engage in this settlement shall be furnished out of Your Majesty's Stores with fifty muskets and a proportionable quantity of ammunition which they conceive may be sufficient for their personal security and defence. The Lords of the Committee in obedience to Your Majesty's said Order of reference this day took the said representation into their consideration and

p. 1323

do humbly report to Your Majesty that they agree in opinion With what is above proposed by the Lords Commissioners for Trade and Plantations, and that Your Majesty's Governor of Newfoundland should give them all reasonable assistance and support informing the said Establishment and by a Proclamation to be published in Your Majesty's name.

That it may be adviseable for your Majesty by Your Order in Council, to permit and allow James Hutton of Lindsey House Chelsea Gentleman Benjamin La Trobe of Lindsey House Chelsea Clerk, Charles Metcalfe of Chelsea Gentleman, John Edmonds of St. Andrews Holborn Brewer, Philip Hurlock of St. Pauls Church Yard Surgeon, John Wollin of Lindsey House aforesaid Gentleman, and Jens Haven of Lindsey House aforesaid Catechist, In Trust for the Unitas Fratrum, and its Society for the furtherance of the Gospel, to Occupy and possess during Your Majestys Pleasure, one hundred thousand Acres of Land in such part of Eskimaux Bay on the Coast of Labrador, as they shall find most Suitable to their purpose; and that Your Majestys Governor of Newfoundland should give them all Reasonable Assistance and Support in forming the said Establishment and by a proclamation to be published in Your Majestys Name Signifying that this Establishment is formed under Your Majestys Express Authority and Direction to warn all persons from Molesting and disturbing the said Settlers, and in case it shall appear to him to be necessary for their Welfare and Security that one or more of the principal Missionaries should be vested with the Authority of Justice of the peace, that he should in that case, issue the proper Commission for that purpose, conformable to the powers delegated to him by Your Majestys Commission under the great Seal; and the Lords of the Committee are further of opinion, that it may be adviseable for Your Majesty to direct that the persons who shall Engage in this Settlement, shall be furnished out of Your Majestys Stores with fifty Musquets and a proportionable quantity of Ammunition for their personal Security and Defence.

His Majesty taking the said Report into Consideration was pleased with the advice of his privy Council to approve thereof and accordingly doth hereby permit and allow James Hutton of Lindsey House Chelsea Gentleman, Benjamin La Trobe of Lindsey House Chelsea Clerk, Charles Metcalf of Chelsea

Gentleman, John Edmonds of St. Andrews Holborn Brewer, Philip Hurlock of St. Pauls Church Yard Surgeon, John Wollin of Lindsey House aforesaid Gentleman and Jens Haven of Lindsey House, aforesaid Catechist; In Trust for the Unitas Fratrum and its Society for the furtherance of the Gospel to Occupy and possess during His Majestys pleasure one hundred thousand Acres of Land in such part of Eskimaux Bay on the Coast of Labrador as they shall find most Suitable to their purpose. And his Majesty doth hereby further order that the Governor or Commander in Chief of Newfoundland for the Time being do give them all Reasonable Assistance and Support in forming the said Establishment and by a Proclamation to be

p. 1324

published in his Majestys Name Signifying that this Establishment is formed under His Majestys Express Authority and Direction, to warn all persons from molesting and disturbing the said Settlers, And in Case it shall appear to him to be necessary for their Welfare and Security that one or more of the principal Missionaries should be vested with the Authority of Justice of the Peace that the said Governor do in that case issue the proper Commission for that purpose Conformable to the powers delegated to Him by his Majestys Commission under the Great Seal. And the Governor or Commander in Chief of His Majestys Island of Newfoundland and the Territories depending thereon for the Time being and all others whom it may concern are to take Notice and Govern themselves accordingly.

Endorsed.

No. 435.

[21 April,
1770.]**PROCLAMATION BY GOVERNOR BYRON**

FOR PROTECTION OF MORAVIANS.

BY HIS EXCELLENCY THE HONBLE. JOHN BYRON,
Governor and Commander in Chief in and over the Island of
Newfoundland, the Coast of Labrador &c.

WHEREAS His Majesty was pleased by an Order of Council May 3rd 1769, to encourage the Unitas Fratrum and their Society for the Furtherance of the Gospel among the Heathen to make a Settlement on the Northern Coast of Labrador for the purposes of Civilising and Instructing the Savages inhabiting that Coast, and to permit and allow certain Persons in Trust for the Unitas Fratrum and its Society for the Furtherance of the Gospel, to occupy and possess during His Majesty's Pleasure, a certain quantity of land in such part of Esquimaux Bay on the Coast of Labrador, as they should find most suitable to their purpose. AND WHEREAS His Majesty did at the same time Order that the Governor or Commander in Chief of Newfoundland for the time being, do give them all reasonable Assistance and Support, in forming the said Establishment, and in His Majesty's name to warn all Persons from molesting and disturbing the said Settlers. AND WHEREAS certain Persons, who are Members of the said Society for the Furtherance of the Gospel have purchased the Jersey Packet, whereof Francis Mugforth is Commander, Burthen about eighty tons Square sterned Boston built, in order to go this year to the Coasts of Labrador to converse with the Esquimaux, and to try to bring them to a peaceable temper, and to look out for such parts on, or near Esquimaux Bay, as may suit best for the purpose of Establishing a Mission of the Unitas Fratrum, and to that end have engaged some Missionaries to go on board the said Jersey Packet for the laudable purposes aforesaid.

These are therefore to certify to all Persons whom it may concern, that this Establishment is undertaken and formed under His Majesty's Express Direction and Authority, whose protection they are under. And all Officers, Civil and Military, and all other His Majesty's Subjects within my Government, are hereby strictly charged and required not to give any interruption or hindrance to the said Mission, but that they do afford the said Brethren all friendly Assistance for the Success of their Pious Undertaking, calculated for the benefit of Mankind in general, and for the Kingdom of Great Britain in particular. GIVEN under my Hand this 21st of April 1770.

(Sgd.) J. BYRON.

By His Excellency's Command.
(Sgd) HEN. STACY.

No. 436.[10 April,
1772.]**PROCLAMATION BY GOVERNOR SHULDHAM.**

BY HIS EXCELLENCY MOLYNEUX SHULDHAM, ESQR.,
Governor and Commander in Chief in and over the Island of
Newfoundland, the Coast of Labrador, &c. &c.

WHEREAS I am informed that the Esquimaux Savages inhabiting that part of the Coast of Labrador where the Unitas Fratrum and its Society have formed a Settlement for the furtherance of the Gospel among the Heathen have lately strolled from the said Settlement to the Southward with a View of Trading with the Shipping which touch upon that Coast. AND WHEREAS many Barbarous Murders have been committed on both sides by the English upon the Savages and the Savages upon the English, occasioned by Disputes and Misunderstandings in Bartering their Track. For the putting a stop thereto for the future I do hereby desire and require the said Unitas Fratrum to use every fair and gentle means in their power, to prevent the said Esquimaux Savages from going to the Southward without first obtaining their Permission in writing for so doing, and till such time as other Settlements shall be formed and extended down along the Coast. Given under my hand this 10th of April 1772.

(Sgd.) M. SHULDHAM.

By His Excellency's Command
(Sgd.) EDW. BRAGGE.

No. 437.

N

10th April, 1772—**PROCLAMATION BY GOVERNOR
SHULDHAM AGAINST MOLESTING MORAVIAN
SETTLEMENTS.**

Vide, Part VIII C, No. 422, p. 1303.

No. 438.

N

4th May, 1772—**PROCLAMATION BY GOVERNOR
SHULDHAM REQUIRING MORAVIANS TO KEEP
ESQUIMAUX FROM GOING SOUTHWARD.**

Vide, Part VIII C, No. 423, p. 1304.

No. 439.

N

25th August, 1773—**REPORT FROM ROGER CURTIS TO
GOVERNOR SHULDHAM.**

Vide, Part VII, No. 281, p. 1090.

No. 440.

N

13th September, 1773—**DISPATCH FROM GOVERNOR
SHULDHAM TO SECRETARY OF STATE.**

Vide, Part VIII A, No. 373, p. 1254.

[6 Dec., 1773.]

**REPORT OF THE STATE OF THE BRETHERN'S
MISSION ON THE COAST OF LABRADOR IN
SEPTEMBER, 1773.**

* * * *

At the end of July a King's Schooner, sent by Governor Schuldam commanded by Lieutenant Curtis, who had an Esquimaux Pilot from Chateaux Bay on board, arrived in our harbour & spent some few days there, & will have delivered in his report. We are much obliged to the Governor for his kind attention & concern shewn on this occasion, who sent the Schooner in order to know if the Missionaries were still alive & in what condition they were.

The Sloop after landing Mr. Layritz & his wife, went from Unity Harbour to the northward Aug. 2d taking in her Mr. Jens Haven Mr. Hill & an Esquimaux & went north as far as 59.30 & saw & made acquaintance with several different Tribes & Families of Esquimaux

* * * *

When the King's schooner came to our harbour the Esquimaux were called together & the Officer declared the Governor's orders to them by Interpreter, that for the future if any of them killed an European or another Esquimaux he should be put to death & the same if he stole, that they should not go to the southward on pretence of fetching wood for their arrows & then steal Boats, Sails, Ropes & Graplins, for they should be well watched & punished . . .

* * * *

The Officer then told them that they should make the Governor's Orders known to the other Esquimaux in the South & North. They answered that they had already done so, & would continue to make it known as far as wherever they could: The Officer said, those Esquimaux who frequented the Brethren were not meant to be forbidden going occasionally to the South, but they must not come without a written Certificate that they were persons who could be trusted, for if any came without they would not be let pass. The Esquimaux said we do not think to go the south, but if we should want to go, we will bring a Letter from our Brethⁿ here. The Governor's Proclamation is wrote on a large Board in the Esquimaux Language & hung up on the Pallisades.

* * * *

Our Society for the furtherance of the Gospel as well as our Mission in Labrador are extremely obliged to Government for their kind countenance

and protection & for their wise care & concern to prevent future mischief from & to the Esquimaux, & are happy in having had three such successive Governors as S^r Hugh Palliser, Mr. Byron & Mr. Schuldham who have in the most obliging & prudent manner protected our Mission & the Esquimaux; etc.

* * * *

Signed: JAMES HUTTON.

Dec^r 6. 1773.

Lindsey House Chelsea.

To the EARL OF DARTMOUTH; &c. . . .

& To the RIGHT HONOURABLE THE LORDS COMMISSIONERS
FOR TRADE & PLANTATION.

No. 442.

N

**ABOUT FURTHER GRANTS OF TERRITORY TO THE
MORAVIANS.**

[9 March,
1774.]

At the Council Chamber, Whitehall, the 9th March 1774.
Present

PRIVY COUNCIL 2 / 117, pp. 458-459.

Your Majesty having been pleased by your order in council of the 21st of last month to refer unto this Committee a Representation from the Lords Commissioners for Trade and Plantations in the words following, viz.:—

“We have had under our consideration a memorial of Mr. James Hutton and sundry others on behalf of the Unitas Fratrum and its Society, for the furtherance of the Gospel amongst the heathen referring to an inclosed report of last year's proceedings of the Mission at Nain on the coast of Labrador, and praying for the reasons in the said memorial set forth, that the Missionaries may have leave to take up some thousand acres of land for the use of such Esquimeaux as shall incline to conversion, somewhere about the 54 or 55 degree to the southward of Nain, wherever it shall be found most agreeable to the Arbatock tribe, as likewise some thousand acres of land to the northward of Nain, somewhere in the parts that lie from 57th to the sixtieth degree on the Eastern coast of Labrador.

Whereupon we beg leave humbly to represent to your Majesty—That the propagating the lights of the gospel salvation among the barbarous and uninstructed tribes which frequent the coasts of Labrador, is an object in every respect so meritorious, and the endeavours of these missionaries appear to have been so sincere and are attended withal by so fair a promise of success from the reception they have met with, that we do not scruple humbly to recommend to your Majesty to comply with the prayer of their memorial, by granting to them such tracts to the southward and northward of their present location, as shall be found suitable to the wishes of the savages, and to the purposes of the undertaking; At the same time we humbly beg leave to advise that your Majesty's Governor be instructed to take due care, that the spots chosen by these Missionaries for their settlements be such, as may in no respect interrupt or annoy the fisheries carried on upon this coast.”

The Lords of the Committee in obedience to your Majesty's said order of reference, this day took the said Representation into consideration and do agree humbly to report as their opinion that it may be advisable to your Majesty to comply with the prayer of the said Memorial and to permit and allow the Missionaries of the said Unitas Fratrum to extend their settlements accordingly to the southward and northward of their present location, and to occupy and possess during your Majesty's pleasure, such tracts of land as may be found necessary for the purposes of the undertaking provided such tracts shall not exceed 100,000 acres to the southward of Nain, and 100,000 acres to the northward of Nain. And that your Majesty's Governor of Newfoundland do take due care that the spots chosen by the said Missionaries for their settlements be such as may in no respects interrupt or annoy the fisheries carried on upon the said coast of Labrador.

[9 March,
1774.]**ORDER IN COUNCIL AS TO FURTHER GRANTS OF
TERRITORY TO THE MORAVIANS.**

PRIVY COUNCIL 2 / 117, p. 461.

At the Court of St. James's, the 9th day of March 1774.
Present

Whereas there Was this day read at the Board a report from the Right Honourable the Lords of the Committee of Council for Plantation affairs, dated this day in the words following, viz.:—

Memdm.—Here the Committee report for permitting the missionaries of the Unitas Fratrum to extend their settlements under certain restrictions to the southward and northward of their present location on the Labrador coast, to be inserted at length as vide entered page 458.

His Majesty taking the said report into consideration, is pleased with the advice of his Privy Council to approve thereof, and accordingly doth hereby permit and allow the Missionaries of the Unitas Fratrum to extend their settlements accordingly, to the southward and northward of the present location and to occupy and possess during his Majesty's pleasure such tracts of land as may be found necessary for the purposes of the undertaking provided such tracts shall not exceed one hundred thousand acres to the southward of Nain and one hundred thousand acres to the northward of Nain and that the spots so to be chosen by the said Missionaries for their settlements be such as may in no respect interrupt or annoy the fisheries carried on upon the said coast of Labrador. And the Governor or Commander in Chief of his Majesty's island of Newfoundland and the territories depending thereon for the time being and all others whom it may concern, are to take notice and govern themselves accordingly.

[17 March,
1774.]**PROCLAMATION BY GOVERNOR SHULDHAM****RESPECTING SETTLEMENTS OF THE UNITAS
FRATRUM IN LABRADOR.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 5, page 198.

By His Excellency Molyneux Shuldham, Esq.,
Governor & Commander in Chief.**A PROCLAMATION.**

WHEREAS His Majesty in Council has been pleased to Grant unto the Unitas Fratrum and its Society, for the furtherance of the Gospel among the Heathen, a parcel of Land on the Coast of Labrador for the Establishment of a Mission among the Esquimaux Savages: And WHEREAS it has pleased His Majesty in Council to permit and allow the Missionaries of the said Unitas Fratrum to Extend their said Settlements to the Southward and Northward of their present Location, and to occupy and possess, during His Majesty's Pleasure, such Tracks of Land as may be found necessary for the purposes of the undertaking; provided such Tracks shall not exceed one hundred thousand Acres to the Southward of Naine, and one hundred thousand Acres to the Northward of Naine; and that the spots so to be chosen by the said Missionaries for their settlements be such as may in no respects interrupt or annoy the Fisheries carried on upon the said Coast of Labrador; Therefore be it known unto all men, that their said Settlements are under His Majesty's immediate protection. And I do hereby strictly enjoin all His Majesty's Subjects to live in Amity and Brotherly Love with the said Settlers, and the Native Savages inhabiting that Country; in no wise whatsoever molesting or disturbing the said Mission or those who shall settle with them. And I do require that all His Majesty's Subjects who shall come upon the Coast of Labrador do act towards the Esquimaux Indians agreeable to the Proclamation Issued at St. John's the 24th June 1772, respecting the Savages inhabiting the aforesaid Island and Coast.

Given under my Hand at London,
17th March 1774,

M. SHULDHAM.

By His Excellency's Command,
Edwd. Bragg.

No. 445.

REPORT OF MORAVIANS, 1775.

C.O. RECORDS 194/19. VOL. 5, p. 1.

The underwritten begs leave, in the name of the Brethren's Society for the furtherance of the Gospel among the Heathen in those Countries principally which are under the British Dominion, to lay before the Right Honourable the Earl of Dartmouth, and the Lords Commissioners for Trade and Plantations, the following annexed Papers, relating to the transactions of their Missionaries in Terra Labrador, from the latter end of the year 1773 to the month of October 1774.

* * * *

At the end of the year 1773 they take notice of the great increase of the number of Esquimaux with whom they got acquaintance during the course of that year, not only by the means of the Revd Mr. Layritz's voyage that year from St. John's to Nain, on which he saw some hundreds of the southern Esquimaux, and by means of Mr. Haven's voyage also last year to the north, where he saw many Esquimaux who till then had never seen an European: but also by their having been visited by at least an hundred of the Southern Esquimx as well as by hundreds of others; and indeed during the greatest, part of the year 1774 Nain has seldom been without Esquimaux Visitors as well from the south as from their neighbourhood. . . . It is supposed that some or other of the Missionaries have by this time seen and conversed with and preached to, more or less the far greatest part of the Nation, so far as Labrador has been vet discovered. . . .

No. 446

N

14th May, 1779—**PROCLAMATION BY GOVERNOR
EDWARDS**

AGAINST MOLESTING MORAVIAN MISSIONARIES.

Vide, Part VIII C, No. 424, p. 1305.

No. 447.**PROCLAMATION BY GOVERNOR RICHARD
EDWARDS**[29 July,
1779.]

AS TO PROTECTION OF THE MORAVIAN MISSIONS.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND.
Volume 7, page 89 (reversed).

By His Excellency Richard Edwards, Esq., Governor
and Commander in Chief in and over the Island of
Newfoundland, &c. &c.

Whereas His Majesty Was pleased by an Order of Council of the 3rd May, 1769, and by another Order of the ninth day of March, 1769, to encourage the Unitas Fratrum, and their Society for the furtherance of the Gospel among the Heathens, to make settlements, on the Northern Coast of Labrador, for the purpose of civilizing and Instructing the Savages, Inhabiting the said Coast; And the said Unitas Fratrum, and their Society for the furtherance of the Gospel, have formed two such Mission Settlements on the said Coast, And Whereas some Members of the said Brethren, Society for the furtherance of the Gospel among the Heathen, have purchased and fitted out a Sloop called the Good Intent, of which Francis Mugford is Commander, principally with a view to bring the Missionaries and their assistants the necessary Provisions, for their subsistence in that inhospitable Climate. This is to Certify to all Persons whom it may concern, that the Establishments are under His Majesty's express direction, Authority and protection, and all Officers, Civil and Military, and all other His Majesty's faithful Subjects under my Government are hereby strictly charged and required not to give any interruption to the said Sloop the Good Intent, or to the said Mission, but they do afford the said Sloop and all the said Bretheren all Friendly assistance, for the success of their pious undertaking.

Given under my Hand at St. John's,
July 29th, 1779.

R. EDWARDS.

By Command of His Excellency,
A. Graham.

No. 448. N

30th January, 1781—**PROCLAMATION BY GOVERNOR
EDWARDS**

AGAINST MOLESTING MORAVIAN SETTLEMENTS.

Vide, Part VIII C, No. 425. p. 1306.

No. 449. N

15th May, 1784—**PROCLAMATION BY GOVERNOR
CAMPBELL**

AGAINST MOLESTING MORAVIAN SETTLEMENTS.

Vide, Part VIII C, No. 426. p. 1307.

[26 May,
1784.]

No. 450. N

**LA TROBE AND HUTTON'S REPORT TO LORD
SYDNEY.**

C.O. RECORDS 194/35.

MY LORD,

We beg leave to lay before your Lordship the following relative to the Mission Settlements upon the Coast of Labradore, established by the Church known by the name of Unitas Fratrum and its Society for the furtherance of the Gospel among the Heathen; in consequence of two orders of the King and Privy Council one in the Year 1769 and the other in 1774.

The Society for the furtherance of the Gospel among the Heathen gave, for several years, an annual report to the board of Trade and Plantations of the state and progress of the Mission, to which we refer your Lordship.

The first settlement was formed in 1770, and Was called Nain; the second a degree North of Nain in 1776, and was called Okkak; and the third a degree south of Nain in 1782 and called Hoffenthal or Hopedale.

The Journies of the Esquimaux in former Years to Chateau Bay and the European settlements in the South, were attended With unhappy consequences such as theft, drunkenness, murder, &c. On these accounts Government found proper to prevent their visits to the South, and Mr., now Sir, Roger Curtis being sent thither by Governor Shuldham, desired them in the Governor's name to stay at home. That very Year a Company of 200 that went to the south, perished either at Sea in a Storm, or those who reached the shore died of Sickness or hunger. This order of Government had the desired effect, and they have been contented at home until the year 1782.

The Missionaries have withheld from them the use of Strong Liquors.

* * * * *

The Missionaries also withheld from them Guns, and Gunpowder, and offensive weapons of all sorts; not only for the safety of their own persons, but of the Esquimaux themselves. All this had the wish'd for effect, but in the summer 1782, a few of the leading Esquimaux got a strong desire to go to the South, they went, and staid there some time, were kindly treated by the officers and others and returned with Guns, powder and Ball, and having received plenty of food and liquor, they brought such an account back, that the rest imagining they would be fed in like manner, the whole Nation were ready to go to the South, etc. . . . The Missionaries agreeable to the regulation made by Sir Roger Curtis, sent Letters with them to the Officers.

These and other considerations, which we need not mention, make us humbly request, that instructions may be given to the very worthy Governor of Newfoundland to direct the officers and others on the Coast, not to encourage, but to prevent as far as in them lies, the Esquimaux from coming to the South.

We beg your Lordship's attention to this request, etc.

(Signed) BENJ^N LA TROBE.
JAMES HUTTON.

No. 32 Fetter Lane. May 26th 1784.

Endorsed: 26th May 1784. Mess^{rs} La Trobe & Hutton. R. 28th. Copy transmitted to Governor of Newfoundland, 28th May 1784.

No. 451.[28 May,
1784.]**LORD SYDNEY TO GOVERNOR CAMPBELL.**

C.O. RECORDS 194/35.

Whitehall, 28th May 1784.

SIR,

I transmit to you herewith by the King's command a copy of a Letter to me from Mess^{rs} La Trobe and Hutton, the Heads of the Society of the Unitas Fratrum, containing some observations relative to the Indians upon the Coast of Labrador, amongst whom Missioners from that Society have been planted with a view to convert them to Christianity.

The reasoning of these Gentlemen respecting the Treatment of the Savages and discouraging their Excursions to the Southward which have heretofore proved so fatal to them seems so consistent with their own Comfort as well as with the safety of the Missionaries and so essentially necessary for forwarding their laudable designs that His Majesty has been pleased to command me to recommend the representation of Mess^{rs} La Trobe and Hutton to your particular attention and consideration, and that you do so far as it may be in your power enforce a compliance with their desire.

I am &c.,

(Signed) SYDNEY.

Endorsed: Dra^t To Vice Admiral Campbell,
Governor of Newfoundland, 28th May 1784.

[9 July,
1784.]**THE UNITAS FRATRUM TO SECRETARY OF THE
HOME DEPARTMENT.**

*[sic]

HOME OFFICE RECORDS 42/5. DOMESTIC. GEORGE III.

9 July, 1784.

MY LORD,

Governor Campbell having intimated before he sailed that there was no intention that Terra Labradore should be again annexed to the Government of Newfoundland, we make bold to address your Lordship on this subject.

There are no Europeans settled upon the coast of Labradore but perhaps a few Fisheries, and the three mission settlements made by the Brethrens' Society for the Furtherance of the Gospel among the Heathen in Consequence of an Order of the Privy Council.

At the time that Labradore was annexed to the Government of Canada, we were apprehensive, that is* would be out of reach in every point of view, and that the missionaries could have no immediate Communication with, or be under the Inspection of, or enjoy the protection which might at any time be requisite from, that Government; and experience has evinced what we apprehend to be true. We have made during this period, application to the Governors of Newfoundland, and been happy to find them always ready to attend to our requests on account of the missions, and to do whatever was in their power, as far as their commission reached; to protect the worthy people who have settled upon that inhospitable Coast, merely for the benefit of the poor Esquimaux.

Being always glad to be under an established Government, and to be within the reach of protection; We will only add that we are humbly of opinion, that it will be of real utility to Terra Labradore, if it be brought under the jurisdiction of Newfoundland, and should it be found proper to re-unite those two countries, it will be a matter of thankfulness to the missionaries settled there.

If the Governors of Canada were instructed to send a word, as it is there called, to the Indians connected with them, not to molest the Esquimaux nations, they might meet with on their hunting parties, it would possibly answer the good purpose, and be sufficient as to everything the Governor

p. 1339

of Canada could do in regard to Labrador, except it might be added, to forbid the Indians under the Canada Government, on or near the River St. Lawrence to go upon the Labrador coast.

We are, My Lord,
Your Lordships' Most obedient humble servants,
BENJAMIN LE TROBE.
JAMES HUTTON.

Fetter Lane,

July 9th, 1784.

[Written on a slip of paper attached to the foregoing letter.]

As my Lord is here, I wish you would find out from him what has been done, as I am desirous of seeing Banks before he leave Town, which will be at one. If I am later, I shall be greatly disappointed for I want something from him.

[Endorsed].

9 July, 1784.

Messrs. La Trobe and Huttons.

Diary of the House
Congⁿ, in Nain.
p. 110.

**EXTRACTS FROM MORAVIAN MISSIONS MSS. (CAN.
ARCHIVES), 1752-1778.**

VOL. XLIV, 14A, PART I.
March, 1773.

27th Millik who is a very serious Man and much respected in his Nation began to speak with the other Esquimeaux and said—This is what we have often heard that Jesus has bought all men with his Blood. After the Esquimeaux had spoken with one another on this matter Millik asked, are the Adlat, that is the Land Indians also bought with his Blood? He was told, yes certainly, and we have among them very many who are our Brn and Srs., we have also a great number among the black people whose hearts have been cleans'd by the Blood of Jesus from their Sins. Millik was asked if he had seen any of those people. Yes, said He, I saw one on board a Ship in the South, then he lifted up three Singers, there are so many Nations bought with his Blood, first the Adlat or Land Indians, secondly the Blacks, thirdly the Kaxalit.

Nain, Labrador.
pp. 404-405.

VOL. XLIV, 14A, PART II.
August 2nd, 1777.

Two boats came from Arvertok. This evening br. Lister went into the first tent and asked if they had heard that some bn. had been to Arvertok to buy some land. The answer was yes, but the man Panniak added it was his land and he would live no where else. Being asked if he was not willing we should come there too, he said, O yes, he was not displeased with us, but they, he and his wife, were to be paid for the land extraordinary and if this was done he was willing we should go and live there. The 3^d the purchase of the land was fully made by the 3 bⁿ. Schneider, Lister, and Jensen, and one family after the other was called into our meeting room, the usual payment made them and the men signed the deed of conveyance written in the Esquimeaux language, with the first letter of their names, their hands being guided for the purpose.

Account of bⁿ. John
Schneider Lister and
Step. Jensen's voyage
from Nain

to Arvertok and back
again from the 2^d to
the 22^d of July.

July 1777.

The 7th . . . we reached Arvertok in good time safe and well . . . We however called all the men present to our tent, and told them the reason of our coming hither, viz. to buy a piece of land to settle upon with

them, that thus they might become acquainted with their creator and Redeemer. Being asked if they were willing to this? they all answer'd, O yes. We then told them that to morrow we would speak to them farther about it . . . The 8th in the morning we again called all the people together and b^r. Schneider delivered a testimony of our Saviour and his love. Then he repeated the reason of our coming to their land, which was chiefly out of love from them and he assured them, if they would be converted to our Saviour he would enlighten their hearts and make them very happy. He further told them what a district of land we desired, viz. from the North corner of Arvertok as far as Tikkerarsuk to the South, on which district none should live but we bⁿ. and how great would be our joy, if many of them would believe in our Saviour, come and live with us . . . Then we called the men alone into our tent whose names were written down to witness that they sold us the land and received the payment for it. Then the wives and children received the like with which they were all satisfied.

Diary of Nain.
p. 473.

Afterwards we went off in our boat and placed a boundary stone at the hook of Arvertock Land in the name of our Lord and Saviour, agreeable to the liberty given us in consequence of our grant.

August, 1778.

The 25th Pattiguks boat and family come hither, they said, that they heard the firing of canon several times, and therefore we concluded that the ship must be near us. But as the ship did not arrive, they reported that it must, be country Indians, and were much affrighted. These country Indians are almost the only people of whom the Esq^x are afraid, and yet the most of the reports about them have hitherto been without foundation.

The Diary of the
Voyage of the B^m
and S^{rs}. Leibish and
Becks from Nain to
Okak.
pp. 540-41.

August, 1778.

29th. Today many Esquimaux came running to us from Nariasiourck all in a fright, and said that they had seen a great smoke upon the main land behind Siouak, and that in all probability land or Canada Indians were there, and would murder their people. One said. My son is there upon the rein deer hunt, another his B^r. and so on, and they were very much troubled. They begged us to help them, and wanted us to sail there with our boat directly. We told them we could not believe that Canada Indians were so near, but it was most likely that their own people had made a fire and left it, and that had caught some large wood on fire, which was the smoke they saw. Our B^m and all the Okak people went with them

The Diary of Okak.
p. 597.

upon an eminence to see this smoke. We adhered to our opinion that it was a wood caught on fire.

July 13th, 1778.

Diary of the House
Congⁿat Nain.
p. 630.

The 3 B^m Neiser, Turner & Branigen went with a couple of Esquimaux to Ikkerasak to survey that Country and then behind Siarak upon the Continent to see if we could get any fresh Meat, and our dear Heavenly Father vouchsafed us a Reindeer.

p. 1342

January 20th, 1779.

Diary of the House
Congⁿ, in Okak.
pp. 661-662.

Tuglu-vina related that some esq^x hunting up in the country saw some land-Indians; they came so near as to call to one another, but could not understand each other, the indians had guns, and as much as the esq^x could understand they thought they wanted to trade with them—they behaved friendly, & had good cloathing of deer-skins.

October 1778.

On the 2^d a Boat full of People came to Kivallek; they had had this year much success in Hunting. They related a particular circumstance which the oldest People here had never heard the like of. Some of the Kivallek People were hunting Rein Deer far within Land. All at once they perceived a Land Indian busied in skinning a Rein Deer he had killed. The Kivallek peopled were frighted at the sight of this Man, but he very courageously waved his cap over his Head & cried out. Our People supposed he called to them. They went nearer, yet not without fear on both sides, but he did not let them come close to him, but made a sign to them to stand still. Then he cut off a piece of the Leg of the Rein Deer, broke the Bones, & laid it on a Stone before them &, made them a sign to eat it, which they did. They talked much to each other, but could not make themselves understood. Our Esquimaux nam'd to him the several Europeans who live among them especially Johannes Ingoak (Br. Haren) & Ludwig (Beck). The Indian pointed to his left side, struck it with his right hand, speaking much & earnestly at the same time. The Esquimaux judged from that sign, that he was talking of the wound in our Sav^{rs}. side, & that he was one of our B^m. The general opinion of the Esquimaux concerning the Land Indians is, that they are very bad People, whose design is to root out the Esquimaux.

*[sic]

The Indian kept his Gun constantly in his Hand & his eye fixed on every movement of the Esquimaux. He was a lusty Man; his brown hair hung in two twisted curls over his shoulders & breast, his face was white & ruddyish; his coat was of white cloth, made in the European way, he had blue Breeches, European Stockings & shoes, & wore on his head a grey & white strip'd knit cap. In order to spew his civility still

more; he gave our Esquimaux the two fore legs of the Rein Deer, & with a little Hatchet he had broken the Bones for them, that they might easily get at the marrow; at last they separated peaceably. The Indians took his Rein Deer & went towards his comrades, whom our Indians did not see, but the firing of whose Guns they could hear. This is certainly the very first time that the Esquimaux & Land Indians met one another peaceably. Our Esquimaux suppose that if War was every where else, here at least there would be Peace.

No. 454.

[1818.]

**LETTER FROM MR. LA TROBE, SECRETARY OF THE
UNITAS FRATRUM, TO MR. GOULBURN.**

C.O. RECORDS 194/61. MISCELLANEOUS L.

SIR,

Permit me to state to you the situation of the Mission of the United Brethren (commonly called Moravian) among the Esquimaux on the Coast of Labrador.

This Mission was begun by the Encouragement of the British Government, in the year 1764, and obtained consistency in the years 1769 and 1774, when orders of Council were granted for its establishment and security. Under the protection of these orders, and a proclamation, directed to be issued by H.M. Governor of Newfoundland, the Mission has proceeded to the present time, supported chiefly by the voluntary contributions of friends to the Spread of Christianity.

The communication between the settlements of the United Brethren on that Coast & England is maintained by a small brig annually sent with provisions and stores, the expence of which is defrayed by some trade with the Natives.

The benevolent aim of Government in encouraging this institution has so far been obtained, that, at present, there is perfect safety for all Europeans visiting that Coast, whereas formerly, the Esquimaux murdered every whiteman they could get into their power. Those, who have obeyed the Gospel and reside with the missionaries at the settlements have acquired a considerable degree of civilization. A farther extension of such benefits to a barbarous race must be the wish of every benevolent mind.

The first establishment of the Mission was at Nain, in Lat. 56° 18 N. the second at Hopedale, in Lat. 55° 33 N. and the third at Okkak, in Lat. 57° 35 N. Of late years, the number of Esquimaux, who have come to reside with the Missionaries has considerably increased, and. some of the inhabitants of a bay, hitherto unknown, have long ago importuned the Brethren to come and settle among them. In 1811, a reconnoitring voyage was undertaken to that coast, of which I had the honour to present a report to Earl Bathurst, at his particular desire.

The result of that discovery was a conference with the Directors of the Hudson's Bay Company, within whose territory the said bay, called Ungava, seems to be situated. The Directors expressed a wish, that the Esquimaux under their protection might receive the same instructions as those on the Eastern Coast, but the necessary facilities could not be afforded, consistent with their obligations as guardians of the

Company's rights.

Meanwhile, the number of Esquimaux, collected, particularly at Okkak,

p. 1344

became too great to afford them the means of procuring subsistence, which they obtain solely by catching seals and fishing, and must consequently spread their habitations along the coast. By these circumstances great disadvantages have arisen to the Mission, which have caused the Brethren's Society for the Furtherance of the Gospel to resolve to yield to the necessity of the case, and to form a fourth Settlement on the Eastern Coast.

For this purpose the only suitable place seems to be a bay called Kangerttuksoak situated about 100 miles North of Okkat, and we now entreat your kind attention to this subject, that we may be favoured with the countenance of Government in executing this Design.

Of late years our Settlements have been not a little disturbed by the intrusion of stragglers from some Southern quarter, who bring brandy, and other European articles, useless and hurtful to the Esquimaux; etc.

Signed: CHRIST^N IGNAT^S LATROBE,
Secretary of the Unitas Fratrum.

[29th August,
1821.]

**REPORT BY UNITAS FRATRUM ON VISIT BY
CAPTAIN MARTIN TO THE MORAVIAN
SETTLEMENTS.**

C.O. RECORDS 194/64.

TO HIS EXCELLENCY SIR CHARLES HAMILTON BART &C.
COMMANDER IN CHIEF OF HIS BRITANNIC MAJESTY'S SHIPS AND
VESSELS EMPLOYED AT NEWFOUNDLAND AND LABRADOR &C.
&C.

SIR,

With humble thankfulness, We the Brethren of the Unitas Fratrum Society, residing at Nain, Okkak and Hopedale Labrador offer up our Prayers to the Almighty Father, that he was pleased Your Excellency should take us into your kind notice, by Sending one of His Britannic Majesty's Ships (the Clinker) to visit our Settlements on this most dangerous Coast, and we cannot praise the Lord too much in preserving her through so many dangers (surrounded with rocks and shoals) which she has gone through in finding our Settlements out.

This attention to us is manifold in many circumstances, but particularly in convincing the Esquimaux Tribes, they are under the peculiar care of the British Government, and in establishing and confirming their Faith, in our Lord Jesus, which has been attempted to be shaken, by People in the South part of Labrador, acquainting the Esquimaux's (who have come from there to our Settlements for hearing of the Gospel) that the British would send Ships of War, to destroy all those, who had turned Christians as well as their teachers.

It is with the most heartfelt pleasure we have (since the arrival of His Britannic Majesty's Ship Clinker) received from the mouths of all the Christians their Prayers and thankfulness, that they as poor creatures are so much thought of; and they desire us (as their teachers) to return their boundless gratitude to Your Excellency, the friendly and fatherlike manner in which they have been treated by Will^m Martin Esq. (the Commander of His Britannic Majesty's Ship Clinker) has made them with one voice, cry unto us they will ever serve the Lord, in this instance the cause of our Society has been served in a most wonderful manner.

Our thanks to W^m Martin Esq^r is better felt than described, our hearts overflow with gratitude, his conduct to us, and the great care he took, that his people should not shew a bad

example to our Esquimaux Christians, has attached him to us as our Father, not one in our whole congregation saw him depart without tears in his eyes.

May the Father of mercies bless and preserve Your Excellency for this

p. 1346

attention to his fallen creatures will be the constant prayers of our whole congregation. This being the 50th year of our forming the first settlement on the coast, which we have celebrated by a Jubilee, and it adds to our great pleasure in being honored in a visit by one of His Britannic Majesty's Ships.

N.B. [Here follows the Signatures of the Missionaries, seventeen in number.]

August 29th 1821.

P.S. We beg to enclose a Report of the Number of our congregation at the different Establishments.

Number of Esquimaux Indians who have Embraced the Christian Religion.

Nain	..	..	..	..	..	..	173
Okkak	..	..	..	..	..	..	260
Hopedale	..	..	..	..	..	..	152
							<hr/>
						Total	585

Endorsed: No. 8. Letter from Missionaries of Unitas Fratrum on the Coast of Labrador.

Enclosure in Governor Sir C. Hamilton's despatch No. 77. of the 4th Dec^r 1821.

No. 456

N

1st September, 1821. **LETTER FROM CAPT. MARTIN
TO GOVERNOR HAMILTON.**

—
Vide page 1222, *infra*.

No. 457.

N

**PROCLAMATION BY GOVERNOR HAMILTON AS TO
GRANT TO MORAVIANS.**

—
RECORD BOOK. ST. JOHN'S. NEWFOUNDLAND. Volume 32, page
269.

By His Excellency Sir Charles Hamilton Bart., Vice Admiral
of the White, Governor & Commander in Chief in and
over the Island of Newfoundland, &c. &c. &c.

Whereas His Royal Highness the Prince Regent in Council
on the 13th of May, 1818, acting in the name and on the behalf
of His Majesty was graciously pleased to authorise that every
facility should be given to the Moravian Missionaries in
Labrador for extending the beneficial influence which they
have had upon the character of the Native Indians, and for
spreading still further the benefits of the Gospel and to that end
to permit and allow the Society of the “Unitas Fratrum” to
form a fourth settlement on the Eastern coast of Labrador and
to occupy during His Majesty's pleasure “that part of the said
Coast to the North of Okkak, which comprehending the Bays
of Kangerhuksoak and Saeglek reaches to the 59 Degrees of N.
Latitude, provided that the spots chosen by the said Society for
its settlements may be such as in no respect to interrupt or
annoy the fisheries carried on upon the said Eastern Coast of
Labrador.”

I, the Governor aforesaid, do therefore hereby make known
unto all whom it may concern that the said Settlements of the
“Unitas Fratrum” are under His Majesty's immediate
protection and do hereby strictly enjoin all His Majesty's
Subjects to live in amity and brotherly love with the said
settlers and the Native Indians inhabiting the Country
aforesaid, in no wise molesting, or disturbing the said
Missionaries or those who shall settle with them; And I do
further require that all His Majesty's Subjects who shall come
upon the Coast of Labrador do act towards the said
Missionaries and the Esquimaux Indians justly, humanely &
agreeably to those laws by which His Majesty's Subjects of all
classes are bound throughout His Majesty's Dominions.

And the said Society of “Unitas Fratrum” are hereby
enjoined to take especial care that spots it shall chuse for its
Settlements be such as in no respect to interrupt or annoy the
fisheries carried on upon the said Coast of Labrador.

Given under my hand and Seal at Fort Townshend, St.
John's, Newfoundland, the 3rd day of December,
1821, in the second year of His Majesty King
George the Fourth.

C. HAMILTON.

By His Excellency's Command,
P. C. LEGETT.

No. 458.

[3 Dec.
1821.]**GOVERNOR HAMILTON TO REV. B.
KOHLNNUISTER.**St. John's,
December 3rd, 1821.

Reverend Sirs,

It was exceedingly gratifying to me to receive your letter of the 29th of August last and to find that my orders to Captain Martin to communicate with you had been productive of any benefit to your Society and I approved of his having proceeded to Okkak, your Northmost settlement, notwithstanding the intricacy of the navigation, and the dangers attending it, which are the great impediments to your not having been visited before, but the kind reception Captain Martin and his officers received will naturally induce me to embrace the earliest and every opportunity of repeating the experiment, trusting that a more frequent intercourse will lessen the risk attending it, and prove beneficial to your settlements.

Captain Martin's report to me of the result of your labors are no less pleasing than surprising, and as long as it may please His Majesty to continue me in this Government I shall feel a sincere pleasure in not only communicating but forwarding the views of your Society in every way within my power, agreeable to His Majesty's towards all his subjects and who has commanded the Earl of Bathurst, his principal Secretary of State for the Colonies, to direct me to make a special grant of a considerable accession of territory to the Society of Unitas Fratrum, which has only been delayed for want of an eligible mode of conveyance, but which will now accompany this letter and confidently trusting that your efforts may continue to be attended with equal success and that your congregations may very long experience the same beneficial results from your arduous and unremitting labors, in a wilderness with an inclement climate and arid soil to contend against, is the sincere wish of

Reverend Sirs,

Your very obedient humble servant,

(Sgd) C. HAMILTON.

To the Revd. BENJAMIN KOHLNNUISTER
and Brethren of the Unitas Fratrum Society.

[16 Aug.,
1822.]**MR. KOHLMEISTER AND OTHERS TO
GOVERNOR HAMILTON.**

RECORD BOOK. ST. JOHN'S. NEWFOUNDLAND. Volume 33, page 23.

Nain, Labrador, 16th Aug., 1822.

SIR,

With humble gratitude to that good Providence since the Mission of our Society commenced on the Coast of Labrador amongst that part of His Majesty's numerous Subjects, the Esquimaux Nation, we beg leave to offer to your Excellency our most grateful thanks for your Excellency's paternal attention to this Society situated in this part of His Majesty's Dominions so evidently shewn by Your Excellency's late Grant thereby authorising us to extend our Mission to the 59th degree of North Latitude.

On the 10th inst. His Majesty's Brig Clinker which your Excellency has been kindly pleased to send to our Settlements arrived which afforded us another instance of your Excellency's unremitted attention towards our Welfare. We expected to see again our dear friend Captain Martin, but instead of him Capt. Booth who proves that beneficence and magnanimity do not rest With only one, and the British Navy is commanded by Gentlemen that are worthy to support the honour of His Majesty's Sceptre, and to be possessed of those qualifications that draw forth our love and esteem.

We cannot speak too highly of the conduct of the Officers of the Clinker, their exemplary conduct sheds a lustre on their profession. Captain Booth's and the Officers' attention to our Esquimaux Congregation have given them great encouragement.

With pleasure we beg leave to say that the conduct of the Ship's Company reflects credit on the excellent Discipline manifested in their whole Department. When we informed our Esquimaux people of your Excellency's regard to their welfare, and the active part you had & were still devising for their good, and the spread of the Gospel amongst their heathenish countrymen the tears of heartfelt gratitude flowed down the furrowed cheeks of the parents, and no less moved were the youths, by their countenances you might read their affectionate hearts.

We anticipate great good to arise from being visited by one of His Majesty's Ships as circumstances and the service will permit. Our Esquimaux will feel themselves secure and under the protection of their good friends, heathens

who before were afraid of joining the Society, on hearing the Gospel for fear of temporal sufferings through the report of several persons to the Southward as we have before mentioned to your Excellency, will now be encouraged to come forward fearing none of those things they looked for, and our own people will be stirred up to a Spirit of Emulation and will not for the future fear a King's Ship but contrariwise they will meet her. with greetings and Joy from the bottom of their hearts.

We beg leave to submit for Your Excellency's information an account of the several changes respecting the Esquimaux which have taken place since His Majesty's Brig Clinker left here on the 31st Aug. last till her arrival this year,

Born and Baptized	34 children
Heathen adults baptized	18
Admitted to the Holy Communion	21
Departed this life	1 old

widow

do	5 children.
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We cannot conclude this Epistle without assuring your Excellency that our fervent prayers to the Almighty shall be ever offered up that you may be blessed with health and strength of mind and body, and may your dear Consort and tender youth be blessed of the most High, may many, very many years of prosperity be your lot upon Earth, may you have peace and joy till it shall please Him to grant you a happy exit out of this Vale of trial, and give you a seat before His Throne through the merits of His Dear Son Jesus Christ our Lord, is and ever shall be the prayers of Your Excellency's

Most grateful and most obliged Servants,

(Signed) BENJAMIN KOHLMEISTER
GEORGE SCHMIDTMAN
JOHN LUNDBERG
ADAM KUNATH
CH. BENEDIKT HENN
JOHANNES KORNER

To His Excellency,
Sir Charles Hamilton Bart.
Governor of Newfoundland,
&c. &c.

No. 460.[March 25,
1870.]**MINUTE RESPECTING LETTER FROM Mr. HENRY
SHAWE.**

5 RECORD BOOK, page 38, E, MINUTES OF COUNCIL, 1869 to Jany.
18, 1874.

March 25th, 1870.

A letter was read from Mr. Henry E. Shawe, Secretary of the Moravian Missions requesting that the supplies imported by the Moravian Mission into that District of the coast of Lbdr. for the natives should be continue to be imported free of duty. The Col. Secy. was directed to reply thereto and to say that the Government had no intention of imposing any duty thereon.

[July 14th,
1892.]**No. 461**

N

**MINUTE OF NEWFOUNDLAND EXECUTIVE
COUNCIL**

RESPECTING LETTER FROM T. F. PENSEL.

July 14th, 1892.

A letter was read from T. F. PenseL, Manager of Moravian Missions, countersigned by the Rev. W. Taylor, President, in reference to the imposition of duty on goods imported by the said Society, Labrador. It was decided that for the present duties would not be imposed, as heretofore.

His Excellency the Administrator submitted to Council despatch from the Right Hon. Secy. of State No. 50 of date 2nd July, intimating that the Queen's Exequatur empowering Mr. C. A. Martin to act as German Consul at Nain, Labrador, had received Her Majesty's signature.

Minute Book, Aug. 6th, 1890 to Oct. 4th, 1892.

Pages 255-6-9-60-2-75.

No. 462.

[Aug. 1909.]

EXTRACTS FROM REPORT.

ON OFFICIAL VISIT TO THE COAST OF LABRADOR BY THE GOVERNOR OF
NEWFOUNDLAND (SIR WILLIAM MACGREGOR) DURING THE
MONTH OF AUGUST, 1905.

JOURNAL OF THE ASSEMBLY, NEWFOUNDLAND, 1907, pp. 335, 342-
343.

Referring to the Moravian Mission stations on the coast, the
Governor said:

“Judicial powers have not been granted to the Mission,
as seems to have been contemplated in connection with the
original grants, and consequently the Missionaries can only
expel evil-doers from the stations from which they hold
grants; or, in the case of church members, exclude them
from Communion or church ceremonies. Expulsion from a
station, though rare has not been quite unknown.”

* * * *

“It is true that on the Innuït coast there is no prison, no
police, no magistrate. But it would not appear that these
adjuncts of civilization, necessary elsewhere, are required
there, so far as the maintenance of order is concerned. The
moral control of the Mission, which has been so effective
in the past, would appear to be sufficient at the present
time.”

No. 463

N

17th August, 1909—**AFFIDAVIT OF C. A. MARTIN.**

Vide, Part VIII C, No. 427, p. 1308.

[19 Aug.
1909.]**AFFIDAVIT TO GEORGE VOISEY.**

IN THE MATTER OF the Enquiry into Newfoundland Territorial Rights on the Labrador.

District of Labrador, Voisey's Bay, to wit:—

I, GEORGE VOISEY, of Voisey's Bay, Kekitonjak Island, make oath and say as follows:

1. I reside in Voisey's Bay, a settlement about thirty-one miles from Nain and about sixty miles from the waters of the Coast.

2. My father was born in Plymouth, England. He came here about sixty-five years ago, and lived here up to the time of his death about twenty-two years ago. I am fifty-seven years of age. I have resided here all my life. My father was a trouter, salmon catcher and furrier, and used to go into the interior on hunting trips for fourteen and fifteen days at a time, going in as far as one hundred miles. He exercised the rights of citizenship here during his lifetime and was subject to the laws of the Government of Newfoundland, the same as we are now. I have been subject to the Governor and Government of Newfoundland all my life, paying duties to the Collector of Customs since he has been coming on the Coast. I have fished, trapped and hunted, and have been in the interior a hundred miles on hunting trips. I never had any intimation from the Canadian Government that I was on their territory, or anything of that sort. I have been all my life under the Moravian Mission, obeying the laws of Newfoundland.

(Sgd) GEORGE VOISEY.

SWORN before me at Voisey's Bay aforesaid,
this 19th day of August, A.D. 1909.

(Sgd) F. J. MORRIS,

Judge of the Court of Labrador.

Vide, Part VIII C, No. 428, p. 1309.

From Okkak, dated
August 14, 1790.
pp. 47-49.

**EXTRACTS FROM "PERIODICAL ACCOUNTS
RELATING TO THE MISSIONS OF THE CHURCH OF
THE UNITED BROTHERS ESTABLISHED AMONG
THE HEATHEN."**

[VOL. I. LONDON: 1790.]

Dear Brethren,

* * * *

We heard but lately of some shocking murders committed in the North, especially in Seglek and Killanek, where the Esquimaux fell upon each other in their tents by night, and many were stabbed and wounded with knives, in so barbarous a manner, that we could not hear it without horror. Our people here made several remarks upon this subject, expressing their gratitude that the brethren had come into this country; and adding, "We certainly should have had as many murders committed here, unless you had come and brought us the good news of our Creator and Redeemer, of his love to us, and our duty to love him and our neighbour." *

From Hopedale, dated
Oct. 7, 1791.
pp. 91-94.

* * * *

We remain,

Dear Brethren,

Your affectionate and faithful

Brethren and Sisters in Okkak.

(Signed) JOHN CHRISTOPHER WOLF.
THEOBALD FRECH.

Dear Brethren,

* * * *

Five or six families of Land-Indians have also spent the winter in Kippokak. They came from Arvertok, and told the Esquimaux, that they intended to pay us a visit. We should be glad to see them, but suppose that they have returned before now.

* * * *

(Signed) JOHN LEWIS BECK,
SUEN ANDERSON.

From Hopedale, dated
August 23, 1792.
pp. 155-156.

* The Diary received from Okkak makes mention of new traces having been discovered, of Indians that inhabit the inland country, and of whom the Esquimaux are much afraid. They seem a nation entirely different from the Esquimaux on the coast; and a dog that strayed, probably from their tents, to our people, when hunting rein-deer, appeared of a breed different from the common dog of Labrador. He left them again in some days.

Dear Brethren,

From Hopedale, dated
August 12, 1793.
pp. 211-212.

* * * *

We devote ourselves anew to our Savior and to his service, and confidently pray unto him, to give us grace and strength to make known his gospel to the poor Esquimaux or Land-Indians, should any of the latter come to us. Hitherto we have heard of none who have an inclination to come.

* * * *

(Signed) JAMES BRANAGIN,
JOHN LEWIS BECK.

Dear Brethren,

From Hopedale.
p. 106.

* * * *

During the summer no Esquimaux lived at Kippokak, and we heard nothing of the Land-Indians.

* * * *

(Signed) JOHN LEWIS BECK,
JAMES BRANAGIN.

[VOL. IV. LONDON: 1806.]

Extracts of Diaries received from the Settlements of the United Brethren on the Coast of Labrador chiefly relating to internal state of the Mission in 1805 and 1806.

This settlement was built in the year 1782, with a view to preach the gospel to the Esquimaux to the south of Nain, who, at that time seemed eager to have missionaries resident among them. The Brethren also fondly hoped; that perhaps some communication might be established between them and the so-called Red Indians, who now and then, in small parties, approached that coast from the interior, though greatly in dread of the Esquimaux; and an opportunity afforded of bringing the word of Salvation to those miserable beings. But in this respect, the aim was not obtained; and as the Esquimaux themselves seemed to reject the gospel, and about the year 1790 it appeared as if they had even withdrawn from the neighbourhood of Hopedale, both the Missionaries in Labrador, and the Society for the Furtherance of the Gospel, in London, were of opinion, that it would be well to give up that establishment.

* * * *

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From Nain.
pp. 64-65.

[VOL. XII. London: 1831.]

Letters from the Missionaries of the United Brethren on the Coast of Labrador to the Brethren's Society for the Furtherance of the Gospel among the Heathen, received in 1831.

Extracts of Private Correspondence. From J. Lundberg
to a Medical Friend.

* * * *

It is not improbable that these nations have a common oriental origin; at all events, they come from the same stock, and may once have been sufficiently numerous, to have rendered colonization a matter of expediency. The Esquimaux tribe has since been much thinned by frequent wars with the Indians of the interior, who are a very different race.

From Hopedale, 1839.
p. 113.

[VOL. XV. London: 1839.]

Extracts of Private Correspondence.

* * * *

“Not long ago, our Esquimaux brother Zacharias, fell in with two Indians from the interior, whom at first sight he mistook for Europeans. The language they spoke was quite unintelligible to him, nor were they able to understand his. By signs they intimated that their home was far inland, though they could not point out the exact direction. Each of them had a gun, and was clothed in a kind of smock, the legs and feet remaining bare. The invitation given them by Zacharias to accompany him home, they declined to accept, and the younger wept at the very idea of such a visit.

“Z. GLITSCH.”

Hopedale, July 26th,
1844.
pp. 103-105.

[VOL. XVII. London: 1844.]

Letters received by the Brethren's Society for the Furtherance of the Gospel from the Missionaries on the Coast of Labrador.

“Dear Brethren,

* * * *

“Last winter, we had a visit from two Indians (father and son), who came hither on the 28th of February, in company of a European, from an inlet lying twenty or thirty miles to the west of this place. Their object was professedly to obtain some provisions. These poor people manifest great fear of the Esquimaux, who in turn are disposed to be afraid of them. On visiting us in the Mission-house, we observed that the father had an Indian prayer-book, out of which he read us some passages with much feeling. Our Esquimaux gave them a friendly reception, and supplied them with the necessaries of life out of their own stores. In former times they would have met with very different treatment, the two nations cherishing a

p. 1357

C

deadly hatred as Well as fear of each other. The time was, when they sought to do each other every possible injury; but now the Esquimaux is taught by the Gospel of peace, to show kindness

to the Indian who comes in his way. This friendly disposition our people again manifested, when, on the 24th of March, another company of Indians, consisting of three married couples and their children, (in all 14 persons), arrived at Hopedale. They had left their effects about an hour's distance from our place, thinking it best to ascertain, how they would be received. Being greatly in want of food, they proposed to avail themselves of the cod-fishery, intending to return to the West, as soon as it was over. They remained, however, only four days, during which time, they attended the meetings very diligently, and appeared very devout and attentive. Being quartered in three Esquimaux houses, they were hospitably entertained by their inmates, and when they took their departure, were supplied With the needful food. They seemed a very poverty-stricken race, far more so than the Esquimaux; the men were clothed in reindeer skins, the women in left-off European garments; the little children were bound upon little sledges or trays, and were dragged after them. They were very expert runners. In their general appearance they resembled the gipsy tribe.

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* * * *

“JOHN C. BECK.
“ZACH. GLITSCH.
“CH. BARSOE.“

Extracts from Private Correspondence.

“During the past year, . . .

“The visits paid us by the Indians from the South were extremely interesting to us. How did I regret my inability to converse with them! for they understood neither the Esquimaux nor the English language. One old man, who read to us out of an Indian prayer-book, had evidently been instructed by a Roman Catholic missionary; for, as a token of his being a Christian, he made the sign of the cross upon his forehead and his breast. They are indeed a miserably poor and degraded people, and seem not much more enlightened than the reindeer that they are continually hunting.

pp. 304-306.

* * * *

“Z. GLITSCH.”

LABRADOR.

Hopedale had been again visited by a company of Indians from the south-west; with whom, for want of acquaintance with their language, the Missionaries regretted, that they could hold no free intercourse.

Hopedale, July 28th,
1845.
pp. 307-309.

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Letters received by the Brethren's Society for the Furtherance
of the Gospel from the Missionaries on the Coast of Labrador.

* * * *

“Dear Brethren,

“In the spring of the year, we were again visited by Indians from the South; on the 6th of March, by an old man, who had been here several times before, and who came again with his wife and child; and on the 10th of July, by the same man in company with three other families. From one of the last-mentioned company, who understood a little English, we ascertained, that most of our visitors had been baptized, probably by Roman Catholic Missionaries. In the evening, we gave them an opportunity of attending a liturgical service, hoping, that, even though they did not understand what was said, they might be impressed with the thought that we were in a place of worship. That the singing of hymns struck them pleasantly, was shewn the next day, by one of the women bringing a reindeer skin as a present to the Church. Oh! could we but be of some spiritual service to these, doubtless, ignorant people! The above-mentioned old man had with him a nearly worn-out Prayer-book in his own language, and appeared to ask if we had any books in the same tongue. It has, therefore, occurred to us to inquire whether we could obtain, perhaps through the kindness of the British and Foreign Bible Society, a few copies of such translations of the New Testament, or portions of it, as have been already made in the language of the Northern Indian tribes. We may thus discover the tribe to which our occasional visitors belong, and be the instruments of some good to their souls.

* * * *

“JOHN C. BECK, CHR. BARSOE, J. C. F. ANDREA.”

“Hopedale,
July 30th.”
pp. 11-14.

From Nain.
p. 285.

[VOL. XVIII. London: 1846.]

Letters received by the Brethren's Society for the Furtherance
of the Gospel, from the Missionaries on the Coast of Labrador.

* * * *

We were truly glad to obtain, through the kindness of the
Bible Society, some portions of the New Testament in
different Indian languages, by means of Which we may hope
to have some intercourse with any Indians who may hereafter
visit us. None came near us the whole of last year.

* * * *

“JOHN C. BECK, “C. G. ALBRECHT,
“CHRISTIAN BARSOE, “T. C. F. ANDREA.”

LABRADOR.

Extracts of Private Correspondence.

“In how far there is any truth in the idea of the Esquimaux,
that the Indians have hostile intentions towards them, it is
difficult for me to say. The former attribute to the latter an
intention of cutting their fishing-nets, stealing their food, &c.,
and are certainly in great fear of them. This fear was a good
deal increased by the report of a heathen Esquimaux, named
Anneraitsiak, who stated that the Indians had nearly killed him,
and that his life was spared merely by his saying who he was;
for the Indians declare, that it is their intention only to kill such
Esquimaux as have been baptized, but no longer reside with
the believers. This lying story had certainly an effect upon the
Esquimaux Noah, who forsook us last winter, and went to the
settlers in David's Inlet, since he returned to Hopedale in
spring. Some of our people seem actually to believe, that the
Indians have a commission from us, to make away with such
Esquimaux as wander out of our fold.

* * * *

“JOHN LUNDBERG.”

E.—ADMINISTRATION OF JUSTICE AND ADMINISTRATIVE WORK OF JUDGES.

No. 467.

SURROGATE COMMISSION TO CAPTAIN SAXON.

By James Webb Esq,
Governor.

By virtue of the Power and Authority to me given, by His Majesty's Letters made Patent bearing date at Westminster, the Nineteenth day of May in the thirty third year of the reign of our Sovereign Lord George the Second by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, I do hereby constitute and appoint you.....to be my Deputy or Surrogate with full power and authority for you to assemble Courts within the Districts of.....and of Ports adjacent, to enquire into all such complaints as may be brought before you, and to hear and determine the same, to all intents and purposes as I myself might or could do, by virtue of the power and authority invested in me, you have likewise power and authority to seize and detain in order to proceed to condemnation, all uncustom'd, prohibited or run goods that may be found in the Districts aforesaid or the ports adjacent.

And I do give and grant unto you the said.....full power and authority to administer the several Oaths to any person or persons you shall think fitt, agreeable to ye several Acts of Parliament made in that behalf; and I do strictly enjoin ye Justices of the Peace, all Officers, Civil and Military and all other His Majesty's Leige Subjects, to be aiding and assisting unto ye said.....and to obey and put in execution all such lawful orders you shall givnto them, as I myself might could do, by virtue of the power and authority invested in me.

Given under my Hand and Seal at St. John's, this 20th June 1763.

J. W. WEBB. (Seal)

Commission in above form issued to Captain Saxon, Pearl, dated June 20 1763 to cover section from entrance of Hudsons Straits to River

St. John's.

No. 468.[26 August,
1766.]13th April, 1765. **SURROGATE COMMISSIONS GIVEN
BY PALLISER.**See page 939 *infra*.

No. 469.**SURROGATE'S COMMISSION
AND INSTRUCTIONS.**

N

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume, 4, page 59.

By His Excellency Hugh Pallisser, &c., &c.

BY VIRTUE of the Power and Authority to me given by His Maj's Letters made Patent, bearing Date at Westminster the 9th day of April, in the fourth year of the Reign of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France and Ireland, King Defender of the Faith; I do hereby constitute and appoint you to be my Deputy or Surrogate, with full Power and authority to assemble Courts within the District between to enquire into all such Complaints as may be brought before you (except such as are excepted in the Instructions annex'd) and to hear and determine the same to all intents and purposes as I myself might or would do By Virtue of the Power and Authority Vested in me, you have likewise power and authority to seize and detain in order to proceed to condemnation, all uncustomed, Prohibited or Run Goods that may be found within the aforesaid Limits or Ports adjacent; And I do give and grant unto you full power and authority to administer the several Oaths, to any Person or Persons you shall think fit agreeable to the several Acts of Parliament made in that behalf. And I do strictly enjoin all Adm'ls of Harbours, all Justices of the Peace, all Officers Civil and Military, and all other His Maj's Leige Subjects, to be Aiding and Assisting unto you the said and to obey and put into Execution all such Lawfull Orders as you shall give unto them, as I myself might or would do. By Virtue of the Power and Authority vested in me.

Given under my Hand and Seal this

26th day of August, 1766.

By Order of His Excellency,
Jno. Horsnaill.

INSTRUCTIONS.

You are hereby strictly enjoined not to do anything by
Virtue of the within Commission, Contrary or Repugnant to
the Act for Encouraging ye

p. 1362

Fishery and Trade of Newfoundland, Passed in the 10th & 11th
years of William 3rd nor obstruct the Powers thereby given
and granted to the Admirals of Harbours, but you are to the
utmost of your power, to support, assist and encourage the
Fishing Admirals in their respective Harbours, for carrying
into execution the several good Rules and Orders ordained by
the said Act, and in all cases of appeal from the
Determinations of such Admirals to you, as the Commander of
one of the King's Ships, you are to determine such cases
according to the Rules and Orders ordained by the said Act,
observing all Ships are to be deemed British Fishing Ships &
intituled to the privileges of being Admirals of Harbours, that
arrive directly from Britain with Fishing Certificates and Men
actually employ'd in the Fishery, and that occupieth a Publick
Ships Room, and not one that is held and possess'd as private
property.

In such cases as are not provided for in the said Act, you are
to take to your assistance the Justices of the Peace, where there
are any, and determine them according to Law, Justice and
Custom in like cases, and to any particular Regulations made
by me for the Benefit of the Fisheries except in cases relating
to any exclusive right to, or property in any Fishing Rooms of
Lands, or concerning Rents, Leases, Mortgages, or Sales of
such Places, all which are to be referr'd to me, and all disputes
concerning Merchants Accounts and transactions in Trade, are
to be left to be tryed by the proper Courts here or in England.

Servants Wages are always to be Paid according to their
Shipping Papers, and in preference to all other Claims, and in
case of any doubt of the Masters being able to pay them, the
Produce of the Voyage must make good the Servants Wages in
preference to all Debts or Demands whatever. In case any
Person within your District should be charged with Murder or
any other Capital Offence, you are on proper application being
made to you, to apprehend such offenders, and send them to
St. John's, or bring them with you when you join me, in order
to their being try'd at the General Assizes.

You are to transmit to me, a copy of all the Causes that may
be brought before you, with your Decrees thereon.

You are by every means in your power, to Encourage and
oblige the Fishermen to return home. With the assistance of the
Admirals, the Justices and the Naval Officers, you are to fill up
the Fishing Schemes herewith delivered you, as exact as

possible.

In case the Justices and Principal People at any Port within your district, present to you any Persons that are useless People to the Fishery, who entertain Rogues and Thieves, and live mostly by spoil and Plunder, and by entertaining the Fishermen and Seamen in Debaucheries, Idleness and Wickedness to the great detriment of the Fishery, you are to seize on so much of the effects of such people to pay for them and their Families passage home, and ship them off accordingly, with a Vagrants Warrant signed by you, certifying that their passage are paid.

p. 1363

Servants who have stop'd the Fish for their Wages, if it is made appear by due proof, that they did not after the time of such stoppage continue to prosecute the Voyage to the utmost of their power, they are to be paid Wages only to the time that such stoppage was made, but this must be done with caution and such proof of neglect must be very full and satisfactory, for poor labouring men serving on voyages, must not be subject to discouragement, nor lyable to abatements for a bad voyage, since they are not intitled to any advanced Wages for an abundant one.

HUGH PALLISSER.

No. 470.

**GOVERNOR PALLISER TO CAPT. JNO. HAMILTON,
SURROGATE FOR LABRADOR,**[9 August,
1767.]

TO APPREHEND THREE MEN, SERVANTS TO Mr. NICH^s.
DARBY., FOR A MURTHUR COMMITTED AT CHARLES
RIVER THE LAST WINTER.

RECORD BOOK. Volume, 4, page 51.

(Seal)

By His Excellency Hugh Pallisser, &c., &c.

Whereas due Information hath been made before me, that sundry Quarrels & Affrays happen'd during the last winter amongst some Crews at a place called Charles River on this Coast of Labrador, particularly amongst a crew of Four Men Named Benj. Bishop, Thos. Peterson, Jno. Furnix & Wm. Fermeaux, & from the said information there appears very strong and probable grounds for suspecting that one of them Named Wm. Fermeaux was Barbarously Murther'd by some of the rest, You are hereby authorised and required to search for & apprehend the said Benj. Bishop, Thos. Peterson, and Jno. Furnix, wherever they may be found, & safely secure and convey them to me at this place, in order to their being sent to St. John's, to be try'd at ye General Assizes for the said murther, & such of them as you may not be able to apprehend before I leave this place, you are to secure them till you return to St. John's yourself; For which this shall be your Warrant. In the Execution of which, all His Majesty's Officers and Subjects are hereby required in the King's Name, to be aiding and assisting to you Jno. Hamilton Esq. my Deputy or Surrogate on the South Coast of Labrador.

Given under my Hand & Seal in Pitts Harbour, Labrador,
9th day of August, 1767.

HUGH PALLISSER.

By order of His Excellency,
Jno. Horsnail.

Benj. Bishop,	Is now at the Isle of Bois.
Thos. Peterson,	Do.
Jno. Furnix,	Do.
Wm. Fermeaux.	Is the man suppos'd to be murther'd.

[9 August,
1767.]**No. 471.****GOVERNOR PALLISER TO CAPT. JNO. HAMILTON,
SURROGATE FOR LABRADOR,**

TO APPREHEND SEVEN MEN, SERVANTS TO Mr. NICH^s.
DARBY, FOR A MURTH ER COMMITTED AT
FORTEAUX THE LAST WINTER.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume, 4, page 50.
(Seal)

By His Excellency Hugh Pallisser, &c., &c.

Whereas information upon Oath hath been made before Geo. Robinson Walters Esq., one of His Majesty's Justices for keeping the Peace, that on the 31st day of December, 1766, at a place called Forteaux on this Coast of Labrador, a Quarrel and Affray happen'd amongst a Crew of Eight Men Named John Henley, Thos. Dunfee, Thos. Nosworthy, John Windsor, Jno. Carter, Saml. Wollicott, Richd. Newgent, and Jno. Dellon, in which Richd. Newgent was barbarously murther'd; and there being also strong and probable grounds for suspecting that another man was lately murther'd by some of the said crew at the Island of Bois during the last Summer.

You are hereby authorised and required to search for and apprehend the said Jno. Henley, Thos. Dunfee, Thos. Nosworthy, Jno. Windsor, John Carter, Saml. Wollicott and John Dellon wherever they may be found, & safely secure and convey them to this place, in order to their being sent to St. John's to be try'd at the General Assizes for the said Murther, and such of them as you may not be able to apprehend before I leave this place, you are to secure them till you return to St. John's yourself, for which this shall be your Warrant. In the Execution of which, all His Maj's. Officers and Subjects are hereby required in the King's name to be aiding and assisting to you Jno. Hamilton, Esq., my Deputy or Surrogate on the South Coast of Labrador.

Given under my hand & Seal in Pitts Harbour, Labrador, this
9th day of August, 1767.

HUGH PALLISSER.

By Order of His Excellency,
Jno. Horsnaill.

Jno. Windsor,	Is now at the Isle of Bois.
Thos. Nosworthy,	Do.
Thos. Dunsee,	Do.

Jno. Dellon, Do.
Saml. Wollicot, Now in confinement on board the
Guernsey.

Jno. Carter, { Now at Cape Charles and
Jno. Henley { will be apprehended by
another Warrant.

Rich. Newgent Is the man

Murther'd.

[23 August, 1767.]

**GOVERNOR PALLISER'S DECISION IN *re* Mr. BRUSH
v. AGAINST Mr. GOODFELLOW**N.B.—
Delivered to
both parties.CONCERNING THE SEALING POST AT MECATINA.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume, 4, page 56.

By His Excellency Hugh Pallisser, &c., &c.

Mr. Brush having applied to me, for leave to occupy the Sealing Post of St. Augustine this year, in behalf of his Fishing Ship, I having upon a disputed Claim between him and Mr. Goodfellow to the Post of Macatina, determined in favour of Mr. Goodfellow.

I now approve of Mr. Brush occupying the Post of St. Augustine this year, and as an Encouragement to both these Gentlemen to become British Ship Fishers, I allow Mr. Goodfellow also to occupy for this year, any other Post in the Macatina District (St. Augustine excepted) no other Fishing Ship making a claim thereto, and Mr. Brush for this year, may also occupy any other Post to the Eastward of St. Augustine, no other Fishing Ship putting in a claim thereto.

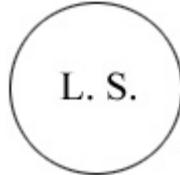
Given &c. in Pitts Harbour, Labrador, 23rd August, 1767.

HUGH PALLISSER.

By Order of His Excellency,
Jno. Horsnail.

[26 July,
1810.]**No. 473.****SUPREME SURROGATE'S WARRANT, BY
GOVERNOR DUCKWORTH.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. VOLUME, 21, p. 73.



By His Excellency, Sir Thomas Duckworth,
K.B., Vice Admiral of the Red, Governor and
Commander in Chief in and over the Island of
Newfoundland, and its dependencies, &c. &c.

Whereas by an Act of Parliament passed in the forty-ninth year (1809) of His Majesty's Reign intituled "An Act for Establishing Courts of Judicature in the Island of Newfoundland and the Islands adjacent; and for re-annexing part of the Coast of Labrador, and the Islands lying on the said Coast to the Government of Newfoundland," it is enacted that it shall be lawful for the Governor of the Island of Newfoundland from time to time to institute Courts of Civil Jurisdiction, to be called Surrogate Courts in different parts of the Island of Newfoundland and the Islands adjacent, as occasion shall require, with full power and authority to hear and determine, in a summary way, all suits and complaints of a civil nature arising within the Island of Newfoundland, and on the Islands of St. Pierre and Miquelon, and on the Islands and Seas to which Ships or Vessels repair from the Island of Newfoundland for carrying on the fishery, and on the Banks of Newfoundland, and in Great Britain or Ireland, which Courts shall respectively be Courts of Record, and shall determine according to the law of England, as far as the same can be applied to suits and complaints arising in the Islands and Places aforesaid, and the said Courts respectively shall be holden by a Surrogate to be appointed from time to time by the Governor of the said Island, and shall have full power and authority to hear and determine all suits and complaints cognizable in the said Courts." Be it known that by the authority vested in me as Governor of the Island of Newfoundland and its dependencies, I do by these presents institute such Surrogate Court to be holden, as need shall require, in any part of the Island of Newfoundland or Islands adjacent, or Coast of Labrador, and appoint you Thomas Coote, Esquire, Supreme Surrogate, to hold the said Surrogate Court in the manner directed by the Act of Parliament above recited, and according thereto to hear and determine all suits and complaints cognizable in the said Court.

Given under my Hand and Seal at Fort Townshend,
St. John's, Newfoundland, this 26th day of
July, One thousand eight hundred and ten.
J. T. DUCKWORTH.

To Thomas Coote, Esq.,
Hereby appointed Supreme Surrogate
of the Island of Newfoundland &c.
By Command of His Excellency,
R. C. SCONCE, Secretary.

No. 474.

[10 Sept.,
1810.]**EXTRACT FROM SURROGATE RECORDS, 1810.**FORTEAU,
September 10th, 1810.

The Court being opened,

Mr. Joseph Kelson made application to receive a remuneration for the undermentioned property supplied by him to Messrs. Noble, Pinson and Sons in 1803:—

16 New Batteaux,
1 Ships new anchor,
160 Quintals of fish, wet and dry,
1 New Batteaux rode or grapnell,
1 1-2 hhds. of cod oil,
30 French hogsheads in good condition.

It appeared by letters produced by Mr. Nelson that the said property was given to *him* by Captain B. W. Taylor, the officers and crew of His Majesty's ship *Camilla* at the commencement of the present French War, as a reward for his exertions in making the captors of the said property acquainted with hostilities having commenced between Great Britain and France, and assisting in getting its possession.

The applicant was sworn to the correctness of the before mentioned list of fish, boats, stores, &c., and also to their having been supplied for the use of Messrs. Noble, Pinson and Sons.

Mr. Andrew Pinson, on behalf of Messrs. Noble, Pinson and Sons, states that at the time the above property was supplied (1803) he had not arrived in this country, therefore of his own knowledge, can say nothing of the circumstance, but he has been informed that the Articles sued for were conveyed from Port-au-Choix to Lance-au-Loup, at the expence of Noble, Pinson and Sons, Mr. Kelson having employed their vessels, servants, etc., in the middle of the fishing season (August) for that purpose; he therefore submits that the accustomed charges be allowed by the applicant for the services thereof.

It is therefore decreed with the consent and approbation of the contending parties that Mr. Joseph Kelson shall nominate one respectable person at Forteau, on his part, and Mr. Andrew Pinson another, on the behalf of Noble Pinson and Sons, to ascertain in the first place the value of the property supplied by the said Joseph Kelson to Noble Pinson and Sons, then to specify a fair allowance for the services of their servants, vessels, etc., the balance of accounts to be then made and the difference to be paid.

Should any difficulty or disagreement arise between the Arbitrators in the business an Umpire is then to be nominated by us for the final adjustment of the same.

THOS. WHITE, J.P.,
R. HENRY MUDDLE.

JOHN NICHOLL *versus* JAMES BELBIN.

September 10th, 1810.

The Plaintiff complained that on or about the 21st of October last the Defendant sold to his (Ptf's) servants spirituous liquor, whereby most of them became extremely intoxicated, to the great prejudice of the Plaintiff and caused the detention of a Brig called the Princess Royal for twelve hours at that late season of the year; he therefore prays the Court will, for the sake of example, punish the said James Belbin for the same.

Francis Le Marquand, Sworn, Deposed that he was supplied with a gallon, or a gallon and a half, of liquor by the Defendant at that time for which he paid him seven shillings per gallon.

John Keates Sworn. Deposeth that he is winter agent, and master of a voyage in the summer for the Plaintiff, that he was on the Ptf's room at the time above mentioned, and that he observed several of the crew very drunk.

Witness further deposed that lie having charge of the stores of the Plaintiff, must have known had the crew received liquor from thence, but none was delivered to them from the said stores.

Nicholas Roberts, Fisherman, Sworn. Deposeth that he was in the Plaintiffs employ at the time mentioned in the complaint and that he, this deponent, observed on the evening previous to the sailing of the Princess Royal, several of the crew drunk, but does not know where they got the liquor. Witness bought a gallon or half a gallon (cannot exactly say which), from the Defendant for which he paid him at the rate of seven shillings per gallon. That the day before the Princess Royal sailed he heard the Plaintiff, who was her Captain say that the people were so drunk as to prevent the vessel sailing that day, and that at the same time the wind was fair.

Defendant admits that he did sell some liquor to the Plaintiffs men, but he thinks the liquor which occasioned the general drunkenness complained of was supplied by some schooners a few days before that time in Forteau Bay and knows that liquor was frequently got from them.

The charge having been fully proved the Court decrees that the Defendant be tined in the sum of ten pounds to our Sovereign Lord the King with costs of Court, but in consideration of the general good character of the Defendant the Court recommends him to His Excellency the Governor for a reduction of the fine, it not being in the power of the

Magistrates to pass sentence for a less sum agreeably to
Governor Gambiers Proclamation.

THOS. WHITE, J.P.,
R. HENRY MUDDLE, J.P.

[25 Nov.,
1810.]**GOVERNOR DUCKWORTH TO EARL OF
LIVERPOOL.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 21, page
259.

His Majesty's Ship Antelope,
at Spithead, November 25, 1810.

MY LORD,

A difference of opinion having arisen whether according to the Act of the 49th of His Majesty's Chapter 27th for establishing Courts of Judicature in Newfoundland, and for re-annexing part of the Coast of Labrador to that Government, it can be considered lawful for the Governor of Newfoundland to institute Surrogate Courts in such part of the Coast of Labrador so re-annexed to his Government. I feel it my duty to request that your Lordship will do me the honor to instruct me on this subject, and to acquaint me whether I am authorised to extend the influence of a Surrogate Court to that remote part of my Government where from the difficulty of a recourse to the Supreme Court it must be most wanted, or whether, in strict application of the terms of the 15th Section I am restrained from doing so.

I have the honor, &c.,
J. T. DUCKWORTH.

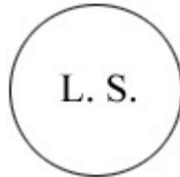
To the Earl of Liverpool, &c., &c.

No. 476.

1810?

**LIMITED COMMISSION OF THE PEACE, BY
GOVERNOR DUCKWORTH.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. VOLUME, 21, p. 87.



By His Excellency Sir John Thomas
Duckworth, K.B., Vice Admiral of the Red,
Governor and Commander in Chief in and over
the Island of Newfoundland, &c.
&c.&c.

By Virtue of the Power and authority to me given by His Majesty's letters made patent, bearing date at Westminster the fourth day of June, in the fiftieth year of the reign of our Sovereign Lord George the Third by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, to constitute and appoint Justices of the Peace with other necessary Officers and Ministers for the better administration of Justice, and keeping the peace and quiet of the Island of Newfoundland and Islands adjacent, and also on that part of the Coast of Labrador in lower Canada which has been re-annexed to the Government of Newfoundland by the 49th of Geo. 3rd, Cap. 27, I do constitute and appoint you residing in the district of _____ in Newfoundland, His Majesty's Justice to keep the Peace in the said Island, and Islands adjacent, and said part of the Coast of Labrador, and to keep and cause to be kept all Ordinances and Statutes for the good of the Peace, and for the preservation of the same, and for the quiet rule and government of His Majesty's People made, in all and singular their Articles in the said Islands (as well within the liberties as without) according to the Force, Form and Effect of the same, and to Chastise and Punish all Persons that offend against the form of those Ordinances or Statutes, or any one of them in the aforesaid Islands or Coast of Labrador, as it ought to be done according to the form of those Ordinances and Statutes, and to cause to come before you all those who to any one or more of His Majesty's Subjects or the Native Savages of the Island of Newfoundland aforesaid concerning their Bodies or the firing of their Houses, have used threats to find security for the peace, or their good behaviour towards His Majesty, His People and the Native Savages aforesaid, and if they shall refuse to find such security, then to cause them to be kept safe in Prison until they shall find such security. I do also appoint you the aforesaid His Majesty's Justice to enquire the truth more fully by the Oath of

good and lawful Men of the Islands, and Coast of Labrador aforesaid by whom the truth of the matter shall be better known, of all and all manner of Felonies, Trespasses, Forestallings, Regratings, Engrossings and Extortions whatsoever, and of all and singular other Crimes and offences of which the Justices of

p. 1372

His Majesty's Peace may or ought lawfully to enquire, by whomsoever and howsoever, in the said Islands and Coast of Labrador done or perpetrated, or which shall happen to be there done or attempted, and also of all those who in the aforesaid Islands and Coast of Labrador in Companies against His Majesty's Peace, in Disturbance of His People, with Armed Force have gone or rode, or hereafter shall presume to go or ride, and also of all those who have there lain in wait, or shall hereafter presume to lie in wait to maim, or cut, or kill His Majesty's Subjects or the Native Savages of the said Island of Newfoundland or Coast of Labrador, And also of all Victuallers, and all and singular other Persons who in the abuse of weights and measures, or in selling Victuals against the Form of the Ordinances and Statutes or any one of them therefore made, for the common benefit of England, or of the said Island of Newfoundland, and Island's adjacent and Coast of Labrador, and of His Majesty's People thereof have offended, or attempted, or hereafter shall presume in the said Islands to offend or attempt and also of all Sheriffs, Bailiffs, Stewards, Constables, Keepers of Gaols and other Officers, who in the execution of their Offices about the Premises or any of them have unduly behaved themselves, or hereafter shall presume to behave themselves unduly, or have been, or hereafter shall happen to be careless, remiss or negligent in the aforesaid Islands and Coast of Labrador; and of all and singular Articles and circumstances, and all other things whatsoever that concern the Premises, or any of them, by whomsoever and after what manner soever, and to inspect all indictments whatsoever before you taken, or to be taken, or before others late His Majesty's Justices of the Peace in the aforesaid Islands and Coast of Labrador made or taken and not yet determined, and to make and continue processes thereupon against all and singular the Persons so indicted, or who before you hereafter shall happen to be indicted, until they can be taken, surrender themselves, or be outlawed; and to hear and determine all and singular the Felonies, Poisonings, Trespasses, Forestallings, Regratings, Engrossings, Extortions, unlawful assemblies, Indictments aforesaid, and all and singular other the premises according to the laws and Statutes of England as in the like cases hath been accustomed or ought to be done, and the same offenders and every of them, for their offences by Fines, Ransoms, Americaments, Forfeitures, and other means, as according to the Law and custom of England, or form of the Ordinances and Statutes aforesaid it has been accustomed, or ought to be done to chastise and punish.

Provided always that if a case of difficulty upon the determination of any of the Premises shall happen to arise before you, or if any Treasons, Robberies, Hurders and other Felonies brought before you, then do not you in any wise give judgment thereon, but take especial care that all persons guilty of such offences be committed to the prison at St. John's, in order to take their trial at the Assizes yearly to be field there, and therefore, I command you that to keeping the Peace, Ordinances and Statutes, and all and singular other the Premises, you diligently apply yourself hereby authorising you, on certain days, at such places as shall be for that purpose appointed, to hold and keep General Quarter Sessions of

p. 1373

the Peace in the said Island of Newfoundland and Coast of Labrador, according to the custom of England, and to adjourn such Court of Sessions from time to time and from place to place as shall be most convenient and necessary for the Peace and welfare of His Majesty's Subjects, inhabiting there, to make enquiries into the Premises, and all and singular the premises hear and determine, perform and fulfil them in the aforesaid form, doing therein what to justice appertains according to the law and custom of England, so far as the same shall be applicable in the aforesaid Island of Newfoundland. And I do command by the tenor of these presents the High Sheriff of Newfoundland, or his Deputy, at certain days and places which you shall make known to him, to cause to come before you so many and such good and lawful Men of the Islands aforesaid and Coast of Labrador as well within the liberties as without, by whom the truth of the matter in the premises shall be better known and enquired into. And furthermore you are hereby authorised and required at such General Quarter Sessions to appoint from such of the Inhabitants and Planters as shall reside and abide during the Winter in the Islands aforesaid and Coast of Labrador, a proper number of Constables and other Ministers of Justice as may be necessary for preserving the Peace and quiet of His Majesty's Subjects. Provided that neither you nor any such Officer or Minister of Justice by you appointed, do presume or be suffered to Act in your respective Offices or places until you and they have taken the Oaths mentioned in the Act passed in the first year of King George the First, intituled "An Act for the further security of His Majesty's Person and Government and the succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors," as the same is altered and explained by an Act passed in the sixth year of the present reign intituled "An Act for altering the Oath of Abjuration and the assurance, and for amending so much of an Act of the Seventh year of Her late Majesty Queen Anne intituled An Act for the improvement of the union of the two Kingdoms, as after the time therein limited requires the delivery of certain Lists and Copies therein

mentioned to Persona indicted of High Treason or misprision of Treason” as also made and subscribed the Declaration mentioned in an Act made in the twenty fifth year of the reign of King Charles the Second, intituled “An Act for preventing dangers which may happen from Popish Recusants,” and also taken such proper Oath or Oaths as are usually taken in England by persons executing such Offices and Trusts, which Oaths and Declaration you are jointly and severally hereby authorised and empowered to administer and give to all and every person or persons that ought to take the same according to the law and Custom of England; And I do strictly require and enjoin you and all such inferior Officers and Ministers of Justice who shall be appointed by you as is aforesaid, amongst the Inhabitants of the said Islands and Coast of Labrador in all cases and times whenever it may be necessary to be aiding and assisting to the utmost of your power to the Commanders of His Majesty's Ships of War in the discharge of their several duties. And

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I do hereby strictly require all Officers Civil and Military and all other the Inhabitants of the Islands aforesaid and Coast of Labrador to afford all lawful aid and assistance to you and to the Officers and Ministers of Justice appointed by you as is aforesaid, in preserving the peace and executing the power hereby given as they will answer the Contrary.

But you are especially to take notice, and be it therefore hereby most clearly and positively understood, that you are not on any account or pretence whatever to presume to hold Plea of any disputes which shall arise concerning the Fishermen's or Seamen's Wages, nor of any Actions for debt of any description or in any case, nor concerning Seamen or Fishermen absenting themselves from their duty or employ, nor concerning the Penalties or Forfeitures incurred by any Act of Parliament relative to the Island of Newfoundland which you are not authorised but on the Contrary, are hereby strictly forbidden to inflict.

Given under my Hand and Seal on board
His Majesty's Ship the Antelope (at the
out Harbours) and Fort Townshend at
St. John's.

J. T. DUCKWORTH.

By Command of His Excellency,
R. C. SCONCE.

No. 477.

[1811.]

51 GEO. III. CAP. 45, 1811.

**An Act for . . . instituting Surrogate Courts on the Coast of
Labrador, and in certain Islands adjacent thereto.**

“II. And whereas it is expedient to provide for the better administration of justice in such parts of the coast of Labrador from the River St. John to Hudson's Streights, and in the island of Anticosti, and in all other smaller islands as are re-annexed to the Government of Newfoundland by an act passed in the forty-ninth year of His Majesty's reign, intituled, An Act for establishing Courts of Judicature in the Island of Newfoundland and the islands adjacent; and for re-annexing part of the coast of Labrador and the islands lying on the said coast to the Government of Newfoundland”; Be it therefore further enacted, That it shall and may be lawful for the Governor of Newfoundland from time to time to institute Surrogate Courts in the said parts and places, with power and authority to proceed in and to hear and determine civil suits arising within the said ports and places, and all other suits and complaints, in like manner as Surrogate Courts instituted by virtue of the said act in the Island of Newfoundland.

[1813.]

No. 478.

(COPY.)

**EXTRACT FROM “HISTORY OF
NEWFOUNDLAND.”**

BY D. W. PROWSE.

N

Footnote, page 393.

* * * *

3. In 1813 a very large Commission of the Peace was issued under which the following gentlemen were appointed Justices:—Coote, Broom, Rev. Mr. Roland, and Blaikie magistrates for St. John's; Rev. F. Carrington and Lilly for Harbour Grace; Rev. J. Church and Burrell, Trinity; Egar, Greenspond; Ford, Bonavista; McKie and Angell, Bay Bulls; W. Carter. Ferryland; Bradshaw and Blackburn, Placentia; Gosse, Carbonear; Anthoine, Fortune Bay; Bryant, Ferryland; Phippard, St. Mary's; Pinson and S. Prowse for Labrador. For the Island generally, the following naval officers:—Captain

Elliott, Cooksley, Skekel, Campbell, Holbrook, Buchan; also the Rev. F. Carrington, and P. C. Le Geyt, the Governor's Secretary.

No. 479.

[2 Dec.
1814.]

**APPOINTMENT OF SAMUEL PROWSE BY
GOVERNOR KEATS.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 26.
Fort Townshend,
St. John's, Newfoundland,
2nd December, 1814.

Appointed by Limited Commission bearing date this day
Samuel Prowse, Esq., a Magistrate for the Coast of Labrador.

R. G. KEATS.

No. 480.

**MAGISTRATES WITH LIMITED COMMISSIONS
APPOINTED BY GOVERNOR PICKMORE.**

COLONIAL RECORDS, 1816.

District.	Names.	Date of Commission.
Labrador	Andrew Pinson, Esq.	7 Sept. 1816.
“	Samuel Prowse, Esq.	”

[23 Sept.,
1816.]**INSTRUCTIONS TO THE SURROGATES BY
GOVERNOR PICKMORE.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. VOLUME 27, p. 221

By His Excellency, Francis Pickmore, Esquire,
Vice Admiral of the White, Governor and
Commander in Chief in and over the Island
of Newfoundland &c. &c. &c.

In all cases which may be brought before you and that are not provided for in the Acts of Parliament with which you are furnished, you are to take to your Assistance, the Justices of the Peace (where there are any) and determine them according to the Established Customs and regulations of the Fishery and as shall appear to you equitable and just. But all cases of dispute relating to any exclusive right to or property in Fishing Rooms, or Lands are to be referred to me, and in order to enable me to decide in such Cases with Justice, you will be very particular in your reports describing in cases of property the situation, size use and nature of buildings, the limits, extent, boundaries, admeasurement and situation of Lands.

You will take care to authorise at such places in each District as you may deem necessary a proper Person in the absence of the Surrogate to issue Process, pursuant to the latter part of the 3rd Section of the 49 Geo. 3rd, Cap. 27.

Given under my Hand at Fort Townshend,
St. John's, Newfoundland, the 23rd day
of September, 1816.

To the Surrogates, for the
Island of Newfoundland,
and its Dependencies.

By Command of His Excellency,
P. C. LEGEYT.

No. 482.**MAGISTRATES APPOINTED BY GOVERNOR
HAMILTON.**

District.	Names.	Date of Commission.
Fortune Bay	John Anthoine, Esq. Charles Spooner, Esq.	20th July, 1818.
Labrador	Andw. Pinson, Esq. (Lance à Loup) Saml. Prowse, Esq. (Cape Charles)	do.

No. 483.

15th June, 1820. **GOVERNOR HAMILTON'S ORDERS TO
CAPTAIN ROBINSON.**

Vide PART VIII B. No. 400, p. 1278.

Privy Council
Documents

Volume III
Contents

[20 Oct
1820.]

No. 484.

**APPOINTMENT BY SIR CHARLES HAMILTON OF
PHILIP BEARD**

AS JUSTICE OF THE PEACE FOR COAST OF LABRADOR.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 31, page
249.

Appointed by Commission bearing date this day Philip
Beard Esqr. residing on the Coast of Labrador a Justice of the
Peace for that district.

C. HAMILTON.

Fort Townshend, St. John's,
20 October 1820.

[11 Nov.,
1820.]**GOVERNOR HAMILTON TO EARL BATHURST.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 31, page
264.

No. 59.

Fort Townshend, St. John's,
Newfoundland, 11th Nov. 1820.

MY LORD,

In reference to your Lordship's dispatch of the 4th Decem.
1819 transmitting the copy of a letter from Viscount Chetwynd
enclosing an application * from Philip Beard & Co. of
Dartmouth praying for a specific Grant of a Fishing
Establishment of which they have long been in possession on
the Coast of Labrador, and desiring I will report to your
Lordship my opinion upon the circumstances of the case.

I have the honor to report that Messrs. Beard & Co. appear
to have become possessed of the fishing establishment in
question which is one of considerable extent in the manner
they have set forth. That finding in the year 1816 their fishing
ground was interfered with by vessels from the United States
and Nova Scotia, they applied for redress to Capt. Cookesley
of His Majesty's Ship Hazard who had been appointed to hold
a Surrogate Court on that Coast, and who issued an order of
which the enclosure No. 1 is a copy, this however was
disregarded, and I accordingly directed Captain the Honble. J.
Gordon in the year 1819 to make particular enquiry into the
circumstances of the case, and to inform himself how far the
order of Captain Cookesley, while it afforded protection to one
party might not be prejudicial to the interests of the fishery in
general, always keeping in view that regulations for the
conduct of a salmon fishery must necessarily differ materially
from those applicable to a general cod fishery.

The result of these enquiries will be found in enclosure No.
2, and I was further informed that Messrs. Beard & Co. had
again experienced annoyance from a Master of a Nova Scotia
Vessel of the name of Jennings who however had quitted the
Bay before Capt. Gordon's arrival there.

* * * *

Your Lordship is aware that the Laws enacted for
regulating the Fisheries and trade of the Island of
Newfoundland do not extend to the Coast of Labrador
although the Government of the latter is included with the
former

No. 1.
Vide Capt.
Cookesley's Records,
1816.

No. 3.
Vide Records of Capt.
Robinson.

in His Majesty's Commission. The fisheries on the Labrador have therefore as appears by the records in this office been regulated by Proclamations and orders issued from time to time by the Governor either as the necessity of the case required or from direct instructions under the King's Sign Manual or communicated through one of His Majesty's Secretaries of State and which have generally tended to encourage Ship fishery and adventurers from England in preference to any other class of His Majesty's Subjects with the obvious view of promoting the increase of Seamen. These orders and Proclamations were always (until very lately) considered to carry with them the force and effect of law, and Messrs. Beard & Co. have in their Petition given a true copy of one issued by Governor Shuldham in the year 1775 peculiarly applicable to their case.

Under these considerations and with the precedents before me, I this year issued an order containing certain regulations for the Salmon fishery with more particular reference to that of Sandwich Bay a copy of which will be found marked H in the collection of papers No. 4 and directed Captain Robinson of His Majesty's Ship Favorite to proceed early to that station for the purpose of publishing the same, and of settling by his authority of Surrogate any differences that might arise. On his arrival at Sandwich Bay Mr. Beard. again complained of the interruption given to him by Jennings against whom he instituted an action for damages. The trial of which and the judgment given by the Surrogate will be found in enclosure No. 3.

The defendant Jennings being dissatisfied came to St. John's and instituted an action against P. Beard & Co. for supposed damages which was tried in the Supreme Court, a copy of the proceedings in this case is also marked No. 4.

It would appear that the Chief Justice in the judgment he pronounced has considered the proclamations of the Governor as not binding, although that issued by Governor Shuldham was expressly to the point in question viz,—“the encouragement and security of persons possessed of Establishments for carrying on a Salmon fishery, who should comply with the conditions therein specified of sending a Ship or Ships annually from England to be employed in the Cod fishery” and issued in pursuance of the King's pleasure signified by the Earl of Dartmouth, and as the parties in this case have appealed from the judgment to His Majesty in Council I have considered it my duty to transmit all these proceedings to your Lordship, and to solicit such instructions for my future guidance, as His Majesty's Government may be of opinion the case required.

I have the honor to be with great respect, My Lord,
Your Lordship's Most obedient humble servant,
C. HAMILTON.

The Right Honble. The Earl Bathurst K.G., &c., &c., &c.

17 June, 1824.

1824. IMPERIAL ACT 5 GEO. IV., CAP. 67.

His Majesty may
institute a superior
Court of Judicature in
Newfoundland, to be
a Court of oyer and
Terminer and
General Goal
Delivery.

An Act for the better Administration of Justice in
Newfoundland,
and for other purposes.

[17th June 1824.]

Jurisdiction.

Appointment of a
Chief Judge and two
Assistant Judges.

May be removed.

Governor may appoint
judges in certain
cases,

'Whereas it is expedient to make further Provision for the Administration of Justice in the Colony of *Newfoundland*;' Be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful for His Majesty, by His Charter or Letters Patent under the Great Seal, to institute a Superior Court of Judicature in *Newfoundland*, which shall be called "The Supreme Court of *Newfoundland*;" and the said Court shall be a Court of Record, and shall have all Civil and Criminal Jurisdiction whatever in *Newfoundland*, and in all Lands, Islands and Territories dependant upon the Government thereof, as fully and amply, to all Intents and Purposes, as His Majesty's Courts of King's Bench, Common Pleas, Exchequer and High Court of Chancery, in that Part of *Great Britain* called *England*, have, or any of them hath; and the said Supreme Court shall also be a Court of Oyer and Terminer and General Gaol Delivery in and for *Newfoundland*, and all Places within the Government thereof; and shall also have Jurisdiction in all Cases of Crimes and Misdemeanors committed on the Banks of *Newfoundland*, or any of the Seas or Island to which Ships or Vessels repair from *Newfoundland* for carrying on the Fishery.

II. And be it further enacted, That the said Supreme Court shall be holden by a Chief Judge and Two Assistant Judges, being respectively Barristers in *England* or *Ireland* of at least Three Years standing, or in some of His Majesty's Colonies or Plantations, who shall be appointed to such their Offices by His Majesty, His Heirs and Successors: Provided always, that it shall be lawful for His Majesty, His Heirs and Successors, from time to time as Occasion may require, to remove and displace any such Chief Judge or Assistant Judge as aforesaid, and in his Stead to appoint any other fit and proper Person; being a Barrister as aforesaid, to be the Chief Judge or Assistant Judge of the said Court, as the Case may be: And provided also, that in case any such Chief Judge or Assistant Judge shall be absent from *Newfoundland*, or die, or resign

until resumption of Office or Successor appointed.

such his Office, or by reason of Sickness or otherwise shall become incapable of performing the Duties thereof, then and in every such

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Issues of Fact to be tried at Saint John's by a Jury.

Case it shall be lawful for the Governor or Acting Governor of *Newfoundland* for the Time being, to nominate and appoint some fit and proper Person to act as Chief Judge or Assistant Judge, as the Case may be, in the Place or Stead of the Judge so being absent, dying, resigning his office or becoming incapable of performing the Duties thereof, until such Judge shall resume the Duties of his office, or until a Successor shall be appointed by His Majesty, His Heirs and Successors; and the said Chief Judge and Assistant Judges shall respectively have and exercise such and the like Powers and Authorities in *Newfoundland*, and in all Places dependant upon the Government thereof, as any Judge of any of His Majesty's said Courts of King's Bench, Common Pleas and Exchequer, or as the Lord High Chancellor of *Great Britain*, hath or exercises in *England*.

Appointment of Sessions.

How Actions in breach of Laws relating to Trade of Colonies in America, to be tried.

III. And be it further enacted, That all Issues of Fact which may be joined between the Parties in any Action at Law originally brought before the said Supreme Court of Record, or which may be joined upon any Criminal Information or Prosecution depending in that Court, shall be tried at the Town of *Saint John's* in the Island of *Newfoundland*, by a Jury of Twelve Men; and for the Purpose of hearing and trying all Suits, Actions and all Informations, Prosecutions and other Proceedings, of what Nature or Kind soever, which may be brought or commenced in the said Supreme Court, One or more Term or Terms, or Session or Sessions of the said Court, shall be held at the Town of *Saint John's* aforesaid, in each Year, by the said Chief Judge and Assistant Judges, at such Times as the Governor or Acting Governor of the said Colony shall from time to time, by any Proclamation to be by him for that Purpose issued, direct and appoint.

Appeal.

Supreme court may grant Administration of the Effects of Intestates and Probates of Wills, &c.

IV. And be it further enacted, That as often as any Information, Action or Suit shall be brought or prosecuted before the said Supreme Court, for the Breach or Violation of any Law relating to the Trade or Revenue of the *British Colonies* or Plantations in *America*, such Information, Action or Suit shall be heard and determined by the said Court, according to the Course of Proceeding in similar Cases in the Courts of Vice Admiralty in the said Colonies or Plantations; and that it shall and may be lawful for the Party or Parties feeling aggrieved by the Judgment or Decree of the said Supreme Court, in any such Case, to appeal from such Judgment or Decree to the High Court of Admiralty, or to His Majesty in Council, under such and the like Rules and Regulations as are observed in Appeals from the said Courts of Vice Admiralty.

and appoint
Receivers.

V. And be it further enacted, That the said Supreme Court shall have Power to grant Administration of the Effects of Intestates, and the Probate of Wills; and that the Effects of deceased Persons shall not be administered within the Island of *Newfoundland*, or any Island, Place or Territory dependant upon the Government thereof, unless Administration or Probate shall have been duly granted by the said Supreme Court; and in all Cases where the Executor or Executors of any Will in *Newfoundland*, or the Dependencies thereof, upon being duly cited, shall refuse or neglect to take out Probate

p. 1384

Supreme Court may
appoint Guardians for
Infants and Lunatics.

as aforesaid; or where the next of Kin shall be absent from *Newfoundland* and the Effects of the Deceased shall appear to the said Supreme Court to be exposed and liable to Waste, it shall be lawful for the said Supreme Court to authorize and empower the Registrar or Clerk of the said Court, or some other fit and proper Person, to collect the said Effects, and hold, or deposit or invest the same in such Manner and Place, or upon such Security, and subject to such Orders and Directions as shall be made by the said Supreme Court in respect of the Custody, Control or Disposal of such Effects.

Governor by
Proclamation may
divide Colony into
Three Districts.

VI. And be it further enacted, That the said Supreme Court shall have Power and Authority to appoint Guardians and Keepers for Infants and their Estates, according to the Order and Course observed in such Cases in *England*; and also to appoint Guardians and Keepers of the Persons and Estates of natural Fools, and of such as are or shall be deprived of their Reason or Understanding, so as to be unable to govern themselves and their Affairs, which the said Supreme Court shall have Power and Authority to enquire of and determine, by Inspection of the Person, or by such other Ways and Means as to such Supreme Court shall seem best for ascertaining the Truth.

His Majesty may
institute Circuit
Courts.

VII. And be it further enacted, That it shall and may be lawful for the Governor or Acting Governor for the Time being of *Newfoundland*, by any Proclamation or Proclamations to be by him for that Purpose issued, to apportion and divide the said Colony into Three several Districts, and to fix and ascertain the Boundaries and Limits of every such District, and such Boundaries or Limits from time to time to alter as Occasion may require Provided always, that such Apportionment of the said Colony into such Districts as aforesaid be made in such Manner as to such Governor or Acting Governor may appear to be best adapted for enabling

the Inhabitants of the said Colony to resort with Ease and Convenience to the Circuit Courts to be therein established as after mentioned.

Circuit Courts to be Courts of Record, Jurisdiction as the Supreme Court.

Exceptions.

VIII. And be it further enacted, That it shall and may be lawful for His Majesty, by any such Charter or Letters Patent as aforesaid, to institute Circuit Courts in each of the Three Districts in which the said Colony may be so divided as aforesaid; and each of the said Circuit Courts shall be holden once at least in each Year by the said Chief Judge, or by One of the said Assistant Judges of the said Supreme Court of *Newfoundland*, at such Times and at such One or more Place or Places within each of the said Districts, as the Governor or Acting Governor for the Time being of *Newfoundland* shall from time to time direct and appoint.

IX. And be it further enacted, That the said Circuit Courts shall be respectively Courts of Record, and shall, within the District in which it may be holden, have and exercise all such and the same Jurisdiction, Powers and Authority, as is hereby vested in the said Supreme Court of *Newfoundland* throughout the whole of the said Colony: saving and excepting the trying and determining of Treasons, or Misprisions of Treason, and Felonies not within the Benefit of Clergy, and the hearing or determining of any Informa-

How Crimes cognizable in Circuit Courts and Civil Actions to be tried.

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tion, Suit or Action, for the Breach or Violation of any Act of Parliament relating to the Trade and Revenue of the *British Colonies in America*; all which said Crimes and Offences, Informations, Suits and Actions, shall be tried, enquired of, heard and determined in the said Supreme Court of *Newfoundland*, and not elsewhere within the said Colony.

Where a Jury not formed, Trials for Crimes had by the Circuit Judge and Three Assessors, being Justices of Peace, and nominated by Governor.

X. And be it further enacted, That all Crimes and Misdemeanors, cognizable in the said Circuit Courts, and all Issues of Fact which may be joined between the Parties in any Civil Action, depending in the said Circuit Courts, shall be enquired of, heard and determined by the said Circuit Judge, and a Jury of Twelve Men, according to the Rules and Course of the Law of *England*, as far as the Situation and Circumstances of the said Colony will permit.

Such Assessors liable to be challenged

XI. Provided nevertheless, and be it further enacted, That if upon the Trial of an Crimes or Misdemeanors before any of the said Circuit Courts Twelve good and lawful Men shall not appear to form a Jury, then and in all such Cases such Trial shall be had by the Circuit Judge and Three Assessors, being Justices of the Peace in and for the said Colony, or for some District thereof; and the said Justices shall be nominated from

Verdict to be given in open Court.

Civil Actions tried by Judge of Court alone where Jury cannot be formed.

Evidence where Matter at issue is above the Value of 50*l.* to be in Writing.

On Appeal Documents to be produced.

On Application of either of the Parties before Trial, though

time to time to serve as such Assessors as aforesaid by the Governor or Acting Governor for the Time being of the said Colony, and shall severally be liable to be challenged or objected to upon the special Ground of direct Interest or Affection, to be specified in open Court at the Time of Challenge; and in case of such Challenge or Objection being allowed by the Judge of the said Circuit Court, the Justice of the Peace so challenged or objected to shall be succeeded by another such Justice of the Peace, who shall in like Manner be nominated by the Governor or Acting Governor for the Time being as aforesaid, and be liable in the same Manner to Challenge or Objection, until Three such Justices of the Peace shall appear duly qualified for the Trial of any Offender in the said Circuit Courts respectively; and the said Justices of the Peace shall thereupon severally take and repeat in open Court the same Oath as is taken by Petit Jurors impannelled for the Trial of any Crime or Misdemeanor in a Court of Record in *England*; and the Judges of the said Circuit Courts respectively shall, together with the said Three Assessors, give their Verdict upon every such Trial in open Court; but no Person shall be found guilty by any such Verdict unless the Judge of the said Court, and Two at the least of his said Assessors, shall concur in such Verdict; and the Proceedings in the said Circuit Courts respectively shall be under the Controul and Direction of the respective Judges thereof, and all Matters of Law arising in the Course of any Trial shall be determined by such Judges respectively.

XII. Provided also, and be it further enacted, That if upon the Trial of any Issue or Issues of Fact joined between the Parties in any Civil Suit or Action depending in any: of the said Circuit Courts, Twelve good and lawful Men shall not appear to from a Jury, all such Issues of Fact shall be triad and decided by the Judge of such Court, alone, and without a Jury; and that in

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all Cases where the Sum or Matter at Issue in any such Suit or Action shall exceed or be of the Value of more than Fifty Pounds Sterling *British* Money, the Judges of the said Courts respectively shall cause the Evidence on any such Hearing or Trial as aforesaid to be taken down in Writing by the Clerk or other proper Officer, in open Court, in the Presence of the Witnesses respectively giving the same, and the Evidence so taken shall be entered upon the Proceedings of the said Courts respectively, and be of record; and in every Case in which any Appeal shall be made and allowed under the Provisions of this Act, from any Judgment of the said Circuit Courts, not founded on the Verdict of a Jury, Copies of all Documents and Papers which shall have been produced and given in Evidence shall be certified by the said Clerk or other proper Officer, as

the sum does not amount to 50l. the judge may permit the evidence to be recorded.

authentic; and also Copies of any Documents and Papers which shall have been produced and tendered in Evidence and rejected shall, if required by the Party producing the same, be in like Manner authenticated, but marked by such Officer as aforesaid as rejected, in order that all such Copies may be annexed to the Record, as Part thereof, in case of Appeal.

Appeal.

XIII. And be it further enacted, That it shall be lawful for the Judges of the said Circuit Courts respectively, on the Application of either of the parties, Plaintiff or Defendant, at or before the Trial of any Issue of Fact joined in any Civil Suit or Action commenced in the said Circuit Courts respectively, in case such Issue is not tried by a Jury, to permit the Evidence on such Trial to be recorded and certified as aforesaid, although the Sum or Matter at Issue may be less in Value than Fifty Pounds Sterling, provided it shall be made to appear to such Judge that the Judgment, Decree, Order or Sentence, which may be given, made or pronounced in such Suit or Action, may be of such Importance as to render it proper that an Appeal should be permitted; and if, after giving or pronouncing such Judgment, Decree or Order, the said Judge shall be of Opinion that such Judgment, Decree or Order is of such Importance as to make it proper that an Appeal should be permitted, it shall be lawful for the said Judge to allow either of the said Parties, Plaintiff or Defendant, to appeal to the Supreme Court, in like Manner, and under and subject to the like Rules and Regulations, as in and by this Act directed in other Cases of Appeal.

Appeal to the supreme Court may be made on giving Notice.

Costs.

XIV. And be it further enacted, That it shall be lawful for the Plaintiff or Plaintiffs, Defendant or Defendants, against whom any Judgment, Decree or Order of the said Circuit Courts respectively shall be given, for or in respect of any Sum or Matter at Issue above or exceeding the Value of Fifty Pounds Sterling, to appeal therefrom to the said Supreme Court, and the Party or Parties appealing from such Judgment, Decree or Order, shall, within Fourteen Days from the passing thereof, give Notice to the adverse Party or Parties of such Appeal, and within Fourteen Days from and after such Judgment, Decree or Order, enter into sufficient Security, to be approved by the Judges of the said Circuit Courts respectively, to satisfy or perform the said Judgment, Decree or Order, in case the same shall be affirmed or the Appeal dismissed, together with such further Costs as shall be awarded thereon; and in all

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enquired into.

Actions may be
removed from one
Court to another,

on certificate of
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or Persona arrested,
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Cases of Appeal, where Notice shall be given and Security perfected as aforesaid, Execution shall be stayed, and not otherwise; and the said Supreme Court shall and may enquire into, hear and decide all Questions, whether of Law or of Fact, arising upon any such Appeal, but shall not admit or receive any Evidence which was not tendered to the Circuit Court from which such Appeal may be brought on the Hearing or Trial of any such Suit or Action therein: Provided always, that the said Supreme Court shall not reverse, alter or enquire into any Judgment of the said Circuit Courts, founded on the Verdict of a Jury, except only for Error of Law apparent upon the Record.

XV. And be it further enacted, That as often as any Action or Suit shall be brought in the Supreme Court, or in either of the said Circuit Courts respectively, and it shall be made to appear to the Court before which such Action or Suit may be pending, that such Action or Suit may be more conveniently heard and determined either in the said Supreme Court or in some other of the said Circuit Courts, it shall be lawful for such Court to permit and allow such Action or Suit to be removed to such other Court, and such Allowance shall be certified by the Judge, together with the Writ or Process on certificate of and Proceedings in such Action or Suit, to the Court into which such Action or Judge. Suit shall be intended to be removed; and thereupon it shall be lawful for such last mentioned Court, and such Court is hereby required to proceed in such Action or Suit in like Manner as if the same had been originally commenced and prosecuted in such last mentioned Court.

XVI. And be it further enacted, That in all Actions at Law or Suits in Equity, which shall be brought in the said Courts respectively, where the Debt or Sum demanded shall not be sworn to as hereinafter mentioned, the Defendant or Defendants in such Action or Suit shall be made to appear to such Action or Suit by Summons, to be issued by the Chief Judge of the said Supreme Court, or by the Judges of the said Circuit Courts respectively, and served by the Proper Officer on the said Defendant or Defendants personally, or left at his, her or their usual Place of Abode; and in all Cases where such Summons shall be disobeyed, or where the Debt, Damages or Thing demanded shall exceed Ten Pounds Sterling Money, and shall be sworn to in an Affidavit made by the Plaintiff or Plaintiffs, or his, her or their lawful Attorney, then the said Defendant or Defendants shall be made to appear by Attachment of his, her or their Goods, Debts, or Effects, or by Arrest of the Person of the said Defendant or Defendants; and in case of his, her or their Goods, Debts or Effects being attached as aforesaid, such Goods, Debts or Effects, or so much thereof as shall be judged by the said Court sufficient to

satisfy the Debt or Damages, shall be held as Security for such Debt or Damages, and shall abide the Order, Judgment or Decree of the Court issuing such Attachment, unless the Defendant or Defendants, or some Person on his, her or their Behalf, shall appear and give good and sufficient Bail, to be approved by such Court, to satisfy such Judgment, Decree or Order; and where the Defendant or Defendants has or have been arrested, he, she or they shall not be discharged out of Custody until he, she or they shall in

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Damages and Cost.

like Manner have given good and sufficient Bail, to be approved by such Court, to satisfy the Judgment, Decree or Order of the Court in the Cause in which such Arrest was made; and it shall also be lawful for the said Courts respectively, when any such Action or Suit as aforesaid shall be depending therein, to cause to appear from Day to Day all Parties interested therein, and to examine upon Oath any of such Parties, in case such Examination shall appear to the said Court necessary for the Discovery of the Truth, but not otherwise; and thereupon, and after due Consideration of all Circumstances of the Case, to make such Order, Judgment or Decree therein, and award such Damages and Costs as shall be just and equitable; and such Order, Judgment or Decree shall be enforced by Attachment and Sale of the Goods, Debts and Effects, or by Arrest of the Person or Persons against whom such Order, Judgment or Decree shall be made, and Imprisonment of such Person or Persons until such Order, Judgment or Decree shall be performed and satisfied.

Powers given for making Rules and Orders for the Proceedings in the Supreme Court and Circuit Courts, &c.

XVII. And be it further enacted, That it shall be lawful for His Majesty, His Heirs and Successors by such Charter or Letters Patent as aforesaid or by any Order or Orders to be hereafter issued by and with the Advice of His or Their Privy Council to make and prescribe or to authorize and empower the said Supreme Court of *Newfoundland*, under such Limitations as His Majesty shall deem proper, to make and prescribe such Rules and Orders touching and concerning the Forms and Manner of Proceeding in the said Supreme Court and Circuit Courts respectively, and the Practice and Pleadings upon all Indictments, Informations, Actions, Suits and other Matters to be therein brought; or touching or concerning the appointing of Commissioners to take Bail, and examine Witnesses; the taking Examinations of Witnesses *de bene esse*, and allowing the same as Evidence; the, granting of Probates of Wills and Letters of Administration; the Proceedings of the Sheriff and his Deputies, and other Ministerial Officers; the summoning of Assessors for the Trial of Crimes and Misdemeanors in the said Circuit Courts; the Process of the said Court, and the Mode of executing the same; the

51 G. 3. c. 45.
§ 2. repealed.

impannelling of Juries; the Admission of Barristers, Attornies and Solicitors; the Fees, Poundage or Perquisites to be lawfully demanded by any Officer, Attorney or Solicitor in the said Courts respectively; and all other Matters and Things whatsoever touching the Practice of the said Courts, as to His Majesty, His Heirs and Successors, shall seem meet for the proper Conduct of Business in the said Courts; and such Rules and Orders from time to time to alter, amend or revoke, as to His Majesty, His Heirs and Successors, shall seem requisite.

Power to the Governor to institute a Court of Civil Jurisdiction on the Coast of Labrador, &c.

“XVIII. And Whereas it is expedient to make further Provision for the Administration of Justice on the Coast of *Labrador;*” Be it further enacted, That so much of an Act passed in the Fifty first Year of the Reign of His said Majesty *George* the Third, intituled *An Act for taking away the Public Use of certain Ships Rooms, in the Town of Saint John's in the Island of Newfoundland, and for establishing Surrogate Courts on the Coast of Labrador,*

Court to be held by One Judge, and to hear and determine Complaints of a Civil Nature.

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and in certain Islands adjacent thereto, as relates to the Institution of Surrogate Courts, shall be, and the same is hereby repealed; and that it shall and may be lawful for the Governor or Acting Governor of *Newfoundland* for the Time being to institute a Court of Civil Jurisdiction at any such Parts or Places on the Coast of *Labrador,* or the Islands adjacent thereto, which, in and by the said Act passed in the Fifty first Year of the Reign of His Majesty *George* the Third are reannexed to the Government of *Newfoundland,* as Occasion shall require; and such Court shall be held by One Judge, and shall be a Court of Record, and shall have Jurisdiction, Power and Authority to hear and determine all Suits and Complaints of a Civil Nature arising within any of the said Parts and Places on the Coast of *Labrador,* or the Islands adjacent thereto; and the said Court shall be holden by a Judge, who shall be appointed from time to time by the Governor or Acting Governor of *Newfoundland,* and shall have a Clerk and such other Ministerial Officers as the Governor or Acting Governor shall appoint; and the Proceedings of the said Court shall be summary, and such Forms of Process, and such Rules of Practice and Proceeding as shall be settled by the Chief Judge of the said Supreme Court, shall be followed by the said Court, and no other.

Appeal to Supreme Court in certain Cases.

Notice.

Security.

XIX. And be it further enacted, That it shall and may be lawful for the Plaintiff or Plaintiffs, Defendant or Defendants against whom any Judgment, Decree or Order of the said Court shall be given, for or in respect of any Sum or Matter at Issue above Fifty Pounds Sterling, or where the Matter in Dispute shall relate to the Title to any Lands, Tenements, Right of Fishery, annual Rent or other Matter, where, in the Judgment of the said Court, Rights in future may be bound, to appeal therefrom to the said Supreme Court; and the Party or Parties

Stay of Execution.

Appeal from Supreme Court to His Majesty in Council.

Governor, on Arrival of His Majesty's Charter,

to notify by Proclamation when the Courts shall be opened, and thereupon so much of 49 G. 3. c. 27. as relates to the Courts thereby instituted, shall be repealed, and Proceedings and Records of those Courts delivered over to the Courts instituted under this act.

General and Quarter

appealing from such Judgment, Decree or Order, shall, within Seven Days from the passing thereof, give Notice to the Adverse Party or Parties of such Appeal, and within Fourteen Days from and after such Judgment, Decree or Order, enter into sufficient Security, to be approved by the Judge of the said Court or some Person to be appointed by him for that Purpose in his Absence, to satisfy or perform the said Judgment, Decree or Order, in case the same shall be affirmed or the Appeal dismissed, together with such further Costs as shall be awarded thereon; and in all Cases of Appeal, where Notice shall be given and Security perfected as aforesaid, Execution shall be stayed and not otherwise.

XX. And be it further enacted, That it shall and may be lawful for His Majesty, by His said Charter or Letters Patent to allow any Person or Persons feeling aggrieved by any Judgment, Decree, Order or Sentence of the said Supreme Court, to appeal therefrom to His Majesty in Council, in such Manner, within such Time, and under and subject to such Rules, Regulations and Limitations as His Majesty by such Charter or Letters Patent respectively, shall appoint and direct.

XXI. And be it further enacted, That the Governor or Acting Governor of *Newfoundland*, upon the Arrival in the said Colony of His Majesty's Charter

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or Letters Patent for the Establishment of the said Courts by virtue of this Act, shall by Proclamation notify to the Inhabitants of the said Colony, the Time when the said Courts respectively shall be intended to be opened; and as soon as the Judges of the said Supreme Court shall have assumed and entered upon the Exercise of their Jurisdiction therein, then and from thenceforth so much of the Act passed in the Forty ninth Year of the Reign of His late Majesty *George* the Third, intituled *An Act for establishing of Courts of Judicature in the Island of Newfoundland, and in the Island adjacent; and for reannexing Part of the Coast of Labrador, and the Islands lying on the said Coast, to the Government of Newfoundland*, as relates to the Courts thereby instituted, and respectively called the Supreme Court of Judicature of the Island of *Newfoundland*, and Surrogate Courts, shall cease to be in force and determine; and every Suit, Action, Complaint, Matter or Thing, which shall be depending in such last mentioned Courts respectively, shall and may be proceeded upon in the Supreme Court instituted under and by virtue of this Act or either of the said Circuit Courts which shall have Jurisdiction within the District or Place in *Newfoundland* where such Action or Suit respectively was depending; and all Proceedings which shall thereafter be had in such Action or Suit respectively, shall be conducted in like Manner as if such Action or Suit had been originally commenced in one or other of the said Courts instituted under this Act; and all the Records, Muniments and

Sessions held as
Governor shall
appoint.

Jurisdiction.

Proceedings whatsoever, of and belonging to the said Courts instituted under the said recited Act respectively, shall, from and immediately after the opening of the said Courts respectively instituted under this Act, be delivered over and deposited for safe Custody in such of the said Courts respectively instituted under this Act as shall be found most convenient, and all Parties concerned shall and may have recourse to the said Records and Proceedings, as to any other Records or Proceedings of the said Courts respectively.

Proceedings in Cases
of Insolve.

XXII. And be it further enacted, That Courts of General and Quarter Sessions shall be holden at *Newfoundland* and its Dependencies at such Times and Places as the Governor or Acting Governor of *Newfoundland* and its Dependencies at such Times and Places as the Governor or Acting Governor of *Newfoundland* shall by his Proclamation appoint; and the said Courts of Sessions respectively shall have Power and Authority, in a summary Way, to take Cognizance of all Suits for the Payment of Debts not exceeding Forty Shillings, except the Matter in Dispute shall relate to the Title to any Lands or Tenements or to the taking or demanding of any Fee of Office or Annual Rent, and to award Costs therein; and also to hear and determine all Disputes, to any Amount, which may arise in *Newfoundland* concerning the Wages of Seamen or Fishermen, the supply of Bait, the Hiring of Boats for the Fishery, and all Disputes arising in *Newfoundland* aforesaid concerning the curing or drying of Fish, where the Sum or Matter in Question does not exceed or is not of the Value of more than Five Pounds Sterling; and the Judgment, Determination or Award of the said Courts of Sessions or Justices respectively, in all such Cases, shall be final.

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Notices to Parties to
attend.

Trustees appointed.

Declaration of
Insolvency.

“XXIII. And Whereas it is expedient to make Provision for declaring Insolvencies in *Newfoundland*,” Be it further enacted, That as often as any Writ of Attachment or other Process for the Recovery of any Debt or Sum due, shall be issued by the said Supreme or Circuit Courts respectively, against any Person or Persons residing or having a House of Trade, or carrying on Business in *Newfoundland*, or any Place within the Government thereof, and it shall be made to appear to the said Court out of which such Writ or Process shall have issued, at the Return thereof, that the Person or Persons against whom such Writ or Process hath issued is or are unable to pay Twenty Shillings in the Pound to all his, her or their Creditors, it shall be lawful for such Court to cause the Person or Persons against whom such Process shall have issued, together with all his, her or their Creditors, to be summoned by public Notice to attend the said Court on a certain Day, and in the mean Time, if it shall appear necessary to the said Court, to appoint One or more of the said Creditors as Provisional Trustee or Trustees to discover, collect and receive the Estates and Effects of such Person or Persons so appearing to be insolvent, subject to the

Distribution of Estate.

Insolvents, on making Disclosure of their Effects and conforming to Directions of judges, may receive Certificates with Consent of One half in Number and Value of the Creditors

Orders and Directions of the said Court; and if after due Examination of the Person or Persons against whom Process shall have issued as aforesaid, or his, her or their lawful Agent or Agents, or if such Person or Persons shall abscond or fail to attend the said Court pursuant to Summons as aforesaid, it shall be made to appear to the Satisfaction of the said Court, that such Person or Persons is or are insolvent, it shall be lawful for the said Court to declare such Person or Persons insolvent accordingly, and immediately to take order for discovering, collecting and selling the Estates, Debts and Effects of such Insolvent, and distributing the Produce thereof amongst all his, her or their Creditors, and for that Purpose to authorize any Two or more Creditors of the said Insolvent or Insolvents, who shall be chosen by the major Part in Value of such Creditors, or their Agents duly authorized in such Behalf whose Debts amount respectively to the Sum of Twenty Pounds and upwards, to act as Trustees os such insolvent Estate; and such Court shall from time to time make such Orders as it shall deem proper, for better discovering, collecting, realizing and distributing the Estates, Debts and Effects of the Person or Persons so declared insolvent, and as often as Occasion shall require, for vesting the same or any Part thereof, in the Public Funds or Securities in *England*, in the Name or Names of such Person or Persons as shall for that purpose be appointed by the said Court until Distribution can be made, as hereafter mentioned.

XXIV. And be it further enacted, That if such insolvent Person or Persons shall make a full and true Disclosure, Discovery and Surrender of all his her or their Estates, Goods, Debts and Effects, and shall conform to the Orders and Directions of the said Judges of the said Courts respectively, the same shall and may, with the Consent in Writing under the Hands of One Half in Number and Value of the Creditors of such Insolvent or Insolvents, be certified by the respective Judges, under the Seal of the Said Courts respectively; and such Certificate may be pleaded, and shall be a Bar to

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Creditors for Supplies
for Fishery for
current Season
privileged, and be
first paid 20s. in the
Pound.

every Suit or Action which may at any Time thereafter be brought in any Court in the said Island or Colony of *Newfoundland* or its Dependencies, for any Debt or Contract for Payment of Money due or entered into by such Person or Persons prior to the Time of his, her or their being declared insolvent as aforesaid; and if any Person or Persons so declared insolvent as aforesaid shall fail to make a true Disclosure and Discovery of all his, her or their Estate or Estates, and Effects, or shall otherwise refuse to conform to the Orders or Directions of the said Judges respectively, it shall be lawful for the said Judges respectively to cause such Person or Persons to be arrested and imprisoned until he, she or they shall make such Disclosure and Discovery, and in all respects conform to the Orders of the said Judges respectively.

Proviso for prior
Claims of Seamen or
Domestic Servants.

XXV. And be it further enacted, That in the Distribution to be made of the Produce of the Estates and Effects of every Person or Person hereafter declared insolvent in *Newfoundland* or its Dependencies as aforesaid, every Creditor for Supplies necessary, and furnished *bonâ fide* for the Fishery, during the current Season, (that is to say,) at any Time after the Close of the last preceding Season of the Fishery, shall be considered as a privileged Creditor, and shall first be paid Twenty Shillings in the Pound, so far as the Estates and Effects of such insolvent Person or Persons, which may be realized in *Newfoundland* or its Dependencies, will go, and that all other Creditors shall be paid equally and rateably: Provided always, that nothing in this Act contained shall affect the prior Claims of Seamen and other Servants actually employed in the catching and taking of Fish and Oil, upon all Fish and Oil caught by the Hirers or Employers of such Seamen, Fishermen or Servants; or the Produce or Value thereof; and also provided that menial or domestic Servants shall in all Cases be paid the Balance of their last preceding Year's Wages, out of the Household Furniture, Goods and Effects of every Person so declared insolvent.

Proceedings in Cases
where Persons die
insolvent.

“XXVI. And Whereas it is expedient that the Estates and Effects of deceased Persons which may not be sufficient to pay all their just Debts should be distributed according to the Manner herein directed concerning the Estates and Effects of Persons declared insolvent;” Be it further enacted, That as often as any Person shall die in *Newfoundland*, or in any Place, or Seas, or Territory within the Government thereof, and the Estates and Effects of such Person shall not be sufficient to pay and satisfy all his or her just Debts, it shall be lawful for the said Courts respectively, at the Petition of the Executor or Executors, Administrator or Administrators of such deceased Person, or any One or more of his or her Creditors, to cause a true Statement of the Effects and Debts of such deceased Person to be made in Writing by and upon the Oath of the said

Proviso for Judgment
creditors, &c.

Executor or Executors, Administrator or Administrators, and laid before the said Courts respectively; and if it shall appear to the Court before which such Statement shall be laid, that the Estate and Effects of such deceased Person are not sufficient to pay all his or her just Debts, it shall be lawful for such Court to authorize and empower the Executor or Executors, Administrator or Administrators of such deceased Person to

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Registrars of Deeds
appointed.

collect, sell and dispose of all the Estates and Effects of such deceased Person, and to distribute the Produce thereof amongst his or her Creditors, according to the Manner of Distribution by this Act directed in respect of the Estates of Persons declared insolvent, and always subject to the Orders and Directions of such Court: Provided always, that nothing herein contained shall be construed to affect the Right of any Creditor having a Judgment or Special Security for his or her Debts.

Deeds to be registered
at the Office of
Registration within
the District in which
the Lands are situate,
within a certain
Time.

“XXVII. And Whereas it is expedient that Provisions should be made for the Registration, within the said Colony of *Newfoundland*, of all Deeds, Wills and other Assurances whereby any Lands or Tenements therein situate may be granted, conveyed, devised, mortgaged, charged or otherwise affected;” Be it further enacted, That the Chief Clerk of the Supreme Court of *Newfoundland* shall be also the Registrar of Deeds within the District or Circuit in which the Town of *St. John's* may be situate, and that the Chief Clerks of each of the Circuit Courts to be holden in and for the Two other Districts of the said Colony, shall respectively be the Registrars of Deeds within such other Districts or Circuits; and in each of the said Three Districts an Office shall be kept by such Chief Clerk respectively, for the due Registration of all such Deeds, Wills and other Instruments as aforesaid.

How Deeds verified
before the Registrar.

XXVIII. And be it further enacted, That all Deeds, Wills, Conveyances and other Assurances in Writing, of what Nature or Kind soever, whereby any Lands or Tenements situate in the said Colony, or the Dependencies thereof, may be hereafter granted conveyed, devised mortgaged, charged or otherwise affected or intended so to be, shall be registered at the Office of Registration within the District or Circuit in which such Lands may be situate; and that all such Deeds, Conveyances and other Assurances as aforesaid, shall be left for Registration at such Office within Six Months next after the Execution thereof, by the Party or Parties from whom any Interest may pass, in case such Party or Parties may, at the Time of such Execution thereof by him, her or them, be resident within the said Colony or its Dependencies, or within Twelve Months in case such Party or Parties may at that Time be resident elsewhere; and all such Wills as aforesaid shall be left for Registration at such Office Twelve Months next after the Death of the Testator or Testatrix.

Registrar to indorse
on the Deed a
Certificate of
Registry.

XXIX. And be it further enacted, That some or one of the Parties executing any such Deed, Conveyance or other Assurance as aforesaid, shall appear before the Registrar of Deeds, and acknowledge the Execution thereof by them, him or her, or in case none of the Parties to any such Deed, Conveyance or Assurance shall be resident in the said Colony, then the same shall be acknowledged before the said Registrar of Deeds, by some Person duly appointed for that Purpose as the Attorney of such Parties; and in that Case the Execution of every such Deed, Conveyance or other Assurance shall be further verified by an Affidavit to be sworn before the Mayor or other principal Magistrate of any City, Town or Place in or near to which such Parties respectively may be resident; and such Affidavit shall also be preserved and registered at the Office of the said Registrar of Deeds.

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Registrar to enter in
the Book of Registry
a Memorial of the
Deed acknowledged
before him.

XXX. And be it further enacted, That the Registrar of Deeds shall and he is hereby required to indorse and subscribe, on every such Deed, Conveyance or other Assurance, a Certificate, in which shall be expressed the Day or Time when the same was so acknowledged before him, and the Names of the Person or Persons by whom such Acknowledgement was made, and the Time when the same was actually registered, and the Volume and Page in which the Registry thereof is entered; and every such Certificate so indorsed or subscribed shall be taken and allowed as Evidence of the due Registration of any such Deed, Conveyance or Assurance.

Deeds hereafter to be
made, conveying
Lands, &c. not duly
registered, declared
void.

XXXI. And be it further enacted, That the Registrar of Deeds shall and he is hereby required to enter in a Book of Registry, to be by him regularly kept for that Purpose, a Memorial of every Deed, Conveyance or Assurance which shall be so acknowledged before him; and every such Memorial shall contain a Statement of the Year and Day of the Month on which such Deed, Conveyance or Assurance shall bear Date, the Names and Additions of all and every the Parties, as well as the Names and Additions, if any, of the several subscribing Witnesses thereto, the Descriptions at Length of the Lands or Tenements conveyed or intended to be conveyed, charged or affected by such Deed, Conveyance or Assurance, as the same are therein described, and the Consideration of every such Deed, Conveyance or Assurance, as the same may be therein stated; all which Memorials shall be entered and recorded in the said Book of Registry with all convenient Dispatch, in the Order of Time in which the same may have been acknowledged before the said Registrar.

XXXII. And be it further enacted, That every Deed, Conveyance or Assurance hereafter to be made, whereby any Lands or Tenements situate in *Newfoundland*, or the Dependencies thereof, shall be granted, conveyed, released, charged or incumbered, or intended so to be, which shall not

Supreme Court
authorized to make
Rules and Orders for
the Registry of
Deeds, &c.

be registered within the Time and in the Manner hereinbefore mentioned, shall be absolutely null and void to all Intents and Purposes: Provided always, that every such Deed, Conveyance or Assurance shall be deemed and taken to be a registered Deed, Conveyance or Assurance within the Meaning of this Act, from the Time when the Execution thereof shall be acknowledged in Manner aforesaid, before such Registrar of Deeds as aforesaid.

XXXIII. And be it further enacted, That the Judges of the Supreme Court of Newfoundland shall be and they are hereby authorized to make any general Rules and Orders of Court for maintaining Order and Regularity in the Mode of taking such Acknowledgments, and registering such Deeds, Wills, Conveyances and other Assurances as aforesaid, and for executing the Duties of said Office of Registrar of Deeds; provided that such Rules and Orders be not in any wise repugnant to the Provisions of this present Act in that Behalf.

“XXXIV. And Whereas the Justices of the Peace in *Newfoundland* have been used to grant Licences for the Retail of Ale and Spirituous Liquors, and it is proper to regulate the Sums to be demanded upon such

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Governor may make
Ordinances for
granting Licences for
Retail of Ale and
Spirits, and
Appropriation of
Sums arising thereby.

Licences, and to make Provision for the Appropriation thereof, and for preventing Abuses in the granting of such Licences, and in the Sale of Spirits by unlicensed Persons in the said Colony;” Be it therefore enacted, That it shall and may be lawful for the Governor or acting Governor of Newfoundland to make, establish and ordain such Rules and Ordinances as to him may seem meet, respecting the granting of such Licences, and the recalling the same, and the Amount of the Sums to be demanded and taken for every such Licence, and the Appropriation of such Sums to His Majesty's Service in the said Colony, and for preventing the Retail of Ale and Spirituous Liquors by Persons not duly licensed, and to impose such pecuniary Fines or other Penalties as may be necessary for enforcing Obedience to any such Rules or Ordinances as aforesaid.

His Majesty may
grant Charters for
establishing
Corporations for the
Government of
Towns.

XXXV. And be it further enacted, That it shall and may be lawful for His Majesty, by Charter or Letters Patent under the Great Seal, to constitute and erect such Persons as to His Majesty shall seem meet a Body or Bodies Corporate and Politic, for the Government of any Town or Towns situate within the said Colony of Newfoundland or its Dependencies, and to grant to such Body or Bodies Politic and Corporate Power to make Bye Laws for regulating the Police of any such Town or Towns, and for the Prevention or Abatement of Nuisances therein, and for the Prevention of Accidents by Fire; and also to grant to any such Body or Bodies Politic and Corporate as aforesaid, the Power to impose and levy such

reasonable and moderate Rates and Assessments upon the Inhabitants and Householders in such Town or Towns, as may be necessary for carrying into Effect the several Purposes aforesaid, or any of them; and it shall also be lawful for His Majesty, His Heirs and Successors, by any Order or Orders to be made by or with the Advice of His or Their Privy Council, to dissolve any such Corporation or Corporations as aforesaid, upon and subject to such Conditions and Regulations as may be made in and by any such Order or Orders in that Behalf.

XXVI. And be it further enacted, That this Act shall continue and be in force for Five Years from the passing thereof, and no longer.

with Jurisdiction, power and authority to hear, determine all suits and complaints of a civil nature after the manner and form provided by the said Act, and arising within any of the parts or places on the said Coast of Labrador, or the Islands adjacent thereto, which are re-annexed to the Government of Newfoundland,

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viz: from the entrance of Hudson's Straits to a line to be drawn due North and South from Anse Sablon on the said Coast, to the fifty-second degree of North Latitude.

And I do authorise, empower and direct the Judge of the said Court of Civil Jurisdiction, hereby instituted, from day to day and from place to place, or for any number of days within the term, session, or continuance of the said Court, to adjourn the said Court, to meet, re-assemble and sit again in the execution and discharge of the duties of the said Court, when, and so often as by the said Judge may be deemed necessary or expedient for the due and proper fulfilment and discharge of such duties.

And of these presents gall Magistrates, the Sheriff and his deputies, all Bailiffs, Constables, Keepers of Gaols, and other Officers of the Coast of Labrador, in the execution of their Offices about the Premises, are desired, and hereby required. and commanded to take due notice and govern themselves accordingly.

Given under my hand at Government House, St. John's, the second day of January, in the Sixth year of His Majesty's Reign.

By Command of His Excellency the Governor,
E. B. BRENTON.

No. 488.

**COMMISSION FROM GOVERNOR COCHRANE TO
CAPTAIN PATERSON**[2 Jan.
1826.]

TO BE JUDGE OF THE LABRADOR COURT.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 35, page
379.

L.S. George the Fourth by the Grace of God, of
the
(Signed) United Kingdom of Great Britain and
Ireland,
Thos. Cochrane. Defender of the Faith.

To all to whom these presents shall come, Greeting.

KNOW YE that We having taken into our Royal consideration the loyalty, integrity, and ability of our trusty and well beloved William Paterson, Esquire, Captain in our Royal Navy and Companion of the most Honourable Military Order of the Bath, have constituted and appointed him the said William Paterson, Judge of our Court of Civil jurisdiction in and for our Coast of Labrador from the entrance of Hudson's Straits, to a line to be drawn due North and South from Anse Sablon on the said Coast to the 52nd degree of North Latitude, and all the Islands adjacent to the said Coast of Labrador, and which are annexed and appendant to the Government of Newfoundland with jurisdiction, Power and Authority to hear and determine all Suits and Complaints of a Civil Nature arising within any parts or places of the Coast of Labrador within the limits before mentioned, or the aforesaid Islands adjacent thereto, in pursuance of the provisions contained in a certain Act of Parliament passed in the fifth year of our Reign and intituled "An Act for the better administration of Justice in Newfoundland and for other purposes" To have, hold, execute and enjoy the said Office unto him the said William Paterson for and during our pleasure, together with all and singular the rights, Profits, privileges, and Emoluments unto the said place belonging in the most full and ample manner, with full power and authority to hold the said Court of Civil Jurisdiction at such places and times as the same may and ought to be held within our said Coast of Labrador and the Islands adjacent.

IN TESTIMONY whereof We have caused these our letters to be made patent.

WITNESS His Excellency Sir Thomas John Cochrane Knight,
our Governor & Commander in Chief in and over our
Island of Newfoundland and its Dependencies, the 2nd

day of January, 1826, in the Sixth year of our Reign.

By Command of His Excellency the Governor,

E. B. BRENTON.

Secy.

Privy Council
Documents

Volume III
Contents

[10 July,
1826.]

No. 489.

**COMMISSION APPOINTING WM. PATTERSON AND
JAS. BLAIKIE.**

TO BE JUSTICES OF THE PEACE FOR THE COAST OF
LABRADOR.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 35, page
387.

10 July, 1826.

A Commission was this day issued appointing William
Peterson, Esquire (Judge of the Labrador Court) and James
Blaikie Esquire, His Majesty's Justices of the Peace for the said
Coast & Islands adjacent.

E. B. BRENTON,
Secy.

[18 July,
1826.]**No. 490.****GOVERNOR COCHRANE'S COMMISSION TO WM.
DICKSON**

TO BE SHERIFF OF THE COAST OF LABRADOR.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 35, page
381.

L.S. By His Excellency Sir Thos. John Cochrane
(Signed) Knight, Governor, &c.
Thos. Cochrane

WHEREAS by an Act of Parliament made in the fifth year of the Reign of His Majesty King George the fourth intituled "An Act for the better administration of Justice in Newfoundland and for other purposes" it is declared and enacted that it shall and may be lawful for the Governor or, Acting Governor for the time being to institute a Court of Civil Jurisdiction at certain parts or places on the Coast of Labrador, or the Islands adjacent thereto, and that the said Court shall be holden by a Judge who shall be appointed from time to time by the Governor or Acting Governor of Newfoundland and shall have a Clerk and such other Ministerial Officers as the Governor or Acting Governor shall appoint. AND WHEREAS I the said Governor have by virtue of the power and authority so given unto me by the said recited Act of Parliament, instituted such Court of Civil Jurisdiction, as aforesaid, and have also appointed a Judge of the said Court; AND WHEREAS it is necessary and expedient to appoint a Sheriff for the said parts and places on the said Coast of Labrador, and the Islands adjacent thereto, and within the Jurisdiction of the said Court. NOW THEREFORE by Virtue of the said Power and authority and also by Virtue of the said power and authority unto me given by His Majesty's Commission unto me directed, bearing date at Westminster the 20th day of August in the 6th year of His Majesty's Reign, authorising and empowering me to appoint the necessary Officers and Ministers for the better administration of Justice and keeping the peace and quiet of the Island of Newfoundland and its dependencies, I the said Governor, do by these presents nominate and appoint you William Dickson, Esquire, to act and be Sheriff for all posts and places of the Coast of Labrador, and the Islands adjacent thereto under and within the Jurisdiction of the said Court. To hold, exercise, and fulfil all & singular the powers, duties, and

functions belonging to and incident to the said Office of Sheriff within all parts and places of the said Coast of Labrador and the Islands adjacent thereto as aforesaid, And to enjoy, receive and take all &

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singular the rights, profits, privileges, Emoluments, Fees & perquisites unto the said office belonging or in any wise appertaining from the day of the date of these presents and thenceforth during pleasure.

And I do by these presents commit unto you the said William Dickson, Esquire, the custody of the aforesaid parts and places of the said Coast of Labrador and the Islands adjacent thereto with the appurtenances so that you render to His Majesty's use His Majesty's due forms, and answer touching all other His Majesty's dues, and fulfil all other matters concerning the said Office of Sheriff as you ought and may be thereunto lawfully required and enjoined.

Given under my hand & Seal at the Government House, St. John's, Newfoundland, this 18th July, 1826. in the seventh year of His Majesty's Reign.

By His Excellency's Command,

E. B. BRENTON.

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WARRANT AS BAILIFF OF THE LABRADOR COAST.

Robert Andrews was also appointed by a similar Warrant,
Constable and Bailiff of the same Court.

E. B. BRENTON,
Secretary.

No. 493.

[11 Aug.,
1826.]**GOVERNOR COCHRANE'S INSTRUCTIONS TO
JUDGE PATERSON**ON PROCEEDING ON HIS CIRCUIT ON THE
LABRADOR.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 35, page
416.

Government House,
11th August, 1826.

SIR,

With your Commission to proceed on your Circuit to Labrador and the Proclamation which accompanies, I transmit you a list of such places as from the best information that can be obtained are likely to call for your presence. At the same time you will understand that it by no means professes to be correct; but after your arrival at Invucktoke, you must obtain from time to time the best information you can get on that point and regulate your proceedings accordingly, taking the most Northern place at which first to hold your Court, so that you may be always making progress to the, Southward as the Summer declines.

Herewith you will receive a Copy of the Treaty with America, by which that Country is entitled to take and cure fish upon the Coast of Labrador, and with it I also forward to you copy of an explanatory letter from Lord Bathurst on the subject of it. At the same time that I recommend the most conciliatory and friendly conduct on the part of yourself and all attached to your Court or under your authority towards the subjects of the United States whilst engaged in the fishery secured to them by the Treaty, you will bear in mind that whilst they are employed within your Jurisdiction they are equally amenable to the Laws with any of His Majesty's subjects, and that the same measure of Justice is to be dealt to them as to any others infringing the rights of Individuals or disturbing the public Peace.

For your further guidance in the discharge of your official duties I must refer you to the Acts 5, Geo. 4, Cap. 51 & 67 with which you will be furnished, and should there be any point on which you may previously to your sailing require legal advice the same shall be submitted to the Attorney General, or to the Judges of the Supreme Court as the Case may require.

During the period that you are upon the Coast of Labrador,
It is very desirable you should stake every opportunity of
informing yourself of the

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state of our Fishery, as well as that of the Americans, and that
you should collect all the information you can with reference
to the Fur trade, and Native Inhabitants, the Moravian
Settlements, the number, if any, of Europeans or Americans
who remain the Winter, as well as the Stations they occupy;
and generally, that you should collect all the information you
can of that imperfectly known country that may in any way
tend to the Advancement of science or Commerce.

I am, Sir,
Your most obedient servant,
(Signed) THOS. COCHRANE,
Governor.

To Captain Paterson, C.B., R.N.,
&c. &c. &c.

[30 Aug.,
1826.]**EXTRACT FROM RECORDS OF COURT OF CIVIL
JURISDICTION FOR LABRADOR.**

J. C. Brunet & Co.
vs.
Joseph Bird &
Timothy Craze.Rigolet, Esquimaux Bay, Labrador,
Wednesday, the 30th day of August, 1826.Court of Civil Jurisdiction for the Coast of Labrador and
islands adjacent.The Honourable William Paterson, Esq., Captain of the Royal
Navy, and Companion of the most Honorable Military
Order of the Bath, Judge of the said Court.

J. O. Brunet & Co. of Quebec by their partners, Joseph Tourzeon, residing at Rigolet, also by petition set forth his complaint, stating that. Mr. Joseph Bird of Sturminster, England, by his agent Timothy Craze of Tub Harbor, in this Bay and by the persons employed under him; have for these three years last past interrupted the complainants in their salmon fishery at a place called Kinnamon Brook in this Bay, by placing their nets in front of and very near to those of complainants, so as to intercept the salmon coming to them, whereby the complainants allege that they have sustained damages to the amount of five hundred pounds and praying that process might be issued against the said Joseph Bird and Timothy Craze for the recovery of that sum.

The Court complied with the prayer of the Plaintiffs petition by granting a writ of summons at their suit against Joseph Bird and Timothy Craze in in the sum of £500. But as it appeared that the Defendants could not this year be prepared with their evidences to defend the action, the Court directed that the writ should be made returnable at Rigolet on Monday the 13th day of August, 1827, or at such other time as the Court of Labrador might first sit at Rigolet.

No. 495.**PROCLAMATION BY GOVERNOR COCHRANE,**[18 June
1827.]**APPOINTING TIMES AND PLACES FOR HOLDING THE
LABRADOR COURT.—INCLUDES RIGOLET.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 36, page
229.

PROCLAMATION.

L.S. By His Excellency Sir Thomas John
Cochrane
Thos. Cochrane. Knight, &c.

Whereas by an Act of Parliament passed in the fifth year of the Reign of our Sovereign Lord George the fourth by the grace of God of the United Kingdom of Great Britain & Ireland King Defender of the Faith intituled "An Act for the better Administration of Justice in Newfoundland and for other purposes" it is enacted and declared that it shall and may be lawful for the Governor or Acting Governor of Newfoundland for the time being to institute a Court of Civil Jurisdiction at any such parts or places on the Coast of Labrador, or the Islands adjacent thereto, which are reannexed to the Government of Newfoundland as occasion shall require. Now therefore in pursuance of the power and authority to me given by the said Act of Parliament, and in fulfilment of the requisitions & provisions of the same, I the Governor do by this my Proclamation institute a Court of Civil Jurisdiction to be holden at the several Ports or Bays on the Coast of Labrador as hereinafter mentioned, and in the order herein set forth, commencing with the first named place as soon after the 15th day of July next as the Weather will permit, viz., Indian Harbour, Indian Island, Rigolet, or Ivucktoke otherwise Gross Water, Mullins Cove, Tub Harbour, Dumplin Island Harbour, Indian Tickle, Cape Charles, Henley Harbour in Chateau Bay, and Henley Harbour in Temple Bay on the said Coast of Labrador, or at any or either of the said places, or at any other place or places on the said Coast, and at such periods as circumstances will permit or may render necessary with jurisdiction, power and authority to hear and determine all suits and complaints of a civil nature after the manner and form provided by the said Act, and arising within any of the ports or places on the said Coast of Labrador or the Islands

adjacent thereto which are re-annexed to the Government of Newfoundland viz. from the entrance of Hudson's Straits to a line

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to be drawn due North and South from Anse Sablon on the said Coast to the fifty second degree of North Latitude.

And I do authorize empower and direct the Judge of the said Court of Civil Jurisdiction hereby instituted, from day to day and from place to place or for any number of days within the term session or continuance of the said Court to adjourn the said Court, to meet, re-assemble, and sit again in the execution and discharge of the duties of the said Court when and so often as by the said Judge may be deemed necessary or expedient for the due and proper fulfilment and discharge of such duties.

And of these presents, all Magistrates the Sheriff and his Deputies, all Bailiffs, Constables, Keepers of Gaols and other Officers of the Coast of Labrador in the execution of their Offices about the premises, are desired and hereby required & commanded to take due notice and govern themselves accordingly.

Given under my hand and seal at the Government House,
St. John's the 18th day of June 1827 in the Eighth year of
His Majesty's Reign.

By His Excellency's Command,
W. A. Clarke.

[27 Aug.,
1827.]**EXTRACTS FROM REPORT BY MR. GEORGE SIMMS,
J.P., OF COURT OF GENERAL SESSIONS,
LABRADOR.**

Indian Island North Point,
Esquimaux Bay, Monday, Aug. 27, 1827.

Timber of very large dimensions is said to abound at the head of Gross Water, on the Kinnamish and North West Rivers, Mast pieces from 18 to 26 inches at the partners and crooked ships timber spruce and birch, sufficiently large to build ships of four hundred tons burthen. Mr. Birds establishment intend building two large schooners at Kinnamish the ensuing winter.

The following vessels are employed in the cod fishery at the different ports in Esquimaux Bay.

At Tub Harbor there are	2 brigs
” ” ” ”	1 schooner
” Cuff Harbor	1 ”
” Mullins Cove	1 brig
” Indian Island south side	6 schooners
” ” ” Americans	3 ”
” Rigolet	1 ”
” Mew Harbor	1 ”
” Fish Cove	1 ”
” Indian Harbor, North Point	1 brig
” ” ” ”	2 schooners
” ” ” Americans	8 ”
—	
Total in Esquimaux Bay	28 vessels
—	

An extensive trade in Fur is carried on with the Indians in this Bay, and nearly as far North as the Moravian Settlements.

[5 Oct., 1827.]

**GOVERNOR COCHRANE'S ACCOUNT WITH THE
TREASURY, EXTRACT. 1827.**

C.O. RECORDS 194/74.

Oct. 5. By Cash paid for the hire of the Brig Sedulous for the Conveyance of the Judge & the Officers of his Court on the Labrador Circuit, as p. Account.

Oct. 5. By Cash paid Thomas Morton and Robert Andrews, Constables, for their attendance on the Labrador Court, including an allowance of £5 to each for their Expenses.

Oct. 5. By Cash allowed for the Expenses of the Judge & the Officers of his Court on the Labrador Circuit 63 days @ 20^s p. diem.

* * * *

[24 June
1828.]

PROCLAMATION BY H.H. R. A. TUCKER,
APPOINTING TIMES AND PLACES FOR
THE LABRADOR COURTS.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 37.

By His Honor R. A. Tucker Esquire &c. &c.

L.S.
R. A. Tucker.

PROCLAMATION.

For holding the Labrador Court precisely the same as that of last year, with the exception of the date for opening it, which this year is appointed to be as soon as circumstances would permit after the 8th July.

Given &c. 24 June 1828.

W. A. CLARKE,
Sec.

By His Honor's Command.

[6 July,
1828.]**EXTRACT FROM RECORDS OF THE COURT OF
CIVIL JURISDICTION FOR LABRADOR.**

Hired Schooner Belinda at Sea.
July 6th, 1828.

Thursday, July 18th, left Indian Island, point D'Nore, notice having been given that a Court of Civil Jurisdiction would be held at Tub Harbor on the first day of August, the Honorable the Judge deeming that to be the most central place in Esquimaux Bay. On Tuesday evening the 19th July, arrived at Rigolet, on the 20th July left Rigolet for Kinnamish Tuesday 22nd reached Kinnamish where the Court viewed the Salmon Brook in dispute between J. O. Brunet & Co. vs. J. Bird. Thursday the 24th July arrived at North West Brook, Sunday the 27th left N.W. Brook for Rigolet, Tuesday the 28th arrived at Rigolet when notice was given that a Court would be held at Tub Harbor on the first of August, on Wednesday the 30th July left Rigolet for Tub Harbor giving notice at Mullens Cove, Cullenghams Tickle and Cuff Harbor, where and when the Court would be held, and on Thursday, the 31st July arrived at Tub Harbor.

[11 Dec.,
1828.]**REPORT OF THE JUDGE OF THE LABRADOR
DISTRICT WITH THE PLACES VISITED 1826-8**

St. Johns Newfoundland,
11th December, 1828.

SIR,

I have the honor to enclose for your Excellency's information, and that of His Majesty's Government, Returns of the number of Civil Actions tried in the Court of Civil Jurisdiction established for the Labrador District within the Government at Newfoundland for the years 1826-1827 and 1828.

In forwarding these Returns to your Excellency I beg to state that they by no means afford an adequate view either of the number of cases of complaint that have been decided, or set at rest,—or of the extent of litigation that arises between the parties resorting to the Labrador Coast.

Your Excellency is aware that the Season for taking fish and securing the produce of the Fisherman's labour is both short and uncertain; there are consequently numerous cases of complaint, or dispute, that arise of much importance to the parties, but which they rather forego, than by leaving their Fishery incur the risk of losing the whole produce of their voyage.—Under these circumstances I have, whenever it has been in my power to do so, visited the different establishments, had the litigant parties before me, heard their complaints, and, by my advice, very commonly reconciled their differences without interfering with their labours.

I have &c.

Signed: WILL PATERSON.

Endorsed . . . Letter from Judge
Paterson; &c.

[ENCLOSURE.]

Return of the number of civil actions tried in the Court of Civil Jurisdiction established for the Labrador District within the Government of Newfoundland, 1826.

Place where the Court was holden: Rigolett, Mullins Cove,
Tub Harbour, Dumplen Island, Cape Charles.

Return of the number of civil actions; etc. 1827.

Place where the Court was holden: Grady Harbour, Dumplen Island, Tub Harbour, Indian Island, Indian Tickle, Cape Charles.

. . . . The Court visited the following places where there was no business for its consideration viz.: Frances Harbour, Indian Harbour, Indian Island, point North, Mullins Cove, Rigolett and Cuff Harbour.

Return of the number of civil actions; etc.

Place where the Court was holden: Tub Harbour, Dumplen Island, Grady Harbour, Seal Islands, Frances Harbour, Cape Charles, Henley Harbour.

. . . . The Court visited the following places where there was no business for its consideration viz.: L'Ance a Loup, Forteau, Indian Tickle, South East Cove, Long Island, Indian Island, point North, Rigolett, Kinnamarsh, Cuff Harbour, Indian Harbour and Mullins Cove.

Signed: WILL PATERSON,
Judge of the Labrador District Court.

No. 501.

[13 Dec.,
1828.]**GOVERNOR COCHRANE TO SECRETARY OF STATE,
TRANSMITTING RETURNS OF ACTIONS IN
NEWFOUNDLAND AND LABRADOR.**LETTERS DESPATCH, ST. JOHN'S, NEWFOUNDLAND. Volume 3.
Judicial Affairs.

No. 11.

St. John's, Newfoundland,
13 December, 1828.

SIR,

As it was not in my power when in England to comply with the wishes of Mr. Hay, and in obedience to the order of the Honourable House of Commons to furnish a return on the spot, of the number of Civil and criminal actions tried in the several Courts of Newfld. since the passing of the Act 5th Geo. 4 Cap. 67, I have availed myself of the earliest opportunity since my arrival, and on the return of the Judges from their respective Circuits to cause the documents to be prepared which I now have the honor to transmit to you, and trust they will be found to have been framed with such care and accuracy as will fully meet the object of the Honorable House of Commons.

I have nothing further to remark upon the Returns now submitted to you, with the exception of that for Labrador, to which I think it right to draw your attention; as I understand it is the object of the Merchants in England connected with Newfoundland to do away with that Court altogether on the ground, first,—That the cases which have come before it are so few in number, and secondly,—That all the persons who resort there for the purpose of fishing, return either to St. John's, or Conception Bay where their differences can ultimately be decided with.

With reference to the first reason,—It will I am persuaded be unnecessary for me to comment upon an argument which would go to say that because there were no offences for a given time, there should be no law, and with equal propriety would a Criminal Circuit Court be dispensed with in any County in England because there happened occasionally to be an empty Callender.

As respects the second reason,—although it is true that a large portion of those concerned in the Labrador Fishery do return to this Port, and Conception Bay, yet a considerable number do not, and to them it would infallibly be a denial of Justice altogether to prevent their receiving it on the spot, as, however much aggrieved or injured they could obtain no

redress without

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following the aggressor through the Court at this place, which even if practicable, might involve an expense and loss of time more grievous than the original injury.

There are, as you no doubt are aware Sir, a considerable number of persons who resort to the Labrador Coast during the Summer months, and which being at a distance of nearly five hundred miles from this place, there is no check upon the lawless ill-disposed, but the certainty of the arrival of a Court to call them to account; for the little restraint imposed upon them by the fear of retribution on their happening to meet the injured party within the Courts of the Island of Newfoundland cannot operate as such. It has as far as I can learn been an invariable custom for a vessel of War to proceed to that Coast to Surrogate, until the institution of the present Court, and at an expence far beyond that now incurred, and unquestionably the advance of time does not render it less necessary that there should still be a power to administer Justice there. At the same time that I entertain this opinion I by no means intend it to be inferred that upon the introduction of a new Judicatory Act, arrangements may not be made for the attainment of the object in question at a less expence than is at present incurred.

I have the honor to be, Sir,
(Signed) THOS. COCHRANE.

Right Honble. Sir Geo. Murray, G.E.B.

No. 502.

PROCLAMATION BY GOVERNOR COCHRANE[10 Aug.,
1829.]

FOR A LABRADOR COURT.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 37, page 247.

PROCLAMATION.

By His Excellency Sir Thomas John Cochrane, Governor,
&c. &c. &c.

L.S.

Thos. Cochrane.

Whereas the Act intituled "An Act for the better administration of Justice in Newfoundland and for other purposes," under the authority of which a Court of Civil Jurisdiction for the Coast of Labrador and the Islands adjacent thereto was instituted by me, has been continued by a certain other Act made and passed in the present year of His Majesty's Reign, until the 31st day of December 1832 and no longer. I, the Governor, do therefore by this my Proclamation direct and appoint that the said Court shall be holden in the present year at the several Ports or Bays on the Coast of Labrador as hereinafter mentioned, and in the order herein set forth, commencing with the first mentioned place as soon after the 19th day of this instant *August* as the weather and other circumstances will permit, viz.

Indian Harbour, Indian Island, Rigolet or Ivucktoke, otherwise Gross Water, Mullins Cove, Tub Harbour, Dumplin Island Harbour, Indian Tickle, Cape Charles, Henley Harbour, in Chateau Bay, and Henley Harbour in Temple Bay on the said Coast of Labrador, or at any or either of the said places, or at other place or places on the said Coast as the weather or other circumstances may permit or render necessary.

And I authorize, empower and direct the Judge of the Court, from day to day and from place to place, or for any number of days within the term, Session or continuance of the said Court, to adjourn the said Court, and to meet, re-assemble, and sit again in the execution & discharge of the duties of the said Court when where and so often as by the said Judge may be deemed necessary or expedient.

And of these presents the Sheriff & his Deputies and other Officers and persons whom it may concern are hereby required and commanded to take due notice, and govern themselves accordingly.

Given &c. &c. &c.
10th August, 1829.

By His Excellency's Command,
J. TEMPLEMAN,
P. Secy.

[Similar proclamations appear to have been issued on 30
May 1831, 23 June 1832, 17 June 1833.]

No. 503.[27 Aug.,
1829.]**EXTRACT FROM RECORDS OF THE COURT OF
SESSIONS FOR THE DISTRICT OF LABRADOR.**Rigolet,
August 27, 1829.

There was no business for the Sessions to attend to at this place excepting granting a license for the retail of ale, wine, and spirituous liquors to Messrs. Wm. Lampson & Co.

Note.—The King's Post Company of Quebec (William Lampson their acting partner there) have purchased the fur and salmon trade lately carried on at Rigolet and Kinnamish by J. O. Brunet & Company.

[23 Sept.,
1829.]

The salmon fishery in Esquimaux Bay is better this year than for some years past, but not half an average quantity of furs have been taken.

No. 504.**SALE UNDER LEVY OF EXECUTION. N**

HUDSON'S BAY COMPANY CARTWRIGHT RECORDS.

Anderson, agent for Messrs. Hunt and Company bought all the right title and interest in the premises and residence of F. Webber situate in Seal Island Harbor, Labrador, with all and every rack and blubber, cask and wheel hand and other barrows, rams horns, etc on or appertaining to said fishing establishment, together with 13 seal nets with all moorings etc., belonging thereto for the sum of One Hundred and eight pounds sterling money this 22nd day of September, Anno Domini, 1829, which sale was held by virtue of an execution issued out of the Honorable the court of Civil Jurisdiction for the coast of Labrador.

BRYAN ROBINSON,
Sheriff of Labrador.Seal Islands, Labrador,
September 23rd, 1829.

No. 505.[26 July,
1830.]**EXTRACT FROM RECORDS OF THE COURT OF
SESSIONS FOR THE DISTRICT OF LABRADOR AND
ISLANDS ADJACENT.**

Rigolet,
Monday, 26th July, 1830.

This day granted a license to William Lampson for the retail of ale, wine and spirituous liquors.

Note.—The fur trade here last winter much better than usual and the salmon fishery very good.

No. 506.

N

[31 July,
1839.]**EXTRACT FROM RECORDS OF THE COURT OF
CIVIL JURISDICTION FOR THE COAST OF
LABRADOR AND THE ISLANDS ADJACENT.**

Indian Island, Point D'Nore,
July 31st, 1830.

The Court visited the most southern Moravian Settlement called Hopedale and arrived at this place yesterday evening, when notices were immediately sent on shore and also to the different harbours in the vicinity of this place stating that a Court of Civil Jurisdiction would be held on board the hired Schooner Belinda on the 12th of August at 10 a.m.

[20 June,
1833.]**COMMISSION TO ELIAS RENDELL**

TO BE SHERIFF OF THE LABRADOR DISTRICT.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 39, page 97.

By His Excellency Sir Thos. J. Cochrane, Kt. Governor, &c.
L.S.
Thos. Cochrane.

By virtue of the Power and authority in me vested, I the Governor do by these presents nominate and appoint you Elias Rendell Esquire to act and be Sheriff for all parts and places of the Coast of Labrador and the Islands adjacent thereto under and within the jurisdiction of the Court established for the said Coast To hold exercise and fulfil all and singular the powers duties and functions belonging to and incident to the said Office of Sheriff within all parts and places of the said Coast of Labrador and the Islands adjacent thereto as aforesaid from the day of the date of these presents and thenceforth during pleasure.

And I do by these presents commit unto you the said Elias Rendell the custody of the aforesaid parts and places of the said Coast of Labrador and the Islands adjacent thereto with the appurtenances so that you render to His Majesty's use His Majesty's due forms and answer touching all other His Majesty's dues and fulfil all other matters concerning the said office of Sheriff as you ought and may be thereunto lawfully required and enjoined.

Given &c. 20th June 1833.

By His Excellency's Command,
(Signed) JAS. CROWDY, Secy.

This Commission to be in force until the return of Mr. Robinson to his duties.—J.C.

No. 508.

[1833.]

SCHEDULE OF EXPENDITURE—LABRADOR COURT, 1833.

TO BE SHERIFF OF THE LABRADOR DISTRICT.

COLONIAL OFFICE RECORDS 107/2. JOURNALS OF ASSEMBLY, NEWFOUNDLAND.

p. 61

Appendix. 1833.

Schedule of Expenditure—Civil Establishment. JUDICIAL DEPARTMENT.

Labrador Coast	{	Judge £700 Clerk £200 Sheriff £150 £350 Two constables at £26 per annum . £52
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Similar entry for year 1834.

[1834.]

**RETURN OF APPOINTMENTS—SHOWING
LABRADOR COURT OFFICIALS.**

COLONIAL OFFICE RECORDS 197/2. JOURNALS OF ASSEMBLY,
NEWFOUNDLAND.

Appendix.

Return of all appointments made in the Island of Newfoundland, pursuant to the Act 5th George IV, cap. 67, specifying the several particulars mentioned in the Resolution of the Honble. the House of Assembly, dated 5 February, 1834.

Judge of the Salary.	Date of Appointment.	Annual Salary.
Labrador Court. William Patterson.	2 January, 1826.	£700.

Remarks. During the time this officer acted as Assistant Judge of the Supreme Court, he received no salary in addition to that of Judge of Labrador.

Clerks of the Labrador Court. James Blakey and George Simms.

Sheriffs of the Labrador Court. William Dixon and Bryan Robinson.

[1834.]

**NEWFOUNDLAND ACT 4 WM. IV. c 20—REPEALING
FORMER ACTS AS TO JURISDICTION OF COURT ON
COAST OF LABRADOR, 1834.**Preamble.
5 Geo, 4,
cap. 67,
s. 18.

C.O. 196/1. NEWFOUNDLAND ACTS.

4 William IV., Cap . XX.

An Act to repeal so much of an Act of the Imperial parliament passed in the Fifth Year of the Reign of His late Majesty King George the Fourth, entitled “An Act for the better administration of Justice in Newfoundland and for other Purposes” as relates to the Jurisdiction of a Court of Civil Jurisdiction on the Coast of Labrador and the Islands adjacent.

1 Geo. 3,
cap. [sic.].

[12 June 1834.]

2&3 Wm. 4,
cap. 78.

Whereas by an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, in the fifth year of the reign of his late Majesty King George the IV. entitled “an act for the better administration of justice in Newfoundland, and for other purposes,” it is, among other things, enacted that it shall and may be lawful for the governor, or acting governor of Newfoundland, for the time being, to institute a court of Civil Jurisdiction at any such parts or places on the Coast of Labrador, or the Islands adjacent thereto, as, in and by an Act passed in the Fifty-first year of the Reign of his late Majesty King George the Third, entitled “an act for taking away the Public Use of certain Ship's Rooms in the Town of Saint John's, in the Island of Newfoundland, and for establishing surrogate Courts on the Coast Of Labrador, and in certain Islands adjacent thereto,” were re-annexed to the Government of Newfoundland: and whereas by another Act of the said Parliament, passed in the second and third years of the Reign of His present Majesty, and entitled “an act to continue certain acts relating to the Island of Newfoundland, and to provide for the appropriation of all Duties which may hereafter be raised in the said Island,” it is among other thing enacted, that it shall and may be lawful for His Majesty, or for any governor, lieutenant governor, or officer administering the government of Newfoundland, in pursuance of his commission or instructions to him for that purpose addressed by His Majesty, with the advice and consent of any House or Houses of general assembly, which His Majesty may thereafter be pleased to convoke from among the inhabitants of the said colony, by any act or

Repeal of Acts herein recited as far as they relate to the institution of a court of Civil Jurisdiction on the Labrador.

acts to be, from time to time, for that purpose passed, to repeal in whole or in part, or to amend, alter, or vary the said first recited act or any part thereof: and whereas the court instituted on the coast of Labrador, by virtue of the said first mentioned act, has been found by experience not to answer the purposes thereby intended: Be it therefore enacted, by the Governor, Council, and Assembly, in Colonial Parliament assembled, that so much of the said Act of the Imperial Parliament, passed in the fifth year of the reign of his late Majesty King George the Fourth, entitled “an act for the better administration of Justice in Newfoundland, and for other purposes,” as relates to the institutions of a Court of Civil Jurisdiction on the Coast of Labrador, or the Islands adjacent thereto, shall be, and the same is hereby repealed.

Cap. 20.
Act abolishing the
Labrador Court.

No. 511.

C

**“EXPLANATORY OBSERVATIONS ON ACTS OF
THIRD SESSION, 1834.”**

LOCAL LEGISLATURE, ST. JOHN'S, NFLD., VOL. 1, p. 171.

The object of this Act is the abolition of the Court of Civil Jurisdiction for the Coast of Labrador, the expense of which was deemed to exceed the bounds of its utility. The measure which this Act is meant to accomplish is sanctioned by general opinion, but it is material to be held in view that the whole Coast of Labrador is now left destitute of a local Civil Jurisdiction; while an opinion seems to be prevalent in the Colony that the expenses incident to a Court of Justice of limited jurisdiction and simple character suitable to the exigencies of the Merchants fishermen and others frequenting that Coast during the season of the fishery, ought to be sustained by the Parent Government, because that fishery is in part, and to a considerable extent carried on by Merchants and others whose domicile is in Great Britain.

H. PRESCOTT TO EARL OF DURHAM.[16 July,
1838.]Government House St. Johns
Newfoundland 16th July 1838.

My Lord,

I have the honor to acquaint you in reply to Your Excellency's letter of the 1st of June that the internal state of this Island is tranquil. The Legislative Session commenced on the 20th ulto. and satisfactory addresses were presented in answer to my opening speech.

* * * *

The coast of Labrador attached to this Government has but a very scanty fixed population. There is not any Court established for the Administration of Justice, or Magistrate, or Custom House Officer; but as I receive no representation on the subject I presume that little practical inconvenience results from these deficiencies.

* * * *

Having given Your Excellency this general idea of our state, I shall be happy to afford fuller information on any points which may appear to Your Excellency to require it.

I have the honor to be

My Lord

Your Excellency's most obedient
humble Servant

H. PRESCOTT.

His Excellency
The Right Honble
The Earl of Durham, G.C.B. &c. &c. &c.

No. 513.

[1864.]

**EXTRACTS FROM REPORT OF MR. E. RENDELL TO
GOVERNOR PRESCOTT,**

RELATIVE TO HIS PROCEEDINGS ON THE COAST OF LABRADOR—1840.

WHITE PAPER, IMPERIAL HOUSE OF COMMONS:

Ordered to be printed 18th March, 1864, p. 4.

“As may be expected, on such a length of coast, disputes will arise amongst the people, to adjust which they have no one authorised to resort to, which oftentimes gives rise to the worst of feelings, and leads to disastrous consequences; but beyond this, the commission of crime is not unfrequent, and that, too, of the blackest die. A man is going at large there at this moment who murdered his wife last winter, and during last summer two attempts at murder were made. These circumstances, alone, are sufficient to show the necessity for establishing a Court to punish and repress offenders.”

* * * *

“The extensive sale of spirits without license or payment of duties by Nova Scotians and Americans who resort to that coast, is much complained of; they carry a cheap, bad article, with which they supply the servants in the fishery, to the great damage and injury of their employers, who have not the slightest remedy against the evil; thus the revenue is defrauded, and the fishery injured at the same time.”

No. 514.[3 April,
1845.]**PETITION OF NEWFOUNDLAND MERCHANTS FOR
A LABRADOR COURT (1845).**

[EXTRACT FROM JOURNAL OF HOUSE OF ASSEMBLY, NEWFOUNDLAND,
1845, p. 100.]

Thursday, April 3, 1845.

The Hon. Mr. Noad by direction of the Governor presented to the House a petition from William Gordon & others, Shipowners, Shipmasters & Planters, trading from Newfoundland to the Coast of Labrador setting forth:

That no fewer than 200 sail of vessels annually proceed from Conception Bay, St. John's and other parts of Newfoundland to the Coast of Labrador to prosecute the Cod & Salmon fisheries: that these vessels employ at least 5000 hands, supported by a heavy capital furnished by merchants & outfitters.

The petitioners have found their houses, fishing rooms, flakes, stages and oilcasks, which have been provided at heavy outlay, destroyed by the winter residents. They have no redress whatever, there being no magistrate, not even a constable on the whole coast of Labrador.

The petitioners, always lamenting the abolition of the late Labrador Court, pray His Excellency to constitute a Court of Civil and Criminal Jurisdiction for the Coast of Labrador, with power to try and decide in a summary way, all suits and complaints of a civil nature arising on the Coast of Labrador & Islands adjacent thereto; with an appeal to the Northern Circuit Court, in all Conception Bay cases (from whence three fourths of the trade is conducted), and to the Central Circuit Court in all St. John's cases. It would be advisable that the said Court should have a criminal jurisdiction in a summary way concurrent with the jurisdiction as at present exercised in practice by the Magistrates in Newfoundland.

No. 515.

[16 April,
1845.]

**PETITION OF MERCHANTS AND OTHERS FOR THE
ESTABLISHMENT OF A COURT OF JUSTICE, 1845.**

THE PATRIOT AND TERRA-NOVA HERALD.

COLONIAL OFFICE RECORDS 199/2.

16 April, 1845.

GENERAL ASSEMBLY.

[April 4.]

Thursday, April 3, 1845.

“Hon. Surveyor General, by direction of his Excellency the Governor, laid before the House a Petition from a number of Merchants and others residing in Conception Bay, and connected with the Labrador Fisheries, praying the Establishment of a Court of Justice for the protection of Petitioner's property, etc. The said Petition was ordered to lie on the table.”

Referred to a select Committee.

Friday, April 4.

Hon. Surveyor General, by command of the Governor, presented a petition of Mr. W. H. Ellis, for a Court at Labrador.

Referred to a Select Committee.

No. 516.

CAPTAIN LOCH TO GOVERNOR LE MARCHANT.[30 Aug.,
1848.]

C.O. RECORDS, 194/130.

H.M. Ship Alarm,
St. John's, Newfoundland,
30th Aug. 1848.

SIR,

I have the honor to enclose the evidence concluded of various examinations marked as per margin, which I held as Justice of the Peace of Newfoundland and its Dependencies, during the cruise round the Island.

I beg particularly to call your Excellency's attention to the copy of a Warrant issued against Mr. Ellis of Forteau Bay, for having possessed himself by Force of a small Island called West St. Modest, and the house and property upon it belonging to Mr. Antonio Talbot of Quebec, under the plea that he was acting in the capacity of Sheriff, to establish the Right of another Party, by whom he was employed, over the aforesaid Island and Property. In effecting this object it appears that he violently assaulted the occupant, broke open the house, destroyed some of the property, sold another portion by public Auction, and carried off the remainder in Vessels to his residence in Forteau Bay.

It will be seen upon reference to the Documents that this case was investigated two years since by Captain O'Callaghan (commanding H.M. Steam Sloop Vesuvius, and possessing, as I do, a Warrant as Justice of the Peace) who obliged Mr. Ellis to sign a Declaration that he would restore the property taken away within a given time; this I find has not been done.

Unfortunately I was not put in possession of these very unjustifiable and cruel proceedings on his part towards Mr. Talbot (which have reduced him from comparative affluence to absolute penury) until my arrival at Blanc Sablon, otherwise I should have considered it my duty to have summoned Mr. Ellis before me to answer to the charges made against him, but I trust that some means may be adopted to restore to the poor man at least some portion of his former Property.

So many flagrant cases of violent usurpation by the powerful over the poorer Settlers, came under my notice during my visits of inspection to the various Ports upon the Coast of Labrador that I sincerely hope your Exc^y. will think proper to make such future arrangements for the security of Property, and the maintenance of Justice as, in your judgement, may be considered requisite, independent of any influence the annual visit of a Ship of war may be supposed to exercise.

*

*

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*

I have &c.
Signed: G. G. LOCH,
Captain.

No. 517.

[1852.]

**PETITION OF NEWFOUNDLAND MERCHANTS FOR
A LABRADOR COURT (1852).**

[EXTRACT FROM JOURNAL OF HOUSE OF ASSEMBLY, NEWFOUNDLAND,
1852, p. 142-3.]

Mr. Prendergast presented a Petition from William Gordon and others, resident in Conception Bay, which was received and read, setting forth,—That they had invested capital, and employed a great many men, in carrying on the fisheries at Camp Islands, on the Labrador; that from the absence of a Magistrate on the Labrador, they are without the means of redress for damage done to their property by evil-disposed persons; that from the encroachments of the French at Belle Isle, they suffer to a great extent, without having any means within their reach of protecting themselves; and praying either that a Stipendiary magistrate may be appointed for the Labrador, or some other means adopted, as may appear meet to the House.

Ordered,—That the said Petition do lie upon the Table.

No. 518.**EXTRACT FROM REPORT**

[1852.]

OF AN OFFICIAL VISIT TO THE COAST OF LABRADOR BY THE
GOVERNOR OF NEWFOUNDLAND, (SIR WILLIAM
MACGREGOR) DURING THE MONTH OF AUGUST, 1905.

(JOURNAL OF THE ASSEMBLY, NEWFOUNDLAND, 1907, p. 366.)

“Although merchants declared to Mr. Rendell that they would not pay dues unless a Labrador Court was established, no permanent arrangement seems to have been made for administering justice, for on the 15th March, 1854, the Governor in a message to the House said: ‘In the latter part of the year 1852 reliable information reached the Admiral Commander-in-Chief on this station, as well as the Governor of the Colony, that parties possessing fishing privileges on the coast of Newfoundland and Labrador contemplated to disregard the laws in existence, or hereafter to be passed by the Colonial Legislature for regulating the mode of conducting the fisheries, provided such laws interfered with the mode usually in practice.’”

No. 519.

[1855.]

THE STATE OF THE LABRADOR COAST IN 1855.

EXTRACT FROM "REPORT OF AN OFFICIAL VISIT TO THE COAST OF
LABRADOR BY THE GOVERNOR OF NEWFOUNDLAND DURING
THE MONTH OF AUGUST, 1905."*

The special attention of Government was called to Labrador by a petition, dated Hopedale, 1st July, 1855, which was signed by all the members of the Labrador Moravian Missionaries, and sent through the London Secretary to the Colonial Office, to be forwarded to the Governor of Newfoundland: "To beg your Excellency most humbly to protect the poor Exquimaux on the coast of Labrador against selling or handing in to them rum or other spirits." The Governor replied to the Secretary of State that he could give no precise information on the subject, and added, "That the introduction and sale of spirits takes place upon that coast to a considerable extent there can be no question; but even if its sale were contrary to law, the law would, unfortunately, be a dead letter, since, although the coast is included in the jurisdiction of the Government of Newfoundland, it is not, and has not for some years past, been under the operation of any organization for purposes either of revenue, police, or administration of justice. This state of things has not failed to receive the consideration of the local Government, and I trust that before the conclusion of the year some steps will be adopted with a view to its improvement."

* App. to Journal House of Assembly, Nfld., 1907, p. 367.

[24 Sept.,
1855.]**OATH OF CONSTABLES FOR SANDWICH BAY 1855.**

HUDSON'S BAY COMPANY CARTWRIGHT RECORDS.

To Thomas Groves and Edward Adams, I will and truly serve our Sovereign lady the Queen in the Office of Constables for Sandwich Bay on the Coast of Labrador without favor or affection, malice or ill will and that I will to the best of my power cause the peace to be kept and preserved and prevent all offences against the properties and persons of Her Majesty's subjects and that while I continue to hold the said office I will to the best of my power skill and knowledge discharge the duties thereof faithfully according to law.

So Help My God.

Cartwright Harbor
Sandwich Bay
24th September, 1855.

EDWARD ADAMS
THOMAS GROVES.

Witness.

PETER PETERSON
JOHN WINTHER
WILLIAM GILL

Sworn before me George Goodridge, Justice Peace for the
Coast of Labrador.

[27 Aug.,
1861.]**OATHS OF CONSTABLES FOR SANDWICH BAY
1861.V**

HUDSON'S BAY COMPANY CARTWRIGHT RECORDS.

We, Peter Peterson, Solomon Burdett, Robert Grand and James Martin truly serve our Sovereign Lady the Queen in the Office of Constables for Sandwich Bay on the Coast of Labrador, without favor or affection malice or ill will and that I will do the best of my poewr cause the peace to be kept and preserved and prevent all offences against the properties and persons of Her Majesties Subjects and that while I continue to hold the said Office I will do the best of my power skill and knowledge discharge all the duties thereof faithfully according to Law.

So Help my God.

	PETER PETERSON
	his
Cartwright Harbor	SOLOMON X BURDETT
Sandwich Bay	mark
27th August 1861	his
Witness.	ROBERT X GRANT
ALEXANDER FLETCHER	mark
PATT. LEWIS.	his
	JAMES X MARTIN
	mark

The oath of Allegiance by the 1 Geo. 1 St 2 Cap. 13 as follows:

We, Peter Peterson, Solomon Burdett, Robert Grant and James Martin do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria
So Help my God

Witness.

ALEXANDER FLETCHER
PATT. LEWIS

PETER PETERSON
his
SOLOMON X BURDETT
mark

his
ROBERT X GRANT

mark
his
JAMES X MARTIN
mark

No. 522.**EXTRACT FROM MINUTES**[17 May,
1862.]

OF THE EXECUTIVE COUNCIL OF THE COLONY OF NEWFOUNDLAND.

(No. 4 RECORD BOOK, OCT. 26, 1861, TO AUGUST 3, 1869, p. 64.)

May 17th, 1862.

Present,—His Excellency Sir A. Bannerman, Kt. Gov.
Hon. L. O'Brien, President
H. W. Hoyles, Atty. Genl.
R. Carter (Actg.) Col. Secretary
Nicholas Stabb and John Bemister.

His Excellency having brought under the notice of the Council the neglected condition during the fishing season of the large populations who reside on, or frequent the Labrador in the want of adequate provision for the protection of life and property and the prompt and inexpensive redress of civil injuries; and having referred also to the unfair immunity enjoyed by a large part of that population from contribution of the expense of protecting the fisheries in which all are interested, the following minute was adopted:

“In the next session of the Legislature, let a bill be introduced for the establishment of a Court of limited criminal and civil jurisdiction on the Labrador; and in order to provide for the expense of such establishment and for a fair proportion of the cost of protecting the fisheries in that locality, let the provisions of the Revenue Act be put into operation within the limits of this Government, such notice being first given of the intention of the Government in this respect as His Excellency may consider expedient.”

Privy Council Documents

Volume III Contents

No. 523.

[25 March, 1863.]

NEWFOUNDLAND ACT 26 VICT. c 2, TO PROVIDE FOR COLLECTION OF REVENUE AND BETTER ADMINISTRATION OF JUSTICE AT THE LABRADOR.

Preamble.

C.O. 196/4. NEWFOUNDLAND ACTS. 26 Victoria, Cap II.

Institution of Court at Labrador.

An Act to provide for the Collection of the Revenue and for the better Administration of Justice at the Labrador.

Passed 25th March 1863.

Powers of such Court.

Whereas it is expedient to provide for the collection of the Revenue and for the better Administration of Justice at the Labrador: Be it therefore enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened, as follows:

Proceedings to be summary.

I. It shall be lawful for the Governor, by Letters Patent under the Great of Seal of the Island of Newfoundland, to institute a Court of Civil and Criminal Court at Jurisdiction at the Labrador; and such Court shall be a Court of Record, and shall be presided over by one Judge, to be appointed by the Governor in Council; and shall, over all such parts of the Labrador as be within the Powers of Government of Newfoundland, have jurisdiction, power and authority, to hear and finally determine all Criminal Prosecutions for Assaults and Batteries, and for Larcenies without force to the person, committed within the limits aforesaid; and all Actions and Suits of a Civil nature, wherein the debt, damage or thing demanded, shall not exceed in amount or value One Hundred Pounds.

Salaries of Judge and other officers.

II. The Proceedings of the said Court shall be summary; a Record of such proceedings shall be kept and signed by the Judge thereof; and the forms of Process and other proceedings in Civil cases shall be as set out in Schedule to this Act annexed, and in Criminal matters shall be those used in summary proceedings of a like character by Justices of the Peace in this Island.

Appeal allowed in certain cases.

III. The Salary of the Judge of such Court shall not exceed Two Hundred and Fifty Pounds; and there shall be such

officers of the said Court as the Governor in Council shall appoint; and the salaries of such Officers shall be fixed by the Legislature.

p. 1437

Proceedings in case of Appeal.

IV. It shall be lawful for any Party against whom any Judgement or Order of the said Court may be given in any matter over Fifty Pounds, or where the matter in dispute shall relate to the Title to any Lands or Fishery, or where the right in future may be bound, within two days after such Judgment or Order to appeal therefrom to the Supreme Court, giving one day's notice to the opposite party of such intended Appeal; and upon such Appellant, within seven days, giving security, to the satisfaction of the Judge, for the speedy prosecution of such Appeal, for the performance of the Judgment or Order of the Superior Court, or for the performance of the Judgment of the Court of Labrador, should the same be affirmed or the Appeal dismissed, and in such last mentioned cases also for the payment of the costs of such Appeal, Execution shall be stayed upon the Judgment of the Court below Provided that it shall be competent to such Judge, upon reasonable grounds, to extend the time for such Appeal, and that it shall be lawful for him, when he shall think it necessary, to reserve any question of Law arising in any case before him for the consideration of the Supreme Court, suspending his Judgment in the meanwhile until such question shall have been determined.

The Judge to be *ex-officio* of the Peace and Coroner.

Offenders and arrested debtors may be confined, as directed by the Judge.

V. When an Appeal shall be allowed in manner aforesaid, a copy of all proceedings in the Court below, authenticated under the Hand and Seal of the Judge thereof and of any other officer, if any such, who may be appointed for that purpose, shall be transmitted by such Judge to the Registrar of the Supreme Court, and after adjudication it shall be competent to the Supreme Court to carry such Adjudication into effect by its own process, or to direct that the same be carried into effect by the Court below, as may be considered most expedient.

Act 6 Vic. cap. 10, and 12 Vic. cap. ii. in force in certain cases.

VI. The Judge of the said Court shall be, *ex-officio*, a Justice of the Peace and Coroner for all places within the limits aforesaid, with the like Power and Authority in all respects as are or may be exercised by any Justice of the Peace or Coroner lawfully appointed in Newfoundland.

VII. Criminal Offenders sentenced by the said Court to imprisonment, offenders and Debtors arrested under final process, may be confined in any place of and arrested security within the limits aforesaid the said Judge may direct, or may be Debtors conveyed to any Gaol in Newfoundland, there to remain until removed or find, as discharged in due course of law.

VIII. The Provisions of an Act passed in the Sixth Year of the Reign of Her present Majesty, entitled "An Act to repeal an

Appointment of
Superintendent of
Fisheries and
Collector of Revenue.

Act passed in the Fifth Year of the Reign of His late Majesty, entitled, 'An Act to amend the Law of Attachment, and to facilitate the Recovery of Debts from absent or absconding Debtors, and to make other provision for the Amendment of the Law of Attachment,'" and of an Act passed in the Twelfth Year of the Reign of Her present Majesty, entitled "An Act to amend the Law of Attachment in this colony, and to regulate the Fees in certain cases payable therein," so far as the same relate to the sale of perishable property attached,

p. 1438

Appointment of Sub-
collectors.

the recovery of Debts and Effects attached in the hands of third parties, the Examinations of such third parties, the Attaching for Costs and the Levying of Monies under a Writ of Execution, shall be applicable to the proceedings of the Court hereby established, Provided that an Attachment may issue for any amount exceeding Forty shillings.

Powers of Collectors.

IX. That it shall be lawful for the Governor in Council to appoint the said Judge or some other competent person to be Superintendent of the Fisheries on the Coast of Newfoundland and the Labrador, and to appoint the same or other competent Person to be a Collector of Revenue on the Labrador.

Appropriation of
Revenue.

X. It shall be lawful for such Collector, subject to the control of the Governor in Council, to appoint Sub-Collectors under him at the principal Ports and Places on the Labrador, and such Collector and his Deputies shall have the like Power and Authority in and for the Collection of the Revenue on the Coast of Labrador, and shall give the like Security for the right discharge of the Duties of their respective offices, as are by Law provided with respect to Customs and Revenue Officers in this Island.

XI. The Revenue collected under this Act shall be applied in the first place towards defraying the Cost of Protection of the Fisheries, and of carrying the Provisions herein contained into effect, and the surplus, if any, shall be paid to the Receiver General for the Uses of the Colony.

[25 March,
1863.]**NEWFOUNDLAND ACT 26 VICT. c. 3, EXTENDING
JURISDICTION OF CIRCUIT COURTS OF
NEWFOUNDLAND TO LABRADOR.**

Preamble.

C.O. 196/4. NEWFOUNDLAND ACT, 26 Victoria. Cap III.

Jurisdiction of the
Circuit Courts
extended to all such
parts of the Coast of
Labrador as are
within the
Government of
Newfoundland.

An Act to extend the Jurisdiction of the Circuit Courts of Newfoundland to the Trial of Offences committed, and of causes of action arising, on the Coast of Labrador.

[Passed 25th March, 1863.]

Whereas it is expedient to extend the Jurisdiction of the circuit courts of Newfoundland to the Trial of Offences committed, and of causes of action arising, on the Coast of Labrador: Be it therefore enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened:

That the circuit courts of Newfoundland shall have power to hear and determine all crimes and offences, informations, suits, and actions committed, occurring, or arising, on all such parts of the Coast of Labrador as are within the Government of Newfoundland, and shall have power to proceed to Final Judgement and Execution therein, and shall have the same jurisdiction, Powers and Authority, as are by law vested in the Supreme Court of Newfoundland, saving and excepting the Trial and Determining of Treasons or Misprisons of Treason, and Capital Felonies, and the hearing and determining of any Information, Suit, or action, for the breach or violation of any Act of Parliament relating to the Trade and Revenue of the British Colonies in America: Provided always that the Parties charged with such crimes or offences, and the Parties to such suits or actions, shall reside within the judicial districts in which such court shall be respectively holden. And provided that all actions or suits now depending in either of the said Circuit Courts for or in respect of any matter or thing done or committed on the Coast of Labrador, by any Person or Persons, may be proceeded with, Tried and Determined, under the Provisions of this Act.

[18 April,
1863.]**LETTERS PATENT FOR THE INSTITUTION OF A
COURT AT LABRADOR.**

Pages 162 to 164. 4 RECORD BOOK. Oct. 26th, 1861 to Aug.
3rd, 1869.

April 18th, 1863.

Present:—

His Excellency Sir A. Bannerman, Kt. Governor,
Hon. L. O'Brien, President, J. Bemister, Receiver
Genl.,
H. W. Hoyles, Atty. Genl., N. Stabb,
R. Carter, Act. Colonial Secy.

The following Letters Patent for the Institution of a Court at
Labrador were adopted and ordered to be issued and
promulgated.

By His Excellency Sir Alexander Bannerman, Knight,
Governor and Commander-in-Chief in and over the Island of
Newfoundland and its dependencies, &c.

To all whom these presents shall come,

Greeting.

Whereas by an Act of the Legislature of this Colony passed
in the 26th year of the Reign of Her present Majesty entitled
“An Act to provide for the collection of the Revenue and for
the better administration of Justice at the Labrador” it is
amongst other things enacted that it shall be lawful for the
Governor by Letters Patent under the Great Seal of the Island
of Newfoundland to institute a Court of Civil and Criminal
Jurisdiction at the Labrador which said Court shall be presided
over by one Judge to be appointed by the Governor in Council,
and shall have certain powers jurisdiction and authority upon
such parts of the Coast of Labrador as lie within the
Government of Newfoundland in and by the said Act
particularly declared and defined. Now Know Ye, that I, the
said Governor, upon consideration of the premises and in
pursuance and by virtue of the said Act have thought fit to
institute, grant, direct and appoint, and by these presents do
institute, grant direct and appoint a Court of Civil and Criminal

Jurisdiction at the Labrador and such Court shall be called "The Court of Labrador" and shall be presided over by one Judge to be appointed from time to time in manner aforesaid and such Court shall be a Court of record,

p. 1441

and shall be held for such terms and at such times and in such places at the Labrador as the Judge thereof for the time being may from time to time determine as best calculated for the administration of Justice within its jurisdiction and the said Court shall have and exercise all such Jurisdiction power and authority whatsoever as are in and by the said Act or otherwise by law provided or declared. And I do hereby strictly charge and command all Magistrates and Officers and all others Her Majesty's Subjects Within and belonging to the said Island and its Dependencies that in the Execution of the several powers hereby conferred they be aiding and assisting and obedient in all things as they will answer the contrary at their peril.

In witness whereof I have caused these presents to be made Patent and the Great Seal of the said Island of Newfoundland to be Hereunto affixed at St. John's in the said Island this 18th day of April, A.D. 1863 and in the twenty-sixth year of Her Majesty's Reign.

Benjamin Sweetland Esquire, J.P., of Trinity was appointed Judge of the Court of Labrador at a salary of £200.

A. BANNERMAN, Govr.

No. 526

N

[30 May,
1863.

**MINUTE OF NEWFOUNDLAND EXECUTIVE
COUNCIL RECORDING APPOINTMENT OF Mr.
JONAS PURCHASE AS BAILIFF OF LABRADOR.**

Page 176, 4 RECORD BOOK, Oct. 26th, 1861, to Aug. 3rd., 1869.

May 30th, 1863.

James Winter was appointed Collector for the Labrador in the room of Matthew H. Warren resigned and Jonas Purchase was appointed Bailiff of the Court of Labrador.

No. 527.

[4 June,
1863.]**ACTING COLONIAL SECRETARY R. CARTER TO
JAMES PURCHASE.**

RECORD BOOK. ST. JOHN'S, NEWFOUNDLAND. Volume 52.
Secretary's Office,
4th June, 1863.

SIR,

In transmitting to you the accompanying Commission appointing you Bailiff of the Court at Labrador I am directed by the Governor to desire that you will during such time as your services are not required by the Judge in your capacity as Bailiff give such assistance as may be in your power and as may be required to the Collector of Revenue, James Winter Esqr.

I am &c.
(Signed) R. CARTER,
Acting Col. Sec.

Mr. Jonas Purchase, &c. &c. &c.

P.S.—You will see that there are two oaths which you are to take before the Judge of the Labrador Court.

[27 May,
1863.]

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 52, page 746.

COMMISSION.

By His Excellency Sir Alexander Bannerman, Knight,
Governor,

&c., &c.

To Mr. Jonas Purchase, Greeting.

Whereas I deem it expedient and necessary by and with the advice of the Council to appoint a Bailiff for the service of Process and other duties to the said Office belonging to the Court of Civil and Criminal Jurisdiction established at the Labrador under Act 26 Cap 2 and having confidence in your prudence fidelity and ability, do, by and with the advice aforesaid appoint you the said Jonas Purchase to be such Bailiff of the aforesaid Court and you will be guided in the discharge of the duties of the said office by such regulations as you may from time to time receive from the Judge of the said Court and also doing all such other things therein as appertain to the duties of the said office and for so doing this shall be

your Warrant.

Given &c the May 1863.
By His Excellency's Command,
 (Signed) R. CARTER,
 Acting Coll. Secy.

[1863.]

**JUDGE SWEETLAND'S PROCEEDINGS OF THE
CIRCUIT COURT, 1863.**

COLONIAL OFFICE RECORDS 1971/38. APPENDIX NO. 8.
JOURNAL OF COUNCIL, NEWFOUNDLAND.

Copy of the Proceedings of the Circuit Court, held in the summer of 1863, for the administration of justice on the Coast of Labrador, within the jurisdiction of this Government, under Act 26th Victoria, cap. 2, etc., etc.

[COPY]

PROCEEDINGS OF THE CIRCUIT COURT.

Held in the Summer of 1863, for the administration of justice (vide 26 Vic. cap. 2) on the Coast of Labrador; with the Judge's Report of the times when, and the places where, the court was held, the number and nature of the cases brought before, settled and decided by the Judge, and of those reserved for the opinion of the Supreme Court.

To the Hon. Hugh W. Hoyles,
H.M. Attorney General,
etc., etc.

SIR,

Having had the honour to be appointed by His Excellency and Council to the office of Judge of the Court of Labrador, I accompanied the gentleman appointed to collect the revenue in the hired craft the "Volant," from St. John's on the 15th June.

There are no pretensions to gardens or cultivation; yet I think, back from the sea, out of the reach of the sand drift, the soil is good and climate genial enough to ripen ordinary crops. The river is level, the tide flowing up about 11 miles; then a slight rise, and again level for a considerable distance. Many patches of excellent grass are to be found opposite the river. No cattle of any sort except a horse, made useful on De Queteville's room. No wood within view; no salmon fishery.

At Pinware, in Black Bay, is a salmon fishery of small extent in comparison with those on the coast east and north. The cod fishery was progressing favourably in the bay.

The salmon is altogether on the coast, there being no river or estuary to invite their visits.

On our circuit we visited:—

Blanc Sablon,
Forteau.
Lance-a-Loup,
Pinware,
Chateaux,
Henly Harbor,
Cape Charles (twice),
Battle Harbor (three times),
Salt Pond (twice),
Seal Island,
William's Harbour,
Spear Harbour (twice),
Francis „ „
„ „ Bight (twice),
Venison Tickle (twice),
Indian Tickle,
Long Island,
Cartwright,
Grady,
Bateau,
Square Island,
Hawk's Harbor (twice),

We had before the Court:—

6 persons concerned in breaches of the
peace,
2 persons for breach of the 8th and 10th
sec.
26th Vic. cap. 1,
2 trespass cases, involving right of
fishery,
1 inquest.
1 nuisance,
10 cases of account,
1 reference.

The Court was open every day and at all hours when the vessel was in port, even at night, to accommodate witnesses who would lose a day's fishing if compelled to attend by day. Like most circuit courts, the moral effect is greater than the amount of business done.

There was no complaint of barring herring, and only in one instance did I hear of its being done. Far less drunkenness and fewer assaults than usually occur in places reported to be very quiet. It is probable that this was owing to an absence of idleness.

I would not estimate the resident population to be over 700 or 800 on the whole coast.

Our little vessel was large enough, sailed well, and was very managable. The captain and crew were fishing and appear to take a lively interest in the result of the voyage. The only addition requisite being a good whale boat, to be had on the coast for about £12, to enable the collector to push into small places in the vicinity, if he wished it, whilst the vessel would be detained on other matters connected with the object of the expedition.

You will perceive that I have dwelt longer on the subject of the western part of the coast than any other; I have done so because our fishermen know very little about it, or the advantages it presents to them and also on account of the extent of its foreign trade.

I have, etc.,
(Signed) BENJ. SWEETLAND.

[1864.]

**JUDGE SWEETLAND'S REPORT OF PROCEEDINGS
OF THE LABRADOR COURT, 1864.**

COLONIAL OFFICE RECORDS 197/39. JOURNAL OF THE ASSEMBLY,
NEWFOUNDLAND.

Appendix No. 707.

Report of Judge Sweetland of Proceedings of the Labrador Court during the summer of 1864, etc., together with census returns of resident population Blanc Sablon to Indian Harbor.

Schooner "Volant,"
St. John's,
11th October, 1864.

SIR,—

I have to acknowledge receipt of your letter of the 6th June, directing me to proceed in the Schooner "Volant," employed to take the Collector of the Customs and myself to Labrador, and to inform you that we left St. John's on the 10th of the same month.

We arrived at our destination on the 23rd. Having visited Blanc Sablon, Forteau, L'Anse Loup, Pinware, West and East St. Modeste, we reached Red Bay on the 7th July.

Henly Harbor,
Camp Island,
Cape Charles,
Sizes Harbor,
Salt Pond (twice),
Seal Bight,
Francis Harbor,
Francis Harbor Bight,
Williams and Merchants Harbors,
Venison Tickle,
Round Island,
Cartwright,
Independent Harbor.
Tub Herring and
Rigoulette,

p. 1447

and various numerous creeks and coves were visited, until we reached Indian Harbor, at which place we arrived on the 31st August last.

Here we found the captain and crew of the schooner "Charlotte" recently wrecked on White Bear Island. The captain having complained that some wrecked materials were in the possession of "Greenfish" catcher on the coast, the bailiff was dispatched with a crew to the scene of the wreck. In the meanwhile the complainant and his crew went off to join a vessel for England, leaving no person to identify the parties complained of, or the property saved; but for the address of the bailiff, very little, if anything, would have been recovered. The articles saved were left in possession of Nathan Norman, Esq., J.P., for the benefit of whom concerned.

There being no settled fishery north of Indian Harbor, we returned south, visiting most of the places named above, and also Grady and Bolsters. In going and returning over 50 harbours were visited.

There were before the Court:—

13 cases of account,
5 „ „ trespass,
1 case of malicious injury,
1 „ „ theft,
1 „ „ bastardy,
1 recovery of wrecked goods,
3 parties to prove wills.
1 case of defamation,
2 cases for the recovery of wages.

I enclose herewith census which I believe to be correct. Having visited personally every place within my reach, and being greatly assisted by the Revd. Hutchinson and the Revd. B. Botwood, in directing my attention to coves and places within their missions.

Roads to be of any general use, cannot be made except from Blanc Sablon to Forteau about 12 miles, and thence should join the road from L'Anse Loup to Port Lamour Lighthouse. It is possible to continue the road to Chateau, but I doubt if it will be required in this age. The total distance is 60 miles. Other settlements are so isolated that it would be difficult to make a good road from one house to another.

Schools. I found only one regular day school in existence, that is in the house of the Revd. George Hutchinson in Battle Harbor. At Red Bay, and also at Henly Harbor, there are Sunday schools, attended with considerable success, particularly at the former place, where it is possible to establish a day school, the whole population being within easy distance of each other. A winter school might be had at Pinware, where the inhabitants of west and east Modeste take up their residence for the sake of fire-wood. Most other places are formed of islands requiring conveyance by boat from one place to another.

p. 1448

In Sandwich and Exquimaux Bays, the inhabitants disperse

themselves for the sake of furring in the winter and catching salmon in the summer. Very little can be done in the way of an established school. In the latter bay the "half casts" evince a greater desire for learning to read than any other classes. They complain very much of want of first and second class school books. In general the resident population, being useful furriers, are very well taken care of during the winter. Of destitute poor the number is very small, viz.:—

One widow and two children in Red Bay.
Three widows and five children in and about Battle Harbor,
One Esquimaux widow at Francis Harbor,
One man beridden, wife and three children at Battle Harbor.

For these I made arrangements, which I hope will assist in keeping them from any great privation. I did not hear of any general distress occurring, except in the summer of 1863, when supplies did not reach them until the 9th July.

Churches.—There is one at Forteau, one in Red Bay, one in Battle Harbor, one in Francis Harbor, and one at Seal Island; one Roman Catholic Church in Pinware, one Wesleyan chapel in Red Bay, and a building for general purposes in Indian Tickle.

There are only two resident clergymen on the coast, both Protestant and episcopalian. Beyond the reach of these gentlemen, the marriage ceremony, if performed at all, is very irregular, in some cases the name of the party officiating is unknown.

The season was wet and cold, so much so that the usual crop of "greens" could not be obtained; potatoes on the coast did not come to perfection. At the N.W. River at the head of Esquimaux Bay, they produce green peas, new potatoes and radishes of immense growth; fresh butter and home made cheese. In no other places were there any cattle kept, or attempts to raise such luxuries, but I think they may be had at the heads of every deep pass with as little trouble.

I have, etc.,
(Signed) B. SWEETLAND.
Judge of the Court
of Labrador.

[1865.]

**JUDGE SWEETLAND'S LABRADOR CIRCUIT
REPORT, 1865.**

COLONIAL OFFICE RECORDS 197/41. JOURNAL OF THE
ASSEMBLY, NEWFOUNDLAND. Appendix.

Report of Judge Sweetland, of his visit upon the Labrador
circuit during the summer of 1865.

Schooner "Volant,"
St. John's,
15th September, 1865.

SIR,—

Having proceeded in this vessel on the Labrador circuit in
company with the Collector, Sub-Collector and broker of H.M.
Customs, we arrived on the coast the 3rd June, but were unable
to land at Blanc Sablon until the 8th, the harbour being
blocked up with ice. During the passage from thence north, a
great many harbours were visited and revisited without
anything being brought before the Court that requires any
comment; the people were orderly and quiet.

On the subject of schools, one has been set going at
Pinware under Mrs. Catherine Odell, a Roman Catholic, of
which I have good hopes from her usual energy and ability.

One, for the summer, at Cape Charles, under Mrs. Young,
and also one at Venison Tickle, under Mrs. Courtis. These two
ladies are from Conception Bay and return to it in the winter.

In Red Bay no person suitable could be found. The
residents professing their willingness to assist, I left the matter
in their hands, under the guidance of the Revd. Mr. Dobie. The
account of births must necessarily be very imperfect, every
information being furnished from memory or hearsay. Deaths
being very few are comprised thus:—

Three persons killed by accidental discharge of guns,
Two persons committed suicide,
One died from old age.

Except in Battle Harbor Mission, no record is kept.

I left the forms to be filled up and returned at the end of the
year.

The list of marriages will be still shorter, there being few
licensed persons to perform the ceremony, and parties not
being over particular whether any ceremony is performed or by
whom is it performed. Some sort of agreement takes place,
which is generally respected, and does not lead to any greater
immorality. I hope a better state of things will be arrived at ere

long.

I have, etc.,
(Signed) B. SWEETLAND, J.P.

To the Hon. John Beminster,
St. John's.

No. 531.

EXPENDITURE ON LABRADOR COURT, 1866.

[1866.]

COLONIAL OFFICE RECORDS 197/43. JOURNAL OF THE ASSEMBLY, NEWFOUNDLAND. Appendix.

FINANCIAL SECRETARY'S OFFICE, DETAILED STATEMENT OF EXPENDITURE ON ACCOUNT OF LABRADOR COURT, 1866. 1866.

Amount paid to John E. Pike, Hire of Schooner "Volant"	\$1850.00
Amount paid to McMurdo & Co., for medicines	16.00
Amount paid to Judge Sweeland, salary	923.08
Ditto ditto on account of Education at Labrador	100.00
Amount paid to Jonas purchase, bailiff	207.69
	<u>\$3096.77</u>

St. John's, Newfoundland, 31st December, 1866.

E. E. SHEA,
Financial Secretary.

[20 April,
1867.]

**EXTRACT FROM AN ACT TO INDEMNIFY HIS
EXCELLENCY THE GOVERNOR OF
NEWFOUNDLAND, FOR CERTAIN SUMS OF
MONEY ADVANCED BY HIM FROM THE
COLONIAL TREASURY, FOR THE SERVICE OF
THE COLONY.**

(Passed 20th April, 1867.)

LAWS OF NEWFOUNDLAND, 1866-69. 30TH VICTORIA, CAP. XX.

Labrador Court.

Whereas it is expedient to Indemnify His Excellency the Governor of Newfoundland for certain Sums of Money advanced by him from the Colonial Treasury, for the service of the Colony. Be it therefore enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened,—

From and out of such moneys as may from time to time remain in the hands of the Receiver General, and unappropriated, there be granted to Her Majesty, Her Heirs and Successors, the sum of Forty-three Thousand Four Hundred and Ten Dollars and Fifty-five Cents, to be appropriated as follows, that is to say:—

* * * *

The Sum of one Thousand Two Hundred and Ninety-six Dollars and Seventy-seven Cents, on account of Labrador Court.

[1867.]

**JUDGE PINSENT'S REPORT OF COURT OF
LABRADOR, 1867.**

COLONIAL OFFICE RECORDS 197/46. JOURNAL OF THE COUNCIL.
Appendix.

Report of Robert J. Pinsent, Esq., Judge of the Court of
Labrador.

St. John's
December 20th, 1867.

To His Excellency
the Governor of Newfoundland
etc. etc.

SIR,

I have the honour to report to Your excellency on my
proceedings and observations at Labrador during the past
season.

I sailed from St. John's——on the 4th June.

We arrived at Battle Harbor Labrador on the 16th of that
month [June] from which period until the 4th of October, we
continued cruising on the coast visiting most of the principal
harbors from Red Bay in the Straits of Belle Isle to Rigoulette
in Hamilton Inlet. We should have called at some other places
had the vessel not been detained for several days, in the month
of September, in Battle Harbor, owing to a disagreement
between the Collector and the captain.

The cases actually brought before me during the circuit
were:—

Nine cases of debt.
Five respecting nets,
One respecting a wrecked vessel,
Two of bastardy,
One of defamation of character,
Two requiring sureties of the peace,
One respecting a lunatic man whom I sent home to
Newfoundland.

A case of enquiry into a report of the murder of a man in the
woods near Murry's Harbor, which on investigation, I
concluded to be false.

At Red Bay on the 28th September, I fell in with Capt.
Green of the Schooner "Emblem," of Nova Scotia, against
whom a warrant had been

issued last year, by Judge Sweetland, for a violent assault on Collector Winter. I caused him to be arrested, took the necessary examinations, and bail being offered, I bound him over to take his trial in St. John's at the next sitting of the Supreme Court. This is a case which it was very desirable should be brought to issue as it had excited much public attention.

I think the amount of legal business done may appear small, but I am of opinion that the presence of the Court on the coast of Labrador, has an important moral effect in preventing offences against the law, and in causing private settlements of accounts between parties engaged in the fisheries and trade of this district.

On the subject of legal proceedings in the Court of Labrador, I beg to make a few remarks for the consideration of the Government.

With respect to actions for the recovery of debts, I would suggest the desirability of some enactment to prevent the injustice that sometimes arises from cases in which persons obtaining judgment for old debts, require the levy of execution for the amount recovered out of the produce of the current voyage, without reference to the claims of the absent supplying merchants, the fishery servants, and other creditors.

It might also be advisable to give the court power to grant probate of wills, and letters of administration, and to register deeds, so far as property situate at Labrador is concerned, subject to the condition that they should be recorded in St. John's.

I would further suggest, that provision be made for bringing up, under warrant, any person summoned as a witness, who may fail or refuse to attend at Court in civil cases; as in the event of default of attendance by such person the ordinary process for contempt would be a dilatory and difficult proceeding.

If the Government would decide on any legislation with reference to the matters above named, I would then respectfully recommend some minor amendments. I would suggest that there should be a room fitted up on board the circuit vessel for a lock-up.

I would recommend that the bailiff of the Court should be provided with a suitable dress to be worn when he is engaged in official business.

It appears that the cod fishery has for some time declined on the southern part of this coast, so that many of our fishing vessels and crews have gone further and further north until they have reached Hopedale, the southern Moravian settlement.

The salmon fishery was, this year, pretty good in Sandwich Bay and Hamilton Inlet, which are principal places for what may be called the embayed fishery.

p. 1454

On the open coast the salmon fishery was not so successful.

The Hudson Bay Company have establishments in Hamilton Inlet, N. W. River and Rigoulette. Here we met Mr. Smith the Deputy Governor of the Company, and Chief Manager of their business in this quarter; he arrived from Canada in the steamer "Labrador," a fine new vessel belonging to the concern. This Company receives most of the salmon in the neighbourhood of their establishments, and cut them up and preserve them in small tin canisters for exportation to England and other countries.

The mercantile firm of Hunt and Henley do the same, in Sandwich Bay. Mr. Nathan Norman of Indian Harbor, carries on a similar business in the neighbourhood of his establishment.

The resident population of Labrador (as distinguished from the people who go there on the fishery in the summer only) from Blanc Sablon in the Straits of Belle Isle to Indian Harbor Esquimaux Bay, which in the year 1864 was estimated by Judge Sweetland at 2026, may be considered as rather increased since that time. It is difficult for a transient visitor to ascertain, reliably, even the probable number of resident inhabitants, scattered as they are in so many places along this extensive coast; to take personally a census is impracticable.

The residents are principally of English origin, including some from Newfoundland, but in Esquimaux Bay, Hamilton Inlet and that neighbourhood, there are several families of Esquimaux and half-breeds, the latter are descendants of European fathers and Esquimaux mothers.

These people are occupied chiefly in the salmon fishery in summer and in furring during the winter; and are supplied, principally by the Hudson Bay Company, at Rigoulette, and by Mr. Norman at Indian Harbor. They are very docile and well behaved, and in their simple way, fond of learning; most of them can read, and some can write-taught by their fathers and by each other.

They have a taste for music and singing; several whom I met could play a musical instrument. I distributed some elementary school-books among them, which I am sure were much appreciated, and will be used to good purpose. I consider that the permanent residents of Labrador are better off than the poorest class of people in Newfoundland. They are well employed in the summer in the fisheries on the coast, and in the winter they go up into the bays of the mainland where there is plenty of wood for fuel; some animals yielding valuable furs, to be caught for trading, and rabbits, partridges, and sometimes deer for food. The rabbits, so called here, which are very like the hares of Nova Scotia, have been numerous the last three winters, affording an excellent and important article

of diet to the inhabitants.

Although the amount of pauperism is comparatively small at Labrador, yet a few cases will occur, in which the resident mercantile agents, or other principal inhabitants, may have to give assistance to destitute persons having no special claims on them, and in such cases they look to the Government for reimbursement.

p. 1455

ROADS. The fishing stations at Labrador are nearly all on the numerous rugged islands of the coast, and consequently the communication being by water, there is little or no necessity for making roads.

RELIGION. There is at present only one resident clergyman of any denomination on the coast of Labrador—from Blanc Sablon in the Straits of Belle Isle to Hopedale, the Moravian Southern Mission Station. That clergyman is the Revd. Robt. Dobie of the Church of England, who resides at Forteau in the Straits of Belle Isle.

During the past summer three other clergymen have been on the coast, employed in their religious duties—viz.: Revd. William Wilson of the Church of England, who was stationed at Battle Harbor, and who visited other settlements; the Revd. Henry Carfagnini of the Roman Catholic Church, who came down in the steamer “Ariel” and visited several places; and the Revd. Thomas Allen of the Wesleyan Methodist Church, who was engaged all the summer in travelling from one harbor to another.

For several years prior to this year, the Revd. George Hutchinson, a clergyman of the Church of England, who resided permanently at Battle Harbor and from thence was in the habit of visiting, in summer and winter, many places north and south, of that station. His Christian zeal, kindness and liberal charities are well remembered and acknowledged by the people, who spoke of him with the greatest love and respect.

PLACES OF WORSHIP. From Blanc Sablon to Hopedale, there are five of the Church of England, viz.: one each at Forteau, Red Bay, Battle Harbor, St. Francis Harbor, and Seal Islands; two Roman Catholic, viz.: one at Pinware, and another at Matthews Cove, Battle Island; one Wesleyan Methodist at Red Bay. At Indian Tickle there is a convenient building appropriated as a place of worship for clergymen of all denominations who may happen to come there.

SCHOOLS. Four schools were in operation during the past summer, viz. at Battle Harbor, Venison Tickle, Cape Charles, and Pinware; the three former kept during the summer only, that at Pinware is continuing through the year. It is proposed to open a school at Red Bay during the coming winter.

These schools are but moderately attended; the number of scholars in each, ranging from about 15 to 25.

I distributed amongst the teachers of these schools the sums

placed at my disposal by the Government, and supplied them with some school books. Owing to the peculiar occupations and scattered habitations of the people, it is impracticable to establish a general system of school education; but I think it would be well to distribute a liberal supply of elementary books among the inhabitants, who would make good use of them in their families for domestic instruction.

I found the medicines and drugs with which I was supplied by the Government very acceptable, and useful for the people, both residents and summer fishermen. Many cases of disease and death, this season, came to my knowledge.

p. 1456

There was no regular medical man (except the surgeon on H.M.S. "Fawn," which vessel came twice to the Labrador for short periods) on the whole coast from the Straits of Belle Isle to Hopedale last summer. I would suggest the advisability of sending a surgeon in the revenue and circuit vessel, who would then be enabled to attend to such cases of disease and accident as he might meet with, while cruising about during the season.

It would be gratifying to all those engaged in business on Labrador to have postal communication with St. John's, and through it with other places at home and abroad, two or three times during the summer. They consider they are entitled to this advantage as contributors to the General Revenue; indeed they complain that Labrador does not get its fair share of the public money in any way.

Labrador is no country for agriculture; the summer is so short, and the sea coast and islands so rocky and barren that nothing can be grown there but turnip greens and lettuces.

In the deep bays, such as Sandwich Bay and Hamilton Inlet, where there are woods, some soil and the climate warmer, a little more cultivation of the ground might be accomplished. I saw potatoes which were grown at Red Bay, in the Straits of Belle Isle, but none further north.

I may remark, that on the whole coast, from Battle Harbor to Rigoulette, I did not see a horse, cow, or sheep (except one cow at Indian Tickle, brought down for the summer from Newfoundland). Dogs abound in all settlements at Newfoundland. They are chiefly of the Indian or wolf breed, and are used during the winter season harnessed to sledges for hauling timber out of the woods and for travelling, in which occupation they are very sagacious and enduring.

With the exception of the dreadful effects of the storm of the 9th October, the present year may be considered a good one for the fisheries of Labrador, which in extent and importance are, I suppose, unsurpassed in the world.

I have, etc.,

(Signed) ROBERT J. PINSENT,
Judge of the Court of Labrador.

No. 534.**JUDGE PINSENT'S REPORT, 1868.**[31 Dec.,
1868.]

COLONIAL OFFICE RECORDS 197/47. JOURNAL OF THE ASSEMBLY,
NEWFOUNDLAND. Appendix No. 658.

Report of Robert J. Pinsent, Esq., Judge of the Court of
Labrador to His Excellency the Governor, December 31st,
1868.

St. John's
31st December, 1868.

To His Excellency
the Governor of Newfoundland, etc.

SIR,

I have the honour to report to your Excellency my proceedings and observations during my circuit at Labrador during the past summer. I sailed from St. John on the 2nd June, in the schooner "Vivid," a vessel employed by the Government as a revenue cruiser and circuit ship on the Coast of Labrador; Mr. Knight, Collector of Customs, and Mr. Canning, Sub-Collector, being on board, the former having the general direction of the destination of the vessel.

We arrived at Labrador on the 20th June; from which period until the 2th of October, we continued cruising on the coast from Blanc Sablon, in the Straits of Belle Isle to Indian Harbour and Rigoulette, in Hamilton Inlet. We anchored in 34 different harbours; in some of them two or three times, and called off and communicated with other places. On the 5th of October we returned to St. John's.

I may very justly say

On our arrival at Labrador, we learned that in some localities the residents had been straightened for provision during the past winter, but that no loss of life had actually resulted therefrom.

The wild rabbits of the country, as an article of food, had been of essential service to the poor inhabitants generally; and in some instances aid had been afforded by persons having provisions, to those who were in great want. I was informed that in several places on this coast, hungry people had, during winter, taken salted herrings from the premises of persons who were then in Newfoundland.

The legal cases brought before me during the circuit were:

3 of debt,
1 respecting nets,
p. 1458

1 of bastardy,
1 of malicious injury,
5 of assault,
2 of larceny,
Application of a wife for a separate
maintenance.
Case of investigation into the death of two
Esquimaux Indians, about which there
are
suspicious reports.

I consider the general conduct of the people of Labrador creditable to them, although I must take exception to the behaviour of some of them during the herring season of last year.

The salmon fishery on the coast of Labrador was this summer more successful than it had been for some years before; but this bunch of the fisheries is, to a limited extent, unimportant as compared with those of the cod and herring.

These causes have necessarily produced much want among the poorest class of the residents of that district. In some cases, the condition of certain cases was so destitute, with reference to the coming winter, that Capt. Parish of H.M. ship "Sphinx" and myself, while together at Red Bay, considered it to be our duty to make some provision for their sustentation. Accordingly he, knowing from personal observation the exact circumstances of the people residing above Red Bay, and within the territory of the Governor of Newfoundland, made arrangements for the very destitute there, and I did the same for the few families in a similar condition on the Red Bay. He also communicated with the Government of Canada on the destitute state of many of the inhabitants of the States living within Canadian territory, with whose condition he was minutely acquainted, having personally visited them during his cruises last summer and fall.

It is to be remembered that in this desolate region, there are no means of obtaining a supply of provisions during the long winter, from stores or traders; and, consequently, that it was requisite to give the needful assistance before we left the coast.

SCHOOLS. There were this year five at Labrador, viz.:—

Place.	Teacher.	When in Operation.	No. of.	Salary.
Pinware.	Mrs. O'Dell.	Summer and winter.	14 last summer. 30 last winter.	£ currency. 9
Cape Charles.	Miss Young.	Summer only.	18 last summer.	6
Battle Harbor.	Rev. W.E. Wilson.	do.	20 do.	6

Venison Tickle	Mrs. Pike.	do.	13 do.	6
Red Bay.	Mr. Bailey.	Next winter.	20 expected.	6
				£33

p. 1459

I paid the above mentioned salaries from the money placed by the Government in my hands for that purpose; and I supplied the schools with books.

These schools are quite of an elementary character and irregular operation. It does not appear to me practical to establish a permanent system of general school education to the migratory habits of the people. I distributed books among the resident inhabitants of the coast throughout the whole district visited by me. They were gladly and thankfully received, and will, I am sure, be very useful in promoting education in a domestic way among the people.

I also dispensed the medicines placed in my charge by the Government. They were very much valued generally, and in several cases, urgently required. The health of the people at Labrador is usually good, but of course infectious diseases and accidents occur. I was informed that during last winter scarlet fever prevailed in Hamilton Inlet and caused the death of several persons. There is no doctor resident at Labrador.

I beg to state that some of the gentlemen who were in the Commission of the Peace for Labrador have retired from the country; and I would respectfully suggest that their places should be filled up by the appointment of suitable persons.

I would also remark that Mr. Goodrich, the gentleman who was licensed as layman to celebrate marriages at Labrador, has gone away, so that there is no person residing in the locality where he lived now legally authorised to perform that ceremony. This is a want that I think should be supplied by the appointment of one or two fit persons resident on that part of the coast. I refer to the district comprising Sandwich Bay, Hamilton Inlet, and from thence northward, where there is no resident clergyman, and where the inhabitants are seldom, if ever, visited by one: consequently the resident people are obliged to substitute the services of a layman who, without being duly licensed, cannot legalize the marriage. I was applied to on this subject by persons interested in it as permanent inhabitants, and requested to bring the matter under the consideration of the Government.

I regret that I cannot report more favourably of the fisheries at Labrador during the past season. The cod appear in a great degree to have abandoned the southern part of the coast where formerly they were so abundant, and to have gone northward whither our fishermen have to follow them in vessels of all sizes from 30 tons and upwards.

The hardships and dangers to which they are exposed in this arduous pursuit are manifold, and it would be gratifying indeed to see their exertions crowned with more commensurate success and prosperity.

I have the honour to be,

Your Excellency's most obedient servant,
ROBERT JOHN PINSENT,
Judge of the High Court of Labrador.

JUDGE PINSENT'S REPORT, 1869.

[1869.]

COLONIAL OFFICE RECORDS 197/49. JOURNAL OF THE
ASSEMBLY, NEWFOUNDLAND. Appendix.

Report of Robert J. Pinsent, Esq., Judge of the Court of
Labrador to His Excellency Steven John Hill, Esq., C.B.,
Governor of Newfoundland, etc.

St. John's.
27th November, 1869.

SIR,

I have the honour to make my report to your Excellency my proceedings and observations during my circuit at Labrador last summer. I sailed from St. John's on the 28th May.

We did not arrive at Labrador until the 18th June, from which time up to the 7th October, we were constantly cruising on the coast from Blanc Sablon, in the Straits of Belle Isle to the vicinity of Cape Harrison in the north, visiting all the principal harbors and stations within that circuit.

The revenue collected at Labrador this year exceeded that of any other year since the service was established.

The following particulars I learned from the father of the family, Edward Mercer, of Bay Roberts, Newfoundland. He informed me that he had been in the habit of fishing in the summer at Pack's Harbor, Labrador, for several years, and returning to Newfoundland in the fall; that last winter for the first time, he remained at Labrador, with his family, consisting in all of himself, his wife, five sons and one daughter; he had only three barrels of flour for his stock of provisions, but he hoped to catch game and seal for food during the winter. He removed from Pack's Harbor at the end of October and went into winter quarters up the North River in Sandwich Bay; his stock of food was exhausted by the middle of January, and he and his family then subsisted on what little game they could catch, and the scanty but kind aid they received from some neighbours, who were themselves straightened for food. There was no supply to be had at the merchants' stores in Sandwich Bay. They struggled on in their way until the latter part of February, when they

removed—being all in a week state of health—to Handy Harbor Island; about 6 miles to the northward of Pack's Harbor, hoping there to catch some seals and sea birds, and to get a supply of mussels.

When I saw the poor man at Pack's Harbor in August, he was debilitated and unable to work, his wife and surviving children had comparatively recovered their healths, their circumstances were very poor; I therefore, on the part of the Government, gave them some assistance.

This case is an extreme one, but I was told by several reliable persons that the conditions of many families last winter was nearly as necessitous as that of Edward Mercer, and that such sufferings for want of food, was perhaps, never before experienced on the coast of Labrador. I may mention that game of all kinds was unusually scarce.

I cannot but express my opinion that it is very illiberal or at least, very inconsiderate on the part of the merchants having establishments at Labrador, that they do not make some winter provision for the resident inhabitants who deal with them more or less during the summer. A stock of from 50 to 100 barrels of Indian meal, costing about as many pound would, at each establishment, be sufficient to guard against this danger of starvation. I deem it to be the absolute duty of these merchants to provide, to a reasonable extent, for the sustentation of the surrounding people, should there be any necessity for it during a long inclement Labrador winter.

The legal cases brought before me during the circuit, were:

3 of larceny,
2 of assault and battery,
1 of damages for destroying a net,
4 of sureties of the peace,
1 of unlawful throwing ballast overboard,
1 of debt.

In two aggravated cases, viz.:—

1 of larcency,
the other of assault and battery,

I sentenced the offenders to six months' imprisonment with hard labour in H.M. Gaol at St. John's. They justly deserved that amount of punishment, and it was necessary to make a flagrant example of the consequences of violation of the law and show that even at Labrador it could not be done with impunity.

I brought these men from Labrador to St. John's in the circuit vessel; one of them was on board nearly two months, and the other about half that time; their custody was attended with considerable care and trouble, as

no proper lock-up room had been provided in the vessel. I would repeat what I have on former occasions represented, that it is necessary a suitable temporary prison should be provided in the circuit vessel.

The conduct of the people at Labrador, both residents and those coming in the summer only, is, on the whole, creditable to them. When it is considered how many thousands of fishermen are there engaged, it is remarkable that so few serious crimes are committed. During the past season I have heard very little complaint of violent behaviour even in the prosecution of the herring fishery in which, from its brief continuance and exciting character, such conduct is most likely to occur.

The salmon fishery was, on the whole, good. In addition to our own vessels there were, as usual, several Nova Scotia and Canadian vessels engaged in the fishery. I saw only one vessel from the United States, which I met with in St. Michael's Bay; she was a steamer called the "Monticello" from New York, engaged in the herring fishery, in which she had been unsuccessful at Labrador.

I am gratified to be able to state, and I have good reason to believe, that the condition of the resident inhabitants of Labrador, will next winter, be much better with respect to food than it was last winter. These residents, not having vessels and other means of leaving their own localities, were last summer, fortunately obliged to remain home, where they did much better in the fishery than if they had come to Cape Harrison and its neighbourhood; they have consequently been able, generally, to lay in a sufficient stock of provisions for the winter.

The census of the resident population of Labrador, from Blanc Sablon to Cape Harrison inclusive, has this summer been taken by order of the Government. The total number is 2,479, comprising

1803				belonging to the Church of England,
483	„	„	„	Rome
165	„	„		Wesleyan Church,
28	„	„		Church of Scotland
<u>2479</u>				

In this number about 300 Indians and half-breeds of the Esquimaux and Mountaineer races are included. They reside chiefly in the magnificent bay called Hamilton Inlet and that neighbourhood. Most of them are connected with the Hudson Bay Company. The half-breeds, who have sprung of Europeans and Indians, are docile, decent and intelligent, they speak good English and are fond of learning to read and write. They are employed in the salmon fishery in summer, and in furring in winter, catching only a little cod in the fall of the

year, for their own consumption. On the whole they make out a tolerably comfortable living.

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In the summer the coast of Labrador swarms with thousands of people from Newfoundland, who engage in the cod, herring and salmon fisheries during the season—and return in the Fall to their own country. They are of course, not included in the Labrador census.

SCHOOLS. — There were only 4 schools in operation this year at Labrador, viz.:—

Place.	Teachers.	In operation.	Scholars.	Salary.
Battle Harbor.	Rev. W.E. Wilson.	Summer and winter.	233 summer. 13 winter.	\$24
Pinware.	Mrs. O'Dell.	do. do.	20 summer. 47 winter.	36
Cape Charles.	Mrs. Young.	Summer only.	25 summer.	24
Matthew's Cove.	Mrs. Tobin.	.. ..	15 ..	8
				\$92

I paid the above salaries out of the money placed in my hands by the Government and supplied the schools with books.

Labrador is not a favourable country for the establishment of schools, the people there are so scattered that, with a few exceptions, it is impracticable to get a sufficient number of them together for that purpose. The general and most effective mode of instruction is by supplying books to the isolated inhabitants and thus enabling them to learn at home by their own firesides, where they teach one another. I distributed the books furnished by the Government to a great many families, who have thankfully received them, and will, I am sure, make good use of them. The medicines which I took down with me and distributed among the inhabitants were very useful and much valued, for on this coast they are not, in most cases, to be procured in any other way.

The weather at Labrador last summer, was particularly wet, cold and backward; consequently the curing of fish was retarded, and the shipments for market were delayed much beyond the usual period.

I have the honour to be,

Your Excellency's most obedient servant,

ROBERT JOHN PINSENT,

Judge of the Court of Labrador.

JUDGE PINSENT'S REPORT, 1870.[31 Dec.,
1870.]C.O. 197/52. APPENDIX. JOURNAL OF THE COUNCIL,
NEWFOUNDLAND. NO. 34.Report of Robert J. Pinsent, Esq., Judge of the Court of
Labrador, to His Excellency the Governor, 1870.To his Excellency Colonel Stephen I. Hill, C.B., Governor
of Newfoundland, etc., etc.St. John's.
December 31st 1870.

SIR,

I have the honor to report to your Excellency my proceedings and observations at Labrador, during my Circuit the past summer.

On the 10th of June I sailed from St. John's, in the schooner William Stairs, a vessel employed by the Government as a Revenue cruiser and Circuit ship on the coast of Labrador.

Mr. Knight and Mr. Canning, Collectors of Customs were on board; the former gentleman having the general direction of the destination of the vessel. In consequence of the prevalence of Northerly and Easterly Winds, and of information that there was much field ice obstructing the passage by the Northern route, we proceeded South about, through Gulf of St. Lawrence and the Straits of Belle Isle: being favored with fair winds, we accomplished, by this unusual and generally objectionable route, our passage to Labrador in five days, arriving at Blanc Sablon on the 15th of June.

From that period up to the time of our departure from Labrador, we were continually cruising on the coast, going as far North as Hamilton Inlet, and visiting all the principal Harbors and settlements.

We sailed from Labrador, on our return home, on the 17th of October, and after a very stormy and dangerous passage arrived in St. John's on the 25th of the same month.

I was happy to learn at Labrador, that the resident inhabitants had, last winter, been exempt from the sufferings experienced the previous winter, from want of a sufficient supply of food.

The legal cases brought before me during the Circuit were:

—
2 cases of Larceny,
1 of assault,
1 of trespass on land,
1 of damage to nets,
1 of killing goats,
1 of bastardy,
2 of debt,
2 cases of inquiry respecting the death of two
men.

In one case, in which the Bailiff of the Court was obstructed and assaulted in the execution of his duty, I brought the matter under the consideration of Her Majesty's Attorney General, who indicted the offender in the Supreme Court at St. John's. Although few cases are actually brought before the Court, there is no question but that its annual circuit at Labrador, has the important effect of preventing the commission of offences and wrongs which might otherwise be done with impunity. I consider the general conduct of the people at Labrador very creditable to them; few serious crimes, or other offences, are committed there, considering the great number of men congregated on that coast during the fishery season, in addition to resident inhabitants.

I beg leave to bring under the consideration of the Government, two subjects, which I think require to be provided for by Legislative enactment, viz.: The Recovery of Debts; and the Regulation of the Salmon Fishery at Labrador.

With respect to actions for the recovery of Debts at Labrador, I would suggest an enactment to prevent the injustice that arises, in cases in which creditors on the spot obtaining judgment for old debts require the levy of execution for the amount, out of the produce of the current voyage, without reference to the claims of the absent supplying merchants, the fishery servants and other creditors. Under the present state of the law, applicable to the Court of Labrador, the Judge cannot refuse, in such cases, to issue a writ of execution and levy for the whole amount of the judgment; for he has not authority to declare a debtor insolvent (sic), and make distributions of his effects, according to the Law of Insolvency.

I am of the opinion that power should be given to the Judge, when it appears to him that a defendant is insolvent, to limit the amount for which attachment or execution should issue against goods for debt; or to suspend the issue thereof. And in cases where execution against the person, for debt, appears to the Judge to be oppressive, to refuse to issue such execution.

With reference to the Salmon Fishery at Labrador, I think it very desirable that the legislature should define the rights of persons to occupy the stations (posts as they are called), where they set their nets.

In the Bays of Labrador, such as Hamilton Inlet, Sandwich

Bay, and similar places, the permanent residents, and others who regularly resort to the

p. 1466

coast, have occupied certain fishing stations, where in the summer they carry on the Salmon Fishery; these Salmon posts, as they are called, have been exclusively occupied by such persons for many years, and their subsistence depends on the possession of them.

But very lately a question has arisen of the right of these people to the exclusive occupation of their salmon posts, and strangers threaten to interfere with them. This is a matter of vital importance to the old inhabitants, and requires legal decision, I think by an Act of Legislature.

Under all the circumstances of the case, it appears to me reasonable that they should have secured to them the exclusive right to the Salmon posts which they have hitherto held and occupied, so long as they regularly and annually continue to fish them, and in other respects conform to the law.

It has been represented to me, by several persons well acquainted with the Salmon Fishery, that the distance now required by law, in the setting of salmon nets, is not sufficient; that at least double the distance between such nets ought to be required. As far as I am competent to give an opinion on the subjects, I consider this representation well founded, and worthy of attention.

SCHOOLS.

Only four schools were in operation this year at Labrador, viz:—

Place.	Teacher.	When in Operation.	Scholars.*	Salary.
Matthew's Cove, Battle Harbor.	Mary Marshall.	Summer only.	59	\$24.00
Cape Charles.	Catherine Young.	Summer only.	25	24.00
Red Bay.	John Bailey.	Winter only.	18	24.00
Pinware.	Mrs. O'Dell.	Summer and winter.	40	36.00
				Total \$108.00

* On the Books, but the number in attendance varying, according to the season of the year.

I paid the salaries out of the money placed in my hands by the Government for that purpose, and I supplied the Schools with books.

I distributed books to a great many resident families on the coast, by whom they were thankfully received, and to whom they will be very useful in promoting education, in the only way in which it can be generally accomplished, by instruction among themselves in their own houses.

The medicines supplied annually by the Government, for the use of the people at Labrador, are esteemed by them as a great boon: in many cases which came under my notice they

proved of essential service.

This season the quantity of field ice on the coast of Labrador was unprecedented; it remained in many places until late in July, the effect of which was most injurious to the fisheries, by preventing the fish from striking in to

p. 1467

the shore at the usual time, and obstructing the harbors, so that boat and vessels could not get to their fishing stations in due season; the result being that the voyages of cod and herring were the most unsuccessful perhaps ever known on the coast of Labrador.

The Salmon catch, in the great bays, was about half an average voyage.

The weather was boisterous and wet, with a prevalence of Northerly and Easterly Winds during the whole season.

I have the honor to be Your,
Excellency's most obedient servant,
ROBERT JOHN PINSENT,
Judge of the Court of Labrador.

[31 Dec.,
1870.]**ACCOUNT OF EXPENDITURE ON LABRADOR
COURT, 1870.**COLONIAL OFFICE RECORDS 197/51. JOURNAL OF THE ASSEMBLY,
NEWFOUNDLAND. Appendix.

31 December, 1870.

FINANCIAL DEPARTMENT.

Detailed Statement of Expenditure on account of Labrador
Court Act for the year 1870.

1870.		Warrant.	
May 20.	Amount paid Judge Pinsent on account of Labrador schools	No. 111	\$92
„ 23.	Ditto ditto ditto	„ 112	52
„ „	Maurice Fenelon, for books	„ 112	17.90
„ „	William Bulley	„ 112	16.18
„ 27.	Thomas McMurdo & Co. for medicines	„ 113	34.57
„ 31.	Amount paid Jonas Purchase, advance	„ 117	24.00
Oct. 31.	Ditto ditto balance of salary	„ 269	183.69
„	Ditto Judge Pinsent	„ 269	923.08
Nov. 3.	Ditto W. & J. Hackett, hire of schooner "William Stares"	„ 270	2,464.80
			<u>\$3,808.22</u>

RICHARD HOWLEY.

St. John's, Newfoundland,
31 December, 1870.

JUDGE PINSENT'S REPORT, 1871.[30 Dec.,
1871.]

COLONIAL OFFICE RECORDS 197/53. JOURNAL OF THE ASSEMBLY,
NEWFOUNDLAND. Appendix.

Report of R. J. Pinsent, Esq., Judge of the Court of Labrador,
1871, to His Excellency Col. C. J. Hill, C.B., Governor of
Newfoundland, etc., etc.

St. John's,
December 30th, 1871.

SIR,

I have the honour to make my report to Your Excellency on
my proceedings and observations at Labrador during my
circuit this year.

We were detained there [L'Anse a Loup] by ice, until the
21st [June], when we succeeded in getting to Blanc Sablon,
which is the southern boundary of our Labrador territory.

From thence we proceeded north as far as Hamilton Inlet,
touching at the principal settlements on our way.

On the 26th August, we returned south and on the 6th
October, sailed from Red Bay for St. John's, where we arrived
on the 15th of the same month.

During the period we were at Labrador we were continually
cruising about, visiting the various harbours and settlements on
the coast and attending to such business of law and revenue as
came within the scope of our several departments and duties.

The legal cases brought before me during the circuit were:

Four of debt,
Three of malicious injury,
One of Sureties of the peace,
One of killing goats and dogs,
One of title to land,
One of intestate estate,
Two of trespass of goods,
One of larceny,
One of bastardy,
One of affidavit of debt.
Twelve of examinations taken of witnesses
in
cases pending in the Supreme and
Northern

I am, while at Labrador, frequently applied to for information and advice in matters of a legal character, but which it is not necessary to treat formally.

The conduct of the people resident and transient at Labrador, is generally peaceable and honest. Very few serious crimes are committed. However, I believe that the presence of the Court annually has a salutary effect in preventing offences.

The fisheries at Labrador last summer were on the whole good.

The catch of salmon on the sea-board, was about an average; but in the great bays such as Sandwich and Hamilton Inlet, where that fishery is almost the only one carried on, the catch was not more than half the usual quantity.

Education. Four public schools were in operation this year at Labrador, viz:—

Place.	Teacher.	When in Operation.	Number.	Salary.
Matthew's Cove, Battle Harbor.	Mary Marshall.	Summer only.	59	\$24
Cape Charles.	Catherine Young.	Summer only.	30	24
Red Bay.	John Bailey.	Winter only.	22	24
Pinware.	Catherine O'Dell.	Summer and winter.	46	48

The above are the numbers of scholars on the list, but their attendance is variable. I supplied these schools with books and paid the salaries of the teachers. I distributed educational books to the resident inhabitants of the coast, by whom they are highly valued and used well for the purpose of instruction in their families.

The medicines placed by the Government at my disposal I dispensed to all who required them. I am sure they were of great service to the people, and by them greatly appreciated.

The Mail Service for Labrador, introduced by the Government last summer, was doubtless of great utility and convenience generally to the merchants and fishermen engaged in the trade and fisheries of that coast; but I know that the mercantile house at Blanc Sablon, the southern extremity of our territory and the Hudson Bay Company at Rigoulette, Hamilton Inlet in the North are dissatisfied that the postal steamer does not call on those places, as they are thus practically excluded from the advantages enjoyed by the rest of the, mercantile community.

I would respectfully call the attention of the Government to this subject, as I think that these establishments are entitled to great consideration, for one half of the whole revenue collected at Labrador is paid by them. I believe from my local knowledge of Labrador, that it is quite practicable to arrange the Mail Steamers Service so as to call at those places in the course of her rounds.

I was requested to bring this matter under the notice of the Government. The general condition of the trade and fisheries at Labrador last season was an improvement on that of some previous years, and the collection of revenue greater in amount than had ever before been realised.

I have the honour etc.,
(Signed) ROBERT JOHN PINSENT,
Judge of the Court of Labrador.

No. 539.**JUDGE PINSENT'S REPORT, 1872.**

COLONIAL OFFICE RECORDS 197/57. JOURNAL OF THE LEGISLATIVE
COUNCIL, NEWFOUNDLAND. Appendix No. 14.

[31 Dec.,
1872.]

Report of J. R. Pinsent, Esq., Judge of the Court of Labrador,
1872.

To His Excellency
Col. Stephen J. Hill, C.B.,
Governor of Newfoundland, etc., etc.

St. John's,
December 31st, 1872.

SIR,

I have the honour to make my annual circuit Report to Your
Excellency.

As usual we traversed the coast from Blanc Sablon to
Hamilton Inlet and were constantly engaged during the period
of our stay at Labrador in visiting the various settlements and
attending to our official duties of Law and Revenue.

The legal cases brought before me during the circuit were:

4 of debt and damages,
2 of Trespass,
2 of Assault and Battery,
1 Sureties of the Peace,
1 Public Nuisance,
1 Larceny,

I am frequently applied to for information and advice,
which I give to the people, and thus prevent serious disputes
and litigation.

A report was propagated at Labrador this summer that a
woman had been murdered at White Bear Island, near Indian
Harbour; it reached Newfoundland, and the Government sent a
small party of police to Labrador to see into the matter; they
fell in with H.M.S. "Eclipse" at Indian Tickle, and reported
this to Capt. Hoskins, who offered to convey them in the ship
to their destination. on his way thither he called at Grady
Harbour for me. I accompanied

him to Indian Harbour, where we investigated the report, and found it to be false.

I consider the general conduct of the people at Labrador very creditable to them. When it is remembered how many thousands of men are engaged during the summer in an arduous and exciting occupation, the absence of serious crime is highly satisfactory and remarkable.

The salmon fishery in the Great Bays was very short of an average voyage, but on the seaboard the catch was better.

Education. Five public schools were in operation this year at Labrador, viz:—

Place.	Teacher.	Time.	Salary.
Pinware.	Mrs. O'Dell.	Summer and winter.	\$20
Red Bay.	John Bailey.	„ „	20
Cape Charles.	Eliz. Young.	Summer only.	10
Matthew's Cove.	Mary Marshall.	„ „	10
Battle.	Rev. G. Bishop.	Summer and winter.	25
		Currency	\$85

I received the reports of the teachers (with the exception of that from Battle Harbor) and have sent them to the Colonial Secretary. I supplied the schools with books and paid the teachers their salaries. I distributed additional books and stationery to the resident inhabitants of Labrador, who value them highly, and will make good practical use of them.

The medicines supplied by the Government for the use of the people of Labrador, I dispensed to those who required them. This is a very useful annual gift to the inhabitants, who are not able to procure them otherwise; and I believe I may truly say that aided by the practical skill and experience of our Captain, I have been in this way instrumental in affording relief to many sick persons, and in some cases in saving life.

The Mail Packet Service at Labrador this season has, with reference to place of call and the time of waiting for letters, been much more satisfactory than it was last year; but the service is still considered susceptible to practical improvement.

I have, etc.,

(Signed) ROBERT JOHN PINSENT,
Judge of the Court of Labrador.

[31 Dec.,
1873.]**JUDGE PINSENT'S REPORT, 1873.**

COLONIAL OFFICE RECORDS 197/59. JOURNAL OF THE LEGISLATIVE
COUNCIL, NEWFOUNDLAND. No. 49.

Report of Judge Pinsent, Labrador Court, 1873, to His
Excellency, Col. Stephen J. Hill, C.B., Governor of
Newfoundland, etc., etc.

St. John's,
December 31st, 1873.

SIR,

I have the honour to make my annual circuit report to Your
Excellency.

I sailed from St. John's on the 17th of June last, in the
schooner "William Stairs," Hackett, master—vessel employed
by the Government as a revenue ship on the coast of Labrador.

Messrs. Knight—Collector of Customs—Canning and
Stephenson, Sub-Collectors, together with Mr. Frederick
Crowdy, a medical student of the University of Edinburgh,
who was employed by the Government to vaccinate the
resident inhabitants of Labrador, were my fellow passengers.

We proceeded north-about, and after harbouring several
times on our way, owing to contrary winds and obstruction
from ice, we arrived at Red Bay, Labrador, on the 8th July.

After landing Messrs. Canning and Stephenson at Blanc
Sablon, our vessel proceeded northward, and during the whole
season continued cruising along the coast of Labrador, visiting
the various settlements from Blanc Sablon to Hamilton Inlet,
inclusive. On the 11th of October, we returned to St. John's.

The legal cases brought before me during the circuit were:

5 for debt,
2 sureties of the peace,
2 injuring nets,
1 title to land,
1 larceny.

In many matters I am applied to by the people for
information and advice, and thus disputes are adjusted and
litigation avoided. Although the cases tried are few, the fact of
the annual presence of the court is beneficial and important in

the prevention of offences.

The general conduct both of the residents and of the fishermen at Labrador during the fishing season, is very creditable to them; few serious offences are committed; and there is on the whole but little disorderly behaviour.

This season we went in our vessel where I had not been before, to the N.W. River at the head of the magnificent bay called Hamilton Inlet, for the purpose of enabling Mr. Crowdy to vaccinate the Indians belonging to the Hudson's Bay Company, who have their principal Labrador establishment there, and where Mr. Connolly, their chief officer, resides. It was owing to his representation and request last year, that the Government determined to send a medical man to Labrador, for the purpose of vaccinating the inhabitants. Mr. Crowdy performed the operation on all the Indians here assembled, nearly two hundred men, women and children. These Indians are from Canada and the Mountaineer race—they speak the Indian language and follow the Indian mode of living. It was curious and interesting to see them encamped in their birch-rind covered wigwams, at N.W. River, employed in building and repairing canoes and other work, preparatory to their journey into the interior of the country for hundreds of miles, on their annual furring expedition, for which purpose they are supplied by the Hudson's Bay Company. In these journeys all go—men, women and children; they travel by land and water, ascending rivers, crossing lakes and passing through woods and over barrens. They start from N.W. River in the summer and return the following spring with their catch of furs. They are Roman Catholics and are attended by a clergyman who comes down for that purpose every summer.

These Indians are quite a different race from the Esquimaux who inhabit the north coast of Labrador, and who generally occupy themselves in catching fish and seals.

Our visit was very satisfactory to all concerned. We ourselves were interested and amused by the scenery and by the Indians. Mr. Connolly was gratified by the attention paid by the Government to his application, and the job was well carried out by Mr. Crowdy.

While on this subject I beg leave to recommend to the Government what would be very useful and acceptable to the residents to those resorting to the Labrador during the fishing season, that a medical man should be sent in the circuit vessel for the purpose of attending to cases among the thousands of people congregated there in the summer. There is no doctor residing on the coast of Labrador. The medicines supplied by the Government to me, I disposed of as usual among the people, to whom they were of great use and highly valued.

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EDUCATION.

Five schools were in operation this year at Labrador, viz.:—

Place.	Teacher.	Time.	Scholars.	Salary.
Pinware.	Mrs. O'Dell.	Summer and winter.	30	\$80
Red Bay.	John Bailey.	do.	20	80
Cape Charles.	Laura Young.	do.	26	40
Battle Harbor.	Thomas Ward.	do.	36	100
Matthew's Cove.	Mary Marshall.	Summer only.	70	40
				\$340

The people of the United States seem to have given up, as a fishing station, that part of Labrador comprised within the limits of the Newfoundland Government.

The Mail Packet Service at Labrador was this season satisfactorily carried out. The steamer "Walrus" employed, was built to do the work properly, and her master, Capt. Delaney, was in all respects well qualified for his duty.

(Signed) ROBERT JOHN PINSENT,
Judge of the Court of Labrador.

Privy Council Documents

Volume III Contents

No. 541.

[1874.]

Retiring allowances.

EXTRACT FROM AN ACTION TO PROVIDE FOR THE RETIREMENT OF CERTAIN OFFICIALS OF THE GOVERNMENT.

(Passed 29th April, 1874)

SECTIONS 1. RETIRING ALLOWANCES. 2. PART OF ACT 36, VICTORIA, CAP. 14, REPEALED.

Robert J. Pinsett.

NEWFOUNDLAND ACTS. 1874. 37TH VICTORIA, CAP. XII.

Part of Act 36 Victoria Cap. 14 repealed.

Be it enacted by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows:

There shall be paid annually, in quarterly payments, to the several persons hereafter mentioned, for their respective lives, out of the General Revenue of this Colony, to commence at such time as may be appointed therefore by the Governor in Council, the following Pensions, to wit:

* * * *

Robert John Pinsent, Judge of the Court of Labrador, the Sum of One Thousand One Hundred and Fifty-four Dollars, per annum.

* * * *

II. So much of the Act 36 Victoria, Cap. 14, as provides for a deduction of One Hundred and Seventy-three Dollars and Twenty-three Cents, from the Salary of the Successor in Office of Benjamin Sweetland, late Stipendiary Magistrate at Trinity, shall be repealed.

ACTING JUDGE McNEIL'S REPORT, 1874.[31 Dec.,
1874.]COLONIAL OFFICE RECORDS 197/60. JOURNAL OF THE ASSEMBLY,
NEWFOUNDLAND. Appendix.

31 December, 1874.

Report of I. L. McNeil, Esq., Acting Judge of the Court of
Labrador.To His Excellency Sir Stephen Hill, C.B., K.C.M.C.,
Governor and Commander-in-Chief in and over the Island
of Newfoundland and its dependencies.

SIR,—

I have the honour to make my circuit report for the information of Your Excellency and Council; Having been appointed Judge of the Court of Labrador I sailed from St. John's on the 9th June in the revenue cruiser "Voyager," Giles, master, in company with Mr. Knight and Mr. Stevenson, Collectors of Customs of the Coast of Labrador.

We succeeded in getting over to the Labrador coast on the 27th June, and anchored at Blanc Sablon, where we landed Mr. Stevenson, and then proceeded northward to Hamilton Inlet, arriving there on the 30th July, calling on our way north at the principal harbors and fishing stations, and attending to our official duties, during which I had frequent occasion to offer advice in the settlement of disputes between the residents of the coast.

On our return from the north, we arrived at Battle Harbor, 22nd September, where I found several parties awaiting my presence to hear and settle their complaints. After getting through our business here I landed from the revenue cutter, Mr. Knight having to go in that vessel to the French shore for the purpose of completing census returns on that part of the coast. I took passage on the mail steamer "Leopard" for St. John's, where I arrived on the 2nd October.

The salmon fishery on the sea coast was unusually good, while in the rivers and northern bays, it was quite a failure, more especially in Sandwich Bay and Hamilton Inlet.

Owing to a succession of unfavourable fisheries of late years, the resident population of Labrador had, (with few exceptions) become impoverished in their circumstances, and many of them found it difficult to procure necessary supplies for the support of their families.

The supply of books and medicines furnished by the Government for the poor, was distributed by me principally to the settlers of Sandwich Bay and Hamilton Inlet, who made anxious enquiries for them, and appeared very grateful for the attention bestowed upon them in this respect. Medicines especially are a valuable boon to the poor people on that coast, many of Whom have no other means of getting a supply.

Eight public schools were in operation in Labrador during the year, viz:—

Forteau,
Pinware,
Red Bay,
Cape Charles,
Matthews Cove,
Battle Harbor,
Little Harbor,
Venison Tickle,

I visited some of the schools and found a fair attendance of children who appear in most cases to be making some improvement.

I received returns from all the schools except that of Venison Tickle. I I [sic] transmitted the returns to the Colonial Secretary. The legal cases brought before me during the circuit were four.

For debt and damages — one,
For trespass — two,
Assault and battery — one,
One bastardy,
One larceny.

I have the honour to be, Sir,
Your most obedient servant,
ISRAEL L. McNEIL,
Acting Judge of the Court of Labrador.

Carboner, [sic]
December 31st, 1874.

[19 July,
1875.]

MINUTE RESPECTING APPOINTMENT OF JUDGE.

Page 75, No. 6 RECORD BOOK, 1874 to 1883.

July 19th, 1875.

The Executive were of opinion that under present circumstances the appointment of Judge of the Labrador Court may be dispensed with this year, its further continuance to be a matter for the future action of the Legislature.

STEPHEN J. HILL.

Read and approved the 22nd July, 1875.

AFFIDAVIT OF CLUNY MACPHERSON, G.M.G.. M.D.[18 March,
1926.]In the Privy Council.IN THE MATTER of the BOUNDARY
betweenthe DOMINION of CANADA and the
COLONY of NEWFOUNDLAND in the
LABRADOR PENINSULA.

I, CLUNY MACPHERSON, C.M.G., M.D., of 65 Rennie's Mill Road, St. John's Newfoundland, medical practitioner, make oath and saw as follows:—

1. I served as a medical officer on the Labrador for a period of nearly 3 years between 1901 and 1904. I went there originally as a medical missionary with Dr. Grenfell and was then employed by the Newfoundland Government to prevent the spread into Newfoundland Labrador of an outbreak of small-pox in Canadian Labrador. In the course of this work I vaccinated many persons in Newfoundland Labrador and made journeys into Canadian Labrador to treat small-pox cases as there was no medical officer there. After this work I rejoined the Grenfell Mission until my return to general practice in St. John's Newfoundland in 1904.

2. While on the Labrador Battle Harbour was my headquarters. I went as far West as Bradore some miles West of the boundary, between Newfoundland and Canada, and as far north as Rigolet. I did not go further north since there was a doctor at North West River and another with the Moravians at Hopedale. I used to spend both winter and summer on the Labrador. I exercised authority there under a commission appointing me a Justice of the Peace. I was also appointed a Commissioner of the Newfoundland Supreme Court. I tried cases alone and in conjunction with Dr. Grenfell. There was never any difficulty in enforcing our decisions, which were accepted without question.

3. I was also empowered by the Newfoundland Government as Relieving Officer to relieve cases of distress at the Government's expense When I thought such a course desirable. I frequently availed myself of this authority, the traders on the Labrador furnishing the necessary supplies at my order and claiming the price from the Government. I relieved Indians and Eskimos when necessary as well as white settlers.

4. I further held the magisterial enquiries, which are equivalent in Newfoundland law to coroner's inquisitions, in the case of deaths in Newfoundland Labrador when it seemed necessary.

5. In my time the river at Blanc Sablon was generally assumed to be the boundary between Newfoundland and Canadian territories. Accordingly when I was in 1902 trying to prevent the spread of small-pox I had the bridge over the river destroyed and stationed a policeman on the Newfoundland side and also put up a notice prohibiting intercourse from the Canadian side.

6. From my experience I should say that the Newfoundland Government did more for Newfoundland Labrador than the Canadian Government for Canadian Labrador, Newfoundland maintained a weekly steamboat service for all the settlements on Labrador along Belle Isle Strait and a fortnightly service from Battle Harbour to Nain during the summer months. Canadian Labrador had no regular service but only two visits a year from the Canadian Revenue Cruiser. Telegraphic communications on Canadian Labrador is by means of a land line down the coast from Quebec to Red Bay. Newfoundland maintains a similar service by wireless stations in her territory, the Canadian authorities have done no more than the Newfoundland Authorities to develop the interior country.

7. It is true that Canadian Labrador is included in an electoral district whereas Newfoundland Labrador is not, but I never heard of any person East of the R. Natashquan exercising his vote or being canvassed or taking any active part in politics.

8. I Further say from my experience of the Labrador that the permanent settlers, who live at the heads of the bays, live in the winter almost entirely on hunting and trapping for furs and that this occupation takes them like the Indians far into the interior. So far as I can see this must always have been so ever since settlers have been on the Labrador, for no other means of livelihood than furring is available for them in the Winter.

Sworn at St. John's in the Colony
MACPHERSON.
of Newfoundland this 18th day
of March 1926,

CLUNY

Before me,
SIMON BUTLER,
A Commissioner for Oaths.

[18 March,
1926.]**AFFIDAVIT OF JOHN GRIEVE, M.D.**

In the Privy Council.IN THE MATTER of the BOUNDARY
betweenthe DOMINION of CANADA and the
COLONY of NEWFOUNDLAND in the
LABRADOR PENINSULA.

I, JOHN GRIEVE, M.D., of 282 Duckworth Street, St. John's Newfoundland, medical practitioner, make oath and saw as follows:

1. I joined the Grenfell Mission in 1906 and was for more than 10 years 1906-1916 on the Labrador, being for two seasons on Canadian Labrador. I was away on vacation for two winters during those 10 years but was otherwise continuously on the Labrador.

2. On the Canadian Labrador I was for 15 months at Harrington Hospital. At the same time I was Indian agent for the Canadian Government with jurisdiction over the Indians between Natashquan and Blanc Sablon.

3. During my time on the Labrador I traversed the whole of the peninsula from Eskimo Point opposite Anticosti to Okkak. The Belle Isle Strait section and the section from thence northward to Hamilton Inlet I travelled several times. I used to travel with dog teams from the beginning of January till the middle of April and must have met every family in the region.

4. As Justice of the Peace under the Newfoundland Government from 1909-1916 I tried various cases. During the destitution in the winter of 1909-10 I authorised business houses to furnish relief to the people and the Newfoundland Government endorsed my action in the following spring.

[20 March,
1926.]

Government does more for Newfoundland Labrador than the Canadian Government for Canadian Labrador I have read the affidavit sworn herein by Dr. Cluny Macpherson on the 18th day of March 1926 and I agree with what he says in paragraphs 6, 7 and 8 thereof.

SWORN at St. John's Newfoundland JOHN GRIEVE, J.P.
this 18th day of March 1926, M.B.C.H.B.

Before me,
SIMON BUTLER,
Commissioner of Affts.

No. 546.

N

20th March, 1926—**AFFIDAVIT OF FEDERICK
COLMAN BRIEN.**

Vide Part VIII B, No. 415, p. 1296.

[8 June,
1926.]**AFFIDAVIT OF FRANCIS CYRUS BERTEAU**In the Privy Council.

IN THE MATTER of the BOUNDARY
between

the DOMINION of CANADA and the
COLONY of NEWFOUNDLAND in the
LABRADOR PENINSULA.

I, FRANCIS CYRUS BERTEAU of St. John's, Newfoundland,
Comptroller and Auditor General of Newfoundland, make
Oath and say as follows:—

1. In 1881 I was appointed by the Newfoundland
Government Collector of Customs at Rigolet and Magistrate
for Labrador, and held the appointment for nine years.

2. During those years the Hudson's Bay Company were the
principal direct importers to Labrador but Nova Scotia traders
also visited the coast. We made them all pay duties to the
Newfoundland Government. As far as the Hudson's Bay
Company was concerned we collected duties in respect of
goods intended for use at Rigolet, North West River,
Cartwright, Davis Inlet, Nachvak or for trading with the
Indians in the interior, but not on those intended for use at
Ungava, which was looked upon as No Man's Land. When the
goods for the Company were of American origin they were
brought from Canada in bond and when they had been landed
and duty paid I cancelled the bonds. Tobacco and other
material from Canada on which excise duty would be payable
if it was put into consumption was similarly dealt with. Where
the goods were of Canadian production I levied duties on them
just as if they were coming into a port in the island of
Newfoundland.

3. On several occasions I went up North West River and up
the lakes and streams and saw the Indians who came out each
summer.

4. I performed magisterial duties where necessary. I remember determining a dispute between Fortescue, chief factor of the Hudson's Bay Company, and McLean, in relation to the alleged barring by the latter of the River Kinnamish against Salmon. I decided after enquiry that Fortescue's claim failed.

5. The Newfoundland Government always looked after the interests of the people and provided relief for them when required. In the Hamilton Inlet and at Sandwich Bay this relief was administered through the Hudson's Bay Company.

F. C. BERTEAU.

Sworn at St. John's, Newfoundland,
before me, this 8th day of June,
1926.

ROBERT ALSOP,
Commissioner.

F.—COLLECTION OF REVENUE.

[13 June,
1822.]

No. 548.

APPOINTMENT BY GOVERNOR HAMILTON

**TO COLLECT GREENWICH HOSPITAL
DUTY ON LABRADOR COAST.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 32, page
468.

Fort Townshend, 13th June, 1822.

An Appointment to collect the Greenwich Hospital duty on
the Coast of Labrador was this day delivered to Lieut. Jas. Rd.
Booth, Commanding the Clinker Gun Brig.

C. HAMILTON,
Governor.

No. 549.

[1833.]

**ACCOUNT OF DUTIES COLLECTED ON COAST OF
LABRADOR, 1834.**

COLONIAL OFFICE RECORDS 197/2. JOURNAL OF THE ASSEMBLY,
NEWFOUNDLAND, 1835. Appendix.

An Account of all duties received at the Customs House from the 5th day of January, 1834, to 5th day of January, 1835, distinguishing the receipts of each quarter together with the detailed account of all monies paid or reserved by the Collector of His Majesty's Customs out of the amount of such duties.

Duties collected on the Coast of Labrador, 1833, £61 4s. 2d.

Customs Establishment.

Allowance at 25 per cent. for collecting duties on the coast of Labrador in the year 1833. £15 13s. 0d.

[29 June,
1836.]**LORD GLENELG TO GOVERNOR PRESCOTT.**Duplicate
No. 81.Downing Street,
29th June, 1836.

SIR,

I have to acknowledge the receipt of your despatch of the 24th May No. 31, enclosing two Petitions addressed to you by persons settled on the Coast of Labrador, deprecating the passing of a Bill which had been introduced into the House of Assembly of Newfoundland for regulating the Salmon Fishery of the Colony. As that Bill was not eventually presented to you for your assent, it is unnecessary for me to allude further to it, but I proceed to notice the other topic in these Petitions, to which you have invited my particular attention.

The Petitioners protest against the right of the Legislature of Newfoundland, in which they are not represented, to make Laws binding on them, and record their belief that they are still under the authority of the King in Council expressing at the same time their wish to remain so. In this view of their situation the Petitioners are evidently in error. By the Statutes 49, Geo. III., C. 27 & 6 Geo. IV., C. 59, as well as by the Royal Commissions to Sir Thomas Cochrane and to yourself, the Coast of Labrador to the Eastward of a line drawn due North & South from the Harbor of Ance Sablon to the 52° North Latitude is annexed to the Colony of Newfoundland. The authority therefore of the Legislature of Newfoundland to pass Laws for the Government of the Settlers at Labrador cannot be disputed; but at the same time the claim of those settlers to be represented in the Colonial Legislature demands, & ought to receive a deliberate consideration.

You will accordingly inform the Petitioners, while pointing out to them the error into which they have fallen, that you will be ready to recommend to the favourable notice of the Council and Assembly of Newfoundland any Petition which they may address to those Bodies, putting forward their Claim to be represented in the Colonial Legislature.

I have the honour to be, Sir,

Your most obedient, humble servant,

GLENELG.

Captain Prescott

No. 551.

**ACCOUNT SHOWING DUTIES COLLECTED ON
COAST OF LABRADOR, 1840.**[5 Jan.,
1841.]COLONIAL OFFICE RECORDS 197/3. JOURNAL OF LEGISLATIVE
COUNCIL. Appendix No. 31.

TREASURY ACCOUNTS.—J. Spearman, Collector.

Port St. John's.

Dr.	Consolidated Account Current of Receipts & Payments for the year ended 5th day of January, 1841.	Cr.
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1841 Jan. 5.	To duties collected on the coast of Labrador £136 0 6.
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Salaries. Elias Rendell, Labrador	£34 0 1
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No. 552.**LORD JOHN RUSSELL TO GOVERNOR PRESCOTT.**[4 March,
1841.]

FOREIGN LETTERS, RECEIVED, ST. JOHN'S, NEWFOUNDLAND.
Volume 17, page 431.

No. 97. Downing Street,
4th March, 1841.

SIR,

I transmit to you, herewith, the copy of a Memorial which has been addressed to me by the Merchants engaged in the Fisheries at Labrador, complaining of an attempt made by the Authorities of Newfoundland to exact payment of duties on that Coast; and I have to request that you will favour me with a Report on this subject.

I have the honour to be, Sir,
Your most obedient servant,
(Signed) J. RUSSELL.

Governor Prescott,
&c. &c.

No. 553.[*Enclosure in No. 552.*]

COLLECTION OF CUSTOMS DUTIES AT LABRADOR.

[4 March,
1841.]

FOREIGN LETTERS, RECEIVED ST. JOHN'S, NEWFOUNDLAND.
Volume 17, page 432.

[Copy.]

To the Right Honourable Her Majesty's Principal Secretary of
State for the Colonies.

The Memorial of the undersigned Merchants engaged in the
Fisheries on the Coast of Labrador,
Sheweth

That a Memorial was some months since presented to the
Honourable the Board of Trade a copy of which is sent
herewith, and to which they

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request Your Lordship's reference, but in consequence of the

Act complained of not having been passed, and sent home for approval, they are informed that the Board is unable to render them any assistance.

That altho the Act was not passed, a Collector has been appointed by the Governor of Newfoundland to receive duties on the Coast of Labrador, and he has accordingly exacted payment of them from several of your Memorialists. His Excellency having considered himself authorised to make such appointment from a despatch of Your Lordship's predecessor Lord Glenelg dated 29th June, 1836.

That your Memorialists would beg to observe with reference to this despatch, that altho there can be no doubt that the Coast of Labrador is by Acts of Parliament therein named, placed within the Jurisdiction of the Governor of Newfoundland, yet it by no means follows that it forms therefore a dependency of the Colonial Legislature, which was not in existence at the time these Acts were passed, and that his Lordship appears to have entirely overlooked the important fact that while the fisheries of Newfoundland are protected from all Interference on the part of other Countries, the British Fishermen on the Coast of Labrador have little more than a concurrent right of Fishery with those of the United States.

That the Governor of Newfoundland has not except during the few years that the Labrador Court annually visited the Coast, exercised any more than an Admiralty Jurisdiction there, one of H.M. Ships being sent round for a few weeks in the fishing seasons.

That there are on the Coast merely moveable fisheries without a Single Town or Village, and without one resident Officer of Justice, Police or Revenue of any kind, so that laws and regulations adapted to the wants of Newfoundland a long settled Colony with regular establishments of Justice, Police &c. would be quite inapplicable to Labrador.

That the attempt to impose duties on Articles employed in the fisheries is also directly opposed to the policy of the Government at home, whose object has always been to encourage them by allowing the import of all Articles used, by the fishermen free of all duties, which privilege is enjoyed by the fishermen of Nova Scotia & those of the United States with whom Memorialists have to compete, the latter being further assisted by bounties.

That the proceedings of the Collector during the past Season afford a striking proof of the injustice which must always result from an attempt to levy duties on the Labrador Coast. He has passed along the Coast in a small vessel calling only at the principal British establishments, or such of them as he thought fit or convenient, passing over all or nearly all, the numerous American traders having indeed no means of knowing whether or not they are engaged in trading or merely fishing Vessels. It is unnecessary to point out the various particulars of injustice which such a mode of proceeding must obviously produce, but it is clear that the mode adopted of levying duties is as unjust & oppressive in practice as the right assumed by the Authorities of Newfoundland is opposed to the

principles of Government & the established policy of the
Mother Country & that while adding to the burdens of the

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British Fishermen it confers a Benefit to the same extent on
those of the United States.

Your Memorialists therefore beg that your Lordship will
transmit such instructions to the Governor of Newfoundland as
may serve to prevent any further attempt at levying Colonial
Duties on the Coast of Labrador.

Signed By

C. & E. HUNT & CO.
EWEN STABB for John Stabb & Co.
D. & J. SLADE,
THOS. J. BIRD,
JOSEPH SOPER,
JOSEPH WILLS,
MATTHEW WARREN,
PHIL DE QUETTEVILLE & BROTHERS,
EDWARD LE FEUVRE,
PHILIP DUHEAUME & BROTHERS,
A. CLEMENTS,
L. BOUTELLIER & BROTHERS.

COLLECTION OF CUSTOMS DUTIES AT LABRADOR.

[4 March,
1841.]

FOREIGN RECORDS, ST. JOHN'S, NEWFOUNDLAND. Volume 17.

[Copy.]

To the Right Honourable the Committee of Privy Council
for Trade & Plantations.

The Memorial of the Undersigned Merchants trading with
and having Establishments on the Coast of Labrador.

Sheweth,

That your Memorialists who are extensively engaged in the
fisheries on the Coast of Labrador have recently learnt with
surprize that an Act has been passed in the Legislative
Assembly of Newfoundland, for levying Customs Duties on
that Coast on the various articles used for the purposes of these
fisheries, and Assembly claiming the power of imposing those
Duties on the ground that Labrador is a dependency of
Newfoundland.

That in the Royal Commission authorizing the formation of
the Colonial Govt. of Newfoundland, no mention is made of
Labrador nor is it included in either of the electoral districts
into which Newfoundland with the adjacent Islands was under
the Commission divided.

That since the Establishment of the Colonial Govt., no

Judge, Magistrate, or Officer of any kind has been sent to
Labrador from Newfoundland,

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no part of its Revenues are laid out there; nor, as your Memorialists believe, has any measure been attempted or proposed by which its fisheries could be encouraged or its interests in any way promoted.

That your Memorialists therefore are not represented in the Colonial Legislature, & have never derived any advantage from their assumed connection with it, and that if the present attempt to impose Duties be successful they will be compelled to contribute towards the expenses of a Govt. from which they receive no protection and derive no advantage whatever & with which in fact they are if at all, only nominally connected.

That in addition to what is above stated the Memorialists beg further to represent that their trade has for several years been much interfered with by trading Vessels from the United States, as well as British Colonies which every season visit the Coast in great and annually increasing numbers. And as from the nature of the Coast and other Circumstances, it is impracticable, without a large establishment of officers (which is not contemplated) to visit more than a very small proportion of the Harbours these traders would evade without difficulty the payment of the Duties which would be levied on the occupiers of the regular fishing establishments. Thus the Act lately passed, if allowed to be carried into effect, would most oppressively & unjustly add to the difficulties under which the Memorialists labour in their competition with the privileged fishermen of the United States, & would in effect encourage the rival trade of that Country at the expense of the British Fishermen.

Your Memorialists therefore respectfully beg that your Honourable Board will be pleased to take the necessary steps for procuring the disallowance by Her Majesty's Government of the Act of Colonial Legislature above referred to, and in order to prevent its being acted on during the fishing season now commencing, will cause directions to be immediately transmitted to the Governor of Newfoundland to suspend any appointment of proceedings under the said Act.

And your Memorialists will ever pray.

Signed by:

D. & J. SLADE,
THOS. J. BIRD,
JOSEPH SOPER,
JOSEPH WILLS,
MATTHEW WARREN,
N. CLEMENTS,
PHIL PIRONET,
JAS. LE BREEN,
C. & E. HUNT & CO.,
EWEN STABB for Stabb & Co.,
PHIL DE QUETTENVILLE & BROTHERS,

PHIL BREE,
EDWD. RENOUF,
EDWD. LEFEUVRE.

No. 554.

[7 May, 1841.]

GOVERNOR PRESCOTT TO LORD JOHN RUSSELL.

C.O. RECORDS, 194/111, Nfld. 951.

Government House St John's,
Newfoundland 7th May 1841.

MY LORD,

I have the honor to acknowledge the receipt of your Lordship's Despatch of 4th of March No. 97 and in reply I must in the first place beg leave to bring under your Lordship's notice my letter of May 24th 1836 No. 31 and Lord Glenelg's answer thereto of the 29th of June 1836 No. 81. The Memorial of certain Merchants addressed to your Lordship on which my Report is now required refers to Lord Glenelg's said letter and impugns His Lordship's reasoning, but until I am better informed I must believe that every part of this Government, in which a large portion of the Labrador Coast is included, is subject to the Laws whether fiscal or otherwise of the Colonial Legislature by an early act of which the Labrador Court which had existed for several years was abolished in June 1834.

The accompanying copy of a letter from the Collector of the Customs dated the 20th of May 1840 will explain to Your Lordship the circumstances under which Mr. Rendell was appointed Sub-Collector on the Labrador Coast during the last Summer. The machinery of collection was doubtless imperfect and the receipts were not large. Many who ought to have paid duties may have evaded that obligation—but nothing, I conceive, was exacted that was not strictly due.

Having referred your Lordship's Despatch with its accompanying Documents to the Collector of the Customs I append his Report thereupon.

I have &c.
(Signed) H. PRESCOTT.

GOVERNOR PRESCOTT.

SIR,

4 March/41.

I transmit to you, herewith, the copy of a Memorial which has been addressed to me by the Merchants engaged in the Fisheries at Labrador, complaining of an attempt made by the Authorities of Newfoundland to exact payment of duties on that coast; and I have to request that you will favor me with a Report on this subject.

I have &c.

[4 March,
1841.]

[5 July,
1841.]

**LETTER FROM SECRETARY OF STATE *re*
APPLICATION OF NEWFOUNDLAND LAWS TO
LABRADOR.**

Downing Street,
5th July, 1841.

SIR,—

With reference to my letter of the 2nd of last March acquainting you that the Memorial enclosed in your letter of the 25th of February preceding, which complained of an attempt of the authorities of Newfoundland to levy duties on the Labrador Coast, would be referred to the Governor of the Colony for his Report, I am desired by Lord John Russell to inform you that the Report which has been lately received from the Governor gives His Lordship no reason to doubt that the Labrador Coast, as a dependency of Newfoundland is subject to the same laws, whether fiscal or otherwise, to which every part of the Island is amenable; and that, although from the imperfect machinery of the Collection, some parties on the Coast of Labrador may have evaded the duties, no payment has been exacted that was not strictly due.

I have, etc.,

(Sd) R. VERNON SMITH.

C. HUNT, ESQ.

No. 556.[10 March,
1842.][*Enclosure 1 in No. 555.*]**CHAS. HUNT TO LORD STANLEY.**

Princes Hall,
Old Broad St., 10th march, 1842.

MY LORD,

On behalf of the Merchants engaged in Fisheries on the Coast of Labrador, I beg to call Your Lordship's attention to the accompanying Copies of their Memorials to Your Lordship's Predecessor complaining of an attempt by the Authorities of Newfoundland to levy Colonial duties on the Labrador Coast. The facts stated in the Memorial are briefly as follows.

That the Coast of Labrador is not at all referred to in the Royal Commission authorising the formation of a Colonial Legislature in Newfoundland and is not included in either of the Electoral Districts into which that Colony is divided. That no part of the Revenue of Newfoundland has ever been laid out in Labrador. That no public Officer whatever of Justice, Police or otherwise (except the Collector of Customs) resides on that Coast or is even sent thither. That the British Fishermen have little more than a concurrent right in Labrador with those of the United States, the latter having by Treaty permission to fish on any part of the Coast, of which they avail themselves largely, and at the same time engage in trading with goods on which no duties are or can be levied. The effect therefore of exacting duties from the British Merchant, is simply that of encouraging the American fisheries and injuring our own. Your Lordship will observe that the reply of Lord J. Russell states merely his belief that Labrador as a dependency of Newfoundland is legally subject to the duties levied in that Colony. Admitting that this view is correct which the Memorialists are advised is not the case) they would beg Your Lordship's interference under the circumstances above mentioned, to take such steps as may be necessary for their relief. In the meantime I am to request your Lordship will cause instructions to be sent to the Governor of Newfoundland to desist from the attempt to enforce payment of the duties complained of, which His Excellency last season intimated through the Collector of Customs his intention of doing in the coming Season, and as the Vessels engaged in Labrador Fisheries will leave this Country during April and May, I would respectfully beg your Lordship's early attention to the subject.

I remain, &c.,
(Signed) CHAS. HUNT.

The Rt. Hon. Lord Stanley,
&c. &c.

No. 557.

N

[*Enclosure 2 in No. 555.*]

[2 March, 1841.]

CHA^S HUNT, Esq.

2 March 1841.

SIR,

I am directed by Lord John Russell to acknowledge the receipt of your letter of the 25th ult^o, together with the memorial from the Merchants engaged in the Labrador Fisheries, complaining of an attempt made by the Authorities of Newfoundland to exact payment of duties on that Coast: and I am to inform you that his Lordship will transmit the Memorial to the Governor of Newfoundland for his report.

I have &c.

C. HUNT, Esq.

5 July 1841.

SIR,

With reference to my Letter of the 2nd of last March; &c.
[*See printed book of extracts. Copyist's note.*]

* * * * *

[4 May, 1841.]

No. 558.

N

[*Enclosure 3 in No. 555.*]

THE HONOURABLE THE COLONIAL SECRETARY.

Custom House

Saint John's 4 May 1841.

SIR,

His Excellency the Governor having referred to me a Despatch of the Right Honorable the Secretary of State for the Colonies, together with Copies of two Memorials from certain Settlers and Traders at the Labrador with a request that I will make such observations on those documents as will in my opinion assist Her Majesty's Government in coming to a decision on the subject to which they refer.

I would most respectfully observe that the parties to those Memorials appear to labor under a misconception as to the object and intention of the Bill to which they refer in their Memorial to the Board of Trade—the object of that Bill was not the imposition of duties on the Trade of Labrador, each and every Revenue Bill passed by the Legislature from its institution on the first of January 1833 to the present time having provided that the same duties should be raised levied and collected at the Labrador as in the other districts and dependencies of the Colony, but to enable His Excellency to appoint a permanent officer to collect them.

I would also observe that the question raised by these parties, is not raised now for the first time. In the year 1837,

during my absence in England the Acting Collector acting on the opinion of Her Majesty's Attorney General levied the duties, both Imperial and Colonial, on the Cargo of a Vessel belong-

p. 1499

ing to one of the parties to these Memorials which Duties were in ordinary course paid over to the Treasurer of the Colony.

Against this proceeding on the part of the Acting Collector those parties appealed, by Memorial to the Board of Trade, and I have reason to believe they were then informed that the duties in question were due, and that the Acting Collector had only done his duty in levying them.

The correspondence connected with this transaction may perhaps be made available on the present occasion in as much as it will enable the Governor to bring under the consideration of the Government its former decision. I have therefore the honor to enclose Copies of it for His Excellency's information.

I have &c.

J. McMILLAN (?).

* * * * *

No. 559.

N

[*Enclosure 4 in No. 555.*]

[25 July,
1837.]

THE HONORABLE THE COMMISSIONERS
H.M. Customs, London.

Custom House
St John's Newfoundland
25 July 1837.

HONOURABLE SIRS,

We have the honor to report to your Honorable Board that on the 19 Ultimo the Brig "Visitor" Luscomb Master from Liverpool arrived at this Port having on board supplies for the Fisheries also,

15 puncheons B.P. Rum &c.

* * * * *

all of which articles were accompanied by cockets cleared for Newfoundland and the Labrador at which latter place there is no officer stationed, and not being exempt from duty for the Fisheries, We considered it imperative on us to levy the same, and in doing which we experienced much opposition both from the Master and the Super Cargo, who pretended to be ignorant as to what Port the Vessel was bound, and said they had come in here for orders, but this Statement we regarded as a mere subterfuge as the Super Cargo is son of one of the owners, and who is also owner of the Establishment on the Labrador Coast.

Under these circumstances we deemed it expedient to apply for the Attorney General's opinion thereon, Copy of which we herewith enclose and beg to state that in accordance therewith, We levied the duties, which were paid by the Super Cargo under protest.

We have &c.

EDW^D F. STEWART,
Act^s Coll.

GEO. BAYLY, Comp.

No. 560.

N

[*Enclosure 5 in No. 555.*]

[22 June,
1837.]

THE HONOURABLE MR. SECRETARY CROWDY.

Attorney General's Office

22 June 1837.

SIR,

In obedience to the directions of His Excellency the Governor conveyed to me in your letter of yesterday's date I have the honor to acquaint you for the information of His Excellency, that having carefully considered the facts and circumstances set forth in the Statement of the Case of the Brig Visiter (Luscomb) made by the officers of Customs, under date of the 21 Inst. I am humbly of opinion that in such a Case under the 16 Sec. of the Act 3 & 4 W. 4. C. 59 this port of St Johns may properly be considered the port of that Vessel's arrival within this Colony, the Vessel being bound and goods cocketed and cleared at Liverpool (England) for Newfoundland and Labrador, the latter being a dependency of this Government, and therefore that the Officers of H.M. Customs are justified in requiring the Goods on board the Visiter destined for importation into this Colony, to be entered and duties paid at the Customs of this Port.

I have &c.

(Signed) JAMES SIMMS.

[29 Dec.,
1837.]

No. 561.

N

[*Enclosure 6 in No. 555.*]

C. SCORELL, Esq.
Custom House
London.

Custom House, St John's

Newfoundland, 29 Dec. 1837.

SIR,

We have the honor to acknowledge the receipt of your letter (No. 43) of the 31 October last, in reply to ours of the 25 July preceding (No. 34) respecting the duty to be charged by us on certain goods imported in the Vessel "Visitor" from Liverpool and directing us to report whether the Master of the Vessel in question upon his arrival reported his cargo for Labrador or for Saint Johns.

In compliance with your directions we beg to state that the Master of the above named Vessel on his arrival here reported his Cargo for Labrador.

We have &c.
(Signed) E. F. STEWART,
Act^g Coll.
GEO. BAYLY, Comp.

[31 Oct.,
1837.]

[*Enclosure 7 in No. 555.*]

GENTLEMEN,

With reference to your Report dated the 25th July last No. 34 relative to your having charged the duty upon certain Goods brought to your port in the Ship "Visitor" from Liverpool.

I have it in command to direct you to report whether the Master of the Vessel in question upon his arrival at S^t Johns reported his Cargo for Labrador or for S^t Johns.

I am Gentlemen &c.

C. SCORELL.

Custom House

London

31 October 1837.

Endorsed: Newfoundland No. 40. 7 May 1841.

Gov. Prescott.

In reply to Lord John Russell's despatch No. 97 relative to the Gov^t of the Labrador Coast & the right to collect Customs' duties there.

LORD STANLEY TO GOVERNOR HARVEY.[20 March,
1842.]

DESPATCHES RECEIVED, ST. JOHN'S, NEWFOUNDLAND, 1842.

No. 46.

Downing Street.
20 March, 1842.
(Recd. 24th April.)

SIR,

I have the honour to transmit to you the copy of a letter which I have received from Mr. Charles Hunt, with its enclosure complaining of an attempt made by the authorities of Newfoundland to levy Colonial duties on the Labrador Coast.

Although I find that my Predecessor investigated a similar complaint, preferred by Mr. Hunt on behalf of the Merchants engaged in the Fisheries on the Coast of Labrador, I am ready to reconsider the subject of the present representation. I have accordingly to desire you to examine into the circumstances of the case; and the Authorities relied on by the Executive Government of Newfoundland, which would justify the collection of the duties in question on the Coast of Labrador, and report to me the result of your enquiry with as little delay as possible.

I have the honour to be, Sir,

Your most obedient servant,

(Signed) STANLEY.

Major General

Sir John Harvey, K.C.B.

&c. &c.

JAMES SIMMS TO THE GOVERNOR.

[14 May,
1842.]

DUPLICATE DESPACHES, ST. JOHN'S, NEWFOUNDLAND, 1842-3.

Attorney General's Office,
St. John's, 14th May, 1842.

SIR,

I have the honour to submit to his Excellency the Governor my Report on the subject of the Customs duties payable on Imports upon the Coast of Labrador.

The absence of the Solicitor General from St. John's prevented me conferring with him on the subject, and after waiting some time for the return, I considered that, as there did not appear to me to be any difficult or obscure points involved in the matter, it would be desirable to supply my own report rather than delay for a longer period the object of His Excellency's wishes.

I have &c.
(Signed) JAMES SIMMS.

To the Hon. Mr. Secy. Crowdy.

[May
1842.]**REPORT OF H.M. ATTORNEY-GENERAL OF
NEWFOUNDLAND RELATIVE TO CUSTOMS
PAYABLE AT THE LABRADOR.**

A. D. 1809.

A. D. 1811.

DUPLICATE DESPATCHES, ST. JOHNS'S, NEWFOUNDLAND, 1842-3.

A. D. 1824.

In order to fulfil the Commands of His Excellency the Governor by explaining to him the authorities under which I conceive the Customs duties on the Coast of Labrador have been levied, I shall endeavour to present a concise history of their origin, and of the operations that have been pursued through a series of years, in order to collect the duties in question. By the 14th Section of the Imperial Statute 49 Geo. 3 Cap. 27, the Coast of Labrador from the River St. John to Hudson's Streight, and the Island of Anticosti, together with certain other smaller Islands were re-annexed to the Government of Newfoundland.

A. D. 1834.

A. D. 1825.

The Imperial Statute of 51st *Geo. Cap* 45 authorized the Governor to institute Surrogate Courts of Civil Inducature on the Coast of Labrador which Courts established and continued through a series of years, when the Imperial Act of 5 Geo. 4 Cap 67 was passed, "for the better administration of Justice in Newfoundland, and for other purposes and by the 18th Section of this Act, the institution of Surrogate Courts on the Labrador was abolished and another species of Court of Civil Judicature was instituted, which Court subsisted until the Colonial Act of 4th Wm. 4 (2nd Sep.) Cap 20 repealed its great expense compared with the small advantages which it was conceived the public derived from its administration. No Court has been since substituted in its place.

The Commission conferred on Governor Sir Thomas Cochrane who entered on his Government in October 1825 narrowed the boundaries of that part of the Coast of Labrador thence before annexed to the Government of Newfld. and defined the boundaries to be and extend from the entrance of Hudson Straits, to a line to be drawn due North and South from Anse Lablon on the said Coast, to the 52nd degree of North latitude, and comprising also all the Islands adjacent to that part of the said Coast of Labrador, which boundaries have been continued and set forth in all the Commissions subsequently issued to the Governors of this Colony.

I have had recourse to the documents in the Custom House here, but have been unable to ascertain the year when duties were first collected on

the Coast of Labrador, the extracts however which I have obtained from such documents as I can procure access to, show the amount of duties collected from the year 1826 to 1840, and copies of certain correspondence between the Officers of Customs and the Board of the Commissioners of Customs, will explain, in some degree, the causes which have operated at intervals to suspend the collection of the duties, which consisted chiefly in the difficulty of getting a person competently qualified by character &c. to undertake the collection, and at same time afford him an adequate compensation for his trouble, to which must be added the want of means for his conveyance from place to place, sea-ward along a Coast of considerable extent. During the latter three years that the Court of Civil Judicature exercised its functions, the vessel which served to convey the Judge and Officers of the Labrador Court, was availed of to convey an Officer also to collect the duties of Customs. The extracts from the Customs here referred to I beg leave to submit herewith, under the imperfect system which has been pursued, if system it may be called, it may be reasonably assumed that the duties have not at any period been efficiently collected. The duties in question are those which are levyable under the provisions of certain Acts of the Imperial Parliament enumerated in the accompanying extracts from Customs Documents, and those also which are prescribed in the annual Revenue Acts of the Colonial Legislature which are made operative throughout the Island of Newfoundland and the Dependencies of its Government.

I humbly conceive that it can scarcely be doubted that certain goods when imported on the Coast of Labrador within the Government of Newfld. are legally subject under the several Acts of the Imperial Parliament, and also under the Legislative enactments of the Colony, to the payment of certain duties specified under those authorities, and I also believe that for the protection of the public Revenues and also for the protection of the fair Trader, it is essential that such duties should be efficiently collected. Besides those Establishments on the Labrador belonging to persons exclusively resident in England and Jersey, there are numerous trading and fishing Establishments on the Coast belonging to persons resident in Newfld., and carrying on business at St. John's and other places intermediate between that place and Twillingate, and it is too notorious to be questioned that illicit trade prevails to a considerable extent on that Coast on the import of goods without payment of duty, which was vended and brought into Newfld. by the *numerous* vessels employed at the Labrador which are outfitted chiefly at St. John's and in Conception Bay, Trinity, Greenspond, Fogo and Twillingate and which are cleared out at the Customs "for the Fisheries" under the provisions of the 19th Section of the Imperial Statute 3 & 4 Wm. 4 Cap. 9, but whose people constantly deviate from the *conditions* of such fishery-clearance, and enter into traffic.

It is equally true that vessels of the United States and French Vessels also pursuing the fisheries on the Coast of Labrador, and also vessels our any neighbouring Colonies practice such illicit trade and cause serious injury to the Newfld. Merchants, in the Barter of goods, which have paid no duties, for fish caught by British fishermen, thus inflicting

p. 1506

a double wrong in cheating the Merchant of fish which he ought to receive and defrauding the Revenue of the Customs duties.

While Newfld. continued to be a Naval Station for H.M. Ships, the numerous cruisers operated powerfully to check such illegal practices; but subsequently no provision has been made or efficient means adopted to prevent those injurious practices, and the consequence has been as in all such cases may be reasonably expected, that illicit trade on the Labrador has prevailed to a very injurious extent.

Among the names of parties to the representations made in England to H.M. Secy of State for the Colonies, I observe the firm of D. & J. Slade. The Messrs. Slades are among the oldest Houses established in Newfld. and carry on business at Fogo, Twillingate, and Greenspond, with which locations their establishments at Grady Harbor and Francis Harbor &c. on the Labrador are in immediate connexion, Mr. John Stabb is also of the firm of Stabb Row & Holmwood of St. John's, and Messrs. C. & E. Hunt until very recently were connected with a Mercantile House in St. John's.

The duties which have been made the subject of complaint by certain Labrador Merchants, are thus seen to be such that are imposed under certain Imperial Statutes on the Newfld. trade and Fisheries generally in common with the fisheries and trade of other British North American Colonies; and also certain other duties imposed by the Colonial Legislature of Newfld. on the trade and fisheries of this Colony in particular; and I am of opinion that it would be very difficult to show that any portion of the dependencies of this Government are entitled to claim an exemption from those duties. I am however of opinion that it is very desirable that the duties on the Labrador should be more punctually collected, and that there should be a sufficient number of small cruising vessels employed on that Coast during four months of the Summer for the protection of the Revenue in the prevention of illicit trade and the fraudulent traffic between British fishermen and those of France and America.

The amount of Labrador Revenue collected may appear small, compared with the expense incident to its collection; but I consider that it is essential that the duties nevertheless ought to be collected more punctually on that Coast, and the unlawful traffic prevented, in order to frustrate the practices of the fraudulent trader, which spread a demoralizing influence through all classes, whether Merchants, Planters or Fishermen, while they obviously diminish the Revenues of the Colony.

I am not aware that I can state any other matters material to the subject in question, and I presume that it is unnecessary for me to make any observations on the allegations of the Memorialists who have moved in this matter, "that the Labrador is not included in the Electoral Districts of this Colony, and that therefore the Legislature of the Colony are not competent to impose duties on the goods imported at the Labrador."

(Signed) JAMES SIMMS,
H.M. Attorney General,
Newfoundland.

No. 566.

[11 April,
1826.]

No. 1.

[*Enclosure 1 in No. 565.*]

Custom House,
St. John's, Newfoundland,
11th April, 1826.

It having been represented to the Collector that dutiable goods are annually sent to the Labrador, & which from the want of an Officer those escape the payment of duties, under such circumstances the Collector deems it right to appoint a person to as this Summer (without any promise of salary) in order to ascertain whether it may be expedient to make a permanent appointment. We shall not fail to make our report at the end of the year.

[9 Aug.,
1828.]

(Signed) A. H. BROOKING, Collr.
GEO. BAYLY, Contr.

No. 567.

N

[*Enclosure 2 in No. 565.*]

No. 15.

Custom House, London
9th August, 1828.

With reference to the 5th point contained in your letter of the 11th April last, No. 1, I have it in command to direct you immediately to report at what place on the Labrador Coast you have stationed an Officer, whether you consider one Officer sufficient for the due collection of the duties there, and if not at what places you would recommend other Officers to be stationed.

[10 Nov.,
1826.]

(Signed) P. WHITMORE.

No. 568.

N

[*Enclosure 3 in No. 565.*]

No. 14.

Custom House, St. John's,
Newfoundland, 10th Novr., 1826.

We acknowledge your letter No. 15 of the 9th August last directing us immediately to state at what place on the Coast of Labrador we had stationed an Officer, and whether one Officer

would be sufficient for the due collection of

p. 1508

the duties there, and if not at what places we would recommend other Officers to be stationed. We should have acted in obedience to your Orders by making our report immediately but that we wished to gain further information respecting the extent of the Fisheries on that Coast than we were in possession of, and therefore deemed it advisable to wait the return of Mr. Wm. Langley whom we had appointed to act the last Summer in order to certain whether it would be expedient to make a permanent appointment as it was from Mr. Langley the Collector received the information of dutiable goods being annually sent there as stated in our letter No. 1 of the 11th April last.

The principal Fishing Establishments on that Coast he stated to be as follows, viz, Esquimaux Bay, Dumplin Hr, Packs Harbor, and Grady Harbor, in Sandwich Bay, Domino Harbor in the Isle of Ponds distant twelve leagues from Grady Harbor—Francis Harbor at Cape St. Francis, Battle Harbor—Cape Charles, Fortune, Lance a loop and Blance a Blanc in Green Bay in the Streights of Belle Isle. There is also a Canadian Establishment in Red Bay, there is no communication by land between any of those Establishments. The distance from Blance a Blance the Southern-most Fishery to Esquimaux Bay the Northernmost is 230 miles. Mr. W. Langley carries on a Fishery in Esquimaux Bay—he ran down the Coast in a Boat so far as Grady Harbor distant about eighteen leagues touching in his way at Dumpling Harbour, Packs Harbor and Home Harbor—he collected duties to the amount of £174 14s. 3d. he says he would have gone to Blanc a Blanc the Southmost Fishery but his Boat was too small for such an undertaking. He also informs us that some fifty to sixty vessels from the United Kingdom, Jersey and Canada bringing supplies for the Fishery arrive there yearly, those vessels never make two voyages but remain until the fish is caught and cured and the oil manufactured. They never or very rarely arrive there before the middle of June in consequence of the Ice—there are also some vessels from Nova Scotia, these have no establishments on the Coast, but go there merely to fish and carry away their fish in a green or uncured state, about 200 sail of American Vessels also fish on this Coast.

The fishery on that Coast commences from the 7th to the 5th July, and continues from six weeks to two months in that short time all the fish are caught. Touching the appointment of more Officers we beg leave to lay before you an offer made by Mr. W. Langley which perhaps may supercede the necessity of such appointments, at least with your approbation it might be tried for one year, as by that means we may be able to ascertain the amount of duties likely to be collected annually, and whether it may be necessary to make further appointments. His offer is to provide a good and sufficient vessel and crew to visit the different fishing establishments three times during the

season and to collect the duties for £400 per annum, and should you have any objection to his being engaged in the Fishery he is willing to give it up for an additional £100 per annum. When he received his appointment to act, it was not in our power to promise him any stated allowance; we therefore humbly request you will be pleased to acquaint us with what allowance you may be pleased to make him for his services during the last Summer.

p. 1509

We omitted to say that the duties collected by Mr. W. Langley would have been greater but from the circumstance of a vessel from Liverpool bound to Esquimaux Bay having put into this Port with seven Puncheons of Rum &c. on board, the duties on which were paid here amounting to upwards of £50.

[6 June,
1829.]

(Signed) A. H. BROOKING, Collr.
GEO. BAYLY, Contr.

No. 569.

N

[*Enclosure 4 in No. 565.*]

No. 13.

Custom House, London,
6th June, 1829.

A memorial having been presented to the Board by Mr. William Langley requesting to be remunerated for his services in collecting duties on the Coast of Labrador—

I have it in command to acquaint you that have directed him to be paid at this Port the sum of £50 on account of the services alluded to and to be informed that he is at liberty to lay before them through you a statement of any further claims which he may consider to have on the Revenue for collecting the duties in question and you are to report to the Board whether you are satisfied that the sums paid to you by Mr. Langley were the whole amounts of duties received by him, and whether the parties who paid the same passed regular entries with him previously to the duties being paid.

I am further to direct you to report the nature of the Trade carried on upon the Coast of Labrador at what part thereof the goods are generally landed the description and amount of goods annually imported—the probable annual amount of duties payable on goods and from what places the vessels resorting to Labrador are most usually cleared. You are also to report whether in the event of the Board deeming it expedient to sanction the employment of an Officer on the Coast of Labrador such Officer could collect the duties efficiently if stationed at any particular place, or whether it would be necessary that he should continue afloat and proceed from place to place and if so he would require assistance and of what nature and what would be the probable annual expence. Likewise whether any and what check could be had on the proceedings of such Officer in order to ensure his duly accounting for all monies received by him—and any other

observations which may occur to you upon the subject.

I have at the same time to inform you that Mr. Langley has been apprized that the Board cannot sanction his resuming the collection of duties on the Labrador Coast until they shall have received your return to certain enquiries which they had considered it necessary to make.

(Signed) W. MACLEAN,
P. Secy.

No. 570.[*Enclosure 5 in No. 565.*][10 Sept.,
1829.]

No. 16.

Custom House, St. John's,
Newfld. 10th Sept. 1829.

We acknowledge your letter No. 13 of the 6 June last acquainting us that Mr. William Langley had presented a Memorial praying to be remunerated for his services in collecting the duties on the Coast of Labrador, and that he has been paid £50 on account of his services and was at liberty to lay before the Honble Board through us a statement of any other claims which lie may consider he has on the Revenue for collecting the duties in question; and directing us to report whether we are satisfied that the sums paid to us were the whole amount of duties and whether the parties passed regular entries with him previously to the duties being paid &c.

In reply we respectfully acquaint your Honors that Mr. Langley's character was well known to us long before he was employed in the service of the Revenue, and had we not been satisfied of his integrity we should not have placed such confidence in him—he on his return from the Labrador always laid before us the Cockets and other Documents granted for the Cargoes imported there, for our inspection; therefore we feel assured that he has fully accounted for all the duties collected by him. We are not prepared to say whether the parties passed regular entries with him previously to the duties being paid. Respecting the nature of the Trade carried on upon that Coast we humbly beg leave to refer your Honor to our letter No. 14 of the 10 November 1826 wherein we gave all the information in our power on that subject and which we derived from Mr. Langley who having for several years been engaged in the Fishery on that Coast possesses as to the nature and extent of the Trade. We think the amount of imports annually may be estimated at from Twenty to Twenty thousand pounds, and as we cannot pretend to say what the probable amount of the Revenue may be, we acquaint your Honors that in the three years Mr. Langley has been employed, his collections amount to £585 18. 11 and out of that sum his last years collection amounted to £359 4. 8. Should your Honors deem it expedient to sanction the employment of an Officer on the extensive Coast, we think the duties could not be efficiently collected by a stationery Officer as from the great distances of many of the Establishments from each other it would be impossible for him to ascertain whether due entries were made of all the Cargoes imported therefore if an Officer be employed he would require a vessel of about 50 Tons burthen with four men at the least, and if a vessel of that description were hired for the express purpose of the Revenue we think the expense may be

estimated at £50 per month, which for the time it would be necessary to employ her would amount to about £250 the season.

Touching the check of such Officer we can suggest no other than those that he should be required to render accounts to us according to the Forms No. 62 & 63 of the Imports and exports, and to deliver to us all the Cockets

p. 1511

and other Documents granted for the Cargoes imported, for our inspection. Enclosed you will receive an account of the claims made by Mr. Langley on the Revenue and we deem it necessary to observe that the charges made by him for the Boat and crew are estimated so low in consequence of the Boat being his own and the crew consisted of men employed by him in the Fishery which charge appears to be estimated according to the time he was deprived of their services, and he appears to have charged the salary at the rate of that of the Sub-Collectors at the time of his appointment.

(Signed) A. H. BROOKING, Collr.
GEO. BAYLY, Contr.

No. 571.

N

[Enclosure 6 in No. 565.]

No. 16

Statement shewing the amount of duties of Customs levied on the Coast of Labrador in each of the undermentioned years, distinguishing those duties which were levied under the Acts of the Imperial Parliament from those levied under Acts of the local Legislature.

	Years.	Imperial.	Colonial.
	1826	£174 4 3	
	7	52 0 3	
	8	361 16 2	
	9	No Officer employed.	
	1830		
	1	91 3 8¼	
	2	124 9 11	
	3	61 4 2	
	4	} No Officer employed.	
	5		
	6		
	7		
	8		
	9		
	1840	69 10 10	£186 0 6

Vide Humes Customs Laws, Edition 1836, page 560.

And Acts passed subsequent to 18 Geo. 3, C. 12.

The Imperial Acts are those passed prior to 18 Geo. 3 C. 12 commonly called the Act of Declaration, viz., 4 G 3 *Cap.* 15 duties on certain Wines 6 *Geo.* 3 *Cap.* 52 duties on Molasses,

Syrups and pimento, 14 *G.* 3 *Cap.* 58 duties on Spirits.

6 *G.* 4 *Cap.* 114

3 & 4 *W.* 4 *Cap.*

59

} Imposing duties on goods generally.

The Colonial Duties are levied under the Annual Colonial Revenue Acts, embracing the Island of Newfoundland and the Dependencies of its Government.

GOVERNOR HARVEY TO LORD STANLEY.[4 June,
1842.]

LETTERS SENT, ST. JOHN'S, NEWFOUNDLAND. Volume 6, page 216.

Exc.

No. 19

4th June, 1842.

MY LORD,

I had the honor to receive your Lordship's despatch No. 46 of the 20th March last, and having referred the same and its enclosures to the Attorney General I now beg to transmit that Officers report thereon, together with the copy of one previously made by the Collr. of the Customs on the same subject and which was forwarded to Lord Jno. Russell in my predecessors despatch No. 40 of the 7th May 1841.

Prior to the Establishment of a Legislature in this Colony, a Court consisting of a Judge, Clerk and Sheriff existed for the Labrador Coast, and which Court held an annual Circuit during the Summer months.

In 1834 this Court was abolished by an Act of the Legislature and no substitute for it has yet been provided.

In 1840 a Bill intituled "An Act to provide for the collection of the Revenue and for the execution of the process of the Supreme Court of Nwfld. on the Coast of Labrador and the Islands thereunto adjoining, was sent up to the Council by the House of Assembly, but did not pass, and was not renewed in the succeeding session.

Whilst I cannot doubt that such portion of the Labrador Coast as is by Act of Parliament and the Commissions to the several Governors included within the limits of this Government, is subject to the duties imposed by our annual Revenue Act, which extends them to the "dependencies" of the Colony, I at the same time feel that the absence of any legal tribunal in that part of my Government is a hardship on its Inhabitants, and to which I trust the Legislature when again in Session will be able to apply a remedy.

I avail myself of the occasion to inform your Lordship that it is my intention to visit Labrador during the present season in the event of the naval Commander in Chief's furnishing me with a Ship of War for that purpose.

I have &c.

(Signed) J. HARVEY.

The Right Honble. Lord Stanley,
&c. &c. &c.

No. 573.**COMMISSION TO PREVENTIVE OFFICER OF
COLONIAL REVENUE FOR COAST OF LABRADOR.**[10 May,
1850.]

C.O. 197/12. JOURNAL OF ASSEMBLY, NEWFOUNDLAND, p. 168.

Copy of Commission to James Tobin, Esq., as Preventive Officer, St. George's Bay.

Copy. By His Excellency Sir John Gaspard Le Marchant, Knight,
and Knight Commander of the Orders of St. Ferdinand and of Charles the Third of Spain, Governor and Commander-in-Chief in and over the Island of Newfoundland and its Dependencies.

Whereas it is advisable and expedient that an officer in the Preventive Service of the Colonial Revenue should be appointed at and for St. George's Bay, and all other ports and places on the Western coast of this island, and on the coast of Labrador within the Government of this island, as well for the convenience of persons in trade, as for securing the due payment and collection of the duties payable on the importation of Goods, Wares and Merchandize into this Island and its Dependencies:—

I, the Governor of Newfoundland do therefore appoint you, James Tobin Esquire to be Preventive Officer in the service of the Colonial Revenue for the ports and places aforesaid, with full power and authority as such Officer to admit, according to the Rules and Forms by Law provided, all ships and vessels to entry and clearance at any of the ports aforesaid, and to admit to entry and importation or to exportation, in customary form and manner, all such goods and merchandize as may be lawfully imported into or exported from the Island of Newfoundland or its dependencies; on due payment to you of the duties payable by law, on such goods and merchandize; and for which duties, and all your proceedings herein, you shall duly account at such times and according to such rules and forms as shall from time to time be prescribed unto you by the Collector of Her Majesty's Revenue at St. John's, and for the execution of the duties of your office in the premises this shall be your Warrant.

James Tobin Esq.
To be Preventive Officer,
St. George's Bay.

Given, etc. 10th May, 1850.
By His Excellency's command.

Signed JAMES CROWDY.

Letter from the Preventive Officer at St. George's Bay to
the Collector of Revenue at St. John's.

Saint George's Bay.
12th October 1850.

[1 Sept.
1856.]

No. 574.

7th June, 1856. **EXTRACT FROM MINUTES OF
NEWFOUNDLAND EXECUTIVE COUNCIL.**

See page 1283, *infra*.

N

No. 575.

**PRENDERGAST'S REPORT ON COLLECTION OF
REVENUE (PROTESTS; LONG REPORT).**

COLONIAL OFFICE RECORDS 197/21. JOURNAL OF THE ASSEMBLY.
Appendix.

H.M. Hired Brigantine "Charles,"
1st September, 1856.

SIR,

I have the honour to acquaint you, for the information of His Excellency the Governor, that on my arrival on the Coast of Labrador, I proceeded to Battle Harbour, and requested the agent of Messrs. T. & D. Slade to report and enter the several vessels consigned to their establishment the past season—as well as the Brig "John & Thomas," which just arrived from Poole. I handed him the Proclamation of His Excellency the Governor. In reply he stated that his present instructions did not warrant him either to give the information I required, or pay duties. . . . About fifteen years since a similar demand was made by the Governor of Newfoundland; the parties interested in the trade on the coast of Labrador, applied to the Imperial authorities by petition and otherwise on the subject, since which no demand was made by the Governor of Newfoundland. It was considered the right then asserted to collect duties on the coast was abandoned. It was therefore why he had no instructions relative to that subject; previous to my arrival, he became acquainted that it was the determination of the Government to collect the duties on the coast of Labrador, which he immediately communicated to his employers by way of New York, asking instructions to guide him in the matter. In reply to some questions put to me touching the representation of the coast of Labrador, in the Legislative Assembly of Newfoundland, and providing for the religious and moral education of the people, I simply stated that the object of my visit was to see, and enquire, and to report, and that I felt assured the Government was most anxious that the population residing on the coast should enjoy and participate in as full a manner, its benefits as any people under its government.

The schooner "Hibernia" of Halifax—Sullivan, master and owner of the vessel and cargo, put in the same evening; I acquainted him with the object of my calling and made the usual demand, he objected to comply on the grounds that the Proclamation was issued after he had disposed of the greater part of his cargo; he has been engaged in that trade for the last

p. 1515

seven years; there was notice at the Customs of Halifax of an intention of the Government of Newfoundland to exact duties on the coast of Labrador; he was desirous to give no opposition, but until it became general, he considered the demand unreasonable.

At Henly Harbor, Mr. Kennedy has an establishment chiefly engaged in the salmon fishery; a schooner also belonging to him was there loaded with goods of every description, which lie intended to send bartering on the coast. I desired him to report her cargo and pay the duties. His refusal was nearly in the same terms as the one before stated.

L'Anse Sablon. I waited on the agent of Messrs. De Quetville, acquainted him with the nature of my visit and required that he would report the several vessels and cargoes which were consigned to that firm; his objections were couched in terms most respectful, similar to that of the agent at Battle Harbor; he assured me he would lay the Proclamation of His Excellency the Governor, with the Revenue Act, before his employers; there are two branches of that establishment, one at Isle au Bois, the other at Forteau, both of which are subject to and under the control of the agent at L'Anse Sablon.

The same evening the schooner "Belle Isle"—Taylor, Master, vessel and cargo owned by Daniel Cronan, Esq., of Halifax, came in; I went aboard, made the necessary demand of the master, he said he understood when at Halifax no duties were required on the Coast of Labrador; he had no instructions from the owners relative to it, he could not comply, but would not give any opposition, so that I may act as I may deem proper, stating that the chief part of his cargo was delivered on the coast above; on examination I found that nearly all the cargo was landed. I seized and marked one puncheon of molasses, two boxes manufactured tobacco, and two chests of tea, desiring to note my proceedings on his log; he said Mr. Cronan would be on the coast shortly in the schooner "Labrador," I did not then remove the articles.

Isle au Bois. I went to the agent of Messrs. Boutiller Bros. and requested he would make entry of the shipments he received during the Spring, as well as the vessel just arrived from Liverpool; he made similar objections to the agent of Messrs. De Quitville, and informed me that their chief establishment was at Gaspe, and that there was another branch of the establishment at Forteau under the management of a nephew of the owners; he promised to communicate the object

of my visit to his employers.

Forteau. I called on the agent of Messrs. De Quitville and on the agent of Messrs. Boutiller Bros., presented each a copy of the Governor's Proclamation; who said that either did not receive this season a direct importation; the same evening the schooner belonging to Mr. Cronan of Halifax came in. I went on board, stated the object of my calling to the supercargo, Mr. Pitts, a nephew of Mr. Cronan—his answer was similar to the reply of Captain Taylor of the “Belle Isle.”

L'Anse a Loup. I waited on the agent of a large establishment there, acquainted him with the particular object of my calling; he referred me for

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the information and other matters I required, to Messrs. Stabb, Row & Holmwood of St. John's, Newfoundland, who were the sole owners and suppliers of the establishment.

Carroll's Cove. The expected schooner “Labrador,” of Halifax, owned by Mr. Cronan, was there at anchor. I found that Mr. Cronan was not on board, and that a change of masters took place; Captain Taylor, late of the “Belle Isle,” was then in charge of the “Labrador”; he informed me that the “Belle Isle” was then loaded with oil, skins and fur, the collection of himself and Mr. Pitts; that she went off for Halifax . . . the “Labrador” was loaded with a variety of articles; he said Mr. Cronan did not come down in the “Labrador” as he expected . . . he was not then in a better position to comply with my request than before.

Red Bay. The schooner “Endeavour” of Halifax—Capt. Flick, came in the day after I arrived; I went on board and demanded the duties on the cargo; he said he was told by his suppliers, Messrs. Allison & Co., that there were no Customs established on that coast, that no duties would be required; being under that impression, he could not at present comply, wishing me to understand that he gave no opposition, and that two other schooner. were on the coast supplied by the same merchants.

Cape Charles. I waited on Mr. Neil, to whom a vessel from Halifax had arrived; I made the customary demand, to which he replied that it was his desire and wish to comply, but as others on the coast he saw refused for one reason or the other, it could not be expected that he only should pay, more especially when all his supplies, except that cargo, was received in Newfoundland and paid the duties required; he hoped the question would shortly be settled and that all parties trading or supplying on the coast would stand equal.

Spear Harbor. The schooner “Margaret Ann” of Halifax,

Drake, master, supplied by J. B. Hay, Esq., of Halifax, was in that port when I arrived. The master, in reply to my demands, said he was not bound to discharge cargo; I then said I would lock up his hatches under seal; he then made his objections, which were similar to those already stated, and that he sailed under the impression that duties would not be demanded; he was rather confirmed in that impression from the circumstances of the Officers of Customs at Halifax giving him blank certificates to be filled up and signed by persons on the coast, as no persons authorised by the Government of Newfoundland was known to them. The certificate was for the purpose of obtaining drawback, etc., etc.

St. Francis Harbor. I went over to the agent of Hunt & Henly, and required he would furnish me with a detail of the importations of that establishment during the Spring; he declined to furnish either, as he did not feel authorised by his instructions, without further communicating with his employers.

Venison Island. I called on the agent of T. & D. Slade, he said he was acting under instructions of the agent at Battle Harbor, to whom he respectfully referred me.

p. 1517

Indian Island. I waited on Mr. Warren, who said he knew that no one on the coast would pay the duties; he respectfully declined to do so for the present.

Gready. I called on Mr. Lanmore, making the usual demands, who said he purchased the chief part of his supplies at St. John's, Newfoundland, which paid duty; he did so in preference to importing, to guard against disappointment; he had no objection to the demand for what he had imported, and would readily pay when, or at such times, as it may become general, saying it would cause him to put it on each article in addition to his present charge.

I called on the agent of Hunt & Henly, who said he received all his supplies from the chief establishment at Cartwright, and was under the direction of the agent there.

Lont Island. I called on the agent of Messrs. Hunt & Henly, who made a similar statement as the agent at Gready.

I expected to meet Mr. Goodridge, the agent of Messrs. Hunt & Henly's establishment at Cartwright; he left the morning of my arrival. I was anxious to meet him, being informed that Mr. Goodridge was notified by the agent of the Hudson's Bay Company, when he expected the appointment by a magistrate from the Governor of Newfoundland, requesting that he may not act thereon, and that the Company was prepared to appoint under a Commission Magistrate of Labrador. I requested Mr. Larmore to obtain from Mr.

Goodridge, a copy of the said notice, for the service of the Government, believing the Company must have misunderstood the wording of the charter; the Government Commission is simply of the coast of Labrador and the islands adjacent, also Her Majesty by treaty, gave the right to the subjects of the United States to fish and go on shore and dry it on the coast.

On every application, I presented His Excellency the Governr's Proclamation, notifying each to consider and receive the Proclamation, a direct notice from the Government of Newfoundland, and its determination to collect the revenue on all goods and merchandise imported to the coast of Labrador.

Whilst on the French shore I was informed that a person named Buck, from Halifax resorts White Bay, trading; he says he enters his vessel and cargo at Green Spand, and pays the duties there. I had no opportunity of enquiring of the collector of the fact. Another named Charles Higgins of Halifax, resorts White Bay, French Shore, and each side of the coast in the Straits of Belle Isle.

I have, etc.,

(Signed) JAMES L. PRENDERGAST, J.P.

Honble. John Kent,
Colonial Secretary.

No. 576.

25th March, 1863. **NEWFOUNDLAND STATUTE 26
VICT. CAP. 3.**

See page 1439, *infra*.

No. 577.

N

**APPOINTMENT OF Mr. MATTHEW WARREN AS
COLLECTOR OF LABRADOR.**

Page 165, No. 4 RECORD BOOK, 1861 to 1869.

[25 April,
1863.]

25th April, 1863.

Present

His Excellency Sir. A. Bannerman, Kt., Governor.

Hon. L. O'Brien, President.

„ H. W. Hoyles Attorney Genl.

„ R. Carter, Actg. Colonial Secretary.

„ J. Bemister, Receiver Genl.

„ N. Stabb.

Ordered that Mr. Matthew Warren be appointed Collector of the Labrador at a Salary of £100 (one hundred pounds) with a commission of 7½ p. c. (seven and a half per cent.) on the Revenue collected by him and that James Winter do accompany the said collector to the Labrador to aid him with his advice in the conduct of the business of his office at a salary of £65, and that Mr. W. Reddin be directed to transact the duties of Mr. Winter's office during his absence and receive in consideration of his services the sum of £50 (fifty pounds).

[6 May, 1863.]

**EXTRACT FROM THOMAS FRASER'S LETTER FROM
LONDON TO D. A. SMITH AT ESQUIMAUX BAY.**

(HUDSON'S BAY COMPANY PRIVATE CORRESPONDENCE LETTER BOOK.
638, pp. 177-179.)

May 6th, 1863.

. . . . "Messrs. Hunt and Henley have directed the attention of the Board to the following notice which has been recently issued apparently by the Government of Newfoundland as it is dated from the Secretarys office St. Johns [sic].

"Notice is hereby given to all whom it may concern that after the expiration of the present fishing season the duties imposed by the Annual Revenue acts will be collected on that part of the Labrador Coast lying within the Government of Newfoundland and the proceeds applied so far as may be necessary to the expense of protecting the fisheries on that Coast and of the maintenance there of a court of Limited Civil and criminal Jurisdiction.

(signed) R. CARTER,
Acting Colonial Secretary.

"Secys. Office,
St. Johns, Newfoundland,
10th June, 1862."

With respect to this Notice, the Board direct me to say that they have joined the Merchants connected with Jersey, Messrs. Hunt & Henley and other parties interested in the trade of the Labrador Coast, in a memorial which has been addressed to His Grace the Secretary of State for the Colonial Department in which attention is called to the injustice which any attempt on the part of the Newfoundland Government to enforce the duties in question will do the few traders regularly settled in that Country while it will leave the American free trader exempt from the tax. This is not the first attempt made by the Newfoundland authorities to enforce this so called right. Hitherto they have found it impracticable to do so, and in point of fact it is believed that they have no right nor jurisdiction to enforce the levying of duties of any kind on the Labrador Coast. It is the wish of the Governor and Committee therefore that if you should see no strong reason for adopting a different

course you should act in concert with the other Settlers and traders in your district in resisting the imposition of the duties in question by all peaceful means. The Board understand that in the event of any Collector being sent round to demand the duties they are to refuse payment, and the Board will approve of your adopting a similar course. It is also the intention of the other parties concerned to decline to attend to any Summons to a Court or any other proceeding that may be adopted by the Collector for insisting on payment and in this respect also it will be as well to act in concert with the others if you should not consider that course as positively objectionable. In short as I have already stated the demand is an injustice which ought to be resisted by all legal means.

The Ship by which you will receive this letter is to leave Dartmouth on Saturday Morning the 9th instant.

No. 579.**30th May, 1863. MINUTES OF NEWFOUNDLAND
EXECUTIVE COUNCIL, RESPECTING
APPOINTMENT OF JAMES WINTER.**See page 1441 *infra*.[4 June,
1863.]

No. 580.

N

GOVERNOR BANNERMAN TO JAMES WINTER.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 52, page
750.Government House,
4th June 1863.

SIR,

Referring to the instructions which you will receive from the Acting Colonial Secretary by order of the Governor and Council, His Excellency has to direct your attention to the printed copy above of his Commission defining the Jurisdiction of Newfoundland, and to which you will strictly adhere in the performance of the duties which you are entrusted to carry into effect.

The Governor will direct that several Charts shall be placed on board the Schooner.

No. 1. The Gulf including the Strait of Belle Isle on this Chart the Western limit of Newfoundland is laid down, which is Latitude 51° 25' North, Longitude 57° 9' West, and from that parallel there is a line drawn by Captain Chief of the Surveying Department, due North and which you will observe includes within the Governor's Jurisdiction "Blanc Sablon" and the "Woody Islands" The term "due North" in a matter of boundary means a true North line, that is "from such a place to such a place" includes both; or for instance from the 1st May to the 1st June includes the whole of the two days.

No. 2 Chart is one of St. Lewis Inlet just published and No. 3 Straits of Belle Isle to Cape Chudleigh In this Chart the Northern limit of the Governors Jurisdiction is Latitude 60° 37' North Longitude 65° West but no accurate survey of the Cape has been made for many years.

These Charts with any others which the Governor may send for the use of the Schooner, must be delivered to the Colonial Secretary on her return.

The limits it seems may be safely taken as extending to

three miles, or a marine league from the beach seawards Bays, or other inlets lying between headlands, and other points of the mainland being territorial are subject to the ordinary jurisdiction to which the main land owes its obedience; and while asserting the authority of Colonial Law in Colonial waters, the Imperial Government desire the Governor to enforce upon you, that you will take care to do so in a manner which is likely to be least offensive to any foreigners who may fall within the scope of your instructions.

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As it is many years since duties were collected on the Labrador the law for imposing them having fallen into abeyance in consequence of the too expensive Court which was then conjoined with it, you will no doubt find that the Traders, Merchants &c will be averse to their collection now

You will therefore act with prudence and moderation in performing your duty, referring any parties who may complain to the Government, assuring them that His Excellency and the Council have been repeatedly urged in Justice to Her Majesty's Subjects within this Island, to adopt the measures which they have at last resorted to, and to place Labrador on the same footing as Newfoundland by extending to the Trade of that dependency the payment of the same duties as are collected from the residents here.

You will be furnished with a copy of the interesting Report of the late Mr. Rendell, who two and twenty years ago, left St. John's on the 4th of July in a boat the crew of which consisted of four men and proceeded to Labrador to receive the Revenue and to collect information respecting that Coast for the use of the Legislature. It will be seen that Mr. Rendell travelled over a distance of 1200 miles, at an expense of £63 and collected at that time Revenue amounting to £205.

One of H.M. Ships will be cruising on the Coast for the protection of Commerce and the Fisheries, most probably the Vesuvius and you will take care to observe and attend to any instructions which Captain Hamilton or the Commanding Officer of any other of H.M. Ships may think it expedient to give you in regard to the service you are employed in.

It is likely you that may find opportunities to communicate with the Government during your stay at Labrador and they will expect to hear from you. At the same until you make your final report it will be advisable that you avoid sending partial statements to other parties *relative to the performance of the duties you are entrusted with*. On all other matters of course you will communicate with your friends as you may consider necessary.

I have &c.
(Signed) A. BANNERMAN,
Governor, Newfoundland.

James Winter, Esq.,
Collector.

No. 581.**EXTRACT FROM MR. D. A. SMITH'S LETTER**[22 July,
1863.]DATED AT CARTWRIGHT, SANDWICH BAY, 22ND JULY, 1863; TO
THOMAS FRASER AT LONDON.

(HUDSON'S BAY COMPANY CORRESPONDENCE.)

With respect to the Notice issued by the Government of Newfoundland which appears in your letter of 6th May, I fully agree in opinion with the Board, that it would be, if not illegal, at least unjust to levy duties on the Labrador for the purposes mentioned in the Document referred to, and I shall follow in the matter the course pointed out by the Board. I would however take the liberty of remarking, that as American traders will be equally subjected to the payment of duties on all articles not exempted by the Reciprocity Treaty, they will stand precisely on the same footing as resident merchants and Traders. The act of the Newfoundland Legislature adopting the Reciprocity Treaty expressly declaring that "similar articles being the growth, produce and manufacture of the United Kingdom, British North American Provinces, or of the Island of Prince Edward, or the Channel Islands shall be admitted Duty Free, notwithstanding any law to the contrary."

[COPY.]

No. 582.

**EXTRACTS FROM CAPTAIN HAMILTON'S REPORT
TO THE ADMIRAL AND GOVERNOR, RELATIVE
TO THE FISHERIES, 1863.**

(EXTRACT FROM JOURNAL OF HOUSE OF ASSEMBLY, 1864,
Appendix, page 470.)

H.M. Ship *Vesuvius*,
St. John's, Newfoundland.
September 30th, 1863.

SIR,

The season for the fisheries being over, it is with much pleasure I am able to announce to Your Excellency that there has been a great improvement over the past two summers. I have visited the Labrador Coast from Bradore to North West River, at the head of Hamilton Inlet, or Gros Water Bay, as it is more commonly called by the fishermen, and I think the catch of cod will average 100 quintals a man. The catch of salmon has been very large, particularly at Chateau and Sandwich Bays: in the latter 1500 tierces were caught, principally in Eagle River, where 34,000 lbs. have been preserved fresh. Messrs. Hunt have also established two other posts for preserving, at Paradise and Divers Islands; and next year they intend commencing at Cape St. Francis. It is a valuable branch of the fisheries, giving much more employment than simply catching and pickling the fish, as during the winter the tinmen are employed making the tinware, and other men making boxes, and preparing firewood for the boilers; they also make at Eagle River large quantities of tinware, which is much sought after by Newfoundlanders who fish in the vicinity, as being far superior to anything of the sort they can get at St. John's. Messrs. Hunt have a branch establishment in Davis's Inlet, about 120 miles beyond Cape Harrison, and the Hudson's Bay Company one at Kypecocke, 70 miles beyond it, where they trade with the Esquimaux for skins, oil and salmon. The Hudson's Bay Company have posts at Rigolette and North, West River, in Hamilton Inlet, and also posts in the interior, about 300 miles; from these they bring the furs collected from the Nescopi Indians down to North West River every year. Numbers of seals are caught every spring, at the upper part of the Inlet, by the residents and Mountaineer

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Indians; the latter at other times live in the mountains on each

side of the Inlet, occasionally visiting the ports to barter skins for ammunition, &c.

I have, etc.,

(Signed) R. VESEY HAMILTON.
Captain and Sr. Officer, Newfoundland.

His Excellency

Sir A. BANNERMAN,
Governor, Newfoundland.

P.S.—In reply to Your Excellency's question I beg to inform you that I heard of no forcible opposition to the Collection of Revenue. The Agents, under instruction from the Merchants, made considerable difficulty, taking care, however, to keep within the Law. Considering it was the first attempt, for many years, to raise a revenue on the Labrador coast—it has been very successful, both with Merchants' establishments and trading vessels.

(Signed) R. VESEY HAMILTON.

No. 583.

N

17th October, 1863. **MINUTES OF NEWFOUNDLAND
EXECUTIVE COUNCIL RESPECTING EMPLOYMENT
OF H.M. "VESUVIUS."**

Vide PART VIII B. [No. 408, page 1286.](#)

[5 Nov,
1863.]**EXTRACTS FROM MR. D. A. SMITH'S LETTER**DATED AT CARTWRIGHT, SANDWICH BAY, 5TH NOVEMBER, 1863, TO
MR. THOMAS FRASER AT LONDON.

(HUDSON'S BAY COMPANY CORRESPONDENCE.)

I learn from Messrs. Hunts people that the Collector of Customs appointed by the Government of Newfoundland called upon them in August last, and that after an attempt to resist his demand, they were at length compelled to pay duties on the goods imported by them this season. The collector did not proceed to Esquimaux Bay, but is said he intends doing so next year, with the view of exacting duties there also. I have however been informed by Captain Hamilton of H.M.S. "Vesuvius," stationed on the Labrador coast for the protection of the fisheries, who visited North West River on the 13th Sepr. that that post is not within the portion of the Labrador under the Government of Newfoundland, and that it is very doubtful whether Rigolet is subject to that Colony—indeed he appeared to be of opinion that both stations must be held to be within the limits of the Company's Charter but of this the board will be better able to judge in which case duties cannot be levied on goods imported at these posts. The only other trading post the Company have on this Coast is Kibokok, where the amount of business transacted is very trifling.

[5 Dec.,
1863.]**DISPATCH FROM DUKE OF NEWCASTLE TO
GOVERNOR BANNERMAN.**

COLONIAL OFFICE, RECORDS 197/35. JOURNAL OF THE COUNCIL.
App. No. 6.

Copy of Dispatch and Enclosure from Secretary of State for the
Colonies, with reference to the Imposition and Collection
of Duties on the Coast of Labrador.

Downing Street,
5th December, 1863.

Sir,

With reference to my dispatch No. 46, of the 1st inst., transmitting to you an order of Her Majesty in Council, leaving to their operation, Chapters 1, 2 & 3 of the Act, of the Legislature of Newfoundland during the year 1683, I have the honour to transmit to you a copy of the answer which has been returned, by my directions, to various remonstrances against that portion of the first named act, which relates to the imposition and collection of duties on the coast of Labrador.

I take this opportunity of suggesting that the net proceeds of this source of revenue should be applied to the administration of justice and the protection of fisheries in the district in which they are raised.

I have, etc.,
(Signed) NEWCASTLE.

Governor Sir A. BANNERMAN,
etc., etc.

No. 586.[5 Dec,
1863.][*Enclosure.*]**LETTER FROM F. ROGER TO SIR E. HEAD AND
OTHERS.**

Downing Street,
5th December, 1863.

Sir,
Gentlemen,

I am directed by the Duke of Newcastle to acquaint you that His Grace has had under his consideration the Act of the Legislature of Newfoundland Cap. 1 of 1863, against which you have remonstrated, so far as it provides for the imposition and collection of duties on the Coast of Labrador.

His Grace did not see anything in the various representations which he has received in opposition to this Act, which would have justified the unusual and expensive course of discussion before Her Majesty's Privy Council.

On the constitutional objections made to this Act, His Grace consulted the law officers of the Crown, who are of opinion that it is competent to the Legislature of Newfoundland to pass laws binding on the coast of Labrador, and His Grace thinks it by no means unjust, but to the contrary, that a revenue should be levied there sufficient to defray the expense incurred or which ought to be incurred by the Government on that coast.

With respect to the machinery of the Act, the Commissioners of Customs, to whom that point was referred, are of opinion that the provisions of the law are not necessarily oppressive.

Consequently, His Grace has not felt at liberty to advise that Her Majesty's Council should dissolve this Act, which accordingly has been left to his operation. At the same time he considers that if taxes are to be imposed by the Newfoundland Legislature on persons inhabiting the Labrador coast, these persons should be enabled to send representatives to the Newfoundland Assembly, and His Grace has accordingly recommended to the Governor, that the Act regulating the Representation should be so altered as to effect this object, so far as it can be effected by some alteration to the law.

I am, etc.,
(Signed) FREDERICK ROGER.

Rt. Hon. Sir E. HEAD, Bart.,
JOSHUA LE BAILLY, Esq.,

Sir R. P. COLLIER, Q.C., M.B.,
Messrs. HUNT & HENLEY.

Privy Council Documents

Volume III Contents

No. 587.

27 VICT. C. 1.

Preamble.
[13 April,
1864.]

An Act for granting to Her Majesty certain Duties on Goods,
Wares and Merchandize, imported into this Colony and its
Dependencies.

Salaries to officers.

(Passed 13th April 1864).

May it please Your Majesty:

We, Your Majesty's most dutiful and loyal Subjects, the
Commons of Newfoundland, in General Assembly convened,
towards raising the necessary Revenue to defray Your
Majesty's Public Expenses in this Colony, have freely and
voluntarily resolved to give and grant unto Your Majesty the
Duties hereinafter mentioned; and do therefore beseech Your
Majesty that it may be enacted: Be it therefore enacted by the
Governor, Legislative Council and Assembly, in Legislative
Session convened, as follows:—

* * * *

IX. There shall be allowed and paid annually to the
following Officers of Her Majesty's Customs in the Colony,
hereinafter mentioned, to defray all expenses of remuneration
for the collection of the Colonial Revenue, and charges
incidental thereto, the sums set opposite the names of the said
officers for the period during which this Act shall be in
operation, viz:—

* * * *

The Collector at Labrador, One Hundred Pounds, and 2½
per cent. on all Duties collected.

Privy Council Documents

Volume III Contents

No. 588.

27 VICT C. ii.

[13 April, 1864].
Preamble.

Governor to appoint Revenue Officers.

An Act to Amend and Consolidate the Laws of the Customs.
(Passed 13th April 1864).

Whereas it is expedient to amend and consolidate the Laws for the Establishment of a Board of Revenue, and for the Regulation, Management, and Collection of all Duties granted to Her Majesty, Her Heirs and Successors, Dependencies, and to Repeal certain Acts relating thereto.

Be it therefore enacted, by the Governor, Legislative Council and Asssembly in legislative Session convened, as follows:—

* * * *

4. It shall be lawful for the Govenor in Council to appoint proper persons to execute the duties of the several officers necessary to the due collection and management of the Revenue now levied, or which hereafter may be levied, on Goods, Wares and Merchandize imported into this Island and its Dependencies, that is to say:—

The Receiver General at St. John's who shall superintend the Collection, Receipt, and payment of all the said Revenue, and shall have under his direction and control—

* * * *

Collector for the Labrador, and his Sub-Collectors.

Privy Council Documents

Volume III Contents

No. 589.

Preamble.

27 VICT. C. 17.

[13 April, 1864.]

£48,048 appropriated for purposes of Act.

An Act for granting to Her Majesty a Sum of Money for defraying the Expenses of the Civil Government of this Colony, for the Year ending the Thirty-first day of December, One Thousand Eight Hundred and Sixty-four, and for other purposes.

(Passed 13th April 1864.)

May it please Your Majesty:

We, Your Majesty's most dutiful and loyal Subjects, the Commons of Newfoundland, have freely and voluntarily resolved to give and grant unto Your Majesty a supply to defray certain charges for the support of the Civil Government, for the administration of Justice, and the general improvement of this Colony, do beseech Your Majesty that it may be enacted, and

Revenue Cruiser.

Be it therefore enacted, by the Governor, Legislative Council and Assembly, in Legislative Session convened: That from and out of such moneys as shall from time to time remain in the hands of the Receiver-General, and unappropriated, there be granted to your Majesty, your Heirs and Successors the sum of Forty-eight Thousand and Forty-eight Pounds, Fifteen Shillings and eight Pence, which said sum shall be applied in payment of the following charges, for the Year commencing on the First day of January, One Thousand Eight Hundred and Sixty-four, and ending on the Thirty-first day of December in the same year—that is to say:—

* * * *

The sum of four hundred pounds towards defraying the expenses of Revenue Cruiser, Labrador.

[13 May,
1864.]**No. 590.****EXTRACT FROM THOMAS FRASER'S (SECY.)
LETTER,**DATED 13TH MAY, 1864, FROM LONDON TO D. A. SMITH, ESQ., AT
ESQUIMAUX BAY, LABRADOR.

(HUDSON'S BAY COMPANY'S CORRESPONDENCE, PRIVATE LETTER
BOOK 639, pp. 155-156.)

. . . . “You will see from the enclosed copy of a letter received by Governor Sir Edmund Head from the Under-Secretary of State for the Colonial Department that H.M. Government have consulted the Law Officers of the Crown on the question as to the legality of the duties imposed by the Legislature of Newfoundland on goods imported into Labrador, and that the Colonial Minister is of opinion that the levying of the duties in question is not unjust nor the provisions of the Act under which they are levied unnecessarily oppressive. Consequently the Act is left to its operation. The Governor and Committee think that in these circumstances it would not be right on the part of the Company to resist payment of the duties in question, but on your being applied to for payment, you may, if you think it advisable, enter a protest against the payment.”

No. 591.[15 Oct.,
1864.]**EXTRACT FROM MR. DONALD A. SMITH'S LETTER**DATED 15TH OCTOBER, 1864, FROM RIGOLET TO MR. THOMAS
FRASER AT LONDON.

(HUDSON'S BAY COMPANY'S CORRESPONDENCE.)

. . . . “The Collector of Revenue for the Coast of Labrador, appointed by the Government of Newfoundland, visited North West River on the 20th August and demanded duties on all dutiable goods imported by the Company this season. I consented to pay duty under protest, which I consider merely nominal, on 1041 gallons Molasses from Quebec which was landed at Rigolet, the amount being £8.13.7 stg. for which I have him a bill on the Governor and Committee; but for the other goods from England & Canada, all of which were landed at North West River, the Jacques Cartier being there at the moment, I declined paying, holding that he and the Judge, who accompanied him to this place, had no jurisdiction at North West River. This he argued for some time, of course professing to view the matter differently but finally withdrew without receiving the duties. Our intercourse throughout, was of the most friendly character.

“The small portion of the goods received from Canada, for Ungava, on which duty was exigible is held here in bond as I declined paying for them also”

No. 592.

**REPORT OF THE COLLECTOR OF REVENUE ON
THE COAST OF LABRADOR, 1864.**[26 Oct.,
1864.]

COLONIAL, OFFICE RECORDS 197/39. JOURNAL OF THE ASSEMBLY.
Appendix.

Report of the Collector of Revenue on the Coast of
Labrador, within the limits of this colony.

Receiver General's Office,
St. John's,
October 26, 1864.

SIR,—

In handing you herewith for the information of His Excellency the Governor, the report of the Collector of Revenue at Labrador for the present year, I take the liberty of calling special attention to some circumstances connected with Messrs. W. Fruing & Co., at Woody Island, Straits of Belle Isle, as regards their payment of duties last year.

After some considerable objection and delay, they consented to pay (under protest) by draft at 90 days on their firm at Jersey. This draft was returned to me protested. The reason assigned that the establishment was not within the jurisdiction of the Government of Newfoundland. The Attorney general took the case in hand and instituted proceedings against them, the result of which was (although the case did not come into Court) payment of the amount of the original bill and all costs under written protest. Copy of which I enclose. The duties for the present year were likewise paid "under protest."

I will be glad to be instructed by His Excellency how I am to act in the future in collecting duties at Woody Island. Is it within the jurisdiction of this Government? And in the event of Messrs. Fruing & Co. taking proceedings against me can they sustain their action?

I have, etc.,
(Signed) J. BEMISTER.
Receiver General.

Hon. Robert Carter,
Acting Colonial Secretary.

[26 Oct.,
1864.]**REPORT OF THE COLLECTOR OF REVENUE ON
THE COAST OF LABRADOR.**St. John's,
October 26th, 1864.

SIR,

I beg to submit the following report on the proceedings connected with the collection of duties on the coast of Labrador during the past season.

Forteau, 23rd June. On arrival I found that the Nova Scotia fishing vessels had not begun to make their appearance but were daily expected to arrive. Three vessels had arrived from Jersey (having come down the Straits) one to each of the mercantile firms at the place, viz.:—

Messrs. De Haume,
,, Le Boutiller Bros. and
,, De Quetteville & Co.

These houses reported their vessels—the two former paid duties on their cargo; on applying to the third for duties, I was referred to the agent at Blanc Sablon. While at anchor in the harbour a vessel arrived, which on boarding, I found to be a Nova Scotia trader, and put a man on board. The next day the master entered his vessel and paid duties; by a bill on Jersey procured from one of the firms here. Two American vessels also arrived while we were at this place, the captains came on board the “Volant” and reported their vessels, at the same time expressing their satisfaction in complying with the demand for duties, saying that they would gladly pay the few shillings demanded from them, while they enjoyed the advantage offered to them by the Newfoundland Government: viz.: the protection of fisheries by a commissioner and a man of war, and the presence of a judge to administer justice and to settle differences among them. Here I had much pleasure in noticing that during the past two years in which the revenue vessel had visited the Labrador coast, where hundreds of Nova Scotia and American vessels have been constantly mixing with those of fishermen, not a single case of dispute or complaint among those fishermen has come before the court. The vessels here having all entered we proceeded to

Blanc Sablon, 27th. Here we found several vessels which had arrived to the several Jersey mercantile and fishing establishments, also 5 Nova Scotia fishing vessels, all of which I boarded and requested the masters to

report. The next day it blew a gale, which prevented us from doing any business. On the following day, 29th, I visited Woody Island (Isle au Bois) and went to the establishment of Messrs. Boutiller Bros. and saw Mr. Boutiller and informed him of my business. He readily complied with my request, sent the masters of the vessels on board with manifests, bills of lading and invoices, and paid duties on all goods. The amount received from this firm this year is much less than last year, owing to short importation of spirits, viz.:—gin, and whiskey, which they imported largely last year, but which they have now abandoned altogether, on account of the imposition of duties.

I then called upon Messrs. Fruing & Co. Mr. Fall the agent, objected to pay on the same grounds as last year, viz.: that their place of business was not within the jurisdiction of Newfoundland, the boundary line being a small brook which ran a short distance to the eastward of their premises. This, however, I showed him was an error on his part, and he afterwards entered his vessel and gave a bill for the duties (under protest).

30th. Visited the establishment of Messrs. De Quetville & Co. The agent Mr. Lesellem received me in a most friendly manner and expressed his readiness to pay the full amount of duties on his importations.

I have great pleasure in noticing the honourable and straightforward manner in which this firm, by their agent, transacted their business, the entire satisfaction I experienced in dealing with them, and the readiness with which the agent paid me the large amount of duties on their goods. which was nearly double that which was paid by the same firm last year. The masters of the Nova Scotia fishing vessels, after having been repeatedly called upon to report, at length came on board, but with great reluctance, assigning as their reason for not having complied when called upon, that at the Custom House at Halifax and elsewhere, they had been led to understand that the payment of duties could not be demanded by the Collector of Labrador; and therefore they considered that they were justified in resisting, and it was not until a great deal of time and trouble had been taken to explain matters to them that they consented to pay the few shillings demanded.

July 1st. Passed by Forteau, saw no ships has arrived except a steamer which we were informed was a French man-of-war. Arrive at L'Anse a Loup.

July 2nd. Went to Pinware, where the judge held court.

6th. Went to Red Bay. Here the judge held Court 7th.

11th.

On board this vessel [Arien] I found that they had met for the purpose of deliberating on the subject of the duties, and had come to a united deter-

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mination to resist payment. Being anxious to arrive at an amicable settlement (the number I had to contend with being so great) I produced and read the Royal Gazette containing the correspondence between His Excellency the Governor and His Excellency the Administrator of the Government of Nova Scotia on the subject of the collection of duties. This had the effect of convincing a few, who complied without further opposition. The majority, however, still refused, and it was not until after repeated applications and threats as to consequences of further opposition, that they were prevailed on to report their vessels, and paid the small amounts demanded of them.

18th. The master came on board and entered his vessel [the Margaret]. On requesting payment of the duties, Mr. Kennedy said he had no money, but had written to Halifax to be advised how to act. I told him that as the order given by me last year had not been paid, in due course, I had now no alternative but to take a sufficient quantity of goods to pay the duties and expenses incurred, but offered to take his note of hand, payable on my return from the northward. This he would not consent to, when, having given him sufficient time to consider, and he still refusing, I ordered the "Volant" alongside and had two puncheons of molasses taken on board, when he came and begged of me not to take the molasses, offering to give me half the amount of duties in cash, and his note of hand for the remainder, which I accepted.

A vessel from Canada came in, which on boarding, I found had been entered and duties paid at Blanc Sablon to Mr. Knight.

21st.

At Battle Harbor we found two vessels which had arrived at Messrs. T. & D. Slade, and a number of Newfoundland fishing vessels. The next day I called on the agent of Messrs. Slade, Mr. Bendell, who sent the masters on board to enter, produce invoices, etc. and to pay the duties on the goods by a bill on Poole. The importations to this firm show a great falling off from those of last year, which I remarked to the agent; he accounted for it by saying that in consequence of the death of Mr. Slade, sen., changes in the Newfoundland freight were spoken of as likely to take place, that the supplies usually sent to their establishment at Venison Tickle had been altogether stopped, and that a large quantity of dutiable goods had been imported into Battle Harbor this year from their establishment at Twillingate and Fogo, where duties had been paid.

23rd. Visited Spear Harbour,

Salt Point,

Murray's Harbor,

Petty Harbor, and
Seal Bight,

and finding in these places none but Newfoundland fishing vessels, proceeded to

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Francis Harbor, 24th. The next day I visited the house of Messrs. Hunt & Henly. The agent Mr. Hunt, gave me an account of the goods imported by them (the vessels having left Francis Harbor when we arrived and paid duties by bills on London. The amount was less than paid by this establishment last year, owing to the importation of molasses and other articles from St. John's, duty paid).

At Cariboo, Williams Harbor and Francis Harbor Bight, saw none but fishing vessels from Newfoundland.

2nd [August]. At Rocky Bay, we got an Indian pilot.

3rd. Arrived at Indian Tickle.

4th. At Round Island, Messrs. Hunt & Henly have an establishment. I called on the agent, Mr. Goodridge, who reported the vessels that had arrived, and paid duties on the goods. There is a considerable decrease in the amount collected here this year as compared with last, which Mr. Goodridge explained by stating that they had imported nearly all their supplies from St. John's this year, and stated further that owing to the failing in the salmon and cod fisheries, the importations next year would be shorter still. He produced no manifests, bills of lading or invoices (saying he had none) of goods imported in the vessels that had left, he gave me only an account of his own, which I was obliged to accept; and I regret to say that the manner in which he acted in this particular, contrasted most unfavourably with that of other merchants whom I had visited, and who were similarly situated.

Here we entered 6 Nova Scotia fishing vessels.

At Cartwright we found the schooner St. Andre from Quebec, consigned to Messrs. Hunt & Henly, with part cargo for the Hudson's Bay Company to be landed at Rigoulette. Hunt & Henly having paid the duties on their part I allowed the vessel to proceed.

6th. Independent Harbor.— Found 12 Nova Scotia fishing vessels, some of which had entered at Blanc Sablon. I requested the masters of the rest to go on board and report, but it was not until I had detained the “Volant” for two days that they could be brought to comply. One of them, however, was determined to resist, if possible, seeing which I put a man on board. The crew threatened to throw him overboard, when I put a second man on board. The next day I boarded the vessel, the captain persisted in refusing to report, and the crews of the other vessels alongside, kept up a shout of “Throw him (meaning *me*) overboard!” I then proceeded to seize the salt, when the master at length consented to pay duties. Here I wish to bring under notice a statement made by a Mr. Smith, captain of one of the Nova Scotia vessels, confirmed by his brother, in

the course of conversation with them on the subject of the collection of duties, which was to the effect that Mr. John Freeman, Customs Officer at Liverpool, N.S., had directed them “not to pay the duties, to take no notice of the Collector and not allow him to go on board.” This announcement I took down in writing and read

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over to them, which they assented to, and gave this as their reason for refusing to comply with my demands.

11th. Arrived at Rigoulette, where the Hudson's Bay Company have an establishment. A few hours afterwards the “St. Andrew” arrived. The agent here, Mr. McKensie, being subordinate to Mr. Smith, the head agent who resides at N.W. River, would not undertake responsibility of paying the duties, but immediately dispatched a boat to inform Mr. Smith of the arrival of the “St. Andrew,” and also of my being at Rigoulette awaiting his answer respecting the duties.

Having allowed sufficient time for the boat to go up and return, and Mr. Smith not arriving, I decided on proceeding to the N.W. River. This place is at the head of Esquimaux Bay, at a distance of about 90 miles from Rigoulette. Not being able to procure a pilot, and the captain being unwilling to take the vessel there, I was under the necessity of going in the vessel's gig. On arriving I was met by Mr. Smith, who without hesitation, gave me a bill on the Company for the amount of duties, saying that it was not their intention to present any opposition to the payment of duties, the Act having received the Royal assent. I then left him and returned to Rigoulette, after being absent six days.

31st. At Indian Harbor, is a place of business belonging to Mr. Norman, but the goods had been imported from St. John's. This is the most northern part which we can visit, and we accordingly started on our way back.

September *2nd.*—At Grady is the establishment of Messrs. King & Lamour. Called on Mr. Lamour, who said that they had imported their supplies from St. John's. The captain of their vessel, who was present, produced a clearance from St. John's. I told Mr. Lamour that I had been informed that goods had been imported for him in Messrs. Hunt & Henly's vessel (this vessel had landed her cargo and left Grady). This he admitted, but said that “the goods had been disposed of, that he did not expect to be paid for them, and that he would not pay a penny of duties.” There being no means of enforcing payment, I could do nothing. This was an open and avowed breach of the law and defiance of her officers on the part of one who is entrusted by Her Majesty with the administration of peace, and whose example will readily be made a plea by others for committing similar unlawful acts.

12th. At Sizes Harbor. I boarded a merchant vessel. and found on board, in addition to salt and fishing tackle, a cutting

machine, presses and boilers, to be used for manufacturing herring oil. The master reported and paid duty. Also collected duties, from the master of a vessel from Canada, on herring barrels. The master of a Nova Scotia fishing vessel which we found here, at first resisted, but on seeing me determined, at length complied.

13th. Cape Charles. A vessel from Canada, consigned to Mr. F. Beminster, was entered and duties paid. At this place I gave a commission to Mr. Joseph R. Taylor, as Preventive Officer.

29th. At 10 p.m. saw a vessel coming in, which on boarding, I found to be the "Emblem," Green, master, a trader from Halifax, which had evaded us when down south.

I remained on board all night and in the morning, put an officer on board, when the captain came and entered and paid duties.

5th. [October]. Left Henly Harbor, and arrived at St. John's, on the 11th.

The duties of this officer were therefore arduous and responsible, and I have much pleasure in being able to report on the satisfactory manner in which he discharged them, and to testifying, not only to his competency and ability as an officer, but also to his energy and perseverance in carrying out the work entrusted to him.

I have, etc.,
(Signed) J. WINTER,
Collector,
Labrador.

[21 Aug.
1865.]**EXTRACT FROM MR. D. A. SMITH'S LETTER**DATED 21ST AUGUST, 1865, FROM RIGOLET TO MR. THOMAS FRASER
AT LONDON.

(HUDSON'S BAY COMPANY'S CORRESPONDENCE.)

. . . . “The Collector of Customs for Labrador we found waiting our arrival in this Bay, and I beg to say that I have drawn on the Company two bills of date 19th inst. in favour of the Receiver General of Newfoundland for £287.9.11 stg. and £6.10/stg. respectively, for duties on Cargo of Ocean Nymph, and a few days before my arrival another bill for £31.18/4 stg. had been given in favor of the same official by the officer having temporary charge at North West River, the latter amount being for duties on Cargo by Schooner “Jacques Cartier” from Quebec. The whole of the duties exacted have been paid under protest. . . .”

[Nov. 24
1865.]**REPORT OF J. WINTER ON THE LABRADOR
REVENUE SERVICE, 1865.**COLONIAL OFFICE RECORDS 197/41. JOURNAL OF THE ASSEMBLY,
NEWFOUNDLAND. Appendix.Report of J. Winter, Esq., on Labrador Revenue Service for
1865.Customs House,
St. John's,
24th November, 1865.

SIR,—

I have the honour to report as follows on the Labrador
Revenue Service, 1865.

[July 15th.] Arrived at Rigoulette. Here the Hudson Bay Company have a branch establishment and agent. We were obliged to wait here for the “Jaques Carter,” which we had left at Cartwright. She came into Rigoulette but landed no part of her cargo here, and proceeded for N.W. River. We left Rigoulette together and arrived in company at N.W. River, 30th—the Hudson Bay Company's chief establishment is here, and I called on the agent for the duties per “Jacques Cartier.” He at first refused to pay, stating that his principal Mr. Smith, had said that he considered N.W. River beyond the jurisdiction of Newfoundland. As my instructions were to the contrary, I told him I could not allow the goods to go out of my possession until the duties were paid, which he at length consented to do under protest.

August 2. Returned to Rigoulette. Here we found the barque “Ocean Nymph” had arrived to the Hudson Bay Company from London with a general cargo. Mr. Smith, the head agent, came in her as a passenger, he had left Rigoulette for N.W. River in a boat and passed us in the night. I immediately put an officer on board the vessel, and the captain and a clerk came on board and reported the vessel and cargo and gave me an account of the goods already landed.

I then called on the agent Mr. Groves, and requested him to allow me to examine the goods landed, and to pay the duties. He refused to do either. I told him that I would allow nothing to be landed from the vessel until the duties were paid. He said his instructions were to have the goods for

Rigoulette landed and put into the stores, to be locked up and to

keep the keys, and that the goods for N.W. River were to be put on board a schooner and sent there. I then gave orders to the officer on board to allow nothing to leave the vessel. This had the effect of bringing the captain on board with a view to making an arrangement. The captain fully understood his position and the justice of the course I had taken, but represented the serious consequence of delaying the vessel. I accordingly made an offer, which, considering all the circumstances of the case, I thought most advisable, viz:—to make a warehouse of the stores for the goods landed and to be landed at Rigoulette, an account to be taken of all the goods put there, and two locks to be put on the doors, the agent having one key and I the other. The goods for the N.W. River to be put on board the schooner and left in my charge until released by payment of duties.

This arrangement was at once accepted, and the discharging proceeded without any interruption by us. We were obliged to stay here while the vessel was discharging. While here the “Lalla Rookh” Capt. Dodge, from Boston, arrived, and was entered and paid duties. She proceeded to N.W. River and in a few days returned to Rigoulette with Mr. Smith on board. After he landed, I called upon him. He said he expected me up in the “Lively” with the goods on board. I told him that the goods having been landed at Rigoulette, and shipped into another vessel, which was an importation at that place, I could not run the risk of allowing the goods to leave Rigoulette before the entries were passed and the duties paid or secured. He then stated that the greater part of the goods for N.W. River were intended to be sent 200 or 300 miles into the interior for the Indians and the remainder, except a small quantity, were to be sent to Hudson Bay. These articles, being intended for consumption out of our jurisdiction, he asked me to allow them to pass through overland, by way of N.W. River, without payment of duty. This, I told him, the law would not permit me to do, there being no provision to meet such cases. He then produced invoices of the goods, corresponding in all respects, with what had been landed from the vessel, and gave me a bill for the amount of the duty, but under protest as regards three-fifths, this being, as he alleged, the proportion intended to be sent out of our jurisdiction.

The amount received from the Hudson Bay Company this year was large, and the first, except a small amount last year, that has been collected from them. The large importation this year may be accounted for partly by an increase in their trade, but chiefly from their importing two or three years' stock of many articles at once. This will, of course, lead to a comparatively small collection from that Company the ensuing year or two.

Having now reached our northern limit, we left Rigoulette on the 21st August, having been detained here till this time, waiting for the discharge of the “Ocean Nymph” and in getting the duties on the cargo.

22nd Mullin's Cove.

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29th. Hawk's Harbor.

I called on Mr. George Dike for the purpose of ascertaining his answer with regard to the duty on the cargo of salt by the "Test" last year, which I had given him time to consider. His only answer was that he would not pay the duties. As he then rendered himself liable to a penalty under the Act, of which he was well aware, I laid a complaint before the Judge, who summoned him to appear before him. The case having been heard by the Judge, he was told he would have either to pay the penalty or go to goal. He chose the latter, and was accordingly sentenced to a month's imprisonment in Harbor Grace.

I have the honour to be, Sir,

Your most obedient humble servant,

J. WINTER,

Collector, Labrador.

Hon. John Kent,

Receiver General, etc.

[7 April,
1865.]**EXTRACT FROM AN ACT FOR GRANTING TO HER
MAJESTY CERTAIN DUTIES ON GOODS, WARES
AND MERCHANDIZE, IMPORTED INTO THIS
COLONY AND ITS DEPENDENCIES.***(Passed 7th April, 1865.)*

THE LAWS OF NEWFOUNDLAND, 1864-1865. 28TH VICTORIA, CAP. I.

Salaries to Officers.

May it please Your Majesty:

We, Your Majesty's most dutiful and loyal subjects the Commons of Newfoundland, in General Assembly convened, towards raising the necessary Revenue to defray Your Majesty's Public Expenses in this Colony, have freely and voluntarily resolved to give and grant unto Your Majesty the Duties hereinafter mentioned; and do therefore beseech your Majesty that it may be enacted:

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

* * * *

IX. There shall be allowed and paid annually to the following Officers of Her Majesty's Customs in this Colony, hereinafter mentioned, to defray all expenses of remuneration for the Collection of the Colonial Revenue, and charges incidental thereto, the sums set opposite the names of the said officers, for the period during which this Act shall be in operation, viz:—

* * * *

The Collector at Labrador, Four Hundred and Sixty-two Dollars, and two and a half per cent. on all duties collected.

* * * *

The Preventive Officer at Lance Sablon, Two Hundred and Thirty-one Dollars, and ten per cent. on all duties collected.

No. 597.

[7 April, 1865.]

EXTRACT FROM AN ACT FOR GRANTING TO HER MAJESTY A SUM OF MONEY FOR DEFRAYING THE EXPENSES OF THE CIVIL GOVERNMENT OF THIS COLONY, FOR THE YEAR ENDING THE THIRTY-FIRST DAY OF DECEMBER, ONE THOUSAND EIGHT HUNDRED AND SIXTY-FIVE, AND FOR OTHER PURPOSES.

(Passed 7th April, 1865.)

28TH VICTORIA, CAP. XX.

May it please Your Majesty:

We, Your Majesty's most dutiful and Loyal Subjects the Commons of Newfoundland, have freely and voluntarily resolved to give and grant unto Your Majesty a Suppply to Defray certain Charges for the Support of the Civil Government, for the Administration of Justice, and the General Improvement of this Colony, do beseech Your Majesty that it may be enacted, and

Medical Attendance, Labrador.
Education, Labrador.

Be it therefore enacted by the Governor, Legislative Council, and Assembly, in Legislative Session convened: That from and out of such moneys as shall from time to time be remain in the hands of the Receiver General, and Unappropriated, there be granted to your Majesty, your Heirs and Successors, the sum of Two Hundred and Twenty-seven Thousand and Sixty-two Dollars and Seventy-five Cents which said sum shall be applied in payment of the following charges, for the Year commencing on the First day of January, One Thousand Eight Hundred and Sixty-five, and ending on the Thirty-first day of December in the same year, that is to say:—

Revenue Crusiser, Labrador.

* * * *

The sum of Two Hundred and Fifty dollars towards providing Medical Attendance at Labrador.

The sum of Two Hundred Dollars towards the encouragement of Education at Labrador.

* * * *

The sum of one thousand eight hundred dollars towards defraying the expenses of Revenue Cruiser, Labrador.

No. 598.**EXTRACT FROM MR. D. A. SMITH'S LETTER**[28 Aug.
1866.]

DATED 23RD AUGUST, 1866, FROM RIGOLET TO MR. THOMAS FRASER
AT LONDON.

(HUDSON'S BAY COMPANY'S CORRESPONDENCE.)

. . . . "This letter is to be transmitted to St. John's, Newfoundland, by the Collector of Labrador, to whom I have given a Bill of Exchange on the Receiver General of Newfoundland of date the 22 August for £206.18/stg. being for duties on a portion of the Labrador's Cargo from England and Canada. Duties on goods intended for use in the interior of this Bay and at Ungava I have not paid, and the Collector, this year more moderate in his demands and anxious apparently to be accommodating appears to be well satisfied with what we chose to give him. . . ."

[17 Aug.
1868.]**No. 599****EXTRACT FROM MR. DONALD A. SMITH'S LETTER**

DATED 17TH AUGUST, 1868, FROM S.S. "LABRADOR," INDIAN
HARBOUR, LABRADOR, TO MR. W. G. SMITH AT LONDON.

(HUDSON'S BAY COMPANY'S CORRESPONDENCE.)

. . . . "I addressed you on the 23rd July intimating the arrival of the "Labrador" at Rigolet and advising draft on the Governor and Committee in favour of the Receiver General of Newfoundland for £151.4/8 stg. for duties on this season's imports. These duties, by an Act passed on the 14th March last, have become very onerous, having on most articles been advanced 100 P. Cent. beyond the rates formerly exacted. The amount of our draft is little more than one fourth of the sum we would have had to pay, had the entire cargo of the Labrador been subjected to duty, but I deemed it quite justifiable to enter only that portion of the goods and provisions likely to be disposed of in the immediate neighbourhood of Esquimaux Bay, as our competitors to the Northward, the Moravian Brethren, under the plea of being Missionaries, have so far been allowed to bring in their goods duty free, notwithstanding

that they are in every sense of the word ordinary traders. . . .”

No. 600.

[1868.]

EXTRACT FROM REPORT OF COLLECTOR, 1868.

C.O. RECORDS 197/47.

22nd July at 9 a.m.—The steamer Labrador arrived from London, via Mingan, having on board D. A. Smith, Esq., Chief Factor of the Hon. Hudson's Bay Company. The goods received by this vessel, and a small shipment of provisions from Quebec the previous September were entered and duties received by Bill of Exchange on the Governor of the Company in London.

24th July—Having received despatches from Mr. Smith to be forwarded to the Agent of the Company at St. John's, by the first favourable opportunity, we sailed from Rigolette, and the following evening arrived at Indian Harbour.

No. 601

C

[23 Aug.
1869.]

HENRY CONNOLLY TO D. A. SMITH.

HUDSON'S BAY CO. CORR. (RIGOLET) LETTER BOOK 1869-1872.

Rigolet, 23rd August, 1869.

D. A. Smith, Esquire,
H. Bay Coy., Montreal.

Dear Sir:

* * * *

The Collector of H.M. Customs arrived here sometime before the Labrador. He demanded the Invoices. I had to produce the English one and that of Canada for Hamilon Inlet only, and had a bill under protest on the Governor and Committee for the same. The warrants &c. I herewith enclose, as well as Mr. Pearce's account, and also the Invoice and Bill of Lading by the Ocean Nymph, which vessel I hope will get up in safety. With best wishes for your health, I remain, dear Sir.

Your most obedient humble servant,

HENRY CONNOLLY.

[4 Nov.
1869.]**REPORT OF COLLECTOR OF REVENUE ON THE
EASTERN COAST OF LABRADOR, 1869.**

COLONIAL OFFICE RECORDS 197/49. JOURNAL OF THE ASSEMBLY.
Appendix.

Report of the Collector of Revenue on the Eastern Coast of
Labrador for the year 1869.

Custom House, St. John's.
4th November, 1869.

SIR,

July 23rd. Proceeded by Hamilton Inlet towards Rigolette, and at dark anchored in Mullin's Cove. Here I was informed that the S.S. "Labrador" had not yet arrived to the Hon. the Hudson Bay Company, but the schooner "Repeal" of Halifax, was at Mullihawk, some 6 miles from Rigolette, trading for salmon.

July 24th. At 7 a.m. wind easterly, left Mullin's Cove and went on to Mullinhawk. Here I found the "Rood" of Halifax and a schooner from Carbonear, both trading; the former entered his vessels and paid the duties demanded of him.

July 26st. At Rigolette, no sign of the steamer "Labrador." The following day went to Mullin's Cove, expecting to find in that neighbourhood the schooner "S.G. Irwin" of Halifax; the next day returned to Rigolette, entered the barque "Ocean Nymph," which vessel had arrived to the Honble. Hudson Bay Company with coals to be supplied to the steamer "Labrador."

July 31st. Took passage in a boat in Mullin's Cove. At this place I learned that the schooner "S.G. Irwin" was anchored at Nat's Discovery, about three miles distant; proceeded on and got on board at 6 p.m. The master made an entry of his inward cargo and paid duties by bill on his merchant at Halifax. Remained on board this vessel all night and next afternoon returned to Rigolette.

August 11th. No appearance of the steamer "Labrador." Left Rigolette for Black Island and Ice Tickle; at which place the judge had some Court business to transact; anchored at Ice Tickle the same day.

August 12th. Walked to Indian Harbor.

I am, Sir,

Your obedient servant,

W. T. KNIGHT,
Collector H.M.C. Labrador.

John Canning, Esq.,
Assistant Collector,
St. John's.

No. 603.

[5 Nov., 1869.]

EXTRACT FROM MR. D. A. SMITH'S LETTERDATED 5TH NOVEMBER, 1869, FROM MONTREAL TO MR. WM. G.
SMITH AT LONDON.

(HUDSON'S BAY COMPANY'S CORRESPONDENCE.)

“In explanation of the amount paid for duties on imports to the Labrador this year being so much higher than formerly, Chief Trader Connolly writes on 23rd August: ‘The Collector of the Customs arrived here (Rigolet) sometime before the Labrador, he demanded for the Invoices. I had to produce the English one and that of Canada for Hamilton Inlet only and had to draw bill under protest on the Governor and Committee for the same.’ I would have referred to this earlier but as Mr. Connolly intimates that he will report more particularly regarding this and other matters of business, by the ‘Labrador,’ I thought it best to defer until fully in possession of his views, any remarks it might appear necessary to make to the Board on the subject. I shall bear the matter in mind and should it appear desirable to represent the matter to Mr. Kent, Receiver General and Principal Collector of Customs of Newfoundland, will not fail to do so. . . .”

[1870.]

REVENUE REPORT, 1870.

COLONIAL OFFICE RECORDS 197/51.

JOURNAL OF THE ASSEMBLY, NEWFOUNDLAND. Appendix.

Report of Mr. M. T. Knight of Labrador Revenue Service for
1870.Custom House,
St. John's,
31st December, 1870.

SIR,

I beg respectfully to submit the following report of the proceedings connected with the collection of revenue on the eastern coast of Labrador, for the past season.

* * * *

July 26th. Arrived at Rigolette, in Esquimaux Bay. At this place the Hudson Bay Company have a branch establishment and an agent.

* * * *

The following morning went up the bay in search of a trader, and came to anchor at Mullyhawk, alongside the schooner "Mayflower," Rood, master from Halifax.

* * * *

The next day again anchored at Rigolette. August the third: went to double Mare Inlet in ship's boat, and found schooner "Repeal," of Halifax; received duties accompanied with a letter of credit from his merchant guaranteeing payment of a draft when presented.

August 8th. Went to Mullin's Cove. Here Judge held Court. Returned to Rigolette next day.

August 11th. The mail steamer "Hawk" arrived at Rigolette. Hear that the steamer "Labrador" had left London on 1st June, for Mingan. The agent at Rigolette was getting anxious on account of the non-arrival of his supplies. Having waited some days longer I proceeded north as far as Indian Harbor, at which place I arrived on the 27th August.

* * * *

September 1st. Again arrived at Rigolette.

September 4th. Received information this morning from Cartwright to the effect that steamer "Labrador," so long expected at this place, was on

of the Straits of Belle Isle.

This disaster caused considerable loss and inconvenience to the Honble. Hudson Bay Company, and disappointment to myself, not only the loss of time occasioned by anticipating that vessel's arrival, but also the loss of duties on such an amount of supplies as was expected to be cleared.

* * * *

September 9th. Arrived at Cartwright, received duties on importations to date; at noon left for Gready; that evening anchored off Long Island; next morning was obliged to go to S.E. Cove, wind blowing furiously from North. Here I was detained until the 13th September; in the meantime the Judge transacted some Court business.

September 19th. At Bolton's Rocks. At this palce the Judge transacted some business.

September 20th. At Venison Tickle.

* * * *

At this place, as at every other harbor to Cape Harrison, I found the cod and herring fisheries almost a total failure.

September 24th. At Salt Pond, walked to Murray and Spear Harbors. At Murray's Harbor was an arichat vessel chartered by Mr. D. Green of Harbor Grace, and at Mechlenburg was a Quebec vessel chartered by Mr. Edwin Duder; the one had arrived from St. John's, the others from Twillingate.

I am, Sir,
Your obedient servant,
M. T. KNIGHT,
Collector H.M.C. Labrador.

The Honble. Thomas Glen,
Receiver General,
NEWFOUNDLAND.

[12 Aug.,
1881.]**EXTRACT FROM MR. M. FORTESCUE'S LETTER**DATED FROM RIGOLET, LABRADOR, 12TH AUGUST, 1881, TO MR. W.
ARMIT AT LONDON.

(HUDSON'S BAY COMPANY'S CORRESPONDENCE.)

“ . . . To add to failure of the Fishery, I am sorry to say, some vessels have been permitted to leave Newfoundland with the Measles on board, which of course spread amongst the people, here, and whole families have been and are now completely prostrated with it, and in some cases totally incapacitated from attending their salmon nets, which of course had tended to reduce our returns, I have had two of our men laid up also, but they are now nearly convalescent, several deaths have however occurred amongst the Newfoundland fishermen, and one or two amongst our planters.

“I have written the Colonial Secretary for Newfoundland but I do not suppose they will pay much attention to my letter, as the only thing they seem to care for, is to squeeze as much money as they can out of the Labrador Coast, and give no returns for it, I have serious doubts in my mind whether they have really a legal right to collect duties from us here, but of course I shall continue paying them under protest, till I have authority from you to discontinue doing so . . . ”

Privy Council Documents

Volume III Contents

No. 606.

[20 May, 1882.]

**NEWFOUNDLAND ACT 45 VICT. CAP. 6
(COLLECTION OF CUSTOMS IN LABRADOR).**

Enacting Clause.

Customs Officers.

Labrador Duties.

C.O. 196/8. NEWFOUNDLAND ACT, 45 Victoria, Cap VI.

An Act to amend and consolidate the laws relating to the Customs.

[Passed 20th May, 1882].

Forfeiture.

Be it enacted by the Administrator of the Government, Council and Assembly, in Legislative Session convened, as follows:—

Power of Officers.

II. The Governor in Council may appoint proper persons to execute the duties of the several officers necessary to the due collection and management of the Revenue now levied, or which may hereafter be levied on goods, wares, and merchandize imported into this land and its Dependencies, that is to say:

Proviso.

XCII. All goods landed at Labrador shall be subject to the duties imposed upon the like goods imported into any part of this island or its dependencies, and to the same laws, rules and regulations, as though they were on board the importing ships on arrival, before such landing; and unless the owners or their agents shall duly account for all such goods to any Officer of the Revenue appointed to collect Duties at Labrador, to his satisfaction, pass entries for the same, and pay the duties thereon, such goods shall be forfeited; and any such officer may, at any time between sunrise and sunset, enter into any building or place of any person, dealing or having in his possession dutiable goods, and take an account thereof; and if such owner or agent shall refuse to open the doors, or shall in any wise obstruct such officer, he shall forfeit the sum of four hundred dollars; and such officer may, if he think fit at any time so to do, take with him a writ of assistance, and proceed therewith in manner by law in that behalf directed in similar cases: Provided, that nothing in this Section shall exempt from duty, under other provisions of the law, goods imported at Labrador, but not landed.

Entry.

Default Seizure.

Sale

Revenue ship to be deemed office.

Place of sale.

XCIII. Every importer of any goods at Labrador shall, within two days after importation, make due entry of such goods, and pay the duties thereon, and, if required by the Collector or Sub-Collector, land the said goods; and

Breach of Revenue
Laws, Labrador.
Penalty.

in default of such entry and payment of duties, the Collector or Sub-Collector may seize and sell the said goods, or so much as may be necessary for the payment of all duties, the Collector or Sub-Collector may seize and sell the said goods, or so much as may be necessary for the payment of all duties on such importation, paying over the surplus of the proceeds, after the payment of such Duties and expenses of seizure and sale, to the Proprietor of such goods or to any person authorized to receive the same.

XCIV. For the purpose of the collection of the Revenue at Labrador, the office of Collector or Sub-Collector, where there is no office on shore, shall be held to be in the ship or vessel in which such Collector or Sub-Collector shall be conveyed.

XCV. Goods seized as forfeited at Labrador may be sold by the Collector or Sub-Collector, under the provisions of the laws relating to the Revenue, at any Port or Place such Collector or Sub-Collector may deem expedient.

XCVII. Every person who shall be concerned in landing or unshipping at Labrador, any goods, wares, or merchandize liable to duty, the Duties on which have not been paid or secured, shall forfeit and pay a penalty of four hundred dollars.

[1908.]

No. 607.

C

**EXTRACT FROM REPORT OF AN OFFICIAL VISIT
TO LABRADOR BY THE GOVERNOR OF
NEWFOUNDLAND (SIR WILLIAM
MACGREGOR), 1908.**

(JOURNAL OF ASSEMBLY, NEWFOUNDLAND, 1909, p. 325.)

“Two Newfoundland Customs' Officers are stationed at Rigoulette. The Hudson Bay Company does not pay duty on goods it passes away into the hinterland, but pays on goods for consumption on the coast.”

[16 Aug.
1909.]**AFFIDAVIT OF HENRY WEBB.**

IN THE MATTER OF the Enquiry into the Newfoundland Territorial Rights on the Labrador.

District of Labrador, Nain, to wit:

I, HENRY WEBB, of Nain aforesaid, Fisherman and Hunter, make oath and say as follows:—

1. I was born in Sandwich Bay in 1856 and lived there for about twenty years. My father was an Englishman and lived on the Coast for about thirty years, and during that time he hunted and trapped in the interior in the winter time, sometimes going 100 miles inland. As far as I know he was subject to the laws of Newfoundland, paid duty to the Government of Newfoundland and recognized its laws. I can remember that about forty years ago the Newfoundland Court was held here. I came to Davis Inlet in 1877 and was there about four years when I came on to Nain. Since then I have been trapping and hunting inland, sometimes going inland about three hundred miles. I have exercised citizenship on the coast under the Newfoundland laws. As far as I know we were never subject to any Canadian authority whatever, never paid any duties to Canadian Customs authorities and never obeyed any laws except those of the Newfoundland Government. I have paid revenue to the Newfoundland Government since the Collector of Customs has come on the Coast and my father did before me.

(Sgd) HENRY WEBB.

SWORN before me at Nain aforesaid this
16th day of August A.D. 1909.

(Sgd) F. J. MORRIS,
Judge, Labrador Court.

[25 Aug.,
1909.]**AFFIDAVIT OF S. J. BROMFIELD.**

IN THE MATTER OF the Enquiry into the Newfoundland Territorial Rights on the Labrador.

Labrador, Jack Lane's Bay, to wit:

I, SAMUEL JAMES BROMFIELD, of Jack Lane's Bay aforesaid, make oath and say as follows:—

I was born in Grois Water Bay in 1852. My father was an Englishman from Dartmouth, England. I came to Jack Lane's Bay 34 years ago. I have been fishing and trapping ever since. I have gone into the interior trapping every winter, a distance of about 50 miles. I have paid revenue to the Government of Newfoundland ever since revenue was collected on the Labrador, and have been obeying its laws and recognized myself as a citizen of Newfoundland and under the jurisdiction of its Government. I have never had anything to do with any Canadian officers and have traded with Newfoundland traders and the Mission traders and no one else, and nobody has ever interfered with me in my rights as a resident of Labrador. I have never heard that Canada had any claim or made any claim to the interior of the Labrador.

(Sgd) SAMUEL J. BROMFIELD.

SWORN before me at Jack Lane's Bay aforesaid this 25th day of August A.D. 1909.

(Sgd) F. J. MORRIS,

Judge of Court of Labrador.

[26 Aug.
1909.]**AFFIDAVIT OF EDWARD MITCHELL.**

IN THE MATTER OF the Enquiry into the Newfoundland Territorial Rights on the Labrador.

Labrador, Hopedale, to wit:

I, EDWARD MITCHELL of Adlatuk Bay, near Hopedale aforesaid, make oath and say as follows:

My father belonged to Dartmouth, England. He came to this country about eighty years ago as a servant to the Messrs. Hunt, an English firm then doing business in Sandwich Bay, and he resided on the Labrador until his death in 1871. He always recognized Newfoundland jurisdiction and laws as being in existence on the Labrador. I am sixty years of age. I am a fisherman, hunter and trapper. I have been into the interior about thirty miles trapping. I have been trading with schooners for years and paying revenue to the Customs of Newfoundland. I have always recognized the laws of Newfoundland as governing me and the people on this Coast. I have always been a resident of the Labrador, but a citizen under the jurisdiction of the Government of Newfoundland. I never heard of any Canadian officer or anybody from the Canadian Government ever seeking to establish a right down here. I have never obeyed any Canadian laws, fishery or otherwise.

(Sgd) EDWARD MITCHELL.

SWORN before me at Hopedale aforesaid
this 26th day of August, A.D. 1909.

(Sgd) F. J. MORRIS,
Judge of Court of Labrador.

[10 Sept.,
1909]

No. 611.
AFFIDAVIT OF THOMAS BLAKE.

IN THE MATTER OF the Enquiry into the New-
foundland Territorial Rights on the Labrador.

Labrador, Snooks Cove, to wit:

I, THOMAS BLAKE make oath and say as follows:—I live at Mulligan, about 20 miles below North West River, and about 120 miles from the sea coast. I was born in Hamilton Inlet about 66 years ago. My father, William Blake, was born and lived and died here in the Inlet. He was 52 years old when he died. His father, William Blake, came from Devonshire, England, as a young man in the pioneer days of the fishing vessels sent out from England to fish on the coast during the summer season. My grandfather, my father and myself have lived in Hamilton Inlet about 140 years. I have gone into the interior about 184 miles from my home and lived there during the winter season trapping and hunting. I come out in the spring and fish for trout and salmon. I have been doing that for over fifty years. We have owned and occupied the land where I now reside during my father's lifetime and my own. Although living so far up the Inlet and in the interior of the country (being about 220 miles from the coast) I have always considered myself a citizen of Newfoundland, as my father did before me. We have been subject to the laws of Newfoundland and have paid revenue to the Customs ever since the first Revenue Collector came on the Labrador. I remember when the Court was held here at Rigolet by Judge Sweetland and afterwards by Judge Pinsent. I paid revenue to the Collector of Customs, or Customs official, that came with these Judges. I have never had anything to do with the Government of Canada, and I have never obeyed or been asked to comply with any of its laws or rules or directions in connection with the interior of the country, the game laws or fishery laws, nor paid any tax or revenue to any official of the Government of Canada. I have always believed that the land that I have resided on, trapped over and used in the interior, was the Dominion of the Government of Newfoundland and always looked to the Governor and Government of Newfoundland as the rulers of the country. I never heard of any claim of Canada until four or five years ago, when there was a dispute between some of the trappers amongst our people and the Indians residing in the interior in connection with the fur ground, which the Indians claimed to have been their fathers and grandfathers and they now wish to exclude us. For the last year or so it has been getting more pronounced and this year I heard that they are threatening to shoot some of our settlers if they go

in on their (the Indians) hunting grounds.

(Sgd) THOMAS L. BLAKE.

SWORN before me at Snooks Cove aforesaid

this 10th day of September A.D. 1909.

(Sgd) F. J. MORRIS,

Judge of the Court of Labrador

[10 Sept.,
1909.]**AFFIDAVIT OF JOSEPH GOUDY.**

IN THE MATTER OF the Enquiry into the New-
foundland Territorial Rights on the Labrador.

Labrador, North West River, to wit:

I, JOSEPH GOUDY of North West River aforesaid, make oath
and say as follows:

I am 73 years of age, 70 of which I have lived in this Bay, about 140 miles from the sea coast. I have been a fisherman, hunter and trapper all my lifetime. I have gone into the interior hunting and trapping when I was a young man, but not so far in as my sons go now. There was no necessity then, as fur bearing animals were much nearer. My sons, Allan aged 36 and Charles aged 34, go in regularly every winter a distance of between two and three hundred miles. They have got a house in there, and stay there all the Winter season and come out in the spring; nearly all the young men residing about here, and farther on, do the same to my certain knowledge. I own a range of houses and traps for a distance of about 30 miles inland. My house, outhouses and gardens, in all about a couple of acres, I have occupied for over 60 years. I have always paid Customs duties to the Government of Newfoundland on all that I bought or purchased. I remember when Judge Sweetland visited Rigolet and held Court there. I also knew Judge Pinsent, and also Mr. Winter, the Collector of Customs, who came with the Court. I have paid duties to the Government of Newfoundland ever since duties have been collected. Although residing up here in the interior of the Labrador, I have always considered myself a citizen of Newfoundland, and subject to its laws and government. It is Newfoundland laws we have to go by. I have never had anything to do with Canada, nor any persons representing the Government of Canada, have never paid any duty to them, and have never obeyed any of their laws or rules and regulations.

his
(Sgd) JOSEPH x GOUDY.
mark.

SWORN before me at North West River aforesaid,
this 10th day of Sept. A.D. 1909. Having been
first read over and explained.

(Sgd) F. J. MORRIS,
Judge, Court Labrador.

No. 613.[19 June,
1923.]**LETTER FROM A. BRABANT,**FUR TRADE COMMISSIONER, HUDSON'S BAY COMPANY, WINNIPEG,
MAN., TO E. L. NEWCOMBE, DEPUTY MINISTER OF JUSTICE, OTTAWA.

Winnipeg, Man. 13th June, 1923.
In your reply refer to No. 869.

Sir,

With reference to conversation which your Mr. Plaxton had with our Mr. Conn when the latter was recently in Ottawa, Mr. Plaxton asked that we ascertain whether the Company had any record of giving instructions to the late Mr. Fortesque who was in charge of our Rigolet Post about the year 1881, to discontinue paying customs duty under protest.

I wrote our London Office on this subject and am to-day in receipt of their reply as follows:

“We have had search made in the records of the London Office but have not been able to find any correspondence from London to Canada instructing Mr. Fortesque to discontinue paying Customs Duties under protest.”

I am, Sir,

Your obedient servant,

(Signed) A. BRABANT,
Fur Trade Commissioner.

E. L. Newcombe, Esq.,
Deputy Minister of Justice,
Ottawa, Ont.

[4 March,
1926.]**AFFIDAVIT OF RALPH PARSONS.**[18 March,
1926.]**In the Privy Council.**

IN THE MATTER of the BOUNDARY between the DOMINION OF
CANADA and the COLONY of NEWFOUNDLAND in the LABRADOR
PENINSULA.

I, RALPH PARSONS of Montreal, Canada, make Oath and say
as follows:—

1. I spent 25 years on the Labrador Peninsula. I was 2 years at Cartwright and 5 at Rigolet. I then went to North West River and after that to Cartwright for 4 years. After that I went to the Ungava section of the Peninsula for 9 years, being for 2 years of that time travelling at intervals from Quebec to St. Augustine's. Then I resided at St. John's, Newfoundland and travelled in the Canadian and Newfoundland Labrador district which covers an area between Blanc Sablon and Port Harrison in Hudson Bay. During the last 4 or 5 years I have also travelled in the territory east of Montreal.

2. I was at North West River for the three years 1905-7. The permanent Settlers, who subsist principally on furring in the winter, used constantly to go inland hunting and trapping 150 miles or more and often as far as height of land. There were some 200 or 300 Montagnais Indians definitely attached to North West River and they also travelled far into the interior on their hunting expeditions.

3. Goods supplied to the Settlers and Indians round North West River Post were brought up via Hamilton Inlet and duty was paid on such goods to the Newfoundland Government.

4. The Newfoundland Game Laws were enforced against the Settlers and I remember a man residing on the Labrador Coast being fined \$100 for killing animals out of season.

5. When I was at North West River lumbermen operating there used to work as far inland as Mud Lake, 40 miles from Sandy Point, the entrance to Goose Bay, and Cruisers went much further up. I myself travelled up the Nascopie or North West River about 40 miles from the Settlement and also went up Goose Bay and some 20 miles along the Hamilton River. In addition I went some 5 or 6 miles up the Kinamon.

6. I should estimate that there were about 1,000 Settlers in Hamilton Inlet when I was there.

7. In the fall of the year the tide at North West River was very strong and the water gets brackish.

Sworn at 353 Strand in the Country
of London, this 4th Day of
March 1926. } RALPH PARSONS.

Before me,
FRANCIS W. LUCK,

A Commissioner for Oaths.

No. 615.

N

18th March, 1925—**AFFIDAVIT OF JOHN GRIEVE.**

Vide Part VIII E, No. 545, p. 1483.

AFFIDAVIT OF THOMAS WINTER.[19 March,
1926.]In the Privy Council.

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA
and the COLONY of
NEWFOUNDLAND in the LABRADOR
PENINSULA.

I, THOMAS WINTER, of Water Street, St. John's, Newfoundland retired merchant, make Oath and say as follows:—

1. I am a son of James Winter, who was collector of Customs on Labrador for the Newfoundland Government between 1863 and 1868. As a boy of 17 or 18 I accompanied my father as his Customs House Broker on his trips up and down the Labrador Coast in 1865 and 1866, collecting duties.

2. IN each of these two years we left St. John's about the 1st June and made two journeys in the schooner Volant, commanded by Captain Pike, of Carbonear, up and down the coast between Blanc Sablon and North West River. We were accompanied by Mr. Benjamin Sweetland, Judge of the Labrador Court, and his bailiff, Mr. Jonas Purchase.

3. I remember that the cases with which Judge Sweetland had to deal were usually disputes about the ownership of cod-fishery posts on the outer shore and salmon fishing posts in the rivers. I never heard of his decisions being questioned in any way.

4. My father collected duties at the same time from different business houses carrying on the fishery on a large scale along the coast and “supplying” or “fitting out” the fishermen. These firms, as distinct from those domiciled in Newfoundland and having branches on the Labrador coast, included De Quetteville & Co., Falle and Co. Boutillier Bros. at Blanc Sablon, T. & D. Slade at Battle Harbor, Larmour & Co. at Grady Harbor,

and Hunt and Henley at Cartwright, with branches at Grady, Long Island, Venison Tickle, and Francis Harbor, and the Hudson's Bay Company at Rigolet and North West River.

5. We used to stay a few days at North West River, and the same at Rigolet on each of our trips. The North West River post was maintained by the Hudson's Bay Company for the trade of the interior. The Indians, both Montagnais and Nascopies, used to come out from the interior and stay at the posts, bringing out furs and taking back the supplies for which they traded them, e.g. powder, shot, clothing and traps. Mr. Donald Smith, afterwards Lord Strathcona, was in charge of the North West River post at that time and also of the district for the Hudson's Bay Company. So far as I know he never raised any objection to pay duties.

6. To the best of my recollection the Hudson's Bay Company paid between £5000 and £1,000 in duties on the Labrador.

8. The Hudson's Bay Company did a large trade in furs with white and half-breed trappers and the Indians. My recollection is that the Company had posts in the interior to which supplies were sent from North West River, the furs at these interior posts being sent out to North West River for export.

SWORN at St. John's, Newfoundland,
this 19th day of March 1926,

THOS. WINTER.

[20 March
1926.]

Before me,
ROBERT ALSOP,
Commissioner
Supreme Court of Newfoundland.

No. 617.

N

20th March, 1926—**AFFIDAVIT OF FREDERICK
COLMAN BRIEN.**

Vide, Part VIII B, No. 415, p. 1296.

AFFIDAVIT OF SIR P. T. McGRATH, K.B.E.[30 March,
1926]In the Privy Council.

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA
and the COLONY of
NEWFOUNDLAND in the LABRADOR
PENINSULA.

I, SIR PATRICK THOMAS McGRATH, K.B.E., of 6, Gower Street, St. John's, Newfoundland, President of the Legislative Council of Newfoundland, make Oath and say as follows:—

On behalf of the Newfoundland Government in 1922 and 1923 I interviewed Captain James G. Joy of St. John's aforesaid, sometime Marine Superintendent for Messrs. Job Brothers & Co. engaged in the catching and export of fish from Newfoundland and Labrador; and William Collingwood of St. John's aforesaid, a storekeeper, sometime in the employ of Messrs. Baine, Johnston & Co. of St. John's aforesaid, another firm which has been for many years engaged in the catching and exporting of fish from Newfoundland and Labrador; and Harry P. Winter of 64, Wall Street, New York City, a sugar merchant.

2. I took down in my own hand statements made voluntarily to me by each of the said persons in Paragraph 1 hereof referred to, had these statements typewritten and submitted the said statements to them respectively for revision. They thereupon signed the said statements respectively in my presence and declared the same to be true.

3. The said statements so taken down submitted and signed as aforesaid are now produced and shown to me marked P.T.M. 1, 2, 3 respectively.

4. It is within my own knowledge that each of the said persons are now dead.

P. T. McGRATH.

SWORN at St. John's, in the Island of
Newfoundland this 30th day of March 1926.

Before me

ROBERT ALSOP

A Commissioner for Oaths.

VOLUNTARY STATEMENT OF CAPT. JAMES G. JOY, OF
ST. JOHN'S.[2 April,
1922.]

Capt. Joy, a native of St. John's, now in his 77th year, was during his active life connected with the fishery industries of this country and conducted a business at Salmon River, Canadian Labrador, and latterly has been Marine Superintendent for Messrs. Job Bros. & Company of St. John's, a firm engaged in the catching and exporting of the fishery products of Newfoundland for over a hundred years with establishments on Labrador since 1861. His statement is as follows:—

I, James G. Joy have had my attention drawn to a statement by Mr. Ralph Parsons, Manager of the Hudson's Bay Company's Labrador Department with headquarters in St. John's, to the effect that Newfoundland does not care for her people on Labrador as well as Canada does for hers. In my opinion this view is not at all warranted. I have been connected with the fishery business on Canadian Labrador, in Belle Isle Strait, west of the boundary line at Blanc Sablon for over 50 years, and have had good opportunities of seeing how the Canadian authorities cared for their people there. As a matter of fact they did not give anything like the attention to them that the Newfoundland Government gave to its people east of the boundary line. There was no proper mail or passenger service on the Canadian side, and no mail steamer calling there, and for the whole 300 miles east of Natashquan the people had to put up with as their sole means of communication, open boats or skiffs, which carried both mails and passengers, while Newfoundland provided steamers for this purpose. The only evidence of jurisdiction I ever saw or heard of, on the Canadian area, was the fishery officer who made a visit there once each summer or sometimes twice, in a revenue cruiser, and being a doctor, gave a little attention to the medical needs of the people.

I carried on a fishery business at Salmon River, Canadian Labrador, near Blanc Sablon, from 1861 until 1905, and am quite satisfied that the Canadian people residing along that coast never got the consideration or care that Newfoundland gave her people east of the Boundary line. There were no authorities to enforce the law and the collection of debts was impossible. Nearly all the mail and passenger traffic was done by way of Newfoundland, there were hardly any school facilities provided, and except for the officer on the revenue cruiser there was no medical care at all given to the people east of Natashquan, a stretch of coast 300 miles long. The interior of Canadian Labrador was just as unexplored as that of Newfoundland Labrador, all the people were fishermen and

never went inland any farther than was necessary to hunt for their subsistence. They were supplied with the necessaries of life by traders like myself and their Government showed no interest in them whatever. The only people who carried on the fisheries in a large way were from Newfoundland, and but for them the people would

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have fared badly. I have kept in pretty close touch with this region since I gave up active business there, visiting it nearly every year, and I believe that, in the main, conditions are much the same there now as they were then. I know that they have no regular steamer service like the Newfoundlanders have and that most of their trade is done via the West Coast of Newfoundland, because of the facilities the weekly mail boat there gives them, and I know that last Fall there was a great outcry in the newspapers about distress on that part of the Labrador coast and that the Quebec Government had to send a steamer with supplies to feed the people, just as the Newfoundland Government sometimes has to send supplies for its people east of the boundary.

I make the foregoing statement voluntarily, verily believing it to be true to the best of my knowledge and belief.

[27 March,
1922.]

JAMES G. JOY.

Witness P. T. McGRATH.

Dated Apr. 2/22.

VOLUNTARY STATEMENT OF WILLIAM
COLLINGWOOD, OF ST. JOHN'S.

Mr. Collingwood, who is now in his 81st year was born in Poole, Dorset, England, in 1842, and came to Labrador in 1855, as a clerk with T. and D. Slade, of Poole, Dorset, England, who had a fishing premises at Battle Harbor. Here he remained for twenty years, staying all the year round except on rare occasions, when he got a holiday. The first 16 years he was with the Slade firm, and for the remainder with Baine Johnstone & Co., of St. John's, a firm connected with the fisheries of Newfoundland for nearly a century, and who bought out the Slades. Then he was transferred to the main business of Baine Johnstone & Co., at St. John's, and last year after spending fifty years in the firm was retired on a pension. His statement is as follows:—

I, William Collingwood, of St. John's, Storekeeper, say that I was born in Poole, Dorset, England, in 1842 and came to Battle Harbor in 1855 as a clerk in the employ of Slade and Company, who had fishing premises at Battle Harbor and Venison Island. I came out in the schooner "Lord Nelson,"

commanded by my father Capt. T. Collingwood. I stayed with the firm of Slade until they sold out to Baine Johnstone & Co., of St. John's in 1871 and then I went with that firm. I remained on the coast until 1883. I was then transferred to their establishment at St. John's. In the early days at Battle Harbor and Venison Island our vessels brought supplies partly from England, and partly from Hamburg, and then made trips to New York to bring us pork, beef, flour, molasses, and rum. Another firm

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of Slades had houses at Twillingate, and Fogo, on the east coast of Newfoundland, and the people from these places often came to Battle Harbor and vicinity to fish, although the French, who claimed rights at different points, and also the American and Nova Scotians, who fished along the coast, made it very uncomfortable for them.

When first I went to the coast we paid no duties whatever, but about 1857, I think, Mr. J. L. Pendergast, a member of the Newfoundland Legislature came down to the coast in a brig with painted ports, the name I cannot recall, with some authority to collect duties, but everybody refused to pay and he took no drastic measures to compel them to do so. About 1863, I think, Mr. James Winter came down as Collector of Customs in the schooner Volant, with Capt. Pike as Master; and Mr. Bendell, our agent at Battle Harbor paid duties under protest, and Mr. Brockway, our agent at Venison Island, did the same. The next year our Principals instructed us to refuse absolutely to pay, which we did, until Mr. Winter threatened to seize our property and then we gave in. After that we paid the duties every year. At the outset of this controversy the Slades were so incensed that they sold the Venison Island property to Ridley's of Harbor Grace, and Liverpool, who failed a few years later, and the property was then purchased by John Rorke & Son, of Carbonear, who also had a premises at St. Francis Harbor, on the Labrador coast.

During this period we had some resident English clergymen at Battle Harbor. Before I came there was a Rev. Mr. Disney, and in my own recollection Rev. Mr. Hutchinson, Rev. Mr. Botwood, Rev. Mr. Wilson, Rev. Mr. Bishop, and Rev. Mr. Weary. Rev. Hutchinson, in the winter of 1861, made a trip up the coast to Sandwich Bay, I got him a good team of dogs and accompanied him as far as Venison Island. He made the trip successfully, he was the first to do it, and after that it became a regular thing every winter. In those days the population in the Straits from Bonne Esperance east was quite large, compared with what it is now. There were lots of settlers from England and Ireland, but mostly English. Battle Harbor and vicinity had in those times about 600 people. But in the '70's, owing to bad times and other causes a great number of the people moved away, a lot of them to Bay of Island, on the West Coast of Newfoundland, as the farming possibilities appealed to them; and a great many others to Canada and

United States.

After Mr. Winter came as Customs collector for the Newfoundland Government, we had the late Mr. Michael Knight, then Mr. Berteau, and in recent times they have had permanent customs officers on the coast. After the first refusal was overcome there, no one refused to pay duties. I never saw or heard of any Canadian officer, nor did I hear of Canada claiming any jurisdiction or authority on the coast, and no Canadian revenue cruiser or officer ever made any attempt to collect duties from us. Mr. Winter began the practice, which his successors continued, of forcing the Canadian and American vessels, who came to the coast to trade with the people, to pay duties, just as he did the mercantile firms that were settled on the coast.

The staple industry of the people along Labrador in the area where my

p. 1570

work carried me, was fishing with hunting for furs as an auxiliary; and the residents went inland as far as was necessary for the latter purpose.

These conditions continue, I think, practically unaltered down to the present day.

I make the foregoing statement voluntarily, verily believing it to be true, according to the best of my knowledge, information and belief.

WM. COLLINGWOOD.

Dated at St. John's, Newfoundland,
Mar. 27/1922.

Witness: P. T. McGRATH.

AFFIDAVIT OF E. R. BURGESS.

[1 April,
1926.]

In the Privy Council.

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA
and the COLONY of
NEWFOUNDLAND in the LABRADOR
PENINSULA.

I, EDWARD ROBERT BURGESS of Balsam Place, Barnes Road
St. John's Newfoundland make Oath and say as follows:

1. I am a native of Halifax, Nova Scotia, have resided in
Newfoundland since 1882, and was a member of the
Newfoundland Legislature for Twillingate District from
November 1889 to 1893.

2. In the spring of 1891 I was appointed Collector of
Customs for Labrador, which position I held for 12 years and
each summer cruised up and down the coast in a schooner,
which was hired for the purpose, collecting duties on behalf of
the Colony.

3. I collected duties on all imports into the region,
principally from the Hudson's Bay Company, which in those
days was the only business concern importing largely from
foreign countries, though smaller imports were made by other
people.

4. The Hudson's Bay Company paid duties through its post
at Rigolet or Cartwright (whichever at the time was its
headquarters in Labrador) for all the stations it maintained
there—Cartwright, Northwest River, Rigolet, Nachvak, and
Davis' Inlet.

5. I visited Northwest River on several occasions and saw
the Indians there, who used to come out from the interior and

trade at the post. In

p. 1572

those days the only permanent residents were those attached to the Company's post, until Alfred Dickie of Stewiacke, started his lumber mill near there about 20 years ago.

6. Nobody during the years I was on the coast ever questioned the right of the Newfoundland Government to levy duties on imports into Labrador or disputed the duties I assessed upon the goods, nor did I ever hear of any dissatisfaction with the Newfoundland Government or any desire by the resident people to be transferred to Canadian jurisdiction.

7. Whenever distress existed among the residents on the coast I arranged for relief for them. Before leaving each fall I took care to ensure that sufficient stores were available at the chief centres to enable all the needs in this respect to be met.

8. If I thought necessary I authorized the Hudson's Bay Company to furnish relief on account of the Newfoundland Government, and I am not aware of the Company ever having provided relief from its own stores without charging the Newfoundland Government for the same.

E. R. BURGESS.

SWORN at St. John's Newfoundland
this 1st day of April 1926.

ROBERT ALSOP
Commissioner Supreme Court of Newfoundland.

No. 620.

8 June, 1926—**AFFIDAVIT OF F. C. BERTEAU.**

Vide. Part VIII E, No. 547, p. 1485.

G.—RELIEF OF DISTRESS.

[29 April,
1868.]

No. 621.

**NEWFOUNDLAND ACT 31 VICT. CAP. 16 (RELIEF
PROVIDED FOR SUFFERERS BY GALE AT
LABRADOR).**

Preamble.

C.O. 196/6. NEWFOUNDLAND ACT, 31 VICTORIA CAP. XVI.

An Act to indemnify the Governor of Newfoundland for certain sums of money advanced by him from the Colonial Treasury, for the service of the Colony.

[Passed 29th April 1808].

Whereas it is expedient to indemnify His Excellency the Governor of Newfoundland for certain sums of money advanced by him for the Colonial Treasury, for the Service of the Colony:

Sufferers by the gale
at Labrador.

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

That from and out of such moneys as may, from time to time, remain in the hands of the Receiver General, and unappropriated, there be granted to Her Majesty, Her Heirs and Successors, the sum of Fifty-four thousand seven hundred and twenty-three dollars and nine cents.

The sum of one thousand nine hundred and forty-four dollars and forty-five cents, on account of sufferers by the gale at Labrador.

FORTESCUE TO R. PROWSE & SONS.

[30 Sept., 1878.]

HUDSON'S BAY COMPANY'S CORRESPONDENCE (RIGOLET)
LETTER BOOK 1875-1882, p. 298.
Rigolet, 30th Sept. 1878.

Messrs. R. Prowse & Sons,
St. John's.

GENTLEMEN,

Your favor of the 14th inst. has just arrived. I have not much news to give you. The "Labrador" arrived from the North on the 18th inst. and sailed on the 24th for England.....

I mentioned in a former letter that I was going to address you more fully on certain points, but unfortunately I have not had the time. However, they were relative to their being no representative for the coast at all in Parliament, therefore, to whom can we apply for a redress for grievances or to look to our interests. We have a Collector of Customs to examine our Invoices and take money, but if on the other hand people are indebted, and even give a note of hand, which not being met, we have no court to award judgment, it must go to Newfoundland. This is hardly fair. In winter people also apply to us for relief, the Government, though taking money from here, makes no provision for its poor.

.....In haste, I remain,

Gentlemen,

Yours truly,

M. FORTESCUE.

[28 Aug.,
1879.]**COLONIAL SECRETARY E. D. SHEA TO MATTHEW
FORTESCUE.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 57, page
216.

Secretary's Office,
28th August, 1879.

SIR,

I have the honor to acknowledge your letter of the 14th inst., to His Excellency the Governor relating to Labrador matters generally and in particular to apprehended distress in your own immediate neighbourhood.

His Excellency is now about embarking in H.M. Steamer "Druid" to visit Labrador and will go direct to Rigoulet.

In view of your request for assistance for the poor at Rigoulet, we are sending by the "Druid" Fifty Barrels Flour and two puncheons of Molasses, to be placed in your charge and management for the relief of the necessitous in such measure as you may deem proper, according to their wants.

The practice is in cases of what are termed able bodied recipients of relief from Public funds, to require from them a return in labor, or value of some sort for the benefits of roads or other public works. If you dispense to any persons of this able bodied class, it would be well to seek from them such a compliance with this condition as you may see practicable and useful. The principal object of the condition is to prevent injuries that arise from gratuitous pauper relief.

It may be that with you the applicants will be chiefly those who are unable to give any return for aid received, in which cases of course it would be idle to propose it.

Capt. Kennedy of the "Druid" has a dedimus authorizing to administer to you the oaths of J.P.

I have, & c.,
E. D. SHEA, Col. Sec.

Matthew Fortescue, Esqr., J.P.,
Rigoulet, Labrador.

No. 624.[29 Aug.,
1879.]**29th August, 1879—DISPATCH FROM GOVERNOR
GLOVER TO SIR M. E. HICKS BEACH, BART.**

 Vide Part VIII A, No. 380, p. 1261.
[Sept. 15,
1879.]**No. 625.**

N

**MINUTE RESPECTING APPREHENDED DISTRESS IN
RIGOLET.**

 Page 220, No. 6 RECORD BOOK, 1874 to 1883.

Sept. 15th, 1879.

The following proceedings were confirmed. His Excellency having on the 27th August last received a letter from Mr. Fortescue, Rigolet, on matters concerning Labrador, but more particularly with reference to apprehended distress in Rigolet and its neighbourhood from the total failure of the Salmon Fishery, stated that, not having yet visited Labrador he was desirous of doing so and proposed to proceed there in H.M.S. *Druid*, which would take provisions if it was decided to forward them for purposes of relief on the representations of Mr. Fortescue. It was then ordered that Fifty Brs. Flour & two punchs. Molasses be sent to the charge of Mr. Fortescue for Rigolet and twenty five brls. Flour for other parts of Labrador where relief might be found to be most required. Mr. Fortescue to obtain some return for Gov. account, wherever it might be practicable from recipients of relief.

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Volume III
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No. 626.

[8 Oct.,
1880.]

**COLONIAL SECRETARY E. D. SHEA TO MATTHEW
FORTESCUE.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 57, page 303.

Secretary's Office,
8th October, 1880.

SIR,

I have to acknowledge your note of 24th July with a/c exhibiting distribution of 20 Barrels flour and 1 cask of Molasses from the Newfld. Government, left at Rigoulette by H.M.S. "Druid" together with an acknowledgement from each Recipient of the quantity received.

I have, &c.,
(Signed) E. D. SHEA, Col. Sec.

Matthew Fortescue, Esq., J.P.,
Rigoulette, Labr.

M. FORTESCUE TO HON. E. D. SHEA.[30 July,
1881.]

HUDSON'S BAY COMPANY'S CORRESPONDENCE

(RIGOLET) LETTER BOOK 1875-1882, p. 489.

Rigolet, 30th July, 1881.

Hon. E. D. Shea,
Colonial Secretary,
St. John's, Newfoundland.

SIR,

I have the honor to acknowledge receipt of your letter dated the 10th November, 1880, in which you complain of my having represented to Captain Hall of H.M.S. "Flamingo" that a certain person residing in this Bay stood in need of assistance. I certainly wrote a letter to Captain Hall somewhat to that effect, and am prepared to forward a copy of that letter if you wish it. At the same time, considering the large amount of duties collected in this Bay by the Government, I cannot see that I was exceeding my duty in that instance.

You also say that in future my expenditure must be vouched for by Official Authority &c. &c. I shall therefore feel particularly obliged if you will inform me who to apply to at your earliest convenience, as I know of no one residing on this coast who is so authorised. If there should, however, be any one, I can only say that they are very remiss in their duties, as no enquiries are made that I am aware of as to cases requiring relief. Furthermore I have to inform you that vessels have been permitted to leave Newfoundland this Spring bringing down the measles here, and several families have been and are now so prostrated with sickness as to be totally unable to attend to their Salmon Fisheries. So that I have to request an answer to this to enable me to make application in time to the Official Authorities should it be necessary to obtain relief.

* * * *

I have the honor to be, Sir,
Your obedient servant,
M. FORTESCUE, J.P.

No. 628.[10 Sept.,
1881.]**COLONIAL SECRETARY E. D. SHEA TO FRANCIS C.
BERTEAU.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 57, page 380.

Secretary's Office,
10th Sep. 1881.

SIR,

I have your letter of the 24th ulto, on the subject of present and probable future distress at Labrador, particularly at Sandwich Bay and Hamilton Inlet and suggesting that Mr. Fortescue of Rigoulet and Mr. Sawe of Sandwich Bay be authorized to expend limited amounts for relief on Govt. A/C.

The Government while much regretting the necessity, concur in your suggestion, and you will be good enough to communicate if possible with these gentlemen on the subject arranging that they may expend a sum not exceeding four hundred dollars in all for such relief. You will probably be able to judge best in what proportions this sum should be divided between them. Our opinion is that from \$240 to \$280 (two hundred and forty to two hundred and eighty dollars might be the amount to be expended by Mr. Fortescue and from \$100 to 120 dollars by Mr. Dawe, but this division is subject to your discretion if you have an opportunity of communicating with them. Lest you should be unable to do so I am writing to Mr. Fortescue and Mr. Dawe that if they do not hear from you on the matter they can disburse the above amounts, the provisions to be given as stated by you at cost price and actual charges.

I am, &c.,
(Signed) E. D. SHEA, C.S.Francis C. Berteau, Esqr.,
Sub Collector, Labrador.

[2 Oct.,
1882.]

SECRETARY TO MATTHEW FORTESCUE.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 57, page 454.

Secretary's Office,
2nd October, 1882.

DEAR SIR,

The Collector of Revenue has represented to the Government, that there will most likely be some distress in your neighbourhood during the ensuing winter. you are therefore authorized to expend to extend of \$150.00.

Similar authorizing \$120 to be expended in his neighbourhood to Samuel Dawe, Esq., J.P., Cartwright, Sandwich Bay.

Matthew Fortescue, Esq., J.P.,
Rigolet.

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NEWFOUNDLAND EXECUTIVE COUNCIL RECORDS.

1a.

[Aug. 18th,
1885.]

No. 630.

Aug. 18th, 1885.

[Aug. 28th,
1885.]

A letter was read from Mr. Fortescue, J.P., Rigoulet, applying for a sum of from 300 to 400 Dollars for provisions advanced for relief of the poor there last Winter.

No. 631.

Aug. 28th, 1885.

[Nov. 12th,
1885.]

A letter was read from Mr. Berteau, Labrador, Sub-Collector, representing great destitution at Hamilton Inlet, and estimating that 120 barrels flour will be required to meet it.

Minute Book.
August 1883.
August 1890.
pages 96 and 98.

No. 632.

Nov. 12th, 1885.

[Jan. 18th,
1886.]

Oct. 26th. The steamers Plover, Mastiff, and Lady Glover to proceed to Labrador with provisions for relief of the suffering by late gale on that Coast.

No. 633.

Jany. 18th, 1886. A letter was read from the Hudson Bay Company, London, Dec. 8th, requesting the views of the Govt. in relation to relieving distress in Rigolet and Cartwright. The Company are to be informed that if the Govt. be notified in advance of any probable necessity for providing relief in these localities, the question will receive their due consideration.

Minute Book.
August 1883.
August 1890.
pages 103, 107, 118.

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No. 634.

[8 Sept.,
1886.]

**COLONIAL SECRETARY, M. FENELON, TO REV. MR.
CURLING.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 59, page 10.

Secretary's Office,
8th Sept. 1886.

SIR,

I am requested by the Honble the Premier to acknowledge receipt of your letter to him of 30th August and in reply beg to say that in view of the destitution which you so strongly represent imminent at Sandwich and Gros Water Bays, the Government have determined to send to your care 60 Brls. Flour, to be placed as you suggest, 30 Barrels at Cartwright and 30 at Rigoulette. The necessity of storing this flour in a safe place will be obvious to you, and as Mr. MacKenzie has offered to take charge of any relief that might be sent, it may be desirable to avail of the Stores of the Hudson Bay Company, but the matter is left in your discretion and I have merely to add that the flour is to be held to meet the claims of those most needy, subject to your order or to the order of the Clergyman or reliable person.

I have, &c.,
Sgd. M. FENELON, Col. Sec.

Rev. Mr. Curling.

No. 635.

[12 Sept.,
1887.]**COLONIAL SECRETARY, M. FENELON, TO REV. J. P.
QUINTON.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 59, page 148.

Secretary's Office,
12th Sept. 1887.

DEAR SIR,

The Government have had under consideration communications from Rev. F. W. Colley and Rev. Albert Holmes, representing the distressed condition of many families on the Labrador and the further destitution which appears to be imminent, and they have determined to send to your care 60 Barrels of flour for the relief of those most in need.

30 Barrels will be left in charge of the Hudson's Bay Company's Agent at Cartwright, Sandwich Bay and 30 Barrels with the Agent at Rigoulette.

The flour will be held subject to your order or to that of Rev. A. Holmes, and the Government trust that you will use every effort to prevent imposition and to minimize so far as possible the evils of an indiscriminate relief.

It would be desirable to obtain from recipients some return in labour of public advantage for relief afforded.

I am, Dear Sir,

Yours truly,
Sgd. M. FENELON, Col. Sec.Rev. J. P. Quinton,
Hamilton Inlet, Labrador.

Letter similar to above, date same to

Rev. Albert Holmes,
Hamilton Inlet, Labrador.

EXTRACTS FROM TOILERS OF THE DEEP, 1896.
pp. 305 and 306.

[July, 1896.]

No. 636.**EXTRACT FROM LETTER BY DR. GRENFELL.**

July 1896.

We went on our journey again in the afternoon, and reached Shecatica Harbour. The residents here are few in number and very poor. But for the generosity again of Newfoundland fishermen these Canadian settlers would be starving; and what they will do next winter it is hard to say. The Canadian revenue steamer has not yet reached this part of the coast, and the people have long been out of flour and other foods.

The Canadian Government made some years ago what they considered a final settlement of the poor relief question for the coast. They offered all who would leave a passage away; any who stayed would get no further relief. The Newfoundland Government, with all their difficulties, have done better than that for their people, for they at least recognize that the poor are always with us, and there is no such thing as a final settlement of the question. I don't think Government relief good; it is, however, a necessary evil, and unless the Canadian Government either relieve or give these families a passage off the coast this year, it will be an indelible disgrace to them, for they live a life of chronic starvation.

FROM TOILERS OF THE DEEP, 1897, p. 52.

[2 Nov.,
1896.]**No. 637.****EXTRACTS FROM LETTER BY DR. GRENFELL.**

SS. "Sir Donald," Cartwright,
November 2, 1896.

I had now decided to remain at Rigoulette over Sunday, and to then return to Indian Harbour with a further load of spruce poles to enable the poor residents who we decided to give relief work on the road to have wood to commence working with. I had forgotten to mention that Dr. Willway had been empowered by Mr. Bond, the Colonial Secretary (of Newfoundland) to confer with Mr. James Wilson, of the Hudson Bay Company, as to what way could best be adopted to relieve the starving residents this winter. Mr. Wilson was empowered to prevent starvation, and in every possible case to insist on some public work being done by recipients of Government pauper relief. Mr. Wilson, who spent a few days this summer at Indian Harbour, decided that the way would be to build the road I have above referred to, and also one at the Mission station at Lester's Point, where the Rev. F. Hollett has been working for the past three years.

* * * *

It was with much deep gratitude to those who put in our power, and also to the Government of Newfoundland, who have, in view of the present emergency, put some flour and molasses on the coast for those who must otherwise starve, that Dr. Willway and I arranged a little winter work for a number of these families. Each place we call at now we find some families "borrowing a pan of flour," already, and with no other foodstuff of any kind in the house, except perhaps a few dry caplin, or, if they happen to have powder and shot, a few sea birds. While some here and there have enough for themselves, and traps and powder to hunt for more with, it is almost invariably the case that those who have nothing to eat have no means of getting any. A number returned with us to the ship at night, and we were able to help them with a few small things they absolutely needed.

FROM TOILERS OF THE DEEP, 1897, p. 250.

[1897.]

No. 638.**OUR MISSION WORK IN LABRADOR.**

EXTRACTS FROM DELAYED PORTIONS OF THE LOG OF THE S.S. "SIR DONALD." By Dr. W. T. GRENFELL.

Mr. Bond, the Colonial Secretary, had sent us a kind and prompt telegraphic answer to our inquiries as to what the Government intended to do in the event of impending starvation. I must say, whether the Government are able to keep everyone contented or not, and knowing they discountenance as much as I do myself the indiscriminate distribution of outdoor relief, especially to able-bodied paupers, still they have uniformly extended to us a helping hand in that direction, and have always told us to let no one starve to death.

* * * *

We are glad to hear the Government have appointed Dr. Willway and Mr. Wilson, the Hudson Bay chief factor, their agents to prevent absolute starvation, but it will mean hunger and cold to a good number. No one can tell the value our supply of clothing will prove this winter. I have been in house after house where nakedness was apparent even in the breadwinners, and the children in some cases were in a state of Nature almost. Somehow or other we are always short of bed clothing on the Sir Donald, for though one can say "no" to an able-bodied man, it is not easy to see women and children in such need.

The Labrador people will this year be reduced to needed corroboration to arrest attention, and he told us that, as well as Mr. Wilson of Rigolet, and Mr. Hollett and others, he had found that the total failure of the salmon and cod fishing in the bay necessitated some special effort on the part of the Government if actual starvation was to be avoided.

Breakfast next day found us at Venison Tickle. Here an outbreak of fever was raging. The cases treated in the spring by Dr. Willway had recovered. Dr. Aspland had been less fortunate at Red Point, near Cape Francis, for in spite of all his efforts three of his patients had died there from it. Mr. Hawker had bad news to tell us, for he said that unless the Newfoundland Government gave authority to relieve destitute families, the stores at both Francis Harbour and Venison Tickle would have to be closed down during the winter. This,

however, had been avoided.

16th February, 1926—**AFFIDAVIT OF WILLIAM ERNEST
SWAFFIELD.**

[16 Feb.,
1926.]

—————
Vide Part IV, No. 88, p. 384.

[18 March,
1926.]

—————
No. 640.

N

18th March, 1926—**AFFIDAVIT OF CLUNY
MACPHERSON, C.M.G., M.D.**

[18 March,
1926.]

—————
Vide Part VIII E, No. 544, p. 1481.

—————
No. 641.

N

18th March, 1926—**AFFIDAVIT OF JOHN GRIEVE.**

—————
Vide Part VIII E, No. 545, p. 1483.

[20 March,
1926.]

—————
No. 642.

N

20th March, 1926—**AFFIDAVIT OF FREDERICK
COLMAN BRIEN.**

—————
Vide Part VIII B, No. 415, p. 1296.

Vide Part VIII F, No. 619, p. 1571.

[1 April,
1926.]

No. 644.

[17 June,
1926.]

17th June, 1926—**AFFIDAVIT OF E. G. GRANT.**

Vide Part VIII H, No. 678, p. 1633.

AFFIDAVIT OF W. J. CARSON.[18 June,
1926]In the Privy Council.

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA
and the COLONY of
NEWFOUNDLAND in the LABRADOR
PENINSULA.

I, WILLIAM JAMES CARSON, Manager of the Hudson's Bay Company's Office at St. John's, Newfoundland, make oath and say as follows:

1. I spent eight years in Labrador, as a Junior official of the Company, beginning about 22 years ago—four years at Northwest River, and four years at Rigolet.

2. I was at Northwest River about the time the Quebec Government claimed the timber areas there. The Canadian steamer Montcalm came there one summer with a party of surveyors, etc., who stayed all the next winter and marked all the logs they found with the letters "P.Q.," to signify they belonged to Quebec.

3. Dickie and Company, a Nova Scotia concern, was then operating at Mud Lake, or Grand Village. At this place there were about eight or ten white or half-breed families, mostly trappers, while other trappers were settled around Northwest River. Trapping was the principal industry, but some of the men worked at lumbering after this began. The mail from Rigolet to Northwest River and Grand Village was brought by a motor boat, the Newfoundland Government paid for the same. I was the first postmaster for the Newfoundland Government at Northwest River, serving two years in that capacity.

4. Indians came out to Northwest River from the interior every winter, usually about Christmas time and stayed for a

time, trading their

p. 1590

furs for supplies of foodstuffs, clothing, ammunition, etc. There were about 30 or 40 families of these Indians. They roamed the interior, usually visiting St. Augustine, on the north shore of the Gulf of St. Lawrence, in the summer, and Northwest River in the winter. These were Montagnais, the Nascopies, as a rule, coming out at Davis Inlet, farther North.

5. So far as I know the only people who went Inland were the Indians and the trappers. The latter would go long distances in, possibly 150 miles. They sometimes went almost to the height of land. They considered themselves, so far as I know, in Newfoundland territory wherever they went, and subject to the Newfoundland Game Laws.

6. The Hudson's Bay Company's posts in Labrador acted as Agencies for the Newfoundland Government in relieving distress among the residents whenever this existed. Such cases would be in winter mostly, and the chief officer at the post would give supplies of food to the needy at his discretion, requiring them to give labor in return for it, by cutting timber in the woods nearby and using it to build boats or "flats" (a sort of scow), or saw it into lumber, and the next summer the Relieving Officer for the Newfoundland Government, who travelled up and down the coast in the mail boat, would examine our accounts and certify them for payment and then sell the boats, flats and lumber to those requiring the same, thereby partly, if not entirely, reimbursing the Government for the relief outlay.

7. The tide comes right up to the post at Northwest River where it rises and falls about four feet at that place, but it runs up into Grand Lake for about 15 miles farther up, and its changes are plainly seen there.

W. J. CARSON.

SWORN at St. John's, Newfoundland,
this 18th day of June, 1926.

JOHN McCARTHY, J.P.,
Clerk of the Peace

[18 Feb.,
1922.]

H.—ESTABLISHMENT OF SCHOOLS, CENSUS
ARRANGEMENTS, MEDICAL ASSISTANCE, AND
OTHER MISCELLANEOUS ACTIVITIES.

No. 646.

CENSUS FIGURES ON LABRADOR FROM 1857 TO
1884.

6 Gower Street,
St. John's, Nfld.,
February 18th, 1922.

Arthur Mews, Esq.,
Deputy Colonial Secretary,

Sir,

Re LABRADOR BOUNDARY.

The Minister of Justice is desirous of securing, for use in the above case, a statement of the Census Returns for each period as far back as your records go.

I shall be glad if you will let me have this statement at your earliest convenience.

I have the honor to be,
Sir,
Your obedient servant,
(Sgd). P. T. McGRATH.

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Department of the Colonial Secretary.
St. John's, Newfoundland
March 13th, 1922.

Sir,

I have the honour to forward you herewith, as requested in yours of February 18th, a statement of the Census Returns for each period as far back as our records go, namely for 1857. I have attached some explanatory notes where these would appear to be necessary and have included such miscellaneous information as is shown in the variable sheets.

The Returns for 1921 are not yet completed, but as soon as they are available I will forward you a copy.

I have the honor to be,
Sir,
Your obedient servant,

(Sgd). ARTHUR MEWS,
Deputy Colonial Secretary.

The Hon. Sir P. T. McGRATH, K.B.E.,
City.

CENSUS OF LABRADOR, 1857.

Copied from Record.

Note.—The Census of the Labrador was cursorily taken by the Superintendent of Fisheries (James L. Prendergast, Esquire) in 1856 and 1857, but it is not sufficiently correct or full to form a part of the foregoing Returns. The number of permanent residents, as given by that gentleman, from L'Anse Sablon to Sandwich Bay, both inclusive, including Belle Isle, is 1650, of whom 1331 are Protestants, and 319 Roman Catholics.

(Sgd.) ARTHUR MEWS,
Deputy Colonial Secretary.
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CENSUS OF LABRADOR, 1869.

Names of Settlements.	No. of Inhabitants.
Blanc Sablon	39
Lance St. Clair	41
Forteau	62
Lance au Loup and Fox Cove	47
Lance au Diable	21
Capstan Island	28
West St. Modeste	63
Pinware	38
East St. Modeste	26
Carroll's Cove	23
Red Bay	112
Chateau	51
Henley Harbor	85
Chimney Tickle	41
Camp Islands	41
Shoal Cove Nad Cape Charles	65
Battle Harbor and Islands	352

Fox Harbor & Deep Water Creek to the Lakes	123
William's Harbor	7
St. Francis Harbor	10
Sloop Cove	11
St. Francis Bight	48
Fishing Ship Harbor	4
George's Cove	37
Square Islands	<u>44</u>
	<u>1,420</u>

On recapitulation page the total population of Labrador is given as 2,479.

These are set out as—

Males	1,483
Females	<u>996</u>
	<u>2,479</u>

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and, again, as

Names of Settlements.	No. of Inhabitants.
Born in Nfld.	668
„ „ England	124
„ „ Ireland	9
„ „ Scotland	21
„ „ Brit. Cols.	1,635
„ „ other coun.	<u>22</u>
	<u>2,479</u>

and, still again, as—

Church of England	1,803
„ „ Rome	483
„ „ Wesleyan	165
Others	<u>28</u>
	<u>2,479</u>

I can only explain the disparity between the 1,420 persons as shown in the detail above, and the 2,479 given in the recapitulation, as the total population, on the assumption that another page of detail, covering settlements north of Square Islands, is omitted from our copy of the Census, the only one extant, to my knowledge.

Apparently the Eskimo population of Labrador was not taken in this year, as the tables of origin and religion given above prove that the 2,479 people embraced therein are of the white extraction.

At Battle Harbour one school was maintained during the winter and summer seasons, and one during the summer only.

CENSUS OF LABRADOR, 1874.

Total Population, Labrador	2,416
Born in Nfland	2,245
„ „ England	91
„ „ Ireland	8
„ „ Scotland	13
„ „ Brit. Cols.	43
„ „ other Coun.	<u>16</u>
Total	2,416
Church of England	1,489
„ „ Rome	476
„ „ Wesleyan	295
„ „ others	<u>156</u>
Total	2,416

No Census of the Eskimo population of Labrador appears to have been taken in 1874.

Names of Settlements.	No. of Inhabitants.
Blanc Sablon	58
Isle au Bois	17
L'Ance St. Clair & L'Godard	55
Forteau	86
L'Ance au Loup	71
L'Ance au Diable	23
Capstan Island	21
West St. Modeste	85
Pinware	43
East St. Modeste	37
Carroll's Cove	32
Red Bay	126
Chateau	29
Henley Harbor	72
Chimney Tickle	9
Camps	36
Cape Charles	58
Assizes	13
Indian Harbor	36
Carabou Cove	9
Matthew's Cove	119
Trap Cove	75
Battle Harbor	110

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Contents[18 Feb.,
1922.]

Fox Harbor	33
Deep Water Creek	15
Petty Harbor	18
Spear Harbor	28
Seal Bight	27
Little Harbor	15
Caplin Bay	8
William's Harbor	17
St. Francis Harbor, St. Francis Bight & George's Cove	57
Dark Tickle	13
Square Island	24
Nowlan's Harbor	9
Triangle	10
Venison Island	52
Hawk's Bay	9
Shoe Cove	6
Bolster's Rock	22
Seal Islands	48
Black Bear Bay	4
Domino	10
Spotted Island	55
Salmon Point	22
Read's Brook	10
Indian Tickle	9
Sand Hill	17
Table Bay	9
Mullin's Cove	6
Grady	8
Sandwich Bay to Cape Porcupine	194
Hamilton Inlet	395
Indian Harbor to Cape Harrison	43

MISCELLANEOUS.

The establishments of Messrs. De Quetteville Bros., Boutellier Bros., and Williams, Frewing and Co., fit out in Jersey and Paspebiac for the fishery, bringing nearly all their men from these places, whence they return again at the close of the season; none, therefore, can be considered as permanent residents of the Labrador. A few, however, are left on the Coast for the purpose of looking after the premises.

A School opened here this summer. (Capstan Id.).

15 in family of Light House Keeper at Forteau.

School kept here summer and winter. (Pinware).

Ditto Ditto (Red Bay).

An establishment for preserving salmon kept by Capt. S. Gaden. (Chimney Tickle).

School kept; 20 scholars winter and summer. (Cape Charles).

School kept here for Matthews and Trap Coves. (Matthews Cove).

At Battle Harbor Messrs. Baine, Johnston & Co., of St. John's, have a large supplying establishment. There is also at this place a large commodious church. The Rev. George Bishop of the Church of England is the resident Missionary.

School in operation during the winter and summer.

The establishment at St. Francis Harbor, formerly owned by Messrs. Hunt & Henley, of Dartmouth, England, was, two years ago, purchased by Mr. John Rorke, of Carbonear. There is an extensive salmon fishery at this place. Mr. Rorke has now an establishment for preserving salmon.

The establishment at Venison Is'd, formerly belonging to Messrs. John Slade & Co., and recently to Messrs. Ridley & Sons, was, two years ago, purchased by Messrs. John and George Rorke, of Carbonear. At this place there is also an establishment for preserving salmon.

At Grady there are two mercantile establishments, occupied during the summer and autumn months only, one belonging to the Hudson Bay Co., and the other to Messrs. King & Larmour, of Dartmouth, England.

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The establishment at Cartwright, Sandwich Bay, formerly belonging to Messrs. Hunt and Co., was purchased, one year ago, by the Hudson Bay Company. The residents of Sandwich Bay are engaged almost exclusively in the salmon fishery, and during the winter trapping and hunting. Most of the people use the Company's nets, and fish on the "shares."

At Eagle River and Earl Island, both places in this Bay, are establishments for preserving salmon, which annually export about 40,000 tins.

There are four establishments in Hamilton Inlet for preserving salmon. The Hudson Bay Company have an establishment at Kennemish, at Snook's Cove, and at Rigoulette. Captain W. Norman, of Brigus, Conception Bay,

has an establishment at Mullin's Cove for the same purpose. The Hudson's Bay Co. exported last year 33,000 tins, and Captain Norman about 6,000 tins. As in Sandwich Bay, the people of Hamilton Inlet fish the Company's nets on the "shares," and are engaged during the winter months trapping and hunting.

(Sgd.) ARTHUR MEWS,
Deputy Colonial Secretary.

p. 1599

CENSUS OF LABRADOR, 1884.

Names of Settlements.	No. of Inhabitants.
Blanc Sablon	65
Isle au Bois	19
L'anse St. Clair	86
Forteau	111
L'anse au Loup	68
L'anse au Diable	25
Capstan Island	39
West St. Modeste	97
Pinware	36
East St. Modeste	50
Carroll's Cove	36
Red Bay	131
Chateau	41
Henley	45
Chimney Tickle	8
Camp Islands	41
Cape Charles Harbour	76
Assize's Harbor	20
Indian Harbor	74
Matthew's Cove	68
Trap Cove	87
Battle Harbor	122
Fox Harbor	45
Deepwater Creek	17
Petty Harbor	18
Spear Harbor	5
Seal Bight	23
Sophia Harbor	5
Little Harbor	3
Alexis River	8
William's Harbor	12
St. Francis Harbor	6
St. Francis Harbor Bight	38
Sloop Cove	4

Ship Harbor	10
Occasional Harbor	7
Scrammy	3
Square Islands	30

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Nowlan's Harbor	14
Snug Harbor	10
Tub Harbor	7
Venison Tickle	86
Bolster's Rock	26
Salt Pond	10
Seal Islands	65
Black Bear Bay	12
Read's Brook	10
Spotted Islands	75
Domino	15
Indian Tickle	30
Sandhill	16
Table Bay	15
Mullin's Cove	15
Grady	7

Sandwich Bay	301
Hamilton Inlet	493
*Indian Hr. to Cape Harrison	31
Davis Inlet	10
Nuertoravick	14
Bick Bay	14
Allatok	8
Hopedale	170
Winsor Harbor	5
Island Harbor	12
Turnavick	2
Kaipokok Bay	24
Llac	5
Makovik	21
Sivoneorvick	18
Nain	235
Zoar	139
Hebron	207
Okak	311
Ramah	69
Indians	<u>130</u>
	<u>4,211</u>

* The resident population of the Coast North of Indian Harbor is, with the exception of about 40 or 50 people, composed entirely of Esquimaux, of whom there are 66 in Hamilton Inlet.

Figures of origin are not given in 1884, so far as Labrador population is concerned.

Church of England	1,974
„ „ Rome	566
„ „ Wesleyan	305
„ „ Others	<u>1,366</u>
	<u>4,211</u>

The 1,366 of other denominations shown above are apparently all Eskimos, professing the Moravian faith except 17 Presbyterians, and 19 Congregationalists. The total for “Moravians” on page 213 is 1,223, leaving a discrepancy of 107. The 130 Indians are classed as belonging to the Church of Rome.

MISCELLANEOUS.

Eskimo Settlements.—No produce reported upon. All hunt and fish, except three settlers, who trade for the Hudson Bay Company, or on their own behalf. Most of the Eskimos live in winter on the stations, trading with the Mission Stores. Very few of the Settlers do so; most living scattered about and trading with Hudson Bay Company; or other traders. Creed that of the “United Brethren” or “Moravians.” There are sixteen adult males and fourteen adult female Missionaries, Germans.

It is a matter of doubt as to whether the Indians are Newfoundland or Canadian subjects. They hunt on Canadian and Newfoundland territory, but they obtain their supplies from the Hudson Bay Company's Posts in Newfoundland Labrador.

Labrador, Moravians, 1,223, Increase.

The increase of Moravians on Labrador arises from the Returns in 1884 embracing all the Eskimo settlements from Cape Harrison to Ramah, of which no Return was given in 1874.

(Sgd.) ARTHUR MEWS,
Deputy Colonial Secretary.

[11 Aug.,
1860.]

No. 647

**LICENCE TO DONALD A. SMITH J.P., FOR COAST OF
LABRADOR, WITHIN GOVERNMENT OF
NEWFOUNDLAND, TO CELEBRATE MARRIAGES.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 52, page 28.

By His Excellency Sir Alexandander Bannerman, Knight, &c.
&c.

Whereas by a certain Act of the General Assembly of the Island of Newfoundland made and passed in the third year of His late Majesty King William the Fourth entituled "An Act to repeal the laws now in force concerning the celebration of Marriages and to regulate the future celebration of Marriages in this Island it is (inter alia) enacted and provided that when the residence of any woman about to be married shall be distant ten miles from the residence of the nearest Clergyman or Teacher or Preacher of Religion licensed in the manner as in the said Act is provided and prescribed it shall and may be lawful for any Magistrate or Conservator of the Peace being first duly licensed for such purpose by the Governor or Commander in Chief for the time being to celebrate such Marriage or Marriages I the Governor do therefore by these presents license authorize and appoint you Donald A. Smith, Esqr one of Her Majesty's Justices of the Peace for the Coast of Labrador within the Government of Newfoundland to celebrate all such marriages as according to and under and by the provisions of the said Act such duly licensed Magistrate or Conservator of the Peace as aforesaid is authorized and empowered to celebrate.

And in the execution of your Office and authority herein you are hereby especially enjoined and required strictly to observe and fulfil all and singular the conditions, restrictions requisitions and forms prescribed by the said Act to be observed and performed by such Justice of the Peace in the exercise of the trust and authority hereby unto you delegated and confided.

Given &c. the eleventh day of August A.D. 1860.

By His Excellency's Command,

(Signed) J. KENT

To Donald A. Smith, Esqr.,
&c. &c. &c.

[8 July,
1867.]**J. BEMISTER TO HON. D. E. PRICE.**

GOVERNMENT RECORDS, ST. JOHN'S, NEWFOUNDLAND. Volume 54,
page 31.

Secy's. Office, Newfoundland,
8th July, 1867.

SIR,

I have received and laid before the Government of this Colony your letter of 28th ult. applying for three blocks of land at Black Bay, Labrador for the purpose of searching for minerals, and which are defined as follows upon the plan therewith sent, viz:

1. Hon. D. E. Price,
2. Alex. K. Fraser,
3. Simon J. Dawson,

and am directed to transmit to you in reply copy of a description of licence of search recently granted to Mr. George Duval and further to state that the Govt. will be happy to grant you licenses of search for so much of the land applied for on behalf of yourself and the other parties interested as will not interfere with that already included in Mr. Duval's license.

I have, &c.

(Signed) J. BEMISTER.

The Hon. D. E. Price,
Quebec.

[5 Aug.,
1867.]**J. BEMISTER TO THOMAS E. GADEN, Esq.**

GOVERNMENT RECORDS, ST. JOHN'S, NEWFOUNDLAND. Volume 54,
page 42.

Secy's. Office,
5th August, 1867.

SIR,

The Government having determined for the benefit of the Commercial Body, to send the "Ariel" on her next cruize North (with the local mails) from the terminal port of Twillingate to the Coast of Labrador, had been pleased to appoint you to be the Mail Officer on board to have charge of all Letters &c. intended for that part of this Colony.

Your duty will be in addition to procure and furnish the Government with a careful statement of the quantities of fish taken at each Harbour at which you touch and also of the state and prospects of the fishery generally along the Coast of Labrador.

I enclose a printed notice for your information and guidance showing the different places at which you are to call, and the order to be observed in carrying out your duties.

You will stop at each of the terminal ports two hours, but the Govt. hope that at most of the other Harbours, one hour will be found sufficient but you will in no case exceed the two hours.

The Govt. would be glad, if time permit, for you to proceed to Rigolette, the nearest station of the Hudson's Bay Company, which contribute to our Revenue, but you will be better able to judge as to your doing so, when you arrive at Indian Harbour.

It will be necessary for the "Ariel" to be back in St. John's in time to take the presiding Judge of the Northern Circuit to Twillingate in time to open Court at that place on 9th September.

A number of notices in the enclosed form will be furnished to you by the Postmaster General, and you will leave one or more copies at each Harbour at which you call for the information of the Labrador Merchants and Agents.

The "Ariel" will call on returning at Twillingate and the other, ports as per contract.

(Signed) J. BEMISTER.

Thomas E. Gaden, Esq., etc., etc.

[7 Aug.,
1867.][*Enclosure in No. 649.*]**ROUTE OF "ARIEL" ON LABRADOR COAST.**

Secretary's Office,
7th August, 1867.

GOVERNMENT RECORDS, ST. JOHN'S, NEWFOUNDLAND. Volume 54,
page 45.

Proceed from Twillingate to Holton and unless prevented by Foggy or Stormy weather drop letters on the way; at Henley Harbour for that place and Chatteau; at Cape Charles for, from Camp Islands to-and including Battle Harbour; at Spear Harbour, for, from Fox Harbour to Cape St. Francis; at St. Francis Harbour, for, from Cape St. Francis to Cape Bluff; at Venison Tickle for, from Cape Bluff to Bolten Rock; at American Tickle for, Comfort Bight, Seal Islands, &c.; at Batteau, for Salmon Bight, &c.; at Domino for Spotted Island, &c.; at Indian Tickle; at Grady for Black Island, Cape North and Curlew; at Long Island for Southeast Cove, &c.; On her return she will call at Ice Ticks, Indian Harbour, Packs Harbour, South East Cove, Grady or Black Island, Indian Tickle, Domino, Batteau, Punch Bowl, American Tickle, Comfort Bight, Bolten Rock, Hawks Harbour, Venison Tickle, Snug Harbour, Triangle, Dead Island, Fishing Ships Harbour, St. Francis Harbour, Merchantmen's Harbour, Little Harbour or Murray's Harbour, Battle Harbour, Cape Charles, Chimney Tickle, Henley Harbour or Chatteau, Red Bay, L'Anse au Loup, L'Anse Sablon.

No. 651.**J. BEMISTER TO JOHN COLTON.**[14 Aug.
1868.]

GOVT. RECORDS, ST. JOHN'S, NEWFOUNDLAND. Volume 54, page
247.

Secretary's Office,
14th August, 1868.

SIR,

The Government having determined in conjunction with the Commercial Body to send the "Diamond" after landing the mails at the terminal Port of Twillingate, to the Coast of LABRADOR, has been pleased to appoint you to be the Mail Officer on board, to have charge of all letters &c. intended for that part of this Colony.

Your duty will be in addition to procure and furnish the Government with a careful statement of the quantities of fish at each Harbour at which you touch, the state and prospects of the fishery generally along the Coast of Labrador and any other information which you may consider necessary.

* * * *

[22 May,
1869.]**No. 652.****APPOINTMENT OF THOMAS GROVES.**

Pages 518. 4 RECORD BOOK, Oct. 26th, 1861, to Aug. 3rd, 1869.

May 22nd, 1869.

It was ordered that Thomas Graves of Rigolette Hamilton's Inlet, Labrador, be licensed to celebrate Marriages.

No. 653.

CIRCULAR AS TO CENSUS.

[31 May,
1869.]

CIRCULAR.

Secretary's Office,
31st May, 1869.

GOVERNMENT RECORDS, ST. JOHN'S, NEWFOUNDLAND. Volume 54.

SIR,

I am directed by the Governor to acquaint you that His Excellency in Council has been pleased to appoint you take the Census of that portion of the District of _____ specified in the margin; and that this duty is entrusted to you in the confident expectation that by a zealous and careful discharge of it you will justify His Excellency's selection.

It is unnecessary to point out to you the great importance of the returns being made perfectly accurate, but I am more particularly to call your attention to the case of servants who may be employed during the fishing season in your District, but whose usual domicile may be in some other; you will therefore in every such case take pains to ascertain the probability of any such servant being included in the Return of the District in which he resides, and where any doubt may exist on this point you will note the same.

Under the head of "Miscellaneous" you will insert any circumstances of an interesting character which you may consider deserving of being recorded.

You will receive herewith a copy of the Act under which the Census is taken, with a sufficient quantity of the Tabular forms to enable you to prepare your returns, as well that which is to be transmitted to this office as to furnish copies to the Clergy of the several denominations to whom you will see they must be sent at least ten days previously to being submitted to the Court of Revision; the time and place of holding the Court you will also see you are to communicate to them.

You will perceive by the Act that before entering upon the duty in question you are to be duly sworn before a justice of the Peace faithfully to discharge the same, and that the Magistrates by whom the returns are to be revised are to be specially appointed by the Governor.

The service may be commenced some time in June and the Returns must be forwarded to me by the first of September next.

Your particular attention is called to the latter point.

I am, &c.

(Signed) J. BEMISTER.

To the persons appointed to take the Census

in the Outports except in Harbour Main,
Brigus, Port de Grave, Harbour Grace
and Carbonear.

p. 1608

Arrangements for taking Census of the Population under
Act:—

Carbonear Electoral District to be delivered into two
divisions No. 1 to extend from Freshwater, exd. to Carbonear
River Head (Stephen B. Pike).

No. 2, from Carbonear River Head to Mosquito South
Point (Richard McCarthy).

Bay de Verde Electoral District to be divided into five
divisions:—

No. 1 to extend from Freshwater to Perry's Cove both
included (Samson B. Parsons).

No. 2 from Spout Cove to Adams Cove, both included
(Wm. Butt).

No. 3, Western Bay & Bradley's Cove (Pierce Hanrahan).

No. 4, Ochre Pit Cove to Job's Cove, both included (Josiah
Garland).

No. 5, Redlands to Caplin Cove both included (John Louis).

No. 6, from Caplin Cove to Spit Point (James Moors).

Port de Grave Electoral District to be divided into three
Divisions:—

No. 1, from Turks Gut to Goulds Road including Brigus
(Joseph Cozens) sent 16th October.

No. 2, from Cupids to Northern Gut Bridge, both included
(Tobias Hackett) sent 16th October.

No. 3, from Northern Gut Bridge to Port de Grave,
including (Northern Gut, Bareneed) (John M. Maddock) sent
16th October.

Harbour Main Electoral District to be divided into two
Divisions:—

No. 1, From Horse Cove to Norther Side Holyrood) both
included (George Carter) Sent 16th October.

No. 2, from North Side of Holyrood to South Side Turks
Gut included (Wm. Holden, Esq.) sent 16th October.

Trinity Electoral District to be divided into six Divisions:

—
No. 1, from Spit Points to Hants Harbour both included (Wm. Christian).

No. 2, from Scilly Cove to Dildo Cove both included (R. Bemister).

No. 3, from Spread Eagle to Random East Head, including S.W. & N.W. Arms (Wm. Collins).

No. 4, from Random East Head to Trinity including Smiths Sound, and all Islands (George Slade Field).

No. 5, Trinity to Horse Chops both included.

No. 6, Horse Chops to Cape Bonavista including Bird Island Cove (George Manuel).

p. 1609

Bonavista Electoral District to be divided into six Divisions:—

No. 1, from Cape Bonavista to Knights Cove (S. Rowsell).

No. 2, Knights Cove to and including Western Head (Pat Murphy).

No. 3, from Western Head to and including Southward Bay (Ned Shears).

No. 4, Barrow Harbour, Salvage Bay and adjacent Settlements (James Burden).

No. 5, Salvage excluded to Cape Freels inclusive (J. T. Oakley).

No. 6, Southward Bay to and including Musgrave Town & Long Islands.

Twillingate and Fogo Electoral District to be divided into six Divisions:—

No. 1, from Cape Freels to Gander Bay (inclusive) (J. Wheeler).

No. 2, Fogo, Indian and Can Islands (Jas. Fitzgerald).

No. 3, Change Islands (John Janes).

No. 4, Twillingate & Herring Neck (J. B. Blandford).

No. 5, Gander Bay, ex. to New Bay ex. taking in Wizzards Harbour, Mortons Harbour, Black Island, Exploits Bay, Waldron Cove, Fortune Harbour and Hurry Bight (Peyton).

No. 6, New Bay to Cape John both inc. taking in Leading Ticks (Stephen Knight).

Ferryland Electoral District to be divided into two Divisions:—

No. 1, Goulds Bridge to La Manche Bridge (Thos. Driscoll).

No. 2, La Manche Bridge to Cape Race (P. Flannery).

Placentia & St. Mary's Electoral District to be divided into five divisions:—

No. 1, from Cape Race to Colinet thence to Dog Bay, including Islands (J. Murphy).

No. 2, from Dog Bay exclusive to Gut of Great Placentia (G. Bradshaw).

No. 3, Gut of Great Placentia taking the North East Arm of Great Placentia and Freshwater to Little Placentia inc. (T. Freeman).

No. 4, Marquise Beach Little Placentia [sic] ecd. to Pipers Hole thence to Clatis Harbour, including Isle Valen and the other islands within that Division (Alex Burke).

No. 5, Clatis Harbour to Rashoon including Islands within the Division (Hugh Hegarthy).

Burin Electoral District to be divided into three Divisions:

—

No. 1, From Rushoon to Port au Bras, both included (James Harvey).

No. 2, From Port au Bras to Lawn inclusive (Henry Benning).

No. 3, From Lawn to Garnish inclusive (J. Blackhurn).

Fortune Bay Electoral District to be divided into two Divisions:—

No. 1, Great Garnish included to Connaigre Bay (Geo. J. R. Snelgrove).

No. 2, From Connaigre Bay included to Bonne Bay (Henry Camp).

p. 1610

Burgeo & La Poile Electoial District to be divided into three Divisions.

No. 1, Bonne Bay to Wuck Island including all Islands (John Jordan).

No. 2, Wuck Island to Indian Harbour both included (Fras. Reid).

No. 3, Garia included to Cape Ray (John Hooper).

Fron [sic] Cape Ray to Quirpon & Fron [sic] Quirpon to Cape St. John.

From L'Ance Sablon to Cape Charles (Messrs. Pinsent & Knight).

From Cape Charles to Cape Chudley (Messrs. Pinsent & Knight).

Copy of the Census Act to be sent to each person employed to take the Census, with printed books for returns, and directions to commence in June and proceed to take the Census until they are completed say by September, except in St. John's, Harbor Main, Brigus, Port de Grave, Harbor Grace, and Carbonear Districts where they can be taken in October and

November.

Copy of Act also to be sent to all Clergymen & to Stipendiary Magistrates and others to be appointed Revising Magistrates.

[27 May,
1871.]

No. 654.

N

MINUTE RESPECTING LABRADOR MAIL STEAMER.

Page 127, No. 5 RECORD BOOK, E, MINUTES OF COUNCIL, 1869 to
Jany. 18, 1874.

May 27th, 1871.

Proposed that the Labrador Mail Steamer do perform her first trip as recommended by Chamber of Commerce and that Mail Master report on his return as to the practicability of increasing the number of Ports of Call or otherwise. Service to commence on the 15th day of July and not to exceed two months. Adopted—subject to amendments.

[17 April,
1872.]**MINUTES RESPECTING ALLOWANCES FOR
EDUCATIONAL PURPOSES.**

Page 196, No. 5 RECORD BOOK E, MINUTES OF COUNCIL, 1869 to
Jany. 18, 1874.

April 17th, 1872.

Resolved that the following allowances be made the present
year for educational purposes on the Labr. Coast, viz.—

The sum of £25 towards the salary of a Male Teacher at
Battle Harbour.

The sum of £20 to Mrs. Odell as Teacher at Pinware instead
of £9 heretofore.

The sum of £20 to John Bayley, Teacher at Red Bay instead
of £6 as heretofore.

Teachers at Battle Harbour Pinware and Red Bay to devote
their services Winter and Summer, and teacher at Cape
Charles during Summer only.

[10 Oct.
1872.]**LETTER FROM H. CONNOLLY, CHIEF OFFICER OF
HUDSON'S BAY COMPANY AT LABRADOR.**

Hamilton Inlet, Labrador,
Rigolette, October 10, 1872.

TO ROBERT JOHN PINSENT, ESQ.
Judge of the Labrador Court,
St. John's.

SIR,—

As it is through you that we can make our wants known to the Newfoundland Government, I take the liberty of addressing you upon a subject of the utmost importance to the public on this Coast, and that is the small pox, which is now so rife everywhere, and sooner or later will make its appearance on the Labrador Coast, and when it does will make a havoc amongst the people, of whom not one-tenth have been vaccinated. I have therefore thought it right to write to you on the subject, so as to bring it under the notice of the Government that they may send a Medical man down next season for the purpose of vaccinating the inhabitants, as is done by the Dominion of Canada.

I have, etc.,
HENRY CONNOLLY.

No. 657.[10 June,
1873.]**APPOINTMENT OF GOVERNMENT VACCINATOR,
LABRADOR.**

GOVERNMENT RECORDS, ST. JOHN'S, NEWFOUNDLAND. Volume 56,
page 95.

Secretary's Office,
10th June, 1873.

SIR,—

I am directed to acquaint you that your Services as Government Vaccinator at the Labrador will be for two months, and to transmit copy of the Act under the 2nd Section of which parties can be brought before a Justice of the Peace in case of refusal to comply with its provisions, when called upon for that purpose.

You will please keep a return for the information of the Government showing the number of Harbours visited and the number and names of persons vaccinated and age when possible. Viz:

No.	Harbour.	Name.	Age.	Date of Vaccination.
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I am, &c.,
(Signed) JAS L. NOONAN.

Mr. F. Crowdy,
Vaccinator,
Labrador.

No. 658.

N

[13 June,
1873.]**MINUTE RESPECTING APPOINTMENT OF
FREDERICK CROWDY AS VACCINATOR.**

Page 311, No. 5 RECORD BOOK, 1869 to 1874.

June 13th, 1873.

Frederick Crowdy appointed to be Vaccinator on Labrador Coast for the season.

No. 659.

[5 June,
1874.]**E. D. SHEA TO MICHAEL KNIGHT.**

CENSUS ARRANGEMENTS.

GOVERNMENT RECORDS, ST. JOHN'S, NEWFOUNDLAND. Volume 56,
page 226.

Secretary's Office,
5th June, 1874.

SIR,

I am directed by the Governor to acquaint you that His Excellency in Council has appointed you to take the Census (under Act of last Session) for the Northern Division of Labrador extending from Red Bay exc.; and also on your way to the Labrador to take the Census on the Western Coast of this Island from St. John's Island to Quirpon end. and on your return to St. John's in October, from Quirpon, inc. to Cape John. Mr. Jonas Purchase has been appointed to assist you in the performance of the work in question.

You will perceive by the Act 20th, Vict; Cap 7, that you are to be sworn before a Justice before commencing the work in question, and that each Clergyman officiating within the limits assigned to you will have to receive a copy of your returns, or so much of the returns as may be included within his sphere of labour, before having them revised by the Revising Magistrate, Judge McNeil.

Your former employment in the same or similar work in 1869 will doubtless be of service to you in carrying out the instructions of the Government in this matter, and should Mr. Stephenson seek any information relative to taking the Census in the Straits you will please furnish him with your advice thereupon.

I have, &c.,
(Signed) E. D. SHEA.

Michael Knight, Esq., &c. &c.

[There is a similar letter of the same date to Stephenson for the South part up to Red Bay.]

[23 April,
1874.]**No. 660.****EXTRACT FROM REPORT OF SELECT COMMITTEE
OF HOUSE OF ASSEMBLY, NEWFOUNDLAND, 1874,**

RELATIVE TO THE QUESTION OF THE LABRADOR STEAM SERVICE.

JOURNAL OF ASSEMBLY, NEWFOUNDLAND, 1874, p. 159.

The Hon. Mr. Shea, a member of the Select committee, 1874, to whom was referred the question of the Labrador steam service, presented the Report of the Committee to the House of Assembly, April 23, 1874, which reads, in part, as follows : —

“The Select Committee to whom was referred the question of the Labrador Steam Service, with a view to the increase of its efficiency, beg to report to your Honourable House that they have considered the matter in question, and are of opinion that the highly important interests involved in the Labrador Fisheries would be materially benefited by the rapid diffusion of intelligence along the coast during the fishing season. The short time, generally speaking, during which successful fishing continues, makes it most essential that the earliest information should be furnished to those interested, of the localities where the people may be most likely to have their labours rewarded; and when it is considered that some fifteen thousand of our fishermen are concerned in the Labrador fisheries, the importance of giving all practicable facilities to their operations can hardly be too highly estimated.”

[19 July,
1875.]**No. 661**

N

**MINUTE RESPECTING APPOINTMENT OF Dr. Wm.
ALLEN.**

Page 73, No. 6 RECORD BOOK, 1874 to 1883.

July 19th, 1875.

On application from inhabitants of Hr. Grace for a medical man to proceed to Labrador in the Labrador Steamer to attend the sick and disabled during the fishing season it was resolved

that the request be complied with and that Dr. Wm. Allen be engaged for this service—to be allowed £175 or \$700 & 120 dollars for his expenses.

No. 662.

**MEMORANDUM ON DISTURBANCES RESPECTING
RIGHTS OF PROPERTY LIKELY TO ARISE IN
HAMILTON INLET.**

Page 258, No. 6 RECORD BOOK, 1874 to 1883.

[4 Sept.,
1880.]Sept. 4th, 1880.
Government House,
Sept. 4th, 1880.

Present:

His Excellency the Governor.
Attorney General.
Col. Secretary.
Receiver General.
Mr. Winter.

His Excellency laid before Council a memorandum stating he had been informed of a letter received from Mr. Matthew Fortescue, J.P., Rigolet, saying that disturbances respecting rights of property were likely to arise in Hamilton Inlet from some expressions said to have been used by the Governor during his visit to that locality last year, and that the presence of a Ship of War would be required. It was ordered hereafter that Mr. Fortescue be informed that he was guilty of a dereliction of duty as Justice of Peace in having failed to acquaint the Government instead of others, and that he be requested to report on all the circumstances of the matter in question by first mail. The Council were of opinion that the information was not sufficiently authentic to warrant their advising that a Ship of War should be sent. But as in course of her cruise one of the Ships of War now here may call at Hamilton Inlet, the Captain should be instructed to impress on the people that all disputes respecting rights of property must be tried before the Supreme Court, and that neither he (the Captain) nor any other Justice of Peace had any authority whatever to interfere between the occupants and claimants of land or water privileges.

No. 663.

**COLONIAL SECRETARY E. D. SHEA TO MATTHEW
FORTESCUE, Esq.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 57, page 299.

Secretary's Office,
9th Sept., 1880.

SIR,

His Excellency the Governor is informed that a letter has been received from you stating that disturbances regarding rights of property were likely to arise in Hamilton Inlet from certain expressions alleged to have used by the Governor during his visit to that locality last year; and that you thought that the presence of a Ship of War would be required there.

I am to acquaint you that His Excellency holds you guilty of dereliction of duty as a Justice of the Peace in having failed to communicate the information to the Government instead of to others; and I am to request you to forward me by first mail your Report on all the circumstances of the case.

Sir,

E. D. SHEA, C.S.

Secretary's Office,
10th Sept. 1880.

Matthew Fortescue,
Rigoulette, Labrador.

[22 Oct.,
1880.]**No. 664.****REPORT OF STAFF COMMANDER BOULTON ON
SURVEY OF UNGAVA BAY.**

Charlottetown, P.E.I. [sic]
October 22nd, 1880.

Sir,

In pursuance of instructions received from you on the 2nd August of this year, to the effect that I should on arrival of the Honourable Hudson Bay Company's steamer "Labrador," at Rigoulette from Quebec, proceed in her to Ungava Bay, and make such surveying observations as time and opportunity afforded during the voyage.

I have the honour to inform you that in the interval between the date of your instructions and the departure of the steamer "Labrador" for the north, I undertook and completed a plan of the anchorage at Rigoulette on scale M = 9".

On the 10th August, I embarked in the steamer "Labrador" and proceeded to Davis Inlet, the first port of calling, where we arrived on 11th August.

I also made a running survey of the southern approach to Hudson Bay Company's post at Davis Inlet, which is situated on the west side of Ukassiksalik Island.

Daylight of the 19th found us off Segleh Bay and thence to Nachvac — a sketch and patent log and compass was made from the entrance of Nachvac Bay to the Hudson Bay Company's post, some 13 miles further up, where the steamer "Labrador" moored on the same evening.

On the 26th August the steamer "Labrador" left Nachvac for Kokesok, where we arrived on the 28th.

From a sketch made and enclosed, taken in the vicinity of Cape Chudleigh, while steaming between it and the Buttam Islands, I found the contours of both differed from those depicted on the chart No. 1422. A straight course being steered from Chudleigh to Chosok, little of the coast

between them could be seen, and that so low and undefined as to render any attempt to cut it in useless. The steamer "Labrador" lay at Hudson Bay Company's Post Fort Chimo, 25 miles up from the mouth of the river, till the 8th September, when she left on her return to Rigoulette.

During her stay at Fort Chimo

The continuously thick weather prevented as many observations for latitude and meridian distance being taken as I could have wished. Sufficient, however, I think, were obtained, combined with those at Fort Chimo, and the triangulation at each place to give a good approximation of the position of the river, and also to keep in check the running survey made from the bar outside the entrance to Fort Chimo.

From Kai-Wai-Chi-Ak, an Eskimo chief living at Cape Chudleigh, whom I met at Nachvac, I learnt that there is a passage fit for a large vessel, through into the Ungava Bay, about 15 miles south of Cape Chudleigh; this man offered to pilot the steamer "Labrador" through it. If this passage is practicable, and inducements ever offer to small vessels to enter Ungava Bay, it would save them the labour of rounding the Cape where the "race" consequent on the strong current, is heavy and often dangerous.

The Eskimos congregate pretty thickly, I believe, about the missionary settlements on the Labrador coast, to the northward of which the coast is very sparsely inhabited by them, there being only 7 families between Nachvac and Cape Chudleigh.

I have the honour to be, Sir,

Your most obedient servant,

J. G. BOULTON.

Acting Staff Commd. and First
Class Assistant Surveyor, R.N.

Staff Commander W. F. MAXWELL, R.N.,
Commanding Admiralty Survey
of Newfoundland.

No. 665.
REPORT OF SCHOOLS ON LABRADOR.

[1880.]

(RECORDS OF THE DEPARTMENT OF EDUCATION, ST. JOHN'S, NFLD.)

 1880.

FRENCH SHORE AND LABRADOR.

XXXXXX. To this same gentleman, Rev. J. J. Curling, of Bay of Islands, I am indebted for information and suggestions respecting location and support of schools on Labrador, already being acted upon. I hope to report more fully upon these next year. At the end of Table D will be found a list of schools in operation on that coast for 1875-80. The reported attendance is 105 with a fair average number learning the three R's.

TABLE D. SCHOOLS ON LABRADOR.

LOCALITY.	TEACHER.	SALARY.	PUPILS.
Battle Harbor	Henry Mills	\$160.00	26
Red Bay	John Bailey	100.00	29
Forteau	Mrs. Rabbitts	84.00	14
Cape St. Charles	G. Lse. Whitting	80.00	22
Venison Island	Mrs. Taylor	96.00	<u>14</u>
			105

1881.

LABRADOR.

Table C gives list of schools on Labrador. Those at Battle Harbor, Cape Charles, and Venison Island, were open for a whole year; the one at Seal Island only for the summer months. This district, with its many small and widely-separated settlements will always be a difficult one to manage, educationally. The best that can be done is to help local efforts and agents, and as far as practicable, this has been done.

TABLE C. SCHOOLS ON LABRADOR.

LOCALITY.	TEACHER.	SALARY.	PUPILS.
Battle Harbor	Henry Mills	\$160.00	37
Seal Island	Mrs. Crocker	60.00	13
Venison Island	Mrs. Taylor	83.35	14
Cape Charles	Geo. L. Whitting	80.00	30

1882.
LABRADOR.

The small sum allocated for education on the Labrador is found to be inadequate to afford the many scattered places on this coast, any large share of instruction. Three schools have been maintained during the year, the statistics of which will be found in Table C, and help has been given in the important sections of Grosswater and Sandwich Bays. The time taken in reaching these places has hitherto prevented any personal inspection of these schools, and all arrangements have been left, as in the case of the West Coast, in the hands of the Clergy of the Church.

TABLE C. SCHOOLS ON LABRADOR.

LOCALITY.	TEACHER.	SALARY.	PUPILS.
Battle Harbor	Henry Mills	\$160.00	23
do.	M. A. Courage	40.00	8
Cape Charles	Geo. L. Whiting	90.00	13

1883.
LABRADOR.

There have been five schools in operation on this coast during the year, with an attendance of 132 children. Those at Battle Harbor and Cape Charles were open for a whole year; the other three during the fishing season only, and conducted by fairly competent teachers, who accompany friends to this Coast. The increased allowance to this desolate Coast has enabled us to open other schools during the present winter, at Indian Cove, and Sandwich Bay, and two young men from our training school volunteered and are now at work, one at the place last mentioned, and the other at Battle Harbor. Two new schools have been erected, one at Battle Harbor, mainly by the firm of Messrs. Baine Johnstone & Co., and the other at Venison Island, by the people themselves, with small help from other sources.

TABLE C. SCHOOLS ON LABRADOR.

LOCALITY.	TEACHER.	SALARY.	PUPILS.
Battle Harbor	Henry Mills	\$160.00	40
Cape Charles	Geo. Whiting	80.00	35
Venison Island	S. Mahaney	40.00	16
Seal Island	M. J. Courage	40.00	13
Spotted Island	J. E. Bartlett	40.00	28
{ Sandwich Bay Grosswater Bay }	Robert Guy	200.00	

1884.
LABRADOR.

The difficulties involved in providing for the education of 1,500 people in numerous settlements, situated at irregular intervals along a coast of over 400 miles in extent, are almost too obvious to require mentioning. A personal visit to this remote shore made in the summer of last year, convinced me that all that could be reasonably expected from our limited grant for this purpose had been done, and the money spent to the largest advantage. No less than 288 children have benefitted from the schools mentioned in Table C. In three settlements, viz., Battle Harbor, Indian Cove, and Cape Charles, schools were kept open throughout the year; at Venison Island for the fishing season only, when many people came out of the Bays to prosecute the fishery from this point, while in Sandwich Bay an itinerant schoolmaster has for the fishing season kept school on the most important centres of the coast, and in the winter followed the settlers and kept school in their winter quarters up the Bay.

TABLE C. SCHOOLS ON LABRADOR.

LOCALITY.	TEACHER.	SALARY.	PUPILS.
Battle Harbor	John Fowlow	\$200.00	43
Indian Cove	Henry Mills	80.00	31
Cape Charles	Geo. Whiting	80.00	48
Venison Island		40.00	21
{ Sandwich Bay Grosswater Bay }	Robert Guy		

(Eagle River, 7 pupils; Separation Point, 5; Dove Brook, 6; Barrow Brook, 2; American Point, 11; North River, 20; Cape Porcupine, 8; Snack Cove, 11; Cartwright, 24; Muddy Cove, 9; Paradise, 12; Indian Harbour, 12; Hare Harbor, 4; White Bear River, 14.)

No. 666.

NEWFOUNDLAND ACT 45 VICT. c. 8 (REGULATING SALE OF INTOXICATING LIQUOR IN LABRADOR).

C.O. 196/8. NEWFOUNDLAND ACTS, 45 Victoria, Cap VIII.

Enacting Clause.

An Act representing the sale of intoxicating liquors on the Coast of Labrador.

Licence Act, 1875, and other Acts extended to Labrador.

[Passed 20th May, 1882.]

Section

Section

- | | |
|--|---------------------------|
| 1. Licence Act, 1875, and other Acts extended to Labrador. | 4. Fees |
| 2. Granting Licences. | 5. Selling liquor afloat. |
| 3. Requisites of Application. | 6. Sale to Esquimaux. |
| | 7. Jurisdiction |

Granting of Licenses.

Be it enacted by the Administrator of the Government, Council and Assembly, in Legislative Session convened, as follows: —

Requisites of application.

1. The Licence Act of 1875, and the Act entitled “An Act to amend the “License Act, 1875,” passed in the present session of the Legislature, are declared subject to the provisions of this Act to extend and apply to the Coast of Labrador, with the exception of the following sections, that is to say: III, IV, V, VI, and VIII, of the first recited Act.

Fees.

2. A Stipendiary Magistrate within his District may, at any time during the month of May or June in any year, grant a license to any person approved by him, resident within his jurisdiction, to sell intoxicant liquors on the coast of Labrador, which license shall be in force until the end of the then current fishing season, and no longer.

Selling liquor afloat.

3. Every application for a license shall specify the particular premises upon which the business, in respect of which the License is sought, is to be carried on, and the License issued thereon, shall in all cases specifically limit the operation thereof to such described premises, and no license shall be issued authorizing the sale of liquors by the same person in any more than one harbor or place, or for more than one premises in any harbor or place.

Sale to Esquimaux.

Jurisdiction.

4. License Fees, for the Coast of Labrador, shall be fixed by the Licensing Magistrate, and shall not be less than fifty dollars.

5. If any person shall be convicted of selling intoxicating liquors upon the Coast aforesaid, elsewhere than on shore, he shall incur a penalty of not less than One Hundred Dollars.

6. No intoxicating liquors shall be sold, given or delivered to any Esquimaux Indian, under a penalty of Two Hundred Dollars.

7. Any Stipendiary Magistrate, anywhere, or any Justice of the Peace upon the Coast of Labrador, shall have cognizance of any offence under this Act.

[1887.]

EXTRACTS FROM NEWFOUNDLAND STATUTES.

EDUCATION (AMENDMENT ACT) 1887 50 VICT. C. 8

* * * *

XLIII. The Church of England Educational Districts shall be as follows: —

* * * *

The Straits of Belle Isle shall extend from Ireland's Bight to Carter River, inclusive, and the coast of Labrador from Blanc Sablon to Chateau inclusive. The Board shall meet at Flower's Cove.

* * * *

[1888.]

Battle Harbour shall extend from Chateau to Spotted Islands, inclusive.

Sandwich Bay shall extend from Spotted Island to Ilack.

* * * *

XLV. The Methodist Educational Districts shall be as follows:—

[1889.]

* * * *

Labrador South shall include that part of Labrador extending from Blanc Sablon to N. Battle Harbor inclusive.

Labrador North Shall include that part of Labrador extending from N. Battle Harbor, Northward.

INDEMNITY ACT 1888 51 VICT. C. 28.

The sum of One hundred and sixty-one dollars and eighty-five cents on account of medical attendance, Labrador.

INDEMNITY ACT 1889 52 VICT. C. 26.

To the Superintendent of Methodist Schools on account of Labrador Schools as follows: —

Year ending 31st December 1885, One hundred and seventy-nine dollars and fifty-three cents.

Year ending 31st December 1886, One hundred and seventy-nine dollars and fifty-three cents.

Year ending 31st December 1887, One hundred and seventy-nine dollars and fifty-three cents.

p. 1626

Three quarters ending 30th September 1888, One hundred and thirty-four dollars and sixty-five cents.

* * * *

[1890.] To Superintendent Methodist Schools, per Labrador,
forty-four dollars and eighty-eight cents.
* * * *

The sum of three thousand and thirty dollars and seventy-
two cents on account of Labrador relief.
* * * *

The sum of One hundred and sixty dollars and fifty-one
cents on account of Medical attendance, Labrador.

[1891.] INDEMNITY ACT 1890 53 VICT. C. 2.

The sum of Four hundred and sixty dollars and seventy-
five cents on account of Labrador relief.
* * * *

The sum of Two hundred and twenty-four dollars and
twenty-two cents on account of medical attendance, Labrador.

INDEMNITY ACT 1891 54 VICT. C. 29.

To the Superintendent of Methodist Schools for Labrador,
Forty-four dollars and eighty-eight cents.

[This item is repeated three times.]

* * * *

The sum of One thousand three hundred and four dollars
and twelve cents on account of Labrador relief.
* * * *

The sum of One hundred and twenty-five dollars and fifty-
one cents on account of medical attendance, Labrador.

No. 668.

[14 July,
1891.]

**COLONIAL SECRETARY, R. BOND, TO MR. ROBERT
GUY.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 61, page 74.

Col. Secy's. Office.

July, 14/91.

SIR,

I beg to acquaint you that the Government have appointed Mr. Samuel Mesher to act with you as Census Enumerator for No. 3 Section Labrador, extending from Cape North (inclusive) to Cape Harrison (inclusive) and including Sandwich Bay and Hamilton Inlet. You will confer with Mr. Mesher as to the best method to be pursued in order to secure accurate returns.

I am &c.,

Sgd. R. BOND, C.S.

Mr. Robt. Guy,
Cartwright.

No. 669.

PUBLIC SERVICE ACT 1903, 3 Ed. VIII. c. 18.

[1903.]

Customs.

* * * *

Rigoulette, with ten per cent. on duties, not to exceed eight hundred dollars, six hundred dollars 600 00

Public Health (Outports).

* * * *

[1904.]

Labrador:

Medical attendance and medicine, one thousand dollars . . 1,000 00

No. 670.

PUBLIC SERVICE ACT 1904, 4 Ed. VII. c. 20.

Medical attendance, Labrador, and Rigolet Customs same as above.

No. 671.

[26 March, 1907.]

EXTRACT FROM AN ACT FOR GRANTING TO HIS MAJESTY CERTAIN SUMS OF MONEY FOR DEFRAYING CERTAIN EXPENSES OF THE PUBLIC SERVICE FOR THE FINANCIAL YEARS ENDING RESPECTIVELY THE THIRTIETH DAY OF JUNE, ONE THOUSAND NINE HUNDRED AND EIGHT, AND FOR OTHER PURPOSES RELATING TO THE PUBLIC SERVICE.

(Passed 26th March, 1907.)

NEWFOUNDLAND ACTS, 1907, 7 EDWARD VII., CAP. XXX.

May it please Your Majesty:

[Schedule B.]

Whereas it appears that the sums hereinafter mentioned are required to defray certain expenses of the Public Service of Newfoundland, not otherwise provided for, for the financial years ending respectively, the Thirtieth day of June, one thousand nine hundred and eight, and for other purposes connected with the Public Service.

May it therefore please Your Majesty: —

That it may be enacted by the Governor, the Legislative Council and the House of Assembly, in Legislative Session convened, as follows: —

* * * *

Sums granted to His Majesty by this Act for the financial Year ending June 30th, 1908, and the purposes for which they are granted.

* * * *

XII. Postal and Telegraph Department.

* * * *

Labrador,	eighteen	thousand
dollars	18,000.00	
Hamilton	Inlet,	three
dollars	300.00	hundred

No. 672.

1 GEO. V. CAP. IV.

[29 March, 1911.]

An Act respecting the Esquimaux and Indians resident in Labrador.

(Passed March 29, 1911.)

1. Esquimaux Mountaineer other Indians not to leave Colony without permission.

Section

1. Esquimaux Mountaineer, and other Indians not to leave Colony without permission.

Section

2. Penalty.
3. Interpretation.

Enacting Clause { Be it enacted by the Governor, the Legislative Council and the House of Assembly in the Legislative Session convened, as follows: —

2. Penalty.

3. Interpretation.

Without the permission of the Governor in Council first obtained, it shall be unlawful for any person to enter into any agreement with an Esquimaux Nascopie, or Mountaineer Indian to leave this Colony or its Dependencies for the purpose of performing any services in any place outside this Colony or its dependencies, or to pay or promise to pay any money, or give or promise to give any article to any Esquimaux, Nascopie, or Mountaineer Indian as a reward or inducement for leaving this Colony, or transport or furnish the means of transporting any Esquimaux, Nascopie or Mountaineer Indian from this Colony to any place outside this Colony; provided that nothing in this section shall prevent the employment of Esquimaux, Nascopie, or Mountaineer Indians by any person for the purpose of fishing, hunting or exploring upon any part of the coast or territories of the Canadian Labrador.

Any person violating any one of the provisions of the first section of this Act shall be liable to a penalty not exceeding \$500, or in default of payment, to imprisonment not exceeding six months, to be recovered or imposed upon the complaint of any person in a summary manner before a stipendiary Magistrate.

In this Act "Esquimaux" shall mean native residents of the Coast of Labrador who are commonly known as Esquimaux.

[16 March,
1926]**AFFIDAVIT OF W. F. PENNY.**In the Privy Council.

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA
and the COLONY of
NEWFOUNDLAND in the LABRADOR
PENINSULA.

I, WILLIAM FREDERICK PENNY of Carbonear,
Newfoundland, Stipendiary Magistrate, make Oath and say as
follows: —

1. For 30 years I was engaged in the fishery business on
the Labrador, at Woody Island near Blanc Sablon, and at
Bradore which is on Canadian Labrador. At both these places
my firm, E. Penney & Sons had establishments for 40 years. I
was also for 25 years Lloyd's agent in the Straits of Belle Isle
and in that capacity dealt with many shipwrecks.

2. From my long experience in the Straits of Belle Isle on
both sides of the boundary at Blanc Sablon I say that the
people on the Labrador under Newfoundland jurisdiction are
better cared for by the Newfoundland Government than those
under Canadian Government by the Canadian Government.
This is true both as to relief in cases of distress,
communication by steamer and by wireless, medical attention
and hospitals, facilities for education and the administration of
justice.

3. As to the boundary at Blanc Sablon, Woody Island is
generally regarded as Newfoundland territory while Greenly
Island is regarded as west of the boundary and Canadian
territory.

SWORN at Carbonear, Newfoundland,

W. F.

PENNY.
this 16th day of March 1926

Before me,
HUGH CAMERON, J.P.

Privy Council
Documents

Volume III
Contents

No. 674.

[18 March,
1926.]

18th March, 1926—**AFFIDAVIT OF CLUNY
MACPHERSON.**

[18 March,
1926.]

Vide Part VIII E, No. 544, p. 1481.

[25 March,
1926.]

No. 675

N

18th March, 1926—**AFFIDAVIT OF JOHN GRIEVE.**

Vide Part VIII E, No. 545, p. 1483.

[30 March,
1926.]

25th March, 1926—**AFFIDAVIT OF FREDERICK
COLMAN BRIEN.**

No. 676

N

Vide Part VIII B, No. 415, p. 1296.

No. 677

N

30th March, 1926—**AFFIDAVIT OF SIR PATRICK
THOMAS McGRATH, K.B.E.**

Vide Part VIII F, No. 618, p. 1566.

AFFIDAVIT OF E. G. GRANT.

[17 June,
1926]

In the Privy Council.

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA
and the COLONY of
NEWFOUNDLAND in the LABRADOR
PENINSULA

I, EDWIN GEORGE GRANT, of Trinity, Newfoundland, agent for Messrs. Job Bros. & Company at Blanc Sablon, Labrador, and former member of the Newfoundland House of Assembly for Trinity District, make oath and say as follows:

1. I am a native of Trinity, born there in 1865. I have been connected since boyhood with the Labrador fishery, and for the past 41 years have been at Blanc Sablon for Messrs. Job Bros. & Co., of St. John's, who have been fishery operators on a large scale in Newfoundland for over 100 years, and in Labrador for over 50 years. For 16 years I was assistant to the late Hon. Capt. Samuel Blandford, who was for a long period in charge of the business for Messrs. Job Bros. on the Labrador side of Belle Isle Strait. Since 1901 I have been manager there and have 11 establishments under my direction.

2. I have read very carefully the Report of Sir William McGregor to Sir Robert Bond, respecting the boundary at Blanc Sablon, which is annexed to this affidavit and marked "A"; * and the map annexed to this affidavit and marked "B" † has been prepared under my supervision as approxi-

* Exhibit "A" is not printed, since it does not refer to Relief of Distress, and the same letter is exhibited to the affidavit of John Butt, Part VIII—L. No.

† Exhibit "B" will be found in the Newfoundland Atlas as No. 52.

mately similar to that of Governor McGregor, which I am informed cannot be found.

3. I was at Blanc Sablon when he visited that place in 1906, and much of the information contained in his Report was given to him by me. The Report correctly describes the Boundary situation there.

All of those, except myself, whom he names in the Report—Captain Blandford, Mr. Morel, and Mr. Parsons, as well as himself—have died in the intervening period and I am, so far as I know, the only person living who is familiar with the collection of revenue at that time.

4. Blanc Sablon is the headquarters of Messrs. Job's business in Labrador and is also the boundary line between Canada and Newfoundland territory. The Newfoundlanders now recognize as the dividing line the river that runs into Blanc Sablon; but the Canadians regard as the boundary the Cape or projecting point known as "Lazy Point," the western extremity of the bay. Canadian officials do not exercise any authority east of that point, and as Newfoundland has not exercised authority west of the River for some twenty years, there is about half a mile of seaboard between, which we have called for these twenty years "No Man's Land."

5. About that time owing to friction between Newfoundland and the United States, Newfoundland denied American fishermen trading facilities in her waters. The late Benjamin Parsons, who was then Newfoundland Collector of Customs at Blanc Sablon, held that the river was the boundary, but prior to that Newfoundland always claimed authority as far as Lazy Point, for I remember that about thirty years ago, Captain Blais, a French-Canadian trader, who sold some brandy to a Halifax skipper in Blanc Sablon Bay, was prosecuted by the Newfoundland Authorities and fined \$400.

As Governor MacGregor states, the curious distinction was made prior to the time of the friction with the Americans, that the Frewing Company paid duties on all the goods which it imported for sale to the people in Blanc Sablon, or to those who came there from other places to trade, but did not pay duty on the articles which it brought in for consumption in its own establishment west of the River.

I think Governor MacGregor made a slight error with reference to Point au Peau. The whole of the area from Blanc Sablon River, west to Lazy Point, has been known to us for the past twenty years as "No Man's Land." The Canadians never claimed east of Lazy Point. I consider that the line drawn by Governor MacGregor, if intended to show the extent of Newfoundland's marine jurisdiction, ought to be drawn from Woody Island to Lazy Point, instead of from Woody Island to Point au Peau. The reason for his having drawn it from Woody Island to Point au Peau is, I think, that the marine area east of that line is regarded as the bay or harbor of Blanc Sablon; and the passage or channel west of that line is regarded as only an entrance to the harbor.

6. Our firm has establishments east and west of the boundary. We work cod fishing traps just west of Lazy Point and are required by the Canadian authorities to pay the usual license fees, which their own people have to pay, but east of that point we work other traps and are not obliged to pay any fees. At Bradore, six miles west of Lazy Point, we also have a place, and two stations on Greenly Island, which lies between; and on all three we have to pay trap licenses to the Canadian authorities.

Until about four years ago a Canadian Revenue Cruiser visited the coast every summer, first under Commander Wakeham, and later under Commander Bernier, both medical men, who rendered services in that capacity as well as collected revenue, until recent years, when the Canadian Government appointed a resident Customs officer who was first located at Bradore and later at Bonne Esperance. Neither Wakeham nor Bernier asserted any authority east of Lazy Point, though sometimes the Cruiser entered Blanc Sablon on a friendly visit. The resident Customs Office at Bonne Esperance, from time to time, visits Greenly Island and collects duty on anything our firm imports there, but he, too, has never claimed authority east of Lazy Point; in fact, he states clearly that his jurisdiction ends there. Fishery Wardens have also been appointed for different sections of the Canadian territory, west of Blanc Sablon, but the one at Bradore, whose jurisdiction extends to Canada's eastern boundary, disclaims any authority east of Lazy Point.

7. In my opinion, the Newfoundland settlers on this part of Labrador are better looked after by their Government than are the Canadian residents by theirs. I think this is partly because the connection between the Newfoundland Government and the fishermen is much closer than between the Canadian Government and its fishermen. The Newfoundland Government understands better the needs of its people and acts more promptly, as the fishing industry is all-important to Newfoundland, but it is a smaller industry in Canada and the Government there is not so concerned. On the Newfoundland territory—that is east of the boundary line—we have had for nearly thirty years a regular weekly mail service all summer, first by the steamer Fife and since by the steamer Home, of 450 tons, which calls at all the harbours in the Belle Isle Strait, brings and takes mail, and gives a direct and satisfactory freight service. On the Canadian side, on the contrary, they had until three years ago only a small twenty-foot open boat, driven by a motor engine, running along the coast between Blanc Sablon and Harrington, 160 miles west, with a fortnightly mail and one only, or at most two, passengers could be carried, these being exposed to every sort of weather. Since then a steamer makes fortnightly trips between Quebec and Bradore during the summer months carrying passengers, mails and freight.

For much of their food the people on Canadian Labrador

have to depend on Captain Blais of Quebec, who visited the coast in a schooner twice a year, until three years ago, thus affording the only means for most of them to get in supplies or to ship anything outward. Now he brings in and sends out everything by the mail steamer which plies along the coast each summer,

p. 1636

and very autumn latterly a special steamer has been sent from Quebec just before navigation closes with winter supplies to the settlers, and in the fall of 1922 another special steamer was sent with relief because the fishery was so poor that the residents were in dire need.

8. Canadian people from Blanc Sablon to Bradore depend on our firm for fishery supplies, salt for curing their fish, and vessels to take away the catch, and west of Bradore they depend upon Whiteleys at Bonne Esperance, another Newfoundland firm, in the same way.

9. In the matter of schools these are provided on the Newfoundland side, but on the Canadian side, apart from Long Point, where there is a Roman Catholic settlement, priest and a regular school, the facilities are very meagre and teachers in the places that have schools have to be got from Newfoundland, because the Canadians cannot get any of their own people to go to the coast as teachers.

10. In hospital accommodation the Newfoundlanders are also much better off. There is a cottage hospital at Forteau, a large one at Battle Harbor, 80 miles east of us, another large one at Indian Harbor, halfway up the Atlantic Coast, and a small one at Northwest River at the head of Hamilton Inlet. But on Canadian Labrador there was only one, that at Harrington, 160 miles west of Blanc Sablon, but this, after being in operation some 10 or 15 years, was shut down for some time because no help could be got from the Canadian Government; but was reopened about three years ago, having I understand, secured a small grant from the Canadian Government. The only other medical service that Canadian Labrador got was that furnished by the medical officer in command of the revenue cruiser. On the other hand, the Newfoundland Government keeps a doctor on the mail steamer that makes fortnightly trips along the east coast of Labrador all the summer. Dr. Grenfell also cruises along the coast during the same period in his hospital ship. His hospitals at Forteau and at Northwest River are kept open all the year round, and those at Battle Harbor, Indian Harbor, during the summer months while the fishery is in progress. Dr. Grenfell first began his work on Labrador more than thirty years ago, when he opened Battle Harbor hospital, which has been operating ever since; the other hospitals were opened within a few years afterwards.

11. As to relief in time of need, I have found that the Newfoundland Government deals with this very promptly and I think on a more liberal scale than the Canadian authorities. As I have already said, the Newfoundland authorities are in more direct touch with their people than are the Canadian authorities.

Some thirty years ago the Canadian authorities issued notices to the people of Canadian Labrador that they would no longer supply them with relief but offering to remove them from the coast and settle them elsewhere, in pursuance of which policy they did transfer a number of people from the

p. 1637

coast to the Canadian West, but they gradually drifted back again. Twice since then at intervals of some years apart, similar notices were given but they were not acted upon, as the Canadian authorities realized that they could not permit the people to perish of starvation and they had no means of forcing them to leave the coast.

12. As to representation, while it is true the residents of Newfoundland Labrador have no member of Parliament, I think that is also true of Canadian Labrador. Certainly, if there is a member for that area he never visits it and the people never vote. In my forty years at Blanc Sablon I have never heard or known of the residents of Canadian Labrador taking part in any election either Federal or Provincial.

13. I have never known or heard of any claims by Canada to exercise jurisdiction on the coast, east of Lazy Point, or to dispute the right of the Newfoundlanders to go inland as far as they wish; nor have I ever heard any desire expressed by our people to be transferred to Canadian jurisdiction. In my opinion, they are better off under Newfoundland control than they would be under Canadian.

14. The chief occupation of the residents, or liverymen, of Blanc Sablon and other settlements on that section of Newfoundland Labrador fronting the Straits of Belle Isle, is fishing, but they are also trappers and engage in "furring" or trapping every fall and winter. For this purpose they go inland from two to three days' journey, counting about 15 miles to a day. Before the lakes and rivers freeze over, they use boats which they keep near cabins or "tilts" built by them at convenient places about a day's journey from each other. In these cabins they spend the nights. Trapping is done mainly in the forest section which stretches northeastward through the interior from Bonne Esperance to Hamilton Inlet. After the frosts set in and the rivers and lakes are frozen over, they make their way along with dog-teams in the same way. Usually they make four or five furring trips into the interior each season at intervals of about a fortnight. Also in the winter they go in again to hunt caribou, usually about the same distance,

employing dog-teams and occupying the same cabins; and bring out the meat on the dog-teams. They have also to go inland at many places for firewood. About Blanc Sablon it is now very scarce, and they have to up-root the stumps and roots of old trees and also the small bushes that grow within a few miles of the settlement. They have to go in about six miles to get wood to build wharves of "cribbing." This wood is too stunted for building boats or houses and they must get lumber for this from Pinware and other rivers along the coast, or from Newfoundland. At places like Red Bay and West St. Modiste they go up the rivers 15 to 20 miles to get firewood and timber to build boats and fishing rooms.

We have always regarded the whole of the country extending inland indefinitely as part of the territory of Newfoundland and if the rights of the Colony were restricted to a strip of seaboard a mile or two deep, it would.

have very serious consequences for the residents of this section, who would be deprived of the right of trapping, hunting and wood-cutting as heretofore.

5. The occupations of the residents of Canadian Labrador are much the same: We consider Canadian Labrador as extending from the boundary at Blanc Sablon to Esquimaux Point, about 400 miles west, and these people live also by fishing and furring and obtain game and wood in the same way as our people do.

EDWIN G. GRANT.

Sworn at St. John's, Newfoundland,
this 17th day of June, 1926.

ROBERT ALSOP,
Commissioner Supreme Court of Newfoundland.

Privy Council
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Volume III
Contents

J.—TIMBER CONCESSIONS.

[15 Feb.,
1890.]

No. 679.

**COLONIAL SECRETARY, R. BOND, TO G.
MACKINSON, Esq.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 60, Page
143.

Secretary's Office,
15th Feby. 1890.

SIR,

I have the honor to acknowledge receipt of your letter of the 12th inst. In reply I am to say that the Government see no objection to granting your application for a Timber limit at Gross Water & Sandwich Bays.

I have & c.,
Sgd. R. BOND, C.S.

G. Mackinson, Esqr.,
Harbor Grace.

No. 680.[11 November,
1897.]**MINUTE OF NEWFOUNDLAND EXECUTIVE
COUNCIL.**

November 11th, 1897.

A timber limit of one hundred square miles of land situate on Labrador commencing at Kendryakah Point, Lake Melville, thence running in a southerly direction ten miles, thence in a westerly direction twenty-five miles and thence by the Shore of Goose Bay and Lake Melville to the point of commencement, to issue to F. C. Berteau, Esq. Also the right to use the waters of the stream of South Brook, Lake Melville, for milling purposes, together with sufficient land for a Mill site.

[24 January,
1898.]**No. 681.**

N

MINUTE OF NEWFOUNDLAND EXECUIVE COUNCIL

January 24th, 1898.

The following applications for licenses to cut timber were approved subject to definition as to boundaries on rivers and lakes, viz.:—

1. Of William G. Hopgood, for land at Mokkaic Bay, Tessingakok River and Table Bay, Labrador
2. Of William G. Hopgood, for land at Deep Inlet, Camairktok, and on Fraser River and Lake, Labrador.
3. Of M. P. Gibbs for land situate on the Kenemichic and Kenamon Rivers, Hamilton Inlet, Labrador.
4. Of M. P. Gibbs for land situate between the Kenemichic and Kenamon Rivers, Labrador.

[7 May,
1898.]**MINUTES OF NEWFOUNDLAND EXECUTIVE
COUNCIL.**

May 7th, 1898.

At a meeting in the Office of the Surveyor General concerning Labrador timber limits, the following applications were approved:—

M. P. Gibbs, over 200 square miles, situate on Merry Field River and Merry Field Bay, commencing at a point about 25 miles inland from Kasungatak Island, embracing all sides of Merry Field Bay and Merry Field River for a distance of 50 miles inland.

A. Le C. Berteau, over 150 square miles on the Southern side of the Grand Lac of the North West River, Lake Melville, Hamilton Inlet, Labrador.

E. H. Berteau, over 250 square miles on the Northern side of Lake Melville, Hamilton Inlet, Labrador, commencing at the mouth of the Sebascachew River, thence along the left bank of said river to a point ten miles from its mouth, thence twelve miles in a north-easterly direction, thence twenty-two miles more or less in an easterly direction to the waters of Lake Melville, thence along the shore of the said Lake to the point of commencement.

John H. Birkett, over 250 square miles more or less; situate on the North shore of Lake Melville, Hamilton Inlet, Labrador, commencing on the east side of Valley's Bight, thence running along the shore of Lake Melville for a distance of 25 miles or thereabouts to the Eastern boundary line of land applied for by E. H. Berteau. The area to extend inland ten miles from the Coast line above defined.

[7 May,
1898.]

Edwin H. Berteau, over 150 square miles more or less situate on the south side of the Western end of Lake Melville, Hamilton Inlet.

M. Fortescue, of Ipplepen, Devon, England, over 250 square miles more or less, situate on the South side of Lake Melville, Hamilton Inlet, commencing at Elaganlett Bay, thence continuing on a south-westerly direction 14 miles more or less, thence in a north-westerly direction 12 miles more or less, thence northwardly to Kendryakuk Point, Lake Melville, thence along the shore of said lake to point of commencement.

James T. Hamilton, over 100 square miles situate on the South Arm and tributaries of the Gilbert River, Labrador.

May 7th, 1898.

James T. Hamilton, over 300 square miles situated on both sides of the St. Charles River, Labrador, subject to a

reservation of five miles from the salt water.

W. B. Grieve, over 400 square miles, situate at St. Lewis Bay, the said land extending up St. Lewis River 20 miles and for a distance of 10 miles on

p. 1642

each side of said river, and being in the rear of land under license to the W. C. Edwards Co.

James A. Crease, over 100 square miles, situate at Jack Lane Bay (Kongikstatok). Labrador, and the river flowing into said Bay, for a distance of 25 miles.

T. S. Lawrence, over 150 square miles situate at Hawke and Caplin Bay, Labrador.

T. S. Lawrence, over 100 square miles situate near the mouth of White Bear Arm, Labrador, and extending a distance of 5 miles on each side of a river known as North West River, thence for a distance of 20 miles up said river.

T. S. Lawrence, over 50 square miles, situate on both sides North River, near Sandy Point, at the North West side of the entrance to Sandwich Bay, Labrador, and extending two and a half miles on each side of said river, thence 10 miles up said river; provided that no right to cut timber within 5 miles of the waters of Sandwich Bay shall be permitted.

T. S. Lawrence, over 200 miles on the South Side of Sandwich Bay, between the Hopgood and W. C. Edwards Co.'s areas, provided that no right to cut timber within five miles of the waters of Sandwich Bay shall be permitted.

T. S. Lawrence, over 300 miles square in latitude 55° North, extending along the shore 35 miles in a S.E. Direction inside Dog Islands, and back from the shore 10 miles.

Duncan A. Storey, over an area of 500 square miles situate at St. Michael's Bay, Labrador, subject to the rights of T. S. Lawrence whose application includes a part of the land herein asked for.

Duncan A. Storey, over 500 square miles, situate on both sides of the Nasacaupie River, Labrador, and also on the shores of the North West River.

The Surveyor General to be instructed to reserve all timber rights within a radius of five miles from the Moravian station at Makkovik or Makavick, Labrador.

The following applications for timber limits on the Labrador were not approved:—

[16 Sept.,
1901.]

A. le C. Berteau, over 100 square miles at Sandwich Bay.

A. Le C. Berteau, over 200 square miles on both sides of the Back-way, south shore of Lake Melville, Hamilton Inlet.

C. C. Carlyle, over 500 square miles at St. Michael's Bay.

Use of the waters of the Sebascachew River, Labrador, for milling purposes, and also land for a mill site to be granted to E. H. Berteau, St. John's.

Sept. 16th, 1901.

The following applications were approved:—

No. 16. John M. Jackman for the right to cut timber over 120 sq. miles of land situate at Giles Brook and Corner Brook, Sopp's Arm; subject however to a reservation of 3 miles from sea shore; Reg. Vol. 2, Fol. 19.

p. 1643

No. 18. C. E. Willis for the right to cut timber over 8 sq. miles of land situate at Fog Island River, Port au Port, subject to a reservation of 3 miles from the Salt water; Reg. Vol. 3, Fol. 52.

Minute Book.

May 1901 to Sept. 1902.

Page 97.

No. 19. James J. Pitman for the right to cut timber over 50 sq. miles of land at Grand Lac, Hamilton Inlet, Labrador; Reg. Vol. 3, Fol. 37.

No. 20. James J. Pitman for the right to cut timber over 100 sq. miles of land situate on the river flowing into the North side of Goose Bay, Hamilton Inlet, Labrador; Reg. Vol. 2, Fol. 38.

No. 21. T. S. Lawrence for the right to cut timber over 100 sq. miles of land situate at Double Mer Bay, Hamilton Inlet, Labrador; Reg. Vol. 2, Fol. 35.

No. 22. James J. Pitman for the right to cut timber over 100 sq. miles of land situate on the Eastern side of Grand Lac, Hamilton Inlet, Labrador; Reg. Vol. 2, Fol. 39.

No. 23. Geo. C. Jerrett, for the right to cut timber over 300 sq. miles of land situate North side of Sandwich Bay, Labrador; Reg. Vol. 2, Fol. 36. 20

[3 Jany.,
1902.]

No. 24. Joseph Outerbridge, for the right to cut timber over 200 sq. miles of land, situate entrance to Hamilton Inlet, Labrador; Reg. Vol. 2, Fol. 34.

Minute Book.

May 1901 to Sept. 1902.

Pages 97-8.

Jany. 3rd, 1902.

The following applications for the right to cut timber were approved. The licenses to be issued under the provisions of the amendment to the Crown Lands Act, 1901:—

Isaac Mercer over 30 sq. miles, situate at Bay Brook, Stag Bay, Labrador; Reg. Vol. 2, Fol. 146.

Fred Armstrong, over 150 sq. miles on the North Side of Goose Bay and Lake Melville, Labrador; Reg. Vol. 3, Fol. 135.

J. C. Crosbie, over 150 sq. miles on both sides of Back Way, opposite Rigolet, Labrador; Reg. Vol. 3, Fol. 18.

W. P. Rogerson, over 100 sq. miles situate at Grand Lac, Labrador; Reg. Vol. 3, Fol. 1.

F. C. Berteau, over 100 sq. miles at Lake Melville, Labrador; Reg. Vol. 3, Fol. 117.

The Pulp leases at present held by the Grand River Pulp and Lumber Company Limited on the Labrador to be changed to a timber lease over the

p. 1644

[12 May,
1902.]

same area which latter lease shall issue subject to the provisions of the amendment of 1901 to the Crown Lands Act.

Minute Book.

May 1901 to Sept. 1902.

Pages 139, 178 and 179.

May 12th, 1902.

The following applications for the right to cut timber over the undermentioned areas were approved:—

5. Isaac Mercer, over 20 sq. miles at Big Brook, Stag Bay, Labrador Reg. Vol. 4, Fol. 56.

8. Colin Campbell, over 54 sq. miles at Sandwich Bay, Labrador; Reg. Vol. 4, Fol. 64.

9. David Thistle, over 575 sq. miles on the Alexis and Gillexet Rivers, Labrador; Reg. Vol. 4, Fol. 70.

[10 Sept.,
1902.]

10. Charles Butler, over 50 sq. miles situate at St. Charles River, Labrador; Reg. Vol. 4, Fol. 69.

12. H. A. Calder, over 200 sq. miles, situate on the Kenneman River, Labrador; Reg. Vol. 4, Fol. 26.

Sept. 10th, 1902.

The Hudson Bay Company to be paid the nominal sum of \$30 per annum for carrying the winter mail between Rigolet, N.W. River, and Maccovick, on the Labrador Coast.

[29 May,
1903.]

Minute Book.

May 1901 to Sept. 1902.

Pages 201, 248, 265, 267, 269 and 317.

May 29th, 1903.

The following applications for licenses to cut timber, under the provisions of the Act passed during the last session of the Legislature entitled “An Act Respecting Crown Lands, Timber, Mines and Minerals” were approved:—

2. P. Burke, over 200 sq. miles, situate at Sandwich Bay and Alexis River, Labrador; Reg. Vol. 3, Fol. 145.

8. S. J. Foote, over 250 sq. miles, situate North Shore, Lake Melville, Hamilton Inlet, Labrador; Reg. Vol. 4, Fol. 108.

9. E. H. Berteau, over 280 sq. miles situate North Shore, Lake Melville, Hamilton Inlet, Labrador; Reg. Vol. 4, Fol. 113.

10. Kenneth Lush, over 160 sq. miles situate at Deep Inlet, Labrador Reg. Vol. 4, Fol. 117.

11. A. McLellan, over 360 sq. miles, situate at Merryfield Brook, Canairntok Bay, Labrador; Reg. Vol. 4, Fol. 118.

12. Andrew Gillard, over 750 sq. miles, situate at Daris Inlet, Labrador; 40 Reg. Vol. 4, Fol. 119.

13. John Spence, over 540 sq. miles, situate at Partridge Bay, Labrador; Reg. Vol. 4, Fol. 120.

p. 1645

15. Robert Bartlett, over 150 sq. miles, situate at Kaipokok Bay, Labrador; Reg. Vol. 4, Fol. 128.

16. Joliffe Quinton, over 360 sq. miles situate on Fraser River, Labrador; Reg. Vol. 4, Fol. 129.

18. Samuel J. Foote, over 120 sq. miles, situate at West Bay, Labrador (with a reservation of three miles from the salt water); Reg. Vol. 4, Fol. 136.

[3 June,
1903.]

Minute Book.

October 1902 to April 1904.

Pages 65, 134 and 135.

June, 3rd, 1903.

The following applications for licenses to cut timber, under the provisions of the Act passed during the last session of the Legislature, entitled "An Act Respecting Crown Lands, Timber, Mines and Minerals," were approved:—

2. William Muir Son & Co., over 75 sq. miles, situate on North West River of Grand Lac, Lake Melville, Labrador; Reg. Vol. 4, Fol. 122. Also over 50 sq. miles situate on Mascaupsee River, Lake Melville, Labrador; Reg. Vol. 4, Fol. 123.

3. S. D. Blandford, over 128 sq. miles, situate at Goose Bay, Lake Melville, Labrador; Reg. Vol. 5, Fol. 1.

20. Norman Munn and D. Morison, over 420 sq. miles, situate at Gilbert River, Labrador; Reg. Vol. 5, Fol. 59.

26. Calder & Co., over 70 sq. miles, situate at Kenemiche River, Labrador; Reg. Vol. 5, Fol. 73.

27. Norman Munn, and D. Morison, over 200 sq. miles, situate at Black Bear Bay River, Labrador (with a reservation of 3 miles from the salt water); Reg. Vol. 5, Fol. 77.

31. Samuel J. Foote, over 360 sq. miles, situate at Hamilton Inlet, Labrador; Reg. Vol. 5, Fol. 101.

[17 July,
1903.]

Minute Book.

Oct. 1902 to April 1904.

Pages 138, 139 and 140.

July 17th, 1903.

The Committee of Council had under consideration Despatch No. 24 of date the 8th April, received from the Right Honourable the Secretary of State for the Colonies, and the accompanying copy of a despatch from the Governor General of Canada, on the subject of the issue by the Government of this Colony of a License to cut timber on lands now for the first time claimed to be within the jurisdiction of the Province of Quebec. The Committee are unable to admit the claim set up by the Canadian Government, and deny that there has been any encroachment by this Government upon the territory of the Province of Quebec.

By the Royal Proclamation of 1763 the River St. John was made the Eastern limit of the Province of Quebec on the North Shore of the St. Lawrence, and all the rest of that shore, and of the Atlantic Coast of Labrador to Hudson's

Straits with Anticosti and the other Islands in the Gulf of St. Lawrence, were annexed to Newfoundland. Eleven years later (1774) the Labrador, the North shore of the River and Gulf of St. Lawrence, and the islands in the Gulf, were all transferred to Quebec by the Quebec Act. They remained part of Quebec until 1791, and part of Lower Canada until 1809, in which year the Imperial Parliament passed an Act (49 Geo. III. Cap. 27) which re-annexed to Newfoundland all that had been added to it by the Proclamation of 1763, with the exception of the Madalaine Islands. In the year 1825 the Imperial Parliament passed an Act (6 George IV. Cap. 59) which restored to Lower Canada part of what had been taken from it in 1809, namely: So much of the Coast of Labrador as “lies to the Westward of a line to be drawn due North and South from the Bay or Harbour of Ance Sablon, inclusive, as far as the fifty-second degree of North Latitude with the Island of Anticosti and all other Islands adjacent to such part, as last aforesaid, of the Coast of Labrador.”

It is clear then from the foregoing that it was a *portion of the Coast* of Labrador that was transferred to Canada and *only that portion* as “lies to the Westward of a line to be drawn due North and South from the Bay or Harbour of Ance Sablon, inclusive, as far as the Fifty Second degree of North Latitude.” This left the whole peninsula of the Labrador under the jurisdiction of the Government of this Colony. The License to cut Timber referred to in the report of the Honourable the Privy Council of Canada, now under consideration, is many miles to the Eastward of line which was laid down by the Imperial Statute, above quoted, as the boundary between the Province of Quebec and the Newfoundland Labrador.

On the 31st July, 1880, an Imperial Order in Council was passed in the following terms namely: “From and after the first day of September, 1880, all British territories and provinces in North America, not already mentioned within the Dominion of Canada, and all Islands adjacent to any of such territories or possessions, shall *with the exception of Newfoundland and its Dependencies* become, and be annexed to, and form part of, the said Dominion of Canada, and become and be subject to the Laws for the time being in force in the said Dominion, in so far as such laws may be applicable thereto.” This in no way affected the Labrador peninsula which was within the jurisdiction of the Government of Newfoundland.

Minute Book.
Oct. 1902 to April 1904.
Pages 173, 178-9-80.

[19 June,
1906.]**MEMO. TO BE ATTACHED TO MINUTES OF
COUNCIL OF 9th JUNE, 1906.**

I have approved of these Minutes in the usual way, though I have grave doubts as to the desirability of granting Leases to cut timber over large areas on the Labrador Coast without a Report on the locality to make sure that such leases can with regard to both the present and the future of fishing, shipbuilding, etc., be granted.

A reservation of 5 miles on the coast is I fear not of so much value at some places. From certain stations people have already to go twenty-even forty miles for firewood.

I do not think any further grants should be made on the Labrador Coast till the Timber Areas have been reported on The Honble. Captain Eli Dawe has seen the coast, and is therefore in a position to inform the Committee of Council what he thinks prudence requires in this matter in the interests of the future of the fishery.

(Signed) MACGREGOR.
Governor.

[4 March,
1926.]

GOVERNMENT HOUSE,
ST. JOHN'S, NEWFOUNDLAND.
19 JUNE, 1906.

4th March, 1926—**AFFIDAVIT OF RALPH PARSONS.**

Vide Part VIII F, No. 614, p. 1562.

K.—VISITS TO LABRADOR BY GOVERNORS OF
NEWFOUNDLAND.

No. 685. N

11th September, 1765—**EXTRACTS FROM GOVERNOR
PALLISER'S DISPATCH TO LORD HALIFAX.**

Vide Part VII, No. 222, p. 946.

No. 686. N

13th September, 1773—**DISPATCH FROM GOVERNOR
SHULDHAM TO SECRETARY OF STATE.**

Vide Part VIII A, No. 373, p. 1254.

No. 687. N

**EXTRACT FROM GOVERNOR DUCKWORTH'S
OBSERVATIONS ON HIS INSTRUCTIONS.**

[1810.]

NEWFOUNDLAND RECORDS, VOLUME, 26, 1810.

Record Office,
Reference
C.O. 194
49.

“Having executed the usual routine of business of St. John's, and made arrangements to provide for a Month's absence, I sailed from thence on Tuesday the 7th of August to visit the several Harbours to the northward arrived at Harbour Grace on the 8th at Trinity on the 11th, at Croque Harbour on the 16th at Pitts Harbour, (Labrador) on the 21st, and returned to Saint John's on Friday the 7th of September. The several coasts and harbours on the other parts of the station have been duly visited by the Officers under my command.”

No. 688[27 July,
1820.]**MEMO re GOVERNOR HAMILTON AT CAPE
CHARLES HARBOUR.**

RECORD BOOK, ST. JOHN'S, NFLD., VOL. 31, p. 216.

27th July, 1820.

The Governor arrived at Cape Charles Harbour Labrador
and sailed thence the following day.**No. 689.**

N

GOVERNOR COCHRANE TO R. W. HAY, Esq.[30 Oct.,
1833.]

LABRADOR, 1830-1841. SERIES M. VOL. 77A, p. 11.

5 Newfoundland.

No. 43. Received Jan. 3, 1834.

Miscellaneous.

Government House St. John's

Newfoundland 30th October 1833.

Sir

. . . . In 1831 I was under the necessity of proceeding to the
Coast of Labrador to ascertain the state and condition of the
People there which I had not hitherto had it in my power to
accomplish and which had not been visited by the Governor
since the year 1821.

* * * *

I have the honor to be

Sir

Your most obedient humble Servant

THOS. COCHRANE.

R. W. HAY, Esq.,
&c., &c. &c.

[17 June,
1846.]**EXTRACTS FROM THE "ROYAL GAZETTE," ST.
JOHN'S, NEWFOUNDLAND.**

Tuesday, June 17th, 1846.

[8 July,
1846.]

H.M. Steam Sloop, Argus, Capt. Purvis having been placed by Vice Admiral Fanshawe, the Naval Commander in Chief, at the disposal of His Excellency the Governor, in order that His Excellency might be enabled to visit the settlements on the coast of this Island and Labrador. His Excellency embarked yesterday morning. They will first proceed to St. George's Bay, and Bay of Islands, afterwards the Harbors and Settlements of Labrador as far as Sandwich Bay and will return to St. John's by the east coast of this Island, calling at Croque, Fogo, Bonavista and Trinity.

Tuesday, July 8th, 1846.

H.M. Steamer Argus arrived Thursday the 3rd, from the Westward of this Island and Labrador. His Excellency came on shore immediately after her arrival. After leaving St. John's they proceeded directly to St. George's Bay where the Governor landed and remained a short time. He then went on to the coast of Labrador, and visited every Harbor from Forteau to Cape Charles and Battle Harbor. Thence endeavoured to reach Sandwich Bay, but ice prevented, and obliged return to Cape Charles.

During his cruise His Excellency took pains to make himself acquainted with the trade and interests of his government, the habits of the people etc., and inspected the principal establishments on the route.

No. 691.[3 Feb.,
1857.]**EXTRACT FROM GOVERNOR DARLING'S SPEECH
IN OPENING THE NEWFOUNDLAND LEGISLATURE,
FEBRUARY 3rd, 1857.**

(Journal of Assembly, 1857, p. 9.)

“Taking advantage of a suitable means of conveyance and of the first opportunity which the season and course of Public business since the commencement of my administration permitted, I have visited during the recess most of the Outports of the Island and several harbours of Labrador. . . . to convince me of the correctness of the opinion I had formed, as to the magnitude and character of both the imports and exports Trade prosecuted on the Labrador, not only as a branch of the regular commerce of this Island but also by Mercantile houses in the mother Country and numerous transient traders from the United States, and the neighbouring Colonies, whose traffic though largely maintained and ministered to by the temporary migration in considerable numbers of the operative population of Newfoundland finds no place whatever in Customs Records.”

31 Oct.,
1867.]**No. 692.**

N

**31st Oct. 1867—REPORT OF GENERAL
SUPERINTENDENT OF FISHERIES.**

Vide Part VIII B, No. 411, page 1290.

[30 Aug.
1879.]**EXTRACT FROM "THE DAILY LEDGER,"
AUGUST 30, 1879.**[10 Sept.
1879.]**STEAMER NOTES.**

H.M.S. "Druid" left port last evening for Labrador with the Governor, his Secretary and the Receiver-Genl. on board. The first port to be visited is Rigolet.

Sept. 10, 1879.

THE DAILY LEDGER.

H.M.S. "Druid," with His Excellency the Governor and the Hon. Receiver-General on board arrived here from Labrador yesterday morning. From the 1st September to the 6th the weather was very fine for fish curing on the northern coast of Labrador, from Round Head Island to the northward. Heard from S.S. "Kite" that little had been done with hook and line after the 16th August, and the weather from that day to the 31st, had been very bad for fish curing. Three vessels had sailed from White Bears, Ragged Islands and Turnavick; got no report from other parts of the coast, but doubtless several had sailed for market. A large fleet of schooners were seen passing from northward to southward last week. The salmon fishery is not one-fourth of last year's catch; the failure being attributed to the prevalence of north-east winds during the entire salmon season. Herrings were small and only in sufficient quantity for bait, up to the 5th current. Former reports of the good fishery with codseins and traps are fully confirmed. Hook and line an average catch. The "Druid" visited Grady, Rigoulette, Mullin's Cove, Turner Cove and Cartwright; and on her return south met with foggy weather which continued until her arrival here yesterday.

L—DOCUMENTS RELATING TO WOODY ISLAND.

[Sept., 1841.]

No. 694. N

[4 June,
1863.]

Sept. 1841—**CAPT. WYVILLE TO SIR J. HARVEY.**

Vide Part VIII B, No. 404, page 1282.

No. 695. N

4th June 1863—**INSTRUCTIONS FROM GOVERNOR
BANNERMAN TO JAMES WINTER.**

Vide Part VIII F, No. 580, p. 1521.

[1864.]

No. 696. N

**JURISDICTION OF NEWFOUNDLAND COPIED FROM
GOVERNOR BANNERMAN'S COMMISSION.**

JOURNAL OF ASSEMBLY 1864, p. 613.

Labrador.

“Governor, Commander in Chief, and Vice Admiral over Our said Islands adjacent and all the Coast of Labrador from the entrance of Hudson's Straits to a line to be drawn due North and South from Anse Sablon the said Coast to the 52nd degree of North latitude, and all of the islands adjacent to that part of the said coast of Labrador, as also all forts and garrisons erected and established within the said Island etc.

“The Western limit of the Government of Newfoundland is latitude 51° 25′ North, Longitude 57° 9′ West, and includes ‘Blanc Sablon’ and the ‘Woody Islands.’ The Northern boundary is Cape Chudleigh, in latitude 60° 37′ North, longitude 65° West.”

No. 697.

**REPORT OF THE COMMISSIONER FOR THE
PROTECTION OF THE FISHERIES AT LABRADOR
FOR THE SUMMER OF 1864.**

[1864.]

On the 25 (July) we arrived at Blanc Sablon, and amongst a large number of other vessels, found there the yacht of Mr. Fontain, the Canadian Commissioner of Fisheries, with whom I had several conversations on the subject of the boundary between the two provinces, he contending for some time that the Isle a Bois or Woody Island was beyond the jurisdiction of the Newfoundland Government. Mr. Fontain's vessel was a very fine one, fitted up in naval style with a crew of 18 men. On the 26th July, I discovered six French fishing vessels lying at anchor between Isle a Bois and Green Island, just beyond what I understood to be our boundary line and in Canadian waters. I gave notice at once to Mr. Fontain, who immediately made sail, bore down upon them and drove them away.

July 28th.—Called at the Isle a Bois, where I found the agents of the mercantile establishments complain as did some others, of their being obliged to clear and enter from a port in Canada-Gaspe—the Canadian authorities contending, as they said, that contrary to what we claim, the boundary between the provinces was a brook falling into the head of the harbor of Blanc Sablon.

Respectfully submitted
STEPHEN MARCH.
St. John's
October 10th, 1864.

No. 698.

N

[26 Oct.,
1864.]

26th October 1864—**REPORT OF THE COLLECTOR OF
REVENUE (J. BEMISTER).**

[26 Oct.,
1864.]

Vide Part VIII F, No. 592, p. 1534.

No. 699.

N

26th October 1864—**REPORT OF THE COLLECTOR OF
REVENUE (J. WINTER.)**

Vide Part VIII F, No. 593, p. 1535.

No. 700.

N

[16 march,
1926.]

16th March, 1926—**AFFIDAVIT OF WILLIAM
FREDERICK PENNY.**

[19 March,
1926.]

Vide Part VIII H, No. 673, p. 1631.

No. 701.

N

19th March, 1926—**AFFIDAVIT OF THOMAS WINTER.**

[17 June,
1926.]

Vide Part VIII F, No. 616, p. 1564.

No. 702.

N

17th June, 1926—**AFFIDAVIT OF E. G. GRANT**
(EXHIBITING LETTER FROM GOVERNOR MCGREGOR TO SIR
ROBERT BOND).

Vide Part VIII H, No. 678, p. 1633 and Map No. 51 infra.

No. 703.**AFFIDAVIT OF JOHN BUTT,**

EXHIBITING LETTER FROM GOVERNOR MCGREGOR TO SIR ROBERT
BOND.

[31 May 1926.]

In the Privy Council

IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA
and the COLONY of
NEWFOUNDLAND in the LABRADOR
PENINSULA

I, JOHN BUTT of Harbour Grace, Newfoundland, Collector
of Customs, make oath and say as follows:—

1. Since 1910 I have been Collector of Customs at Blanc
Sablon, Newfoundland, Labrador, where I reside during the
fishing season from May until December, succeeding the late
Benjamin Parsons.

2. I have read, very carefully, the letter from Governor
McGregor to Sir Robert Bond, dated St. John's, 27th August,
1906, a copy of which is attached hereto and marked "A."

3. That letter correctly describes the situation with regard
to the Boundary between Newfoundland and Canada at Blanc
Sablon.

4. In the discharge of my duties as Collector, I have
always regarded as the land boundary of Newfoundland's
jurisdiction the River mentioned by by [sic] Sir William
McGregor in Paragraph 5 of his letter annexed; as our
maritime boundary the line from Point au Peau to Woody
Island mentioned by Sir William McGregor in Paragraph 6 of
his letter annexed, and have collected duties only on goods
imported for doing business on the east side of the River, as
mentioned in Paragraphs 9 and 10 of his letter annexed.

5. Since I was appointed Collector in 1910 I have not required any American, Canadian or Newfoundland fishing vessels to pay light dues, but I have exacted light dues from Canadian trading vessels entering Blanc Sablon Harbor and from Newfoundland vessels coming there with cargoes to discharge or to load cargoes for foreign ports. If any American vessels, other than fishing vessels, came I would require them to pay, but none ever come.

6. As Relieving Officer for the Newfoundland Government I supply relief to the people in the settlement, including the two families living west of Blanc Sablon River, as we regard them as Newfoundlanders who have settled there temporarily.

7. I also built for the Newfoundland Government in 1924 the bridge across the River and the Quebec Government made us a small contribution towards completing the western end of it, because it was a convenience for the people living at Long Point; enabling them more easily to reach Blanc Sablon for their mail, all of which they get through the Newfoundland Post Office there as they have no postal facilities at their own place.

JOHN BUTT,
Collector H. M. Customs.

Sworn at St. John's, Newfoundland, this
31st day of May in the year 1926.
Before me

SIMON BUTLER,
Commissioner.

[27 Aug.,
1906.]

(A)

[Copy.]

Government House,
St. John's, Newfoundland,
27th August, 1906.

The Right Honourable
Sir Robert Bond, P.C., K.C.M.G.,
Prime Minister.

Dear Sir Robert Bond,

On receiving from Sir Edward Morris his letter of 29th June, covering a telegram from the Sub-Collector at Blanc Sablon of date 28th June, reporting that the "American Banker 'Mabel D. Hines,' ninety-two tons. S. B. Hines of Gloucester Master and Owner, positively refuses to pay light dues (at Anse Sablon) left port, others paid to date," I informed that gentleman that it was my intention to visit Anse Sablon, and that if I did so I should have much pleasure in putting before

I now have the honor to inform you that as the S.S. "Fiona" was taking Mr. O'Rielly to the Labrador Coast to hold an enquiry there, I availed myself of that opportunity, and visited Anse Sablon from the 12th to the 16th July, and am consequently in a position to throw some light on the question of Newfoundland jurisdiction at that place, which is the starting point of the boundary between the Dominion of Canada and the Colony of Newfoundland on the Labrador Peninsula.

2. I went to Anse Sablon provided with the instruments necessary to make a complete triangulation of the Bay and its vicinity. I found that the greater part of what was required had already been done by Staff Commander Maxwell, R.N., in 1890, and by Captain Tooker, at present in charge of the Admiralty survey in these waters. I enclose herewith a sketch map prepared from the work of these surveyors and from the observations made by myself and my staff, which will serve to illustrate what follows herein.

3. The true starting point of the north and south Boundary line from Anse Sablon to the 52nd degree of Latitude is by no means clear. Apparently it could with reason be located at any one of these different points:—

- (a) At Point St. Charles,
- (b) At the mouth of the Anse Sablon River,
- (c) At Point a Peau.

4. The considerations on which the starting point might be held to be Point St. Charles are those contained in the Imperial Statute 6 George IV, Chapter LIX. of 22nd June, 1825, which runs as follows:—

"Be it therefore enacted that so much of the said coast lies to the westward of a line to be drawn due north and south from the bay or harbor of Ance Sablon, inclusive, as far as the fifty second degree of north latitude . . . shall be and the same are hereby re-annexed to and made part of the said Province of Lower Canada."

If this section is to be construed as giving, in virtue of the word "inclusive" the whole of the bay to Canada, then it would appear that the boundary line should start from Point St. Charles, the eastern extremity of the bay, as shewn by the true north and south line in yellow on the accompanying map. It does not appear, however, that this interpretation of the Statute has ever been accepted or acted upon. The difference in distance between Point St. Charles and the mouth of the Anse Sablon River is one and half nautical miles; and between Point

St. Charles and Point a Peau, two and three-tenth nautical miles.

The starting point cannot be accepted as laid down at Point St. Charles without considering fully the alternative starting points that have in actual practice been regarded for two or three generations as the boundary.

5. Were it possible to accept the Statute referred to above as giving Anse Sablon as the starting point of the north and south line without further

p. 1660

qualification, then the point that would be fixed on by a geodetic surveyor would most probably be the mouth of the Blanc Sablon River. It will be seen from the map that the establishment Frewin is situated on the west side of this river; and the station Job on the east side. The Manager of the former is M. Morel of Jersey; the Manager of the latter is Mr. E. Grant. Each of these gentlemen has assured me that the River has always been regarded by residents and officials alike as the boundary ashore between Canada and Newfoundland. Both Mr. Morel and Mr. Grant have been upwards of a score of years residents of Anse Sablon. Their statements are confirmed by Mr. Parsons, Sub-Collector of Customs for this Colony at that port.

According to this practice the boundary would not be on a north and south line, but be the middle of the River from the sea to the lake shewn on the map, a distance in a straight line of nearly two nautical miles.

It appears, therefore, that this River Boundary has long been held in actual practice to regulate all relations between the two jurisdictions on land, but only on land.

6. Very attentive consideration should be given to the Point au Peau Boundary. The Map shewn that this is the name of the part of the Mainland of Labrador that lies nearest to Woody Island. It is at present, and it would appear to have been for a great many years, the practice of the Officers of both countries to regard a line connecting the western extremity of Woody Island with the nearest point of the mainland as the boundary between the maritime jurisdiction of the two Governments. Consequently all vessels that enter Anse Sablon Bay to the east line shewn in black, joining Woody Island to the nearest point of the mainland, are held by the Newfoundland Customs officers as being subject to the jurisdiction of this Colony. In other words the whole of the bay or harbor of Ance Sablon is held in practice to be, as far as maritime jurisdiction is concerned, part of the Colony of Newfoundland; and all vessels entering that bay, either from the east or from the west, are required to submit to the laws of this Colony. But on the western side of the bay of Anse Sablon, from the mouth of the River to Point a Peau, the Newfoundland jurisdiction is in practice held to end at high-

water mark. The Frewin Company has a sealing station at Point a Peau, and both that station and their establishment near the Blanc Sablon River are, though they extend to the beach, and though at the latter place there is a wharf stretching some distance into the sea, regarded as being in Canada. This part of the shore is marked in green on the map and it will be noticed that the boundary line laid down by Commander Maxwell lies to the east of a line through Point a Peau. The distance between these lines is, I am informed by Captain Tooker, 550 yards. Maxwell's line was probably drawn there with reference to the top of the hill it is shown to cross; but it may have been placed there to exclude the Frewin Sealing Station

p. 1661

7. That the practice of thus regarding the whole Bay or harbor so far as the water area is concerned, is by no means new, can be abundantly and easily proved:

(a) In my report on Labrador paragraph 66, I have shewn that the first Court established for the administration of Justice on Labrador, visited Anse Sablon on Circuit. Captain William Paterson, C.B., was Judge of that Court from 1826 till 1833, and exercised his jurisdiction there.

(b) In the Report of the Proceedings of Mr. Elias Rendell, Collector of Customs, for 1841, the following occurs:—"The encroachment of the French on the rights of our Fisheries on the coast of Labrador is also a subject of just complaint. From Blanc Sablon, in the Straits of Belle Isle, to Henley Harbor, the shore is literally lined with French boats."

(c) In his Report dated 1st September, 1856, James L. Prendergast states that he visited Anse Sablon as Collector of Customs and demanded of the establishments of De Queteville and of Boutilier on Woody Island, that they should report vessels and cargo. He also prepared a Census of his District, from Anse Sablon to Sandwich Bay, from which we learn that the Resident Population of Anse Sablon was 16, and of Isle au Bois, 14. Mr. Prendergast did not, it appears, visit Greenly Island.

(d) The same officer in his Report of 24th September, 1858, says that he arrived at Anse Sablon on the 9th July, and visited there the Quetteville establishment, who employed 150 men and 50 boats; in the previous year they had exported 12,000 quintals of fish, 70 puncheons of oil, and 500 barrels of herring. He gives all the particulars of 48 vessels that he found fishing then at Anse Sablon.

(e) In his Report dated 13th September, 1860, Mr. Prendergast states that on the 7th July, “three French schooners belonging to St. Pierre were fishing at Greenly Island, being beyond the limits of the Government of Newfoundland.”

(f) In his Report dated 2nd September, 1861, Mr. Stephen March, General Superintendent of Fisheries, relates that he remained at Blanc Sablon from the 16th to the 19th of July and “found a great number of Nova Scotia schooners fishing there. No account of any French boats crossing over on our grounds up to this date.”

The above references are only a few of the examples that may be found in the records of this Colony to show that Newfoundland has exercised jurisdiction in the waters of the bay of Anse Sablon, and on Woody Island for at least three generations.

8. These records can be supported by oral evidence from such witnesses as the Honourable Captain Blandford, M. Morel, and Mr. Grant and many

others. From the information supplied to me at Anse Sablon it seems quite clear that the Jersey firm of Frewin and Company have paid duty to Newfoundland at their establishment in Anse Sablon for at least fifty or sixty years. But there is, and has been, it would appear, more or less this curious limitation: that at times, if not always, this firm has paid duty only on what it sells for consumption on land east of the mouth of the Blanc Sablon River, or east of the line from Woody Island to Point a Peau; but not on what the firm consumes on its own premises which, as mentioned above, are held to be in Canada.

9. Some light is also thrown on the problem by the occupation, past and present, of Anse Sablon. All that live to the East of the River are natives or residents of Newfoundland territory, generally so in fact, and always so in the exercise of jurisdiction. On Woody Island there are three establishments.

(a) That of Mr. Penny of Carbonear, near the west end of Woody Island, who employs about 30 persons there during the summer.

(b) That of Messrs. Job Brothers of St. John's, who employ there in summer some 70 or 80 persons.

(c) That of Mr. Peddrick, who has sufficient hands to work one cod-trap on his own account. He had two schooners at the time of my visit fishing at Brad d'Or in Canadian Waters. These Woody Island establishments and their predecessors have always been held to belong to Newfoundland.

(d) On the west side of the harbor itself, but admittedly on Canadian territory, is the long established station of Frewin and Company at which some 13 hands are engaged.

(e) The largest establishment at Anse Sablon is that of the Messrs Job on the east side of the River, where they employ 160 hands. There never has, so far as I have been able to ascertain, been any doubt raised as to this station being in Newfoundland jurisdiction. It is a very old settlement and is the headquarters of the stations of the same firm on Woody and Greenly Islands and at Anse au Clair. Near to Messrs. Job's stations, but further east, is the Newfoundland Custom House, which was built in 1890. Up to that date Newfoundland collected Customs duties in Anse Sablon from a vessel in which the Collector used to travel from one part to another in the execution of his duties, often accompanied by the Judge, as was the case, for example, in 1868, when Judge Sweetland and

Collector Winter came here on duty in the same vessel. The duties collected last year at the Custom House of Anse Sablon were about \$2,000. I was assured that American vessels do not carry goods that could be sold by them without entry at the Customs. They carry no spirits or tobacco, and only the necessary supplies and apparatus.

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(f) Near the Custom House are some seven or eight families, of Franco-Canadian descent originally, who occupy so many houses, with a total of about 38 persons, 15 to 20 of whom are children. There is also a small Catholic place of worship there, but neither school nor teacher, so that the children are not taught to read. These families are permanent residents. These settlers have some inferior traps, and sell what they catch to the large firms. They are very poor, but seem to be temperate and honest. They live by fishing and trapping. Mr. Grant holds a strong opinion that a hospital should be opened at Anse Sablon. He is of opinion that the new hospital at Harrington will be too far away for Anse Sablon.

(g) Greenly Island has always been regarded, as shewn above, as outside the jurisdiction of Newfoundland. There is only one fishing station on it, and that belongs to the enterprising firm of Job Brothers of Newfoundland. It is a very old station, and formerly belonged to a Jersey firm. It has evidently been constructed on a large scale and at great expense. At present it employs 65 hands.

The only other settlement on Greenly Island is that of the Lighthouse and Fog Signal Station, both maintained by the Dominion of Canada since 1873. The light was one that was visible for fifteen miles, and the Fog Alarm was also a powerful one; but the light is being improved, and a splendid new Fog Alarm is nearing completion. This establishment will in future, I was informed, be provided with two keepers. The need for the Fog Alarm can be well seen from the fact that in July, 1905, for example, it was in operation 272 hours. Some thirty to forty schooners were at anchor in front of the Island, as far as one could see in the fog, at the time of my visit.

It does not appear that the Newfoundland Officers exercise any jurisdiction in the waters between the south side of Woody Island and Greenly, even if vessels come there close to Woody Island. Licenses are paid to Canada for cod-traps laid down on the coast at any spot from Lazy Point westward. The current is too strong for these traps on the coast between Lazy Point and Point a Peau.

10. The Anse Sablon district has been completely

denuded of trees. Formerly Woody Island was, it would seem, covered by forest. There is not a tree visible in the district now; and nothing larger than small bushes on Woody Island. Firewood has to be imported to Anse Sablon from Hawke's Bay in Newfoundland.

No cultivation is possible. But a good deal of grass grows at different places, especially on Greenly Island.

The nature of the surface is due entirely to erosion, and not at all to dislocation. The erosion is due to weather and water.

The formation is silurian schist, which seems to rest on a bed rock of red granite, which crops out at Frewin's, Job's, and at other points near or at the beach.

The hills present at most parts a more or less greyish color, which was

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found to depend principally on an abundant crop of those lichens that form the favorite food of the reindeer and of the local caribou. Formerly the native caribou were plentiful in the district, but they are becoming fewer in number. Last year there were none. It appears to be a good district for foxes, of the red and dark variety. A collection of the mosses and lichens was made, and will be transmitted to Kew for exact scientific determination. But even a very superficial examination of the neighbourhood leaves no doubt that the principal industry of that part of the coast should be the raising of reindeer. It would be difficult to exaggerate the importance of this question.

The harbor of Anse Sablon is not a very good or safe anchorage. So far as depth of water is concerned vessels can anchor anywhere in the bay, if not too close inshore. They can also anchor between Woody and Greenly Islands; but Anse Sablon Bay is open to the south-east and to the south-west. The place is, however, and always has been, much frequented by fishing vessels. Just before my arrival, there had been some fifty schooners or more there, about one-fourth of which were from the United States. I understood that only two sail came from Canada; and that the remainder were from Newfoundland. It appears that all American vessels that came into the Bay, in Newfoundland jurisdiction as described above, paid Light Dues with one exception of the "Mabel D. Hines." The same dues were collected from the two Canadian vessels "Ben Bolt" and "Percy Roy." Light Dues are not paid by the Newfoundland vessels. It should be mentioned that fishing craft cannot be supplied with water at Greenly Island, where there is difficulty in supplying even the permanent residents. Vessels therefore have to water at the establishment of the Messrs. Job near the River, or from the River itself. If foreign vessels stay outside the bay and send their boats in for water they can thus escape light dues; but if the vessel comes into the bay, then she becomes liable to light dues. Newfoundland has no lights on the coast, so that as regards the collection of light dues from Canadian vessels the position is this: That Dominion

craft entering the bay pay light dues to Newfoundland while the lights all along that part of the coast are entirely maintained by Canada; and the many Newfoundland vessels that fish on the Canadian coast between Anse Sablon and Harrington do not pay light dues to Canada.

As regards vessels of the United States in the bay, these that paid did so under protest, alleging that they paid no light dues in Bay of Islands last year; and pointing out that this Colony has no lights on the coast near Anse Sablon. American vessels both fish on the coast there and also come there for bait for open sea fishing.

12. On the 16th July, we ran into Anse au Clair in a dense fog. There were a few vessels there procuring a supply of caplin for bait. Some of these vessels were American. They had brought caplin seines with them which they hauled close to the shore, immediately in front of the houses of the permanent residents, whose services were in no way employed in procuring the supplies of bait.

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There are about 150 permanent residents at Anse au Clair, nearly all adherents of the Church of England. They have a small school building but no teacher. One could not but observe an unusually large number of children at that place, good-looking, healthy and intelligent. A few exceedingly small garden patches were seen, sufficient to show the hopelessness of growing any part of their own food there. Fowls, I was told by some of the housewives, cannot be kept on account of the dogs of the place; and they must have the dogs to bring home firewood in winter, for they have to go many miles for firewood. One could see from the stumps of trees that had been a foot or two in diameter that the hills at Anse au Clair were formerly covered by forest, where now there is only scrub or nothing. Up to that date the fishing had been a complete failure, but fortunately, for these poor people, the seal fishery of last season was above the average. They find caribou in winter about 10 miles inland, but in diminishing numbers; and last year they had sometimes to go 30 miles to find one. It is a good fox district. They cannot depend on ptarmigan for food supply; and look forward to the winter with much apprehension, if the cod-fishery does not very greatly improve.

Some time before our visit to Anse au Clair the people of that place objected in a very emphatic manner to an American vessel taking bait there on Sunday. This was done for the reason that the residents maintained that "God has given the Sabbath Day for repose." There is no reason to believe that this action was not taken on sincere and conscientious sentiment. I understood that the American Master concerned admitted that little or no damage had been inflicted. One could not but sympathise with those poor people on the peculiar hardship of all their surroundings.

13. On the 16th we also visited Forteau. There are nearly

200 people resident there, scattered all round the margin of the broad bay. There also the fishery had been very poor. The people of Forteau have, however, one advantage over those residing at Anse Sablon, and at Anse au Clair; they can still procure firewood in their own district, for there is some forest left, small trees, indeed, on the Forteau River. This stream is not navigable to boats.

The same geological peculiarity was evident there at Anse Sablon that the sedimentary formation rests on a bed rock of red granite, which crops out beneath the schistose rocks at the water's edge.

14. The political position of that part of the coast of Labrador was urged on me at Forteau. I was assured that the majority of the permanent residents from Anse Sablon to Battle Harbor desire to be incorporated with Canada. The reasons alleged for this were that they cannot possibly grow the vegetables they require as food, and they that must import these from Canada and pay duty to Newfoundland on their potatoes, cabbage, turnips, onions, butter, cheese, etc. They declare that it is a specially great hardship to have to pay thirty cents a barrel on potatoes. It was stated that they can obtain lard from St. John's free of duty, but complaint was made as to its quality.

On the other hand, attention was drawn to the fact that the money they

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spent in wages on the coast, in light-houses, telegraph stations, Marconi stations, post office, etc., is all Canadian.

And to this was added that though they pay taxes to Newfoundland they have there no representation.

15. It is unquestionable that the life led by the permanent settlers on that part of the coast is a very hard one. It would appear to be becoming harder with time, owing to the destruction of the forest that formerly existed, and in consequence of the fast diminishing numbers of caribou. The want of education for their children will also tend to heavily handicap the coming generation in the struggle for life among those that will have had greater advantage.

Nothing can be done for those people in the way of ordinary form of agriculture to permanently improve their condition. Temporary relief will in all probability be required by some of them during the coming winter to enable them to live through it. Such relief will, no doubt, be given where absolutely necessary, but it is only a temporary and recurrent, though inevitable, expedient.

It would certainly be well worth the trouble to consider carefully whether the status of the permanent residents on that part of the coast could not be permanently rendered tolerable by the introduction of reindeer there. It would appear that there are immense areas of moss-covered hills and plateaus on the coast suitable for vast herds of these animals, the possession of which would raise the quiet and temperate population of

Labrador into a condition of comparative affluence.

On the hill behind Anse au Clair one can see a large area of grassy country that would nourish sheep or goats. These animals cannot be thought of now, any more than fowls, on account of the at present indispensable dog. With sheep would come the material for some home industries.

It would thus apparently be found that the reindeer would not only be of great direct advantage, but would also effect much indirect good.

It is not apparent what else can be done to ameliorate the condition of the resident population there unless, indeed, some system could be introduced under which Government could advance to heads of families sufficient money to enable them to procure cod-traps and fishing vessels, on some such terms as those on which Australasian Governments advance money to farmers, at a rate of interest which recoups the state without making a profit. The generally honest and temperate disposition of the people would favor such a scheme.

If such a plan could be combined with the introduction of the reindeer on a scale sufficiently large, then the condition of the permanent residents on that hard coast would in all probability be immensely improved.

I have the honor to remain,
Your very obedient humble servant,

(Sgd.) WM. MACGREGGOR.

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DOMINION of CANADA and the COLONY of
NEWFOUNDLAND in the LABRADOR
PENINSULA.**

BETWEEN

THE DOMINION OF CANADA of the one part

AND

THE COLONY OF NEWFOUNDLAND of the other part.

VOLUME IV

OF

JOINT APPENDIX

CONTAINING

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DOCUMENTS RELATING TO THE HISTORY OF NEWFOUNDLAND

AND

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MISCELLANEOUS EXTRACTS, DOCUMENTS, DECISIONS AND
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835	10th Aug. 1767 ..	C	Regulations for establishment of British Ship Fishery on Coast of Labrador ..	2013
836	1767 ..	C	Extract from general scheme of the Fishery and inhabitants of Newfoundland ..	2014
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[1927lab]

PART IX.

**DOCUMENTS RELATING TO THE HISTORY OF
NEWFOUNDLAND.**

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No. 704.**SKETCH OF THE HISTORY OF NEWFOUNDLAND
UNTIL 1809**BASED ON THE DOCUMENTS HEREINAFTER PRINTED.

Newfoundland was brought to the attention of Europe in 1497, and at once sprang into fame as a great fishing resort. John Cabot left Bristol on May 2 of that year, under a general commission for the discovery of unknown regions. He touched land and planted the King's standard at some point between Cape Breton and the Northern limits of Labrador, and on his return to England on August 6 of the same year gave currency to extraordinary stories as to the abundance of fish in the waters of the shores he had visited. News of his discoveries were conveyed to Milan and Venice, the ambassador from the latter state reporting to his master that Cabot and his companions were giving it out that the seas in those parts were covered with fish, which could be taken in baskets as well as nets, and that it would be no longer necessary to go to Iceland for codfish.

Newfoundland was known to continental Europe as Codfishland (Baccalaos). Sebastien Cabot, son of John, allowed himself greater liberty than his father had taken in describing the wonders of the seas in the new world. Peter Martyr, in his *De orbe novo Decades* which was published in 1516 with a dedication to Pope Leo X, relates that Sebastien Cabot, whom he mentions as his "very friend, whom I use familiarly," declared that it was he who named the island Baccalaos, as the fish in the waters thereabouts sometimes "stayed his shippes." Martyr's credulity encouraged Sebastien to greater flights. He told Martyr that the bears, which infested the shores, obtained their food by seeking out the places where the fish lay thickest, and plunging in on the throng obtained sufficient to satisfy their hunger. "So that (as he saith) the beares being thus satisfied, they are not noysom to men."

Bacallaos is the name by which the island is designated in a compendium of geography published at Seville in 1519 by Martin Fernandez de Encisco under the title "Suma de Geographia"; and in "La Geographia" of Ptolemy published in Venice in 1547, it is mentioned as Terra Nova del Bacallaos (the land of codfish).

With the rapid diffusion of news about the great fishing grounds in the west, it is not surprising that the fishermen of the western ports of Europe turned their attention early in this direction. Exact statistics as to the exploitation of these waters are not to be obtained, but legislative enactments and the correspondence of officials and others make it clear, that the number of those engaged in the fisheries in Newfoundland waters reached considerable proportions in a short time.

Between 1520 and 1530, from 60 to 80 French vessels came annually to Newfoundland, chiefly from the ports of Normandy and Brittany.¹ There are no figures available showing the number of English ships engaged in this fishery at the same period, but the fact that several men of war were sent to the mouth of the English Channel to protect their homecoming leaves no doubt they were not few.

The English fishery in Newfoundland during the first half of the sixteenth century had reached a magnitude to engage the attention of the Government, since in an act passed in 1542 concerning the buying of fish upon the sea, exemption from its penalties was extended to the buying of fish in Newland² (Newfoundland). A few years later (1548) another act was passed, protecting the fishermen of Iceland, Newfoundland, Ireland and other places from the exactions of licensing officials.³

During the last quarter of this century, there seems to have been a yearly average of between 300 and 350 vessels employed in taking fish from the waters about Newfoundland.⁴

In the early part of the century the nationalities of the fishermen engaged in these fisheries were English, Portuguese, Norman and Breton. The Spaniards do not seem to have come over until the end of the first half century. Thereafter they took a large share in the fisheries. The importance of the Newfoundland fisheries to England may be judged from the statement of Sir Walter Raleigh in 1594 that, if any harm should happen to the Newfoundland fleet it would be the greatest calamity that could befall the country.⁵

Until the approach to the seventeenth century, Newfoundland was subject to no sovereignty. Fishermen of the several nations all worked in the same field, though the English seem usually to have dominated the combined groups.

Anthony Parkhurst who made four voyages to Newfoundland, wrote to Hakluyt in 1578 that "the English are commonly lords of the harbour

¹ Early Trading Companies of New France, H. P. Biggar, p. 20, note 4.

² 33 Hen. VIII C. 2.

³ 2 & 3 Edw. VI c. 6.

⁴ Early Trading Companies of New France, H. P. Biggar, p. 24.

⁵

where they fish, and use all strangers' help in fishing if need require";¹ and Hayes, who accompanied Sir Humphrey Gilbert, in his narrative written in 1583, says: "The English merchants that were, and always will be, admirals by turns interchangeably over the fleets of fishermen within the same harbour, for our English merchants command all here."²

These merchants were men of consideration. They had their houses in St. Johns, and lived on a scale that enabled them to entertain Sir Humphrey Gilbert during his stay of three weeks. They had their walk which they called "the Garden", in which the visitors noted the profusion of wild roses; and also "the like plenty of raspberries, which do grow in every place." As to their business, Judge Prowse says: "The principal traffic consisted in selling for cash—or bartering for fish and oil—Mediterranean products, salt, olive oil, fruits, wines, also West of England cordage, cloth hats, caps, hosiery, Sheffield wares, and general English merchandise. The master and his crew fished, the merchant had his store and traded; considering the large number of fishermen of all nations, probably not less than fifteen thousand, resorting to Newfoundland, it must have been an extensive and, I need not add, a lucrative trade."³ On the question of settlement in Newfoundland during the first century after its discovery, there is little, if any, precise information. Such as it is, it is all summed up by Prowse. He quotes a statement by Sabine, that there were 40 to 50 houses in the island as early as 1552; and argues from the necessity for maintaining winter crews to prepare for the following season's fishery, that there must have been a considerable permanent population, nearly all from Devon.

The period in which Newfoundland was an everyman's land came to an end in 1583. Under the terms of a patent⁴ granted to him in 1578 by Queen Elizabeth, Sir Humphrey Gilbert appeared at the entrance of the Narrows with a small fleet on August 3, and, having produced his commission from the Queen was welcomed by the English merchants. Two days later, in the presence of the masters and chief officers of the assembled fishing fleet, which comprised besides English, Spanish, Portuguese and other nations' vessels, read his commission, which constituted him proprietor of all the territories within a radius of 200 leagues from where he stood. Thereafter, as he signified to the company, they were to live in that land as territories appertaining to the Crown of England, and to be governed by such laws as should be set down, and should be as agreeable as might be to the laws of England. He established the Church of England, and provided punishments for disloyalty.⁵

Gilbert perished with the wreck of the "Squirrel" the same summer, and his schemes remained unrealized. In 1610, the question of settling Newfoundland was raised again, by a petition from a body of nobles and merchants of whom the most prominent were the Earl of Northampton, and

¹ Hakluyt, *Principal Navigations* (1894 Edition), p. 1696.

² Hakluyt, *op. cit.* pp. 1698-1699.

³ Prowse, *op. cit.* P. 70.

⁴ Page 1691.

⁵ Hakluyt, *op. cit.* p. 1699.

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Sir Francis Bacon. The body was incorporated and known generally as the London and Bristol Company. On May 8 of that year a charter was issued to this company, granting them an extensive tract in eastern and southern Labrador. The territory comprised within the grant had an inner and an outer boundary. The inner limits were described by a line of longitude drawn north from Cape St. Mary, and by a line of latitude drawn west from Cape Bonavista. The outer limits were coterminous with the boundaries of the island. The territory included “all those countryes, lands and islands commonlie called Newfoundland w'ch are situate between forty and sixe degrees of Northerlie latitude and two and fiftie degrees of the like latitude.” The territory described was to be held in fee simple, subject to an important reservation. There was “saved and reserved unto all manner of persons of whatever nation soever and also unto all our loving subjectes w'ch do at this p'rt or hereafter shall trade or voyadge to the ports aforesaid for fishing all liberties powers easements and all other benefits as well concerning their fishing as well all other circumstances and incidents thereto in as ample manner as they have heretofore used and enjoyed the same without any impediments disturbance or oposition anything in these p'rts to the contrary notwithstanding.”

The company were permitted to take out with them for the purposes of settlement all English subjects or any others that were willing to become subjects and live under the allegiance of the King of England.

John Guy was appointed by the company its governor in the colony, and he set sail with 40 persons to found the settlement. In accordance with the instructions which were given to him before his departure to make a start in Conception Bay, he ran up to the end of the bay and landed his people at Port de Grave, at a place now known as Cupids.¹ The instructions which provided for all the various things necessary to people going to a new settlement, show that the establishment of a colony was the intention of the company. With a view to meeting the anticipated opposition of the season fishermen, Guy was required to assemble the fishermen and read to them the grant, which would assure them of the safeguarding of their rights.²

When Guy had had time to look about him, he observed several matters that required amendment, and drew up a set of regulations which he published in the form of a proclamation.³ They prohibited the throwing of ballast into harbours; the destruction of structures necessary for the fisheries; the occupation of unnecessary space on the shore; the appropriation of fishing boats belonging to others; the setting

fires in the woods; and the decoying of colonists on board the fishing vessels.

The season fishermen resented this attempt to control them, and presented a petition to the Government, alleging certain injuries they suffered at the hands of the colonists or planters, as they were called in those days. The planters appropriated the best fishing places to themselves; and interfered in several ways mentioned with the freedom of the fishermen from

¹ Prowse, op. cit. p. 94.

² Page 1712.

³ Page 1715.

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England. The fishermen knew their business better than the planters did, and were unwilling to take orders from the latter.¹

This is the beginning of a secular struggle between residents and fishermen from England, which constitutes a large part of the history of the Island. At the moment the Star Chamber thought that the quarrel could be composed by a simple reminder to both sides that the rights of each were amply protected by the terms of the charter, and that all that was necessary was ordinary good faith on each side. A complaint was made in November 1618, by the merchants and shipowners trading to Newfoundland of encroachments and other transgressions committed by planters. When the Company were heard, it would seem that the planters had been quite blameless, for the Star Chamber after pointing out the provisions made for the colony by the princely care and providence of His Majesty, called to their minds the reservations made on behalf of the season fishermen, admonished them that "It is held very just and expedient and accordingly ordered that the said proviso be duly and punctually observed." On their part, the fishermen were required, through the mayors of the principal fishing towns in the south and west of England, that they "not only forbear all acts of hostility and such other disorders as heretofore have been committed there: but also to entertain all friendly correspondence with those of the plantation." Many things happened and much time passed before these felicitous relations were achieved.

The Company, which held under the charter the tract bounded on the north and west by the latitude of Cape Bonavista and on the west by the longitude of Cape St. Mary, sold all the southern portions, from Petty Harbour downward in 1616 to Sir William Vaughan. Vaughan resold to Lord Falkland the upper part, a six mile belt from the Atlantic Ocean to Placentia Bay between Renew's northward to a point between Fermeuse and Aquaforte; and the section north of the Falkland purchase to an irregular line from Petty Harbour to Placentia, to Lord Baltimore. Falkland also acquired part of the peninsula of which Cape Bonavista is the headland.

There were thus for a short period six colonies in the

Island: two in Conception Bay (the one at Port de Grave and an off shoot at Harbour Grace; one each at St. Johns, Avalon (as Baltimore's tract was named), Falkland (North and South), and Vaughan, with headquarters on Trepassey Bay.²

In spite of what had the appearance of overgovernment, disorder held sway. The Star Chamber was scarcely ever free of complaints from either planters or season fishermen. In 1634, on a presentation of grievances from the merchants and shipowners of Plymouth, Dartmouth and Barnstaple and other creeks adjoining, Noye the Solicitor General laid before the Chamber a short code for the government of both residents and visiting fishermen. In his preamble he observed that planters reside and inhabit there “upon conceit, that for wrongs or injuries done there, either on the shore or in the sea adjoining they cannot be here impeached” the more so since no laws

¹ Calendar State Papers, Colonial, 1574-1660, pp. 1717, 1718.

² Prowse op. cit. p. 110.

had up till that time been given to the inhabitants. The laws or regulations he proposed differed little from those issued by Guy, but they contained one singular provision. If offences were committed on the sea, they fell within the cognizance of the Vice Admirals in the counties of Southampton, Dorset, Devon and Cornwall; if committed on the land, they were to be dealt with, by the mayor of one of the towns of Southampton, Weymouth, Melcombe Regis, Lyme, Plymouth, Dartmouth, Eastlow, Foy and Barnstaple.¹

In 1637, all prior grants were annulled and superseded by one to the Duke of Hamilton, Sir David Kirke and others, on the ground that the earlier grantees had abandoned the country “leaving divers of our poor subjects in the said province living without government.” The grant covered the whole Island between the 46th and the 53rd degrees, and included some of the provisions, which tended to discourage settlement. No buildings were to be erected within six miles of the sea between Cape Race and Cape Bonavista, and the planters were put on the same footing as the ship-fishermen with respect to the use of the shore. The inhabitants were forbidden to take up before the arrival of the fishermen all the best beaches, or to destroy any stage or other necessaries, which the fishermen leave behind, or to commit any act which would alter or interrupt the accustomed modes of fishing.

Power to make laws with the assent of the freeholders was granted, but these local laws were not to extend to any fishermen “who are to be forever free from the jurisdiction of the Government of Newfoundland.” The fishermen were to be subject to the laws of England, and to laws made in the 9th year of the King's reign.²

Sir David Kirke, the captor of Quebec, was made governor for the new company. He made his headquarters at Ferryland, where he seems to have ruled with a heavy hand. The company were authorized by their charter to collect 5% from all foreigners buying fish and oil in Newfoundland. As this impost trammelled the fishermen in the sale of their fish, the Company agreed to purchase the fish themselves, the quantity being determined by the sales to foreigners during the preceding seven years. The vigor with which Kirke made his collections led to a protest from the French ambassador. Many complaints were made against Kirke's administration. These became so numerous and originated in so many quarters that he was recalled, and John Downing, a London merchant, was sent out to reign in his stead.³

This was in 1640, on the eve of the Civil War. The war appears to have affected conditions in Newfoundland but little.

During the interregnum and Commonwealth, however, considerable changes in the policy of the governing of the Island were made. On the death of the Duke of Hamilton, Kirke, who was in Newfoundland in 1651 was ordered to return to England, and commissions were issued to six

persons, three of them merchants, and three captains of vessels, authorizing them to administer the affairs of the colony,

¹ Chancery Warrants, Series II, File 2106, No. 525, p. 1719.

² Patent Roll, 13 Chas. I, pt. 32, p. 1723.

³ Prowse, *op. cit.* p. 150.

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for the adventurers.¹ In 1653, the government was confided to one of these commissioners alone—John Treworgie.²

His instructions,³ which were issued on June 3, 1653, directed him to take care for the government and well ordering of the said country of Newfoundland and the people there inhabiting, and likewise the fishery according to such laws and ordinances as are here to annexed. He was given command of all the vessels on the coast or in any of the harbours, and authorized to call upon captains of convoys for such assistance as he might require in the execution of his instructions.

The regulations were in effect the same as those which had been in force, with the notable exception that for the prohibition as to settlement within 6 miles of the shore, the following was substituted:

“That noe planter be permitted to build any dwelling house, storehouse, courtledge, or garden or keepe any Piggs or other cattle upon or near ye ground where fish is saved or dried.”

The policy here indicated of encouraging a colony, by removing the inconvenience suffered by the settlers under the order prohibiting them from making permanent dwellings or places of business within 6 miles of the shores was reversed on the restoration of Charles II, and the Star Chamber regulations of 1633 were again put in effect, with an addition aimed directly at the increase of the number of settlers. The additional regulation is as follows:—

“Moreover, and further than was ordained by the laws of our said late father, and for the encouragement of our subjects in Newfoundland, and in the seas adjoining, and for the benefit of the said trade there, We do hereby straitly charge, prohibit and forbid all and every the owners of ships trading in the aforesaid Newfoundland, that they or any of them do carry or transport, or permit or suffer any person or persons to be carried or transported, in their or any of their ships, to the said Newfoundland, other than such as are of his or their own ship's company, or belonging thereunto, and are upon the said ship's hire or employment, or such as are to plant and do intend to settle there.”⁴

This regulation was, however, disregarded. In November 1663, the mayors of the principal towns in the west of England which traded to Newfoundland petitioned the King that it might be enforced, since it was the practice of so many to go out in the ships as passengers, who took up the most convenient fishing ports, that men could be found for only one quarter of the ships formerly sent out.⁵ This petition led to an

order to the mayors of certain towns to put the regulation into force.⁶

In 1667, an agitation arose against the appointment of a Governor. The Mayor and some citizens of Dartmouth, and a number of merchants trading to Newfoundland, from Plymouth and surrounding places sent

¹ Cal. S. P. Am. & W. I. 1574-1660, p. 1738.

² *Ibid* p. 1739.

³ See Instructions, p. 1740.

⁴ Page 1746.

⁵ Cal. S. P. Am. & W. I. 1661-1668, p. 1747.

⁶ Acts P. C. 1613-1680, p. 1748.

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petitions in August, praying that no attention be paid to the requests of those who for their own sinister ends have endeavored to establish a governor, "which hath hitherto been very destructive to the trade."¹

The question as to the influence of former governors on the trade of the island was referred to a committee for report.²

In January 1668, a memorial was addressed to the King respecting French encroachments on the fisheries.³ It sets forth, among other things, that Kirke was sent out to prevent the French from engaging in these fisheries, and that he did this by charging a duty of 5% or 10% on their trade.

By the occupation of Placentia, which is well fortified, the French carry on their operations where they please. They must be expelled from the island. A second petition to the same effect was received in April of that year. In addition to the expulsion of the French it called for the establishment of a government, the expenses of which might be defrayed by taxing every boat one quintal of fish, which is insignificant since every boat catches 300 or 400 quintals.⁴

Other pleas for a settled government were made during the same year. The arguments for a government in the Island are as follows: The island is the greatest nursery of fishermen. When trade flourished it bred 10,000 annually. It produced £50,000 customs annually by the product of fish sent to foreign countries, besides 5% paid to the governor for the privilege of fishing. The French now occupy three of the best harbours, 30 or 40 guns being mounted in each place, and they debauch the English fishermen.

When the trade flourished under a government it brought in to the nation £500,000 per annum; since then it is not 1/3 as much; traders are liable to be pillaged, stages, boats and other necessaries are destroyed by planters, or first coming fishermen; the woods fired; tippling houses are corrupting the fishermen; and houses and gardens are built on land proper for drying fish.

The late act reserving the coast for 6 miles inland has driven the principal planters to New England, and others will go over to the French

Finally, the inhabitants would be protected from lawless seamen, and pirates, and will have the ministrations of religion,

“whereas now they live like brutes.”⁵

Captain Robinson the chief advocate of a settled government pointed out that, if the French took the Island, whereas now they employ 400 sail and 18000 seamen, and the English 300 sail and 15000 seamen, the French would have all the trade which would cause the English a loss of £700,000, besides the advantages of having so productive a nursery for seamen.⁶

The merchants and masters of trading ships engaged in the Newfoundland fisheries made answer to the foregoing.⁷ They asserted that for many years

¹ C. S. P. Am. & W. I. 1661-1668, p. 1749.

² Acts P. C. 1613-1680, p. 1750.

³ C. S. P. Am. & W. I. Colonial, 1661-1668, p. 1751.

⁴ C. S. P. Am. & W. I. Colonial, 1661-1668, p. 1752.

⁵ C. S. P. Am. & W. I. Colonial, 1661-1668, p. 1753.

⁶ C. S. P. Am. & W. I. Colonial, 1661-1668, p. 1754.

⁷ C. S. P. Am. & W. I. Colonial, 1661-1668, p. 1755.

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past few made 10% on this fishery, and in the last year the merchants of Dartmouth and Plymouth lost considerably. Sir David Kirke's courses afford little encouragement for another governor, as was shown by the complaints and action taken against him. Placentia Bay was never possessed by the English, but was fortified by the French as protection against the savages. As the country is barren and rocky, and productive of no commodities like other plantations, the inhabitants would be better if removed from the Island.

The trade of the island would pass entirely into the hands of New Englanders, if it were settled.

The stretch of coast from Bonavista to Trepassey—300 miles— is all that ever was possessed by the English. On this coast are 48 fishing places, which it would be impossible for any governor resident at St. John's to control.

Lastly the proposal to maintain the governor by levying a tax of 1% on fish and 2% on oil would prove very vexatious to the merchants, and hinder the revival of the trade. They asserted that, through Kirke's indulgence, contrary to his company's patent, the trade was in large part carried on by the inhabitants and boatkeepers and was following the course of the New England fishing which was now entirely lost to England.

In December 1670, the merchants and shipowners returned to the attack. They prayed that the fishery might be maintained by fishing ships and that the mayors might depute persons to execute the laws for the fishery. This was signed by the mayors of Exeter, Dartmouth, Lyme Regis, Barnstaple and Poole.¹

The Council for Foreign Plantations, having heard all parties advised that His Majesty grant, by way of addition to his former charter and regulations, certain other regulations. The more important of these were, that all His Majesty's subjects might enjoy the liberty of taking fish in any of the

rivers of Newfoundland, provided they submitted to the orders established for the fishery; that masters of ships be required to bring back all seamen, fishermen, and others, and none be suffered to remain in Newfoundland; that penalties be imposed for offences; and encouragement given to the inhabitants to go to Jamaica and other foreign plantations. The foregoing was confirmed by order in council.²

Captain Robinson replied to the terms of the merchants' petition,³ dwelling chiefly on the danger from the French. He was not concerned to defend Kirke. If any governor administered badly, remove him, not abolish the government. He insisted that Kirke was governor of a great part of the Island, and that Gilbert took it Elizabeth's possession of under patent.

On September 9, 1671, Captain Davis made his report on the fisheries. The blame for the irregularities in Newfoundland he attributed to the masters of the fishing ships, who brought out laborers for the year, and "then to save

¹ C. S. P. Am. & W. I. Colonial, 1669-1674, p. 1757.

² Order in Council March 10, 1670-1671.

³ C. S. P. Am. & W. I. 1669-1674, p. 17C4.

provisions and freight pack them away to New England." The order for the removal of the inhabitants would probably drive them to the French, who were very kind to the English who came to them, the King of France being ready to send them a protection and with it a year's salary.¹

At the beginning of 1672, the Government determined to fortify St. Johns and other places in Newfoundland. The ships for the fishery were required to take out munitions for that purpose; and to engage not to carry out more than their proportion of men, all of whom, if alive, were to be brought back at the end of the season.²

In February, 1675, a petition with several other papers setting forth the reasons for the appointment of a governor and the regulation of the fishery led the Council to reconsider the whole subject. They asked that all the papers be laid before them, as they were inclined to accept the view that a governor was necessary in the Island.

During the several weeks that followed, the question in its every aspect was thoroughly examined. A number of witnesses were interrogated and a great deal of useful information obtained, particularly as to the number of the planters and their distribution throughout the several harbours.

On the conclusion of the hearings, the Committee of Trade and Plantations, after full consideration, reported in favour of the contentions of the Western fishermen. They were convinced that, owing to the activity of the French and the New Englanders, as well as to the contumacy of the inhabitants in disregarding the regulation as to the six mile limit, in engrossing the most convenient places in the harbours, and in debauching the fishermen with wine and brandy, the trade of

Newfoundland had greatly diminished. They had no faith in the establishment of a resident governor as a remedy for the evils indicated. The dispersion of the fishermen and planters in so many isolated harbours, difficult to reach at all times, and impossible during the winter when supervision was most required, and the cost of maintaining an establishment were effective arguments with the committee against the appointment of a governor.

The committee, after a review of the whole matter, were persuaded that the cardinal evil from which all others flowed, was the presence of the planters on the Island. They therefore recommended that the regulation forbidding habitation within six miles of the shores be strictly enforced; and that those who, after warning, persisted in remaining within the prohibited area, should be sent home “as offenders, to answer their contempts.” Such inhabitants as were willing to return to England, or move on to any of the other colonies were to have every assistance.

This report was adopted by the Privy Council on May 5, 1675, and orders were issued to have its terms executed.³

If the Privy Council were really convinced that the presence of the planters was the root of all the ills from which the Newfoundland trade was

¹ C. S. P. Am. & W. I. Colonial, 1669-1674, p. 1766.

² C. S. P. Am. & W. I. Colonial, 1669-1674, p. 1767.

³ Acts P. O. 1613-1680, p. 1768.

suffering, they were unfortunate in the choice of an agent to carry out their policy of extirpation. Sir John Berry, who commanded the convoy to Newfoundland, was ordered to execute the directions of the Council. On his arrival he sent two capable persons to visit the several fishing resorts between Cape Bonavista and Cape Race, in order to obtain the information desired by the Council, and to convey to the people the orders for their removal. But Sir John soon became convinced that, though the evils complained of were genuine, the transgressors were not the planters but the fishermen, and particularly the admirals in the several harbours. Stages, flakes and store-houses were pulled down at the end of the season, not by the inhabitants, but under direction of the masters of the ships. Remembering the evidence given before the Council, he “stands in admiration how people could appear before His Majesty with so many untruths against the inhabitants.” It was to the admirals and ship commanders that he had to give peremptory orders, not to the planters.

The planters, he stated, were prepared to obey the direction of the Council, but they were too poor to remove without assistance; furthermore, while they made at least a frugal living in Newfoundland, they would be cast on the parish if taken home. Inviting attention to an account which he submitted, showing the result of the operations of the merchants adventurers and of the planters, he pointed out that of the total value of the catch £163,000—nearly £47,000 or a little less than 30% was the product of the planters' industry; and predicted, that if driven out the planters would go to the French, who were already stretching out welcoming hands.

The merchant adventurers, who clamored for convoys, were now flouting their protection and going off in companies of twos and threes.¹

Sir John Berry's unequivocal statement did something to shake the confidence of the Council in the wisdom of their decision. To a representation of some of the merchant adventurers that Sir John Berry was encouraging the planters in their resistance, Mr. Secretary Williamson appended a note that their design “was to exclude the poor from being sharers in anything.”²

This, doubtless, is as far as we could expect an august body like the Privy Council to go in the direction of a complete summersault, at this early stage. But the leaven was working. In the following April, Mr. Pepys acquainted the Lords of Trade and Plantations that the convoys were about to depart, and asked whether, with Sir John Berry's representations before them, they would consider that their Lordship's instructions about removing the planters were “now fit to be pursued.” The Council were not then ready to make a retraction, and contented themselves with orders to the commander in chief of the ships going to Newfoundland to collect information respecting the trade with the French and

New England, the number of planters, destruction of woods and stages, the boat-keepers, number of ships &c.³

Sir John Berry's statement was confirmed by Captain Davies who

¹ C. S. P. Am. & W. I. Colonial, 1675-1676, p. 1772.

² C. S. P. Am. & W. I. Colonial, 1675-1676, p. 1776.

³ C. S. P. Am. & W. I. Colonial, 1675-1676, p. 1783.

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appeared before the Lords of Trade and Plantations in August of the same year. The abuses, he declared, were wholly occasioned by the West Country adventurers. The masters of ships at their departure pull down their stages for firewood on board their ships, and leave their men in Newfoundland merely to save the expense of carrying them back to England. If the planters were withdrawn, the French would either take possession of the harbours and fishing places or entice the planters to settle amongst them.¹

While this discussion was in progress, the Council were distressed by a great outcry from those, whose property was being destroyed in Newfoundland under its orders, and it was decided that the next ships would not be allowed to depart in the spring following, until a reconsideration of the whole question had taken place.

With the coming of spring, the subject was reopened. On February 21, 1677, an order in council was passed referring all the papers to the Lords of Trade and Plantations with a request that they should report what they conceived was yet further to be done. A full hearing took place before the Lords of Trade and Plantations on March 3 and 4. Both sides agreed that that many trees had been wantonly destroyed, that flakes and stages had been pulled down, and that the fishermen had been debauched by strong liquors, but each maintained that it was the other side that was to blame for all the trespasses and crimes committed. A point on which there was disagreement was as to designs of the French. The merchant adventurers endeavored to assure the Council that there was nothing to be apprehended from the French, who were fully occupied with their lawful concerns. The planters and their friends insisted that it was only their presence that prevented the French from overrunning the whole island, and that, unless fortifications were erected at the principal places, there was grave danger that they would do so at the first opportunity. An interesting fact mentioned by John Downing, who had spent a large part of his life in Newfoundland, was that "all the houses are near the water, and none farther off than a quarter of a mile."² Sir William Poole, who commanded the convoy in 1677, says that it is true that the planters' houses and stages are scattered too much about the harbour, that they (that is, the planters and fishermen) cannot avoid mixing one with another."

The planters succeeded with their plea. Lord Anglesey, Lord Privy Seal, wrote a rather panicky note to Secretary Williamson urging him to move for directions to be sent to

Newfoundland by the first shipping for all things to continue as they were until His Majesty had decided what was best to be done. Several ships, he said, had set out already, and others were going daily, who might disturb affairs there. He feared that if orders were not sent to prevent mischief, they would run great hazard of losing the country with its trade, and give it up to the French.³ After some further proceedings, an order in council was passed on May 18, 1677, noting the opinion of the Lords of Trade and Plantations that the planters should be continued in the

¹ C. S. P. American & W. I. Colonial, 1675-1676, p. 1784.

² C. S. P. Am. & W. I. Colonial, 1677-1680, pp. 1786.

³ C. S. P. Am. & W. I. Colonial, 1677-1680, p. 1787.

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possession of their houses and stages according to the usage of last years until His Majesty's further order, and directing that the captains of the convoys then preparing for their voyage to Newfoundland should not only make publication of His Majesty's pleasure, but must take care that nothing be attempted contrary thereto.

The efforts to remove them from the colony having failed, the planters gave their attention to securing a stable government. The reports of the captains of the convoys show that lawlessness was not greatly abated, and that it was to the adventurers and their own crews that the disorders were to be attributed. Captain Charles Talbot in his report for 1679, gives a very full account of the conditions of the island. The planters observe the rules of the charter better than the adventurers, and require the protection of a government. The country he describes as barren and cumbered with wood. Newfoundland as it appears to him is a colony not of husbandmen but fishermen.¹

In their desire for a stable government, the inhabitants were prepared to accept great inconveniences. The chief argument employed by those opposed to the appointment of a governor was that, owing to the wide dispersion of the scanty population in the harbours between Cape Bonavista and Cape Race, it was physically impossible for a governor residing at St. John's to exercise an effective control over a large number of the people. The inhabitants recognised the force of the argument, and in order to meet it, offered to concentrate themselves in four harbours. It was the violence of the Western adventurers, which led to their dispersion to twenty different places; but they would be willing to gather together in St. John's, Trinity Harbour, Ferryland and Trepassey, or indeed in any others that might be considered more convenient. With St. John's fortified, the colony would be safe from foreign aggression, and would be easily governed. The inhabitants were also prepared to be satisfied with their present numbers, if they were permitted to provide for their children.²

The inhabitants had by this time gained the entire sympathy of the Lords of Trade and Plantations, and the

charter was amended in several particulars, to meet their interests. It was first determined to allow the planters to dwell as near the shore as they chose, but as this was seen to involve an encroachment on the rights of the fishermen, the regulation was changed a few days later to a prohibition against keeping buildings, except such as were required for the fishery, orchards or gardens, within a quarter of a mile of the shore.³ The inhabitants were permitted to retain possession of their stages, but must build no more until the adventurers were all arrived, after which they might build stages, which they should possess. They were, furthermore, given permission to hire servants in England and transport them to Newfoundland.⁴

¹ C. S. P. Am. & W. I. Colonial, 1677-1680, p. 1788.

² C. S. P. Am. & W. I. Colonial, 1677-1680, p. 1792.

³ C. S. P. Am. & W. I. Colonial, 1677-1680, p. 1793.

⁴ C. S. P. Am. & W. I. Colonial, 1677-1680, p. 1791.

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It was also resolved to send out a governor, whose power was to be confined to punishing delinquencies of the planters and their servants. Seamen and fishermen when found violating the law were to be secured and sent on board the vessels, whose masters either punished them themselves, or carried them to England. The fortification of St. Johns was to be undertaken and the King advised to send out guns and ammunition. On the question of the maintenance of the Governor, Mr. Downing, who represented the inhabitants, was consulted, and he advised the laying of a tax upon the boats, kept by each inhabitant. The Board approved, provided that the money be raised voluntarily and not under the authority of the King in Council.

Nothing, however, was done in this direction, presumably from the failure of the inhabitants to satisfy the condition on which a governor was to be appointed. For a number of years hereafter, nothing was heard from either planters or adventurers, with the exception of a petition of the familiar sort presented by Downing in 1682. Indeed, apart from a momentary flutter of interest aroused by the outbreak of war with France, when the Council considered the question of harassing the enemy by attacking Placentia, and putting St. Johns and other harbours in a state of defence, Newfoundland remained entirely unregarded until 1696.

This was a memorable year. Two circumstances combined to make it so. The French, who had been trifling with the question of overrunning the undefended English settlements, were galvanized into activity by the appearance of D'Iberville, a famous Canadian *coureur de bois*, who was fresh from his devastating foray against the forts in Hudson's Bay. D'Iberville laid out a plan for a combined land and sea attack, which resulted in the destruction of all the English settlements, except those at Carbonear and Bonavista. Consternation followed by vigorous measures was the effect of the news as it reached England.

The second, and scarcely less important circumstance

affecting the affairs of Newfoundland was the reconstruction of the administrative body, which controlled the colonies. Until 1696, the colonies had been administered by a committee of the Privy Council, known as the Lords of Trade and Plantations. Its members had as a rule little experience in the matters with which they had to deal, and as a result of the dissatisfaction expressed by the merchants at the inefficient handling of their business, a permanent board was established under the title of the Board of Trade. It contained, in addition to certain high functionaries of state, a number of men experienced in trade and commerce.¹

The new board was scarcely installed when news began to arrive of the disasters caused by the French raids. In order to obtain the best information and advice, the board wrote to the mayors of Exeter, Bristol, Plymouth and other western towns, desiring to know the proposals of the merchants interested in Newfoundland as to the measures for recovering and securing the trade there, and asking them to appoint an agent to present their views to the board.

¹ Guide to Materials for American History in Public Records Office, C. M. Andrews, p. 1795.

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The representatives were all agreed on one point: there must be a fleet of sufficient size to regain the harbours which had been lost, and a convoy for the fishing vessels. On the best mode of securing the island after it was retaken, opinions differed. Barnstaple, Bideford and Poole were of opinion that a couple of cruizers patrolling the coast would be the most effective measure. The merchants of the first two towns were of opinion that a governor would be not only of no utility, but would hamper the trade. Those of Poole, and of Exeter, on the contrary, were impressed with the advantage the French gained by the discipline imposed by a governor, and advised that a governor should be placed in St. Johns to remain there while the war lasted.

The Board, in January 1697, made a strong representation to the King. They pointed out the great importance of the Newfoundland trade, in the employment it gave to net-makers, and in the large volume of commerce arising therefrom. Planters were necessary to preserve the boats, stages, &c. and to protect the ports in time of war; but their number should be limited to one thousand, lest by the increase of their numbers they should engross the fishery to themselves.¹ The chief harbours should be protected by a military force, but, as some thought that a general governor would be too great an encouragement to the planters, they were of opinion that each captain should command separately in each place, and have no power over the fishermen and planters, except in case of actual invasion.

The proposals of the Board having been accepted, and adequate military and naval forces despatched to Newfoundland, the Board then turned its attention to the

government of the island itself. Until this time, the regulations of 1634 with subsequent accretions and modifications had been the only rules of law under which the fisheries about the shores of Newfoundland had been carried on. The Board determined to replace these various regulations by a statutory enactment, which would embody the results of the experience of the past 60 years.

They had before them the views of the merchant adventurers of the western towns, but as they knew that there had been in the past radical divergences between those views and the wishes of those who desired to have the island settled, the Board resolved to obtain information from sources which would be impartial as well as competent.

The first report of a general character received was from Colonel John Gibson, who commanded the land forces of Newfoundland.² The squadron which took out the troops sailed under the command of Commodore John Norris, with whom Gibson was violently at odds. As Norris' reports on conditions in Newfoundland which were called for later by the Board, differed widely in their conclusions from those of Norris, the quarrel between them is noticed.

Gibson strongly advocated a settled government in Newfoundland. By government he meant not only the military but the civil and church government, for the one could not stand without the other two. He would

¹ C. S. P. Am. & W. I. Colonial, 1696-1697, p. 1797.

² C. S. P. Am. & W. I. Colonial, 1696-1697, p. 1798.

meet the difficulty caused by the dispersion of the inhabitants by the adoption of the measure suggested by the planters themselves a few years before. If the inhabitants were confined to Trepassey, Ferryland, St. John's, Carbonear, Trinity Harbour and Bonavista, they could be easily governed, and would suffer no appreciable inconvenience in carrying on their fishing. All the planters, he declared, wanted a governor, and would contribute to his maintenance.

Norris, on the contrary, was persuaded that the fishery could not be better than under its old constitution.¹ He favoured the fortification of the harbour of St. John's but would have the batteries manned by the inhabitants. The military authority over the inhabitants should be strictly confined to the necessities of war, and the power of summoning the inhabitants to arms should be entrusted to the admiral of the fleet, because the masters of the merchant ships had probably seen more service than any of the planters, and the planters were in a sense servants to the merchantmen.

In sending his answers to the series of queries addressed by the Board to the Admiralty, he frankly avows himself a merchant-adventurers' man. He "thinks that if the merchant-adventurers have the preferable encouragement before the planters and boat-keepers it would make the trade most beneficial for England." He would revive the rules of the Western charter, to prevent any inheritance to the stages and room. As for Newfoundland, he avers that "the Colony cannot subsist itself, for it produces nothing."

If in the search for further information, the Board turned back to earlier though recent reports, they would have learned from Captain Story of the "Antelope" who made the official report for 1681, of the range of Irish trade in Newfoundland, the importation of women, who were sold as servants, and whose extravagance after they married, threatened the ruin of the settlement. There was a fur trade in the north worth perhaps £500 a year.

The report of 1682 mentions only the iniquities of the New Englanders, who "spirit away the inhabitants." Captain Talbot, who made the official report for 1683, dwells upon the hemming-in of the English fishermen by the French to the north and the south, and the ill-consequences of the English being confined to the over-fished tracts between Cape Bonavista and Cape Race.

Captain Wheler, with the series of questions prepared by the Board before him, gives some real information as to conditions in the Island in 1684. He says: "The Colony cannot support itself. The earth, or rather the rock, produces no more than enough to keep a few cattle in summer, which must be slaughtered in the winter for want of forage"; and "there is no sort of arable or pasture land in the Colony, nor any fur trade except towards Cape Bonavista." "There is hardly a planter in the country who is not a great deal worse than nothing, but

they are bound to go on fishing or the merchants will sell them no provisions for the winter.”²

During these years, Newfoundland was gaining an unenviable notoriety as a centre for smuggling operations. The Commissioners of Customs declared

¹ C. S. P. Am. & W. I. Colonial 1697-1698, p. 1801.

² C. S. P. Am. & W. I. Colonial, 1681-1685, p. 1806.

that “the Island is become a kind of magazine of contraband goods,” and he notified the Governor of New England in 1687 that all people should be given to understand that Newfoundland is not a plantation like other of the King's Plantations, and that all such goods would be seized.¹ In the year following, the general orders issued for the prevention of smuggling and illicit trade, contained the words “especially with Newfoundland.”

This, then, is the body of facts which the Board of Trade had before them, when they set about the drafting of the act of 1699. The impression made on the minds of the Board as the result of their studies is thus succinctly conveyed to the Ordnance by the Secretary of the Board: “there are no planters nor any manner of Government in that Island as there are in other Plantations, the trade thither being only by fishing-ships, and a few poor fishermen on the shore who cannot contribute anything towards the things now proposed for defence of the place.”²

As the act of 1699, known as “An act to encourage the Trade to Newfoundland”³ was the rule of law by which Newfoundland was governed when the coast of Labrador was placed by the Proclamation of October 1763, “under the care and inspection of our Governor of Newfoundland,” it seemed desirable to ascertain the circumstances amid which that act had its birth. The act was, in large part, a re-enactment in statutory form of the regulations laid down in 1634, with the later amendments. It prohibited the encumbering of the harbours with ballast; the destruction of stages; the obliteration of marks of boats or train-vats; the rinding of trees; interference with nets; and desecration of the Lord's Day. The regulations respecting harbour admirals and the allotment of shore space among the fishermen were repeated.

Permissively, the act granted liberty to all the King's subjects full liberty of trade and fishing in the seas, rivers, lakes, creeks and harbours in and about Newfoundland and the islands adjacent thereto, with all the necessaries and conveniences required for the curing and drying of fish, including the privilege of going on shore on any part of Newfoundland or the adjacent islands. Stages owned prior to 1685, or which had been built since that year, were to be secured to those in possession of them. All other stages were to be thrown open to the public use, and in the selection of these stages or fishing rooms, precedence of choice was to be given to the masters of fishing ships arriving from England.

Controversies arising between the inhabitants and the masters of fishing ships were to be determined by the fishing admirals, from whose decision an appeal lay to the commanders of any of the ships of war. Persons charged with robbery, murder or other capital crimes were triable in any shire or county in England.

No improvement in the conditions of the Island was apparent as a result of the enactment of this act. Disorder still reigned supreme. The administration of justice by the harbour admirals, supplemented though it was by

¹ C. S. P. Am. & W. I. Colonial, 1685-1688, p. 1809.

² C. S. P. Am. & W. I. Colonial, 1697-1698, p. 1810.

³ 10 & 11 William III, cap. 25, Vol. I, p. 250.

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the right of appeal to commander of the fleet, continued to be farcical, when not tragic. The House of Commons intervened, and the Board of Trade became more urgent for ameliorative measures. Finally in consequence of disclosures of gross scandals in the conduct of the commandant of the fort at St. Johns, a decision was taken which settled the government of Newfoundland for upwards of a century.

On May 20, 1708, an Order in Council was made directing that a commission be prepared annually by the Board of Trade for the commodore of the Newfoundland convoys requiring him to exercise supreme command on land during his stay in those parts, with such further instructions for putting in execution the act of Parliament, as were set forth in the representation of the board.¹

Prowse, an ardent partisan of the settler against the West Countryman, has a word of commendation for the commodore. "Much abuse has been bestowed on our naval rulers; never was censure less deserved. No doubt they were often severe, sometimes narrow in their views. We must remember they were always hampered by instructions to repress settlement. On the whole I think they filled their very difficult positions admirably."²

If we may judge however from the records after the change in the government of the Island, the amelioration in general conditions was but slight. At best, it was a shift from the superlative to the comparative degree of badness. The reports of the commanders were a continuous tale of tyranny and oppression on the part of the ship masters, and particularly of the harbour admirals, whose duty it was to preserve order. The discouragement which prevailed among the inhabitants was in the opinion of one commodore "not to be reckoned amongst the least causes of the decay of the fishery." The illegal trading of the New Englanders was not only connived at, but participated in by the admirals.

The chief evil to which all drew attention was that due to the withdrawal of even the appearance of authority with the departure of the fleet in the autumn, and the ensuing lawlessness which held sway during the several months of

winter. “The sober and industrious are every day liable to be insulted and robbed by the idle and profligate.” “At that time theft, murder, rapes, or disorders of any kind whatsoever, may be committed, and most of them are committed without control.”³

The remedy for this anarchical state of things proposed by the officers of the fleet was the obvious one, viz:—a civil government. The merchant adventurers, on their side, had their own grievances—the smuggling, and abducting of seamen by New Englanders, the incroachments of inhabitants on the fishing rooms, the interloping of aliens in the fisheries, the usurpation of legal authority by the commodores—but there is no suggestion that civil government was thought desirable.

Nor did they desire it. They wished the Island restored to its original

¹ History of the Government of Newfoundland, John Reeves, 1793, p. 1884.

² History of Newfoundland, 1896, p. 254.

³ Reeves op. cit. pp. 81, 84.

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state of uninhabitancy. The interests of the Kingdom, which they identified with their own interests, required that England should be the domicile of all who fished in Newfoundland waters; and that the coasts of the Island should be used only for the necessary land operations of those engaged in the fishery.

This was precisely the view of the Board of Trade at this time. In it they were fortified by George Larkin, who was sent out in 1701 by the Board on an inspecting tour throughout the colonies. Larkin overflowed with indignation against the fishing admirals and with sympathy for the luckless inhabitants; but he describes the latter as poor, indigent and profuse, and states it was the opinion of all with whom he had conversed in Newfoundland, that it would have been much better if all plantations had been absolutely discouraged, for the Island had become a sanctuary or place of refuge for people that break in England.¹

The Board reached its conclusions from another standpoint. A historical survey of the fisheries from the earliest times convinced it that “the fishery at Newfoundland, from its first establishment, has either flourished or languished according as the inhabitants have been discouraged or encouraged”; and that the most effective means of restoring prosperity would be “to remove the inhabitants or planters to Nova Scotia, or to some other of Your Majesty's plantations in America.”²

They were not prepared, however, to recommend so drastic a measure, and asked leave to submit other proposals. No further action was taken until 1728.

In that year, the Board was moved by the representations of Lord Vere Beauclerck to take up the question of Newfoundland again. As a preliminary to the consideration, a question was submitted to a legal adviser, Mr. Fane, on the 7th

clause of the Statute 10 & 11 William III. They desired to know whether the possessors of property under the terms of that clause had an inheritance therein or only an estate for life. Mr. Fane was of opinion for the reasons, which he gives, that an estate for life only passed to the possessors and consequently a right of alienation only of that interest.³

The Board as usual consulted the Western Merchants, but this time received nothing of a practical nature from them. They thereupon proceeded with their report to the King. After traversing the familiar ground of abuses in the Island, and inviting attention to their earlier recommendations, they express the hope that the subject might be submitted to Parliament. Pending action by that body, there were certain matters lying within the competence of the King, which they would give their advice upon. The first of these was the refusal of the governor of Placentia, which had been annexed to the Crown by the treaty of Utrecht, to recognize any authority but that of the King. By a curious arrangement, when the French portion of the Island was taken over by Great Britain, it was attached not to Newfoundland,

¹ C. S. P. Am. & W. I. Colonial, 1701, p. 1811.

² Papers relating to Newfoundland, 1718-1793. Report of 1718, p. 1815.

³ Reeves, *op. cit.* p. 1889.

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but to Nova Scotia. The Board proposed that the recently acquired territory should be detached from Nova Scotia and placed under the jurisdiction of the governor of Newfoundland. As for the establishment of law in the Island, the Board were of opinion that the inhabitants should be encouraged to go to Nova Scotia, where settlers were wanted; but that their misery, which was great enough without additional evils from the anarchy in which they lived, might be alleviated by empowering the commodore to appoint judges, and justices of the peace to decide disputes between the inhabitants, and distribute justice amongst them during the winter season.

As the Board anticipated litigation as to the property in stages and other conveniences necessary for carrying on the fisheries, they proposed that some person skilled in the laws should accompany the commodore. He might be of use in framing regulations for the preservation of order during the winter season, so long as the inhabitants remain there.¹

The Home Government did not follow the recommendations of the Board on all points. They revoked so much of the commission of the Governor of Nova Scotia as related to Placentia, and in appointing Captain Osborn of the Squirrel, gave him a commission as Governor and Commander-in-Chief "in and over our said island of Newfoundland, our fort and garrison of Placentia, and all other forts and garrisons erected and to be erected in that Island."^{2,3} He was given authority to appoint justices of the peace and other officers necessary for the administration of justice. But neither he nor the justices were to do anything contrary to the

statute 10 & 11 Wm. III, nor obstruct the powers thereby given to the admirals of harbours, or captains of the ships of war. The governor was to erect a court house and prison.

Instead of sending out a gentleman learned in the law, the Government contented themselves by sending a copy of Shaw's Practical Justice of the Peace to each of the justices.

Osborn, on his arrival in St. Johns, at once proceeded to give effect to the terms of his commission. He divided the island into convenient districts, and appointed, from the best inhabitants of each, the necessary number of justices of the peace and constables. He also erected prisons in St. Johns and Ferryland, though the legality of the means employed for raising the money required for these buildings was more than doubtful.⁴

But his plans for the establishment and preservation of order encountered and were in a large measure neutralized by the opposition of the merchant adventurers, whose aims seem to have been to maintain the free hand they had long used for the domination of the island. The fishing admirals and other shipmasters threw every obstacle in the way of the exercise of the powers of the justices. They had the incontestable advantage that their authority was derived from a statute (10 & 11 Wm. III), while the powers of the justices rested on the less secure foundation of the King's commission.

¹ Reeves, op. cit. p. 1890.

² Patent Roll 2 Geo. II, pt. 3, Vol. II, p. 1838.

³ Reeves, p. 1892.

⁴ Ibid. p. 1894.

The conflict between the fishing admirals and the justices was brought to the attention of the Board of Trade who sought the opinion of the Attorney General. That officer reported that the whole authority of the fishing admirals was limited to the determination of differences arising between the masters of fishing boats, and the inhabitants, or any bye-boat-keepers, which was a sort of civil jurisdiction as far as it extended; whereas the authority of justices touched only breaches of the peace.

But the struggle between the rival forces was not terminated by this expression of opinion. The will on the one hand and the necessary capacity on the other were both wanting, and the clash of powers disturbed the peace until the merchant adventurers became at last convinced that the Government meant to have its way, and to maintain the modicum of civil jurisdiction introduced by the Government's commission.

A further step was taken towards the facilitating the trial of the more serious crimes by the insertion in the commission of Governor Drake in 1750, of a clause empowering him to appoint commissioners of Oyer and Terminer. Under the Statute of William III., persons charged with murder and all other capital offences had to be taken to England for trial. The inconvenience and frequent defeat of justice resulting from this provision impressed the Board at an earlier date, but the fear of the Privy Council that the powers of such a commission might be abused in the Island led them to withhold this authority for some years.¹ Other innovations during this period included the establishment of a court of vice-admiralty (1737); the appointment of a naval officer to collect fees upon clearance of vessels employed in the fishery (1741), and the opening of a custom house (1762).

The situation of Newfoundland at this period in relation to the other British possessions is succinctly stated by James Abercromby. In a work bearing the title of "An Examination of the Acts of Parliament relative to the Trade and Government of the American Colonies" and dated May 1752, he says, after an elaborate description of the constitutions and governments of the several colonies, "Having thus stated the different and particular constitutions in all these colonies. For as to that of Newfoundland, though ranked amongst the best, and first, in point of property belonging to this Kingdom, from the discovery thereof by Cabot, for Henry VII in the year 1497, yet the object of that Government relates to a kind of police amongst fishermen, and to them only."²

It is clear that at the time Labrador was placed under the care and inspection of the Governor of Newfoundland, the Island was neither more nor less than what Abercrombie declared it to be—simply a fishery; and that the inhabitants were regarded as mere obstacles to progress, which being human had to be tolerated, and that the preservation of such measure of order as existed among them was part of the general scheme under which the fisheries was conducted.

Nor will the conditions prevailing in 1763 be found to have changed in

¹ Reeves, op cit. p. 1898.

² Shelburne Correspondence, Vol. 47.

any essential respect, save one, in 1809. The commission and instructions issued to Governor Duckworth were similar to those under which Graves carried on his duties from 1763 till 1765. The period of his stay each year in Newfoundland and Labrador waters coincided, as did Graves', with the season in which British fishermen worked those waters. The reports of each show that both were occupied exclusively with the fisheries. Duckworth displays the same hostility to an increase of inhabitancy or to anything that would give the Island the character of a colony, as forms a principal feature in the reports of the earlier governor.

No indefeasible title existed to real property in any part of the Island in 1810. Though real property was frequently alienated or mortgaged, the purchasers or mortgagees could found their acquired titles on nothing more secure than on such interests as inhered in the holder at the time of the alienation or mortgage. All transactions in real property were subject to the rule of caveat emptor.

Employing the figure used by Knox¹ and Reeves² when they likened Newfoundland to a great ship, it might be said that the holders of real property were passengers on the ship who had made the voyage so often and had occupied the same sleeping quarters so long, that the captain and their fellow passengers alike came to recognize that they had a sort of title to those quarters. The titles were recognized to such an extent, that the holders took for themselves the right of disposing of their quarters, but always subject to the supreme right of the captain to resume possession, whenever for any reason it seemed to him necessary.

The only important change that took place during the forty-seven years that intervened between the governorships of Graves and Duckworth was in the mode of administering justice.

The reluctantly exercised powers of the fishing admirals were first reinforced, and afterwards usurped by the commanders of the King's ships. These commanders held under the statute an appellate jurisdiction from the decisions of the fishing admirals, and this appellate jurisdiction became, under the necessities of the situation, an original jurisdiction, which was recognized by the Governors, who conferred on the commanders the title of Surrogates. The surrogates did not confine their attention to the class of cases to which the fishing admirals were limited. They included within their range the cognizance of debts, and all other causes of complaint; seeking guidance from the Statute of Wm. III, the instructions of the Governors, and their own good sense.³

The Governor, himself, took an important hand in the administration of justice. He presided in the Court of Sessions, and heard and determined every class of action, civil and criminal.⁴

In the absence of the Governor and Surrogates,—for it must be remembered

¹ Extract from Evidence, April 24, 1793. p. 1903.

² Extract from Evidence, June 17, 1793, p. 1916.

³ Reeves, op cit. p. 1903.

⁴ Ibid, p. 1903.

that they were in Newfoundland only during the fishing season—the Court of Vice-Admiralty and the Sessions were the resort of all who had complaints of a civil nature, requiring remedy. The Vice-Admiralty Court, being solely a court of revenue, had no jurisdiction beyond its limited sphere; and the Sessions were, as was stated by the Attorney General, courts of criminal jurisdiction only. But both supplied an elementary need, and that was their justification.¹

But these devices to supply the deficiencies of a judiciary system, rested on no legal foundation, and therein lurked a danger. So long as there was an absolute acquiescence in the decisions of these courts, all was well. The danger was that some person would be dissatisfied with a decision and the execution ensuing, and upset the whole system. This happened during the governorship of Rear-Admiral Edwards (1779-1782).² Some persons, discontented with a judgment made by him in court at St. Johns, and carried into execution by the sheriff, brought an action for trespass against the Governor at Exeter. The case was settled before it got before the jury, but it paralyzed the powers which the Governors had assumed the right to exercise.

But the Governors, whose sense of their duty forbade them to leave the community without some regulative authority to preserve it from anarchy, hit upon the plan of receiving petitions from complainants, and, after having had enquiry made by their secretaries, wrote their opinion at the bottom of the petitions with such advice, as, if followed, would have the effect of complete justice.³

This mode of dealing out justice was satisfactory in many cases. Those who did not find it acceptable, repaired to the courts of session, and vice-admiralty. These courts rested on no better foundation than the Governor's court, as regards many of the cases brought before them, but it is not recorded that their authority was challenged.

In 1789, Governor Milbanke determined to put the dispensation of justice on a surer foundation, and by a straining, indeed an overstraining, of the terms of his commission, conceived he had the power to establish a regular court, and he erected a Court of Common Pleas, appointing Judges thereto.⁴ As this court had to encounter the hostility of the adventurers and merchants, it was considered necessary that there should be no legal doubts as to its authority, and in 1791, Parliament took the matter in hand and empowered the King to institute a court of civil jurisdiction to consist of a chief justice and two assessors, who would hear and determine all civil causes, with an appeal in certain cases to the King in Council.⁵

In 1793, this Court was replaced by one of enlarged scope. Authority was given to the King to institute a Supreme Court, with full criminal as well as civil jurisdiction. This Court would be presided over by the Chief Justice,

¹ Reeves, *op. cit.* p. 1904.

² *Ibid.*, p. 1905.

³ *Ibid.*, p. 1905.

⁴ *Ibid.*, p. 1906.

alone. Authority was given to the Governor, with the advice of the Chief Justice, to establish Surrogate Courts to hear all civil causes. Appeals in certain cases were allowed from the Surrogate Courts to the Supreme Court, and in certain others from the Supreme Court to the King in Council. This act was continued by renewals until 1809, when its scope was widened to include the Coast of Labrador.

In appearance, an advance had been made in the situation on the Island; actually, matters remained, in all essential respects, as they were. It was still a government, which had its sources in the fishery carried on from the West of England. It came into life with the arrival of the fishing fleet in the spring, and expired with the departure of the fleet in the autumn. With the Governor at their back, the justices were as effective as the hostility of the harbour admirals permitted them to be. When the Governor returned to England in October, the power which lay behind the commissions of the justices disappeared with him.

That this change in the mode of administering justice, which was anticipated by the Government at home, would not in its opinion alter the character of the Island as simply a fishery, is clear from the report of the Board of Trade of June 8, 1763, which was the foundation of the Royal Proclamation of October 7th of the same year. This Proclamation was the charter under which civil government was introduced into Canada and other territories acquired by Great Britain in the Treaty of Paris of the same year. In this report, the Board of Trade, after recommending the establishment of civil government in those parts of the new possessions where planting and settlement, as well as trade and commerce were intended, go on to say:

“But as no such regular civil government is either necessary or can be established where no perpetual residence or planting is intended: It will therefore be sufficient to provide for the free trade of all Your Majesty's subjects under such regulations and under such administration of Justice as is best suited to that end. Such we apprehend to be the case of Newfoundland, where a temporary fishery is the only object.”¹

¹ Page 909.

No. 705.[11 June,
1578.]**SIR HUMPHREY GILBERT'S PATENT, 11 JUNE, 1578.**

HAKLUYT'S PRINCIPAL NAVIGATIONS, VOL. VIII., pp. 17–23.

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The Letters Patents graunted by her Majestie to Sir Humfrey Gilbert knight, for the inhabiting and planting of our people in America.

Elizabeth by the grace of God Queene of England, &c. To all people to whom these presents shall come, greeting. Know ye that of our especiall grace, certaine science and meere motion, we have given and granted, and by these presents for us, our heires and successours, doe give and graunt to our trustie and welbeloved servaunt Sir Humfrey Gilbert of Compton, in our Countie of Devonshire knight, and to his heires and assignes for ever, free libertie and licence from time to time and at all times for ever hereafter, to discover, finde, search out, and view such remote, heathen and barbarous lands, countreys and territories not actually possessed of any Christian prince or people, as to him, his heires & assignes, and to every or any of them, shall seeme good: and the same to have, hold, occupie and enjoy to him, his heires and assignes for ever, with all commodities, jurisdictions and royalties both by sea and land: and the sayd sir Humfrey and all such as from time to time by licence of us, our heires and successours, shall goe and travell thither, to inhabite or remaine there, to build and fortifie at the discretion of the sayde sir Humfrey, and of his heires and assignes, the statutes or actes of Parliament made against Fugitives, or against such as shall depart, remaine, or continue out of our Realme of England without licence, or any other acte, statute, lawe, or matter whatsoever to the contrary in any wise notwithstanding. And wee doe likewise by these presents, for us, our heirs and successours, give full authoritie and power to the saide Sir Humfrey, his heires and assignes, and every of them, that hee and they, and every, or any of them, shall and may at all and every time and times hereafter, have, take, and lead in the same voyages, to travell thitherward, and to inhabite there with him, and every or any of them, such and so many of our subjects as shall willingly accompany him and them, and every or any of them, with sufficient shipping, and furniture for their transportations, so that none of the same persons, nor any of them be such as hereafter shall be specially restrained by us, our heires and successors. And further, that he the said Humfrey, his heires and assignes, and every or any of them shall have, hold,

occupy & enjoy to him, his heires or assignes, and every of them for ever, all the soyle of all such lands,

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countries, & territories so to be discovered or possessed as aforesaid, and of all Cities, Castles, Townes and Villages, and places in the same, with the rites, royalties and jurisdictions, as well marine as other, within the sayd lands or countreys of the seas thereunto adjoyning, to be had or used with ful power to dispose thereof, & of every part thereof in fee simple or otherwise, according to the order of the laws of England, as nere as the same conveniently may be, at his, and their will & pleasure, to any person then being, or that shall remaine within the allegiance of us, our heires and successours, paying unto us for all services, dueties and demaunds, the fift part of all the oare of gold and silver, that from time to time, and at all times after such discoverie, subduing and possessing shall be there gotten: all which lands, countreys and territories, shall for ever bee holden by the sayd Sir Humfrey, his heires and assignes of us, our heires and successours by homage, and by the sayd payment of the sayd flit part before reserved onely for all services.

And moreover, we doe by these presents for us, our heires and successours, give and graunt licence to the sayde Sir Humfrey Gilbert, his heires or assignes, and to every of them, that hee and they, and every or any of them shall, and may from time to time, and all times for ever hereafter, for his and their defence, encounter, expulse, repell, and resist, as well by Sea as by land, and by all other wayes whatsoever, all, and every such person and persons whatsoever, as without the speciall licence and liking of the sayd Sir Humfrey, and of his heires and assignes, shall attempt to inhabite within the sayd countreys, or any of them, or within the space of two hundreth leagues neere to the place or places within such countreys as aforesayd, if they shall not bee before planted or inhabited within the limites aforesayd, with the subjects of any Christian prince, being in amitie with her Majesty, where the said sir Humfrey, his heires or assignes, or any of them, or his or their, or any of their associates or companies, shall within sixe yeeres next ensuing, make their dwellings and abidings, or that shall enterprise or attempt at any time hereafter unlawfully to annoy either by Sea or land, the said sir Humfrey, his heires or assignes, or any of them, or his or their, or any of their companies: giving and graunting by these presents, further power and authoritie to the sayd sir Humfrey, his heires and assignes, and every of them from time to time, and at all times for ever hereafter to take and surprise by all maner of meanes whatsoever, all and every person and persons, with their shippes, vessels, and other goods and furniture, which without the licence of the sayd sir Humfrey, or his heires or assignes as aforesayd, shall bee found traffiquing into any harborough or harboroughs, creeke or creekes within the limites aforesayde, (the subjects of our Realmes and dominions, and all other

persons in amitie with us, being driven by force of tempest or shipwracke onely excepted) and those persons and every of them with their ships, vessels, goods, and furniture, to detaine and possesse, as of good and lawfull prize, according to the discretion of him the sayd sir Humfrey, his heires and assignes, and of every or any of them. And for uniting in more perfect league and amitie of such countreys, landes and territories so to bee possessed and inhabited as aforesayde, with our Realmes of England and Ireland, and for the better

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encouragement of men to this enterprise: wee doe by these presents graunt, and declare, that all such countreys so hereafter to bee possessed and inhabited as aforesayd, from thencefoorth shall bee of the allegiance of us, our heires, and successours. And wee doe graunt to the sayd sir Humfrey, his heires and assignes, and to all and every of them, and to all and every other person and persons, being of our allegiance, whose names shall be noted or entred in some of our courts of Record, within this our Realme of England, and that with the assent of the sayd sir Humfrey, his heires or assignes, shall nowe in this journey for discoverie, or in the second journey for conquest hereafter, travel to such lands, countries and territories as aforesaid, and to their and every of their heires: that they and every or any of them being either borne within our sayd Realmes of England or Ireland, or within any other place within our allegiance, and which hereafter shall be inhabiting within any the lands, countreys and territories, with such licence as aforesayd, shall, and may have, and enjoy all the privileges of free denizens and persons native of England, and within our allegiance: any law, custome, or usage to the contrary not withstanding.

And forasmuch, as upon the finding out, discovering and inhabiting of such remote lands, countreys and territories, as aforesayd, it shall be necessarie for the safetie of all men that shall adventure themselves in those journeys or voiages, to determine to live together in Christian peace and civill quietnesse each with other, whereby every one may with more pleasure and profit, enjoy that whereunto they shall attaine with great paine and perill: wee for us, our heires and successours are likewise pleased and contented, and by these presents doe give and graunt to the sayd sir Humfrey and his heires and assignes for ever, that he and they, and every or any of them, shall and may from time to time for ever hereafter within the sayd mentioned remote lands and countreys, and in the way by the Seas thither, and from thence, have full and meere power and authoritie to correct, punish, pardon, governe and rule by their, and every or any of their good discretions and pollicies, as well in causes capitall or criminall, as civill, both marine and other, all such our subjects and others, as shall from time to time hereafter adventure themselves in the sayd journeys or voyages habitative or possessive, or that shall at any time hereafter inhabite any such lands, countreys or

territories as aforesayd, or that shall abide within two hundred leagues of any the sayd place or places, where the sayd sir Humfrey or his heires, or assignes, or any of them, or any of his or their associats or companies, shall inhabite within sixe yeeres next ensuing the date hereof, according to such statutes, lawes and ordinances, as shall be by him the said sir Humfrey, his heires and assignes, or every, or any of them devised or established for the better governement of the said people as aforesayd: so alwayes that the sayd statutes, lawes and ordinances may be as neere as conveniently may, agreeable to the forme of the lawes & pollicy of England: and also, that they be not against the true Christian faith or religion now professed in the church of England, nor in any wise to withdraw any of the subjects or people of those lands or places from the

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allegiance of us, our heires or successours, as their immediate Sovereignes under God. And further we doe by these presents for us, our heires and successours, give and graunt full power and authority to our trustie and welbeloved counsellor, sir William Cecil knight, lord Burleigh, our high treasurer of England, and to the lord treasurer of England of us, for the time being, and to the privie counsell of us, our heires and successours, or any foure of them for the time being, that he, they, or any foure of them, shall, and may from time to time and at all times hereafter, under his or their handes or seales by vertue of these presents, authorize and licence the sayd Sir Humfrey Gilbert, his heires and assignes, and every or any of them by him and themselves, or by their or any of their sufficient attorneys, deputies officers, ministers, factors and servants, to imbarke and transport out of our Realmes of England and Ireland, all, or any of his or their goods, and all or any the goods of his or their associates and companies, and every or any of them, with such other necessaries and commodities of any our Realmes, as to the said lord treasurer or foure of the privie counsell of us, our heires, or successours for the time being, as aforesayd, shall be from time to time by his or their wisdoms or discretions thought meete and convenient for the better reliefe and supportation of him the sayd sir Humfrey, his heires and assignes, and every or any of them, and his and their, and every or any of their said associates and companies, any act, statute, lawe, or other thing to the contrary in any wise notwithstanding.

Provided alwayes, and our will and pleasure is, and wee doe hereby declare to all Christian Kings, princes and states, that if the said sir Humfrey, his heires or assignes, or any of them, or any other by their licence or appointment, shall at any time or times hereafter robbe or spoile by Sea or by land, or doe any act of unjust and unlawfull hostilitie to any of the Subjects of us, our heires, or successours, or any of the Subjects of any King, prince, ruler, governour or state being then in perfect league and amitie with us, our heires or

successours: and that upon such injurie, or upon just complaint of any such prince, ruler, governour or state, or their subjects, wee our heires or successors shall make open proclamation within any the portes of our Realme of England commodious, that the said Sir Humfrey, his heires or assignes, or any other to whom these our Letters patents may extend, shall within the terme to be limited by such proclamations, make full restitution and satisfaction of all such injuries done, so as both we and the saide Princes, or others so complayning, may holde us and themselves fully contended: And that if the saide Sir Humfrey, his heires and assignes, shall not make or cause to bee made satisfaction accordingly, within such time so to be limited: that then it shall bee lawfull to us, our heires and successors, to put the said Sir Humfrey, his heires and assignes, and adherents, and all the inhabitants of the said places to be discovered as is aforesaide, or any of them out of our allegiance and protection, and that from and after such time of putting out of protection the saide Sir Humfrey, and his heires, assignes, adherents and others so to be put out, and the said places within their habitation, possession

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and rule, shal be out of our protection and allegiance, and free for all Princes and others to pursue with hostilitie as being not our Subjects, nor by us any way to bee advowed, maintained or defended, nor to be holden as any of ours, nor to our protection, dominion or allegiance any way belonging, for that expresse mention, &c. In witesse whereof, &c. Witesse our selfe at Westminster the 11. day of June, the twentieth yeere of our raigne. Anno Dom. 1578.

Per ipsam Reginam, &c.

[13 Nov.,
1578.]**ANTHONY PARCKHURST TO RICHARD HAKLUYT
OF THE MIDDLE TEMPLE,**CONTAINING A REPORT OF THE TRUE STATE AND COMMODITIES OF
NEWFOUNDLAND, BY M. ANTHONIE PARCKHURST, GENTLEMAN, 1578.*Page 1696
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HAKLUYT'S PRINCIPAL NAVIGATIONS, VOL. VIII., pp. 9, 10, 11, 16.

Master Hakluyt, after most heartie commendations, with like thanks for your manifold kindnesse to me shewed, not for any merits that hitherto have beene mine, but wholly proceeding, I must needs confesse, of your owne good nature, which is so ready prest to benefit your countrey and all such poore men as have any sparke in them of good desires, that you do not onely become their friend, but also humble your selfe as servant in their affaires:

* * * *

Now to answer some part of your letter touching the sundry navies that come to Newfoundland, or Terra nova, for fish: you shal understand that some fish not neere the other by 200. leagues, and therefore the certaintie is not knowen; and some yeres come many more then other some, as I see the like among us: who since my first travell being but 4. yeeres, are increased from 30. sayle to 50. which commeth to passe chiefly by the imagination of the Western men, who thinke their neighbours have had greater gaines then in very deed they have, for that they see me to take such paines yeerely to go in proper person: they also suppose that I find some secret commoditie by reason that I doe search the harbors, creekes and havens, and also the land much more then ever any Englishman hath done. Surely I am glad that it so increaseth, whereof soever it springeth. But to let this passe, you shall understand that I am informed that there are above 100. saile of Spaniards that come to take Cod (who make all wet, and do drie it when they come home) besides 20. or 30. more that come from Biskaie to kill Whale for Traine. These be better appoynted for shipping and furniture of munition, then any nation saving the Englishmen, who commonly are lords of the harbors where they fish, and do use all strangers helpe in fishing if need require, according to an old custome of the countrey, which thing they do willingly, so that you take nothing from them more then a boat or twaine of salt, in respect of your protection of them against rovers or other violent intruders, who do often put them from good harbor,

&c. As touching their tunnage, I thinke it
p. 1697

may be neere five or sixe thousand tunne. But of Portugals there are not lightly above 50 saile, and they make all wet in like sorte, whose tunnage may amount to three thousand tuns, and not upwarde. Of the French nation and Britons, are about one hundred and fiftie sailes, the most of their shipping is very small, not past fortie tunnes, among which some are great and reasonably well appointed, better then the Portugals, and not so well as the Spaniards, and the burden of them may be some 7000. tunne. Their shipping is from all parts of France and Britaine, and the Spaniards from most parts of Spaine, the Portugals from Aviero and Viana, and from 2. or 3. ports more. The trade that our nation hath to Island maketh, that the English are not there in such numbers as other nations.

* * * *

And thus I end, committing you to God. From Bristow the
13. of November, 1578.

Yours to use and command,

ANTHONY PARCKHURST.

No. 707.

[1583.]

**EXTRACT, RELATING TO THE VOYAGE OF SIR
HUMFREY GILBERT.**

R. HAKLUYT'S PRINCIPAL NAVIGATIONS, VOL. VIII., pp. 34, 51-55,
incl.

A report of the voyage and successe thereof, attempted in the yeere of our Lord 1583 by sir Humfrey Gilbert knight, with other gentlemen assisting him in that action, intended to discover and to plant Christian inhabitants in place convenient, upon those large and ample countreys extended Northward from the cape of Florida, lying under very temperate Climes, esteemed fertile and rich in Minerals, yet not in the actuall possession of any Christian prince, written by M. Edward Haie gentleman, and principall actour in the same voyage, who alone continued unto the end, and by Gods speciall assistance returned home with his retinue safe and entire.

* * * *

Thus after we had met with the Swallow, we held on our course Southward, until we came against the harbor called S. John, about 5 leagues from the former Cape of S. Francis: where before the entrance into the harbor, we found also the Frigate or Squirrill lying at anker. Whom the English marchants (that were & alwaies be Admirals by turnes interchangeably over the fleetes of fishermen within the same harbor) would not permit to enter into the harbor. Glad of so happy meeting both of the Swallow and Frigate in one day (being Saturday the 3. of August) we made readie our fights, and prepared to enter the harbor, any resistance to the contrarie notwithstanding, there being within of all nations, to the number of 36 sailes. But first the Generall dispatched a boat to give them knowledge of his coming for no ill intent, having Commission from Her Majestie for his voiage he had in hand. And immediatly we followed with a slack gale, and in the very entrance (which is but narrow, not above 2 butts length) the Admirall fell upon a rocke on the larboard side by great oversight, in that the weather was faire, the rocke much above water fast by the shore, where neither went any sea gate. But we found such readinesse in the English Marchants to helpe us in that danger, that without delay there were brought a number of boates, which towed off the ship and cleared her of danger.

Having taken place convenient in the road, we let fall ankers, the Captaines and Masters repairing aboard our Admirall; whither also came immediatly the Masters and owners of the fishing fleete of Englishmen, to

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understand the Generals intent and cause of our arrivall there.

They were all satisfied when the General had shewed his commission, and purpose to take possession of those lands to the behalfe of the crowne of England, and the advancement of Christian religion in those Paganish regions, requiring but their lawfull ayde for repaying of his fleete, and supply of some necessaries, so farre as conveniently might be afforded him, both out of that and other harbors adjoyning. In lieu whereof, he made offer to gratifie them, with any favour and priviledge, which upon their better advise they should demand, the like being not to bee obteyned hereafter for greater price. So craving expedition of. his demand, minding to proceede further South without long detention in those partes, he dismissed them, after promise given of their best indeavour to satisfie speedily his so reasonable request. The marchants with their Masters departed, they caused foorthwith to be discharged all the great Ordinance of their fleete in token of our welcome.

It was further determined that every ship of our fleete should deliver unto the marchants and Masters of that harbour a note of all their wants: which done, the ships as well English as strangers, were taxed at an easie rate to make supply. And besides, Commissioners were appointed, part of our owne companie and part of theirs, to go into other harbours adjoyning (for our English marchants command all there) to laevie our provision: whereunto the Portugals (above other nations) did most willingly and liberally contribute. Insomuch as we were presented (above our allowance) with wines, marmalads, most fine ruske or bisket, sweet oyles and sundry delicacies. Also we wanted not of fresh salmons, trouts, lobsters and other fresh fish brought daily unto us. Moreover as the maner is in their fishing, every weeke to choose their Admirall a new, or rather they succede in orderly course, and have weekely their Admirals feast solemnized: even so the General, Captaines and masters of our fleete were continually invited and feasted. To grow short, in our abundance at home, the intertainment had bene delightfull, but after our wants and tedious passage through the Ocean, it seemed more acceptable and of greater contentation, by how much the same was unexpected in that desolate corner of the world: where at other times of the yeare, wilde beasts and birds have only the fruition of all those countries, which now seemed a place very populous and much frequented.

The next morning being Sunday and the 4 of August, the Generall and his company were brought on land by English marchants, who shewed unto us their accustomed walks unto a place they call the Garden. But nothing appeared more then Nature it selfe without art: who confusedly hath brought foorth roses abundantly, wilde, but odoriferous, and to sense very comfortable. Also the like plentie of raspis berries, which doe grow in every place.

Munday following, the General had his tent set up, who being accompanied with his own followers, sommoned the

marchants and masters, both English and strangers to be present at his taking possession of those Countries. Before whom openly was read & interpreted unto the strangers his Commission: by vertue whereof he tooke possession in the same harbour of S. John, and 200 leagues every way, invested the Queenes Majestie with the title and dignitie

p. 1700

thereof, had delivered unto him (after the customs of England) a rod & turffe of the same soile, entring possession also for him, his heires and assignes for ever: And signified unto al men, that from that time forward, they should take the same land as a territorie appertaining to the Queene of England, and himselve authorised under her Majestie to possesse and enjoy it. And to ordaine lawes for the government thereof, agreeable (so neere as conveniently might be) unto the lawes of England: under which all people comming thither hereafter, either to inhabite, or by way of traffique, should be subjected and governed. And especially at the same time for a beginning, he proposed & delivered three lawes to be in force immediatly. That is to say: the first for Religion, which in publique exercise should be according to the Church of England. The 2. for maintenance of her Majesties right and possession of those territories, against which if anything were attempted prejudiciall, the partie or parties offending should be adjudged and executed as in case of high treason, according to the lawes of England. The 3. if any person should utter words sounding to the dishonour of her Majestie, he should loose his eares, and have his ship and goods confiscate.

These contents published, obedience was promised by generall voyce and consent of the multitude as well of Englishmen as strangers, praying for continuance of this possession and government begun. After this, the assembly was dismissed. And afterward were erected not farre from that place the Armes of England ingraven in lead, and infixed upon a pillar of wood. Yet further and actually to establish this possession taken in the right of her Majestie, and to the behoofe of Sir Humfrey Gilbert knight, his heires and assignes for ever; the Generall granted in fee farme divers parcels of land lying by the water side, both in this harbor of S. John, and elsewhere, which was to the owners a great commoditie, being thereby assured (by their proper inheritance of grounds convenient to dresse and to drie their fish, whereof many times before they did faile, being prevented by them that came first into the harbor. For which grounds they did covenant to pay a certaine rent and service unto sir Humfrey Gilbert, his heirs or assignes for ever, and yeerely to maintaine possession of the same, by themselves on their assignes.

No. 708.

[2 May, 1610.]

**CHARTER OF THE LONDON AND BRISTOL
COMPANY. EARL OF NORTHAMPTON AND
ASSOCIATES.**

Cōn p Thēs &
societate de lez
Adventures in
Newfoundland & suc
a.

PATENT ROLL 8 JAMES I. PART VIII. No. 6.

Extract.

James by the grace of God of greate Brittainē ffrance and Ireland king defendor of the faith &c. To all people to whome this p'sentes shall come societate in greeting, knowe ye whereas divers our loveing and well disposed Subiectes are desirous to make plantacon to inhabite and to establishe a Colony or Colonyes in the Southerne and Easterne partes of the Cōuntry and Isle or Ilandes cōmonlye called Newfoundlandē vnto the Coast and harboure whereof the Subiectes of this our Realme of England have for the space of ffiftye yeares and vpwards yearely vsed to resort in noe smale numbers to fishe, intending by such plantacon and inhabiting both to secure and make safe the said trade of ffishing to our Subiectes forevr And alsoe to make some comendable benefitt for the vse of mankynde by the landes and p'ffittes thereof which, hetherto from the beginnyng (as it seemeth manifest) hath remayned vnprofitable And for better p'formance of such their purpose and intencōns have humbly besought our Regall authoritye and assistance, we being well assured that the same lande or Cōuntrye adioyning to the foresaid Coastes where our Subiectes vse to ffishe remayneth soe destytute and soe desolate of inhabitanche that scarce any one savage p'son hath in manye yeares byn seene in the most partes thereof And well knowing that the same lying and being soe vacant is as well for the reasons of foresaide as for manye other reasons verie cōmodious for vs and our domynions And that by the lawe of nature and natons wee maye of our Royall authoritie possease our selues and make graunt thereof without doeing wrong to any other Prince or State considering they cannot instlye p'tend any Sovaignetye or right therevnto in respecte that the same remayneth soe vacant and not actually possessed and inhabited by any Christian or any other whomsoever And therefore thinking it a matter and acōn well beseemyng a Christian king to make true vse of that which God from the beginning created for mankynd And thereby intending not onlye to worke and p'cure the benefitt and good of manye of our Subiectes but principally to increase the knowledg of the omnipotent God and the p'pagēcon of our Christian faith, have graciously accepted of their said intencon and suite And therefore doe of our specyall grace ctayne knowledg and meere moōn for vs

our heires and successors give graunt and conforme by theis p'sentes vnto our right deare and right welbeloved Cozen and Councillor henrie Earle of Norhampton keeper of our privie Seale and

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to our trustie and right welbeloved Sir lawrence Tanfeild knight Cheife Baron of our Exchequer Sir John Doddridg knight one of our Seriantes att lawe Sir ffrauncis Bacon knight our Sollicitor gen^{all} Sir Daniell Dun Sir Walter Cope Sir Percivall Willoughby and Sir John Constable knightes John Weld Esquier Willyam ffreeman Raphe ffreeman John Slany humfrey Slanye Willyam Turner Robt Kirkam gent John Weld gent Richard ffishborne John Browne humfrey Spencer Thomas Juxon John Stokeley Ellis Crispe Thomas Alporte ffrauncis Needham William Jones Thomas langton Phillipp Gifford John Whittington Edward Allen Richard Bowdler Thomas Jones Symon Stone John Short John Vigars John Juxon Richard hobby Robt Alder mathewe haveland Thomas Aldworth Willyam lewis John Guy Richard hallworthie John Langton humfrey hooke Phillipp Guye Willyam merridith Abram Jeninges and John Dowghtye their heires and assignes and to such and soe manye as they doe or shall hereafter admytt to be ioyned with them in forme hereafter in theis p'sentes exp'ssed, whether they goe in their p'sons to be planted in the saide planta^{con} or whether they goe not, but doe adventure their moneys goodes and chattelles that they shal be one bodie or comynalty p'petuall, and shall have p'petuall succession and one Comon Seale to serve for the saide bodye and Comynalty, and that they and their Successors shalbe knowen called and incorporated by the name of the Tresurer and the Companye of Adventurers and planter of the Cittye of london and Bristoll for the Collonye or planta^{con} in Newfoundland and that they and their successors shalbe from thenceforth foever* enabled to take acquire and purchase by the name aforesaid (licence for the same from vs our heires or successors first had and obtayned) any manner of landes tenementes and hereditamentes goodes and chattelles within our Realme of England and domynion of wales And that they and their successors shalbe likewise enabled by the name aforesaide to plead and be ympleaded before any our Judges or Justices in anye of our Courtes and in any ac^{ons} and suites whatsoever. And we doe alsoe of our sayd speciall grace ctayne knowledg and meere mo^{con} for vs our heires and succeors give graunt and confirme unto the saide Tresurer and Companye and their successors vnder the reserva^{ons} lymitta^{ons} and declara^{ons} hereafter expressed all that parte and por^{on} of the said Countrie comonlye called Newfound land which is scituate lying and being to the southward of the parallell line to be conceaved to passe by the Cape or headland comonly called or known by the name of Bomviste inclusive which Cape or headland is to the Northward of the Baye, comonlie called Trinity Baye and alsoe which is scituate lying and

* sic.

being to the Eastward of the meridian line to be conceived to passe by the Cape or headland commonly called or known by the name of Cape Sancta- Maria or Cape Saint Maries inclusive which Cape or headland is to the Eastward of the Baye commonly called the Baye of Placentia together with the Seas and Ilandes lying within tenn leagues of anye parte of the Sea Coast of the Countrie aforesaide And alsoe all those Countries landes and Ilandes commonly called Newfoundlande which are scituate betweene ffirtie and sixe degrees of Northerlie latitude and twoe and ffiftie, degrees of the like latitude And alsoe all the landes soile

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grounds havens Portes Rivers mynes as well Royall mynes of gould and silver as other mynes myneralles pearles and pretious stones woodes quarries marshes waters ffishinges hunting hawking fowling comodityes and hereditaments whatsoever together with all p'rogatives iurisdiccions Royalties priviledges ffranchises, and p'hemynences within anye the saide territories and the p'cinctes thereof whatsoever and thereto or thereabouts both by Sea and lande being or in any sorte belonging or appteyning, and w^{ch} wee by our l^{res} patentes maye or can graunt and in as ample manner and sorte as we or any of our noble p'genitors have heretofore graunted to any Companie bodie politique or corporate or to any adventurer or adventurers undertaker or undertakers of any discovery plantacon or traffique of in or into any forrayne partes whatsoever and in as larg and ample manner as if the same were herein p'ticulerlie menconed and exp'ssed Nev'rtheles our will and pleasure is and we doe by theis p'sentes exp'sse and declare, that there be saved and reserved unto all manner of p'sons of what nation soever, and alsoe to all and everie our loveing subiectes which doe att this p'sent or hereafter shall trade or voiaq to the partes aforesaid for ffishing all and singuler liberties powers easementes and all other benefitt whatsoever as well concerning their saide ffishing as all other circumstances and incidentes therevnto in as large and ample manner as they have heretofore vsed and enjoyed the same without anye ympeachm^t disturbance or exaccon any thing in theis p'sentes to the contrarie notwithstanding To have hold possesse and enjoye all and singuler the saide landes Countries and territories with all and singuler other the p' hisses heretofore by theis p'sentes graunted or menconed to be graunted to them the said Tresurer and company their successors or assignes forever to the sole and p'per vse of them the saide Tresurer and Company their successors and assigner to be holden of us our heires and successors as of our mannor of East Greenwich in the County of Kent in fre and Common socage and not in Capite yelding and paying vnto vs our heires and successors the ffift part of all the Oare of gould and silver that from tyme to tyme and att all tymes hereafter shalbe there gotten had and obtayned for all services duties and demaundes And for as much as the good and p'sperous successe of the said

plantacon cannot but chiefly depend next vnder the blessing of God and the support of our Royall authoritie upon the p'vident and good direction of the whole enterprise by a carefull and vnderstanding Councell And that it is not convenient that all the Adventurers shall be soe often drawen to meete and assemble as shall be requisite for them to have meetinges and conference about their affaires therefore wee doe ordayne establishe and confirme that there shalbe p'petually one Councell consisting of twelve p'sons here resident in london which shall governe and order all 'natters and causes which shall arrise growe or happen by reason of the saide plantacon or which shall or maye concerne the government of any Collonye or Collonyes to be established in any the said Territories or Countries of Newfounde land before lymitted or any the p'cinctes thereof, which Councell shall have a Seale for the better government and admynistracon of the said plantacon besides the legall Seale of the Companye or Corporacon each of which Seales shall have

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our Armes ingraven on the one side thereof and our Portrature on the other side And that the legall Seale of the saide Tresurer and Companye shall have ingraven rounde about on both sides thereof this wordes Sigillm Thesaurarii et Com̃uniyatis terre noue, and that the Seale for the Councell shall have ingraven rounde about on thone side this wordes Sigillum Regis magne Britanie ffranc et Libnie and on the other side this inscripcon rounde about p Consilio terre noue And further wee establishe and ordayne that Sir Percivall Willoughby knight John Welde Esquier Raphe ffreeman Richard ffishburne John Stokely Willyam Turner Willyam Jones John Slany humfrey Slany John Weld Thomas Juxon and Thomas Jones shalbe the Councell for the saide Companye of Adventurers and planters in the saide Territories and Countries before lymitted And the saide John Slany wee ordayne to be Tresurer of the saide Companye which Tresurer shall have authoritie to give order for the warning of the Councell and somoning the Companye to their Courtes and meetinges and the said Councell and Tresurer or anye of them shall be from thenceforth nomynated chosen contynued displaced chaunged altered and supplied as death or other seṽall occasions shall requier, out of the Companye of the said Adventurers by the voice of the greater part of the said Councell and Adventurers in their assembly for that purpose, And wee doe alsoe by this p'sentes of our speciall grace c̃taine knowledg and meere motion ordayne establishe and agree for vs our heires and successors That the said Tresurer and Company shall or lawefully maye establishe and cause to be made a Coyne to passe currant in the saide Territories of or in Newfound land before lymitted betweene the people inhabiting in any the said territories or in any the p'cinctes thereof for the more ease of traffique and bargayning betweene and amongst them of such nature and of such mettell and in such manner and forme as the said Councell heere shall

lymitt and appoynt And wee doe by theis p'sentes of our speciall grace ctayne knowledg and meere motion for vs our heires and successors graunt vnto the said Tresurer and Company and their successors that yf it happen at any tyme or tymes the Tresurer for the tyme being to be sicke or to have any such cause of absence from the City of London as shall be allowed by the saide Councell or the greater parte of them assembled, soe as he cannott attend the affaires of that Company. In everie such case it maye and shalbe lawfull for such Tresurer for the tyme being to assigne constitute and appoynt one of the Councell for that Company to be likewise allowed by the said Councell or the greater parte of them assembled to be the deputie Tresurer for the said Company which deputie shall have power, to doe and execute all thinges which belong to the saide Tresurer during such tyme as such Tresurer shall be eyther sicke or otherwise absent vppon cause allowed of by the saide Councell or the maior part of them as aforesaide soe fullye and wholly and in as large and ample manner and forme to all intentes and purposes as the saide Tresurer if he p'sent himself maye or might doe and execute the same And further of our speciall grace ctayne knowledg and meere motion for vs our heires and successors wee doe by theis p'sentes give and graunt full power and authoritie to the

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saide Councell heere resident as well att this p'sent tyme as hereafter from tyme to tyme to nomynate make constitute ordayne and confirme by such-name or names stile or styles as to them shall seeme good and likewise to revoke dischargd chaung and alter all and singuler Goũnors Officers and mynisters which hereafter by them shall be thought fitt and needfull to be made or vsed for the goũment of any Colonye or plantaçon to be had or made of or in any the saide Territories of Newfound lande before lymitted and by theis p'sentes graunted or ment to be graunted, and alsoe to make ordayne and establishe all manner of orders lawes direcçons instruccõs formes and ceremonies of goument and magistracie fitt and necessarie for and conẽning the goũment of the saide Colonye or Colonyes and plantaçon or plantaçons and the same att all tymes hereafter to abrogate revoke or chang not onlye within the p'cinctes of the said Colonye or Colonyes but alsoe vppon the Sea in goeing and coming to and from the said Colonye or Collonyes as they in their good discretions shall thinke to be fitt for the good of the Adventurers and Inhabiters there. And wee doe alsoe hereby declare that for diũrs reasons and consideraçons vs therevnto especially moveing our will and pleasure is and wee doe hereby ordayne that ymediately from and after such tyme as any such Goũnor or principall Officer soe to be nomynated and appoynted by the said Councell for the goũment of anye Colonye or Colonyes as aforesaide shall arive in Newfound lande or in anye the territories aforesaide and give notice of his Comission in that, behalfe, all Officers Goũnors and mynisters formerlie constituted or appoynted

shalbe discharged, straightly charging them and comaunding them and everie of them and everie other p'son resident or which hereafter shall reside in the saide Collony or Colonyes vppon their allegeaunce that they forthwith be obedient to such goūment or Goūnors as by the saide Counsell heere resident shall be named and appoynted as aforesaid and to all direc̄ons orders and comaundementes which they shall receive from them as well in their p'sent resigning and giveing vp their authoritie Offices charge and places as in all other attendance as shall be by them from tyme to tyme required And wee doe further by theis p'sentes ordayne and establishe that the saide Tresurer and Counsell here resident in london and their successors or any ffive of them being assembled (the Tresurer being one) shall from tyme to tyne have full power and authoritie to admitt and receive anye other p'son into their Company Corporāon or ffredome And further in a geñall assembleie of the Adventurers with the consent of the greater parte vppon good cause to disfranchize and put out any p'son or p'sons out of the saide freedome and company And wee doe alsoe graunt and confirme for vs our heires and successors that it shall be lawfull for the said Tresurer and Company and their successors by direc̄on of the Goūnors there to digg and to search for all manner of mynes of golde silver Copper Iron leade tynne and other myneralles as well within the p'cincte aforesaide as within anye parte of the mayne lande not formerly graunted to any other, and to have and to enioye the gold silver Copper Iron leade and tynne and all other myneralles to be gotten thereby to the vse and behoofe of the saide Company of Planters and adventurers yelding therefore and payeing yerely vnto vs our heires and

successors as aforesaide without anye other manner of p'ffitt or accompt to be given or yelded to vs our heires or successors for or in respecte of the same And we doe further of our speciall grace c̄tayne knowledg and meere motion for vs our heires and successors graunt by theis p'sentes to and with the saide Tresurer and Company and their successors That it shall be lawfull and free for them and their assignes att all and everie tyme and tymes hereafter out of our Realme of England and out of all other our domynions to take and leade into the saide voyag and for and towards the sayde plantaçon and to travell thetherwardes and to abide and inhabite there in the said plantaçon all such and soe manye of our loveinge Subiectes or anye other strangers that will become our loveinge Subiectes and live under our allegiance as shall willinglie accompnayne them in the said voyage and plantaçon with sufficient shipping Armor weapons Ordynance muniçon powder shott victualles and such marchantdizes or wares as maye be fitting to transport and carrie into thos partes, and clothing ymplementes, furniture Cattell horses and mares and all other thinges necessarie for the saide plantaçon and for the use and defence and trade with the people there if anye be inhabiting in the saide Countrie or shall come out of other partes there to trade with the saide planters and in passing and retorning to and fro all such comodities or marchandize as shalbe from thence brought without yeldinge or paying subsodie custome or ymposicon or any other tax or dutye to vs our heires or successors for the space of seaven yeares from the date of theis p'sentes Provided that none of the saide p'sons soe taken and Carried for the plantaçon be such as shall be hereafter by Speciall name restrayned by vs our heires or successors And that for their further encouragment of our speciall grace and favour wee doe by theis p'sentes for vs our heires and successors yealde and graunt to and with the saide Tresurer and company and their successors and everie of them their ffactors and assignes, that they and everie of them shalbe free and quitt of all subsidies and Customes in Newfound lande or anye the territories or p'cinctes aforesaid for the space of one and twentye yeares and from all taxes and ymposicons forever vppon anye goodes or marchandizes at any tyme or tymes hereafter eyther vppon Importaçon thether or exportaçon from thence into our Realme of England or into anye other of our domynions by the saide Tresurer and Company and their successors their deputies ffactors and assignes or anye of them (except onlie the ffive poundes p Centu due for Custom vppon all such goodes and marchandizes as shalbe brought or ymported into our Realme of England or any other of theis our domynions according to the ancient trade of marchantes which ffive poundes p Centu onlie being paide it shalbe thenceforth lawfull and free for the saide adventurers the same goodes and marchandizes to exporte and carrie out of our saide domynions into for rayne partes without any custome tax or other dutie to

be paide to vs our heires or successors or to anye other our Officers or deputies Provided that the saide goodes and marchandizes be shipped out within thirteene monethes after the first landing within anie parte of thos domynions and wee doe alsoe confirme to the saide Tresurer and Company and their successors as alsoe graunt to all and everie such Goūnors or other Officers or mynisters as by the

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saide Counsell shall be appoynted to have power and authoritie of goūment and comaund in or over anye Colony or plantaēon in any the lymittes or p'cinctes aforesaide, that they and everie of them shall and lawfully maye from tyme to tyme and att all tymes for ever hereafter for their severall defence and safty encounter expulse repell and resist by force and armes as well by sea as by lande and by all wayes and meanes whatsoever all and everie such p'son and p'sons whatsoever as without the speciall licence of the saide Tresurer and Company and their successors shall attempt to inhabite within the saide sevrall p'cinctes and lymittes of the saide Colony or plantaēon and alsoe all and everie suche p'son and p'sons whatsoever as shall enterprise or attempt att any tyme hereafter destruēon invasion hurt detryment or anoyance to the saide Colony and plantaēon And that it shall be lawfull for the saide Tresurer and Companye and their successors and everie of them from tyme to tyme and att all tymes hereafter and they shall have full power and authoritie to take and surprise by all wayes and meanes whatsoever all and everie p'son and p'sons whatsoever with their shippes goodes and other furniture trafficking in any harbor Creeke or place within the lymittes and p'cinctes of any Colonye or plantaēon to be made in anye the lymittes or p'cinctes aforesaide And being allowed by the said Company to be adventurers or planters of the saide Colonye vntill such tyme as they being of any Realmes or domynions vnder our obedience shall paye or agree to paye to the handes of the Tresurer or of some other Officer deputed by the goūnors in any the saide Territories or p'cinctes aforesaide over and above such subsidie and Custome as the saide Companye is or hereafter shalbe to paye ffive poundes p Centū vppon all such goodes and marchandizes soe brought in thether, other then such as shall be brought in for the necessarie vse of ffishing as hath byne heeretof ore accustomed, and alsoe ffive poundes p Centu vppon all goodes by them shipped out from thence, other then ffish and other necessaries requisite to fishing And being strangers and not vnder our obedience vntill they have payde over and above such subsidie and Custome as the same Tresurer and Companye and their successors is or hereafter shall be to paye tenn poundes p Centum vppon all such goodes likewise carried in and out and the same sōmes of money and benifitt as aforesaide for and during the space of one and twenty,yeares shall be wholly ymployed to the benifitt and behoofe of the said Companie or plantaēon, and the saide one and twenty yeares ended the same shalbe taken to the vse of vs

our heires and successors by such Officer and mynister as by vs our heires or successors shalbe thereunto assigned and appoynted Alsoe wee doe for vs our heires and successors graunt and declare by theis p'sentes, that all and everie the p'sons being our Subiectes which shall goe and inhabite within any Colony or plantacon within anye the p'cinctes aforesaide and everie of their Children and posteritie which shall happen to be borne within the lymittes thereof shall have and enioy all libertyes ffranchises and ymmunities of free denizons and naturall Subiectes within anye of our other domynions to all intentes and purposes as if they had byn abiding and borne within this our Realme of England or in anye other of our domynions And forasmuch as it shall be necessarie for all such our loveing

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Subiectes as shall inhabite within any the said territories or p'cinctes of New-found lande aforesaide to determyne to live together in the feare and true worship of Almighty God, Christian peace and civill quietnes each with other whereby everie one maye with more saftie pleasure and p'ffitt enioye that wherevnto they shall attaine with greate payne and p'rill, we for vs our heires and successors are likewise pleased and contented and by theis p'sentes doe give and graunt to the said Tresurer and Company and their successors and to such Goũnors Officers and mynisters as shall be by the saide Councill constituted and appoynted according to the natures and lymittes of their Offices and places respectively, that they shall and maye from tyme to tyme forever hereafter within the said territories or p'cinctes of Newfound lande or in the waye by the Seas thither and from thence have full and absolute power, and authoritie to correct punishe p'don governe and rule all Subiectes of vs our heires and successors as shall from tyme to tyme adventure themselves in any voyage thither or that shall att any tyme hereafter inhabite in the p'cinct and territorie of the said lande called Newfound lande aforesaide according to such Orders Ordinances constitucons direccons and instruccions as by the saide Councill as aforesaide shall be established, and in defecte thereof in cause of necessitie according to the good discretions of the said Governors and Officers respectivelie as well in cases Capitall and Crimynall as Civill both marine and other, soe alwayes as the saide Statutes ordynaunces and p'cedinges as neere as conveniently may be agreeable to the lawes statutes goũmentes and policie of this our Realme of England And wee doe further of our speciall grace c̄tayne knowledg and meere motion graunt declare and ordayne that such principall Governor or Governors as from tyme to tyme shall dulie and lawfully be authorized and appoynted in manner and forme in theis p'sentes heretofore exp'ssed shall have full power and autlioritie to vse and exercise marshall lawe in cases of Rebellion or mutynie in as larg and ample manner as our leeftenantes in our Counties within our Realme of England have or ought to have by force

of their Comissions of lieutenancy And furthermore yf any p'son or p'sons Adventurers or planters of the said Colony or any other att any tyme or tymes hereafter shall transporte any moneys goodes or marchandizes out of anye our kingdomes with a p'tence or purpose to land sell or otherwise dispose the same within the lymittes and boundes of anye the saide territories or p'cintes of or in Newfoundland, and yet neutheles being att sea or after he hath landed within any parte of the saide territories and p'cinctes shall carrie the same into any forraine Countrie with a purpose there to sell and dispose thereof That then all the saide goodes and chattelles of the saide p'son or p'sons soe offending and transporting together with the shipp or vessell wherein such transportacon was made shall be forfeyed to vs our heires and successors And further our will and pleasure is that in all questions and doubttes that shall arrise vppon any difficulty of construc̃on or interp'tac̃on of any thing contayned in theis our tres patentes the same shall be taken and interpreted in most ample and beneficiall manner for the said Tresurer and Companie and their successors and everie member thereof

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And fynally our will and pleasure is and wee doe further hereby for vs our heires and successors graunt and agree to and with the said Tresurer and Company and their successors that all and singuler p'son and p'sons which shall att any tyme or tymes hereafter adventure any some or somes of money in and towards the said plantãon of any Colony or Colonyes in Newfound lande or anye the territories or p'cinctes thereof and shall be admitted by the said Councill and Company as adventurers of the saide Companie in forme aforesaide and shall be inrolled in the booke or Record of the adventurers of the said Companie shall and maye be accompted accepted taken held and reputed adventurers of the saide Colonye and shall and maye enioye all and singuler grauntes priviledges libties benefittes p'ffittes comodities advantages and emolumentes whatsoever as fully largely amplie and absolutlie as yf they and everie of them had byne p'cisely playnlie singulerlie and distinctlie named and, incerted into theis our tres patentes And lastlie because the principall effect which wee can desire or expect of this ac̃on is the conversion and reduction of the people in those partes (if anye be there inhabiting) vnto the true worshipp of God and Christian Religion in which respecte we would be loath that any p'son should be permitted to passe that we suspected to affecte the sup'stitions of the Church of Roome, wee doe hereby declare that it is our will and pleasure that none be p'mitted to passe in anye voyage from tyme to tyme to be made into the said Countrie but such as first shall have taken the oath of Sup'macye for which purpose wee doe by theis p'sentes give full power and authoritie to the Tresurer for the tyme being and any three of the Councill and to everie three such p'son or p'sons as shall be by the saide Tresurer, and anye three of the

* sic.

saide Councell therevnto authorized whereof the Tresurer for the tyme being to be one And to anye our maiors Bayliffes or any other our chef Officer or Officers in any our portes havens or Townes where anye such p'son or p'sons shall take shipping to tender and exhibite the saide oath to all such p'son as shall at anye tyme be sent and ymployed in the said voyage to remayne or plant there, Provided alwayes and our will and pleasure is and we doe hereby declare to all Christian kinges Princes and Estates, that if any p'son or p'sons which shall hereafter be of any Colony or plantacon in anye the territories or p'cinctes of Newfoundlande before lymitted or any other by his their or anye of their licence or appoyntment shall att any tyme or tymes here-after robb or spoyle by Sea or lande or doe any acte of vniust or unlawfull hostilitye to anye the Subiectes of vs our heires or successors or any the subictees of any king Prince Ruler Governor or Estate being in league and amytye with vs our heires or successors or that vppon such iniurie or vppon iust complaynte of such Prince Ruler Governor or State or their Subiectes wee our heires or successors shall make open p'clamacon within anye the partes of our Realme of England comodious for that purpose that the saide p'son or p'sons haveing comitted any such Robberie or spoyle whall* within the tyme to be lymitted by such p'clamacons make full restitucon or satisfaccon of all such iniuries donne. Soe as the saide Princes and others soe complayning maye hold themselves fullie satisfied and contented and that if the saide p'son or p'sons haveing committed such Robberie or spoyle shall not make nor cause to be made

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satisfaccon accordingle within such tyme soe to be lymitted That then it shall be lawfull to vs our heires and successors to putt the saide p'son or p'sons haveing comitted such Robberie or spoyle out of our alleageaunce and p'tection and that it shall be lawfull and free for all princes and others to pursue with hostylitie the said Offendors and everie of them; witnes our selfe att westm the second daye of maye:

p tre de priuato sigillo : &c Ex^{or}

No. 709.

FORMATION OF GUY'S SETTLEMENT.

[1895.]

EXTRACT FROM "HISTORY OF TRUE NEWFOUNDLAND," BY D. W. PROWSE, Q.C. (LONDON, 1895)

The story of the formation of Guy's Colony, called by the founder "Sea forest plantation," is one of the most interesting episodes in our early annals; as there is no detailed information about it in any extant history of Newfoundland, I have set forth all the facts that can now be gathered from the contemporary records. Young Alderman John Guy is a striking personality, shrewd, pushing, energetic, and full of ambition. The company consisted of most of the men of light and leading in James's Court. Bacon was undoubtedly the guiding spirit in the enterprise, whilst Guy and Roberrow were the working members.

We find the same individuals who were in Peckham and Gilbert's company members of Guy's association. They had become so impoverished by the dismal failure of Gilbert's unfortunate adventure and Raleigh's colonisation schemes, that when John Roberrow, John Guy, and others were appointed to committee to confer with their London associates, they decided that the scheme was quite feasible, and would be profitable and of great value to the kingdom, but a portion of the charges should be borne by the Government. As far as we can ascertain, this took place in 1607. Undoubtedly the company was the outcome of the various projects put forward by Peckham and Algernon Sidney and Carlyle, who were both Walsingham's sons-in-law. It was only by immense Court influence that money was obtained from the Government. The Stuarts as a dynasty were perennially impecunious, and it took three years' pleading and all Bacon's influence to get the desired subsidy; it must have been considerable, as Mr. Alderman Guy and his shrewd merchant associates appear to have only put in a nominal sum, less than £100 each, payable in five yearly instalments. In 1610 the charter to Bacon and his associates was issued under the Great Seal.¹ This instrument is very full and comprehensive, it is a far more practical and statesmanlike document than the loose grants of Elizabeth; the extent of territory covered by the charter is defined—from Cape St. Mary's to Cape Bonavista. The public right to the fishery is specially reserved. Guy's instructions show clearly that the charter was a dishonest attempt to give away to Court favourites land occupied and possessed by Englishmen long anterior to the grant.

*Page 1712
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After obtaining his title deeds, Guy sailed from Bristol, May 1610, with his brother Philip, his brother-in-law Colston, and thirty-nine persons, in three ships. From the records of Bristol and other sources we are able to give a pretty accurate account of their proceedings. They had carefully chosen the site for their new colony. Old Newfoundland traders were evidently connected with the company, and all their arrangements were planned by persons well acquainted with the trade. There remains a MS.* containing the—

“INSTRUCTIONS TO JOHN GUY FROM THE ASSOCIATES OF HIS
COMPANY, 1610.

“You shall furnish yourself with at least twelve months victualles with munition nets and with all manner of tooles and implements (and you shall make choice of the) skill and mannuall arts of such as are to go with you that you shall think important for the advancement (of the colonie).

“As the benefit and use of domestic creatures without whom not onlie any desolate countrie but also a (civilized countrie) could not well be inhabited we would have you take with you a small number of evrie kind of them male and female water and other things needful for their transportation not (placing them on the sea shore) but either by islands or necks of lands between Bayes where together with the care of a herdsman they shall escape from wild beasts and so increase and multiplie of which number (we would) not have anyone killed without great and urgent cause.

“When it shall please God to send you and your Companie into the Newfoundland we would have you make choice of some place which you shall find fittest within the limits of the country assigned unto us in order to plant our said colonie. The Baye of Conception we prefer before other places for the first attempt.

“Upon your first arrival there the sooner to operate our patent and to prevent ye murmuring of suspicious and jealous persons that perhaps will not (fail) to spread abroad that this enterprize wilbe to the prejudice of ye fishermen as well of our nation as others. We do hould it expedient that you call an assembly of all the fishermen that shall be nere thereabouts and there in their presence openlie and distinclie cause to be read the graunt under the King's Majesties great seal which you shall have along with you, that by the tenour of it they may be satisfied that there is no intent of depriving them of their former right of fishing which being done you shall declare in the presence of them all that you enter upon that place to take actuall seazin and possession (never by grace and assistance of God to be discontinued) in ye name of the whole country comprehended within the said grant to the use of us and our associates our heirs and assigns to be holden of our

sovereign Lord the King by the rents and services secured by the said graunte and that by such your

* I was fortunate enough to find this most interesting document—the instructions from Guy's associates about the management of the plantation; the paper has been partially burnt, but the principal part of the contents have been perserved.—B.M. MSS. Otto E., VIII. 5.

p. 1713

acte the King's Majestie of England is actually invested with the title and supreme digniteie next under God of the said country.

“How you are to spend your time ther ewe need not particularlie (put) you in mind of being in good hope that according to the opinion we do conceive of you all matters shall be carefullie providently and paynefullie ordered and that there shall be no wasting of the victualles nor time misspent in idleness but all industrious courses practised to set forward the enterprise as manelie buildings to be rected for habitation.

“ . . (text burnt) . . (With the) returne of the ships after the fishing is ended all fish (which you have) made (and shall) not need for your own use (re)ceive to be transported to England and if it may be (bought?) you may also send some quantity of that wine which you . . . that trial may be made of it as also of the zansaparilla (to see if it) be good and what else you shall judge fit to be sent.

“If you can buy any train (cod oil) for eight pounds the tonne or (there-about) we would have you to deale for it for the use of the Companie and charge us by exchange for th epayment of it and to take or send to Bristoll and failing thereof to keep it in your warehouses until we do send for it in the winter time for we doubt not that ships may harbour themselves there in the winter in Januarie or Februarie seeing out of the Grand Bay being 4 degrees to the northward it is a thing yearly experimented that ye Biscainers remain until December. If you can buy there 60,000 of good dry fish reasonable you may likewise do it and charge us home by exchange and place it in our warehouses until we send a bark thither to take it in and to go with it there home to Spain which coming there alone may sell better than that which came first the great glut marring oftentimes that market.

“You shall as soon as may be conveniently done make choice and bring to the sea shore a ships lading of masts sparres and deal boards to be in a readines to reload any ship that shall happen to be sent unto you with salt which you used in fishing or to be sold to ye fishermen. By employing of shipping of great burden the trade between Bristoll and Newfoundland may be profitable. We are in good hopes that you shall find sufficient cargo there with which the said ship shall be reloaden.

“And if any persons employed in this service shall be found to be seditious mutinous or in any manner unfit you shall by the next returne of any ship from there home send them home to be discharged giving advertisement of their behaviour.

“And for the succession of the principal or head of this enterprize if it should please God to take him away it is though mette that such person shall succeed him as the said John Guy shall nominate under his hand writing and for default thereof the successor shalbe there unto elected by most of votes of the persons that shall survive and if equal votes the lot to be cast whether of them shalbe preferred.

“And we would have you to assay by all good meanes to (capture) one of the savages of the country and to intreate (him well and) to keepe him

p. 1714

and teach him our language that you may after obtayne a safe and free commerce with them which (are) strong there.

“We learne that there is found there and no question (fernes?) whereby may be gathered that yf workmen experte to (make glass ? were) now sent with you with such forraine simples as the mixture of mettall requireth you might presently rase glass to nevertheless for more certaintie we now forbear onlie would have you send home some of the fearne (i.e. kelp) dried and some . . . (that) it may be considered of.

“Every ship that resorteth thither to fishing bringeth with them (sawyers?) to make or mend their fishing boates which may well be supplied (by you with) pine boards whereof you shall have plentie when ? the saw is set up.

“Such ashes as you make keep and send to Bristol that we may have tryall of them and that thereby it may be the (better proved) whether such sope ashes as come out of the Sound may (not be sent from) there home.

“And to the end that God may bless this attempt with happy prospects and success you must take order that divine service be publickly (held) and attentive hearkned unto and that you joine in devout prayers to God that the worship of him may not be neglected that pietie and charitie and sobrietie may dwell amongst us and all swearing and gamming abolished.

“You must not forget to search whether there be any trees thereabouts that will afford timber to make caske and be servicable for hoopes we have heard that pipes have been sometimes made of pine timber and for hoopes young beach will werve. the birch being there large and great as yt is yeeld? for a neede? stufte for the caske and seing it is most certaine that oakes are in some places of this country you may peradventure upon search light upon some place where it grow.

“To make experience of the nature of the country for sheep were not aims because there want not warme and firtil places and abundance of poules things most requisite for that kind of husbandrie.

“The cherrie trees and peare trees and filbred trees by removing and graffing may prove as good and as large as ours and for the filbreds though they are small yet they are good and being gathered when they are ripe may do you some pleasure we would have you send us home a few of them (for

in) flanders they guy barks lading with hazell nuts to make oyle for which (we) do (think that) these will serve as they.

“(We) require you to have a due regard (to the carrying out) of these our instructions and of all such (as you may in) your discretion judge may any kinde of way to (turn to the use) and benefit of this enterprise committed to your (care).”

No. 710.[13 Aug.
1611.]1611, August 13—**ORDERS ISSUED BY JOHN GUY,
GOVERNOR OF NEWFOUNDLAND.**¹*Page 1715
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Certain orders for the Fishermen to observe and keep in the Newfoundland published the thirteenth day of August, 1611, by Mr. John Guy, then Governor of the Colony there.

Whereas by authority of our sovereign Lord James, by the grace of God of England, Scotland, France, Ireland and Newfoundland King, a plantation and government is begun to be settled within this country of Newfoundland, And whereas among those persons that use the trade of fishing in these parts, many disorders, abuses and bad customs are crept in which are continued and yearly practised more of a corrupt usage than of malicious designs, forasmuch as it concerneth not only the benefit and profit of the trade of fishing, but also the public behoof and good, if all such grievances should be stopped, to the end that all persons should reform themselves in their proceedings and not plead ignorance that any prohibition was made, The now Governor of the said country in our said Sovereign Lord the King's name doth straightly charge and command all persons of what nation soever, that shall frequent those parts to exercise the trade of fishing, as well strangers as subjects to our said sovereign Lord the King, that they offend not in any thing forbidden by virtue of this proclamation, under the penalties herein specified, and as they will answer to the contrary at their perils. Dated in Cupers Cove the 13th day of August Anno Regni Regis Jacobi Nono 1611.

First that no ballast, press stones or any thing else hurtful to the harbours be thrown out to the prejudice of the said harbours, but that it be carried ashore and laid where it may not do any annoyance under the pain of five pounds for every offence.

Item that no person destroy deface or any way work any spoil or detriment to any stage, cook room, flakes, spikes, nails or any thing else that belongeth to the said stages whatsoever but that only he or they content themselves with such stage or stages as shall be needful for them and to repair them with timber to be fetched out of the woods and not with the taking down of other stages under the pain of ten pounds for every offence.

That every Admiral of each harbour for the time being rescue only so much beech and flakes or both as is needful for the number of boats, that he

shall use with an overplus, only for one boat more than he hath, and that every person coming after, content himself with what he shall have necessary use for, without keeping or detaining any more to the prejudice of others next coming, under the pain of ten pounds, besides satisfaction to be made to the party next coming, that is injured thereby.

That no person cut out deface or any way alter or change the marks of any boats under the pain of five pounds for every offence.

That no person convert to his own use the boats belonging to others without their consent neither take them from the places where they be left by the owners, except in case of necessity, and then to give notice thereof to the Admiral of the harbour, and others, that the right owner may know what is become of them, under the pain of five pounds, for every offence, besides satisfaction to the party grieved.

That no person set fire in any of the woods of this country under the pain of ten pounds for every offence.

That no person at the end of the voyage destroy the stage, cook-room or flakes that he hath that year formerly used under the pain of ten pounds for every offence.

That no master of any ship do hereafter receive into his ship or custody any person or persons whatsoever, being of the Colony that are there already planted, or hereafter to be planted, by virtue of his Majesty's letters patents under his great seal of England without special warrant under the handwriting of the Governor of the said Colony or Colonies in the Newfoundland aforesaid, and that every Master of any ship which shall so offend shall¹

¹ The rest is wanting.

No. 711.**ORIGIN OF DISPUTES**[1618
Dec. ?]

BETWEEN RESIDENT PLANTERS AND WESTERN MERCHANTS, 1618-1620.

CAL. OF STATE PAPERS, COLONIAL SERIES, 1574-1660, p. 20-23.

[1618
Dec. ?]

39. Articles of Grievances mentioned in the petition of the Western ports, touching those of the plantation of Newfoundland. The planters have put sundry of the petitioners from the chiefest places of fishing; great quantities of their provisions have been appropriated; they have been prevented from taking birds, which are used for bait; fees have been exacted from them; and pirates harboured to their great prejudice. (On 19 Oct. 1618, the Earl of Bath incloses a petition of the merchants of Devon (wanting) to the Privy Council, concerning some hard measures offered them in their fishing at Newfoundland, by those of the late plantation there, which he recommend to their favourable consideration, and that the merchants may be secured from further disturbance in the enjoyment of their privileges. DOMESTIC Corresp. Jac. I., Vol. CIII., No. 43, Cal. p. 586.

[1618
Dec. ?]

40. Answer of the Company of the Plantation of Newfoundland to 1618 the article of grievances of the Western ports. Conceive that their chargeable Dec. maintenance of a colony entitle the inhabitants to choose their fishing places. Know of no wrongs done to the fishermen. If taking of birds has been denied, it shall be ordered to the contrary. Utterly disclaim the exaction of fees. Complain that the very great damages they have received by pirates have almost overthrown the colony. Are desirous to join with the western men in that business, and for keeping good order in the country. Inclose certain orders, which have been published in the King's name. Signed by John, Slany, Treasurer, Hump. Handforde, Hump. Slany, Robt. Gairard, Wm. Paine and Wm. Freeman. *Annexed*,

40. 1. Proclamation by John Guy, Governor of Newfoundland, against abuses and bad customs, by persons who use the trade of fishing in those parts. Cooper's Cove, 1611, Aug. 13. (Copy.)

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41. Reply of the Petitioners (of the Western ports) to the answer of the Governors of Newfoundland plantation. No

privilege given by the charter to planters for fishing before others; if choice of places is admitted contrary to common usage, the petitioners contend that they ought rather to have it. Desire that the liberties reserved to them by charter may be confirmed. Disclaim committing any abuses in the country, and request that the offenders may be examined. The petitioners, knowing better how to manage the fishing than the planters can direct, declare that they are altogether unwilling to be ordered by the planters, or to join with them as they desire. *Annexed,*

[1620
Mar. 18
Whitehall]

41. 1. Extract of the Patent, (to Henry Earl of Northampton, Sir Fran. Bacon, and others, for the colony or plantation in Newfoundland, from 46 to 52 deg. Nor. lat., together with the seas and islands lying within ten leagues of the coast), reserving to all manner of persons of what nation soever, as well as the English, the right of trade, and fishing in “the parts aforesaid.” Westminster, May 2, 1610. (Copy.)

49. The Privy Council to the Mayors of sea-port towns in the west. To give directions to the masters of vessels bound to Newfoundland for the fishing voyage to forbear from all acts of hostility, and from such other disorders as have been heretofore committed; and also to entertain friendly correspondence with those of the plantation. (Circular copy.)

No. 712.

[10 Feb.,
1634.]**REGULATIONS FOR THE NEWFOUNDLAND
FISHERY.**

FEBRUARY 10, 1634.

mdd qd x^o die ffebr A^o R^o Caroli nono billa delibat fuit dno
Custodi magni Sigilli Angl apud Westm exequend.

[* sic.]

CHANCERY WARRANTS, SERIES II., FILE 2106, No. 525.

Charles R

Charles by the grace of God Kinge of England Scotland
ffraunce and Ireland Defendo^r of the faith &c^a To all whome
these pntes shall come Greetinge Whereas the Region or
Country called Newfoundland hath beene acquired to the
Dominion of o^r Progenitors w^{ch} wee hould and o^r people have
many Yeares resorted to those partes where, and in the Coastes
adioyninge, they imployed themselves in fishing whereby a
greate number of o^r people have been set on worke, and the
Navigation, and Marriners of o^r realme hath ben much
increased, And o^r Subiects resorting thither on by the other,*
and the Natives of those parties, were orderlie and gentlie
intreated vntill of late some of o^r Subiectes of the Realme of
England plantinge themselves in that Country, and there
residinge, and inhabitinge, vpon conceipt, that for wronge or
Iniuries done there, either on the Shorare, or in the Sea
adioyninge, they cannot be here impeached, and the rather for
that wee, or o^r Progenitors have not hithervnto given lawes to
the Inhabitanes there; and by that example o^r Subiectes
resortinge tither iniure one anohter, and vse all manner of
excesse, to the greate hinderance of the voyage, and comon
damage of this Realme, ffor preventige such inconveniencies
hereafter, wee doe hereby declare in what manner o^r people in
Newfoundland, and upon the Sea adioyninge, and the Bayes,
Creekes, or freshe Rivers there shalbe guided and governed
Doe make and ordeyne the lawes following in the thinge after
specified, Doe make and ordeyne the lawes followinge in the
thinge after specified, comaundinge that the same bee obeyed
and put in execution.

First if any man on the land there shall kill another, of if
any shall secretly or forceable steale the goodes of any other
to the value of fforty shillings, hee shalbe forthwith
apprehended and arrested, detayned and brought Prisoner into
England, and the bryme co-mitted by him, shalbe made

knowne to the Earle Marshall of England for the tyme beinge to whom the delinquent shalbe delivered as Prisoner, And the said Earle Marshall shall take Cognizance of the cause, And if hee shall finde by the Testimonie of two witnesses or more

p. 1720

that the partie had there killed a man not beinge at that tyme first assaulted, by the party slayne, or that the killing were by misadventure, or had stolen such goodes, the delinquent shall suffer paine of death, and all the company shall endeavor to apprehend such malefactor^s

Secondly That noe Ballast, Prestones, or any thinge els hurtefull to the Harbours bee throen out, to the preiudice of the said Harbours, but that it bee carried ashoare, and layed where it may not doe annoyance.

Thirdly That noe person whatsoever either ffishermen or Inhabitanes doe destroy, deface, or any way worke any spoyle or detriment to any Stage Cooke-roome, fflakes, Spikes, Nayles or any thinge else, that belongeth to the Stages whatsoever, either at the ende of the voyage when he hath done, and is to departe the Country, or to any such Stages as he shall fall wthall at his cominge into the Country, but that hee or they content themselves with such Stage or Stages only as shalbee needefull for them, And that for the repayringe of such Stages as hee or they take, they shall fetch Tymber out of the Woodes, and not to doe it with the ruininge, or tearinge downe of other Stages.

[* sic.]

Fowerthly that accordinge to the auncient custom everie Shipp or ffisher that first entreth a Harbour in behalf of the shipp, bee Admirall of the said Harbour wherein for the time beinge hee shall reserve only so much Beach and ffiakes or both as is needefull for the number of Boates that he shall vse with an overplus only for one Boate more then hee needeth as a priviledge for his first cominge, And that everie Shipp cominge after, content himselfe wth what he shall have necessarie vse for, without keepinge or deteyninge any more, to the preiudice of others next cominge, And that any that are possessed of severall places in severall Harbours with intent to keepe them all before they can resolve upon w^{ch} of them to choose, shalbe bound to resolve, and send advise to such after comers in those places as expect his resolucon, And that w^{hin} forty eight howers if the weather so serve, that the said after comers may likewise choose their places, and so none receive priudice by others delays.

[* sic.]

[* sic.]

Fiftly,* That noe person cut out, deface, or anyway alter or change the markes of any Boates or Trayne fattes whereby to defraud the right owners, and that noe person convert to his owne vse the said Boates or Traynefattes so belonginge to others w^hout their consentes, nor remove nor take them from

the places where they bee left by the Owners, Except in case of necessitie, And then to give notice thereof to the Admirall, and others whereby the right owners may knowe what is become of them.

Sixtly* That noe person doe diminish, take away, purloine, or steale any of the fishe on Trayne, or Salt w^{ch} is put in Caskes, Trayne fattes or Cookerome* or other house in any of the Harbours or fishinge places of the Country, or any other provision belonginge to the fishinge trade, or to the Shippes.

[* sic.]

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[* sic.]

Seaventhly That noe peson set fire in any of the woodes of the Country or worke any detriment or destruction to the same, by Ryndinge of the Trees, either for the seelinge of Shippes, houldes, or for Roomes on Shoare, or for any other vses Except for the coveringe of the Roofes for Cookeroomes to dresse their meate in, and those Roomes not to extend above sixteene foote in length at the most.

Eightlie,* That noe man cast Anchor or ought else hurtfull, w^{ch} may breede annoyance, or hinder the haleinge of Seanes* for baite in places accustomed therevunto.

Nynthlie, That noe p'son robb the Nettes of others out of any drifte boate, or drover for baite by night, nor take away any baite out of their fishing boates by their Shippes sides, nor robb or steale any of their Nettes, or anie parte thereof.

Tenthly That noe person doe set vp any Taverne for sellinge of wyne Beere, or stronge waters Cyder or Tobacco, to entertayne the ffishermen, because it is found that by such meanes they are debauched, neglectinge thar labo^{rs} and poore illgoverned men not only spend most part of their shares before they come home, vpon w^{ch} the life and mayntenance of their wife and Children depende but are likewise hurtfull in divers other waies, as by neglectinge and making themselves vunfit for their labour by purloyninge their disord^{rs} & c^a w^{ch} dishorders they frequently followe since those oc-[̄]̄ons have presented themselves.

Lastly That upon the Sondaies the Company assemble in meete places, and have devine service to bee said by some of the Masters of the Shippes or some others, w^{ch} prayers shalbe such as are in the Booke of Common Prayer.

And because that speedie punishment may bee inflicted vpon the Offendo^{rs} against those lawes and Constitu[̄]̄ons, Wee do ordaine, that everie of the Maio^{rs} of Southampton Weymouth and melcomb Regis, Lyme, Plymouth Dartmouth,

Eastlowe, ffoye, and Barnestaple for the tyme beinge may take cognizans of all complayntes, made by any offeno^r against anie of these ordinances vpon the land, and by oath of witnesses examine the truth thereof, aware amendes to the parties greeved, and punishe the delinquentes by fine imprisonment, or either of them, and of their goodes found in the partes of Newfoundland, or inthe Sea, cause satisfaction thereof to bee made by warrantes vnder their handes and Seales.

[* sic.]

And the Viceadmiralles in o^r Counties of Sourthampton, Dorsett, Devon, and Cornewall vpon complainte made of any of the premisses comitted vpon the Sea shall speedily and effectually proceede against the Offendo^{rs}

Also wee will and ordeyne, that tese lawes and ordinances shall stand in force, and put in due execution, vntill wee shall otherwise provide and ordaine.

And wee require the Admirall in everie Harbour in this next Season

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ensuinge callinge together, such as shalbee in that harborough* publiquellie to proclayme these presentes, And that they also proclayme the same on the Shore. In witnes &c Witnes &c

Ex^t p W^m. NOYE

5 ffebr 1633.

May it please your most ext: Ma^{tie}: Vpon an humble Petiti^{on} p[']nted to yo^r Ma^{ty} in the name of the Marchantes of Plimouth, and other Westerne Townes trading to Newfound land complayninge of sundrie abuses yo^r Ma^{ty} referred the same to the Councell Board, where their Lo^{pps} having heard the same, required yo^r Attorney generall to call before him some such p^{er}sons of those Westerne partes as might give him true informa^{ti}on of those abuses, w^{ch} was done, Wherevpon these proposi^{ti}ons weere conceived for the gen^{er}all good of yo^r Ma^{ts} Service of which their Lo^{pps} well approving, comaunded the same p^{ro}posicons to bee p^{ro}vided for yo^r Royall signature, and to passe yo^r greate Seale, and that a sufficient number of Coppies shalbe printed and published aswell in the Westerne partes of this Kingdome as in the Newfound land. to the ende all men whome it shall in any sort concerne may take notice thereof and yeild due obedience therevnto accordingly.

W^m. NOYE

recepti 10 februar 1633.

Doc. signed.

On the back is:—

Charles R.

Our will and pleasure is that this being for o^r especial Service shall pass by our imediate warrante.

[13 Nov.,
1637.]**GRANT OF NEWFOUNDLAND TO THE MARQUIS OF
HAMILTON, EARL OF PEMBROKE AND OTHERS.**PATENT ROLL,
13 CHAS I.,
PART 32.

WESTMINSTER, 13 NOVEMBER, 1637.

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marques
hamilton.

Excit

PATENT ROLL, 13 CHAS. I., PART 32.

Charles by the grace of God kinge of England Scotland
ffrance and Ireland kinge defender of the faieth &c To all to
whome these presentes shall come greetinge whereas our late
deare and royall father kinge James of ever blessed memorie in
his moste godly and Princely disposi^on did in the tyme of his
Raigne above all thinges moste zealously endeavour the
establishment and p^rpagacon of that true religion whereof
himselpe was the moste renowned Professor and principall
defender, And to that end and purpose and in considera^on
thereof reposeinge greate truste and confidence in the fidelitie
and pietie of sir George Calverte knighte one of his then
principall Secretaries of State afterwards lord Baltimore
deceased and vpon his the saide sir George Calvertes moste
humble suite and faithfull promises for the Planta^on of that
our saide fathers true religion amongste heathens whoe had
noe knowledge of God, and alsoe vpon his the saide George
Calvertes vndertakeinges for the enlargeinge and extendinge of
our saide fathers Domyinions and Territories, Our saide deare
and royall father by his l^res Pattentes vnder his then greate
Seale of England bearinge date att Westminster the Seaventh
day of Aprill in the one and twentieth yeare of his Raigne did
vpon the Considera^ons aforesaide graunte vnto the saide Sir
George Calverte afterwards lord Baltimore and his heires a
certayne parte and por^on of an Island Countrey or Region
comonlie called Newfoundland And by the same l^res
Pattentes appoynted the same to bee called by the name of the
Province of Avilonia for ever As by the same l^res Pattentes
amongste diverse other liberties priviledges authorities and
ymunities therein conteyned att large appeareth But the saide
George lord Baltimore desertinge the saide Planta^on in his
life tyme and leavinge the same in noe sorte provided for
accordinge to the saide undertakeinge And yet leavinge diverse
of our poore Subiectes in the said Province livinge without
governement the saide lord Baltimore shortlie afterwarde
dyed and Cecill lord Baltimore his sonne and heire apparant
hath alsoe deserted the said Province and Planta^on, And alsoe
sir ffrauncis Bacon knighte deceased afterwarde viscount lord
Albons* and late lord Chauncelor of England our Cittie of

* sic.

of diverse parcelles of Newfoundland aforesaide were alsoe by severall l̄res Pattentes formerly graunted have alsoe deserted the Province and Plantaçon aforesaide wee therefore takeinge into our princely Consideraçon of what greate consequence itt is to vs and our Subiectes that the Plantaçon in our Doxnyions of Newfoundland aforesaide should by our royall power and authoritie bee cherished and speedilie promoted In pursueance therefore of the godlie and religious intençon of our saide deare and royall father for the propagaçon of true religion amongst heathens there livinge and more especially of our tender care of our owne poore Subiectes there already residinge knowe yee that wee by the advise of our lords and others of our privie counsell and att the humble Petiçon of our righte trustie and righte well beloved Cosens and Councillors James marquesse of hamilton master of our horse Phillipp Earle of Pembroke and mountgomery lord Chamberlayne of our houshold and henrie Earle of holland cheife Justice and Justice in Eyre of all our fforestes Chases and Parkes in the Southside of our River of Trente And of our welbeloved Servaunt sir David kirke knighte one of the gentlemen of our Privie Chamber, of our especiall grace c̄tayne knowledge and meere moçon have given graunted and confirmed and by these presentes for vs our heires and Successors doe give graunte and confirme to the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomery henry Earle of holland and Sir David kirke their heires and Assignes for ever all that whole Continent Island or Region aforesaide comonly called or knowne by the name of Newfoundland bordering vpon the Continent of America betweene ffortie sixe and ffiftie three degrees of northerly latitude more or lesse and every parte and parcell thereof beeinge devided from the saide Continent of America by an arme of the Sea, and all and singuler Islandes Seas Ryvers Bayes Creekes harbors Stages Portes ffortes landes wooden lakes and buildings whatsoever within the saide Continent Island or Region of Newfoundland or to the same att any tyme heretofore belonginge or with the same helde occupied or enioyed as parte parcell or member thereof And all and all manner of ffishe whatsoever in any the Seas or Rivers aforesaide to bee from tyme to tyme hereafter found had or taken And all and all manner of veynes of Gould and sylver Gemmes and precious Stones and all other mynes and mettalles within the Continent aforesaide found or hereafter to bee had found or discovered, And the Patronage and Advowson of all Churches or Chappelles which are or shall happen hereafter to bee builte within the saide Contiente Island or Region of Newfoundland aforesaide with all all* and singular the rightes Jurisdicçons Priviledges Prorogatives royalties liberties ȳnunities franchises and preheminences whatsoever as well by Sea as by land to the saide continent in any sorte belonginge or apperteyninge or to or with the same

* sic.

or any parte or parcell thereof att any tyme heretofore helde or enioyed or which to vs our heires or Successors should or oughte to apperteyne and belonge And them the saide James marques of hamilton Phillipp Earle of Pembrooke and mountgomery henry Earle of holland and sir David kirke and every of them their and every of their heires and Assignes respectively the true and absolute lords and Proprietors of the saide Continent Island and Region

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of Newfoundland and of all the Islands Seas Ryvers lakes Streames harbors Portes and places within the same or to the same belonging and of all and singuler other the premisses aforesaide by these our lres Pattents graunted or intended to bee graunted wee doe by these presentes for vs our heires and Successors make create constitute ordeyne and appoynte for ever by these presentes the Soveraigntie faieth and allegieance due to vs our heires and Successors alwayes saved and reserved And alsoe excepte and alwaies reserved out of these presentes And our true intent and meaninge is And wee doe here by for vs our heires and Successors declare ordeyne and appoynte That the saide James marques of hamilton Phillipp Earle of Pembrooke and mountgomery henry Earle of holland and sir David Kirke or any of them or their or any of their heires or Assignes or any Planter or Planters Inhabitant or Inhabitanes nowe or att any tyme hereafter within the saide Newfoundland or other person or persons whomsoever clayming or which may lawfully clayme in from by or vnder them or any of them shall not fell cutt downe roote vpp waste or destroie anie trees or wood whatsoever nor make erecte or builde any house or houses whatsoever or plant or inhabitt within sixe miles of the Sea shore of any parte of Newfoundland aforesaide betweene the Cape de Race lieinge in or aboute fortie sixe degrees of northerlie latitude and Cape Bonaviste lieinge in or aboute ffortie Nyne degrees and halfe of the same northerlie latitude nor within nor vpon any Iland lieinge or beeing within tonne leagues of the Sea shore betweene the saide Cape commonly called cape de Race and the saide Cape Bonaviste save only that the Planters and Inhabitanes shall have like libertie of fishing there and takeinge and cuttinge of wood for their vse aboute fishing as other our Subiectes have and enioye And alsoe shall have full power and libertie to builde any fforte or ffortes att any place or places within the saide lymitt for the defence of the saide Countrie and fshinge And shall have and take convenient tymber and wood where itt may bee spared with leaste preiudice to the fisheinge for the makeing of such ffortes and convenient habitacions therein And for the necessarie vse of aall persons residinge and inhabitinge in such ffortes for the defence thereof, And alsoe that the Inhabitanes or Residentes of Newfoundland aforesaide or any of the Islandes adioyninge shall not att any tyme hereafter appropriate to themselves or any of them or pposseesse or take vpp before the arrivall of the

ffishermen aforesaide the beste or moste convenient Beaches or places for fishinge within the Capes aforesaide nor take away burne spoile waste or destroie any stages Saltboates Nettes or any necessaries whatsoever of any ffishermen corninge thither or which is or shall bee by them lefte in the saide Newfoundland within the Capes aforesaide or any parte thereof but shall pernitt and suffer the persons soe leavinge the same or the Owners thereof to have and take the same agayne vpon his or their returne thither or otherwise dispose thereof att his or their will and pleasure nor shall doe or comitt any Acte or thinge to alter change disturbe hinder or interrupte the manner and vse of fishinge nowe or att any tyme heretofore vsed or accustomed And that all and every the Subiectes of vs our heires and Successors borne or to bee borne within our kingdome of England or in any other our kingdomes and

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Domynions nowe and for the tyme beeinge for ever hereafter shall and may from tyme to tyme and att all tymes for ever hereafter peaceably and quietlie have hould vse and enjoye the freedome of fishinge in any the Seas lakes or Ryvers in or aboute or adioyninge vnto the saide Continent or Island of Newfoundland as fullie freelie liberallie effectuellie and beneficiallie as att any tyme heretofore hath bene vsed and accustomed with full power and authoritie to goe on the shoare or land in or vpon any place of the saide Contymnt of Newfoundland aforesaide as well for dryeing saltinge and husbandinge of their fishe on the shoares thereof cuttinge off all manner of trees and woods for makeinge of Stages shippes and Boates, and makeinge all manner of provisions for themselves their Servauntes marriners shippes and voyages and for doeinge all other thinges necessarie or vsefulle to or for themselves or their trade of fshinge or marchandize as att any tyme heretofore Lath bene had vsed or enjoyed To have and to hould possesse and enjoye the saide Continent Island and Region of Newfoundland and all and singuler other the premises aforesaide with their and every of their rights members jurisdictiones prerogatives royalties and appurtenances whatsoever (excepte before excepted) to them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke and to every of them their and every of their heires and Assignes to the sole and proper vse and behoofe of them the saide James marquesse of hamilton Phillipp Earle of Pembroke and mountgomery henrie Earle of holland and sir David kirke their heires and Assignes for ever To hould of vs our heires and Successors kinges of England in Cheife by knightes service yeildinge to vs our heires and Successors twoe white horses whensoever and as often as wee our heires or Successors shall happen to enter into the saide Continent Island or Region aforesaide and alsoe yearely and everie yeare the ffifth parte of all Gould and silver Oare Gemmes and ꝑ

ciuous stones which within the saide Continent Island or Region or in any the Seas Ryvers Creekes Portes harbors shoares and places to the same belonginge shall from tyme to tyme or att any tyme hereafter happen to bee found gotten or gayned vpon or within them or any of them And because we have made and ordeyned them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomery henry Earle of holland and sir David kirke and everie of them their and everie of their heires and Assignes respectivelie the righte lords and Proprietors of Newfoundland aforesaide knowe yee further that wee for vs our heires and Successors doe by these presentes give and graunte full and free libertie power and authoritie to them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke and to their heires and Assignes respectively of whose integritie prudence justice and circumspec̃on wee are verie confident for the good happie and peaceable governement of Newfoundland aforesaide and the Inhabitantes thereof to erecte make and enacte anie lawe whatsoever either for the publique state of the saide Continent or Island or the private proffitt of the Inhabitantes aforesaide accordinge to their good discrẽons together with the cõnon assente and approbãon of the ffreeholders of the Continent or Island afore-

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saide or the maior parte of them which ffreeholders our will and pleasure is shall vpon due sum̃ons from tyme to tyme give their attendance when and as often as they shall bee therevnto required And the saide lawes soe made and ordeyned and vnder the Seale or Seales of them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke their heires and Assignes ratified and confirmed to putt in Execucon p̃mulgate or proclayme as occasion shall require within all or any parte of the Continent aforesaide And the penalties in them or any of them conteyned to inflicte vpon anie the Inhitantes thereof or within the lymittes of the same for the tyme beeinge Savinge and excepted alwayes and our will and pleasure is That the saide lawes or penalties or powers aforesaide shall not extend to anie fishermen maryners or other our subiectes whatsoever that shall come thither to fishe accordinge to the libertie before by these presentes given but that all such persons and all matters and thinges conacerninge the saide persons and fishinge shall bee from tyme to tyme for ever hereafter free from the power authoritie governement and punishmente of the saide lordes and Inhabitantes of the saide Newfoundland and bee Subiecte vnto and ymediately vnder the Order rule and Governement of vs our heires and Successors and the lordes of our Privie Councell of England or such Cõmissioners or Councillors for forraigne affaires or otherwise as wee our heires and Successors shall from tyme to tyme appoynte and directe and to the lawes orders and direc̃ons made in the

Nineth yeare of our Raigne which wee hereby declare and ordeyne shall bee inviolably kepte and observed by the saide ffishermen and the saide Lordes and Planters and all other our Subiectes inhabitinge in the Newfoundland aforesaide vntil the same shall bee altered or revoaked by vs our heires or Successors And wee doe alsoe hereby give and graunte vnto them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgornerie henrie Earle of holland and sir David kirke their heires and Assignes power and authoritie to nomynate constitute make and ordeyne from tye to tyme and att all and everie tyme and tymes hereafter att their willes and pleasures lievetenētes Judges Justices and Officers of what kinde or quallitie soever to governe examyne heare and determyne all Causes Complaintes Crimes and Offences whatsoever ariseinge within Newfoundland aforesaide (excepte before excepted, from tyme to tyme as often as occasion shall require And all offenders then and there convicted or not convicted to pardon release or discharge or to punishe accordinge to Justice as the Offences shall demerritt And to doe all other thinges whatasoever that to Justice shall apperteyne And alsoe to doe and execute all and everie Acte and Actes for the fulfillinge or perfecōon of Justice or concerninge Courtes and Tribnalles of Justice and the formes and manner of proceedinges in them and everie of them thoughe in these presentes there bee noe particuler menōon of them or any of them which saide lawes and everie of them wee will enioyne and by our Regall authoritie for vs our heires and Successors doe strictlie charge and cōmaund to bee firmly and inviolably kepte observed and performed of all the Subiectes and liege people of vs our heires and Successors residinge and inhabitinge within

the same accordinge to the true intente and meaninge of the same vnder the paynes and penalties in the same expressed and to bee expressed (excepte the persons before excepted) Soe as the saide lawes bee not repugnant or contrarie to the lawes Statutes rightes and Customes of this our Realme of England And soe as the same bee not contrarie or repugnant or doe not extend to any the persons places or restrayntes and prejudice of the libertie of fishinge and other the liberties and powers excepted and reserved to our Subjects in these presentes and because in the governement of soe greate a Continent sundry Causes may oftentimes happen which will require speedie remedies before the saide Island bee replenished with Inhabitantes and before the freeholders of the same canne bee called together to enacte or ordeyne the saide lawes nor will itt bee convenient dailie in such cases to assemble together so manie people Therefore and for the better governement of the saide Continent Island or Region of Newfoundland wee will and ordeyne and by these presentes for vs our heires and Successors doe graunte vnto them the saide James marquisse of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke their heires and Assignes that the saide James marquisse of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and Sir David kirke their heires and Assignes by themselves or by their magistrates and Officers in that behalfe duely constituted and ordeyned may from tyme to tyme make and constitute fitt and wholesome Ordinances to bee kepte and observed within the saide Continent and the lymitted liberties and precinctes thereof (except before excepted) as well for preservacon of the peace as alsoe for the better governement of the people there (excepte before excepted) And the same to publishe and make knowne to all to whome the same shall in any manner touch or concerne which saide Ordinances and everie of them, our will and pleasure is and wee doe hereby for vs our heires and Successors ordeyne and appoynte shall bee inviolably observed within the saide Continents lymitted and precinctes aforesaid vnder the paynes therein to bee conteyned and expressed (excepte before excepted) Soe as the saide ordinances bee not repugnant or contrarie (but as neere as may bee agreeable to the lawes Statutes and Customes of this our Realme of England, and soe that the same Ordinances extend not to the righte or intereste of any person or persons whatsoever in his or their freehold estates or by meanes whereof their or anie of their goods or Chattels may bee destreyned engaged burthened or taken away from them and soe as the same bee not contrarie or repugnant or doe not extend to anie the persons places or restrayntes or prejudice of the libertie of fishinge and other the liberties and powers excepted and reserved to our Subjects in these presentes moreover that the newe Colonie of people thither resortinge maye the better and staynely increase and bee protected from

the incursions of barbarous and other Enemies Pirates and Robbers wee doe therefore for vs our heires and Successors give and graunte full and free licence leave libertie and authoritie to all manner of persons our owne Subiectes and the Subiectes of our heires and Successors (excepte such as shall bee specially forbidden to transporte themselves and

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theire and everie of theire families into the saide Continent Island or Region called Newfoundland aforesaide with fittinge shippes and convenient provision there to settle live and inhabitt and to builde Castles towers Bulwarkes and other ffortes accordinge to the Judgmente and direccon of them the saide James marques of hamilton Phillipp Earle, of Pembroke and mountgolnerie henrie Earle of holland and Sir David kirke theire heires and Assignes for the publique defence of Newfoundland aforesaide (excepte before excepted) And further of our more especiall grace wee doe hereby for vs our heires and Successors graunte will and comaund constitute ordeyne and appoynte that all the whole Continent Island or Region of Newfoundland aforesaide And all the lymittes liberties and Precinctes thereof shall bee for ever of our Alleageance and of the alleageance of our heires and Successors And that all and singuler the Subiectes and liege people of vs our heires or Successors broughte or to bee broughte thereunto and theire Children there alreadie borne or hereafter to bee borne may or shall bee free Denizens and liege people of our kingdome of England and of vs our heires and Successors and all thinges shall bee helde and reputed as the faithfull liege people and Denizens and naturall borne Subiectes of vs our heires and Successors borne within this our Realme of England and shall and may without gaynesayeinge or contradiccon purchase receive take hould buy and possesse landes tenemente revercons, services and other hereditaments whatsoever within this our Realme of England and other our Domynions aid the same att their willes and pleasures to give sell alyen and bequeath And alsoe shall and may have and possesse all other liberties franchises and Priviledges of this kingdome and them vse and enjoye as lour naturall liege people borne or to be borne within this our kingdome of England without any the ympediment molestacon vexacon trouble or contradiccon of vs our heires or Successors whatsoever Anie Statute Acte ordinance or provision to the contrarie thereof in anie wise notwithstandinge, ffurthermore that our Subiectes may vndertake this plantacon with more readines and allacrite knowe yee therefore that wee of our more especiall grace certayne knowledge and meere mocon doe by theise psentes for vs our heires and Successors give and graunte full and free licence power libertie leave and authoritie to all and everie the subiectes of vs our heires and Successors that shall goe to inhabitt in our Newfoundland aforesaide to carrie and convey all and singuler theire goods and Chattles moveable and ymoveable wares and mar chandizes Armes and

warlike instrumentes as well offensive as defensive into what Portes soever of vs our heires and Successors to bee shipped and transported by themselves their Servauntes and Assignes into Newfoundland aforesaid without payeing any ymposte subsidie Custome or other thing whatsoever to vs our heires or Successors in regard thereof, and without any ympediment lett molestac̃on or hinderance of vs our heires or Successors or of any other the ffarmers or officers whomsoever of vs our heires or Successors Anie Statute Acte ordinance or other thing whatsoever to the contrarie notwithstanding Provided alwaies that before the saide goods and other the premises aforesaid or anie of them shall bee laden aboard anie shipp or other vessell whatsoever the lord Treasurer of England for the tyme beinge or the

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Com̃issioners for the treasure or sixe or more of the privie Councill of vs our heires or Successors of this our Realme of England doe give warrant vnder their handes in writinge for the doeing thereof To which saide Treasurer Com̃issioners for the Treasure and Privie Councillors of vs our heires and Successors wee have gyven and graunted and by these presentes for vs our heires and Successors doe give and graunte power and authoritie to give warrant in everie the Cases aforesaid And because in soe remote a Countrey and amongste soe manie barbarous nations situated incursions and invasions by the Savages there abidinge and alsoe by Enemyes Pirates and Robbers may iustlie bee feared, Therefore for vs our heires and Successors wee have given and graunted and by these p'sentes for vs our heires and Successors doe give and graunte power and authoritie to them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomery henrie Earle of holland and Sir David kirke their heires and Assignes by themselves their Generalles Com̃aunders Colonelles Captaynes and other Officers of anie of them to call to their Standard or Ensigne all men of what Condiçon soever or wheresoever residinge or inhabitinge in Newfoundland aforesaid excepte the ffishermen and persons before excepted to wage warr and pursue after the enemyes Pirates and Robbers aforesaid by Sea and land, And if God give the victorie to take them Captives att their pleasures And to doe all and singuler other thinge and thinges whatsoever which to the righte and power of our Generall or other warlike officer doeth belonge or apperteyne soe fullie free and largelie as any Generall Comaunder Colonell Captayne or other Officer bath at anie tyme heretofore vsed or enjoyed, And further wee will and by these presentes for vs our heires and Successors doe give and graunte vnto them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomery henrie Earle of holland and sir David kirke their heires and Assignes full power libertie and authoritie in case of Rebellion by any tumulte or sediçon of anie which God forbid shall happen to arrise vpon the land in Newfoundland aforesaid or

vpon the Sea in iourneyinge thither or returninge thence or by or amongste their Comaunders Captaynes Deputies or other Officers vnder their handes and Seales therevnto authorized To whome alsoe wee for vs our heires and Successors give and graunte by these presentes full power and authoritie to due and proceede againste the Authors of sedition and novelties revoulters Traytors vagabondes loyterers and other delinquentes excepte the ffishermen and other persons before excepted, accordinge to the course and order of militairie discipline as fullie and freelie and in as ample manner and forme to all intentes and purposes as any Captayne Generall by virtue of his office may or hath heretofore vsed and accustomed, And furthermore that men of birth and quallitie intendinge this present expediçon may bee advanced to honors and dignities accordinge to their well deservinges of vs our heires and Successors in tymes of peace and warre though in soe remote a region wee therefore for vs our heires and Successors doe by these presentes give and graunte vnto them the saide James marques of hamilton, Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke their heires and Assignes full and free power and

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authoritie to confer favours graces and honnors vpon any weldeserving person or persons inhabitinge or which shall hereafter inhabitt within Newfoundland aforesaide and them to honor by what titles and dignities soever soe that they bee not such titles and honnors as att this present are usuall within this our kingdome of England And to erecte and incorporate villages into Borowghes and Borowghes into Citties for the merritt of the Inhabitanes and the opportunities and scituaçon of the places with fittinge priviledges and ÿmunities And to doe and cause to bee done all other thinges necessarie in or concerninge the premisses which to them and everie of them shall seeme meete and convenient though they bee such as of their owne nature may require more speciall warrant then in these presences is expressed And because all our Subiectes and the Subiectes of our heires and Successors in the saide Continent of Newfoundland nowe inhabitinge and that shall hereafter there dwell and inhabitt may bee the more anymated and encouraged to goe on cheerefullie in their way of plantinge trade and marchandize Our will and pleasure is, And wee doe hereby graunte for vs our heires and Successors that all the present and future dwellers and Inhabitanes within Newfoundland aforesaide or the liberties lynettes and precinctes thereof shall and may for ever hereafter lawfullie and freelie att his and their will and pleasure importe their and everie of their goods and marchandize of that growth of that Continent or Island or of anie other Continent land or region whatsoever whither the same bee land or Sea Comodities by themselves their ffactors or Assignes into what partes soever of vs our heires and Successors of our kingdomes of England Ireland or anie other our domynions and the same

there to vnlade and dispose of for his and their beste benefitt and advantage or otherwise to dispose of the same by transporta^on and exporta^on into any partes whatsoever paying vnto vs our heires or Successors such and the like Customes subsidies ymposi^ons and taxa^ons and noe other then att this presente are or hereafter shall bee from tyme to tyme due and payeable by and from the Subiectes and Inh^ātantes of our saide kingdomes and Domynions respectivelie And of our more speciall grace certayne knowledge and meere mo^oon wee doe hereby graunte for vs our heires and Successors vnto them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke their heires and Assignes full and free licence power and authoritie to make erecte and builde within the saide Continent of Newfoundland aforesaide and the liberties lymittes and precinctes thereof soe many and such ffortes excepte within the sixe miles and Islands within the lymittes and p^oncinctes before excepted in anie other manner then in the saide excep^on is expressed soe manie and such ffortes as to them and everie of them shall seeme moste fitt and expedient Saveing alwaies and reserving vnto vs our heires and Successors and to the Subiectes of vs our heires and Successors as aforesaide free and absolute libertie of fishinge from tyme to tyme as well in anie the Seas Rivers Creekes and lakes of the saide Island and the aforesaide priviledges and ymunities from tyme to tyme of saltinge and dryeing of all and everie the saide ffishes therein taken vpon anie the shoares of the saide Island of Newfoundland aforesaide or upon anie

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the shoares of anie the Islandes to the same belonginge adioynge or apperteyninge which saide liberties and priviledges our will and pleasure is that our saide Subiectes and the Subiectes of our heires and Successors shall froth tyme to tyme enjoye in as ample and free manner and forme to all intent and purposes as they have att anie tyme heretofore vsed and accustomed And because that all other kinges princes and Potentates their Allies and Subiectes may knowe and acknowledge our iuste and vndoubted righte and intereste in and to the saide Continent Island or Region of Newfoundland and in and to all and everie the Islandes Seas and places to the same belonginge and to all other the Islands Seas and places within thirtie leagues thereof Our will and pleasure is, And wee doe hereby for vs our heires and Successors constitute ordeyne and appoynte that there shall bee for ever from and after the ffeaste of the birth of our lord God nexte ensueinge the date hereof levied and taken to the vse of vs our heires and Successors of and from all and everie straunger and straungers which shall att anie tyme or tymes hereafter make vse of anie the grounds or Beeches within anie the Portes or harbours within Newfoundland aforesaide erected or to bee erected: nor within anie other Islands within thirtie leagues of the Island of Newfoundland aforesaide in or aboute the dryeing or

makeinge of ffishe and makeinge vse of the woods in all or anie the Islands aforesaide for their or anie of their stages after the rate and proporcion of five fishes out of everie hundred ffishes in the Seas Ryvers or places aforesaide to bee had or taken within the terme hereafter menconed accomptinge after the number of five score fishes to everie hundred respectivelie and all and everie straunger and straungers aforesaide which after the ffeaste aforesaide shall come into the Islands Seas Ryvers or places aforesaide or anie of them with shipps comonlie called sakes and shall there buy anie ffishe of anie person or persons whomsoever the like proporcion of five fishes out of everie hundred fishes accomptinge sixe score fishes to everie hundred thereof And alsoe of everie straunger and straungers according to the same proporcion and quantitie of five p Centum for all manner of Oyles and other thinges to bee made on anie the shoares within the Continent and Islandes aforesaid or anie of them out of the proceede of all or anie sorte of fishe to bee thereabout from tyme to tyme taken and had for and dureinge the terme of yeares hereafter in and by these presentes graunted and confirmed to bee demaunded and taken from tyme to tyme and att all tymes after the ffeaste above-menconed as aforesaide And wee doe alsoe for vs our heires and Successors authorize will and require the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke their heires and Assignes to cause the same to bee putt in due execucon in everie Porte haven and Creeke of the same Islandes aceordinge to our pleasure herein declared And that our Customers and the Collectors of our Customes subsidies dueties and ympostes in everie of our Portes havens and Creekes of all and everie the Islandes aforesaide and partes thereof for the tyme beeing shall from and ymediatelie after notice to them given of this our pleasure leavie collecte and take vpp to the vse of vs our

heires and Successors the saide severall and respective quantities and numbers of fishe Oyles and other thinges out of everie hundred aforesaide and otherawise accordinge to our pleasure herein declared before their ladinge of their or anie of their shippes or vesselles or before their departure from anie such harbour or Porte as they and everie of them shall aunswere the contrarie att their perilles (excepte before excepted wilalinge further authonzinge and comaundinge the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and Sir David kirke and everie of them their and everie of their heires and Assignes and our saide Comptrollers and Collectors for the tyme beeing within all and everie of our Portes havens and Creekes of the Islands aforesaide and everie of them to see that the saide Customers and Comptrollers of all and everie the portes harbours and keyes within the Islands aforesaide and everie of them bee charged to aunswere to vs our heires and Successors all and everie the paymentes aforesaide Customes Subsidies and duties and somes of money beforemencioned accordinge to our true intente and meaninge herein declared moreover wee takeinge into our royall Consideraçon that verie greate will be the danger and the charge excessive which muste of necessitie bee overgone and expended before a Plantaçon of such an Extente and a worke of that difficultie canne be broughte to anie perfecçon either to maynteyne or defend itt selfe knowe yee therefore that wee of our more abundant grace certayne knowledge and meere moõon have demised graunted and confirmed And by their presentes for vs our heires and Successors doe demise graunte and confirme vnto them the saide James marquesse of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and Sir David kirke their Executors Administrators and Assignes the aforesaide quantitie or some of five fishes out of everie hundred ffishes accomptinge five score to the hundred as aforesaide vpon the saide Straungers herein beforemencioned respectivelie to be sett and ymposed demaunded and taken from tyme to tyme from all and everie straunger and straungers which shall att anie tyme or tymes hereafter make vse of anie the grounds or beeches aforesaide within anie the saide fortes or harbors within Newfoundlande aforesaide erected or to bee erected or within anie other the Island aforesaide within thirtie leagues of the saide Island of Newfoundland in and aboute the drieinge and makeinge of fishe and vseinge the woods aforesaide in anie the Islands aforesaide for their or anie of their stages And alsoe the like quantitie or some of five fishes out of everie hundred ffishe accomptinge sixe score fshes to everie hundred as aforesaide vpon everie straunger and straungers aforesaide herein beforemencioned to bee sett and ymposed demaunded and taken from tyme to tyme which shall att anie tyme or tymes hereafter arrive or come into anie the harbours Seas Rivers or places belonginge to the Islands

aforesaide or anie of them with anie the saide shipps or vesselles called Sackes herein beforemen̄oned (excepte before excepted, And alsoe accordinge to the same propor̄con of five p Centum of the aforesaide Oiles and other thinges to bee made in or vpon anie the shoares within the Continent

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and Islandes aforesaide or anie of them out of the proceede of all or anie sorte of ffishe thereaboutes to bee from tyme to tyme taken and had for and duringe the terme of yeares hereafter men̄oned and everie of them the saide severall and respective propor̄cons and number of (fishes and oyles to bee demaunded had and taken from tyme to tyme and att all tymes after the ffeaste aforesaide when and as often as the saide straunger or straungers or anie of them shall happen to come or arrive in the Islandes Seas Rivers or places aforesaide or anie of them for the Causes intentes and purposes herein beforemen̄oned or anie of them To have and to houlde leavie receive perceave take and enioye the saide Customs ympostes quantities propor̄cons and number of fishes oyles and other thinges by these presentes graunted demised and confirmed or men̄oned to bee graunted demised and confirmed (excepte before excepted) vnto them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and Sir David kirke their Executors Administrators and Assignes from the date of these presentes for and dureinge the tyme and terme of one and ffiftie yeares from thenceforth nexte ensueinge fullie to bee compleate and ended without Accompte or other thinge to bee rendred paied or given therefore or for any parte thereof to vs our heires or Successors other then those partes and por̄cons thereof in and by these presentes reserved and expressed to bee paied yeildinge and payeinge therefore And the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and Sir David kirke for themselves theire Executors Administrators and Assignes and for everie of them doe hereby coven̄nt promise and graunte to and with vs our heires and Successors for and in Considerācon of the Customes and ympostes aforesaide as well to yeilde and pay vnto vs our heires and Successors yearelie and everie yeare dureinge the terme by these presentes granted and confirmed the full and entire Tenth parte of all and singuler the benefitt proffitt and Comoditie some and sōmes of money whatsoever which shall or may from tyme to true growe arrise or bee payeable out of all and singuler the ympostes Customes and paymentes aforesaide and everie or anie of them, And shall and will in like manner yearelie and everie yeare deliver or cause or procure to bee delivered vnto the Treasurer or Comissioners for the Treasurie of vs our heires and Successors of this our Realme of England a faire and true Accompte in writinge of all and singuler the Gold and silver oare gemmes and precious stones, and of all other proffittes and Com̄odities sōme and sōmes of money which shall or may happen to growe

arise or bee paieable vnto vs our heires and Successors out of all and singuler the saide Customes ympostes and paymentes aforesaide and everie of them And of our further especiall grace certayne knowledge and meere mo^ocon wee have hereby given graunted and confirmed, and by these presentes for vs our heires and Successors doe give graunte and confirme vnto the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke their heires and Assignes the sole trade in all and singuler the saide Continent Island and Region of Newfoundland

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and in all the Islands and places Seas Ryvers and lakes aforesaide to the same belonginge excepte the ffishinges fishermen and persons aforesaide within the Precinctes lymittes and Islandes aforesaide before in these presentes excepted And the sole trade and traffique from thence and att the places aforesaide for all manner of Com^odities and merchandizes whatsoever and for all Com^odities whatsoever which are vsuallie carried from hence into the Continent of Newfoundland aforesaide or into anie the Islands or places therevnto belonginge soe as noe other of the Subiectes of vs our heires or Successors from merchandizeinge buyinge or exchanginge of anie merchandizes or Com^odities whatsoever shall haunte or frequent any of the places aforesaide (excepte for ffishinge as aforesaide therevnto belonginge and all the persons before in and by these presentes onlie excepted) And alsoe wee doe by these presentes graunte and agree for vs our heires and Successors that the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke their heires and Assignes shall and may from tyme to tyme att their willes and pleasures receive take and admitt into their Societie and Partnership of and in the trade aforesaide such a competent number of marchautes or anie others as they from tyme to tyme shall see fittinge convenient and necessarie to bee ioyned with them in the trade or traffique aforesaide which marchautes and others and everie of them shall and may have the like Priviledge and freedome in the saide trade and and* other wise as they the, saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke their heires and Assignes shall graunte and allowe vnto them or may or oughte to vse and enioye by virtue of these presentes (excepte before excepted) And wee doe further by these presentes for vs our heires and Successors graunte and agree to and with the saide James marquesse of hamilton Phillipp Earle of Pembroke and mountgomerie henry Earle of holland and Sir David kirke their heires and Assignes that wee our heires or Successors will not at anie tyme or tymes hereafter ympose or cause to bee imposed anie imposi^ocon Custome or other taxa^ocon whatsoever in or vpon the dwellers or Inhabitanes of Newfoundland

* sic.

aforesaide or vpon anie landes tenementes goodes Chattles or merchandize within the same or to the saide Island of Newfoundland belonginge or in anie sorte apperteyninge savinge for such goodes as they or anie of them shall ymporte into our kingdome of England aforesaide or anie other our Domynions. And for the greater encouragement of them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke their heires and Assignes and of all and everie other person and persons interested or to bee interested in the Plantacon aforesaide Our will and pleasure is and wee doe hereby graunte for vs our heires and Successors that their and everie of their shippes Barkes and Pynnaces and their and everie of their marryners Saylers Servautes and Agentes and all and everie other person and persons whom soever ymployed and to bee ymployed from tyme to tyme hereafter in and aboute the Plantacon aforesaid for and dureinge the

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terme of one and ffiftie yeares aforesaide shall bee exempted freed and discharged from beinge pressed taken or staid in anie place or places wheresoever by vs our heires or Successors or by anie the Officers or ministers of vs our heires or Successors for anie occasion matter or thinge whatsoever excepte onlie in case of inevitable daunger and necessitie for the safetie preservacon and guardinge of our kingdomes of England Scotland and Ireland or anie of them from hostilitie incursion or invasion And to the end that God Almightye may give his blessinge to this Plantacon, And that the Inhabitanes thereof may live in Peace and prosperitie and that none may thither resorte to inhabitt that are not of that true Christian faieth whereof on earth itt is our cheefeste happines to bee Professor and defender Our will and pleasure is that everie person and persons of the age of twelve yeares or vpwardes either before hee or they shall leave this our kingdome of England or Dñon of Wales or anie other our Domynions or att his and their arrivall into the Island of Newfoundland aforesaide or anie the harbors Portes or places to the saide Island or anie other the Island or Islandes therevnto belonginge or apperteyninge (except the ffishermen and persons before in and by these presentes excepted) shall vpon the holie Evangeliste take the severall and respective oathes of allegiance and supremacie before the said James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke or some or one of them their heires and Assignes or before their and everie or anie of their Comaunders Deputies leiftenātes or Agentes To whome for vs our heires and Successors wee doe give power and authoritie And wee doe by these presentes enioyne and commaund them and everie of them to administer the oathes aforesaide accordinglie And to the end that our Subiectes in Newfoundland aforesaide resideinge or inhabitinge may bee comforted and may find the effectes of our Princely care and

respectes towards them, wee doe hereby for vs our heires and Successors require and straightlie charge and comāund them the saide James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and Sir David kirke their heires and Assignes with all convenient speed to prosecute and accomlishe the Plantacon aforesaide and therein to establish that orthodoxe religion publicuelie professed and allowed in our Church of England, And to convey and transporte thither all thinges necessarie for the speedie effectinge thereof that the saide Island of Newfoundland and all and singuler the Islandes Seas Bayes Ryvers (fortes Portes and places and all other thinges aforesaide or in the saide Island begunne to bee founded or shall bee necessarie to bee done or performed for the advancinge and furtherance of the Plantacon aforesaide and all matters and thinges whatsoever therevnto belonging may bee acted and executed in convenient tyme that the saide Island of Newfoundland and all other the Seas places royalties and ŷmunities aforesaide and everie of them may bee solelie appropriated vnited and confirmed to vs our heires and Successors and to our Crowne ymperiall of this our kingdome of England for ever And lastlie wee doe hereby for vs our heires and Successors straightlie charge and comāund all and singuler the Subiectes Officers and ministers of

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vs our heires and Successors of what degree quality or Condiçon hee they or anie of them bee or shall bee hereafter to bee aydinge assistinge and helpinge vnto them the said James marques of hamilton Phillipp Earle of Pembroke and mountgomerie henrie Earle of holland and sir David kirke their heires and Assignes and to his and their Officers marchaunts Comāunders Captaynes Deputie and Deputies Deputie and Deputies concerninge the premisses aforesaide and of our will and pleasure herein expressed accordinge to the true meaninge of these presentes as they tender our pleasure and will avoide the contrarie att their perilles In witness &c witnes our selfe att westminster the Thirteenth day of November.

p Bře de Priuto Sigillo

No. 714.**RECALL OF SIR DAVID KIRKE.**Whitehall.
April 8.
1651.

CALENDAR OF STATE PAPERS 1574-1660.

April 18,
1651.

The Council of State to Capt. Thos. Thoroughgood, commander of the Crescent. It having been resolved that Sir David Kirke, now in Newfoundland, shall appear at the Council, they desire him to receive Sir David on board his ship, and bring him to England. (Ibid., Vol. CXVII., p. 114.)

Warrant for a Commission to John Littlebury, John Treworgie, Walter Sikes, Nicholas Redwood, Thos. Griggs, Miles (? Wm.) Pyle, Alexander Clotworthy, and William Hendry, to examine upon certain interrogatories, witnesses on the part of the Commonwealth and of the Adventurers to Newfoundland, and to receive informations concerning any miscarriages committed by Sir David Kirke since the time of his living there. (Ibid., Vol. XCIII., p. 243.) *Annexed*,

1. The Interrogatories above mentioned. Benefits made by adventurers' goods carried over by Sir David Kirke. Money received of planters for fishing boats, licensing taverns, granting leases for land, and selling wines. Sale of beaver and other skins. Profits by fishing and buying and selling. (Ibid., pp. 243, 244.)

No. 715.

C

[April 8.
1651.]**APPOINTMENT OF COMMISSION**

TO ADMINISTER AFFAIRS IN NEWFOUNDLAND.

CALENDAR OF STATE PAPERS, 1574-1660.

Warrant to John Littlebury, John Treworgie, Walter Sikes, Capt. Thos. Thoroughgood, commander of the Crescent, Capt. Thos. Jones, commander of the Ann and Joyce, and Capt. Wm. Haddock, commander of the America, or any two of them, to take into their possession, for the use of the Adventurers to Newfoundland, Sir David Kirke having been ordered to repair to England, all ordance, ammuniton, houses, boats, and other appurtenances belonging to the fishing trade in Ferryland, or

any other part of Newfoundland, and to collect the impositions upon fish paid by strangers, until Parliament declare their further pleasure. (INTERREGNUM, Entry Bk., Vol. XCIII., p. 244.)

No. 716.[June 3.
1653.]**APPOINTMENT OF JOHN TREWORGIE AS
COMMISSIONER FOR NEWFOUNDLAND.**

CAL. STATE PAPERS, 1574-1660.

Orders of the Council of State. Instructions read for (John) Treworgie to Newfoundland, to be written out, signed, and sent. The security given by Sir David Kirke being approved, the sequestration or former seizure upon his estate in Newfoundland, to be taken off; and all that remains except the ordance, and other things properly belonging to the Commonwealth, delivered to such persons as he may appoint. (INTERREGNUM, Entry Bk., Vol. XCVII., pp. 197, 204.)

No. 717.**INSTRUCTIONS TO JOHN TREWORGIE,
COMMISSIONER FOR NEWFOUNDLAND,**WITH ANNEXED LAWS AND ORDINANCES.¹[3 June,
1653.]

Instructions to John Treworgie Gent. appointed Commissioner for managing and ordering the affairs and interest of this Commonwealth in Newfoundland for this present year.

Whereas upon consideration had of the present state and condition of affairs in Newfoundland relating unto this Commonwealth, The Council have thought it expedient to continue you for this summer upon the place as a Commissioner for managing and ordering the affairs there.

You are therefore to demean yourself in that trust and employment according to the powers, instructions, and authority hereafter mentioned:—

1st. You are hereby required and authorised to take care for the Government and well ordering of the said country of Newfoundland and the people there inhabiting and likewise the fishery according to such laws and ordinances as are hereunto annexed.

2nd. You are by yourself or such fit persons as you shall appoint to collect the imposition of fish due from and paid by strangers, and likewise the imposition of oil for the use of this Commonwealth, and the adventurers aforesaid, until the Supreme Authority shall declare their futher pleasure therein.

3rd. You are to use your best endeavours to secure the fishery there against any that shall attempt to distrub or interrupt it, and to that end you have hereby full power and authority to command such ships and vessels as are upon that coast or in any of the harbours to keep together or otherwise to dispose of themsevles in such manner as may be most for the common safety and to use such other means for the end aforesaid as you shall judge meet. And all Captains of convoys are hereby required to be assisting to you in the execution thereof. And you are to consider in what manner any of the harbours and bays, belonging to the country may be fortified for preservation both of the country and fishing.

¹ "Reprinted from App. to British Case, North Atlantic Coast Fisheries Arbitration at the Hague, pp. 511-512."

4th. Whereas security is given by Sir David Kirke such as the Council do approve of, for his appearance to the Council and being responsible as to any matters to be objected against him, upon which the sequestration or former seizure upon his Estate is to be taken off, you are therefore to deliver up unto such person or persons as he shall appoint all that remains of his there that was formerly sequestered or seized, or that belongeth to him, only of the Ordnance or any other things that do properly belong to the Commonwealth, You are to take a particular notice & Inventory, and unto the person or persons in whose charge you shall leave the same you are to give strict directions that they take care the same be preserved and forthcoming to the use of the Commonwealth.

You are to receive and examine all such complaints as shall be made unto you as well by strangers as others of any wrong or injury done unto them by any person or persons whatsoever, and to certify their particular Cases unto the Council.

You are upon the close of this summer's fishery to return back into England and to repair to the Council or the Supreme Authority, of this Commonwealth and to give as well a just and true account of all such money and profits as have come to your hands due to the Commonwealth or Adventurers, as of all your proceedings and in what condition you left all things there at your coming away.

[*Annexed Laws and Ordinances.*]

Laws, Rules and Ordinances whereby the affairs and fishery of Newfoundland are to be governed until the Parliament shall take further order.

1. That no ballast, prest-stones nor anything else hurtful to the harbours be thrown out to the prejudice of the said harbours but that it be carried ashore and laid where it may not do annoyance.

2. That no person whatsoever either fishermen or inhabitants do destroy or deface or any way work any spoil or detriment to any stage, cookroom, flakes, spikes, nails or anything else that belongeth to the stages whatsoever either at the end of the voyage, when he hath done, and is to depart the country, but that he or they content themselves with such stage or stages only as shall be needful for them, and that for the repairing of such stages as he or they take, they shall fetch timber out of the woods and not to do it with ruining or tearing down of other stages.

3. That according to, the ancient custom, every ship or fisher that first entereth a harbour in behalf of the ship, be

Admiral of the said harbour, wherein for the time being he shall only reserve so much beach and flakes, or both as is needful for the number of boats that he shall use, with an overplus only for one boat more than he needeth as a privilege for his first coming; and that every ship coming after content himself with what he shall have necessary use for,

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without keeping or detaining any more to the prejudice of others next coming. And that any that are possessed of several places in several harbours with intent to keep them all before they can resolve upon which to choose shall be bound to resolve and send advice to such after comers in those places as expect his resolution and that within 48 hours if the weather so serve, that the said after comers may likewise choose their places and so none receive prejudice by others' delays.

4. That no person cut out, deface, or any way alter or change the marks of any boats or train vats whereby to defraud the right owners, and that no persons convert to his own use the said boats or train fats so belonging to others without their consent nor remove, nor take them from the places where they be left by the owners except in case of necessity and then to give notice thereof to the Admiral and others whereby the right owners may know what is become of them.

5. That no person do diminish, take away, purloin, or steal any of the fish, or train, or salt which is put in cask, train vats, or cookrooms, or other houses in any of the harbours or fishing places of the country, or any other provisions, belonging to the fishing trade or to the ships.

6. That no person set fire in any of the woods of the country or work any detriment or destruction to the same by rinding of the trees either for the sealing of ships holds or for rooms on shore, or for any other uses, except for the covering of the roofs for cookrooms to dress their meat and these rooms not to extend above 30 foot in length at the most.

7. That no man cast anchor or ought else hurtful which may breed annoyance or hinder the haling of sains for bait in places accustomed there-unto.

8. That no person rob the nets of others out of any drift, boat or drover for bait by night, nor take away any bait out of their fishing boats by their ships' sides nor rob or steal any of their nets or any part thereof.

9. That no person do set up any taverns for selling of wines, beer or strong waters, cider or tobacco to entertain the fishermen, because it is found that by such means they are debauched, neglecting their labours, and poor ill governed men not only spend most part of their shares before they come

home upon which the lives and maintenance of their wives and children dependeth, but are likewise hurtful in divers other ways, as by neglecting and making themselves unfit for their labour, by purloining and stealing from their owners, and by making unlawful shifts to supply their disorders, which disorders they frequently follow, since these occasions have presented themselves.

10. That no planter be permitted to keep any more stage room than he hath fishing-men in possession for the managing of it, and that every planter in each harbour may take their stages and fishing room together in one part

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of the harbour and not scattering as they now do, wasting as much room for one or two boats as may serve 6 or 8 boats.

11. That no planter be permitted to build any dwelling-house, store-house, court-ledge or garden or keep any pigs or other cattle upon or near the ground where fish is saved or dried.

12. That all provisions imported for sale necessary for fishing be free for any person to buy for his own present occasion, so it be demanded within six days after its arrival, and not to be ingrossed by a few to make benefit on others thereby.

13. That upon the Lord's day the company assemble in meet place for divine worship.

Signed

JOHN DISBROW, Pst.

Whitehall, 3rd of June 1653.

No. 718.

[26 Jany.,
1660.]**STAR CHAMBER RULES OF CHARLES I. AND
ADDITIONS BY CHARLES II.¹**

Charles the Second by the grace of God, King of England,
Scotland, France and Ireland Defender of Faith &c. and to
all to whom these presents shall come, Greeting:

Whereas our late Royal father of blessed memory by his Letters Patent under his Great Seal of England bearing date at Westminster the tenth day of February in the ninth year of his reign hereby reciting that the region or country called Newfoundland had been acquired to the Dominion of his progenitors which he held and his people had many years resorted to those parts where and in the coasts adjoining they employed themselves in fishing, whereby a great number of his people had been set on work and the navigation and mariners of his Realm had been much increased and his subjects resorting thither one by the other and the natives of those parts were orderly and gently intreated until then of late some of his subjects of the Realm of England planting themselves in that country and there residing and inhabiting upon conceipt that for wrongs or injuries done there either on the shore or in the sea adjoining they could not be here impeached and the rather for that he or his progenitors had not thentofore given laws to the inhabitants there and by that example his subjects resorting thither injured one another and used all manner of excess to the great hindrance of the voyage and common damage of this Realm, for preventing of such inconveniences for the future he did thereby declare in what manner his people in Newfoundland and upon the sea adjoining and the bays, creeks or fresh rivers there should be guided and governed and did make and ordain and we do by these presents renew, ratify and confirm the laws following in the things after specified commanding that the same be obeyed and put in execution. First if any man on the land there shall kill another or if any shall secretly or forceably steal the goods of any other to the value of forty shillings, he shall be forthwith apprehended and arrested, detained and brought prisoner to England, and the crime committed by him shall be made known to the Earl Marshall of England for the time being to whom the delinquent shall be delivered as prisoner. And the said Earl Marshall shall take cognizance of the cause and if he shall find by the testimony of two witnesses or more that the party had there killed

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a man not being at that time first assaulted by the party slain, or that the killing were by misadventure or had stolen such goods, the delinquent shall suffer pain of death and all the company shall endeavour to apprehend such malefactor. Secondly that no ballast prestones, or anything else hurtful to the harbours be thrown out to the prejudice of the said harbours, but that it be carried ashore and laid where it may not do annoyance. Thirdly that no person whatsoever either fishermen or inhabitant do destroy deface or any way work any spoil or detriment to any stage, cookroom, flakes, spikes, nails or anything else that belongeth to any the stages whatsoever either at the end of the voyage when he hath done and is to depart the country, or to any such stages as he shall fall withal at his coming into the country, but that lie or they content themselves with such stage or stages only as shall be needful for them and that for the repairing of such stages as he or they take they shall fetch timber out of the woods and not to do it with the ruining or tearing down of other stages. Fourthly that according to the ancient custom every ship or fisher that first entereth a harbour in behalf of a ship be Admiral of the said harbour wherein for the time being he shall reserve only so much beach and flakes or both as is needful for the number of boats as he shall use with an overplus only for one boat more than he needeth as privilege for his first coming and that every ship coming after content themselves with what he shall have necessary use for without keeping or detaining any more to the prejudice of others next coming, and that any that are possessed of several places in several harbours with intent to keep them all before they can resolve upon which of them to choose shall be bound to resolve and send advice to such after comers in those places as expect his resolution and that within forty eight hours if the weather do serve that the said after comers may likewise choose their places and so none receive prejudice by others delays. Fifthly that no person cut out deface or any way alter or change the marks of any boats or train vats whereby to defraud the right owners, and that no person convert to his own use the said boats or train vats so belonging to others without their consents nor remove nor take them from the places where they be left by the owners, except in case of necessity, and then to give notice thereof to the Admiral and others whereby the right owners may know what is become of them. Sixthly that no person do diminish take away purloin or steal any of the fish or train or salt which is put in casks train vats or cookrooms or other house in any of the harbours or fishing places of the country or any other provision belonging to the fishing trade or to the ships. Seventhly that no person set fire on any of the woods of the country or work any detriment or destruction to the same by rinding of the trees either for the sealing of ships holds or for rooms on shore or for any other uses except for the covering of the roofs for cookrooms to dress their meat in and

those rooms not to extend above sixteen feet in length at the most. Eighthly that no man cast anchor or ought else hurtful which may breed annoyance or hinder the haling of seines for bait in places accustomed thereunto. Ninthly that no person rob the nets of others out of any drift boat or drover for bait by night nor take away any bait out of their fishing boats by their ships sides nor rob or steal

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any of their nets or any part thereof. Tenthly that no person do set up any tavern for selling of wine beer strong waters cider or tobacco to entertain the fishermen because it is found that by such means they are debauched neglecting their labours and poor ill governed men not only spent most part of their shares before they come home upon which the life and maintenance of their wives and children depend but are likewise hurtful in divers other ways as by neglecting and making themselves unfit for their labour by purloining and stealing from their owners, and by making unlawful shift to supply their disorders which disorders they frequently follow since those occasions have presented themselves. Eleventhly that upon the Sundays the Company assemble in meet places and have divine service to be said by some of the masters of the ships or some others which prayers shall be such as are in the Book of Common Prayer. And moreover and further then was ordained by the laws of our said late father and for the encouragement of our subjects in the said Newfoundland and in the seas adjoining, and for the benefit of the said trade there we do hereby straightly charge prohibit and forbid all and every the owners of ships trading in the said Newfoundland fishery that they nor any of them do carry or transport or permit or suffer any person or persons to be carried or transported in their or any of their ships to the said Newfoundland other than such as are of his or their own or other ships Company or belonging thereunto and are upon the said ships hire and employment or such as are to plant and do intend to settle there. And because that speedy punishment may be inflicted upon the offenders against the laws and constitutions aforesaid We do ordain as was formerly ordained by our said late father that every of the mayors of Southton, Weymouth and Melcombe Regis Lyme Plymouth Dartmouth Eastlowe Foy and Barnstaple for the time being may take cognizance of all complaints made by any offenders against any of the laws or ordinances aforesaid upon the land and by oath of witnesses examine the truth thereof and award amends to the parties grieved and punish the delinquents by fine and imprisonment or either of them and of their goods found in the parts of Newfoundland or in the sea cause satisfaction thereof to be made by Warrants under their hands and seals, And the Vice-Admirals in our Counties of Southton Dorset Devon and Cornwall upon complaint made of any of the premises committed upon the sea shall speedily and effectually proceed against the offenders Also we will and ordain that these laws and ordinances shall stand in force and

be put in due execution until we shall otherwise provide and ordain And we do require the Admiral in every harbour in this next season ensuing calling together such, as shall be in that harbour publicly to proclaim these presents and that they also proclaim the same on the shore In Witness &c Witness our self at Westminster the six and twentieth day of January.

per ipsum Regem

No. 719.[27 Nov.,
1663.]**PETITION FROM WEST OF ENGLAND MERCHANTS**

FOR ENFORCEMENT OF REGULATIONS.

CAL. STATE PAPERS, 1661-1668, p. 170.

589. Petition of the mayors and merchants of Dartmouth, Totnes, Plymouth, and Barnstaple, trading to Newfoundland, to the King and Council. Pray that the rule may be enforced prohibiting the carrying to Newfoundland any other persons than such as properly belong to the ship's company or owners' employment, or such as go to inhabit there; by reason of many violating this clause and going out as passengers to Newfoundland and taking up the principal fishing ports, the trade is so reduced that men can only be found for a quarter of the ships formerly sent out, whereby both the trade and his Majesty's service suffer great hurt. *Annexing,*

Reasons for granting the petition the number of ships and of seamen fit for the King's service will thus greatly increase, handicraftsmen be benefited, and the owners of ships will cease to suffer great loss through keepers of private boats drawing away able seamen. (Dom. Chas II., Vol. LXXXIV., No. 71, Cal. p. 353.)

No. 720.**ORDER OF HIS MAJESTY**[4 Dec.,
1663.]REQUIRING MAYORS AND MAGISTRATES OF CERTAIN ENGLISH TOWNS
TO OBSERVE RULES RE CARRYING OF MEN TO NEWFOUNDLAND.*Page 1748
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NEWFOUNDLAND. (612) WHITEHALL, 4 December 1663.

ACTS OF THE PRIVY COUNCIL, COLONIAL SERIES, 1613-1680, p. 374.

The Letter touching the regulating of the Fishery of Newfoundland being this day read at the Boord, His Majestie was pleased to approue therof, And did Order that Copies thereof be sent to the Maiors of the seuerall Townes hereunder written.

(Southampton, Weymouth and Melcombe Regis, Lyme, Dartmouth, Plymouth, Fowey, Barnstaple.)

Whereas his most gracious Majestie by Letters under his great Seale of England, bearing date the Six and Twentieth day of January in the Twelfth yeare of his Reigne, hath amongst other wholesome Laws and Constitutions for the well guiding and governing his People in Newfoundland, and the Seas and Creeks adjoyning, declared constituted and Ordained, That for the encouragement of his Subjects in the said Newfoundland, and in the Seas adjoyning; and for the benefitt of the Trade there, no Owners of Ships trading in the said Newfoundland Fishery nor any of them, shall presume to carry or transport, or permitt and suffer to be carried or transported, in their or any of their Ships to the said Newfoundland, other then such as are of his or their owne or other Ships Company, or belonging thereunto, and are upon the said Ships Hire or Employment, or such as are to plant, and do intend to settle there, Notwithstanding this Prohibition his Majestie and this Boord haue receiued Complaints from seuerall Fishing Townes in the West of England trading to Newfoundland, That divers Owners of Ships do presume to violate this Law and Constitution for their owne private Ends to the greate decay of that Trade, and lessening the number of Ships and Seamen, the consequences of which, if not prevented, will be very prejudiciall to his Majesties service to the ruining of many Handicrafts men, whose Livelyhood and Subsistance depends thereupon, and in fine when this present Stock of Seamen is worne out, may be a destruction of the whole Trade for want of supplies of Mariners, who are now yet yearely bred by the Owners of Ships, Wee do therefore in his Majesties name hereby Order and require you the Maoirs and Magistrates in

your respectiue places to be carefull that the aforesaid Law and constitution be punctually observed, and duly executed according to the Powers graunted to you by the aforesaid Letters Patents, and Wee do also appoint that the Officers of his Majesties Customes in their respectiue Ports, do straitely charge all Masters of Ships trading to Newfoundland to obserue and keepe the said Rule.

No. 721.[28 Aug.,
1667.]**PETITION AGAINST APPOINTMENT OF A
GOVERNOR FOR NEWFOUNDLAND.**

CAL. STATE PAPERS, AM. & W. I., 1661-1668, p. 494.

1561. Petition of Merchants, Owners of ships, and others, inhabitants of Plymouth and places adjacent, trading to Newfoundland, to the King. The carrying on of the useful fishing trade tends greatly to the increase of mariners and shipping, and of the customs; yet several persons for their own sinister ends have endeavoured to establish a Governor, which hath heretofore been very destructive to the trade. Have had very great losses of late, and cannot bear the charges of solicitation and sending witnesses at so great distance to testify against such an appointment; pray that persons in the county of Devon (in regard the trade is chiefly carried on by inhabitants thereof) may be empowered to hear and examine the whole matter. Signed by George Storey, Mayor, and 52 others. *Annexed,*

1561. I. Petition of merchants and shipowners of Totness, trading to Newfoundland, to the King. To the same effect. Signed by John Ley, Mayor, and 16 others.

1561. II. Order in Council, on above petitions, empowering Sir Edw. Seymour and other baronets and gentlemen to examine matters of fact concerning the miscarriages of former Governors of Newfoundland to the damage of the trade of that place, with authority to give oaths to witnesses; the petitioners to prepare reasons to make good the allegations in their petitions, and the whole result with such reasons to be transmitted to the Council board. (Dom., Chas., II., Vol. CCXV., Nos. 47, 8, 9, Cal., p. 423.)

[28 Aug.,
1667.]**APPOINTMENT OF COMMISSIONERS**TO EXAMINE INTO MISCARRIAGES OF FORMER GOVERNORS OF
NEWFOUNDLAND TO THE DETRIMENT OF THE FISHERY TRADE.*Page 1750
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NEWFOUNDLAND. (716) WHITEHALL, 28 August (1667).

ACTS OF THE PRIVY COUNCIL COLONIAL SERIES, 1613-1680, p. 432.

Whereas sundry Petitions were this day presented and read at the Board (his Majestic present in Councill) Subscribed by many Merchants, Owners of Shippes, and other Inhabitants of the Townes of Totnes, Plymouth, Dartmouth, and Places adjacent in the Westerne parts of England. Tradeing to New-found-Land, Representing, That the carrying on of that vsefull ffishing Trade tends greatly to the Increase of Mariners and Shipping, and augmentation of his Majesties Customs Yet severall Persons vnder specious pretences of Regulating that Trade, but intending their owne sinister ends, have endeavoured to establish a Governour, which hath heretofore proved very pernicious to the said Trade, And the Petitioners being Informed that the like endeavours are now setting on ffoote without their Consent or knowledge; And that the Petitioners sufferings and losses of late have been very great, they are disabled to attend, and beare the Charges of Sollicitation, and sending Witnesses at so great a distance to evidence the many Inconveniencies they have already Laboured vnder, and the impossibility that any advantage should accrew to his Majestie, or any Improvement to the ffishing Trade by such an Vseless and insupportable Charge of a Governour there; and Praying his Majestie would be graciously pleased to Impower such Persons of the County of Devon as his Majestic should thinke fitt, to heare and examine the whole matter, and make Report vnto his Majestie and this Board . . . Sir Edward Seymour, Sir John Northcott, Sir William Courtney, Sir Thomas Carew, and Sir Walter Yong Baronetts John Fowell, Thomas Reynell, Richard Cabell, Thomas Boone, John Hale, and Gilbert Eveleigh Esqrs . . . are Constituted and appointed by this Board to Examine Matters of ffact concerning the Miscarriages of former Governours of New-found-Land to the damage of the Trade of that Place. (These, or any four of them, being Justices of the Peace are empowered to take depositions on oath, which are to be forwarded under their seals to the Board, to which the petitioners are also to transmit reasons in support of their

allegations that order may be given for the good of the trade.)

[8 Jan.,
1668.]**MEMORIAL RESPECTING OCCUPATION OF
PLACENTIA BY THE FRENCH.**

CAL. STATE PAPERS, AM. & W. I., 1661-1668, p. 537.

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1666. Address to his Majesty showing the present condition of Newfoundland, drawn from the evidence of Major John Scott, Capt. Wm. Hill, John Hoyle, Mr. Wacombe, Capt. John Rayner, the petitioning merchants, and others. From its first discovery in 1496 till the treaty of 1632 the French were not permitted to fish at Newfoundland, or in any place on the main of America; but after that treaty the French trading to Canada and Acadia presumed to make dry fish on Newfoundland; for prevention whereof Sir David Kirke was sent there Governor, in whose time every French ship trading or making dry fish there was forced to pay 5 or 10 per cent.; and in the time of the late rebellion they were compelled to do the like. But about five years past the French planted there, and presumed to raise a garrison of 18 guns (since made 32) in Placentia. Four years since Capt. Rayner, then Deputy Governor, sent to his Majesty by Robert Prouse of Dartmouth information concerning the French proceedings on the oath of Issac Dethick; and 2 ½ years past the inhabitants sent a petition to his Majesty by Nehemiah Froute of Plymouth, setting forth the prejudice they sustained by the Dutch under de Ruyter in June 1665, by calculation 36,000*l.*, and their great fear of the French now planted there, and praying his Majesty to secure the country from Rochelle with two stout ships of war, &c.; and the French planters being now more than the English, and thus fortified, make dry fish where they please and load therewith at least 100 great ships, whereas last year there were not above 10 or 12. By the product of this fish his Majesty's Customs have amounted to 40,000*l.* per ann. and the return to the nation 300,000*l.*; and the merchants of London, Bristol, Hampton, Weymouth, and other parts petitioning and consenting to the settlement and securing of Newfoundland are concerned three-quarter parts in carrying on the fishing trade. *Indorsed*, "recd. the 8th of Jan. 1667-8." 1 p. (Col. Papers, Vol. XXII., No. 5.)

[15 April,
1668?]**MEMORIAL FOR REMOVAL OF FRENCH AND
ESTABLISHMENT OF GOVERNMENT.**

CAL. STATE PAPERS, AM. & W. I., 1661-1668, p. 557.

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1729. Memorial concerning Newfoundland fishing. Two years since the French planted upon Newfoundland eight or ten guns and 30 or 40 men, and last year 20 pieces of ordnance and 90 or 100 men, showing their King's broad seal for government of the island, and driving the English from their habitations who will desert the land if there be not some timely remedy. This proceeds because the island (except the province of Avalon) is without government, the forts all ruined, and all in confusion. The fishermen rob, kill, and spoil the inhabitants as bad now as before his Majesty's restoration. It is humbly desired on behalf of the inhabitants that a frigate or two may remove the French, that a Government may be settled, and for defraying the charge that every boat may pay one quintal, which is a very small charge, every boat ordinarily catching three or four hundred quintals. *Indorsed*, "Read in Council, April 15th. Memorial exhibited by the Duke of York. Ordered ditto." *Annexed*, 1729. 1. Deposition of John Rayner, late Deputy Governor in Newfoundland. In 1662 a great French ship full of men and women put into Grand Placentia, where she landed a great number of soldiers and passengers, who fortified the harbour with 18 pieces of ordnance, as one Isaac Dethick, who was there, affirmed. Dethick saw the Governor's Commission under the Great Seal of France for the command of the whole country of Newfoundland, and the following year was forced to remove from his plantation and settle at the Bay of Ards, where deponent found him and took from him an account of the French proceedings, which he sent for England by Mr. Robert Prowse, to be presented to the King. On the 6th June 1665 the harbour of St. John's was invaded by De Ruyter, who took all the ships and goods, and destroyed cattle and houses, and made the like spoil in the Bay of Butts and Petty Harbour, but De Ruyter said if there had been but six guns mounted in St. John's he would not have ventured in. Deponent was present and lost his whole estate there, to the value of 2,000l. Jurat 2 January 1668.

No. 725.

[1668.]

**STATEMENT OF REASONS FOR SETTLEMENT OF
NEWFOUNDLAND UNDER REGULAR
GOVERNMENT.**

CAL. STATE PAPERS, AM. & W. I., 1661-1668, p. 558.

1730. Reasons for the settlement of Newfoundland and the trade under Government. First, in respect of his Majesty's interest. It is the greatest if not the only nursery for seamen, and when the trade flourished it bred 10,000 yearly. Under a Government it produced 50,000*l.* customs yearly, by the product of fish sent to foreign countries, and foreigners permitted to fish paid 51. per cent. to the Governor, but for want of it the French have encroached, possessed three of the best harbours, mounted 30 or 40 guns in each place, and use all means to debauch his Majesty's subjects to live under their protection. Secondly, in respect of the trader's interest. When the trade flourished under a Government it brought to the nation 500,000*l.* per annum, but since then not one-third so much. No harbours being fortified and there being no settled Government, the traders are liable to all pirates and enemies, all stages, boats, fishing crafts, &c. are destroyed by the planters or the fishermen that came first, whereby the fishermen are obliged to a month's delay and 20 per cent. loss, so that foreigners undersell them in all markets. The cutting down and firing of the woods near the sea will prove the destruction of the trade if not speedily prevented; the tipping houses where the poor fishermen spend all they get might be prevented; also the encroachment of houses and gardens on land fit for drying fish. The chief harbours are spoilt by casting ballast into them, great abuses are committed by unseasonable fishing, and the west country owners at the end of the year send their men to New England to save their passage home, by which fishermen are made scarce, and many serviceable seamen lost. By reason of a late Act for turning the planters six miles into the country, the chiefest have gone to New England, and the rest will go to the French, who are so well fortified that in case of a war they would quickly possess the whole country; for by a late proclamation of the French King, every master of a ship is allowed five livres for every man and three for every woman he carries to Newfoundland. Thirdly, in respect of the inhabitants. By settled Government and harbours fortified they will avoid the abuses of the ungoverned seamen who deal with them as they please, they will be preserved from sea rovers and enemies, have a minister to christen, bury, marry, and instruct

them, whereas now they live like brutes. And they will have equal justice, which will

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greatly encourage all except those who desire to live under no government, but in all things to be their own carvers. Two copies. 2 pp. (Col. Papers, Vol. XXII., Nos. 68, 69.)

1731. Capt. Robinson's proposals to the King concerning Newfoundland. Because Sir David Kirke's Government was careless or severe, it does not follow that if there be a bad Governor over a Plantation that therefore the Governor and the Plantation shall be removed, and so the country left to any other nation or people whatsoever, but rather that a better Governor be appointed and his Majesty's honour and interest still maintained. The destruction of stages, houses, woods, and harbours; the want of justice; breaking the Lord's day and having no offices of christianity, his Majesty being Defender thereof so that the very natives take notice of it, are some of the consequences of the want of a Governor. Arguments as to whether Newfoundland ought not to be kept from an enemy when it may be done at 1 per cent. on the fish. If the French should take it, whereas they now employ about 400 sail and 18,000 seamen, and the English 300 sail and 15,000 seamen, they would employ near 700 ships and 30,000 seamen, and the English be shut out of 700,000l. yearly, besides which the French would make double that sum. The great advantages of the Newfoundland fishery as a nursery for seamen. If the French should add what the English have planted there to what they possess already in Canada, Nova Scotia, and other places thereabouts, they would be bad neighbours to his Majesty's flourishing Plantations of New England, New York, and Virginia. 2 pp. (Col. Papers, Vol. XXII., No. 70.)

No. 726.**REPLY OF WEST OF ENGLAND MERCHANTS**

[1668.]

TO PLEA FOR REGULAR GOVERNMENT.

CAL. STATE PAPERS, AM. & W. I., pp. 560-1.

1732. Reply to the King in Council of the Merchants, Owners and [1668.] Masters of ships of the Western parts to the allegations of Capt. Robert Robinson concerning the Newfoundland fishery. For many years past few have made 10 per cent. on this fishery, and last year both Dartmouth and Plymouth lost considerably. The memory of Sir David Kirke's actions little encouragement for another Governor, which was sufficiently proved upon a commission from his Majesty to several gentlemen of Devon in the 19th year of his Majesty's reign (1667). Placentia Bay was never possessed by the English but was fortified by the French to secure them from the "solvages (natives of the country)." As to fear of God and honour of his Majesty, seeing the country is most barren and rocky, is productive of no commodities as other Plantations, or affords anything of food to keep men alive or employment for the people, they conceive it fittest that some be brought away, and the rest transported where they may not live so idle, and dishonourable to God and this nation, so that the trade in provisions, &c. now mostly supplied from New England, may be carried on by fishing ships from England and the seamen augmented. Laws are violated, and trees, woods, and stages destroyed by the inhabitants' increase. If another Governor follow he will doubtless continue the same. Capt. Robinson will remember what he did himself at St. John's in 1661. From Bonavise north-ward to Trepasse southward is all that ever was and is now possessed by the English, which reaches 300 miles, wherein are 48 fishing places, and if St. John's were fortified and a Governor resident there, it would signify nothing to the other places. Therefore, seeing the many other fishing places that cannot be secured, and that may be done as well by the Admiral, they conceive that a Governor will be more disadvantageous than profitable either to the public or the trade. And lastly, though the charge proposed of one penny per quintal of merchantable fish, and a halfpenny on refuse fish and corr, and 12 pence per hhd. on train, seem so inconsiderable, it will amount to 1 per cent. on fish, and 2 per cent. on oil, occasion vexation to the fishing ships, and hinder the reviving of this decaying trade. Such imposition is positively contrary to several Acts of Parliament, particularly

that of the

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15th year of his Majesty's reign. Besides they assert that as this fishery through Sir David Kirke's indulgence, contrary to their patent, is already carried on by the inhabitants and boat keepers in great part, so if a Governor be settled and the inhabitants continued, the trade in a few years will be removed from this kingdom, and become as that fishery of New England, which at first was maintained from these parts, but is now managed altogether by the inhabitants of New England, so that not one ship hath gone on that employment out of England these seven years. Pray his Majesty with the serious advice of his Council to consider the premises, and against those pretences and designs to weigh not only the former practice of his Royal progenitors but also the present state of France, so flourishing of late through their fisheries and consequent increase of seamen, and that this is almost the only nursery for seamen, and to continue his former respects for its encouragement and reviving. Indorsed "An answer to Capt. Robinson's proposals." (Col. Papers, Vol. XXII., No. 71.)

No. 727.[(23 Dec.,)
1670.]**PETITION FORM MAYORS OF WEST OF ENGLAND
TOWNS,**

FOR OBSERVANCE OF EXISTING REGULATIONS.

CAL. STATE PAPERS, AM. & W. I., 1669-1774, pp. 143-4.

362. Petition of the merchants, owners, and masters of ships, and inhabitants of the western parts of this kingdom adventuring to the Newfoundland in fishing voyages, to the King in Council. That the laws for regulating the fishery have been confirmed by his Majesty, who by letter of 4th Dec. 1663 commanded certain mayors of corporations and others to see them put in execution. That notwithstanding private boatkeepers still continue to fish in Newfoundland and great number of passengers still go there. That the whole state of this affair is now presented in an address to the King. Pray that the fishery may be maintained by fishing ships, and that the mayors may depute persons to execute laws for the fishery. Signed by the Mayors of Exeter, Dartmouth, Plymouth, Lyme Regis, Barnstaple, Weymouth, and Poole. Annexed,

362. I. The address to the King above referred to, showing that about 30 years since 270 sail of ships were employed in the fishery and 20,000 seamen. That in process of time loose persons stayed in the country, who tend much to destroy the trade and are useless in all respects, Newfoundland being a barren island. That in consequence the fishermen's houses are torn down, timber is burnt, and the seamen are debauched. The fishery is carried on without fishing ships by the inhabitants. And the French in their seamen and shipping by their fishery do much increase. The inconveniences through permitting private boatkeepers being allowed to fish.

362. II. Additional powers desired by the petitioners about the Newfoundland fishing.

362. III. Order by the King in Council upon above petition, read at the Board 23 Dec. last, when it was ordered that Mr. Gould and all other parties concerned should give their attendance, who being fully heard it was now ordered that all papers relating thereto be referred to his Majesty's council of Plantations, who are

to consider the best ways and means whereby the fishing trade in Newfoundland may be regulated, advanced, and protected and secured from foreigners and

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managed for the increase of seamen and the advantage of his Majesty and his subjects; also to take into consideration his Majesty's charter and the additional powers desired by the western traders, and to report their opinion to his Majesty within 14 days. Whitehall, 11 January 1670-1.

362. IV. Report of his Majesty's Council for Foreign Plantations. Having heard the petitioners and all parties concerned, they offer, as their opinion and advice, That his Majesty grant, by way of addition to his former charter and rules and orders for the government of said fishery: That all his Majesty's subjects enjoy the freedom of taking fish in any of the rivers in Newfoundland, provided they submit to the orders established for the fishery. That no stranger be permitted to take bait or fish, no inhabitant to burn or destroy any wood or plant within six miles of the sea shore, nor take up any stage before the arrival of the fishermen out of England. Masters of ships to bring back all seamen, fishermen, and others, and none to be suffered to remain in Newfoundland. Fines and forfeitures on offenders. Encouragement to the inhabitants of Newfoundland to go to Jamaica or other foreign plantations. These rules and orders are contained in 29 articles. 1670-1, March 2.

362. V. Order of the King in Council approving above report and directing Sir Heneage Finch, Attorney-General, to prepare a bill for his Majesty's signature to pass the Great Seal, containing his confirmation of said charter, with the additional powers hereby ordered to be inserted therein, as also for establishing a certain way of judicature for hearing and determining felonies and murders and other offences committed in Newfoundland. Together 24 pp. (Col. Entry Bk., No. 65, pp. 39-62).

[March, 10,
1670.]**No. 728.****ORDER OF HIS MAJESTY KING CHARLES II. IN
COUNCIL**APPROVING OF THE REPORT OF THE COUNCIL OF PLANTATIONS.¹At the Court of Whitehall, the 10th of March, 16⁷⁰/₇₁.

Present:

The King's Most Excellent Majesty.

His Royal Highness the Duke of York.	Earl of Sandwich.
His Highness Prince Rupert.	Earl of Anglesy.
Lord Keeper.	Earl of Craven.
Duke of Ormond.	Earl of Lauderdale.
Lord Great Chamberlain.	Lord Arlington.
Lord Chamberlaine.	Lord Newport.
Earl of Bridgewater.	Mr. Treasurer.

Mr. Secretary Trevor.

Whereas in pursuance of an order of this Board of the 11th January last, upon the petition of the merchants, owners, and masters of shippes, and inhabitants of the western parts of this Kingdom, adventuring to the Newfoundland in fishing voyages The Right Honorable his Majesty's Council for foreign Plantations did this day represent to the Board, that they have called before them, and heard the petitioners and the other parties concerned, and after due consideration of the best ways and means, of regulating, securing, and improving the fishing trade, in Newfoundland, do humbly offer unto his Majesty as their opinion and advice, That his Majesty would be pleased to grant by way of addition to his former charter an establishment of the powers, rules, and orders for the government of the said fishery as followeth, viz.

That all the subjects of his Majesty's Kingdom of England shall and may for ever hereafter peaceably hold and enjoy the freedom of taking bait, and fishing in any of the rivers, lakes, creeks, harbours or roads, in or about Newfoundland, or in any of the islands adjoining thereto, with liberty to go on shore in any part of the Newfoundland, or the said islands, for the curing, salting, drying, and husbanding of their fish, and making of oil, and for the cutting of all manner of wood, and trees for the building, or making of stages, rooms, train vats, hurdles, ships, boats, and other necessaries, for themselves

and their servants, seamen, and fishermen, and all things which may be useful, or advantageous to their fishing trade, as fully and freely as at any time heretofore hath been used, and enjoyed there by any of the subjects of His Majesty's royal predecessors.

Provided always that they submit unto, and observe all such rules and orders as now are, or hereafter shall be established, by his Majesty, his heirs, or successors, for the government of the said fishery in Newfoundland.

2. That no alien, or stranger be permitted to take bait, or fish in any of the rivers, lakes, creeks, harbours, or roads in Newfoundland, between Cape Race, and Cape Bona Vista, or in any of the islands thereunto adjoining.

3. That according to the establishment of his Majesty's royal father of blessed memory in the 13th year of his reign, no planter or inhabitant in, or upon the said Newfoundland, be permitted to fell, cut down, root up, waste, burn, or destroy any wood, or timber trees, or erect or make any houses, buildings, gardens, &c. or inhabit or plant within six miles of the shore, or in any part of the said Newfoundland, between the Cape de Race, lying in or about 46 degrees of North latitude, and the Cape d'Bonavista lying in or about 49½ degrees likewise of North latitude, nor upon any island within ten leagues of the shore between the said capes.

4. That no planter or inhabitant in Newfoundland, do take up, or possess any of the stages, cookrooms, &c. beaches, or places for taking bait, or fishing, before the arrival of the fishermen out of England, and that they be all provided.

5. That the clause in his Majesty's charter of confirmation of rules, and orders for regulating the Newfoundland fishery bearing date the 26 of January in the 12th year of his Majesty's reign concerning the transportation of men thither, may be altered, and enlarged in manner following. That is to say

That no master, or owner of any fishing ship do transport, or carry any seamen, fishermen, or other persons in his ship to Newfoundland, other than such as are truly belonging to his or their ships company, and such as are engaged in the voyage and share, or shares, or hire of the said ship.

6. That no master or owner of any fishing ship do transport or carry in any one ship for a, fishing voyage, more than sixty persons to one hundred tons burthen of the said ship, and so proportionately for all ships of a greater, or lesser burden.

7. That it be strictly provided for, and commanded, that

every fifth man yearly carried out of England, be a greenman (that is to say) not a seaman.

8. That the masters and owners of all fishing ships trading out of England to Newfoundland be enjoined according to the number of men in their respective ships, to provide in England victuals, and other necessaries (salt only excepted) for the whole voyage, or fishing season, for themselves and companies, and to put the same on shipboard before the going out of port here.

9. That it be likewise strictly commanded that no fishing ship or company do depart out of England directly for Newfoundland on any fishing voyage

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in any year, before the first day of March, nor to the Isles of Cape d'Veerde intending from thence to Newfoundland before the 15th day of January.

10. That from henceforward all masters of fishing ships trading to Newfoundland shall yearly before the beginning of their voyage, give bond in His Majesty's name to the mayors for the time being of the ports of Southampton, Poole, Weymouth, Melcombe Regis, Lyme, Exeter, Dartmouth, Plymouth, East Looe, Fowey, Falmouth, Biddiford, Barnstaple, and Bristol, and all other ports and towns upon the coast of England respectively, according to the port or place from whence they shall set out, under the penalty of one hundred pounds, with condition that they shall not carry out any seamen, fishermen, or other persons, other than such as are truly belonging to his or their, or other ships company, and such as are engaged in the voyage, and share, or shares, or hire of the said ship or ships respectively.

And that they shall bring or cause to be brought back into England, all such seamen, fishermen and other persons as they shall carry out (mortality and danger of the seas excepted) and also such persons as shall be employed from the Newfoundland in English ships with fish for market voyages.

Provided nevertheless that if any of the said seamen, fishermen, &c., shall run away, or desert their ships, the master or masters of such ship or ships, paying such person's share or shares or hire to the mayor of the place from whence the said ship set out, shall be discharged of his or their bond or bonds respectively.

Or if no complaint shall be made against the said masters in three months after their return from the said voyage, then his or thier bonds to be delivered up unto them respectively.

11. That no master of any fishing ship or others do take up or use any stage already built, in any port, harbour, or bay, between Cape Race and Cape Bona Vista, with a less number of men than twenty-five, who are to be of one entire company.

12. That no fisherman or seaman carried out as aforesaid be suffered to remain in Newfoundland in the winter, after the fishing voyage or season is ended.

13. That the Admirals, Vice-Admirals, and Rear-Admirals of and in every port and harbour in Newfoundland for the time being be authorized and required to preserve peace and good government among the seamen and fishermen in their respective harbours, as well as on the shore, to see his Majesty's rules and orders concerning the regulation of the fishery duly put in execution, and to cause all offenders to be apprehended, that they may be punished according to their demerits.

14. That the Admirals, Vice-Admirals, and Rear-Admirals in their respective harbours, bays, &c., may according to ancient custom be empowered to apprehend and secure all offenders for any crime committed in Newfoundland, on shore, or at sea, and to bring them into England.

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15. That the several Admirals in their respective harbours and bays in Newfoundland do, on or about the 20th day of September yearly, publish in their said harbours and upon the shore his Majesty's orders and commands forbidding all seamen or fishermen to stay or remain in or upon the said Newfoundland, after the last day of October.

16. And that the said Admirals do yearly keep journals of their proceedings there, and at their return into England, deliver copies of them, with an account of the number of ships, boats, stages, train vats, &c., and of the seamen and fishermen belonging to and employed in their respective harbours, unto his Majesty's Council for foreign Plantations.

17. That the several Recorders, or their deputies, and the Justices of the Peace for the time being, of the respective ports, towns, and places before-named, and one neighbouring justice of the Peace for the same county, may be joined in commission with the mayors of the said ports, towns, and places respectively, and any two, or more of them, be empowered to take cognizance of all complaints made of any offenders against the laws, rules, and orders established by his Majesty for regulating the Newfoundland fishery, and to hear and determine the same according as is provided and directed to the respective mayors alone by his Majesty's said charter of confirmation.

18. That reasonable fines, penalties, and forfeitures may be imposed upon all masters, and owners of ships, seamen, fishermen, and other persons employed in or about the fishery in Newfoundland as shall offend in breaking his Majesty's

rules and orders established for the said fishery.

And that all such fines, penalties, and forfeitures relating to the fishing trade may be apportioned out, one third part of them to the use of his Majesty, one third part to the use of the poor of the place where such offence shall be prosecuted, and the other third part to the informer, that shall prosecute the same, or otherwise in such manner, and to such uses as his Majesty shall think fit.

All which having been this day read and seriously considered at the board, his Majesty was pleased to approve thereof, and did order, that the several rules, powers, and authorities above recited be added to, and inserted in the charter formerly granted by his Majesty for the regulating of the Newfoundland fishery.

And to that end Sir Heneage Finch Kn^t and Bar^t his Majesty's Attorney-General, is hereby authorized and required to prepare a bill for his Majesty's royal signature to pass the great seal of this kingdom containing his Majesty's confirmation of the said charter, with the additional powers and authorities, hereby ordered to be inserted therein.

And whereas the said Council for foreign Plantations did further represent unto his Majesty as their humble opinion and advice, that the clause in his Majesty's said charter of confirmation, which concerneth the powers of the earl marshal in the punishing of felonies, murders, &c. committed in Newfoundland, may be reviewed, there being at present no such office or court,

p. 1763

and in lieu thereof if his Majesty shall think fit, that a certaine way of judicature may be established, for the hearing and determining of treasons, felonies, and murders, and all criminal matters committed or done in Newfoundland, on the shore or at sea, according to law and equity, and for the awarding of execution thereupon, as the cause shall require.

It was thereupon ordered by his Majesty in council, that the said Attorney-General, with the assistance of his Majesty's council learned do review the said clause, and consider of establishing a certain way of judicature for the hearing and determining all such cases aforesaid, and the same to present to this Board with all convenient speed.

JOHN NICHOLAS.

No. 729.

[1670.]

REPLY OF CAPT. ROBINSONTO THE ANSWER OF THE WEST COUNTRY MERCHANTS TO HIS OWN
PROPOSALS ABOUT NEWFOUNDLAND.

CAL. STATE PAPERS, AM. & W. I., 1669-1674, p. 147.

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368. Reply of Capt. Robinson to the answer of the West Country Gentlemen to his own proposals about Newfoundland (see previous vol. of Cal., 1661-1668, No. 1, 1732). The papers of the West Country Gentlemen given in after so long premeditation on his proposals were not very pertinent to his Majesty's interest, but only a discourse on their own particular trade, nor is it material to insist on Sir David Kirke's Government, how careless or severe soever, for if there be a bad Government it doth not follow that said Governor and planters should be removed, and so the country left to any other nation, but rather that said bad Governor be removed. Still asserts that Sir David Kirke was Governor round great part of the island, and made many of the French pay toll; that Sir Humphrey Gilbert took possession by patent from Queen Elizabeth in 1586 (sic, mistake for 1583; he died in 1584), as Capt. Whitbourne an eye-witness relates in his book of that plantation; and that there is constant destruction of stages, outhouses, and woods, and the harbours spoiled, besides abuses between fishers and planters without any justice between them, and no offices of Christianity or public worship amongst them. But the thing in hand is, whether Newfoundland ought not to be kept from an enemy, and his Majesty's subjects encouraged and secured, being surrounded by the French to the north and south, Placentia Bay to the west with 100 ships before it, and the Bank to the east. That nation are not as they were 50 or 60 years ago, when they durst not encroach on the rights of the Kings of England, nor did mind any trade in navigation, nor delighted in their navy strength, nor had they men to man their few ships. Now 'tis otherwise, for that King is busy to increase his trade and to settle plantations in several parts, and increase his trade and navy at a strange rate, is rich, and values not wronging his neighbours for his own profit, and certainly will use all ways to gain such a nursery for seamen. Knowing that country may be kept at little charge, so it may be kept, if taken, from us, especially if the planters are taken off as some have begged. Some say if St. John's harbour were taken there are fishing places enough

beside, as if they could not as well take the smaller and weaker as the greater, Havre-de-Grace to the north, and Friezeland to the south, and so command

p. 1765

the whole country. But the main thing to consider is, if the French should take it, whereas now they employ 400 ships and 18,000 men, and we 300 ships and 15,000 men, they would then employ 700 ships and 30,000 seamen and others, and we be shut out of that nursery and its returns of 700,000*l.* yearly, for which is not carried out of the kingdom 100*l.* per annum, which the French would make better worth than 1,400,000*l.* yearly; and we that have been so flourishing a nation for seamen, have his Majesty at a loss to man his ships of war, whilst the French King shall have at his devotion 30,000 men, which will man 90 ships. Who would believe that any English noble spirit would plead with his Majesty against having a strength in those parts, we having so dearly paid for it by leaving places of concernment without forts, and power to withstand an enemy. Besides if the French gain this to what he possessed already, Canada, Nova Scotia, and other places, he would be an exceeding bad neighbour to New England, New York, and Virginia; and therefore as 500 men more would secure that harbour, country, and trade, he presents it to his Majesty's favour, especially at this juncture, and when their neighbours are lower they may be called off if thought convenient. Endorsed, "Capt. Robinson's reply to the answer of the West Countrymen about Newfoundland, 1670. Recd. in 1676." 2 large pp. closely written. (Col. Papers, Vol. XXV., No. 110.)

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Volume IV
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No. 730.

REPORT OF CAPT. DAVIS OF H.M.S. "SUCCESS."

[9 Sept.,
1671.]

On board of H.M.S.
Mary Rose in the
Bay of Bulls.

CAL. STATE PAPERS, AM. & W. I., 1669-1674, p. 257.

616. (Capt. Davis) to (M. Wren). Arrived 3rd August with the Success, and sent word to the West and South that the first convoy would be ready board of to sail 15th August, and that the writer should sail 20th September. It was 20th August before any ships arrived, and on 28th the first convoy sailed with 23 vessels. The fishers generally have not made above 140 kintalls per boat, unless in the Bay of Consumption (? Conception) where they have made over 200. Has now 15 vessels, and waits for the rest, and will not miss any opportunity of following his orders. Great complaint by the inhabitants against the West Countrymen's petition for removing them into the woods; but it is only the West Countrymen that are in fault, for he sees the stages for fuel broken down, and the transportation of men to New England is done by the masters of the fishing ships, who employ them to the end of the year, and then to save provisions and freight pack them away to New England. Is sorry to see how many have gone this year, and fears that most of the inhabitants, being so affrighted with this order for their removing, if not speedily prevented, will repair to the French, who fortify two places, keeping in one fort 50 soldiers in continual pay, and are very kind to the English who come to them, the King of France if they require it sending them a protection and giving them a year's salary. Encloses the report of a French merchant, who affirms it on his oath. "By Mr. Parker and Mr. Herneman of Dartmouth." 4 pp. Endorsed, "Capt. Davis to Mr. Wren. . . Recd. on the 8th December 1676." (Col. Paper, Vol. XXVII., No. 27.)

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Volume IV
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No. 731.

ORDER FOR FORTIFICATIONS IN NEWFOUNDLAND.

[4 Feb.,
1672.]

Feb. 4.
Whitehall.
1672.

CAL. STATE PAPERS, AM. & W. I., 1669-1674, p. 328.

751. Order of the King in Committee of Council for Foreign Affairs. On the suit of the merchants and traders to Newfoundland from the several western parts. Said merchants and traders being called in, his Majesty declared they should have liberty to proceed in their voyages to that fishery, and have protection allowed them according to regulations heretofore settled and herein set forth; provided the master of every such vessel first give security, on penalty of 250*l.* to each vessel of 100 tons, and so proportionably, to carry all sorts of fit and necessary instruments for fortifying St. John's in said island, and other places, viz., each ship of 100 tons to the value of 5, and so proportionably, and also to carry 20 fire-arms with ammunition; to obey his Majesty's frigates appointed for their convoy; and not to carry more men than their proportion, and punctually to return them at the end of the voyage, mortality excepted; and those that go to market, as they end their market voyage. 1 p. (Col. Entry Bk., No. XCIII., f o. 51.)

[5 May, 1675.]

ORDER FOR REVIVAL OF REGULATIONS

OF 1670-1671 WITH ADDITIONS.

Newfoundland.
(1023.) Whitehall,
5 May, 1675.

ACTS OF THE PRIVY COUNCIL COLONIAL SERIES, 1613-1680, p. 621.

The Council approve and direct the issue of all necessary orders in accordance with the following report of the Committee:—

Wee have in Obedience to your Majesties Order in Councill of the 12th of February last past taken into Consideration the Petition of Mr. Hinton, and all the papers presented by him touching the necessity of placing a Governor at Newfound Land for the advantage of that ffishery. Wee have also in pursuance of the said Order perused all the Petitions, Papers, Orders, and Resolutions touching this Affayre, either as the same hath been Transacted formerly at this Board, or before the late Councill of Plantations.

Wee have also sent Advertisement to all the Western Ports, and did for severall dayes heare their Agents, and other Principall Merchants of the Exchange concerned in their Opinions and discourses either way, some for the Encouragement of a Colony and Governor, but many more against both; And the Points that seemed to be made out very clear vnto vs were as

1. That the French have of late yeares applied themselves with great industry, and publick encouragement vnto the Fishing Trade, vpon one of the sides of Newfound Land, so that the English serve none of the Marketts of France as formerly they did, but on the contrary the French are found in many other of the Foreigne Marketts as early as the English themselves.

2. That the People of New-England, do on their own Coast take great quantityes of large Fish, about sixty Thousand Kintalls a yeare, and by encreasing the Trade there, bring much detriment to that of Newfoundland.

3. That for some late yeares the Fish has fayled in Newfound Land, the Adventurers have lost many of their Shippes in the late Warrs, especially in that with Spain, and the late Warrs have much diminished the hands which vsed to take ffish. The Inhabitants and Planters, who contrary to their old

Charter live within Six Miles of the Sea, have destroyed the woods, do continue to destroy whatever the Adventurers leave yearly behinde; They possesse early the Places of greatest Conveniency before the Adventurers returne, and which is very pernicious do most of them sell wine and Brandy, whereby the Seamen are withdrawne form their Labor, and many seduced

p. 1769

to stay in the place, while their Farnilyes do thereby become Burthens to their respective Parishes at home.

From all which Reasons 'twas easy to beleive there was a decay of the Trade as to England, and that the Complaynst thereof were very just. But as to Mr. Hintons proposall for curing all by a Governor We could not finde that a Governor could cure any part.

1. Because the Planters who are now there in Number Eight Hundred or One Thousand, do live scattered in Five and Twenty severall Harbours betwixt Renouse and Bonavista, which are allmost Eighty Leagues assunder.

2. That in all the Winter when the abuses are many of them done, there is no passing by Sea or Land from One Place to another, so that neere Forty Harbours would have no Government though a Governor were in the Country.

3. That besides the Charge of Forts, and of a Governor which the Fish Trade cannot support, 'tis needless to have any such defence against Forreigners, the Coast being defended in the Winter by the Ice, and must in Summer by the resort of your Majesties Subjects, for that place will allwayes belong to him that is superior at Sea; So that vnlesse wee saw proper Reasons for a Coloney, We could see none for a Governor; And against a Coloney there are not onely the rigours of the Climate, and infertility of the Land, which, as is alleaged, oblige all those who are there all the Winter to Idlenes, and inclines them to Debauchery, But they cheifely consume the Products of New England, the Shipping of which Country furnish them with French Brandy, and Madera Wines in exchange for their Fish, without depending for any supply from hence; And We had reasons to presume that if the Climate and Soyle could favor a Colony, they would rather adhere to New England, and in time tread in the same stepps, to the losse of those many advantages, which at present, by the Method things are in, we yet enjoy. For We could not hope for a like Regulation on the Product of this Place, as on the Products of your Majesties other Plantations, because Fish cannot beare the Charge of comeing home, but must goe directly to the Marketts abroad.

Our next enquiries were concerning the French, and by what Methods they proceeded in this Trade, and We have not

found that they do otherwise manage it, then by the Adventurers Ships that yearely goe out and returne back; 'tis true they have a Fort at Placencia in the South part of the Island, with some Gunns in it, which are to defend them from the Indians, who at certayn times come off from the myane and molest them in their Beavor Trade, for which Trade onely, and not for ffishing they doe Inhabite there; and we were the more convinced herein when by computing and Comparing the Charge of Catching Fish to the Adventurer, and to the Planter, Wee found the former could doe it cheaper then the latter; which turn'd our whole Enquiry to finde out whether the French have any thing which enables them to Catch Fish Cheaper, or any Art in the preserving, to make them sell dearer then the English; And by the various Accounts of the Merchants who

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appeared (though differing in Opinion) Wee had reason to beleive, that the English do in generall still preserve a superiority in the Trade, They Catch it as cheap, Cure it as well, come as early to Market, can there sell as dear, and afford it as cheap as any the French can doe.

So that after Consideration of the whole Matter, We had recourse vnto those Rules which were formerly on like occasion settled in Councill by your Majesties Order of the 10th of March 1670-1 and We found them all so proper, and effectuall for the advantage of this Trade, as to need onely some few Additions to make the Trade revive and flourish, And those Additions We humbly propose to your Majestie as followeth.

1. That all Plantation and Inhabiting in that Country be discouraged; And in order herevnto, That the Commander of your Majesties Convoy have Commission to Declare at his goeing this yeare, your Majesties will and pleasure to all the Planters, that they come voluntarily away, and in Case of disobedience, that your Majestie will beginn the next yeare and so from time to time as often as your Convoys are sent thither, to putt in execution the ancient Charter, which strictly forbids any planters to Inhabit within six Miles of the Shore from Cape Race to Cape Bonavista; and finding any of them within that District, to Seize, bring away, or send them home as Offenders, to Answer their Contempts, and the Mischeifs before recited, which have been occasioned by such their Inhabiting contrary to the Charter; And in this single point (as We humbly conceive) does consist the validity and good effect of the whole Regulation.

2. We further humbly Offer that the Convoy who is now goeing, may have Instructions to help and assist those in their Transportation who shall be desirous vpon this intimation of your Majesties pleasure to returne home; And to Declare, that in Case they shall rather chuse to betake themselves to any of

your Majesties Forreigne Plantations, That the Governors are now writ vnto, and Commanded by your Majestie to receive them with all favor, and afford particular help and assistance towards their settlement; and such Letters We humbly propose to be speedily sent vnto the said Governors.

Also that the said Convoy, besides those points wherein he is already Instructed by the Lords of the Admiralty, be further Ordered to enquire if any Strangers doe in this time that they are in warr with each other, come there to Fish vnder the pretext of being English, and in Case of any Jealousy, to enquire into their passes and Sea-Breifes, and by what meanes, or whose Authority they have procured the same. Also to make enquiryes into the State of the French Trade, the Number of their Ships, and whether the same are this yeare more or lesse then formerly they have been; And of all his Observations and Journalls there, to send a Duplicate vnto this Committee.

3. That your Majesties Council Learned be directed (as formerly they were) to enquire into and review the Powers formerly given by your Majesties Charter of Confirmation for the Trying of Treasons, Felonies, Murthers &c. done in that place, and that if the same be in any thing deficient, or Incon-

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venient, that they Report what sort of Judicature would be convenient to be Erected for the hearing and determining of such, offences.

4. And when the same is Reported, and your Majestie shall in Councill settle and determine into what hands the administration of that Power shall be placed, That then the Mayors of the Westerne Ports be required to Renew their Charter, with the additionall Rules and Powers above-mentioned. Also that the same Charter may be printed, and a Proclamation Issue to enforce the observation of all that shall be established thereby, for the better exciting of all persons to their Dutyes who are concerned therein, or Obliged to take notice of the same.

Whitehall Aprill 15th 1675. Anglesey, Craven, G. Carteret, J: Williamson, Robert Southwell.

[24 July, 1675.]

REPORT OF SIR JOHN BERRY

ON CONDITIONS IN NEWFOUNDLAND.

July 24.
Bristol frigate in
St. John's Harbour,
Newfoundland,
1675.

CAL. STATE PAPERS AM & W. I., 1675-1676, p. 259

628. Sir John Berry to (Sec. Sir Joseph Williamson). Arrived 11th instant in St. John's Harbour and found H.M.S. Swann with 40 ships, the greatest part bound to a market. Has sent two able persons as far as Capes Bonavista and de Race to call in all the harbours, bays, creeks, &c., and take exact account as directed, and to declare his Majesty's pleasure to all the Planters. Has already done it in this Harbour, and they promised obedience, but the greatest part are too poor to remove unless his Majesty will send a ship for them, and at last they must be put on the Parish wherever they come. A labouring man will get in a summer season near 20 l., and their daily food comes out of the sea, while such a person would not get 3 l. in England. Has made diligent inquiry into all those things laid to the Planters' charge by the Merchants and finds most of them false, manifested in this single point. Summoned the Admirals and Commanders of 45 ships, and told them he thought it would be convenient that no stages, flakes, storehouses, or anything else should be pulled down, but preserved till next season; several old and experienced Commanders were for the preservation of all, but three-fourths were for taking them down, making many pretences that they had been at great charge and labour to build them, and why should another enjoy their goods next year? In conclusion told them his Majesty's Charter forbids that any spike or nail should be drawn, but everything entirely preserved, and he would take particular notice of those that should offend, and acquaint his Majesty therewith. All these things are laid to the Planters' charge. It is a common practice with the Commanders to brew beer, wood their ships, and sell the remains of the stages and houses to the sack ships. Has had experience of it 20 years since in a voyage here, and taken them in the very act of doing it since he came here. The charge laid to the Planters of enticing the men to stay behind and neglect their families is as true as the former; for when the voyage is ended, to save 30s. or 40s. for their passage, the Commanders persuade the Planters to receive them, and the seamen to tarry behind, as some Commanders have confessed, pretending they knew no order to the contrary. As to buying wine and brandy from New England in exchange for fish, has ordered them all to give

account of all the wine, brandy, and other goods they have bought this year, with names of ship, master, and where she belongs. These

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Planters are not so bad as the Merchants make them, but some “self-ended” persons have a mind to engross all into their own hands. It is the opinion of several experienced Commanders that if those people be removed from this Country, his Majesty's subjects would in few years find the ill-effects of it, for undoubtedly the greatest part would settle among the French, where they are already invited with great promises, or else for New England; they implore his Majesty's favour to continue, and promise all obedience to what orders shall be given. Several of the ships whose Merchants made such a clamour for convoy are scattered up and down, and going away without taking any notice of him. Designs to sail in August for the Bay of Bulls, there to make up the fleet, and to sail thence 20th Sept. at furthest, unless the ships cannot be ready. The fishers are like to make an indifferent good voyage, having taken about 200 kintalls per boat; the “Caplinge scoole” of bait is gone, which is a great detriment. St. John's is an excellent Harbour, large enough for 100 sail, with a narrow entrance and very high land; a small charge may fortify it to keep out a considerable fleet, and several think that, if the inhabitants be taken away, the French will soon possess it, to the loss of several advantages his Majesty's subjects yet enjoy, it being in the middle of the land. Has inquired in this Port, and cannot find that any New England vessels have been here with the goods before mentioned; but, on the contrary, that New England has taken good quantities of those goods from hence, the product of which is shipped in English vessels for a market. Has given account to Mr. Sec. Coventry and Mr. Pepys to the same effect. Endorsed, “R. 23, Aug. 1675.” 3 pp. (Col. Papers, Vol. 34, No. 118.)

No. 734.

REPORT OF SIR JOHN BERRY

[12 Sept., 1675.]

ON CONDITIONS IN NEWFOUNDLAND.

Sept. 12.
H.M.S. Bristol,
Bay Bulls,
Newfoundland.
1675.

CAL. STATE PAPERS AM & W. I., 1675-1676, p. 275

665. Sir John Berry to Secretary Sir Joseph Williamson. Refers to his former letter of 24th July (see *ante*, No. 628). Encloses a perfect account of all the fishing ships employed by the merchant adventurers from Cape de Race to Cape Bonavista, with their boats, men, and where bound. This year there are 175 ships, with 4,309 men, and 688 boats which at 250 kentalls per boat at 12s. per kentall amounts to 103,200 l.; 7 hhds. of train oil per boat at 40s. per hhd. is 9,816 l.; and 20 kentalls of core fish per boat at 5s. per kentall is 3,440 l.; which in all comes to 116,272 l. Has likewise sent an exact account of the planters, who are 1,655 men, women, and children, they employ 277 boats, and cured upwards of 69,250 kentalls of merchantile fish, most of it shipped in English vessels, which, with their core fish and oil will amount to 46,813 l., upwards of one-third of the fish taken by the merchant adventurers. By this his Honour may see what a loss his Majesty will have if those poor people should remove, for they design to settle amongst the French on the other side of Cape de Race, unless his Majesty will let them continue. Stands in admiration how people could appear before his Majesty with so many untruths against the inhabitants. It was never known since the memory of the oldest man using the trade that any New England ship brought wine or brandy for exchange for fish, only some provisions, taking those goods for payment. For better satisfaction, encloses a list of all ships that have furnished them this year, with master's names, and where they belong. The masters are the beginners in destroying the stages, and to save 30s. for a seaman's passage care not how many are left behind. Believes his Majesty will never have a regulation of this fishery unless a governor be settled, for the strongest treads down the weakest. Most of the ships bound to a market are gone away two or three in company, scorning convoy. Shall not be above 30 sail, and the weather proving ill for curing will keep them till the 20th or 25th instant. Has sent home one Jno. Bastard, who was apprehended for the supposed murder of John Tozer, his fellow boatman, in May before his arrival, and having examined the matter, has bound over four witnesses to prosecute. Cannot get any certain account of the French and their ships; they have two men-of-

war of 40 and 30 guns for convoy, and

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rendezvous at Trepassey, near Cape de Race; the St. Maio fleet of 20 sail go without convoy, being all considerable ships, and about 40 or 50 with convoy. Endorsed, "r. 11 Oct. 1675." Encloses,

665. 1., II. Duplicates of inclosures Nos. 1., II. to Sir J. Berry's letter of this date to Sir Robert Southwell. Together, 14 pp. (Col. Papers, Vol. 35, Nos. 16, 16 I., II.)

No. 735.**MINUTES OF THE COMMITTEE OF TRADE AND
PLANTATIONS**[4 Dec.,
1675.]Dec. 4,
Whitehall,
1675.

ON BERRY'S REPORT

CALENDAR OF STATE PAPERS 1675-1676, p. 310

731. Minutes of the Committee of Trade and Plantations. Mr. Cranfield's letter of 22nd Sept. last from Jamaica touching the arrival of his Majesty's subjects from Surinam reported, but not read; also his unfortunate killing of Thomas Yonge, chief mate of the *America*, and how he had been tried and cleared. Debate concerning the letter of Sir John Berry from Newfoundland of 12th September touching the misinformation of the Western men on which several of the Lords' resolutions were founded, which was read, and the complaint of Sir John Vowell and Messrs. Parrot and Ryder, &c., that the inhabitants of Newfoundland who were intended to be removed had taken such encouragement from what Sir John Berry had intimated to them, that they send to their friends to come over, and talk as if a colony and plantation were to be encouraged, on which the By-boat keepers throng over, getting 100 or 150 men into a ship of 100 tons, where 50 are sufficient and so the Adventurers get no men; and they pressed that the order passed might be enforced, and all masters obliged to give bond for the return of their seamen, so that at least no encouragement be given for increasing the inhabitants; and that an order might be strict for confining a ship of 100 tons to 50 men, which would destroy the By-boat men, who unless they could fit out more boats at their coming to Newfoundland could not live by it; whereas the Adventurer rides his own horse or takes up money at much less per cent. Objection of Mr. Sec. Williamson that this design was to exclude the poor from being sharers in anything, and these gentlemen of the West Country were shown to be very faulty, who having for five years had his Majesty's allowance for additional rules had neglected to pass them; they acknowledged that the fault was their own, but that now they would close all. 2 pp. (Col. Entry Book, No. CIV., 46, 47.)

[27 Jany., 1676.]

Confirmacond le
Newfoundland
Traders**CHARTER OF THE WEST COUNTRY ADVENTURERS**FOR THE FISHERY AT NEWFOUNDLAND. WESTMINSTER, 27TH JANUARY,
1676.

Extct.

PATENT ROLL. 27 CHAS. II. PAR 11. NO. 12

Charles the second by the grace of God &c whereas our late Royall ffather of blessed memory by his l'res Patentés under the greate Seale of England bearing date at Westm' the tenth day of ffebruary in the nineth Traders yeare of his reigne Thereby reciteing that the Region or Country called Newfoundland had been acquired to the dominion of his Progenitors which he held & his people had many yeares resorted to those partes where & in Extct. the Coastes adioyning they employed themselves in ffishing whereby a greate number of his People had been sett on worke and the Navigaõn & marriners of this Realme had been much increased & his subiectes resorting thither one by the other and the natives of those partes were orderly & gently intreated until then of late some of his subiectes of the Realme of England planting themselves in that Countrey & there resideing & inhabiting upon conceite that the wronges or Iniuries done there either on shoare or on the sea adioyning they could not bee here impeached And the rather for that hee or his Progenitors had not thentofore given laws to the Inhabitantes there & by that example his subiectes resorting thither iniured one another and used all manner of exesse to the greate hinderance of the voyage & comon damage of this Realme ffor p'venting of such inconveniences for the future hee did thereby declare in what manner his people in Newfoundland & upon the Sea adioyning & the Bayes Creekes or ffresh Rivers there should bee guided & governed And did Ordeyne and we by l'res Patentés under our greate Seale of England beareing date the six & twentieth day of January in the twelfth yeare of our reigne did renew ratify & confirme the lawes following in all thinges after specified comanding that the same should bee obeyed & putt in execuõn.

ffirst If any man on the land there should kill another Or if any should secretly or forceably steal the goods of any other to the value of forty shillinges hee should bee forthwith apprehended & arrested deteyned & brought Prisoner into England and the crime comitted by him should bee made knowne to the Earle marshall of England for the tyme being to

whome the Delinquent should be delivered as Prisoner.

Secondly That noe Ballast Presse Stones or any thing else hurtfull to the harbours should bee throwne out to the p'iudice of the said harbours

p. 1778

but that it should be carryed ashoare & layd where Itt might doe (noe) annoyance.

Thirdly That noe Person whatsoever either ffisherman or Inhabitants should destroy deface or worke any spoyle or detriment to any stage cooke roome fflakes spykes nayles or any other thing that belonged to any the stages whatsoever either att the end of the voyage when hee had done & was to departe the Countrey or to any such Stages as hee should fall withall at his comeing into the Countrey but that hee or they content themselves with such stage or stages onely as were needfull for them and that for repayreing of such stages as hee or they tooke they should fetch Tymber out of the woodes and not to doe itt with the ruining and tareing downe of other stages.

ffourthly That according to the Auncient custome every shipp or ffisher that first entreth a harbour in behalfe of shipp bee Admirall of the said harbour wherein for the time being hee should reserve onley soe much Beach or ffakes or both as was needfull for the number of boates which hee should use with an Overplus onely for one boate more then hee needed as a Priviledge for his first comeing And that every shipp comeing after content himselfe with what hee should have necessary use for without keeping or deteyning any more to the p'iudice of the others next comeing And that any that were possessed of several places in severall harbours with intent to keepe them all before they could resolve upon which of them to choose should bee bound to resolve or send advice to such Aftercomers in those places as expected his resolucon and that within forty eight houres if the weather soe served that the sayd Aftercomers might likewise choose their places & soe none receive p'iudice by others delay.

ffifthly That noe p'son cutt out deface or any wayes alter or change the markes of any Boates or Train fattes whereby to defraud the right owner & that noe person convert to his owne use the said boates or Trainfattes soe belonging to others without their Consentes nor remove nor take them from the places where they should bee left by the Owners Except in case of necessity & then to give notice thereof unto the Admirall & others whereby the right Owners might know what was become of them.

Sixthly That noe person doe diminish take away purloyne or steale any the ffish or Trayne or salt putt in the Caske

Trainfattes or Cooke roomes or other house in any the harbours or ffishing places of the Countrey or any other Provision belonging to the ffishing trade or shipp.

Seventhly That noe person sett ffire on any of the woodes of the Countrey or worke any detriment or destructiō to the same by rending of the trees either for the Sealeing of shippes holdes or Roomes on shoare or for any other uses Except for the covering of Roomes for Cookeroomes to dresse their meate in and those roomes not to extend above eighteen foot in length at the most.

p. 1779

Eighthly That noe man cast anchor or doe ought else hurtfull which may breede annoyance or hinder the hayleing of sayles for bayting places accustomed thereunto.

Ninethly. That noe persons robb the nettes of others out of any drift Boate or drover for bayte by night nor take away any bayte out of their ffishing boates by their shippes side nor robb or steale any of their nettes or any parte of them.

Tenthly That noe person sett upp any Taverne for selling of wine beere strong water sider or Tobacco to entertayne the ffishermen because It was found that by such meanes they were debauched neglecting their labours and poor illgovern'd men not onely spend most of their wares before they come home upon which the lives & maintenance of their wives & children depended but were likewise hurtfull in divers other wayes as by neglecting & makeing themselves unfitt for their labors by purloyning & stealeing from their owners & by makeing unlawfull shift to supply their disorders &c which they frequently followed since those occasions had p'sented themselves.

Eleventhly That upon Sundayes the Company assemble in meet places & heare divine service to bee said by some of the masters of the shippes or some others which Prayers should bee such as were in the booke of Comon Prayers. And for the encouragement of our subiectes in the said Newfoundland & in the seas adioyning and for the benefitt of the said trade there wee did streightly charge prohibitt & forbidd all & every the Owners of shippes tradeing in the said Newfoundland ffishery That they nor any of them should carry or transporte or p̄mitt or suffer any person or p̄sons to bee carryed or transported in any of their shippes to the said Newfoundland other than such as were of his or their owne or other shippes Company or belonging thereunto and upon the said Shippes hire & employment or such as were to plant & did intend to settle there.

And because that speedy punishnt might bee inflicted upon the Offenders against the lawes & Constitutiōns aforesaid

wee did Ordeyne as was formerly ordeyned by our said late Father That every of the mayors of Southton Weymouth & Melcombe Regis lyme Plymouth Dartmouth East Looe ffoy and Barnestable for the tyme being might take cognizance of the Complayntes made of any Offenders against any of the lawes or Ordinances aforesaid upon the land And by the Oath of Witnesses examine the trueth thereof & award amendes to the Parties greeved & punish the Delinquentes by ffine & Imprisonmt or either of them And of their goods found in the Partes of Newfoundland or in the sea cause satisfac̄on thereof to bee made by warrant under their handes and seales. And that the Vice admiralls in our Counties of Southon Dorsett Devon and Cornewall upon Complaint made of any of the ꝑmisses comitted upon the Seas should speedily & effectually proceed against the Offenders. Alsoe wee did will & Ordeyne that those lawes & Ordinances should stand in force & bee putt in due execūon until wee should

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otherwise provide and Ordeyne As in and by the said severall letters Patentes may appeare.

Now know yee that wee upon the humble Petīon of the merchantes Owners & masters of shippes & Inhabitanes of the westerne parts of this kingdome the Newfoundland in ffishing voyages And after due considerāon had of the best wayes & meanes of regulateing secureing & improveing the fishing trade in Newfoundland have thought fitt to ratify & confirme the said lawes & orders And accordingly wee doe hereby ratify & confirme the same other then such of them as are hereby altered or otherwise provided for And wee doe further also for us our heires and successors grant declare & enioyne as an addīon & alterāon to the said former lawes & Rules for the better government of the said ffishery the severall powers rules & Orders following that is to say

ffirst That all our Subiectes of the kingdome of England shall & may forever hereafter peaceably hold and enjoy the ffreedome of takeing bayte & fishing in any of the Rivers lakes Creekes harbors or Roades in or about Newfoundland or any of the Islandes adioyneing thereto with liberty to goe on shoare in any parte of the Newfoundland or the said Islandes for the Cureing salting drying & Husbanding of their ffish & makeing of Oyle & for the cutting of all manner of wood & trees for the building & makeing of stages Roomes Trainfattes hurdles Shipps Boates & other necessaries for themselves & their Servantes Seamen & ffishermen & all thinges which may be usefull or advan- tageous to their ffishing trade as fully & freely as at any tyme heretofore hath been used & enjoyed there by any of the Subiectes of our Royall Pre- decessors soe as they submitt unto & observe all such rules & Orders as now are or hereafter shallbee established by us our heires or successors for the government of the said ffishery in Newfoundland.

secondly That noe aliene or stranger shall or shalbe permitted to take Bayte or ffish in any of the Rivers lakes Creekes harbours or Roades in Newfoundland betweene Cape Race & Cape bonavista or in any of the Islandes thereunto adioyning.

thirdly That according to the establishment of our Royall ffather in the thirteenth yeare of his Reigne noe Planter or Inhabitant in or upon the said Newfoundland shall or shalbee permitted to fell cutt downe rook upp wast burne or destroy any wood or Timber trees or erect or make any houses buildinges gardens &c or Inhabitt or Plant within six miles of the shoare or in any parte of the said Newfoundland Betweene the Cape de Race lying in or about forty six degrees of North latitude and the Cape de bona vista lying in or about forty nine & an halfe degrees of North latitude now upon any Island within tenn Leagues of the shoare betweene the said Capes.

ffourthly That noe Planter or Inhabitant in Newfoundland doe or shall take upp or possesse any of the stages Cooke roomes & Beaches or places for takeing bayte or ffishing before the arrivall of the ffishermen out of England and that they bee all provided for.

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ffifthly That noe master or owner of any ffishing shipp doe transporte or carry any Seamen ffishermen or other Persons in his Shipp to Newfoundland other then such as are truely belonging to his or their shippes Company & such as are engaged in the voyage and have or shall have share or shares or hyre of the sayd shipp.

Sixthly That noe master or Owner of any ffishing shipp doe transporte or carry in any one shipp for a ffishing voyage more than sixty persons to one hundred Tunns burthen of the said shipp & doe proportionably for all shippes of a greater or lesser burthen.

seventhly That every ffisherman yeerly carryed out of England bee a Greenman and not a Seaman And that the masters & Owners of all ffishing shippes tradeing out of England to Newfoundland according to the number of men in their respective shippes doe provide in England Victualls & other necessaries (salt onely excepted) for the whole voyage or ffishing Season for themselves and Companies & putt the same on shippboard before the going out of Porte here.

Eightly That noe ffishing shipp or Company doe departe out of England directly for Newfoundland on any ffishing voyage in any yeare before the first day of March now to the Isles of Cape de Verde intending from thence to Newfoundland before the fifteenth day of January.

Ninthly That from henceforward all masters of ffishing shipp trading to Newfoundland shall yearly before the begining of their Voyage give bond to us our heires or successors before the mayors for the tyme being of the respective Portes of Southton Poole Weymouth Melcombe Regis lyme Exeter Dartmouth Plymouth Eastlooe flowery fflalmouth Biddeford Barnstable & Bristol & all other Portes & Townes upon the Coast of England respectively according to the Porte or place from whence they shall sett out of the penalty of one hundred poundes condiconed that they shall not carry out any seamen ffishermen or other Persons other then such as are truely belonging to his or their or other shipp Company & such as are engaged in the voyage & have share or shares or hire of or in the said shipp or shipp respectively And that they shall bring or cause to bee brought backe into England all such seamen ffishermen & other persons as they shall carry out (mortality & danger of Seas excepted) And alsoe such persons as shall bee imployed from the Newfoundland in English shipp with ffish for markt voyages provided nevertheles that if any of the said seamen ffishermen or p̄sons aforesaid shall runn away or desert their shipp The master or masters of such shipp or shipp paying such persons share or Shares or hire to the major of the place from whence the said shipp sett out shalbee discharged of his or their bondes respectively Or if noe Complaint shall bee made against the said masters in three months after their returne from the said voyage then his or their bondes to be delivered up unto them respectively.

Tenthly That noe master of any ffishing shipp or others doe take up or use any Stage already built in any Porte harbour or Bay between Cape Race

& Cape bona Vista with a lesse number of men then twenty five who are to bee of one intire Company And that noe ffishermen or Seamen carried out as aforesaid bee or shalbee suffered to remaine in Newfoundland in the winter after the ffishing voyage or Season is ended.

Eleventhly That the Admiralls viceadmiralls & Reare Admiralls of & in every porte or harbour in Newfoundland for the tyme being bee & are hereby authorized & required to p'serve Peace & good govenmt amongst the Seamen and ffishermen in their respective harbours as well as on the shoare to see the rules & Orders concentering the regulacon of the ffishery duely putt in Execucon and to cause all Offenders to bee apprehended that they may be punished according to their demerittes.

Twelfthly That the Admiralls Vice Admiralls & Rear Admiralls in their respective harbours Bayes &c shall and they are hereby according to auncie(nt) custome impowered to apprehend & secure all Offenders for any Crime comitted in Newfoundland on shoare or att Sea & to bring them into England.

Thirteenthly That the severall Admiralls in their respective harbours and Bayes in Newfoundland doe on or about the twentieth day of September yeerly publish in their said harbours & upon the shoare these our Orders & Comandes forbidding all seamen or ffishermen to stay or remaine in or upon the said Newfoundland after the last day of October.

ffourteenthly That the said Admiralls doe yeerly keepe Journalls of their proceedings there And att their Return into England deliver Coppies of them with an Account of the Number of Shippes Boates Stages Trainfattes &c and of the Seamen & ffishermen belonging to & imployed in their respective harbours unto our Councell for forreigne Plantacons. And lastly because there is at p'sent noe Court marshall in England wee doe therefore further require & Comand That if any man in Newfoundland shall kill another Or if any shall secretly or forceably steale the goodes of any other to the value of forty shillinges hee shall forthwith be apprehended & arrested deteyned & brought Prisoner into England and the Crime comitted by him made known to one of our Principall Secretaries of State To the end that due Order may be given to punish such Offenders according to law In Wittness &c Wittnes the King at Westm the twenty seventh day of January

by Writt of Privy Seale.

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April 19.
Whitehall.
1676

No. 737.

ORDER IN COUNCIL

DIRECTING THAT INFORMATION BE OBTAINED RESPECTING
NEWFOUNDLAND.

CAL. STATE PAPERS, AM. & W. I., 1675-1676, p. 378

891. Order of the King in Council. That several heads of inquiries to the Commander-in-Chief of his Majesty's ships now going to Newfoundland approved by the Lords of Trade and Plantations are hereby referred to the Lords of the Admiralty to give instructions accordingly. Then follow the heads of inquiry concerning the trade of the French there, the trade with New England, the number of planters, destruction of woods and stages, the boat-keepers, number of ships, &c. (Col. Entry Bk., Vol. XCVI., pp. 63-65.)

No. 738.**EVIDENCE OF SIR JOHN BERRY AND CAPTAIN
DAVIS**1676
Aug. 8.
Whitehall.

RESPECTING NEWFOUNDLAND.

CAL. STATE PAPERS, AM. & W. I., 1675-1676, p. 439.

1015. Journal of the Lords of Trade and Plantations. Sir John Berry and Captain Davies attended to give account of the present condition of Newfoundland, with their opinions concerning the removal or encouragement of inhabitants there. Sir John Berry's letter of 12th September last again read (see *ante*, No. 666), and Sir John asserts all is true, and Captain Davies is of the same opinion for encouragement of a Colony for security of the fishing trade, or else the French would take the advantage to make themselves masters of all the harbours and fishing places, or would entice the English to settle amongst them. That the abuses complained of are wholly occasioned by the West country adventurers. That the masters of ships at their departure pull down their stages for firing on board their ships, and leave their men merely to save charges of returning them to England. Captain Davies says he had orders some few years past to carry guns thither for strengthening the harbours, but by reasons of the war with Holland those designs were laid aside. Further consideration deferred till next winter, since no ships go for Newfoundland till next spring, when the West countrymen are to be summoned to give answer, and, in the meantime, Sir John Berry to see their former reasons for removal of the Colony. (Col. Entry Bk., Vol. CIV., pp. 193, 194.)

March 3-
4.
Whitehall.
1677

No. 739.**CONSIDERATION OF NEWFOUNDLAND AFFAIRS BY
LORDS OF TRADE.**

CAL. STATE PAPERS, AM. & W. I., 1677-1680, pp. 76-8

215. Journal of Lords of Trade and Plantations. Letter read from Sir Jonathan Atkins of 6/16 Dec. (see preceding Volume, No. 1174). It is agreed to report to His Majesty as follows (see *ante*, No. 210), it not appearing that His Majesty had ever sent any stores to Barbadoes for which payment was not to be made there. Also was read another letter from Governor Atkins of 8/18 February (see *ante*, No. 48).

In pursuance of the King's order (see *ante*, No. 97) their Lordships met to find out what is proper to be done for security of the fishery of Newfoundland, and settlement of that plantation, both parties concerned called in; their Lordships' report of 15th April 1675 (see previous volume of Calendar, No. 524) and Sir John Berry's letter to Sir Robert Southwell having first been read, Counsel on behalf of the Adventurers argues that the manner of catching fish by ships is very ancient and the plantation settled of late years, since which the fishery is very much decayed by reasons of abuses committed by the planters. That they debauch the seamen, destroy the stages, and are of no security or strength against any enemy in time of war, and that in time of peace His Majesty's sovereignty is sufficiently provided for by the yearly sending out of ships, by which possession is actually maintained for half the year. That the French have so large a tract of land, and so great conveniency of harbours to exercise their fishery, as that they will not easily be provoked to encroach upon us or disturb our fishery. Mr. Perrot being sworn alleges several instances of injuries he supposes to have been done by the inhabitants to the Adventurers. Benjamin Scutt assures their Lordships the fishing ships are forced to leave England six weeks sooner by reason of damages done by the planters, that of late years the fishery is decreased one half upon the encouragement the inhabitants have received out of England. That upon renewal of the Western Charter two years ago, whereby no person was to inhabit within six miles of the shore, the trade again revived, and last year 7,500 men went out on fishing ships besides those on the sack ships. Mr. Pollexfen also sworn to the same effect. Counsel on behalf of the Planters deny what is alleged against them and offer to give security not to destroy the stages of the fishermen or do them any injury and conceive in case the Plantation ceases, His Majesty can by no means secure his

right to the country.

p. 1786

Besides that the planters are already settled there by virtue of former patents, whereby the soil is granted to them. John Downing, as agent for the planters, assures their Lordships he has frequented the island above thirty years, that there is a colony of one hundred and fifty families amounting to sixteen or seventeen thousand souls (*sic*). That the fishermen belonging to the ships at their departure pull down their stages for firing on board, and ruin the flakes to brew drink. That the planters are very useful to them in keeping their stores, and he had one year six hundred hogsheads of salt in his custody for the fishermen. And by Sir John Berry's order, undertook to preserve their stages preferring the admiral to make good all damages. That it is impossible for the planters to inhabit six miles from the shore, all their houses are near the water and none farther off than a quarter of a mile. He affirms the French have at least 250 families of about 2,000 men and 400 soldiers, that the King of France daily encourages the plantation, so it is much increased since 1670, and the French have at length exempted themselves from the impost of five fish for one hundred and twenty which they paid to the proprietors in Sir David Kirke's time, and during the late usurpation unto the men of war that were sent thither. That the French forts are not maintained for the security of the beaver trade against the Indians, there being none that live, or ever come near the French plantations. That we ought to be more apprehensive of the growth of the French colony as so near to ours, from Placentia Bay to Trinity harbour but three miles. Mr. Downing's account of how the inhabitants employ themselves after the fishing ships are gone away and during the winter season. Captain Davis who had been many years in Newfoundland says if the inhabitants be obliged to desert the island, the French will immediately possess themselves of it and destroy our fishery. Several points may be made defensible, as St. John's Harbour, which is of so great a strength as De Ruyter confessed if there had been six guns mounted he could have done the ships no injury. That the abuses against the charter are practiced by the ships' companies who cut down their stages. All persons being withdrawn their Lordships agree to report to His Majesty according to these several informations, with their opinions that no alteration be made this year in relation to the Colony or the fishery. And Meanwhile that three Commissioners be sent over with the convoys to enquire into the French trade and plantation, and the present complaints.

May
4.

Instructions to be given to said Commissioners considered and all means to be used to get information from France as to their trade and plantation. Report made to His Majesty in Council which is ordered to be referred back to hear the Western men and planters and consider of fit regulations to prevent the adventurers receiving any prejudice from the

planters. (Col. Entry Bk., Vol. CV., pp. 31-38.)

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Volume IV
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March 16.
Drury Lane.
1677.

No. 740.

**LORD ANGLESEY TO SIR JOS. WILLIAMSON,
RESPECTING CONTEMPLATED CHANGES IN
REGULATIONS.**

CAL. STATE PAPERS, AM. & W. I., 1677-1680, p. 36

91. Lord Anglesey to Secretary Sir Joseph Williamson. Indisposition prevented his going to the Council. Desires him to move for directions to be sent to Newfoundland by the first shipping for all things to continue in that Plantation as they are till His Majesty, upon full consideration, shall settle affairs there as he shall judge best. Several ships from the West have gone already, and others go daily who may disturb affairs there. If orders be not sent to prevent mischief we shall run great hazard to lose that country with the trade and give it up entirely to the French, which he hopes Williamson will prevent by speeding away with orders, the agent attending here from that country. 1 p. (Col. Papers, Vol. XXXIX., No. 46.)

No. 741.

Sept. 15
St. John's,
Newfoundland.
1679.

CHAS. TALBOT'S ANSWERS TO ENQUIRIES

RESPECTING STATE OF FISHERY AT NEWFOUNDLAND.

CAL. STATE PAPERS, AM. & W. I., 1677-1680, p. 417.

1121. Charles Talbot to Sir Robert Southwell. We came so late to Newfoundland that the season for boats to adventure to the northward was past, neither could we get any. What I could learn in answer to the enquiries I have enclosed. Annexed.

1121. 1. Answers to enquiries respecting Newfoundland. (1). The colony consists of about 1,700 men, women, children, and servants. Trade in summer fishing ; in winter sawing of boards, building boats and making oars for the Adventurers. After the ships are gone they generally fish till All Hallowtide. There is furring to the north, but little to the southward. They observe the rules of their charter more than the Adventurers, for they preserve their stages, while the Adventurers people destroy theirs for firewood for the homeward voyage. (2). The inhabitants are not able to subsist, and the less for want of a government to protect them in their labours. From England they get their bread, clothing, malt, flesh and pease, from Ireland both provisions and clothing, from New England tobacco, sugar, molasses, rum, flesh, bread, and flour. What relates to the fishery comes solely from England in English ships. (3). They make no use of the wood except for purposes of the fishery, and building &c.; they do their best to secure the Adventurers' concerns which are left with them, but it is a common practice for the Adventurers to rifle the stages and rooms and boats to fit themselves, so I am informed, and the fact is not denied by some of the masters. (4). Few of the Colony keep above three boats, and none of them take up more room than is convenient; far from being prejudicial the trade could not be so well managed without them. (5). The boat-keepers left behind must be esteemed part of the Colony, but there are many that pay their passages out and home, and fish the season. These cannot be prejudicial to the Adventurers' concerns, though when the stages are ruined by the

ships' companies I suppose the colonists make bold with the rest for firewood. (6). The Colony and bye-boats are supplied with brandy, wine, salt, &c., from

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France, Spain and Portugal, but only in English ships.

(7). The country is mostly barren and cumbered with wood. Winters are so severe and long as not to afford winter corn. In summer they might do somewhat, but servants' wages are so excessive that clearing ground and sowing corn would not be profitable. It is a Colony not of husbandmen but fishermen. (8). New England trades with Newfoundland for fish. It is false that the fishermen are debauched by the Colony and forced to hire themselves for satisfaction of their debts; but as some of the servants return yearly to England when the summer voyage is over, they hire others in their places, thereby gaining their passages the year ensuing. (9). It is supposed that the Colony own a fourth part of the fishing boats and generally make better voyages, but their expenses being greater they cannot afford to sell cheaper. (10). Those of New England fish little on this coast, but their own fisheries increase, for they steal fishermen every year from Newfoundland. (11 and 12). Referred to Captain Wright's report. (13). The masters are glad to have the provisions of such men as are willing to stay with the Colony. (14). The Adventurers' people break up their stages, and were beginning at St. John's when we were there, until forbidden. In short, they offer so many abuses to the Colony that some have removed to the French and more threaten to do so.

As to the French,—

They manage the trade as we do by a colony and fishing ships. Placentia is fortified, garrison of twenty men; ten families of England and French and more at other ports in the south; at least 40 ships fish on that side, come sooner, and go for the Straits a month before us. Northward at least 150 ships fish, according to Christopher Martin. They sail for St. Maio and thereabout. No information as to Colony or fortifications. They have a great trade for beaver in Canada and Nova Scotia. As to the present state of the fishery at large:—The trade is prejudiced for want of government. The fishermen are negligent and insolent. If the masters are severe the men desert to New England. The stages are generally destroyed; a great waste of wood and abuse to the Colony. (2). The island is a possession of the British Crown. The Colony preserve it, having been settled by patent as a colony of fishermen with liberty to build stages, houses, or forts if they would, but not to make plantations within six miles

of the fishery places so as to preserve the woods necessary for the fishery. (3). If the Colony be not allowed to follow the fishing trade, the King's Customs will suffer, and many of his subjects be lost by removal to the French, to which several have been driven already. (4). In case of war with France one ten-gun frigate might burn all the boats and destroy the Colony. St. John's and a few other harbours may be made impregnable. (5). The way to secure Newfoundland is to settle a Governor and Government, fortify

p. 1790

some of the choice harbours, and maintain good garrisons which may be done at little cost to the King.

(6). The Colony has declared its willingness to contribute, but the Adventurers and sack ships should contribute also, as they will profit, say, one penny per quintal or two quintals per boat, and the sack ships to find ammunition as in New England. (7). The sum thus raised will pay for fortifications and garrisons. 3pp. Endorsed. Recd. 13 Feb. Read 21 and 26 Feb. 1679-80. (Col. Papers, Vol. XLIII., No. 121, 121 1.)

No. 742.

AMENDMENTS TO REGULATIONS

Feb.
16,
1680

BY LORDS OF TRADE AND PLANTATIONS.

CAL. STATE PAPERS AM. & W. I., 1677-1680, p. 480

1294. Journal of Lords of Trade and Plantations. Business of Newfoundland, pursuant to Order in Council of 15th instant. Read, an account of the past history and present of the Colony, the Report presented to the King, 15th April 1675, and several reports made by the Convoys annually sent to the Colony, which their Lordships see no reason not to accept as true and authentic. The Western Charter confirmed and enlarged on the 20th January 1675 was examined. Agreed that the first article be put into execution and a more effectual way of judicature be found, whether by the convoys then present, or by such as the King shall appoint. Remaining articles of the preamble agreed to except the 10th, prohibiting the setting up of taverns, which was altered so as to enable the inhabitants to keep taverns and public houses, and leave it to masters of ships to see that their men do not debauch themselves. As to the added portion of the Charter, the following amendments were made :—3rd Article : To allow the planters to live as near the shore as they please. 4th Article : That the inhabitants shall retain possession of their stages, but build no more until the Adventurers be all arrived, after which they may erect new stages which they shall always possess ; and that no Planters or Adventurers meddle with the stages belonging to each other. 5th Article : To permit the inhabitants to hire servants in England and transport them to Newfoundland, though they be not of the ship's company or have no share therein. 6th Article : That no owner carry more than sixty persons per hundred tons. 8th Article : The order obliging fishing ships to stay till the 1st March is superseded ; agreed that the King be recommended to send one convoy at the first season to protect the ships bound to Newfoundland. Their Lordships also recommend that one Minister, or as many more as the inhabitants can maintain, be sent over by the next convoy, who are to go from place to place to baptize children, &c., and that the person to be commissioned by the King be ordered to visit the settlements yearly, and take care that the people do not go to the French, and keep an exact register of them and of their ships, to be furnished to the Council annually. (Col. Entry Bk., Vol. CVI., pp. 122-127.)

No. 743.**MEMORIAL OF INHABITANTS OF
NEWFOUNDLAND.**[Feb.
21,
1680]

CAL. STATE PAPERS AM. & W. I., 1677-1680, p. 483

1301. Representation of the inhabitants of Newfoundland to Lords of Trade and Plantations. They have never in their former petitions designed the least prejudice to fishery or navigation they desire only the security of the King's property, the advancement of his Customs, and encouragement of the fishery in general. If the King do now make a full settlement of the country, they desire that their servants may be brought to them yearly by freight or hire, according to the practice of the fishing ships, but they conceive it necessary and for the good of all that, as by the violence of the Western Adventurers they have been forced to disperse to twenty different places, the King should reduce them to four, viz., Trinity Harbour, St. John's, Ferryland, and Trepassey, or such other harbours as the Lords may think fit. Thereby not only will the Colony be easily governed, but also enabled to oppose the French, provided St. John's, which is a place easily fortified, be one of the places assigned to them. The inhabitants are willing, for the greater satisfaction of the Western Adventurers, to contain themselves within their present number and possess only their existing stages, provided that their children, as in time they increase, be permitted to erect stages and get an honest livelihood by a trade which is so advantageous to the Kingdom. Signed, William Downing. 1 p. Endorsed. Read 21 Feb. and again 26 Feb. 1679-80. (Col. Papers, Vol. XLIV., No. 27.)

No. 744.

**FURTHER CONSIDERATION OF NEWFOUNDLAND
AFFAIRS**

BY LORDS OF TRADE AND PLANTATIONS.

[Feb.
26,
1680]

CAL. STATE PAPERS AM. & W. I., 1677-1680, p. 490

1306. Journals of Lords of Trade and Plantations. Business of Newfoundland resumed (see *ante*, No. 1300). Agreed that it is undesirable for the Governor to have further power over the men belonging to the Adventurers or Sack ships than to send them on board to their masters ; also that Planters be forbidden to keep buildings, other than necessary for the fishery, orchards or gardens within a quarter of a mile of the shore, lest the fishery be thereby disturbed ; also that the fortification of St. John's be first undertaken and the King advised to grant guns and ammunition ; also that the mayors of each fishing port in England be directed to require the journals prescribed by the Western Charter of the Admirals of their respective harbours, all of the Admirals except one having failed to comply with this direction ; also that, in view of the abuses pointed out by Mr. Hinton (see below) circular letters be addressed to the mayors of the western towns directing them to take effectual care that the Western Charter be observed in all such particulars as are not superseded by the King's order, also that the Governor be instructed to report to the Council what has become of the great guns left by Sir David Kirke. In view of the effect of the intended regulations of the Newfoundland fishery upon the King's Customs, the Commissioners of Customs are desired to inspect the papers and report to the Lords of Trade and Plantations on Monday next, when Mr. Downing will be present to say on behalf of the inhabitants what contribution they will furnish for the maintenance of the Governor ; the captains of convoys are also directed to attend at the same time. Sir William Stapleton's letter containing his negotiation with the Count de Blenac read, and report thereon considered (see post, No. 1320). (Col. Entry Bk., Vol. CVI., pp. 134-138.)

No. 745.

EXTRACT FROM BOARD OF TRADE JOURNAL.

[26 Feb. 1679-80.]

C.O. 391. VOL 3, p. 134.

At the Committee for Trade & Planta[̄]cons
In the Council-Chamber at Whitehall
The 26th of February 1679 / 80.

Newfoundland

Present

Lord President	Earl of Essex
Lord Privy Seale	Visc ^t Fauconberg
Marquiss of Worcester	M ^r Hide.
Earl of Bridgewater	M ^r Secr ^{ty} Coventry
S ^r Leolin Jenkins.	

Fishery

Vpon a further consideration of the business of Newfoundland, their Lo^{ps} are of opinion That it is not convenient for the Governor to have any other influence or command over y^e Seamen or ffishermen belonging to the Adventurers or Sackships than to secure them to send them on board to bee punished by / their respective Masters, when they shall commit any ryot or misdemeanor on shore.

And that the ffishery may not receive any inconvenience from y^e Planters, it is thought fit that they bee not permitted to keep any buildings, orchards or gardens which may give any disturbance to the ffishery within one quarter of a mile of the shore, other than such stages, Flakes, and rooms as are necessary for the catching and curing of ffish. And because it is thought necessary that some fortification bee erected and maintained in Newfoundland (as the french doe) for preservation of his Ma^{tie}'s Sovereignty, and security of the ffishing Trade, their Lo^{ps} will Report, That S^t John's Harbour may bee first fortified, and that his Ma^{ty} will bee pleased to allow some Guns and Ammunition for that service.

No. 746.**THE BOARD OF TRADE.**

(Guide to the Materials for American History, to 1783, in the Public Record Office of Great Britain. Vol. I. The State Papers by Charles M. Andrews, pp. 82–83.)

The Board of Trade, in origin at least, did not constitute a separate department of government, and therefore its papers, though in character departmental and arranged according to the common departmental plan, properly belong among the state papers. The board was legally only a body of advisers to the crown and its papers would naturally fall into the same class as those of the Privy Council and the Secretary of State.

Regarding the early history of the bodies created for plantation control nothing need be said here. Before 1696 great dissatisfaction was expressed by the mercantile classes because the control of trade was in the hands of courtiers without experience, and therefore Parliament determined to obtain the direction of matters of trade and plantations. It charged the administration with neglect of the interests of the merchants and in 1695 and 1696 adopted a large number of resolutions providing for a Parliamentary control of trade. But the king refused to allow this encroachment on his prerogative and a compromise was effected. On May 15, 1696, William III. caused a commission to issue under the great seal constituting a special council or board for the purpose of promoting the trade of the kingdom and of inspecting and improving the plantations in America and elsewhere. This commission followed in all respects the resolutions of the House of Commons, which in their turn were based throughout on the instructions to the Shaftesbury council of 1672.

The commission erected a council composed of two groups of members. First, the high officials of state, including afterward the auditor general of the plantation revenues. These officials were *ex officio* members, whose presence was not required unless they desired to attend or the public business demanded it. Nevertheless, the board took pains to remind each one, when he entered on his term of office, that he was a member, requesting him to attend when he could. Many did attend, particularly the secretaries of state, and took an active part in the work of the board. Second, the active or paid members, supposedly competent men, upon whom the actual work of the board fell. Three constituted a quorum for ordinary business. Yet even with this small number a quorum was sometimes wanting, and in 1709 the

Secretary of State had to write to the board insisting that if any had to be absent on account of private business they should relieve one another and take their turns "always having enough in town to do business in pursuance of their commission." At first, reports and representations had to be signed by five members, but after 1697 the number was reduced to four or more and this continued to be the rule for the remainder of the board's history. Generally one or two meetings a week were held, except during August when the board broke up for a recess, but later the number varied, sometimes rising to five and at other times, notably in 1774, dwindling to two meetings a month. The duties of the board, as the many commissions show, were rather the protecting and furthering of trade and commerce than the administration of the colonies. In fact, with the administration of the colonies as such the board had nothing to do, though it was required to keep itself informed on this point and to obtain such information as was necessary to hasten the settling and improving of the plantations so as to render them more useful and beneficial to the kingdom of England. The main object of the board was to develop the colonies in the commercial interest of the mother country.

No. 747.
**REPORT BY COUNCIL OF TRADE AND
PLANTATIONS TO THE KING, RESPECTING
IMPORTANCE OF TRADE OF NEWFOUNDLAND.**

CALENDAR OF STATE PAPERS, AMERICA & W. INDIES, 1696-1697, p.
303.

583. Council of Trade and Plantations to the King. In obedience to your Order in Council of 12 November last, on the petitions of the West Country Merchants relating to Newfoundland, we report as follows. The trade of Newfoundland is of very great importance to the Kingdom, employing numbers of poor people in the West of England in making nets. The exports to it are all English produce except salt ; the imports from it are not only the bare returns of what is carried out, but the fruit of all the labour employed therein, while the employment of numbers of ships and seamen increases the naval strength of the country. To recover and preserve it, we recommend that besides the convoy already appointed for the salt ships at the end of the month, four frigates (two at Plymouth and two at Milford) be appointed for the fishing-ships at the end of February, and two more (at Plymouth and Milford) for the salt-ships at the beginning of June. These convoys, while they remain at Newfoundland, should be ordered to cruise for the security of the fishing-fleet or to annoy the enemy, and should at the end of the season escort the ships to their markets. Besides the fishing-ships that resort thither annually, planters are convenient to preserve the boats, oars, stages, etc., and, in time of war, to protect the ports. But the number of these inhabitants left there during the winter should be limited to 1,000, lest by the increase of their numbers they engross the fishery to themselves, to the prejudice of our navigation. The French have already so fortified themselves in the Island, and seem so intent on the improvement of their interests there that the planters cannot suffice to protect our part. In order therefore to establish some military force by land to protect the harbours from such attacks as that made upon Ferryland, last summer, we think that little forts or redoubts should be built, two at St. Johns, one at Ferryland, and one at Fermouse, and that an engineer should be sent out for the purpose. We think that at least three companies of soldiers are necessary during the war for defence of these places ; and since some think that a general Governor would be too great an encouragement to the planters, to the obstruction of the fishery, we think that each captain should command separately in each place, and have no power over the fishermen and planters except in case of actual invasion. Lastly we recommend that all suitable encouragement should be given to the inhabitants of Ferryland now residing at

Appledore, Devon, for their relief and re-establishment.
Signed, J. Bridgewater, Ph. Meadows, Wm. Blathwayt, Jno.
Pollexfen, Abr. Hill. Memo. This was not presented. (Board of
Trade, Newfoundland. 25 pp, 58-61.)

**REPORT OF COLONEL GIBSON ON
NEWFOUNDLAND AFFAIRS.**1697
June 28
St. John's,
NewfoundlandCALENDAR OF STATE PAPERS, AMERICA & W. INDIES, 1696-1697, p.
522.

1,115. Colonel Gibson to Council of Trade and Plantations. We sailed from St. Helens on Saturday, 17 April, and all arrived here on 7 June, except the hospital-ship and a small French banker, her price, which have since arrived. We were very uneasy for some time at hearing nothing of our store-ships and provision-ship, but they came in here yesterday at last under convoy of the Portland and a fire-ship. H.M.S. Bonadventure, which came with them to Trinity Bay, has put into Trinity Harbour to make good defects, and I have been much concerned to hear that the masters of the three ordnance-store ships have been obliged to serve out full allowance of provisions from the time they went on board till their arrival here, so that their three months' full provisions, which ought to have lasted four months and a half, are already expended. The want of materials at our first arrival was very prejudicial to us. We could command neither spade, shovel nor pickaxe, so that it was with much ado that, with the help of the grenadiers' hatchets, we made huts to shelter the men ; but now that the store-ships are come, all hands shall be set to work. Several of the inhabitants have been to us from Conception Bay, Trinity Bay and Bonavista, but we hear of nothing but destruction from them all, for nothing escaped the barbarous fury of the enemy but Bonavista and the little island of Carbonere. The last defended themselves bravely, which, in my opinion, was partly the reason why the enemy did not go so far as Bonavista. To southward of this there is not an inhabitant left but two or three in the Bay of Bulls, and two at Brigos by South and from there to Trepasse, which is the southmost of the English Plantations. There is not a living soul left, yea not at Ferryland, which was always looked upon (as I am told) as the best harbour and the pleasantest place in the whole Island. However, when we have secured this, I mean to go to Ferryland with a part of my regiment and secure that also, which may possibly encourage the people to settle there again. There are several other places to southward of that which in my humble opinion ought to be secured, for if we do not I fear the enemy will, before next spring, if a happy peace does not prevent it. I am afraid that, the summer being so far spent and

our provisions like to fall short, I shall not have time to do what I would for the security of the harbours formerly possessed by the English ; and it were ten thousand pities but that care were taken of them. For

p. 1799

though the continual fogs make approach to the island difficult, there are not better harbours in the world. All that I heard in England as to the advantage of the country is not comparable to what I have seen during my three weeks ashore here. I see little difference in the climate, nor do I believe that what grows in England will not grow here, for such a quantity of strawberries I never saw nor heard of. The few meadows within two miles of this place are full of them and of currants, both red and white, and raspberries growing wild in the wood. But all this has not sufficed to make the inhabitants cultivate the ground, for they apply themselves wholly to fishing, which gives them vast advantage, and far more than they could make by labouring the ground. You know how many debates there have been for and against a Governor here, nor shall I concern myself therein, but it is too evident that the want of a good Governor has been the ruin of a great many families in the country who were in a very flourishing condition. Let the King do what he may, unless there be some government settled— I do not mean a military government but the civil and Church government also, for in the little time that I have been arming them, the people have lived more like heathens than Christians — (he will accomplish nothing). I shall write further by next opportunity and indeed was unwilling to write by this, only as a ship was going to Bristol I thought I could not do less than give you this account. I believe that the Commodore has written to the Admiralty about the fleet. Signed, J. Gibson. P.S. —Commodore Norris goes cruising to-morrow for twenty-one days, by which time we shall be ready for Ferryland. I begin to fear the want of provisions. We are now at half allowance of bread and short allowance of all other. 2¼ pp. Endorsed, Recd. Read, 4 Aug. 1697. (Board of Trade, Newfoundland, 3. No. 81 ; and 25. pp. 123-127).

No. 749.

**REPORT OF CAPTAIN NORRIS ON
NEWFOUNDLAND AFFAIRS.**1698
March 17.

CALENDAR OF STATE PAPERS, AMERICA & W. INDIES, 1697-1698, p.
137.

301. Captain John Norris, R.N., to Council of Trade and Plantations. I think that the fishery of Newfoundland cannot be better than under its old constitution. If you wish to make part of the country defensible in case of war, I think St. John's harbour the most advantageous place by nature. The country is so woody and mountainous that an enemy can't easily march to it and cannot possibly bring cannon by land to the place ; hence the redoubt built by Colonel Gibsone may be sufficient defence against such attacks. As to the sea, the narrow entrance to the harbour and the great height of the land on both sides create such eddy-winds and calms that an attack would be very difficult, especially if you approve of a boom and chain being fixed across the harbour's mouth. On the north side, at a place called One-o'clock, is a convenient place and distance from the boom for a battery of from fourteen to eighteen guns. Right against it on the south side is another place for three or four guns. These two places, in addition to what is already, would, I believe, make the harbour defensible. I think that if planks and materials were sent there at the time of the convoy's going, the labour of their ships-companies might complete the work this year. The battery on the north side should have a place to put powder in. To man these batteries I think that the inhabitants would suffice, but for the care of the guns and stores there should be gunners and store-keepers ; but that power should have no influence over the inhabitants for fear of prejudicing the trade ; and to prevent any abuses by mismanagement the convoy for the year, together with the Admiral and Vice-Admiral of the port, should examine all the stores to check embezzlement. I would suggest whether, against the outbreak of war, it would not be proper to have dormant commissions among the inhabitants to summon the people for the defence of St. John's until the King send what may be proper, allowing them pay while the service lasts. This power should in my opinion be subordinate to the Admiral of the port, if one be there, because the masters of the merchant-ships may probably have seen more service than any of the planters, and the planters in general are a kind of servants to the merchant-men. To fix the boom there must be

an iron bridle to go over the rock on the north side, and a crab or capstan on the south side to heave the boom across. Signed, Jno. Norris. 2½ pp. Endorsed, Reed. Read 17 March, 1697-8. (Board of Trade, Newfoundland, 3. No. 96 ; and 25. pp. 182-184.)

No. 750.

FURTHER REPORT OF CAPTAIN NORRIS.

1698
Nov 18.
H.M.S
Winchester
Cadiz Bay.

CALENDAR OF STATE PAPERS, AMERICA & W. INDIES, 1697-1698, p.
550.

990. Commodore Norris to Council of Trade and Plantations. I enclose particulars of such information as I could obtain in Newfoundland. I think that if the merchants adventurers have the preferable encouragement before the planters boat-keepers it would make the trade most beneficial for England, they making yearly returns of their labour. For, if the planters and boat-keepers should have encouragement to induce them to reside in Newfoundland, they would have such an advantage of the shipping that in a short time the shipping, instead of making their voyages themselves, would be forced to buy, and instead of a return to England the country, like other Colonies, would be of little use but to itself. But if the yearly Adventurers were encouraged I think that the shipping would increase ; for some of the planters and boat-keepers have told me in discourse that if the shipping should be encouraged before them, they must endeavour to be masters of ships themselves, and you know best which is most advantageous for England. I had some doubts as to sending you a letter herein copied, on account of its compliments to myself, but I do so on account of its giving a relation of a part of Newfoundland seeming very advantageous for England. Signed, Jno. Norris. 1 p. Endorsed, Recd. 2 Jan. Read 6 Feb., 1698-9. Enclosed.

990. I. Answer to the Council of Trade's heads of enquiry as to Newfoundland. (2). The Colony cannot subsist itself, for it produces nothing. New England supplies it with rum, molasses, some provisions and tobacco ; great quantities of liquor have lately been imported from Spain and Portugal and this year also from France ; all of which liquor has been very prejudicial to the Adventurers by debauching their men, so that they could not make the voyages which they would have made owing to the drunkenness of their people. To prevent this and for the general good of trade all ships making voyages to Newfoundland should be obliged to clear from England, and not bring more liquor than should be thought fit to allow for each ship. Of late several ships have come from

Spain and Portugal to make voyages, and pretend all to have English owners, but as they make foreign ports their place of clearance at every voyage by paying off their men there and laying out all the expenses of their voyage there, it deprives the Western ports of England of the

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benefit of that outlay and prevents the seamen from returning to England. Therefore it would be most for the good of England that all ships trading to Newfoundland should be obliged to make their outset from England each voyage. (3). The inhabitants are destructive to the Adventurers by pulling down the stages in winter and staving the boats, so that the shipping cannot be so forward in the fishing as they. (4). The boat-keepers remain in the country to keep possession of the most convenient room, and are destructive. By keeping their constant stages they encroach (sic) most of the room near the water-side, so that the Adventurers are forced to work behind them, which puts them to the expense of one man in five, or at least to hire stage and room from them. This could be prevented by an order that all boat-keepers should be obliged to return yearly or not fish next year, and this would put them on an equal footing with the Adventurers who cannot possess a stage or room except yearly as they arrive. (6). The boat-keepers are wholly supplied with their craft and clothes from England, and most of the provisions are brought from England and Ireland. (7). The country affords no subsistence to the planters but a few fowl in winter, and at Bonavista they have a small gain in furs. (8). This is answered in No. 2. (9). See the annexed list. The inhabitants sell at the same price as the Adventurers. (10). The people of New England never exercise the fishing-trade, but generally sell their cargo for money and bills, which makes 25 per cent. to them in New England ; but if they cannot get them they buy refuse (? refuse) fish and go to the West Indies. (11). Adventurers, while in the country, victual mostly in fish, and at sea give about the same manner of allowance as in other voyages. The men's wages are generally regulated by the shares, which is one-third of the fish and train divided among them. (12). See the annexed list. (13). Those that come passengers to fish generally pay about £3 for their passage out, and a third or a half less for the passage home. (14). The rules of the Western Charter have in some measure been broke into on all sides. It would be a benefit to the Adventurers if they were revived, to prevent any people pretending an inheritance to the stages and room.

Here follows, Copy of a letter from William Cock to

Commodore Norris. Bonavista, 1 September, 1698. I am heartily glad that so wise, knowing and judicious a person as yourself has been entrusted with the Government of this country, and I wish you all success. Kindly inform me whether the bread which you spared me last year has been paid for or not, for you may command payment from me. Lieutenant Leigh, who bears this, has been for some time settling the affairs of this harbour which were in confusion, but by his prudent management all is adjusted to general satisfaction. On the north side of this bay are many extraordinary harbours and better fishing. One William Wyng has fished for some years fourteen leagues N.W. by N. of this place, and has still exceeded the inhabitants of this considerably. This year one Nevill has been that way and has more fish for his two-men-boats than

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those here for shallops, so that next summer several inhabitants of this harbour design to remove thither, as also the masters of ships that have fished here this year, for it is certain that the fewer the boats that are kept in a place the better is the fishing. I tell you this that the power of those whom you send this way to settle affairs may extend as far as Cape Frills, that being the northernmost cape of this bay. If a draught of that place were drawn it would greatly encourage shipping to fish this way, there being many secure harbours and roads, and room for 500 sail. Letter ends.

My emissary to Placentia arrived there on 4 September. Walking round the fort he counted thirty-six guns, chiefly eighteen pounders, all facing the harbour's mouth, where he saw also a chain and boom. The inward part of the fort has no guns, being protected on the land side by a fort on the hill, in which he saw eight guns facing to the sea ; but one of their soldiers seeing him brought him back to the lower fort and he was not permitted to go to it afterwards. At Bluff Head on coming in are mounted eight guns in two tiers. On the 6th he saw the soldiers mustered and exercised in the fort and counted them to be about eighty, which some of the inhabitants told them was their number. There was a French man-of-war of about fifty guns and about thirty sail of merchantmen ; the inhabitants said that about twenty more had gone to market, the catch being 300 quintals or upwards to a boat, which is about what our ports have made this year. The man-of-war was bound to the Fogo, which is to the northward of our plantation, to sail with their ships ; and the French report that there were as many ships fishing to the northward as at Placentia. These ships generally sail from St. Malo. The French had fourteen sail that fished at St. Peter's Island, three at little Placentia, two at Collonet, five at St. Mary's, and four at Trepassy. They sold their fish at Placentia for twenty-four raiills per quintal. The ships make their voyages with boats and people as we do, which people generally return with the shipping. There are

about twenty-nine families of planters at Placentia, and about 160 people remained there in the winter ; at little Placentia are twelve families, and (according to the information of one who had lived in Placentia) there were with the soldiers about 300 people in the winter. This year every ship was obliged by the King of France to bring one hogshead of lime for every boat they were to keep, for the building of works at Placentia. He saw about 200 hogsheads of lime by the fort of Placentia. The French do not cultivate their land ; their trade, like ours, being wholly fishing.

Thomas Barrington, master of a Boston ship, was stranded close to one point of Placentia bay, and getting off anchored afterwards in the bay in August. He saw thirty sail of merchantmen and heard of twenty more already sailed. The rest were expected to be ready to sail at the end of September. They gave over fishing on the 3rd of August. He was told that in Placentia Fort were thirty guns, and in the fort on the hill eight guns, but was not allowed to go to them. There is another fort on the hill which, he thinks, had no guns. On the point on the larboard side are eight guns. There were two mortars in the fort and a bomb-vessel riding in the harbour. He believes

p. 1804

there are about 150 soldiers and 200 inhabitants that remain in the winter. They make their voyages as we do, and some pay by the share and some by the voyage. Dated, 12 September, 1698.

Petition of the masters in Newfoundland to Commodore Norris. We daily see great abuses and encroachments of inhabitants and boat-keepers on ships' fishing room, especially in this harbour. We beg you to give the necessary instructions to the inhabitants, and to make such a representation to the Council of Trade that the Adventurers may enjoy free liberty of fishing in this country without interruption. (1). The small boat-keepers of our parts fitting out for Newfoundland have the advantage of the Adventurers by taking the choice of the ablest fishermen and shoremen, and before they have made up their complement of men it is very difficult to engage an able fisherman or shoreman, the reason being that they live somewhat easier with them, not being obliged to do any ship-work, but only to do the labours of the voyage, and so rest in time when it is not weather to work about the fishery. Frequently when we have brought a landman with us a voyage or two, we find that they engage themselves with the bye-boat-keepers, whereby they seldom or never become sailors, neither we nor our officers having any command over them on the passage. (2). These bye-boat-keepers in England generally choose the best sailing-ships so as to gain their passage sooner, and if they reach the country early they place themselves in the best and most convenient places by the water-side, whereby later ships are often obliged to hire both stage and room from them and to carry their fish so far backward that we are forced

to allow a man more to every boat than they, besides the inconvenience in making our fish, the disadvantage to our owners and the discouragement to our crews. (3). These boat-keepers are so numerous “that when as we would go on for the keeping a considerable quantity of boats in order for the catching our ship's lading, we often pass with a great deal less number of men, by which means instead of catching our lading we are obliged to make use of our owners' credit to buy our lading from the boat-keepers, otherwise must go dead freighted.” (4). This present year many of the boat-keepers have resolved to stay in the country, and if this be tolerated we must expect the best places for stage-room in this harbour to be possessed by them, so that we cannot expect to find convenient room for our ships another year. Commonly when they leave the country they make sale, as they call it, of their plantations, and so pass them from one to another as their own land. So likewise the likeliest young men for the King's service, when there is most occasion for them, absent themselves in the woods till the men-of war are sailed and so remain in the country or go to New England, where they bestow themselves most out of the way for serving their country. This is chiefly occasioned by their masters, the boat-keepers, to save the charge of their passage home, though the cost is never above half or two-thirds of a passage outwards. (5). The people who stay in the country for the winter always take care to build their stages and houses much larger than is really necessary for the crews they keep, and so make their advantage on the later

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comers by exacting in the highest degree. We have known from £5 to £15 given this year for a boat's room in this harbour, which we believe to be no other than selling the King's land, to the great abuse of the Merchants-Adventurers. (6). “Some here are passing by the name of Planters now in possession of room as they would have called Patent-room, although contrary to our ancient charter, which room although cannot occupy themselves yet yearly make encroachments further which they set out to hire, making great benefit thereby to the cost of our employers in England, for prevention of which no liver ought to build a stage on any ship's room but ships' crews only.” (7). Traders from New England are constantly bringing great quantities of liquor from thence and from the Caribbee Islands, whereby our men are debauched and are encouraged to steal and embezzle from their masters much of our fishing craft and other necessaries, to our great loss and hindrance. By such means, too, men extravagantly spend great part of the money which should support their families in England. (8). We beg that for the future all unfree ships may be debarred from trading in Newfoundland, for in justice to our nation, traders to these parts should not only be free ships but such as are like to clear and fit out yearly from England, which will much promote our fishery. King,

merchant and tradesman will then wholly reap the benefit of our labours and not foreigners and unfree ships, as we now yearly see. At least one-fourth of the ships here come from Spain and Portugal, supplying the land with all manner of necessaries, selling them cheaper than our owners can afford and returning with their cargoes of fish, and glutting the market abroad. Their merchants living on the spot can generally undersell our Merchants-Adventurers, whereby our owners are much discouraged. To prevent this, no ship whatever ought to make a second voyage to Newfoundland without returning to England to clear. Signed by fifteen masters.

A Relation taken by Captain Norris from people who had fished to the Northward. Thomas Weymouth, who was taken prisoner by the French in 1693, deposed to being carried to a port called Grand Callery, when the French told him that in time of peace they had from eighty to one hundred sail that made fishing voyages between Charles Straits and Cape Frills.

They carry boats and people with them and leave no inhabitants behind at the end of the season. In this bay there are thirty-two places where they fish and ride their ships, all open to the sea except Flower de Luce, which has a narrow entrance and a very fine harbour with room for two or three hundred sail. The ships never try to be there before the 1st of June, as the ice lasts longer there than elsewhere, and leave on the 1st of September. Their fishing is very plenty and lies nearer to the shore than in many of our ports.

Thomas Mitchell, master, was taken by the French and carried into White Island, about sixteen leagues north of Cape Frills, in 1697. There were no more ships in that place, but there were accounts of thirty or forty sail making fish in the several ports. The Frenchmen arrived on 27 June, and left about 10 September, with a cargo of 3,000 quintals. The French said that in time of peace they used to fish about sixty sail annually in those ports.

They left no inhabitants behind them, partly for fear of Indians. Signed, Jno. Norris. The whole, 9½ pp. Endorsed, Read 2 Jan., 1698-9.

[(Oct.
27.)
1684.]

900. II. List of ships, with their ladings, trading to Newfoundland in 1698. Total number of ships, 252 ; tonnage, 24,318 ; crews, 4,244 ; passengers, 935 ; boats, 532 ; fish made, 114,770 quintals ; fish bought, 157,848 quintals ; loaded for return voyage, 365,198 tons ; unfree ships, 18. 18 pp. Endorsed as No. I. (Board of Trade, Newfoundland, 3. Nos. 126, 126 I., II., and (without enclosure II.) 25 pp., 263-276.)

No. 751.

C

**CAPTAIN FRANCIS WHELER'S REPORT ON
NEWFOUNDLAND.**

CALENDAR OF STATE PAPERS, AMERICA & W. INDIES, 1681-1685, p. 707.

1907. Captain Francis Wheler, R.N., of H.M.S. Tiger, to William Blathwayt. Answers to the queries annexed to the instructions given to the commander of the convoy concerning Newfoundland :—1. A list of inhabitants and their servants is enclosed. These latter change from year to year and covenant with their masters for the fishing season of the year at high rates. The best of the sport is over by the 20th August, but they fish on till November when the ice and snow comes and then they do little but provide fuel against the cold. I have answered at large how they keep the Western Charter. 2. The Colony cannot support itself. The earth, or rather the rock, produces no more than enough to keep a few cattle in summer, which must be slaughtered during the winter for want of forage. The place is provisioned from England, New England, and Ireland. 3. At St. John's they go two miles to fetch their wood owing to the demand for fuel, but elsewhere there is no scarcity. It is the general complaint that the adventurers' stages are pulled down in the winter, and I am sure it is partly true. The inhabitants are so united that the offenders cannot be known. But I find that the fishermen build their stages slight, and five months' bad weather and ice tear the posts down. The inhabitants prevent the whole work from perishing by repairs, but the damage to the stages makes the ships come a month before they need, and this can only be prevented by a magistrate on the spot. 4.

Every inhabitant that keeps boats has his own stage, which he keeps always ; but in all ports the ships have room enough. I find that in spite of an Order in Council there are several warehouses built close to the sea which take up good room for stages, and would be much better further

p. 1807

back. On the fishing-places there is room for twice the number of ships. 6. All clothing and tackle is brought from England ; salt, liquors, and provisions are from France and New England. 7. There is no sort of arable or pasture land in the Colony, nor any fur trade except towards Cape Bonavista. 8. The New England trade is considerable, chiefly rum and molasses. If Bills of Exchange are taken it is for English goods ; if fish, the fish is taken to Barbados. The rum is pernicious, for it makes planters and fishermen drink out all they are worth in the winter to a shameful degree. Other liquor comes from England wines from Fayal ; but I believe it would be impossible to continue the trade, for ten hours in the boats every day in the summer and the intolerable cold of the winter makes living hard without strong drink. But the worst thing is that the New England men carry away many of the fishermen and seamen, who marry in New England and make it their home. 9. The wages paid to the servants are so high that planters can hardly help getting behindhand. An account enclosed from an intelligent planter explains this. They make something by the liquor, which they sell at a very dear rate, but many of the servants having families in England are not very prodigal. Certainly there is hardly a planter in the country who is not a great worse than nothing, but they are bound to go on fishing or the merchants will sell them no provisions for the winter. 10. The New England men do not fish on this coast though a great deal on their own, and have a fish trade with Portugal. 11. The fish are sold to the sack-ships, and so they go home with their train-oil and men. I have calculated the cost and profits of one of their ships. But the trade being carried on for the most part by men who take up their money at bottomry at 20 per cent. (very usual in the West country) they are obliged to sell dearer. Able merchants would turn the trade to better account. The men called boat-keepers in the list do not fish on the ships' account but are hired by particular men. 12. The list of sack-ships is annexed. 13. All men employed by masters of ships are upon bargain to be paid in England, which keeps them from staying in Newfoundland. Occasionally they stay, but last year there were but 120. 14. My answers as to the Western Charter are annexed. 15. Placentia is the best French fishing-place. They get to work six weeks before us, and take such catches that they are generally gone before the end of July. Their ships are large, some of them six and thirty guns. Their victualling is rather cheaper than ours. No fur trade. 16. The inhabitants are much fewer than our colony. 17. The planters are of no use to fishing except to secure their boats in

the winter. 18. The French catch 300 quintals to a boat of four men, while we catch but 100 quintals. The usual price is six livres. The French catch more, victual cheaper, finish earlier, and get the first of the market, so they profit more by the trade than we. 19. The French markets are France, Spain, Portugal, and Italy. 20. Their trade generally increases except during war with Spain. 21. The French inhabitants are as negligent about defence as our Colony. They are supplied with salt provisions from France and with rum and molasses from New England. 22. A few English live among the French, but there is no correspondence between their Colony and ours.

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23. No foreigner fishes on the Eastern Coast except on the bank fifty leagues from shore, which the French frequent much. The French have a Governor at Placantia, who is of great use. The French have no convoy to Newfoundland, the ships being strong. At Trepasse English and French fish together without quarrelling. 24. I learn that the French are numerous up the river of Canada, and have two good forts. They do not fish, but trade with the Indians for fur. The French begin to fish about ten leagues to north of Cape Bonavista. Being at utter defiance with the Indians in those parts they do not stay for the winter, and all the summer have their arms by them. They have a large fleet and twenty armed boats on the Coast to guard against the Indian canoes ; any man of whatever nation who pays his proportion of this expense may fish on the coast. They catch 200 quintals to a boat of five men, and here their trade is worse than ours and decaying much. 26. The French have the advantage of us in the fishing trade at Placentia for reasons already given. Our trade decays by its being overstocked with sack-ships, for it is plain by the annexed account that the fishing ships profit greatly. The great plenty of fish that is housed this winter in Newfoundland for want of sack-ships, reminds me that the fish which is taken one year is held as good as any next year. If the adventurers would sacrifice a year's profits they could send their sack-ships in the spring and get the first of the market. Signed, Fra. Wheler. 14 pp. Endorsed. Recd. 27 Oct. 1684. Annexed,

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Documents

Volume IV
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No. 752.

**ORDERS TO GOVERNOR ANDROS RESPECTING
SMUGGLING IN NEWFOUNDLAND.**

[12
Jan.,
1687.]

1687.
Jan 12.
Custom
House

CALENDAR OF STATE PAPERS, AMERICA & W. INDIES, 1685-1688, p.
309.

1,097. Commissioners of Customs to Governor Sir Edmund Andros. We find that under colour of a trade to Newfoundland for fish, great quantities of European goods are imported into the American Colonies, and particularly into New England. The Island is become a kind of magazine of contraband goods. You will give all people to understand that Newfoundland is not a plantation like other of the King's Plantations, and that all such goods will be seized ; and you will take effectual care that no goods are introduced from them into New England, by strict enforcement of the Navigation Acts. Signed, D. North, Cha. Cheyne, Jo. Werden, N. Butler, William Dickinson, J. Buckworth. (Col. Entry Bk., Vol. LXI., pp. 410-411.)

No. 753.

**OBSERVATION OF SECRETARY, BOARD OF TRADE,
RESPECTING CONDITIONS IN NEWFOUNDLAND.**

[10
May,
1698.]

1698.
May 10.
Cockpit

CALENDAR OF STATE PAPERS, AMERICA & W. INDIES, 1697-1698, p.
207.

440. William Popple to John Pulteney. I am to thank you for the report of the Board of Ordnance (see No. 418) as to Newfoundland, and am to acquaint you (for the prevention of mistakes) that there are no planters nor any manner of Government in that Island as there are in other Plantations, the trade thither being only by fishing-ships, and a few poor fishermen on the shore who cannot contribute anything towards the things now proposed for defence of the place. (Board of Trade. Newfoundland, 25. p. 216.)

No. 754.

1699. IMPERIAL ACT 10 & 11 WILLIAM III, CAP. 25.

AN ACT TO ENCOURAGE THE TRADE OF NEWFOUNDLAND.

Vide Vol. I, p. 250.

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Volume IV
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No. 755.

REPORT OF GEORGE LARKIN,

ON CONDITIONS IN NEWFOUNDLAND.

[20 Aug.,
1701.]

1701.
Aug. 20.
St. John's
in Newfound-
land

CALENDAR OF STATE PAPERS, AMERICA & W. INDIES, 1701, pp. 430-434.

756. George Larkin. to the Council of Trade and Plantations. I am now about to leave this place, where I arrived the 24th of the last month, having delivered to the Commander in Chief the duplicate of the Commission, copies of the Act of Parliament and Proclamation. As to the Rules and Forms of Proceedings, which I have settled here with the Commissioners, I crave leave to refer your Lordships to the papers, which comes herewith enclosed, a copy of which I have left with the Commission for the succeeding Commandore, which by directions of the Lords of the Admiralty is to be deposited in the hands of the Commanding Officer of the Fort. Captain Graydon hath appointed one Mr. Henry Newman, a merchant here, to be Register, to whom I have given such Instructions as are necessary, and have layd downe everything so plaine, that if any pirates shall happen to be seized, I think there cannot well be any error in the proceedings. I have not heard of any that have been upon the coasts of Newfoundland this year. I find that the Rules and Orders conteyned in the Act for the more advantagious management of the Fishery are not so much regarded as I could wish they were. The reason I attribute to the want of a penalty ; the trees are rinded, and the woods destroyed as much now as they were before the making of the Act, and in few years, unless prevented, there will not be a stick fit for the use of the Fishery within five or six miles of this and some other harbours where I have been, and the Flakes which are to be left standing, are most of them made use of by the inhabitants for firing in the winter. The present Admiral of this harbour, Capt. Arthur Holdsworth, Commander of the Nicholas of Dartmouth, brought over from England this fishing season 236 passengers all or great part of which are By-boat keepers, and under a pretence of being freighters aboard his ship, which is only for some few provisions for their necessary use, he hath put and continued them in the most convenient stages etc. in this harbour, which all along since the yeare '85 have belonged to fishing-ships, insomuch that several Masters of fishing-ships have been obliged to hire room of the Planters. These By-boat

keepers are most of them able fishermen, and I don't heare that there is any Freshmen or Greenmen amongst them as the Act directs. I am credibly informed that this very person, and

p. 1812

one or two more that constantly use the Newfoundland trade, in the beginning of the year make it their business to ride from one Market Town to another in the West of England on purpose to get passengers, and make an agreement with them that in case they shall happen to be Admirals of any of the harbours (that) they will put and continue them in fishing-ships roome. This is a very great abuse and discouragement to the Adventurers. Besides, these By-boat keepers can afford to sell their fish cheaper than the Adventurers, which must lessen the number of fishing ships.

The great complaint is against the New England men and some merchants of that country, that for these seven or eight years last past have resorted to this place during the fishing season, that they have their Agents in most harbours in the land, by means whereof they know what is brought to every place, and so drive an indirect Trade, and supply the Plantations with several commodities, which they ought to have directly from England ; that their vessels generally make two or three trips in a year with bread, flower, porke, tobacco, molasses, sugar, lime-juice and rum ; that they sell their provisions some small matter cheaper to the inhabitants, but then they oblige them to take a quantity of rum. This rum the inhabitants sell to the fishermen, which encourages them to stay behind and leave their families in England, which oftentimes become burthensome to their respective parishes ; that the inhabitants sell rum also to their servants, who run in debt, and are forced to hire themselves for payment thereof ; one month's profuse living and a pair of shoes leaves them in bondage for a whole year, and though as good fishermen as any in the land and may deserve 15l. or 20l. per annum, they make them serve for seven ; that the New England men never carry their fish, which they receive in exchange from the inhabitants and planters for their cargo to market, but either sell the same upon bill in England, by which they gain five or six and thirty pounds per cent., or else for wine, brandy, dowlas and other sorts of linen cloth, silks, alamode and lustring, sarcenets and paper from France ; that in the close of the year they inveigle and draw away a great many seamen, fishermen, and servants with promises of great wages, and when they come there, not meeting with that encouragement they expected, several of them betake themselves to a dissolute sort of life, and in the end turne Rogues and Pyrates. I am told that the New England vessels last year carried out of Conception Bay upwards of 500 men, some of which were headed up in casks, because they should not be discovered. Of

what consequence this is to England, your Lordships are the most proper judges. But if your Lordships think fitt, the same may be for the future prevented by the Master of every New England vessel's giving bond of such penalty as shall be thought meet at the Custom House where he is cleared, that he shall not carry any seamen, fishermen, or servant as passenger or otherwise (except his ship's company) from Newfoundland to New England, or any of the King's Plantations, without leave in writing first had from the Commander in Chief of the Newfoundland Convoy ; And that there is scarce a vessel that comes from New England to Newfoundland, whose bills of lading and stores mention above one halfe of the cargo that they have aboard, or returnes again to

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New England but what is seizable. I don't hear but of one New England vessel that fisheth upon this coast this yeare, and that is one Captain Pitt at Ferryland.

The inhabitants and Planters of Newfoundland are a poor, indigent, and withall a profuse sort of people that care not at what rates they get into debt, nor what obligations they give, so that they can but have credit, but the seizing of their fish for debts seems to me to be both irregular and unjust as to the time and manner of doing it, and the fishermen seeing the rocks stript before the fishing season is half over are discouraged from proceeding any further, which often proves the ruin and overthrow of severall of the Planters' voyages. Debts were never wont to be paid in Newfoundland till the 20th of August, but for these two or three yeares past the Rocks have been stript by night, and the fish carryed off in June and July, without weighing, a second hath come and taken it from the first, and perhaps the Planter hath had twenty or thirty quintalls of fish spoyled in the scuffle, and the rest of his creditors are forced to go without any satisfaction ; nay, the poor Fishermen who helped to take the fish have not one penny wages : salt provisions and craft are all payable here before wages, and considering how poor fishermen are used, I admire how the Planters and Inhabitants procure hands from England to fish for them. Indeed, when complaints of this nature have been made to the Commander-in-Chief, he has ordered the fish to be redelivered and dividend to be made, but my Lords, here is in Newfoundland at least 5 or 6 and 20 several harbours, besides coves, and it's a great way for people to come from Bonavista and Firmooze to St. John's to make their complaints. The Admirals they'l not concern themselves, but leave all to the Commandore. They ought to see to the preservation of peace and good government among the seamen and fishermen, that the orders for the regulation of the fishery be put in execution ; and to keep journals, but instead of this, they are the first that break the orders, and there is not one of them where I have been that hath kept any Journal. The late Act gives the Planters a title, and it's pity but that they had some Laws and Rules by

which they should be govern'd, tho' it's the opinion of all that I have conversed with since I came here, that it had been much better if all Plantations in Newfoundland had been absolutely discouraged, for it's now become a sanctuary or place of refuge for people that break in England, and the Masters of the fishing ships do encourage several of their men to stay behind, persuading them that they will soon get estates here, purely to serve the charges of their passage back to England.

It hath been customary for the Commander in Chief upon complaints to send his Lieutenant to several harbours and coves, to decide all differences betwixt Commanders of merchant ships and the Inhabitants and Planters, and betwixt them and their servants. Its truly an absolute shame to hear how matters have been transacted upon such occasions. He that makes a present of the most Quintalls, is sure to have the matter determined in his favour. The whole Country exclaims against the Lieutenants in Capt. Poulton and Fairborne's time, and do not stick to say that some former Commanders in Chief have been a little faulty. The present Commander

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hath taken a great deal of pains to do the country justice, and to settle Religion amongst them, and everybody seems to be very well satisfied with him. There has never been any account or registry kept of any of the orders or rules that have been made for the good of the fishery ; what one Commander in Chief hath confirmed, the next hath vacated. I have prevailed with this to leave an abstract of all such as have been made during his time with the Commission for tryall of Pirates for his successor. Several quarrels and differences happen here after the fishing season is over, and in the rigor of the winter Masters beat servants, and servants their Masters. I would therefore propose that one of the most substantiall inhabitants in every harbour be appointed in the nature of a Justice for preservation of peace and tranquility, and that some person that understands the Laws be sent with the Commander in Chief, or to reside here, in the nature of a Judge-Advocate, to decide all differences and matters of meum and tuum betwixt Masters of ships, Inhabitants, Planters and Servants ; that he have a power to administer an oath to parties or witnesses for determination thereof in the most summary way, and that he be obliged to go every year to Bonavista, Trinity, New Perlican, Old Perlican, Carboneer, St. Johns, Bay of Bulls and Ferryland, and to stay a fortnight or three weeks each of them. He may be usefull here upon several occasions. Besides your Lordships will not fail of a true account, how all matters are transacted in Newfoundland.

I meet with very few here that can give any account of the French, only that they have fiefty sail of ships, all Adventurers, at Placentia this season ; that provisions of all sorts are cheaper there ; that their boats have made much the same voyages that ours have here, viz., from two to four hundred quintalls for a

boat ; that there is but one ship of war, which brought stores, and that they are very busy in fortifying the Fort at Placentia. We have had very stormy weather upon this coast. Three ships have been cast away in Petty harbour, a Ketch and another vessel in Tuds Cove. Signed, Geo. Larkin. Endorsed, Recd. 15th, Read Oct. 16, 1701. 4 closely written pp. En- 30 closed,

756. i. Abstract of preceding. 1¼ pp.

756. ii. Rules and Forms of proceedings, to be observed in the Admiralty Courts for the trial of pirates at Newfoundland, drawn up by Geo. Larkin and the Commissioners on board H.M.S. Assistance in the Harbour of St. Johns, Aug. 11, 1701. Endorsed, Recd. Oct. 15, 1701. 61 pp. (C. 0. 194, 2. Nos. 44, 44. i., ii. ; and (without abstract) 195, 2. pp. 447-466.)

No. 756.

**COPY OF A REPRESENTATION OF THE
LORDS COMMISSIONERS FOR TRADE AND
PLANTATIONS TO HIS MAJESTY,**RELATING TO THE NEWFOUNDLAND TRADE AND FISHERY ;
DATED 19 DECEMBER, 1718[19
Dec.,
1718]

PAPERS RELATING TO THE NEWFOUNDLAND, 1718–1793, pp. 1–22

To the King's Most Excellent Majesty.

May it please Your Majesty,

The Fishery at Newfoundland having been obstructed and discouraged for many Years past, not only by the late Wars, but by the Irregularities of the Inhabitants, Traders, and Fishermen, who reside in and resort to that Island ;

We have, in Obedience to Your Majesty's Commission, whereby we are directed to enquire into the several Obstructions of Trade, and the Means of removing the same, considered the past and present State and Condition of the aforesaid Fishery, in what Manner it was formerly and is now carried on, and by what Regulations and Laws it has been and still is directed and governed.

And thereupon we most humbly crave Leave to represent to Your Majesty,

That the Fishery in Newfoundland was at first settled by Merchants and other Adventurers inhabiting the Western Parts of this Kingdom, and successfully carried on for many Years, under the Restriction of such Customs and Laws as were agreed upon by the Fishermen among themselves.

That although the Harbours and Fishing Places were for some Time left open and free to all Nations (without Prejudice, however, to the Sovereignty of Your Majesty's Royal Predecessors) nevertheless great Numbers of Ships and Seamen were Annually employed by the said Adventurers, some in fishing, and others in supplying them with Salt from France and Portugal, and in carrying their Fish to Foreign Markets ; which Ships being furnished with Provisions and all other Necessaries of English Production and Manufacture for the whole Voyage, it was not only a particular Advantage to the Western Counties, but likewise to the Nation in general, by increasing the Factories in Foreign Countries, and by promoting the Consumption of our Manufactures.

And forasmuch, as the Fishing Ships required more Hands than were barely necessary to navigate them, the Masters and Owners, constantly bred up many Servants and others unacquainted with the Sea, by which Method the Charge of the Voyage was lessened, and the Number of Seamen for the Service of the Crown and Kingdom was wonderfully increased ; and to excite their Industry, as well as to reward their Labour, instead of allowing them Wages by the Month or Voyage, according to the present Practice of most of the Fishing Towns, every One had a certain Share or Shares in the Fish and Oil that was taken and made during the Voyage ; and upon their Return the whole Cargo was sold, and the Proceed divided, Two Thirds to the Owners, and One Third to the Ship's Company, in such Proportions as were agreed on, which made it their Interest to attend diligently to their Employment, and raised an Emulation among them to outvie one another.

The First Account of this Fishery that we have met with is from Mr. Anthony Parkhurst ; who relates, that in the Year 1574 Thirty English Ships were employed in fishing at Newfoundland, and that in 1578 their Number was augmented to Fifty Sail.

The succeeding War with Spain checked the Increase of the Fishery for some Years ; but after the Peace was concluded in 1604 it flourished exceedingly. Afterwards, in the Year 1615, Captain Richard Whitburn, who was sent to Newfoundland with a Commission from the Court of Admiralty to enquire into the Disorders and Abuses committed on that Coast, reported, that 250 Ships belonging to this Kingdom were engaged in the Fishery, which he computed, One with another, at 60 Tons and 20 Mariners, and that each Ship had taken 120,000 Fish, and made Five Tons of Train Oil.

In all 15,000 Tons of Shipping,
5,000 Seamen, and
1,250 Fishing Boats.

Which encouraged the Merchants of London and Bristol, in 1610, to solicit a Grant, which they obtained from his Majesty King James the First, for a considerable Part of Newfoundland, in order to settle Colonies, that by their Assistance they might be enabled to share the Advantages of the Fishery with the Western Adventurers : But after they had expended large Sums to no Purpose, they quitted their Design, being convinced that the Country was not capable of subsisting English Colonies ; and if it had, that the Charge of supporting and governing them was too great to be borne by a Fishery.

However, as some of the looser Sort, both of the Planters and Mariners, remained in the Country, because they vainly imagined that they could not be impeached there for such Injuries and Wrongs as they had committed, and were supplied with Rum, strong Liquors, and Tobacco from New England

and other Parts, they retailed them, contrary to the Rules of the Fishery, among the Seamen ; whereupon Idleness and Debauchery soon prevailed, and increased to that Degree, that at last the Masters and Owners of the Ships were obliged to petition his Majesty King Charles the First to restrain,

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by his Royal Authority, those Disorders, which evidently tended to the Ruin of the Fishery.

His Majesty, to prevent these Irregularities and Excesses for the future, upon granting the Propriety of Newfoundland to several Noblemen and others, “That Person should plant or inhabit Six Miles of the “Sea Shore between Cape Race and Cape Bonavista.”

And, that nothing might be wanting to encourage the Adventurers diligently to attend to and vigorously to prosecute the aforesaid Fishery, the Star Chamber, in January 1633, adjusted and settled several Orders for the Regulation and Government thereof ;. and on the 20th February following, his said Majesty was graciously pleased to grant a Charter to all his Subjects trading to Newfoundland, according to the Tenor of the said Orders, which was commonly called the Western Charter ; whereby it is provided,

1st, That if a Man kills another, or steals to the Value of 40s. he shall be brought Prisoner to England ; and that the Earl Marshall shall take Cognizance of the Cause ; and if it be proved by Two Witnesses, the Delinquent shall suffer Death.

2nd, That no Ballast or Presstones be thrown out to the Prejudice of the Harbours.

3d, That no Person deface or spoil any Stage, Cook Room Flakes, &c.

4th, That according to ancient Custom, every Ship that first entereth a Harbour shall be Admiral of the said Harbour, &c.

5th, That no Person cut out, deface, or alter the Marks of any Boats or Trainfats, to defraud the right Owners.

6th, That no Person steal any Fish, Train, or Salt, or other Provisions belonging to the Fishing Ships.

7th, That no Person set Fire to the Woods, or rind the Trees, except for Cook Rooms.

8th, That none cast Anchor so as to hinder the haling of Seynes for Bait.

9th, That none rob the Nets of any Drift Boats, or take away any Bait or Nets.

10th, That no Person shall set up any Tavern for selling of Wine, Beer, Strong Waters, or Tobacco, &c.

11th, That on Sundays the Company assemble to hear Divine Service. And, that speedy Punishment may be inflicted upon the Offenders against the said Laws and Constitutions,

It is ordained, that the Mayors of Southampton, Weymouth, &c. take Cognizance of all Complaints made against the Offenders of these Ordinances upon the Land ; And,

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That the Vice Admirals of the Counties of Southampton, Dorset, Devon, and Cornwall proceed against the Offenders upon the Sea :

That these Laws be in Force until annulled by His Majesty : And,

That the Admirals proclaim the same in every Harbour, and on the Shore.

The ancient Customs and Constitutions of the Fishery being in this Manner confirmed, and the Magistrates in the Western Counties impowered to put the aforesaid Laws in Execution, the Fishing Trade was again revived, and at length, by the frugal Management and industrious Application of the Adventurers (notwithstanding they were frequently obstructed and injured by the Governor and Inhabitants, contrary to the Conditions of the Grant in 1628, by virtue of which they had settled there) most of their Foreign Competitors were constrained to abandon the said Fishery, and the European Markets were plentifully supplied with dry Fish by the Subjects of this Kingdom, at such moderate Rates as promoted and secured its Consumption, to the vast Encouragement and Increase both of Navigation and Trade.

The best and exactest Account of the Fishery under this Regulation, that is to be found in our Office, is in a Representation from the Merchants and others of the Western Ports in 1674 to his late Majesty King Charles the Second, wherein it is asserted, that about the Year 1644 at the least 270 Fishing Ships were Annually employed in the Newfoundland Fishery, besides those that supplied them with Salt and other Necessaries, and that carried their Fish to Market.

The Burthen of these 270 Sail may be computed at 80 Tons each, and for every 100 Tons 50 Men and at least 10 Boats.

In all 21,600 Tons,
10,800 Seamen, and
2,160 Boats

To each Boat they generally allowed 5 Men, and usually made 200 to 300 Quintals of Fish per Boat, which was then sold in the Country at 14 to 16 Rials, of from 7s. to 8s. per Quintal, and some Times higher, as the Season proved more or less favourable.

But the Course of this Success was soon after interrupted by that unnatural War which broke out in this Kingdom ; by the Measures that were concerted and taken by the Government in 1650 and 1655 for settling a Governor and Colonies in Newfoundland ; by the many Losses sustained by the Adventurers during the Wars, first with Holland and then with Spain, especially in the latter ; and by a pernicious Practice, lately introduced by the Masters and Owners of the Fishing Ships of carrying to Newfoundland Bye Boatkeepers, and their Crews and Servants, to assist the Inhabitants in their Fishing.

So that at the Time of the Restoration of King Charles II. the Fishery was very inconsiderable.

In order therefore to retrieve and recover the Fishing Trade, his Majesty

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was graciously pleased, upon the humble Petition of the Western Adventurers, by Letters Patent, bearing Date 26th January 1660, to confirm the aforesaid Charter, with an additional Clause to prevent the transporting of Bye Boatkeepers and Servants ; viz^t.

“Moreover, and further than was ordained by the Laws of Our said late Father, and for the Encouragement of Our Subjects in Newfoundland, and in the Seas adjoining, and for the Benefit of the said Trade there, We do hereby straitly charge, prohibit, and forbid all and every the Owners of Ships trading in the aforesaid Newfoundland, that they nor any of them do carry or transport, or permit or suffer any Person or Persons to be carried or transported, in their or any of their Ships, to the said Newfoundland, other than such as are of his or their own Ship's Company, or belonging thereunto, and are upon the said Ship's Hire and Employment, or such as are to plant and do intend to settle there.”

But this Prohibition not being enforced by proper Penalties (which were now become more necessary than formerly) it was evaded and opposed by some of the Masters and Owners of Fishing Ships, who chose rather to quit Part of their Annual Fishery by lessening the Complements of their Men and Boats than to lose the Advantage they made by

carrying of Passengers, and by disposing of their trifling Adventures to the Inhabitants ; from whence several unhappy Consequences ensued ; viz^t.

That the Number of the Fishing Ships and Seamen employed in Newfoundland was considerably reduced, and that the breeding up of young Men for that Service was generally neglected :

That the Price of Fish in Newfoundland was enhanced, from 14 or 16 Rials per Quintal as aforesaid, to about 24 Rials the Quintal, whereby the Consumption thereof was lessened in all Foreign Parts :

That the Merchants of London were induced to set up a Fishery in New England, which has been ever since carried on to the great Discouragement of the Adventurers ; and though it may possibly be a Question, whether this unlucky Management did not first prompt and encourage the French to settle at Placentia in 1662 ; yet it is not to be doubted, but that it contributed to the Establishment of their Fishery, and enabled them to supply not only their own Markets, but to rival us in Portugal, Spain, and Italy.

However these Innovations, by the Remissness of some, and by the Contrivance of others, were not restrained ; nor does it appear that any Notice was taken of the Complaints exhibited against those that had violated the aforesaid Law and Constitution, until the latter End of the Year 1663, when by His Majesty's Command circular Letters were wrote by the Lords of the Council to the Mayors and Magistrates of the Western Corporations, requiring them to be careful that the said Law should be punctually observed and duly executed ; and at the same Time the Officers of the Customs were directed to charge all Masters of Ships to observe and keep the said Rule.

But this Order being likewise eluded, in February 1669 his Majesty in Council enjoined the Observance thereof, and commanded that a Return should be made of the Names of such as were Offenders, and in the mean Time to stop their proceeding on the Voyage.

And whereas the Western Adventurers had been for some Time past opposing the placing of a Governor in Newfoundland, which was proposed as absolutely necessary to check the Encroachments of the French, His Majesty, on the 4th of the said Month, upon the Report of the Lords of the Council for Foreign Plantations, rejected the said Proposal, and thereby removed the Fears and Jealousies that the Adventurers had entertained, to the great Discouragement of the Fishing Trade.

Nevertheless the Fishery was so severely affected by the aforesaid Disorders and Disputes, that the Merchants, Owners, and Masters of Ships, and Inhabitants of the Western Parts of this Kingdom adventuring to Newfoundland were obliged, in December 1670, to petition His Majesty, that the said Fishery might be maintained by Fishing Ships according to its ancient Custom, that Encroachments thereupon might be removed, and that the Majors mentioned in their Patent might be empowered to authorize and depute, from Time to Time, Persons to execute the Laws and Constitutions for the Fishery according to the Intent of the same ; and on the 11th of February following, after the Petitioners, and those that opposed them, had been fully heard by His Majesty in Council, the whole Matter was referred to His Majesty's Council of Plantations ; and it was ordered that their Lordships should consider of the best Ways and Means whereby the Fishing Trade in Newfoundland might be regulated and advanced, and also protected and secured from Foreigners, and how the said Trade might be managed for the Increase of Seamen, and the Advantage of His Majesty and His Subjects, as likewise to take into their Consideration His Majesty's Charter, and the additional Powers desired by the Western Traders, and to report their Opinion upon the Whole to His Majesty.

Accordingly their Lordships, on the 2d of March following made their Report, and offered it as their Opinion and humble Advice to His Majesty, that the several new Regulations contained in the said Report be added to the Charter ; and on the 10th of the same Month, after the said new Regulations had been seriously considered by His Majesty in Council, those that related to the Adventurers were all approved, except One, whereby it was proposed, that Encouragement might be given to the Inhabitants to transport themselves and their Families to Jamaica, St. Christopher's, or some others of His Majesty's Plantations ; and it was ordered that the said Rules should be added to and inserted in the Charter.

But when the Adventurers found that the Removal of the Inhabitants from Newfoundland could not be obtained, they seemed to be very indifferent about renewing of the Charter, so the Trade was left to take its Course ; and in 1671, Captain Davies, the Commander of the Convoy, affirmed, “That the said Trade was not then by Two Third Parts so good as he remembered it, when 200 Sail of Ships and 10,000 Men were Yearly employed, and at

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length trained up to the Sea,” with which Account the Memorials of the Adventurers also agree.

In 1674 the Solicitations for a Governor were again renewed, and on the 12th of February it was ordered by His Majesty in Council, That the Lords of the Committee should re-consider this Affair ; who reported on the 15th April 1675, that it had been clearly made out to them,

That the French had considerably advanced their Fishery at Newfoundland.

That the People of New England took on their own Coast Yearly about 60,000 Quintals of Fish :

That the Adventurers had lost many of their Ships in the late War :

That the Hands which used to make Fish were diminished ; and that the Inhabitants destroyed the Woods, and whatever the Adventurers left Yearly behind ; that they possessed early the Places of greatest Conveniency ; and that most of them sold Wine and Brandy, whereby the Seamen were withdrawn from their Labour, and many seduced to stay on the Place.

From all which Reasons it was easy to believe there was a Decay in the Trade as to England ; but as to the Proposals for curing all by a Governor, their Lordships could not find that a Governor could cure any Part ;

“Because the Planters lived scattered in 25 several Harbours which, are almost 80 Leagues asunder.

That in the Winter, when the Abuses are done, there is no passing by Sea or Land from one Place to another.

That besides the Charge of Forts and of a Governor, which the Fish Trade cannot support, it is needless to have any such Defence against Foreigners, that Coast being defended in the Winter by Ice, and must in the Summer be defended by the Resort of His Majesty's Subjects, for that Place will always belong to him that is superior at Sea.

So that unless they had seen proper Reasons for a Colony, they could see none for a Governor ; and against a Colony there are not only the Rigours of the Climate, and the Infertility of the Land, but that they, the Inhabitants, chiefly consumed the Products of New England, and other Foreign Parts, &c.

Their Lordships further observed, That the French managed their Trade by Adventurers Ships Yearly going out and returning Home ; and that upon computing and comparing the Charge of catching Fish to the Adventurers and to the Planters, they found the former could do it cheaper than the latter, and they had Reason to believe that the English Adventurers in general preserved a Superiority in the Trade, and that they did catch their Fish as cheap, cured it as well, came as early to Market, could there sell as dear, or afford it as cheap, as any of the French could do.”

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So that upon the Whole their Lordships having Recourse unto the Rules settled in Council by His Majesty's Order of the 10th of March 1670, found them all so proper and effectual for the Advantage of the Trade, as to need only the following Additions to make the Trade revive and flourish :

1st. That all Plantation and Inhabiting in that Country be discouraged ; and in order thereunto that the Commander of His Majesty's Convoy should have Commission to declare, at his going this Year, His Majesty's Will and Pleasure to all the Planters, that they come voluntarily away ; and in case of Disobedience, that the Charter be put in Execution next Year, for in this single Point consists the Validity and good Effect of the whole Regulation.

2d. That the Convoy help and assist those in their Transportation who desire to return Home ; and to declare that if they choose to betake themselves to any other of His Majesty's Plantations, that the Governors are wrote unto to receive them with all Favour, &c.

On the 5th of May following His Majesty in Council thought fit, for the several Considerations in the said Report mentioned, to order the Commander of his Convoy bound to Newfoundland to admonish the Inhabitants, either to return Home to England, or to betake themselves to others of His Plantations, and to direct that Letters be prepared unto the several Governors of the said Plantations, that in case any of the said Inhabitants of Newfoundland should arrive within their respective Governments, that they be received with Favour, and that all convenient Help and Assistance towards

their Settlement be afforded unto them.

And on the 27th of January 1675, His said Majesty, after due Consideration had of the best Ways and Means of regulating, securing, and improving the Fishing Trade in Newfoundland, passed the new Charter which recited and confirmed all the old Laws, and several others were added for the better Government of the Fishery ; which if they had been as steadily supported and executed, as they were carefully concerted, in all Probability the Subjects of France and the People of New England had reaped very little Benefit by their Fisheries, and this valuable Branch of the British Trade had been firmly re-established and secured.

The additional Regulations to the Charter are as follows :

1st. That His Majesty's Subjects may take Bait and Fish in Newfoundland, and cut Wood for Stages, &c. provided they submit unto and observe the Rules and Orders that are or shall be established.

2d. That no Alien take Bait or Fish between Cape Race and Cape Bonavista.

3d. That no Planter cut down any Wood, or inhabit within Six Miles of the Shore.

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4th. That no Planter shall take up any of the Stages, &c. before Arrival of the Fishermen ; and that they be all provided for.

5th. That no Master of a Fishing Ship transport any Seaman or others to Newfoundland, unless they belong to his Ship's Company.

6th. Not more than 60 Persons to 100 Tons.

7th. That every Fifth Man carried out of England be a Green Man, and not a Seaman ; and that the Masters provide in England Victuals and other Necessaries for the whole Voyage, Salt only excepted.

8th. That no Fishing Ship do depart directly for Newfoundland in any Year, before the 1st of March.

9th. That the Masters give Bond in £.100 to His Majesty before the respective Mayors, conditioned not to carry out any Persons to Newfoundland as aforesaid, and to bring back such as they shall carry out, unless employed in the carrying Fish to Foreign Markets.

10th. That no Master take up any Stage already built with less than 25 Men ; and that no Fisherman remain in the Country after the Fishing Voyage is ended.

11th. That the Admirals, Vice Admirals, and Rear Admirals be and are authorized and required to preserve the Peace in the Harbours as well as on the Shore, and to see the Rules of the Fishery put in Execution.

12th. And to secure and bring Offenders Home to England.

13th. That they Yearly publish in their respective Harbours, on the 20th of September, these Orders, forbidding all Seamen to remain in Newfoundland after the last of October.

14th. That they keep Journals, and deliver Copies unto His Majesty's Council for Foreign Plantations.

And lastly, because there is no Court Martial in England at present, that if any Man in Newfoundland shall kill another, or steal Goods to the Value of 40s. he shall be brought Prisoner into England, and his Crime made known to One of His Majesty's Principal Secretaries of State, to the End Order may be given to punish such Offender according to Law.

Upon these Encouragements and Assurances the Western Adventurers immediately returned to the Fishery, and employed

	In	<u>1675</u>	<u>1676</u>	<u>1677</u>
Fishing Ships		105	126	109
Seamen		3,278	4,556	4,475
and Boats		677	894	892

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and in the same Years the Number of the Inhabitants (beside Women and Children) was as follows :

	<u>1675</u>	<u>1676</u>	<u>1677</u>
Planters	140	138	152
their Servants	1,250	943	1,355
and Boats	277	206	337

for, notwithstanding His Majesty's Orders as aforesaid, they still remained in the Country.

However, the Adventurers being encouraged by the Lords of the Committee to put the Laws of the Charter in Execution, they began in 1676 to restrain the Disorders of the Planters, and to prevent the Transportation of their Servants ; but upon Petition of the said Planters in November following, and the Solicitation of those who were either excited by the Hopes of procuring Advantage for themselves, or influenced by the French, whose fishery must have been soon rendered precarious if the Charter had been observed, an Order was obtained on the 18th of May 1677, importing,

“That the Planters in Newfoundland be continued in Possession of their Houses and Stages according to the Usage of the last Years, until further Orders.”

The said Inhabitants being flushed with this Success, the old Schemes for establishing the Colony and settling a Governor were again revived, and the Necessity thereof strenuously asserted by some, and opposed by others.

The Right honourable the Lords of the Committee hereupon directed the Commissioners of the Customs to consider those Proposals, and to report their Observations and Opinion relating to the Settlement of the Trade and Fishery at Newfoundland.

Accordingly the said Commissioners, on the 26th March 1680, after they had fairly stated the whole Matter, offered to their Lordships, as their Opinion,

That the Settlement of a Governor and a Colony in Newfoundland, under such Rules and Methods as were proposed, and that to entrust the regulating of the Fishery in a Governor, will tend greatly to the Prejudice of the Newfoundland Fishery ; that by discouraging the English Fisherman the French will be greatly encouraged ; that what little of this Trade shall remain in the Hands of the English will by Degrees fall wholly into the Hands of the Planters and New Englanders, and that by consequence His Majesty's Customs both Outwards and Inwards will be greatly prejudiced.

But if His Majesty should think fit to fortify the Harbour of St. John's, and to make a Governor of the Fort, and to arm the Governor with a Military Power to command the People of that Country (on Occasion) for their Defence, and with Civil Power for punishing Vice and keeping good Order, without having a Power over the Fishery, or infringing the Charter, they thought

the same might be of good Use ; and no Prejudice to the Trade or His Majesty's Customs.

Nevertheless these Arguments had not their due Effect ; and on the 18th of April 1680 it was further ordered, that His Majesty's Intentions to settle a Governor and erect a Fort in Newfoundland for the Preservation of His Sovereignty, and good of the Fishery, should be signified unto the Magistrates of such Towns in the West of England as were chiefly concerned in that Trade, that they might transmit their Opinions in what Manner and under what Regulations such a Governor might be settled.

In Obedience to His Majesty's said Order the Western Corporations respectively represented the Hardships and Difficulties they had formerly struggled with under a Governor in Newfoundland, and that they apprehended the Fishing Trade would be greatly discouraged and prejudiced if a Governor was settled there, and therefore they pray that His Majesty's Sovereignty may be maintained by Ships of War to be sent Annually thither, and that the Charter granted by His Majesty in the 27th Year of His Reign, for the Encouragement of the Fishery, may be enforced and put in Execution, as the best and only Methods to preserve and secure the Trade.

These Representations had so much Weight that the aforesaid Proposals relating to a Governor were laid aside ; but the Regulations and Laws of the Charter being enervated by these Disputes, the Fishing Trade very sensibly declined from the Time that the Order for removing the Planters was revoked.

And in	<u>1682</u>	and	<u>1684</u>	it was reduced to
	32		43	Fishing Ships,
	1,012		1,489	Seamen
	183		294	Boats,
though the Inhabitants employed in the same Years				
	299		304	Boats,

But this Decay of the Fishing Trade was not the only Loss this Kingdom sustained on this Occasion ; for as Captain Jones, One of the Commanders of the Convoy in 1682, hath affirmed of his own Knowledge, the Traders from New England to Newfoundland Yearly *made Voyages for the Sake of spiriting* away the Fishermen ; so that the Newfoundland Fishery, which was formerly the great Nursery for breeding up stout and able Mariners, was now become a mere Drain, that carried off very many of the best and most useful of all the British Sailors ; and it is too notorious that this Practice has prevailed ever since.

Neither can we omit observing from the Accounts transmitted to the Lords of the Committee by Sir Francis Wheeler, the Commander of the Convoy in 1684, that the

Planters carried on their Fishing Trade with great Disadvantage, their extraordinary Charge of Wages and Provisions amounting to One Third Part more than was expended by the Western Adventurers ; and although their selling of Strong Liquors to the Fishermen at dear Rates

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did somewhat help them, yet this was such an apparent Prejudice and Discouragement to the Adventurers, that it was no Wonder so many of them were driven away from the Fishery in 1682 and 1684, as has been already mentioned.

Nor doth it appear to us that the Fishing Trade was afterwards, during the Reign of King James the Second, upon a better Foot, or that the least Care was taken to remove the aforesaid Obstructions, much less to retrieve Trade ; but, on the contrary, notwithstanding the French Fishery was prodigiously increased both at Placentia and to the Northward of Cape Bonavista, and that the Value of the Fish taken by the English Adventurers after the Year 1682 fell short of the Value of what was taken in 1676 at least £.100,000 per Annum ; nevertheless the Subjects of this Kingdom were restrained, by the Treaty concluded between Great Britain and France in 1686, from fishing in such Places as were held or possessed by his Most Christian Majesty in America ; which seems derogatory to the Charter, and to the Statute 15 Car. II. Chap. 16, whereby several Regulations are prescribed and ordained to be observed in any of the Harbours in Newfoundland.

Moreover, the succeeding War with France in 1689 still added to the Misfortunes of the said Trade, not only as it was thereby rendered impracticable to pursue such Measures as were necessary to reform the aforesaid Disorders and Mismanagement, but from the Difficulties and Hazards that unavoidably attended the Adventurers in prosecuting the same. However, they employed every Year some Ships more or less, as they could obtain Protection for their Men ; and the Inhabitants maintained (as formerly) about 300 Boats per Annum, until the French, in 1696, without any Regard to what was stipulated by the 18th Article in the Treaty of 1686, ravaged several of the Harbours in Newfoundland, and destroyed all that appertained to the Fishermen ; whereupon His late Majesty King William the Third erected a Fort at St. John's for the better Security and Protection of His Subjects and their Trade.

But upon the Conclusion of the Peace at Ryswick, the Adventurers, either forgetting the Difficulties their Predecessors were not able to surmount, or imagining that the Inhabitants, by Reason of the severe Losses they had lately suffered, were rendered incapable of carrying on the Fishery ; or else very probably adhering (for their own private Ends) to the Practice of those refractory Masters of Ships who could not be restrained from transporting Passengers, they re-assumed and returned to their old Trade with fresh Vigour ;

And in 1698 there were employed by the

Adventures	<u>143</u>	Fishing Ships
And	532	Boats,
And by the Inhabitants and Bye Boat Keepers	<u>397</u>	Boats,
In all, Boats	929	who took
	265,198	Quintals of Fish

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The Fishery at Newfoundland being thus revived, and His said Majesty, in His most gracious Speech from the Throne on the 9th December 1698, having recommended it to His Parliament *to employ their Thoughts about some good Bills for the Advancement of Trade*, they were engaged to take the State of this Fishery into their Consideration ; and in order to restore good Government, and to prevent Contentions and Disorders for the future, an Act was passed in that Sessions, intituled, *An Act to encourage the Trade to Newfoundland*.

The abstract whereof is as follows :

1st. That it is and shall be lawful for all His Majesty's Subjects residing in England to have and enjoy a free Trade to Newfoundland as formerly ; and that no Alien or Stranger whatsoever take any Bait or Fish there.

2nd. That no Ballast be thrown out to the Prejudice of the Harbours.

3rd. That no Person destroy or deface any Stage, Cook Room, Flakes, &c.

4th. That according to ancient Custom, every Ship that first entereth a Harbour shall be Admiral of the said Harbour, &c.

5th, That Stages, &c. taken up and detained since 1685, be relinquished for the Use of the Fishing Ships.

6th. That no Inhabitant shall possess any Stage which since 1685 did or shall belong to any Fishing Ship, until the Fishing Ships from England are provided.

7th. Provided that such Persons as have built any Houses, Stages, &c. that did not belong to Fishing Ships since 1685, may enjoy the same.

8th. That no Bye Boat Keeper shall meddle with Stages,

&c. which did belong to Fishing Ships since 1685.

9th. That Bye Boat Keepers shall carry out, and Inhabitants employ, Two Fresh Men in Six, and Fishing Ships One Fresh Man in Five ; and that the Masters of the Ships and Boats make Oath accordingly.

10th. That every Master of a Fishing Ship shall have in his Ship's Company One Green Man in Five.

11th. That no Person cut out or alter the Marks of any Boats or Trainfats to defraud the right Owner.

12th. That no Person shall rind the Trees, nor set Fire to or destroy the Woods, except for necessary Uses ;

Nor cast Anchor so as to hinder the haling of Seynes in Baiting Places ;

Nor rob the Nets of any Drift Boats, or take away any Bait or Nets out of the Fishing Boats.

13th. That Murders, Felonies, and all other Capital Crimes, committed in Newfoundland, shall be heard and determined in England.

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14th. That the Admirals of the several Harbours be and are required (in order to preserve Peace and good Government as well in the Harbours as on the Shore) to see this Act put in Execution.

15th. That the said Fishing Admirals determine all Differences between the Masters of the Ships, Inhabitants, and Bye Boat Keepers, concerning the Right or Property of Fishing Rooms, Stages, &c.

But if any think they are aggrieved by such Determination, they may appeal to the Commanders of any of His Majesty's Ships of War.

16th. That the Lord's Day shall be strictly and decently observed ; and that none of the Inhabitants shall sell or dispose of any Liquors on that Day.

Upon the passing of this Act, and the Success of the Fishery in the last Year, the Adventurers, Bye Boat Keepers, and Inhabitants, applied themselves very earnestly to the Fishery ; and there was employed,

	In 1699.		In 1700.	
By the Adventurers ..	{ 168	..	171	Fishing Ships.
	{ 669	..	800	} Boats.
By the Boat Keepers ..	115	..	90	
And by the Inhabitants ..	457	..	674	

But as this Act had not that good Effect which the Adventurers expected, they were from this Time forwards constrained to give Place to the Inhabitants; for in 1701 the Fishery of the Adventurers was reduced to 75 Fishing Ships and 338 Boats.

Whereas there was then kept,

By the Bye Boatmen	97	}	Boats.
and			
By the Inhabitants	558		

Afterwards during the War there was employed,

	Fishing Ships.	Fishing Ships Boats.	Bye Boats and Inhabitants Boats.
In 1702	16	35	380
1703	23	44	214
1704	23	—	—
1705	20	60	200
1706	46	136	232
1707	70	196	257
1708	49	170	356
1709	35	130	258
1710	49	153	365
1711	62	168	439
<u>1712</u>	<u>66</u>	<u>198</u>	<u>370</u>

That is, *Communibus Annis*, 41 or 42 Ships *per Annum*.
p. 1829

And since the Conclusion of the Peace,

	Fishing Ships.	Fishing Ships Boats	Bye Boats.	Inhabitants. Boats.
In 1713	46	162	195	288
1714	106	441	133	362
1715	108	376	197	468
1716	<u>86</u>	<u>319</u>	<u>184</u>	<u>408</u>
In the said 4 Years	346	1,298	709	1,526
That is, <i>Com^s Annis</i>	86	324	117	381

According to the preceding	Fishing Ships Boats	Bye-Boats and Inhabitants Boats.
----------------------------	------------------------	-------------------------------------

Accounts of the Fishery, it may be asserted,		
That the Western Adventurers in 1615, whilst the Trade was open and free to all Strangers, employed	1,250	
In and about 1644, when the Colony was in a Manner deserted, and the Foreigners fairly driven out of the Trade, at least	2,160	
Before the Year 1660, and for several Years after, it was generally agreed that the Fishery was reduced, by divers Misfortunes and evil Practices, to less than One Third Part, or	720	
That upon restraining the Transportation of Passengers by the new Charter, and enjoining the Planters to remove by a special Order, the Trade began to revive again in 1676, and maintained	894	206
Upon the Revocation of the said Order, and the Design to settle a Governor, a full Stop was put to the Increase of the Trade, and in 1684 it sunk to	294	304

And it is computed that it continued (*Communibus Annis*) near upon the same Foot from that Time to the Conclusion of the Peace at Ryswick in 1697.

	Fishing Ships Boats.	Bye-Boats and Inhabitants Boats.
That in the three following Years there was Annually employed in a		
Medium	677	577
But in 1701, the Adventurers being discouraged, the Trade fell off to	338	655
Afterwards during the War, from 1701 to 1712 inclusive, it was carried on, <i>Communibus Annis</i> , by no more than	120	300
And on a Medium of Four Years, from the Conclusion of the Peace, by	324	558

So that the Difference between the Fishery in 1644 and since the present Peace may be computed as follows :

In 1644 the Adventurers employed 2,160 Boats, and by the great Industry of the Fishermen there was seldom less taken than 250 Quintals of Fish per Boat.

In all, Quintals 540,000 *per Annum*, which produced about 3,375 Tons of Train Oil, at one Hhd. for 40 Quintals.

And since the Peace, the Adventurers, Bye Boat Men, and Inhabitants, have employed, *Corn. Annis*, 882 Boats ;

And have taken . . 95,424 Quintals of Fish ;
That is 108 Quintals per Boat.
And 365½ Tons of Train Oil,
at One Hhd. *per* . . 64 Quintals.

Consequently therefore the Quantity of Fish taken in 1644, and about that Time, exceeded what has been taken since the Peace 444,576 Quintals *per Annum*.

Which at 8 <i>s.</i> <i>per</i> Quintal, amounts to . .	£177,830	— —
and of Train Oil 3,009½ Tons.		
Which at £. 12 <i>per</i> Ton, amounts to . .	36,114	— —
	<hr/>	
Value of the Fish and Oil in Newfoundland	213,944	— —
Freight of the said 444,576 Quintals of Fish to Europe,		
at One P ^s of 8, or 4 <i>s.</i> 6 <i>d.</i> <i>per</i> Quintal . .	100,029	— —

Lost Annually to England by the Decay of
the Trade . .

313,973 — —

Not including in this Account what was gained by the Merchants upon the Sale thereof in Foreign Markets, nor what was paid for Provision, strong Liquors, &c. to New England and other Places.

It is therefore very apparent, from what has been already mentioned,

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That the Fishery at Newfoundland, from its first Establishment, has either flourished or languished according as the Inhabitants have been discouraged or encouraged.

That the principal Obstructions which have attended that Trade since the Reign of King Charles the First, when it was at the greatest Height (exclusive of those that proceeded from the Wars this Kingdom has been engaged in) are entirely owing to the Project for carrying on the said Trade by a Colony of Fishermen, in Opposition to the Fishing Ships belonging to the Adventurers.

That the first immediate Cause of the Decay of the Fishing Trade, and of the Disorders that have depressed it ever since, was from the Encouragement that was given to the Transportation of Passengers, by appointing Mr. John Treworgey Governor of Newfoundland in 1650, and by granting a Patent and Commission to Sir David Kirk, John Claypole, and others in 1655.

That the pernicious Consequences which evidently ensued upon the diverting the Course of the Fishery into this new Channel, were the only Motives that induced King Charles the Second (after every Circumstance relating to the Trade had been strictly examined and seriously considered) to order the Commander of the Convoy in 1675 to admonish the Planters to return Home, and to grant in the same Year a new Charter, which provided and guarded against every Inconveniency and Abuse that had interrupted the Adventurers in the Prosecution of their Fishing Trade.

That when these Regulations were settled there was a fair Prospect of retrieving and reviving the Trade ; but that the Indulgence shewn to the Planters in 1677, by permitting them to remain in the Country, rendered the Charter ineffectual, reduced the Fishery to the lowest Ebb, and favoured both the French and New Englanders in carrying on their Fishing Trade.

And that the unhappy State of the Trade from that Time to this (which is upwards of Forty Years) is an undeniable Argument that it cannot flourish under the present Regulations; which will be farther demonstrated by examining and comparing the Rules and Methods that were formerly observed by the Western Adventurers, with the extravagant and irregular Measures and Practices that of late Years have been introduced and pursued in the Management of the Fishery. For Instance :

Before the Fishing Ships became Transports to the Planters and Bye Boat Keepers, the usual Complement of a Ship containing 100 Tons fitted out for a Fishing Voyage, was 50 Men and 10 Boats, and this Practice was continued until 1677 ; in which Year, according to Sir William Poole's Accounts, there were employed in the Fishery 109 Fishing Ships, containing 9,035 Tons and 4,475 Men which amounted to upwards of 49 Men for every 100 Tons ; but upon a Medium of Four Years, since the Peace of Utrecht, the 86 Fishing Ships Annually employed in the Trade as aforesaid contained 9,010 Tons and but 1,839 Men, which is little more than 20 Men for every

p. 1832

100 Tons. The present Adventurers have therefore Annually wanted 2,666 Men to complete the Number their Predecessors maintained formerly on the same Tonnage in the Fishery ; and had their Ships been fully manned, the aforesaid 2,666 Men would have taken to the Value of at least £. 20 each, that is in the Whole £. 53,320 per Annum, over and above what they have now gained, and whatsoever is taken by the Fishing Ships entirely belongs to and is a certain Addition to the Stock of Your Majesty's Subjects residing in this Kingdom.

Whereas all the Advantages that the Inhabitants enjoy at present by the Fishery (unless the Season proves exceeding favourable) never answers their Charge ; for as they are in general very idle, indigent, and necessitous, they are always indebted and enslaved to the Traders from New England and other Parts, by whom they are supplied with Provisions for their Subsistence, and with vast Quantities of strong Liquors, Molasses, and Tobacco for Sale ; and many of them not having wherewithal to satisfy their said Creditors, they are in course stript of all they have taken before the Fishery is well over, and the rest when their Debts are discharged have seldom enough left to secure a sufficient Stock for their own and their Servants Support and Debaucheries in the winter ; so that New England reaps all the Fruit of their Labour, except what is paid for the Passage of their Servants, and for the Goods that are exported from Great Britain for their Consumption.

How much the Transportation of their Servants out and Home may amount to is uncertain ; but since few return from thence, we compute it cannot exceed
.. £4,500

And the Value of the Goods exported thither, according to the Custom House Accounts, upon a Medium of 3 Years after the present Peace, was
8,133

Communibus Annis . . 12,633

Another Instance of the Prejudice that Great Britain receives by the Inhabitants of Newfoundland, is from their Abuse of that Liberty which is given them to transport Servants to assist them in carrying on their Fishery.

For it must be observed that in the Years 1677 and 1701

The Number of the Inhabitants and their
Men Servants amount to 1,507
2,159
And they maintained Boats 337
558

Which in the first Year falls short of Men $4\frac{1}{2}$,
and in the last Year of Four Men to each Boat.

But in the Years 1715 and 1716

The Number of the Inhabitants was 3,153
2,611
And they maintained only, Boats 464
408

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Which being after the Rate of $6\frac{3}{5}$ Men to every Boat, it necessarily follows they were supplied in 1715 and 1716 with 920 Men per Annum more than they would have employed in the same Number of Boats, according to their Management in the Year 1677 ; and since the Fishing Ships in Proportion to their Men, have taken a greater Quantity of Fish than was taken at the same Time by the Inhabitants, and that in the Year 1716 Servants were so scarce in Newfoundland, that they were forced to give £. 18 to £. 20 per Man for the Fishing Season, it can never be pretended that the said 920 Supernumeraries were employed in the Fishery ; but it manifestly confirms the Truth of all those Complaints that have been made for upwards of 40 Years past, that the New Englanders, by the Assistance of the Planters of Newfoundland, have carried away every Year from thence as many of the English Fishermen as they could persuade or seduce to proceed with them ; by which means they have established a very considerable Navigation, and gained a Fishery on their own Coast, which at present is

probably superior to that at Newfoundland. Moreover, it will serve to justify and support what Captain Passenger, the Commander in Chief of the last Year's Convoy, has advised us on the 1st of October past, that he was very well informed the New England Vessels had carried away from Newfoundland, in 1716, One thousand Three hundred Men. From hence therefore it plainly appears, that the Navigation of this Kingdom has suffered exceedingly ever since the Transportation of Passengers to Newfoundland has been connived at ; and there can be no Doubt but that it has been One of the principal Causes of the Want of Seamen for Your Majesty's Service.

The next irregular and pernicious Practice of the Inhabitants that must be taken Notice of, is, their retailing of Rum and other Strong Liquors among the Fishermen.

That the Fishery was severely affected by the unhappy Consequences of this Practice soon after the First Planters were settled in Newfoundland, is apparent from the Charter of King Charles the First : whereby it is ordained in the 10th Article,

“That no Person shall set up any Tavern for selling of Wine, Beer,
&c. to entertain the Fishermen, &c.”

And it is as certain that the flourishing State of the Fishing Trade during the aforesaid Reign was, in a great Measure, owing to this wholesome Prohibition ; for as long as it was maintained, so long the Trade prospered, and it was no sooner dispensed with but the Trade sensibly declined ; and although the Planters were afterwards kept in Awe for some Time by the Charters that were granted by King Charles the Second, which confirmed the said Prohibition ; nevertheless, when that Difficulty was surmounted, and they were at Liberty to pursue their own Measures, the Fishery immediately languished. Nor has it rendered to this Kingdom from that Time above One Third Part of the Profit that was formerly enjoyed thereby ; excepting only after the Conclusion of the Peace at Ryswick, when for Three

p. 1834

Years the Fishing Trade was vigorously carried on, in Hopes that the said Peace would have favoured the Consumption of their Fish in Foreign Parts, and that the settling of the Trade by an Act of Parliament would have effectually prevented all Abuses and Disorders, and restored good Order and Government in the Fishery. But the said Act having only restrained the Inhabitants who keep Public Houses from selling upon the Lord's Day, or Sunday, any Liquors whatsoever, and without imposing any Penalty upon the Transgressors, even upon that Day, Newfoundland is now become a perfect Scene

of Drunkenness and Debauchery ; nor can it be otherwise whilst such vast Quantities of Rum and Strong Liquors, Tobacco, and other Stores, are Annually imported from New England, the Leeward Islands, and other Places ; and that the Inhabitants, who carry on their Fishing Trade at a much greater Charge than the Fishing Ships, and are under the Necessity of selling their Fish at the same Price, have no other Way to reduce the Price thereof but by what they gain upon the Sale of their said Liquors to the poor Fishermen, who being always too prone to drink, are easily drawn into Debaucheries and Excesses, until they have profusely expended and consumed all, or at least a large Part of their Wages, to the great Prejudice of their Families. And as this has been always justly resented as an intolerable Abuse and Burthen, so the Disorders that naturally arise from the said Debaucheries have obstructed the Trade, by discouraging the Masters and Owners of the Fishing Ships from engaging in these Voyages ; it being evident that the Fishermen are become negligent and careless in their Employment ; that they are hereby rendered unfit for their Labour ; that they are often refractory and ungovernable ; and that, to support their Extravagances, they are guilty of many Embezzlements and Thefts ; which are Difficulties that are insuperable in a Fishing Voyage, the Success whereof absolutely depends upon the utmost Care and Frugality of the Master, and the Diligence and hard Labour of the Fishermen, especially when they are to contend with a Foreign Rival, who cherishes Industry, and crushes every Irregularity that increases the Charge of their Fishery.

Neither are these the only Hardships under which the Fishing Ships labour, for upon their fitting out, the best and ablest Fishermen generally decline serving in them until the Boat Keepers have their full Complements, the Boat Keepers Crews being exempted from working on Board Ship in their Passage, and in Newfoundland, when bad Weather hinders their Attendance on the Fishery.

And whereas the said Bye Boat Keepers always take their Passage on the earliest Ships and best Sailers, the Fishing Admirals, under the Pretence of their being Freighters of Ships, put them in Possession of the best and most convenient Places by the Water Side, to the great Prejudice and Discouragement of the later Ships, whose Masters have been frequently constrained to hire both Stages and Room from the said Boat Keepers, and obliged to carry their Fish so far backward, that they could not avoid allowing One Man extraordinary to each Boat.

Moreover, since it is now customary for many of the Bye Boat Keepers to remain every Winter in the Country, to secure their Stages and Rooms

against the next Fishing Season, and that the aforesaid Act of 10th and 11th Gul. III. has provided, “ That all such Persons as since the 25th of March 1685 have built, cut out, or made (or at any Time hereafter shall build, cut out, or make) any Houses, Stages, Cook Rooms, Trainfats, or other Conveniencies for Fishing there, that did not belong to Fishing Ships since the said Year 1685, shall and may peaceably and quietly enjoy the same to his or their own Use, without any Disturbance of or from any Person or Persons whatsoever : ”

It is found by Experience, that the Shipping which was employed in the Fishery about the Time King Charles the Second granted his Second Charter, cannot be now accommodated as formerly in the principal Harbours where the Planters generally remain.

For the Number of those Ships being reduced some Years before 1685 to One Third Part or thereabouts of the Number that was Annually employed in 1675, 1676, and 1677, and the Trade continuing near upon the same Foot from 1685 to the Time the said Act was under Consideration, the said Ships neither did nor could occupy in that Interval more than One Third Part of the Stages and Rooms which had been in the Possession of the Fishing Ships in the aforesaid Three Years ; and without Doubt the rest were either decayed or destroyed in their Absence. But the Inhabitants having built, cut out, and made, since 1685, several Houses, Stages, Trainfats, &c. in the same Places where the other Two Third Parts of the Fishing Ships, Rooms, and Stages were formerly erected and fixed, the Fishing Ships are deprived by the Act of the Right they had to the said Places ; wheresoever, therefore, they shall be again encouraged to return to the Fishery, they will be obliged to hire their Conveniencies of the Planters in the same Manner as in 1698, in which Year, according to the Accounts transmitted by Sir John Norris from Newfoundland, they paid from £. 5 to £. 15 *per* Boat, which must be assigned for One of the Reasons why they quitted the Fishing Trade so soon after the Act passed, and why they have declined it ever since ; nevertheless, as the said Act has directed, by a preceding Clause, that those who had detained after 1685 any Beach or other Places for curing, drying, or husbanding of Fish, which before that Time belonged to the Fishing Ships, should relinquish the same to the public Use of the Fishing Ships arriving there. It cannot be imagined that the aforesaid Proviso was intended to abridge them of so great and necessary a Privilege, much less to permit the Planters to possess more Flakes and Beach than they actually want for curing and drying their Fish, in proportion to the Number of Boats they employ or to extend their Flakes and Huts by the Water Side, or behind those of the Fishing Ships, contrary to the ancient Custom of the Fishery.

It must be also remarked, that notwithstanding Placentia

and several other Places lately possessed by the French in Newfoundland, were surrendered to Great Britain in compliance with the Treaty of Utrecht, the Fishing Ships enjoy no other Advantage thereby than by fishing at the Island of St. Peter's ; the Stages, Beaches, &c. at Placentia, and in those Parts, being engrossed by some of Your Majesty's Subjects inhabiting there. For

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although the French, by the 14th Article of the said Treaty, were only allowed to remove with their moveable Effects, yet her late Majesty, by her Letter of the 23d of June 1713, to Colonel Nicholson, having permitted them to dispose of their Houses, Beaches, and other Immoveables, they were bought up by particular Persons in Hopes of letting them out Annually to the Fishermen, which has effectually discouraged the Fishing Trade in that Part of the Country.

To which may be added, That the Importation of Wine, and all other Necessaries (except Salt) for the Fishery by the Ships which proceed to Newfoundland from Portugal, Spain, and other Foreign Parts, is a Discouragement to the Adventurers in general, whose Ships are victualled, and Stores provided in this Kingdom.

Nor can we conclude without taking Notice, that we have lately received Letters from Your Majesty's Consuls, and the Merchants residing in Spain, Portugal, and Italy, that the Fish brought to those Markets from Newfoundland, for some Years past, has been for the most Part so very ill cured, that the Consumption thereof is greatly abated, and that the Trade is in Danger of being thereby lost.

Upon the Whole, therefore, we most humbly crave Leave to offer it as our Opinion to Your Majesty.

That this important Fishery at Newfoundland can never be revived or restored to its former flourishing State and Condition until it be again wholly carried on by Fishing Ships, according to its ancient Custom, and regulated by Laws agreeable thereunto.

And that the most effectual Method to remove all the afore-mentioned Obstructions, and to restrain the Irregularities and Disorders of the Fishermen, as well as to encourage the Adventurers to return to their Employment, would be to remove the Inhabitants or Planters to Nova Scotia, or to some other of Your Majesty's Plantations in America.

Nevertheless, lest this should be esteemed a Hardship on such of the Inhabitants as have erected Houses, or made any other Conveniencies for their fishing in Newfoundland, under the Encouragement which seems to have been given them by the Act of the 10th and 11th Gul. III. we shall shortly beg Leave to offer to Your Majesty some Heads of a Bill for remedying the Difficulties and Abuses the said Fishing Trade doth at present labour under, to the great Prejudice of Your Majesty's British Dominions.

All which is most humbly submitted.

(Signed) J. CHETWYND,
CHA. COOKE,
P. DOCMINIQUE,
T. PELHAM,
MARTIN BLADEN.

Whitehall,
Dec. 19th 1718.

Office of Committee of Privy Council for Trade,
Whitehall, 11th March 1793. A true Copy.

GEO. CHALMERS,
Ch^f Cl^k Com. C^l Trade.

Page	1	2	3	4	5
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No. 757.**ORDER OF HER MAJESTY IN COUNCIL,**

APPROVING OF DRAFTS OF A COMMISSION AND INSTRUCTIONS FOR
CAPTIAN, HENRY OSBORNE, AS GOVERNOR AND COMMANDER-
IN- CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

[22
May,
1729.]

C.O. 5. VOL. 21

At the Court at Kensington
the 22 day of May 1729.

Present

The Queen's most Excellent Majesty

Upon reading this day at the Board a Report from the Lords of the Committee of His Majesty's most Honourable Privy Council with a Draught of Instructions for the Lord Vere Beauclerk, Commander in Chief of the Convoy appointed for the preservation of the Fishery of Newfoundland— And also with a Draught of a Blank Commission and Instructions for a Governor and Commander in Chief in and over the Island of Newfoundland in America, the Fort and Garrison at Placentia, and all other Forts and Garrisons Erected or to be Erected in that Island. Her Majesty taking the same into Her Consideration, was pleased with the advice of His Majesty's Privy Council to approve of the said severall Draughts, and to order, as it is hereby ordered that the said Draught of Instructions for the Lord Vere Beauclerk be prepared for Her Majesty's Royall signature, And that a Warrant be prepared for passing the said Draught of a Commission for a Governor of Newfoundland under the Great Seal of Great Britain, and that the Instructions for such Governor be prepared for Her Majesty's Royall signature.

And Her Majesty doth hereby further order ; that the Blanks left in the said Draughts of Commission and Instructions for the Name of the Governor be filled up with the Name of Captain Henry Osborn Commander of His Majesty's Ship the Squirrell— and that in Case of his Death William Coalsea first Lieutenant of His Majesty's Ship the Oxford or the first Lieutenant of the said Ship for the time being, be appointed to take upon him the administration of the Government of the said Island— And one of His Majesty's Principal Secretarys of State is to Cause the necessary Directions to be given therein accordingly :

Endorsed : May 22^d 1729.

Order of Council for preparing a Commission and
Instructions for a Gov^r of the Island of Newfoundland.

No. 758.

**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN**

APPOINTING HENRY OSBORNE TO BE GOVERNOR AND COMMANDER-
IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

[31
May,
1729.]

PATENT ROLL, 2 GEO. II., PART 3, NO 2.

D Con Osborn Ar Commission	}	George the Second by the Grace of God &c. To Our Trusty and welbeloved Henry Osborne Esquire Comander of Our Ship the Squirrel Greeting whereas wee did by Our Letters Patents vnder our Great Seal of Great Britain
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bearing date at Westminster the Eleventh day of September in the Second year of Our Reign Constitute and Appoint Richard Phillips Esquire Governour of Placentia in Newfoundland and our Captain General and Governor in Chief in and over Our Province of Nova Scotia or Accadie in America for and during Our will and pleasure And whereas wee have since thought it necessary for Our Service that Newfoundland Placentia and all other the fforts Islands and places thereunto belonging should be vnder the Government of one and the same Person and that a Governor should be appointed there to prevent the Great Irregularities Outrages Rapes ffelonies murthers and other heinous offences which are frequently Committed in Our Island of Newfoundland and especially during the winter Season by wicked people for want of Proper Persons legally Authorized to restrain and Punish such Offenders Now know you therefore that wee have Revoked Determined and made void And by these presents do Revoke Determine and make void so much of the recited Letters Patents and every part Clause and Article therein contained so farr as the same mençons or relates to the Government of our Garrison of Placentia or any other ffort Place or Part of Our said Island of Newfoundland or the fforts or Garrisons Erected or to be Erected thereon or any the People or Inhabitants abiding or resorting thereto And reposing especial Trust and Confidence in the Prudence Courage and Loyalty of you the said Henry Osborn of Our especial Grace certain knowledge and meer mocon have thought fit to Constitute and appoint and by these presents do Constitute and appoint you the said Henry Osborne to be Our Governor and Commander in Chief in and over our said Island of Newfoundland Our fort and Garrison at Placentia and all other

fforts and Garrisons Erected or to be Erected in that Island And wee do hereby require and Comānd you to do and Execute all

p. 1839

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things in due manner that shall belong to your said Comānd and the Trust wee have reposed in you according to the several powers and Direcēons Granted or appointed you by this present Comīssion and the Instrucēons either herewith given to you or by such further Powers Instrucēons or Authorities as shall at any time hereafter be Granted or appointed you vnder our Signet or Sign manual or by Our Order in Our Privy Council And wee do further Give and Grant vnto you the said Henry Osborne full power and Authority from time* and at any time hereafter by your selfe or by any other to be Authorized by you in that behalfe to Administer and give the Oathes menconed in* Act passed in the first Year of Our late Royal ffathers Reign Entituled (An Act for the further Security of his maiesties Person and Government and the Succession of the Crown in the heires of the late Princess Sophia being Protestants and for Extinguish[ing] the hopes of the Pretended Prince of Wales and his open and Secret abettors) and to all and every such Person and Persons as you shall think* who shall at any time or times pass into our said Island or shall be resident or Abiding there And wee do by these presents Give and Grant vnto you full power and Authority to Constitute and Appoint Justices of the Peace with other necessary Officers and Ministers for the better Administracon of Justice and keeping the Peace and Quiet of the said Island which Justices of the Peace so Authorized may and shall hold and keep General Quarter Sessions of the Peace in such Places as you shall appoint according to the Custome of this part of Great Britain called England and to Adiourn such Session from time to time and from place to place as shall be most convenient and necessary for the Peace and welfare of Our Subjects Inhabiting there Provided you nor they do any thing by virtue of this Our Comīssion or the Powers hereby Granted contrary or repugnant to the Act for Encouraging the Trade to Newfoundland passed in the tenth and Eleventh years of the Reign of king William the third nor any way Obstruct the Powers thereby given and Granted to the Admirals of harbours or Captains of Our Ships of warr or any other matter or thing either prescribed by the said Act or by such Instrucēons as you shall receive from vs as aforesaid and all such Justices of the Peace and their Inferiour Officers and Ministers whom you or they shall Appoint amongst the Planters or Inhabitants resident and abiding there be Strictly required and enioyned in all Cases and times whenever necessary to be Aiding and Assisting to the vtmost of their Power to the Commadore or Comānders of Our Ships of warr and to the several Admirals in their respective harbours in putting in Execucon the several good Rules and Orders p^rscribed by the said Act for

Encouraging the Trade to Newfoundland And provided also that no Person or Persons so by you appointed to be Justices of the Peace as aforesaid or other Office or ministers belonging or Appertaining to them do presume or be suffered to Act in such Officers or place vntill he or they have taken the aforesaid Oaths men̄oned in the said Act (ffor the further Security of his majesties person and Government and the Succession of the Crown in the heirs of the late Princess Sophia being Protestants and for Extinguishing the hopes of the pretended Prince of Wales and his open and Secret Abettors) as also make and Subscribe the Declaracon

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p. 1840

men̄oned in an Act of Parliament made in the five and twentieth year of the Reign of King Charles the Second Entituled (An Act for preventing Dangers which may happen from Papish Recusants) and also to take such Proper Oath or Oaths as are usally taken in this kingdom by persons Executing such Offices and Trusts which said Oathes and Declaracon you shall Administer and give or cause* same to be Administered and given to all and every Person and Persons who ought to take the same according to the laws and Customes of this kingdom And wee do hereby give and Grant vnto you the said Henry Osborn full power to Erect appoint and sett apart one or more convenient Court house or Court houses for the more Orderly meeting of such Justices of the Peace in order to hold such their Quarter or other Sessions with a convenient Prison adioyning thereto for the keeping of such Offenders as may be found necessary to be comitted to safe Custody vntill such Court or Sessions conveniently be held for trying and delivering Offenders against our Laws and the Peace of our Subjects And wee do hereby require and Command all Officers Civil and military and all other Inhabitants of Our said Island to be Obedient Aiding and Assisting vnto you in the Execution of this Our Com̄ission and of the Powers and Authorities herein contained And in Case of your Death Our will and pleasure is that William Coalsett first lievtenant of Our Ship the Oxford or the first lievtenant of Our said Ship for the time being do take vpon him the Administracon of the Government of Our said Island and Execute our said Com̄ission and Instrūcons and the several Powers and Authorities therein contained in the same manner to all intents and purposes as you Our said Governor and Com̄ander in Chief might or ought to do for and during Our will and pleasure And wee do hereby Declare Ordain and appoint that you the said Henry Osborne shall and may hold Execute and Enioy the Place of Our Governor and Com̄ander in Chief in and over our said Island of Newfound[land] with all and Singular the Powers and Authorities hereby Granted vnto you for and during Our Will and pleasure In Witness &c Witness Caroline Queen of Great Britain &c Guardian of the said Realm at Westminster the one and Thirtieth day of May

By Writt of Privy Seal

No. 759.**ATTORNEY-GENERAL YORKE'S OPINION**pp. 538-
541.

ON THE POWERS OF THE SEVERAL OFFICES AT NEWFOUNDLAND.

[29 Dec.,
1780.]

CHALMERS' "OPINIONS OF EMINENT LAWYERS ON VARIOUS POINTS OF
ENGLISH JURISPRUDENCE," ETC., 1ST AMER. ED. [BURLINGTON :
1858].

To the King's most excellent Majesty.

May it please your Majesty.

In humble obedience to your Majesty's commands signified to me by his Grace the Duke of Newcastle, your Majesty's principal secretary of state, referring to me an extract of the commission to Captain Osborne, Governor of Newfoundland, so far relates to the authority and direction thereby given to him, to appoint justices of the peace in the several districts of that colony, and an extract of a letter received from him, with copies of two papers therein referred to, (all which are hereunto annexed,) by which it might appear how he is obstructed in the execution of your Majesty's commands to him in this respect, and particularly, that it is pretended to be contrary to the act of parliament for encouraging the fishery of Newfoundland, and directing me particularly to take that act into consideration, and report to your Majesty how the law stands in this point, and whether there is any foundation for that objection, or any interfering between the powers given by the act to the fishing admirals, and the authorities which justices of peace, in the manner they are established here, are invested with by their commission : I have considered the said annexed papers, and also the act of parliament above mentioned, which was made in the 10th and 11th years of the reign of his late Majesty, King William III ; and I humbly certify to your Majesty, that by the said Act, it is enacted "That the admirals of and in every port and harbour of Newfoundland, for the time being, be, and are, thereby authorized and required (in order to preserve peace and good government amongst the seamen and fishermen, as well in their respective harbours as on the shore,) to see the rules and orders in the said act contained, concerning the regulations of the fishery there duly put in execution ; and that in case of any difference or controversy shall arise in Newfoundland, or the islands thereunto adjoining, between the masters of fishing-boats and the inhabitants there, or any by-boat keeper, for, or

concerning, the rights and property of fishing-rooms, stages, flakes, or any other building or conveniency for fishing or curing of fish in the several harbors or coves, the said differences, disputes,

p. 1842

or controversies, shall be judged and determined by the fishing admirals in the several harbors and coves ;” and in case any of the said masters of fishing-ships, by-boat-keepers, or inhabitants, shall think themselves aggrieved by such judgment or determination, and shall appeal to the commanders of any of your Majesty's ships of war, appointed as convoys for Newfoundland, the said commander is hereby authorized and empowered to determine the same, pursuant to the regulation in the said Act.

These are all the clauses in the said act of parliament which relate to the present question, whereby it appears that the whole authority granted to the fishing admirals is restrained to the seeing the rules and orders, contained in that act concerning the regulation of the fishery there, duly put in execution, and to the determination of differences arising between the masters of fishingboats and the inhabitants, or any by-boat-keeper, touching the right and property of fishing-rooms, stages, flakes, or any other building or conveniency for fishing or curing of fish, in the several harbors or coves of Newfoundland, which is a kind of civil jurisdiction in particular cases of property ; whereas the authority of justices of the peace extends only to breaches of the peace, and other criminal matters, and therefore, I am humbly of opinion that the powers granted by your Majesty to captain Osborne, to constitute justices of the peace in Newfoundland, is not contrary to, or inconsistent with, any of the provisions in the said act ; and that there is no interfering between the powers given by that act to the fishing admirals, and the authorities which justices of the peace are invested with by their commission.

P. YORKE.

December 29, 1730.

[11 Apr.,
1750.]**No. 760.****ORDER OF HIS MAJESTY IN COUNCIL,**

APPROVING OF REVISED DRAFTS OF A COMMISSION AND INSTRUCTIONS
FOR FRANCIS WM. DRAKE, AS GOVERNOR AND COMMANDER-
IN- CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

C.O. 5. VOL. 21

At the Court at St. James's
the 11th day of April 1750.

Present

The Kings most Excellent Majesty in Council.

Upon reading at the Board a Representation from the Lords Commissioners for Trade and Plantation dated the 6th of this Instant, Setting forth that they have prepared a Draught of a New Commission for Francis William Drake Esq^r Commander in Chief in and over His Majestys Island of Newfoundland, revoking and determining His Majestys former Commission to the said Francis William Drake, and empowering him, together with other Powers usually given to His Majestys Governors of the said Island, to constitute and appoint Judges and in Cases requisite, Commissioners of Oyer and Terminer for the Hearing and Determining of all Criminal Causes, Treason excepted, in the said Island— And further setting forth, that they have also prepared a New Draught of Instructions for the said Francis William Drake, wherein they have made no alterations from the former Instructions to him, excepting, that they have, in Obedience to His Majesty's Commands, added an Article agreeable to that prepared for Philip Vanbrugh Esq^r His Majesty's Governor of the said Island in the Year 1738 relative to the Clause inserted in his Commission, whereby he is empowered to appoint Judges, and in Cases requisite, Commissioners of Oyer and Terminer for the Trial of Criminal Causes — His Majesty this day took the said Representation, together with the said Draughts of a Commission and Instructions into His Royal Consideration, and was pleased, with the Advice of His Privy Council, to approve the said Draughts, And to Order as it is hereby Ordered, that His Grace the Duke of Bedford One of His Majestys Principal Secretarys of State, Do Cause a Warrant to be prepared for His Majesty's Royal Signature in Order to pass the said Draught of a Commission under the Great Seal. And that His Grace do likewise cause the said Draught of Instructions to be prepared for His Majesty's Royal Signature.

W. SHARPE
O. signed.

Endorsed : Order of Council, 11th April 1750,
Gov^r of Newfoundland.

[23
Apr,
1750.]

No. 761.

**COMMISSION PASSED UNDER THE GREAT SEAL OF
GREAT BRITAIN**APPOINTING FRANCIS WM. DRAKE TO BE GOVERNOR AND COMMANDER-
IN-CHIEF IN AND OVER THE ISLAND OF NEWFOUNDLAND.

PATENT ROLL, 23 GEO. II., PART IV., NO 4.

Francis William Drake
Governor of
Newfoundland} George the Second by the Grace
of God of Great Britain France
and Ireland King Defender of the
Faith &c To our Trusty and
Wellbeloved

Francis William Drake Esquire Greeting Whereas We did by our Letters Patents under our Great Seal of Great Britain bearing date at Westminster the Twenty sixth day of January in the Twenty third Year of Our Reign Constitute and Appoint You the said Francis William Drake to be our Governor and Commander in Chief in and over our Island of Newfoundland in America our Fort and Garrison at Placentia and all other Forts and Garrisons Erected and to be Erected in that Island for and during our Will and Pleasure as by the same Letters patent relation being thereunto had may more fully and at large appear Now Know You that We have Revoked Determined and made void and by these Presents Do Revoke Determine and make void the said recited Letters patent and every Clause Article and thing therein contained And We reposing especial Trust and Confidence in the Prudence courage and Loyalty of You the said Francis William Drake of our especial Grace certain knowledge and meer motion Have thought fit to constitute and appoint And by these Presents Do Constitute and Appoint You the said Francis William Drake to be our Governor and Commander in Chief in and over our said Island of Newfoundland Our Fort and Garrison at Placentia and all other Forts and Garrisons Erected or to be Erected in that Island And We do hereby require and Command You to do and Execute all things in due manner that shall belong to your said Command and the Trust We have reposed in you according to the several Powers and Directions Granted or appointed You by this present Commission and the Instructions either herewith given to You or by such further powers Instructions or Authorities as shall at any time hereafter be Granted or Appointed You under our Signet or Sign Manual or by Our Order in our Privy Council And We do

further Give and Grant unto You the said ffancis William Drake full Power and authority from time

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to time and at all times hereafter by yourself or by any other to be Authorized by you in that behalf to Administer and give the Oaths mentioned in an Act passed in the first Year of our late Royal ffathers Reign Entituled (An Act for the further Security of his Majesties Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for Extinguishing the hopes of the pretended Prince of Wales and his open and Secret Abettors) to all and every such Person and Persons as You shall think fit who shall at any time [or times] pass into our said Island or shall be resident or abiding there And We do by these Presents give and Grant unto You full power and authority to Constitute and Appoint Judges and in Cases requisite Commissioners of Oyer and Terminer for the hearing and determining of all Criminal Causes Treason Excepted according to Law and for awarding Execution thereupon with all reasonable and necessary powers authorities flees and Priviledges belonging thereunto* Justices of the Peace with other necessary Officers and Ministers for the better Administration of Justice and keeping the Peace and Quiet of the said Island which Justices of the Peace so authorized may and shall hold and keep General Quarter Sessions of the peace in such places as You shall appoint according to the Custom of this part of Great Britain called England and to Adjourn such Session from time to time and from Place to Place as shall be most convenient and necessary for the peace and Welfare of our Subjects Inhabiting there Provided neither you nor they do anything by virtue of this Commission or the powers hereby Granted contrary or repugnant to the Act for Encouraging the Trade to Newfoundland passed in the Tenth and Eleventh Years of the Reign of King William the Third nor any way Obstruct the powers thereby Given and Granted to the Admirals of Harbours or Captains of our Ships of War or any other matter or thing either Prescribed by the said Act or by such Instructions as You shall receive from Us as aforesaid And We do hereby give and Grant unto You full power and authority where you shall see cause or shall Judge any Offender or Offenders in Criminal matters or for any ffines or forfeitures due unto Us fit Objects of our Mercy to Pardon all such Offenders and to remit all such Offences ffines and forfeitures Wilful Murder only excepted in which Case You shall likewise have power upon extraordinary Occasions to Grant Reprieves to the Offenders until and to the intent our Royal Pleasure may be known therein And all such Justices of the Peace and their Inferiour Officers and Ministers whom You or they shall appoint amongst the planters or Inhabitants resident and Abiding there are strictly required and enjoyned in all Cases and times whenever necessary to be aiding and Assisting to the

utmost of their Power to the Commodore or Commander of our Ships of War and to the several Admirals in their respective Harbours in putting in Execution the several Good Rules and Orders Prescribed by the said Act for Encouraging the Trade to Newfoundland And Provided also that no person or persons so by You appointed to be Justices of the Peace as aforesaid or other Officers or Ministers belonging or appertaining to them do presume or be suffered to Act in such Office or Place until he or they have taken the aforesaid Oaths mentioned in the said Act

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for the further Security of his Majestys Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for Extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors as also made and Subscribed the Declaration mentioned in an Act of Parliament made in the Twenty fifth Year of the Reign of King Charles the Second Entituled An Act for preventing Dangers which may happen from Popish Recusants and also taken such proper Oath or Oaths as are usually taken in this Kingdom by Persons Executing such Offices and Trusts which said Oaths and Declaration You shall Administer and give or cause the same to be Administered and given to all and every Person and Persons who ought to take the same according to the Laws and Customs of this Kingdom And We do hereby Give and Grant unto You the said ffrancis William Drake full Power to Erect Appoint and Set apart One or more convenient Court House or Court Houses for the more Orderly Meeting of such Justices of the Peace in Order to hold such their Quarter or other Sessions with a Convenient Prison adjoining for* thereto for the keeping of such Offenders as may be found necessary to be Committed to Safe Custody until such Court or Sessions can conveniently be held for Trying and Delivering Offenders against our Laws and the Peace of our Subjects And We do hereby require and Command all Officers Civil and Military and all other Inhabitants of our said Island to be Obedient Aiding and Assisting unto You in the Execution of this our Commission and of the powers and authorities herein contained And in Case of Your Death our Will and Pleasure is that the Person upon whom the Command of our Ships under your Command shall devolve do take upon him the Administration of the Government of our said Island and Execute our said Commission and Instructions and the several powers and authorities therein contained in the same manner to all intents and purposes as You our said Governor and Commander in Chief might or ought to do for and during our Will and Pleasure And We do hereby Declare Ordain and Appoint that You the said ffrancis William Drake shall and may hold Execute and Enjoy the Place of the* Governor and Commander in Chief in and over our said Island of

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Newfoundland with all and singular the Powers and Authorities hereby Granted unto You for and during our Will and Pleasure In Witness &c Witness &c the Twenty third day of April in the Twenty third Year of our Reign.

By Writ of Privy Seal

No. 762.

[May,
1752.]**EXTRACT FROM “AN EXAMINATION OF THE ACT
OF PARLIAMENT RELATIVE TO THE TRADE AND
GOVERNMENT OF THE AMERICAN COLONIES,”
&c.¹**

BY JA. ABERCROMBY [MAY, 1752].

CAN. ARCH., SHELBURNE PAPERS. VOL. 47, p. 3.

“Having thus stated the different and particular constitutions of Government in all these Colonies, For as to that of Newfoundland, tho. Rank'd amongst the Best, and first, In point of Property belonging to this Kingdom, from the Discovery thereof by Cabot, for Henry the 7th in the year 1497 ; Yet the object of that Government relates to a kind of Police amongst Fisher Men, and to them only.”

¹ This treatise was prepared for the use of Pelham, First Lord of the Treasury, and Granville, President of the Council, and contains an elaborate survey of the charter and constitution of each of these colonies.

No. 763.

**EXTRACT FROM A REPRESENTATION OF THE
LORDS OF TRADE TO HIS MAJESTY,**

RELATING TO THE NEWFOUNDLAND TRADE AND FISHERY.

[29
April,
1765]

C.O. 195. VOL. 9, p. 397.

To the King's most excellent Majesty.

May it please Your Majesty,

As the Fisheries of Newfoundland and of the Territories dependent thereupon, which have been added to Your Majesty's Dominion by the definitive Treaty of Paris, are of the greatest Importance to the Commerce and Navigation of these Kingdoms, We thought it our Duty the last Year, upon Your Majesty's Appointment of Captain Pallisser to be Governor of that Island, and of the said Territories, to form his Instructions in such manner as, joined to the Confidence we had in that Gentleman's Ability, gave us reasonable Ground to hope for the fullest Information of the true State of the said Fisheries, in the carrying on of which it appeared, that many great Irregularities and Disorders had prevailed ; nor have we been disappointed in the Expectations we had entertained by the Conduct of Your Majesty's Governor on this Occasion, whose Attention to the due Execution of those Parts of his Instructions, which regard immediately the State of the Island and of the Fishery of Your Majesty's Subjects, is no less deserving of Your Majesty's favourable Notice, than that which he has shown to the more delicate and difficult Parts of those Instructions, for his Proceedings on which We humbly beg Leave to refer to our Representations of the 11th of Decem^r last and of the 16th instant.

It would be mispending Your Majesty's Time to trouble Your Majesty with a Recital of all the Facts mentioned, and the Observations suggested in the Letters we have received from Captain Pallisser, and in his Answers to the several Queries contained in his Instructions ; and therefore we shall content ourselves for the present with representing to Your Majesty, what appears to be the general State of this important Branch of the Commerce of Your Majesty's Kingdoms, resulting from those Facts and Observations, which have been Collected with greater Exactness, and are stated with more Accuracy and Precision, than, will, we conceive, be found in former Returns.

It would be equally unnecessary to enter at present into a

in its progressive State, as Your Majesty will find every Circumstance relative thereto, already fully set forth and enlarged upon by our Predecessors in Office in a Representation made to His Majesty King George the first in the Year 1718: in which Representation many Facts are stated and Arguments deduced therefrom, and several Propositions submitted, which we apprehend will be very worthy of Attention, whenever it shall be found necessary to go into a Consideration of those Measures, which it may be ultimately proper to pursue in Respect to this Fishery in every part of it.

It may however be necessary briefly to premise, that for more than a Century after the first Discovery of Newfoundland and the Establishment of its Fisheries, the Opinions of Government as to the most advantageous Plan of carrying it on for the national Benefit, appear to have been very unsettled ; wavering between two different and in some Measure adverse Propositions viz^t either the planting the Island and establishing a civil Government, and thereby encouraging a promiscuous Fishery ; or the discouraging Inhabitancy, and thereby confining the Fishery entirely to Ships fitted out from these Kingdoms : and thus by some times adopting and pursuing the one, and some times the other, as different Interests prevailed, the Nation lost many Advantages, which would have been derived to it, had either one or the other of the Propositions been firmly and uniformly pursued.

The Attention, which was given after the happy Revolution to those Measures, which might most effectually promote and extend the Commerce of Great Britain, necessarily introduced an Examination into the State of this important Branch of that Commerce ; and, after a full Discussion of the two different Propositions, which had been before alternately pursued, in respect to the Mode of carrying on the Fishery, the latter was, though not without great Difference of Opinion, adopted; and those Regulations for the Management of it, which had been in former Reigns prescribed by Charters from the Crown, were, with some small Alterations, enacted into Law by the Statute of the 10th and 11th of William the third.

As that Act was however soon followed by a War between England and France, it was difficult to judge with Precision of the Effect of it under such a Circumstance of accidental Discouragement to the Trade : But it is evident from the Returns of the number of Ships employed in the Fishery from Great Britain, not only during the War but for several Years after the Peace of Utrecht, that the Act had not the Effect to restore the Ship-Fishery, which we conceive to have been the principal Object of it ; This is nevertheless not to be

wondered at, seeing that, however perfect and complete the Regulations of the Act may be as to many Points, yet the Observance of them is not enforced by any Penalty or Mode of Prosecution ; nor, if it were, do any of them directly operate to the restraining that Inhabitancy, which had, for many Years, been gradually increasing to the Prejudice of the Ship-Fishery, and which Inhabitancy does in its Consequences contradict and counteract those Principles upon which the Act appears to have been formed ; But the Circumstance relative to this Act which has of all others most directly tended to defeat the intention of it, and subvert the System it means to

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encourage, is that Proviso in it, by which it is enacted, “that all such Persons, as since the Year 1685 have built, cut out, or made, or shall at any Time thereafter build, cut out or make any Houses, Stages, Cook-rooms, Train-Fats or other Conveniences for fishing there, that did not belong to fishing Ships since the said Year 1685 shall and may peaceably and quietly enjoy the same to his or their own Use without any Disturbance of or from any Person or Persons whatsoever ;” which Proviso will we conceive upon a View of the other Regulations of the Act appear to be a direct Contradiction of them.

It is true indeed, that as long so the Fishery of the British Subjects was confined to that small Part of the Island, which was in the Possession of Your Majesty's Royal Predecessors antecedent to the Treaty of Utrecht, this Proviso neither had nor could have any great Effect to the Prejudice of the Ship Fishery ; because in that Part of the Island most of the Places in the several Harbours, which afforded Conveniencies of Beach and Flake for the Fishery, were and actually had been for many Years prior to the enacting of that Regulation, occupied by the Owners of the fishing Ships from England under the former Establishment ;—But when the Fishery, by the Cession of the whole Island of Newfoundland at the Treaty of Utrecht, came to be extended to Placentia, and all the Southern Parts of the Island, and might have been, though it was not till after the Commencement of the last War, extended to every Part, it was evident, admitting, as it is contended by some Persons, that the Act does extend to the whole Island, what the Effect of this Proviso must be in Places where no fishing Ships from England had any such Possession as the Act supposes, and consequently where all the Places most convenient for the Fishery, would be, as they actually have been, in many Parts, engrossed and claimed by Inhabitants and By-boat-Keepers to the Exclusion of the Ship Fishery, not only of Your Majesty's Subjects, but also of those of France intitled under the Treaties of Utrecht and Paris to a concurrent Fishery between Bonavista and Point Riche ; such Inhabitants or By-boat-Keepers pretending a Right to acquire unlimited Property, not only under the Proviso of the Act, but also under Grants

from preceding Governors of the Island.

It appears however to be the Opinion of your Majesty's Servants in the Law, which Opinion is hereunto annexed, that the Act of King William was not meant to extend to those parts of the Island that were not in Possession of the Crown of Great Britain at the Time the Act was made ; if therefore Your Majesty shall think proper to adopt this Opinion, it is our Duty, in order not only to avoid Disputes between Your Majesty's Subjects and those of France in carrying on the concurrent Fishery ; but to prevent vexatious and expensive Litigations among your Majesty's Subjects, several Instances of which already appear in Westminster Hall, most humbly to recommend, that Your Majesty's Governor should be instructed not to allow any exclusive Possession to be taken of any Lands, Rivers or Islands, as private Property, in the northern Parts of Newfoundland, upon Pretence of the aforesaid Proviso in the Act of Parliament, or of Grants from Governors, who never had any

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Authority by their Commission to make such Grants ; and that he take Care, that the fishing Ships do choose their Stations as they respectively arrive, and do take up, subject to his Controul, such Space only of Beach as shall be proportioned to the .number of their Boats ; conformable to the Directions of the Act of King William in respect to those Parts of the Coast, which were in Possession of the Crown of Great Britain at the Time the Act was passed, and to which Your Majesty's Servants in the Law seem to confine the Extent of it in the before mentioned Opinion.

We most humbly desire however, that it may not be understood from what we have said on this Subject, that we mean to declare an Opinion, or take upon us to decide, that this Act of King William is, either in its general Principles or particular Regulations, adapted to the present State of the whole Island of Newfoundland and the Territories dependent upon it, we have been induced to recommend this Instruction to Your Majesty for the present, as it appears to us necessary to prevent the Inconveniencies, which might result from the before mentioned Proviso in the Act applying itself to a particular part of the Fishery under particular Circumstances.

The Consideration of what may be ultimately proper to be done for establishing the whole of this valuable Branch of the national Commerce arid Possessions upon such a Basis, and under such Regulations, as that Your Majesty's Subjects may derive all the Advantages they are capable of affording, is of very great Extent, and depends upon a great Variety of Facts and Circumstances, which have as yet been but little known or understood ; and therefore it will be our Duty to proceed to lay before your Majesty as briefly as possible, what appears to be in general the present State of the Island of Newfoundland, of the Territories lately annexed thereto, and of the Fisheries

belonging to each respectively, according to such Returns and Informations as we have received from Your Majesty's Governor ; to the End that Your Majesty may be the better enabled to form a Judgement upon the whole.

It will already have appeared to Your Majesty from what we have before stated, that, antecedent to the passing the Act of the 10th and 11th of William the third, the Fishery of Newfoundland had by a gradual Increase of Inhabitants begun to vary from the Plan upon which it had been originally established, and was become in part a sedentary Fishery ; and though it is evident, that this Act was intended to check this Deviation, and to restore the antient System ; yet it is as evident, that partly from the Impropriety of some of the Regulations, partly from the Want of Penalties to enforce them, and partly from the Ignorance, Neglect and Inattention of those, to whom the Execution of them and the Superintendency of the Fishery were entrusted, it had little or no Effect ; few or none of the Rules and Regulations were observed ; and, the Masters of Ships, which carried out Passengers from this Kingdom and from Ireland, either not having Power to oblige them to return, or perhaps not finding it their Interest to bring them back when the fishing Season was over, the Practice of their remaining there began, and has continued, and gradually increased to the Extent at which it is at present arrived.

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It is difficult to ascertain with Precision the present Number of Inhabitants having constant Residence in Newfoundland : but from the best Accounts we have been able to collect it cannot be less than fifteen thousand, including Men Women and Children ; and from the Report made to us by Your Majesty's Governor of the State of the Island, and of the Condition and Employment of these People, it appears, "That the greatest Part of them are Roman Catholicks ;"

"That they are under no Controul of any regular civil Government, except what arises from the ineffectual Establishment of Justices of the Peace, who oftener use their Authority for their own private Interest than the publick Welfare.

"That, except at St. John's, they have not any where the necessary Offices of Religion administred to them ; but live in the most Savage State, abandoning themselves to every Species of Debauchery and Extravagance, which such a Condition must necessarily introduce.

"That for seven Months in the Year there is not Employment for a tenth Part of these Inhabitants ; and that consequently they spend that Time in Idleness, and subsist for the greatest Part by Robbery, Theft, and every Species of Violence and Wickedness.

"That they burn and destroy great Quantities of Wood

growing near the several Harbours, which ought to be preserved for Building, and repairing Boats, Storehouses, Stages, Cookrooms, and other Structures essentially necessary to the Fishery.

“That they are principally, if not altogether, supplied with Provisions, (Beef, Pork and Butter excepted, which are supplied from Ireland,) and also with Rum, Sugar, Molasses, and many other Articles of necessary Consumption from the other Plantations, to the Amount of more than double in Value what they take from this Kingdom ;

“That these as well as all other Articles of Importation are engrossed by a few opulent Merchants, Store Keepers, and considerable Boat Keepers, who retail them to the rest of the Inhabitants, and to those they employ under them in the Fishery at exorbitant Prices ; by which means they keep them poor and in Debt, and dependent upon them ; and that these Merchants, Storekeepers and Boat Keepers, in Order to secure the Produce of the Labour of the poor Inhabitants to themselves, press their Goods upon them in advance for that Produce, so that they contract Debts without a Possibility of paying them ; and thus mortgaging the Fish before it is caught, their only Study is how to defraud their Creditors, contract fresh Debts with other Merchants, and so become indifferent about prosecuting their Fishery ; and if they do prosecute it, it is only to sell their Fish clandestinely to others for immediate Supplies or to the French.

“That the Inhabitants under these Circumstances of Oppression, and deprived of every View of bettering their Condition, become abandoned to

that dissolute Way of Life above stated, and remain under a slavish Servitude to the Merchant Suppliers, Store Keepers and Boat-Keepers whose Object it is by every Method to induce and compel such as come out Passengers from England and Ireland, to remain in the Country, exercising every scandalous Act to defraud and cheat those Servants, whom they cannot persuade to run out their Wages in Truck or Liquors ;

“That all the Ship-Rooms and other Conveniences used for the Fishery in those Parts of the Island, which were the antient Possession of the Crown of Great Britain, are now become altogether the private Property of Merchants, Store Keepers and Boat-Keepers, who reside constantly in the Island ; by which means the Ship-Fishery is entirely dropped, except as to a few Bankers, and with it the Observance of the Rules and Regulations of the Act of King William, all of which are as to any good purpose laid aside ; The End for which the Admirals in the several Harbours were instituted, forgot ; their Duty neglected ; and their Authority despised ; and the Act never appealed to but to support Claims of Property to Land, as unwarrantable as they are inconsistent with the Principles it adopts.

“That there being no proper Establishment in the Island for the Execution of the Laws of Trade, there is an opening for the most illicit Practices in this respect, more especially with the French at Miquelon and S^t Peters, who endeavour by every Artifice and Temptation to introduce a Commerce with Your Majesty's Subjects, which for want of such Establishments will necessarily have it's full Scope and Effect during the Absence of Your Majesty's Ships of War ; and lastly,

“That there is Reason to fear, that many of the Ships employed in the Newfoundland Fishery as British Ships are in part owned and belong to Spaniards, or to the Subjects of other foreign States.”

Such, may it please Your Majesty, is the melancholy Picture, which Your Majesty's Governor draws of the State of the Island of Newfoundland, and we fear, in most parts of it bears but too just a Resemblance ; this alone therefore we trust is sufficient to evince the Necessity of an immediate Attention to so important a Part of the national Interest : But, when combined with the Considerations suggested by us to Your Majesty in this, and the two former Representations, we have had the Honour to lay before Your Majesty upon this Subject, will render the neglect of it as disgraceful to the Policy, as it would be disadvantageous to the Commerce of Your Majesty's Kingdoms.

The Principles, upon which the Newfoundland Fishery was established and carried on under the great Western Charter, and which the Act of King William attempts to restore, are, as far as they extend, so true in Policy, and the

Arguments in Support of that Plan are so plausible, that it should seem at the first View of it to admit of no Competition ; since by confining the Fishery to Ships from Great Britain, and requiring those Ships to take out and bring back a certain Number of Green Men every year, it not only supposes a large Increase of Sea Men, but also offers to ensure to

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these Kingdoms the exclusive and immediate Supply of every Article of Consumption in this Branch of Trade ; but Experience has shewn, that this Plan, however plausible in Speculation, and at first answering in some Degree to its Objects, failed nevertheless in it's Execution ; and that it was impracticable by any Regulations to prevent that Inhabitancy, which it became the Interest of those, engaged in the Fishery, to encourage, and which in Fact has finally subverted a System confined to particular Objects, which, however desirable upon particular Consideration of State Policy, did we conceive lay the Trade under many Difficulties, and subject it to many Disadvantages inconsistent with the general Interests of it ; for it is evident on the other hand, that the sedentary Fishery, carried on by Persons resident upon the Island, has many Advantages over that Fishery carried on by the fishing Ships, which must operate to the Benefit of this Branch of Commerce in general, seeing that they can go earlier and stay later upon their fishing Stations, and have also many superior Advantages and Conveniencies of repairing their Vessels, Stages, Storehouses and other Works, and of making Preparations in the Winter for the ensuing Season and, notwithstanding all the Disorders, Abuses and Irregularities we have stated, it does appear, that the number of Ships employed in this Trade and the Quantity of Fish cured and carried to Market, are, independent of many other peculiar Advantages which would not attend a mere Ship Fishery, as great now as are stated to have been employed and caught in the most flourishing Time of this Fishery under the antient Establishment, whilst the Value of our Exports to this Island is five Times as great as what it is stated to have been at that Period ; and though it be true as is represented, that the Value of what they take from the Colonies is double what they take from this Kingdom, yet that must not be accounted for Loss, since whatever Profits are gained by them finally center in this Kingdom.

Upon this View therefore of the State of this Fishery it does appear to us very doubtful, whether it would consist with true Policy to attempt to restore it to the Principles and System, adopted by the Act of King William, was such a Measure practicable ; but as we conceive this is not practicable in the present State of the Country, or at least not so without a very great Expence to the Publick, attended perhaps with Circumstances of Injustice, if not of Inhumanity, it will remain to be decided by Your Majesty, what Plan it may be proper to pursue for the better Management of this important Island, and

for the Regulation of it's Fishery under it's present State, that, with as little Prejudice as possible to the Ship Fishery of Your Majesty's British Subjects, and without infringing the Rights of the Subjects of France, may produce civil Order and good Government, and prevent those Irregularities and Abuses, which, if suffered to continue, must probably ruin the whole Fishery, and will certainly introduce every Species of illicit Commerce, to the Diminution and Injury of the Trade, Manufactures and Navigation of this Nation.

We do not mean however in what we have suggested to declare an Opinion, that, if Your Majesty shall think it advisable, under some more

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perfect and uniform Plan of Government, to allow of Property and Inhabitancy in this Island, it would be expedient, that such Allowance should extend to every Part of it : Informed as we are at present, we rather think this Allowance ought not to take place in those Parts, where the Concurrent Fishery is established by the Treaties of Utrecht and Paris ; but that the Northern Parts of the Island from Point Riche on one Side to Cap Bonavista on the other should be reserved for a Ship Fishery only, to be carried on by the Subjects of Your Majesty's Crown and those of France ; under most of the Rules and Regulations enacted by the Act of King William.

We have nothing further to add with regard to Newfoundland, but, that, if it shall appear to Your Majesty, from a Consideration of what we have offered respecting the present State of the Island, that some more perfect and settled Plan of Government should take place, or that the Inhabitants should be removed and the Fishery restored to it's antient Establishment throughout the whole Island, it will be our Duty, upon a Signification of Your Majesty's Pleasure, to consider and propose such Measures against the next Session of Parliament, as shall appear to us proper for carrying into Execution which ever of these Propositions Your Majesty shall, with the Advice of Your Privy Council, think proper to adopt.

* * * *

HILLSBOROUGH.
SOAME JENYNS.
EDW^D BACON.
GEO: RICE.
ORWELL.
BAMBER GASCOYNE.
J. DYSON.

Copy.

Whitehall,

April 29th, 1765. } Ex^d

Page	1	2
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[27
March,
1766.]

No. 764.

**EXTRACT FROM A REPRESENTATION OF THE
LORDS OF TRADE TO HIS MAJESTY THE KING,**

RELATING TO THE NEWFOUNDLAND TRADE AND FISHERY.

C.O. 195. VOL. 9, p. 440.

* sic

To the King's most excellent Majesty.

May it please Your Majesty,

It appearing from the Reports of the State of Newfoundland made last Year to this Board by Your Majesty's Governor of that Island, That the military Establishments were neglected and the principal Fortifications in Ruins ; That an illicit and destructive Commerce had been carried on between Your Majesty's Subjects there and the French at Miquelon and S^t Peters ; That great Difficulties and Embarrassments had occurred in the Execution of the Instructions given by Your Majesty for the well ordering the Fishery in those Parts, where the Subjects of France are allowed by Treaty a concurrent Fishery ; and that a State of Inhabitancy, unrestrained by any Form or Consitution * of civil Government, had operated to the total Subversion of that Policy upon which the Fisheries dependent on that Island were originally established, and to defeat those great national Advantages, which were the Objects of the Regulations of the Statute of the 10th and 11th of William the third ; our Predecessors in Office thought it their Duty humbly to lay before Your Majesty in their Representations of the 11th of December 1764 and the 29th of April 1765, a full State of these several Matters, to the End that Your Majesty might, with the Advice of Your Council, take such Measures, and establish such Regulations as should be found necessary and expedient in a Case of so great Importance to the Interest of this Nation, and which appeared to require Attention.

In Consequence of this Proceeding it becomes a necessary and indispensable Duty in us most humbly to lay before Your Majesty such further Reports, as have been made to us by Your Majesty's Governor of Newfoundland, of the present State of that Island, and of the several Occurrences during the last Fishing Season, so far as they relate to those Parts of his Duty, on which he was directed to correspond with this Board.

From these Reports, as contained in the Papers hereunto annexed, it will appear to your Majesty, That the Fortifications still continue in a State of Ruin and Decay ; That the illicit Commerce between Your Majesty's

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Subjects and the French has been greatly enlarged and extended, That, from Claims of exclusive Property set up by Your Majesty's Subjects, the Difficulties attending the Execution of those Instructions of Your Majesty, relative to that Part of the Coast where the French are allowed a concurrent Fishery, have become more and more urgent ; and that the same disordered State of Inhabitaney still operates to subvert that Plan of Fishery adopted by the Statute of King William, and to render it's Provisions and Regulations nugatory and useless ; insomuch that it is the Sense and Opinion of Your Majesty's Governor, that it would be better for the national Interest, in respect to the Encouraging the Increase of Seamen, which is one main Object of the Act of King William, not to have any Fishery at all, than that it should continue to be carried on under the Disadvantages that at present attend it, in this View of the Spirit and Intention of that Act.

How far Your Majesty's Governor is well founded in this Opinion, we do not take upon us to determine ; but certain it is, that the present State of this Island and of the Territories dependent thereupon does require the fullest Consideration ; and that a Revision of the several Regulations, which have been heretofore made in respect thereto, is now become essentially necessary.

Every Information, which this Office can furnish relative to the antient Policy and present State of this important Part of the national Interests, is already before Your Majesty ; But that nothing may be wanting which may be of use in this great Consideration, we further beg leave humbly to lay before Your Majesty a Paper of Observations upon the State of the Newfoundland Fisheries communicated to us by Your Majesty's Governor since his Return to this Kingdom ; in which Paper are contained several Propositions for the future Regulation of this important Branch of Commerce tending to re-establish it upon the antient Policy of a Ship Fishery, the Propriety of which Policy Your Majesty's Governor appears in all his Plans and Measures to have zealously adopted.

* * * *

DARTMOUTH.
GEO. RICE
I. DYSON
W^M. FITZHERBERT.
ORWELL.

PALMERSTON

COPY.

Whitehall,
Mar. 27th 1766. } Ex^d

No. 765.[*Enclosure in No. 763.*][18 Dec.,
1765]**COPY OF GOVERNOR PALLISER'S REMARKS ON
THE PRESENT STATE AND MANAGEMENT OF THE
NEWFOUNDLAND FISHERY.**

DATED 18 DECEMBER, 1765

PAPERS RELATING TO NEWFOUNDLAND, 1718-1793, pp. 3-14.

The first and most important National Object from the Fishery, as set forth in the Preamble to the said Act, is the raising and maintaining a Number of Seamen for speedy manning our Fleets in Times of Danger ; it therefore in the First Place provides for preserving, extending, and improving the Ship Fishery in Preference to all others, that being the ancient and by far the most if not the only advantageous Method to the Nation, therefore it grants to the Ship Fishers, and from Britain only, many and great exclusive Privileges; and in every Part of the Act relating to Inhabitants and Bye Boat Keepers, is a Clause for preserving inviolable to the Ship Fishers those Rights and Priveleges ; notwithstanding which the Ship Fishery is now wholly dropt and excluded by Encroachers and Monopolizers, the Inhabitants under Merchant Suppliers, by which every Rule and Order ordained by that excellent Act, for the Prosperity of the Fishery, is rendered ineffectual for the Purpose intended by it ; One Consequence of which is, the French employ more Ships, raise Ten Times the Number of Seamen, catch more Fish, and the Yearly Return of Men directly to England, from our exclusive and extensive Fishery, without Bounds, is scarce One Eighth Part of the Number that Yearly return directly to France from their Fishery, though limited to the worst Parts. This appears by the compared State of this Year's Accounts of Ships and Men employed by both, hereto annexed.

We have, according to the Accounts I have collected, 16,000 People remaining in that Country during the Winter, but I am satisfied they are 20,000 of which 10,000 are Men who are all totally lost, for they (a very few excepted) have no Employment during the Winter, but live a most savage, detestable, wicked Life, spending their Time in Idleness, Debaucheries, and Excesses, and running in Debt on their next Year's Wages.

As the Value of the Labour of Seamen is undoubtedly the greatest of all labouring Men, for Defence of the State or for bringing in Wealth from abroad, so Ten Thousand of them being lost to this Nation for either of those Purposes, during Six or Seven Months every Year, is alone a Matter deserving serious Consideration.

These Inhabitants never become either good Fishermen or good Seamen; or if they were so, they are always out of Reach to be of Use for manning our Fleets on any Occasion, as effectually so as if they were taken and carried to a French Prison before a Declaration of War.

Inhabitants such as above described are no Security to the Country, but the contrary ; for they always have and always will join an invading Enemy, as well from Necessity as Inclination, on such Occasions, and Three Fourths of them are Roman Catholicks.

Those Inhabitants, besides being a Loss to this Country, are a Nuisance to that, particularly by their great Consumption of Wood for Fuel, causing a Scarcity thereof at Hand for the Use of the Fishery, and this lays the Country more and more open to an invading Enemy.

By an Inhabitant Fishery, the Regulations in the Act for employing Green Men for the Increase of Fishermen and Seamen, is totally defeated ; nor have we such Increase, though the Public supposes it is our best Nursery ; nor can there be any Fishing Admirals of Harbours, consequently the Law, and all the Rules and Regulations, together with the Power of executing them, are in Effect superseded, and every National Good intended by the Law is defeated ; they are the unfittest People to be employed in the Fishery, being habituated to Idleness, Debaucheries, and Wickedness ; they are Strangers to the Mother Country, to Government, Religion, and good Order, which is the Mother of Labour and Industry, therefore they are neither laborious nor industrious, they have no Motive to be so, for they are no better than the Property or Slaves of the Merchant Suppliers, to whom, by exorbitant high Prices of their Goods, they are all largely in Debt, more than they can ever work out during Life ; they have hitherto had no Means of freeing themselves from that State of perpetual Servitude, therefore the Fishery still went on, though universally allowed to be Yearly declining. People doomed to perpetual Servitude are ever wishing for change of Masters, so when Men find an Opportunity of becoming free and independent, they will certainly embrace it ; therefore, now that the French have a Territory in the Midst of the Fishery, there is no Doubt but these People will fly there, as many have already done, with their Boats, Tackle, Fish and all, or become Fishers for them, beginning a fresh Score for Supplies with them, which great Numbers have already done ; thus the Fishery and Men also are on the Point of being lost, who will hereafter be wholly employed for the French both in Fishing

and clandestine Trade, to the utter Ruin of our Trade and Fishery.

The next most important National Object from the Fishery, as set forth in the Preamble to the Act, is to increase the Consumption of the Produce and Manufactories of this Kingdom, and for promoting Trade and Navigation.

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How an Inhabitant Fishery operates in this Respect may be judged of from the following Facts :

These 16 or 20 Thousand Inhabitants, as well as others employed in Fishery, are subsisted and supplied as follows :

From England . . .	{	With a very small Quantity of Provisions of any Kind, scarce sufficient to victual the Men that navigate the Ships for their Passage out.
From Ireland . . .	{	With almost all their Beef, Pork, Butter, Linen, and some Manufactories clandestinely brought in.
From the Plantations . . .	{	With all their Bread, Flour, Rum, Sugar, Melasses, some Beef, Pork, Pease, and sundry other Articles, amounting the last Year to £.102,304. 3s. full Nine Tenths of which is immediately paid for in Bills of Exchange upon England.
From Foreign Countries	{	A considerable Quantity of every Kind of Goods and Manufactories used in the Fisheries, as well from the French as from other Countries, brought by the Salt Ships ; besides many Foreigners are concerned with our People in the Shipping so employed.

The present Managers of the Fishery pay Wages, &c. with these Provisions, Necessaries, and Cloaths, at most exorbitant Rates ; thus the Wages, though nominally high, is reduced very low, the Men become their Property, and cannot get out of the Country, nor afford to wear but little Cloaths, especially as they are idle, and drink such immense Quantities of Rum, and thus they become averse to and unfit for Labour ; but were they to return to England Yearly, they would get all Necessaries and Cloaths from 1 to 500 per Cent. cheaper, as they would not be idle or running in Debt during Six or Seven Months ; but on the contrary, earning more Money, they would certainly become good industrious People, and expend more of the Produce and Manufactories of this Country ; besides

30,000 such Men passing and re-passing every Year, that alone would employ above 200 Ships more, which would also create an Increase of the Consumption of our Manufactories, and be an immense Encouragement to Shipping, Trade, and Navigation.

The other great National Object from the Fishery, as set forth in the Preamble to the said Act, is by Returns for the Fifth from Foreign Countries, of great Quantities of sundry useful Commodities to the Increase of His Majesty's Revenues ; this Object is equally injured by an Inhabitant Fishery, they, for afore-mentioned Reasons, being neither laborious, industrious, nor

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able Fishermen, there is not Half the Quantity of Fish taken as would be, it is not so well cured as it ought to be, which is the Cause of such great Quantities of bad Fish going to Market, which spoils the credit of English Fish, keeps the Prices low—consequently the Return, and the King's Revenue, is thereby proportionably lessened.

Upon the Whole, if no Inhabitants were allowed, but the Fishery to be laid open and free to all the King's Subjects, and carried on by Ship Fishers, or even if the Ship Fishery was only restored to the original Footing, as directed by the Act of the 10th and 11th of William the Third, it most certainly would occasion double the Quantity of Fish to be taken, a Yearly Return of more Men to England than now returns to France; instead of Two or Three thousand Men, as at present, we should have, in Time of Danger, a Yearly Return of 30,000 always ready for our Fleets ; this Addition of Wealth and Strength to the State would always be increasing.

The Fishery would certainly thereby be effectually secured, and so extended and improved, as would provide Employment for all our Men, and none need be seeking Employment in Foreign Countries : By this Method only all illicit Trade and Dealings of our People with the French and other Foreigners can be effectually prevented.

The Consumption of the Produce and Manufactories of this Country, also Shipping Trade, and Navigation, would be greatly increased.

More than double the Quantity of Fish would be taken, be better cured, carried to Market at a cheaper Rate, in better Condition, and fetch a better Price, to the great Increase of the Importation of useful Commodities, and of the King's Revenue.

By encouraging our Ship Fishery to the Northward, the French Fishery there would be greatly lessened, as our People would share with them the exceeding fine Conveniences ready made (which they will not do, whilst they have Expectations of getting Property) ; and a Ship Fishery there, in common with the French, is agreeable to our own Laws, most for the Benefit of the Nation, and strictly agreeable to Treaty ; but to allow only an Inhabitant Fishery there, and our People to hold and

possess as Property the Fishing Conveniences (which they are contending for, to the Exclusion of all Ship Fishers, as they have done in all other Parts of Newfoundland) will be contrary to our own Laws, contrary to the National Interest, and directly contrary to the Privileges granted by Treaty to the French; for Inhabitants will, in the Absence of the Ships, destroy all their Works, both English and French, then build new ones, and call them their own Property, and claim a Right to be protected therein.

A few Monopolizers, whose particular Interests are incompatible with the true Interest and Security of the State, endeavour to have it believed, that to restore the Fishery to the State it ought to be, and as is provided by the Act of the 10th and 11th of William III. is impracticable ; but the following Proposals being duly considered, and improved by abler Heads, will provide effectual Cures for some, if not all the present Evils, without the least Injustice to any One.

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As the ancient and constant Custom by which an Person gained an exclusive Right of possessing any Fishing Conveniency ever was by a Certificate from the Governor or Commodore of the Convoy, that such Person had performed the Conditions required by the Proviso in the Act of the 10th and 11th of William III. to entitle him to such exclusive Possession, and those Certificates described the Situation and Dimensions of the Places for which they were granted, and set forth that due Proof had been laid before him by the Fishing Admirals of the Port (who by Law are the Guardians of their own Rights and Privileges) that the Place had never been a Ship's Room since the Year 1685, let it be ordered that all Persons holding Possession of any Place by virtue of such Certificates, shall, on or before the Day of produce such Certificates to the Governor, to be by him examined, and he, being satisfied of the Authenticness thereof, to enter them in a Book of Record, to be carefully kept for that Purpose in the Fort at St. John's, and a Copy with the Board of Trade ; and all Persons now possessing Places by virtue of such Certificates so produced and registered, to be confirmed in their Possessions, with all Works and Buildings thereon, according to the true Intent and Meaning of the Act.

For confirm-
ing and
securing all
lawful Claims
to Property
in Fishing
Con-
veniences.

1st. All Places whatever, that are not held by Certificates of a Right to possess them as above mentioned, should remain public and free for all British Fishing Ships, and be deemed Ships Rooms, according to the true Intent and Meaning of the Act, after the Death of the present Possessors, the present pretended Owners.

2nd. Whereas all the Land is in the Crown, and no Governor has ever been vested with Power to give or grant it away, it is necessary that the Proviso in the Act that says,

For encour-
aging and
supporting
the Ship
Fishers.

“Provided always, that all such Persons as since the 21st of March 1685 has built, cut out, or made,” &c. should be farther explained as to the Nature of the Tenure by which Possession of a Fishing Conveniency is to be held under that Proviso of the Act ; (that is to say) whether such exclusive Possessions are to be only for Life of the original Proprietors, or whether they are to be considered as Real or Personal Estates, different Governors having determined Causes various Ways, which produces infinite Numbers of Disputes, to the great Obstruction of the Fishery ; causing great Expence and Loss of Time to those concerned, and to the Public, by a vast Number of good Places lying Waste because of such disputed and obsolete Claims.

3rd. That nothing but a Ship Fishery be permitted in that Part of Newfoundland lying between Cape Bonavista and Point Riche, or on any other Part of the Coast of Newfoundland that was not actually in the Possession of the English when the said Act was made, nor on the Coast of all the conquered Lands and Islands now annexed to the Government of Newfoundland; but that the Whole of the Act of the 10th and 11th of William III. be hereafter in full Force in those Lands and Islands, except

what relates to exclusive Possessions under the aforementioned Proviso in that Act.

4th. For preventing any Fishing Conveniences being lost (as great Numbers now are) whether from Obsolete Claims, long Suits depending about the Rights and Titles, or from Idleness of some, or Inability or Obstinacy in others, let it be ordered, that notwithstanding any Right or Title that have or may be acquired to such Places under the abovementioned Proviso in the said Act, if any of those Places hereafter lie unoccupied or unused for the Fishery during One or Two Fishing Seasons, the same to be become public and free for the Use of all British Fishing Ships, and be deemed Ships Rooms.

5th. Conformable to the aforesaid Act, and according to ancient Custom, no Ship shall be deemed a Ship Fisher, or enjoy the Privileges thereto belonging, nor the Master exercise the Authority of an Admiral of a Harbour, except such as arrive from Britain, cleared out at the Custom House as such that Same Year, and employeth at least Twenty-one Men and Boys actually brought with her that Season, and who are engaged to return after the Fishery is over; and that occupieth and useth a public Ships Room, and not a hired One, or that is held and possessed as private Property.

6th. Whereas by sundry unlawful Practices of Inhabitants destroying the Stages, Flakes, and other Conveniences belonging to the Ship Fishers, during the Absence of the Ships in the Winter, the Ship Fishers have been ruined, and excluded from the Fishery, and those inhabitants become unlawful Possessors of all the old and best Fishing Conveniences, which by Law ought to be preserved for the Use of Ship Fishers only—let it be ordered, that in all Harbours where there are, or hereafter may be, any Ships Rooms, the same shall be inviolably preserved for the Use of Ship Fishers only ; and if any Damage is done to any such Stages, or other Conveniences thereto belonging, in the Winter during the Absence of the Ships, all the Inhabitants of that Place shall be obliged to make good such Damages immediately on the Arrival of the Fishing Ships ; and the Fishing Admirals of the respective Harbours to be authorised by Law to compel such Inhabitants to restore such Ships Rooms, and the Fishing Conveniences thereto belonging, into the same State and Condition in which they were left the preceding Season ; and till such Damages are so repaired, the Masters of such Fishing Ships to be authorized to occupy and use any Stage or Room possessed by any Inhabitant in that Harbour, that he pleases to make Choice of ; for the Ship Fishers, according to the above-mentioned Act, must never be disappointed of their Voyage, where there is or ever was any

lawful Ships Rooms.

7th. All Admirals transmitting to the Governor or Commodore a Report of the State of their Fisheries in their respective Harbours, as directed by the Act of the 10th and 11th of William III. on producing from

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the Governor or the Captain of any of the King's Ships a Certificate of the Receipt thereof, such Admiral Ships should be entitled to some Privilege or Reward ; printed Forms for such Reports to be delivered gratis to every Fishing Ship when she clears out at the Custom House in Britain.

No Laws, Rules, or Regulations that ever have or can be made for such People as the present Inhabitant Fishers of Newfoundland are, will ever be of any Use, without Pains and Penalties being annexed to Offences against those Laws.

The encouraging and obliging the Men to return Yearly to England.

1st. The greatest Part of the Fishermen now residing in the Country, called Planters or Master Boat Keepers, are a Kind of Prisoners or Slaves to their Suppliers, who, to prevent their Return, threatened them with a Gaol for Debt ; which Debts have been contracted by shameful Impositions and Oppressions, for the Purpose of keeping them there. Those Creditors know it is not possible ever to be paid those debts in Newfoundland ; nor are those Debts, if they were to be strictly examined into, either lawful or just. Suppose it should be enacted, that all such Fishermen so in Debt at this Time, contracted there, who may hereafter return from Newfoundland to Britain, should be exempt from Arrest for such Debts so long as they continue to go to and return from Newfoundland Yearly to Britain.

2nd. No Debt whatever contracted in that Country by any Fisherman, or Servant serving for Wages, should be recoverable.

3rd. It is the Practice of Inhabitants to engage men to serve Two Summers and a Winter : It should not be lawful for any Men to bind themselves to serve in that Country for more than Six Months, or for One Fishing Season.

4th. It is the general Practice of Masters to credit their Fishermen Servants to the Amount of their whole Wages, above Half of which is most commonly Rum : Thus, when their Time is out, they are distressed, and necessitated to stay, having nothing to pay their Passage ; they must steal for their Subsistence, or sell themselves to the Plantations, which Thousands do from this Cause.

5th. For Remedy of these Evils, no Deductions from any Servants Wages for Liquor should be lawful, nor for Supplies of any other Kind in Newfoundland exceeding Shillings.

6th. Every Master should by Law be obliged to pay, out of the Wages of each Man he employs, the Passage Money for the Man's Passage Home to the Master of a Passage Ship, in the same Manner as by Custom they now pay for the Passage out of any Man they hire on his Arrival. This Encouragement to Ships will make a certain Provision of a sufficient Number of Ships to carry all the Men Home ; but now from the Uncertainty of getting such Freights very few Ships put up for Passengers Home.

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7th. No Dietors, or People who entertain Fishermen or Servants in the Country in the Winter, on the Credit of their Wages, should be allowed in Newfoundland ; all such Men, as well as their Entertainers, being Idlers, and a Public Loss.

8th. As farther Encouragement for Shipping to bring Home Men from the Fisheries, suppose that every Ship bringing Home at the least Men Passengers from the Fisheries was to be entitled to some Privileges ; such as, in Times of Press, such Ships to be allowed a certain Number of Men free from Press, in the same Manner, and for the same good Purposes, as the Greenland Ships have now by Act of Parliament, for the Encouragement of that Trade, a Protection for a certain Number of Men. Masters of Ships to be entitled to such Protections, on producing what may be judged a proper Certificate of the exact Number of Men he has actually landed in Britain, or in His Majesty's Dominions in Europe : Thus the exact Number returning will be nearly known.

9th. As a farther Security for the Return of the Men, let it be unlawful to pay any Servant's Wages in Newfoundland otherways than by Bills of Exchange for the Balance due, such Bills to be drawn payable to the Man only; but to make such Bills negociable, they may be payable to the Man's Order, provided he indorses it after landing in the King's Dominions in Europe, in the Presence of a Justice of the Peace, such Justice attesting such Indorsement: A Form of the Bills to be used for this Purpose to be annexed to the Act.

Of the
Government
or Superin-
tendency
of the
Fisheries

The Prosperity of the Fishery requires, in all Disputes and Differences, short, speedy, and unexpensive Issues; and the Act of the 10th and 11th of William III. directs, that certain Disputes and Differences shall be determined on the Spot, in a summary Way, by the Admirals, appealable to the Captains of the King's Ships. But under the present Management of the

Fisheries there are no Admirals for hearing and determining such Matters; which is the Occasion of many endless Disputes, to the great Obstruction of the Fishery, and Loss to the Public. It is therefore absolutely necessary to restore the Ship Fishery, to renew, support, and extend the Admirals Powers ; but no Admirals, no Captains of King's Ships, no Commodore nor Governor, should meddle in any Matters but what are purely relative to the Fishery, for preventing Obstructions thereto, for preserving the Peace, keeping good Order amongst the Fishermen, and for immediate Trial of Capital Offences; but all Matters of Disputes amongst Merchants concerning their Accounts, or Matter relative to Trade, should be heard and determined only in Britain. This will prevent People staying in the Country ; also remedy such incredible Practices of Knavery and unfair Dealings as no Trade whatever can prosper under, and which cannot otherways be remedied.

When the Fishing Admiral's lawful Authority is restored and supported, and the Country cleared of a Number of idle Men in the Winter, there will be

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no Want of Justices of the Peace. It is they that have put an End to the Ship Fishery, by not suffering the Fishing Admirals to act in the respective Harbours ; and such Justices being all People concerned in Trade, they use their Authority for no other Purpose but to favour Monopoly, and are guilty of the most shameful Partialities and Injustices, to the very great Prejudice of the Fishery.

To prevent the great Loss to the Fishery and to the Public by so many Men running from that Country to the Plantations every Year, let it be ordered that no Vessels belonging to, or bound to or arriving from any of the Plantations, shall be allowed to stay in any Part of the Government of Newfoundland after the 10th Day of October, on which Day the Fishermen are usually discharged ; nor any such Vessel be permitted at any Time to take on Board any Men Passengers without a Permit in Writing from the Governor only, on Forfeiture of such Vessels having on Board more Men than for their Navigation, at the Rate of Men per Hundred Tons. This will also prevent any People from the Colonies coming to Newfoundland to carry on the Fisheries, to the Prejudice of the British Merchants and Shipping, contrary to the Meaning of the Fishing Act.

* * * *

Notwithstanding far the greatest and best Parts of the Fishing Coast belongs exclusively to the English, and the French are limited, and to the worst Parts, whilst ours is without Bounds.

That France has a certain Yearly Increase of 2,670 Seafaring Men from their Fishery, whilst we lose One or Two

thousand that run away every Year to America, and no Rule observed for increasing our Seamen, or preventing the Fishermen and Seamen running to America.

That the French Fishermen kill as much Fish per Man as our Inhabitants, notwithstanding our boasted Advantage of carrying it on by Inhabitants. It must also be noted, that in the Limits to which the French are confined between Cape Bonavista and Point Riche, they have scarce Half the Time for catching Fish that our People have to the Southward, where the Fish is equally abundant during that double Time for catching and curing.

That great Part of the Fishing Conveniencies on the prime Part of the Coast for Fishing is lost, by the Inhabitants possessing them, as Property ; few or none of them employing Half the Number of Boats and Men as Ship Fishers would on the same Places, besides the many Conveniencies that lie Waste, because of the infinite Number of disputed Claims to Places which none of them can make out a Right to, being originally Ships Rooms ; yet they exclude the Ships.

That in those Harbours to the Northward, where we have this Year had a few Fishing Ships, those Ships who brought out their own Men killed Two Thirds as much more Fish as our Inhabitant Fishers in the same Harbours : This Gain in the Quantity of Fish is, I apprehend, greater and more certain Profit to those concerned and to the Public, than what is got by peddling

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monopolizing Trade of supplying a few slothful miserable Wretches for the Winter's Subsistence, and in Idleness ; besides, the Employers of the Men in Ships would always likewise have the Benefit of supplying them at Home, by which the Men will get their Necessaries cheaper, consequently Wages then will fall, and they will expend no Foreign Manufactories.

Thus it appears the Public would be a very great Gainer, though no more Men than at present should be employed ; but if the Fishery was to be laid open and free to all His Majesty's Subjects, as by Law it ought to be, the Ship Fishers encouraged, supported, and restored to their Privileges, there would be so many more Places, so much more Time, and so many more and better Men employed, as would, without the least Doubt, cause double the Quantity of Fish to be taken ; consequently the Public Gain, and the King's Revenue, would be doubled, besides the far more important Acquisition of 30,000 Men, in constant Readiness to Man our Fleets for Security of the State ; and give us such a noble Superiority over our Enemies or Rivals, as would be a certain Means of preventing War : But whilst the French manage their Fishery so well, and we ours so ill, they will always be able to harass us with fresh Wars every Four or Five Years.

On the Fishery on the Coast of Labrador, within the

Gulph of St. Lawrence only, was employed 117 Sloops and Schooners, with 1,563 Men, who killed 104 Whales, which yielded on an Average 140 Barrels of Oil, and 2,000 Weights of good Bone, all killed within a Space of 30 Leagues, and between 14th May and 10th July. The Winter Seal Fishery on the same Coast, carried on by 107 Men, yielded 500 Tons of Oil, besides Fur ; and the Furs from the Indians was very considerable ; so that the Value of the Whale, Seal, Cod, Salmon, and Furs, upon that Part of the Coast only, was at a moderate Computation £.100,000, and not One Old England Ship or Seaman employed therein, nor a Seaman raised thereby for the Service of the Fleet— Such is the Effect of letting the Newfoundland Fishery run into Monopoly, that the rest of our Merchants, if they cannot have a Monopoly likewise, will let the New England Men, or Frenchmen, or any Body run away with it.

The New England Men sell the Fish, Oil, and Bone to the French at Petit Nord : The Settlers from Canada all deal with the French at Newfoundland, St. Pierre's, and directly with France.

(Signed) HUGH PALLISER

18th Decem^r 1765.

Office of Committee of
Privy Council for Trade,
Whitehall, 11th March 1793.

A true Copy.

GEO. CHALMERS,
Ch^f C^k Com. C^l Trade.

No. 766.

1775. IMPERIAL ACT, 15 GEO. III., CAP. 31

(SIR HUGH PALLISER'S ACT).

Vide Vol. I, page 257.

[17 March, 1786.]

No. 767.

C

**COPY OF THE REPORT OF THE LORDS OF THE
COMMITTEE OF PRIVY COUNCIL FOR TRADE,**

ON THE SUBJECT OF THE NEWFOUNDLAND FISHERY;
DATED 17 MARCH, 1786.

PAPERS RELATING TO NEWFOUNDLAND, 1718-1793.

Your Majesty having been pleased, by Your Order in Council, dated th 9th of December last, to refer unto the Committee the following Question : “Whether any of the Provisions or Regulations proposed in a Bill brought into the House of Commons, in the last Session of Parliament, for amending and rendering more effectual an Act made in the Fifteenth Year of His present Majesty, intituled, 'An Act for the Encouragement of the Fisheries carried on from Great Britain, Ireland, and the British Dominions in Europe, and for securing the Return of the Fishermen, Sailors, and others employed in the said Fisheries to the Ports thereof, at the End of the Fishing Season; and for repealing certain Provisions in the said Act relative to the said Fisheries,' will contribute to the Improvement and Encouragement of the Fisheries carried on by His Majesty's Subjects at Newfoundland?”

The Committee have taken this extensive Subject under their Considerations, and have called for such Papers as appeared to them to be necessary for their Information; they have heard the principal Merchants of Poole and Dartmouth, being the Persons chiefly concerned in the Newfoundland Fishery ; and the Committee have examined several of Your Majesty's Officers, who have either commanded or served upon the Newfoundland Station, as well as Your Majesty's Naval and revenue Officers of the said Island, and such other

Persons as, in the Judgement of the Committee, were likely to give any Information upon the Subject referred to their Consideration.— And the Committee having persued and considered a Representation of the Lords Commissioners for Trade and Plantations, made to his Majesty King George the First in 1718, which gives a very full Account of the State of the Newfoundland Fishery, previous to that Period, and of the Policy which

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the Government and Legislature of this Kingdom had from the First Establishment of that Fishery adopted and persued in respect to this great Object—do concur in general in the Opinions entertained by the said Lords Commissioners on the following Points :

FIRST. That the Newfoundland Fishery ought to be carried on as much as possible by Ships fitted out from Your Majesty's European Dominions ; that by the Yearly Return of the Sailors and Fishermen to the said Dominions, Your Majesty may have it in Your Power to avail Yourself of their Services for manning Your Royal Navy, when Occasion may require.

SECONDLY. That Your Majesty's Subjects who may from Time to Time reside in Newfoundland, ought never to be allowed to form themselves into a Colony, and with that view to possess in Fee any Landed Property there.

THIRDLY. That the Shores of Newfoundland, the Beaches, and other convenient Fishing Places, ought to be-carefully reserved for the Accommodation of Your Majesty's Subjects, resorting thither from Your Majesty's European Dominions, for the Purpose of carrying on the said Fishery.

And FOURTHLY. That Your Majesty's Subjects who so resort Annually to the said Island of Newfoundland should be induced and compelled, by every wise and proper Regulation, to return to Your Majesty's European Dominions at the End of every Fishing Season. But with respect to this last Point, the Committee think it proper to observe, that from a Change of Circumstances it may now be beneficial to the Fishery, that a certain Number of Persons shall be suffered to remain on the said Island after the Fishing Season, for the Purpose of taking Care of the Fishing Stages, Boats, and other Necessaries for the Fishery, and to make Preparations for the ensuing Season, as our Fishermen will be thereby enabled to commence their Fishery at a more early Period, and have in consequence thereof an Advantage over other Nations who are our Rivals the said Fishery ; but the Committee are of Opinion, that, in true Policy, the Number so suffered to remain should not exceed the Number absolute necessary for the above Purposes.

The Committee are, however, of Opinion, from the most satisfactory Proofs, that the Number of Persons who at present usually remain during the Winter in Newfoundland is much greater than sufficient for the useful Purposes before-mentioned, as appears by the Paper N^o 1, hereunto annexed, as

4 Car. II Cap 4.
5 Chr. . . . Cap 7.
4 &c 5 Wm. & Mary.
Cap. 17.
10 & 11 Wm. &
Mary, Cap. 25.
.Ann. . . . Cap 16.
Geo. I. . . . Cap. 26.
Geo. I. . . . Cap. 26.
Geo. II. . . . Cap. 28.
Geo. II. . . . Cap. 33.
Geo. II. . . . Cap. 28.
Geo. II. . . . Cap. 28.
Geo. II. . . . Cap. 45.
Geo. II. . . . Cap. 20.
Geo. III. . . . Cap. 22.
Geo. III. . . . Cap. 27.
Geo. III. . . . Cap. 38.
Geo. III. . . . Cap. 31.
Geo. III. . . . Cap. 47.

well as by other Information they have received ; and that if proper Measures are not taken to prevent it, they are likely to increase.

The Committee having premised these several Points, will now proceed to submit to Your Majesty their Opinion on the Clauses of the Bill proposed to Parliament in the last Session, and they will deliver their Opinion on the several Clauses, not in the Order in which they stand in the said Bill, but in such Order as best corresponds with the Principles before stated.

The SECOND, THIRD, and FOURTH CLAUSES of the proposed Bill are avowedly intended to vest Part of the Shores and Soil of Newfoundland in

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the Present Occupiers, to be held in Fee Simple, and thereby to transfer to Individuals, for private Purposes, what ought to be reserved in common for a great National Good. The Shores and Soil of that Island would thus become subject to all the Rules of Ownership. The Proprietor might employ his Estate either in carrying on the Fishery, or in a Manner less beneficial to the Public. If very opulent, he might by Purchases engross many of the Fishing Places ; and by the Exclusion of others, obtain Advantages contrary to the general Interest of the Fishery ; or he might become insolvent, and incapable of carrying on a Fishery. The Shores so appropriated would immediately create Disputes, either about Boundaries or Titles, which would produce Law Suits, where there are no proper Judicatures for the Decision of them. The Number of Residents would be increased, and a Colony would be insensibly formed, which would by Degrees deprive Your Majesty's European Subjects of any Share in this Fishery. Upon this Question of Property, the Committee thought it right to consult Your Majesty's Law Officers, that the Committee might know how far Your Majesty's Subjects may have acquired any Right whatsoever, by Acquiescence or otherwise, in the Shores and Soil of Newfoundland ; and whether it might be safe for Your Majesty's Governor to order any Buildings or Fences that obstruct the carrying on the Fishery to be pulled down and removed; and also to order the Inhabitants of the said Island of Newfoundland to remove from any Spot which they now occupy or may claim for the Purpose of Residence, under any Pretence whatever, in case he shall be of Opinion that such Spot may be convenient for extending and carrying on the Fishery. And having received the Report of the said Law Officers upon the Questions so referred to them, the Committee have annexed the same in the Appendix, N^o 2, to which they presume humbly to refer Your Majesty ; and they advise Your Majesty to give Your Governor of Newfoundland the following Instructions on this Subject :

FIRST. That the ancient Ship Rooms and Fishing Rooms

should continue under the Provisions of the Act of Parliament passed in the 10th and 11th Years of the Reign of King William, Cap. 25, for the Encouragement of new Adventurers, that they may be sure of finding proper and convenient Places for curing, salting, drying, and husbanding their Fish, whenever they resort thither.

SECONDLY. That the remaining Shores of Newfoundland should be held by such of Your Majesty's Subjects, resorting thither from Your Majesty's European Dominions, as shall first take Possession of them, for the Purpose of carrying on the Fishery, in proportion to the Number of Ships and Boats they shall employ ; and that they shall continue to hold the same for the like Purposes, and in like Manner, so long as they shall carry on their Fishery there ; but that in case they shall neglect so to carry on their Fishery there for One entire Season, such Shores, or Parts thereof, as shall be so neglected or deserted, shall be held for the like Purpose and in like Manner, by any other of Your Majesty's Subjects resorting thither from Your Majesty's European Dominions, who shall first occupy the same for the Purpose of carrying on

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the Fishery, and that the Governor should put and maintain such Person or Persons in Possession thereof.

THIRDLY. That the Governor should not suffer any Buildings to be erected (except Fishing Stages, Cook Rooms, Ship Rooms, and Flakes, or such Erections as shall be absolutely necessary for curing, salting, drying, and husbanding their Fish) within Six hundred Yards distance of High Water Mark, and that Care should be taken that no Right of Property be acknowledged in any Land or Building, even beyond that Distance.

FOURTHLY. That the Governor may suffer any Buildings, Erections Wharfs, Slips, or Fences already erected, to remain, provided they are not built or erected upon ancient Ship Rooms or Fishing Rooms, and provided they shall not in his Judgment be considered as Nuisances, and detrimental to the Interest of the Fishery in general ; and such as in his Judgment are Nuisances, and detrimental to the Interest of the Fishery in general, he shall cause to be removed, after due and reasonable Notice, and in a Manner to expose the Parties to as little Inconvenience as possible.

The SEVENTH CLAUSE of the Bill is avowedly intended to repeal those Parts of the Act, passed in the 15th Year of Your Majesty's Reign, which had wisely provided for the Return of the Fishermen at the End of every Season, by reserving the

Payment of One Half of their Wages till after their Return. On this Regulation principally depends the Hope the Committee entertains of bringing back the Fishermen to Your Majesty's European Dominions at the End of each Season. If it be repealed, the Fishermen would not only lose this Inducement for their Return, but it would serve as an Encouragement to great Expence and dissolute Living during their Continuance in Newfoundland, to the manifest Detriment of the Fishery ; the Fishermen would thereby become liable to great Impositions, and might be made to pay exorbitant Prices for every Article they purchase there. In any other Trade but this, it is the Interest of the Master of a Vessel to advance to his Seamen as little during the Voyage as possible, for the better securing their Service in navigating the Vessel till her Return to Port. In that of Newfoundland, the Case is frequently the Reverse : It appears in Evidence, that in general the Half of a Fisherman's Wages is sufficient for his Expence during his Continuance at Newfoundland. It is true, however, that in the Case of Boys or Green Men, who may not receive above the sum of £ . 7 . 10s. for their Voyage, the Half may not always be sufficient for their Cloathing. The Committee are therefore of Opinion, that the said Clause of the Bill may be so far amended, as to allow a Sum not exceeding £ . 5 . 10s. to be advanced to Green Men and Boys, though it amounts to more than Half their Wages ; provided the Master continues equally bound to bring back such Green Men and Boys at the End of the Season.

The EIGHTH CLAUSE of the Bill is evidently calculated to repeal another Part of the Act of the 15th Year of Your Majesty's Reign, which makes the Whole of the Fish and Oil taken liable to the Payment of the Wages of the

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Seamen or Fishermen by whom it is taken or made. This Regulation only puts the Seamen and Fishermen employed in the Newfoundland Fishery upon the same Footing with all other Seamen employed in the British Commerce, for the Payment of whole Wages the Vessel and Cargo are in every Instance liable. The Fisherman of Newfoundland is doubly entitled to the same Security, as by his Labour and Industry the Whole of the Property made liable for his Wages is produced. By subjecting the Whole, as the Law now does, to the Payment of Wages, no Inconvenience can arise, either to the Employer or Fisherman, for as soon as such Employer or Merchant Supplier (being solvent, and his Bills negotiable) becomes bound to pay the Fisherman's Wages in England, the Whole of the Fish and Oil are of course delivered to him, and at his Disposal ; all Parties are perfectly secure ; the Employer or Merchant Supplier has the Fish properly cured before it is

shipped for a Market ; and the Fisherman has no Pretence for Neglect of Duty, having a responsible Person to pay him for his Labour ; so that the Alteration pro-posed in this Clause would be no more for the Interest of any of the Parties concerned than for the Advantage of the Public.

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The SIXTH CLAUSE of the proposed Bill is calculated to give to Oil, Blubber, and Seal Skins, made or caught by Persons residing in Newfoundland, the same Preference with respect to Duties, as is given to those Articles made or caught by Vessels owned by Subjects residing in Your Majesty's European Dominions. It has always been the Policy of the Legislature of this Kingdom, to encourage the Fisheries carried on by Policy Majesty's Subjects residing in Europe, by allowing these Articles, when made and caught by them, to be imported Duty-free, while the like Articles made and caught by Your Majesty's Subjects, residing in Your Foreign Dominions, were liable to a small Duty, and the same Articles imported from Foreign Countries paid a very high Duty, calculated to promote and encourage the Fisheryies of Your Majesty's Sugjects in general. This Policy is sufficiently proved by referring to the several Acts passed for these Purposes, and which are mentioned in the Margin. And it is still more necessary not to depart from these Distinctions with respect to Newfoundland, as it would thend to encourage Residence there, which, as before stated, it has ever been the Policy of the Government of this Kingdom to prevent. It has been suggested to the Committee, that the Oath, as it present worded, ascertaining by whom the Oil, Blubber, and Seal Skins have been taken and imported, leaves a Latitude to different Constructions, and that some Persons who take it import Oil, Blubber, and Seal Skins, taken by the Resident Inhabitants of newfoundland, Duty-free ; while others, more scrupulous, do not chuse to take the Oath as it stands, and are thereby subject to the Plantation Duty ; the Committee are therefore of Opinion that the Oath should be made sufficiently clear, to preserve the Distinctions intended by the Legislature.

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The Merchants also requested to be allowed to import Wine, Oil, Cork, and Fruit from Foreign Countries, directly to Newfoundland, Duty-free.

The Committee on this Point are of Opinion, that this Request ought not to be granted : The Inhabitants of Your Majesty's Colonies would think themselves entitled to the same Favour, and the Policy of the ancient Laws of Trade and Revenue, which oblige all Your Majesty's Subjects in America and the West Indies to import those Articles through Great Britain, would in such Case be defeated ; and the Inhabitants of Newfoundland, who cannot be deemed Colonists, and are supposed to go Yearly from Your Majesty's European Dominions, have less Reason than any others to expect such Indulgence.

The Merchants also desired, that Instructions might be given to the Governor to reduce the Number of Public Houses, and that in St. John's they should not exceed Twelve ; and that every Person keeping such Public House should give Security for their good Behaviour, and be obliged to keep One Fishing Shallop ; and that all Persons keeping Shops should also be obliged to keep one Fishing Shallop ; The Committee are of Opinion that this Request is very proper to be complied with, and that Your Majesty's Governor should be instructed accordingly.

* * * *

The Merchants also desired, that the Fishing Admirals might be allowed to name Deputies to act for them when absent and from the Shore, and to hear and determine Disputes between Masters, and Seamen, or Fishermen. The Committee do not think the ancient Custom in this Respect should be changed : Disputes that may arise should be determined in the Manner hitherto practised.

The Merchants also desired, that the Fishery on the Coast of Labrador might be under the same Regulations, and receive the same Encouragement, with that of Newfoundland. The Committee are of Opinion, that as the Coast of Labrador is included in the Commission to Your Majesty's Governor of Newfoundland, the Fishery on that Coast is in every Respect upon the same Footing with that carried on at that Island.

The Merchants further desired, that out of the Half of the Wages due to the Seamen and Fishermen to be remitted Home, they might be allowed to deduct the Monies that may be advanced to their Families during their Absence, and that the other full Half should be advanced to them at Newfoundland.

Though, from Motives which could be alledged, the Committee might be induced to think this Request not wholly improper, and wish to grant it ; yet, from a Consideration that it might tend in various Ways totally to defeat the great Object for which the Legislature thought it proper this Money should be paid at Home ; viz. that of inducing the Fishermen to return, the Committee think it would be dangerous to consent to this

Request, and that any Inconvenience ought rather to be submitted to.

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The Committee also heard the Agents for the Merchants of Jersey and Guernsey, as far as relates to the Interest of Your Majesty's Subjects in those Islands carrying on the Newfoundland Fishery. The Committee are of

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Opinion, that they ought to have every Encouragement given to Your Majesty's other European Subjects, consistent with their local Situation, and such the Committee apprehend is the Case at present ; but that in making their Outfits, and bringing back the Produce of the Fishery, it is necessary, for the Interest of the Manufactures and Commerce of Great Britain, that they should continue subject to the Restrictions which by the Laws are now imposed upon them.

In the Course of their Enquiry many Transactions were stated to the Committee, tending to shew, in a comparative View, the Advantages under which the Subjects of Great Britain and France now carry on the Newfoundland Fishery, and the Success which has hitherto attended the Policy of the two Governments in this Respect ; and certain Arrets of the French King, issued in the Course of last Year, were laid before the Committee, granting considerable Bounties, as well on Fish caught by the Subjects of France, and imported by them into the French West India Islands, as on such Fish carried to the Foreign European Markets.

It appeared in Evidence, that the only Advantage the Subjects of France have over those of Your Majesty in carrying on the Fishery, is, that they hire their Men at lower Wages, and are not obliged to feed them so well ; but on the other Hand they labour under many Disadvantages. It is agreed by all Your Majesty's Officers, that the Part of Newfoundland allotted by the late Treaty of Peace to the French for carrying on their Fishery, is not so well adapted for that Purpose as that where we fish exclusively ; and although the Cod is as large on that Part of the Island where the French are allowed to fish, the Climate is more unfavourable for drying it, particularly near the Streights of Belleisle ; the Navigation on that Part of the Coast is more dangerous, and their Fishing Boats and Craft are more exposed to the Weather. There is hardly a Year in which many of them are not lost. They have not Bait either so early or in such Plenty as we have ; there is One particular Species of Bait of which they have none. As the French are not allowed to Winter there, they arrive too late to prepare their Stages, Flakes, &c. and to get the Stuff out of the Woods for the Purpose of covering them ; so that they are obliged to cover them with Ships Sails, which is more expensive, and does not answer the Purpose so well. It is owing to this that they cure their Fish so much on the Beach, which is not so good a

Method as that practised by our Fishermen.

The Islands of St. Pierre and Miquelon are as well adapted to the Fishery as any Part of Newfoundland, but they have no Wood there for Stages or Flakes ; and the French in these Islands would not be able to carry on their Fishery without great Difficulty, if they were not allowed to cut and carry Wood from the Island of Newfoundland.

The Boats of the French Fishermen are by no Means so good as ours ; they are not near so large, and consequently do not stand the Sea so well ; many of them are lost when ours get safe into Port ; and it is of great Importance

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that they should not be allowed to build their Boats in Newfoundland. It was proved to the Committee that their Seamen and Fishermen are not so expert as the British, and that they do not take, per Boat, above half the Number of Fish.

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Office of Committee of
Privy Council for Trade,
Whitehall, 11th March 1793.

A true Copy.

GEO. CHALMERS,
Ch^r C^{lk} Com. C¹ Trade.

No. 768.

C

1786. IMPERIAL ACT, 26 GEO. III., CAP. 26.
AN ACT TO ENCOURAGE THE NEWFOUNDLAND FISHERIES.

Vide Vol. I, page 273.

No. 769.

C

1789. IMPERIAL ACT, 29 GEO. III., CAP. 53.
AN ACT FURTHER REGULATING THE NEWFOUNDLAND, GREENLAND
AND SOUTHERN WHALE FISHERIES.

Vide Vol. I, page 286.

[10 May,
1790.]**No. 770.****COPY OF A REPRESENTATION OF THE LORDS OF
THE COMMITTEE OF PRIVY COUNCIL FOR TRADE
AND FOREIGN PLANTATIONS,**ON THE SUBJECT OF ESTABLISHING A COURT OF CIVIL JURISDICTION IN
THE ISLAND OF NEWFOUNDLAND. DATED 10 MAY, 1790.

PAPERS RELATING TO NEWFOUNDLAND, 1718-1793.

May it please Your MAJESTY,

The Merchants and Trades of Dartmouth, Exeter, Topsham, and Teignmouth, carrying on the Fishery and Trade at Newfoundland, have presented to this Committee a Memorial, complaining that a Court was established last Season in the Island of Newfoundland, by Vice Admiral Milbanke, Your Majesty's Governor of the said Island, called a Court of Common Pleas, consisting of Four Commissioners ; and that this Court so established was kept open Daily, to the constant Interruption of the Fishery and Trade, by continually issuing Orders ; by calling away the Agents and Servants of the Memorialists and others on every frivolous Occasion, to serve on Juries ; and by listening to every trivial and vague Complaint ; by sending arbitrary and immediate Orders to attend the said Court, from any distant Part of the Island, with Threats to fine those who did not attend, without Regard to the Neglect of their Business, Personal Hazard, or any other Consideration ; all which Proceedings must necessarily be prejudicial to a Fishery which totally depends on Personal Attention and Industry : And the Memorialists further complain, that the said Court demanded exorbitant Fees.

The Lords of the Committee thought it their Duty, immediately, to send a Copy of the said Memorial to Vice Admiral Milbanke, calling upon him to inform the Committee how far the Facts stated in the said Memorial were well founded ; and in case the said Court was a new Establishment, to assign his Reasons for having formed such Establishment ; but if it was only an Alteration of a former Establishment to assign the Reasons which had induced him to make such Alterations ; and further to certify to the Committee whether any, and what Fees were taken by the Judges, or other Officers of the said Court.

Admiral Milbanke's Reasons for forming the said Court will be found at

Length in his Report hereunto annexed, which he transmitted to this Committee in a Letter, dated 11th February last : And in a Letter, dated the 20th of the same Month, he justified the Proceedings of the said Court by alledging, that from the 4th September, when the Court first began to sit, to the Admiral's Departure for England on the 26th October, there were only Four Courts, neither of which lasted more than Five Hours ; whereas the Court of Session, in which such Causes are said to have been formerly tried in the said Island, never sat less than Twice a Week, seldom got through more than Three Causes in a Day, and those in such a Manner as frequently to occasion their being tried Two or Three Times over. That One Judge of the new established Court sat however every Day, in order to save Trouble to the Plaintiffs, who had thus an Opportunity at all Times to present Petitions, and make the proper Affidavits for commencing Suits, after which there was no further Trouble given than such as must have attended every Suit in the most trifling Cause in a Court of Conscience. That by comparing the Court established by him with the former Court of Session, or that of Vice Admiralty, it will be found that the new Court is formed on simple Principles, and cannot fail to distribute equal and immediate Justice to all, without Respect to Persons— That the Two former Courts herein before mentioned are without Form or Order, and if not glaringly partial, only harrass, perplex, and waste the Time of many Individuals, instead of doing their Business for them— That the Attendance upon Juries in the new Court is not greater than heretofore ; for that the Court of Session never proceeded on any Cause of Consequence without a Jury ; and that even the Vice Admiralty Court, in consequence of Complaints from the Merchants, during Vice Admiral Campbell's Government had frequently summoned Juries.— That of Twenty-eight Causes completely disposed of by the new Court, the least of them was for upwards of £5. most of them for more than £10, and some for near £200 ; and out of the Whole only Two Verdicts were given against the Plaintiffs.—That, except in One Instance, no Person was sent for to attend this Court from out of the District of St. John's ; and that, in that One Case the Defendant might have avoided the Inconvenience, which was wholly occasioned by his Obstinacy. —That the Fees taken in the new Court were considerably less than those taken in the Court of Session, and not a Quarter of the Sum charged by the Court of Vice Admiralty.— That the Court of Session has always conducted their Business in a very irregular and bad Manner, owing to the Justices being kept in continual Dread by the Merchants, who frequently threaten to prosecute them for their Decisions.— That the Court of Vice Admiralty had likewise been complained of by the Merchants as a great Grievance, and the same Merchants now wish to represent the new Court as likely to ruin the Fishery ; so that whatever

Judicature may be established in the Island, it is likely to meet with Opposition from the Memorialists, who aim at sacrificing the real Interests of the Fishery to their private Views.— For further Particulars the Committee presume to refer to the before mentioned Letter of Admiral Milbanke, dated the 20th February last.

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The Committee having maturely considered the Reasons assigned by Your Majesty's Governor for establishing the said Court of Common Pleas, and the several Facts alledged by him in Justification of the Proceedings of the said Court, thought it right to examine the said Governor, *viva voce* ; in which Examination he gave an Account, as will be found in the Paper hereunto annexed, marked (A) of the several Courts, Civil and Criminal, which have hitherto subsisted in the Island of Newfoundland, and of their Manner of proceeding.

After a full Consideration of what is before stated, the Committee were of Opinion, that a proper Court of Civil Jurisdiction should be established in the Island of Newfoundland, specially constituted for the Purpose of trying such Questions as are not now provided for by any Act of Parliament ; they therefore thought it right to take the Opinion of Your Majesty's Attorney and Solicitor General, upon the following Questions ; viz.

1. Whether the Court of Common Pleas, erected by Vice Admiral Milbanke last Year, in the Island of Newfoundland, is founded in any Authority legally given to the Governor of Newfoundland by Your Majesty's Commission, or can be supported or justified by Law ?

2. Whether in any Act of Parliament, or in Your Majesty's Commission, appointing the Governor of Newfoundland, there is given any Power for erecting any Court of Civil Jurisdiction in the Island of Newfoundland, or for authorizing any of the Courts of that Island to try Civil Causes there, except in the special Cases mentioned in the Acts 10 and 11 W. III. Ch. 25. Sect. 13, 14, 15 ; 15 Geo. III. Ch. 31. Sect. 18 and 34 ; 26 Geo. III. ch. 26. Sect. . And whether, in case no such Power has hitherto been given, Your Majesty may not, by a Commission under the Great Seal, erect a Court of Civil Jurisdiction in the Island of Newfoundland, specially constituted for the Purpose of trying all Questions that may arise between one Fisherman and another, or between the Fishermen and their Hirers or Employers, or between the said Fishermen and the Merchants of whom they purchase what is necessary for their Subsistence and Comfort during the Continuance of the Fishing Season ?

3. What the Nature and Constitution of a Civil Court, erected for the Purposes before mentioned, should be ?

The Committee accompanied the said Questions with the following Observations, respecting the Policy which has always been observed by the Government of this Country, in carrying on the Trade and Fishery at Newfoundland ; viz.

Mr. Attorney and Solicitor General are desired to take Notice, that the Government of this Country, having always considered the Trade of Newfoundland, merely as a Fishery, to be carried on solely by the Subjects of His Majesty's European Dominions, it has always been the Wish of Government o bring back the Fishermen at the End of every Season to the Ports of the

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said Dominions, and to prevent their establishing themselves as a Colony in Newfoundland. With this View no Civil Commission was given to the Governor, who goes out Annually, till about the Year , and no Court was established for trying Crimes of any Sort till about the Year , but all Criminals were to be brought Home to Great Britain, to be tried under the Authority of the Act of 10th and 11th W. III. Ch. 25. That of late Years a greater Number of His Majesty's Subjects continue to reside at Newfoundland during the Winter, after the Fishing Season is at an End, than formerly. That the Committee of Privy Council see this Circumstance with Regret, thinking it contrary to ancient Policy, and the true Interests of this Country, and wish to prevent it as much as possible. The Attorney and Solicitor General are desired also to take Notice, that much the greater Number of the Fishermen are extremely poor and ignorant, and thereby very much exposed to be defrauded by those with whom they deal.

In Return to which Questions Your Majesty's Attorney and Solicitor General, in their Report, which is hereunto annexed, have answered to this Effect :

That the Court of Common Pleas erected last Year by Your Majesty's Governor is not founded on any Authority legally given to the said Governor, and cannot be supported or justified by Law.

That they do not find that any Court of Judicature is established in the Island of Newfoundland, excepting in the Special Cases mentioned in the Acts of Parliament 10th and 11th W. III. Ch. 25 ; and 15th and 26th of Your Majesty, Ch. 31 and 26 : And that as Your Majesty is not precluded, by any Provision in the Acts before mentioned, nor by any other Acts

with which they are acquainted, from so doing, Your Majesty may, by virtue of Your Royal Prerogative, by Commission under the Great Seal, establish a Court of Civil Judicature in Newfoundland for the Purpose of hearing and determining all Questions that may arise of the Nature hereinbefore mentioned.

And they further report, that after paying due Attention to the peculiar Policy of this Kingdom, with respect to the Territory of Newfoundland, which has always been directed to discourage the Subjects of these Kingdoms from establishing themselves in that Island, and to encourage the Return of the Fishermen and Seamen to these Kingdoms, they had, prepared, conformably to the Directions of the Committee, a general Outline of a Court of Civil Judicature, in Cases not yet provided for by any Act of Parliament ; which is as follows, viz.

That Your Majesty, by Your Royal Letters Patent, should direct and appoint, that there should be within the Island of Newfoundland a Court, to be called the Court of Civil Jurisdiction ; and that an English Barrister, of not less than Five Years standing, together with Two fit and proper Persons, to be appointed by the Governor for the Time being, should preside in such Court.

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That such Court should have full Power and Authority to hear and determine, in a summary Way, all Pleas concerning Debts, Accounts, or other Contracts, and all other Personal Pleas whatever, excepting such as may now be heard and determined by any Jurisdiction established in the said Island by any Act or Acts of Parliament.

That such Court should have Power to grant Probates of Wills, and Letters of Administration ; and that in the Cases above mentioned, the Court should proceed by Complaint in Writing ; Summons of the Defendant in Cases where the Matter in Question is under such Value, as to Your Majesty's Wisdom may seem best adapted to the Circumstances of the Island ; and by Arrest of the Defendant, in Cases where the Sum demanded shall exceed that Amount ; such Court having Power to take Bail for the Defendant's Appearance and Performance of such Judgment, as the Court shall pronounce : And that such Court should have Power to execute the Judgment so given, and enforce the Payment of the Costs of Suit, by Warrant of Execution, by Sale of the Defendant's Goods and Chattels, rendering to him the Overplus, and to imprison the Defendant until such Judgment shall be satisfied.

That it may be proper, if the Party against whom Judgment

may be given shall think himself aggrieved, that a Power should be given to such Party to appeal to Your Majesty in Your Privy Council, within a limited Time, upon giving proper Security, in Cases where the Matter in Dispute shall exceed the Value of and that the Court below should have Power to proceed in a summary Way, by Foreign Attachment of Goods, Debts, and Effects of Debtors, in the Possession of other Persons residing in the Island of Newfoundland.

That it would be most conformable to the Policy which has been observed by this Kingdom with respect to the Territory of Newfoundland, that the Court hereinbefore described should hold its Session from the 1st Day of June to the 1st Day of December in each and every Year, and should take Cognizance of no other Suits than such wherein the Cause of Action has arisen within Two Years previous to the Commencement of such Suit.

And the Committee having taken the before-mentioned Plan of a Court of Civil Judicature into Consideration, humbly offer it as their Opinion to Your Majesty, That it may be adviseable for Your Majesty, by Your Royal Letters Patent, under the Great Seal of Great Britain, to erect a Court of Civil Jurisdiction within the Island of Newfoundland, according to the Plan before mentioned, with the following Alterations and Additions :

FIRST, That the Person appointed to preside in this Court be either an English Barrister of Five Years standing, as advised by Your Majesty's Attorney and Solicitor General, or some other Person who, all Circumstances considered, may be thought equally well qualified for this Station.

SECONDLY, That in case the Judge recommended to be so appointed should die during the Fishing Season, the Governor should appoint a Person, then

resident in the Island, to act in his Place during the Remainder of such Fishing Season.

THIRDLY, That the said Judge be paid a proper Salary for the Discharge of the Duties of his Office.

FOURTHLY, That he be expressly enjoined in his Commission not to take any Fee or Gratuity whatever for any Judgment given or Business done in the said Court, upon Pain of losing his Office.

FIFTHLY, That the Governor do appoint the Persons who are to be Assessors to the said Judge out of Persons who have no Concern in carrying on the said Fishery.

SIXTHLY, That every Judgment passed by such Judge should be with the Concurrence of at least One of the said Assessors.

SEVENTHLY, That no Person should be arrested for a Debt of less than Five Pounds.

EIGHTHLY, That an Appeal be allowed from the said Court to Your Majesty in Council, in any Action where the Sum recovered exceeds £100 Sterling, provided such Appeal be made within 14 Days after Sentence.

Besides the foregoing Alterations and Additions to the Plan for establishing a Court of Civil Judicature proposed by Your Majesty's Attorney and Solicitor General, the Committee take Leave humbly to recommend to Your Majesty, that the said Judge be instructed to conduct the Business of the said Court, during the Height of the Fishing Season, in such Manner as to interrupt as little as possible the carrying on of the said Fishery.

That it be recommended to Your Majesty's Governor, and the said Judge, to allow for the ensuing Season to the Assessors and Officers of the said Court such Fees only as are reasonable and moderate.

And that they prepare, and be ready, when they return from Newfoundland at the End of the present Season, to lay before Your Majesty, for Your Majesty's Approbation, a Table of such moderate Fees as they may judge proper to be established in future.

And that in order to afford Time to the said Judge to finish the Business of the Court in the Interval after the Height of the Fishing Season is over, and before the Departure of the Governor, the said Governor be instructed to continue on the

Coast longer than has hitherto been practised, and as long as the Season will permit, consistent with the Safety of Your Majesty's Ships and Vessels.

No. 771.

[1793.]

**EXTRACTS FROM “HISTORY OF THE
GOVERNMENT OF THE ISLAND OF
NEWFOUNDLAND,”**

BY JOHN REEVES, ESQ., CHIEF JUSTICE OF THE ISLAND [LONDON: 1793].

PREFACE.

After my return from Newfoundland, in the year 1791, I was curious to look back into what had been done, in former times, on the subject upon which I had myself been just employed. I accordingly looked over the NEWFOUNDLAND ENTRIES, and the NEWFOUNDLAND BUNDLES, among the books which belonged to the late board of trade ; and I then pursued the subject through the REGISTERS of the present committee of council for trade and plantations.

I was very much struck with the matter and reflections furnished by this research ; and I wished that the useful information, which I had derived from this retrospect, might be seen by those, who had at that time to consider the subject of Newfoundland. Hence arose the present History ; and as the same subject is now before the House of Commons, I have ventured to print it, and throw it among the other materials under examination.

If this public enquiry had not been instituted, the story here told would have been confined to the circle for which it was originally intended.

April 1793.

J. R.

INTRODUCTION.

I intend to give a short history of the Government and Constitution of the island of *Newfoundland*. This will comprise the struggles and vicissitudes of two contending interests.— The *planters* and *inhabitants* on the one hand, who, being settled there, needed the protection of a government and police, with the administration of justice : and the *adventurers* and *merchants* on the other ; who, originally carrying on the fishery from this country, and visiting that island only for the season, needed no such protection for themselves, and had various reasons for preventing its being afforded to the others.

This narrative will divide itself into four periods, or parts. The *first* will close with the passing of Stat. 10 & 11. Will. 3. c. 25. by which the adventurers

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and merchants were supposed to have obtained a preference, and advantage over the pretensions of the inhabitants, and planters. The *second* will end with the appointment of a civil governor, and of justices of the peace in 1729 ; by which some stop was put to the disorder and anarchy that had long prevailed in the island, especially during the winter seasons. This may be considered as an advantage gained by the inhabitants and planters. The *third* closes with Stat. 15, Geo. 3. c. 31. commonly called in the island *Sir Hugh Palliser's act*, which was intended for giving an advantage to the fishery carried on from the mother country ; but, as it obliges both merchants and planters to pay their servants' wages, it is equally abhorred by both parties ; and both parties have shewn great readiness to join in asserting, that the fishery has gradually decayed ever since the passing of this act. The *fourth* comes down to the year 1791, when a court of civil jurisdiction was established upon principles which, it was thought, would secure the impartial administration of justice to the merchant and the planter, the rich, and the poor, the master, and the fisherman.

* * * *

On the 31 of March 1708, the House of Commons addressed her majesty, beseeching her to give directions, that the laws relating to the trade and fishery of Newfoundland might be effectually put in execution against such commanders of her majesty's ships of war, or forts, or fortifications there, as should presume to exact, demand, or receive sums of money, or other rewards from any of the queen's subjects, in their voyages, trade, or fishery to, from, or at Newfoundland : And that such commanders and officers should be strictly forbidden to keep, use, or employ any fishing boats for their own private use or advantage : further, that the laws relating to the fishery should be duly executed. This address was occasioned by some complaints made against a *Major Lloyd*, who commanded the troops at *St. John's* ; but of this gentleman's conduct there were different accounts ; the most unfavourable seem to have prevailed with the House of Commons to come to this resolution.

This call for a due execution of the laws relating to the fishery, again drew the attention of the board of trade to the Stat. 10 & 11 Will. 3, c. 25. and the defect, so often complained of in that act, “not having any penalties specially annexed to the breach of it.” And on a question proposed by

Representation 1708.

the board to Mr. *Montagu*, then solicitor general, he declared it to be clear, that although no particular penalty was mentioned in an act of parliament, requiring or prohibiting anything, yet any offender against such act may be fined at the discretion of the court, when found guilty on an indictment or information.

For the sea
commanders to
command at land.

The board then proceeded to make a representation to her majesty on the occasion of the before-mentioned address ; in which they say, that no complaint had ever come to them of exactions, or demands made by com-

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Such commission
issues.

manders of the queen's ships ; and if there were, the offender should be prosecuted on Stat. 15 Car. 2. c. 16. That the charge against *Major Lloyd*, for letting out the soldiers to work in the fishery, was under examination at the board. But that for preventing any misconduct of officers with relation to the fishery and trade in future, they recommended, that the commodore, during his stay there, should have the command at land, as he used to have from the first sending out of a garrison, till within the last three years, when that practice was discontinued. They thought this would contribute better to support good order and peace, in a place where no regular civil government was established ; and that it would enable him to superintend the queen's stores, and to make better returns of the state of the trade and fishery. As to the execution of the act in general, they stated the abuses and irregularity subsisting in the island ; the ignorance and partiality of the fishing admirals ; and they recommended that the commodore should be empowered to redress and punish all offences, and abuses committed at Newfoundland against Stat. 10 & 11 Will. 3, c. 25 ; as to those which he could not redress, they recommended he should inform himself whether the provisions of the act were duly complied with, and who were the offenders against them, in order that they might be proceeded against in this kingdom. They submitted whether it would not be proper to issue a royal proclamation for better observation of this law.

This representation was approved by the queen, and an order of council was made on the 20th of May 1708, directing a proclamation of the sort therein recommended, to issue ; and also a commission to be prepared annually by the Lords Commissioners for trade and plantations, for the commodore of the Newfoundland convoys, to command at land, during his stay in those parts, with such further *instructions* for putting in execution that act of parliament, as were set forth in the representation ; the Lords were also directed Such commission issues to prepare a letter to *Major Lloyd*, disapproving his proceedings, and requiring him to yield due obedience to the commodore's commission : all which was accordingly carried into execution. *Instructions* were delivered to the commodore

for executing this commission to command at land ; and in one of those he was directed to send answers to the *heads of enquiry*, which had long been in use, relating to the trade and fishery, and which were always prepared by the board of trade, and afterward given in charge to the commander by the lord high Admiral.

This change in the command at Newfoundland set the lords of trade upon an enquiry after the commission (before noticed) given in 1615 to *Captain Whiteburn* out of the court of admiralty for impanelling juries. It seems also, that it was in agitation for the commissioners of the customs to appoint an officer for preventing illicit trade in Newfoundland. The lords of trade were informed from the custom-house, that when a court of admiralty should be erected, and a person appointed to hear and determine causes

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on informatios of seizures, a revenue officer should have his commission and instructions.

Laws and orders made
at Newfoundland.

But the French had got so strong, and had so disturbed our possessions in the island, that every thing gave way to plans of immediate and necessary defence. Through the year 1710, the merchants were making representations to the board of trade, beseeching, that in any treaty of peace with the French, Newfoundland might be reserved wholly to the English. This idea was adopted by the board, and they appear to have pressed it strongly with her Majesty's ministers.

In the year 1711, I find, what is called, *a record of several Laws and orders made at Newfoundland made at St. John's for the better discipline and good order of the people, and for correcting irregularities committed contrary to good laws, and acts of parliaments, all which were debated at several courts held, wherein were present the commanders of merchants' ships, merchants, and chief inhabitants ; and witnesses being examined, it was brought to the following conclusion between the 23rd day of August and 23rd day of October 1711.* Then follow fifteen articles of regulation, that must have been very useful ; and it is worth considering whether such a local legislature, which the people seem in this instance to have created for themselves, might not legally be lodged somewhere, for making bye-laws and regulations, as occasion should require. The commander *Captain Crowe*, presided at this voluntary assembly. His successor, it seems, followed his example, and held a meeting of. the same sort. These assemblies were somewhat anomalous, a kind of legislative, judicial, and executive, all blended together ; and yet perhaps not more mixed than the proceedings of parliaments in Europe, in very early times.

At the peace of Utrecht we were put into possession of Newfoundland in a way we had not enjoyed it before, for some years. Placentia, and all the parts occupied by the French, were now ceded to the king of Great Britain, in full sovereignty ; the French retaining nothing more than a licence to come and go during the fishing season. A new prospect now opened ; and the government, not less than the merchants, turned their thoughts to that trade with a spirit that promised itself all the fruits of this new acquisition. A *Captain Taverner* was employed to survey the island, its harbours, and bays ; a lieutenant-governor was appointed to command the fort at *Placentia* ; the merchants beseeched the board of trade that the French might be strictly watched, and kept to their limits, and that a ship should go round the island, to see they left the different harbours at the close of the season.

Captain Taverner, who had great experience in that trade, and was much attended to at this time, gave in to the board some remarks on the Newfoundland fishery and trade ; and also heads of a proposed act of parliament. It appears from the observations made by this gentleman, as well as many

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others, that nothing was more strongly expressed by all persons, who shewed any anxiety, or experience on this subject, than the inefficiency of Stat. 10 & 11 Will. 3, and the necessity of going to parliament for new regulations.

It had become a doubt, whether that part of the island, lately ceded by the French, was subject to the provisions of Stat. 10 & 11 Will. 3. This point was brought forward, in consequence of the lieutenant-governor of the garrison at *Placentia*, and some of the French planters having, on leaving the place, disposed of their plantations for money, and, in this manner, attempted to convey a right and property, which was not recognised by the general usage of the island, as confirmed by that statute. This matter was brought before the board of trade, and their lordships were of opinion, that Stat. 10 & 11 Will. 3. extended to the ceded lands, and that all the beaches, and plantations there, ought to be left to the public use, and be disposed of, as directed by that act. Instructions to that effect were accordingly given to the lieutenant-governor of *Placentia*.

Among the proposals and suggestions for improving the trade of Newfoundland, some papers from *Mr. Campbell*, in the year 1714 are deserving of notice.

The Newfoundland trade was taken up by the government in the year 1715, as an object of important consideration. *Captain Kempthorn*, then on that station, was specially charged to make enquiry, and report every information he

could acquire ; and I find a very long letter written by him to the secretary of the admiralty, and transmitted from thence to the board of trade. This letter is very full, and was submitted by the board to the king's government, as containing suggestions highly deserving consideration. The board were now satisfied that some new regulation ought to be made by parliament ; and preparatory thereto, they resolved to write to the towns in the west, concerned in this trade, desiring them to furnish such information as they possessed upon a subject where they had so much experience. They also laid a case before the attorney general, *Sir Edward Northey*, for his opinion on the defects of Stat. 10 & 11 Will. 3. and he was of opinion, that it would be necessary, in order to oblige the observance of the rules contained in that statute, for a new act to be passed, inflicting *penalties* for not observing the same, and directing how and where such penalties should be paid ; and he thought that a proclamation, requiring the observance of those rules (as was before proposed) would have no effect. On this occasion *Mr. Taverner* suggested his remarks, and gave a sketch of a bill. After the board had derived the information that was to be obtained from the different sources, where they had applied, they drew up a long *representation* to his majesty, dated the 2d of March 1715-6 containing their opinion upon the abuses, suggesting the remedies that would be proper to be applied, and recom-

mending that a bill should be proposed to parliament for giving effect to the suggestions there made.

Representation 1718.

Claim of the
Guipuscoans to fish.

Nothing was at that time done ; but the board continued to pursue the course they had taken for obtaining information : for in August 1718, we find a very full answer given in by *Captain Passenger* upon the whole of the subject of the trade and fishery ; and in December following, the board made a *representation* to his majesty, more elaborate, full, and comprehensive, than any performance that had yet been seen, respecting this trade and fishery ; and to this they afterwards added the *heads of a bill*, to be proposed to parliament for establishing the trade and fishery, and correcting the abuses to which it had been subject. This representation, and the heads of the bill, have been lately laid before the house of commons, and are now printed by their order.

Of the Lands ceded by
the French.

About this time, the *Guipuscoans* had set up an antient right to fish at Newfoundland ; and application had been made to our court for asserting and allowing this claim. This matter was referred to the board of trade ; and that board did, on the 11th of September 1719, make a *representation* to the lords justices ; in which they say, that by the fifteenth article of the treaty of *Utrecht*, the *Guipuscoans* could claim no right, but such as they could make out by some prior title ; they then recapitulated the ancient history of our discovery and possession of the island ; and that by stat. 10 and 11 Will. 3. all aliens are expressly excluded from the fishery ; and they conclude, that the island and the fishery are the undoubted property of his majesty, and that the *Guipuscoans* had no manner of right to fish or trade there. They take this occasion to remind the lords justices of the representation they had made last year, and of the heads of a bill then suggested for better regulating the fishery.

The parts that had been surrendered by the French, occasioned in various ways great contest and discontent. We have before seen, that it was the opinion of the board, that those parts fell under all the regulations of the stat. 10 and 11 Will. 3. ; and this was confirmed by the opinion of the law officers. Another difficulty arose, in consequence of an agreement made by the Queen with the king of France, which went beyond the terms of the treaty of *Utrecht*. The French were by the treaty allowed to remain and enjoy their estates and settlements, provided they qualified themselves to be subjects of Great Britain—those who would not do this, had leave to go elsewhere, and take with them their *moveable* effects. *Queen Anne*, in consideration of the king of France releasing a number of protestant slaves out of the gallies, permitted the French inhabitants of *Placentia*, who were not

willing to become her subjects, to sell their *houses* and *lands* there. It became therefore a *question*, whether this permission of the queen was valid, so as to dispose of *lands* which came to the crown by treaty. This point was

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submitted to *Mr. West*, counsel to the board of trade, for his opinion ; and it was material to settle it, because many British subjects had purchased such lands from the French inhabitants.

His answer was, that the queen could not by her letter dispose of lands granted to the crown by treaty ; but if she entered into any regular agreement with the court of France for that purpose, she was, by the law of nations, engaged to do every thing in her power to enable the French to have the benefit of it ; which might be done by her confirming titles to such of her subjects as should pay the French a consideration in money, or otherwise, for their lands or houses. Many such lands purchased by *Governor Moody*, having been used for fortifications, the board recommended compensation to be made him by the crown.

But when this question was so answered, what became of the right to ships' rooms, as established by stat. 10 and 11 Will. 3. which statute was held to apply to the French parts now ceded, as well as to the other ? Placentia being the best part for fishing, the English complained they were deprived of the benefit they had promised themselves, by this new acquisition, as they could not resort thither, without paying high rents for a plantation to cure their fish. In truth, many French still continued there, and they gave encouragement also to *Biscayans*, and to the people of *Guipuscoa*, who, we have seen, were starting a pretention to fish at Newfoundland, of right. All these together constituted a source of great discontent, and so continued for several years.

A Salmon Fishery
granted.

Another question, as to the right of property at Newfoundland, arose upon a *salmon fishery*, which had been carried on and improved by *Mr. Skeffington*, between *Cape Bonavista* and *Cape John*, in a part never frequented by any fishing ships ; he had cleared the country up the rivers for forty miles, and had built houses and stages. This person applied for an exclusive grant of this fishery for a term of years ;—the matter being referred to *Mr. West*, he reported, that such a grant would not be inconsistent with the Stat. 10 and 11 Will. 3. The board accordingly recommended to his majesty, that a term of 21 years, in a sole fishery for salmon, in *Freshwater Bay*, *Ragged Harbour*, *Gander Bay*, and *Dog Creek*, might very well be granted by his majesty, with liberty to cut wood and timber in the parts adjacent, provided it were at six miles distant from the shore.

In the close of the year 1728, we find the board of trade once more took up the subject of this trade and fishery, in consequence of the representations made by *Lord Vere Beauclerk*, the commodore on that station. In order to bring the subject under full discussion, they caused letters to be written to the chief magistrates of the different towns in the west, requesting the merchants to send their thoughts, whether any thing, and what, might be done for the further encouragement of the fishery.

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With a view of understanding the situation and tenure by which persons held their lands in Newfoundland, the board referred, at this time, a question to *Mr. Fane* on the seventh clause of Stat. 10 and 11 Will 3. “Whether the possessors had an inheritance therein, or only an estate for life ?” and he was of opinion, that by the words of this clause, an estate for life only passed to the possessors, and consequently a right of alienation only for that interest, for the following reasons : — 1st. From the general rule of law, that the king's right and interest can never be bound by general words — 2dly. From the inconvenience that would ensue, if by these general words an estate of inheritance should be construed to be given ; for these houses, &c. might fall into hands improper for carrying on the fishery, or be bought by such as are in the interest of our enemies ; or such new erections, houses, &c. might be purchased by one person, or two, and so an engrossing established, against the design and intention of the act — 3dly. From the words of the clause, which seem to confine the possession to the builder ; for the act says, *to HIS or THEIR use* ; which implies, as he apprehended, that this is only a personal privilege ; and a privilege it was sufficient, to have an estate for life in a house, &c. probably slightly built ; and which, in all likelihood, would only last for the life of the builder — 4thly. This act was made, he apprehended, in disfavour of the Newfoundland-men ; and it could not be supposed such a favourable provision, in this instance, would be made for them, when they were discountenanced in every other clause of the act ; especially too against the right and interest of the crown, which, in all doubtful cases, must be preferred.

Representation 1728.

The letter to the mayors of the western towns produced only two answers ; one of which consisted of a complaint against *Colonel Gledhill*, the lieutenant governor of *Placentia*, for encroaching upon the fishing-rooms, engaging in the fishery, and using his power in an illegal and arbitrary manner ; the other complained of the illicit trade of the *New England men*. Not the least advice was given as to any mode of correcting irregularities, nor was anything said as to the want of order, and good government. The board were, therefore, left

to take such course as they in their wisdom should think proper. They accordingly proceeded on such evidence as they had, and drew up a representation to his majesty, dated the 20th of December 1728. Representation 1728. In which they declare, "That the want of sufficient power in the commodore for enforcing the act of parliament, and the general contempt, into which the authority vested in the fishing admirals had fallen, had reduced the fishery to a very bad condition ; and, unless proper remedies were applied, in all probability we should entirely be deprived of the advantages derived by the nation from this trade."

They then go over the abuses and irregularities so often complained of ; the increase of bye boat-keepers, the settling of persons in the island, the enticing away of seamen, and fishermen by the *New Englanders*, who also carried on an illicit trade ; the disorders of the garrison at *Placentia* ; the

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clashing interests of the adventurers and the planters ; and the inefficacy of Stat. 10 & 11 Will. 3. They remind his majesty of their representations of the 2d of March 1715-16, and especially of that of the 16th of December 1718, and the *heads of a bill* annexed to the latter. They submit that so much of that, as may be thought proper, may be proposed to parliament immediately ; they judging that an *intire remedy* for the evils complained of, could not be effected, without the assistance of the legislature.

Recommends civil government.

However, they said, there were some irregularities, which could be corrected by the king's own authority, without the interposition of parliament ; those were, the irregularities of the garrison, and the disorders committed in the winter season. With respect to the former, they recommend, that considering the lieutenant governor of *Placentia* thought himself accountable to no one but the king, a nearer councroul and check over his conduct would keep him within bounds ; and therefore, that the commodore on the station should be commander in chief both by sea and land, as had formerly been the practice, which would at once put an end to the competition, and jealousy, which had so long subsisted between the land and sea forces. As to the second, they recommend, that the commodore might have power to appoint judges, and justices of the peace, to decide disputes between the inhabitants, and distribute justice amongst them during the winter season. This they thought would alleviate the misery of those unhappy people, which was great enough without additional evils from the anarchy in which they lived. They say, that heretofore much encouragement had not been given the settlers, to continue in the island, and therefore regular governors, as in other colonies, had very seldom been

appointed for them ; and it. was their opinion, that these poor people, should rather be encouraged to. settle in *Nova Scotia*. They were about *three thousand* in number, with their wives and children, and might be of service there, where inhabitants were wanted.

They took into consideration the claim of property made to stages, &c. in prejudice of the fishing ships, upon which *Mr. Fane's* opinion had been taken ; and they thought many such titles, if enquired into, would be found to be defective ; they therefore proposed, that some person, skilled in the laws, might attend the next commodore, and assist him to enquire into them, in behalf of the crown. The same person might likewise be useful in forming regulations for the better government of the inhabitants, during the winter season, so long as they continue there. They also recommended, that the bishop of London, as ordinary of the plantations, should send a clergy-man, whose salary might be put on the establishment of the garrison at *Placentia*.

This representation of the lords of trade was taken into consideration at the committee of council. The committee referred to the board to consider whether, as the commission, proposed to be given to the *Lord Vere Beauclerck*,

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would vacate his seat in parliament, the service intended might not be equally well carried on by *instructions* to be given to the *Lord Vere Beauclerck*, for putting in execution all the powers entrusted, to the commodore, by Stat. 10 & 11 Will. 3. and by a *commission*, to be given by his majesty to a person skilled in the laws, who should, accompany the *Lord Vere Beauclerck*, for appointing justices of the peace, and establishing some form of civil government among the people who had settled themselves in that island, that they might not be left in a state of anarchy, upon the departure of his majesty's ships of war. If their lordships saw no objection thereto, they were desired to consider of a proper form of commission and instructions.

They were also desired to consider, whether it might be adviseable to separate the government of *Placentia* from that of *Nova Scotia*.

The Committee made another order the 19 of April 1729, in which they recommended to his majesty all the points proposed by the lords commissioners of trade.

In obedience to the first order of the committee of council, the lords report, that they thought a commission to some person to attend the *Lord Vere Beauclerck*, with proper instructions, might serve instead of a commission to his

lordship. They prepared a commission and instructions accordingly, whereby such person was required to take the advice of *Lord Vere Beauclerck*, and to execute such matters as his lordship should propose to him in writing, for his majesty's service. Among the instructions they inserted some relative to the acts of trade and navigation ; which, however, their lordships thought would prove of small effect till his majesty should be pleased to erect a court of admiralty, or some other proper jurisdiction in Newfoundland, to take cognizance of offences against those acts.

They drew up instructions for *Lord Vere Beauclerck*, and made the old heads of enquiry a part of them.

They remark, that they had added an instruction, which required his lordship to send home all offenders, in robbery, murder, and felony, and likewise the witnesses, which had not always been done. This was to be practised till such time as some other method should be established for trying offenders in the country, which may, say their lordships, perhaps be thought necessary, so soon as the island shall have been put under better regulations, and some person skilled in the laws may hereafter be annually sent thither for this purpose, with his majesty's commission of oyer and terminer.

A civil governor is appointed.

They were of opinion that the government of *Placentia* should be separated from that of *Nova Scotia*.

This design for establishing some sort of government in Newfoundland ended in the appointment, not of *a person skilled in the law*, but of *Captain Henry Osborn*, commander of his majesty's ship *the Squirrel*.

The commission given to Captain Osborn begins by revoking so much of the commission to the governor of *Nova Scotia*, as related to the government of *Placentia*, or any other forts in Newfoundland ; and then goes on to appoint *Henry Osborn governor and commander in chief in and over our said island of Newfoundland, our fort and garrison at Placentia, and all other forts and garrisons erected and to be erected in that island*. It then gives him authority to administer the oaths to government, and to appoint justices of the peace, with other necessary officers and ministers for the better administration of justice, and keeping the peace and quiet of the island. But neither he nor the justices were to do anything contrary to the Stat. 10 & 11 Will. 3, nor obstruct the powers thereby given to the admirals of harbours, or captains of the ships of war. The justices were required to be aiding and assisting to the commodore, or commanders of the ships of war, and the fishing admirals, in putting in execution the said statute. The governor was to erect a court-house and prison; all officers, civil and military were to be aiding and assisting to him in executing this commission. In case of his death, the government was to devolve on the first lieutenant of *the Oxford*, the ship commanded by *Lord Vere Beauclerk*.

Such were the terms of the first commission of civil governor, granted for Newfoundland. The instructions that accompanied this commission, have nothing in them very particular. They are fourteen in number ; and the last required him to execute all such matters as *Lord Vere Beauclerk* should propose to him, for his majesty's service. The instructions to his lordship contained all the *heads of enquiry* relating to the trade and fishery, and the abuses and irregularities so long complained of, and they were fifty in number.

We are told, that on the 24th of May 1729, a box was sent to the *Lord Vere Beauclerk*, in which were eleven sets of *Shaw's Practical Justice of the Peace*, each impressed on the covers, in gold letters, with one of these titles, *Placentia, St. John's, Carboneer, Bay of Bulls, St. Mary's, Trepassey, Ferryland, Bay de Verd, Trinity Bay, Bonavista, Old Parlekin* IN NEWFOUNDLAND ; together with thirteen printed copies of Stat. 10 & 11 Will. 3, and a bundle containing the acts relating to the trade and navigation of this kingdom. And thus provided, his lordship and the governor set sail for Newfoundland, in the summer of the year 1729.

Having brought down this history to the period, when an attempt was made to afford some sort of civil government to Newfoundland, I shall make a short pause in the narrative ; and call the reader's attention to some few documents, that will more strongly impress upon his mind the actual state of things in that island, and the pressing necessity there was for the

interposition of the parliament, or of the executive government, to correct abuses, and establish some sort of regular authority. I have before given a particular account of the enormities subsisting within three years after passing Stat. 10 & 11- Will. 3, from a letter written by a person then confided in by the government at home ; I mean Mr. Larkin. It is very plainly to be collected, from

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the representation made by that gentleman, that this statute was ineffective and inadequate from the very beginning. What is inapplicable in its origin, is not likely to become more useful in a course of time. It will be found, in fact, that in all the time that elapsed between passing that act, and the year 1729, disorder and anarchy increased more and more ; and nothing remained but to try another system.

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PART III.

Justices appointed—Opinion on raising Money by the Justices — Contest between the Justices and fishing Admiral—Opinion on the Authority of the Admirals—A Court of Oyer and Terminer proposed.—Such Commission issued—Lord Baltimore revives his Claim—The Peace of 1763—Remarks of the Board on Stat. 10 & 11 Will. 3.—Newfoundland a Plantation—Custom-house established Property in Flakes, &c., discussed—Stat. 15, Geo. 3, c. 31.

SOME home might reasonably be entertained, that the establishment of a civil government, and the appointment of justices of the peace with proper officers for executing the law, would have been received by all as a desirable improvement in the state of society in the island, and it might be expected, that such an appointment could not fail of its effect. But the cause which had always operated to prevent any sufficient authority being introduced into that place, opposed itself to this new establishment. The *western merchants*, who had been silent, while this measure was in agitation, were ready enough to bring complaints of its consequences, when carried into execution; and we shall soon see the struggle made to prevent any lawful authority taking root in Newfoundland.

The government soon had to regret, that they had not taken the advice of the board of trade, to bring forward a bill in parliament for correcting all the abuses, then subsisting there ; for it will be found that the opposition raised against the civil governor and his justices, was on account of their not deriving their authority from parliament, but only from the king in

council. How futile soever this reason may be, it had its effects in staggering many, and contributing to bring the office, and the persons bearing it, into great question, if not contempt.

Mr. Osborn, upon his arrival, proceeded to carry into execution his commission. He divided the island into convenient districts, and appointed in each of them, out of the inhabitants and planters of the best character, such a number of *justices of the peace* and constables, as seemed necessary. In order for building a prison, he ordered a rate, such as the justices represented, he says, to him as of little burthen to be raised, within the districts of *St. John's*, and *Ferryland* ; and a prison was to be built in each of those places. It was

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not greater than half a quintal of merchantable fish per boat, and half a quintal for every boats'-room, including the ships-rooms of ships fishing on the bank, that had no boats ; with the like proportionable rate upon such persons in trade as were not concerned in the fishery ; this rate was only for one fishing season. He erected several pair of stocks, and he expressed a hope that the measures he had taken would be sufficient to suppress the great disorders that had so long prevailed.

But he says he most feared, that as the best of the magistrates were but mean people, and not used to be subject to any government they would be obedient to orders given them, no longer than they had a superior amongst them. He says, that he and *Lord Vere* had done many acts of justice to the inhabitants and planters, particularly at *Placentia*, where they restored several plantations that *Colonel Gledhill* had unjustly possessed for several years ; and many more might have been taken from that officer, had the real proprietors been on the spot to sue for them.

When *Lord Vere*, and *Mr. Osborn*, returned to England, they made a report of what they had done ; in order to be ascertained of the ground on which they acted, they wished the opinion of the law-officers might be taken on some points, and four questions were accordingly referred to the attorney-general, then *Sir Philip Yorke*. The main point was the levying money for building the prisons ; and the attorney-general was clearly of opinion that the justices of the peace in Newfoundland had not sufficient authority to raise money for building a *prison*, by laying a tax upon fish caught, or upon fishing-boats ; the rather because Stat. 10 and 11 Will. 3. directs that it shall be a free trade. The power of justices of the peace in England for building gaols depends, says he, upon Stat. 11 & 12 Will. 3, c. 19. by which they are enabled to make an assessment upon the several divisions of their respective counties, after a presentment made by the grand jury at the

Opinion on raising
money by the
Justices.

assizes, great sessions, or general gaol delivery. As the justices of peace were by their commissions, to act according to the law of England, he apprehended they ought to have pursued that act of parliament as nearly as the circumstances of the case would admit, and to have laid the tax, after a presentment by some grand jury ; and then it should have been laid upon the *inhabitants*, and not upon the *fish* or *fishing-boats*. So far as the people had submitted to this tax, there might, he said, be no occasion to call it in question ; but he could not advise the taking of rigorous methods to compel a compliance with it.

As to assaulting any of the justices or constables, or any resistance to their authority ; that, says he, might be punished by indictment, fine, and imprisonment at the quarter sessions ; and for contemptuous words spoken of the justices or their authority, such offenders could only be bound to their good behaviour. Destroying the stocks or whipping-posts were indictable offences. He was of opinion the justices could not decide differences relating to property, their power being restrained wholly to the criminal matters mentioned in their commission.

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He thought neither *Captain Osborn*, nor the justices had power to raise any tax for *repairing churches*, or any other public work, except such works for which power was given to justices of the peace in England to levy money, by particular acts of parliament.

Mr. Fane was likewise consulted upon these points, and was of the same opinion ; however he adds, for their lordship's consideration; admitting the Stat. 11 & 12 Will. 3. had not been strictly pursued, yet as the assessment of fish was equally laid, as the people had submitted to it, as no other way could be thought of for raising the tax ; and as his majesty's commission would be intirely ineffectual, unless a gaol was built, whether any inconvenience could arise, if upon the refusal of any of the persons assessed, the method laid down by Stat. 11 & 12 Will. 3. were pursued to compel a compliance with it. Upon being again consulted, he says, he thought *Captain Osborn*, as he had acted with so much caution and prudence, and had taken no arbitrary step, in execution of his commission, could not be liable to a prosecution in England, in case the inhabitants should not acquiesce in the tax. He thought it absolutely necessary the tax should be levied according to the Stat. 11 & 12 Will. 3. and notwithstanding the proceeding already had was not entirely agreeable to that law, he thought *Captain Osborn* would be very well justified in pursuing it, as it seemed the only method whereby the design of his majesty's commission could be executed.

Such were the discussions raised on the occasion of these attempts to improve the police of the island. *Mr. Osborn* again went to Newfoundland : but in a letter from St. Johns' in September 1730, he gives a very bad account of the new institution. He says, he had hoped that a proper submission and respect would have been paid to the orders he had given, and to the magistrates he had appointed ; but instead thereof, the *fishing admirals*, and some of the rest of the masters of ships and traders in the island had ridiculed the justices' authority very much, and had used their utmost endeavours to lessen them in the eyes of the lower sort of people, and in some parts had, in a manner, wrested their power from them. The admirals had brought the powers given them by the fishing act in competition with that of the justices, and had not even scrupled to touch upon that of the *governor*. All this discord proceeded from a jealousy the admirals and the rest of the masters of ships had conceived, that their privileges granted them by Stat. 10 & 11 Will. 3. were invaded by these magistrates ; which power, say he, "those admirals could hardly ever be brought to make use of (without it was to serve their own purposes) before, nor till they saw these officers established ; and they are now, adds the governor, doing all they can against these men, only because they bear this commission. Indeed, says he, I find by their will, they would be sole rulers, and have nobody to controul them in their arbitrary proceedings. He expostulated with them, but it seemed to serve no other purpose than to raise their resentment against him, as the abettor of the justices. He could not charge the justices with having taken any arbitrary steps ; their fault was rather the contrary, whereas the admirals were guilty of many."

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"The commission of the peace was in general disliked by all the *masters of ships*, who were the chief people that opposed most of the steps the governor had taken ; for which reason, and partly from the indifference of some of the justices, in their offices, who thought they suffered in their way of trade, and got the ill will of the people they dealt with, and partly from the incapacity of others, the commissions of the peace were but indifferently executed. However the governor, notwithstanding this opposition, proceeded to make appointments in places where he had before made none."

The *prison* and *court house* at St. Johns' were nearly finished, and people had very well complied with the rate. He agreed to a presentment for a rate to build a prison at *Ferryland* ; and he said, he did not doubt but the very sight of these two prisons would, in some measure, check many people in their evil courses.

Memorials were presented to the governor, by the justices of *St. Johns'*, complaining that they were obstructed in their duty by the fishing admirals, who had taken upon them the whole power and authority of the justices, bringing under their cognizance all riots, breaches of the peace, and other offences, and had seized, fined, and whipped at their pleasure ; they had likewise appointed public-houses to sell liquor, without any licence from the justices ; the admirals told the justices, *they* were only *winter justices*, and seemed to doubt of the governor's authority for appointing ; that the authority of the admirals was by act of parliament —the *governor's* only from the privy council. This distinction in the authority from whence they derived their power, was thought sufficient for the admirals to presume upon ; and the comparative pretensions of them and the justices were rated accordingly in the minds of the ignorant and malicious.

The towns in the west were not backward to join in this clamour against the justices ; they complained that the governor had taken the power out of the hands of the fishing admirals, and vested it in the justices, who had proceeded in an arbitrary way to tax the servants and inhabitants ; had issued out their warrants not only against servants, but against the masters of vessels themselves, in the midst of their fishery ; to their great prejudice, and in defiance of the admirals and the act of parliament. They suggested that these justices were, some of them New England men ; and none of them ever coming to England, as the admirals did, there was no redress to be obtained against them for their illegal proceedings, They said, some of the justices supplied the fishermen and seamen with liquor at exorbitant rates, though the merchants would supply them at a moderate advance. After stating such plausible topics, which, it was well known, would always be listened to when Newfoundland was in question ; they prayed, “That such justices might have no power during the stay of the fishing ships ; but that the admirals might resume their authority, and that the commodore and captains of men of war should be ordered to be aiding and assisting to them therein.”

This competition between the fishing admirals and the justices was taken into consideration by the board of trade, who called for the opinion of *Sir*

Philip Yorke, then attorney-general, and he reported, that upon a view of the commission to the justices, of Stat. 10 & 11 Will. 3. and of all the complaints, it appeared to him the whole authority granted to the fishing admirals was restrained to seeing the rules and orders contained in that act, concerning the regulation of the fishery, duly put in execution ; and to the determination of differences arising between the masters of fishing boats, and the inhabitants, or any bye boat-keepers, touching the right and property of fishing-rooms, stages, flakes, &c. which was a sort of civil jurisdiction in particular cases of property ; whereas the authority of justices extended only to breaches of the peace. He was therefore of opinion, that the powers granted to the justices were not inconsistent with any of the provisions of the act, and that there was no interfering between the powers given by the act to the admirals, and those by the commission to the justices.

The struggle between the fishing admirals and the justices was still kept up ; the west country merchants, and masters of ships supporting the former, and the governor standing by the latter. This produced complaints on both sides ; and no doubt, in such a contest a just cause of complaint might often be found on both sides. But the aggressors were certainly those who set themselves against the authority of the governor and justices, and who, by their conduct on this occasion, plainly shewed they wished the inhabitants and poor planters should be deprived of all protection from legal government, and should be left wholly at *their* mercy.

It was given in special charge to the succeeding governor, *Captain Clinton*. and to his successors, to make a report of what was done towards carrying into execution the new commission of the peace. In compliance with that charge, we find the governors return such accounts of the opposition of these admirals to the civil government, as are hardly to be credited but by those who have read what went before ; and after that it would be tiresome and nauseous to detail any more upon the subject. This contest continued for some years, till it was found that no opposition could induce his majesty's ministers to withdraw this small portion of civil government, which had not been granted till it had been loudly called for by the necessities of the island. The fishing admirals then became as quiet, and useless as before, and contented themselves with minding their own business, in going backwards and forwards to the banks.

While this question of the competition between the fishing admirals, and the justices, was agitated, *Mr. Fane* also was consulted, respecting the distinct jurisdiction of these officers, and he agreed in opinion with the attorney-general ; he also at the same time delivered an ' opinion that is worth remembering

; namely, that all the statute laws made here, previous to his majesty's subjects settling in Newfoundland are in force there ; it being a settlement in an infidel country ; but that as to the laws passed here, subsequent to the settlement, he thought they would not extend to that country, unless it was particularly noticed. The question then will be, *when*

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A commission of oyer
and terminer
proposed.

did this settlement take place? And it may be urged, that the policy having all along been to prevent settlement, and that persons should resort thither only for the fishing season, there is to this purpose a settlement commencing annually ; and that in truth, British subjects carry with them the laws of this country, as often as they go thither ; if so, all the law of England, as far as it is applicable to the state and circumstances of Newfoundland, is constitutionally and legally of force there. This was a question of much importance, but it has since been settled by the wording of the act of last session for establishing a court there ; which court is to determine according to the law of England, as far as the same is applicable to the island.

Nothing material appears respecting the civil government of Newfoundland, till the year 1737, when the board of trade listened to the representation that had frequently been made by the governor, of the inconvenience of sending over to England for trial, persons who had committed capital felonies. In such cases the witnesses were glad to keep out of the way ; the felon was sent to England, without any person to prove his guilt ; a great expence was incurred, justice was disappointed ; or if the fact were proved, the poor witnesses was left to get back as they could, with the expence of their voyage, and residence, and the certain loss of one season's fishing.

It had been provided by Stat. 10 and 11 Will. 3. that such capital felonies might be tried in any county in England ; and in the commission of the peace lately given, this policy was so closely adhered to, that the justices were therein restrained from proceeding *in cases of doubt and difficulty, such as robberies, murders, and felonies, and all other capital offences*. It appeared to the board of trade that this scruple might now be got over ; and they proposed inserting in the commission that was to be given to *Captain Vanbrugh*, a clause, authorising him to appoint *commissioners of Oyer and Terminer* ; but the board wishing to be assured that the king's prerogative was not restrained in this particular, by the above provision in Stat. 10 and 11 Will. 3. they consulted the attorney and solicitor general, who thought the king's power was not abridged by that act. The board, in their representation to his majesty, state the example of a commission being granted to the commodores with other persons, for trials of

piracy, as a precedent for trusting them with this authority to issue commissions for trying felons ; and that it was no more than was given to other governors of plantations. But they inform his majesty, that as this power might be too much to be entrusted in the hands of judges and juries very little skilled in such proceedings, they had added an article, which restrained the governor from allowing more than one court of Oyer and Terminer in a year, and that only when he was resident ; and he was further instructed, not to suffer any sentence to be executed, till report thereof be made to his majesty. But when the commission went before the privy council for approbation, all that part which gave this authority was directed to be left out ; so fearful were they of trusting such authority to those in whom they had lodged the civil government of the island.

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Such Commission
issued.

So this point rested till the year 1750 ; when *Captain Rodney*, who was then governor, pressed the secretary of state for such a power to be granted. It was referred to the board of trade, where they recurred to what was projected in the year 1738 for *Captain Vanbrugh's* commission. A doubt arose with the board, whether this power might be given by *instruction*, or whether it must be inserted in the commission ; and *Sir D. Ryder*, then attorney-general, being consulted, he was of opinion, that such power could not be granted by instruction, nor any other wise than under the great seal ; but that the manner of exercising such power might be prescribed by instruction ; he thought the clause drawn for the commission of 1738 was sufficient, only that neither the power of trying, nor that of pardoning *treason*, should be entrusted with the governor, or any court erected by him. The commission issued accordingly, with this new power, to *Captain Francis William Drake*.

It may be remarked of this commission of Oyer and Terminer, issued under the new power given to the governor, that it has not been executed without some question being raised as to its legality. Persons, who were obstinately bent to believe there was no law in Newfoundland but Stat. 10 and 11 Will. 3. were disposed to doubt the power of the crown to give authority for issuing this, as well as the commission of the peace. It has been the interest and inclination of many at Newfoundland to contest everything that was not founded upon the same parliamentary authority as Stat. 10 and 11 Will. 3. But this spirit, whether of ignorance or wilfulness, has worn off, in a great measure, of late years, though it is occasionally at work even now. And it is to be lamented at this moment, that the advice given by the board of trade in the year 1718, and afterwards on the occasion of establishing the civil government in 1728, was not followed ; and an act of parliament passed for remedying all the abuses and

irregularities at once, instead of resorting to the half measure that was then adopted, and which had all the difficulty we have seen to support itself.

If we are to judge from the dearth of matter in the books of the board of trade, things went on very quietly at Newfoundland for several years. We only find some scattered facts of no great importance.

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PART IV.

Import of live Stock, &c.—Representation on a Bill brought in by the Western Merchants—Three Acts passed
— *Complaints about Courts—Review of the Courts at Newfoundland—Fishing Admirals—Surrogates—The Governor holds a Court—Courts of Vice-Admiralty and Sessions—The Governors cease to hold Courts—Court of Common Pleas instituted—Complaints against it*
— *Representation—And Act passed for a Court of Civil Jurisdiction.*

Complaints about courts.

During the last five or six years that the board of trade continued in existence, there appears nothing of importance upon the books respecting this trade and fishery. That board was abolished in 1782. It was not till June 1784, that a committee of council was appointed by his majesty for matters of trade and plantations.

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A new subject of complaint had grown up in Newfoundland this was the hearing and determining of *civil causes*. Among all the grievances, and the expedients for remedying them, during the tract of time we have gone through, there seems to have been no solicitude or attempt to provide a *court of civil jurisdiction*. While this place continued merely a fishery, the causes of action between parties were simple and of less magnitude ; but of late years the population had increased, and among the persons resident there were dealings of a mercantile nature to a great extent, and of a sort to need a judicature, that would command more confidence than any of the old establishments had been thought entitled to. There arose therefore, from time to time, discontents upon this head, and these led to measures that ended in making an intire new establishment of a court. To make this subject more intelligible, we should look back to the courts that had hitherto been known at Newfoundland, the nature and jurisdiction of which were brought under consideration at this time.

Review of the Courts of Newfoundland.

The first regulation that looked at all like a court, was the authority given by Stat. 10 and 11 Will. 3. c. 25. f. 15. to the fishing admirals, to hear and determine controversies and differences between the masters of fishing ships, and the inhabitants, or any bye boat-keeper, concerning the right and property of fishing rooms, stages, flakes, or any other buildings or conveniency for fishing or curing fish ; and if either party thought himself aggrieved, he might appeal to the commander of any of the king's ships belonging to the convoy. This was a civil judicature of a limited sort—the *adventurers* or *merchants*, it should seem, were not liable to it ; it was confined also in its object ; debts still remained without any mode of recovery, as well as all other personal wrongs of a civil nature.

Another jurisdiction was given to the fishing admirals by this act : by Sect 14 they were to see the rules and orders contained in that act concerning the regulation of the fishery duly put in execution; and this was given them,

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as the act expresses it, *to preserve peace and good government among the SEAMEN and FISHERMEN, as well in their respective harbours, as on the shore.* This was a sort of police invested in them, which might be considered as partaking both of a civil and criminal authority. But this also, like the former, was limited as to the persons ; no authority was given that could be exercised over the merchants and adventurers, who seem to be considered by this act as persons who might have right done them ; but against whom it was not necessary to do any justice whatsoever—for, by the rules and orders of this act, the fishing admirals would be obliged to see they had ships-room ; and their seamen and fishermen would be kept quiet and under controul ; but if these adventurers had taken possession of any *fishing rooms, stages, flakes, or other conveniency for the fishery*, the admirals had no jurisdiction to call them to account, and to make restitution to the right owner, their jurisdiction in that particular being confined to the *masters of fishing ships, inhabitants, and bye boat-keepers.*

The merchants and adventurers being therefore subjected by this act to no controul or authority whatsoever, when they begun to settle, and to have mercantile dealings, to a great amount, they had nothing to do but to take the law into their own hands ; and having possessed themselves of plantations or fish, or any thing else, in payment of debts, real or pretended, there subsisted, under this act, no power whatsoever to call them to account ; and it was, no doubt, for this reason, that the merchants have so constantly adhered to the support of this act, declaring that a free fishery, conducted under the policy of this

act, was all they wanted, and complaining that every regulation made since that act has invariably operated to injure the trade and fishery. It was indeed the policy of this country to support a free fishery there, for ships going from hence, and to prevent settlement. So far the views of the government and the interest of the merchants concurred ; but the application of this principle had the effect of leaving the island to the mercy of the adventurers, who found it their interest at length even to promote *settlement* to a certain degree ; contrary to their own declarations, and to the policy of Stat. 10 & 11. Will. 3. ; for no part of which they seem to have had any value, but the feeble judicature and police it gave the island ; in consequence of which, they saw the whole fishery abandoned to their sole will and pleasure.

These observations upon the incomplete form of this judicature and police, suggest themselves upon the bare reading of the act ; but the experience of the manner in which it was executed, shewed all this in a more aggravated appearance. It has been too often repeated in the course of this historical enquiry to need repetition here, that the admirals were the servants of the merchants, inasmuch as they were the masters of some of their ships ; that in many cases, therefore, justice was not to be expected from them ; that is, in cases where their owners were concerned. In many others, where their owners or themselves were not concerned, there was always a partiality towards the description and class of persons with which they were connected ; and a poor planter, or inhabitant, (who was considered as little better than a law-breaker in being such) had but small chance of justice, in opposition to any

great west-country merchant. This bias must have been a strong impediment to the equal administration of justice in the hands of the fishing admirals. Besides this which arose from their employment and connection, there was another disqualification, that was to be corrected by no integrity or fairness whatsoever. It should seem, that persons, educated as masters of merchant ships, could not in general possess that discrimination and discernment, which was necessary for determining right and property, even in fishing stages and flakes.

Such being the judicature established by the statute of King William, and such the hands in which it was lodged, we have found, that it was executed fully as ill as could from the nature of it be expected. We find that the admirals were most of their time out on the fishery ; that, when in harbour, they were still employed about curing of their fish, and the other parts of their business ; that the commanders of the king's ships were obliged to summon, enjoin, and enforce them to hold courts ; that discovering the sluggishness of the admirals, they were under the necessity of taking liberties not given by the statute ; that, being only a court of appeal, they were obliged to erect themselves into an original court. This they did by degrees, and with a sort of deference to the provisions of the act of parliament. At first they got the admirals to sit with them ; and I have seen many judgments and proceedings to which the commander of some of the king's ships has first subscribed his name, and the admirals have added theirs. It is not to be wondered, that the commanders of the king's ships, with their superior endowments, should gradually obtain an ascendancy ; and having thus blended their appellate jurisdiction with the original one lodged in the admirals, should at length wholly dispense with their attendance of the fishing admirals (who would be glad enough to be excused), and so in time succeed to a complete original exercise of judicial authority in the place of the admirals.

So indeed it happened. But there were not wanting occasions, when the admirals awaked from their lethargy, and shewed a steadiness in asserting the dormant powers lodged in them by the statute. These were when the adventurers and merchants perceived the government at home were making any attempt to introduce a better system of law and order into Newfoundland. Accordingly, we have seen, that upon the appointment of a civil governor and justices, in the year 1729, the admirals bestirred themselves ; and, from the impulse which the competition inspired for the moment, they actually took upon them all the authority they possessed under the statute. They even went further, and claimed a criminal as well as a civil judicature ; and proceeded to issue warrants, and do acts which belong to justices of the peace. In these usurpations

they were supported by the western merchants, whose language it was to represent the provisions of Stat. 10 and 11 Will. 3. as competent to the complete government of the island in all matters, both civil and criminal.

But with all this support, so limited a power, lodged in such feeble hands, could not sustain the contest; and the admirals soon fell back into the inac-

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tivity, neglect, and contempt, where they had before slumbered. As they sunk, the commanders of the king's ships rose into importance ; the statute of William grew to be looked upon as a dead letter ; and the administration of justice, in all the points there conferred on the admirals, was expected from nobody but the commanders of the king's ships, when they came to the island in the summer season.

Although the hearing of certain matters, by way of *appeal*, was given to the commanders by the statute, yet the hearing of them *originally* was not authorized. The possession of the former gave a colour for assuming the latter ; and crude as this may seem, it was, perhaps, as well warranted as some of the instances of jurisdiction now exercised, and from long usage allowed to the first courts in Westminster-hall. When the captains were in possession of this, they proceeded, as happens mostly in the exercise of power and authority ; they found in that place, as it is elsewhere, that all judges have the quality which is invariably supposed to belong to the best, that of enlarging the sphere of their cognizance : and we find very soon, that the captains of ships took cognizance of *debts* contracted ; and held courts, in which they enquired of, heard, and determined all possible causes of complaints ; and with no other lights than those furnished by the statute of *William*, the instructions from the governor, and the suggestions of their own good sense ; paying always a due regard to the customs and usages of the country. They did every thing, that the fishing admirals might do, and every thing the admirals had at different times pretended to have a right to do. From their situation, and the support they received from the governor, they were enabled to maintain the jurisdiction they had assumed. The governor conferred on them the title of *surrogates*, an idea taken from the admiralty-law ; to which, and which alone the naval governors were in the habit of looking, and under which it had long been a notion, that the fishery, as an admiralty concern, ought to be regulated. A *surrogate* is well known in Newfoundland, as legally deputed by the governor, to act as his deputy. Under this character the authority of the governor was exercised very beneficially. The time of *surrogating* was looked forward to as a season when all wrongs were to be redressed against all oppressors ; and

Surrogates.

The governor holds a court.

this naval judicature was flown to by the poor inhabitants and planters, as the only refuge they had from the west country merchants, who were always their creditors, and were generally regarded as their oppressors.

While the *surrogates* in the different parts of the island were administering justice in this manner, the *governor* had also his court at *St. Johns* ; and, it is easy to believe, that every thing which the surrogates permitted to themselves, the governor thought himself equally entitled to do and command. Every matter, civil, and criminal, used to be heard, and determined in open court before the governor. Where no special direction was pointed out by law, a person in that situation was to be commended for striking out such course as the exigency of the situation, and the good of the place required. This desire of doing good sometimes carried the governors further than strict legal propriety could warrant. They used to preside in the sessions of justices, although

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Courts of vice-
admiralty and session.

it was from their authority that the commission of the justices issued. It would be endless and unnecessary to enter into the instances of irregularity that must follow, when judicatures were instituted in such a place as this, by persons who had nothing for their guide but the rectitude of their intentions, and a very honourable disposition.

In the year 1765, a custom-house being established at *St. John's*, a court of vice-admiralty, (the court of revenue in the plantations) was placed there. This court, in the absence of the governor, during the winter, had entertained complaints in other matters than those peculiarly belonging to it. In this it only followed the example of the *court of sessions*, where the justices had allowed the hearing of matters of *debt*, and other subjects of difference of a civil nature. It was in consequence of this usage, that the parliament afterwards conferred on the court of vice-admiralty, and the session, a jurisdiction of a civil nature. By Stat. 15, Geo. 3, c. 32. they have authority to determine disputes concerning the wages of seamen and fishermen, and the offences committed by their hirers and employers against that act. This jurisdiction was taken from the court of vice-admiralty, by Stat. 26, Geo. 3, c. 26, owing to the unfavourable impressions that had been made respecting the practice which had prevailed in that court.

Although the parliament took away from the vice-admiralty court the authority vested in it by law, it still continued to exercise that which no law had conferred on it ; and both that court and the sessions were resorted to in the absence of the governor and surrogates, for the administration of justice in all civil cases whatsoever. Justice administered

under such circumstances could have but little of the authority and effect, which should attend upon the sentence of a court. There was no doubt in the minds of any, above the very lowest class, but the whole of this judicature was an usurpation : it was, therefore, more frequently employed as an engine of authority, to obtain that by a course of law, which could not, perhaps, be attained by open violence, than as the means of protecting the weak against the powerful. A merchant rather chose to have the assistance of the court of session or admiralty, to attach and seize the effects of his debtor, than incur the odium of taking them with force. The appearance of a legal course was preferable. But should a wealthy merchant become defendant in one of these courts, it was not so sure that he would approve the same legal course, or yield the same obedience to a sentence. He, as well as the court knew, there was no legal authority to compel ; and it was a question of prudence only, whether such a defendant would submit quietly to their order. If the court happened to have in it persons who acted with vigour, and had character and influence sufficient to cause its decrees to be duly executed ; it would, in such case, be but a bad prospect for a merchant to look for redress by an action, to be brought in England. against a man who, perhaps, never might make a visit there. Such considerations might operate with the merchants to obey these courts, even when they decided against them. Besides, a merchant might think it for his advantage to yield, in one instance, to a court, which in so many others he found useful ; he being more frequently plaintiff than defendant.

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It was in this manner, by a sort of convention, upon views partly private, partly public, with a design sometimes selfish, often generally beneficial, but never without the concurrence and support of the majority of those most interested, was a judicature gradually conferred on these two courts, which with the governor, and the surrogates, possessed all the judicature in the island, civil as well as criminal.

But a time was coming, when a judicature, that stood on so weak a foundation, was to be shaken. Though the justices, and the judge of the admiralty court might never come to England, the governor and his surrogates necessarily did. In the time of *governor Edwards*, some persons, discontented with a judgement made by him in court, at *St. John's*, and carried into execution by the sheriff there, meant to redress themselves by bringing an action against the governor for a trespass in so depriving them of their property. This was to have been tried at *Exeter*, but it was made up before the case was gone through to the jury.

The governors cease
to hold courts.

The governor got well quit of this business, and he

proceeded, during the remainder of his time, to hear causes in person, without the least doubt or difficulty, as his predecessors had before done. But the minds of men were changed upon this subject ; and his successor *Admiral Campbell*, 1782, was advised not to take upon him to sit in court, as his predecessors had done, nor to determine any causes whatsoever. He substituted in the room of this, a mode which was certainly without exception ; and which, in a country like that, could not fail of having a very useful, and very extensive effect. The petitions which used to be brought to the governor in great numbers, upon all sorts of questions and subjects, were still received as before ; but instead of holding a court, and making decisions, which were to be enforced by the sheriff, he directed his secretary to hear the complainant, and if necessary, the party, against whom the complaint was made, and thereupon to write at the bottom of the petition the governor's opinion, and give such *advice* as if followed, would have the effect of complete justice. Advice and direction given from such authority was most usually followed ; and the administration of justice was, in a great degree, attained in this mode of application, without any course of process, as in a regular and open court.

However, in many cases, this method was not acceptable ; and many more persons began, after this time, to recur to the courts of session, and vice-admiralty ; and these two courts, as they were open all the winter, presented a more useful, and certain course of redress, than the above mode of petition. These two courts increased very much in business from the beginning of *Admiral Campbell's* government.

But these two courts derived this accession of business from the necessity of circumstances merely ; their authority was still as feeble as before, and the exercise of it depended upon the like precarious circumstances, for being carried into effect. As the population of St. John's increased, and as the light of later times, which spreads every where, had reached that place, it became necessary to have something more than opinion and sufferance to found a judicial

Court of common
please instituted.

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authority upon. When *Admiral Milbanke* was to set out to his government in the summer of 1789, he was strongly advised by his secretary, Mr. Graham, (who had been secretary to the three preceding governors) to get something of a court established, that might stand on unquestionable authority ; and the governor's commission being searched for this purpose, it was found that he had full power to appoint *judges, and in cases necessary, justices of oyer and terminer, &c.* It was

Justices appointed.

suggested to him, that *judges*, contrasted as the word there seemed to be with *justices of oyer and terminer*, ought to be considered as meaning something different from such justices ; and that being in a popular, untechnical sense, usually applied to those who preside in the three courts in Westminster-hall, it had grown in the minds of unprofessional men to signify more especially judges in civil matters ; that it therefore seemed, the governor, by these words, had authority to institute a court of *civil jurisdiction* ; and he was accordingly advised to institute a court of *common pleas* to proceed by a jury in the manner of a court of common law in this kingdom.

Complaints against it.

This opinion upon the wording of the commission, was urged not to be a strained exposition, to obtain *totidem verbis*, an authority which perhaps might not have been intended to be given ; but to be a necessary one, and such alone, as could be drawn from the words. But those who have read the foregoing history, of the first granting to the governor the authority of appointing commissioners of oyer and terminer, will be satisfied, when he reads the same words in the first commission granted for that purpose, that they were designed to convey nothing more than that simple authority. One may be a little surprised how a power of appointing commissioners of oyer and terminer should be penned so as to stand *judges, and in cases necessary justices of oyer and terminer*. But it appears that in commissions to West India, and other governors, where it was meant to convey the power of appointing standing *judges*, as well as occasional *justices*, these words are to be found, placed in this manner ; and in the way precedents are followed, these words were copied, where it was meant to appoint only justices of oyer and terminer, and those occasionally.

The governor's authority, whatever it might be, was actually carried into effect, by an appointment of a court of common pleas, and judges, in the summer 1789. This court of common pleas transacted business during the following winter ; but the western merchants preferred very heavy complaints against the proceedings of this court ; what they alledge against it may be seen shortly stated in the representation afterwards made by the committee of trade, and now printed by order of the House of Commons. Their great objection, which they do *not* state, but which I will venture to do for them is this ; that they now saw a court established (as they believed) upon good authority, with which they could not trifle, as they had been used to do with the feeble judicatures before-mentioned ; those inefficient courts they preferred, because they could make use of them when they needed their assistance, and could intimidate the justices, and obstruct their proceedings, whenever they themselves were to be the objects of animadversion. They had been in the habit of seeing this species of weakness and anarchy ever since Newfound-

land was frequented, from father to son ; it was favourable to their old impressions, that Newfoundland was *theirs*, and that all the planters and inhabitants were to be spoiled and devoured at *their* pleasure ; in support of this, they had opposed, as we have seen, every attempt at introducing order and government into that place. It was in this spirit, that they questioned the king's right to appoint a civil governor, to appoint justices of the peace, to appoint commissioners of oyer and terminer ; that they complained of the custom-house, and even talked of presenting it as a nuisance, because erected on ship's room ; that they treated Stat. 15, Geo. 3, as destructive to the fishery, because it compels the payment of servants' wages ; and that they brought forward a bill in 1785, in order to expose the servants once more to the will of their masters, as to the payment of their wages.

These clamours were backed with the popular representation, that the fishery should be *free*, and that a fishery carried on from this country, as the western merchants carried it on, was the old and true policy for Newfoundland. But their claims to a free fishery seem to be these ; namely, to be free of all inspection from government ; no justices, no courts, no custom-house. This is what they mean, when they wish all *restraints* to be taken off the fishery, so as they may carry it on upon the footing of Stat. 10 and 11 Will. 3.

The pretences urged by the merchants against the court were seen through by his majesty's servants ; but it appearing to the law-officers, that the governor had not authority under the words of his commission before observed upon, to institute that, or any other court, for civil causes ; and it appearing to the committee of council for trade, that *a court of civil jurisdiction* ought to be established there, they recommended to his majesty to appoint or to authorise the governor, by proper words, to appoint one ; and this court, they recommended, should proceed in a summary way. The opinion of the board on this matter will be better seen in the *representation* they made to his majesty, which was laid before the house of commons, and has been printed by their order.

An Act passed for a
Court of Civil
Jurisdiction.

However, no court was then established ; and the court of common pleas, instituted by the governor, continued, during the year 1790, to proceed as before. The subject was taken up by the committee of trade in the year 1791; and a bill was presented to parliament, under their direction, for instituting a court of the sort they had recommended in the representation made in 1790. This bill passed into a law ; and being intended as an experiment of a new judicature, it was to endure for one year only. The result of that experiment was to propose another bill in the sessions of 1792, for instituting a court somewhat different from that of the preceding bill. This also was only for

a year.

It is now for the consideration of parliament finally to determine what courts are to be established in the island for the administration of justice in future.

April 1793.

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No. 772.

[1793.]

EXTRACTS FROM EVIDENCE OF WILLIAM KNOX

GIVEN BEFORE COMMITTEE APPOINTED TO INQUIRE INTO THE STATE OF
TRADE TO NEWFOUNDLAND, 1793.

SECOND REPORT FROM THE COMMITTEE APPOINTED TO ENQUIRE INTO
THE STATE OF THE TRADE TO NEWFOUNDLAND. [ORDERED TO BE
PRINTED 24 APRIL 1793.] Pp. 16-20.

Your Committee again called WILLIAM KNOX, Esquire, who being examined, said, That in order to give the Committee the fullest information he was able upon the Subject of their Enquiry, he should begin by stating the Objects of the Act of the 15th of His present Majesty, and the Motives which induced the then Ministers (all of whom are now dead) to adopt the several Provisions it contains, which he was the better enabled to do, as he was then One of the Under Secretaries of State in the American Department, and furnished much of the Information upon which they acted.

That the Island of Newfoundland had been considered, in all former Times, as a great English Ship moored near the Banks during the Fishing Season, for the Convenience of the English Fishermen. The Governor was considered as the Ship's Captain, and all those who were concerned in the Fishery Business, as his Crew, and subject to Naval Discipline while there, and expected to return to England when the Season was over. The English had then no Rivals in the Trade but the French, and although the French Fishery exceeded theirs, the English gradually increased, and those who carried it on were generally successful. The Treaty of Paris, by adding Canada, all Nova Scotia, and Cape Breton to the British American Dominions, deprived France of the Advantage she had from the Employment of the Inhabitants in the Fishery ; but at the same Time a new Rival was raised up to the English Traders and Fishermen in those and the other Northern British Colonies, and as the Profit the French Inhabitants had made under the French Government by the Fishery on their Coast as well as on the Coasts of Newfoundland naturally turned the Attention of the British Subjects to the same Business, many Settlers emigrated to Newfoundland for the Purpose, while others spread themselves along the Shores of Nova Scotia and Cape Breton, so that there appeared evident Danger of the Trade and Fishery being lost to England, and that instead of its

being a British Fishery, as it had hitherto been, it would become a Colonial Fishery. To prevent the Increase of Inhabitants on the Island, the most positive

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Instructions were given to the Governors not to make any Grants of the Lands, and to reduce the Number of those who were already settled there. Their Vessels, as well as those belonging to the Colonies, were to be denied any Priority of Right in occupying Stations in the Bays or Harbours for curing their Fish over the Vessels from England ; and he was instructed to withhold from them whatever might serve to encourage them to remain on the Island ; and as Lord North expressed it, whatever they loved to have roasted, he was to give them raw ; and whatever they wished to have raw, he was to give them roasted. With a View to secure the Return of all the Fishermen carried out, Half their Wages was made payable to them in Bills or Cash at the End of the Season, and their Employers were obliged to find them a Passage Home, and allowed to retain Forty Shillings of their Wages for that Purpose ; and to. give an Advantage to the Bank Fishery over the Shore Fishery, as well as to encourage the fitting out from England, without Offence to the Colonies, a Bounty was given upon the taking 20,000 Tail of Fish by Bankers from England that carried out Two Green Men, or Youngsters that had never before been at Sea. The Effect of every One of these Regulations has been the very contrary of what was intended ; and the Witness's own Experience as an Adventurer in the Fishery these Five Years past enables him to correct his Judgment as a Politician, and to point out their pernicious Tendency, as well as to suggest the Remedy.

That soon after the Act of the 15th of His present Majesty was passed, he perceived, from comparing the Governor's Returns with the preceding Ones, that the young Lads left in the Island were greatly increased, instead of being lessened, as was expected ; and upon conversing with Persons who had been there, and were concerned in the Fishery, he learned that Half the Wages a Youngster was entitled to was not sufficient to pay the Expence of fitting him out the First Year ; and besides, they often wanted to have something for Mothers who they had assisted to support. The Traders therefore hired them for Two Years, and left them the Winter in the Island, employing them in the Salmon Fishery, or cutting Timber, or other Work, as well to save the Expence of their Passage Home as to avoid paying them Half their Wages, which would have left their Employers out of Pocket. This he experienced to be the Case with the Youngsters he took out and brought Home ; and upon that Account, as well as upon another which he shall mention, he had given up fitting out for the Bounty, as he finds many others have done, and consequently fewer Youngsters will be taken out, and fewer Seamen made . . . but

he shall now proceed to the more agreeable Task of suggesting Remedies for the Evils he has pointed out, and such Regulations and Encouragements as he conceives will restore and increase the British Fishery : And the First he would recommend, is to recur to the old Idea of the Island of Newfoundland being considered as a great British ship, and to invest the Governor and his Surrogates by Law with the Authorities and Powers he and they formerly exercised without Law ; but, instead of their coming away, in Times of Peace, the 15th or 20th of October, before the Fishing Business is ended, or the Disputes between Parties can be brought before them, or settled,

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they should be ordered to remain until the 1st of December ; they would then be able to oblige the Fishermen brought out to return, and if they were not permitted to remain in the Island, there would be no occasion to oblige their Employers to find them a Passage, as they would make their Agreement accordingly before they went out, and their Employer, being sure of their Return with him, would provide for their Conveyance ; as however the Preparation for the Fishery requires a certain Number of Persons to be left at every Station during the Winter, it would be proper to oblige none to return but such as had been left the former Year, or had resided there Two Years so that all who chose to stay might remain One or Two Winters in the Island ; this would encourage the carrying out of Green Men, or Youngsters, as they might be left throughout the Winter, and employed in such Business as were fit for, and acquire sufficient Knowledge to be useful the next Season

No. 773.

**EXTRACTS FROM EVIDENCE OF CHIEF JUSTICE
REEVES**

[1793.]

GIVEN BEFORE COMMITTEE APPOINTED TO INQUIRE INTO THE STATE OF
TRADE TO NEWFOUNDLAND, 1793.

THIRD REPORT FROM THE COMMITTEE APPOINTED TO ENQUIRE INTO
THE STATE OF THE TRADE TO NEWFOUNDLAND. [ORDERED TO BE
PRINTED 17 JUNE 1793.] Pages 107-176.

JOHN REEVES, Esquire, Chief Justice of the Island of Newfoundland, being called in, was asked, If he had any Information to give to the Committee respecting the Government, and the Administration of Justice, of the Island of Newfoundland ? He desired to be permitted to deliver in the following Paper of Remarks, viz.

* * * *

With respect to other Courts, I entirely differ from Mr. Newman and Mr. Ougier, who wish that the Justices of the Peace should have no Authority in Civil Matters ; and that when the Governor, Chief Justice, and the Surrogates are gone, there should be no Means whatsoever for recovering Debts. It is true, that the Consequence of the Two Judicature Acts of 1791 and 1792 has been, that no Causes whatsoever have been heard, when the Governor, Chief Justice, and Surrogates were gone ; but this has been found extremely inconvenient, and hurtful to many Persons, whatever Reasons those Gentlemen may have for wishing the Administration of Justice to be still suspended. The Merchants of Harbour Grace, when I was there, delivered me a Paper, in which they state how much they were aggrieved by their old Courts being suspended, and pray they may, as heretofore, have a permanent Court of Session. They add these Words, to which I beg the Committee to attend. "It falls particularly hard upon us, who have never made the least Complaint, or troubled Government in any shape whatever, that we should be deprived of that Court, which we were (but are more so by fatal Experience) convinced was a salutary one, and answered the desired Effect." I now deliver in this Petition (which is hereunto annexed, vide Appendix No. 15), and I again caution the Committee how they suffer that, which comes only from these two Gentlemen, to be received as the Language of the whole Trade, and of the whole Island.

These Gentlemen have indeed (as the Merchants of Harbour Grace truly say) complained and troubled Government, and have heretofore been too much listened to.

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Conformably with the Requisition of the above Paper, and with the Wishes and the Necessities of the People resident at St. John's and Harbour Grace, I should recommend, that in the Absence of the Chief Justice and Surrogates, there should be some Court for the Recovery of Debts to any Amount, and for determining Causes of any Sort or Kind ; and that there should be an Appeal from such Court to the Supreme Court at St. John's. Some of the Persons to fit in those Courts can, from the Nature of Things, be no other than the very Persons who sat Things, in the Court of Common Pleas, and who have been so misrepresented. I know all the Clamours made against those Gentlemen to be ill-founded ; I know them to be the most fit to be put in the same Station they were then in ; and they ought to be placed there, not only for the Advancement of the public Service, but as a Testimony that their Conduct is approved, and that the Servants of Government will always be supported when they deserve it.

Such permanent Courts are necessary, because it is impossible, within the Compass of Time while the Governor, Chief Justice, and Surrogates are there, to hear all the Matters that it would be convenient to the Parties to bring to a Hearing in the Season. The Surrogates leave their Stations about the 20th or 21st of October ; the Governor and Chief Justice depart from St. John's by the last Day of October at farthest. The Merchants do not wind up their Accounts the middle till of December, and some of them not till the First Week in January ; though there may be a very good Reason why the King's Ships should not be hazarded on that Coast, at so late a Season, there seems to be no good Reason why, upon their Departure, the Business left undone should not be taken up by some Resident Court. It would also be extremely convenient to have some such Court to resort to, if necessary, during the Winter, and at the Opening of the Spring, before the Governor, Chief Justice, and Surrogates arrive : such Courts might prepare Matters, which they did not choose to determine, for the Determination of the Chief Justice and Surrogates, when they arrived ; in the mean Time the Country would have all the Benefit which is derived from Courts in other Causes, and some of it even in those. At any Rate, the Stay of the Chief Justice, more especially of the Surrogates, is too short for beginning and ending all the judicial Business of the Island : these may be made extremely useful, as a subsidiary Aid to such permanent Courts, but ought not to be relied upon, in my Opinion, as the only Tribunals for deciding Differences.

The Committee have already been detained too long with what I have said upon the Judicature. I shall endeavour to be

very short in the few Observations I have to make on Two or Three Points that have been spoken to by some of the Gentlemen.

Something has been said on the Nature of Property in Newfoundland, and I will lay before the Committee my Opinion upon this Question.

The different Titles under which, it appears, Land may be holden, seems to be reducible to these : by Grant ; by Occupancy ; and by Act of Parliament. It is very rare that a Title can be traced up to an original Grant ; but where there are any such, it is a Grant either from a Governor or One of his

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Surrogates. These were made sometimes generally ; sometimes to the Grantee for Life ; and sometimes to him and his Heirs ; they have of late Years been considered as nothing more than Grants during Pleasure, or at most, during the Time the Place granted was used for the Fishery ; and Grants of late have been commonly expressed to be during the King's Pleasure, and for the Use of the Fishery. Much, however, of the Ground so granted, is so situated as to be of no Use in the Fishery, and is actually used for growing Hay, and other farming or domestic Purposes. The Grants, whether ancient or modern, contain no Reservation of Rent, or any Acknowledgment or Consideration whatsoever ; nor is it believed that any was ever paid for such Grants. Some indeed are to be excepted ; namely, where a Piece of Land has been granted in Consideration of another that had been taken from the Grantee for building Forts, or some other public Service ; there are several such Grants, and they are considered as the best Titles in the Island, on Account of this consideration being expressed in them.

Titles by Occupancy I call such where there is no Grant, or any Thing to shew for the original Possession of the Ground as exclusive and private Property ; this makes Three Fourths of the Ground that is used and possessed in the Island, more especially in the Out Ports ; where being removed from the Eye of the Government, they make Inclosures, and carve for themselves almost as they please.

Besides these Modes of possessing Land, there is another which is authorized by the Acts of Parliament relating to Newfoundland ; and the before mentioned Tenures by Grant and by Occupancy may possibly be often sanctioned by the Fishery Acts, as far as such Tenures can be brought within the limited Sort of Property conferred by those Acts. The Titles that may stand upon the Authority of Parliament, are such as are within the 3d, 4th, 5th, 6th, 7th, and 8th Sections of Stat. 15th Geo. III. c. 31, compared together. On considering these Regulations, the Meaning of which is not very obvious or plain, it should seem that the Parliament meant to establish Two Sorts of Titles : First, they intended to ratify the Titles to all Land which the Inhabitants had converted into private

Property before the Year 1685. Having made the Inhabitants easy in that Point, they required them to yield up all that had been appropriated between that Time and the Passing of Stat. 10th and 11th William III. and that none should be appropriated by them in future in Prejudice of Ships coming from Europe ; but that Ships coming from Europe, and equipped conformably with the Fishery Acts, should have a Place for curing their Fish for the Season ; but that at a subsequent Season the Spot so taken should be open for any other Ship to take, and might thus change its Master every Year. Hence arose what are called Ships Rooms, whether they are such as have long been so denominated, or whether they are any vacant or void Spaces, under Stat. 15th Geo. III. which may be taken by any such Ship, the same as reputed Ships Rooms.

These Two Parliamentary Titles, namely, that of Property before the Year 1685, and that of Ships Rooms, though they are in the Letter of them the

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most defined and sure, yet they are in their Consequences of Less Value to Individuals than of the former.

In the First Place, I do not believe that any Owner of Land can shew a Possession and Property in any Person under whom he Claims subsisting prior to the Year 1685. And although there must be many such, yet not being able to shew their original Title, they can Claim by nothing better than the Occupancy of themselves and their Predecessors, and must be reckoned therefore in that Class of Landholders.

With regard to Ships Rooms, it is easy to see, in the short Mention I have just made of them, that they are quite the Opposite to private Property, and therefore hardly come within the Description of Titles which we are now seeking—Ships Rooms and all vacant and void Spaces, which may be turned into Ships Rooms by those who chuse so to occupy them, are in common for the first Taker, who may possess One for the Season, at the End of which he must leave it, with all the Improvements he has made (which he is expressly prohibited by the Statute from removing) for some other Person to enjoy the next Season. The Consequence is, that this commonable Part of the Shore is of very little Value, and in some Places of none at all. In those Harbours where a clean Sea-beach is thrown up in great Quantities (as at Ferryland) and they are in the Practice of drying their Fish upon the Beach, a Ship's Room of that Kind is of Use ; but in Harbours where there is no Beach, as at St. John's, and Fish cannot be dried on a Ship's Room, without the Expence of building a Flake, there a Ship's Room is not worth taking ; and we see in consequence of it, some of the choicest Spots in the Harbour of St. John's lie vacant ; no one thinking it worth his while to lay out Money on Ground which belongs to the Public.

However, it must be confessed that since commonable Ground has sunk in Value, there has been less Conscience or Scruple in making Encroachments on it ; and it is owing to this that Ships Rooms have been gradually giving way to the Inclosures that are continually streightening them on all sides. Many were interested in conniving at this ; and most People, for the above Reasons, thought it more beneficial to the Public that it should be so appropriated. These Innovations were made long ago, and are now of so long standing that nobody thinks of contesting the Point, unless it is some litigious Man, who seeks only to vex his Neighbour, and then the Claim meets with no Encouragement from a Court.

However, this Change in the State of commonable Ground on the Shore caused Alarm in some Persons who were solicitous to preserve the old System ; finding so little remaining unoccupied of what used to be Ships Rooms, they thought the best Method of recovering the System, without disturbing private Rights, by exciting dormant and forgotten Claims, was to create a new Quantity of commonable Ground ; and it was accordingly declared by Stat. 15 Geo. III. that all vacant and void Spaces whatsoever should be considered as Ships Rooms.

From this Account of Ships Rooms, and the Change they have undergone, it is easy to see, that a great Part of the Ground, which might have been

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held for the Season under this Parliamentary Title, has passed into the Class of Land holden by Occupancy, and some of it, though less likely, into that of Land given by Grants from Governors.

Upon the Whole, the Title to an exclusive private Property in Ground must either be by Grant from some Governor or his Surrogate, by Possession before the Year 1685, or by Occupancy ; and as Titles of the Second Sort cannot, I believe, be made out, all Titles may be reduced to Grants and Occupancy, the Title to Ships Rooms being rather a Right of Common than a Title to Land.

Whatever may be the original Title to Land, and the Security in it as against the Crown, the Owners as against One another remain undisturbed, and they sell, lease, and mortgage the same as in any other Part of the King's Dominions. Some of these Places, where Storehouses and Dwellings are built, let for very high Rents. Many Persons have such Estates, that bring in from One hundred to Three or Four hundred Pounds per Annum. Some of these live in the Island, some reside in England, and have the Rents remitted to them. There are Instances, where Persons resident in the United States, and become Citizens there, have received Rents from Newfoundland. It is upon Consideration of all these Facts that I thought, and still think the Crown should receive some Acknowledgement, by Ways of Quit Rent, for Ground which

is so valuable to the Possessors.

* * * *

The Population of Newfoundland has certainly (by the best Accounts) increased considerably of late Years : I take the Beginning of this great Increase to have been at the Time the War with the Colonies broke out ; and it has increased, for similar Reasons, still more since the Peace. We find, all through the History of this Government ; that Newfoundland was resorted to by the New Englanders, as a Place for procuring Fishermen, Seamen, and Artificers ; that Bounties were given for that Purpose by their Government ; and that various Means were practised for seducing away our People to that Colony ; they have been carried to the Number of Three or Four hundred in a Season. This Drain was always a Subject of Jealousy to the Mother Country, and it always made a Part of the Consideration, when the Probability of Newfoundland becoming populous was debated. Since this Intercourse has been stopped, every Person who does not return to the Mother Country stays in the Island ; this of itself must add greatly to the Numbers of the lower Class of People. The Merchants are also increased, at St. John's at least, by Persons who come from the revolted Colonies ; but these are few in Number compared with those who have engaged in the Trade of late Years from other Parts of the British Dominions.

That Revolution has made an Alteration in the Value and Importance of Newfoundland, which seems to me never to have been sufficiently considered. It appears to me, that since the Peace 1783, Newfoundland has been more completely our own ; that it has been a more genuine British Fishery, and of more Value to the Mother Country, than it ever was before. It is become a Sort of Cul de Sac ; what does not stay there must come to Great Britain

and Ireland ; there is no longer the Competition and Interloping Trade of the New Englanders so much complained of heretofore by the Merchants. I cannot help thinking also, that since Newfoundland is so severed from New England, some of the Topics respecting the Population of the Island, and the Fears about Colonization, deserve less Regard. Notwithstanding the Increase of Inhabitants, Newfoundland is still nothing but a great Ship, dependent upon the Mother Country for every Thing they eat, drink, and wear, or for the Funds to procure them ; the Number of Inhabitants seems to me rather to increase this Dependence, inasmuch as their Necessities are thereby increased. They all look to the Sea alone for Support ; Nine tenths of the People procure from the Soil nothing but Potatoes ; and those who carry Cultivation furthest reap no Produce but what can be furnished by a Garden. In some few Places Hay is cut, but Corn is never thought of ; neither the Soil, or the Climate having encouraged the few Attempts that have been made to grow it. The Population, though said to be great, is scattered as thinly as the Products of the Earth. Distant Harbours and Coves, not easily accessible but by Sea, are the Places chosen for Residence, the People of which have little Knowledge, or Connection with one another, to unite them.

The Island is little-known and the Accounts given of the Population are not to be depended on ; it is stated from Twenty to Fifty thousand Persons, who have no other Home. Be it as large as the highest of these Statements, I do not myself think it an Object to be apprehended. If any think the Collection of People in the Island has Mischievous Tendency, I hope the above Considerations may contribute to ease them a little on this Head. At. any Rate, it is a Matter where we are to hope rather for Consolation than Cure ; for I do not see how such a Population is to be rooted out, or indeed thinned, so as to make any considerable Diminution. There have been Projects, on former Occasions, when the Island was thought to be overrun with Inhabitants, for sending People to Nova Scotia, and other Places, where Inhabitants were wanted, but I do not remember that these were ever carried into effect.

I cannot help saying, that the grand Means employed to prevent the Increase of Inhabitants has, in my Opinion, contributed to their Increase. It has all along been the Inclination to say, that there should be no Resident Government, because, if there was, Newfoundland would become a Colony. None have been more strenuous than the Western Merchants in keeping up the Cry against a Governor ; they have constantly alledged the above Reason, and that Reason has always passed for a good one.

I take the Liberty of doubting whether this Reason was a good one. I never can be brought to think, but that placing a Governor there, whose Business it should be to prevent People

settling, would have been a more probable Method of preventing it than continuing the present floating Government, which has no regular Authority to send Persons Home, and which departs from the Island just at the Time when the Seamen and Fishermen are hesitating whether they shall stay the Winter or not, and might be easily turned in their Resolution by the Apprehension of any Interposition

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from Authority. The Consequence has been, that Newfoundland has been peopled behind your Back ; you have abandoned it to be inhabited by any one who chooses, because you thought appointing a Governor would constitute a Colony and encourage Population. The Western Merchants, who found out the Reason that “a Governor would make a Colony,” knew perfectly well what they were about in urging it ; they knew that the Presence of a Governor would interfere with their Plan, which was to go on without Inspection or Controul ; they over reached those who heard them, and succeeded in the only Object they proposed to themselves : For in the mean time they, among the rest, proceeded to make all the Advantage they could, by adding to the Number of Residents every Year.

However it may have originated, the Population of the Island is such, as now to need the Controul and the Protection of Magistracy and Officers, like the rest of the King's Dominions. That Magistracy should be raised and strengthened, instead of being exposed to be disregarded and contemned, as has been attempted by some late Proceedings ; and in my Opinion, it will never be placed in a Situation to discharge its Functions properly, till there is something more of a resident Government.

The present floating Government seems to me so constituted, as to confer the least possible Advantage of a Government. The Governor's Appointment continues for Three Years, the Term of his Station ; the Captains of the Squadron, who are his Surrogates, are often changed during the Station. It happens, therefore, that the Governor has One Year to see and learn, another to execute his Authority with some Knowledge, and a Third Year with some little more.

If the Governor, who is changed every Three Years, has little Time to learn the Peculiarities of the Trade and Fishery, what is to be said of the Captains of Ships, who are often changed before the Station is out? And if you add to this that they all come to the Business of hearing Causes for the first Time in their Lives (unless by some Chance a Captain has been on the Station before) it seems altogether the most singularly contrived System, and most unsatisfactory to everybody concerned in it. It is therefore not to be wondered, that the Governors who succeeded Admiral Edwards, finding they could not determine Causes so easily as he says he did,

and less liking than himself to pay a Sum of Money to compromise any Action that might possibly be brought against them for what they did, ceased to hold Courts, and endeavoured to enforce an Observance of the Law, more by their advice than their Authority. I think their Country owes them great Obligations for undergoing the Trouble and Anxiety so long as they did ; and I think the same Thanks are due to the Surrogates, who have to the present Moment, continued to perform the same unpleasant Task in their several Stations. The stepping thus out of their professional Line, can never be submitted to from any other Consideration, than an implicit Obedience to all Commands imposed on them by their superior Officer. I was extremely glad, the last Season, to lend my Assistance in taking off some of this Load from the Surrogates. This I did in Part, during my Visit to Trinity Harbour and Harbour

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Grace ; and I after did the Whole of the Surrogate's Business at Ferryland, which, however, broke in too much on the Time I ought to have spent at St. John's.

It is to be wished, that the Captains of Ships should still continue to lend their Assistance as Surrogates in the Out Harbours. The Communication from Harbour to Harbour is only by Sea ; and the Force of a Ship of War, may sometimes be wanted to enforce Obedience to Justice. In the Out Ports, too, the Questions are of a more simple Nature, usually about Wages or Charges in an Account, either between Master and Servant, or Merchant and Boat-keeper, to which Gentlemen of the Navy may easily give their Attention ; but at St. John's there are many Questions which arise upon complicated mercantile Dealings, which have led to a Length of Enquiry that would not be very agreeable to the Governor, or any of his Surrogates. Indeed all this was experienced before the Governors gave up the vexatious Employment of hearing Causes, and it has very much increased of late Years, since the Town of St. John's has increased in Population, and there has grown to be so much Trade and Traffic, which give Rise to mercantile Questions of various Sorts.

In Truth, the Surrogates are not able to get through the Business they are employed upon, without the Assistance of the Justices who reside on the Spot. I am sure I should not have been able to proceed without the continued Assistance of Gentlemen acquainted with the Place ; during the first Year I was principally assisted by Mr. Graham, who had been Secretary to the Governors for several Years, and by Mr. Coke the Comptroller ; these Two Gentlemen were Assessors in the Court of Civil Jurisdiction. The last Year Mr. Graham was no longer in Office, and the Court had no Assessors, so that I had nothing to depend on, but the voluntary Assistance of Mr. Coke, which he gave me very readily. So long as the present Triennial Government continues, there must be some Person or

Persons kept in Office, who from long Habit and Experience may be able to keep alive the Knowledge that is necessary for, conducting Affairs with Propriety. There should be a permanent Governor a permanent Lieutenant Governor, or a permanent Chief Justice ; whether any such Person should reside there, or go and return as at present, is a Question of a different Sort.

* * * *

Mr. REEVES being asked, How many Days was he at Newfoudland? he said. in 1791 we arrived the 10th of September, and departed the 1st of November. In 1792 we arrived the 3rd of September, and departed the 30th of October.

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No. 774.**EXTRACTS FROM EVIDENCE OF AARON GRAHAM**

[1793.]

GIVEN BEFORE COMMITTEE APPOINTED TO ENQUIRE INTO THE STATE OF
THE TRADE TO NEWFOUNDLAND. 1793.

THIRD REPORT FROM THE COMMITTEE APPOINTED TO ENQUIRE INTO
THE STATE OF THE TRADE TO NEWFOUNDLAND. [ORDERED TO BE
PRINTED 17 JUNE 1793.] pp. 1-11, 83-84.

Have made a further Progress in the Matters to them
referred, and have examined several other Witnesses, the
Substance of whose Evidence is as follows :

AARON GRAHAM, Esquire, being examined, was asked,
Whether he had ever been in Newfoundland ? he said, Yes, he
was Thirteen Years Secretary to the Governors of the Island ;
he was there from the Year 1779 to the End of the Year 1791. .
. . And being asked, What were the Complaints which lie heard
of respecting the Mode of administering Justice ? he said, He
meant, to confine himself in that Observation, more
particularly to the Servants than to the Merchants ; until the
Year 1791, he does not recollect to have heard many
Complaints from the Merchants, but many on the Part of the
Fishermen, from the Difficulty which they always found in
getting their Complaints attended to at all ; he believes that all
the Merchants concerned in the Trade of Newfoundland will
allow, that from the Beginning of the Establishment of a
Fishery upon that Island, there have been Courts for the Trial
of Civil Actions ; at St. John's, it was held by the Governor ; at
the Out Ports, by the Captains of the Ships of War, who were
called the Governor's Surrogates ; neither the Governor's nor
the Surrogates Powers were doubted, until about the Year
1780, when Governor Edwards had an Action commenced
against him, which was tried at Exeter (for a Decision of his
made at Saint John's). That the Witness attended the Trial, and
the Matter by the Recommendation of the Judge was left to
Arbitration ; from that Time he frequently heard, both in
Newfoundland and in England, the Powers of the Governor
and his Surrogates spoken of as illegally assumed by them ;
Admiral Campbell, who was Admiral Edwards's Successor,
would not sit as a Judge ; but the Practice continued by the
Surrogates at the Out Ports, until the Year 1788 ; when Captain
Pellew, One of the Surrogates, had an Action commenced
against him by Mr. Hutchins of Dartmouth, for a Decision of

sent the Attorney's Letter to him (the Witness) desiring to know what was to be done in the Business ; the Governor (Admiral Elliot) was then in Scotland, and Admiral Milbanke, who was nominated as his Successor. (but not appointed) being in Town, the Witness took the Liberty of calling upon him, and requested of him, officially, to state the Matter to the Admiralty, and to request, at the same Time, for his own Sake, that the Solicitor of that Board might (the Governor) and the Captains of the Ships of War for the future ; the Case was referred to the Law Officers of the Crown, who gave it as their Opinion, that neither the Governor nor his Surrogates, were authorized to sit as Judges in such Cases as that which had been the Ground of Action against Captain Pellew ; the Witness should have said, that not only Admiral Campbell, but his Successor also (Admiral Elliot) refused to sit as a Judge for the Trial of Civil Actions ; the Consequence was, that the Causes which had been usually tried by the Governor at St. John's, such as Disputes with respect to Accounts Current, &c. were then carried to the Court of Session, and to the Court of Vice Admiralty, for the Merchants found it absolutely necessary that they should be carried somewhere, otherwise they could not proceed with their Business ; and it may not be amiss to remark that the Court of Vice Admiralty, even in the Time when the Governors sat as Judges, took Cognizance of such Cases. That although the Court of Session took up this Business for the Convenience of the Trade, yet the Justices knew they had as little or rather less Power to determine in such Cases than the Governor himself had, they therefore did it negligently, rather consulting the Inclination of the Parties, and proceeding as Arbitrators, not as Judges, in such Causes as they undertook to try ; the Consequences was, that the Boatkeepers and Fishermen found it very difficult to get attended to at all. The Governors would not tell them that they had not Authority to hear them, but desired them to go to the Magistrates ; the Magistrates, if it was not perfectly convenient to them, or if the Complaint was against a Person whom they thought could or would resist this assumed Authority of theirs, desired them to go to the Court of Vice Admiralty, and that Court did or did not attend to it, just as suited the Will of the Judge ; and the Witness has known Instances of Boat-keepers being banded backwards and forwards for a whole Season, and not able to get their Business settled at last.

That upon Admiral Milbanke sailing for Newfoundland, he was, on the Day of His Departure from Spithead, furnished by the Board of Admiralty with the Opinion before alluded to. The News of the Prosecution of Captain Pellew had reached the Island before the Admiral ; and none of the Surrogates had taken upon them to act as Judges upon their respective

Stations. The Court of Session also at St. John's had ceased to act at that Place ; and the Court of Vice Admiralty waited the Admiral's Arrival, to know whether it had a Right to proceed in the old Way ; the Admiral would not give them an Opinion upon the Subject, of Course there was a total Stop to the Trial of Civil Actions throughout the Island, which was a very great Prejudice to the Merchants, as the Want of a Court could not fail to injure them very materially. The Admiral having never been in the Island before, asked

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the Witness's Opinion and Advice, of what was best to be done, knowing there was a Clause in his Commission which authorized him to appoint Judges, and an Article in his Instructions which directed him to take Order in any Matter for the Safety of the Island, which the Witness thought was never in greater Danger than at that Time ; he advised him to avail himself of the Clause in his Commission which authorized him to appoint Judges, and an Article in his Instructions which directed him to take Order in any Matter for the Safety of the Island, which the Witness thought was never in greater Danger than at that Time ; he advised him to avail himself of the Clause in his Commission, and appoint a Court under the Denomination of a Court of Common Pleas ; he did so ; and, that as little Alteration as possible might be made from the old Mode of Proceeding, he appointed the Captains of the Ships of War to be Judges at the Out Ports on their respective Stations, so that they only changed the Name of Surrogate for that of Judge, and continued to do the Business exactly or nearly in the same Manner as they had before been used to do it ; the principal Alteration was in the Appointment of the Court at St. John's, where, instead of sitting as a Judge himself, he appointed Three Gentlemen to sit as Judges. The Mode of Proceeding in that Court was by a Jury, to which the Witness never heard any Complaint upon the Spot, beyond that of its being sometimes inconvenient for those who were summoned upon the Jury to give their Attendance ; and he believes, and is firmly persuaded, that the violent Memorials transmitted to the Lords of the Committee of Privy Council for Trade, by the Merchants of Dartmouth, Poole, and a Number of other trading Towns of this Kingdom, against that Court, would never have been thought of, if the Gentlemen who signed them had been upon the Spot to have seen the good Effects of the Court ; . . .

Then the Witness further informed your Committee, That Admiral Milbanke, on his Return to England in the Year 1789, reported to His Majesty's Ministers the Steps he had taken in erecting the Court of Common Pleas. That he sailed again the next Year, without receiving any Instructions respecting that Court ; it therefore continued to act for the Year 1790 in nearly the same Manner it had acted in the Year 1789. That there was One Alteration made, which was, that as the Court, in the First

Year of its Proceeding, had in all Cases summoned Juries, in the Second, finding it would be more convenient for the Gentlemen of the Trade to be allowed to make their Election of having their Causes tried with or without a Jury, the Judges consented thereto ; and Things went on in a very easy Manner, and much to the Satisfaction of every Body in the Island. Previous to the Admiral's sailing again in 1791, an Act of Parliament passed, for establishing a Court of Civil Jurisdiction in the Island, which was to be held at St. John's only. This very properly alarmed the Merchants, as the Difficulty of coming from the Out Ports to that Place, was in the First Place very great ; and before they could possibly obtain a Writ for attaching the Fish and Oil of a Boatkeeper, who might be considerably in their Debt for Supplies for carrying on the Fishery, the latter might, and he knows, in very many Instances did, take the Advantage, and dispose of their Property contrary to

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the usual Practice of the Fishery, and thereby defrauded their Suppliers (the Merchants) to the Amount of many Thousand Pounds. If there ever was a real Cause of Complaint on their (the Merchants) Parts, it was in that of confining the Court to St. John's alone ; and he hesitates not to say, if it had been continued, that it would have been impossible for them to have carried on their Trade in any other Part of the Island ; and this leads him to say, he is very sorry they were so hasty in making their Representations to the Board of Trade, in all of which they declared they wanted no Court ; therefore, the giving them only One, was coming as nearly to their Wishes as it was possible to do, without actually complying with them ; and to themselves alone, therefore, they are indebted for the Inconvenience and Losses they experienced from a Want of the usual Courts at the Out Ports.

Upon the Whole, the Witness thinks, an Establishment nearly similar to the old one, under the Governor and his Surrogates and which that made by Admiral Milbanke really was, is the best that could be adopted ; his principal Aim was, to legalize what had been so long done from Necessity ; he neither wished, nor did he make any considerable Alteration.

And being desired to explain more particularly the Sort of Court which he thinks should be established in Newfoundland ? he said, Every Body must allow, that there has grown out of the Fishery a very extensive Trade, which makes the Business of a Court at St. John's, particularly, much more intricate and troublesome than it was formerly ; he is therefore of Opinion, that the Governor should not sit as a Judge, but that a Court should be established there as the Supreme Court of the Island, in which should preside a Gentleman appointed from England. If all Trials are to be determined in it by Juries, there should be no Assessors ; but if the Trials are to be without Juries, he

thinks that the Governor should have an Authority to appoint two Assessors to assist the Judge. That the Governor should have Power also to appoint the Captains of the Ships of War Judges upon their respective Stations at the Out Ports, who should proceed in the Manner they had been used to do before, under the Denomination of Surrogates, which Experience shews to have been a very good System. From the Surrogates Courts there should be an Appeal to the Supreme Court at St. John's for Sums above £. 30, and from that Court to England for Sums of £. 100 And being asked, Of what Use does he think the Custom House at Newfoundland ? he said, Within these few Days he has heard that it was asked for by some of the Merchants, and by the Request being complied with by Government, he took it for granted they saw the Reasonableness of it.—And being asked, Whether he knew any other Reason for it ? he said, No ; for if there is any Part of His Majesty's Dominions where a Custom House is perfectly unnecessary, it is Newfoundland.—.....

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Mr. GRAHAM being again called in, he continued his last Examination, and said, Not to obstruct the Fishermen in taking away such Stuff as they wanted, under Pretence of the Land being inclosed, but to open their Fences,

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and to let those People pass and repass in whatever Direction they might think most convenient and proper for them to go. Admiral Elliot, ever attentive to the Interests of the Fishery, continued those Regulations ; and in consequence of Directions from the Government of this Country, made no other Grant during the Time he was Governor of Newfoundland, than such as was thought for the Encouragement of the Fishery, and which he was authorised to do by his Instructions.

The Form of which Grant the Witness delivered in to your Committee, and is hereunto annexed. Vide Appendix, No. 10.

And he further said, That Admiral Milbanke improved upon the Plan thus laid down by Admiral Campbell, and followed by Admiral Elliot, and extended it for the Prevention of an Increase of the Residents in the Manner he has already stated. In Addition to which, he begged leave to lay before the Committee a Copy of a Letter from the Governor to One of the Inhabitants, in order to shew the Manner in which his Proclamations were enforced ; also another Paper, which will serve to shew the very great Caution observed by the Governor in giving Permission for the Erection of Houses for the Use even of the Inhabitants, who were born and had always lived in the Island, which your Committee have hereunto annexed. Vide Appendix, No. 11 (a) and (b).—And being further

examined, he was asked, Have these Inclosures been made by Residents, or by Persons going to and from Europe Annually ? he said, The principal Part of them have been made in consequence of Grants to the Officers of the respective Military Corps doing Duty in the Island, who on their Departure, on being relieved, generally sold it. Admiral Campbell observing the Extent to which this Evil had increased, gave a small Spot of Ground, surveyed and particularly described by the Engineer, to each of the Corps doing Duty at St. John's, directing that the Description of it should be constantly hung up in the Barracks, and the Ground to be delivered over to the succeeding Corps upon every Relief of Troops taking Place ; and strictly forbad the Officers and Soldiers to sell the Whole or any Part of it as private Property, or to make any other Claim upon their Successors than a fair Demand for the Value of the Seeds in the Ground. Grants have also been made to Officers in the different Civil Departments and likewise sold by them as private Property ; but if the Regulations already made upon that Head are attended to by succeeding Governors, the Evil cannot possibly increase. The Proclamation issued by Admiral Milbanke, which the Witness has delivered in to the Committee, reduced the Winter Inhabitants of St. John's alone upwards of Eight hundred the First Year.

[8 Oct.,
1788.]*[Enclosure 1 (Appendix No. 10) in No. 774.]***No. 774.****ANQUETIL AND CO.'S GRANT.**

THIRD REPORT FROM THE COMMITTEE APPOINTED TO ENQUIRE INTO
THE STATE OF THE TRADE TO NEWFOUNDLAND. [ORDERED TO BE
PRINTED 17 JUNE 1793.] p. 206.

By His Excellency John Elliott, Esquire, Governor and
Commander in Chief in and over the Island of Newfoundland,
&c.

Mr. Thomas Anquetil, Master of the Fishing Ship Elizabeth, of Jersey, having presented a Petition in Behalf of himself and Co. to Captain Pellew, of His Majesty's Ship Winchelsea, my Surrogate for the District of Ferryland, setting forth that they have been at the Expence of clearing away an unoccupied Spot of Ground on the North Side of the Harbour of Aquafort, situated between Great Flat Rock, and Little Flat Rock, extending One hundred and Fifty Yards S.E. along Shore, from the S.E. Point of Little Flat Rock Cove, and Two hundred Yards back into the Woods ; having also produced a Certificate under the Hands of Messrs. Nicholas Audley, James Keates, and William Hunt, Three very ancient Inhabitants of the said District, testifying that the said Spot of Ground has never in their Remembrance been occupied for the Use of the Fishery ; upon which the said Thomas Anquetil and Co. therefore request I would allow them to erect Fishing Conveniences, and secure them in the quiet and peaceable Enjoyment of the same ; and Captain Pellew having certified to me "That the said Spot is vacant and unoccupied, and not considered as Ships Room," I do hereby grant Permission to the said Thomas Anquetil and Co. to take Possession of and build Fishing Conveniences upon the said vacant Spot in Aquafort Harbour, and strictly forbid their being interrupted in the quiet and peaceable Enjoyment thereof, so long as they shall continue to occupy the same, for the Purposes (only) of curing, salting, drying, and husbanding of Fish, agreeable to an Act of Parliament passed in the 10th and 11th Years of the Reign of King William the Third, intituled, "An Act to Encourage the Trade to Newfoundland ;" but if the said Thomas Anquetil and Co. should desert, and suffer the said Fishing Room to go to Decay, or neglect to make Fish thereon, for One entire Season, then and in that Case it may be

occupied by any other of His Majesty's Subjects first arriving from Great Britain, or One of the

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British Dominions in Europe, who shall take and keep Possession in like Manner, and for the like Purposes (and for no other whatsoever) of carrying on the Fishery agreeable to the afore-mentioned Act of Parliament.

Given under my Hand and Seal, at
St. John's, in the Island New-
foundland, this 8th of October,
1788.

J. ELLIOTT.

By Command of the Governor.

A. GRAHAM.

No. 776.

[Enclosure 2 (Appendix No. 11) in No. 774.]

**LETTER FROM GOVERNOR MILBANKE TO
GEORGE HUTCHINGS.**

DATED 15 OCTOBER, 1790.

THIRD REPORT FROM THE COMMITTEE APPOINTED TO ENQUIRE INTO
THE STATE OF THE TRADE TO NEWFOUNDLAND. [ORDERED TO BE
PRINTED 17 JUNE 1793.] p. 207.

SIR,

I Have considered your Request respecting the Alteration which you wish to make in your Storehouse, near the Water Side ; and as it appears that the Alteration will not be any Ways injurious to the Fishery, you have hereby Permission to make it. As to Alexander Long's House, which has been built contrary to His Majesty's express Commands, made known to the Inhabitants of this Place by my Proclamation of the 13th of last October, it must and shall come down. The Pretence now set up, of its being intended for a Craft House, serves rather to aggravate than extenuate the Offence ; for by the Confession of your Tenant to the Magistrate, who forbad him to go on with the Work after it was begun, as well as to me, when I viewed the House on Saturday last, no such Use was to be made of it, as he said it was intended only as a Covering to his Potatoe Cellar, though there is a compleat Chimney, if not Two in it, and Lodgings for at least Six or Eight Dieters. I shall embrace this Opportunity of warning you against making an improper Use of any other Part of (what you are pleased to call) your Ground ; for you may rest assured, that every House or other Building erected upon it hereafter, without the Permission (in Writing) of the Governor for the Time being (except such Buildings and Erections as shall be actually on Purpose for the curing, salting, drying, and husbanding of Fish, which the Fishermen from any Part of His Majesty's European Dominions, qualified agreeable to the Act of the 10th and 11th of William the Third, and the 15th of George the Third, have a Right to erect, without asking Permission) must unavoidably be taken down and removed, in Obedience to His Majesty's said Commands. And it may not be amiss, at the same Time, to inform you, I am also directed not to allow any Possession, as private Property, to be taken of, or any Right of Property whatever to be acknowledged in, any Land whatever, which is not actually employed in the Fishery, in Terms of the afore-

mentioned Acts,

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whether possessed by pretended Grants from former Governors, or from any other (no Matter what) unwarrantable Pretences; therefore it behoves you, with all possible Dispatch, to employ the Whole of the Ground which you now lay Claim to in the Fishery, lest others should profit by your Neglect, and make that Use which the Lslature of Great Britain intended should be made of all the Land in this Country, and wt which no One has a Right to claim it as his own.

The Sheriff will have Directions about the Removal of the House above mentioned, which you will no Doubt assist him in executing.

I am, &c.

To George Hutchings, Esq.

No. 777.

C

**EXTRACT OF A LETTER FROM DUKE OF
PORTLAND TO SIR JAMES WALLACE, GOVERNOR
OF NEWFOUNDLAND,**

[9 May.,
1795.]

DATED WHITEHALL, 9 MAY, 1795.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND, VOLUME 14, p. 211.

The bad consequences which you state to result from the People employed in the Fishery having contrived to remain in the Country instead of coming home as the Act directs, now become a considerable Grievance, and therefore it is the more necessary that you should take such measures as you shall judge most effectual for enforcing the Act in this Particular.

* * * *

No. 778.

[14 May,
1796.]**EXTRACT OF A LETTER FROM DUKE OF
PORTLAND TO SIR JAMES WALLACE, GOVERNOR
OF NEWFOUNDLAND.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND, VOLUME 14, p. 229.

Whitehall, 14th May, 1796.

SIR,

I take this opportunity previous to your returning to your station at Newfoundland, to signify to you His Majesty's Pleasure upon some points which require your immediate attention. The most important of these is what you mention in your last Report upon the state of your Government, namely that the same spirit amongst the Merchants still continues of evading the Act of Parliament by staying behind themselves, and encouraging the Men they employ to do the same, to the injury of His Majesty's Service, by preventing their becoming Seamen and returning to serve in the Navy. To prevent as much as possible the further progress of this growing Evil, I am to direct you to exert your utmost vigilance and authority in enforcing the Provisions of the Act of Parliament in this behalf, and to take such other means as you shall, upon the spot, judge to be most effectual for discouraging a practice so detrimental to the Navigation of this Country.

* * * *

I am, &c. &c.

PORTLAND.

Sir James Wallace.

No. 779.[16 Dec.,
1797.]**EXTRACT OF A DESPATCH FROM GOVERNOR
WALDEGRAVE TO RT. HON. HENRY DUNDAS.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND, VOLUME 14, p. 101.

Earl of Cardigan's,
Upper Grosvenor Street,
16th December, 1797.

SIR,

The enclosed is an extract from a book (I believe) of acknowledged authority, being written by Mr. Stokes, a Barrister, and late Chief Justice of Georgia. Although the arguments therein set forth may be admissible with respect to the Continent of North America, yet they can certainly have no weight with regard to the Island of Newfoundland, which in fact is a sort of amphibious government, totally unlike any other, consequently should be dependant only on the Mother Country.

* * * *

I have the honour to be,
Sir, &c. &c.,
WM. WALDEGRAVE.Right Hon.,
Henry Dundas,
&c. &c.[10 Jan.,
1798.]**No. 780.****10th Jan., 1798—CAPTAIN AMBROSE CROFTON'S
REPORT TO GOVERNOR WALDEGRAVE.**

Vide Vol. 3, p. 1189.

No. 781.**DUKE OF PORTLAND TO GOVERNOR
WALDEGRAVE.**[16 May,
1798.]

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND, VOLUME 14, p. 205.

SIR,

Notwithstanding the directions given to your Predecessor on the Station, to enforce the Laws respecting our Fisheries and to compel the persons concerned in them to return home at the time appointed, I am sorry to observe that the Policy of these Laws has been completely defeated, and that the population of Newfoundland has in consequence increased to a degree, which in your opinion renders some further Establishments necessary for the due administration of Justice, within the Island.

* * * *

Should the holders of the Land required for enlarging the Burial Place at Newfoundland persist in their unreasonable demands for the same, His Majesty's Servants will no doubt think themselves warranted in applying to the Legislature for the purpose of obliging them to sell the same at a reasonable price, when this circumstance is clearly understood by the individuals concerned, I doubt not but they will be disposed to accomodate the Public Service upon fair and reasonable Terms.

* * * *

In consequence of the serious evils you have stated to arise in His Majesty's Service in Newfoundland, from the circumstance of its being included in the Military Commission of the Commander in Chief of His Majesty's Forces in North America, particularly that it disables you from holding Courts Martial within your Government upon Military offences committed there, as the offenders must be sent to Nova Scotia to be tried and that the delay thereby occasioned, and frequently the absences of some of the few Officers on the settlements, which such Proceedings require, is often an evil equally possible to that of letting the offenders go unpunished ; His Majesty, in order to guard against circumstances so prejudicial to His Service has thought proper by a new Commission to Lieut. General Prescott to appoint him Commander in Chief of His Majesty's Forces within his North American Provinces, exclusive of Newfoundland, and His Majesty's Pleasure has at the same time been received for granting to you the necessary authority for holding General Courts Martial in Newfoundland.

I am, Sir,

Your most obedient humble servant,

(Signed) PORTLAND.

Vice Admiral Waldegrave.

No. 782.

[18 Nov.,
1808.]**EXTRACT OF A REPORT BY GOVERNOR
HOLLOWAY TO VISCOUNT CASTLEREAGH.**

C.O. 194. VOL. 47.

Isis at Spithead, 18th Novem^r 1808.

MY LORD,

I have the honor to acquaint your Lordship with my Return from Newfoundland in His Majesty's Ship Isis, which anchored here this Day after a passage of twenty two days from St. Johns Harbour. The heavy gales we have experienced since we sailed, have separated the whole of the Convoy, consisting of Twenty five sail of Vessels.

His Majesty's Ship Vestal also sailed from St. Johns on the same day, (the 27th Ultimo) having Nine more Merchant Vessels under her Protection, bound for the Coast of Portugal, Cadiz and the Mediterranean, which the Merchants have ventured to send, in hopes of meeting in some of those Ports, a favourable market for their Fish ; but this speculation (as I did myself the honor of writing your Lordship by His Majesty's Ship Medusa) continues to be greatly checked, for want of Official Information, to ascertain what Ports of Portugal and Spain are open.

* * * *

Having this Year had more Time to examine and reflect on the Observations made by my two Predecessors, together with the pointed Remarks made by the Lords of Privy Council on the Subject of the State of Newfoundland, which were communicated to me on my Appointment to that Government, I cannot but lament, that it was ever recommended to His Majesty's Ministers by my Predecessors, to grant Leases of Land on that Island ; it was striking at the Root of the Law, which had for so many Years regulated this Fishery as a Nursery for Seamen, and meant to discountenance Residency ; the great and improper increase of which, tends to Colonization : it likewise gives the Inhabitants a kind of Sanction to claim from Occupancy, Lands that are no longer used for the Fishery, for which Purpose alone they received their Grants from the different Governors agreeably to His Majesty's Instructions ; consequently can have no legal Right for to sell, mortgage, lease and transfer, as is now become a daily practice.

This Subject requires most serious Consideration and I shall be happy to meet their Lordships on it whenever it may suit their Conveniency. This Island is utterly incapable of raising sufficient Food for its own Consumption,

and the Inhabitants will most probably look where they ought not, for Supplies. I have read with great Attention the Remarks made on my Predecessor's Observations, by the Lords of Council for Trade and Foreign Plantations, and am fully convinced that they are perfectly correct in their opinion whenever the ancient System is departed from, and Colonization encouraged.

* * * *

I have the honour to be,

My Lord,

Your Lordships

Most Obedient

humble Servant,

J. HOLLOWAY.

L.S.

The Right Hon^{ble} Viscount Castlereagh,
One of His Majesty's Principal
Secretaries of State, &c^a, &c^a, &c^a.

[1809.]

No. 783.

C

**IMPERIAL ACT, 49 GEO. III., CHAP. 27.
30 MARCH, 1809.**

An Act for establishing courts of judicature in the Island of Newfoundland and the Islands adjacent ; and for re-annexing part of the Coast of Labrador and the Islands lying on the said coast to the Government of Newfoundland.

Vide Vol. I, page 190.

No. 784.**GOVERNOR DUCKWORTH TO EARL BATHURST**[2 Nov.,
1812.]

ON QUESTIONS OF COLONISATION, 2 November, 1812.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 24, page 168.

No. 6.

Antelope at Sea November 2nd 1812.

MY LORD,

In conformity with the directions contained in your Lordship's letter No 1 of the 13th of June, I have consulted with those on whose judgment, temper and information I could most rely, with a view to the formation of a Report upon the Laws by which Newfoundland is at present governed.

I am conscious of being little qualified for the discussion of a subject of this nature, yet it has occupied my most anxious attention, and I proceed to submit to Your Lordship my sentiments upon it in the fullest confidence that they will be received with candour and indulgence.

I beg leave however to remark that the result of the labour with which I have collected the opinions of experienced and sensible men upon this important subject has been to convince me that it is regarded differently by them all.

There is a general concurrence in one respect only ; that the Fisheries of Newfoundland are now decidedly sedentary, and that the War has been protracted so long as to make it very uncertain whether any change of system would be produced by the return of Peace.

The considerations upon which this opinion is founded are these.—that the resident population of the Island has now become so extensive that every attempt to lessen it, or even to check the rapidity of its increase must be completely vain ; that this population must be subsisted, and that it has no other resource than in the Fishery, and that therefore the quantity of Fish caught by the resident Inhabitants must be so great as to leave but little opening for adventurers who might fit out Ships from His Majesty's Dominions in Europe, if they should be disposed to make the trial.

The professed object has hitherto been to afford every encouragement to the Fishery Ships so fitted out and therefore to discourage the Sedentary Fishery.

As long as there existed a competition between the two interests such was undoubtedly the wisest policy to pursue, but it is no longer a question of

preference between two systems.—that which was justly the favourite is now no more, and it remains only to consider whether that which has survived be worth preserving and if so by what means it can be best improved.

I am anxious that my opinion should not be misunderstood, and therefore beg leave to repeat that any efforts of His Majesty's Government, or of the Legislature, to bring back the ancient system of Fishery would now be vain ; and would probably fail to produce any material effect even if they were seconded by the favourable circumstances which a return of Peace ould naturally create.

With these sentiments I am certainly desirous that a revision of the laws should take place, nor am I aware that any advantage is likely to arise from its being delayed.

The wisest object of such revision would seem to be to remove from the Sedentary Fishery all unnecessary impediments, and at the same time to refrain from opposing new difficulties against the partial re-establishment of the Fishing Ships which may yet be possible. Neither will it be less important to adhere to the principle which has been hitherto observed of preventing His Majesty's Subjects in Newfoundland from forming themselves into a Colony.

The Chief impediments at present existing in the way of the sedentary Fishery are the Provisions in the Laws by which all unoccupied places in Newfoundland are accounted Fishing Ships Rooms ; and the restrictions on cultivating the Lands. And these under the present circumstances are in my opinion, unnecessary—Because very few of the unoccupied places are suited to the purposes of the Fishing Ships, and the rest might therefore be given up to the Inhabitants. And because if the Prohibition against cultivating the Land be continued, the population will nevertheless continue to increase, but the difficulty of providing for its support will be the greater.

With respect to the vacant Shores of Newfoundland whether Ships Rooms or otherwise, I am very strongly inclined to wish that the Law should now be so framed as to permit the Governor to grant them to Individuals for the purposes of the Fishery to be held by such Individuals during His Majesty's pleasure, or as long as they complied with the terms upon which the Grants should be specifically given.

Every grant should be founded on a written application, describing the means of the Applicant for occupying usefully the space applied for, and engaging to keep so many Boats upon it, actually to be employed in catching fish, and the Governor should be instructed not to give Grants of Beaches naturally suited to the purposes of Fishing Ships, but on the contrary to preserve all such Beaches vacant for the use of those ships whenever they might arrive to claim them.

On the subject of Cultivation I beg leave to submit that the resident Population having grown to its present extent, and

there being no prospect of its diminishing, but rather a certainty of its rapid increase, it becomes a question of deep anxiety by what means this population is to be subsisted, and whether it would not be better to cultivate the soil in the hope of lessening

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the difficulty than to abstain from doing so in the fear of adding still more rapidly to the number of Inhabitants.

The Soil and Climate of Newfoundland are little favourable to the business of Agriculture, nor is there a probability that it would be pursued (or to a very trifling extent) except for the cultivation of Potatoes and some other Vegetables. There is not in my opinion any sufficient reason for adhering to the policy of preventing the cultivation of the Land when it is found necessary to relinquish that of discouraging the Sedentary Fishery, because the principal use that would be made of the privilege of Cultivation, if it were now granted, would be by the Fishermen, who would prepare the Ground in the Winter Months, and make it productive of Food for their Families support.

The Question of Colonization still remains.—Of the policy of preventing the measure there is but one opinion, but with respect to the means there are many. For my part I am not able to discover that there is at present any considerable tendency towards Colonization.

The Merchants of St. John's have formed themselves into a Society, and are making continual efforts for the acquisition of a power which ought not, in my opinion, to be vested in them. Yet the Town has become so extensive, and its Inhabitants so numerous, that it does indeed appear necessary that a Provision should be made for the better regulation by creating some local authority.

Such Authority might perhaps be given with the greater propriety to the Grand Jury, and any Regulations made by that Body approved by the Court of Sessions, and finally accepted by the Governor should be binding upon the District.

An arrangement being made upon this principle and the Magistracy being placed upon that respectable establishment which should render it above the control of any improper influence, would remove all idea of the formation of a Colony, and answer every good purpose of a local legislature, unaccompanied by any of its evil consequences.

I have the honour to be,

My Lord,

Your Lorship's most obedient humble
servant,

J. T. DUCKWORTH.

To the Earl Bathurst,

One of His Majesty's Principal Secretaries of State, &c., &c.,
&c.

No. 785.

GOVERNOR DUCKWORTH TO EARL BATHURST[3 Nov.,
1812.]

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 24, page 76.

No. 7.

Antelope at Sea November, 3rd, 1812.

MY LORD,

I am anxious to bring before Your Lordship a subject which has excited much unpleasant altercation at Newfoundland, and which cannot fail to be an embarrassing one to the Governor until his instructions upon it are revised.

It appears that instructions have from time to time been given to prevent the erection of any buildings, except such as shall be absolutely necessary for curing, drying, and husbanding of Fish, within two hundred yards distance from High Water Mark, and that with respect to St. John's (for reasons which have been submitted) those Instructions have not for a considerable time been enforced.

Yet no person has until this year openly and in defiance attempted to erect a building of any description (unless by the Water side for the purposes of the Fishery) without leave from the Governor in writing previously obtained.

The High Sheriff is directed to prevent any buildings from being erected except those which are authorized by Law, and the meaning attached to that expression is considered to be those which are evidently for the Fishery, or those which the Governor has sanctioned.

A Merchant has this year thought proper to dispense with the Governor's leave, and violently attempted to build a House which he avowed his intention (by a letter to the Sheriff) of letting on lease as a Dwelling House. The Sheriff considered this proceeding as illegal, and in opposition to the Governor's Proclamation (a copy of which in the Spirit of those issued by my Predecessors I have the honor of enclosing) and accordingly prevented it.

This attempt was not that of an individual, but was instigated and supported by the Merchants in general, who have created a fund, the real object of which is to oppose the measures of Government and to establish the right of Property upon a quiet possession of Twenty years.

I beg leave to transmit to Your Lordship a Copy of the correspondence which took place between the projector of the building (whose name is Crawford) and myself.

The argument urged on his side was that the ground was immediately adjoining one of the Ships Rooms which had been let on building leases in pursuance of the late Act of Parliament, and that being similarly circumstanced, his right of building was the same as that of Government.

It is necessary to acknowledge that the Act which I have alluded to in taking away the Public use of certain Ships Rooms has declared the space comprised between the most Eastern and the most Western of those so taken away to be no longer suitable to the purposes of the Fishery, because the whole of that space is occupied equally by the Town of St. John's, and it is in every circumstance the same.

There cannot therefore it is presumed be any sufficient cause for retaining the prohibition against building within two hundred yards of high water marks, so far as regards the space which I have described ; and Your Lordship will not perhaps see any objection to the Governor being authorized to grant permission for the building of Houses in that situation, taking care that the width of the Public Streets be preserved, and that no building be allowed which might be a nuisance to the Town.

Yet I should earnestly hope that no person whatever might be suffered to build on any other terms than those of having obtained the Governor's permission, unless it were for the direct and unequivocal purposes of the Fishery : for the waving of a negative in this instance on the part of Government, would be an acknowledgment of Property which is certainly unnecessary. Within the limit of two hundred yards from High Water Mark, in situations adapted for the Fishery, no building should be allowed except for its immediate purposes, but beyond that distance, and if the parties are in possession of the ground either by Grant or other title which Government would unwillingly question, there appears to be a doubt of the propriety, or of the legality of the Governor's interference, which it is particularly desirable to remove.

I have the honor to be, very respectfully,

My Lord,

Your Lordship's most obedient humble servt.

J. T. DUCKWORTH.

To The Earl Bathurst, &c., &c., &c.

No. 786.

[24 April,
1817.]**EXTRACT FROM A LETTER FROM BOARD OF
TRADE TO HENRY GOULBURN.**COL. COR., NEWFOUNDL^D. VOL. 37. R 26.Office of Committee of Privy
Council
for TradeWhitehall, 24 Ap^l 1817.

SIR,

* * * *

2^{dly}. The proposed disposal, by Emigration, of some of the Surplus population of Newfoundland.

Upon this The Lords of this Committee have only to observe, that if such of the Inhabitants of Newfoundland as may be disposed to emigrate, should come within the rules which are applied to Emigrants from the United Kingdom to His Majesty's Foreign Possessions, their Lordships see no reason why similar facilities should not be given to the former : altho' it may certainly be doubted whether considering the distress which is stated to prevail in Canada, the present is a favourable opportunity for suddenly and extensively adding to the Settlers of that province.

3^{dly}. As to the Cultivation of the Soil in Newfoundland.

It cannot be denied that an extension of Cultivation in Newfoundland will be a complete departure from the principles which have hitherto (at least till very recently) governed the administration of that Island. The whole System was founded upon the supposition that the Fishery was to be carried on from hence, and any permanent Settlement on the Island was discouraged as much as possible. But the great length of the late War, and the Encreasing prosperity of the Fisheries, gradually, and almost insensibly, overturned that System, and the resident population of the Island is become extremely numerous, amounting to not less perhaps than 40,000 or 50,000 persons.

To displace these persons would be impracticable, even if it were advisable, & if they were to depend for their Subsistence entirely upon Supplies from other Quarters, circumstances may easily be Conceived, in which the people might be exposed to imminent peril, a proof of which is to be found in the present distressed Condition of the Settlement. This view of the Case was

felt so strongly by His Majesty's Government, that the Governor was a few years since authorized to make small grants of Lands reserving a trifling quit rent, and my Lords see no reason why this plan should not be acted upon to a greater extent. It would undoubtedly add in no inconsiderable degree to the resources and Comforts of the Colony, and at the same time contribute to improve its revenue, particularly if the grants were Sufficiently extensive to admit of the Land being applied to the purpose of pasture, instead of being confined, as they now are, to small plots of ground for gardens ; and My Lords think that in making these grants the Governor should lay out of his consideration the particular occupation or calling of the Individual who may apply for a grant, the object of the change proposed, being to encrease the amount of Subsistence to be procured in the Colony, for the people at large, and not to promote the Interests of particular classes.

4. The adoption of a new System of Government.

This being a Matter of a political nature, can scarcely be considered as coming within this Department ; but My Lords are of Opinion, that whatever may be though adviseable to adopt upon this Subject, ought not to be deter-mined upon without the most mature Deliberation.

I am, Sir,
Your most obedient Humble Servant,

THOMAS LACK.

Henry Goulburn Esq.
&c. &c. &c.

No. 787.

C

EXTRACT FROM "HISTORY OF NEWFOUNDLAND,"

BY D. W. PROWSE, Q. C. [LONDON, 1895.] Pp. 406-407.

The Governor, Sir Francis Pickmore, had been ordered to remain through the winter in Newfoundland. Dr. Carson's pamphlet had shown up the absurdity of Governors coming out for two or three months in the year. Henceforth all their Excellencies were perennials, not fleeting annuals. Admiral Pickmore was a firm, courageous old man, but the toil, exposure, and anxiety of the last terrible winter told on his enfeebled constitution, and on the 24th of February he died.

No. 788.

**EXTRACT FROM "HISTORICAL GEOGRAPHY OF
THE BRITISH COLONIES."**

"NEWFOUNDLAND." BY J. D. RODGERS, VOL. V, pp. 155-157.

In October 1816 the Governor became "resident" Governor, and being "resident" his salary was raised ; and as a sign that he was now a land-mammal he was allowed a horse. In consequence of the change in his position he began to reside in the island both winter and summer, but postponed his first winter sojourn until 1817-18. In the winter of 1816-17 crime and incendiarism were rife. Captain Buchan, R.N., of H.M.S. Pike, who was present, alleviated some of the distress and controlled some of the disorder. The winter of 1817-18 was still colder than that of 1816-17, and was nick-named "the winter of the Rals" or rowdies. It began in November with the burning of three hundred houses in St. John's, probably by an incendiary, and by a frost which lasted until spring. Famine as well as frost and fire was abroad ; half the population lived on the other half, and in January, when every harbour was sealed by frost and men's hearts failed them for fear, a Boston ship came crunching through the ice laden with provisions as a present from our late foes. A kinder act was never done. The winter of the Rals was of political as well as sentimental significance, as it was the first winter in which the Governor resided in his government in order to cope with this sea of troubles. The saddest, darkest, and most dangerous winter, which Newfoundland ever experienced, was the first occasion on which the Governor was converted from a fleeting into a permanent institution, and the revolving light became a fixed light.

* * * *

Now that a Governor was permanently established in the island the last pretence for insinuating that it was not a colony was torn to shreds. Views might differ as to the date at which the birth act was complete ; some might say 1583, others 1610, or 1637, or 1675, or 1729, or 1792 ; others again regarded Governor Pickmore's presence during the winter of the Rals as the first conclusive proof that the colony was in being. If so, "The hour was darkest before the dawn, When the pain was sorest the babe was born," and the historian is tempted to turn once more from politics to personality and sentiment, for

Governor Pickmore was also the first Governor who died in the colony. The mid-winter of the Rals killed him. His residence meant death to him and life to the colony, and he died that it might live.

No. 789.

OBERSVATIONS OF SIR CHARLES HAMILTON[2 Feby.,
1824.]

ON PROPOSED ACT, 2 FEBRUARY, 1824.

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND, VOLUME 34, p. 27.

* * * *

My opinion that alterations were required on several points in the laws relating to Newfoundland has been at different times communicated to the Earl of Bathurst, but more particularly at the commencement of the year 1822, and I had been led to that conclusion by observing that, so far from the return of a state of Peace having realized the once general expectation of a return of the ancient system of the carrying on the fishery in qualified fishing Ships from England, the number of such ships had annually decreased from 48 which was the number in the year 1817 to 15 the number that arrived last year, whereas in the year 1792 there were no less than 276 fishing ships employed of which 187 were Bankers. The protracted warfare in which this Country was in the interim engaged, rendered this system greatly hazardous to the interest of those concerned, by the frequent losses they were liable to sustain from the Enemy while the already increased population of the Island was every year augmenting and gradually establishing a fishery in boats along shore, or at inconsiderable distance from the Island. This being also favoured by a Winter and Spring Seal Fishery which employed considerable numbers before the Season for Cod Fishery commenced. Thus the Ship fishery has diminished to little more than a name, the result of the two systems being last year the production of 750,000 qtls of fish from the boat or Island fishery, while that of the Ships made only 34,000 qqtls. It was evident therefore that Laws created as well for the encouragement of a Ship fishery from England as with a view to discountenance settlement and a resident fishery were become nearly a dead letter, and that some provisions on the other hand were wanting for the latter. The subject having been brought into the Bill now before Parliament for consolidating the Laws relating to Newfoundland this Article would appear to be no longer necessary. I have therefore only to remark on the several heads which it embraces, and on which enquiry is sought.

First : As to confirming the Titles of Persons to Ship Rooms and Buildings, that Bill proposes that the Governor

shall lease out all the Ship Rooms in order to do which it will become necessary to abate encroachments on them when the question of right from long possession will be legally determined.

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Secondly : The Jurisdiction of the Fishing Admirals is abolished by the establishment of regular Courts of Judicature, therefore obsolete.

Thirdly : Nearly all the rising population being brought up to the use of Boats it would become a measure next to impossibility to compel an Inhabitant to employ Green Men in compliance with the provisions of the 10th & 11th Wm. 3, and the rejection of that measure is an object of the new Bill.

Fourthly : With regard to the provisions of the 15 Geo. 3 respecting the retaining of 40/- to pay the fishermen passage home I conceive in the present increased state of the resident population, and the before mentioned change in the fishing system, it is impracticable to compel the return of the Fishermen annually, and this provision is omitted in the new Bill. Indeed the Native or resident population is considered in itself almost sufficient to answer the call for hands in the fishery. With regard to the mode of paying the fishermen, the Bill proposes that in lieu of only one half, three fourths (but I should recommend two thirds) of a Man's Wages should be allowed to be advanced, the remainder would be applicable either to finding him a passage out of the Country if he were desirous of it, or to his provision for the winter if he remained.

Fifthly : This restriction would appear to be obsolete on two principles, first as regards the privilege of His Majesty's Subjects to take possession of any vacant part of the Coast for the purposes of the fishery, and secondly as respects the small grants of land which the Governor has been authorised to make for the purposes of cultivation with both which it is at variance. And with regard to the Ship Rooms it has already been proposed to leave them out since the few Bankers that annually fit out for the fishery cure their voyage at this day (with one or two exceptions) upon their own Rooms, for no prudent man would spend his money in expensive buildings to which he had no exclusive claim beyond the current Season.

C. HAMILTON.

No. 790.

1824. IMPERIAL ACT, 5 GEO. IV., CAP. 51.

See Vol. I, page 300.

No. 791.

C

**EXTRACT FROM LETTER OF EARL OF BATHURST
TO THE ATTORNEY AND SOLICITOR-GENERAL**

[4 March,
1825.]

REQUESTING OPINION AS TO ACTS OF PARLIAMENT IN FORCE IN
NEWFOUNDLAND.

C.O. 43, VOL. 65, p. 235.

Downing Street,
4th March 1825.

The Att & Solr. Genl.

GENTLEMEN

* * * *

You are aware that the Island of Newfoundland was long regarded merely as a Fishing Station, and that in order to prevent Colonization there, various provisions were made by Parliament to insure the Return of the Fishermen to England at the close of the Fishing season. In consequence of this Policy, the Island was for a great number of years destitute of all these civil Institutions which have been generally established in the other Colonial possessions of the Crown. There has never been any internal Legislature, nor, until a comparative recent period, was there even a Court of Civil Justice. Indeed the peculiar system of Maritime Government, and Maritime Jurisdiction, which was so long maintained in Newfoundland, cannot be said to have been abolished before the Enactment of the Acts of the last Session of Parliament, 5 Geo. 4th C. 51, and 67.

* * * *

I have &c.
BATHURST.

No. 792.[14 April,
1831.]**DESPATCH FROM SIR THOMAS COCHRANE TO
SECRETARY OF STATE FOR THE COLONIES,**ON THE SUBJECT OF GRANTING REPRESENTATIVE GOVERNMENT TO
NEWFOUNDLAND, WITH ATTACHED CENSUS RETURN FOR 1827-28.

DUPLICATE DESPACHES, ST. JOHN'S, NEWFOUNDLAND, 1828-1832.

*Secret and Confidential.*St. John's, Newfoundland,
14th April, 1831.

MY LORD,

I have had the honour to receive your Lordship's dispatch of the 1st January transmitting a copy of a memorial addressed by a portion of the Inhabitants of this Island to His Majesty praying that a Local Legislature may be established in the Island and desiring that I will communicate to your Lordship my sentiments thereon.

The duty your Lordship has been pleased to lay upon me is a very important and to me painful one.

The length of period I have been honoured with the direction of this Colony and the unremitting pains I have taken to inform myself as to its situation in every part its condition and wants will most likely induce your Lordship to place a degree of importance on my opinions corresponding to it, and the sentiments I shall be compelled conscientiously to express will I much fear bring me into conflict with a people with whom since my first assumption of this Government, I have lived upon invariably amicable terms, but as my opinions on a question so momentous to them will be accompanied by the grounds on which they have been formed Your Lordship will be able to judge how far my conclusions are justly drawn.

There are already so many communications in the Colonial Office from me upon the internal state of this Island that a perusal of them would convey to your Lordship a tolerable idea of its present condition but to save your Lordship unnecessary references and to bring the whole subject into one general view I will first lay before your Lordship a short statement of the Island and its Inhabitants as at present existing.

It will be unnecessary for me to observe to your Lordship that this Colony has sprung up not by encouragement on the part of the Mother Country but in spite of opposing laws—that the fishermen have from time to time established themselves upon these Shores finding it more convenient

to do so than return annually to their native country till at last they have accumulated to the number by the Census taken in 1827 of about 60,000. The inhabited part of this Island extends from Cape John to St. Georges Bay being a distance of 620 miles The population of the town of St. John's is about 11,000 Inhabitants. That of Harbour Grace, 3,000, Carbonear 2,500. The numbers in the other and distant settlements varying from time to time and being much influenced by the state of the fishery on those shores, and in most cases each settlement is unconnected with any other as the accompanying table will more fully explain. The whole of the population is established on the Coast.

Until I made three or four miles of road in the neighbourhood, a Carriage could not go a mile from the town.

St. John's is inhabited first by a few Principals or Partners of Houses in England and Scotland and a much larger proportion of agents to other houses.

Secondly small shopkeepers, some of whom are natives, others transitory, and others who intend to make the Island their home ; and a few, but very few, Merchants, who have the same intention. The proportion annually observed between these different classes is influenced by the circumstances of Trade and other considerations. The interest of the first named class in the Island is confined to their stores—where they are not hired—and their goods their only inducement to remain, being confined to Trade.

The various outports are inhabited by fishermen and at the principal or most convenient of them reside Agents to Houses in Great Britain the numbers in general bearing a proportion to the importance of the place, and with the exception of Carbonear and Harbour Grace they do not exceed four but commonly two, and some one—these Agents are here for the express purpose of supplying the fishermen with provisions and clothing, Fishing Craft &c. and taking their Fish and Oil in lieu ; they have no other occupation and if the House fails, the parties immediately remove and have no other concern with the Island.

With reference to the property in soil possessed in the Island, it is of the most trifling description. St. John's is bounded for one diameter of a circle by the sea—and the whole of the ground in cultivation of the other does not (with the exception of some Grants which I have recently given) exceed Three thousand acres. In other parts cultivation is entirely limited to the small fields and Potatoe Gardens which each fisherman finds it necessary to bring to the aid of his fishery and without which he could not support his family.

Of roads of communication between one place and another there are none except the one from hence to Portugal Cove a distance of ten miles but only at present available to horses—the whole of the communication is kept up by water until the

approach of winter and its gales when one place is as much severed from another as if they were in different hemispheres—and one of the sources of anxiety to a Governor on the approach of winter and the apprehension of distress in any settlement in consequence of a bad fishery is how to regulate his conduct between sending supplies which may be uncalled

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for, and the risk of the people perishing for want before relief could be furnished in the Spring.

I will lastly add in completing the description of the Colony—that with the exception of this town and a very indifferent Magistracy in Harbour Grace I cannot find sufficient Individuals of Independence and Respectability in the other parts of the Island from whom to form a bench of Magistrates and to prevent the serious consequences that might result from the total absence of the Civil Power. I have had to select the most respectable from each Settlement as Conservators of the Peace, with Power simply to confine or take Bails until the Circuit Court arrives, and so seriously does this evil press upon the people almost to a denial of Law and Justice ; that a mode to remedy it, will form one of the principal suggestions I shall have the honour to submit to your Lordship when a new Judicatory act becomes the subject of discussion. I have now had the honour to lay before Your Lordship in as compressed a form as it will admit of, a faithful description of this Colony, and the elements out of which it is proposed a local Legislature shall be formed.

Since the subject of a local Government has been agitated here, I have in vain tried to ascertain the plans upon which its projectors propose it shall be conducted ; and I am inclined to believe that that which should have been their first subject of consideration has not as yet been adverted to at all. It is therefore impossible for me either to acquiesce in or object to the Basis upon which they are proceeding ; but assuming it is to be founded upon the Custom in other Colonies, I am quite ready to admit that the town of St. John's is in a condition to furnish a sufficient portion of well informed persons from whom to select Individuals to represent them in a House of Assembly, notwithstanding that the mass of wealth of the town has no interest beyond its boundary, and no connection with the soil ; and so fully was I inclined to admit the competency of the town to govern itself, that on my first arrival here, I approved of and encouraged the Idea of their availing themselves of the powers vested in His Majesty to give them a Charter of Corporation—to solicit from His Majesty such corporate rights, as would invest them with the regulation and improvement of their town, and my Despatch to Earl Bathurst of 27th May 1826, will inform your Lordship of the failure of that plan.

The small town of Harbour Grace and Carbonear in

conception Bay might find a sufficient number of intelligent persons to represent the Interests of their fellow townsmen, although not a sufficient number of such persons to admit of a fair variety of choice.

With these settlements I believe I must close my enumeration of places from whence Representatives could be obtained. Of the whole of the remaining inhabited parts I really do not know one where such persons could be found. The next in consequence is the Harbour of Trinity and its respectability is composed of one Partner and one Agent of Houses in the West of England, a Surgeon, and the Missionary. Other places are similarly provided for with the exception of the two latter Gentlemen, and the more distant parts have but one Supply Merchant.

I might expatiate to your Lordship upon the anomaly that would arise

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in sending the only two Individuals in the Community fit for it, to represent the whole neighbouring population, and they not settlers, but Agents of Houses in England, but I am saved the necessity of doing so by the conviction that not one of these Individuals would accept of such a Service. Nor would their employers permit them to do so. They have a great charge upon them. Magazines filled with stores for the use of their Dealers which must not only require their constant attendance, but the depredations their property would be liable to from a Winter's absence would alone deter them from such an undertaking, for your Lordship will have gathered from the description I have already given of this Island that those who resort to St. John's in the Autumn have no power of returning home until late in the ensuing Spring.

If these persons would be disinclined to a Winter's absence they would be still more averse to quitting their homes in Summer when the whole machinery of the fishery is in motion, and when one weeks neglect of their business would be of more consequence to them than an age of internal Legislation.

Then my Lord what is to be done for the great mass of population distributed about the Island ? How are they to be represented and who to attend to their interests ? Some have, I am told, ventured to suggest as a remedy for this defect, that all the Members for these places should be chosen from the People of St. John's. I merely state this to Your Lordship as a specimen of the crude Ideas on the Subject of Legislation of some of those most sanguine for the proposed measure.

The applicants for a local Legislature take as a ground on which to found heir claims to one, the example set them in the case of Nova Scotia at a period when neither her Population nor Commerce equalled that of Newfoundland ; but the situation of the two countries with reference to that period is altogether dissimilar. Newfoundland as I have already

observed, became settled because the fishermen found it more convenient to establish themselves on her shores for the purposes of fishing, but as to anything further, the whole Island with the exception of the spots they occupied, might have disappeared and not affect them. The cultivation in it and that of the most miserable description being confined to Potatoes not exceeding, as appears by a return made to the Colonial Office in 1825, about 8,000 acres, and the Commerce depending solely upon the success of the Fishery and the return of food for those engaged in it.

Nova Scotia on the other hand commenced as a Colony long before it came into our possession. It was peopled by a very different description of persons to those who resorted here ; and I find on reference to the Statistics of that Province that when the Acadians were expelled in 1755 they were possessed of upwards of 60,000 Head of horned Cattle, had 100,000 acres of land in Grain and 100,000 more in Grass, orchards, Gardens, &c. It must therefore be quite unnecessary for me to carry the contrast further, for the purpose of impressing Your Lordship with the conviction that there is no parallel between the situation of the two Countries from which the Crown can refer

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to the steps pursued with respect to the one as a Guide for its conduct towards the other.

I am given to understand that Commander Pearl of the Navy who has recently established here and is now in England has made representations to Your Lordship with respect to this Colony calculated to mislead your Lordship as to its situation, and which his short residence here, and that confined to the town of St. John's by no means justified him in doing. I am ignorant of the precise points on which that Gentleman conferred with your Lordship except in one case, when it appears by his own admission he stated to Your Lordship that no less than three thousand persons had applied for and were waiting for Grants of Land. I have little doubt Your Lordship has been led from such a statement to believe that probably a million, or not less than five hundred thousand acres are partitioned off. Your Lordship will be no less astonished than I was on hearing of this assertion, when I inform you that on the perusal of the above statement, having called on the Surveyor for a return of all the ground petitioned for and in the course of being granted ; I find it does not amount to fifteen thousand acres, a considerable portion of which has been long in cultivation and for which the parties only require a confirmatory title.

How Commander Pearl could lend himself to such misstatements I am at a loss to understand, and which is the more inexcusable on his part, as from being the brother in law to the Chief Surveyor, he had the power, had he wished to

avail himself of it, fully and accurately to inform himself on the subject.

With reference to the extent to which the wishes of the people generally are involved, in the request that has been preferred for a legislative Government, it is necessary I should make a few observations. I learn that your Lordship has been told by the parties who had the honour of a personal interview with you on the subject that the wish of the Island was unanimous on the occasion, and that certain queries I had sent to the Outports on the subject of the expiring Judicatory Act were answered by requests for a local Legislature. That the majority of the principal Inhabitants of St. John's have been within these two years brought round, by those who had influence over them, to think a local Legislature desirable ; I believe to be the case—but I am no less aware, that with reference to the signatures of the lower orders attached to the petition—all those means were resorted to, to induce them to place their names to it, which are practiced in England on similar occasions, and I conceive it receives its full share of importance if it is taken as the expression of the wish of those only who signed it.

The petition from Harbour Grace and Carbonear which I understand was either numerously signed, or stated to be the voice of the people, was the result, as I am informed, of the deliberations of twenty five Individuals—as to the petitions from a few other unimportant places I can say nothing—but perhaps the measure before referred to, and which the advocates for a local Government attempted to turn in their favour ; will afford a pretty good test of the feeling of the Inhabitants farther removed from the seat of

Government, for having on my inspection of the different localities of the Island received various complaints as to the effect of the Judicatory Act upon them—and being anxious to learn with precision the view they severally took of its advantages, or defects, to enable me to come to a more correct conclusion as to the remedy to be applied in passing a new one—I directed in the course of the Autumn, circular letters to be addressed to the principal people in each settlement, calling upon them for the information required. It so happened that about the same time the people here held the meeting which led to the Petition—a copy of which your Lordship has transmitted to me—and those most anxious in its fate gave out that the object of my Circulars was to defeat their plans, and urged the distant parts to reply in the manner before alluded to ; but notwithstanding such influence, out of Seventeen places to which these letters were addressed, only five alluded to a Legislature.

After a very long and dispassionate consideration of the question your Lordship has submitted to me Whether I look to the nature of the Society of which the Colony is composed—their several interests—their Intelligence and local wants—or turn to the topography of the Island, its Climate, Cultivation or internal Communication ; I confess he concluded I cannot discern any of those elements essential to the composition and conduct of a local Government—I readily admit that St. John's, although a very large portion of its principal Inhabitants are by no means permanently interested in its welfare, is capable of managing its own concerns ; and that a Corporation, if desired, might under proper restrictions be given them—anything beyond this I consider at present wholly impracticable ; nor can I understand under what Plea they can wish to control the general mass of the people dwelling in those distant parts, from whom for a large portion of the year they are excluded to a much greater degree than from Great Britain. I have no reason to believe that those people wish for that description of Government, nor do I consider they are in any manner capable of forming an opinion on the subject. If the happiness of the people of St. John's were alone involved in the decision His Majesty's Government may come to on the prayer of their petition, I might have been disposed to allow them to bear the responsibility and the risk of a measure of their own seeking, but it is impossible to deal with the great mass of the people in the same manner—they are in all respects, other than in their own calling, only Children of a larger growth, of whom, I consider His Majesty's Government to be the natural Guardian and Protector and in whose keeping must for many years be their interest and prosperity.

In coming to the conclusion I have done upon a measure of vast Importance to the Colony, and a wrong decision on which might involve it in years of misfortune, I can assure

your Lordship I have had no other object before me but the prosperity and happiness of a people in whose welfare I take a very lively interest. It is a source of great pain to me to feel that my opinions must conflict with the wishes of some very respectable persons—every inducement operates as far as I am personally concerned to lead me to accede to their views—and to oppose them, I am fully aware, puts to hazard my popularity

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and the good feeling that has subsisted between the Colonists and myself since my first arrival among them—but I should consider myself unworthy the Confidence His Majesty's Government may be disposed to place in me, did I permit any personal feeling to influence me, where the peace and happiness of so large a Population is at stake—and it is consolatory to me to know that as with my opinions you will receive the ground on which they are formed, your Lordship will not invest them with more importance than what they may really deserve.

As the most conscientious person is liable to be warped in the view he takes of any measure by his general feeling on similar subjects—and your Lordship may doubt how far such may influence my opinions on the present occasion ; it is but right to add, before closing the observations I have the honour to submit to your Lordship, that they are decidedly in favour of the establishment of a legislative Government in every Colony where existing Circumstances are not opposed to it—I have visited the greater part of His Majesty's foreign possessions, and however the detail of the Institutions in many of them, may be objectionable, I am persuaded the Mother Country, even if inclined to assume the Burthen, could never as efficiently administer to their wants and regulate their internal Economy as they can themselves and I should be one of the first to encourage similar Institutions here whenever the situation of the Country became such that any practical good result from them—I would apologise to your Lordship for trespassing so much on your attention did I not feel persuaded the importance of the subject, and my anxiety that every opinion expressed, shall have a corresponding reason to support it—will offer a sufficient excuse.

I have endeavoured to advert to those points on which it is probable Your Lordship may wish for Information—at the same time I am aware many may remain on which if circumstances had admitted of a personal interview your Lordship might have desired further explanations, and it would have afforded me much satisfaction could I in the present instance anticipate them.

I have the honour to be, My Lord,
Your Lordship's most obedient
humble servant,

No. 793.

[Enclosure in No. 792.]

POPULATION OF THE ISLAND OF NEWFOUNDLAND WITH THE DISTANCE FROM ST. JOHN'S IN MILES. COASTWAYS OF EACH SETTLEMENT AND TO WHICH, WITH THE EXCEPTION OF PORTUGAL COVE, THERE IS NO ROAD. TAKEN FROM THE RETURNS IN THE YEAR 1827-8.

—	No. of Inhabitants.	About miles distance from St. John's
<i>District of St. John's</i>		
St. John's & Quidi Vidi	11903	
Torbay & Flat Rock, North	741	} 15
Pouch Cove and Biskin Cove	237	
Portugal Cove & S. Shore	1188	} 10 to 18
Bell Isle & Lance Cove	553	
Petty Harbour, South	543	9
<i>District of Bay Bulls, South.</i>		
Bay of Bulls	443	20
Witless Bay	355	
Mobile	192	} 25 to 36
Toads Cove	62	
Baleen	39	
Burn Cove	39	
Caplin Cove	19	
<i>District of Ferryland, South.</i>		
Ferryland	520	
Renewse	450	
Fermeuse	392	
Caplin Bay	179	} 36 to 110
Cape Broyle	181	
Aquafort	94	
Brigus	160	
<i>District of Trepassey & St. Mary's,</i>		

South.

St. Mary's & Vicinity	610
Trepassey & Briskey Bay	237

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—	No. of Inhabitants.	About miles distance from St. John's
<i>Placentia, S.</i>		
Great Placentia & Vicinity	584	140 to 190
Little Placentia	869	
Paradise	191	
Presque, Olivers Cove, &c.	240	
Merasheen	184	
Isle Valen, Burgeo, &c.	247	
Western Cove & Barren Island	184	
Woody & Sound Islands	198	
North Harbour & White Isle	105	
<i>Burin S.</i>		
Burin	928	190 to 250
Mortier	639	
St. Lawrence	553	
<i>Fortune Bay S.</i>		
Fortune	191	250 to 320
Grand Bank	261	
Grand Beach & Garnish	111	
Pt. Emagee to Harbour Millie	152	
Bottom of Fortune Bay	70	
Hare Harbour	575	
St. Jeques and Little Bay		
Jersey Harbour & Harbour Bretton	268	
Sagona, Hermitage Cove	951	
Great Jervis to Red Isle		
Burgeo Island to Cape Ray	227	
<i>Conception Bay, North.</i>		
Harbour Grace	3004	27 From Harbour Grace
Mosquito to Croker Cove	1083	

Holyrood to Bull Cove	1876	15
Carbonear	2527	5
Brigus	1216	10
Cupids	644	11
Port de Grave	2004	10
Bay Roberts & Spaniards Bay	1289	8
Bread & Cheese Cove to Malleys	1240	
Broad Cove to Bradleys Cove	789	30
Western Bay	675	
Ochre Pit Cove to Bay Verde	1512	

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—	No. of Inhabitants.	About miles distance from St. John's
<i>Trinity Bay North.</i>		
Trinity	928	60 to 100
Catalina to Ship Cove	904	
Cuckolds Cover [sic] to Tickle Harbour	919	
New Harbour to Heart's Desire	432	
Heart's Content	314	
New Perlican	186	
Turks Cove to Seal Cove	553	
Old Perlican	548	
Daniels Cove and Grates Cove	369	
<i>Bonavista Bay, North.</i>		
Bonavista	1470	80 to 120
King's Cove	308	
Broad Cove & Keels	401	
Tickle Cove	171	
Red Cliff Island	53	
Open Hall	97	
Barrow Harbour & Broom Close	53	
Salvage & Gooseberry Island	231	
Vene Island	73	
Greens Pond	1617	
Pilchards Island	120	
Cape Freels & Cobblers Island	77	
<i>Twillingate & Fogo, North.</i>		
Fogo Islands	1122	160
Change Islands	166	
Herring Neck	293	
Twillingate Islands	977	
Tizzards Harbour	102	
Mortons Harbour	221	

Exploits Burnt Island	240	) 200 to 240
Fortune Harbour	124	
Round Harbours Shoe Cove	142	
Salmon Catchers (scattered)	50	
Nippers Harbour	110	
	<hr/>	
Total of Inhabitants	60,000	
Deduct Children	23,725	
	<hr/>	
Total Adults, Male & Female	36,275	

No. 794.[27 July,
1832.]**DESPATCH, LORD GODERICH TO SIR THOMAS
COCHRANE,**

TRANSMITTING TO HIM HIS COMMISSION AND INSTRUCTIONS AS
GOVERNOR AND COMMANDER-IN-CHIEF IN AND OVER THE ISLAND
OF NEWFOUNDLAND AND THE TERRITORIES DEPENDING THEREON. ¹

Downing-street, 27 July 1832.

SIR,

I have the honour herewith to transmit to you His Majesty's Commission under the Great Seal, appointing you Governor of the Island of Newfoundland together with your General Instructions under the Royal Sign Manual, referred to in that Commission.

As this is the first occasion on which provision has been made for convening a Legislative Assembly for the island of Newfoundland, the importance of that measure requires that I should not limit myself to the merely formal duty of placing you in possession of these instruments, but that I should shortly explain the grounds and the nature of the policy by which His Majesty's Councils on this subject have been directed.

It were superfluous at the present day to inquire into the wisdom of that system which was pursued for so many years towards the ancient colony under your government, the fundamental principle of which was to prevent the colonization of the island, and to render this kingdom the domicile of all persons engaged in the Newfoundland fisheries. The common interest or convenience of those persons virtually defeated the restrictions of the various statutes respecting them, long before Parliament admitted the necessity of repealing those laws. A colony gradually settled itself along the shores of the island, and has of late years assumed a rank of no inconsiderable importance amongst the foreign possessions of the British Crown ; but notwithstanding the growing population and the wealth of Newfoundland, no plan has hitherto been adopted for regulating such of the internal affairs of the colonists as demanded the enactment of laws specially adapted to their peculiar situation. Parliament, indeed, contemplated the erection of corporate towns, with the power of making bye-laws, for remedying this inconvenience ; but on attempting to carry this design into effect, unforeseen obstacles were encountered. It was found altogether impracticable to reconcile the contradictory wishes and recommendations of the parties

who would have been more immediately affected by the measure ; and it became evident that the

¹ Reprinted from Com. Pap. No. 704, printed 7th August, 1832.

boon which it was proposed to confer would be received by a great body of the inhabitants, not as an act of grace, but as an infringement of their rights, into whatever form the intended charters might have been thrown. The consequence was, that His Majesty became practically unable to execute the trust which Parliament had confided to him.

The necessity of some provision for regulating the internal concerns of Newfoundland by enactments adapted to the peculiarities of their local position became however daily more and more evident. Carrying with them from this kingdom the law of England, as the only code by which the rights and duties of the people in their relations to each other, and in their relation to the State, could be ascertained, it was obvious, as soon as the colony began to assume a settled form, that the adaptation of that code to the various exigencies of the local society was a task demanding the exercise of much reflection and caution ; that many of its provisions were entirely inapplicable to the wants of a population so peculiarly situated ; and that many more could be applied only by a distant and uncertain approach to the original standard. Hence it occurred that, in the administration of the law, the judges virtually assumed to themselves functions rather legislative than judicial ; and undertook to determine not so much what the law actually was, as what, in the condition of Newfoundland, it ought to be. For this assumption of power no censure attaches to those learned persons ; without any positive rule of decision, nothing remained for them but to engage in such an inquiry ; yet the practical inconvenience was not the less urgent, nor the anomaly the less glaring.

It was not, however, merely in the absence of rules, which this latitude of judicial interpretation might supply, that the public detriment was sustained. There were still wanting other regulations, which no judge could either invent or enforce. Especially in whatever related to police and internal improvements demanding the co-operation of different persons, nothing could be carried into effect, which any individual found an adequate reason for opposing, or which he opposed from mere caprice. I find that in a matter so trifling in appearance, and yet affecting the comforts of so many, as the prevention of domestic animals wandering at large through the country, an earnest application was made to His Majesty's Government to obtain an Act of Parliament for the redress of the grievance endured by the colonists. Although it was thought improper to encumber the British statute-book with such provisions, yet it was fully admitted that they could be supplied by no other authority ; and the application itself

forcibly illustrated the inconvenience of so remote a society being destitute of any local Legislature.

It may seem, however, superfluous to accumulate reasons in proof of the propriety of establishing in Newfoundland that form of constitution which generally prevails throughout the British Transatlantic colonies ; the difficulty would consist rather in finding valid arguments for withholding it. The reasonable presumption seems to be, that a system of colonial government which has been attended with so many advantages in British North America, would produce similar benefits at Newfoundland, if transferred to that settle-

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ment. I do not indeed mean to deny that some considerable inconvenience has occasionally resulted from the adoption, in those dependencies of Great Britain, of constitutions modelled into a miniature resemblance of our own ; but I know not what is the system of which the same might not be truly asserted. It is sufficient to say of the scheme of internal polity in force in Nova Scotia and New Brunswick, that in all the colonies to which it has been extended, it has invariably secured the attachment of the people, by giving them a large share in the management of their own affairs ; by affording an open field for the free exercise of talents and public spirit ; by providing honourable ambition with a legitimate object and reward ; by insuring immediate and careful attention to the various exigencies of society and by promoting a frugal and judicious administration of public affairs. With the single exception of those colonies in which the people are separated from each other by distinctions analogous to those of caste, representative Assemblies are not only recommended by abstract considerations drawn from the genius and principles of our own Government, but by a long course of experiments pursued under a great variety of circumstances, but still leading to the same general result.

In advising His Majesty to convene an Assembly from among the inhabitants of Newfoundland, I have therefore not yielded myself to the guidance of any improved theory, but have simply extended to another of the colonial possessions of the Crown principles which have been elsewhere brought to the test of repeated and successful experiment. Yet I do not conceal from myself, nor wish to deny, that the duty which you will have to perform will be attended with some difficulty, and that you will have large scope for the exercise of circumspection and industry. In the first execution of such a design, many questions will probably arise which it were impossible to anticipate distinctly. From the novelty of the duties cast upon them, and from their inexperience in civil business of that nature, I can foresee that the returning officers, the voters, and the members of Assembly, may all in some instances misapprehend the functions which they will have to

discharge, or the proper mode of proceeding for the methodical and accurate discharge of them. Cautiously abstaining from the appearance of usurping any undue authority over matters properly falling within the cognizance of the Assembly, you will yet be prompt to afford to all parties whatever counsel or assistance you can render them, to obviate difficulties of this nature. It cannot be made too apparent that the boon which has been granted is seconded by the cordial good will and co-operation of the Executive Government, and that the House of Assembly is regarded, not as a rival power, but as a body destined to co-operate with yourself in advancing the prosperity of the settlement.

For your own guidance it may be right to observe, that colonial assemblies, as they derive their general form from the model of the British House of Commons, so they have drawn their rules and system of procedure from the same source. The distinctions are of course both numerous and important, and grow out of the dissimilarity of the circumstances of the representative bodies of a small colony and of an extensive kingdom ; but in general the analogy

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is maintained, and therefore the laws and rules of Parliament, as modified by the exigencies of the case, may be taken as the safest guide for the conduct of the Council and Assembly, and for your own proceedings towards them.

As soon as conveniently may be after your arrival in Newfoundland, you will convene the Council, according to your general instructions, and arrange with them the whole course of proceedings to be adopted for giving effect to so much of those instructions as relate to the convoking the Assembly. Especially you will consider the proper forms of the writs to be addressed to the returning officers, the proper places for holding elections, the most convenient times at which they can take place, the necessary arrangements for the reception and accommodation of the legislative body at the town of St. John's, the most convenient method of opening the first session of the General Assembly with appropriate and decorous solemnities ; and, above all, the topics to which their attention should in the first instance be directed.

In conformity with the precedents in use on similar occasions, a proclamation has been approved declaratory of the future system of government to be observed in the colony. This proclamation you will cause to be circulated in the most public manner as soon as conveniently may be after our arrival.

It has for the present divided the country into electoral districts, and has determined the number of members who are to be returned for each. These, however, are topics on which it is very probable that the information I have been able to acquire in this kingdom may be erroneous or defective. Any other division of the country which may be more generally

convenient, and any other arrangement of the number of representatives for different districts, which the Council and Assembly may deem more advantageous, will be the fit subject of legislative enactment. No change in the constitution of the House, or in the total number of members, can however be effected, except with His Majesty's previous approbation, and in the manner indicated in your general instructions.

In accordance with the uniform course of precedents, your Commission constitutes a Council which will participate with the Assembly in the enactment of laws. It is not, however, to be denied that this part of the established system of colonial legislation has been practically found to be attended with some serious difficulties. The members of Council, deriving their authority from the Royal Commission, have not seldom been regarded with jealousy and distrust by the great body of the people. Their elevation in rank and authority has but too often failed to induce a corresponding degree of public respect. Even the most judicious exercise of their powers has occasionally worn the semblance of harshness when opposed to the unanimous, or the predominant opinions of those to whom the colonists looked with confidence as their representatives. The Councils, it must be confessed, have not uniformly exerted themselves to repel, or to abate, this prejudice. The acrimony engendered by such disputes has sometimes given occasion to an eager assertion of extreme rights on the part of the Council, and to a no less determined denial of their necessary and constitutional privileges on the part of the Assembly. The

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Councils have also been employed as instruments for relieving Governors from the responsibility they ought to have borne for their rejection of measures which have been proposed by the other branch of the Legislature ; and have not seldom involved them in dissensions which it would have been more judicious to decline. Some of the principal inhabitants of the colony, as well as the chief officers of the local Government, being usually members of the Council, are removed from the prospect of obtaining seats in the House of Assembly. Even in colonies in which there is a larger society, and a greater number of proper persons to become members of the Legislature than in Newfoundland, considerable inconvenience has been found to result from raising to the rank of councillors the leading members of the Assembly, and thereby losing their services in that body. The want of any member competent to explain or vindicate the course pursued, by the executive authorities has been still more severely felt : measures have not unfrequently been misunderstood, and it has happened that a trifling misconception, which a few words of timely explanation would have removed, has grown into a serious and embarrassing controversy. The effect of the institution, therefore, is too often to induce a collision between the

different branches of the Legislature, to exempt the Governor from a due sense of responsibility, and to deprive the representative body of some of its most useful members. Yet the compensation which might atone for these evils is not obtained, and the Council does not assume in the colony a position, or an influence analagous to that of the House of Peers, because entirely destitute of that hold on public opinion which the property and independence of its members, as well as the antiquity of the institution itself, confers upon the peerage of this country.

Adverting to these considerations, and to the legislative history of the British North American and West Indian colonies ; I should regard with satisfaction any arrangement which should consolidate the Council and the Assembly into a single House, in which the representatives of the people would be met by the official servants of the Crown. An example of this form of government exists in British Guiana, and is found to possess in practice many of the advantages which it promises in theory, by casting upon the Governor an undivided responsibility as often as he adopts or rejects the proposals of the legislative body, and by securing to them all the information and assistance which can be rendered by members officially conversant with the various subjects brought under their consideration. This, however, is a system which prevailed in Guiana before the conquest of that settlement by Great Britain, and which, I apprehend, His Majesty could not establish by the exercise of his prerogative in Newfoundland. If, however, the Council and Assembly as established by your Commission and instructions should concur in the view which I have taken of this subject, and should be disposed to pass a Bill for uniting the two Houses, with a clause suspending the operation of the law, for the signification of His Majesty's pleasure, you will, on His Majesty's behalf, assent to any such Bill. Should the design be entertained, I think that the Colonial Secretary, the Attorney-general and the chief officer of customs would be the most proper persons to hold seats in the Assembly,

by virtue of their official situations : they would be enabled to explain the views of the Executive Government upon the principal points which could be brought under the consideration of the Legislature ; and the introduction of so small a number as three gentlemen nominated by the Crown could not be supposed in any degree to control its deliberations. Upon this point it is only necessary to add, that the bill should be so framed, as, in depriving the Council of its legislative functions, to allow of its continuance as a body to which the Governor might resort for advice during the intervals between the session of the Legislature, and upon other occasions when it might be convenient to him to do so ; for this purpose, however, a numerous body is not required, and I have therefore at present only recommended to His Majesty one gentleman, not holding any official situation, for a seat in the Council. The gentleman whom I have selected is Colonel Haly, who has been strongly recommended by yourself, and to whom a dormant commission will be granted, authorizing him to assume the government of the colony in the event of your absence, in order that the regular discharge of the duties of the subordinate officers may not be interrupted by their being called upon to assume the temporary administration of the government.

In contemplation of the change which has been effected in the internal government of the colony, it was resolved to apply to Parliament to continue in force the Acts by which the celebration of marriages, the administration of justice, and the conduct of the fisheries are regulated. Bills are now pending for that purpose, and will, I trust, be shortly passed into law. The Marriage and the Administration of Justice Acts, being matters exclusively of local concern, will remain in force until the local Legislature shall see fit to repeal or to alter them. If the Council and Assembly should think that any change is requisite on either of these topics, the remedy will therefore be in their own hands. The Newfoundland Fisheries Act affects interests partly local, and partly co-extensive with the trade and navigation of the empire at large. It will therefore be continued in force for two years. Before the expiration of that time it will be fit that the local Legislature should be invited to consider the subject in all its bearings. So much of that statute as relates to the navigation and commerce of this kingdom may then be revised by Parliament, with the benefit of the assistance to be anticipated from the labours of the Council and Assembly ; so much, on the other hand, of the statute as refers to interests properly local may then also be remitted to the local Legislature for their decision.

By one of the two bills to which I have referred, provision is made for transferring to the Governor, Council and Assembly of Newfoundland the appropriation to the public service of the island of all money levied there under any

Parliamentary authority. From his existing revenues His Majesty has reserved nothing for his own unqualified disposal, but has placed the whole under the control of the local Legislature, with the exception of a sum which must be applied for the support of the Governor, the Judges, the Colonial Secretary and the Attorney-General. This arrangement will, I trust, effectually obviate the difficulties which have been so sensibly felt in other

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colonies, and satisfy the inhabitants of His Majesty's fixed purpose and earnest solicitude to promote to the utmost of his power a wise economy in the expenditure of the public revenue, and to respect the constitutional rights of the popular branch of the local Legislature.

You will observe that the expense of collecting this branch of the revenue is to be deducted from its gross proceeds, and that these arrangements do not embrace any part of that revenue which accrues to the Crown in virtue of His Majesty's prerogatives. Such, for example, are the rents or the proceeds of the sales of Crown lands, escheats, fines and forfeitures. His Majesty is, however, graciously pleased to authorize you to assure the Council and Assembly that whatever money may accrue to the Crown in the island will always be applied towards the expense of the civil or military government, or towards objects strictly and exclusively local.

I hope shortly to convey to you the authority of the Lords Commissioners of the Treasury for the apportionment of that part of the Parliamentary duties which will be applicable to the support of the public officers already enumerated.

I have, &c.

(signed) GODERICH.

Governor Sir Thomas Cochrane,
&c. &c. &c.

No. 795.

C

1832. IMPERIAL ACT, 2-3 WM. IV., CAP. 78.

See Vol. I, page 321.

No. 796.

C

1842. IMPERIAL ACT, 5-6 VICT., CAP. 120.

See Vol. I, page 323.

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DOCUMENTS ADDED BY NEWFOUNDLAND.

No. 797.

SKEFFINGTON'S SALMON FISHERY.

C.O. 194, VOL. 6, f. 332.

To George King of Great Britain in Counsel.

The Humble Petition of George Skeffington Inhabitant of Indian Bay in Newfoundland, Humbly Sheweth

*sic.

That your Petitioner hath for about Twelve Years past Improved the Salmon Fishery in two or three Rivers or Brooks to the Northward of Cape Bonavista ; and hath at very great Expence and Labour near fferty miles up the Country cleared Lands of the wood, and the said Rivers or Brooks of rocks and stones and other obstructions ; built houses, Stages, ffatts, Works and other Conveniences for catching and Curing Salmon, which said Brooks or Rivers were never before Employed frequented or occupied by any person whatsoever, and far distant from any place where any ffishing Ship hath used to fish.—

[23 Feb.,
1719/20.]

Your Petitioner therefore most humbly prays, that he may be encouraged and protected in carrying on the said Fishery according to the Intention of the Act made in the 10 & 11th of King William the Third for Incouring* the Fishery of Newfoundland, That he may use occupy and enjoy all such houses, Stages and other works made by him for taking and Curing of Salmon without molestation or hindrance from any persons who may by fraud or force disturb him in the quiet possession thereof ; and that he may hold and possess all those Conveniences he may hereafter make or build for taking and Curing Salmon in such Brooks or Rivers as have never before been used by any other person in such manner as to your Majesty in your great Wisdom shall seem meet.

And your Petitioner shall pray, &c.

GEO. SKEFFINGTON.

D.S.

At the Court at S^t James's 23^d : February 1719/20.

Endorsed.

His Majesty having been moved upon this Petition is graciously pleased to refer the same to the Right Hon^{ble} the Lords Commissioners for Trade and Plantations to consider thereof, and report their Opinion what his Majesty may fitly do therein, whereupon his Majesty will declare his further Pleasure.

J. CRAGGS.

D.S.

p. 1962

NEWFOUNDLAND.

Reference from Mr. Secretary Craggs of the 23^d Feb^{ry} 1719–20 upⁿ y^e Petition of Mr. Geo. Skeffington to his Majesty praying to be protected in y^e Improvement he has made (with great Expence) in the Salmon Fishery at Newfoundland.

Rec^d from M^r Joshua Gee.

[2 March,
1719/20.]

Rec^d Feb^{ry} 24th
Read Do. 25th } 1719/20.

M. 97.

Ref. to Board of Trade.

C.O. 194, VOL. 6, f. 334.

To the Right Honorable the Lords
Commissioners for Trade and
Plantations.

MY LORDS,

In Obedience to your Lordships Commands, I have perus'd and consider'd the Annex'd Petition of George Skeffington, and humbly certify to your Lordships, that I am of Opinion that the prayer of it is not Inconsistent with the Act made in the Tenth and Eleventh year of King William, for encouraging the trade to Newfoundland.

I am, My Lords,

Your Lordships

Most Obedient and

Most humble servant,

RICHD. WEST.

L.S.

March 2^d. 7 ¹⁰/₃₀.

Copy of Petition of Geo. Skeffington. (Copied on f. 332.)

Endorsed.

NEWFOUNDLAND.

Mr. West's Report upon Mr. Geo. Skeffington's Petition relating to a Salmon Fishery at Newfoundland.

Dated March 2^d 1719.

Rec^d March 2^d Read D^o 10th 1719/20.
M. 98.

Report on Mr. George Skeffington's Petition. Dat 2^d Mar 7, ¹⁹/₃₀

R.W.

p. 1963

N

[8 April, 1720.]

Newfoundland.

1720.

April the th

L^r to M^r Secy
Craggs upon the
Petition of

M^r George Skeffing-
ton, relating to a
Salmon Fishery at
Newfoundland.

No. 798.

[*Enclosure in No. 796.*]

C.O. 195, VOL. 7, p. 36.

To the R^t Hon^{ble} Mr. Secy Craggs.

SIR,

In Obedience to His Maj^{ty}'s Comands signify'd to Us by your Reference of 23^d Febr^y. last, We have consider'd the Petition of George Skeffington, an Inhabitant of Newfoundland setting forth, that he has for about 12 Years past apply'd himself to, and improv'd the Salmon Fishery in two or three Rivers or Brooks to the Northward of Cape Bonavista in that Island, and has at very great Expen^{ce} and Labour clear'd the Lands of the Wood about forty Miles up some of those Rivers, and the Rivers, & Brooks, Rocks, Stones and other Obstructions to that Fishery. That he has built Houses, Stages, Fats and other Conveniencies for taking and curing of Salmon, that the Places where he has begun this Work were never before employ'd or occupied by any Person whatsoever ; And therefore he humbly prays that his Maj^{ty} would be graciously pleas'd to permit him to enjoy the Houses, Stages and other Works made by him, for this Fishery without Molestation or Hindrance from any other Persons, who may attempt to disturb him therein, And that he may possess such Conveniences as he shall make hereafter in such Brooks or Rivers as have never before been used by any other Person.

We have upon this Occasion discours'd with the Petitioner and others who have appear'd in his behalf, and take Leave to observe y^t the Places where he has begun this Fishery are between Bonavista and Cape John in the North East Part of Newfoundland, which Places have never been frequented by any Fishing Ships from this Kingdom. And as the Petitioner is the first who has attempted to sett up a Salmon Fishery there, and as y^e Prayer of his Petition is no ways inconsistent with the Act for encouraging the Trade to Newfoundland, We humbly offer that His Majesty be graciously pleas'd to grant the Petitioner for the Term of 21 Years or such other time as His Majesty shall think fit the Sole Fishery for Salmon in the

Places call'd Fresh Water Bay, Ragged Harbour, Gander Bay & Dog Creek between Cape Bonavista & Cape John, where he has already built Houses and other Conveniences for that Purpose, And that he have Liberty to cut Boards and Timber for his own Use in the Parts adjacent to those Rivers Brooks or Creeks for the said Fishery only, provided it be at Six Miles distant from the Sea Shoar.

We are Sir

Your most Obedient & most humble

Servants

*sic.

WESTMORLAND
C. COOKE
P. DOCMINIQUE
J. MOLESWORTH
T. PELHAM
M. BLADEN.

Copy.

Whitehall,
April 8th, 1723.*

[Sept., 1768.]

No. 799.**SURROGATE'S COMMISSION AND INSTRUCTIONS
BY GOVERNOR PALLISER.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. VOLUME 4, p. 114.
(Seal)

By His Excellency Hugh Palliser,
&c. &c.

By Virtue of the power and authority to me given by His Majesty's Letters made Patent, bearing date at Westminster, the Ninth day of April, in the eighth year of the Reign of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France and Ireland, King Defender of the Faith, &c. I hereby constitute and appoint you to be my Deputy or Surrogate with full Power and Authority to assemble Courts within the District to enquire into all such complaints as may be brought before you (except such as are excepted in the Instructions annexed) and to hear and determine the same to all intents and purposes, as I myself might or would do, By Virtue of the owner and authority vested in me. You have likewise power and authority to seize and detain in order to proceed to Condemnation, all uncustomed, prohibited or Run goods, that may be found within the aforesaid Limits or Posts adjacent, And I do give and grant unto you full power and authority to administer the several Oaths, to any Person or Persons you shall think fit agreeable to the several Acts of Parliament made in that behalf, And I do strictly enjoin all Admirals of Harbours, all Justices of the Peace, all Officers, Civil and Military, and all other His Majesty's Leige Subjects, to be aiding and assisting unto you the said and to obey and put into execution all such Lawfull Orders as you shall give unto them, as I myself might or would do by Virtue of the Power and Authority vested in me.

Given under my hand and Seal, this
day of Sept. 1768.

By order of His Excellency,
JNO. HORSNAILL.

You are hereby strictly enjoined not to do anything by Virtue of the within Commission, contrary or repugnant to the Act for encouraging the Fishery and Trade of Newfoundland, passed in the 10th & 11th years of William 3rd nor obstruct the powers thereby given and granted to the Admirals of Harbours, but you are to the utmost of your power, to support, assist, and encourage the Fishing Admirals in their respective Harbours, for carrying into execution the several good Rules and Orders ordained by the said Act, and in all cases of appeal from the determinations of such Admirals to you, as the Commander of one of ye King's Ships, you are to determine such cases according to the Rules and Orders ordained by the said Act, observing that all Ships are to be deem'd British Fishing Ships, and intitled to the privileges of being Admirals of Harbours, that arrive directly from Britain with Fishing Certificates and men actually employ'd in ye Fishery and that occupieth a publick Ships Room, and not one that is held & possess'd as private property.

In such cases as may be brought before you, and that are not provided for in the said Act, you are to take to your assistance the Justices of the Peace where there are any, and determine them according to the establish'd regulations, customs and usages of the Fishery, and as shall to you appear equitable and just but in all cases of dispute relating to any exclusive right to, or property in any Fishing Works, Rooms or Lands, or concerning Rents, Leases, Mortgages or Sales of such Fishing Works or places are to be referr'd to me, and all disputes concerning Merchants accounts and transactions in Trade, are to be left to be try'd by the proper Courts at St. John's or in England.

The Inhabitant Boatkeepers Servants Wages, are always to be paid according to their Shipping Papers, and in preference to Debts and all other claims, and in case of any doubt of the Masters being able to draw good Bills for payment thereof, the Produce of the voyage must make good the Servants Wages in preference to all Debts or Demands whatever, and according to ancient Custom, the Servants of Inhabitant Boatkeepers are justified in detaining on the Room the whole Produce of the Voyage, till the ballance of their Wages shall be secured to them.

In case any Person within your District should be charged with Murder, or any other Capital offence, you are on proper application being made to you, to apprehend such offenders, and send them to St. John's, or bring them with you when you join me, in order to their being tryed at the General Assizes.

You are to transmit to me a copy of all the causes that may be brought before you, with your Decrees thereon.

You are by every means in your power to encourage and oblige the Fishermen to return home, observing that all Masters are to send their men home at the expiration of their respective times of service, for no men must be discarded in this desolate country, and none to stay but such as are

covenanted for the Winter ; no Debts contracted by serving Men are to be paid except to their Masters, and that by Law is not to exceed one moiety of their Wages.

With the assistance of the Admirals, the Justices and the Naval officers, you are to fill up the Fishing Schemes herewith deliver'd you as exact as possible.

In case the Justices and principal people at any Port within your District, present to you any Persons that are useless People to the Fishery, who entertain Rogues and Thieves, and live mostly by spoil and Plunder, and by entertaining the Fishermen and Seamen in Debaucheries, Idleness and Wickedness to the great detriment of the Fishery, you are to seize on so much of the Effects of such People to pay for them and their Families passage home, and ship them off for their respective homes accordingly, with a Vagrant's Warrant signed by you, certifying that their passages are Paid.

Delivered to Capt. Richd. Braithwaite of His Maj's. Ship Liverpool, within the District from Cape Ray to Cape Race inclusive 6th Sept., 1768.

Delivered to Jno. Cartwright Esq., within the District of Trinity and Conception Bays 16th Sept., 1768.

No. 800.

**LIMITED COMMISSION OF THE PEACE, BY
GOVERNOR SHULDHAM.**[26 June,
1772.]

RECORD BOOK, ST. JOHN'S, Nfld. VOL. 5, p. 79.

By His EXCELLENCY MOLINEUX SHULDHAM, Esq., Governor
&c.

By virtue of the power and authority to me given by His Majesty's Letters made Patent, bearing date at Westminster the Sixteenth day of March, in the Twelfth year of the reign of Our Sovereign Lord George the Third, of Great Britain, France and Ireland, King Defender of the Faith &c. to constitute and appoint Justices of the Peace with other Officers and Ministers for the better administration of Justice and keeping the peace in the Island of Newfoundland in America. I do constitute and appoint you Edward White, Edward Langman, Charles Garland (4th August) Rob Grey, Nicholas Gill and 28 September James Brooks... ..Esquires His Majesty's Justices to keep the Peace in the District of Saint John's, Newfoundland, and to keep and cause to be kept all ordinances and statutes, made for the good of the Peace and for the conservation of the same ; and for the quiet rule and Government of the people in all and every the articles thereof in the said District (as well within liberties as without) according to the Force Form and effect of the same ; and to chastise and punish all persons offending against the Form of those ordinances and statutes, as shall be fit to be done, and to cause to come before you all those persons, who shall threaten any of the people in their persons, or in the burning of their houses, to find sufficient security for their Peace or for their good behavior towards His Majesty and the people, and if they shall refuse to find such security then to cause them to be kept safe in prison until they find such security. I have also appointed you or either of you the said Edward White, Edward Langman, Charles Garland, Robt. Grey, Nicholas Gill and James Brooks... ..Esquires His Majesty's Justices to enquire by the oath of good and lawful men of the District aforesaid, by whom the truth may be better known, of all and all manner of felonies, trespasses, forestallings, regratings, engrossings, and extortions whatsoever, and of all and singular other misdeeds and offences, of which Justices of the Peace may and ought lawfully to enquire by whomsoever or howsoever done and perpetrated, which hereafter shall happen howsoever to be done or attempted in the District aforesaid,

who have either gone or riddn or shall hereafter presume to go or ride in companies with armed force against the Peace and to the disturbance of the people, and also those who have lain in wait or shall hereafter presume to lay in wait to maim and kill His Majesty's people or the native savages of the said Island of Newfoundland. And also of all Inholders and of all and singular other persons who have offended or attempted or

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shall hereafter presume to offend and attempt in the abuse of Weights and Measures, or in the sale of Victuals against the form of the ordinances and statutes, or any of them in that behalf made for the common good of England and the people thereof in the District aforesaid ; also of all Sheriffs, Bailiffs, Stewards, Constables, Gaolers, and other Officers whatsoever, who in the execution of their Offices about the premisses, or any of them have unlawfully demeaned themselves or hereafter shall presume unlawfully to demean themselves, or have been, or hereafter shall be careless, remiss or negligent in the District aforesaid, and of all and singular articles and circumstances and all other things whatsoever by whomsoever or howsoever done or perpetrated in the District, aforesaid or which hereafter shall happen howsoever to be attempted or done, in any wise more fully concerning the truth of the premisses or any of them and to inspect all indictments whatsoever so before you, or either of you taken or made, or taken before others late Justices of the Peace in the District aforesaid and not yet determined, and to make and constitute the process thereupon against all and singular persons so indicted or which hereafter shall happen to be indicted before you, until they be apprehended, or render themselves or be outlaws ; and to hear and determine all and singular the felonies, trespassings, forestallings, regratings, engrossings, extortions, unlawful assembles indictment aforesaid, and all and singular other premisses according to the laws and statutes of England, as in the like cases hath been used or ought to be done, and to chastise and punish the said persons offending and every of them for their offences by fines, ransoms, amercements, forfeitures or otherwise, as ought and hath been used to be done according to the laws and custom of England or the ordinances and statutes aforesaid. Provided always that if a cause of difficulty upon the determination of any of the premisses shall happen to arise before you, or either of you, or any Capital offences be brought before you, such as robberies, murders, and felonies, then you nor either of you do proceed to give judgment therein, but take care all persons guilty of such Offences be sent to the County Prison at St. John's, in order to take their Trials at the Asizes yearly to be held there. And therefore you and every of you are hereby required, that you diligently Intend keeping the Peace, Ordinances and Statutes

and all and singular other the Premises, and at certain days and places, which you or either of you as is aforesaid shall in that behalf appoint that you hold a Quarter Sessions of the Peace and that you hear and determine all and singular the premisses, and perform and fulfill the same in Form aforesaid, doing therein that which to Justice appertaineth, according to the Laws and Customs of England, saving to His Majesty the ameracements and all other things to him thereof belonging, and by Virtue of these Presents at certain days and places, which you or either of you, as aforesaid, shall make known to them, you are required to cause to come before you, or either of you, as aforesaid such and as many good and lawful men of the District by whom the Truth of the Premises may be better known and Enquired of. And FURTHERMORE you are hereby required and directed, to appoint at certain Times and Places as aforesaid of such of the Inhabitants

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and Planters, residing and abiding in the Winter in the District aforesaid a Proper number of Constables and other Ministers of Justice, as is necessary towards preserving the Peace and Quiet of His Majesty's Subjects.

Provided always that you nor any such Person or Persons or other Officer or Minister so by you appointed, do presume or be suffered to act in such Offices untill he or they have taken the Oaths mentioned in the Act passed in the First Year of the Reign of King George the First Intituled an Act for the further security of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for extinguishing the Hopes of the Pretended Prince of Wales and His open and secret Abettors, and also to make and subscribe the Declaration mentioned in an Act of Parliament made in the Twenty fifth Year of the Reign of King Charles the second Intituled an Act for preventing Dangers which may happen from Popish Recusants ; and also have taken such proper Oath or Oaths as are usually taken in the Kingdom of Great Britain by Persons Executing such Offices and Trusts ; which Oaths and Declaration you are jointly hereby Authorized and Impowered to Administer and give to all and every Person and Persons that ought to take the same, according to the Laws and Customs of the Kingdom of Great Britain. And that you nor either of you do any thing by Virtue of these Presents contrary or Repugnant to the Act for Encouraging the Trade to Newfoundland, passed in the Tenth and Eleventh Years of the Reign of King William the Third, nor in any manner abstract the Power thereby Granted and Given to the Admirals of the Harbours or Captains of the ships of War, or any other matter or thing either prescribed by the said Act or by such Instructions as you shall receive from me : But that you or either of you and your Inferior Officers and Ministers, whom you shall appoint amongst the Planters or Inhabitants residing and abiding in the District aforesaid, be strictly required and

enjoined in all Cases and Times wheresoever necessary, to be aiding and assisting to the utmost of their Power to the Commodore or Commander of His Majesty's Ships of War, and to the several Admirals in the respective Harbours, in putting in Execution the several good Rules and Orders prescribed by the said Act for Encouraging the Trade to Newfoundland. And I do strictly require all and singular the Planters and Inhabitants, of the District aforesaid, to be observant, aiding and assisting unto you and every one of you, and the Officers so by you appointed, in preserving the Peace and Executing the Power and Authority herein contained, as they will answer the contrary. Finally I have appointed you Edward White Esquire Keeper of the Rolls of the Peace, in the said District, and therefore you shall cause to be brought before yourself and your said Fellows, at the said Days and Places, the Writs, Precepts, Processes and Indictments aforesaid that the same may be Inspected and by a due course determined as aforesaid. In Witness whereof I have hereunto affixed my Hand & Seal, at Saint John's this 26th day of June 1772.

M. SHULDHAM.

By His Excellency's Command,
EDWD. BRAGG.

No. 801.

[1793.]

**FURTHER EXTRACTS FROM EVIDENCE BEFORE
COMMITTEE APPOINTED TO ENQUIRE INTO THE
STATE OF TRADE TO NEWFOUNDLAND (1793).**

Mr. Thomas Street being then examined, said, He is a Merchant, resident at Poole, trading to Newfoundland, and has been so many Years.—And being asked, Whether he thinks the Establishment of a Custom House at Newfoundland an Injury to the Trade and Fishery of that Island ? he said, So far from its being an Injury, he thinks it has been of great Advantage to the fair and lawful Trader.

* * * *

Richard Routh, Esquire, Collector of the Island of Newfoundland, being called in, said, During the Time of his late confinement by Illness, he had made some Observations on the state of the Trade and Fishery of Newfoundland, which he begged to deliver in to your Committee, and the same are as follow :

* * * *

The Evidence, Mr. Ougier, has thought proper to inform the Honourable Committee, that the Trade was in a flourishing State till the passing the Act of the 15th of the King. I will venture to say, that whatever Utility and Importance the Act of the 10th and 11th of King William the Third may have been in the Infancy of the Fishery, when there were only in each Harbour in Newfoundland a very few Adventurers or Families, perhaps Two or Three at the End of the Fishery residing there, it cannot be deemed sufficient, or in any Way competent to the Regulation of the Trade and Fishery at this Time, or for the internal Regulation of an Island, when there are now hundreds of Inhabitants in every Situation, and some thousands in many ; I submit therefore, if an illiterate Man, without Knowledge or Information, for such the Fishing Admirals must and ever have been, is competent to hold Courts and decide between meum and tuum. Many of that Class can scarce read or write, and some I have seen that could only make their Marks. Another Remark I have to make ; that admit they were equal to all these Points, they are at Sea, on the Banks of Newfoundland, Seven-eighths of their Time, and cannot attend to the Duties of such their Situation ; add to it, they depend too much upon their

Employer to be able to decide so disinterestedly as would be necessary ; and for these Reasons, I conceive, the Act has been rendered useless and obsolete for many Years.

Privy Council Documents

Volume IV Contents

No. 802.

[19 March, 1813.]

19th March, 1813— **INSTRUCTIONS TO GOVERNOR KEATS.**

—
Vide Vol. II, p. 677.

[7 April, 1813.]

No. 803.

EXTRACTS FROM DESPACHES FROM EARL BATHURST, SECRETARY OF STATE, TO GOVERNOR KEATS, ETC. (Re GRANTING OF LANDS).

Downing Street,
7th April, 1813.

.....
.....
.....

ON THE SUBJECT OF Provisions for the Inhabitants, I am to acquaint you that such measures will, from time to time be taken by His Majesty's Government to prevent a scarcity, as may be deemed advisable under the existing circumstances of the War with the United States. I cannot however avoid drawing your attention to the propriety which has arisen out of that War of authorising the Cultivation of those Lands of the Colony which may be applicable to that purpose. You will therefore consider yourself authorised to grant Leases of small Portions of Land to industrious individuals for the purpose of cultivation upon the same terms as such Grants of Land have hitherto been made, taking care however to reserve an annual Quit Rent either nominal or real, according to the circumstances of each Individual Case.

I have the honor to be,
Sir,

Your most obedient humble servant,
(Signed) BATHURST.

To Sir R. G. Keats, K.B., etc., etc.
October 1812 to October 1813.
Pages 171 and 172.

No. 804.**PROCLAMATION OF GOVERNOR KEATS AS TO
GRANT OF LANDS.**[17 June,
1813.]

By His Excellency Sir Richard
Goodwin Keats, Knight of the
Bath, Vice-Admiral of the Blue,
Governor and Commander-in-
Chief in and over the Island of
Newfoundland, &c., &c.

A PROCLAMATION.

WHEREAS I am authorised to grant Lands in small portions to Industrious Individuals for the purpose of Cultivation. And it being expedient to carry this measure into effect with as little delay as circumstances will permit, and to portion the Disposable Lands in the vicinity of the Town of St. John's in the first place, and being desirous of obviating impediment to the immediate appropriation of such Lands in this Neighbourhood ; I do therefore call upon all persons claiming or possessing Lands (or their Agents) which are situated without the Town of Saint John's, and

To the Northward of the Road from Quidi Vidi to Fort Townshend passing over the King's Bridge.

To the Northward and Westward of the Road which leaves Best's Farm on the left, from Fort Townshend to Monday's Pond.

To the Northward, Westward, or Southward within four miles of the Riverhead; also

On the South Side of the Harbour and Riverhead more than Two Hundred yards from the water side

to make returns of such property or possession to the Office of the Secretary to the Governor, Philip Cateret Le Geyt, Esquire, on or before the first day of August next ensuing, specifying particulars agreeable to a form which may be had at the Secretary's Office. And it is desirable where it can be effected, that a plan or sketch, descriptive of the property, should accompany the return.

Given under my Hand at Fort Townshed,
Sain John's, this 17th day of June, 1813.
(Signed) R. G. KEATS.

By Command of His Excellency,
P. C. Le Geyt.
October 1812 to October 1813.
Pages 282 and 283.

No. 805.

DAVID TASKER TO THOMAS COOTE.

[30 July,
1813.]

COLONIAL RECORDS, 1813.

St. John's,
30th July, 1813.

SIR,

The Grand Jury has taken into consideration His Excellency the Governors letter of the 28th instant addressed to you relating to giving grants of land in small portions to industrious individuals for the purpose of cultivation, and requiring their suggestions as to regulations to be adopted with respect to making and preserving of Roads and Bridges Rules respecting Fencing and to what degree it might be advisable and advantageous to impose conditions calculated to enforce an easy but gradual cultivation of the Lands so granted.

The Grand Jury are of opinion that the main or principal roads should at least be left eighty feet wide this will enable individuals to lay wood on the sides if found necessary, without inconvenience to the public, and that the cross roads should be left thirty feet wide.

As to means of raising funds for making and preserving Roads and Bridges, the Grand Jury wish further time for consideration particularly as a plan of these Lands to be granted is promised by you to be submitted for their inspection in a few days.

The Grand Jury are of opinion that picketed Fences at least five feet high should be put up to divide private properties and that the proprietors should constitute equally to pay the expense of such Fences, and keep the same in good repair and along the roads they may be allowed to have either Pickets or longer fences as may be most convenient.

The Grand Jury are also of opinion the proprietors of these Lands should be obliged to cultivate at least half an acre each Year, until the whole is cultivated, supposing these grants about four acres each and in the like proportion for larger grants.

I am, etc.,
(Sgd.) DAVID TASKER,
Foreman.

THOMAS COOTE, Esq.,

Chief Magistrate,
&c. &c.

No. 806.

DISPATCH FROM EARL BATHURST TO GOVERNOR KEATS.

[1 April, 1814.]

Downing Street,
1st April, 1814.

SIR,

I have received and laid before the Prince Regent your Dispatches to No. 18 inclusive and as the period is now approaching at which your presence will be required in Newfoundland, I have to signify to you the Commands of His Royal Highness on the various points which you have submitted for consideration.

The Grants of Land which have been made by you under the authority conveyed to you in my despatch of the last year have received the necessary confirmation. I approve entirely of the conditions which you have affixed to them, and of the moderate fine which you state to be the condition of their renewals. I have only further to impress upon you the necessity of regularly collecting once a year, previous to your departure from the Colony, the Quit Rents which you have thought it necessary to impose lest in a Society constituted like that of Newfoundland, any delay in claiming this payment should be construed into an Intention to abandon it.

It is not the wish of His Majesty's Government to adopt any harsh Measures with respect to those who have occupied lands by encroachment but it is at the same time impossible to admit the right of such occupiers to retain what has in the first instance been unjustly possessed, without some acknowledgment of His Majesty's rights. I am therefore to instruct you to resume all tracts of land of this description, and to grant them again to their present occupiers upon their expressing their willingness to accept them under the same terms under which you have been authorised to make grant to others.

.....
.....

I have the honour to be,
Sir,
Your most obedient humble servant,
(Signed) BATHURST.

To Sir R. G. Keats, K.B., etc., etc.
October 1813 to October 1814.
pages 205, 206, 207, 208-12.

No. 807.

HIGH SHERIFF BLAND TO GOVERNOR KEATS.[12 Nov.,
1815.]

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 27, page 78.

Saint John's, 12 November, 1815.

SIR,

In the usual course of this Government we can hardly hope for Your Excellency's return to Newfoundland, but I believe you feel no less a wish to contribute to the interests of this very important branch of our Commerce.

I am very far from adopting the notions of many of our Speculatists as regards an expected change in the system of this Government, Idle and inexperienced Adventurers, indulging in speculations excited by their peculiar situations, dream of local Legislation and Houses of Assembly.

Nothing can be clearer than that the great *desideratum* for Newfoundland, is to catch fish upon such terms as will enable the Merchant to meet his competitors upon fair ground in the foreign market. Houses of Assembly, mere burlesques upon the dignity of Legislation, can nothing contribute to this desirable end. They may promote the views of needy and contentious spirits, and thereby defeat the very object they are meant to serve. In my humble opinion the Parliament of Great Britain is the best and fitted legislature for the prosperity of Newfoundland. There, the few Laws necessary for this Island can be enacted, amended, or repealed, at the suggestion of men of observation and experience in its Trade. Nor can this be matter of great urgency since such of the existing Laws as do not suit the progressive change of the Country's circumstances have gradually fallen into neglect, the common Fate of all Laws not adapted to the wants of the People.

The return of the French to Newfoundland concerns us nearer than any changes in the existing Laws. They possess advantages over us in this fishery. Their People are paid and fed at a much cheaper rate than ours. The North Coast of the Island ceded to them, generally abounds more in fish than the other parts, and the contiguity and safety of its numerous harbours, afford facilities to the Fish Catchers, which we too generally want. It is, besides, undeniable that their local situation furnishes opportunities for illicit traffic. Their fishing posts are directly in the passage between the more Southern Parts of the Island, occupied by us and the Coast of Labrador ; and there can be little doubt that such facility of

communication will hardly be neglected by those, who can make their advantage of it with little or no risk. It was therefore, greatly to be desired that at the return of Peace,

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the French would have been confined to St. Pierre and Miquelon, and we left in the exclusive possession of that part of the Coast, from which during a long War, we had reaped such an abundant harvest. The only advantage on our side, under the returning state of things, is that the French have only a Summer's residence, and by their annual removal, must want the conveniences which a perpetual residence affords us.

The Ship Fishery, as it is called, is confined to the South, and is peculiarly adapted to the Genius and habits of the fishermen from the West of England, but the shore fishery, by far the most extensive is generally prosecuted by the People called Residents, and unless this description of Fish catchers can kill Fish upon terms that will enable them to afford it at a reasonable rate to the exporter, this branch of our Fishery must decrease, and our navigation of course decline. The Ships Fishery in former times has been fostered by Bounties, a measure that we can hardly expect will be resorted to in aid of our general fishery.

It appears, therefore, to be necessary to our prosperity in Newfoundland, that every facility be afforded us, to obtain upon the best terms the primary Articles of want, Salt, Provisions, Fishing gear, pitch, tar and cordage, are essentials and their Importation into this Island ought to be free from Burden and restraint, except in as far as a very important national object may be endangered.

The Government appears ever to have viewed with a jealous eye, agricultural schemes in Newfoundland. There is in truth no just ground of apprehension on this Score. The soil and climate are unfriendly to cultivation, and even admitting the reverse to be the case, I can discover no danger to the Fishery unless the Sea should refuse us that abundant supply of Fish which it has hitherto afforded. A happier climate and a more fertile soil would, indeed add to the population, but hardly contribute to reduce the Fishery. In parts of Newfoundland best adapted to agricultural pursuits, I have seen the attention of the residents diverted from the original object. Cultivation has invariably been made subservient to the Fishery, and without a certain degree of cultivation, the fish catcher would not be able to afford the produce of his labour at a price suitable to the Exporter. The Fish catcher raises his Vegetables and his fresh stock free of expence, dedicating the Days not convenient for the catching and curing of fish to the cultivation of his fields and gardens. Nor is it reasonable to apprehend that a profitable avocation will be resigned, or neglected for one of far less moment, unless we can suppose that the principal object of all men be not their private Interest.

Surely it will never be contended that Newfoundland can retrograde and return to its first Establishment, and its Inhabitants can be removed and its fishery brought back to the point from whence it has long departed. Could such a thing be practicable, then Government is excusable. But it is impossible for an enlightened mind to entertain so chimerical a scheme. The fact Sir, is that Newfoundland is arrived at a condition that requires another Policy, and a just government will give it all the consideration which its Importance demands.

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If Newfoundland be not a Colony by Law, it is so in fact. It has progressively obtained all that a Colony can require. We have our Courts of Justice, our religious and charitable Institutions, a Navy to protect our trade and navigation, and a respectable Military Establishment. An immense Property is constantly retained in this Island which requires the security afforded by Laws, and shall it, after all, be asserted that we are but Itinerant, without any permanent residence ?

The Inhabitants of Saint John's, copying the benevolent example of the Mother Country have instituted various Charities, among which common justice must allow a preference to the Hospital, the first stone of which was laid by Your Excellency. The relief dispensed by this Asylum in a time of unprecedented distress, to the unfortunate afflicted is an evidence of the superior utility of this Institution. Other Charities in this Country indeed, afford relief to indigence, but the Hospital recently established has actually snatched a considerable number from premature death. The fund created by the Fees of our Law Courts, has, under Your Excellency's sanction, highly contributed to succour the afflicted, received into this Asylum, yet till the present terms of admission can be reduced this excellent Institution will in a great measure fail of its intended object, the efforts of its benevolent promoters require further aid.

I remember that about twelve years ago I suggested to the Governor the propriety of a Tax upon all Spirits imported into this Island, but I confess with a view only of making some provision for the growing wants of this Island. The objections at that time made to that Tax amounted to no more than A temporary inconvenience to the importer, for it is evident that the money comes out of the pocket of the lower order of the people who feel indifferent whether they pay two shillings or one for a Quart of Rum. I have reason to believe that there would now be no objection to an extension of this Tax, provided the produce was applied to the relief of our local wants.

The duty upon Spirits for the current year as I am informed will amount to about Sixteen Thousand Pounds. A further duty of three pence in the gallon upon all Spirits imported into Newfoundland, would produce from Four to Six

Thousand Pounds, making a liberal allowance for a change of circumstances and a consequent reduction of the quantity consumed.

This sum placed at the disposal of the Governor, with the advice of the Committee, would establish the Hospital on a foundation of extension & Permanent utility, improve the streets of the town and the Public Roads. The measure of making a larger provision for the wants of the Hospital becomes every day more urgent, as cases multiply that call for the aid of this excellent charity. The scheme to raise an efficient sum of Money by deducting one penny in the Pound from the Wages of those whom it is meant to benefit is not obligatory, and experience shows will never answer the end proposed. The Tax proposed will principally be paid by this identical description of people, and the collection made without expense.

As it is very probable I may never find another occasion of communicating with your Excellency, I will not pass over a subject that considerably agitated

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the public mind. It is the continuance of that system of restraint on Building so long pursued in the town and neighbourhood of St. John's. As Government never Acts without a reason, the only one that can be assigned for such restraint is the prevention of population, and of a permanent settlement, its necessary consequence. But it is answered that the Government having itself broken down this system by leasing ground for building dwelling Houses upon, to a considerable extent, without any conditions as to their uses, it becomes impossible to defend this restraining system on the broad principle of equity and consistency, as it respects the liberty of Individuals. It is unnecessary to urge this argument at length. I shall observe, that the Governor must, under such circumstances feel a repugnance to enforce a measure confessedly in itself useless, and in its operation obnoxious. Besides, in asserting this system, who is it to be known for what purpose a house is erecting ? A man exposed to suffer loss and inconvenience from the Caprice, or from the Construction which an Executive Officer may put upon his intentions, will often resort to untruth, nor can he be detected until the application of his Building is manifest. The spirit of the Laws requires that nothing shall be presumed, but that all shall be proved.

The Government, always intentionally just, and now happily released from the more important considerations which have so long engrossed its attention, can require no more than a fair view of this subject, as I conceive, to abolish a system that has not one Advocate in this Country, and from which it can never be shewn that any national utility can result.

Since Your Excellency's departure, our number of Writs

had been increased to 320, among which are Eighty Cases that admits of appeal. Only one appeal however has been made, and that more from Caprice than from any rational hope of a reversal. I mention this circumstance merely to show that the opinion I gave upon this subject, when Your Excellency required it of me, previous to the departure of the Chief Justice, was not unfounded.

Whether Your Excellency returns to this Government or retires from the Labours of Public Life, I sincerely wish you Health and Happiness.

I have the honour to be with respect and esteem, Sir,
Your Excellency's most obedient, humble servant,
(Signed) JOHN BLAND, High Sheriff.

His Excellency, Sir Richard Goodwin Keats, &c., &c., &c.
A Copy. P. C. LeGeyt.

No. 808.[3 Feb.
1821.]**GOVERNOR HAMILTON TO EARL BATHURST:
WITH PETITION OF SOME INHABITANTS OF ST.
JOHN'S.**

RECORD BOOK, ST. JOHN'S, NEWFOUNDLAND. Volume 31, page 363.
No. 68.

Fort Townshend, St. John's,
Newfoundland, 3rd Feby, 1821.

MY LORD,

have been requested by a large but not a general Meeting of the Inhabitants of St. John's to transmit the accompanying Petition which as it is their wish it should be presented to His Majesty through the proper channel, I have considered it my duty to forward to your Lordship, though I can neither approve the statements, or coincide in the conclusions ; I have therefore enclosed a copy of the Petition with such notes as may perhaps facilitate your Lordships reference to those documents on which you will form an opinion and with such observations of my own as appear to be sanctioned by them, and the experience which my residence here has enabled me to obtain.

I have the honor to be with great respect, My Lord,
Your Lordship's Most obedient humble servant,
C. HAMILTON.

The Right Honble. The Earl Bathurst K.G., &c., &c., &c.

To the King's most excellent Majesty,

The humble Petition of the Inhabitants of St. John's in the
Island of Newfoundland,

SHEWETH :

That we your Majesty's most dutiful and loyal subjects humbly beg leave to lay our many and great grievances at the foot of your august throne in the full conviction of that paternal solicitude with which your Majesty watches over the interest and happenings of all your people, even in the remotest parts of your extensive empire, and we humbly conceive ourselves

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entitled to your Majesty's peculiar protection from the

circumstance of our having no Colonial Legislative Government. In thus appealing to your Majesty with a claim to especial consideration we are naturally reminded that we labour under the want of that representative organ of expression which is the boast of the British constitution, and which has been conceded to the least considerable of the other English Colonies, but, for reasons that have never been explained to us, has been withheld from us, alone ; We are satisfied that your Majesty will not interpret any expression of regret for the singularity of our situation, into a want of confidence in your Majesty's anxiety for our welfare, or in the wisdom of Parliament. Placed as we are at the distance of two thousand miles from your august throne, and without any constituted body whatever, to sympathize in our wants, and represent our wishes, it is hardly possible that our Petitions or complaints should reach your Royal Ear with that Zeal and fidelity in the report which are at all times necessary to gain attention and indispensable to obtain adequate relief ; as a proof of what we advance we would only beg to recall to your Majesty's recollection, events which from their magnitude and misfortune could not have entirely escaped it—we allude to the great and destructive fires which in the short interval of a fortnight visited the Capital of the Island and laid one half of its buildings in ashes. The town of St. John's is the principal depository for the supplies, and productions of the fisheries of Newfoundland, and it was necessary to rebuild it immediately. But as prudence suggested the propriety of widening the streets in order to prevent the spreading of any further fire, and as a large portion of the ground required was the private property of individuals, it became necessary to obtain the sanction of the Legislature. At the recommendation of the Inhabitants a Bill was prepared in Newfoundland, and sent to England for the purpose of being submitted to your Majesty's Government and passed into a law, but such was the delay attending the measure in England, that although no alteration of any movement was made in the Bill, it did not reach this Island in the form of a Law until near three years after the town of St. John's had been destroyed. In the meantime a third fire had visited and consumed the remainder of the old town, and the whole was rebuilt in the best manner that circumstances would admit, but not exactly conformable to the projected Bill as there was no legal means of compelling its observance. When therefore the long expected bill did arrive, it came with all the inconvenience of an ex-post-facto law, and placed a considerable number of the most costly and valuable buildings in the town in the predicament of standing contrary to the Act of Parliament. We have stated this fact without any feeling of discontent, but merely to prove to your Majesty the neglected condition to which we are exposed from having no superintending Legislature in the Island.

But may it please your Majesty it is not the want of a local Legislature of which we have principally to complain, it is the state of such Laws as have been made for us, and still more of the administration of those Laws. It is the happiness of

all who bear the honourable title of British Subjects to unite in one common feeling of loyalty and affection for the pure and impartial

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manner in which Justice is administered to them, it is in this particular that we stand alone and distinguish from every other portion of your Majesty's people. In the neighbouring Colonies in North America, and in all the British West Indies, the Judgment Seat is filled by gentlemen of professional education and previous distinction at the bar. In the British possessions in the east, the persons who preside in the Courts are selected from the upright and cultivated ranks of Westminster Hall, and are only second to the Judges in England. But in Newfoundland composed as it is of natives of Great Britain and Ireland or their immediate descendants, and more clearly connected with the parent state by proximity of situation & frequency of inter-course than any other Colony, the administration of Justice is confided to Captains, Lieutenants and even Masters of the Navy. The Act of Parliament for establishing Courts of Judicature in Newfoundland authorizes the Governor for the time being to institute Surrogate Courts in different parts of the Island with full power to hear all suits and complaints of a civil nature arising within the Island and to determine them according to the law of England. In exercise of this important power, the Commanders of such of Your Majesty's Ships as happen to be stationed in Newfoundland are invested with Surrogate Commissions immediately on their arrival, and sent on Maritime Circuits to expound the laws of England in the character of Judges. We humbly represent to Your Majesty that it is hardly possible for an Officer in Your Majesty's Navy, if he has been attentive to his own profession, to acquire so competent a knowledge of the abstruse and difficult science of the law, as to enable him to dispense Justice among his fellow men, and that he can barely take the Judge's oath of office with a correct sense of its seriousness and importance. We beg to be understood to speak with every sentiment of respect for the Navy as a profession, we feel a pride in the gallantry of its heroes, and gratitude for the security they afford us. But we cannot but know that the gentlemen of the Navy are educated from their youth in a system of their own, apart from all the Civil Institutions of the Country, and necessarily less conversant with those institutions than any other class of your Majesty's Subjects. Yet to such men in the dispensation of Justice entrusted in Newfoundland and Justice according to the law of England !

We are unwilling to trespass unnecessarily on Your Majesty's time, but that we may not be supposed to advance, what we are not prepared to prove, we will beg Your Majesty's patience while we state a few examples which we have selected merely as being more easy of access to Your Majesty.

In the year 1816 Messrs. Crawford & Co. a Mercantile firm in this Island were declared insolvent in the Surrogate Court of St. John's, and their estate vested in trustees, and sold for the purpose of distribution between their Creditors amongst whom were claimants from Scotland to the amount of £111,000. The Surrogates rejected the Scotch Claims and the case went to the King in Council upon a nice point of conflicting Bankrupt law. At the hearing however it was found that the Surrogates had forgotten the first essential step of citing and examining the Insolvents before they proceeded

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to a Declaration of their Insolvency, and consequently all their proceedings were null and void from the beginning. In the meantime the Insolvents had left the Country, and the proceeds of their Estate had been sent to Scotland, where they were attached by the Court of Sessions, and the Newfoundland Claimants having no longer any control over the persons or the property of the Insolvents, were compelled by a palpable mistake of their Judges, either to compromise their rights, or to re-engage in endless litigation.

In the course of the last Summer certain differences had arisen at Sandwich Bay on the Coast of Labrador respecting the rights of the parties to a Salmon Fishery, and a Surrogate Court was held there for the purpose of deciding them, but instead of hearing the proofs of the case & determining according to Law, the Surrogate decided without a trial or any enquiry into its merits, and thus was the unfortunate party ruined without redress, because the Surrogate acting as a Judge is not responsible by law for his errors.

Your Majesty is informed that a duty of sixpence per month is laid by Act of Parliament upon the wages of Seamen and other persons employed in Ships and vessels for the support of Greenwich Hospital, and that all persons employed in open boats on the Sea Coast are exempted from the payment of the duty, probably as being generally poor themselves, and not falling within the benefit of the charity or the policy of the tax. By a strange construction of the Act all open Boats however small their dimensions have been subjected to the duty in this Island, although it is well known that it is not levied upon open boats in any other place in Your Majesty's Dominions. But the reason of this extraordinary construction may perhaps be explained by the fact that the Surrogates who so construed the law were the Collectors of the duty, and as a compensation for their trouble received a premium of Twelve & half per cent. upon all the monies which they collected.

But it is not of the ignorant or wilful misconstruction of the law as it may affect our properties of which we complain to Your Majesty so much as it is of the flagrant and unlawful violation of our persons.

* * * *

An opinion is gone abroad and it is not without its abettors

in this Island, that Newfoundland is regarded by the parent country, merely as a Nursery of Seamen, and with this view that it is the policy of Government to discourage all settlement in the Island. Supposing this to be the case it may be sufficient to explain how it has happened that this Island, the oldest of the British Settlements in America, placed in the same latitude as England, & possessed of a great staple which is peculiarly its own should remain in the same state as when it was originally discovered, without cultivation, and without roads, the first requisite of civilized society. But we humbly conceive that such is not the policy of Great Britain. Before the statute of King William the 3rd, a number of persons were settled in Newfoundland, and it was one of the professed objects of that Statute to regulate the respective rights of the transient and sedentary fisheries. In the treaties between Your Majesty and foreign powers, the right of settling those parts

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of the Island where strangers are permitted to fish is expressly reserved to Your Majesty's Subjects, and the right of settlement is the only check upon foreign competition in the fisheries. It is well known that Newfoundland contains about 100,000 Inhabitants, that its exports have in prosperous years exceeded Two Million Sterling per annum, and its Imports chiefly consisting of British manufacture and productions have been more than half that amount, its trade is entirely carried on in British Shipping and employs more Seamen in Navigation than were even employed in fishing during the best years of the transient fishery, upwards of 460 vessels having entered the port of St. John's alone during the present year. We must therefore look to other causes for our neglected condition that the intentional policy of the parent state, and we are induced to believe that it has been owing solely to the exigencies of the late War, and the more pressing demands of the Empire upon the attention of Your Majesty's Government.

But we humbly conceive that the time is at length arrived when the state of this Island will be taken into consideration, and some system adopted which may be more in unison with the altered condition of these extensive, populous & valuable possessions of Your Majesty's Crown.

Your Petitioners therefore most humbly pray that Your Majesty will take their case into your most gracious consideration, and endow Newfoundland with all the rights and privileges of your Majesty's other transatlantic possessions, and especially to cause the Courts of Justice to be reformed, so that the laws may be administered to them by competent Judges.

And your Majesty's Petitioners as in duty bound will ever pray, &c., &c.

C. HAMILTON.

Copy.

No. 809.

N

20th August, 1825—**COMMISSION APPOINTING SIR
THOMAS COCHRANE GOVERNOR OF
NEWFOUNDLAND.**

[30 Aug.,
1825.]

Vide Vol. II, p. 718.

[2 March,
1832.]

No. 810.

N

2nd March, 1823—**COMMISSION APPOINTING SIR
THOMAS COCHRANE GOVERNOR OF
NEWFOUNDLAND.**

[26 July,
1832.]

Vide Vol. II, p. 723.

No. 811.

N

26th July, 1832—**INSTRUCTIONS TO SIR THOMAS
COCHRANE AS GOVERNOR OF NEWFOUNDLAND.**

Vide Vol. II, p. 731.

[21 Feb.,
1854]

No. 812.
DESPATCH FROM THE DUKE OF NEWCASTLE TO
GOVERNOR HAMILTON.

Copies of Extracts of Correspondence between the Secretary of
State and the Governor of Newfoundland, on the recent
Changes in the Constitution of that Colony.

Ordered by the House of Commons to be printed 25 May,
1855.

Downing-street, 21 February 1854.

Sir,

I have to acknowledge your despatch No. 41, of the 28th June last, transmitting an Address from the House of Assembly, announcing the appointment by that body of three of its Members to represent to Her Majesty's Government the state of the colony of Newfoundland, and operation of its present system of government, and on the establishment of reciprocal free trade with the United States of America.

2. Both during and since the visit of the gentlemen in question to England, I have given to the first of these subjects my fullest consideration, and have not failed to give due weight to the circumstance that the same expressions of opinions and wishes have proceeded from successive bodies of representatives elected by the people, with full knowledge that this important question was at issue.

3. Her Majesty's Government have come to the conclusion that they ought not to withhold from Newfoundland those institutions, and that system of civil administration which, under the popular name of responsible government, have now been adopted in all Her Majesty's neighbouring possessions in North America.

4. They are prepared to concede the immediate application of this system, as soon as certain necessary preliminary conditions have been acceded to on the part of the Legislature.

5. The first of these is the same which has been agreed to, and put in practice when the recent change of the same description took place in Nova Scotia and in Prince Edward Island, namely, the indemnification of present holders of those offices which, by the change in question, will be rendered liable to be vacated at the will of the majority of the Legislature. The provision in question should be made either in the form of pension, or of a round sum by way of indemnity ; but as to the number of officers who must be regarded as thus liable to removal, and entitled to protection, and the amount and character of the compensation so to be given, I must rely on your judgment, with the advice of your Council, and of those whom you may think fit to consult with on this occasion ; and you are authorised to submit any question which cannot

be thus arranged, to myself for final decision.

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6. The following are the remaining conditions which I consider indispensable, and which have been suggested to me by the consideration of circumstances peculiar to Newfoundland.

7. (1.)—A considerable increase of the members of the House of Assembly, I would suggest that the increase should be from the present number to 30, and that it should be effected, not by giving additional members to existing constituencies, but by subdividing, as equally as geographical positions would admit, the districts now returning members ; which appear to be, in most instances, too large for the convenient exercise of the franchise.

8. (2.)—In reference to my despatch on the financial condition of the colony, lately directed to be laid before the Assembly, it appears to me necessary that the law should be assimilated to that of Nova Scotia (Revised Statutes, c. 7, s. 44) with regard to the expenses of elections, which should no longer be paid from the Colonial Treasury, but be defrayed (under proper conditions as to amount) by the members.

9. (3.)—Payment of the members for their expenses and attendance to be no longer made by the Colonial Treasury, but by local assessment, levied in each electoral district.

10. These measures having been taken by the Legislature, Her Majesty's Government will proceed to separate the Executive from the Legislative Council, and to provide, by instructions from Her Majesty, that the latter shall consist of not less than 10 nor more than 15 members, nominated by the Crown.

11. With regard to the stipulations respecting the grant of a Civil List to Her Majesty, which have usually accompanied the grant of responsible government, it appears to me sufficient to refer you to the arrangements already made under the Act of Parliament 2 & 3 Will. 4, c. 78, and the Acts of the Newfoundland Legislature, 7 Vict., c. 1, & 8 Vict., c. 6, leaving it to yourself to consider whether any modification of these provisions is now required.

12. These are conditions some of which, I am persuaded, are essential to justice, and others highly important to the satisfactory working of the new system ; and I trust that, with these additions, the adoption of the system in question will not merely satisfy the long-expressed desire of the majority of the people of Newfoundland for freer institutions, but will also

prove favourable to practical improvements in the government of the colony.

13. As regards the portion of the Address which relates to free trade with the United States, you will inform the Assembly that Her Majesty's Government are still in negotiation with that of the United States, and that in the conduct of that negotiation every attention will be paid to their expressed wishes, and those of their constituents.

I have, &c.

(signed) NEWCASTLE.

PART X.

[1868]

**MISCELLANEOUS EXTRACTS, DOCUMENTS,
DECISIONS AND REPORTS EXHIBITING
CONTEMPORANEOUS INTERPRETATIONS OF
IMPERIAL ACT 10-11 WM. III., CHAP. 25, IN
RELATION TO THE FISHERY AT
NEWFOUNDLAND AND ON THE COAST OF
LABRADOR.**

“Fish” in Newfoundland and on the coast of labrador means “Codfish.”

No. 813.

**EXTRACT FROM REPORT OF CAPTAIN JOHN
PARISH**

“ON THE 1ST CRUISE OF H.M.S. SPHINX, BETWEEN 5 JUNE AND 22
AUGUST, 1868.”¹

“What is fish ? the common acceptation of the word fish in
Newfoundland parlance meaning cod.”

¹ Journal of the House of Assembly, Newfoundland 1869, App. p. 510.

No. 814.

[1871.]

**EXTRACT FROM “REPORT ON THE
NEWFOUNDLAND AND LABRADOR FISHERIES,”**

BY RUSSELL S. PASLEY, COMMANDER AND SENIOR NAVAL OFFICER ON
THE FISHERIES, 1871.¹

[1871.]

“ The usual questions as to how far the French had a right to fish on the coast, and whether they were permitted to take salmon and herring, were frequently met with, it being difficult to persuade the Newfoundlanders that the term ‘fish’ in French means all fish, they considering ‘cod’ only as fish.”

¹ *Ibid.*, 1871, p. 676.

No. 815.

**EXTRACT FROM “COMMENTS ON FISHERY
TREATIES AND THEIR INTERPRETATIONS”**

BY CAPT. & SENIOR OFFICER, D. MILLER, H.M.S. “SIRIUS,” 1876.²

“ The Newfoundland fishermen to this day by *Fish* understand only *Codfish*, all other kinds of fish are designated by their particular names.”

² *Ibid.*, 1874, p. 814.

No. 816.

[8 May, 1871.]

**EXTRACT FROM CLOSING ARGUMENT OF
RICHARD H. DANA, JR.,**

ON BEHALF OF THE UNITED STATES, BEFORE THE HALIFAX FISHERY
COMMISSION, APPOINTED UNDER THE TREATY OF WASHINGTON, 8
MAY, 1871.¹

“ Your Honours will also observe that, until 1830, the mackerel fisheries were unknown. There was no fishery but the cod-fishery. The cod-fisheries were all the parties had in mind in making the Treaty of 1818, and to this day, as you have observed from some of the witnesses, 'fishing,' by the common speech of Gloucester fishing, means, *ex vi termini*, cod-fishing. Fishing is one thing, and 'mackereling' is another. In Mr. Adams' pamphlet, on the 23rd page, he speaks of 'fishery,' as synonymous with cod-fishery.”

¹ Copied from Record of Proceedings of the Halifax Fishery Commission, 1877, p. 263.

[1877.]

No. 817.

C

**EXTRACT FROM “NOTES ON THE NORTHERN
LABRADOR FISHING GROUNDS,”**

BY PROFESSOR H. Y. HIND.²

“ During my visit to the Labrador last summer I was rather surprised to find that the Newfoundland fishermen appeared to place entire reliance upon four kinds of bait for cod, namely, the caplin, the squid, the herring and the launce. I gathered from conversation with many of them, that the opinion prevailed that the cod were nourished almost exclusively upon this food, and that where there were no caplin, &c., there would be no 'fish,' as the cod is popularly termed.”

² *Ibid.*, 1877, p. 754J.

No. 818.

[1897.]

**EXTRACT FROM STANFORD'S "COMPENDIUM
OF GEOGRAPHY, NORTH AMERICA," VOL. I.**

BY S. E. DAWSON, LITT.D., F.R.S.C. (LONDON, 1897), p. 680.

NEWFOUNDLAND.

* * * *

[1895.]

The prosperity of the colony has always been so bound up with the cod fishery that in the language of Newfoundland the word "fish" means only cod. There are indeed "salmon" and "herring" and "haddock," but the cod are always called "fish." Upon the early maps, which are Portuguese, Spanish, or Italian, the country is called "baccalaos," the general name for codfish in the languages of Southern Europe.

No. 819.**EXTRACT FROM "VIKINGS OF TO-DAY,"**

BY DR. WILFRED T. GRENFELL (LONDON, 1895), p. 76.

"Cod alone is fish in Labrador diction. Cod is the coin of the realm. Money is scarcely known, and no other medium of exchange is used by the people whose *raison d'etre* almost is cod. All live on goods advanced on credit, to be paid for by their catch of cod. This truck system is the next of kin to the old feudal system, and has long been extinct in most civilized countries."

No. 820.

[1908.]

**EXTRACT FROM “ALONG THE LABRADOR
COAST,”**BY CHARLES WENDELL TOWNSEND, M.D. (LONDON, 1908), pp.
119–120.

“ The ancient conundrum anent a door might be paraphrased on the Labrador coast as follows: When is a fish not a fish ? When it is a salmon or a halibut or a caplin, or in fact any finny monster except a cod. Here the cod is king. He alone is *fish!* I was introduced to this somewhat anomalous use of the English language by overhearing the following conversation : ‘ And what did you get in your net the day, Sandy b’y ? ’ ‘ Only two fish, sorrh, and four salmon.’ ”

No. 821.

[1911.]

**EXTRACT FROM " A HISTORICAL GEOGRAPHY
OF THE BRITISH COLONIES," VOL. V.—PART
IV. " NEWFOUNDLAND,"**

BY J. D. RODGERS (OXFORD, MDCCCCXI.), pp. 192–193.

FISH.

Newfoundlanders are men of one idea, and that idea is fish.

Their lives are devoted to the sea and its produce, and their language mirrors their lives ; thus the chief streets in their chief towns are named Water Street, guides are called pilots, and visits cruises. Conversely, land-words have sea meanings, and “ a planter,” which meant in the eighteenth century a fishing settler as opposed to a fishing visitor, meant in the nineteenth century—when fishing visitors ceased to come from England—a shipowner or skipper. The very animals catch the infection, and dogs, cows, and bears eat fish. Fish manures the fields. Fish, too, is the mainspring of the history of Newfoundland, and split and dried fish, or what was called in the fifteenth century stock-fish, has always been its staple. And in Newfoundland fish means cod.

Newfoundland is as rich in coves, where cod-ships or boats may shelter, as it is poor in beaches where cod can be split and dried, and their place is supplied by “ stages,” or small wooden piers on wooden piles and with wooden roofs. The cod-fish are brought by boats to the piers, and are split and temporarily cured under the roofs upon the piers ; as may be seen on the fiords of Norway. The final process of drying cod in the sun takes place in wooden erections called flakes, which resemble the pergole of southern Europe, but on whose roof instead of roses the hardly less odorous dead and split cod basks. A few years before this period began, most streets were flakes, beneath whose shadows young men and women walked,

Whispering murmurs of love at even.

Sir Richard Keats purged the north shore of St. John’s Harbour, but sixty years ago the south shore of St. John’s was still decorated with flakes, and even to-day flakes still lend their peculiar poetry and fragrance to Quidi Vidi and the smaller out-ports. Cod-fish, alive or dead, wet or dry, have exercised an all-pervading influence over the destiny of Newfoundland.

No. 822.

[1920.]

EXTRACT FROM “LABRADOR,”

BY WILLIAM B. CABOT (BOSTON, 1920), p. 81.

“ The Spracklins had fish ; namely, cod. Nothing is fish to a Newfoundlander but cod—cod alone. Salmon are salmon, trout are trout, the same with herring, caplin, and the rest ; but to him cod only is Fish. He may go fishing for any of these, for almost anything that swims, for to him life is fishing, but he would hardly use the word unqualified of anything but cod.”

No. 823.

[1922.]

EXTRACT FROM “LABRADOR,”

BY WILFRED T. GRENFELL AND OTHERS, NEW ED.(NEW YORK,
1922), p. 282.

“ Nearly three hundred years ago it was known that this fish was plentiful on the southern coast of the peninsula, and ever since the cod-fishery has been more or less vigorously pursued on the Labrador. In former times the herring, and always the salmon, has furnished minor parts in the harvest from the coastal waters, but it is remarkable that, in Newfoundland and Labrador, ‘fish’ is a synonym merely for cod ; a local law has stated that salmon is not fish. Other members of the Gadidæ family, as the hake, tusk, haddock, whiting, coalfish, pollack, ling, and whiting-pout, are absent or present in negligible quantities. A flounder is the only noteworthy representative of the flatfish family. The halibut is found only in deep water, far from shore.”

No. 824.

[28 Oct.,
1922.]**EXTRACT FROM AN ARTICLE ENTITLED “KING
COD,”**BY GEORGE ALLAN ENGLAND, PUBLISHED IN *The Saturday
Evening Post* (PHILADELPHIA, OCTOBER 28, 1922), p. 6.

“C-o-d” is the proper abbreviation for “Newfoundland.” Cod is the life of the island. You don't need a chart or compass to find Newfoundland. All you need is a good nose. I could enlarge considerably on this topic, especially where cod-liver oil is made ; but let it pass. Newfoundland lives and moves and has its being in cod. It's of the fish, fishy.

Its manners, customs, lore, traditions, laws, language all revolve about cod. The Land of Cod, Fog and Dogs, it has been called. To-day the Newfoundland dog is in abeyance, for the introduction of sheep has largely banished him, as he's too fond of mutton. Fog isn't a commercial proposition, even though some Newfoundlanders claim they can quarry their kind of fog and build with it. So cod is left as the mainstay of the island. George V. is nominally monarch, but the real ruler is King Cod.

You'll never know just what cod can be till you visit the Newfoundland outports. Since I got back from there I haven't rightly dared look a codfish in the face. But the people themselves never talk about cod. They always call it fish. In an outport boarding house I once heard an old sea dog exclaim : “ If ye ain't got fish, gal, gi' us halibut.”

No. 825.

[June, 1848.]

NEWMAN v. ROW. ¹

1848, June. BRADY, C. J.; DESBARRES AND SIMMS, J. J.

Marine Insurance—Meaning of word “fish” in Newfoundland trade.

The word “fish” without further addition means in the Newfoundland trade cod-fish.

THIS was an action upon a policy of insurance brought by the plaintiff to recover from the defendant the sum of thirteen shillings, being his proportionate share of a sum alleged to be due in respect of a policy of insurance effected upon some pickled salmon which had been shipped on board a vessel called the *Mahone Bay Packet*, in the month of November, 1844, and which subsequently ran on shore upon Green Island. By the terms of the policy the underwriters guaranteed “that they would allow average when the loss, exceeding ten per cent. on the value of the property, happened on a foreign voyage, and did not arise from jettison or from injury or damage to corn, fish, salt, bread, flour, seed, sugar, tobacco, hemp, flax, hides or skins.” The point in dispute was therefore whether pickled salmon came within the article excepted in the policy, or whether the word *fish* according to the usage and custom of the trade of Newfoundland is simple confined to dried cod-fish.

Mr. Robinson, Q.C., for the plaintiff, called Mr. Boyd, who deposed—that as agent to the defendant, one of the underwriters, he had signed the policy of insurance. Witness had been connected with mercantile transactions in St. John’s for 42 years. If asked what was the price of FISH, he should say the question referred to dried cod-fish alone. If he sold a quantity of flour to be paid for in FISH, he would understand that cod-fish was meant thereby. If asked what a fish-store was, he should reply a store for the reception of dried cod-fish.

The general and popular meaning of the term fish, in Newfoundland, is dried cod-fish.

Cross-examined by Mr. Row, Q.C., for the defendant.—Upon the wharves and in the stores the word fish means cod-fish ; in cases of total loss pickled fish is included in the term fish. The insurance was effected at the risk of Charles Fox Bennett, who is one of the underwriters ; if asked to insure fish, I would understand every description of fish. A question was then put to the witness, whether the words in the margin of the policy excepting specified articles, were not also found in Lloyd’s policies, but the Court refused to allow it to be answered, upon the ground that it was sought thereby to give

Re-examined.—C. F. Bennett is a subscriber to the policy, the manuscript part is in witness's handwriting. The merchant's clerk generally hands in the proposal for insurance, and his employer may not know about it. I have no hesitation in affirming what I stated upon my direct examination, that the general meaning of the word fish in Newfoundland is dried cod-fish.

To a Juror.—Suppose an insurance for the sum of £1000 was effected upon fish in your office, and that the insured had not the required quantity of cod-fish, would you admit salmon and herring to complete the specified quantity ?

Witness.—We have done so.

The Court thereupon observed—We will admit evidence of the general usage of trade, not the usual practice of a particular office.

Mr. Charles Warren *examined.*—Has been for a period of ten years connected with the trade of Newfoundland. Every person here, be he rich or poor, when the word “ fish ” is used, understands that cod-fish alone is meant. If anything is sold to be paid for in fish I should understand it to be intended. Fish store means store for cod-fish. Popularly speaking, the word fish, means cod-fish, and none other.

To the Court.—If I wanted to effect an insurance upon the articles : cod-fish, salmon, and herrings, I should enumerate each item specifically, in my proposal to the Insurance office.

Mr. M'William.—Has been connected with the trade for upwards of 20 years. In mercantile transactions the term fish is always understood to mean cod-fish.

Mr. T. Smith.—Has been a clerk in the house of Messrs. C. F. Bennett & Co., and connected with business in Newfoundland for 16 years. Fish generally means, amongst the trade, cod-fish. If asked the price of fish would understand codfish to be thereby intended, and none other. Flour sold payable in fish means payable in cod-fish and none other.

Cross-examined.—Thinks he has given an order to insure, using the words “ fish, salmon and herrings.” Nine times out of ten in writing the term fish I should not pen the word cod-fish.

No witnesses were produced on behalf of the defendant.

The Chief Justice in charging the Jury thus expressed himself—This is a question entirely for you to decide, and your duty is simply to ascertain what is the precise meaning of the word fish. The underwriters agree to allow average when the loss does not exceed ten per cent., except in certain excepted articles. Does the pickled salmon fall within the items enumerated in the exception ? A very eminent writer on the law of insurance (Parke on Marine Insurance) says there are certain excepted articles, for partial loss of which the underwriters will not hold themselves liable, but only for general average. Is pickled salmon included or excluded from the exception ? because if salmon

p. 1998

be not contained, according to the usage here, in the generic term fish, your verdict ought to be for the plaintiff. The same question, namely the peculiar meaning of certain words in particular localities has frequently arisen in England. As for instance, rice has been decided not to be corn within the meaning of the usual memorandum of a Policy of Insurance. On the other hand corn was declared to include peas and beans. According to the doctrine laid down in another case malt is corn. And the question whether the word “ month ” is to be considered calendar or lunar, has been mooted—so then in this case what did both parties understand by the word fish when they used it in their contract ? If the evidence of the invariable meaning of the word fish satisfies you, you cannot have a doubt as to your verdict. The news-papers on every occasion that my attention has been called to them, always advertise for sale so many quintals fish, never cod-fish. 'Tis for you to decide if that invariable usage was carried into the contract between the plaintiff and defendant.

Verdict for the plaintiff—Thirteen shillings sterling.

No. 826.

[Jany., 1861.]

McGRATH v. KAVANAGH.¹

1861, January. BRADY, C. J. ; LITTLE, J. ; ROBINSON, J.

*Insolvency—Receiver of voyage—Insolvency Act 19th Vic., cap. 14—Servant of supplier of bait, how far a privileged creditor—Insolvency of master
—Meaning of the word “fish.”*

Under the provisions of the Insolvency Act 19 Victoria, cap. 14, the servant of the bait supplier is not entitled to a preferable security for his wages. The bait master himself is only protected because he is expressly named in the statute. Bait happening to be fish does not therefore come under the general term "fish" as used in the Act.

HON. SIR. F. BRADY :

It was not my intention to have done anything more in this case than express my concurrence in the judgment pronounced by Judge Robinson and in the grounds upon which he rested the conclusion at which he arrived, and also to express my regret that I should differ from the opinion of my brother, Judge Little, because I thought, in a meritorious point of view, the servants of the bait-master might be just as well entitled to such preferential claim against an insolvent estate as is given to all servants engaged “ in the catching, curing or making of fish or oil.” I own I thought the language which we had to interpret was so plain, and I repeat, with the gravest sincerity, that I think so still, that no doubt could arise upon the true construction of it, but when we remember that my brother, Judge Little, was a party to the framing of this enactment, and how difficult it is to divest ourselves of pre-conceived impressions, and bring our minds to that even and unprejudiced temper which enables one to judge calmly and dispassionately as to the true import and effect of the language employed, we may well feel, and I say this with great respect, that such impressions may in this case have caused the difference of opinion which exists among the judges. The language of an Act of Parliament is, in general, to be read by this Court as we read the language of every private deed, in its plain and ordinary meaning, and it is our duty to discover from it, and from it alone, because outside either document we cannot go, the intention of the legislature in the one instance, and of the parties in the other. Nor can we, if we believe their intention was to do something which the language they have used does not extend to, by interpretation extend that language to what was omitted or overlooked, because we would be, in doing so, exceeding our legal position, as mere expounders of the law, and usurping the authority of our law makers, the

Governor, Legislative Council and House of Assembly. The language we have to interpret or construe in this case is contained in the first section of the 19th Victoria, cap. 14, and is as

¹ Newfoundland Reports, 1854–1864, pp. 565-575.

follows : “ When it shall be made to appear that the hirer or employer of any seaman, fisherman, or other servant, is insolvent, and unable to pay his creditors twenty shillings in the pound, such seaman, fisherman, or other servant, actually employed in the catching, curing or making of fish or oil, and such person as shall have supplied bait to the hirer or employer aforesaid, and who shall be creditors for wages, share or bait, for the current season, shall upon all such fish and oil taken, cured or made by the hirer or employer aforesaid or out of the produce or value thereof if the same be in the possession of the hirer or employer, or any other person aware of or privy to the hiring or employing of any such seaman, fisherman or other servant, or having notice of the claim of such seaman, fisherman or other servant, whether the same be accruing or due, at or before the time of such other person receiving such fish or oil, or the produce or value thereof, or before paying the hirer or employer for the same, be considered privileged creditors and shall first be paid twenty shillings in the pound, so far as such fish and oil or the produce or value thereof shall go.” The bait-master in this case became insolvent, and his servants now claim to have a right, under this section, to be paid their wages in full out of the money he earned as bait-master before any other creditor of his could make any claim to this portion of his property. It is now an universal rule, that in case of insolvency, all the creditors of the insolvent rank in equal degree on the property of the insolvent, unless those who are mortgagees or those who claim a legal priority by reason of some other like specified lien, upon all or some portion of the insolvent’s property as entitles them to a prior payment as against the general creditors. When therefore a class claim an extraordinary privilege, as in this case, to be paid in full their claims out of the property of the insolvent in preference and priority to the shares which the general body of the insolvent’s creditors claim out of the deficient estate, it is not too much to say, that before a Court of Justice establishes the validity of such a claim or other privilege, their right to it should be shewn to be clear and unquestionable. In my judgment the language of this section not only does not include the servants employed by the bait-master, but in truth it amounts to an express exclusion of them from the benefit of this enactment. If I wanted evidence of that fact I would not go farther than the elaborate judgment of my brother judge. Can it be said that the bait-master is a person “ actually employed in the catching, curing or making of fish or oil,” if even the Legislature thought so why did they add to these words “ or such person as shall

have supplied bait to, &c.” And if the bait-master would not be entitled to this preferential claim, were it not for the express language used in reference to him, how can his servants sustain a claim for such a preference where they are not named, but are in effect expressly excluded from this enactment.

The very language of the Act, when it speaks of the person who shall supply bait, distinguished him and those employed under him from the servants engaged in the “ catching, curing, or making fish or oil,” and when it expressly extends the privilege and preferential right to the bait-master, it thereby excludes his servants on the well known rule of construing documents *expressio*

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unius est exclusio alterius. I really should not have labored this question, but from all I heard upon the subject of an equitable construction of statutes, as bearing upon this case from my brother judge, and I will merely observe that as a general principle, I hold that that doctrine ought to be cautiously resorted to by Courts of Justice, because when countenanced or adopted it tends to substitute for the law of the Legislature the worst of all law, &§220; judge-made law.” I will merely cite a paragraph or two from the treatise of Mr. Dwarris, upon whose authority my learned brother has so largely rested his opinion in this case. Thus in Dwarris on statutes, 703, that able writer says : “ The fittest course in all cases where the intention of the Legislature is brought into question, is to adhere to the words of the statute, construing them according to their nature and import, in the order in which they stand in the Act of Parliament. The most enlightened and experienced judges have for some time lamented the too frequent departure from the plain and obvious meaning of the words of the Act of Parliament by which the case is governed, and themselves hold it much the safer course to adhere to the words of the statute construed in their ordinary import than to any inquiry as to the supposed intention of the parties who framed the Act. They are not (as the most learned members of a learned body best know) to presume the intention of the Legislature, but to collect them from the words of the Act of Parliament ; and they have nothing to do with the policy of the law. This is the true sense in which it is so often impressively repeated, that judges are not to be encouraged to direct their conduct by the crooked cord of discretion but by the golden metwand of the law, i.e., not to construe statutes by equity, but to collect the sense of the legislature by a sound interpretation of its language, according to reason and grammatical correctness.”

Upon these grounds, I am of opinion that judgment should be given for the defendant. Judgment accordingly.

HON. MR. JUSTICE LITTLE :

This is a summary action, brought by the plaintiff against the defendant for £8 17s., being the balance of wages due to the plaintiff as a supplied servant, at the fishery last summer, of one William Thorne, a planter of the defendants, and which sum is claimed from the defendant as the receiver of Thorne's voyage, the latter being insolvent and unable to pay the wages.

It appears that the plaintiff was shipped to Thorne in the defendant's office, in the usual way ; that he served as a hand in Thorne's bait skiff for the time agreed upon ; that Thorne's fishery, in which the plaintiff was engaged, was the catching and supplying of bait, that is to say, herring and caplin, to various planters of the defendant and others ; that a portion of the proceeds of this voyage, the money realized by the sale and supply of the herring and caplin, amounting to about £90, was paid to the defendant, and received by him with a full knowledge of the plaintiff's claim for wages ; and Thorne being insolvent, the plaintiff claims to be paid his balance by the defendant under the local Act for the amendment of the Insolvency Law, 19 Victoria, cap. 14.

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To settle the various questions raised on this important subject, fishing servants' right to follow the voyage for their wages, the 19 Victoria, cap. 14, was passed by the Legislature.

It has relation not only to seamen and fishermen but also to clerks and servants of every description ; and while it secures to the fishing class of servants and sharemen the right to follow the voyage, or any part of it, or the produce or value thereof, into the hands of the receiver for the payment of their wages or shares, in the event of the insolvency of their hirers, such receiver having notice of their claim, it like wise secures to the general servants a prior claim on the insolvent estates of their employers for their last year's wages. In fact, its provisions extend to all kinds of claims upon insolvent hirers and insolvent estates, defining their order of priority, and affording summary means of enforcing such demands as the present.

By the first section it is enacted that when it shall be made to appear that " the hirer or employer of any seaman, fisherman or other servant actually employed in the catching, curing, or making of fish or oil, is insolvent, such seaman, fisherman or other servant, and such person as shall have supplied bait to the hirer employer, and who shall be creditors for wages, shares, or bait for the current season, shall, upon such fish and oil taken, cured or made by the hirer or employer, or out of the produce or value thereof, in the hands of any person aware of or privy to the hiring, or having notice of the claim, whether the same be accruing or due at or before the receipt of the fish or oil, or the produce or value thereof, or before paying for the same, be considered privileged creditors, and shall first be paid twenty shillings in the pound, so far as such fish and oil or the produce or value thereof shall go."

The third section then prescribes the mode of proceeding by the servant or supplier of bait, before any court or justice of

the peace, against the receiver, without any formal declaration of the insolvency of the hirer or employer. The fourth section enables the receiver to make any defence to the claim which would be available to the hirer if the action had been taken against him ; and provides that he shall not be liable unless it be proven on the trial that the receiver was aware of or privy to the hiring, or had notice of the claim for wages, shares, or bait money at any time before or at the time of receiving “ the fish and oil or a part thereof, or the proceeds of the same,” or before payment therefor, and states that then he should only be liable to the extent of the voyage, or part, or produce, or value thereof received by him.”

Now, it appears to me that the simple question we have to determine in this case is this : Was the plaintiff “ a seaman, fisherman or other servant employed in catching, curing or making fish or oil ? ” In other words, was he a servant engaged in the fishery ? I think there can be no doubt about that. In my judgment he was as much a fishery servant, and as actually engaged in catching fish while employed in his hirers bait skiff catching herring or caplin, as if he had been catching cod-fish. The Act make no distinction as to the kinds of fish which the servant may be employed in catching. The general term “ fish ” comprises all kinds of fish. As to any usage with local insurance companies, confining the term “ fish ” to dry cod-fish, when

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mentioned under certain circumstances in policy of insurance, we have no evidence of any usage in this case ; and even if we had, that would not affect the clear terms of an Act of the Legislature, which must be interpreted according to the true intent and meaning of the language used ; and the well known and established acceptation of the general term “ fish,” as understood in the English language, is that by which we should be governed in reading this Act.

In *Dwarris on Statutes*, page 573, it is said that the words of a statute are to be taken in their ordinary and familiar signification and import, and regard is to be had to their general and popular use ; for *jus et norma loquendi* is governed by usage, and the meaning of words spoken or written ought to be allowed as it has constantly been taken—*loquendum est vulgus*. But if the usage have been to construe the words of a statute contrary to their obvious meaning, by the vulgar tongue and the common acceptation of terms, such usage is not to be regarded, it being, say the books, an oppression of those concerned (to force upon them a conventional meaning) than a construction of the statute ; and though where the words of the statute are doubtful, general usage may be called in to explain them, for *optimus legem interpres est consuetudo*—usages that can control an Act of Parliament must be universal and not the usage of any particular place. —1 *S.R.* 728. And Chief Justice Best says that the intent of the Legislature is not to be collected from any

particular expression, but from a general view of the whole Act of Parliament.—4 *Bing*, 196.

In construing this Act, it is right to refer to previous Acts in any way relating to the same subject, for it is an established rule that all acts in *pari materia* are to be taken together as if they were one law, and they are directed to be compared in the construction of statutes, because they are considered as framed upon one system and having one object in view.—*Dwarris*, 569 ; 4 *S.R.* 447. We who have read the old returns made to the Imperial Government of the trade of this colony, which were published by order of Parliament, know that the fisheries of this colony were not confined exclusively to codfish, but that salmon also to a large extent, and herring also, formed considerable items in the exports of the colony. The 15 Geo. III., cap. 31, was an act for the encouragement of the fisheries, and how can it be said that the term “ fish ” used in the sixteenth section, and in other old fishery Acts, as well as in the 25th section of the Judicature Act, is confined to codfish ?

In 1841 the local Legislature passed an Act “ to regulate the packing and inspection of pickled fish for exportation from this colony,” some sections of which detail the mode of sorting, weighing, salting and packing fish in barrels. It surely could not be contended that this refers to codfish, for the Act in other sections specifies different kinds of fish, such particularly as herring and salmon, and in an amendment to this Act passed in 1845, a duty of three shillings per cwt. is imposed on the exportation of fresh and salted or pickled herring and caplin in bulk.

It must be evident that the supply of bait is of the first moment in the prosecution of the fisheries. Without it, what security would the merchant

have for his supplies ? Without the employment of servants in the bait-skiff, there would be no use in employing servants in the hook-and-line cod-fishery. The 8th section of the Act under consideration gives to the supplying merchant a preference for supplies furnished for the fishery in the distribution of insolvent estate of planters or persons engaged in the fishery, subject to the prior claims of the servants. Can it be contended that the merchant who supplies a bait-skiff owner like Thorne, would not have a prior claim on his insolvent estate for such supplies in the terms of this section ? Then, if the supplier be protected in this way, as I think he undoubtedly is, it would seem very unreasonable that the servant should be excluded from the benefit of the act, which is remedial in its operation, and should, therefore, as urged in argument, be construed liberally. In *Dwarris*, 641, it is said, “ A remedial act should be so construed as most effectually to meet the end in view and to prevent a failure of the remedy. As a general rule a remedial statute ought to be construed liberally. Thus a statute may be extended by construction to other cases within the same mischief and occasion of the act, though not expressly with their words.” The statute 9 *Richard 2nd*, C. 3, gives writ of error to him in reversion. It was resolved in *Winchester's case*, 3 *Rep.* 4, that although the statute speaks only of reversions, yet remainders are also taken to be within the purview thereof. Again, in *Dwarris*, page 617, “ A remedial statute will be extended by equity to other persons besides those expressly named.”—*Porter's case*, 1 *Rep.* 25 ; upon which doctrine the following observations were made in *Platt's case*, *Plow*, 36 : It is not unusual in Acts of Parliament, especially in the more ancient ones, to comprehend by construction a generality where express mention is made only of a particular, the particular instances being taken only as examples of all that want redress in the kind whereof the mention is made. Thus the Act 1 *Richard 2*, c. 12, orders that the wardens of the Fleet shall not permit prisoners in execution to go out of the prison by bail or baston, “ yet it has been adjudged that this Act extends to all gaolers.”—in page 557. A thing which is within the object, spirit and meaning of a statute, is as much within the statute as if it were within the letter.—*Plow*, 336, *Rep.* 101.

While the Insolvency Act in question includes all “seamen, fishermen and other servants engaged in catching and curing fish,” surely under these authorities it would not be going too far, if it were necessary, to resort to an equitable construction of its provisions, in such a case as the present, to admit that a fisherman or servant engaged in fishing for bait is within the object, spirit and meaning of the statute, and being within the mischief sought to be corrected is therefore within the remedy provided. In *Boutin's* insolvency we have held in this court that a servant, who was a store-keeper and occasionally employed about fish—herring and cod-fish,—was a privileged creditor upon the produce thereof for his wages. In *Rennie's* insolvency

the produce thereof for his wages. In Rennie's insolvency Mr. Archibald states in his note to the provisions of the Judicature Act relating to menial or domestic servants, that " the Courts have given the section a liberal construction where it has appeared that the party performed menial or domestic service, although generally employed in another capacity, and that rent of a

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fishing room was allowed to rank as supplies for the fishery as a prior claim. I think, however, that a fair and common sense interpretation of the present act will comprise the plaintiff's claim, without reference to that equitable and liberal construction contended for, and usually given to such acts, according to the authorities cited.

It seems that the provision securing to the person who shall have supplied bait an equal right with the fishing servant to follow the voyage of each person to whom he supplies bait, on the proceeds in the hands of the receiver for the payment of his bait money, has created in the minds of my brother judges an impression that while the bait-skiff owner is included, his servants are excluded from the benefit of the Act. Now, I should regard his claim, without this special provision, in precisely the same light as that of a planter, who sells a quantity of fish to A.B., and is left to the common law remedy, the same as any other vendor, in fact, for the recovery of the price. The planter, in such a case, has no prior claim over any person, in the event of the insolvency of the purchaser. The bait supplier, however, is so important a person in carrying on the fishery, that it was deemed expedient by the Legislature to place his claim for bait supplied for the prosecution of the fishery upon the same footing as that of the fisherman's wages. He is enabled to follow the voyage caught by the persons to whom he supplied bait, for the price thereof ; but his servants, who are not less important than himself, if not more so, in the prosecution of the voyage, are only able to follow their voyage or any part of it, or the proceeds, produce, or value thereof ; that is, in this case, the money received by the defendant for the herring and caplin caught by them and their employer and supplied by him to the defendant's planters. If that money be not the " proceeds, value or produce " of the fish caught by the plaintiff and his brother servants, I should be at a loss to know what else it is, according to the first and fourth sections, which latter section is somewhat more comprehensive in its language than the other, for the receiver is thereby made liable for the servant's wages, to the extent of the voyage, or part, or produce, or value thereof received by him.

I have thought it proper, differing as I do from the conclusion formed by my brother judges, to be thus particular in the expression of my opinion upon this matter ; for although the amount at stake in this case is small, yet the principle, viewed in a practical light, involved in the decision, is of considerable importance to those engaged in the fisheries of the colony.

I can only say that I have given the Act in question much consideration, not only on this but on previous occasions. Perhaps, unknown to myself, I take a view yet based somewhat on preconceived opinions, as to the operation of its provisions. But I have endeavored to weigh the subject strictly and impartially, as I feel I have done, according to the best of my judgment apart from any such opinions ; and in concluding that the plaintiff has a legal right to recover, I have been guided by the language of the Act as I interpret it, and not simply by the policy it indicates, with a single desire that I am sure influences each member of this court to administer justice according to law.

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HON. MR. JUSTICE ROBINSON :

The plaintiff was a servant during the past summer to one Thorne, who was a supplier of bait, and the defendant received some money due to Thorne for such bait, which he placed to the credit of his own account with Thorne. By virtue of such receipt the plaintiff claims the right of holding the defendant liable for plaintiff's wages. Between the plaintiff and the defendant there is no privity of contract, and the liability of the defendant to pay Thorne's debt can only arise, if at all, under the provisions of the Insolvent Act, 19 Victoria, cap. 14.

The first section enacts that when it shall be made to appear that the hirer or employer of any seaman, fisherman or other servant actually employed in the catching, curing or making of fish or oil, and such person as shall have supplied bait to such hirer or employer shall upon all such fish or oil taken, cured or made by such hirer or employer, or out of the produce or value thereof, be considered privileged creditors and be paid twenty shillings in the pound, so far as such fish and oil or the produce or value thereof shall go.

The second section provides the course which parties may pursue in their actions against the " receiver of such fish or the produce or value thereof." The other parts of the Act are subordinate to the above enactments.

Giving as liberal construction to the Act as its language will fairly admit, I do not think the servant of the man who supplied the necessary article of bait is entitled to a preferable security for his wages, any more than the servant of the man who supplies boats, provisions or other necessaries for the voyage. The baitmaster is protected only because he is expressly named, and if the Legislature intended to extend the protection to his servant, I suppose they would have said so.

The plaintiff cannot claim under the general word "servant," unless he was actually employed in the catching, curing or making of any fish or oil that went into the merchant's hands, which is negatived.

I cannot think that because bait happened to be fish, it therefore comes within the general term " fish " as used in this Act. The Act itself draws the distinction between "bait and

fish,” and shews that the fish on which a lien is given is a different article from the bait supplied to catch it ; the former is intended to be made and cured, and could be followed, the latter is taken for the purpose of being used at once.

If the servant in a bait-skiff is a *casus omissus* from this Act, the Legislature is at hand to remedy the defect, if desirable ; but we have to administer the law as we find it, and under it I am of opinion the plaintiff can establish no preferable claim, and has no right of action against the defendant.

Plaintiff must therefore be non-suit.

Mr. John Little for plaintiff.

The Attorney General for defendant.

[Table (Exhibit 829) follows as page 2006A. [sic]

[Below is a partial image of the table. Click on image to view the full table in html format.]

p. 2006A

No. 827

A STATE OF THE NEWFOUNDLAND FISHERY

IN 1699 TO 1792 ; TAKEN FROM THE RETURNS OF THE ADMIRALS WHO
COMMANDED ON THAT STATION.*

9	480	48,950	4,422	4,617	2,258	637,955	622,108	2,974	2,364	15,253
1790,										
1, 2										

Office of the Committee of Privy Council for
Trade, Whitehall, 19th March, 1793.



A true Copy, taken from the Admirals
Returns in this Office
Geo. Chalmers,
Chf. Ck. Com C¹ Trade,
&c.

No. 827

A STATE OF THE NEWFOUNDLAND FISHERY

IN 1699 TO 1792. TAKEN FROM THE RETURNS OF THE ADMIRALS WHO COMMANDED ON THAT STATION.*

[Please note: The layout of the table has been altered slightly for viewing on the web. In the original table the years are located at the top of the page only. In the html version the visitor will notice they appear periodically as he or she scrolls down the table.]

		1699	1700	1701	1714	1715	1716	1719	1750	1751	1764	1765	1766	1767	1768	1769	1770	1771	1772	1773	1774	1784	1785	1786	1787	1788	1789	1790	1791	1792				
Number of	British Fishing Ships of which are British Sack Ships Trading Ships from the Colonies	236	220	121	150	188	147	271	283	312	344	397	391	465	503	591	629	638	623	590	480	578	346	435	487	507	567	542	471	476	494			
		236	220	121	150	188	147	271	283	312	344	397	391	465	503	591	629	638	623	590	480	578	346	435	487	507	567	542	471	476	494			
		236	220	121	150	188	147	271	283	312	344	397	391	465	503	591	629	638	623	590	480	578	346	435	487	507	567	542	471	476	494			
Burthen of	British Fishing Ships of which are British Sack Ships Trading Ships from the Colonies	7,991	8,000	11,255	8,070	10,200	14,819	14,819	14,819	14,819	14,819	17,248	20,518	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419		
		7,991	8,000	11,255	8,070	10,200	14,819	14,819	14,819	14,819	14,819	17,248	20,518	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	
		7,991	8,000	11,255	8,070	10,200	14,819	14,819	14,819	14,819	14,819	17,248	20,518	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	21,419	
Number of Men belonging to	British Fishing Ships of which are British Sack Ships Trading Ships from the Colonies	5,120	4,960	2,000	1,700	3,056	1,601	1,809	1,630	1,042	1,039	1,252	1,044	888	963	1,332	1,298	1,118	1,344	786	547	866	1,426	1,487	1,423	1,464	1,496	1,332	1,319	1,319	1,319	1,319		
		5,120	4,960	2,000	1,700	3,056	1,601	1,809	1,630	1,042	1,039	1,252	1,044	888	963	1,332	1,298	1,118	1,344	786	547	866	1,426	1,487	1,423	1,464	1,496	1,332	1,319	1,319	1,319	1,319		
		5,120	4,960	2,000	1,700	3,056	1,601	1,809	1,630	1,042	1,039	1,252	1,044	888	963	1,332	1,298	1,118	1,344	786	547	866	1,426	1,487	1,423	1,464	1,496	1,332	1,319	1,319	1,319	1,319		
Number of Passengers brought out to the British Ships from	England, Ireland, Jersey	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—		
		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
N ^o of Boats kept by	British Fishing Ships of which are British Sack Ships Trading Ships from the Colonies	805	800	338	300	376	319	349	405	542	2	300	4	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
		805	800	338	300	376	319	349	405	542	2	300	4	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
		805	800	338	300	376	319	349	405	542	2	300	4	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
N ^o of Bye Boatsmen	Mothers, Servants	520	396	77	180	283	286	421	545	554	281	319	254	216	295	314	365	643	96	384	555	289	463	583	412	290	4,799 in Ships, 7,323 in Boats, 6,152 on Shore	5,817 in Ships, 6,759 in Boats, 5,543 on Shore	4,148 in Ships, 7,138 in Boats, 4,465 on Shore	2,838 in Ships, 7,138 in Boats, 4,465 on Shore	1,148	1,397		
		520	396	77	180	283	286	421	545	554	281	319	254	216	295	314	365	643	96	384	555	289	463	583	412	290	4,799 in Ships, 7,323 in Boats, 6,152 on Shore	5,817 in Ships, 6,759 in Boats, 5,543 on Shore	4,148 in Ships, 7,138 in Boats, 4,465 on Shore	2,838 in Ships, 7,138 in Boats, 4,465 on Shore	1,148	1,397		
		520	396	77	180	283	286	421	545	554	281	319	254	216	295	314	365	643	96	384	555	289	463	583	412	290	4,799 in Ships, 7,323 in Boats, 6,152 on Shore	5,817 in Ships, 6,759 in Boats, 5,543 on Shore	4,148 in Ships, 7,138 in Boats, 4,465 on Shore	2,838 in Ships, 7,138 in Boats, 4,465 on Shore	1,148	1,397		
Quintals of Fish made by	British Fishing Ships of which are British Sack Ships Trading Ships from the Colonies	11,300	55,600	104,640	116,570	136,840	206,676	208,570	216,795	221,340	252,910	236,000	385,391	262,925	274,640	131,650	170,372	212,415	276,215	412,580	97,815	106,610	71,090	16,910	19,450	19,450	19,450	19,450	19,450	19,450	19,450	19,450	19,450	
		11,300	55,600	104,640	116,570	136,840	206,676	208,570	216,795	221,340	252,910	236,000	385,391	262,925	274,640	131,650	170,372	212,415	276,215	412,580	97,815	106,610	71,090	16,910	19,450	19,450	19,450	19,450	19,450	19,450	19,450	19,450	19,450	19,450
		11,300	55,600	104,640	116,570	136,840	206,676	208,570	216,795	221,340	252,910	236,000	385,391	262,925	274,640	131,650	170,372	212,415	276,215	412,580	97,815	106,610	71,090	16,910	19,450	19,450	19,450	19,450	19,450	19,450	19,450	19,450	19,450	19,450
Carried to Foreign Markets	Quintals of Fish, Trenches of Salmon sold to us by the French	154,570	129,000	89,622	88,469	463,070	553,620	493,554	523,636	542,960	544,718	610,910	649,240	481,347	499,665	516,558	497,884	606,756	885,897	732,216	774,480	782,791	452,656	532,730	452,656	532,730	452,656	532,730	452,656	532,730	452,656	532,730		
		154,570	129,000	89,622	88,469	463,070	553,620	493,554	523,636	542,960	544,718	610,910	649,240	481,347	499,665	516,558	497,884	606,756	885,897	732,216	774,480	782,791	452,656	532,730	452,656	532,730	452,656	532,730	452,656	532,730	452,656	532,730		
		154,570	129,000	89,622	88,469	463,070	553,620	493,554	523,636	542,960	544,718	610,910	649,240	481,347	499,665	516,558	497,884	606,756	885,897	732,216	774,480	782,791	452,656	532,730	452,656	532,730	452,656	532,730	452,656	532,730	452,656	532,730		
Tons of Train Oil made by	British Fishing Ships of which are British Sack Ships Trading Ships from the Colonies	10 th	10 th	10 th	10 th	10 th	10 th																											
		10 th	10 th	10 th	10 th	10 th	10 th	10 th																										
		10 th	10 th	10 th	10 th	10 th	10 th	10 th																										
Prices of	Fish per Quintal, Sea Cow Oil, Train Oil per Ton	12 s. 13	12	13 s. 13	12	13 s. 13	12	13 s. 13	12	13 s. 13																								
		12 s. 13	12	13 s. 13	12	13 s. 13	12	13 s. 13	12	13 s. 13																								
		12 s. 13	12	13 s. 13	12	13 s. 13	12	13 s. 13	12	13 s. 13																								
Value of	Seal Oil made, Sea Cow Oil, Train Oil, Fun taken by the Inhabitants, Truck with the Seavages	£1,016	£1,382	£3,139	£3,304	£5,109	£3,587	£4,832	£12,264	£3,267	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299		
		£1,016	£1,382	£3,139	£3,304	£5,109	£3,587	£4,832	£12,264	£3,267	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299	£1,299		
		£1,016	£1,382	£3,139	£3,304	£5,109	£3,587	£4,832	£12,264	£3,267	£1,299	£1,299	£1,2																					

No. 828.

**SKEFFINGTON'S SALMON FISHERY. REFERRED
TO LORDS OF TRADE, 23 FEBRUARY, 1720.**

C.O. 194, VOL. 6, f. 332.

To George King of Great Britain in Counsel.

The Humble Petition of George Skeffington Inhabitant of
Indian Bay in Newfoundland, Humbly Sheweth

*sic.

That your Petitioner hath for about Twelve Years past Improved the Salmon Fishery in two or three Rivers or Brooks to the Northward of Cape Bonavista ; and hath at very great Expence and Labour near fferty miles up the Country cleared Lands of the wood, and the said Rivers or Brooks of rocks and stones and other obstructions ; built houses, Stages, ffatts, Works and other Conveniences for catching and Curing Salmon, which said Brooks or Rivers were never before Employed frequented or occupied by any person whatsoever, and far distant from any place where any ffishing Ship hath used to fish.—

Your Petitioner therefore most humbly prays, that he may be encouraged and protected in carrying on the said Fishery according to the Intention of the Act made in the 10 & 11th of King William the Third for Incouring* the Fishery of Newfoundland, That he may use occupy and enjoy all such houses, Stages and other works made by him for taking and Curing of Salmon without molestation or hindrance from any persons who may by fraud or force disturb him in the quiet possession thereof ; and that he may hold and possess all those Conveniences he may hereafter make or build for taking and Curing Salmon in Such Brooks or Rivers as have never before been used by any other person in such manner as to your Majesty in your great Wisdom shall seem meet.

[23 Feby.,
1720.]

And your Petition shall pray, &c.

GEO. SKEFFINGTON.
D.S.

At the Court at S^t. James's 23^d : February 1719/20.

His Maj^{ty} having been moved upon this Petition is graciously pleased to refer the same to the Right Hon^{ble} the Lords Commissioners for Trade and Plantations to consider thereof,

Endorsed.

and report their Opinion what his Maj^{ty} may fitly do therein,
whereupon his Maj^{ty} will declare his further Pleasure.

J. CRAGGS.
D.S.

p. 2009

NEWFOUNDLAND.

Reference from Mr. Secretary Craggs of the 23^d Feb^{ry} 1719–20
upⁿ y^e Petition of Mr. Geo. Skeffington to his Majesty praying
to be protected in y^e Improvement he has made (with great
Expence) in the Salmon Fishery at Newfoundland.

Rec^d from M^d Joshua Gee.

[2 March,
1720.]

Rec^d Feb^{ry} 24th } 1719/20.
Read Do. 25th }

M. 97.
Ref. to Board of Trade.

C.O. 194, VOL. 6, f. 334.

To the Right Honorable the Lords
Commissioners for Trade and
Plantations.

MY LORDS,

In Obedience to your Lordships Commands, I have perus'd and
consider'd the Annex'd Petition of George Skeffington, and
humbly certify to your Lordships, that I am of Opinion that the
prayer of it is not Inconsistent with the Act made in the Tenth
and Eleventh year of King William, for encouraging the trade
to Newfoundland.

I am, My Lords,

Your Lordships
Most Obedient and
Most humble servant,
RICHD. WEST.
L.S.

Endorsed.

March 2^d. 7 ¹⁰/₂₀.

Copy of Petition of Geo. Skeffington. (Copied on f. 332.)

NEWFOUNDLAND.

Mr. West's Report upon Mr. Geo. Skeffington's Petition
relating to a Salmon Fishery at Newfoundland.

Dated March 2^d 1719.

Rec^d March 2^d Read D^o 10th 1719/20.

M. 98.

Report on Mr. George Skeffington's Petition. Dat 2^d Mar 7, $\frac{18}{20}$
R.W.

[8 April, 1720.]

Newfoundland.

L^r to M^r Secry Craggs
upon the Petition of

M^r George
Skeffington, relating
to a Salmon Fishery
at Newfoundland.

[*Enclosure in No. 828.*]

C.O. 195, VOL. 7, p. 36.

To the R^t Hon^{ble} Mr. Secry Craggs.

SIR,

In Obedience to His Maj^{ty}'s Comands signify'd to Us by your Reference of 23^d Febry. last, We have consider'd the Petition of George Skeffington, an Inhabitant of Newfoundland setting forth, that he has for about 12 Years past apply'd himself to, and improv'd the Salmon Fishery in two or three Rivers or Brooks to the Northward of Cape Bonavista in that Island, and has at very great Expencc and Labour clear'd the Lands of the Wood about forty Miles up some of those Rivers, and the Rivers, & Brooks, Rocks, Stones and other Obstructions to that Fishery. That he has built Houses, Stages, Fats and other Conveniencies for taking and curing of Salmon, that the Places where he has begun this Work were never before imploy'd or occupied by any Person whatsoever ; And therefore he humbly prays that his Maj^{ty} would be graciously pleas'd to permit him to enjoy the Houses, Stages and other Works made by him, for this Fishery without Molestation or Hindrance from any other Persons, who may attempt to disturb him therein, And that he may possess such Conveniences as he shall make hereafter in such Brooks or Rivers as have never before been used by any other Person.

We have upon this Occasion discours'd with the Petitioner and others who have appear'd in his behalf, and take Leave to observe y^t the Places where he has begun this Fishery are between Bonavista and Cape John in the North East Part of Newfoundland, which Places have never been frequented by any Fishing Ships from this Kingdom. And as the Petitioner is the first who has attempted to sett up a Salmon Fishery there, and as y^e Prayer of his Petition is no ways inconsistent with the Act for encouraging the Trade to Newfoundland. We humbly offer that His Majesty be graciously pleas'd to grant the Petitioner for the Term of 21 Years or such other time as His Majesty shall think fit the Sole Fishery for Salmon in the Places call'd Fresh Water Bay, Ragged Harbour, Gander Bay & Dog Creek between Cape Bonavista & Cape John, where he has already built Houses and other Conveniences for that Purpose, And that he have Liberty to cut Boards and Timber for his own Use in the Parts adjacent to those Rivers Brooks or Creeks for the said Fishery only, provided it be at Six Miles distant from the Sea Shoar.

*sic.

We are Sir

Your most Obedient & most humble
Servants

WESTMORLAND

C. COOKE
P. DOCMINIQUE
J. MOLESWORTH
T. PELHAM
M. BLADEN.

Copy.

Whitehall,
April 8th, 1723.*

No 830.

[1764.]

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF NEWFOUNDLAND
FOR THE YEAR 1764.**

B.T. NEWFOUNDLAND. VOL. 18. T. 37. 1764

—	York Harbour and Coast of Labradore without the Gulph.
Endorsed : In the Gov ^r 's Letter 23 Janry 1765. Read April 12. T. 37.	One Vessel only Employed this Year at York Harbour Included with those in the Column for St. Juliens the Fishery along that Coast not yet Est- ablished.

No. 831.

C

**8th April, 1765—RULES, ORDERS AND
REGULATIONS TO BE OBSERVED ON THE COAST
OF LABRADOR, ETC.**

See PART VII, page 937.

No. 832.

C

**28th August, 1765—RULES, ORDERS AND
REGULATIONS ESTABLISHING BRITISH FISHERY
ON LABRADOR COAST.**

See PART VII, page 944.

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF NEWFOUNDLAND
FOR THE YEAR 1765.**

[1773.]

B.T. NEWFOUNDLAND. VOL. 18. T. 64. 1765.

	Chateau in Labradore.	On the Coast of Labradore within the Streights of Belle Isle.
<p>Endorsed : In Gov^r Pallisseys Letter of 5 Nov. 1765. Read March 4, 1766. T. 65</p> <p>Quintals of Fish made by British Fishing Ships Inhabitants</p> <p>Carried to Foreign Markets Quintals of Fish</p> <p>Tons of Train Oil made by British Fishing Ships Inhabitants</p> <p>Price of Train Oil p^r Ton</p> <p>Value of Seal oil made last year</p>	<p>6,000</p> <p>4,996</p> <p>10,900</p> <p>15½</p> <p>11½</p> <p>£17</p> <p>Whale Bone truck'd £1,000 for with the savages</p>	<p>Some Boats and Small Vessels came here after the Fishery was over in Newfoundland. The Quantity of Fish taken by them was as follows. —</p> <p>There was Fishing there both for Cod and Seal, also Considerable Trade with the Indian Inhabitants the Whole Carry'd on by People from Canada for farther Particulars see the Note at the Lower part of the Sheet.</p>

On the Fishery on the Coast of Labradore within ye Gulph of St. Lawrence only, was Emp^d 117 Sloops & Schooners with 1,563 men who killed 104 Whales which Yielded on an Average 140 Barrells of Oil & 2,000 W^t of good Bone all kill'd within a space of 30 Leagues and between the 14th May & 10th July. The Winter Seal Fishery on the same Coast Carryd on by 107 men Yielded 500 Tons of Oil besides Fur, and

the Furs from the Indians was very considerable, so that the Value of the Whale, Seal, Cod, Salmon, and Furs upon that part of the coast only, was at a moderate computation £100,000 and not one Old England Ship or Seaman Empl^d therein, nor a Seaman raised thereby for the service of the Fleet. such is y^e Effect of letting y^e Newfoundland Fishery run into Monopolie, That y^e rest of our Merchants if they can't have a Monopolie likewise, will let y^e New England Men or Frenchmen, or any Body Run away with it.

Privy Council Documents

p. 2013

C

Volume IV Contents

[1 Aug. 1766.]

No. 834.

PROCLAMATION ADMITTING VESSELS FORM PLANTATIONS TO FISHERY ON COAST OF LABRADOR, ETC. 1st August, 1766.

Vide Vol. III, page 986.

[10 Aug. 1767.]

No. 835.

C

REGULATIONS FOR ESTABLISHMENT OF BRITISH SHIP FISHERY ON COAST OF LABRADOR. 10th August, 1767.

Vide Vol. III, page 1010.

No. 836.

EXTRACT FROM GENERAL SCHEME OF THE FISHERY AND INHABITANTS OF NEWFOUNDLAND FOR THE YEAR 1767.

B.T. NEWFOUNDLAND. VOL. 20, p. 27.

[1767.]

		Coast of Labrador								
		Chateaux		Red Bay and St. Modest	Isle Bois Fouteaux and Bradore	St. Augustine Macatine & Adjacent Ports		Migan &c.	Total	
			Ships From Newfoundland.							
Number of British	Fishing Ships	6	9	2	Total	9	Total	1	Total	
	Sack Ships	1								
Burthen of British	Fishing Ships	465	895	200		1150		110		
	Sack Ships	60								
N ^o of Men belong ^g to British	Fishing Ships	194	432	40		237		10		
	Sack Ships	7								
N ^o of Passengers in British Fishing Ships From Jesery		1								
N ^o of Boats kept by British Fishing Ships		25	68	10		27		2		
Quintals of Fish made by British Fishing Ships		6700	7540	2500		7950				
Carried to Foreign Markets	Quintals of Fish	6700	7540	2500		7950				
	Teirces of Salmon	45								
Tons of Train Oil made by British Ships		18	21	6½		20				

Prices of Train Oil p Tun	£15		£15		£15		£15		
Value of { Seal Oil made last Winter Furs taken by the Inhabitants	1562 Seals £885 & 3 Tons of Whalebone from y ^e Savages £15		953 Seals £360 £45		1783 Seals £677 £36		8838 Seals £3315 Not known		Included in y ^e last Column Not known
Number of { Stages Train fats	9	3	3		3				
	4	3	3						
N ^o of Inhabitants distinguishing { Masters Men Servants	4		3		3		Not known		
	43		33		27				
N ^o of Roman Catholics, distinguishing { Men	30		25		15				

No. 837.

[1768.]

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF
NEWFOUNDLAND FOR THE YEAR 1768.**

B.T. NEWFOUNDLAND. VOL. 20, p. 81. 1768.

_____	Coast of Labrador.	
		Total.
Number of British Fishing Ships	6 and 17 from Newfoundland recond there.	
Burthen of British Fishing Ships	750	
N ^o . of Men belonging to British Fishing Ships	172	
N ^o . of Boats kept by British Fishing Ships	24 and 130 from Newfoundland Recond there.	
Quintals of Fish made by British Fishing Ships	5,300 & 12,000 by Vessels from Newfoundland Recond there.	
Carried to Foreign Markets. Quintals of Fish	5,300 & 12,000 to Newfoundland Recond there.	
Tons of Train Oil made by British Fishing Ships	25	
Value of	{ Seal Oil made last Winter	£4,920
	{ Furs taken by the Inhabitants	£46
Number of Stages		13
N ^o . of People that remain ^d last Winter distinguish ^g	{ Masters	12
	{ Men Servants	120
	{ Mistresses	1

[1770.]

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF
NEWFOUNDLAND FOR THE YEAR 1770.**

COL. COR. NEWFOUNDLAND. VOL. 5. 1770.

	Coast of Labrador including Chateaux, St. Augustine, Brador, Isle Bois, Cape Charles and S ^t Modest.
N ^o of British Fishing Ships	8
Burthen of British Fishing Ships	740
N ^o of Men belonging to British Fishing Ships	71
N ^o of Passengers bro ^t out in British Ships from England	177
N ^o . of Boats kept by { British Fishing Ships	60
{ Inhabitants	1
Quintals of Fish { British Fishing Ships	6,090
made by { Inhabitants	70
Carried to Foreign Markets. Quintals of Fish	5,940
Tons of Train Oil { British Fishing Ships	13
made by { Inhabitants	277
Prices of the { Fish p. Quintal	10/-
{ Train Oil p. Ton	15 to 14 £
Value of the { Seal Oil made last Winter	£3,825
{ Seal Cow Oil	£799
N ^o of { Stages	9
{ Train fats	5
N ^o of Families. In Private Houses	3
N ^o of Acres of Land Improved	1
N ^o of People that remained { Masters	6
last Winter distinguishing { Men Servants	55
Since the departure of the last Convoy. Dead	2
Inhabitants Roman Catholicks. Men	43
J. Byron.	
Endorsed : General Scheme of the British Fishery &c ^a at Newfoundland &c ^a in 1770. In Governor Byrons of the 31st December.	

[1771.]

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF
NEWFOUNDLAND FOR THE YEAR 1771.**

COL. COR. NEWFOUNDLAND. VOL. 5. 1771.

		Coast of Labrador including Chateaux, Brador, Isle Bois & St. Modest.
N ^o of	{ British Fishing Ships	8
	{ Trad ^g Ships from America	1
Burthen of	{ British Fishing Ships	565
	{ Trad ^g Ships from America	25
N ^o of Men belonging to	{ British Fishing Ships	61
	{ Trad ^g Ships from America	7
N ^o of Passengers bro ^t out in the British Ships from	{ England	40
	{ Ireland	55
N ^o of Boats kept by	{ British Fishing Ships	47
	{ Bye Boat Men	4
N ^o of Byeboatmen	{ Masters	1
	{ Servants	127
Quintals of Fish made by	{ British Fishing Ships	8260
	{ Bye Boatmen	730
Carried to Foreign Marketts, Quintals of Fish		7400
Tons of Train Oil made by	{ British Fishing Ships	14
	{ Bye Boatmen	2
Prices of the	{ Fish p. Quintal	13—6
	{ Train Oil p. Ton	12 to 18£
Value of the Seal Oil made last Winter		£1243
N ^o of	{ Stages	9
	{ Trainfats	6
N ^o of People that remained last Winter, distinguishing	{ Masters	2
	{ Men Servants	21
Inhabitants, Roman Catholicks, Men		3

J. Byron.

Endorsed : Scheme of the Newfoundland Fishery 1771.
In Gov^r Byrons of the 5th Feb^{ry} 1772.

No. 840.

[24 June,
1772.]

**REPRESENTATION OF LORDS OF TRADE TO THE
KING,**

RECOMMENDING ANNEXATION TO PROVINCE OF QUEBEC OF
LABRADOR COAST BETWEEN RIVER ST. JOHN'S AND STREIGHTS OF
BELLE ISLE, WITH ADJACENT ISLANDS. 24th June, 1772.

Vide Vol. III, page 1055.

[1772.]

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF
NEWFOUNDLAND FOR THE YEAR 1772.**

COL. COR. NEWFOUNDLAND. VOL. 5. 1772.

		Coast of Labrador including Chateaux, Brador, Isle Bois & S ^t Modest.
Number of British	{ Fishing Ships	3
	{ Sack Ships	2
Burthen of British	{ Fishing Ships	305
	{ Sack Ships	250
Number of Men	{ Fishing Ships	46
belonging to British	{ Sack Ships	20
N ^o of Boats kept by	{ British Fishing Ships	54
	{ Bye Boat Men	6
	{ Inhabitants	1
Number of	{ Masters	5
Byeboatmen	{ Servants	24
Quintals of Fish	{ British Fishing Ships	9,920
made by	{ Bye Boat Men	105
Carried to Foreign	{ Quintals of Fish	6,500
Markets	{ Tierces of Salmon	140
Tons of Train Oil made by.	British Fishing Ships	57
Prices of the	{ Fish p. Quintal	13 ⁸ / ₆ ^d
	{ Train Oil p. Ton	£17/-
Value of	{ Seal Oil made last Winter	£9,760
	{ Furs taken by the Inhabitants	£25
	{ Truck with the Savages	Hhd. £100 and 36 Furs
Number of	{ Stages	9
	{ Trainfats	2
Number of Families, In Private Houses		14
Number of People	{ Masters	14
that remained last	{ Men Servants	156
Winter disting-	{ Mistresses	1
uishing	{ Children	2
Since the Departure of the last Convoy.	Dead	1
Inhabitants of Roman Catholicks.	Men	116
Of the Winterers	{ Boat Building	22
how many were	{ Sealing	152
Employed in	{ Furring	4
M. Shuldham.		
Endorsed : Newfoundland, Scheme of the English Fishery for the year 1772.		
Delivered by Governor Shuldham 9 Dec ^r 1772.		



No. 842.

[2 March,
1773.]

**REPRESENTATION OF LORDS OF TRADE TO THE
KING UPON MEMORIALS PRESENTED BY GEO.
CARTWRIGHT AND NOBLE AND PINSON. 2**
March, 1773.

Vide Vol. III, page 1069.

[2 March,
1773.]

No. 843.

C

**REPRESENTATION OF LORDS OF TRADE TO
COMMITTEE OF PRIVY COUNCIL,
RE CONSIDERATION OF THEIR REPRESENTATION OF 24 JUNE, 1772–
2 March, 1773.**

Vide Vol. III, page 1072.

[9 March,
1773.]

No. 844.

C

DISPATCH FROM DARTMOUTH TO SHULDHAM.
9 March, 1773.

Vide Vol. III, page 1074.

No. 845.

[1773.]

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF
NEWFOUNDLAND FOR THE YEAR 1773.**

COL. COR. NEWFOUNDLAND 1773. VOL. 6, p. 183.

	Coast of Labrador including Chateaux, Brador, Isle Bois and St. Modest.									
Number of British Fishing Ships	8									
Burthen of British Fishing Ships	910									
N ^o of Men belonging to British Fishing Ships	71									
N ^o . of Passengers bro ^t out in the British Ships from	<table border="0"> <tr> <td style="font-size: 2em; vertical-align: middle;">{</td> <td>England</td> <td style="text-align: right;">31</td> </tr> <tr> <td></td> <td>Ireland</td> <td style="text-align: right;">67</td> </tr> <tr> <td></td> <td>Jersey</td> <td style="text-align: right;">15</td> </tr> </table>	{	England	31		Ireland	67		Jersey	15
{	England	31								
	Ireland	67								
	Jersey	15								
N ^o of Boats kept by British Fishing Ships	33									
Quintals of Fish m ^a by British Fishing Ships	10,000									
Carried to Foreign Markets	<table border="0"> <tr> <td style="font-size: 2em; vertical-align: middle;">{</td> <td>Quintals of Fish</td> <td style="text-align: right;">6,100</td> </tr> <tr> <td></td> <td>Tierces of Salmon</td> <td style="text-align: right;">265</td> </tr> </table>	{	Quintals of Fish	6,100		Tierces of Salmon	265			
{	Quintals of Fish	6,100								
	Tierces of Salmon	265								
Tons of Train Oil m ^a by British Fishing Ships	200									
Value of	<table border="0"> <tr> <td style="font-size: 2em; vertical-align: middle;">{</td> <td>Seal Oil made last Winter</td> <td style="text-align: right;">£23,023</td> </tr> <tr> <td></td> <td>Of Truck from the Savages</td> <td style="text-align: right;">12 Hhds Furs &ca.</td> </tr> </table>	{	Seal Oil made last Winter	£23,023		Of Truck from the Savages	12 Hhds Furs &ca.			
{	Seal Oil made last Winter	£23,023								
	Of Truck from the Savages	12 Hhds Furs &ca.								
Number of	<table border="0"> <tr> <td style="font-size: 2em; vertical-align: middle;">{</td> <td>Stages</td> <td style="text-align: right;">6</td> </tr> <tr> <td></td> <td>Trainfats</td> <td style="text-align: right;">29</td> </tr> </table>	{	Stages	6		Trainfats	29			
{	Stages	6								
	Trainfats	29								
Number of Families in Private Houses	17									
N ^o of People that remained last Winter, disting ^g	<table border="0"> <tr> <td style="font-size: 2em; vertical-align: middle;">{</td> <td>Masters</td> <td style="text-align: right;">19</td> </tr> <tr> <td></td> <td>Men Servants</td> <td style="text-align: right;">264</td> </tr> <tr> <td></td> <td>Children</td> <td style="text-align: right;">Boys 4</td> </tr> </table>	{	Masters	19		Men Servants	264		Children	Boys 4
{	Masters	19								
	Men Servants	264								
	Children	Boys 4								
Inhabitants Roman Catholicks	Men 126									
Of the Winterers how many were employed in	<table border="0"> <tr> <td style="font-size: 2em; vertical-align: middle;">{</td> <td>Boat Building</td> <td style="text-align: right;">2</td> </tr> <tr> <td></td> <td>Sealing</td> <td style="text-align: right;">227</td> </tr> </table>	{	Boat Building	2		Sealing	227			
{	Boat Building	2								
	Sealing	227								
M. Shuldham.										
Endorsed : In Gov ^r Shuldham's of 5 th Nov ^r 1773.										

[1774.]

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF
NEWFOUNDLAND FOR THE YEAR 1774.**

COL. COR. NEWFOUNDLAND. VOL. 7. 1774.

Endorsed: In Governor Shuldham's of the 23^d November

		Coast of Labrador by Adventurers from Great Britain and Jersey.	Coast of Labrador by Canadians.
Number of British	{ Fishing Ships	11	2
	{ Stack Ships	...	1
Burthen of British	{ Fishing Ships	2,034	260
	{ Stack Ships	...	40
N ^o of Men belonging to British	{ Fishing Ships	426	13
	{ Stack Ships	...	4
N ^o of Passengers bro ^t out in the British Ships from	{ England	5	...
	{ Ireland	119	...
N ^o of Boats kept by British Fishing Ships		43	1
Quintals of Fish made by British Fishing Ships		12,086	20
Carried to foreign Markets	{ Quintals of Fish	12,436	...
	{ Tierces of Salmon	865	...
Tons of Train Oil made by British Fishing Ships		29	...
Value of	{ Seal Oil made last Winter	£2,565	£12,717
	{ Furs taken by Inhabitants	£46	£68
	{ Of Truck with the Savages	£30	...
N ^o of	{ Stages	7	...
	{ Train fats	9	...
N ^o of Families in private Houses		5	19
N ^o of Acres of Land improved		1	...
N ^o of People that remained last Winter (distinguishing)	{ Masters	1	...
	{ Men Servents	145	179
	{ Mistresses	2	...
	{ Women Servents	4	...
	{ Children	6	...
Since y ^e depart ^{re} of the last Convoy	Dead	1	...
Inhabitants Roman Cathlicks	Men	83	179
Of the Winterers how many are Employ'd in	{ Boat Building	14	...
	{ Sealing	127	179
	{ Furring	4	...
	M. Shuldham.		
Right Hon ^{ble} Earl of Dartmouth.			

No. 847.

[1775.]

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF
NEWFOUNDLAND FOR THE YEAR 1775.**

COL. COR. NEWFOUNDLAND. VOL. 7. 1775.

	Coast of Labrador by Adventurers from Great Britain and Jersey.	Coast of Labrador by Canadians.
Number of British Fishing Ships	12	..
Burthen of British Fishing Ships	1,190	..
Number of Men belonging to British Fishing Ships	483	..
N ^o . of Boats kept by British Fishing Ships	42	..
Quintals of Fish made by British Fishing Ships	11,950	..
Carried to Foreign Markets	{ Quintals of Fish Tierces of Salmon	{
Tons of Train Oil made by British Fishing Ships	43	..
Prices of the	{ Fish ^q Quintal Salmon ^q Tierce Train Oil ^q Ton	{
Value of	{ Seal Oil made last Winter Furs taken by Inhabitants Truck from the Savages	{ £2,952 £582 £150
Number of	{ Stages Trainfats	{
Number of Families In private houses	7	1
Number of people that remained last Winter distinguishing	{ Masters Men Servents Mistresses Women Servents Children	{ 166 1 7 9 ..
Since the Departure of the last Convoy	{ Born Dead	{

Of the Winterers how many Employed in Sealing	166	143
Endorsed: In Gov ^r Duff's of 14 Nov ^r 1775. Robert Duff		

No. 848.

[1775-1839.]

**INSTRUCTIONS OF GOVERNORS OF PROVINCE
OF QUEBEC (AND LOWER CANADA).**

ARTICLES 33–36, INCLUSIVE. 1775–1839.

Vide Vol. II, pp. 833, 856, 879, 882.

[1775.]

No. 849.

**IMPERIAL ACT 15 GEO. III., C. 31 (SIR HUGH
PALLISER'S ACT).**

SECTION 4. 1775.

Vide Vol. I, page 257.

No. 850.

[1776.]

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF
NEWFOUNDLAND FOR THE YEAR 1776.**

COL. COR. NEWFOUNDLAND. VOL. 8. 1776.

Endorsed: In Vice Adm^r Montagu's of 12th November 1776.
(3)

		Coast of Labrador by Adventurers from Great Britain and Jersey.	Coast of Labrador by Canadians.
Number of British	{ Fishing Ships	10	..
	{ Of which are Bankers	1	..
	{ Sack Ships	1	..
Number of Trading Ships from America		1	..
Burthen of British	{ Fishing Ships	960	..
	{ Sack Ships	70	..
Burthen of Trading Ships from America		160	..
Number of Men belonging to British	{ Fishing Ships	167	..
	{ Sack Ships	8	..
Number of Men belonging to Trading Ships from America		11	..
Number of Passengers brought out in the British Ships from	{ England	55	..
	{ Ireland	10	..
Number of Boats kept by	{ British Fishing Ships	29	..
	{ Inhabitants	1	..
Quintals of Fish made by	{ British Fishing Ships	9,000	..
	{ Inhabitants	320	..
Carried to foreign Markets	{ Quintals of Fish	9,000	..
	{ Tierces of Salmon	1,032	..
Tons of Train Oil made by	{ British Fishing Ships	29	..
	{ Inhabitants	1	..
Prices of the	{ Fish per Quintal	11 ⁸ /	..
	{ Salmon per Tierce	£2	..
	{ Train Oil per Ton	£20	..
Value of	{ Seal Oil made last Winter	£1,450	2,840
	{ Furs taken by Inhabitants	£110	£500
Number of	{ Stages	6	..
	{ Trainfats	6	..
Number of Families in Private Houses		2	..
Number of People that remained last Winter distinguishin ^g	{ Masters	3	9
	{ Men Servents	107	170
	{ Mistresses	2	..
	{ Wom ⁿ Servents	3	..
Since the Departure of last Convoy	{ Born	1	..
	{ Dead	1	..
Of the Winterers how many	{ Boat Building	12	..
	{ Sealing	108	170

Employed in

{ Furring

4
J. Montagu.

..

No. 851.

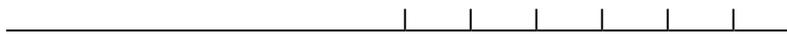
[1779.]

**EXTRACT FROM GENERAL SCHEME OF THE
FISHERY AND INHABITANTS OF
NEWFOUNDLAND FOR THE YEAR 1779.**

COL. COR. NEWFOUNDLAND. VOL. 9. 1779.

		Labrador.					
		Fox Harbour Battle Harbour Cape Charles Charles Harbour		Lewis Bay Spear Harbour Mackeys Harb ^f		Murray Harb ^f Chatteau Forto	
Number of British	{ Fishing Ships	..	..	3	..	1	..
	{ Sack Ships	..	..	..	3	4	5
Burthen of British	{ Fishing Ships	..	..	420	..	50	..
	{ Sack Ships	..	..	..	420	300	350
Number of Men belonging to British	{ Fishing Ships	..	..	32	..	8	..
	{ Sack Ships	..	..	..	32	136	144
Number of Passengers in the British Fishing Ships		..	..	..	..	30	..
Number of Boats kept by	{ Fishing Ships	..	..	14	..	9	..
	{ Bye Boatmen	6	..	..	..	2	..
	{ Inhabitants	..	6	..	14	..	11
Quintils of Fish made by	{ Fishing Ships	..	..	2500	..	4000	..
	{ Bye Boatmen	1640	..	..	..	600	..
	{ Inhabitants	..	1640	..	2500	..	4600
Carried to Foreign Markets	{ Quintils of Fish	1500	..	900	..	..	..
	{ Tierces of Salmon	300	..	212	..	250	..
Tons of Train Oil made by	{ Fishing Ships	..	..	3	..	2	..
	{ Bye Boatmen	2½	..	..	..	½	..
	{ Inhabitants	..	2½	..	3	½	3
Price of	{ Fish p ^f Quintil	0 10 6	..	0 10 6	..	0 10 6	..
	{ Salmon p ^f Tierce	2 0 0	..	2 0 0	..	2 0 0	..
	{ Train Oil p ^f Ton	17 0 C	..	17 0 0	..	17 0 0	..
Value of	{ Seal Oil made last Winter	£590	..	£2350	..	£1090	..
	{ Furs taken by Inhabitants	£20	..	£650	..	£100	..
Number of	{ Stages	4	..	4	..	4	..
	{ Train Fatts	5	..	4	..	11	..
Number of Families in	{ Private Houses	7	..	11	..	4	..
	{ Public Houses	..	7	..	11	..	4
Number of Inhabitants Distinguished Which remain'd in the Country last Winter	{ Masters	..	..	3	..	3	..
	{ Mistresses	..	..	1	..	2	..
	{ Men Servants	15	..	54	..	52	..
	{ Woman Servants	2	..	1	..	3	..
	{ Children	..	17	2	61	3	63
Since the last Convey sailed	{ Born	1	..	1	..	2	..
	{ Dead	..	..	..	..	1	..
N ^o of Rom ⁿ Catholick Inhabitants	{ Men	..	..	100	..	..	..
	{ Women	..	..	1	..	..	..
	{ Children	..	..	..	101	..	..

Endorsed. In Gov^r Edwards of 9th Dec^r 1779. —(4)



[1785.]

**EXTRACT FROM GENERAL RETURN OF THE
NEWFOUNDLAND FISHERY FOR THE YEAR 1785.**
VICE ADMIRAL JOHN CAMPBELL GOVERNOR.

COL. COR. NEWFOUNDLAND. VOL. 11. 1785.

[sic]

	Labrador Coast.	
		Total.
Number of British fishing Ships	8	8
Burthen of British fishing Ships	1130	1130
N ^o of Men belonging to British fishing Ships	93	93
Passengers from		
{ Ireland	92	..
{ Jersey	50	142
Number of Boats kept by		
{ British fishing Ships	45	..
{ Bye Boat Men	4	49
Number of Bye Boatmen		
{ Masters	2	..
{ Servants	20	22
Quintils of Fish made by		
{ British fishing Ships	12300	..
{ Bye Boatmen	1200	13500
Carried to foreign Markets		
{ Quintilsof Fish	..	13500
{ Tierces of Salmon	..	696
Tons of Oil made by		
{ British fishing Ships	56	..
{ Bye Boatmen	5	61
Prices of		
{ Fish th Quintil	..	12/
{ Salmon th Tierce	..	40/
{ Train Oil th Ton	..	£17
Value of		
{ Seal Oil made last Winter	..	£1572
{ Furrs taken	..	£110
{ Truck with the Indians	..	£20
Number of		
{ Stages	12	..
{ Train fatts	18	30
N ^o of Families in Private Houses	6	6
No of Inhabitants disting		
{ Masters	2	..
{ Men Servants	257	..
{ Mistresses	4	..
{ Woman Servants	1	..
{ Children	12	276
Of which remained in the Country last Winter		
{ Masters	2	..
{ Men Servants	134	..
{ Mistresses	4	..
{ Woman Servants	1	..
{ Children	12	153
Since departure of the last Convoy		
{ Born	..	1
{ Dead	..	2

Saint Johns, Newfoundland, 28 October 1785
Jn^o Campbell
Gov : and Com : in Chief
Endorsed : In Voce Adm^l Campbell's of 16 Nov.
1785. (No. 7)

No. 853.

[1789.]

IMPERIAL ACT 29 GEO. III., CAP. 53. 1789.

PREAMBLE.

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Vide Vol. I, page 286.

No. 854

[10 March 1820.]

MARTHA ROWE, ADMINISTRATIX, AGAINST THE
HEIRS OF THOMAS STREET. ¹

The whole of the *sea-coast* of this island is dedicated to the *fishery*, by the 10 and 11 *William* III, c. 25 ; and, therefore, the Governor cannot grant any part thereof.

Action to recover possession of a fishing-room at Trinity ; and also to recover the sum of £50, being for five years' rent, at £10 per annum, from the year 1813 to 1817.

Per Curiam. This case is very defective of evidence. It is stated that the late *Thos. Street*, deceased, obtained a grant of the fishing-room in question for *James Rowe*, who, in consideration of this service, allowed him to retain the use of the room during his life. All this is very unlikely, insomuch that I should have suspected there were other causes for this arrangement if they had not partly been stated and admitted at the hearing.

It now turns out that *Rowe*, becoming involved with his creditors in England, by way of securing his plantation from being taken in satisfaction of his debts, obtained a grant through the intercession of *Street*. As against the *creditors*, this grant was void, because it has been repeatedly held that the governor cannot grant any part of the island adapted to the fishery. *The whole of the sea-coast is already granted away by the statute of William.* As between the *parties*, however, to the arrangement, I must take as my guide the *intentions* which probably governed them.

It is stated by *Adams*, in an affidavit taken *de bene esse*, that he received a letter from *Street*, for whom he acted as agent in this island, in the year 1805, in which he acknowledged that he held the plantation in question by permission from *Rowe*, during such time as he thought fit to use it. This is corroborated by the fact that the property has actually since been given up (subject to a subsisting lease) to *Rowe's* representatives. On the one hand, this is considered as a voluntary act, proceeding, *ex mero motu*, of *Street's* widow ; while, on the other, it is regarded as an admission of the *right of Rowe's representatives*. With the latter view of the case, under all circumstances, I agree ; and, therefore, I hold them entitled to the *surplus rents* received by *Street's* representatives, together with the *reversionary interest* in the lease itself. Beyond this, however, I cannot go.—The property was leased to *Macbraire*, and under-leased by him, after a length of possession, and with every appearance of right, sufficient to warrant a title in the lessor. If the *Rowes* have fallen asleep over their better claim, it is their fault, and should not prejudice innocent parties.

¹ Newfoundland Select Cases, 1817–1828, pp. 240–242.

**HUNTERS & CO., APPELLANTS, AND TRUSTEES
OF JOHN LANGDON, RESPONDENTS.¹**

[12 May, 1823.]

The Surrogate Court decided, that the law of *current-supply* does not extend to a *general trader*; and that the 49th Geo. III., c. 27, is not applicable to the *seal-fishery*.

The appellants had furnished *John Langdon* with supplies for the fisheries, to the amount of £27 15s. 0d., which *Langdon* had made over to the owner of a schooner fitted out by him for the *seal-fishery*; and the appellants had brought their action in the Court below against the trustees of *Langdon* for this sum, upon the ground that they were entitled, in the settlement of *Langdon's* estate, to a preference as current suppliers. Judgment had, however, been given against them, and reasons are assigned by the Surrogate in support of his decision: First, that *Langdon* was a general trader, and that credit had been given to him by *Hunters & Co.* as a *general merchant*. Secondly, that the 49th Geo. III., c. 27, is not applicable to the *seal-fishery*, but is entirely confined to the *cod-fishery*. In appealing, therefore, against this judgment, *Simms*, on behalf of the appellants, contended, that both the ground upon which it was founded were bad in law, and referred to *Le Messurier's*, *Kelly's*, *Graham's*, and *Dolly's* cases, in support of his objection. On the other side, *Hayward* insisted that the judgment below was right in whatever light it may be viewed; and contended, as in the former case, that the Supreme Court had not power to review it.

The Court deferred judgment to a future day; and afterwards dismissed the appeal, on the grounds stated in the judgment on the foregoing case.

¹ Newfoundland Select Cases, 1817–1828, pp. 335–336.

No. 856.

THE KING v. CUDDIHY.¹

TUCKER, C.J., DESBARRES AND BRENTON, J.J.

*Crown lands—"Ship's-rooms"—History and basis of title to land in Newfoundland—
Various classes of land—Title as against the Crown—Effort of Statutes
in relation to "Ships-room."*

A proceeding by the Crown to recover possession of certain lands comprised in what was known as "Ships-room." History and basis of title to land in Newfoundland reviewed.

In this case the following information was filed ex officio by the Attorney General:—

St. John's (to wit): Be it remembered that James Simms, Esq., Attorney General of our Sovereign Lord the now King who for our said Sovereign Lord the King prosecutes in this behalf in his proper person comes here into the Court of our said Lord the King before the King himself, at St. John's, in the Island of Newfoundland, in this same term and for our said Lord the King gives the Court here to understand and be informed that in and by a certain Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the 51st year of his late Majesty King George the 3rd,* intituled "An Act for taking away the Public Use of certain Ships-rooms in the town of St. John's, in the Island of Newfoundland, and for instituting Surrogate Courts on the coast of Labrador and certain Islands adjacent thereto," it is enacted that from and after the passing of the said Act, certain ships-rooms in the said Act mentioned and enumerated, situate in the town of St. John's, as the same are laid down distinguished and named in a plan of the town and harbour of St. John's in Newfoundland, dated October, 1804, and deposited in the Government House there, shall no longer be deemed and taken to be ships rooms and occupied during the fishing season as such ; but it shall be lawful for the same to be granted, let, possessed, as private property in like manner as any other portions of land in Newfoundland may be. Yet one John Cuddihy, late of St. John's aforesaid, not having regard for the laws and statutes of this realm, since the passing of the said in part recited Act of Parliament, to wit, on the 1st of June, in the first year of the reign of his late Majesty King George the Fourth, and on divers other days and times between that day and the day of exhibiting this information, with force and arms at St. John's aforesaid into and upon a certain ships-room, called the "Lady's Ships-room, No. 2," situated in the town of St. John, being a ships-room in the said Act of Parlia-

¹ Newfoundland Reports, 1829-45, pp. 8-26. Cap. 45.

ment mentioned and enumerated, and as the same is laid down distinguished and named in the aforementioned plan of the town and harbour of St. John's aforesaid, subject to the purposes and provisions aforesaid and in the said Act contained, did break and intrude, and then and there did unlawfully enclose and fence in with posts and rails a certain

plot or parcel of the said “ Lady’s Ship-room,” bounded on the west by Queen Street, and being 24 feet thereby, and running across the said room on the south of the said plot 91 feet, and on the east boundary of the said plot running 50 feet, and did unlawfully continue in and hold the same plot or parcel of the said “ Lady’s Ships-room,” thence and until the day of exhibiting this information, unto the use of him the said John Cuddihy in contempt of his said late Majesty King George the Fourth and his rights, and also in contempt of our said Lord the now King and his rights, and against the form of the Statute in such case made and provided : Wherefore the said Attorney General, for our said Lord the now King prosecutes in this behalf, prays the consideration of the Court, here in the premises, and that due process of law may be awarded against the said John Cuddihy in this behalf to make him answer to our said Lord the King touching and concerning the premises aforesaid.”

To which the defendant pleaded not guilty.

The Attorney General laid before the jury an outline of the facts of his case ; and in support thereof called as witness.

GEORGE HOLEBROOK.—Is Surveyor General of this Island, and knows the spot of ground formerly called “ Lady’s Ships-room.” The plan of St. John’s now produced by witness is the original and true plan thereof referred to by the Legislature in 51st George III., c. 45, sec. 1. The defendant is in possession of a part of the ground laid down in this plan as “ Lady’s Ships-room.” Witness surveyed the part so occupied by the defendant, and has traced the extent thereof in the plan which he now produces. The encroachment actually includes 24 feet on the south-west boundary ; fifty feet on the north-east ; and 91 feet on the north and south extremities. The part comprised in these limits witness feels assured is a portion of what is laid down in the parliamentary plan of the town as “ Lady’s Ships-room” and the survey by which this encroachment on that ships-room was ascertained, was made about five years ago by witness, who gave notice thereof to the defendant by driving wooden stakes to designate the limits of the encroachment.

Cross-examined.—Has been Surveyor General nine or ten years. The plan referred to in the Act of Parliament was formed in October, 1804, at which time several parts of the ships-room included in that plan were in possession of private individuals. “ Lady’s Ships-room,” in particular, was composed of two parts : one occupied by residents in the town, and the other unoccupied.

Upon this testimony the Attorney General rested his case ; and to answer it Mr. Lilly, after having addressed the jury at considerable length, and with much feeling on the harshness of a proceeding under which the Crown now

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attempted to seize into its hands a spot of ground which he was prepared to prove had been in possession of the defendant, and those underwhom he claimed, for sixty years, recalled as a witness :

GEORGE HOLEBROOK.—The manuscript-book now produced by witness is brought from the Government office,

and is numbered Vol. 3 of the early acts and proceedings of the Government. Witness turns to a page of the said book in which there is an entry of authority, under date of 26th October, 1759, from Admiral Edwards (then Governor of the Island) to one Joseph Nowell to occupy and possess a spot of ground in St. John's agreeably to the metes and boundaries therein described. He also produces a lease from Governor Sir John Duckworth, dated 23rd October, 1811, to Stabb, Preston & Co., of all "Lady's Ships-room," extending 250 feet on Queen Street and 64 feet on Water Street, and bounded on the north by premises in the occupation of Martin Fitzgerald, and on the east by premises leased to Stephen Knight. The piece of ground which forms the subject of the present suit is not a part of the ground comprised within the lease to Stabb, Preston & Co., according to the boundaries set forth in that lease, although it does, in general terms, profess to be a conveyance of all "Lady's Ships-room."

Cross-examined.—Cannot say positively that the lease to Stabb, Preston & Co. has been surrendered by them, though he believes that it has. On the side of Queen Street, opposite to that which forms the boundary of Stabb, Preston and Co.'s lease, there is ground which also belongs to "Lady's Ships-room," according to the parliamentary chart or plan of it.

(The counsel for the defendant here contended, that under the lease to Stabb, Preston & Co., all the Crown's interest in "Lady's Ships-room," east of Queen Street passed to the lessees; and consequently, that if there was more of "Lady's Ships-room" to the east than was comprised within the boundaries expressed in the lease, the lessees were still entitled to that excess, and the Crown accordingly estopped from claiming it, unless it could prove—what it had here failed to do—the surrender of that lease.

The Court considered there was but little force in this objection; as, under a general rule of law, the grant must be construed most favourably for the King, so as to prevent anything from passing under the term "all" beyond what was contained within the boundaries particularly set forth in the lease. To give to the defendant, however, every advantage to which he might possibly be entitled, the point was reserved for future consideration, in the event of a verdict being obtained by the Crown.

The defendant's counsel next called *2nd Witness*—CORNELIUS WINTON. Is a subscribing witness to the deed now produced: and saw Thomas Nowell duly sign and execute the same. [The deed, which was from Thomas Nowell, the descendant of that Joseph Nowell to whom a license of occupation of the ground in question was granted by Governor Edwards, in 1759, was then read by the Clerk of the Court. It was dated 8th December, 1820; and under it

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Thomas Nowell conveyed to the defendant, in fee-simple, for a valuable consideration, the ground now in dispute, together with some other land at present in defendant's possession.]

3rd Witness—JAMES HONAN.—Arrived in St. John's more than 60 years ago (i.e. in the spring of 1770) and has resided here ever since, with the exception of three years spent at

Trepassey, and five or six years at Bay Bulls. On his first arrival witness served Mr. Boden, who had a fishing establishment close to the ground in dispute, which was then in the occupation of Joseph Nowell, whose house was within eight or ten feet of the fence enclosing the property now occupied by the defendant. It was even at that time an ancient house ; and must have actually stood on a part of the ground now claimed by Government. Witness himself lived at one period on the premises, as tenant to one Undry, who was the lessee of Nowell ; and never knew any part of the ground now in defendant's occupation to be used, or claimed, by the public as a ship's room. On the contrary, there was a path-way between defendant's property and the neighbouring fishing-room : and the fence is now very nearly in the same situation in which it stood when witness first knew it.

(This witness, who is a man of 80 years of age, then proceeded to enumerate all the occupiers of the ground in dispute, in continuous succession, from Joseph Nowell, whom he found in possession in 1770, down to the present defendant.)

4th Witness—NICHOLAS BROWN.&\$8212;The fire of 1824 burnt down some houses belonging to defendant. Witness knew them well, having a short time before repaired them. They came within 10 feet of the fence as it now stands, and this fence, which was erected after the destruction of the former one by the fire, follows the line of the old one very nearly ; the only difference arising from the defendant's having given up to the public a small space which was contained within the former enclosure, in order to preserve a perpendicular or right line with the street. The houses destroyed by the fire of 1824 were ancient buildings. One of them, in particular, looked like an old house when witness first saw it about 18 years ago.

The defence here closed ; and the Attorney General having urged, in his reply, every argument by which his claim to a verdict could be supported, Chief Justice TUCKER delivered the case to the jury in a charge, the substance of which is as follows :

The verdict ought to be governed by the opinion which the jury might form upon one, or both, of two great questions into which the case resolved itself ; viz :

1st.—Was the piece of ground which the Crown now sought
to recover from the defendant a part of any ground
which, since the year 1685, had been used by
fishing
ships ; and included, as such, in the 51st Geo. III.,
c.
45, s. 1, under the description of “ Lady's Ships-
room ? ”

p. 1915

2nd.—Admitting the ground in dispute to have been part of
“ Lady's Ships-room ” can the claim which the
Crown
now prefers to it be defeated by the proof which
the

defendant has adduced of the possession of it by himself, and those under whom he claims, for sixty

years ?

The first is altogether a question of fact ; and must accordingly be decided entirely by the evidence.

By the 51st Geo. III., c. 45, s. 1, a plan of the town of St. John's is referred to as descriptive of the several " Ships-rooms " mentioned in that section ; and it seems, therefore, that such plan must be considered conclusive evidence of their respective limits : so that if the jury fairly believe that the ground in dispute is laid down in that plan as part of " Lady's Ships-room " they must find that it did actually belong to that ships-room, since no evidence could be admissible to controvert that point.

But there certainly is nothing in the Act of Parliament to prevent the jury from deciding whether or not this ground is really a part of that ground which is so laid down in the parliamentary plan as " Lady's Ships-room ; " and in the investigation of this subject they ought to weigh the evidence on both sides with fairness and strict impartiality.

On the part of the Crown they have the testimony of the present Surveyor General, who tells them that from a survey, and careful comparison of that survey with the plan of 1804, he is convinced that the disputed ground is part of the lot laid down in that plan as " Lady's Ships-room."

To rebut this strong presumptive evidence against him, the defendant has produced, (in addition to the parol testimony of the venerable witness Honan who proves that the ground which forms the subject-matter of the present suit has not been used as part of " Lady's Ships-room. " within the last sixty years), 1st—A license from Governor Duckworth, dated in 1759, to Joseph Nowell, to occupy this identical spot of ground ; and 2ndly, a lease from Governor Duckworth, made under the powers conferred on him by the 51st Geo. III., c. 45, which professes to convey all " Lady's Ships-room " to the lessees, and yet, as has been clearly shown in evidence, does not comprise the ground in dispute. And his counsel contends that these documents lead irresistibly to the inference, that the disputed ground was at no time a part, and, consequently, could not have been laid down as such in the plan of 1804, of " Lady's Ships-room : " because if it ever were a part of a ships-room, Governor Edwards' license to Nowell to occupy it was a violent infraction of the law, which the jury are bound to suppose he would not wantonly have been guilty of ; and 2ndly, because Governor Duckworth, with all the means of ascertaining, by the report of a Surveyor General, the true boundaries of " Lady's Ships-room " under the description of it given in the plan of 1804, with the temptation of selling at the highest price which has ever been given for land in this country every inch that he could legally part with, and with a dispo-

tion to improve to the utmost every opportunity of increasing the public revenue, would not have failed to sell this ground as part of “ Lady’s Ships-room ” if he had not been thoroughly convinced, upon evidence equally strong with that upon which the jury are now called on to decide in favour of the Crown, that it really did not belong to it.

Between this conflicting testimony, then, it is the peculiar province of the jury to determine to which side the greatest weight and credit ought to attach.—The evidence of Mr. Holbrook certainly carries with it much force ; not only as coming from an individual whose well known integrity places beyond the suspicion of wilfully misrepresenting facts, but whose professional knowledge must also render it improbable that he can be mistaken in the opinion he has offered upon them. Still, however, it is possible that he may so : and unquestionably the omission on the part of a keen and vigilant Governor, like Sir John Duckworth, who seized with avidity every occasion of adding to the Public Revenue, to dispose of this spot of ground at a time when a most exorbitant rent might have been obtained for it, can only be accounted for by supposing, either that he had ascertained by actual measurement, that it was not a part of “ Lady’s Ships-room,” as laid down in the parliamentary plan ; or, if it were indeed a part of it, that he did not consider himself authorised, under a just construction of the statute, to grant or let those parts of “ ships-rooms ” which, before the passing of the Act, had been “ possessed ” and occupied by private persons. If his non-interference with the ground now in dispute was influenced by the last of these motives, it can have no tendency whatever to invalidate Mr. Holbrook’s testimony ; and the jury ought, consequently, to be very cautious in admitting inferential deductions to counterbalance positive statements. Should they, however, upon a fair and careful examination of the evidence, truly and conscientiously believe that the disputed premises are not a part or portion, of “ Lady’s Ships-room,” as laid down in the parliamentary plan, they must, of course, give a verdict for the defendant ; but should they arrive at an opposite conclusion on this point, the far more difficult question will arise ; viz. Whether the Crown is entitled to recover the ground it now lays claim to, even if it does form a part of “ Lady’s Ships-room ? ”

As this is entirely a legal problem, the jury have a right to look to the Bench for information and instruction upon it : and the Court will not attempt to conceal that it enters upon the discharge of this duty with intensely painful feelings of anxiety and apprehension. Not, however, with feelings of any apprehension lest it should incur the disapprobation of the Government, by advancing doctrines contrary to its views and supposed interests ; nor, on the other hand, lest public censure and obloquy should attend a fair assertion of the legal rights of the Crown—for against the influence of such unworthy fears, even if a foundation for them should at any time exist, the Judges confidently trust they will ever be strongly fortified by a determination conscientiously to discharge their sacred functions without the least regard to any consequences which may result to themselves from a faithful and indepen-

dent performance of their duty—but with feelings of apprehension originating in a real diffidence and distrust in their capacity and ability to handle a subject which has puzzled some of the most distinguished lawyers in England, and on which even the great Lord Hardwicke seems to have been averse from offering an opinion. The question, of what is a good title to land in this colony is, indeed, accompanied with such circumstances of doubt and difficulty that there is probably not a single individual, however confident he may feel in his professional talents and attainments, who could not decline a gratuitous discussion to it : and certainly nothing short of the coercive force of public duty could induce the Judges on this Bench to enter on a task which they have such reason to consider greatly beyond the measure of any strength and power they can bring to the execution of it. Compelled, however, as they have been by the present suit, and others of a similar nature which are also pending in the Court, to endeavour to form a settled and determined opinion upon this knotty question, they have investigated it in all its bearings with as much attention as the very small share of leisure they are permitted to enjoy would allow them to bestow upon it ; and they are, accordingly, now prepared to deliver their unanimous sentiments respecting it, not with dogmatical arrogance, as positively asserting that their opinion is right, but with an hope that it may prove to be correct, and with an honest confidence in the belief that it is so.

To exhibit the foundation upon which this opinion rests, it will be necessary to advert to the early history of this Island ; and to take a comprehensive view of all the Acts of Parliament which affect the right of the inhabitants of Newfoundland to hold land in it.

For many years after its discovery Newfoundland was nothing more than a station for carrying on a transitory fishery ; and everything in it was exclusively dedicated to the use of the vessels which annually repaired hither for the purpose of catching fish on the banks and coasts of the Island. It was probably a long time ere any attempt was made to form a permanent establishment on the shore ; and the first step towards it was perhaps made by a few persons who were left here during the winter by the masters of the fishing ships to take care of some articles of property, which, from motives of convenience, they are occasionally induced to leave behind them. In spite, however, of the severity and rigour of the climate, a resident population gradually grew up in the Island ; and with it arose a sedentary fishery, which was always considered to be most prejudicial to the success of the transitory fishery. The hostility which grew out of these conflicting interests, attended as it was by many acts of annoyance committed by the persons engaged in the transitory fishery, who were numerically, and still more in political influence, the stronger side, against the residents in the Island must, of course, have impeded the progress of population, but was yet so unable to suppress the growth of it that it became, towards the close of the 17th century, an object which was deemed worthy of some attention by the English Parliament : and, accordingly, though the professed object of the 10th and 11th Will. III., c. 25, was to encourage and promote the transitory fishery, it

notwithstanding confers some important privileges upon the resident inhabitants. That Act, then, being the corner-stone or first foundation of all statutable claim to land in this country, the following table of the several sorts of title which could exist under it (framed upon a careful examination of its various enactments) seems to form a proper introduction to the subject to the present enquiry.

With reference, therefore, to the 10th and 11th Will. III., c. 25, all the land in this Island may be comprised in these five classes, and the nature of the property or interest which might be acquired or enjoyed in it, under the enactments of that statute, is shortly explained under each of those divisions :

No. I.

Land (whether “ Ship’s-rooms ” or not) seized and exclusively occupied by the resident inhabitants before the year 1685.

Of this class of occupiers (if there were any such) the Acts take no notice whatever ; and since the land in their possession is not in the least affected by any of its provisions, it seem that an uninterrupted possession of it for sixty years would confer a good title to it, even as against the Crown itself, under the general rule of English law.

No. II.

“ Ships-rooms ” which have been seized and occupied by the resident inhabitants in the period between the years 1685 and 1698.

The persons who had so seized on these “ Ships-rooms ” are directed and commanded to resign and relinquish them, to the perpetual use of the fishing-ships, on or before the 25th March, 1700.

No. III.

“ Ships-rooms ” existing as such, free from any interference with them on the part of the inhabitants, at the passing of Act in 1698.

Such “ Ships-rooms ” are specially set apart and exclusively dedicated to the use of fishing-ships for ever.

No. IV.

Land seized and occupied by the inhabitants between the years 1685 and 1698, which had not within that period been used as “ ships-rooms. ”

A quiet and peaceable possession and enjoyment of this land (as far, at least, as the purposes of the fishery are concerned) is

secured to the actual occupiers thereof. The opinion of an eminent lawyer, however, is that the title

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conferred on them by the Act did not extend beyond a life interest in the land so occupied by them.—(*Reeves' History of Newfoundland, p. 63.*)

No. V.

Such land (not before used as "Ships-rooms") as may hereafter be seized and occupied by any of the resident inhabitants.

The future occupation of such land, for the purposes of the fishery is permitted and sanctioned by the Act.

Thus all those parts of the country which had at any time been used as "Ships-rooms" since the year 1685, were for ever appropriated to the use of the fishing-ships : but a permission to occupy and possess all the sea-coast, not included in any of these ships-rooms, was distinctly conceded to the resident inhabitants. They were not, however, long left in the quiet enjoyment of this indulgence ; for the 15th Geo. III., c. 31, which was evidently designed to give further encouragement to the transitory fishery, and to check the strong tendency, which had then begun to manifest itself, to form a permanent settlement in the Island, seems, by its 2nd section, to have converted all the land* not then in the actual occupation of a resident inhabitant, into "Ships-rooms ;" and, consequently, to have taken away that privilege with respect to future occupation which the Statute of William had conferred on the inhabitants.

That portion, therefore, of the land which was not clothed with the character of "Ships-rooms," either under the Acts of William or of George the Third, must have been, comparatively, very small indeed : and accordingly, the far greater part of what is now in the occupation of individuals must be liable to be wrested from them by the Crown, if the statutes† which have since taken away the use of "Ships-rooms" do not confer any title on those persons who had previously taken possession of them. A field of litigation between the government and the people would thus be opened, of the extent of which some idea may be formed from the following passages, selected from those extracts which Mr. Reeves has inserted in his History of Newfoundland,‡ from the reports of Commanding Officers of the navy on this station to the Board of Trade.

"It is common that what is done one year, in relation to fishing-rooms, is contradicted the next ; so that the fishing-rooms are not settled to this very day." And another writes :
"I have given out several orders for the admirals and the oldest masters and planters to survey the stages and cook-rooms, etc., to know what belong to ships-rooms and what was boat-rooms ;

That is, all the margin of the shore, together with the land contiguous thereto, which would comprise all the land cultivated in the Island until within a very recent period.

and their report to me was, that they had not been surveyed so long, that there was none, either admirals, masters, or inhabitants, knew one from another.”

But if such difficulty existed in distinguishing “ Ships-rooms ” within twenty* years after the passing of the 10th and 11th William the Third, what may that difficulty be supposed to amount to after the lapse of more than a century ? And if it is the fact, that the use of a spot of ground by a fishing-ship at any time posterior to the year 1685, would be sufficient to defeat a claim to it, founded on undisturbed possession for upwards of a hundred years, what occupier of lands in this country could enjoy any reasonable assurance that his title to them might not now, or at any time hereafter, be brought into question ? It is certain that under such a construction of the law, the field of litigation would be co-extensive with the whole occupation and cultivation of land in this Island, on the borders of the sea, down to the year 1824. But it is next to impossible to suppose that the Legislature could have intended to place the government and the people in such an unfriendly relation towards each other : and as it is the duty of courts to construe and give effect to all laws, according to their true intention, this argument respecting intention, deduced from the consequences which must result from a particular construction of the 51st Geo. III., c. 45, ought certainly to have great weight if its expressions are otherwise obscure, and its meaning consequently ambiguous.

To determine, then, how far this *argumentum ab inconvenienti*† should influence the construction of the 51 Geo. III. c. 45, it will be desirable to take a review of the circumstances under which it was to be applied.

By the 10th and 11th Will. III., c. 25, and 15 Geo. III., c. 31, the principal part of the sea-coast, and of the land contiguous thereto was, as has been already shewn, set apart for the use of fishing-ships ; and the persons belonging to those ships were strictly entitled to what, in legal phraseology, is stiled an easement ; i.e., a right to use and occupy those lands for certain purposes, without having any property whatever in them. In order, too, to secure to them the full and undisturbed enjoyment of this easement, the statute of William strongly enjoins ‡ the resident inhabitants not to interfere in any

* The last of the letters here quoted was dated October, 1817 ; being just twenty years after the passing of the statute of William.

† In a note to Co. Litt., p. 66, a Mr. Hargrave has said : Arguments from inconvenience certainly deserve the greatest attention ; and where the weight of other reasoning is nearly on an equipoise, ought to turn the scale. And in the important case of *Le Caux vs. Eden*, 2 *Doug.* 609, Judge Buller resorted to this argument in support of his opinion : “ But,” observed his Lordship, “ if there had been no such authorities, and the question had been now to be decided for the first time, there can be no case in which that maxim, *quod inconveniens est non licitum est*, which is so often reiterated by Lord Coke, would deserve more attention. It is a very useful and wise maxim, when applied to new or undecided points ; and in this case the inconvenience would be intolerable, the convenience none, if such an action were sustained.” Great, however, as the inconvenience there alluded to by that learned judge certainly was, it still fell short of that which must result from such a construction of an Act of Parliament as would furnish occasion for universal litigation and contention between the Government and the people.

‡ In the 6th section.

manner with the ship's-room " before the arrival of the fishing ships out of England, Wales and Berwick ; and until all such ships shall be provided with stages, etc.,"* necessary for their business and pursuit. In spite, however, of this enactment, possession of " Ships-rooms " was taken, from time to time, by the resident inhabitants, and continued from year to year, so that it became difficult to ascertain within a very short period after the passing of the Act, what were " Ships-rooms," and what were not. Now it is obvious that the design of the Legislature was only to exclude the inhabitants from the use of the " Ships-rooms " so far as their occupation of them might be practically injurious to the interests of the fishing-ships. If, then, an occupation or possession of a " Ships-room," or of any part thereof, which must have inferred to have been not injurious to any of the fishing-ships because it had not been disturbed by them, had been enjoyed by a resident inhabitant from a remote period down to the very time when the Legislature should be induced, under an altered state of the fishery, to take away the public use of such " Ships-room," it is probable that the framers of the law would adopt the principle "*cessante causa cessabit effectus* : " and, since the interests of the transitory fishery, to which alone the interests of the sedentary fishery had been postponed, no longer required that the resident inhabitant should be debarred from the permanent possession of such " Ships-rooms " it might reasonably be expected that the Legislature, in removing the former restraints upon possession, would be anxious to cut off all sources of litigation springing out of those restraints by confirming every title founded upon actual possession.† If, therefore, in an Act passed for the purpose of taking away the public use of certain " Ships-rooms," the Legislature, with a full knowledge of these " Ships-rooms " were, and for a long time past had been, in the actual possession of private persons, should declare, that the said " Ships-rooms " " should be no longer deemed and taken to be " Ships-rooms," but should be possessed as private property, in like manner as any other portions of land in Newfoundland," there can be little doubt but that such a clause, standing by itself, would be sufficient to legalize a possession of those rooms obtained prior to the passing of the Act. Nor is the argument in favor of ancient possession materially weakened by a power being vested in the Governor, under the same clause‡ in which the before-recited passage occurs, to grant and let the same " Ships-rooms : " for as it had been proved, that at the time of passing the 51 Geo. III., c. 45, the " Ships-rooms " included in it were partly vacant, and partly in the occupation of resident inhabitants, the words " granted " and " possessed " may possibly admit of a distinct and separate application to these two divisions ; so as, "*reddendo singula singulis*," to confer on the Governor a power of granting

* It is evident from this clause that the Legislature intended that a resident inhabitant might even have the use of a " Ships-room " after the fishing-ships were supplied with as many as they wanted.

† It seems clearly warrantable to endeavour to ascertain the meaning of an ambiguous expression in an Act of Parliament by reasoning, *a priori*, upon what the intention of the Legislature was likely be in respect to the subject matter of it.

‡ Viz : 51 Geo. III., c. 45, s. 1.

the vacant parts, and to confirm to private individuals the possession they already had of the other parts. Admitting, however, that the accuracy of this construction might be open to question, if there was nothing to support it beyond the words employed in the 51 Geo. III., c. 45, it is certainly warrantable to seek for a confirmation of it in other statutes in *eadem materia*. Looking, then, with this view to the 5 Geo. IV., c. 51, which by its 14th section empowers the Governor to dispose of all the remaining “Ships-rooms,” it appears that this power is granted under a guarded and strongly expressed proviso, “That nothing contained in that section shall extend, or be construed to the prejudice of any private right of any person whatever.” In the consideration of which proviso these points naturally suggest themselves :

1st.—What right could any person acquire in a “Ships-rooms,” whilst it is continued such, that does not owe its existence to possession ?

2nd.—Is not, therefore, a private right to a “Ships-rooms,” growing out of the previous possession of it, expressly recognized and solemnly confirmed by the 5th Geo. IV., c. 51 ?

But if this right of possession of a “Ship’s-rooms” is, as every one must see that it is, respected and protected by the 5th Geo. IV., c. 51, it is, at the least, in the highest degree probable, that the same motives which induced the Parliament to respect it in 1824 must also have had a similar influence upon the Legislature in 1811 : and since the words employed in the 51st Geo. III., c. 45, are susceptible of an interpretation analogous to the obvious meaning of the 5th Geo. IV., ch. 51, without much departure from the sense in which they might otherwise be taken, this Court feels bound to put the same construction upon the two statutes ; and to hold that the Crown is not entitled under them to claim a piece of ground, which had heretofore been a “Ships-rooms,” against such a possession as would be a bar to the claim of the Crown if the land in dispute had never been clothed with the character of “Ships-rooms.”

The jury retired to their chambers for about ten minutes, and the returned into court with a general verdict, “not guilty.”

[This case, and the following case of “The King v. Luke Ryan,” were taken by the Crown to the Privy Council.]

[February,
1831]**No. 857.****THE KING v. LUKE RYAN.¹**

TUCKER, C. J.

Title to land in Newfoundland—“ Ships-rooms ”—Title to these obtainable by residents under certain circumstances—Other lands obtainable by permission confirmed by the 5 Geo. IV. c. 51.

The title to land in this Colony held in peaceable possession at the passing of the original Act 5 Geo. IV., c. 51, is confirmed by that Act ; and it is for the Crown, desiring ejection, to show that it was not so held.

Policy of the Crown in regard to Newfoundland reviewed.

This case was brought before the Court by an ex officio information, filed by the Attorney General. There were two counts : the first charging the defendant with having intruded and entered on fifteen acres of forest-land near Logy Bay : and the second with having made and kindled, on the 10th May 1829, certain fires upon the ground so unlawfully occupied, whereby a large quantity of wood was burnt and consumed to the damage of our Sovereign Lord the King of £100.

To both counts the defendant pleaded “ not guilty.”

After laying before the jury a clear and distinct statement of the circumstances which had given rise to the present proceeding, and of the rules of law which he considered applicable to it, the Attorney General proceeded to call, in support of the facts of his case, four witnesses, who were sworn and examined in the following order :

1st—GEORGE HOLBROOK.—Is Surveyor General of this Island, and knows that defendant has inclosed some pieces of land about a mile and a half from Logy Bay, on the road to St. John’s. Witness has surveyed the ground so inclosed by the defendant ; and now exhibits a plan thereof, shewing the inclosure of about 14 acres at a distance of a little more than three quarters of a mile from Logy Bay. The defendant had preferred a petition for a grant of land in that quarter, to which no written answer had yet been given : but witness verbally directed defendant not to occupy ground on both sides of the road : he being then in the actual possession of land on both sides of it. A written notice to that effect was also given in the course of the preceding summer.

There was a fire in the woods near Logy Bay, in the summer of 1829,

¹ Newfoundland Reports, 1829-45, pp. 47-56. See also, the King vs. Cuddihy, p. 2031.

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which consumed the wood upon about 100 acres of uninclosed land. The effect of this fire had undoubtedly been to diminish the value of the land which had been a prey to it ; as a good deal of the wood burnt by it was useful for the fishery.

Cross-examined.—The land was covered with brush-wood, principally useful for covering flakes and for dunnage ; and some of it was fit for firewood.

It was the practice for all persons having possession of land, and wishing to perfect a title thereto, to apply for a grant.

2nd Witness—RICHARD COMERFORD.—Witness lived at Logy Bay, as servant to defendant, in May 1829 ; and about that time lighted some fires in the ground which defendant was then clearing on the south side of the land occupied by him. It was on Saturday that these fires were kindled by defendant's order ; and on the following day a storm arose which caused the flames to spread considerably whilst defendant's family were absent from the premises : and before their return the fire had attained to such a height that all the efforts of the defendant and his people to extinguish the flames were totally ineffectual. The best exertions of 100 men could not then have arrested the progress of the fire. The fire had been kindled in 12, or 14, little heaps of peat, for the purpose of manuring the ground. On the next morning (Monday) the blaze was out ; but there was still some fire burning.

Cross-examined.—The defendant used the common precautions to prevent the spreading of the fire in the first instance ; and for that purpose, a son of his was employed to watch it, together with witness. They accordingly saw it just before dinner-time on Sunday ; and thinking all safe went to their dinner, which they had scarcely eaten when a sudden and violent increase of wind occasioned such a blaze as they could not afterwards extinguish.

3rd Witness—JOHN HATCHETT.—Witness lived at Logy Bay during the summer season, and remembers a fire which occurred near to it in May 1829. It commenced at “ Darnley's Ridge,” where defendant has some land enclosed. The fire broke out early on a Sunday morning, and extended a mile or more. There was plenty of wood for fire and for fishery purposes ; of which a great deal was destroyed. Is sure it was in the forenoon of Sunday, and thinks not later than 10 or 11 o'clock, that he observed the fires defendant had kindled. Did not see any one watching them ; and must have done so if any

person had been there attending to them on the spot. Saw the flames spreading from those fires about 11 or 12 o'clock ; and noticed the defendant coming from St. John's with a part of his family, and riding very fast, when the wood was half-consumed ; but did not see anything of the last witness.

Cross-examined.—Was about a quarter of a mile from defendant's house when he first noticed the fires. “ Darnley's Ridge ” is occupied, and partly inclosed by defendant. There was at the same time another fire on the other side, by which witness's own premises were considerably endangered.

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4th Witness.—JAMES HANDLIN.—Remembers a fire in the woods near Logy Bay in the summer of 1829 ; and just before it broke out with violence, witness observed some small fires kindled on defendant's ground. It was between one and two o'clock p.m. on Sunday that witness, at a distance of about a quarter of a mile from the spot, first perceived the fire, which had then consumed a considerable part of the wood.

Cross-examined.—Saw the peat fires burning on Saturday evening.

The Attorney General here closed his case : and Mr. Row, who addressed the jury on behalf of the defendant, having declined calling any witness, the right to reply was waived by Mr. Simms.

TUCKER, C. J., charging the jury, said in substance :—That no man, let his title to property be ever so clear and absolute, has a right to do any act in relation to it which has a direct and necessary tendency to endanger the security, or, by lessening the sum of its wealth, to injure the interests of the public ; for that *society itself*, with all its attendant privileges and blessings, depends altogether upon the strict and inviolable observance of the principle, *Sic utere tuo ut alienum non laedas* ;—Use what belongs to you in such a way as not to annoy another person ;— and, therefore, that if the defendant, by kindling small fires of peat on the ground occupied by him, had done that which, notwithstanding every precaution that could have been adopted by him to prevent the spread of the flames, must, under ordinary circumstances, have been fraught with danger to the life, or property, of any one ; or even if he had, by the omission of due care, rendered an act not otherwise wrong, injurious to the interests of the community, he was unquestionably liable to be punished severely for such conduct on conviction, upon an information or indictment for a nuisance. But that the present proceeding against him, though

instituted by the Crown, was not of a criminal, but of a civil character : having for its object the recovery of a certain parcel of land which the defendant is charged with having taken a tortious possession of, together with a compensation in pecuniary damages for an act of trespass alleged to have been committed by him on that land whilst he was in the lawful occupation of it ; and, consequently, that the question to which the jury must first exclusively direct their attention was, whether the Crown was entitled, under the evidence that had been laid before them, to evict the defendant ; as it certainly could not obtain damages for any thing done by him on that land, unless it had satisfactorily established its claim to dispossess him of it. That the question here raised was one of great difficulty, and still greater importance ; and, therefore, that it would be proper in attempting to unfold to the jury what the Court deems to be a correct view of the law of the case, to describe the real nature and extent of the interest which an inhabitant could enjoy in land in this island before the passing of the 5th George IV., c. 51 ; and afterwards to show, by a careful examination of some clauses in that chapter, in what degree they are capable of confirming a title, based upon

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a previous naked possession, and also to point out the qualifications and restrictions under which a power is conferred by them on His Majesty to grant land in this Colony.

By the joint operation of the 10th and 11th Wm. III., ch. 25, and 15th Geo. III., ch. 31, the principal part—indeed very nearly the whole—of the land on the sea coast of this island is converted into “ ships-rooms ” ; and under that designation set apart for the use of the fishing-ships, in such a manner that a resident might at any time be removed from the possession of one, provided it was really wanted by a fishing-ship. Of course no permanent right of possession to a “ ships-room ” could possibly exist under these Statutes : but, as that temporary occupation, in subservience to the preferable claims of the fishing-ships which the law permitted had been allowed, in many instances, by the non-exercise of the right of interference on the part of any fishing-ship, to be enjoyed by a man and his posterity for a long series of years, the Legislature, in taking away the public use of “ ships-rooms.”—(first partially, in the town of St. John’s by 51st Geo. III., ch. 45 s. 1, and afterwards generally throughout the island by 5th Geo. IV., ch. 51, s. 14),—seem to have thought that a possession, which was only prohibited so far as it might interfere with the pursuits of the fishing-ships, and which had been continued for a great length of time, because, in point of fact, it did not contravene the policy of the law, ought not to be disturbed after the only motive for doing so—viz., the protection of the privileges of the fishing-ships—had ceased to operate : and accordingly they appear, under the influence of a pure spirit of liberal justice, as much as from a desire to prevent the evils which must always result from leaving open a

wide field of litigation between the government and the people, to have made, by the last-mentioned Acts, a previous occupancy and possession of a “ ships-room,” of such a duration and character as would sustain a title to any other land, an equally strong and valid title to it. Such, at least, is the view which the Court takes of the law respecting “ ships-rooms ” : but as a good deal of land in the interior, which does not fall within that description has (of late years particularly) been seized on by the in-habitants for the purpose of cultivation, it is highly important to ascertain in what light the Legislature have regarded this class of occupiers, and to define the privileges which have been conferred upon them. Now without entering into the discussion of the much agitated question as to the extent of cultivation of which, from the nature of the soil and climate, this island is susceptible, it may safely be asserted that, up to the present hour, Newfoundland is considered by the Imperial Parliament as deriving her chief value from being the seat of the first fishing-establishment in the universe ; and consequently, that, whatever disposition the Legislature may have shewn to promote and encourage agriculture, they never can have intended to advance its growth at the expense of the interests of the fishery. In short, if there be one object connected with this island, to which all other considerations must yield and give place, the fishery must undoubtedly be that precise object : and hence it may be positively inferred that a right which the Legislature have supported, even where it may, by possibility, be prejudicial to

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the fishery, must have been looked upon as far too sacred to be violated upon any account whatever. But the 5th Geo. IV., ch. 51, sec. 3, which confers on His Majesty’s subjects who do not reside here the privilege of a free-fishery, with a power of occupying land and cutting wood for the prosecution of it does yet pay such regard to a possession already acquired, that it strictly confines those adventurers who may thenceforward repair to this island to fish to the use of “ vacant ” and “ unoccupied ” places. Having, then, thus upheld the right of possession, even in a case where it might possibly conflict with the interests of the fishery : and having afterwards, in the 15th section of the same chapter, in the most strict accordance with the same principle of regard to the right of possession, restricted the future grants of the Crown to “ waste and unoccupied lands,”* there seems to be not much room to doubt, but that the 5th Geo. IV., c. 51, ought to be considered as a *Parliamentary title-deed*, under which every one who was in the quiet and peaceable possession of land before, and at, the passing of that Act, is entitled to hold and retain the same for ever. Upon the best consideration, indeed, which we have been able to give to the enactments of the 5th Geo. IV., c. 51, we conceive, that it was the intention of the Legislature, that the unoccupied parts of the sea-coast, with an adequate portion of land for the ordinary purposes of the fishery, should be

entirely dedicated to that object : and, consequently, that His Majesty is bound under the 3rd and 15th clauses of the 5th Geo. IV., c. 51, to limit his grants to those “ waste and unoccupied lands ” which were not at the time of passing the Act, nor are likely hereafter to become, necessary to the fishery.† But if this be a correct view, and true exposition of the

See the grounds of this opinion stated more in detail in the foregoing Case of the King vs. John Cuddihy :—

* One object and perhaps the principal one, of the 15th section of the 5th Geo. IV., ch. 51, certainly was, to silence, and for ever put an end to such claims to large tracts of land in this Island as had lately been brought forward, under the color of an old patent, by a person styling himself the representative of Lord Baltimore : but admitting this to have been the main design of that clause, it seems also to have been intended to support the actual possession of land in every instance, upon whatever sort of title such possession (provided it were peaceable) might previously have rested : for otherwise it most probably would have empowered His Majesty to grant all lands not already holden under a title acquired by grant from him or his predecessors, or by an uninterrupted occupation and possession of more than sixty years. Instead of which it limits his power of granting to lands not already granted, and to “ waste and unoccupied ” lands.

† This opinion embraces two distinct and independent propositions : 1st. That the actual possession, and peaceable enjoyment, of land, before the passing of the 5, Geo. IV., ch. 51, conferred a good title to it : 2nd. That even of the “ waste and uncultivated lands ” the Crown is restricted from granting such portions as are absolutely necessary for the fishery. The former of these portions rests, principally, upon the 15th section of the 5, Geo. IV., ch. 51, and seems scarcely to admit any reason to doubt its accuracy : but the later appears not to stand upon quite an equally firm foundation.

It certainly would be strange if the Legislature has granted to a class of persons a privilege to use “ unoccupied ” lands for the purposes of the fishery without making some provision that there shall be “ unoccupied ” lands for their use. On the other hand the power which is given to the Governor, by the 14th clause of the 5, Geo. IV., ch. 51, to dispose of the “ Ships-rooms,” does, by implication, furnish a pretty strong argument against the notion of any part of the Island’s being exclusively dedicated to the fishery. Upon the whole, the true interpretation of the Act may possibly be, that its 3rd section does not positively restrain the Crown from granting any waste and unoccupied ground on account of its being essential to the fishery, though it does impose on the Government

meaning of the 5th Geo. IV., c. 51, it still remains to be decided, whether the burden of proof lies upon the Crown to shew, that the defendant's possession of the land commenced since the passing of the Statute ; or whether the defendant ought to shew a possession anterior to that event ; and even this point, secondary and vastly inferior as it is to the principal question of title, is by no means free from doubt and difficulty.

On the one hand it may be insisted on as a prerogative of the King, that every thing ought to be presumed in his favor, and that he should accordingly be considered to have a good title to all the land he claims until the contrary has been clearly proved by the defendant : whilst on the other side it may be urged, that, as the present proceeding is of the nature of an ejectment, the rule, "*Probat is qui non possidet ; qui si in probando deficiat, possessor vincit.*"* ought to be enforced even in a Suit to which the King is a party. And, admitting that there is some weight in each of these arguments, we incline to think, that the latter ought to prevail. We conceive, too, that there may possibly be a difference in this respect where the action is instituted by a grantee of the Crown ; for however paradoxical the position may at first appear, that the King may by his grant confer a privilege which he cannot exercise himself, it will perhaps be found on an attentive investigation of the subject, that the enquiry into title which always precedes the issue of a grant, and the caution with which it must be supposed to have been executed, might reasonably justify a presumption in support of it which could not properly be entertained before the passing of it. But without pretending absolutely to decide that point at present, we are all of opinion that, as the defendant has proved to be in actual possession, and as no proof has been given that such possession commenced since the passing of the 5th Geo. IV., ch. 51, the Crown is not entitled, under the evidence which has now been adduced, to a verdict on either of the counts.

After hearing this charge the Jury almost immediately brought in a general verdict, "Not Guilty."

an obligation, or duty, to leave as much land unoccupied as that sort of fishery which is countenanced by the 3rd section is likely to require. It may be proper, too, to state here, that, though a grant may not be necessary to give a title to land where a peaceable possession was obtained before the passing of the 5th Geo. IV., ch. 51, yet that a grant must always prove a satisfactory confirmation to the title by possession, and must be particularly useful in putting an end to all disputes respecting the quantity of land actually held in possession.

* This rule of the Civil Law, (as well as the similar one, "*Probandum autem in Vindicatione dominium per Actorem, quo deficiente in probatione, possessor absolvendus est.*") is, in spirit, precisely the same as our maxim, that in ejectment the plaintiff must recover upon the strength of his own title : and both of them seem to be of universal application, as founded on a principle of universal reason and justice.

No. 858.

[1836]

ON APPEAL FROM THE SUPREME COURT OF THE
ISLAND OF NEWFOUNDLAND.¹

JAMES SIMMS, ESQ., ATTORNEY GENERAL OF THE ISLAND OF
NEWFOUNDLAND, *Appellant*,

AND

JOHN CUDDIHY, *Respondent*.

PRIVY COUNCIL. 1836.²

Under the statutes for regulating the fishery of Newfoundland, and taking away the public use of certain ships' rooms in the town of St. John's in that island, the Crown is not entitled to claim a piece of ground formerly used as a ships' room, against such a possession as would have been a bar to the claim of the Crown if the land had not been clothed with that character.

Semble. No objection can be taken on the appeal that the title of the defendant was not pleaded specially to an information for intrusion, in the Court below.

THIS was an appeal from a judgment of the above Court upon a verdict, in an information filed by his Majesty's Attorney General of the island, against the respondent, for intrusion upon a certain quantity of land at St. John's in Newfoundland, belonging to his Majesty, called a ship's room, which the respondent had enclosed. The respondent pleaded "Not guilty;" and upon the trial of the cause in the Supreme Court of the island, before the Chief Justice and the other judges on the 18th of February, 1831, the respondent was acquitted by the jury.

By the 15 Geo. III., c. 31, sec. 2, it is enacted, "That for the better accommodation of the persons belonging to vessels employed in the Newfoundland fishery, it shall and may be lawful for the masters and crews belonging to any vessels fitted out and employed in that fishery, in pursuance of this or any other Act, to occupy and use, for the purpose of curing, salting, drying and husbanding their fish, any vacant or void space whatever, on any part of Newfoundland which was not then occupied and used for the said fishery, without any let, disturbance or hindrance from any person or persons whatsoever, although such unoccupied place may not before have been reported ship's rooms; and all such unoccupied places shall from thenceforth be deemed and taken to be ships'

rooms, any custom or usage to the contrary notwithstanding.”

¹ Appendix to Newfoundland Reports, 1829–45, pp. iii.–vii.

² Reported in : 1 Moore, P. C. 82, 12 Eng. Repts., 742.

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By the 51 Geo. III., c. 45, s. 1, after reciting that certain spaces of ground in the town of St. John’s, in the island of Newfoundland, called ships’ rooms, were liable, according to the ancient custom there used, and conformably with the provisions of an Act passed in the 10th and 11th years of his Majesty King William III., intituled “ An Act to encourage the trade of Newfoundland,” to be claimed by the masters of fishing ships for the use of their ships and boats, during the current fishing season, which said spaces of ground had not of late been employed for the purposes of the fishery ; and that it would be more beneficial to the general interests of the trade and fishery, if the said spaces of ground were wholly exempted from such claim, and were let out for building dwelling-houses and store-houses, and for other uses necessary to the trade and fishery ; and that it had been proved, upon the survey of persons resident in the town of St. John’s, and well skilled in the affairs of the fishery, that there was land at the western extremity of the harbour, better suited for drying, curing, and husbanding of fish, than any of the ships’ rooms above mentioned ; it was enacted that from and after the passing of that Act, certain ships’ rooms therein specified, including the ships’ rooms No. 2, called the Lady’s ship room (which was the land in question), as the same were laid down, distinguished and named in a plan of the town and harbour of St. John’s in Newfoundland, dated October, 1804, and deposited in the Government House there, should no longer be deemed and taken to be ships’ rooms, and occupied during the fishing season as such ; but it should be lawful for the same to be granted, let and possessed as private property, in like manner as any other portions of land in Newfoundland might be, anything in the said Act, or the said ancient custom to the contrary notwithstanding.

By the 5 Geo. IV., cap. 51, sec. 14, after reciting the last-mentioned Act, and that it was expedient that all other fishing ships’ rooms in Newfoundland should be disposed of in like manner, it is enacted, “ that the Governor of Newfoundland for the time being should have power, and he is thereby authorized to sell, lease or dispose of all such places within the said island of Newfoundland, commonly called ships’ rooms, as might not be then already disposed of under and by virtue of the said last-mentioned Act ; to be held in the same manner as other property in Newfoundland, provided however that nothing therein contained should extend or be construed to extend to the prejudice of any private right of any person whatsoever.”

The land in question claimed by the town, as part of that mentioned in the 51 Geo. III., cap. 45, sec. 1, by the name of “ Lady’s ship room.”

On the trial it was stated in evidence, by the Surveyor-general on the part of the Crown, that the land which the defendant had enclosed was part of the land laid down in the plan (made in 1804, and referred to in the last-mentioned Act of Parliament) as “Lady’s ships’ room.”

On the part of the defendant, evidence was given to show that in 1759 one Joseph Nowell was in possession of the land in question, by virtue of a license from the then Governor of the island, and that it remained in his

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possession, and that of those claiming under him, till 1820, when it was conveyed to the respondent for valuable consideration by Thomas Nowell, who claimed through Joseph Nowell, and that it was in respondent's possession down to the time of trial. Evidence was also given on the part of the defendant to show that in a lease of the “Lady’s ships’ room,” granted on the 23rd of October in the year 1811, by Sir John Duckworth, then Governor of the island, the land in question was not included in the boundaries set out in the lease.

Upon this evidence the learned Chief Justice left it to the jury to say whether the *locus in quo* was part of the ships’ room laid down in the said plan as “Lady’s ship room,” and that if they found it was not, then that they should find a verdict of “Not guilty ;” but that even if they were of opinion that it did form a part of the Lady’s ships’ room, the learned judge expressed his opinion that the defendant should be acquitted, because he said the Crown was not entitled, under the before-mentioned statutes, to claim a piece of ground which had formerly been a ship’s room against such a possession as would have been a bar to the claim of the Crown, had they not been clothed with the character of ships’ rooms. Whereupon the jury returned a verdict of Not guilty, and the Court gave judgment for the defendant.

From this judgment the Crown appealed, and the respondent not appearing, the case was heard *ex parte*.

The Solicitor-General (*Sir R. M. Rolfe*), and *Mr. Wightman*, for the Appellant.

The evidence given on behalf of the Crown that the land in question was by survey found to be included within the Lady’s ships’ rooms, as they appear upon the plan referred to in the 51 Geo. III., cap. 45, was not rebutted or disproved by any sufficient evidence on the part of the defendant. It is admitted that the land originally belonged to the Crown, and was held by license ; this, if not a grant, was revocable, and could not give a title ; it proves also that the claim was through the Crown, and in that case the license ought to have been specially pleaded. 21 Jac. I., cap. 14.* Where a party claims wholly adversely to the

Crown, and remains in possession, on an action for intrusion, he need not plead his title ; but if he claims through the Crown, but adversely to it, he ought under that statute to plead his title. An adverse possession cannot avail against the terms of the Acts of Parliament referred to, and the opinion of the Chief Justice was erroneous on that point : he ought not to have charged the jury to acquit the defendant. The position relied on by the Chief Justice as an answer to the claim of the Crown, does not sufficiently appear to have been adverse.

MR. BARON PARKE :

In this case there has been a possession of the land in question under license from the Crown from the year 1759 to 1820, when it was conveyed

* See 4 *Inst.* 116 *Dyer*, 238.
p. 2052

to the respondent for valuable consideration. The objection that the defendant ought at the trial to have pleaded this specially, if entitled to any weight, comes too late ; it was not made in the Court below, and it would be too hard to allow it to be taken now. With respect to the construction of the various statutes affecting this question, we think the Chief Justice of the Court below has stated it correctly, and that the judgment must be affirmed.

[1672, 1908]

No. 859.**DENYS' DESCRIPTION OF THE COD FISHERY AT
NEWFOUNDLAND,**AS PRACTISED IN FORMER TIMES AND DURING THE OPERATION OF
THE ACT 10–11 WM. III., CAP. 25.¹

[Extracts from “ The Description and Natural History of the
Coasts of North America,” by Nicolas
Denys. (Paris : 1672, Champlain Society’s reprint and
translation, 1908), Vol. II, pp. 269–336.]

CHAPTER III.

*The method of fishing the Cod called Merluche (Stockfish or dry Cod), of
dressing it, of salting it, and of drying it, and of all the tools necessary
therefor.*

Let us speak now of the fishery for the dry fish, which is only, as I have said in the preceding chapter, the same Cod under the name of Merluche. It is smaller than the green Cod, which makes it easier to preserve, the salt penetrating it sooner than it does the green, which is much larger and in consequence thicker, and which would be eaten by maggots before it was dry, because of its thickness. This does not happen to the smaller one, which keeps, and serves for provision for the longest voyages and in the warmest climates. It is not that they do not catch large ones near the land, and even larger than on the Bank, but they are not dried ; they are put down green, that is to say, are salted, as is done upon the Bank.

Among all those who are accustomed to make this kind of fishery, the Basques are the most skilled. Those of La Rochelle have the first rank after them, and the Islanders* who are in the vicinity, then the Bourdelois (men of Bordeaux) and then the Bretons. From all those places there may go a hundred, a hundred and twenty, and a hundred and fifty vessels every year, if there is no hindrance through a need for sailors who are retained for the vessels of the King.

* * * *

[77]

CHAPTER IV

*Concerning that which is customary when the ships are approaching the place
where the fishery is to be made ; the manner of obtaining a position, that*

Whilst all these preparations for the fishery are being made on the vessel, she does not fail to advance upon her way. When nearing the land and the

¹ The footnotes on this and succeeding pages are notes by the translator of the Champlain Society's edition.

* That is of the Isle de Ré and Isle d'Oléron.

position where they expect to go to make their fishery, they sometimes meet two or three vessels together which have the intention of going all to the same [78] harbour, and each captain designs to be Admiral there. In order to obtain this Admiralty, when they are eight, ten, or twelve leagues from land, they lower at night a boat with their best oarsmen, furnished with good oars. If they have a good wind which carries them faster than the oars, they make use of the sail. If during the day they perceive that the others are doing the same, they have no fear of capsizing, but vie with one another in carrying sail, in order to gain the lead. Sometimes the water passes over the gunwale of the boat. Nobody stirs for fear of losing the wind, excepting only the one who bails out the water. There are few persons who would wish to be in their company. If there is no [79] wind it is necessary to row. It is then indeed that they stretch their arms. There are no galley-slaves who pull so hard at the oars as they. No one speaks of eating or drinking for fear of causing delay. There is always some one who arrives some little time ahead of the others. The first who leaps on shore acquires the right of Admiral for his captain. It is for him to take the place he prefers, both for building his staging and for locating his vessel. If he finds on the shore wood from stagings which have been broken down during the winter, and which the sea has cast up there, he takes it, and anything else he finds there, as it suits him and by [right of] preference [over all others].*

The ship having arrived there, they all change their occupation except the [80] captain, and each one takes up that duty to which he has been assigned according to his engagement made before his departure. Thus it results that one who was only a sailor during the voyage becomes a boat-master when he has arrived at the place of the fishery. At the same time the captain sends all the carpenters ashore to prepare quickly his boats, if he has any of them on land. But they rarely go to a place where they have not some, or else they carry some with them. If they are lacking one, and find any on the coast, they take it, as having first right, provided always that the boats have no owner, and that there is no fisherman who claims them, either as proprietor or through [81] proxy from the owners, [and not if] the marks of the boats are plain. This right of Admiralty does not hold for the boats of another, but only for those which are found as waifs, of which he has the first right to make use. After he has a sufficiency of these things, the ships which have arrived in the

same harbour have after him the same right in succession, according to the order of their arrival. An exception is Plaisance,† which is a harbour in the Island of Newfoundland, where a number of ships go to make their fishery ; there, when the Admiral has provided himself sufficiently with boats, he gives

* The right of Admiral was even more valued than our author implies. Among the English fishermen of Newfoundland this right became so highly developed that the fishing admirals not only ruled over the other fishermen in the same harbour, but even over the residents ashore. The subject is well discussed by Prowse in his *History of Newfoundland*.

† The French took possession of Plaisance in Newfoundland in 1662 and held it until 1713, when they gave it up to England by the Treaty of Utrecht. By the same treaty the French were given the right to dry fish on the west coast of Newfoundland, a privilege which has led to much trouble in our own times. This right they relinquished in 1904.

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the balance to whomsoever he thinks best among those who have need of them, excepting always those of proprietors or the bearers of proxies.

[82] The carpenters being on shore, the captain busies himself in placing his ship the best that he can, and to get her well moored. Then he leaves the mate with seven or eight men to strip her, in just the same way as if she were in harbour in France to pass the winter. There is no cordage left except the shrouds which serve to hold the masts upright. These orders being given all the crew goes on shore.

Arrived on shore, some of them set to work at the lodging for the fishermen, which is like a hall covered with a ship's sail. The sides at the bottom all around are lined with branches of Fir, interlaced into pickets or stakes of four to five feet in height driven into the ground ; and the sail completes [83] the two sides. With respect to the two ends, which are, as it were, the two gables of this edifice, Fir poles are placed distant a foot from one another ; these are also interlaced with branches of Fir, which are compacted together as closely as possible, so that the wind can hardly pass through them. In the middle of the interior are placed large poles from end to end, distant the length of a man from one another, and these support the ridge. Other poles are placed from one to the other and are nailed at each interval, the whole so arranged that it does not shake. They make of them two stories, one above the other, where they put up their beds and sleep two by two. The bottoms of their beds are [84] of ropes, which they interweave like a racket, but with openings much larger. At each breadth of bed is placed a pole which keeps the two men apart, and prevents them from annoying one another at night by their weight, which otherwise would make them fall one on another if the cords which compose the bottom were not stretched tight by this pole in the middle. Their bed is a mattress of dry grass ; their covering is that which it may please them to bring with them ; whence many have for this purpose nothing but their cloaks. As for their chests, they place them along the walls and their beds. Such is the lodging of the fishermen.

With respect to the size of this lodging it depends [85] as a

rule upon that of the mainsail of the ship which covers it.

Whilst some are working upon this lodging, others are constructing that of the captain, which is built in the same fashion. But there is in the middle a partition of poles set one against the other ; in this is made a door, which is locked.

One side is used for storing the provisions, and the other contains his table and his bed, [the latter] on one side or above, made of rope like the others. Sometimes it is bottomed with boards. He has a mattress and quilt.

In another place the steward with some of the boys at work to build the kitchen, which is covered with large turfs arranged like tiles one upon another, [86] so that the rain cannot enter it. And from the roof downwards, there are Fir branches all around, interlaced like the others. These the boys bring from the woods, as well for this as for all the rest of the lodgings. It is usually the doctor whose duty it is to make them go to the woods. All this is being done at once, and is finished in two or three days, even though it is necessary to go and get all the branches and poles in the woods, to carry them back, and to smooth them, for fear they might pierce and injure the sails.

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Whilst all this is under way, the beach-master and the pilot, who have ten or twelve men with them, are in the woods to cut down Firs as large as the thigh, of twelve, fifteen, [87] sixteen to twenty feet in length, to make their stagings and the lodgings. Everybody is at work. It is necessary to carry them all the way to the shore of the sea, some seven to eight hundred paces, and sometimes a thousand or twelve hundred. For every year they are being cut away, and the nearest are always the first taken. There are places where so many have been cut away that no more are left, [and] it is necessary to go after them three, four, five, and six leagues away, and sometimes farther. There are scarcely any places left where it is not necessary to go fetch them from a distance. They go there with boats of three men each, who go and come day and night, but are unable to carry more than fifty to sixty each. When once [90, *i.e.* 88] the work has been commenced, it is almost useless to speak of sleeping, eating or drinking unless by stealth, except for the supper. Whilst some are transporting all the logs, others are at work preparing the stagings.

[91, *i.e.* 89]

CHAPTER V

*On the method of constructing the staging for the dressing of the Cod,
and of the work which it is to build it.*

The staging [échaffaut] being so indispensable as it is in this fishery, it will not be inappropriate if I describe it here, in order to make its use better understood.* It is necessary to know at the outset that all the wood of which it is made up is obtained in the same country where it is built. It may be forty,

fifty, or sixty paces long, according to the size of the vessels, to which we assume [90] always that the number of men is in proportion. Its breadth is nearly a third of its length, and its end which is not covered is also about a

* The description of the shore fishery for cod in the following pages is, I believe, by far the most detailed that has come down to us, and is in fact well-nigh monographic. No doubt other French writers have given some account of the subject, though the only early writer on Acadia who describes it appears to be Lescaurbot (*Histoire de la Nouvelle France*, ed. 1612, 824), who has a very brief but excellent comment upon it. There is a brief but good account of the Newfoundland and Acadian fisheries in the *Gentleman's Magazine* for 1755 (Vol. XXV. 217), and abstracts of other early accounts are contained in Prowse's *History of Newfoundland*. Of later works the best I have found is in M'Gregor's *British America* (London, 1832), Vol. I. 227. There is matter of interest also in M. H. Perley's *Report on the Fisheries of New Brunswick* (Fredericton, N.B., 1852), 7, and appendix ; in T. F. Knight's *Shore and Deep Sea Fisheries of Nova Scotia* (Halifax, N.S., 1867), 24 ; and in Pierre Fortin's *Reports of Fisheries in the Gulf of Saint Lawrence*, a work I know only from the citations in Knight's pamphlet. A brief description of the fishery as practised by the Acadian fishermen of Bay Chaleur is given by Bishop Plessis in his journal of his voyage of 1811–1812 (in *Le Foyer Canadien*, 1865, 99, 123, 135). A little pamphlet, *Inventory of Articles in the French Fishing Stations on the Coasts of Newfoundland*, 1905, gives the modern French names of many articles used in the fishery. For most of the information about the terminology of the Newfoundland and Nova Scotian fisheries of the present day I am indebted to the very kind aid of Archbishop Howley of St. Johns, Newfoundland, and to Mr. C. H. Whitman of Canso, N.S., both of whom have answered very fully my many inquiries.

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quarter of its length ; it ends sometimes in a point and sometimes square, and extends into the sea, so that the boats can always come alongside.*

To begin the construction of the staging, there is placed at fifteen, twenty, or twenty-five feet out in the water a huge stake of eighteen to twenty feet in height. For this purpose, three or four men place themselves in the water, when the tide is low, as far out as they can. The stake being set upright, there are put in place three or four buttresses, the ends of which are at the bottom of the sea, while the [91] other ends are against the stake as high as a man can reach to nail them, [which he does] with a nail as large as the finger. This stake being well fastened upright, another of the same kind is planted on the land, and exactly opposite that [is placed] a second, so that these two last determine the breadth of the staging. This forms a triangle when the end of the staging, or its stage-head, ends in a point.

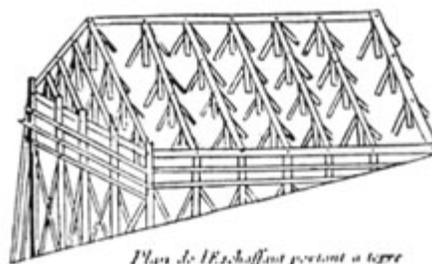
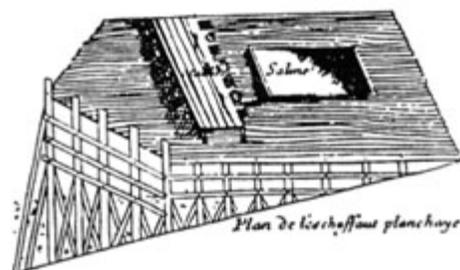
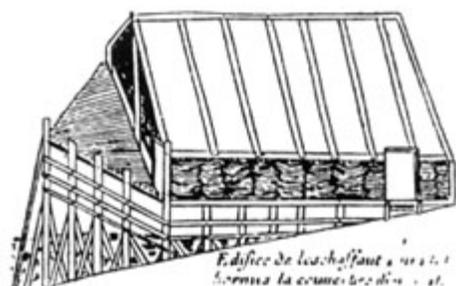
Between these two last-mentioned stakes and that which is in the sea, there are also planted other stakes a fathom apart along the two sides, so that the whole forms a triangle of which the point is in the sea. All of those stakes being set upright, with the buttresses well nailed on, there are nailed to each one of them three and four of those large [92] poles from the bottom to the top, equally spaced, in such manner that they serve as a ladder for mounting upon the staging.† To strengthen this point, there are placed also under all the extent of this triangle a number of upright stakes well shored up. After this a quantity of large poles is placed crossing from one to the other, with others which run from top to bottom diagonally. Thus this point is so well provided with beams,

and is so solid and well nailed, that it is able to resist the roughest waves, as well as the impact of the boats which land there continually when they come from the fishing. The pile-work of this point being thus set up, there are placed across it large pieces [93] of wood at the height of eighteen to twenty feet from the bottom, beginning with this first stake which forms the point. These cross-pieces are properly the beams which support the flooring ; this, at high water, is elevated five feet or thereabouts above the surface of the water at the point of the staging. This being done, the staging is continued of the breadth of those two stakes which are on the land and which also determine the breadth of this point ; and this breadth is continued thirty-five or forty paces always upon the same level. Thus the stakes which are planted upright to sustain the flooring of the staging become progressively less in length, because the shore runs ascending towards the land like a comedy theatre. All [94] these stakes are also well propped and strengthened with cross-pieces, as in the prow of the staging. Cross beams

* The staging is still an essential feature of the cod fishery, where extensively prosecuted, and it is still called *chauffaud* by the French and Acadian fishermen. Our author's very detailed description of its construction can be followed more readily by aid of his illustration, reproduced herewith. It happens, however, that another illustration, given a few pages later (page 311), taken from Moll's map, agrees in some respects better with our author's description than does his own illustration, while it supplies much additional detail.

† The present-day stagings made by the fishermen of Newfoundland, the English at least, are built with square ends (called stage-heads), while the horizontal poles (called longers) which serve as ladders are placed upon pieces (called strouters) inclined against the end of the staging.

are continuously placed on top, a fathom apart, to finish the flooring of the staging. In the middle of these cross beams, large poles, of twenty-five or thirty feet [in length], are placed upright to support the ridge of the edifice ; the larger ends of these rest upon the ground and are nailed to each alternate one of the cross beams, beginning with the base of the triangle and extending



CONSTRUCTION OF THE STAGING USED IN THE COD-FISHERY
Copperplate from Deny's book
(Reduced to about three-fourths the original size)

towards the land. All this having been finished, little poles, the longest that can be found, are obtained and laid lengthwise upon the cross beams, where they are arranged as closely as possible one against another, from [95] the point thence upward as far as the ridge other poles are placed at a foot from one another, nailed above and below, which shorten with the pitch of the sail. The same is done with the opposite gable, where, however, the poles run from

p. 2059

the bottom to the top. After this [98] the ends and the sides are lined with branches interwoven as compactly as possible between these poles.

Whilst all this work is under way, the captain does not fail to send the boats to the fishing just as soon as the carpenters have put them into condition so they can go. The

fish which they bring back every evening are dressed upon boards which are placed upon barrels. These form a sort of temporary tables which they use until the staging and its appurtenances shall be completed. This fish is salted and put into a pile exactly as if everything were in condition to receive it, as I shall tell you in the part to follow.

The staging is no sooner [99] finished than they set to work to fill it up inside. There a table is made, of four feet wide and about three feet high, removed three feet from the partition of which I have just been speaking. This table is called the splitting-table [*étably*]. In the space between this splitting table and the partition are placed the throaters [*picqueurs*] and the headers [*decoleurs*], and on the other side are the splitters [*habilleurs*].* These splitters are five, six, or seven, according to the size of the vessel. Each splitter has a throater and a header. The splitters have on their right side a kind of trough or box of wood, about a foot and a half wide and a little longer ; its bottom is tipped up about clear to the end towards the land. This makes an efficient flooring for the staging.

From these two stakes of the point, which determine the breadth of the staging, and extending on both sides towards the land, there are placed little poles which run from the ground straight up to pass above the flooring about four feet ; they are distant about two feet from one another. At the upper ends of these little poles, which make the two sides of the staging, another large pole is nailed to their tops, and this holds them crosswise from one end to the other.

Upon those large poles which are nailed to the middle of the cross beams, are placed other poles which are nailed upon their [96] top ends from one extremity to the other, and these poles form the ridge. Then other poles are arranged which extend to rest or fall upon those other poles which are elevated four feet on the sides of the staging ; and these serve as rafters.

This being done, a mainsail of the vessel is placed on top, with the seams running like the rafters in order that the water may run off more easily. To effect this the sail is stretched as much as possible by means of cords which are fastened to the poles on which rest the rafters. If the sail is not large enough to cover the whole staging, the end towards the land is left uncovered, for the chief place is the opposite end, where the hardest of the work is done. [97] To close the two gables and the two sides of four feet in height, one begins with the gable towards the point, which is at those two large stakes which deter-

* I have given here the modern English equivalents, used by all the English fishermen, for these three important terms, though they are not exactly translations of the French words. A *picqueur*, literally translated, would be a slitter, *decoleur* would be a beheader, while *habilleur* would be a dresser. The *picqueur* is called a cut-throat in Newfoundland, but a throater in Nova Scotia and New England. The French of Newfoundland do not now use the term *habilleur*, but *trancheur* or splitter. The *étably*, or splitting-table, is called by the French fishermen *étal*, as our author also calls it on page 155.

mine the breadth of the staging. For this a large pole is nailed from one stake to the other, with the exception of the breadth of a door which is left on one side to lead out upon the point. This pole, which is nailed underneath is raised some two feet* above the floor, while half a foot towards the floor, facing [100] inward,† and the side towards which the bottom inclines is closed by a slide, and this is raised and lowered between two guide pieces. This is in order that the fish may fall of itself and all at once into the barrows, as I shall explain more at length when I speak of the dressing of the fish. At five or six feet farther on towards the land, in the middle of the building, there is made a kind of enclosure for containing the salt which is used to salt the fish. This enclosure is called the salt-bin [*saline*], and is situated exactly under the ridge. Thus the stakes which support the ridge pass through the salt-bin, which may be twenty to twenty-five feet in length and more, according to the size of the vessel to which [101] it is proportioned, and it is about four feet wide. This bin is made of long stakes laid one upon another up to the height of a foot and a half or thereabouts. On the two sides of this building there are two doors, which are used in discharging the staging of fish when it is necessary to carry them to the water to wash them. And that is about everything which can be said as to the staging, in order to give an understanding of it.

[102]

CHAPTER VI

Containing the method of obtaining the oil from the livers of Cod, with a description of the instruments and tools which are used in dressing, salting, and washing the fish : what flakes and beach are, their construction and their use.

Whilst this work is being done, others are engaged on the preparations necessary for making oil, which is accomplished in three ways. The first is a kind of bin like that of a wine-press [103] in which the vintage is pressed, but in which the sides are very much higher all around. There are three planks, and four if they are narrow, one above another, well joined, well caulked, and well pitched, both on the bottom and on the sides, so that the oil cannot run out. This may be six to seven feet square. At one of the sides there is placed a wicker or basket-work, with mats of straw, of the height and breadth of the bin, inside along one side of the press. Between this wicker and mat and the side of the press, there is a little empty space. This is made to prevent all the cod livers, which are thrown every day into that large space which remains shut off from the empty space, from passing through, and [104] that there may remain a space for the oil in proportion as it is made.‡ This happens

* This space of two feet, as our author tells later at page 159, and as is shown both in his own figure and in the Moll engraving at page 311, is left open for the admission of the fresh fish. At the back gable, however, this space is not needed and is filled with poles and branches.

† This trough is well shown in the Moll engraving at page 311 of this work, where it is made plain that it was raised considerably from the floor. It faces inward relative to the staging, not to the table. The mode of emptying it is explained by our author at page 163 of his book.

‡ As our author's drawing further shows, the wicker acted as a strainer to keep the livers thrown into the larger space from entering the smaller, which therefore contained only oil readily drawn off as described and as shown by the engraving.

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only through power of the sun, which makes the livers melt. For the bin, or kind of press, is placed outside the staging in the most convenient place possible. The oil always rises to the top of the blood which the livers yield, whilst the water which falls when it rains settles below the oil ; the latter is in the middle between the water and the livers which are thrown in there every day and float upon the oil. When it is desired to draw it, a hole is made in the side of the press at about a foot from the bottom on the side of the wicker, whilst another hole is made lower to empty the water and blood. In these holes is placed a good plug or a faucet, and the oil is drawn off in [105] proportion as it is formed ; and then it is placed in barrels. All of the livers do not melt entirely, and there form over the oil many vile matters which it is necessary to empty and throw away from time to time ; otherwise this would form a crust by virtue of its drying up, and this would keep the sun from melting the livers which are thrown in every day. There is hardly anybody except the Basques who make this kind of presses, and they are only necessary, moreover, for large vessels. Others make use of a well-caulked boat, which has one end placed some little higher than the other ; at the lower end is placed a wicker with mats, as in the bin or press, to prevent the livers from passing. At this end are made two holes, [106] one to empty the water, and the other to draw off the oil, which are emptied from time to time [respectively] above and below, as in the bin or press. In default of boats or press, use is made of good barrels, knocked in at one end, and placed upright upon stocks, somewhat raised. A wicker is placed therein, from top to bottom, with mats, which make an empty space of about a half foot in breadth from the top to the bottom of the barrel. Two holes are also made in the lower part to empty the water and the oil, and one empties also from time to time all the filth or the residuum, which is formed on top. A barrel of this oil is worth as much as twenty to twenty-five écus. All these three sorts of vessels which are used [107] for making oil are called a *Charnier* by all the fishermen, with the exception of the Bretons, who call it a *Treüil*.*

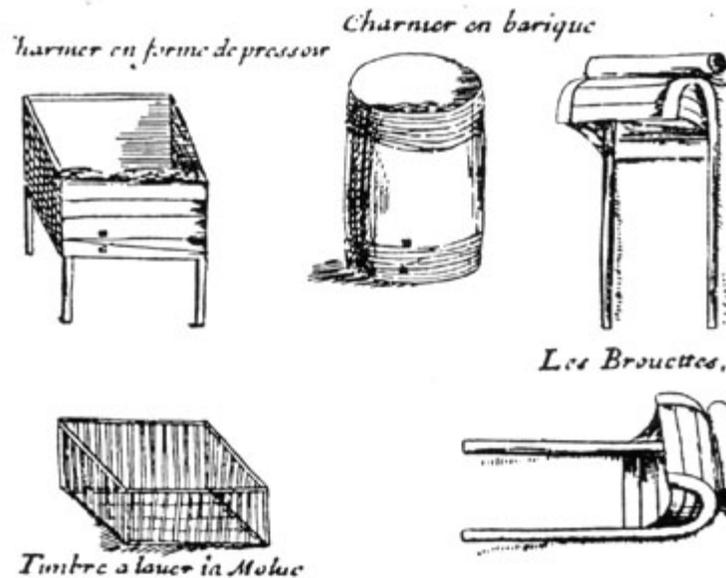
Just as the entire crew does not work all at once upon a single duty, so each one has his special work. Let us look at those who are employed with the appliances which are used for preparing the Cod, such as the *galaire* ; † this is a kind of little staging which is made on land at the edge of the beach. For this there is made a foundation of stakes planted upright like those underneath the staging ; they are increasingly tall towards the sea, in order that the flooring may be level. It is made in the same way as the staging, both as

* By the English fishermen it is called a *liver-butt*, and is commonly made from a hogshead, at least on the fishing vessels. It is illustrated, along with some other articles used in the fishery, on the plate in our author's book reproduced herewith. By the French fishermen of Newfoundland it is called a *foiessiere*.

† This *galaire*, which serves, as our author tells us on page 202 of his book, for a support to the pile of fish while draining after being washed clear of salt, finds its equivalent in Newfoundland in a small platform placed near the flakes, but I have not been able to find its name. The piles of draining fish are said to be *in water-horse*, an expression used also in Nova Scotia, and by the Acadian fishermen are said to be *en fumier*.

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to the foundation and also as to the flooring of little poles, with the [108] exception that it is only twelve or fifteen feet both in length and breadth. The latter is a double one ; the single ones have the same length along the beach,



ARTICLES USED IN THE COD-FISHERY

Copperplate from Deny's book

and half the breadth towards the sea. Some are made like this, but only three four feet across, according to the size of the vessel, and always more rather than less through fear that bad weather may prevent the fish being spread out to dry. This *galaire* is covered above with poles in the form of an arbour, upon which are placed plenty of branches to prevent the sun, when striking upon the fish, from overheating them, something which would spoil them.

There are also needed some barrows [*boyars*], which we call handbarrows [*sivières à bras*] in France.* Everybody [109] knows what they are.† There are also wickerworks which are flat, made from long rods an inch thick, inter-laced like a wickerwork for cleaning clothes, but they are much larger and stronger. They are used to throw the Cod upon when it is washed, in order that it may not take up sand. Another is also made of about a fathom and a half square. It is formed like a cage, except that it is not closed on top ; the sticks in it are as large as the thumb, and it is bottomed with boards. This is placed in the water, the fish are thrown inside it for washing, and it is called a *Timbre*.‡

* Called *civiadières* by the French fishermen of Newfoundland.

† If he does not, he will find one illustrated in the Moll picture (on the beach) later at page 311 of this work.

‡ Shown by our author's figure. This washing-box, the use of which is explained by our author at page 101 of his book, is still in use and called, in Newfoundland, a *ram's horn*. It is not placed on the beach, as our author describes, but is lowered from the staging by a proper tackle.

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The wheelbarrows [*broüettes*] are nothing other [110] than two pieces of squared wood, as large as the arm or thereabouts, of four to five feet in length, [and having] the form of a crook at one end. On these are nailed staves of a foot and a half in length, the ends of which are nailed to the round part of these bars to form a bottom. In order that it may form a hollow, staves are also placed on the two sides, of which one end of the stave is nailed against the end of the crook, and the other end of the stave in the middle of the bar where it commences to lose its curvature. Hence the curvature of these bars, when thus prepared, makes a large hollow like a wheelbarrow.* In place of a wheel there is added a large roller of wood [111] pointed at both ends, which are passed into two iron eyes attached underneath this wheelbarrow. Thus when it is dragged this roller serves as a wheel, which makes it more easy to move. Its use is to carry the fish from those troughs, which I have described as used by the splitters. This barrow is placed under the troughs, and no sooner is the slide raised than the fish fall therein without being touched. This is done to save time and expedite labour.

Whilst all these works are being constructed, the doctor, with some of the boys, is working to build the flakes [*vignaux*]. For this they have a quantity of little poles which are cut into pieces [112] of about five to six feet in length and pointed at one end ; these are driven into the ground, so that there remain about three and a half or four feet above the ground. These pickets are distant one from another about a fathom ; they are all arranged in a single line, and are all of the same height. They continue about twenty-five, thirty, or forty paces in length according to the extent of the place, which requires them sometimes to be longer and sometimes shorter. This first line of pickets being completed, another is made of the same sort, with a distance between the two lines of about five feet, a little more or less. Then long poles are placed in position and tied to the top ends of these pickets, [113] from one end to the other of the two sides. The strings which are used are threads of rope-yarn. All these poles being in position, others are placed across them, the ends of which rest upon those poles of the two sides ; they are tied at each end to those poles at distances of about one foot from one another. This being done one covers all this length and breadth with branches, from which all the foliage is removed in order that the air may circulate as well from below as from above, whilst the Cod are upon the flakes to dry.† There are needed for one ship about thirty, forty, or fifty of these flakes, according to the bigness of the vessel, and also according to the extent of the place, which is sometimes of [114] thirty, fifty, and even of a hundred paces in length.

In another place the steward has some of the boys, whom he makes work

* Its construction is made plain by our author's plate. Such rolling hand-barrows are still in use, and in Newfoundland are called *drudge-barrows*. The French fishermen call it by the same name as our author.

† These flakes are made in substantially the same way at the present day. They are always a conspicuous feature of any fishing village or station. They are figured, though not well, in the Moll picture at page 311 of this work. They are still called *vignots*, or *vigneaux*, by the French and Acadian fishermen.

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on the gravel beach [*grave*∗] if there is no other business more pressing. But let us look at the work on the beach, and then I will tell that which is done in having this beach prepared. That which is called beach is the little pebbles which the sea throws upon the coast. This is flattened as evenly as possible, and if there is too much in one place it is removed to fill up the hollows in other spots ; or else the boys go to fetch it from the shore in hampers [*mannes*] (which is a kind of basket, round, and without handle),† and carry it where it is needed. If the beach is old, and has not been torn up [115] during the winter by the sea, grass is found coming up amongst the gravel, and it is necessary for the boys to tear it all out shoot by shoot, so that none at all is left.

The duty of the steward, aside from the work on the beach, is to take charge of everything connected with the cooking every day for the whole crew, and to go occasionally with his boys, in a boat which he has, from land to the vessel to fetch wine, biscuit, pork, butter, oil, and all other provisions. He goes to the spring with his barrels to fetch water to make his drinks, and for the kettle. He goes also to the ship with his boat to fetch salt, and has it carried ashore and placed in [116] a little pile by the boys, until the time when the staging may be finished and the salt-bin ready to receive it. This salt, which is thus brought, is for salting the Cod which are caught while this work is going on. This is done by the boats which go to the fishery, as I have said, in proportion as the carpenters get them ready ; and it is these fish which I have described earlier as dressed upon those boards which are laid upon the barrels.

[155]

CHAPTER X

On the method of dressing and salting the Cod, and of making the oil which is obtained therefrom : how one prepares the roe, what the latter is, and what it is used for.

Just as soon as two or three boats are unloaded, and there are fish upon this point or stage-head, and the boat-masters and the stowers are upon the staging, then each according to his duty begins to prepare himself to go to the fish-table [*aller a l'etal*], that is, to take his place around the table. For this purpose the splitters commence with their [156] knives, which are furnished them by the captain. They sharpen them, and their sharpener is a piece of flat wood, four inches wide, three thick, and as long as the arm, upon which they place the sediment of a grindstone. This sediment is made by the action of the

carpenters in sharpening their iron tools upon a large millstone, which is used up by dint of use ; that which is consumed falls into the trough in which is the water. They take care to collect this, and some of them even carry it from France ; with it they sharpen their knives which cut like razors. They

* There is no exact English equivalent for this word *grave*, which our author applies to those accumulations of pebbles without sand which are formed only upon shores exposed to a strong surf. Its exact use in the drying of fish is described later under page 212 of our author's book. Being thus economically important it has passed into a place-name (as Grevé) in Gaspé and elsewhere.

† These brackets are our author's.

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each have two of them. As soon as these are sharpened they put on a large leather apron, which takes them [157] under the chin, and extends to the knees. They have also sleeves of leather or of tarred linen. In this garb they take their places in barrels which come up to the mid-thigh. These barrels are between those little boxes which are attached to the table, and of which I have earlier spoken. They place their aprons outside or above the barrel to prevent the water, the blood, and other filth from entering it. Such are the splatters, arranged ready for work.* But they each need a throater and a header. These have also a big apron and sleeves like the others, but they have no barrels.

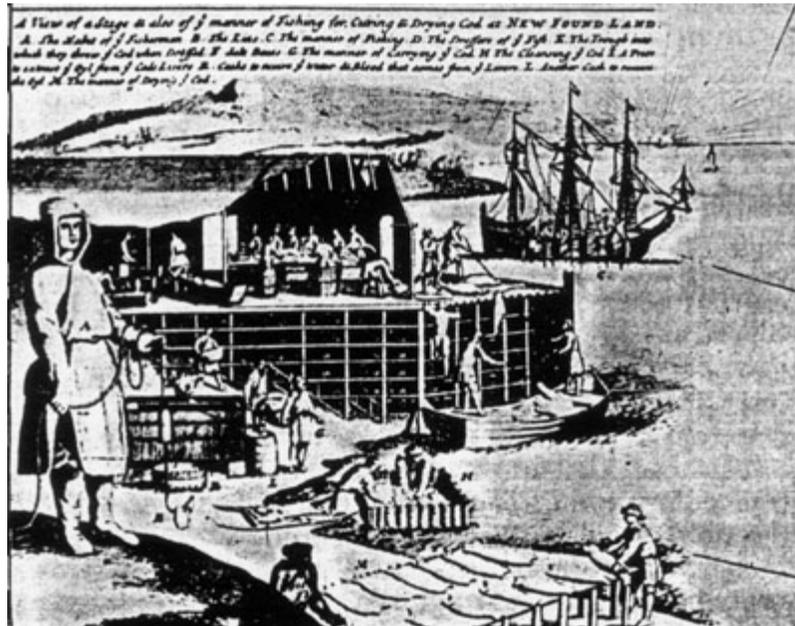


ILLUSTRATION OF METHODS USED IN THE COD-FISHERY

From Moll's Map of North America of about 1713.

In addition, those who work on the water have their boots, which they never leave except to sleep. Those who stay on land and take part [158] in this work, do not have them. The header has no knife, but the throater has one,

* The various operations of the fishery are shown, with pre-Raphaelite detail and clearness, upon the accompanying picture, reproduced from Moll's map of North America of 1713 (or thereabouts). Its agreement with the descriptions of our author is so close as to suggest some connection between his work and the picture, or else a remarkable uniformity

in the methods of the fishery as practised by the French in Acadia and the English in Newfoundland. It is to be noted, however, that while the picture is very like our author's description, it differs in some details, such as in showing several salt-bins instead of one, the table set at right angles to the end partition instead of parallel, the door to the stage-head in the middle instead of one side. It is possible the picture is much older than Moll's map, but if so I do not know its origin. It is reproduced, reduced, in Prowse's *History of Newfoundland* (page 22), while the same picture, crudely re-drawn and in greater part reversed, is given in Winsor's *Narrative and Critical History of America*, IV. 2, where it is said to be taken from a map of America of 1738 in Keith's *History of the British Plantations in America*, Part I. 1738.

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different from that of the splitter. That of the splitter is square at the end, and very thick on the back in order to give it weight that it may have more power to cut the spine of the Cod. That of the throater is longer and pointed, the point rounding on the side towards the edge. The throaters and headers are on the other side of the table near the partition, which is on the side towards the sea, adjoining that point on which the Cod are unloaded. Being thus all placed, the boys and others are also upon the point of the staging with their pews, with which they pierce the Cod in [159] the head, and thrust it near the table under that partition or gable which I have earlier described, and in which is left an opening of about two feet in height.

Having thrust it there, other men who are between the throaters and the headers take the Cod and place it upon the table near the

[207]

CHAPTER XIV

Of the work on land which is done in washing the Cod, carrying it to the galaire, to the flakes, to the beach, in turning and returning it, and placing it in piles.

It is necessary now to follow the work of those on land. Having arisen, the first thing that they do every day is to go to the staging to get the pile of Cod which is to be washed, carry it to the water, [place it] in that timbre, wash it and carry it thence to the galaire. There is also on the galaire every day some [208] which must be carried to the flakes. That is loaded upon the barrows, and is taken to the flakes. Those who take it arrange it upon the flakes tail against head, the skin upwards.

When one flake is all covered, they commence to place it upon another. When there is a question of carrying the barrow there is nobody exempt, not even the captain, except he be some aged captain who has [long] had command and who has seen the world.* During this time those who have brandy drink a little dram of it by stealth without leaving their place at the work. [The fish] having remained thus up to nine o'clock, when the skin has had time to dry, they go and overturn it flesh upward, and there [209] it remains until about four o'clock, when they go and overturn it, skin up, thus to pass the night.

The flesh is never left up during the night, because of the dampness. That is repeated every morning—the washing, the carrying to the galaire, and from the galaire to the flakes. All the Cod that is upon the flakes, as well those of that day as of

the preceding, is turned flesh up every morning about nine o'clock or thereabouts, when the sun has acquired the force to dry up the dew and the dampness of the night. Thus they are left until about four o'clock in the afternoon, if there does not appear any rain or appearance of rain. For once the Cod has been placed to dry, it must no more [210] be wet. And even if the rain continues it is always left with the skin up, and that which is upon the galair remains there also, and that which is in salt remains unwashed. There occur sometimes six, seven, and eight days without the possibility of placing them upon the flakes, washing or

* Such seems to be the meaning of the expression, obviously local, *qui a veu le loup*.

overturning them. When that happens, which is rarely, the Cod runs great risk of heating ; and if that happens, they are obliged to throw it away. Even when this happens for two or three days [only], the Cod is never so good, and it is nearly always waste at the sale, when it is then necessary to give two quintals or two hundred pounds of it for one.

When that which was first placed upon the flakes commences to be a little dry, and [211] when the beach-master judges that it may be in condition to be placed *en mouton*, instead of overturning it at evening in the usual manner, skin up, he has them placed, up to eight, ten, and twelve, tails against heads, one above another, the foundation of this little pile being only two Cod, which are called *mouton*. They are placed thus in order that they may preserve their heat, which they cannot do when overturned singly, for the reason that the night is always cool, and this moistens them too much in the open air and in the moist wind which strikes them from underneath upon the flakes. They enlarge these moutons every evening up to fifteen, twenty, and twenty-five Cod. When these have been [212] placed in this fashion in large moutons,* at evening instead of being replaced upon the flakes, they are carried to the beach to unload the flakes and make room for others. Of two moutons they make only one upon the beach. Then every evening there are removed from the flakes only those which are placed upon the beach. Every day some are placed on the flakes, and some are removed from and some are placed upon the beach, and so on to the end of the fishery.

Having thus all the flakes and the beach covered with Cod, every morning after having washed and carried that on the galair to the flakes, and having overturned all of that other flesh up, they overturn likewise that which is on the beach ; and that which is there [213] in moutons they spread out one by one, skin upwards. Then they go to overturn that which they had brought from the galair in the morning, flesh up, like the others. After this they return to do the same thing which they had just been doing [viz., turning the Cod flesh up] to that on the beach, which was in large moutons that had been selected and placed skin up. Presently all the Cod of the flakes and of the beach has all the flesh upwards. Such is the work

that is done every day in the morning before dinner. I do not doubt that they have a good appetite for having done their duty well. But if, during the time of the dinner, there appears any sign of clouds, or if there is any appearance of rain, it is necessary for them to leave everything and to run [214] swiftly to the Cod and to turn it skin up, for fear lest the flesh become wet. This being done, they go to finish their dinner. And if that cloud does not bring rain, or only a little, and the sun comes out again finely, it is necessary to leave their dinner yet again and go back to place the Cod as it was before, where it remains until four o'clock in the evening or thereabouts.

From the time of the dinner until the time when it is necessary to overturn the Cod, the captain visits everywhere, seeks whether there is anything to be done, goes to have the Gaff Cod changed to another place, has that resalted

* These piles are called by the English fishermen of Newfoundland and Nova Scotia *faggots*, but the Acadian fishermen still call them *moutons*.

which has been longest salted, has it placed in some spot on the staging where it is not in the way, and there has a pile made of it. There it remains [215] until the time when it is necessary to load it. At another time he will fix his *rabbes* or Cod eggs, which are salted daily at one of the ends of the salt-bin, as I have related. He has them taken up and carried thence to a corner of the staging, at the end on the land side ; there he has them resalted and arranges them in a pile one above another. When the pile is large he has them placed in barrels, in which they are resalted once more, but lightly, since they are saturated. They are packed in, and remain there until the time when everything is loaded. At another time he will visit his liver-butts, where oil is made. If they are full, he has it drawn off and placed in barrels, which also remain there until the embarkment. At another time he will have [216] his charniers emptied to get rid of the water and blood, and to remove all the filth which forms on top of the livers which are not melted. He always finds something to keep him busy, and to keep the others at work, for fear lest the blues [*havives*] may get possession of them.* The steward goes on board ship to have provision brought ashore in proportion as they are needed, or he goes to obtain water for his drink. He makes sure that the boys do that which is their duty, which is to obey everybody in everything, and to take care that the aprons of the dressers, and their sleeves, are well washed and dried, that the knives of the throaters are clean and sharp, that the staging is washed and cleared of all those bones of [217] Cod, which the dressers throw behind them and of the entrails which fall here and there, and that the aprons are clean and well washed. For the least thing of all these that is neglected, all the boys get the whip ; they are not allowed to lay the blame one upon another.

Other sailors, with the pilot, have the duty to go on board to fetch salt for filling up the salt-bin. The doctor works at his garden, or goes hunting for the table of the captain. The beach-master walks around his flakes and beach, visits his Cod at one place and another, notes that which it is necessary to place in moutons, large and small, both on the flakes and the beach, and visits also those in the little piles to see if it is time to make them [218] larger. He visits also the big piles, to see if there are any which need to be placed the next day in the sun. Nobody lacks occupation. At two hours after midday they have an hour for luncheon, to smoke, or to sleep. As four o'clock approaches, the beach-master, the captain, and the pilot keep looking from time to time to see if the fishing boats are not returning. As soon as they are seen, the beach-master begins to call the crew. When he calls they have to leave every kind of work and go to him. Then he sends some to turn the flakes, and tells them, "You are to place that in little moutons, that in large ; that [219] you will carry upon the beach," and he sends others to the beach to do the same thing.

The Cod which ought to be placed in a pile the beach-

master and the pilot have brought by armfuls, and make it into piles, some large and others small,

* This word *havives* does not occur in French lexicons. As Professor Cohn, of Columbia University, has suggested to me, it is probably simply a misprint for *havies*, of which our modern form is *ennui*. Our author's use of it, of course, involves a pleasantry.

p. 2069

according as they think best. Whilst that is being done, the fishermen arrive at the staging and discharge their Cod. Then every one goes to prepare for dressing it after the usual routine.

When the Cod has been placed several times in large moutons, it is placed in little piles, and at another time from these little piles a much larger one is made. Thus they go on every day making these piles larger, until the time when the Cod is [220] entirely dry. Of these a huge pile is made, which is not touched for more than twelve or fifteen days. Then it is rebuilt again in a pile [and remains] for a month without being touched.

It is every day the same business of dressing and salting ; every morning washing and building piles on the galaires ; carrying from the galaires to the flakes, from the flakes to the beach ; on the beach building little piles at evening ; from the little piles making large ones. As to the latter, there are every morning piles to be placed upon the beach until the time when the Cod is well dried, when a pile is made which remains a month or five weeks without being touched. At the end of this time they are once more given the sun. Then they are replaced [221] in a pile for as long a time.

This is done for fear lest the pile may take up some moisture, and to keep the fish always dry.

No. 860.

[1609.]

**LESCARBOT'S DESCRIPTION OF THE COD FISHERY
AT NEWFOUNDLAND.**

EXTRACTS FROM LESCARBOT'S HISTORY OF NEW FRANCE (CHAMPLAIN SOCIETY'S REPRINT AND TRANSLATION, VOL. III.), pages 238-239.

And seeing we are in the codfish country, I shall not stop until I have said a word or two about it ; for so many people and in such great number go every year in quest of them from all parts of Europe, that I know not whence such a swarm can come. The cod brought into these parts are either dry or green. The fishing of the green cod is on the Bank in the open sea, some sixty leagues on this side of Newfoundland, as may be seen by looking at my map. Fifteen or twenty sailors, more or less, have each a line, i.e. a cord of forty or fifty fathoms long, at the end of which is a large baited hook, with a lead three pounds in weight to take it to the bottom. With this implement they fish the cod, which are so greedy, that the moment it is let down, it is snapped up, where the fishing is good. The cod being drawn on board, there are planks in the form of narrow tables along the ship where the fish are dressed. One man cuts off their heads, and usually throws them into the sea ; another cuts open their bellies and disembowels them, and sends them back to his mate, who cuts away the biggest part of the backbone. That done, they are put into the salting-tub for four-and-twenty hours, and then packed away. And in this sort they work continually, without respecting the Sabbath (which is an impiety, for it is the Lord's Day), for the space of almost three months, their sails down, until their load is complete. Sometimes they set sail to go farther on in search of better fishing. And the saying that it is cold in Canada has originated because the poor mariners suffer from the cold among the fogs, especially the most hasty, who set out in February.

As for the dry cod, one must go ashore to dry it. There are in Newfoundland and in Bacalaos, many ports where ships lie at anchor for three months. At break of day the sailors go one, two, or three leagues out on the watery plain to catch their load. By one or two o'clock in the afternoon they have each filled his boat, and return to port, where there is a great platform built on the seashore, on which the fish are cast, as one casts sheaves of corn through a barn-window. There is a great table on which the fish when cast are dressed as described above. After having been in the salting-tub, they are carried out to dry on the rocks exposed to the wind, or on the galets, i.e. piles of stone

heaped up by the sea. After six hours they are turned, and so on at intervals. Then all are gathered, and piled up together, and again at the end of eight days exposed to the air. In the end when dried they are packed away. But there must be no fogs when they are drying, for then they will rot ; nor too much heat, for then they will rust, but temperate and windy weather.*

* This description of the cod-fishery, both for green and dry cod, agrees perfectly, so far as it goes, with the elaborate treatise of Denys, who has illumined the subject with a degree of detail and a vividness of expression that leave hardly anything more to be said ; cf. Denys, Description, ii. 27-252 (Champlain Society's edition, 257-348). (W. F. G.)

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1053	1849	C	Extracts from "Notes of a Twenty five years' service in the Hudson's Bay Territory," by John M'Lean	2636
1054	1863	C	"The country of the Montagnais and Nascquapee Indians," by Henry Youle Hind	2638
1055	1774	C	Extracts from "Particulars of the country of Labradore," extracted from papers of Lieutenant Roger Curtis	2640
1056	1786	C	Extract from "A short natural history of the Country," by George Cartwright	2641
1057	1895	C	Indian Travel Routes and points of rendezvous in Labrador Peninsula. (Extracts from Low's Report)	2644
1058	1911	C	Extracts from "Through Labrador," by H. Hesketh Prichard, F.R.G.S.	2646
1059	1922	C	Extracts from "Labrador," by William B. Cabot	2651
1060	1895	C	Population of Labrador Peninsula. Extract from the "Labrador Peninsula," by Robert Bell, B.A.Sc., M.D., LL.D.	2653
1061	—	N	Geographical Considerations by Professor J.W. Gregory, F.R.S., D.Sc.	2654

P A R T X I .

**AUTHORITIES BEARING ON THE MEANING AND
APPLICATION OF THE TERM "COAST."**

No. 861.**DEFINITIONS OF "COAST" IN LEADING
DICTIONARIES.**

Barclay (London, 1744) :

A shore or land, which lies near and is washed by the sea.

Bailey (London, 1764) :

The edge of the land next the sea, the sea-shore ; it is not used for the banks of less waters. 2. It seems to be used by Newton for side.

Ash (London, 1775 and 1795) :

The edge of the land next the sea, the shore ; the bank of any large river or water, the side of anything ; the part of the country within view.

Sheridan (London, 1780) :

The edge or margin of the land next the sea ; the shore.

Johnson (London, 1805) ; Walker (American, 1813; London, 1818) :

The edge or margin of the land next the sea ; the shore.

Johnson (London, 1818 and 1831 ; Philadelphia, 1818) :

The edge or margin of the land next the sea ; the shore. It is not used for the banks of less waters.

Webster (London, 1864) :

The edge, border or margin of a country bounded by the sea ; the shore. (The border or frontier of a country : Exod.).

Smyth (London, 1867) :

The sea-shore and the adjoining country, in fact, the sea front of the land.

Richardson (London, 1867) :

The side, the edge or margin, border, limit or boundary ; a district.

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Century Dictionary and Cyclopaedia (New York, 1904) :

The side, edge or margin of the land next to the sea ; the sea-shore.

New English Dictionary (Oxford, 1914) :

The side or margin of the land next the sea, the sea-shore.

Webster's New International Dictionary (Springhill, Mass., 1915) :

The sea-shore, or land near it ; the seaboard or sea marge, that is, land immediately abutting the sea ; as they saw across the water the English coast.

Murray's Oxford Dictionary, 1891 :

4. a. The edge or margin of the land next to the sea.

c. The coasts is familiarly applied in different regions to specific littoral districts in, India especially, to the Coromandel coast.

5. The border, bound, or limit, of a country ; territory on or near a frontier or boundary, borderland.

Encyclopaedia Britannica, 12th Edition, 1922 :

Coast : (from Lat. costa, a rib, side) the part of the land which meets the sea in a more or less regular form. The word is sometimes applied to the bank of a river or lake, and sometimes to a region (cf. Gold Coast, Coromandel Coast) which may include the hinterland.

**DEFINITION OF “COAST” EXTRACTED FROM LAW
DICTIONARIES, DIGESTS AND WORKS.**

[1914.]

No. 862.

Bouvier's Law Dictionary (Rawle's 3rd rev. : 1914), Vol. 1, p. 507.

COAST: The margin of a country bounded by the sea. This term includes the natural appendages of the territory which rise out of the water, although they are not of sufficient firmness to be inhabited or fortified. Shoals perpetually covered with water are not, however, comprehended under the name of coast. The small islands situate at the mouth of the Mississippi, composed of earth and trees drifted down by the river, which are not of consistency enough for supporting life, and are uninhabited, though resorted to for shooting birds, form a part of the coast.

No. 863.

[1910.]

Black's Law Dictionary, 2nd ed., 1910, pp. 210-11

COAST: The edge or margin of a country bounding on the sea. It is held that the term includes small islands and reefs naturally connected with the adjacent land, and rising above the surface of the water, although their composition may not be sufficiently firm and stable to admit of their being inhabited or fortified ; but not shoals which are perpetually covered by the water. U.S. v. Pope, 28 Fed. Cas. 630 ; Hamilton v. Menifee, 11 Tex. 751.

[1917.]

This word is particularly appropriate to the edge of the sea, while “shore” may be used of the margins of inland waters.

No. 864.**JOINT***Corpus Juris (New York : 1917), Vol. XI, pp. 935-6.*

COAST.¹—As a noun, the shore ;² the seaboard of a country ;³ the sea-shore ;⁴ the margin of a country bounded by the sea ;⁵ the contact of the mainland with the main sea, where no bay intervenes, and with the latter

¹ See also Bank 6 C.J., p. 1,178 ; Beach 7 C.J., p. 1,016 ; Bed 7 C.J., p. 1,022 ; Sea Beach (35 Cyc 1,164) ; Seaboard (35 Cyc. 432) ; Strand (36 Cyc. 1,332).

Atlantic Coast see Atlantic Ocean, 5 C.J., p. 1,437, note 65 (a).

² U.S. v. The James Morrison, 26 F., Cas. No. 15,465, Newb. Adm. 241, 253 ; U.S. v. William Pope, 28 F., Cas. No. 16,703, Newb. Adm. 256, 259.

³ Ravesies v. U.S. 35, Fed. 917, 919.

⁴ Ravesies v. U.S. 35 Fed. 917, 919.

⁵ Bouvier L. D. (quot. Mowat v. North Vancouver, 9 B.C. 205). But compare Pacific El., etc., Co. v. Portland, 65 Or. 349, 382, 133 P 72, 46 LRANS 363 (holding that the words “sea shore” and “coast” in an act were broad enough to include tide and overflowed lands along a river emptying into the ocean) ; Bennett v. Morta, Holt N. P 359, 3 ECL 146 (where an act regulating pilotage on vessels on the coast of England was held to extend to the River Thames).

wherever it exists.¹ The term “coast,” or “sea-coast,” appears to have no fixed meaning apart from the context, and to be equally applicable to the space between high and low water mark, or to the territory bordering on the sea, or to that part of

the sea which adjoins the land. The coast includes the natural appendages of the territory which rise out of the water, although they are not of sufficient firmness to be inhabited or fortified.³

¹ Hamilton v. Menifee, 11 Tex. 718, 751 (where, in referring to this definition by counsel, the court said : “This we believe to be substantially correct. The term coast undoubtedly suggests to the mind the place of meeting between the main-land and the water of the sea, where no bay intervenes ; but it does not so readily suggest also the shores of the bays. It is rather by a process of reasoning than suggestion, that it is made to comprehend the shores of the ocean, and of the bays, as one unbroken line. But whether the laws on the subject should have been construed to include, or other-wise, the shores of the bays, as a part of the coast, can scarcely be regarded as now an open question ”).

(a) “Shoals” distinguished.—(1) “Shoals perpetually covered with water are not . . . comprehended under the name of coast.” Bouvier L. D. (quot. Mowat v. North Vancouver, 9 B.C. 205, 206) .

(2) The act of congress, extending the jurisdiction of the federal courts to “a marine league from the coasts or shores of the United States,” has been construed to embrace the land bordering on, and washed by, the sea extending to low-water mark, and not shoals. Soutl v. L’Africaine, 22 F. Cas. No. 13,179, Bee 204, 207, 208 (where the court said that the term “from the coasts” differed from the expressions “off the coasts,” and “on the coasts.”)

² Gould Waters (quot. Mowat v. North Vancouver, 9 B.C. 205, 206).

³ Bouvier L. D. (quot. Mowat v. North Vancouver, 9 B.C. 205, 206).

(a) as including “islands.”—(1) As the letters patent creating the municipality of North Vancouver stated that the boundary should run from a point on the coast southerly along the coast line to point Atkinson, it was held that the island known as Itala Island or Eagle Island, was included within the boundaries of the municipality. Mowat v. North Vancouver, 9 B.C. 205. (2) “The small islands situate at the mouth of the Mississippi, composed of earth and trees drifted down by the river, which are not of consistency enough to support the purposes of life, and are uninhabited, though resorted to for shooting birds, form a part of the coast.” Bouvier L.D. (quot. Mowat v. North Vancouver, 9 B.C. 205, 206).

[1903.]

No. 865.

C

Cyc. of Law Procedure N.Y., 1903, Vol. 7, p. 266.

COAST.—As a noun, the shore ; the seaboard of a country ; the sea-shore ; the edge or margin of a country bounding on the sea ; the contact of the mainland with the main-sea, where no bay intervenes, and with the latter, wherever it exists. . . .

No. 866.

[1898.]

Amer. and Eng. Encyc. of Law (2nd ed., Northport, Long Island, N.Y. : 1898), Vol. 6 p. 171.

“Coast”—defined to be the seaboard of a country.¹

[1904.]

¹ *Ravesies v. U.S.*, 35 Fed. 919.

No. 867.

Farnham on Waters and Water Rights : Rochester, 1904, Vol. 2, p. 1463.

“In a statute which requires measurement from the coast, the coast is the point of contact of the main land with the main sea ; and when a bay intervenes the point of contact of the bay with the main land is to be considered as the coast.”²

² *Hamilton v. Menifee*, 11 Tex. 718.

[1900.]

No. 868.

Gould on Waters, 3rd ed., Chicago, 1900, p. 64.

“The term 'coast' or 'sea-coast,' appears to have no fixed meaning apart from the context, and to be equally applicable to the space between high and low-water mark, or to the territory bordering on the sea, or to that part of the sea which adjoins the land.”

JUDICIAL DEFINITIONS OF THE TERM “COAST.”**No. 869.**

[28 May, 1804.]

Jurisdiction of district courts of the U. States ascertained by act of congress of 1794 to extend to a marine league from the coasts or shores, extending to low water mark. Shoals covered with water are not part of the coast or shore.

CASES ADJUDGED IN THE DISTRICT COURT OF
SOUTH CAROLINA.

JOHN FRANCIS SOULT v. CORVETTE L'AFRICAINNE.

BEE'S ADM. REP. (1792-1809), pp. 204-208.

This suit is instituted on behalf of the French republic, by their agent of commercial relations, to pray restitution of the corvette *L'Africaine*, her tackle, furniture and apparel ; and also compensation for damages sustained by her detention.

To the libel filed in this cause, a claim and plea are interposed by *William Pindar*, commander of the brig *Garland*, a British privateer, on behalf of himself and crew, stating that this court ought not to have cognizance of the several matters mentioned in the libel, because they did not take place within the jurisdiction of this court ; the corvette having been captured on the high and open seas, not within a marine league of any coast or shore, of the state of *South Carolina*, or of any coast or shore of the *United States*.

From the pleadings and evidence produced, it appeared that the corvette *L'Africaine* had met with a gale of wind at sea, on the 22d. *April* last, in which she lost her mizenmast, and sixteen of her crew ; and was obliged to throw overboard six of her guns and a quantity of provisions. That, in this situation, she was boarded on the evening of the 3d. of *May*, off the bar of *Charleston*, by a pilot, who brought her to anchor in six fathoms water, her draught of water being too great to permit his carrying her over the bar, until the next tide. It was proved, that early the next morning, 4th *May*, the brig *Garland*, with a ship in company, bore down on the corvette as she lay at anchor ; and that, on a gun being fired from the privateer, the corvette struck her colours, was taken into possession, and brought in here, as stated in the libel.

The single question for the consideration of the court is, whether this capture was made within the waters of the *United States*, or within a marine league of the coasts or shores thereof : it being within those limits only that this court can take cognizance of captures between belligerent powers.

In determining this point, it will be proper first to fix

precisely the place where this vessel lay at anchor when she was captured, which, from the evidence of pilots, and a chart of the coast produced in court, was done with great accuracy. All the witnesses agree that the corvette was anchored in six fathoms water, on the outside of the *Rattlesnake* shoal ; the nearest land

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to this shoal appears to be the south end of *Long Island*. From thence to the spot where the corvette lay at anchor, is, by measurement, nearly six miles. The *Rattlesnake* shoal, is, itself, four miles from land *at least*. Some of the witnesses say it is four and a half ; others six or seven miles distant from land ; and as this shoal lay between the corvette and the nearest land, the distance is ascertained with sufficient precision.

In the case quoted from *Robinson's Admiralty Reports*, sir *William Scott* remarks, that “an exact measurement cannot easily be obtained ; but that, in cases of this nature, the court would not willingly act with unfavourable minuteness towards a neutral state, but will be disposed to calculate the distance liberally.” On similar principles, I am also disposed to calculate liberally and impartially between the parties ; which the position of the *Rattlesnake* shoal between the nearest land and the vessel enables me to do. As that is acknowledged on all hands to be four miles *at least*, the question of distance as to the marine league from shore is settled.

But it is contended by the counsel for the French republic, that the words *coasts* or *shores* being both found in the act of congress, the jurisdiction ought to extend beyond a marine league from the *shore*, and ought to be measured from the *coast*, which includes all the shoals thereon : and this ground was much insisted on.

It was also said that this capture was contrary to the law of nations, the laws of humanity, and the treaty with *France*.

Much time was occupied in reading a number of cases from the law of nations ; and reference was made to the correspondence of Mr. *Jefferson*, when secretary of state, with Messrs. *Genet* and *Hammond*, the ministers, respectively, of *France* and *England*. It is only necessary for me to remark here, that this correspondence was prior to the 4th *June* 1794, when the law of congress was passed. As to the cases adduced, they shew that the line of jurisdiction has varied as the several nations referred to thought fit. I believe the *United States* are the only power who have fixed, by law, the limits of their maritime jurisdiction.

It was argued that this law of congress was passed on the spur of the occasion, and was intended only as an experiment. It may be so. But though the act was originally limited to two years, it was extended afterwards to four years ; was finally revived without any limitation, and continues to be, at this day, the law of the land.

It is not for this court, exercising a jurisdiction of this nature, to take into consideration the laws of humanity. A vessel, however distressed, may lawfully be captured on the high seas ; and the present question must be decided not by the law of humanity, but by the law of congress.

As to the treaty with *France*, I have examined it, and find that it does not at all relate to a case like the present. The 18th section does indeed mention "sailing along the coasts," but is, nevertheless, totally irrelevant to the question now before us.

But, in order to prove that *coasts* and *shores* have a different meaning, reference is made to the 7th section of the act of 1794, where it is said : "and

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in every case of the capture of a ship or vessel within the *jurisdiction* or protection of the *United States*, as above defined," &c. and it is contended that in this clause the word "jurisdiction" relates to coasts, and the word "protection" to shores. In answer to this I would observe, that by recurrence to the 6th section, we shall find that "*jurisdiction*," as there defined, must relate to captures within the waters of the *United States*, about which there could be no dispute, and *protection* to the marine league. With this distinction the several clauses are perfectly reconcilable, which they could not, otherwise, be.

Two witnesses were produced to explain the meaning of the word *coast*, among mariners. They said the coast included all the *shoals*, stretching out to any distance whatever ; and a critical inquiry was made into the distinction between the expressions "off the coasts and *on* the coasts." But the act by which we must be guided uses neither. It says, "*from* the coasts ;" and this signification differs, in my opinion, from both the others. If the construction contended for should obtain, the marine league would vary with every shoal that could be found. At one time, it would be three miles from the shore or land ; at another, ten or twenty miles, according to the extent of the shoal. It would be impossible to fix any boundary of jurisdiction ; no two district courts of the *United States* could determine alike, because the shoals lying off the coast or shore of each would be found to differ in extent ; in cases of appeal, the judges of the superior courts would be unnecessarily perplexed ; and "the glorious uncertainty of the law" would be established indeed.

Much stress was laid on the vessel's having taken a pilot on board. Had the law of congress not defined the distance, and the evidence fixed it so clearly, I should have been inclined, in a case of this sort, as I have already said, to reject unfavourable minuteness, and to give a liberal construction. A vessel that has taken a pilot near our shores, ought, *primâ facie*, in my opinion, to be protected by our neutral jurisdiction. But, as I am bound by the law as I find it, and not by what it ought to be, I can only express a wish that it may be so amended by the

legislature as to embrace, in future, every *bondâ fide* case of this sort.

This is said to be a new case, and one of great importance. I view it as such in both lights, and have, therefore, given it very mature consideration : and after a full investigation of the matter, with reference to consequences both as respects ourselves and foreign powers, I am of opinion that the words in the sixth section of the act of congress “a marine league from the coasts or shores of the *United States*,” must have been intended and must be construed to the land bordering on and washed by the sea, extending to low water mark.

I, therefore, adjudge and decree that the plea in bar filed in this cause is relevant, and that the libel must be dismissed. But, as it appears that the agent of commercial relations of the French republic considered himself bound, in his public capacity to prosecute this suit, I order that each party pay his own costs.

Gernon.

No. 870.**The "ANNA."**

[Nov. 1805]

5 C. ROB. ADM. 373, November 6, 15 and 20, 1805.

This was the case of a ship under American colours, with a cargo of logwood, and about thirteen thousand dollars on board, bound from the Spanish main to New Orleans, and captured by the *Minerva*, privateer, near the mouth of the river Mississippi. A claim was given under the direction of the American ambassador for the ship and cargo "as taken within the territory of the United States, at the distance of a mile and a half from the western shore of the principal entrance of the Mississippi, and within view of a post protected by a gun, and where is stationed an officer of the United States."

* * * *

Judgment—20th November, resumed.

Sir W. SCOTT. . . . When the ship was brought into this country, a claim was given of a grave nature, alleging a violation of the territory of the United States of America. This great leading fact has very properly been made a matter of much discussion, and charts have been laid before the court to show the place of capture, though with different representations from the adverse parties. The capture was made, it seems, at the mouth of the river Mississippi, and, as it is contended in the claim, within the boundaries of the United States. We all know that the rule of law on this subject is "*terrae dominium finitur, ubi finitur armorum vis*," and since the introduction of firearms, that distance has usually been recognized to be about three miles from the shore. But it so happens in this case, that a question arises as to what is to be deemed the shore, since there are a number of little mud islands composed of earth and trees drifted down by the river, which form a kind of portico to the main land. It is contended that these are not to be considered as any part of the territory of America ; that they are a sort of "no man's land," not of consistency enough to support the purposes of life, uninhabited, and resorted to only for shooting and taking birds' nests. It is argued that the line of territory is to be taken only from the Balize, which is a fort raised on made land by the former Spanish possessors. I am of a different opinion ; I think that the protection of territory is to be reckoned from these

islands ; and that they are the natural appendages of the coast on which they border, and from which, indeed, they are formed. Their elements are derived immediately from the territory, and on the principle of alluvium and increment, on which so

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much is to be found in the books of law, *Quod vis fluminis de tuo praedio detraxerit, et vicino praedio attulerit, palam tuum remanet*, even if it had been carried over to an adjoining territory. Consider what the consequence would be if lands of this description were not considered as appendant to the main land, and as comprised within the bounds of territory. If they do not belong to the United States of America, any other power might occupy them ; they might be embanked and fortified. What a thorn would this be in the side of America. It is physically possible, at least, that they might be so occupied by European nations, and then the command of the river would be no longer in America, but in such settlements. The possibility of such a consequence is enough to expose the fallacy of any arguments that are addressed to show that these islands are not to be considered as part of the territory of America. Whether they are composed of earth or solid rock, will not vary the right of dominion, for the right of dominion does not depend upon the texture of the soil.

I am of the opinion that the right of territory is to be reckoned from those islands. . . .

[20 Jan.
1836.]

No. 871.

C

THE KING v. FORTY-NINE CASKS OF BRANDY.

3 HAGG ADM., p. 257-293.

January 20, 1836.

Effect, as against the office of Admiralty, of grants from the crown to a lord of a manor of "wreck of the sea." Claim, by grant, to "flotsam," &c., &c., not exceeding three miles from low water mark, rejected. Boundaries of the admiralty jurisdiction on the coasts of the kingdom. Office of Lord High Admiral, its duties, and rights. To constitute "wreck of the sea," goods must have touched the ground, though they need not have been left dry. Goods afloat on the high sea (though within low-water mark) if they have not touched the ground, are "droits." If they have touched the ground, but are still moved by the sea, quaere. Semble, that the crown cannot lawfully grant "droits" to a private person.

Rule of construction of grants from the crown.

Three miles beyond low-water mark is the limit of territorial right as between nations only.

* * * *

Sir J. Nicholl. . . . Now the coast is, properly, not the sea, but the land which bounds the sea ; it is the limit of the land jurisdiction, and of the parishes and manors—bordering on the sea—which are part of the land of the county. The limit, however, and its character, varies according to the state of the tide ; when the tide is in, and covers the land, it is sea ; when the tide is out, it is land as far as low-water mark ; between high and low-water mark it must therefore be considered as *divisum imperium*.

No. 872.

HAMILTON v. MENIFEE.

[1854.]

11 TEXAS REPORTS, pp. 718-754. (1854).

	*	*	*	*
Hemphill, Ch. J.	*	*	*	*

The question of the proper mode of defining the interior boundary of the ten coast leagues has been discussed with earnestness and ability and we will proceed with all possible brevity to express our views on that subject.

The fourth article of the national Colonization Law of the 18th of August, 1824, declares, that there cannot be colonized any lands comprehended within twenty leagues of the limits of any foreign nation, nor within ten leagues of the coast, without the previous approbation of the Supreme Executive Power. The seventh article of the state Colonization Law is to the effect, that the government shall take care that within twenty leagues bordering on the limits of the United States, of the North, and ten littoral leagues upon the coast of the Gulf of Mexico, within the limits of the state, no other settlements shall be made than such as shall meet the approbation of the Executive of the Union, &c., &c. In the translation of this article of the state law, as published by Stephen F. Austin, in 1829, the expression is ten leagues, in a straight line from the coast of the Gulf of Mexico. But there is nothing in the original, corresponding to "straight line," in the English ; and ten littoral leagues upon the coast of the Mexican Gulf, is the literal translation of the terms used in the original.

In the first place, then, what is the coast, from which the ten leagues are to be measured ? What was and is generally understood by the term coast ? The counsel of the appellee has defined the coast or sea-shore to be the contact of the main-land with the main sea, where no bay intervenes, and with the latter, wherever it exists. This we believe to be substantially correct. The term coast undoubtedly suggests to the mind the place of meeting between the main-land and the water of the sea, where no bay intervenes ; but it does not so readily suggest also the shores of the bays. It is rather by a process of reasoning than suggestion, that it is made to comprehend the shores of the ocean, and of the bays, as one unbroken line. But whether the laws on the subject should have been construed to include, or otherwise, the shores of the bays, as a part of the coast, can scarcely be regarded as now an open question. The

Governor of the State, in 1826, decided that they should be included ; and the contracts of colonization require the projection of the ten leagues into the interior to be, not from the coast proper of the Gulf, but from the mouths of rivers, all of which constituting boundaries emptying into bays ; and whether

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their mouths be in the heads or lower down in the bays, made no difference with the authorities. The Executive, in his opinion, directed the measurement to be from the shore of the main-land, leaving thus the sea and the lagunas, having communication with it, since, according to his view, they should be considered as parts of one whole.

* * * *

No. 873.

C

THE UNITED STATES v. THE STEAMBOAT "JAMES MORRISON."

1 NEWB. ADM., REP. 241.

District Court of the United States. District of Missouri. In Admiralty.

HON. R. W. WELLS, JUDGE.

* * * *

HON. R. W. WELLS:

The next matter of inquiry will be, is there anything in the laws of the United States, previous to the act of 1838, which requires a boat employed only in ferrying across a river, at a place wholly within the limits of a state, to obtain a license for such employment ? A person will be greatly aided in the investigation, by bearing in mind the constitutional power of Congress. For if words or phrases in an act, will bear a construction which is in accordance with the constitutional power of the legislature, and one which is opposed to that power, we are bound to believe, that the legislature intended that construction which is in accordance with their power. The title of the act, which is the principal one on this subject (18th Feb. 1793), is "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same." The form of the license, given in the

act itself, is “license is hereby granted for the said —— called the said ——, to be employed in carrying on the coasting trade.” The act provides for the forfeiture of any ship or vessel, found trading between, &c., laden with foreign goods ; and for the payment of custom duties, if laden with certain goods, &c., not being registered or licensed for carrying on the coasting trade. The coast is the shore. “To coast” is to navigate along the shore. The “coasting trade,” is the trade along the shore. It cannot with any propriety be applied to ferrying across a river ; and never, I think, has been so applied. Neither the phrase “coasting trade,” nor the word “coasting,” nor “trade,” could with any propriety, be applied to a ferry across a river.

No. 874.**THE UNITED STATES v. THE STEAM FERRY BOAT
"WM. POPE."**

1 NEWB. ADM. REP. 256.

District Court of the United States. District of Missouri. In Admiralty.

HON. R. W. WELLS, JUDGE.

1. The act of July 7th, 1838, "To provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," was not intended by Congress to apply to all steamboats, but only to such as before the passage of that act were required to be enrolled and licensed for the coasting trade.
2. Under the laws of Congress enacted prior to that of 1838, ferry boats were not required to be enrolled and licensed.
3. The words, "coasting trade," mean, the trade along the shore, and the business of a ferry boat is not included therein.
4. A license from the United States, and a license from a state, are not both necessary to authorize the owners of a steamboat to employ her in ferrying.
5. The laws of the United States contain no regulations for ferries as such, while the states have exercised the right to license and regulate ferries from the commencement of the government to this day.

* * * *

WELLS, J.—A libel was filed against the Wm. Pope for a violation of the act of Congress, approved 7th July, 1838, to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam.

* * * *

The license required to be granted by the act of 1838, is a license to carry on "the coasting trade ;" such are the licenses now actually granted, and no other. The coast is the shore. To coast is to navigate along the shore. "The coasting trade" is the trade along the shore. How absurd would it be to require a license to carry on the coasting trade, for a vessel that was engaged in no trade at all, and certainly in no coasting trade. A vessel that merely crosses the river as a ferry boat, can in no proper sense be said to be engaged in any trade ; nor can it be said to coast or be employed in the coasting trade.

RAVESIES v. UNITED STATES.[24 July,
1888.]

35 FED. REP. 971, 918, 919.

*(District Court, S. D. Alabama. July 24, 1888.)*1. SEAMEN—SHIPMENT—FEES OF SHIPPING COMMISSIONER—COASTWISE
TRADE.

Vessels engaged in the inland river trade of the state of Alabama, though carrying merchandise between the several states of the United States, are not engaged in the "coastwise trade" within the meaning of the act of congress of June 19, 1886, so as to entitle a shipping commissioner to the fees therein prescribed for shipping crews for such vessels.

* * * *

At Law.

Action by Paul Ravesies against the United States to recover fees for services rendered as shipping commissioner for the port of Mobile.

* * * *

TOULMIN, J.—As shown by the petition, the plaintiff was United States commissioner for the port of Mobile, in the state of Alabama, from the 4th of March, 1887, to the 19th of July, 1887, inclusive, and during that period he, as such commissioner, shipped seamen to compose the crews of American vessels engaged in trade on the inland navigable rivers within the state of Alabama, and also the crews of American vessels engaged in trade between the port of Mobile, in said state of Alabama, and Tampa and other ports, in the state of Florida. It is shown that each of the said vessels in the inland river trade in the state of Alabama was engaged in voyages between ports within said state ; that all said shipments were made at the request of the masters of said vessels, respectively ; that the vessels were duly enrolled in the customhouse at Mobile, and licensed to carry on the coasting trade ; and that they were directly and actually engaged in commerce between the several states of the United States. The plaintiff duly presented to the treasury department his account for the fees which he claims to be due him for the services rendered, but it was disallowed, and payment thereof refused. He now sues to recover the amount of the account. The United States, by the district attorney, demurs to the petition so far as it relates to the shipment of seamen on vessels engaged in

making voyages in the river trade from and to points exclusively within the state of Alabama, and pleads the general issue to the allegations of the petition relating to the shipment of seamen on the vessels engaged in the trade with ports in the state of Florida. The plaintiff bases his right to the fees sued for on the act of congress of June 19, 1886, which provides "that shipping commissioners may ship and discharge crews for any vessel engaged in the coastwise trade * * * at the request of the master or owner of such vessel." It is conceded that, unless plaintiff is entitled under this

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act to the fees claimed, he has no right to them. To entitle him to such fees the vessels for which he performed the services charged for must have been engaged in the "coastwise trade." The question raised by the demurrer to the petition is whether vessels engaged in making voyages in the inland river trade from and to points exclusively within the state of Alabama are engaged in the coastwise trade, it being admitted they were engaged in the transportation of merchandise and other subjects of trade and commerce between the state of Alabama and other states of the United States. Does it follow that because a vessel is engaged in commerce among the states it is engaged in the "coastwise trade?" These vessels may be said to be engaged in interstate commerce when they aid in the transportation of objects of trade and commerce, and of passengers, from points within this state to points within another of the United States, and to foreign nations, and also in the transportation to points within this state of such objects shipped from foreign nations, or from other of the United States. But the fact that they are engaged in commerce among the states does not of itself give them a right to the services of the shipping commissioner under the act of congress of June 19, 1886. Unless they were at the same time engaged in the "coastwise trade," the plaintiff would not be entitled to the fees claimed. Were they so engaged? To be engaged in means to be employed, to be occupied, in the "coastwise trade." "Coast" is defined to be the seaboard of a country. The coast is the sea-shore. "Coastwise," by way of the coast; along shore. See the case of *The James Morrison*, 1 Newb. Adm. 241; *The William Pope*, Id. 256. "Coastwise trade" means trade or intercourse carried on by sea between two ports or places belonging to the same country. "Coastwise trade" may be a part of the commerce among the several states, but commerce among the several states is not necessarily "coastwise trade."

No. 876.

TERM "COAST-LINE" DEFINED.

July 18 and Aug. 1, 1919.

(Present: The Right Hons. Lord HALDANE, BUCKMASTER, and ATKINSON.)

ESQUIMAULT AND NANIMO RAILWAY COMPANY v. TREAT.

ON APPEAL FROM THE COURT OF APPEAL OF BRITISH COLUMBIA.

121 L. T. REP., pp. 657-8.

British Columbia—Statute—Construction—Meaning of "coast line."

Held, that in a grant to the appellant company by the Dominion Government of certain lands, together with the minerals thereunder, for the purpose of constructing a railway made under a British Columbia Act of 1883 the expression "coast line" used to describe the eastern boundary of the land in view of the context and circumstances of the case was meant to describe the eastern boundary of the land at high water mark and did not, as the appellants contended, include the foreshore and foreshore rights.

APPEAL from a judgment of the Court of Appeal for British Columbia dated the 5th Nov. 1918 affirming a decision of Clement, J. whereby the action brought by the appellant company against the respondent was dismissed with costs.

E. P. Davis (of the Canadian Bar), the Hon. *M Macnaughten*, K.C., and *Harold R. Robertson* (of the Canadian Bar) for the appellants.

Hon. *J. W. de B. Farris* (*Attorney-General* of British Columbia) and *Oscar C. Bass* (of the Canadian Bar) for the respondent.

The considered opinion of their Lordships was delivered by

Viscount HALDANE.—The question in this case is what is meant by the expression "coast line" in a statutory conveyance. The courts below have unanimously held that in its context in the instrument the expression was used to indicate a boundary at

high water mark, which excluded the foreshore and the foreshore rights. Their Lordships are of opinion that the decision appealed from was right, and should be affirmed.

The action out of which the appeal arises was brought in the Supreme Court of British Columbia to establish the title of the appellants to the coal and other minerals and substances under the foreshore and sea opposite certain lands which had been conveyed to them. The respondent Treat was a licensee from the Provincial Government who was authorised to prospect for coal under the foreshore, and had entered on it for that purpose. The lands in question are situated in Vancouver Island. They form a belt or strip. The portion of it to which the controversy relates are described, in a statute of British Columbia, which is the root of the appellants' title, as bounded on the east by the coast line of Vancouver Island to the point of commencement,

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and including all coal, coal oil, ores, stones, clay, marble, slate, mines, minerals and substances whatsoever thereupon, therein and thereunder.

When British Columbia entered Confederation in 1871 under the provision enacted by sect. 146 of the British North America Act of 1867, it was one of the terms of the Imperial Order in Council then made that the Government of the Dominion should secure the construction of a railway from the Pacific towards the Rocky Mountains, and from the east of the Rocky Mountains towards the Pacific to connect the seaboard of the new province with the rail-way system of Canada. To facilitate this the province agreed to convey to the Dominion Government, in trust to be appropriated in such manner as that Government should consider advisable in furtherance of the construction of the railway, a certain extent of public lands along the proposed line, not to exceed twenty miles on each side. There was subsequent negotiation between the two Governments which resulted in an agreement modifying in a fashion which is not material for the purposes of the present question the description of the lands to be conveyed. In the result the Government of the province undertook to procure the incorporation, by Act of their Legislature, of certain persons, to be designated by the Dominion Government, for the construction of the portion of the railway in Vancouver Island from Esquimault to Nanaimo, and the Government of the Dominion undertook to secure the construction of this railway.

By Act of the Provincial Legislature, passed on the 19th Dec. 1883, there was granted to the Dominion Government for the purpose of constructing this railway; land in Vancouver Island described as follows : Bounded on the south by a straight line drawn from the head of Saanich Inlet to Muir Creek on the Straits of Fuca ; on the west by a straight line drawn from Muir Creek aforesaid to Crown Mountain ; on the

north by a straight line drawn from Crown Mountain to Seymour Narrows ; and on the east by the coast line of Vancouver Island to the point of commencement ; and including all coal, coal oil, ores, stones, clay, marble, slate, mines, minerals, and substances whatsoever thereupon, therein, and thereunder.

By a Dominion statute (47 Vict. c. 6) passed subsequently to the British Columbia Act referred to statutory authority was *inter alia* given to an agreement between the Dominion and provincial Governments, and also to an agreement relative to the construction of the railway, and for a grant of the whole, with certain exceptions which are not material, of the land conveyed to the Dominion by the Government of British Columbia for the construction of the line. The latter agreement, which was scheduled to the statute, was made between Robert Dunsmuir and others, called the contractors, and associated for such construction, and the Minister of Railways and Canals of the Dominions. It provided among other things for the grant by the Dominion to the contractors of the land referred to, in so far as such lands should be vested in the Crown in right of the Dominion, and held for the purposes of the railway, and for the minerals and substances in or under such lands, and the foreshore rights in respect of all such lands as aforesaid which were thereby agreed to be granted to the contractors and border on the sea, together with

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the privilege of mining under the foreshore and sea opposite any such land, and of mining and keeping for their own use all coal and minerals under the foreshore or sea opposite any such lands, in so far as such coal and minerals and other substances and foreshore rights were owned by the Dominion Government. The statute authorised the Governor in Council to grant to the railway company, which was stated to have been incorporated by the British Columbia Act already referred to, the land in question in terms and with reservations which are for all material purposes identical with those their Lordships have quoted from the scheduled agreement.

On the 21st April 1887 a Crown grant was made by the Dominion Government to the appellant Railway Company. It recited the British Columbia Act and the Dominion Act already referred to, and that it had been agreed between the Dominion Government, the Government of British Columbia, and the company, that the grant to the company of the lands in question should be in the terms thereafter contained, and that the exact boundaries of the lands should be as settled and agreed upon by and between the Government of British Columbia and the company with certain provisions as to settlers which are not material. It then granted to the company the land situated on Vancouver Island, which had been granted to the Crown in right of the Dominion by the Act already

referred to of the province of the 19th Dec. 1883, in so far as such lands were vested in the Crown and held for the purposes of the construction of the railway, with all the coal and other minerals and substances thereunder, and the foreshore rights in respect of such lands as border on the sea, together with the privilege of mining under the foreshore and sea opposite any such land, and of mining and keeping all the coal and minerals mentioned, "in so far as such coal, coal oil, ores, stones, clay, marble, slate, mines, minerals, and substances and foreshore rights were vested in," the Crown as represented by the Government of the Dominion.

The question is whether under the terms of the British Columbia and Dominion Acts and the Crown grant referred to the appellant company obtained a title to the foreshore or foreshore rights mentioned in the grant. Their Lordships agree with the courts below in thinking that it did not obtain such a title. The Dominion statute and grant are careful to limit what they purport to convey to the appellants to such rights only as were vested in the Crown in right of the Dominion. This throws the question back to the construction of the words in the British Columbia Act of 1883. It may well have been that the general words relating to foreshore rights were introduced to cover the possibility of the Dominion [sic] possessing rights apart from the grant to them by the province in the foreshore on a certain interpretation of the British North America Act of 1867. It has since been made clear by decision that no right of property in the foreshore which was vested in a province before confederation has been taken away by that Act, except so far as transferred by express enactment, and there is nothing in the British North America Act of 1867 or in any other statute referred to in this appeal which transfers the foreshore generally as originally vested in the Crown in right of the province. There are, of course, the provisions of sect. 108 of the Act of 1867

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which by implication take away the property in specific parts of it, but these provisions have no application to the present case.

Their Lordships are accordingly of opinion that unless the words they have already quoted in full from the statutory grant to the Dominion in sect. 3 of the Provincial Act of the 19th Dec. 1883 passed the foreshore, it remains in the Crown in right of the province. The appellants rely on the use of the expression "coast line" as sufficient to include the foreshore. But it is the natural inference from the context that "coast line" is there referred to as contrasted with "straight line," the expression which is apposite in the descriptions of the other parcels in the grant. They think that the natural interpretation of the expression is that it was intended to indicate the actual and the normal boundary of land which was divided from the sea by high water mark, and that it consequently included the

land down to the normal high water mark, and not further, to the exclusion of the foreshore and all rights to mine under it. In an instrument which in reality did no more than operate as a transfer by the Crown of administration in right of the province to administration in right of the Dominion their Lordships think that there is no presumption or other reason for construing words purporting to be words of grants in any other than their natural and strict sense. They will, accordingly, humbly advise His Majesty that the conclusions arrived at by the learned judges of the courts of British Columbia were correct, and that the appeal ought to be dismissed with costs to be paid by the appellants to the respondent Treat. In accordance with the usual practice the intervening respondent will bear his own costs.

Solicitors for the appellants: *Linklater and Co.*

Solicitors for the respondents: *Gard, Lyell, Betenson and Davidson.*

[27 Nov.,
1801.]**TERM "COAST" INAPPLICABLE TO TIDAL RIVERS.****No. 877.****THE "TWEË GEBROEDERS," NORTHOLT, MASTER.**

3 C. ROB. ADM. 336, 337, 340, 341. November 27, 1801.

Territorial claim to protect capture, on the part of Prussia, held not to be established.
Vessel condemned.

This was a case of considerable importance, as it is respected the claim of a sovereign state for a right of territory over the spot where the capture in question was alleged to have taken place. The case arose on the capture of vessels in the Groningen Watt, on a suggestion that they were bound from Hamburg to Amsterdam, then under blockade ; and a claim was given under the authority of the Prussian minister, averring the place in question to be within the territories of the king of Prussia.*

JUDGMENT.

SIR W. SCOTT.—This is the case of a ship and goods proceeded against for a breach of the blockade of Amsterdam ; they are claimed as being taken on neutral territory ; but it is denied on the part of the captors that they were so taken.

On the blockade of Amsterdam, this court has been inclined to hold, generally, that all sea passages to Amsterdam by that great body of waters, the Zuyder Zee, were blockaded, supposing those sea passages to be in the possession of the enemy. Such as were in the possession of neutrals, it was of opinion, were not included, unless the blockading force could be applied at the interior extremity of their communication. Whether the present capture in question was made in a sea passage to the Zuyder Zee, belonging to the enemy or to a neutral power, will be decided by the considerations which are to be examined in the farther pursuit of this question.

* * * *

The capture is represented on both sides to have been made in the Watt, which runs along the coast of Groningen, by two or three of his Majesty's

* The claim of the Prussian consul described the captured vessels to have been lying at anchor upon the Outhousen Watt, near Eems, close to the third beacon ; and the capture to have been made, 14th July, 1799, by a boat from the L'Espiegle, then lying in the Wester Balg, and also on the river Eems, and within the territories and dominions of his Prussian Majesty. The affidavit of the captors gave a different account of the situation of the capturing vessel. See Appendix, p. xl. *et seq.*

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ships that went up the Eems. It is not, I think, contended, that the capturing ships were stationed on the neutral territory, unless the whole of the Watt passage is to be so considered.

* * * *

It will be proper for me to consider, first, the natural quality and position of this place. It is the Watt passage, running along the Dutch coast of Groningen, and called the Groningen Watt, to the Lower Zee.

* * * *

It is necessary for me to notice here another phrase which has been used, "that all this is river, and not sea." That it is quite so, is not indisputably clear. It is true there are two passages which, during the reflux of the sea, carry down the river title of Eems a great way from the main land ; and for the convenience of navigation they are indicated by buoys. But surely it might be questioned, without impropriety, supposing no decided understanding in this particular case how far such streams, beyond all capes and headlands, are, at all times of the flow of the ocean, to be deemed mere river. In common understanding, the *embouchure*, or mouth of a river, is that spot where the river enters the open space to which the sea flows, and where the points of the coast project no farther. There may be shoals and-sands beyond, as on the coasts of this kingdom the Godwin sands ; and buoys may be placed, and they may be distinguished from the sea at low water. But what are these when the tide flows up, or at half tide, one way or the other? Undistinguishably parts of the ocean, *undique pontus*. I will not venture to lay down any thing more positively on this matter, than that the nature of such sea passages must be held to be *divisi imperii* between the ocean and the main land ; and when the sea flows, for navigation, they should rather seem to belong to the former than the latter.

It is the less necessary to be precise on this point, because the capture in question did not happen in these streams, the eastern or western Eems, but in the Watt. And supposing that these two passages were at all times rivers, and mere rivers, how does it follow that all the waters with which they communicate, are not only river but parts of those rivers? They seem, certainly, not to be so considered by the neighboring states. Do they carry with them the name of Eems? By no means. They have a denomination of their own. In the chart

which has been exhibited, and is referred to on both sides, though not introduced by authority, how is the bank of land described? The new Zee dyke, not the river dyke, which it ought to be, if the portion of waters was considered as river, and not sea. How is the portion of waters at the other end of it denominated? The Lower Zee. What do the witnesses say? It is stated in one affidavit, that Groningen extends as far as a man standing on the coast can throw a horse-shoe. So the other witness uses the same expression, standing on the coast, a word very strangely applied to a river, but the proper word applied to the sea. Where is the horse-shoe to be thrown? Into the sea, not into the river, as they all express themselves.

* * * *

[Plan follows on page 2094A.

No. 878.**THE QUEEN v. COX.**

(1850-1874) 1 P. E. I. REP. 170.

Fishery reserves—Construction of term “high water mark on the coast” in Township Grants.[9 March,
1858.]

The original grants of townships reserved to the Crown five hundred from feet "high water mark on the coast" for the purposes of the fisheries. Under this reservation the Crown claimed sixty nine acres fronting on St. Peter's Bay, and sixty-nine acres on the Morell River, in which th [sic] tide ebbs and flows. A verdict for the Crown was found for the whole. A rule nisi for a new trial was granted on the ground, amongst others, that the reservation clause only applied to land fronting on the open sea, and not to that fronting on tidal rivers. It was contended that the employment of the word "coast" limited the reservation to land fronting on the open sea ; also that in construing the grant regard must be had to the purpose for which the reserve was made, and as it would be of no use for the purpose intended in a tidal river, it could not have been meant to apply to such river.

Held, (Peters, J.) That the clause only applied to land fronting on the open sea.

The Attorney General for the plaintiff.

Mr. Edward Palmer for defendant.

9th March, 1858.

PETERS, J. This was an information filed by the Attorney General for intrusion on land called the fishery reserve. The *locus in quo* is situated partly on the shore of St. Peter's Bay and partly on Morell river, and forms part of Townships 39 and 40. In 1769 these Townships were granted to Spence & others and Fraser, and in each of these grants is contained the following clause of reservation : "And further saving and reserving for the disposal of His Majesty, his heirs and successors, five hundred feet from high water mark on the coast of the tract of land hereby granted, to erect stages and other necessary buildings for carrying on the fishery." Under this clause the Crown claims sixty-nine acres fronting on the bay, and sixty-nine acres on the Morell river, in which the tide ebbs and flows.

On the trial the jury were directed that under this reservation the land fronting on the bay was excepted and belonged to the Crown, but that fronting on the river was not excepted and passed to the grantee. The jury, notwithstanding, found for the Crown for the whole.

The point now to be decided is, whether the sixty-nine

acres fronting on the Morell river is embraced within the reserve. As many of the grants of Township lands in the Island contain a similar reservation, the decision of the question thus raised is one of considerable importance.

In legal construction the term "sea shore" applies to all land over which the ordinary tides flow and reflow, and as, under that definition, wherever a high water mark exists the "sea shore" in contemplation of law, extends, if the words "high water mark," in these grants, are construed as designating both the "sea shore" along which the reservations were to extend, and also

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the point on the shore from which the five hundred feet is to be measured, the land fronting on this tidal river would be clearly comprised within the reservation. But the construction of grants, like other instruments, depends on the intention of the grantor, and a knowledge of the nature or peculiarities of the subject matter of the grant is, sometimes, essential in order to ascertain the sense and meaning in which particular words are intended to be used. The reservation in the grants in question is expressed to be made for the purpose of enabling His Majesty to dispose of the lands reserved for a particular purpose, viz., to erect stages and other necessary buildings for carrying on the fisheries. The object in making this reservation, evidently, was to promote and encourage the development of a great source of national wealth by affording facilities and conveniences to those who might embark in the fisheries. Along the coasts, on the open sea, and also in the bays of this Island, very valuable cod and other fisheries exist, in prosecuting which stages and other buildings, covering a considerable extent of ground, are necessary ; and on those shores, therefore, such a reservation might prove a valuable privilege to fishermen. But the rivers corresponding to the size of the Island are on a diminutive scale, while from the general formation of the country, the tides ebb and flow many miles up all the rivers and almost to the source of many others. We cannot be ignorant of what every one in the country knows, that no fisheries exist in those rivers of a description to require any such extensive reservations for the erection of stages or other buildings in which to carry them on. In fact, in such situations the reservation for fishing purposes would be useless. We must not assume the Crown to have been ignorant of the nature of the country it was granting away, and it seems to us that under such circumstances, the clause reserving a certain space from high water mark on the coast for the purpose of carrying on a fishery must have been intended to apply only to those parts of the Townships popularly known as coast, viz., the shores of the open sea and the bays and inlets of the sea along which only any fisheries existed, for which such reserves could be necessary and that it could not have been

meant to extend to rivers where a large extent of ground would then be appropriated to a purpose for which it could be of no practical use.

But it appears to us, without drawing on our local knowledge of the country, the language of the reservation itself when taken altogether, will not bear so extensive a construction as is contended for. The words of the reservation are "five hundred feet from high water mark on the coast of the tract hereby granted." Now if the reservation was intended to extend to all tidal rivers, or to every place where the tide ebbed and flowed, why was the word "coast" used? since the words five hundred feet from high water mark would have extended to all places where a high water mark could be found. If, therefore, the words "on the coast" were not intended to confine the description of the premises reserved within narrower limits than the words "high water mark" would have done, they seem to us to have no meaning, or at most, are mere surplusage but in construing an instrument no words should be rejected if a sensible interpretation can be put upon them. The term coast, in its popular sense is, we believe, applied to the land fronting on the

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open sea, or inlets off the sea, or bays, but is never applied to that fronting on rivers. And taking the word in that sense it appears to us, evidently, used to contradistinguish high water mark on what is popularly called the coast from high water mark on the rivers, and to limit the reservation to the former, and prevent its extending to the latter.

On these grounds we think the land fronting on Morell river is not included in the reserve, but passed to the grantee.

Another ground on which a new trial is moved for is, that the verdict is contrary to the evidence in finding for the whole five hundred feet, whereas a considerable portion of it was proved to have been washed away by the encroachment of the sea. There is no doubt that the verdict is contrary to the evidence in this respect. That the sea had encroached to a considerable extent was proved beyond all question, but the evidence as to the extent of that encroachment was conflicting. Some of the witnesses estimated it on the average at one foot, and others at four feet per annum. It was admitted by the Attorney General that whatever part of the five hundred feet had been so lost must be deducted. The jury, however, found for the whole.

On both these grounds, therefore, we think the rule for a new trial must be absolute.

Several other points were raised, but as they were disposed of during the arguments it is unnecessary now to advert to them.

Rule absolute.

BOWIE vs. MARQUIS OF AILSA.

14 COURT OF SESSION CASES (4TH SER.). 649.

Fishings—White fishings—Tidal and navigable river—Acts Anne, 1705, cap. 2, and 29 Geo. II. cap. 23.—A member of the public brought an action against the riparian proprietor concluding for declarator that he had a right to fish with single rod and line for floating white fish, including trout, flounders, eels, and any other sort of floating white fish which were not of the salmon kind, in that part of the river Doon where the tide ebbed and flowed, and as far as the highest point reached by the ordinary spring tides ; and averred that the portion of the Doon so described extended from the sea to a distance of about 500 yards inland. The action was founded both on common law and the Acts of Anne, 1705, cap. 2, and 29 Geo. II. cap. 23, which gave the public right to take "herrings, cod, ling, or any other sort of white fish in all and every part of the seas, channels, bays, firths, lochs, rivers, and other waters where such fish are to be found on the coasts" of Scotland.

The riparian proprietor in defence produced a crown charter of barony,

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dated 1793, which contained a clause "cum piscationibus yairis et cruives et salmonum et alborum piscium tam in aquis salsis quam dulcibus," and averred exclusive possession of both the white and the salmon fishings on that title. He further denied that the river was either tidal or navigable beyond a point in line with the line of high-water on the neighbouring coasts, and averred that between the points in dispute floating white fish were not to be found, or at least not in such numbers as to be of any value to the public.

It was proved that no part of the *solum* of the river for the 500 yards in question was left dry at low water, although the level of the water rose and fell with the flow and ebb of the tide, and was sometimes found to be brackish up to the extreme point claimed by the pursuer. The defender had let the fishings in question for more than forty years previous to the date of the action, and had granted licences to anglers entitling them to fish there, of which the pursuer at one time held one. Eels, small flounders, and also, to some extent, seath and lythe were caught in the water in question ; but the only fish which the defender's tacksmen thought it worth while to keep, were fish of the salmon kind and yellow trout, of which last comparatively few were to be caught. Pleasure parties in rowing boats occasionally went up the river at high tide, but

there was a bar at the mouth which was an obstacle to more extended navigation, although it was proved that in former years small smacks and on one occasion a small steamer, had gone a short way up.

Held (rev. judgment of Lord Trayner) (1) that the Doon between the points in question was neither a tidal nor a navigable river, and that the pursuer was not entitled to declarator either at common law or under the statute ; and (2) that the defender under his titles had right to the whole fishings therein, and had had from time immemorial exclusive possession thereof. Defender therefore *assolzie'd*.

* * * *

LORD JUSTICE-CLERK.—

* * * *

It was contended on the part of the pursuer that as long as he confines himself to fishing for white fish, he is entitled to fish anywhere in the river Doon where white fish can be found within the salt water of the sea, and he founds his contention upon two Acts of Parliament of Queen Anne and Geo. II. for the encouragement of white-fishing in Scotland, which certainly give a right to fish for white fish wherever they can be found on the "coasts" of Scotland.

* * * *

In the first place, I am quite clear that the Acts of Parliament referred to do not affect this case, and are not meant to affect any question about private property in a tidal stream. They are meant to apply to sea-fishings, and to provide protection for the public in carrying on an important article of commerce without interruption. The case of *M'Douall*, 2 R. (H. of L.)

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55, referred to in the Sheriff's note, was a case of that sort, and Lord Cairns' observation was necessarily directed to sea-fishing only. It certainly never was intended to do more than to give a right to the public to fish on the "coasts," as the Act expresses it ; and I do not apprehend that the banks of a river, although subject to tidal influence, come within that description.

* * * *

LORD YOUNG.—I am of the same opinion. I concur exactly in all that your Lordship has said, and I agree generally with the Sheriff in the opinion expressed by him in the Sheriff Court action. It is quite clear, and I have no doubt about it, that the public have a right to fish for white fish in the sea ; if it were necessary that I should do so, I should say that they have that right irrespective altogether of the Acts of Anne and Geo. II.,

which were passed to promote the fishing industry in Scotland ; but I agree with your Lordship that the river Doon is no part of the sea. It runs into the sea, but it is not the sea. Nor do I think that it is a river of the kind or class to which the statutes refer. There are rivers in Scotland, as we know, which have estuaries opening out gradually until they really become sea, finishing their course through sand which on either side is uncovered at low water. The Doon is not a river of that kind at all. It is a river with a distinct narrow *alveus* or channel, very much like a creek, only that it contains fresh water which fills it from bank to bank, and leaves no part dry at any state of the tide.

* * * *

"The fishing industry of Scotland" is, no doubt, a very general expression, but according to the statutes, taking the later of them, it applies to herrings, cod, ling, or any other white fish, to the fishing for these in the sea, and to taking measures upon the sea-coast for curing them.

* * * *

LORD RUTHERFURD CLARK.—I am of the same opinion. I am clear that the river Doon between Doonfoot Bridge and the high-water mark of ordinary spring tides is a private river in all essential respects, and is in no sense a public navigable river. I therefore think that the Acts of Parliament do not apply to it in so far as between these two points, because it is not there a river in the sense of these statutes upon the coasts of Scotland. That being so, I have no difficulty in concurring in the judgments which your Lordships propose to pronounce.

* * * *

No. 880.

IN *GAMMELL v. COMMISSIONERS OF WOODS AND FORESTS*, et al, 3 Macq. A. C. 419, 460, the Lord Chancellor (Lord Chelmsford) said :—

“But the grants since the Union are many of them not capable of being referred to rivers or estuaries, because they are grants of fishings in the sea adjacent to lands “upon the sea coast,” or “upon the sea shore,” or “along the sea coasts,” or “lying along the sea coast ;” and with respect to the modern Crown Charters, some of them (as was pointed out in the course of the argument) can only be understood as applying to the sea shore upon an open coast, such as the one to Mr. Anderson, dated 21st December 1840, “*Totas et integras terras et baroniam de Kinnaber et clum salmonum piscariis aliisque piscariis super aqua de Northesk &c., ac etiam cum salmonum piscariis aliisque piscariis in littore maris inter dictam aquam de Northesk et aquam de Southesk.*”

[1224.]

No. 881.

C

MAGNA CHARTA.

9 HEN. III.

A.D. 1224.

* * * *

C. 26. Omnes kidelli decetero deponantur penitus per Tamisiam et Mede weyam et per totam Angliam nisi per costeram maris.

All weirs from henceforth shall be entirely put down on the Thame and Medway and throughout all England, except by the sea coasts.¹

¹This chapter of Magna Charta is still in force, *vide*, Moore's Law of Fisheries (London : 1903) p. 215.

[1783.]

EXTRACT FROM TREATY OF PARIS, 1783.

*DEFINITIVE TREATY of Peace and Friendship between His
Britannic Majesty and the United States of America.
— Signed at Paris, the 3rd of September, 1783.*

* * * *

III. It is agreed, that the People of The United States shall continue to enjoy unmolested the right to take Fish of every kind on the Grand Bank and on all the other Banks of Newfoundland ; also in the Gulph of St. Lawrence, and at all other places in the Sea, where the Inhabitants of both Countries used at any time heretofore to fish. And also that the Inhabitants of The United States shall have liberty to take fish of every kind on such part of the Coast of Newfoundland, as British Fishermen shall use, (but not to dry or cure the same on that Island,) and also on the Coasts, Bays, and Creeks of all other of His Britannic Majesty's Dominions in America ; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled Bays, Harbours, and Creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled ; but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said Fishermen to dry or cure fish at such Settlement, without a previous agreement for that purpose with the Inhabitants, Proprietors, or Possessors of the ground.

* * * *

[20 Oct.,
1818.]**EXTRACT FROM THE CONVENTION BETWEEN
GREAT BRITAIN AND THE UNITED STATES,**

DATED OCTOBER 20TH, 1818.

ARTICLE 1. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbours, and creeks, of His Britannic Majesty's Dominions in America, it is agreed between the high Contracting Parties, that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind, on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen islands, and also on the coasts, bays, harbours, and creeks, from Mount Joly [sic], on the southern coast of Labrador, to and through the streights of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company : and that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbours, and creeks, of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador ; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish, on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's Dominions in America, not included within the above-mentioned limits : provided, however, that the American fishermen shall be admitted to enter such bays or harbours, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose what-ever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

No. 884.**EXTRACT FROM DECISION OF THE PERMANENT
COURT OF ARBITRATION AT THE HAGUE,**

ON THE SCOPE AND MEANING OF ARTICLE 1 OF THE
CONVENTION SIGNED AT LONDON ON THE 20 OCTOBER,
1818, BETWEEN GREAT BRITAIN AND THE UNITED STATES.*

“ The correspondence between Mr. Adams and Lord Bathurst . . . shows that during the negotiations for the Treaty the United States demanded the former rights enjoyed under the Treaty of 1783, and that Lord Bathurst in the letter of 30th October, 1815, made no objection to granting those 'former rights' 'placed under some modifications,' which latter did not relate to the right of fishing in bays, but only to the 'pre-occupation of British harbours and creeks by the fishing vessels of the United States and he forcible exclusion of British subjects where the fishery might be most advantageously conducted,' and 'to the clandestine introduction of prohibited goods into the British colonies.' It may be therefore assumed that the word 'coast' is used in both Treaties in the same sense, including bays.”

* Copied from "North Atlantic Coast Fisheries Arbitration at the Hague" (Washington : 1912), Vol. I, p. 100.

[6 Oct.,
1818.]**EXTRACT FROM PROTOCOL OF THE FIFTH
CONFERENCE**HELD BETWEEN THE AMERICAN AND BRITISH PLENIPOTENTIARIES
AT WHITEHALL.¹ 6 October, 1818.

Present : Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The Protocol of the preceding conference was agreed upon and signed.

The British plenipotentiaries gave in the five annexed articles, on the fisheries, the boundary, the Mississippi, the intercourse between Nova Scotia and the United States, and the captured slaves. (A, B, C, D, E.)

It was agreed to meet again on the 9th instant.

ALBERT GALLATIN,

RICHARD RUSH,
FREDERICK JOHN ROBINSON,
HENRY GOULBURN.

ARTICLE A.

It is agreed that the inhabitants of the United States shall have liberty to take fish, of every kind, on that part of the western coast of Newfoundland which extends from Cape Ray to the Quirpon Islands, and on that part of the southern and eastern coasts of Labrador which extends from Mount Joli to Huntingdon Island ; and it is further agreed that the fishermen of the United States shall have liberty to dry and cure fish in any of the unsettled bays, harbours, and creeks of the said south and east coasts of Labrador, so long as the same shall remain unsettled ; but as soon as the same, or any part of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

And it is further agreed that nothing contained in this article shall be construed to give to the inhabitants of the United States any liberty to take fish within the rivers of His Britannic Majesty's territories, as above described ; and it is agreed, on the part of the United States, that the fishermen of the United States resorting to the mouths of such rivers shall not obstruct the navigation thereof, nor wilfully injure nor

destroy the fish within the same,

¹ Reproduced from appendix to British case, North Atlantic Coast Fisheries Arbitration, p. 89.

p. 2105

either by setting nets across the mouths of such rivers, or by any other means whatever.

His Britannic Majesty further agrees that the vessels of the United States, *bona fide* engaged in such fishery, shall have liberty to enter the bays and harbours of any of His Britannic Majesty's dominions in North America, for the purpose of shelter, or of repairing damages therein, and of purchasing wood and obtaining water, and for no other purpose ; and all vessels so resorting to the said bays and harbours shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein.

It is further well understood that the liberty of taking, drying, and curing fish, granted in the preceding part of this article, shall not be construed to extend to any privilege of carrying on trade with any of His Britannic Majesty's subjects residing within the limits hereinbefore assigned for the use of the fishermen of the United States, for any of the purposes aforesaid.

And in order the more effectually to guard against smuggling, it shall not be lawful for the vessels of the United States, engaged in the said fishery, to have on board any goods, wares, or merchandise whatever, except such as may be necessary for the prosecution of the fishery, or the support of the fishermen whilst engaged therein, or in the prosecution of their voyages to and from the said fishing grounds. And any vessel of the United States which shall contravene this regulation may be seized, condemned, and confiscated, together with her cargo.

* * * *

No. 886.

[7 Oct.,
1818.]**EXTRACT FROM REMARKS ON ARTICLES FROM
MESSRS. GALLATIN AND RUSH TO MESSRS.
ROBINSON AND GOULBURN.***

London, October 7, 1818.

Mr. Gallatin and Mr. Rush present their compliments to Mr. Robinson and Mr. Goulburn, and beg leave to send them the enclosed paper, containing some remarks on the articles handed to them at the conference yesterday. They are to be considered as unofficial, according to the intimation given yesterday, when they were promised, and have been drawn up merely under the hope that, by possessing the British plenipotentiaries of some of the views of the American plenipotentiaries before the next meeting on the 9th, the progress of the negotiation may be accelerated.

FISHERIES.

The American plenipotentiaries are not authorised by their instructions to assent to any article on that subject which shall not secure to the inhabitants of the United States the liberty of taking fish of every kind on the southern coast of Newfoundland, from Cape Ray to the Ramea Islands, and on the coasts, bays, harbours, and creeks from Mount Joli, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly, indefinitely, along the coast ; and also, the liberty of drying and curing fish in any of the unsettled bays, harbours, and creeks of Labrador and of the southern coast of Newfoundland, as above described ; with the proviso respecting such of the said bays, harbours, and creeks as may be settled.

The liberty of taking fish within rivers is not asked. A positive clause to except them is unnecessary, unless it be intended to comprehend under that name waters which might otherwise be considered as bays or creeks. Whatever extent of fishing-ground may be secured to American fishermen, the American plenipotentiaries are not prepared to accept it on a tenure or on conditions different from those on which the whole has heretofore been held. Their instructions did not anticipate that any new terms or restrictions would be annexed, as none were suggested in the proposals made by Mr. Bagot to the American Government. The clauses forbidding the spreading of nets, and making vessels liable to confiscation in case any articles not wanted for carrying on the fishery should be found on board, are of that description, and would expose

the fishermen to endless vexations.

* * * *

*Reproduced from Appendix to British case, North Atlantic Coast Fisheries Arbitration, p. 91.

No. 887.

[21 July,
1852.]**EXTRACTS FROM "MEMORANDUM ON THE
NEWFOUNDLAND FISHERY NEGOTIATIONS." 21**

July, 1852.

BY SIR ANTHONY PERRIER.*

“Sir A. Perrier will therefore submit to Her Majesty's Government. the expediency of his making a counter proposal embodying all the conditions contained in Lord Aberdeen's instructions of March 14, 1846. He will also suggest that he be instructed to hold out (in the event of refusal to entertain the English proposal, or of the French Government insisting upon the removal of British settlers within the French limits) that Her Majesty's Government will enforce the strict observance of all the stipulations of the several treaties which concede to France a temporary right of fishery upon certain parts of the coast of Newfoundland ; that the French will be restricted from fishing, curing and drying, and to board Stages and Huts necessary for these purposes, that they will be prevented taking Salmon† or any other fish, in any part of the rivers, streams, or other water not bona fide on *the coast*.”‡

* Copied from Appendix to Journal of Legislative Assembly of Newfoundland, pp. 194-195.

† In the last degree for apportioning the Fishery stations on the coast of Newfoundland the French have provided for allotment of the Salmon fisheries. This is an encroachment never before attempted.

‡ Coast.—The edge or margin of the Land next the sea ; the shore. It is not used for the Banks of less waters (Johnson's folio dictionary.)

No. 888.

**EXTRACTS FROM FUZIER-HERMAN "DROIT CIVIL
ANNOTÉ"**

ART. 538 FRENCH CIVIL CODE.

194. De ce que les terrains formant le rivage de la mer sont domaniaux, pour tout l'espace qui est couvert par la mer au grand flot de mars, il ne suit pas qu'il doive en être de même à l'égard des terrains bordant une rivière ayant son embouchure dans la mer. Le rivage des rivières même couvert par les flots de la mer, reste bord de rivière et n'est pas rivage de la mer.—Cass. 23 Juin 1830 (S. et P. chr., D. p. 30. 1. 308)—Sic, Laurent, t. 6, n. 6.

195. De même l'ordonnance de la marine de 1681 (art. 1er, tit. 7, liv. 4) qui répute bord et rivage de la mer tout ce qu'elle couvre et découvre pendant les nouvelles et pleines lunes, et jusqu'où le grand flot de mars peut s'étendre sur les grèves, n'entend parler que des terrains bordant la mer et lavage qui, même en temps de marée basse, se trouvent en contact avec ses eaux. Mais lorsque, par l'effet de certaines marées, un fleuve qui aboutit à la mer, se trouvant arrêté dans son cours et même refoulé par le flot montant, vient à mêler ses eaux à celles de la mer, et à déborder avec elle sur ces rives et sur ses îles, les terrains ainsi envahis momentanément ne cessent pas d'être rives et dépendances du fleuve, et de demeurer, à ce titre, susceptibles de propriété privée.—Cass. 28 Juill. 1869. (S. 71, 1. 141, D. p. 69, 1. 489).

196. Il en résulte qu'un terrain en culture situé en amont de l'embouchure d'une rivière qui se jette dans la mer, ne peut être considéré comme grève dans le sens de l'ordonnance de la marine de 1681 (Liv. 4 tit. 7, art. 1^{er}), encore bien qu'il soit couvert par le gonflement des eaux de la rivière à l'époque des plus grandes marées. Dès lors, il ne peut être compris dans le rivage de la mer, faisant à ce titre partie du domaine public.—Rouen, 26 Août 1840 (S. 41, 2. 32. P. 41. 1. 262, D. p.—41.2. 112)—Cons. d'état, 27 Mai 1863 (S. 63. 2.240. P. chr., D. p. 63, 3.63) Sic., Henrion de Pansey, Dissert, f. éodales t. 1, v^o aux S 6 ; Merlin, Quest., v^o Rivages de la mer ; Proudhon, du Dom. publ., t. 3, n. 717 ; Garnier, t. 1, n. 24 ; Hennequin t. 1, p. 292 ; Beaussant, t. 1, n. 549 ; Dufour, t. 4, n. 266 ; Cotelle, t. 4, n. 821 ; Daviel, p. 1, n. 68 ; Aubry et Rau, t. 2, p. 39 S. 669 ;

Laurent, t. 6, n. 6.

THE DIFFERENT MEANINGS OF THE WORD "COAST."

No. 889.

JOINT

DEFINITION OF COAST IN LEADING DICTIONARIES,
ETC.

Vide supra, Part XI, page 2075.

No. 890.

JOINT

CORPUS JURIS (NEW YORK, 1917) VOL. XI. pp. 935-6.

Vide supra, Part XI, page 2072.

[1611.]

No. 891.

N

EXTRACTS FROM THE AUTHORISED VERSION OF
THE BIBLE, 1611.

Deut. XI. 24. Every place whereon the soles of your feet shall tread shall be yours : from the wilderness and Lebanon, from the river, the river Euphrates, even unto the uttermost sea shall your coast be.

S. Matthew II. 16. Then Herod, when he saw that he was mocked of the wise men, was exceeding wroth, and sent forth, and slew all the children that were in Bethlehem, and in all the coasts thereof, from two years old and under.

S. Mark, VII. 31. And again, departing from the coasts of Tyre and Sidon, he came unto the sea of Galilee, through the midst of the coasts of Decapolis.

The Acts XIII. 14. But when they departed from Perga they came to Antioch in Pisidia.

50. But the Jews stirred up the devout and honourable women, and the chief men of the city, and raised persecution against Paul and Barnabas, and expelled them out of their

coasts.

No. 892.

**EXTRACT FROM LETTER FROM SIR C. BAGOT TO
Mr. G. CANNING.**

[17 March,
1824.]

(Alaska Boundary Tribunal—U.S. Case Appx. p. 155, British
Case Appx. p. 67).

St. Petersburg
March 17, 1824.

SIR,

* * * *

I entertained sanguine expectations that such a proposal,
coupled with the concession of a line of coast extending 10
marine leagues into the interior of the continent, would have
been considered as amply sufficient for all the legitimate
objects which Russia could have in view, and quite as much as
she could pretend to with any shadow of real claim or justice.

No. 893.

**EXTRACT FROM LETTER FROM COUNT NESSELRODE
TO NIKOLAS SEMENOVITCH MORDVINOF.**

[11 April,
1824.]

(Translation.)
(Alaska Boundary Tribunal U.S. Case Appx. p. 167.)

St. Petersburg
April 11, 1824.

MY GRACIOUS SIR, NIKOLAS SEMENOVITCH :

* * * *

The width of the coast line necessary for the safe existence and
consolidation of our Colonies, the directions of the frontier and
even its starting point on the Continent of America, still form
subjects of negotiation.

* * * *

[1910-11.]

**EXTRACTS FROM ENCYCLOPAEDIA BRITANNICA,
11TH EDITION, 1910-1911.**

Gold Coast, that portion of the Guinea Coast (West Africa) which extends from Assini upon the west to the river Volta on the east. It derives its name from the quantities of grains of gold mixed with the sand of the rivers traversing the district. The term Gold Coast is now generally identified with the British Gold Coast colony. This extends from $3^{\circ} 7'$ to $1^{\circ} 14' E.$, the length of the coast-line being about 370 miles. It is bounded W. by the Ivory Coast colony (French), E. by Togoland (German). On the north the British possessions, including Ashanti and the Northern Territories, extend to the 11th degree of north latitude. The frontier separating the colony from Ashanti (fixed by order in council, 22nd of October 1906) is in general 130 miles from the coast, but in the central portion of the colony the southern limits of Ashanti project wedge-like to the confluence of the rivers Ofin and Prah, which point is but 60 miles from the sea at Cape Coast. The combined area of the Gold Coast, Ashanti and the Northern Territories, is about 80,000 sq. m. with a total population officially estimated in 1908 at 2,700,000 ; the Gold Coast colony alone has an area of 24,200 sq. miles, with a population of over a million, of whom about 2,000 are Europeans.

* * * *

Ivory Coast (Côte d'Ivoire).—A French West African colony, bounded S. by the Gulf of Guinea, W. by Liberia and French Guinea, N. by the Colony of Upper Senegal and Niger, E. by the Gold Coast. Its area is approximately 120,000 sq. miles, and its population possibly 2,000,000, of whom some 600 are Europeans. Official estimates (1908) placed the native population as low as 980,000.

Physical features.—The coast-line extends from $7^{\circ} 30'$ to $3^{\circ} 7' W.$, and has a length of 380 miles. It forms an arc of a circle of which the convexity turns slightly to the north ; neither bay nor promontory breaks the regularity of its outline.

No. 895.

[1824.]

**EXTRACTS FROM CALLIS ON SEWERS (1824) 4TH
ED.**

THE SHORE

But now I am arrived at the continent and the first ground I set my foot on is the shore, which in Latin is called *littus maris* . . .
 . *Littus maris est quousque maximus hibernicus et jus fluctus eluderet, et quousque fluctus maris in estate longius exestuat* . .
 . .

SEA COASTS

The coasts of the sea come next in order to be treated of
Costera maris be words well known, but their confined definition is hard to be found out ; yet certainly they contain the shore and banks, for by the statute of 27 Eliz. chap. 24 an act was made for the mending of the banks and sea works on the sea coasts ; but in the 7th chap. of Maccabees coasts have a larger extent ; for there Demetrius son of Seleucus departed from Rome and came to a city of the sea-coasts. Here a whole city is set on the sea-coasts ; and in Justine treating of Alexander the Great, it is reported of him, that he entered into Lycia and Pamphylia, and won and conquered all the sea-coasts this could be taken for no less than whole countries ; for Alexander's great mind and huge army could not march on a mole-hill, or small tract of ground. In St. Mark chap. VII it is thus written, "That Jesus, departing from the coasts of Tyre and Sidon, came to Galilee" ; so that it may thereby be gathered, that these coasts were near the sea, for our Saviour was no sooner out of the coasts but he was on the sea which shews that sea and coasts be *contigue jacentia*, yet no certain definition can I find of the words "coasts of the sea," but by these and suchlike descriptions ; yet this I gather and collect thereby, that in respect of the whole world, a whole kingdom lying next may be said to be a sea-coast and a whole country in respect of a kingdom ; and in my opinion the next town and territories thereof lying next to the seas, be in our law taken to be the sea-coasts and no other ; and therefore some do much err which take *coast* to be the edge of land next the water, and *shore* to be the brinks of the water next the land *quasi duo opposita*.

CREEKS

Creek of the sea is an inlet of sea cornered into the mainland, shooting with a narrow passage into some angle of the land, and therein stretching itself more than ordinary into the land, and so holdeth not even quarter with

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the levant sea ; and such creeks or inlets we commonly term in the law to be arms of the sea ; for like as the arm of a man shooteth out from the body, so by a metaphor the inlet or corner of the sea let into the land is called an arm of the sea ; and although it go far into the land yet the points of land on both sides may well be discovered. And this appears in that eat arm of the sea on Humber, where it runs betwixt Lincolnshire and Yorkshire.

The points of either county may be seen at once and seem to stand even over the one to the other.

ARM OF THE SEA

And an arm of the sea is said to extend into the land so far as the flow and reflow goeth. In the patent of the Admiral of England I find this word creek used ; for there the King granteth to him *omnia bona mercimonia et catalla in vel super mare littora crecas et costeras maris* ; but it differs much both from the shore and coast ; for a shore is sometimes dry land, and sometimes water. A coast is always dry land : but the creek is always sea and new land. In the statute 28 H. 8 chap. 15 Rastal's Piracy, A, it is that all felonies etc. done upon the sea, haven or creek, where the Admiral hath jurisdiction, shall be tried in such county which the King shall appoint. By the statute it is manifest that the creek is not all one with the sea, nor the same that a haven is, by the statute made in the 4 H. 4. cap 20 Rastal Merchants 5 appoints that all merchandizes entering in or going out of the realm of England should be charged and discharged in great ports and not in creeks or small arrivals ; by which statute it is apparent that a creek is not all one that a port is. But yet here it seems to be an inlet of the sea where ships may have their arrivals, as, at Fosdyke, Stow, Wainflet and such like ; and I take it that a bay and a creek be all one, and that a mere and a fleet be also of that nature, and that all these rather vary in words than in matter (a)

(a) Though the King is the owner of this great waste and as a consequent of his propriety

hath the primary right of fishing in the sea and the creeks and arms thereof ; yet the common people of England have regularly a liberty of fishing in the sea or creeks or arms thereof as a public common of piscary ; and may not without injury to their right be restrained of it, unless in such places, creeks or navigable rivers, where either the King or some particular subject hath gained a propriety exclusive of that common liberty. Hale de Jure Maris c. 4 s. 1.

No. 896.**EXTRACT FROM ROBERT GREENHOW'S MEMOIR.***

“In the following pages the term 'coast' will be used, sometimes as signifying only the sea-shore, and sometimes as embracing the whole territory extending therefrom to the sources of the river ; care has however been taken to prevent misapprehension, where the context does not sufficiently indicate the true sense.”

* “Memoir Historical and Political of the north-west coast of North America and the adjoining territories,” by Robert Greenhow, Translator and Librarian to the Department of State. Senate 26 Cong. 1st session (174) 1840. Wiley and Putnam, New York, 1840. Cited in Behring Sea (Fur Seal) Arbitration, 1893, British Case, p. 67.

No. 897.**EXTRACT FROM ARGUMENT OF HANNIS TAYLOR.**

ALASKAN BOUNDARY TRIBUNAL, VOL. 7, 1904, p. 605.

What I desire to submit to the Tribunal is this, that there are but two possible coast lines known to international law. One is the physical coast line traced by the hand of nature, where the salt water touches the land, which exists for the purpose of boundary ; the second is the political coast line—that invisible thing superimposed upon the physical coast by the operation of law, which exists for the purpose of jurisdiction.

The proposition is so simple that nobody can misunderstand it : that there are two coast lines which international law knows or deals with ; one is the physical coast line made by the hand of nature through the contact of salt water with the land, and that exists for the purpose of boundary ; the second is the political coast line, which the law superimposes upon the outer physical coast for the purpose of jurisdiction. They exist separate and apart, and there is no chance of confusing one with the other.

The PRESIDENT : I follow that, Mr. Taylor, and it is a very useful argument indeed. I should like you just to tell us in which of those categories—how you would deal with an estuary like the Orinoco, for instance ? I quite follow your argument, but I should like to know how you apply it.

Mr. TAYLOR : That is the very purpose of my argument—to answer your query. I am just at the end of the predicate. Now, to make it clear, although it is one of those self-evident things that proves itself. There is always a certain sanctity about a thing that is read out of a book, especially if you read it out of a French book or a book written in French. But your Honours know that Rivier, the great Swiss publicist—although he writes in French he is not guilty of being a Frenchman, if there is any guilt in that condition. Rivier, in his treatise, which is so authoritative throughout the world, has given us a fine simple statement in his “Principles du Droit des Gens,” of this definition I am speaking. Speaking of “la mer littorale——”

The PRESIDENT : What page are you reading from ?

Mr. TAYLOR : I am reading from the brief of the United States.

The PRESIDENT : What page will it be ?

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Mr. TAYLOR : The United States' brief, page 17. Speaking of "la mer littorale." Now this explanation is especially important. "Le caractère d'un accessoire"—and it cannot be taken independently of the coast ("indépendamment de la côte"). Speaking of "les frontières," he says, "I have spoken already of the frontier on the sea, and that of the land. There exists also special limits for the wants of administration, because the geographical and political frontier ('la frontière politique et géographique') do not always answer in a sufficient manner."

The distinction between the physical and political coast line is drawn with a distinctness that cannot be mistaken, and the fact that the political coast line is a mere accessory to the physical coast line that it is something superimposed upon it cannot be mistaken. As a practical illustration I desire to call the attention of the Tribunal to the coast of Maine, which gives one of the best object lessons for illustration. If you take the coast of Maine from the south-west point up to the north-east, and take what would be called the trend of the political coast line runs it is about 400 kilometres long. If you take the physical coast line with all the sinuosities where the salt water touches the line it is about 4,000 kilometres long. Let me read the brief description of it from the "Nouveau Dictionaire":—

On the Atlantic Coast Maine presents an uninterrupted succession of peninsulas, islands, and bays ; and all these bays are the mouths of rivers, outlets of valleys having their origin far in the interior. Nothing similar is seen on all the territory of the Union. One must come to Norway, or go to the extreme point of South America, to find so long a part of the coast—400 kilometres in a straight line from the south-west to the north-east—so deeply cut up that we measure on it more than 4,000 kilometres of contact with the deep sea. All these bays of Maine are also fjords.

And I will call the attention of the Court, as we were speaking of that definition—

All the bays of Maine are also fjords, but spacious, and which, in spite of their equally rocky banks, of comparatively little elevation, receive the morning and afternoon sun, as well as that of noon, and open to mariners more ports, more anchorages, and safe shelters than all the other coasts upon the three seas of the Union.

Here we have good basis for illustration. The coast of Maine, as this geographer expresses it, fixed by the contact of the deep sea with the land that is, the physical coast line of Maine, as made by the hand of Nature is about 4,000 kilometres long.

You must have the physical coast line as the basis. It is on the physical coast line that the international law super-imposes as an accessory, as Rivier expresses it, the political coast line, which, cuts across the heads of all the bays and inlets. So when you take the political coast line there, the 3-mile zone, the barrier which the United States presents by international law to the world, the political coast line is about 400 kilometres, and the physical coast line is about 4,000. These two entities are too distinct to be mistaken.

* * * *

When we take the authority of Rivier explaining those two coast lines, he says that it is the physical coast line that exists for the purpose of boundary,

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and that it is the political coast line that exists for the purpose of jurisdiction. Nothing can be more illogical, nothing can be more indefensible, than a system of organised confusion which attempts to mix a political coast line with a physical coast line. Nothing is more indefensible than the attempt to put a political coast line outside of that archipelago, and at the same moment to assume that there is a political coast line inside of that archipelago. And the contention which I desire most to emphasize is that this attempt of Great Britain to establish a coast line or to run that line of mountains parallel with what is called "the general trend of the coast" is basing it upon an assumption which has no existence in international law, and cannot have any existence in international law. There is no such thing as a general trend of coast apart from the political coast.

* * * *

It [the political coast line] is an imaginary line which the law superimposes upon the physical coast line as a basis. But for the purposes of international law, instead of following all the convolutions and sinuosities of the coast, it is permitted to go across the heads of bays and inlets, and it is in that particular that the rule of international law comes in as to the width of bays and inlets, either 6 or 10 miles. We are not encumbered with that question, because the British Case contends that they must be 10 miles, and we do not dispute it, and these outside inlets are 10 miles. So we are not encumbered with that question. It is a legal fiction imposed by the operation of law as an accessory, as Rivier puts it, to the political coast line. The minute you establish, the minute you fix it, all waters back of it, whether they are waters in the Archipelago there of Alexander or the Archipelago de Los Canarios, of Cuba, they all become, as Hall says, salt-water lakes : they are just as much interior waters as the interior waters of Loch Lomond, and there is no earthly principle, so far as reason is concerned, by which any human being could claim that there could be a political coast line back of a political coast line.

Then, if there is no reason for it, is there any authority for it ? I respectfully call upon the Representatives of Great

Britain to go, if they can, and search the international jurisprudence of the world, and see if they can prove from the treatise of any publicist in any nation that anybody has ever put into any book anything in the way of authority for the proposition that a political coast line can exist back of a political coast line. I say that it is absolutely impossible upon the basis of reason or authority to establish or to give any colour to the idea that such a thing exists. It cannot exist under the existing principles of international law.

If that is true, the only coast line that can take the general trend of the coast is the political coast line. The interior coast line is a physical coast line, and has the character and attributes of a physical coast line which exists for the purpose of a boundary merely. There can be no conflict there of precedent or authority. The physical coast line is made by the hand of Nature where the salt water touches the land, and that is the explanation of

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the word “sinuosities.” These people were dealing with a question of boundary ; they were not dealing with a political coast line for the purpose of jurisdiction ; they were dealing with a physical coast line, as Rivier says, for the purpose of boundary. Therefore, as the physical coast line must bear the marks put upon it by the hand of Nature, the physical coast line follows the sinuosities as Nature made them. And when you put the political coast line out here [indicating on map] it is impossible to have it *there*. The whole confused and fundamental misconception upon which this whole British line is based is that you can run a political coast line in *here*. And there you have a positive demonstration. To talk about a line going across Lynn Canal, whether it is 6 miles or 10 miles, becomes empty jargon unless it is a political coast line, for no other coast line can cross the head of a bay or inlet, and all this is unintelligible jargon in conflict with the very fundamentals of international law. It rests upon that fundamental confusion, the idea that there is a trend of the coast of which international law knows nothing. There can be no trend of a coast, except the trend where the political coast line is. If that be true, then the conclusion is irresistible that such is the coast,—and there is no use in our confusing ourselves by the word “ocean.” The primary inquiry is : What is the physical coast ? That is the technical question to be defined, and physical “coast” is where the salt water touches the land.

The only difficult question that can arise is when a river flows into an arm of the sea. There is a point at which you can go up an arm of the sea into a river and reach a certain point where the sea ends. I must refer here to something in the British case which would be very serious to us if it had any real foundation. We have the case of *Peroux v. Howard* (1833), in the 7th of Peters, page 343, the decision of the Supreme Court of the United States, cited against us in reference to the point at which an arm of the sea into which a river opens

ceases to be sea. When I came to read the case I confess I was somewhat amused because there were so many reasons which could be urged against its application. There is an old story about a young advocate who was called upon to defend a sheriff who was threatened by a *rule nisi* for not bringing a prisoner into court. In the zeal of his advocacy he gave twenty-three reasons to the presiding judge why he should not produce the body of the prisoner in court, and when he came to argue his case, with a great brief almost as big as one of ours, it was found that his first proposition was that the prisoner had been long dead, whereupon the presiding judge said that he would excuse him arguing the remaining twenty-two reasons.

I shall not argue all of the twenty-three reasons I have against this Case, because the first one is that the Case in question has been long dead. Fifty-two years ago it was solemnly overruled by the Supreme Court of the United States, and the principles upon which it was founded were eliminated from our national jurisprudence. The reason of that was this : In the early days of our history, when it became necessary to define the Admiralty jurisdiction of the United States, in that Case, and in almost every other, we wisely adhered to the rule of the mother country, and we took the rule as to our Admiralty jurisdiction as to the rise and fall of the tide. The men who lived at the mouths

p. 2119

of the Hudson and the Mississippi assumed that the same rule should govern us which prevailed at the mouth of the Thames and the Mersey. The leading case under that rule was the case of Thomas Jefferson, in the 10th of Wheaton, page 428, in which the English Admiralty rule was adopted, and we lived under that rule for forty years. Then when our commerce extended to the mighty rivers, and the great interior lakes, where there was no rise and fall of the tide, lakes upon which great armadas could float if necessary, some Western lawyer said, "This old English rule of Admiralty is utterly irrational as applied to this country"—that we should have a new test, that we should substitute the navigable character of the water for the rise and fall of the tide, and a great discussion took place in the Supreme Court of the United States, which is an epoch in our judicial history. The Court, speaking through Chief-Justice Taney, said they would disregard the rule of the Thomas Jefferson Case, as no rule of property was fixed by the decision, and they rooted up and overturned the case of Thomas Jefferson, and this case, which was a mere satellite to it, and eliminated it from our jurisprudence, and established, instead of the principle of the rise and fall of the tide, the principle of the navigable character of the water as the test of Admiralty jurisdiction.

But our friends on the other side have not lost anything in the world by the annihilation of the case in question, because if

it was in full force it would not have the slightest application.

It was a case testing the question whether Admiralty jurisdiction existed at New Orleans 110 miles, by the winding of the river, from the estuary. To avoid any possible question, instead of going 110 miles up some river beyond these inlets, we have stopped at a point at which there can be no claim or controversy. It would be just as easy to prove that the Admiralty Courts had no jurisdiction at the mouth of the Thames as it would be to prove that the water in question is not sea up to the point at which we claim. My distinguished friend, Mr. Robinson, likes to set up popular criteria as to the test of these questions. If, therefore, there is any doubt on that point I would like to call as a witness the Prime Minister of Canada, Sir Wilfred Laurier, who, in the Canadian Parliament, discussing this question and he used a word of which he seemed to be enamoured, about the “ocean terminous,” which he repeats, I think, four or five times in one document—has told us what the terminous of the sea is at that particular place.

Mr. LODGE : What page?

Mr. TAYLOR : I will just read it from the Appendix to our Counter-Case, page 171. He says :—

We had either to take the route by the Lynn Canal and Dyea, or the route by the Stikine River. The advantages of the one had to be set against the disadvantages of the other, and *vice versa*. The advantages of the route by the Lynn Canal were that it was shorter and more direct than the route by the Stikine River. But if we had adopted the route by the Stikine Canal, that is to say, had chosen to build a railway from Dyea, by the Chilkat Pass up to the waters of the Yukon, we would have to place the “ocean terminous” of the railway upon what is now American territory. I agree that the statement that has been made on the floor of this house, on more than one occasion, that Dyea, if the Treaty is correctly interpreted, is in Canadian territory. It ought to be ; but the fact

is, as my hon. friends know very well, even those who do not belong to the legal profession, that possession is nine points of the law ; and even though by the letter of the Treaty, Dyea is in Canadian territory, the fact remains that from time immemorial, Dyea was in the possession of the Russians, and in 1867 it passed into the hands of the Americans, and it has been held in their hands ever since.

Now, I will not recriminate here ; this is not the time nor the occasion for doing so ; but so far as I am aware, no protest has ever been entered against the occupation of Dyea by the American authorities ; and when the American authorities are in possession of that strip of territory on the sea which has Dyea as its harbour, succeeding the possession of the Russians from time immemorial, it becomes manifest to everybody that at this moment we cannot dispute their possession ; and that before their possession can be disputed, the question must be determined by a settlement of the question involved in the Treaty. Under such circumstances Dyea was practically in American territory—at all events, in possession of the Americans, and, therefore, if we had undertaken to build a railway from Dyea to the Yukon country, we would have been placed at the mercy of the American authorities with regard to the bonding privilege. We would have been in this position ; that though we had built a railway, the “ocean terminous” of that railway was not in our own country, and we could not send a ton or a pound of goods over that railway, unless we had the permission of the American authorities.

Mr. TURNER : The accepted pronunciation of the town there mentioned is Dy'-a'.

Mr. TAYLOR : Thank you. But whatever we may call it, this I am simply giving as a popular interpretation, and it concurs exactly with the scientific, that the end of the head of the inlet is the ocean itself, the “ocean terminous,” and if they had built down to Dyea a railroad, it would have been there ; the “ocean terminous” would be right there where the technical rule of international law says that, the ocean ends. I say that it would be just as impossible for an Admiralty lawyer of Great Britain to stand before this Tribunal and deny that the estuary of the Thames is part of the ocean, the sea, as it would be to deny that the head of Lynn Canal is part of the sea. The popular interpretation, as given by the Prime Minister of Canada, is in perfect harmony and accord with the definition of international law.

[1904.]

**THE OPINION OF LORD ALVERSTONE. FIFTH
QUESTION.**

ALASKAN BOUNDARY TRIBUNAL, VOL. 1, 1904.

Stated shortly, I understand this question to ask whether the eastern boundary, whether fixed by the crest of the mountains or by a distance of 10 marine leagues, was to run round the heads of the bays, ports, inlets, havens, and waters of the ocean, or not, I have come to the conclusion in the affirmative, viz., that the boundary, whether running along the summits or crests of the mountains or in the absence of mountains at a distance of 10 marine leagues, was to run round the heads of the inlets, and not to cross them.

* * * *

There is, as far as I know, no recognised rule of international law which would by implication give a recognised meaning to the word "coast" as applied to such sinuosities and such waters different from the coast itself.

THE WATERSHED DOCTRINE.

No. 899.

**MESSRS. PINCKNEY AND MONROE, UNITED
STATES COMMISSIONERS TO DON PEDRO
CEVALLOS, SPANISH COMMISSIONER, 20
APRIL, 1805.**

BRITISH AND FOREIGN STATE PAPERS (1817-8), p. 326.

“The facts which are material in the case, are such as relate to the discovery and possession of the Territory referred to, by the Subjects and under the authority of each nation. The principles are those which have been recognised by European Powers in similar transactions, and which of course ought to govern in the present one. It is by a correct view of the material facts, and the faithful application of these principles to them ; that the rights of each Nation will be established in this point, and thereby the Boundary between them.”

* * * *

The principles which are applicable to the case, are such as are dictated by reason, and have been adopted in practice by European Powers in the discoveries and acquisitions which they have respectively made in the New World. They are few, simple, intelligible, and at the same time founded in strict justice. The first of these that when any European Nation takes possession of any extent of Sea Coast, that possession is understood as extending into the interior Country, to the sources of the Rivers emptying within that Coast, to all their branches, and the Country they cover, and to give it a right in exclusion of all other Nations to the same. (See *Mémoire de l'Amérique* page 116.) It is evident that some rule or principle must govern the rights of European Powers in regard to each other, in all such cases : and it is certain that none can be adopted, in those to which it applies, more reasonable or just, than the present one. Many weighty considerations show the propriety of it. Nature seems to have destined a range of Territory so described for the same society ; to have connected its several parts together by the ties of a common interest, and to have detached them from others. If this principle is departed from, it must be by attaching to such discovery and possession a more enlarged or contracted scope of acquisition ; but a slight attention to the subject will demonstrate the absurdity of

either. The latter would be to restrict the rights of a European Power, who discovered and took possession of a new Country, to the spot on which its Troops or Settlements rested :

p. 2123

a doctrine which has been totally disclaimed by all the Powers who made discoveries and acquired Possessions in America. The other extreme would be equally improper : that is, that the Nation who made such discovery should, in all cases, be entitled to the whole of the Territory so discovered. In the case of an island, whose extent was seen, which might be soon sailed round and preserved by a few Forts, it may apply with justice ; but in that of a Continent, it would be absolutely absurd. Accordingly we find, that this opposite extreme has been equally disclaimed and disavowed by the doctrine and practice of European Nations. The great Continent of America, North and South, was never claimed or held by any one European Nation ; nor was either great Section of it. Their pretensions have been always bounded by more moderate and rational principles. The one laid down has obtained general assent.

This principle was completely established in the controversy which produced the War of 1755. Great Britain contended that she had a right, founded on the discovery and possession of such territory, to define its Boundaries by given latitudes in grants to individuals, retaining the Sovereignty to herself from Sea to Sea. This pretension, on her part, was opposed by France and Spain, and it was finally abandoned by Great Britain in the Treaty of 1763, which established the Mississippi as the Western Boundary of her Possessions. It was opposed by France and Spain on the principle here insisted on, which of course gives it the highest possible sanction in the present case.

[12 March,
1818.]**EXTRACT FROM U.S. SECRETARY OF STATE TO
DON LUIS DE ONIS, SPANISH COMMISSIONER, 12
MARCH, 1818.**

BRITISH AND FOREIGN STATE PAPERS (1817-1818), pp. 327-328.

“In their Note of the 20th April, 1805, to the same Minister, replying to his argument in support of the pretensions of your Government with regard to those Limits, they lay down and establish, by a chain of reasoning, which neither Mr. Cevallos, at the time, nor your Government, at any period since, have ever attempted to break, three principles, sanctioned alike by immutable justice, and the general practice of the European Nations, which have formed Settlements and held Possessions in this Hemisphere ; and by the application of which to the facts also stated in their Note, this question of the Western Boundary ought then to have been, and, eventually, must be settled.

“These principles were :

“First : 'That whenever any European Nation takes possession of any extent of Seacoast, that possession is understood as extending into the interior Country, to the sources of the rivers emptying within that coast, to all their branches, and the Country they cover, and to give it a right in exclusion of all other Nations to the same.' ”

No. 901.

**EXTRACT FROM “THE OREGON QUESTION
EXAMINED.” BY TRAVERS TWISS.**

The object of the tenth article of the Treaty of Utrecht was to secure to the Hudson's Bay Company the restoration of the forts and other possessions of which they had been deprived at various times by French expeditions from Canada, and of which some had been yielded to France by the seventh article of the Treaty of Ryswick. By this latter treaty Louis XIV. had at last recognised William III. as King of Great Britain and Ireland, and William in return had consented that the principle of *uti possidetis* should be the basis of the negotiations between the two crowns. By the tenth article, however, of the Treaty of Utrecht, the French King agreed to restore to the Queen (Anne) of Great Britain “to be possessed in full right for ever, the Bay and Straits of Hudson, together with all lands, seas, sea coasts, rivers and places situate [sic] in the said bay and straits, and which belong thereto, no tract of land or sea being excepted, which are at present possessed by the subjects of France.” The only question therefore for commissaries to settle, were the limits of the Bay and Straits of Hudson, *coastwards*, on the side of the French province of Canada, as all the country drained by streams entering into the Bay and Straits of Hudson were by the terms of the treaty recognised to be part of the possessions of Great Britain.

If the coast boundary, therefore, was once understood by the parties, the head waters of the streams that empty themselves in the Bay and Straits of Hudson, indicate the line which at once satisfied the other conditions of the treaty. Such a line, if commenced at the eastern extremity of the Straits of Hudson, would have swept along, through the sources of the streams flowing into the Lake Mistassinnie and Abbitibis, the Rainy Lake, in 48° 30', which empties itself by the Rainy River into the Lake of the Woods, the Red Lake, and Lake Travers. This last lake would have been the extreme southern limit, in about 40° 50', whence the line would have wound upward to the north-west, pursuing a serpentine course, and resting with its extremity upon the Rocky Mountains at the southernmost source of the Saskatchewan River, in about the 48th parallel of latitude. Such would have been the boundary line between the French possessions and the Hudson's Bay district ; and so we find that, in the limits of Canada, assigned by the Marquis de Vaudreuil himself, when he surrendered the province to Sir J. Amherst, the Red Lake is the apex of the

which, on the one side, the line is drawn to Lake Superior ; on the other “follows a serpentine course southward to the river Oubache, or Wabash, and along it to the junction with the Ohio.” This fact was insisted upon by the British Government in their answer to the ultimatum of France, sent in on the 1st September, 1761 ; and the map, which was presented on that occasion by Mr. Stanley, the British minister, embodying those limits, was assented to in the French Memorial of the 9th of September. (Historical Memorial of the Negotiations of France and England from March 26th to Sept. 20th, 1761. Published at Paris by authority.) By the fourth article, however, of the Treaty of Paris 1763, Canada was ceded in full, with its dependencies, *including the Illinois* ; and the future line of demarcation between the territories of their Britannic and Christian Majesties, on the Continent of America was, by the seventh article, irrevocably fixed to be drawn through the middle of the River Mississippi, *from its source* to the river Iberville, and thence along the middle of the latter river and the Lakes Maurepas and Pontchartrain to the sea. Thenceforward the French territory in North America was confined to the western bank of the Mississippi, and this was the *Louisiana* which was ceded by France to Spain in 1769, by virtue of the treaty secretly concluded in 1762, but not promulgated till 1765. There would have been no mistake as to the boundaries of Louisiana, Canada, and the Hudson's Bay territories, as long as they were defined to be the aggregate of the valleys watered by the rivers flowing into the Gulf of Mexico, the Gulf of St. Lawrence, and the Bay of Hudson respectively. The difficulty in executing the provisions of boundary treaties in America, has arisen chiefly from adopting the data which incorrect maps have furnished, to which there has been nothing in nature corresponding, and from agreeing to contain parallels of latitude, as appearing from those maps to form good natural frontiers, but which have been found upon actual survey to frustrate the intentions of both parties.

* * * *

By the Treaty of Utrecht, the British possessions to the north-west of Canada were acknowledged to extend to the headwaters of the rivers emptying themselves into the Bay of Hudson : by the Treaty of Paris, they were united to the British possessions on the Atlantic by the cession of Canada and all her dependencies ; and France contracted her dominions within the right bank of the Mississippi. That France did not retain any territory after this treaty to the north-west of the sources of the Mississippi, will be obvious, when it is kept in mind that the sources of the Mississippi are in $47^{\circ} 35'$, whilst the sources of the Red River, which flows through Lake Winnipeg, and ultimately finds its way by the Nelson River in the Bay of Hudson, are in Lake Travers, in about $45^{\circ} 40'$.

[1879.]

**EXTRACT FROM COMMENTARIES UPON
INTERNATIONAL LAW BY THE RT. HON. SIR
ROBERT J. PHILLIMORE.**

2ND EDITION. VOL. I, pp. 277-9.

The United States of America, during the pendency of the negotiations with England, with respect to the Oregon boundary, asserted “that a nation discovering a country, by entering the mouth of its principal river at the sea-coast, must necessarily be allowed to claim and hold as great an extent of the interior country as was described by the course of such principal river and its tributary streams”*

But this proposition was strenuously denied by great Britain upon various grounds :

1. That no such right accrued at all to mere discovery ;

2. Not to discovery by a private individual. Great Britain “was yet to be informed (she said) under what principles or usage, among the nations of Europe, his having first entered or discovered the mouth of the River Columbia, admitting this to have been the fact, was to carry after it such a portion of the interior country as was alleged. Great Britain entered her dissent from such a claim ; and least of all did she admit that the circumstance of a merchant vessel of the United States having penetrated the coast of that continent at Columbia River, was to be taken to extend a claim in favour of the United States along the same coast, both above and below that river, over latitudes that had been previously discovered and explored by Great Britain herself, in expeditions fitted out under the authority and with the resources of the nation” †

CCXXXVII. If the circumstances had been these, viz. that an actual settlement had been grafted upon a discovery made by an authorised public officer of a nation at the mouth of a river, the law would not have been unreasonably applied.

There appears to be no variance in the opinions of writers upon International Law as to this point. They all agree that the Right of Occupation incident to a settlement, such as has been described, extends over all territory

actually and *bona fide* occupied, over all that is essential to the real use of the settlers, although the use be only inchoate, and not fully developed ; over all, in fact, that is necessary for the integrity and security of the possession, such necessity being measured by the principle already applied to the parts of the sea adjacent to the coasts, namely, “*ibi finitur imperium ubi finitur armorum vis.*” The application of the principle to a territorial boundary is, of course, dependant in each case upon details of the particular topography.

Martens, discussing “jusqu'ou s'étend l'occupation,” writes with as much precision and clearness upon the point as the subject will admit of. “Une nation qui occupe un district doit être censée avoir occupé toutes les parties vacantes qui le composent ; sa propriété s'étend même sur les places qu'elle laisse incultes, et sur celles dont elle permet l'usage à tous. Les limites de son territoire sont ou naturelles (telle que la mer, les rivières les eaux, les montagnes, les forêts) ou artificielles (telles que des barrières des bornes, des poteaux, etc.) Les montagnes, les forêts les bruyères, etc., qui séparent le territoire de deux nations, sont censés appartenir à chacune des deux jusqu'à la ligne qui forme le milieu, à moins qu'on ne soit convenu de régler différemment les limites, ou de les neutraliser. A défaut des limites certaines le droit d'une nation d'exclure des nations étrangères des terres ou îles voisines ne s'étend pas au-delà du district qu'elle cultive, ou duquel du moins elle peut prouver l'occupation ; à moins que, de part et d'autre, l'on ne soit convenu de ne pas occuper certains districts, îles, etc., en les déclarant neutres.”*

CCXXXVIII. This middle distance mentioned by Martens appears, in cases where there is no sea-coast boundary, to be recognised in practice.

In the negotiations between Spain and the United States of America respecting the western boundary of Louisiana, the latter country laid down with accuracy and clearness certain propositions of law upon this subject, and which fortify the opinion advanced in the forgoing paragraphs.

* Martens. Droit des Gens, 1. ii, c. 1, s. 38.

No. 903.**EXTRACTS FROM BOOKS ON INTERNATIONAL
LAW.**

WESTLAKE—INTERNATIONAL LAW, Part 1, page 112.

Cites principle laid down by negotiators for the United States in disputes with Spain and Great Britain—

“That whenever any European nation takes possession of any extent of sea coast, that possession is understood as extending into the interior country to the sources of the rivers emptying within that coast, to all their branches and the country they cover and to give it a right in exclusion of all other nations to the same.”

LAWRENCE—PRINCIPLES OF INTERNATIONAL LAW, p. 151 (3rd Edn.)

Occupation of a considerable extent of coast gives a title up to the watershed of the rivers which enter the sea along the occupied line. . . . If a coast line is effectively occupied, the rivers which fall into the sea throughout its extent and the country drained by them are held to belong in full sovereignty to the power whose settlements are dotted along the shore.

HALL—INTERNATIONAL LAW, p. 104 (5th Edn.)

It has generally been admitted that occupation of the coast carries with it a right to the whole territory drained by the rivers which empty their waters within its line.

[1884.]

**EXTRACT FROM THE ONTARIO-MANITOBA CASE.
THE ARGUMENT FOR THE DOMINION OF CANADA.**

 PRINTED CASES IN APPEAL. VOL. 7, 1884, p. 25.

The British Nation, therefore, acquired, by discovery and by settlements made on Hudsons [sic] Bay, the possession of the country extending into the interior to the sources of the rivers emptying within that coast, which would include the Saskatchewan and English rivers to the West, having their sources at the foot of the Rocky Mountains, and extending South and East to the sources of all the rivers flowing into James' Bay.

[1878.]

The law entitling England to this has been stated not only by Vattel, but has been adopted as correct by the United States, and is recognised by the highest authorities on International Law in England—Dr. Twiss and Dr. Phillimore—as being the correct principle to apply in such cases.

**PART OF THE CASE FOR THE DOMINION, AS
SUBMITTED TO THE ARBITRATORS IN 1878.**

In 1871 a Commissioner was appointed by each of the Governments of the Dominion and Province of Ontario, for the settlement of the northerly and westerly boundaries of the Province.

The instructions given to the Commissioners on behalf of the Dominion were that “The boundary in question is clearly indential [sic] with the limits of the Province of Quebec, according to the 14th George III., ch. 83, known as the 'Quebec Act,' and is described in the said Act as follows, that is to say :

Having set forth the Westerly position of the Southern Boundary of the Province, as extending along the River Ohio, 'westward to the banks of the Mississippi [sic],' *the description from thence (i.e., the junction of the two rivers) and northwards to the southern boundary of the territory granted to the Merchants Adventurers of England trading to the Hudson's Bay.*

“Having determined the precise longitude, west of

Greenwich, of the extreme point of land making the junction of the north and east banks respectively of the said river, you will proceed to ascertain and define the

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corresponding point of longitude or intersection of the meridian passing through the said junction with the international boundary between Canada and the United States.

“Looking, however, to the tracing enclosed, marked A, intending to illustrate these instructions, it is evident that such meridian would intersect the international boundary in Lake Superior.

“Presuming this to be the case, you will determine and locate the said meridian, the same being the westerly portion of the boundary in question, on such point on the northerly shore of the said lake as may be nearest to the international boundary, and from thence survey a line due South to deep water, marking the same upon and across any and all points or islands which may intervene, and from the point on the main shore found as aforesaid, draw and mark a line due north to the southern boundary of the Hudsons [sic] Bay territory before mentioned. This will complete the survey of the westerly boundary line sought to be established.

“You will then proceed to trace out, survey, and mark, eastwardly, the aforementioned *southern boundary of the territory granted to the Merchants Adventurers of England trading to Hudson's Bay*.

“This is well understood to be the height of land dividing the waters which flow into Hudson's Bay from those emptying into the valleys of the Great Lakes, and forming the northern boundary of Ontario ; and the same is to be traced and surveyed, following its various windings, till you arrive at the angle therein between the Provinces of Ontario and Quebec, as the latter is at present bounded, having accomplished which, the same will have been completed.”

EXTRACT OF ARGUMENT OF MR. McMAHON, Q.C.,
COUNSEL FOR THE DOMINION BEFORE THE
ARBITRATORS, 3rd AUG., 1878.

Mr. McMAHON : “My learned friends do not claim that they are entitled to any land north of the height of land.”

The ATTORNEY-GENERAL : “I thought I had occupied a good deal of time in showing that I was claiming that.”>

CHIEF-JUSTICE HARRISON: “I understood the Attorney-General to

claim to the Arctic Ocean.”

Mr. MCMAHON : “I did not know that he meant that.”

SIR FRANCIS HINCKS: “Do I understand that you have no difficulty about the northern boundary.”

Mr. MCMAHON : “The northern boundary is of no consequence: the trouble is with the western boundary.”

No. 905.

[1893.]

**EXTRACT FROM BEHRING SEA (FUR SEAL)
ARBITRATION 1893.**

ARGUMENT OF THE UNITED STATES, pp. 39-40.

We may, however, briefly observe here, that according to the best authorities in international law the occupation of a new country which is sufficient to give to the occupying nation a title to it depends very largely upon the nature of the country and the beneficial uses which it may be made to subserve. In the case of a fruitful region capable of supporting a numerous population, it might not be allowable for a nation first discovering it to maintain a claim over vast areas which it did not actually occupy and attempt to improve ; but where a remote and desolate region has been discovered yielding only a single or few products, and all capable of being beneficially secured by the discovering nation, a claim to these products asserted and actually exercised, is all the occupation of which the region is susceptible and is sufficient to confer the right of property ; and that whatever authority it may be reasonably necessary to exercise upon the adjoining seas in order to protect such, interests from invasion may properly be asserted. Says Phillimore, who seems to have understood the Oregon territory as embracing the whole Northwest coast of North America :

“A similar settlement was founded by the British and Russian Fur Companies in North America.

“The chief portion of the Oregon territory is valuable solely for the fur-bearing animals which it produces. Various establishments in different parts of this territory organised a system for securing the preservation of these animals, and exercised for these purposes a control over the native population. This was rightly contended to be the only exercise of *proprietary right* of which these particular regions were at that time susceptible, and to mark that a beneficial use was made of the whole territory by the occupants.” *

* Int. Law; Vol. I, pages 259, 260.

[1899.]

**EXTRACT FROM BRITISH GUIANA—VENEZUELA
BOUNDARY ARBITRATION.**

BRITISH CASE, p, 161.

“It is not disputed that the Dutch and the British have for centuries been in full possession of a very considerable territory on both sides of the Essequibo below the point where it is joined by the Massanini. It is submitted that according to every principle of international law, this carries with it the right to the whole basin of the Essequibo and its tributaries except in so far as any portion of that basin may have been occupied by another Power.

“The Power in control of so large an extent of territory round the lower course of a river such as the Essequibo, to which no other Power has ever had any access and where no dominion other than that exercised by the Dutch and the British has ever existed, has a prima facie right to the whole of the river basin. Such right can only be rebutted by proof of actual occupation by another Power. There is not even a pretence of such occupation by Spain or Venezuela except as regards the territory in the neighbourhood of the Yuruan.”

BRITISH ARGUMENT, p. 55.

“In order to displace the title of Great Britain to the drainage areas of all the rivers between the right bank of the Amakum and Essequibo and their tributaries, Venezuela must show effective occupation ; and it is only to the extent to which such effective occupation can be shown that the title of Great Britain can be defeated.”

[1904.]

**EXTRACTS FROM BRITISH GUIANA—BRAZIL
BOUNDARY ARBITRATION.**

BRITISH CASE. Chapter IX. (Discussion of the Watershed Doctrine).

pp. 127. Again in 1861 Twiss in his work on the “Law of Nations,” after referring at length to the Oregon case, continues in the following words :—

“It is obvious that a claim to all the lands watered by a river and its tributaries, founded on the discovery and occupation of the mouth of the river, must conflict with a claim to all the inland territory as far as the line of watershed, founded in the discovery and occupation of an extent of seacoast, about which latter position of Law there is no dispute amongst Nations.”

pp. 128. in 1867 Bluntschli stated the following proposition as part of his code :—

Lorsque les colons commencent par prendre possession des rivages de la mer, on admet que cette prise de possession comprend toute la partie de la terre ferme qui, par sa situation et spécialement par les fleuves qui la traversent, est reliée a la côte de manière à former avec celle-ci un ensemble naturel.

p. 138. One of the most important matters for enquiry in regard to occupation on the upper waters of a river-basin is this : how far is access to these upper waters obtained from the country beyond the watershed, and how far, on the other hand, does the river itself afford the means of communication with the outer world ?

No. 908.

[15 July,
1884.]**EXTRACTS FROM PROCEEDINGS BEFORE THE
JUDICIAL COMMITTEE OF HER MAJESTY'S
PRIVY COUNCIL IN ONTARIO-MANITOBA
BOUNDARY CASE RE "WATERSHED"
CONTENTION.**

(Taken from printed transcription of notes of argument printed
by order of the Legislative Assembly of Ontario, Toronto,
1889).

Council Chamber, Whitehall,
Tuesday, July 15th, 1884.

PRESENT :

The Right Honourable The LORD CHANCELLOR,
The Right Honourable The LORD PRESIDENT,
The Right Honourable LORD ABERDARE,
The Right Honourable SIR BARNES PEACOCK,
The Right Honourable SIR MONTAGUE E. SMITH,
The Right Honourable SIR ROBERT P. COLLIER.

[19 July,
1884.]

Counsel for Ontario :—Mr. MOWAT, Q.C., Attorney-General for
Ontario, Mr. SCOBLE, Q.C., Mr. MILLS, and Mr. HALDANE.

Counsel for Manitoba :—Mr. J. A. MILLER, Q.C.,
Attorney- General for Manitoba, and Mr. D. MCCARTHY,
Q.C.

Counsel for the Dominion Government :—Mr. CHRISTOPHER
ROBINSON, Q.C., and Mr. HUGH MACMAHON, Q.C.

FOURTH DAY.

Saturday, July 19th, 1884.

Mr. MCCARTHY.—Yes, my Lord I say there is no proof that
there was any possession of any country which as not drained
by part of the St. Lawrence, prior to 1670. I start with that.
Now, if it be necessary, I will go back and prove that to your
Lordships, so far as we can trace it from the historical
documents which are left to us. What were the French
pretensions ? The French pretension was, that they had

Hudson's Bay, and by virtue of that discovery they claimed that they had a better right than the English. The English said that they had discovered it, and I assumed on Thursday, and I think it was an expedient and a fair and proper assumption, that the English were right in that view. But whether they are right or wrong, the English undoubtedly first took possession of it under their discovery and then it is a question of law to what extent of territory that gives the English a right, internationally speaking as between them and the French, by virtue of their prior discovery and their after occupation. That question of law I propose to discuss still later on. As I understand the result of the authorities—speaking in that sense of the recognised rules which govern all the treaties dealing with this part of the North American continent, and I submit they must be accepted as the international law on the subject—it is this, that the discovery of a coast line, and the occupation of that coast line, give to the discoverer an entire right to all the territory that is drained there. Now, the American ministers put forward a much wider claim. They put forward this claim. They said that the discovery of the mouth of a river gave to the discoverer and occupier of that river, or of the mouth of that stream, a right to all the territory that was drained by the stream, and that is discussed in Dr. Phillimore's work, and afterwards [sic] in Sir Travers Twiss's, and settled now on this basis : that the American view put forward by Mr. Gallatin was too broad—that merely the discovery of the mouth of a river did not give a right to all the territory which it drained ; but that the discovery of the coast line, and the occupation, of course, in either case, did give to that discoverer and occupier a right, internationally speaking, to all the country that was drained into the coast line.

Sir ROBERT COLLIER.—You must not assume that to be so.

The LORD CHANCELLOR.—If Sir Travers Twiss said so—it cannot be taken to be the law.

LORD ABERDARE.—You must shew that the occupation followed on the discovery.

Mr. McCARTHY.—Of course, my Lord, that would be so.

LORD ABERDARE.—I suppose the first occupation was under the charter.

Mr. McCARTHY.—Yes.

LORD ABERDARE.—And the discovery was in 1610.

Mr. McCARTHY.—Yes, that is also dealt with. If the discovery is not followed by the occupation, and anybody else intervenes, then it is also a question of whether there has been an

abandonment.

LORD ABERDARE.—Yes, the French claim to have intervened.

Mr. McCARTHY. . . Now, the proposition of international law I will state, and I do not think anything can be found to the contrary, and I

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submit it is in accordance with reason and law. If this continued, how was the country settled ? The English settled on the Atlantic coast ; they claimed, as the map shews, that that settlement gave them a right as far as the Pacific Ocean. They claimed that Virginia stretched to the Pacific Ocean. The English claim was wider than the French, because the French claimed the watershed of the system up to the height of land. If your Lordships remember—and I will give the reference to it—when La Salle discovered the Mississippi, he came from the north. He started from Quebec and came down by the Wisconsin, and penetrated down the Mississippi to the mouth, and it was not until he got to the mouth of the Mississippi that he claimed to be the discoverer. Then he erected a pole, and made a proclamation in the name of the King of France that the whole of the territory drained into the Mississippi was taken possession in the name of the Crown of France. Now, everything in these matters relating to the continent was treated on that basis, and the only dispute was, as between the American minister setting up that the mere discovery of a river gave a right to the watershed of a river, and the other claim, contended for by the British minister and the Spanish minister, that that was not so unless there was a discovery of the coast line as well.

The LORD CHANCELLOR.—There seems to be about as much foundation for the one idea as for the other. If you say, that because you take possession of a few miles of the coast of Africa, you take possession of all the country which is drained by a river which goes three thousand miles, it is so absurd that I cannot conceive it to be laid down by any writer on international law. However, it has very little bearing upon this question.

SIR ROBERT COLLIER.—Whether it is so or not is of very little consequence.

The LORD PRESIDENT.—What do you conceive to be the bearing of all this ?

Mr. McCARTHY.—The bearing of all this is that the charter did give to the Hudson's Bay certain definite limits. If it did not give to Hudson's Bay certain definite limits, the charter was void for uncertainty. Now what were those limits ?

SIR ROBERT COLLIER.—Then we go back to the charter.

Mr. McCARTHY.—I am speaking about that charter, under which was the only possession that the English had in all this north country. The Hudson's Bay Company represented the Crown of England, and the charter purported to give them all the lands which drained into the Bay. Now, either it was void for uncertainty, and a piece of waste paper—and I am not required to admit that—or it did give to the Hudson's Bay Company certain definite limits. Where are those definite limits ? Can my learned friends on the other side suggest any definite limits to the Hudson's Bay grant ?

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SIR ROBERT COLLIER.—I thought you were trying to suggest some title that they had, independently of the charter.

Mr. McCARTHY.—No, my Lord.

SIR ROBERT COLLIER.—Then we come back to the charter, and we have heard your views on that subject.

LORD ABERDARE.—Would you argue that although the French may have possessed themselves of the portion of the territory draining into Hudson's Bay more distant from Hudson's Bay, and held possession of it for a considerable time, that claim of the company would have availed as against England itself when it once became possessed of Canada ?

Mr. McCARTHY.—Precisely.

LORD ABERDARE.—You argue that even although the evidence shewed, for instance—just as an example—that a portion of this territory awarded by the arbitrators within the watershed towards Hudson's Bay, had been occupied by the French, that occupation for fifty, eighty or a hundred years, would not avail against the claim of the Hudson's Bay Company ?

Mr. McCARTHY.—Yes, my Lord, that is my proposition.

The LORD CHANCELLOR.—It is really a proposition which, if it is anything, is the most extraordinary imaginable. The French got access to this country, which is drained at a certain point by the St. Lawrence, they push their settlements into the interior, and do not meet there with any other settlements of any other nation whatever. According to your argument, they might organize these settlements in the most civilized way, and build towns and villages, and cultivate the land, but because King Charles II. had granted, a hundred or fifty years before, a charter to some of his subjects, which in the terms of it, as you say, construed upon certain principles, would include part of the territory which the French had so settled, therefore, internationally, the adventurers, the grantees of Charles II., have a right to turn out the French settlers ?

[21 July,
1884.]

Mr. McCARTHY.—Yes.

The LORD CHANCELLOR.—It is perfectly absurd.

FIFTH DAY.

Monday, 21st July, 1884.

Mr. McCARTHY.—Yes. I wish to observe your Lordship's rule, and therefore do not go into the effect of the commissions. My learned friends who are to follow me will deal with that, and they would not be following your Lordship's rule if they repeated what I had said. Therefore I leave that to my friends.

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Now, I have some observations to make, and they shall be very few, because my learned friend will have to deal with this in some measure. But I do not think I ought to close my statement without making some references as to the doctrine of law on which we rely as to the height of land. I suppose I may refer to Sir Travers Twiss' work on international law, as I suppose your Lordship will allow me to do to Mr. Halleck's works and other works on international law.

The LORD CHANCELLOR.—The thing which I am at a loss to understand is how the boundaries between the two different territories can possibly be determined by international law, unless you include in international law all conventions, acts and documents of title which have to define those boundaries.

Mr. McCARTHY.—I mean this, and your Lordship will say whether I am to go on or not ; but what I understand is this, that from time to time nations have agreed upon certain well known rules for settling matters of this kind, and that this question as to the watershed, and as to the territory which one nation that discovers becomes entitled to, has in that way—by conventions, by arguments adduced at those conventions, by settlements made upon references—been so firmly established that it may now be accepted as a well known rule of international law. Now that well known rule of international law, so far as this continent is concerned of course, in early times—within the last century I may say—was of very great importance. There was an enormous continent ; the discoveries had all been made from the ocean ; each discoverer and each occupier was claiming certain quantities of land by reason of that discovery, and that gave rise to disputes and difficulties which ultimately have been settled, and settled upon a fair and reasonable basis, and these rules are now incorporated—if they were not incorporated before, and I think that the earlier authorities shew that they were—as rules of international law. Now I have already stated what I understand to be that rule, and what I understand also to have been the dispute with regard to that rule. One claim put forward by the Americans, which ultimately they had to withdraw as the argument was

against them, was this : that the mere discovery of the mouth of a river gave to the discoverer the whole of that river (I mean followed by occupation because I am assuming occupation in all cases) and the land that was drained by it. Then the British authorities stated that that was stating the claim too widely, and that the true rule was this, that not merely the discovery of the river, but the discovery and settlement of the coast line, gave to the discoverer and settlers of that coast line all the country that drained into it. And upon that basis the French seem to have proceeded from the earliest times. The English at first took a wider view. They claimed that the mere discovery of the coast line gave them all that they chose to claim back even to the very ocean. The French took a more correct view by saying that it gave them a right to all the land that it watered, down to the sea where the discovery was made ; and so I have read, once or twice, references to the

commissions of the French King and his officials and governors, in which it is referred to as to the land drained by such a stream. Now I will read from Sir Travers Twiss' work, the second edition, page 196.

LORD ABERDARE.—Did the French claim all the land which was watered by the tributaries of the Mississippi from the east to the west ?

Mr. McCARTHY.—Yes ; in fact they did, I mean the discoverer La Salle proclaimed that on his discovery.

Sir ROBERT COLLIER.—According to that view, if a few miles of the coast on either side of the mouth of a river were discovered and settled you might claim any extent of country you like to suppose.

LORD ABERDARE.—That is to say that the discoverer of the mouth of the Mississippi, or the land on either side of the Mississippi, could claim not only the lands on the line of the Mississippi, but all the lands watered by the enormous tributaries of the Mississippi on either side.

Mr. McCARTHY.—That is what the French claimed and what La Salle claimed when he erected the post and put the French arms upon it. Then the portion of that west of the Mississippi was ceded to Spain, and then Spain gave that to the States, and then the question arose, and it was with regard to that that this passage, which I am going to refer to was dealt with. That is Sir Travers Twiss' book, and I am reading at present at page 196.

Sir BARNES PEACOCK.—But what treatise is it—on International Law, I suppose ?

Mr. McCARTHY.—Yes.

Sir ROBERT COLLIER.—You may read it *valeat quantum*.

Mr. McCARTHY.—

“The Exclusive right of a nation to territory which it has acquired by occupation has been universally recognized by the nations of Europe and in respect of such right certain rules have become established by usage, whereby the condition of law constituting occupation may be placed beyond doubt. The natural right of an individual to appropriate——”

Then he goes on to give the reasons for that, which I need not trouble your Lordships with reading. Then section 119:

“A nation is under an obligation towards other

nations analogous to that under which an individual stands towards other individuals with regard to the discovery of a thing. If it seeks to found an exclusive title to its possession upon the right of discovery, it must manifest in some way or other to other nations its intention to appropriate the territory to its own purposes. The comity of nations then sanctions a presumption, that the execution of the intention will follow within a

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reasonable time the announcement of it. But natural reason requires that the discovery should be notified to other nations, otherwise if actual possession has not ensued, the obvious inference would be that the discovery was a transient act and that the territory was never taken possession of *animo et facto*.”

Then he says that the meaning of notification is, either by notifying it formally, or taking possession. Then we come to section 120, which I do not think I need read to your Lordships. Then section 122 :

“When discovery has been followed by the settlement of a nation, other nations, in accordance with the law of nature, recognize a perfect title in the occupant. Where discovery has not been immediately followed by occupation, but the fact of discovery has been notified, other nations, by courtesy, pay respect to the notification, and the usage of nations has been to presume that settlement will take place within a reasonable time ; but unless discovery has been followed within a reasonable time by some sort of settlement, the presumption arising out of notification is rebutted by non-user, and lapse of time gives rise to the opposite presumption of abandonment.”

That point does not become important here because there was the occupation. Now here is section 123, as to the extent of right which the discovery gives:

“The two rules generally, perhaps universally, recognized and consecrated by the usage of nations, have followed from the nature of the subject.”

This is quoting now from Mr. Gallatin on the other side, the plenipotentiary of the United States, who thus states his view:

“By virtue of the first, prior discovery gave a right to occupy, provided that occupancy took place within a reasonable time, and was ultimately followed by permanent settlement and by the cultivation of the soil. In conformity with the second, the right derived from prior discovery and settlement was not confined to the spot

discovered or first settled. The extent of territory which would attach to such first discovery, gave the right of occupancy, and ultimately of sovereignty, to the whole country drained by such river and its several branches, has been generally admitted, and in a question between the United States and Great Britain, her acts have with propriety been appealed to, as shewing that the principles on which they rely accord with their own."

Now comes Sir Travers Twiss' view upon that:

"The question as to the extent of territory over which the discovery of a part given rise to the right of occupancy, may receive a solution by reference to the principles of law which decide to what extent actual possession must go in order to give a title to more than is actually inhabited. It is not necessary, in order to constitute the occupant of a

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thing the local proprietor of it, that he should have actual possession of the whole of it. If he has possession of a part, which cannot be separated from the whole, he is in possession of the whole."

Then section 125 is :

"The principles applicable to such question were discussed by the commissioners of the United States of America, in the negotiations with the commissioners of Spain, on the subject of the western boundary of Louisiana "—which is just the point which your Lordship was putting to me a moment ago—" 'The principles,' they observe, 'which are applicable to the cases are such as are dictated by reason, and have been adopted in practice by European nations in the discoveries and acquisitions which they have respectively made in the New World. They are few, simple, intelligible, and at the same time founded in strict justice. The first of these is, that when any European nation takes possession of any extent of sea coast, that possession is understood as extending into the interior country, to the sources of the rivers emptying within that coast, to all their branches and the country they cover, and so give it a right in exclusion of all other nations to the same. It is evident that some rule or principle must govern the rights of European powers in regard to each other in all such cases, and it is certain that none can be adopted, in those cases to which it applies, more reasonable or more just than the present one. Many weighty considerations shew the propriety of it. Nature seems to have destined a large range of territory so described for the same society ; to have connected its several parts together by a common interest, and to have

detached them from others. If this principle is departed from, it must be by attaching to such discovery and possession a more enlarged or contracted scope of acquisition, but a slight attention to the subject will demonstrate the absurdity of either. The latter would be to restrict the rights of a European power who discovered and took possession of a new country, to the spot on which its troops or settlements rested, a doctrine which has been totally disclaimed by all the powers who made discoveries and acquired possessions in America. The other extreme would be equally improper, that is, that the nation who made such discovery should, in all cases, be entitled to the whole territory so discovered.”

Then he speaks of an island and says that if an island be discovered it all goes. At section 126 he says :

“The position of law maintained on behalf of the United States by Mr. Gallatin, in 1827, above alluded to, had been previously advanced by Mr. Rush, in 1824, when resident as Minister Plenipotentiary of the United States in London. 'I asserted,' he writes to the American Secretary of State, Hon. J. Quincy Adams, 'that a nation discovering a country by entering the mouth of its principal river at the sea coast, must necessarily be allowed to claim and hold as great an extent of the

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interior country as was described by the course of such principal river and its tributary streams.' The plenipotentiaries of the United States in support of their position appealed to the language of ancient charters _____”

and so on. Then :

“It was replied on behalf of the British plenipotentiaries, that those charters had no valid force or effect against the subjects of other sovereigns, but could only bind and restrain, *vigore suo*, those who were under the jurisdiction of the grantor of the charters, and that although they might confer on the grantees an exclusive title against the subjects of the same sovereign power, they could only affect the subjects of other sovereign powers so far as the latter might be bound, by the common law of nations, to respect acts of discovery and occupation effected by the members of other independent political communities.”

LORD ABERDARE.—That last position does not seem to have been contested by Rush.

MR. MCCARTHY.—Yes, my Lord, he contended for a much wider position. He contended that the mere discovery of the

land near a river gave the whole of the territory ; the British said not.

Lord ABERDARE.—Although a part of the land watered by the tributaries of the principal river had been already occupied.

Mr. McCARTHY.—No, My Lord, I do not think that is contended. The discoveries were always from the sea in this country, and being from the sea there could be hardly any foreign power or rival power at the head of the stream. At section 127 then he says :

“The principle involved in the position of law advanced by the United States on the above occasions, seems not to be reconcilable with other positions of law in which all nations agree. It is inconsistent in the first place, with one of the positions of law upon which the United States themselves rested their claims against Spain respecting the boundary of Louisiana, in 1805, namely, that the discovery and occupation of an extent of sea coast by a nation are understood to convey to that nation a right of possession over the interior country as far as the watershed line, which position of law Messrs. Monroe and Pinckney the commissioners of the United States, then alleged to have been completely established by the controversy between France and Spain on the one hand, and Great Britain on the other, which produced the war of 1755 between those nations. It is obvious that a claim to all the lands watered by a river and its tributaries, founded on the discovery and occupation of the mouth of the river, must conflict with a claim to all the inland territory, as far as the line of watershed, founded on the discovery and occupation of an extent of sea coast, about which latter position of law there is no dispute amongst nations.”

p. 2144

Now there are many authorities—it is not merely Sir Travers Twiss—to the same effect, and all of them are quite consistent with what I have read. My learned friend will refer to them more in detail. But what is the reason of it ? One reason is given in the book which I have just read. Another reason is that if you allow a rival nation to come to the head waters of the stream you would have no opportunity of defending yourselves against them ; they would come down with ease and swiftness, and without any opportunity being afforded of preparing for defence. And therefore it has been essential in the settlement of these new countries that some such reasonable rule should be adopted. I refer also to Sir Robert Phillimore's work, the second edition, volume 1, pages 277 and 279, where he lays it down in the same very clear and unmistakeable terms to which I have just referred.

Those are the propositions of law for which we contend ;

[22 July,
1884.]

and now to apply them.

SIXTH DAY.

Tuesday, 22nd July, 1884.

Mr. ROBINSON.—What we do contend, my Lord is this. I am anticipating my argument there, because I wish first to try and settle the construction of the charter as to what the word “granted” meant ; but what we do contend is that the English, beyond all question, had obtained Hudson's Bay and whatever goes under the construction of international law with that discovery. They had discovered Hudson's Bay ; they had taken possession of a considerable portion of the coast. Whatever, according to the rule of international law they acquired by that discovery the English had.

The LORD CHANCELLOR.—What was that ?

Mr. ROBINSON.—I cannot say.

The CHANCELLOR.—Then, when different nations are disputing about boundaries, they have recourse to abstract reasoning and certain principles and so on ; but to represent that as a rule of international law—and especially as a rule of international law which had any existence or was imagined by anybody at the time we have to consider in this enquiry—is surely a proposition which cannot be maintained. You might just as well go back to the time at which the Pope was supposed, by international law, to be able to give away whatever districts in the world he pleased. Those words “international law” are very misleading. There are certain principles generally accepted amongst nations ; there are particular reasons which have been constantly resorted to when disputes have taken place, about boundaries or otherwise, between nations, as the best available means of settling those disputes ; but to say that there is any general international law that gives to the first discoverer of the mouth of a river and a certain line of coast, as against all other nations, whether he occupies it or not, or without regard to what extent it is occupied or not, a right to all the country that is watered

by any of the rivers that come in there, is a proposition which no amount of modern books will prove.

Mr. ROBINSON.—Well, I am not desirous for one moment of arguing this question at length, or expressing any opinion of my own. All that I can say is that I find it laid down in the clearest language in the book which my learned friend has referred to, and your Lordship will find that confirmed.

The LORD CHANCELLOR.—We really cannot have the laws of the World made by gentlemen, however learned, who have published books within the last twenty or thirty years.

Mr. ROBINSON.—I do not desire to have the laws of the World made in that way.

The LORD CHANCELLOR.—Can you find any such proposition in Chancellor Kent ?

Mr. ROBINSON.—No, I do not know that he was written a word on the subject.

The LORD CHANCELLOR.—Or Wheaton ?

Mr. ROBINSON.—No, I do not think he has written upon it.

The LORD CHANCELLOR.—These writers merely generalize from the reasoning which has been employed between particular nations and particular subjects.

Lord ABERDARE.—It must be borne in mind that Charles II. was utterly unaware of the enormous bearing of such a proposition as yours.

Mr. ROBINSON.—As all the persons were who took possession, or as all the powers were who took possession, of the new world at the time ; nevertheless the other grants were construed upon that footing.

The LORD CHANCELLOR.—It is quite certain that France never recognized any such idea, nor can I perceive that it was ever suggested on the part of the Hudson's Bay Company in the early stages. We first meet with it in the Selkirk grant of 1814.

Mr. ROBINSON.—You will find some grants by France very much upon the same principle, granting rivers, and the lands upon rivers, which were held to mean the same thing ; but at all events, I have in Sir Robert Phillimore's work, the last edition, first volume, page 277, and the previous edition at page 338——

Lord ABERDARE.—Are those the pages which were substantially read yesterday ?

[3 Aug.
1878.]**ONTARIO-MANITOBA BOUNDARY CASE.**

AWARD OF THE ARBITRATORS.

To all to whom these presents shall come :

The undersigned, having been appointed by the governments of Canada and Ontario as arbitrators to determine the northerly and westerly boundaries of the Province of Ontario, do hereby determine and decide the following are and shall be such boundaries ; that is to say :—

Commencing at a point on the southern shore of Hudson Bay, commonly called James' Bay, where a line produced due north from the head of Lake Temiscaming would strike the said south shore ; thence along the said south shore westerly to the mouth of the Albany River ; thence up the middle of the said Albany River and of the lakes thereon, to the source of the said river at the head of Lake St. Joseph ; thence, by the nearest line, to the easterly end of Lac Seul, being the head waters of the English River ; thence westerly, through the middle of Lac Seul and the said English River, to a point where the same will be intersected by a true meridional line drawn northerly from the International Monument placed to mark the most northwesterly angle of the Lake of the Woods by the recent Boundary Commission ; and thence due south, following the said meridional line, to the said International Monument ; thence southerly and easterly, following upon the international boundary line between the British possessions and the United States of America, into Lake Superior.

But if a true meridional line drawn northerly from the said international boundary at the said most north-westerly angle of the Lake of the Woods shall be found to pass to the west of where the English River empties into the Winnipeg River, then, and in such case, the northerly boundary of Ontario shall continue down the middle of the said English River to where the same empties into the Winnipeg River, and shall continue thence, on a line drawn due west from the confluence of the said English River with the said Winnipeg River, until the same will intersect the meridian above described ; and thence due south, following the said meridional line, to the said International Monument ; thence southerly and easterly, following upon the international

boundary line between the British possessions and the United States of America, into Lake Superior.

Given under our hands, at Ottawa, in the Province of Ontario, this third day of August, eighteen hundred and seventy-eight.

ROBT. A. HARRISON.
EDWD. THORNTON.
F. HINCKS.

Signed and published
in the presence of—

E. C. MONK.
THOMAS HODGINS.

[11 Aug.
1884.]**ONTARIO-MANITOBA BOUNDARY CASE.**

IMPERIAL ORDER IN COUNCIL, 11TH AUGUST, 1884, EMBODYING HER
MAJESTY'S DECISION ON THE REPORT FROM THE JUDICIAL COMMITTEE
OF HER PRIVY COUNCIL, DATED 22ND JULY, 1884.

At the Court, at Osborne House, Isle of Wight, the 11th day of
August, 1884.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY.
HIS ROYAL HIGHNESS THE PRINCE OF WALES.

LORD PRESIDENT.	EARL OF NORTHBROOK.
LORD STEWARD.	Sir T. ERSKINE MAY.
Earl GRANVILLE.	Sir A. COOPER KEY.

WHEREAS there was this day read at the Board a Report from the
Judicial Committee of the Privy Council, dated the 22nd of
July last past, in the words following, viz. :—

“Your Majesty having been pleased by your Order in
Council of the 26th June, 1884, to refer unto this
Committee the humble petition of Oliver Mowat, Your
Majesty's Attorney-General for the Province of Ontario,
as representing that Province, and of James Andrews
Miller, Your Majesty's Attorney-General for the Province
of Manitoba, as representing that Province, in the matter
of the boundary between the Provinces of Ontario and
Manitoba, in the Dominion of Canada, between the
Province of Ontario of the one part and the Province of
Manitoba of the other part, setting forth that a question
has arisen, and is in dispute, between the Provinces of
Ontario and Manitoba, respecting the western boundary
of the Province of Ontario, and it has been agreed
between those Provinces to submit such question to Your
Majesty in Council for determination ; the following
Special Case has accordingly been agreed upon between
the petitioners as representing the two Provinces aforesaid
:—

“ 'SPECIAL CASE.

“ 'The Province of Ontario claims that the western

boundary of that Province is either (1) the meridian of the most north-westerly angle

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of the Lake of the Woods, as described in a certain Award made on the 3rd August, 1878, by the Honourable Chief Justice Harrison, Sir Edward Thronton [sic], and Sir Francis Hincks, or (2) is a line west of that point.

“ The Province of Manitoba claims that the boundary between that Province and the Province of Ontario is (1) the meridian of the confluence of the Ohio and Mississippi Rivers, or (2) is that portion of the height of land dividing the waters which flow into Hudson's Bay from those which empty into the valley of the Great Lakes, and lying to the west of the said meridian line.

“ It has been agreed to refer the matter to the Judicial Committee of Her Majesty's Privy Council, and an Appendix has been prepared containing the materials agreed to be submitted with this Case for the adjudication of the dispute ; each and every of the particulars in the said Appendix is submitted quantum valeat, and not otherwise.

“ In addition to the particulars set forth in the Appendix, any historical or other matter may be adduced which, in the opinion of either party, may be of importance to the contention of such party, and (subject to any rule or direction of the Judicial Committee in that behalf) such additional matter is to be printed as a separate Appendix by the party adducing the same, and copies are to be furnished at least ten days before the argument.

“ The book known as the Book of Arbitration Documents may be referred to in the argument for the purpose of shewing in part what materials were before the Arbitrators.

“ It is agreed that in the discussion before the Judicial Committee of the Privy Council reference may be made to any evidence of which judicial notice may be taken, or which (having regard to the nature of the case and the parties to it) the Privy Council may think material and proper to be considered, whether the same is or is not contained in the printed papers.

“ The questions submitting to the Privy Council are the following : —

“ '(1) Whether the Award is or is not, under all the circumstances, binding ?

“ '(2) In case the Award is held not to settle the boundary in question, then what, on the evidence, is the true boundary between the said Provinces ?

“ '(3) Whether, in case legislation is needed to make the decision on this case binding or effectual, Acts passed by the Parliament of Canada and the Provincial Legislatures of Ontario and Manitoba in connection with the Imperial Act 34 and 35 Vict., cap. 28, or other-

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wise, will be sufficient, or whether a new Imperial Act for the purpose will be necessary.

“ 'O. MOWAT,

“ 'Attorney-General of Ontario.

“ 'JAMES A. MILLER,

“ 'Attorney-General of Manitoba.'

“And humbly praying that Your Majesty in Council will be pleased to take the said Special Case into consideration, and that the said Special Case may be referred by Your Majesty to the Lords of the Judicial Committee of the Privy Council to report thereon to Your Majesty at the Board, and that such Order may be made thereupon as to Your Majesty shall seem meet. The Lords of the Committee, in obedience to Your Majesty's said Order of Reference, have taken the said humble Petition and Special Case into consideration, and having heard counsel for the Province of Ontario, and also for the Province of Manitoba, their Lordships do this day agree humbly to report to Your Majesty as their opinion :—

“ 1. That legislation by the Dominion of Canada, as well as by the Province of Ontario, was necessary to give binding effect as against the Dominion and the Province to the Award of the 3rd August, 1878, and that, as no such legislation has taken place, the Award is not binding.

“ 2. That, nevertheless, their Lordships find so much of the boundary lines laid down by that Award as relate to the territory now in dispute between the Province of Ontario and the Province of Manitoba to be substantially correct and in accordance with the conclusions which their Lordships have drawn from the evidence laid before them.

“3. That, upon the evidence, their Lordships find the true boundary between the western part of the Province of Ontario and the south-eastern part of the Province of Manitoba to be so much of a line drawn to the Lake of the

Woods, through the waters eastward of that lake and west of Long Lake, which divide British North America from the territory of the United States, and thence through the Lake of the Woods to the most north-western point of that lake, as runs northward from the United States boundary, and from the most north-western point of the Lake of the Woods a line drawn due north until it strikes the middle line of the course of the river discharging the waters of the lake called Lake Seul, or the Lonely Lake, whether above or below its confluence with the stream flowing from the Lake of the Woods towards Lake Winnipeg, and their Lordships find the true boundary between the same two Provinces

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to the north of Ontario and to the south of Manitoba, proceeding eastward from the point at which the beforementioned line strikes the middle line of the course of the river last aforesaid, to be along the middle line of the course of the same river (whether called by the name of the English River or, as to the part below the confluence, by the name of the River Winnipeg) up to Lake Seul, or the Lonely Lake, and thence along the middle line of Lake Seul, or the Lonely Lake, to the head of that lake, and thence by a straight line to the nearest point of the middle line of the waters of Lake St. Joseph, and thence along that middle line until it reaches the foot or outlet of that lake, and thence along the middle line of the river by which the waters of Lake St. Joseph discharge themselves, until it reaches a line drawn due north from the confluence of the rivers Mississippi and Ohio which forms the boundary eastward of the Province of Manitoba.

“ 4. That without expressing an opinion as to the sufficiency or otherwise of concurrent legislation of the Provinces of Ontario and Manitoba, and of the Dominion of Canada (if such legislation should take place), their Lordships think it desirable and most expedient that an Imperial Act of Parliament should be passed to make this decision binding and effectual.”

Her Majesty, having taken the said Report into consideration, was pleased by and with the advice of Her Privy Council to approve thereof, and to order, as it is hereby ordered, that the same be punctually observed, obeyed and carried into execution. Whereof the Governor-General of the Dominion of Canada, the Lieutenant-Governor of the Province of Ontario, the Lieutenant Governor of the Province of Manitoba, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

THE EXTENT OF THE PUBLIC RIGHT OF FISHERY.

No. 911.

[1891.]

EXTRACTS FROM CASES. 1670—1891.

EXTRACTS FROM SMITH v. ANDREWS.
(1891) 2 Ch. D. 678, 692, 693.

NORTH J. The Plaintiff's title having been thus challenged she has thought it necessary or desirable to prove it from the earliest times. I do not quite understand why this course had been adopted. It would certainly have been necessary if that portion of the Thames now in question had been affected by the ebb and flow of the tide as well as been navigable, for then the bed or soil of the river would have been in the Crown and the right of fishing in the public unless the Plaintiff could have made out a valid title to the fishery based upon some grant by the Crown antecedent to Magna Carta. But it is not suggested in this action that the Thames, in which we know that in Lord Hale's time long before Teddington Lock was built the tide was not felt above Kingston, was ever tidal at the part now in question

[1780.]

EXTRACTS FROM THE KING v. SMITH.
[1780] 2 Douglas 441, 444.

. . . . The case was argued by Erskine for the prosecution and Hunter for the Defendants. . . .

Hunter insisted . . . the sea did not properly flow above London Bridge. The tide beyond that limit was occasioned by the pressure and accumulation backwards of the river water. Therefore the soil there did not belong to the Crown. . . .

Lord Mansfield told Erskine it was unnecessary for him to reply. His Lordship said the distinction between rivers navigable and not navigable, and those where the sea does or does not ebb and flow was very ancient but that what Hunter contended for, viz. a distinction between the case of the tide occasioned by the flux of sea water, or by the pressure backwards of the fresh water of a river, seemed to be entirely new, and that there were no facts set forth in the case which let in the consideration of that distinction. That the case did not state whether the water when the tide rises at Richmond is fresh or salt, but that it rather took it for granted that it is salt,

[1670.]

describing the Thames generally as a navigable river.

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LORD FITZWALTER'S CASE.

1 mod. 105.

A trial at Bar concerning the river of Wall-Fleet : the question was whether the Defendant had not the right of fishing there exclusive of all others.

HALE C.J. In case of a private river the lord's having the soil is good evidence to prove that he hath the right of fishing and it puts the proof upon them that claim liberam piscariam. But in case of a river that flows and reflows, and is an arm of the sea, there, *prima facie*, it is common to all : and if any will appropriate a privilege to himself, the proof lieth on his side ; for in case of an action of trespass brought for fishing there it is *prima facie* a good justification to say that the *locus in quo* is *brachium maris in quo unusquisque subjectus dom. Regis habet et habere debet liberam piscariam*. In the River Severn there are particular restraints as *gurgites* etc., but the soil doth belong to the lords on either side : and a special sort of fishing belongs to them likewise ; but the common sort of fishing is common to all. The soil of the River of Thames is in the King ; and the Lord Mayor is conservator of the river, and it is common to all fishermen : and therefore there is no such contradiction bewixt [sic] the soil being in one and yet the river being common for all fishers, etc.

[1862.]

EXTRACT FROM MALCOMSON v. O'DEA.

[1862] 10 H.L.C. 593.

Mr. Justice Willes delivered the unanimous opinion of the Judges.

. . . Some discussion took place during the argument as to the proper name of such a fishery, whether it ought not to have been called in the pleadings (following Lord Blackstone) a “free” instead of a “several” fishery. This is more of a confusion which the ambiguous use of the word “free” has occasioned from a period as early as that of the Year Book of 7 H. 7 P. f o. 13 down to the case of *Hoford v. Bailey*, 13 Q.B. Rep. 426, where it was clearly shown that the only substantial distinction is between an exclusive right of fishery usually called “several” sometimes “free” (used as in free warren) and a right in common with others usually called “common of fishery” sometimes “free” (used as in free port).

[1882.]

EXTRACT FROM PEARCE v. SCOTCHER.

CASE STATED BY JUSTICES FOR DENBIGH UNDER 20 & 21 VIC. CAP. 43.

1. . . . A complaint was heard upon an information preferred by a river watcher against the Defendant charging that he at the Parish of Ruabon by angling unlawfully and wilfully did attempt to

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take certain fish called salmon, then being found in a stream of water there known as the River Dee, wherein Arthur Mostyn Owen and others there had a private right of fishery,. . . . the justices dismissed the information

5. The River above Eibistock Weir (including the place mentioned in the information) is not tidal nor capable of being navigated except by small pleasure boats or fishing boats called corraclles, or barges carrying very light weights ;

5A. For the purposes of this case, but not otherwise, it was to be taken as a fact admitted by both parties that the River Dee at the place where the respondent fished is a public navigable river and highway for the public to pass and repass in corraclles and such light craft as are suitable for such navigation.

10. It was contended on the part of the respondent that the fishing at this place belonged to the public,

11. It was contended on the part of the appellant that, as the Dee at this spot is not a tidal river, the right of fishery necessarily belonged to the owner of land over which the river ran,

GROVE, J. I entertain no doubt in this case. It is determined by authority. The cases cited by Mr. Matthews are all uniform and consistent with the rule laid down in *Hale de Jure Maris*, and by Sir John Davis in *The Banne*.* Mr. M'Intyre's argument amounts to this,—It being conceded that the public have enjoyed the right of navigating this river at the spot in question, and as navigation is some evidence of ownership of the soil, the right to fish follows. But, to sustain his argument, he must go further, and shew not only that the public have the right stated in par. 5A. of the case, but also that they have a right to take fish from the river at a point where it ceases to be tidal. The cases of *Reg. v. Burrow*† and *Bristow v. Cormican*,‡ as explained by Mr. Matthews, do not in reality conflict with the strong current of decisions. The question is not whether the river Dee at the spot in question is more or less navigable, but whether the spot at which the respondent claims the right to fish is within the flow and reflow of the tide. I think it is a perfectly clear case, and that the appeal must be allowed.

HUDDLESTON, B. I also am of opinion that the justices were

bound to convict. The whole case is disposed of when you read paragraphs 5 and 5A of the statement. The distinction is clear upon the whole current of authorities in this country and in Ireland, that, where a river is navigable and tidal, the public have a right to fish therein as well as to navigate it ; but that, where it is navigable but not tidal, no such right exists.

Judgment for the Appellant.

* Davis 55

† 34 J.P. 53.

‡ 10 Ir. Rep. C.L. 398.

No. 912.

**EXTRACT FROM VALIN'S NOUVEAU
COMMENTAIRE [1766] SUR L'ORDONNANCE DE LA
MARINE DU MOIS D'AOÛT 1681**

[1766.]

VOL. II. 691.

LIV. V TIT 1. ARTICLE I.

DECLARONS LA PÊCHE DE LA MER LIBRE ET COMMUNE À TOUS NOS
SUJETS, AUXQUELS NOUS PERMETTONS DE LA FAIRE, TANT EN
PLEINE MER QUE SUR LES GREVES AVEC LES FILETS ET ENGIS
PERMIS PAR LA PRÉSENTE ORDONNANCE.

La permission de faire la pêche, tant sur les groves qu'en pleine mer, suppose nécessairement dans celui qui la donne, le pouvoir de la defendre, en vertu de son droit de propriété et domanial sur les memes greves et sur la mer qui vient y briser ses flots.

Il est de principe en effet, comme on l'a montré sur l'article 26 du titre des naufrages, que ce qui n'est à personne en particulier, mais appartient à la République, c'est-à-dire à la communauté d' un Etat souverain, est dévolu de plein droit, au Prince, dans un Etat monarchique comme étant le chef de la nation, et comme réunissant à ce titre, en sa personne, tous les droits communs à la nation, du nombre desquels est le domaine de la mer et de toutes les côtes et greves qui en sont baignées. Omne imperium in Caesarem translatum est omnisque populi et plebis potestas in principium translata. Instil. lib 1° de jure naturali etc Tit 2 sed et quod.

Le Souverain pourroit donc s'en reserver l'usage et le droit d'y pêcher, ou le céder à qui bon le sembleroit, par preference à tous autres. Mais nos Rois toujours plus attentifs au bien général de leurs sujets qu'à leurs intérêts propres ; ou, si l'on veut, parce que le bien général des sujets fournit toujours au Souverain un ample dédommagement du sacrifice qu'il leur fait de ses droits particuliers : nos Rois, dis-je, se sont, dans tous les temps, fait une loi de laisser libre et commune à leurs sujets la peche de la mer ; et cette loi à été irrévocablement confirmée par le present article.

De sorte que tout ce qui peut goner cette liberté de la pêche soit sur les greves, soit en mer, est défavorable de sa nature, et ne doit par consequent être toléré qu'autant que ceux qui prétendent s'attribuer un droit de pêche exclusif, sont fondés en titres valables, ou en possession suffisante pour s'y faire maintenir.

Cependant en même temps que nos Rois ont dérogé à leur droit de souveraineté en cette partie, en laissant à leurs sujets la liberté de la pêche

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en mer et sur les greves, sans en exiger aucun tribut, ils se sont réservés le droit de veiller à la police de cette pêche, et par là de régler la manière de la faire, de prescrire les temps et les lieux où elle pourroit être pratiquée ou interdite ; enfin de déterminer la forme et la maille des filets et engins qui pourront y être employés.

Excepté ces pares et pêcheries, il est permis à quiconque de pêcher sur les greves de la mer, soit du poisson, soit du coquillage. . . .

Pour ce qui concerne la pêche dans les étangs et les rivières, au-dessus de l'endroit où le flux et reflux de la mer cesse de se faire sentir, il faut voir l'Ordonnance des Eaux et Forêts.

No. 913.

N

[1787.]

EXTRACT FROM HALE DE JURE MARIS CAP. IV.

In Hargrave's Tracts, pp. 10-14.

Concerning the King's interest in salt waters, the sea and its arms, and the soil thereof : and first, of the right of fishing there.

Thus much concerning fresh waters or inland rivers, which though they empty themselves mediately into the sea are not called arms of the sea, either in respect of the distance or smallness of them.

We come now to consider the sea and its arms : and first, concerning the sea itself.

The sea is either that which lies within the body of a County or without.

That arm or branch of the sea which lies within the *fauces terrae*, where a man may reasonable discern between shore and shore, is or at least may be within the body of a County and therefore within the jurisdiction of the Sheriff or Coroner. 8.E.2. Corone 399.

The part of the sea which lies not within the body of a County, is called the main sea or ocean.

The narrow sea, adjoining to the coast of England, is part of the wast and demesnes and dominions of the King of

England, whether it lie within the body of any County or not.

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This is abundantly proved by that learned treatise of master Selden called *Mare Clausum* ; and therefore I shall say nothing therein, but refer the reader thither.

In this sea the King of England hath a double right, viz a right of jurisdiction which he ordinarily exerciseth by his Admiral and a right of propriety or ownership. The latter is that which I shall meddle with.

The King's right of propriety or ownership in the sea and soil thereof is evidenced principally in these things that follow.

1st. The right of fishing in this sea and the creeks and arms thereof is originally lodged in the Crown, as the right of depasturing is originally lodged in the owner of the wast whereof he is Lord, or as the right of fishing belongs to him that is the owner of a private or inland river. I shall not give many instances of this because they are abundantly done to my hand in the book I formerly cited.

Pat. 23. E.1. m. 6. The King grants liberty to the Hollanders to fish *in mari nostro prope Jernemuth*.

Rot. Parliamenti 3 H. 5 pars 1 n 33. The King by proclamation made a general inhibition of fishing upon the coasts of Ireland to the prejudice of the English. Desired to be recalled, but was not.

Rot. Parl. 8. H. 5 n 6.

Item pry le commons, que come nostre seigneur le roy et ses nobles progeniteurs de tout temps ont estre seigneurs de le mere, et ore per le grace de dieu est si venus que nostre seigneur le roy est seigneur de costs de ambe parties de le mere d'ordeiner sur tous les estrangers passants permy le dit mere tiel imposural oeps nostre seigneur le roy apprendre que a luy semble reasonable pur le salve gard del dit mere.

Responsio, "Le Roy s'avisera."

But though the King is the owner of this great wast and as a consequent of his propriety hath the primary right of fishing in the sea and the creekes and armes thereof ; yet the common people of England have regularly a liberty of fishing in the sea or creekes or armes thereof, as a publick common of piscary, and may not without injury to their right be restrained of it unless in such places creeks or navigable rivers, where either the King or some particular subject hath gained a propriety exclusive of that common liberty.

Mich. 19. E. 3.B. R. Rot. 127 Lincoln. The commonalty of Grimsby impleaded the fishermen of Ole, which is within five miles of Grimsby, for lading and unlading their fish and other victuals at Ole ;

Custuma non soluta, quae est debita dictae villae Grimsby juxta cartas regis contra prohibitionem regis.

The Defendants plead,

Quod ipsi sunt libeni tenentes in hamletto de Thrusco, qui

est infra praecinctum villae de Ole, et quod ipsi tanquam piscatores juxta costeram maris a tempore quo etc usi sunt piscari cum retibus et battellis suis, et pisces captos ad terram apud Thrusco et alibi in patria ibidem venditioni exponere, absque hoc quod

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blada victualia bona aut mercimonia carcarunt aut discarcarunt aut venditioni exposuerunt ideo veniat jurata.

Vide statutum 2 E. 6. cap 6 5 El. cap. 5. Bracton lib. 2. cap. 12. Jus piscandi omnibus commune in portu et in fluminibus. It must be taken to be rivers that are arms of the sea, and *primo intuitu* ; for de facto there doth fall out in many ports and arms of the sea an exclusion of public fishing by prescription or custom.

IId. The next evidence of the King's right and propriety in the sea and the arms thereof is his right of propriety to

The shore ; and

The *maritima incrementa*.

(1) The shore is that ground that is between the ordinary high-water and low-water mark. This doth prima facie and of common right belong to the King, both in the shore of the sea and the shore of the arms of the sea.

And herein there will be these things examinable.

1st. What shall be said the shore, or *littus maris*.

2nd. What shall be said an arm or creek of the sea.

3rd. What evidence there is of the King's propriety thereof.

*sic.

1. For the first of these it is certain that that which the sea overflows, either at high-spring tides or at extraordinary tides, comes not as to this purpose under the denomination of *littus maris* ; and consequently the King's title is not of that large extent, but only to land that is usually overflowed at ordinary tides. And so I have known it ruled in the Exchequer-chamber in the case of Vanhaesdanke on prosecution by information against Mr. Whiting about 12 Car 1. for lands in* in the County of Norfolk, and accordingly ruled 15 Car. B.R. Sir Edward Heron's Case and Pasch. 17 Car. 2. in *Scaccario* upon evidence between the Lady Wansford's Lessee and Stephens, in an *ejectione firmae* for the town of Cowes in the Isle of Wight. That therefore I call the shore, that is between the common high-water and low-water mark and no more.

2. For the second, that is called an arm of the sea where the sea flows and reflows, and so far only as the sea so flows and reflows ; so that the river of Thames above Kingston and the river of Severn above Tewkesbury etc. though there they are publick rivers, yet are not arms of the sea. But it seems that, although the water be fresh at high water, yet the denomination

of an arm of the sea continues, if it flow and reflow as in Thames above the Bridge.

22 Ass. 93. *Nota que chescum ew que flow et reflow est appel bras de mere cy tantavint come il flow.*

3. For the third it is admitted that *de jure communi* between the highwater and low-water mark doth *prima facie* belong to the King, 5 Rep. 107.

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Constable's Case. Dy. 326. Although it is true that such shore may and commonly is parcel of the manor adjacent, and so may be belonging to a subject, as shall be shewn, yet *prima facie* it is the King's.

And as the shore of the sea doth *prima facie* belong to the King, viz between the ordinary high-water and low-water mark, so the shore of an arm of the sea between the high-water and low-water mark belongs *prima facie* to the King, though it may also belong to a subject, as shall be shewn in the next chapter.

In the case between the town of Newcastle and the prior of Tinnmouth 20 E.1. which is afterwards, in the Second Part, chapter the 6th, more fully recited ; one of the charges against the prior is that he had built houses at Sheles upon the river of Tyne between the high-water and low-water mark. The prior pleads that it was built on his own soil.

Ubi dominus rex nullum habet solum, neque liberum tenementum, eo quod solum dictae domus et liberum tenementum extendit se usque ad filum aquae Tyne ultra terram suam siccam, et inter quod quidem filum aquae et terram praedictam domus praedicta habet piscariam suam liberam in longitudinem terrae ejusdem in eadem aqua.

The King's Attorney replied,

Quod qualescumque mansiunculae ibidem fuerunt temporibus praedecessorum prioris, idem prior, qui nunc est, tempore suo fieri fecit ibidem 26 domus super solum quod domino regi esse debet, eo quod fluxu et inundatione maris comprehenditur.

Afterwards judgment was given against the prior, but not in express termes for the soil, but implicitly. See the judgment afterwards in the Second Part, 6th chapter.

And consonant to this there was a decree Paschae 8 Car 1. in the Exchequer, entered in the book of Orders of that Term, Fol. 66 whereby it was decreed that the soil and ground lying between Wapping Wall and the river of Thames is parcel of the Port of London ; and therefore and for that the same lies between the high-water and low-water mark of the river of Thames, all the houses built between the Hermitage-wharfe unto Dickshore eastward and between the old wall of Wapping-Wall on the north and the river of Thames on the south, are decreed to the King ; and the same were accordingly by commission seized into the King's hands.

The title of the bill or information was laid, viz. 1st That the river of Thames flowed and reflowed. 2nd That consequently it was an arm of the sea. 3rd That it was the King's river. 4th That it was the King's port.—And upon all these it was concluded that the land between the high-water and low-water mark was the King's land, and accordingly decreed.

And this shall suffice for the King's right in the shore of the sea, or rivers that are arms of the sea, viz the land lying between the high-water and the low-water mark at ordinary tides.

No. 914.

[1847.]

**EXTRACTS FROM ANGELL'S "THE RIGHT OF
PROPERTY IN TIDE WATERS," 2nd Ed., BOSTON,
1847.**

Ch. iii. p. 66.

Having shown that by the common law as expounded and settled in England, and as recognised and applied by the judicial tribunals in the United States, the right of property in tide waters and in the soil under their surface, is prima facie in the sovereign, and held subject to the right of use of the public or jus publicum ; in order to determine the exact limits of this sovereign and public right, it next becomes necessary to consider what, in legal acceptance is understood by the terms "shore", "high-water mark" and "navigable river".

* * * *

*p. 2152.

The rule as to ordinary high-water mark applies as well to the shore of an arm of the sea, or wherever the tide flows and reflows, as to the shore by the sea itself. And an arm of the sea is considered as extending as far into the interior of a country, as the water of fresh rivers is propelled backwards by the ingress and pressure of the tide. To the extent that such fresh rivers are backwardly propelled, they are denominated "navigable" rivers ; and to determine whether or not a river is "navigable", both in the common law and in the Admiralty acceptance of that term, regard must be had to the ebbing and flowing of the tide. In the Supreme Court of the United States, in a case which came up from the district Court of the Eastern district of Louisiana, the question was presented of admiralty jurisdiction in the river Mississippi, which the Court considered was to be determined by the ebbing and flowing of the tide ; and in determining the question, the ordinary state of the water, uninfluenced by any extraordinary freshets, was to be regarded. *Peyroux v. Howard* 7 Peters (U.S.) R. 324.

*p. 2415.

It was urged in * *Rex v. Smith* (2 Doug. R. 441), that the river Thames, above London Bridge, was not navigable, although it was flowing and reflowing, inasmuch as the tide beyond that limit was occasioned by the pressure and accumulation backward of the fresh water. But the distinction attempted was, by Lord Mansfield, pronounced new and inadmissible. In a case, in the British House of Lords, where the question was, what was to be considered "river" and what "sea" ; and where the direction was, that the thing to be looked to is the fact of the absence or prevalence of the fresh water,

though strongly impregnated with salt ; the direction was held to be erroneous. * *Horne v. Mackenzie* 6 Clark & Finn

p. 2161

R. 628. The Supreme Court of the United States, referring to the above case of *Rex v. Smith*, have decided that although the current in the river Mississippi at New Orleans, may be so strong as not to be turned backwards by the tide ; yet if the effect of the tide upon the current is so great as to occasion a regular rise and fall of the water, it might properly be said to be within the ebb and flow of the Tide. *Peyroux v. Howard* 7 Peters (U.S.) R. 324. The Colonial ordinance of Massachusetts of 1641, is applicable wherever the tide ebbs and flows, though it be fresh water thrown back by the influx of the sea. *Lapish v. Bangor Bank* 8 Greenl. (Me.) R. 85.

There is therefore an important distinction between the term “navigable” as applied to a river, in its technical sense, and in the common acceptance of it when so applied. In the case of the Royal Fishery of the river Banne in Ireland, *Davies'* R. 149 it was resolved “that there are two kinds of rivers, navigable and not navigable ; thus every navigable river, so high as the sea ebbs and flows in it, is a royal river and belongs to the King by virtue of his prerogative ; but in every other river, and in the fishery of such other river the tertendants on each side have an interest of common right ; the reason for which is, that so high as the sea ebbs and flows, it participates of the nature of the sea, and it is said to be a branch of the sea so far as it flows.”

Ch. v. p. 124.

Fishery in the sea and in the waters which are made to flow inland therefrom by its egress and influence, constituting as it does a great source of sustentation, has in all ages and in all Countries been deemed of such importance, that it has ever been regarded a privilege open and common to all persons. Selden in his *Mare Clausum* and Grotius, *De Jure Gentium*, have collected from the works of the learned of all civilised nations, as well philosophers, divines, and poets, as lawyers, to prove that the waters of the sea are, conformably to the use which nature intended them, as common to all men as the air which blows over them. The obvious justice that fishery in such waters should be free open and common to every one, has made it a part of the civil law and of the common law. *Jus piscandi*, says the former, *omnibus commune est in portu fluminibusque*. (Just. I 2 § 1.) The civil law on the subject, is the customary law of France, and is recognised and expressly confirmed, by the ordinance of Louis XIV, which thus declares, (47)—“We declare the fishing in the sea to be common to all our subjects, whom we allow to fish, as well in the high sea, as upon the shore, with the nets and engines specified in this ordinance.” The civil code of Louisiana declares, that navigable rivers, sea ports, roads, harbours, etc.,

are among things public, or among things the use of which is allowed to all the members of the nation ; and that hence it follows that every man has a right freely to fish in the rivers, ports, roads and harbours. (Civil code of Louisiana Fisheries, Art. 6.)

p. 2162

By the common law (though the right of fishery is subservient in a measure to the right of navigation) it has ever been well settled that no member of the community can be excluded from an equal and fair participation of the benefit afforded by tide waters of fishing therein, so long as it remains unrelinquished or not curtailed by public authority, or so long as no particular and exclusive right has been acquired by an individual by prescription, or by the inhabitants of a place, by custom. In England, although the King, says Lord Hale, “has the primary right of fishing in the sea, and the creeks and arms thereof ; yet the common people of England have regularly a liberty of fishing in the sea, or the creeks and arms thereof, as a public common of piscary, and may not without injury to their right, be restrained in the exercise of it, unless in such places, creeks or navigable rivers, where either the King or some particular subject has acquired a property exclusive of this common liberty.” The doctrine as thus laid down is expressly recognised in *Carter v. Murcot*, 4 Burr. R. 2162, in which it was asserted by Lord Mansfield, that a man may have an exclusive privilege of fishing in an arm of the sea ; but such right is not to be presumed, it must be proved. In the same case, Yates J. observed, that he knew a case to fail wherein an exclusive right was claimed, because no prescription was proved, and in that case it was determined, that the right of fishing in the salt water was common to all. The case of the *Mayor and Commonalty of Oxford v. Richardson*, 4 T.R. 437, in the King's Bench and afterwards in the Exchequer Chamber was determined wholly on the ground that every subject, prima facie, has a right to fish in an arm of the sea.

[1888.]

**EXTRACTS FROM MOORE AND HALL ON
FORESHORES. 1888**
(3RD EDITION.)

Now, as we have already attributed the absolute ownership of the sea and sea-shore to the King, ab origine, it might be thought that the above perquisites are absolutely his own, and grantable exclusively to any one of his subjects. But according to the acknowledged law of the land, although the King is owner of this great waste, yet the common people of England have regularly a liberty of fishing in the sea, and creeks and arms thereof, and in navigable rivers within the tides, as a public common of piscary.

This public or general right of fishing in the sea, claimed by the subject, is a beneficial privilege enjoyed by British subjects, time out of mind. Whether, in fact, it was originally a public grant from the King, or whether it was a reservation by the people of such right, when they vested the rest of the property of the sea in him or whether it be one of those natural and necessary rights which, like the air we breathe, has ever been free and unquestioned in enjoyment, is immaterial ; for the conclusion is the same ; viz. that such right of fishing has immemorially belonged to, and been enjoyed by the public, and that, in point of title, it is admitted to be held and enjoyed by the common right i.e. by the common law, and custom of the Realm.

The public right, or common of piscary, claimed and allowed by the common law to the people of England in the sea, extends, not only over the open sea, but over all bays, creeks, ports, havens, arms of the sea, and tide-rivers, up to the reach of the tide, and also, as it would seem, over and upon the sea-shore itself, for such kinds of fish as are usually caught upon the rocks, and sands of the coast. But in some cases, statute law has set bounds to the exercise of this right., in respect of seasons, particular kinds of fish, and manner of fishing. There are also other excepted case s ; viz. where private individuals or Corporate bodies claim and enjoy a separate fishery, in some particular places, in derogation and exclusion of the general right.

[1903.]

**EXTRACTS FROM MOORE ON FISHERIES (1903), Ch.
XIX.**

In tidal waters, estuaries, and arms of the sea below the high water mark of ordinary tides situate within the limit of the kingdom, as fixed by the Territorial Waters Jurisdiction Act, 1878, the public, as subjects of the realm, have the right to fish to the exclusion of the subjects of all foreign powers, except in such parts of those tidal waters as have been legally appropriated as private fisheries. In such parts, so legally appropriated and granted to a subject, no public right exists, or can exist, and can be acquired by the public by user, however long existing ; and such parts being put in defence as against the public are in the same condition as regards any public right of fishing as the non-tidal waters.

The limit seawards of the public right exclusive of subjects of foreign states is the limit of the kingdom as fixed by the Territorial Waters Jurisdiction Act, 1878 ; the limit landwards, where the public right ends and the private right of owners of non-tidal fisheries commences, has given rise to much discussion. In non-tidal waters, viz., in rivers and lakes, ponds, canals, and artificial watercourses, the public have not, and cannot acquire by any means, a right to fish as members of the public. The right of the public depends wholly upon the existence of tidal influence at the spot in question. Notwithstanding that the river or water may have been navigable and navigated from time immemorial, if it is not also tidal there can be no right in the public to fish, not even when it is proved that they have so fished from a period beyond the time of living memory.

There was formerly an erroneous impression that where a river was a public navigable river, although not tidal, the public had a prima facie right to fish. It was, in fact, contended that the navigability of the river imparted the public right, and that it was not necessary that the river should be also tidal. In one case, the claim of the public to fish was made as to the river Itchen, a non-tidal river made navigable by means of a canal system. The point has been definitely decided, and is summed up by Grove, B. and Huddleston B., thus : “The distinction is clear upon the whole current of authorities in this country and in Ireland that when a river is navigable and tidal the public have a right to fish there as well as to navigate it ;

but that when it is navigable but not tidal, no such right exists.”*

* *Pearce v. Scotcher*, [1882] 9 W.B.D. 162. See p. 2153.
p. 2165

It is therefore now settled law that the right of the public to fish depends upon the water being tidal and not comprised within the limits of any several fishery. This is founded on the theory that the soil of the sea and tidal water up to the flow of the ordinary tides, as settled by the case of *Att.-Gen. v. Chambers*,* is prima facie vested in the Crown, and the right of the public is co-extensive with and depends upon the limit of the prima facie right of the Crown to the soil covered by the tidal water.

No. 917.

N

**EXTRACTS FROM
ATTORNEY GENERAL FOR BRITISH COLUMBIA**

v.

ATTORNEY GENERAL FOR CANADA.

[1914.]

1914 A.C. 153.

Appeal by special leave from a judgment of the Supreme Court (February 18, 1913) answering questions referred for hearing and consideration.

* * * *

VISCOUNT HALDANE L.C. The general principle is that fisheries are in their nature mere profits of the soil over which the water flows, and that the title to a fishery arises from the right to the solum. A fishery may of course be severed from the solum, and it then becomes a profit à prendre in alieno solo and an incorporeal hereditament. The severance may be effected by grant or by prescription, but it cannot be brought about by custom, for the origin of such a custom would be an unlawful act. But apart from the existence of such severance by grant or prescription the fishing rights go with the property in the solum.

The authorities treat this broad principle as being of general application. They do not regard it as restricted to inland or non-tidal waters. They recognize it as giving to the owners of lands on the foreshore or within an estuary or elsewhere where the tide flows and reflows a title to fish in the water over such lands, and this is equally the case whether the owner be the Crown or a private individual. But in the case of tidal waters (whether on the foreshore or in estuaries or tidal rivers) the exclusive character of the title is qualified by another and paramount title which is prima facie in the public. Lord Hale in his *De Jure Maris* in a passage cited with approval by

Lord Blackburn in his judgment in *Neill v. Duke of Devonshire** states the law as follows : “the right of fishing in this sea” (i.e. the narrow seas adjoining the coasts) “and the creeks and arms thereof, is originally lodged in the Crown, as the right of depasturing is originally lodged in the owner of the waste whereof he is lord, or as the right of fishing belongs to him that is the owner of a private or inland river . . . But though the King is the owner of this great waste, and as a consequence of his propriety hath the primary right of fishing in the sea and the creeks and arms thereof, yet the common people of England have regularly a liberty of fishing in the sea or creeks or arms thereof, as a public common of piscary, and may not without injury to their right be restrained of it, unless in such places, creeks, or navigable rivers where either the King or some particular subject hath gained a propriety exclusive of that common liberty.”

* * * *

Their Lordships are in entire agreement with him on his main proposition, namely, that the subjects of the Crown are entitled as of right not only to navigate but to fish in the high seas and tidal waters alike. The legal character of this right is not easy to define. It is probably a right enjoyed so far as the high seas are concerned by common practice from time immemorial, and it was probably in very early times extended by the subject without challenge to the foreshore and tidal waters which were continuous with the ocean, if, indeed, it did not in fact first take rise in them.

* * * *

These considerations enable their Lordships to answer the first question, which reads as follows:—

“Is it competent to the Legislature of British Columbia to authorize the Government of the Province to grant by way of lease, licence, or otherwise the exclusive right to fish in any or what part or parts of the waters within the railway belt—(a) as to such waters as are tidal, and (b) as to such waters which, though not tidal, are navigable ?”

The answer to this question must be in the negative. So far as the waters are tidal the right of fishing in them is a public right subject only to regulation by the Dominion Parliament. So far as the waters are not tidal they are matters of private property, and all these proprietary rights passed with the grant of the railway belt, and became thereby vested in the Crown in right of the Dominion. The question whether non-tidal waters are navigable or not has no bearing on the question. The fishing in navigable non-tidal waters is the subject of property, and according to English law must have an owner and cannot be vested in the public generally.

* * * *

The principles above enunciated suffice to answer the third question, which relates to the right of fishing in arms of the sea and the estuaries of rivers. The right to fish is in their

Lordships' opinion a public right of the same character as that enjoyed by the public on the open seas.

* A.C. 135, 177.

PART XII.

**DOCUMENTS SHOWING THE AREA OF "COAST"
RESERVED OR CONSIDERED UTILIZABLE FOR
FISHERY PUPOSES ON THE EASTERN COASTS OF
BRITISH NORTH AMERICA AND ON THE COASTS
OF GREAT BRITAIN.**

[10 March,
1670.]

NEWFOUNDLAND.

No. 918.

C

10 Mar., 1670—**ORDER OF HIS MAJESTY KING
CHARLES II. IN COUNCIL.**

[27 Jan.
1676.]

Vide Vol. IV, page 1759.

No. 919.

C

27 Jan., 1676—**CHARTER TO THE WEST COUNTRY
ADVENTURERS FOR THE FISHERY OF
NEWFOUNDLAND.**

Vide Vol. IV, page 1777.

[16 Feb.
1680.]

16 Feb., 1680—**AMENDMENTS TO REGULATIONS BY
LORDS OF TRADE AND PLANTATIONS.**

[26 Feb.
1680.]

—
Vide Vol. IV, page 1791.

26 Feb., 1680—**FURTHER CONSIDERATION OF
NEWFOUNDLAND AFFAIRS BY LORDS OF TRADE
AND PLANTATIONS.**

[2nd June,
1786.]

—
Vide Vol. IV, page 1793.

2nd June, 1786—**INSTRUCTIONS TO GOVERNOR OF
NEWFOUNDLAND**

ARTICLE 7.

—
Vide Vol. II, page 546.

[27 May,
1802.]

27th May, 1802—**INSTRUCTIONS TO GOVERNOR OF
NEWFOUNDLAND, ARTICLE 7, AND
INSTRUCTIONS TO SUCCEEDING GOVERNORS
OF NEWFOUNDLAND UP TO AND INCLUDING
THOSE GIVEN VICE-ADMIRAL SIR CHARLES
HAMILTON, 9th MAY, 1818.**

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Vide Vol. III, pages 607, 620, 624, 641, 677, 691, 692.

No. 924.

[1905.]

**EXTRACT FROM REPORT OF AN OFFICIAL VISIT
TO THE COAST OF LABRADOR BY THE
GOVERNOR OF NEWFOUNDLAND, DURING
THE MONTH OF AUGUST, 1905.***

“The conservation of the forests of this Island in the interest of the fishermen is so well recognized and understood that a three mile margin is preserved. for them all round the Island on all the Crown lands of the Colony.”

* Appendix to Journal of Assembly, Newfoundland, (1907), p. 355.

[8 Feby.,
1923.]

**EXTRACT FROM LETTER FROM GEORGE E.
TURNER, DEPUTY MINISTER OF
AGRICULTURE
AND MINES (NEWFOUNDLAND), TO SIR
PATRICK McGRATH.**

“As to the reservation from License to cut timber over land lying within three miles of the seashore : there is no Section in the Crown Lands Act prohibiting the granting of timber on such land, but it has been the policy of succeeding Governments for many years not to grant Licenses to cut timber over lands so situate.”

* The information contained in this extract was furnished in answer to a query from the Department of Justice at Ottawa, and upon reference to the Attorney General of Newfoundland the latter stated he had no objection to its being used by the Dominion in this case.

THE FRENCH “SHORE” (NEWFOUNDLAND).**No. 926.****EXTRACT FROM “LA GRANDE PECHE DE TERRE-NEUVE ET D'ISLANDE.”**

ABBÉ. J. M. GROSSETÊTE, DOCTOR, &C. (RENNES : 1921).

CHAPTER II.

COUTUMES ET RÉGLEMENTATION.

Le Règlement de Saint-Malo pour la répartition des places.—Décrets et Ordonnances.—Nouvelle législation pour le placement. . . .

Les pêcheurs français étaient nombreux, jadis, sur les côtes de Terre-Neuve : il n'y avait pas moins de deux cents bateaux dans la seule partie orientale de l'île Les places appartenaient au premier occupant ; mais, dans la pratique, il se produisait de fréquentes contestations. Afin de couper court à des querelles et à des rixes, préjudiciables aux intérêts de tous, les armateurs de Saint-Malo, réunis en assemblée générale le 26 mars 1640, s'entendirent pour élaborer un règlement.

Le premier capitaine qui arrivait à l'anse du Croc, dans la baie du Petit-Maitre, avait droit à la meilleure place et devenait *amiral* de la pêche : en cette qualité, il était chargé de faire la police, d'arbitrer les différends et de juger les contestations. Pour obtenir ce titre et les prérogatives qui y étaient attachées, il devait inscrire, sur un tableau suspendu à un mât, son nom et celui du navire, le nombre de ses hommes, la date de son arrivée et le havre qu'il avait choisi. Ainsi faisaient, après lui, les autres capitaines. Les derniers venus se rendaient compte, immédiatement des places restées libres, et ne perdaient pas de temps en vaines recherches. Les échafauds et cabanes restaient, à la fin de la campagne, à la disposition de celui qui occuperait le même endroit l'année suivante.

Ce règlement qui s'est maintenu jusqu' à la Révolution, fut homologué par le parlement de Rennes, le 31 mars 1640. C'est le premier acte de police relatif à la pêche côtière de la morue. Les contraventions étaient punies d'une amende de 500 livres, au paiement de laquelle la cargaison et le navire lui-même pouvaient être affectés La paix revint parmi nos compatriotes. Mais bientôt arrivèrent dans cette région du Petit-Nord, où étaient confinés les Bretons, des pêcheurs qui refusèrent de se soumettre à un règlement

fait par d'autres. Les désordres recommencèrent. Les armateurs et capitaines malouins firent appel à l'autorité de Louis XIV. contre ces intrus, dont la plupart étaient normands. Par un arrêt du Conseil, en date du 28 avril 1671, le roi étendit à tous ses sujets qui viendraient sur les côtes du Petit-Nord, le règlement du 26 mars 1640 et la décision du parlement de Rennes, qui lui donnait autorité. *

L'ordonnance de la Marine du mois d'août 1681, oeuvre de Colbert, codifia les prescriptions du règlement de Saint-Malo, et en généralisa l'application. Le premier capitaine arrivé sur les lieux de pêche conservait toutes ses prérogatives d'autrefois ; on lui retirait seulement le titre d'amiral. La situation et les avantages excitaient néanmoins les convoitises des pêcheurs, qui faisaient tout pour les acquérir. Pendant la traversée, les bateaux ne cherchaient pas à se distancer, ils voguaient de conserve et les plus rapides modéraient leur allure. Mais, quand elle arrivait à quelques lieues de Terre-Neuve, la flotte se disloquait et c'était à qui le premier inscrirait son nom au tableau. Si le vent était contraire, ou s'il venait à tomber, on mettait les chaloupes à la mer, et, à force de rames, on s'efforçait avant les autres. Il en résulta de nombreux sinistres, qu'il fallait conjurer.

Une nouvelle ordonnance du roi, rendue le 8 mars 1702, défendit aux capitaines d'envoyer des chaloupes avant d'avoir mouillé, et ce, à peine de mille livres d'amende pour la première infraction, et de peines corporelles en cas de récidive. L'ordonnance de 1721, pour supprimer radicalement les inconvénients et les dangers de cette course à l'inscription, réserva désormais au plus ancien capitaine les fonctions de l'amiral de la pêche. †

Longtemps déjà avant l'arrangement du 8 avril 1904, cette législation avait complètement disparu. Les places étaient tout simplement tirées au sort. Ce nouveau mode de répartition fut réglé d'abord par le décret du 15 pluviôse an XI—4 février 1803—revu en 1815 et 1821, puis par l'ordonnance du 28 avril 1842, que complétèrent les décrets des 2 et 22 mars 1852. Dans le principe tous les trois ans, plus tard tous les cinq ans, le 5 janvier, les armateurs intéressés se réunissaient à Saint-Servan, sous la présidence du chef du service de la Marine, pour procéder au tirage.

Les navires étaient divisés en trois séries : les bâtiments de 149 tonneaux et au-dessus, avec un équipage minimum de trente hommes ; ceux de 90 à 149 tonneaux, avec un équipage d'au moins vingt-cinq hommes ; les goélettes au-dessous de 90 tonneaux, dont l'équipage n'était pas inférieur à vingt hommes. La première série choisissait d'abord, puis la deuxième, et la troisième.

Les armateurs étaient obligés, la première année, sous peine d'amendes élevés, d'envoyer à Terre-Neuve le bateau annoncé ou un autre de la même série. Ils jouissaient des installations laissées par les prédécesseurs, mais ils devaient entretenir et remettre en bon état aux remplaçants les établissements de pêche, échafauds, cabanes, qui existaient

déjà ou qu'ils avaient construits eux-mêmes. A la fin de la première année, ils pouvaient renoncer à

* Ad. Bellet, La grande pêche de la morue, p. 50-52.

† E. Hervé, Le French-Shore, p. 24.

la place que le sort leur avait attribuée. Tous les ans, il se faisait un tirage partiel entre les armateurs désireux d'occuper les havres abandonnés.*

Les anses étaient ainsi complètement occupés. Certaines baies restaient "communes" ; des "défileurs" s'y installaient et faisaient parfois un riche butin.

Le capitaine, en possession de sa place, assignait aux membres de son équipage des fonctions en rapport avec leurs aptitudes. Les uns s'éloignaient chaque soir des côtes pour aller jeter au fond de la mer de longues lignes ou harouelles. D'autres, sur des embarcations plus grandes et plus solides, pêchaient avec des sennes : c'étaient d'immenses filets de cent à cent cinquante brasses de longueur, sur une largeur au centre de cinquante à cent pieds, et rétrécis aux extrémités. La senne était jetée autour d'une troupe de poissons et halée ensuite hors de la mer. Elle renfermait parfois de quarante à cinquante tonneaux de butin. . . .

La morue était rapportée chaque soir à *l'échafaud*, sorte de wharf ou plate-forme en planches, supportée par des poteaux, et s'avancant assez loin dans la mer pour que les embarcations pussent s'y décharger à toute heure de marée. On la *décollait* et on *l'habillait*, c'est-à-dire qu'on lui enlevait la tête et les viscères. †

Le poisson était ensuite tranché, salé et mis à sécher sur les galets, sur des branches, ou sur des claies appelées vignots. Il y restait étendu tout le jour à l'action de l'air et de la chaleur ; les manipulations duraient plus d'un mois, et l'on donnait à la morue jusqu'à dix SOLEILS, quotidiennement d'abord, puis à des intervalles de plus en plus éloignés. Ces dernières opérations étaient l'affaire des *graviers*, qui accomplissaient une besogne très dure et assez peu rémunérée. Ils devaient faire sécher la morue, et empêcher que la pluie ne la mouillât : on devine quels soins cela exigeait dans un pays aussi humide que Terre-Neuve. ‡

Il y a, dans tout ceci, un curieux, et d'ailleurs assez banal exemple des rapports de la loi et de la coutume. Les pêcheurs étaient, sur les côtes de Terre Neuve [sic], dans les conditions les plus particulières. Eloignés de la métropole, ils ne pouvaient être soumis aux mêmes réglemens et ordonnances que les autres Français. En fait, la législation ordinaire était insuffisante : à une situation spéciale il faut des lois spéciales.

Les marins ont commencé par prendre des mesures de sauvegarde ; le gouvernement n'a eu qu'à les enregistrer, en leur apportant une force nouvelle et les sanctions nécessaires.

Bientôt les lois sont tombées en désuétude : elles ne répondaient plus à leur but ou ne convenaient plus aux circonstances. Une nouvelle coutume est intervenue qui n'a pas

* E. Hervé, *le French-Shore*, p. 25.

† Ad. Bellet, *op. cit.*, p. 68, *et suiv.*

‡ Art. de M. Le Breton, *Questions diplomatiques et coloniales*, tome XV., pp. 411-428, 640-654, 712-720.

[*Translation of No. 926.*]

CHAPTER II.

CUSTOMS AND REGULATIONS.

*St. Malo regulations for the distribution of places—Decrees and Ordinances
—New legislation respecting location.*

There was a time when the coasts of Newfoundland were frequented by a large number of French fishermen, and in the eastern part of the island as many as two hundred vessels were gathered. The places would belong to the first occupant, but this practice gave rise to frequent disputes. In order to put an end to quarrels and conflicts detrimental to all concerned, the ship-owners of St. Malo held a general meeting, on the 26th March, 1640, and agreed on the drafting of a regulation.

The first captain to arrive at the cove du Croc, in the bay of Petit-Maître was entitled to the best place and would become the “admiral” of the fishery ; as such, his duties consisted in maintaining order, adjusting disputes and determining contestations. This title was conferred to him, with the prerogatives attached to it, subject to the condition that he should inscribe, on a board nailed to a pole, his name and that of his vessel, the strength of his crew, the date of his arrival and the harbour he had chosen. As they came after him, the other captains would do the same thing. Thus, the late arrivals would immediately be informed of what places were available and no time was wasted in useless enquiries. At the end of the fishing season, the stages and huts remained at the disposal of the captain occupying the same place the ensuing year.

This regulation, which was kept in force up to the Revolution, was confirmed by the Rennes Parliament on 31st March, 1640 ; this was the first measure regulating coast cod fishery. The offenders were liable to a fine of 500 *livres* for the payment of which both cargo and vessel could be assigned. Peace was restored among our nationals. But there soon came in that district of Petit-Nord fishermen who refused to submit to a regulation passed by others, and further disturbances occurred. The ship-owners and captains of St. Malo appealed to the authority of Louis XIV. against the intruders, most of whom were from Normandy. Under a decree of the Council, dated 28th April, 1671, the King extended to all those of his subjects going to the shores of Petit-Nord the regulation of

26th March, 1640, as well as the ordinance of the Rennes Parliament ratifying the same.*

The Ordinance of the Marine of August, 1681, drafted by Colbert, consolidated the provisions of the St. Malo regulation and made them of a general application. The first captain to arrive retained all his former prerogatives with the exception that the title of admiral of the fishery was withdrawn.

* Ad. Bellet, *La grande pêche de la morue*, pp. 50-52.

The situation and the advantages attached to it were coveted by the fishermen who would do everything in their power towards securing them. During the voyage across there was no attempt, between the vessels, to outdistance one another they would keep in company and the swifter crafts slackened their speed. But when only a few leagues away from Newfoundland, the whole fleet would disperse and every vessel would rush to the shore in order to secure the first inscription on the board. When the wind was foul or became calm, boats were lowered and the men, tugging at the oar, would vie with each other in an effort to land ahead of others. Such practice resulted in frequent accidents and called for preventive measures.

A new ordinance by the King was passed on the 8th of March, 1702, whereby no captain was to send out boats until his vessel had reached the anchoring-place, and this under pain of a fine of one thousand *livres* for a first offence, and of corporal punishment for subsequent offences. With a view to put definitely to an end disorders and risks occasioned through that race for inscription, the ordinance of 1721 provided that, from then on, the duties of the admiral of fishery would be assigned to the oldest among the captains.*

This last provision was repealed a considerable time before the agreement of the 9th of April, 1804, was passed, and places were simply distributed by means of a drawing. The new system of distribution was first regulated by the decree of 15th *Pluviôse* year XI.—4th February, 1803—revised in 1815 and 1821, and then by the ordinance of 28th April, 1842, which was perfected by the decrees of the 2nd and 22nd March, 1852. Originally every three years, and subsequently every five years, on the 5th January, the ship-owners concerned met at Saint-Servan, under the presidency of the head of the Department of Marine, and proceeded with the drawing.

Vessels were classified in three series : vessels of 149 tons and over, with a minimum crew of thirty men vessels of 90 to 149 tons, with a crew of at least twenty five men and schooners below 90 tons with a crew of not less than twenty men. Vessels of the first series had the preference, followed by those of the second and third series.

For the first year ship-owners were held, under heavy penalties, to send to Newfoundland the vessel mentioned at the drawing or another belonging to the same series. They enjoyed the use of plants left by those who had preceded them, but they

were bound to keep in repair and hand over to their successors the fishery establishments, stages, huts which already existed or which they had erected themselves. At the end of the first they could relinquish the place allotted to them. Every year a special drawing was held between the shipowners wishing to occupy harbours that had been abandoned.†

In this manner the bays were all occupied some remained “common,” and were taken up by “trawlers” (défileurs) whose operations sometimes resulted in a substantial catch.

Once in possession of his station, the captain would assign the members

* E. Hervé, *Le French-Shore*, p. 24.

† E. Hervé *Le French-Shore*, p. 25.

of his crew to whatever task their respective qualifications called for. Some were sent every evening at some distance off shore where they would cast long lines or trawls (*harouelle*). Others, on larger and stouter crafts, fished with seines. The latter were large-sized nets measuring from one hundred to one hundred fifty fathoms in length by fifty to a hundred feet in width, and tapering towards the ends. The seine was cast so as to encircle a school of fish and then drawn out of the sea, the catch totalling at times as much as forty or fifty hundredweights. . . .

Every evening the catch was brought to the *stage*, a sort of board wharf or platform, built on stakes, and projecting far enough into the sea to allow the unloading of the boats at both high and low tides. There the fish was “headed”-and “dressed” or cleaned.*

The cod fish were then split, salted and put to dry on the pebbles, on boughs or on hurdles called “flakes.” It remained there all day long exposed to the action of the sun and heat ; such process of handling extended over a whole month, and the cod was given as many as ten “sun exposures,” daily at first and then at greater intervals. The final operations were assigned to the “beach workers” (*graviers*), whose task was a rather arduous one and poorly remunerated. Their duties consisted in drying cod and protecting it against any damage from rain. One may imagine what difficulties this entailed in a wet country like Newfoundland.¹

The foregoing remarks afford a peculiar, and yet fairly common, instance of the relationship that exists between custom and legislation. The fishermen, on the shores of Newfoundland, laboured under most exceptional conditions. Being at a great distance from the mother-country, they could not be made subject to the same legislation and ordinances as the other French people. As a matter of fact, legislation of a general character was inadequate, and special conditions called for special enactments. The mariners undertook themselves to provide for their safety, and the government merely confirmed such steps as had been taken, giving them force of law and supplementing them with penalties. That legislation soon became obsolete, no longer serving its purpose or suitable to new conditions. New practices sprung up that soon became the law.

* Ad. Bellet, *op. cit.*, pp. 68, *et ssqq.*

[1681.]

**EXTRACT FROM THE ORDONNANCE DE LA
MARINE DU MOIS D'AOUT, 1681.****TITRE VI.—***De la Pêche des Molues.*

- ART. 1. Quand nos sujets iront faire la pêche des molues aux côtes de l'île de Terre-Neuve, le premier qui arrivera ou enverra sa chaloupe au hâvre appelé du Petit-Maître, aura le choix et prendra l'étendue du galet qui lui sera nécessaire et mettra au lieu dit l'Echafaud du Croc, une affiche signée de lui, contenant le jour de son arrivée et le nom du hâvre qu'il aura choisi.
2. Tous les maîtres qui arriveront ensuite seront tenus d'aller ou envoyer successivement l'Echafaud du Croc, et d'écrire sur la même affiche le jour de leur arrivée, le nombre de leurs matelots, et les hâvres ou galets qu'ils auront choisis à proportion de la grandeur de leur vaisseau et de leur équipage.
3. Le capitaine arrivé le premier fera garder l'affiche par un des hommes de son équipage, qu'il laissera sur le lieu jusqu'à ce que tous les maîtres y aient écrit leur déclaration, qui sera mise ensuite entre ses mains.
4. Faisons défenses à tous maîtres et mariniers de s'établir en aucuns hâvres, ou s'accommoder d'aucuns galets sans en faire leur déclaration en la forme ci-dessus, et de troubler aucuns maîtres dans le choix qu'ils auront fait, à peine de cinq cents livres d'amende.
5. Le premier de nos sujets qui arrivera aussi avec son vaisseau en la baie de Canada pour y faire la pêche des molues, sera le maître du galet pour y prendre la place qui lui sera nécessaire, même pour y marquer successivement à ceux qui viendront après lui, celles dont ils auront besoin, eu égard à la grandeur de leur vaisseau et au nombre de gens dont ils seront équipés.
6. Faisons défenses au gouverneur ou capitaine de la côte de puisle cap des Roziers jusqu'au cap d'Espoir, et à tous autres, sous peine de désobéissance de troubler le premier maître arrivant dans la baie, au choix et en la distribution des places sur le galet.
7. Faisons aussi défenses, sous peine de cinq cents livres d'amende, aux maîtres et équipages des vaisseaux qui

arriveront tant aux côtes de Terre-Neuve qu'en la baie de Canada, de jeter le lest dans les hâvres, de s'emparer des sels et huiles qui s'y trouveront, et de rompre, transporter ou brûler les échafauds lesquels appartiendront aux maîtres qui auront fait choix des hâvres ou galets sur lesquels ils auront été laissés.

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8. Leur défendons pareillement de s'emparer des chaloupes échouées sur le galet ou laissées dans la petite rivière de la baie de Molues, sans un pouvoir spécial des propriétaires des chaloupes, à peine d'en payer le prix, et de cinquante livres d'amende.

9. Si toutefois les propriétaires des chaloupes ne s'en servent ou n'en ont point disposé, ceux qui en auront besoin pourront, par la permission du capitaine le premier arrivé, s'en servir pour faire leur pêche, à condition d'en payer, à leur retour, les loyers aux propriétaires.

10. Le capitaine ou maître qui se saisira de quelques chaloupes, sera tenu de mettre entre les mains du maître qui lui en aura donné la permission, ou en son absence en celles du capitaine établi sur le galet voisin, un état contenant le nombre des chaloupes, avec sa soumission d'en payer le loyer, même de les remettre au propriétaire s'il arrive à la côte, et à tout autre ayant pouvoir de lui.

11. Sera aussi tenu, après sa pêche, de remettre en lieu de sûreté les chaloupes, et d'en tirer certificat du même capitaine s'il est sur le lieu, sinon d'en prendre attestation d'un autre étant encore à la côte.

12. Enjoignons au capitaine du premier navire arrivé aux côtes de Terre-Neuve ou dans la baie de Canada, de dresser procès verbal de toutes les contraventions aux articles ci-dessus, de le signer et faire signer par les principaux officiers de son équipage, et de le mettre, à son retour, entre les mains des juges de l'amirauté, pour y être pourvu.

13. Défendons à tous maîtres de navires faisant la pêche des molues sur le banc de Terre-Neuve ou dans la baie de Canada, de faire voile pendant la nuit, à peine de payer le dommage qu'ils pourroient causer en cas qu'ils abordent quelque vaisseau, quinze cents livres d'amende, et de punition corporelle s'il arrive perte d'homme dans l'abordage.

[*Translation of No. 927.*]

TITLE VI.—*Cod Fishery.*

Art. 1. When our subjects proceed to the coasts of the Island of

Newfoundland to fish cod, the first one to arrive or to despatch a boat into the harbour called Petit-Maître, shall make election and take possession of such extent of beach as he may require, and shall post up, at the place called the Echafaud (Stage) du Croc, a paper, signed by him and setting forth the date of his arrival and the name of the harbour he shall have selected.

2. Every master to arrive afterwards shall be held to proceed or to send in successive order to the Echafaud du Croc, and to write on the said notice

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the date of their arrival, the number of their crew and the harbours or beaches selected by them in proportion to the size of their vessel and crew.

3. The captain to arrive first shall cause the notice to be looked after by a man of his crew, who shall remain on the premises until such time as all the masters shall have written their declaration on the said notice which shall then be handed to him.

4. No master and mariner shall establish themselves in any harbour, or occupy any beach unless a declaration to that effect be made in the form hereinbefore provided for, nor shall disturb any master in the place of their choice, under the penalty of a fine of five hundred *livres*.

5. The first of our subjects to arrive with his vessel in the bay of Canada for cod fishing shall be the master of the beach there to take such place as he shall require, and likewise to apportion in order of succession to those who may come after him, the beaches they shall require, regard being had to the tonnage of their vessel and to the number of men they are equipped with.

6. The governor or captain of the coast, between Cape des Roziers and Cape d'Epoir, and all others are prohibited, on pain of disobedience, from disturbing the master arriving first in the bay, in the choice and distribution of stations on the beach.

7. Prohibitions are also made, under pain of a fine of five hundred *livres*, to the masters and crews of vessels arriving both on the shores of Newfoundland and in the bay of Canada, from throwing ballast in the harbours, from taking salts and oils that may be found there, and demolishing, carrying away or burning stages which shall belong to the masters who shall have made election of harbours or beaches in or on which said salts or oils may have been left.

8. Prohibitions are also made to them from taking possession of boats stranded on the beach or left in the small river of the bay of the Molues (Cod), unless specially authorized by the owners of the boats, under pain of paying the price of the same and of

a fine of fifty *livres*.

9. Provided however, in the event of the boat owners not using or having disposed of the same, any person requiring the said boats, may with the permission of the captain arrived first, use the said boats for their fishery, subject to payment, on their return, of the price of rental to the owners.

10. The captain or master who shall take any boat, shall be held to deliver to the master authorizing him, or in the latter's absence to the captain established on the adjacent beach, a statement setting forth the number of boats taken with his promise to pay the rental thereof, and to return the same to the owner should he come to the coast, or to any other person authorized by him.

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11. Shall also be held, upon his return, to lay the boats in a safe place, and to secure a certificate to that effect from the same captain, if on the premises, or else from another still present at the coast.

12. The captain of the vessel arriving first on the coasts of Newfoundland or in the Bay of Canada, is enjoined to draw up a report of any contraventions of the preceding articles, to sign or cause the same to be signed by the chief officers of his crew, and to deliver the same, on his return, to the admiralty judges, in order that they may be dealt with.

13. No master of vessels fishing cod on the bank of Newfoundland or in the bay of Canada shall set sail by night, under pain of such damages as might result from running foul of some vessel, and of a fine of, fifteen hundred *livres*, and of corporal punishment in case of loss of life through the collision.

(Nouveau Commentaire sur l' Ordonnance de la Marine du mois d' août 1681. par Valin. La Rochelle, 1760, pp. 715 & ssqq.)

[11 April,
1713.]

No. 928.

**EXTRACTS FROM TREATIES BETWEEN GREAT
BRITAIN AND FRANCE RELATING TO THE
FISHERIES.***

TREATY OF UTRECHT, 11 APRIL 1713.

XIII. The Island called Newfoundland, with the adjacent islands, shall, from this time forward, belong of right wholly to Great Britain ; and to that end the town and fortress of Placentia, and whatever other places in the said island, are in the possession of the French, shall be yielded and given up, within seven months from the exchange of the ratifications of this Treaty, or sooner, if possible, by the Most Christian King, to those who have a commission from the Queen of Great Britain for that purpose. Nor shall the Most Christian King, His Heirs and Successors, or any of their subjects, at any time hereafter lay claim to any right to the said island and islands, or to any part of it, or them. Moreover, it shall not be lawful for the subjects of France, to fortify any place in the said Island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish ; or to resort to the said island, beyond the time necessary for fishing and drying of fish. But it shall be allowed to the subjects of France, to catch fish, and to dry them on land, in that part only, and in no other besides that, of the said island of Newfoundland, which stretches from the place called Cape Bonavista, to the northern point of the said island, and from thence running down by the western side, reaches as far as the place called Point Riche. But the Island called Cape Breton, as also all others, both in the mouth of the river of St. Lawrence and in the Gulph of the same name, shall hereafter belong of right to the French ; and the Most Christian King shall have all manner of liberty to fortify any place or places there.

TREATY OF PARIS, 10 FEBRUARY, 1763.

V. The subjects of France shall have the liberty of fishing and drying, on a part of the coasts of the Island of Newfoundland, such as it is specified in Article XIII, of the Treaty of Utrecht ; which Article is renewed and confirmed by the present Treaty (except what relates to the Island of Cape Breton, as well as to the other islands and coasts in the mouth and in the Gulph of St. Lawrence). And His Britannic Majesty consents to leave to

the subjects of the Most Christian King the liberty of fishing in the Gulph of St. Lawrence, on condition

* From "A Complete Collection of the Treaties and Conventions subsisting between Great Britain and Foreign Powers." I, pp. 237-265. By Lewis Hertslet, London, 1840.

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that the subjects of France do not exercise the said fishery, but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent, as those of the islands situated in the said Gulph of St. Lawrence. And as to what relates to the fishery on the coasts of the Island of Cape Breton out of the said Gulph, the subjects of the Most Christian King shall not be permitted to exercise the said fishery, but at the distance of fifteen leagues from the coasts of the Island of Cape Breton ; and the fishery on the coasts of Nova Scotia or Acadia, and every where else out of the said Gulph, shall remain on the foot of former Treaties.

VI. The King of Great Britain cedes the Islands of St. Pierre and Miquelon, in full right to His Most Christian Majesty, to serve as a shelter to the French fishermen ; and His said Most Christian Majesty engages not to fortify the said Islands ; to erect no buildings upon them, but merely for the convenience of the fishery ; and to keep upon them a guard of fifty men only for the police.

TREATY OF VERSAILLES, 3 SEPTEMBER, 1783.

IV. His Majesty the King of Great Britain is maintained in His right to the Island of Newfoundland, and to the adjacent Islands, as the whole were assured to Him by the Thirteenth Article of the Treaty of Utrecht ; excepting the Islands of St. Pierre and Miquelon, which are ceded in full right, by the present Treaty to His Most Christian Majesty.

V. His Majesty the Most Christian King, in order to prevent the quarrels which have hitherto arisen between the two Nations of England and France, consents to renounce the right of fishing, which belongs to Him in virtue of the aforesaid Article of the Treaty of Utrecht, from Cape Bonavista to Cape St. John, situated on the eastern coast of Newfoundland, in fifty degrees North latitude ; and His Majesty the King of Great Britain consents on His part, that the fishery assigned to the subjects of His Most Christian Majesty, beginning at the said Cape St. John, passing to the north, and descending by the western coast of the Island of Newfoundland, shall extend to the place called Cape Raye, situated in forty-seven degrees, fifty minutes latitude. The French fishermen shall enjoy the fishery which is assigned to them by the present Article, as they had the right to enjoy that which was assigned to them by the Treaty of Utrecht.

VI. With regard to the fishery in the Gulph of St. Lawrence, the French shall continue to exercise it conformably to the fifth article of the treaty of Paris.

* * * *

[DECLARATION OF HIS BRITANNIC MAJESTY.]

The King having entirely agreed with His Most Christian Majesty upon the Articles of the Definitive Treaty, will seek every means which shall not

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only insure the execution thereof, with His accustomed good faith and punctuality, and will besides give, on His part, all possible efficacy to the principles which shall prevent even the least foundation of dispute for the future.

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

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

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

Given at Versailles, the 3rd September, 1783

(L. S.) MANCHESTER.

The principles which have guided the King, in the whole course of the negotiations which preceded the re-establishment of peace, must have convinced the King of Great Britain, that His Majesty, has had no other design than to render it, solid and lasting, by preventing as much possible, in the four quarters of the world, every subject of discussion and quarrel. The King of Great Britain undoubtedly places too much confidence in the uprightness of His Majesty's intentions, not to rely upon His constant attention to prevent the Islands of St. Pierre and Miquelon from becoming an object of jealousy between the two nations.

As to the fishery on the coasts of Newfoundland, which has been the object of the new arrangements settled by the two Sovereigns upon this matter, it is sufficiently ascertained by the fifth Article of the Treaty of Peace signed

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this day, and by the Declaration likewise delivered to-day, by His Britannic Majesty's Ambassador extraordinary and Plenipotentiary ; and His Majesty declares that He is fully satisfied on this head.

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

Given at Versailles, the 3rd of September, 1793.

GRAVIER DE VERGENNES.

TREATY OF PARIS, 30 May, 1814.

VIII. "His Britannic Majesty, stipulating for Himself and His Allies, engages to restore to His Most Christian Majesty, within the term which shall be hereafter fixed, the colonies, fisheries, factories, and establishments of every kind, which were possessed by France on the 1st of January, 1792, in the seas and on the continents of America, Africa, and Asia ; with the exception however of the Islands of Tobago and St. Lucia, and of the Isle of France and its dependencies, especially Rodrigues and the Séchelles, which several colonies and possessions His Most Christian Majesty cedes in full right and Sovereignty to His Britannic Majesty, and also the portion of St. Domingo ceded to France by the Treaty of Basle, and which His Most Christian Majesty restores in full right and

Sovereignty to His Catholic Majesty.

* * * *

XIII. The French right of fishery upon the great bank of Newfound-land, upon the coasts of the island of that name, and of the adjacent islands iii the Gulph of St. Lawrence, shall be replaced upon the footing in which it stood in 1792.

TREATY OF PARIS, 20 November, 1815.

XI. "The Treaty of Paris, of the 30th of May, 1814, and the final Act of the Congress at Vienna, of the 9th of June, 1815, are confirmed, and shall be maintained in all such of their enactments which shall not have been modified by the Articles of the present Treaty.

No. 929.

EXTRACTS FROM OFFICIAL CORRESPONDENCE

[21 July,
1852.]RELATIVE TO FISHERIES ON THE COAST OF NEWFOUNDLAND AND
LABRADOR.¹EXTRACT FROM THE MEMORANDUM FROM NEWFOUNDLAND ON THE
FISHERY NEGOTIATIONS, JULY 21ST, 1852, BY SIR ANTHONY PERRIER.

Sir A. Perrier will therefore submit to Her Majesty's Government the expediency of his making a counter proposal embodying all the conditions contained in Lord Aberdeen's instructions of March 14, 1846. He will also suggest that he be instructed to hold out (in the event of refusal to entertain the English proposal, or of the French Government insisting upon the removal of British settlers within the French limits) that Her Majesty's Government will enforce the strict observance of all the stipulations of the several treaties which concede to France a temporary right of fishery upon certain parts of the coast of Newfoundland ; that the French will be restricted from fishing, curing and drying, and to board Stages and Huts necessary for these purposes, that they will be prevented taking Salmon* or any other fish, in any part of the rivers, streams, or other water not bona fide on the coast.†

* * * *

[Enclosure with "Confidential Despatch" of 19th August,
1853.][4 June,
1853.]

(COPY.)

COLONIAL
OFFICE, }Downing Street,
4th June, 1853.

SIR,—

In pursuance of the instructions given to us by the Duke of Newcastle, to take into consideration the project of Treaty which you have suggested for negotiation with France, in reference to the Newfoundland fisheries, and

¹ Reproduced from "The Journal of the Legislative Assembly of Newfoundland," 1857, Appendix, pp. 195-260.

* In the last degree for apportioning the Fishery stations on the coast of Newfoundland the French have provided for allotment of the Salmon fisheries. this is an encroachment never before attempted.

† *Coast*—The edge or margin of the Land next the sea ; the shore. It is not used for the Banks of less waters (Johnson's folio dictionary.)

communicate with you on the subject, we transmit to you, herewith, a statement of such amendments of the project as we think, after the discussions which we have had with you, to be advisable, together with observations in explanation of them.

We have, &c.,
(Signed)

E. M. ARCHIBALD.¹
W. STRACHEY.

Sir A. PERRIER.

[*Enclosure 1 in Letter to Sir A. PERRIER.*]

Dated 4th June, 1853.

Project of proposal to France for
the Settlement of the
Newfoundland Fishery Question.

* * * *

2nd—The term coast (the literal meaning of which is the shore or margin of the sea) being vague and open to contradictory interpretation, it is proposed to determine its signification with reference to the fishery rights in question, as follows:—

The word Coast, so far as it relates to French fishing, curing, or drying, and erection of scaffolds and huts for fishery purposes at Newfoundland, shall be understood to mean the strand and the ground extending inland one quarter of a mile from high water mark ; and where any river, creek, arm of the sea, or other opening less than three miles wide, intervenes, then a straight line drawn from headland to headland, across this aperture, shall be considered as equivalent to high water mark.

We would suggest, in place of the first part of this proposition, Article 3 of our separate papers.

This latter part of the proposition would shut out the French from several of the harbors now used by them. But as between Cape John and Bonne Bay there are no large rivers, nor any in which we understand the tide flows beyond a short distance, we suggest, instead of this latter passage, the insertion of a provision that the right of fishery shall in no case be enjoyed by the French in any creek, river, or stream,

above the flow of the tide,
and shall be limited to salt
water only, as in Article 2
of the separate paper.

* * * *

p. 210.

¹ Mr. Archibald, Attorney General of Newfoundland, was on a visit to England on leave of absence, and took an important part in discussions which took place.

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The following further
concessions may be agreed
to by Sir A. Perrier if he can
thereby bring his French
Colleague to a final
adjustment of this question:

—

1—Half a mile to be the
Coast limits instead of a
quarter of a mile.

A quarter of a mile appears
to us sufficient, but we see
no particular objection to
half a mile if desired by the
French.

* * * *

[*Enclosure 3 in Letter to Sir A. PERRIER, dated 4th June, 1853.*]

DRAFT PROJECT.

Her Majesty's Government being unable to accede to the proposals of Monsieur de Bon, for the reasons stated, but being as desirous as the Government of France to preclude by every possible means the disputes between the two Governments, to which the existing Treaty stipulations on the subject of the Newfoundland fisheries have been shown by experience to tend, more particularly in consequence of the ambiguity of some of the leading provisions, and being of opinion that the ambiguous rights admit of a compromise not interfering with the main advantages at present realized by the respective parties, empower Sir A. Perrier to make the following propositions :—

* * * *

3.—The operations in connection with the fishery, which the French shall have a right to conduct on shore, shall be limited to a strand bordering upon the waters in which the French shall have a right to fish as above defined, and extending inland a quarter of (or half) an English mile from high water mark. The French, however, shall be allowed to cut wood for the purposes contemplated in the British Declaration, attached to the Treaty of 1783, upon unoccupied land at such further distance inland from the strand as may not be inconvenient to the British Government.

* * * *

EXTRACT FROM DESPATCH, RT. HON. H. LABOUCHERE TO GOVERNOR DARLING, 16TH JAN. 1857, RELATIVE TO THE CONVENTION BETWEEN GREAT BRITAIN AND FRANCE OF JAN. 4TH, 1857.

The remaining stipulations of the Treaty may, as I believe, be classed not as concessions or alterations of existing rights, but as an endeavor to put into as definite a shape as the subject admitted, the right which usage, founded on the above mentioned Treaties and Proclamations, has already sanctioned.¹

* * * *

¹ This observation seems to apply to the clause (inter alia) defining the depth inland of “the coast” upon which the French were at liberty to enjoy the right of fishing.

[14 Jany.
1857.]

No. 930.

**EXTRACT FROM CONVENTION BETWEEN GREAT
BRITAIN AND FRANCE,**

RELATIVE TO THE RIGHTS OF FISHERY ON THE COAST OF
NEWFOUNDLAND AND ON THE NEIGHBOURING COASTS. SIGNED AT
LONDON, 14 JAN., 1857.¹

ARTICLE I.

French subjects shall have the exclusive right to fish, and to use the strand for fishery purposes, during the season elsewhere specified (Article VIII.), on the east coast of Newfoundland, from Cape St. John to the Quirpon Islands. They shall also have the right to fish, and to use the strand for fishery purposes, during the said season, to the exclusion of British subjects, on the north coast of Newfoundland, from the Quirpon Islands to Cape Norman ; and on the west coast, in and upon the five fishing-harbours of Port-au-Choix, Small Harbour (or Petit Port), Port-au-Port, Red Island, and Cod Roy Island. Such exclusive fishing, from the Quirpon Islands to Cape Norman, shall extend to a distance of three marine miles due north from a straight line joining Cape Norman and Cape Bauld, and as regards the five harbours, shall extend to within a radius of three marine miles in all directions from the centre of each such harbour, but with power to the Commissioners or Umpire, elsewhere provided for in this Convention, to alter such limits for each harbour, in accordance with the existing practice.

* * * *

ARTICLE III.

French subjects shall have the right, concurrently with British subjects, to fish on the coasts of Labrador, from Blanc Sablon to Cape Charles, and of North Belleisle, together with liberty to dry and cure fish on any of the portions of the coast of North Belleisle aforesaid, which shall not be settled when this Convention shall come into operation. The British Government, however, retains the right to erect thereon buildings for military or public purposes ; and if any settlement for permanent habitation shall be thereafter established on any portion of the coast of the said island, the right of French subjects to dry and cure fish on such portion of the coast shall cease, one season's notice of such settlement having been

given beforehand to the French Commander on the station.

¹ "A Complete Collections of Treaties and Conventions." By Lewis Hertslet. Vol. X, pp. 750—752.

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The said French concurrent right of fishing shall terminate at the embouchures or outlets of rivers and creeks : the place of each embouchure or outlet shall be determined, in the manner elsewhere specified in this Convention, by the Commissioners or Umpire.

* * * *

ARTICLE VII.

From Cape St. John to Rock Point in the Bay of Islands, the French right of fishing shall extend up all rivers or creeks, as high as the salt water. From Rock Point to Cape Ray the right shall be limited to half a marine mile above the embouchure or outlet of each river or creek.

The point hereby limited for each river or creek from Cape St. John to Rock Point, and from Rock Point to Cape Ray, shall be settled in the manner elsewhere provided for by the Commissioners or Umpire.

ARTICLE VIII.

The French season of fishery on the coast of Newfoundland, Labrador, and North Belleisle, shall extend from the fifth of April to the fifth of October.

* * * *

ARTICLE X.

The strand reserved for French exclusive use for fishery purposes shall extend to one-third of an English mile inland from high-water mark, from Rock Point to Bonne Bay, inclusive, and at the four reserved harbours south of Bonne Bay ; and from Bonne Bay to Cape St. John, to half an English mile inland from high-water mark.

* * * *

[1 Sept.
1873.]

**RESOLUTIONS ADOPTED 1 SEPTEMBER, 1873, AT A
MEETING OF THE EXECUTIVE COUNCIL OF
NEWFOUNDLAND FOR TRANSMISSION TO HER
MAJESTY'S GOVERNMENT**

UPON THE SUBJECT OF FRENCH AGGRESSIONS AND BRITISH RIGHTS ON
THAT PART OF THE COAST COMMONLY TERMED THE FRENCH SHORE. ¹

Resolved,—That by the Treaty of Utrecht the exclusive sovereignty of the whole territory of Newfoundland and the Islands adjacent thereto were conveyed by His Majesty the King of France to His Majesty the King of Great Britain and his heirs for ever in full right. But His Majesty the King of Great Britain, by the same Treaty, conceded to the subjects of His Most Christian Majesty the privilege of a concurrent right of fishing on that part of the coast of Newfoundland extending from Cape Bonavista to Point Rich, together with the liberty to land their fish and dry them. The following is the language used in the Treaty. “The Island called Newfoundland with the adjacent islands shall from this time forward belong of right *wholly* to Great Britain.”

“Nor shall the Most Christian King, his heirs and successors, or any of their subjects, at any time hereafter lay claim to the said Island and Islands, or any part of it or them.”

That by the subsequent Treaties of Paris and Versailles and by every succeeding Treaty, these rights were affirmed to His Majesty the King of Great Britain and his heirs, with the following exceptions : That by the Treaties of Paris and Versailles His Majesty the King of Great Britain ceded in full sovereignty to His Majesty the King of France the Islands of St. Pierre and Miquelon, subject to given conditions, together with the privilege to his subjects of fishing concurrently with those of His Britannic Majesty “ on that part of the coast of Newfoundland extending from Cape John passing to the north and descending by the western coast of Newfoundland to the place called Cape Ray, situate in forty-seven degrees fifty minutes north latitude,” in exchange for that portion of the coast extending from Cape Bonavista to Cape John, which His Most Christian Majesty assented to abandon.

That on the introduction into this Colony of self-government by

virtue of its great charter granted by His late Majesty King William, and affirmed by

¹ Reproduced from Journal of House of Assembly, Newfoundland, 1876, Appendix, pp. 624-627.

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subsequent acts of the Imperial Government and of the Legislature of this Colony, all the rights which Great Britain possessed in Newfoundland became under stipulated conditions the property of this Colony, and is now held in trust by its Government for the benefit of the people. That such is the high appreciation in which these Treaty rights are, and ever have been held by the inhabitants of this Colony, that no minister in this country would dare to compromise them in any manner. Not an inch of their soil, not an atom of their concurrent rights in the fisheries, on the so-called French Shore, would any permanent resident of sound mind in the Colony consent to part with.

That out of deference to the perplexities which circumstances have imposed on the Imperial Government in their negotiations for many years. past in regard to this subject, the aggrieved parties resident on the so-called French Shore have borne with great forbearance the studied audacious periodical robberies, and other grievances perpetrated on them by the French when peaceably engaged in their fishing operations. But should such conduct be repeated, the Government greatly fear that when the hope of legal redress ceases to exercise its influence on them, our people may be induced to make reprisals for the wrong done them.

That with the view to establish a preposterous and untenable claim to an exclusive right in the place of a concurrent right of fishing on the most valuable part of our fishing grounds, the French have, and more particularly of late years, by force attempted to assert that right.

That the inhabitants of this Colony appreciate the able and successful manner in which Lord Palmerston, and other able British statesmen, have from time to time sustained their Treaty rights. Had there been the slightest misunderstanding with regard to our concurrent right of fishing, it surely would have been put at rest at the same time when the islands of St. Pierre and Miquelon were conveyed in full right to France, and in the same unmistakable language, or it would have been so inserted in some subsequent Treaty ; but this was never done, and we have exercised and maintained our rights ever since with an annually increasing population.

That there are localities on the so-called French Shore which have been exclusively occupied by the French time out of mind, and others in like manner occupied by British subjects. During the time of war British subjects took possession of those French premises, and in some cases

refused to conform to the stipulations of the Treaties when peace was restored. Hence the Imperial act which was passed to meet the contingency and the Proclamations of Governors ordering the removal of such parties. In no other case was that Act ever availed of. There is no instance on record where the French have been interrupted in the rightful exercise of their fishery. All the collisions, with respect to the fishery, have been from the unlawful interruptions and aggressions on British subjects by the French.

That the Treaties provide that no fixed settlement shall be erected on the so-called French Shore. But the fact is, as if by mutual consent, both the

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French and British have disregarded this restriction, for both have fixed settlements, and British subjects are employed by the French to take care of their property during their absence. The French do not and have no right to reside in Newfoundland during the winter season.

That there is an Act in existence, VII. Victoria, authorizing the issue of grants of land without any restriction as to the so-called French Shore, and a subsequent Act, which received the special sanction of Her Majesty after twelve months' deliberation, under which licenses to search for minerals have been issued and grants made subject to French rights.

That the extent of the coast-line of the so-called French Shore, inclusive of the sinuosities of the Bays and Inlets, is little short of the one-half of the whole sea-coast of the island. Of this great distance the French occupy a small fractional part only ; the British are scattered more or less throughout the whole length.

That the rights of fishing involved in the absurd claims of an exclusive fishery by the French are not limited to the residents of Newfoundland ; they are the rights of the other provinces of British North America, and also those of the United States, to the latter granted them under their Treaty with Great Britain in the year 1818. England could not and would not have granted to the United States that which she had no right to grant, and much less would she deprive the inhabitants of the soil of rights she had granted to non-residents and to aliens.

That should Her Majesty's Government deem it desirable to appoint Commissioners to negotiate with the French Government with a view to the settlement of existing disputes between the fishermen of the two nations, such Commissioners should be instructed to make no concession whatever of any part of the soil beyond the privilege to which the French are entitled under existing Treaties, namely :—“ To erect stages

made of boards, and huts necessary and usual for drying fish, nor to resort to the said Island beyond the time necessary for fishing or drying fish ;” nor any fishery rights other than a concurrent right, to which only they are entitled.

That the simple questions for the consideration and decision of the Commissioners be limited to the beach or strand necessary for the purposes contemplated under the Treaty, extending from the sea towards the interior, limiting that space to the necessary requirements of “landing and drying their fish,” and their sea-fishing to the entrance of the rivers flowing from the interior within which rivers the French have no right of fishing whatever.

That the valuable and important privilege to purchase bait, both herring and caplin, on the Southern Coast be conceded to the French to be exercised at such times as British subjects may lawfully take the same, conditionally that the French abandon their untenable pretensions to an exclusive fishery.

The foregoing Resolutions were read and adopted by His Excellency the Governor and Council, and a certified copy handed His Excellency for transmission to the Right Honorable the Earl of Kimberley, 1st September, 1873.

No. 932.

**DESPATCH FROM THE EARL OF DERBY TO
GOVERNOR J. GLOVER.¹**

Sir, *Downing Street, June 12, 1884.*

In my despatch of the 18th December last² I informed the Officer administering the Government of Newfoundland of the appointment of Mr. Clare Ford, C.B., C.M.G., and Mr. E. B. Pennell as British Commissioners on the Commission to meet in Paris in connection with the Newfoundland Fisheries question.

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

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

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

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

They are as follows:—

By Article XIII. of the Treaty of Utrecht, 1713, it was agreed that “The island called Newfoundland, with the adjacent islands, shall, from this time forward, belong of right wholly to Britain, and to that end the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French, shall be yielded and given up within seven months from the exchange of the ratifications of this Treaty, or sooner if possible, by the Most Christian King to those who have a commission from the Queen of Great Britain for that purpose. Nor shall the Most Christian King, his heirs and successors, or any of their subjects, at any time hereafter lay claim

¹ Reproduced from Comm. Pap., France, No. 1 (1890) Correspondence respecting the

to any right to the said island and islands, or to any part of it or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said Island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish, or to resort to the said island beyond the time necessary for fishing and drying of fish. But it shall be allowed to the subjects of France to catch fish, and to dry them on land in that part only, and in no other besides that, of the said Island of Newfoundland, which stretches from the place called Cape Bonavista to the northern point of the said island, and from thence running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton, as also all others, both in the mouth of the River St. Lawrence and in the gulf of the same name, shall hereafter belong of right to the French, and the Most Christian King shall have all manner of liberty to fortify any place or places there.”¹

And by Article V. of the Treaty of Paris, 1763, that “The subjects of France shall have the liberty of fishing and drying, on a part of the coasts of the Island of Newfoundland, such as it is specified in Article XIII. of the Treaty of Utrecht, which Article is renewed and confirmed by the present Treaty (except what relates to the Island of Cape Breton, as well as to the

¹ “XIII. Insula, *Terra-Nova* dicta, unà cum Insulis adjacentibus, Juris Britannici ex nunc in posterum omnino erit ; eumque in finem *Placentia* Urbs & Fortalitium, & si quæ alia Loca in dictâ Insulâ per *Gallos* possessa sint, per *Regem Christianissimum*, Commissionem cã in parte à *Reginâ Magnæ Britannie* habentibus, intra septem menses à commutatis hujus Tractatûs Ratihabitionum Tabulis, aut citiûs si fieri potest, cedentur & tradentur ; neque aliquid Juris ad dictam Insulam & Insulas ullamve illius aut earundem partem, *Rex Christianissimus*, Hæredes ejus, & Successores, aut Subditi aliqui, ullo de hinc tempore in posterum sibi vindicabunt. Quinetiã nec Locum aliquem in dictâ Insuâ de *Terra-Novâ* munire, nec ulla ibidem Ædificia, præter Contabulationes, & Tuguriola, Piscibus siccandis necessaria & consueta construere, neque dictam Insulam, ultra tempus Piscationibus & Piscibus siccandis necessarium, frequentare subditis Gallicis licitum erit. In eâ autém tantummodo, nec ullâ aliâ dicta Insulæ de *Terra-Novâ* parte, quæ à *Loco, Cap Bonavista* nuncupato, usque ad extremitatem ejusdem Insulæ septentrionalem protenditur, indeque ad Latus Occidentale recurrendo usque ad Locum, *Pointe Riche* appellatum, procedit, Subditus Gallicis Piscaturam exercere, & Pisces in Terrâ exsiccare permissum erit. Insula vero, *Cap Breton* dicta, ut & aliæ quævis, tam in Ostio Fluvii *Sancti Laurentii*, quam in Sinu ejusdem nominis sitæ, Gallici Juris in posterum erunt ; ibique Locum aliquem, seu Loca, muniendi facultatem omnimodam habebit *Rex Christianissimus*.”

“ L'île de Terre-Neuve, avec les îles adjacentes, appartiendra, désormais et absolument à la Grande-Bretagne, et à cette fin le Roi Très Chrétien fera remettre à ceux qui se trouveront à ce commis en ce pays là, dans l'espace de sept mois à compter du jour de l'échange des ratifications de ce Traité, ou plutôt si faire se peut, la Ville et le Fort de Plaisance, et autres lieux que les François pourroient encore posséder dans la dite île, sans que de dit Roi Très Chrétien, ses Héritiers et Successeurs, ou quelques-uns de ses sujets puissent désormais prétendre quoique ce soit, et en quelque tems que ce soit, sur la dite île, et les îles adjacentes en tout ou en partie. Il ne leur sera pas permis non plus d'y fortifier aucun lieu, ni d'y établir aucune habitation en façon quelconque, si ce n'est des échafauds et cabanes nécessaires et usités pour sécher le poisson, ni aborder dans la dite île dans d'autres tems, que celui qui est propre pour pêcher, et nécessaire pour sécher le poisson.

“Dans la dite île il ne sera pas permis aux dits sujets de la France de pêcher et de sécher le poisson en aucune autre partie, que depuis le lieu appelé Cap de Bonavista, jusqu'à l'extrémité septentrionale de la dite île, et de là en suivant la partie occidentale, jusqu'au lieu appelé Pointe-Riche. Mais l'île dit Cap Breton et toutes les autres quelconques, situées

other islands and coasts in the mouth and in the Gulf of St. Lawrence) ; and His Britannic Majesty consents to leave to the subjects of the Most Christian King the liberty of fishing in the Gulf of St. Lawrence on condition that the subjects of France do not exercise the said fishery but at the distance of 3 leagues from all the coasts belonging to Great Britain, as well those of the continent as those of the islands situated in the said Gulf of St. Lawrence. And as to what relates to the fishery on the coast of the Island of Cape Breton, out of the said gulf, the subjects of the Most Christian King shall not be permitted to exercise the said fishery but at the distance of 15 leagues from the 10 coast of the Island of Cape Breton ; and the fishery on the coast of Nova Scotia or Acadia, and everywhere else out of the said gulf, shall remain on the foot of former Treaties."

And by Article VI. of the same Treaty, "The King of Great Britain cedes the Islands of St. Pierre and Miquelon in full right to His Most Christian Majesty, to serve as a shelter to the French fishermen ; and His said Most Christian Majesty engages not to fortify the said islands ; to erect no buildings upon them but merely for the convenience of the fishery ; and to keep upon them a guard of fifty men only for the police."

And by Article IV. of the Treaty of Versailles, 1783, that "His Majesty the King of Great Britain is maintained in his right to the Island of Newfoundland and to the adjacent islands, as the whole were assured to him by the XIIIth Article of the Treaty of Utrecht, excepting the Islands of St. Pierre and Miquelon, which are ceded in full right by the present Treaty to His Most Christian Majesty"

And by Article V. of the said last-named Treaty, that "His Majesty the Most Christian King, in order to prevent the quarrels which have hitherto arisen between the two nations of England and France, consents to renounce the right of fishing, which belongs to him in virtue of the aforesaid Article of the Treaty of Utrecht, from Cape Bonavista to Cape St. John, situated on the eastern coast of Newfoundland, in 50° north latitude ; and His Majesty the King of Great Britain consents, on his part, that the fishery assigned to the subjects of His Most Christian Majesty, beginning at the said Cape St. John, passing to the north and descending by the western coast of the Island of Newfoundland, shall extend to the place called Cape Ray, situated in 47° 50' latitude. The French fishermen shall enjoy the fishery which is assigned to them by the Treaty of Utrecht."

And by Article VI. of the said last-named Treaty, that, "With regard to the fishery in the Gulf of St. Lawrence, the French shall continue to exercise it conformably to the Vth Article of the Treaty of Paris."

And by a Declaration of His Britannic Majesty, dated the 3rd day of September, 1783,¹ it was declared that "The King, having entirely agreed

¹ “Le Roi étant entièrement d'accord avec Sa Majesté Très Chrétienne sur les Articles du Traité Définitif, cherchera tous les moyens qui pourront non seulement en assurer l'exécution, avec la bonne foi et la ponctualité qui lui sont connues, mais de plus donnera, de son côté, toute l'efficace possible aux principes qui empêcheront jusqu'au moindre germe de dispute à l'avenir.

“A cette fin, et pour que les pêcheurs des deux nations ne fassent point naître des querelles

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with His Most Christian Majesty upon the Articles of the Definitive Treaty, will seek every means which shall not only insure the execution thereof, with his accustomed good faith and punctuality, but will besides give, on his part, all possible efficacy to the principles which shall prevent even the least foundation of dispute for the future.

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

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

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

And by a Counter-Declaration of His Most Gracious Majesty the King

journalières, Sa Majesté Britannique prendra les mesures les plus positives pour prévenir que ses sujets ne troublent, en aucune manière, par leur concurrence, la pêche des François, pendant l'exercice temporaire qui leur est accordé, sur les côtes de l'île de Terre-Neuve ; et elle fera retirer, à cet effet, les établissements sédentaires qui y seront formés. Sa Majesté Britannique donnera des ordres pour que les pêcheurs François ne soient pas gênés dans la coupe de bois nécessaire pour la réparation de leurs échaffaudages, cabanes, et bâtimens de pêche.

“L'Article XIII du Traité d'Utrecht, et la méthode de faire la pêche qui a été de tout

tems reconnue, sera le modèle sur lequel la pêche s'y fera. On n'y contreviendra pas, ni d'une part ni de l'autre ; les pêcheurs François ne bâtissant rien que leurs échaffaudages, se bornant à réparer leurs bâtimens de pêche, et n'y hivernant point ; les sujets de Sa Majesté Britannique, de leur part, ne molestant aucunement les pêcheurs François durant leurs pêches, ni ne dérangeant leurs échaffaudages durant leur absence.

“Le Roi de la Grande-Bretagne, en cédant les Iles de Saint-Pierre et de Miquelon à la France, les regarde comme cédées à fin de servir réellement d'abri aux pêcheurs François, et dans la confiance entière que ces possessions ne deviendront point un objet de jalousie entre les deux nations ; et que la pêche entre les dites îles, et celle de Terre-Neuve, sera bornée à mi-canal.”

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of France, dated the 3rd day of September, 1783,¹ it was declared that “The principles which have guided the King in the whole course of the negotiations which preceded the re-establishment of peace must have convinced the King of Great Britain that His Majesty has had no other design than to render it solid and lasting, by preventing as much as possible, in the four quarters of the world, every subject of discussion and quarrel.

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

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

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

And by further Treaties between the said Great Contracting Parties, viz., by Article VIII. of the Treaty of Paris, 1814, it was agreed that “His Britannic Majesty, stipulating for himself and his allies, engages to restore to His Most Christian Majesty, within the term which shall be hereafter fixed, the Colonies, fisheries, factories, and establishments of every kind which were possessed by France on the 1st January, 1792, in the seas, on the Continents of America, Africa, and Asia, with exception, however, of the Islands of Tobago and St. Lucia, and the Isle of France and its dependencies, especially Rodrigues and the Seychelles, which several Colonies and possessions His Most Christian

¹ “Les principes qui ont dirigé le Roi, dans tout le tours des négociations qui ont précédé le rétablissement de la Paix, ont dû convaincre le Roi de la Grande-Bretagne, que Sa Majesté n'a eu d'autre but que de la rendre solide et durable, en prévenant, autant qu'il est possible, dans les quatre parties du monde, tout sujet de discussion et de querelle. Le Roi de la Grande-Bretagne met indubitablement trop de confiance dans la droiture des intentions de

Sa Majesté, pour ne point se reposer sur l'attention constante qu'elle aura d'empêcher que les Iles St. Pierre et Miquelon ne deviennent un objet de jalousie entre les deux nations.

“Quant à la pêche sur les côtes de Terre-Neuve, qui a été l'objet des nouveaux arrangements dont les deux Souverains sont convenus sur cette matière, elle est suffisamment exprimée par l'Article V du Traité de Paix signé ce jourd'hui, et par la Déclaration remise également aujourd'hui par l'Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté Britannique ; et Sa Majesté déclare qu'elle est pleinement satisfaite à cet égard.

“Pour ce qui est de la pêche entre l'Ile de Terre-Neuve et celles de St. Pierre et Miquelon, elle ne pourra se faire, de part et d'autre, que jusqu'à mi-canal, et Sa Majesté donnera les ordres le plus précis, pour que les pecheurs François n'outrepassent point cette ligne. Sa Majesté est dans la ferme confiance que le Roi de la Grande-Bretagne donnera de pareils ordres aux pêcheurs Anglois.”

Majesty cedes in full right and sovereignty to His Britannic Majesty, and also the portion of St. Domingo ceded to France by the Treaty of Basle, and which His Most Christian Majesty restores in full right and sovereignty to His Catholic Majesty.” And by Article XIII. of the said last-named Treaty, that “The French right of fishery upon the Great Bank of Newfoundland upon the coasts of the island of that name, and of the adjacent islands in the Gulf of St. Lawrence, shall be replaced upon the footing in which it stood in 1792.” And by Article XI. of the Treaty of Paris, 1815, that the Treaty of Paris of the 30th May, 1814, and the Final Act of the Congress of Vienna of the 9th June, 1815, are confirmed, and shall be maintained in all such of their enactments which shall not have been modified by the Articles of the present Treaty.”

Under the provisions of these Treaties the French have hitherto maintained that they enjoy—

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

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

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

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

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

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

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

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

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

The colonists have for some years past been desirous of developing the resources of their country as regards mines, agriculture, and other industries, but have constantly been met

with the objections of the French Government to their doing so, and the development of the Colony on that part of the coast of Newfoundland where the French enjoy Treaty rights has been practically at a standstill, although rich mines are known to exist there, and the agricultural capabilities of the Colony are undoubtedly most valuable.

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

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

Captain Fabvre, Commander of the French Naval Station, and Mr. Thomas, President of the Chamber of Commerce at Newfoundland, were, in consequence, appointed by their respective Governments.

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

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

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

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

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

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

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

The instructions, however, to the French Commissioner did not admit of his negotiating on the above-mentioned principles, and as no new propositions were brought forward

by the French Government up to the month of May 1847, the negotiations fell through.

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

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

M. de Bon accordingly proposed, on the part of France, to admit the right of British subjects to inhabit the Bay of St. George, or, in other terms, to give up the exclusive right of fishery in that bay, to which they considered

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themselves entitled by the Treaty of 1783. In return for this concession he demanded—

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

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

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

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

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

portion of the western coast.

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

Mr. Labouchere, Her Majesty's Secretary of State for the Colonies, concurred in the adoption of the British negotiator's project of a "compromise" as the basis of negotiation to be offered to the French Government. It corresponded, he believed, with the views of the Colonial authorities ; deprived neither nation of any advantage of real value ; and there would only be a reciprocal abandonment of barren rights and useless or nominal restrictions ; and he prepared a draft Treaty which might be substituted for the whole of the existing engagements on the Newfoundland Fisheries question.

The negotiations were continued in the year 1856 by Captain Pigead,

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who arrived in London in the month of July of that year, and by Mr. Merivale the Under-Secretary of State for the Colonies. The basis of these negotiations was founded upon the counter-proposals made by Sir A. Perrier, and also upon the draft of the Treaty proposed by Mr. Labouchere. The negotiations finally terminated by the signature of a Convention in London on the 14th January, 1857.

According to the stipulations of this Convention,¹ a printed copy of which is annexed, an exclusive right of fishery and the use of the strand for fishery purposes was conceded to the French from Cape St. John, on the east coast of Newfoundland, to the Quirpon Islands, and from the Quirpon Islands, on the north coast, to Cape Norman, on the west coast, in and upon the following five fishery harbours, namely, Port-au-Choix, Small Harbour, Port-à-Port, Red Island, and Cod Roy Island, to extend, as regarded these five harbours, to a radius of 3 marine miles in all directions from the centre of each such harbour. On other parts of the west coast (the five harbours excepted) British subjects were to enjoy a "concurrent" right of fishing with French subjects, but French subjects were to have the exclusive use of the strand for fishery purposes from Cape Norman to Rock Point, in the Bay of Islands, north of the River Humber, in addition to the strand of the reserved harbours.

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

With regard to the question of fixed establishments, the Convention of 1857 stipulated that no British buildings or inclosures should be erected or maintained on the strand

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

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

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

In the year 1859 a Mixed Commission, composed, on the part of Great

¹ Convention of 1857.
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Britain, of Captain Dunlop and Mr. Kent (Colonial Secretary in Newfoundland), and, on the part of France, of M. de Montaignac de Chauvance and M. de Gobineau, was appointed to verify facts connected with the infraction of the Treaties ; and at the close of that year the Commissioners furnished their Report, accompanied by recommendations which led to the reopening of negotiations in 1860.

The Terms of a Convention, and of Joint Instructions to be given to the British and French naval officers on the Newfoundland Station, were then agreed on, and are inclosed (Inclosure 3¹), but the negotiations fell through, mainly in consequence of the wording of Articles 4 and 15 of the Joint Instructions.

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

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

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

“Toute construction qui sera élevée à l'avenir sans le consentement de la Commission de Pêcheries sera enlevée par l'ordre du Commissaire Britannique et sans indemnité, dans un

délai de six mois de la notification qui en sera faite, si la place occupée par la dite construction est *requis*e pour les besoins de la pêche Française.”

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

This alteration was proposed by the British Government in order to make the erections removable, not on a requisition from the French Government or its officer, but on notice from a Commission of which a British officer was a member. To this alteration the French Government objected on grounds with which it was difficult to deal, because they proceeded from an acknowledged difference of view between the two Governments. The British Government would, however, have been willing subsequently to waive their objections with regard to wording of the 4th and 15th Articles of the stipulations which were framed in 1860, and to accept the arrangement with some trifling modifications but on the matter being referred to the French Government the proposal was rejected, nor did the French Government give any reasons for their refusal to accept it.

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

¹ Proposed Convention of 1860, with Joint Instructions.

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

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

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

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

3. That no building or inclosure which had been erected for five years should be removed as interfering with the French fishery privileges without compensation to be determined on by the Commissioners ; but no compensation to be payable for any such building or inclosure hereafter erected without the consent of the Commissioners.

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

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

It was further recommended that the Colonial Legislature should state to Her Majesty's Government that they were not prepared to agree to any concessions to the Government of France which would convey to the French rights of fishery which they did not at present possess under existing Treaties ; but that they would recommend the Legislature to consent that the valuable and important right to purchase bait, both herring

and capelin, on the southern coast, should be conceded to the French at such times as British subjects might lawfully take the same upon terms which were to be agreed upon.

During the course of the negotiations which took place certain modifications of the above terms were introduced, which it is unnecessary to dwell

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

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

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

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

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

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

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

In addition to the appointment of a Commission of Demarcation, a Mixed Commission was to be appointed, which was to be named the Fishery Commission, and was to

act in conformity with Joint Instructions based on the Articles of the Agreement.

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

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

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

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

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

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

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

The result under its provisions will be—

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

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

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

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

In previous negotiations the subject of fixed establishments received the earnest consideration of the British negotiators, and it was, on more than one occasion, contemplated to appoint Mixed Commissions to assess the

amount of compensation which should be paid to the owners of property whose buildings were to be removed.

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

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

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

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the very reasonable provisions of this Arrangement, and then only in the absence of any of Her Majesty's cruizers.

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

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

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

In agreeing, therefore, to the opening of all those extensive portions of coast tinted red on the Map to a fixed population, the French Government naturally, and, in the opinion of Her Majesty's Government, not unreasonably, ask in return that they may be enabled to exercise, in cases where none of Her Majesty's cruizers may actually be present, such an amount of supervision as may insure an uninterrupted enjoyment of the fisheries by their countrymen in these waters.

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

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

¹ Convention (1881) relating to Regulation of North Sea Fisheries.

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

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

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

I have, &c.
(Signed) DERBY.

[14 Nov.,
1885.]**EXTRACT FROM ARRANGEMENTS¹ SIGNED AT
PARIS NOVEMBER 14, 1885,**RELATING TO THE NEWFOUNDLAND FISHERIES QUESTION.²

The undersigned Commissioners, who have been appointed by the Governments of Great Britain and France in order to find means, without touching the Treaties at present in force, which it is not their duty either to modify or to interpret, of preventing and regulating disputes relative to the exercise of the fishery on the coasts of Newfoundland, have framed in concert the following Regulations, subject to the approval of their respective Governments :—

ARTICLE I.

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages to comply with the following Regulations for securing to French fishermen, in execution of the Treaties in force, and particularly of the Declaration of 1783, the free exercise of their industry on the coasts of Newfoundland without any interference or obstruction whatever on the part of British subjects.

ARTICLE II.

The Government of the French Republic engages, on its part, in exchange for the security accorded to French fishermen by the application of the Regulations contained in the present Arrangement, not to raise any objections against the formation of establishments necessary for the development of every industry other than that of the fisheries on those portions of the coasts of Newfoundland comprised between Cape St. John and Cape Ray which are tinted in red on the Map hereto annexed, and which do not appear in the Statement also annexed describing the portions of the coast to which the present paragraph does not apply.

It engages equally not to disturb the resident British subjects in respect of the establishments actually existing on those parts of the coast comprised between Cape St. John and Cape Ray passing by the north, but no new

¹ This arrangement was not accepted by the Government of Newfoundland which passed resolutions declining to assent to it on May 4, 1887.

ones will be established on those parts of the coast described in the Statement mentioned in the preceding paragraph.

* * * *

ARTICLE XV.

The French Government abandons for its subjects the salmon fisheries in rivers up to the point where the water remains salt, but it is forbidden to place fixed barriers capable of impeding interior navigation or the circulation of the fish.

* * * *

Statement annexed to the Arrangement of the 14th November, 1885, respecting the Newfoundland Fisheries, in execution of Article II of the said Arrangement.

WEST SIDE.

(From Cape Ray to Cape Norman.)

1. COD ROY Island. On the mainland opposite, that portion of the coast situated between the two perpendicular lines drawn from the extremities of the island in the general direction of the coast :

2. Red Island ;

3. That portion of the coast situated between Cape Cormoran and the west point of Pic Denis Harbour in the Bay of Port-à-Port on the west ;

4. The small islands situated in the Bay of Port-à-Port, together with those which close it on the north ;

5. That portion of the coast situated between Bear Cove (“l’Anse-à-l’Ours”) and the foot of the Mountain Blow-me-down ;

6. Governor's Island, the Islands of Guernsey, Tweed, the two Shags, the Pearl, and Green Island ;

7. That portion of the coast which borders the Harbour des Roches ;

8. Stearing Island and the adjacent coast from the latitude

of the northern point of Stearing Island to the foot of a perpendicular line drawn down from Cape Pointu on the coast, following the sinuosities of the Peninsula of Cow Head (“la Tête de Vache”);

9. That portion of the coast comprised between a point situated at a distance of 3 miles to the south of the mouth of the River Ponds and the

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latitude of the northern part of Savage Island following the sinuosities of the Peninsula of Port-au-Choix ;

10. All those islands situated within the Bay of St. John ;

11. That portion of the coast situated between Castor Point (at the southern entrance of the bay) and the northern point of the entrance of Savage Cove (Anse aux Sauvages) ;

* * * *

11. That portion of the coast situated between Cape Partridge and the parallel of the southern point of the group of islands of Pot d'Etain (Coachman's Cove);

12. That portion of the coast situated on the east side of the Bay of Pines, and stretching from the 50th degree of latitude to the north point of that part of the bay ;

13. Those small islands situated on the coast between the harbour of Fleur de Lys and Cape St. John, which the exception of Horse Islands (Les Isles Ste. Barbe) ;

14. That portion of the coast following the sinuosities of Paquet Harbour ;

15. That portion of the coast situated between Cape Cagnet on the west and the east entrance of the Harbour of Scie.

The prohibition to erect new establishments on those portions of the coast mentioned in the present statement shall be applicable to a distance inland of 500 yards with regard to paragraphs numbered 7, 8, and 9 on the west coast, and to a distance of 800 yards with regard to all the other paragraphs, following the sinuosities of the coast.

It is understood that the distances of 500 and 800 yards are to be reckoned from high-water mark.

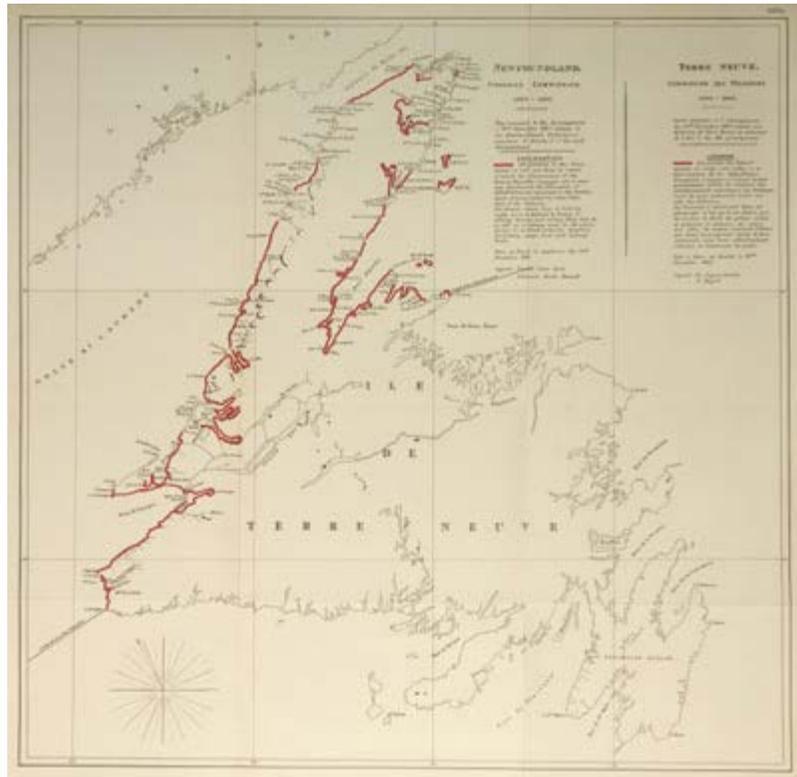
Done at Paris, in duplicate, the 14th November, 1885.

(Signed) FRANCIS CLARE FORD.

EDMUND BURKE PENNEL.

[*Litho Map follows as p. 2210A*

Litho Map



[Much Larger Version](#) 2000x1954 pixels (419 kb)

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[1927lab]

NEWFOUNDLAND.

FISHERIES COMMISSION.

1884 - 1885

Map annexed to the Arrangement of 14th November 1885 relative to the Newfoundland Fisheries in execution of Article 2 of the said Arrangement

EXPLANATION

The portions of the Coast tinted in red are those in respect of which the Government of the French Republic engages not to raise any objection to the formation of Establishments necessary to the development of every industry other than that of the fisheries. The French retain here in full the right, as it is defined by Treaty of fishing, drying and curing their fish, &c. as well as of cutting wood in all parts, except on enclosed property, necessary for fishing stages, huts and fishing boats

Done at Paris in duplicate the 14th November 1885

Signed Francis Ulmer Ford, Edmund Burke Pennell

TERRE NEUVE.

COMMISSION DES PÊCHERIES

1884 - 1885

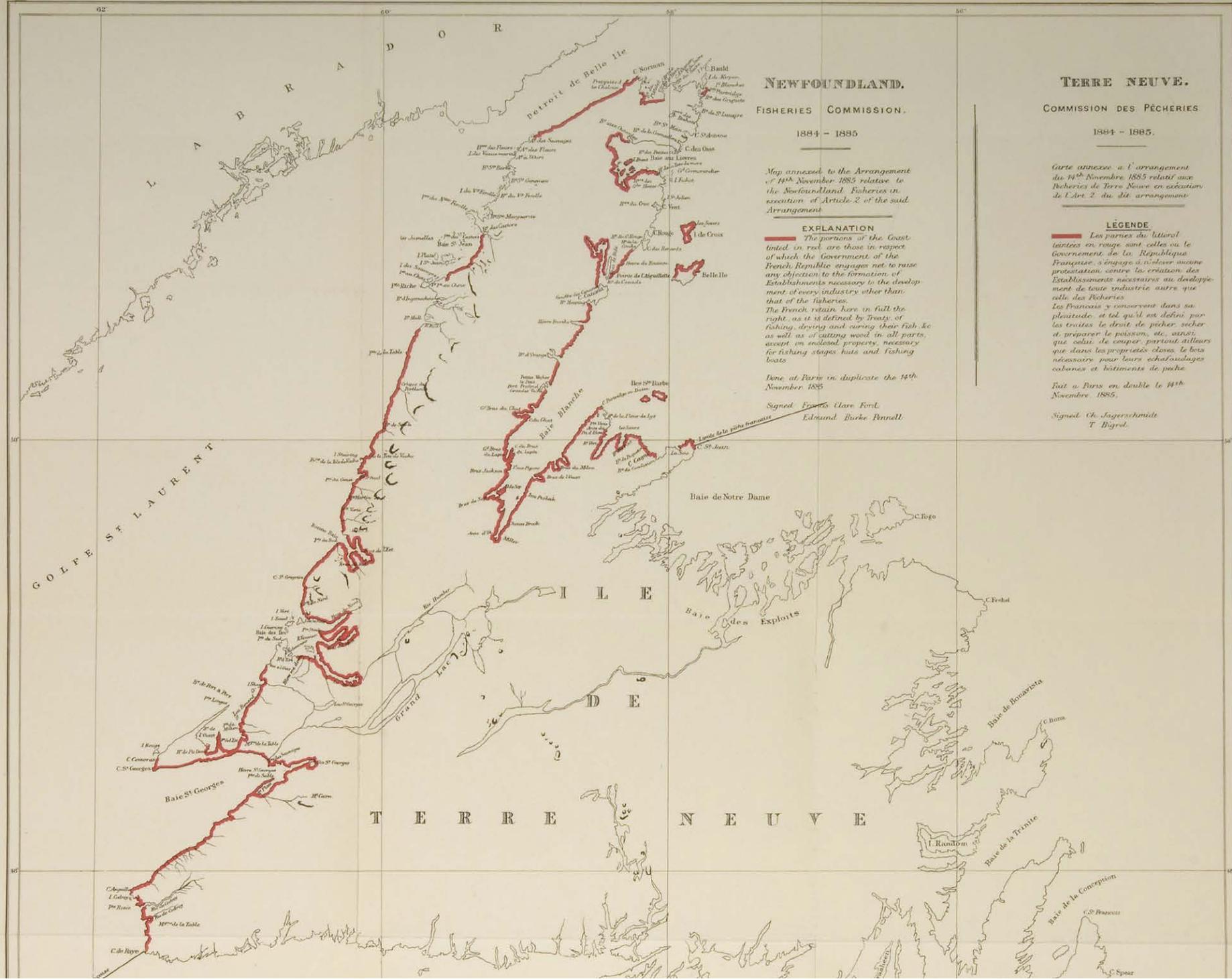
Carte annexée à l'arrangement du 14^{ème} Novembre 1885 relatif aux Pêcheries de Terre Neuve en exécution de l'Art. 2 du dit arrangement

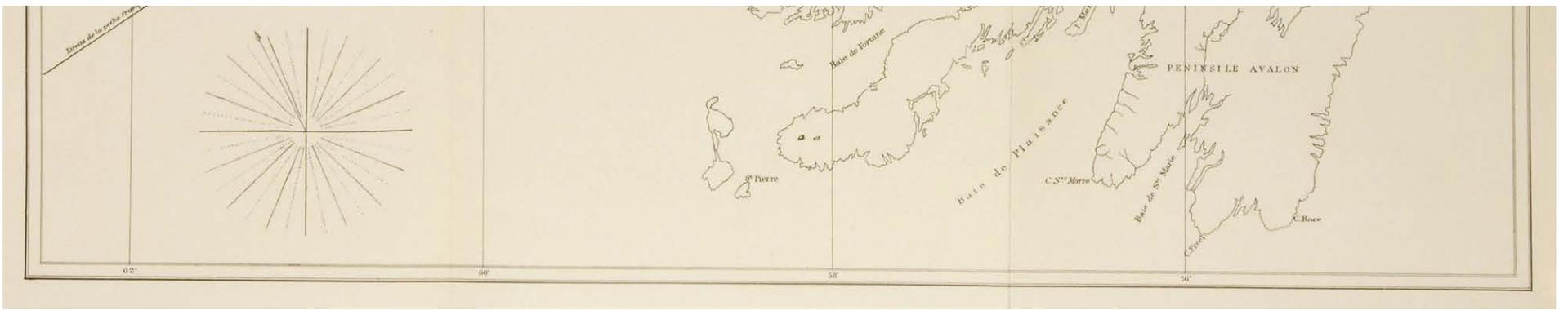
LÉGENDE

Les parties du littoral tintées en rouge sont celles où le Gouvernement de la République Française s'engage à n'élever aucune protestation contre la création des Etablissements nécessaires au développement de toute industrie autre que celle des Pêcheries. Les Français y conservent dans sa plénitude, et tel qu'il est défini par les traités le droit de pêcher, sécher et préparer le poisson, &c. ainsi que celui de couper, partout ailleurs que dans les propriétés closes, le bois nécessaire pour leurs échafaudages, cabanes et bâtiments de pêche

Fait à Paris en double le 14^{ème} Novembre 1885,

Signed Ch. Jagerschmidt, T. Bigard





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THE PROVINCE OF NOVA SCOTIA.

[15 Dec., 1763.]

No. 934.Representation to His
Majesty upon a
petition of the Sieur
de Stumpel upon a
petition for a grant of
Lands.**REPRESENTATION OF THE LORDS OF TRADE TO
THE KING, RE GRANT TO STUMPEL.**

15 DECEMBER, 1763.

B.T.N.S., VOL. 37.

To the King's Most Excellent Majesty. :—

May it Please your Majesty.

In obedience to your Majesty's commands signified to us in your Majesty's Order in Council of the 4th of last month we have reconsidered the Representation made to your Majesty by this Board on the 30th of August last upon the petition of the Sieur de Stumpel, an officer in the Hanoverian Service, praying for a Grant of 20,000 Acres of Land upon S^t Johns River in Nova Scotia, and all tho' we think, that the making such a Settlement, as he proposes may be of advantage to the Publick, yet it does not appear to us, upon a further Enquiry that he is of Sufficient Ability either from his circumstances or the number of people he has actually engaged to undertake the Settlement of so extensive a Tract as 200,000 Acres of Land, and therefore that it would not be adviseable or expedient for the present to grant to him so large a quantity of Land to the exclusion of others whom the Advantages of that part of America, might induce to undertake Settlements there.

In conformity to this opinion, the Petitioner has reduced his proposall as to the quantity of Lands to 20,000 Acres, which he desires may be laid out into a Township and granted to him, either upon the River St. John, or in such part of the Country between that River and the River St. Croix, as he shall find most advantageous and best adapted to the object he has in view ; and as we find upon further Enquiry, that there are now actually in London Forty five Families amounting to 128 Persons ; foreign Protestants of various Countries, who are engaged to settle under the Protection of this Gentleman, we see no objection to complying with his request, and therefore humbly propose to your Majesty, that an Instruction may be given to your Majesty's Governor of Nova Scotia, to direct a survey to be made of a Tract of 20,000 Acres on the said River

S John or between that and the River S Croix in such a Situation as the Petitioner shall choose (taking care that it shall not be upon any Lands occupied by the Indians or used as their hunting

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grounds) and to grant the same to the Petitioner under the seal of the Province upon the following Terms and Conditions :

That the Grantee shall be obliged to settle the Township with Protestant Inhabitants within ten years from the Date of the grant, in the proportion of one person for every hundred Acres.

That if one third of the Township is not settled with Protestant Inhabitants in the above mentioned proportion, within three years, from the date of the Grant, the whole shall be void.

That all such parts of the Lands, as are not settled with Protestant Inhabitants in the said Proportion at the Expiration of ten years from the date of the Grant shall revert to your Majesty.

That the grantee shall pay an annual Quit Rent to the Crown of 2^s Sterling, for every hundred Acres. Contained in the grant the Payment of such Quit Rent not to commence untill the Expiration of ten years from the Date of the grant.

That there be a Reservation in the grant, of all such spots, as the person legally appointed to survey the Lands previous to the grant, shall report, and mark out in a map to be annexed to such Report as proper for erecting Fortifications for publick Quays, Beach for the Fishery, Roads and all other publick uses whatever.

That there be a Reservation to your Majesty of all mines of Gold and Silver.

That after the Expiration of 3 years from the Date of the grant the grantee be obliged to plant and continue to cultivate 6 Acres of Land, with Hemp and Flax.

Which is most humbly Submitted

HILLSBOROUGH
SOAME JENYNS
ED. ELIOT
ED. BACON
GEO. RICE.

Whitehall, }
Dec^r 15th, 1763. }

[10 Feb., 1764.]

EXTRACT FROM PRIVY COUNCIL MINUTES OF

10 FEBRUARY, 1764.

Nova Scotia.

Order approving
Commee Report
upon the Petition of
John MarteilheMerch^t praying for a
Grant of Lands near
Baye des Chaleurs in
this province.

P.C. 2, Vol. 110, p. 255.

Whereas the Lords Commissioners for Trade and Plantations have represented to His Majesty at this Board that a Memorial has been presented to them by John Marteilhe of Quebec Merchant, praying that a Grant may be made to him of a Tract of Land to the South of the Baye des Chaleurs and the Mouth of the River Caraquet in His Majesty's Province of Nova Scotia, with a View to settling useful Inhabitants there for carrying on the Fishery and other beneficial Undertakings, which Request the said Lords Commissioners apprehend will be for His Majesty's Service to comply with. His Majesty this day took the said Representation together with a Report made thereupon by a Committee of the Lords of His Majesty's Most Honourable Privy Council into His Royal Consideration, and being inclined to give all fitting Encouragement for the Settling of Lands in the said Province, is hereby pleased with the Advice of His Privy Council to Order, that the Governor, or Commander in Chief of His Majesty's Province of Nova Scotia for the time being do cause a Survey to be made, and a Township, consisting of Twenty thousand Acres, to be laid out in a proper and convenient Situation to the South of the said Bay des Chaleurs near the Mouth of the River Caraquet, and to grant the said Township to the Memorialist John Marteilhe under the Seal of the said Province upon the following Terms, Reservations and Conditions, Viz^t.

First—That the Grantee be obliged to settle the Township with Protestant Inhabitants within Ten Years from the Date of the Grant in the Proportion of one Person to every hundred Acres.

Secondly—That if one Third of the Township be not settled with Protestant Inhabitants in the abovementioned Proportion within three years from the Date of the Grant, the whole to be void.

Thirdly—That all such Parts of the Land as shall not be settled with Protestant Inhabitants in the said Proportion at the Expiration of Ten Years from the Date of the Grant do revert

to the Crown.

Fourthly—That the Grantee do pay an Annual Quit Rent to the Crown of Two Shillings Sterling for every hundred Acres contained in the Grant, to commence at the Expiration of Ten Years from the Date thereof.

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Fifthly—That there be Reservations in the Grant of all such Parts as the Person legally appointed to survey the said Lands shall report and mark out, in a Map to be annexed to his Report, as proper for erecting Fortifications, for Publick Quays, Roads and all other Publick Uses whatsoever.

Sixthly—That there be a Reservation to the Crown of all Mines of Gold and Silver.

Seventhly—That after the expiration of three Years from the Date of the Grant the Grantee be obliged to Plant and cultivate annually Six Acres of Land with Hemp and Flax.

Eighthly—That One hundred Yards in Breadth above High Water Mark along the Sea Coast be reserved to the Crown for the free Use and benefit of all His Majesty's Subjects. And the Governor or Commander in Chief of His Majesty's Province of Nova Scotia for the time being, and all others whom it may concern are required to carry His Majesty's Commands hereby signified into Execution.

No. 936.

[5 June, 1764.]

**REPRESENTATIONS OF THE LORDS OF TRADE TO
THE KING,**

5 JUNE, 1764.

Representation to His
Majesty with a List
of Several persons for
Grants of Lands in
Nova Scotia.

B.T.N.S., VOL. 37, p. 422.

To the King's Most Excellent Majesty.

May it please Your Majesty.

We humbly beg leave to lay before your Majesty a List of the names of Several Persons, who, having intention to Make Settlements in the Continental part of your Majesty's Colony of Nova Scotia in America, have requested grants of Lands there, in greater quantities, and upon different Terms and conditions, than those upon which your Majesty's Governor is empowered, by his Commission & Instructions, to make such Grants ; and as it appears to us, upon a consideration of these proposals, that such undertakings will be of advantage to your Majesty's Province, and promote the speedy Settlement thereof ; We humbly beg leave to propose, that your Majesty's Orders may be given to the Governor of Nova Scotia, immediately upon the said orders being presented to him, to cause the quantities of Land petitioned for by each Person respectively, (which Quantity is specified in the List hereunto annexed) to be Surveyed in one contiguous Tract ; and conformable to the direction of your Majesty's Instructions with regard to the manner of laying out grants of Land in such parts, on the continent, of the said Province as the Proponents, or their Attorneys shall choose, not already granted or Surveyed to others, and not possessed or claimed by the Indians ; and upon a return of such Survey, conformable to your Majesty's directions in your General Instructions, to pass grants for the same under the Seal of the Province, upon the following Terms, Conditions and reservations, viz^t :

That the grantees do settle the Lands with Protestant Inhabitants within ten years from the date of the grant in the Proportion of one person for every two hundred Acres, in failure whereof the Land to revert to your Majesty, your Heirs and Successors.

That an annual Quit Rent of one Farthing  acre be reserved to your Majesty, your Heirs and Successors, payable on the Feast

of St. Michael in every year, one half of which to commence and become payable on the said Feast of St. Michael, which shall first happen after the Expiration of five years from the date of the grant ; and to be payable on every ensuing Feast of St.

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Michael, or within fourteen days after, and the whole to become payable in like manner at the expiration of 10 years ;

That there be a reservation in all such grants to your Majesty, your Heirs and Successors, of all those parts of the Land, which the Surveyor shall, upon the return of the Survey, report to be proper for erecting Fortifications, publick Wharffs, and naval yards, or for other Military purposes, and a reservation of an entire liberty to all your Majesty's Subjects to fish upon the Coasts of each Tract granted where such Tract abuts upon the Sea Shore ;

That there be a reservation to your Majesty, yours Heirs and Successors of all mines of Gold, Silver and Coals.

That there be a reservation to your Majesty, your Heirs and Successors of all mines of Gold, Silver and Coals. That if any part of the Land shall appear by the Surveyor's report to be well adapted to the growth of Hemp or Flax, it shall be a condition of the grant that the grantee shall Sow, and continue annually to cultivate a due proportion of the Land, not less than one rood in every thousand Acres, with that beneficial Article of produce.

Which is most humbly Submitted.

HILLSBOROUGH.
SOAME JENYNS.
ED. ELIOT.
ED. BACON.
GEO. RICE.
ORWELL.
BAMBER GASCOYNE.
J. DYSON.

Whitehall, }
June 15th 1763.

	<i>Acres</i>
Thomas Pownall Esq ^r	20,000
John Tucker Esq ^r	20,000
R ^d Jackson Esq ^r	20,000
John Mitchell Esq ^r	20,000
Thomas Thoroton Esq ^r	20,000
Richard Oswald Esq ^r	20,000

Levett Blackbourn Esq ^r.	..	..	..	..	20,000
Samuel Holland Esq ^r.	..	..	..	..	20,000
Joseph Peach Esq ^r.	..	..	..	..	20,000
Benj ⁿ . Hollowell Esq ^r.	..	..	..	..	20,000
Michael Franklin Esq ^r.	..	..	..	..	20,000
Joseph Pornette Esq ^r.	..	..	..	..	20,000
George Adam Gucelin Esq ^r.	..	..	..	..	20,000
Joseph Frederick Wallet Desbarres Esq ^r .	..				20,000
Richard Bulkely Esq ^r	20,000
John Henniker Esq ^r	20,000

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John Major Esq ^r	20,000
Humphry Bradstreet Esq ^r	5,000
Richard Byron Esq ^r	10,000
Alexander Hay Esq ^r.	..	..	..	..	5,000
Joseph Gorham Esq ^r.	..	..	..	..	20,000
Richard Spry Esq ^r.	..	..	..	..	20,000
Godhard Hagen Esq ^r.	..	..	..	..	20,000
John Fisher Esq ^r.	..	..	..	..	20,000
John Wentworth Esq ^r.	..	..	..	..	20,000
Richard Wright Esq ^r.	..	..	..	..	10,000

BARON BEHR TO EARL OF HALIFAX.[20 Dec.,
1764.]

C.O. 217, VOL. 34, p. 191.

My Lord,

C'est par ordre du Roi, My Lord, que j'ai l'honneur de remettre cijoint à Votre Excellence la Commission, que le nommé Stumpel a obtenû au commencement de la presente année, pour etablir une Colonie sur la Riviere de St^e Jean dans la Nouvelle Ecosse, et que le dit Stumpel, qui a été arrêté, il y a quelque tems, sur le Territoire de Monseigneur le Marggrave d'Anspac, a été obligé de rendre, à la requisition du Ministère du Roi à Hannovre, à fin de le mettre hors d'etat d'en faire mauvais usage, comme il a deja fait.

Ju suis avec la Consideration la plus distinguée.

My Lord,
de Votre Excellence,
Le très humble er très
obeissant Serviteur

B. BEHR.
L.S.

Londres ce 20 Dec. 1764.

S.E. My Lord Comte de Halifax.

pp. 192-3 follow p. 194.

p. 194 Endorsed :—

London 20th Dec^r. 1764
M. le Baron Behr
Stumpel.

R 21.

No. 938.

[Enclosure in No. 937.]

C.O. 217, VOL. 34, p. 192.

L. S.

AT THE COURT OF ST. JAMES'S
THE 10^h DAY OF FEBRUARY, 1764.

PRESENT

The Kings most Excellent Majesty

Duke of Leeds

Earl of Halifax

Duke of Rutland

Earl of Powis

Duke of Queensberry

Earl of Egmont

Duke of Argyll

Earl of Hillsborough

Duke of Ancaster

Viscount Falmouth

Lord Steward

Lord Le Despencer

Lord Chamberlain

Lord Berkeley of Stratton

Earl of Huntingdon

Lord Sandys

Earl of Denbigh

Lord Hyde

Earl of Sandwich

Lord Tyrrawley

Earl of Shaftesbury

Humphry Morice Esq^r.

Earl of Marchmont

Sir John Philipps.

Earl of Hyndford

[10 Feb.,
1764.]

Whereas the Lords Commissioners for Trade and Plantations, have represented to His Majesty at this Board, that a Petition has been presented to them by the Sieur John Henry Christian de Stumpell, an Officer in the Hanoverian Service, praying that a Tract of Twenty Thousand Acres of Land may be laid out into a Township, and granted to him, either upon the River S^t John^l in the Province of Nova Scotia, or in such Part of the Country between that River and the River S^t Croix, as he shall find most Advantageous and best adapted to the Object he has in view, in order to make a Settlement thereupon ; Which Request the said Lords Commissioners apprehend will be for His Majestys Service to comply with — His Majesty this day took the said Representation together with a Report made thereupon by a Committee of the Lords of His Majestys most Honourable Privy Council, into His Royal Consideration and being inclined to give all fitting Encouragement for the

Settling of Lands in the said Province, is hereby pleased, with the Advice of His Privy Council, to Order, That the Governor or Commander in Chief of

¹ In present province of New Brunswick.

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His Majestys Province of Nova Scotia for the time being, do cause a Survey to be made and a Township, consisting of Twenty Thousand Acres of Land, to be laid out on the said River S^t John, or between that and the River S^t Croix, in such a Situation as the Petitioner shall chuse (taking care that it be not upon any Lands occupied by the Indians, or used as their Hunting Grounds) and to grant the Same to the Petitioner the Sieur John Henry Christian de Stumpel, under the Seal of the said Province, upon the following Terms, Reservations and Conditions, Viz^t.

That the Grantee be obliged to settle the Township with Protestant Inhabitants within Ten Years from the Date of the Grant, in the Proportion of One Person for every hundred Acres.

That if One third of the Township be not settled with Protestant Inhabitants in the abovementioned Proportion within three Years from the Date of the Grant, the whole to be void.

That all such Parts of the Land as are not settled with Protestant Inhabitants in the same Proportion at the Expiration of Ten Years from the Date of the Grant shall revert to His Majesty.

That the Grantee do pay an Annual Quit Rent to the Crown of Two Shillings Sterling for every hundred Acres contained in the Grant, the Payment of such Quit Rent not to commence until the Expiration of Ten Years from the Date of the Grant.

That there be a Reservation in the Grant of all such Spots as the Person legally appointed to survey the Lands, previous to the Grant, shall report, and mark out in a Map to be annexed to such Report, as proper for erecting Fortifications, for publick Quays, Beach for the Fishery, Roads, and all other publick Uses whatsoever.

That there be a Reservation to His Majesty of all Mines of Gold and Silver.

That after the Expiration of Three Years from the Date of the Grant, the Grantee be obliged to Plant, and continue to cultivate Six Acres of Land with Hemp and Flax.

And the Governor or Commander in Chief of His Majesty's Province of Nova Scotia, for the time being, and all others, whom it may concern, are required to carry His Majesty's Commands hereby signified into Execution.

PHIL. SHARPE.
D.S.

Endorsed : — In M. le Baron Behr's of the 20 Dec^r 1764.

[17 Feby., 1766.]

EXTRACT FROM PRIVY COUNCIL MINUTES OF

17 FEBRUARY, 1766.

Nova Scotia.

Order for granting
Lands in this
province to Lord
Colville.

P.C. 2, VOL. III., p. 504.

Whereas application hath been made to His Majesty at this Board by the Right Honourable Alexander Lord Colville, praying for a Grant of Lands in His Majesty's Province of Nova Scotia in order to make a Settlement thereupon.—His Majesty this day took the same into Consideration, and having received the opinion of the Lords Commissioners for Trade and Plantations and also of a Committee of the Lords of His Majesty's most Honourable Privy Council thereupon, is hereby pleased with the Advice of His Privy Council, to order, that the Governor or Commander in Chief of His Majesty's Province of Nova Scotia for the time being do immediately upon the Receipt hereof, cause ten thousand Acres of Land to be surveyed in one contiguous Tract (conformable to the directions of His Majesty's Instructions with regard to the manner of laying out Grants of Land) in such part on the Continent of the said Province as the said Alexander Lord Colville or his Attorney shall choose, not already granted or surveyed to others and not possessed nor claimed by the Indians, and that upon a return of such survey conformable to His Majesty's directions in His General Instructions, He do pass a Grant for the same to the said Alexander Lord Colville under the Seal of the said Province upon the following Terms, Conditions and Reservations—Viz^t.

That the Grantee do settle the Lands with Protestant Inhabitants within ten years from the date of the Grant, in the proportion of one person for every two hundred Acres, in failure whereof, the Land to revert to His Majesty, His Heirs and Successors.

That an Annual Quit Rent of one farthing per Acre be reserved to His Majesty, His Heirs and Successors payable on the Feast of S^t Michael in every year, one half of which to commence and become payable on the said Feast of S^t Michael which shall first happen after the expiration of five years from the date of the Grant, and to be payable on every ensuing Feast of S^t Michael or within fourteen days after and the whole to become payable in like manner at the expiration of ten years.

That there be a reservation in the said Grant to His Majesty, His Heirs and Successors of all those parts of the Land which the Surveyor shall upon

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the return of the Survey report to be proper for erecting Fortifications, Publick Wharfs and Naval Yards or for other Military purposes and a reservation of an entire liberty to all His Majesty's Subjects to Fish upon the Coast of the said Tract, where such Tract abuts upon the Sea Shore.

That there be a Reservation to His Majesty, His Heirs and Successors of all Mines of Gold, Silver, and Coals.

That if any part of the Land shall appear by the Surveyors Report to be well adapted to the growth of Hemp or Flax, it shall be a condition of the Grant, that the Grantee shall sow and continue annually to cultivate a due proportion of the Land, not less than one rood in every thousand Acres with that beneficial Article of produce.

Nova Scotia.
Order for Granting
Lands to Charles
Colville Esq^r and
sundry others in this
Province.

And the governor or Commander in Chief of His Majesty's Province of Nova Scotia for the time being, and all others whom it may concern are required to carry His Majesty's commands hereby signified into execution.

Like Orders with the foregoing were issued for Granting the following quantities of Land in Nova Scotia to the following persons—Viz^t.

	Acres.
Charles Colville Esq ^r	10,000
Jonathan Belcher Esq ^r Lieutenant Governor of Nova Scotia	5,000
Benjamin Green Esq ^r	5,000
John Collier Esq ^r	5,000
Charles Morris Esq ^r	5,000
Joseph Gerrish Esq ^r	5,000
Edmund Crawley Esq ^r	5,000
Henry Newton Esq ^r	5,000
Sebastian Zouberbuhler Esq ^r	5,000
Jonathan Binney Esq ^r	5,000
Walter Sterling Esq ^r Captain in the Navy	5,000
Cha ^s . Lyell Esq ^r Secretary to Lord Colville	5,000
James Ferguson Esq ^r Captain in the Navy	5,000

[3 Dec., 1766.]

**EXTRACT FROM PRIVY COUNCIL MINUTES OF
3 DECEMBER, 1766.**

Nova Scotia.

Order for Granting
20,000^a of Land to
John Tucker Esq^f.

P.C. 2, Vol. 112, p. 118.

Whereas Application hath been made to His Majesty at this Board by John Tucker Esquire praying for a Grant of Lands in His Majesty's Province of Nova Scotia in order to make a Settlement thereupon—His Majesty this Day took the same into Consideration, and having received the Opinion of the Lords Commissioners for Trade and Plantations, and also of a Committee of the Lords of His Majesty's most Honourable Privy Council thereupon is hereby pleased with the advice of his Privy Council, to Order, That the Governor or Commander in Chief of His Majesty's Province of Nova Scotia for the Time being do Immediately upon the receipt hereof cause twenty thousand Acres of Land to be Surveyed in one Contiguous Tract (conformable to the Directions of His Majesty's Instructions with regard to the manner of laying out Grants of Land) in such part on the Continent of the said Province as the said John Tucker or his Attorney shall choose, not already Granted or Surveyed to Others and not possessed nor Claimed by the Indians, and that upon a Return of such Survey Conformable to His Majesty's Directions in his General Instructions he do pass a Grant for the same to the said John Tucker under the seal of the said Province upon the following Terms Conditions and Reservations, viz^t.

That the Grantee do settle the Lands with protestant Inhabitants [sic] within ten years from the Date of the Grant, in the proportion of One person for every two hundred Acres, in failure whereof the Land to revert to his Majesty his Heirs and Successors.

That an Annual Quit Rent of one farthing per Acre be reserved to His Majesty his Heirs and Successors, payable on the Feast of S^t Michael in every Year, one half of which to commence and become payable on the said Feast of Saint Michael which shall first happen after the Expiration of five Years from the Date of the Grant, and to be payable on every ensuing Feast of S^t Michael or within fourteen Days after and the whole to become payable in like manner at the Expiration of ten years—

That there be a Reservation in the said Grant to His Majesty his

Heirs and Successors of all those parts of the Land which the Surveyor shall upon the Return of the Survey, Report to be proper for Erecting Fortifications Publick Wharfs and Naval Yards or for other Military purposes, and a Reser-

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vation of an entire Liberty to all His Majestys Subjects to Fish upon the Coast of the said Tract where such Tract abuts upon the Sea Shore.

That there be a Reservation to his Majesty his Heirs and Successors of all Mines of Gold Silver and Coals.

That if any part of the land shall appear by the Surveyor's Report to be well adapted to the Growth of Hemp of Flax it shall be a Condition of the Grant, that the Grantee shall sow and Continue Annually to Cultivate a Due proportion of the Land not less than one Rood in every thousand Acres, with that beneficial Article of Produce.

And the Governor or Commander in Chief of His Majesty's province of Nova Scotia for the time being, and all others whom it may Concern are required to Carry his Majesty's Commands hereby signified into Execution.

Like Orders with the foregoing were Issued for Granting the following Quantities of Land in Nova Scotia to the following persons viz^t.

	Acres.
Major Gorham	10,000
George Edie Esquire	10,000
John Edie Esquire	2,000
David Edie Esquire	2,000
Claude Edie Esquire	2,000
Jabez Edie Esquire	2,000
Paul Edie Esquire	2,000
Alexander Campbell Esquire	10,000
Charles Shirreff Esq ^r	10,000
Andrew Watson Esquire	20,000
Augustin Oldham Esquire	10,000
John Phillips Esquire	10,000
Francis Millar Esquire	10,000
Norman M ^c Leod Esquire	10,000
Benjamin Gerrish Esquire	10,000
Joseph William Gorham Esquire	10,000
John Creighton Esquire	10,000
Charles Morris Gentleman	10,000
William Gorham Gentleman	10,000
Edward Crosby Gentleman	5,000
Benoni Danks Esquire	10,000

Joshua Loring Esquire 10,000

Quebec

1763.

Nov^r 22^dLetter to Montagu
Wilmot Esquire Gov^r
of Nova Scotia.**PRINCE EDWARD (FORMERLY ST. JOHN) ISLAND.**

No. 941.**INSTRUCTIONS, LORDS OF TRADE TO MONTAGU
WILMOT, GOVERNOR OF NOVA SCOTIA,***re* ST. JOHN (PRINCE EDWARD) AND CAPE BRETON ISLANDS,
22 NOVEMBER, 1763.

B.T.N.S., VOL. 37, p. 248.

To Montagu Wilmot Esq^r., Governor of Nova Scotia.

Sir,

We have received your Letter to us of the 27th of September acquainting us with your arrival at Halifax, and with your having taken upon you the administration of Government as Lieutenant Governor and we are now to congratulate you, upon His Majesty's having appointed you to be His governor in Chief, and to acquaint you that your Commission and Instructions are preparing with all possible dispatch.

* * * *

We cannot close this letter without mentioning the Islands of St^t John and Cape Breton which being annexed to the Government of Nova Scotia are now become pressing objects of your Particular care and attention ; Their advantageous Situation in respect to the Fishery renders them of the greatest Importance to this Country and no measures should be left untryed that may tend to promote and encourage the carrying on this Fishery to the utmost extent it is capable of. We must desire therefore that you will forthwith cause an actual survey to be made of these Islands, reporting to us in the mean time every circumstance you can collect which may furnish us with any Information of the true State of them in respect to their Extent, the nature of the soil the Rivers and Harbours in each of them, and their particular productions and advantages, with your opinion in the fullest manner, not only what Establishment may be necessary for effectually uniting them to the Government of Nova Scotia, but also what plan of Settlement will be the most eligible & advantageous with respect to their situation in general and the advancement and convenience of

the Fishery in particular, and until this is done, and you shall have received particular orders from home, you are upon no account to make grants in these Islands to any particular persons whatever ; but as much as possible to encourage and protect all

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temporary Establishm^{ts} for carrying on the Fishery, taking care that such Establishments, in respect to extent of Coast, are within the bounds of moderation ; and to discourage every attempt that may in its nature and consequence operate as a monopoly, or as a means of establishing any undue preference whatever.

We are,

Sir,

Your Most obedient
humble Servants.

HILLSBOROUGH
SOAME JENYNS
GEO. RICE
BAMBER GASCOYNE.

Whitehall, }
Nov^r 22^d 1763. }

1764.
March 23^d.**REPRESENTATION, LORDS OF TRADE TO THE
KING,***re* GRANTING LANDS ON THE ISLAND OF ST. JOHN (PRINCE EDWARD),
23 MARCH, 1764.

*sic.

[*Enclosure in Order in Council of 9th May, 1764.*]March 9,
1764.

B.T.N.S., VOL. 20. M : 108 ; ALSO IN B.T.N.S., VOL. 37, p. 394.

To the King's most Excellent Majesty.

May it please Your Majesty,

In Obedience to Your Majesty's Commands signified to Us by Your Order in Council, we have taken into consideration a *Memorial of John Earl of Egmont, on behalf of himself and his Nine Children, and of a great Number of Land and Sea Officers, a List of whose names is hereunto annexed, humbly praying for a Grant in Fee of the Island of St. John in the Gulph of St. Lawrence and in the Province of Nova Scotia, upon the terms and conditions therein proposed ; Whereupon we beg leave humbly to represent to your Majesty we are of Opinion it may be highly conducive to the speedy cultivation of Your Majesty's American Dominions, that the Nobility and other Persons of Rank and distinction in this Country should take the lead, and shew the example in the undertaking and carrying into execution the Settlement thereof, and that all due encouragement should be given to officers of Your Majesty's Fleet and Army to whose distinguished Bravery and conduct this Kingdom is so much indebted for the acquisitions made in the late War ; We therefore humbly recommend to your Majesty, that a proper distribution be made of Lands in this Island to the said Earl for himself and family, and to the other Memorialists conformable to such divisions and sub-divisions of the said Island as we shall humbly recommend to your Majesty, and in such proportions as may be suited to the particular purposes and intentions of the said several persons, so far as the same shall be found to be consistent with those principles of Settlement, Cultivation and Government, which have been adopted for many years past, and are founded upon the experience of former times.

To this end we beg leave to lay before your Majesty the Plan for the division and allotment of the Lands in this Island, which we had intended to submit to your Majesty, after having

taken into our consideration the proposal of several Officers, Merchants and others for making Settlements therein ; which proposals were withdrawn upon the Earl of Egmont's having made his first application to your Majesty. The Propositions contained in this

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Plan were : That the Island should be forthwith surveyed by Your Majesty's Surveyor for the Northern District. That it should be divided into Counties of five hundred thousand Acres each, so near as natural and proper Boundaries would admit. That the said Counties should be laid out into Parishes of One hundred thousand Acres each. That each Parish should be laid out in like manner into Townships of Twenty thousand Acres each. That each County, Parish, and Township should be laid out in such manner as to partake as much as possible of the natural advantages of the Country, especially those which arise from the Sea Coasts and from the sides of navigable Rivers. That there should be laid out in each County, a sufficient quantity of Land for the Scite and accommodation of a Town in the best and most Commodious part of the said County for the situation thereof, and that there should be reserved in each Parish a proper Scite for a Church, and a proper number of Acres near the same for a Glebe for a minister. And as this Plan is with great propriety applicable to .the proposals now under consideration and does we conceive, equally answer to the views and intentions of the Memorialists, We humbly beg. leave to recommend that it may be adopted upon the present occasion, and that when the Survey we have proposed, with the several Divisions and sub-divisions shall have been made and returned to your Majesty's Govt of Nova Scotia, regular Grants of such Divisions and sub-divisions be made under the Seal of the Province to the said Earl and his family and to each of the other Memorialists under the same Regulations and Conditions of Cultivation and Settlement, as' are prescribed by your Majesty's Instructions in respect to Grants of Lands in other parts of the said Province ; due regard being had to the intentions and abilities of the several Memorialists, as well as Your Majesty's Proclamation of the 7 of October last ; but We would humbly recommend, that (except in the Case of the said Earl, who proposes not only for himself, but for his Nine Children) no one person should possess more under such Grants than twenty thousand Acres, and that each should have a separate Grant ; for We beg leave to observe, that We do not see that any advantage whatever can arise to the public, or to the several Adventurers, by leaving the parcelling out of the lands to the said Earl, but on the contrary, experience has shown, in the Cases of the great and exorbitant Patents of Lands, in the Colonies, particularly in New York, that the making such Grants in joint Tenancy and Copartnership, and leaving the future distribution to be made by Deeds of Partition ; have been ever found to be attended with great inconveniencies and obstruction to Settlement, with

endless litigation and dispute amongst the Proprietors, and have made it difficult to ascertain, and impossible to collect the Quit Rents reserved to the Crown. That with regard to the Grant Your Majesty shall think fitt to make to the Earl of Egmont. We humbly submit, whether, in consideration of His Lordship's extensive designs, and his abilities and zeal to carry them into execution, and that His Lordship proposes not only for himself but for his Nine Children. Your Majesty may not be pleased to Grant to his Lordship one whole Parish in the said Island for himself and his family ; but We beg leave to observe, to your Majesty that We do by no means recommend to Your Majesty the making

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grants of so large extent in general ; If therefore what we have proposed shall be approved by your Majesty and the several Memorialists shall be willing to accept Grants in the method we have recommended, We would further propose, that in order to prevent any delay in carrying the above mentioned plan into Execution, and to the end that your Majesty's Gov^r may be enabled in making the Grants, to Execute with Exactness and precision, Your Majesty's Royal Intentions, the Memorialists should severally make their proposals to this Board, that the proper directions may be transmitted to your Majesty's said Governor for making out Grants proportioned to the Intentions & abilities of the said several Memorialists as aforesaid. That as to the conditions which the said Earl mentions to have been already declared and agreed upon between his Lordship and the other Memorialists, We beg leave to represent, that every condition besides those of cultivation and Settlement, which Your Majesty usually inserts in Grants of Lands, will tend, as we apprehend, only to embarrass the Settlers, and to delay and discourage, or altogether prevent the Settlements. We have received no official information relative to these conditions, but if they are similar to, or partake of the nature of those which his Lordship proposed in his first Memorial to your Majesty for the Island of St. John. We beg leave to repeat our Opinion, that the Introduction of such Conditions of Settlement and Tenure is entirely impolitick, inexpedient and anticommercial. The Earl of Egmont proposes that the several intended Grantees of the Island should come under the, same Conditions of Quit Rent to your Majesty as are usual in the continental part of Your Majesty's Province of Nova Scotia ; whereupon we think it our duty to state to your Majesty that as this Island is particularly valuable from its soil as well as situation, We had it in our intention before his Lordship's proposals were made, to raise Your Majesty an higher Revenue of Quit Rent from this Island than from the other parts of Your Majesty's Province of Nova Scotia. And that certain Merchants had actually agreed to accept Grants of Townships at the rate of three shillings ^s hundred Acres, which Addition of one shilling ^s hundred Acres will make a difference in the Quit Rents of the whole

Island of a sum not less than one Thousand two hundred and fifty pounds per Annum ; And we further submit to your Majesty upon this head, how far it may be reasonable, that the cleared Lands of the said Island, consisting as we are informed, of many thousand Acres, in the most fertile parts, should be exempted from Quit Rent for ten years, the policy of which encouragement is applicable only to such Lands as are not cleared at the time of Granting. That, if upon the whole Your Majesty shall be pleased to direct that Lands in the said Island should be granted in Townships of twenty thousand Acres and such sub-divisions thereof as may be found convenient, We have nothing further to recommend to your Majesty but that out of the said Grants there may be reserved to your Majesty according to the Instructions given to your Majesty's Governor of Novia [sic] Scotia, all Mines of Gold, Silver, Copper, Lead and Coals, and a sufficient breadth on the Sea Coast from High water mark for the free accommodation of all Your Majesty's Subjects in carrying on the

p. 2230

Fisheries, for which the Coasts of this Island are so advantageously situated, together with proper accommodation for the fishery of Sea Cows which we understand abound on some part of the said Island.

Which is most humbly submitted

HILLSBOROUGH
SOAME JENYNS
ED. ELIOT
GEO. RICE
ORWELL

Whitehall, }
March 23, 1764. }

No. 943.

**EXTRACT FROM THE MINUTES OF THE PRIVY
COUNCIL.**

WEDNESDAY, 8 JULY, 1767.

[8 July, 1767.]

P.C. 2, Vol. 112, pp. 435-8.

AT A MEETING OF HIS MAJESTY'S COMMISSIONERS FOR TRADE &
PLANTATIONS.

Present :

Lord Clare
Mr. Fitzherbert

Mr. Robinson

The Board took into Consideration the Merits and pretensions of such of the proponents for Lands in the Island of S^t John as had either personally or by their Agents appeared before their Lordships to Support their Petitions, and agreed to recommend to the Lords of the Committee of Council, to advise his Majesty, to cause the several Lots or Townships into which the said Island is divided, to be granted under the Seal of the province of Nova Scotia to the said proponents, according to the following Distribution, that is to say,—

.		
William Fitzherbert Esq ^f M.P., Robert Campbell Merchant		Lot
William Matthew Burt Esq ^f M.P., John Callander Esq ^f ..		1
Alexander Fordyce Esq ^f , Robert Gordon Esq ^f ..		1
..		1
Gordon Graham L ^t . Col., Robert Porter Esq ^f ..		1
..		

* * * *

Resolved that it be Recommended that the several Townships be Granted on the following Conditions and Reservations, that is to say,

1st—That the Quit Rents to be reserved on the several Lots, be, as near as may be, proportioned to the Value of the Lands, all Circumstances of Convenience and Advantage

considered.

2nd—That a Quit Rent of Six Shillings  100 Acres be reserved to His Majesty His Heirs and Successors on Lots 5, 13, 14, 15, 16, 17, 18, 19, 24, 25, 26, 32, 33, 34, 35, 37, 39, 40, 54, 55, 56, 57, 58, 59, 63, 64.

3rd—That a Quit Rent of four Shillings per 100 Acres be reserved on Lots 6, 8, 9, 10, 11, 12, 21, 22, 23, 27, 28, 29, 31, 36, 38, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 53, 61, 62, 65.

4th—That a Quit Rent of two Shillings per 100 Acres be reserved on Lots 1, 2, 3, 4, 7, 20, 30, 51, 60, 67.

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5th—That the several foregoing Quit Rents be payable on the feast of S^t Michael, or within fourteen Days after, in every Year, to commence and become payable, upon one half of the Land, on the said Feast of S^t Michael which shall first happen after the expiration of five Years from the Date of the Grant, and to be payable on every ensuing Feast of S^t Michael, or within fourteen Days after and the whole Quantity to be Subject in like manner to the like Annual Quit Rent at the Expiration of ten Years.

6th—That there be a Reservation to His Majesty his Heirs and Successors of all such parts of each Township respectively as have already been set apart or shall hereafter be thought necessary to be set apart for erecting fortifications [sic], building Wharfs, Inclosing Naval Yards or laying our Highways for the convenience of Communication between one part of the Island and another.

7th—That there be also a Reservation in a proper part of each Township of one hundred Acres of Land for the Scite of a Church and as a Glebe for a Minister of the Gospel, and thirty Acres for a Schoolmaster.

8th—That in order to promote and Encourage the Fishery for which many parts of this Island are conveniently Situated, there be a Clause in the Grant of each Township that abuts upon the Sea Shore, containing a reservation of Liberty to all His Majesty's Subjects in general of carrying on a free Fishery on the Coast of the said Township, and of erecting Stages and other necessary Building for the said Fishery within the Distance of five hundred Feet from high water mark.

9th—That there be a reservation to His Majesty his Heirs and Successors of all Mines of Gold, Silver and Coals.

10th—That the Grantee or Grantees of each Township do settle the same within ten years from the Date of the Grant in the proportion of one person for every two hundred Acres.

11th—That if one third of the Land is not settled in the above mentioned proportion within four years from the Date of the Grant, the whole be forfeited to His Majesty his Heirs and Successors.

12th—That the Settlers so to be Introduced be Protestants from such parts of Europe, as are not within His Majesty's

Dominions ; or such persons as have resided within His
Majestys Dominions in America for two Years antecedent to
the Date of the Grants.

* * * *

No. 944.

C

Queen vs. Cox

(1850-74) 1 P. E. I. REP.

Vide Page 2095, *infra*.

Privy Council
Documents

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PROVINCE OF QUEBEC

[10 Feby.,
1764.]

No. 945.

Quebec.

EXTRACT FROM PRIVY COUNCIL MINUTES OF

10 FEBRUARY, 1764.

Order approving
Commee Report
upon the Petition of
Mess^{rs} Price and
Knutton Merchants
praying for a Grant of
Lands near Cape
Gaspee in this
province.

P.C. 2, Vol. 110, p. 256.

*sic.

Whereas the Lords Commissioners for Trade and Plantations have represented to His Majesty at this Board that a Memorial has been presented to them by Benjamin Price and William Knutton of Quebec Merchants, praying that a Grant may be made to the Memorialists of a Tract of Land in His Majesty's Province of Quebec between the River Aclaude and Gaspée Cape, with a View to the carrying on a Fishery there, and employing the Persons whom they intend to settle in several useful Works, which Request the said Lords Commissioners apprehend will be for His Majesty's Service to comply with. His Majesty this day took the said Representation together with a Report made thereupon by a Committee of the Lords of His Majesty's most Honourable Privy Council into His Royal Consideration, and being inclined to give all fitting Encouragement for the settling of Lands in the said Province, Is hereby pleased with the Advice of His Privy Council to order that the Governor or Commander in Chief of His Majesty's Province of Quebec for the time being do cause a Survey to be made, and a Township, consisting of Twenty thousand Acres to be laid out in a proper and convenient Situation between the said River Aclaude and *Caspee Cape, and to grant the said Township to the Memorialists Benjamin Price and Wm. Knutton under the Seal of the said Province upon the following Terms, Reservations and Conditions, Viz^t.

First—That the Grantees be obliged to settle the said Township with Protestant Inhabitants with Ten Years from the Date of the Grant in the Proportion of one Person to every hundred Acres.

Secondly—That if One third of the Township be not settled with Protestant Inhabitants in the above mentioned Proportion within three Years from the Date of the Grant, the whole to be void.

Thirdly—That all such Parts of the Land as shall not be settled with Protestant Inhabitants in the said Proportion at the Expiration of ten Years from the Date of the Grant do revert to the Crown.

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Fourthly—That the Grantees do pay an Annual Quit Rent to the Crown of Two Shillings Sterling for every hundred Acres contained in the Grant, to commence at the Expiration of Ten Years from the Date thereof.

Fifthly—That there be Reservations in the Grant of all such Parts as the Person legally appointed to survey the said Lands shall report and mark out in a Map to be annexed to his Report, as proper for Erecting Fortifications for Publick Quays, Roads and all other Publick Uses whatsoever.

Sixthly—That there be a Reservation to the Crown of all Mines of Gold and Silver.

Seventhly—That after the Expiration of three Years from the Date of the Grant, the Grantees be obliged to Plant and cultivate annually Six Acres of Land with Hemp or Flax.

Eighthly—That One hundred Yards in Breadth above High Water Mark along the Sea Coast be reserved to the Crown for the use and Benefit of all His Majesty's Subjects.

And the Governor or Commander in Chief of His Majesty's Province of Quebec for the time being, and all others whom it may concern, are required to carry His Majesty's Commands hereby Signified into Execution.

EXTRACT FROM PRIVY COUNCIL MINUTES OF[3 Dec.,
1766.]

3 DECEMBER, 1766.

Quebec.

Order for Granting
12,000 Acres of Land
to Alexander
Maitland Esq^r.

P.C. 2, VOL. 112, p. 120.

Whereas Application hath been made to His Majesty at this Board by Alexander Maitland Esquire praying for a Grant of Lands in his Majesty's province of Quebec in Order to make a Settlement thereupon, His Majesty this Day took the same into Consideration, and having received the opinion of the Lords Commissioners for Trade and Plantations, and also of a Committee of the Lords of His Majesty's most Honourable Privy Council thereupon, is hereby pleased with the advice of his Privy Council to Order that the Governor or Commander in Chief of His Majesty's province of Quebec for the Time being, do Cause twelve thousand Acres of Land to be Surveyed in one Contiguous Tract in such part of the said Province as the said Alexander Maitland or his Attorney shall Choose not Already Granted or Surveyed to Others and that upon a Return of such Survey Conformable to his Majesty's Directions in his General Instructions he do pass a Grant for the same to the said Alexander Maitland under the Seal of the said province upon the following Terms Conditions and Reservations.

First.—That the Grantee be obliged to settle the said Lands with Protestant Inhabitants within ten Years from the Date of the Grant in the proportion of one person for every hundred Acres.

Secondly.—That if one third of the Lands be not settled with Protestant Inhabitants in the above mentioned proportion, within three Years from the Date of the Grant, the whole to be Void.

Thirdly.—That all such parts of the Land as shall not be Settled with Protestant Inhabitants in the said proportion at the Expiration of ten Years from the Date of the Grant do revert to the Crown.

Fourthly.—That the Grantee do pay an Annual Quit Rent to the Crown of two Shillings Sterling for every hundred Acres Contained in the Grant to Commence at the Expiration of ten Years from the Date thereof.

Fifthly.—That there be a Reservation in the Grant of all such parts as the person legally appointed to Survey the said Lands shall report and mark out in the Map to be annexed to his Report as proper for Erecting Fortifications, for Publick Quays, Roads and all other Publick Uses.

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Sixthly.—That there be a reservation to the Crown of all Mines of Gold and Silver.

Seventhly.—That after the expiration of three Years from the Date of the Grant, the Grantee be obliged to plant and Cultivate Annually a due proportion of the Land not less than forty eight poles in every thousand acres with Hemp or Flax.

Eighthly.—That one hundred Yards in breadth above High Water Mark, along the Sea Coast be reserved to the Crown for the free Use and Benefit of all His Majesty's Subjects.

And the Governor or Commander in Chief of his Majesty's province of Quebec for the time being and all others whom it may Concern are required to Carry his Majesty's Commands hereby Signified into Execution.

No. 947.

[25 July,
1785.]ADDITIONAL INSTRUCTION,¹

DATED 25 JULY, 1785, PASSED UNDER THE ROYAL SIGN-MANUAL AND SIGNET, FOR FREDERICK HALDIMAND AS CAPTAIN GENERAL AND GOVERNOR IN CHIEF OF THE PROVINCE OF QUEBEC, OR TO THE COMMANDER IN CHIEF OF THE SAID PROVINCE FOR THE TIME BEING.

[L.S.]

C.O. (QUEBEC 1768-1787, VOL. I.)

George R.

Additional Instruction To Our Trusty and Welbeloved Frederick Haldimand Esq^f Our Captain General and Governor in Chief of Our Province of Quebec in America, or to the Commander Chief of the said Province for the Time being. Given at Our Court at St. James's the Twenty fifth Day of July 1785. In the Twenty fifth year of Our Reign.

Whereas it will be for the General Benefit of Our Subjects carrying on the Fishery in the Bay of Chaleure in Our Province of Quebec, that such part of the Beach and Shore of the said Bay, as is ungranted, should be reserved to Us, Our Heirs and Successors ; It is therefore Our Will and pleasure, that you do not in future, direct any Survey to be made or Grant passed for any part of the ungranted Beach or Shore of the said Bay of Chaleure, except such parts thereof as by Our Orders in Council dated the 29th of June and 21th July 1785, are directed to be granted to John Shoolbred of London Merchant and Messrs Robin Pipon and Company, of the Island of Jersey Merchants, but that the same be reserved to Us, Our Heirs and Successors, together with a sufficient quantity of Wood-Land adjoining thereto necessary for the purpose of carrying on the Fishery ; The Limits of such Wood-Land so to be reserved, to be determined upon and ascertained by You and Our Council for Our said Province of Quebec, in such manner, as from the most Authentick Information shall appear to you and them most Convenient and proper for that purpose ; It is Nevertheless Our Intention, and We do hereby Signify to you Our Will and pleasure, that the Free Use of such Beach or

Shore, and of the Wood-Lands so to be reserved shall be allowed by you or any person Authorized by you, to such of Our Subjects as shall resort thither for the purpose of carrying

¹ Canadian Archives, Q. 26 B. p. 228.

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on the Fishery, in such proportions as the Number of Shallops he or they shall respectively employ may require ; provided that if any Fisherman who shall have permission to Occupy any part of the said Beach or Shore and Wood-Land for the purpose of the said Fishery, shall not during any One Season, continue so to Occupy and Employ any part of the said Beach and Shore and Wood-Lands so allotted to him, you or any person authorized by you as above may and shall allow the Use of such part to any other Fisherman who shall apply for the same, for the purpose of carrying on the Fishery—

And whereas it may be necessary to Establish local Regulations to prevent Abuses as well as disputes and Misunderstanding between the Fishermen resorting to the said Beach or Shore, It is Our Will and Pleasure that you by and with the Advice and Consent of Our said Council, do frame such Regulations as to you shall appear necessary to Answer those Salutary purposes, and transmit the same to Us thro' One of Our principal Secretaries of State for Our pleasure therein by the first Opportunity.¹

G. R.

[¹ The first Ordinance passed relating to these fisheries was that of 28 Geo. III., cap. 6, “For regulating the Fisheries in the River St. Lawrence in the Bays of Gaspe and Chaleurs, on the island of Bonaventure and the opposite shore of Percé” Ordinances Made and passed by the Governor and Legislative Council of the Province of Quebec, 1795. p. 153 also, Ordinances, 1763-91, p. 216.]

No. 948.

C

**INSTRUCTIONS TO GOVERNORS OF QUEBEC (AND
LOWER CANADA), 1786-1839.**

Vide Vol. II, pages 850, 877, 882.

No. 949.

**EXTRACT FROM MINUTES OF THE EXECUTIVE
COUNCIL OF QUEBEC,***Re* PATENT OF LANDS TO JOHN SHOOLBRED.

Q. 38, p. 47.

Wednesday 23 July 1788.

[23 July, 1788.]
Mr. Shoolbred

Present:

His Excellency The Right Honourable Lord Dorchester

The Honble William Smith Esqr. Chief Justice

Hugh Finlay

Henry Caldwell

Thomas Dunn

William Grant

Edwd. Harrison

P. R. De St. Ours

John Collins

Francis Baby

Adam Mabane

Charles De

Lanaudiere

J. G. C. DeLery

Le Cte. Dupré,

Esquires

His Lordship and the Board resumed the consideration of the Report of the Deputy Surveyor General The Attorney General, The Solicitor General and the Clerk of the Kings Terrars and the Papers accompanying the same, and the Draft offered by the Chief Justice of the Patent off to Mr. John Shoolbred, as mentioned in the minutes of yesterday—Ordered by His Lordship with the advice of the Council that these papers be entered on the minutes for the clearer manifestation of the nature of the French Grants antecedent to the conquest, and that a Patent pass the seal to Mr. Shoolbred according to the form proposed by the Chief Justice.

Report of the
Attorney & Solicitor
General.

The Council at the same time beg leave most humbly to suggest as the ground of the present resolution that the thirty ninth article of His Majesty's Instructions requiring Grants in Fief and Seigniorie in the manner practised, prior to the Conquest, appeared to leave them without Deliberation or choice for a Selection of the charges, Reservations and conditions introduced in the French Government, and that it will therefore as they conceive, be necessary to adopt them all in every future Grant, until His Majesty's further pleasure shall be further known.

My Lord,

“ In obedience to Your Lordship's order in Council on the thirteenth, day of June last, We have with the Assistance of the Clerk of the Terrars inspected that part of the public Records called *Régistres des Concessions*.

“ And we find that from the Year 1672 to the year 1755 the Grants have differed in their conditions and reservations in the manner stated at large in the papers Marked A, which, with an abstract thereof marked B, We beg leave to submit to Your Lordship, presenting at one view the general conditions under which the several Governors and Intendants granted the Kings Lands within those periods with the particular exceptions made from those general rules, which appear to have varied with the appointment of the Different Governors & Intendants, increasing the conditions upon the Grantees, and the reservations to the King as the Colony grew in importance and consideration.

“ We have prepared and have the Honour to present to Your Lordship such an amended Draft of the Patent to Mr. John Shoolbred as we conceive His Majesty's Order in His favour and the Royal Instructions to require ; and we beg leave to submit to Your Lordship in what respect a Draft made conformable to the Report of the Committee of the whole Council, laid before us, would differ from His Majesty's Instructions Art. 39, directing ' that all Lands be granted in Fief or Seignior, in like manner as was practised antecedent to the Conquest of the Province, *omitting* however, in any Grant that shall be passed of such Lands, the Reservations of any Judicial powers or privileges whatever.' And in the same article directing ` That all Grants in Fief or Seignior so to be passed shall be made subject to the Royal Ratification or disallowance, and a due Registry thereof within a limited time, in like manner as was practised in regard to Grants & Concessions held in Fief or Seignior under the French Government.

First—Grants of Land (after Canada was taken into the Government of the French King) were made in the name of the Governor General and Intendant, tho' there appear some exceptions to this Rule, by Grants being made by either of them Separately : They were all made subject to the King's Ratification, within the limited period of one Year ; and yet there are instances of Ratification being made by the French King some years after the date of the Grants in Canada.

The present Draft is prepared in the King's Name, and no condition is inserted for His Majesty's Ratification of the Grant ; under the idea that His Majesty's Royal order renders such condition unnecessary.

Second—The Report laid before us proposes that there be inserted in the Patent an express Reservation of all Judicial powers or privileges whatever.

It is our Duty to submit to Your Lordship's consideration our opinion that the Grant should stand as originally reported in that Respect (being conformable to His Majesty's Instructions) omitting that reservation.

It was a general rule observed by the Governors and Intendants to oblige

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the Grantees of Lands to a Settlement thereon in one Year, who were to impose the like condition on their Tenants or *Censitaires*.

There will appear by the papers A and B, exceptions to this Rule, but there will likewise appear, that a limited period for Settlement was always expressed in the Grant.

The Honourable Committee have reported that the terms expressive of a limitation of the time for commencing a Settlement upon the premises should be left out of the Grant ; but we take the Liberty humbly to observe to Your Lordship and the Honourable Board of Council, that inasmuch as His Majesty has been graciously pleased to signify His royal will and pleasure in His Instructions to Your Lordship Art. 39 “ that Grants in Fief or Seigniory should be made in like manner as was practised antecedent to the Conquest. And as a limited period for Settlement and Improvement was during the French Government always express'd in the Grant ; it may not be improper to insert a like condition in this Grant, which is submitted in the present Draft.

Fourth—A Condition is inserted in the Draft page three, the last line to the fourth line of fourth page adopted by the Honourable Committee, founded in great part on the 37th Article of His Majesty's Instructions to Your Lordship, “ permitting all Fishermen to cut down and use all such wood and Timber growing on the premises ” (intended to be granted) “ as shall be necessary for their Fishing Establishments,” but we have omitted that part of the Resolve of the Honourable Committee which refers to the Act or ordinance passed in the last Session of the Legislative Council for regulating the Fisheries, &c. as being in our opinion unnecessary.

We perceive that from the local Situation of the premises intended to be granted, on account of the proximity of the Mountains to the Shore, His Majesty's Royal Pleasure for reservation of a Sufficient Quantity of woodland adjoining thereto, necessary for the purposes of carrying on the Fishery, cannot be ascertained and limited without impeding the Execution of His Majesty's gracious Intentions in favour of the Grantee ; By Your Lordship's adopting the Resolve of the Honourable Committee, The Grantee will embrace every benefit from the Grant, that the Nature and Situation of the Premises will admit of ; and at the same time His Majesty's Subjects, resorting thither for the purpose of carrying on the Fishery, will Freely enjoy the advantages graciously intended

by His Majesty in respect thereof.

Fifth—His Majesty's Instructions Article 39 after directing that all Grants in Fief or Seigniorie should be made subject to the Royal Ratification or Disallowance, require that a due Registry thereof be made within a limited time, in like manner as was practised in regard to Grants and Concessions held in Fief or Seigniorie the French Government.

We learn that all original Grants made by the Governor and Intendant were registered in the *Registres D'Intendance*, before they were delivered to the Grantees ; and that the French Kings Ratifications of those Grants were

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registered by order of the Superior Council in their *Registers des Insinuations* to whom they were presented, for that purpose.

When the present Grant shall have been engrossed by the proper Officer, and passed by Your Lordship under the Great Seal of the province, that Officer may be commanded by Your Lordship to transmit it to the Clerk of the Inrollments to be registered and afterwards delivered to the Grantee.

The full examination of all the Registers, necessary to lay before Your Lordship an exact State of the several conditions upon which Lands were granted prior to the French King's taking the Colony and Government of Canada from the Company, would require considerable time, and which we shall proceed to do with all Diligence as Your Lordship may direct, but we humbly conceive the Extracts herewith submitted will be sufficient to enable Your Lordship to form a Resolution upon the object of our Reference.

All which is humbly submitted by

Your Lordship's Most obedient
and most humble Servants

(signed)

J MONK, Attorney General
J. WILLIAMS Solicitor General.

His Excellency
The Right Honle Lord Dorchester.

No. 950.[24 July,
1788.]**DRAFT OF LETTERS PATENT OF GRANT TO JOHN
SHOOLBRED.**

Q. 38, p. 92.

George the Third by the Grace of Great Britain France and
Ireland King, Defender of the Faith &c.

To all to whom these presents shall come or may concern
Greeting. Whereas we did lately give order for the granting
divers parcels of Land, Benefits and Advantages, within our
Province of Quebec to John Shoolbred of London, Merchant as
by the said order bearing date the Twenty Ninth day of June in
the Twenty Sixth Year of our Reign or the Record thereof
reference being thereunto had may more fully appear. And
whereas in pursuance of the Applications made to our
Governor and Council of our said Province such proceedings
have been had towards carrying our said order into Execution,
that, on the Report of our Surveyor or deputy Surveyor
General approved by our said Governor and Council of the
said Province there hath been set off for the said John
Shoolbred the following Tracts and Parcels of Lands in the
Bay of Chaleurs, vizt. a certain Lot or tract of Land lying at
Bonaventure beginning at the South Extremity of the public
Road which leads from the Harbour of Bonaventure to the
Settlement on the North Bank, thence running nearly North
East to the extreme point of the said Bank, and bounded by the
course of the Harbour, thence still bounded by the course of
the said Harbour nearly North West two hundred and Sixty
four feet, thence South West parallel to the first course, to the
public Road, thence South East two hundred and Sixty four
feet to the first Station. Also a Lot of Land and Space of
Ground whereon was built a Store House situate four hundred
and forty four feet from the North East point of the said Bank
and East of the Public Road, which with an allowance of
fifteen feet on each side, and behind the Space whereon the
said Store stood containing five thousand and thirty five square
links. Also the Lots of Land and Space of Ground whereon
were built two other Store houses with fifteen feet on each
side, and behind each of the spaces of Ground whereon the
said Stores Stood ; the one situate two hundred and forty feet
from the South end of the Bank and one hundred and Sixty feet
West of the Public Road, containing three thousand Eight
hundred and twenty two links square ; and the other situate
twenty feet distant from the North West Corner of the last
mentioned Ground whereon the said Store formerly stood,

containing five thousand and thirty five square links ; the said Several Lots or Parcels

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of Land above mentioned containing in the whole One Acre one rood and twenty one perches ; Also a certain other tract of Land lying at Percé, between the Bays of Chaleurs and Gaspé, adjacent to the Island of Bonaventure, being the last fishing Post at present Settled and Established on the North Beach leading to Mount Joli, at Percé aforesaid, bounded on the West by a Deep Gréve or Ditch adjoining to a fresh water Brook, thence running East seven Chains of Sixty Six feet each along the Bank, thence South ten Chains, thence West Seven Chains, thence North parallel to the second course unto the first Station containing Seven Acres. Also a certain other tract of land situate on the Westernmost Extremity of Chaleurs Bay running up the River Ristigouche about fifteen miles to the first point of Land below Battery Point, beginning at a boundary line one hundred and fifty Chains East of the bottom of the Eastermost bay of *Nouvelle* Bason running back North twenty two Degrees East to the Mountains thence bounded by their course at an average Depth of Forty Chains from High water mark to their base round Nouvelle Bason Westward to a small Cove three hundred Chains West of the said first mentioned Bay bearing from the Northermost extremity of Migoacha Point being a Sand bank. South eighty four Degrees East, and North eighty four Degrees West, the superficial content of the said last described lands is two thousand and Eighty Acres. Also a tract of Land beginning at the aforesaid Cove, and running the Several Courses of Point Migoacha to the Western Extremity of a Salt Marsh distant from a Point where the inaccessible Coast begins, about Eighty Chains, thence to the said Point containing one thousand Six hundred Acres. Also a certain Tract beginning at the first mentioned point below Battery Point North Nineteen Degrees and a half, East Eighty Chains, thence South Eighty Eight degrees East eighty nine Chains, thence North thirty three Degrees East Eighty Chains, thence North Eighty three Degrees East Sixty Nine Chains, thence North fifty Six Degrees East One hundred and Seven Chains, thence South Eighty Degrees East twenty three Chains, thence South fifty Degrees East fifty Eight Chains, thence South Sixty Seven Degrees East forty nine chains, thence North Sixty Eight Degrees East Eighty Eight Chains, thence South Sixty Six degrees East fifty Seven Chains, thence South Sixty five degrees East Eighty four Chains, thence South Seventy three Degrees East one hundred and fifty Six Chains, thence South thirty nine Degrees East ninety five Chains, thence South twelve Degrees East one hundred and Seventy five Chains, thence South Eleven Degrees East fifty five Chains, thence South Fifty six Degrees West forty five Chains to Yacta Point containing Six thousand five hundred and fifty Acres, more or less, as by the Minutes of our Council for the said Province Reference being thereunto had may more fully appear. And

Whereas by our Royal Instructions dated at St. James's the Twenty third day of August in the said twenty Sixth Year of our Reign we did command that in Executing the Power and Authority given by our Commission to our said Governor with the Advice and Consent of our said Council to settle and agree with the Inhabitants for such Lands Tenements and Hereditaments as we had power to dispose of, the same be granted in Fief or Seigniority in like manner as was

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practised antecedent to the Conquest of the said Province, and on the Report made to our said Governor and Council by John Collins Esqr. our Deputy Surveyor General, James Monk Esqr. our Attorney General, Jenkin Williams Esqr. our Solicitor General & Francis Joseph Cugnet Esqr. Clerk of the Terrars of our Royal Domain it appeared to our said Governor and Council, that the Grants of Seigniorities, in the said Province had been made Subject tho' not in every instance with all the same Charges, conditions and Reservations yet with more or less of the Charges Conditions and Reservations following to wit of holding in Fief and Seigniority to bear Faith and Homage at the Castle of St. Lewis at Quebec and to be held of the same to the usual Duties and Dues according to the Custom of Paris practised in this Country, to preserve and to cause to be preserved by the Terretenants Oake and Wood fit for Masts and the construction of the King's Vessels, to give information to the King or the Governor of the Country of Mines, Minerals & Ores found in the Extent of the Granted Seigniority, to make Settlement and Residents thereon and by the Tenants thereof to clear the Land by various specific periods of Years, and in some instances with indefinite terms open to reasonable construction, to leave Roads and ways necessary for public Utility, to leave the Shores free to all fishermen with exception to such parts of the Shores which the Seigneurs shall have held of for their Fishing to oblige the Censitaires to erect Buildings and Stock their Concessions with Cattle, and the Seigneur to make Concessions at the accustomed Cens et Rentes and of one Arpent in front by forty Arpents in Depth, to resurrender to the Crown such Portions of the Land as might be wanted for Fortifications, Batteries, Magazines and public Works, to take Trees necessary for these Works, and firewood for the Garrison of such Forts without charge for compensation or Indemnity, and Red Firs or Pines for the making Tar and Pitch, which conditions were declared to be under the pain of Forfeiture Eviction and Expulsion from the Land so granted, with the further declaration in Express Terms of the Concession or Grants being subject to the King's Pleasure, and the Grantees being bound to sue out the Ratification or Confirmation within a Year from the date thereof. And Whereas our said Governor with the advice and consent of our said Council deeming it expedient until we shall see cause otherwise to command respecting the Disposition of our Lands and Territories in the said Province that our Patent to the said

John Shoolbred pass subject to all and every the Charges Conditions and Reservations at any time practised in the Grants of Seigniories within the same Province antecedent to the Conquest thereof and above particularly expressed. Know Ye therefore that of our special Grace certain knowledge and meer Motion we have given granted and confirmed and for us our Heirs and Successors we do give grant and confirm unto the said John Shoolbred his Heirs and Assigns for ever all and every the Lands Tenements and Hereditarnents herein before particularly Described together with the Right and Priviledge of Fishing and Hunting within the same Lands to which we give the name of To have and to hold the same to the said John Shoolbred his Heirs and Assigns to the only proper use and behoof of the said John Shoolbred His Heirs and Assigns for ever in fief and Seigniory with the

p. 2246

Right and Priviledge of Fishing and Hunting throughout the whole of the Lands aforesaid—charged to bear faith and Homage at our Castle of St. Lewis in our City of Quebec, of which it shall be held to the accustomed Duties and Dues according to the custom of Paris practised antecedent to the Conquest in the said Province, Provided always and these Presents are upon this express condition that if the said John Shoolbred His Heirs or Assigns shall make Default in performing consenting to and complying with all or any of the Clauses above to be contained as Charges Reservations and Conditions used in any Grant or Grants of Seigniories within the said Province and antecedent to the Conquest thereof or shall by any ways or means impede withstand or obstruct the Execution of the said Clauses any or either of them or if the said John Shoolbred his Heirs or Assigns shall not at all times permit His Majesty's Good and faithfull Subjects employed in Fishing or in the Vicinity of the said Lands to have free ingress and egress to and from the Lands aforementioned for the purpose of fishing on the Beach or Shore and Cutting and carrying wood from the same Lands for fuel and other uses necessary and expedient for the better carrying on the Business of their said Fisheries, that then and in case of the Breach of any or either of the conditions above mentioned this our present Grant and every thing therein contained shall cease and be absolutely void, And the Lands and Premises hereby Granted shall revert to and revest in us our Heirs and Successors as if the same Grant had never been made any thing herein before contained to the contrary notwithstanding.

In Testimony whereof we have caused these our Letters to be made Patent and the Great Seal of our said Province to be thereunto affixed and the same to be registered and inrolled in one of the Books for the Recording or Inrollment of our Letters Patent in the Secretary's Office for the said Province remaining. Witness our Trusty and well beloved Guy Lord Dorchester our Captain General and Governor in Chief of our said Province, at our Castle of Saint Lewis in our City of

Quebec this Twenty fourth Day of July in the Year of our Lord
One Thousand Seven hundred and eighty eight, and of our
Reign the Twenty eighth.

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[1756.]

Concerning Fishery in
Scotland refer to 13
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Act of the Third
Session of Queen
Anne in Scotland.

The use of Ports,
Harbours, and
Shores, allowed for
landing nets, erecting
Stages and Tents, and
curing fish.

GREAT BRITAIN.

No. 951.

IMPERIAL ACT 29 GEO. II. CAP. 23, 1756.

ENTITLED “AN ACT FOR ENCOURAGING THE FISHERIES IN THAT PART OF
GREAT BRITAIN CALLED SCOTLAND.”

“Whereas the extending and improving of the British Fishery is “of great Importance to this Kingdom, as it not only adds “considerably to the national Wealth, but is moreover a fruitful “Nursery of able Seamen for the publick Service ; And Whereas the “same is greatly obstructed by certain Restrictions, Exactions and “Regulations, to which the Fishers and Curers of Fish in North “Britain are subject, either by Custom or the Laws now in Force ; “And whereas it further appears that it would be very advantageous “to Trade in general, as well as to the Fishery, if the said Exactions “and Restrictions were taken off, and such new Regulations made, “as are more accommodated to the present Circumstances of both : “And whereas by an Act made in the third Session of the first “Parliament of the late Queen Anne, in Scotland intituled, An Act for “advancing and establishing the Fishing Trade in and about that “Kingdom, all her Majesty's Subjects of that Kingdom are “authorised and impowered to take and cure Herring and White “Fish, in all and sundry the Seas, Channels, Bays, Firths, Lochs, “Rivers and so forth, of that her Majesty's Kingdom and Islands “thereto belonging, wheresoever Herring or White Fish are or can “be taken ; and for their greater conveniency, to have the free Use “of all Ports, Harbours, Shores, Forelands and others, for bringing “in, pickling, drying, unloading and loading the same, upon Payment “of the ordinary. Dues where Harbours are built, that is, such as are “paid for Ships, Boats and other Goods ; and discharges all other “Exactions, such as one Night's fishing in the Week, commonly “called Saturday's Fishing, Top-money, Stallage, and the like :” And for the further explaining, enforcing and amending the said Law ;

* * * *

II. And be it further enacted by the Authority aforesaid, That all and every Person or Persons employed in the said Fishery, on the Coasts of that Part of Great Britain called Scotland, or on the said Coasts of Orkney, Shetland, or any of the said Islands, shall have and exercise the free Use of all Ports, Harbours, Shores and Forelands, in that Part of Great Britain called Scotland, or in Orkney, Shetland, or any of the said Islands,

£100 Penalty, on
demanding or taking
such consideration
money.

below the highest

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High Water Mark, and for the Space of one hundred Yards on any Waste or uncultivated Land, beyond such Mark, within the Land, for landing their Nets, Casks, and other Materials, Utensils and Stores, and for erecting Tents, Huts and Stages, and for the landing, pickling, curing, drying, and reloading their Fish, without paying any Foreland or other Dues, or any other Sum or Sums of Money, or other Consideration whatsoever, for such Liberty, except as hereafter excepted ; any Law, Statute or Custom whatsoever to the contrary notwithstanding : And if any Person or Persons shall presume to demand or receive any Dues, Sums of Money, or other Consideration what-soever, for the Use of any such Ports, Harbours, Shores or Forelands, within the Limits aforesaid, so made Use of for the Purposes aforesaid, or shall presume to obstruct the Fishermen or other Persons employed in the taking, buying, or curing of Fish in the Use of the same, every Person so offending shall, for every such Offence, forfeit the Sum of one hundred Pounds Sterling, to be recovered in Manner herein after directed.

* * * *

No. 952.**IMPERIAL ACT 11 GEORGE III. CAP. 31.**

[1771.]

AN ACT FOR THE ENCOURAGEMENT OF THE WHITE HERRING FISHERY.

“ Whereas the carrying on and Improvement of the British
 “White Herring Fisheries are of great Importance to these
 “Kingdoms, by increasing the Trade and Navigation thereof ;
 and “being a Nursery for Seamen, and otherwise a Means of
 employing “and providing for great Numbers of industrious
 Poor provided that “reasonable Encouragement be given to
 such Persons as are willing “to carry on the said Fisheries : ”

* * * *

XI. And be it further enacted by the Authority aforesaid, That
 all and every Person or Persons employed in the said Fisheries
 may fish in any Part of the British Seas, and shall have and
 exercise the free Use of all Ports, Harbours, Shores, and
 Forelands in Great Britain, or the Islands belonging to the
 Crown of Great Britain, below the highest High-water Mark,
 and for the Space of one hundred Yards on any waste or
 uncultivated Land beyond such Mark, within the Land, for
 landing their Nets, Casks, and other Materials, Utensils, and
 Stores, and for erecting Tents, Huts, and Stages, and for the
 landing, pickling, curing, and reloading their Fish, and in
 drying their Nets, without paying any Foreland or other Dues,
 or any other Sum or Sums of Money, or other Consideration
 whatsoever, for such Liberty (except as herein after is
 excepted), any Law, Statute, or Custom, to the contrary
 notwithstanding : And if any Person or Persons shall presume
 to demand or receive any Dues, Sums of Money, or other
 Consideration whatsoever, for the Use of any such Ports,
 Harbours, Shores, or Forelands, within the Limits aforesaid, or
 shall obstruct the Fishermen, or other Persons employed in the
 taking or curing of Fish, or drying their Nets, in the Use of the
 same, every Person so offending shall, for every such Offence,
 forfeit the Sum of one hundred Pounds, to be recovered and
 levied in Manner herein after directed.

LABRADOR COAST.

No. 953.

[1774.

EXTRACT FROM "CONSIDERATIONS OF THE
RIGHTS AND INTERESTS OF THE ADVENTURERS
IN THE LABRADOR FISHERY."¹

BY JOHN CARTWRIGHT.

Paragraph 108.

* * * *

5th —That all the land backwards through the whole extent of every sealing post, to the distance of one mile from high water

* 'Tis probable that it will rarely happen that cod-fishers should thus interfere with Sealers ; for, if a post be advantageously situated for both fisheries, the first occupant will undoubtedly erect works for, and carry on, both ; so that it may possibly be thought unnecessary to leave the posts open in this respect to any other than the first proprietor.

† Wood of a tolerable size is scarce in this country : so that 'tis reasonable he who has the property in the soil should not be obliged to accommodate the cod-fishers further than is necessary ; as they can repair to the unappropriated places for timber and plank for boat building, masts, oars, &c.

mark, shall be accounted as part of such post and belong in full right to the proprietor : except that a right be reserved of cutting wood for the use of His Majesty's Ships or Forts ; and a general right of free passage to all through every uninclosed part of the same ; and excepting also that a right be reserved to any *cod-fisher of erecting upon and adjoining to the same, every building and work necessary in the cod-fishery, and of cutting wood sufficient for such buildings and works upon the shore, and for fuel ; but nothing more.† But the Seal-fisher being proprietor of the soil, that his necessary works and erections shall not be encroached upon, or interfered with, by those of

the cod-fisher ; nor he be any way obstructed by him in the execution of any part of his business.

* * * *

¹ This manuscript was enclosed in a letter by the author, dat [sic] 23 March, 1774, to the Earl of Dartmouth, Secretary of State for the Colonies, for his consideration in relation to the government of the coast of Labrador. (Can. Arch., Dartmouth Originals, Vol. XIII.)

[25 June,
1787.]**EXTRACTS FROM MINUTES OF THE LEGISLATIVE
COUNCIL OF QUEBEC, 1787-1788.**

PRIVY COUNCIL D, p. 323.

MONDAY, 25 JUNE 1787.

Present

Captain Cartwright's
Application for the
exclusive property of
Touchstoke Bay.His Excellency The Right Honourable Guy Lord Dorchester,
Governor.

The Honourable Henry Hope Esqr. Lt. Governor.

William Smith, C. Justice J. G. C. De Lery

Hugh Finlay

John Fraser

Thomas Dunn

Henry Caldwell

Edward Harrison

William Grant

Adam Mabane

Paul Roc De St Ours

George Pownall

Francis Baby

Le Comte Dupré

[20 March,
1788.]

His Excellency communicated to the Council a Letter from Lord Sidney [sic], dated “ Whitehall 5th April 1787 ” concerning Captain Cartwright's Application “ for a Grant, and the exclusive property of Touchstoke bay, on the Labrador Coast, for the purpose of a Fishery ” with several other papers upon that subject.—Referred to the Committee named the 31st of May for the Fisheries.

PRIVY COUNCIL E, p. 148.

THURSDAY, 20 MARCH 1788.

Present

His Excellency The Right Honourable Guy, Lord Dorchester,
Governor.

The Honourable, Henry hope Esquire Lieutenant Governor.

William Smith Esquire, Chief Justice

Hugh Finlay

Henry Caldwell

Thomas Dunn

William Grant

Edwd. Harrison

Paul Roc De St. Ours

John Collins

Francis Baby

Adam Mabane

Jos. De Longueuil

Captn. Cartwright's
application.

J. G. C. DeLery [sic]	Esquire
George Pownall	Sir John Johnson Bart.
Picotté De Bellestre	Chas. De La Naudiere
John Fraser	René Am. Boucherville
	Le Cte. Dupré—Esquires
*	*

Captain Cartwright's
Application for
Touchstoke Bay.

p. 2252

The Report of the Committee on Captain Cartwright's application, for a Grant at Touchstoke Bay on the Coast of La Bradore, and an exclusive privilege of fishing in that Bay, with the translation, again read. Ordered—that it be referred to the consideration of the whole Council in Committee, to report upon with all convenient speed.

The Report of the Committee of the whole Council to whom was referred. The Report of the Special Committee upon Captain Cartwright's application for the exclusive Property of Touchstoke Bay, on the Coast of Labrador, and for a Grant of Lands there ; read as follows, viz,

To His Excellency The Right Honourable Guy Lord
Dorchester, Captain General & Governor in chief of the
Colonies of Quebec, Nova Scotia & New Brunswick and
their dependencies ; Vice-Admiral of the same ; General
and Commander in chief of all His Majesty's forces in the
said Colonies and the Island of New Foundland, &c. &c.
&c.

Report of the whole Council, in Committee, to whom by Your Excellency's order in Council of the 20th of March last, was referred. The Report of the Special Committee upon Captain Cartwright's application for the exclusive property of Touchstoke bay, on the Labrador Coast, for the purpose of a Fishery, and for a Grant of Lands there

PRIVY COUNCIL E, p. 305.

The Committee met, at the Council Chamber Thursday the 3d
of April 1788.

Present

The Honourable Henry Hope Esquire Lieut. Governor
William Smith Esquire Chief Justice

Edward Harrison	Paul Roc De St. Ours
John Collins	Francis Baby
Adam Mabane	Jos. De Longueuil
J. G. C. DeLery [sic]	George Davison—
George Pownall	Esquires
Picotté De Bellestre	Sir John Johnson Bart.
John Fraser	Chas. De La Naudiere
	René Am. De

Henry Caldwell
William Grant

Boucherville

&

Le Cte. Dupré—Esquires.

His Honour The Lieut. Governor in the Chair.

The Report of the special Committee was read in both Languages, by the Clerks.

The 36th Article of His Majesty's Instructions to Your Lordship dated at St. James's the 23d of August 1786 with a translation was read, whereof follows a Copy :

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“ On all such parts of the Coast where there are no Canadian possessions, and more especially where a valuable Cod-fishery may be carried on, it will be your duty to make the interest of our British Subjects going out to fish there, in Ships fitted out from Great Britain, the first object of your care, and as far as circumstances will admit to establish on that Coast the regulations in favour of British Fishing ships which have been so wisely adopted by the Act of Parliament passed in the Reign of King William the Third, for the encouragement of the Newfoundland fishery ; and you are on no account to allow any possession to be taken, or Sedentary fisheries to be Established, upon any parts of the Coast, that are not already private property, by any persons whatsoever, except only such as shall produce annually a Certificate of their having fitted out from some port in Great Britain. And your Excellency's order of Reference to the Special Committee dated the 25th of June 1787, read in the following words, viz,

“ 25th June 1787.

His Excellency communicated to the Council a Letter from Lord Sydney, dated Whitehall 5th April 1787 concerning Captain Cartwright's application for a Grant, and the exclusive property of Touchstoke bay, on the Labrador Coast, for the purpose of a fishery, with several other papers upon that subject.—Referred to the Committee named the 31st of May for the Fisheries.”

The Lieutenant Governor proceeded to read over, a second time, the Report of the special Committee, by paragraphs.

The first part read in the words following :

“At a Committee of Council appointed to consider the Subject of the Fisheries in the Province, and to whom was referred sundry papers, transmitted by Lord Sydney one of His Majesty's principal Secretaries of State, relative to an application made by Captain Cartwright for a Grant in Sandwich-bay and for the exclusive property of Touchstoke-bay, both on the Coast of Labradore,

“ Present

Messieurs Finlay

Dunn
Harrison, Pownall,
Grant
Baby &
Dupré

Who beg leave to report to His Excellency The Right Honourable Lord Dorchester,

That they have attentively perused the papers referred to them,

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and beg permission to lay before Your Lordship a concise sketch of Captn. Cartwright's case, taken from his own statement.

In the year 1770 he embarked in England, and sailed for Charles River on the Coast of Labrador, on a scheme to prosecute very extensive fisheries on that shore.

In 1771 he established a Seal-Fishery at Cape Charles, a Salmon Fishery in Charles River, and Cod Fishery round Charles Harbour. He explored a considerable extent of Coast in order to discover the best Scites for Sedentary fisheries, and with a view to secure a friendly intercourse with the Esquimaux Indians.

He exerted himself by every means in his power, for thirteen years, to improve the Fisheries on the Labrador Coast ; but tho' his unwearied endeavours benefited the Mother Country they ended in *his* ruin ; for after struggling with unforeseen crosses, he and those concerned with him, sunk upwards of £20,000. He represents that repeated Shipwrecks, Depredations of the Enemy, Fire, and the Manœuvres of Messrs. Noble & Pinson (sedentary Fishers on that Coast) obliged him to abandon Labrador, and on his return to England he was made a Bankrupt.

He sets forth that the discoveries he made, extended the Fisheries on that coast for more than seventy leagues, and that by his success in gaining the confidence of the Esquimaux, and in bringing about a friendly intercourse between that Nation and the Mountaineers—the fur trade is greatly increased, and the King's Subjects frequenting that Coast, now pursue their business unmolested by the Natives.

Captain Cartwright seems to think that he is intitled to some recompence for the advantages he has procured to the Mother Country, and he wishes to have it in his power to look for a fortune on that Coast where he lost one, and with that intent he prays for a Grant in Sandwich bay which Noble & Pinson now possess, notwithstanding 'twas he who first Established a Seal fishery there. He say

it would be but rendering him bare justice, and a merited punishment of that House for their reprehensible conduct towards him ; and he further prays to have the Exclusive right to Touchstoke-bay with all the Islands therein lying, and a tract of Land running half a mile back from high water mark, all round the Bay : his sole view in praying for this Grant is to carry on the seal Fishery, and a Trade with the friendly Indians, who reside chiefly in that bay. He pretends that if they are left open to the inroads of petty Adventurers, these people will be totally undone by getting nought in Exchange for their commodities but Rum, whilst they stand in need of coarse cloth, blankets, and other English manufactures.

Lord Sydney's Letter of the 5th of April last, notes that His Lordship would be very glad to favour Captain Cartwright's wishes, if it could be done without affecting the property of other people.

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The Lieutenant Governor after having read the foregoing part of the Report of the special Committee, proceeded to read the following paragraph,

“ It is to be presumed that though Captain Cartwright may have been the first to establish a Seal-fishery in Sandwich-bay, Noble & Pinson could not have set themselves down there, whilst Capt. Cartwright occupied it, according to the rules established for regulating the Fisheries on that Coast.”

The Question was put “ Whether this Committee concur in opinion with the special Committee on the foregoing clause, or not ?” Debates arose. It was carried in the affirmative by 16 Ayes agst. 2 Naves.

Colonel Caldwell

and

Mr. Judge Mabane in the Negative.

The Lieutenant Governor then read the next paragraph in the words following,

“From the want of Information respecting the local situation of Touchstoke-bay, the Committee cannot with any accuracy ascertain whether the Canadian Grants extend so far, but they have understood that Cape Charles is the furthestmost establishment for the fishery of Seals, made under the antient Government. The Committee conceive from the Circumstances related in Captain Cartwright's case, of Canadians having wintered in Touchstoke-bay in 1785 and 1786, and of two Englishmen having been there in great distress, that it is an inlet of the Sea ten leagues deep, within the great Esquimaux bay, far North of Cape Charles, where a

Canadian Crew, fitted out from hence, actually did winter, and where two Englishmen were cast on shore and suffered great hardship.”

The Question of concurrence was put on this paragraph, and it was carried unanimously in the affirmative.

The Lieutenant Governor read the following paragraph,

“ By the 36th Article of His Majesty's Instructions to Your Lordship bearing date the 23d of August 1786, the Committee find that possession is not to be taken or sedentary fisheries established, on any parts of the Coast of Labrador, except by such as shall produce a Certificate of their having fitted out from some port in Great Britain.”

Then the Lieutenant Governor proceeded to read the following paragraph,

“ The Committee therefore humbly conceive that if it shall be Your Excellency's desire to grant Captain Cartwright's prayer for the Touchstoke fishery, with an extent of Land half a mile in depth from High-water mark all around the Bay, with its Islands, the Possessor,

whilst the 36th Article of His Majesty's Instructions is in force, could not exclude Adventurers fitted out in Britain from establishing fisheries in such parts of the Bay as might remain unoccupied by him, notwithstanding any grant of the shore made to him.”

And the Question of concurrence was put thereon. It was carried unanimously in the Negative, without a division.

The Lieutenant Governor read the next paragraph in the following words,

“ It seems to the Committee that the appointment of Justices of the peace (as Captain Cartwright wishes) on that extensive Coast, where there's no civil Officer to support the authority of a Magistrate, by executing his Warrants, nor places for holding Offenders in confinement, would answer but little purpose in checking improper proceedings in that distant part of the province.”

The Question of concurrence was put, and carried unanimously in the Affirmative.

The Lieutenant Governor then read the last paragraph of the Report in the words following,

“ They most humbly submit whether a small armed Vessel commanded by an Officer of Your Excellency's appointment, and in the Commission of the peace, might not be of service in cruising along that Coast, visiting each fishing post frequently in the course of the summer, punishing small offences according to Law, and bring up all atrocious Offenders in the Fall to be tried : And this mode might be followed until a better could be adopted for regulating the affairs of that Coast. At present the Committee are not sufficiently informed of the situation of things in that quarter to qualify them to propose a better plan than this temporary expedient, which would in the mean time shew the Fishermen and others, that Offenders will not escape unpunished.”

Council Chamber } The Question of concurrence was put, and
24th Jan. 1788 } carried unanimously in the Negative.—
Adjourned, May 1st.

The same Members except the Chief Justice, Judge Fraser and Sir John Johnson met & humbly submit the above to Your Excellency's consideration.

By order of the Committee

(signed) **HENRY HOPE** Lt. Govr. & Chairman.

No. 955.

[1906.]

**EXTRACT FROM MINUTES OF THE EXECUTIVE
COUNCIL OF NEWFOUNDLAND, 9 JUNE, 1906.**

Minute Book.

April 1905 to October 1906, pp. 220-21-22.

The following applications for lease of the right to cut Timber over certain areas were approved, viz :

Chas. F. Taylor, over 150 sq. miles situate at St. Michael's Bay, Labrador ; Reg. Vol. 7, Fol. 130 ; a reservation of the land within five miles of the sea and main rivers to be made.

S.P. Benjamin, over 60 sq. miles, situate at Second Tilt Brook, Labrador ; Reg. Vol. 7, Fol. 146, reserving land within five miles of the sea and main rivers.

Alfred Dickie, over 250 sq. miles situate at Traverspine Brook, Labrador ; Reg. Vol. 7, Fol. 144, reserving land within five miles of the sea and main rivers.

Alfred Dickie, over 250 sq. miles situate at Otter Brook, Grand River, Labrador ; Reg. Vol. 7, Fol. 143, reserving land situate within five miles of the sea and main rivers.

Edward J. Sheldon, over 1,000 sq. miles, situate at Makkovik Bay, Labrador ; provided that the land granted to the Moravian Brethren by the Imperial Government is not interfered with and reserving the land within five miles of the sea and main rivers ; Reg. Vol. 7, Fol. 154.

No. 956.

AFFIDAVIT BY WILLIAM RALPH PARSONS.

IN THE PRIVY COUNCIL.

[14 July,
1924.]

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND IN THE LABRADOR
PENINSULA.

Between

THE DOMINION OF CANADA of the one part

— and —

THE COLONY OF NEWFOUNDLAND of the other part.

I, William Ralph Parsons, District Manager of St. Lawrence-Labrador District of the HUDSON'S BAY COMPANY, being duly sworn, depose and say that :

1o—For twenty-five years, that is, from 1898 to 1924, I occupied various positions for the HUDSON'S BAY COMPANY at various Posts on the Labrador Coast, extending from Blanc Sablon to Cape Chidley and Ungava Bay ;

2o—During this period, I became fully acquainted with the habits and customs of the fishermen who visited the Labrador Coast ;

3o—These habits and customs are, to-day, the same as have prevailed on the Coast for the last twenty-five years ;

4o—The fishermen land on the Coast for the purpose of curing, salting, drying and generally husbanding their fish ;

5o—The fishermen, for their general requirements, penetrate into the interior for an average depth of about one mile ;

6o—These requirements include wood, for fuel purposes, and timber for repairing stages, boats, and other necessities ;

7o—I know of no other reasons for the fishermen, in connection with the fisheries, to penetrate further than one mile within the Coast line.

And I have signed,

WILLIAM RALPH PARSONS.

Sworn before me at the
City of Montreal, in the
Province of Quebec, on
the
14th day of July 1924.

}

CLARENCE F. McCAFFREY,
Commissioner of the Superior Court
for the District of Montreal.

L. S.

No. 957.

[15 Aug.,
1924.]**EXTRACT FROM “LABRADOR FISHERIES, 1892-
1924.”**BY WILFRED T. GRENFELL, C.M.G., F.A.C.S., M.A., M.D.,
F.R.S.C., LL.D., MASTER MARINER AND JUSTICE OF THE PEACE.

Written at Capbreton,
Landes, France.
Aug. 15, 1924.

* * * *

Concerning land needed to supply timber for fishery purposes.

There are no roads in Labrador, and no means for wheeled transportation. It has, therefore, never paid the Newfoundland fishermen to haul and cut their own timber needed for stages at any great distance from the high water mark.

The custom has been to buy it from Labrador men, who cut it in winter and haul it out to the landwash with dogs over snow.

This also applies to firewood, though schooners, while waiting to get north (for ice etc.) go long distances up bays to get timber which there still grows so near the landwash, that they can cut it for themselves.

Since the nearness of timber to the landwash recedes as one goes north, it is obviously impossible to draw any line that would be suitable for all regions. North of Cape Mugford, wood is not cut by Newfoundlanders at all ; north of Hebron there is none to cut.

So if a summer fisherman must cut wood during summer, he must cut it within a mile of the landwash for obvious reasons.

On the other hand he must be able to get wood, and those who cut it and sell it to him, must be allowed to go five miles from the landwash in search of timber for spars, or large frame work in almost any part of Labrador, if they are to find it.

On the distance from high water needed in Labrador for purposes other than obtaining wood, for fishermen.

There being no roads, it is obvious all buildings of fishermen for summer fisheries will be as near the water as possible. I know every building in Labrador, and I cannot think of one single one that is more than 250 yards from high water mark, or one that ever has been. With regard to spreading nets, and

drying fish, it is perfectly obvious that the nearer the water the

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better, if clean rocks and safety from seas are provided. I do not remember anytime, anywhere, seeing either of these objects pursued over 250 yards from high water 500 yards would be quite sufficient. Even of our six hospitals, inclusive of the three in Newfoundland, not one is 250 yards from the high water mark.

Eskimo, Indians, natives are in an entirely different category. They must have winter houses, and these must be in, or near, woods. Distance from high water no longer matters, for good transportation is afforded by sledges over the snow and ice the bare ground is no longer their method of transportation, also, they may need houses, near their wood cutting work, or their fur paths.

Personal opinion on the distances from high water needed in Labrador for fishery purposes.

For spreading fish to dry, for buildings, for boats, and other storage, judging by experience, not more than 250 yards is needed, or is likely to be used if available.

For cutting timber for firewood, spars and frames for buildings and stages, the distance in a country like Labrador would vary very much, if it were possible in summer to get it out. Thus, north of Hebron no timber exists till the valley of the Georges river is reached,—say 50 miles, while in Lewis' bay and southern bays it still comes to the landwash at the heads of bays.

It would never, in my opinion, pay to hold up a fishing schooner to get spars from our Labrador forests in summer. I have known vessels dismasted many times, but I never knew this attempted. The only way is to buy spars from natives, or ship spars in by mail steamer from south. Our trees make miserable spars anyhow, being too full of knots.

As there has existed in Newfoundland a reserved limit of three miles above high water for the purposes of the fishery, it is fair to suppose that that as a general average is not excessive. Labrador timber is not so plentiful or near the water, and if timber cut by settlers of the Labrador for sale in summer, but cut during winter, is to be all cut on the reserve, then I am sure five miles from high tide mark is not excessive.

* * * *

PART XIII.

**DOCUMENTS (OTHER THAN MAPS) SHEWING THE
GENERAL BELIEF AND REPUTATION AS TO
THE EXTENT OF THE JURISDICTION OF THE
GOVERNMENT OF NEWFOUNDLAND ON THE
LABRADOR PENINSULA.**

No. 958.

[17 Dec.,
1829.]

“MAINE BOUNDARY” DISPUTE.

COLONIAL OFFICE RECORDS 47/27. THE QUEBEC GAZETTE.

Thursday, 17 Dec. 1829.

To the Editor of the Quebec Gazette.

SIR,

In my last letter I endeavoured to show that New Brunswick could claim no territory west of a line drawn due north from the source of the Ste. Croix as determined upon with the consent of both the parties interested, and that the boundary between Lower-Canada and the United States commences at the north-west angle of Nova Scotia [New Brunswick] where the northern boundary line of that Province strikes its western boundary above mentioned. This is the point to be ascertained and upon which the whole of the differences referred to the King of the Netherlands turns.

* * * *

The possession of the whole course of the River St. John by Great Britain since the peace of 1783, has however been uninterrupted, as was that of France, the former possessors of Canada, generally, since the arrival of Europeans on this continent. Great Britain, as representing France, had an undoubted right of discovery and possession to the whole of the waters of the river St. John, and whatever might be the inferences drawn from the treaty and the aforementioned documents, by a rigid interpretation, it is not probable that she ever really intended to cede them ; in fact to sever nearly all

practical connection by land, between her remaining Provinces, bring a foreign State within a few leagues of her strongest hold in North America, and give that

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power a footing between it and the sea, almost on the very shore of the river St. Lawrence.

The equitable interpretation of the treaty would be, that it was intended that when no navigable river could be made a boundary consistently with the previously acknowledged limits of the new States, the high lands separating the waters that fall into the sea, within the limits of each party, should be the boundary between them, that interference might be avoided when it could not be attended with any mutual benefit. This was the proposal of France to Great Britain, respecting the very boundary in question, and I translate it from the Memoire of the Commissioners, dated Paris, 4th October, 1751.

“In such cases the usual and most convenient rule is to extend the inland boundary to the sources of the rivers that empty on the coast, that is to say, that each nation shall have the waters running on its own side : it was this course that was adopted at the peace of the Pyrenees for fixing the boundary between France and Spain : and if the Commissioners of the King knew a more equitable mode, they would readily propose it to the Commissioners of his Britannic Majesty.”

Whether an enlarged or more rigorous view of the subject will be taken by the umpire is uncertain. The result it will be seen is materially important to Canada ; important as relates to her connexion with Great Britain and the other maritime colonies, and important as it concerns the extension of the settlements of a numerous population now crowded within narrow limits on the southern shores of the River St. Lawrence.

* * * *

I am, Sir,
Your obedient servant,
AN OBSERVER.

Quebec, 15 December, 1829.

No. 959.**THE INDIAN STREAM BOUNDARY.**

MESSAGE OF W. BADGER, GOVERNOR OF NEW
HAMPSHIRE.

[18 Dec.,
1835.]

COLONIAL OFFICE RECORDS 47/30. THE "QUEBEC GAZETTE."

Tuesday 18 Dec. 1835.

GENTLEMEN OF THE SENATE AND GENTLEMEN OF THE HOUSE OF
REPRESENTATIVES.

I believe it well established and I have not learned that the fact is attempted to be controverted, either by the British Government, inhabitants on that Territory, that the northern boundary of New-Hampshire, extends to the highlands, which divide the waters that fall into the St. Lawrence, from those that fall into the Atlantic Ocean, and extending westerly along the highlands to the north-westernmost head of the Connecticut river, thence down said river, to the 45th degree of north latitude. And it appears in the secret journals of the old Congress, 2 Vol. page 225, that Congress, in considering the instructions to be given to the Ministers to be appointed for negotiating a treaty of peace, among other things, unanimously agreed to the following draft of instructions :—

“ Sir, You will herewith receive a communication giving you full powers to negotiate a treaty of peace with Great Britain in doing which you will conform to the following information and instructions.”

[The third Article of the instructions is. “ The boundaries of this State are as follows, (viz.) these States are bounded north, by a line to be drawn from the northwest angle of Nova Scotia, along the highlands which divide those rivers which empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean, to the northwestmost head of Connecticut river, thence down along the middle of that river to the 45th degree of north latitude,” etc: [And that in forming the treaty of 1783, these instructions were implicitly obeyed. The words of the treaty are—Art. 2]. “ And that all disputes which might arise in future on this subject of the boundaries of

the said United States may be prevented, it is hereby agreed and declared, that the following are, and shall be, their boundaries, (viz.)

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from the north-east angle of Nova Scotia, (viz.) that angle which is formed by a line drawn due north, from the source of St. Croix river, to the highlands, which divide those rivers that empty themselves into the Atlantic Ocean to the northwestmost head of Connecticut river, thence down along the middle of that river, to the 45th degree of north latitude," etc., Vol. 1, U.S. Laws, p. 203.

It is hereby evident that the United States, while struggling for independence, strenuously insisted on the above described boundary, and so instructed their Minister in negotiating with the British Government the treaty of peace ; and that the British Government did so acknowledge their right to the said boundary by ratifying the treaty, which seems to supersede the necessity of going back to the original grants or letters patent, to Mason, and to Georges, covering different tracts and under different names, as Mariana, Laconia, New-Hampshire, etc., or to the proclamations of the British King, describing the boundaries of the Provinces, or to the commissioners to the Provincial Governors of the Province of New Hampshire, wherein the boundaries were in some measure expressed.

After the conquest of Canada by the British in 1759, and upon the conclusion of the treaty of Paris, 1763, when the French surrendered the Canadas, the British King in forming the new Province of Quebec, described in his proclamation the southern boundary so far as relates to this question, as crossing the Champlain on and following the 45th degrees of north latitude, and so along the highlands which divide the waters that empty themselves into the river St. Lawrence, from those which fall into the sea." Vol. 6, Annual Register, p. 209, evidently the new United States.

WILLIAM BADGER.

Executive Department, June 8th, 1835.
2, N. H. Historical Soc. Col.

No. 960.[16 Aug.,
1836.]**EXTRACT FROM SIR GEORGE SIMPSON'S LETTER
TO GOVERNOR AND COMMITTEE, FROM MOOSE
FACTORY.**

HUDSON'S BAY COMPANY'S HEAD OFFICE RECORDS.

Moose Factory, 16th Aug., 1836.

“ . . . This has arisen from a variety of causes, but mainly from “the absence of a number of Indians who have crossed over “towards Ungava and others who have pushed their way across the “Height of Land (separating the waters that pass through the “Honble. Co.'s territory from those that fall into the St. Lawrence “and Esquimaux Bay), and traded their hunts with some of our own “people belonging to the King's Posts, and with the opposition at “Esquimaux Bay. And I regret to say that the upper parts of the “district suffer much from the encroachments of Abenikie trappers “and traders, who cross over from St. Maurice. . . . ”

No. 961.

**SIR GEORGE SIMPSON TO THE EARL OF ELGIN
AND KINCARDINE.**[16 Nov.,
1848.]

HUDSON'S BAY COMPANY'S HEAD OFFICE RECORDS.

Copy. Hudson's Bay House,
Lachine, 16th Nov.,
1848.

To : His Excellency, The Right
Honourable, The Earl of Elgin
and Kincardine, Governor
General of British North
America, &c., &c.

MY LORD,

I have the honour to acknowledge Colonel Bruce's letter of 11th inst., forwarding to me, by your Lordship's direction, printed copies of two letters reflecting on the conduct of the Hudson's Bay Company, addressed to your Lordship by a person of the name of Kennedy, intimating your intention of forwarding those letters, in accordance with the author's request, to the Secretary of State, and at the same time expressing your willingness to transmit any observations upon them which I may have to offer.

I feel greatly obliged to your Lordship for the opportunity thus afforded me of, I trust, being enabled to remove any impression unfavourable to the Company and their management, which the various grave charges advanced by Mr. Kennedy might have left in your mind, had they remained unanswered. Before noticing the charges in question, it may be proper, as your Lordship appears to know nothing of the author, to state that Mr. Kennedy was a clerk in the service of the Hudson's Bay Company between the years 1833 and 1846, during which time he was stationed, for the first five years at one of the Company's posts in the Ottawa River, and for the remaining eight years at one or other of their posts on the coast and in the interior country of Labrador, and that he is the uncle of Alex. Kennedy Isbister of Landon [sic] (both being half-breed natives of Hudson's Bay), who last year brought charges against the Company in a memorial addressed to the Secretary of State for the Colonies, which was sent to your Lordship to be reported upon.

The charges made by Kennedy, I have no hesitation in saying, are the result of a conspiracy against the Company to which both he and Isbister are parties ; as will be seen by the

connexion which exists between them,

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as exhibited in the accompanying letters from both those persons to Dr. Rowand, dated respectively 3rd July and 11th January, 1848 (marked "A"). In enlisting the newspapers in the cause, Kennedy, it will be seen, is but following up the plan of agitation recommended by Isbister to be adopted in Canada, for the purpose, to use his own words : "of over-throwing the "Company," and it is very probable he will before long follow up the further suggestion of Isbister to "fish up retired servants of the Company" with a view to aid your Lordship in prosecuting your enquiry into the Company's Management, well known that, in so extensive a service, there must be many malcontents, arising from a variety of cause.

I beg to hand, for your Lordship's information, extracts from several letters addressed to me by Mr. Kennedy during a period of six years, say from 1841 to 1846 (marked "B"), wherein he expresses the deepest gratitude, both to the Company and myself for the kindness and favour he and his family have experienced at our hands and lauding the "admirable regulations" of the "venerable Company" in terms most fulsome. At length, however, in 1846, when refused by me on the part of the Company an advance of £2,000 for the purpose of prosecuting a trade on the coast of Labrador in opposition to the Moravian Missionaries, as will be seen by his letters of 22nd and 24th September, and my reply of 13th November, 1846 (marked "C"), he then, when out of the Company, seems for the first time, to have discovered that our management was in strict keeping with the Satanic motto of "Pro pelle cutem," and forthwith takes up arms, in connexion with his nephew Isbister, against the "benefactors" of himself and family, "the honour of whose service" he felt bound on the 28th August, 1884, to maintain "to the day of his death."

I shall now proceed to notice the charges, in the order in which they occur, in Mr. Kennedy's letters.

From the manner in which Mr. Kennedy speaks of a murder which he says was committed near the post of Nascopie by one Indian on another (the particulars of which did not reach me until three days ago), he evidently wishes it to be inferred that liquor is a staple article of our commerce with the Natives. This is not the fact ; as since the termination of the competition between the North West and Hudson's Bay Company, in 1821, liquor has been altogether in disuse through a great portion of Rupert's Land, and of the Indian territory held under license from the Crown, nor, as far as my knowledge goes, is liquor ever made a medium of barter for furs in other parts of these territories being only given in small quantities as an encouragement to supply our establishments with provisions and leather articles absolutely indispensable to our existence, and which could not otherwise be obtained, or as a "treat" to

Indians over and above the prices paid for furs in those districts of country where competition in trade continues, without which the furs would, and I need scarcely add, very frequently do, fall into other hands. I have great satisfaction in saying that there is

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very little abuse of liquor in any part of the country, the quantity imported rendering such quite impossible as a general rule ; and no better proof can be given of this than that for the District of Ungava in which Mr. Kennedy was stationed for several years, I find on reference to the outfits that for the use of our officers and servants and the whites and Indians with whom we had dealings, the whole quantity supplied for three years' consumption was 201 gallons of Whiskey, 20 gallons of Brandy, and 42 gallons of Wine : viz. :

In 1840	..	..	..	..	129	gallons	Whiskey.
					34	"	Wine.
					16	"	Brandy.
In 1841	..	..	..	..			None.
In 1842	..	..	..	..	72	gallons	Whiskey.
					8	"	Wine.
					4	"	Brandy.

In speaking of the murder in question, Mr. Kennedy informs your Lordship that the Company's representative (meaning myself) "was told of it by him but took no notice of it." And he further says that "in a private letter to me he gave it as one among other reasons "for leaving the service."

The only allusion Kennedy ever made to this murder was under date 28th August, 1844—four years by his own shewing after it had happened—and then incidentally in the following words : "I take the liberty of giving an instance, it is that of giving rum to Indians, by which, while in soundest health they not infrequently lose their lives, an instance of which it has been my painful lot to witness" (see Paper B.N. 4). On reading this paragraph the impression on my mind was that this case might have occurred in the midst of the settlements on the Ottawa river (where Kennedy had been stationed for five years) as I know that there Indians had access to liquor at every village and lumbering establishment. But from information I received three days ago from a person who was upon the spot I, for the first time, learnt the following particulars of the case referred to that two Indians, while under the influence of liquor obtained at a post in the interior of Labrador, had, while crossing a lake, quarrelled and fought in the canoes, and that one of the unfortunate men had fallen in the conflict. But had even I been acquainted with the whole circumstances of the case, I could not have taken any cognizance of the matter, the murder having been committed within the jurisdiction of Newfoundland, where the Company have no exclusive rights of trade, but merely as one in the

crowd of traders and settlers in that part of the Country, the only difference between the Company and the others, as regards our commercial dealings, being, that our means and better organization enable us to conduct our business on a more systematic and extended scale, penetrating to parts of the Country, which, to many others, are inaccessible.

With reference to the same story, Mr. Kennedy goes on to say he afterwards had charge of the same post, near which the murder was committed, and that his first care was to do away entirely with the use of

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intoxicating liquors, which is very creditable to him, as showing his desire to carry out the Company's regulations which he has quoted, but he goes on further to say that the attempt was "crushed in the birth," being told that if he persisted in it, he would abide by the consequences. Such intimation from any one of whom Mr. Kennedy could have stood in awe I am satisfied he never had certainly not from the Board of Direction in England, nor from the councils in the country, nor from myself, and to those authorities alone was he amenable.

Mr Kennedy next stated that a number of Indians had died in the neighbourhood of Nascopie, and quotes letters which he says he has received from that part of the country in confirmation of that melancholy fact It is perfectly possible Mr. Kennedy may have received such information, although I am not at all satisfied from his mere assertion that such was the fact. I have since the publication of Kennedy's letter learnt, in personal intercourse with Mr. Nourse, the gentleman superintending the affairs of that district, who arrived here about eight days ago, that there was some loss of life in that quarter, not arising, however, from the want of ammunition, but from the scarcity of game and the utter inability of the Company's people to afford the means of subsistence. Any one acquainted with the Moravian country and trade must be aware that the means of subsistence are at times very precarious, being dependent on the character of the seasons, the movements of game, the take of fish, and other causes beyond the control of man, it being impossible to raise agricultural produce or to convey inland imported supplies. Starvation, though not attended with all the horrors Mr. Kennedy describes, is of frequent occurrence in every part of the world, and occasionally among officers and servants of the Company as well as the natives. I myself, have been driven to the necessity of eating horse and dog flesh and other viands prohibited in the Mosaic code, and so have most of the gentlemen in our service ; on one occasion, within my recollection, twenty-seven of the Company's servants died of starvation in one encampment. These are melancholy facts, but what remedy is to be devised ? They are evils inseparable from the nature of the service. I have no doubt Mr. Kennedy would like very much to be appointed a Commissioner to investigate

the Company's affairs, but I do not see that his investigation could be of any benefit in mitigating the rigour of the climate or rendering the means of subsistence more plentiful, and from the attitude he has assumed it may be inferred that his report would not bear the character of strict truth or impartiality.

Mr. Kennedy commences his second letter to your Lordship by bringing as a grave charge against the Company that twenty-two Indian families were encouraged to remove from one part of the country to another, without provision being made for them ; but he does not, because he cannot, state in words, the inference which he evidently wishes should be drawn from this statement, viz.: that those twenty-two families were, in consequence of such want of preparation exposed to an unusual degree of privation. On the contrary, by the extracts from Mr. Nourse's letter to me of 25th Sept.,

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1843, and from Mr. Kennedy's letters of 16th January and 25th August, 1843 (marked "D"), you will perceive that the Indians passed the winter without any complaint being made that they endured privation ; so far from it that they altogether neglected fur hunting in order to proceed to a part of the country where deer were abundant. A narrative of the facts of the case will be sufficient to remove the implied censure on the Company.

The country bordering on Hudson's Bay known as the East Main Coast, more especially about Big River, having been closely hunted for many years, had become so much impoverished in game, that the Indians were subjected to privation. About the same time reports reached me, representing the Ungava Country, which was then new to us, as very rich in fur bearing animals, and abounding with deer, but so thinly inhabited that we could not benefit by the advantages it presented. As this promising region adjoined that occupied by the Big River Indians, it occurred to me that those natives by migrating thither might not only greatly improve their own condition and resources, but also promote the Company's interests. I therefore requested the gentleman in charge of the East Main Coast to represent the case to the Indians, but in reply I learnt they were disinclined to quit their own lands. In my letter to Mr. Miles dated 14th April, 1848 (marked, "E"), referring to this subject, I requested him to offer further inducement to the Indians, in the shape of a large premium on their hunts, but this offer had not the desired effect. Intimation was sent to Mr. McLean, the gentleman then in charge of Ungava district (see my letter to him of 1st March, 1840, marked "E"), of what had been done in reference to the removal of these Indians.

In 1843, the Indians, without any previous notice of their intention, proceeded to the Ungava Country. Mr. Kennedy, who had charge of Nascopie, one of the interior posts of that district, appears to have been taken by surprise by their arrival, and so also was Mr. Nourse, the gentleman then in charge of the district, who was at Esquimaux Bay, 300 miles distant.

When apprised thereof by Kennedy, Mr. Nourse under date 25th September, 1843 (marked "D"), reported to me the arrival of the Indians, and suggested the establishment of a post for their special accommodation, and an increase to the outfit in order to supply their wants ; both of which suggestions I complied with in my letter to Mr. Nourse dated 1st March, 1844 (marked "F"). If Mr. Nourse did not fall in with Mr. Kennedy's application for an additional supply of ammunition, etc., I can assert, without fear of contradiction, that it was because he had not the means to do so when the application was made ; and even if he had had the supplies, the transport whereof, a distance of 300 miles, through a rugged country in the winter season would have been almost impracticable.

I have the honour to be,

My Lord,

Your Excellency's

Most obedient and humble servant,

(Signed) G. SIMPSON.

No. 962.

[16 Jan.,
1843.][*Enclosure 1 in No. 961.*]**EXTRACT FROM LETTER FROM WM. KENNEDY TO
SIR GEORGE SIMPSON.**

HUDSON'S BAY COMPANY'S HASTER MEAD OFFICE RECORDS.

Fort Nascope, *16th Jan.* 1843.

“Whether the appearance at length in this quarter of a large “party of strange Indians, from Eastmain, consisting of twenty “families, be considered as an addition to good news is not for me “to say, for I even fear to inform your Excellency of my being “apprehensive lest it should prove to be the last and greatest of all “disappointments to which Ungava ever gave birth ; in any case this “Post, for such an unlooked-for call, could not possibly have been “less prepared, as so far from there having been the smallest “provision made in the Outfit of this year for such an unexpected “event, it was short in the most essential of all articles of trade by “300 lbs. powder! I have as yet seen but five of the above Party, “but all the fur they brought was 2 cross foxes and 7 martens, with a “few deerskins, this they said was all the entire party had. Ever since “having taken up their Station in this district, they have been hunting “in a body and never proceeded higher up south of Canniapiscaw “River than where it is united with Natauagamy, or that by which “they were led down to a distance of about 60 miles from Ft. “Chimo. I treated them with all the kindness in my power, and got “them to promise that they would come up and occupy the wooded “sections of the Country. Being strangers, and I suppose not over “confident of their neighbours, who look upon them with a jealous “eye, they are unwilling to scatter themselves over the Country for “the present; they therefore intend visiting this Post in a body before “the navigation opens, preparatory to which I am now about sending “every disposable hand to Esquimaux Bay for a supply of articles as “have already run out, most of which I know Mr. Nurse can “supply.”

No. 963.[25 Aug.,
1843.][*Enclosure 2 in No. 961.*]**EXTRACT FROM LETTER FROM WM. KENNEDY TO
SIR GEORGE SIMPSON.**

HUDSON'S BAY COMPANY'S HEAD OFFICE RECORDS.

Esquimaux Bay, *25th August*, 1843.

I am happy in being able to inform your Excellency that though many unforeseen and unexpected incidents took place in the quarter during the past year, the result of Trade for the year has more than kept pace with that of former years, at least at Nascopie, where the martens in particular have been on the increase, and I doubt not will in a great measure be attributed to the increased number of Indians attached to that Fort during the past year, and which I mentioned in my last as having come from the Eastmain quarter. As I then anticipated, these have done little or nothing in the way of hunting Fur, the sum of their collective fur hunts, being 62 Martens, 3 Beavers, 12 Otters with a very small variety of other fur. During the early part of last season these Indians occupied the barren parts of the Country, but towards spring moved towards the more wooded parts which they say they were too late in reaching, and hence the pooriness of their hunts, in order however that they may be able to direct their steps in time to the proper quarter this year, they promised to occupy the summer in examining the various parts of the wooded country lying between Forts Chimo and Nascopie, that being intended as the field of their next winter's operations, that being the only tract of country in which the few Beaver inhabiting the Ungava Country are said more frequently to be found. A post is to be established for their convenience midway between the above named posts, but though they have been told so, it has not had the smallest effect in preventing their unanimously giving this as their last word that next spring they will return to their own Country, having found this part of it much poorer than it appears to have been represented. I have and shall continue to do all that lies in my humble power to induce these Indians to remain, but after all I fear they will follow up their resolution to return.

No. 964.

[25 Sept.
1843.][*Enclosure 3 in No. 961.*]**EXTRACT FROM LETTER FROM WM. KENNEDY TO
SIR GEORGE SIMPSON.**

HUDSON'S BAY COMPANY'S HASTER MEAD OFFICE RECORDS.

North West River, Esquimaux Bay,
25th September, 1843.

To add to our difficulties this year, with so few men at our disposal, the outfits taken to the interior of Ungava have been much increased by the unexpected arrival last fall at Fort Chimo of about 20 families of Indians sent from the Rupert's River district to hunt in the Ungava Country. These men were sent on to Mr. Kennedy's post at the Height of Land Fort Nascopie, where they arrived on the 8 January last with a letter from Chief Trader Corcoran informing us that they were transferred to this district as no preparation had been made for them in the interior, a very short supply could be given them. This summer an additional outfit has been sent for them, but as this will add annually to the quantity hitherto supplied for the Trade of that Country and an additional post is necessary in order to disperse these Indians over new hunting grounds—we would require a greater instead of a less number of men.

The Indent for 1844 is made out with reference to the expenditure of the past year the increased number of Indians from Rupert's River district, the increased trade with the Hunters all of whom have large credit Balances which we have to pay off this fall from current outfit and to provide for any increase hereafter. Nothing has been entered in the Requisition that can be easily dispensed with, and as far as the Fort Chimo stock of goods will supply our wants, deductions have been made. Allowance has also been made for an Outfit additional for the interior posts for the service of 1845 in case it may be inconvenient to continue sending the vessel from Quebec so early as last and present years. The outfits for those posts may in that case be forwarded inland without waiting the arrival of the vessel as it is necessary the people to winter inland should be there in good time for the fall fishing, else their only means of support fails. This Outfit is entered in the Indent in a separate column that it may be deducted if you do not approve of the measure.

I am informed by Mr. Kennedy that the Rupert's River Indians are much disappointed in the Ungava Country as they

do not find it such as they expected. That Country is extensive ; but at least three-fourths is

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unwooded, and the wooded Country is only a few narrow strips they found already in the possession of Indians who have long hunted in that quarter ; but who have only traded at the Ungava Country since 1837. They go by the name of Nascopies and are principally from Seven Islands and others of the Kings Posts. Their number is as follows :—

64 married men

73 Lads Boys (many growing up to be good hunters)

74 married women

65 girls &c.

As these range over the whole extent of the country from the neighbourhood of Ft. Chimo to the hunting grounds of the Indians of this Bay and those of Seven Islands Bay and also towards the post of Canniapiscaw—the most northern in Rupert's River district—they leave little scope for others. Although the trade this last year was the best that has been made there, yet of about 2400 Martens, only 62 were received from the Rupert's River Indians, and they give little more than Deerskins in addition to this. They killed only 3 Beavers and report that it is not the country for them. They found it difficult to live anywhere except in those parts where Deer abound, but where fur animals are scarce, Mr. Kennedy has instructions to do all in his power to disperse them over the best hunting grounds without interfering too much with those of the Nascopies and to prevail upon them to remain as he thinks they are inclined to return to their own Country. I hope until these have got properly settled that no more may be sent and that we may have previous notice of their coming, that provisions may be made for the trade with them.

No. 965.

[17 Jan.,
1849.]

**LETTER TO SIR J. TETLEY FORWARDING FROM
EAR GREY, A DESPATCH FROM THE GOVERNOR—
GENERAL OF CANADA WITH LETTERS FROM WM.
KENNEDY MAKING CHARGES AGAINST
HUNDSON'S BAY COMPANY AND SIR GEORGE
SIMPSON'S REPLY.**

C.O. RECORDS 42/552.

SIR J. TETLEY
'49.

17 Jan.

SIR,—

I am directed by Earl Grey to transmit to you for your information the accompanying Copy of a Despatch from the Governor General of Canada enclosing copies of letters from M^r. Kennedy containing charges against the Hudson's Bay Company with Sir Geo. Simpson's reply. &c. . . .

(No signature)

[Enclosure 1 in No. 965.]

W. KENNEDY TO THE EARL OF ELGIN AND KINCARDINE GOVERNOR
GENERAL OF BRITISH NORTH AMERICA.

MY LORD,

* * * * *

Having been, in June 1838 appointed by the Company to take up my station at one of the Posts situated on the Shores of Hudson's Straits, I had in compliance with this appointment, to travel 600 miles through the interior of Labrador. Two Indians were engaged to convey me this distance, in one of their Bark Canoes. I had not gone one third of this distance when quite accidentally falling in with a solitary family of Indians, I was handed over to them, (for as I could not then speak their language, I could not take part in the transaction,) to find my way as I best could. With these I managed to find my way safely to my destination, and what my Lord, do you think was the reward to this poor family, who had picked me up at the shores of one of Labrador's distant inland Lakes ? The head of it was murdered in a drunken revel, by a fellow Indian, at the very door at which little more than two years before he had safely landed me ; and so far from the Company taking the smallest cognizance of so clear a case of murder, occasioned through their own rum, the culprit who did it roams his native

hills, alike unpunished as unconscious of guilt, bearing the distinguished appellation of being one of the “best Fur Hunters” at Fort Nascopie, which is seemingly a sufficient protection.

* * * * *

Signed. W. KENNEDY.

No. 966.[16 Nov.,
1848.][*Enclosure 2 in No. 965.*]

SIR G. SIMPSON TO THE EARL OF ELGIN AND KINCARDINE.

Hudson's Bay House
Lachine 16th. Nov. 1848.

MY LORD,—

I have the honor to acknowledge Colonel Bruce's letter of the 11th Instant forwarding to me, by your Lordship's direction, printed Copies of two letters reflecting on the conduct of the Hudson's Bay Company, addressed to your Lordship by a person of the name of Kennedy ; intimating your intention of forwarding those letters, in accordance with the author's request, to the Secretary of State, and, at the same time expressing your willingness to transmit any observations upon them which I may have to offer.

* * * * *

In speaking of the murder in question, M^r. Kennedy informs your Lordship that, “the Company's representative (meaning myself) was told of it by him but took no notice of it ;” and he further says that, “in a private letter to me he gave it as one among other reasons for leaving the service.” The only allusion M^r. Kennedy ever made to this murder was under date 28 August 1844, four years by his own showing after it had happened, and then incidentally, in the following words “I take the liberty of giving an instance, it is that of giving rum to Indians, by which, while in soundest health they not unfrequently lose their lives, an instance of which it has been my painful lot to witness.” . . . On reading this paragraph, the impression on my mind was that this case might have occurred in the midst of the settlements on the Ottawa River (where Kennedy had been stationed for five years,) as I knew that there Indians had access to liquor at every village and lumbering establishment. But from information I received three days ago, from a person who was on the spot, I, for the first time, learnt the following particulars of the case referred to ; that two Indians, while under the influence of liquor obtained at a post in the interior of Labrador, had, while crossing a Lake, quarrelled and fought in their canoes, and that one of the unfortunate men had fallen in the conflict. But even had I been acquainted with the whole circumstances of the case, I could not have taken any cognizance of the matter, the murder having been committed within the jurisdiction of Newfoundland, where the Company have no exclusive rights of trade, but are merely as one in the crowd of traders and settlers in that part of the Country, the only difference between the Company and the others, as regards our commercial

dealings, being that, our means and better organization enable us to conduct our business on a more systematic and extended scale, penetrating to parts of the Country which, to many others, are inaccessible.

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Signed:

G. SIMPSON.

[23 Mar.,
1854.]**EXTRACT OF LETTER FROM SIR GEORGE SIMPSON
TO DONALD A. SMITH.**

HUDSON'S BAY COMPANY'S HEAD OFFICE RECORDS.

Lachine, 23 March 1854.

Owing to the unfortunate circumstances which have retarded our affairs at East Main, it is necessary to postpone for 2 or 3 years the re-establishment of Ungava Bay ; consequently no charges will at present be made in the arrangements connected with Fort Nascopie. We may possibly advance our Outposts from the Eastmain quarter in the direction of the height of land dividing it from Labrador, but our object will be not to draw the Nascopies from their present post, but to hunt a section of Country supposed to be productive in valuable furs which is not now visited by the Indians from either side

No. 968.

[15 Nov.,
1856.]**LETTER FROM SIR GEORGE SIMPSON TO JOHN
SHEPHERD, SECRETARY, HUDSON'S BAY CO.**

[Confidential..]

HUDSON'S BAY COMPANY'S HEAD OFFICE RECORDS.

Lachine, 23 March 1854.

With reference to your enquiry respecting the boundaries of the Company's territory on the Canada side, and the nature of the intervening country, an attempt is now being made to deprive the Company of a part of their territory on the ground 'that it was in the possession of the French, and formed part of Canada, at the time the Company's charter was granted, from which are specially reserved all lands in the actual occupation of any Christian Prince. The boundary between Rupert's Land and Canada, as we have always understood it, is the range of hills or height of land, that divides the waters flowing into Hudson's Bay from those which find their outlet by the St. Lawrence. The most easterly extremity of that dividing ridge is near Cape Chudleigh at the entrance of Hudson's Straits from whence it runs southerly through Labrador, the rivers flowing from one side into the Atlantic and from the other into Ungava Bay and Eastmain. It then takes a westerly course parallel with, but from 200-300 miles north of, the St. Lawrence and its main tributary the Ottawa, near Temiscamigue, when it approaches Lake Hudson, and then runs round Lake Superior into United States territory, where it is unnecessary to follow it. All the rivers which take their rise on the North side of the line of hills above traced flow into Hudson's Bay, and we claim that the lands lying along all those rivers up to their very sources are embraced in the Company's Charter.

From Lake Superior westward we know but little of the line of hills dividing the waters of Hudson's Bay from those which are discharged through the Mississippi into the Gulf of Mexico, which is, however, of little consequence as the southern boundary of the Company's territory is in that part defined by Treaty.

* * * * *

[1857]

**EXTRACT FROM EVIDENCE OF SIR GEORGE
SIMPSON,**

GOVERNOR OF THE HUDON'S BAY COMPANY'S TERRITORIES < BEFORE THE
SELECT COMMITTEE APPOINTED BY THE IMPERIAL HOUSE OF COMMONS
IN 1857, TO CONSIDER THE STATE OF THOSE BRITISH POSSESSIONS IN
WHICH THEY HAD A LICENSE TO TRADE.*

1558. I have before me a letter of Mr. Kennedy : I suppose you have heard of Mr. Kennedy ?—There are several Kennedys ; which Kennedy do you mean ?

1559. He is a person who has quarrelled with your Company, I believe ; and he wrote a letter to Lord Elgin ?—William Kennedy.

1560. There is this passage in his letter ; and I want to ask you whether you are at all cognizant of the facts : quoting from a letter received by him, he says, “ You will be grieved to learn that the curse which had effect in the old country has extended here, though arising from causes of more frequent occurrence than even the failure of the crops. Starvation has, I learn, committed great havoc among your old friends the Nascopies, numbers of whom met their death from want last winter ; whole camps of them were found dead, without one survivor to tell the tale of their sufferings ; others sustained life in a way the most revolting, by using as food the dead bodies of their companions ; some even bled their own children to death, and sustained life with their bodies ! ” Quoting from another letter, he says, “ At Fort Nascopie the Indians were dying in dozens by starvation ; and, among others, your old friend, Paytabais.” A third he quotes as saying, “ A great number of Indians starved to death last winter ; and —— says it was ——'s fault in not giving them enough of ammunition.” Do any facts like that come within your knowledge ?—No ; that is an exaggerated statement.

1561. In your 37 years' experience in that territory, you have never heard of any transactions like that and deaths like that ?—Never, except in Mr. Kennedy's letter.

1562. Not in your own experience?—Certainly not.

1563. Mr. EDWARD ELLICE. in what part of the country is that ?—Upon the Labrador coast.

* Copied from Report from the Select Committee, ordered to be printed 17th August, 1857, pp. 83-84.

1564. Mr. ROEBUCK. Then you do not believe that statement ?—I do not.

1565. Where is For Nascopie ? (the same was pointed out.)—It is on the Labrador coast.

1566. EDWARD ELLICE That is in Canada, is it not ?—It is in Newfoundland.

1567. Mr. ROEBUCK. Does not the Hudson's Bay Company's territory extend over Labrador ?—No ; it is a part of Newfoundland.

1568. So that that northern peninsula does not belong to the Hudson's Bay Company ?—The whole does not.

1569. Mr. GROGAN. But is that fort which Mr. Roebuck is questioning you about, in Labrador or is it in Rupert's Land ?—It is in Labrador.

1570. Mr. ROEBUCK. It is pointed out as on the Green ; the it is in the Hudson's Bay Company's territory ?—I think not.

1571. Mr. EDWARD ELLICE. Have you examined that map ?—I have not attentively. I had not seen it till I came in just now.

1572. Do you know whether that fort belongs to the Hudson's Bay Company ?—It does ; it is a post or establishment called the Post of Nascopie.

1573. Mr. ROEBUCK. Can you remove a fort ?—A fort is half-a-dozen log huts, and may be erected by half a dozen men in about a week ; that is what we call a fort.

1574. It bears the same name wherever it travels ?—We call it either a post or a fort.

1575. Do you mean to say that you move a fort about ?—We call it an outpost, a trading post. I do not call it a fort.

1576. It is called a fort here ?—I may be so ; it is a misnomer.

1577. Do you mean to say that you have no Fort Nascopie ?—We have an outpost called Nascopie.

1578. You have no fort called Nascopie ?—We have not.

1579. Mr. GROGAN. It is a station ?—it is a station.

1580. Mr. EDWARD ELLICE. And those stations depend upon the time they are occupied ?—Exactly so.

1581. Mr. GROGAN. Has that station ever been abandoned ?—I really cannot tell ; I think it is very likely.

1582. But has it been abandoned ?—I really cannot tell ; we move an establishment according to circumstances. If the fish and the other means of subsistence are not sufficiently abundant, we move it to another point, 10, 20, or 30 miles distant.

1583. Mr. Roebuck put a question to you about the death of a great number of natives adjoining a fort, which at first you were under the impression was in Labrador ?—Yes.

1584. Now it appears that it is in the Hudson's Bay Company's territory ?—I am not quite sure that it is ; I am rather disposed to think it is not.

1585. Mr. ROEBUCK. You distinctly said that Nascopie was a station belonging to the Hudson's Bay Company ?—Yes.

1586. This account speaks of Nascopie ?—Yes.

1587. Therefore it belongs to the Hudson's Bay Company ?—It did belong to the Hudson's Bay Company.

1588. Mr. GROGAN. Has it ever been abandoned ?—I do not even know whether it is at present occupied or not.

1589. Mr. EDWARD ELLICE. It is still occupied ?—Yes.

1590. Mr. ROEBUCK. So that it still belongs to the Hudson's Bay Company ?—It always belonged to the Hudson's Bay Company, when it has been occupied.

1591. It just now belonged to Labrador ?—upon the coast of Labrador ; we have establishments upon the coast of Labrador.

1592. Mr. BLACKBURN. Are these posts sometimes in Labrador, and sometimes in the Hudson's Bay territory ?—They are moved as circumstances may render advisable.

1593. Mr. ROEBUCK. But they are always under the command of the Hudson's Bay Company ?—Yes.

1594. So that wherever they are moved to they belong to the Hudson's Bay Company ?—Hudson's Bay establishments are under the control of the Hudson's Bay Company, but there are other establishments in the immediate neighbourhood.

1595. CHAIRMAN. Is there any arrangement with the government of Labrador, by which you use that territory for your purposes ?—It is open for anybody.

1596. In truth it is practically unoccupied ?—Yes.

No. 970.

**EXTRACTS FROM EVIDENCE OF SIR GEORGE
SIMPSON**

BEFORE SELECT COMMITTEE OF THE HOUSE OF COMMONS (IMPERIAL)
APPOINTED TO CONSIDER THE STATE OF THOSE BRITISH POSSESSIONS IN
NORTH AMERICA WHICH ARE UNDER THE ADMINISTRATION OF THE
HUDSON'S BAY COMPANY OR OVER WHICH THEY POSSESS A LICENSE TO
TRADE.

(Ordered to be printed 17th August, 1857.)

Jovis, 26^o die Februarii, 1857.

Members Present.

Mr. ADDERLEY.	Mr. GROGAN.
Mr. BELL.	Mr. GURNEY.
Mr. BLACKBURN.	Mr. PERCY HERBERT.
Mr. EDWARD ELLICE.	Mr. KINNAIRD.
Mr. CHARLES FITZWILLIAM.	Mr. LABOUCHERE.
Mr. GLADSTONE.	Mr. LOWE.
Mr. GORDON.	Mr. ROEBUCK.
Mr. GREGSON.	Viscount SANDON.

The Right hon. HENRY LABOUCHERE, in the Chair.

Sir GEORGE SIMPSON, called in, and Examined.

702. CHAIRMAN : I believe you hold an important situation in the administration of the territories of the Hudson's Bay Company ?—I do.

703. What is it ?—I have been Governor of their territories for many years.

704. How long have you held that situation ?—Thirty-seven years I have been their principal representative.

705. Mr. EDWARD ELLICE : As governor the whole time ?—Yes ; I have held the situation of governor the whole time.

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706. CHAIRMAN : What is the nature of your authority in that capacity ? —The supervision of the Company's affairs ; the presiding at their councils in the country, and the principal direction of the whole interior management.

707. Where do you generally reside ?—I have resided for several years at the Red River Settlement ; I have resided in Oregon ; I have resided in Athabasca, and latterly I have resided in Canada.

708. Is there any fixed seat of government within the territories of the Hudson's Bay Company ?—There is no fixed seat of government, but there is a seat of council for the northern and the southern departments ; one at Norway-house, at the northern end of Lake Winnipeg, and the other at Michipicoton, or Moose Factory, for the southern department.

709. Your authority extends, I imagine, as well over Rupert's Land as over the territory which the Company holds by license ?—Over the whole of the Company's affairs in North America.

* * * *

714. Of course, having administered the affairs of the Hudson's Bay Company during so long a period, you are well acquainted with every part of their territories ?—I have travelled through the greater part of the country ; I have not visited what are usually known as the Barren Grounds.

715. You are well acquainted with the western portion, as well as the eastern ?—Yes ; I have not been in Mackenzie's River, but I have been in nearly all the other parts of the country ; my usual route in going up the country is from Montreal by Rainy Lake and Lake Winnipeg to Red River ; I have crossed the Rocky Mountains at three different points to Oregon.

* * * *

993. What number of Indians do you calculate are living in the whole p.57. of the Hudson's Bay Territory ?—The Indian population of Rupert's Land we estimate at 42,840.

994. When was that calculation made ?—This season ; I collected from different data all the information within reach when I understood that I was required to leave Canada.

995. In the rest of the territory what are the numbers ?—In the Indian territory, east of the Rocky Mountains, 12,730 ; west of the Rocky Mountains, 80,000.

996. What is the whole amount of Indian population within the territories of the Hudson's Bay Company ?—139,000.

* * * *

1062. Mr. GREGSON : What mode have you of ascertaining the population of the Indians ?—We have lists of the Indians belonging to various posts ; we have compared and checked them with the report of the Government officers who went to Vancouver's Island some years ago, as regards the tribes to the west of the mountains, and with Colonel Lefroy's Lists, as regards those on the east side, and we have arrived at this estimate of the population.

* * * *

1066. Mr. KINNAIRD : You stated just now the population in rough ; would you have any objection to give in to the

Committee a copy of the estimated census of the population which you have made. There are some other parts ; can you give us your census of the Red River population ; you have got it, I presume, in detail ?—I think I have ; I am not certain ; I took these notes previously to leaving Canada.

* * * *

1376. Mr. ADDERLEY : Is your appointment an appointment for life ?—No ; my appointment is by the Governor and Committee.

1377. Mr. ROEBUCK : I think it is a double government. You have a government in England and one in Hudson's Bay, have you not ?—The Governor and Company are the superiors ; they have the supreme direction.

1378. The Governor and Company in England appoint the Governor in Hudson's Bay ?—They do.

1379. According to their will and pleasure, and his appointment is revoked at their will and pleasure ?—It is so.

* * * *

1471. You were also asked to put in the census of the Indian population in detail over the whole territory ?—Yes. Here is the census of the Indian population. There is a list of the Company's trading posts, and the estimated number of Indians frequenting those posts. (The Witness delivered in the same.)

1472. Mr. ROEBUCK : Will you state the total ?—The Indians, east of the mountains, 55,000 ; west of the mountains, 80,000 ; Esquimaux, 4,000.

1473. What is the date of that census ?—Last year.

* * * *

LIST OF APPENDIX.

SESSION I.

* * * *

APPENDIX, No. 2.

Papers delivered in by Sir George Simpson and referred to in his evidence, 2 March, 1857 :

* * * *

(C.)—Indian Population

* * * *

p. 2285

(C)

INDIAN POPULATION.

It is a matter of great difficulty to obtain reliable information respecting the Indian population, their migratory habits, and the vast extent of country over which they are spread, misleading the calculations, and rendering it almost impracticable to prepare a satisfactory census. The following estimates have been compiled with great care,

from a mass of documents and the actual personal knowledge of several of the Company's officers, tested by comparison with published statements, especially those presented to Government in 1846 by Messrs. Warre and Vavasour, and those of Colonel Lefroy, R.A., contained in a paper read before the Canadian Institute.

ESTABLISHMENTS of the HUDSON'S BAY COMPANY in 1856, and
Number of INDIANS frequenting them.

POST.	Locality.	Department.	District.	Number of Indians frequenting it.
Fort Chipewyan . . .	Indian Territory . .	Northern	Athabasca	750
Dunvegan	" " " " " "	"	" " " " " "	400
Vermilion	" " " " " "	"	" " " " " "	250
Fond du Lac	" " " " " "	"	" " " " " "	150
Fort Simpson	" " " " " "	"	M'Kenzie's River . .	2,000
Fort aux Liards	" " " " " "	"	" " " " " "	400
Fort Halkett	" " " " " "	"	" " " " " "	300
Youcon	" " " " " "	"	" " " " " "	4,000
Peel's River	" " " " " "	"	" " " " " "	1,000
Lapierre's House	" " " " " "	"	" " " " " "	150
Fort Good Hope	" " " " " "	"	" " " " " "	700
Fort Rae	" " " " " "	"	" " " " " "	600
Fort Resolution	" " " " " "	"	" " " " " "	500
Big Island	" " " " " "	"	" " " " " "	80
Fort Norman	" " " " " "	"	" " " " " "	700
Ile à la Croise	Rupert's Land	"	English River	700
Rapid River	" " " " " "	"	" " " " " "	250
Green Lake	" " " " " "	"	" " " " " "	120
Deer's Lake	" " " " " "	"	" " " " " "	250
Portage la Loche	" " " " " "	"	" " " " " "	50

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POST.	Locality.	Department.	District.	Number of Indians frequenting it.
Edmonton	Rupert's Land	Northern	Saskatchewan	7,500
Carlton	" " " " " " " "	"	" " " " " " " "	6,000
Fort Pitt	" " " " " " " "	"	" " " " " " " "	7,000
Rocky Mountain House	" " " " " " " "	"	" " " " " " " "	6,000
Lac la Biche	" " " " " " " "	"	" " " " " " " "	500
Lesser Slave Lake	Indian Territory	"	" " " " " " " "	400
Fort Assiniboine	Rupert's Land	"	" " " " " " " "	150
Jasper's House	Indian Territory	"	" " " " " " " "	200
Fort à la Corne	Rupert's Land	"	" " " " " " " "	300
Cumberland House	" " " " " " " "	"	Cumberland	350
Moose Lake	" " " " " " " "	"	" " " " " " " "	200
The Pas	" " " " " " " "	"	" " " " " " " "	200
Fort Pelly	" " " " " " " "	"	Swan River	800
Fort Ellice	" " " " " " " "	"	" " " " " " " "	500
Qu'Appelle Lakes	" " " " " " " "	"	" " " " " " " "	250
Shoal River	" " " " " " " "	"	" " " " " " " "	150
Touchwood Hills	" " " " " " " "	"	" " " " " " " "	300
Egg Lake	" " " " " " " "	"	" " " " " " " "	200
Fort Garry	" " " " " " " "	"	Red River	7,000
Lower Fort Garry	" " " " " " " "	"	" " " " " " " "	including whites and half breeds.
White Horse Plain	" " " " " " " "	"	" " " " " " " "	1,000 ditto.
Pembina	" " " " " " " "	"	" " " " " " " "	200 ditto.
Manitoba	" " " " " " " "	"	" " " " " " " "	50
Reed Lake	" " " " " " " "	"	" " " " " " " "	1,500
Fort Frances	" " " " " " " "	"	Lac la Pluie	300
Fort Alexander	" " " " " " " "	"	" " " " " " " "	500
Rat Portage	" " " " " " " "	"	" " " " " " " "	100
White Dog	" " " " " " " "	"	" " " " " " " "	50
Lac de Bonnet	" " " " " " " "	"	" " " " " " " "	200
Lac de Bois Blanc	" " " " " " " "	"	" " " " " " " "	200
Shoal Lake	" " " " " " " "	"	" " " " " " " "	500
Norway House	" " " " " " " "	"	Norway House	180
Beren's River	" " " " " " " "	"	" " " " " " " "	400
Nelson's River	" " " " " " " "	"	" " " " " " " "	300
York Factory	" " " " " " " "	"	York	400
Churchill	" " " " " " " "	"	" " " " " " " "	250
Severn	" " " " " " " "	"	" " " " " " " "	250
Trout Lake	" " " " " " " "	"	" " " " " " " "	300
Oxford House	" " " " " " " "	"	" " " " " " " "	400
Albany Factory	" " " " " " " "	Southern	Albany	200
Marten's Falls	" " " " " " " "	"	" " " " " " " "	200
Omaburg	" " " " " " " "	"	" " " " " " " "	300
Lac Seul	" " " " " " " "	"	" " " " " " " "	250
Matawagamingue	" " " " " " " "	"	Kinogumisee	150
Kuckatoosh	" " " " " " " "	"	" " " " " " " "	300
Michipicoton	Canada	"	Lake Superior	100
Batchewana	" " " " " " " "	"	" " " " " " " "	50
Mamainse	" " " " " " " "	"	" " " " " " " "	

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ESTABLISHMENTS of the HUDSON'S BAY COMPANY in 1856,
and Number of INDIANS frequenting them.

POST.	Locality.	Department.	District.	Number of Indians frequenting it.
Fort Chipewyan	Indian Territory	Northern	Athabasca	750
Dunvegan	” ”	”	”	400
Vermilion	” ”	”	”	250
Fond du Lac	” ”	”	”	150
Fort Simpson	” ”	”	M'Kenzie's River	2,000
Fort aux Liards	” ”	”	” ”	400
Fort Halkett	” ”	”	” ”	300
Youcon	” ”	”	” ”	4,000
Peel's River	” ”	”	” ”	1,000
Lapierre's House	” ”	”	” ”	150
Fort Good Hope	” ”	”	” ”	700
Fort Rae	” ”	”	” ”	600
Fort Resolution	” ”	”	” ”	500
Big Island	” ”	”	” ”	80
Fort Norman	” ”	”	” ”	700
Ile à la Crosse	Rupert's Land	”	English River	700
Rapid River	” ”	”	” ”	250
Green Lake	” ”	”	” ”	120
Deer's Lake	” ”	”	” ”	250
Portago la Loche	” ”	”	” ”	50

[ESTABLISHMENTS of the HUDSON'S BAY COMPANY in 1856,
and Number of INDIANS frequenting them— continued].

POST.	Locality.	Department.	District.	Number of Indians frequenting it.
Edmonton	Rupert's Land	Northern	Saskatchewan	7,500
Carlton	" "	"	"	6,000
Fort Pitt	" "	"	"	7,000
Rocky Mountain House	" "	"	"	6,000
Lac la Biche	" "	"	"	500
Lesser Slave Lake	Indian Territory	"	"	400
Fort Assiniboine	Rupert's Land	"	"	150
Jasper's House	Indian Territory	"	"	200
Fort à la Corne	Rupert's Land	"	"	300
Cumberland House	" "	"	Cumberland	350
Moose Lake	" "	"	"	200
The Pas	" "	"	"	200
Fort Pelly	" "	"	Swan River	800
Fort Ellice	" "	"	" "	500
Qu'appelle Lakes	" "	"	" "	250
Shoal River	" "	"	" "	150
Touchwood Hills	" "	"	" "	300
Egg Lake	" "	"	" "	200
Fort Garry	" "	"	Red River	7,000
Lower Fort Garry	" "	"	" "	including
White Horse Plain	" "	"	" "	whites and half breeds
Pembina	" "	"	" "	1,000 ditto.

Manitobah	”	”	”	”	”	200 ditto.
Reed Lake	”	”	”	”	”	50
Fort Frances	”	”	”	Lac la Pluie		1,500
Fort Alexander	”	”	”	”	”	300
Rat Portage	”	”	”	”	”	500
White Dog	”	”	”	”	”	100
Lac de Bonnet	”	”	”	”	”	50
Lac de Bois Blanc	”	”	”	”	”	200
Shoal Lake	”	”	”	”	”	200
Norway House	”	”	”	Norway House		500
Beren's River	”	”	”	”	”	180
Nelson's River	”	”	”	”	”	400
York Factory	”	”	”	York		300
Churchill	”	”	”	”		400
Severn	”	”	”	”		250
Trout Lake	”	”	”	”		250
Oxford House	”	”	”	”		300
Albany Factory	”	”	Southern	Albany		400
Marten's Falls	”	”	”	”		200
Osnaburg	”	”	”	”		200
Lac Seul	”	”	”	”		300
Matawagamingue	”	”	”	Kinogumissee		250
Kuckatoosh	”	”	”	”		150
Michipicotou	Canada		”	Lake Superior		300
Batchewana	”		”	”	”	100
Mamainse	”		”	”	”	50

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POST.	Locality.	Department.	District.	Number of Indians frequenting it.
Pic	Canada	Southern	Lake Superior . . .	100
Long Lake	Rupert's Land	"	" " " " . . .	80
Lake Nipigon	Canada	"	" " " " . . .	250
Fort William	" " " " " " " " . . .	"	" " " " " " " " . . .	350
Pigeon River	" " " " " " " " . . .	"	" " " " " " " " . . .	50
Lac d'Original	" " " " " " " " . . .	"	" " " " " " " " . . .	50
Lacloche	" " " " " " " " . . .	"	Lake Huron	150
Little Current	" " " " " " " " . . .	"	" " " " " " " " . . .	300
Mississaugie	" " " " " " " " . . .	"	" " " " " " " " . . .	150
Green Lake	" " " " " " " " . . .	"	" " " " " " " " . . .	150
Whitefish Lake	" " " " " " " " . . .	"	" " " " " " " " . . .	150
Sault St. Marie	" " " " " " " " . . .	"	Sault St. Marie	150
Moose Factory	Rupert's Land	"	Moose	180
Hannah Bay	" " " " " " " " . . .	"	" " " " " " " " . . .	50
Abitibi	" " " " " " " " . . .	"	" " " " " " " " . . .	350
New Brunswick	" " " " " " " " . . .	"	" " " " " " " " . . .	150
Great Whale River	" " " " " " " " . . .	"	East Main	250
Little Whale River	" " " " " " " " . . .	"	" " " " " " " " . . .	250
Fort George	" " " " " " " " . . .	"	" " " " " " " " . . .	200
Rupert's House	" " " " " " " " . . .	"	Rupert's River	250
Mistassinny	" " " " " " " " . . .	"	" " " " " " " " . . .	200
Temiskamay	" " " " " " " " . . .	"	" " " " " " " " . . .	75
Woswonaby	" " " " " " " " . . .	"	" " " " " " " " . . .	150
Mechiskan	" " " " " " " " . . .	"	" " " " " " " " . . .	75
Pike Lake	" " " " " " " " . . .	"	" " " " " " " " . . .	80
Nitchequon	" " " " " " " " . . .	"	" " " " " " " " . . .	80
Kaniapicow	" " " " " " " " . . .	"	" " " " " " " " . . .	75
Temiscamingue House	Canada	"	Temiscamingue	400
Grand Lac	" " " " " " " " . . .	"	" " " " " " " " . . .	200
Kakabegino	Rupert's Land	"	" " " " " " " " . . .	100
Lake Nepisingue	Canada	"	" " " " " " " " . . .	130
Hunter's Lodge	" " " " " " " " . . .	"	" " " " " " " " . . .	100
Temagamingue	" " " " " " " " . . .	"	" " " " " " " " . . .	100
Lac des Allumettes	" " " " " " " " . . .	Montreal	Fort Coulonge	200
Joachim	" " " " " " " " . . .	"	" " " " " " " " . . .	75
Matawa	" " " " " " " " . . .	"	" " " " " " " " . . .	100
Buckingham	" " " " " " " " . . .	"	Lac des Sables	50
Riviere Desert	" " " " " " " " . . .	"	" " " " " " " " . . .	100
Lachine House	" " " " " " " " . . .	"	Lachine	Whites.
Three Rivers	" " " " " " " " . . .	"	St. Maurice	Whites.
Weymontachingue	" " " " " " " " . . .	"	" " " " " " " " . . .	150
Kikandatch	" " " " " " " " . . .	"	" " " " " " " " . . .	130
Tadousac	" " " " " " " " . . .	"	King's Posts	100
Chicoutimie	" " " " " " " " . . .	"	" " " " " " " " . . .	100
Lake St. John's	" " " " " " " " . . .	"	" " " " " " " " . . .	250
Isle Jeremie	" " " " " " " " . . .	"	" " " " " " " " . . .	250
Godbout	" " " " " " " " . . .	"	" " " " " " " " . . .	100
Seven Islands	" " " " " " " " . . .	"	" " " " " " " " . . .	300
Mingan	" " " " " " " " . . .	"	Mingan	500
Musquarro	" " " " " " " " . . .	"	" " " " " " " " . . .	100

[Larger HTML Version](#) (34 kb)

POST.	Locality.	Department.	District.	Number of Indians frequenting it.
Natesquan	Canada	Montreal	Mingan	100
North West River	Newfoundland	"	Esquimaux Bay	100
Fort Nascoie	Rupert's Land	"	" " " "	200
Rigolet	Newfoundland	"	" " " "	100
Kibokok	" " " "	"	" " " "	100
Fort Vancouver	Washington Territory	Oregon	Columbia	200
Umpqua	Oregon Territory	"	" " " "	800
Cape Disappointment	Washington Territory	"	" " " "	100
Chinook Point	" " " "	"	" " " "	100
Caweean	" " " "	"	" " " "	100
Champoog	Oregon Territory	"	" " " "	150
Nisqually	" " " "	"	" " " "	500
Cowellitz	" " " "	"	" " " "	250
Fort Colvile	Washington Territory	"	Colvile	800
Pend Oreilles River	Indian Territory	"	" " " "	400
Flat Heads	Washington Territory	"	" " " "	500
Kootonais	" " " "	"	" " " "	500
Okanagan	" " " "	"	" " " "	300
Walla Walla	Oregon Territory	"	Snake Country	300
Fort Hall	" " " "	"	" " " "	200
Fort Boise	" " " "	"	" " " "	200
Fort Victoria	Vancouver's Island	Western	Vancouver's Island	5,000
Fort Rupert	" " " "	"	" " " "	4,000
Nanaimo	" " " "	"	" " " "	3,000
Fort Langley	Indian Territory	"	Fraser's River	4,000
Fort Simpson	" " " "	"	{North West Coast	10,000
			{Northern Tribes	35,000
			{Thompson's River	2,000
Kamloops	" " " "	"	New Caledonia	
Fort Hope	" " " "	"	" " " "	
Stuart's Lake	" " " "	"	" " " "	
M'Leod's Lake	" " " "	"	" " " "	
Fraser's Lake	" " " "	"	" " " "	
Alexandria	" " " "	"	" " " "	12,000
Fort George	" " " "	"	" " " "	
Babines	" " " "	"	" " " "	
Connolly's Lake	" " " "	"	" " " "	
Honolulu	Sandwich Islands	"	" " " "	
				6,000
				4,000
			TOTAL	158,960

[Larger HTML Version](#) (27 kb)

p. 2289

The Indian Races shown in detail in the foregoing Census may be classified as follows :—

Thickwood Indians on the east side of the Rocky Mountains	35,000
The Plain Tribes (Blackfeet, &c.)	25,000
The Esquimaux	4,000
Indians settled in Canada	3,000
Indians in British Oregon and on the North-west Coast	80,000
Total Indians	147,000
Whites and half-breeds in Hudson's Bay Territory	11,000
Souls	158,000

[Larger HTML Version](#) (11 kb)

[ESTABLISHMENTS of the HUDSON'S BAY COMPANY in 1856,
and Number of INDIANS frequenting them— continued].

POST.	Locality.	Department.	District.	Number of Indians frequenting it.
Pic	Canada	Southern	Lake Superior	100
Long Lake	Rupert's Land	"	" "	80
Lake Nipigon	Canada	"	" "	250
Fort William	"	"	" "	350
Pigeon River	"	"	" "	50
Lac d'Original	"	"	" "	50
Lacloche	"	"	Lake Huron	150
Little Current	"	"	" "	500
Mississaugie	"	"	" "	150
Green Lake	"	"	" "	150
Whitefish Lake	"	"	" "	150
Sault St. Marie	"	"	Sault St. Marie	150
Moose Factory	Rupert's Land	"	Moose	180
Hannah Bay	" "	"	"	50
Abitibi	" "	"	"	350
New Brunswick	" "	"	"	150
Great Whale River	" "	"	East Main	250
Little Whale River	" "	"	" "	250
Fort George	" "	"	" "	200
Rupert's House	" "	"	Rupert's River	250
Mistasinny	" "	"	" "	200
Temiskamay	" "	"	" "	75
Woswonaby	" "	"	" "	150
Mechiskan	" "	"	" "	75

Pike Lake	”	”	”	”	”	80
Nitchequon	”	”	”	”	”	80
Kaniapiscow	”	”	”	”	”	75
Temiscamingue House	Canada		”	Temiscamingue		400
Grand Lac	”		”	”		200
Kakabeagino	Rupert's Land		”	”		100
Lake Nepisingue	Canada		”	”		130
Hunter's Lodge	”		”	”		100
Temagamingue	”		”	”		100
Lac des Allumettes	”		Montreal	Fort Coulonge		200
Joachim	”	”	”	”	”	75
Matawa	”	”	”	”	”	100
Buckingham	”	”	”	Lac des Sables		50
Rivière Desert	”	”	”	”	”	100
Lachine House	”	”	”	Lachine		Whites.
Three Rivers	”	”	”	St. Maurice		Whites.
Weymontachingue	”	”	”	”	”	150
Kikaudatch	”	”	”	”	”	130
Tadousac	”	”	”	King's Posts		100
Chicoutimie	”	”	”	”	”	100
Lake St. John's	”	”	”	”	”	250
Isle Jeremie	”	”	”	”	”	250
Godbout	”	”	”	”	”	100
Seven Islands	”	”	”	”	”	300
Mingan	”	”	”	Mingan		500
Musquarro	”	”	”	”		100

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[ESTABLISHMENTS of the HUDSON'S BAY COMPANY in 1856,
and Number of INDIANS frequenting them— continued].

POST.	Locality.	Department.	District.	Number of Indians frequenting it.
Natosquan	Canada	Montreal	Mingan	100
North West River	Newfoundland	"	Esquimaux Bay	100
Fort Nascopie	Rupert's Land	"	" "	200
Rigolet	Newfoundland	"	" "	100
Kibokok	"	"	" "	100
Fort Vancouver	Washington Territory	Oregon	Columbia	200
Umpqua	Oregon Territory	"	"	800
Cape Disappointment	Washington Territory	"	"	100
Chinook Point	" "	"	"	100
Caweeman	" "	"	"	100
Champoog	Oregon Territory	"	"	150
Nisqually	" "	"	"	500
Cowelitz	" "	"	"	250
Fort Colvile	Washington Territory	"	Colvile	800
Pend Oreilles River	Indian Territory	"	"	400
Flat Heads	Washington Territory	"	"	500
Kootonais	" "	"	"	500
Okanagan	" "	"	"	300
Walla Walla	Oregon Territory	"	Snake Country	300
Fort Hall	" "	"	" "	200

Fort Boisé	”	”	”	”	”	200
Fort Victoria	Vancouver's Island		Western	Vancouver's Island		5,000
Fort Rupert	”	”	”	”	”	4,000
Nanaimo	”	”	”	”	”	3,000
Fort Langley	Indian Territory		”	Fraser's River		4,000
Fort Simpson	”	”	”	North West Coast		10,000
				Northern Tribes		35,000
Kamloops	”	”	”			
Fort Hope	”	”	”	Thompson's River		2,000
Stuart's Lake	”	”	”	New Caledonia		
M'Leod's Lake	”	”	”	”	”	
Fraser's Lake	”	”	”	”	”	
Alexandria	”	”	”	”	”	12,000
Fort George	”	”	”	”	”	
Babines	”	”	”	”	”	
Connolly's Lake	”	”	”	”	”	
Honolulu	Sandwich Islands		”	”	”	—
	Add Whites and half breeds in Hudson's Bay Territory, not included					6,000
	Add Esquimaux not enumerated					4,000
				TOTAL		158,960

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The Indian Races shown in detail in the foregoing Census
may be classified as follows :—

Thickwood Indians on the east side of the Rocky Mountains	35,000
The Plain Tribes (Blackfeet, &c.)	25,000
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Indians settled in Canada	3,000
Indians in British Oregon and on the North-west Coast	80,000
	<hr/>
Total Indians	147,000
Whites and half-breeds in Hudson's Bay Territory	11,000
	<hr/>
Souls	158,000

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No. 971.

**EXTRACTS FROM EVIDENCE OF HONOURABLE
WILLIAM H. DRAPER, C.B.,**

BEFORE SELECT COMMITTEE OF HOUSE OF COMMONS -(IMPERIAL)
APPOINTED TO CONSIDER THE STATE OF THOSE BRITISH POSSESSIONS IN
NORTH AMERICA WHICH ARE UNDER THE ADMINISTRATION OF THE
HUDSON'S BAY COMPANY OR OVER WHICH THEY POSSESS A LICENC TO
TRADE.

(Ordered to be printed 17th August, 1857.)

—————
Jovis, 28 die Maii, 1857.
—————

Mr. CHRISTY.	Mr. PERCY HERBERT
Mr. EDWARD ELLICE.	Mr. KINNAIRD.
Mr. CHARLES FITZWILLIAM.	Mr. LABOUCHERE.
Mr. GLADSTONE.	Mr. LOWE.
Mr. GREGSON.	Mr. MAHESON.
Mr. GROGAN.	Sir JOHN PAKINGTON.
Mr. J. H. GURNEY.	Lord JOHN RUSSELL.

—————
The Right Hon. HENRY LABOUCHERE, in the Chair.

—————
The Honourable WILLIAM DRAPER, C.B., called in, and
examined.

4038. CHAIRMAN: What situation do you hold in Canada ?
—I am Chief Justice of the Court of Common Pleas of Upper
Canada.

4039. How long have you held that situation ?—I have
held the office of Chief Justice a little more than a year, but I
have been upon the Bench of Upper Canada for nearly 10
years.

4040. What other public situations have you held in
Canada ? —I was appointed to the Executive Council of Upper
Canada in the year 1836. I was appointed Solicitor-general of
Upper Canada in 1837. I was appointed Attorney-general of
Upper Canada in 1840. I held that office until some time in the
latter part of 1842 ; I as re-appointed in 1844, and I continued

to be Attorney-general from that time until I was appointed to the Bench.

4041. How long have you been resident in Canada ? —I landed in Quebec on the 16th or 17th of May, 1820 ; I have been a continual resident in Canada since that period.

4042. Under that circumstances are you now visiting this country ? —I was requested by the Government of Canada, through the medium of two of its members, to undertake the duty of coming to England for the purpose of watching the investigation which it had been communicated to them, was to take place before a Committee of the House of Commons, with the view of pressing whenever I deemed it necessary for the interests of the province, certain views which the Government of the province adopted in reference to their rights and interests in this question. I had written instructions from the Government of Canada to that effect, which I can lay before the Committee, if they desire it. They were communicated to me through the provincial secretary, and emanating from the Government, giving me general directions what I was to do.

* * * *

4089. How far back do you think it would be desirable to throw the frontier to the north for the purpose of giving opportunities for settlement in the manner which you have described ?—I understand by that question how far there might be the exclusive right of trade which I have spoken of as that which should be reserved ; how far from the north it should extend to the south, leaving an intermediate space in which there should be no such exclusive right, but which should be open to settlement.

4090. Exactly so ?—I have no personal knowledge of the territory whatever ; all I know of it has been derived from books or other documents which I have consulted from time to time upon that subject. It has occurred to me that the line once proposed by the Hudson's Bay Company themselves, shortly after the peace of Ryswick, would reach about the extent of what would be the land desirable for settlement ; I suppose that the most valuable portion of the land for settlement would be found to lie in a parallel of latitude south of Norway House ; but I give that as a mere matter of opinion, not that I have any personal knowledge.

* sic.

4091. Where is Norway House ?—At the head of Lake Winnipeg, about the north-east corner of Lake Winnipeg ; I do not desire to attach any importance to my own answer, because I have no knowledge of the country of a personal character, and therefore may be very much mistaken as to its resources and capabilities of settlement.

4092. Mr. EDWARD ELLICE : In that answer do you contemplate including that portion of Labrador and James's Bay ?—I do not propose carrying the line straight through there, because it would be depriving the Hudson's Bay Company of control over the Indians in one portion of the territory ; I referred to the line proposed to* the Company themselves upon the negotiations for limits between Canada and the Hudson's Bay Company's

territory shortly after the peace of Ryswick, in which they themselves proposed certain limits, which, although they were not willing to take, they nevertheless, as a pis aller, were ready to submit to if nothing better could be gained for them. With regard to the eastern portion of the territory, the limit which I should at present suggest would be rather that limit which was proposed under the Treaty of Utrecht, which was to start from Cape Perdrix in $58\frac{1}{2}^{\circ}$ of latitude, just below Cape Chudleigh on the Labrador coast. The Hudson's Bay Company themselves proposed that a line should be run from there (in one of the papers it is called $59\frac{1}{2}^{\circ}$ and in the other $58\frac{1}{2}^{\circ}$), that it should come down through the island of* a lake called Lake Mistassinnie, and from there in a south-west direction extending to what they then required as the boundary to be given to them, namely, the 49th parallel of latitude directly through the continent. Grimmington Island, I think, was the name of the island, and Cape Perdrix the name of the cape.

4093. That proposition, I believe, was not agreed to ?—I believe nothing grew out of it ; it was propounded to the French, and they would not assent to it. (The Witness pointed out the position on the map.) Instead of that, my own suggestion would be that it should only come down in this direction, and come to the point which I have already referred to, across the country to the Rocky Mountains.

4094. Sir JOHN PACKINGTON : That would be your line to get to Norway House ?—I have only thought of it generally. The line must leave sufficient space here, so as not to interfere with the trade of St. James's Bay, on which some Indians are settled ; this country being at present, I believe, so far as white inhabitants are concerned, wholly unsettled.

4095. Still, I apprehend that your proposed line would pass considerably to the northward of the present boundary shown for Canada on that map ? —Yes. I wish to be understood as stating that I am suggesting merely the line suggested by the Hudson's Bay Company themselves.

4096. Mr. EDWARD ELLICE : In what year was that proposal made ; in 1719, was not it ?—The proposal that I speak of was renewed by the Hudson's Bay Company in the year 1750. On the 25th of July, 1750, the Company were called upon to lay before the Lords of Trade the limits which they proposed, and they replied in the month of October of that year, giving the boundary that I have just spoken of.

**CORRESPONDENCE BETWEEN GREAT BRITAIN
AND THE UNITED STATES RESPECTING THE
BOUNDARY BETWEEN LABRADOR AND THE
DOMINION OF CANADA, OCTOBER— NOVEMBER,
1874.**

[Oct. 26,
1874.]

No. 972.

N

SIR E. THORNTON TO MR. FISH.

Washington, October 26th, 1874.

Sir,

[on what
Information.]

I have the honor to acknowledge the receipt of your note on the 24th instant, and to express my great regret that it has been out of my power as yet to give a positive answer to your question with regard to the political position of Labrador. I can, however, assure you that the delay has not been caused by any neglect on the part of this Legislation.

From information which I have received this morning I am now enabled to state positively that the whole of Labrador outside the province of Quebec, the boundary of which is laid down in the Imperial Statute 6 Geo. IV., cap 59, is under the jurisdiction and Government of the Colony of Newfoundland, and is actually included in and forms part of the colony.

I have, etc.

(Signed) EDWD. THORNTON.

HAMILTON FISH, Esq.

No. 973.

N

[Oct. 27, 1874.]

Department of State,
Washington, October 20th, 1874.

Sir,

I have the honor to acknowledge the receipt of your note of yesterday's date in which you are pleased to state, in answer to the enquiry of this Department, that the whole of Labrador outside the province of Quebec is under the jurisdiction and Government of the Colony of Newfoundland, and is actually included in and forms a part of that Colony. Thanking you for this information.

I have, etc.,

HAMILTON FISH.

Sir E. THORNTON.

No. 974.**SIR E. THORNTON TO MR. FISH.**[Nov. 23,
1874.]

Washington, November 23rd, 1874.

Sir,

With reference to My note of the 26th Ultimo, I have the honor to enclose copies of a Despatch and of its enclosures which I have received from the Governor-General of Canada, giving more precise details as to the boundary between Labrador and the Dominion of Canada, and the position of the former possession in relation to the latter or to the Colony of Newfoundland.

[Nov. 16,
1874.]

A map showing the exact boundary of the coast and the assumed boundary in the interior, is also enclosed.

I have, etc.,

EDW. THORNTON.

HAMILTON. FISH, Esq.

No. 975.[*Enclosure in No. 974.*]**LORD DUFFERIN TO SIR E. THORNTON.**

Government House, Ottawa,
November 16th, 1874.

Sir,

With reference to your despatch of June 20th, and to subsequent correspondence making an inquiry on the part of the United States Government as to the position of Labrador in relation to the Dominion of Canada or Newfoundland, I have the honor to enclose, for the information of Mr. Fish, a copy of an order of the Privy Council which contains the views of my Government on the subjects.

[Nov. 12,
1874.]

Appended to the Minute are extracts from the Imperial Statutes bearing on the question, and a map showing the exact boundary on the coast and the assumed boundary in the interior.

I have, etc.,

DUFFERIN.

Sir E. THORNTON.

[*Sub-Enclosure 1 in No. 974.*]

**EXCELLENCY THE GOVERNOR-GENERAL IN
COUNCIL, ON THE 12TH DAY OF NOVEMBER, 1874.**

In a despatch dated 20th June, 1874, from Sir Edward Thornton to Your Excellency, inclosing a communication from the Hon. Hamilton Fish, Secretary of State at Washington, desiring to be informed whether any part of Labrador is separated from the jurisdiction of either the Dominion of Canada or that of Newfoundland.

The Honourable the Secretary of State to whom this despatch, with enclosures, has been referred, reports that the boundary-line between the Dominion of Canada and Labrador is a line drawn due north and south from the Bay or Harbor of Ance au Blanc Sablon, near the Straits of Belle Isle as far as the 52nd. degree of north latitude; that Labrador eastward and north-ward from that point to Hudson's Straits.

That the division-line in the interior separating Labrador from the Dominion of Canada has only been defined as far north as the 52nd. degree of north latitude, but it has been assumed that the boundary-line in the interior would have taken the direction laid down on the accompanying map, which follows the height of land.

That Labrador, with the islands adjacent thereto, is annexed to Newfoundland, and under the Government of that Island.

Attached to the Report of the Secretary of State are extracts from the Imperial Statute bearing on the question, and a map showing the exact boundary on the coast and the assumed boundary in the interior.

The Committee recommend that a copy of this Minute with map and extracts from the Imperial Statute, above alluded to, be transmitted to Sir Edward Thornton for the information of the United States Government.

Certified:

W. A. HIMSWORTH,
Clerk Privy Council, Canada.

[*Sub-Enclosure 2 in No. 974.*]

IMPERIAL STATUTE 49, GEORGE III., CAP. 27, SECTION
XIV.

And whereas His Majesty, by his proclamation of the 7th day of October, 1763, was pleased to declare that he had put the coast of Labrador from the river St. John to Hudson's Straits, with the islands of Anticosti and Madelaine, and all other smaller islands lying on the said coast under the care and

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inspection of the governor of Newfoundland : and whereas, by an act passed in the 14th year of the reign of His present Majesty, entitled " An act for making more effectual provision for the government of the province of Quebec in North

America," all such territories, islands, and countries as since the 10th day of February, 1763, had been made part of the government of Newfoundland, were, during His Majesty's pleasure, annexed to and made part of the province of Quebec, as created by the said proclamation : and whereas, in pursuance of an act passed in the 31st year of His present Majesty's reign, entitled " An act to repeal certain parts of an act passed in the 14th year of His Majesty's reign, entitled 'An act for making more effectual provision for the government of the province of Quebec, in North America, and to make further provisions for the government of the said province,' " the said province of Quebec was divided into two provinces of Upper and Lower Canada, the latter including the parts of the coast of Labrador and the said islands so formerly annexed to the government of Newfoundland : and whereas it is expedient that the said coast of Labrador and the adjacent islands (except the islands of Madelaine) should be re-annexed to the government of Newfoundland :

[1809.]

Be it therefore enacted, that such parts of the coast of Labrador from the River St. John to Hudson's Straits, and the said island of Anticosti, and all other smaller islands so annexed to the government of Newfoundland by the said proclamation of the 7th day of October, 1763, (except the said islands of Madelaine,) shall be separated from the said government of Lower Canada, and be again re-annexed to the government of Newfoundland. Anything in the said act passed in the 31st year of His present Majesty's reign or any other act to the contrary notwithstanding.

[*Sub-Enclosure 3 in No. 974.*]

IMPERIAL ACT 6, GEORGE IV., CHAPTER 59, A.D. 1825.

IX. And whereas, under and by virtue of a certain act passed in the forty-ninth year of the reign of His late Majesty King George the Third, entitled " An act for establishing courts of judicature in the island of Newfoundland and in the islands adjacent and for re-annexing part of Labrador and the islands lying on the said coast to the government of Newfoundland ;— and of the act passed in the fifth year of the reign of His present Majesty, entitled " An act for the better administration of Justice in Newfoundland, and for other purposes," the coast of Labrador, from the River St. John to Hudson's Straits, and the island of Anticosti, and all the islands adjacent to the said coast, except the islands of Madelaine, are annexed to and form part of the government of Newfoundland, and it is expedient that certain parts of the said coast of Labrador should be re-annexed to and form, part of, the province of Lower Canada :

p. 2297

C

Be it therefore enacted, that so much of the said coast as

Canada.
Secret.

[21 Dec., 1874.]
F.O. 10 Nov.
'74.
C.O. 26 ,,
F.O. 1 Dec. '74.
C.O. 5 ,,
C.O. 15 ,,

lies westward of a line to be drawn due north and south from the bay or harbor of Ance Sablon, inclusive, as far as the fifty-second degree of north latitude, with the island of Anticosti, and all other islands adjacent to such part as last aforesaid, of the coast of Labrador, shall be, and the same are hereby, re-annexed to and made a part of the said province of Lower Canada, and shall henceforward be subject to the laws of the said province, and to none other ; and so much of the said recited acts passed in the forty-ninth year of the reign of His late Majesty King George the Third, and in the fifth year of the reign of His present Majesty, as relates to such part of the coast of Labrador as last aforesaid, and the said island of Anticosti, and other adjacent islands shall be, and the same is hereby repealed.

No. 976.

C

LORD CARNARVON TO LORD DUFFERIN.

Copy.

Downing Street,
21st December 1874.

My Lord,

I transmit to you, for your information, copies of correspondence with the Foreign Office, respecting a question raised by the United States Government as to whether cargoes of fish from Labrador are entitled to be admitted into the United States free of duty under the Treaty of Washington.

I have the honor to be
My Lord
Your Lordship's most obedient
humble servant

(sd) CARNARVON.

Governor General
The Right Honble.
The Earl of Dufferin,
K.P., K.C.B.,
&c. &c. &c.

NOTE.—This Despatch and its enclosures are taken from file No. 64, Governor General's Office, Ottawa, Canada.

[10 Nov.,
1874.]
No. 291.

No. 977.

[*Enclosure in No. 975.*]

THE FOREIGN OFFICE TO THE COLONIAL OFFICE.

Copy.

Foreign Office,
November 10th 1874.

Sir,

I am directed by Her Majesty's Secretary of State for Foreign Affairs to transmit to you to be laid before the Earl of Carnarvon a copy of a despatch from Her Majesty's Minister at Washington upon the subject of the political position of Labrador.

I have, &c.

(sd) TENTERDEN.

The
Under Secretary of State
Colonial Office.

No. 978.

[*Enclosure in No. 976.*]

SIR E. THORNTON TO THE EARL OF DERBY.

Copy.

Washington,
Oct. 26th 1874.

My Lord,

On the 19th of June last Mr. Fish addressed me a note enquiring whether Labrador formed part of the Dominion of Canada, although he was under the impression that it was politically attached to Newfoundland. He also asked whether any part of Labrador was separated either from the Dominion of Canada or from Newfoundland.

Without knowing what might be the precise object of this enquiry, I forwarded it to the Governor General of Canada. During His Excellency's absence from Ottawa, Mr. Watson, H.M. Charge d'Affaires received on the 11th of July a telegram from Mr. Scott, Canadian Secretary of State, to the effect that the Boundary Line between Labrador, is a line drawn due North and South from the Bay or Harbour of Ance Sablon inclusive as far as the 52nd degree of North Latitude. The telegram referred to the Imperial Statutes 6 Geo. IV, Cap 59 and further stated that Labrador is under the jurisdiction of Newfoundland.

As the above mentioned Statute was not to be found at this Legation, and as Mr. Watson was led to expect a further written communication upon the subject he deferred answering Mr. Fish's enquiry.

But on the 27th of July Mr. Fish addressed a note to Mr. Watson expressing his anxiety to receive an answer as to the exact political relations of Labrador to the Dominion of Canada on account of cases that had arisen in the Treasury Department, the decision of which would depend in a measure upon Mr. Watson's reply.

The latter then at once communicated to Mr. Fish the contents of Mr. Scott's above mentioned telegram informing him at the same time that he would also convey to him the contents of a Despatch which he expected from Lord Dufferin as soon as he received it.

But no such despatch reached Mr. Watson and on the further application of Mr. Cadwalader, Acting Secretary of State, the former addressed another Despatch to Lord Dufferin on the 15th instant asking that the necessary information might be forwarded without delay so that it might be communicated to the United States Government.

It was only on my arrival at Washington that I learned from

Mr. Cadwalader that these enquiries had reference to cargoes of fish which were arriving from Labrador and with respect to which the Treasury Department doubted whether they could be admitted free of duty under the Treaty of May 8, 1871, as coming either from the Dominion of Canada or the Colony of Newfoundland. I must however acknowledge that there seemed to be a desire on the part of Mr. Cadwalader at least to receive some statement from me which would enable the Treasury Department to decide that fish from the Coast of Labrador should be admitted duty free.

Fortunately Lord Dufferin yesterday paid a visit of a few hours to Washington when I stated the case to him. In reply His Excellency authorized me to inform Mr. Fish that Labrador is under the jurisdiction of Newfoundland and is included in and forms part of that Colony. I at once communicated this statement to Mr. Fish in a note and the latter subsequently told me that he had forwarded my note to the Secretary of the Treasury, to whom he did not doubt that it would be satisfactory. I trust therefore that no further difficulty will be raised as to the free admission of fish from Labrador, one cargo of which is at this moment waiting for entry at New York.

I have &c.

(sd) EDWARD THORNTON.

The Earl of Derby
&c. &c. &c.

[26 Nov.,
1874.]**No. 979.****THE COLONIAL OFFICE TO THE FOREIGN OFFICE.**Downing Street
26 November 1874

Sir,

I am directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 10th instant enclosing a copy of a Despatch from the British Minister at Washington respecting a question raised by the United States Government as to whether cargoes of fish from Labrador were entitled to be admitted into the United States free of duty under the Treaty of Washington of May 1871, as coming either from the Dominion of Canada or the Colony of Newfoundland.

2. It appears from Sir E. Thornton's despatch that on the authority of the Governor General of Canada he has informed the United States Secretary of State that Labrador is under the jurisdiction of Newfoundland and is included in and forms part of that Colony, but I am to point out for the Earl of Derby's information said to have been given by Lord Dufferin (as it would seem in conversation and without having referred to His Government) does not appear to be altogether correct.

3. The Act 6 Geo IV Cap 59 settles the boundaries between Newfoundland and Canada on the Labrador Coast, and Lord Derby will perceive on reference to the 9th sect. of the Act, a copy of which I am to enclose, that part only of Labrador belongs to Newfoundland and the rest to Canada.

4. Lord Carnarvon apprehends, however, that the inaccuracy in Lord Dufferin's alleged statement is of no practical consequence so far as regards the particular question at issue inasmuch as the whole of Labrador belongs either to Newfoundland or to Canada and the produce of the fisheries both of Canada and of Newfoundland are entitled to be admitted free into the United States under the 21st and 32nd Articles of the Treaty of Washington.

I am, &c.

(sd) W. R.

MALCOLM.
The Under Secretary of State
Foreign Office.

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[1 dec. 1874.]
No. 312.

No. 980.

THE FOREIGN OFFICE TO THE COLONIAL OFFICE.

Copy.

Foreign Office
December 1, 1874.

Sir,

With reference to my letter of the 10th ulto. I am directed by the Earl of Derby to transmit to you to be laid before the Earl of Carnarvon a copy of a despatch from Sir Edward Thornton respecting a complaint made to him by Messrs. Brigham and Company, American Merchants at Boston in consequence of their having been called upon to pay import duty on a shipment of salmon from the Coast of Labrador.

I am to add that Sir Edward Thornton's note to Mr. Fish on the subject has been approved.

I am, &c.,
(sd) TENTERDEN.

The Under Secretary of State
Colonial Office.

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No. 312.

[16 Nov.,
1874.]

No. 981.

[*Enclosure in No. 980.*]

SIR E. THORNTON TO THE EARL OF DERBY.

Copy.

Washington,
Novr. 16th 1874.

Mr Lord,

I have the honor to enclose copies of a letter and of its enclosures which I have received from Messrs. Brigham and Co., American Merchants at Boston. They state that they received in July last a shipment of Salmon from the Coast of Labrador, and that to their surprise they were called upon to pay import duty. This they paid but under protest and have since made application that it should be refunded. The Treasury Department, however, has informed the Collector of Customs at Boston that it has as yet come to no decision upon the subject.

I have therefore thought it right to address to Mr. Fish the note, of which a copy is enclosed, referring to the note which I transmitted to him on the 26th ultimo, and a copy of which accompanied my Despatch No. 291 of the 26th ultimo, and enquiring whether the Treasury Department has as yet come to a decision on the subject in favor of the Importers of fish from the Coast of Labrador.

I have, etc.

(sd) EDWARD THORNTON.

The Earl of Derby
&c. &c. &c.

[13 Nov.
1874.]

No. 982.

[*Enclosure in No. 981.*]

**MESSRS. BRIGHAM & CO. TO SIR EDWARD
THORNTON, K.C.B.**

Copy.

Boston, Novr. 13th 1874

Mr Lord,

We beg to enclose copy of a letter received at our Customs from the Treasury Department in relation to the refund of duty on a shipment of salmon received from the Coast of Labrador July last. We paid the duty under protest and appeal. The fish were caught in that part of Labrador which has always been considered a part of the Dominion of Canada and even the property of a Montreal Merchant. They were shipped here without the slightest idea that any duty would be imposed. We consider the action of the Treasury Department an injustice to our citizens as well as those of Canada. We trust you will pardon us for troubling you in this matter as we esteem it one which should be brought to your notice.

Very respectfully,
(sd)J. R. BRIGHAM & CO.

Sir E. Thornton, K.C.B.
&c. &c. &c.

[7 Nov.
1874.]

No. 983.

[*Enclosure in No. 981.*]

**THE TREASURY DEPARTMENT, WASHINGTON, TO
THE COLLECTOR OF CUSTOMS, BOSTON.**

Copy.

Washington, Treasury Department,
Nov. 7, 1874.

Sir,

Your communication of Oct. 31st is received transmitting application of J. B. Brigham & Co., asking refund of certain duties collected by you on importation of Salmon from Labrador per Alhambred July 15, 1874.

As this case has been the subject of due protest and appeal protecting the interest of the Importer, the Department at present reserves its decision on the point whether such refund is authorized by law, the conditions under which the Treaty actually took effect as respects to the different provinces and parts of the British dominions in America rendering such decision difficult.

(sd) CHARLES P. COURANT
Actg. Sec^y.

W. A. Simmons,
Collector of Customs, Boston.

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[16 Nov.,
1874.]

No. 984.

[*Enclosure in No. 981.*]

**SIR E. THORNTON TO THE HONBLE. HAMILTON
FISH.**

Copy.

Washington,
Novr. 16th 1874.

Sir,

I have the honor to inform you that I have received a letter from Messrs. J. B. Brigham & Co., Merchants of Boston, to the effect that in July last they received a shipment of Salmon from the Coast of Labrador, and that they were called upon to pay duty upon it, though it was shipped without the slightest idea that any duty would be imposed upon it. It was however paid and an appeal was made against the payment. But the Treasury Department has not yet given orders that the duties in question should be refunded.

I therefore take the liberty of enquiring whether in consequence of the note which I had the honour to address you on the 26th ulto. a decision has not yet been taken upon that subject in favor of the Importer of fish from the Coast of Labrador by the Secretary of the Treasury.

I have, &c.

(sd) E. THORNTON.

The Honble. Hamilton Fish,
&c. &c. &c.

No. 985.**THE COLONIAL OFFICE TO THE FOREIGN OFFICE.**[5 Dec.,
1874.]

Copy.

Downing Street,
5 December 1874.

Sir,

I am directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 1st inst. enclosing a copy of a despatch from the British Minister at Washington respecting a complaint made to him by a firm of American Merchants at Boston of their having been called upon to pay import duty on a shipment of Salmon from the Coast of Labrador.

In reply I am to request that you will call the Earl of Derby's attention to the letter from this office of the 26th Novr. in which Lord Carnarvon expressed his opinion that as the whole of Labrador belongs either to Newfoundland or to Canada the produce of the fisheries of that region are entitled to be admitted free of duty into the United States under the Treaty of Washington.

Lord Carnarvon will be glad to be informed whether Lord Derby concurs in this opinion, and also of any steps he may have taken for obtaining a settlement of the question now in dispute with the United States Government.

I am, &c.,

(sd) K. H. MEADE.

The Under Secretary of State
Foreign Office.

No. 986.

THE FOREIGN OFFICE TO THE COLONIAL OFFICE.

[15 Dec.,
1874.]

Copy.

Foreign Office,
December 15th 1874.

Sir,

I am directed by the Earl of Derby to acknowledge the receipt of your letter of the 5th instant relative to the question of the Import Duty levied by the United States Custom Authorities at Boston on shipment of Salmon from the Coast of Labrador.

I am now to state to you for the information of the Earl of Carnarvon that a copy of your letter of the 26th ultimo, upon this subject has already been sent to Her Majesty's Minister at Washington to whom a copy of your present letter will likewise be sent, and he will at the same time be instructed to explain the matter further to the United States Government if requisite and to obtain from them a recognition of the right of free entry of Labrador fish under the provisions of the Treaty of Washington.

I am, &c.,

(sd) TENTERDEN.

The Under Secretary of State
Colonial Office.

[12 Dec.,
1876.]**No. 987.****LETTER FROM GEO. GOSCHEN TO THE HON. R. W.
SCOTT.**

HUDSON'S BAY COMPANY'S HEAD OFFICE RECORDS.

Hudson's Bay House, London,
12th Dec., 1876.

I enclose a Map No. 1 showing the territories claimed by the Company in virtue of the charter granted to them by King Charles the Second. The map in question was prepared by Mr. John Arrowsmith, and was ordered by the House of Commons to be printed 31st July and 11th August 1857.

I also enclose a statement, No. 2, prepared for the Company in 1867 with reference to the Parliamentary enquiry which took place in that year. The boundaries were then asserted to be, on the side of the United States by the 49th parallel of latitude ; on the side of Canada by the height of land whose waters flow into Hudson's Bay ; and on the North by the Arctic Ocean.

At the time of the passing of the Quebec Act 1774 the Company had not extended their posts and operations far from the shore of Hudson's Bay. Journals .of the following trading stations have been preserved bearing that date namely Albany, Henley, Moose, Eastmain, York, Severn, and Churchill.

These Journals give no information upon the subject of the boundaries between Canada and the Territory of the Company. Nor was the question raised in 1748, when the House of Lords held an enquiry with reference to the Company's affairs as at that time conducted. A map, No. 3, no doubt prepared for that occasion, and sent herewith, shows the extent of country to which their operations were then confined.

At a subsequent period, namely in 1777, a Map was published in London by John Andrews, giving the height of land near Abitibi and other quarters, and showing certain boundaries for the province of Upper Canada.

I am to request that the maps and documents accompanying this letter be returned to the Company when the enquiry to which you refer has been completed.

I shall be glad if you find them useful for the purpose of defining the boundary line between the Dominion and Ontario.

I have the honor to be, Sir,

Your obedient Servant,

(Sgd.) GEORGE J. GOSCHEN.

[3 May, 1879.]

No. 988.**JOHN BIGNELL TO HON. PIERRE FORTIN, M.P.**

**THE NORTHERN BOUNDARY OF THE PROVINCE OF
QUEBEC.**

Quebec, 3rd May, 1879

To the Honorable Pierre Fortin, M.P.,
President of the Quebec Geographical Society.

Sir,

I beg to bring under your notice a subject interesting to all Quebecers, viz. : the defining of the northern boundary of the province of Quebec.,

Last year the north-east boundary of the province of Ontario was defined and fixed by a commission, thereby adding very largely to the area of that province ; this boundary is the former boundary from the head of Lake Temiscamingue to the height of Land prolonged on a meridian to James' Bay, and being the north-east boundary of Ontario, should naturally be (for that extent) a portion of the north-east boundary of Quebec. Now the question arises : Where should be our northern boundary ?

On looking at the map, one would naturally decide that all the territory lying to the north of us, extending as far as Hudson's Straits (and bounded on the east by Labrador), should belong to Quebec ; but, if it were thought inexpedient to assume the jurisdiction of so large, so distant and uninhabited a territory, then the boundary might be fixed from the northern extremity of the above-mentioned meridian line, along James' Bay, northerly as far as the 52nd parallel of latitude, thence easterly along the same parallel to the Height of Land or Otish Mountains at the head-waters of the rivers aux Outardes, Perinbonks and Moos-a-u-lagan (west branch of the Manicougan) thence north-east along same Height of Land to the west outline of Labrador ; or, if a natural boundary were preferred, the East Main River might be adopted from its mouth to source and from its source or head-waters north-easterly to the west line of Labrador or Height of Land dividing the waters flowing easterly into the Atlantic from those flowing westwardly into Hudson's Bay.

If, in the future, any question should arise (such for instance as the fishery award) which possibly might be decided by area, an immense advantage would accrue to us from the greatly increased extent of the province.

I have thrown these few remarks together as a suggestion,

possibly the Society may take action in the matter.

I have the honour to be,

Sir,

Your obedient servant,

(Signed) JOHN BIGELL.

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No. 989.

[10 June,
1889.]

10th June, 1889—**MEMORANDUM FROM J. JOHNSTON
TO MR. BURGESS.**

[16 Aug.,
1909.]

—————
Vide Vol. II, p. 347.

—————
No. 990.

N

16th August, 1909—**AFFIDAVIT OF HENRY WEBB.**

—————
Vide Part VIII F, No. 608, p. 1556.

No. 991.

AFFIDAVIT OF ABRAM FINGER.[17 Aug.,
1909.]IN THE MATTER OF the Enquiry into New-
foundland Territorial Rights on the Labrador.

District of Labrador, Nain, to wit :

I, ABRAM FINGER, at present of Nain aforesaid, make oath
and say as follows :

I was born on the Labrador, and have lived at Nain all my life and my father before me. I am forty-three years of age. I have hunted and fished since I was ten years of age going in over one hundred miles into the interior. I have been in the interior almost as much as I have been in Nain, spending part of the winter and part of the spring in there. I have always lived under the laws of Newfoundland and have always recognized the Governor and Government of Newfoundland. I have never had anything to do with the laws of Canada or Quebec, and do not know anything about them. I claim to be a subject of Newfoundland and nobody from any other country has ever interfered with me or objected.

his
(Sgd) ABRAM x FINGER.
mark.

SWORN before me at Nain aforesaid this
17th day of August A.D. 1909, having
been first read over and explained.

(Sgd) F. J. MORRIS,
Judge of the Court of Labrador.

[17 Aug.,
1909.]

AFFIDAVIT OF ADAM KOPEK.

IN THE MATTER OF the Enquiry into New-
foundland Territorial Rights on the Labrador.

District of Labrador, Nain, to wit :

I, ADAM KOPEK, at present of Nain aforesaid, make oath
and say as follows :

I am fifty six years of age. I have lived in Nain all my life
and my father before- me. I have been in the interior of the
country summer and winter, trapping and hunting. I have gone
in over a hundred miles, living in snowhouses in the winter
and in tents in the summer. Nobody has ever interfered with,
me or been up there. I have always obeyed Newfoundland laws
and have recognized Newfoundland authority as being over us.

(Sgd) ADAM KOPEK.

SWORN before me at Nain aforesaid,
this 17th day of August A.D. 1909,

(Sgd) F. J. MORRIS,
Judge of the Court of Labrador.

AFFIDAVIT OF CHRISTIAN SCHMIDT.[17 Aug.,
1909.]IN THE MATTER OF the Enquiry into New-
foundland Territorial Rights on the Labrador.

District of Labrador, Nain, to wit :

I, CHRISTIAM SCHMIDT, at present of Nain aforesaid, Trade Superintendent of the Unitas Fratrum Mission Store, make oath and say as follows : —

1. I have been resident in Nain for the past 19 years, and am well acquainted with the habits and customs of the Esquimeaux and natives of the Labrador, some of whom, in winter-time, go as far as three hundred miles into the interior for the purpose of hunting, trapping, &c.

2. As far as I know the natives have always obeyed the laws of Newfoundland, and have always considered themselves to be under Newfoundland Jurisdiction.

3. We have never paid duties to any Canadian authorities and have never been required to do so. We have been exempted from duties by the Government of Newfoundland. So far as I know, the Government of the Dominion of Canada or the Province of Quebec have never made any attempt to claim jurisdiction on this portion of Labrador.

4. Two years ago, when in conversation with Captain Bernier, an Official of the Canadian Government, and Mr. Duncan, a Customs Officer, they stated that “ they were willing enough to enforce Canadian laws on the Ungava side of the Bay, but they did not wish to interfere with anything on the Labrador Coast.”

(Sgd) CHR. SCHMIDT.

SWORN before me at Nain aforesaid, this
17th day of August A.D. 1909,

(Sgd) F. J. MORRIS,

Judge of the Court of Labrador.

No. 994.

AFFIDAVIT OF WILLIAM FORD.[24 Aug.,
1909.]IN THE MATTER OF the Enquiry into New-
foundland Territorial Rights on the Labrador.

District of Labrador, Nain, to wit :

I, WILLIAM FORD, of Black Island aforesaid, make oath and
say as follows :—

I am 65 years of age and reside at Black Island. I have been residing on the Coast all my lifetime. My father came from Devonshire, England. He came here at the age of about 16, and lived at Paul's Island most of his life. He has been dead over 30 years. Sometimes he visited England and came out again. He fished, trapped and hunted on the Coast, and had five or six English servants. He used to go into the interior about 150 miles trading with the Indians. I often went hunting for my father during his lifetime. I have been inland over 150 miles hunting deer. I have always recognized the Newfoundland Government and Newfoundland Laws, and have always obeyed them as far as I know. I purchase my provisions and necessaries of life, sometimes from the Mission Stores, sometimes from the traders, sometimes from the Hudson Bay Co. stores. I remember when the Newfoundland revenue cruiser was on the Coast. I have never been interfered with in my rights as a fisherman, hunter and trapper, and nobody representing Canada ever came to me to claim any right, or to say that I was subject to their laws. I have never heard of any laws save those of Newfoundland. During my lifetime I have exercised the rights of citizen-ship on the Coast as a British subject and a citizen of Newfoundland under its laws and jurisdiction, and my father did before me.

his
(Sgd) WILLIAM x FORD.
mark.

SWORN before me at Black Island aforesaid,
this 24th day of August A.D. 1909. Having
been first read over and explained.

(Sgd) F. J. MORRIS,
Judge of the Court of Labrador.

No. 995.

25th August, 1909—**AFFIDAVIT OF SAMUEL JAMES
BROMFIELD.**

[25 Aug.,
1909.]

Vide Vol. VIII, F, No. 609, p. 1557.

[26 Aug.,
1909.]

No. 996.

26th August, 1909—**AFFIDAVIT OF EDWARD
MITCHELL.**

Vide Part VIII F, No. 610, p. 1558.

No. 997.

[26 Aug.,
1909.]

26th August, 1909—**AFFIDAVIT OF JOHN WINTER**

IN THE MATTER OF the Enquiry into New-
foundland Territorial Rights on the Labrador.

Labrador, Hopedale, to wit :

I JOHN WINTER, of Hopedale, aforesaid, make oath and say
as follows :

I am seventy two years of age. I was born on Labrador
and have lived here practically all my life. My father was an
Englishman, he came to live on Labrador nearly ninety years
ago. I am a fisherman, hunter and trapper, and in winter time
go into the interior hunting and trapping. I usually go in about
a hundred miles. I have always considered myself a subject of
Newfoundland and have always obeyed its laws as far as I
know. Nobody from Canada has ever interfered with me and I
never heard that Canada had any claim here at all.

his
(Sgd) JOHN X WINTER.
mark.

SWORN before me at Hopedale aforesaid this
26th day of August A.D. 1909. Having
been first read over and explained.

[10 Sept.,
1909.]

(Sgd) F. J. MORRIS,
Judge of the Court of Labrador.

No. 998.

N

10th September, 1909—**AFFIDAVIT OF THOMAS
BLAKE.**

[10 Sept.,
1909.]

Vide Part VIII F, No. 611, p. 1559.

No. 999.

N

10th September, 1909—**AFFIDAVIT OF JOSEPH GOUDY.**

Vide Part VIII F, No. 612, p. 1560.

No. 1000. **N**

[10 Sept.,
1909.]

10th September, 1909—**AFFIDAVIT JOSEPH MICHELIN.**

[19 March,
1926.]

Vide Part XX.

[8 June,
1926.]

No. 1001. **N**

19th March, 1926—**AFFIDAVIT OF THOMAS WINTER.**

Vide Part VIII F, No. 616, p. 1564.

No. 1002. **N**

8th June, 1926—**AFFIDAVIT OF AFFIDAVIT OF F. C.
BERTEAU.**

[1925.]

Vide Part VIII E, No. 547, p. 1485.

No. 1003. **N**

EXTRACT FROM CHAMBER'S ENCYCLOPEDIA, 1925.

VOL. VI, p. 487.

ARTICLE "LABRADOR."

The part draining to the St. Lawrence belongs to Quebec ; that draining to the Atlantic belongs (since 1809) to Newfoundland ; the rest, the former territory of Ungava, was added in 1912 to Quebec.

[24 Nov.,
1923.]**PART XIV.**

**REPORTS AND DOCUMENTS RELATING TO THE
LOCATION OF THE SEACOAST LINE WITH
RELATION TO THE ESTUARY OF THE HAMILTON
RIVER SYSTEM.**

**No. 1004.
REPORT OF W. J. STEWART, CHIEF
HYDROGRAPHER, CANADA,**

ON THE DETERMINATION OF THE SLOPE OF THE NARROWS BETWEEN
LAKE MELVILLE AND LESTER POINT.

Two Haskell automatic gauges, one a mile east of Lester Point (hereinafter referred to as the Lester Point gauge) in the outer part of the Narrows, the outlet from Lake Melville of the Hamilton River system, and the other at what may be called the lower end of Lake Melville, were maintained in operation continuously from August 5th to October 2nd, 1923, or for two complete lunar months.

The records were compiled from half-hourly readings taken to the nearest hundredth of a foot for height, and the time to the nearest minute.

The vertical scale of the gauge records was to inches to one foot, the hundredth of a foot on the record being represented to one and a quarter of a sixty-fourth of an inch, quite a measurable quantity.

Each gauge was referred to a bench mark in close proximity to it, and the two bench marks were connected by precise levels undertaken by the Geodetic Survey of Canada.

From the analysis of the records the following information was obtained :

At the Lester Point gauge the range of the tide was found to vary from 5.1 feet at springs to 2.02 feet at neaps, with a mean range of 3.46 feet.

At the lake Melville gauge, the range varied from 1.12 feet at springs to .54 of a foot at neaps, with, a mean range of .83 of a foot.

Thus in a distance of about 13 miles between the two gauge locations, there is a decrease in range of about 75 per cent.

At Lake Melville, as an average, high water occurred 3 hours 33 minutes and low water 3 hours later than at Leslie

Point, showing a considerable retardation in the progress of the tidal wave for so short a distance, the channel between these two points is deep and extends nearly the whole width of the inlet, so that this retardation cannot be ascribed to friction against a rapidly rising bed.

Mean tide level, obtained at each gauge location, from over 2,800 simultaneous half-hourly readings, shows a mean tide level slope of .419 of a foot or 5 inches, between the Jake Melville and the Lester Point gauges.

At each instant of time there is a definite slope of the surface of the water 10 between the two gauge points. The mean slope was calculated at springs and neaps and showed that at springs the outgoing mean slope was 40 per cent. or 6 inches greater than the incoming slope, its duration being one hour more.

At neaps when there is less influx from the sea, the difference is still more pronounced ; the outgoing slope being double or 8 inches more than the incoming slope, with three hours more duration.

The inference to be drawn from this is that on the ebb there is a considerably greater volume of water discharging through the Narrows than can be accounted for by the influx of flood tide.

Apart from the actual mean tide slope found between the two gauges, the considerable retardation in progress of the wave through a deep channel in a short distance and the considerable reduction in range of the tide, are distinct characteristics that are most generally found in river tides.

(signed) WM. J. STEWART,

Chief Hydrographer.

Department of Marine and Fisheries,
Ottawa, Can.

No. 1005.

**SUMMARY OF RESULTS ESTABLISHED BY
AUTOMATIC TIDE GAUGE RECORDS.**

(TWO LUNAR MONTHS OBSERVATIONS, 5 AUGUST TO 2 OCTOBER, 1923.)

Lester Point (The Narrows) and Lake Melville. Two lunar months observations. (August 5th to October 2nd, 1923.)

SUMMARY.				
10	Dates.	Number of Readings each day.	Lester Point (at gauge location) Sums of half-hourly readings below Geodetic Survey of Canada, Bench Mark 66k.	Lake Melville (at gauge location) Sums of half-hourly readings below Geodetic Survey of Canada, Bench Mark 72k.
	August 5	48	265.88	506.31
	6	48	272.75	515.60
20	7	48	269.24	514.82
	8	48	244.82	487.73
	9	48	284.24	472.75
	10	48	252.28	490.60
	11	48	267.42	507.12
	12	48	278.88	510.93
	13	48	267.77	504.24
	14	48	257.29	495.67
	15	48	267.99	499.85
	16	48	274.61	509.14
30	17	48	266.29	498.39
	18	48	278.00	497.02
	19	48	290.22	511.40
	20	48	264.77	502.78
	21	48	255.82	489.81
	22	48	250.88	480.44
	23	48	215.78	457.59
	24	48	257.71	488.02
	25	48	274.77	509.64
40	26	48	278.51	506.76
	27	48	266.43	500.93
	28	48	267.61	497.89
	29	48	262.83	496.21
	30	48	262.49	488.68
	31	48	272.37	496.16

Mean level of the water surface at the automatic gauge location in the Narrows (Lester Point) below the Geodetic Survey of Canada, Bench Mark 66k, as determined by 2832 half-hourly readings from the automatic gauge records 5.521 Feet
Bench Mark 66k below Bench Mark 72k, as determined by the Geodetic Survey of Canada 5.501 Feet

Mean level of the water surface at the automatic gauge location on the Narrows (Lester Point) below the Geodetic Survey of Canada, Bench Mark 72k, as determined by 2882 half-hourly readings from the automatic gauge records and the precise levelling by the Geodetic Survey of Canada in 1923 10.822 Feet

Mean level of the water surface at the automatic gauge location on Lake Melville below the Geodetic Survey of Canada, Bench Mark 72k, as determined by 2832 half-hourly readings from the automatic gauge records 10.463 Feet

Mean level of the water surface at the automatic gauge location on the Narrows (Lester Point) below the mean level of the water surface at the automatic gauge location on Lake Melville as determined by 2832 simultaneous readings from the automatic gauge records419 Feet

Interval between the times tides occur, at the automatic gauge location on the Narrows (Lester Point) and the automatic gauge location on Lake Melville, as determined from 114 observations at each location.
Mean interval at High Water 3 hours and 33 minutes.
Mean interval at Low Water 3 hours and 1 minute.

2033

13 x 2

[Larger HTML Version](#) (18 kb)

SUMMARY—continued.

Dates.	Number of Readings each day.	Lester Point (at gauge location) Sums of half-hourly readings below Geodetic Survey of Canada, Bench Mark, 992.	Lake Melville (at gauge location) Sums of half-hourly readings below Geodetic Survey of Canada, Bench Mark, 722.
September 1	48	270.37	497.66
2	48	278.15	506.29
3	48	249.79	485.19
4	48	252.62	480.33
5	48	257.16	499.74
6	48	256.51	487.57
7	48	268.76	498.73
8	48	270.35	507.24
9	48	257.32	492.56
10	48	252.96	498.56
11	48	267.09	502.07
12	48	279.78	510.27
13	48	282.14	514.30
14	48	278.57	507.92
15	48	283.85	504.61
16	48	298.19	523.39
17	48	284.77	521.91
18	48	264.90	501.25
19	48	246.11	482.08
20	48	259.67	486.08
21	48	274.82	511.13
22	48	276.71	512.57
23	48	289.57	508.91
24	48	280.42	491.69
25	48	269.26	501.64
26	48	269.46	502.13
27	48	266.98	499.65
28	48	258.57	496.68
29	48	250.25	490.37
30	48	259.60	496.81
October 1	48	264.16	506.84
2	48	235.41	483.55
Sums .	2832	15,625.68	29,460.94
Means		5.521 Feet	19.403 Feet

Range of tides as determined from 114 observations at each location—
 At the automatic gauge location on the Narrows (Lester Point)—
 Mean Range 2.46 Feet
 Range at Spring Tides 5.20 Feet
 Range at Neap Tides 2.02 Feet

At the automatic gauge location on Lake Melville—
 Mean Range83 Feet
 Range at Spring Tides 1.12 Feet
 Range at Neap Tides54 Feet

Instantaneous slopes—from 96 half-hourly readings at spring and neap tides—
 Springs :—
 Outgoing mean slope 1.87 feet with duration of 124 hours.
 Incoming mean slope 1.83 feet with duration of 114 hours.

Neaps—
 Outgoing mean slope 1.22 feet with duration of 134 hours.
 Incoming mean slope .69 feet with duration of 104 hours.

At spring tides the outgoing slope is about forty per cent. greater than the incoming slope, and continues one hour longer.

At neap tides the outgoing slope is about double the incoming slope and continues three hours longer.

Memo.—
 The automatic gauges were operated, at the locations shown on the accompanying sketch,* on a vertical scale of two inches to the foot, and a horizontal scale of two inches to the hour.
 The records were compiled by half-hourly readings to the nearest one hundredth of a foot, and the time of tides to the nearest minute.
 All computations are based on the automatic gauge records during the two lunar months, August 5th to October 2nd, 1923.

*See map entitled "Hamilton River at Rigolet" on next page.

[Larger HTML Version](#) (19 kb)

WM. J. STEWART,
 Chief Hydrographer Dept. of Marine
 and
 Fisheries, Ottawa, Canada.
 November 24th, 1923.

No. 1005.

SUMMARY OF RESULTS ESTABLISHED BY AUTOMATIC TIDE GAUGE RECORDS.

(TWO LUNAR MONTHS OBSERVATIONS, 5 AUGUST TO 2 OCTOBER, 1923.)

Lester Point (The Narrows) and Lake Melville. Two lunar months observations. (August 5th to October 2nd, 1923.)

Dates.	Number of Readings each day.	Lester Point (at gauge location) Sums of half-hourly readings below Geodetic Survey of Canada, Bench Mark, 66k.	Lake Melville (at gauge location) Sums of half-hourly readings below Geodetic Survey of Canada, Bench Mark, 72k.	SUMMARY.	
August 5 6 7 8 9 10	48 48 48 48 48 48	265.83 272.75 269.24 244.82 234.34 252.28	506.31 515.60 514.82 487.73 472.76 490.60	Mean level of the water surface at the automatic gauge location in the Narrows (Lester Point) below the Geodetic Survey of Canada, Bench Mark 66k, as determined by 2832 half-hourly readings from the automatic gauge records 5.521 Feet Bench Mark 66k below Bench Mark 72k, as determined by the Geodetic Survey of Canada 5.301 Feet	
11 12 13 14 15	48 48 48 48 48	267.42 273.38 267.77 257.29 267.99	507.12 510.93 504.24 495.67 499.85	Mean level of the water surface at the automatic gauge location on the Narrows (Lester Point) below the Geodetic Survey of Canada, Bench Mark 72k, as determined by 2832 half-hourly readings from the automatic gauge records and the precise levelling by the Geodetic Survey of Canada in 1923 10.822 Feet Mean level of the water surface at the automatic gauge location on Lake Melville below the Geodetic Survey of Canada, Bench Mark 72k, as determined by 2832 half-hourly readings from the automatic gauge records 10.403 Feet	
16 17 18 19 20	48 48 48 48 48	274.61 266.29 273.00 280.22 264.77	509.14 498.39 497.02 511.40 502.78		
21 22 23 24 25	48 48 48 48 48	255.82 250.83 215.78 257.71 274.77	489.81 490.44 457.29 488.02 509.64		
26 27 28 29 30 31	48 48 48 48 48 48	273.51 266.43 267.61 262.83 262.49 272.27	509.76 500.93 497.82 496.21 488.68 498.16		
					Mean level of the water surface at the automatic gauge location on the Narrows (Lester Point) below the mean level of the water surface at the automatic gauge location on Lake Melville as determined by 2832 simultaneous readings from the automatic gauge records 1.419 Feet
					Interval between the times tides occur, at the automatic gauge location on the Narrows (Lester Point) and the automatic gauge location on Lake Melville, as determined from 114 observations at each location. Mean interval at High Water 3 hours and 33 minutes. Mean interval at Low Water 3 hours and 1 minute.

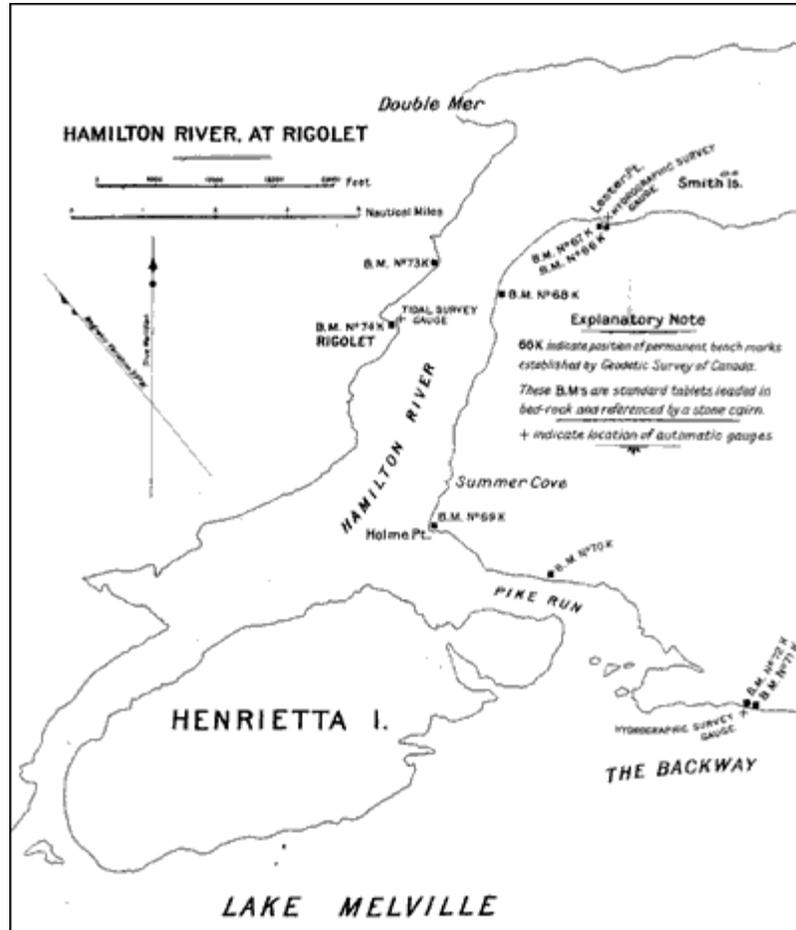
[Back to Main Page](#)

Lester Point (The Narrows) and Lake Melville. Two lunar months observations. (August 5th to October 2nd, 1923.)

Dates.	Number of Readings each day.	Lester Point (at gauge location) Sums of half-hourly readings below Geodetic Survey of Canada, Bench Mark, 66k.	Lake Melville (at gauge location) Sums of half-hourly readings below Geodetic Survey of Canada, Bench Mark, 72k.	SUMMARY— <i>continued.</i>
September 1 2 3 4 5	48 48 48 48 48	270.37 278.15 249.79 252.62 267.16	497.56 506.29 485.19 480.53 499.74	<p>Range of tides as determined from 114 observations at each location— At the automatic gauge location on the Narrows (Lester Point)— Mean Range 3.46 Feet Range at Spring Tides 5.10 Feet Range at Neap Tides 2.02 Feet</p> <p>At the automatic gauge location on Lake Melville—</p>
6 7 8 9 10 <hr/> 11 12 13 15 15	48 48 48 48 48 <hr/> 48 48 48 48 48	256.51 268.76 270.35 257.32 262.26 <hr/> 267.09 279.78 282.14 278.57 283.85	487.57 498.73 507.24 492.56 498.56 <hr/> 502.07 510.27 514.30 507.92 504.61	<p>Mean Range83 Feet Range at Spring Tides 1.12 Feet Range at Neap Tides54 Feet</p> <p>Instantaneous slopes—from 96 half-hourly readings at spring and neap tides—</p> <p>Springs :— Outgoing mean slope 1.87 feet with duration of 12½ hours. Incoming mean slope 1.33 feet with duration of 11½ hours.</p> <p>Neaps— Outgoing mean slope 1.22 feet with duration of 13½ hours. Incoming mean slope .60 feet with duration of 10½ hours.</p>
16 17 18 19 20	48 48 48 48 48	298.19 284.77 264.90 264.11 259.67	523.39 521.91 501.25 482.08 486.08	<p>At spring tides the outgoing slope is about forty per cent greater than the incoming slope, and continues one hour longer.</p> <p>At neap tides the outgoing slope is about double the incoming slope and continues three hours longer.</p>
21 22 23 24 25 <hr/> 26 27 28 29 30 <hr/> October 1 2 <hr/> Sums . Means	48 48 48 48 48 <hr/> 48 48 48 48 48 <hr/> 2832	274.82 276.71 269.57 260.42 269.26 <hr/> 269.46 266.98 258.57 250.26 259.60 <hr/> 264.16 235.41 <hr/> 15,625.63 5.521 Feet	511.13 512.57 508.91 491.69 501.64 <hr/> 502.13 499.65 496.68 490.37 496.81 <hr/> 506.84 483.55 <hr/> 29,460.94 10.403 Feet	<p>Memo.— The automatic gauges were operated, at the locations shown on the accompanying sketch,* on a vertical scale of two inches to the foot, and a horizontal scale of two inches to the hour.</p> <p>The records were compiled by half-hourly readings to the nearest one hundredth of a foot, and the time of tides to the nearest minute.</p> <p>All computations are based on the automatic gauge records during the two lunar months, August 5th to October 2nd, 1923.</p>

No. 1006. MAP SHOWING BENCH MARKS ESTABLISHED IN THE NARROWS IN 1923 BY THE GEODETIC SURVEY OF CANADA.

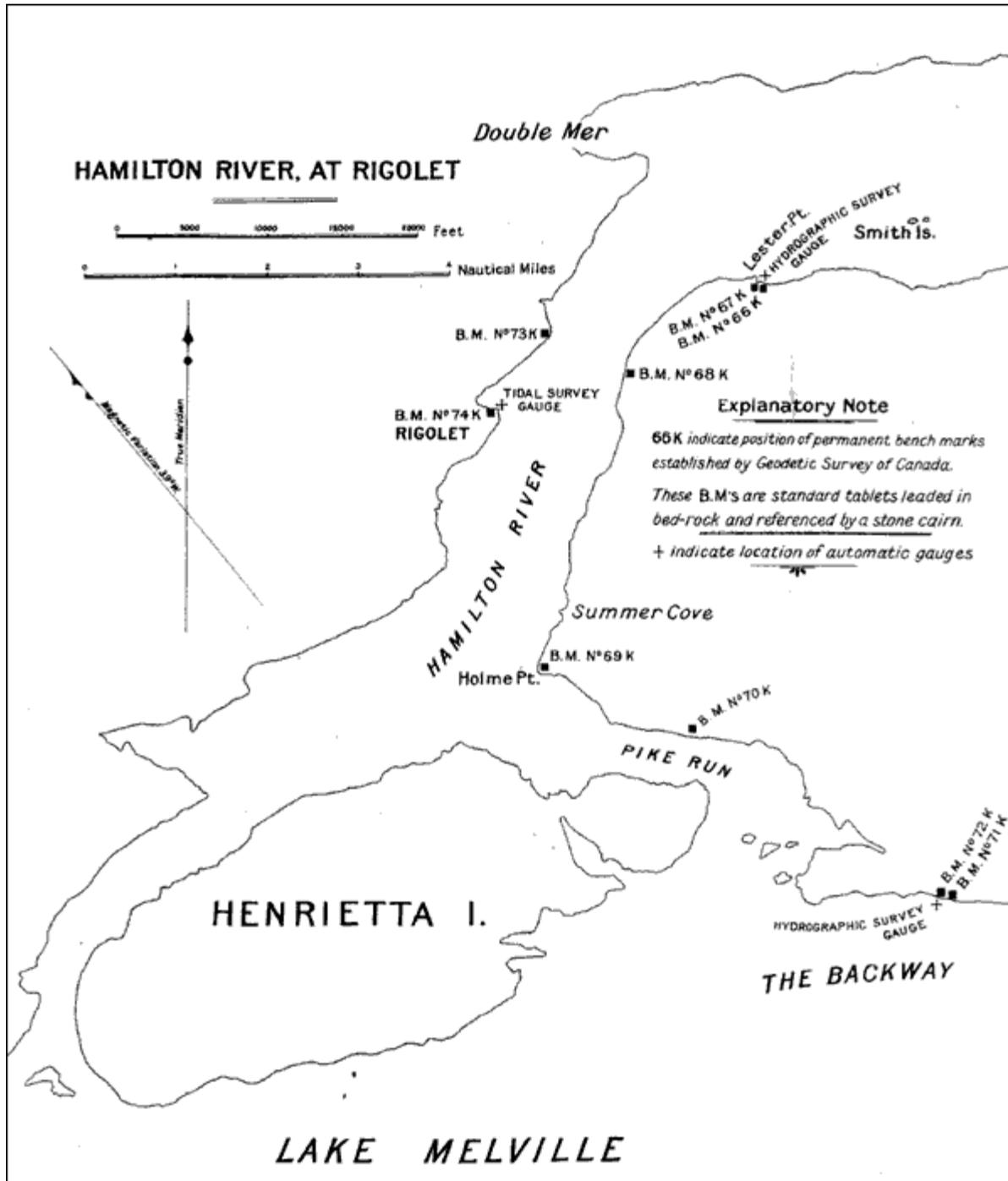
[26 Nov., 1923.]



[Larger Version](#) (32 kb)

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No. 1006.
MAP SHOWING BENCH MARKS ESTABLISHED IN THE NARROWS
IN 1923 BY THE GEODETIC SURVEY OF CANADA.



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No. 1007.
REPORT OF PRECISE LEVELLING IN THE
NARROWS (HALIMTON RIVER) BETWEEN LAKE
MELVILLE AND LESTER POINT.

By R. H. MONTGOMERY, D.T.S.

The definite object of these operations was to ascertain by direct measurement whether lake Melville was above mean sea level. To determine the exact elevation of lake Melville on mean sea datum was not attempted. Time was not sufficient, nor did the purpose that actuated this expedition require this more exact information.

Available knowledge regarding tide ranges and currents in the Narrows at Rigolet somewhat favoured the supposition that lake Melville was higher than the sea proper. Still it was apparent that the difference would be small and would require levels of the highest order to ascertain it. The very rugged nature of the country adjacent to the Narrows made it extremely doubtful whether such levels could be successfully carried out. However, on account of the urgency of the request, we were warranted in making the attempt at least.

To accomplish this object the work naturally divided itself into two distinct operations, the establishment of automatic gauges at two points and subsequently obtaining the two simultaneous records extending over at least a full lunar period, and, secondly, the connection of the two gauge stations by precise levels. The gauge work was undertaken and carried out by the Hydrographic Survey of the Marine Department. C. A. Price of that Survey, with his assistant, J. R. Dupuis, joined our party at Gaspé and looked after that side of the work. The levelling was undertaken and carried out by the Geodetic Survey. The exact location of the gauge stations and the route between which had to be levelled, were to be selected after a reconnaissance had been first made on the ground.

The north polar expedition sent out by the Dominion Government was due to leave Quebec on July 7th on "SS. Arctic" and our instructions were to expedite the organization of our party to enable us, if possible, to leave on the same ship and to be taken by it to Rigolet, Labrador. A launch lying at Gaspé, Quebec, was loaned by the Hydrographic Survey for our use in Labrador and had to be picked up at that point. In spite of the shortness of time, our party and equipment was on board the "Arctic" when she sailed on July 9th. On the 13th our launch was taken on board at Gaspé. Our party consisted of the writer, in charge, H. S. Mussell, geodetic engineer, as assistant, a captain and engineer for the launch, two rodmen, umbrellaman, cook and also the two members of the

On July 19th the " Arctic " reached Grady, a small island off the coast of Labrador, about 100 miles from Rigolet, and here it was decided by the officials of the " Arctic " that our party should disembark consequently during the night of the 19th and 20th our equipment and supplies were unloaded. On the 22nd we were picked up by the Newfoundland Government mail steamer " Sagona " and were landed at Rigolet on the 23rd. Our launch proceeded under its own power from Grady and reached there on the 22nd.

The first two weeks were spent in the erection of the two gauge stations, and August 5th marked the beginning of the simultaneous records of the water level of Lake Melville and the lower part of the Narrows. Various considerations decided the location of these stations probably the most important was the time factor, as the original request required that our records should be in Ottawa by October 1st. To accomplish this meant that only one lunar period could be obtained and the stations were so separated as to assure that in the lunar period the precise levelling connecting them could be accomplished. If more time had been at our disposal, the stations could have been more widely separated and, for reasons stated later, a greater slope would have probably been found.

As soon as the stations were operating the actual levelling was commenced. Our permanent camp was established at Summer Cove, a point on the east side of the Narrows, midway between the gauges and it proved a very convenient location, for, by arranging our work on different sides of camp on alternate working days, the hydrographers were able to visit the gauges regularly. The levelling followed the shore line, except near the Melville gauge, where it was carried over a neck of land, thereby lessening the length of the line of levelling. Bench marks were established near each gauge stations and at prominent points between, as shown on the attached blue print.* These bench marks are of a very permanent nature, being the Geodetic Survey of Canada standard tablet, leaded in bed rock and, in general, referenced by a stone cairn.

The Tidal and Current Survey of the Marine Department also sent a party of six men, in charge of H. W. Jones, to investigate the tides and currents in the Narrows. This party established an automatic gauge at Rigolet and located a permanent bench mark near it. In order to connect their gauge with our levels, we carried our line across the Narrows by a series of reciprocal readings between bench marks 68-K and 73K, as shown on the attached blue print, and tied in with their bench mark at Rigolet, which we designated as 74-K. By making this connection it became possible to co-ordinate the records of their gauge with those obtained by the Hydrographic Survey gauges.

As a result of our levelling we ascertained the elevation of bench mark 72-K, near the Melville gauge, to be 5.301 feet

higher than bench mark 66-K, near the Lester Point gauge, and 14.517 feet higher than the zero mark on the Tidal Survey staff gauge at Rigolet. To deduce the relation between the

*See Map on page 2323 (following Stewart's Report).

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mean water levels at the different gauges, the above information will have to be used in conjunction with the information contained in the reports emanating from the Hydrographic and Tidal Surveys. A list of the permanent bench marks and their elevations, on an assumed datum, is appended hereto.*

The instrument used on this work was the Zeiss level No. 3, being the same as adopted by the British Ordnance Survey for their precise levelling. The staffs were divided into yard, tenths and hundredths of a yard and the rod readings were recorded in thousandths of a yard. In recording and reducing the rod readings, the English practice was followed rather than the American, in that, while the three wire readings were recorded, only the reading of the medial was utilized for determining the differential elevations of the turn points. In the levelling procedure, the same rigorous tests and methods were followed as specified for standard precise levelling on this continent. The discrepancy between the forward and backward line over a section did not exceed ± 0.015 feet M where M is the length of the section in miles. Owing to the nature of the work no external evidence could be obtained as to the accuracy, such as a circuit closure would indicate, still there is no reason to suspect, had a circuit closure been possible, that the standard would have been found wanting.

The levelling was completed by the 1st of September and on the 2nd our party boarded the "SS. Sagona" for our return trip. Mr. Mussell remained at Rigolet to look after our launch which had been disabled and which was later brought to Halifax by the "SS. Nascopie." Mr. Dupuis remained to look after the gauges in order to get a record of a second lunar period. The "SS. Sagona" arrived at St. John's, Newfoundland, on September 13th and the party proceeded overland by rail to Quebec, reaching there on the 17th, when it was disbanded.

We stated in our opening paragraph the elevation of lake Melville, resulting from our operations, is not the true elevation on mean sea level datum. To substantiate this we would advance the following hypothesis.

The peculiar formation of the upper end of the Narrows undoubtedly is the cause of the unusual currents and tide rips for which the Narrows are noted. The outflow of a watershed of roughly 70,000 square miles, has to pass through this channel. Referring to the attached blue print, it may be seen that Henrietta Island divides the Narrows into two channels. The flood tide coming up the Narrows naturally follows the western channel, entering lake Melville near Caravalla cove. This channel has a comparatively wide entrance from the sea

and has a shallow and restricted entrance from lake Melville. Our observations revealed that this channel exhibited the same reversing currents and followed the same laws as the Narrows proper near Rigolet. The currents reversed about midtime between the peaks of the tides thus, with neap tides, if high tide occurred at noon, the current would begin to run in about three hours later. Referring to the eastern channel, known as Pike Run, it may be noticed that Holme point has a tendency to deflect the flood tide from this channel, and the wide deep entrance presents

* See Map on page 2323.

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an easy outlet for the waters of lake Melville. As our work kept us in the vicinity of Pike Run, it was noticeable how rarely we found the current running into lake Melville by this channel. For these reasons we expect that there is a decided circulatory movement counterclockwise of the waters around Henrietta, or there should be a prevailing east current along the south shore of the island. On this account we are led to believe that, if an automatic gauge had been established on lake Melville west of Caravalla cove, the mean water level at such a point would be appreciably higher than at the Hydro-graphic Survey gauge near Pike Run.

At the lower end of the Narrows the geographical formation would tend to place the head of the Inlet somewhere in the neighbourhood of a line joining Ticoralak and Bloomfield island, and it is probable if a gauge station had been established near Bloomfield island that an ascertainable slope would be found to exist between it and our gauge near Lester point.

The prevailing wind during our stay in Labrador was from the north-east or east. This would have the effect of piling up the waters at the head of Hamilton Inlet and conversely the lowering of the waters at the east end of Lake Melville. Should it be established that the prevailing wind throughout the year is easterly, then the slope in the Narrows ascertained by our operations may be presumed to be the normal slope, but should the above supposition as to the wind's direction not be correct, a more extended series of observations would naturally reveal a greater difference of elevation than was ascertained.

Thus it would appear that the slope which we ascertained was not the true elevations of lake Melville on mean sea datum but was rather the difference of the elevation of that portion of the Narrows lying between the gauges.

(Sgd.) R. H. MONTGOMERY.

Ottawa, Nov. 26th, 1923.

LIST OF BENCH MARKS ESTABLISHED IN 1923 BY THE GEODETIC SURVEY OF CANADA NEAR RIGOLET, LABRADOR, GIVING

DESCRIPTION AND ELEVATION ON ASSUMED DATUM (BENCH
MARK 66-K—100 FEET.)

Description of Permanent Bench Marks.

- 66-K On south side of the Narrows and 1 mile east of Lester
Point and 4 miles east of Rigolet. On top of first gray
granite outcrop above high water, 30 yards from tree
line and 210 yards west of small creek, and marked
by a stone cairn. Elevation 100·000 feet.
- 67-K 130 Yards west of 66-K, on gray granite outcropping,
75 yards from high water mark and at tree line.
Elevation 100·435.
- 68-K On south side of Narrows, 2 miles east of Rigolet, and
1¼ miles west of Lester Point, and on red granite
outcropping 10 feet from tree line and 100 yards
west of Hydrographic Survey signal “ Pinch,”
marked by a stone cairn. Elevation 102.652.
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- 69-K On east side of Narrows, 4 miles south of Rigolet and
150 yards north of Holme Point—on outcropping of
red granite, 20 yards from high water mark and
marked by a store carin. Elevation 104·765.
- 70-K On north shore of Pike run, 3 miles southeast of Holme
Point, at east end of steep outcropping of red granite,
10 feet from high water mark and marked by a store
cairn. Elevation 102·337.
- 71-K On north shore of lake Melville, 1½ miles east of
unnamed point, at east side of beginning of Pike
Run, on outcropping of red granite, 150 yards east of
Hydrographic Survey station “ Run,” 10 yards from
high water mark and marked by a store cairn.
Elevation 113·558.
- 72-K On outcropping of red granite, 50 feet west of 71-K, 10
feet from high water mark. Elevation 105·301.
- 73-K At Hydrographic Survey station Burnt, on west side of
Narrows, 14 miles northeast from Rigolet, and 500
yards southeast of Burnt-wood Cove, 10 yards from
high water mark and marked by a stone cairn.
Elevation 103·704.
- 74-K At Rigolet, copper bolt embedded vertically in grey
granite out-cropping, 100 yards northwest from
Hudson Bay Company’s wharf, 20 yards from high
water mark. This bench mark was established by the
Tidal and Current Survey. Elevation 103·352.

Zero mark of Tidal and Current Surveys gauge at
Rigolet. Elevation 90.784.

[14 Nov.,
1923.]**No. 1008.****REPORTS OF THE TIDAL AND CURRENT SURVEY
OF CANADA**ON INVESTIGATION OF TIDAL CONDITIONS OF WATER IN THE
NARROWS AND THE HAMILTON INLET.

(Tidal and Current Survey of Canada.)

General explanation by W. Bell Dawson, M.A., D.Sc., M.E.I.C., superintendent of Tidal and Current Survey, Canada, of results established by investigation of tidal conditions in the Narrows and Hamilton inlet.

The Hamilton River enters a large lake (Lake Melville) which in turn connects with the ocean through the Narrows at Rigolet. The lake is practically fresh water at the surface, although sea water at the freezing temperature penetrates below this, at the greater depths.

Regarding the Rigolet Narrows and the bay opening eastward from them towards the ocean, the question from the physical standpoint is whether they resemble an ordinary inlet of the sea, or show the characteristics of an estuary or river mouth, as indicated by the tidal conditions.

(I.) In an ordinary estuary, the rise of the tide increases until the tidal undulation reaches the mouth of the river proper, when the rise begins to be cut off and decreased by the river slope. In the case of Hamilton inlet, our investigations show that in the outer bay with shores which converge from the open ocean towards the Narrows, the tide maintains the same rise from Indian harbour at the mouth of this bay, almost to the Narrows ; notwithstanding the inflow into the large expanse of Lake Melville.

This indicates a resemblance between the outer bay east of the Narrows, and an ordinary estuary. The tendency of the tide to increase its range in its progress up the bay, is counteracted by the inflow during its rise, into the immense expanse immediately within the Narrows. The estuary conditions in this respect thus manifest themselves as far as the configuration permits ; for the tide is able to maintain its full range to the head of the bay (at Ticoralak island) notwithstanding the adverse influence of the inflow through the Narrows. In Lake Melville itself, the rise of the tide falls to a small amount, as may naturally be expected in the circumstances.

(II.) It is usual in river mouths for the sea water to find its way along the bottom, especially during the rise of the tide ; whereas the fresher water of the river itself keeps to the surface. When the tide begins to rise, there is thus inflow along the bottom while the surface flow is still outward ; and it takes some time before the surface flow is checked and reversed. When the

p. 2330

tide is falling, the undercurrent is the first to be checked and reversed, because of the bottom friction and its greater density.

This inflow of an undercurrent of salter water in river mouths whenever the tide begins to rise, has been verified by the investigations of the Tidal Survey in St. John Harbour at the mouth of the St. John river, and in the delta of the Fraser River on the Pacific coast ; and it appears to be a general feature of river mouths. This is what occurs here in the Rigolet Narrows. During the fall of the tide, the conditions are more apt to be modified, as in the case of a river in freshet as contrasted with its summer behaviour ; or as at Rigolet where there is a large expanse above the Narrows. The behaviour during the rise of the tide, however, is very typical and characteristic.

(III.) In both estuaries and tidal rivers, the outward flow or “ ebb stream ” during the fall of the tide, is stronger and continues for a longer time than the inward flow or “ flood stream,” which is weaker and of shorter duration because opposed to the current of the river. As a rule, also, the vertical movement of the tide shows the same inequality between the duration of rise and the duration of fall, as the horizontal movement does.

In the observations obtained by the Tidal Survey at Rigolet, special efforts were made to verify these features ; and although a steamer was not available for the work, a scow was moored in the middle of the Narrows (where much exposed) to avoid any local disturbance of the main current if nearer shore. The observations were frequently continued day and night to obtain balanced observations. A spar-buoy placed near the north side, also afforded more extended observations to supplement those in mid-channel.

The three features of a tidal river were thus made manifest ; (1) The longer duration of the outward flow, (2) the much greater strength of the current on the ebb than on the flood, and (3) the longer period in the fall of the tide than in the rise. To make the verification complete, the observations were taken under all the various phases of tidal conditions during the lunar month.

(IV.) The longer duration and greater strength of the flow during the ebb than during the flood, make it clear that the average level of Lake Melville must be at a higher elevation than the average or mean tidal level of the bay to the eastward of the Rigolet Narrows. The amount of the flow is one of the

surest indications of difference of leve, even where a direct measurement of the difference may be difficult to determine.

The details of the observations with illustrative diagrams, as well as explanation of their bearing on the questions which here arise, are given in the Report herewith, by Mr. H. W. Jones of this Survey.

W. BELL DAWSON,
Superintendent of
Tidal Surveys.

Ottawa, November 14, 1923.

No. 1009.

TIDAL AND CURRENT SURVEY—CANADA, 1923.[2 Nov.
1823.]INVESTIGATIONS IN HAMILTON INLET AND IN THE NARROWS OFF
RIGOLET.

LABRADOR.

TECHNICAL REPORT. By H. W. Jones.

The shores of Hamilton Inlet converge from the outer coast line of Labrador (in latitude $54^{\circ} 8'$ to $54^{\circ} 30'$) until about forty miles to the westward they almost meet, with Ticoralak Point, on the one hand, and Turner Head, on the other. These headlands are only about two miles apart, and from the general appearance of the map form the head of the Inlet. Beyond there is a slight expansion or basin off which a long narrow arm, Double Mer, opens to the westward while into it from the south west enters the short river which flows from Lake Melville. Here, in "the Narrows" off Rigolet, the behaviour of the current and the character of the water was investigated by the Tidal and Current Survey.

From Battle Harbour to Indian Harbour on the way north, and from Indian Harbour to St. Johns, Newfoundland, returning, the salinity or density of the sea water was determined in order to obtain a basis for comparison with ocean water, of all the samples taken during the season.

The density of the water was determined between Rigolet and Indian Harbour (fifty miles to the eastward at the outer extremity of the inlet) on five different runs, and on two more part way, to Ticoralak Island; numerous samples were taken from the narrows off Rigolet at the surface and at a depth of 18 fathoms, at the times of slack water after the flood and ebb streams, during the progress of the season; and the water of Lake Melville was tested at several points on the surface, at different depths up to 80 fathoms near the western end. The temperature of the water was frequently taken also at the same time.

Tide gauges were erected at Rigolet, at Ticoralak Island and at Indian Harbour, to secure record that would determine the nature of the tidal fluctuation and be of use in conjunction with the rest of the work.

The width of the Narrows is one and half miles, and the depth of the water is twenty to twenty-four fathoms, excepting close to the shores. A

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small scow was moored from both ends in mid-stream, as a fixed point from which to observe and meter the current. Thus the reversal of flow, or times of slack water could be determined with precision, which would be impossible on dark nights were the craft moored from one end only. The accuracy of the periods of flood and ebb flow, as found, depend on this.

Observations during a month, day and night, with some days lost because of storms, form the basis of the following data.

Strength of Current.—While the currents vary in strength under different tidal conditions, the ebb was found to be always stronger than the flood. A gale from the east may possibly reverse this order, but only while it lasts. The flood stream begins and ends more gradually than the ebb stream, which at the spring tides begins with a rush. The latter too, shows much greater fluctuations in velocity while running strongly, corresponding with the swirling of the water as in a swift river. (See Appendix “ a,” two diagrams.)

The meter for measuring velocities of the current was kept at a constant depth of 12 feet below the surface throughout the observations.

The flood stream never equalled the ebb stream in velocity while the ebb on one day was as much as five times the strength of the flood.

At spring tides the average velocities were, flood 3.37 knots and ebb 5.03 knots per hour. At neap tides the average velocities were, flood 1.89 knots and ebb 3.53 knots per hour.

(It happened that weather conditions prevented observations being taken on the exact days that the range of the spring tides was greatest, but those obtained were very close to being at the maximum of range in rise and fall.)

The velocity of the ebb was 80% greater than the flood, on the average of all the tidal streams measured.

Duration of Flow.—(1) In mid-channel. On three occasions the flood stream was noticed to run as long a time as the ebb stream preceding, or following ; but on the whole, the preponderance of the duration of the ebb over the flood on the surface was 1 hour and 7 minutes.

The under-current in mid-channel reversed its direction from ebb to flood and from flood to ebb, somewhat before the surface turned ; and it also flowed for a longer period of time outward to the sea than inwards, though not to so great an extent as did the surface current. (See Appendix “ b. ”)

On the surface the average period of the flood stream was 5 hours 37 minutes and the ebb 6 hours 44 minutes ; and for the under-current the periods were, respectively, 6 hours 00 minutes and 6 hours 21 minutes.

(2) Off the North shore. A spar buoy was anchored in ,15 fathoms of water about three cables from the shore at Square Rock Point in the narrows 40 just above Rigolet, and the turn of the current was observed by means of it, from July 5 to August 31, during daylight, and for periods during night time as well.

It will be seen from a glance at the chart that there is a curve to the south-ward in the direction of the shores of the Narrows from Double Mer Point to

p. 2333

Rigolet. This causes the flood stream as it moves inward to sweep along the north shore first, before extending across the whole width of the channel ; so that the current turns from ebb to flood earlier on this side. The other turn from flood to ebb is also earlier but not as much. Thus the duration of the ebb current is necessarily less on the Rigolet shore. The observations by means of the spar show this to be the case, and give evidence that the duration of the ebb stream, though diminished relatively, is yet longer than the flood ; the average periods being 6 hours 17 minutes and 6 hours, respectively.

(3) No observations of the current were taken near the south shore ; but the behaviour of the flood stream, going in along the north shore first, crowds the last of the ebb stream over to the south side so that it must persist there later than in mid-stream. From the direction of the channel above, and the suddenness with which the ebb stream begins, the reversal from mid-stream over, must be about simultaneous. Therefore, with the ebb beginning as in mid-stream, and ending later than it does there, the duration of the ebb stream on the south shore must be even longer than in other places across the channel.

From the foregoing facts regarding the current, its strength and duration of flow in the two directions, it is evident that the mean level of the water in Lake Melville must be appreciably above mean sea level. Also from the same observations, the effect of the rivers flowing into the lake is apparent at the outlet through the narrows, and this is also shown later by a comparison of the water densities after flood and after ebb currents.

DENSITY OF THE WATER.

The density of the water as determined, is its actual specific gravity.

The numerous tests taken on the voyage from Indian Harbour to St. Johns (September 8 to 15) show that well off the coast of Newfoundland the density of the water is 1.0240, while in the vicinity of the coast from Hamilton Inlet almost to Belle Isle Strait, a lower density than of the open sea is found due to the effect of the numerous adjacent rivers. This density of 1.0240 is taken as standard sea water for all comparisons made.

Samples taken in the same locality in June and early July with the drifting ice about, and again in September when all

ice with the exception of occasional ice-bergs had disappeared, indicated a less density for the early part of the summer, the difference being nearly 0.0010. Thus Indian Harbour water in the early part of the season may be as low as 94% of the density taken as standard sea water.

The samples were all brought to the standard temperature of 60° F., within half a degree, before being tested. This method avoided the need of applying any correction for temperature.

Between Rigolet and Indian Harbour.—The course taken by small open boats making this run is to the north of the middle of the estuary in its outer reaches, because precautions have to be taken with regard to the weather. Prevailing North-east winds doubtless drift the fresh water from the river

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above to the south shore ; but it was impossible to go for samples along this coast in the time at our disposal. The results of the tests taken on our trips to Indian Harbour are best shown on the accompanying map. It is to be seen that evidence of river water is noticeable all the way down the inlet. (See appendix “c.”)

The last of the series of tests on September 2–3 show a distinctly fresher state of the water for twenty miles below Rigolet. This may be due to heavy rains which may have fallen a short time previously in the back country, or to the general freshening of the water in Lake Melville with the progress of the season, and the last sample taken opposite Rigolet on August 27, compared with the earlier ones, seem to bear this out.

In the Narrows off Rigolet.—Samples were taken during the slack at the end of the ebb and flood, from July 13 to August 27, at the surface and at a depth of 18 fathoms, with the following results.

Average density of surface water after flood stream, 1.0182 or 76% of the standard sea water. Average density of surface water after ebb stream 1.0139 or 58% of standard sea water.

The water as it comes from the lake above is thus 18% less in density than when the current is inwards.

Average density at depth of 18 fathoms, after flood current is 1.0241 or the same as sea water. Average density at depth of 18 fathoms after ebb current, is 1.0208 or 87% of sea water.

It is thus apparent that the sea water flows in along the bottom towards the end of the flood tide, while at the end of the ebb tide it is 13% less salt.

On August 11 tests were made at the end of the flood, at 5 fathoms, 10 fathoms and 18 fathoms showing densities of 1.0200, 1.0219 and 1.0241, respectively.

Immediately below Henrietta Island.—Samples taken at 29, 30 and 38 fathoms after the ebb stream gave densities of 1.0221, 1.0226 and 1.0228 or 92%, 94% and 95% of standard

sea water. After the flood stream the full saltness of the sea must prevail here, at the lower-depths, as already it is found to do opposite Rigolet, near the bottom.

In Lake Melville.—Tests were made on August 21 and 22 as follows :

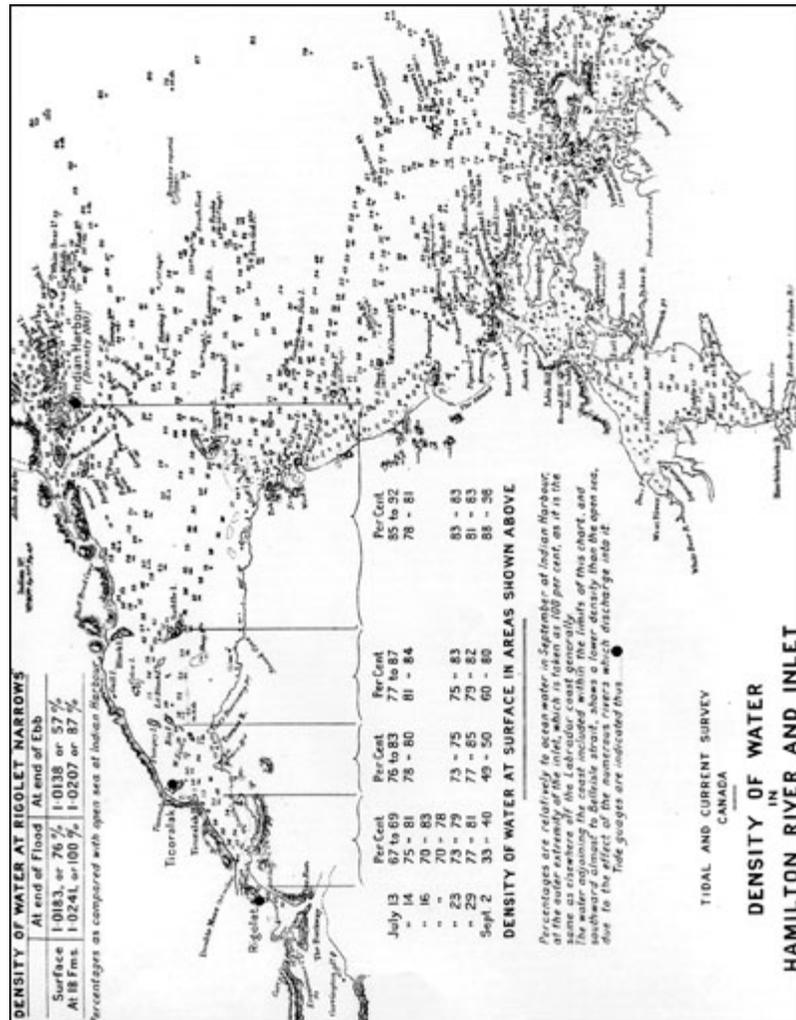
Two miles of St. Johns Island on course to westward ; surface density 1.0050 or 21% of sea density.

One and a half miles off Mulligans Head to the south ; surface density, 1.0031 or 13% of sea density.

At about three miles northward off Epinette Point after crossing the 8 fathom shoal, on which we sounded, on course from Mulligans Head, samples were taken at depths to 80 fathoms approximately. The results of the densities graduated from 1.00184 or 7 $\frac{1}{2}$ % to 1.0211 or 88% of sea salinity at 34 fathoms, and from that down they were practically the same.

The water in this region, when taken from the surface of course is considered fresh enough for drinking. (See detail in appendix “ c.”)

p. 2334a



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TEMPERATURE OF THE WATER.

Perhaps the only data with regard to the water temperatures that have a bearing on the question at issue, is the difference found in the narrows when the temperature after the flood stream from the direction of the sea has run its course, is compared with that after the ebb running from the lake above.

On the surface, temperatures were 4° to 6° warmer after the ebb stream than after the flood stream.

At 18 fathoms similarly the difference was 1° to 3°.

The notes of temperature found are given in the appendix along with the details regarding densities.

Duration of rise and fall of the Tide at Rigolet.—In river estuaries the tide takes a longer time to fall than it does to rise for the simple reason that during the period of rise the water of the river has been held back or the current even reversed, and consequently the river water of both tidal periods has to flow out perhaps entirely during the fall of the tide, which is thus prolonged.

This feature, common to all estuaries, is characteristic of this river, as shown by the tidal record obtained from the gauge placed at Rigolet. On the average for the lunar month, the period of rise of tide was 5 hours 56 minutes and of fall 6 hours 29 minutes.

The rate of progress of the Undulation in the Estuary.—The nature of the progress and recession of the tide as indicated by the times of high water and low water at Indian Harbour, Ticoralak Island and Rigolet is also note worthy. (Appendix “d” first part.)

The summit of the tidal undulation progresses from Indian Harbour to Ticoralak Island, a distance of forty miles, in 17 minutes, while to Rigolet it takes 47 minutes ; or 30 minutes additional for the upper eleven miles. This is in accord with the behaviour of the tide in estuaries, although the retardation is greater than is usually the case.

The trough of the tidal undulation progresses from Indian Harbour to Ticoralak Island in 21 minutes, and to Rigolet in 61 minutes, or 40 minutes additional for the upper eleven miles. This retardation is also greater than in ordinary estuaries. The point of importance is that the time of low water is delayed relatively to the time of high water, which corresponds with the shorter period of rise and longer fall which the figures above clearly indicate. This feature is well exemplified on the St. Lawrence, and it is a characteristic which is common to all estuaries.

AMPLITUDE OF THE TIDAL UNDULATION.

Very little change occurs in the amplitude of the tide up to Ticoralak Island, but between there and Rigolet it drops off

to 78% of what it is at Indian Harbour, as the best mean value that could be deduced from the observations obtained. Such a change may take place in the upper part of the estuary where the tidal undulation in its progress up the river is reduced in range by the river slope, but this explanation would be only partial. As the

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tide rises at Rigolet, the water flows off into the areas of Double Mer and Lake Melville, which prevents it from rising so high as it otherwise would. Also during the fall of the tide, the immense volume of water flowing out of the expanse above, tends to prevent the tide from falling as low as it otherwise would, which has a further effect in decreasing the range.

The usual behaviour of the tide in estuaries is to increase its rise so long as the shores are converging, and to attain greatest proportions at the true head of the estuary where the river begins. In Hamilton Inlet the shores converge towards Turner Headland on one side, and Ticoralak Point or island on the other, and the tide here has its greatest amplitude. To be more explicit, the tides of most amplitude, *i.e.*, perigee spring tides, are greater than at Indian Harbour ; mean spring tides are equal or slightly greater, while neap tides are nearly 10% less. This may therefore be considered a crucial point representing the head of the estuary for the tide here reaches a maximum in amplitude, notwithstanding the adverse conditions against its rising as already explained in the last paragraph.

In the great expanse of Lake Melville the amplitude of the tidal undulation is reduced to a small amount as might be expected. A table showing the change that takes place in this respect from Indian Harbour to the far end of the lake is given in the appendix. (Appendix “ d ” second part.)

A COMPARISON WITH THE ST. LAWRENCE RIVER.

To draw an analogy with the St. Lawrence river and its mouth, the locality of Turner Headland and Ticoralak Point, described as “ crucial ” may be compared with the region at the lower end of Orleand Island where the tide reaches its maximum rise, and where the river may be properly considered to begin.

Continuing the comparison, the following points of similarity and other-wise may be noted. A diagram to assist in following the purports of the statements is included in the appendix as sheet “ e.”

In the St. Lawrence the tide reverses the current regularly up to Cape Roche and sometimes up to Batiscan, within 25 miles of, but never up to Lake St. Peter the undulation however, does reach the lake causing a variation in level roughly from one quarter to half a foot when the river is not in its freshet stage. In the case of the waterway to Lake Melville, the tide reverses the current all the way, and it flows quite strongly back into the lake, where there is a continuous and

regular undulation.

OTHER INFORMATION.

Enquiries were made with regard to the fishing of cod-fish and it was learned that occasionally, and late in the fall only, they were caught in the vicinity of Double Mer Point, presumably for food supply, and not as an industry. The strength of the current makes fishing difficult, and it is not customary to make the attempt. Thus, one party said that three years ago

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cod-fish were caught here, and another said that none to his knowledge had been caught in the last five years.

A fisherman who had spent the last eleven seasons on the Labrador coast, said the farthest up the Inlet that he had known cod-traps to be set was at Black Island on the north side and at Turners Bight on the opposite shore. These places are twenty-five and thirteen miles respectively, below Rigolet.

No boundary line between the waters of the sea fishery, and of the inland fishery, in this locality was known to anybody so far as I could find out.

The foregoing facts regarding the nature of the tidal flow, and character of the water in Hamilton Inlet and Lake Melville and the connecting river, are the results of the work of the Tidal and Current Survey party during the season of 1923. In 1921 data was also obtained by the Hydrographic Survey and this is included partially in the appendix, where the information supplements the greater detail obtained in 1923.

Respectfully submitted,

H. W. Jones,

(B.Sc. : M.E.I.C.)

Senior Tidal and Current Surveyor.

2nd November, 1923.

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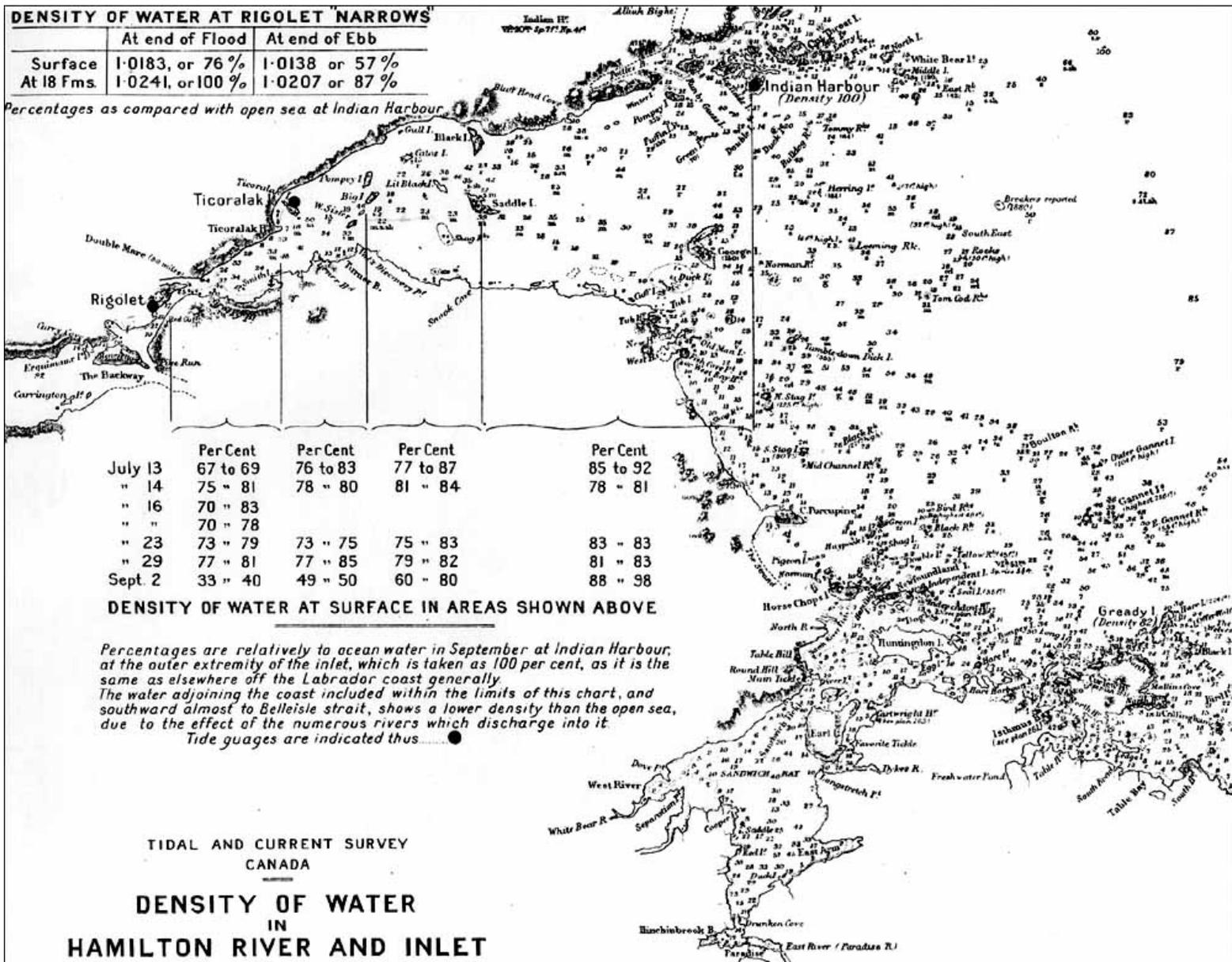
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by B.C.

DENSITY OF WATER AT RIGOLET NARROWS

	At end of Flood	At end of Ebb
Surface	1.0183, or 76 %	1.0138 or 57 %
At 18 Fms.	1.0241, or 100 %	1.0207 or 87 %

Percentages as compared with open sea at Indian Harbour



APPENDICES TO MR. JONES' REPORT (TIDAL AND CURRENT SURVEY, CANADA.)

INVESTIGATIONS IN THE NARROWS OF RIGOLET, 1923.

[Enclosure 1 in No. 1011.]

APPENDIX A.—TIDAL STREAM VELOCITIES IN THE NARROWS AT RIGOLET.

Average values of Maximum Flood and Ebb Streams
during each of the periods indicated ; at a depth of 12 feet.
Velocities and knots per hour.

Period—1923.	Maximum Velocity on the Flood.	Maximum Velocity on the Ebb.	Percentage.
July 30 to Aug. 1 . . .	3·21	4·98	1·59
Aug. 1 " " 2 . . .	2·79	4·39	1·57
" 6 " " 7 . . .	1·57	3·18	2·03
" 11 " " 13 . . .	3·37	4·95	1·46
" 15 " " 16 . . .	3·54	5·15	1·46
" 17 " " 19 . . .	2·63	4·56	1·73
" 20 " " 22 . . .	2·22	3·88	1·74
" 26 " " 28 . . .	3·57	5·14	1·44

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DURATION OF FLOOD AND EBB TIDAL STREAMS IN MID CHANNEL OF THE NARROWS AT RIGOLET.

Period.	Duration of Flood Stream.	Duration of Ebb Stream.
July 30 to Aug. 2. 3 days and nights continuous . . .	5·32½	6·44
Aug. 6-7-8 . . . 2 " " uninterrupted . . .	4·34	7·41½
" 11-12 . . . 1 day " night " . . .	6·09	6·22
" 15-16 . . . 1 " " " " . . .	6·03½	6·11½
" 17-19 . . . 2 days " nights " . . .	5·43½	6·44
" 21-22 . . . 1 day " night " . . .	5·32½	6·50½
" 26-27 . . . 1 " " " " . . .	5·42	6·33
Mean . . .	5·37	6·44

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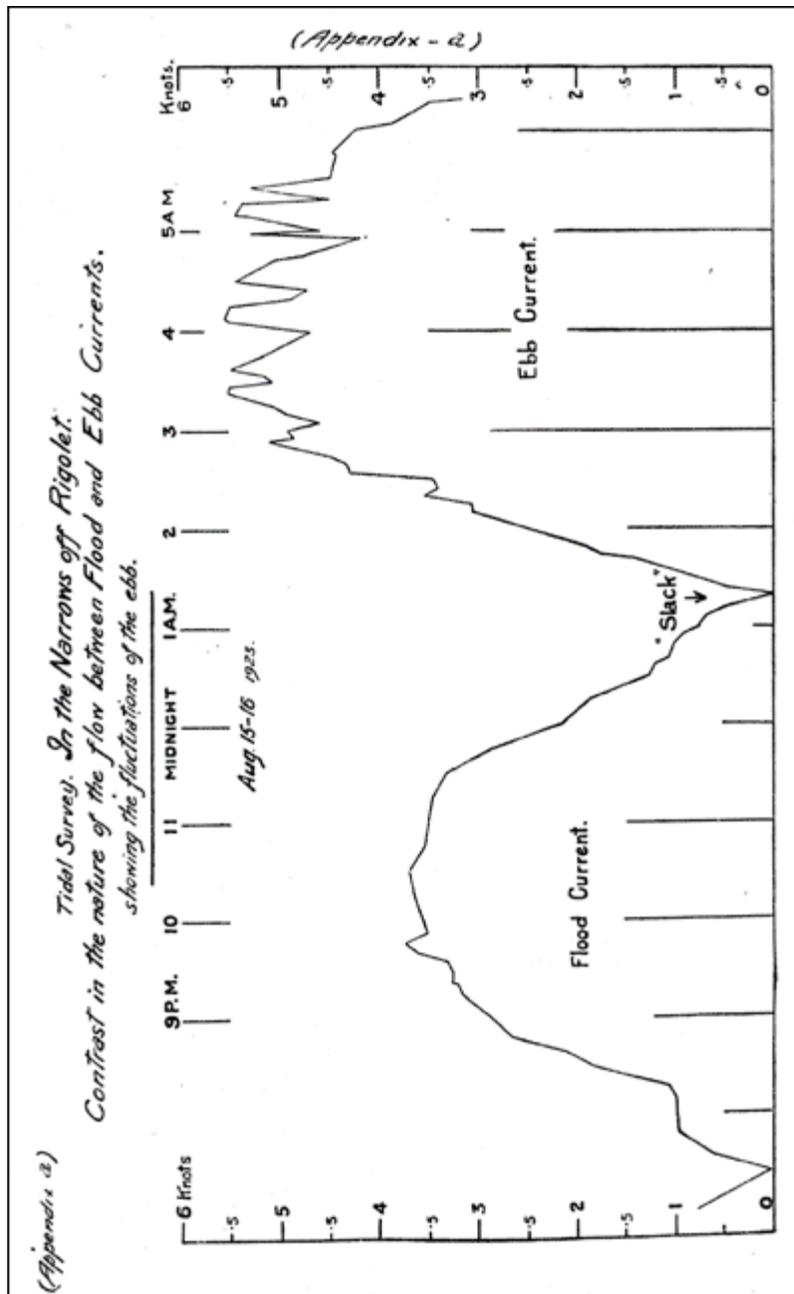
APPENDIX A (*continued.*)

DURATION OF FLOOD AND EBB TIDAL STREAMS OFF SQUARE ROCK POINT—RIGOLET.

NOTE.—On account of interruption in the observations, the best mean values are obtained by taking groups from opposite sides of the month, which are thus balanced, and omitting others.

Period.	Duration of Flood Stream.	Duration of Ebb Stream.
July 12-July 18 Average . . .	6·03	6·15
" 27-July 31 " . . .	6·00	6·20
Aug. 11-Aug. 16 " . . .	6·11	6·03
" 30-Sept. 2 " . . .	5·48	6·30
	6·00	6·17

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TIDAL AND CURRENT SURVEY—CANADA.

INVESTIGATING THE NARROWS OFF RIGOLET, 1923.

[Enclosure 2 in No. 1009.]

APPENDIX B.—DURATION OF FLOW OF THE UNDERCURRENT IN THE NARROWS AT RIGOLET MID-CHANNEL.

To obtain this information a vane of sheet metal weighted, and suspended by a small wire, was lowered from a reel towards the end of the flood and ebb streams. Thus the

direction of the stream at any depth was indicated by the direction of the slope of the suspending wire. Lowering the vane to various depths, careful notes were made of the direction of the current ; and the time of change of flow from flood to ebb or ebb to flood near the bottom carefully determined, and compared with the turn on the surface. The current always turned below first at the beginning of the flood and also at the beginning of the ebb with three exceptions as shown in the table below.

TIME OF TURN OF UNDERCURRENT COMPARED WITH THE TURN ON THE SURFACE.

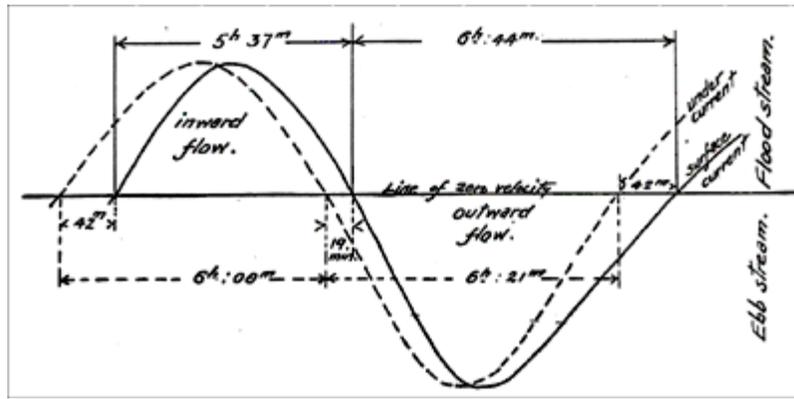
Turn Ebb to Flood				Turn Flood to Ebb				
Earlier (-)		Later (+)		Earlier (-)		Later (+)		
July 30	.	.	- 60 m.	---	July 30	.	- 10 m.	---
" 31	.	.	- 45 "	---	Aug. 1	.	- 15 "	---
Aug. 1	.	.	- 30 "	---	" 6	.	---	+ 10 m.
" 1	.	.	- 62 "	---	" 7	.	---	+ 30 m.
" 2	.	.	- 25 "	---	" 11	.	- 25 "	---
" 6	.	.	- 75 "	---	" 13	.	- 47 "	---
" 7	.	.	- 75 "	---	" 12	.	- 28 "	---
" 11	.	.	- 55 "	---	" 15	.	- 42 "	---
" 12	.	.	- 32 "	---	" 17	.	- 37 "	---
" 13	.	.	- 40 "	---	" 18	.	- 08 "	---
" 15	.	.	- 45 "	---	" 19	.	- 00 "	---
" 16	.	.	- 07 "	---	" 18	.	- 30 "	---
" 17	.	.	- 28 "	---	" 21	.	- 10 "	---
" 17	.	.	- 25 "	---	" 22	.	---	+ 24 m.
" 18	.	.	- 40 "	---	" 26	.	- 30 "	---
" 19	.	.	- 35 "	---	" 27	.	- 27 "	---
" 21	.	.	- 36 "	---	" 27	.	- 30 "	---
" 26	.	.	- 42 "	---				
" 27	.	.	- 55 "	---				
" 27	.	.	- 38 "	---				
Average - 42 minutes.					Average - 19 minutes.			

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APPENDIX B (continued).

The relation of the turn of the undercurrent to the turn on the surface thus determined, affords the means of calculating the duration of flow of the former in the flood and ebb periods, with the advantage of more extensive observations taken of the surface streams.

As observed, the average durations of the flood and ebb periods on the surface were 5 hours 37 minutes and 6 hours 44 minutes as laid out in the diagram below. The full line represents the curve of the surface current, and the dotted line that of the undercurrent. As the undercurrent flood began 42 minutes earlier, and the ebb 19 minutes earlier, the duration of the 10 flood period is thus 5 h. 37 m. + 42 m. - 19 m., or 6 hours 00 minute, and of the ebb period 6 h. 44 m. + 19 m. - 42 m., or 6 hours 21 minutes.



(NOTE.—Theoretically a flood and an ebb period equals half of a lunar day or 12 hours 25 minutes. Since the periods, as observed, added together give 6 hours 21 minutes, a good check on the accuracy of the determination is afforded.)

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**APPENDICES TO MR. JONES' REPORT (TIDAL AND
CURRENT SURVEY, CANADA.)**

INVESTIGATIONS IN THE NARROWS OF RIGOLET, 1923.

[*Enclosure 1 in No. 1011.*]

**APPENDIX A.—TIDAL STREAM VELOCITIES IN THE NARROWS
AT RIGOLET.**

Average values of Maximum Flood and Ebb Streams during each of the periods indicated ; at a depth of 12 feet.

Period—1923.	Maximum Velocity on the Flood.	Maximum Velocity on the Ebb.	Percentage.
July 30 to Aug. 1	3 . 21	4 . 98	1 . 59
Aug. 1 to Aug. 2	2 . 79	4 . 39	1 . 57
Aug. 6 to Aug. 7	1 . 57	3 . 18	2 . 03
Aug. 11 to Aug. 13	3 . 37	4 . 95	1 . 46
Aug. 15 to Aug. 16	3 . 54	5 . 15	1 . 46
Aug. 17 to Aug. 19	2 . 63	4 . 56	1 . 73
Aug. 20 to Aug. 22	2 . 22	3 . 88	1 . 74
Aug. 26 to Aug. 28	3 . 57	5 . 14	1 . 44

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DURATION OF FLOOD AND EBB TIDAL STREAMS IN MID CHANNEL OF THE NARROWS AT RIGOLET.

Period.	Duration of Flood Stream.	Duration of Ebb Stream.
July 30 to Aug. 2. 3 days and nights continuous	5 . 32½	6 . 44
Aug. 6-7-8 2 days and nights uninterrupted	4 . 34	7 . 41½
Aug. 11-12 1 day and night uninterrupted	6 . 09	6 . 22
Aug. 15-16 1 day and night uninterrupted	6 . 03½	6 . 11½
Aug. 17-19 2 days and nights uninterrupted	5 . 43½	6 . 44
Aug. 21-22 1 day and night uninterrupted	5 . 32½	6 . 50½
Aug. 26-27 1 day and night uninterrupted	5 . 42	6 . 33
Mean	5 . 37	6 . 44

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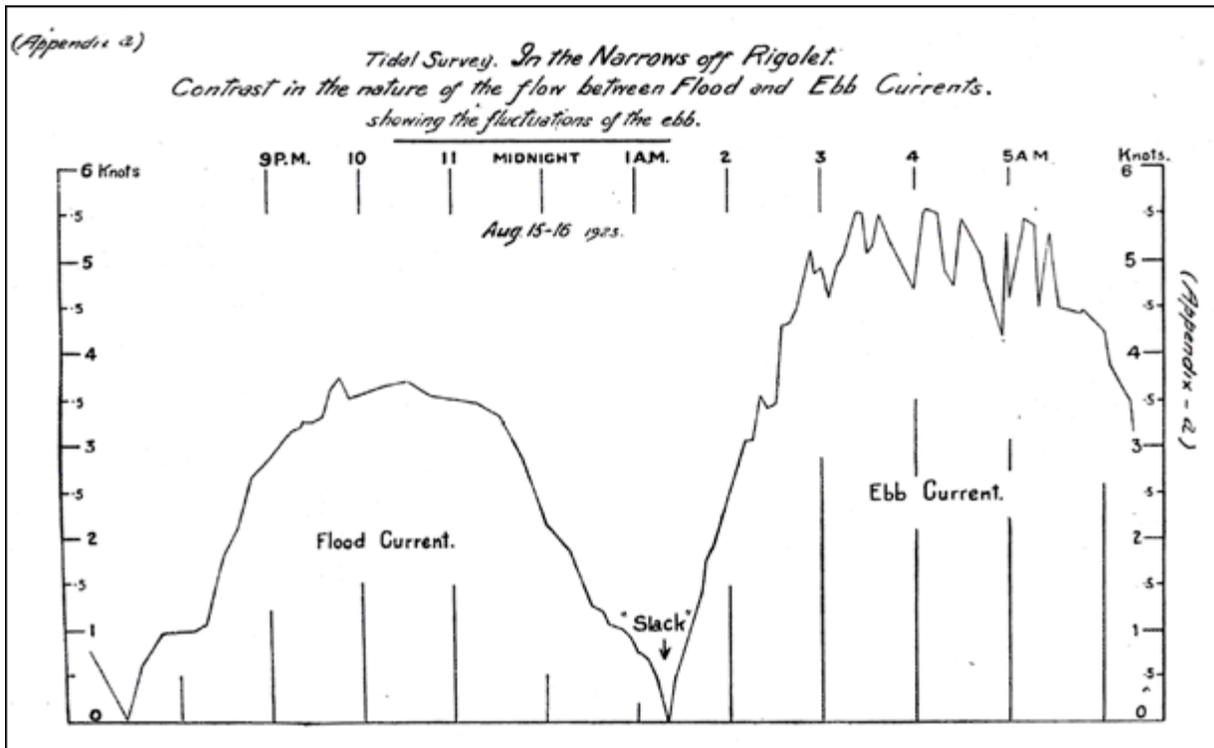
APPENDIX A (*continued*).

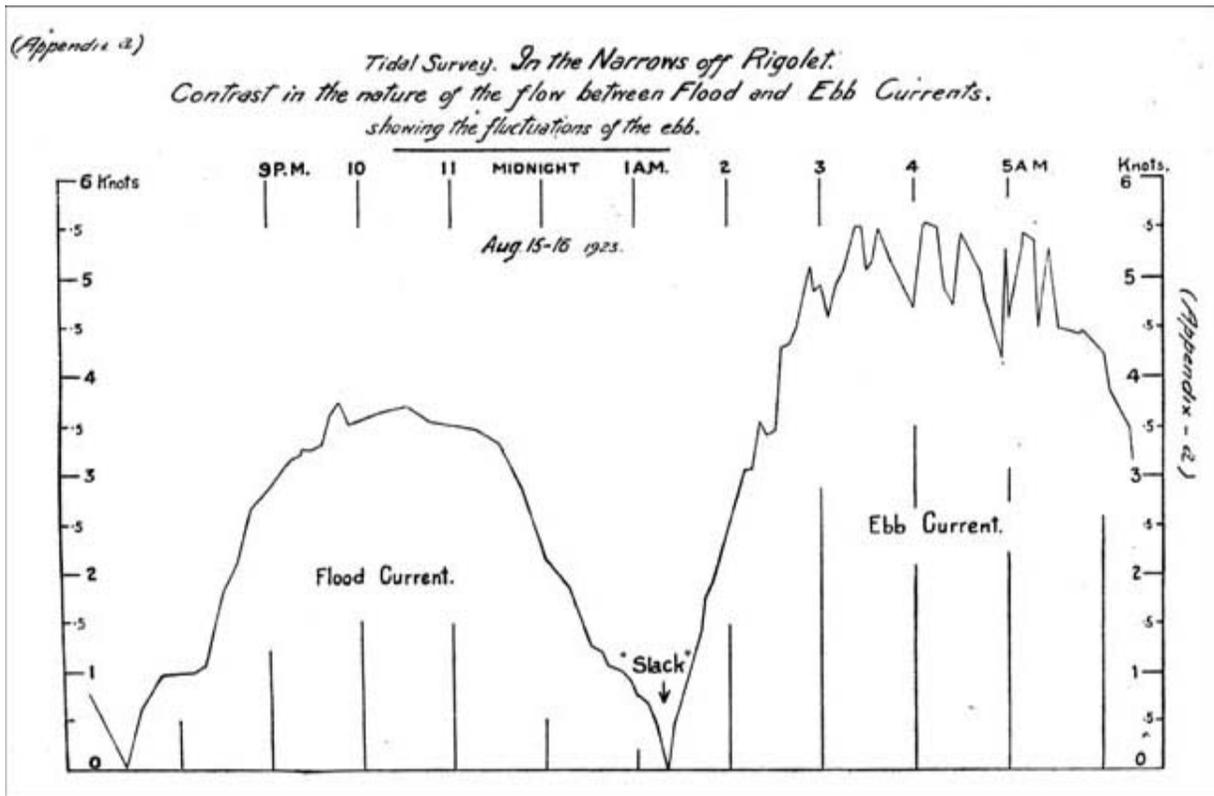
DURATION OF FLOOD AND EBB TIDAL STREAMS OFF SQUARE ROCK
POINT—RIGOLET.

Note.— On account of interruption in the observations, the best mean values are obtained by taking groups from opposite sides of the month, which are thus balanced, and omitting others.

Period.		Duration of Flood Stream.	Duration of Ebb Stream.
July 12-July 18	Average	6 . 03	6 . 15
July 27-July 31	Average	6 . 00	6 . 20
Aug. 11-Aug. 16	Average	6 . 11	6 . 03
Aug. 30-Sept. 2	Average	5 . 48	6 . 30
		6 . 00	6 . 17

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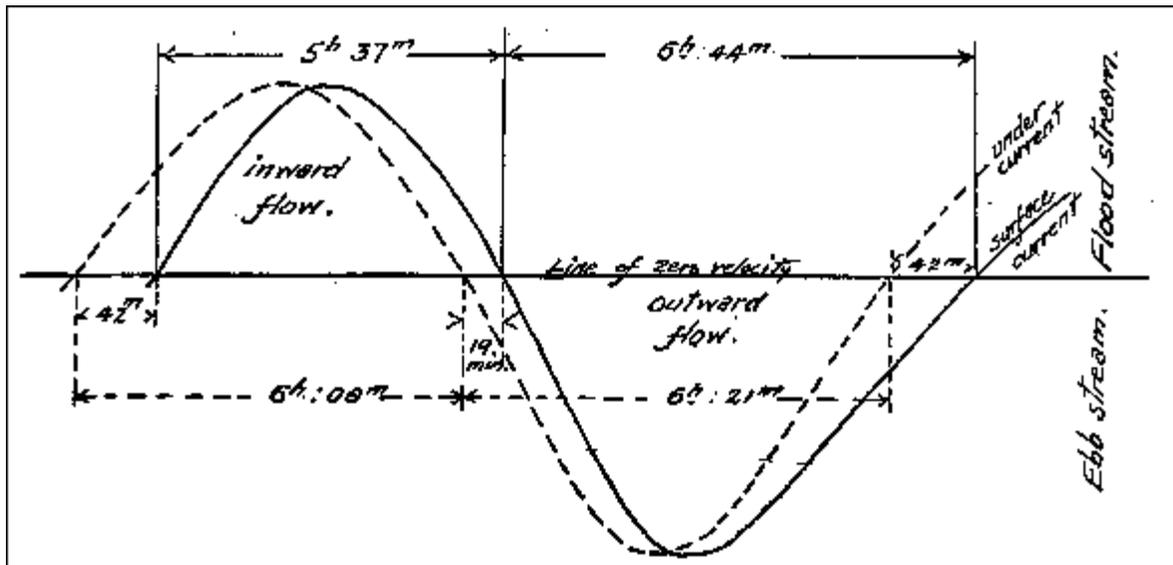


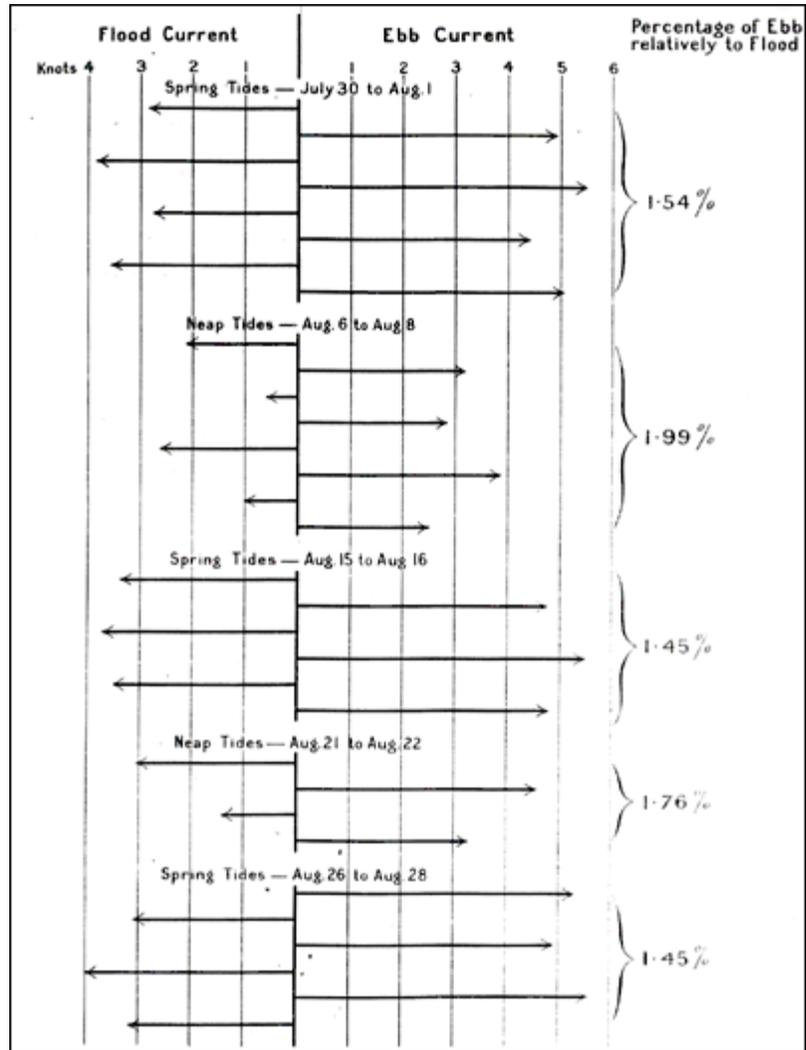


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TIME OF TURN OF UNDERCURRENT COMPARED WITH THE TURN ON THE SURFACE.

Turn Ebb to Flood Earlier (-) Later (+)			Turn Flood to Ebb Earlier (-) Later (+)		
July 30	- 60 m.	—	July 30	- 10 m.	—
July 31	- 45 m.	—	Aug. 1	- 15 m.	—
Aug. 1	- 30 m.	—	Aug. 6	—	+ 10 m.
Aug. 1	- 62 m.	—	Aug. 7	—	+ 30 m.
Aug. 2	- 25 m.	—	Aug. 11	-25 m.	—
Aug. 6	- 75 m.	—	Aug. 13	- 47 m.	—
Aug. 7	- 75 m.	—	Aug. 12	- 28 m.	—
Aug. 11	- 55 m.	—	Aug. 15	- 42 m.	—
Aug. 12	- 32 m.	—	Aug. 17	- 37 m.	—
Aug. 13	- 40 m.	—	Aug. 18	- 08 m.	—
Aug. 15	- 45 m.	—	Aug. 19	- 00 m.	—
Aug. 16	- 07 m.	—	Aug. 18	- 30 m.	—
Aug. 17	- 28 m.	—	Aug. 21	- 10 m.	—
Aug. 17	- 25 m.	—	Aug. 22	—	+ 24 m.
Aug. 18	- 40 m.	—	Aug. 26	- 30 m.	—
Aug. 19	- 35 m.	—	Aug. 27	- 27 m.	—
Aug. 21	- 36 m.	—	Aug. 27	- 30 m.	—
Aug. 26	- 42 m.	—			
Aug. 27	- 55 m.	—			
Aug. 27	- 38 m.	—			
Average - 42 minutes.			Average - 19 minutes		





Tidal and Current Survey. Canada.

Hamilton River, Rigolet “Narrows”—Current Velocities at mid-flow, at 12 feet depth.

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TIDAL AND CURRENT SURVEY—CANADA.

INVESTIGATIONS IN HAMILTON INLET AND THE NARROWS OFF RIGOLET, 1923.

[Enclosure 3 in No. 1009.]

APPENDIX C.—DENSITIES AND TEMPERATURES OF THE WATER.

1 On steamer's course Battle Harbour to Indian Harbour	June 20- July 2
2 On run from Rigolet to Indian Harbour	July 13
3 On run from Indian Harbour to Rigolet	July 14
4 On run from Rigolet to Ticoralak Island and return	July 16
5 On run from Rigolet to Indian Harbour	July 24
6 On run from Indian Harbour to Rigolet	July 29

- 7 Observations taken in mid-channel of Narrows at Rigolet during season —
- 8 Observations taken below Henrietta Island Aug. 28
- 9 Observations taken in Lake Melville, including some taken by the Hydrographic Survey in 1921 —
- 10 Rigolet to Indian Harbour on steamer's course Sept. 2-3
- 11 Indian Harbour to St. Johns. September 6-14 from steamer —
- 12 Difference in the density of water caused by the presence of drift ice —

C. 1.
TIDAL AND CURRENT SURVEY—CANADA.

HAMILTON INLET, 1923.

SURFACE TEMPERATURES AND DENSITIES TAKEN FROM STEAMER
BATTLE HARBOUR TO INDIAN HARBOUR.

Date.	Locality.	Surface Temperature.	Density.	Percentage with sea-water as 1·0240.
Fri. June 29	Battle Harbour, drift ice all about and bergs . . .	35·2°	1·0222	93
" "	Taken in open on course to Spear Point . . .		1·0221	92
" "	Taken in open on course to Spear Point . . .		1·0221	93
Mon. July 2	Taken at Greasy Island		1·0213	89
" "	North of Huntingdon Island		1·0194	81
Tues. July 3	5 a.m. about 15 miles before Indian Harbour coming to George's Island.		1·0214	89
" "	Just after leaving Indian Harbour on way to Rigolet.		1·0210	88

NOTE.—Samples were tested when within half a degree of the standard temperature of 60°F.

[Larger HTML Version](#) (14 kb)

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APPENDIX C (*continued*).

C. 2.

Run from Rigolet to Indian Harbour by motor boat, course in the open until Bluff Head was reached then near the North Shore.

Friday, July 13.

	Surface Tempera- ture.	Density.	Percentage.
Left Rigolet 12:57, Surface temperature $\frac{1}{2}$ mile below .	39.7°	1.0165	68 $\frac{1}{2}$
13.15 (L. W. Rigolet at 13.00) between Lesters Point and Double Mer.		1.0163	"
13.25 Double Mer bears N.W. Lesters Point West Smiths Island S.E.		1.0162	67 $\frac{1}{2}$
13.45 Opposite Ticoralak Mountain before reaching the point.		1.0166	69
13.57 Off Little Ticoralak Island		1.0182	76
14.45 East end of Big West Sister Island	45°	1.0196	83
14.57 Off Little West Sister Island		1.0194	83
15.20 Little Black Island or rock at end of Little Black Island S.S.E.		1.0185	77
15.47 N.W. end of Little Black Island abeam. Calm warm afternoon. (Flood begins 15.57 Rigolet.)	45°	1.0187	78
16.25 E. end Black Island, N.N.E. some ice about .		1.0208	87
17.35 Off Bluff Head (18.10-19.05 landed for supper) .		1.0219	91
20.10 Off Pompey Island, much ice about	35°	1.0204	85
Arrived Indian Harbour 21.45.			

NOTE.—Samples were tested when within half a degree of the standard temperature of 60°F.

[Larger HTML Version](#) (17 kb)

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APPENDIX C (*continued*).

C. 3.

Run from Indian Harbour to Rigolet by motor boat, course as
taken by the steamers.

Saturday, July 14.

SURFACE TEMPERATURES AND DENSITIES.

Saturday, July 14, left Indian Harbour at 15.05, plenty of
drift ice, but not packed ; necessary to deviate from course
going in and out around the cakes, Ebb began 10.40 at Rigolet
and ended 17.00.

	Surface Temperature.	Density.	Percentage.	
15.30	Opposite Run by Guess Island, west end of Island at outskirts of ice.	41°	1·0193	80
15.52	Off Little Pompey Island		1 0196	81
17.00	Off the more westerly of the un-named islands . (Flood begins at Rigolet.)	40·2°	1·0189	79
17.50	About one-third way between Bluff Head and Black Island. Still a little ice. This point about on line Bluff Head and E. end Saddle Island.	39·8°	1·0188	78
18.15	S.E. end Saddle Island bears S.W.½S. S.E. end Black Island N.N.E. (Current seems to be outward.)	39·6°		
18.45	S.E. end of Black Island S.S.W. Almost opposite Little Black Island.	39·6°	1·0194	81
19.15	Catos Island centre N.E. Little Black Island Rock (at W. end) Sh. E.½E.	37°	1·0202	84
19.45	Half mile before coming to Big Island	37°	1·0199	83½
20.00	A Big Island current still outward			
20.15	Half a mile above Big Island, opposite the upper of other two on starboard side.	37°	1·0189	78½
20.45	Abreast of Mullins Cove, or a little above it	37°	1·0192	80
JUST BELOW TICORALAK ISLAND.				
21.15	Just below Double Mer	37°	1·0188	78
21.45	Just above Double Mer	37°	1·0180	75
22.05	Off Rigolet Point H.W. at Rigolet was at 20.05, near end of Flood, which was at 22.30 at Rigolet.		1·0195	81

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APPENDIX C (continued).

C. 4.

Rigolet to Ticoralak Island and back.

July 16.

	Surface Temperature.	Density.	At 18 Fm. Density.	Percentage.
Left Rigolet wharf at 14.20 at middle of Ebb Tide				(Surface.)
14.30	Opposite Porters	39·8°	1·0168	70
14.45	Below Lesters Point and above Double Mer (Undercurrent is in.)	39·6°	1·0239	99½
15.20	Just above Ticoralak Point (End of Ebb current at Rigolet 17.00.)	37·8°	1·0202	84
19.20	Off Ticoralak Head, mid-channel (Undercurrent towards D.M.)	37·0°	1·0187	78 ^{18 Fm} / ₇₆
	Second sample		1·0239	79
20.15	Above Smith Island and below Double Mer (Mid-flood current.)		1·01685	70
WEATHER CONDITIONS.				
Calm, and somewhat cloudy.				

NOTE.—Samples were tested when within half a degree of the standard temperature of 60°F.

[Larger HTML Version](#) (15 kb)

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C. 1.
TIDAL AND CURRENT SURVEY—CANADA.

HAMILTON INLET, 1923.

SURFACE TEMPERATURES AND DENSITIES TAKEN FROM STEAMER BATTLE HARBOUR TO INDIAN HARBOUR.

Date.	Locality.	Surface Temper- ature.	Density.	Percentage with sea-water as 1 . 240.
Fri. June 29	Battle Harbour, drift ice all about and bergs	35 . 2°	1 . 0222	93
Fri. June 29	Taken in open on course to Spear Point		1 . 0221	92
Fri. June 29	Taken in open on course to Spear Point		1 . 0221	93
Mon. July 2	Taken at Gready Island		1 . 0213	89
Mon. July 2	North of Huntingdon Island		1 . 0194	81
Tues. July 3	5 a.m. about 15 miles before Indian Harbour coming to George's Island		1 . 0214	89
Tues. July 3	Just after leaving Indian harbour on way to Rigolet.		1 . 0210	88

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APPENDIX C (continued).

C. 2.

Run from Rigolet to Indian Harbour by motor boat, course in the open until Bluff Head was reached then near the North Shore.

Friday, July 13.

—	Surface Tempera- ture.	Density.	Percentage.
Left Rigolet 12:57, Surface temperature ½ mile below	39 . 7°	1 . 0165	68½
13 . 15 (L. W. Rigolet at 13.00) between Lesters Point and Double Mer.		1 . 0163	”
13 . 25 Double Mer bears N.W. Lesters Point West Smiths Island S.E.		1 . 0162	67½
13 . 45 Opposite Ticoralak Mountain before reaching the point.		1 . 0166	69
13 . 57 Off Little Ticoralak Island		1 . 0182	76
14 . 45 East end of Big West Sister Island	45°	1 . 0196	83
14 . 57 Off Little West Sister Island		1 . 0194	83
15 . 20 Little Black Island or rock at end of Little Black Island S.S.E.		1 . 0185	77
15 . 47 N.W. end of Little Black Island abeam. Calm warm afternoon. (Flood begins 15.57 Rigolet.)	45°	1 . 0187	78
16 . 25 E. end Black Island, N.N.E. some ice about		1 . 0208	87
17 . 35 Off Bluff Head (18.10-19.05 landed for supper)		1 . 0219	91
20 . 10 Off Pompey Island, much ice about	35°	1 . 0204	85
Arrived Indian Harbour 21 . 45.			

Note.—Samples were tested when within half a degree of the standard temperatures of 60°F.

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APPENDIX C (continued).

C. 3.

Run from Indian Harbour to Rigolet by motor boat, course as taken by the steamers.

Saturday, July 14.

SURFACE TEMPERATURES AND DENSITIES.

Saturday, July 14, left Indian Harbour at 15.05, plenty of drift ice, but not packed ; necessary to deviate from course going in and out around the cakes, Ebb began 10.40 at Rigolet and ended 17.00.

	Surface Tempera- ture.	Density.	Percentage.
15 . 30 Opposite Run by Guess Island, west end of Island at outskirts of ice.	41°	1 . 0193	80
15 . 52 Off Little Pompey Island		1 . 0196	81
17 . 00 Off the more westerly of the un-named islands (Flood begins at Rigolet.)	40.2°	1 . 0189	79
17 . 50 About one-third way between Bluff Head and Black Island. Still a little ice. This point about on line Bluff Head and E. end Saddle Island.	39.8°	1 . 0188	78
18 . 15 S.E. end Saddle Island bears S.W.½S. S.E. end Black Island N.N.E. (Current seems to be outward.)	39.6°		
18 . 45 S.E. end of Black Island S.S.W. Almost opposite Little Black Island	39.6°	1 . 0194	81
19 . 15 Catos Island centre N.E. Little Black Island Rock (at W. end) Sh. E.½E.	37°	1 . 0202	84
19 . 45 Half mile before coming to Big Island	37°	1 . 0199	83½
20 . 00 A Big Island current still outward			
20 . 15 Half a mile above Big Island, opposite the upper of other two on starboard side.	37°	1 . 0189	78½
20 . 45 Abreast of Mullins Cove, or a little above it	37°	1 . 0192	80
JUST BELOW TICORALAK ISLAND.			
21 . 15 Just below Double Mer	37°	1 . 0188	78

21 . 45	Just above Double Mer	37°	1 . 0180	75
22 . 05	Off Rigolet Point H.W. at Rigolet was at 20.05, near end of Flood, which was at 22.30 at Rigolet.		1 . 0195	81

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APPENDIX C (continued).

C. 4.

Rigolet to Ticoralak Island and back.

July 16.

—	Surface Tempera- ture.	Density.	At 18 Ftm. Density.	Percentage.
Left Rigolet wharf at 14.20 at middle of Ebb Tide				(Surface.)
14 . 30 Opposite Porters	39.8°	1 . 0168		70
14 . 45 Below Lesters Point and above Double Mer (Undercurrent is in.)	39.6°		1 . 0239	99½
15 . 20 Just above Ticoralak Point (End of Ebb current at Rigolet 17.00.)	37.8°	1 . 0202		84
19 . 20 Off Ticoralak Head, mid- channel (Undercurrent towards D.M.)	37.0°	1.0187	1.0235	78 76 79
Second sample			1.0239	
20 . 15 Above Smith Island and below Double Mer (Mid-flood current.)		1 . 01685		70
WEATHER CONDITIONS.				
Calm, and somewhat cloudy.				

APPENDIX C (*continued*).

C. 5.

On H.B. Co. Schooner "Thistle." Run from Rigolet to Indian Harbour by motor vessel, course in the open to Rattlers Bite, 15m. W. of Indian Harbour on July 23rd, thence out around Puffin Island, tacking to the Harbour, July 24th, 1923.

—	Surface Tempera- ture.	Density.	Percentage.	
Left Rigolet at 10.30.				
11.00	Opposite Hydrographic Survey, a station W. of Lesters Point, 1500 ft. off shore.	37° F.	1·0175	73
11.15	Midway between Johns Point and Double Mer Point, about 1500 ft. off shore.	37·5°	1·0175	73
12.22	S. of Ticoralak Point, about two-thirds distance towards S. shore.	36°	1·0189	79
12.50	Mid-channel S. of Ticoralak Island	40·5°	1·0180	75
13.15	Mid-channel half way between Ticoralak Island and Big Island.	41·5°	1·0176	73
13.45	1000 ft. S. of W. end of Big Island	41·5°	1·0175	73
14.05	About 800 ft. S. of E. end of Big Island	42°	1·0180	75
14.30	About 1½ mile S. of E. end of Pompey Island, half way between Big Island and Saddle Island.	46°	1·0181	75
15.17	About 1000 ft. N.W. of and tang. to W. extreme of Little Black Island.	41°	1·0185	77
15.30	Intersection of Tang. Saddle Island and centre of Tumble-down Dick Island and Tang. N. from W. extreme of Saddle Island	41°	1·0195	81
16.00	Mid-channel between E. extreme of Black Island and centre of Saddle Island.	40°	1·0201	83
16.30	Mid-channel between Bluff Head and end of Saddle Island.	41·5° F.	1·0200	83
17.05	One mile S. from Bluff Point	42°	1·0199	83
17.50	Mid-channel N. from W. end of Green Island	41°	1·0200	83
18.15	2 miles N.W. of Puffin Island	42°	1·0200	83

NOTE.—Samples were tested when within half a degree of the standard temperature of 60°F.

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APPENDIX C (*continued*).

C. 6.

Run from Indian Harbour to Rigolet by motor boat.
Sunday, July 29th, 1923.

Time.	Locality.	Density.	Percentage.
	Left Indian Harbour at 7.00.		
8.00	One mile N. from Puffin Island	1.0195	81
8.25	About 500 ft. S. from Bluff Head	1.0195	81
9.00	Midway between Bluff Head and S. extreme of Big Black Island.	1.0193	80
9.30	About 300 ft. S. of S. extreme of Big Black Island . .	1.0196	81
10.00	Mid-channel N.N.W. of W. extreme of Little Black Island.	1.0197	82
10.30	S. of W. extreme of Catos Island, about two miles off island.	1.0202	84
11.00	About two miles S. of E. extreme of Pompey Island . .	1.0192	79½
11.30	About 1000 ft. S. from E. extreme of Big Island . . .	1.0204	85
12.00	About 2000 ft. S. from W. extreme of Big Island . . .	1.0203	84
12.25	About half a mile N. from W. extreme of W. Sister Island	1.0200	83
12.50	Mid-channel S. from E. extreme Ticoralak Island . . .	1.0184	77
13.15	Mid-channel S. on tan. to E. end Ticoralak Island . . .	1.0194	81
13.50	Mid-channel N. of E. extreme Broomfield Island . . .	1.0193	80
14.15	About 1000 ft. N. of E. end of Smith Island	1.0189	79
14.50	Mid-channel between Lister and Double Mer Points . .	1.0182	76

NOTE.—Samples were tested when within half a degree of the standard temperature of 60°F.

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APPENDIX C (*continued*).

TIDAL AND CURRENT SURVEY—CANADA.

C. 7.

DENSITY AND TEMPERATURE OF THE WATER IN THE NARROWS OFF RIGOLET.

(NOTE.—All samples were brought to within half a degree of the standard temperature of 60°F. when tested, hence no corrections need be applied.)

AT THE END OF FLOOD CURRENT.					AT THE END OF EBB CURRENT.				
At Surface.			At 18 Fathom.		At Surface.			At 18 Fathom.	
Time.	Temp. at Surface.	Density.	Temp. at 18 Fm.	Density.	Time.	Temp. at Surface.	Density.	Temp. at 18 Fm.	Density.
July 13.					July 13.				
10.15	—	1·0176	—	—	16.05	—	1·0147	—	—
10.10	—	—	—	1·0240	—	—	1·0142	—	—
10.10	—	—	—	1·0240	16.07	—	—	—	1·0204
					16.10	—	—	—	1·0204
July 14.									
22.05	—	1·0195	—	—	July 16.				
					17.50	—	1·0155	—	1·0204
July 16.					17.50	—	—	—	1·0205
12.00	—	1·0198	—	1·0240					
12.05	—	—	—	1·0239					
12.10	—	—	—	—	July 18.				
July 18.					14.00	—	—	33°	—
16.00	—	—	31·8°	—	19.30	—	1·0120	—	1·0200
July 19.									
14.25	—	1·0190	—	1·0241	July 19.				
14.25	—	—	—	1·0239	8.37	—	—	39·3°	1·0204
					8.43	45·2°	1·0142	—	1·0204
July 20.					8.41	—	—	39·7°	1·0206
15.30	39°	1·0190	—	1·0242	21.00	45·0°	1·0138	—	1·0214
15.35	—	—	31·8°	1·0242	21.00	—	—	35°	1·0212
July 23.									
19.20	37·5°	1·0190	32·0°	—	July 30.				
20.40	—	heavy rains	—	1·0243	19.00	—	—	—	1·0203
20.40	—	Sat. & Sun.	—	1·0240					
July 31.					31.8.30	42°	—	—	1·0213
13.20	38°	1·0182	—	1·0243	19.40	44°	1·0132	—	1·0207

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AT THE END OF FLOOD CURRENT.					AT THE END OF EBB CURRENT.				
At Surface.			At 18 Fathom.		At Surface.			At 18 Fathom.	
Time.	Temp. at Surface.	Density.	Temp. at 18 Fm.	Density.	Time.	Temp. at Surface.	Density.	Temp. at 18 Fm.	Density.
Aug. 1. 14.30	—	1·0179	—	1·0242 1·0240	Aug. 1. 7.20	46°	1·0130	—	—
Aug. 6. 19.15 (3. Fm)	— —	1·0170 1·0176	— 2nd Samp.	1·0247 1·0244	Aug. 6. 12.30 12.30 19.15	47° — 45·0°	1·0128 —	— —	1·0232 1·0234
Aug. 8. 8.30	44°	1·0142	—	1·0243	Aug. 7. 14.05	45·8°	—	—	—
Aug. 11. 10.05	—	—	—	1·0240	Aug. 8. 14.30	46·5°	1·0100	—	1·0239
Aug. 13. 13.45 11.28	— 36·3° & 37°	1·0196 —	—	1·0243	Aug. 11. — Aug. 13. 18.15	40·5° — —	— 1·0145	— —	— 1·0201
Aug. 17. 15.00	—	—	31·3°	1·0233	Aug. 15. 20.00	38°	1·0176	—	1·0195
Aug. 18. 3.00	36·5°	1·0205	33·7°	1·0240	Aug. 16. 7.50 6.30 14.00	38·5° 38·5° —	1·0168 —	— 33°	1·0188
Aug. 26. 23.15	38°	1·0170	31·8°	1·0242	Aug. 17. 9.00 9.00 9.08	— — 38·5°	1·0168 —	36·4° —	1·0194 1·0201
Aug. 27. 11.50 23.45	38° —	1·0177	33·2° 34°	1·0240	Aug. 26. 17.05	43°	1·0125	34·8°	1·0207
Aug. 28. 24.09	38·5°	—	—	—	Aug. 27. 6.00 17.50	44° 45°	1·0123 1·0119	34·2° 35·5°	1·0204 1·0206
Average of season	—	1·0182	—	1·0241	Average of season	—	1·0139	—	1·0208

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APPENDIX C (continued).

C. 8.

DENSITIES TAKEN JUST BELOW HENRIETTA ISLAND, AUGUST 28.

(End of Ebb.)

I.	30	Sextant is Strathoona Point and Station "Chalk"	75° 50'		
		Chalks House and Chickwaughs House (near Chalk Station)	115° 15'		
		Chickwaughs House and Summer Cove (tents)	48° 25'		
				Time 17 . 20	Density 95% 1.0227
II.	29	Chickwaughs House and Summer Cove (tents)	66° 00'		
		Chickwaughs House and Chalks House	102° 21'		
				Time 17 . 30	Density 92% 1.0221
III.	38	Chickwaughs House and Summer Cove (tents)	90° 45'		
		Chickwaughs House and Chalks House	74° 15'		
				Time 17 . 45	Density 95% 1.0228

NOTE.—Samples were tested when within half a degree of the standard temperature of 60°F.

LAKE MELVILLE.

C. 9.

DENSITIES DETERMINED BY THE TIDAL AND CURRENT SURVEY IN 1923.

		Surface Temperature.	Density.
Tues.	12.35 .. 2 miles off St. John's Island	53°	1.0050
Wed.	6.00 .. 1½ miles off Mulligan's Head	52½°	1.0031
"	In deepest water about 3 miles off } Surface Epinette Point after crossing 8 Fm. } 8.30 Began shoal from Mulligan's Head		1.0018
Ditto	. . . . . 10 Fm.		1.0178
"	. . . . . 20 "		1.0191
"	. . . . . 35 "		1.0208
"	. . . . . 34 "	Deep temperatures	1.0211
"	. . . . . 43 "	Temp. 31.2°	1.0211
"	. . . . . 67 "		1.0210
" 67 "	2nd sample	1.0210
" 50 "		1.0210
" 85 "	Temp. 31.2°	1.0211

Line had a 28.16 sounding lead on end

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APPENDIX C (continued).

C. 5.

On H.B. Co. Schooner "Thistle." Run from Rigolet to Indian Harbour by motor vessel, course in the open to Rattlers Bite, 15m. W. of Indian Harbour on July 23rd, thence out around Puffin Island, tacking to the Harbour, July 24th, 1923.

	Surface Tempera- ture.	Density.	Percentage.
Left Rigolet at 10.30.			
11 . 00	Opposite Hydrographie Survey, a station W. of Lesters Point, 1500 ft. off shore.	37°F	1 . 0175 73
11 . 15	Midway between Johns Point and Double Mer Point, about 1500 ft. off shore.	37.5°	1 . 0175 73
12 . 22	S. of Ticoralak Point, about two-thirds distance towards S. shore.	36°	1 . 0189 79
12 . 50	Mid-channel S. of Ticoralak Island	40.5°	1 . 0180 75
13 . 15	Mid-channel half way between Ticoralak Island and Big Island.	41.5°	1 . 0176 73
13 . 45	1000 ft. S. of W. end of Big Island	41.5°	1 . 0175 73
14 . 05	About 800 ft. S. of E. end of Big Island	42°	1 . 0180 75
14 . 30	About 1½ mile S. of E. end of Pompey Island, half way between Big Island and Saddle Island.	46°	1 . 0181 75
15 . 17	About 1000 ft. N.W. of and tang. to W. extreme of Little Black Island.	41°	1 . 0185 77
15 . 30	Intersection of Tang. Saddle Island and centre, of Tumble-down Dick Island and Tang. N. from W. extreme of Saddle Island	41°	1 . 0195 81
16 . 00	Mid-channel between E. extreme of Black Island and centre of Saddle Island.	40°	1 . 0201 83
16 . 30	Mid-channel between Bluff Head and end of Saddle Island.	41.5°	1 . 0200 83
17 . 05	One mile S. from Bluff Point	42°	1 . 0199 83
17 . 50	Mid-channel N. from W. end of Green	41°	1 . 0200 83

Island

18 . 15 2 miles N.W. of Puffin Island

42°

1 . 0200

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APPENDIX C (continued).

C. 6.

Run from Indian Harbour to Rigolet by motor boat.

Sunday, July 29th, 1923.

Time.	Locality.	Density.	Percentage.
	Left Indian Harbour at 7.00.		
8.00	One mile N. from Puffin Island .	1 . 0195	81
8.25	About 500 ft. S. from Bluff Head	1 . 0195	81
9.00	Midway between Bluff Head and S. extreme of Big Black Island.	1 . 0193	80
9.30	About 300 ft. S. of S. extreme of Big Black Island	1 . 0196	81
10.00	Mid-channel N.N.W. of W. extreme of Little Black Island.	1 . 0197	82
10.30	S. of W. extreme of Catos Island, about two miles off island.	1 . 0202	84
11.00	About two miles S. of E. extreme of Pompey Island	1 . 0192	79½
11.30	About 1000 ft. S. from E. extreme of Big Island	1 . 0204	85
12.00	About 2000 ft. S. from W. extreme of Big Island	1 . 0203	84
12.25	About half a mile N. from W. extreme of W. Sister Island	1 . 0200	83
12.50	Mid-channel S. from E. extreme Ticoralak Island	1 . 0184	77
13.15	Mid-channel S. on tan, to E. end Ticoralak Island	1 . 0194	81
13.50	Mid-channel N. of E. extreme Broomfield Island	1 . 0193	80
14.15	About 1000 ft. N. of E. end of Smith Island	1 . 0189	79
14.50	Mid-channel between Lister and Double Mer Points	1 . 0182	76

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APPENDIX C (continued).

TIDAL AND CURRENT SURVEY—CANADA.
C. 7.

DENSITY AND TEMPERATURE OF THE WATER IN THE NARROWS OFF RIGOLET.

(Note.— All samples were brought to within half a degree of the standard temperature of 60°F. when tested, hence no corrections need to be applied.)

AT THE END OF FLOOD CURRENT.					AT THE END OF EBB CURRENT.				
At Surface.			At 18 Fathom.		At Surface.			At 18 Fathom.	
Time.	Temp. at Surface.	Density.	Temp. at 18 Fm.	Density.	Time.	Temp. at Surface.	Density.	Temp. at 18 Fm.	Density.
July 13.					July 13.				
10.15	—	1.0176			16.05	—	1.0147		
10.10	—	—	—	1.0240		—	1.0142		
10.10	—	—	—	1.0240	16.07	—	—	—	1.0204
					16.10	—	—	—	1.0204
July 14.									
22.05	—	1.0195			July 16.				
July 16.									
					17.50	—	1.0155	—	1.0204
12.00	—	1.0198			17.50	—	—	—	1.0205
12.05	—	—	—	1.0240					
12.10	—	—	—	1.0239	July 18.				
July 18.									
					14.00	—	—	33°	
16.00	—	—	31.8°		19.30	—	1.0120	—	1.0200
July 19.					July 19.				
14.25	—	1.0190	—	1.0241	8.37	—	—	39.3°	1.0204
14.25	—	—	—	1.0239	8.43	45.2°	1.0142	—	1.0204

July 20.				8.41	—	—	39.7°	1.0206	
15.30	39°	1.0190	—	1.0242	21.00	45.0°	1.0138	—	1.0214
15.35	—	—	31.8°	1.0242	21.00	—	—	35°	1.0212
July 23.									
19.20	37.5°	1.0190	32.0°		July 30.				
20.40	—	heavy rains	—	1.0243	19.00	—	—	—	1.0203
20.40	—	Sat. & Sun.	—	1.0240					
July 31.					31.8.30	42°	—	—	1.0213
13.20	38°	1.0182	—	1.0243	19.40	44°	1.0132	—	1.0207

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APPENDIX C (continued).

C. 7. (continued).

AT THE END OF FLOOD CURRENT.					AT THE END OF EBB CURRENT.				
At Surface.			At 18 Fathom.		At Surface.			At 18 Fathom.	
Time.	Temp. at Surface.	Density.	Temp. at 18 Fm.	Density.	Time.	Temp. at Surface.	Density.	Temp. at 18 Fm.	Density.
Aug. 1.					Aug. 1.				
14.30	—	1.0179	—	1.0242	7.20	46°	1.0130		
				1.0240					
Aug. 6.					Aug. 6.				
19.15	—	1.0170	—	1.0247	12.30	47°	1.0128	—	1.0232
(3. Fm)	—	1.0176	2nd Smp.	1.0244	12.30	—	—	—	1.0234
					19.15	45.0°			
Aug. 8.					Aug. 7.				
8.30	44°	1.0142	—	1.0243	14.05	45.8°			
Aug. 11.					Aug. 8.				
10.05	—	—	—	1.0240	14.30	46.5°	1.0100	—	1.0239
Aug. 13.					Aug. 11.				
13.45	—	1.0196				40.5°		—	
11.28	36.3° & 37°	—	—	1.0243	Aug. 13.				
					18.15		1.0145	—	1.0201
Aug. 17.					Aug. 15.				
15.00	—		31.3	1.0233	20.00	38°	1.0176	—	1.0195
Aug. 18.					Aug. 16.				
3.00	36.5°	1.0205	33.7°	1.0240	7.50	38.5°	1.0168	—	1.0188
					6.30	38.5°		—	
					14.00	—		33°	
Aug. 26.					Aug. 17.				

23.15	38°	1.0170	31.8°	1.0242	9.00	—	1.0168	36.4°	1.0194
					9.00	—		—	1.0201
Aug. 27.					9.08	38.5°			
11.50	38°	1.0177	33.2°	1.0240					
23.45	—		34°		Aug. 26.				
					17.05	43°	1.0125	34.8°	1.0207
Aug. 28.					Aug. 27.				
24.09	38.5°				6.00	44°	1.0123	34.2°	1.0204
					17.50	45°	1.0119	35.5°	1.0206
		_____		_____			_____		_____
Average	of season	1.0182	—	1.0241	Average	of season	1.0139		1.0208

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LAKE MELVILLE.

C. 9.

DENSITIES DETERMINED BY THE TIDAL AND CURRENT SURVEY IN 1923.

		Surface Temperature.	Density.	
Tues.	12.35 ..2 miles off St. John's Island	53°	1 . 0050	
Wed.	6.00 ..1½ miles off Mulligan's Head	52½°	1 . 0031	
„	In deepest water about 3 miles off Epinette point after crossing 8 Fm. shoal from Mulligan's Head.	Surface 8.30 Began	1 . 0018	
Ditto.				
„	10 Fm.	<div style="border: 1px solid black; width: 20px; height: 100px; margin: 0 auto;"></div>	1.0178	
„	20 „		1.0191	
„	35 „		1.0208	
„	34 „		1.0211	
„	43 „		1.0211	
„	67 „		Deep temperatures	
„	67 „		Temp. 31·2°	1.0210
„	50 „		2nd sample	1.0210
„	85 „		Temp. 31·2°	1.0211

APPENDIX C (*continued*).

C. 9. (*continued*).

LAKE MELVILLE.

DENSITIES DETERMINED BY THE HYDROGRAPHIC SURVEY IN 1921.

Place.	Date. 1921.	Surface Tempera- ture.	Specific Gravity.		State of the Tide.
			Top.	Bottom.	
E. Side Henrietta Island	July 20	42° F.	1·0185		
Back way, 6 miles up	July 18	47° F.	1·0149		Low tide
Back way, 6 miles up	July 19	56° F.	1·0066		$\frac{1}{2}$ Flood
Back way, 15 miles up	July 19	57° F.	1·0097		
Back way, near head	Aug. 15	53° F.	1·0095		Low tide
W. of Caravalla Point, 8 miles	July 26	56° F.	1·0096		
Pelter's Cove	Aug. 14	54° F.	1·0094		
Mulligan's Bay, 1½ miles off mouth of river	July 28	53° F.	1·0063	1·0211	
E. side of Long Point in bay	Aug. 13	54° F.	1·0003		
Epinette Point	Aug. 12	50° F.	0·9995		

NOTE.—Samples were tested when within half a degree of the standard temperature of 60°F.

[Larger HTML Version](#) (17 kb)

APPENDIX C (*continued*).

C. 10.

Rigolet to Indian Harbour.

September 2 and 3.

Time.	Place.	Surface Temperature.	Density.	Percentage.
	Left Rigolet on "Sagona" 23.40 Sun. night, September 2.			
23.45	Off Porters	49½°	1·0081	33½
	Off Double Mer (opposite Smiths Island)	48½°	1·0096	40
	Off Ticoralak Point	48°	1·0095	39½
24.30	Below Ticoralak Point	46°	1·0117	49
	Off West Sister Island (N. of it)	45·8°	1·0118	49
Sept. 3. 1.30	Off East Sister Island (N. of it), steamer anchored.	45·6°	1·0121	50
4.50	Left anchorage.			
5.05	South of Big Island (West end)	45·5°	1·0146	61
5.30	Heading to pass to south of Little Black Island		1·0140	58
5.45	Heading to pass to south of Little Black Island	45°	1·0184	77
6.00	Heading to pass to south of Little Black Island	40·8°	1·0182	77
6.15	Off Little Black Island	40·2°	1·0193	80
6.55	Off Bluff Head	39½°	1·0211	88
7.15	On course to Indian Harbour	39½°	1·0207	86
7.30	On course to Indian Harbour	40°	1·0206	86
7.50	Just past Puffin Island	39·9°	1·0211	88
8.10	Near Indian Harbour	40°	1·0224	94
8.20	Dropped anchor outside Indian Harbour.			
Sept. 5	Sample taken in Indian Harbour		1·0238	99
Sept. 6	Sample taken in Indian Harbour		1·0236	98

NOTE.—Samples were tested when within half a degree of the standard temperature of 60°F.

[Larger HTML Version](#) (20 kb)

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APPENDIX C (*continued*).

C. 11.

Indian Harbour to St. John's No. 1.

September 6 to 14.

Time.	Place.	Surface Temperature.	Density.	Percentage.
Sept. 6 .	Indian Harbour samples previous page . . .		1·0236	98
Sat. 8 .	Near Greedy Island		1·0196	81½
Sat. 8 .	After Black Island near Flat Island . . .		1·0209	87
Sun. 9 .	Off Red Point	46°	1·0213	88½
Sun. 9 .	Just before Comfort Bight		1·0221	92
Mon. 10	Before Spear Point		1·0229	95
Mon. 10	Before Battle Harbour	45½°	1·0232	96½
Tues. 11	9.15 a.m. Off N.W. end Belle Isle Island . .	45°	1·0225	94
Tues. 11	About 8 m. before Cape St. Anthony . . .	50°	1·0238	99
Tues. 11	Off Croix Island 17.10	46·8°	1·0238	99
Wed. 12	Open coast before Stinking Island, 9 a.m.. .	50¼°	1·0240	100
Wed. 12	14.15. Middle of Bona Vista Bay.	51°	1·0242	100½
Wed. 12	16.20. Cape Bona Vista Light abeam . . .	51¼°	1·0242	100½
Thurs. 12	6.15 a.m. Crossing Trinity Bay. (End of Island abeam 7.15).	50°	1·0245	102
Thurs. 13	Off Cape St. Francis	49·5°	1·0245	102

NOTE.—Samples were tested when within half a degree of the standard temperature of 60°F.

[Larger HTML Version](#) (18 kb)

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APPENDIX C (*continued*).

TIDAL AND CURRENT SURVEY—CANADA.
C. 12.

HAMILTON INLET.

DIFFERENCE IN THE DENSITY OF WATER CAUSED BY THE PRESENCE OF
DRIFT ICE.

(Samples taken in the same locality in July and September.)

Date, 1923.	Locality.	Density.	Date.	Density.	Difference.
June 29	Battle Harbour . . .	1·0223	September	1·0232	0·0009
June 29	On course to Spear Point . .	1·0222	"	1·0229½	0·0007½
July 3 .	Just after leaving Indian Harbour on way to Rigolet	1·0210	"	1·0224	0·0014
July 13	Near Pompey Island . . .	1·0203	"	1·0211	0·0008
				Average .	·0010

[Larger HTML Version](#) (14 kb)

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TIDAL AND CURRENT SURVEY—CANADA.

[*Enclosure 4 No. 1011.*

APPENDIX D.—INVESTIGATIONS IN HAMILTON INLET
AND IN THE NARROWS OFF RIGOLET, 1923.

1.—TABLE SHOWING TIME AND RISE OF TIDE AT VARIOUS LOCATIONS.

Locality.	For H.W.	For L.W.	Spring Rise.	Neap Rise.
			From Chart Datum.	
			Feet.	Feet.
Indian Harbour—Subtract from time of tide at Halifax	1.20	1.47	6½	4½
Ticoralak Island	1.03	1.26	6½	4½
Broomfield Island—Subtract from time of tide at Halifax	1.00	1.10	6½	4½
Rigolet—Subtract from time of tide at Halifax . . .	0.33	0.46	5½	4
Caravalla Cove— Add to time of tide at Halifax . . .	1.55	1.15	2½	1½
Epinette Point—Later than Caravalla	1.40	1.55	2½	1½
Rabbit Island—Later than Caravalla	2.10	2.55	3	1½

[Larger HTML Version](#) (16 kb)

2.—TABLE SHOWING THE ALTERATION IN THE AMPLITUDE OF THE TIDAL UNDULATION IN ITS PROGRESS FROM INNER EXTREMITY OF LAKE MELVILLE.

Locality.	Spring Tides.	Neap Tides.
	Feet.	Feet.
Indian Harbour, on the sea coast	5.32	2.25
Ticoralak Island	5.35	2.05
Broomfield Island	5.05	1.93
Rigolet, in the narrows	4.34	1.53
Caravalla, in the narrows	1.30	0.67
Epinette Point, in Lake Melville	1.33	0.70
Rabbit Island, in Lake Melville (Goose Bay)	1.63	0.90

[Larger HTML Version](#) (13 kb)

APPENDIX C (continued).

C. 9. (continued).

LAKE MELVILLE.

DENSITIES DETERMINED BY THE HYDROGRAPHIC SURVEY IN 1921.

Place.	Date. 1921.	Surface Temperature.	Specific Gravity.		State of the Tide.
			Top.	Bottom.	
E. Side Henrietta Island	July 20	42° F.	1.0185		
Back way, 6 miles up	July 18	47° F.	1.0149		Low Tide
Back way, 6 miles up	July 19	56° F.	1.0066		3/4 Flood
Back way, 15 miles up	July 19	57° F.	1.0097		
Back way, near head	Aug. 15	53° F.	1.0095		Low tide
W. of Caravalla Point, 8 miles	July 26	56° F.	1.0096		
Pelter's Cove	Aug. 14	54° F.	1.0094		
Mulligan's Bay, 1½ miles off mouth of river	July 28	53° F.	1.0063	1.0211	
E. side of Long Point in bay	Aug. 13	54° F.	1.0003		
Epinette Point	Aug. 12	50° F.	0.9995		

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APPENDIX C (continued).

C. 10.

Rigolet to Indian Harbour.

September 2 and 3.

Time.	Place.	Surface Tempera- ture.	Density.	Percentage.
	Left Rigolet on " Sagona " 23.40 Sun. night, September 2.			
23.45	Off Porters	49½°	1.0081	33½
	Off Double Mer (opposite Smiths Island)	48½°	1.0096	40
	Off Ticoralak Point	48°	1.0095	39½
24.30	Below Ticoralak Point	46°	1.0117	49
	Off West Sister Island (N. of it)	45.8°	1.0118	49
Sept. 3				
1.30	Off East Sister Island (N. of it), steamer anchored.	45.6°	1.0121	50
4.50	Left anchorage			
5.05	South of Big Island (West end)	45.5°	1.0146	61
5.30	Heading to pass to south of Little Black Island		1.0140	61
5.45	Heading to pass to south of Little Black Island	45°	1.0184	77
6.00	Heading to pass to south of Little Black Island	40.8°	1.0182	77
6.15	Off Little Black Island	40.2°	1.0193	80
6.55	Off Bluff Head	39½°	1.0211	88
7.15	On course to Indian Harbour	39½°	1.0207	86
7.30	On course to Indian Harbour	40°	1.0206	86
7.50	Just past Puffin Island	39.9°	1.0211	88
8.10	Near Indian Harbour	40°	1.0224	94
8.20	Dropped anchor outside Indian Harbour			

Sept. 5	Sample taken in Indian Harbour	1.0238	99
Sept. 6	Sample taken in Indian Harbour	1.0236	98

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APPENDIX C (continued).

C. 11.

Indian Harbour to St. John's No. 1.

September 6 to 14.

Time.	Place.	Surface Tempera- ture.	Density.	Percentage.
Sept. 6	Indian harbour samples previous page		1.0236	98
Sat. 8	Near Gready Island		1.0196	81½
Sat. 8	After Black Island near Flat Island		1.0209	87
Sun. 9	Off Red Point	46°	1.0213	88½
Sun. 9	Just before Comfort Bight		1.0221	92
Mon. 10	Before Spear Point		1.0229	95
Mon. 10	Before Battle Harbour	45½°	1.0232	96½
Tues. 11	9.15 a.m. Off N.W. end Belle Isle Island	45°	1.0225	94
Tues. 11	About 8 m. before Cape St. Anthony	50°	1.0238	99
Tues. 11	Off Croix Island 17.10	46.8°	1.0238	99
Wed. 12	Open coast before Stinking Island, a.m.	50¼°	1.0240	100
Wed. 12	14.15. Middle of Bona Vista Bay	51°	1.0242	100½
Wed. 12	16.20. Cape Bona Vista Light abeam	51¼°	1.0242	100½
Thurs. 13	6.15 a.m. Crossing Trinity Bay. (End of Island abeam 7.15).	50°	1.0245	102
Thurs. 13	Off Cape St. Francis	49.5°	1.0245	102

Note.—Samples were tested when within half a degree of the standard temperature of 60°F.

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APPENDIX C (continued).

TIDAL AND CURRENT SURVEY—CANADA.

C. 12.

HAMILTON INLET.

DIFFERENCE IN THE DENSITY OF WATER CAUSED BY THE PRESENCE OF DRIFT ICE.

(Samples taken in the same locality in July and September.)

Date. 1923.	Locality.	Density.	Date.	Density.	Difference.
June 29	Battle Harbour	1.0223	September	1.0232	0.0009
June 29	On course to Spear Point	1.0222	”	1.0229½	0.0007½
July 3	Just after leaving Indian Harbour on way to Rigolet	1.0210	”	1.0224	0.0014
July 13	Near Pompey Island	1.0203	”	1.0211	0.0008
				Average	.0010

TIDAL AND CURRENT SURVEY—CANADA.

[Enclosure 4 in No. 1011.]

APPENDIX D.—INVESTIGATIONS IN HAMILTON INLET, AND IN THE NARROWS OFF RIGOLET, 1923.

1.—TABLE SHOWING TIME AND RISE OF TIDE AT VARIOUS LOCATIONS.

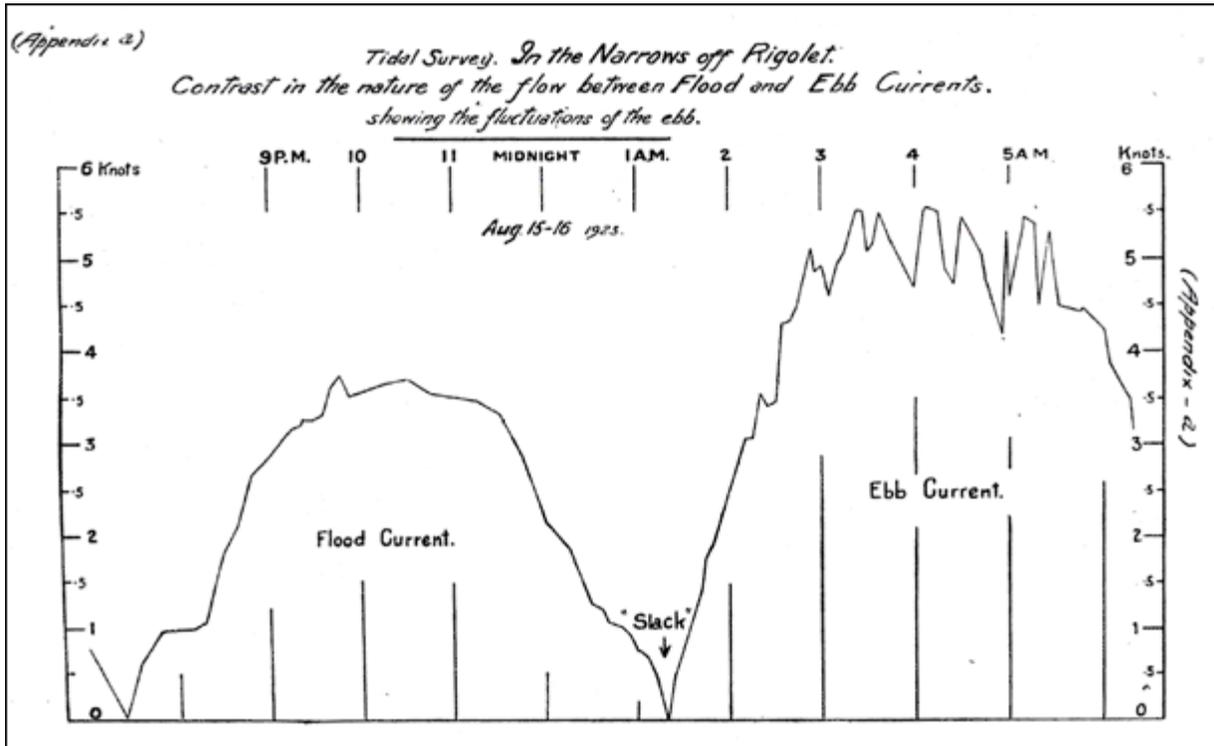
Locality.	For H.W.	For L.W.	From Chart Datum.	
			Spring Rise.	Neap Rise.
			Feet	Feet
Indian Harbour—Subtract from time of tide at Halifax	1.20	1.47	6½	4¾
Ticoralak Island	1.03	1.26	6½	4½
Broomfield Island—Subtract from time of tide at Halifax	1.00	1.10	6¼	4¼
Rigolet—Subtract from time of tide at Halifax	0.33	0.46	5¼	4
Caravalla Cove—Add to time of tide at Halifax	1.55	1.15	2¼	1½
Epinette Point—Later than Caravalla	1.40	1.55	2½	1½
Rabbit Island—Later than Caravalla	2.10	2.55	3	1½

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2.—TABLE SHOWING THE ALTERATION IN THE AMPLITUDE OF THE TIDAL UNDULATION IN ITS PROGRESS FROM INNER EXTREMITY OF LAKE MELVILLE.

Locality.	Spring Tides.	Neap Tides.
	Feet.	Feet
Indian Harbour, on the sea coast	5.32	2.25
Ticoralak Island	5.35	2.05
Broomfield Island	5.05	1.93
Rigolet, in the narrows	4.34	1.53
Caravalla, in the narrows	1.30	0.67
Epinette Point, in Lake Melville	1.33	0.70
Rabbit Island, in Lake Melville (Goose Bay)	1.63	0.90

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TIDAL AND CURRENT SURVEY CANADA.

[11 April,
1924.]INVESTIGATIONS IN HAMILTON INLET AND IN THE
NARROWS AT RIGOLET.SUPPLEMENT TO APPENDIX D ” OF REPORT ; BEING AN EXPLANATION
REGARDING THE INCREASE IN THE RANGE OF TIDE AT THE INNER END OF
LAKE MELVILLE.

In making a minute comparison between the amount of tide at different places, the “ range ” and not the “ rise ” of tide must be examined, and this must be done preferably with simultaneous tides. The “ rise ” is unsuitable because it is a height measured from the chart datum plane at each place and these planes may be slightly at variance one with another relatively to the tide by an amount quite inappreciable with regard to the purposes of a chart, but preventing a true comparison being made when we are considering such small differences as we have under discussion in this instance. By “ range of tide ” is meant the amplitude of the tidal undulation.

The tidal record at Caravalla, Epinette Point and Rabbit Island was simultaneous, and thus the figures in the second table of the appendix “ d ” to the report, referring to the amplitude of the tidal undulation at these places, are strictly comparable. The first table of “ rise ” is one to use for practical purposes the height being given only to the nearest quarter foot from the datum plane of the chart, and the slight exaggeration of the figures for Epinette Point and Rabbit Island given in this table for rise, is due to the fact that these datum planes, from which the rise is measured are a little lower at these places than at Caravalla.

To explain this greater amplitude at the inner end of the lake we can refer to the fact that tidal waves progressing between converging shores develop in this manner for the reason that the water is crowded by the narrowing confines, causing it to mount up and when a decrease occurs in the depth of water through which the wave is travelling the same effect is produced. The fact that the spring tides increase more than the neaps is significant because this is according to the behaviour of confined tides generally, and substantiates the explanation. In Lake Melville the width is much less at Epinette Point, and the depth is much less as well in Goose Bay, where the observations were taken at Rabbit Island, so this characteristic is to be expected. The apparent increase at

Epinette Point as shown by the figures, can scarcely be regarded as indicating that the change begins here the amount is so small but being near the end of the lake it probably does.

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Lake Melville is hardly large enough to have any noticeable tide of its own, but the oceanic undulation entering the lake has an amplitude of 1.30 feet for springs and 0.67 feet for neaps, at Caravalla. It may be that this flattens out somewhat in the expanse of the lake (there is no record in the central part of the lake to show this), but certain it is that when the undulation nears the inner end, the water piles up slightly giving a range of 1.63 feet and 0.90 feet at Rabbit Island, an increase of 0.33 feet and 0.23 feet at springs and neaps respectively over the amount at Caravalla. (It may be pointed out that the difference in rise from the mean tide level of the lake is only half this amount.)

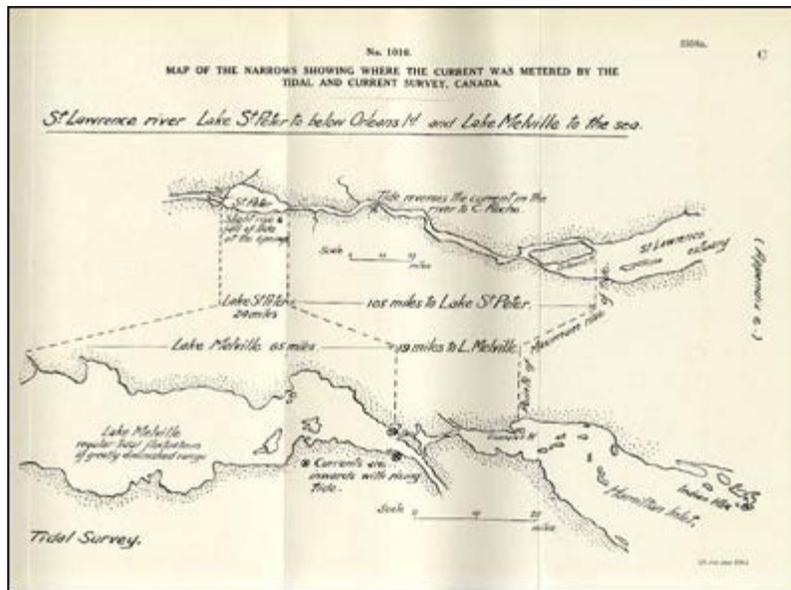
H.W. JONES,

Senior Tidal and Current
Surveyor.

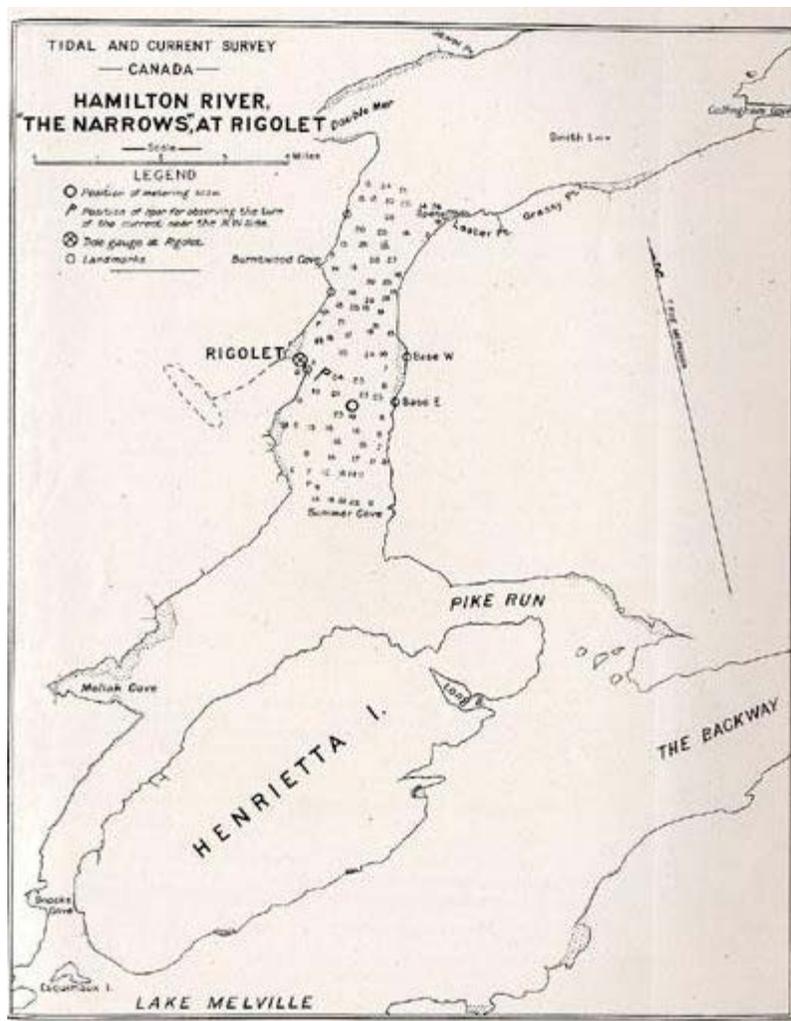
Ottawa, 11th April, 1924.

[Map follows as page 2358A]

[11 April, 1924.]

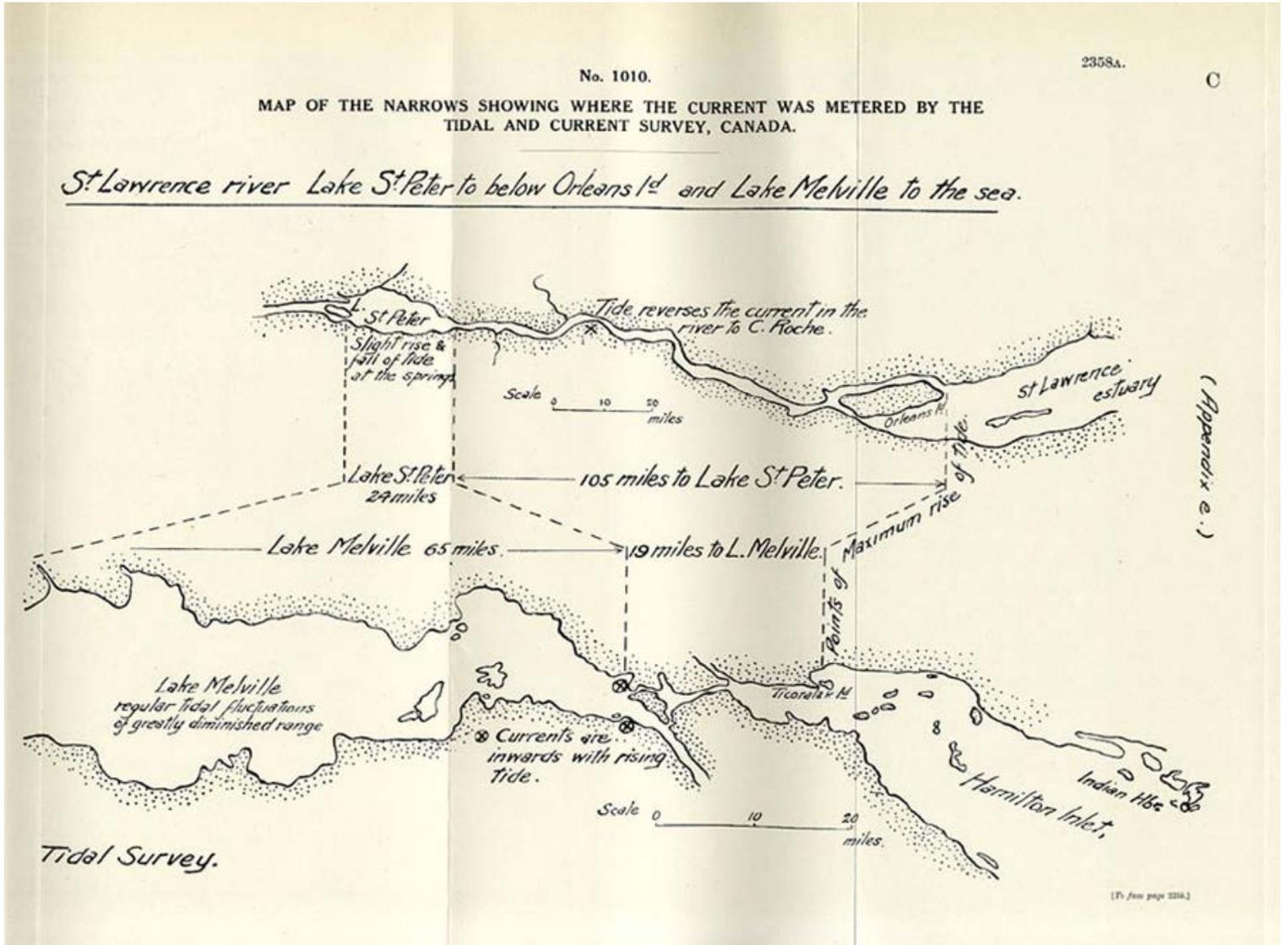


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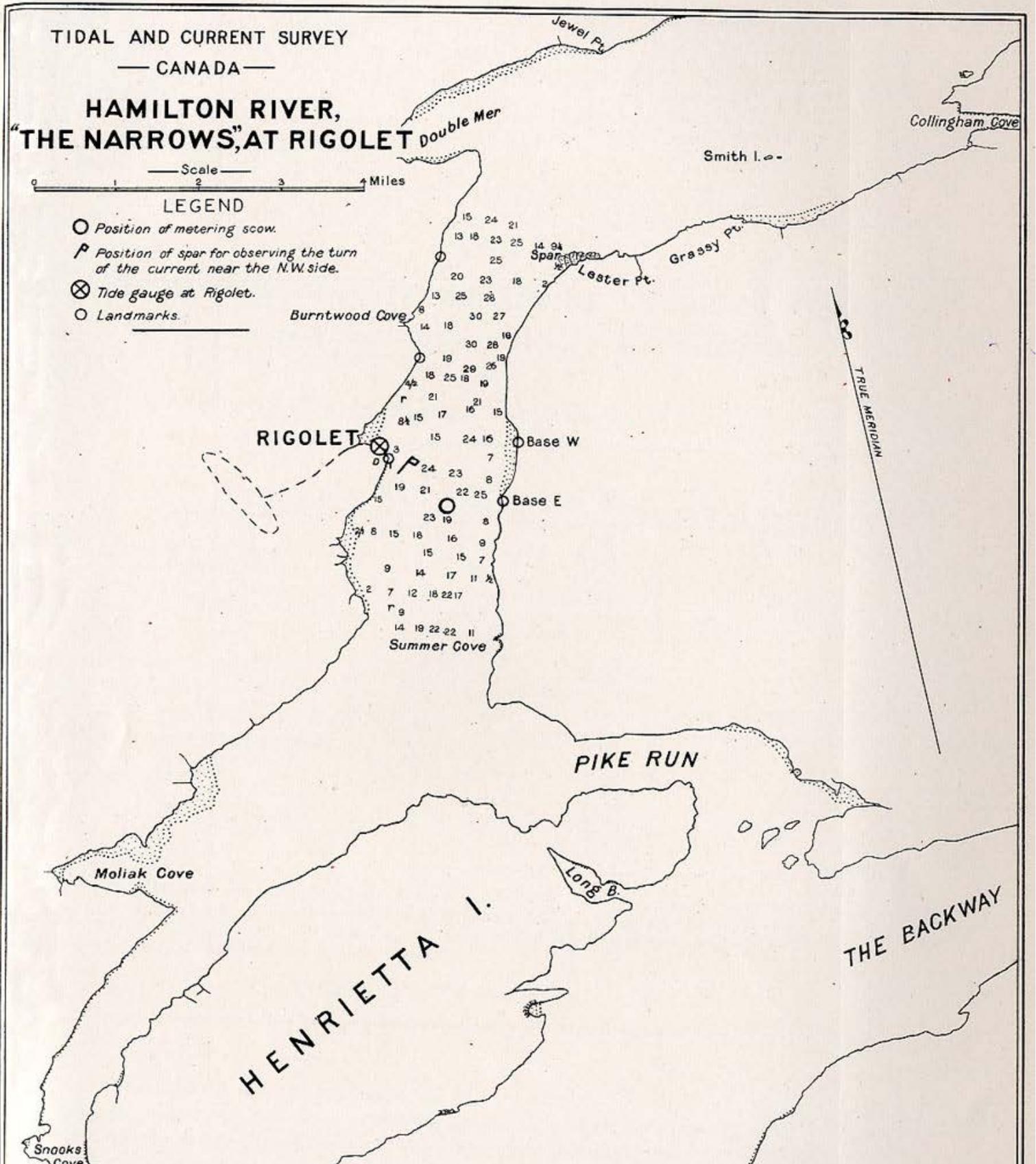
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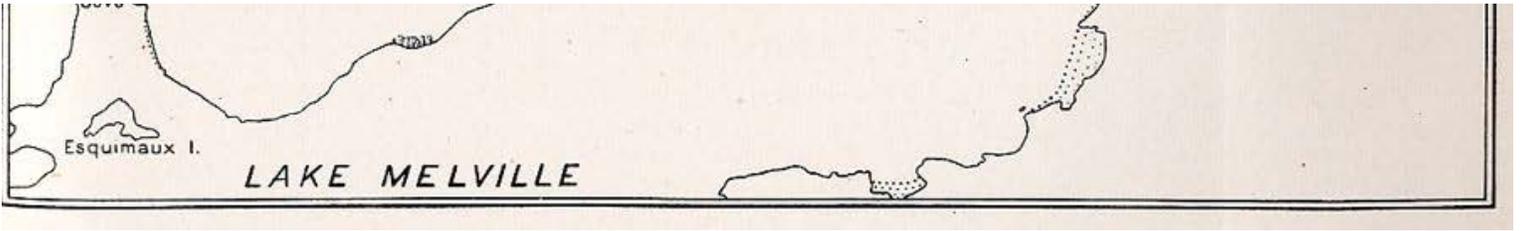
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No. 1011.
RIVER SLOPE ON OTTAWA AND ST. LAWRENCE RIVERS.

TO ESTIMATE THE SLOPE THROUGH RIGOLET HARBOUR.

Narrows :—1m wide, 4M long. Centre depth, 24 to 30 fathoms.

	High Stage (Elevation).	Low Stage (Elevation).	Total Fall. (Mean).	Distance in Miles.	Actual Slope per Mile.
	Feet.	Feet.	Feet.	Miles.	Feet.
OTTAWA RIVER.					
Ottawa Harbour, to	{ 132.00	{ 127.00			
Granville Canal: Lock No. 1	{ 145.22	{ 125.18			
Difference	6.78	0.82	3.80	59 ^M	.06
Carillon to	{ 83.28	{ 68.28			
Ste. Annee	{ 81.07	{ 68.27			
Difference	2.21	0.01	1.11	15 ^M	.07
St. LAWRENCE RIVER.					
Longueuil to	{ 34.48	{ 19.04			
Sorel	{ 27.94	{ 12.72			
Difference	6.54	6.32	6.43	41 ¹ / ₂ ^M	.15

Rigolet Narrows :—Assuming the slope to be half the amount of the St. Lawrence River, or the whole of the amount of the Ottawa, because of the very much greater depth, the total fall from Lake Melville to the open, through the narrow passages and the Narrows proper (distance 8 miles, would be

Total Fall.
Feet.
0.50

(per mile—0.07 + 8^M = 0.56 ft.)

[Larger HTML Version](#) (14 kb)

26 April, 1923.

The above is an estimate of the probable amount of “ slope ” in Rigolet Narrows, based on the nearest similar conditions elsewhere. It was made before the expeditions. of 1923 went to Hamilton Inlet, for observations and levelling.

W. BELL DAWSON,

Superintendent of Tidal Surveys.

No. 1011.
RIVER SLOPE ON OTTAWA AND ST. LAWRENCE RIVERS.
 TO ESTIMATE THE SLOPE THROUGH RIGOLET HARBOUR.

Narrows :—1^M wide, 4^M long. Centre depth, 24 to 30 fathoms.

	High Stage (Elevation).	Low Stage (Elevation).	Total Fall. (Mean).	Distance in Miles.	Actual Slope per Mile.
OTTAWA RIVER.	Feet.	Feet.	Feet.	Miles.	Feet.
Ottawa harbour to Granville Canal :	152.00	127.00			
Lock No. 1	145.22	126.18			
Difference	6.78	0.82	3.80	59 ^M	.06
Carillon to Ste. Annes.	83.28	68.28			
	81.07	68.27			
Difference	2.21	0.01	1.11	15 ^M	.07
ST. LAWRENCE RIVER.					
Longueil to Sorel	34.48	19.04			
	27.94	12.72			
Difference	6.54	6.32	6.43	41½ ^M	15
Rigolet Narrows :—Assuming the slope to be half the amount of the St. Lawrence River, or the whole of the amount of the Ottawa, because of the very much greater depth, the total fall from Lake Melville to the open, through the narrow passages and the Narrows proper (distance 8 miles, would be					Total Fall.
					Feet. 0.50
(per mile—0.07 + 8 ^M = 0.56 ft.)					

No. 1012.
**TIDAL INFORMATION HAMILTON INLET, THE
NARROWS, AND LAKE MELVILLE.**
DIFFERENCES WITH HALIFAX TIDE TABLES.

(Compiled by the Tidal Survey Branch of the Department of
the Naval Service.)*

Locality.	Differences.		Rise of Tide.		Range of Tide.	
	For H. W.	For L. W.	Springs.	Noaps.	Springs.	Noaps.
	h. m.	h. m.	Feet.	Feet.	Feet.	Feet.
Indian Harbour	Sub. 1 20	Sub. 1 30	6½	4½	5·4	2·0
Broomfield I. .	" 1 00	" 1 10	6	4½	5·2	2·0
Rigolet . . .	" 0 50	" 0 48	5½	3¾	4·5	1·6
Caravalla Cove .	Add 1 55	Add 1 15	2¼	1½	1·6	0·6
Epinette Point .	" 3 35	" 3 10	2½	1½	1·7	0·6
Rabbit Island .	" 4 05	" 4 10	3	1½	2·2	0·8

* This table embodies the results of gauging operations carried out during a period of two full months in the summer of 1921.

*This table embodies the results of gauging operations carried out during a period of two full months in the summer of 1921.

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No. 1012.
TIDAL INFORMATION—HAMILTON INLET, THE NARROWS, AND LAKE MELVILLE.

DIFFERENCES WITH HALIFAX TIDE TABLES.

Compiled by the Tidal Survey Branch of the Department of Naval Service.)*

Locality.	Differences.		Rise of Tide.		Range of Tide.	
	For H.W.	For L.W.	Springs.	Neaps.	Springs.	Neaps.
	h. m.	h. m.	Feet.	Feet.	Feet.	Feet.
Indian Harbour	Sub. 1 20	Sub. 1 30	6 ½	4 ¼	5.4	2.0
Broomfield I.	" 1 00	" 1 10	6	4 ¼	5.2	2.0
Rigolet.	" 0 50	" 0 48	5 ½	3 ¾	4.5	1.6
Caravalla Cove.	Add 1 55	Add 1 15	2 ¼	1 ½	1.6	0.6
Epinette Point.	" 3 35	" 3 10	2 ½	1 ½	1.7	0.6
Rabbit Island.	" 4 05	" 4 10	3	1 ½	2.2	0.8

* This table embodies the results of gauging operations carried out during a period of two full months in the summer of 1921.

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No. 1013.
SALINITY DETERMINATION OF WATER SAMPLES
FROM LAKE MELVILLE AND VICINITY,
NORTHERN QUEBEC, 1921.*

Station.	Position.	Date.	Time.	Temperature.	Depth.	Salinity.
1 Lake Melville	1½ miles N.E. Mag. Epinette Point	Sept. 27th	3.00 P.M.	0-42° C.	55 fms.	25-29
2 " "	5½ miles N.E. Mag. Kinriakak Point	" 28th	7.15 A.M.	43° F.	Surface	10-27
2 " "	" " " "	" "	" "	0-6° C.	5 fms.	11-53
2 " "	" " " "	" "	" "	0-18° C.	83 "	20-60
3 " "	3 miles off Eskimo Paps. N. Mag.	" "	8.25 "	0-6° C.	Surface	11-33
3 " "	" " " "	" "	" "	2-77° C.	10 fms.	22-23
3 " "	3 miles off Eskimo Paps. N. Mag.	" "	" "	1-05° C.	108 "	28-01
4 " "	4 miles N.W. Mag. Etaganlet Point	" "	10.00 "	6-6° C.	Surface	13-98
4 " "	" " " "	" "	" "	3-2° C.	10 fms.	21-91
4 " "	" " " "	" "	" "	0-9° C.	50 "	27-65
4 " "	" " " "	" "	" "	1-13° C.	120 "	28-01
5 " "	½ mile S. Mag. from S.W. point Neveisik Island.	" "	2.00 P.M.	6-6° C.	Surface	14-58
5 " "	Ditto " " " "	" "	" "	4-18° C.	10 fms.	21-89
5 " "	" " " "	" "	" "	0-4° C.	50 "	27-52
5 " "	" " " "	" "	" "	1-1° C.	143 "	23-01
6 " "	1 mile W. Mag. Henrietta Island	Sept. 30th	8.30 A.M.	43-8° F.	Surface	15-27
6 " "	" " " "	" "	" "	4-78° C.	10 fms.	20-10
6 " "	" " " "	" "	" "	0-3° C.	50 "	27-68
6 " "	" " " "	" "	" "	0-72° C.	172 "	27-90

Locality and Place.	Date.	Time.	Tide.	Wind.	Depth.	Salinity.
A. Carter Basin, Kenemich River, 150 feet off wharf.	July 20	9.15 P.M.	H.W. Springs	Southerly	3½ fms.	4-25
A. Carter Basin, Kenemich River, 200 feet off wharf.	July 21	7.35 P.M.	L.W. starting to rise	West (2)	3½ fms.	3-55
A. Carter Basin, Kenemich River, off wharf shed.	Aug. 5	11.30 A.M.	H.W. Springs	S.W. (5)	2½ fms.	3-84
B. Carter Basin, Kenemich River, 1 mile off mill bldg.	July 21	8.00 P.M.	L.W.S. rising	West (2)	13 feet	2-90
B. Carter Basin, Kenemich River, 1 mile outside from wharf.	Aug. 5	11.30 A.M.	H.W. Springs	S.W. (5)	2½ fms.	3-98
C. Kenemich River, at mouth of river	Aug. 5	12.30 P.M.	H.W. Springs	S.W. (5)	6 feet	Fresh
D. Hamilton River, entrance to river	Aug. 4	2.53 P.M.	H.W. Springs	North (4)	4 fms.	"
E. Hamilton River, Mud Lake entrance 1 mile up from mouth.	Aug. 4	3.09 P.M.	H.W.S. ebbing	North (4)	15 feet	"
F. Northwest River about 1½ miles up river from mouth.	Sept. 13	1.45 P.M.	Low tide nearly	N.E. (3)	7 feet	"
G. Northwest River, opposite H.B. Company's wharf.	Sept. 13	2.45 P.M.	Low tide just past	N.E. (2)	13 feet	"
G. Northwest River, opposite H.B. Company's wharf.	Sept. 15	1.00 P.M.	2 hours before low water	N.W. (3)	Surface	"
H. Rapids at the foot of Grand Lake	Sept. 15	3.00 P.M.	Low water	N.W. (2)	4 fms.	"

*This table gives in tabular form the result of salinity tests in Lake Melville made by the Canadian Hydrographic and Tidal Survey of Canada during the summer of 1921.

[Larger HTML Version](#) (25 kb)

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No. 1013.

**SALINITY DETERMINATION OF WATER SAMPLES FROM LAKE MELVILLE AND
VICINITY, NORTHERN QUEBEC, 1921.***

Station.	Position.	Date.	Time.	Temperature.	Depth.	Salinity.
1 Lake Melville	1½ miles N.E. Mag. Epinette Point	Sept. 27th	3.00 P.M.	0.42°C.	88 fms.	26.29
2 " "	5½ miles N.E. Mag. Kinriakak Point	" 28th	7.15 A.M.	43° F.	Surface	10.57
2 " "	" " " "	" "	" "	6.6° C.	5 fms.	11.53
2 " "	" " " "	" "	" "	0.18° C.	33 "	26.60
3 " "	3 miles off Eskimo Paps. N. Mag.	" "	8.25 "	6.6° C.	Surface	11.33
3 " "	" " " "	" "	" "	2.77° C.	10 fms	22.23
3 " "	3 miles off Eskimo Paps. N. Mag.	" "	" "	1.05° C.	103 "	28.01
4 " "	4 miles N.W. Mag. Etagaulet Point	" "	10.00 "	6.6° C.	Surface	13.98
4 " "	" " " "	" "	" "	3.2° C.	10 fms.	21.91
4 " "	" " " "	" "	" "	0.9° C.	50 "	27.68
4 " "	" " " "	" "	" "	1.13° C.	120 "	28.01
5 " "	¾ mile S. Mag. from S.W. point Neveisik Island.	" "	2.00 P.M.	6.6° C.	Surface	14.58
5 " "	Ditto.	" "	" "	4.18° C.	10 fms.	21.89
5 " "	" " " "	" "	" "	0.4° C.	50 "	27.52
5 " "	" " " "	" "	" "	1.1° C.	143 "	28.01
6 " "	1 mile W. Mag. Henrietta Island	Sept. 30th	8.30 A.M.	43.8° F.	Surface	15.57

6	”	”	”	”	”	”	”	”	”	4.78° C.	10 fms.	20.10
6	”	”	”	”	”	”	”	”	”	0.3° C.	50 ”	27.68
6	”	”	”	”	”	”	”	”	”	0.72° C.	172 ”	27.90

	Locality and Place.	Date.	Time.	Tide.	Wind.	Depth.	Salinity.
A.	Carter Basin, Kenemich River, 150 feet off wharf	July 20	9.15 P.M.	H.W. Springs	Southerly	3½ fms.	4.25
A.	Carter Basin, Kenemich River, 200 feet off wharf	July 21	7.35 P.M.	L.W. starting to rise	West (2)	3¼ fms.	3.55
A.	Carter Basin, Kenemich River, off wharf shed	Aug. 5	11.30 A.M.	H.W. Springs	S.W. (5)	2½ fms.	3.84
B.	Carter Basin, Kenemich River, 1 mile off mill bldgs.	July 21	8.00 P.M.	L.W.S. rising	West (2)	13 feet	2.90
B.	Carter Basin, Kenemich River, 1 mile outside from warf.	Aug. 5	11.30 A.M.	H.W. Springs	S.W. (5)	2½ fms.	3.98
C.	Kenemich River, at mouth of river	Aug. 5	12.30 P.M.	H.W. Springs	S.W (5)	6 feet.	Fresh
D.	Hamilton River, entrance to river	Aug. 4	2.58 P.M.	H.W. Springs	North (4)	4 fms.	”
E.	Hamilton River, Mud Lake entrance 1 mile up from mouth.	Aug. 4	3.09 P.M.	H.W.S. ebbing	North (4)	15 feet	”
F.	Northwest River about 1½ miles up river from mouth.	Sept. 13	1.45 P.M.	Low tide nearly	N.E. (3)	7 feet	”
G.	Northwest River, opposite H.B. Company's wharf.	Sept. 13	2.45 P.M.	Low tide just past	N.E. (2)	12 feet	”

G.	Northwest River, opposite H.B. Company's wharf.	Sept. 15	1.00 P.M.	2 hours before low water	N.W. (3)	Surface	”
H.	Rapids at the foot of Grand Lake	Sept. 15	3.00 P.M.	Low water	N.W. (2)	4 fms.	”

* This table gives in tabular form the results of salinity tests in Lake Melville made by the Canadian Hydrographic and Tidal Survey of Canada during the summer of 1921.

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	Locality and Place.	Date.	Time.	Tide.	Wind.	Depth.	Salinity.
A.	Carter Basin, Kenemich River, 150 feet off wharf	July 20	9.15 P.M.	H.W. Springs	Southerly	3½ fms.	4.25
A.	Carter Basin, Kenemich River, 200 feet off wharf	July 21	7.85 P.M.	L.W. starting to rise	West (2)	3¼ fms.	3.55
A.	Carter Basin, Kenemich River, off wharf shed	Aug. 5	11.30 A.M.	H.W. Springs	S.W. (5)	2½ fms.	3.84
B.	Carter Basin, Kenemich River, 1 mile off mill bldgs.	July 21	8.00 P.M.	L.W.S. rising	West (2)	13 feet	2.90
B.	Carter Basin, Kenemich River, 1 mile outside from warf.	Aug. 5	11.30 A.M.	H.W. Springs	S.W. (5)	2½ fms.	3.98
C.	Kenemich River, at mouth of river	Aug. 5	12.30 P.M.	H.W. Springs	S.W (5)	6 feet.	Fresh
D.	Hamilton River, entrance to river	Aug. 4	2.58 P.M.	H.W. Springs	North (4)	4 fms.	''
E.	Hamilton River, Mud Lake entrance 1 mile up from mouth.	Aug. 4	3.09 P.M.	H.W.S. ebbing	North (4)	15 feet	''
F.	Northwest River about 1½ miles up river from mouth.	Sept. 13	1.45 P.M.	Low tide nearly	N.E. (3)	7 feet	''
G.	Northwest River, opposite H.B. Company's	Sept. 13	2.45 P.M.	Low tide just past	N.E. (2)	12 feet	''

	wharf.						
G.	Northwest River, opposite H.B. Company's wharf.	Sept. 15	1.00 P.M.	2 hours before low water	N.W. (3)	Surface	”
H.	Rapids at the foot of Grand Lake	Sept. 15	3.00 P.M.	Low water	N.W. (2)	4 fms.	”

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[1924.]

No. 1014.

**EXTRACTS FROM REPORT ON “GEOGRAPHY AND
GEOLOGY OF LAKE MELVILLE DISTRICT,
LABRADOR PENINSULA.”**

BY DR. E. M. KINDLE, OF THE GEOLOGICAL SURVEY OF CANADA.
(Ottawa, 1924 : Memoir 141, No. 120, Geol. Ser.)

INTRODUCTION.

The great peninsula which lies between Hudson bay and the Atlantic ocean has long been known as Labrador peninsula. The name Labrador, signifying as it does in this connexion one of the great natural physical divisions of the continent, has a definite meaning. The precise significance of the name as used in this way is in sharp contrast with the vague meaning which attaches to “ the coast of Labrador ” as the name of a political sub-division of the Labrador peninsula subject to the authority of Newfoundland. No agreement has ever been reached between the Canadian and Newfoundland governments regarding the western boundary of Newfoundland Labrador. Some maps showing this western boundary of “ the coast of Labrador,” as claimed by Newfoundland,¹ place it in the Hamilton River basin about 350 miles west of the boundary claimed by Canada² in Hamilton inlet.

Among geographers the impression has been rather general that only the eastern seashore of Labrador peninsula is under the jurisdiction of Newfoundland, and the region to the west of it under the control of Canada. It is, therefore, a matter of considerable importance and some complexity to ascertain precisely how far inland the seashore extends along the waterways known as Hamilton inlet, The Narrows, and Lake Melville. Careful attention was given during the progress of the field work to the biological and geological data which appear to have a bearing on this problem, both on account of their application to a question of political geography and their general scientific interest. The highly interesting biological problems of distribution, which every river with a gradually expanding estuary presents in the modification of the marine and terrestrial forms of life associated with it as the transition is made from typical marine to brackish and freshwater conditions, are found here. But they are modified and complicated by the interpolation of a large lake between the sea and the drainage system of a considerable part of eastern

¹ Century “ Atlas of the World.” Edition of 1899, No. 59.

² Rand McNally Co.'s “ Indexed Atlas of the World,” vol. II, p. 317. The boundary shown on this map is assumed to be only approximately the same as that claimed by Canada.

Labrador. As a result of this unusual feature of the drainage the region is a peculiarly inviting one in which to study the influence of salinity in controlling the distribution of plants and animals and even the indigenous human races of the region the—Indian and Eskimo.

* * * *

During the field work the writer traversed the north and south shores of Lake Melville. The Backway and Double Mer were traversed, and some of the streams entering Lake Melville ascended to the head of canoe navigation. Hamilton river was ascended to Muskrat falls. The entire length of Grand lake was traversed, and Naskaupi river, which enters this lake near its head, was ascended to the junction with the Red. A short canoe trip was made up the latter stream. The general geographic relations of the region examined are indicated on Figure 1. The areal relations of the formations recognized in the course of the writer's work, and the earlier work of Low in the interior and Packard on the coast are shown on Figure 4.

Numerous soundings and hydrometer readings were taken, and dredging was done at a number of points.

A list of plants collected by Mr. R. H. Wetmore, botanist of the expedition, representing the flora of the district, is included in this paper.

* * * *

Lakes and Sea-Connected Valleys.—The interior of Labrador peninsula “ is covered with myriads of lakes that occupy at a moderate estimate at least one-quarter of the total area.”^s Nearly all these are shallow lakes, the product of glacial damming, or rock basins. A few, however, are more than 400 feet deep, like lake Winikapau, an expansion of Hamilton river, 100 miles west of lake Melville. Small lakes are numerous in Lake Melville region ; nearly every brook flows into or out of one.

The very deep, fiord-like lakes connected with or near Hamilton inlet constitute one of the most prominent geographical features (Plate I and Figure 4). There are four of these deep waterways known respectively as Grand lake, lake Melville, The Backway, and Double Mer (Figure 4). All the rivers and streams of the region flow through or empty into these deep, narrow waterways. Grand lake, which is entirely fresh, has a depth of 90 fathoms, and a length of about 40 miles. Lake Melville, into which Grand lake empties, is a tidal lake and shows a maximum depth of 160 fathoms. The Backway, at least 80 fathoms deep, is a narrow arm connected with the eastern end of lake Melville. Double Mer approaches more closely than the others the fiord type (*See* Plate I), but the maximum depth found is only 46 fathoms.

The great depth of lake Melville allies it on the one hand with the fiords of Norway and on the other with the deep inland

lakes and rivers of Quebec. The lake extends nearly 1,000 feet below sea-level and with its steep mountain

¹ Low, A.P., "Report on Explorations in the Labrador Peninsula along the East Nain, Koksoak Hamilton, Manicouagan, and Portions of Other Rivers," Geol. Surv., Can., Ann. Rept., vol. 8, p. 23 L, 1895.

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DRAINAGE DEVELOPMENT.

The drainage system of this region, as it existed at the close of the Tertiary period, was the result of subaerial erosion directed or controlled by the structural features of the district. Nearly all the bolder and more fundamental features of the present drainage system probably developed during the Tertiary period. The old valleys of Tertiary date were, however, profoundly modified by the work of the ice during the Glacial period and by marine deposits still later. Re-elevation has given, as the product of this complex threefold ancestry, the present drainage system.

The valley of the Hamilton and its wide expansion, lake Melville, is the dominant or trunk valley of the region. The valleys that join the northwest and southwest sides of this great valley are of surprisingly contrasted types. On the northwest side occur wide, mature valleys like Grand Lake-Naskaupi valley, whereas the hanging valley descending the steep slopes by a series of cascades is the common type on the southeast side. The Kenamu, the largest southern tributary, enters Hamilton valley through a deep gorge. Double Mer, the only large valley outletting to the sea independently of the Hamilton system, duplicates in a smaller way on its northern and southern sides the contrasted types of valley shown by the two sides of lake Melville. Its streams, however, except the one at its head, are of rather insignificant size.

The explanation of these and some other features of the drainage is to be found in structural features of Pre-Tertiary origin. The steep, scarp-like, northwest face of Mealy Mountain highland and the equally steep mountain face which borders much of the south side of Double Mer are considered to be fault scarps which are probably of Pre-Tertiary age. The lowlands cut in the sandstone which floors the north sides of both of these valleys are terminated on the north by abruptly rising mountains of Precambrian rocks. The contact between these Precambrian mountains and the sandstone in both cases is believed to be a fault-plane. The wider parts of both Double Mer and Lake Melville basins are believed to be defined by fault-planes which have dropped down two large blocks (*See Figure 5 A and C*). On the relatively soft Palæozoic beds of these younger rocks have been cut the Double Mer and Lake Melville lowlands which are considered to be limited in part at least by fault-planes, as indicated in *Figure 5 A and C*. The effect of the downfaulting of these blocks was to bring in contact two strongly contrasted types of rock—the Double Mer sandstone

and the Precambrian schists. Differential erosion in Tertiary and earlier times developed on these sandstones and other superposed and probably softer beds now entirely vanished, the relatively wide valleys which came in late Quaternary times to be occupied by lake Melville and Double Mer waterways.

In the bed of lake Melville the soundings made by the hydrographic engineers show clearly the location of three distinct valleys which occupied the broad western half of this basin in Preglacial time. Two of the three depressions representing them (Figure 5 A) can be followed by the soundings to the mouths of Mulligan and Sebaskachu rivers. The third, which

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is near the south side of the lake, corresponds to the original valley of Hamilton river. These three old Preglacial valleys which the lake soundings disclose in the widest part of the lake draw together in a seaward direction after the usual style of river valleys, and where the lake grows narrower, east of Long point, unite into a single valley a few miles west of St. John island. This represents the old Preglacial trunk stream of Hamilton river. A cross-section of this part of the lake is shown in Figure 5 B.

The three valleys recognizable in the soundings of lake Melville referred to above may be more precisely described as modified Preglacial valleys. Details of these valleys have been changed by lake deposits since, and by ice erosion before, the departure of the glacial ice-cap. For long periods during the early and late stages of the glacial epoch, valley glaciers were undoubtedly active in deepening these three valleys as their separate ice streams flowed into the main trunk valley. While Lake Melville valley was completely ice filled, differential deepening of these individual valleys probably ceased and differential deepening probably then occurred chiefly at certain points in the main valley.

The valley occupied by Grand lake and the lower part of Naskaupi river is, after that of Hamilton river, the largest valley in the region, and trends nearly at right angles to Hamilton River and Lake Melville valley. Its direction corresponds in a general way with the strike of the gneissic rocks which the valley traverses. The northwesterly strike and south-westerly dip of the rocks appear very clearly to have controlled the trend of Grand Lake. All the promontories on the west side of the lake present distinctly steeper profiles than the slopes of those on the opposite side, as would be expected in such a strike valley.

The major features of the drainage system of this region, which were developed in Preglacial time as outlined above, were modified in many details by the covering of the Labrador ice-sheet. During the period when the region was covered by an ice-sheet and in the intervals between possible withdrawals and re-advances of the great ice-sheet of eastern North America, many modifications and minor changes occurred in that valley. These changes in the old Tertiary drainage system included the local deepening of valleys by glacial scour and the partial filling

of valleys with glacial debris elsewhere. This cut-and-fill process, which the great valley glaciers continued for long periods both before and after maximum glaciation, transformed, in the interior, the normal rivers of Tertiary time into streams with numerous lake-like expansions. Other profound modifications of the valleys were produced during Pleistocene time when the whole region was depressed about 300 feet. It was at this time that the great system of sand-terraces and marine and freshwater clays was added to the valleys.

In spite of the extensive character of the changes locally developed in the drainage system which Tertiary and earlier erosion has impressed on the region, the wide, mature valleys of preglacial origin are easily distinguished as to age from the narrow V-shaped gorge of Kenamu river, which has been developed in Quaternary time. There can be no doubt that

Naskaupi and Hamilton valleys within the limits of the accompanying map (Figure 4) are preglacial valleys and that Grand Lake and Lake Melville basins are parts of the old valleys of these two major rivers and their tributaries. The Naskaupi flows through a broad, mature valley for 18 or 20 miles above its mouth, which is as far as the writer traversed it. This old valley, and the valley formed by the junction of Susan and Beaver rivers at the western end of Grand lake, unite near the upper end of Grand lake, forming Grand Lake valley, which is comparable in width with Naskaupi valley and represents its continuation. The preglacial Naskaupi river joined the Hamilton in late Tertiary time somewhere near Goose bay. These two, combined probably with the Kenamu, whose Pre-Quaternary valley is unknown, formed the preglacial Hamilton. This stream, which was the main trunk river of eastern Labrador, flowed through the wide, deep valley of Lake Melville basin and reached the sea via The Backway valley. The inference that the preglacial Hamilton flowed seawards by The Backway instead of by The Narrows, as it now does, is based on the much greater width and depth of The Backway, and the fact that the land is very low between the seashore and the eastern end of The Backway. The Narrows was probably developed either in late Tertiary time or during some stage of the Glacial period as a through valley connecting Double Mer and Hamilton valleys just as they are connected by a through valley which joins the upper end of Double Mer and Mulligan bay (*See* Figure 4). When the final retreat of great valley glaciers which marked the late stages of glaciation began it may be presumed that the high mountains southwest of The Backway, together with the mountain ridge immediately north of the western half of it, supplied an abundance of glacial ice to the terminal end of Hamilton valley, which kept it blocked for a long period after the ice-sheet had vanished from much of the adjacent parts of the valley. This situation would have compelled the restored river to seek a new outlet to the sea by any low divide or through any valley which it found free of ice. It is the writer's opinion that a pre-existing valley, corresponding in position with the present Narrows and the waterways on the northern and southern sides of Henrietta island, was appropriated by Hamilton river while the original terminal section of the stream was ice-dammed. When the ice finally withdrew from The Backway its outlet was blocked with glacial debris, and the new channel had been sufficiently deepened to prevent the river from resuming its old outlet to the sea.

When Hamilton river returned to its old channel after the valley glaciers had finally disappeared it was not the graded channel it had left at the beginning of the Ice age, but a basin irregularly deepened and widened by the scouring work of the ice (*See* Figures 4 and 5 A and B). Near Henrietta island this basin has a depth of nearly 1,000 feet. It seems most probable

that much of this great depth represents glacial overdeepening. If it represented the original depth of the old Preglacial Hamilton valley cut when the land stood 1,000 feet higher than at present, comparable soundings should be found in the broad, shallow sea zone in Hamilton inlet, or south of it. But

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no depths approaching this have been found either here or elsewhere between the coast-line and the margin of the continental shelf. The navigation sheet shows that the prevailing depths of the sea within 2 miles of the shore range as a rule between 20 and 50 fathoms. Along the axis of lake Melville and Grand lake, for a distance of 125 miles, soundings are found ranging from 80 to 160 fathoms. Since no comparable depths are known outside the shallow sill of The Narrows, which separates Lake Melville and Grand Lake basins from the sea, the great depths of these waterways appear to be referable mainly to over-deepening by glacial erosion.

This glacial erosion has doubtless been most intense and profound in those parts of the valley where structural features have resulted in valley floors of relatively soft or easily eroded rocks. In Double Mer and Lake Melville basins the Double Mer sandstone and possibly other softer and now completely removed formations have supplied this factor leading to overdeepening. The convergence of valley ice streams at certain angles may have added locally to their erosive power.

The Labrador coast has all the characteristics of a drowned shore-line. The islands forming a belt nearly 50 miles wide at Hamilton inlet and rising from a shallow sea, and the numerous indentations of the coast-line represent the subsidence of an old land surface which left only the higher points projecting as islands. This subsidence truncated the seaward ends of many rivers. The converging trends of Sandwich Bay, The Backway, and the south shore of Hamilton inlet suggest that the streams which these several shore-lines represented previous to the depression of the coast may have united into a single stream somewhere east of Stag islands. The late Pleistocene re-elevation of the coast, amounting to a little more than 300 feet, has caused a retreat of the valley arms of the sea from their earlier extension far up Hamilton and Naskaupi valleys. If there should be a further coastal elevation of 200 feet or more, the mouth of the Hamilton will again approximate its preglacial location somewhere in the eastern part of Hamilton inlet or farther south.

CLIMATE.

The coastal strip and the interior of Labrador present surprising climatic contrasts, resulting chiefly from the influence of the Labrador current which carries an Arctic climate southward along the entire eastern coast of Labrador. In passing through the strait of Belle Isle in July a stream of floating ice and bergs is met with, which increases in volume as one proceeds up the coast (Plate IV B). Throughout most of

July the vast ice fields move steadily southward under the influence of the Labrador current, dispensing a polar temperature over the western side of Davis bay and the adjacent coast. The summer climate on the Labrador coast is notably colder than that of the west coast of Greenland even, according to Professor Tarr.¹ This results

¹ Tarr, R. S., "Difference in the Climate of the Greenland and American Sides of Davis and Baffin's Bay." Am. Jour. Sci., vol. III, pp. 315-320, 1897.
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from a northward-moving current on the Greenland side and a polar current on the Labrador side of Davis bay.

The sub-Arctic climate which the southward-moving ice fields bring as far south as the strait of Belle Isle extends only a short distance inland from the coast. In going inland by way of The Narrows and lake Melville one finds that there are two Labrador climates. One is a sub-Arctic climate which characterizes a narrow coastal zone of islands and sea-facing mainland called "the Labrador" by the cod fisherman. This strand and island zone is chilled by ice-floes and is nearly or quite treeless. Inside this seashore strip is the heavily forested interior Labrador, where a summer climate replaces the ice-chilled coastal climate and forests cover the valleys and much of the mountains.

Holme concisely summed up the great contrast between the interior and coastal climate in the statement that "A journey of 20 or 30 miles in summertime up the country from the sea is like passing from winter to summer."¹

Small berg fragments and ice-cakes were seen in Hamilton inlet, 18 miles west of Indian Harbour, on August 20, 1921, but the floe-ice had all disappeared before that date. No floe-ice was seen during the summer at or near Rigolet.

Around the western end of lake Melville, potatoes, rhubarb, and other hardy vegetables do well. Mr. Leroy Bowes found that potatoes had been killed by frost before September 10 at Mud Lake on lower Hamilton river. Midsummer frosts are reported to occur at Northwest River, about one year in four or five.

* * * *

In the summer of 1921 there was no snow on the mountains about lake Melville during July and August, except very small patches at elevations above 2,000 feet. On the outer islands near Indian Harbour a few small patches of snow still persisted near sea-level as late as the last week in August. It is reported that some snow is seen in midsummer during exceptional seasons at Rigolet.

* * * *

PLANT GEOGRAPHY.

Contrasts between the Coastal and Interior Floras. The most conspicuous feature in the plant geography of the region is the sharp contrast between the flora of the interior and the flora of the seashore. The general absence of forest trees from

the flora of the seacoast and their abundance in the interior, cannot escape the notice of even the most superficial observer. Randle F. Holme has stated clearly the impression which this contrast makes on the visitor.² “ The Arctic current, with its icebergs and icy waters, freezes the coast, but has no effect on the inland. At a distance of not more than

¹“ A Journey in the Interior of Labrador, July to October, 1887,” Roy. Geog. Soc., vol. X, p. 189, 1888.

²Proc. Roy. Geog. Soc., vol. X, p. 189, 1888.

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12 miles from the coast there commences a luxuriant forest- growth, which clothes the whole of the country, with the exception of a few spots, chiefly towards the north, called 'barrens.' These barrens are what we should call moors, and are the homes of vast herds of caribou. The climate a few miles inland is totally different from that on the coast.” The nature of these contrasts is suggested by Plates IV and V.

A great number of plants other than trees which are abundant inland are absent from the seashore flora. The relative poverty of the seacoast flora, as represented by the island flora near Indian Harbour, is clearly illustrated in the following list of the plants of the region in which the species found respectively in the Interior and Island floras are checked in parallel columns.

Provisional List of Plants Found in Lake Melville and Hamilton Inlet District.¹

	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>Thelypteris Phegopteris</i> (L.) Slosson	x	
<i>T. Dryopteris</i> (L.) Slosson	x	
<i>T. spinulosa</i> (O. F. Muell.) Nieuwl.	x	
<i>Athyrium angustum</i> (Willd.) Presl.	x	
<i>Osmunda Claytoniana</i> L.	x	
<i>Equisetum sylvaticum</i> L., var. <i>pauciramosum</i> Mille	x	
<i>E. palustre</i> L.	x	
<i>Lycopodium annotinum</i> L.	x	
<i>L. annotinum</i> L., var. <i>acrifolium</i> Fernald	x	
<i>L. annotinum</i> L., var. <i>puugens</i> (La Pylsie) Desv	x	
<i>L. alpinum</i> L.	x	
<i>L. obscurum</i> L.	x	
<i>L. complanatum</i> L.	x	
<i>Abies balsamea</i> (L.) Mill	x	
<i>Juniperus communis</i> L., var. <i>montana</i> Ait	x	
<i>Sparanium angustifolium</i> Michx	x	
<i>Potamogeton heterophyllus</i> Schreb., var. <i>graminifolius</i> (Fries) Morong	x	
<i>Triglochin maritima</i> L.	x	
<i>Hierochloa alpina</i> (Sw.) R. and S.	x	
<i>Phleum pratense</i> L.	x	
<i>P. alpinum</i> L.	x	x
<i>Agrostis hyemalis</i> (Walt.) BSP.	x	

¹Nomenclature and numbers are as found in Gray's “ New Manual of Botany,” seventh edition by Robinson and Fernald ; names not in this manual are those validated in recent revisions, chiefly by Prof. Fernald.

The plants in this list were collected by R. H. Wetmore. Determinations were made by R. H. Wetmore under directions of Prof. M. L. Fernald of Harvard University.

See also checklist of plants of the region, by R. H. Wetmore “Plants of the Hamilton Inlet and Lake Melville Region, Labrador,” *Rhodora*, vol. 25, Jan. 1923, pp. 4-12.

Provisional List of Plants Found in Lake Melville and
Hamilton Inlet District—Continued

	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>A. alba</i> L., var. <i>vulgaris</i> (With.) Thurb.	x	
<i>Calamagrostis canadensis</i> (Michx.) Beauv., var. <i>Langsdorfi</i> (Link) Inman	x	
<i>C. neglecta</i> (Ehrh.) Gaertner, Meyer, and Scherbius	x	
<i>Cinna latifolia</i> (Trev.) Griseb.	x	
<i>Deschampsia flexuosa</i> (L.) Trin., var. <i>montana</i> (L.) Parl.	x	
<i>Poa emmonsii</i> J. S. Presl.	x	
<i>P. pratensis</i> L.	x	
<i>Glyceria nervata</i> (Willd.) Trin., var. <i>stricta</i> Scribn.	x	
<i>G. borealis</i> (Nash) Batchelder	x	
<i>Festuca rubra</i> L.	x	
<i>Hordeum jubatum</i> L.	x	
<i>Elymus arenarius</i> L., var. <i>villosus</i> E. Meyer	x	x
<i>Eleocharis palustris</i> (L.) R. and S.	x	
<i>E. acicularis</i> (L.) R. and S.	x	
<i>Scirpus caespitosus</i> L. var. <i>callosus</i> Bigel	x	
<i>S. rubrotinctus</i> Fernald	x	
<i>S. atrocinctus</i> Fernald, var. <i>brachypodus</i> Fernald	x	
<i>Eriophorum Chamissonis</i> C. A. Meyer	x	
<i>E. callitrix</i> Cham	x	x
<i>E. gracile</i> Roth	x	
<i>E. angustifolium</i> Roth	x	x
<i>E. Scheuchzeri</i> Hoppe		x
<i>Carex protracta</i> Mackenzie (<i>Carex tribuloides</i> Wahlenb. var. <i>reducta</i> Bailey)	x	
<i>C. echinata</i> Murr. var. <i>angustata</i> (Carey) Bailey	x	
<i>C. canescens</i> L.	x	
<i>C. brunneocens</i> Poir	x	
<i>C. Macloviana</i> D'Urv	x	
<i>C. glareosa</i> Wahlenb. var. <i>ampigosa</i> Fernald	x	
<i>C. stipata</i> Muhl	x	
<i>C. maritima</i> O. F. Mueller	x	
<i>C. solida</i> Wahlenb. var. <i>antegutensis</i> (Fries) Almq.	x	
<i>C. lenticularis</i> Michx.	x	
<i>C. rigida</i> Good	x	
<i>C. rariflora</i> Smith	x	
<i>C. missilis</i> Michx.	x	
<i>C. vesicaria</i> L.	x	
<i>C. rostrata</i> Stokes	x	
<i>Juncus trifidus</i> , L.		x
<i>J. balticus</i> Willd., var. <i>littoralis</i> Engelm	x	
<i>J. filiformis</i> L.	x	
<i>J. alpinus</i> Vill., var. <i>insignis</i> Fries	x	
<i>Luzula spicata</i> (L.) DC.		x
<i>Clintonia borealis</i> (Ait.) Raf.	x	
<i>Smilacina trifolia</i> (L.) Desf.	x	

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*Provisional List of Plants Found in Lake Melville and Hamilton Inlet District.*¹

—	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>Thelypteris Phegopteris</i> (L.) Slosson	x	
<i>T. Dryopteris</i> (L.) Slosson	x	
<i>T. spinulosa</i> (O.F. Muell.) Nieuwl.	x	
<i>Athyrium angustum</i> (Willd.) Presl.	x	
<i>Osmunda Claytoniana</i> L	x	
<i>Equisetum sylvaticum</i> L., var. <i>pauciramosum</i> Milde	x	
<i>E. palustre</i> L.	x	
<i>Lycopodium annotinum</i> L	x	
<i>L. annotinum</i> L., var. <i>acrifolium</i> Fernald	x	
<i>L. annotinum</i> L., var. <i>pungens</i> (La Pylaie) Desv	x	
<i>L. alpinum</i> L	x	
<i>L. obscurum</i> L	x	
<i>L. complanatum</i> L	x	
<i>Abies balsamea</i> (L.) Mill	x	
<i>Juniperus communis</i> L., var. <i>montana</i> Ait	x	
<i>Sparganium angustifolium</i> Michx	x	
<i>Potamogeton heterophyllus</i> Schreb., var. <i>graminifolius</i> (Fries) Morong	x	
<i>Triglochin maritima</i> L.	x	
<i>Hierochloë alpina</i> (Sw.) R. and S.	x	
<i>Phleum pratense</i> L.	x	
<i>P. alpinum</i> L.	. . . .	x
<i>Agrostis hyemalis</i> (Walt.) BSP.	x	

¹ Nomenclature and numbers are as found in Gray's "New Manual of Botany," seventh edition, by Robinson and Fernald; names not in this manual are those validated in recent revisions, chiefly by Prof. Fernald.

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*Provisional List of Plants Found in Lake Melville and Hamilton Inlet
District—Continued*

—	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>A. alba</i> L., var. <i>vulgaris</i> (With.) Thurb.	x	
<i>Calamagrostis canadensis</i> (Michx.) Beauv., var. <i>Langsdorfii</i> (Link) Inman	x	
<i>C. neglecta</i> (Ehrh) Gaertner, Meyer, and Scherbius	x	
<i>Cinna lotifolia</i> (Trev.) Griseb.	x	
<i>Deschampsia flexuosa</i> (L.) Trin., var. <i>montana</i> (L.) Parl.	x	
<i>Poa eminens</i> J.S. Presl.	x	
<i>P. pratensis</i> L.	x	
<i>Glyceria nervata</i> (Willd.) Trin., var. <i>stricta</i> Scribn.	x	
<i>G. borealis</i> (Nash) Batchelder	x	
<i>Festuca rubra</i> L.	x	
<i>Hordeum jubatum</i> L.	x	
<i>Elymus arenarius</i> L. var. <i>villosus</i> E. Meyer	x	x
<i>Eleocharis palustris</i> (L.) R. and S.	x	
<i>E. acicularis</i> R. and S.	x	
<i>Scirpus caespitosus</i> L. var. <i>callosus</i> Bigel	x	
<i>S. rubrotinctus</i> Fernald	x	
<i>S. atrocinctus</i> Fernald, var. <i>brachypodus</i> Fernald	x	
<i>Eriophorum Chamissonis</i> C.A. Meyer	. . . .	x
<i>E. callitrix</i> Cham	x	x
<i>E. gracile</i> Roth	x	
<i>E. angustifolium</i> Roth	x	x
<i>E. Scheuchzeri</i> Hoppe	. . . .	x

<i>Carex projecta</i> Mackenzie (<i>Carex tribuloides</i> Wahlenb. var. <i>reducta</i> Bailey)	X	
<i>C. echinata</i> Murr. var. <i>angustata</i> (Carey) Bailey	X	
<i>C. canescens</i> L.	X	
<i>C. brunnescens</i> Poir	X	
<i>C. Macloviana</i> D'Urv	X	
<i>C. glareosa</i> Wahlenb, var. <i>amphigena</i> Fernald	X	
<i>C. stipata</i> Muhl.	X	
<i>C. maritima</i> O. F. Mueller	X	
<i>C. salina</i> Wahlenb, var. <i>kattogatensis</i> (Fries) Almq.	X	
<i>C. lenticularis</i> Michx.	X	
<i>C. rigida</i> Good	X	
<i>C. rariflora</i> Smith	X	
<i>C. miliaris</i> Michx.	X	
<i>C. vesicaria</i> L.	X	
<i>C. rostrata</i> Stokes	X	
<i>Juncus trifidus</i> , L.	. . . .	X
<i>J. balticus</i> Willd., var., <i>littoralis</i> Engelm	X	
<i>J. filiformis</i> L.	X	
<i>J. alpinus</i> Vill., var. <i>insignis</i> Fries	X	
<i>Luzula spicata</i> (L.) DC.	X
<i>Clintonia borealis</i> (Ait.) Raf.	X	
<i>Smilacina trifolia</i> (L.) Desf.	X	

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Provisional List of Plants Found in lake Melville and Hamilton
Inlet District—Continued.

	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>Maianthemum canadense</i> Desf.	x	
<i>Streptopus amplexifolius</i> (L.) DC.	x	
<i>Iris setosa</i> Pall., var., <i>canadensis</i> Foster	x	x
<i>Sisyrinchium angustifolium</i> Mill	x	
<i>Habenaria hyperborea</i> (L.) R. Br.	x	
<i>H. dilatata</i> (Pursh) Gray . . . . .	.. ..	x
<i>Spiranthes Romanzoffiana</i> Cham.	x	
<i>Goodyera repens</i> (L.) R. Br., var., <i>ophioides</i> (Fernald)	x	
<i>Listera cordata</i> (L.) R.B.	x	
<i>Salix lucida</i> , Muhl.	x	
<i>S. lucida</i> Muhl., var. <i>intonsa</i> Fernald	x	
<i>S. planifolia</i> Pursh.	x	
<i>S. angiorum</i> Cham. . . . .	.. ..	x
<i>Populus tremuloides</i> Michx.	x	
<i>Myrica Gale</i> L.	x	
<i>Betula glandulosa</i> Michx.	x	x
<i>B. microphylla</i> Bunge	x	
<i>Alnus crispa</i> (Ait.) Pursh	x	
<i>Comandra livida</i> Richards	x	
<i>Rumex occidentalis</i> Wats.	x	
<i>R. acetosella</i> L.	x	
<i>Polygonum aviculare</i> L.	x	
<i>P. viviparum</i> L.	x	x
<i>Chenopodium album</i> L.	x	
<i>Arenaria lateriflora</i> L.	x	
<i>A. peploides</i> L.	x	
<i>A. groenlandica</i> (Retz.) Spreng.	x	
<i>Stellaria borealis</i> Bigel.	x	
<i>S. crassifolia</i> Ehrh.	x	
<i>S. humifusa</i> Rottb.	x	
<i>S. longipes</i> Goldie, var. <i>laeta</i> (Richards.) Wats. . . . .	.. ..	x
<i>S. media</i> (L.) Cyrill.	x	
<i>Cerastium arvense</i> L. . . . .	.. ..	x
<i>C. alpinum</i> L., var. <i>lanatum</i> Hegetschw. . . . .	.. ..	x
<i>Silene acaulis</i> L., var. <i>exscapa</i> (All.) DC. . . . .	.. ..	x
<i>Ranunculus reptans</i> L.	x	
<i>R. pennsylvanicus</i> L. f.	x	
<i>R. acris</i> L.	x	
<i>R. hyperboreus</i> Rottb. . . . .	.. ..	x
<i>R. lapponicus</i> L.	x	
<i>Thalictrum polypnagum</i> Muhl.	x	
<i>Coptis trifolia</i> (L.) Salisb.	x	
<i>Actaea rubra</i> (Ait.) Willd.	x	
<i>Draba incana</i> L.	x	
<i>Thlaspi arvense</i> L.	x	

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Provisional List of Plants Found in lake Melville and Hamilton
Inlet District—Continued.

	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>Capsella bursa-pastoris</i> (L.) Moench.	x	
<i>Cochlearia</i> sp. (undetermined)	.. ..	x
<i>C. sp.</i> (undetermined)	.. ..	x
<i>C. sp.</i> (undetermined)	.. ..	x
<i>Sarracenia purpurea</i> L.	x	
<i>Sedum roseum</i> (L.) Scop.	.. ..	x
<i>Parnassia palustris</i> L.	x	x
<i>Ribes prostratum</i> L'Her.	.. ..	x
<i>Pyrus durossus</i> (Greene) Fernald	x	
<i>Amelanchier Bartramiana</i> (Tausch.) Roem.	x	
<i>Potentilla montpeliciensis</i> L.	x	x
<i>P. palustris</i> (L.) Scop.	x	
<i>P. tridentata</i> Ait.	x	x
<i>P. pacifica</i> Howell	x	x
<i>Geum macrophyllum</i> Willd.	x	
<i>Rubus idaeus</i> L.	x	
<i>S. Chamaemorus</i> L.	x	x
<i>R. triflorus</i> Richards	x	
<i>Rangisorbis canadensis</i> L.	x	
<i>Prunus pennsylvanica</i> L.f.	x	
<i>Dryas integrifolia</i> Vahl.	.. ..	x
<i>Trifolium pratense</i> L.	x	
<i>T. repens</i> L.	x	
<i>T. agrarium</i> L.	x	
<i>Astragalus alpinus</i> L.	.. ..	x
<i>Oxytropis campestris</i> DC. var. <i>caerulea</i> Koch.	.. ..	x
<i>Vicia Cracca</i> L.	x	
<i>Lathyrus maritimus</i> (L.) Bigel	x	x
<i>Geranium pratense</i> L.	x	
<i>Callitriche palustris</i> L.	x	
<i>Empetrum nigrum</i> L.	x	x
<i>Viola labradorica</i> Schrank.	x	x
<i>Epilobium angustifolium</i> L.	x	x
<i>E. latifolium</i> L.	x	
<i>E. palustre</i> L.	x	
<i>E. palustre</i> L., var. <i>longirameum</i> Fernald and Wiegand	x	
<i>E. plandulosum</i> Lehm., var. <i>adenocaulon</i> (Haussk.) Fernald	x	
<i>Hippuris vulgaris</i> L., var. <i>maritima</i> (Hellen.) Wahlenb	x	
<i>Coriopleurum lucidum</i> (L.) Fernald	x	x
<i>Angelica atropurpurea</i> L.	x	x
<i>Cornus canadensis</i> L.	x	
<i>C. suecica</i> L.	x	x
<i>C. stolonifera</i> Michx.	x	
<i>Pyrola minor</i> L.	x	
<i>P. secunda</i> L., var. <i>obtusata</i> Turcz.	x	

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	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>P. chlorantha</i> Sw.	x	
<i>Moneses uniflora</i> (L.) Gray	x	
<i>Ledum groenlandicum</i> Oeder . . . . .	.. ..	x
<i>L. palustre</i> L.	x	x
<i>Kalmia angustifolia</i> L.	x	
<i>K. polifolia</i> Wang.	x	x
<i>Phyllocladus caerulea</i> (L.) Bab.	x	
<i>Chamaedaphne calyculata</i> (L.) Moench.	x	
<i>Arctostaphylos alpina</i> (L.) Spreng.	x	
<i>Chiogenes hispidula</i> (L.) T. and G.	x	
<i>Vaccinium pennsylvanicum</i> Lam. var. <i>myrtilloides</i> (Michx.) Fernald	x	
<i>V. pennsylvanicum</i> Lam., var. <i>angustifolium</i> (Ait.) Gray	x	
<i>V. uliginosum</i> L.	x	
<i>V. Vitis-Idaea</i> L., var. <i>minus</i> Lodd.	x	x
<i>V. Ozycoceus</i> L.	x	
<i>Diapensia lapponica</i> L.	x	
<i>Statice labradorica</i> Hubbard and Blake . . . . .	.. ..	x
<i>Primula farinosa</i> L. . . . .	.. ..	x
<i>P. farinosa</i> L., var. <i>macropoda</i> Fernald	x	
<i>Trientalis borealis</i> Raf.	x	x
<i>Gentiana Amarella</i> L.	x	
<i>Mertensia maritima</i> (L.) S. F. Gray	x	x
<i>Galeopsis tetrahit</i> L.	x	
<i>Mentha arvensis</i> L., var. <i>glabrata</i> Fernald	x	
<i>Veronica scutellata</i> L.	x	
<i>Castilleja pallida</i> (L.) Spreng., var. <i>septentrionalis</i> (Lindl.) Gray	x	
<i>Euphrasia atetica</i> Lange . . . . .	.. ..	x
<i>Pedicularis flammula</i> L. . . . .	.. ..	x
<i>P. groenlandica</i> Retz.	x	
<i>P. euphrasioides</i> Stephen.	x	
<i>Rhinanthus Crista-galli</i> L.	x	
<i>Pinguicula vulgaris</i> L. . . . .	.. ..	x
<i>P. villosa</i> L. . . . .	.. ..	x
<i>Plantago decipiens</i> Barneoud	x	
<i>Galium trifidum</i> L.	x	
<i>G. labradoricum</i> Wiegand	x	
<i>G. triflorum</i> Michx.	x	
<i>Linnaea borealis</i> L., var. <i>americana</i> (Forbes) Rehder	x	
<i>Viburnum pauciflorum</i> Raf.	x	
<i>Solidago lepida</i> DC.	x	
<i>S. macrophylla</i> Pursh.	x	
<i>S. macrophylla</i> Pursh., var. <i>thyrsoides</i> (E. Meyer) Fernald	x	
<i>Aster foliaceus</i> Lindl.	x	
<i>Erigeron acer</i> L., var. <i>asteroides</i> DC.	x	
<i>Aphanalis margaritacea</i> (L.) B. and H., var. <i>occidentalis</i> Greene	x	

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*Provisional List of Plants Found in Lake Melville and
Hamilton Inlet District—Continued*

	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>Achillea Millefolium</i> L., var. <i>nigrescens</i> E. Meyer	x	
<i>Chrysanthemum Leucanthemum</i> L., var. <i>pinnatifidum</i> Lecoq. and Lamotte	x	x
<i>Artemisia canadensis</i> Michx.	x	
<i>Petasites palmatus</i> (Ait.) Gray	x	
<i>Senecio palustris</i> (L.) Hook . . . . .	.. ..	x
<i>S. pseudo-arnica</i> Less.	x	
<i>Cirsium muticum</i> Michx.	x	
<i>Leontodon autumnalis</i> L.	x	
<i>Taraxacum ceratophorum</i> DC.	x
<i>T. officinale</i> Weber	x	
<i>Lactuca spicata</i> (Lam.) Hitchc.	x	

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Water-loving Plants.

It is well known that certain plants, such as spanish moss, bougainvillea, the orange, or the palm are dependable exponents of the climatic conditions where they are found. It is perhaps not so well known that certain plants afford equally infallible evidence regarding the salinity of the waters in or

near which they grow. Everyone knows that cat-tails flourish only in fresh water, and anyone familiar with the tropical seashore is aware that the mangrove tree can grow only where its roots reach sea-water. A host of plants show a love for, or antipathy to, a salt water habitat quite comparable with that exhibited by the mangrove of the tropics.

It is proposed in this section to consider the Hamilton Inlet and Lake Melville plants from this point of view of indices of the salinity of the water of the region. Harold St. John, describing the plants of the north shore of the gulf of St. Lawrence, states that “ within reach of the influence of salt water, whether the shore be marshy, sandy, or rocky, is a characteristic assemblage of plants commonly known as halophytes because they grow where salt water is the governing factor. On a stretch of coast of this length a certain number of these plants are as certain to be present throughout its extent as is salt water itself.”¹ St. John recognizes on the coast studied by him 66 true halophytes.

A complete list of the known shore-plants of this region, which includes.>

¹“ A Botanical exploration of the North Shore of the Gulf of St. Lawrence Including an Annotated List of the Species of Vascular Plants,” Geol. surv., Can., Mem. 126, 1922, p. 11.

the halophytes, follows. The list includes only those plants of Lake Melville and Hamilton Inlet region which are believed to be adjusted to a coastwise, lakeshore, or river habitat.

The list, it will be noted, includes a few species like *Juncus balticus* Wind. var. *littoralis* Engelm and *Poa eminens* L., which seem to be equally well adapted to fresh or saline water habitats. Others are confined strictly to a freshwater habitat. Several species are associated with slightly brackish water conditions.

But the species of chief interest in this connexion are those confined to parts of the shoreline where the water is strongly saline or typical sea-water. The species adjusted to this kind of habitat include such plants as *Iris setiosa* var. *canadensis*, *Polygonum viviparum* L., and *Ranunculus lapponicus*. These species do not extend west of The Narrows. The list includes seven such species which do not appear to extend their range west of the head of The Narrows. The inability of these salt-loving plants to extend their range west of the head of the Narrows affords very clear botanical evidence of the change that takes place in the salinity of the water west of The Narrows.

There is, probably, no better criterion for recognizing the points on the shore where the marine waters merge into the brackish waters of lake Melville than the distribution of the marine alga, *Fucus cf. evanescens*. This plant, which covers much of the surface of the inter-tidal zone about Rigolet and eastward, as well as the large kelp, disappears from the shore west of The Narrows.

The following list includes only those plants found growing on or near the shores of Hamilton inlet or its islands and The Narrows connecting lake Melville with this inlet, together with those found on the margins of the lake itself or its tributaries. The indication marks are used as follows : litt. for littoral or marine shore plants ; fr. for plants growing on the banks of freshwater bodies ; and br. for those of brackish bodies of water, as lake Melville, The Backway, or Double Mer. Combinations of these will be self-explanatory, meaning that the plant is found in both areas mentioned.

*List of Plants with a Salt, Freshwater, or Brackish Habitat.*¹

Plant	Habitat	Remarks
<i>Spartanion angustifolium</i> Michx. ..	fr.	In and around stagnant pools. (Only found in small lake back of houses at the mouth of Mulligan river)
<i>Potamogeton heterophyllus</i> Schreb. var. <i>graminifolius</i> (Fries.) Morong.	fr.	In running fresh water. (Naskaupi river, above mouth of Red river)
<i>Triglochin maritima</i> L.	br.	Only found in weak, brackish waters, e.g. shallow tidal rivers, near the headwaters of the salt water. (Tidal stream at Caravalla bay. Only in salt water at high tide)

¹This list has been prepared by R. H. Wetmore, the author's assistant.

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*Provisional List of Plants Found in Lake Melville and Hamilton Inlet
District—Continued*

—	Interior or mainland flora Lake Melville basin and Double Mer	Island flora Indian Harbour
<i>Maianthemum canadense</i> Desf.	x	
<i>Streptopus amplexifolius</i> (L.) DC.	x	
<i>Iris setosa</i> Pall., var. <i>canadensis</i> Foster	x	x
<i>Sisyrinchium angustifolium</i> Mill	x	
<i>Habenaria hyperborea</i> (L.) R. Br.	x	
<i>H. dilatata</i> (Pursh) Gray	. . . .	x
<i>Spiranthes Romanzoffiana</i> Cham.	x	
<i>Goodyera repens</i> (L.) R. Br., var., <i>ophioides</i> (Fernald)	x	
<i>Listera cordata</i> (L.) R.B.	x	
<i>Salix lucida</i> , Muhl	x	
<i>S. lucida</i> Muhl., var. <i>intonsa</i> Fernald	x	
<i>S. planifolia</i> Pursh.	x	
<i>S. anglorum</i> Cham.	. . . .	x
<i>Populus tremuloides</i> Michx.	x	
<i>Myrica Gale</i> L.	x	
<i>Betula glandulosa</i> Michx.	x	x
<i>B. microphylla</i> Bunge	x	
<i>Alnus crispa</i> (Ait.) Pursh	x	
<i>Comandra livida</i> Richards	x	
<i>Rumes occidentalis</i> Wats.	x	
<i>R. acetosella</i> L.	x	
<i>Polygonum aviculare</i> L.	x	
<i>P. viviparum</i> L.	x	x
<i>Chenopodium album</i> L.	x	

<i>Arenaria lateriflora</i> L.	X	
<i>A. peploides</i> L.	X	
<i>A. groenlandica</i> (Retz.) Spreng.	X	
<i>Stellaria borealis</i> Bigel	X	
<i>S. crassifolia</i> Ehrh	X	
<i>S. humifusa</i> Rottb	X	
<i>S. longipes</i> Goldie, var. <i>laeta</i> (Richards.) Wats.	....	X
<i>S. media</i> (L.) Cyrill.	X	
<i>Cerastium arvense</i> L.	....	X
<i>C. alpinum</i> L., var. <i>lanatum</i> Hegetschw.	....	X
<i>Silene acaulis</i> L., var. <i>exscapa</i> (All.) DC.	....	X
<i>Ranunclulus reptans</i> L.	X	
<i>R. pennsylvanicus</i> L. f.	X	
<i>R. acris</i> L.	X	
<i>R. hyperboreus</i> Rottb.	....	X
<i>R. lapponicus</i> L.	X	
<i>Thalictrum polygamum</i> Muhl.	X	
<i>Coptis trifolia</i> (L.) Salisb.	X	
<i>Actaea rubra</i> (Ait.) Willd.	X	
<i>Draba incana</i> L.	X	
<i>Thlaspi arvense</i> L.	X	

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*Provisional List of Plants Found in Lake Melville and Hamilton Inlet
District—Continued*

—	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>Capsella bursa-pastoris</i> (L.) Moench.	x	
<i>Cochlearia</i> sp. (undetermined)	. . . .	x
<i>C.</i> sp. (undetermined)	. . . .	x
<i>C.</i> sp. (undetermined)	. . . .	x
<i>Sarracenia purpurea</i> L.	x	
<i>Sedum roseum</i> (L.) Scop.	. . . .	x
<i>Parnassia palustris</i> L.	x	
<i>Ribes prostratum</i> L'Her.	. . . .	x
<i>Pyrus dumosus</i> (Greene) Fernald	x	
<i>Amelanchier Bartramiana</i> (Tausch.) Roem	x	
<i>Potentilla monspeliensis</i> L.	x	x
<i>P. palustris</i> (L.) Scop.	x	
<i>P. tridentata</i> Ait.	x	x
<i>P. pacifica</i> Howell	x	x
<i>Geum macrophyllum</i> Willd	x	
<i>Rubus idaeus</i> L.	x	
<i>S. Chamaemorus</i> L.	x	x
<i>R. triflorus</i> Richards	x	
<i>Ranguisorba canadensis</i> L.	x	
<i>Prunus pennsylvanica</i> L.f.	x	
<i>Dryas integrifolia</i> Vahl.	. . . .	x
<i>Trifolium pratense</i> L.	x	
<i>T. repens</i> L.	x	
<i>T. agrarium</i> L.	x	
<i>Astragalus alpinus</i> L.	. . . .	x

<i>Oxytropis campestris</i> DC. var. <i>caerulea</i> Koch.	. . . .	X
<i>Vicia Cracca</i> L.	X	
<i>Lathyrus maritimus</i> (L.) Bigel	X	
<i>Geranium pratense</i> L.	X	
<i>Callistriche palustris</i> L.	X	
<i>Empetrum nigrum</i> L.	X	X
<i>Viola labradorica</i> Schrank	X	X
<i>Epilobium angustifolium</i> L.	X	X
<i>E. latifolium</i> L.	X	
<i>E. palustre</i> L.	X	
<i>E. palustre</i> L., var. <i>longirameum</i> Fernald and Wiegand	X	
<i>E. plandulosum</i> Lehm., var. <i>adenocaulon</i> Haussk.) Fernald	X	
<i>Hippuris vulgaris</i> L., var. <i>maritima</i> (Hellen.) Wahlenb	X	
<i>Coelopleurum lucidum</i> (L.) Fernald	X	X
<i>Angelica atropurpurea</i> L.	X	X
<i>Cornus canadensis</i> L.	X	
<i>C. suecica</i> L.	X	X
<i>C. stolonifera</i> Michx.	X	
<i>Pyrola minor</i> L.	X	
<i>P. secunda</i> L., var. <i>obtusata</i> Turcz.	X	

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*Provisional List of Plants Found in Lake Melville and Hamilton Inlet
District—Continued*

—	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>P. chlorantha</i> Sw.	x	
<i>Moneses uniflora</i> (L.) Gray	x	
<i>Ledum groenlandicum</i> Oeder	. . . .	x
<i>L. palustre</i> L.	x	x
<i>Kalmia angustifolia</i> L.	x	
<i>K. polifolia</i> Wang.	x	x
<i>Phyllodoce caerulea</i> (L.) Bab.	x	
<i>Chamaedaphne calyculata</i> (L.) Moench.	x	
<i>Arctostaphylos alpina</i> (L.) Spreng.	x	
<i>Chiogenes hispidula</i> (L.) T. and G.	x	
<i>Vaccinium pennsylvanicum</i> Lam., var. <i>myrtilloides</i> (Michx.) Fernald	x	
<i>V. pennsylvanicum</i> Lam., var. <i>angustifolium</i> (Ait.) Gray	x	
<i>V. uliginosum</i> L.	x	
<i>V. Vitis-Idaea</i> L., var. <i>minus</i> Lodd.	x	x
<i>V. Oxycoccus</i> L.	x	
<i>Diapensia lapponica</i> L.	x	
<i>Statice labradorica</i> Hubbard and Blake	. . . .	x
<i>Primula farinosa</i> L.	. . . .	x
<i>P. farinosa</i> L., var. <i>macropoda</i> Fernald	x	
<i>Trientalis borealis</i> Raf.	x	x
<i>Gentiana Amarella</i> L.	x	
<i>Mertensia maritima</i> (L.) S.F. Gray	x	x
<i>Galeopsis tetrahit</i> L.	x	

<i>Mentha arvensis</i> L., var <i>glabrata</i> Fernald	X	
<i>Veronica scutellata</i> L.	X	
<i>Castilleja pallida</i> (L.) Spreng., var. <i>septentrionalis</i> (Lindl.) Gray	X	
<i>Euphrasia arctica</i> Lange	. . . .	X
<i>Pedicularis flammae</i> L.	. . . .	X
<i>P. groenlandica</i> Retz.	X	
<i>P. euphrasioides</i> Stephen.	X	
<i>Rhinanthus Crista-galli</i> L.	X	
<i>Pinguicula vulgaris</i> L.	. . . .	X
<i>P. villosa</i> L.	. . . .	X
<i>Plantago decipiens</i> Barneoud	X	
<i>Galum trifidum</i> L.	X	
<i>G. labradoricum</i> Wiegand	X	
<i>G. triflorum</i> Michx.	X	
<i>Linnaea borealis</i> L., var. <i>americana</i> (Forbes) Rehder	X	
<i>Viburnum pauciflorum</i> Raf.	X	
<i>Solidago lepida</i> DC.	X	
<i>S. macrophylla</i> Pursh.	X	
<i>S. macrophylla</i> Pursh., var <i>thyrsoides</i> (E. Meyer) Fernald	X	
<i>Aster foliaceus</i> Lindl.	X	
<i>Erigeron acris</i> L., var. <i>asteroides</i> DC.	X	
<i>Aphanalis margaritacea</i> (L.) B. and H., var. <i>occidentalis</i> Greene	X	

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Provisional List of Plants Found in Lake Melville and Hamilton Inlet District—Continued

—	Interior or mainland flora	Island flora
	Lake Melville basin and Double Mer	Indian Harbour
<i>Achillea Millefolium</i> L., var. <i>nigrescens</i> E. Meyer	x	x
<i>Chrysanthemum Leucanthemum</i> L., var. <i>pinnatifidum</i> Leccoq. and Lamotte	x	
<i>Artemisia canadensis</i> Michx.	x	
<i>Petasites palmatus</i> (Ait.) Gray	x	
<i>Senecio palustris</i> (L.) Hook	. . . .	x
<i>S. pseudo-arnica</i> Less.	x	
<i>Cirsium muticum</i> Michx.	x	
<i>Leontodon autumnalis</i> L.	x	
<i>Taraxacum ceratophorum</i> DC.	x
<i>T. officinale</i> Weber	x	
<i>Lactuca spicata</i> (Lam.) Hitchc.	x	

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*List of Plants with a Salt, Freshwater, or Brackish Habitat.*¹

Plant	Habitat	Remarks
<i>Sparganium angustifolium</i> Michx.	fr.	In and around stagnant pools. (Only found in small lake back of houses at the mouth of Mulligan river)
<i>Potamogeton heterophyllus</i> Schreb. var. <i>graminifolius</i> (Fries.) Morong.	fr.	In running fresh water. (Naskaupi river, above mouth of Red river)
<i>Triglochina maritima</i> L.	br.	Only found in weak, brackish waters, <i>e.g.</i> shallow tidal rivers, near the headwaters of the salt water. (Tidal stream at Caravalla bay. Only in salt water at high tide)

¹ This list has been prepared by R. H. Wetmore, the author's assistant.

List of Plants with a Salt, Freshwater, or Brackish Habitat—
Continued.

Plant	Habitat	Remarks
<i>Hierochloa alpina</i> (Sw.) R. and S. ..	litt.	On high banks near the shores on the islands in Hamilton inlet. Not found inland at all. Indian Harbour and neighbouring islands
<i>Phleum alpinum</i> L.	litt.	Found only on rocky banks near the shore on the islands of Hamilton inlet, Indian Harbour, and neighbouring islands
<i>Calamagrostis neglecta</i> (Ehrh.) Gaertner, Meyer and Scherbius	fr.	On the banks of Naskaupi river and on the shores of The Narrows near Rigolet, and on many other places along lake Melville; grows almost ubiquitous along shores
<i>C. canadensis</i> (Michx.) Beauv., var. <i>Langsdorffii</i> (Link) Inman.	fr. and br.	Found only at inner end of lake Melville and on the banks of rivers flowing into it.
<i>Cinna latifolia</i> (Trev.) Griseb. ..	fr.	Not found except on rivers and on the shores of the brackish waters near their mouths; Muskrat falls; and small lake at Northwest River; common
<i>Deschampsia flexuosa</i> (L.) Trin. var. <i>montana</i> (L.) Parl.	fr.	Found near fresh or slightly brackish water, e.g. head of Double Mer and on shores of strongly brackish water along both sides of The Narrows around Rigolet
<i>Poa eminenis</i> J. S. Presl.	br. and fr.	Found both near strongly brackish and fresh water. The Narrows near Rigolet and small pond at mouth of Mulligan river
<i>Glyceria nervata</i> (Willd.) Trin., var. <i>stricta</i> Scribn.	fr.	Not seen near any trace of salt or brackish water. Head of Grand lake and on Naskaupi river
<i>G. borealis</i> (Nash) Batchelder ..	fr.	
<i>Festuca rubra</i> L.	br.	
<i>Hordeum jubatum</i> L.	fr.	Only on banks of Naskaupi river, near Grand lake
<i>Elymus arenarius</i> L., var. <i>vulgaris</i> B. Meyer	br. and litt.	Not found near head of lake Melville, but gets more and more plentiful as one gets nearer Hamilton inlet
<i>Eleocharis palustris</i> (L.) R. and S. ..	fr.	18 miles up Naskaupi river
<i>E. acicularis</i> (L.) R. and S.	fr.	
<i>Scirpus rubrotinctus</i> Fernald	fr.	
<i>S. atrocinctus</i> Fernald var. <i>brachypodus</i> Fernald	fr.	
<i>Carex projecta</i> Mackenzie (<i>Carex tribuloides</i> Wahlenb. var. <i>reducta</i> Bailey)	fr.	Head of Grand lake and along Naskaupi river Naskaupi river
<i>Carex canescens</i> L.	fr. and br.	On lake shore where water is brackish. Small lake at Northwest River
<i>C. brunnescens</i> Poir	br.	Where water is strongly brackish, as along The Narrows, and at portage at Muskrat falls
<i>C. stipata</i> Muhl.	fr.	Only on river bank, Naskaupi river
<i>C. glareosa</i> Wahlenb. var. <i>amphigena</i> Fernald	br.	Where water is strongly brackish. Rigolet shores
<i>C. maritima</i> O. F. Mueller	br.	Found wherever a salinity content is apparent in the water, even to the head of lake Melville
<i>C. salina</i> Wahlenb., var. <i>kattegatensis</i> (Fries.) Almq.	br. or fr.	Found on river banks and around the head of lake Melville, where water is only slightly brackish

[Larger HTML Version](#) (19 kb)*List of Plants with a Salt, Freshwater, or Brackish Habitat—*
Continued.

Plant	Habitat	Remarks
<i>C. lenticularis</i> Michx	br.	Only found where water was slightly brackish. Small lake at Northwest River
<i>C. rigida</i> Good	fr.	Banks of freshwater lake. Head of Grand lake
<i>C. variflora</i> Smith	br.	Banks of The Narrows near Rigolet, Labrador
<i>C. miliaris</i> Michx.	fr.	River banks, Naskaupi river
<i>C. vesicaria</i> L.	br.	Only seen on shores where water was slightly brackish. Small lake at Northwest River. Islands in Sebaskachu bay
<i>C. rostrata</i> Stokes	fr.	River banks, Naskaupi river
<i>Juncus balticus</i> Willd., var. <i>littoralis</i> Engelm	fr. and br.	Found on shores where water is entirely fresh and also strongly brackish. Head of Muskrat falls. Islands in Sebaskachu bay
<i>Juncus filiformis</i> L.	fr. and br.	Found where water was fresh as well as where slightly brackish; not seen around lake Melville except near head of lake. Naskaupi river and Grand river also
<i>J. alpinus</i> Will., var. <i>insignis</i> Fries. ..	fr.	Only along a river bank and head of lake. Naskaupi river and Grand lake
<i>Iris setosa</i> Pall., var. <i>canadensis</i> Foster	br. and fr.	Common where water is strongly saline. Not seen above The Narrows
<i>Salix lucida</i> Muhl.	fr.	On freshwater shores, Grand lake
<i>S. lucida</i> Muhl., var. <i>intonsa</i> Fernald	fr.	On sandy shore of freshwater lakes and rivers, Grand lake and Naskaupi river
<i>S. planifolia</i> Pursh.	br.	Seen along shores of brackish water, e.g. common along lake Melville, The Backway, etc.
<i>S. anglorum</i> Cham. .. .. .	..	Depressed on shores and heights above at Indian Harbour
<i>Myrica</i> Gale L.	fr.	On shores of ponds, rivers, etc., usually around stagnant water, slow-moving brooks, etc.
<i>Alnus crispa</i> (Ait.) Pursh.	fr.	On shores of rivers; common. Mulligan river, and lake near mouth; the only alder noticed
<i>Comandra lucida</i> Richards	br.	Very common along The Narrows, diminishing as the interior is reached along lake Melville. None seen above Mulligan bay
<i>Rumex occidentalis</i> Wats.	br.	On shores where water is variable in brackish content, as on shores of lake Melville, as well as on Naskaupi river; not seen below The Narrows
<i>Polygonum viviparum</i> L.	br. and litt.	Very plentiful wherever a strong saline content is in the water. Not found common west of The Narrows
<i>Arenaria lateriflora</i> L.	br.	At mouth of a tidal river, where water is only slightly brackish. Near mouth of stream at Caravalla bay
<i>A. peploides</i> L.	br.	Common on shores of strongly brackish water. Along shores at Rigolet
<i>Stellaria borealis</i> Bigel.	fr.	On river bank—Mulligan river, about 5 miles up
<i>S. crassifolia</i> Ehrh.	br.	On muddy shore near headwaters of tide in a shallow tidal river. At Caravalla bay, lake Melville
<i>S. humifusa</i> Rottb.	br.	Growing with <i>Stellaria crassifolia</i>

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List of Plants with a Salt, Freshwater, or Brackish Habitat—Continued.

Plant	Habitat	Remarks
<i>S. longipes</i> Goldie, var. <i>laeta</i> (Richards.) Wats.	br. and litt.	Found from Indian Harbour to head of The Narrows. Only an occasional plant in Lake Melville region
<i>Ranunculus reptans</i> L.	fr.	Growing on bottom of shallow pool, at head of Grand lake
<i>R. pennsylvanicus</i> L.f.	fr.	Common on banks of Naskaupi river
<i>R. hyperboreus</i> Rottb.	fr.	In shallow pool on Indian Harbour island, up back of hospital
<i>R. lapponicus</i> L.	br.	Common on the shores at The Narrows near Rigolet. Not seen elsewhere
<i>Draba tucana</i> L.	br.	On shores of The Narrows. Seen also at eastern end of lake Melville, but not beyond Long point, on the south shore
<i>Parnassia palustris</i> L.	litt. and br.	Common on south shore of lake Melville east of Epinette point. Found also at Indian Harbour
<i>Potentilla monspeliensis</i> L.	br. and litt.	Found at Indian Harbour, and also along shores of The Narrows as well as of lake Melville to its head. Not so common in the latter region
<i>P. palustris</i> (L.) Scop.	br.	Common along The Narrows and eastern end of lake Melville
<i>P. tridentata</i> Ait.	br.	Along The Narrows and eastern end of lake Melville
<i>P. pacifcos</i> Howell	litt. and br.	Very common around the inlet and on the shores of the islands, and westerly into the lake as far as Northwest River. Not seen west of this place
<i>Geum macrophyllum</i> Willd.	fr.	On Kenemich river only
<i>Lathyrus maritimus</i> (L.) Bigel.	litt. and br. also fr.	Probably the commonest plant on all salt and brackish shores. Not seen west of Northwest River, and not as plentiful here as farther east. A few seen on freshwater shores
<i>Callitriche palustris</i> L.	fr.	An albino of next above. Under water in Naskaupi river
<i>Epilobium latifolium</i> L.	fr.	On gravelly shores of rivers, Mulligan river
<i>Epilobium glandulosum</i> Lehm., var. <i>adenocaulon</i> (Hausk.) Fernald	fr.	On river banks. Naskaupi river
<i>Hippuris vulgaris</i> L., var. <i>maritima</i> (Hellen.) Wahlenb.	br.	In water of stream, Canavalla bay near head of tidal influence
<i>Coclopleurum lucidum</i> (L.) Fernald	br.	Common on all brackish shores. More plentiful around The Narrows than inland
<i>Angelica atropurpurea</i> L.	fr., br., and litt.	Found on river banks (Kenemich river), banks of lake Melville wherever travelled, and also on the shores of the islands of Hamilton inlet. Commoner farther from shores from last, on the alluvial soils
<i>Cornus canadensis</i> L.	br. and fr.	Common on rocky shores everywhere and particularly common within The Narrows and westward
<i>C. stolonifera</i> Michx.	fr.	Found common on river banks—Kenemich river, Naskaupi river, etc.

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List of Plants with a Salt, Freshwater, or Brackish Habitat—Continued.

Plant	Habitat	Remarks
<i>Primula farinosa</i> L., var. <i>macropoda</i> Fernald	fr.	Only seen on sandy beach at head of Grand lake
<i>Gentiana Amarilla</i> L.	br.	Common along the shores of Double Mer. Not seen elsewhere
<i>Mertensia maritima</i> (L.) S. F. Gray	br. and litt.	Found only on very brackish or coastal shores, viz., on shores of The Narrows in Double Mer and at Indian Harbour. Not seen elsewhere.
<i>Mentha arvensis</i> L., var. <i>glabrata</i> Fernald	fr.	Shores of Naskaupi river only
<i>Castilleja pallida</i> (L.) Spreng, var. <i>septentrionalis</i> (Lindl.) Gray	fr.	Only seen on sandy beach at head of Grand lake
<i>Galium trifidum</i> L.	br.	Only seen on brackish shore of small lake at Northwest River
<i>G. labradoricum</i> Wiegand	br.	Only seen on west shore of small lake at Northwest River
<i>Solidago lepida</i> DC.	fr.	Found only on Kenemich river
<i>Aster foliaceus</i> Lindl.	fr.	Only found on shores of freshwater lakes—Grand lake. Common on shores of The Narrows and lake Melville
<i>Achillea Millefolium</i> L., var. <i>nigrescens</i> E. Meyer	br. and fr.	Very common everywhere. Only one plant found on Naskaupi river
<i>Artemisia canadensis</i> Michx.	fr.	Found only on gravelly shores of Grand river
<i>Senecio Pseudo-Arnica</i> Less	br. and litt.	Common on Hamilton inlet and westward into lake Melville as far as Sebaskachu bay. None seen west of this

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FORESTS.

Barren Zone. The sub-Arctic climate, which the

southward-moving ice-fields bring as far south as the strait of Belle Isle, extends only a short distance inland from the coast. When crossing the eastern threshold of Labrador peninsula by way of lake Melville, it is found that there are two Labrador—"the Labrador" of the cod fisherman, chilled by the ice-floes and nearly or quite treeless, is the one best known. Farther inland where salmon and trout fishing take the place of cod fishing, a pleasant summer climate replaces the ice-chilled coastal climate, and forests cover both mountains and valleys.

Along the eastern coast of Labrador, bare, rocky slopes without timber form the background of the southward-moving procession of bergs and floe-ice which continues throughout most of July.

The bleak, time-eaten, rocky shores of the islands, and mainland to which the mirage often gives a variety of aspects are, with a few trifling exceptions, barren of trees from the western end of the strait of Belle Isle to the vicinity of Sandwich bay. A few islands in or near Sandwich bay have considerable patches of black spruce on shores which do not face the

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open sea. In general, however, forests are either absent on the sea-coast or confined to the sides of ravines or small valleys where the topography affords some protection to the timber, which is always dwarfed.

Even in the more protected areas near the seacoast, where the forests have become established, the trees are invariably small. The dwarfed character of some of the forests nearest the seacoast is very clearly indicated by the following quotation from Townsend which refers to the Cape Charles region in southeastern Labrador "Our passage through these rugged woods is slow and painful. The stiff and crooked branches of the trees interlock for self-protection. One great advantage in many of these regions is that when one is uncertain about the way, by standing on tiptoes one can generally overlook the forest."¹

Hamilton Inlet. Probably nowhere on the coast of Labrador can the transition from the barren outer islands to the forested interior be better seen than on Hamilton inlet. This bay has a length of about 40 miles in an east-west direction, and is dotted with numerous rocky islands. The eastern or outermost of these are clothed only with lichens, emerald green moss, and a variety of flowering plants. Trees are entirely absent, if we except a variety of arctic willow and a dwarfed birch, which grow prostrate upon the ground, their branches seldom rising more than 2 or 3 inches above the rock crevices that protect their roots.

At Indian Harbour the small islands are entirely destitute of forest. Fifteen miles to the westward the shores of the mainland and the islands begin to show patches of black spruce of a dwarfed type. These show at a distance on the hill-slopes as blotches of dark green on the light green of the moss-

covered surrounding areas. The stunted spruce becomes somewhat larger and the areas covered by it are more extensive as the head of the inlet is approached.

It is clear that floating ice is the main factor in keeping the outer shores deforested. Great fields of ice persist in the outer parts of the inlet until the latter part of July. The ice, however, is seldom, if ever, seen in mid-summer within many miles of Rigolet.

At the head of Hamilton inlet the trees, though small, make up dense forests that clothe a large part of the land surface.

Interior. The dwarfed spruce forests about the head of Hamilton inlet (Plate IV A), with trees 15 to 35 feet high, give way to forests with much larger trees in the area around lake Melville. At Rigolet, squared timbers used for hauling out vessels were observed which would be considered creditable representatives of any Canadian forest. One of these pieces measured : length, 59 feet butt dimensions, 1 foot 4 inches by 9 inches ; dimensions at small end, 9½ inches by 6½ inches. The log was cut near the head of the lake and is much larger than any seen near the seashore.

Black spruce (*Picea mariana*) is the dominant tree throughout the Lake

¹Townsend, C. M., "Along the Labrador Coast," 1907, p. 26.

List of Plants with a Salt, Freshwater, or Brackish Habitat—Continued

Plant	Habitat	Remarks
<i>Hierochloë alpina</i> (Sw.) R. and S.	litt.	On high banks near the shores on the islands in Hamilton inlet. Not found inland at all. Indian Harbour and neighbouring islands.
<i>Phleum alpinum</i> L.	litt.	Found only on rocky banks near the shore on the islands of Hamilton inlet, Indian Harbour, neighbouring islands.
<i>Calamagrostis neglecta</i> (Erhrh.) Gaertner, Meyer and Scherbius	fr.	On the banks of Naskaupi river and on the shores other of The Narrows near Rigolet, and on many places along lake Melville ; grows almost ubiquitous along shores.
<i>C. canadensis</i> (Michx.) Beauv., var. <i>Langsdorfii</i> (Link) Inman.	fr. and br.	Found only at inner end of lake Melville and on the banks of rivers flowing into it.
<i>Cinna latifolia</i> (Trev.) Griseb.	fr.	Not found except on rivers and on the shores of the brackish waters near their mouths ; Muskrat falls ; and small lake at Northwest River ; common.
<i>Deschampsia flexuosa</i> (L.) Trin. var. <i>montana</i> (L.) Parl.	fr.	Found near fresh or slightly brackish water, e.g. head of Double Mer and on shores of strongly brackish water along both sides of The Narrows around Rigolet.
<i>Poa eminens</i> J.S. Presl.	br. and fr.	Found both near strongly brackish and fresh water. The Narrows near Rigolet and small pond at mouth of Mulligan river.
<i>Glyceria nervata</i> (Willd.) Trin., var. <i>stricta</i> Scribn. <i>G. borealis</i> (Nash) Batchelder	fr. fr.	} Not seen near any trace of salt or brackish water. Head of Grand lake and on Naskaupi river.
<i>Festuca rubra</i> L.	br.	
<i>Hordeum jubatum</i> L.	fr.	Only on banks of Naskaupi river, near Grand lake.
<i>Elymus arenarius</i> L., var. <i>villosus</i> E. Meyer	br. and litt.	Not found near head of lake Melville, but gets more and more plentiful as one gets nearer Hamilton inlet.
<i>Eleocharis palustris</i> (L.) R. and S.	fr.	

<i>E. acicularis</i> (L.) R. and S.	fr.	18 miles up Naskaupi river. Head of Grand lake, only found on banks of rivers and freshwater lakes.
<i>Scirpus rubrotinctus</i> Fernald	fr.	
<i>S. atrocinctus</i> Fernald var. <i>brachypodus</i> Fernald	fr.	
<i>Carex projecta</i> Mackenzie (<i>Carex tribuloides</i> Wahlenb. var. <i>reducta</i> Bailey)	fr.	
<i>Carex canescens</i> L.	fr. and br.	On lake shore where water is brackish. Small lake at Northwest River.
<i>C. brunnescens</i> Poir	br.	Where water is strongly brackish, as along The Narrows, and at portage at Muskrat falls.
<i>C. stipata</i> Muhl.	fr.	Only on river bank, Naskaupi river.
<i>C. glareosa</i> Wahlenb. var. <i>amphigena</i> Fernald	br.	Where water is strongly brackish. Rigolet shores.
<i>C. maritima</i> O.F. Mueller	br.	Found wherever a salinity content is apparent in the water, even to the head of lake Melville.
<i>C. salina</i> Wahlenb., var. <i>kattogatensis</i> (Fries.) Almq.	br. or fr.	Found on river banks and around the head of lake Melville, where water is only slightly brackish.

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List of Plants with a Salt, Freshwater, or Brackish Habitat—Continued

Plant	Habitat	Remarks
<i>C. lenticularis</i> Michx.	br.	Only found where water was slightly brackish. Small lake at Northwest River.
<i>C. rigida</i> Good	fr.	Banks of freshwater lake. Head of Grand lake.
<i>C. rariflora</i> Smith	br.	Banks of The Narrows near Rigolet, Labrador.
<i>C. miliaris</i> Michx.	fr.	River banks, Naskaupi river.
<i>C. vesicaria</i> L.	br.	Only seen on shores where water was slightly brackish. Small lake at Northwest River. Islands in Sebaskachu bay.
<i>C. rostrata</i> Stokes	fr.	River banks, Naskaupi river.
<i>Juncus balticus</i> Willd., var. <i>littoralis</i> Engelm	fr. and br.	Found on shores where water is entirely fresh and also strongly brackish. Head of Muskrat falls. Islands in Sebaskachu bay.
<i>Juncus filiformis</i> L.	fr. and br.	Found where water was fresh as well as where slightly brackish ; not seen around lake Melville except near head of lake. Naskaupi river and Grand river also.
<i>J. alpinus</i> Willd., var. <i>insignis</i> Fries.	fr.	Only along a river bank and head of lake. Naskaupi river and Grand lake.
<i>Iris setosa</i> Pall., var. <i>canadensis</i> Foster	br. and fr.	Common where water is strongly saline. Not seen above The Narrows.
<i>Salix lucida</i> Muhl.	fr.	On freshwater shores, Grand lake.
<i>S. lucida</i> Muhl., var. <i>intonsa</i> Fernald	fr.	On sandy shores freshwater lakes and rivers, Grand lake and Naskaupi river.
<i>S. planifolia</i> Pursh.	br.	Seen along shores of brackish water, e.g. common along lake Melville, The Backway, etc.
<i>S. anglorum</i> Cham.	..	Depressed on shores and heights above at Indian Harbour.
<i>Myrica Gale</i> L.	fr.	On shores of ponds, rivers, etc., usually around stagnant water, slow-moving brooks, etc.

<i>Alnus crispa</i> (Ait.) Pursh.	fr.	On shores of rivers ; common. Mulligan river, and lake near mouth ; the only alder noticed.
<i>Comandra livida</i> Richards	br.	Very common along The Narrows, diminishing as the interior is reached along lake Melville. None seen above Mulligan bay.
<i>Rumex occidentalis</i> Wats.	br.	On shores where water is variable in brackish content, as on shores of lake Melville, as well as on Naskaupi river ; not seen below The Narrows.
<i>Polygonum viviparum</i> L.	br. and litt.	Very plentiful wherever a strong saline content is in the water. Not found common west of The Narrows.
<i>Arenaria lateriflora</i> L.	br.	At mouth of a tidal river, where water is only slightly brackish. Near mouth of stream at Caravalla bay.
<i>A. peploides</i> L.	br.	Common on shores of strongly brackish water. Along shores at Rigolet.
<i>Stellaria borealis</i> Bigel	fr.	On river bank - Mulligan river, about 5 miles up.
<i>S. crassifolia</i> Ehrh.	br.	On muddy shore near headwaters of tide in a shallow tidal river. At Caravalla bay, lake Melville.
<i>S. humifusa</i> Rottb.	br.	Growing with <i>Stellaria crassifolia</i>

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List of Plants with a Salt, Freshwater, or Brackish Habitat—Continued

Plant	Habitat	Remarks
<i>S. longpipes</i> Goldie, var. <i>laeta</i> (Richards.) Wats.	br. and litt.	Found from Indian Harbour to head of The Narrows. Only an occasional plant in Lake Melville region.
<i>Ranunculus reptans</i> L.	fr.	Growing on bottom of shallow pool, at head of Grand lake.
<i>R. pennsylvanicus</i> L.f.	fr.	Common on banks of Naskaupi river.
<i>R. hyperboreus</i> Rottb.	fr.	In shallow pool on Indian Harbour island, up back of hospital.
<i>R. lapponicus</i> L.	br.	Common on the shores at The Narrows near Rigolet. Not seen elsewhere.
<i>Draba incana</i> L.	br.	On shores of The Narrows. Seen also at eastern end of lake Melville, but not beyond Long point, on the south shore.
<i>Parnassia palustris</i> L.	litt. and br.	Common on south shore of lake Melville east of Epinette point. Found also at Indian Harbour
<i>Potentilla</i> <i>monspeliensis</i> L.	br. and litt.	Found at Indian Harbour, and also along shores of The Narrows as well as of lake Melville to its head. Not so common in the latter region.
<i>P. palustris</i> (L.) Scop.	br.	Common along The Narrows and eastern end of lake Melville.
<i>P. tridentata</i> Ait.	br.	Along the Narrows and eastern end of lake Melville.
<i>P. pacifica</i> Howell	litt. and br.	Very common around the inlet and on the shores of the islands, and westerly into the lake as far as Northwest River. Not seen west of this place.
<i>Geum</i> <i>macrophyllum</i> Willd.	fr.	On Kenemich river only.
<i>Lathyrus maritimus</i> (L.) Bigel.	litt. and br. also fr.	Probably the commonest plant on all salt and brackish shores. Not seen west of Northwest River, and not as plentiful here as farther east. A few seen on freshwater shores.
<i>Callitriche</i> <i>palustris</i> L.	fr.	An albino of next above. Under water in Naskaupi river.
<i>Epilobium</i>	fr.	On gravelly shores of rivers, Mulligan river.

<i>latifolium</i> L.		
<i>Epilobium glandulosum</i> Lehm., var. <i>adenocaulon</i> (Hausk.) Fernald	fr.	On river banks. Naskaupi river.
<i>Hippuris vulgaris</i> L., var. <i>maritima</i> (Hellen.) Wahlenb.	br.	In water of stream, Caravalla bay near head of tidal influence.
<i>Coelopleurum lucidum</i> (L.) Fernald	br.	Common on all brackish shores. More plentiful around the Narrows than inland.
<i>Angelica atropurpurea</i> L.	fr., br., and litt.	Found on river banks (Kenemich river), banks of lake Melville wherever travelled, and also on the shores of the islands on Hamilton inlet. Commoner farther from shores from last, on the alluvial soils.
<i>Cornus canadensis</i> L.	br. and fr.	Common on rocky shores everywhere and particularly common within The Narrows and westward.
<i>C. stolonifera</i> Michx.	fr.	Found common on river banks—Kenemich river, Naskaupi river, etc.

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List of Plants with a Salt, Freshwater, or Brackish Habitat—Continued

Plant	Habitat	Remarks
<i>Primula farinosa</i> L., var. <i>macropoda</i> Fernald	fr.	Only seen on sandy beach at head of Grand lake.
<i>Gentiana Amarella</i> L.	br.	Common along the shores of Double Mer. Not seen elsewhere.
<i>Mertensia maritima</i> (L.) S.F. Gray	br. and litt..	Found on on very brackish or coastal shores, viz., on shores of The Narrows in Double Mer and at Indian Harbour. Not seen elsewhere.
<i>Mentha arvensis</i> L., var. <i>glabrata</i> Fernald	fr.	Shores of Naskaupi river only.
<i>Castilleja pallida</i> (L.) Spreng, var. <i>septentrionalis</i> (Lindl.) Gray	fr.	Only seen on sandy beach at head of Grand lake.
<i>Galium trifidum</i> L.	br.	Only seen on brackish shores of small lake at Northwest River.
<i>G. labradoricum</i> Wiegand	br.	Only seen on west shore of small lake at northwest River.
<i>Solidago lepida</i> DC.	fr.	Found only on Kenemich river.
<i>Aster foliaceus</i> Lindl.	fr.	Only found on shores of freshwater lakes—Grand lake. Common on shores of The Narrows and lake Melville.
<i>Archillea Millefolium</i> L., var. <i>nigrescens</i> E. Meyer	br. and fr.	Very common everywhere. Only one plant found on naskaupi river.
<i>Artemisia canadensis</i> Michx.	fr.	Found only on gravelly shores of Grand river.
<i>Senecio Pseudo-Arnica</i> Less	br. and litt.	Common on Hamilton inlet and westward into lake Melville as far as Sebaskachu bay. None seen west of this.

Melville district, but white spruce becomes increasingly common inland (Plate V). The white birch (*Betula alba* var. *papyrifera*) is a very common tree, and in tracts that have been burned over it has taken possession of the ground to the exclusion of all other trees. The largest specimens were seen where they occurred sparingly in forests of black and white spruce.

Where the birch constitutes the whole of the forest, as it commonly does in burned-over tracts, its light-green foliage distinguishes it at considerable distances from the darker evergreens. The forest colour effects vary greatly with light and distance. Under a grey sky the black spruce forests are nearly black in the middle distance, dark green in the foreground, shading off into deep dark blue in the distance. Under a half-clouded sky the forested mountain slopes are marked with blotches of dark blue on a field of light green, the colour scheme changing constantly with the shifting of the clouds. In some cases at the finish of a shower a spruce-covered island, rainbow arched, will furnish a picture not easily forgotten. Labrador has been described as a land of rainbows ; the dozen or more showers a day experienced on many days during the summer of 1921 seem to justify the title, and in such seasons protect the forests against forest fires.

Any traveller in a Labrador forest soon becomes aware of a carpet of sphagnum moss into which he sinks, in many places to his knees. If the sphagnum moss be absent, it is commonly replaced by caribou moss. Where the trees are not too closely spaced the ash-grey of the caribou moss gives a colour contrast with the dark green of the black spruce, visible at a considerable distance. The rolls of partly detached bark which hang about the trunks of the large birch trees give them a curiously shaggy appearance. The white or dun-coloured trunks of the birches, which are sprinkled sparingly through many of the spruce forests, relieve the monotony of these sombre-hued trunks. Where the spruce trees have their maximum development they reach a height of from 75 to 100 feet. These forests " are of the very darkest hue of green and down their hoary, moss-floored isles " sunlight has little chance to penetrate.

Nearly everywhere the white blossom of the Labrador tea is seen during July. As its blossoms fade the dark pink Lambskill takes its place, decorating the woods with a profusion of delicate colour throughout the latter part of the summer. About the first of August the half-ripe, low-bush cranberries begin to show rosy cheeks above the moss, and a little later the rich, dark purple bearberries spread a feast of delicious fruit and ravishing colour on the grey, rocky summit of every hill and mountain. The wild currant, crowberry, and bake-apple are among the other refreshments which the forests set before their visitors. Alder and willows generally form the forest 40 border along the streams. The fragrant-leaved

sweetgale is also frequently seen about the margin of the forests.

The principal trees in the approximate order of their abundance in Lake Melville district are :

Black spruce (*Picea mariana* BSP)

White or canoe birch (*Betula alba* var. *papyrifera*)

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Tamarack (*Larix laricina* Koch.)

Balsam fir (*Abies balsamea* Mill.)

White spruce (*Picea canadensis* BSP)

Balsam poplar (*Populus balsamifera* L.)

Yellow or grey birch (*Betula lutea* Michx. f.)

Aspen poplar (*Populus tremuloides* Michx.)

White and black spruce, and fir are the trees which have been used for lumber in the region. Both the white and black spruce reach a large size in many localities. The following figures indicate the character of some of the larger trees in these forests. On Mulligan river a black spruce 5 feet 6 inches in circumference 20 inches above the ground was measured. Another black spruce on Kenemich river measured 9 feet 10 inches in circumference. Its fine, straight trunk appeared to be 100 feet high. The black spruce here probably reaches a greater average size than in Nova Scotia. At the head of Grand lake a spruce which had a diameter of 25 inches was noticed in the driftwood. A white birch on the Kenemich measured 5 feet 1 inch in circumference. These figures represent a few of the largest trees, but many others nearly or quite as large were seen. A large proportion of the forest trees approach these figures sufficiently closely to furnish a large supply of logs suitable for lumber. There are vast quantities of smaller timber on the mountain slopes, which will no doubt be used eventually for pulpwood.

The shores of lake Melville are bordered by a considerable area of relatively flat or slightly rolling land on which the best timber is found. On the mountain slopes much smaller trees occur.

Grand lake, which is about 40 miles long, lies northwest of lake Melville and empties into it. It is without any lowland border, the mountain slopes descending precipitately on the west and by gentle slopes on the east. Extensive forests of fine timber about this lake are reported to have been destroyed by fire about 35 years ago. Considerable areas of birch furnish the only conspicuous evidence of these fires at present. At Cape Blanc, which is a steep-sided mountain rising from the lake side, the scars of old avalanches are plainly visible. In some of these the timber and soil have both been stripped completely from the mountain face. In others the succession of birch in the midst of a black spruce forest, bounded sharply by perfectly straight lines, tells the story of an old avalanche.

On Naskaupi river and Red river the broad sand and clay terraces support a better forest growth than Grand Lake basin. Mrs. Hubbard, who traversed the entire length of the Naskaupi,

reports one of the trees on the Naskaupi to have a circumference of 9 feet. She states that ¹ “the valley is mostly well wooded with spruce and balsam as far as Mabelle island and here the spruce reaches splendid size.”

The best forest in Lake Melville region is reported to be located back of Mud lake on the south side of Hamilton river. A considerable amount of lumber was cut around the west side of Goose bay a few years ago when

¹ Hubbard, Mrs. Leonidas, “Labrador from Lake Melville to Ungava Bay,” Bull. Am. Geog. Rev., vol. 38, 1906, p. 533.

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sawmills were in operation. Fairly large trees grow along both banks of the Hamilton as far up as Muskrat falls.

The writer’s observations did not extend above Muskrat falls, but according to Low, a good forest growth is found up Hamilton river as far as Hamilton falls. He states ¹ that 150 miles from the mouth of the river “the trees on the slopes about the falls are largely white spruce upwards of 70 feet in height.”

* * * *

Upper Limit of Trees. Elevation is only one of the factors controlling the upper limit of trees on the mountain slopes. Steepness of slope, relative amount of soil, and the direction towards which a particular mountain side faces are other factors (Plate VI). The size of the trees invariably decreases with elevation and near their upper limit many of those which persist maintain their positions only by taking an attitude approaching closely to the horizontal. In the heavy forests that border English river on the south shore of lake Melville, the upper limit of upright trees is 815 feet. Horizontal trees continue up to 900 feet, but above this the mountain is barren.

* * * *

Future Development. Examination of a map ² of the distribution of North American forests will show the very important rôle which Labrador will probably play in supplying forest products for the world market of the future. Lake Melville and Double Mer waterways are of peculiar importance in this connexion, because they afford about 200 miles of navigable waters which are usable by sea-going vessels. These water-ways include lake Melville, Grand lake, Double Mer, and The Backway. This penetration of the heart of the best of the Labrador forests by deep waterways must become an important element in keeping transportation costs at a low figure.

Canada is destined by its geological and geographical features to remain permanently the great forest country of North America. Compared with the area of the great forest belt extending from the Labrador coast to the Pacific, the widely scattered forest areas to the south of it appear insignificant in size. Lake Melville may reasonably be

expected to become in the future one of the important eastern outlets for the forest products of the eastern part of this vast forest zone.

FAUNA.

Only a few of the more conspicuous or better known animals can be mentioned in a report having the scope of the present one. Most of those observed belong either to the seashore fauna or the fauna of the forested interior. The majority belong to the latter fauna.

By far the most abundant mammal in the region is the Labrador lemming. This ubiquitous little creature is equally abundant on the islands of

¹ Grenfell, W. T. and others, "Labrador: The Country and the People," 1910, p. 153.

² Zon, Rapheal, and Sparhawk, W. N., "Forest Resources of the World," vol. II, 1923.

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Hamilton inlet and in the interior. It may be seen in numbers everywhere darting rapidly along its tunnel-like runways, as a rule more or less open at the top, from one bit of cover to another. It no doubt affords an important source of food supply to the predatory birds and some of the fur-bearing animals.

Sharply contrasted with the general distribution of the lemming is the coastal distribution of the polar bear. Though reported to be rare in the region, a few are taken along the coast. Its distribution seems to be sharply limited to the coast. The writer has heard of no cases where the polar bear has been taken west of Rigolet. The skull of a specimen taken during the season of 1921 on one of the islands in the eastern part of Hamilton inlet was seen by the writer at Indian Harbour.

Practically all the fur-bearing animals, with the exception of the seals and white foxes, are confined to the forested interior, where nearly all the trapping is done. These include the mink, marten, muskrat, weasel, beaver, otter, lynx, and fox. The red, white, cross, and silver varieties of the fox are taken.

The otter, beaver, and groundhog were observed during the summer, and a specimen of the latter was killed near the head of Double Mer.

Ducks were seen in The Backway in flocks numbering thousands. Loons and gulls are common on lake Melville, but characteristic sea birds like the guillemot are not found on the waters of lake Melville.

Toads were seen at Northwest River and green frogs were taken at Mud lake. Specimens collected were identified by C. L. Patch as *Bufo americanus* (American toad) and *Rana pipiens* (Leopard frog).

The harbour or freshwater seal (*Phoca vitulina*) is abundant in the river, lake, and sea waters of the region as far west as Muskrat falls. The largest number of individuals seen at any one locality was just below Hamilton falls, where about

fifty were observed at one time.

The cod is unknown in The Narrows and the waters west of them. Cod fishing is confined to the waters adjacent to the islands in the eastern part of Hamilton inlet. Commercial fishing in lake Melville and the western part of Hamilton is confined to salmon fishing.

The grampus whale may be seen daily near Rigolet. In many places two or three were seen together and at times the caplin on which they feed were observed in numbers shooting out of the water just before the surface was broken by the curved back of a grampus following the school. This whale, although very conspicuous east of Henrietta island, was not seen west of that island, during the summer. It no doubt at times extends its range for short periods into lake Melville, but the normal habitat seems to be in the saline waters east of the lake.

It will be seen from these notes that typical marine animals like the guillemot, grampus whale, and cod are unknown west of The Narrows, the cod not even extending into The Narrows.

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INHABITANTS.

The people of “ the coast of Labrador ” and the adjacent interior belong to four groups. These are the Newfoundland fishermen, who spend only the summer on the Labrador coast, the Eskimo, the Indians, and the “ liviers.” It is the cod fishermen from Newfoundland, and his picturesque shack always located on the shore, that first catch the eye of the visitor from the south. The largest group of these fishermen is located at Indian Harbour, the headquarters of the cod fishing industry.

The salmon fishing industry which is, after cod fishing, the most important summer occupation, is carried on chiefly by the “ liviers ” in the waters of lake Melville and The Narrows. The salmon catch is shipped from the interior posts, Rigolet and Northwest River (Plates VIII and IX).

The region was divided originally between the Indian and the Eskimo, the former holding the interior, the latter the coastal strip. The Eskimo (Plate IV A) are now nearly extinct in Hamilton Inlet region and south-ward, although Holme ¹ reported in 1887 that they were “numerous ” in Hamilton inlet. The territory formerly held by the Eskimo was approximately the same narrow shore zone now occupied by the Newfoundland and French-Canadian fishermen, but all the vast interior river and lake region belonged to the Indian. When the white man first came to the gulf of St. Lawrence, the Eskimo held the narrow seacoast strip as far west as Mingan, opposite the western part of Anticosti island. The acquisition of firearms from the French enabled the Indians, in 1600, to drive the Eskimo eastward to the strait of Belle Isle. Since then he has retreated very slowly to his present southern limit at Hamilton inlet.

The Labrador Indians belong to two tribes, the Montagnais of the south and the Naskaupis of the north (Plates X and XI A). Hamilton River and lake Melville form in a general way the boundary between the hunting grounds of these two Indian groups. About seventy-five Indians, representing both tribes, came under the writer's observation during the summer of 1921. In religion all the southern and eastern Indians appear to be Roman Catholics. They were encamped in their dome-shaped canvas tents at Northwest River and pendant crosses were much in evidence on some of them. The following observations on the Indians who were encamped for a few days near the trading post at Northwest River are quoted from Mr. William B. Cabot,² who has unequalled knowledge of the psychology and customs of these people.

“ The group I was with last summer, known as the Northwest River Indians, have at any rate a good deal of Naskaupi blood, and some membership of actual Naskaupis. Their affiliation is quite with the latter, the regular Montagnais not mixing with them. You may have noticed that

¹ “ A Journey in the Interior of Labrador ” : Proc. Roy. Geog. Soc., vol. X, p. 190, 1888. This statement is open to question, since Davies, writing in 1842, states that “ they (the Eskimo) are now reduced to eight families, though they had numbered upwards of 300 ” as late as the beginning of the present century. (Trans. Lit. and Hist. Soc., Quebec, p. 89, 1843.)

² Personal letter, Nov. 21, 1921.

the Montagnais Indians camped by themselves far down the beach last summer. They hold themselves above the Northwest River people.

It is as well if one is having to do with the people there to know that the name Naskaupi is a term of contempt applied by the southern Indians and not to be used to a person's face. At best it means an ignorant person, and probably includes the idea of dirtiness and general indecency. I have never heard a dignified Indian use it. The general Montagnais name for the Naskaupis is Big People, the Montagnais being small themselves. The actual name is Pakquockanun or Pakquockamus, I am not sure of my own writing of the word. The boy I had to come back with me, Gilbert Blake, and who spoke Indian fluently, called them Crees, which by their own account they are, having come north from the region southwest of Hudson Bay, within historic time, to get away from the Iroquois."

According to the estimate of the Dominion Department of Indian Affairs, the total number of Montagnais Indians who came to the southern coast of Labrador in 1908 was six hundred and ninety-four. All these, with the exception of the few too decrepit to travel, spend the greater part of the year in the interior. The summer journeys in search of caribou and other game in many cases take them a very considerable distance along the rivers and lakes. All of them make a spring or summer trip to the coast, where they dispose of the winter's catch of fur and secure supplies from the traders.

Samuel Robertson ¹ estimated the number of Montagnais Indians on the coast in 1841 "from the Saguenay downwards" at about 700 and including those about lake St. John, at 1,000. The latter estimate he suspected was too large. This estimate published in 1843 is surprisingly near the 1908 figures of the Indian Department, and suggests no material change in the numbers of the Indians during the past seventy years. Cabot has the impression that their numbers are diminishing and stated "The people of the Labrador inland are a remnant." Davies stated that "of the thirty-two families who frequented the bay (lake Melville) in 1840 only nine belonged to it."

The Naskaupis of George river formerly showed relatively little inclination to visit the trading posts. McLean said of them that "of all the Indians I have seen, the Naskaupis seem most averse to locomotion; many of them grow up to man's estate without once visiting a trading post."²

In the old days, savage reprisals resulted when either race entered the hunting territory of the other. Battle Harbour,³ according to tradition, is one of the names which has survived from the days when the Indian and Eskimo tried to settle disputes concerning their hunting grounds with the tomahawk and the spear. The Eskimo have disappeared from the coast south of the Hamilton inlet, which the Newfoundland

¹ Robertson, Samuel, "Notes on the Coast of Labrador," Trans. Lit. and Hist. Soc., Quebec, vol. IV., 1843, p. 40.

² "Notes of a Twenty-five Years' Service in the Hudson's Bay Territory," London, 1849, p. 119.

³ Hawkes, E. W., "The Labrador Eskimo," Geol. Surv., Can., Mem. 91, 1916, p. 17. Gosling (Labrador, 1910, p. 167) considers Battle a modification of the Portuguese word *batel-canoe*, but admits the immemorial hostility between the two races.

during the summer ; nearly all of them return to Newfoundland for the winter. The Indian still survives in southern Labrador, but lives as his ancestors did, except that canvas canoes and tents have supplanted the birch-bark canoe and the skin-covered tepee.

In Labrador, as elsewhere on the northern frontier, natural selection is producing a type of man well adapted to a changing environment. This new type will in time supplant the Indian.

In a country where elemental conditions prevail as they do in Labrador, natural selection is not an academic term but a stern reality. Nature under-takes to make of every man who claims a home in Labrador either a hunter or a fisherman. For the failure starvation awaits just around the corner. The man who is a produce of an environment where these two arts are not important or essential, must, when he comes to Labrador, speedily acquire them unless he is able to maintain connexion with his old environment and its resources. The tragic death in 1903 of Leonidas Hubbard illustrates the remorseless way in which this fundamental law works in Labrador.

The hardy French and English fishermen, who came into the region a century and a half ago, found it to their liking, as did the Scotch traders of the Hudson's Bay Company who followed them. They and their successors have left as descendants a brown-skinned race of Eskimo or Indian extraction on the maternal side. These are the "liviers," as they are called to distinguish them from the Newfoundland fishermen who do not "live here," but come and go with each fishing season. Unlike the Indian, who is willing to starve but not to work when game is scarce, the "livier" is apt to have the industrious habits of his paternal ancestry. Many of them have comfortable cabins always well stocked with rifles and some supplied with a few books and, in one instance which the writer recalls, with a small organ. Throughout the summer the "livier" devotes himself to the salmon and trout fishing in lake Melville, and in winter to trapping. At the approach of winter he goes into the forest for the trapping season, sometimes with a companion or with dogs, but in many cases, alone, and from 50 to 200 miles from any settlement. The solitary trapper ordinarily knows no other companionship for three or four months except that of the trees, the stars, and the aurora. If the trap-line be a long one, 4 a.m. will find a good trapper on the trail. These men appear to be as perfectly adjusted to, and satisfied with, their environment as the foxes

and the otters whose pelts they seek.

The permanent or winter homes of the natives or “ liviers ” are commonly located in groups of three or four near a river mouth. In many cases, however, solitary houses are located many miles from any others. Small shacks have been constructed along some streams at intervals of 20 or more miles, which are occupied only for night camps by trappers in winter.

It is difficult to estimate the number of people living in Lake Melville district. The results of various inquiries and the writer’s own observations indicate that eight or nine families occupy the shores of Double Mer. This probably represents about thirty persons. The population of the shores

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of lake Melville west of Rigolet includes about two hundred and fifty people. Northwest River and Rigolet have respectively about seventy and forty-five people. The total population of the Lake Melville and Grand Lake basins, exclusive of Indians, appears to be about four hundred and fifteen persons.

Failure to mention the insect pests would render incomplete any discussion of the environment of the people of Eastern Labrador. Packard’s remarks on the mosquitoes and black flies indicate briefly but clearly the disturbing and annoying character of this factor. He states that “ The armies of black flies were supported by light brigades of mosquitoes. They fly into our faces ; they do not bite hard, like the mosquitoes, but the vampires suck long and deep, leaving great clots of blood. No wonder that these entomological pests are a perfect barrier to inland travel, and that few people live during the summer away from the sweep of the high winds and dwell on the exposed shores of the coast to escape these torments.”¹

Whether the insect pests of the interior and the fear of the Indian have been factors in keeping the Eskimo confined to the coast may be questioned, but there is no doubt about the abundant food supply of the seashore being the essential bond between this race and the coastal strip. A race so fully able as the Eskimo to supply all its wants on the seashore would have little reason for exposing itself to the attacks of both its hereditary human and insect enemies by taking up its abode inland.

Freedom from the mosquito and black fly pests has evidently been considered in locating the admirably planned and equipped hospitals established along the coast by Dr. Grenfell. The Indian Harbour hospital, located on an outlying island 40 miles from the head of Hamilton inlet, seems to be entirely free of mosquitoes and flies. An inland hospital at Northwest River, 130 miles west, is occupied by the Indian Harbour hospital staff in winter after the insects have vanished and when people have returned from the islands and seacoast to their winter houses located near the trapping grounds. Very few of the houses about the mosquito-infested bays and river mouths of lake Melville are occupied during the summer.

Most of their owners occupy temporary camps or summer houses along the eastern part of the lake where the salmon fishing is good, or go out to the seacoast for the cod fishing season.

Probably no more definite habitat limits ever existed between native races than those recognized by the Indian and the Eskimo in the Labrador peninsula prior to the advent of the white man. Turner writes of the Eskimo, "The region inhabited by the Innuits is strictly littoral."² Hawkes³ states that "the Eskimo rarely inhabit a border country in heavy numbers, but prefer a screen of hunting territory between themselves and their inveterate enemies, the Indians . . . This is true of northern Alaska, the Mackenzie and Coppermine districts, Hudson Bay, and Labrador as well . . . The

¹ Packard, A. S., "The Labrador Coast," 1891, p. 75.

² Turner, L. M., "Ethnology of the Ungava District, Hudson Bay Territory," Smith, Inst., 11th Ann. Rept., Bureau of Ethnology.

³ Hawkes, E. W., "The Labrador Eskimo," Geol. Surv., Can., Mem. 91, pp. 17 and 24.

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coastal habitation of the Labrador Eskimo is broken only at Davis inlet, on the Atlantic coast, where the Eastern Naskapi come out yearly to the Hudson's Bay Company post to trade."

Occasional clashes between the two races were incidental to the maintenance of the inviolability of their respective domains. These were checked and eventually eliminated shortly after the opening of trading posts, through the influence of the traders. Esquimo island, near the eastern end of lake Melville, is said to have been the scene of the last battle over the interracial boundary in the Hamilton Inlet region. This island is a short distance inside the forested zone. The Indians asserted, according to tradition, that the Great Spirit had made an unmistakable sign by which to distinguish the territories of the two races—all that was covered with forest belonging to the Indians and all that was barren being for the Eskimo.

From the coast south of Hamilton inlet the Eskimo has disappeared and the cod fisherman has taken his place. A few Eskimo families still persist in Hamilton Inlet district (Plate IV A). North of that area in many places the Newfoundland fishermen appear to have either supplanted the Eskimo or occupy the coast conjointly with them. The Newfoundland fisherman, like the Eskimo whom he has supplanted, depends upon the sea for his livelihood. He has as a result of his occupation confined his activities to the coastal region as closely as the Eskimo did.

Three trading companies have representatives at Northwest River. These are Hudson's Bay Company, the French Company, and the Porter Company. At Rigolet (Plate IX), the Hudson's Bay Company, and the Porter Company one mile east of Rigolet, operate stores. A Newfoundland trader keeps a store at Indian Harbour.

* * * *

Interior Extent of the Intertidal Fauna.

It might appear upon casual consideration a very simple matter to define for any region the limits or boundaries between the seacoast, on the one hand, and the banks of confluent lakes and rivers, on the other. This, however, is far from true. The banks of rivers with wide, trumpet-shaped mouths, like the St. Lawrence in Canada and the Potomac in the United States, merge into the coast line of the sea without producing the sharp, angular interruption in the shore line which defines the mouths of ordinary rivers. The tide in such streams in many places reaches far up that part of the channel which everyone would agree is that of a river rather than the arm of a bay. No one, for example, would question the fact that Quebec and Washington cities are located respectively on the St. Lawrence and Potomac rivers, although the tides run well above these cities.

It is evident from these considerations that neither configuration of the shore-line nor extent of tidal influence affords in some cases dependable criteria for delimiting the seacoast from the shore of river or lake. Brackish water with a considerable degree of salinity often extends, like the tidal influence, up channels universally regarded as rivers.

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There is apparently no single criterion which taken alone, would be generally accepted as an adequate and conclusive test or index of the limit of seashore or river mouth. Salinity, however, is one factor to be considered. Both the plant and animal life of sea-water are delicately adjusted to the salinity of normal sea-water. The seashore and the waters adjacent to it are everywhere characterized by assemblages of animals and plants which cannot live in fresh or brackish water. Where tidal waters extend a long distance inland, as they do in Lake Melville region, a dependable method of ascertaining where salinity changes occur is to note the limit of marine life.

Examination of the shore-line at Rigolet, when the tide is out, discloses a typical marine fauna in the shallow pools and attached to the rocks. The species collected on the south side of The Narrows opposite Rigolet are indicated in the following list :

*Marine Invertebrates from The Narrows opposite Rigolet*¹—Field No. 7.

HYDROIDEA

Thuiaria similis (Clark)—7 pieces

Thuiaria similis (?) (Clark)—1 piece. Differs from Nutting's description in that each node of main stem bears two branches (one on each side) and one hydrotheca on each side. Sub-branches agree with description

AMPHIPODA

Ischyrocerus latipes (Kryer)—19 specimens and fragments

Ischyrocerus anguipes (Kryer)—12 specimens

Erichthonius rubricornis (Stimpson)—6 specimens and fragments

Dulichia porrecta (Bate)—2 fragments

Metopa spectabilis Sars—1 specimen

Stenopleustes malmgreni (Boeck)—6 specimens
Caperella stimpsoni (Bate)—many specimens
Caprella linearis (Linn) (?)—10 small specimens including 3 females
Jassa sp. (near *J. minutus* (Sars)—3 (females only)
Jassa sp.—1 small specimen
Atylus carinatus (Fabr.)—1 specimen
Acanthonotozoma infatium (Kryer)—1 fragment

CIRRIPEDIA

Balanus crenatus —3, and fragments of 1 (?) more

GASTROPODA

sic*

Littorina palliata (Say)—1 specimen
Acmaea testudinalis—1 specimen
Littorina rudis var. *groenlandica* (Mörch)
Molleria costulata (Möller) —1 (?) small broken shell

AMPHINEURA

Amicula vestia (Sowerby)—1 specimen
Tonicella marmorea (O. Fabr.)—2 specimens

BRACHIPODA

Hemthyris psittacea (Gmelin)—half shell

PELECYPODA

Mya truncata L.— 1 half shell
Mytilus edulis L.—6 shells, and 1 fragment
Saxicava arctica (L.) about* 2 dozen shells and fragments (incomplete)

¹ The species in this list have been determined by Prof. A. G. Huntsman.

ECHINODERMATA

Strongyloentrotus drobachiensis (O. F. Müll.)—1 specimen

SPONGIAE

Halichondria panicea Johnston—1 specimen, and several fragments, apparently the same

ASCIDIACEA

Synoicum haeckeli (Gottsch.)—Several colonies

The strictly marine character of the fauna found in The Narrows will be evident on comparison of the above list with the fauna collected from the sea at Indian Harbour.

*Indian Harbour, Labrador. Small Coves in 1 Foot to 5 Feet of Water*¹—Field No. 14.

AMPHIPODA

Gammarus locusta (L.)—2 specimens (large)

Ischyrocerus anguipes Kryer ?—2 females and 2 young. Agree with *anguipes* in antennae, gnathopods, and postero-lateral corners of pleon 3. Agree with *latipes* in telson and uropod 3

Pontogenia inermis (Kryer)—3 specimens

CIRRIPEDIA

Balanus balanoides (Linnaeus)—20 specimens, and fragments

GASTROPODA

Acmaea testudinalis (L.)—1 specimen

Mass of egg capsules—1 specimen

Littorina palliata Say—5 specimens*Littorina littorea* L.—1 specimen

Buccinum undatum L. of the variety figured by Packard as *B. undulatum*—13 specimens

Littorina rudis var. *groenlandica* (Mörch)—23 specimens

Margarites helycinus (Fabr.) (of the type formerly called *M. campanulata*),—17 specimens

PELECYPODA

Mytilus edulis L.—3 specimens*Mya arenaria* L. (incomplete)—1 shell*Crenella* sp.—1 half shell

DECAPODA

Hyas areneus (L.)—1 specimen (5.1 cm)

ECHINODERMATA

Strongylocentrotus drobachiensis (O. F. Müll.)—several broken specimens

The extension of the marine fauna inland beyond Rigolet is most easily ascertained by noting the changes in the molluscan fauna of the intertidal zone as it is traced toward Henrietta island. The two most abundant and persistent of these species are the barnacle *Balanus balanoides* (L.) and the gastropod *Littorina rudis* var. *groenlandica* Mörch. They were found to persist farther toward the interior than any other

species of the intertidal zone. Plate XII B indicates the wealth of individuals by which these species are represented on nearly every boulder or rock outcrop on the intertidal zone in the vicinity of Rigolet, where from fifty to a hundred individuals to the square foot is not an unusual number. This gastropod, and the

¹ Specific determinations were made by Prof. A. G. Huntsman.
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barnacle which is generally associated with it, are found everywhere on the Labrador seacoast in abundance.

The distribution of these two abundant and characteristic species of the intertidal zone was very carefully investigated along the shores of The Narrows and lake west of Rigolet. Barnacles were found on the east shore one mile west of an old house standing nearly opposite Rigolet or one mile east of the long boulder point near Summer cove. Only three individuals were found here and none farther west. *Littorina*, however, extends to

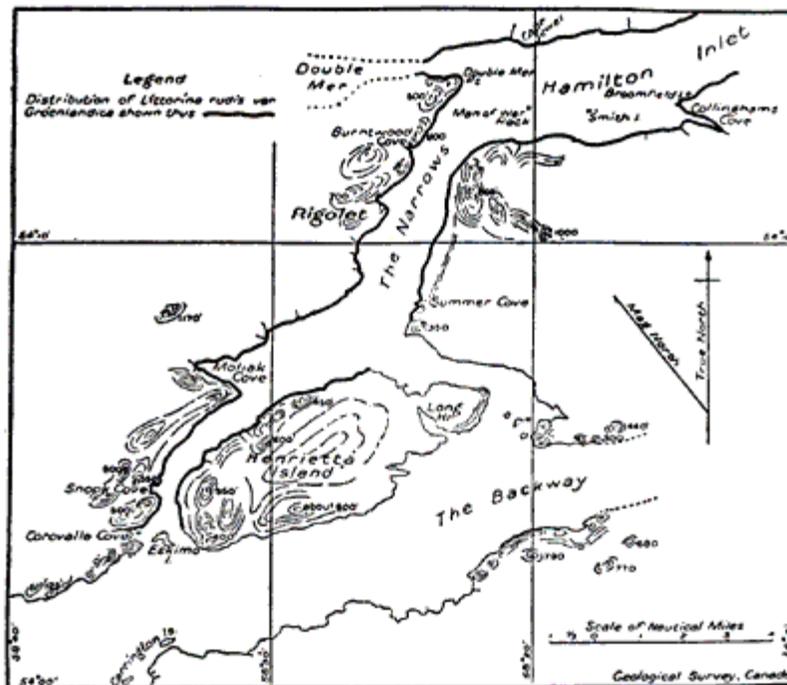


Figure 6.—Map showing the distribution of *Littorina rudis* var. *groenlandica*.

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within one mile of Henrietta island on the east shore of the inlet. Neither barnacles nor *Littorina* appear to be present on the west shores of The Backway.

On the west shore of The Narrows, *Littorina* continues abundant to a point 4 miles west of Rigolet, but it is rare in Mullioch bay and Caravalla cove, where only two specimens were found. It is present on the north shore of Henrietta island. West of Henrietta island and Caravalla cove neither *Littorina* nor barnacles were found. On the west, as on the east shore,

barnacles fail to extend as far west as *Littorina*. The species commonly associated with these typical intertidal shells are likewise absent from the shores to the westward of this island, which fact indicates the decreased salinity of the waters to the westward of Henrietta island (Figure 6).

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A consideration of the fish fauna of these waters leads to a similar conclusion. The cod, which is a typical salt-water fish, is not known west of Rigolet. The caplin, which are extensively used as codfish bait, are common at Rigolet, but were not seen west of Henrietta island. West of this island salmon trout are the only fish taken by the fishermen.

The absence of typical marine fishes west of Henrietta island, and the disappearance of the marine intertidal fauna in that vicinity, both indicate the considerable change in the composition of the water which occurs near the eastern end of lake Melville. West of Henrietta island the waters of Lake Melville, though somewhat saline, are too fresh to support a marine fauna in the intertidal zone.

Double Mer is a deep fiord valley which joins Hamilton inlet 3 miles east of Rigolet. An examination of the shores of Double Mer has shown that the fauna represented by *Littorina* and the barnacle *Balanus balanus* (L.) persists nearly to the head of this inlet, although the species are represented by greatly diminished numbers in the upper part of the waterway, indicating the decreasing salinity and the nearly complete disappearance of seashore conditions. The relatively small amount of fresh water entering Double Mer, and its wide outlet as compared with lake Melville, explain the much greater extension inland around its shores of a seashore fauna. Seashore conditions may be considered to extend nearly to the head of this waterway.

TEMPERATURE AND DENSITY.

In the following table, which shows the temperature and the relative salinity of the water, as indicated by hydrometer readings, the several stations from 1 to 15 are arranged in a geographical order starting at the outer or sea end of Hamilton inlet and extending inland about 160 miles to station 15. Stations 1 to 4 may be regarded as representing the outside marine conditions, the other stations show the higher temperatures and lower densities of Lake Melville and its connecting waters.

Table of Specific Gravity and Temperature of Waters

No.	Stations	Date	Water temp.		Spec. gravity		Remarks
			Top	Bottom	Top	Bottom	
1	Indian Harbour ..	July 13	35° F.	..	1·0182		
		Aug. 20	47° F.	..	1·0188		
2	Rigolet	July 20	43° F.	..	1·0185		
		July 20 .. ..	..	41° F.	..	1·0194	
3	East side inlet opposite Rigolet	July 21	42° F.	31° F.	1·0201	1·0219	
4	East side Henrietta island	July 20	42° F.	..	1·0185		
5	The Backway, 6 miles up	July 18, 12.45 p.m.	47° F.	..	1·0149	..	Low tide

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*Table of Specific Gravity and Temperature of Waters—
Continued*

No.	Stations	Date	Water temp.		Spec. gravity		Remarks
			Top	Bottom	Top	Bottom	
6	The Backway, 6 miles up	July 19, 7.45 a.m.	56° F.	..	1·0066	..	Three-fourths flood
		July 19, 11.30 a.m.	57° F.	..	1·0097		
7	The Backway, near head	Aug. 15, 7.00 a.m.	53° F.	..	1·0095	..	Low tide
8	West of Caravalla point, 8 miles ..	July 26, 8.45 a.m.	56° F.	..	1·0096	..	
9	Pelters cove	Aug. 14	54° F.	..	1·0094		
10	Mulligan bay, 1½ miles off mouth of river ..	July 28	53° F.	..	1·0063	1·0211	
11	East side of Long point in bay	Aug. 13, 5.15 a.m.	54° F.	..	1·0003		
12	Epinette point ..	Aug. 12, 8.00 a.m.	50° F.	..	0·9995		
13	Northwest river, one mile outside mouth of river	July 31, 7.30 p.m.	..	..	1·0005	1·0105	
14	Northwest river, just inside outlet to Little lake	July 30, 3.15 p.m.	55° F.	..	0·9998		
15	Grand lake, opposite cape Blanc	Aug. 4	51½° F.	37° F.	Fresh water depth 90 fathoms.
16	Double Mer, 4 miles from head	Aug. 18, 2.00 p.m.	54° F.	..	1·0099		

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The densities shown above represent hydrometer readings reduced to specific gravities at a temperature of 60 degrees F. Knudsen's hydrographic tables were used by E. J. Whittaker in adjusting the density figures to this common temperature base. The temperatures of the waters were taken with a Nigretti and Zambra thermometer.

These figures very effectively supplement and confirm the evidence furnished by the distribution of the marine fauna concerning the decreasing salinity of the waterways westward from Indian harbour.

The first station in the table shows the density of an average example of sea-water taken 40 miles from the head of Hamilton inlet. The figures for the water at Rigolet do not differ notably from those of this typical sea-water. After passing west of Henrietta island, however, the figures all depart widely from those representing the densities at Indian Harbour and Rigolet. At Station 13, the density of the water, although taken a mile from the mouth of the river, shows a close approach to that of fresh water. At Station 14, the water, which represents Grand Lake outflow, is perfectly fresh. The water of Carter basin, which is a bay with a narrow outlet on

of lake Melville, was not tested for salinity, but the water, though somewhat brackish, is fresh enough to make tea with and was so used by the writer.

It is reported by residents of the region that the waters of Goose bay, although they are brackish in midsummer, are perfectly fresh in spring.

The figures of density represent midsummer conditions when the rivers are at a relatively low stage, as compared with spring conditions. During the spring, when the rivers are in flood, the entire lake would no doubt be much less saline than these figures indicate. They suffice, however, to show clearly the sharp contrast in the physical characters of the water west of Henrietta island as compared with that of Hamilton inlet to the east of it. This contrast indicates that the former represents an inland lake with direct marine connexions, rather than a bay or inlet of the sea.

Lake Melville belongs, with reference to salinity, in the same class as lake Pontchartrain, Louisiana, which is also a tidal lake with waters which are not entirely fresh.

* * * *

SUMMARY.

A summarized review may now be given of the several classes of data which have been presented in the preceding pages.

The coast of Labrador, with its innumerable inlets, bays, islands, and fiords, presents what is known to geologists and geographers as a “drowned coastline.”

The main physiographic features of the region—Lake Melville basin, The Backway, and Double Mer—are in their essential features the products of subaerial and river erosion modified by glaciation and directed in some degree by important structural features (Figure 5 C). These great valleys have suffered some deepening by glacial action, but their main features were developed in Preglacial time when the Labrador coast stood considerably higher than at present and when much or all of Hamilton inlet was a land surface. These waterways cannot, therefore, be regarded as representing in any degree the work of the sea in cutting back or eroding the coast along lines of least resistance.

Mealy mountains are shown to reach a maximum elevation of 3,800 feet—more than twice the height previously ascribed to them.

The physiographic history of the region indicates that the old pre-glacial Hamilton river probably emptied into the sea at some point near West bay through The Backway valley. Some time during the Glacial period glacial damming of The Backway valley forced the Hamilton drainage through The Narrows valley into Hamilton inlet. The eastern end of this valley, which has at Rigolet about the same width as Hamilton river a short distance above lake Melville, may be regarded as

the mouth of Hamilton river, lake Melville representing an expansion of that stream which was developed in late geological time. Lake Melville is, geologically speaking, a temporary feature which coastal uplift, if continued, and river filling together

will eventually obliterate. Uplift has already raised the region 325 feet higher than it was when Pleistocene submergence reached its maximum.

The shape of Hamilton inlet appears to justify its classification as a *ria*. This disposition or classification of Hamilton inlet places it in a category of coast-line features which includes both river estuaries and indentations of the seacoast with sides which diverge seawards. The implications of this classification of the shore and coastal forms known as The Narrows and Hamilton inlet as regards the junction of the river mouth and seacoast are not very definite or specific. They appear, however, to preclude placing it farther inland than the junction of Double Mer and The Narrows valleys.

Some geographers might consider it simpler to regard Hamilton inlet as a river estuary, and place the union of seacoast and river much farther eastward, where the coast-line takes its normal trend toward the north and south.

The sharp contrast between the coastal and interior climates is without parallel in any other near-shore region known to the writer. Floating ice may be found on the waters of Hamilton inlet throughout the summer, but ice is unknown in The Narrows or Double Mer after early July. The contrasts between the sub-Arctic climate of the coast and the summer climate of the interior are due to the Labrador current and the floe-ice which it bears southward along the Labrador shore. A journey from the eastern part of Hamilton inlet up lake Melville is, as Holme remarked, "like passing from winter to summer."

The forests also afford a fairly definite index to the climatic change in passing from the icebound coast to the much milder interior. The seacoast is either entirely barren or characterized by small patches of forest with dwarfed trees.

Some of the plants furnish in their distribution important evidence from the botanical viewpoint on the question of the western limit of salt water. This evidence is reflected in the distribution of the halophytes or salt-loving plants.

Perhaps the most striking evidence relating to the western limit of marine conditions is furnished by the distribution (Figure 6) of two of the most abundant sea-shells known on the Labrador coast, *Balanus balanus* (L.) and *Littorina rudis* var. *groenlandica*.

The table of specific gravity and temperature of the waters supplement the biological evidence in showing the great change which the physical character of the water undergoes west of Indian Harbour.

The rocks of the region belong chiefly to Precambrian terrains. Differentiation of these has not been attempted beyond recognizing the very distinctive character of Packard's Domino gneiss.

The Palæozoic sandstone which Low considered to be of Cambrian age was found in Double Mer basin where its

occurrence was previously unknown (Figure 4), and the name Double Mer sandstone given to it.

A Pleistocene fauna hitherto unrecognized in this region was found at various points in Lake Melville basin. Many of the fossils in it are partly or completely enclosed in concretions (Plates XVI and XVII). Well-

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developed terraces were found as far inland as the reconnaissance extended—about 165 miles from the coast (See Figures 4, 8, 9, and 10, and Plate XIII B). Beautifully laminated Postglacial clay occurs in certain inland sections (Plate XV). The stratigraphic equivalence of the fine muds and the sand-terraces now forming and the tendency of the latter to overlap the former was observed at various localities (Figure 10).

The evidence of the terrace is interpreted to indicate an elevation of the coast since the Postglacial submergence amounting to about 325 feet.

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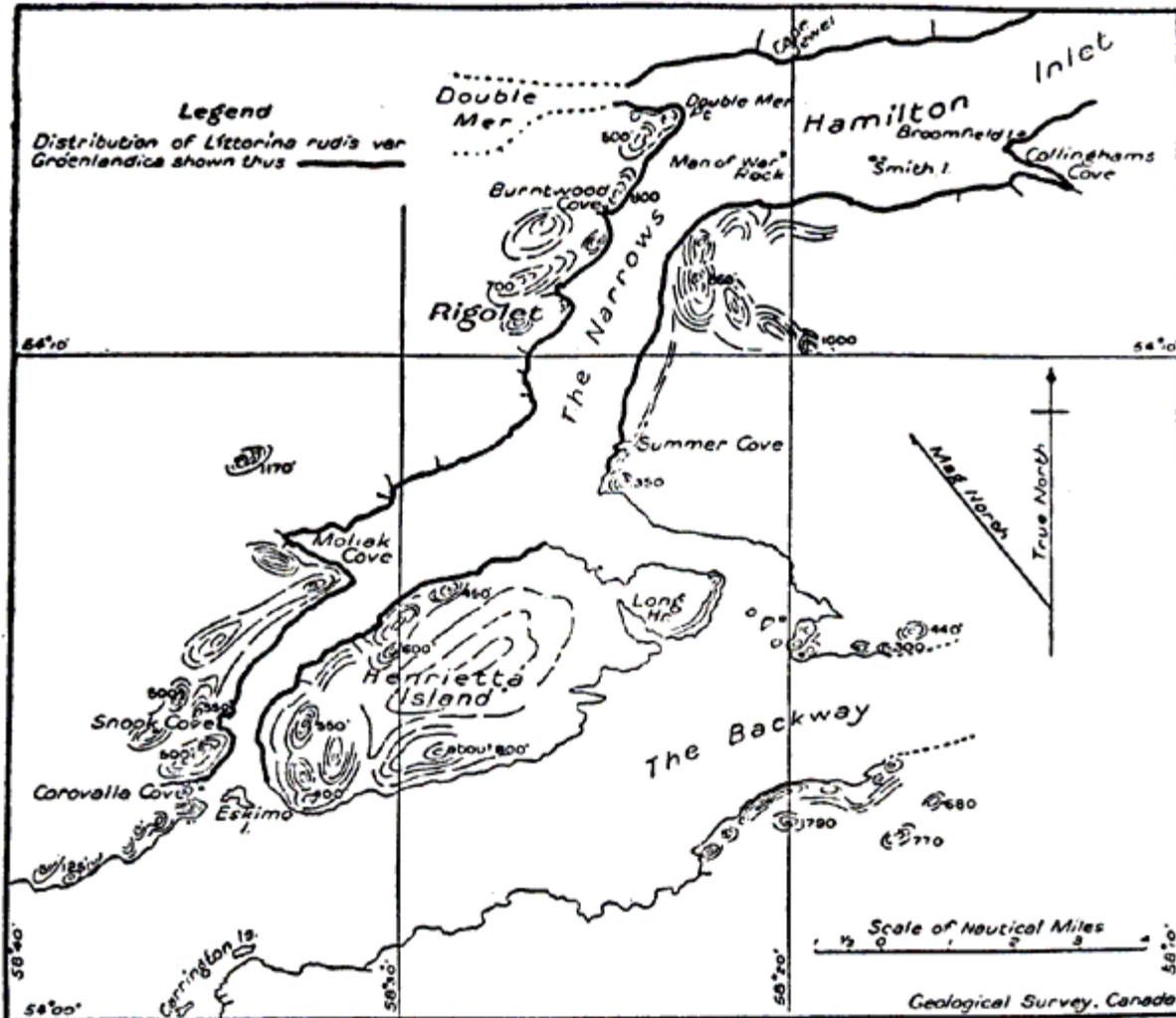


Figure 6.—Map showing the distribution of *Littorina rudis* var. *groenlandica*.

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Table of Specific Gravity and Temperature of Waters

No.	Stations	Date	Water temp.		Spec. gravity		Remarks
			Top	Bottom	Top	Bottom	
1	Indian Harbour	July 13	35° F.	..	1.0182		
	Indian Harbour	Aug. 20	47° F.	..	1.0188		
2	Rigolet	July 20	43° F.	..	1.0185		
	Rigolet	July 20	..	41° F.	..	1.0194	
3	East side inlet opposite Rigolet	July 21	42° F.	31 ° F.	1.0201	1.0219	
4	East side Henrietta island	July 20	42° F.	..	1.0185		
5	The Backway, 6 miles up	July 18, 12.45 p.m.	47° F.	..	1.0149	..	Low tide

Table of Specific Gravity and Temperature of Waters—Continued

No.	Stations	Date	Water temp.		Spec. gravity		Remarks
			Top	Bottom	Top	Bottom	
	The Backway, 6 miles up	July 19, 7.45 a.m.	56° F.	..	1.0066	..	Three-fourths flood
6	The Backway, 15 miles up	July 19, 11.30 a.m.	57° F.	..	1.0097		
7	The Backway, near head	Aug. 15, 7.00 a.m.	53° F.	..	1.0095	..	Low tide
8	West of Caravalla point, 8 miles	July 26, 8.45 a.m.	56° F.	..	1.0096	..	
9	Pelters cove	Aug. 14	54° F.	..	1.0094		
10	Mulligan bay, 1½ miles off mouth of river	July 28	53° F.	..	1.0063	1.0211	
11	East side of Long point in bay	Aug. 13, 5.15 a.m.	54° F.	..	1.0003		
12	Epinette point	Aug. 12, 8.00 a.m.	50° F.	..	0.9995		
13	Northwest river, one mile outside mouth of river	July 31, 7.30 p.m.	..	..	1.0005	1.0105	
14	Northwest river, just inside outlet to	July 30, 3.15	55° F.	..	0.9998		

	Little lake	p.m.					
15	Grand lake, opposite cape Blanc	Aug. 4	51½° F.	37° F.	Fresh water depth 90 fathoms.
16	Double Mer, 4 miles from head	Aug. 18, 2.00 p.m.	54° F.	..	1.0099		

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[23 June,
1924.]**No. 1015.****MEMORANDUM FROM DOMINION COMMISSIONER
OF FISHERIES***re* UNFAVOURABLE CONDITIONS FOR COD IN THE WATERS OF LAKE
MELVILLE.

721-7-9. E.E.P./S.

June 23rd, 1924.

The results which were obtained in regard to temperatures and salinities in Labrador waters, included in the work of officers of the Hydrographic Survey, during July, August and September, 1921, are sufficient to satisfy an expert Marine Biologist that the conditions existing in Lake Melville are so unfavourable for cod that neither their spawning, nor their life-development, nor their adult life would be possible in the waters referred to.

Biologists have determined that the presence of cod requires abundance of food, appropriate temperatures and favourable conditions for schooling and for breeding purposes, dependent especially upon salinity and consequently specific gravity. Specific gravity of sea water in certain areas, such as those under consideration, is such as to prevent cod eggs from floating and to enable them to develop normally. In the records attached, the decision, as to the bearing of existing conditions on the presence or absence of cod fish, is complicated by the fact that the specific gravity of sea water varies with the amount of salts dissolved, and this depends upon temperature. With a rise in temperature, sea water expands and becomes lighter, but the reverse takes place when cold conditions prevail and the water increases in weight down to the freezing point, but the freezing point also varies with the salinity. If, therefore, a series of specific gravity observations are recorded at the same temperature, it is evident that any difference found in this specific gravity is due to salinity alone.

The cod is not a surface fish, but spends most of its life near the bottom at depths from 15 to 50, or 100 fathoms. It is important to notice that the salinities recorded at these depths in the attached salinity determinations are all far below the 35 parts of dissolved salts, which occur in solution in normal sea water, at freezing point.

It must be remembered that in such inlets, lakes, or lagoons, as Lake Melville, there is a restricted entrance or "narrows" admitting inflow or outflow from and to the ocean, and especially submarine ridges, which usually occur in such narrows, either as remains of a former barrier to the sea, or as accumulations of material of a glacial or aquatic origin, that is

deposited either by ice sheets in former times and, therefore, of the character of “Moraines,” or as material deposited where the outflow meets the inflow of the tidal water, and the specific gravity is found to decline, and it may sink to so low a salinity as 20, which is that observed in the Baltic Sea and in the Black Sea. The addition of large quantities of fresh water poured down from rivers, ice sheets, or vast areas of deep snow, also tends in the same direction.

In the records attached, the salinities noted, as already pointed out, at depths of from 15 to 50 or 100 fathoms are chiefly interesting because they are practically prohibitive of the presence of large schools of cod and prevent, therefore, the development of fisheries on any commercial or extensive scale. The conditions limit the amount of food on the bottom, which is essential for cod fisheries. The famous Dr. Johan Hjort, one of the greatest fishery experts in the world, and formerly Director of Fisheries for Norway, states in his report on the Canadian Fisheries Expedition, organized in 1914–15 under the auspices of the Dominion Government, that “the cod is a bottom-feeding fish, belonging essentially to the strata near the sea floor where its food is found and where its spawning takes place” (Canadian Fisheries Expedition 1914-15, page 36).

Professor A. P. Coleman, who has published one of the recent scientific reports on Labrador, particularly referring to the geology of the coast, states that cod do not appear to go far into any of the fiords on the Labrador coast, and on his visit to Hamilton Inlet, he saw no cod being taken, and saw not even in fishing schooners, though the waters outside were swarming with fishing craft. In a private letter he agrees that “cod are far less numerous in narrow brackish and shallow waters, is a correct view,” and he adds that he doubts if any cod go so far inland as the waters of Lake Melville.

There is uniformity amongst the leading experts upon sea fisheries that the cod is a typical salt water fish and is a bottom fish and that it occurs normally in salt water. Exceptionally it resorts to inshore shallows, but only spasmodically, when such fish as the “capelin” go inshore for spawning purposes in immense schools. Cod follow the capelin, but the period of spawning lasts a very short time, and the capelin do not enter brackish or fresh water. After the capelin run is over the cod return to their ordinary feeding grounds, where (as Professor Hind in his report published in 1877 on the fisheries of British North America, states) “they are caught with long lines, or baited trawls actually at the bottom of the sea during December, January, February and March, but from July to September they are often found a few fathoms above the bottom.” The whole cod family (Gadidae), as Dr. Günther, Head of the Fisheries Section, British Museum, London, said in his “Study of Fishes,” page 539, that only two or three species inhabit fresh waters, and the cod family includes nearly sixty different species.

Dr. Richard Parnell is even more emphatic in his well-known work on the “Fishes of the Firth of Forth, Scotland,”

and said nearly a century ago, that cod are never found but in salt water and remain habitually in the depths of the sea. They never ascend up the rivers or even generally frequent the

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shores, excepting for the purpose of depositing their spawn, or attracted by migrating hordes of small fish, such as herring and launce. Dr. Theodore Gill, the eminent United States Authority on fish, as quoted by Dr. Starr Jordan ("The Study of Fishes," Vol. II, page 534), said "the ocean banks of moderate depth are the favourite resort of the cod. . . ." It is found up the estuary of the St. Lawrence, though how far has not been definitely stated, probably not beyond the limits of brackish water." Dr. Jordan himself adds "that along the coasts of New England, the Middle States and British North America, and upon all the off-shore banks of these regions, cod are usually found in great abundance during part of the year at least. Some recent investigations in the Bay of Fundy show how marked and definite is the limit of the distribution of cod, as influenced by salinity and temperature, and Dr. A. G. Huntsman, one of our best authorities on the Atlantic Fisheries, recently reported that his investigations in the Bay of Fundy show that cod have a very marked and definite limit in those waters, and that above this limit they practically do not occur.

Dr. Huntsman states in a recent paper on "The Fishes of the Bay of Fundy" (contributions to Canadian Biology, 1921, Nos. III to XII, page 20) "Cod are abundant at Grand Manan, but decrease in abundance towards Passamaquoddy Bay" and he further states on page 5 "in the Bay of Fundy proper, viz., the main portion exclusive of the tributary, the fish fauna shows on the whole what would be expected from its long funnel shape." Outer deep water with a depth of more than 50 fathoms ends at the mouth of the St. John River and the large catches of the important bottom feeding salt-water fishes, viz., the cod, herring, and hake, are restricted to the shoal water bordering this deep basin, the catches decreasing rather abruptly above this basin." Such a sudden cessation of cod at definite limits where the water begins to change from normal sea water to brackish water has been noted in many localities.

Scientific observations have shown that cod eggs are buoyant and float lightly within a few fathoms of the surface, but they will float only in layers of water of the same specific gravity as their own. Experiments have shown that cod eggs, and newly hatched fry, find favourable conditions in strata whose specific gravity is 1.021 with a salinity of at least 30 to 35. When the specific gravity is reduced to 1.020, no less than 50% of the eggs and young have been found, by actual experiment, to sink to the bottom and with the specific gravity reduced to 1,019 nearly the whole of the eggs sink to the bottom. No great fishery like a cod fishery can exist if the conditions are unfavourable for the breeding and for the development of the eggs and fry, for upon this depends the abundance of adult fish essential to an important cod industry.

It is true that Dr. Hjort found cod eggs near the bottom in

the Gulf of St. Lawrence at a temperature below freezing (*i.e.* 32° F.) but this low temperature was demonstrated to be most unfavourable, for it prolonged the development of the eggs to such an extent that the early cleavage stages and very early embryonic condition showed little development even so late

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as July and August and the spawning season there apparently commences in April and May.

For favourable development and production of young cod in abundance, the period should not exceed from three to six weeks.

The observations in European waters have shown that cod spawn as early as March and April ; indeed those are the chief months, and all the spawning is over by May. This has been abundantly shown to be true of the cod in Norway. A temperature of 37° F. to 43° F. seems to be the most favourable, although cod will hatch out up to so high a temperature as 54° and 57° F. ; but there is always a loss of eggs and fry by too rapid development, and the same applies to a development which is too slow and prolonged. Proof of this is furnished by the high degree of mortality in cod eggs and young fry reported in Dr. Hjort's investigations in the Gulf of St. Lawrence. The causes of this mortality are no doubt complex, but the low temperature and extremely prolonged development must have been a principal cause. Continuous and extreme cold, and still more, the existence of brackish conditions are detrimental to the breeding of cod, and involve loss of eggs and young fish. There can never be abundant cod supplies if the conditions are fatal to the depositing of eggs, and their development into fry.

Some sea fishes are able to endure a variety of conditions, such as extreme variations in temperature, salinity and specific gravity, and such fish as flounders and other flatfish, shad, alewives or gaspereaux, etc., can endure a wide range of such conditions. Shad and alewives, like salmon and sea trout, have indeed acquired the habit of migrating into fresh water for spawning purposes, but it is doubtful if typical sea fish such as flounders can really breed in fresh water. All observations tend to show that this is important, and even more emphatically does this apply to cod. It is a deep sea type of sea fish and for its food, and growth, and for favourable spawning, and life-development conditions, it must have the normal physical and chemical environment which the open sea provides, and it can only live and grow favourably in inlets or lagoons or shores of the sea where the salinities, specific gravity, temperature, &c., are those of the sea outside.

These conditions, as shown on the attached record of determinations by the Hydrographic Survey, are very unfavourable in Lake Melville.

(Signed) EDWARD E. PRINCE,
Dominion Commissioner of
Fisheries.

No. 1016.
MEMORANDUM FROM JOHAN HJORT. Sc.D., F.R.S.,
PROFESSOR AT THE UNIVERSITY OF KRISTIANIA,
NORWAY,

*re*THE UNFAVOURABLE CONDITIONS FOR COD IN THE WATERS OF LAKE
MELVILLE.

The documents placed before me, viz The Memorandum from the Dominion of Canadas Commissioner of Fisheries, the Extract from Dr. E. M. Kindle's Report of the Geography and Geology of the Lake Melville District considered in the light of modern research in Canadian and North European waters seem to me to give satisfactory proof of the statement made by the Commissioner of the Dominion of Canada in the said Memorandum, " that the conditions existing in Lake Melville are so unfavourable for Cod, that neither their spawning nor their life-development, nor their adult life would be possible in the waters referred to." In addition to this the material at disposal seems to me to warrant the conclusion, that no immigration of cod from the Labrador waters into Lake Melville may be expected, in any case not to such an extent that it could be considered of importance for practical fishing operations.

I base this statement, which gives my answer to the question laid before me, viz., " as to the suitability of the waters of Lake Melville for deep sea codfish " on the following facts and considerations.

The Norwegian coast and coast-waters resemble in many respects the Labrador coast, and the great cod-fisheries of Norway also bear a close resemblance to the cod-fisheries of the Labrador coast.

We find on both sides of the Atlantic a coast-line hundreds of miles long with large inlets or, as they are called in Norway " fjords." In the hydro-graphical character of these fjords there is a great variety. In some of them the depths of coast bank continue like deep-sea-channels into the fjords, such channels having in Norway a depth of several hundred fathoms like the great Laurentian channel of the Gulf of St. Lawrence (See Figure 1). The Canadian Fisheries Expedition 1915. Ottawa 1919, page 22, Fig. 14 which illustrates the field of my investigations in the Gulf of St. Lawrence and which especially gives the depth curves for 200 and for 300 fathoms, as well as the places where floating newly-spawned Cod-eggs were found.

In Norway a distinction is made between two types, sometimes thought to represent different races of Cod. The one

belonging to the open waters outside the coast, characterised by its large size, the mature spawning fish

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all over 70 or 80 centimeters (*i.e.*, some 30 inches) long. In the long fjords and especially in the southern part of the Norwegian waters, the Skagerrack, there is another type, reaching maturity in some cases at a size of 10 or 11 inches. These types are not everywhere so marked as this, on the contrary there seems to be a great variation in their development according to the natural conditions of the surroundings.

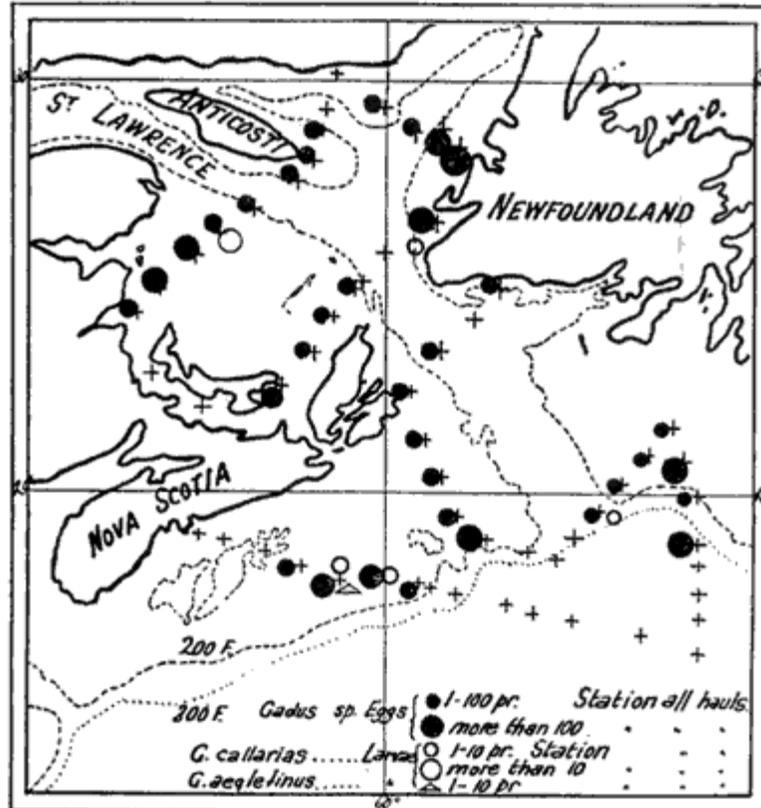


FIG. 1.

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The coast type makes enormous migrations of perhaps thousands of miles during a year, a fact which has been established by accurate marking experiments. (Johan Hjort Fluctuations in the great Fisheries of Northern Europe. Rapports et Procès—verbeaux, Vol. X. Copenhagen 1914). Cod marked in Northern Norway have been found as far south as in the neighbourhood of the town Bergen, but all such migrations take place along and outside the coast, only a small part of the migrating shoals being found at the mouth or a few miles inside the deep fjords, where they may be caught mostly at depths of 50 to 100 fathoms. Among some 5,000 marked cod a

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number of some 500 were recaptured none of which were found further in than the mouth of a fjord.

As a proof of this statement, it may be mentioned that in the

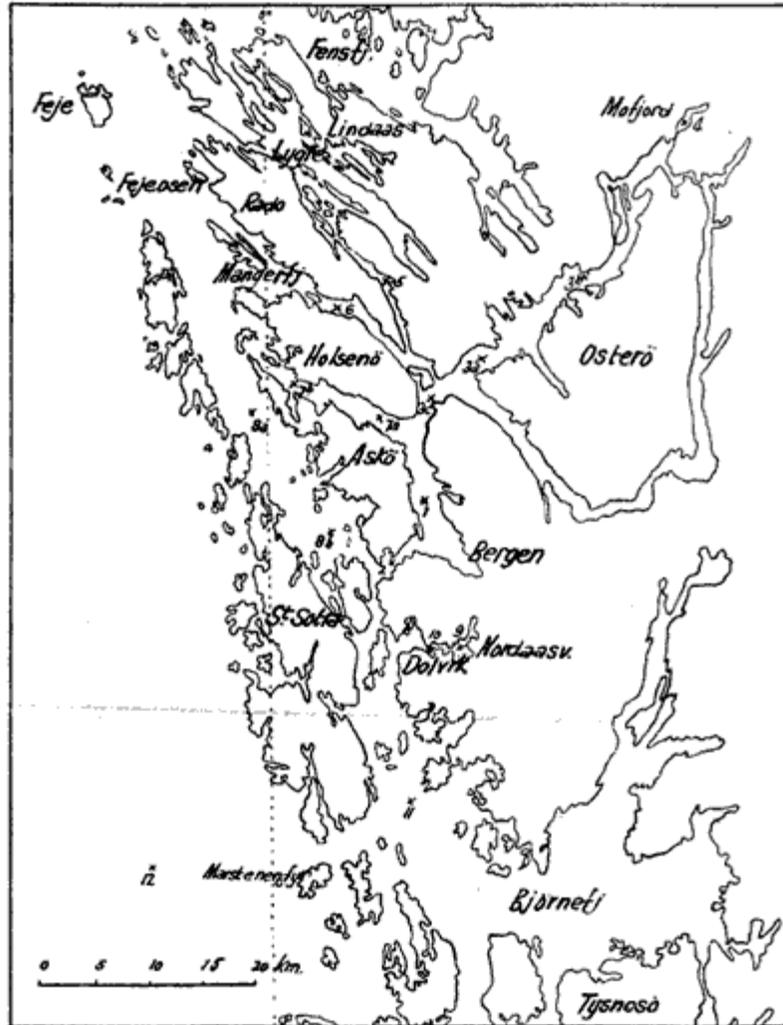


FIG. 2.

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year 1919 the catch of large codfish off the coast in the greatest fishing district of Norway, the province Nordland, amounted to some 22,500 tons, while the “ fjordfish ” comprising both immigrating coast fish and the local fjord type amounted to some 890 tons in spite of this district being conspicuous for its large open and deep fjords.

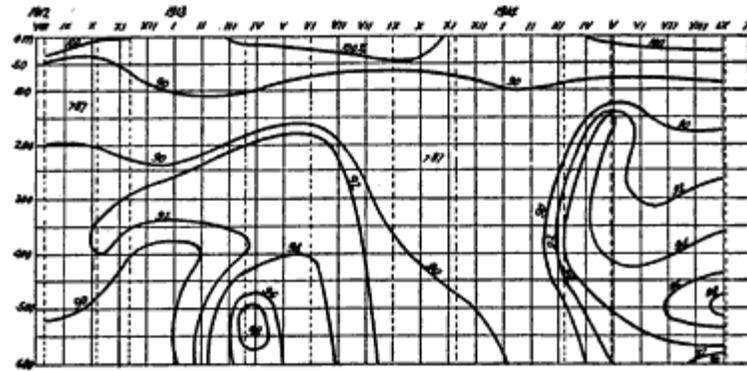


FIG. 3.

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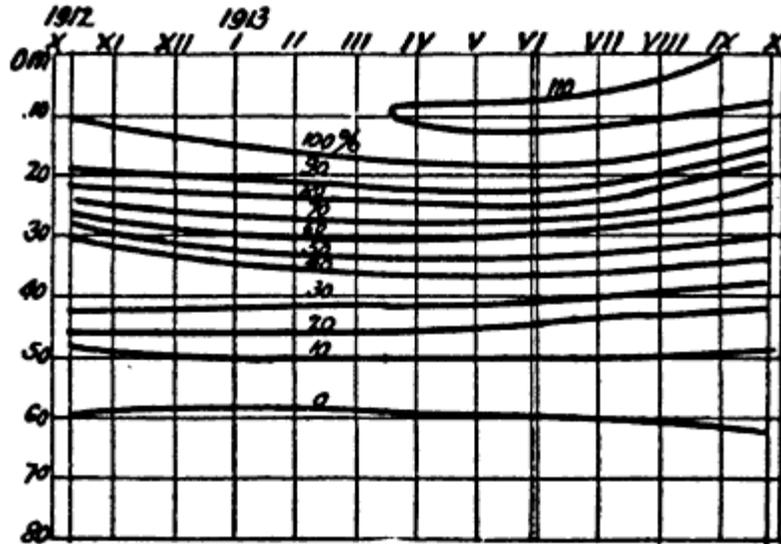


FIG. 4.

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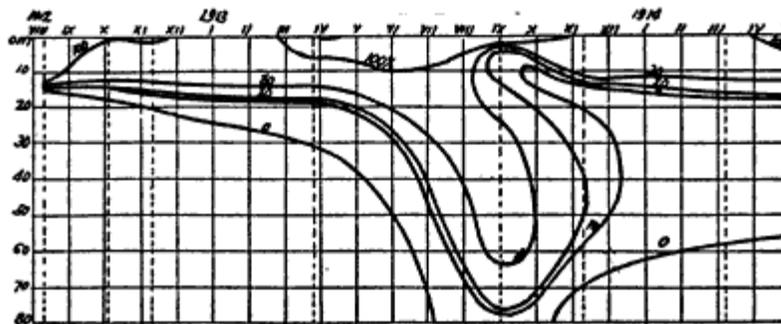


FIG. 5.

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The chart, Figure 2, may serve as an example of the variety of the Norwegian fjords with regard to geographical topography, and it is an experience of a hundreds of years, that no immigration of Cod takes place into fjords, where barriers exist and shallow entrances lead into deeper and wider basins farther inland. The water on such barriers may have all depths from say 50 fathoms up to one or two fathoms and the deep basin behind the entrance may be several hundred fathoms deep.

The natural conditions of this special class of fjords have long been an interesting subject for study. In the year 1897 I discovered—(Report on Norwegian Fishery and Marine Investigations, Vol. 1. 1900)—that in the so called “Drammensfjord ” a branch of the Christiania fjord, the water was deficient in Oxygen and poisoned by hydrogen sulphide (H₂S) which of all living organisms only permits some special kind of bacteria to live in the water. Similar conditions were previously found in the Black Sea. Since then extensive and very valuable investigations have been made by Dr. T. Gaarder (Torbjørn Gaarder. *Surstoffet i fjordene*. Bergens Museums Aarbok 1915–1916)—who determined the oxygen present in the seawater at different depths of a long series of different fjords at different months of the year.

In the following figures (3–5) some examples of his work are given. In these figures the amount of oxygen is expressed in percentages of normal saturation of seawater under the temperatures present. Figure 3 gives an example from the station marked 11 (on the chart, fig. 2) which is situated fairly near the coast in a fjord having a deep channel from the outside waters, and it will be seen that the percentage of oxygen in the seawater here is fairly high (over 90%) all through the year even in depths down to 600 meters (over 300 fathoms). In the other figure (4 and 5) examples are given from fjords having shallow entrances (about 3 meters) and deep basins behind. Here the percentage of oxygen approaches zero in the deep water in any case in some parts of the year. Other examples contained in the paper show intermediate conditions and the whole work furnishes valuable material in explanation of the important fact that these fjords are so poor in organic life and that the great fish-shoals of the outside waters never migrate into these stagnant basins.

From the admiralty chart (No. 375, Sandwich Bay to Nain) it is evident that the depths at the entrance to Lake Melville through the Narrows off Rigoulette may not exceed some ten, or at the most twelve fathoms. The depths of the lake itself are much greater, at least 100 fathoms. From the surrounding land large rivers pour enormous quantities of fresh water into the lake. From this there must result a strong outgoing current carrying very fresh water, which is borne out by the low specific gravity on the surface and at the bottom off Rigoulette observed by Dr. Kindle on the 20th July and by the many observations of low salinity in the surface waters of the lake.

On the other hand there may be a possibility of an accidental and very rare inflow of water from outside at such periods of the year when the outflow of fresh water stops, but the lack of importance of this inflow is evident from

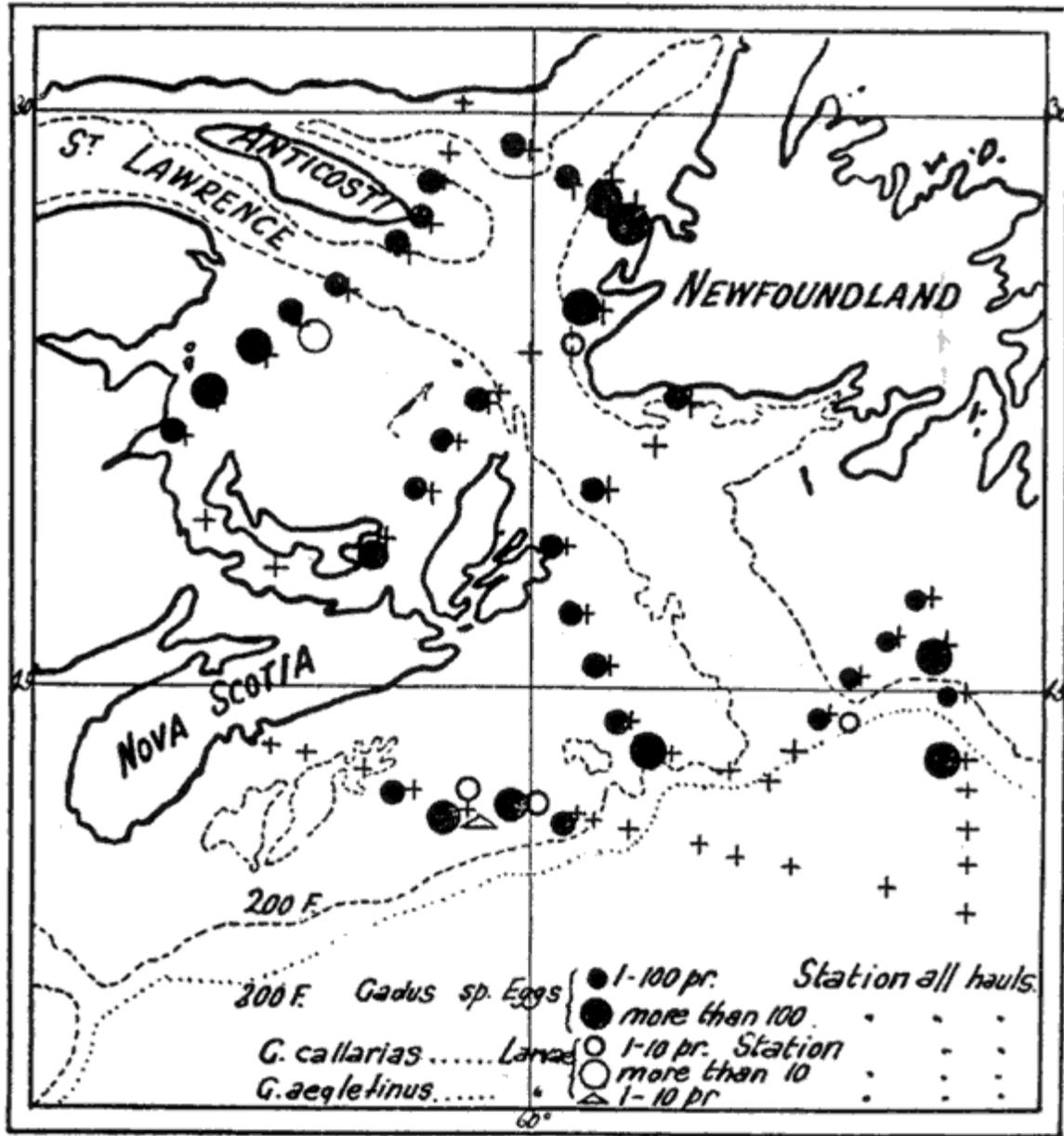


FIG. 1.

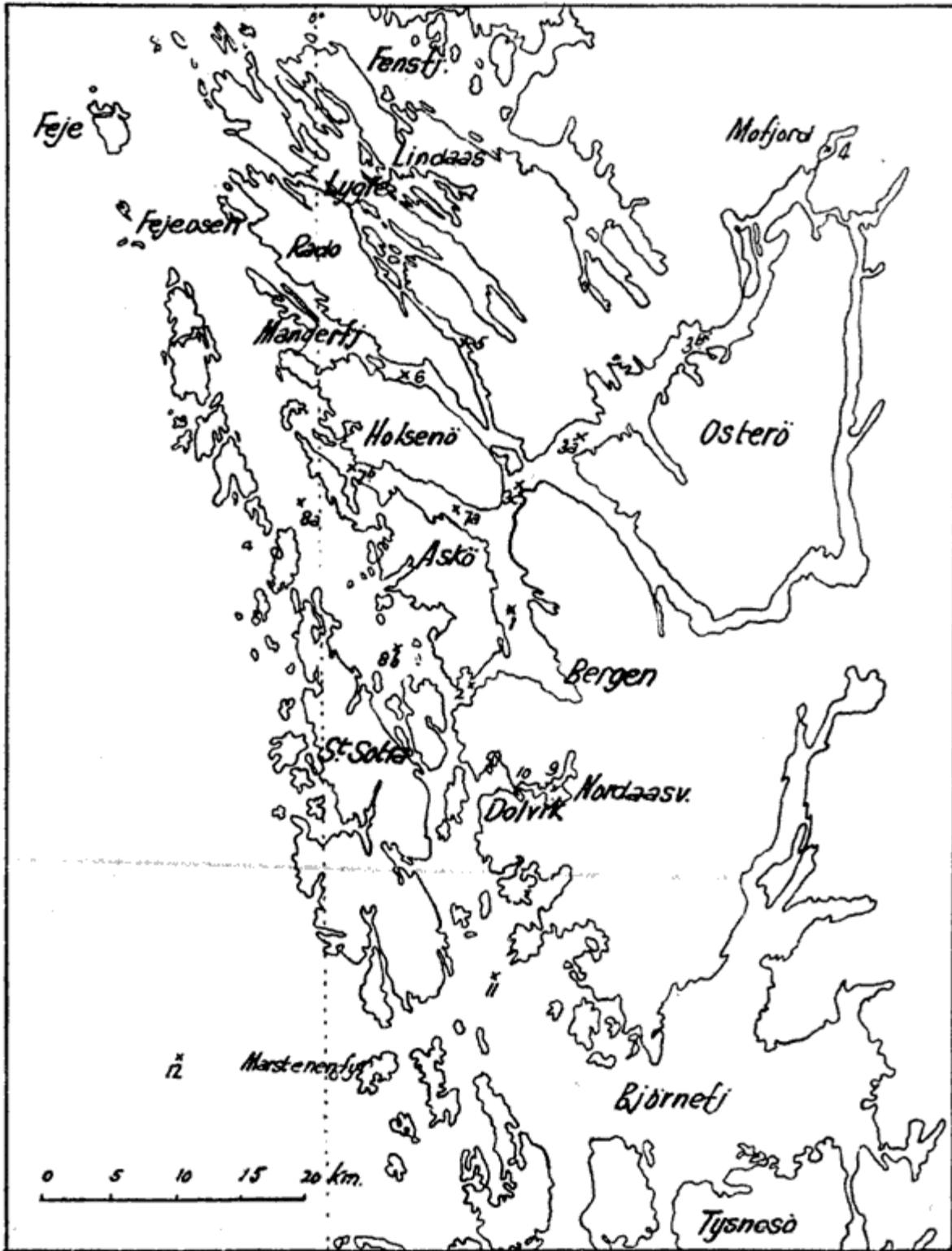


FIG. 2.

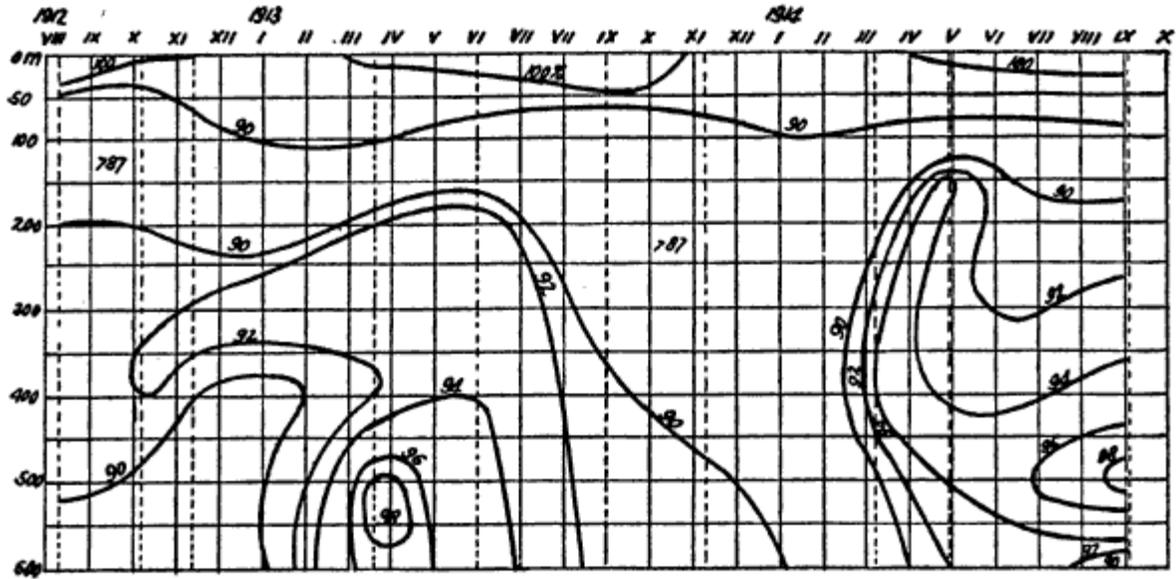


FIG. 3.

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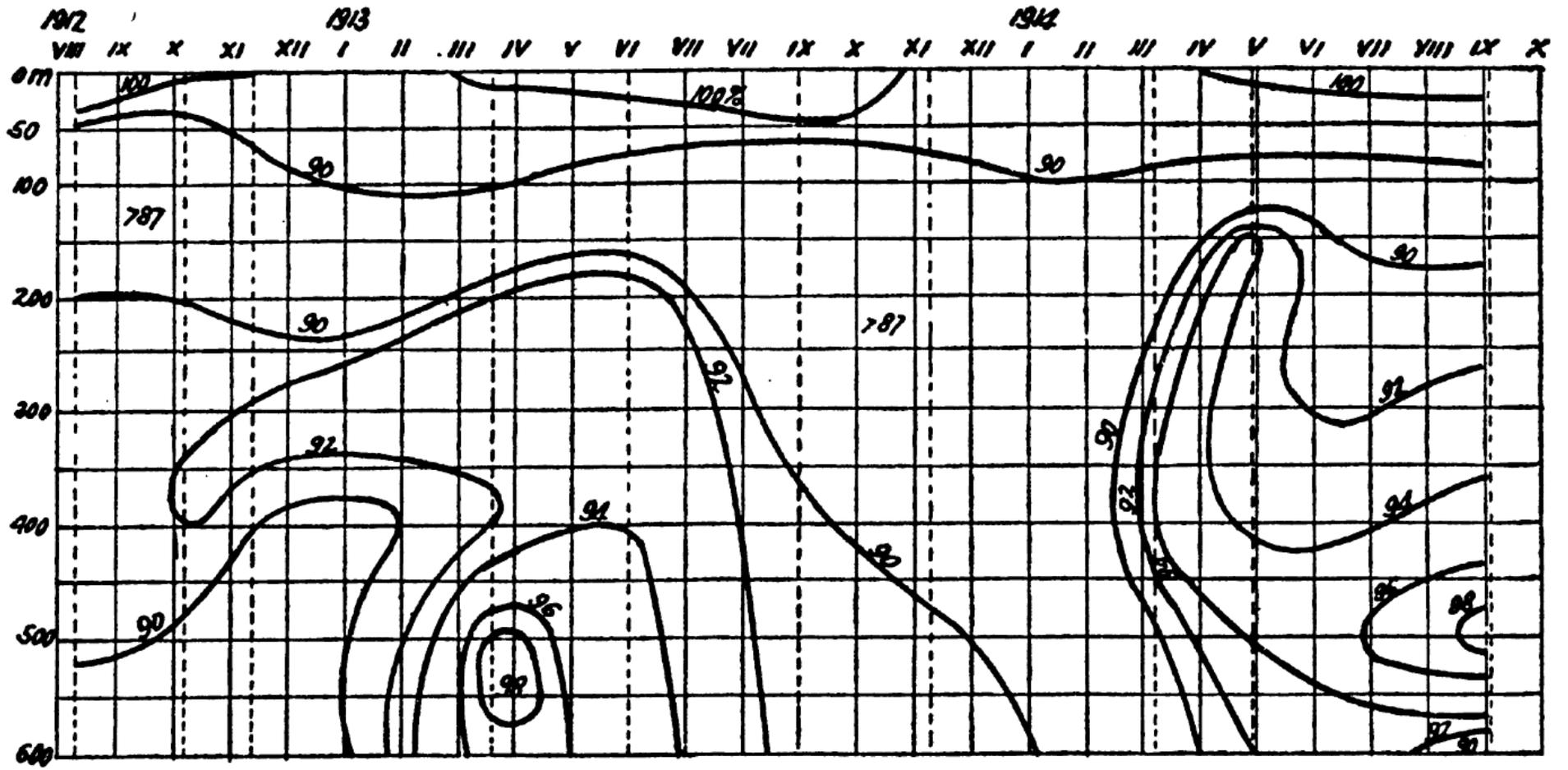


FIG. 3.

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[Fig. 4]

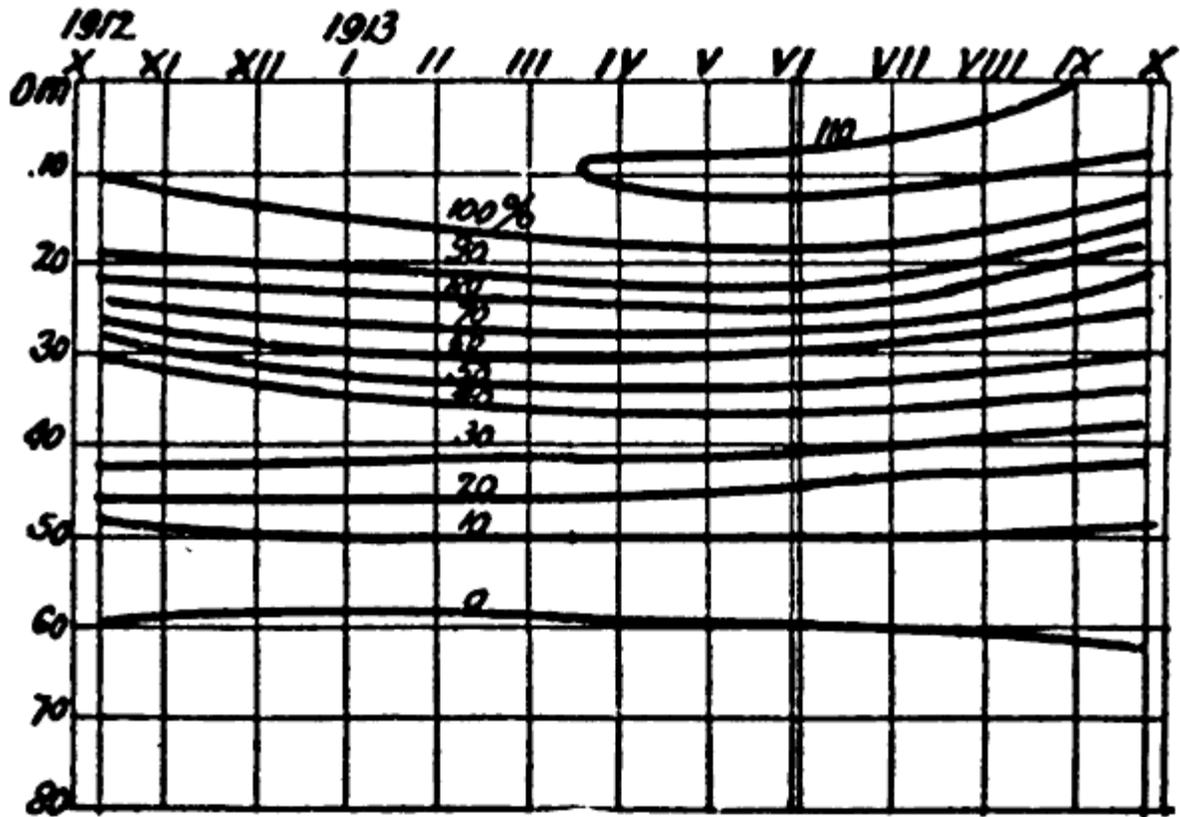


FIG. 4.

[Fig. 4]

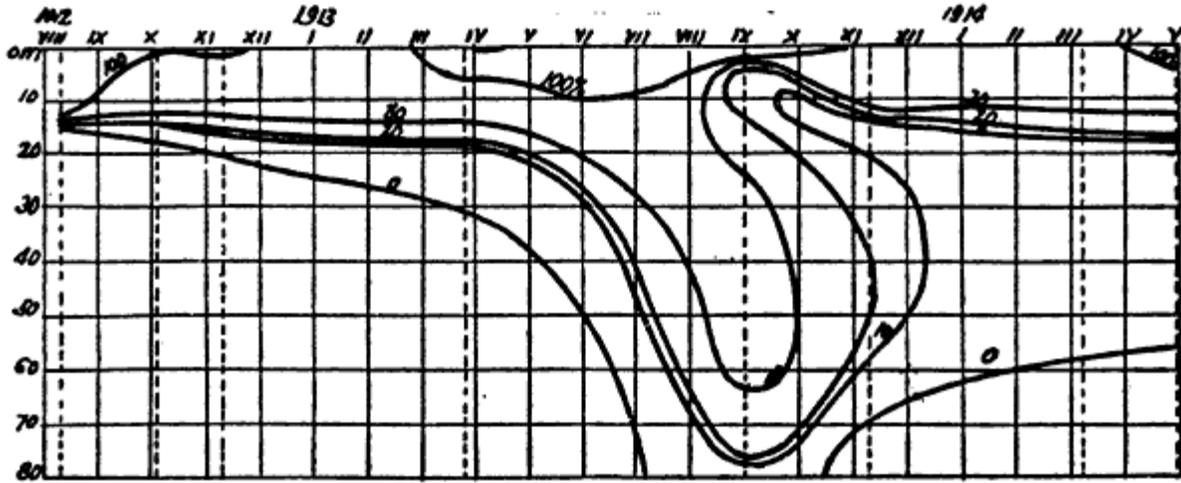


FIG. 5.

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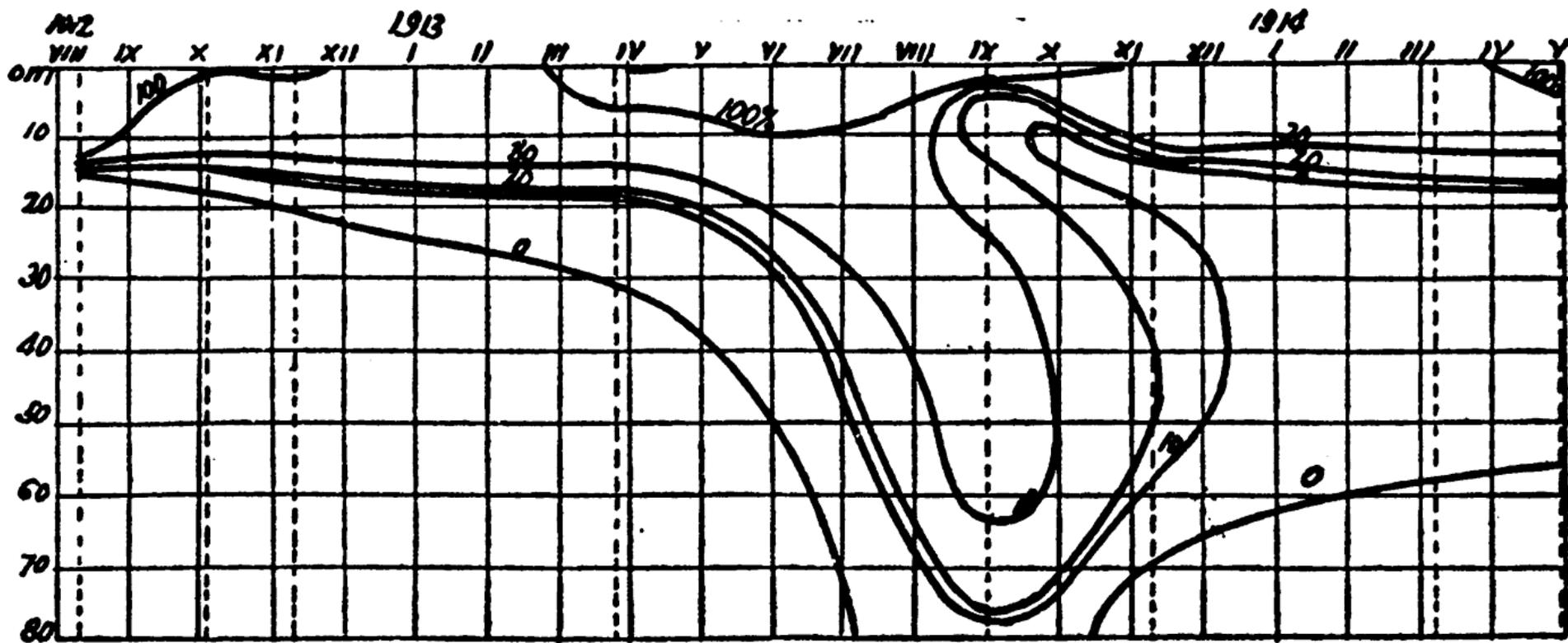


FIG. 5.

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the observations which show that the salinity in the deep waters of the lake is much smaller than the salinity observed in similar depths in the waters off the coast. See Sir John Murray and Dr. Johan Hjort *The Depths of the Ocean*, Macmillan, 1912, Fig. 95, page 110 and the Canadian Fisheries Expedition 1914–1915, mentioned above plate 2, following page 343.

From these facts and the considerations given above I feel confident that the conclusion may be drawn that Lake Melville cannot be considered as a suitable water for the life or even for the periodic visits of the large shoals of Cod migrating off the coast of Labrador.

JOHAN HJORT.

No. 1017.

C

MEMORANDUM FROM JOHAN HJORT, Sc.D., F.R.S.

ON THE PREVALENCE OF UNFAVOURABLE CONDITIONS FOR COD IN THE WATERS OF LAKE MELVELLE FOR SOME TIME PAST, SAY, SINCE 1763.

The unfavourable conditions for cod in the waters of Lake Melville, described in a previous memorandum are mainly due to two factors: the meteorological conditions especially the rainfall and the topographical conditions, especially at the narrow and shallow entrance to the Lake, called “the Narrows.” The question, if these factors have remained unaltered during the last two hundred years, can only be answered on the basis of geological evidence, since no historical reports or material are at hand for all this space of time. As I am no specialist in the science of geology myself, I have consulted my colleague, Dr. J. Schetelig, who is professor of geology at the University of Christiania, and one of the first specialists on the subject. He has sent me the appended letter of the 15th inst., in which he gives all the geological material, which I consider necessary for answering the question laid before me, viz: if the unfavourable conditions for cod in Lake Melville have prevailed for the last two hundred years.

From Dr. Schetelig’s letter it will be seen that the geological evidence favours the view, that rainfall in the last two hundred years has remained of the same order of magnitude, and that there are reasons for the belief that the rainfall one or two hundred years ago was larger than at the present day.

For the consideration of the changes in the topography, the geological evidence goes in the direction of proving that the oscillations, which took place in Northern latitudes on both sides of the Atlantic, came to a stage of rest several hundred years ago, especially along the coast line, f.i. along the

Norwegian coast and along the coast of Labrador, where the Narrows are situated.

p. 2409

“ The extracts from reports on the District of Ungava ” (published by the province of Quebec, Canada, by the Dep. of Colonisation, Mines and Fisheries (Mines Branch, Quebec 1913), strongly support the view of the similarity between the oscillations of the Scandinavian and the North American coast since the glacial period, because they describe the uprise of the coast since the glacial period as being of the same magnitude as on the European side, where historical evidence is at hand for the last hundreds of years. Dr. Schetelig states that even if the largest change, which has been observed in any part of these territories, were made a basis for calculation, this would only lead to the conclusion, that the entrance to Lake Melville in 1750 might have been 1·7 meter deeper than it is at present.

I may add, that the latest reports f.i. A. P. Coleman's North Eastern Part of Labrador and New Quebec (Geol. Survey Survey of Canada, Memoir 124, 1921) also supports Mr. Schetelig's view.

On the basis of this material the conclusion follows that the unfavourable conditions for the life, the migrations and fisheries of cod in the waters of Lake Melville have remained unaltered for several hundreds of years past

JOHAN HJORT.

No. 1018.

**LETTER FROM DR. SCHETELIO, PROFESSOR OF
GEOLOGY AT THE UNIVERSITY AT CHRISTIANIA,
TO DR. JOHAN HJORT,**[15 Nov.,
1922.]

APPENDED TO PRECEDING MEMORANDUM.

Professor Johan Hjort,
Biological Laboratory,
University, Christiania.

DEAR PROFESSOR HJORT,

I have duly received the documents and charts concerning the Hamilton Inlet of the Labrador Coast and have considered the question which you have placed before me, if the meteorological and topographical conditions of the Hamilton Inlet and Lake Melville have remained unaltered as they are now during the last 150 or 200 years, or more definitely since the year 1763.

There are no reasons for believing that the meteorological conditions have been characterized by less rainfall in this period. On the contrary the great progress of the glaciers of Norway during the eighteenth century indicate that the humidity was greater in this century and that therefore the supply of fresh water by the large rivers, which end in Lake Melville, was larger at that time than it is now, which tends to show that the fjord system of the Hamilton Inlet was then even less favourable for cod than it is now.

The other and still more important factor for a change of the hydro-graphical conditions are the oscillations in the bottom of the sea. If the Labrador coast during the last 150 or 200 years had undergone an uprise of considerable dimensions this might have influenced the hydrographical conditions considerably.

At "the Narrows," the entrance to Lake Melville, the hills on the Southern side have marked terraces of a height of 150 feet above the present water level. Further in towards Southwest in the Hamilton river valley marine terraces have been found in a height of some 300 feet above the sea. If the depths in the narrow entrance (the Narrows) which now are 10 fathoms only, were increased by 150 feet (say 25 fathoms) this would of course also lead to a widening of the entrance and to a considerable increase of the salt water flowing into Lake Melville.

For the consideration of this problem it is first of all of importance to remember the great similarity between the post-

glacial history on both sides of the Atlantic in the two areas Fennoscandia and the Labrador territory.

p. 2411

The events in these two areas seem to have been synchronous since the late glacial period.

The Labrador district formed a definite and separate glacial area. During the last glacial period, which in America is called the "Wisconsin" period and in Europe the "Mecklenburgian," there was a narrow strip along the coast free of ice along the North coast of Labrador and along the west coast of Norway.

At the end of this period there appear in both these areas the late glacial submergence illustrated on the two appended charts of the "isobases," which are drawn from the investigations of the celebrated Swedish professor G. de Geer, who investigated the areas of Scandinavia as well as of North America. In both areas he found a perfect similarity, a larger submergence in the centre of the area and a smaller submergence towards the coasts. It is now generally accepted that the explanation of this submergence is to be sought in an isostatic movement due to the pressure of the ice. As far as Scandinavia is concerned the maximal submergence coincides with the final melting of the ice.

In the postglacial time an emergence or uplift takes place in both the submerged areas leading to the old position of equilibrium, and the uplift increases from the coast towards the Central areas.

For Norway Professor W. C. Brogger has proved that the uplift of South eastern Norway had already come to the present stationary position during the bronze age, *i.e.*, that the relation between the sea and the land in South eastern Norway has been unaltered during the last 2,500 years. The marine limit is at the town of Christiania at 220 meter and at the mouth of the Christiania fjord at ca. 150 meter above the sea.

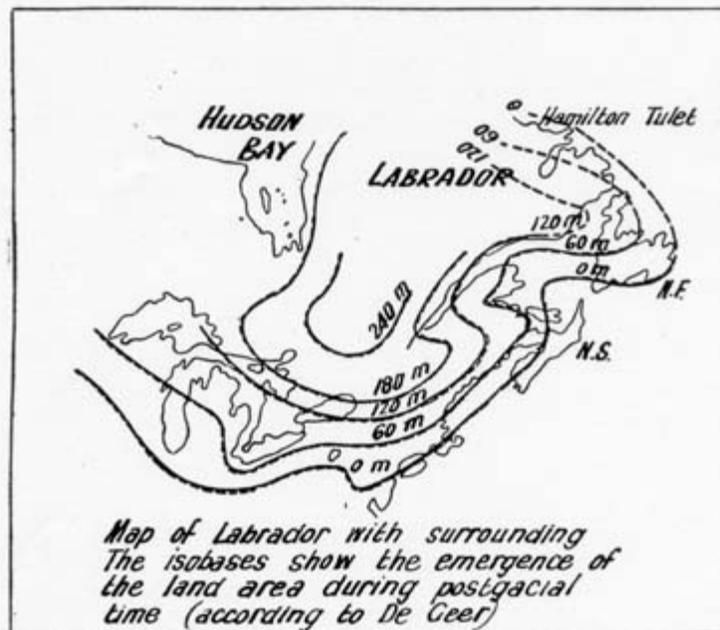
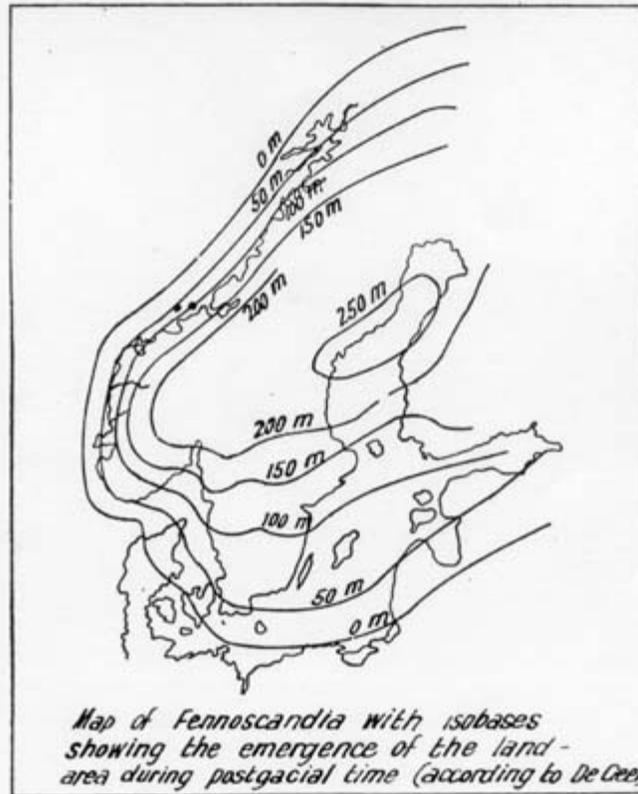
In the central parts of Fennoscandia this is somewhat different, the uplift here has not ended yet. Around the Gulf of Bothnia (a part of the Baltic) the maximum upheaval of the coast line is one centimeter a year or one meter a century. Since the year 1750 the coast line of the Gulf of Bothnia has therefore been lifted 1.7 meter. The uplift is therefore very slow.

For the Canadian area it may be stated generally on the analogy of the events in the Fennoscandian area that the uplift took place at a greater speed in the beginning of the postglacial period than in the later part, that the uplift has been decreasing and that it now is very near the stable state of equilibrium.

My knowledge of the Canadian literature on the subject may not be complete. For the West coast of Labrador towards the Hudson Bay, Tyrrell (American Journal of Science Ser. 4 Vol. II. 1896) states as follows : " The postglacial uplift . . . of the shore of Hudson Bay has virtually ceased, and . . . the land has now reached a stable condition." Referring to the Northern

part of the U.S.A. Davis (Physical Geography, 1900) states that the coast of Massachusetts and New Jersey in our time is sinking one or two feet a century. Spencer gives the same statement for the Northern part of the Eastern coast of the States which "is now sinking at the rate of two feet a century." (American Journal of Sc. Vo. 19, 1905.)

p. 2412



p. 2413

The conclusion from these statements seems to be that the peripheral parts of the Canadian area have come to rest, that the uplift is ended and that the neighbouring districts outside the area are found to be sinking very slowly.

The Hamilton Inlet belongs to what is here called the periphery of the Canadian area of glacial submergence. Marine terraces at the height of 150 feet are found at the entrance to Lake Melville and at the height of 300 feet in the Hamilton River Valley. It is very likely that the coast here has long ago been lifted to the stable equilibrium like the Labrador coast bordering the Hudson Bay, since both coasts have the same distance from the central part, which has been lifted to the greatest height.

Moreover it must be concluded that even if we accept an uplift as great as that now taking place in the Gulf of Bothnia—*i.e.*, 1 cm. a year- we cannot even then consider the uplift to exceed one meter and seventy centimeters or approximately one English fathom for the time since the year 1750. Even this uplift, which in itself is very unlikely, would thus not have reduced the depths of the entrance to the Lake Melville, more than by one fathom in the time from the year 1750 to the present day, and such a difference in the topographical conditions can in no way have altered the hydrographical conditions of the fjord to any appreciable extent.

Yours sincerely

JAKOB SCHETELIG.

Christiania, 15th November, 1922.

**AUTHORITIES UPON DETERMINATION OF LIMIT
BETWEEN “ RIVER” AND “SEA.”**

No. 1019.

C

**THE TWEE GEBROEDERS, 3 C. ROBB 336, 341, 342,
PER SIR W. SCOTT (LORD STOWELL).**

No. 21

Vide Vol. V, page 2093.

No. 1020.

C

DUKE OF GORDON v. EARL OF MURRAY (MORAY).

15 MORISON'S DICTIONARY OF DECISIONS, 12797.

* * * *

In this case a judgment of the House of Peers betwixt the Duke of Gordon and Earl of Murray was cited, but was found to be a different case (See APPENDIX.) The Duke of Gordon had a salmon-fishing *in ostio fluminis de Spey*. The Earl of Murray had the superior fishing of this river ; and the question was, to ascertain the proper limits of these respective fishings. It was the opinion of the Court, that the *ostium fluminis* is that precise point where the river runs into the sea, at whatever time of the tide ; and, there-fore, that the *ostium fluminis* is a variable point, sometimes higher and some-times lower, according as the sea approaches or recedes from the land. The House of Peers were of a different opinion. They interpreted a grant of a salmon-fishing in *ostio fluminis* more benignly. They judged the *ostium fluminis* not to be confined to a point, but to comprehend the whole space betwixt the lowest ebb and the highest flood-mark ; and thereby to be an immoveable space instead of a moveable point. Therefore it was adjudged, “That the Earl of Murray has the exclusive right of fishing in the river Spey, downward to the place where the line which the sea makes upon the coast cuts the river at high water ; and that he has no right to fish beyond that line : That the appellants the Duke of Gordon has the exclusive right of fishing from and below the said line to the sea ; and that he has no right to fish

above that line.” Hence it appears that the point in that case was to determine betwixt two parties, having both right to fish in the same river, but in different places.

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No. 1021

**HORNE v. MACKENZIE (1839) MACLEAN & ROB.
(H.L.) 977.**

(No. 37)

(Appeal from the Court of Session, Scotland.)

[1839.]

Archibald Horne, Judicial Factor, on Cromarty, and Colin
M^cKenzie of Newhall, Appellants.¹

[*Sir F. Pollock—Pemberton.*]

The Honourable Mrs. Maria Hay Mackenzie of Cromarty and
Captain Hugh Munro, her Tacksman, Respondents.

[*Attorney-General (Campbell)—Buchanan.*]

*Salmon Fishing—Statutes 1424, c. 11, &c.—Stake
Nets— Evidence.*—At the trial of an issue as to whether
certain stake nets and other engines were placed in
situations prohibited by the statutes regulating the salmon
fisheries, the judge in the course of his direction to the
jury, after defining estuaries as spaces between the strictly
proper river and the strictly proper sea, the waters of
which were partly salt and partly fresh, proceeded thus :
—“ The mere name is of little importance. The thing to be
looked to is the fact of the absence or of the prevalence of
the fresh water, though strongly impregnated by salt.
Now, where this fresh water prevails, though in the
estuary, these structures are illegal.” The Court of Session
disallowed a bill of exceptions to the direction. The House
of Lords reversed this judgment, and remitted the cause
with directions to allow the bill of exceptions, and grant a
new trial.

1ST DIVISION.

—
Ld. Cockburn, Judge
at Trial.

Question raised,—Whether it was matter for exception that a
witness had been allowed during his examination to use,
for the purpose of reference, a printed copy of a report,
with certain jottings and calculations recently made
thereon, relative to the subject of his testimony, which
report he had prepared on the employment of the party
adducing him as a witness :— observed, per L. C.—It is
clear that for some purpose at least the witness was at
liberty to refer to the paper he produced, and that a bill of
exceptions could not have been supported on that ground.

HORNE and another
v. MACKENZIE and
another

By a statute of Robert I., A. D. 1318, c. 12, it is enacted
thus :— “Item ordinatum est et assensum, quod omnes illi qui
habent croas, vel piscarias, vel stagna aut molendina in aquis
ubi ascendit mare et se retrahit, et ubi salmunculi vel smolti

“ descendunt et ascendunt, tales croæ et machinæ infrapositæ sint ad minus de mensura duorum pollicum in longitudine et trium pollicum in latitudine, ita quod nulla fria piscium impediatur ascendendo vel descendendo, secundum quod libere possint ascendere et descendere ubique.”

Another statute, in the reign of James I., 1424, c. 12., enacts,—“ Item, It is ordanyt that all cruifis and yairs, set in fresche waters quhair the sea fillis and ebbs, the quhilk destroys the fry of all fisches, be destroyt and put away for three yeirs to cum.”

Another statute, in the reign of James III., 1469, c. 87., enacts,—“ Item, for the multiplication of fish, salmond, grilsis, and trowtes, quhilk are destroyed by cowpes, narrow messes, nettes, pryne, set in rivers that hes course to the sea, within the flude mark of the sea, it is advised in this instant parliament, that all sic cowpes and pryne be destroyed and put away for three ziers. ”

Another statute, in the reign of James IV., 1488, c. 13., enacts,—“ It is statute and ordained, that all cruiffis and fisch-dammys that ar within salt watyrs quhar the sey ebbs and flows, be utterly destroyed and put down, alswell thair belongis to our sovereign lord, as utheris throw all the realme. And as anent the cruiffis in fresche waters, that they be of sic largnes and sic days keepit as is containit in the actis and statutes maid thereupon of befor.”

Another statute, in the reign of Queen Mary, 1563, c. 3., ratifies the preceding statute, with the following addition :— “ That is to say, that all cruives and yairs that ar set. of late upon saundes and schauldes far within the water where they were not of before, that they be incontinent, tane down, and be put away, and the remanent cruives that ar set and put upon the water sandis to stand still quhil the first day of October next to cum, and incontinent after the said first day to be destroyed and put away for ever.”

In 1828 the respondent, as proprietrix of salmon fishings in the river Conon, and her tacksman, Captain Hugh Monro of Teaninich, applied to the 30 Court of Session, by bill of suspension and interdict, against several proprietors of fishings situated to the eastward of her fishings, on the ground, that they were fishing illegally within the locality described by the statutes above recited. In support of this application it was averred, that the whole expanse of water between a point at or near the town of Dingwall and the two great headlands called the Sutors, which abut upon the ocean and form the entrance to what is known as the Frith of Cromarty, was subject to the prohibitions in the said statutes.*

* The following description of the locus in question is taken from the report of the case in the courts below, vide 16 Sess. Cas. (1st Ser.) 1286, 1287 :—

“In the northern shore of that large arm of the sea which is known by the name of the Moray Frith, there is an opening of 4,400 feet in width between two rocky headlands termed the Sutors of Cromarty. The water within the Sutors is the Frith of Cromarty, which expands on either side into the bay of Cromarty on the south, and the bay of Nigg on the north. After passing inwards as far as Invergordon, the breadth of the water is contracted to about three-fourths of a mile, after which it increases, and, at high water, varies from two miles to one mile throughout the remainder of the Cromarty Frith, which reaches above the town of Dingwall.

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The application was opposed by Mr. Archibald Horne, accountant in Edinburgh, judicial factor on the estate of Cromarty, situated near the Sutors ; and also by M'Leod of Cadboll, Mackenzie of Newhall, and others whose fishings are situated between the Cromarty fishings and those of the respondent. By these parties it was contended, that all the water below the line of lowest ebb tide beyond which the sea never recedes, whatever shape or form the contiguous coast might assume, was excluded from the operation of the prohibitions aforesaid.

The bill of suspension was passed ; and a record having been made up, issues were adjusted for all the parties in a corresponding form, but it was agreed that the issue as to the Cromarty fishings should be held as the issue for all the others, *mutatis mutandis*, and that their interests respectively should be determined by the result of that issue. The following accordingly was the issue sent to trial, viz. “Whether the defender, Mr. Horne, or his predecessors in office, has or have wrongfully fished for salmon in the Frith of Cromarty, opposite to the lands and estate of Cromarty and others, during the years 1824, 1825, 1826, 1827, and 1828, or any part thereof, by means of stake nets, bag nets, yairs, or other engines, placed in situations prohibited by statute ? ”

The affirmative of the issue was with the respondents, the pursuers of the action. In the course of the trial a witness for the respondents, who had been employed to make a survey of the subjects in dispute, proposed to refer to a printed paper purporting to be a report of his survey, and containing also certain manuscript jottings on the margin. This was objected to by the appellants, but the objection was over-ruled, and the examination proceeded.

After a variety of evidence adduced by both parties, the judge directed the jury in point of law, and a verdict was returned for the respondents.

The above ruling of the judge in respect to the evidence, and certain parts of his direction to the jury in point of law, were then made the subject of a bill of exceptions.

The first ground of exception was thus set forth in the bill : —“The counsel learned in the law for the said defenders did object to the witness having before him a printed paper, while

About two miles about Dingwall, the water is contracted to the breadth of 290 feet where it is crossed by Conon bridge. The river Conon, descending from Ross-shire, flows under this bridge, after having experienced the first influence of the tide at a distance of about two miles above it. At or near the point of Ardully on the Cromarty Frith, is the line below which the sea never recedes at low ebb tide. At the distance of two miles above this point there are certain lands belonging to Duncan G. Forbes of Culloden, whose titles contain a grant of fishings “ tam in mari quam in aqua de Conon.” The level of the surface of the water at Conon bridge is about twelve feet higher than the level at or near Ardully point ; from which, to the Sutors, the level remains the same. The distance from Conon bridge to the Sutors of Cromarty, is above twenty miles. The superficial area, covered by water, at low tide, within these limits, is about seventeen square miles ; at high water it is 34½ square miles. Between high and low tide, at neap-tides, the difference in the volume of water within these limits is 4,750,000,000 of cubic feet ; and at spring-tides, the difference is twice as great. There is great depth of water, at all times of the tide, between the Sutors, and also in the Cromarty Frith. There is no bar of sand, or other deposit, at or near the Sutors.

p. 2418

“ witness being examined as to the said printed paper, deponed, that it was a copy of a report which he had made to the pursuers on their employment, and on the margin of which he had, two days ago, made a few jottings. The witness stated that he had his original note-book with him, and these jottings are not in it, though their materials are. He could, with a little time, repeat the calculations of which these jottings consist, but he happened to make them, with a view to his own explanations as a witness, on the margin of the printed copy. His report is dated 1st November 1836. It is made from his original notes, but is not a literal transcript of them ; but in substance it is the same. Whereupon the said counsel for the defenders did object to the said witness being allowed, while giving his testimony, to have before him, and refer to the said printed paper, and notes written thereon, which were not made at the time of making the survey or observations with reference to the Frith of Cromarty. But the said Lord Cockburn, after looking at the said printed paper and notes, repelled the objection, whereupon the said counsel for the said defenders did then and there except to the foresaid judgment of the said Lord Cockburn, and insisted that the said George Buchanan ought not, in giving his testimony, to be allowed to have the said paper and jottings thereon before him, or to refer thereto, and that such testimony so given could not be received as legal and competent evidence”

The direction of the judge in point of law was thus set forth in the bill of exceptions :—“ Now, assuming the machines to have been used, the point is, whether they were so wrongfully ? There are many circumstances which might have made the use of them wrongful ; but the only ground on which they can be held to have been so under these issues is, that they were placed in illegal situations. Hence the full question put to you is, whether salmon were wrongfully fished by means of

these engines, 'placed in situations prohibited by law.' ”

It may naturally occur to you as odd, that a question so much involved in law should be put to you. But it was unavoidable. Because, though a Court may give the legal rule, which permits or condemns these machines, according to circumstances, the determination of the circumstances, that is, of the facts, to which the rule is to be applied, is the proper province of a jury. I shall therefore begin by giving you as much of the law as is necessary, and shall then leave you, with such observations as may appear to me to be proper, to apply this law to what you shall think the true import of the evidence.

“I say as much as is necessary : for it is not necessary, for the determination of this particular case, that I should give, or attempt to give you, a catalogue or a description of all the circumstances, even of situation, under which stake-nets may be lawful, or the reverse. Many of them have no application to this case ; and it is needless to encumber ourselves with legal matter that is superfluous. Nor shall I trouble you by any observations either on the history or on the policy of the law. These may be useful to lawyers, by assisting them to put the right construction on disputed statutes ;

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“but they are of little or no use after the construction of these statutes is fixed, and least of all to juries, who, without any reasoning on the subject, must take the law as they receive it from the Court.

“Now I have to lay it down to you, in the first place, that the statutes, as explained by decisions, make these machines unlawful, if they be placed in what is usually known as a river in the ordinary sense of this word. You have heard enough in this case to let you know that science and investigation may discover rivers where the uninformed eye cannot or does not trace them. Of this case I shall speak instantly. All I now say is, that this apparatus is prohibited by law if it be placed in a river.

“In the second place, there are many rivers which only join the ocean through a firth or through a long land-locked valley, where the fresh and salt waters meet. In this situation it will probably depend upon external appearances,—whether ordinary observers say that the space is occupied by the sea, or by the river, or by both. If it shall be so fully and distinctly occupied by the flowing fresh water as that it is really a river, though the common river features may be periodically effaced by the tide, it comes under the preceding rule ; that is, being still a river, these machines are unlawful.

“Moreover, rivers have estuaries,—that is, spaces intermediate between the strictly proper river and the strictly proper sea. Through these partly fresh and partly salt estuaries, though its ordinary river features may be impaired, or at high tides even obliterated, the river still does in truth exist and operate ; though its existence be only continued among sands and shaulds through which it has to work its way, struggling

with the tide. Now these structures are also unlawful in these estuaries. Not that estuaries are specially mentioned by name in the statutes, neither are friths. But the estuary is a part of the river, and is included under this word. The mere name is of little importance. The thing to be looked to is the fact of the absence or of the prevalence of the fresh water, though strongly impregnated by salt. Now, where this fresh water prevails, though in the estuary, these structures are illegal ; and they are not only unlawful (meaning always within the ebbing and flowing of the tide) when placed in the channel of the estuary that is always covered with water, but they are so also if they be placed on the sands which are left dry by the ebbing of the sea.

“In these two situations, viz. in the river, or in its land-locked estuary, the contrivances are illegal. There are two situations of a different description in which they are lawful.

“For, in the third place, some rivers terminate without passing through any frith or estuary, and are lost in the open ocean almost as soon as they touch the salt water. In this case stake-nets are not prohibited, if they be placed away from the immediate mouth of the river, though situated where the sea ebbs and flows. The ebbing and flowing wont of itself render them unlawful, because they may be within the sphere of this phenomenon, and yet in the pure and undoubted sea.”

“ In. the fourth place, there are examples in which the junction of the fresh water and the salt does not take place, as in the case last put, at the edge of the open ocean, but far up in the land, where the river loses itself in arms, or in bays of the sea. These portions of the ocean become what are called arms of the sea, merely because they happen to be enclosed within ridges, which guide their waters into the interior. But this circumstance does not make these arms identical with estuaries. They are the sea. And being so, these machines, if placed in or on arms of the sea, as distinguished from estuaries of rivers, are not unlawful. What shall be held to be an arm, and what an estuary, is a question of fact for you. All I say as to the rule is, that if there be an arm distinct from an estuary, then, in that arm, or, in other words, in that portion of the sea, these fixed traps are not illegal.

“ The substance of these rules is nearly this, that to make the particular engines, with which we are now dealing, unlawful, it must be proved that they are in a river or in its estuary, whether within the channel or on the sands made dry by the ebbing. It is the pursuer's business to prove that they are so placed. If he shall fail, the defenders may have nothing to do. But if, not content with relying on the pursuer's failure, the defenders choose, they may shew, and they have tried to do so, that their structures are truly in the : sea ; whether the open sea, or on one of its arms or bays ; and if so, they are lawful.

“ In short, a river does not lose its legal protection, in reference to salmon fishing, merely by being met by the advancing tide, provided this be within what are called (though usually by two Latin words) the jaws of the land, and provided the relative size of the river and the other circumstances shall satisfy a jury that, on the whole, the space is river, including in this term its estuary. And, on the other hand, the sea does not lose its privileges merely because a river flows into it, or flows through one of its arms or bays where the tide ebbs and flows, provided the relative smallness of the stream and other circumstances shall satisfy a jury that, on the whole, the space is sea and not river, or the continuation of a river through its estuary.”

This direction was excepted to, in the first place, as being in itself erroneous ; and, secondly, in respect the judge “ did not direct the jury, that the prohibitions of the statutes could not extend lower down than to the point where the fresh water of the river joined the salt water of the sea at low ebb tide.”

The Lords of the First Division, having heard parties upon the bill of exceptions, ordered cases, and thereafter pronounced the following interlocutor :—“ 21st Dec. 1837.—The Lords direct the cause to be laid before “ the judges of the other division of the Court and the Lords Ordinary, for their opinions upon both the grounds of exception contained in this bill of exceptions, and with that view appoint the parties to pat into the boxes of the said judges printed copies of said bill of

exceptions, record, and cases for the parties, together with the plan of Mr. Buchanan, and that *quam primum*.”

p. 2421

The consulted judges thereafter returned in writing the opinions, which are subjoined.¹

¹OPINIONS signed by Lords Justice Clerk (Boyle), Glenlee, Meadowbank, Medwyn, Fullerton, Jeffrey, and Cuninghame.

“ We are of opinion, that the first ground of exception, touching the evidence of Mr. Buchanan the engineer, cannot be sustained ; and that the bill, so far as rested on this ground, should therefore be disallowed.

“ As to mere calculations, or statements of averages or general results, we are clearly of opinion that these might with perfect propriety have been read from or referred to by the witness, though made out immediately before his examination. If not so made out indeed they probably must have been framed and reduced to writing while the examination was going on, to the great delay and embarrassment of the proceedings.

“ With regard again to matters of fact and observation, it is admitted that the original notes made at the time might have been competently referred to ; and the witness swore distinctly, that the report, to which he did refer, was made up entirely from these original notes ; and, though, not literally, was ‘in substance the same.’ The defender did not attempt to test or discredit this statement, by calling for the original notes, or by any farther examination ; and the statement must therefore now be taken for true. The result is, that he spoke from a transcript of the original notes, made carefully by himself.

“ As to the separate objection, that the witness referred only to a printed copy of the report, and not to the original, and that there might have been variances or errors, in printing or transcribing, we are of opinion that the defenders have not put themselves in a condition to insist on this objection, inasmuch as they have not sought to ascertain, from the witness himself, or otherwise, in what way the accuracy of the copy had been tested. The witness expressly swears, that the print before him was a ;copy of the report prepared by him from his original field notes ; and we are of opinion this must now be taken to mean that it was a correct copy ; and that, if he had been farther interrogated on the subject, he would have proved this, by specifying the collations or other means by which its correctness had been established. The defenders, we think, having proposed no such interrogatories, are not now entitled to hold that, in positively swearing that it was a copy, the witness was swearing to a fact which he had no sufficient means of knowing, or to assume the existence of variances or errors, without proof, either of their actual existence, or even of its being possible, from the way in which the copy was prepared, that they might have existed.

“ The report, it should also be observed, was not laid before the jury as a piece of documentary evidence, in which case the law as to primary and secondary evidence might have applied, but was merely referred to by the witness to refresh his memory, the only proper evidence on the matters which it might contain being his own oral deposition, and nothing more.

“ As to the argument in the case for the defenders, that they were at all events entitled to see the paper referred to, and to cross-examine the witness on its contents, it seems to us to be a conclusive answer, that it is nowhere stated in the bill of exceptions that they ever asked to see that paper, or proposed to go into such cross-examination ; and the bill being necessarily held to set forth all the facts on which exceptions are to be raised, it is plainly incompetent for the court now to go into any other averments, even if their truth were admitted (as it is here positively denied) by the opposite party.

“ We are therefore clearly of opinion, that none of the grounds of exception as to Buchanan’s testimony have been established ; and that the bill as to these should be dismissed.

“ 2. With regard to the second ground of exception, or that relating to the directions in point of law which the judge addressed to the jury on the merits of the cause, there may, at first sight, appear to be a little more difficulty ; but, on the fullest consideration, we have come to the opinion, that the defenders have failed on this point of the case also, and that the bill ought therefore to be disallowed in toto.

“ If we were satisfied, indeed, as the defenders have contended, that the true import of the whole direction in point of law was; that wherever a river terminated in an estuary the only thing to be looked to, in determining whether stake-nets placed in such estuary were legal or illegal, was, whether there was a preponderance of salt or of fresh water at the place, we should certainly have had great difficulty in finding this to be a correct exposition of the law. But we think it manifest, that such is

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The cause having come on, on 30th June 1838, for advising upon these opinions, the following judgment was pronounced by the Lords of the First

not the import of the direction ; and that it never can be supposed that the jury took this to be its meaning.

“ In the first place, there is nothing whatever in the passage referred to, as to the comparative prevalence or predominance of salt or of fresh water in a river estuary, affording the only true criterion of the legality or illegality of stake nets in such a situation. What the judge says is to be looked to is, the absence or prevalence of the fresh water only. We think it quite impossible to hold, that prevalence here means presence only ; especially when such a substitution would make the direction more questionable than as it stands. The word prevalence, in fact, is too plain to admit of interpretation ; and the judge told the court in consultation, that he meant it in its natural and plain sense, as equivalent to predominance.

“ Now, even if we could hold (as we certainly do not) that this single passage contained the only direction in law which the judge gave to the jury, and that it could not be qualified or explained by what went before or came after, we are not prepared to say that it would have been absolutely unsound or erroneous. It was confessedly applied only to the case of a river terminating in an estuary, *intra fauces terræ* ; and is supposed to have been given as a criterion for judging whether that estuary was sea or river, in the sense of the laws about salmon fishings. Now if, in such an estuary, there is absolutely no sensible admixture of fresh water whatever, when the tides are ebbing and flowing (and it is plain that this is the only thing that could be meant by the absence of fresh water), we can scarcely conceive a more decided proof that an estuary of such a description could not be considered as a river, in the sense of the laws referred to. On the other hand, if, during the ebbing and flowing of the tides, and in the average condition of the waters, the fresh water actually predominates, or forms more than a half of the whole, it seems almost as difficult to hold that such an estuary could ever be regarded as the sea, or an arm or branch of the sea.

“ But the substantial ground on which we have come to think that this exception must be dis allowed, is, that this part of the direction must clearly be taken along with all that relates to the same matter in the context ; and that, when so taken, it is quite plain that the absence or prevalence of the fresh water is not meant to be held as the only thing to be looked at, but only as a very material circumstance to be attended to, along with all the other circumstances from which the jury were to form their own conclusion as to the question of fact. Whether, on the whole matter, the estuary in question partook more of the character of a river or of the sea ?

“ That this is the way in which such a direction is to be dealt with can admit of no doubt. Detached words are not to be separated from the context, nor inaccurate or imperfect expressions caught at, to obscure or apparently contradict, what every one must have seen to be the clear meaning of the whole, when taken together. There are other instances, perhaps, of such expressions in the direction now in question ; as, where the judge, after describing estuaries merely as spaces intermediate between the proper river and the proper sea, and where salt and fresh water are mingled, says generally, and apparently without limitation, that such engines as the defenders' 'are unlawful in these estuaries.'— But though this seems to be absolutely stated as law, it is plain from what-follows, that nothing more is meant than that they may be unlawful in such situations for very soon after comes the passage so much relied on, where it is said that they are only unlawful, though in an estuary, if the fresh water prevails or preponderates, but not unlawful if there are indications of any fresh water, though in an estuary. The correction or qualification of the inaccurate expression follows here a little more closely after that expression than in the case now in dispute ; but we think it is, in the last case, if possible, still more complete and decisive.

“ In the first place, the judge states distinctly, in the very beginning of his exposition, that the law ‘ permits or condemns those machines according to circumstances ; and that the determination of these circumstances is the proper province of the jury.’ He then informs them, that in a proper river they are clearly unlawful ; and proceeds to state the effect of their being in an estuary, in the way already referred to. He then speaks to the case of an arm of the sea, which has this much in common with an estuary, that it is *intra fauces terræ* ; and distinctly tells them that what should be held to be an arm of the sea, and not an estuary, is a question of fact for them. But the most important and decisive passage is that which closes the whole direction, and in which, professedly resuming the whole substance of what had been previously said, and apparently for the very pur-

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Division :—“ 10th July 1838. The Lords disallow the bill of exceptions, but find no expenses due.”¹

“ pose of removing ambiguities or supplying defects, he again recurs, though in a different form of expression, to the absence or prevalence of the fresh water, but takes care, in this final summing up, to state, twice over, that it is not the only thing to be looked to, but is always to be taken along with the whole other circumstances of the case. The words are : ‘ In short, a river does not lose its legal protection merely by being met by the advancing tide, provided (1) that this be within what are called the jaws of the land, and provided (2) that the relative size of the river, and (3) the other circumstances, shall satisfy a jury, that on the whole the space is river, including in this term its estuary ; and on the other hand, the sea does not lose its privileges merely because a river flows into it, or flows through one of its arms or bays, where the tide ebbs and flows, provided (1) the relative smallness of the stream, and (2) the other circumstances, shall satisfy a jury, that on the whole the space is sea, and not river, or the continuation of a river through its estuary.’ ”

“ After this, it seems to us impossible to doubt that, when it was previously said that ‘ the thing to be looked to ’ was the absence or prevalence of fresh water, it was only meant, and must have been understood by all who heard the direction to the end, that it was ‘ the great or principal thing,’ but to be taken into view along with all the other circumstances ; not, in short, a legal or exclusive criterion, but merely a very important element in judging of the complex question of river, estuary, or sea. It is to be observed, that it is not said, even in the previous passage, to be the only thing to be looked to, but simply that it is the thing—a form of expression quite common for signifying the chief thing ; as, when it is said that the thing to be looked to in a witness is veracity, or in a lawyer skill or learning ; these expressions certainly could never be conceived to imply, that intelligence or exact memory was of no consequence in the former, or honour or honesty in the other. If the passage therefore stood unexplained by any other we should think that this was its fair meaning ; but when the whole direction is resumed and summed up, in the anxious and accurate words which we have cited, we think there is not even a pretext for saying, that there could be any doubt or mistake about the matter.

“ We are also very clearly of opinion, that the law as suggested in the bill of exceptions is not that which it was the duty of the judge to state to the jury as applicable to the case before them.

Lords Moncrieff and Cockburn added the following concurrence in the foregoing opinion.

Lord Moncrieff.—“ I entirely concur in the first part of the above opinion.

“ I also concur in the second part of it, but with the following explanation : Taking the charge as an entire whole, and looking to the substance and result of it, I think that it amounts to this, that in this question the estuary of a river is to be considered as a part of the river ; that stakenets placed in such an estuary are illegal ; and that the question, whether the particular place or part of the water condescended on is in the estuary of the river or in the sea, is a question of fact for the consideration of the jury, depending on all the various circumstances which may have been brought before them in evidence. Viewing it in this light, I have come to be of opinion that the observations made, or the mere form of expression employed, in pointing out any of the particular circumstances requiring attention, ought not to be regarded as laying down to the jury any unbending rule of law, in opposition to the whole scope and very precise conclusion of the charge, so as in any manner to control or fetter the judgment of the jury on the question of fact expressly left to their determination on the whole evidence ; and therefore that supposing that there may be some inaccuracy of expression, according to the opinion of the court, in the particular passage of the charge excepted to, in so far as the learned judge may seem to have attached more weight than is justly due to one particular circumstance, as a test of the stake-nets being in the estuary of the river and not in the sea, that does not afford a good ground of exception to the charge generally, in so far as it is a charge on the law of the case.

¹ Further OPINIONS at advising (30th June 1838), by Judges of First Division :—

Lord President.—Two points were raised on this bill of exceptions : (1.) one in regard to Buchanan’s evidence ; in regard to it we all agree ; but there is another question, viz. (2.) as to the law contained

Appellants.—(1st exception.) Although the appellants admit that Mr. Buchanan was entitled to refresh his memory in regard to the observations

“ But I think it necessary to qualify my concurrence by observing, “ that in so far as it may be held to be laid down or strongly implied in the above opinion, that if that part of the charge wherein it is said, that, in the question whether it is the estuary of the river or not,

' the thing to be looked to is the fact of the absence or prevalence of the fresh water, though strongly impregnated by salt ; now, where this fresh water prevails, though in the estuary, these structures are illegal,' had stood alone as the substance of the charge, it would not have been liable to exception. I cannot agree in that opinion, because I think that the fact thus rested on is both in its nature exceedingly loose, as affording any legal or decisive rule in the question, and even when definitely ascertained is not such a test as could invariably or in all circumstances lead a jury to a correct result.

“ But being on the whole inclined to think that that particular part of the charge ought not to be so considered, I am, on full consideration, of opinion that the exception should be disallowed.

“ I have no doubt that the law suggested in the bill of exceptions is not that which, consistently with the decisions, it could be the duty of the judge to lay down to the jury,”

Lord Cockburn.—“ I have only to state, that the construction put upon the charge in the preceding opinion gives it the meaning which it was intended to convey ; and that, thus understood, I have not seen ground for thinking it wrong.”

in the charge. As to it, seven judges adhere, and Lord Moncreiff concurs, with an explanation, and Lord Cockburn adheres to his previous opinion.

Lord Gillies.—As the judge who presided at the trial has explained his meaning to be, that in using the expression “ prevalence ” of fresh water he meant by it predominance, I agree in the main with him ; but if he had meant, as I understood it from the charge, to be mere presence of fresh water, I certainly could never agree, because in that way any body of salt water must be held to be a river, if the presence of any portion of fresh water could be detected. We could not stop short after that, and refuse to call the Frith of Forth a river ; and indeed in that way the Mediterranean would become a river, or estuary of the Nile.

Lord Mackenzie.—On the whole, I am inclined to adhere to the opinions delivered.

Lord President.—I have gone over the whole of the statutes referred to. Some of them talk of salt waters, and others of waters, and fresh water that ebbs and flows, and so much confusion prevails in the mode of expression, that it is exceedingly difficult to make sense of any one act.

Lord Corehouse.—I certainly agree with the opinions of the consulted judges, but under the explanation given by Lord Moncreiff. It did not appear to me that it would be just to set aside the verdict of the jury because the charge referred to the prevalence of fresh water, as I did not consider that the prevalence of salt or fresh water was the chief circumstance to be regarded, and I don't think that this was decided in the Tay or other cases. There were other matters in the charge, on which the jury may have proceeded. Therefore, with the caution contained in the charge, I am inclined to hold that we cannot allow the exception to the law ; for I consider the law in the charge to have been properly ruled, and it appears to me that the charge is exceedingly well expressed, and I agree that it was a most fitting question for a jury.

Lord Mackenzie.—I concur with what has just been expressed by Lord Corehouse ; and I ought to have said previously, that it is entirely under the explanation given by Lord Moncreiff that I coincide in the opinions of the other judges. I think the explanation of Lord Moncreiff is very necessary.

Dean of Faculty moved for expenses.

Lord Gillies.—This has been a question of very great difficulty indeed. So I do not see why you should get your expenses. It is not the ordinary case where you would be entitled to expenses. Indeed, I consider that the result is contrary, not only to justice, but it is contrary to common sense, to make a river of the Cromarty Frith.

Lord Mackenzie.—I certainly am against allowing expenses, for it was a question attended with great difficulty.

Lord Corehouse.—I should rather be inclined to give expenses. There was a very ingenious argument by Mr. Solicitor General, but I think after the decision in the Tay case it was clearly made out to my mind that the law in the charge was well laid down by the presiding judge. So I think expenses should be given, and that too where the judges are so unanimous.

made by him while employed in his survey, he could only do so from authentic sources. It was not competent for him to refer, in regard to this matter, to an elaborate report prepared by him at the distance of months. He neither consulted, nor proposed to consult, his field-book, or even his original report. All that he looked at was a printed paper, of which the appellants neither knew nor were allowed to know any thing, but which they were told was a printed copy of the report. To sanction a reference to such a document by a witness when under examination is a latitude hitherto unknown in practice. There are many intermediate stages between the principal copy and the print, in all of which there is much likelihood of error ; a manuscript copy must, in the first place, be made from the principal, and a printed copy from the manuscript. It is impossible to tell how many errors there may have been in the manuscript, and how many additional errors in the print. There was not a vestige of evidence to show that either the manuscript or the print had been compared with the original or with each other. What apology was there for Mr. Buchanan reading from a document, which, as regards authenticity, was utterly worthless, more especially as it must be presumed that the best evidence, viz, the field-books and original notes, were within his reach? The very circumstance that the report contains a detail of many observations and many results in numbers, is one of the strongest reasons that can be urged for the strictest enforcement of all the rules as to authentication. It cannot be supposed that Mr. Buchanan could carry in his memory all those numerical results, and it was therefore impossible for him to check the accuracy of the copy. Blunders might pass unnoticed, and he might give in evidence with the utmost bona fides, on the strength of the printed report, results and observations totally at variance with the truth. It would be dangerous in the extreme to put testimony in jeopardy by such laxity of procedure. Even supposing the report had been duly authenticated, it cannot be regarded otherwise than a plan, a book, or a deed, and ought to have been produced eight days before the trial.¹ In this way it might be made evidence, but it

Lord Gillies.—I cannot think that the case was so clear, for we took the opinions of the other judges after ordering cases. I cannot think it is right to say that the case was clear.

Dean of Faculty.—They may be reserved till the issue of the motion for a new trial ; but the practice has always been to give expenses to the gaining party where the exceptions in a bill are disallowed.

Lord Mackenzie.—I am not for laying it down as a rule abstractly, that in no circumstances should we allow expenses after advising a bill of exceptions ; but certain circumstances may arise in consequence of which we may take the reason of the thing into view, and I don't think here that we ought to give expenses, from the difficulty attending the case.

Lord Corehouse.—I am far from laying down any inflexible rule but it did appear to me that the law was clear, and that after an unanimous opinion of the whole judges sustaining the charge expenses should follow.

Lord President.—I rather concur with Lord Corehouse, that the expenses should be given, as I was inclined to think that the matter was decided in the Tay case.

Lord Mackenzie.—I must say I am against giving expenses.

Lord Gillies.—So am I ; and as that is the case the point will require to be sent to the

would be both unwarrantable and inexpedient to allow a witness to give his testimony from what ought (if admissible at all) to have been treated as documentary evidence. It gives him an advantage which no witness whatever is entitled to claim. The ordinary rules of evidence afford the strongest analogy on this subject. There is no rule in practice better settled, than that secondary evidence will not be admitted, where the best may be obtained. And it is a familiar illustration of this rule, that the copy of a document can never be given in evidence, when the principal document is within reach, or at all events, never without a due authentication of the copy. Thus, if a party tendered in evidence a printed copy of a charter, without any verification of it, while the principal could have been obtained without difficulty, is it not a matter of trite law, that it would be instantly rejected ? A common case is that of a shorthand-writer's notes. To prove what occurred on a former occasion, one is not bound to produce his notes ; but the usual course is, to call the shorthand-writer, and ask him if he had made a transcript from the original. If the opposite counsel object to the transcript, the shorthand-writer must read from the original. The same may be said in regard to entries made in a ledger from a waste-book. Whatever a person sees, and commits to writing, either in his own or the handwriting of another, at the time when the transaction is fresh in his mind, may be used. But a witness cannot refer to a paper made subsequently to the time when the matter was under his consideration. The question is not, as put by the consulted judges, whether the copy is accurate or not accurate, but between a copy and the original. A witness who is compelled to apply to documents in order to aid his memory is as apt to be misled by errors in an unauthenticated copy, which may give a false colour to his whole testimony, as where the documents themselves are tendered as matters of direct evidence to the jury.

(2d exception.)—The direction is objectionable in respect it lays down that stake nets are forbidden in estuaries, and at the same time defines or attempts to define the forbidden locality as consisting in the prevalence of fresh water, although neither the term nor definition used are to be found in any of the enactments on the subject. The question is not within what locality is there the presence, the prevalence, or the absence of fresh water ; but the question is, what is meant by the term *aquæ*, as distinguished from the term *mare*, i.e. what is the *aqua* within which the sea *ascendit et se retrahit*. The meaning of the term has been established, by a totally different criterion from that given by the learned judge, by our standard institutional writers.¹ But not only so ; in the *Don* case¹, the Lord Chancellor, in reviewing the salmon fishing statutes, comes to the following conclusion :—“ Taking the latter acts in connexion with the earlier acts, and the whole subject

together, construing one with the other, I think I am justified in recommending to your Lordships to come to the conclusion that the whole body of the acts, taken together, refer not to the sea coast, but to rivers and to continuations of rivers. And therefore I should recommend to your Lordships to confirm the judgment of the Court, as far as relates to the construction of those acts of parliament.”

¹ Post, p. 1017.
p. 2427

That the term aquæ denominates the river can therefore no longer be disputed. But it also includes the continuation of the river ; and what is the continuation of the river, as distinguished from the river, but that part of the river which continues to flow after the sea has receded from it. This definition corresponds precisely with the term ostium fluminis, which, in the Spey case (as stated by Lord Kames),¹ this House judged to comprehend the space betwixt the lowest ebb and the highest flood mark. Even if the learned judge, in using the term estuary, meant to indicate the ostium fluminis, his definition was clearly at variance with the legal one. A river ceases to be a river or the continuation of a river when it ceases to descend to the level of the sea. [*Lord Chancellor*.—At low or high water ?] At low water.

But again, there is a further criterion by which to determine the forbidden territory. The statute says also “ ubi salmunculi,” &c.² The avowed object of the prohibition was to protect the fry. This demonstrates how anxiously the attention of the legislature had been directed to this subject. They had observed, that the cruives and yairs set in rivers were very injurious to the salmon fry in their descent to the sea. This was the great evil complained of. But farther, the other facts connected with the natural history of salmon could not have escaped their observation. At first the fry keep the shallow water about the sides of the river ; but as their strength increases they are seen on the middle of the river descending with the stream. The first flood or fresh which occurs at this period hurries them to that part of the river affected by the tide which is protected by the statutes, where for a time they remain in the tide-way, ascending and descending with the flux and reflux of the tide, till, having gained additional strength, they at once sink down into the bed or channel of the sea or firth, and go off to the ocean. They do not swim about the shallow parts of the firth, but proceed at once to the ocean from the place where the river joins the sea at low ebb. Their natural instinct seems to lead them to select the deep water at that point, because they are more secure from interruption or disturbance, occasioned by the ripple arising from the constant flux and reflux of the tide. Experience and observation would shew to the early Scottish legislators that yairs or other stationary engines could not obstruct the descent of the fry below the line of low ebb tide.

Looking to the declared object as well as to the express

provisions of the statute,—to the habits of the salmon as well as to the leading features connected with the flux and reflux of the tide,—that no line can be pointed out, the boundaries of which quadrate so nearly with the enactment, as that contended for by the appellants. Below the line of low ebb tide the sea never recedes. It never withdraws itself. It constantly occupies and holds possession of that space. Above that point the contending influence of the river becomes apparent. There is a periodical balance between the force of

¹ Post, P. 1017

² Ante, p. 978.

the ascending tide and that of the descending fresh water stream, which maintains the river in a state of comparative quietude, certainly favourable to the motion of the fry, “*ascendendo et descendendo ubique.*” Within that locality it may be said that the fishings are in *aquis ubi ascendit mare et se retrahit* ; and it may be said, with equal truth and accuracy, that they are situated *ubi salmunculi vel smolti ascendunt et descendunt* ; and where such fry and smolts, when they approach the sides, would be interrupted in their course and destroyed.

Much reliance seemed to be placed by the respondent on the statute of James IV., 1448, c. 13.¹ The particular sorts of apparatus mentioned in that statute of themselves sufficiently indicate the local situations referred to. It is on all hands admitted as the very essence of a *cruive*-fishing, that there be a mound or dike stretched across the river from side to side, and it follows of course that such fisheries must be peculiar to rivers properly so called. The same thing is equally true of what are called *fisch dammys*. A dam is a mole or bank to confine water. A fish dam is therefore a mound erected across the stream for the purpose of intercepting and catching the fish, by means of some apparatus of the nature of a *cruive* inserted into it. But such an erection, it is obvious, could be made only in rivers by cutting the stream across from bank to bank. When, therefore, by this statute it was ordained that all *cruives* and fish-dams should be destroyed, “*that ar within salt watyrs, quhar the sey ebbis and flowis,*” the epithet “*salt*” must have been introduced merely for the purpose of contradistinguishing those fisheries from the “*cruivs in fresch waterys* ;” that is, in the higher parts of rivers where the tide does not reach, to which a different class of regulations were to be applicable. In this view the lower portion of a river, *ubi ascendit mare et se retrahit*, may, without any violence or impropriety, be denominated the salt part of a river ; for with every return of the tide, its own proper fresh water is not merely re-stagnated, but is also strongly impregnated with the salt water of the ocean, which then flows into it. That “*the salt waters*” of this statute do not mean the salt waters of the sea itself, is abundantly obvious from the structure of the remaining clause, “*quhar the sey ebbis and flowis.*” It is impossible, indeed, to read the whole clause, without being satisfied that these words

are used in contradistinction to each other. They cannot be read as implying the same thing, without involving an absurdity. To say that cruives and fish dams are prohibited in the sea where the sea ebbs and flows, is ludicrous ; for it is the characteristic of all sea, that it is always in a state of ebb or flow. It is clear, therefore, that the term “ salt waters ” was employed to denote something different from the sea ; and it is equally clear that this prohibition cannot extend below the line of low ebb-tide ; because the engines here denounced cannot, from the very nature of their construction, be erected below it.

The Tay case² proceeds on specialties. One important specialty is, that it went entirely upon the terms of the statute 1581, c. 15, which, in

¹ Ante, p. 979.

² Post, p. 1017.

appointing conservators for the protection of the fishings, fixed the limits within which this protection was to extend. Another important specialty was the fact of the bar of the river being below the Drumly Sands ; whereas, in the present case, there is no bar or alluvial deposit below the town of Dingwall. The non-existence of yairs in the Tay was also strongly relied on. The extent therefore to which fishing by yairs has been carried in the Frith of Cromarty, while it demonstrates the general understanding in favour of their legality in these localities, serves to distinguish it from the case of the Tay in one of its most important features. The last but not the least important of these specialties is rested on the title deeds of the several proprietors. If the Court had not been satisfied as to the position of “ the natural bar of the river,” and if there had not been before them any evidence of the existence of a special office of conservator for the protection of the salmon of the river, and if in other respects the case had been presented as a perfectly pure and abstract case of legal construction on the statutes themselves, who can take it upon him to say what would have been the decision of the Court in the Tay case ? None of the other decisions referred to in the slightest degree interfere with the interpretation of the prohibited locality above contended for. But, apart from this, the respondents have examined the whole of the cases with the utmost minuteness, and they affirm, without fear of contradiction, that throughout these multifarious processes, beginning with the Tay and proceeding onwards to the South-Esk, the Don, the Beaully, the Dornoch, and the Nith, ¹ there is not a finding in any interlocutor, or even the opinion of a single judge, which sanctions the notion now promulgated as law for the first time, that the absence or prevalence of fresh water is the thing to be looked at in determining what waters fall under the statutory prohibitions. In not one of them was it laid down that this was the test to be adopted.

But again, the arguments of the respondents, as well as the proceedings on the bench in considering the bill of exceptions, show distinctly that it will admit of a doubt

Respondents'
Argument.

whether the expressions used by the learned judge import presence or prevalence of fresh water. If this be so, the direction given was not a fitting direction for a jury. From its obscurity it was calculated to mislead them. What was stated had been so misapprehended, that reference was actually made to the learned judge for an explanation of his meaning. But the jury had got no such explanation ; and who can tell what construction they had put upon the expressions ?

(2d branch.)—If the interpretation of the statutes above contended for be the true one, it follows of course that the learned judge should have directed the jury that the prohibitions of the statute could not extend lower than the confluence of the river with the sea at low ebb tide.

Respondents.—(1st exception.) The objection to Mr. Buchanan's examination clearly rests upon an attempt to confound the different objects and purposes for which a witness may refer to a manuscript. Reference to manu-

¹ Post, p. 1017.

script to enable a witness to speak correctly as to facts, is altogether different from the object and purpose Mr. Buchanan had in view, and hence the authorities referred to on the other side do not apply. Measurements, soundings, &c., are not occurrences or facts as to which a witness is to speak from recollection. Whether the witness saw strata or rocks of a particular character in the course of his survey, whether he found sea-weed or marine plants, &c., in different parts of the frith, these may be matters of fact as to which he is either to speak from recollection or from notes made at the time. But measurements, soundings, analyses of water, &c., are not matters of recollection at all. They are the witness's experiments, and if the witness has before him that which he depones to be the record of such experiments, it is not for the purpose of refreshing his recollection that he refers to the paper, but of enabling him to report to the Court the experiment made by the witness, and which the court and jury could not see made.

Again, if from a variety of soundings an average is to be struck and stated, such calculation is not the recollection of an occurrence, and in using materials for giving that calculation, the witness is not refreshing his memory, but he is reporting to the court and the jury that which he himself had previously done, instead of making the calculation on the spot. In fact the calculation was not made at all at the time of making his survey and taking his field notes. The rule that a copy of a document cannot be taken when the principal document exists, has no application to this case. There is no question as to the admissibility of documents ; there is no document sent to the jury ; there is a witness before the jury. He has before him a report or document entirely of his own creation, made for the sake of accuracy, and as the result of scientific inquiry. He has with him the original rough notes from which that report is prepared ; and why should he not refer to that which is in substance the same, and which for the sake of convenience and ready reference has been printed ? It is ridiculous to liken this to the tender of a printed copy of a charter instead of the charter itself. That would be a muniment wholly independent of the witness. The notes and report, on the other hand, were made by the witness for the sake of giving evidence. It is of the very nature of this kind of evidence that it must be so got up. The notes are not the evidence, like the charter ; they are ancillary to the testimony of the witness given by parole, which parole testimony is the matter, and the only matter put in evidence. The witness speaks partly by recollection and knowledge, abstracted from his notes and report, and partly from the aid of that report. He knows the truth of his statement, and he knows the accuracy of his report. He may have erred in his calculations when he made them on the field,—he may have erred when he checked them in his closet. But this is nothing more than an observation on his accuracy, which it is

quite open to make to the jury, or in the motion for a new trial, but is wholly unavailing as matter of legal exception.

(2d exception.)—The Spey case¹. has no bearing whatever upon the present

¹ Post, p. 1017.

discussion ; the question there was not as to the interpretation of the statutes, but as to the meaning of a term used to denote the boundary of certain fishings in a river by private grant. Assuming that the term “ ostium fluminis ” was rightly defined in that case, it merely denotes the termination of the river proper ; there is an expanse of water between the proper river and the sea ; i.e. between the ostium fluminis and the sea proper, which is also part of the forbidden territory. It may be true, as has been stated, that in the Don case¹ this expanse of water has been denominated the continuation of the river ; but it does not on that account follow, that it is not distinguishable from the river proper. So far as that case went the question was just as open as before, what is and what is not the continuation of the river. The words used in the statute are, not “ in rivers,” but “ in aquis.” This is something different from the river proper, and the defenders are right in saying that it was fixed in the Don case¹ to be something different from the sea proper. It is in waters where the sea ascends and draws itself back. Surely this does not mean the point of low water ebb. It means in waters where the sea is filling and ebbing. There must be river, and there must be sea. But if there be both in the valley or channel, and if the sea is ebbing and flowing within that valley, this is all that is required to characterize the prohibited ground. The statute is intended to describe the space both upwards and downwards, and if it be water where the sea ascends and descends—ebbs and fills—this is all that the act requires. The sea proper is excluded, because although it ebbs and flows upon the open coast, “ ascendit et se retrahit,” it does not ebb and flow “ in aquis.”

But, say the appellants, it is not only where the sea fills and ebbs, it is also “ ubi salmunculi,² ” &c. Now, how can this apply to the point of the lowest ebbing of the tide ? It is where not only salmon fry, but the fry of all other fish, whether of the sea or of the fresh water, descend and ascend. The fry of salmon, in point of fact, never ascend. When the salmon come up to spawn, or when the fry come down, they regulate their motions in no degree by the point of the lowest ebb. On the other hand, do the fry of sea fish, which are equally protected by the statute, come up where they could not exist.

Again, in the statute 1488, c. 13.,² the expression “ salt ” is used in contrast to the “ fresche watteris.” The salt water cannot mean the river, it clearly means something different from both the river and the sea proper. In which of the statutes is it set forth, that the confluence of the river and the salt water at the low ebb is the boundary of the prohibited territory

towards the sea ? Had an inflexible rule been fixed, such as that contended for on the other side, the matter ought not to have been settled by a jury trial at all. Besides, the point fixed on by the appellants is one to be disclosed by the ingenuity of modern science, not known or capable of being acted on in a comparatively rude age, when the statutes on this subject were passed ; and it would lead to results of a most startling description, as applicable to various

¹ Post, p. 1017.

² Ante, p. 979.

rivers,—results for which no reason either in law or sound policy can be assigned.

The general position contended for by the appellants, was expressly and solemnly overruled in the Tay case.¹ It was so completely overruled, that the Court, finding that there was no exclusive test, were obliged as a jury to enter into consideration of the whole circumstances of the case, and to fix the boundaries as to that frith, within which the stake-nets were illegal. That case has been regarded ever since in Scotland as a leading case on this subject. The same rule was followed in the case of the Clyde in 1813¹—of the South Esk¹—of the Beaully¹— and the Dornoch¹— in 1817 and 1818,—and then followed the Don¹ case, in which it was held that stake-nets were not illegal in the sea proper, as contrasted with rivers, friths, or estuaries, or continuations of rivers. The whole train of decisions, therefore, has conclusively fixed that stake-nets, although legal in the sea, are unlawful in rivers or estuaries ; and whether any particular place is to be held as forming part of a river or frith, estuary, or continuation of a river, on the one hand,—or part of the sea proper on the other,—is a question depending on a variety of circumstances connected with the locality, which question is fitted for the determination of a jury. It has been ruled over and over again, that there is no fixed and absolute criterion which in law determines whether the place be a prohibited place or not, and it has been specially determined that the meeting of the salt and fresh waters at low ebb is not a criterion which is adapted for determining the legality or illegality of the position of stake-nets.

The presiding judge properly and legally directed the jury to take into view the whole circumstances proved in evidence.

His Lordship treated it throughout as a question of circumstances. He did not state that the absence or presence of fresh water, although a circumstance of material importance, was to form the rule, or to exclude from consideration other material circumstances. The direction throughout was abundantly clear and explicit, and in no respect whatever calculated to mislead. It was the duty of the judge to give the jury some direction to guide them in their finding, whether the places in question were within the estuary of the Conon or not. The consideration of the quality of the water, whether salt or

[26th Aug.,
1839.]
—
Ld.
Chancellor's
Speech
16th April,
1839.

fresh, its existence in certain quantities, more or less,—was but an ingredient in the investigation, and had only been so put to the jury. No difficulty had been raised by the jury. It did not appear that the judge was asked by the court to give any explanation of the sense in which he had used the expression, in order to solve any doubt which the consulted judges had as to the sense in which the words were used, or as to the jury rightly apprehending the import and meaning of the words, coupled with the whole charge, but rather with the view of satisfying their own minds by the authoritative declaration of the judge as to the actual *res gestae* on the trial.

(2d branch.)—Had the learned judge directed the jury in the terms suggested by the appellant, it is clear from what is above stated, that his

¹ Post, p. 1017.
p. 2433

direction would have been directly at variance with the established law of Scotland.

LORD CHANCELLOR.—My Lords, this case seems to be one of very considerable importance, both as to the question upon the evidence, and upon the merits.

As to the point of evidence, this case lays down a rule which will have the effect of securing a uniform practice, in the course of proceeding in the courts of Scotland, similar to that which prevails in the courts in this country. The results of this case however do not depend upon this rule.

With respect to the principle which has been discussed in reference to the main question, it is one of very considerable importance, and the property in these salmon-fisheries is of very considerable magnitude. I cannot but think that a great deal of difficulty has arisen from the introduction of terms very difficult of definition, nowhere to be found in the statute. Arguments are used, and discussions take place, upon the meaning of the word “estuary,” and even upon what is the meaning of the word “river ;” and neither of these words is to be found in the statutes. The matter of law involved is neither more nor less than the construction to be put upon the statutes ; and to that extent the party had a right to have the opinion of the learned judge. Whether the particular water in question in the particular suit does or not come within the definition, (if any definition can be found,) is matter very properly within the province of the jury.

The first question will be, whether your Lordships can, by any reasonable rule of construction, drawn from the statutes themselves, at once ascertain whether the learned judge has accurately explained to the jury the definition to be fairly inferred from the provisions of these statutes. If your Lordships find that has not been the case, however desirable it may be to lay down the rule, it is not the province of your Lordships to do so, and it may not be safe to attempt it. The point is, whether the rule laid down is the proper rule, within

the meaning of the act.

If there had been no decisions of your Lordships House, and it had been a new question, and merely turned upon the observations of the learned judge, compared with what appears to have been the objects of the statutes, your Lordships might not feel it necessary to postpone the further consideration of this matter. But, my Lords, that is far from being the fact : much litigation has taken place ; and your Lordships House has proceeded to adjudication upon cases similar to the present ; and, in any course your Lordships may think fit to take, it is undoubtedly most important to ascertain the course adopted by this House when the former cases were brought before it.

In order to proceed accurately in the examination of what has been done upon this subject, I should propose to adjourn the further consideration of this case to a future day.

Further consideration adjourned.
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LORD CHANCELLOR.—My Lords, this appeal is from a judgment of the Court of Session disallowing a bill of exceptions. The whole case, therefore, must be found within the bill of exceptions ; and the question is, whether the direction of the learned judge to the jury was right in law.

The issue was : “ Whether the defender, or his predecessors in office, has or have wrongfully fished for salmon in the Frith of Cromarty, opposite to the lands and estate of Cromarty and others, during the years 1824, 1825, 1826, 1827, and 1828, or during any part thereof, by means of stake-nets, bag-nets, yairs, or other engines, placed in situations prohibited by statute.”

These latter words comprehend the whole question ; viz., what are the situations prohibited by statute ? If it was the duty of, the House to lay down a rule upon this subject, and to prescribe the principles upon which this question ought to be tried, it would be necessary to consider carefully, not only the words of the statute, but the various decisions which have taken place. That, however, is not, at this stage of the cause, the duty of this House, nor would it be proper to do so. All that this House has to consider is, whether the rule, as laid down to the jury by the learned judge, was correct.

That learned judge, after mentioning that estuaries were spaces intermediate between the strictly proper river and the strictly proper sea, and that they were partly fresh and partly salt, stated that the structures in question were unlawful in those estuaries, and then proceeded thus : “ The thing to be looked to is the fact of the absence or of the prevalence of the fresh water, though strongly impregnated by salt. Now, where this fresh water prevails, though in the estuary, these structures are illegal.”

The learned judge, when the case came before the court upon the bill of exceptions, stated, that by the word “ prevails,” he meant “ predominates ; ” but the question is, not what he intended, but what the terms used were calculated to impress

upon the jury. The word “prevalence” is put in opposition to “absence ;” if it meant “predominates,” why were the words added, “though strongly impregnated by salt ?” In speaking of the predominance of one thing over another, the presence of the minor is assumed ; but absence and predominance are not properly put in contradistinction. Predominance, therefore, if necessary to the proposition, should have been distinctly expressed in terms.

That the jury understood the term to mean presence I have no doubt, for such is the natural construction of the sentence ; and the respondents, in their printed case,¹ (signed by three most learned persons,) insist that such is the true construction of the sentence. After quoting the sentence, inter alia, they say, “In doing justice to the meaning of these sentences, it is plain, from the context, that the word prevalence must mean presence, which is one of the most common and most appropriate significations of the word, as opposed to the expression absence ; and the meaning of the whole is just this, that in estuaries, where these structures are unlawful, there is always some portion of fresh water.”

¹ See page 26 of printed Appeal Case for respondents.

The word prevalence then, as used by the learned judge, was by the respondents understood as presence ; the consulted judges however say, that it is quite impossible to hold the prevalence means presence only ; Lord Gillies says expressly, that if prevalence was to be understood as mere presence, he could not agree to the direction.

From this, I think, it may be assumed, that if the word presence had been used instead of the word prevalence, the court would have held the direction to be erroneous, as, beyond all doubt, it would have been. But the judges seem to have been influenced by the explanation of the term used by the learned judge who directed the jury, as if the question were, whether the judge was right in his view of the law, instead of being, what it really and solely is, whether the direction was in terms calculated to lead the jury to a right understanding of the law. I have no doubt but that the jury understood the word prevalence to mean presence, and that, so understood, the direction was erroneous. Let it, however, be assumed that it means predominance I think it scarcely less erroneous.

The consulted judges say, that if they were satisfied that the true import of the whole direction, in point of law, was, that the only thing to be looked to was, whether there was a preponderance of salt or of fresh water at the place, they should certainly have had great difficulty in finding it to be a correct exposition of the law ; and the Lords Moncreiff and Cockburn say, that if the sentence had stood alone as the substance of the charge, it would have been liable to exception ; and Lords Corehouse and Mackenzie say, that they did not consider that the prevalence of salt or fresh water was the chief circumstance to be regarded.

I quite agree with the consulted judges and others, who thought, that if the direction was to be considered as implying, that the fact of the absence or predominance of fresh water was the only thing to be looked to, or, in other terms, was the thing upon which in their opinion the verdict was to be founded, it would be erroneous ; but I totally differ from them in thinking that such is not the natural and obvious construction and meaning of the words used. The question is, not what was the meaning of the author of these words, to be collected from different passages, but what effect the words spoken were calculated to produce upon the jury. And when we find that they were told, that the thing to be looked to was the fact of the presence or of the prevalence of fresh water, it must be assumed that they understood that such was the test upon which they were to try the question between the parties.

But were it otherwise, if the words imported only that this was an important subject for consideration, I could not agree that the direction would be sound in point of law. I see nothing in the statutes, or in any authority, to justify the putting the legality or illegality of the act upon such a test ; and on

principle there is nothing to support it. If this were the test, the legality of the act at any particular place would depend upon the state of the tide, and the right of fishing would belong to one party at high tide, and to another at low tide. Suppose a small river flowing into a large estuary, at low water there might at any particular place be scarcely any salt

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water, whereas at high water the presence of fresh water might be scarcely perceptible. Whereas in a large river the fresh water might predominate long after the junction with the sea. The large rivers of America are perceptible at a great distance from the shore, and in the Mediterranean ships take in their water from the Rhone in the open sea. The test suggested is therefore, I think, erroneous, whether it be treated as exclusive, or as an important ingredient in the consideration of the question.

If your Lordships should agree with me in this view of the direction of the learned judge, it follows that the bill of exceptions ought to have been allowed, and that the judgment of the court below ought therefore to be reversed. It is therefore unnecessary, and would be improper, to pronounce any opinion or decision as to what ought to have been the direction. But as there is much of uncertainty in the decisions which have taken place, and much doubt appears to exist as to the proper rule to be followed, I think it may be useful to throw out some suggestions, to which those who may have to decide upon the merits of this and other similar cases, in the first instance, will give such weight as they may think them entitled to.

The statute of Robert the First, in the year 1318, speaks of waters in which the sea rises and falls, and in which the fish descend and ascend. The waters mentioned must be distinct from the sea, and this the Don case¹ has established. They must also be waters above the level of the sea, at least at low water, because otherwise the sea could not rise in them, nor would the fish, having the level of the sea, be said to ascend in such waters.

In the subsequent statutes the expressions vary, but it being decided that none of these include the sea proper, I do not apprehend that they in fact extend the limits beyond those prescribed by the statute of Robert the First.

In those waters which are above the point at which the river reaches the level of the sea at low tide, all the circumstances described in the statute of Robert the First concur, but in no others. Down to the point of low tide the waters of the river descend, but no further. Into these waters the sea rises, and the fish ascend, which cannot be said of any part beyond that point. This also is a point capable of being ascertained with much precision. The definitions in Lord Stair, Lord Bankton, and Mr. Erskine, coincide very much with this view of the case ; and the decisions of the House of Lords, in the case of the Earl of Moray v. the Duke of Gordon, (Spey

Case,) deciding that “ the ostium fluminis ” comprehended that space betwixt the lowest ebb and the highest flood mark, and in Lord Kintore v. Forbes, (Don Case,) seem strongly to confirm their authority. Finding, however, that the learned judges of the court below rejected this as the proper rule, I abstain from expressing any opinion upon the subject.

If your Lordships shall concur with me in thinking, that upon these grounds, there must be a new trial, it is unnecessary to come to any decision upon the point of evidence raised by the bill of exceptions. I am, however, clearly of opinion, that for some purpose at least the witness was at liberty

¹ Earl of Kintore v. Forbes and others, post, p. 2438.
p. 2437

to refer to the paper he produced, and that the bill of exceptions could not have been supported upon that ground.

I therefore move your Lordships that the interlocutor appealed from be reversed, and the bill of exceptions allowed.

The House of Lords ordered and adjudged, that the said interlocutor complained of in the said appeal be, and the same is hereby reversed ; and it is further ordered, that the cause be remitted back to the Court of Session in Scotland, with directions to allow the bill of exceptions, and to grant a new trial, and to proceed further in the said cause as shall be just, and consistent with this judgment.

SPOTTISWOODE and ROBERTSON—RICHARDSON and CONNELL,
Solicitors.

APPELLANTS AUTHORITIES. (*1st Exception.*) Robertson, 2 Murr. Rep. 304, 368 ; Lindsay, 3 Murr. 99 ; Oswald, 5 Murr. 8 ; Graham's Trustees, 5 Murr. 99 ; Graham, 5 Murr. 75 ; Jones, 2 Carr. & Pay. 196 ; Starkie on Evid. 154 ; Burton v. Plummer, 2 Ad. & El. 341, and 4 Nev. & Man. 315 ; Doe v. Perkins, 3 T. R. 749 ; Adam on Trial by Jury, 171. 238. 306.

(*2d Exception.*) Balfour, voce Fishings ; Stair, b. ii. tit. iii. sec. 70 ; Ersk. b. ii. tit. vi. sec. 15 ; Bank. b. ii. tit. iii. sec. 70 ; Earl of Moray v. Duke of Gordon, (Spey Case,) 16th April 1728, Morr. 12797 ; Earl of Kintore v. Forbes, (Don Case,) 31st May 1826, F. C., 4 Sh. & D. 641, or 648 new edit., S. C., 11th July 1828, as affirmed, 3 W. & S. 265 ; Oswald v. M'Whir, (Solway Case,) 11th March 1837, F. C., 15 D., B., & M., 873: Statutes, (Scots Acts,) see Thomson's edit., Robert I., 1318, c. 12; James I., 1424, c. 12 ; 1427, c. 6 or 116 ; 1429, c. 22 or 131 ; James II., 1457, c. 34 or 66 ; James III., 1469, c. 13 or 87 ; 1477 or 1478, c. 6 or 73 ; James IV., 1488, c. 13 or 16 ; 1489, c. 16 ; 1503, c. 17 or 72 ; James V., 1535, c. 16 ; Mary, 1563, c. 3 ; James VI., 1579, c. 27 ; 1581, c. 15 ; 1685, May 30 ; William III., 1696, c. 35 ; 1698, c. 3 ; Anne, 1705, c. 12.

RESPONDENTS AUTHORITIES. (*1st Exception.*) 1 Phillipps on Evidence, 289 (7th edit.) ; Starkie on Evidence, 155 (2d edit.) ; Tait on Evidence, 372 (2d edit.) ; Bell's Princ. 653.

(*2d Exception.*) Bell's Princ. 296, 8 ; Bell's (Wm.) Digest, voce Salmon ; Earl of Kinnoul v. Hunter and others, (Seaside Case,) 26th Jan. 1802, Mor. 14301 ; Duke of Athol and others v. Maule, (Tay Case,) 7th March 1812, F. C. and Buchanan's Rep. 254 ; S. C. 5 Dow, 282, 4th Feb. 1817, F. C. ; Magistrates of Dumbarton v. Colquhoun, (Clyde,) 16th Jan. 1813, F. C. ; Carnegie's Trustees v. Erskine and Ross, (South Esk,) 1812, not rep. ; Carnegie, (South Esk,) 7 S. & D. 284 ; Fraser v. Grant and others, 5th Dec. 1817, (Beauly,) not rep. ; Fraser, 13th Nov. 1829, (Beauly,) 8 S. & D. 14 ; M'Kenzie and others v. Magistrates of Tain, 7th Mar. 1817 and 5th June 1818, (Dornoch,) not rep. ; M'Kenzie v. Houston, 26th Feb. 1831, (Dornoch,) not rep. ; Sir James Colquhoun v. Duke of Montrose, Mor. 14283 ; Duke of Queensberry v. Marquess of Annandale, Mor. 14279.

[11 July,
1828.]**EARL OF KINTORE V. FORBES (1828-9) 3 WIL. &
SHAW. APP. CAS. 261.**2D DIVISION.
Lord
Mackenzie.

Salmon Fishing—Title to Pursue.—Found, (affirming the judgment of the Court of Session), 1. That stake-nets erected on the proper shore of the sea, are not illegal ; and, 2. That proprietors of salmon fishings in an adjacent river, have no title to object to heritors on the sea-coast, who hold a right of fishing by net and coble from the Crown, exercising their right by stake-nets.

Forbes, and other proprietors of land, stretching northward along the sea-shore six or seven miles, from about two miles from the mouth of the river Don in Aberdeenshire, (a river that issues into the ocean without any frith or estuary), held by their title-deeds the right of salmon fishing by net and coble ex adverso of their estates. These fishings they let to tenants, who erected stake-nets in the sea, and caught white fish and salmon. The Earl of Kintore, and other proprietors of the salmon fishings in the river itself, and of the sea fishings at its mouth, challenged these erections, and raised an action of declarator before the Court of Session, concluding that it should be declared, that Forbes, and the other proprietors, had “ no right, by themselves, or other persons employed or authorized by them, to erect or use the said dams, stake-nets, yairs, or machinery aforesaid, or other machinery of the same nature, within the salt water that ebbs and flows, or upon the sands and schaulds adjacent thereto : ” “that the defenders should be ordained to demolish them, and pay damage for the loss already sustained by these erections ; and be interdicted from erecting or using in future the machinery foresaid, or any other machinery of the same nature, within the salt water that ebbs and flows adjacent to the said river Don, or upon the sands and schaulds within the said water, where they were not before, in all time hereafter.” The defenders objected to the pursuers' title to pursue ; and, on the merits, maintained that the statutes relied on, as prohibiting these erections, did not apply to stake-nets on the shore of the ocean.

The Lord Ordinary having reported the case to the Court on informations, their Lordships, after a hearing in presence, assolized the defenders on the 31st May 1826, “ In respect that the stake-nets and machinery complained of are confessedly erected and placed in the sea, and not in any river or estuary.” *

The pursuers appealed.

Appellants.—I. (*Title to Pursue*). The appellants have an

important interest to put down these stake-nets. Salmon, by a law of nature, return

* 4. Shaw and Dunlop, No. 397, where the opinions of the Judges will be found.

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to the river where they were spawned ; in their progress they coast the shore, are intercepted by the respondents' erections, and thus the profits of the appellants' fishings in and at the mouth of the river are reduced, if not annihilated.

II. (*Merits*). Fixed machinery, similar in principle to stake-nets, placed in situations within the influence of the tide, was used in Scotland as early as the beginning of the sixteenth century. By degrees it appears to have been abandoned, except on the Solway, where it is protected by statute. When attempted to be revived in the firth of Tay, the erections were challenged and declared illegal. No doubt these stake-nets were in an estuary : But the statutes prohibiting their erection in the mouths of rivers, when properly understood, apply also to the shores of the ocean. These statutes distinguish between fixed machinery in fresh and in salt water. Cruives and yairs in rivers are not in themselves illegal ; but the party claiming to erect them must hold a special right to the privilege, and obey the regulations of the statutes enacted for the purpose of allowing the fish free access to the upper part of the sea, and to preserve the fry. But this sort of machinery, and the regulations applicable to it, are not calculated for situations open to the influence of the tide. Accordingly, the prohibitions in the statutes are invariably directed against machinery, under the general denomination of cruives, yairs, &c. set where the sea ebbs and flows, and that whether in the very sea, or elsewhere in which the tide is influential ; in “ all manner of watteris,”—in “ omnimodis acquis,” as the statute of Robert I. expresses it ;— the object of the Legislature being to protect every kind of fish, whether white or salmon. This is apparent from an attentive comparison of the various statutes on this subject. No doubt, the word “ water ” sometimes signifies river, but not always. It is a flexible term, explainable by the subject and the context ; and in the statutes clearly means “ sea.” Besides, in several statutes, the word water is not used at “ all.” The allegation, that the law of England prohibits wears (*zaires*) in rivers, and allows kiddels (open wears) erected on the sea-coast, is of no moment ; for the law of England, in a question of Scotch Statutory law, must be quite irrelevant. But, independent of the illegality of the erections in question, they are not warranted or covered by the titles of the respondents, who have merely a grant from the Crown to fish with net and coble, and not by stake-nets.

Respondents.—I. (*Title to Pursue*). The appellants have no title to sue. They have no right to fish ex adverso of the respondents' land ; and if they had a title, they have no interest,

for their fishings have not been diminished ; and even if their fishings had become less productive, that could not be traced to the erection of the stake-nets. Neither have they any title to object to the mode in which the respondents exercise their right.

II. (*Merits*). The statutes regulating salmon fishings arose from general and public views, and not merely with reference to private interests. Their object was to protect the fry and unspawned salmon, and therefore secured a free access to the sea. The appellants' whole argument rests on the fallacy

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that “water” signifies ocean. But there is not a single authority for such an assumption. In the statutes, the word uniformly means “river.” What could be more absurd than to enact prohibitions as to machinery placed where “the sea ebbs and flows,” when round the island there is no spot where it does not ebb and flow ? In the statute of King Robert, the expression is “in omnibus aquis ;” and even if “in omnimodis aquis” were the true reading, that would only mean, “rivers of all sorts and sizes.” There is something preposterous in the appellants saying that they have a right of embargo on all the proprietors on the sea-coast. According to their argument, that embargo would extend to a proprietor a mile from the mouth of the river, or even to a party whose lands were a hundred miles off. The law of England supports the respondents' views. As to the separate ground of appeal, the respondents' titles unquestionably give them a right to fish *ex adverso* of their lands in the way they see proper.

The House of Lords ordered and adjudged, that the interlocutors complained of be affirmed, and the appeal dismissed.

LORD CHANCELLOR.—My Lords, There is a case of the Earl of Kintore against Forbes and others, which was argued some time back at your Lordships' Bar,—a case of very considerable importance in point of value, and important also relating to a public question. The appellants in this case are owners of fisheries in the river Don in Scotland. The respondents are owners of the property along the sea coast, not far from the mouth of the river Don. The property of Mr. Forbes, who is one of the respondents, lies about two miles from the river Don. General Gordon Cumming Skene, I think, has property contiguous to that of Mr. Forbes. Mr. Forbes's property is beyond that of General Gordon Cumming Skene :—in fact, the property altogether comprises about seven miles, commencing at a part about two miles from the mouth of the river Don, their property being on the sea-shore, for the purpose of catching salmon among other fish. The proprietors of the fisheries of the river Don have complained of this as being an injury to the

fishery.

The question is, Whether persons occupying property on the sea-coast have, by the law of Scotland, a right, provided they have a right to fish for salmon, to place stake-nets for the purpose of fishing. This depends on the construction of certain Acts of Parliament passed in Scotland at a very early period, and continued down for many years ; and it is proper I should state to your Lordships, in the first instance, that which is not disputed. It is not denied that persons are entitled by the law of Scotland, to place cruives and other machinery in rivers above the point the tide flows, under certain circumstances, and under certain limitations and restrictions as to the manner in which that machinery is to be used, as to the construction of the machinery, and as to the time and period for which it is to be used. What I have stated relates to those parts of rivers which are above the point to which the tide flows. No persons, by the law of Scotland, are entitled in those parts of the river where the tide flows, to place machinery of this description.

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The question came on in the year 1816, with respect to the river Tay, before the Court of Session, and afterwards came by appeal to this House. The river Tay terminates in a firth or arm of the sea ; and the question was agitated in the Courts of Scotland, whether or not, consistently with those Acts of Parliament, and by the law of Scotland, stake-nets could be put in the river Tay ? or rather, I should say, in the waters of the firth of the Tay, consistently with the Acts of Parliament to which I have referred ? The Court of Session in Scotland was of opinion, that the Acts of Parliament prohibited absolutely the placing of machinery of this description in, that part of the water or firth of Tay. The case then came to this House, and your Lordships affirmed the decision of the Court of Session ; but in the argument that took place upon that subject, and finally in the judgment of your Lordships, care was taken not to decide the question with respect to the right of placing stake-nets on the sea-coast ; and therefore the question between those parties who are the parties to this appeal came, on the present occasion for the first time, unfettered before the Court of Session in Scotland.

My Lords,—The case was argued at great length, and with very great minuteness and intelligence, in the Court below. It came up to your Lordships' House, and was argued very minutely, and with great ability at your Lordships' Bar. The Court of Session was of opinion that those Acts of Parliament did not apply to the sea-coast ; and the question for your Lordships' consideration will be, whether the judgment of the Court of Session in that respect be, or be not correct. Now, if your Lordships have adverted to the papers upon your table, you will have found there all the Acts of Parliament set out upon which this question principally depends ; you will have

found the case argued on both sides in those papers, with respect to the construction of those Acts of Parliament ; and it is unnecessary for me therefore to detain your Lordships by going minutely through them. I will only state, that, as far as relates to the earlier of those Acts of Parliament, the language appears to be so clear and so distinct, as not to admit of any doubt with respect to the construction of them.

The first statute that was referred to was passed in the reign of Robert the First, as far back as the year 1318. I think it is quite obvious, upon the language and construction of that Act of Parliament, that it was never intended to apply to the sea-coast. It is very short,—the words are these:— “Item ordinatum est et assensum quod omnes illi qui habent croias vel piscarias vel stagna aut molendina in aquis ubi ascendit mare et se retrahit et ubi salmunculi vel smolti seu fria alterius generis piscium maris vel aquæ dulcis descendunt et ascendunt tales croiæ et machinæ infrapositæ sint ad minus de mensura duorum pollicum in longitudine et trium pollicum et latitudinæ ita quod nulla fria piscium impediatur ascendendo vel descendendo secundum quod libere possint ascendere et descendere ubique.” It talks of ascending and descending,—that particular expression is repeated two or three times in the Act of Parliament ; and it is clear, therefore, that it had reference to streams, or the continuation of streams,—that it had in point of construction no reference whatever to the sea-coast.

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My Lords,—The next Act of Parliament was passed about a hundred years afterwards, in the reign of James the First of Scotland. It is in these words :—“It is ordanyt, that all cruives and zaires”—which words, by the judgment of this House, have been interpreted to mean machinery similar to stake-nets—“set in fresh waters, quhair the sea fillis and ebbis, the quhilk destroyes the frie of all fisches, be destroyed and put away for evermair, not again standing ony priviledge and freedome given in the contrairie, under the pain of ane hundredth shillinges ; and they that hes cruives in fresh waters, that they gar keepe the lawes anentes Satterdies slop and suffer them not to stande in forbidden time, under the said paine ; and that ilk heck of the foresaides cruives be three inche wide, as the aulde statute requires.” It speaks, therefore, first of fresh water, and it speaks also of fresh water “quhair the sea fillis and ebbis,” evidently denoting rivers, and channels similar to rivers. It has been said, that the word “fresh” may possibly be a mistake ; that we have not the original record of this Act of Parliament, and that the word “fresh” may have been introduced ; because, in reciting this Act of Parliament in a subsequent Act, the word “fresh” is omitted ; but still the words “ water quhair the sea fillis and ebbis” are retained.

Without troubling your Lordships with going through other Acts, I think I am justified, upon the terms of this Act, in repeating that which I before stated to your Lordships, that in the earlier Acts it is perfectly clear that they do not in their terms embrace the sea-coast. Certainly, when we come to advert to Acts of a later period, the language is more equivocal and more general ; but taking the later Acts in connexion with the earlier Acts, and construing the whole subject together, construing one by the other, I think I am justified in recommending to your Lordships to come to the conclusion, that the whole body of the Acts, taken together, refer not to the sea-coast, but to rivers, and to continuations of rivers ; and therefore I should recommend to your Lordships to confirm the judgment of the Court, as far as relates to the construction of those Acts of Parliament.

In the case to which I have referred, of *Dalglish v. the Duke of Athole*, with respect to the waters of the firth of Tay, when your Lordships come to look at that particular case, and to apply the language of the particular Acts of Parliament to which I have referred to that case, the construction which the Court of Session have put upon them now is perfectly consistent with the construction the Court of Session put upon the Acts in that former case, and to the construction which this House, when the case came under the review of this House, put upon those Acts.

My Lords,—It is remarkable also, that the writers on the Scotch law, I mean Bankton, Erskine, and Lord Stair, in referring to those Acts of Parliament, do not in any instance apply them to the sea-coast,—they speak of the prohibition as applicable to rivers, and to rivers only. I am not insensible of the argument which was urged at the Bar, that the attention of those writers was not directed to the question precisely as it is now raised ; but it is impossible to suppose that those learned writers, in writing their institutional

works, and adverting to those particular Acts of Parliament, should not have taken the pains to read them ; and it is impossible to suppose, that if they had considered the interpretation of them as extending to the sea-coast, they would have expressed themselves in the limited way in which they have expressed themselves, confining themselves to rivers, and to rivers only.

My Lords,—The case at your Lordships' Bar was also argued upon another principle, which is alluded to in the papers now upon your Lordships' table—the papers sent up from Scotland ; namely, that even independently of the construction of these Acts of Parliament, the owners of the fisheries in the Don would have a right to complain of the erection of these works on the principles of the common law. Now, although that point was glanced at in the Court below, it does not appear to have been seriously argued before the Court of Session ; and at your Lordships' Bar it was argued by one of the Counsel, not, I think, the Counsel from the northern part of the kingdom, but by an English Counsel, arguing it upon English principles, and citing English cases, most of which I have looked at with considerable attention, but which, when they come to be sifted and examined, appear to me to have no bearing whatever upon the present question. I think, therefore, that if your Lordships are satisfied upon my representation as to the interpretation of these Acts of Parliament, that they are not to be considered as extending to the sea-coast, the position of this question cannot be at all altered by any reference to the principle of the common law, either as applicable to Scotland or England.

My Lords,—Another point has been insisted upon in the papers, and also at the Bar ; but it does not appear to me to be entitled to much attention. It is said, that the proprietors of these fisheries on the sea-coast have no right, by the terms of their grant, to fish in this manner ; that they are entitled only to fish with what is called a net and coble ; and that, having taken upon themselves to fish in a different mode, the proprietors of the fisheries in the river Don have a right to complain of it, and on that ground to sustain this suit. My Lords, I apprehend that is quite a mistake ; these persons became proprietors of fisheries on the coast originally by grant from the Crown ; and if their grants are so limited, that in point of law (upon which I do not wish at present to pronounce any opinion) they are not entitled to fish in the manner described, namely, by the use of stake-nets, that is a question between them and the Crown ;—the Crown may have a right to complain that the exercise of the right conveyed by the Crown has, in that instance, been exceeded ; and possibly, under such circumstances, the Crown might, by its public officer, institute some proceeding against them ; upon which, however, I wish carefully to abstain from expressing any opinion ; but the proprietors of the fisheries on

the Don have nothing to do with that. The question with respect to the proprietors of the fisheries on the Don is, Whether they have a right, by the existing law, to complain, that persons who possess property on the sea-coast, and have a right of fishery on the sea-coast as extensive as the Crown can grant, are entitled to fish by means of stake-nets ; and whether they can make out that the laws of Scotland prohibit, under such circum-

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stances, where the sea ebbs and flows, the use of machinery of that description ? Now I apprehend that, looking at these Acts of Parliament, they do not apply to fisheries on the sea-coast, and that the proprietors of fisheries on the Don have no right to maintain this suit. I should recommend to your Lordships, under these circumstances, that the judgment of the Court below be affirmed.

Appellants' Authorities.—(*Title.*)—Colquhoun, July 6, 1804, (14,283.); Kinnoul, Jan. 26, 1802, (14,301.); Athole, March 7. 1812, (Fac. Coll.); Hamilton, March 5. 1793, (12,824.); Braid, Jan. 24. 1800, (No. 2. App. Prop.)—(*Merits.*)—Kinnoul, (*supra*); Athole, (*supra*, and Dow's Reports, vol. v. p. 291.); Leslie, June 29, 1593, (14,249.); Gairlies, July 30. 1605, (14,249.); Magistrates of Inverness, Jan. 27, 1776, (14,257).

Respondents' Authorities.—Bocce, fol. 5, edit. 1574 ; Discrittionne del regno di Scotia, p. 17.—(*Title.*)—Coble Fishers of Don, Feb. 10. 1693, (14,287.); Colquhoun, July 6. 1804, (14,283.); Athole, March 7. 1812, (Fac. Coll. and Buchanan's Reports, p. 263. and 300.); Grotius de Jure Belli, lib. 11. c. 2. § 3. ; Puffendorf, lib. 4. c. 5. ; Dig. 1. lib. 47. tit. 10.—(*Merits.*)—Balfour's Pract. p. 544. ; Rhymer's Foedera, tom. 7. p. 246. ; tom. 8. p. 271, 551.; Bellend. Decrip. de Alb. c. 1. ; Spalding's Troubles, 1. 60. ; 2. Stair, 3. 70. ; 2. Bank. 3. 8. ; 2. Ersk. 6. 15. ; Mag. Chart. c. 23. ; 12. Edw. 42. c. 7.; 1705, c. 2. Queen Anne.

Statutes relied on by both Parties.—Alex. II. c. 16. (or William the Lion); Rob. I. c. 12. ; 1424, c. 11. and 12. ; 1427, c. 6. ; 1429, c. 131. (c. 22. new edit.) ; 1457, c. 86. (c. 33. 34. new edit.) ; 1469, c. 38. (c. 13. new edit.) ; 1477, c. 73. (1478, c. 6. new edit.) ; 1488, c 16 ; 1489, c 15. ; 1535, c. 17.; 1563; c. 3. ; 1579, c. 89. ; 1581, c. 111. ; 1685, c. 20. ; 3. Jac. I. c. 12.

A. M' CRAE—RICHARDSON and CONNELL,— Solicitors.

[5 June,
1854.]

No. 1023.

**TREATY BETWEEN GREAT BRITAIN AND THE
UNITED STATES, RELATIVE TO FISHERIES,
COMMERCE, AND NAVIGATION.**

SIGNED AT WASHINGTON, 5 JUNE, 1854.* (RECIPROCITY TREATY.)†

HER Majesty the Queen of Great Britain, being equally desirous with the Government of the United States, to avoid further misunderstanding between their respective subjects and citizens in regard to the extent of the right of fishing on the coasts of British North America, secured to each by Article I of a Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818; and being also desirous to regulate the commerce and navigation between their respective territories and people, and more especially between Her Majesty's possessions in North America and the United States, in such manner as to render the same reciprocally beneficial and satisfactory, have respectively named Plenipotentiaries to confer and agree thereupon, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, James, Earl of Elgin and Kincardine, Lord Bruce and Elgin, a Peer of the United Kingdom, Knight of the most ancient and most noble Order of the Thistle, and Governor-General in and over all Her Britannia Majesty's provinces on the continent of North America, and in and over the Island of Prince Edward;

And the President of the United States of America, William L. Marcy, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:

ART. I. It is agreed by the High Contracting Parties, that in addition to the liberty secured to the United States' fishermen by the above-mentioned Convention of October 20, 1818, of taking, curing, and drying fish on certain coasts of the British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbours, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore;

* Ratifications exchanged at Washington, September 9, 1854.

with permission to land upon the coasts and shores of those colonies and the islands thereof, and also upon the Magdalon Islands, for the purpose of drying their nets and curing their fish : provided that in so doing they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of the said coast in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

And it is further agreed that in order to prevent or settle any disputes as to the places to which the reservation of exclusive right to British fishermen contained in this Article, and that of fishermen of the United States contained in the next succeeding Article, apply, each of the High Contracting Parties, on the application of either to the other, shall, within 6 months thereafter, appoint a Commissioner. The said Commissioners, before proceeding to any business, shall make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all such places as are intended to be reserved and excluded from the common liberty of fishing under this and the next succeeding Article ; and such declaration shall be entered on the record of their proceedings. The Commissioners shall name some third person to act as an Arbitrator or Umpire in any case or cases on which they may themselves differ in opinion. If they should not be able to agree upon the name of such third person, they shall each name a person, and it shall be determined by lot which of the 2 persons so named shall be the Arbitrator or Umpire in cases of difference or disagreement between the Commissioners. The person so to be chosen to be Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that which shall already have been made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of either of the Commissioners or of the Arbitrator or Umpire, or of their or his omitting, declining, or ceasing to act as such Commissioner, Arbitrator, or Umpire, another and different person shall be appointed or named as aforesaid, to act as such Commissioner, Arbitrator, or Umpire, in the place and stead of the person so originally appointed or named as aforesaid, and shall make and subscribe such declaration as aforesaid.

Such Commissioners shall proceed to examine the coasts of the North American provinces and of the United States embraced within the provisions of Articles I and II, of this Treaty, and shall designate the places reserved by the said Articles from the common right of fishing therein.

The decision of the Commissioners and of the Arbitrator or Umpire shall be given in writing in each case, and shall be signed by them respectively.

The High Contracting Parties hereby solemnly engage to consider the decision of the Commissioners conjointly, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive in each case decided upon by them or him respectively.

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II. It is agreed by the High Contracting parties that British subjects shall have, in common with the citizens of the United States, the liberty to take fish of every kind, except shell-fish, on the eastern sea coasts and shores of the United States north of the 36th parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbours, and creeks of the said sea-coasts and shores of the United States and of the said islands, without being restricted to any distance from the shore ; with permission to land upon the said coasts of the United States and of the islands aforesaid for the purpose of drying their nets and curing their fish, provided that in so doing they do not interfere with the rights of private property, or with the fishermen of the United States in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries and all fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States.

III. It is agreed that the articles enumerated in the Schedule hereunto annexed, being the growth and produce of the aforesaid British colonies or of the United States, shall be admitted into each country respectively free of duty :

Schedule.—Grain, flour, and bread-stuffs of all kinds ; animals of all kinds ; fresh, smoked, and salted meats ; cotton-wool, seeds, and vegetables ; undried fruits ; dried fruits ; fish of all kinds ; products of fish and of all other creatures living in the water ; poultry ; eggs ; hides, furs, skins, or tails undressed ; stone or marble, in its crude or unwrought state ; slate ; butter, cheese, tallow ; lard, horns, manures ; ores of metals of all kinds ; coal ; pitch, tar, turpentine, ashes ; timber and lumber of all kinds, round, hewed, and sawed, unmanufactured in whole or in part ; fire-wood ; plants, shrubs, and trees ; pelts, wool ; fish-oil ; rice, broom-corn, and bark ; gypsum, ground or unground ; hewn, or wrought or unwrought burr or grindstones ; dye-stuffs ; flax, hemp, and tow, unmanufactured ; unmanufactured tobacco ; rags.

IV. It is agreed that the citizens and inhabitants of the United States shall have the right to navigate the River St. Lawrence and the canals in Canada used as the means of communicating between the Great Lakes and the Atlantic Ocean, with their vessels, boats, and crafts, as fully and freely as the subjects of Her Britannic Majesty, subject only to the same tolls and other assessments as now are, or may hereafter

be, exacted of Her Majesty's said subjects ; it being understood, however, that the British Government retains the right of suspending this privilege, on giving due notice thereof to the Government of the United States.

It is further agreed, that if at any time the British Government should exercise the said reserved right, the Government of the United States shall have the right of suspending, if it think fit, the operation of Article III of the present Treaty, in so far as the province of Canada is affected thereby,

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for so long as the suspension of the free navigation of the River St. Lawrence or the canals may continue.

It is further agreed, that British subjects shall have the right freely to navigate Lake Michigan with their vessels, boats, and crafts, so long as the privilege of navigating the River St. Lawrence, secured to American citizens by the above clause of the present Article shall continue ; and the Government of the United States further engages to urge upon the State Governments to secure to the subjects of her Britannic Majesty the use of the several State canals on terms of equality with the inhabitants of the United States.

And it is further agreed, that no export duty or other duty shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine watered by the River St. John and its tributaries and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick.

V. The present Treaty shall take effect as soon as the laws required to carry it into operation shall have been passed by the Imperial Parliament of Great Britain and by the Provincial Parliaments of those of the British North American Colonies which are affected by this Treaty on the one hand, and by the Congress of the United States on the other. Such assent having been given, the Treaty shall remain in force for 10 years from the date at which it may come into operation, and further, until the expiration of 12 months after either of the High Contracting Parties shall give notice to the other of its wish to terminate the same ; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said term of 10 years, or at any time afterwards.

It is clearly understood, however, that this stipulation is not intended to affect the reservation made by Article IV of the present Treaty with regard to the right of temporarily suspending the operation of Articles III and IV thereof.

VI. And it is hereby further agreed, that the provisions and stipulations of the foregoing Articles shall extend to the Island of Newfoundland, so far as they are applicable to that colony. But if the Imperial Parliament, the Provincial Parliament of Newfoundland, or the Congress of the United States, shall not embrace, in their laws enacted for carrying this Treaty into effect, the Colony of Newfoundland, then this Article shall be of no effect ; but the omission to make

provision by law to give it effect, by either of the legislative bodies aforesaid, shall not in any way impair the remaining Articles of this Treaty.

VII. The present Treaty shall be duly ratified, and the mutual exchange of ratifications shall take place in Washington, within 6 months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done, in triplicate, at Washington, the 5th of June, Anno Domini, 1854,

(L.S.) ELGIN AND KINCARDINE,

(L.S.) W. L. MARCY.

[8 April,
1858.]**No. 1024.****AWARDS BY THE HON. JOHN HAMILTON GRAY,
UMPIRE UNDER THE RECIPROCITY TREATY.***

By the 3rd Article of the Treaty of 1783 between Great Britain and the United States, it was stipulated—" That the people of the United States should continue to enjoy, unmolested, the right to take Fish of every kind on the Grand Bank, and on all the other Banks of Newfoundland, also in the Gulf of St. Lawrence, and at all other places in the Sea, where the inhabitants of both countries used at any time theretofore to fish. That the inhabitants of the United States shall have liberty to take Fish of every kind, on such parts of the coast of Newfoundland as British Fishermen shall use (but not to cure or dry them on the Island), and also on the coasts, bays and creeks of all other of His Britannic Majesty's dominions in America. And that the American Fishermen shall have liberty to dry and cure Fish in any of the unsettled bays, harbours and creeks in Nova Scotia, Magdalen Islands and Labrador, so long as the same shall remain unsettled ; but as soon as the same, or either of them, shall be settled, it shall not be lawful for the said Fishermen to dry or cure Fish at such settlement, without a previous agreement for that purpose, with the inhabitants, proprietors, or possessors of the ground." The War of 1814 between Great Britain and the United States, was held by the former to have abrogated this stipulation, and the declaration of peace, and Treaty of Ghent, which subsequently followed, were entirely silent on the point. This silence was intentional—during the negotiations the question had been expressly raised, and the claim of the United States to the continued enjoyment of the rights secured by that stipulation denied. By the Convention of the 20th October, 1818, the privilege of the Fisheries within certain limits was again conceded to the United States—and the United States, by that Convention, " renounced any liberty before enjoyed or claimed by them or their inhabitants, to take, dry, or cure Fish, on, or within three marine miles of any of the coasts, bays, creeks, or harbours of any of the British dominions of America, not included within that part of the Southern Coast of Newfoundland, extending from Cape Ray to the Rameau Islands ; on the Western and Northern Coast of Newfoundland, from Cape Ray to the Quirpon Islands—on the shores of the Magdalen Islands—and also on the coasts, bays, harbours and creeks, from Mount Joly on the South of Labrador, to and through the Straits of Belleisle, and thence Northerly along the coast." This

*Reproduced from Journal of the Assembly (Newfoundland) 1863, App. 1239-1273

concession was to be without prejudice to any of the exclusive rights of the Hudson Bay Company, and the American Fishermen were also to have the liberty, for ever, to dry and cure Fish in any of the unsettled bays, harbours and creeks of the Southern part of the Coast of Newfoundland, therein described, and of the Coast of Labrador, but so soon as the same or any portion thereof should be settled, it should not be lawful for the said Fishermen to dry or cure Fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground ; and was further subject to a proviso, that the American Fishermen should be permitted to enter the bays and harbours in His Britannic Majesty's dominions in America not included within those limits, “ for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they should be under such restrictions as might be necessary to prevent their taking, drying, or curing Fish therein, or in any other manner whatever abusing the privileges thereby reserved to them.”

A difference arose between the two countries, Great Britain contending that the prescribed limits of “ three marine miles,” the line of exclusion, should be measured from headland to headland, while the United States Government contended it should be measured from the interior of the bays and the sinuosities of the coasts. The mutual enforcement of these positions led to further misunderstandings between the two countries.”

To do away with the cause of these misunderstandings, and to remove all grounds of future embroilment, by the Treaty of Washington, June 5th, 1854, it was, by Article the 1st, agreed :—“That in addition to the liberty secured to the United States Fishermen by the above mentioned Convention of October 20th, 1818, of taking, curing, and drying Fish on certain coasts of the British North American Colonies, therein defined,—the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty to take Fish of every kind (except shell fish) on the sea coasts and shores, and in the bays, harbours and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward Island, and of the several Islands thereunto adjacent, without being restricted to any distance from the shore ; with permission to land upon the coast and shores of those Colonies, and the Islands thereof, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided, that in so doing, they do not interfere with the rights of private property, or with British Fishermen in the peaceable use of any parts of the said Coast, in their occupancy for the same purpose.

“ It is understood that the above mentioned liberty applies

solely to the Sea Fishery, and that the Salmon and Shad Fisheries, and all Fisheries in Rivers, and the mouths of Rivers, are hereby reserved exclusively for British Fishermen.”

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By Article the 2nd :— “It is agreed by the high contracting parties, that British subjects shall have, in common with the citizens of the United States, the liberty to take Fish of every kind (except shell fish) on the Eastern sea-coasts and shores of the United States, North of the 36th parallel of North Latitude, and on the shores of the several Islands thereunto adjacent, and in the bays, harbours and creeks of the said sea-coasts, and shores of the said United States, and of the said Islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States, and of the Islands aforesaid, for the purpose of drying their nets and curing their Fish. Provided that in so doing they do not interfere with the rights of private property, or with the Fishermen of the United States, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.”

“ It is understood that the above mentioned liberty applies solely to the Sea Fishery ; and that the Salmon and Shad Fisheries, and all Fisheries in Rivers, and the mouths of Rivers, are hereby reserved exclusively for Fishermen of the United States.”

By the first Article it was also further agreed :— “ That in order to prevent or settle any dispute as to the places to which the reservation of exclusive right to British Fishermen contained in this Article, and that of Fishermen of the United States, contained in the second Article, should apply—each of the high contracting parties, on the application of either to the other, shall, within six months thereafter, appoint a Commissioner. The said Commissioners, before proceeding to any business, shall make and subscribe a solemn declaration that they will impartially and carefully examine and decide to the best of their judgment, and according to justice and equity, without fear, favour, or affection, to their own country, upon all such places as are intended to be reserved and excluded from the common liberty of fishing under the said two articles.” In cases of disagreement, provision is made for an umpire, and the “High contracting parties solemnly engage to consider the decision of the Commissioners conjointly, or of the arbitrator or umpire, as the case may be, absolutely final and conclusive in each case decided upon by them, or him, respectively.”

By article 5, the Treaty was to “ Take effect as soon as the laws required to carry it into operation should be passed by the Imperial Parliament of Great Britain, and by the Provincial Parliaments of those of the British North American Colonies

which are affected by this Treaty, on the one hand, and by the Congress of the United States on the other.”

It is understood, that in making this last named Treaty, neither Government admitted itself to have been in error, with reference to the position it had before maintained. The Treaty was emphatically an arrangement for the future. “ The Government of the United States being equally desirous with Her Majesty the Queen of Great Britain (as declared in the preamble)” to avoid further misunderstanding between their respective citizens, and subjects,

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in regard to the extent of the right of fishing on the coasts of British North America, secured to each by Article I, of a Convention between the United States and Great Britain, signed at London on the 20th day of October, 1818.

The Commissioners appointed under the provisions of this Treaty, proceeded to examine and decide upon “The places intended to be reserved and excluded from the common liberty of fishing ” under the first and second Articles. They differed in opinion as to the places hereinafter named, and it has been submitted to me, as the Umpire under the provisions of that Treaty, to determine those differences.

The copies of the Records of disagreement between the Commissioners, transmitted to me, are as follows :

RECORD, NO. 1.

We, the undersigned, Commissioners respectively, on the part of Great Britain and the United States, under the Reciprocity Treaty concluded and signed at Washington, on the 5th day of June, A.D. 1854, having met at Halifax, in the Province of Nova Scotia, on the 27th day of August, A.D. 1855, thence proceeded to sea in the British Brigantine *Halifax*, and passing through the Strait of Canso, first examined the River Buctouche, in the Province of New Brunswick.

“ A survey was made of the mouth of the said River Buctouche by the Surveyors attached to the Commission, George H. Perley, on the part of Great Britain, and Richard D. Cutts, on the part of the United States, a plan of which marked No. 1, and signed by the Commissioners respectively, will be found in Record Book No. 2.

“ We, the Commissioners are unable to agree upon a line defining the mouth of said River.”

“ Her Majesty's Commissioner claims that a line from Glover's Point to the Southern extremity of the Sand Bar, (marked in red on the aforesaid Plan No. 1), designates the

mouth of the said River Buctouche ; the United States Commissioner claims that a line from Chapel point, bearing south, 4 West, (magnetic,) marked in blue on the aforesaid Plan, No. 1. designates the mouth of the said River ; and of this disagreement record is here made accordingly.

“ Dated at Buctouche, in the Province of New Brunswick, this 19th day of September, A.D. 1856.

(Signed,) M. H. PERLEY, H.M. Commissioner.
(Signed,) G. G. CUSHMAN, U.S. Commissioner.”

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RECORD NO. 2.

“ We, the undersigned Commissioners respectively on the part of Great Britain and the United States, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the River Miramichi, in the Province of New Brunswick, are unable to agree upon a line defining the mouth of said River.

“ Her Majesty's Commissioner claims that a line connecting Fox and Portage Islands, marked in red, Plan No. 2, Record Book No. 2, designates the mouth of the Miramichi River ; the United States Commissioner claims, that a line from Spit Point to Moody Point, marked in blue, Plan No. 2, Record Book No. 2, designates the mouth of said River, and of this disagreement record is here made accordingly.

“ Dated at Chatham, on the Miramichi, in the Province of New Brunswick on this 27th day of September, A.D. 1855.”

(Signed,) M. H. PERLEY, H.M. Commissioner.
(Signed,) G. G. CUSHMAN, U.S. Commissioner.”

RECORD NO. 9.

“ We, the undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D., 1854, having examined the Elliot River, emptying into Hilsborough Bay, on the Coast of Prince Edward Island, one of the British North American Colonies, Do hereby agree and decide, that a line bearing North 85° East, (magnetic) drawn from Block House Point to Sea Trout Point, as shown on Plan No. 7, Record Book No. 2, shall mark the mouth, or outer limit, of the said Elliot River ; and that all the waters within, or to the Northward of such line, shall be reserved and excluded from the common right of fishing therein, under the first and second articles of the Treaty aforesaid.

“ Her Majesty's Commissioner, in marking the above line, claims the same as defining the joint mouth of the Elliot, York,

and Hillsborough Rivers.

“ The United States Commissioner agrees to the above line as the mouth of the Elliot River only, not recognizing or acknowledging any other River.

“ Dated at Bangor, in the State of Maine, United States, this 27th day of September, A.D. 1856.

(Signed,) M. H. PERLEY, H.M. Commissioner.

(Signed,) G. G. CUSHMAN, U.S. Commissioner,”

RECORD, NO. 10.

“ We, the undersigned, Commissioners under the Reciprocity Treaty, between Great Britain and the United States, signed at Washington, on the 5th day of June, A.D. 1854, having examined the Montague River, emptying into Cardigan Bay, on the Coast of Prince Edward Island, one of the British North American Colonies, Do hereby agree and decide, that a line bearing North, 72° East, (magnetic) drawn from Grave Point, to Cardigan Point, as shewn on the Plan No. 7, Record Book No. 2, shall mark the mouth, or outer limit, of the said Montague River ; and that all the waters within, or to the Westward of such line, shall be reserved and excluded from the common right of Fishing therein, under the first and second Articles of the Treaty aforesaid.

“ Her Majesty's Commissioner, in marking the above line, claims the same as defining the joint mouth of the Montague and Brudenell Rivers.

“ The United States Commissioner agrees to the above line, as marking the mouth of the Montague only, not recognizing or acknowledging any other River.

“ Dated at Bangor, in the State of Maine, United States, this 27th day of September, A.D. 1856.

(Signed,) M. H. PERLEY, H.M. Commissioner.

(Signed,) G. G. CUSHMAN, U.S. Commissioner.”

RECORD, NO. 11.

“ We, the undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Coasts of Prince Edward Island, one of the British North American Colonies, are unable to agree in the following respect :—

“Her Majesty's Commissioner claims that the undermentioned places are Rivers, and that their mouths should be marked and defined under the provisions of the said Treaty :—

“Seal,	St. Peter's (designated St.	Foxley,
Orwell,	Peter's Bay on the Map	Pierre Jacques,
Vernon,	of the Island),	Brae,
Pinnette,	Tryon,	Enmore,
Murray,	Crapaud,	Enmore,

Cardigan, Winter,	Ox,
Boughton, Hunter,	Haldiman,
Forutne, Stanley,	Sable.
Souris, Ellis,	

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“ The United States Commissioner denies that the above mentioned places are Rivers, or such places as are intended to be reserved and excluded from the common liberty of Fishing.

“ Dated at Bangor, in the State of Maine, United States, this 27th day of September, A.D. 1856.

(Signed,) “ M. H. PERLEY, H.M. Commissioner.

(Signed,) “ G. G. CUSHMAN, U.S. Commissioner.”

It will thus be seen that the differences between the Commissioners resolve themselves into two divisions :— 1st. Whether the twenty-four places named in Prince Edward Island, or any of them, as is contended by Her Majesty's Commissioner, are to be deemed rivers, and therefore reserved and excluded from the common liberty of the Fishery ? Or whether, as is contended by the United States Commissioner, these places, or some of them, are not Rivers, and therefore open to the common liberty of the Fishery ? 2nd. The Miramichi and Buctouche in New Brunswick, being submitted to be Rivers, by what lines are the mouths of those Rivers respectively to be determined?

In coming to any conclusion on these points, it is unquestionably the duty of the Umpire to look at the spirit and object of the Treaty,— the causes of difficulty it was intended to remove— the mode of removal proposed.

The classes of Fish sought for in the deep-sea Fisheries strike within “ three marine miles ” from the shore ; the “ bays ” within the headlands are their places of resort, but unlike the Salmon, or the Shad, they do not ascend the Rivers, or particularly seek their entrances. To prosecute the Mackerel Fishery with success, the right of Fishing on the “ sea coast and shores ” within “ three marine miles,” and within the “ bays ” with the privilege of landing for drying nets and curing Fish, was absolutely necessary ; the convenience of a “ harbour,” and the right of Fishing therein, desirable. A “ creek,” which Webster and Maunders both define to be, according to English usage and etymology, “ a small inlet, bay or cove, a recess in the shore of the Sea, or of a River,” and which though, “ in some of the American States,” meaning a small River, Webster says, “ is contrary to English usage, and not justified by etymology, ” would also, in many instances, afford accommodation. A right to the “ sea coast and the

shores ”— to the “ harbours ” and the “ creeks,” would thus afford to the Fisherman all that he would require, and leave to the Rivers, rising far in the interior of the respective Countries, and flowing by the homes and hearths of a different nation, the sacred character which would save them from the stranger's intrusion.

The question then that first presents itself, are the twenty-four places named, or any, and which of them, in Prince Edward Island, to be deemed Rivers ?

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It is difficult to lay down any general proposition, the application of which would determine the question. There is no limitation as to size, or volume ; the Mississippi and the Amazon, roll their waters over one-fourth the circumference of the earth. The “ Tamar,” the “ Ex,” and the “ Tweed,” would hardly add a ripple to the “ Saint Lawrence,”—yet all alike bear the designation, are vested with the privileges, and governed by the laws and regulations of Rivers. It is not the absence, or prevalence, of fresh or salt water ; that distinction has been expressly ignored in the celebrated case of Horne against McKenzie, on appeal to the House of Lords. It is not the height or lowness of the banks ; the Rhine is still the same River, whether flowing amid the mountains of Germany, or fertilizing the low plains of Holland. It is not the rise or fall of tide, or the fact that there may be little, if any water when the tide is out. The Stour and Orwell in England are dry at low water ; yet they have always been recognized, and treated, as Rivers. The Petitcodiac, in New Brunswick, and the Avon in Nova Scotia, owe their width, their waters, their utility, entirely to the Bay of Fundy ; yet their claim to be classed among rivers has never been doubted. The permanent, or extraordinary extent of the stream, in cases where not at all, or but little influenced by the tides, is no criterion. The periodical thaws, and freshets of Spring and Autumn, in America, make Rivers of vast magnitude, useful for a thousand commercial purposes, in places where, when those thaws and freshets have passed away, their dry beds are visible for weeks. The term “ flottable,” applied to such streams, is well recognized in the Courts of the United States, classing them among Rivers, and clothing the inhabitants upon their banks, with the rights of riparian proprietors, and the public at large with the privilege of accommodation.

An important test may be said to be, the existence or non-existence of bars at the mouths of waters, or streams running into the sea. The existence of such bars necessarily presupposes a conflict of antagonistic powers. An interior water forcing its way out, yet not of sufficient strength to plough a direct passage through the sands accumulated by the inward rolling of the sea, would necessarily diverge, and thus leave a bar in front of its passage, just at that distance where the force

of its direct action would be expended. Some Rivers, such as the Mississippi and the Nile, make deltas, and run into the Sea. In this case, the extreme land would give a natural outlet. Others again run straight into the Sea, without any delta, and without any estuary. In these cases the bar at the mouth would give a natural limit ; but the bar at the mouth is equally characteristic of its being a River. There are cases again, where the estuary, gradually widening into the Sea, leaves neither bar nor delta to mark its outlet, or determine its character. In such cases, for the latter object, other grounds must be sought on which to base a decision ; and in marking the former, the exercise of a sound discretion could be the only guide.

The decision upon any such question, must, after all, be more or less arbitrary. The physical features of the surrounding country, the impressions

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created by local inspection, the recognized and admitted character the disputed places have always borne, constitute material elements in forming a conclusion. The possibility that the privileges conceded by this Treaty may be abused, can have no weight. There will doubtless be found in both countries, men who will disregard its solemn obligations, and take advantage of its concessions, to defraud the revenue, violate local laws, and infringe private rights ; and in thus disgracing themselves, affect the character of the nation to which they belong ; they will, however, meet with no consideration at the hands of the honorable and right thinking people of either country. The framers of this Treaty would not permit such minor difficulties to stand in the way of the great object they had in view, to cement the alliance, and further the commercial prosperity of two Empires. Such difficulties can be obviated, if necessary, by national or local legislation.

The Rivers of Prince Edward Island, whether one or one hundred in number, must, as to length, necessarily be small. The Island is in no part much over thirty miles in width, and the streams run through it, more or less transversely, not longitudinally. Captain now (Admiral) Bayfield, the accomplished hydrographer, and surveyor of the Gulf of Saint Lawrence, thus describes it :—

“ Prince Edward Island, separated from the Southern shore of the Gulf of the Saint Lawrence by Northumberland Strait, is one hundred and two miles long, and, in one part, about thirty miles broad : but the breadth is rendered extremely irregular by large bays, inlets, and Rivers, or rather sea creeks, which penetrate the Island, so that no part of it is distant more than seven or eight miles from navigable water. Its shape is an irregular crescent, concave towards the Gulf, the Northern shore forming a great bay, ninety-one miles wide, and twenty-two miles deep, out of which, the set of the tides, and the heavy

sea, render it very difficult to extricate a ship when caught in the North East gales which frequently occur towards the fall of the year, occasionally blowing with great strength and duration, and, at such times, proving fatal to many vessels.”

This passage has been particularly called to my attention in a very elaborate and able statement of his views, placed before me by the United States Commissioner, who further adds,— “ That Sir Charles A. Fitzroy, the Lieutenant Governor of the Island of Prince Edward, in an official communication to the British Government, calls the Island Rivers, ‘ strictly speaking, narrow arms of the Sea, ’”—and that “ Lord Glenelg, in his reply, alludes to them as ‘ inlets of the Sea. ’ ” On examining the Records referred to by the Commissioner, I find the first to be a dispatch (in January, 1858,) from Sir Charles Fitzroy, to the Colonial Secretary, Lord Glenelg, with reference to the reserves for Fisheries, contained in the original grants in the Island, arising out of the order in Council, under which those grants were issued, and which was as follows :—“ That in order to promote and encourage the fishing, for which many parts of the Island are conveniently situated, there

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be a clause in the grants of each Township that abuts upon the sea shore, containing a reservation of liberty to all His Majesty's subjects in general, of carrying on a free Fishery on the coasts of the said Townships, and of erecting stages and other necessary buildings, for the said Fishery, within the distance of five hundred feet from high water mark.”

He then states he enclosed for the information of the Government :—“ A return shewing the several reserves for this purpose contained in the different Townships, from which it will appear that the reservation, as contemplated in the order of Council, has been strictly followed in only twelve Townships. In thirty-two Townships, the reservation is as follows,—‘ and further saving and reserving for the disposal of His Majesty, his heirs and successors, five hundred feet from high water mark, on the coast of the tract of land hereby granted, to erect stages and other necessary buildings for carrying on the Fishery, ’—of the remaining twenty-three Townships, eighteen contain no Fishery reservation ; and of five, no grants whatever are on record.” And he then remarks :— “ By reference to a plan of the Island, annexed to the return, your Lordship will perceive that several of the Townships which do contain reservations, abut upon Rivers only ; or more strictly speaking, narrow arms of the Sea.”

Lord Glenelg, in his reply, (May 1838,) says,—“ It appears to me that the reservation made of lands adjacent to the sea coast, or to the shores of inlets from the Sea, for the purpose of Fishing, so far as the right has been reserved to the Queen's subjects collectively, constitute a property over which

the power of the Crown is exceedingly questionable.”

It does not appear to me, that these passages bear the construction put upon them, or were intended to designate the Island Rivers generally, or in any way determine their character. Is it not rather a mere qualified mode of expression used at the time, without any definite object, or perhaps if any, to avoid being concluded by either term ? But if the use of a term, by one or two of the local authorities, is to be deemed of such weight, of how much more weight would be the continued use by the Legislature, for years, of a contrary term ? There are Acts of the Assembly vesting rights, imposing penalties, and creating privileges, with reference to these waters, under the name and designation of Rivers, to a series of which I call attention, namely :

10 Geo. IV., c. 11.	1 Vic. c. 19.	7 Vic. c. 3.
2 Wm. IV., c. 2 & 13.	2 Vic. c. 10.	8 Vic. c. 20.
3 Wm. IV., c. 8, 9 & 10.	3 Vic. c. 12.	12 Vic. c. 18,
5 Wm. IV., c. 3 & 7.	4 Vic. c. 16.	c. 35 & 22.
6 Wm. IV., c. 25.	4 Vic. c. 18.	15 Vic. c. 34.
7 Wm. IV., c. 23.	5 Vic. c. 9.	16 Vic. c. 28.

Also, to the various reports of the Annual appropriations and Expenditures, to be found in the Journals of the Legislature.

On an examination of these Acts, it will be found, that the Legislature of the Island has, by a continued series of enactments, extending over a period of thirty years, legislated upon the “rivers,”—“bays,”—“creeks,”—“harbours,”—and “lesser streams,”—of the Island, recognizing their existence, and difference,—appropriating the local revenues to their improvement—establishing rights, and creating private interests with reference to them, entirely inconsistent with their being aught but the internal waters, and Rivers of the Island, and directly at variance with the terms and character of legislation, which would have been used, had they been considered “arms,” or mere “inlets of the Sea.” Such acts by the Congress of the United States, or by the respective Legislatures of the several States, on any matter within their jurisdiction, would be regarded as conclusive of the character of the subject legislated upon. The legislation of Prince Edward Island, in *pari materia*, is entitled to the same consideration. The British Government, at the present day, neither legislates away, nor interferes with, the local administration of the affairs of the Colonies. This very Treaty is dependent upon the action of the Provincial Parliaments, and based upon the preservation of private rights. Can it be contended, or shall it be admitted, that this Treaty abrogates the legislation of years, ignores the laws of the Island, and, by implication, annuls rights and privileges the most sacred a colony can possess? Certainly not. If it be desirable, from the peculiar conformation of this Island and its waters, that the latter should be viewed in a light different from that in which they have been hitherto regarded, the local Legislature can so determine.

In a very important decision in the Supreme Court of Iowa, reported in the American Law Register, issued at Philadelphia, in August, 1857, it was determined,—“That the real test of navigability in the United States, was ascertained by *use*, or by *public act of declaration*; and that the acts and declarations of the United States, declare and constitute the Mississippi River, a public highway, in the highest and broadest intentment possible.” Shall not therefore the public acts and declarations, of the Legislature of Prince Edward Island, be considered of some authority, in determining what are the Rivers of that Island?—and particularly when those acts and declarations were made long anterior to the present question being raised? But might it not also be assumed, that where a country had, by a long series of public documents, legislative enactments, grants and proclamations, defined certain waters to be Rivers, or spoken of them as such, or defined where the mouths of certain Rivers were, and another country subsequently entered into a treaty with the former respecting those very waters, and used the same terms, without

specifically assigning to them a different meaning, nay, further stipulated that the Treaty should not take effect in the localities where those waters were, until confirmed by the local authorities,—might it not be well assumed that the definitions previously used, and adopted, would be mutually binding in interpreting the Treaty, and that the two countries had consented to use the terms in the sense in which each had before treated them in their

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public instruments, and to apply them as they had been previously applied, in the localities where used ? I think it might.

Admiral Bayfield did not intend by the term “ sea creeks,” as he informed me in reply to a communication on this subject, to convey the impression contended for by the United States Commissioner, that they were not Rivers. He says, under date of 3rd September, 1857 :—“ With reference to the term 'sea creeks,' to which your attention has been called, as having been used by me at page 92, “ and various other parts of the Directions, I have used that term in order to distinguish the inlets from the small streams (disproportionably small in summer) that flow through them to the sea.”

“ In the instances referred to, I mean by ' sea creeks,' inlets formed by the combined action of the Rivers and the tides, and through which those Rivers flow in channels, more or less direct, and more or less plainly defined by shoals on either side. Whenever there are bars across the inlets, as is very generally the case, I consider the channels through those bars, to form the common entrances from the Sea to both inlets and Rivers ; for it appears to me that a River is not the less a River, because it flows through a creek, an inlet, or an estuary. The point where the fresh water enters the estuary, and mixes with the tide waters, may be miles inland, but it does not, I think, cease to be a River until it flows over its bar into the Sea.”

This view of Admiral Bayfield, that such waters do not lose their character as Rivers because flowing through an inlet, or an estuary, is confirmed by the principles laid down to determine what are “ navigable ” Rivers, in the technical sense of the term, as distinguished from its common acceptation. To the extent that fresh waters are backwardly propelled by the ingress and pressure of the tide, they are denominated navigable *Rivers* ; and to determine whether or not a River is navigable, both in the common law and in the Admiralty acceptation of that term, regard must be had to the ebbing and the flowing of the tide. In the celebrated case of the River Bann, in Ireland, the Sea is spoken of, as *ebbing and flowing in the River*. These principles are recognized in the Courts of the United States and the authorities collated, and most ably commented upon by Angel.

Indeed, it would seem that the Commissioners themselves have not attached to this term, “ sea creeks,” as used by Admiral Bayfield, the force or character which it is now alleged it shall bear, as they have by their Record. No. 10, under the 27th September, 1856, transmitted to me with the other official documents in this matter, pronounced the “ Montague ” to be a “ River,” and determined upon its mouths, though Admiral Bayfield, in his Sailing Directions, before referred to, page 123, speaks of it as a “ sea creek.” It has been urged, that if these places are declared to be Rivers, and not creeks or harbours, then where are the creeks and harbours contemplated by the Treaty ? To this it may be answered, that this Treaty does not contemplate Prince Edward Island alone—and even though none such might be found within its narrow circle— yet they may be found in numbers along the five

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[8 April,
1858.]

thousand miles of coast, exclusive of Newfoundland, which this Treaty covers, extending from the 36 parallel of North latitude in the United States, to the furtherest limits of Labrador.

With these preliminary observations, I shall take up the disputed places in Prince Edward Island, and proceed to decide upon them, in the order in which they have been submitted:—

No. 1.—VERNON.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to, and examined, the Vernon, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion, that the Vernon is entitled to be considered a River.

It has, at low tide, water for boat and shallop navigation. It has good breadth, requiring a long and strong bridge to cross it. Vessels are built two miles from its mouth. As you drive along its banks there would be no hesitation in speaking of it, were no question raised, as a River. It would appear as if the salt water were an intrusion into a channel, formed and supplied by a running stream, enlarging and deepening the channel, but finding it there, the banks and surrounding lands all bearing towards the Vernon, the same relative formation as the banks towards admitted Rivers. It is spoken of in Bayfield's Sailing Directions as a River, and as such in various Acts of Assembly.

[8 April,
1858.]

As such Arbitrator or Umpire, I decide that the Vernon is a River.

Dated at Saint John, in the Province of New Brunswick,
this 8th day of April, A.D., 1858.

JOHN HAMILTON GRAY.

No. 2.—ORWELL.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854, having proceeded to, and examined the Orwell, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Orwell is entitled to be considered a River.

It is spoken of by Bayfield, in conjunction with the Vernon, as a River ; has been recognized as such in the Public Acts of the Island ; and described

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under that designation as a boundary in the ancient grants, as far back as 1769.

[8 April,
1858.]

As such Arbitrator or Umpire, I decide that the Orwell is a River.

Dated at Saint John, in the Province of New Brunswick,
this 8th day of April, A.D., 1858.

JOHN HAMILTON GRAY.

No. 3.—SEAL.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854, having proceeded to and examined the Seal, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Seal is entitled to be considered a river.

The Seal is spoken of by Bayfield as a River, and recognized as such in the public Acts of the Island. It is a small tributary of the Vernon, and as such Arbitrator or Umpire, I decide that it is a River.

[8 April,
1858.]

Dated at Saint John, in the Province of New Brunswick,
this 8th day of April, A.D., 1858.

JOHN HAMILTON GRAY.

No. 4.—PINNETTE.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to, and examined, the Pinnette, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion, that the Pinnette is a tidal basin, or harbour, and as such Arbitrator or Umpire, I decide that it is not a River.

[8 April,
1858.]

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

JOHN HAMILTON GRAY.

No. 5.—MURRAY.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854,

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having proceeded to, and examined, the Murray, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Murray is entitled to be considered a River.

The Murray is a River, and entitled to be so considered in view of its abundant supply of fresh water, its formation, and deep and navigable channel. By reference to the original grants, 1769, of Lots 63 and 64, bordering on the Murray, it will be seen that the Crown, at that early day, drew the distinction between the river, the harbour, and the sea coast, and bounds these lots by the harbour and river, and by the sea coast, respectively. It is also recognized in the public acts of appropriation of the Island, under that designation.

[8 April,
1858.]

As such Arbitrator or Umpire, I decide that the Murray is a River.

Dated at Saint John, in the Province of New Brunswick,

this 8th day of April, A.D., 1858.

JOHN HAMILTON GRAY.

No. 6.—CARDIGAN.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to, and examined the Cardigan, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Cardigan is entitled to be considered a River.

It is so described by Bayfield. It bears a close resemblance to the Montague and the Elliot, which have been declared by both Commissioners, as appears by Records Nos. 9 and 10, to be Rivers. It is so designated by the Crown, in the grant of Lot 34, in 1769 ; and has been repeatedly recognized as such by the Legislature.

[8 April,
1858.]

As such Arbitrator or Umpire, I decide that the Cardigan is a River.

Dated at Saint John, in the Province of New Brunswick,
this 8th day

JOHN HAMILTON GRAY.

No. 7.—BOUGHTON.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to, and examined the Boughton, in Prince Edward Island,

concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Boughton is entitled to be considered a River.

It is deep and broad, affording accommodation for vessels, and facilities for ship building, far in the interior. Its comparatively narrow entrance, and bar across its mouth, are observable and striking characteristics. It is described as such by the Crown, in the grant of Lot 56, in 1769 ; has been repeatedly recognized by the Legislature, under the name of Grand River ; and by Bayfield, in his Sailing Directions.

[8 April,
1858.]

As such Arbitrator or Umpire, I decide that the Boughton is a River.

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

No. 8.—FORTUNE.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854, having proceeded to and examined the Fortune, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Fortune is a River.

[8 April,
1858.]

As such Arbitrator or Umpire, I decide that the Fortune is a River.

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

No. 9.—SOURIS.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854, having proceeded to, and examined the Souris, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Souris is entitled to be considered a River.

The Souris is called by Bayfield, Colville River.

As such Arbitrator or Umpire, I decide that the Souris is a

River.

[8 April,
1858.]

Dated at St. John, in the Province of New Brunswick, this
8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

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No. 10.—SAINT PETER'S.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to, and examined St. Peter's, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that St. Peter's is not entitled to be considered a River.

It is claimed by Her Majesty's Commissioner, as a River ; by the United States Commissioner, as an inlet of the Sea ; or at most, a harbor. I think the view taken by the United States Commissioner is correct. It certainly is not formed by the Morel, the Midgie, or the Marie, which run into it, and the little stream called Saint Peter's, at its head, is entirely unequal to the task. It is also to be observed, that in the ancient grant of Lot 39, in 1769, it is given as a boundary under the designation of St. Peter's Bay ; and in the grants of lots 40 and 41, in the same year, 1769, partly bordering on, and partly embracing within their boundaries, St. Peter's Bay, it is described (though inaccurately as a boundary) as “ the Sea.” I do not find it anywhere recognized in the legislation of the Island, as a River ; but always as St. Peter's Bay.

As such Arbitrator or Umpire, I decide that Saint Peter's is not a River.

[8 April,
1858.]

Dated at Saint John, in the Province of New Brunswick,
this 8th day of April, A.D., 1858.

JOHN HAMILTON GRAY.

No. 11.—TRYON.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to, and examined the Tryon, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Tryon is entitled to be

considered a River.

As such Arbitrator or Umpire, I decide the Tryon to be a River.

[8 April,
1858.]

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

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No. 12.—CRAPAUD.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854, having proceeded to, and examined the Crapaud, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Crapaud is not a River.

As such Arbitrator or Umpire, I decide the Crapaud not to be a River.

[8 April,
1858.]

Dated at St. John, in the Province of New Brunswick, this 8th day.

JOHN HAMILTON GRAY.

No. 13.—WINTER.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to, and examined the Winter, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Winter is entitled to be considered a River.

Apart from its rise in the interior, and its abundant fresh water, its channel through Bedford Bay, (as it is called) is marked and distinct, shewing a continuous flow, or current of water, from the interior towards the Sea ; a channel bounded by shoals ; and proving by its deflected course, that the breach in the sands on the sea shore, forming the entrance to the so called Bedford Bay, has been formed by the water seeking an outlet for itself, not from the Sea making a passage in. In fact, if there was no River or stream in the interior, of sufficient strength to make the outlet and keep it open, the water of the Sea would only make the embankment more solid, and there would be no bay or harbor at all.

As such Arbitrator or Umpire, I decide the Winter to be a River.

[8 April,
1858.]

Dated at Saint John, in the Province of New Brunswick,
this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

No. 14.—HUNTER.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854,

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having proceeded to and examined the Hunter, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Hunter is entitled to be considered a River.

As such Arbitrator or Umpire, I decide that the Hunter is a River.

Dated at Saint John, in the Province of New Brunswick,
this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

[8 April,
1858.]

No. 15.—STANLEY.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854, having proceeded to, and examined the Stanley, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Stanley is entitled to be considered a River.

The Stanley is a full, deep stream, having, if the expression may be used, two or three heads, and several affluents, and is surrounded, from its sources to its outlet, by a succession of hills, of rapid elevation and descent, converging in many different parts towards the River, and affording, by their slopes, and the courses at their base, numerous feeders. Its large tributaries, the Trent and Old Mill Rivers, help to swell its volume. It is described as one of the boundaries of Lot 21, in the ancient grant of 1769, and recognized by the Legislature under the designation of Stanley River.

As such Arbitrator or Umpire, I decide the Stanley to be a River.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

[8 April,
1858.]

No. 16.—ELLIS.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854, having proceeded to, and examined the Ellis, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Ellis is a River.

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In the grants of lots 14 and 16, in 1769, it is so described. A long succession of Legislative enactments, so recognizes it. Its broad, deep channel ; its abundant supply of fresh water ; and the extent of country it drains, leave no question about it.

As such Arbitrator or Umpire, I decide the Ellis to be a River.

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

JOHN HAMILTON GRAY.

[8 April,
1858.]

No. 17.—FOXLEY.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to, and examined the Foxley, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Foxley is entitled to be considered a River.

The Foxley is described as a River in the ancient grants in 1769.

As such Arbitrator or Umpire, I decide the Foxley to be a River.

Dated at St. John, in the Province of New Brunswick, this
8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

[8 April,
1858.]

No. 18.—PIERRE JACQUES.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to, and examined the Pierre Jacques, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Pierre Jacques is entitled to be considered a River.

As such Arbitrator or Umpire, I decide that the Pierre Jacques is a River.

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

[8 April,
1858.]

No. 19.—BRAE.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to, and examined the Brae, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion, that Brae is not entitled to be considered a River.

As such Arbitrator or Umpire, I decide that the Brae is not a River.

[8 April,
1858.]

Dated as Saint John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

JOHN HAMILTON GRAY.

No. 20.—PERCIVAL.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D., 1854, having proceeded to, and examined the Percival, in Prince Edward Island, concerning which a difference of opinion had arisen between Tier Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion, that the Percival is a River.

The Percival is spoken of by Bayfield as a River.

It is so described in the grant of Lot 10, in 1769 ; and like the Stour and the Orwell, in England, owes its waters almost entirely to the Sea.

As such Arbitrator or Umpire, I decide the Percival to be a River.

[8 April,
1858.]

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

No. 21.—ENMORE.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854, having proceeded to and examined the Enmore, in Prince Edward Island, concerning

which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Enmore is entitled to be considered a River.

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The Enmore was treated as a River in the grants of Lots 10 and 13, in 1769 ; is so recognized by Bayfield ; and has a bar at its mouth, formed by the conflict of the tides and the descending stream.

As such Arbitrator or Umpire, I decide the Enmore to be a River.

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

[8 April,
1858.]

JOHN HAMILTON GRAY.

No. 22.—OX.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to and examined the Ox, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Ox is not entitled to be considered a River.

As such Arbitrator or Umpire, I decide that the Ox is not a River.

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

[8 April,
1858.]

JOHN HAMILTON GRAY.

No. 23.—HALDIMAN.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to and examined the Haldiman, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Haldiman is entitled to be considered a River.

The Haldiman is described as a River in the grant of Lot

15, in 1769 ; and is so regarded by Bayfield.

As such Arbitrator or Umpire, I decide the Haldiman to be a River.

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

[8 April,
1858.]

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No. 24.—SABLE .

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to and examined the Sable, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Sable is not entitled to be considered a River.

As such Arbitrator or Umpire, I decide that the Sable is not a River.

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY.

PART SECOND

I come now to the second division, namely :— The Miramichi and Buctouche, being admitted to be Rivers, which of the lines pointed out by the Commissioners shall respectively designate the mouths of those Rivers ?

[8 April,
1858.]

THE MIRAMICHI.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having proceeded to, and examined the mouth of the Miramichi, in the Province of New Brunswick, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 2, of their proceedings, declare as follows.

With reference to the Miramichi, it will be seen by Record No. 2 :—“ Her Majesty's Commissioner claims, that a

line connecting Fox and Portage Islands, (marked in red, Plan No. 2, Record Book No. 2,) designates the mouth of the Miramichi River. The United States Commissioner claims that a line from Spit Point to Moody Point, (marked in blue, Plan No. 2, Record Book, No. 2,) designates the mouth of said River.

By the Treaty it is provided that—“ the above mentioned liberty applies solely to the Sea Fishery ; and that the Salmon and Shad Fisheries, and all Fisheries in Rivers, and the mouths of Rivers, are reserved exclusively,” &c., &c.

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The preceding portion of Article 1st gives the right to Fish—“On the Sea Coasts and shores, and in the bays, harbours and creeks.”

The inner Bay of the Miramichi, and the harbour of Buctouche, are, among other grounds, claimed as coming within the definition of “ bays and harbours,” and it has been urged that the clause just referred to, is conclusive in favour of that claim, whether such bay or harbour does, or does not, constitute the mouth of a River.

It is, therefore, necessary, before deciding which of the lines above designated as the mouth of the Miramichi, is the correct one, to dispose of this preliminary question,—namely : —Does the mouth of a River forfeit its exclusive character, under this Treaty, because it may constitute a bay, or harbour ? Is the restriction imposed limited to particular fish, or locality ? The spirit with which this Treaty was made, and the object it has in view, demand for it the most liberal construction ; but, consistently with the most liberal construction, there are many wise and judicious reasons why the exception should be made. The joint or common Fishery in those places where the forbidden fish resort, would be a prolific cause of dispute. The very fact that, after the forbidden fish are named, there should follow the significant expression that *all* Fisheries in those places should be reserved, is conclusive as to the idea predominant in the minds of the framers of the Treaty. They wanted peace ; they would not put the Fishermen of the two nations together, on the same ground, where they would have unequal rights. Considerations of a national, administrative, or fiscal character, may have determined them to exclude the entrances of the great thoroughfares into the respective countries, from a common possession. There are large and magnificent bays, and harbours, unconnected with rivers ; there are bays, and harbours, dependent upon, and formed by the mouths of Rivers. The terms are not indicative of locality. Bays and harbours may be found far up in the interior of a country ; in lakes, or in rivers ; and on the sea-board. The “ mouths of rivers,” are found only in one locality,—namely, in that part of the River by which its waters are discharged into

the Sea or Ocean ; or into a Lake, and that part of the River is, by the express language of this Treaty, excluded. Is the use of a term which may be applicable to many places, to supersede that which can only be applied to a particular place, when the latter is pointedly, *eo nomine*, excluded ? But why should such a construction be required, when the object of the Treaty can be attained without it ? The cause of the difficulty was, not the refusal to permit a common Fishery within the mouths of Rivers, but within three marine miles of the sea coast. That difficulty is entirely removed by the liberty to take Fish “ on the sea coast and shores, and in the bays, harbours, and creeks, without being restricted to any distance from the shore.”

The position taken by the Commissioner of the United States, is further pressed, upon the ground,—“ That the terms of a grant are always to be construed most strongly against the granting party.” The application of

p. 2473

that principle to the present case is not very perceptible. This is rather the case of two contracting parties exchanging equal advantages ; and the contract must be governed by the ordinary rules of interpretation. Vattel says,—“ In the interpretation of Treaties, compacts, and promises, we ought not to deviate from the common use of the language, unless we have very strong reasons for it.” And,—“ When we evidently see what is the sense that agrees with the intention of the contracting parties, it is not allowable to wrest their words to a contrary meaning.” It is plain that the framers of this Treaty intended to exclude the “ mouths of rivers ” from a common possession. Ought we, by construing the terms of the Treaty most strongly against the nation where the River in dispute may happen to be, to “ wrest their words to a contrary meaning ? ” I think not.

Mr. Andrews, for many years the United States Consul in New Brunswick and in Canada, a gentleman whose great researches and untiring energies were materially instrumental in bringing about this Treaty, and to whom the British Colonies are much indebted for the benefits they are now deriving, and may yet derive, from its adoption, thus speaks of the Miramichi, in his Report to his Government, in 1852 :—“ The extensive harbour of Miramichi is formed by the estuary of the beautiful River of that name, which is two hundred and twenty miles in length. At its entrance into the Gulf, this River is nine miles in width.”

“ There is a bar at the entrance to the Miramichi, but the River is of such great size, and pours forth such a volume of water, that the bar offers no impediment to navigation, there being sufficient depth of water on it at all times, for ships of six and seven hundred tons, or even more. The tide flows nearly forty miles up the Miramichi, from the Gulf. The River is navigable for vessels of the largest class full thirty miles of

that distance, there being from five to eight fathoms of water in the channel ; but schooners and small craft, can proceed nearly to the head of the tide. Owing to the size and depth of the Miramichi, ships can load along its banks for miles.”

In Brookes' Gazetteer, an American work of authority, the width of the Potomac, at its entrance into the Chesapeake, is given at seven and a half miles.

In the same work, the mouth of the Amazon is given at “ one hundred and fifty nine miles broad.”

In Harper's Gazetteer, (edition of 1855), the width of the Severn, at its junction with the Bristol channel, is given at ten miles across. That of the Humber, at its mouth, at six or seven miles ; and that of the Thames, at its junction with the North Sea, at the Nore, between the Isle of Sheppey and Foulness Point, or between Sheerness and Southend, at fifteen miles across. And the Saint Lawrence, in two different places, in the same work, is described as entering “ the Gulf of Saint Lawrence, at Gaspe Point, by a mouth one hundred miles wide.” And also, “ that at its mouth, the Gulf

from Cape Rosiere to Mingan settlement, in Labrador, is one hundred and five miles in length.”

Thus, width is no objection. The real entrance to the Miramichi is, however, but one and a half miles wide. Admiral Bayfield may, apparently, be cited by both Commissioners as authority. He says, pages 30, 31, and 32 :—

“ Miramichi Bay is nearly fourteen miles wide, from the sand-bars off Point Blackland to Point Escuminac beacon, and six and a half miles deep, from that line across its mouth, to the main entrance of the Miramichi, between Portage and Fox Islands. The bay is formed by a semi-circular range of low, sandy islands, between which there are three small passages, and one main, or ship channel, leading into the inner bay, or estuary, of the Miramichi. The Neguac Gully, between the sand bar of the same name, and a small one to the South West, is 280 fathoms wide, and three fathoms deep ; but a sandy bar of the usual mutable character, lies off it, nearly a mile to the S.S.E., and had about nine feet over it at low water, at the time of our survey. Within the Gully, a very narrow channel, only fit for boats, or very small craft, leads Westward, up the inner bay. The shoal water extends one and a quarter miles off this Gully, but there is excellent warning, by the lead, here and everywhere in this bay, as will be seen by the chart. Shoals, nearly dry at low water, extend from the Neguac Gully to Portage Island, a distance of one and a quarter miles to the South West. Portage Island is four miles long, in a South-West-by-South direction ; narrow, low, and partially wooded with small spruce trees and bushes. The ship channel, between this Island and Fox Island, is one and a half miles wide.”

“ Fox Island, three and three quarters miles long, in a S.S.E. direction, is narrow and partially wooded : like Portage Island, it is formed of parallel ranges of sand hills, which contain imbedded drift timber, and have evidently been thrown up by the Sea, in the course of ages. These islands are merely sand-bars on a large scale, and no where rise higher than fifty feet above the sea. They are incapable of agricultural cultivation, but yet they abound in plants and shrubs, suited to such a locality, and in wild fruits, such as the blueberry, strawberry, and raspberry. Wild fowl of various kinds are also plentiful in their season ; and so also are salmon, which are taken in nets and weirs, along the beaches outside the Islands as well as in the Gullies.

“ The next, and last, of these islands, is Huckleberry Island, which is nearly one and a half miles long, in a South East direction. Fox Gully, between Huckleberry and Fox Islands, is about 150 fathoms wide at high water, and from 2 to 2 ½ fathoms deep, but there is a bar outside, with seven feet at

low water. Huckleberry Gully, between the Island of the same name and the mainland, is about 200 fathoms wide ; but is not quite so deep as Fox Gully. They are both only fit for boats, or very small craft ; and the channels leading from them to the Westward, up a bay of the main within Huckleberry Island, or across to the French River and village, are narrow and

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intricate, between flats of sand, mud, and eel-grass, and with only water enough for boats. Six and a quarter miles from the Huckleberry Gully, along the low shore of the mainland, in an E.S.E. $\frac{1}{2}$ E. direction, brings us to the beacon at Point Escuminac, and completes the circuit of the bay.

“ The bar of Miramichi commences from the South East end of Portage Island, and extends across the main entrance, and parallel to Fox Island, nearly six miles in a South East by South direction. It consists of sand, and has not more than a foot or two of water over it, in some parts, at low spring tides.”

He also says pp. 37 and 39 :—“ The Inner Bay of Miramichi is of great extent, being about thirteen miles long, from its entrance at Fox Island to Sheldrake Island, (where the River may properly be said to commence,) and seven or eight miles wide. The depth of water across the Bay is sufficient for the largest vessels that can cross the inner bar, being $2\frac{3}{4}$ fathoms at low water, in ordinary spring tides, with muddy bottom.

“ Sheldrake Island lies off Napan Point, at the distance of rather more than three quarters of a mile, and bears from Point Cheval, North-West by West one and three-quarters of a mile. Shallow water extends far off this Island, in every direction, Westward to Bartibogue Island and Eastward to Oak Point. It also sweeps round to the South and South East, so as to leave only a very narrow channel between it and the shoal which fills Napan Bay, and trending away to the Eastward past Point Cheval, forms the Middle Ground already mentioned. Murdock Spit and Murdock Point are two sandy points, a third of a mile apart, with a cove between them, and about a mile W.S.W. of Sheldrake Island. The entrance of Miramichi River is three-quarters of a mile wide, between these points and Moody Point, which has a small Indian church upon it, and is the East Point of entrance of Bartibogue River, a mile North West-by-West half West from Sheldrake Island.”

But a strong, and I may add, a conclusive point, in shewing the passage between Fox and Portage Island, to be the main entrance, or mouth of the Miramichi, is the peculiar action of the tides. It is thus described by Bayfield, p. 35 :—

“ The stream of the tides is not strong in the open bay, outside the bar of Miramichi. The flood draws in towards the

entrance, as into a funnel, coming both from the North East and South East, alongshore from Tabusintac as well as Point Escuminac. It sets fairly through the ship channel at the rate of 1 ½ knots, at the Black buoy, increasing to 2, or 2 ½ knots, in strong spring tides, between Portage and Fox Islands, where it is strongest. The principal part of the stream continues to flow Westward, in the direction of the buoys of the Horse-shoe, although some part of it flows to the North-ward, between that shoal and Portage Island.”

p. 2476

The effect of this is thus singularly felt. A boat leaving Neguac, to ascend the Miramichi with the flood tide, is absolutely met by the tide flowing Northerly against it, until coming abreast of the Horse-shoe Shoal, or in the line of the main entrance ; and a boat at the Horse-shoe Shoal, steering for Neguac, with the ebb-tide making, would have the current against it, though Neguac is on a line as far seaward as the entrance to the Portage and Fox Islands—thus shewing conclusively that the main inlet and outlet of the tidal waters, to and from the mouth or entrance of the Miramichi, is between Portage and Fox Islands.

[8 April,
1858.]

As such Arbitrator or Umpire, I decide that a line connecting Fox and Portage Islands, (marked in red, Plan No. 2, Record Book No. 2,) designates the mouth of the Miramichi River.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

JOHN HAMILTON GRAY

THE BUCTOUCHE.

I, the undersigned Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854, have proceeded to, and examined the mouth of the River Buctouche, in the Province of New Brunswick, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 1, of their proceedings :

With reference to the Buctouche, it will be seen by Record No. 1 :—“ Her Majesty's Commissioner claims that a line from Glover's Point to the southern extremity of the Sand bar, marked in red on the Plan, No. 1, designates the mouth of the said River Buctouche. The United States Commissioner claims that a line from Chapel Point, bearing South 4° West, (magnetic) marked in blue on said plan, No. 1, designates the mouth of said River.”

On the subject of this River the United States Commissioner addresses me as follows :—“ The red line, extending from ' Glover's Point' to the point of the ' Sand Bar,' is the line marked by Her Majesty's Commissioner, as designating the mouth of the River ; in that line I could not concur, because it excludes from the common right of fishing the whole of Buctouche harbour, in contravention of the express words of the Treaty.”“ If it had been the duty and office of the Commissioners to indicate the point which constituted the mouth of the harbour, I should have been disposed to acquiesce in the point and line thus denoted ; but from the proposition, that it marks the entrance of these rivers, or any one of them, into the sea, or bay, or harbour, and constitutes their mouth, I entirely dissent.”

p. 2477

With the views I have already expressed, that the mouth of a River does not lose its Treaty character because it constitutes a harbour, it becomes important to determine which is the principal agent in forming this harbour, the river, or the sea ? If it is a mere indentation of the coast, formed by the sea—a creek—a bay—or harbour—unformed by, and unconnected with any River—one of those indentations in a coast, indebted to the Sea mainly for its waters, then plainly it is not intended, or entitled to be reserved ; but if, on the contrary, it is formed by the escape of waters from the interior, by a River seeking its outlet to the deep, shewing by the width and depth of its channel, at low water, that it is not to the Sea it owes its formation—then plainly, it is to the mouth of a River, and intended to be reserved.

Admiral Bayfield describes the Buctouche as follows, pp. 53 and 54 :—

“ Buctouche Roadstead, off the entrance of Buctouche River, and in the widest part of the channel within the outer bar, is perfectly safe for a vessel with good anchors and cables ; the ground being a stiff tenacious clay, and the outer bar preventing any very heavy sea from coming into the anchorage. It is here that vessels of too great draft of water to enter the River, lie moored to take in cargoes of lumber.

“ Buctouche River enters the Sea to the South East, through the shallow bay within the Buctouche sand bar, as will be seen in the chart. The two white beacons which I have mentioned as pointing out the best anchorage in the roadstead, are intended to lead in over the bar of sand and flat sandstone, in the best water, namely, eight feet at low water, and twelve feet at high water, in ordinary spring tides. But the channel is so narrow, intricate, and encumbered with oyster beds, that written directions are as useless as the assistance of a pilot is absolutely necessary to take a vessel safely into the River. Within the bar is a wide part of the channel, in which vessels

may ride safely, in two-and-a-half, and three fathoms, over mud bottom ; but off Giddis Point, the channel becomes as difficult, narrow, and shallow, as at the bar. It is in its course through the bay, that the Buctouche is so shallow and intricate ; higher up, its channel being free from obstruction, and in some places five fathoms deep. Having crossed the bar, a vessel may ascend about ten miles further, and boats thirteen or fourteen miles, to where the tide water ends.”

By an examination of the channel, we find, miles up this River, a deep continuous channel, of twelve, fifteen, twenty, twenty-four, and thirty feet, down to Priest Point, varying from eighteen to twenty-four feet, to Giddis Point, and thence to a line drawn across from the Sand Bar to Glover's Point, from seven to twenty feet, but of greater width. On the outside of this channel, which is clearly defined, and between the sand bar and the channel, we find mud flats, with dry patches, and oyster beds, —“ flats of mud and eel grass, with dry patches at low water ;” with depths from Priest Point to the sand bar, varying from four to six feet ; and from the channel off Giddis Point to the bar, from one foot to three. On the other side of the channel,

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between Priest Point and Giddis Point, we find—“ flats of mud and weeds, with dry patches and oyster beds.” What has given depth and breadth to this channel ? The tide rises in the vicinity about four feet ; would that rise create a channel of the average depth above named ? Can there be any doubt that it is created by the great body of the River water finding its way to the Sea ? The line from “Glover's Point to the Southern extremity of the sand bar, marked in red on Plan No. 1,” is claimed by Her Majesty's Commissioner as the mouth of the River, and admitted by the United States Commissioner as the mouth of the harbour ; but if there were no River here, would there be any harbour at all ? I think not, and this line, therefore, while it constitutes the mouth of the harbour, also constitutes the mouth of the River.

This conclusion is consonant with the conclusion at which the Commissioners themselves arrived, in the cases of the Elliot and Montague Rivers in Prince Edward Island, as shewn by Records Nos. 9 and 10. The harbours of Charlottetown and Georgetown, are clearly within the lines they have marked and designated as the mouths of those Rivers respectively, and thus within the lines of exclusion ; but if the express words of the Treaty gave a right to such harbours, because “ harbours,” then why did the Commissioners exclude them ? And why should not the same principle which governed the Commissioners in their decision with regard to those “ harbours,” also govern with regard to the Buctouche harbour ?

As Arbitrator or Umpire, I decide that a line from Glover's Point to the Southern extremity of the sand bar, marked in red on Plan No. 1, in Record No. 2, designates the mouth of the River Buctouche.

Dated at St. John, in the Province of New Brunswick, this 8th day of April A.D. 1858.

JOHN HAMILTON GRAY.

It may not come within the exact line of my duty, but I cannot forbear remarking that the true benefits of this Treaty can only be realized to the inhabitants of both countries, by a course of mutual forbearance and enlightened liberality. Captious objections, fancied violations and insults, should be discountenanced ; and, above all, there should be an abstinence from attributing to either nation or people, as a national feeling, the spirit of aggression which may occasionally lead individuals to act in direct contravention of its terms. Every friend of humanity would regret further misunderstanding between Great Britain and the United States. The march of improvement, which is to bring the broad regions of North America, between the Atlantic and Pacific, within the pale of civilization, is committed by Providence to their direction ; fearful will be the responsibility of that nation which mars so noble a heritage.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

JOHN HAMILTON GRAY.

SUBMITTED BY NEWFOUNDLAND.

No. 1025.**EXTRACTS FROM NOTES ON ESQUIMAUX BAY AND
THE SURROUNDING COUNTRY.**

By W. H. A. DAVIES, ESQ.

TRANSACTIONS OF THE HISTORICAL SOCIETY OF QUEBEC. VOL. IV.
(Read 19th February, 1842.)

The Great Bay of Esquimaux, or as it is more generally called, Esquimaux Bay, is a large inlet, on the east coast of Labrador, penetrating into the country in a south-westerly direction. It is situated about 250 miles beyond the Straits of Belleisle ; the entrance lying in N. Lat. $54^{\circ} 23'$ West Long. $57^{\circ} 25'$.

It is by far the largest of the numerous inlets that indent that part of the coast. At its entrance it is upwards of thirty miles in breadth, from thence it decreases, until at the Post of Rigolet, about fifty miles from the sea, it is reduced to about a mile in width, beyond this it again expands, and about 90 miles from the sea, it forms a magnificent salt-water lake of upwards of 20 miles in breadth, and in length fully 30 miles ; at the western extremity of the lake, it again contracts to a narrow width for a short distance, above which it forms another lake about 7 miles wide and 20 long, when the head of the inlet is reached. Its total length may be taken at 150 miles and its mean breadth about 15 miles, exclusive of two large arms that join it in the neighbourhood of Rigolet, the one running to the south-east about 40 miles, and the other having a course nearly parallel to the main bay, and a length of 60 miles—including these arms, the surface covered by its waters may be taken at about 1,700 miles.

* * * *

Such are the scenes presented by the entrance of the Bay ; as it is ascended an amelioration is perceived in the landscape by the gradual introduction of trees, first appearing at the bottom of the small coves, and then gradually climbing up the sides of the mountains, until on arriving at the Post of Rigolet, the whole country is found covered with timber, small and stunted it is true, but still large enough to hide the ruggedness of the ground. Above the Post of Rigolet and on the shores of the salt-water lake, mentioned above, the scenery becomes very grand ; the range of the Mealy Mountains here strikes the shores of the Bay, leaving but a narrow

strip of land between the water and their base, from whence they rise 1,400 to 1,500 feet in height, almost perpendicularly, presenting the appearance of an immense wall, the resemblance to which is much increased by the extraordinary evenness of their summit. The Mealy Mountains are a range of mountains whose tops are first perceived about 100 miles to the south of Esquimaux Bay, running nearly parallel to the coast—they strike the shores of the bay, as already observed, near the commencement of the salt-water lake, along which they continue for about 25 miles, they then gradually leave the shore and after some distance, meeting with another range, coming in an opposite direction, they lose a part of their height, and are lost amidst the confused mass of hills that fill the interior of the country. The only level ground of any extent in the neighbourhood of the bay reaches from the head of it to the foot of these mountains.

Cartwright, as well as the Moravian Missionaries, state, that these mountains are always covered with snow, this is not exactly the case, at least, in that part that I am acquainted with—there is an interval of about 15 to 20 days at the latter end of August and first days of September, when they are free from snow except in the deep ravines, where the snow remains constantly. They derive their name, I believe, from the patches of snow distributed over their surface during the greatest part of the summer, giving them the appearance of being powdered over with meal. When viewed in winter, in fine weather, at the time of sunset, these mountains present scenes of great beauty ; and it is difficult for the imagination to conceive anything more beautiful than the tints that their summits assume as they are touched by the last rays of the setting sun, long after he has disappeared from the eye, while every little ravine, every inequality in their surface is chiselled out against the clear cold sky with a precision and vividness that are alike beautiful and wonderful.

RIVERS AND LAKES.

As may be supposed in such an extensive bay, numerous rivers flow into it, but three only are of large size, viz. : The Grand or Hamilton River, the Kenamou, and the Nascapsee or North West River—of these the Grand or Hamilton River, flowing in at the head of the bay, is by far the most considerable, both as regards the length of its course and the volume of water it discharges. It is nearly half a league in breadth at its entrance gradually decreasing in width for about twenty-five miles from its mouth ; it then becomes from one-eighth to one-quarter of a mile wide ; from this size it never varies very much as far up as it has been followed. Two hundred miles from its mouth it forces itself through a range of mountains that seem to border the table land of the interior, in a succession of tremendous falls and rapids for nearly 20 miles. These falls were accidentally discovered, in 1839, by a gentleman engaged in exploring a route to Esquimaux Bay from the interior. Above these falls, the river flows with a very smooth and even current ; it has been

followed for 100 miles further, where a Post has lately

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been established—between the falls and the Post it passes through a succession of very large lakes, communicating with one another by short straits—these lakes appear to cover a very considerable part of the table land ; they have not yet been explored, and their dimensions are, consequently, not known but from Indian report ; many present a water horizon in different directions as portions of them are crossed. Above the Post, called Fort Nascapsee, the river has not been explored, but the Indians report that it comes from a long distance to the westward, and runs with a deep and gentle current unobstructed by falls or rapids—it is supposed to come from lakes in the rear of the Seven Islands. If this is the case, and there is every reason to believe it to be so, it develops a curious fact in the formation of that country, viz. : that a large river should flow for so considerable distance on the top of the ridge, if I may so express it, between the head waters of the rivers falling into the St. Lawrence and those falling into the Hudson's Bay and Straits, for they are said, by the Indians, to be quite close to the waters of the Grand River on either side. The course of the river from Fort Nascapsee to the place where it forces itself through the mountains is to the southward of east, it then turns to the east, and finally to the north-east, the latter course it pursues until it falls into Esquimaux Bay.

The Kenamou River flows in from the south, about 13 miles from the entrance of the Grand River—it is a considerable stream, taking its rise in the country lying between the Gulf of St. Lawrence and Esquimaux Bay ; its course is therefore short, and as the lakes from whence it takes its rise, are at a high elevation, it is extremely rapid and full of falls. I had it explored for about 80 miles ; in the whole of this distance it was nothing but a succession of rapids. Its banks are mountainous. About 30 miles from its mouth it cuts through the range of the Mealy Mountains.

The Nascapsee River or North West River is rather a large one, and falls into the Bay on the north side, very nearly opposite to the mouth of the Kenamou River ; the distance between the entrances of these two rivers (which is the breadth of the Bay at this place) is 12 miles. About 2 miles from its mouth, it passes through a narrow lake, about 40 miles long, bordered by high mountains ; a little below the head of the lake (called the Grand Lake) the river flows in from the north-east, it keeps this course for about 25 miles, when it bends very considerably and flows from the north, its course from thence to its source is only known at intervals, as in consequence of numerous rapids and falls, the river is left and the route to the interior is pursued through a series of lakes until close to Lake Meshagamou, from whence its waters flow, when the river is again followed as far as that lake. Meshagamou, or the Great Lake, is one of the lakes occupying the table land of the interior—it is of considerable size ; it has not however been explored, as

yet, by the whites. It is one of the lakes with which the Grand River communicates. Among the largest of the other rivers flowing into Esquimaux Bay, may be mentioned the Goose Brook, the Double M^{er} River, Moulagan River, the River of Goose Bay ; the whole of these rivers, though some are of large size at their entrance, are short and are not navigable for anything larger than a small canoe.

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The country, in the neighbourhood of Esquimaux Bay, abounds in lakes of all sizes and shapes, from the small pond of a few acres in length to the large lake of twelve or fourteen leagues long ; this is indeed, the case with the whole of the Labrador coast, but however they may vary as to their sizes and shapes, there is one feature in which they all agree, that is in their shallowness— and this is found to be the case in all the lakes of the Atlantic slope, with the exception of those which communicate directly with the ocean or with some of its bays, these are in general distinguished for their depth. This almost universal shallowness of the lakes is a singular feature, when the nature of their borders is taken into consideration, as they are generally surrounded by hills, which would lead one to look for a corresponding depth in the lake ; but, instead of this, some are so shallow, that for miles there is hardly water enough to float a half-loaded canoe. I am informed by my friend John M'Lean, Esq., that this is likewise the case with the lakes lying on the watershed of Ungava Bay. The lakes, lying on the table-land, are said to be deep.

* * * *

FACE OF THE COUNTRY.

The face of the country, in the vicinity of Esquimaux Bay, on proceeding to the northward and westward is extremely rugged and hilly ; it is composed of ranges of round-backed hills, traversing the country in all directions ; they do not, in the interior at least, assume the altitude of mountains—the intervals between them are filled either by lakes or marshes ; so that in looking down from the brow of some more elevated hill, an interminable succession of naked hills and lakes is seen, giving an indescribable aspect of desolation to the country, which is greatly heightened by the effects of the fires that have ravaged the whole country. Indeed, there can be but little doubt, that at one time nearly, if not the whole, of the interior of Labrador was covered with wood, which has since been destroyed by fire ; in almost every direction, the naked stumps of trees are seen, rising out of the moss that now covers the country. Hundreds of miles of the country are now nothing but a barren waste of naked rock from this cause, which in the recollection of some of the old hunters were covered with wood formerly.

The following extracts, from the report of a gentleman, who was sent to explore the country on the Nascapsee River, will give a very good idea of it :—

“ From North-west River House, the River Nascapsee is ascended for about 65 miles when it is left at Mont a Peine Portage, from thence you follow from one lake to another—most of them very small. The country, from Mont a Peine Portage, as far as the Little Seal Lake, is as barren and as miserable as can be seen anywhere ; the trees are all burnt, and nothing but stones and dry stumps to be seen—there is not even earth or moss enough, in most of the carrying-places, to make a foot path. Beyond the Little Seal

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Lake, the country becomes a little better ; a few green trees are met with, until the Portage called Shepay tau-wa Kaw, or Seven Mile Portage, where the country becomes still more barren and burnt— this continues to be the case as far as Meshagamou Lake, where, on the First of July, the ice was still firm— there is no wood to build there ; it is only at Gull Nest Lake where wood to build could be found ; this Lake is but a short distance from Lake Meshagamou. From the North-west River House to the latter lake there are 45 Portages, two of which are from 5 to 7 miles long, and several are 2 miles. Of the lakes passed through, 10 were from two miles and a-half to 12 miles long, and from 5 to 6 miles broad ; these were the largest— the others were from 2 acres to one mile and a-half ; most of them are destitute of fish and all very shallow. On the 22d, 23d, and 24th June, we found the lakes full of ice ; we advanced by making portages over the ice or through the woods, and by creeping along the small lanes of water near the shore—the borders of the River Nascapsee, when we ascended it, were still lined by ice, some of it ten feet thick.”

Such is the nature of the country to the northward of Esquimaux Bay ; to the southward of it, the country, though in some respects similar, is much more level and is more clothed with trees. After passing the first range of mountains, on leaving the Bay, an elevated plateau is gained, which continues until the shores of the Gulf of St. Lawrence are approached, when the country becomes more mountainous and slopes rapidly to the seaside ; the breadth of the plateau may be about 140 miles—it abounds with lakes, some of them of considerable size, but so shallow, that according to the gentleman who explored it by my orders, “ they might rather be called swamps overflowed with water than lakes” ; the rivers likewise that traverse this part of the country though broad are exceedingly shallow. The whole of the interior of it is covered with wood, though it is very stunted and thin in some places ; but, as you approach the coast of the Gulf, the wood diminishes until it disappears altogether on the coast.

The Valley of the Grand River, for about 100 miles from its entrance, presents a pleasing contrast to the barrenness of every other part of the country round the Bay. This valley is very well timbered, and some of the trees are of a large size ; intermixed with the spruce is a considerable quantity of white birch, and a few poplars are also to be seen ; a light loamy soil is also, frequently to be found on the points of the river. There is a difference of 20 days in favor of this valley in the spring and fall, this difference of climate is to be attributed, in a great degree to its favorable aspect, to the south and west, and also, in some measure to the superior warmth of the water coming from the westward.

TRADE.

The trade of Esquimaux Bay, formerly of some consequence, has been gradually diminishing for some years past, and is now extremely limited—it is confined to a trifling, bartering trade in cloth, blankets, guns, ammunition, and provisions, with the Planters and Esquimauxs, who in return give a little seal oil, salmon, codfish, and a few furs—this trade is principally carried

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on at the Post of Rigolet, about fifty miles from the sea. The trade with the Mountaineers, as already mentioned, is carried on at the head of the Bay—cloths, blankets, guns, ammunition, and a little flour, are given to them, in exchange for the skins of martens, foxes, deer, lynxes, wolverines, minks, beaver, &c.—the quantity procured is very small in proportion to the number of Indians, and the trade is very far from being a profitable one, on account of the expense attending it. It is at present, entirely monopolized by the Hudson's Bay Company, as well as the trade of Rigolet.

At the entrance of the Bay, are situated two small codfishing establishments, carried on by people from Newfoundland, who likewise have a little trade with the Planters and Esquimauxs, but the amount of business thus done is very trifling. During the codfishing, a few American vessels visit the Bay—of late years the catch has not been great—the fish appear to be more numerous further north, where the Americans generally follow them—a solitary trading-vessel, from Nova Scotia, now and then finds its way as far as the Bay.

The salmon fishery is principally carried on in the neighbourhood of Rigolet—the nets are set at the different points of the Bay when the current is strongest. The catch is now very small—the total export of the Bay hardly exceeding 120 tierces when formerly it surpassed 400. Nearly all the seal oil exported from the Bay is the produce of the hunt of the Esquimauxs ; the Bay not being advantageous for carrying on fisheries for the animal. One small vessel is employed by the Hudson's Bay Company in the trade of the Bay—it is found more than sufficient for it, and it is sent every second year, as far as Ungava Bay, in Hudson's Straits, to collect the returns of that

district.

No. 1026.

10th Oct., 1902—**LETTER FROM SECRETARY FOR
DEPARTMENT OF THE INTERIOR TO GRAND RIVER
PULP AND LUMBER COMPANY.**

Vide Vol. I, p. 145.

No. 1027.

16th Feb. 1926—**AFFIDAVIT OF W. E. SWAFFIELD.**

Vide Vol. II, p. 384.

No. 1028.

30th Nov., 1823—**GOVERNOR HAMILTON TO THE
SECRETARY OF THE ADMIRALTY.**

Vide Vol. III, p. 1258.

No. 1029.

30th Sept., 1863—**EXTRACT FROM CAPTAIN
HAMILTON'S REPORT TO THE ADMIRAL AND
GOVERNOR, RELATIVE TO THE FISHERIES.**

Vide Vol. III, p. 1524.

No. 1030.

4th March, 1926—**AFFIDAVIT OF RALPH PARSONS.**

Vide Vol. III, p. 1562.

No. 1031.

18th June, 1926—**AFFIDAVIT OF W. J. CARSON.**

Vide Vol. III, p. 1589.

No. 1032.

**EXTRACTS FROM NEWFOUNDLAND AND
LABRADOR PILOT.**

VOL 11, FIFTH EDTN., 1917.

Chap. 1. Page 3.
RIVERS.

The Atlantic coast range throws most of the drainage northwards into Ungava bay, and only small streams fall into the Atlantic, except the Gilles-port (Hamilton), Nasquapee, and Kenamou.

Gillesport (Grand, Ashwanipi, or Hamilton) river, supposed to be the largest in Labrador, drains a vast interior plateau ; it rises northward of Seven islands bay, in the gulf of St. Lawrence, and falls into Hamilton inlet, which also receives the waters of Kenamou river, and Nasquapee or North-west river. Eagle, West and East rivers, abounding in salmon and trout, fall into Sandwich bay, while Koksoak or Big river, Whale river, and Kangerthialuksoak or George river have their outlets in Ungava bay.

Chap. V. Page 405.
HAMILTON INLET.

Chart 375, Sandwich bay to Nain.

Hamilton Inlet (Ivucktoke or Grosse water bay) is entered between Tub island and Pompey island, which bears 2° true, distant 15 miles. It extends west-south-westward 35 miles to the Narrows, the intervening space containing several islands.

Within the Narrows which are 3½ cables wide, the inlet extends south-westward 90 miles, opening to the width of 18 miles in Lake Melville, and narrowing again at its head, into which Gillesport (Hamilton or Grand) river, a large stream, flows.

Hamilton inlet is the largest of the many long fiords which indent the north-east coast of Labrador. Like many others it is deep, and is surrounded by high hills, often rising a thousand feet sheer from the water, while its surface is frequently broken by large, bold, rocky islands. The lower slope and islands are wooded with dark spruce, mingled with the lighter coloured birch and aspen, forming a contrast with the bare rocks of the summits. The Narrows extend for upwards of 5 miles, with an average width of about a mile, and during each change of tide a strong current, with rapids, occurs at the south-western end. A village of Eskimo, made up of a

log houses, occupies the shore of a small cove near Rigoulette ; its chief interest lies in the fact that it is the most southerly community of these people. The inhabitants have been long in contact with white men, and have acquired many of the virtues and vices of civilisation. The north-eastern third of Lake Melville is full of wild, rocky islands. The Mealy Mountains rise directly from its south-eastern shores ; the north-western shore is also high, but there is often a wide margin of lowland between the water and the rocky wall of the fiord. North-west river enters the lake on the western side about 80 miles beyond the Narrows. The stream is only about 100 yards wide at its mouth, but averages 15 feet in depth. Half a mile up stream it expands into a small lake, which, 3 miles farther up, again contracts for 400 yards to form the outlet of Grand lake, a large body of fresh water extending north-westward about 40 miles in a deep valley between high rocks.

A Hudson Bay Company's post is situated at the mouth of North-west river. It consists of half-a-dozen small log buildings. Its importance has greatly diminished, as the Indians no longer take the proceeds of their winter's hunt there, but to the posts on the north side of St. Lawrence river, so that at present the trade of the post is exclusively with the whites living about the inlet. A fur-trading station of Revillon Frère, of Paris, is also established at North-west river. Almost opposite North-west river, on the south-eastern side of Lake Melville, is Carter basin, a small bay into which empty the Kenamou and Kenemichic rivers. The former is much the larger, and drains an extensive area of highlands to the southward. It is very rapid, and practically unnavigable. Southward from North-west river the inlet has been silted up by sand brought down and deposited there by the Gillesport (Hamilton) river, which flows into the head of the inlet. A long, narrow point, stretching out from the shore southward from North-west river entrance, divides the shallows from the deeper portion of the inlet ; the south-western part is Goose bay which extends about 20 miles to its head, where it receives a small river, famous for the large brook trout taken about its mouth in the autumn months. A large lumber mill, belonging to the Grand River Lumber Company, is established here. Beside their buildings, small log houses are scattered along the shores of the inlet, wherever the ground is sufficiently level for a small garden ; these are the winter houses of the white people, who reside permanently on the Atlantic coast. They are called " planters " or " livyeres " to distinguish them from the summer fishing population from Newfoundland. Some of their ancestors were among the original settlers who came to Sandwich bay with Cartwright in 1770 ; others are descended from servants of the Hudson Bay Company. They are all poor and hopelessly in debt. Vegetables can be grown about Hamilton inlet, owing to the shore not being near the Arctic current, which washes the outer coast, and are grown at North-

west river station (Lat 53° 32' N., Long 60° 09' W.) to supply the outer posts of the Hudson Bay Company.

Game. The big game consists of barren-ground and woodland caribou, black bears, and seals: Caribou are found in small bands on the Mealy mountains on the south side, while in the winter large herds of barren-ground

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caribou come out on the coast to the northward and have been killed in great numbers within a few miles of the inlet. Bears are found on the burnt areas, where they feed on blueberries in the late summer. The seals, especially the harbour seal, are common in the waters of the inlet. Wild fowl and geese are very abundant in the spring and fall of the year, and are killed in great number below Rigoulette. The curlew, formerly so plentiful, are now nearly extinct; the Canada grouse, or spruce partridge, is abundant about the head of the inlet, and the ruffled grouse is also common. During the winter great numbers of willow ptarmigan migrate southward.

Salmon Fishery. Hamilton inlet was once famous for its salmon fishery, but the use of numerous cod traps along the coast has practically exterminated the salmon, as far as concerns rod-fishing in the rivers. Trout are plentiful.

Gillesport. (Hamilton or Grand) river is the most important stream of the eastern watershed of the Labrador peninsula. It is upwards of 500 miles in length, and extends westward half-way to Hudson bay. To the north and west its tributaries interlock with those of the North-west river, and with the head waters of the George and Koksoak rivers, both of which flow north into Ungava bay, while to the south the Gillesport river is separated by a low, sinuous watershed from the rivers flowing southward into the Gulf of St. Lawrence. At the Grand falls, about 250 miles above its mouth, the river is naturally divided into two parts, which are quite dissimilar in physical character. The lower part occupies a deep, ancient valley cut down into the hard crystalline rocks of the plateau so that the present level of the river is from 500 to a 1,000 feet below the general level of the surrounding country. This deep valley varies in width from a 100 yards to more than 2 miles between the rocky walls. The river flows with a strong current often broken by rapids, especially along the upper stretches. Only in one place has it a direct fall over a rock obstruction, and that is at the Musk rat fall, 27 miles above its mouth, where a dam of glacial drift has diverted the stream from its ancient course, and caused it to find a new channel on the south side of a rocky knoll where the river falls 70 feet over ledges in a distance of 400 yards. The river flows into the head of Lake Melville on the southern side of Goose bay, and is separated from it by a long, low, sandy point. The mouth of the river is obstructed by wide shoals with numerous narrow channels between them. (Abridged from description by Dr. A. P. Low.)

No. 1033.

**GEOGRAPHICAL CONSIDERATIONS AS TO THE
CANADIAN-NEWFOUNDLAND BOUNDARY IN
LABRADOR.**

BY PROFESSOR J. W. GREGORY, F.R.S., D.Sc.

I. THE LABRADOR COASTAL BELT A “DISTINCT
GEOGRAPHICAL ENTITY.”

The Geography of Labrador presents two striking contrasts between the eastern and western parts. The first contrast is between the fiord-indented Atlantic coast and the comparatively even shore of Hudson Bay. The second contrast is between the rugged mountainous belt along the Atlantic coast and the undulating plateau which extends westward from the Atlantic coastal belt to Hudson Bay. These contrasts both depend upon geographical features, and not on geological composition, for Labrador consists of one vast slab of ancient rocks, which are among the oldest known to geologists.

A. GEOLOGICAL ANTIQUITY OF THE PENINSULA.

“Labrador,” says Packard ('Labrador Coast,' 1891, p. 279) “is an oblong mass of Laurentian rocks.” E. M. Kindle (Mem. Geol. Surv. Can., 1924, No. 141, p. 56 and fig. 4) has recently doubtfully suggested that some of the sandstones may be Cambrian ;* but that identification, if confirmed, would only extend the range to the earliest division of the succeeding group. After these primeval rocks the next deposits known in Labrador are the glacial beds, sea beaches, and river terraces, which all belong to the most recent geological period. Between these first and last chapters in the geological record nothing is known of Labrador except from indirect evidence, which shows however that it was once part of a much larger land that extended westward and also eastward into the Atlantic.

Geographically also Labrador is simple. It consists of a great plateau which presents a steep front to the Atlantic, and on the western side slopes more gradually downward to Hudson Bay. Most of the plateau is between 1,000 and 1,500 ft. above sea level ; the highest extensive area is in the upper part of the basin of the Hamilton River at about 1,800 ft. The rise inland from James Bay is gentle ; the coast in the northern part of Hudson Bay is usually bold, and the ascent inland to the height of about 500 ft. is steeper than near James Bay ; on the Atlantic side the ascent is abrupt to the height

* Kindle calls them “Cambrian ?” as they were so named by Low ; R. Bell (1895, p. 35) stated that these sandstones “bear a close resemblance to the Animikie,” which are now

of 1,000 to 4,000 ft. Most of the western plateau consists of undulating moorland, with the hills rising not more than about 500 ft. above the general level, with broad valleys, and with innumerable lakes in shallow depressions.

B. THE COASTAL CHAIN OF EASTERN LABRADOR

In contrast to the gentle undulations of the western plateau the eastern belt consists of rugged mountains which rise to the greatest height found anywhere along the Atlantic coast of North and South America. They reach a height which, according to Professor Daly (1902, p. 233) is at least 7,500 ft., and is the "most lofty land immediately adjacent to the coast in all the long stretch from Baffin Land to Cape Horn" (Daly, 1909, p. 102). These mountains are the remnants of an ancient mountain chain, which has now been broken up into detached ranges situated along the coastal region. These ranges in order from north to south are the Torngat Mountains between Cape Chidley and Hebron, which rise to the height of from 3,000 to 7,500 ft., and face the Atlantic in precipitous cliffs. The second group are the Kaumajet Mountains, or Shining Mountains, near Cape Mugford, a little south of lat. 58°. The third block is the Kiglapait Mountains (or Saw-Tooth or Sierra Mountains) from behind Cape Mugford to behind Nain: they rise from the shore to 2,500 ft. and include summits of 4,000 ft. Further south the highest summits are in the Kokkok Mountains, 4,500 ft. to the north of Hamilton Inlet, and to the south of it in the Mealy Mountains, which Mr. E. N. Kindle has shown are twice as high as was thought and include several summits of over 3,000 ft. and one of 3,800 ft. The three northern ranges form, according to Professor Daly (Joint Appendix, p. 2537) "an almost continuous mountain land." Taken as a whole," says Professor Daly (Ibid, p. 2537) "the Nain-Kiglapait-Kaumajet-Torngat Mountain group is a distinct entity, a distinct topographic province of the Labrador Peninsula."

The essential feature of this distinctness is the mountain structure which, as Prof. Daly has shown (1909, pp. 88-89), continues all along the coastal region of eastern Labrador. The difference between the western plateau and the mountain group in the Northern part of the coastal region continues to the south, though it is less clear there, as between the northern mountain group and the mountains rising to 4,500 ft. near Hamilton Inlet the country is less well known. Some maps, however, indicate the existence of high intermediate mountains. Packard's general map of Labrador (1891, opp. p. 232) shows high "wooded Mountains" south-west of Hopedale which represent the coastal mountain chain. Further south his map of 1888 (reprinted Packard, 1891, opp. p. 90) marks Mount Allaigaigai, 2,170 ft. north of Hamilton Inlet and

opposite Mount Cabot, 1,482 ft., which is at the eastern end of the Mealy Mountains. According to Dr. Robert Bell (1895, p. 340), formerly Director of the Geological Survey of Canada, Hamilton Inlet, and not the country west of Nain, marks the division between the less regular southern and the more regular northern parts of the eastern

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mountains. He states that the chain is “ scattered and ill-defined from the Straits of Belle Isle to Hamilton Inlet, but northward of this great fiord it becomes more regular.”*

The geographical character of eastern Labrador is determined mainly by the structures due to this ancient mountain chain. Its former existence and influence on the present topography is shown by the strike of the rocks, in accordance with which Professor Daly's Map (1909, fig. 13, p. 88) marks “ the Labrador Trend ” as extending behind the coast all the way from near Cape Chidley to the Strait of Belle Isle. That figure, Professor Daly remarks (1909, p. 89) “ is intended to show that there is a definite trend of the rocks of the Basement Complex, and that this trend has a remarkable parallelism with the present north-east coast of the peninsula.” Daly had previously pointed out (1902, p. 234) in a discussion of “ the general structure of the Coastal Belt,” that the Archean shield [i.e. the area of Archean rocks which forms the foundation of eastern Canada] is rather definitely framed on the border, and that the average direction of the coast-line is related to the tectonic trend of the ancient mountain-system of which the Labrador Plateau is a diminished remnant.” The evidence for the continuity of the strike in the rocks is even stronger than appears from Professor Daly's list (1902, p. 235, 1909, p. 88), for he states that the parallel strike of the schists was often seen from the schooner at other places. He remarks (Daly, 1902, p. 234) “ The impression thus gained is sufficient to warrant our regarding the fidelity of the structure to a general north-west to south-east trend as of a higher order than is shown in the table or in the sketch map.” This ancient mountain chain was formed when the rocks were given their strike parallel to the Labrador coast. The mountain chain was subsequently worn down to a plain. The present coastal mountains are due to re-elevation along the lines of the ancient mountain chain. This comparatively modern uplift produced, in the words of Daly (1909, p. 100), “ a veritable resurrection of the Archean mountain-chain.” This re-elevation has given “ a distinct entity,” to use the phrase of Professor Daly (Jt. App. p. 2537), to the whole coastal belt of eastern Labrador.

C. TWO COASTAL TYPES

The second great contrast in Labrador is between the eastern and western shore lines. The Labrador shore in Hudson Bay extends in long even curves, although the curves may have many minor irregularities, and may be fringed with islets.

The cliffs of Labrador along Hudson Bay, though bold in many places, are generally lower than those on the Atlantic coast, and the rivers are usually much longer than those that discharge to the Atlantic. The eastern coast, on the contrary, is intensely indented by inlets which

* Stanford's maps, 1891 and 1899, cf. Atlas No. 44, mark the coastal range as continuous from the western part of Kiglapait past Nain to the north side of Hamilton Inlet.

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run far inland ; the cliffs are precipitous, and the rivers, with one exception, are short.

Eastern Labrador consists of a belt of country very distinct in its geographical character from the country west of the watershed, and forms a geographical unit marked by three characteristics. First, this eastern belt is intersected by deep fiord valleys, many of which run for 20 to 40 or more miles inland, and have branch valleys which are also deep and have straight steep sides. The extension of the northern fiords across the coastal mountain belt was described by Koch in 1884 (*Deut. Geogr. Blatt.*, VII. Pt. 2, 1884, pp. 151 – 163) as quoted by Packard (1891, p. 227).

Second, the land between these valleys consists of high isolated, steep-sided blocks. Professor Daly's photographs and descriptions show that these blocks rise to the same general level, and are parts of an ancient plateau which has been dismembered by the formation of the inlets and the land valleys continuous with the inlets. This feature is most typically shown in Northern Labrador, but the same structure occurs as far south as the Strait of Belle Isle ; it is shown by the wall-like front of the Mealy Mountains above the Hamilton Inlet, and by some of Professor Daly's photographs of the southern coast (e.g. *Jt. App* : fig. 33, p. 2555 at 55° N., fig. 35, p.2556 at 53° 14', fig. 37, p. 2557) which show high lands rising abruptly from the plain along the shore.

Third, the possibilities of geographical development of the coast region are different from those of the country to the west. The development of the coastal region has been hampered by the difficulty of communication and transport, as the larger part of the surface is isolated by the deep intersecting fiords and fiord valleys. Throughout this belt communication is possible only by going to the coast along the inlets and fiord valleys ; traverse from north-west to south-east parallel to the coast is impracticable, owing to the height and steepness of the intervening mountains.

D. THE WATERSHED THE NATURAL BOUNDARY

The coastland is separated from the western moorlands by the watershed which for most of the peninsula is the natural separation. The watershed is the natural geographical division as it determines the direction of trade and commerce, since exports would go down the waterways to the sea.

II. THE ATLANTIC COAST AND ITS INLETS.

A. THE NORTHERN FIORDS

The eastern coastland is divided into two sections, the northern in which the arms of the sea are fiords, and the southern, in which as the level of the land is lower, the valleys are less deep and reach the sea as fiards. In the northern part the arms of the sea are typical fiords. In my book on Fiords

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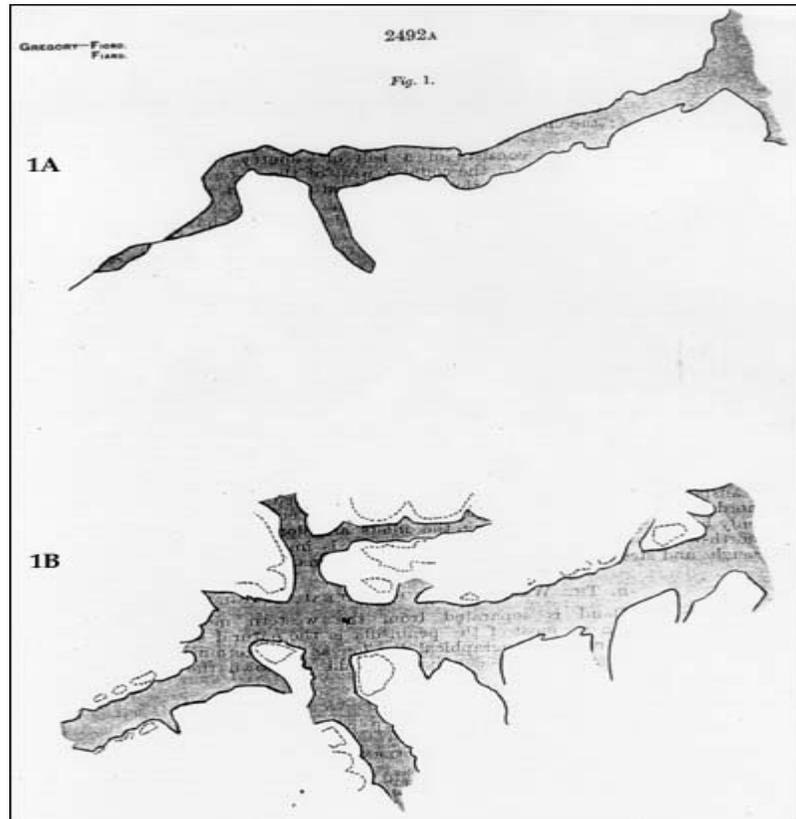


FIG. I A— Outline of Nachvak Bay after Prof. Daly (1902, pl. 12). Scale, 6 miles to 1 inch.
FIG. I B— Nachvak Fiord as it would be if submerged to the contour 1,500 ft. of Daly. The dotted line shows the land as it would be if left by a submergence of 2,500 ft., with Nachvak converted into a fiard.

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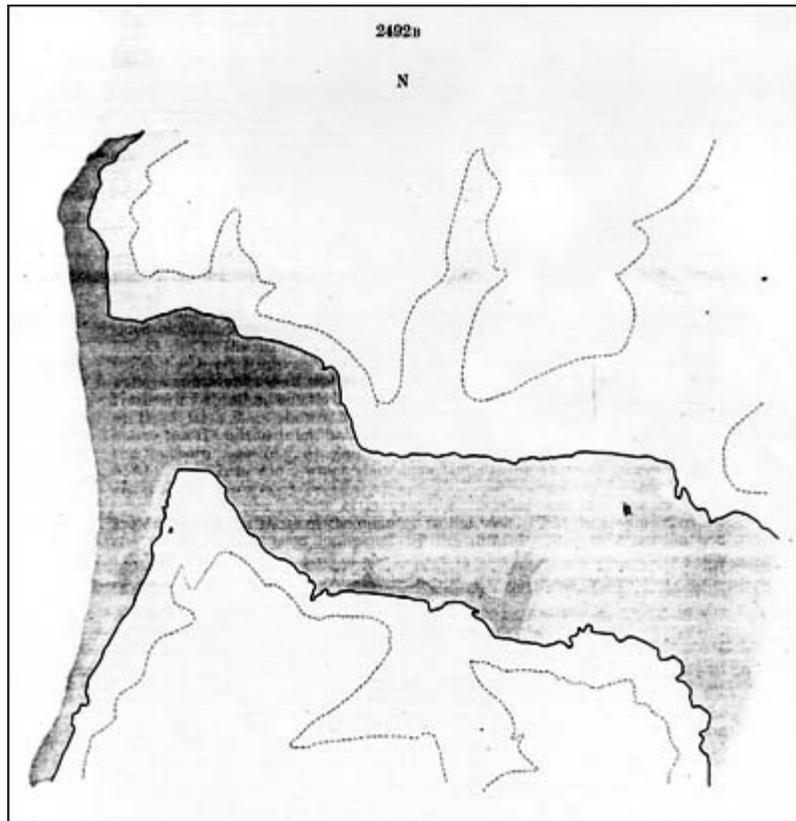


FIG. 2— The entrance to the Sogne Fiord, Norway. The continuous line shows the present shore along the entrance to the fiord ; the dotted line shows the position of the shore as it would be with the submergence of 1500 feet, by which the fiord would be converted into a fiard. Scale, 1:100,000 from the Topographic Kart of Norway, Sheet 29B, 1915.

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(1913, pp. 281-2) I referred to Nachvak as a typical fiord. Professor Daly (1902, p. 230) describes it as “ an excellent type of fiord.” These northern arms of the sea are fiords because their sides are in general straight and parallel ; they bend at sharp angles ; they are often connected into a network by cross valleys which break the plateau into isolated blocks. At the northern end of the Peninsula some of these fiord valleys form narrow straits known as tickles, which extend from shore to shore ; and along the eastern coast the meeting of two fiord valleys often forms a tickle which cuts off part of the land as an island block. That the fiord valleys intersect a plateau is shown by Professor Daly's photographs, figs. 1, 7, 8, 9, 10 & 11 Jt. App. pp. 2539-44. Another fiord characteristic is that on the floors of the valleys there are deep basins which are often deepest inland, and are connected with the sea by a shallow passage over a slightly submerged threshold.

The fiord nature of the northern inlets is shown in the following photographs by Professor Daly— Jt. App. figs. 1, p. 2539 ; fig. 6, p. 2541; figs. 7 & 8, p. 2542 ; fig. 10, p. 2543 ; fig. 12, p. 2544 ; fig. 19, p. 2548.

B. THE SOUTHERN FIARDS.

On the southern part of the coast the inlets differ in shape as their shores are very sinuous. They belong to the category of

Fiards, so named after their typical representatives on the Swedish Coast. Fiards agree with fiords in their general plan. Lines drawn along the middle of a group of fiards have a similar arrangement to corresponding lines in a system of fiords. Fiards like fiords occur in areas of hard rocks, have basins which are often deep at their landward end, and are separated from the outer sea by a threshold. They differ from fiords by their margins being very sinuous, with the land projecting into them in many peninsulas, which are often continued by islets, while the valleys that continue the bays inland often contain lakes. The essential difference between a fiord and a fiard is that in the fiard the water surface stands near the upper edge of the valley ; if a fiord is drowned, as the water level rises and reaches the upper edges, which have been worn by wind and rain and streams, the shore line becomes extremely sinuous. This fact may be illustrated by fig. 1 of Nachvak Bay, based on the map by Prof. Daly (1902, p. 112). Fig. 1a shows the parallel sides of the bay, which has the plan of a fiord as it is now: fig. 1b show the shape that the inlet would have if the water level were raised to the contour of 1,500 ft. ; it would then be intermediate between a fiord and a fiard : submergence to the 2,500 ft. contour would reduce the land to the areas shown by the dotted line on fig. 1b and Nachvak would be a fiard.

That the southern inlets of Labrador are often fiards is shown not only by the maps but by Professor Daly's photographs ; Jt. App., fig. 28 ; Ford Harbour, p. 2552 ; figs. 29 and 30, Hopedale, p. 2553 ; fig. 35, Sloop Harbour,

p. 2556. That Hopedale is a fiard was pointed out in my book on Fiords (1913, p. 279), and I there remarked “ the fiard-like nature of the coast between Hamilton Inlet and the Strait of Belle Isle.”

III. THE NATURE OF HAMILTON INLET.

The longest and deepest inlet in Labrador is Hamilton Inlet, including the Narrows and the deep basin within them known as Grosse Water or Groswater Bay, or “ Melville Bay ” (Packard 1891, map opp. p. 90) or Lake Melville. It has been frequently described as a fiord and referred to as the longest fiord in Labrador by A. S. Packard (1891, p. 167), Robert Bell (1895, p. 348), and A. P. Low (1895, p. 123). My identification of this formation as a fiord (1913, p. 279) was based mainly on the Admiralty Chart (No. 375) which shows its parallel sides for most of its course, its great internal depth of almost 1,000 ft. below sea level and the threshold at the Narrows ; that chart also shows that the external basin is deepest close to the Narrows, and that secondary thresholds occur between that deep and the outer sea. The inlet moreover lies between two steep fronted mountain blocks. South rise the Mealy Mountains of which the figure by Kindle, Geol. Surv. Can. Mem. No. 141, 1924, fig. 3, p. 12, shows its long straight front with the spurs truncated along a line a little back from the south-eastern shore of the inlet. Mr. Kindle (ibid. p. 11) speaks of the “ front of this Wall.” To the north the mountain front is also so steep that A. P. Low (1909, p. 142) refers to it as “ the rocky wall of the fiord ” and according to the Admiralty Chart the mountains rise 4,500 ft. in height.

The geological evidence indicates that this inlet was formed along faults, a view confirmed by its re-examination by Kindle (1924, p. 16) who explains the basin as a sunken fault block.

The mouth of the inlet is funnel shaped, and the photograph of Indian Harbour (Daly Jt. App. p. 2558, fig. 40), which is beside the entrance, is fiard-like for the shore is indented and the highest hill beside it is stated to be 300 ft. high. But as inland the hills are higher, as the valley is bounded on both sides by flat mountain walls, and as the basin sinks almost 1,000 ft. below sea-level, the inner part of the Inlet is a fiord. Kindle describes it as fiord-like and accepts its branch the Double Mer, as a fiord (Jt. App. p. 2394). The simple even shores of the Double Mer, as shown in Kindle's photograph (Kindle, 1924, pl. 1), and the steep wall-like front of the Mealy Mountains are both quite different from the features of fiards.

A. THE SEAWARD END DESCRIBED AS A RIA

The seaward section of Hamilton Inlet has been identified by Mr. E. M. Kindle (1924, p. 14, Jt. App., p. 2364) as “ a

typical ria” on the ground that it is funnel-shaped. The inner section within the Narrows he classifies as an expansion of the Hamilton River, and not as a fiord. The outer section from the Narrows has certainly the funnel shape and irregular shore found in many

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rias. Nevertheless I should regard my former interpretation of this section as a fiord as more in accordance with the available evidence. Mr. Kindle quotes my translation (Fiords, 1913, p. 69) of Penck's definition (1894) in support of his view that the Inlet is a ria. He however only quotes part of that definition, and the rest of it is not in harmony with his conclusion. According to Prof. Penck's definition rias are small, their maximum extension into the land being 31 miles, and their branching inland being unimportant. According to this definition the outer section of Hamilton Inlet is too big to be a ria, though I do not attach much weight to mere size.

The distinctions between the entrance to Hamilton Inlet and a ria appear to me to be three-fold.

a. Rias the Estuaries of Old River Valleys, and the Former outlet through West Bay.

Rias are the outlets of ancient rivers flowing to the sea between two mountain ranges. They are of great antiquity as they are due to slow excavation by a river. According to Mr. Kindle (1924, pp. 18-19, Jt. App., p. 2396), the original outlet from the Hamilton basin and Lake Melville was through “ The Backway ” to the coast near West Bay (Jt. App., pp. 2367, 2396), and the Narrows are of comparatively recent origin, and were formed as an overflow channel in late tertiary or glacial times. If, therefore, the Hamilton River Valley had reached the sea through a ria, that ria should be at West Bay, and not the section of Hamilton Inlet outside the Narrows.

b. Its Variation in Depth with Thresholds as in Fiords.

The second and main difference is the nature of the floor as shown by the variations in its depth. A ria is a land valley formed by a river having cut a large valley between two ranges of hills. A ria therefore, as expressed in Penck's definition as well as in my own, deepens steadily seaward. I know of no case in which a ria leads inland to a deep rock basin. In Hamilton Inlet the inland section is the deep rock basin of Lake Melville, of which the floor at one place sinks almost 1,000 ft. below sea level. In the narrows the Admiralty Chart (No. 375) marks depths of 10 and 12 fm. Outside the Narrows the greatest depth, 50 fm., is near the exit from them ; the depth decreases to 23 fm., increases to 44 fm., and again decreases to the line across the mouth of the outer section from Pompey Isle to west of George Isle on which line the greatest depth is only 30 fm.

The existence of these thresholds with intervening depressions is the typical arrangement of a fiard, and not of a ria. If a ria were being filled by shoaling such irregularities might develop ; but the association of these ridges with rocky islets shows that they are structural rock features, and not banks of silt. The photograph by Daly of Indian Harbour is quite consistent with the fiard nature of this bay as the shore is very indented, and the highest hill in the view is said to be 300 ft. high.

c. The third distinction is the expansion inland to the Melville Basin.

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B. THE INNER OR MELVILLE BASIN.

a. The Objection to its Fiord Nature Based on the Hamilton River.

Mr. Kindle's main argument for his view that Lake Melville is not a fiord is apparently the sentence which he quotes (1924, p. 14, Jt. App., p. 2364) from my " Fiords " (1913, p. 66) to the effect that no great river enters a fiord. As he regards the Hamilton River, which enters the head of Lake Melville, as a great river, he concludes that Lake Melville cannot be a fiord. The sentence quoted by Mr. Kindle is in the discussion of fiords throughout the world, and applied to the world's great rivers. None of them enters the sea through a fiord, although they may discharge near fiords ; thus the Mackenzie River of north-western Canada enters the sea through an ordinary gulf and not through the fiords on the Pacific coast. The Columbia River, after a long irregular course through British Columbia, passes south into the United States and thus avoids reaching the sea in the fiord belt. The Yangtze-kiang opens near the fiord of Nimrod Sound, but not through it.

The Hamilton River is comparatively small. Its length to its entry into Lake Melville, according to Mr. Kindle, is about 300 miles. It is a river of the same order of length as the Thames (210 miles), to which I should never have thought of referring as a great river in a chapter dealing with the world as a whole. A. P. Low (Jt. App., p. 2596), though referring to the Hamilton River, the North West, and Kenamai, as " three large rivers," also refers to them as these three large streams," and the Admiralty Pilot (Newfoundland and Labrador, 1907, p. 707) calls the Hamilton River a " large stream." These statements do not suggest " a great river."

b. The Unity of the three sections and the Term Inlet.

Hamilton Inlet (including Melville Bay) appears fundamentally different from a river with a ria as its outlet.

They have generally been regarded as one unit, as by the Admiralty Charts (No. 1422, 1871 corrected 1922, and No. 375, 1876), which adopt the name Hamilton Inlet for both the seaward part and the inland extension, known as Grosse Water Bay and Lake Melville. The Admiralty and A. P. Low apply the term Hamilton Inlet to both parts ; other authorities, as Packard, mark the whole as the Ivocktuke Inlet (Packard, 1891, pp. 285-88), while he calls the inner part Grosewater Bay (Packard, 1891, p. 166).

The name Hamilton Inlet seems more appropriate to the inner section than to the outer. The term inlet appears less appropriate to the funnel-shaped area outside the Narrows than to Lake Melville or Grosswater Bay, which is deeply let into the land. The Admiralty Chart of Labrador (1422) records three localities as inlets, viz., Davis Inlet, St. Lewis Inlet and Hamilton Inlet, and both the Davis and St. Lewis Inlets are narrow arms of the sea, deeply let into the land. Deep Inlet (at 55° 24') is a fourth, reported in the Newfoundland and Labrador Pilot (1907, p. 729). Formations like that outside the Narrows are called bays or sounds. The extended outer end

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of St. Lewis Inlet is marked on the charts as St. Lewis Sound ; and the Canadian geographer Dr. R. Bell, in his map of Labrador, 1895, marks Lake Melville as Hamilton Inlet, and the part outside the Narrows “ Aviktot ” or Eskimo Bay. The traditional use of the name Hamilton Inlet for the part now known as Lake Melville seems historically correct. The entrance to the inlet was known as Eskimo Bay, and was crudely represented on early maps of Labrador. The earliest map of the Labrador Coast that I have seen which applies the term inlet to this formation is that of Aaron Arrowsmith, 1814 (No. 17 of the Newfoundland Case Atlas). He marks it as “Ivucktoke Inlet, 30 leagues.” The map shows only the outer part, which is much less than 30 leagues long, so the note must refer to the existence of an inlet 30 leagues long from the end of the outer bay. During the Governorship of Sir Charles Hamilton, 1821-25, it bore the name (Admiralty Chart 375, edit. 1823) of the Hamilton Inlet and the name was probably given it during its survey in 1823 by the “ Pelter.” The name Hamilton Inlet is also used in John Arrowsmith's map of British North America, 1834 (Atlas No. 21). Various later maps as the Canadian Labrador Boundary Map of 1890 (Atlas No. 39) use the name Hamilton Inlet for the inner part and call the outer part “ Grand Esquimaux or Hamilton Bay ” or as “Aviktot or Eskimo Bay ” (e.g. R. Bell, 1895, map 1; cf. also Atlas Maps 35, 37, 38). The name Hamilton Inlet is however quoted by Packard (1891, p. 498) as used by Aaron Arrowsmith in his Chart “ The Northern Seas between Europe and America, London 1808,” in which says Packard, the name of Hamilton Inlet was applied to Invuctoke Bay. If so the name would have been given after Captain John Hamilton, who was Surrogate for Labrador, 1767 ; but as Arrowsmith does not use

the name Hamilton Inlet in his above-quoted map of 1814, Packard's statement requires confirmation.

c. The Melville Basin due to Faulting.

That the Lake Melville basin should be classified as a fiord valley and not as a river cut valley follows from the fact that it was formed by the sinking of its floor. Mr. Kindle (1924, p. 13) remarks that the “ very deep fiord-like lakes connected with or near Hamilton Inlet constitute one of the most prominent geographic features,” and earlier in the same memoir (p. 11) he observes that “the most striking topographic feature of the region is the great depth to which the fiord-like valleys extend below the level of the adjacent plateau margin.” These deep valleys occur along belts lowered by faulting. Mr. Kindle has shown (1924, p. 58) that the Lake Melville basin and its branch, Double Mer, were each formed by the subsidence of a long block between faults. Kindle (1924, p. 58) states that Lake Melville “ basin represents a fault block.” In the Joint Appendix (p. 2365) he states, “ The wider parts of both Double Mer and Lake Melville basins are believed to be defined by fault-planes which have dropped down two large blocks (Fig. 5A and C).” It is true that he attributes the formation of the basins to erosion of the sandstones thus dropped down ; but he is emphatic that the lowlands

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of these two basins are “ limited in part at least by fault-planes, as indicated in Fig. 5A and C ” (Quoted Jt. App., p. 2365). Even if the basins were made by denudation, that would have excavated the basins because the rocks had been shattered by faulting, and the broken material would have been easily removed by denudation. The two long rectilinear trough valleys being due to faulting and descending deep below sea level, are therefore fiord valleys.

d. Similarity to Double Mer— an accepted Fiord.

Mr. Kindle in his description of Lake Melville says that it is fiord-like and he refers to its branch, the Double Mer, as still nearer to a Fiord (1924, p. 13) ; in fact he says (Jt. App., p. 2394) that “ Double Mer is a deep fiord valley.” Mr. Kindle indeed remarks (*ibid.*, p. 2363), that the great depth of Lake Melville and its steep mountain scarp rising nearly 2,000 ft. above it on the south side ally it to the fiord. His photograph of Double Mer (Kindle, 1924, pl. I) represents a formation indistinguishable from those of the fiord valleys of Norway and the West of Scotland. The photograph, but for the absence of roads and houses, might pass as a view of one of the fiord valleys, tributary to the Clyde estuary. I fail to see any reason why if Double Mer is a fiord the basin of Lake Melville is not also a fiord ; for both the Lake Melville basin and Double Mer are valleys

(1) that were formed by vaults ;

(2) that have sheets of “ Cambrian ” sandstone let down on to their floors by faulting ;

(3) that are bounded by sub-parallel mountain walls

;

(4) that sink below sea level. (As Lake Melville is 160 fm. deep and Double Mer only 46 fm. (Vide, Kindle, Jt. App., p. 2363) in this respect L. Melville is more fiord-like than Double Mer) ;

(5) and that are connected with the sea by a narrow shallow channel, and expand westward.

e. Lake Melville as a River.

The interpretation of the entrance to Hamilton Inlet as a ria would involve the view that Lake Melville is a river and not an arm of the sea. That view does not seem to agree with the facts or with the ordinary geographical use of the term river. It is no doubt often difficult to determine the exact point where a river ceases and its estuary begins. The essence of a river is being a well-defined stream of water flowing from high land to lower land. If a river expands into a body of water so large that the water is stagnant, the river becomes a lake. When a river approaches the sea so long as it continues as a well-defined stream of land water it remains a river ; but when it widens out so that the land water is completely merged in the sea water, or remains as a thin layer over a mass of sea water, then I should regard the river as

having become an estuary and an arm of the sea. As Loch Melville extends to the depth of almost 1,000 ft. below sea-level, and the Report by Mr. H. W. Jones (Jt. App. pp. 2334, 2351–2) shows that the bulk of the water in it is seawater, I regard Lake Melville * as an arm of the sea and not a freshwater lake or a river.

It may be pointed out that the range of tide in Lake Melville is small, the amplitude (i.e. half the height between high and low tide levels) being about $\cdot 83$ of a foot (W. J. Stewart, Jt. App., p. 2319). The tide at the inner end of Lake Melville in Goose Bay, has a rise and fall of 2·6 ft. for springs and 1·34 ft. for neaps (H. W. Jones, amplitude of 1·3 ft., $\cdot 67$ ft., Jt. App., p. 2358). This tidal range is greater than that in the Baltic, where on the Swedish coast near Stockholm and on the opposite part of the Finland coast at Helsingfors it is less than an inch (Baltic Pilot, Pt. II. 1913, p. 21), or than in the Mediterranean, as Naples is said to have no regular tide (Mediterranean Pilot, Pt. II., 1905, p. 260), and that on the south-east coast of Sicily is one foot (*ibid.*, Pt. I., 1913, p. 519).

The salinity of Lake Melville is much higher than that of parts of the Baltic. The lowest salinity recorded in H. W. Jones' table, Jt. App., p. 2361, for Lake Melville is 10·57,† whereas in the northern part of the Baltic it is less than three (i.e. three parts to the 1,000) and as far south as the latitude of Stockholm and around the Aland Islands, the salinity is only from 5 to 6 per 1,000 (Pettersson, Scott. Geogr. Magaz., Vol. X., pl. X., 1894).

On consideration of all the evidence available to me I regard Lake Melville Basin, the Narrows, and the entrance to them as part of one arm of the sea.

IV. THE NATURE OF THE LABRADOR INLETS.

The nature of the Labrador inlets has an important bearing on the width of the coastal region. Two suggestions have been put forward as to their origin. The older view is that they were ancient valleys excavated by rivers and enlarged and deepened by ice during the glacial period. That view seems to me quite inconsistent with their shapes and distribution. The two characteristic geographical features of these valleys are their youth, as shown by their steep, flat, wall-like sides and their arrangement in rectilinear series, the members of which often cross at regular angles like a network. Their youth is especially shown in the northern series, where they occur as deep, narrow valleys with precipitous parallel sides.

A. THE FIORD VALLEYS NOT ICE-CUT.

That these valleys were not carved out by ice follows from the fact, which is I think admitted by all the authorities, that they were earlier than

*A. S. Packard (1891, map opp. p. 90), marks it as Melville Bay.

† He records surface fresh water in the upper part of "lake Melville" (Jt. App. p. 2352) & in Carter Basin (*Ibid.*, p. 2361) : but under the brackish water of Mulligan's Bay lay 88% sea water (*Ibid.* p. 2352)

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the Ice Age, and that those in the northern area were never even filled with ice. Robert Bell (Scottish Geogr. Mag. XI. 1895, p. 340) remarked that "the mountains forming the northern part of the chain have not been glaciated like the rest of Labrador, and they present steep sides with jagged crests rising out of the cold sea." Prof. Daly confirms the view that the northern valleys were never more than partially occupied by ice ; according to him the ice only reached the height of 2,000 ft. above sea level in Nachvak fiord, where the walls rise 3,400 ft. high. If, therefore, the upper part of each of these valleys was never occupied by ice, they cannot have been made by ice. The utmost that can be claimed for ice action in respect to them is that it deepened pre-existing valleys.

B. NOR OLD RIVER VALLEYS.

The essential characteristics of these valleys are equally inconsistent with their origin as cut by rivers which slowly excavated them by wear throughout geological time. Rivers may excavate deep canyons, but such canyons are short-lived. Frost, wind, rain and streams, and the chemical decay of rocks when exposed to the atmosphere together attack and wear back the upper walls of a canyon, which is thus widened into a broad rounded valley. If these fiord valleys were due to the action of rivers which, as Low suggests, had begun their excavation in very ancient times (Low, 1895, pp. 26-7, Jt. App., p. 2600, which he dates even as early as pre-Cambrian, Jt. App., p. 2601, quoted from his 1895 memoir), then it is impossible that the valleys should still be canyon-like valleys. Moreover, if these valleys were of great geological antiquity some of the hollows should include deposits laid down in the long period since their excavation. Most of such deposits might have been swept away by ice, but some would probably have been left, like the "Cambrian ?" sandstones beside Lake Melville and Double Mer.

Practically all those who have described the coastal valleys of Labrador represent them, or at least many of them, as fiords. Fiord valleys are always young, for when rivers occupy them their walls are soon worn into the irregular slopes of ordinary land valleys, and the fiord character is destroyed.

Rivers and ice may have modified and deepened the fiord valleys of East Labrador, but they did not initiate them, and some other explanation of their formation is needed.

C. THE ARRANGEMENT OF THE FIORD VALLEYS.

The fact that the fiord valleys are independent of river action is indicated by their plan and distribution. The fiords at

the northern end of the series near Cape Chidley run east and west. They are continuous through the land as tickles or straits, which separate the northern blocks as islands. These " tickles " have the characteristics of young valleys. It is most improbable that they were cut by recent rivers, which would not have been likely to saw their way through this massive mountain range, while Hudson Strait was open to them. It may be suggested that they were cut before the

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formation of Hudson Strait, but the youthful character of the tickles shows that they are younger and not older than Hudson Strait.

South of this east and west series are a number which run inland from north-west or north-east ; two of them so nearly meet that the northern end of Labrador is a peninsula joined to the mainland by a narrow isthmus. The east to west direction of the fiords is predominant from Cape Chidley to Cape Mugford. From Cape Mugford southward to Nain is an intermediate area, in which east and west valleys are combined with others trending from about W.N.W. to E.S.E., and others from north-east to south-west.

From Nain to the Isle of Ponds (lat. $53\frac{1}{2}^{\circ}$) the shore trends W.N.W. to E.S.E., and the fiord valleys run in three directions. One series is parallel to the coast-line ; a second series cuts inland at an angle of about 60° and this series includes Loch Melville and the front of the Mealy Mountains ; the third series has a trend of east and west.

From the Isle of Ponds southward to Cape Charles the coastline resumes its N.N.W. to S.S.E. direction and the predominant inlets have the same trend from Nain to the Isle of Ponds, or they are combined with others trending approximately east and west.

The direction of these fiord lines must be due to some process which has cracked the coastal region of Eastern Labrador along three chief directions. The east and west valleys are parallel to Hudson Strait ; this direction is dominant in the northern end of Labrador, but is less marked toward the south. The second important series, trending from E.N.E. to W.S.W. includes Hamilton Inlet, which is in line with the long straight course of the St. Lawrence past Rimouski to Quebec, and is also parallel, amongst other important geographical features in this region, to Nova Scotia, and to the peninsulas and arms of the sea in south-eastern Newfoundland. The members of the third series are either parallel to the coast line from Nain to the Isle of Ponds, or are at about 60° to it. This regular distribution of the inlets is quite independent of the fundamental structure of the country. The inlets cut across the rocks regardless of their strike. That the fiord valleys cut across " the Labrador trend " at high angles, and often at right angles, is shown by Prof. Daly's map (1909, p. 88), and that Hamilton Inlet (i.e., Lake Melville) lies across the strike of the rocks, is shown by Mr. Kindle (1924, p. 16).

D. THE DIRECTING LINES OF SOME CANADIAN LAKES.

The independence of geological structure shown by the fiord valleys is similar to that of many Canadian lakes. This fact is shown by maps published by the Geological Survey of Canada for western Quebec and eastern Ontario, as by M. E. Wilson, Kewagama Lake Map Area, Quebec, Geol. Surv. Can., Mem. 39, 1913, pp. 18, 19 ; by W. H. Collins, the Onaping Map Area, Geol. Surv. Can., Mem. 95, 1917, pp. 16-18, and by M. E. Wilson, Timiskaming, Geol. Surv. Can., Mem. 103, 1918, pp. 35, 36 and 38. The Authors in presenting these maps remark that the linear valleys are

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independent of the rocks, of the geological structure, and of the action of either rivers or ice, and must be due to earth movements ; they however point out that there is very little evidence to connect them with faults.

E. THE FIORD VALLEYS FORMED ALONG CLEFTS IN UPLIFTED ROCKS.

The directing lines in these cases may be explained not as ordinary faults, but as clefts produced in the tension of the country during a long gentle uplift which ruptured the rocks. The arrangement of the valleys thus produced resembles that of cracks in a pane of glass which has been broken by bending, or in cooling enamel or in a drying block of cement. The shrinkage of a drying block of cement produces cracks, some of which are parallel to the edge, and others that run in from the edge. If the block is homogeneous and the cracking is produced simply by drying, the cross cracks will tend to be at right angles to the faces ; but if the block while drying is undergoing bending, the cracks will pass in at an angle determined by the stresses due to the bending.

This tectonic origin of the fiord valleys of Labrador was recognised by Packard (1891, p. 18), who attributed them to "original lines of fracture and faults."* The zigzag course of the Bowdoin Canyon below the Grand Falls on the Hamilton River is regarded as of a similar nature. The canyon consists of half-mile lengths, trending alternately to east and to south-west (Low, 1909, p. 154). Prof. A. W. G. Wilson of Montreal (Jt. App., p. 2605) attributes this course to the influence of "two series of joint fractures" : i.e., to clefts due to tension.

The existence along the Labrador coast of many minor clefts that were probably made at the time of the formation of the major clefts which are now the fiord valleys, is shown in Prof. Daly's photographs. The cleft in the Bishop's Mitre is probably of a similar nature as I remarked (Fiords, 1913, p. 284).

Fig. 3, near the mouth of Nachvak.

„ 6, N.W. of Gulch Cape, near entrance to Nachvak.

„ 14, Cliffs north of Cape Mugford.

„ 15, the same (2 clefts)

- „ 16, Cape Mugford (2 well marked clefts ; not a fault).
- „ 17, Cliffs north of Mugford Tickle (beds in low arch ; clefts faintly marked). Clefts better shown in same place, fig. 21.
- „ 18 & 19, Kaumajet Mountains at Mugford Tickle (clefts).

* Packard further remarks (1891, p. 18), “ We must believe that the same causes that produce the deep fiords likewise account for these deep fissures and depressions in the summit of the water-sheds. It is evident that any amount of glacial action, however long sustained and vast in its operation, can never account for these rude, irregular, often ' geoclinal ' troughs which follow lines of fracture and faults, lying along the axis of elevation of mountain chains, or at nearly right angles to them.”

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In my book on Fiords I have endeavoured to prove that the fiords of the world are all due to the rupture of the earth's crust during the uplift of areas of hard rocks. The inlets of Labrador appear to me explicable only by the fracturing of the coastal belt during its uplift and the foundering of the adjacent parts of the Atlantic Ocean.

The directions of the main lines in Labrador are dominant in several parts of the North Atlantic borders, and the St. Lawrence—Hamilton Inlet line is a continuation of that of the main part of the coast of East Greenland.

F. DIFFERENT PLAN OF THE LABRADOR RIVER VALLEYS.

The direction of the fiords in the coastal belt of Labrador seems to me fundamentally distinct from the arrangement of a series of rivers. The natural arrangement of river valleys is well illustrated by the Labrador Peninsula. Rivers usually rise on the main highland and flow radially to the coasts. The most extensive highland in Labrador is an area at about 1,800 ft. above sea-level in the centre of the Peninsula ; from that highland many rivers, such as the East Main, Big River, &c., flow westward to James Bay. Others go north to Ungava Bay, such as the Kaniapiskau River, the Whale River, and the George River. The Hamilton River flows E.S.E. until it is diverted E.N.E. by falling into the Hamilton Inlet Valley. From the highland numerous rivers flow southward to the St. Lawrence ; some go south-westward until they are diverted eastward through Lake St. John and the deep Saguenay Fiord, or reach valleys which carry their waters to James Bay or through the Ottawa River to the St. Lawrence.

These radial rivers of Labrador have the normal arrangement of rivers draining such a plateau. They present a striking contrast to the rectilinear network and short deep clefts of the valleys and fiords of the Atlantic coast-land. The fracturing of the Labrador coastal belt appears primarily due to its uplift combined with the subsidence of the North Atlantic Ocean in comparatively recent geological times. That movement accordingly gave the Labrador coastal region its geographical unity.

It is necessary next to consider the natural inland boundary of that coastal belt.

V. THE THREE POSSIBLE BOUNDARIES.

Three lines have to be considered as the possible western boundary of the Dependency of Labrador.

1. THE SHORE STRIP.

The first is a line one mile in from the shore ; but the allocation of a one-mile strip of shore throughout a long coast to one state, while the interior is left to another, would appear to be a very inconvenient and unprecedented arrangement. The development of the interior of Labrador is sufficiently handicapped by its climate, its inaccessibility, and the poverty of its soils

without having the extra burden of having its sea-shore under a different administration which might impose a burdensome tariff. The natural outlet from the belt as far back as the watershed is to the Atlantic. The Indians of the interior go to the seashore as at Davis Inlet, for trade in the spring (Low 1895, p. 48), and they go to the coast in severe winters (Newfoundland and Labrador Pilot, 1907, p. 643). The Livyeres or permanent residents on the coast go inland in the winter for hunting, visiting lines of traps, which, according to A. P. Low (1895, p. 43, 1909, p. 144, and Jt. App., p. 2608), are 50 miles in length. Dr. W. T. Grenfell (Jt. App., p. 2571) says that the “furriers” of Sandwich Bay go 350 miles inland. On many parts of the coast there is clearly no firewood on the shore, and the residents might be cut off from the only local supply of fuel. I can think of no case in which such a narrow strip along the shore is owned by one state while the interior belongs to another. The Zanzibar Protectorate, which is ten miles wide, along the East African Coast, is the closest analogy ; but it and the land behind are both under the direct control of the Colonial Office, and there seems to be no real analogy either historical or geographical, between these two cases.

a. The Term Coast in Central Geography.

It may be urged that the term coast means the shore line, but such does not seem to me the correct geographical meaning. The term coast has been largely used, especially in the 17th and 18th centuries, for a border-land region, and not for a mathematical line, or for a narrow strip along the meeting place of land and sea. When Herod, as the Bible states, slew all the children in the coasts of Bethlehem, it would not have served his purpose merely to have slain those on a line on the outskirts of Bethlehem. The term coast there obviously means the tract of country including Bethlehem and its neighbourhood. Most authoritative British Dictionaries recognise the use of the term coast for a broad belt of country. The term is said to come from the Latin *costa*, a rib, and has been used for side or rib, and would therefore mean a side of the Labrador Peninsula. The Encyclopædic Dictionary, 1889, Vol. II, gives as the first meaning “a side” ; as the fourth, “frontier limit or border of a country” ; as the fifth, “the seashore” ; and as sixth, “a district, a country, a region.” The New English Dictionary, Vol. III, 1893, after pointing out the origin of the word coast from *costa*, its resemblance to) *côte*, and its primary meaning as a rib or side, gives as its fourth meaning “the seashore” ; as the fifth, “the borderland” ; and as the sixth, “a tract or region of the earth.”

Johnson's Dictionary of 1755 gives a restricted definition of the word coast ; but his original Dictionary is famous for its freakiness, and the edition of 1818, to quote that nearest 1825,

gives as the second meaning, “ 2, Border, limit or frontier of a country,” and remarks that this sense was annotated by Johnson.

The term coast is still widely used in geography for a region as in “ the Gold Coast,” and the “ Coastal Cordillera ” of South America, which are often 60 miles back from the shore.

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b. The Term Coast in Canadian Geography.

Its similar use in Canada may be illustrated by Coast being the name of a sub-division of British Columbia which extends for 150 miles inland, by the Coast Range of western Canada extending at least 100 miles inland, and as in Labrador the Coast River, lat. $55\frac{1}{2}^{\circ}$ N., does not itself reach the sea, from which it is 25 miles distant at its lower end and 90 miles at its source.

The distinguished Canadian authority on Labrador, Mr. A. P. Low, applies the term coast to the tract of country extending a considerable distance back from what he (Low, 1895, p. 21) distinguishes as “ the coast line.” North of Nain, he says, p. 22, the Coast Range is much higher, being from 4,000 to 6,000 feet. He refers to the northern mountain range as confined to the coast region, so that the coast region includes the whole of that mountain range, and must therefore extend at least 50 miles inland.

On p. 23 he states that the northern half of the Atlantic coast rises in a chain of mountains higher than any other part of the Peninsula. On p. 25, he speaks of “ the highlands of the coast cutting off the drainage of the interior and forcing it to flow northward into Ungava Bay.” So according to Low the watershed is determined by the coastal highlands. Low, therefore, extends the coast inland to the watershed and to include the whole of the northern chain.

2. ALONG THE COASTAL MOUNTAINS.

A second possible line would be one joining the highest summits of the mountains which lie inland from the shore and passing along the crest of the former mountain chain. If the ancient chain were still complete its crest might have furnished a suitable frontier between the coastal belt and the interior. The chain is now most nearly complete in the northern part. “ Taken as a whole, the Nain-Kiglapait-Kaumajet-Torngat Mountain group is a distinct entity, a distinct topographic province of the Labrador Peninsula ” (Jt. App., p. 2537). Even in the northern part from Cape Chidley to Nain it is broken through by a series of deep valleys, so that a line joining the highest mountain summits would be a very inconvenient and geographically undesirable boundary. That type of frontier was claimed by Chile in its dispute with the Argentine, and was rejected by King Edward's Award.

3. THE WATERSHED.

a. Its Convenience.

The only convenient western boundary of the “distant entity” and “distinct topographic province” is the watershed, which separates the rivers that flow across the mountain belt from those that cross the western plains to Hudson Bay. South of Nain the mountain belt is less complete. Prof. Daly remarks, “South of Nain there is no well-defined existing mountain-chain,” but the continuity of the foundation is shown by
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Prof. Daly's figure (1909, p. 88). Fragments of the ancient chain remain as the Kokkoke Mountains with Mount Muckamee (alt. 4500 ft.), north of the western end of Lake Melville (see Admiralty Chart No. 375) and the Mealy Mountains. The intervals between the southern remnants of the mountain chain are so great that even if the position of the original mountain crest could be determined, it would form an even less satisfactory frontier than north of Nain. The most suitable boundary between this mountainous dissected coastal belt and the plains to the west is the main watershed, with the possible exception of the upper part of the Hamilton Basin.

The term watershed means the line separating the drainage as it comes from the German “*wasserscheide*” or “water separation.” It is sometimes incorrectly used for the slope of the land from the divide. Watershed means precisely the same as “height of land” as used in Canada. The “height of land” in Labrador separates the fiord-riven coastal region from the plateau across which many rivers flow westward to Hudson Bay. The watershed for most of Labrador is the most convenient and natural geographical boundary. For owing to the depth of the fiord valleys all communications in northern Labrador necessarily pass along the valleys to the coast. As remarked previously (p. 22) the Indians trade down these valleys to Davis Inlet, and the permanent residents on the coast during the winter work inland along miles of traps which, according to Low, extend 50 miles in length, and probably reach to the “height of land.” The Admiralty Pilot remarks that “in summer travelling can only be done by sea” (Newfoundland and Labrador Pilot, 1907, p. 643).

The suitability of the watershed in Labrador as the boundary is indicated by the numerous authorities who have adopted it, amongst whom may be mentioned the late Dr. Robert Bell, formerly Director of the Geological Survey of Canada in his map (Scott. Geogr. Mag., Vol. XI, 1895, opp. p. 360). He remarks (*ibid.* p. 336) that “Newfoundland claims about 140,000 square miles, the remaining 420,000 belonging to Canada”; so that he regarded a quarter of the peninsula as not belonging to Canada.

That the “height of land” was intended to be the western boundary of the Dependency of Newfoundland is suggested by the line selected for the frontier from the St. Lawrence. It was

defined as inland due north from Blanc Sablon to the 52nd parallel, a distance of over 40 miles. There the defined line was near the “ height of land ” between the drainage into Hamilton Inlet, and that into the St. Lawrence. That the intention was to follow the watershed from that point is shown by the frequent adoption of that line as the boundary in the maps of that period.

b. The identity of the Rocks on the two Sides of the Watersheds.

It may be represented that in a plateau country the watershed is not an important or logical boundary ; but on such a plateau it is usually the natural line and the line of greatest economic importance, as it is the main factor in the direction of trade and traffic. Timber is naturally floated

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downstream from the divide, and all bulky produce tends to go the same routes. It has been objected that this line is artificial as the rocks on both sides are identical. That objection would also apply to the watershed in Scandinavia, which is also a vast plateau of rocks of the same age and general nature as those of Labrador. There is the same unity of geological composition between Norway and Sweden as between Labrador east and west of the watershed.

VI. ANALOGY OF SCANDINAVIA AND LABRADOR.

This reference to Scandinavia recalls the instructive analogy between the peninsula and Labrador. As the geology and geography of Norway are better known they throw light on the origin of the Labrador fiords, and on the natural geographical divide in such a country. Scandinavia, like Labrador, consists of a foundation of rocks belonging to the same geological date, and most of the country has also remained above sea-level through most of geological time. Scandinavia also consists of a fiord-riven coastal belt facing the Atlantic, and of a long gentle slope away from the ocean toward an inland sea. As the present structure of both Labrador and Scandinavia was impressed on them from the Atlantic the sequence of the corresponding belts is reversed. Scandinavia begins on the west with an island fringe known as the Skargaard, which consists of an enormous number of islands ranging from mere rocks to islands of a considerable size. The mainland rises from the coast, especially to the north, in abrupt precipices, and is indented by long fiords. Further south a low rocky platform often separates the plateau front from the sea, and the inlets in this platform are fiards. The coastal part of the main plateau is cut up by an intersecting network of trough valleys into isolated mountainous blocks. From the watershed the plateau extends inland and bears hills of moderate elevation and innumerable lakes. This plateau descends by a long slope traversed by numerous rivers which are much

longer than those flowing to the ocean, and this slope ends in an inland sea, the Baltic.

The structure of Labrador is essentially the same. The Atlantic coast has its guard of islands ; to the north the plateau front descends precipitously into the sea, and the coast is indented by long fiords ; to the south there is a low lying rock platform with fiards. The meeting of fiord valleys cuts up the coastal belt into isolated blocks. In contrast to the broken topography of the coastal region the plateau to the west has a relatively level surface with low hills, broad valleys, and innumerable lakes. The plateau descends in a long slope drained by many rivers, and ending in the inland sea of Hudson Bay.

The geographical development of Scandinavia along the fiord-riven region was slow owing to the small amount of cultivable land, and the extreme difficulty of land communication, which rendered the country dependent upon the sea. The Norwegians are therefore a sea-going people, and occupation spread slowly inland on the working of mines and forests.

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The development of the slope towards the Baltic was much easier and towns were established far inland, while the settlements in Norway were still confined in the coast. The boundary which has been adopted between Norway and Sweden is for most of the distance the watershed between the rivers flowing to the Atlantic, and to the Baltic. Such departures from the watershed as have been made south of 60° were made to secure a suitable frontier where the watershed was inconveniently sinuous.

On the southern coast the area with the fiords which indent the land from the sea between Scandinavia and Denmark is included in Norway. The Scandinavian analogy is therefore in favour of the adoption in Labrador of the watershed as the general frontier.

J. W. GREGORY.

SUMMARY.

The Peninsula of Labrador consists of two main sections—an eastern belt facing the Atlantic which is high and mountainous, and is deeply indented by many arms of the sea (fiords and fiards). The western section is a plateau with a comparatively gentle undulating surface sloping downward to Hudson Bay and Ungava Bay. The high mountains and arms of the sea in the western section give it a distinct geographical entity. This belt has been called, as by some Canadian geographical authorities, the coastal region, and that term is in accordance with geographical and Canadian usage, as may be

illustrated by the wide areas assigned to “ Coast ” in British Columbia. The Hamilton Inlet has been generally accepted as a fiord, and as the longest fiord in Labrador. Its entrance is not a ria, but a fiard ; and the inner (Lake Melville) is the essential part of Hamilton Inlet, and to it the name inlet was first applied. As a deep basin filled with seawater below a thin layer of freshwater, it is an arm of the sea. Its branch, the Double Mer, is accepted as a fiord, and Lake Melville has still better title to the name fiord.

The Labrador inlets were neither cut by ice nor by ancient rivers. Their arrangement shows that they were due to the fracturing of the eastern coast of Labrador during the earth-movements which upheaved the Labrador coastal mountains and led to the foundering of the floor of the North Atlantic basin. The inlets are true fiords ; their arrangement is essentially different from that of river valleys, the normal arrangement of which is illustrated by the river valleys on the Labrador plateau.

Labrador is strikingly similar in structure to Scandinavia, both peninsulas which in each consist of blocks of ancient rocks are found on both sides of the watershed. The watershed is the main boundary between the fiord-river mountainous region of Norway and the gentler slope of Sweden to the Baltic.

No. 1034.

HAMILTON INLET

OBSERVATIONS ON THE FAUNA AND FLORA.
By C. TATE REGAN, M.A., F.R.S., Keeper of Zoology in the
British Museum (Natural History).*

1.—SALINITY OF WATER IN HAMILTON INLET.

Dr. Kindle's report on the fauna and flora of the Hamilton Inlet is so incomplete that, in order to arrive at any conclusion, it is necessary to consider the conditions in this area, and what happens in similar conditions elsewhere. As regards the salinity of the water there are available, for the inner part of the Inlet, west of the Narrows, the salinity determinations made by the Canadian Hydrographic Survey in September, 1921. The salinity of the surface water was determined at five points, at which the figures found (10·57 to 15·57) have been inserted on the chart (fig. 3, p. 4 ; the salinities at various depths were also determined, and I have attempted to represent the results obtained by means of a diagrammatic vertical section, which is, so far as concerns the region west of the Narrows, based entirely on these determinations.

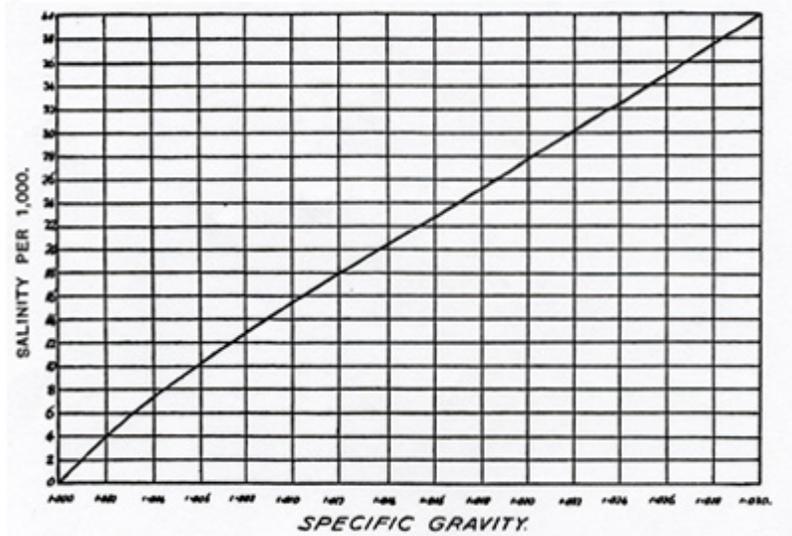
There are also a number of determinations of the density or specific gravity of the water, of which those made in 1923 are summarized by the Senior Tidal and Current Surveyor (C. pp. 2333-4). This gentleman writes of water having a density of 13 per cent., 21 per cent., etc., of that of sea-water, but as the density of fresh-water (1·000) is 97·6 per cent. that of the sea-water taken as a standard (1·024) this is obviously a mistake alternatively he writes of water with a certain percentage of sea salinity, but the percentage system does not give true values for salinities. Sir John Murray (*The Ocean*, p. 54) gives the figures of specific gravity at 60° F. corresponding to salinities of 0, 10, 20, 30, 32·5, 35, 37·5 and 40 per 1,000. I have plotted these and connected them by a line, to form a diagram by means of which the specific gravity determinations can be converted into approximate salinities (fig. 1, p. 2).

It will be noted that compared with the salinity of water of specific gravity 1·024, the salinity of water with specific gravity 1·006 is not 25 per cent., but 31 per cent., and that of water of specific gravity 1·012, not 50 per cent., but 55 per cent.

*This report has been prepared by me in my time and in my private capacity as a zoologist who has studied problems of distribution; it must not be considered to represent an official view.—C. T. R.

Taking the region west of the Narrows it will be seen that the density determinations made in July and August, 1921 (C. p. 1946) confirm the salinity determinations made in September, corresponding to surface salinities of ca. 15 at Pelter's Cove and 8 miles west of Caravalla Point, ca. 10·8 in Mulligan's Bay. Those of surface water made on August 21st and 22nd, 1923, are lower (e.g., salinity ca. 9 instead of 14 off St. John's Island), but the drop at Rigolet from S.G. 1·0205 (flood) and 1·0168 (ebb) on August 17-18 to 1·0170 (flood) and 1·0125 (ebb) on August 26th is sufficient indication

FIG 1.—Diagram showing the relation between salinity and specific gravity at 60° F.



that heavy rainfall was responsible for this. The general average of the density determinations in the Narrows justify the figure 23 on the map, indicating the approximate average salinity of the surface water at about that point ; the exact location at the surface of the figures 26 and 28 is unimportant.

No doubt the salinity of the water in Hamilton Inlet would be higher during the winter, as in the Norwegian fiords ; in these, melting snow and ice and rainfall swell the rivers and produce a surface layer of water of low salinity during the summer ; but in the winter this layer tends to disappear and the surface water has a much higher salinity.

HYDROGRAPHY OF THE BALTIC

The account given by the Canadian hydrographers recalls the conditions in the Baltic, where we have also the decreased range of the tides, the lowered

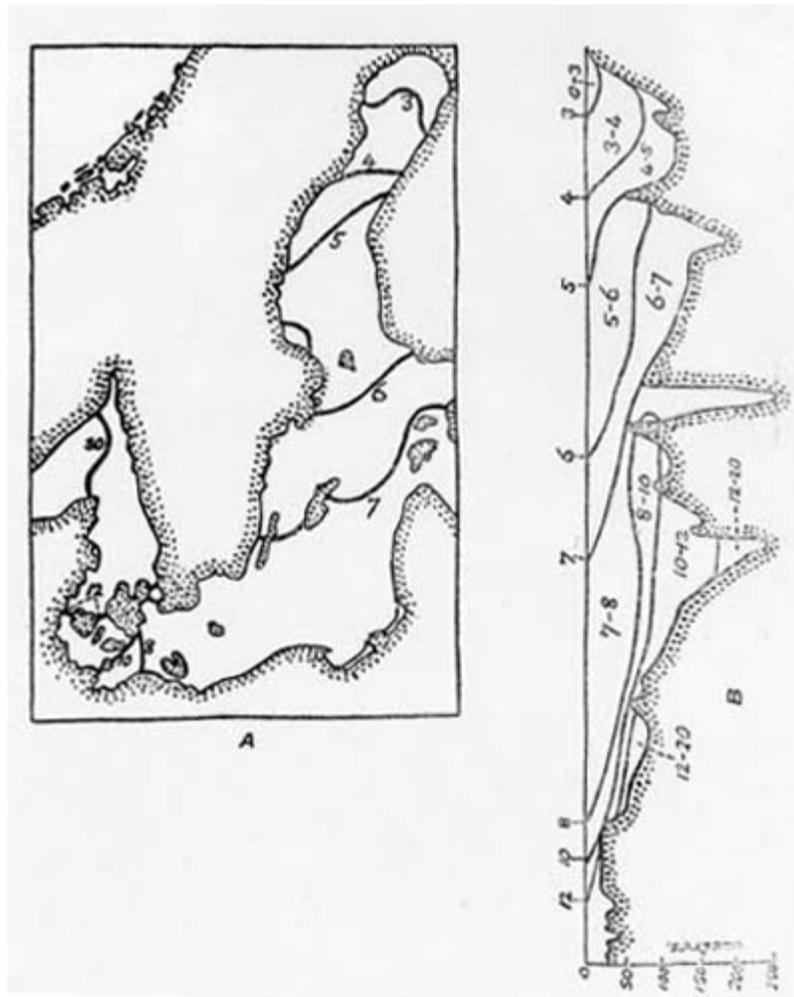


FIG. 2.—Baltic Sea (after Petterson)—

(A) Chart, showing average salinity of the water at the surface.

(B) Vertical Section, showing the salinity of the water at different depths.

p. 2512

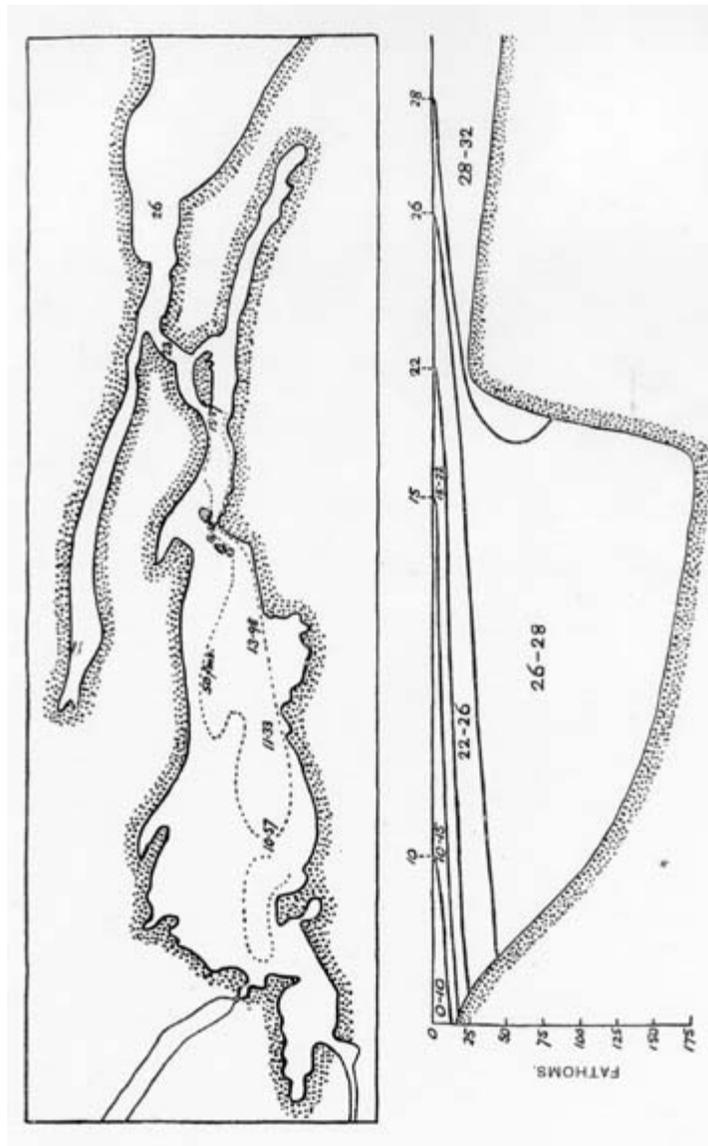


FIG. 3.—Hamilton Inlet. Chart and Diagrammatic Vertical Section. In the chart the salinity of the surface water at different points is indicated, and the 50 fathom line (approximate) has been inserted. The section represents the salinity of the water below the surface.

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salinity, the fresher water at the surface and the saltier water below, the outflow greater than the inflow, etc. The hydrography of the Baltic has been described by Petterson (*Scottish Geographical Journal*, 10, 1894), who states that it receives by rainfall and rivers much more water than it loses by evaporation ; hence there is a surface current outwards and the surface water is fresher than that nearer the bottom ; his chart and diagrammatic representation of the salinity of the water (fig. 2, p. 3) may be compared with those given for the Hamilton Inlet ; the lesser salinity of the Baltic is very evident.

FISHES OF THE BALTIC.

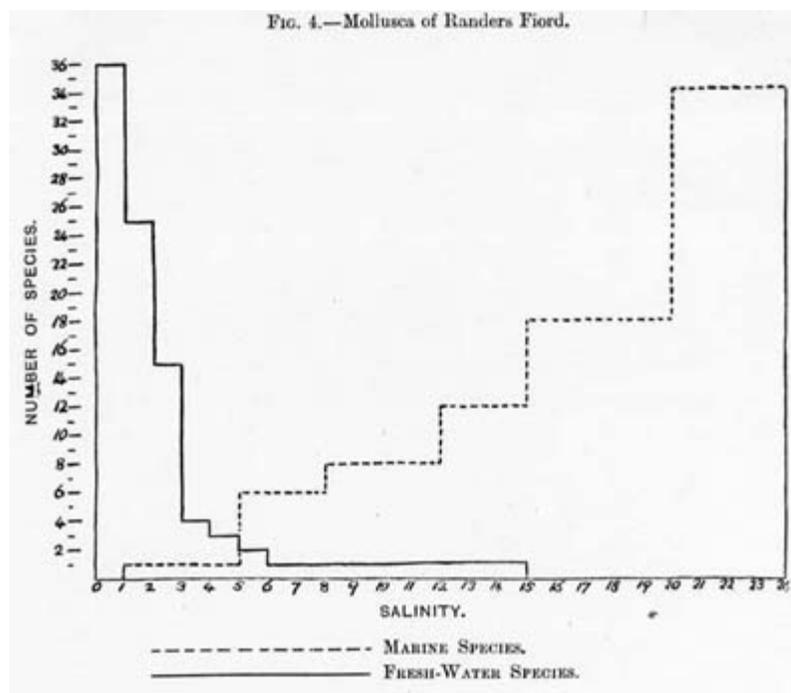
The Baltic is a marine area, with a marine fauna and flora. Such typically marine fishes as herring, sprat, garfish, cod, plaice, turbot, sandlance, lump-sucker, gobies, etc., are

widely distributed in the Baltic and are permanent residents ; in some years mackerel enter the Baltic in large schools and may range to the Gulf of Finland. There are other marine fishes such as whiting, gurnard, brill, sole, etc., that inhabit the southern Baltic, and others again that are found only in the south-west corner. The number of species of fishes resident in the Skaggerack that never enter the Baltic is relatively small. The cod ranges to the lower part of the Gulf of Bothnia, where the salinity of the water at the bottom is about 7. This fish is the object of extensive fisheries. The capture of spawning fish, and modern investigations of the distribution of the eggs and larvae, leave no room for doubt that the cod breeds in the Baltic (cf. Strübborg, Medd. Komm. Havunders. Fiskerei, VII, No. 1, 1922).

Some marine fishes enter fresh-water to breed, or for other purposes ; these may form freshwater colonies—which in time may become fresh-water species of marine genera ; but the great majority of the fresh-water fishes of the world belong to families that are restricted to fresh-water. There are many species of such true freshwater fishes, pike, roach, dace, perch, etc., in the countries round the Baltic. Several of them extend into the fresher parts of the Gulfs of Bothnia and Finland and into the slightly saline water inside the island belt off the coast of Sweden. The perch is generally considered to be most tolerant of some salinity of the water, and on the east coast of Sweden it is found not only between the mainland and the island belt, but sometimes outside the island belt.

In Mr. Prince's memorandum it is stated that the specific gravity of the water in Lake Melville is such as to prevent cod eggs from floating or to enable them to develop normally. It is also stated that cod eggs and fry find favourable conditions in water with specific gravity 1.021, and that if the specific gravity be reduced to 1.019 nearly the whole of the eggs sink to the bottom. The breeding and development of the cod in the Baltic require some explanation in face of these statements. Mortensen in 1897 discovered that in the Baltic the eggs of the sprat were 1.2 to 1.5 mm. in diameter and had a specific gravity of 1.006 to 1.007, whereas in the Limfiord they measured 0.9 mm. and had a specific gravity of over 1.017 ; he regarded

this as an interesting example of how an organism could adapt itself to conditions. This observation led to further work, which was summarized in 1908 in an important paper by H. P. Jacobsen and A. C. Johansen, entitled "Remarks on the Changes in Specific Gravity of Pelagic Fish Eggs" (Medd. Komm. Havunders. Fiskerei, III, No. 2). These authors write: "During the development of the ovary of fishes with pelagic eggs a series of processes are in progress which, among others, produce the result that the specific gravity of the eggs approximates to the specific gravity of the sea-water, so that generally just after spawning they keep just at the surface or suspended in intermediate layers, etc. In the same locality and at the same niveau the specific gravity of the eggs is not very variable, but if we regard the whole area in which the eggs of a certain species occur the range of variation in many cases becomes very considerable. *The specific gravity of cod eggs varies at least as sea-water between 8 and 35 per cent. salinity.*"



MOLLUSCA OF RANDERS FIORD.

It is a fair statement of the known facts to say that in water with a salinity higher than 5 the fish-fauna is predominantly marine. That this is true of groups other than fishes is exemplified by A. C. Johansen's researches on the mollusca of Randers Fiord (Blöddyrene i Randers Fiord, Copenhagen, 1918). The salinity of the water ranges from 0 to 24. The predominance of the marine species, immigrants from the Kattegat, in water with salinity higher than 5, and the inability of the majority of the fresh-water species to live in

water with a salinity higher than 3, is well shown in the accompanying diagram. Of 71 species, 36 are fresh-water, 34 are marine, and one only (not included in the diagram) is a brackish-water form, found in water with salinity of 1 to 20.

THE NORWEGIAN FIORDS.

Hjort (*The Depths of the Ocean*, pp. 477-8) has given a short general account of the invertebrate fauna of the Norwegian fiords, showing how the difference in physical conditions (temperature, salinity, etc.) and in the nature of the bottom, between the island belt and the inner parts of the fiords, determines the biological differences. There is a diminution in the number of species, some penetrating a greater, some a less distance ; but the fauna of the fiords is marine.

The first half of Dr. Hjort's description is sufficient to illustrate the general character of the littoral fauna of the inner parts of the fiords :—

“ *The Fjords*.—We have seen that the fauna of the littoral zone among the skerries, especially in the tidal area and laminaria belt, is abundant both in species and individuals. There is a diminution, however, as we penetrate farther into the fjords. In the tidal area of the inner fjords, and at greater depths also, we miss the limpet and the purple snail, while the hydroids to be found on the fucus in the skerries become less and less abundant, until even *Dynamena pumila* disappears.* This change in the fauna is mainly due to the decrease in salinity, since the surface of the inner fjords, for a greater part of the year at any rate, is occupied by a layer of less saline water in which these forms cannot thrive. Far up the fjords, however, in the tidal area, we get the barnacle, the mussel *Mytilus*, and the black periwinkle, which seem to be less affected by a difference in salinity, though even they require a certain percentage of salt, since they disappear, for instance, from the tidal area in the more enclosed parts of the fjords, where, owing to the great accession of fresh water, the salinity is particularly low. The mussel and black periwinkle, it is true, may sometimes occur even here also, but only in fairly deep water. We also find the horse mussel in the fjords. The great thickets of *Laminaria hyperborea*, which are so characteristic of the skerries, are absent from the inner fjords, and so are most of the forms associated with them. In their place, however, we get *Laminaria digitata* and *L. saccharina*, but in comparatively small quantities.

* It is interesting to note that *Dynamena pumila* is also found in the estuary of the Elbe as far up as Cuxhaven.

“ The difference between the inner fjords and the skerries is not so marked when we descend to greater depths, since a good many forms are equally at home in both. Some of the littoral fauna, like the lancelet, appear to avoid the fjords

altogether.* Two forms, which rarely ascend far up the fjords of West Norway, are the lobster and the common edible crab ; but the common shore crab (*Carcinus moenas*) penetrates to their inmost recesses. The big black sea-slug (*Cucumaria frondosa*) is another form which abounds among the skerries and in the outer parts of the fjords, but very exceptionally penetrates far in. No doubt their presence is due to the feeble currents, or the greater or less accessions of fresh water prevailing in the fjords—local conditions that are bound to affect the distribution of the fauna.”

FISHES OF HAMILTON INLET.

From the distribution of cod in the Baltic it is perfectly clear that if they do not penetrate into Hamilton Inlet beyond the Narrows they are not deterred by the decreased salinity of the water ; also that as they breed in the Baltic in regions where the salinity is 7 to 10 at the surface and 10 to 20 at the bottom, they will not be prevented by the salinity of the water from breeding in parts of Hamilton Inlet in which the salinity is 10 to 15 at the surface and reaches 26 at a depth of about 20 fathoms.

Cod live at depths down to 100 fathoms, but the majority of them do not go beyond 50 fathoms ; thus it may readily be admitted that the region immediately west of Henrietta Island, with shores descending steeply to depths of 150 fathoms or more, is quite unsuitable for cod. But beyond this, commencing with the Valley Bay—Neveisik Island district, are considerable areas of the right depth for cod, and it is not unlikely that cod may be found there, especially where the bottom is rocky, pebbly, or weedy. In forming this opinion I bear in mind the fact that the deep area west of Henrietta Island would be a check to the normal immigration of cod along the bottom ; but it would not, I think, act as an effective barrier cutting them off from the more favourable regions further west. Cod do not always swim at the bottom and in certain circumstances, e.g., when in pursuit of prey swimming near the surface or in mid-water, might occasionally cross this area. Moreover, larval fish might swim over, or be carried across by strong tides.

Dr. Hjort states that in Norway no immigration of cod takes place into fiords where barriers exist and shallow entrances lead into deeper and wider basins farther inland.

He had before him the memoranda prepared by Dr. Kindle and Mr. Prince, but not the fuller information as to the topography and hydrography of the Inlet which is contained in the Canadian atlas and hydrographical reports ; thus it may be doubted whether the Hamilton Inlet fully corre-

* The reason for this may perhaps be that the lancelet requires pure sand or shell-sand to live in, while the bottom of the fjords generally consists of mud.

sponds to the fiords he had in mind and whether in any of these

“ the deep basin behind the entrance ” is succeeded after a few miles by a region with large areas of comparatively shallow water. His reference to the “ possibility of an accidental and very rare inflow of water from outside ” is further evidence that his memorandum was prepared without knowledge of the tides and currents in the Narrows.

The only information available with regard to other fishes is that capelin “ were not seen ” west of Henrietta Island, that there are salmon fisheries, and that “ salmon-trout ” are caught west of Henrietta Island.

The capelin is a member of the smelt family (*Osmeridæ*). According to Smitt (*Scandinavian Fishes*) it “ never enters quite fresh water.” Collett has recorded that “ in Varanger Fiord there is a good and sure spawning place off the mouth of the Jacob Elf. At the flood the capelins ascend high up the river, as far as the water is brackish enough.” Jordan and Evermann (*Fishes of North America*) term the capelin a marine species that sometimes ascends streams. The eggs of the capelin are deposited in sand at the edge of the water, and if there are any sandy beaches in Hamilton Inlet the shoals would probably resort to them in the spring or early summer for breeding purposes ; from what is known of their habits elsewhere it seems unlikely that they would be deterred by the salinity of the water from visiting any part of the Inlet, except perhaps the extreme western end.

The salmon of Labrador is the same species (*Salmo salar*) as that of Britain. Its life-history has been very fully worked out. The adults make their way into rivers from the sea in order to spawn on the gravelly shallows ; when they have finished breeding they go back to the sea, or make the attempt, for many are so enfeebled that they die. The young fish live in the rivers until they are about 6 inches long, a length generally attained in two years, although the period may be longer ; they then make their way straight to the open sea, where they feed on other fishes and grow rapidly, attaining a weight of several pounds in a year ; after one or more years in the sea they return to the rivers to breed. For such fishes the Hamilton Inlet may be presumed to be mainly a passage leading to and from the rivers in which they breed ; it is improbable that more than a small proportion of either young or adult fish do more than travel through it. The migratory habits of the salmon are of great importance for the fishery, the object of which is to intercept the fish on their inward migration, either in the rivers or as they approach the river mouths.

The “ salmon trout ” mentioned by Dr. Kindle is presumably a char, *Salvelinus fontinalis*, for Jordan and Evermann state that “salmon trout ” is the Canadian name for sea-run individuals of this species. This is a smaller fish than the salmon and does not go so far out to sea ; it is probably resident throughout the Hamilton Inlet. It runs up rivers to breed and forms permanent fresh-water colonies in the rivers it enters ; in the breeding season the residents in the rivers would be joined by those ascending from the Inlet.

It is probable that in the rivers of the east coast of

Labrador there are no true fresh-water fishes, as these would have become extinct owing to the

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conditions that prevailed in the Glacial Period. The Hamilton River may possibly have established connections since which have enabled it to acquire a few species (e.g., *Catostomus catostomus*, *C. commersonii*, *Perca flavescens*), but these, if present, would not venture into the Inlet except in the immediate vicinity of the mouth of the river.

It may be noted that of the marine fishes common to Labrador and Scandinavia some have a wide range in the Baltic, e.g. Lump-sucker (*Cyclopterus lumpus*), sea-snail (*Liparis liparis*), and sea-scorpion (*Cottus scorpius*), and would not be deterred by the salinity from entering the inner part of Hamilton Inlet ; these, and other species also, may be expected to occur beyond the Narrows, especially in the bays, where the depth and salinity of the water would seem well suited to them. No investigation of the fauna of these bays seems to have been made, and until this has been done the statement that marine fishes do not penetrate beyond the Narrows cannot be accepted.

INVERTEBRATES OF HAMILTON INLET.

Dr. Kindle's report on the intertidal fauna and flora shows that in this respect Double Mer and the Narrows are typically marine. On nearly every boulder or rock outcrop in the vicinity of Rigolet are numerous barnacles (*Balanus balanus*) and periwinkles (*Littorina rudis*), but, according to Dr. Kindle, neither is found west of Henrietta Island. From the map it appears that for a distance of about 8 miles westwards from Henrietta Island the inlet is about 4 miles wide and is very deep ; the 50-fathom line is close inshore and the shores appear to rise abruptly from the water ; without having seen the place I cannot be certain, but I think it probable that in this area there is no intertidal zone with rocks, and that the apparent absence of barnacles and of periwinkles may be due to this. Dr. Kindle's statement does not appear to be founded on an examination of the fauna of Valley Bay and Etagaulet Bay ; if he has made such an investigation he has not given the results of it.

The barnacle, *Balanus balanus*, extends from the Arctic Ocean southwards to Cape Cod and the English Channel. It occurs at all depths from the surface, i.e., the intertidal zone, down to 90 fathoms. It is found in the south-western part of the Baltic, in a region where the average salinity of the surface-water is 8 to 10 ; this salinity appears to be too low for it, and in the littoral zone it is replaced by another species, *B. improvisus*, but it has been found in the Fehmarn Belt at depths of from 3 to 17 fathoms, where the average salinity at the lesser depth would probably not exceed 12, and has also been recorded from 15 fathoms well to the east of this (55° 16' N. 13·12' E.), where the average salinity of the water at this depth

appears to be less than 12.

From this it seems clear that the salinity of the water would not prevent this species from inhabiting the greater part of the Hamilton Inlet west of the Narrows ; in such areas as Valley Bay and Etagaulet Bay, if there are

rocks near the edge of the water, one might expect to see it, and provided there are rocks or other solid objects for its attachment it should be found at moderate depths a great deal farther west.

The rough periwinkle, *Littorina rudis*, is a widely distributed species that is found in Britain. It lives along the shore near the limit of high tides and spends a great part of its time out of the water. In the Baltic its distribution is said to be restricted to regions where the salinity is 7 or over, but elsewhere it has been found where the salinity is only 5-6 (e.g., in Randers Fiord). In face of these facts it is difficult to believe that the distribution of this species in Hamilton Inlet is limited by a salinity of 15, and further investigation may be expected to reveal its widespread occurrence west of the Narrows, wherever there are shores suitable for it.

The short lists of marine Mollusca from the Narrows and from Indian Harbour (C. pp. 1988 and 1989) include some European species. Of the bivalves *Mya arenaria* (sand mussel) and *Mytilus edulis* (edible mussel) extend in Randers Fiord into water with salinity as low as 5 to 6 ; of the Gastropods the common periwinkle (*Littorina littorea*) lives in the Randers Fiord in water of salinity 12 to 15, and the whelk (*Buccinum undatum*) in water of salinity 15 to 20. The last-named descends to considerable depths, so that for it, as for the others, the water in the greater part of the Hamilton Inlet beyond the Narrows is quite salt enough.

FLORA OF HAMILTON INLET.

The plants generally known as sea-weeds are fixed or attached marine algæ, a group of primitive plants that are primarily aquatic. Some sea-weeds live between tide-marks, others in deeper water ; they are most abundant on rocky shores, where there is a firm surface for their attachment. Many species tolerate a reduced salinity of the water ; for example, the Baltic has a considerable and varied sea-weed flora (cf. Hauck, *Marine Algæ of Germany and Austria*, Leipzig, 1885, and Svedelius, *Studies of the Baltic Marine Algal-Flora*, Upsala, 1901). Of the brown sea-weeds belonging to the Fucaceæ Hauck lists eight species for the North Sea, four of which occur in the Baltic. From these general considerations it seems that the inner part of Hamilton Inlet should have a sea-weed flora ; but there is no information on this point. Dr. Kindle tells us that a species of *Fucus* and the large kelp disappear from the shore west of the Narrows ; but does not the rocky shore suitable for them disappear here also ?

Completely aquatic plants, with floating or submerged leaves, are found in fresh water ; some of these are algæ and some are members of a higher group, the flowering plants ;

water-plants belonging to this group are secondarily aquatic, derived from land-plants. Dr. Kindle's list of flowering plants "believed to be adjusted to a coast-wise, lake-shore, or river habitat," includes not more than half-a-dozen that are completely aquatic (e.g., *Potamogeton heterophyllum*, *Ranunculus reptans*, *Callitriche palustris*, from p. 2520

Grand Lake and the Naskaupi River) and none of these is from the region between the Narrows and the mouth of Hamilton River ; there is no information at all as to the water-flora of this area.

The rest of the plants in the list may be roughly divided into two main categories. One of these includes plants that are found in marshy soil and along the edges of lakes and rivers. The other division includes the halophytes, most of which cannot well be described as "water-loving," as their adaptations to a habitat near the sea consist of devices for doing with as little water as possible, so that they do not take in much salt. The halophytes are a very mixed group, including plants that live at varying distances from the sea and on different kinds of soil. Dr. Kindle states that seven of the species in his list do not extend west of the Narrows, and he names three of them. On turning to the list we find that one of the three is "*not common* west of the Narrows." A second was found near Rigolet, but was "not seen elsewhere" ; the presence of this species at this particular spot and its absence elsewhere hardly justify any general conclusions. The third species was "not seen above the Narrows," but is correctly described as having a fresh-water and brackish habitat. These three species (*Polygonum viriparum*, *Ranunculus lapponicus*, and *Iris setosa*) are all widely distributed northern plants, and none of them is confined to the sea-shore. The *Polygonum* is a mountain species that extends southwards in America to the summits of mountains in New England. *Ranunculus lapponicus* is recorded in North America from the shores of inland fresh-water lakes, such as Lakes Nipigon and Superior. *Iris setosa* grows in a variety of soils, generally near fresh or brackish water, but sometimes in poor, dry sand. It is extraordinary that Dr. Kindle should write of these species that "the inability of these salt-loving plants to extend their range west of the Narrows affords very clear botanical evidence of the change that takes place in the salinity of the water west of the Narrows."

The evidence from the distribution of plants on or near the shores is so inconclusive and so remotely related to the question at issue that it does not demand further consideration.

CONCLUSION.

The general purport of the biological evidence put forward in support of the Canadian Case is to suggest that the marine fauna and flora do not extend beyond the Narrows owing to the reduced salinity of the water. I have disproved

this contention by showing that the species specially selected to illustrate it are found elsewhere in water of salinity as low as, or lower than, that of the Hamilton Inlet west of the Narrows.

It is admitted that the fauna and flora of the Narrows may be in part absent from the region immediately to the west, which would seem to be unsuitable for some of the species owing to its great depth and the steepness of the shores ; this admission would not, of course, include animals that swim at the surface or in mid-water, or floating plants.

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Dr. Kindle seems to have been so sure that salinity was responsible for the apparent disappearance in this region of certain species found in the Narrows that he did not think it worth while to find out whether they reappeared in the more shallow areas further west, in which the salinity is considerably higher than in the Baltic, where some of these species occur. The most striking feature of his report is the absence of any positive evidence as to the nature of the fauna and flora of the Hamilton Inlet west of the Narrows ; he does not record a single animal that he has obtained, nor one completely aquatic plant that he has found in this area.

In the absence of any information it may be assumed, from what happens in waters of like salinity elsewhere, that a marine fauna and flora extends nearly to the mouth of the Hamilton River.

C. TATE REGAN.

No. 1035.

**OBSERVATIONS BY VICE-ADMIRAL SIR
FREDERICK C. LEARMONTH, K.B.E., C.B., ON
THE HYDROGRAPHIC SURVEY AND REPORTS
BY THE CANADIAN GOVERNMENT OF LAKE
MELVILLE, HAMILTON INLET AND THE
NARROWS, 1921-21.**

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Basis of Remarks,
etc., etc.

I. The Materials upon which these Observations are chiefly based are the Dominion Government Chart No. 420 and the Hydrographic Report included in the Documents delivered with the Canadian Case. These Materials do not form so complete or satisfactory a basis for judging the characteristics of the area under discussion as they would have composed if they had included:—

(a) The Chief Hydrographer's Report;
(b) Sailing Directions for the area surveyed,
published by the Hydrographic Survey Department
Canada.

(See Atlas for enlargement at entrance to Lake
Melville taken from Canadian Chart No. 420.)

(c) The Original, Larger Scale and more Detailed
Survey of the whole of Lake Melville or portions such as
the Narrows, if, as I suppose, such surveys were carried
out.

Admiralty
Publications and
Nomenclature
— Hamilton Inlet.

Moreover an expansive sheet of water with deep
water throughout and a tidal stream of 5 knots in the
Narrows area and extending for 20 miles in length had to
be surveyed. Apart from the rigors of the climate, the
Labrador season is short and there are no facilities on the
spot for the conduct of survey. No Data were available
from previous surveys, so that a rigid Triangulation was
necessary over the whole area involving the
establishment of elevated stations in a trackless and
timbered country. Accordingly it is not unlikely that the
Time available proved insufficient for a survey in any
great detail.

The use of the
names Hamilton
Inlet and Lake
Melville.

II. The information published by the British Admiralty
under the superintendence of the Hydrographer of the Navy
appears in Vol II of the Newfoundland and Labrador Pilot 5th
Edition 1917 and the Annual Supplement thereto, the last
available issue being dated November 1924. The Admiralty
Charts include No. 375 Coast sheet published in 1876 under
the title “ Sandwich Bay to Nain including Hamilton Inlet ” :
so far as Hamilton Inlet is concerned the Chart is based on the
Survey by H.M.S. Bulldog in 1860 and incorporates the survey
work in the Inlet by H.M.S. Pelter in 1823. Chart No. 375 was
first published in 1864 and entitled “ Hamilton Inlet ” : the
1864 Chart shows the Pelter's track from Tub Harbour on the
Eastern extremity to Goose Bay at the head of Lake Melville.
Charts No. 222 and 1422 though they touch the area in
question are less valuable for the present purpose.

It is noteworthy that Chart No. 375 uses the term
Hamilton Inlet as covering the whole of Lake Melville. The
Eastern or outer portion of Hamilton Inlet extending so far as
the Narrows would be properly described as a Sound, but no
distinguishing name has hitherto been given to it in Admiralty
publications, the description Hamilton Inlet being used as
indicated above to

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Hamilton Inlet
(including Lake
Melville) a Sea

cover the whole Inlet as far as and including Goose Bay. A
probable reason why no separate name has been given to the
“Sound ” is that it affords no convenient shelter or stopping
places for vessels. So far as I am aware the use of the term has

Inlet. not been challenged until the present proceedings. It is true that the term is not so used in the Chart No. 420 included as No. 13 in the Canadian Atlas, but this chart does not clearly identify the actual geographical locality of Lake Melville and places the comparatively well known name Hamilton Inlet without prominence beyond the Narrows in the margin of the Chart. In spite of the materials disclosed in the documents appended to the Canadian Case I still consider that the descriptive Title used for Canadian Chart No. 420 is incorrect and certainly confusing.

The Narrows and Navigation.

III. For practical purposes a useful Test often adopted in determining what is an Inlet of the Sea is whether the waters in question are permanently navigable by ocean-going vessels. Such a Test is specially applicable to cases where, as here, no rivers navigable by such vessels flow into the waters under consideration. It was adopted by the Inter-Departmental Committee on the Limits of Territorial Waters appointed by the British Government in 1922. The many Government Departments concerned were represented on that Committee of which I was Chairman.

Navigation East side of Henrietta Id..

Judged by this Test the whole of Hamilton Inlet (including Lake Melville) is undoubtedly an Arm or Inlet of the Sea, for the whole of it is permanently accessible to the largest ocean-going vessels and without supplementary assistance such as tugs (see Atlas for enlargement of entrance to Lake Melville taken from Canadian Chart No. 420).

Navigation West of Henrietta Id.

The Narrows extending between Double Mer and Holme Points for a distance of 6 miles present no difficulty, there is no Tidal Bar or other natural hindrance. The Passages on both sides of Henrietta Island are navigable by large vessels. The navigable width of them is reduced for the most part to less than half a mile, but the water is deep and the coast "steep-to," nor are there any hidden dangers anywhere near mid channel.

The Passage E of Henrietta Island is 4 miles long and takes the form of the letter " S " with two sharp bends at Holme Point and the East extreme Henrietta Island, each turn amounting approximately to nine points of the compass or 101°. This Passage at its narrowest is 4 cables or 800 yards; its least depth exceeds 20 fathoms.

The West Passage following the Main Channel and passing E of Eskimo Island is 7½ miles long from abreast Holme Point to Lake Melville. It follows the general direction of the Narrows to the South West for 5 miles until half a mile North of Snook Cove then the Main Channel follows the gradually curving shore of Henrietta Island necessitating a steady alteration of course amounting to seven points of the compass or 79°, and passes to the East of Eskimo Island, and from there the channel to Lake Melville is open. From

Choice of Passage
on either side of
Henrietta Id.

Strathcona Point at the South end of the Narrows the width of the navigable channel to the South West expands to 1½ miles and rapidly contracts again South of Moliak Cove to 6 cables and to 3 cables (600 yards) abreast Snook Cove a width of 3 cables being maintained till lake Melville is reached. The least depth throughout is 10 fathoms N.E. of Eskimo Island : for the rest the depth varies between 15 & 40 fathoms. Except at Moliak Cove the shores throughout are “ steep-to.” The only hidden danger—to be considered—is the 9 feet rock just North of Eskimo Island and this rock lies well to the Westward of the main track east of the island. The Tidal Streams are given as having a strength of 3½ knots at springs North and West of Eskimo Island and may be assumed in the absence of observations without much risk of error to be of the same strength east of that island. The Canadian Report states that the main body of water flowing to and from the Sound was noticed to pass West of Henrietta Island, following the more direct line : it is probable that here the streams are of the greatest strength as compared with the velocity of the flow passing East of this Island.

Sea Inlets and
their General
Characteristics.

There is a Passage to the west of Eskimo Island available for small ships with local knowledge but it offers no advantage over the Main Channel east of the island, though it was the Passage followed by H.M.S. Pelter in 1823.

Both the two main Passages recommended above compare favourably in their navigable features with similar Passages in every day use by large ocean-going vessels elsewhere. The East Passage, though not so direct to the head at Lake Melville and requiring two pronounced but moderate turns would probably be preferred by a stranger, as being wider and shorter than the West Passage which affords advantage to unhandy vessels when meeting passing ships, the one turn here being a gradual one and less in amount.

IV. The length of the Inlet does not make it the less an Arm of the Sea. Long Inlets of two kinds are found elsewhere. Those of the first kind are narrow in width (about 1 to 5 miles), of great depth (exceeding 100 fathoms in many places), preserving a general direction with precipitous elevated shores and branching Arms to their head, where more often an unnavigable river empties from the watershed of the mountain gorges and valleys.

Those of the second kind are found on a broken but generally less elevated coastal region, where the sea coast recedes somewhat, forming a Bay or Sound with a narrow navigable Waterway at its head ; the Waterway, which is in places restricted to less than half a mile in width, seldom exceeds and generally falls short of 20 miles in length and is subject to strong Tidal Streams, gives access to an expansive sheet of water, forming a Basin ; the Basin generally exceeds 100 fathoms in depth, reaches up to a 100 miles in length, contains scattered islands and extends to other expansive

Basins with similar Waterways all of which however may not be navigable. The shores throughout Inlets of this second kind are generally moderately elevated

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Examples of Sea
Inlets.

and extend from a more distant mountainous background. Many rivers, usually unnavigable, some of large size with tributaries, debouch around the head of such an Inlet and form the drainage of an extensive watershed. The Inlets of both kinds are themselves generally permanently accessible through-out their full extent to the largest ocean vessels, which may however, in those of the second kind, owing to the presence of Tidal Bars or the strength of Tidal Streams, be restricted in traversing the Waterways to times near High Water or when the Tidal Stream is at moderate strength.

Such Inlets vary greatly in size, and may, with successive Basins which they form, extend for a distance of 150 miles to their navigable head.

V. Hamilton Inlet is an example of this second kind, which is Inlets, less familiar and of less frequent occurrence than the first kind of Inlet mentioned above. Comparison may fairly be made in the present case with Sea Inlets possessing similar characteristics to Hamilton Inlet with a few examples such as:—

BURRARD and MASSET Inlets on the sea coast of British Columbia, BRAS D'OR LAKE (which is enclosed by Cape Breton Island off the Coast of Canada), and those of the south west coast of New Zealand, the west coast of Scotland the coast of Alaska, the Patagonian channels of Chile, the coast of Norway, Mediterranean, China, and Eastern Archipelago.

In particular (see Admiralty Chart 922 in Atlas) BURRARD INLET embraces two large deep water Basins extending for a total distance of 24 miles from the Sound near Atkinson Point to the head of Indian Arm : it is permanently accessible throughout to ocean-going vessels by the first and second Narrows, where Tidal Streams run 6 to 8 knots at Springs with a least depth of 35 feet at Low Water.

MASSET INLET (see Admiralty Chart 3711, Canadian Chart 305 in Atlas) extends from the Sound near Wiah Point for 45 miles at its head and is accessible to ocean-going vessels crossing the Outer Bars, the least depth being 15 feet at Low Water. It traverses Masset Sound (20 miles long) and the mean breadth is half a mile. Tidal Streams run 5½ knots. The name Masset Inlet was first authoritively assigned to this previously imperfectly known large Inlet in 1909, when it was then first delineated by the Canadian Government Survey.

SANDWICH BAY (Admiralty Chart 263) on the Labrador Coast 30 miles South of Hamilton Inlet though smaller than the latter extends 30 miles from its entrance seaward of

Huntingdon Island to its head. The ship's Passage permanently accessible to ocean vessels is by the narrow channel eastward of Earl Island where the Tidal Streams are strong, when it expands to the Sandwich Bay basin 15 miles long with a general width of 6 miles and depths up to 60 fathoms.

The dimensions of SKYRING WATER (Admiralty Chart 21) in Chile are 50 miles by 10 miles with depth up to 340 fathoms. Skyring Water is acces-

sible to ocean vessels by Fitzroy Channel (12 miles long with width under half a mile : Tidal Streams run 5 knots : Tidal Rise 5 feet : Least water 30 feet at Low Water), hence by OTWAY WATER (47 miles by 16 miles with depth up to 330 fathoms : Tidal Rise 8½ feet) and Jérôme Channel (10 miles by 1 mile wide, deep and Tidal Stream 6½ knots).

Skyring Water is an example of two large Sea Inlets directly connected by a Channel permanently accessible to ocean vessels.

Larger still though similar in essentials are :

(1) the SEA OF MARMORA (110 miles by 40 miles wide over 700 fathoms deep) permanently accessible by the Dardanelles : the channel being 35 miles long with a least width of ¾ mile and a least depth of 25 fathoms, and

(2) the BLACK SEA with a length of 630 miles greatest breadth of 330 miles and a depth up to 1200 fathoms, permanently accessible by the Bosphorus Channel 17 miles long with a width varying from 1½ miles to slightly under ½ mile and a least depth of 20 fathoms. It has been established that both in the Dardanelles and Bosphorus there is a permanent outward flow of the Upper Strata water into the Mediterranean having a velocity of 4 knots, whilst in the lower strata a counter current reaching to near the bottom prevails setting inwards from the Mediterranean having a Density and Temperature of that sea.

Tidal
Observations and
Slope of the
Surface Water in
the Narrows of
Hamilton Inlet.

VI.

I now propose to consider the nature of the LEVELLING, TIDAL AND CURRENT OBSERVATIONS obtained and the scope of the conclusions to be drawn from them.

Precise *Tidal observations* were obtained by Canadian Officers continuously throughout two complete Lunar months during August-October 1923, as set out in Part XIV of the Canadian Government Report. Automatic Tide-Gauges, were functioning during this period at two Tidal Stations, chosen as reference points of which the first was situated near Lester Point just seaward of the Narrows and the second a short way within Lake Melville on the shore of the north entrance to the Backway.

Although the time available was short, and it was not possible to employ the test of a closure for the actual levelling observations between the two Tidal Stations, the following conclusions as to the determination of the Tide Level Slope between the two Stations mentioned may be accepted as substantially accurate during the period embraced.

(a) That at any instant throughout the period of the

observations there was a Definite Slope of the water surface between the two Stations, the Mean Tide Level of the Lake Melville Station being higher than that of the Lester Point Station.

Causes for the differences of Slope of the Surface Water in the Waterway and its permanency not established.

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(b) That the Average Difference between the Mean Tide Levels of the two Stations during this period was 5 inches.

(c) That the Difference was not always constant, but subject to variations at the times of Spring and Neap tides, being greater during the outgoing than the incoming tide, and greatest during the Neap tides.

VII. This Difference of Mean Tide Level determined between August and September is accepted in the Canadian Report as not being an unchanging quantity representing a permanent difference between the level of Lake Melville and Mean Sea Level but the Difference of Level between the Stations for that period. It is in a great measure accounted for by the volume of water in excess of the inflow, due to the accumulation, mostly near the surface, of the fresh water whose progress seaward is arrested after its discharge into Lake Melville ; the water thus held up in Lake Melville is only able to pass out with the Ebb stream ; and the longer duration and greater strength of the Ebb are not sufficient to maintain a common level throughout the system, and restore equilibrium, before the advent of the succeeding Oceanic Tidal Undulation or the commencement of the Flood stream (these two latter features being separated by a considerable interval).

The fact that the Variation of the Surface Slope found between the two Stations or Gauge Points was greatest at Neap Tides, is to a larger extent explained by the variation in the volume of the water that passes in either direction to or from Lake Melville during Spring and Neap Tides. A further contributing cause is that the Times of High and Low Water due to the same Tidal Impulse, differ by some 3¼ hours at the two Stations, the Time of each occurrence being later at the Lake Melville end of the connecting Waterway than at the Lester Point end.

It is natural to suppose (in the absence of more specific observations to determine this point) that the Turn of both Flood and Ebb streams occurs at approximately the same time at each end of the Waterway, so that the upper strata of the water throughout the Waterway must be assumed to run in one direction only at any instant, subject to slight variations near the times of Slack Water at Spring or Neap Tides. Consequently when it is High Water at the Lake Melville end of the Waterway and the Flood stream will continue throughout the Waterway for a further 1½ hours, the Tide (as measured by vertical change) has been falling at the opposite

end of the Narrows, for some 3¼ hours. At Low Water the conditions are approximately reversed. Each phase would operate to retard the natural flow of the water outwards from Lake Melville, by producing a cushioning effect there, which would be greatest with the outgoing stream and with the weaker tides. This consequent increase of slope would then diminish as the cycle continued with the 40 restoration of equilibrium at the ends of the Waterway (where the physical forces operating at any moment are more often dissimilar).

Further Variations in the Slope will arise from temporary and changing local conditions, such as the volume of fresh water which Lake Melville is

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Necessity for more prolonged and detailed observations in order to determine the permanent existence of a difference of Mean Surface Level Water of Lake Melville and the Seaward Sound of Hamilton Inlet.

receiving, the strength and duration of the wind in one direction, and any change in the normal turn of the lower strata of water in the Waterway, which, as appears from the observations, generally took place both on the Ebb and on the Flow earlier than the turn of the surface layers.

Doubtless Small Differences of Level such as are here under review occur in portions of other Sea Inlets similar in general configuration and conditions to Hamilton Inlet, and they might prove to be either of a permanent or a seasonal character, if it were expedient or practicable to determine them.

VIII. The Period embraced by the observations must also be carefully noted. They were limited to a Period of two months, at the end of the summer in a particular year, and conclusions correctly drawn for this Period may not be true for other Periods, and should not be taken as a permanent state of the physical conditions that occur. Thus the Difference in Level found may be seasonal only, and due to the fresh water accumulating in the broad expanse of Lake Melville during the summer flood and then making a gradual egress through the Narrows.

Nothing short of a Prolonged Series of Observations would suffice to establish with certainty the existence of any Permanent Difference of Level between the inner and the outer portions of Hamilton Inlet. It would be necessary to exclude all occasional and temporary variations due to the divergent character or effects of physical conditions, natural forces and seasonal changes, and to determine in isolation from all these the true Mean Sea Level of the Sound seaward of the Narrows on the one hand and of the Mean Level of Lake Melville on the other. And they would have to be determined with great precision, when the purpose was to ascertain and account for small differences. At least one year's continuous series of observations and preferably more would be required to determine the Mean Level of the seaward Sound ; and to do the same for Lake Melville, in view of the seasonal variations in rainfall, snowfall, melting of snow and ice, barometer pressure and winds affecting it, the observations should extend over a Longer Period of time and not be confined to one place

Comparison of Slope, River St. Lawrence and the Narrows of Hamilton Inlet.

in Lake Melville.

IX. When attempting to compare the Slope of the River St. Lawrence with the slope which has been deduced for the Narrows of the Hamilton Inlet, certain cautions should be regarded:—

(a) The levelling observations referred to above were not sufficiently prolonged or extensive to prove the existence of any permanent Slope in the Narrows;

(b) In the case of the St. Lawrence, the Gulf of that name an undoubted Inlet of the Sea, which gradually as it is ascended merges into the well known river system in order to define a division between the two, some more or less arbitrary line of demarcation a choice of criteria must be adopted ; in the case of the Hamilton Inlet, where all

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vessels have natural permanent access from the open sea free of all obstruction, by means of a short deep narrow connecting Waterway to a Sea Basin which is navigable without hindrance to its head, no river enters into the question.

The Marine Character of Hamilton Inlet including the Inner portion, Lake Melivlle and Goose Bay.

(c) Lake Melville is nevertheless an Arm of the Sea, although owing to its expanse, depth of penetration into the interior of the country and general configuration it possesses the characteristics of a Sea Inlet in a less degree than the Sound seaward of the Narrows, as is manifested by the change in the features of the Flora and Fauna within this Sea Basin.

X. The Marine Character of Hamilton Inlet in its whole extent, including Lake Melville and Goose Bay, is not merely the effect of the Oceanic Tides. If the amplitude of the Tidal Wave impinging on the Labrador coast were very much less than it is (6 ½ feet maximum), doubtless a constant outflow of surface and upper strata water, largely fresh, with a sluggish stream, of a higher temperature than that in the Sound, and liable to freeze, would, in normal weather and in the absence of easterly winds, prevail in the Water-way connecting the Sound with Lake Melville. Lake Melville would then be practically without any Tidal Rise and subject to seasonal changes of level only. At the same time the lower strata of water in this connecting Waterway would be found to be constantly running in from the Ocean, maintaining a general Salinity and Temperature of the sea water standard throughout the lower strata of Lake Melville. The Conditions would then

(a) Diminished Tidal Range in the Waterway to and in Lake Melville.

(b) Retardation of the inward progress of the Tidal Wave.

(c) Greater velocity and longer duration of the Ebb Stream in the Narrows.

Density and Temperature of the Surface and sub-Surface Water.

Climatic Conditions of Hamilton Inlet including the Lake Melville portions and on the Labrador Coast.

be similar in some aspects to those prevailing in the Dardanelles and the Sea of Marmora (referred to above in paragraph V) and in other Sea Inlets where the Tidal Rise is small. In severe winters the Waterway might freeze throughout, and all passage be barred, as in the case of Lake Melville : all the other features would remain the same.

XI. The Canadian observations establish that the Range of the Tide decreases rapidly during the retarded progress of the Tidal Wave through the Narrows to the entrance of Lake Melville; from there the now diminished Range continues at the same height as the Tidal Wave advances without restriction across the deep and expansive Lake Melville and increases slightly owing to the contracted width of the wave at Goose Bay. These are normal features for a Sea Inlet of this configuration and depth.

The Greater Velocity and Longer Duration of the Ebb Stream than the Flood Stream at Rigolet are equally normal for a Sea Inlet, where a connecting Waterway, with a moderate Tidal Range, expands into a large deep Basin, into which a very extensive drainage falls from the distant watershed of the interior.

The Difference of 3 to 3 ½ hours between the times of High and Low water in the seaward Sound and Lake Melville is of course due to the Retardation of the Tidal Wave in its progress through the Narrows. But on account of natural forces which delay the outflow of water from Lake Melville, the

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water does not attain its maximum height at the entrance, until some time after the arrival of the crest of the Tidal Wave.

Retardation in the advance of a Tidal Undulation is a common feature in Sea Inlets and is dependent in its degree upon the depth, width and sinuosities of any Waterways offering obstruction to its travel.

XII. The observations with regard to the Density of the water established the following conclusions:—

Surface Water (a) at the head of Lake Melville it was almost permanently fresh and fit for drinking ; (b) at the Narrows its average density near the end of the Ebb stream was 58% of the density of standard sea water, and near the end of the Flood stream 76%; (c) in the seaward Sound between Rigolet and Indian Harbour the fresh water impregnation disappeared.

The Lower Strata had the full salinity of sea water throughout the whole extent of the Inlet up to the head of Lake Melville.

The distribution of Fresh Water on the surface, due to the drainage into Lake Melville of rain water and melted ice and snow, may have been abnormally large in the 1923 season, but

the presence of fresh water at the head of a Sea Inlet is a constant feature which was well known to early voyagers, was taken advantage of by them for various purposes, e.g. for cleaning the bottom, boiler water, etc., and was continued with the advent of iron and steel vessels until the world wide distribution of docks rendered this expedient no longer an economic one.

The difference in Temperature near the surface of the waters in the seaward Sound of the Inlet and those in Lake Melville may be attributed to the influence of the cold Arctic current which setting permanently southward skirts the Labrador coast, ice in some form here prevails at all seasons of the year, "field" and "bay" ice during the winter and "polar bergs" during the summer. Only a comparatively small quantity of ice in a broken form passes into Lake Melville from the sea.

The severity of Climatic Conditions on the rugged and open sea board of Labrador, fully exposed to the Atlantic, is unique for its latitude (which is the same as the Port of Liverpool) and caused by the continued presence of the ice, the Arctic current and sea fogs, is much modified in Lake Melville where these causes cease to operate. The softening of the Climatic Conditions produces changes in the Fauna and Flora to be found between the mouth of the Inlet and the head of Lake Melville, changes which are paralleled in other Sea Inlets, though the exceptional conditions prevailing on the open sea-board of Labrador together with the large drainage system emptying into Lake Melville heighten the Climatic contrast and make the changes unusually great.

Final conclusions
and Remarks.

XIII. On consideration of the Hydrographical and Geographical evidence now available, especially the excellent testimony afforded by Chart No. 420

of the Canadian survey of 1921, I am unable to agree with the general description of Lake Melville or of that of the connecting Waterway or with the consequential deductions contained in paragraph 18 of the Canadian Case.

The suggestion in that paragraph that the connecting Waterway between Lake Melville and the Sound extends seaward as far as Titoralak and Turner headlands, 10 miles from the entrance to the Narrows is in my opinion entirely incorrect.

With regard to the contention that the term “ Coast of Labrador ” could not properly be used to designate the Labrador Peninsula or any considerable subdivision of it, it is not difficult to cite instances of large Districts and Countries within the British Empire which are generally and authoritatively described in their whole extent by names including the term “ coast ” e.g. Gold Coast, Gold Coast Colony, Malabar Coast.

Finally without any consideration to the preceding remarks and as viewed from another standpoint, there appear to me to be sufficient reasons of Imperial Policy against placing Lake Melville in the category of River Systems, instead of, as heretofore among the Sea Inlets, inasmuch as a new precedent would be thus set up which would involve a general re-classification of similar Water Basins joined to the sea and an alteration in the standards now applied to determine their nature, and further any such change might very likely serve to prejudice the position of the British Empire, as a maritime power, in any future Territorial disputes or Congresses with other Nations.

PART XV.

**DOCUMENTS DESCRIPTIVE OF TOPOGRAPHY OF
THE COAST OF LABRADOR AND OF CONDITIONS
IN GENERAL ON THE COAST**

No. 1036.**TOPOGRAPHY OF THE NORTHEAST COAST OF
LABRADOR.**BY REGINALD A. DALY, S.D., F.R.S.E., CHAIRMAN OF THE
DEPARTMENT OF GEOLOGY AND GEOGRAPHY, HARVARD UNIVERSITY.

To understand the topography of the Labrador coast, one may well take a preliminary glance at the geological history of the region.

GENERAL SKETCH OF THE GEOLOGY.

From Belle Isle Strait to Ungava Bay the island belt and mainland of Labrador are almost entirely composed of very ancient rock-formations. These formations are typical of the Basement Complex of the North American continent. While some of them have the features of the so-called Huronian Series of rocks, the larger part of the coast-belt appears to be still older and to be "Archean."

Characteristic of such old, pre-Cambrian rocks throughout the world, is their mountain-structure. So it is along the whole northeast coast of Labrador. Long ago, namely in later pre-Cambrian time, the rocks of Labrador were everywhere folded, broken, jammed together, in a way quite similar to that illustrated in the cores of any of the much younger mountain chains, like the Alps or the Coast Range of British Columbia.

After these enormous, very ancient disturbances of the Labrador formations came to an end, the peninsula was much more rugged than at present ; its steep topography was analogous to that of the Alps, but the deformation was not confined to a relatively narrow belt, like the Alps. On the contrary, the very rugged mountainous relief of this pre-Cambrian era seems to have stretched continuously from the line of the present coast all across the Labrador peninsula into Quebec and beyond.

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Because this old, mountain-land was high, it was

subjected to erosion or denudation. The processes of erosion were slow, but sure, so that, already in late pre-Cambrian time, the mountainous relief was worn down close to sea-level. The rugged topography finally evolved into that of a low-lying, almost plain surface. Such a surface is called, technically, a peneplain. It is probable that a few residuals of rock-masses, specially slow to yield before the attack of weathering and erosive agencies, long remained above the general levels of the peneplain surface. Yet, in general, mountain-*form* (great height and ruggedness) was largely lost throughout Labrador. The worn-down roots of the ancient complex remain to this day. Everywhere the dominant Labrador rocks have preserved their mountain-*structure*.

Along the northeast coast there is only one limited area where the preceding description needs modification. This area occurs at and near Cape Mugford. Here the dominant basement complex of rocks, after its profound erosion, was buried under a thick mass of volcanic rocks and associated strata which were laid down, in a nearly horizontal position on the old surface of erosion. This younger formation is called the Mugford Series of rocks. These have been deformed only to a moderate degree; hence, over an area of 200 or 300 square miles, around Cape Mugford the structure and relief of the coastal belt differs markedly from all the rest of the belt from Belle Isle to Cape Chidley.

Long after the Labrador peneplain was formed, the whole peninsula, including the northeast coast, was warped. Extensive areas were uplifted so as locally to reach heights of a mile or more above sea-level. Other extensive areas were warped down below sea-level.

Areas of specially strong uplift include the highlands called the Mealy Mountains (south of Hamilton Inlet) ; the Kiglapait block (between Nain and Cape Mugford) ; the Kaumajet Mountains (at and in the vicinity of Cape Mugford); and the Torngat Mountains, the highest of all. (The Torngats stretch from near Hebron to Cape Chidley).

Areas of strong downwarp or subsidence are represented by Ungava Bay and by the submerged, coastal shelf which extends from Belle Isle to Ungava Bay. In these two extensive areas the ancient peneplain is completely drowned, out of sight under the Atlantic water.

The uplifted parts of the old-mountain peneplain were immediately attacked by the erosive agents. The chief agent was running water. The rivers began to cut gorges and canyons in the new highlands.

Then came the Glacial period. With the exception of a few of the highest peaks in the uplifted land north of Cape Mugford, the whole of the Labrador was covered by an ice-cap, comparable with the Antarctic ice-cap of the present day. This Labrador glacier slowly scoured away the soil and quarried away much rock from the solid ledges of the peninsula. Such glacial erosion was most pronounced in the river canyons which had already been cut on the Torgat and Mugford uplifts, but everywhere the Labrador topography was

changed in quality by this glacial attack. The huge ice-sheet worked differentially; here quickly scouring out rock-basins—there smoothing hills

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which it could not destroy. In this way the well-graded peneplain was transformed into a maze of rounded hills and hollows. The topography of Labrador in general had become *hummocky*. Since the ice-cap went out to sea and scoured and quarried the sea-floor also (where less than 100 fathoms or so in depth), the hummocky topography was developed far out on the submerged shelf all along the coast.

Both before and after the Glacial period, the Atlantic waves have cut into exposed headlands. Hence at many points the coast is “steep-to” with sea-cliffs reaching 100 feet to 2,000 feet in height.

Finally, it should be noted that the Labrador peninsula as a whole was temporarily depressed during the Glacial period—simply by the great weight of the ice. After the ice-cap melted away, the earth's crust did not immediately respond and rise to its pre-Glacial level. Hence for a considerable time the Atlantic water transgressed upon the coast. During this late-Glacial and post-Glacial submergence of the northeast coast, the ocean waves built hundreds of short beaches in the bays and among the islands of the coastal fringe. These beaches have recently been elevated, because the earth's crust ultimately responded to the removal of the ice-load. These elevated beaches are found at heights of from 250 feet to 400 feet above present sea-level.

The elevated beaches and those now forming represent practically the only loose material on the Labrador coast. Everywhere else along the shores of islands and mainland, hard, solid bed-rock forms the surface and that surface is characteristically strongly sloping or hummocky. There is good reason, therefore, for the common rule along the coast, that settlements and cemeteries are located on elevated beaches. The almost universal absence of a true soil along the shore is also largely explained by the severe washing of the shore-belt during the recent submergence.

TOPOGRAPHIC UNITS TRANSVERSED BY THE NORTHEAST COAST

1. Throughout the southern half of the northeast coast, that is, from Belle Isle Strait to Ford Harbor, near Wain Mission Station, the general shape of the country is determined by the seaward downwarping of the old-mountain peneplain. The downwarping of its ice-scoured surface was gentle, so that there is a more or less persistent fringe of low islands along this half of the coast. These islands are simply the hummocky hills of the peneplain where this great surface was drowned under the Atlantic water. The islands here range in height from a few feet to about 600 feet. The average height of the islands rises slowly from the side of the open ocean toward the mainland.

The mainland itself has the same hummocky quality, and

its average surface level rises slowly toward the interior of the peninsula. The water divide is 20 to 100 or more miles inland from the shore of the mainland. The position of the divide or “height of land” is fixed by irregularities in the warping of the old-mountain plain, as well as by the differing amounts of glacial erosion on the peninsula. Neither of these conditions affords any clear-

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cut separation of a coast-belt from the main body of the Labrador peninsula. Though the old mountain structure tends to parallel the northeast coast, there is no well-defined mountain range along the coast in the region south of Nain. Occasionally, hills, somewhat higher than the average, do interrupt the coastal profiles, but they are isolated and not parts of a continuous, northwest, southeast chain.

HIGH MOUNTAIN BLOCK FROM NAIN TO MOUNT THORESBY (PORT MANNERS).

2. A little south of Nain, a large mass of massive, strong rock crops out in bold, steep mountains which rise directly out of the ocean water to heights of 600 to 1,500 or more feet. This bold topography may be due partly to specially great upwarping of the old-mountain peneplain, but probably the high relief is due to the nature of the rock—technically called a gabbro.

This rock covers an area, probably 40 miles long, as measured along the coast, and extending far into the interior of country. The seaward edge of this massif of “Nain gabbro” is cut by steep-walled, fiord-like valleys, some of which have been so drowned as to form through-going channels, the seaward mountains of gabbro constituting high islands with steep-to shores on all sides.

THE KIGLAPAIT MOUNTAIN RANGE.

3. Immediately north of the Nain gabbro mountains is a short, but rather spectacular range running east and west along the mainland shore. This range, called the Kiglapait by the Eskimos, has never been explored, but photographs, from the sea, show that this local, east-west range rises directly from salt water. The individual peaks appear to have heights varying from 2,000 to 2,500 feet.

KAUMAJET MOUNTAINS.

4. From the bay just north of the Kiglapait nearly to Mugford Tickle, a distance of about 30 miles, the topography is not so bold and there are a number of islands which form a fringe, analogous to the island fringe from Nain to Belle Isle Strait. However, these islands are on the average higher, some reaching 1,000 feet or so in altitude. In fact, the coast-belt all the way from Nain to Cape Chidley, may be described as high,

rugged, and steep-to on its seaward side.

At and around Cape Mugford we have the remarkable and quite special topography, due to the presence of the Mugford series of rocks, above described. The relatively flat position of these beds of rock causes the sea cliffs to be here very steep. Because the bedded series is thick, the cliffs are lofty, ranging from 1,000 feet to 2,000 feet or more in height above the sea. Those elevations characterize both the mainland portion of the Kaumajet Mountains and the large island of Oqualik, which appears to be a seaward continuation of the Kaumajet Mountain group.

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5. The remaining element in the coastal topography is the Torngat Range, which becomes individualized only a short distance north of the Kaumajet Mountain group. The Torngats represent a belt of the old-mountain peneplain, where upwarped higher than anywhere else in the Labrador peninsula. This belt of the earth's crust was hoisted up 3,000 to about 5,000 feet, either by arching or by tilting. Since then rivers and local glaciers have cut deep canyon-like valleys and true fiord valleys, the relief finally becoming much like that of western Norway, except that the Torngats are not fringed with a low coastal flat and series of low islands, as is the case with the Norwegian Mountain system.

Almost everywhere the Torngat Mountains descend abruptly into the salt water of the fiords or of the open ocean.

SUMMARY OF THE GENERAL TOPOGRAPHY OF THE NORTHEAST COAST BELT

It thus appears that the four principal topographic units of the northeast coast, north of the latitude of Nain, together represent an almost continuous mountain land. This high ground bears a water divide situated from 10 to 75 miles from the northeast coast, and probably everywhere not far from half-way between this coast and George River. With the exception of a few bay-heads and a few islands, the shore does not permit of settlement, for any purpose, the sea-cliffs and mountain slopes rising elsewhere steeply out of salt water.

Taken as a whole, the Nain-Kiglapait-Kaumajet-Torngat Mountain group is a distinct entity, a distinct topographic province of the Labrador peninsula. To seaward this province is sharply bounded directly by the Atlantic shore-line. On the west the province fades into the general, lower, more plateau-like interior of the Labrador peninsula.

Evidently this mountain land is of no value to the fishing industry except as it supplies a few harbours and sites for fishing stages in fiords and other bays. The contrast with the coast-belt south of Nain, with respect to the abundance of safe harbours, is striking. Thus, between Saeglek Bay and Nachvak Bay, the only safe anchorage is at Ramah. The climate is against the use of the rare shore flats, for the purpose of drying fish successfully. In the almost complete absence of tree

growth, fire-wood and other timber, useful to fishermen, are practically non-existent in this half of the northeast coast. It is safe to assume that, in the pursuit of his business, any fisherman would not need to penetrate inland more than a few hundred of yards at any point on this part of the coast.

South of Nain, throughout the southerly half of the northeast coast, and around to Blanc Sablon, there is no similar separation of the coast belt from the rest of the Labrador peninsula.

Here the old-mountain hummocky peneplain rises rather gently to the general plateau level of the Labrador peninsula. There is a height of land or water-divide far to the westward, but this divide is not that typical of a mountain range. It has been determined chiefly by an almost insensible

warping of a peneplain. Viewed geologically and topographically, I can see no reason to differentiate the coastal belt from the great interior of the Labrador peninsula.

This southern half of the coast has abundant harbours, sites for fishing stages, and locally sufficient woodland to furnish fire-wood, needed by settlers and summer fishermen. According to observation, many of the islands are of use to the fishing fleets. Many bays of the mainland are similarly useful to them. On the other hand, the fishermen appear to make no practical use of the country more than one or two miles back from any bay-head. Elsewhere it is difficult to imagine their need of at any time occupying or doing business farther from the actual shore than a quarter of a mile. Drying-grounds are practically never situated at so great a distance as 200 yards from the shore. Practically the only sites flat enough for buildings are on the rocky islands, a few rocky places on the mainland within some hundreds of yards from the shore, and on the elevated, old sea-beaches, which are close to the present shore (usually less than a quarter of a mile).

GENERAL CONCLUSION.

To me it seems clear that there is no topographic basis for distinguishing a definite coastal belt along the eastern side of the Labrador peninsula from the rest of the peninsula. The fringe of islands is a perfectly distinct entity and can be rigorously represented on a map. The difficulty is to delimit a coastal belt, inland from the actual shore of the mainland. Logically, I can see no help from the fact that the Torngat Mountains, for example, form a rather distinct range, rising from and parallel to the Atlantic shore. The only rigorous criterion for subdividing eastern Labrador on a topographic basis is the use of " heights of land " or water-divides. Yet even this mode of subdivision is not founded on any principle involving any human relations to the country ; nor is it founded on any scientific principle, when applied to the whole stretch from Blanc Sablon to Ungava Bay, for the rock formations on the two sides of any of the principal water-partings are indetical.

On the other hand, while there is no possible geological or geographical criterion for accurately defining a coastal belt or strip, yet, for the practical purpose of fishing, the Labrador coast-belt can be defined rather closely. The belt of land useful in the fishing industry must include practically all the islands, and as well the local flats, sporadically located at the actual shore of the mainland, and extending inland at each place a few hundred yards. It is possible, however, that at some points as, for example, Sandwich Bay, land situated a few miles up the rivers might be fairly included in the fishing-rights belt of coastal Labrador, if it should be found that fishermen go so far from the seashore to secure fire-wood or other timber useful in

their business. The rest of the land called Labrador might as well be on the other side of the world so far as the welfare of the fishermen on this coast is concerned.

No. 1037.

**TYPICAL VIEWS OF THE TOPOGRAPHY OF THE
LABRADOR COAST FROM PHOTOGRAPHS TAKEN
BY Dr. REGINALD A. DALY.**

I.

VIEWS OF THE TORNGAT MOUNTAINS SEEN FROM OPEN ATLANTIC JUST
SOUTH AND NORTH OF ENTRANCE TO NACHVAK BAY.



1.—Razorback Ridge 2500 feet, just north of entrance to Nachvak Bay.



2.—Mountain 2000 feet, 4 miles north of the entrance to Nachvak Bay.



3.—2000 foot mountain ridge near mouth of Nachvak Bay.



4.—Looking north-east at north side of entrance to Nachvak Bay. Mountains about 2500 feet high.

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5.—Looking south-east at south side of entrance to Nachvak Bay. Mountains 1500 to 2000 feet.



6.—Bight just north-west of Gulch Cape, near entrance to Nachvak Bay. Mountains 2500 to 3000 feet high.
p. 2542

II.
VIEWS IN NACHVAK BAY OF TORNGAT MOUNTAINS.



7.—South side of Nachvak Bay looking south by west. Mountains up to 3500 feet high.



8.—Nachvak Bay (fiord) looking up north-west arm.
p. 2543



9.—General view of Torngat Mountains from top of Ford Mountain, 3700 feet above the sea, Nachvak Bay.



10.—Looking north from top of Ford Mountain.



11.—Looking north-east from top of Torngat Mountains.



12.—At 2200 feet above sea level, looking up north-west arm of Nachvak Bay.

III.
VIEWS AT AND NEAR CAPE MUGFORD.



13.—View of Bishop's Mitre, 2500 feet high north of Cape Mugford), from open Atlantic.



14.—Cliffs, 1500 feet high just north of Cape Mugford, facing open Atlantic.
p. 2546



15.—Cliffs 1000 to 1500 feet high, just north of Cape Mugford.



16.—Cape Mugford, cliff 1500 feet high, facing open Atlantic.
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17.—The cliffs on the north side of Mugford Tickle.



18.—The Kaumajet Mountains, looking north from Mugford Tickle.

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19.—Looking inland from open Atlantic into Mugford Tickle (Kaumajet Mountains).



20.—Nanuktut Island and south side of north-west end of Mugford Tickle.



21.—Cliffs 1000 to 2000 feet high in Mugford Tickle.

IV.

VIEWS AT PORT MANVERS JUST SOUTH OF THE KIGLAPAIT MOUNTAINS.



22.—View at altitude of 575 feet looking south-east, Port Manvers

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23.—View at altitude of 850 feet looking towards Tholia Point, Port Manvers.



24.—Elevated beach, 210 feet high, Port Manvers.
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25.—Raised beach of gravel, Port Manvers ; mainland on left.

V.

TYPICAL VIEWS FROM FORD HARBOR TO HAMILTON INLET NEAR NAIN.



26.—Gabbro Hills, near Nain, about 600 feet high.
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27.—



28.—Ford Harbor.
p. 2553



29.—Hopedale.



30.—Typical view in island fringe south of Hopedale.



31.—Glacial plucking, head of Ailik Bay.



32.—Summer's Cove, Ailik Bay.



33.—Terraced beach (elevated), Ailik Bay ; Mount Altagaiyavik in distance more than 1000 feet high.



34.—Raised beach, 140 feet above sea, Sloop Harbor.
p. 2556



35.—335 foot hill looking south-west, Sloop Harbor. Typical topography of island fringe and mainland.



36.—View on mainland 3½ miles west of Cape Pomiadluk. Elevated sea-cliff on right foreground 235 feet high.
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37.—View of wave washed rock beach, 3½ miles west of Cape Pomiadluk ; mountain in background about 1100 feet high.



38.—Another view of the beach shown in No. 37.
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39.—Sandy Island (east of Paul's Island) ; raised beaches.



40.—Indian Harbour Tickle, looking north-north-east, highest hill about 300 feet high.

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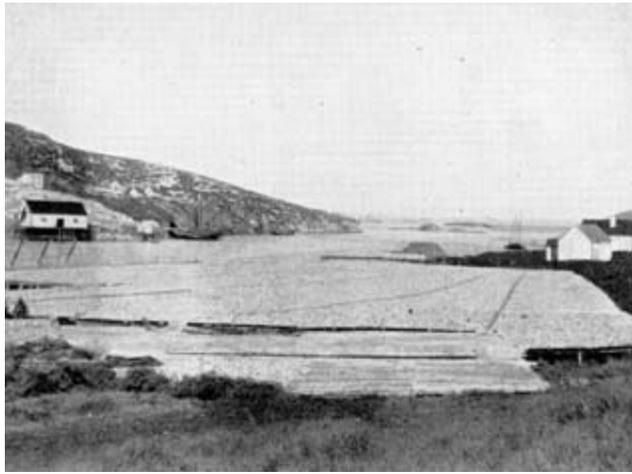
41.—Drying fish at Indian Harbor.



42.—85-foot raised beach, Pottle's Cove, near West Bay Head, just south of Hamilton Inlet.



43.—Entrance to Battle Harbour, Labrador.



44.—Drying fish at Battle Harbor.
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45.—Cape Charles.



46.—Typical fisherman's house on the Labrador coast.
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No. 1038.

AFFIDAVIT BY DR. WILFRED T. GRENFELL.

In the Privy Council.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND IN THE LABRADOR
PENINSULA.

BETWEEN
THE DOMINION OF CANADA, *of the one part,*
and
THE COLONY OF NEWFOUNDLAND, *of the other part.*

I, WILFRED THOMASON GRENFELL, M.B., M.R.C.S., L.R.C.P.,
of St. Anthony, Newfoundland, Founder and Superintendent of
the International Grenfell Association, make oath and say as
follows :—

1. That I have been actively and practically continuously
engaged since 1892 in medical mission work amongst the
deep-sea fishermen on the Coast of Labrador and North
Newfoundland.

2. That the document entitled “ Labrador Fisheries, 1892-
1924 ” now produced and shown to me and marked Exhibit “ A
” to this my Affidavit, is a true copy of a manuscript report
which I wrote for the information of the Deputy Minister of
Justice, Ottawa, on the 15th August, 1924, and the statements
of fact and opinion therein set forth are based upon my
personal experience and observations of the Labrador Coast
during the thirty-two years (1892–1924) I have been engaged
in medical mission work on that Coast, and are true according
to the best of my knowledge, information and belief.

3. That the Exhibit marked “ B ” to this my Affidavit, is
an additional report prepared by me at the request of the
Deputy Minister of Justice for Canada concerning the
Character of and Relations to the Sea of the Mountains of
Labrador.

WILFRED T. GRENFELL, M.D.

SWORN at No. 2 Whitehall Court, in the
City of Westminster, in England,
this 15th day of Oct., 1924.

Before me,

W. JONES,
A Commissioner for Oaths

[15 Aug,
1924.]**No. 1039.****REPORT ON “LABRADOR FISHERIES, 1892-1924.”**

BY DR. WILFRED T. GRENFELL. (EXHIBIT “ A ” TO ABOVE AFFIDAVIT.)

LABRADOR FISHERIES. 1892–1924.

BY WILFRED T. GRENFELL, C.M.G., F.A.C.S., M.A., M.D.,
F.R.S.C., LL.D., Master Mariner and Justice of the Peace.Written at Capbreton,
Landes, France.
Augt. 15th, 1924.

DEAR SIR,

I have visited Labrador and cruised in my own steamer amongst the peoples of the coast for 32 years, viz. 1892–1924. I have visited many times every settlement of every kind, have known personally almost all, even its visiting, fishermen, and have many times met its Eskimo and Indians.

I have written many books, scientific and story books, about the coast, and published many articles in magazines and newspapers.

There are still one or two fyords, to the bottom of which I have not been yet, but no white man has been there yet either, and no charts exist of them. I have made and published charts of much of the north coast, and have always been captain and master of my own boat. My cruises range from the boundary line at Blanc Sablon to Port Burwell in the straits of Hudson Bay, and I have cruised the coast also, as far as Quebec. The Admiralty accepted my survey (vide 1917 Coast Pilot for Labrador and Royal Geographical Map published for their journal).

We divide its fisheries into Canadian and Newfoundland though American fishermen have fishing rights on the Newfoundland section, and it is customary for Newfoundland and Canadian Schooners, to cruise also along the whole long area.

We subdivide the Newfoundland coast for convenience into the “ Straits Fishery ”—i.e. Blanc Sablon to Battle harbour, and the East Coast or Labrador Fishery, from Battle Harbour to Cape Chidley.

THE FISHERIES BETWEEN BLANC SABLON AND BATTLE HARBOUR.

This is entirely an outside sea–coast fishery. There are no deep inlets, Chateau bay being the deepest.

It is fished by a diminishing number of fishermen, which is true of the

whole coast, for the years 1892-1924. This is due to increased cost, as well as diminished markets, and personally I am convinced that the change of the method of fishing from lines and offshore work, to nets attached to the land and fished by small motor boats, has as much to do with this as the supposed diminution in the quantities of fish. This steady diminution has been a marked feature since the Great War.

This section is fished almost exclusively by Newfoundlanders and white Labrador residents. Occasional Canadians and Americans come, especially to haul bait. Rarely Canadian and American traders still visit this coast.

The chief methods used everywhere now on the Labrador coast are trap nets. Cord nets and seines, and flax gill nets are also used on this section. Bultos are used also, and handlines.

Salmon are also fished, outside the rivers only.

Indians rarely visit this coast, Eskimo never.

A whale fishery started at Schooner Cove, never functioned, and has fallen into decay.

The hair-seal fishery is only of local importance, being carried on by Labrador natives. But sealing steamers from both Newfoundland and Canada (Halifax) have hunted through the Straits of Belle Isle in March and April. Capeline, for bait, and occasionally lance fish, are taken on the shallows of the inlets.

THE FISHERIES BETWEEN BATTLE HARBOUR AND CAPE CHIDLEY.

This coast is deeply indented with estuaries, and has many large and well stocked rivers.

It is fished by Newfoundlanders, natives of Labrador, Eskimo, and occasional Canadians and United States fishermen.

The methods used are the same as in the Straits of Belle Isle. The Eskimo use trap-nets furnished mostly by Moravian Mission stations.

The salmon fishery on this section is much more extensive. It is carried on by the natives mostly. But it is customary for Newfoundlanders, the Hudson Bay Company, and the Moravians to supply nets and buy the salmon. The Canadian traders from Halifax, chiefly carried on by Mr. Robert Reed and Mr. MacConnell, have ceased to supply for this salmon fishery, for several years now. An effort by the Hudson Bay Company is now being made to export the salmon fresh to England, chilled. If successful the large sea-trout fishery would probably develop again.

For many years after my arrival on the coast, the Hudson Bay Company had a salmon fishery three miles up the Eagle river in Sandwich bay, a regular brick building, and a cannery. The Elsworthy's of Pinware in the "Straits," of which region they held special license direct from English authorities, fished inside Pinware Rivers mouth. These have both been closed up by the Newfoundland Government during my time. Commercial fishing of any kind is forbidden by Newfoundland laws within any river or estuaries, inside a line drawn from points 200 yards outside the mouths of any river. New-

foundland maintains wardens along both sections of coast to enforce this law. Indians, sportsmen, Eskimo, and others, fish these rivers with rod and line, either illegally, or by license costing ten dollars.

The herring, mackerel, and whale fisheries on this section are temporarily anyhow negligible. The Cape Charles whale station has closed down.

The local hair-seal fishery is of importance to the Labrador men by whom it is carried on, and to the Eskimo. It is mostly confined to the outer Islands, and " runs " and pursued mostly in the late fall and early spring. An important hair-seal fishery however exists in Hamilton Inlet, as far up as its head, viz., Northwest river. The salmon fishery is also carried on to the head of this bay by the Labrador settlers.

EXTENT OF FISHERIES UP ESTUARIES AND RIVERS.

The fact that cod fish are not fished commercially in fresh water precludes their being fished far up long estuaries into which flow many large rivers, such as Hamilton Inlet and Sandwich bay. The former has, besides the Hamilton, some twenty other rivers at least, while Eagle, White Bear, Dove Brook, Paradise, Muddy, and other rivers make Sandwich bay at its head of no value for cod fishing. It is safe to say that few cod fish enter Melville bay, a fact that is attested by the Eskimo cod fishery at Caravalla. This is at "the Narrows," or only entrance to Lake Melville, and is about 20 miles inside Rigolet. They have always led me to understand that all they get are Rock cod, a fish that so far has no value for Newfoundland fishermen. They are accustomed to reject these when taken by mistake amongst the cod on the outside. That no cod fishery by Newfoundlanders or Canadians, or anyone, except for Rock cod by native Labradorers, further up the Hamilton Inlet than the Narrows, or ever has been, is fairly certain. At any rate during the past 32 years I would assert with great confidence that none has been. The same is true of Sandwich bay above Divers Island, North River, and Cartwright. Our station at Muddy river fishes for food for the children, but so far as I know we catch nothing but Rock cod and possibly a stray true codfish, but nothing that could possibly repay a cod fisherman. The Rock cod are no value for export. With regard to other long inlets, however, the case is different. They too are numerous and run far into the land.

Beginning at the south, Lewis bay runs in thirty miles and though cod fishing is not carried on certainly above Hatters Cove, schooners seeking firewood do visit the head of the bay. Michaels bay is not fished above " New York " harbour, some 15 miles up, and Alexis not more than 15 miles either. In these statements I am using the farthest limits I have ever known any cod fishermen ever to go in search of cod.

In Hawkes Bay, I do not think cod has been taken commercially inside " Squashho-run " but from its very

bottom fishermen in schooners seek firewood. Black bear bay, Porcupine bay, Rocky bay, Sandhills bay, Table bay, Mullens Cove, Goose bay, and all inlets to Indian Harbor, exclusive of Sandwich bay and Hamilton Inlet, have been fished to the bottom, except

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Table bay, where again inside the Narrows I think no cod fish were ever taken. It is safe to say that cod fishing at the heads of these bays, however, has never been more than experimental, and that, unless by some unusual accident, has never justified the time or effort and never would. North of the White bear Islands, however, the problem is different. Here the mountains reach nearer the coast. The volume of water carried by rivers which are short and rapid is much less, and cod unquestionably can be taken in all the shorter inlets at times, quite profitably, up to the land wash at the bay heads. But the fact remains that it is very, very, seldom done, and that may be due to the prohibition of the use of steamers in the fishery by Newfoundland laws. Byron's bay, Lords-Arm, Pomiadluk, Stag bay, Makkovik, Kippekok, Adlavik, Bay of Islands, Ujutok, Kanairiktok, Adlavik, are all known to me personally, right up to their heads, and I have seen schooners fishing up all of them, except Kippekok above the narrows, Adlavik above the big mountain, and up Ujutok, which besides being unchartered is very shallow. The longest of these bays is Kippekok and I reckoned its head to be 40 (forty) miles from the mouth. I have seen cod-fishing schooners in Jack Lane's bay, and I think in Jim Lane's bay. Of the rest of the many inlets as far as Cape Chidley little is known. No cod fishery occurs in Okpatik, and none in Okkak bay, above the old station, except by Eskimo. Nain bay and Kikkeraktokak bay both run in some forty miles above the station of the Moravian brethren, but rarely or never do cod fishermen pursue their calling above the station.

I have seen schooners fishing in Port Manvers, and I know they have passed thro' the inside run to Nain looking for fish. I have seen schooners fishing inside Okkak station, and Island. I do not believe they have ever taken cod fish inside the bay itself, that opens into the inside run. This is a deep bay. Probably 35-40 miles from the head to the run.

Ryan's bay, Eclipse, Komaktorvik, Ramah bay and Rowsells bay have also all been fished a long way up. Few schooners now fish north of Saglek bay. This large bay runs in at least 35 miles from Uivuk head, which is at the southern end of the sea entrance. Fishermen have been up twenty to 25 miles fishing up this bay. Bears Gut bay has been fished to the bottom. It is not more than ten miles deep. Navak bay has been fished for cod up to the old Hudson bay station, but not to the head, or up the Tallek branch. Eskimo fish with gill nets to the heads of all these bays for sea trout for sale and barter. The long uncharted bay north of Eclipse, Eclipse itself, and Joksut inlet are practically never used for cod fishing, but the harbours in Cape Chidley Island, Lady Job, Lady Blandford

and Port Burwell, have all been fished successfully for cod during my time on the Coast. Captain Saml. Blandford fished Cape Burwell for several years with success, and established a fur, seal skin, and Narwhale fishery there.

THE FISHERIES OF LABRADOR RIVERS.

The only possible fisheries of Labrador rivers are those for trout and salmon. These fish can only be caught on a commercial scale with profit

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if nets are used. As no nets are allowed to be used nearer than two hundred yards from the mouth of a river, and no nets at all within the river, it follows there are no river fisheries unless they be illegal, or the fisheries carried on for their own support by Indians, Eskimo, or solitary Labrador settlers.

Canadian traders fitted out and traded for salmon and codfish before and after my arrival on the coast, especially in Hamilton Inlet and Sandwich bay. But none have come of late years, unless to buy furs for cash,—and the Labrador men sell mostly to the Hudson bay Company, Revillon Freres, or sporadic Newfoundlanders. These former buy up to the very heads of all bays, even to the head of Hamilton Inlet. A New-York firm, Porter and Company, have a post trading for both fur and salmon at North-West River and at Cartwright.

CONCERNING LAND NEEDED TO SUPPLY TIMBER FOR FISHERY PURPOSES.

There are no roads in Labrador, and no means for wheeled transportation. It has, therefore, never paid the Newfoundland fishermen to haul and cut their own timber needed for stages at any great distance from the high water mark.

The custom has been to buy it from Labrador men, who cut it in winter and haul it out to the landwash with dogs over snow.

This also applies to firewood, though schooners, while waiting to get north (for ice, etc.) go long distances up bays to get timber which there still grows so near the landwash, that they can cut it for themselves.

Since the nearness of timber to the landwash recedes as one goes north, it is obviously impossible to draw any line that would be suitable for all regions. North of Cape Mugford, wood is not cut by Newfoundlanders at all ; north of Hebron there is none to cut.

On the other hand he must be able to get wood, and those, who cut it and sell it to him, must be allowed to go five miles from the landwash in search of timber for spars, or large frame work in almost any part of Labrador, if they are to find it.

ON THE DISTANCE FROM HIGH WATER NEEDED IN LABRADOR FOR PURPOSES OTHER THAN OBTAINING WOOD, FOR FISHERMEN.

There being no roads, it is obvious all buildings of fishermen for summer fisheries will be as near the water as possible. I know every building in Labrador, and I cannot think of one single one that is more than 250 yards from high water mark, or one that ever has been. With regard to spreading nets, and drying fish, it is perfectly obvious that the nearer the water the better, if clean rocks and safety from seas are provided. I do not remember any time, anywhere, seeing either of these objects pursued over 250 yards from high water,—500 yards would be quite sufficient. Even of our six

hospitals, inclusive of the three in Newfoundland, not one is 250 yards from the high water mark.

Eskimo, Indians, natives are in an entirely different category. They must have winter houses, and these must be in, or near, woods. Distance from high water no longer matters, for good transportation is afforded by sledges over the snow and ice—the bare ground is no longer their method of transportation, —also, they may need houses, near their wood cutting work, or their fur paths.

PERSONAL OPINION ON THE DISTANCES FROM HIGH WATER NEEDED IN
LABRADOR FOR FISHERY PURPOSES.

For spreading fish to dry, for buildings, for boats, and other storage, judging by experience, not more than 250 yards is needed, or is likely to be used if available.

For cutting timber for firewood, spars and frames for buildings and stages, the distance in a country like Labrador would vary very much, if it were possible in summer to get it out. Thus, north of Hebron no timber exists till the valley of the Georges river is reached,—say 50 miles, while in Lewis' bay and southern bays it still comes to the landwash at the heads of bays.

It would never, in my opinion, pay to hold up a fishing schooner to get spars from our Labrador forests in summer. I have known vessels dismasted many times, but I never knew this attempted. The only way is to buy spars from natives, or ship spars in by mail steamer from south. Our trees make miserable spars anyhow, being too full of knots.

As there has existed in Newfoundland a reserved limit of three miles above high water for the purposes of the fishery, it is fair to suppose that that as a general average is not excessive. Labrador timber is not so plentiful or near the water, and if timber cut by settlers of the Labrador for sale in summer, but cut during winter, is to be all cut on the reserve, then I am sure five miles from high tide mark is not excessive.

PERSONAL OPINIONS ABOUT LAKE MELVILLE.

I do not think cod fishing in Lake Melville is, has been, or ever will likely be, a rational undertaking.

I do not think that any sensible skipper would go above Rigolet for cod fish. He might go to Caravalla for Rock Cods.

I know of no fishing industries possible in Lake Melville except trout, salmon and seals. It is possible that, as it has paid traders to go into Lake Melville in summer to buy salt trout, and salmon, and seal skins, caught in spring by winter settlers, it might again pay fish merchants to buy fresh salmon, trout, and seal skins for export, chilled, iced, or in some way preserved fresh. But I am convinced it would never be feasible to make a fishing schooner from south pay, fishing herself in

Lake Melville. It might pay a vessel loading, say at Indian harbour, to complete a cargo, by buying salmon in Lake Melville. There is much timber in and around the head of the lake. The lake is tidal, and the water rises as far as the Grand Lake on North West river, and the

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Musk Rat falls on the Grand river ; it certainly rises at Mud Lake, where Mr. Dickie's lumber mill was.

I have not considered rod fishing in the many splendid rivers in this bay—that, of course, can never be industrial fishing.

LIMITS OF SCHOONERS FROM NEWFOUNDLAND, OR ELSEWHERE ENGAGED IN FISHING IN HAMILTON INLET.

I have seen schooners from the south fishing in this inlet as far as Turners bight, Ticoralak and Double Mare. I have seen a native's schooner and a Canadian schooner trading in Lake Melville, and I have seen Newfoundland and other schooners in Rigolet, and I think in Mullioch, and certainly in Back bay.

I have never seen or heard of any genuine summer cod, or any other, fishing carried on in Hamilton inlet about Eskimo Island in the entrance to Lake Melville, that is, above the Narrows.

DISTINCTIONS BETWEEN FISHERIES CARRIED ON BY SCHOONERS COMING ANNUALLY, AND RESIDENTS OF LABRADOR.

Natives living on the coast can fish for salmon and trout in estuaries and inlets, and do so, and make it pay, while schooners from south cannot, as :

(1) It is difficult for a schooner to get north in time for the beginning of the salmon fishery.

(2) It is impossible to catch enough salmon and trout in one place to pay a schooner to come north especially for salmon and trout, and pay and feed her crew, and meet expenses.

(3) The salmon and trout fishery can only possibly, therefore, be considered, from the point of view of a southern schooner, as a preliminary to cod fishing.

(4) The season for trout and salmon passing-in is too short to make it worth while to fit out for it, and a fishing schooner coming north for cod cannot afford room, time, and expense to add estuary fishing for salmon and trout to her outfit and to her crowded space. The fact is that it is not done.

(5) The best comment on this is that in thirty-two years, I have never known it done, and if it has ever been done, it was experimental and never repeated. The experiment in a steamer from England in Sandwich Bay was a ruinous one, and never repeated.

OTHER INDUSTRIES BESIDES FISHERIES CARRIED ON IN LABRADOR.

The greatest industry in Labrador, after the fisheries, is the fur industry. It is safe to say that the *whole* of Labrador is at times covered by our trappers.

The men from Forteau, West St. Modeste and Red bay in the Straits of Belle Isle meet not only the men from Lewis' bay, but even men from Sand-

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wich bay. I have known the furriers from Paradise, in Sandwich bay, meet the men from St. Augustine and the men from the North West River of Hamilton Inlet have covered the country to a hundred miles inside the Grand falls—that is, 350 miles above the mouth of the rivers. It is their custom to go up the rivers in August with supplies, and caching them in tilts, return home, refit out, and, starting in September, remain in the country till after New Year's day. These furs are mostly brought out for sale at the posts of Northwest River, or to John Groves of Goose bay, and are mostly paid for in trade ; but cash is now also given.

There are no timber companies now functioning. The Grand River Company functioned on Grand River for a few years. An English Company cut pit props on several rivers at the head of the bay, and intends to continue according to their Manager, Mr. Robinson, who told me so this summer (1924). I regret to say that many of the lumber companies who have taken up grants have been apparently bogus affairs.

I have no doubt whatever, in my mind, that successful lumber affairs can be carried out in Labrador, but indefinite grants, and no enforcements of the law, compelling holders of areas to operate, have held up the development and are still holding it up.

With regard to minerals, three gold companies have been granted concessions at various times since my knowledge of the coast. One at Hebron to a Mr. Strong. One at Porcupine, another at Stag bay. All were I firmly believe first class swindles. I have visited each district.

One iron deposit was granted to a genuine company at Rowsell's harbor, north of Ramah. Mr. Whitney worked it, through Capt. Bartlett. I visited it and saw the iron deposits. I believe they are valuable. I understood that only the isolation, with no wireless, roads, rails, etc., and with the difficulty of the ice alone, caused this mine to be shut down. The out crop is plainly visible from the vessels lying in the bay.

There are other minerals, and I am absolutely convinced, when the country is developed that the iron deposits, graphite, and possibly mica, aluminium and, possibly, gold will be worked.

We have been much interested in the development of small industries that may help to develop the country, and I have ventured to refer to these here. Weaving, basket making from native grass, embroidery especially on skin, hooked-pattern mat making, wood-carving, and clever bead and feather work, ivory carving, and toy making are among these lesser,

but vastly important, industries. For it is these that carry to the homes of the poor and busy families the opportunity to earn, and to all the opportunity to fill remuneratively hours of enforced idleness, impossible otherwise to avoid in a climate like that of Labrador. We sold for these people last year about \$10,000 worth of this produce,—which enables many to pay small fees to hospitals, schools, religious and other developments, otherwise quite impossible, and which help to put these on a rational and permanent and right basis ; besides putting in their reach essentials of healthy living, for lack of which they now suffer with deficiency diseases. With regard to agriculture,

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none has been developed, since Lord Strathcona's time. There is no reason whatever why all necessary vitamine-bearing vegetables should not be grown on the coast. We have just brought in a trained farmerette.

Domestication of Animals : A fox farm started at Muddy Bay, in Sandwich bay, has been closed. Personally, I am so convinced that it could still be made as remunerative in Labrador as in Piastre Bay, Prince Edward Island, or in Massachussets, that I have purchased the farm. I have attended the Congress of black fox and blue fox breeders in the United States, and I found they were of my opinion. The laws concerning fur-bearing animals work most uneconomically and unfairly at present, no consideration of the very wide extent of latitude, and consequent different conditions, having been allowed for.

With regard to the Domestication of Deer : My own experiment, carried on without enough backing, with no skilled management after I was obliged to allow the Lapps to return, has undoubtedly prejudiced opinion on the matter. The experiment of the Canadian government in the Peace River district, and with my small herd at Baie de Rochers, failed for want of skilled and interested management. I am so sure that Labrador can produce deer as readily as Alaska, that I have now helped to start a new herd, under an American manager, who have now received protection from the Newfoundland Government and a suitable land grant, around Hamilton Inlet.

I have ventured, sir, to include these facts in answer to your questions, because personally I believe Labrador to be very much a white man's land. It produces men of virile physique, of simple wants, and I know, as well as I know anything, that in the days to come Labrador can, and will, become as valuable to Canada as Alaska has become to America, and as the coast on the West of Canada, that has been lost to Canada by lack of faith and foresight, might surely have been. Only fear of wearying out your patience prevents my dilating further on this theme.

INDUSTRIES CARRIED ON AWAY FROM THE COAST LINE IN LABRADOR.

As I have already stated there are no buildings anywhere

in Labrador between Blanc Sablon and Cape Chidley, except a few trappers huts, that are more than 250 yards from tidal water. I have made many trips into the country from various places. There is no Hudson bay station now anywhere in Labrador away from the coast—there was one, before I reached the coast, on Lake Petitsikapaw, I am told.

AREA OVER WHICH, AS JUSTICE-OF-THE-PEACE FOR NEWFOUNDLAND, I
HAVE EXERCISED JURISDICTION.

I have tried cases in practically every village in the Straits, in Battle Harbour, and all along the coast as far as Port Burwell itself, where I tried a case many years ago, and removed a Labrador settler's family, named Rich, as a result.

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I have tried a case as far inland as Muddy lake on the Grand River, below the Musk Rat falls. Sir William MacGregor, Governor of Newfoundland was present at one, at least, of the cases I tried there. I have tried cases at Cartwright, at Nain, at Davis Inlet, and on board the S.S. Strathcona many times and in practically every district where settlers reside.

I have the honour to remain

Very sincerely yours

WILFRED T. GRENFELL

M.D., J.P.

In the Privy Council.

IN THE MATTER OF the BOUNDARY between the Dominion of
CANADA and the Colony of Newfoundland in the Labrador
Peninsula.

BETWEEN

THE DOMINION OF CANADA

and

THE COLONY OF NEWFOUNDLAND.

THIS is the EXHIBIT marked “ A ” referred to in the Affidavit of WILFRED THOMASON GRENFELL, sworn in this matter this 15th day of October, 1924.

Before me,

(Sgd.) W. JONES,

A Commissioner for Oaths.

[15th Oct.,
1924.]**No. 1040.****EXTRACT FROM ADDITIONAL REPORT BY
WILFRED T. GRENFELL.***

(EXHIBIT " B " TO ABOVE AFFIDAVIT.)

What portions of land bordering on the Ocean are accessible by fishermen and utilisable for fishing purposes, and to what extent are they available for fishing purposes ?

I have already stated that North of Hamilton Inlet, except for shelter for vessels in the bays and for pursuit of fish in the actual water itself I do not consider the land (North of Hamilton Inlet) of any value whatever for fishermen and fisheries further than 500 yards from the high water mark. Except at Holton Tinkers and Sloop Harbours, I do not know of one single fishermen's house on the mainland—and I don't believe there ever has been one—outside the actual Eskimo and half breed settlers. There are such on the islands, but I do not believe one single one anywhere else on the mainland—possibly there may be a hut on the mainland side of Jigger Tickle in Cape Weleh Harbour, but I think not—nor do I believe that any summer fisherman has ever cut timber for fishing purposes anywhere on that North section of coast over 500 yards from high or tide water—mark. He may have purchased some wood from settlers who cut it in winter.

I know of no evidence to show that, anywhere along the coast south of this, summer fishermen have ever built houses, cut wood or used the land for fishing purposes beyond 500 yards from high water. I am open to conviction that a few fish may have been spread half a mile in—or some sporadic summer expedition have gone in half a mile. I am of opinion that a limit of one mile from high water would include every possible economic use of the Labrador land by summer fishermen—unless new ages discover new needs, altogether unknown to the fishermen of the past or present. The sale of timber to summer fishermen by winter settlers is a different matter, and south of Hamilton inlet spars would have to be sought further in the river valleys North of Hamilton inlet, though spars have been floated out of rivers by

* The earlier part of this Report in which Dr. Grenfell described the character of the mountains on the Labrador Coast and their relation to the Sea, has been omitted, as he placed main reliance upon the information on this subject published by Dr. Reginald A. Daly of Harvard University, referred to by Dr. Grenfell as " a man of world fame," and a report was afterwards obtained from Dr. Daly himself. (vide " Topography of the North East Coast of Labrador," Part XV, No. 1), which contains a detailed and scientific treatment of the whole subject.

summer fishermen 500 yards from high water anywhere. As for the land being valuable in the North for drying fish, I have never known a fish dried on the land North of Hopedale except by Eskimo—and generally speaking it is not profitable to dry fish North of Cape Harrison, owing to the small amount of sunshine available after the fish have been caught—for the capture of fish gets later and later in the year as one goes further and further north, and at the same time, the onset of winter, and the scarcity of days possible for use in drying fish, becomes proportionally less.

WILFRED T. GRENFELL.
C.M.G., M.D., F.R.C.S., C.J., LL.D., etc.

In the Privy Council.

IN THE MATTER of the BOUNDARY between the Dominion of
CANADA and the Colony of Newfoundland in the Labrador
Peninsula.

BETWEEN

THE DOMINION OF CANADA
and
THE COLONY OF NEWFOUNDLAND.

This is the Exhibit marked “ B ” referred to in the Affidavit of Wilfred 20 Thomason Grenfell, sworn in this matter this 15th day of October 1924.

Before me,
(Sgd.) W. JONES,
A Commissioner for Oaths.

CONDITIONS ON THE LABRADOR COAST.

[1911.]

No. 1041.**EXTRACT FROM “NEWFOUNDLAND IN 1911.”**

BY P. T. McGRATH [LONDON: 1911], pp. 169-170, 173, 174.

Newfoundland's chief dependency, where one of her greatest cod fisheries is prosecuted, is Labrador, a territory half as large as Europe, and yet containing a resident population of only 3,400 whites, or “liveryers,” though every summer 15,000 fisherfolk—men, women, and children—emigrate there for cod-catching and locate along the coast-line which forms the base of the enterprise.

* * * *

It has no settled form of Government, justice being dispensed by the medical missionaries who labour there and who hold commissions of the peace. Such trivial disputes regarding fishery matters as arise in the tiny hamlets along the coast, where a peace-loving people have their abode, are their only cases.

The shallows off the Labrador coast are the resort of countless “schools” of cod, and the fishermen net them from suitable points. The whole coast is fringed with barren islands of naked rock, engirt with wide, deep channels. Great fiords eat for miles into the granite steeps, and countless harbours are formed wherein the fishing crafts can lie in safety.

* * * *

The world has probably nothing so unique as the annual migration of these Newfoundland fisherfolk to this region, nor an industry so strange as they pursue. About May in each year they embark in their vessels with their goods and chattels, shut up their homes and sail for Labrador, where they disperse along its extensive seaboard. The fishermen are of two classes—“stationers” and “floaters.” The former have homes in certain harbours and fish near by, shipping much of their cured product direct to market from the coast. The latter carry on their venture from their schooners and cruise farther north as the season advances. About 1,000 to 1,200 vessels classed as “floaters,” are annually engaged in the Labrador fishery.

In October the season is over, and these hardy voyagers return to their homes, the 3,500 “liveryers” residing there permanently. These “liveryers” (live heres) are so called to distinguish them from the summer fishermen, and

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there are one or two families in every harbour. During the

summer, they reside along the coast for the fishing, but in winter most of them retire to the wooded tracts at the heads of the bays, where there is shelter, warmth and a means of increasing their food supply by the killing of game which abounds there. The trapping of fur-bearing animals is also undertaken, the peltries being exchanged for food and clothing when the traders are on the coast in summer.

No. 1042.

EXTRACTS FROM “LABRADOR.”

[1922].

BY DR. WILFRED T. GRENFELL AND OTHERS, NEW ED. (NEW YORK :
1922).

The fishery as it exists in Labrador at the present day is confined practically to Newfoundlanders, Labrador settlers, or “liveryes,” as they are called, Eskimo, Americans from Massachusetts and Maine, and a few Canadians from the Maritime provinces.

* * * *

The first of the fleet that leaves for Labrador sets out as early as the end of April. Those from the outports have still, owing to the unfortunate centralization of trade at St. John's, to repair first almost to the very extreme south of Newfoundland for supplies, and thence to leave for the north again.

* * * *

On the part of the Labrador coast which is under Newfoundland jurisdiction, the first comer takes the best berths. This led to such unnecessarily early starts, with the suffering involved and risks incurred from pushing down among the floe-ice, that laws were made preventing berths being claimed till a certain date, according to the latitude. Any net set before that time is not only taken up, but the owner is fined. Every year, however, numerous disputes and quarrels arise from the eagerness to be sure of the choice of places, and never a season passes without some being brought to the travelling magistrate for settlement.

Some fishermen, without trying for more than one voyage, go direct to the spot of their choice, however long they will have to wait. These men, though living on their vessels, will always be found in the same places. Their schooners at anchor might almost be marked on the chart. These men, such as the Whites of Twillingate, the Milleys, the Lansons, the Barbours, etc., are almost always successful men.

Most of the schooners, however, are obliged to wander about, looking everywhere for “good tucks” of fish, and often so anxious to get the fish quickly that they leave the very places that later turn out to be best, only to find no others and so go home empty or “clean.”

These wandering schooners are called “green fish” catchers, and when they have taken their “fare,” or when their time is “runned up” they come south, pick up the freighters they left, and carry them to their homes. Of late, however, more “make,” or dry, their fish at the harbour, where their freighters are doing the same thing. Though curing seems an easy matter, it

involves much work and infinite patience. At home the gardens left in the spring sorely need tending now, and every man is anxious to be getting ready for the winter. Yet often for a week at a time, wet and cold days prevent any work being done.

* * * *

The actual number of the vessels visiting Labrador I am unable to obtain, —probably one thousand each year. Every year quite a number go down that neither “ clear ” nor “ register ” at the customs house. About twenty thousand persons all told, constitute the summer exodus from Newfoundland.

One or two steamers have been used in the Labrador cod-fishery of recent years, but the people are strongly prejudiced against their introduction. They have seen the steamers supplant the schooners entirely for catching seals. They have seen any chance of large returns pass entirely out of reach of the small fisherman. Moreover, they believe that the seals are being killed out. As yet, however, it has not been possible to get a law prohibiting the use of steam fishing-vessels sanctioned in the Upper House of the Legislature. It should be added that laws relating to the fishery are, altogether, very few, and the total number of cases where trouble arises from all causes, when added up, are so small as to be almost negligible. The use of steamers to bring fishermen and their families to the fishery and back again is greatly to be desired.

* * * *

The greatest drawback to the Labrador fishery has been, and still is, the want of proper communication. A small steamer, which is used for seal-hunting in the spring, makes ten trips each year. She is supposed to complete each trip in a fortnight, but as she has ninety ports of call to make, fully fifteen hundred miles to steam, is loaded with freight, and has fog, ice, and bad storms to contend with, she is frequently unable to keep within several days of her schedule time. With a captain second to none for pluck, and acquainted with the coast as probably no other man is, she still loses time. Day and night, when possible, she travels, but the scarcity of lights, the miserable survey, and the absence of artificial assistance to enter harbours, leave no question that she has far more work than she can accomplish.

* * * *

Five Marconi stations have been placed on the coast, and these are of very great value. They cover two hundred miles of coast, but do not yet connect with Newfoundland, and only very indirectly with anywhere. When the Canadian station on Belle Isle is working, then Labrador can talk with the outside world viâ Canada. But none of these stations is opened except during the summer months. The power of the most southern station at Battle Harbour has been greatly increased and practically has put us now in touch with the outside world.

* * * *

With commendable zeal, and with great success, the Canadians have succeeded in running a wire all the way from Quebec along the north shore

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of the Gulf of St. Lawrence to the Straits. Unfortunately the line ends at Chateau, twenty-eight miles from Battle Harbour, where the terminal Marconi stations is situated.

In winter, residence in Labrador is specially discouraged by lack of communication, and the permanent population, except around the newly established mills, is decreasing steadily. The existing arrangement of one or, at most, two mails carried by dogs is not sufficient to meet the needs of a population of English-speaking people during a whole winter.

* * * *

Exclusive of a school grant of \$2,000, the total appropriations for Labrador are under \$30,000 per annum. Twenty thousand dollars of this is for the summer mail steamer and the Marconi stations ; \$2,000 is for collecting revenue on the coast. All the rest is spent on summer post-offices, and providing for sick fishermen. Five hundred dollars a year appears to be the amount granted to make Labrador habitable in winter.

As the revenue from its inhabitants direct is certainly \$150,000 per annum, and the indirect revenue from the fishery so large, this does not seem fair. The Labrador people must purchase every supply from Newfoundland, from a rifle, a trap, a net, to flour, pork, and potatoes.

* * * *

The testimony of hundreds of my friends who live in Labrador, among them men who have lived in the United States, England, Scotland, Canada, Norway, and elsewhere, is that Labrador is by no means a bad country to settle in, but it is handicapped by having too little government encouragement given to people to live there.

* * * *

One other great drawback to settling is the impossibility of either getting grants of land or buying land with good title in Labrador. This partly arises from the unsettled question of ownership. For nobody knows the boundary between Newfoundland and Canada. Grants of timber lands have been made to Canadian firms in Sandwich Bay and Hamilton Inlet, covering about two thousand square miles in all. Grants to fishing firms have apparently been made to Baine, Johnston & Company at Battle, to Isaac Mercer at Long Tickle, to Job Brothers at Blanc Sablon and Indian Harbour, and to a few others at other points.

The policy of the Newfoundland government has always been in theory to leave the land free to any one, so that when

one man leaves it another may make use of his former situation. Presumably this is on the assumption that nothing of value will be left behind. But though no legal conveyance has been made, men who fish any particular place, and even move a stone to “spread fish on,” will claim that place, though they have not been using it for years, and the courts at home have upheld them. It leaves the land about the harbours in a very anomalous and undesirable condition. There are fishermen anxious to come and settle, there is land unused, and with no marks on it ; yet either some one refuses to allow them to settle or they dare not settle

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for fear some one may arise who will some day eject them. Several of these cases have come before me as magistrate on the coast.

Labrador has no representation, and no one is appointed to look after its interests. The Governor's Report for 1906 does not put the matter one iota too strongly. The following paragraph taken from it is very significant, when the varied experience of its author in other out-of-the-way parts of the world is taken into consideration :—

“ If the difficulties of representation are considered to be too great, then there remains the obvious alternative of appointing a minister, or, at least, a secretary for Labrador, whose sole and special executive duty would be to study all the questions in connection with that country. It may be stated here at once that the proper development of the Labrador coast cannot take place unless one or other of the above suggestions is adopted, or some other more or less similar arrangement is provided, such as an annual visit to the coast of a Minister of the Crown.”

Only one such has ever visited Labrador, and that one, the Honourable Minister of Fisheries, accompanied Sir William MacGregor on his trip in 1906.

Education in both Newfoundland and Labrador is another very difficult problem. It is rendered almost impossible to solve, owing to the denominational system of schools.

* * * *

The best educated people in the country at present are the Eskimo. Almost without exception they can read and write. Many can play musical instruments, share in part singing, and are well able to keep accounts, and know the value of things. These accomplishments, entirely and solely due to the Moravian missionaries, have largely helped them to hold their own in trade, a faculty for want of which almost every aboriginal race is apt to suffer so severely.

I have known an Eskimo called in to read and write a letter for a Newfoundland fisherman, and I have had more than once to ask one to help me by playing our own harmonium for us at a service, because not one of a large audience could do

so. I have heard more than one Eskimo stand up and deliver an excellent impromptu speech. Reading the Newfoundland Blue Books, reporting the numbers able to read and write in Labrador, I acquired an entirely erroneous estimate of the people's accomplishments in those directions. Our white population is still very largely illiterate. Some headway has, however, been made of late years, and literature and loan libraries distributed through the Labrador Mission are now accessible all along the coast. and are creating a love of reading.

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The public health of Labrador has practically been a matter of chance. Houses are not drained. Few have even outside closets, much less one in the house. There are no sanitary officers. Very few residents have ever been

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vaccinated. Until recently they have had no teaching as to the dangers of infectious diseases, and especially how to deal with and avoid tuberculosis. Consumption is the main enemy of these people who live here in one of the purest atmospheres in the world. But it is fostered and propagated in every possible way by the customs of the people and by their poverty. The total number of residents is now about four thousand, inclusive of thirteen hundred Eskimo. In spite of new mills and other new industries recently introduced, the number is not increasing. This is due partly to the fact that some return to Newfoundland to benefit by the schools and other advantages, or to escape starvation or the isolation that arises from no line of communication in the winter. Those residents, who make this journey, invariably tell me they would greatly prefer to remain on the coast in winter if it were possible.

* * * *

The famous Ford family have, between them, carried the mail three hundred and fifty miles each way over these barren, uninhabited shores, winter after winter, where no man lives and no houses shelter them—across mountain fastnesses, over glaciated passes, and the still more dangerous sea-ice, year after year, without serious accident. The mail starts at Fort Chimo in Ungava Bay, then round and along the Labrador coast to Davis Inlet. The mail crosses the land to Nachvak Bay, and so on over a stretch of fifteen hundred miles to Quebec.

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No. 1043.

[5 June,
1923.]**EXTRACTS FROM ADDRESS ENTITLED “ LIFE IN
LABRADOR.”**

BY REV. HENRY GORDON, OF CARTWRIGHT, LABRADOR.*

Internal evidence is available to show Labrador as the scene of long and bitter warfare between the Indians of the interior and the Esquimaux of the coast. Even to-day there is little love lost between the races. The first serious attempt to settle the coast of Labrador dates from the opening up of trade relations by Major Cartwright, some one hundred and fifty years ago. During sixteen years of varying fortunes, Cartwright did much to establish very friendly relations with the natives, and it may be said that from his day dates that gradual cross-breeding of English and Esquimaux which has produced the modern Labrador “ Livyere.” Out of a total population of some four thousand it is very doubtful if now one third is of pure Esquimaux blood, and the day will not be very long before the Esquimaux stock is totally eliminated from the coast.

The mode of life adopted by the Labrador native is one of extreme loneliness and isolation. Except for the few centres where the Trading Companies are established, there are scarcely any settlements of any size. Cartwright, one of the most important centres, has just fifteen families. In many cases, families are to be found as isolated units many miles from the nearest neighbour. This manner of life has tended to make the people extremely shy and adverse to society.

*Published in the Free Press, St. John's, Nfld., 5th June, 1923.

No. 1044.

[1905.]

**EXTRACTS FROM REPORT OF AN OFFICIAL VISIT
TO THE COAST OF LABRADOR BY THE GOVERNOR
OF NEWFOUNDLAND (SIR WILLIAM MACGREGOR),
1905.***

The summer and the winter populations of Labrador are very different owing to the fact that a great many families proceed from Newfoundland to that coast for about four months, from some time in June to some time in October, for the summer fishery. I am indebted to Mr. Le Messurier (who it may be mentioned, has personal knowledge of the coast of Labrador) for information on that point. During the season last past 14,229 persons cleared from Newfoundland ports for the Labrador fishery. The same gentleman estimates “ that 6,000 or 7,000 people who, in the early part of the year fish on the treaty coast and in the Gulf of St. Lawrence, go direct to Labrador without clearing for there, and on the yearly fishing certificates issued to them in the spring.” The largest number cleared during the last twelve years was in 1894, viz., 14,651. The smallest number was in 1900, viz., 10,679. The mean number annually cleared for the last twelve years is 12,333. The total average number of people that proceed to Labrador for the summer fishery would therefore be about one score thousand, but that number was considerably exceeded last year. To this has to be added 4,000 residents. (The number given in the 1901 census is 3,947). The summer population of Labrador may therefore be fairly set down in round numbers at from 20,000 to 25,000 ; the winter population at 4,000. Of these, as shown above, some 1,300 are native Innuits, or “ settlers,” about Mission settlements.

At the present time Labrador has no direct representation in the Legislature of the Colony, nor is it the special duty of any Minister of the Crown to make any specific study of the requirements of that dependency. One may say unhesitatingly that it would have been better for Labrador, and for the Colony, that more attention had been given to this question many years ago. The matter of representation has indeed been brought up before now in a direct form. Nothing, however, came of it.

*Journal of Assembly, Nfld., 1907, App., p. 361.

[1908.]

**EXTRACTS FROM REPORT OF AN OFFICIAL VISIT
TO LABRADOR BY GOVERNOR OF
NEWFOUNDLAND (SIR WILLIAM MACGREGOR),
1908.***

So far as I know, only one Minister of the Crown in Newfoundland has visited Labrador during the many years that this territory has been under the jurisdiction of this Colony ; and the residents there are still without the first and fundamental right of constitutional government, the political franchise. It is, therefore, not to be wondered at that some of the Newfoundland regulations are called in question in Labrador both as to validity and suitability ; not can it surprise one that the southern residents express a decided preference for Canada, whence they have to import many articles of food, while they pay Customs' dues on them to Newfoundland and have no representation in the House of Assembly. These difficulties are further magnified by the absence of any resident judge or stipendiary magistrate on Labrador. Last summer a magistrate was about three weeks on the coast and visited a few spots on the southern part of it that were most accessible ; but he was there apparently in connection with fishery protection service only. He never reached the Hamilton Inlet and consequently did not come into contact with any case of importance on the coast, his visits being confined to places that would certainly have been visited very soon after by Dr. Grenfell, on whom as a Justice of the Peace devolves the administration of law and justice on practically the whole Labrador coast, with its 3,000 or 4,000 permanent residents and its summer population exceeding 25,000 people. Put in other words, this means that the functions of Government, except the collection of taxes and the maintenance of some of the lights, are practically left in the hands of a private gentleman over a coast-line that may be said to extend over ten degrees of latitude, a position that is probably unique. That such a form of administration is possible speaks volumes for the peaceful and law-abiding character of the people. During the winter, when Dr. Grenfell is absent from the coast, Labrador does not even possess a Justice of the Peace. . . . Of course many cases, both civil and criminal, occur that are never dealt with, and many men are left in doubt as to what they may or may not legally do.

*Journal of Assembly, Nfld., 1909, App., pp. 318-319.

[1922.]

No. 1046.

MISSIONS ON THE LABRADOR COAST.

EXTRACTS FROM "LABRADOR," BY DR. W. T. GRENFELL AND OTHERS.

NEW EDITION (NEW YORK, 1922), pp. 226-250.

MORAVIAN MISSIONS.

If a man in Labrador is not a fisherman, that is, a cod-catcher, he traps fur-bearing animals in winter and catches salmon in summer. The trappers form a class apart from the rest of the shore people. They seldom come out "to the coast," their winter industry keeping them far inland and their summer salmon-catching being convenient in not forcing them to transfer their families very far down the bays. There is, however, every gradation, from the mountaineer Indian, who does nothing all the year but trap and kill deer, through the Eskimo, who once only killed seals, but now even catches furs and "fishes," to the man who lives entirely "out of the water," i.e., never outfits for the winter furring.

Until 1905 the trade of all these people was carried on by two great companies, the Hudson's Bay Company and the Moravian Missions. The Hudson's Bay Company originally dealt only with Indians, but the intermarriage and settling of their own imported servants have built up a class which beats the Indians at their own industry, and now does a far larger trade in fur. The Indians are reduced to a mere handful, while the strong Scotch and Norwegian stock is steadily growing and displacing both Indians and Eskimo. Farther north, the Moravians care for the Eskimo. The Hudson's Bay Company have also made a bid for their trade, establishing posts at Nachvak (since abandoned) and at Ungava.

At present the Moravians have four stations. The most northerly station is that at Killinek, or Cape Chidley. Here the Eskimo, attracted by the excellent seal-fishery, walrus, and white-whale fishery to be had at the cape, have gathered from the northeast coast and from Ungava Bay.

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At the present time one Moravian family dwells at the station. They have themselves built a house, church, and stores.

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Proceeding north one passes an abandoned station of the Hudson Bay Company called Nakvak. Beyond that, near the old station of Ramah, about a hundred miles to the

southwestward, the Eskimo dwell in holes in the ground with skin bowel-parchment windows that do not open, and with roofs and entrances made of sods. There are no islands near to supply birds and eggs ; the decrease in the number of seal and walrus and the low market or local value of sea-trout have seriously impoverished the people. This poverty means that they are poorly equipped for travel ; in consequence, they dawdle about the unsavoury village when they should be seeking and finding sustenance, gaining health and strength by migrating from place to place as they always did of yore. Here they are much more dependent upon the missionary, upon his supply of clothing, and upon his kahlenak or European food, than is good for them. From their physical condition it is perfectly easy to tell a Ramah Eskimo from a Cape Chidley man, though you may never have seen either previously.

A journey to the southward of nearly another hundred miles brings us to the third station at Hebron. This is still a good hunting station. Its Eskimo have been wisely taught by the Brethren to segrate and not congregate. No permanent village has come into being. A few sod houses and one or two better houses exist. This would to-day be probably far the most creditable settlement of Eskimo, had it not been for the carrying of several families to show them to the curious at the exhibitions at Chicago, Buffalo, and elsewhere. Few returned, and they richer only in those heirlooms of civilization, the germs of specific diseases, which most efficiently put a stop to the growth of the community, and left a diseased and miserable people to be a constant danger to every “ inuit ” on the coast.

Another forty miles to the south was Okkak, the largest station. It is within the northern limit of trees, and consequently houses, boats, and firing were more easily acquired. A large number of permanent wooden houses had been erected. At certain seasons of the year considerable social life was possible. The annual census shows that during the fifty years previous to 1902 the congregation was steadily growing in numbers. Some small arts and crafts were established and quite a trade done in ivory carvings, in modern skin dolls, tubiks or tents, kayaks, etc., and in wooden models of native houses, komatiks, and such like. This station was entirely blotted out in 1919 by Spanish influenza. Out of 365 Eskimo 300 perished including every single adult male. It has been temporarily abandoned, but when Nain was destroyed by fire in 1921 a large portion of that congregation returned to reopen Okkak.

The Brethren here had a little hospital besides their educational and religious work.

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Nain, the fifth station, is ninety miles farther south, and accessible by mail steamer. It is a perfect harbour, entirely shut in from the sea by countless islands, great and small. Its beautiful bay runs inland over forty miles, and one can travel by steamer for a hundred miles south without once going

into the open ocean. Nain is at once the head station of the Brethren, the seat of the Bishop, who is also a German consul, and is of the oldest standing. The well-tended vegetable patches, the tidy paths through the woods so long preserved, and now so lonely looking against the otherwise absolutely naked ground, the prim flower-gardens, and the orthodox tea-houses (with more often than not the now inappropriate picture of the Kaiser), combine to transport a visitor momentarily to Europe, to the German homes which these good men have left, never to return.

* * * *

Some ninety miles to the south again is Hopedale, the sixth station. It is the southern border of the tribe now, and one cannot visit the station without feeling forcibly that the fringe is ravelling out, and that the race in Labrador is facing its inevitable doom. Mixed with the dying, purer type, are an increasing and stronger element of half-breeds. It is in these that much of the hope for the future population of Labrador at present lies. Here one of the Brethren has had some medical training, and has, single-handed, done some excellent work in emergency cases. The Brethren here, also, have done a considerable amount of scientific work in the past, both in climatology, botany, and ornithology.

The last Moravian station is Makkovik, fifty miles south. It was only erected in 1900, and was put there in the hope of fostering the scattered half-breeds and settlers who are slowly beginning to populate that section of coast. It is a valuable stand for those travelling the coast in winter. It has now a small boarding school during winter. To no other people on earth does the lonely Labrador owe one-half the debt it does to these devoted servants of the Moravian Mission.

* * * *

THE INTERNATIONAL GRENFELL ASSOCIATION.

In the report of the Newfoundland Chamber of Commerce for 1892, the following item appeared :—

“ A new feature worthy of mention in this report, affecting as it does, more or less, the comfort of twenty thousand to thirty thousand of our people, was the appearance on the Labrador coast of the Mission to Deep-sea Fishermen ship *Albert*, outfitted by a philanthropical society in England, unsectarian in its lines, and intended to convey skilled medical aid to our fishermen and provide to some extent for their mental and material wants. This essay has been an unqualified success, and has evoked from the recipients of its bounty expressions of deep gratitude. It is likely to result in well-organized co-operation by the Colony next season upon the lines along which the Mission ship is being worked.”

* * * *

With open water in spring (i.e. 1893) the Albert returned, carrying two additional doctors and nurses, together with fittings and drugs for two small hospitals. The first stationed at Battle Harbour was the gift of a merchant. The Government of Newfoundland supplied a well-skilled pilot for the ship, and excused all dues of every kind.

The second hospital was erected at Indian Harbour, 200 miles north, and a smart steam-launch supplied for use in the remote corners.

At the present time the Society has six small hospitals : one at Harrington on the Canadian Labrador, one at St. Anthony on the northeast coast of Newfoundland, one at Pitteys Island, Newfoundland, one at Northwest River N. Labrador, and the original two at Battle Harbour and Indian Harbour. Indian Harbour is situated on an island in the entrance to Hamilton Inlet, two hundred miles north of the Strait of Belle Isle ; Battle Harbour, just where the Strait meets the Atlantic Ocean.

* * * *

PART XVI.**DOCUMENTS DESCRIPTIVE OF PHYSIOGRAPHY,
GEOLOGY AND ETHNOGRAPHY OF THE
LABRADOR PENINSULA.****I. PHYSIOGRAPHY.****No. 1047.****EXTRACTS FROM "REPORT ON EXPLORATIONS IN
THE LABRADOR PENINSULA."**

BY A. P. LOW, OF THE GEOLOGICAL SURVEY OF CANADA, ANN. REP.
GEOL. SURVEY OF CANADA, VOL. VIII., PART L, 1895.

INTRODUCTORY.

The present report is based mainly upon the observations made along information the routes of exploration followed during the seasons of 1892, 1893, 1894 and 1895. The knowledge so gained has been supplemented by information obtained from officers and servants of the Hudson's Bay Company, Indians, and other persons acquainted with the Labrador Peninsula. Free use has also been made, in regard to certain subjects, of the information to be found in the writings of Mr. Lucius M. Turner,* Dr. A. S. Packard,† and Mr. W. A. Stearns,‡ who have all spent some time on the southern and eastern coasts and there collected much valuable information relating to the history, physical geography and natural history of those regions. Observations on the natural resources of the peninsula made by officers of the Geological Survey in former explorations, have also, when necessary, been incorporated in the text ; a list of these explorations is given at the end of the historical notes.

Acknowledgment
of assistance.

*List of birds of Ungava, Proc. U.S. Nat. Museum, VIII., 1885. Ethnology of Ungava, Annual Report U.S. Bureau of Ethnology, 1889-90.

†The Labrador Coast, New York, 1891.

‡Labrador, Boston, 1884.

Work of
assistants.

Acknowledgments are due to Mr. C. C. Chipman, Commissioner of the Hudson's Bay Company, and to Mr. Peter McKenzie, for circular letters to the various officers in charge of posts along the routes travelled, and to the following gentlemen in charge of these posts : Messrs. J. Broughton, D. Mathewson, Wm. Scott, C. Sinclair, J. A. Wilson, A. Nicholson, H. M. S. Cotter, John Ford, J. Fraser, J. Gordon, W.

Previous
Reports.

Miller, J. Iserhoff and J. Corson, for their generous hospitality, valuable information and efficient aid, to which the success of the explorations has been largely due.

Route followed
in 1892.

During the season of 1892, Mr. A. H. D. Ross, M.A., acted as my assistant and besides carrying out other varied duties, made a large collection of plants, which added greatly to the botanical knowledge of the eastern watershed. The names of these plants have been included in the list given in an appendix. In 1893, 1894, and 1895, Mr. D. I. V. Eaton, C.E., acted as assistant and topographer, and it is entirely to his careful work that the exact surveys of these years are due. Mr. Eaton, since his return to Ottawa, has also compiled the map which accompanies this report.

Route followed
in 1893
and 1894.

Itineraries of the various journeys made in the course of these explorations have been printed in the Summary Reports of the Geological Survey Department for 1892, 1894, and 1895, and only a brief outline of the routes followed need in consequence be given here.

In 1892, the routes traversed were from Lake St. John, up the Chamouchouan River to its head, thence north-east through three large lakes to Lake Mistassini. From that lake the east channel of the Rupert River was descended some fifty miles, to a portage route crossing through small lakes to the East Main River fifty miles northward. This stream was carefully surveyed down-ward for three hundred miles to its mouth on the east side of James Bay. James Bay was crossed to Moose River, and that stream ascended to its head, where the Canadian Pacific Railway was reached, making in all a canoe trip of over thirteen hundred miles. In 1893 and 1894, the party remained in the field during the winter. A start was again made from Lake St. John, and the chief branch of the Chamouchouan River was ascended to its head near Lake Mistassini. The same route as that followed the previous year, was taken to the East Main River, where the survey was commenced at the end of that year's work, and carried upward to the head of the river, where a crossing was made to the upper waters of the Big River, and that stream was descended to Lake Nichicun. A portage-route was then followed to Lake Kaniapiskau, and the Koksoak River, which flows out of it, was descended to its mouth at Ungava Bay. In this manner a canoe trip through the centre of the Labrador Peninsula from south to north was accomplished. From Fort Chimo, the Hudson's Bay Company's steamship "Eric" was taken to Rigolet on Hamilton Inlet. From Rigolet, canoes were taken to Northwest River, at the head of the inlet, where the early winter was passed. From the 19th January to the middle of May, the whole time was employed in hauling the outfit, canoes and provisions on sleds up the Hamilton River as far as the Grand Falls, some two hundred and fifty miles above the mouth of the river. The months of June and July were occupied in the exploration of the Ashuanipi branch of

Route followed
in 1895.

Kaniapiskau, and with the exploration of Lake Michikamau. In August a start was made for the coast by ascending the Attikonak branch of the Hamilton River to its head, and thence crossing to the Romaine River. This stream was descended to within one hundred miles of the coast, whence a portage-route was followed to the St. John River, and by way of this river the Gulf of St. Lawrence was reached. The total mileage of travel for 1893-94 was 5,460 miles, made up as follows:—In canoe, 2,960 miles; on vessel, 1,000 miles; with dog-teams, 500 miles; and on foot, 1,000 miles.

Agreement
of matter.

The summer of 1895 was spent in exploring the Manicuagan River, flowing southward into the Gulf of St. Lawrence, which it enters about 240 miles below Quebec. This stream was geologically explored to the head of Mouchalagan Lake, where the surveys previously made by the Crown Lands Department of Quebec ended. Above this lake the main stream was surveyed, by micrometer, to its head in Summit Lake in latitude 53° N., and track-surveys were carried over portage-routes on various branches of this river and the head-waters of the Outardes River and of the Big River of Hudson Bay. In so doing a good idea was obtained of the country about the central watershed of the peninsula, as well as considerable additional information in regard to the geology and natural history of the region.

Appendices.

The subject matter of this report is separated into two parts.—The first contains a general summary of the observations made, and the conclusions reached from these. It is consequently more concise and readable than the other part, which consists of detailed descriptions of the routes, the rocks noted, and other observations for the use of future explorers in the regions traversed. In the part relating to the geology, a summary of the chief observations and deductions is given in connection with each formation, before the detailed observations are entered upon.

Boundaries of
the Labrador
Peninsula.

In the Appendices will be found lists and short notes on the mammals, birds, fishes and insects known to exist in the interior of the peninsula; also a complete list of plants of Labrador, compiled by Mr. J. M. Macoun, from the various collections made by members of the staff of the Geological Survey and others. A meteorological record for 1893-94 is also given in Appendix VII.

* * * *

PHYSICAL GEOGRAPHY.

The eastern coast of the Labrador Peninsula extends north-north-west, from the Strait of Belle Isle to Cape Chidley, a distance of about seven hundred miles, or from latitude 52° to latitude $60^{\circ} 30'$, fronting the North Atlantic. The northern boundary from Cape Chidley to Cape Wolstenholme, at the entrance of Hudson Bay, in a straight line, is nearly five hundred miles long, and runs about west-north-west in direction, forming the southern shore of Hudson Strait

including Ungava Bay. A line drawn from Cape Wolstenholme to the bottom of James Bay, runs nearly north-and-south for eight hundred miles, and corresponds closely to the eastern shore-line of the

Extent.

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Atlantic Coast.

peninsula. The southern boundary is arbitrary but has been taken as a straight line extending in a direction nearly east from the south end of James Bay near latitude 51°, to the Gulf of St. Lawrence near Seven Islands in latitude 50°. This line is nearly six hundred miles long, and passes close to the south end of Lake Mistassini. From where the line reaches the Gulf coast, in the neighbourhood of Seven Islands, the shore-line forms the southern boundary to the Strait of Belle Isle, with a length of somewhat over five hundred miles.

The total area embraced within these boundaries is approximately 511,000 square miles, of which, previous to the present explorations, 289,000 square miles were practically unknown. There still remains about 120,000 square miles of the northern portion of the peninsula, between Hudson and Ungava bays, totally unknown to anyone except the wandering bands of Eskimo who occasionally penetrate inland from the coast.

Northern coasts.

The Atlantic coast is exceedingly irregular, being deeply cut by many long narrow bays, or fiords, so that the coast-line exceeds many times the direct distance from Belle Isle to Cape Chidley. Hamilton Inlet is the largest and longest of these inlets, extending inland over one hundred and fifty miles from its mouth. Among others, Sandwich, Kaipokok, Saglek and Nachvak bays are from thirty to fifty miles deep. These narrow fiords are surrounded by rocky hills that rise abruptly from the water to heights ranging from 1,000 feet to 4,000 feet. The water of the inlets is generally deep and varies from ten to one hundred fathoms. A fringe of small rocky island extends almost continuously along the coast, with a breadth of from five to twenty-five miles. Outside the islands, the inner banks extend seaward for an average distance of about fifteen miles, and on them the water is rarely over forty fathoms deep. From this it will be seen that the fiords, as a rule, have greater depths than the banks outside the island fringe.

Dangerous currents.

* * * *

Coast of Hudson Bay.

The coast adjacent to Hudson Strait and Ungava Bay has not been examined closely, but enough is known for us to state that it is generally bold, with highlands rising immediately from it. Small rocky islands form a narrow fringe in many places, especially about Ungava Bay, and the coast is indented with small bays, but not to such an extent as the Atlantic coast.

Hope's Advance is a western extension of Ungava Bay, as yet unexplored. The navigation of Ungava Bay and Hudson Strait is rendered dangerous to sailing craft by the strong currents and exceedingly high tides, the latter having a mean rise in Ungava Bay of nearly forty feet, and at exceptional spring-tides they have been known to rise sixty feet.

From Cape Wolstenholme to near Cape Jones, at the

entrance to James Bay, the eastern coast-line of Hudson Bay is high and rocky. The coast between the entrance to Hudson Strait and Cape Dufferin, a distance of nearly three hundred miles, has not yet been continuously explored. Mosquito Bay is situated along this part of the coast, and was formerly supposed to connect with Hope's Advance. Such has since proved not to be the case, and Mosquito Bay has been found to extend inland not more than seventy-

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Gulf of St.
Lawrence
coast.

five miles. Between this bay and Cape Dufferin, there is a fringe of islands stretching out from ten to twenty miles from the mainland. To the south-ward of Cape Dufferin, the coast-line remains high, and an almost continuous line of high islands of Cambrian rocks forms a safe channel for small boats, as far south as Great Whale River. This channel varies from two to eight miles in width. South of Great Whale River, to within a short distance of Cape Jones, the coast is unprotected and bold.

General elevation
and contour.

The eastern shore-line of James Bay is generally low, and the waters of the bay are very shallow and dotted far out with rocky islands and bouldery reefs, between which there is a perfect labyrinth of channels, navigable with small craft, but dangerous to approach with large vessels.

The north shore of the Gulf of St. Lawrence, in many places, has a more or less wide interval of low land, between the shore and the rocky plateau behind. From Seven Islands to Natashquan Point, the shore is comparatively regular and the islands few in number. To the eastward of Natashquan, as far as the Strait of Belle Isle, the coast is greatly indented by small bays and coves, and islands are numerous, especially between Cape Whittle and Blanc Sablon.

Gradual slope
towards James
Bay.

The peninsula of Labrador is a high, rolling plateau, which rises somewhat abruptly, within a few miles of the coast-line, to heights between 1,500 and 2,500 feet, the latter elevation being somewhat greater than the watershed of the interior. The interior country is undulating, and is traversed by ridges of low rounded hills, that seldom rise more than 500 feet above the general surrounding level. From the barometer readings, taken during the season of 1894, in conjunction with stationary barometers at Hamilton Inlet and Anticosti, the general level of the interior plateau, about the Upper Hamilton River and Lake Michikamau, near the central watershed, varies from 1,600 feet to 1,800 feet, and this may be taken as the general height of much of the interior of the peninsula. The highest part of the main interior mass is near the high granite area between the head-waters of the Peribonka, Manicouagan and Outardes rivers, flowing into the St. Lawrence, the East Main and Big rivers, flowing into Hudson Bay, and the Koksoak River flowing into Ungava Bay. The general elevation of this area exceeds 2,000 feet.

Highlands of
the St.
Lawrence.

The only portion in which the general level is attained by a gradual slope, is the part facing James Bay, where the land along the coast is low, and the rise eastward towards the interior is so light that one hundred miles inland it is only

about 700 feet above sea-level.

Beyond this the land continues to rise gradually, so that Lake Mistassini is only 1,300 feet above sea-level. As before stated, the rise from the coast in other places is quite rapid ; and along the St. Lawrence coast there is a range of high ground extending from the neighbourhood of Quebec to below the St. John River. The larger streams have cut deep valleys through this range. Along the Saguenay, at Cape Eternity, the hills rise almost sheer 1,500 feet above the river ; while behind, in the Lake St. John region, few elevations exceed 1,000 feet. On the Bersimis River, the high range begins about forty-five miles inland and continues to about the one hundredth mile,

beyond which the country is comparatively level, and somewhat lower. On the Romaine and St. John rivers, the high lands formed from a great mass of irruptive rocks, begin about twenty-five miles from the coast, and are about fifty miles broad. The general level of this belt is nearly 2,000 feet and many of the summits are more than 2,500 feet above sea-level, while the general level of the country immediately behind them is not much over 1,600 feet. H. Y. Hind* mentions similar high lands on the Moisie River, where the general level is above 1,500 feet, and some of the mountain ranges are 3,000 feet above sea-level.

Along the Atlantic coast, the land rises abruptly inland, almost everywhere, to altitudes varying from 1,000 feet to 1,500 feet, from the Strait of Belle Isle to the vicinity of Nain. To the northward of Nain the coast range is much higher, and, in the neighbourhood of Nachvak Bay, ranges of sharp, unglaciated mountains rise abruptly from the sea to heights varying from 2,500 feet to 4,000 feet ; while farther north they are reported to culminate in peaks of 6,000 feet, a few miles inland. With a slight decrease in height, this range continues northward to the barren islands at Cape Chidley. This mountain range appears to be confined to the coast region and probably is under fifty miles in width, the country on the western side sloping rapidly down to the level of the interior plateau. About Ungava Bay, the general level of the plateau is probably somewhat under 1,000 feet, and the land rises gradually towards the interior. Little or nothing is known definitely of the great northern area between Ungava and Hudson bays, but, from observations by Dr. R. Bell, made along the coasts, the land appears to rise rapidly for 1,000 feet, and then more gradually to elevations between 1,500 and 2,000 feet. From information obtained from the Eskimo at Ungava, there would seem to be a low tract of country extending westward from Hope's Advance towards Mosquito Bay on the Hudson Bay coast, and also another area of comparatively low country westward of the Leaf Lakes and of the Koksoak River valley.

The land fronting the Hudson Bay coast, as far south as Cape Jones, reaches the 1,000 feet level within a short distance from the sea, and then rises quickly to a general level between 1,500 and 2,000 feet, the latter being the maximum of elevation in this region, as determined by the few explorations in this portion of the peninsula. The gradual rise from the seaboard of the country to the east and south-east of James Bay, has already been mentioned.

To sum up the foregoing statements of levels,—the interior of the peninsula is almost flat, so that in an area of 200,000 square miles, there is not a difference of general level of more than 300 or 400 feet, and the highest general level of the interior is under 2,500 feet. A belt of land somewhat higher than the general interior follows the St. Lawrence coast, a short

distance inland. The northern half of the Atlantic coast rises in a chain of mountains, considerably higher than any other portion of the peninsula. Along the northern

*Explorations in Labrador, vol. 1, chap. ix.

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and western coasts there is no evidence yet obtained to show the existence of a coastal ridge, but rather a probability that the general elevation increases towards the interior.

Like the other portions of northern Canada underlain by glaciated Archæan rocks, the interior of the Labrador Peninsula is covered with myriads of lakes that occupy, at a moderate estimate, at least one-fourth of the total area. In size, these vary from small narrow ponds, to lakes with surfaces hundreds of square miles in extent. Great Mistassini and Michikamau lakes have areas considerably exceeding 500 square miles. Among those of which the area is between 200 and 500 square miles, may be mentioned Manouan Lake, on a tributary of the Peribonka River, Pletipi Lake, at the head of the Outardes River, the Manicuagan lakes, on the headwaters of the river of the same name ; all sending their waters into the St. Lawrence. Discharging into the Atlantic are Winokapau, Petitsikapau, Ashuanipi and Attikonak lakes on the Hamilton River, and Grand Lake on the Northwest River, which also drains Lake Michikamau. On the rivers discharging northward, Lake Kaniapiskau is the only one yet partly explored, but reference to the map will show a number of large lakes on the various tributaries of the Koksoak and George rivers, which have been located from information derived from Hudson's Bay Company employees and Indians.

Great depths in
lakes.

Rivers.

* * * *

Besides the lakes mentioned, there are hundreds having a surface area between 20 square miles and 100 square miles, while smaller lakes are numberless.

* * * *

It follows, from the great number of lakes, that the country must be covered with a perfect network of streams discharging them. The discharges and lakes interlock so closely that, with a knowledge of the country, it is possible to travel with canoes in any direction, the longest portages never exceeding two or three miles.

There are four principal watersheds to the peninsula : of these the southern is the smallest, its rivers rarely exceeding 300 miles in length ; the most important are the Saguenay and its branches, Bersimis, Outardes, Manicuagan, Moisie, Romaine, Natashquan and St. Augustine. The eastern watershed drains chiefly into Hamilton Inlet, three large rivers flowing into its head. Of these the Hamilton River is much the largest, taking its rise near the middle of the peninsula and draining an area extending from latitude 52° to latitude 54° covering seven degrees of longitude. Its longest branch rises

Koksoak River.

nearly 600 miles from its mouth. The other rivers of Hamilton Inlet are the Northwest and Kenamou, the former draining a large area to the north of the Hamilton River, the latter flowing in from the south-west. Apart from these three large streams, no other rivers of importance are found along the Atlantic coast, on account of the high lands of the coast cutting off the drainage of the interior and forcing it to flow northward into Ungava Bay.

The Koksoak River is the largest stream flowing northward, and is pro-

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Western rivers.

bably the largest river of Labrador. Besides the main stream, there are a half dozen tributaries, each of which drains an important basin. The longest branch flows out of the northern end of Summit Lake, on the 53rd parallel of latitude, while a branch of the Manicouagan River flows out of the southern end of the same lake, thus connecting by water the Gulf of St. Lawrence with Ungava Bay. The total area drained by this river and its tributaries is about 60,000 square miles. The George River, is another great stream which rises in large lakes close to Lake Petitsikapau on the Hamilton River, and drains a wide area westward of the Atlantic coast range. The Whale River is a smaller stream lying between the George and Koksoak rivers.

The western drainage basin is the greatest in Labrador and is emptied by large rivers, that rise far inland, close to the head-waters of the Koksoak and Saguenay rivers. Proceeding from the northward, the larger rivers flowing into Hudson Bay are :—The Nastapoka which flows out of several large lakes to the eastward of Clearwater Lake and near the head of the Stillwater branch of the Koksoak River ; the Little and Great Whale rivers, that rise close to the western branches of the Koksoak ; the Big River which rises in the mountainous area south and east of the head of the East Main River, in about latitude 52°, and close to the sources of the Peribonka, Manicouagan and Outardes rivers tributaries of the St. Lawrence. From its source the Big River flows northward nearly one hundred and fifty miles, passing through Lake Nichicun, and then turns westward four hundred miles, emptying into James Bay, near latitude 54°.

Drainage-basin of
Hamilton River.

The East Main River takes its rise in a number of lakes close to Lake Nichicun and flows nearly west, discharging into James Bay a short distance north of latitude 52°. The Rupert River forms the discharge of the Mistassini lakes, and, having such large reservoirs at its head, is not subject to the same fluctuations of volume, as the other rivers. It empties into Rupert Bay close to the mouth of the Nottoway River, which drains a wide area to the south-east of Hudson Bay, and rises

in a number of large lakes close to the height-of-land dividing it from the St. Maurice River, which joins the St. Lawrence at Three Rivers.

Hamilton River.

Division of
river into upper
and lower.

The Hamilton River is the most important stream of the eastern watershed of the Labrador Peninsula. Its drainage-basin embraces a wide area of the country extending from the head of Hamilton Inlet westward to longitude 68°, or nearly half way across the peninsula. To the northward its tributaries interlock with those of the Northwest River which also flows into Hamilton Inlet, and with the headwaters of the George River and branches of the Koksoak River that empty into Ungava Bay. The southern limit of its large tributaries is very irregular, and may be roughly taken to be near the fifty-second parallel of latitude, where the watershed separating them from streams flowing southward into the St. Lawrence, is extremely sinuous and almost impossible to trace or define.

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The river-valley.

Westward of the Hamilton basin, the general slope of the country is northward, and the drainage is in that direction from about latitude 52°, the water reaching the ocean by the Koksoak River, which drains a considerable area of the central interior between the head of the Hamilton River and the Big River flowing into Hudson Bay.

Owing to the great difference in physical character between its upper and lower portions, the Hamilton River is naturally divided into two parts at the Grand Falls some 250 miles above its mouth. The lower part occupies a distinct valley, cut out of Archæan rocks, with the present river-level from 500 to 800 feet below the general level of the surrounding country. The valley varies in width from 100 yards to more than two miles, and the river flows down it between banks of drift, with a strong current broken by rapids in several places, especially along the upper stretches, but only in one place does it fall over an obstruction of rock.

This valley is well wooded where unburnt, and the timber is all of fair size and of commercial value, in marked contrast to the small stunted trees found partly covering the rolling country of the tableland, on either side of the valley.

* * * *

Origin of
Bodwoin Cañon.

Low describes the canyon through which the river flows for a distance of some eight miles below the Grand Falls, before it enters the main valley of the river, as follows:—

The cañon is cut sharply into the surface of the table-land without any appreciable dip of the ground towards it, and there is so little indication of its presence from above, that the gorge is seen only within a few yards of its edge ; and its walls are so steep, and the bushes along the top so thick, that in most places it is necessary to hold on to an overhanging tree and lean far out in order to see the narrow white line of broken

foaming water that rushes along 500 feet below. As the country slopes gently towards the main valley, the cañon does not deepen with the descent of the river in it, and the walls are everywhere from 500 to 600 feet high, varying with the undulating surface of the table-land.

Descent of
the river near the
Grand Falls.

There is little doubt that the cañon is a valley of erosion in an unfinished state of formation, and probably previous to the glacial period was the valley of a much smaller stream than the one at present flowing through it. At that time the main stream in all likelihood followed the main valley. There is no evidence that the valley has been cut back, or otherwise eroded since the close of the glacial period, beyond the removal of the drift, which then filled it nearly to the top, as patches of drift still remain on the inner sides of the sharp bends. From the above facts some idea can be had of the great length of time required for the erosion of the main valley of the river, from the falls to the mouth of Hamilton Inlet, which is really a submerged portion of this river-valley.

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In his description of the Grand Falls, Dr. Low speaks of the magnitude of the fall which occurs and of the volume of the discharge of the river at this point as follows:—

Volume of water
at Grand Falls.

“ Eight miles in a straight line north-north-west of the mouth of the cañon, the main branch of the Hamilton River issues from a small lake-expansion, almost on a level with the surrounding surface of the table-land, and begins one of the greatest and wildest descents of any river in eastern America. A large number of barometric readings taken in the vicinity, in conjunction with regular readings at the Hudson's Bay Company's post, at Northwest River, give the height of the river as it issues from the lake as 1,660 feet above sea-level. The height of the valley at the mouth of the gorge, determined in the same manner, is very close to 900 feet above sea-level.

Characters of
the upper
Hamilton River.

Consequently, in twelve miles, the total fall is 760 feet. Such a fall would be nothing extraordinary for a small stream, in a mountainous country, but is phenomenal in a great river like the Hamilton, which has been estimated to discharge at this point about 50,000 cubic feet per second, or nearly the mean volume of the Ottawa River, at Ottawa, that stream having a mean volume of 85,000 cubic feet per second at Grenville, where it includes the waters of the Rideau, Gatineau and Lièvre rivers. The descent includes a sheer fall of 302 feet, the rest being in the form of heavy rapids.

Upper Hamilton River.

“ Above the Grand Falls, the character of the river changes completely ; it no longer flows in a distinct valley cut deep into the surrounding country, but nearly

on a level with the surface of the table-land, spreading out so as to fill the valleys between the long, low ridges of hills that are arranged in echelon all over the country. The river in passing around the ridges is often broken into several channels by large islands formed by separate ridges, and in other places, where there are wide valleys between the hills, it fills long, shallow lakes, with deep bays, and often studded with islands. The river is, now so divided into channels and so diversified with island-covered lakes, that without a guide it is almost impossible to follow its main channel, and much time is lost tracing its course through the lakes, which often have several channels discharging into, as well as out of them. The current instead of flowing regularly, now alternates between short rapids and long lake stretches.

“ The banks are often low, and covered with a dense growth of small willows and alders, that form a wide fringe between the water and the conifers of the higher ground behind. In other places, generally at rapids, the stream has cut a channel into the sandy drift that forms the low ridges on one or both sides. The shores of the lakes are very often low, with an interval of flat land between the water and the hills

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Post-glacial
channels.

behind. These low shores and those of the islands are generally thickly strewn with boulders, piled up in ridges by the expansion and drift of the ice in the spring. The general direction of the river from the Grand Falls to Lake Petitsikapau, more than 100 miles above, is nearly west-north-west, or parallel to the direction of the glacial striae, and that of the ridges of drift. All these features give to the upper portion of the river an aspect of newness, and indicate that its present course and conditions have been determined by the post-glacial configuration of the table-land, in marked contrast to the ancient appearance of the deep, rock-walled valley of erosion below the cañon in which the river must have flowed for ages, slowly abrading the hard gneisses and granites and carrying away the results of atmospheric decay brought down from its sides by the rains and small tributary streams.”

II. GEOLOGY.**No. 1048.****EXTRACTS FROM “REPORT ON EXPLORATIONS IN
THE LABRADOR PENINSULA.”**

BY A. P. LOW, OF THE GEOLOGICAL SURVEY OF CANADA, Vide No.
1047.

FORMATION OF FIORDS.

In his description of the Atlantic coast of the Peninsula (quoted above), Dr. Low states that a fringe of small rocky islands extends almost continuously along the coast, with a breadth of from five to twenty-five miles; that outside the islands, submerged banks extend seaward for an average distance of about fifteen miles, and on them the water is rarely over forty fathoms deep. From this it will be seen, he observes, that the fiords as a rule, have greater depths than the banks outside the island fringe. He then observes as follows :—

“ To account for such an apparent anomaly, it is necessary to consider the formation of both the fiords and banks. The fiords appear to be valleys of denudation of very ancient origin, eroded, at least in part, when the elevation of the peninsula was considerably greater (at least 600 feet) than at present. Their remote antiquity is established by the deposition in their lower levels of undisturbed sandstones of Cambrian age. The banks are likely of comparatively recent formation, and appear to be made from material carried off the higher lands by glaciers and deposited by them as a terminal moraine among and outside the fringe of islands, to be subsequently flattened out by floating ice and currents, thus filling up the deep channels at the mouths of the fiords. ”

Ancient river
channels.

ANCIENT RIVER CHANNELS.

The channels of most of the rivers of Labrador are of very ancient origin, apparently dating back to a period before the deposition of the Cambrian

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rocks. These valleys are cut deep into the general level of the plateau, their depth and length apparently depending on the volume of water carried, and thus showing that they have been mainly formed by normal denudation.

The larger rivers flowing southward, have deep valleys

New channels.

Extent and
movement of the
ice.

cut through the highlands of the coast region, and the streams are often from 500 feet to 1,000 feet below the general level of the surrounding country. The heads of these valleys are from one hundred to three hundred miles from their mouths; and at their upper ends the rivers descend from the level of the interior in a succession of heavy falls, through narrow gorges where processes of erosion are at present extending and deepening the valleys. This erosion is, however, so exceedingly slow, that the change in the heads of the valleys, since glacial times, has been practically nothing, owing no doubt to the hardness and resistance to weathering of the Archæan rocks in which they are cut. The gorge of the Saguenay, with its almost vertical walls rising 1,500 feet above the surface of the water, and its great depth of more than 800 feet in places, is an excellent example of one of these ancient river-valleys. That of the Hamilton River, which is cut back from the head of Hamilton Inlet for nearly three hundred miles, and of which the depth is from 700 feet to 1,200 feet below the general level of the surrounding country, is another fine example of river erosion. The rivers occupying smaller valleys, are all of the same type. The East Main and Rupert rivers, flowing as they do on the gradual slope towards James Bay, where the marine deposits of sand and clay are found inland about one hundred miles, have not the marked valleys found elsewhere, but descend in a number of steps, where they have either cut narrow gorges out of soft Huronian schists, or fall directly over granitic ledges. The ancient valleys of these streams appear to have been filled up during the deposition of these marine beds, and the present river-courses are of post-glacial origin.

Before entering the ancient valleys above described, all the rivers in central Labrador flow almost on the surface of the country, and are broken into chains of lakes often formed by dams of glacial drift, which in other places form low ridges that divide the streams into different channels. These channels wander about on the lower levels of the interior country in a most bewildering manner, and render travel without a guide excessively difficult.

GLACIAL GEOLOGY.

Probable great
thickness of ice.

The observations of striæ and other glacial phenomena taken along the different routes followed during these explorations, in conjunction with similar evidence previously obtained on the rivers flowing westward into Hudson Bay, all show that the Labrador Peninsula, with the exception of a narrow strip of highlands along the North Atlantic Coast, was completely covered with ice during a portion at least of the glacial period. The movement of the ice followed the general slope of the country outward in all directions from a central gathering-ground, or nevé, and the thickness of the

ice was such that in its flow it passed over ridges and valleys unchanged, or with only minor deflections.

* * * *

The strong glaciation of the highest hills in the interior, on the edges of the nevé region, the constant directions of the striæ over hill and valley, and the fact that the general slope of the plateau from the interior outwards is very slight and does not exceed two or three feet per mile until within a few miles of the coast, all point to a considerable thickness of ice in the interior such as to cause the strong, radial flow of the ice evidenced by the glaciation of the region.

[1904.]

**EXTRACTS FROM "PHYSIOGRAPHY OF THE
ARCHEAN AREAS OF CANADA."**BY PROF. A. W. G. WILSON, MCGILL UNIVERSITY, MONTREAL,
CANADA.

p. 116.

**REPORT OF THE 8TH INTERNATIONAL
GEOGRAPHIC CONGRESS, U.S., 1904. Pages 116-135.**

INTRODUCTION.

The present paper offers a brief general description of the more salient physiographic features of the Archean areas of Canada. The paper is based upon the reports of the many explorers who have traversed this area in its different parts. The writer's own field work in several parts of the area has served as a basis of interpretation where his method of description departs from that of the authorities from whose work this summary was prepared.

p. 124.

No attempt is made to discuss the imperfectly known geology of the very large area here under consideration. The purpose of the paper is rather to draw attention to the remarkable unity of the physiographic features of the region in its whole extent and to present a brief description of their most marked characteristics.

AREA AND EXTENT.

The Archean areas of Canada, the Canadian Shield of Suess, extend around Hudson Bay in a U form, reaching from Hudson Strait on the north-east, southward through Labrador, Quebec, northern Ontario, and then north-westward through the district of Keewatin and part of the district of Mackenzie to Coronation Gulf, in the extreme north-west.

* * * *

2. *Depressions containing sedimentary deposits.*—The occurrence of valleys partly occupied by sediments which have been called Cambrian has been reported by Low in Labrador and by Tyrrell in northern Keewatin and eastern Mackenzie. Outlying areas of Paleozoic sediments are found in the basins occupied in part by Lakes Nipissing, Temiscaming, St. John, and Mistassinni.

Low, in describing certain of these valleys in Labrador, mentions that the streams are often from 500 to 1,000 feet below the level of the plateau. The heads of the valleys are

p. 124. from 100 to 300 miles from their mouths, and at the upper ends the rivers descend from the level of the interior in a succession
p. 2605

p. 125. of heavy falls through narrow gorges, where processes of erosion are at present slowly extending and deepening the valleys. The valley of the Hamilton River lie describes as from 700 to 1,200 feet below the level of the plateau. Some of these ancient valleys have been more or less filled with glacial débris, and the modern streams for part or all of their lengths have taken new courses.

Some of the depressions in which these sediments lie seem to be ancient broadly open valleys and are considered by those who have had the opportunity of studying them in the field as of pre-Cambrian age.

* * * *

p. 130. In the Labrador region the margins of the depressions in which the sediments occur are well defined. This is strikingly true of the lower and partly submerged valley of the Hamilton River.

* * * *

p. 131. 3. *Gorge and canyon valleys*.—Narrow, steep-sided valleys and gorges, some many miles in length, some extending only for a short distance, are of frequent occurrence in various parts of the peneplain. Many of them are found in the Labrador area, through which the drainage of the interior upland passes down to Hudson Bay, to the St. Lawrence River, or to the Atlantic Ocean. One of the most interesting of these is the gorge of the Hamilton River, described by Low as occurring above the more open, partly submerged valley of the second type here described, in which certain sediments lie and which forms the lower part of the valley of the same river.

* * * *

Origin of the basins, valleys, and gorges.

* * * *

Given time enough there can be no question that the normal processes of river erosion could produce these deep canyons or steep-sided valleys. So far as we know at present, this seems to have been the process by which most of the deep gorges and canyons cut below the level of the Labrador peneplain were excavated. Mr. Low notes, with respect to the canyon of the Hamilton just below the Grand Falls, that the river in its erosion of this gorge has been guided by two series of joint fractures, so that the canyon has a somewhat zigzag course. Mr. Low has also drawn the writer's attention to the fact that there are several instances where an old valley has been blocked by glacial débris, and the streams flowing in the upper portion of the valley are turned aside and have already cut well-defined canyons, in some cases of considerable length, in the crystalline rocks. It is to be noted that the canyon of the Hamilton River enters a larger, broader valley, to which reference has already been made, from the north side. The old

valley continues inland for a considerable distance beyond the junction of the present Hamilton River *via* the canyon, with the lower part of the stream in the older valley. Mr. Low regards this canyon as of post-Glacial origin and as due to the erosion by the large stream which now rushes through it.

III. ETHNOGRAPHY.

Inhabitants.

No. 1050.

Difficulty in
making a
census.**EXTRACTS FROM “REPORT ON EXPLORATIONS IN
THE LABRADOR PENINSULA.”**BY A. P. LOW, OF THE GEOLOGICAL SURVEY OF CANADA, VIDE No.
1047.

POPULATION.

Number of
Indians.

With the exception of the white settlements along the north shore of the Gulf of St. Lawrence and on the Atlantic coast, and the few whites employed by the Hudson's Bay Company in the interior and on Hudson Bay, the inhabitants of the Labrador Peninsula are either Indians or Eskimo.

It is very difficult to arrive at more than a rough approximation of the numbers of Indians inhabiting the interior, owing to their habits of roving from one Company's post to another ; and the consequent liability to counting the same family several times, if the returns are computed from the books of the various posts, which is the only available data for any exact enumeration.

From the returns given in the reports of the Department of Indian Affairs, the Indians of the Gulf of St. Lawrence, including those of Lake St. John, numbered 1,919 in 1888, and 1,725 in 1893. These figures exclude 2,860 under the heading of the “Nascopies of the Lower St. Lawrence,” which number is the same in both returns. According to the same source, the number of Indians of Eastern Rupert Land is 4,016 ; that of the Labrador (Canadian Interior) 1,000, and that of the Atlantic coast 4,000. The last probably refers to the Eskimo, but is not so stated. These returns would give a total native population of more than 13,000 persons, if the Indians of Eastern Rupert Land are those of the east coast of Hudson Bay.

In Appendix II., page 336, of the report of the Committee on the Hudson's Bay Company (1857), a return of the native population is given, compiled by the Hudson's Bay Company and others. The total number of natives trading at, and belonging to, the various posts in the Labrador Peninsula is given as 3,885 persons ; and this estimate, although probably somewhat high, is still much nearer to the native Indian population than that given above. The population of the St. Lawrence coast is given as 1,800 persons, which agrees closely with the Department of Indian Affairs returns for the years

Changes in
population.

1888 and 1893.* Of the remainder, 400 belonged to posts on the Atlantic coast, where probably a number of Eskimo are included, 950 belonged to the posts of the east coast of Hudson Bay, and the balance, 735, were attached to the posts of the interior. Since this return was made, the food resources and other conditions have changed considerably, and with them the distribution of the Indians.

Number of
Eskimo.

In 1857, there were seven trading posts in the interior of the peninsula, and at present there are but three, Waswanipi, Mistassini and Niehicun. Fort Chimo, near the mouth of the Koksoak River was not then opened. The policy of the Hudson Bay Company was then to keep the Indians away from the coast and contact with opposition traders; this has now been changed, and the great body of the natives travel annually to and from their hunting grounds in the interior, to the various coast posts. In consequence, instead of 735 persons belonging to inland posts, at present there are not above 300 attached to these posts. The number of Indians trading at Northwest River and Davis Inlet, on the Atlantic coast, is about 200 persons. At Fort Chimo the famine of 1892-93 reduced the number of Indians in that district from 350 to less than 200 persons. Connected with the posts at Great Whale River, Fort George and Rupert House, on Hudson Bay, the total number of Indians does not exceed 1,000 persons, and probably falls considerably short of that number, so that at the highest estimate the Indian population of the Labrador Peninsula does not exceed 3,500, and is more likely nearer 3,000.

Whites on
Labrador coast.

The Eskimo inhabit the coast of the peninsula from Hamilton Inlet northward along the Atlantic coast to Hudson Strait, the east shore of Hudson Bay as far south as Great Whale River, while a few families live on the islands of James Bay. From the meagre returns available, only an approximate statement of their numbers can be compiled. In the census of Newfoundland (1891), the Eskimo are not separated from the white population of the Labrador coast; but, as the number of resident whites is not above 100 persons north of Hamilton Inlet, and as the Eskimo form about one-half the population of that place, from a total of 1,191 persons there, and along the coast north of Hamilton Inlet, between 900 and 1,000 may be taken as Eskimo. The following estimate of the Eskimo population living on Hudson Strait and the east coast of Hudson Bay was supplied by Mr. R. Gray, who was for upwards of ten years clerk at Fort Chimo, and is well acquainted with the Eskimo of Ungava Bay :—From Cape Chidley to Hope's Advance, 51 families; about Hope's Advance, 30 families ; from Stupart Bay to Cape Wolstenholme, 80 families ; from Cape Wolstenholme to Great Whale River, 80 families. The average Eskimo family is small and rarely exceeds five persons. Taking this as the average, the total population to the west of Cape Chidley would be 1,200 persons. This estimate is probably excessive, and 1,000 persons would be nearer the number, if not still

Total population. above it. According to the Newfoundland census of 1891, the total population of the Labrador coast between Blanc Sablon and Cape Chidley is 4,106, including the Eskimo already referred to. Subtracting the 1,000 Eskimo would leave a resident

*The census return for 1891 gives a total of 1387 Indians belonging to the posts along the north shore of the St. Lawrence, to the eastward, and exclusive of the Saguenay.

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white population of 3,106 greatly increased during the summer months by fishermen from Newfoundland. In 1890, 10,430 men, 2,076 women and 828 children from Newfoundland were so engaged, in 854 vessels.

According to the Canadian census (1891), there is a white population of 5,728, scattered along the north shore of the Gulf of St. Lawrence, to the eastward, and exclusive of those living about the mouth of the Saguenay River, who number 2,440.

To sum up, taking 3,500 Indians, 2,000 Eskimo and 8,800 whites, the total population of the Labrador peninsula is 14,300, or, roughly, one person to every thirty-five square miles.

“Planters.”

The white population along the gulf coast consists largely of French Canadians who obtain a livelihood chiefly from the fisheries, with slight help from fur hunting during the winter. On the Atlantic coast the whites, northward from the Strait of Belle Isle to Sandwich Bay, are largely English speaking, and are either immigrants from Newfoundland, or the descendants of English fishermen formerly engaged in the salmon fishery. Northward of Sandwich Bay, the white inhabitants are, for the most part, descended from Hudson's Bay Company servants, who married Eskimo women and remained on the coast after their services had expired. They are known along the coast as “planters,” and gain a fairly comfortable living from the cod and salmon fishery in the summer, and by fur hunting during the winter. They are all deeply in debt to the Hudson's Bay Company and Newfoundland fishing firms for supplies advanced. Having no capital of their own, they are compelled every spring in order to carry on their fishing, to obtain supplies and nets from the merchants. If the season is favourable, they may be able to pay off their debts at its close ; but, as a rule, of late years they have been going deeper and deeper into debt, owing to the scarcity of fish along the coast where they are accustomed to make their fisheries. The natives ascribe the failure of the fishery to the numerous trap-nets now used along the coast by fishermen employed by the Newfoundland merchants. The use of these nets is said to be contrary to the law of Newfoundland, but, as there is no strict government patrol of the Labrador coast, the law is practically inoperative.

Winter quarters.

Fur hunting.

At the close of the fishery, the greater number of the “planters” leave their small houses on the coast, and proceeding to the heads of the various bays, go into winter quarters in their small houses there. During the winter they are

Seal hunting.

engaged hunting fur-bearing animals. These also are not so plentiful as formerly, owing probably, to the large areas burnt over, either from fires accidentally made, or set on purpose by the owners of schooners, who often fire the country along the shore, so as to easily make dry firewood for future seasons.

Each “ planter ” has a “ path ” or line of traps, often extending fifty miles or more inland, and as these paths cannot be covered in one day, he has small “ shacks,” or log houses, at convenient intervals along them, where he can pass the night with some degree of comfort. Some of the paths are so long that they require a week to go over and attend to the traps on the way.

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Food supply.

During the months of April and May the planters and Eskimo are engaged s at the seal hunt. They kill these animals on the ice of the upper parts of the inlets, by watching at their holes or cracks, and spearing them when they come to breathe or sun themselves. Formerly the takes were large, but of late years they have been so small that many are abandoning the hunt. As soon as the ice leaves the bays, seals are taken in nets set along shore. The seals are used principally for local consumption, although some skins and a small quantity of oil are exported. The skins are used for outer winter clothing and other domestic purposes, while the fat and meat are preserved for dog food; for, as each “ planter ” has a team of dogs, varying in number from two to six, and as the Hudson's Bay Company keep a large number of dogs, a great quantity of seal meat is required.

Missionaries.

Notwithstanding the decrease in the fishery, furs and seals, the planters make a much better living than many of the poorer people in cities ; and, if they were to exert themselves more, and were more thrifty, they might make a comfortable and independent living. As it is, with a reasonable amount of care, thought and labour, they can procure sufficient provisions to keep their families well fed, as in the fall, after the close of the commercial fishery, they can obtain an abundance of brook trout, that swarm at the mouths of all the streams flowing into the sea. At this time, spruce partridges are very plentiful on their migration from the coast inland, while, later, ptarmigan and rabbits are generally abundant. The proceeds of their fishery would easily provide them with flour and provisions, while all living inland might raise a small crop of potatoes; then, the proceeds of their winter's hunt would, in most cases, be ample to supply clothes for a year, and leave a surplus. This is, unfortunately, not the case, and a number of families are often without sufficient food and clothing every year.

Education.

For the spiritual benefit of the whites, the Methodist church of Newfoundland has a mission station opposite Rigolet, in charge of the Rev. Mr. Pollock, who resides there a

Tribes of Indians.

part of the time; the rest of his time being taken up with house to house visitations to the planters. As his district extends to and includes Sandwich Bay, one hundred miles to the south, where there is a large settlement, the time devoted to each family is small. The Episcopal church has a mission school at Sandwich Bay, in charge of Mr. L. Dicks, who also travels from house to house, instructing the children.

In spite of lack of educational advantages, nearly everybody can read and write, and all are very religious. As alcoholic liquors are not openly sold on the Labrador coast, cases of intoxication are exceedingly rare, and many of the younger people do not know the taste of alcohol. On the whole, these people compare favourably with those of more civilized regions, being frugal, moral, willing, good tempered, and naturally intelligent ; their only fault, want of thrift and providence, is largely due to their mode of living, absence from any market of competitive labour, and the system of credit and debt under which they live.

The Indians of the Labrador Peninsula belong to tribes of the Algonkin family. The principal tribes of Labrador are the Montagnais, the eastern

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Close relation of
different tribes.

and western Nascaupees, and the coastal Indians of Hudson Bay. The Montagnais inhabit the country extending south of a line drawn westward from Hamilton Inlet, to the headwaters of the St. Maurice River. The Nascaupees inhabit the interior country north of this line, or from the bottom of James Bay eastward to Hamilton Inlet. The northern limit of their territory is marked by the Koksoak River, from its mouth to the Stillwater Branch, and by this stream westward to its head on the neighbourhood of Clearwater Lake, and thence westward to Richmond Gulf on Hudson Bay. This line divides the Indian territory from that of the Eskimo, and the boundary is well observed, the latter keeping far to the north of it, when hunting deer inland, and the Indians rarely crossing it from the southward.

Fear of the
Iroquois.

The coastal Indians of Hudson Bay are confined to a narrow margin extending from the bottom of James Bay to Little Whale River, along the east coast.

The various tribes are closely related by intermarriage, and, although using different dialects, have many manners and customs in common. The northern Indians have apparently migrated to their present territory from a south-west direction, as their language contains many words of the Sauteaux or Ojibway tongue ; whereas the southern Indians speak purer Cree. The Nascaupees have traditions that their people originally dwelt far to the south, on the north side of a great river, with the sea to the eastward. They were driven northward by the Iroquois during the wars of the early French régime in Canada. Such was the terror inspired by the Iroquois,

Montagnais.

Nascaupees.

who followed them beyond the southern watershed to the shores of Hudson Bay, and eastward along the St. Lawrence to the Natashquan River, that at present they use their name to frighten the children. The writer had two Iroquois as canoemen on the Big and Great Whale rivers, and could only with great difficulty induce the native Indians to accompany him inland along with their traditional foes and conquerors. There are several places between Hudson Bay and the Lower St. Lawrence, where great massacres of the natives were perpetrated by the Iroquois.

Coastal Indians.

The Montagnais are more or less of mixed blood, having intermarried with the old *coureurs des bois* and the French and English traders. This admixture of white blood is seen in the better physique of the tribe, the men being more muscular and broader than the pure Indian of the interior. As a rule, the men are of medium height, but a few are tall. The women are inclined to obesity as they advance in years, like their sisters of the northern tribes. The western Nascaupees are, as a rule, the tallest men in Labrador, many of them being six feet and over in height, straight and of light physique. The eastern Nascaupees are usually not above five feet six inches tall, slightly built and not at all muscular, being incapable of carrying half the loads of the Montagnais. They are also the dirtiest and most degraded Indians of Labrador. The coastal Indians have apparently a large admixture of white blood, as many of them have blue eyes and the men as a rule have strong beards. They bear in figure and face a certain resemblance to their northern neighbours the Eskimo, being heavily built and unlike the typical Indian. The admixture

Language.

of white blood would account for this difference of physique, and it may also have been induced by their living along the sea coast. Their resemblance to the Eskimo is not likely due to a blood relationship, as the Indians and Eskimo never take wives from one another, nor have sexual intercourse together.

Very little is known definitely about the philology and ethnology of the Indians, and the present account is only from desultory information picked up among them by the writer.

Religion.

The language, as before stated, is various dialects of Cree, or a mixture of Cree and Ojibway. The dialects are more numerous than those of the four tribes given above. The Montagnais of Lake St. John speak a somewhat different dialect from that of Bersimis, and it again differs from the dialects of Mingan or Northwest River. These differences of dialect in the same tribe are slight, and are mostly in the slang and interjections. The same differences apply to the dialects of the Nascaupee, Mistassini and Nichicun, differing from that of Fort Chimo, and all from that of Whale River and Rupert House. But these differences are all so small that the Montagnais canoemen conversed readily with the natives at Mistassini, Nichicun, Fort Chimo and Northwest River, and were only slightly puzzled on the coast of Hudson Bay, where the number of Ojibway words is greater. A large majority of the Indians of Labrador are Christians, the Montagnais of the St. Lawrence and Hamilton Inlet being Roman Catholics, while the Indians of the western watershed have been converted by the missionaries of the Church of England. Only the eastern Nascaupees are pagans, and most of them have a faint tinge of Christianity, imparted on hurried visits by the Roman Catholic missionaries, between Hamilton Inlet and Ungava Bay. The christianized Indians are devoutly religious, attending strictly to the offices of the church during the long periods of absence from the eye of the missionary. While in the woods, they keep track of the weeks, ticking the days off on a rough calendar. They do not work on Sunday, and observe the fast days. Notwithstanding their careful observance of the offices, their religion is to a considerable extent leavened with old pagan superstitions, and a sneaking regard is still held for the "windago" and other evil spirits of their forefathers. It is almost laughable to see the respect with which the most religious of them treat the well-known conjurors or medicine men of the pagan Nascaupees ; and they all secretly believe that these persons can, if they wish, work harm by the aid of evil spirits. All the Christian Indians can read and write, those instructed by the English missionaries using a kind of syllabic shorthand, while those under the French missionaries make use of books printed in the ordinary way.

Conjurors.

Education.

Honesty.

Morals.

Marriage.

Dishonesty and theft are unknown to the interior Indians; provisions and outfit can be left anywhere inland with perfect safety for any length of time. Only in a case of absolute starvation will provisions be taken, and then only a small part,

for which payment will be left by the person taking them. It is to be regretted that along the coasts, where the Indians are in close communication with the whites, their honesty suffers, and a good lookout must be kept, or property will be stolen.

p. 2612

Children. As a rule, the Indians have not a strict regard for the truth, and speak it only when convenient. The missionaries have improved the moral and sexual relations of the Indians, but there is still room for improvement in the latter respect. Marriages are made early, the men taking wives as soon as they can support them, and the women being given in marriage when they are fourteen or fifteen years old. Among the Christian Indians monogamy is practised, and the marriage ceremony is performed by the missionaries, or, in their absence, by the officers of the Hudson's Bay Company. Among the pagan Indians many of the men have two wives, and some three or four, according to the number they can support by their hunt. Continence is not usual. Widows are in great demand in marriage, and often a young boy is mated to a woman old enough to be his mother. As a widow inherits her dead husband's hunting grounds, a marriage with her provides the second husband with hunting grounds as well as a wife, and in consequence widows are taken by young men without lands. The respect shown by children to parents is great, and the will of the aged father is law, even with middle-aged sons, who will not enter into any serious undertaking without first consulting the head of the family. Children are never beaten, but soon learn to obey without punishment. As a rule, the number of children borne by the women is small, rarely exceeding five. The women become wrinkled and old before they are forty years of age ; after which they often live for many years. The men show the effects of age much less than the women, and it is exceedingly difficult to tell their exact age between 50 and 70 years, as the hair rarely turns grey. The greatest mortality is due to pulmonary diseases, which are induced by exposure to cold and wet, with no covering on the feet but deerskin moccasins, which soak like blotting-paper. "Lame back " incapacitates a number of the men, and is probably due to disease of the kidneys. Complaints of the stomach are also the cause of many deaths, owing to the weakening of that organ by alternate periods of starvation and gormandizing. Scrofulous sores and ulcers are not uncommon, and appear to be inherited.

Disease.

Burial.

Mode of living.

The dead throughout Labrador are buried in the ground, and, only when death takes place during the winter, is the body placed in a tree until the frost is out of the ground. The clothing, gun and other articles belonging to the deceased are often buried with him, or placed on the grave, when the burial takes place in the woods, and no Indian would touch anything so left, or camp near one of these lonely graves. The dead are mourned for according to the position they occupied, and the grief displayed is deep and sincere. A curious custom was

noted in the interior, on the arrival of the various families at the posts in the spring—instead of joyous greetings the women clasp one another and indulge in a period of silent weeping, after which they cheer up and exchange gossip.

The annual routine of an Indian life is made up of two periods, the short period, from one to three months, spent during the summer at the coast, and the long period passed inland. Those who trade at the inland posts, are engaged throughout the summer transporting to Hudson Bay the fur hunt of the past winter and bringing back the supplies to form the next season's outfit. The

p. 2613

Annual visit to
the coast.

amount of supplies is so great and the number of men at these posts is so small, that every one capable of working is enlisted, including half-grown boys and old men. As most of the women and children accompany the brigades of large canoes, in their small canoes, the journey practically amounts to a co-operative scheme of bringing in supplies, and differs only in this respect from the annual visit to the coast of the independent families. The only Indians who do not come in contact with the white traders during the summer, are some eighteen families who reside on the shores of a large lake about two hundred miles above the mouth of the George River. These Indians never visit the coast during the summer, and their only communication with the white traders is during the early spring, when the younger men tramp to Davis Inlet on the Atlantic coast, and there trade their furs for tea, tobacco and ammunition. They do not buy clothing or provisions, and haul their purchases home on long narrow toboggans over the crusted snow. This little tribe of Indians carries on a small trade in the above mentioned articles with the other neighbouring Indians of the interior. As they reside in a district plentifully supplied with caribou, they depend upon these animals both for food and clothing, and are thus practically independent of the traders.

Fur trade.

Summer life.

The majority of the Indians who go to the coast, congregate at convenient centres in bands of six or more families, and in company descend the rivers in their small bark canoes. The time of the spring gathering is shortly after the ice leaves the rivers, when the fur of the otter becomes “common.” Each family carries with it the packs of furs obtained during the winter, together with most of their movable property. Those living farthest inland are often more than two weeks in descending to the post, owing to the long and difficult “roads” they have to follow. On arrival at the coast, the fur-packs are handed over to the trader with whom the Indian deals, and a valuation being set upon them, the Indian is allowed credit for the value computed in “skins” or “beavers,” which are the units of value in the trade—the price of the different furs being reckoned in comparison with a medium sized beaver skin, and the traders' supplies are valued in the same manner. On the St. Lawrence coast this system of barter is falling into disuse, and cash is taking the place of the

old beaver as a medium of exchange. The summer season at the posts is passed in visiting friends and in a round of gaiety. Very few of the Indians have been induced to cultivate land on their own account, although they sometimes work in the gardens of the traders and missionaries. The only work that they willingly undertake is in canoes, either attending fishing parties or transporting provisions inland. During the summer season a majority live in small cotton tents, but some of the most successful hunters own small log houses, in which they pass the summer. During the month of August, preparations are made for the journey to winter quarters, and by the end of that month most of the Indians leave the various posts.

Owing to the extermination of the caribou in many parts of the country and to an insufficiency of other game, the greater number of the Indians are now obliged to purchase a considerable quantity of flour, and carry it inland to their hunting grounds,

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So much provisions, along with other outfit, are now taken by the southern Indians that they have to make two or three trips with their canoes at starting, and often they are more than two months in reaching their winter quarters. In former years, the Hudson's Bay Company and other traders annually advanced the Indians sufficient provisions and outfit to carry on their winter's hunt, and recouped themselves in the following spring. At present, to a great extent, this system of advances has been abandoned, and the Indian only gets such outfit and provisions as he can pay for in cash or fur. The change is due largely to the losses entailed by close competition, and to the dishonest practices of many of the Indians, who instead of delivering their fur to the persons who advanced to them, take it to rival traders and exchange it for cash or other articles—leaving their debts unpaid. The change is consequently justifiable where there is competition in the fur trade, but bears heavily on the Indian, who is naturally improvident and spends the proceed of his annual hunt as soon as he gets it, without thought or care. In consequence, when the hunt is a failure, which is often the case through no fault of the hunter, the poor Indian has little or nothing to buy his outfit with, and departs to the woods improperly supplied. To this cause is due much of the hardship, starvation and death reported among the Indians of the Labrador Peninsula during the past few years. With the exception of the eastern Nascaupees, all the Indians now dress in clothing procured from the trading shops, and many of the southern Indians, having acquired a taste for luxuries of civilization unknown to their fathers, must make large hunts in order to gratify these tastes.

Each family is supposed to own a portion of territory with the exclusive hunting rights to it. The territory is generally divided into three parts, each part being hunted over in successive years, and in this manner the fur-bearing animals are allowed to recuperate. In the southern country extensive

fires, too close hunting, and other causes are rapidly exterminating the animals, and the families owning these grounds, in order to obtain a living, are obliged to encroach upon their northern neighbours. As the intruders care little or nothing about keeping up the stock on these lands, the result is most disastrous, and in a few years, if strict laws are not enacted, the fur-bearing animals of the province of Quebec will be practically exterminated, and the Indians, thus left without their only means of subsistence, will be reduced to beggary, or will die off from famine.

As soon as the hunting grounds are reached and the cold weather begins, the cotton tent is exchanged for the wigwam or "metswap," which is constructed by removing the snow from a circle ten or twelve feet in diameter, about the circumference of which poles six or eight inches apart are planted sloping inwards so as to form a skeleton cone. This cone is covered with cotton cloths, sheets of birch bark, or dressed deer skin, often in part by all three, and a space is left at the top about two feet in diameter for the escape of the smoke. The removal of a pole leaves the space for a door, which is generally closed with an old flour-sack split open, and bound to sticks at the ends to keep it spread out. The bottom of the tent is banked up with snow on the out-

Autumn hunt.

Winter hunt.

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Spring hunt.

side, while a thick bed of green boughs is laid over the floor. The fire is built on a few stones in the centre, raised slightly above the ground. Many of the southern Indians have small stoves made out of sheet-iron instead of open fires, and thus avoid the constant smoke which fills the interior, especially when the door is frequently opened.

Eskimo along the
St. Lawrence.

Moravian Mission
stations.

Before the lakes and streams freeze up, limiting is largely carried on with the gun, the Indians shooting from their canoes beaver, otter, mink and musk-rats, and in the burnt areas, where blueberries are plentiful, bears. The northern Indians at this time are engaged in their principal caribou hunt, killing great numbers by spearing them in the rivers, as they pass on their annual migrations. After the rivers are frozen, most of the fur hunt is made with traps; these are either steel traps or dead-falls of wood. The principal animals taken during the early winter are marten, fox and lynx. During the intense cold of December, January and February, the wild animals move about very little and hunting is unprofitable. During this period the Indians do not hunt unless compelled to do so by hunger. In the month of March, the martens are once more travelling, and continue to constitute the principal hunt until the small streams begin to break up, when attention is given to the beaver and otter and, later on, to the bear. In this manner the winter routine is carried out, with the intervals mostly filled in

Tribes of Eskimo.

looking for food. Ptarmigan and Canada grouse are killed during the winter, along with rabbits, which are periodically plentiful, while fish, ducks and geese aid in stocking the larder in the spring and fall.

When the St. Lawrence was first discovered, the Eskimo inhabited the north shore of the gulf as far west as Mingan. They maintained their position here until 1600, when the Indians, having procured firearms from the French, waged unequal war on their old enemies and drove them eastward to the Strait of Belle Isle, where the Eskimo maintained a fortified camp on an island near the western end of the strait until 1630. Since then, a gradual retreat has been made northward, and their present southern limit is Hamilton Inlet, which appears to have long been the headquarters of the southern Eskimo, and is named Eskimo Bay on all the older maps. From here these people are scattered along the northern coast to Hudson Strait. Several large settlements are found at the Moravian Mission stations of Hopedale, Zoar, Nain, Okak and Ramah on the Atlantic coast. There are very few families between Nachvak and George River in Ungava Bay, the coast being high, desolate and unfit to sustain a large population. The Eskimo are more numerous along the west coast of Ungava Bay and Hudson Strait, and are found along the east coast of Hudson Bay, and among the outer islands of that coast, as far south as Great Whale River. Of late years, some three or four families have hunted on the islands in James Bay.

Turner* divides the Eskimo inhabiting the coasts of the Labrador Peninsula into three or four sub-divisions, on account of sub-tribal distinctions maintained among themselves. The names given to these tribes, by Turner,

* Annual Report U.S. Bureau of Ethnology. 1889-90—Ethnology of the Ungava District Hudson Bay Territory, Lucien M. Turner.

Improvement by
missionaries.

are those used by the Eskimo of Ungava Bay. The first sub-division includes all those dwelling along the Atlantic coast and along the south shore of Hudson Strait to the mouth of the Leaf River, a few miles northward of the mouth of the Koksoak River. These people call themselves Suhinimyut, "those who dwell at or in the sun," or the dwellers in the east. The second sub-division embraces the Eskimo dwelling along the south shore of Hudson Strait, between Leaf River and Cape Wolstenholme, at the entrance to Hudson Bay. These people are called the Tahagmyut, "dwellers in the shade," or the western people. By the Hudson's Bay Company they are known as "Northerners." The third sub-division includes those living along the east coast of Hudson Bay, and they are designated the Itivimyut, or "the dwellers on the other side." A fourth division may be made of the Eskimo of the outer islands of Hudson Bay, who, according to the traders and missionaries, differ from their neighbours along the coast, both in language and customs. They are known as the Kigiktagmyut, or "Island people." Along the Atlantic coast, as far north as Hopedale, few or none of the Eskimo are pure blooded. To the northward the Moravian missionaries keep the natives from contact with the whites, and in consequence there are very few of mixed blood. In Ungava Bay and on Hudson Bay there are, around the Hudson's Bay posts, many half-breeds, the result of marriage between the employees and Eskimo women.

Physique.

The natives along the Atlantic coast, from Hopedale to Nachvak, have long been under the direct influence of the Moravian missionaries, and, in consequence, have abandoned many of their ancient customs. Polygamy is no longer tolerated among them ; in many cases they conform with a fair standard of civilization, and are quite religious, although very superstitious.

Temperament.

On the coast of Hudson Bay, mainly through the endeavours of the Rev. Mr. Peck, of the Church Mission Society, most of the Eskimo have been converted to Christianity. On this coast the missionaries do not reside constantly among the natives, and in consequence these people are very liable to relapse, during their absence, into some of their former pagan habits. The Eskimo of Hudson Strait have not yet been brought under the influences of Christianity, and afford a better chance for the study of their native customs and traits.

It is customary to think of the Eskimo as considerably below the stature of the average European. This is not the case with those inhabiting the coasts of Labrador. The males, as a rule, are quite as tall as the average white man, but owing to their broad, heavy build, they appear shorter than they really are; and this appearance is enhanced by their wide garments of hairy deer or seal skins. Where seen by the writer on Hudson Bay, and at Fort Chimo, George River, Nachvak, Davis Inlet

Food. and Hamilton Inlet, several of the men at each place were six feet and upwards in height, the average height being about five feet six inches. The women, as a rule, are short and stout, and look in their native dress of deerskin coat, trousers and long seal boots, much shorter than they actually are.

The temperament of the Eskimo differs much from that of the Indian,

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Trade. the former being jovial, good-natured and very industrious. They are good workers with tools, and on the Hudson Bay coast the blacksmiths confess that the natives, without the use of a forge, can work and temper iron better than they can. These people, living as they do on the coast, depend largely upon marine animals for food and clothing. Their principal food is seal meat, together with porpoise, whale meat and fish. Habitations. They also kill many caribou, to the north of the Koksoak River. For this purpose, they travel inland from the coast, but the pursuit of this animal is chiefly for its skin, used in clothing. The hunters quickly tire of the flesh, it being not fat enough to suit their taste. During the winter, they hunt fur, to purchase what supplies they may need from the traders. The principal furs taken by them are red, cross, black, white and blue foxes, white bears, wolves and wolverines, besides deer and seals. Boats. The Eskimo have not as many civilized wants as the Indians, the principal articles of trade taken in exchange for their furs being ammunition, tobacco, knives and iron, tea, sugar and needles. They do not buy much flour or biscuit, and very little European clothing.

With the exception of the Atlantic coast Eskimo, who live about the mission stations in small log houses, the summer camp is made much like an Indian wigwam, save that it has a ridge-pole, and is covered with seal-skins. During the winter, small circular snow houses are used. For travel during the summer, two kinds of boats are used, the kaiak or men's boat is long and narrow, and formed of a wooden frame covered with seal-skins, leaving only a small circular opening large enough to admit the body of a man. The bow is long and pointed and projects above the water forward, the stern is fuller, and much lower and rounder. This craft is for one man, who propels it with a double-bladed paddle, and it is used for hunting. In these small boats the islanders of Hudson Bay frequently cross some fifty miles of open water to the mainland.

Sleds. The umiak or women's boat is much larger, and like the former is made from seal-skins stretched on a wooden frame. In shape and size it resembles a deep, flat-bottomed punt, and is capable of carrying the heavy seal-skin tent and all the other belongings of a family, when moving from one place to another. In winter, dogs and sleds are used to travel with, the Eskimo not being nearly as good a walker as the Indian. The sleds are made of two runners of wood, from nine to eighteen feet long, held in position, from eighteen to twenty-four inches apart, by numerous cross pieces. The sled is shod during the cold winter months with walrus ivory or whalebone attached to Cooking utensils.

Disease. the runners with wooden pegs, or else the bottom of the runner is coated with vegetable mould, which is frozen on and then shaped with a knife or plane so as to resemble the head of a large T rail, both in shape and size. This is coated with a thin skin of ice and answers admirably during the cold unbroken winter. In the spring time, runners of hoop-iron are preferred. During the winter, cooking is carried on in the snow houses over soapstone lamps in the form of a shallow triangular dish, about fifteen inches long and eight inches wide. These dishes are nearly filled with seal oil, and the wick is formed of dry moss placed round the sides. Formerly soapstone kettles were used for cooking,

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Marriage.

but these are almost entirely superseded by tin or copper kettles purchased from the Hudson's Bay Company.

Children.

The habits of the uncivilized Eskimo are far from cleanly, and they appear to have a decided objection to the use of water except for drinking purposes. In consequence, the principal diseases from which they suffer arise from their filthy habits and the close vitiated atmosphere in their tightly closed houses, laden with the odours of decomposing animal food and other filth. Over half the Eskimo die of pulmonary troubles due to these causes and to exposure. Many suffer and die from scurvy, caused by devitalized blood and their excessively fatty food while remaining sedentary during the winter. As a rule, monogamy is practised, although many of the better hunters among the unchristianized natives have two and some three or four wives. The women are married early, generally at about fourteen or fifteen years and often before that age, and these early marriages result in few and weakly children. The marriage ceremony is very simple. The consent of the parents or other relatives of the girl is obtained by presents or favour, and, if the girl is favourable to the union, she goes with her husband. When the girl refuses, she is soon coerced by her relatives. The marriage tie is easily broken, and it is seldom that a man lives with a woman for a number of years. Jealousy, resulting from a laxity of morals or incompatibility of temper, dissolves the marriage without ceremony, the woman returning to her relations until taken by another man. The family is usually of two or three children, although there are sometimes eight or ten, but many die in childhood. Like the Indians, the Eskimo never inflict corporal punishment on their children, who without it early learn, however, to obey and respect their elders.

Beliefs.

Conjurors.

The dead are placed in a sitting position, with the knees drawn tightly up, and the whole body covered with seal-skin or deer-skin. The body is placed in this mannner on the bare rock, and is covered with stones to prevent the birds and animals getting at it.

Like the Indians, they believe in a future state, where the spiritual conditions closely resemble those of the material world. As every object is endowed with a spirit, clothing, spears, gun, kaiak and other articles, are deposited near the

grave, so that the departed may use the spirits of these articles, in his new existence separated from the body. The spirits of material objects are supposed to be released as soon as they decay and if they are found removed, it is said, that the spirit of the dead has taken them for use in the spiritual world. All objects, animate or inanimate, have both a material and a spiritual existence ; and there are other spirits, mostly of a malignant character, which can be appeased by gifts.

It is easy to understand that, holding such beliefs, they highly esteem, fear and respect the conjurers, whom they suppose to have power over the various spirits, including those that cause disease and death. The conjurers also claim to influence the movements of the deer and other animals, and are supposed to control the weather. Unlike the Indian conjurer, who performs his incantations concealed in a small tent, his Eskimo confrère invokes and

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exorcises the malignant spirits openly, or with only his head covered up. Some of the Eskimo while away the time during winter, by making rude carvings out of walrus tusk or bear teeth. The carvings represent various birds and animals, or models of their boats, sleds, or implements. Some of the carvings show considerable skill and artistic taste, especially those made under the direction of the Moravian missionaries.

The Eskimo are very fond of singing, instrumental music and dancing, and readily learn to play the violin. At Hopedale and Nain the natives have orchestral music to accompany part singing in the church services, and many of the Eskimo of the Atlantic coast play second parts on the violin, showing that they have a fair idea of harmony.

* * * *

Hamilton Inlet is the present southern limit of the Eskimo on the Atlantic coast. There is now a little tribe of some half dozen families living in log houses on the shore of a cove called Carawalla at the head of Henrietta Island. A few more families are scattered along the shores of the lower half of the inlet. They are in a state of semi-civilization, having adopted European dress, and all talk more or less English. They are poor and dependent on the fishery and seal hunt for a livelihood. The Hudson's Bay Company have two establishments on Hamilton Inlet; the larger, called Rigolet, is situated on the north shore at the narrows, about three miles above the entrance to Double Mer. This is the head-quarters of the Labrador Coast, or Esquimaux Bay district, the officer in charge having under his care the posts of Cartwright on Sandwich Bay, of Northwest River at the mouth of that stream, as well as those of Davis Inlet, and of Nachvak, both situated on the coast to the northward.

The post at Rigolet consists of about a dozen houses and stores, and trade for fur and fish is carried on with the Eskimo and "planters." The trade of the post at Northwest River is made with the " planters " living about the upper part of the inlet, and with the Indians, who hunt in the country drained by

the Hamilton and Northwest rivers, as well as with those hunting to the southward in the Mealy Mountains. A Roman Catholic chapel was erected some years ago near this post, and a missionary priest from the St. Lawrence used annually to visit the Indians there, during the summer. These visits, it is understood, are no longer to be made, the Indians being advised to go instead to Mingan, or other posts on the St. Lawrence, to meet the missionaries. All the Indians of the region profess Christianity, and are very careful to keep all the observances of the church, even when far inland, but their beliefs seem to be inextricably mixed up with their older pagan ideas, and often their views on subjects of religion are very curious.

The Indians frequenting Northwest River post are probably the most miserable and ill-conditioned in Labrador. Being deer hunters, and consequently depending largely on the caribou, both for food and clothing, they have little inclination to trap fur-bearing animals and thus improve their condition by trade. As their wants are mainly confined to tea, tobacco, powder and

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shot, and some few articles of clothing, a small amount of hunting only is necessary to provide their price, and beyond this, except for the labour of following the deer, or fishing, they do nothing, spending much of their time lounging about their tents. They will not work, even when offered very high pay, and when asked so to do, simply laugh and say they are not hungry. They are so improvident that they never lay in a stock of fish in the autumn, as the Indians to the westward do, and when during the winter, from some cause or other, they fail to find the caribou, they are soon reduced to starvation, and many die.

These Indians belong in part to both the Montagnais and Nascaupee tribes. The former tribe hunts between Hamilton Inlet and the Gulf of St. Lawrence, the latter to the west and north-west of Hamilton Inlet. No great physical difference can be observed between these tribes; if there is any, the Nascaupees appear to be slightly taller and less robustly built than the Montagnais. They talk different dialects of the Cree language, but the difference is so slight, that they converse freely together, and understand one another quite readily. The name Nascaupee in the Montagnais dialect signifies "the ignorant ones" and is given on account of their lack of knowledge in regard to the works and ways of civilization, owing to their want of communication with the outside world.

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BY WILFRED T. GRENFELL, C.M.G., M.R.C.S., M.D. (OXON.) AND
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CHAPTER VII.**THE INDIANS.**

BY WILLIAM B. CABOT.

The Indians of Labrador are all of the family stock known to ethnology as the Algonquian, which in its day occupied a vast area of the continent. From the Carolinas to the Eskimo shores of Hudson's Strait and from the Atlantic to the Mississippi and far to the northwest, the maps of the present day are dotted with the place-names of one group or another of this vanishing family.

* * * *

The northern groups are closely related. The Montagnais, or mountaineers, of the southern Labrador talk easily with the Nascaupes of the northern and eastern Crees; these latter in turn with others to the west, and so on to the Rocky Mountains. The differences are only of dialect. To the southward it is otherwise; the St. Lawrence marks so distinct a division of language that existing tribes cannot converse in Indian; and as observed by the writer upon the meeting of a Montagnais with an Abnaki acquaintance on the winter trail, conversation must proceed in some foreign language—in this instance in French. The Indians of Labrador estimate that as many as half of the people speak no language but their own. The presence of white blood is largely evident in the southwest, adjacent to the settlements and the upper gulf; and many who are counted Indians might, but for the saving effect of a hunting life inland, be reckoned as white rather than red.

Low writes:—

“ The most northern tribe has a tradition that their people originally lived far to the south, and it is probable that they were driven northward from the country about the St. Lawrence by the Iroquois, about the time of the first settlement of Canada, by the French. There are many traditions about these wars among the northern Indians, and it is surprising to what distances the Iroquois

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followed them, into the middle of Labrador, and up the east coast of Hudson Bay to the neighbourhood of the

mouth of the Big River in north lat. 54°. As the Crees retreated before the Iroquois, they in turn displaced the Eskimo, who at one time occupied the eastern and southern portions of the peninsula as far as Eskimo Bay on the Gulf of St. Lawrence and all the territory about Hudson Bay. These wars terminated when the Eskimo became supplied with firearms, and are now traditions of the distant past ; but the memories still live, and the Eskimo and Indians, although never engaging in open hostilities, have a mutual hatred and never inter-marry.

The northern Indians still regard with fear the descendants of the once fierce Iroquois, and their name is used to frighten children.”

* * * *

Occasional association with modern operations along the nearer borders has not much changed the inland life of the people. The interior is still an Indian possession, where no white man makes his home, and the only law is the immemorial code of lodge and hunting-ground. The whole inland, and indeed almost all the coasts, remains given over to the hunting life.

The Indians, always diminishing in numbers, may be reckoned at some three or four thousand at the present time. Of these the Montagnais, who are all tributary to Gulf or Saguenay trading-stations, make up more than half. It is difficult to arrive at a census of such a wandering people, for in one year and another some of them appear successively upon coasts remotely apart. The lists of names at such far-distant trading-stations are rarely compared with each other, while the names of the Indians are somewhat subject to change, and at best are not always easy to identify.

About the great lakes of the central area the people meet as may happen during the hunting season, and exchange their unwritten news; slight, indeed, is the occurrence, from side to side of the country, which escapes those lodge-fire gatherings. Families hidden here and there in remote valleys may wait for their news, perforce, until late in the spring, when at various rendezvous they group together for the down-river voyages ; or even until the summer meeting on the reserve, where all subjects have their final review ; but on the far lake levels of the high interior, the hunting-place of the strong and skilful, their network of communication is seldom broken. There about the central area, gather the rivers which flow to the four coasts, and there the people converge. In the words of John Bastian of Pointe Bleue, “ At Kaniapishkau you meet Indians from all shores.”

Almost all the Montagnais families leave their hunting-grounds when the fur becomes poor—technically, “ Common ”—in the spring. About the last of the fur-hunting comes with the bear-hunt, late in May, when the snow has settled down and the bears begin to move about after their winter's sleep. By the last of June the people are gathered upon the reserves along the Gulf and on the Saguenay. Sometimes a family remains inland two years for some reason, most often because of a light

neighbour usually takes down what skins there may be, and brings up purchases accordingly in the fall.

* * * *

Near Bersimis, some two hundred and twenty miles below Quebec, three large rivers converge to the coast, and all receive their customary families in the fall. The Maniquagan is the chief of these, being ascended during recent years by as many as seventy families. Near and parallel with this is the more difficult Outardes River, named by the Indians *Pletipi*, “Partridge-water,” from its chief lake. Many of its hunters ascend the Maniquagan some two hundred miles to the lakes, and cross to their own river by a toilsome portage route. A few pass directly up the Outardes. With the burden of provisions now necessary to the hunting of these rivers, the way up such a difficult stream as the *Pletipi* becomes peculiarly hard. Still, for these people, whatever their age or condition, there is little choice, inland they must go, to their own lands.

* * * *

In a country of such scanty resources and physical obstacles, these movements, involving the young and the feeble, could not be undertaken but for the intimate local knowledge of the people. Most of the Indians are actually born upon hunting-lands, handed down from their ancestors, and at an early age each knows his own ground as the farmer boy knows his father's farm. He has made the yearly passage of his river, down and back, from infancy. High water or low, he knows its every eddy and turn. As to an inn ahead, he plans his day's travel to some fishing pool or lake; or to the blueberry lands, where will be berries surely, and bears perhaps. He camps in no chance place, but where the beach is clean, the bank not too high or steep, where wood and boughs and water are to hand, and always, when may be, where the view is sightly and wide. Thus he continues his way, every resource of the barren land made his. Illness and death sometimes befall, want and misfortune tax too often the fortitude of this ever disciplined race, but sooner or later the plateau level is gained, the lake region begins, and the portages along the narrowing streams become short and easy. The great falls are behind, their jarring thunder fades in time from the ear; the roar of the long rapids is over ; the shut-in river valley has given place to the broad sunshine of the table-land. Well content are they who have safely come. The long toil is over; they are glad to be away from the reserve; above all, they are once more upon the blue lakes of their own hunting-ground.

* * * *

Along the Gulf the principal trading-stations are Bersimis, Seven Islands, Mingan, and St. Augustine. From Seven Islands the Moisie is the main high-way to the interior, and several of its families make their hunts within two hundred

miles of Ungava, on eastern branches of the George. Nearly parallel with the Moisie is the St. Marguerite, or *Tshimanipishtuk*. Its principal western branch interlocks with the Maniquagan. The network of Indian travel about and far beyond the heads of these rivers is interminable.

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From the Gulf near Mingan, the hunters ascend the St. John, pass a difficult high portage to the Romaine, and proceed toward the Grand Falls region of the Hamilton. They know the lower Hamilton as the *Winikapau Shiba*, or “River of Willows,” and the falls as *Pitshetonau*, “It steams,” from the column of white vapour which is seen from a distance. Low gives the tradition of two maidens swept over the falls, who spend their time behind the falls dressing skins. The lower part of the Romaine is not navigated, and is perhaps unknown to the Indians of the present day. Its Indian name “Alimun,” meaning difficult, has passed through a rearrangement of sounds unusual in the adjusting of Indian names to French organs of speech. From “L'Alimun” to “La Romaine” the transition is easy, surprisingly so, considering that no less a feat is involved than the introduction of the full rolling *r* into a language which has not the *r*-sound at all.

* * * *

Eastward from Mingan the people travel the Natashquan, St. Augustine, and Eskimo Rivers. Their lands are chiefly in the region between the Hamilton and the St. Lawrence. Southward from the Mealy Mountains of Hamilton Inlet and the Sandwich Bay coast lies an indefinite, unmapped area of high territory, partly barren, where large lakes supply the rough rivers passing north, east, and south. In winter, white or Eskimo-white hunters penetrate one or two hundred miles into this area. The Hamilton River also is hunted by the shore people. These go up in the fall in boats, returning on snow. The inland life of these shore-dwelling hunters is as little like that of the Indians as well may be. Their winter method is to take what supplies can be hauled on sleds by hand, set traps along their route, the length of which is determined somewhat by snow conditions, and take up the catch of fur on their return march. They are known as “planters”; their occupation is “furring.” Cabins are built by some at strategic points, and these “tilts” may be taken as the sign of white blood in the land. The Indian, held to no base, uses the movable lodge only. The shore hunter is bound, his campaign limited, by his large dependence on transported provisions. If half-emancipated from, or better, only half-subjugated by, “the white man's burden,” he lacks yet the full inheritance, the ferity, which saves existence to the Indian born. The broad difference between the two, the fur catcher and the Indian, is that between hunting and the hunting life. The white man goes hunting, his family protected in his absence; the Indian, rarely separated from his family, takes the chances of the open for all.

During late years, few Indians have been regular visitors

on the eastern coast of the peninsula. For convenience to themselves the Oblate Fathers have influenced the hunters who formerly traded at Hamilton Inlet to make the long journey to Seven Islands. Irregularly a few northern Indians from George River have visited Davis Inlet post, as few as three coming down in one or two recent summers. The northern group turns rather toward Chimo on Ungava Bay. In winter some numbers of the northern group may come to the east coast, but they do not bring their families unless under pressure

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of starvation, and their stay is brief. The number of lodges on the eastern side of the country depends on the movements of the caribou. These vary rather widely in the course of their migration, the main herd sometimes remaining south a year or two at a time. As already noted, a number of Montagnais families from Seven Islands hunt near the upper George River nearly west from Hopedale. The height of land there is one hundred to one hundred and fifty miles from the coast. All, or nearly all, of these families make the long journey to Seven Islands at intervals, going usually by the Upper Hamilton, Ashwanipi Lake, and the Moisie. Rather regularly some of these make a visit to the east coast in winter, and sometimes in summer.

In the northern district, tributary to Fort Chimo, there are some forty or fifty families, according to Peter McKenzie. A certain number of Indians from Whale River also come to Chimo more or less regularly, perhaps more often to Fort George or other posts on Hudson Bay. These probably belong to the division mentioned by Low in his large Labrador report as the coastal Indians of Hudson Bay. Their dialect is not very easy for the other Indians to understand, probably from its Ojibway affinities. Those who come to Chimo are strong, active people, proud of their large hunts and of the long journeys they make to the coast. They look down a little on the Chimo Indians, many of whom hunt comparatively near by. The eastern Nascaupees, in particular, are not very ambitious either in fur hunting or travel. The caribou supply nearly all their wants, so that not much effort is required to get fur enough to pay for what else they require. Indians do not enter the wide peninsula to the west of Ungava, which is Eskimo ground so far as occupied. From Koksoak River to Hudson Bay the respective areas covered by the two races are separated approximately by the line of the Nastapoka and Larch rivers, which constitute a route surveyed by Low, and pursued by Mr. and Mrs. Tasker, of Philadelphia, in 1906.

* * * *

Formerly some of the southern Indians came up Northwest River and hunted on its upper waters and those of rivers flowing eastward into the Atlantic. Their country, poor at best, suffered by fire; fish were small; the caribou more and more uncertain. Finding that the deer summered in the unoccupied lake country south of the Nascaupees and west of

Hopedale, they adopted that region and gave up the difficult Northwest River route. Having changed their trading-point to Seven Islands, the easier route by the upper Hamilton and Lake Michikamau was very direct. The number of these families varies from half a dozen to as many as fifteen or more. Their summer route finally reaches the east coast by the *Notaquanón* (“ Porcupine-hunting-place ”) River.

In winter, they can traverse the country without much reference to watercourses. The camps are in sheltered places, where there are trees enough to protect from the wind, and are almost always near water. The ice becomes too thick to be cut through easily, but whenever there is much weight of snow, the water comes over the ice in places near shore, and does not freeze when blanketed with ten or twelve inches of light snow. Such water

can be cleared of slush by very little warming over the fire. In default of water, chopped ice melts much better than snow, which the people avoid. They prefer to work hard for twenty to thirty minutes chopping a hole, rather than bother to melt down an uncompacting mass of cold porous snow. They rarely, if ever, drink ice-cold water, but warm it a few degrees, even building a special fire for this purpose when travelling. In this, as in most other race peculiarities, they find their opposite in their Eskimo neighbours, who are said to eat snow and swallow frozen food with only the happiest consequences.

For winter travel, most of the people now use sheet-iron stoves a foot square and about two feet long. The snow is tramped level with the snowshoes, the tent raised and boughs laid ; then the stove is placed on four stakes which are driven some three feet into the snow, and serve as legs. Such a stove will burn almost any small wood, and in a country where good wood is scarce, will save much time and labour in heavy chopping and shovelling snow, besides enabling the traveller to camp almost anywhere and not have to go more than a mile or two out of his course to get good wood.

The Indians at Nichicun are classed by Low as Western Nascaupees. Only thirteen families traded at the post at the time of his visit. Other families in the neighbourhood go to the Gulf with their furs. Living near the geographical centre and apex of the plateau, they naturally hunt not far from Nichicun ("Otter-place") Lake. They live almost wholly on the country. Few deer are taken there, and while fish are generally plentiful, the margin of subsistence is uncomfortably narrow. All the able-bodied men go to Rupert House in summer with the brigade, while the women keep the nets out in lakes near the post. The return journey from Rupert takes about sixty days. Sometimes the start downward is made before the ice has left the lakes, but, although the stay at Rupert is only a few days, the upper lakes are sometimes frozen again before their arrival at Nichicun.

For some years Nichicun has been the only inland post in the whole peninsula, unless Mistassini, in the extreme southwest, be reckoned. The up voyage of the Mistassini brigade takes about fifty days. The lower part of its route, in common with that to Nichicun, follows Rupert River. There are seventy-five portages between Rupert and Mistassini.

The thirty families who trade at Mistassini are also counted as Nascaupees. All the Indians known by this name are properly Swampy Crees. Those at Chimo say that they came originally from southwest of Hudson Bay to get away from the Iroquois.

* * * *

The hunting-lands are held by individual hunters, and are passed down from one generation to another by customs of inheritance similar to our own. The hunting naturally descends upon some man of active age; if a daughter is married, the

young husband may succeed to the lands. Surviving parents, or even more distant relatives, have, by common right, their place in the lodge. In fact, all must be taken care of in some way, in one lodge or another; about the hunters group the dependent ones, widows and orphans and incapacitated; none is denied his right.

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Infringements upon each other's hunting-grounds are probably no more frequent than the cutting of timber on another's land in civilization. The restraint of Indians in such matters is far beyond that of more advanced races. In passing across another's ground, which may take some days, the traveller has the right to take enough game for subsistence, but not to hunt for, nor to accumulate a stock of provisions.

* * * *

The people who descend the Moisie in the summer gather at Sandgirt Lake on the Hamilton, apparently for the mere sake of seeing each other, and they keep together as may be until their final separation in the fall for their individual lands. Something of an inland trade used to be done among the people, and doubtless survives still. A Seven Islands hunter would give fur to a Bersimis man at some rendezvous, and each would go his way. Months later, in the fall, one of the fine canoes for which Bersimis is known would be passed in return at some appointed place. A similar trade in canvas canoes goes on between the Gulf Indians and the Nascaupees, whose country furnishes no canoe bark.

Rolls of canoe bark are still sold at some of the northern posts of the Hudson's Bay Company, being imported from more southern districts, along with other merchandise. Nevertheless, the supply has been insufficient for some years and often of poor quality; while by some unnecessary neglect the northern posts have been short even of canvas. With the full supply of the latter laid in recently along the farther coasts, the almost distressing situation of the Indians is at last relieved.

During the period of open water there is practically no foot travel. Some of the hunting-grounds, however, cannot be reached otherwise, and these are unoccupied until late. Mistinik, for instance, is reached by sleds from as far as the lakes of the Maniquagan, only two hundred miles from the Gulf, where the canoes are laid up and a stay made until winter sets in and the foot travel comes on.

* * * *

All in all, the life of these people remains singularly unchanged. It may be doubted whether another such survival of the purely primitive hunter, at the same time of so high a personality, as that of the savage of temperate America, is to be found in any part of the world. The caribou are to them what the buffalo were to the Indians of the plains. So long as continue the migrations, the old-time ways will prevail.

* * * *

The religion of the country is professedly almost wholly

Christian. The people trading around Hudson Bay are Protestants, while all the Montagnais are Catholics, cared for spiritually by the various missions of the Gulf and the Saguenay.

No. 1052.**EXTRACTIONS FROM ELEVENTH ANNUAL REPORT
OF THE BUREAU OF ETHNOLOGY TO THE
SECRETARY OF THE SMITHSONIAN INSTITUTION,
1889-'90.**

BY J. W. POWELL (DIRECTOR).

**ETHNOLOGY OF THE UNGAVA DISTRICT, HUDSON
BAY TERRITORY.**

BY LUCIEN M. TURNER (EDITED BY JOHN MURDOCK).

INTRODUCTION.

Ungava bay is on the northern coast of old Labrador—the last great bight of the strait between the ocean and the mouth of Hudson bay. Its chief affluent is Koksoak or South river, which is several hundred miles long and takes its rise in a picturesque festoonery of lakes looped through the high-lands half way down to Quebec. . .

Fort Chimo is the chief trading station of the Ungava district. The Ungava district proper is the area embraced by the watershed whose outflow drains into Ungava bay. The eastern boundary is formed by the foothills on the west side of the coast range, which is the western limit of Labrador. This range has a trend northwest and south-east to latitude 60°, where it makes a somewhat abrupt angle and pursues a nearly north course, terminating with Cape Chidley and the Buttons, the latter a low group of islets some 7 miles north of the cape. The southern boundary is the “Height of Land,” near latitude 55°. This region is estimated to be from 1,000 to 3,000 feet above sea level. The greater portion of it is comparatively level, and on its surface are innumerable lakes of various sizes, some of which are quite large. The western boundary is not so well known in the southern part of the region, as it has been seldom traversed. It seems to be a high elevation extending toward the north-northwest, as numerous streams run from the southwest and west toward the central or Koksoak valley. Eskimo who have traversed the region many times report that the elevated land abruptly ends near 58° 30′, and that there is formed a wide swampy tract, estimated to be about 80 miles wide, which opens to the northeast and southwest. The north-western portion of the district is a great area abounding in abrupt hills and precipitous mountains of various heights. These heights, estimated to range

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no higher than 2,600 feet terminate abruptly on the western end of the strait, and the numerous islands in that portion of the water are, doubtless, peaks of this same range continuing to the

northwest.

It will be thus seen that the district of Ungava is high amphitheatre opening to the north. The interior of the district is excessively varied by ridges and spurs of greater or less elevation. The farther south one travels, the higher and more irregularly disposed are the hills and mountains. These spurs are usually parallel to the main ranges, although isolated spurs occur which extend at right angles to the main range. The tops of the higher elevations are covered with snow for the entire year. The summits of the lower ones are shrouded with snow as early as the 1st of September, and by the 1st of October the snow line descends nearly to their bases. The lower lands are full of swampy tracts, lakes, and ponds. . .

ANIMAL LIFE.

MAMMALS.

The marine mammals alone appear to be well known, but the number of cetaceans can certainly be increased above the number usually reported inhabiting the waters immediately bordering upon the region.

The phocids are best known for the reason that off the shores of southeast Labrador the pursuit of species of this family is carried on each spring to an extent probably surpassing that anywhere else on the face of the globe.

At the mouth of Little Whale river, the white whale is taken to the number of 500 each year, although the capture is steadily decreasing. The Indians here do the greater part of the labor of driving, killing, flaying and preserving them. At Fort Chimo another station for the pursuit of white whales is carried on. Here the Eskimo do the driving and killing, while the Indians perform the labor of removing the blubber and rendering it fit for the oil tanks into which it is placed to put it beyond the action of the weather. The skin of the white whale is tanned and converted into a leather of remarkably good quality, especially noted for being nearly waterproof.

Of the land mammals, the reindeer is probably the most abundant of all. It is found in immense numbers in certain localities, and forms for many of the inhabitants the principal source of subsistence, while to nearly all the residents its skins are absolutely necessary to protect them from the severity of the winter.

The black, white and brown bears are common enough in their respective areas. The former rarely ranges beyond the woodlands, never being found so far north as Fort Chimo. The white bear is common in the northern portions bordering the sea and is occasionally found as far south as the strait of Belleisle, to which it has been carried on icebergs or fields of ice. Akpatok island and the vicinity of Cape Chidley are reported to be localities infested with these brutes. The brown or barren-ground bear appears to be restricted to a narrow area and is not plentiful, yet is common enough to keep the Indian in wholesome dread of its vicious disposition when enraged.

The smaller mammals occur in greater or less abundance according to the quality and quantity of food to be obtained.

The wolves, foxes, and wolverines are pretty evenly distributed throughout the region. The hares are found in the wooded tracts for the smaller species and on the barren regions for the larger species. .

THE NATIVE INHABITANTS OF THE COUNTRY — GENERAL SKETCH.

THE ESKIMO.

The northern portions of the coast of the region under consideration are inhabited by the Eskimo, who designate themselves, as usual, by the term “Innuits,” people (plural of *innuk*, “a person”). That they have been much modified by contact with the whites is not to be doubted, and it is equally certain that their language is constantly undergoing modifications to suit the purposes of the missionary and trader, who, not being able to pronounce the difficult guttural speech of these people, require them to conform to their own pronunciation. The region inhabited by the Innuits is strictly littoral. Their distribution falls properly into three subdivisions, due to the three subtribal distinctions which they maintain among themselves. The first sub-division embraces all the Innuits dwelling on the Labrador coast proper and along the south side of Hudson strait to the mouth of Leaf river, which flows into Ungava Bay.

These people apply the term *Su hi ni myut* to themselves and are thus known by the other sub-divisions. This term is derived from *Su hi nuk*, the sun, and the latter part of the word, meaning people (literally “those that dwell at or in”); hence, people of the sun, sunny side, because the sun shines on them first. At the present time these people are confined to the seashore and the adjacent islands, to which they repair for seals and other food. South of Hamilton inlet I could learn of but one of these people.

The Innuits of pure blood do not begin to appear until the missionary station of Hopedale is reached. Here a number of families dwell, although mostly at the instigation of the missionaries. Between this station and Hebron are several other Moravian missionary stations, at each of which dwell a greater or less number of pure Innuits. North of Hebron to Cape Chidley there are but few families, some seven in all, embracing a population of less than 40 souls. On the west side of Cape Chidley, as far as the mouth of George's river, only about eight families live. These with the George's river Innuits comprise less than 50 individuals. There is a stretch of coast bordering Ungava bay, from George's river to the Koksoak river, which is uninhabited.

The Koksoak river people include only four or five families and number less than 30 souls. The next people are

those dwelling at the mouth of Leaf river, but they are more properly to be considered under the next subdivision.

The exact number of the Suhinimyut could not be definitely determined.

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They are subdivided into a number of small communities, each bearing a name compounded of the name of their home and myut, "the people of."

The inhabitants of Cape Chidley are known as Ki lin ig myut, from the word ki lin ik, wounded, cut, incised, lacerated; hence, serrated, on account of the character of the rough rocks and mountains.

The natives of George's river are known as Kan guklúa luksoagmyut; those of the Koksoak river are known as Koksoagmyut.

The second subdivision includes the Inuit dwelling on the area lying between the mouth of the Leaf river, thence northward, and along the south side of Hudson strait. Their western and southern limit extends to about latitude 60°.

These Inuit are known by the other subdivisions as Ta hag myut. They apply the same term to themselves. The word is derived from Tá hak, a shadow; hence people of the shade or shadow as distinguished from the Su hi ni myut, or people of the light or sunshine. These people are but little influenced by contact with the white traders, who apply to them the term "Northerners." Their habits and customs are primitive, and many appear to be entirely distinct from the customs of their neighbors south and east. Huge mountain spurs and short ranges ramify in every direction, forming deep valleys and ravines, along which these people must travel to reach the trading station of Fort Chimo of the Ungava district, or else to Fort George of the Moose district.

The distance to the former is so great that only three, four, or five sledges are annually sent to the trading post for the purpose of conveying the furs and other more valuable commodities to be bartered for ammunition, guns, knives, files and other kinds of hardware, and tobacco. Certain persons are selected from the various camps who have personally made the trip and know the trail. These are commissioned to barter the furs of each individual for special articles, which are mentioned and impressed upon the mind of the man who is to effect the trade. The principal furs are those of the various foxes. Among them are to be found the best class of silver foxes, and wolverines and wolves. Those to be sent are procured the previous winter, and when the snow falls in November or early December the line of sleds starts out for the trading post. The sled which represents the wants of the more western of these Inuit speeds to where the second may be, and they repair to the place of meeting with the third, and thus by traversing the line of coast the arctic caravan is made up. Provisions are supplied by the wayside, and when all is in readiness a southern course is travelled until the frozen morasses on the south of the hills are reached. Thence the

course is toward Leaf river and across to Fort Chimo. By the last week of April or the first week of May the visitors are expected at the trading post. They usually bring with them about two-fifths of all the furs obtained in the district; indeed, the quantity often exceeds this amount. They seldom remain longer than the time needed to complete their bartering, as the rapidly melting snow warns them that each day of delay adds to their labor in returning.

The homeward journey is more frequently made along the coast, as there

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the snow is certain to remain longer upon the ground. It is not infrequent that these travellers experience warm weather, which detains them so long that they do not reach the end of their journey until the middle of summer or even until the beginning of the next winter. Many of the Inuit who accompany these parties have never seen white men until they arrive at Fort Chimo; women are often of the party. These people are usually tall and of fine physique. The men are larger than the average white man, while the women compare favorably in stature with the women of medium height in other countries.

They have quite different customs from those of their present neighbors. Their language is dialectically distinct ; about as much so as the Malimyut differ from the Kaviagmyut of Norton Sound, Alaska. The Tahagmyut have a rather harsh tone; their gutturals are deeper and the vowels usually rather more prolonged. . . .

The third subdivision comprises the Inuit dwelling on the eastern shore of Hudson bay, between latitudes 53° and 58°.

The number of these Inuit could not be definitely ascertained, as they trade, for the most part, at Fort George, belonging to the Moose district. Each year, however, a party of less than a dozen individuals journey to Fort Chimo for the purpose of bartering furs and other valuables. Those who come to Fort Chimo are usually the same each year. In language they differ greatly from the Koksoak Inuit, inasmuch as their speech is very rapid and much harsher. Many of the words are quite dissimilar, and even where the word has the same sound it is not unusual that it has a meaning more or less different from that used by the Koksoak Inuit. As these people have been long under the advice and teachings of the missionary society of London, it is to be expected that they, especially those nearer the trading station, are more or less influenced by its teachings. Their customs differ somewhat from the other Inuit, though this is due in a great measure to the impossibility of procuring the necessary food, and skins for garments, unless they are constantly scouring the plains and hills for reindeer or the shore for seals and other marine creatures.

These people are called by their neighbors and themselves I'tivi'myut. I'ti'vuk signified the other, farther,

distant side (of a portion of land) ; hence, the word Itivimyut means people of the other side. The northern Itivimyut are probably the most superstitious of all the Innuït dwelling in the region under consideration. . . .

In former years the Innuït extended entirely around the shore of Hudson Bay. Now there is a very wide gap, extending from the vicinity of Fort George, on the eastern coast, to the vicinity of Fort Churchill, on the western coast. At the present time the Innuït occupy the areas designated in these remarks. That they formerly extended along the Atlantic coast far to the south of their present limit is attested by an abundance of facts.

The Innuït of the eastern shore of Hudson bay, the Itivimyut, informed me that the Innuït dwelling on the islands of Hudson bay, more or less remote from the mainland to the east, are termed Ki'giktag'myut, or island people.

They relate that those islanders have quite different customs from the mainland people, inasmuch as their clothing consists of the skins of seals and dogs, rarely of reindeer skins, as the latter are procurable only when one of their number comes to the shore to trade for such articles as cannot be obtained on his locality. The spear, kaiak, bow and arrow are used, and they have but little knowledge of firearms. These people are represented as often being driven to greatest extremity for food. It is said that their language differs considerably from that of their neighbors.

THE INDIANS.

The Indian inhabitants of this region may be divided into three groups, differing but slightly in speech, and even less in habits.

(1) The Mountaineers, “ Montagnais ” of the early Jesuit missionaries, roam over the areas south of the Hamilton inlet and as far as the Gulf of St. Lawrence. Their western limits are imperfectly known. They trade at all the stations along the accessible coast. Many of them barter at Rigolet and Northwest river.

In customs they differ little from the Indians to the north of them. Their means of subsistence are the flesh of reindeer, porcupines, and various birds, such as geese, ducks, ptarmigan, and grouse.

The habits of the reindeer in this portion of the country are very erratic. They are often absent from large tracts for several years, and appearing in abundance when little expected. The scarcity of the reindeer renders the food supply quite precarious; hence, the Indians rely much upon the flesh of the porcupine, hare and birds for their principal food.

Their clothing is of the tanned skin of the deer, when they are able to procure it. As nearly all the skins of the reindeer are used for garments, few are prepared for other purposes; hence the northern stations (Fort Chimo) furnish great numbers of these skins in the parchment condition to be purchased by the Mountaineers, who cut them into fine lines for snowshoe netting and other purposes.

They procure the furs of marten, mink, fur beaver, muskrats, lynxes, wolverines, wolves and foxes. A considerable number of black bears are also obtained by these Indians. By the barter of these furs they procure the articles made necessary by the advent of the white people among them. They are quiet and peaceable. Many of them profess a regard for the teachings of the Roman missionaries, who have visited them more or less frequently for over a hundred and fifty years. I was unable to obtain the term by which they distinguish themselves from their neighbors. That they are later comers in the region than the Inuit is attested by the bloody warfare formerly carried on between them, of which many

proofs yet exist. The Mountaineers applied to the more northern Indians the term of reproach, "Naskopie." This word denotes the contempt the Mountaineers felt for the Naskopies when the latter failed to fulfil their promise to assist in driving the Inuit from the country.

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It was impossible to obtain a satisfactory estimate of the numbers of the Mountaineers. My stay in their vicinity was too short to learn as much about them as was desired.

(2) The Indians dwelling to the southwest of the Ungava district differ rather more than the Mountaineers, in their speech, from the Indians of the Ungava district. They average, for both sexes, slightly taller than the Naskopies. The men are spare, and have small limbs and extremities. The cheek bones are also more prominent, although this is partly due to the thin visage. The women are disposed to be stout, and in the older women there is a decided tendency to corpulence. The complexion, too is considerably darker. The men wear long hair, usually cut so as to fall just upon the shoulders. The hair of the women is quite heavy, and is worn either in braids or done up in folds upon the side of the head. . . .

(3) The third division of Indians includes those dwelling for the most part in the Ungava district. The total number of these Indians is about 350. They apply the term Ne né not—true, ideal men—to themselves, although known by the epithet Naskopie, which was applied to them by the Mountaineers of the southeastern portion of the region.

They differ slightly in customs from their neighbors, but their speech is somewhat different, being very rapidly uttered and with most singular inflections of the voice. A conversation may be begun in the usual tone, and in a moment changed to that of a whining or petulant child. It is impossible for the white man to imitate this abrupt inflection, which appears to be more common among the males than the females. . . .

THE NENENOT OR "NASKOPIE."

The Indians of the Ungava district are locally known as Naskopie, a term of reproach applied to them by the mountaineers (the Montagnais of the early Jesuit missionaries) during the earlier days when the former acted falsely in one of their concerted struggles with the Eskimo of the eastern coast.

The name given to themselves is Nenenot, a word meaning true, or ideal 30 red men. To the west of these people dwell a branch of the tribe along the east shore of Hudson bay. To the southeast dwell the mountaineers.

The western people differ greatly in customs and many words of their language from the Nenenots. The mountaineers differ but little in their customs, and only in speech as much as would be expected from the different locality in which they dwell.

These three tribes have distinct boundaries, beyond which they seldom wander. Of late years, however, a gradual influx

of the western people has poured into the Ungava district, due to the decrease of the food supply along that portion of the eastern coast of Hudson bay.

The Nenenots appear, from the best information I could obtain on the subject, to have been driven to their present location during the wars waged against them by the Iroquois in times long gone by and remembered only in tradition.

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They assert that their original home was in a country to the west, north of an immense river, and toward the east lay an enormous body of salt water. The former was supposed to be the St. Lawrence river and the latter to be Hudson bay. When they came to their present place they say that they found Eskimo alone, and these only along the coast. They are a branch of the Cree stock, as their language clearly indicates.

Many years ago war was waged upon them by the people whose name is remembered with terror even to this day. Most cruel atrocities were perpetrated, and in despair they fled from the land of their fathers, where they had lived as a numerous people, and were pursued by their merciless foes until but a remnant reached what is now known as the "Height of Land."

Being now driven to a strange land, where they found numerous Eskimo on all sides, only a few years elapsed before they encroached too greatly upon the land which the Eskimo had always held. Contention and struggles arose, culminating in a disposition to fight, and in the course of time desultory warfare carried on by single combat or organized raids. This lasted for many years, even after the advent of the white men as traders along the coast. Some of the battles were attended with great slaughter on both sides. The Eskimo seldom ventured far from the coast on their raids, but fought bravely when attacked on their own ground. In most instances they outwitted the Indians by decoying them into ambush, and killing great numbers of them. Within the present century they have been more peaceably disposed toward each other. Since the arrival of the white men at various points along the coast these troubles have ceased, and the Indians and Eskimo are now on intimate terms ; not that either party have any special regard for the new comers, but they have a mutual fear of each other, and the white man now engages their entire attention.

[1849.]

No. 1053.**EXTRACTIONS FROM “NOTES OF A TWENTY-FIVE
YEARS' SERVICE IN THE HUDSON'S BAY
TERRITORY.”**

BY JOHN M'LEAN.

(In two Volumes.) London, 1849.

VOLUME II.

THE NASCOPIES—THEIR RELIGION, MANNERS AND COMMUNITY OF
GOODS.

The Indians inhabiting the interior of Ungava, or, it may be said with equal propriety, the interior of Labrador, are a tribe of the Cree nation designated Nascopies, and numbering about one hundred men able to bear arms. Their language, a dialect of the Cree or Cristeneau, exhibits a considerable mixture of Sauteux words, with a few peculiar to themselves. . .

Of all the Indians I have seen, the Nascopies seem most averse to locomotion; many of them grow up to man's estate without once visiting a trading post. Previously to the establishment of this post they were wont to assemble at a certain rendezvous in the interior, and deliver their furs to some elderly man of the party, who proceeded with them to the King's posts, or Esquimaux Bay, and traded them for such articles as they required. So little intercourse have this people had with the whites, that they may be still considered as unsophisticated “children of nature,” and possessed, of course, of all the virtues ascribed to such; yet I must say, that my acquaintance with them disclosed nothing that impressed me with a higher opinion of them than of my own race, corrupted as they are by the arts of civilized life. . . .

The Nascopies depend principally on the reindeer for subsistence,—a dependence which the erratic habits of these animals render extremely precarious. Should they happen to miss the deer on their passage through the country in autumn, they experience the most grievous inconvenience, and often privations, the succeeding winter; as they must then draw their living from the lakes, with unremitting toil,—boring the ice, which is sometimes from eight to nine feet thick, for the purpose of setting their hooks, and perhaps not taking a single fish after a day's hard work. Nevertheless, they must still continue their exertions till they succeed, shifting their hooks from one part of the lake to another, until every spot is searched. They understand

the art of setting nets under the ice perfectly. Towards the latter end of December, however, the fish gain the deep water, and remain still to the latter end of March. Not a fish enters the net during this period.

Partridges are very numerous in certain localities, but cannot be trusted to as a means of living, as every part of the country affords them food, and when much annoyed at one place they move off to another. . . .

As trading posts, however, are now established on their lands, I doubt not but artificial wants will, in time, be created, that may become as indispensable to their comfort as their present real wants. All the arts of the trader are exercised to produce such a result, and those arts never fail of ultimate success. Even during the last two years of my management, the demand for certain articles of European manufacture had greatly increased. . . .

The Esquimaux are so totally different in physiognomy and person, in language, manners, and customs, from all the other natives of America, that there can be no doubt that they belong to a different branch of the human race. The conformation of their features, their stature, form, and complexion, approximate so closely to those of the northern inhabitants of Europe, as to indicate, with some degree of certainty, their identity of origin. In the accounts I have read of the maritime Laplanders, I find many characteristics common to both tribes: the Laplander is of a swarthy complexion,—so is the Esquimaux ; the Laplander is distinguished by high cheek-bones, hollow cheeks, pointed chin, and large mouth,—so is the Esquimaux ; the Laplander wears a thick beard,—so does the Esquimaux; the Laplander's hair is long and black,—so is that of the Esquimaux; the Laplanders are, for the most part, short of stature,—so are the Esquimaux ; and the dress, food, and lodging of both peoples are nearly the same. The last coincidence may possibly arise from the similarity of location and climate ; and, taken by itself, would afford no certain proof of identity of origin; but taken in connexion with the aforesaid characteristics, I think the conclusion is irresistible that the Laplanders and Esquimaux are of the same race.

In manners, customs, and dress, there is a like similarity. The Esquimaux have ever remained a distinct people; the other natives of America seeming to consider them more as brutes than human beings, and never approaching them unless for the purpose of knocking them on the head. Every one's hand is against them. I have seen Esquimaux scalps, even among the timid *têtes des boules* of Temiscamingue ; yet no people seem more disposed to live at peace with their neighbours, if only they were allowed. Circumstanced as they are, however, they are likely to suffer hostile aggression for a long time. Even a coward, with a musket in his hand, is generally an overmatch for a brave man with only a bow or sling ; but once possessed of fire-arms, they will teach their enemies to respect them, for they will undoubtedly have the advantage of superior courage and resolution.

[1863.]

No. 1054.**EXPLORATIONS IN THE INTERIOR OF THE
LABRADOR PENINSULA.**

**THE COUNTRY OF THE MONTAGNAIS AND
NASCQUAPEE INDIANS.**BY HENRY YOULE HIND, M.A., F.R.G.S.
(In two Volumes.) London, 1863.

VOLUME II.

CHAPTER XXVII.

The country of the Nasquapees extends from Lake Mistassinni to the Atlantic coast of the Labrador Peninsula, a distance exceeding 800 miles. They occupy the table-land, and it is only lately that they have visited the coasts and shores of the Gulf and River St. Lawrence in considerable numbers. They make their way from the interior, chiefly by the Manicouagan, the St. Marguerite, the Trinity, and the Moisie rivers. . . . They speak a dialect of the Cree language, and can hold communication with the Montagnais without any difficulty. The men are tattooed on the cheek, generally from the cheek-bone to the nostril on either side. The marks which I saw consisted of slight cuts about a line long, parallel to one another, and about a line apart.

* * * *

Mr. McLean describes the Nasquapees of Ungava as very averse to locomotion, many of them growing up to man's estate without once visiting a trading port. Before the establishment of Fort Chimo at Ungava, they were in the habit of assembling in the interior and delivering their furs to an elderly man of the tribe, who proceeded with them to the King's Posts or Esquimaux Bay (Hamilton Inlet) and traded them for such articles as they required. As with other northern Indian tribes, the Slaves and Rabbit-skins excepted, so with the Nasquapees, the women are the slaves of the men. When they remove from camp to camp in the winter, the women set out first, dragging sledges loaded with their effects, and such of the children as are incapable of walking; meantime the men remain in the abandoned encampment, smoking their pipes, until they suppose the women are suffi-

p. 2639

ciently far advanced on the route to reach the new encampments ere they overtake them.

* * * *

The Nasquapees, like their friends and allies the Montagnais, hate the Esquimaux, whom they never fail to attack when opportunity offers.

The vast extent of the country hunted by the wandering Nasquapees may be conceived when, 100 years ago, we find this people side by side with their allies the Montagnais on the Saguenay, and 100 miles west of the Straits of Belle Isle, places from 800 to 900 miles apart.

Cartwright saw two Nasquapee canoes near the mouth of Indian Tickle in 1774. He calls the Indians Nasquapicks; and he not only purchased furs from them in the same year, but he speaks of a chain of hills as Nasquapick Ridge. In 1771 he saw signs of Nasquapick Indians near Denbigh Islands, and on several points of the coast north-west of the Straits of Belle Isle. They must then have been in the immediate neighbourhood of their enemies the Esquimaux, but Cartwright does not say that any conflicts took place whilst he was on the coast.

The excellent missionary Pere Arnaud visited the Nasquapees, whose hunting-grounds lie to the north-west of Lake Manicougan in 1853.

* * * *

The Nasquapees are the most easterly division of the great Cree nation, whose hunting-grounds from time immemorial have extended from the Rocky Mountains to the Atlantic coast of Labrador, a region extending from the 51st to the 120th degree of longitude, a distance exceeding 2,500 miles, with a mean breadth of about 600 miles, and equal to seven times the area of France, or about 1,500,000 square miles. It must have required a very long time to people this vast waste with tribes speaking dialects of the same tongue, and who were far more numerous, powerful, and independent, 300 years ago, than they are at the present time. That the Nasquapees were once very numerous in the Labrador Peninsula there is every reason to believe; and famine (not wars, as with many other Indian tribes) has been the cause of their decrease in numbers. In many parts of the Peninsula the wild animals which formerly abounded have almost disappeared, and consequently the means of subsistence of the native races have been withdrawn. Rabbits were once quite common on the mainland as far east and north as the Atlantic coast of the Labrador Peninsula. The porcupine was everywhere abundant on the Gulf coast, and reindeer "covered the country." The destruction of mosses, lichens, and forests by fires has been the most potent cause in converting Labrador into a desert.

[1774.]
Redde
Feb. 24.
1774.

No. 1055.

**EXTRACTS FROM “ PARTICULARS OF THE
COUNTRY OF LABRADORE.”**EXTRACTS FROM THE PAPERS OF LIEUTENANT ROGER CURTIS, OF HIS
MAJESTY'S SLOOP THE “ OTTER,” WITH A PLANE-CHART OF THE COAST.
COMMUNICATED BY THE HONOURABLE DAINES BARRINGTON.

* * * *

The people of this country form various nations or tribes; and are at perpetual war with each other. Formerly the ESQUIMAUX, who may be called a maritime nation, were settled at different places upon the sea coast quite down to the river ST. JOHN'S ; but, for many years past, whether it has been owing to their quarrels with the Mountaineers, or the encroachments of the Europeans, they have taken up their residence far to the north.

A good way up the country live a people distinguished by the appellation of MOUNTAINEERS, between whom and the Esquimaux there subsists an unconquerable aversion. Next to the Mountaineers, and still farther west-ward, you come to a nation called the ESCOPICS.

* * * *

The Mountaineers are esteemed an industrious tribe ; and, for many years, had been known to the French traders. Their chief employment is to catch fur, and procure the necessaries of life. They are extremely illiterate, but generally good-natured ; and are reckoned to be less ferocious than any other of the Indians. This softness of their manners is owing to their long intercourse with Europeans; and the other nations will doubtless lose their savage disposition, in proportion as they imbibe our customs.

They come every year to trade with the Canadian merchants, who have seal-fisheries on the southern part of the coast, and have the character of just dealers. They are immoderately fond of spirits ; for which, blanketing, firearms (in the use of which they are remarkably dexterous), and ammunition, they truck the greatest part of their furs.

Their canoes are covered with the rind of birch; and, though so light as to be easily carried, yet sufficiently large to contain a whole family and their traffic. By means of the multitude of amazing ponds throughout this country, they convey themselves a vast distance in a very little time. Whenever they find a pond in their way, they embark on it, and travel by water; when its course alters, and by following it they would lengthen their distance anything considerable, they land, place their canoe on their head, and carry their baggage on their shoulders, until other water gives them an opportunity of re-embarking. They are most excellent travellers. They bear

fatigue with astonishing patience, and will travel two days successively without taking any sort of nourishment.

These Indians are of a deeper colour than the Esquimaux. They are low of stature. Though of a robust constitution, their limbs are small, and extremely well adapted to the rocky country they are continually traversing.

OF THE ESQUIMAUX.

The ESQUIMAUX Indians, inhabiting the sea coast of the northern part of LABRADORE, are indisputably from GREENLAND. They are a very deep tawney, or rather of a pale copper-coloured complexion. . . .

They live always upon the sea-shores, from their dread of the Mountaineers.

[1786.]

No. 1056.

C

**EXTRACT FROM “ A SHORT NATURAL HISTORY OF
THE COUNTRY.”**

BY GEORGE CARTWRIGHT.

JOURNAL OF TRANSACTIONS AND EVENTS DURING A RESIDENCE OF
NEARLY SIXTEEN YEARS ON THE COAST OF LABRADOR.
[NEWARK : 1782, VOL. III., pp. 229-232.]

The native inhabitants are two distinct nations of Indians; Mountaineers and Esquimaux. The Mountaineers are tall, thin, and excellent walkers; their colour greatly resembles that of our gypsies; probably occasioned, by their being constantly exposed to the weather and smokey whigwhams. In features they bear a strong resemblance to the French, which is not to be wondered at, since they have had an intercourse with the Canadians for so many years, that there are few, I believe, who have not some French blood in them. These people inhabit the interior parts of the country, which they traverse by the assistance of canoes, covered with birch-rinds, in the summer; and of rackets, or snow-shoes, in the winter. Their weapons are guns and bows; the latter are used only to kill moor-game, but their chief dependance is on the gun, and they are excellent marksmen; particularly with single

p. 2642

ball. They are wonderfully clever at killing deer, otherwise they would starve; and when they are in a part of the country, in the winter time, where deer are scarce, they will follow a herd by the slot, day and night, until they tire them quite down ; when they are sure to kill them all. I must not be understood literally, that they take no rest all that time, for, if the night is light

enough, they rest only four or five hours, then pursue again; which space of time, being too short for the deer to obtain either food or rest, they are commonly jaded out by the fourth day. The Indians paunch and leave them, then go back to their families, return immediately with bag and baggage, and remain there until they have eaten them all; when, if they have not provided another supply elsewhere, they look out afresh. But when deer are plentiful, they are quickly provided with food without much trouble, for, as two or three families usually go together in the winter time, some post themselves to leeward of the herd, while others go to windward, and drive them down ; by which means, it seldom happens that they all escape. When they have good success among the deer, they also kill most furs ; for then, they have leisure to build, and attend to deathfalls, in which they kill foxes and martens. Porcupine hunting is an employment assigned to the women, and is a good resource, where there are strong, fir woods.

Beavers they can do nothing at in the winter, on account of the frost, but they kill numbers of them in the spring and autumn; and even all the summer through: but one good English furrier will kill more than four Indians, where those animals are numerous. They kill beavers by watching for, and shooting them; or, by staking their houses ; the method of doing which, I will endeavour to explain: If the pond, where the beaver house is, be not capable of being drawn dry, they cut a hole through the roof of the house into the lodging, to discover the angles; they then run stakes through at the edge of the water, where the house is always soft, parallel to each other, across each angle, and so near together that no beaver can pass between. The stakes being all fitted in their places they draw them up to permit the beavers to return into the house, (the hole on the top being covered up so close as not to admit any light) and then hunt with their dogs, backwards and forwards, round the edges of the pond, to discover where they have hid themselves under the hollow banks; taking especial care, not to go near the house, until they can find them no longer any where else. They then approach it very cautiously, replace the stakes with the utmost expedition, throw the covering off the hole, and kill them with spears made for the purpose. When they have a canoe, they will drive the pond in the manner already described, without disturbing the house; and, when they suppose the beavers are all in, they place a strong net round it; then making an opening, they kill them as they strike out of the house. They will also place a net across a contraction in the pond, where there happens to be one, and kill them there, in the course of driving. But, as it is seldom that the whole crew or family are killed by these means, hermit beavers are always observed to be most numerous in those parts of the country which are frequented by Indians. The Mountaineers are also very dexterous in imitating the call of every bird and beast, by which

1786.

p. 2643

they decoy them close to their lurking-places. And as the

destruction of animals is their whole study, there is not one, whose nature and haunts they are not perfectly well acquainted with: insomuch, that one man will maintain himself, a wife, and five or six children in greater plenty, and with a more regular supply than any European could support himself singly, although he were a better shot.

As these people never stay long in a place, consequently they never build houses, but live the year round in miserable whigwhams; the coverings of which are deer-skins and birch rinds: the skins which they use for this purpose, as well as for clothes, are tainted, to take off the hair, then washed in a lather of brains and water, and afterwards dried and well rubbed: but for winter use, they will also have jackets of beaver, or deer-skins, with the hair on. As to the morals of these people, I cannot speak much in praise of them, for they are greatly addicted to drunkenness and theft. They profess the Romish Religion ; but know no more of it, than merely to repeat a prayer or two, count their beads, and see a priest whenever they go to Quebec.

The Esquimaux being a detachment from the Greenlanders, or those from them, any attempt of mine to describe them, would be impertinent ; since that has already been done by much abler pens. I will therefore content myself with saying, they are the best tempered people I ever met with, and most docile nor is there a nation under the sun, with which I would sooner trust my person and property; although, till within these few years, they were never known to have any intercourse with Europeans, without committing theft or murder, and generally both.

Gathering place of Indians.

INDIAN TRAVEL ROUTES AND POINTS OF RENDEZVOUS IN LABRADOR PENINSULA.

(EXTRACTS FROM LOW'S REPORT ON EXPLORATIONS IN THE LABRADOR PENINSULA, VIDE NO. 1047.)

Fort Nascaupée.

Sandgirt Lake is an important gathering place for the Indians of the interior, on account of the number of routes that centre here. The Hamilton River divides into two branches, the larger or Ashuanipi Branch flowing in from the northwest and the Attikonak Branch from the south. The main route from the Hamilton River to Lake Michikamau also ends here. The Indians who trade on the lower St. Lawrence and hunt anywhere in this vicinity, always congregate here in the spring, and descend to the coast in company, either by the Romaine or Moisie River.

Returning in the autumn, they travel together to this lake, where they separate into small parties for their winter hunts. The standing poles of their wigwams, scattered everywhere along the shores and on the islands of the lake, show that several families camp here.

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Hudson's Bay Post.

For many years the Hudson's Bay Company had a post called Fort Nascaupée on the second northern bay of Petitsikapau. This post was established about the time of McLean's journeys from Ungava to Hamilton Inlet, in or about the year 1841, and it is mentioned by W. H. A. Davies in an article published in 1843, as having then been lately established.* This post was erected for trade with the Nascaupée Indians of the interior, and was quite successful until after the second establishment of Fort Chimo in 1866, when the Indians began to desert it ; those from the north going to Fort Chimo, while the southern Indians traded at Mingan or Seven Islands, on the Gulf of St. Lawrence, or at Northwest River—all of them preferring to undertake the long arduous journey to and from the coast, where they could obtain better prices for their furs, and purchase provisions and other necessities at a much cheaper rate than at the interior post, where the cost of transport and maintenance added several hundred per cent to the original cost of the goods. The post was accordingly abandoned about 1873, and now the only trading posts of the interior are those situated at Nichicun and Mistassini.

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*Trans. Lit. and Hist. Soc. Quebec, vol. IV., part I., p. 74.

Country to the north of Michikamau.

Near the mouth of this stream, the Hudson's Bay Company kept a small outpost called Michikamau during the time that Fort Nascaupee was occupied. Nothing can be learned about this outpost from the old Hudson's Bay Company journals at Rigolet or Northwest River, beyond the bare facts that a post was maintained there for a number of years, and was finally abandoned from the same reasons which caused Fort Nascaupee to be given up. This post was not visited, but, from the accounts of the Indians, some of the buildings have been accidentally burnt, and those remaining are in about the same state of decay as Fort Nascaupee.

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From the north end of Michikamats, three portages connecting narrow lakes lead to a branch of the George River, where the Indians of the region assemble in September to spear the caribou, which then cross the river in immense herds in the course of their annual migration from the high barren grounds behind Nain to the wooded region of the interior, where they pass the winter.

* * * *

On the Traversin River. Sandy Banks.

Lake Winokapau. Elizabeth River.

Ancient Hudson's Bay post.

From the summit of a barren granite hill 400 feet high, close by, the discharge or Northwest River is seen to leave the lake between a number Michikamau. of large, flat-topped islands of drift about thirty feet high, that extend outwards from the shore some four miles, and along it for six miles. A long, low point of drift, passing into a ridge, separates the river from the southern part of the lake, and the river is seen extending eastward through a succession of lake-expansions, until it passes behind and is hidden by rocky ridges in that direction. Another chain of lakes extends northward from the river and passes close to the base of a high range on the horizon. By these lakes a second route leads to the caribou grounds, which is used by the Indians when they want to proceed there direct, without the delay usually caused by adverse winds on Michikamau and Michikamats. The river flowing into the Atlantic near Davis Inlet, heads in the high range to the north, and a winter-route from the George River to the coast follows its course closely. Owing to many rapids and falls, entailing several long portages, this stream is never used as a canoe-route by the Indians.

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This place is called Sandy Banks, and the Hudson's Bay Company formerly maintained a small trading-post on the north side, where the site of their clearing is marked by a new growth of birch.

* * * *

At the head of the lake, a small branch called the Elizabeth River, flows Lake in from the west, down a narrow valley, while the main valley bends to the north-west.

On the south side, at the mouth of the Elizabeth River, there is a wide, sandy plain about twenty-five feet above the river, and on it time Hudson's Bay Company formerly had a post, which was abandoned in 1873, and subsequently destroyed by fire.

No. 1058.

EXTRACTS FROM "THROUGH LABRADOR."

BY H. HESKETH PRICHARD, F.R.G.S. (London, 1911).

Our little exploring trip from the Atlantic Coast to the George River over an unknown route may be taken as simply a phase in the predatory life, since in order to accomplish it my companions and I adopted the life of nomad hunters, carrying a bare ration and living by the chase, killing caribou and sinking the carcasses in the snow-fed lakes upon the great plateau so as to secure a line of retreat.

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The conditions we had to face while crossing the great plateau which lies between the Atlantic and the George River were entirely unforeseen by us, and such hardships as we endured on our march with packs across this stony, mosquito-haunted desolation, were largely due to this fact.

No amount of forethought could have revealed what lay ahead of us, as even at Nain local knowledge only extended to the Fraser lake-head behind Nunaingoak Bay.

* * * *

The present population of Labrador falls naturally into four divisions. The first is the permanent white community, which includes the Moravian Brethren and their families, the Hudson's Bay Company's factors, and the liveyeres (live heres) as the white settlers are called. These all dwell by the salt water.

The second division is made up of the men belonging to the fishing-fleets, who are summer visitors only, coming up through the ice from Newfoundland and the south in the early days of July and leaving in October. The lives of these men are hard and stern, and in them again we find the predatory record. From the day on which they put out from Newfoundland in their schooners to that on which they return, they toil savagely, catching and curing fish, living meanwhile in wooden shanties on the barren wind-swept islands or on the shores of lonely inlets.

* * * *

With the third division we reach the real children of the coast, the Eskimo tribes. All along the eastern littoral, from Makkovik northwards, they exist, cared for and preserved by the Moravian Brethren, whose wise policy it is to encourage them to live as nearly as possible on the lines that

work, to which I have tried to bear witness in the latter part of this book.

The Eskimo are altogether predatory, a race of hunters and fishers. Fish in the summer, fur in the winter, and seal, walrus and white whale are their quarry from one year's end to another. In the early springtime also, while ice still holds the land ironbound, they make long journeys by komatik, or dog-sledge, after the herds of Barrenground caribou, the branch of the vast reindeer family which inhabits the barren uplands of North and Central Labrador.

Now we are left with the fourth, the Indians of the interior. Their numbers were, some time ago, computed to be four thousand in all, but the large majority of these hunt and trap in the southern part of the peninsula, massing at various points, and coming out with their furs to the waters of the St. Lawrence. More to the north, in the central country are the lodges of two tribes, the Montagnais and the Nascaupees. Here we find the dominant instinct of Labrador, the predatory instinct, at its fullest development. These tribes owe their food, clothing, and their habitations to the creatures of the chase, and they live a life of hardship and freedom such as was more common in the world of a hundred years ago.

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It was in the year 1903 that I paid my first visit to the Labrador peninsula.

* * * *

I had gone to the country hoping to be able to pick up on the spot some craft in which it would be possible to navigate one of the many rivers whose waters flow into the Atlantic, and thus to make my way into the unexplored interior. In this also I was disappointed. Labrador possesses no boat suitable for river use, as the people never venture beyond the bay heads.

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On this first trip I found the report that settlers are unwilling to penetrate into the interior was founded on fact, and I realised that if I were to return to Labrador, as I intended to do, and to get behind the rampart of forest and mountain which had turned me back, I must bring with me both craft for river use and companions from the outside world. I discovered also that beyond the komatik or dog-sledge journeys of fur-hunters and the yearly Eskimo quest which takes place in the spring after the caribou, hardly any effort had ever been made to journey west. Of the great wilderness which represents the interior I was able to gain no information worthy of the name. "It is a place where men starve," said settler after settler, and when I questioned them as to the possibility of penetrating into its recesses I was met with a shaking of heads and with prophecies of death and disaster.

In fact, few things have struck me more than the almost universal fear which lay upon the fisher population of this

barren coast with regard to the great hinterland upon whose eastern lip they live. It was the one subject upon which their imaginations never failed them. To lose the way, to be

p. 2648

drowned in some rock-staked torrent, to die miserably of starvation—in such glib phrases they voiced their many forebodings.

* * * *

Luckily in 1903 I gained a certain amount of experience and knowledge which later stood us in good stead. From the day I bade good-bye to the rugged and rocky coast, I looked forward to returning and attempting a second journey into the interior, the prospect of which had taken possession of my mind. It was seven years, however, before time, opportunity and the men came together.

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I had often talked over the matter with my friends G. M. and A. C. Gathorne-Hardy, and in 1910 the former found himself able to accompany me.

* * * *

Having made up our minds to try to draw a line across the blank area which on the maps represents north-eastern Labrador, between the Atlantic and the George, we tentatively settled upon the Moravian station of Nain, which lies between 56 and 57 degrees north latitude, as the best point of departure from the coast.

* * * *

The shores of the George river in the neighbourhood of Indian House Lake are the main camping-ground of the Nascaupée Indians, while further south the Montagnais have their lodges. Both these tribes of Indians live, as I have already said, on the caribou which they kill as the animals pass in enormous herds on their spring and autumn migrations. The presenoe [sic] of the Indians and the vast herds of deer have not unnaturally attracted the attention of travellers to the George river, and its course, wholly or in part, has from time to time been followed by various expeditions. The first of these, that of Maclean and Erlandson, in the early part of the last century, discovered Indian House Lake—then called Lake Erlandson—and founded a Hudson's Bay Company's post in its vicinity. But no long time passed before this was abandoned, and for many a year, until the journeys of Mrs. Hubbard and Mr. Dillon Wallace, who succeeded in reaching it by a route from Hamilton Inlet, the lake remained unvisited. Thanks to their efforts, the course of the George was both explored and mapped ; but between it and the Atlantic coast lay the large blank area representing the north-eastern region of Labrador.

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Before leaving England a study of the map had revealed to us tentative indications of a river named the Fraser, which

discharged into the head of a bay some miles north of Nain. The fact, however, that on the same map was depicted a certain "Barrengrounds River," which has been proved not to exist, rather made us doubt the knowledge of the cartographer, and we were consequently delighted when Mr. Schmitt informed us that there certainly was a Fraser river, though it as certainly did not discharge into Tikoatokak, as the map stated, but into Nunaingoak Bay.

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p. 2649

These Eskimo hunting trips are, as I have said, made in spring with the view of killing deer at a season when the cold will preserve the meat for an indefinite time, and when it is possible to haul out the carcasses with ease over the hard snow. The Eskimo hunters never go beyond a certain distance, as their limit is always the limit of half the quantity of dog food that they can carry with them.

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THE INDIANS OF THE LABRADOR.

The Indians of the interior are probably a diminishing people whose numbers it is difficult to compute, for they live for the most part withdrawn behind their fastnesses of wilderness and stony desert. According to the most reliable estimates they may be counted as some four thousand in all. The large majority of these hunt and trap in the southern part of the peninsula, coming out with their furs to the waters of the St. Lawrence.

In the central country are the lodges of two tribes—the Montagnais to the south and the Nascaupees further north. They have parcelled out certain districts of the interior into hunting grounds, each of which is regarded as a hereditary belonging, passing from father to son. They call no man master, and they live a life of hardship and freedom such as was more common in the world of a hundred years ago.

On their journeys their camps are set beside the waters of countless unrecorded lakes; for men, women and children follow the nomadic life. The Labrador is, as my readers will before this have recognised, a bitter mother; but all that she is unwilling to give the Indian wrings from her. In August he shoots the young Canada geese, spruce-grouse and ptarmigan. The month, in his picturesque language (on which, as on the whole subject of the Indians, Mr. William Cabot, of Boston, is incomparably the best authority) is called O-po-o Pushum, that is, the Moon of Flight.

By hunting and fishing the Indian obtains his food from the country over which he travels, and about August he pitches his shifting tepees deep in the interior, where the chief event of the year, the autumn killing of the migrating caribou, takes place.

Both to the Montagnais of the more wooded south and the Nascaupees of the Barren Ground, the caribou forms the main support of life. From time immemorial the Indians have

gathered to slay them at this season, while they cross the lakes on their mysterious journeyings, the beginning and the end of which no man really knows. Even the path of the migration changes from year to year, and in some seasons the tribes fail to meet with the deer at all. All these times starvation visits the tents and sits, a grim shape, beside the fires. Such a year was 1893, when many of the people died, only half their number surviving to the spring.

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The Montagnais are a far more civilised race, partly on account of local conditions; for Southern Labrador, having a less rigorous climate, possesses

p. 2650

more settlers with whom the Indians come in contact. Further, they long ago passed under the teaching of the Oblate Fathers, and now profess the Roman Catholic faith. The Fathers keep up annual visits with their converts, who seldom move far to the north ; and in fact (particularly of late years) they spend a part of each year encamped not very far from the coast settlements.

* * * *

There is a pronounced physical difference between the Montagnais and the Nascaupes, the former being much shorter, with somewhat broad faces and blunt features, while the Nascaupes retain the tall slender forms and high features of the typical Red Indian. The tribes intermarry, for I know of at least one intermarriage, though this may be a rare instance.

The head-quarters of the Nascaupes may be said to be on Indian House Lake, the shores of which are, in truth, a battleground over which an unrecorded but terrible struggle is fought out. This battle has endured for generations; the antagonists are Nature on the one side and the little tribe of Nascaupes on the other. The Indians can hope for no aid in their conflict. Shut in upon all sides by the mighty Barrens, help cannot reach them, nor have they sought it. Few people of white race have yet set eyes on Indian House Lake, and the half-dozen expeditions which have passed up and down the River have spent but half-an-hour at the Nascaupe camp before they boarded their canoes and voyaged on.

No. 1059.**EXTRACTS FROM "LABRADOR."**

BY WM. B. CABOT (London, 1922).

“ We passed Kutálik or Massacre Island close and were off the Mountaineers' Rock, a small affair awash at low tide. Sam told its tale. In old days when warfare between the Eskimo and Mountaineers of the inland was unrelenting the Eskimo of the neighbourhood were camped on the smooth moss ground of the western side of Kutálik, where their old rings of tent stones are still visible. While the men were off hunting Indians descended upon the women and children, killed them all, threw them into the sea, and departed. As the Eskimo men were returning one of them saw something floating and threw his spear, finding then that he had transfixed the boot and foot of his own wife, killed with the rest. . . . It was late in the day, and the Mountaineers' Rock lay toward the sunset, some three miles away. The Eskimo noticed that the rock seemed higher than usual. As the tide came to its height they saw the Mountaineers leave the flooded rock and paddle up the bay beyond to the mainland. They had been concealed under their canoes, placed close together, and it was these which gave the rock its unusual elevation. The Eskimo followed them after dark, surrounded their camp, and speared them to a man.

Some say that Eskimo men as well as women were floating in the water that day. At all events the story shows how things went between the two races, from Maine, perhaps, around the northern shores to Alaska. They have little taste for each other to this day, although white influence at the shores has ended the fighting. There is no doubt that, man for man, with the primitive weapons, the Eskimo was at no disadvantage, but the Indians acquired guns first and gradually forced the shore dwellers out of the Gulf of St. Lawrence and to the north.

The Indians' families, back on the country, were probably not much exposed in the fighting, while those of the Eskimo were, as they could be easily found along the shores. Yet it is not likely that the initiative has always been with the Indians. The two main causes of trouble among simple people in the world at least have been infringement of territory and woman stealing ; and the Eskimo, while at a disadvantage from their shore habitat, have doubtless had some share in aggression and its proceeds.”

* * * *

“ To-day, nevertheless, it is rather hard to imagine a pure Indian of north-east Labrador marrying an Eskimo. Their

Eskimo seems to regard the Indian as a hateful predatory creature of the wolf or panther kind. The Indian view is not so easy to assume ; the Eskimo revolts him a little, his dirt, his lack of dignity, his diet, his smell. The Indian has given to him what to his own mind is almost as bad a name as he could, for the word Eskimo is Algonquian for Eater of the Raw. The Indian is particular in having his food cooked.

Late in the winter the Eskimo of the coast go inland for caribou nearly to the height of land, but only in strong parties, so far as I can learn. Many of the white or partly white shore people tell of going into the interior one or two hundred miles, always in winter, but really they do not go far, and 'signs of Indians' are mentioned with bated breath. Some of the shore people are pretty well acquainted with the individual Indians now, for the latter are peacable enough at the shore, but a shore person hunting alone at a distance inland would, I think, be made uncomfortable if discovered.”

* * * *

Further on Cabot tells how a projected trip inland of servants of the Hudson's Bay Company at Davis Inlet with a view to the possible establishment of a trading post inland was frustrated by the Indians. He says:

“ What turned the Hudson's Bay Company partly back was Indians, not snowshoe tracks or imaginary Indians, but the very men they were with. For some reason best known to themselves they announced to the outsiders that they did not want them to go any farther into the country and actually threatened violence. Our white man was disposed to be militant, but William's enthusiasm fell away and they turned back. This may have been well; it was then not so very long since some of the northern Indians had set out to rush Davis Inlet post, being denied what they asked.

The projected trip inland was now off, of course, I being a doubtful person. The feasibility of making an arrangement with the Indians was also lessened, for their keen observation had not missed the change of atmosphere, and they are not apt to take much trouble for a person of doubtful standing among his own people. Whether it was the prevailing talk of the shore people, or, more likely, the councils of cautious old Captain Gray, of the Pelican, that upset things, I never knew. The blocking of Cotter's vacation into the country may have been partly due to William Edmunds. The journey was a reconnoissance [sic] toward a possible inland trading post. As William's best perquisite was the boating of Indians from Opetik to Davis Inlet at a dollar each, his interest would be against the project. It was generally thought that he had intrigued with the Indians against this enterprise. It remains, however, that to the present year 1920 they have allowed no white person but myself and occasional countrymen to enter. In 1915 they ejected a party summarily.”

[1895.]

POPULATION OF LABRADOR PENINSULA.EXTRACTS FROM THE "LABRADOR PENINSULA," BY ROBERT BELL,
B.A., SC., M.D., LL.D., SCOTT. GEO. MAG., 1895, VOL. 11.

Population.—The figures in the tables below are derived from the following sources. The resident white population of the Atlantic coast, from Blanc Sablon northward, is from the Newfoundland Government census of 1891, and there has been little change since that time. Both the white and Indian populations from Blanc Sablon to the west end of Lake St. John are from the Dominion Government census of 1891, and there may have been some increase in the number of whites, but this is uncertain. The remainder of the Indian population is a good approximation to the number at present trading at the different posts of the Hudson Bay Company. Previous estimates have greatly overstated the number of the Indians of the interior. The Eskimo begin to be met with in straggling numbers at Hamilton Inlet, and they extend up the Atlantic coast, along Hudson Strait, and down the west coast as far as Cape Jones. The figure given for the coasts from Cape Chidley to Cape Jones was found by adding together my own estimates of the numbers at all their different settlements and camps, and it may, perhaps, be slightly under the mark. Some of these people hunt the reindeer at certain seasons a short distance inland on the barren grounds, but they all come to the coast as their homes. In 1860 there were 1,400 Eskimo belonging to all the Moravian settlements, and the numbers have remained almost stationary. The Secretary of the Moravian Missions in Labrador, referring to 1887, wrote to Dr. Packard: "We reckon that there are less than 1,500 Eskimo on the strip of coast from Hamilton Inlet to Ungava."

POPULATION OF THE LABRADOR PENINSULA.	Numbers
Atlantic coast from Blanc Sablon to Cape Chidley—Whites	4,100
North shore of St. Lawrence from Blanc Sablon to Tadousac in 1891—Whites	7,915
Ditto—Indians	1,387
On north side of Saguenay and Lake St. John—Whites	1,324
Ditto—Indians	434
On east coast of Hudson Bay—Whites	40
Indians trading at Hamilton Inlet	125
Ditto at Davis Inlet (Naskopies)	230
Ditto at Fort Chimo (Naskopies)	90
Ditto at Nitchiquan, Mistassini, and Waswanipi (all Montagnais)	230
Crees and Montagnais trading at Rupert's House	250
Ditto trading at other ports on east side of Hudson Bay	270

	— 1,195
Eskimo at and between Moravian settlements on Atlantic coast	1,400
Ditto, thence northward to Cape Chidley	50
Ditto from Cape Chidley to Cape Jones	650
	—
	18,495
	—

Total white population (resident), 13,379 ; Indian, 3,016 ; Eskimo, 2,100.

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Taking the area of the peninsula as 560,000 square miles this would only give one inhabitant to each 30 square miles of territory. It is estimated that at least 1,000 schooners, mostly from Newfoundland, proceed to the Atlantic coast of Labrador every summer to fish. Many of these carry several families, but at the rate of only ten persons to each schooner this would give a floating population of 10,000 during three months of each year. In addition to these a considerable number of tourists from the United States and elsewhere visit the coast every summer.

Moravian Missions.—The Unity of Moravian Brethren, or *Unitas Fratrum*, has six stations on the Atlantic Coast of Labrador for the benefit of the Eskimo. They are situated in the following order from south to north :—

Station.	Founded.	Number of Eskimo in 1896.
Hopedale	1782	160
Zoar	1865	90
Nain	1771	214
Okkak	1776	308
Hebron	1830	207
Ramah	1871	71
		—
		1,050

The late Rev. B. La Trobe, secretary in London of the Moravian Missions, said that there were in 1886 less than 1,500 Eskimo on the whole coast. If we allow 350 for those residing at various places between the mission stations, and 50 for those between Ramah and Cape Chidley, the whole number becomes 1,450, which is not far from correct for the present year (1895), as the numbers appear to have remained about stationary for a long time. These people have improved very much in their moral and spiritual character under the influence of the devoted missionaries, although their self-reliance and physical stamina are not equal to those of the heathen Eskimo of Hudson Strait. The Moravians endeavour to make the missions self-supporting as far as possible, and for this end they encourage the Eskimo to hunt foxes and other fur-bearing animals, for which purposes they lend them traps and supply ammunition, and then pay them fair prices for their returns. The mission ship, of which successive ones have been called the *Harmony*, visits the stations each summer for the purpose

of bringing the outfits and taking back the produce of the year's trade. The natives speak German, and appear to be fond of their religious exercises, especially the singing. In 1893 some enterprising Americans transported upwards of fifty of them, including men, women and children, from Nain to Chicago, where they remained during the Columbian Exhibition. On their return, these simple children of nature would doubtless have endless stories to tell to their wondering relations.

No. 1061.

GEOGRAPHICAL CONSIDERATIONS.

By Professor J. W. GREGORY, F.R.S., D.Sc.

Vide Vol. V, p. 2489

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BETWEEN

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AND

**THE COLONY OF NEWFOUNDLAND of the other
part.**

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[1927lab]

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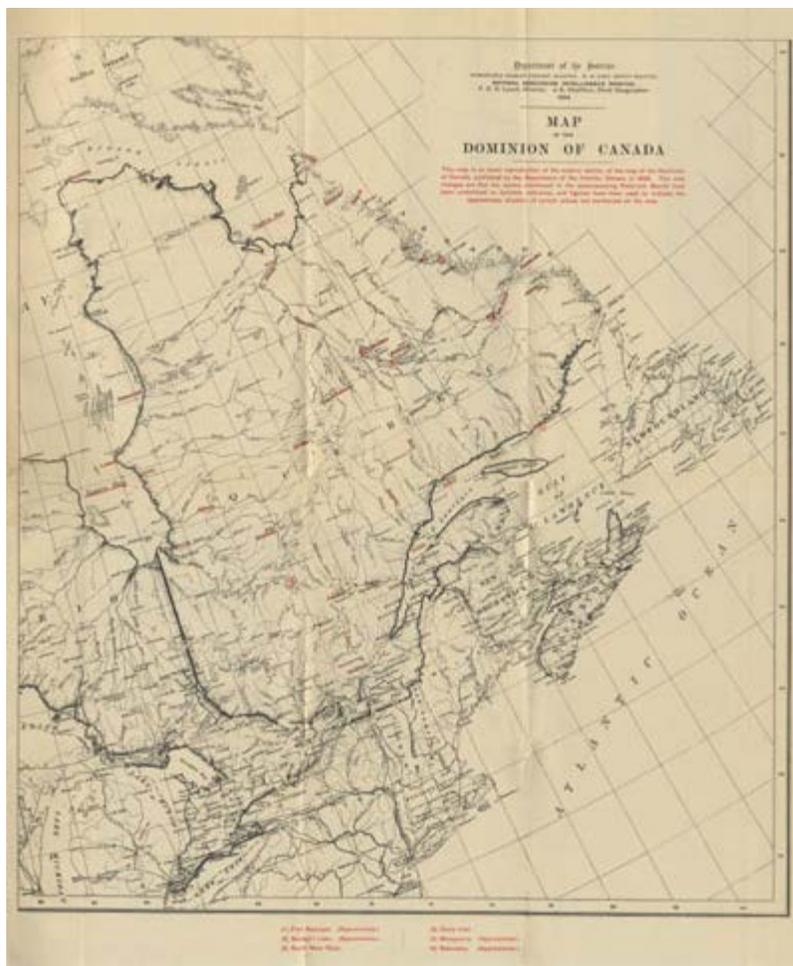
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LANDS IN NORTH AMERICA FOR THE USE OF THE
INDIAN TRIBES FOR THEIR HUNTING GROUNDS.

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1220	23rd Nov. 1761	C	Order in Council on a Report of the Lords of Trade, respecting the granting of lands in Indian Territories, and the Tenure of Office by Colonial Judges	3095
1221	2nd Dec. 1761	C	Lords of Trade to the King, submitting draft of Instructions to Colonial Governors	3100
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1230	24th Dec. 1765	C	Extract from Instructions to Governor of North Carolina	3112
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1233	10th June 1768	C	Representation of the Lords of Trade to the King recommending suspension of settlement adjacent to Indian territories until boundary line fixed	3116



[Much Larger Version](#) (980 kb)

[1927lab]



Department of the Interior.
 HONOURABLE CHARLES STEWART, MINISTER. W. W. GORY, DEPUTY MINISTER.
 NATURAL RESOURCES INTELLIGENCE SERVICE.
 F. C. C. Lynch, Director. J. E. Challifour, Chief Geographer.
 1924

MAP
 OF THE
DOMINION OF CANADA

This map is an exact reproduction of the eastern section of the map of the Dominion of Canada, published by the Department of the Interior, Ottawa, in 1924. The only changes are that the names mentioned in the accompanying Historical Sketch have been underlined to facilitate reference, and figures have been used to indicate the approximate situation of certain places not mentioned on the map.

54
52
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42



(1) Fort Nascopie. (Approximate.)
(2) Sandgirt Lake. (Approximate.)
(3) North West River.

(4) Davis Inlet.
(5) Musquarro. (Approximate.)
(6) Nekoubau. (Approximate.)

PART XVII.

DOCUMENTS EXHIBITING THE HISTORY OF
CANADA'S RELATIONS—GOVERNMENTAL,
COMMERCIAL AND ECCLESIASTICAL—WITH
THE INDIANS OF THE LABRADOR PENINSULA.

No. 1062.

HISTORICAL SKETCH.

SECTION I.—GOVERNMENTAL AND COMMERCIAL RELATIONS WITH THE
LABRADOR INDIANS.

The peninsula of Labrador is bounded on its eastern, northern, western and southern sides by the Atlantic ocean, Hudson's Straits, Hudson's Bay and the Gulf and River of St. Lawrence. The line of division separating what may be properly called Labrador from the rest of Canada has never been authoritatively laid down. Consequently, different writers have adopted different arbitrary lines, in some cases for reasons related to the subjects, of which they were treating. Father Laure, for instance, was advocating in 1715, the founding of a great state of Labrador, with its principal outlook on the Atlantic. It was necessary for his purpose to exclude all the territory on the Gulf, which had already been appropriated ; and he declared the eastern limits of Mingan seigniorship to be the south western boundary of his proposed state. Low¹ and Hind,² for no assignable reason, assume Seven Islands or Bersimis to be the point on the St. Lawrence from which the south western limits of the peninsula should be drawn to Hudson's Bay. Recent writers, observing the course of the waterways running southward from Lake St. John to the River St. Lawrence, and of those which follow the Nottaway river to Hudson's Bay, and noting the comparatively small stretch of land which separates these systems flowing in opposite directions, consider that a line to be drawn from the mouth of the Saguenay river to the mouth of the Nottaway river, would be a more logical line of demarcation for the peninsula.

But the point is of little consequence, since the physical characteristics of Southern Labrador, and the racial and other peculiarities of the inhabitants

p. 2656

¹ Report,
p. 2593, vol.
v.
² The
Labrador
Peninsula,
p. 2823.

¹ Hind,
p. 2836, vol.
v.

Bur. of Am.
Eth. Bulletin
30, Art.

are precisely the same as those of the regions lying far to the west of any line, that could properly define Labrador. The territory occupied by the Naskapis, the more northerly of the

“
Nascopies,”
p. 2830.

² Bur. of Am.
Eth. Art
Bulletin 30,
“
Montagnais,”
p. 2829.

³ Low,
op. cit.,
p. 2594,
et seq., vol.
v.

two races who inhabit the Labrador, extends westward to lake Mistassini.¹ The tract ranged over by the Montagnais, the second of the two races inhabiting the Labrador Peninsula, extends as far to the west as the head waters of the St. Maurice,² which empties itself into the St. Lawrence at Trois Rivières.

The Labrador peninsula is described by Mr. A. P. Low,³ whose explorations in that territory give him a unique authority, as a high rolling plateau, which rises somewhat abruptly within a few miles of the coast to levels varying from 1500 to 2000 feet. The interior is undulating, and is traversed by ridges of low, rounded hills that seldom rise more than 500 feet above the general level, which varies from 1600 to 1800 feet.

On its Atlantic side the coast is deeply indented by many long, narrow bays or fiords, which are surrounded by rocky hills, rising precipitously from the water to heights of from 1000 to 4000 feet. The deepest of these indentations is that known on its outer side as Hamilton inlet, and, in the interior, Lake Melville. To the head of Lake Melville there is a stretch of 150 miles. The most considerable among the other bays are Sandwich, Kaipokok, Saglek and Nachvack, which vary from 30 to 50 miles in depth.

The coast line on the Atlantic increases in altitude as one passes from the Straits of Belle Isle northward. From the Straits to the Moravian settlement at Nain the coast runs from 1000 to 1500 feet in height ; from Nain to Cape Chidley it rises to from 2500 to 4000 feet. North of Nachvack, there are some elevations as great as 6000 feet.

The western coast line, that is the coast on the eastern shores of Hudson's Bay, is much lower than that on the Atlantic. Between Cape Wolstenholme, the most northerly point on the west, and Cape Jones at the entrance to James Bay, the land reaches to a height of 1000 feet within a few miles of the sea, and then rises rapidly to the general level of the plateau. On James Bay the eastern coast line is low, and the rise is so slight that at a distance inland of 100 miles, the land is only 700 feet above the sea.

The highest point in the interior is towards the south and west, near the headwaters of the rivers that flow westward into Hudson's Bay, southward into the St. Lawrence, and northward into Ungava Bay.

The interior as its configuration would suggest is covered with numberless lakes, which occupy not less than one quarter of the total surface. These lakes are of all sizes, from mere ponds to great bodies hundreds of miles in extent, and so interlocked are they by the network of streams through which they find vent, that one may traverse the peninsula in any direction by canoe, with portages, where the canoes must be carried, never exceeding two or three miles.

p. 2657

11th Annual
Report,
Bureau of
Ethnology.
Washington,
1894, p.
2630,
vol. v.

The inhabitants of the peninsula are either Esquimaux or Indians. The regions inhabited by the Esquimaux are described by Mr. Lucien Turner, an ethnologist of the highest authority as “ strictly littoral,”¹ their habitations being found on the three northern maritime sides of the peninsula.* Those dwelling on the Atlantic coast are all within the spheres of influence of the Moravian missionaries, whose stations extend from Hopedale about 175 miles above Hamilton Inlet, to Cape Chidley. Belonging to this group are a few families living on the southern shores of Hudson's Straits as far west as the Koksoak river. From this river to the Leaf, whose waters enter Ungava Bay at its south western corner, the coast is uninhabited. The coast from the Leaf to the entrance of Hudson's Bay and thence down the eastern shore of the bay to below Fort George is inhabited, more or less continuously, by people of this race. The Esquimaux on the north western portions of the peninsula carry their furs and the products of their fisheries to the Hudson's Bay posts at Fort Chimo on Ungava Bay, and to Fort George on James Bay.

Between the Esquimaux and the Indians, who dwell in the interior of the peninsula, no relations exist except those of mutual animosity. This is a point on which all writers on Labrador dwell, and which, with possible racial predilections, accounts for the fact that the Esquimaux confine themselves to the coast regions, while the Indians remain within the shelter afforded by the interior.

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² Particulars
of the
Country of
Labrador
(1774) p.
2640,
vol. 5. See
also, McLear
Notes (1849)
p. 639, vol. v.
and Hind,
p. 2639,
vol. v.

Lieutenant Roger Curtis, who served under Commodore Shuldham while the latter patrolled the Labrador coast, drew up an account of the peninsula, which he published in 1772 with a dedication to the Earl of Dartmouth.² In the course of a description of the inhabitants he says : “ a good way in the country live a people distinguished by the appellation of Mountaineers, between whom and the Esquimaux there subsists an unconquerable aversion ”; and, again, the Esquimaux “ live always upon the sea shores from this dread of the Mountaineers.” In the Journal of Captain George Cartwright, who made his home on the Labrador coast for 16 years between 1770 and 1786, there are frequent references to this hostility, and to his efforts to abate, if not extinguish it, by bringing people of the two races to a better understanding through actual contact with one another.

³ Notes on
Esquimaux
Bay and
the
surrounding

W. H. A. Davies, who was in charge of the Hudson's Bay post at North West River in 1840, speaking of the Mountaineers in that district, in a lecture delivered before the Literary & Historical Society of Quebec,³ said : “ As they

stand greatly in awe of the latter people (the Esquimaux), they rarely descend the Bay.”

* Father Arnaud, in a letter of Dec. 16, 1872, bears similar testimony. In the course of a description of his missionary journey to Ungava he says : “ The Esquimaux always remain on the coast; they do not, like our Naskapis or Moutagnais, go into the interior of our country to hunt.” See p. 3075.

p. 2658

¹ H. B.
Records,
Hendry to
Lewis,
Sept. 6,
1828.
p. 2780.

The mistrust bred of these enmities had its reactions in the operations of the trading companies in the peninsula. The embarrassments it caused to the Hudson's Bay Company are repeatedly mentioned in their records. An explorer¹ sent in 1828 by the Company to make a journey from the Gulf of Richmond to Cape Chidley reported that, on reaching the South or Koksoak river, he found indications of the presence of Esquimaux ; and his Indians, who until that time accompanied him willingly, required strong inducements to proceed further ; and he gave it as his opinion that it would be of no advantage to establish a post at that point, since, as the Esquimaux frequented the country, Indians would not be found there. When in 1830, the Company, notwithstanding this warning, established Fort Chimo, on the Koksoak river, about thirty miles from the sea, the officer in charge had again and again to take account of the ill-will between the two peoples. In his first report on the conditions prevailing in the district, he observes that his efforts to induce the Indians to hunt in that vicinity proved to be futile. The Indians were afraid that in his trading with the Esquimaux, he would sell them guns and ammunition, and thus put them in a position to retaliate the many injuries they had suffered at the hands of the Indians. The Esquimaux, on their part, were afraid to go into the interior on account of the Indians. He entertained a hope of reconciling the two races.²

² H. B.
Records,
Finlayson to
Company,
Sept. 20, 1830.
p. 2783.

But the hope has hitherto proved vain— “ The memories still live, and the Esquimaux and Indian, although never engaging in actual hostilities, have a mutual hatred and “ never intermarry.”³

³ Cabot,
op. cit.,
p. 1622 [sic], vol
v.

The Indians, who inhabit the interior of the peninsula are all of the family stock known to ethnology as the Algonquian, which in its day occupied a vast area of the continent. The Indians of Labrador are of the divisions known as the Mountaineers and the Naskapis. The former occupy the territory extending southward from the southern shores of the Hamilton river system to the river and gulf of St. Lawrence, and westward from the Atlantic ocean to limits still imperfectly defined,⁴ but including the region about the upper waters of the St. Maurice, which empties into the St. Lawrence at Trois Rivières.⁵

⁴ Turner,
op. cit.
p. 2633, vol.
v.

⁵ p. 2630,
vol. v.

The chief habitat of the Naskapis is the territory known as the Ungava basin, that is, the region lying north of the watershed, separating the rivers flowing into lake Melville from those running northward to Hudson's Straits. But the

Cabot, op. cit.
p. 2626, vol.
v.

Naskapis are not confined to this country. The Indians about lake Nichicun are classed by Low as Western Naskapis, and the thirty families who trade at Mistassini are also placed by him in the same tribal division.

The Montagnais have many local names—Papinachois, Bersiamites, Porcupines. Oumaniois and many others. Murray in his report of 1762, noted this, saying that “ they take as many different names as they have villages, but they are all the same people and speak the same language.”⁷

⁷ Constitutional Documents, 1918, p. 895, vol. iii.

The Montagnais and Naskapis are in most essential respects practically identical. They speak the same language with only dialectal differences⁸ and Father Lemoine after several years of life among them stated in 1895

p. 2659

⁸ Cabot, op. cit., p. 2621, vol. v.

that they now form one tribe.¹ By the Canadians, of the French regime, the Naskapis were taken to be a branch of the Montagnais²

¹ Lemoine to Tetu, Sept. 23, 1895, p. 2826.

The outstanding feature in the life of these Indians—Montagnais and Naskapis alike—is its extraordinary mobility. To the same degree, and in pursuit of the same objects, they are as nomadic as the Bedouins of the eastern deserts. They have no permanent dwellings. What Cartwright said as the result of his observations in the last quarter of the eighteenth century is equally true today : “as these people never stay long in a place, consequently they never build houses, but they live the year round in miserable wigwams, the coverings of which are deerskins and birchrind.”³

² Memo by Cugnet and Estebe (1744), p. 2748.

Their modes of locomotion and transportation are adapted to their habitat. To quote Cartwright again : “ These people inhabit the interior parts of the country which they traverse by the assistance of canoes, covered with on the coast, birchrinds, in the summer ; and of rackets or snow shoes in the winter.”⁴ Curtis also says : “ Their canoes are covered with the rind of birch, and though so light as to be easily carried, yet sufficiently large, to contain a whole family and their traffic. By means of the amazing ponds throughout the country, they convey themselves a vast distance in a very little time. Whenever they find a pond in their way, they embark on it and travel by water ; when its course alters, and by following it they would lengthen their distance anything considerable, they land, place the canoe on their head, and carry their baggage on their shoulders until other water gives them an opportunity of re-embarking.”^{5*}

³ Journal of Transactions and Events of early sixteen years on the coast of Labrador, (1792) p. 2643, vol. v

⁴ Ibid, p. 2641.

For winter travel, snow shoes are universally employed, and for transportation, the sled. The ease with which a sled is drawn differs according to the state of the snow. In mid winter when the snow is hard and gritty, 200 lbs. drawn ten miles in a day would tax a strong man ; but as the snow settles, towards the spring, loads of 500 pounds could be hauled from twenty to twenty-five miles in the same time.

⁵ Curtis, op. cit.,

The prime object of the constant wandering of the Indians

is food. Pritchard in his "Through Trackless Labrador" gives a vivid account of this aspect of Indian Life. "By hunting and fishing the Indian obtains his food from the country over which he travels, and about August he pitches his shifting tepees deep in the interior, where the chief event of the year, the autumn killing of the migrating caribou, takes place."

Both to the Montagnais of the more wooded south and the Nascaupees of the Barren Ground, the caribou forms the main support of life. From time immemorial the Indians have gathered to slay them at this season, while they cross the lakes on their mysterious journeyings, the beginning and the end of which no man really knows. Even the path of the migration changes from year to year, and in some seasons the tribes fail to meet with the deer at all. At these times starvation visits the tents, and sits, a grim

* For an interesting account of the mode of life and of other particulars of the Montagnais Indians, and of the point of distinction between them and the Esquimaux, see Judge Pinsent's report to the Newfoundland Government, dated Dec, 31, 1873, p. 1474 (Vol. III.)

Privy Council
Documents

Volume VI
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“¹Through
Trackless
Labrador,”
by H.
Hesketh
Pritchard,
London,
1911) p.
2831.

²Cabot,
op. cit.,
p. 2622, vol.
v.

Ibid.

³H. B.
Records,
Finlayson's
Journal,
Feb. 14,
1835.
p. 2786.

⁴Cabot,
op. cit.,
p. 2622, vol.
v.

shape, besides the fires.”¹ Tales of calamity due to starvation occur in the records of the Hudson's Bay Company. In 1849, the officer in charge of the Esquimaux Bay district reported the death of 90 Naskapi Indians—hunters and their families—due to the fact that the deer had not crossed the passes where they had until that time been found in large numbers.

In the midst of this life of movement, opportunities were made for the exchange of news as to the happenings in all parts of the peninsula. To quote Cabot : “ About the great lakes of the central area the people meet as may happen during the hunting season and exchange their unwritten news ; on the far lake levels of the high interior, the hunting place of the strong and skilful, this network of communication is seldom long broken. There about the central area, gather the rivers that flow to the four coasts and there the people converge.”²

Three such meeting places in this central region are, Kaniapiscaw, Petitsikapau and Sandgirt lakes. Kaniapiskau is a large lake in the Ungava basin, from which the South or Koksoak river takes the rise. Of it John Bastian, an Indian guide employed by Cabot, says : “ At Kaniapiskau you meet Indians from all shores.” Petitsikapau at the head waters of the Hamilton river system attracted the attention of the factor in charge of Fort Chimo, and he recommended the establishment of a post there. In his journal to the Company he says of this lake : “ It is surrounded by a tolerable fur country. At or near it the Indians always separate on their way to the different settlements on the Gulf.”³ Fort Nascopie was established on this lake in 1842.

Sandgirt lake forms part of the same river system, at some distance above the Grand Falls. The gatherings at this point are noticed by Cabot, who remarks : “ The people who descend the Moisie in the summer gather at Sandgirt lake on the Hamilton, apparently for the mere sake of seeing each other, and they keep together as may be until their final separation in the fall for their individual lands.”⁴ Of Sandgirt lake Low says : “ Owing to the number of canoe routes that centre here, the lake is an important gathering place for the Indians of the interior.”

Labrador an undivided whole (to Indians and Trading Companies).

To the Indians, the peninsula was a geographic unit, an indivisible whole. They travelled over it from north to south and from east to west, small advantages often determining them in their decisions as to whether they would take their furs to the posts on Ungava Bay or to those on the St. Lawrence. Fort Chimo on Ungava Bay suffered greatly from this apparent perversity of the Indians. When it was opened by the Hudson's Bay Company in 1830, there were opposition traders at

Esquimaux Bay, and at the posts on the Gulf of St. Lawrence. These traders had an advantage over the officers of the great Company, in that they were their own masters and could adapt themselves to a struggle for trade more readily than the officers of the Company, who were bound by the instructions they

p. 2661

¹H. B.
Records,
Finlayson to
Erlandson
June 23,
1832,
p. 2785.

received from London. The factor at Chimo found that the Indians of his own district were attracted by the better terms offered at the Gulf posts ; when the Gulf posts were acquired by the Company, he endeavoured to make them understand that there would be no benefit to them in carrying their furs the vastly greater distance,¹ but they were sceptical, and were not satisfied until a party visited the Gulf posts.

The accounts of the Department of Indian Affairs of Canada show the Hudson's Bay Company's agent at Davis Inlet on the Atlantic coast giving relief supplies to a large number of Indians on Canadian Government account ; also, a shopkeeper at Tessiuyaksoak between Nain and Zoar on the same coast performing a similar service for the Indians who visited his district.

As between Fort Chimo and Esquimaux Bay, although separated by nearly 600 miles, the Indians made nothing of the distance. John McLean, the officer in charge at Fort Chimo made a trip to Esquimaux Bay in the beginning of 1838. On his arrival there he found that all the Nascopie or Ungava Indians, belonging to the Fort Chimo district, numbering between 70 and 80, had carried their furs to Esquimaux Bay. He and the Company's agent at Esquimaux Bay having come to an understanding, pointed out the advantages to them of having posts so conveniently situated on their lands.²

²Notes on a
twenty-five
year service
on the
Hudson Bay
Territory,
p. 2805.

Rupert House on James Bay lost a portion of its business from the fact that a number of the Indians attached to that district had passed over the height of land, some into the Ungava district, and others into the territory attached to Esquimaux Bay.³

³H. B.
Records,
Simpson to
Company,
Aug. 16,
1836,
p. 2791.

In 1863, Donald A. Smith, who was in charge of the Esquimaux Bay district, urged upon the Company the desirability of reopening the post at Chimo. Opposition there would lead to much trouble. " The injury to the trade not only at Fort Nascopie, but in all probability of Rupert's River district and Eastmain would be incalculable." ⁴ The Post at Chimo was re-opened, and in 1867, Smith notes with much satisfaction that a good many Naskapis "frequenting Fort Nascopie have gone to hunt in direction of Fort Chimo, where they will be removed from the influence of traders from the Gulf of St. Lawrence." ⁵

⁴H. B.
Records,
Smith to
Company,
July 22, 1863,
p. 2822.

⁵Ibid.
August 13,
1867, p. 2825.

The following extracts from the correspondence of the agent of the Hudson's Bay Company at Rigolet will give an idea of the embarrassment and anxiety caused by the wandering habits of the Indians :—

" To S. K.

" I hope that the Nascopies will return to Ungava

Parson,
Montreal,

June 23,
1886.”

“ To S. K.
Parson,
Montreal,

Jan. 14,
1890.”

(on Hudson's Straits) before long, but we can't make them go if they don't want to, and while they are in the habit of coming out on the Coast in the neighbourhood of Davis Inlet (on the Atlantic Coast) and the Missionary stations, it will be well to keep such things as they may require at D. I., otherwise their fur will be lost to the Company altogether.”

“ The question arises most seriously : what is to be done with these wandering Bohemian Gulf Indians ? Mr. Fraser wrote me in his last that five of them had cast up at Paradis the other day (25 miles from
p. 2662

Cartwright on the Atlantic Coast). He secured quite a lot of Beavers and Otters from them. It was more than fortunate that he was in time to intercept them.

“ The same occurred at N.W. River (on Lake Melville). Three hunters arrived there last Autumn from Ungava. There appears to be no mode of checking those marauders. The only plan to save future loss to the Company is to refuse the marauders advances in toto, both on this side as well as in the Gulf. In this way they will be at liberty to trade wherever they may strike out.”

“ To J.
Wrigley,
Commissioner,
Winnipeg, Oct.
11,
1890.”

“ North West River. The returns of this Post I am sorry to say show a considerable falling off from the last outfit. There was an unusual scarcity of Martens in that section of the country. I may say also the Indians made miserable hunts. To this is to be taken into consideration that 12 or 13 families never made their appearance at all ; either two or three families, as far as could be ascertained, crossed the country towards Seven Islands (on the Gulf of St. Lawrence).

“ To S. K.
Parson,
Montreal,

April 22,
1892.”

“ In my letter to you of the 15th January I drew your attention to the constant raid made upon this side by the Gulf Indians. They are becoming a perfect nuisance, and high time that the Government should deal with them most strictly. In no way can this be effected except by immediately putting a stop to the credit system. The Company should at once issue instructions that no advance be made to these Indians, especially Mingan and Musquarro (on the Gulf of St. Lawrence). This is the only check that can be laid upon them. Let them then go and trade where they please.”

“ To Officer
in Charge,
Montreal,
April 22,
1892.”

“ Allow me to once more call the attention of the Company most earnestly to take immediate steps regarding these wandering Bohemians from the Gulf. I fully explained the matter to you in my letter dated the 20th of April last year, and apparently no steps were taken in the matter. The affair is of the utmost importance and should receive immediate attention. The Company should issue strict instructions that no advances be made to these wanderers, especially so to those from Mingan and Musquarro. This is the only

effective check that can be laid upon them, and the only means of protecting ourselves and property.”

“ There were no fewer than 16 or 17 families near Cartwright about the New Year, comprising in all over 100 souls.”

“ I was very much surprised indeed to learn from your letter that the Oblat Fathers purposed discontinuing the Mission at North West River. I at once spoke to Pèrre Lemoine on the subject, and he informed me that such was truly the case, and that he had told the Indians to go out to Musquarra next year to see the Priest there. Had I known of this movement on the part of the Priests, or even had the slightest suspicion of it before Pèrre Lemoine went up to North West River, you most certainly would have been instructed not to give a single cent to any Indian on any consideration whatever. I trust that the Indians will not all go over to the Gulf, and that you have borne

“ To Charles McLaren, North West River, July 19th, 1893.”

p. 2663

in mind the chances of their going there in your dealing with them this summer.

“ While recently at North West River Post, I met some of the Indians who used formerly to hunt in the country around there. They informed me they intended coming back again to hunt in that locality, and asked if debt would be given them at North West River. I told them I would write you on the matter before we could give them debt. I shall be pleased to have your advice in regard to giving them debt. I understand these Indians get debt at the St. Augustine Post.

“ To Peter McKenzie, Montreal, April 4th, 1894.”

“ On the 20th ult. I visited Davis Inlet Post, but regret to say that the fur hunt in that section is the smallest for a number of years back. Seven Indians only visited the Post during the winter for the purpose of trade. It is presumed the majority of the Indians who have been in the habit of coming out at Davis Inlet to trade of late years have worked more to the south. Report says a number of them have been seen some distance south of North West River.”

“ To Peter McKenzie, Montreal, April 4th, 1894.”

“ I trust you will succeed in attracting the Indians to the Post to trade. They seem to have deserted North West River of late years.”

As the Indians in their migrations moved about, in utter disregard of the physical divisions of the territory, so the Hudson's Bay Company showed a similar disregard of these physical divisions in the arrangements they made for the transaction of their business. The territory was subject to no divisions, except those made by the Company for their own convenience, and these were changed as circumstances seemed to require. The Rupert River district, for instance, included not

“ To Thomas McKenzie, North West River, Dec. 23, 1901.”

only outposts within its own territory, but the post at Kaniapiskau, at the headwaters of the Koksoak river, which was in the Ungava district.¹ Fort Nascopie lying on the height of land whence flowed the waters which formed the Hamilton River system was placed under Fort Chimo, and a post opened on the St. Augustine river, which, if classed on geographical lines would have been dependent on the Gulf posts. It was attached to Esquimaux Bay.² These were the only divisions, which were recognised in the territories of the Labrador peninsula.

¹H. B. Record, Bewley to Simpson, Feb. 26, 1835. p. 2786.

Nowhere does the practice, whether on the part of the Hudson's Bay Company or of the Indians, of treating the entire Labrador as one indivisible whole, receive such signal illustrations, as in the case of the Indians, attached to the posts on the Gulf of the St. Lawrence.³

²H. B. Record, Simpson to Smith, June 26, 1860, p. 2819.

The peninsula of Labrador is described by Low as a comparatively level, rolling plateau, over which travel is easy in all directions. This is an accurate description only as far to the southward as the ranges which form the head-lands of the rivers flowing south to the St. Lawrence. The rocky and precipitous character of the country through which these rivers run, and the difficulties encountered in the ascent from the Gulf coast to the plateau to the north is the subject of observation by all travellers in those regions⁴ but there is no evidence that the route presented unusual difficulties to the Indians. From the earliest periods of which we have record, the main

³Hind, *op. cit.* vol vi, p. 2825.

p. 2664

objective of their migrations has been the posts on the Gulf and River St. Lawrence. The routes which would have led the Indians of the interior to the sea at Esquimaux Bay (Hamilton Inlet) offered few difficulties, in comparison with those followed on the way to the St. Lawrence. Cugnet, the lessee of the King's Posts, was well aware of this fact, and when he learned in 1744 that Fornel a merchant of Quebec, had explored Esquimaux Bay, and set up the flag of France in the territory, he was full of apprehension, that his Indians in the Esquimaux Bay country would abandon his posts, and take his furs by the easier routes.¹

⁴Cabot, *op. cit.*, p. 2624-2625, vol. v.

But his apprehensions were groundless. How far fear of the Esquimaux who dwelt on the outer shore of Esquimaux Bay may have acted as a deterrent, and how far the influence of old habit, which turned their steps southward instead of eastward, may have prevailed, there is no means of telling, but the fact remains that the movement of the Indians towards the south, instead of towards the east,² or north, is one of the best established in the history of these Indians.

¹Corr. Generale c. 11, 109,

The two chief motives, which determine mankind to make a change in its environment, operated powerfully with the Indians in leading them to the Gulf and the River St. Lawrence. Traders to whom they might sell the products of

p. 2749.

their industry could be found on these shores, and could not be found on the shores of the Atlantic ; and priests, to minister to the spiritual needs which had been awakened, also had their centres on the coasts of the river and gulf.

²Cabot op. cit., p. 2624, vol. v.

The ancient routes, by which the Indians passed to and from the interior are well known. Hind in his “ Explorations in the Interior of the Labrador Peninsula,” says of the Moisie, one of the rivers entering the Gulf, about 18 miles below Seven Islands : “ For centuries it has been one of the leading lines of communication from the interior to the coast,—The old and well-worn portage paths, round falls and rapids and over precipitous mountains on the upper Moisie, testify to the antiquity of the route independently of the traditions of the Indians who now hunt on this river and on the table land to which it is the highway.”

Hind was shown a map constructed by seven Montagnais, which exhibited the route followed by these Indians from Hamilton Inlet on the Atlantic coast to lake Petitsikapau at the head waters of the same system ; thence by unbroken water communication through the Ashwanipi river and the lake of the same name to a point near the headquarters of the east branch of the Moisie.³

p. 1824.

Hind, also, mentions two other routes by which regular passage is made between the Gulf and the interior. “ The couriers of the Hudson's Bay Company traverse the country between Musquarro (on the Gulf) and Hamilton Inlet two or three times every year. The journey can be made in fifteen days in canoes, and this route has long been a means of communication between Hamilton Inlet and the Gulf.”

“ The St. Augustine, falling into a fine bay of the same name, has its source in the lakes and marshes of the tableland, which also gives rise

³Ibid.

Page	1	2	3	4	5	6	7	8	9	10
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Vol. ii, p. 125.

¹ Abbe
Ferland
in a letter to
the Arch-
bishop of
Quebec about
1863 also
mentions
this fact.

² Vol. 11, p. 97. [sic]

³ Cabot, *op.*
cit., p.
2623.

⁴ Cabot, *op.*
cit., p.
2624.

Op. cit., p. 2624.

to the Kenamou, which falls into Hamilton Inlet. By this route the Montagnais can journey in their canoes from the Gulf of St. Lawrence to Hamilton Inlet in seven days.”¹

In his account of the Naskapis, Hind says : “ They occupy the table-land, and it is only lately that they have visited the coasts and shores of the Gulf and River St. Lawrence in considerable numbers. They make their way from the interior, chiefly by the Manicouagan, the St. Marguerite, the Trinity and the Moisie rivers.”²

Hind's volumes were published in 1863—sixty years ago. That conditions have not changed in the intervening period will be seen from the following extracts from a chapter on the Indians of the Labrador by William B. Cabot, published in the year 1910. “ Along the Gulf the principal trading-stations are Bersimis, Seven Islands, Mingan and St. Augustine. From Seven Islands the Moisie is the main highway to the interior, and several of its families make their hunts within two hundred miles of Ungava on eastern branches of the George. Nearly parallel with the Moisie is the St. Marguerite or Tshimanipishtuk. Its principal western branch interlocks with the Maniquagan. The network of Indian travel about and far beyond the heads of these rivers is interminable.”

“ From the Gulf near Mingan, the hunters ascend the St. John, pass a difficult high portage to the Romaine, and proceed towards the Grand Falls region of the Hamilton.”³

“ Eastward from Mingan the people travel the Natashquan, St. Augustine and Eskimo rivers. Their lands are chiefly in the region between the Hamilton and the St. Lawrence. Southward from the Mealy Mountains of Hamilton Inlet and the Sandwich Bay coast lies an indefinite unmapped area of high territory, partly barren where great lakes supply the rough rivers passing north, east and south.”⁴

An interesting confirmation of this statement comes from Mr. Ernest F. Ewing, whose position as manager of the Hudson's Bay post at North West River gives the statement unusual authority. He says : “ The Montagnais or Mountaineer Indians will continue to visit North West River annually and each year we receive contingents from Mingan, Seven Islands, Masquarow and St. Augustine. These Indians are dependent on North West River for sufficient supplies to enable them to hunt furs on their way out to the above mentioned Gulf posts. The country over which Indians hunt, ranges as follows : St. Augustine Indians hunt and always have hunted from St. Augustine to Sandwich Bay. Mingan and Seven Island Indians' hunting grounds extend from Mingan and Seven Islands respectively to Lake Michikamau and the Grand or Hamilton River. Over these hunting grounds they claim their fathers and forefathers have always hunted and trapped.” Lake Michikamau is a great lake, north of Hamilton River and north west by west of Lake Melville.

There is but one direction in which Indian travel has declined. Cabot says : “ During late years, few Indians have been regular visitors on the eastern (or Atlantic) coast of the Peninsula. For convenience to themselves

p. 2666

¹ H. B.
Records,
Simpson to
A.
McGillivray,
April 18, 1836,
p. 2789.

See also
Simpson to
Sievrigh, t,
May 7, 1836,
p. 2792.

the Oblate fathers have influenced the hunters, who formerly traded at Hamilton Inlet to make the longer journey to Seven Islands. Irregularly a few northern Indians from George River have visited Davis Inlet post.”

The Hudson's Bay Company, as their correspondence shows, fully adopted the view expressed by the immemorial practice of the Indians, that the Gulf section was an integral part of the indivisible whole known as Labrador. In a letter from Governor Simpson to Angus McGillivray who had been appointed to manage the posts just then opened at Esquimaux Bay, he explains that the Company did not contemplate carrying competition in this quarter, but were driven to it by their Canadian opponents “ seducing our Mingan Indians in the first instance and latterly interfering with our trade generally in that quarter.” ¹

² H. B.
Records,
Simpson to
A.
McGillivray,
April 20, 1837,
p. 2793.

As soon as arrangements were made by which the Company's rivals withdrew from Esquimaux Bay, the Company resolved to unite Esquimaux Bay and Mingan on the Gulf of St. Lawrence under one management, the reason being that “ the Indian Transport trade and other arrangements are closely connected with those of Esquimaux Bay.” ² In another letter written a week later to the district manager at Montreal, Simpson stated : “ Mingan and Esquimaux Bay. These two districts have heretofore been under distinct managements, but on account of their proximity to each other, likewise with a view to guarding against internal opposition in trade ” it was determined to unite them.³

³ p. 2794.

The practice of the Indians of the Interior visiting the Gulf posts caused some embarrassment to the Company.

⁴ H. B.
Records,
Jan. 28,
1845,
p. 2797.

In January 1845, Simpson wrote to the officer in charge of the posts at Esquimaux Bay, who had reported that the Indians attached to his post desired to visit Mingan in order to meet a Roman Catholic priest, telling him that “ if they defer it for another year, we will endeavour to send a priest to their own lands.” ⁴ A few years later, Simpson gave it as his opinion that it was the high prices paid for furs at the St. Lawrence posts rather than the missions which attracted the Indians.⁵

⁵ H. B.
Records,
Sept. 9,
1857,
p. 2813.

In April 1853, Simpson pointed out to Donald A. Smith the inconveniences of allowing priests to visit Esquimaux Bay by the overland route from Mingan. Among these was that the priests would, perhaps unconsciously, act as path openers to the Esquimaux Bay for their rivals on the St. Lawrence.⁶

⁶ H. B.

Records,
Apr. 1,
1853.
p. 2813.

⁷ H. B.
Records,
Mar. 26,
1858.
p. 2814.

Even the distant Naskapis were importunate for the ministrations of the priest, and Simpson thought it better to waive his objections to resident priests than to lose his Naskapis. An intimation to this effect was given to Smith in March 1858.⁷

It is fair to the Company to point out that there was a good deal of reason in their objection to inland missions. Simpson in a letter to Hardisty and Smith, the outgoing and incoming manager of the posts at Esquimaux Bay, written on March 26, 1852, gives the reason. "With regard to the desire of the North West River Indians to obtain the ministrations of a Roman Catholic priest, we are at all times ready to promote the spread of

p. 2667

civilization and christianity to the best of our ability and will therefore facilitate the visits or settlement of a Roman Catholic priest among those Indians if such can be done without exposing the natives, the missionary, or the Company's establishment to the danger of famine by collecting at any one point large bodies of people."

There was also the necessity of preserving a perfect impartiality as between Catholics and Protestants. The Moravians had long been settled on the coast, and since 1849, a mission of the Church of England had been opened there. The Company pointed this out to the Manager of the Montreal district in a letter of December 29, 1862. The manager was, however, able to reply : "Fortunately in the case in point, no conflict of creeds need be apprehended, as the Roman Catholics at present hold that rather unpromising field entirely to themselves."¹

¹ H. B.
Records,
Hopkins to
Company,
Dec. 29,
1862.
p. 2820.

The relations between Canada and the Indians of the Labrador owed nothing to chance. Governors, priests and traders all in their own way, and frequently in antagonism to one another, contributed to the creation and nurture of those intimacies. Five years before Quebec was founded, a firm alliance had been made by its founder with the Montagnais Indians.² Two years before a permanent inhabitant had set plough to land in Canada, a Recollet priest had entered on labours in a field of another sort, which extended from Tadoussac to the Gulf of St. Lawrence.

² Des Sauvages
ou Voyage de
Sieur de
Champlain,
fait en l'an
1603, par
C. H.
Laverdiere,
chap. II., p.
2704.

Governor Murray in the report on the conditions in the District of Quebec in 1762, sums up one aspect of the age-long relations between Canadians and Indians in the following words : "The French bent their whole attention in this part of the world to the Fur Trade, they never entered heartily or with any spirit into the fisheries, most of what was done in this way was by adventurers from the ports of France ; some fish, indeed, lumber and provisions were exported to the French islands."³

³ Const Docs.

The records of the period of French rule in Canada amply confirm this statement. The material conditions on which the

1759-1791
p. 896,
vol. iii.

⁴ Jugements
of
Délibérations,
p. 2709.

⁵ Edits [sic] et
Ordinances,
p. 2703.

¹ Edits [sic] et
Ordinances,
p. 2709,
passim.

colony on the banks of the St. Lawrence depended for its prosperity, and indeed for a considerable part of the period for its existence,⁴ are to be found in the trade which was carried on between the Canadians and the Indians, who hunted over the vast territory between the Atlantic seaboard and the undefined west.

But these trading relations with the intimacies springing from them, necessarily gave rise to other relations, scarcely less important in the lives of communities. The Kings of France, indeed, at once perceived and never forgot that contact with uncivilized peoples implied a duty on their part, which it was their constant endeavor to fulfil. In the commission given by Francis I to Jacques Cartier in October 1540, the King mentions a number of Indians having been brought to France on an earlier expedition “whom we have maintained for a long time in our kingdom having them instructed in the love and fear of God and of His holy law and Christian doctrine, with the intention of returning them to those countries in the company of a number of our subjects of good will, in order the more easily to induce the other peoples of those countries to believe in our holy faith.”⁵

p. 2668

The purpose on the part of the French rulers of evangelizing the Indians, thus initiated, continued throughout the whole period. From 1663, when the government of the country was resumed by the King, every governor was instructed to “appeal to the peoples still unconverted, by the gentlest means possible, to come to the knowledge of God and of the light of the faith and of the Catholic Apostolic and Roman religion, and to establish the worship of it to the exclusion of all others.”¹

For the first seventy years after the discovery of Canada by Cartier in 1534, these high aims remained in the realm of pious wishes. No Frenchmen, except traders, who stayed only for the season, could be induced to leave their homes to settle in a country, of which few favourable reports reached France. The fur trade, however, was steadily expanding until in the last years of the sixteenth century it had reached dimensions, which made it an object with several individuals and companies to undertake to transport and settle French people in the new country, on consideration of having secured to them the monopoly of the fur trade.

But though these people enjoyed the benefits of their agreements, they managed to evade their obligations, so that it was not until 1617 that the first permanent settler landed at Quebec, and in 1628, when the English gained temporary possession of the country, there were only two families in the country occupying land for purposes of farming.

Fortunately, in the early years of the seventeenth century a man appeared whose sympathies led him to cultivate the Indians, and, in his dealings with them he gave a note, which though sometimes pitched in a lower key, was always

thereafter discernible. Samuel Champlain, who had attracted the attention of the court by the excellent account he gave of a voyage made by him in the Spanish service to the West Indies, was invited to take part in an exploratory expedition, which was being fitted out by M. de Chaste, Viceroy of Canada. He set out in March, 1603, and arrived at Tadoussac on May 27. He spent a month among the Montagnais Indians, gaining their friendship and enjoying their hospitality. He and his associate, Dupont Gravé, brought out with them two Montagnais Indians, whom the latter had taken to France with him on a former voyage. At the ceremonial feast, in which the Frenchmen were seated beside the Montagnais chief, one of the Indians who had returned from France told the audience of the kindly reception he and his companion had from the King. His Majesty informed them that he wished their nation well, and desired to have his people settle in the country. The King was prepared to secure peace for them from their enemies, the Iroquois, or to assist in crushing this race. The Montagnais chief welcomed the words of the French king, and thereupon was concluded an alliance, which endured as long as the French remained rulers of Canada.²

² Champlain,
op. cit.

This alliance had momentous consequences for the French in Canada. In 1608, Champlain joined the united Indian tribes of Montagnais, Algonquins and Hurons against the Iroquois, gaining the steady enmity of this powerful group of tribes, and thereby bringing the colony to the brink of ruin on more than one occasion.

p. 2669

Champlain's plan for the Indians of Canada extended far beyond protection against their enemies. He would make them Frenchmen—first Christians and then Frenchmen. In addressing a body of Indians in 1635, the last year of his life, he exhorted them to embrace the Christian religion, which besides securing to them eternal salvation would be the means of cementing a close alliance with the French, who would then come readily into their country, marry their daughters, teach them the several arts and trades, and assist them against their enemies.¹

¹ Jesuit Relation
(Cleveland,
The Burroughs,
Brothers
Company),
p. 2708.

The King entered heartily into Champlain's views. In the act passed on April 29, 1627, authorising the charter of the Hundred Associates, it was provided that “the descendants of Frenchmen dwelling in that country, as also the Indians who are brought to a knowledge of the faith, and make profession of it, shall be reputed to be natural-born Frenchmen, and, as such, be at liberty to come to dwell in France, when they see fit, and to acquire, succeed to and accept gifts and legacies in all respects as if they were real inhabitants of the country and of French origin, without being obliged to take out letters of declaration of naturalization.”² This section of the act of 1627 was confirmed by a Royal decree of March 5, 1648,³ and re-enacted in the edict establishing the West India Company in 1664.⁴

² Edits [sic] et
Ordon,

p. 2708.

³ F. 3, vol. 3,
p. 2708.

⁴ Edits [sic] et
Ordon,
p. 2716.

The relations of the Indians to the French criminal law which prevailed in Canada were settled in characteristic fashion. An Indian was brought before the Superior Council on March 16, 1664, charged with a criminal offence against a woman. The charge was fully made out, and the Council saw themselves face to face with the question as to whether an Indian was properly subject to the jurisdiction of the French criminal law. They invited the chiefs of the several tribal bodies to meet them at the Council, and put to them the question, why the criminal should not be hanged and strangled. The chiefs began by reminding the Council of the many years of amity which had existed between the French and the Indians, and pointed out if their youth had on occasions been at fault, the French had not been always free from blame. Until that time they had not understood that the crime of which their tribesman stood convicted was punishable by death, and they pleaded that for this first offence, he should not suffer the extreme penalty of the law.

For the future they were prepared to submit to the French law as regards this crime, but it was only right that the law should be put in writing, in order that it might remain for their posterity.⁵

⁵ Edits [sic] et
Ordonances,
p. 2712.

What they suffered most from at the hands of the French was the oppressive acts of French creditors towards defaulting Indian debtors, and they asked that Frenchmen should be forbidden to pillage and maltreat Indians, who were unable to acquit themselves entirely of their debts, particularly as during a period of war, it was impossible to give more than half their time to the pursuit of fur bearing animals.

The Council after deliberation agreed to relieve the Indian from the penalty he had incurred, except as regards the civil interest of the woman; and in order to prevent such disorders in the future, it was ordered, with the

¹ Edits [sic] et
Ordinances,
p. 2724.

consent of the several chiefs, that Indians should be subject to the penalties imposed by the laws and ordinances of France for murder and rape. As regards the oppressions suffered by defaulting Indian debtors, the cases would be dealt with on their merits, as they arose.

The Chiefs were desired to make known to all the people of their nations, the position in which they stood in regard to the crime mentioned. As these chiefs represented the whole body of Indians from Tadoussac on the east to Lake Nipissing on the west, the amenability of the tribes to the laws of France, in the matter of the crimes to which they were principally addicted, was firmly established.

The list of crimes regarding which Indians were brought under the French law was enlarged by a Police ordinance of May 1676. Besides those mentioned, theft, drunkenness and generally all other crimes, when committed by Indians, were brought within the scope of the French law, and the attorney general was directed to give notice of the fact to the chiefs of the several nations.¹

That the several Indian tribes who came within the influence of the French Government conceived themselves to be subjects of the French King is shown by an incident, which concluded the ceremonies connected with the election in 1668 of a successor to an Algonquian chief, Captain Noel Tekouerimat, who had died some years before.

The relatives of the dead chief, on whom devolved the duty of choosing a successor, decided upon Negaskaoust, a Tadoussac war captain. At the investiture, the new captain was placed in the most literal sense in his predecessor's shoes, and not only in his shoes, but in his clothes as well. The ceremony took place before representatives of the French, the Montagnais, the Gaspesiens, the Abnaquiois, the Etechemins, the Poissonsblancs, the Nipissineriens and the Hurons. On the day following the festival, all the Indian captains with the new chief at their head paid a visit to the Governor de Courcelle. "They asked from him the protection of the King, whose subjects they were; and his special assistance to check the disorders of vice among them. They then withdrew."²

The records of the courts show that the offences committed by Indians were dealt with in the same manner as the offences of the same sort committed by Frenchmen. Most of the delinquencies of the minor sort were disposed of in the inferior courts, the records of which are not available, but there were a sufficient number of cases in which Indians were involved heard in the Superior Council to leave no doubt on the point.

The crime to which the Indians were chiefly addicted, and which was the origin of most other crimes committed by them, was inebriety. In the words of an ordinance issued by the Superior Council on September 28, 1663, "since the beginning of the colony the selling of intoxicating liquors to the Indians

² Jesuit
Relations,
p. 2719.

¹ Jugements
et
Deliberations,
p. 2709.

has always been forbidden, on account of the frenzy to which the Indians were aroused by intoxication; it is well established that they drink for no other purpose but to produce drunkenness; that the laws on the subject, particularly that made by the King's Council of state on March 7,
p. 2671

1657, have been disregarded, as well as the censures of the Church ; that the Indians when under the influence of liquor, abandon themselves to every species of vice, and cease from following the chase, by which alone the colony has existed until this day.”¹

² Ibid.,
p.
2713.

Heavy penalties were imposed for the selling or giving Indians intoxicating liquors, even in the smallest quantities. But in enforcing the law, the officers of justice were confronted with the same sort of difficulty as exists today in securing convictions. Unless the person receiving the liquor can be induced to say from whom he received it, many violations of the law go unpunished. The Superior Council dealt with the difficulty in its own way. An Indian who was found intoxicated must disclose the name of the vendor or giver, or be arrested and remain in prison until he did so.

³ Ibid.,
p.
2716.

This edict which was passed on April 25, 1664,² was enforced against two Indians a few weeks later, and a day or two in jail led to the desired result.

⁴ Ibid.,
p.
2717.

A further step was taken by an ordinance of December 6, 1667.³ The Indians, who accepted liquor were made subject to the same penalties as those who sold or gave it to them, with the additional penalty, in the case of those who became intoxicated, of three hours in the pillory. The duty of communicating this ordinance to the Indians was placed on the Jesuit missionaries. In the following June, a case⁴ involving an infraction of this law came before the Superior Council. Six Frenchmen, three of them employers, and three servants, and twelve Indians were subjected to a fine of 50 livres each. Should any of the latter be unable to pay the fine, the defaulters were to have a month each in prison, during the last fortnight of which they were to be exposed for an hour each day on a wooden horse, bearing on their persons the legend “ For having sold brandy to the Indians.”

⁵ Ibid.,
p.
2722.

A source of illwill between whites and Indians lay in a practice on the part of the whites, of buying or taking in payment of debts, the guns, ammunition or clothing of the Indians. Severe penalties were imposed on the whites who resorted to this practice, and the Indians who parted with any of these underwent a term in prison and the fine of a mooseskin.⁵

These laws and ordinances were enacted again and again during the period of the French possession of Canada, but as the number of officers at the command of the government for their enforcement were few, they could have but a partial application. Theoretically, the King's writ ran throughout the whole vast territory comprised in Canada or New France, but

in practice it could run no further than there was an officer to carry it. But if the offence were grave or involved a large number of persons, the Government employed special means to secure respect for the laws.

On May 2, 1733, the Intendant had before him a number of complaints of disorders occurring at the post of Mingan on the Labrador coast. There were a group of Indian families dwelling about that post, who, in pursuit of their calling, were accustomed to go into the far interior in the early autumn to hunt the marten, fox and other furbearing animals, returning to the post in the early summer of the year following. These became the victims of

p. 2672

¹ Edits [sic] et
Ordinances,
p. 2730.

traders from Quebec and Louisburg, who sold liquor to them in such quantities, that a number of the families had perished through the immoderate use of these liquors. To remedy this state of things, the Council sent down to Mingan, Sieur de Lafontaine de Belcourt, with instructions to reside there and enforce the several ordinances prohibiting the sale or gift of brandy or other intoxicating liquors to Indians.¹

The intimacies which had grown up between Frenchmen and Indians, and which were made the easier from certain temperamental traits in the French character, were not without their inconveniences to the rising settlements. Young men, who had gone into the depths of the forests to trade with the Indians in their own homes, found the wild life they had taken up very attractive. The freedom they acquired more than offset their repugnance to the hardships they had to endure. They remained in the woods, and were followed by others, led partly by the same motives, and partly by a desire to escape the rigid paternalism applied by the government to the settlements. The aim of the government was the establishment of a settled community, which was only possible by the clearing and cultivation of the land along the banks of the St. Lawrence. The labour of every man was required for that purpose. The *coureurs de bois* as these French dwellers in the wilds were called, were not only a loss so far as that purpose was concerned, but as they returned to the settlement prematurely aged, riddled by disease, and quite unfit from their habits to take up with the ways of settled life, they became a burden to the community. Ordinances were issued imposing heavy penalties on those who abandoned their homes for the life of the woods. The extent of the loss to the community may be judged from the terms of a royal edict issued in May 1681 offering amnesty to those who would return to their homes. It states that “ the majority of the inhabitants of the country (*la plupart des habitans du dit pays*) having been found engaged in the prohibited commerce with distant Indians, have abandoned their homes and the cultivation of their lands.” Throughout the whole French period the government had to struggle with this evil, alternating penalties and pardons, and acknowledging that the latter had not the measure of success

Ordinances,
5 June, 1673.
15 Avril,
1676.
12 Mai, 1678.
25 Avril,
1679,
pp. 2721-
2726.

Ordinance,
Mai, 1681.
19 Mars. 1714.
Avril, 1737,
pp. 2727,
2728,
2746.

the government was entitled to expect.

An interesting consequence of the sojourn of the *coureurs de bois* in the *profondeurs* is noted by Cartwright. He says, speaking of the Mountaineers:—" In features they bear a strong resemblance to the French, which is not to be wondered at since they have had an intercourse with the Canadians for so many years that there are but few, I believe, who have not some French blood in them." On this point Low says: " The Montagnais are more or less of mixed blood, having intermarried with the old *coureurs de bois* and the French and English traders."

The missionary bodies in France gave their loyal services to the Government in its efforts to introduce Christianity among the Indians, and to lead them into the ways of settled life. The relations between the Church and the Indians are, however, so important that the subject is being reserved for separate treatment.

p. 2673

The foregoing, however, relates largely to one only of the great races that inhabit the Labrador interior: the race whose home is in the regions between the Gulf and River St. Lawrence and the shores of Hamilton River and Lake Melville.

What of the other race, whose habitat is, in general, to the north of that occupied by the Montagnais? The Naskapis are not so frequently mentioned in the early records, but is it to be assumed that they did not at that time come at all in contact with the missionaries and traders? We hear of a great annual fair at Nekoubau and know that the Mistassins who were within the same area are of the Naskapi race ; ¹ of Father Bailloquet in 1661, visiting seven or eight different nations at the mouth of the St. Lawrence—Papinachois, Bersiamites, the Nation of the Monts Pelés, the Oumamiousk and others allied to these; of the twenty nations, who were represented at a great assembly at Lake St. John ; of the meetings between the hunters and the shore Indians at lake Manicouagan,² all of which places were within the pastoral labors of the Jesuit priests. Knowing, as we do, the nomadic character of all the Indians in the Labrador, the facilities for travel, the practical identity of the languages of the two races, the unvarying friendliness which subsisted between them, the eagerness manifested by the Naskapis at a later date to attend the ministrations of the priests, the question is rather, why should the Naskapis not have been in contact with the missionaries and traders in early times?

Hocquart the intendant of Canada in an exhaustive report on the King's Domain,³ gives a bit of evidence, which would indicate that the Naskapis visited the post at Mistissini. He states that Dorval the officer in charge of that post had traded with a nation dwelling to the north of the lake, called the Pays Peles from the circumstance that there was no timber to be

Op. cit.,
pp.
2610.

¹ Jes. Rel.
vol. 46,
p. 2985.
Jes. Rel.
vol. 47,
p. 2986.

² Jes. Rel.
vol. 49,
p. 2987.

³ "C." vol. 59,
p. 2741.

found in their country. As he says: “ These Indians have no canoes nor any bark to make them from.” This is a fact commonly noted by those who have written on the Naskapis. In the words of the report: “ They formerly traded with the Indians of the northern sea; this year they traded with Dorval and the result was an output of 1300 martens at this post, which produced only about 200 before the establishment of the winter post.” Dorval, also, reported that he had been visited by 30 men from the northern sea.

Much more direct evidence comes from the King's Post in eastern Labrador. Hocquart in this report states that René Cartier, who had a half interest in the posts at River Moisie and Seven Islands “ intends forming a wintering post at the Lake of the Naskapis, where the nation of the same name are residing. They are a docile tribe and easy to manage, numbering about forty families. They have no canoes; and are not sparing of their peltries in trading.” The Lake of the Naskapis is not shown on any modern map, but a map drawn by Father Laure about 1730, on which the name appears, makes it practically certain that this lake is the one now named Ashuanipi, a large lake on the historic Indian route from the mouth of the Moisie to the interior of Labrador. Whether the evidence tending to establishing the identity be regarded as conclusive or not, the important fact remains that a section of the Naskapis inhabited a portion of the King's

p. 2674

Domain, and necessarily had regular relations with the traders who leased these domains.

Hocquart's report was made in 1733. The lessee of these posts ten years later, in a remonstrance addressed to the court, furnishes quite convincing evidence that Naskapis as well as the Montagnais traded with him. In 1743, M. Fornel, a Quebec merchant, was furnished with authority to explore and, in the name of the King, take possession of Esquimaux Bay. He succeeded in his undertaking, and thereupon applied for a grant of the territory about the bay. M. Cugnet, the lessee of the King's Posts made a vigorous protest, asserting that Fornel's purpose was not discovery but trade, and that if the application were acceded to, it would ruin the King's posts, inasmuch as the Indians who had been accustomed to trade at the Posts on the Gulf would be diverted to Esquimaux Bay. He further stated that Fornel's assistant would attract the Indians of the Domain “ des Lacs, des Nascopies, Atchouanipi, Manicoujan, Mistassins.” The route to the Bay was an easy one, while that to the St. Lawrence was difficult and toilsome.¹ The anticipations he formed were not realized either then or at any time later, as the dwellers about Esquimaux Bay—Montagnais and Naskapis alike—have always had their reasons for taking the more arduous journey to the Gulf of St. Lawrence.

¹ “ C.”
vol.
109,
p. 2748.

But, although there is sufficient in the facts cited to warrant the statement that the relations between traders and the Indians embraced both Montagnais and Naskapis during the French regime, the latter appear more distinctly on the scene at a later period.

An explanation of the fact that, though they had well established trading relations with the posts in the Gulf, they were seldom seen there in numbers is found in a statement respecting them made by John McLean, who was in charge of Fort Chimo from 1837 until 1842. In the chapter of his work "Twenty-five Years in the Hudson's Bay Territory" he says:—"Of all Indians I have seen the Nascopies seem most averse to locomotion; many of them grow up to man's estate without once visiting a trading post. Previously to the establishment of this post they were wont to assemble at a certain rendezvous in the interior, and deliver their furs to some elderly man of the party, who proceeded with them to the King's Posts or Esquimaux Bay, and traded them for such articles as they required."

This statement is confirmed by an entry in the Journal kept by the Hudson's Bay Company's agent at Richmond Fort. It is dated April 10, 1753, and here reproduced:—"Mr. Isbester has taken great pains in giving me a particular account of the natives round us, in particular ye Nashcopy Indians, wherein he informs me (which I have already been informed by our Indians) that ye said Nashcopy Indians, never comes to trade with ye English or French but trafficks with the other Indians, which trade with both Nations and that a trade may be got with you in winter, they being nearer to us than any English or French Settlement and that if I could prevail with any Indians bordering near you to go and acquaint you that we are settled

Vol. XVI.
Quoted by
Hind, p.
2638,
vol. v.

H. B.
Records,
Journal of
transactions
and remarks
at Richmond
Fort from
August 11,
1752 to
September
31,
1753, p. 2752

in ye Gulph (that is Richmond Gulf) he is persuaded it will turn out to great advantage.” *

The relations between the Governments, first of France, afterwards of Great Britain, with the Labrador Indians, in matters concerning trade have now to be considered. In 1653 during the period when Canada was under the government of the Company of New France (or the Company of One Hundred Associates), the Government took into its own exclusive possession an extensive tract of land, which became known as the King's Domain. This domain was described by Hocquart the Intendant in his memorandum of 1733 as follows¹ :—“ On the north shore of the St. Lawrence from Isle aux Coudres to a point two leagues below Seven Islands, within which limits were comprised the posts of Tadoussac, Malbaie, Bondesir, Papinachois, Islets-de-Jeremie and Pointe-des-Betsiamites, Chekoutimi, Lac Saint Jean, Nekoubau, Chomonthouane, Mistassins, and beyond the Mistassins as far as Hudson's Bay and in the lower river the domain will be limited by our said ordinance of the 12th of the present month by Cape Cormorant up to the height of land in which territory will be comprised the Moisie river, the Lac des Kichestigaux, the Lac des Naskapis and other lakes and rivers, which empty therein.” Within these limits, the persons having the authority of the King to carry on trading operations, had the exclusive right to such trade.

This King's Domain with the exclusive right to trade within its borders subsisted throughout the French regime, and was carried into the English period until 1860.²

It is to be regretted that no document has so far been discovered, in which is set forth the purpose of the King in thus withholding this territory from public use. But if obvious consequences of a policy can be taken as an indication of its purpose, then the purpose is fairly clear. To begin with, the solicitude of the Government that no intoxicating liquors should be sold or given to Indians is well known. It was difficult to make the laws preventing the sale of intoxicating liquors effective even in the settled communities. But what was difficult in these communities would have been impossible in those wild, inaccessible regions. In no way could this be in any measure effected except by limiting the intercourse of the Indians to persons in whom the Government had confidence, and whose self-interest would restrain them from debauching the people on whose wellbeing their own prosperity depended. Then it provided the Indians of the Labrador with the only substitute for the reputable merchant to be found in Quebec, Montreal or Trois Rivières, to whom the more westerly Indians disposed of their furs. Again, the scheme provided the means by which the Indians could be furnished with the necessities of life, while carrying on their hunting, and be taken care of when ill. This provision was not confined to Indians

* Cartwright in 1774 observed that Nascopies were found at Sandwich Bay, that they spoke broken French, and had traded with the Canadians many years. (Letter to Lord Dartmouth, Sept. 12, 1774.)

p. 2676

¹ Edits [sic] et
Ordannances,
p. 2730.

residing in the King's Domain but was extended to Indians from all parts of the Peninsula, who resorted thereto, for the sale of their furs.*

That the Government was not unmindful of its duties towards those distant peoples is shown by the ordinance of 1733, appointing Lafontaine de Belcourt as a special officer to prevent the importation of intoxicating liquors into Mingan, which was beyond the King's Domain, from Louisburg and Quebec.¹ As regards maintenance while engaged in the chase, it was the practice for the holder of the King's Posts to give the Indians such supplies as were necessary for them and their families on credit, to be paid for when the Indians brought in their furs in the early summer.

The King's Posts were leased to individuals from 1653 until 1733, and while it is true that among the lessees there were some so avaricious and short-sighted as to disregard the welfare of the Indians in their own pursuit of wealth, there were others who accepted the obligations, while seeking the advantages of their position. In the Jesuit Relation of 1667-8, the thanks of the Church are proffered to “ the Gentlemen of the Company of the West Indies (the Company to which the country was for the time conceded) for the obligation it is under to them for having entrusted the commerce of those regions to persons so faithful to God and man.”

But on the whole the leasing system did not work well. Hocquart in his memorandum, points out certain weaknesses inherent in the leasing system, and recommended that the management of the posts be taken directly into the hands of the Government. He pointed out that the primary objects to be kept in view—the preservation of the Indians, and of the fur bearing animals—could never be attained while the posts were left in the hands of private merchants. The temptation to neglect the welfare of the Indians, and ruthlessly to destroy the moose and the beaver would be too great with men absorbed in their profit and loss accounts. A serious disadvantage under which the lessee suffered was the competition of interlopers, who had no scruples about using the strongest allurements to which the Indians were susceptible—brandy. In the King's Posts, the regulations permitted the distribution of intoxicating liquors once a year ; and liquor was not allowed on these occasions until trade with the Indians was completed.

The Government took over the conduct of the business of the posts in 1733, placing M. Cugnet in charge. Three years later, the posts were leased to Cugnet, but under restrictions that safeguarded the essential interests to be conserved.

When Montreal was surrendered to the British arms on September 8, 1760, the Articles of Capitulation which included the whole of Canada or New France, make express provision

for “ the savages or Indian allies of his most Christian Majesty.” Article 40 stipulates that they “ shall be maintained in the Lands they inhabit, if they choose to remain there; they shall

¹ p. 2754.

* Article 5 (of the Agreement for the lease of the Kings' Posts of June 21, 1786, reads :—“ And whereas the said lessees in possession have also stated that there remains due to themselves sums of money or quantities of skins and pelleteries by the Indians *residing in or resorting* to the said posts and domain for goods and merchandise sold and furnished to the said Indians,” &c.

p. 2677

² Can. Arch.,
vol. Q, p. 25,
p. 2761.

not be molested on any pretence whatsoever, for having carried arms, and having served His most Christian Majesty ; they shall have, as well as the French, liberty of religion and shall keep their missionaries.”¹

The English
Governors
continued
the paternal
care of the
French
Governors
over the
Indians.
see Procla-
mations of
18 Nov. 1764
;
29 March,
1777, p. 2773

Mindful of the Indians, who were in a peculiar sense the objects of the care of the French King, Governor Murray applied himself to making provision for those who were dependent upon the King's Posts. He first took the management of these posts into his own hands, employing agents to carry on their affairs for the King's use.²

In 1762, however, he reverted to the French system, and granted a lease to Messrs. Dunn and Gray, two Quebec merchants, the conditions as to Governors exclusive rights being the same as those in the French leases.

That his action in this case was dictated solely by consideration for the welfare of the Indians is shown by the terms of his communication to General Amherst, Commander-in-Chief of the Forces in North America, under whose orders Murray was performing his duties at this time.

C.O. 42,
vol. 6,
p. 2760.

In his report, made in 1767, on “ The State of the King's Posts in Canada,” Murray says:—

“ After the reduction of Canada in 1760, the Indians of the Domain deputed their chief and missionary to address General Murray in their favor, and represent to him that they might be taken under the protection of His Britannic Majesty, and supplied and maintained in the same manner they had been in the time of the French.”

³ Const. Docs.
1759-1791,
p. 157, vol. 1.

The Proclamation of October 1763 had not then informed Murray of the King's intention that “the trade with the said Indians shall be free and open to all our subjects whatever, provided that every person who may incline to trade with the said Indians do take out a licence for carrying on such trade from the Governor or Commander in Chief of any of our Colonies respectively where such person shall reside.”³

⁴ Can. Arch.,
Q. 25,
p. 2756.

The lease which was given in 1762, was for one year certain, and thereafter for fourteen years, if the King did not disapprove.⁴

The question whether the Indians of the Labrador should not be withheld from the application of the order respecting freedom of trade with Indians in general was considered by the British Government. At the expiration of the first year of the

⁵ Can. Arch.,
C.O. 42,
p.3234,
vol. vii.

lease held by Dunn and Gray, these gentlemen presented a memorial to the Lords of the Treasury, setting forth the peculiar conditions existing among the Labrador Indians, and their own reasons for asking for a continuation of the lease of the King's Posts. The statement could not be bettered as a description of conditions among, and a justification for the special treatment of, the Labrador Indians.⁵ It follows :—“ Your Memorialists being Residenters in Canada, have for some time farmed the Posts of the King's Domain, situated on the north side of the River St. Lawrence, commonly known by the names of Tadoussac, Chicoutimy, Jeremies and Seven Islands which are places of Rendezvous for some Tribes of Indians inhabiting the northern parts of lower Canada, whither they resort to trade for European Commodities and provisions ; for which Your Memorialists pay at the rate of four hundred Pounds p annum, being the

p. 2678

highest offer. The Country these Indians inhabit being altogether incapable of Cultivation, and the hunting Season lasting but for about Six months in the year, they are reduced to an entire dependance for support, the rest of the time, upon the supplies brought them by the Traders.”

“ They are naturally a very inconsiderate people, and were they indulged with Spirituous Liquors and other superfluities, to which they are unconquerably addicted, they would in a few weeks, consume the whole produce of their years labour, and on the approach of the rigorous winter find themselves naked and exposed to the utmost misery, and wreck their vengeance indiscriminately on the first Europeans or other white people they met with, as the immediate authors of their misfortune. On this Account the Persons farming these Posts, are obliged by the tenor of their Lease to furnish them with necessaries and provisions, in proportion to their real wants and circumstances and as they are often sick or unsuccessful, to give them credit, and support their Families, until Fortune puts it in their power to pay, and in case of death, to maintain their Widows and Orphans, till they are capable of providing for themselves. But should these Posts be laid open, numbers of people void of principle and who have no Characters to Lose, would crowd in among them, with a view to take advantage of their simplicity, and deprive them of those Resources they are now often obliged to have recourse to, for one half of the year.”

“ The French who more than any other Nation, seem to have study'd the nature and genius of the Indians were sensible of these disadvantages, and therefore established Factors, or obliged the Farmers to do so, at the Posts above mentioned, to supply the Savages abundantly with what their necessities reasonably Required, Common rates were fixed and agreed upon, for the exchange of every Commoditie, so that the Indian knew the Standard value of whatever he brought to market. The leasees were restricted as to the quantity of

Spirits, they were allowed to distribute among them. All others were excluded from a Commerce in these Posts, for the better maintenance of Good order, and Securing their affections, for by this means the Offenders could be immediately detected, in case any injury or injustice were offered to this ignorant, unwary but vindictive people.”

“ The present Governor General Murray sensible of the propriety of this method of managing the Indians, in that quarter of the Country, and in consequence of their own solicitations, as well as to prevent abuses, which might have had dangerous effects, thought proper hitherto, to continue them on the same footing as formerly. He has by this means, conciliated the minds of the Savages to his Government, in so much, that when an universal revolt appears to have been entered into, by all the other Indian nations in North America (they refer here to the uprising known as the Pontiac Rebellion) those immediately under his jurisdiction, have not only remained faithful and peaceable, but when earnestly solicited to join the disaffected Tribes, they firmly declared they had no wish to change their Masters, as they had at no time before, met with better treatment or more Justice, than since the English have been in possession of Canada,”

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The apparent conflict between the policy of free trade announced by the Proclamation, and the terms of the lease of the King's Posts produced a temporary vacillation on the part of the British Government. Certain traders appealed to the Government to be supported in the right given under the proclamation, to trade with the Indians on the territories of the King's Posts. The appeal was heard favourably, and during the years 1765, 1766 and 1767, the lessees were subject to the competition of traders operating under general licences.¹ The question was not allowed to rest, however, and on a report of the Lords of the Committee for Plantation Affairs, that His Majesty's rights in the King's Posts “ ought to be considered as excluded from the general right of Free Trader, granted by the said Proclamation and ought to be carried on only by Your Majesty's lessees, under your particular licence for that purpose,” an Order in Council was adopted on June 26, 1767, accepting this view, and the buildings which had been erected at the posts were ordered to be demolished, and the goods sent there by merchants not associated with the lessors, returned to them.² Thereafter, the rights of the lessees of the King's Posts remained unchallenged.

In 1785, as the lease mentioned was about to expire, the lessees presented a memorial for its renewal. Among the pleas set forth were the following: “ That at their sole expense, they have carefully attended to, supported and maintained the aged and infirm, the widows and orphans; the distressed Indians residing on the King's Domain have been relieved and supported by your memorialists, without becoming a burden or expense to the Government.”³ The lessees were not so

¹ Que. Leg. Council, Book C, p. 2769.

² Quebec Gazette, Oct. 20, 1768, p. 2767.

³ Q. 24, p. 2777.

⁴ Q. 26,
p.
2779.

fortunate as to secure a renewal of their lease, but Governor Hope, in acquainting them of the fact stated that “ the regrets of the Indians, with whom, by virtue of your lease, you have been connected, at losing the good offices they have so long experienced from your friendship and care, are natural, and, I doubt not, perfectly just. These cannot, however, you must be sensible, prove a bar against a new lease to other persons to whom His Majesty has been pleased to order the same to be granted, who, enjoying this mark of the Royal favour, must be bound by every tie to treat favourably the Indians thus entrusted in some measure to their protection, and it shall be my busines to state to them in the strongest terms the force of this obligation.⁴

On the expiration in 1801 of the contract of 1786, the question of the terms of the contract about to be made was considered by the Executive Council on August 21, 1801. A contingency for which provision was necessary, was the safeguarding of the Indians during the period between the termination of the old contract and the commencement of the operation of the new one. On this point the Council, addressing the Governor, say :

“ With a view of following up Your Excellency's known Intentions to provide effectually for the Necessities Comforts and Tranquility of the Indians resorting to the said Posts after the Expiration of the present Lease when a possible change of Lessees might interrupt their regular yearly Supplies in Provisions and Merchandize in case the necessary facilities for that purpose should be in the Summer 1802 be withheld from the new Lessees.

The Committee conceived it highly expedient to obtain from the present Lessees an explicit Declaration whether they would or would not extend those facilities to the new Lessees? The proposition made to and the answer given by Mr. Monro are inserted in the Annexed Journals to which they beg leave to refer in this Report and the Committee cannot refrain from remarking to Your Excellency that the answer given on the part of the Lessees to the Proposition made to Mr. Morro at the same time that it extricates the Government from Embarrassment, is fair and proper on the part of the Lessees.

Finally the Committee humbly recommend that by Your Excellency's Directions such measures as in your Discretion shall be deemed meet be adopted to assure the Indians resorting to the King's Posts that notwithstanding there may possibly be a change of Lessees, Care will be taken that they shall regularly receive their necessary supplies. All which is most humbly submitted to Your Excellency's Wisdom."

¹ Can. Arch.
Q., vol.
267,
pp. 34-36.

The duty, which lay on the Government with regard to a body of Indians, so peculiarly situated as those of Labrador, was never lost sight of, nor did the successive lessees of the King's Posts fail in carrying out the obligations, which their position as semi-trustees imposed on them. Passing over the period from the beginning of the nineteenth century and stopping at a comparatively modern instance, there may be noted a communication regarding the renewal of the lease of the Hudson's Bay Company in 1839.

This is a letter written on September 20, 1839, by Sir J. H. Pelly, Governor of the Company, to Lord John Russell.¹ It contained extracts from an approved report of the Governor and Executive Council of Lower Canada. Among other statements in this report are the following:

“ The Indians of the King's Posts, in number about 400 souls, having for a long period of years been accustomed to the protection and fostering care of the different lessees, it would neither be wise nor just to allow them to be abandoned at once without some provision being made for them. They are generally of a mild and tractable disposition, and a Majority of them have been converted to Christianity. The Lessees supplying the Means for an Annual visit of a Missionary of the Roman Catholic Faith to the different Posts, where small Churches have been erected, chiefly by the late order of Jesuits. They have moreover no Agricultural pursuits, and it is not likely that the present generation would be induced to forsake their Indian habits, sojourning as they do, alternately in the forest and on the Coast of St. Lawrence, to which latter they resort in the Winter Season for the purpose of killing Seals, living chiefly on the Oil, which these animals produce. It may be proper to add that these Indians are not included in the Schedule annexed to an approved Report of Council on

Indian Affairs dated 13th June, 1837, nor have they ever received assistance in provisions or outfits of any kind from the Government.”

“ Under these circumstances and before throwing the Country open to the Public, some previous arrangement should be made for the care

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of the Indians, else they would of necessity turn idle and dissolute, and become a burthen to Society. The proposal of the Hudson's Bay Company seems to offer the most convenient and least expensive mode of protection and employment, and the Committee are therefore humbly of opinion that it may be expedient to grant them a new lease for an additional twenty one years to be limited to an exclusive right of hunting and trading with the Indians, including also the Seal Fishery.”

¹ Records of
Archiepiscopal
Palace,
Quebec.
Cazeau to
Lafontaine,
May 1,
1851,
p. 2810.

A movement was set on foot in 1845, to secure certain tracts of land to be set aside for them as Indian Reserves. The movement began by a petition from the Montagnais Indians in 1845, for a grant of land for this purpose at the Baie des Outardes. This was supported by their missionary Father Durocher in 1848.¹ In 1850, a strong plea to the same end was made on behalf of the Archbishop of Quebec. In the course of his letter the Bishop of Sidyme says : “I do not doubt that your Excellency considering that these poor Indians have been deprived gradually of part of their means of living by the industry and trade which since a few years are exploiting the territory inhabited by their fathers (a state of things which the Government has been obliged to approve and even encourage in the interests of the country as a whole) recognizes that it would be unjust to let them die of destitution, while the Government withdraws from the exploitation of timber and from the sale of a few parts of that territory, revenues more than sufficient to enable it to prevent that misfortune and the extinction of a race of men who have all the more right to its protection in that it is weaker and of a minor importance in the mind of the community.”²

² Records of
Archiepiscopal
Palace,
Quebec.
Bishop of
Sidyme to
Lord Elgin,
Feb. 14,
1850.
p. 1811.

In consequence of these several representations there was appropriated and set apart for the benefit of the Montagnais Indians 90,000 acres of land divided into three reserves, namely, a tract of 5 miles on the river Peribonka north of lake St. John, comprising 16,000 acres ; a tract of 4,000 acres on the Metabetchovan. These two reserves were specially assigned to the Montagnais Indians of Lake St. John and Tadoussac.

There was also a grant of 70,000 acres on the north shore of the St. Lawrence between the River des Vases and the River des Outardes at Manicougan, about 11 miles in breadth by 10 miles in depth, which was expressed to be for the benefit of the “Montagnais, Tadoussacs, Papinachois, Nauthapie and other

³ Reg [sic] de
l'Archiv. de
Québec,

nomadic tribes in the interior of the King's Posts.”

In 1851 began the systematic appropriation of annual sums by the Government of Canada for the relief of the Indians, whose hunting grounds were in the Labrador territory.³ Until 1879, when the Department of Indian Affairs appointed a resident agent whose duty it was to devote himself to the welfare of these Indians, these sums were distributed to needy Indians under the authority of the Vicar General of the Diocese of Quebec, or such officers of the Government as were required to visit the Lower St. Lawrence in pursuance of their business. The sums granted in the first years were not large. They ranged from £125 currency or \$500 in 1851 to \$600 in 1857. In the accounts of the Department they were marked as for “ clothing and

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provisions.” During this period, in addition to the sums mentioned as given for relief there were certain other expenditures for other purposes. In 1862 and 1863 there was an epidemic of smallpox among these Indians and rather more than \$1,200 was expended for vaccination.

An effort towards inducing the Indians to accept a more sedentary form of life was made in 1863 and 1864. A reserve of 30 acres was purchased at Bersimis, and seed was provided for garden vegetables. In these two years \$386.50 was laid out for this purpose, and an item for seed for Bersimis appeared for many years in the accounts of the Department.

The establishment in 1879 of a regularly appointed agent at Bersimis, with a jurisdiction extending from the Saguenay to the eastern limits of the Province, enabled the Department to discharge the duties the Government had undertaken with regard to these Indians, with a degree of knowledge, until that time unobtainable. Two years after his appointment, the agent had the assistance of a constable; and the amounts expended in the prosecution of violations of the acts respecting the sale of liquor to the Indians show the activity of both agent and constable in this regard.

After the appointment of the agent, the accounts begin to show the particular purposes to which the expenditure was devoted. Thus, in 1880, besides the amount of \$1071.00 marked specifically as “ Relief,” that is food and clothing, there is the further sum of \$189.50 for medicine. In 1884 physicians accounts begin to appear.

The desirability of making the physician's services always available to the Indians led, in 1907, to the combination of agent's duties with those of the physician, and in that year a qualified physician was appointed as agent, under the title of “ Agent and Medical Officer.” Two of these officers were fixed on the Gulf coast in 1912, one at Bersimis, the other at Seven Islands. In addition to these officers, there was an agent stationed at Bersimis, and a medical officer at Escoumains.

In 1907 there began a particularly valuable form of assistance to the Indians engaged in hunting and fishing. An

item appears in the accounts of that year “ Hunting Outfit—Hudson's Bay Company—St. Augustine—14 persons, \$486.38.” This means that there was distributed through the agency of the Hudson Bay Company to 14 hunters whose dwellings were at St. Augustine, \$486.38 in the form of supplies to assist them in the maintenance of themselves and their families during the period when they were engaged in hunting in the interior. The sums thus distributed were not gifts, but loans to be repaid on the return of the hunters with their furs in the following summer.

The importance of this assistance lay in the fact that it placed the Indians in an attitude of independence towards the merchants or companies, who purchased their furs. The practice which was as old as the fur trade itself, was for the merchants or companies to supply the Indians, who hunted in their interest, with such commodities as they required for the livelihood of themselves and their families during the several months when they were in the interior when they would otherwise have been dependent on the precarious chances of killing wild animals for food.

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The commodities were supplied on credit which was to be discharged by the results of the season's returns. The system though the only one possible had obviously unsatisfactory features for both the supplying merchant and the Indians. In bad seasons which were not infrequent the Indian had not trapped sufficient furs to enable him to discharge his debt to the merchant; and if, as sometimes happened, the Indians fraudulently took their furs to a rival merchant who gave cash for them, the merchant who supplied the Indians lost on the transaction. But it was no less unsatisfactory to the Indian. Work as assiduously as he would to relieve himself of his burden, the accounts when balanced had the bad habit of showing the Indians still indebted to the merchant. This is a matter of experience wherever the credit system is in operation. With the accounts in the hands of the creditor, the debtor being ignorant and improvident, often no doubt unjustly conceives that he is being wronged by the merchant. This situation, involving the habitual dependence and frequently the practical slavery of the Indian, could not fail to breed discontent.

When the Government took on itself the advancing of these supplies, the position of the Indian was at once changed. He had a creditor whom he could not suspect of fraud. He could approach the person desiring to purchase his furs, with an independence and bargaining freedom which he had not until that time experienced.

The number of Indians taking advantage of this form of temporary assistance increased rapidly. In 1912, there were 26 Indians to whom hunting outfits were lent to the amount of \$1001.08. In 1915, the number was 191, and the amount distributed, \$7900.86. These figures have not since been equalled, but they would naturally vary in accordance with the

requirements of the hunting Indians.

The fishing Indians, who stand in the same relation to the purchasing merchants as the hunters did were granted loans of the same sort. In 1917, \$5346.57 was distributed among the fishing Indians for supplies and outfits. In 1918 the amount so distributed rose to \$6924.36.

In 1918, the paternal beneficence of the Government towards its wards advanced another step. The amount of \$563.12 was expended on repairs to widows' houses. In each of the years following, amounts for this purpose are noted in the accounts. In 1920, the expenditure was \$868.66.

The accounts respecting the amounts granted under the heading of Relief will repay a moment's attention. As has been noted, the sum allocated for this purpose was in 1851 quite small—\$500. These sums were increased as years passed until in 1921 the figure reaches a total of \$31,821.76. Even more interesting is the fact, of which the accounts furnish abundant proof, that the Indians in every part of the peninsula came within the scope of the Government's benefactions. For many years the amounts granted for relief were distributed at the posts on the Gulf. Those enjoying the benefit of these grants were no doubt largely of Montagnais stock, though there is satisfactory evidence that a certain number of Naskapis came to the posts on the Gulf every year.

In 1893, information reaching the Department of Indian Affairs compelled

p. 2684

¹ Scott to
McKenzie,
Nov. 10,
1893,
p. 2959.

it to widen its scope in the distribution of relief. On November 10 of that year, the Department wrote to Mr. P. McKenzie, Agent of the Hudson's Bay Company at Montreal,¹ stating that it had learned from the preliminary report of Mr. A. P. Low, which was written from Fort Chimo on September 9, that there was much destitution among the aborigines of that district. As it was the earnest desire of the Department to take some immediate action to relieve this pressing necessity, Mr. MacKenzie was asked whether Fort Chimo could be reached before the setting in of winter or in time to offer these Indians some relief. Although the Department had no funds appropriated for Indians in that locality still it did not desire that any suffering which might be prevented should occur. If it were possible to instruct the factor at Fort Chimo, the Department desired that he should be instructed to issue whatever ammunition was necessary to supply the Indians on their hunts; and in cases where ammunition would not be any practical benefit, to issue such relief in the shape of provisions as would prevent actual starvation.

² Reed to
Chipman,
June 15,
1894,
p. 2950.

On June 15, 1894, the Department wrote to the Commissioner of the Hudson's Bay Company² stating that as it was always too late to forward assistance when the Department heard of destitution, the Superintendent General had decided to authorize the Company to give assistance to the Indians of that country when in extreme cases of need, and to

have such expenditure as the Company might be put to in that way recouped on the presentation of an account supported by vouchers in detail.

³ Scott to
Chipman,
Dec. 16,
1895,
p. 2961.

The Department placed no limit on the amount to be expended in that way but thought it ought not to exceed \$800.

The Hudson's Bay Company accepted this duty, and sent in an account for \$120.17 for ammunition &c., supplied to the Indians, which was paid on December 1895.³ The Company having inquired as to whether the Department desired such aid to be continued, were informed that provisions, such as flour and meat might be supplied to a limited extent to deserving Indians who might be unable to provide for themselves, and also ammunition, if necessary, in small quantities.

In the following year (1896) the Department was moved by an article in the Toronto "Globe" relating the distressing circumstances of the Labrador Indians, to ask the Company for advice as to how best to ameliorate the conditions described, and reminded the Company that it had already authorized the giving of relief by their officers at their discretion.⁴

⁴ Reed to
Chipman,
Sept. 18,
1896,
p. 2962.

From this time, one or more items appear each year in the accounts for the relief of the Indians of the Interior. The accounts presented are occasionally incomplete in that they do not show the number of Indians who received supplies; and, in 1898, the amount which was sent to the Company in payment of these supplies is not mentioned. But taken together the accounts make an impressive showing as to extent to which the Department went in relieving distress among the Indians. Noting only the larger sums given at these northern posts, in 1904, \$385.25 was distributed among 161 Indians at Fort Chimo on Koksoak River, near its entrance into Ungava bay; in 1912, 86 Indians received through the agency of the Hudson's Bay

Company and Revillon Brothers at Fort Chimo, and on the shore of Ungava Bay \$998.96; in 1915, 138 Indians received through the posts at Chimo, Whale River and George River, \$1183.06. In 1916, the amounts distributed through the Hudson's Bay Posts at Chimo and George River and the Revillon Brothers reached a total of \$3037.08. In presenting the bills for this year the agent of the Hudson's Bay Company was moved to remark "Fort Chimo is gradually becoming the dumping ground for all the infirm and sick in northern Ungava; every year the Northern Esquimaux and Nascopie Indians bring in additions to the large number already there."

But the grants made through these northern posts in 1916 were greatly exceeded for the years 1919, 1920 and 1921, the amounts being \$3293.48 ; \$4803.37 and \$6319.58 respectively. There was, also, an addition to the distributing points in this northern area. The Hudson's Bay Company's agents at Port Burwell, on the extreme north east coast of Ungava Bay ; at Whale River, and Leaf river, near the points where these rivers enter the southern shore of the same bay, and at Stupart's Bay on Hudson's Straits, all act as distributors of relief to the Naskapis and Esquimaux in the upper parts of the peninsula.

That none of the Indians of the interior of the Labrador peninsula might suffer from want so far as it was in the power of the Canadian Government to prevent it, distributions were made at two points in the interior north of Lake Melville, and at two others immediately on the Atlantic coast of Labrador.

The accounts for 1915 show that 26 Indians received relief from the agents of the Hudson's Bay Company and the Revillon Brothers at North West River, amounting to \$290.33. North West River empties into Lake Melville on its northern side. Here are met the Naskapis from the Ungava Basin and Montagnais some of whom dwell in the neighbourhood of Lake Melville, while others come up from the Gulf of St. Lawrence posts, and sojourn here until the time for returning to the Gulf arrives. Accounts from these posts appear each year, that of 1920 amounting to \$1202.40. In 1908, the Hudson's Bay Company's agent at Fort McKenzie, a post far up the Koksoak river, and in the centre of the Naskapi country, sent in an account for \$90.98 for relief distributed by him. His account for 1920 was for \$691.04 distributed among 80 Indians ; and in 1921, 7 Indians received \$508.70 from the same source.

From the Atlantic coast of Labrador, came in 1901 a small account for \$5.95 presented by the agent of the Hudson's Bay Company at Davis Inlet for assistance rendered by him to one or more Indians (the number does not appear in the account). It was paid by the Department of Indian Affairs. Nothing more was heard from this post until 1909, when another account was received. This time the number of persons to whom supplies were given by this agent on Canadian account was 94, and the amount charged was \$376.92. In the

years 1912, 1914 and 1915, further accounts were sent to the Department from the same source—in 1912 for \$690.10 furnished in supplies to 14 Indians ; in 1914, 15 Indians were relieved at a cost of \$210.10; and in 1915, 27 Indians received goods to the amount of \$593.57.

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As regards the other point on the Atlantic coast, the Department of Indian Affairs received a letter from Mr. Richard White, who resides at Tessiujaksoak, a point on the coast between the Moravian Settlements at Zoar and Nain, stating that he had issued relief supplies to 23 Naskapi Indians of the Canadian Labrador, and presenting an account for the same which amounted to \$110.70. Since that time, accounts for supplies of the same nature have been received from Mr. White every year, and paid by the Department. In 1916, \$281.73 was paid for supplies given to 18 Indians; in 1917, \$215.00 for supplies to 9 Indians; in 1918, \$287.75 for the relief of 26 Indians; in 1919, for \$114.10 for 31 Indians; in 1920, \$448.80 for 81 Indians; in 1921 for \$437.95 for 59 Indians; and in 1922 for \$393.85 for 76 Indians.

The very considerable proportions that the supplies issued from the posts on Ungava Bay, Hudson's Straits, the interior of the Labrador and the Atlantic Ocean bears to the total amount of the relief granted to the Indians of the Labrador peninsula will be seen from a view of the figures furnished with the accounts. In 1921, the total amount paid by the Department of Indian Affairs for relief to these Indians was \$31,821.76—\$24,870.73 at the Gulf posts, \$6,951.03 at the others. That is, nearly 22% of the total outlay was expended at posts in the upper parts of the peninsula, in the regions where 20 the Naskapis dwell.

The following analysis of the accounts for 1921, the last complete year, will show the several forms which the paternal care of the Canadian Government takes, in its relations with the Indians of the Labrador Peninsula.

SUPERINTENDENCE AND CARE OF HEALTH.

Dr. C. A. McDougall, Seven islands

Salary	\$1190.00
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Med. Attendance	495.00
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Dr. W. Duff, Mingan

Salary	200.00
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Med. Attendance	645.50
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Dr. A. W. Powers, Bersimis	1944.25
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Medicine and Vaccine	719.79
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Salary of Agent at Minigan	300.00
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Expenses at agencies (Repairs and Fuel)	1101.30
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Travelling expenses of officials	367.22
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Constables	1051.75
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Interpreter	180.00
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Seed	324.40
Repairs to Widows' houses	410.89
Fisheries (supplies and advances)	5355.37
Hunting advances	4387.60
Relief at Posts on St. Lawrence	24870.73
" " other posts	6951.03

p. 2687

There is no evidence to show that the Newfoundland Government granted any relief to the Indians of Labrador. Indeed the evidence points conclusively in the opposite direction. As the agents of the Hudson's Bay Company distributed relief for both the Canadian and Newfoundland governments, the correspondence of these agents shows clearly to what classes the reliefs were granted by the respective governments.

In a letter describing the trade at the several posts in the Esquimaux Bay district, the agent at Rigolet says:—

“The Newfoundland Government was again compelled to come to the assistance of the population (Esquimaux and Planters) along the whole seaboard as otherwise the destitution and suffering would have been most frightful.” (Letter Book of Rigolet Post, pp. 361-371.)

In his report to the Commissioner of the Hudson's Bay Company at Winnipeg dated January 5, 1899, the agent at Rigolet states:—

“I caused provisions (flour, tea, molasses, only) and in a few cases, a little ammunition to be issued from time to time at Rigolet, Cartwright and Davis Inlet to such people—planters, Esquimaux—as were known to be in a destitute condition, and who had no means of supporting themselves and their families. Such relief at Rigolet amount to

	\$305.85
At Cartwright	509.91
At Davis Inlet	10.34
	—————
	\$826.10

The above accounts were forwarded to Messrs. Robert Prowse & Sons, St. John's, for collection, and I am informed by them were duly paid.”

In his report for the following year dated January 15, 1899, the agent at Rigolet says:—

“ During the last winter and spring in accordance with instructions from the Newfoundland Government, I caused to be issued to destitute planters and Esquimaux, provisions and a little ammunition to the following amounts:—

At Rigolet	\$302.16
At Cartwright	341.94
At Davis Inlet	28.91
	—————

The accounts were forwarded to Messrs. Robert Prowse & Sons, St. John's for collection, on 3rd August, and were duly paid, Mr. Prowse remarking that the Government were well pleased with the management of this matter.”

Nowhere is there an indication that any of the relief granted by the

p. 2688

¹ Wilson to Swaffield. July 12, 1899, p. 2963.

Wilson to Fraser, July 15, 1899, p. 2964.

Wilson to Cotter, July 12, 1899, p. 2965.

Newfoundland Government was intended for, or reached, starving Indians. Indeed, three letters from the Agent of the Hudson's Bay Company at Rigolet to the Agents of the Company at Davis Inlet, Cartwright and Northwest River, dated July, 1899, establish beyond question the fact that, when relief was given to distressed Indians, it was the Canadian and not the Newfoundland Government that supplied the means.¹

On the position in which the Montagnais Indians consider themselves to stand towards the Sovereign of the British Empire, the following incident told to Abbé V. A. Huard during a visit to Betsiamis, and related by him in his volume “Labrador et Anticosti,” throws much light.

“ Although living in isolation, each family by itself, during so great a portion of the year, the Montagnais have nevertheless a certain autonomous civil organization. It would be much too savage to have none at all. Each tribe has its chief, who exercises the sovereign power under the sanction of the Canadian Government, and, rather more remotely, of the Crown of England. Father Durocher, one of the Oblates, who formerly labored in the Montagnais missions, once obtained from the Government four or five large silver medals, which were distributed to the chiefs of the several tribes. It is the emblem of their authority, and it is nearly all they possess by way of sovereignty. It is not that the people themselves settle important public affairs, as was the case in certain ancient republics. Let it be admitted: among these natives, there are no affairs to settle. The very objects for which a government exists were almost entirely absent. Such is the state of decadence into which a race may fall! There are not even clearly defined rules for the transmission of the supreme dignity, when the death of one of these potentates comes to pass; for they are not less subject to death than their colleagues, emperors, czars, or any monarchs whatsoever. Their power is not hereditary, and, in order to replace them—so far as that is possible—there is held, amid formalities which depend much upon circumstances, an election of a new chief, to whom is delivered as a substitute for enthronement, the large medal emblem of sovereignty.”²

² p. 2827.

The statement respecting the donation of the medals is fully borne out by the records of the transaction in the Department of Indian Affairs.

On October 1, 1853, the Reverend C. F. Cazeau, Vicar General, wrote to the Department reminding them of the

request made by Father Durocher that three medals bearing the effigy of the Queen be donated to three Chiefs of the Montagnais Nation—John Baptiste Estlo, Thomas Colard, and Louis Bacon, Senior. The Department approving, the three medals were sent to Father Cazeau on October 29. In his letter of transmittal, Colonel Bruce, Superintendent General of Indian Affairs desired Father Cazeau to request Father Durocher “ to impress upon the Chiefs the high honor conferred and the paramount obligation it imposes on them to exhibit on all occasions unhesitating loyalty and obedience to their Sovereign and to offer an example of industry and of a moral and religious demeanour to the other members of the tribe.”

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Father Cazeau informed Colonel Bruce that he had carried out this request, and had sent a copy of Colonel Bruce's letter to Father Durocher in order that the latter might communicate its contents to those who were to be thus decorated in the name of Her Majesty.

SECTION II.—THE ECCLESIASTICAL RELATIONS WITH THE LABRADOR INDIANS.

The root-idea in Champlain's mind, when he conceived the design of founding a New France beyond the Atlantic, was to make the natives of the country Frenchmen. The permeation of the country with French religion and civilization was the object he set before him. His letter to the King, dedicating to His Majesty the third volume of his voyages, explains his point of view. In speaking of the powers given to him he says: “ This is an occasion for enhancing the desire we have long cherished of sending groups and colonies over there, to instruct the people in the knowledge of God, and inform them of the glory and triumphs of Your Majesty, so that, with the French language, they may be also possessed of a French heart and spirit, which, after the fear of God, will breathe nothing so ardently as the desire to serve you.”¹ These words were largely a paraphrase of the injunctions given to Champlain in his commission as Commandant in New France which was issued on October 15, 1612.

How he proceeded in giving effect to this part of his Commission, he relates in the same volume.² He approached the Provincial of the Recollet Fathers, who manifested warm sympathy with his proposals, and discussed them with the cardinals and bishops of France, who happened to be in Paris attending the sittings of the States General then in session. These dignitaries were equally zealous in their desire to see efforts made to christianize the Indians of Canada, and set on foot a subscription to defray the necessary expenses of the undertaking. Success in this regard having been assured, the

¹ Ouvres de Champlain Laverdiere [sic] edition [sic]. Tome IV, p. 2967.

² p. 2968.

King issued letters patent giving to the Recollet Fathers the sole right to establish missions in Canada, and these were confirmed by the papal nuncio under directions of the pope. Finally, the merchants composing the company controlling the trade to Canada, agreed to feed, support, and carry free every year, to the number of six, the Recollet Fathers who might be chosen to carry on the missions among the Indians of New France.

The preliminaries having been thus satisfactorily settled four Recollet fathers sailed for Quebec, reaching the infant settlement in the beginning of June 1615. After a slight survey of the field, the priests held conferences at Quebec, in which with the approval of the Governor, they divided the territory between them. The first year was occupied in studying the temper, disposition and habits of the Indians with reference to their amenability to the teachings of the Church. A post was opened at Tadoussac, the point of assemblage of the Labrador Indians in their dealings with European traders,

¹ Establishment
of the
Faith by
Father
Christian Le
Clerq, Trans-
lated by John
Gilmery
Shea, vol. 1
[sic],
p. 2970.

by Father Dolbeau who toiled among the Montagnais, following them to the woods and partaking of the hardships of their life. His journeys took him as far east as Seven Islands.¹

In July 1616, the priests assembled at Quebec to consider the situation. They drew up a report of their observations, in which the following remarks were made as regards the mission to the Montagnais Indians: “ That with regard to the nations down the river and those of the North, including the Montagnais, Etchemins, Betsiamites and Papinachois, the great and little Esquimaux, they occupy an uncultivated, barren, mountainous country; abounding however in all kinds of wild beasts, seals, beaver, moose, bear, marten, otter, lynx—the Indians are nomadic, wandering in the woods, excessively superstitious, attached to their juggleries, with no form of religion, and, so far as regards the most part, it would require a long time to civilize them.”¹

In spite of these unpromising conclusions, however, Fathers Huet, Caron or Irenaeus dwelt among these people nearly, if not every, winter until the Recollet missions were superseded by those of the Jesuits. They laboured assiduously, but it was rather in preparing the ground than in gathering the fruits. Some intimacies were established. Father Caron was adopted by a Montagnais chief as his brother. The same priest opened a school at Tadoussac in order, as he says, to attract the Indians, and accustom them to the French ways of living.¹ More important, however, was the compiling of a Huron and Montagnais dictionary,¹ to which Father Irenaeus, who had been instructed by Father Caron, made a considerable contribution.

The results achieved after 9 years of steady labour are summarised in a letter written in 1624 by the Superior of the Mission to the Provincial in Paris, “ I shall not give you much satisfaction by a great number of souls converted. Few real conversions are made among our Indians; the time of grace is not yet come, although nothing is spared to dispose them for the Faith. It must be hoped that as the colony is peopled we shall civilise the Indians. This is necessary first; their minds will open and their good sense, of which they have the base . . . ”

“ We have thus far traversed more than six hundred leagues inland, and even wintered with the principal nations. They do not lack good sense in what concerns the public or private interest of the nation; they reach their end and even adopt very fit means and measures; and it is the subject of my surprise that, being so enlightened for their petty affairs, they have nothing but what is extravagant and ridiculous when you treat of religious dogmas or rules of morality, laws and maxims. We have visited eight or ten different nations down the river towards Tadoussac, and we have found that almost all the Indians of New France acknowledge no divinity, and are

² Ibid.,
p.
2972.

even incapable of ordinary and natural reasonings on this point, so material and benighted is their intellect.”²

A conference of the fathers was called in Quebec in 1625. After a consideration of the vastness of the field, the paucity of laborers, and the smallness of their means, the fathers decided to call upon the wealthier and

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more powerful order of the Jesuits.¹ The overtures of the Recollets were heard favourably by the Provincial of the Jesuits in Paris, and five members of the order were assigned to duty in Canada.

Before the Jesuits were fairly settled down as co-laborers with the Recollets, Canada had fallen into the hands of the English, and from 1629 until 1632, when the country was restored to the French, all missions were suspended. When the missions were re-opened, they were taken over entirely by the Jesuits, the Recollets not returning until some years later.

The Recollets had four sedentary stations established before they left Canada—at Quebec, Trois Rivières, among the Hurons, and at Tadoussac. When the Jesuits returned they devoted themselves for some years almost exclusively to the Indians in the west. The reason would appear to be that the western Indians being more sedentary in their habits could be brought more readily under the continuous efforts of the missionaries. The Jesuits referred repeatedly to the difficulties of exercising influence over the eastern Indians, owing to their nomadic habits. They sought to make these Indians more sedentary by various means. A settlement was established near Quebec, where the missionaries hoped to induce the Montagnais to come and make their homes. On one occasion the Montagnais appealed to the Governor for assistance against the Iroquois. The Governor promised them what they asked on condition that they would agree to live in a settlement at Trois-Rivières.

² Jes. Rel.
1640-41,
vol. xxi,
chap. 12,
p. 2974.

The decision to open a mission for the Indians of Eastern Canada and Labrador at Tadoussac was eventually brought about by negotiations between some Christian Montagnais dwelling at the mission of St. Joseph and some eastern Indians. The former had urged the eastern Indians to give up their wandering life, and live at St. Joseph, where they would be within hearing of the missionaries. The latter objected for several reasons, among them being fear of the Iroquois, and insisted on a missionary being sent to them at Tadoussac. This was conceded. The priest was well received, and the mission was opened.²

The missionaries did not, however, easily relinquish the idea of making the eastern Indians sedentary. Father Le Jeune, who gave the foregoing account of how the mission came to be established, indulged in the same letter, in a bit of prophecy. He said: “I am neither a prophet nor the son of a prophet; but, seeing what God has done in one France and in the other for the salvation of the Savages, I scarcely doubt that one day will

be seen what I am going to remark.

“ First I expect St. Joseph will be peopled by Abnaquiois, by Bersiamites, by Savages from Tadoussac, by the Porcupine Tribe, by the Oupapinachiwekhi, and the Oumaniwekhi.”

The Bersiamites, Oupapinackiwekhi, and the Oumaniwekhi all dwelt on the Labrador coast, the Oupapinachiwekhi being better known as the Papinachois, and the Oumaniwekhi as the Oumamiwek.

The success which attended the services of the missionary at Tadoussac greatly encouraged him. Each annual Relation is a record of pious practices

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on the part of the Christian Indians, and of growing interest among those who were still pagans.

Tadoussac, however, was but a first step. It was nearer to the Eastern and North Eastern Indians than Quebec, but there were tribes down the St. Lawrence a hundred leagues and more beyond Tadoussac, whose trade would not take them to that port; and there were many others in this region, who dwelt far in the interior, from lake Mistassini to the Atlantic ocean, who had no occasion to visit ports on the St. Lawrence. These also were calling for missionaries, with an insistence that would not be denied. Inland journeys became a necessity, if the missions were to be counted successful.

¹ Jes. Rel.
vol.
xxxii.,
p. 2981.

The first journey into the interior was made by Father De Quen in 1647. He ascended the Saguenay to its source at Lake St. John, to make a pastoral visit to the Christian Indians of the Porcupine nation. He was warmly welcomed by the people as the first Frenchman who had set foot in their land.¹ Lake St. John was, like Kaniapiskau, Petitsikapau, and Sandgirt, a gathering place for the Indians from all parts of the Peninsula. One of the missionaries related having met Indians from twenty nations at that place.² Another states that he ministered to two Christian Indians, who had travelled 200 leagues to make confession.

² Jes. Rel.
vol. lvi.,
p. 2990.

The influence of the missionaries did much to break down the barriers, which had separated the different nations from one another. The father in charge of the missions in 1649-50, reported that “ the Christians with their chiefs, formerly so jealous of their country and port of Tadoussac, that they denied it intercourse with other nations, seeing that the Fathers could not go with them into the depths of their vast forests, invited them to dwell near them.”³ But the influence did not end here. “ These people who formerly concealed from the French the highways to the nations to whom they went for traffic, not being willing that even we should approach them, press us now that they are Christians, to follow them into the vast forests, in order to baptize and confess the nations who cannot reach their country.”³

³ Jes. Rel.
vol.
xxxv.,
p. 2982.

That the invitation to the other nations was not without response is evident from the fact reported in the same Relation that the Papinachois “ who inhabit lands in the neighborhood

of Anticosti ” began to appear at Tadoussac. A regular mission was established among this nation in 1667.

In 1661, Fathers Druillettes and Dablon made preparations for a journey much beyond anything until that time attempted. Hudson's Bay was the point at which they aimed. The Bay had many attractions for the fathers, both as missionaries and Frenchmen. As the director of the missions says in his report of that year : “ We have long known that we have the North Sea behind us, its shores occupied by hosts of Savages entirely unacquainted with Europeans ; that this sea is contiguous with that of China to which it only remains to find an entrance ; and that in those regions lies that famous bay, 70 leagues wide by 27° long, which was first discovered by Husson, who gave it his name,—Upon this bay are found, at certain seasons of the year, many surrounding nations embraced under the general name of Kilistinons ”⁴ They
p. 2693

⁴ Jes. Rel.
vol.
xlvi.,
p. 2984.

obtained much information regarding Hudson's Bay from a Nipissirien captain, and on the strength of it determined to see the bay.

They set out on June 1, 1661, and after many hardships managed to reach lake Nekouba, near the watershed separating the waters flowing into Hudson's Bay from those whose outlet is in the St. Lawrence. Reports of Iroquois onslaughts in the neighbourhood dispersed the Indians guiding the party, and they got no further. But the journey was far from fruitless. Nekouba was also a gathering place for the exchange of furs between the Indians of the far interior, and those who visited Tadoussac and other points on the St. Lawrence. “ Nekouba ” in the language of the report, “ is a place noted for a market which is held there every year, to which all the Savages of the surrounding country resort for the purpose of conducting their petty traffic.”¹ “ Furthermore, we saw people from eight or ten nations, some of whom had never beheld a Frenchman, or heard of God.”

¹ Jes. Rel.
vol.
xlvi.,
p. 2985.

So far, the expeditions inland had been up the Saguenay to the country to the North and northwest. The height of land on the way to Hudson's Bay was the farthest point reached in any direction.

In the same Relation, the Provincial of the Order in Paris is informed of a journey made by Father Bailloquet as far to the north-eastward as the mouth of the river St. Lawrence. He visited seven or eight different nations—the Papinachois, the Bersiamites, the Mont Pelés, the Oumamiowek, and others allied to these.² Two years later—in 1663—Father Nouvel paid a pastoral visit to the Papinachois in their territory in the interior. He accompanied a French merchant and a number of coast-dwelling Papinachois, who were engaged in the exchange of European commodities for the furs taken by their kinsmen of the interior. This procedure for the procuring of furs is mentioned by Father Coquart, who, in the course of a memorandum written in 1750 on the King's Posts, states that “

² Jes. Rel.
vol.
xlvii.,
p. 2986.

³ Jes. Rel.
vol.
lxix.,
p. 3007

at the beginning of June the Agent at Jeremi Islets departs for Manicouagan and goes up the river to a certain place, where he meets the savages who inhabit these lands; he trades with them and brings back their peltries.”³

⁴ Jes. Rel.
vol.
xlix.,
p. 2987.

The region towards which the party made their way was in the neighborhood of lake Manicouagan, at the head of Manicouagan river.⁴ The usual route inwards was along the Outardes River which runs roughly parallel to the Manicouagan. When the party reached their destination at the head-waters of the Manicouagan river, Father Nouvel was greeted as the first European who had ever appeared in that country. He found there sixty-four Papinachois who had just returned from the remote interior and were awaiting the arrival of compatriots in order that they might dispose of their furs.

Father Nouvel remained at lake Manicouagan two weeks, ministering in the meantime to a large party of Ouchestigoetch, a nation whose habitations were farther north than those of the Papinachois. Among those baptized was an Oumaniois captain with his wife and children. This zealous captain expressed his determination to visit the tribes on the shores of Hudson's Bay, and carry the good news to them. From him Father Nouvel obtained so

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precise an account of the people, who dwelt on the shores of Hudson's Bay that he was resolved to make a journey thither, in the following year.

The wide range of the contact established by these early fathers with the Indians of the Labrador peninsula is evident from a view of a map of New France, published in *Historia Canadensis*, a volume which appeared in 1664. On this map are shown the position and names of villages, tribes and lakes as far north as Hudson's Straits. That it is incorrect in many particulars is not to the point. These names and details could have been obtained from one source only, apart from the Jesuits themselves, that is, the Indians, who ranged over the remoter parts of the peninsula, and who attended the annual fairs or other places where trading between the interior and coast Indians took place.

The decision of the Jesuit Father to make an expedition to Hudson's Bay was confirmed by news received from Father Albanel, who was in charge of the Tadoussac mission. Albanel was making a pastoral visit to the Papinachois, and among those who attended his service, was an Indian from Hudson's Bay, who told him that a French vessel had been seen in the Bay. Its crew had pillaged and grievously maltreated the natives, and the captain of the vessel told him that he would be in the Bay on the following year, and that the people must all be directed to bring their peltries to him.¹

¹ Jes. Rel.
vol. liii.,
p. 2988.

This was a piece of news of consequence to others besides the missionaries. Talon, the Intendant of Canada, determined to send an expedition to the Bay, which would be under the charge of Paul Denis de St. Simon, one of his

² Jes. Rel.
vol. lvi.,
p. 2989.

officers, and the Jesuit Father Albanel.² In the party was a Canadian merchant, M. Couture. The expedition set out in August 1671. On reaching the upper waters of the Chamouchouan river, they met a party of Indians from the far north, who told them of trading ships anchored in Hudson's Bay, and of hostilities between those on the vessels and the natives. Believing it necessary to obtain credentials from the government, they despatched messengers to Quebec, and were thus delayed until the following Spring. On June 10, 1672, they resumed their journey, but on passing over the height of land were challenged by a chief, whose consent was held to be necessary to their further progress. Albanel took a high tone with the chief. He denied the right of any person to prevent Frenchmen from travelling where he pleased in Indian country. The French had driven their enemies the Iroquois from the country and it was due to them to have a free passage where they would. The Indian assented, and the party again moved forward. They reached lake Mistassini on June 18, lake Nemiskau, an expansion of the Rupert river on the 25th, and on the 28th came upon a small vessel of 10 or 12 tons flying an English flag. From the Rupert the party pushed on up the shore of Hudson's Bay till they reached the Eastmain river, which was the end of their journey. On the return journey Albanel planted the French standard on the shore of lake Nemiskau, and another at Minahigouskat river.

The hold obtained by Albanel over the Indians at lake Mistassini was strengthened by a visit made by Father Crépéul, in charge of the Lake St. John's mission, to the lake in 1674. He remained at Mistassini several

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DocumentsVolume VI
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¹Jes.
Rel.
vol. lix.,
p. 3000.

²Ibid.

³No. 16.,
p. 3060.

⁴Jes. Rel.
vol.
lxviii.,
p. 3005.

⁵Mission du
Diocese de
Quebec
[sic],
No. 16,
p. 3057.

⁶Missions du
Diocese de
Quebec
[sic],
No. 16,
p. 3057.

weeks, and baptized more than 100 persons. Among these was a band from Hudson's Bay, who were so impressed that they promised to visit the mission again and bring with them as many as they could induce to accompany them.¹

In the same year (1675) the missions along the coast were extended by Father Nicholas, who made a short visit to Seven Islands, near the mouth of the Bersimis river, a place which he observes is “noted on account of the large concourse of Savages who after having hunted in the forests on the mainland resort from time to time to a river quite near the islands, to trade with the French. This region is properly the country of the tribes whom we call Oumaniois.”²

The publication of the annual Relations having been suppressed by the Pope in 1672, the account of the activities of the Jesuits in North America must be looked for in other quarters. Fortunately many manuscript copies of the later Relations, as well as numerous letters from missionaries are to be found in the archives of several libraries in Europe and America. By the enterprise of the Burrows Brothers Company of Cleveland, many of these have been unearthed and published in their monumental work “Travels and Explorations of the Jesuit Missionaries in New France.” But some idea of the extent of what is still missing may be gathered from the fact that, in this work, 56 volumes are occupied with the Relations between 1610 and 1672, whereas all the material considered pertinent to the subject that could be gathered between that date and 1791 is contained in 15 volumes.

The consequence is that the information as to the mission work of the Jesuits after 1672 is fragmentary, that obtained from the Relations being supplemented by facts gleaned from other sources. The only complete piece of information is the list of missionaries who served on the Tadoussac mission from 1640 until 1863. This list is contained in the report of the Missions of the Diocese of Quebec published in March 1864.³ Read in connection with the Journal of Father Laure,⁴ it shows that, with a gap of about twenty years between 1701 and 1720, there had been, at the time the list was compiled, no break in the continuity of evangelizing effort among the Montagnais and allied nations for upwards of two centuries.

In 1677, Father Boucher made a pastoral visit to the Papinachois at Ile Jeremie and at Seven Islands. He mentions that so eager were these Indians to take advantage of his ministrations that those who were no more than twelve or fifteen leagues away came to him at once. On this occasion he spent the winter with them.⁵

Father Crépéul spent the winter of 1671-1672 among the Papinachois, and notes the fortunate circumstance that he “happened to be there at a time when these Indians came in large numbers from the depths of the woods to carry on their

small trading with the French.⁶

As already intimated there was a period of about twenty years when these missions were abandoned. Various more or less obscure circumstances may have accounted for this lapse in missionary labor in the regions under consideration ; but a statement of the revenues of the Order and their sources, published by the heads of the Order in Canada in 1701 makes it

p. 2696

clear that lack of means was the principal contributing cause. Out of a total revenue of 13,135 livres, 9,000 was derived from France, partly from the King, partly from the estates of the Order. It is stated that when conditions were all favorable, the revenues might rise to as much as 1000 livres beyond the figure mentioned. On the other hand, the revenues might diminish and the expenses increase, if such untoward events as bad seasons or war supervened.¹

This is exactly what happened during this period. The war of the Spanish Succession had exhausted the French treasury, to the point that it could no longer make it customary contributions to the church in Canada. The consequences are reported to the Court. The Governor and Intendant state in 1700: “ Several Cures have already left, and others are preparing to do so” ; and the Intendant himself in the previous year informed the Minister that “ there are many people without religious succour, owing to the lack of priests and of funds.”²

The missions with headquarters at Tadoussac were resumed in 1720 by Father Laure and continued by him until the year before his death in 1738. He was succeeded by Father Maurice who commenced his work in 1740 by a journey to Iles Jeremie in company with M. Cugnet the lessee of the King's Posts. He died in 1745, and Father Coquart followed, beginning his mission where his predecessor had left it. He served in the same region until his death in 1765. His successor Father La Brosse began at Isle aux Coudres in 1766, passed down the River St. Lawrence in 1767, and after continuous service, partly on the North Shore of the St. Lawrence and partly at Gaspé and Nova Scotia, died at Tadoussac in 1782. During the period of Father La Brosse's service, there was a missionary, M. Parent, at Mingan and St. Augustin, on the Gulf of St. Lawrence. Father La Brosse was the last Jesuit missionary in Canada.

Details of the voyages made and work done by these evangelists are contained in the report made by Father Laure in 1730, and the Journals of Father Maurice and Coquart, which run continuously from 1740 to 1750. Fathers Laure and La Brosse, besides their purely missionary activities, both left works of lasting usefulness to those who followed them in this particular field. Both prepared dictionaries of the Montagnais language, and of the latter it has been said : “ La Brosse, the last of his order at Tadoussac, instructed many of his flock to

¹ Jes. Rel.
vol. lxx.,
p. 3004.

C. 11, vol. 18,
p. 3003.

C. 11,
vol. 17,
p.
3002.

² Missions du
Diocese de
Quebec
[sic],
No. 16,
p. 3058.

³ Jes. Rel.
vol. l, p.
17.

read and write, and left a legacy of native education, which has lasted unto the present day.”³

⁴ Rég de
l'Archev.
de
Québec,
p. 3007.

After the departure of the Jesuits from the mission fields, the work among the Labrador Indians was carried on under the immediate direction of the Bishop of Quebec ;⁴ and at some period not long after, if not coincidentally with, the new direction, an arrangement was made by the Bishop with the lessees of the King's Posts, and of the posts at Mingan and Masquarro, by which the latter paid the salary of the missionary, and all his expenses for conveyance and maintenance during the time of the mission.⁵ This arrangement continued under several lessees until the termination of the ancient scheme for the leasing of the exclusive trade of these territories to companies or individuals, in 1860.⁵ When the North West Company secured the lease in 1802, the Bishop of

p. 2697

⁵ Reg. [sic] Archp.
of Quebec [sic],
Bishop to
McTavish,
Mar. 21, 1803.
p. 3008.

Quebec wrote Mr. McTavish one of the members of the Company, imposing certain obligations on the Company as a condition upon which the missionary would be sent, as the Indians desired. The Company were not to permit the Indians to receive liquor in quantities sufficient to intoxicate them ; nor were the servants of the Company to be permitted to have any communication with the Indians that was not strictly necessary. It had been customary, the Bishop went on to say, for the lessees to pay the missionaries 1500 livres or 50 guineas a year ; to provide means of transportation for the missionary from Rimouski to the nearest post by canoe ; and to restore him to Rimouski at the end of July. Food and lodging were also provided by the lessees.

The posts of Mingan and Masquarro, which formed part of the mission were leased to W. Grant, who paid 16 guineas out of the total of 50 guineas, and provided transportation and maintenance while the missionary was on service east and north of Seven Islands.

The Imperial Act of 1809 having restored to the Newfoundland Government the jurisdiction it enjoyed over the whole coast from river St. John, which enters the St. Lawrence at a point adjacent to the western end of Anticosti, to Cape Chidley at the south eastern end of Hudson's Straits, the question arose as to the ecclesiastical jurisdiction over this stretch of Coast. On September 10, 1809, the Bishop of Quebec wrote to the Vicar Apostolic of Newfoundland sending him a copy of the Imperial Act, and stating that if, as he hoped, the commission of the latter extended over the whole Government of Newfoundland, it followed that the territory attached to the Government of Newfoundland by that act no longer formed part of the diocese of Quebec.¹

¹ Registres [sic] de
l'Archev. de
Québec [sic],
p. 3010.

No reply was received from the Vicar General to this communication ; and it was not until 1820, that the ecclesiastical jurisdiction of Newfoundland was made to correspond with the civil jurisdiction.² In transmitting to the

² Ditto.
p. 3011.
and Registre

[sic]
H.

Vicar Apostolic the papal brief, giving effect to this measure, the Bishop of Quebec stated that it had been his practice to send a missionary to make a pastoral visit to the Montagnais as far down as Mingan and Masquarrou. He would propose continuing this practice as Vicar General of the Bishop of Newfoundland, so long as the latter deems it proper for him to do so.

This arrangement worked satisfactorily, until the advent of the Reverend Mr. Fleming who succeeded to the Vicariate Apostolic in 1830. The Bishop of Quebec on learning of the change of dignitary wrote asking Mr. Fleming to give him authority as vicar general to attend to the spiritual needs of the Indians and others dwelling within the Newfoundland jurisdiction east of river St. John, but he could obtain no reply.

³ Ditto.
p.
3012.
Ditto.
p.
3013.

His first letter was written on March 19, 1832.³ This was followed by two reminders, but his letters remaining unanswered and the offices of the missionaries in relations to the Indians being seriously limited by want of power, he wrote to and obtained from, the Court of Rome an indult dated August 18, 1833, giving him all the powers he required in this part of the Newfoundland jurisdiction.⁴

⁴ Ditto.
Vol.
16,
p.
3014.

It was under the authority of this indult and of another issued in 1834,⁵ that the Bishop of Quebec exercised the powers of a vicar general to the Bishop of Newfoundland until the coast between river St. John and Blanc Sablon, the eastern limits

p. 2698

⁵ Ditto.
Vol.
18,
p.
3015.

fixed by the Imperial Act of 1825 for Lower Canada, was re-annexed to the Diocese of Quebec in 1853.¹

Of the work done by the secular priests under the direction of the Archbishop of Quebec during the period between 1782 and 1844, few particulars are to be found. A letter written by Father Durocher in 1845, when he entered the field shows that it had not been neglected by his predecessors. Writing to Father Guigues, he states that the last of those missionaries, Father Boucher, had by his indefatigable and persistent zeal brought about the regeneration of the Montagnais, by inducing them to accept total abstinence from intoxicating liquors. During the three or four years prior to the arrival of Father Durocher, there had not been an instance of an infraction of the pledge taken by these Indians.²

¹ Ditto.
Reg. [sic]
O.
p. 3046.

Father Durocher carried on the temperance work among these Indians, with an ardour apparently equal to that manifested by Father Boucher. Father Arnaud writing to the Bishop in September 1850 says : “ It is Father Durocher who has completed the work among them, so courageously began by the indefatigable and zealous M. Boucher, whose memory is so dear to all the Indians of the coast ; and they have been even more steadfast in their promises than they were formerly easy to be misled by the love of firewater.”³

² Rapport sur
les Mission
du Dio. de
Quebec [sic],
pp. 3026,
3028.

In 1844, the Archbishop of Quebec received important assistance in carrying on the mission work in this part of the

³ Ibid.
30 Sept. 1850.
[sic]
p. 3028.

⁴ Ditto.
Vol.
21,
p.
3019.

⁵ Ditto.
Vol. 21,
p. 3021.
See several
letters to
Oblate
Fathers
between
May 10, 1844,
and June 28,
1852,
pp. 3020-
3040.

⁶ H. B.
Records,
Simpson to
Nourse,
Jan. 28,
1845,
p. 2797.

¹ Rapport sur
les Missions
du Diocese
de Quebec
[sic],

country. On May 9 of that year he informed the President of the Propaganda of the Faith of his intention to found at Grand Bay on the Saguenay a house of priests of the congregation of the Oblates, the mother house of which was at Marseilles, to take care of the settlements which were being rapidly formed on that river ; ⁴ and on October 4, he confided to Father Honorat the Superior of that Order, (1) the mission of St. Alexis de la Grand Baie on the Saguenay ; (2) the Indians of the King's Posts and of Mingan Seigneurie; (3) the Indians frequenting the shores of the St. Maurice ; (4) generally, all the Indians, Christian and pagan, who inhabit the northern part of the diocese beyond the parishes which have been formed there.⁵

The Oblate fathers entered on their work with praiseworthy zeal. They labored in every part of this difficult and extensive field, and their reports made annually or as opportunity offered, give an exact account of the Indians under their care. Taken in connection with the records of the Hudson's Bay Company, these reports enable us to construct the story of the Nascopies and other tribes so far as they emerged from the obscurity of the wilderness.

In 1845, Governor Simpson had before him a report made the year before, by the officer in charge of the post at North West River, stating that the Indians about the Bay (Esquimaux Bay or Lake Melville) were determined to go to Mingan to attend the services of the priest there.⁶ He was much perturbed by the news, and directed the agent to promise the Indians that if they would defer their visit to the Gulf, the Company would procure for them the services of a priest near the post in the following year. This same year, Father Durocher reported that the post at Seven Islands was occasionally visited by a few families of Naskapis, “ an infidel nation the members of which
p. 2699

have for thirty years eagerly sought to be enlightened by the beacons of faith. They are too poor to stand the expense of the journey.” ¹

With these two statements must be coupled a third made by Father Durocher in his report for 1853. In a letter to the Superior of the Order he says : at Mingan “ there were waiting for me our dear neophytes and a large number of Indians from Esquimaux Bay. Nearly three years ago, these Indians left their country to come and be instructed in our holy religion. Most of them were still infidels and none, even those who were Christians, had ever seen the black robes.” ²

It is clear that the work began by the missionaries was being pursued by native converts—Montagnais, Naskapis or both—in regions at that time unvisited by ministers of the Church. The Jesuit Relations contain many references to the evangelizing zeal of the Indian converts. A striking instance—one of many—is recorded by Father Bailloquet on the occasion of his visit already mentioned to the mouth of the river St. Lawrence in 1661. Here he states that he was petitioned for

July, 1847,
p. 3028.

² Escoumains,
December
15,
1853, p.
3048.

³ Jes. Rel.
vol. xlvii,
p. 2986 ; and
Durocher to
Archbishop.
July 25,
1846,
p. 3027.

baptism by some “ who believed that they fully deserved that happiness for having of their own accord learned the prayers, with no teacher but the Holy Ghost, through meeting with some Christian savages.” ³

The circumstances relating to the founding of the mission at Esquimaux Bay (Lake Melville) require to be told. In 1838, the Bishop of Quebec wrote to the Vicar Apostolic of Newfoundland. He first reminded the Vicar Apostolic that he had written to him several times during the preceding five years, without receiving a reply, and that, in order that the Indians and others residing beyond river St. John which was within the jurisdiction of the Vicar General, might have the full benefit of the services of his missionaries, he had been compelled to obtain vicar general's powers from the Holy See. Since obtaining these powers, merchants had informed him that other Indians belonging to the jurisdiction of Newfoundland and residing at Esquimaux Bay would be disposed to receive the seed of the faith, if a priest were sent to them. He had until that time declined to entertain the request that his priests should be sent into that distant region, partly because the pagans there did not belong to his fold, and partly because he had no priest available for this service. The Bishop of Quebec let the Vicar Apostolic know these facts in order that the latter might make provision for this part of his territory. If, however, there were no Newfoundland priests, who could undertake the mission, the Bishop would be prepared to send one or more from among his priests.⁴

In December of the same year, the Vicar Apostolic breaks silence for the first time, to give the Bishop the necessary powers to minister to the dwellers in that part of his jurisdiction situated on the mainland. But the Bishop found that his wishes to serve the Indians about Esquimaux Bay exceeded his resources, and on April 1847, he wrote to the Vicar Apostolic that he had not been able to take further advantage of those powers than to send missionaries to the Mingan Indians, who were nearest to his diocese.⁵

Father Durocher, who was importuned to send a missionary to that district, sent word by a Christian Indian telling them that as the missionaries

⁴ Registre [sic] de
l'Archev. de
Que. [sic], p.
3015.

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⁵ Registres [sic] de
l'Archev. de

Quebec [sic],
p. 3032.

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¹ Registres [sic] de
l'Archev. de
Quebec [sic],
p. 3043.

² Ditto.
p.
3043.

³ Ditto.
p.
3044.

⁴ Ditto.
Dec. 17, 1852,
and Feby. 26,
1853.
pp. 3045,
3047.

⁵ Rap. sur les
Missions du
Diocese de
Quebec
[sic],
vol. iii.,
p. 3052.

⁶ Rap. sur les
Missions de
Diocese de
Québec,
Mars. 1855,
p. 3056.

could not go so far inland, and as the Indians could come out to the Gulf, they were imperilling their eternal happiness by refraining from doing so. When the Hudson's Bay Company heard of this, they were alarmed at the imminent exodus from the fur country, and offered to take the missionaries into Esquimaux Bay in their trading vessels, and carry them back to Quebec at the end of the season.

In 1852, the subject became matter for discussion between the Archbishop and Father Durocher, who was serving on the North Shore. Father Durocher was opposed to sending missionaries to so distant a field as Esquimaux Bay, which was not in the diocese of Quebec, while many Naskapis, who were in this diocese were being neglected.¹ The Archbishop agreed with Father Durocher ; but an event was in course of realization, which presented the question to the Archbishop under a different aspect. The Archbishop of Quebec had shortly before received a letter from the Bishop of Newfoundland, asking him to join in a petition to the Holy See to attach to the Quebec diocese the section of the Labrador Coast between St. John River and Blanc Sablon.² In December 1852, the Archbishop informed the Secretary of the Propaganda at Rome of his willingness to take over this new territory.³ Thereupon, the desire to serve these Indians at Esquimaux Bay was translated into a binding duty.⁴ He conceived that the extension of his jurisdiction embraced the district about Esquimaux Bay and that he had no option but to provide missionaries for it.

In 1853, it was determined to send a missionary into the interior. Father Arnaud who was chosen to " follow the Indians in their remotest forests," made his preparations for the journey. He made prompt preparations, and set out from Les Escoumains, the head-quarters of the Oblate Missions. Reaching the Manicouagan river, he commenced the ascent, but the over-turning of his canoe and the dispersion of his Indians compelled him to return to Les Escoumains. Some Naskapis who had come down from the interior, learning of the mishap, persuaded him to make another attempt. This time he got as far as Lake Mushualogan, preceded by six canoes manned by Naskapis, and accompanied by eleven other canoes. Lake Mushualogan is one of the lakes at the headwaters of the Manicouagan, and was a notable gathering place of the Naskapis. Father Arnaud could get no further, however, and after wintering there, returned to Quebec.⁵

In the following year (1855) Father Arnaud made another attempt, but the upsetting of his canoe, and the loss of his supplies obliged him to abandon the journey.⁶

It was not until 1859, that preparations were made for another effort to reach the Naskapis in their homes, and again the undertaking ended in failure. On this occasion it was the combined representations of the chiefs of the Montagnais and

Naskapis, whom he met at Seven Islands, that induced Father Arnaud to give up the attempt. At Fort Nascopie, said the Nascopie chief, starvation awaited him. He could not reach that point until winter had set in. The chief would not accompany him. Indeed, in words that voiced hopes long deferred, he declared: “ Father, I have left these places because
p. 2701

¹ Ibid.
vol. iv.,
p.
3061.

the clerks have for a long time deceived me; they have led us to hope that the black robe would come and teach us the holy prayer. We have waited in vain every Spring; we have grown old ; our children have grown up, and still we do not know how to pray or sing the Holy Prayer. I told my children, we shall never return to this place, we shall go down towards the sea, where we shall see the black robe every year.” The Naskapi chief advised him to go by way of the sea to Esquimaux Bay, from which place he could reach Fort Nascopie in a fortnight.¹

² Rap. de
l'Association
de la Propagation
de la
Foi, Diocese
de Montreal
[sic],
Annee 1870,
p. 3065.

In 1866, Father Babel managed to reach the Hamilton River at Lake Winokapau after a journey of 510 miles up the St. John's and Romaine rivers and across the height of land. On sight of the river he recommended “ to the Holy Mother's protection the many Naskapis frequenting the shores.” But at the post disappointment awaited him. The post was entirely deserted, the officer in charge having gone to North West River, and the Indians “ tired with waiting for the Missionary and believing that they had been once more deceived,” accompanied him. From the observations he was able to make, he formed a high opinion of Lake Winokapau as a mission site. He expected to meet fifty families there at once, and an increasing number thereafter.²

³ Annals of
the
Congregation,
March,
1869, p.
3068.

It fell to Father Babel to win success in 1867 after the many fruitless attempts to reach Esquimaux Bay and establish a mission there. The Hudson's Bay Company made this possible by extending their hospitality to him, and conveying him in their steamer to Esquimaux Bay. He is generous in praise of the kindness and good will shown him by Mr. D. A. Smith, and the captain of the steamer. After a week spent at Rigolet, he pushed on in a canoe to North West River, where he met a number of Montagnais, and, also, twenty-two Naskapis. He was undecided as to whether he would go on to Ungava or Fort Nascopie, but the Naskapis insisted that he should accompany them to the latter place. He spent 39 days in these labors. The result in baptisms, marriages and in the discouragement of irregularities of life gave him great satisfaction. He returned to the Gulf by an overland route.³

⁴Babel to
Superior.
Nov. 3, 1868,

Father Babel returned to this mission in the following year and achieved a success equal to that of 1867.⁴

p. 3070.

⁵ Missions,
Diocese of
Quebec,
No. 20,
3073.

The next pastoral visit paid by missionaries to the Naskapis in the interior was made by Father Arnaud in 1871. From his report it would appear that a principal object in this visit was to inspect the several sites for a permanent station. His conclusion was that the site chosen by Father Babel had all possible advantages. It was close to the post opposite which he steamer anchored ; was nearer to St. Augustine by the overland route; was a good centre for the assembling of Montagnais and Naskapis, and could be reached from Sandy Lake, Petitsikapau and Winokapau.⁵

Arnaud went to Esquimaux Bay in 1872, and was gratified with everything he saw. Mr. Connolly, the factor of the Hudson's Bay had superintended the building of a church at North West River, and presented the mission with a bell, weighing 110 pounds, which he procured in England. The mission was given the name of Notre Dame des Neiges, Baie des Esquimaux.

p. 2702

The Montagnais and Naskapis welcomed him as a father. Arnaud proceeded from his mission centre to Ungava, but he had little or no success to report. He took the opportunity of confirming a statement made in his report of 1871.¹ In that report he noticed that at Rigolet there were a few Esquimaux families ; “ they never go up any further in the bay, as they are not on good terms with our. Montagnais, who come here to do their trading.” While at Ungava he observed that, “ the Esquimaux always stay on the coast, and unlike our Nascopies or Montagnais do not venture inland to hunt.”²

It is clear from the foregoing that in the past the Canadian missionaries had a large share in the establishment and maintenance of relations between Canada and the Indians of Labrador. They labored among them at the posts on the coast, and at the places of exchange up the great rivers ; followed them into the woods ; and founded missions in the centre of the peninsula to which they attracted them from the remotest parts.³ The influences they set up were felt by many who had never seen a missionary, and were so potent that numbers abandoned their hunting grounds in order to be near the priests.

The activities of the Church among these Indians are still continued.⁴ The district of Labrador was erected into a vicariate apostolic in 1906 and its boundaries are thus described in Canada Ecclésiastique (1921) the official list of the Roman Catholic Church :—“ On the South, from Portneuf river (including the Island of Anticosti) to Blanc Sablon ; on the east, from Blanc Sablon to the northern extremity of Labrador ; on the north, from this extremity to the entrance of Hudson's Bay; on the west, from the shore of Hudson's Bay to James Bay.”⁵ Within this territory there are 12 priests settled, besides the Vicar Apostolic. These include missionaries to the Montagnais, Naskapis and Esquimaux. The relations that were established by the Church with the Indians of Labrador are

¹ Missions,
Diocese de
Québec,
vol. vi. 1870-
1877.
p. 3074.

² N.D. de
Betsiamits,
Dec. 16,
1872.
p. 3075.

³ See letter
from Fr.
Arnaud to
Superior
General,
Dec. 29, 1877,
p. 3076.

⁴ For a de-
scription of
the Nascopies
and their
mode of life,
see two letters
from Father
Lacasse to
the Reverend
Father Têtu
of April 1, and
November,

1878,
pp. 3077,
3081.

⁵ See extract
from Canada
Ecclesiastique

(1921),
p. 3083,
and letter
from Lange-
vin to Howe,
Jan. 21,
1871,
p. 2958.

⁶C.O. 42,
vol. 6,
p. 2761.

⁷ Archiepisco-
pal Records,
Bishop of
Sidyma to
Lord Elgin,
Feby. 14,
1850
p. 2808.
Archbishop
to Durocher,
Dec. 26,
1851,
p. 2811.

indicated by the fact that, in all representations to the Government respecting them, it was a member of the Church who was their spokesman. In 1760, after the reduction of Canada, when the Indians were in deep distress, through the suspension of the leases of the King's Posts, it was the Indian Chief and the missionary who were deputed to call upon the Governor to ask that the Indians might be taken under the protection of his Britannic Majesty, and supplied and maintained as they had been in the time of the French.⁶

The petitions of the Indians to have certain sections of territory assigned to them as reserves were vigorously supported by the Archbishop in representations to the Governor General ;⁷ and the first funds were appropriated for the relief of destitute Montagnais in 1851, on the report of Father Arnaud which was transmitted to the Department of Indian Affairs by the Archbishop.

(A) AUTHORITIES IN SUPPORT OF SECTION I. OF THE
HISTORICAL SKETCH.

[17 Oct., 1540.]

No. 1063.**COMMISSION OF FRANÇOIS 1^{er}. TO JACQUES
CARTIER,**FOR THE ESTABLISHMENT OF CANADA, OCTOBER 17, 1540.

EDITS ET ORDANNANCES, VOL. III (1856).

François, par la grâce de Dieu, roi de France et de Navarre, à
tous ceux qui ces présentes lettres verront, salut.

COMME pour le désir d'entendre et avoir connaissance de plusieurs pays qu'on dit inhabités, et autres être possédés par gens sauvages, vivans sans connaissance de Dieu et sans usage de raison, eussions dés-pie-ça à grands frais et mises, envoyé découvrir les dits pays par plusieurs bons pilotes, et autres nos sujets de bon entendement, savoir et expérience, qui d'iceux pays nous auraient amené divers hommes que nous avons par longtems tenus en notre royaume, les faisant instruire en l'amour et crainte de Dieu et de sa sainte loi et doctrine chrétienne, en intention de les faire remener ès dits pays en compagnie de bon nombre de nos sujets de bonne volonté, afin de plus facilement induire les autres peuples d'iceux pays à croire en notre sainte foi ; et entr'autres y eussions envoyé notre très-cher et bien amé Jacques Cartier, lequel aurait découvert grand pays des terres de Canada et Hochelaga faisant un bout de l'Asie du côté l'occident ; lesquels pays il a trouvé (ainsi qu'il nous a rapporté) garnis de plusieurs bonnes commodités, et les peuples d'iceux bien fournis de corps et de membres et bien disposes d'esprit et entendement ; desquels il nous a semblablement amené aucun nombre, que nous avons par longtems fait voir et instruire en notre dite sainte foi avec nos dits sujets ; en consideration de quoi et de leur bonne inclination nous avons avisé et délibéré de renvoyer le dit Cartier ès dits says* de Canada et Hochelaga, et jusques en la terre de Saguenay (s'il peut y aborder) avec bon nombre de navires, et de toutes qualités, arts et industrie pour plus avant entrer ès dits pays, converser avec les peuples d'iceux et avec eux habiter (si besoin est) afin de mieux parvenir a notre dite intention et à faire chose agréable a Dieu notre créateur et rédempteur, et que soit it l'augmentation de son saint et sacré nom et de notre mère sainte église catholique, de laquelle nous sommes dit et nommé premier fils : par quoi soit besoin pour meilleur ordre et expédition de la dite entreprise, députer et établir un capitaine-général et maître pilote des dits navires, qui ait regard à la conduite d'iceux, et sur les gens, officiers et soldats y ordonnés et établis...

* sic.

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[1603.]

No. 1064.
DES SAVVAGES OV VOYAGE DV SIEVR DE
CHAMPLAIN

FAICT EN L'AN 1603.

Francois bien receus
par les Sauuages.

Harangue de l'vn
des Sauuages
que
nous auions
remenez.

Harangue du grand
Sagamo.

Festin des Sauuages.

“ OEUVRES DE CHAMPLAIN,” PAR L'ABBE C. H. LAVERDIERE (1870),
TOME II.

CHAPITRE II.

Le 27. iour, nous fusmes trouuer les Sauuages à la poincte de Saint Matthieu, qui est à vne lieuë de Tadousac, avec les deux sauuages que mena le Sieur du Pont, pour faire le rapport de ce qu'ils auoient veu en France, & de la bonne reception que leur auoit fait le Roy. Ayans mis pied à terre, nous fusmes à la cabanne de leur grand Sagamo, qui s'appelle Anadabijou, où nous le trouuastes avec quelque quatre-vingts ou cent de ses compagnons qui faisoient *tabagie* (qui vent dire festin), lequel nous receut fort bien selon la coustume du pays, & nous feit asseoir auprès de luy, & tous les sauuages arrangez les vns auprès des autres des deux costez de la ditte cabanne. L'vn des sauuages que nous auions amené commença a faire sa harangue de la bonne reception que leur auoit fait le Roy, & le bon traictement qu'ils auoient receu en France, & qu'ils s'assurassent que saditte Maiesté leur vouloit du bien, & desiroit peupler leur terre, & faire paix avec leurs ennemis (qui sont les Irocois), ou leur enuoyer des forces pour les vaincre: en leur comptant aussy les beaux chasteaux, palais, maisons & peuples qu'ils auoient veus, & nostre façon de viure. Il fut entendu avec vn silence si grand qu'il ne se peut dire de plus. Or, après qu'il eut acheué sa harangue, ledict grand Sagamo Anadabijou l'ayant attentiuement ouy, il commença a prendre du Petun, & en donner audict Sieur du Pont-Graué de Saint Maio & à moy, & à quelques autres Sagamos qui estoient auprès de luy. Ayant bien petunné, il commença à faire sa harangue a tous, parlant pozément, s'arrestant quelquefois vn peu, & puis reprenoit sa parolle en leur disant, que veritablement ils deuoient estre fort contents d'auoir saditte Maiesté pour grand amy. Ils respondirent tous d'vne voix: Ho, ho, ho, qui eft a dire ouy, ouy. Luy, continuant toufiours saditte harangue, dict qu'il estoit fort aise que saditte Maiesté peuplast leur terre, & fist la guerre à leurs ennemis; qu'il n'y auoit nation au monde à qui ils voullussent plus de bien qu'aux François: Enfin il leur fit entendre à tous le bien & l'vtilite qu'ils pourroient receuoir de saditte Maiesté. Après qu'il eut acheué sa harangue, nous sortistes de la cabanne, & eux commencerent à faire leur tabagie ou festin.

No. 1065.

**CHAMPLAIN'S COMMISSION AS COMMANDANT IN
NEW FRANCE,**

FROM THE VICE-ROY, DATED 15 FEBRUARY, 1625.

Henry de Levy, duc de Ventadour, pair de France, lieutenant-général pour le roi au gouvernement de Languedoc, vice-roi et lieutenant-général au pays de la Nouvelle-France et terres circonvoisines, a tous ceux qui ces présentes lettres verront, salut.

Savoir faisons que pour la bonne et entière confiance que nous avons du sieur Samuel de Champlain, capitaine pour le roi en la marine; et de ses sens, suffisance, pratiques, expérience au fait d'icelle, bonne diligence, connaissance qu'il a au dit pays pour les diverses navigations, voyages, fréquentations qu'il y a faites, et en autres lieux circonvoisins d'icelui: icelui sieur de Champlain pour ces causes et en vertu du pouvoir à nous donné par Sa Majesté, conformément aux lettres de commission par lui obtenues, tant du feu sieur comte de Soissons, que Dieu absolve, que de monsieur le prince de Condé, et depuis de monsieur le duc de Montmorency, nos prédécesseurs en la dite lieutenance générale, des 15e. octobre et 22e. novembre 1612 et 8e. mars 1620, et à la nomination de Sa Majesté, par les articles ordonnés par arrêt du conseil du ler. avril 1622, avons commis, ordonné, député, commettons, ordonnons et députons par ces présentes, notre lieutenant, pour représenter notre personne au dit pays de la Nouvelle-France; et pour cet effet, lui avons ordonné d'aller se loger, avec tous ses gens au lieu de Québec, étant dedans le fleuve Saint-Laurent, autrement appelé la Grande-Rivière de Canada au dit pays de la Nouvelle France, et au dit lieu et autres endroits que le dit sieur de Champlain avisera bon être, faire construire et bâtir tels forts et forteresses qui lui sera besoin et nécessaire pour la conservation de ses gens, lequel fort ou forts il nous gardera a son pouvoir, pour au dit lieu de Québec et autres lieux et endroits en l'étendue de notre dit pouvoir, tant et si avant que faire se pourra, établir, étendre et faire connôître le nom, puissance et autorité de Sa Majesté; et en icelles assujétir, soumettre et faire obéir tous les peuples de la dite terre et les circonvoisins d'icelle; et par le moyen de ce, et de toutes autres voies licites, les appeler, faire instruire, provoquer et émouvoir a la connoissance et service de Dieu et à la foi et religion catholique, apostolique et romaine; la y établir, et en l'exercice et profession d'icelle, maintenir, garder et conserver les dits lieux sous l'obéissance et autorité de Sa dite Majesté.

* sic.

Et pour y avoir égard et vaquer veca plus d'assurance, nous avons, en

vertu de notre dit pouvoir, permis au dit Sieur de Champlain, commettre et établir et substituer tels capitaines et lieutenans pour nous, que besoin sera; et pareillement commettre des officiers pour la distributon * de la justice et entretien de la police, régleme[n]t et ordonnances, jusqu'à ce que par nous autrement en ait été pourvu ; traiter, contracter à même effet, paix, alliances, confédérations, bonne amitié, correspondance et communication avec les dits peuples et leurs princes ou autres avant commandement sur eux; entretenir, garder et soigneusement conserver les traités et alliances dont il conviendra avec eux, pourvû qu'ils y satisfassent de leur part ; et a leur défaut, leur faire guerre ouverte, pour les contraindre et amener à telle raison qu'il jugera nécessaire pour l'honneur, obéissance et service de Dieu et l'établissement, manutention et conservation de l'autorité de Sa dite Majesté parmi eux ; du moins pour vivre, banter et fréquenter avec eux en toute assurance, liberté, fréquentation et communication, y négocier et trafiquer amiablement et paisiblement; faire faire à cette fin les découvertures des dites terres, et notamment depuis le dit lieu de Québec, jusques et si avant qu'il se pourra étendre audessus d'icelui, dedans les terres et rivières qui se déchargent dedans le dit fleuve Saint-Laurent, pour essayer a trouver le chemin facile pour aller, par dedans le dit pays, au royaume de la Chine et Indes Orientales; ou autrement tant et si avant qu'il se pourra étendre le long des côtes du dit pays, tant par mer que par terre, et faire en la dite terre-ferme, soigneusement rechercher et reconnaître toutes sortes de mines d'or, d'argent, cuivre et autres métaux et minéraux ; les faire fouiller, tirer, purger et affiner, pour être convertis, et en disposer selon et ainsi qu'il est prescrit par les édits et réglemens de Sa dite Majesté, et ainsi que par nous sera ordonné.

Établissement de
la compagnie du
Canada, 1627 &
1628.

[29 April, 1627.]

No. 1066.

C

**ACT ESTABLISHING THE COMPAGNIE DU CANADA,
1627.**

EDITS ET ORDONNANCES.

VOLUME I. 1854.

Acte pour l'établissement de la Compagnie des Cent Associés pour le commerce du Canada, contenant les articles accordés a la dite Compagnie par M. le Cardinal de Richelieu, le 29 avril, 1627.

Le roi continuant le même désir que le défunt roi Henri-le-Grand, son père, de glorieuse mémoire, avoit de faire rechercher et découvrir ès pays, terres et contrées de la Nouvelle-France, dite Canada, quelque habitation capable pour y établir colonie, afin d'essayer, avec l'assistance divine, d'amener les peuples qui y habitent à la connoissance du vrai

policer et instruire à la foi et religion catholique, apostolique et romaine ; monseigneur le cardinal de Richelieu grand-maître, chef et surintendant-général de la navigation et commerce de France, étant obligé par le devoir de sa charge de faire réussir les saintes intentions et desseins des dits seigneurs rois, avait jugé que le seul moyen de disposer ces peuples à la connoissance du vrai Dieu, était de peupler le dit pays de naturels françois catholiques, pour, par leur exemple, disposer ces nations à la religion chrétienne, à la vie civile, et même y établissant l'autorité royale, tirer des dites terres nouvellement découvertes, quelque avantageux commerce pour l'utilité des sujets du roi. . .

II. Sans toute fois qu'il soit loisible aux dits associés et autres, faire passer aucun étranger ès dits lieux, ains peupler la dite colonie de naturels François catholiques; et sera enjoint a ceux qui commanderont en la Nouvelle-France, de tenir la main à ce qu'exactly le présent article soit exécuté selon sa forme et teneur, ne souffrant qu'il y soit contrevenu pour quelque cause ou occasion que ce soit, à peine d'en répondre en leur propre et privé nom.

III. En chacune habitation qui sera construite par les dits associés, afin de vaquer à la conversion des sauvages et consolation des François qui seront en la dite Nouvelle France, y aura trois ecclésiastiques au moins, lesquels les dits associés seront tenus loger, fournir de vivres, ornements, et généralement les entretenir de toutes choses nécessaires, tant pour leur vie que fonction de leur ministère, pendant les dits quinze années, si mieux n'aiment les dits associés, pour se décharger de la dite depense, distribuer aux dits ecclésiastiques des terres défrichées, suffisantes pour leur entretien. Même sera envoyé en la dite Nouvelle France plus grand nombre d'ecclésiastiques, si métier est, et que la compagnie le juge expédient, soit pour les dites habitations, soit pour les missions: le tout aux dépens des dits associés durant le temps des dites quinze années ; et icelles expirées, remettra Sa Majesté le surplus à la dévotion et charité tant de ceux de la dite compagnie, que des François qui seront sur les lieux, lesquels seront exhortés de subvenir abondamment, tant aux dits ecclésiastiques, qu'à tous autres qui passeront en la Nouvelle-France pour travailler au salut des âmes. . . .

XVII. Ordonnera Sa Majesté que les descendants des François qui s'habitueront au dit pays, ensemble les sauvages qui seront amenés a la connoissance de la foi et en feront profession, seront censés et réputés naturels françois, et comme tels pourront venir habiter en France quand bon leur semblera, et y acquérir, tester, succéder et accepter donations et légats, tout ainsi que les vrais regnicoles et originaires françois, sans être tenus de prendre aucunes lettres de

déclaration ni de naturalité.

[1636.]

No. 1067.**CHAMPLAIN'S PLEDGES TO INDIANS EMBRACING
CHRISTIANITY.**

TO R. P. PAUL LE-JEUNE, SUPERIEUR OF THE JESUIT MISSION IN NEW
FRANCE.

THE JESUIT RELATIONS. VOL. X. 1636.

Mon Reverend Pere,

* * * *

Voice encor vn autre indice de leur bonne volonté pour la Foy... Monsieur de Champlain & Monsieur le General du Plessis Bochart, nous obligerent grandement l'annee passee, exhortant les Hurons en plein conseil à embrasser la Religion Chrestienne, & leur disant que c'estoit là l'vnique moyen non seulement d'estre vn iour veritablement heureux dans le Ciel, mais aussi de her à l'auenir une tres-estroite amitié avec les François, lesquels en ce faisant viendroient volontiers en leur Pays, se marieroient à leurs filles, leurs apprendroient diuers arts & mestiers, & les assisteroient centre leurs ennemis; & que s'ils vouloient amener quelques-vns de leurs enfans l'an prochain, qu'on les instruiroit a Kébec, que nos Peres en auroient vn grand soin.

[5 March, 1648.]
Tiré de Secretariat
de la Marine

No. 1068.**DECREE ON BEHALF OF THE INHABITANTS OF
NEW FRANCE.**

CAN. ARCH. F. 3, V. 3, p. 189.

Arrest du 5 Mars 1648, portant Reglement en faveur des habitans de la Nouvelle france. Secretariat an 1648. f. 42.

Veü, par le Roy en son Conseil la Reine Regent sa mere presente, la Requête et les Memoires à luy presentez, par ses sujets les habitans françois de la Nouvelle france signé des sieurs Dailleboust et de sieur Chatetests leurs deputez à ce qu'attendu que contre l'intention de sa Majesté et des Rois ses prédecesseurs qui estoit d'autoriser les colonies et peupler le dit pais de françois catholiques pour par leur exemple disposer plus facilement les sauvages à la Religion chretienne et a une vie civile, et tirer aussy de ces terres quelque avantageux commerce et utile a ses sujets ;

* * * *

13. Et encore en consequence du 17e article du dit Edit de 1628 ; sa Majesté a permis à tous françois nez au dit pais, et sauvages chrétiens comme reputez naturels françois et Regnicolles de tester, succeder, accepter legs et donations Ensemble permet aux Eglises, Monasteres, et hôpitaux des

pauvres sauvages faits et à faire au dit pais d'accepter legs pieux, donations et fondations tant en france qu'au dit pais. Et si pour raison des dits Legs pieux, et fondations il survient quelque different, sa dite Majesté s'en est parreillement reservé la connoissance, et a son Conseil, et icelle interdite a ses cours, et tous juges, et au surplus le dit Reglement de mars mil six cens quarante sept sera Exécuté ; ou il n'y aura été derogé par le present qui sera leu Publis et euregistré au greffe du dit conseil de Quebec pour y estre aussi gardé et observé selon sa forme et teneur, jusques a ce qu'autrement par sa Majesté en ait été ordonné.

Signé : LEGUIER H. LAISNE,
BARILLON ET MESMES.

Fait à Paris le 5e Mars, 1648.

[28 Sept., 1663.]
Affiché le...suiuant
le rapport de
Romainuille.

Affiché aux 3
Riuieres le troisieme
octobre 1663 suiuant
le rapport d'Ameau
estant aux liasses de
ce greffe.

Affiché au Montreal
le octobre 1663
suiuant le rapport
Basset Notaire estant
a la liasse.

No. 1069.

C

**EDICT, PROHIBITING SALE OR GIFT OF
INTOXICATING LIQUORS TO INDIANS.**

JUGEMENTS ET DELIBERATIONS DU CONSEIL SOUVERAIN
DE LA NOUVELLE-FRANCE, VOL. I (1663-75).

DU VINGT HUICTIESME JOUR DE SEPTEMBRE, 1663.

* * * *

Sur ce qui a esté remonstré par le Procureur general du Roy que depuis le commencement de cette Colonie la traicte des boissons enyurantes aux Sauvages auoit tousiours esté prohibée et defendüe sur peine d'amende arbitraire a cause de la furie dans laquelle ces peuples se trouent dans l'Iuresse Et qu'il est pour constant qu'ils ne veulent boyre que pour s'enyurer, Et que nonobstant la recherche et la punition des contreuenans ce desordre s'est trouué a tel point qu'estant venu a la cognoissance de Sa Majesté, par arrest du Conseil d'estat du Roy donné le sept mars 1657, il auroit esté fait defences de traicter des dictes boissons aux Sauvages sur peine de punition corporelle, qu'au mespris des dictes defences, et des Censures de l'Eglise qui seroient interuenues, ce malheureux commerce auoit tousiours continüe, Et notamment depuis deux ans en ça, que plusieurs s'y sont licentiez a l'enuy les vns des autres, a cause du relasche arriué en la punition des delinquants, Et que voyant de plus en plus les desordres qui en prouenoient ; Et que les Sauvages enclins a l'yurongnerie mesprisant les loix du Christianisme, s'adonnoient a toutes sortes de vices, et abandonnoient l'exercice de la chasse, par lequel seulement cette colonie a subsiste jusqu'a ce jour ; Requerant d'y apporter le remede conuenable ; En outre pris l'aduis des Reuerends Peres Jesuites missionnaires des dicts Sauvages pour ce mandez, Tout consideré. IL EST FAICT ITERATIUES INHIBITIONS et

defences a toutes personnes de quelque qualité et condition
qu'elles soient, de traicter ny donner directement ny

p. 2710

indirectement, aucunes boissons enyurantes aux Sauuages pour
quelque cause Et sous quelque pretexte que ce soit, pas mesme
un coup, sur peine pour la premiere fois de trois cens liures
d'amende applicable le tiers au desnonciateur, le tiers a l'hostel
dieu et l'autre tiers au fisque, Et en cas de recidiue, du fouët ou
du bannissement selon que le cas y escherra, Et sera la
presente leüe publiée et affichée ezlieux accoustumez a
Quebecq, les trois Riuieres, Et Montreal a ce que personne n'en
pretende cause d'ignorance, Mandons.

MÉSY G.

FRANCOIS euesque de petrée.

ROÜER DE VILLERAY.

[19 Nov., 1663.]

Commission de
lieutenant général de
l'Amérique
Méridionale et
Septentrionale pour
M. Prouville de
Tracy. 19e Nov.
1663. Ins. Cons. Sup.
Rég. A. Fol. 13 Ro.

No. 1070.

C

**COMMISSION OF LIEUTENANT-GENERAL OF
NORTH AND SOUTH AMERICA.**

FOR M. PROUVILLE DE TRACY, NOVEMBER, 19, 1663.

EDITS ET ORDONNANCES, VOL. III, 1856.

Louis, par la grâce de Dieu, roi de France et de Navarre, à
tous ceux qui ces présentes lettres verront, salut.

Ayant considéré que pendant que le sieur comte
d'Estrades, viceroi et notre lieutenant-général en l'Amérique,
est en Hollande en qualité de notre ambassadeur, occupé pour
nos affaires en ce pays-là, pour satisfaire au désir que nous
avons, non seulement de veiller à la conservation des lieux qui
sont sous notre obéissance dans l'Amérique, mais d'y faire de
nouvelles découvertes et de nouvelles colonies, il est
nécessaire d'y établir quelque personne d'autorité qui en
l'absence du dit sieur comte d'Estrades puisse régir, augmenter
et conserver les dits lieux et puisse en attendant notre
domination dans le pays, y servir principalement à
l'accroissement du christianisme et à l'amélioration du
commerce. Et sachant que le dit sieur de Prouville Tracy,
conseiller en nos conseil d'état et privé, ci-devant commissaire-
général de notre armée d'Allemagne et lieutenant-général en
nos armées, a toutes les qualites propres pour s'acquitter
dignement de cet emploi, et qu'après les preuves qu'il a
données de sa valeur clans les commandements qu'il a eu sur
nos troupes en Allemagne et ailleurs, et de sa prudence clans
les négociations qui lui ont été commises, nous avons tout sujet
de croire que nous ne pouvions faire un meilleur choix que de
lui pour commander au dit pays.

A ces causes et autres considérations à ce nous mouvans,
nous avons le dit sieur Prouville de Tracy, constitué, ordonné
et établi, constituons, ordonnons et établissons par ces
présentes signées de notre main, notre lieutenant-général clans

toute l'étendue des terres de notre obéissance situées en l'Amérique Méridionale et Septentrionale, de terre ferme, et des isles, rivières, ports, hâvres et côtes découvertes et à découvrir par nos sujets, pour

p. 2711

en l'absence du dit sieur comte d'Estrades, vice-roi, avoir commandement sur tous les gouverneurs et lieutenans-généraux par nous établis daps toutes les dites isles de terre ferme de Canada, Acadie, Terre-neuve, Isles des Antilles et autres; comme aussi sur tous les officiers et conseils souverains établis clans toutes les dites isles et sur les vaisseaux français qui navigueront aux dits pays, soit de guerre à nous appartenans, soit marchands; faire prêter nouveau serment de fidélité, taut aux gouverneurs et conseils souverains qu'aux trois ordres des dites isles; enjoignant aux dits gouverneurs, officiers, et conseils souverains et autres, de reconnoître le dit sieur Prouville de Tracy, et de lui obéir en tout ce qu'il leur ordonnera; assembler quand besoin sera les communautés, leur faire prendre les armes, prendre connaissance, composer et accommoder tous différends qui pourroient être nés et à naître dans les dits pays, soit entre les seigneurs et principaux d'iceux, soit entre les particuliers habitans; assieger et prendre des places et chateaux selon la nécessité qu'il y aura de la faire, y faire conduire des pièces d'artillerie et les faire exploiter; établir des garnisons où l'importance des lieux le demandera; faire selon les occurrences, paix ou trêves, soit avec les autres nations de l'Europe établies dans le dit pays, soit avec les barbares; faire descente soit en terre ferme, soit dans les isles pour s'emparer de nouveaux pays et pour établir de nouvelles colonies, et pour cet effet, donner combats et se servir des autres moyens qu'il jugera à propos pour telles entreprises; commander tant aux peuples au dit pays, qu'à tous nos autres sujets, ecclésiastiques, nobles, gens de guerre et autres, de quelques condition qu'ils soient, y demeurant, dont et si avant qu'il pourra faire étendre nos limites et notre nom, avec plein pouvoir d'y établir notre autorité et d'assujétir, soumettre et faire obéir tous les peuples des dites terres, les appelant par toutes les voies les plus douces qu'il se pourra à la connoissance de Dieu et lumière de la foi et de la religion catholique, apostolique et romaine, et en établir l'exercice à l'exclusion de toute autre; défendre les dits lieux de tout son pouvoir, maintenir et conserver les dits peuples en paix, repos et tranquillité, et commander tant par mer que par terre; ordonner et faire exécuter tout ce que lui ou ceux qu'il commettra, jugeront le devoir et pouvoir faire, pour l'étendue et conservation des dits lieux, sous notre autorité et notre obéissance, et généralement faire et ordonner par lui, en l'absence du dit comte d'Estrades, vice-roi, tout ce qui appartient à la dite charge de notre lieutenant-général au dit pays, la tenir et exécer, en jouir et user aux honneurs, pouvoirs, autorités, prérogatives, prééminences, franchises, libertés, droits, fruits, profits, revenus et émolumens y appartenans, et aux gages et appointemens qui lui seront

[21 April, 1664.]

Arrêt qui sommet les sauvages a la peine portée par les lois et ordonnances de France pour raison de meurtre et de viol 21 avril 1664. Rég. des Jug. et Délib. du Cons. Sup. Lettre A, Fol. 14 Ro.

No. 1071.**DECREE OF THE SUPERIOR COUNCIL OF QUEBEC**

SUBJECTING THE INDIANS TO THE PENALTIES FIXED BY THE LAWS AND ORDINANCES OF FRANCE, FOR MURDER AND RAPE.

EDITS ET ORDONNANCES, 1854, VOLUME II.

Le conseil assemblé où étoient Monsieur le governor, Monsieur l'évêque, Messieurs de Villeray et Damours, le procureur-général du roi présent, et depuis Messieurs de la Ferté et de Tilly. Sur ce qui auroit été représenté par le procureur-général du roi qu'ensuite du viol commis en la personne de Marthe Hubert, femme de . . . dit Lafontaine, habitant de l'Isle d'Orléans, par ... dit Robert Hache, sauvage, lequel pour cet effet ayant été constitué prisonnier et ensuite fait évasion des prisons; pour s'accommoder en quelque façon à la manière des sauvages nos alliés, lesquels ignorent nos lois et les peines ordonnées pour le châtiment de la plupart des crimes et notamment du viol, il auroit fait assembler par-devant le dit conseil les nommés Noël Tek8erimat, chef des Algonquins de Québec ; Kaetmaguechis, vulgairement Boyer, chef de Tadoussac ; Mangouche, chef des sauvages Nepissiriniens; Gahyk8an, chef des sauvages Iroquois; Nauck8ape8ith dit le Saumonnier, chef des . . . et Jean-Baptiste Pipouikih, capitaine Abnakiois, afin de répondre pour le dit Robert Hache et voir dire que, pour réparation du dit viol, le dit Robert Hache auroit mérité d'être pendu et étranglé. Ce qu'ayant été donné à entendre aux dits sauvages par Nicolas Marsollet, pris pour interprète en présence du Père Drouillettes, de la Compagnie de Jésus, les dits sauvages, par la bouche du dit Noël Tek8erimat interprété par le dit Marsollet, auroient dit que depuis un long cours d'années ils s'étoient toujours maintenus en amitié avec les François; que si leur jeunesse n'avoit pu si bien se comporter en quelque rencontre qu'elle n'eût donné quelque sujet de plainte, la jeunesse française n'en avoit pas été non plus exempte; que jusqu'à présent on ne leur avoit point donné à entendre que le viol fut puni de mort, mais bien le meurtre, et qu'ainsi la faute du dit Robert Hache, dont même il ne convient pas, ne devoit pas être pour une première fois envisagée à la rigueur, ni donner atteinte à une amitié si ancienne; mais que pour l'avenir ils s'y soumettroient volontiers, et que pour cet effet ils requéroient que la chose fut rédigée par écrit, afin qu'elle demeurât à leur postérité; et afin de continuer à vivre en amitié et ôter les obstacles qui pourroient s'y opposer, il fût fait défense aux François, créanciers des sauvages, de les piller et excéder faute de payment, d'autant que pendant ce

tems de guerre il est impossible aux sauvages de satisfaire entièrement, ne pouvant faire leur chasse qu'à demi :

Le conseil, après avoir mis l'affaire en délibération, a remis et remet au lit Robert Hache la peine qu'il avoit méritée pour raison du dit viol, sauf es intérêts civils à la dite Marthe...; et pour empêcher à l'avenir tels désordres, du consentement des dits Tek8erimat, Kaetmaguechis, Mangouche, Gahyk8an, Nauch8ape8ith et Pipouikih, ordonné et ordonne que les dits sauvages subiront les peines portées par les lois et ordonnances de France pour raison du meurtre et du rapt, lesquelles leur ont été données à entendre par le dit interprète, et à eux enjoint de le faire savoir à tous ceux de leurs nations ce qu'ils n'en ignorent ; et au regard des contraintes que les François, créanciers des dits sauvages, leur font pour en être payés, il y sera fait droit selon l'exigence des cas.

[25 April, 1664.]

Signé . . .

No. 1072.

C

**DEGREE TO COMPEL INDIANS TO REVEAL NAMES
OF PERSONS FROM WHOM THEY OBTAINED
INTOXICATING LIQUOR.**

DU XXb^e AVRIL 1664.

JUGEMENTS ET DELIBERATIONS DU
CONSEIL SOUVERAIN (1663-75).

LE CONSEIL ASSEMBLÉ où estoient Monsieur le Gouverneur, Monsieur l'Euesque, Messieurs de Villeray, de la Ferté, de Tilly et damours, le Sieur procureur general du Roy present . . .

..
SUR CE QUI a esté représenté par le procureur general du Roy que l'execution de l'Ordonnance de ce Conseil portant defences de traicter ny donner aux Sauuages aucunes boissons enyurantes, se pourroit trouuer difficile s'il n'estoit nommé quelque personne pour prendre et arrester les Sauuages trouuez yures pour les obliger par prison de nommer les Francois qui leur en auroient traicté Et Enjoint a toutes personnes de prester main forte en cas de requisition, LE CONSEIL a permis et permet a toutes personnes de prendre et arrester les sauuages trouuez yures, Et Enjoint a tous autres leur prester main forte en estant requis apeine de dix liures d'amende en cas de desny applicable a celuy qui aura demandé la main forte, Et afin que nul n'en ignore, ordonné que la presente sera leüe publiée et affichée aux Trois Riuieres, Cap de la Madelaine et Montreal aux lieux ordinaries de faire affiches.

[May, 1664.]

Etablissement de la
Compagnie des
Indes Occidentales,
mai 1664. Ins.
Cons
Sup. fol. 14 Ro.**No. 1073.****ESTABLISHMENT OF THE COMPANY OF THE WEST
INDIES.**

EDITS ET ORDONNANCES (1854), VOLUME I.

Louis, par le grace de Dieu, Roi de France et de Navarre,
à tous présents et avenir, salut.

La paix dont jouit présentement cet Etat, nous ayant donné lieu de nous appliquer au rétablissement du commerce, nous avons reconnu que celui des colonies et de la navigation sont les seuls et véritables moyens de le mettre dans l'éclat où il est chez les étrangers, pour à quoi parvenir et exciter nos sujets à former puissante compagnie, nous leur avons promis de si grands avantages, qu'il y a lieu d'espérer que tous ceux qui prendront quelque part à la gloire de l'état et qui voudront acquérir du bien par les voies honorables et légitimes, y entreront très volontiers, ce que nous avons reconnu avec beaucoup de joie par la campagne qui s'est formé depuis quelques mois pour la terre ferme de l'Amérique, autrement appelée France équinoctiale; mais comme il ne suffit pas à cette compagnie de se mettre en possession des terres que nous leur concédons et les faire défricher et cultiver par les gens qui y envoient avec grands frais, si elles ne se mettent en état d'y établir le commerce, par le moyen duquel les Français qui s'habitueront aux dits pays communiquent avec les naturels habitants en leur donnant, en échange des denrées qui croissent dans leur pays, les choses dont-ils ont besoin. Il est aussi absolument nécessaire pour faire ce commerce d'équiper nombre de vaisseaux pour porter journellement les dites marchandises qui se débitent au dit pays et rapporter en France celles qui s'en retirent, ce qui n'a point été fait jusqu'à présent par la compagnie ci-devant formée, ayant reconnu que le pays de Canada a été abandonné par les intéressés en la compagnie qui s'étoit formée en mil six cent vingt-huit, faute d'y envoyer annuellement quelque léger secours, et que dans les Isles de l'Amérique où la fertilité des terres y a attiré un grand nombre de François, ceux de la compagnie à laquelle nous les avons concédées en l'année mil six cent quarante-deux, au lieu de s'appliquer à l'agrandissement de cette Colonie et d'établir dans cette grande étendue du pays un commerce qui leur devoit être très-avantageux, se sont contentés de vendre les dites Isles à divers particuliers, lesquels s'étant seulement appliqués à cultiver les terres, n'ont subsisté depuis ce temps-là que par le secours des étrangers, en sorte que jusques à présent ils ont seuls profité du courage des François qui ont les premiers découvert et habite les dites Isles et du travail

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de plusieurs milliers de personnes qui ont cultivé les dites

terres. C'est pour ces considérations que nous avons repris des intéressés en la dite Compagnie de Canada la concession qui leur avoit été accordée du dit pays par le feu Roi notre très honoré Seigneur et père de glorieuse mémoire, laquelle ils nous ont volontairement cédée par acte en leur assemblée du vingt-quatrième février, mil six cent soixante-et-trois et que nous avons résolu de retirer toutes les Isles de l'Amérique qui ont até vendues aux dits particulier par la dite compagnie en remboursant les propriétaires d'icelles du prix de leurs acquisitions et des améliorations qu'ils y auront faites: mais comme notre intention a été en retirant les dites Isles, de les remettre entre les mains d'une compagnie qui put les posséder toutes, achever de les peupler et y faire le commerce que les étrangers y font présentement, nous avons estimé en même temps qu'il étoit de notre gloire et de la grandeur et avantage de l'état de former une puissante compagnie pour faire tout le commerce des Indes Occidentales, à laquelle nous voulons concéder toutes les dites Isles, celles de Cayenne et de toute la terre ferme de l'Amérique, depuis la rivière des Amazones jusqu'à celle d'Orenoc; le Canada, l'Acadie, Isle de Terre-neuve et autres Isles et terre ferme, depuis le nord du dit pays de Canada jusqu'à la Virginie et Floride, ensemble toute la côte de l'Afrique depuis le Cap Vert jusqu'au Cap de Bonne-Espérance, soit que les dits pays nous appartiennent pour être ou avoir été ci-devant habités par les François, soit que la dite compagnie s'y établisse, en chassant ou soumettant les sauvages ou naturels du pays ou les autres nations de l'Europe qui ne sont dans notre alliance, a[?]n que la dite compagnie ayant établi de puissantes colonies dans les dits pays, elle les puisse regir et gouverner par un même esprit, et y établir un commerce considérable tant avec les François qui y sont jà habitués et ceux qui s'y habitueront ci-après, qu'avec les Indiens et autres naturels habitants des dits pays dont elle pourra tirer de grands avantages, pour cet effet nous avons jugé à propos de nous servir de la dite compagnie de la terre ferme de l'Amérique; laquelle compagnie étant déjà composée de beaucoup d'intéressés et munie de nombre de vaisseaux, peut aisément se mettre en état de former celle des Indes Occidentales et se fortifiant de tout ceux de nos sujets qui voudront y entrer, soutenir cette grande et louable entreprise.

. . . .1. Comme nous regardons dans l'établissement des dites colonies principalement la gloire de Dieu en procurant le salut des Indiens et sauvages, auxquels nous désirons faire connoître la vraie religion, la dite compagnie présentement établie sous le nom de Compagnie des Indes Occidentales, sera obligée de faire passer aux pays ci-dessus concédés be nombre d'ecclésiastiques nécessaire pour y prêcher le Saint-Evangile et instruire ces peupler en la créance de la religion catholique, apostolique et romaine, comme aussi de bâtir des églises et d'y établir des curés et prêtres, dont elle aura la nomination, pour faire be service divin aux jours et heures ordinaires et administrer les sacremens aux habitans, lesquels églises, curés et prêtres la dite compagnie sera tenue d'entretenir décemment

et avec honneur, en attendant qu'elle les puisse fonder
raisonnablement, sans toutefois que la dite

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compagnie puisse changer aucun des ecclésiastiques qui sont à
présent établis dans les dits pays, sur lesquels elle aura
néanmoins le même pouvoir et autorité que les mêmes
gouverneurs et propriétaires des dites isles. . . .

XXXIV. Et pour favoriser d'autant plus les habitans des
dits pays concédés, et porter nos sujets à s'y habituer, nous
voulons que ceux qui passeront dans les dits pays jouissent des
mêmes libertés et franchises que s'ils étaient demeurant en ce
royaume, et que ceux qui naîtront d'eux et des sauvages
convertis à la foi catholique, apostolique et romaine soient
censés et réputés regnicoles et naturels françois, et comme tels,
capables de toutes successions, dons, legs et autres
dispositions, sans être obligés d'obtenir aucunes lettres de
naturalité, et que les artisans qui auront exercé leur art et
métier au dit pays pendant dix années consécutives, en
rapportant certificats des officiers des lieux où ils auront
demeuré, attestés des gouverneurs et certifiés par les directeurs
de la dite compagnie, soient réputés maîtres des chefs-
d'oeuvres en toutes les villes de notre royaume où ils voudront
s'établir sans aucune exception.

[6 Dec., 1666.]

No. 1074.

C

**DECREE IMPOSING PENALTIES ON FRENCH AND
INDIANS FOR INFRACTION OF LAWS
RESPECTING INTOXICATING LIQUORS.**

DU SIXIESME DECEMBRE MIL SIX CENT SOIXANTE SIX.

JUGEMENTS ET DELIBERATIONS DU CONSEIL
SOVERAIN, 1663-1675.

SUR CE QUI a esté remonstré par le Procureur General du
Roy que depuis l'establissement de cette Colonie la traite des
boissons enyurantes a esté deffendue estre faicte aux Sauuages
acause des desordres qui en prouiennent et qui peuuent de
beaucoup retarder l'aduancement du Christianisme parmy ces
peuples infidelles ou deuenus chrestiens et mesme prejudicier
a l'establissement dela Colonie ainsy que l'experience l'a faict
voir par les meurtres et violemens qui s'en sont ensuiuis qui
auoient donné lieu a la reiteration des dictes deffenses sous de
plus grosses peines mesme de punition corporelles, Que
neanmointz faulte de tenir la main dans les lieux esloignez, a
l'execution des Ordonnances qui en ont esté faictes les
desordres ont tousiours continué. Pourquoy obuier il requert
que les dictes deffenses soient de rechef reitez soubz peine
de cinq cens liures d'amende ou du fouet sy le cas y eschet et
en cas de recidiue aux Galleres perpetuelles et que les

Sauuages soient punis des mesmes peines et cependant qu'il soit ordonné

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qu'a sa diligence il soit informé allencontre de ceux qui auront contreueny aux dictes Ordonnances. LE CONSEIL a fait iteratiues inhibitions et deffences a toutes personnes de quelque qualité et condition qu'elles soient de donner vendre ou traitter aux Sauuages directement ny indirectement et sous quelque pretexte que ce puisse estre aucunes boissons enyurantes sur peines d'amende arbitraire pour la premiere fois et de punition corporelle pareillement arbitraire pour la Seconde fois et excepté les vollontaires compagnons et vallets qui seront punissables pour la premiere fois de telle punition corporelle qui sera estimée a propos par le dict Conseil s'ils n'ont de quoy satisfaire a la dicte amende PAREILLES inhibitions et deffences sont faictes a tous sauuages de quelque langue ou nation qu'ils soient de traitter des mesmes boissons a peine d'amende arbitraire, et pour ceux qui s'en seront enyurez d'estre attaché an Carcan pendant trois heures, outre l'amende cy deuant ditte payable par le delinquant tenant prison Et affin que les ditz sauuages ne puissent ygnorer de la teneur de ce present arrest le Conseil a ordonné qu'il leur sera leu expliqué et interpretté par ceux des Peres de la Compagnie de Jesus qui ont soin de les instruire des principes de la Religion Catholique Apostolique et Romaine auxquels a cet effect il sera deliuré Coppie du diet Arrest. Et pour que les contrauentions aux Ordonnances et reglements cy deuant faits sur le mesme sujet ne demeurent pas impunis it sera incessamment informé a la diligence du dit Procureur General et de ses substituds dans tous les lieux de la Jurisdiction du dit Conseil Pour les informations par eux faictes et rapportées estre sur icelles ordonné ce que de raison ENJOINT a tous Judges de tenir la main a l'execution du present arrest qui sera leu publié et affiché aux lieux Ordinaires par le premier huissier sur ce requis a ce que nul n'en ygnore.

[20 June, 1667.]

No. 1075.

C

**PENALTIES IMPOSED FOR INFRACTIONS OF
LIQUOR LAWS.**

DU LUNDY VINGTIESME JUIN 1667.

IBID.

Entre le Procureur General du Conseil Souuerain du Roy demuandeur en contrauention aux reiglemens et ordonnances du diet Conseil touchant la deffence faicte a toutes sortes de personnes de traicter de l'Eau de vye aux Sauuages en date du cinquiesme Januier dernier 1667. Et aus diets Sauuages d'y contrauenir aux mesmes peines d'une part ; Et Nicolas Gastineau Sieur du Plessys, Jean le Moyne, Michel Gamelin,

Berthelemy Bertault, Jean Moufflet dict Champagne, Jean Bonneau dict la Graue, Jean/ Baptiste Et Nicolas Creuier freres, La Cheze, Benjamin Anseau, François patlard, Foüesy et Jean Riccard, Misabé, Victor, Capimas8ck, Nikarinih, 8anabano, Henry 8nobatis, Le Carron de Milan, Le fils de Nigoret, Gabriel Gaspard, Abihk8chich, François 8a8ang8ch, et 8agamak8an Sauuages

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defendeurs et accusez d'autre part Veu Par Le Conseil les charges et informations faictes par le sieur du Herisson Juge royal des Trois Riuieres en datte du quatriesme Septembre 1666 et dix neuuiesme Nouembre au dict an, des vingt vingt quatre et vingt neuuiesme Januier 1667 signées Ameau Greffier. Autres Informations des trois douze et dix neufiesme du dict mois de Januier au dit an, avec deux Interrogatoires prestées par les dicts gasteineau et le Moyne du douziesme Mars au dict an signées du dict Ameau Greffier, Autre information du vingt huictiesme mars au dict an signée du dict Ameau greffier, Informations des quinze et seiziesme Auril au dict an signées du dict Ameau greffier, Autre suite d'information des trois et vnziesme vingt et vingt troisesme May au dict an signée du dict Ameau greffier, avec le proces Verbal de Recollement et Confrontation de tesmoins faitz aus dicts Gasteineau, le Moyne, Gamelin, Bertault, Foüesy et Riccard en datte du troisesme Auril au dict an 1667 signé du dict Ameau greffier susdict avec une autre suite d'information, Le tout faict par le dict sieur du Herisson Juge royal des Trois riuieres en datte du deuxiesme du present mois signées du dict Ameau greffier avec les conclusions du Procureur general du dict Conseil du dixiesme du dict mois et an signées Bourdon, Et oüy sur ce le rapport du sieur de Gorribon Conseiller du Roy en ce dict Conseil, Le dict Conseil Souuerain a declaré et declare les dicts Gasteineau, le Moyne, Gamelin, Bertault, Moufflet et Bonneau deuëment atteins et conuaincus d'auoir traicté de l'Eau de vye aux Sauuages nommez Misabé, Victor, Capimas8ek, Nikarinih, 8anabano, Henry 8nobatis, Le Canon de Milan, Le fils de Nigoret, Gabriel Gaspard, Abihk8chich, François 8a8ang8ch, et 8anagemiki8an au preiudice des deffences faictes, par le dict Conseil Pour raison de laquelle contrauention Et au mespris du dict reiglement Il a condamné et condamne sçauoir le diet Gamelin en deux Cens liures d'amende Les dicts Gasteineau et le Moyne chacun en Cent cinquante liures, Les dicts Bertault, Moufflet et Bonneau en chacun cinquante liures, au payement des quelles amendes seront les dicts Gamelin, Gasteineau, le Moyne, Bertault, Moufflet et Bonneau contrainctz par Emprisonnement de leurs personnes, Et en cas d'insoluabilité des dicts Bertault, Moufflet et Bonneau Le dict Conseil a ordonné et ordonne qu'ils tiendront un mois de prison, Et que pendant les derniers quinze jours ils seront exposez sur un cheual de bois chaque jour une heure a la veüe publique, avec vn escript qui leur sera attaché ou seront escripts ces mots, Pour auoir traicté de l'Eau de vye aux Sauuages, sans preiudice de l'augmentation de la dicte

amende pecuniere s'il se rencontre que les diets Gamelin, Duplessis, le Moyne, Bertault, Moufflet Et Bonneau soient conuaincus d'auoir plus amplement traicté de l'Eau de vye aus dicts Sauuages que ce qui est porté par les dictes charges et informations Et Confrontation de tesmoins, Pour raison dequoy, et pour faire et parfaire le procez aux coupables Et accusez par les dictes informations jusqu'a arrest diffinitif Inclusionement, LE DICT CONSEIL a commis et commet le dict sieur de Gorribon Rapporteur du dict procez Lequel a ces fins se transportera sur les lieux a sa premiere commodité, Et au regard de la contrauention faicte par les dicts sauuages susnommez, faisant droict sur les

conclusions du dict procureur general. LE DICT CONSEIL les a tous et chacun d'eux condamnez Et condamne en cinquante liures d'amende au payement dela quelle ils seront aussi contrainctz par emprisonnement de leurs personnes Et en cas qu'ils ne fussent soluables Et n'eussent ou argent ou pelleteries Equiuales pour acquicter la dicte amende Le dict Conseil a ordonné et ordonne qu'ils garderont la prison vn mois durant, Et seront exposez pendant les derniers quinze jours sur le dict cheual de bois vne heure de jour conformement a la peine infligée aus dictz Bertault, Moufflet Et Bonneau, Les deux tiers desquelles amendes Le dict Conseil a adiugées aux pauvres de l'hospital de la ville de Quebecq, et l'autre tiers sera pris pour les frais des Officiers de Justice qui vaqueront cy apres a l'instruction du dict proces, faisant le dict Conseil tres expresses inhibitions et deffences Tant aus dictz François que Sauuages d'vzer plus a l'aduenir de telles façons de faire, Apeine de punition corporelle, Et afin que le present arrest soit notoire a tous, Il sera publié et afpiché partout ou besoin sera a la diligence du dict Procureur general Condamne en outre le dict Conseil les dictz Gamelin et Gastineau aux despens des vaccations et grosses des Informations et Confrontations faictes et employées Tant par le dict Ameau greffier que pour les assignations par luy données en qualité d'huissier, suivant la taxe qui en sera faicte par le dict sieur de Gorribon Rapporteur du proces et Commissaire député pour l'execution du present arrest, Donné est en mandement au premier huissier du dict Conseil de faire tous exploictz requis et necessaires faisant relation.

[1668-1669.]

No. 1076.

C

**RELATION DE CE QVI S'EST PASSÉ DE PLVS
REMARQVABLE AVX MISSIONS DES PERES**

DE LA COMPAGNIE DE JESVS EN LA NOUVELLE FRANCE LES ANNÉES,
1669.

ENVOYÉ'E AU R. P. ESTIENNE DECHAMPS, PROVINCIAL DE LA PROVINCE
DE FRANCE.

JESUIT RELATIONS, &c.,
VOLUME LII.

. . . .Après que le Pere Nouvel fut retourné de sa Mission des Papinachois, l'on prit enfin la resolution de remplir la place du fameux Capitaine Noel Tekoüerimat qu'on auoit laissé par l'honneur qu'on rendoit à sa vertu, & à son courage, sans successeur depuis plusieurs années, selon la coutume des Sauvages.

Les parents du defunct, à qui il appartient de nommer celui qui doit succeder au mort, jetterent les yeux sur Negaskaoüat Capitaine de guerre de Tadoussac : ils le presenterent à toutes les Nations assemblées à ce dessein

à Sillery. C'est la que l'on cré le premier Capitaine, & où il a coutume de resider. Cependant l'on avoit préparé un grand festin pour regaler toutes ces Nations au despens des parents qui devoient adopter Negaskaoüat, & luy donner le nom de Tekoüerimat avec sa charge; ce qui s'appelle parmi eux ressusciter un Capitaine.

Pour commencer la ceremonie, on déchaussa le nouveau Capitaine, & on luy osta les anciens habits, ensuite les parents luy en donnerent de nouveaux. Mais il y eut icy quelque chose de changé des solemnitez ordinaires, car le nouveau Teykorimat fut entierement habillé à la Françoise, & au lieu du tour de teste, que la femme du deffunt avoit accoustumé de mettre sur la teste de celuy qui ressuscite son feu Mary, la femme de l'ancien Teykorimat mit sur la teste de Negaskaoüat un chapeau orné d'un fort beau tour de plumes. L'affection que l'ancien & le nouveau Teykorimat ont tousiours temoignée aux François, a esté rune des causes du changement de cette ceremonie.

Le festin estant préparé, on fit les harangues ordinaires, avec les presents qui les accompagnent. Le Pere Nouvel fit l'ouverture, où il representa trois choses au nouveau Capitaine.

Premierement il l'exhorta à la mesme pieté que son Predecesseur avoit tousiours fait paroistre. Secondement il le porta à continuer d'avoir pour les François la mesme affection que son Pere qu'il ressuscitoit, autant par ses exemples, que par son nom de Teykorimat. En troisiéme lieu, il luy remontra l'obligation qu'il avoit de maintenir les siens clans la Foy & Bans l'obeissance, qu'ils doivent à nostre invincible Monarque.

Aprés la harangue, les parens de l'ancien Capitaine firent les presents selon la coutume à toutes les Nations presentes. Là se trouverent les François, les Algonquins, les Montagnais, les Gaspesiens, les Abnaquiois, les Etechemins, les Poissons blancs, les Nipissiriniens & les Hurons. Le premier present fut pour Monsieur de Courcelle, nostre Gouverneur, & il fut mis entre les mains du Pere de Beaulieu pou(r) luy estre présenté au premier jour. Le second se fit au Pere Charles Albanel, ancien Missionnaire, qui avoit le soin de la Mission de Sillery, laquelle est la premiere & la principale de toutes. L'on vint ensuite à faire à chaque Nation un present pour les faire ressouvenir que celuy qui s'appelloit autresfois Negaskaoüat, s'appelle maintenant Teykorimat.

Les presents de Colliers de Porcelaine estant faits, le Pere Albanel harangua à son tour, & se conjouit avec le nouveau Capitaine, d'avoir en sa personne un autre Teykorimat, avec ses vertus, & son affection pour les François: puis se tournant vers toutes les Nations qui estoient presentes, il les exhorta à aymer la Foy que thus avoient embrassée & à fuir le vice, qui les feroit infalliblement perir, s'ils n'y renonçoient. La ceremonie du jour finit par le festin.

Le lendemain tous les Capitaines Sauvages ayant à leur teste Teykorimat habillé à la Françoise, la cane à la main, allerent saluer Monsieur de Courcelle nostre Gouverneur, & le

reconnoistre. Il luy demanderent la protection du Roy, dont ils sont les sujets, & son assistance particuliere pour empescher parmi eux les desordres des vices: puis tous se retirerent.

No. 1077.
**ROYAL ORDINANCE RESPECTING VAGABONDS
AND COUREURS DE BOIS.**

[5 June, 1673.]

Ordonnances du roi
au sujet des vaga-
bonds et coureurs
de bois. 5e juin
1673. Ins. Cons.
Sup. Rég. A.
Fol. 50. Ro.

EDITS ET ORDONNANCES, VOL. I. 1854.

DE PAR LE ROI.

Sa Majesté étant informée que quelques habitans établis dans son pays de Canada ou Nouvelle-France, se rendent vagabonds dans les bois sous prétexte de chasse ou de commerce de pelleteries avec les sauvages, ce qui étant entièrement contraire à l'établissement de la colonie du dit pays ; Sa Majesté a fait très-expresses inhibitions et défenses à tous François habitans au dit pays domiciliés ou non domiciliés, de sortir ni abandonner leurs maisons et vaquer dans les bois plus de vingt-quatre heures sans la permission expresse du gouverneur et lieutenant-général au dit pays, à peine de la vie.

Mande et ordonne Sa Majesté au sieur comte de Frontenac, gouverneur et lieutenant-général, aux officiers du conseil souverain établis au dit pays, ensemble aux juges ordinaires des lieux d'exécuter chacun en droit soi la présente ordonnance et de la faire registrer et publier partout où besoin sera.

Fait au camp de Vossen entre Bruxelles et Louvain, le cinquième juin mil six cent soixante-treize.

Signé: LOUIS.

Et plus bas,

Signé: COLBERT.

Et scellé en placard du petit sceau.

Réregistrée suivant l'arrêt du conseil de ce jour, à Québec, le quatrième septembre mil six cent soixante-treize.

Signé: PEUVRET.

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[7 Jany., 1675.]

Reglement concernant la traitte avec les Sauvages et defenses de traiter leurs hardes, armes et munitions.

No. 1078.
**DECREE FORBIDDING ACCEPTANCE OF
CLOTHING, &c., FROM INDIANS IN ACQUITTAL OF
DEBTS.**

DU SEPTIESME JANUIER, 1675.

IBID.

Veu L'Ordonnance de haut et puissant Seigneur Messire Louis de Buade Frontenac Cheualier Comte de Palluau Conseiller du Roy en ses conseils Gouverneur et Lieutenant general pour Sa Majesté en Toute L'estendüe de la Nouvelle France, Accadie, Isle de Terre Neufue, et autres païs de la France Septentrionale en datte du douziesme Feburier dernier, portant Tres expresses inhibitions et deffences a Toutes personnes de quelque qualité et condition qu'elles puissent estre et sous quelque pretexte et occasion que ce soit, mesme d'acquittement des debtes qui leur seroient deües par les Sauvages de traiter avec eux, les capots et couuertures dont ils se troueront actuellement reuestus, ny aussi leurs fusils, poudre et plomb apeine de Cinquante liures damende, Et que les Sauvages qui par intemperence et Enuie de s'enyurer se porteront a cet excez, soient chastiez, mis en prison et condamnez a vne peau d'original d'amende sans Toutefois leur oster la Liberte de Traitter, ny aux habitans de traficquer avec eux les vieilles hardes dont ils n'ont pas besoin pour se couvrir et aller a la chasse, Et ainsy qu'il est plus au long contenu par la dite ordonnance: Le CONSEIL, a ordonné et ordonne Que la dite ordonnance sera publiée Et affichée en cette ville et dans Toutes les jurisdictions de son ressort, pour y estre gardée et sortir son effet de point en point, ce requerant le procureur General, auquel est Enjoint de tenir la main a l'execution de la presente et d'en Certiffier le conseil au mois.

F.F.

Ordannance du roi
qui défend d'aller à
la traite des pelle-
teries dans les
habitations des
sauvages, 15e avril
1676. Ins. Cons
Sup. Reg. A.
Fol. 63, Ro.

No. 1079.

**ROYAL ORDINANCE FORBIDDING THE TRADING
IN FURS IN THE INDIAN TERRITORIES.**

EDITS ET ORDONNANCES. VOL. I. 1854.

DE PAR LE ROI.

Sa Majesté étant informée que les permissions qui ont été cidevant données à plusieurs habitants de son pays de la Nouvelle-France, pour aller à la traite des pelleteries dans les habitations des Sauvages et dans la profondeur des bois, chez les nations les plus éloignées, sont très préjudiciables au bien et à l'avantage du dit pays, non seulement parce que ces permissions causent la désertion des habitants, mais empêchent le trafic et utilité que les mêmes habitants retirent des sauvages, lorsqu'ils viennent eux-mêmes porter leurs pelleteries dans les habitations Françaises, qu'il arrive même que ceux à qui on a accordé ces sortes de permissions étant des vagabonds et libertins, portent leurs pelleteries aux étrangers, au lieu de les venir vendre aux François; et comme il importe d'empêcher à l'avenir que ce desordre n'arrive, Sa Majesté a fait et fait très expresses inhibitions et défenses à toute personnes de quelque qualité et condition qu'elles soient, d'aller à la traite des pelleteries dans les habitations des sauvages, et profondeur des bois, et à ses gouverneurs et lieutenants généraux et particuliers du dit pays de la Nouvelle-France d'en délivrer et expédier aucune permission à peine contre les particuliers pour la première fois qu'ils iront à la dite traite, de confiscation des marchandises dont ils seront trouvés saisis, tant en allant qu'en revenant de leurs voyages, et deux mille livres d'amende, applicable moitié à Sa Majeste et l'autre moitié aux pauvres de l'hôpital de Quebec, et en cas de récidive, en telle peine afflictive, qu'il sera jugé par le sieur Duchesneau, intendant du dit pays de la Nouvelle-France. Mande Sa Majesté au sieur comte de Frontenac, son lieutenant général au dit pays, de tenir la main il à l'exécution de la présente ordonnance, qu'elle veut être lue, publiée et affichée partout où besoin sera, afin au'aucun n'en prétende cause d'ignorance.

Fait à Saint-Germain-en-Laye, le quinze avril mil six cent soixanteet-seize.

Signé: LOUIS.

Et plus bas:

Signé: COLBERT.

Avec paraphe.

Et scellé à côté d'un placard du sceau de Sa Majesté.

[May, 1767.]

No. 1080.
**GENERAL POLICE REGULATION OF THE
SUPERIOR COUNCIL OF QUEBEC.**

MAY, 1676.

Reglemens generaux
pour la police II
mai 1676. Reg. des.
Jug. et Delib. du
Cons. Sup. Lettre
A.
Fol. 270 Vo.

EDITS ET ORDONNANCES. VOL. I. pp. 65-73. 1855.

Le conseil assemblé où étoient Monsieur l'intendant, les sieurs de Villeray de Tilly, Damours, Dupont, de Lotbinière, de Peiras et de Vitré, conseillers le procureur-général présent.

Vu par la cour son arrêt du quatorzième janvier dernier, portant qu'il seroit travaillé aux réglemens de police, conformément aux ordres donnés; par le roi au sieur Duchesneau, intendant de la justice, police et finances de ce pays, contenus dans sa commission signée Louis, et plus bas, Colbert, et scellée en queue du grand sceau de cire jaune, donnée au camp de Luting, le cinquième juin, mil six cent soixante-quinze, enregistrée en cette cour le seizième septembre ensuivant ; ouï le procureur-général en ses conclusions.

La cour, après s'être fait représenter les registres du conseil, contenant les arrêts et ordonnances de police rendus du temps de Messieurs de Mézy, Tracy, Courcelles, et comte de Frontenac, gouverneurs de ce pays, et de Messieurs Talon et Bouteroue, intendans, a fait les réglemens qui ensuivent, pour être exécutés par provision, jusqu'à ce qu'il ait plu à Sa Majeste les confirmer.

* * * *

XXX. Tous sauvages subiront les peines portées par les loix et ordonnances de France, pour le vol, meurtre, rapt, ivresse et autres fautes, ce qui sera signifié aux principaux de chaque nation à la diligence du procureur-général, ainsi qu'il a été ci-devant fait.

* * * *

Lesquels réglemens ci-dessus seront exécutés selon leur forme et teneur, nonobstant toutes choses à ce contraires, sur les peines y contenues, s'il n'en est autrement ordonné par Sa Majesté, lesquels seront tous publiés et affichés en cette ville et partout où besoin sera, et envoyés à la diligence du procureur-général, aux lieutenans généraux et procureurs du roi de Québec et Trois-Rivières, juge et procureur fiscal de Montréal, auxquels la cour ordonne de les faire publier, afficher et exécuter dans les lieux de leur ressort, et de donner avis dans le mois au dit procureur-général de la réception et publication d'iceux, lequel en avertira la cour.

Mande en outre la cour, etc., etc.

Signé: DUCHESNEAU.

Affiché aux Trois-Rivières par Ameau, le deux février 1686.

[12 May, 1678.]

Ordonnance du roi
portant défense
d'aller à la chasse,
12 mai 1678. Ins.
Cons. Sup. Reg.
A,
Fol. 75 Ro.

No. 1081.
ROYAL ORDINANCE FORBIDDING HUNTING
OUTSIDE THE CLEARED LANDS AND A LEAGUE
BEYOND.

EDITS ET ORDONNANCES. VOL. I. 1854.

Sa Majesté étant informée que les défenses qu'elle a faites par son ordonnance du quinzième avril mil six cent soixante-seize à tous les habitans du pays de la Nouvelle-France d'aller à la traite des pelleteries dans les habitations des sauvages et profondeur des bois, sont éludées par les congés et permissions que l'on accorde facilement aux dits habitans pour aller à la chasse, et que ces permissions nonseulement causent la désertion des dits habitans, mais encore servent de prétexte pour faire la traite chez les nations les plus éloignées, et même pour porter les pelleteries aux étrangers, au préjudice des sujets de Sa Majesté qui sont frustrés de l'utilité qu'ils retireroient des sauvages, s'ils venoient eux-mêmes porter leurs pelleteries dans les habitations françoises; et Sa Majesté voulant remédier a ce désordre, Sa Majesté a fait et fait très expresses inhibitions et défenses à toute personnes, de quelque qualité et condition qu'elles soient, de chasser hors l'étendue des terres défrichées et habitées par ses sujets habitans du dit pays et une lieue à la ronde, et aux gouverneur et lieutenants-généraux pour Sa Majesté au dit pays d'en expédier et délivrer à l'avenir aucune permission, à peine contre les particuliers qui contreviendront aux présentes défenses de deux mille livres d'amende, applicable moitié au roi et moitié à l'hôpital de Québec, pour la première fois, et de peine afflictive, tel qu'il sera jugé à propos par le sieur Duchesneau, intendant au dit pays, en cas de récidive.

Mande Sa Majesté au sieur comte de Frontenac, gouverneur et son lieutenant général au dit pays, de tenir la main à l'exécution de la présente ordonnance, qui sera lue, publiée et affichée, afin qu'aucun n'en prétende cause d'ignorance.

Fait a Saint-Germain-en-Laye, le douzième jour de mai mil six cent soixante dix-huit.

Signé: LOUIS.

Et plus bas,

COLBERT.

Et scellé en placard du petit sceau des armes de Sa Majesté.

Réglé suivant l'arret de ce jour, a Québec, ce dernier jour d'octobre mil six cent soixante dix-huit.

Signé: PEUVRET.

[25 April,
1679.]

Ordonnance du roi
qui défend d'aller à
la chasse hors
l'étendue des terres
défrichées et une
lieue à la ronde, si
ce n'est qu'avec la
permission du gou-
verneur et qu'entre
le 15 janvier et le
15 Avril de chaque
année. 25 avril
1679.
Ins. Con. Sup.
Rég A. Fol. 91. Ro.

No. 1082.
ROYAL ORDINANCE FORBIDDING HUNTING
OUTSIDE THE CLEARED LANDS AND A LEAGUE
BEYOND,

EXCEPT WITH THE PERMISSION OF THE GOVERNOR, AND BETWEEN
JANUARY 15 AND APRIL 15 OF EACH YEAR.

EDITS ET ORDONNANCES. VOLUME I.

DE PAR LE ROI.

Sa Majesté s'étant fait représenter son ordonnance du douze mais mil six cent soixante-dix-huit, portant défenses à tous ses sujets du pays de Canada de chasser hors l'étendue des terres défrichées et habitées, et une lieue à la ronde, et aux gouverneurs et lieutenans généraux pour Sa Majesté au dit pays d'en expédier et délivrer à l'avenir aucune permission ; et Sa Majesté étant informée qu'encore qu'il soit propos d'empêcher la traite qui se fait dans les habitations des sauvages et profondeur des bois sous prétexte des congés de chasse, néanmoins l'exécution de cette ordonnance causeroit quelque préjudice à la colonie : à quoi Sa Majesté voulant pour voir, Sa Majesté a fait et fait très expresses inhibitions et défenses à tous ses sujets habitans du dit pays, de chasser hors l'étendue des terres défrichées et habitées et une lieue à la ronde, aux peines portées par l'ordonnance du douzième mai mil six cent soixante-dix-huit. Et néanmoins permet au sieur comte de Frontenac, gouverneur et lieutenant général pour Sa Majesté au dit pays, de donner des permissions de chasser depuis le quinzième janvier jusques au quinzième jour d'avril de chacune année, à condition que ceux qui les obtiendront seront de retour dans le dit jour quinzième avril et qu'ils ne pourront porter aucunes marchandises de traite, ni se faire payer aucunes dettes par les sauvages, et qu'il sera procédé contr'eux en cas de contravention suivant la rigueur de la dite ordonnance du douzième mai mil six cent soixante-dix-huit ; et à cet effet ils seront tenus de faire déclaration du jour de leur départ et retour pardevant les plus prochains juges des lieux, qui en donneront avis au dit sieur comte de Frontenac et au sieur Duchesneau, intendant de police, justice et finances au dit pays, auquel Sa Majesté mande de tenir la main à l'exécution de la présente ordonnance, qui sera lue publiée et affichée, afin qu'aucun n'en prétende cause d'ignorance.

Fait à Saint-Germain-en-Laye, le vingt-cinquième jour d'avril mil six cent soixante dix-neuf.

Signé: LOUIS.

Et plus bas,

COLBERT.

Et scelle du petit cachet de Sa Majesté.

L'ordonnance du roi dont copie est ci-dessus, a été enregistrée au greffe du conseil souverain, suivant son arrêt du

dernier octobre mil six cent soixante-dix-neuf, pour y avoir recours quand besoin sera.

Signé: PEUVRET.

[May, 1681.]

Amnistie pour les
coureurs de bois de la
Nouvelle-France.
Mai 1681. Ins. Cons.
Sup. Rég. A. fol. 90
Ro.

No. 1083.**AMNESTY FOR THE COUREURS DE BOIS OF NEW
FRANCE.**

EDITS ET ORDONNANCES. VOLUME I. 1854.

Louis, par la grâce de Dieu, roi de France et de Navarre, à tous présents et à venir, salut.

Les soins que nous avons pris de la colonie de notre pays de la Nouvelle-France, nous ayant fait connoître que pour la rendre florissante, il étoit nécessaire d'empêcher le commerce que plusieurs habitans du dit pays foisoient dans les habitations des Sauvages les plus éloignées, et dans la profondeur des bois, nous l'aurions défendu par nos ordonnances des quinze avril mil six cent soixante-seize, et douze mai mil six cent soixante dix-huit, nonobstant lesquelles la plupart des habitans du dit pays s'étant trouvés engagés par ce commerce illicite, auroient abandonné leurs maisons, et la culture de leurs terres, pour se mettre à couvert des poursuites de nos officiers, et éviter les peines qu'ils avoient encourues ; mais ayant enfin reconnu leur faute, et nous ayant fait supplier très-humblement de leur en accorder le pardon pour pouvoir retourner dans leurs maisons, nous avons bien voulu user envers eux de notre clémence.

A ces causes, de l'avis de notre conseil, et de notre pleine puissance et autorité royale, nous avons par ces présentes, signées de notre main, accordé et accordons aux dits habitans de notre pays de la Nouvelle-France, qui ont fait commerce avec les Sauvages, sans permission de ceux qui ont pouvoir de la donner, amnistie jusqu'au jour de l'enregistrement des présentes. Voulons et nous plait qu'ils soient rétablis en tous leurs privilèges, libertés, franchises, immunités et droits dont ils ont jouï paisiblement et ont droit de jouir, sans qu'ils puissent en être troublés à l'avenir, que les jugemens qui pourroient avoir été rendus contre eux pour raison de ce, soient de nul effet, et que les dites contraventions à nos ordonnances soient pardonnées, éteintes et abolies, comme de notre grâce spéciale, pleine puissance et autorité royale, nous les pardonnons, éteignons et abolissons, imposant sur ce silence perpétuel à nos procureurs généraux, leurs substituts et tous autres.

Si donnons en mandement à nos ames et feaux conseillers, les gens tenant notre conseil souverain de Québec, que ces présentes ils fassent lire, publier et enregistrer, garder et observer selon leur forme et teneur et de tout le contenu en icelles jouir et user les dits habitans de la Nouvelle-France, pleinement et paisiblement. Car tel est notre plaisir. Et afin que ce soit

chose ferme et stable à toujours, nous avons fait mettre notre scel à ces dites présentes.

Donné à Versailles, au mois de mai, l'an de grâce, mil six cent quatrevingt-un, et de notre règne le trente-huitième.

Signé: LOUIS.

Et sur le répli, Par le roi,

COLBERT.

Et à côté visa, Le Tellier, pour amnistie,

Signé: COLBERT.

Et scellé du grand sceau en cire verte sur lacs de soie rouge et verte.

Réregistrées suivant arrêt du dix-huitième aout, mil six cent quatrevingt-un.

Signé: PEUVRET.

[19 March, 1714.]

Ordonnance du roi
qui accorde une
amnistie entière
aux habitans de la
Nouvelle-France
qui ont été sa congé
parmi les nations
sauvages, et ce,
sous
certains conditions.
19 Mars 1714. Ins.
Cons. Sup. Reg. D.
Fol. 8 Ro.

No. 1084.

C

**ROYAL ORDINANCE, GRANTING FULL AMNESTY
TO THE INHABITANTS OF NEW FRANCE,**

WHO HAVE BEEN AMONG THE INDIANS WITHOUT PERMISSION.

EDITS ET ORDONNANCES. VOL. I. 1854.

DE PAR LE ROI.

Sa Majesté ayant été informée que contre les défenses qu'elle a ci-devant faites par ses ordonnances, plusieurs habitans de la Nouvelle-France, excités par l'espoir du gain et par libertinage, ont été parmi les nations sauvages sans congés ni permission des gouverneur général et intendant du dit pays pour faire la traite des marchandises et des pelleteries; lesquels, craignant la rigueur des dites ordonnances et d'être condamnés aux peines y portées, n'osent point revenir dans leurs familles et domiciles.

A quoi Sa Majesté désirant pourvoir, et sur les représentations qui lui ont été faites par les dits gouverneur général et intendant de la Nouvelle-France, voulant donner le moyen à ceux des dits habitans coureurs des bois, que leur légèreté a jetés dans ce mauvais parti, de ressentir des effets de sa

p. 2729

clémence, Sa Majesté a ordonné et ordonne, veut et entend que tous les habitans de la Nouvelle-France qui ont été courir les bois et faire le commerce avec les nations sauvages sans congé ni permission, et qui reviendront dans leurs domiciles dans le cours de l'année mil sept cent quinze, pourront le faire sûrement, sans crainte d'être poursuivis pour raison de leur désobéissance et contravention aux dites ordonnances; Sa Majesté les quittant et déchargeant des peines établies par

icelles et leur en accordant une amnistie entière, à condition toutefois qu'avant de revenir chez eux ils se rendront au fort de Missilimakina et qu'ils y serviront suivant les ordres qui leur en seront donnés par l'officier qui y commande, en cas qu'il soit jugé à propos pour le bien et la tranquillité du pays de faire la guerre à quelque nation sauvage, auquel cas ils seront tenus de se fournir de vivres, armes, poudre, plomb et canots pour la dite guerre, et pour raison de quoi ils rapporteront des certificats du dit officier commandant au dit Missilimakina, justifiant qu'ils se sont présentés et qu'ils auront exécuté ses ordres, lesquels certificats ils seront obligés de faire enregistrer au conseil supérieur de Québec dans la dite année mil sept cent quinze au plus tard, pour jouir du contenu à la présente ordonnance. Et à l'égard de ceux qui n'auront point été à Missilimakina, et qui seront pris après le dit terme expire, et ceux qui à l'avenir iront sans congés courir les bois et faire le commerce, vent et ordonne Sa Majesté qu'ils soient punis suivant la rigueur des ordonnances en quelque lieu qu'ils soient rencontrés, comme aussi ceux qu'on justifiera avoir favorisé ou aidé ou entretenu correspondance avec les dits coureurs de bois.

Enjoint Sa Majesté aux sieurs marquis de Vaudreuil et Bégon, lieutenant général et gouverneur, et intendant de la Nouvelle France, aux gouverneurs particuliers d'icelle et aux officiers des conseil supérieur et des juridictions qui y sont établis, de tenir la main et de se conformer à la présente ordonnance, laquelle sera enregistrée au conseil supérieur de Québec, et lue, publiée et affichée partout où besoin sera.

Fait à Versailles, le dix-neuvième mars, mil sept cent quatorze.

Signé: LOUIS.

Et plus bas,

Signé: PHELYPEAUX.

Et scellé du scel secret.

L'ordonnance du roi, ci-devant transcrite, a été enregistrée au greffe du conseil supérieur de Québec, oui le procureur général du roi, suivant son arrêt de ce jour, par moi conseiller, secrétaire du roi, greffier en chef du dit conseil, soussigné, à Québec, le vingt-cinquième fevrier, mil sept cent quinze.

Signé: De

MONSEIGNAT.

POLICE ORDINANCE FOR THE POST AT MINGAN.

Ordannance pour la
police au poste de
Maingan. 2e mai,
1733. Ord. de
1733
vol. 21, fol. 56 Vo.

EDITS ET ORDONNANCES. VOL. II. 1855.

GILLES HOCQUART, Etc.

Sur les différentes plaintes qui nous sont revenues, qu'il se passe des désordres considérables dans le poste de Maingan, par la traite qui s'y fait d'eau-de-vie aux sauvages par plusieurs particuliers de Québec et même de Louisbourg, qui y vont avec leurs bâtimens, de manière que quantité de familles sauvages qui étoient établies dans le dit poste, y sont péries par l'ivresse et l'usage immodéré de cette boisson, ce qui est également contraire à la religion, aux bonnes moeurs, et aux défenses qui ont été faites par Sa Majesté à ce sujet en différens tems, et notamment à celles portées par ses ordonnances du 6e. mai, 1702, 30e. juin, 1707, et 6e. juillet, 1709.

Pour à quoi remédier, nous avons commis et commettons le sieur de Lafontaine de Belcourt, qui doit se rendre au premier jour au dit Maingan et y résider, pour veiller à l'exécution des dites ordonnances ; en conséquences, lui ordonnons, dans le cas du flagrant délit, de saisir et arrêter les eaux-de-vie et autres boissons enivrantes dont seront chargés les traiteurs, d'en dresser des procès-verbaux présence de deux témoins, ainsi que de veiller aux autres contraventions aux dites ordonnances, pour, sur les dits procès-verbaux à nous envoyés et rapportés, être prononcé la confiscation et autres peines de droit.

Défendons au dit sieur Lafontaine de faire aucun commerce d'eau-de-vie au dit poste, ni par lui ni par ses engagés, sous les mêmes peines, et en outre de cinq cents livres d'amende applicable aux hôpitaux de cette ville.

Et sera la présente lue et publiée au dit lieu de Maingan, et partout où besoin sera, à ce que personne n'en prétende cause d'ignorance. Mandons, etc.

Fait à Québec, le deux mai, mil Sept cent trente-trois.

Signé: HOCQUART.

No. 1086.**INTENDANT HOCQUART'S MEMOIR, 1ST SEPT.,
1733.**

TRAITES DE TADOUSSAC.

PUBLIC ARCHIVES OF CANADA.
SERIES C 11. VOL. 59

Le Traite de Tadoussac consiste clans le droit de traiter seul à l'exclusion de tous autres clans l'etendüe des terres réservées pour le Domaine du Roy, étably par les articles 358 du bail de Domergue et 413 du bail de Carlier.

L'étendüe des terres réservées pour les traittes de Tadoussac avait été réglé par l'arrest du Conseil d'Etat du Roy du 15 May 1677, suivant lavis de Mr. Duchesneau l'ors Intendant en Canada conformément aux beaux faits par le Conseil souverain de Québec les 30 Octobre 1653 et 19 Octobre 1658, depuis deux lieues audessous des sept isles remontant dans le fleuve St. Laurent nord et Sud, jusque dans la Rivière du Saguenay, et au dessus des Lacs qui s'y déchargent avec deffenses an fermier d'envoyer des canots et des hommes hors d'icelle.

Par ordonnance du dix Avril 1684, il à été deffendu a tous ceux qui étoient habitués dans les dites limites d'y faire aucune traite avec les sauvages.

Par autre ordonnance du mois de Juin 1685, Sa Majesté voulant donner moyen aux habitans de la coste du sud de subsister aux termer de leurs concessions, et d'augmenter leur commerce sans avoir égard à ladite ordonnance du 10 Avril 1684 a permis aux habitans de la coste du Sud du fleuve St. Laurent de trait ter dans leurs habitations seulement avec les Sauvages de ladite coste à prendre depuis le lieu de Matane jusqu'à la coste de Lauzon, avec deffenses aux habitans de ladite coste du Sud du fleuve St. Laurent de traiter directement n'y indirectement dans l'étendtüe et les limites de la Traitte de Tadoussac, et avec autres sauvages que ceux de ladite coste du Sud a peine d'être déchus de leurs concessions et de mille livres d'amande.

Ainsi les limites de la Traitte de Tadoussac se renferment aujourd'huy clans le nord du fleuve St. Laurent depuis l'isle aux Coudres, jusqu'à deux lieues au dessous des sept isles, dans laqu'elle étendüe sont les Postes de Tadoussac, Chécoutimy, Lac St Jean, Nekouban, Mistassins, Papinachois, ou islets de Jérémie, les sept isles, La Rivière Moizy et lieux en dépendans. Les

sous-fermiers des traittes ont toujours traite dans ces postes, soit par des commis et Engagés qui y residioient, ou par des

françois qu'ils y envoioient tous les ans, faire la traite des le printems, personne n'a contesté ces postes au Domaine, mais les habitans des Trois Rivieres et ceux des costes de Batiscan et Champlain qui peuvent aller par leurs rivière jusqu'au Lac St. Jean et Nekouban, les Srs Jolyet et Bissot concessionnaires de Mingan, voisins de la Rivière Moizy et divers particuliers naviguans le long du fleuve St. Laurent, y ont fait un commerce préjudiciable aux traittes de Tadoussac, par eux-mêmes ou par des sauvages.

Les habitans des Trois Rivières. de Batiscan et de Champlain ont envoyé des sauvages Abénakis et Algonkins par les terres jusque dans les Postes de Checoutimy, du Lac St. Jean et de Nekouban où ils se rendent facilement par les rivières. Ces sauvages chassent dans les terres du Domaine, y détruisent les animaux et remportent à ceux qui les ont équipés des pelleteries qui ne devoient être traitées que dans les postes du Domaine, non contents de cela, ils traitent avec les sauvages montagnais habitués des terres du Domaine, et au moyen de l'Eau de Vie qu'ils leur fournissent, ils emportent une partie de leurs pelleteries, et enfin debauchent les sauvages du Domaine pour les engager à venir en traite aux Trois Rivieres et autres endroits, ce qui cause un double préjudice aux traittes du Domaine, ils en enlèvent une partie de pelleteries et font perdre aux Postes du Domaine, les Prets qu'on y avoit faits aux sauvages, et qu'ils ne sont plus en état de payer lorsqu'ils traittent leurs pelleteries à d'autres qu'à ceux qui les ont équipés.

Les sous-fermiers des Traittes de Tadoussac en ont dans tous les tems porté leurs plaintes ; en 1707 le Sr Hazeur lors sous fermier des Traittes, présenta requête à Mr Raudot, Intendant sur ce que plusieurs sauvages Abenakis et Hurons, s'étoient ingérez des 1705 d'aller chasser contre la coutume et nonobstant les deffenses aux environs du lac St Jean, et avoient porte. leur désordre dans l'hyver de 1706, au point d'obliger les sauvages habitués d'abandonner et de se retirer ailleurs. M. Raudot par son ordonnance du 26 7bre 1707 a fait deffenses à touter personnes de traiter n'y chasser dans le Domaine de Sa Majesté, renfermé dans les limites de Tadoussac, directement n'y indirectement à peine de confiscation de leurs armes, chasse et marchandises, et de la somme de mille livres d'amande, et en tous les dépens dommages et intérests envers le Roy et la Compagnie aux droits duquel elle est enjoint aux missionnaires des sauvages d'informer les chefs de leurs missions des intentions du Roy à ce sujet, afin qu'ils défendent à ceux de leurs nations, de contrevenir à ladite ordonnance, et en cas de contravention d'icelle, permis au sous fermier de faire informer à sa diligence contre les contrevenans.

En l'année 1720, le Directeur du Domaine informé par les commis préposés a l'exploitation des Traittes que plusieurs particuliers des Trois Rivieres envoioient des marchandises et surtout de l'Eau de Vie par des sauvages Abénakis et Algonkins à eux affidés dans les Postes du lac St Jean et de Nekouban et faisoient de commerce si ouvertement, qu'il se trouvoit

dans les Postes autant de marchandises venans des Trois Rivières que de celles du fermier, que plusieurs particuliers descendans le long du fleuve St Laurent, sous prétexte de faire ou d'entretenir des Etablissemens du coste de la bras d'or ou d'aller en pêche au petit nord en canot ou en bastiment, faisoient la traite sur les terres du Domaine présenta requête à Mr. Begon qui rendit son ordonnance sur icelle le 5 avril 1720, par laqu'elle en conséquence du privilège des fermiers, il est ordonné qu'ils auront seuls à l'exclusion de tous autres, le droit de traite, chasse, pesche et commerce dans l'étendue du Domain du Roy depuis l'isle aux Coudres, jusqu'à deux lieues au dessous des sept isles dans les Postes de Tadoussac, Checoutimy, lac St. Jean, Nekouban, Mistasins, Papinachois, Riviere Moizy et sept isles, et lieux en dépendans, fait deffenses à toutes personnes de quelque qualité et condition qu'elles soient tant aux particuliers établys dans l'étendue du dit Domaine, qu'aux marchands et habitans des villes de Québec et des Trois Rivières, capitaines et maîtres de charroys, barques, batteaux et navires, Gens de leurs Equipages et passagers et à tous autres généralement quelconques, de traiter, chasser, pescher n'y faire aucun commerce sous quelque prétexte que ce puisse être directement n'y indirectement par eux mêmes ou en envoyant des marchandises, vivres, boissons et munitions par des sauvages affidés dans les Pays dépendans des Traittes du Domaine de Sa Majesté, si ce n'est par commission expresse et par écrit du fermier, à peine de confiscation des armes, chasse, marchandises, pelleteries et effets traittés, canots, chaloupes, barques, charroys, batteaux et autres batimens généralement quelconques, et de la somme de mille livres d'amande applicable, les deux tiers au fermier, et l'autre tiers au dénonciateur. Permis au fermier de saisir et arrester à ses risques périls et fortune tous les canots qui se trouveront dans l'étendue dudit Domaine, chargés de marchandises de traite ou provenans de ladite Traitte, ensemble celles qui seront trouvées dans les Pays dépendans du dit Domaine à quelques personnes qu'elles puissent appartenir, comm'aussi de saisir et arrester à ses risques, perils et fortunes, tous les bastimens généralement quelconques qui se trouveront traiter ou avoir traitté avec les sauvages dans l'étendue dudit Domaine pour en poursuivre la confiscation sur les procès-verbaux de ses commis dûement affirmez et répétez.

Des deffenses n'ont point empêché les marchands et habitans des Trois Rivières, Batiscan et Champlain de continuer le même commerce par les sauvages Abénakis et Algonkins.

Le Directeur du Domaine de l'avis et approbation de Mr. Begon, prit le party en 1724 d'envoyer le Sr Amelin La Ganière par la Rivière des Trois Rivières jusqu'au lac appelé Choioatoissin qui pouvoit faire la borne des limites du Domaine afin que ce cornmis pût se rendre dans les Postes en même temps que les sauvages des Trois Rivières parce que les

Rivières étant praticables du costé des Trois Rivières trois semaines avant qu'elles puissent l'être à Checoutimy doù le fermier du Domaine envoyoit des Engagés dans les Postes du Lac St Jean et de Nekouban. Les sauvages envoyez des Trois Rivières sont rendus aux dts. lieux y ont fait leur traite et en sont repartys

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avant que les engagés envoyés de Checoutimy puissent y être arrivés. En 1726 Jean Gagnis engagé pour le voyage de Nekouban y trouva à son arrivée les sauvages des Trois Rivières qui avoient fait leur traite, quoy qu'il fut party de Checoutimy aussitost que les Rivières furent libres, en sorte qu'il ne peut faire aucune Traitte.

Le voyage du Sr de la Ganière a donné lieu aux contestations entre la Directeur du Domaine et les marchands des Trois Rivières renvoyées à la Cour, sur lesquelles il a été ordonné que les limites de la Traitte de Tadoussac seroient régléz par l'Intendant.

Cette affaire a demeuré en suspens jusq'à l'année 1730, que le Sr Hocquart pour régler les limites de la Traitte de Tadoussac en connoissance de cause, a envoyé dans tous les Postes jusqu'à la hauteur des Terres, pour reconnoître qu'elles sont les rivières, et Lacs qui se déchargent dans la Rivière du Saguenay.

Sur les journaux des Srs de la Chenay et Normandin qui y ont été il a fait dresser une carte du Domaine et en conséquence a réglé les limites de la Traitte de Tadoussac du costés des Trois Rivières par son ordonnance du

May dernier par laquelle le fermier est maintenu dans son droit exclusif de faire la traite, chasse, pesche et commerce dans toute l'Etendüe du Domaine aux termes de l'Ordonnance de Mr. Begon du 5 avril 1720.

Par autre ordonnance du 12 du dit moil de May dernier, le Sr Hocquart en donnant acte aux Srs Bissot, de la Gorgendière et Gourdault concessionnaires de la Seigneurie de l'isle aux oeufs de labandon par eux fait du terrain concédé à deffunt François Bissot de la Rivière leur auteur par la compagnie de la Nouvelle France, le 25 Fevrier 1661, depuis l'isle aux oeufs jusqu'à la rivière Moizy, et ayant égard à la demande du Directeur du Domaine a réuni au Domain de sa Majesté le dit terrain concédé au dit Sr Bissot depuis et compris ladite isle aux oeufs jusqu'à la pointe des Cormorans qui est à quatre ou cinq lieues au dessous de la Rivière Moizy.

Ce faisant deffend auxdits Srs Bissot, de la Gorgendière et Gourdault et à tous autres de faire directement n'y indirectement aucune traite, chasse pêche, commerce n'y Etablissement dans l'étendüe du terrain cy dessus réuni n'y dans la dite Riviere Moizy et autres lacs et rivières y affluantes, et de troubler le fermier du Domaine dans la jouissance, possession et exploitation des dits terrains sous les peines de droit. Ordonne que pour l'établissement fait aud lieu de Mingan par le dit Sr. Bissot et ses ayans cause, les parties se retiréront par devers Sa Majesté pour obtenir un nouveau titre

de concession du dit lieu de Mingan sur tel front et profondeur et sous telle redevance qu'il plaira à Sa Majesté leur accorder.

Le Pays dont les Srs. Bissot et consort demandent un nouveau titre de concession ne peut servir qu'à la traitte et à la Pêche de lous marina et morties. On ne peut y établir d'habitans, ainsi il paroist qu'il doit être concédé en censive. Mais quelque étendue qu'il plaise à Sa Majeste [sic] d'accorder au Sr Bissot, il convient que sa concession ne commence qu'à la rivière des islets environ dix lieues audessous de la Pointe des Cormorans pour faire une séparation entre le Domaine et la concession des particuliers

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de manière qu'ils ne puissent se nuire n'y préjudicier les uns aux autres, cette Etendue de dix lieues qui restent non concédée ne peut être d'aucune utilité. Le Sr Hocquart rendra compte par une depêche particulière de la demande du Sr Bissot et consorts s'il la faut.

Au moyen des deux ordonnances cy dessus, les limites des Traittes de Tadoussac sont certaines et invariables, et elles mettent le domaine à labry du commerce qui se fait à son préjudice parce qu'on peut l'empêcher en établiissant des Postes sur les bornes desdites limites. C'est le seul moyen d'y remédier. Les sauvages sont maîtres d'aller où bon leur semble, ils sont indépendans et ne peuvent être assujettys à aucunes deffenses. D'ailleurs il est impossible d'apporter obstacle à une contravention qui se passe dans la profondeur des bois, et on ne peut la prévenir que par des engagés résidens dans les Postes où les sauvages ont leur rendez-vous ; pour empêcher les étrangers de venir sur les terres du Domaine et ceux du Domaine d'aller traiter ailleurs sans quoy le même commerce subsistera toujours, ceux qui le font ont l'avantage de faire leur traitte en eau de vie. Ils font entendre aux sauvages qu'ils leur donnent leurs marchandises à plus bas prix que dans les postes du Roy, par ce qu'ils se dédommagent du bon marché qu'ils leur font de certaines marchandises sur les pelleteries qu'ils ont pour de l'eau de vie, c'est le plus grand attrait des sauvages, ils gardent leurs meilleures pelleteries pour en avoir et ne sont satisfait que quand ils se sont enyvres. Le voyage ne leur coute rien pour en trouver, et ils iront toujours préférablement à ceux qui leur en donneront leur discretion. L'on juge aisément que quand ils sont yvres on leur fait croire ce que l'on veut et l'on traite leurs pelleteries à vil prix, cela ne se peut pratiquer et ne se pratique point effectivement dans les Postes. On n'y donne d'eau de vie aux sauvages que dans le festin qui se fait une fois par an. Du reste on ne leur en traite qu'après qu'ils ont payé leurs prêts et traité les munitions et marchandises qui leur sont nécessaires.

Les Traittes de Tadoussac ont toujours été sous fermées jusqu'en 1718.

Par bail passé devant Roger, notaire à Quebec, le 8 octobre 1698, les Traittes de Tadoussac, Papinachois et Rivière Moizy dans toute leur étendue ont été sous fermées pour trois ans, commencés au premier dudit mois d'Octobre 1698, par le

Sr Tanger Directeur du Domaine d'Occident en Canada, et intéressé au bail de Louis Guigue fermier général du Domaine d'Occident aux Srs Pierre Dupont et Charles Perthuits, marchands à Québec sous le cautionnement du Sr Dupont, Conseiller au Conseil Supérieur de Québec pour le prix de 15,200 monnoye de France, payables en argent au cours de France, ou en lettre de change du Domaine au fur et à mesure que les retours viendraient des dites Traittes et dans tous les mois de septembre chaque année sous l'hypothèque spéciale des effets provenans desdites Traittes, notamment des castors au défaut d'iceux, des peaux passées d'orignaux, et orignaux en poil, et successivement des autres pelleteries et effets venans des dites Traittes, et ou les retours ne seroient pas suffisant, les preneurs tenus suppléer en lettres de change du Domain, avec convention expresse qu'au cas que les castors

vinssent à augmenter ou diminuer de prix, les parties s'en feroient raison respectivement.

Par bail passé devant Chambalon, notaire à Québec le 2 Octobre, 1701 la ferme et traite de Tadoussac. Chécoutimy et lieux en dependans, Papinachois et Rivière Moizy en toute leur étendue a été sous fermée pour huit ans commencés au premier Octobre 1701 par les Directeurs de la compagnie de la colonie etante aux droits de Louis Guigues, fermier général du Domaine d'Occident aux Sr Riverin et Hazeur pour la somme de 12,700 monnoye de france, payables le tiers en argent ou menües pelleteries, et les deux autres tiers en castors à raison de trois livres cinq sols la livre de castor gras demy gras et veule, trois livres, la livre de castor moscovite, et quarante sols la livre de castor sec hyver et robbes neuves, le tout argent de france et quitte des droits du quart, au fur et à mesure que les retours viendroient des dites traittes et dans le cours du mois de septembre de chaque année du bail sous l'hypotéque spéciale des effets venans desdites traittes et ou les retours ne seroient suffisans, les entrepreneurs tenus d'y suppléer en argent ou lettres de change bonnes et valables sur la Rochelle ou Paris, avec convention que les castors provenant desdites traittes des qualités cy dessus seroient reçus au bureau de ladite Compagnie aux prix cy dessus réglés pour le payement des deux tiers du prix de ladite ferme, l'excédent des dits castors 20 payé aux preneurs en lettre de change sur France aux termes de celles qui étoient fournyes pour le payement du castor de tout le pays et sur le pied desdits prix cy dessus, et que les castors d'été gras et sec ainsi que les rogneures et mitaines venant des traittes seroient rejettées de la recette des castors.

L'expiration de ce bail tomboit an premier Octobre 1709; on n'a point trouvé de nouveau bail fait à Mr Hazeur, mais seulement une adjudication faite le 16 Mars 1709, à la requeste des Srs Drouart, Robert, stipulant pour les Srs Pierre et Thierry Hazeur et Jean Soumande, tuteur de Delle Marie Anne Hazeur syndics des créanciers de la succession dudit feu Sr Hazeur au Sr Nicholas Pinaud, marchand à Québec de la sous fermes de Tadoussac et 30 dépendance d'icelle pour la somme de 6100 à commencer la jouissance au premier Octobre 1708 et finir à pareil jour de l'année 1710.

On n'a point trouvé non plus le bail qui a dû être fait de la sous ferme des traittes au premier Octobre 1710. On scait que le Sr Riverin en a été sous fermier depuis ladite année 1710 jusqu'en 1714.

Le 30 Aoust 1714, ladite sous-ferme a été adjudgée par Mr Begon Intendant à la requeste du Sr Demonseignat Directeur du Domaine au même Sr. Riverin, précédent sous fermier moyennant 16,000 monnoye du pays faisant 12,000 de france pour quatre années consécutives à commencer au premier Octobre 1714 sous les clauses suivantes :

1st, de payer le prix de l'adjudication en argent, monnoye de cartes ayant cours dans le pays au Directeur du Domaine,

dans le quinze Octobre de chaque année et de donner bonne et suffisante caution. (2nd) de payer au précédent fermier toutes les marchandises, vivres, ustancils, et meubles qui étoient actuellement aux Postes de Chécoutimy, Lac St. Jean, Nekouban, Mistassins, Tadoussac, Papinachois et Rivière Moizy dans le 15 Octobre, 1715,
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les dites marchandises payables sur le pied des factures du précédent sous fermier, et en cas de difficulté, ainsi qu'elles se vendroient en détail à Québec. Tous les prêts faits aux sauvages dans les dits Postes à raison de 20 sols par castor et de 10 sols par martre monnoye de France moitié en lettres de change des castors des quelles il demeureroit grand et moitié, en monnoye de cartes sur le pied des Inventaires et Etats qui seroient certifiés véritables et sincères par les Commis et préposés au dit précédent sous fermier sans aucune garantie desdits prêts tous les bastimens desdits lieux de Tadoussac Chécoutimy, Lac St. Jean et Papinachois suivant l'estimation qui en seroit faite par experts choisis par l'adjudicataire et le précédent sous fermier même le prix de la maison de la rivière Moizy. (3rd) de porter à la recette du bureau des castors ceux qui proviendroient de la traite des Postes de ladite sous ferme.

Et que l'adjudicataire du bail subséquent seroit tenu de prendre les marchandises qui resteroient aux Postes de ladite sous ferme à la fin du dit bail sur le pied du détail qui se feroit pour l'ours à Québec ainsi que l'adjudicataire étoit tenu de prendre celles du précédent sous fermier.

Le Sr Riverin, adjudicataire ayant été précédent sous-fermier n'eut point de difficulté pour les remboursements. Le Sr Guillemain se rendit caution du Sr Riverin par acte du 18 Octobre 1714, et ledit Sr Riverin étant mort pendant son bail, le Sr Guillimin a resté sous fermier au lieu et place dudit Sr Riverin.

A l'expiration du dit bail en 1718, le Sr Rivet faisant les fonctions de Directeur du Domaine fit afficher la sous ferme des traites pour une année aux charges suivantes.

1° de payer au fermier du Domaine le prix de l'adjudication dans le 15 Octobre 1719 en cartes réduites, et de donner bonne et suffisante caution et certificateur d'icelle, sans pouvoir prétendre aucune diminution du prix de l'adjudication sous prétexte de guerre, incendie, perte de bastimens et autres cas imprévus.

2° que l'adjudicataire ne pourroit à la fin de son bail obliger ceux qui se feroient adjuger la dite sous ferme de prendre de luy les effets qui se trouveroient dans les Postes qu'autant qu'ils luy conviendroient.

3° de porter à la recette du bureau des castors ceux qui proviendroient de la dite sous ferme.

Elle fut créée à ces conditions à la somme de 500 livres

pour trois publications et ne s'étant présenté aucun enchérisseur, Mr Begon par son ordonnance du 9 9bre 1718, sur la représentation du Sr Rivet de la nécessité d'envoyer incessamment des vivres et marchandises dans les Postes la saison étant fort avancée, ordonna au Sr Rivet de faire faire la régie de la dite sous ferme jusqu'au premier Octobre 1719 commettant le Sr Pierre Normandin pour faire la dite régie sous les ordres du dit Sr Rivet dont il rendroit compte au dit Sr Rivet ou autres qu'il appartiendroit, au moyen de quoy il luy seroit payé par

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le fermier du Domaine 750^l monnoye de France pour la dite année et que le Sr Guillimin comm'étant aux droits du feu Sr Riverin précédent sous fermier seroit remboursé des vivres et effets à luy appartenans, étans dans les postes conformément à l'article 2 du bail du Aoust 1714 fait audit Sr Riverin.

On doit présumer que le Sr Guillimin n'avoit trouvé aucun profit dans cette sous ferme pendant la durée de son bail puisqu'il ne se présenta point aux publications, la clause de ne pouvoir obliger le nouvel adjudicataire de prendre de luy les effets qui se trouveroient dans les Postes qu'autant qu'ils luy conviendroient n'étoit pas pour luy un obstacle, parce qu'il auroit pu consommer les marchandises qui restoient dans les postes pendant l'année qu'il auroit joüy, et que s'il s'étoit ; rendu adjudicataire, il auroit pû s'en faire continuer l'adjudication l'année suivante.

Mais il n'étoit pas étonnant que cette clause empêchat tout autre de se presenter aux Enchères. On sçavoit que Mr. Guillimin avoit envoyé des marchandises de rebut, et personne que luy ne pouvoit se charger de les rembourser sans espérance de prétendre un pareil remboursement.

Le Sr Cugnet arrivé en Canada en 1719 fit publier la dite sous ferme pour cinq années commencées au premier Octobre 1719, finissante à pareil jour 1724, aux charges, clauses et conditions suivantes :

1° que l'adjudicataire seroit tenu de payer le prix en espèces sonnantes en donnant bonne et suffisante caution, sans pouvoir prétendre aucune diminution de prix sous prétexte de guerre, incendie, perte de bastimens et autres cas imprévûs.

2° que la quantité et qualité des marchandises, vivres, ustancils et meubles lors restantes dans les Postes de Chécoutimy, Lac St. Jean, Nekouban, Mistassins, Tadoussac, Papinachois et Rivière Moizy seroit constatée entre le fermier du Domaine et l'adjudicataire sur les factures d'envoy faites pour le compte du dit fermier par le Sr Normandin et sur les inventaires et Etats des commis des Postes, et le prix des marchandises, vivres, ustancils, et meubles réglés sçavoir : pour celles envoyées par ledit Sr Normandin pendant le tems de sa régie sur le pied du détail à Québec en espèces pendant la mois d'octobre 1720 et pour celles qui pourroient être restées du tems des précédents sous fermiers suivant le prix qui en

auroit été remboursé par le fermier général aux précédents sous fermiers, le tout payable dans le 15 8bre 1720, en espèces ou lettres de change des castors au choix de l'adjudicataire en demeurant par luy responsable des dites lettres de change.

3° que l'adjudicataire seroit tenu de payer outre le prix de l'adjudication la somme de 150' pour loyer et jouissance des maisons et bastimens des postes, au moyen de quoy il n'en seroit fait aucun remboursement à la charge par l'adjudicataire de les entretenir de menües réparations à ses frais, et d'y faire les grosses réparations de la moitié desquelles grosses réparations il luy seroit tenu compte sur le prix de son bail, en avertissant par luy le fermier du Domaine de la nécessité d'icelles et justifiant de ce qu'elles auroient couté.

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4° De rembourser au fermier du Domaine dans le 15 Octobre 1720, les prêts faits aux sauvages dans les dits Postes pendant le bail du Sr Guillimin précédent sous fermier, et pendant l'année 1719 seulement, non ceux faits avant le bail du dit Guillimin ; lesdits prêts payables à raison du vingt sols par castor et dix sols par martre, monnoye de France, en espèces sonnantes ou en lettres de changes des castors conformément à l'article deux.

5° De porter à la recette du bureau des castors ceux qui proviendroient de la dite sous ferme.

Et enfin que l'adjudicataire du bail subséquent seroit tenu de faire à adjudicataire les mêmes remboursemens, et de la même manière qu'il est stipulé aux articles 2, 3 et 4, bien entendu que le dit adjudicataire du bail subséquent ne rembourseroit que les prêts faits aux sauvages pendant le bail proposé, non ceux faits pendant le bail de Guillimin et pendant l'année 1719, sauf à l'adjudicataire d'en faire le recouvremont pendant les cinq années de jouissance.

La sous-ferme créée par trois publications à la somme de 13000' personne ne se présenta aux enchères et Mr. Begon autorisa le Sr Cugnet par ordonnance du 6 9bre 1719, à continuer la régie de la dite sous ferme pendant une année, ainsy que le Sr Cugnet luy avoit demandé pour prendre de l'état de cette sous ferme une connoissance plus certaine, qu'il n'avoit pû l'acquérir depuis un mois qu'il étoit arrivé en Canada.

Les clauses de remboursement avoient été stipulées dans les affiches pour engager les marchands à enchérir, ce qui n'avoit point esté fait par les affiches du Sr Rivet. Le Sr Cugnet ne pouvant se dispenser de rembourser le Sr Guillimin conformément au bail fait au Sr Riverin le 30 Aoust 1714 lout Guillimin estoit caution, et à l'ordre de Mr. Begon du 9 9bre 1718, et par conséquent de stipuler dans la nouvelle adjudication le remboursement au fermier du Domaine, on avoit stipulé un pareil remboursement à faire au nouvel adjudicataire à la fin de son bail.

Le prix de 13000' ne fut pas un obstacle à l'adjudication, il avoit été mis suivant les instructions des fermiers généreux qui avoient donné ordre au Sr Cugnet de porter cette sous ferme au prix des précédents baux, peu instruit du détail des Traittes, il crut que le seul objet du remboursement avoit empêché d'encherir l'année précédente, et que les marchands pouvoient s'entendre pour faire tomber le prix de cette sous ferme, qui que ce soit ne se présenta, pas même le Sr Guillimin qui pouvoit plustôt qu'un autre s'en rendre adjudicataire parce qu'il auroit compensé le remboursement à faire au fermier du Domaine avec celui qui étoit encor à luy faire par le dit fermier, ce qui donne lieu de juger que le bail du Sr Guillimin ne lui avoit pas esté avantageux et qu'il ne trouvoit de profit que dans le remboursement par lui prétendu ; il avoit fait ce remboursement à 64346' 4^d en cartes à la réduction du quart seulement ; faisant de France 48259' 13^d pour les marchandises, vivres, ustancils meubles et maisons, et 6451' de France pour les prêts faits aux sauvages; ce remboursement fut réglé par Mr Begon à 302501' de France.

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On peut donc penser que c'est la diminution du produit des traittes qui a seule empêché de trouver alors des enchérisseurss, puisque l'on void que le prix de la sous ferme en étoit tombé à chaque renouvellement de bail.

Elle avoit été en 1698 à 15200' en 1701 à 12700', en 1714 à 12000' qui valoient à la vérité cette somme au fermier du Domaine, mais qui ne coutoit au sous fermier des Traittes que 8000' le prix étant aux termes du bail du Sr Riverin payable en cartes qui n'étoient que pour le quart de leur valeur clans le commerce par ce que les marchandises s'y vendoient à 400% du prix de leur achat en France. Les Traittes avoient encor dépéry pendant le bail du Sr Guillimin et il est à présumer que si la sous ferme en eût été continuée à quelque prix qu'elle eut été donnée, on se seroit trouvé à la fin du bail dans la même nécessité de les mettre en régie ou de les abandonner.

Cette diminution a eu plusieurs causes.

La plus considérable a été la destruction totale des originaux dans l'étendue du Domaine. Le Sr Riverin pendant le cours de son bail depuis 1710 jusqu'en 1714 fit passer dans les traittes quantité de sauvages hurons, Abénakis, et Mikmaks qui y ont entièrement détruit les originaux ; cette manoeuvre a enrichi le Sr Riverin et a détruit le fond du Domaine, depuis le tems le fermier n'a retiré que 5 ou 6 peaux d'originaux par an, et depuis 5 ans, il n'en a pas sorti une seule.

Le destruction de ces animaux a été suivye de la perte de plusieurs des sauvages du Domaine qui sont morts de faim dans le bois ; ils sont exposés à jeuner lorsque les hyvers sont rudes, et dans les autres tems ils sont obligés de chasser aux lièvres aux perdrix pour subsister, au lieu que s'ils trouvoient abondamment leur nourriture, ils s'occupoient à chasser aux martres; leur misère les met hors d'état de payer leurs dettes qu'ils payent aisément quand la chasse est abondante.

Les feux qui ont couru dans les bois ont esté une autre

cause de dépérissement des Traittes. Les incendies qui arrivent fréquemment détruisent ou cloignent les animaux de tout espèce, il y en a plusieurs depuis que les Traittes sont en régie, il brusla l'année dernière plus de deux cens lieues de Pays, le Printems les feux ont été jusqu'à la maison de Checoutimy et le commis s'est vû dans la nécessité d'enterrer les poudres.

Celuy qui est au Lac des Mistassins a tenu ses marchandises pendant tout l'été dernier sur le bord du lac pour les sauver du feu, il n'y a point de remède a ses accidens.

Enfin la mauvaise régie des sous fermiers des Traittes a aussi beaucoup contribué à les ruiner. Ne trouvant plus de profit dans les Traittes par l'abondance des pelleteries, ils se sont attachés à s'en procurer par de fausses Epargnes, ils n'ont envoyé que des marchandises de rebut qu'ils ont portees à des prix exorbitans, ils y ont fourny des armes et des munitions de mauvaise qualité ce qui a détruit nombre de sauvages et éloigné les autres. L'eau de vie a esté le principal objet de leur traite parce qu'ils ont eu pour cette liqueur les pelleteries à très vil prix. Plusieurs sauvages dénués des munitions nécessaires pour leur chasse d'hyver après avoir consommé leurs pelleteries en boisson sont morts de faim dans le bois: Le Sr Guillimin a

abandonné plusieurs Postes. Les anciens sous-fermiers avoient des Commis et Engagés résidens au Lac St Jean, à Nekouban et aux Mistassins, il y avoit au Lac St Jean et au Lac des Mistassins des maisons tant pour les Engagés que pour les missionnaires qui y hyvernoient. On voit encor dans ces deux endroits, les restes des maisons des Jesuites dans chacune desqu'elles il demouroit un prestre avec un frère. Labandon de ces Postes a accoutumé les sauvages à aller en traite à la mer du nord, du costé des Trois Rivières, et de la rivière du lièvre. Le Poste des Papinachois avoit été abandonné celui de Tadoussac ne s'en trouvoit pas plus abondant, parce que les sauvages des Papinachois alloient traiter à la coste du Sud aux sept isles, à Mingan, et aux bastimens qui cotoyoient le nord du fleuve St. Laurent, en un mot les sous fermiers n'ont eu en vue que le profit qu'ils pouvoient se faire par le remboursement qui devoit leur être fait à la fin de leur bail des marchandises qu'ils auroient dans les Postes.

On ne peut guerres espérer d'autre régie de la part de quelque marchand que ce soit qui sous fermera les Traittes.

Elles ne peuvent se soutenir que par deux objets, également nécessaires, et que l'on ne doit jamais perdre de vue, la conservation des sauvages, et celle de l'espèce des animaux.

Pour conserver les sauvages, il paroist nécessaire d'avoir des françois dans les postes qui y résident pour empêcher les sauvages du Domaine d'aller en traite hors de l'étendue du Domaine, ramener ceux qui s'en sont écartés et en attirer de nouveaux. Lorsqu'ils sçauront qu'il y a des françois à leur portée et de qui ils pourront avoir leurs besoins, ils se tiendront sur leurs terres et viendront apporter leurs pelleteries. Les françois résidens dans les Postes, empêchent en même tems les sauvages étrangers d'y venir apporter de l'eau de vie par le moyen de laqu'elle ils traittent avec ceux du Domaine, les détournent de payer leurs crédits, et les débauchent pour aller ailleurs.

Le Sr Cugnet a rétably des hivernemens de Nekouban et des Mistassins. L'expérience a fait reconnaître l'utilité de ces hivernemens, ils ont produit des pelleteries que l'on n'auroit point eu si l'on s'étoit contenté com'auparavant d'y faire faire un voyage au printems d'où on rapportoit trois ou quatre cens martres, au lieu que depuis les hivernemens, il en vient un millier.

L'hivernement des Mistassins est rétably depuis quatre ou cinq ans, Joseph Dorval, engagé, y a découvert au delà du Lac des Mistassins, une nation habituée dans un espace de terre que les sauvages appellent pays pelés parcequ'il n'y a point de bois. Ces sauvages n'ont point de canots n'y d'ecorce pour en faire, ils ne peuvent aller à Checoutimy, n'y aller à la mer du nord, ils traittoient avec les sauvages de la mer du Nord ils ont traite cette année avec D'orval, et c'est ce qui a produit treize cens martres dans ce poste qui n'en donnoit qu'environ deux cells avant les hivernemens. Cc poste pourra augmenter

en continuant d'y tenir des françois.

L'hivernement de Nekouban n'est pas moins nécessaire par rapport à la proximité des sauvages des Trois-Rivières et de la rivière du lièvre. Il a été rétably depuis deux ans. Jean Baptiste Dorval des Groseliers qui y a hiverné marque par sa lettre du 19 juin dernier qu'il a eu trente hommes de

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la mer du Nord qui se sont retirés avec une partie de leurs pelleteries faute de marchandises, qu'il les a arrêtés pendant dix jours, mais que la disette de vivres les a fait partir, les marchandises n'avoient pû être rendües à son poste, parce qu'il ne s'est point trouvé ce printems à Checoutimy de sauvages pour monter les canots d'assez bonne heure. Le produit de ce poste auroit approché de celui des Mistassins sans ce contretemps.

On peut espérer que la résidence des françois dans ces deux postes bonifieroit encor plus par la suite le produit des traittes. Mais il faut du tems pour y attirer les sauvages, et il est difficile d'avoir des françois qui veuillent y demeurer continuellement plusieurs années de suite. Le Pays est extrêmement dur: ils n'y vivent qu'au poisson pendant l'été; l'hiver ils ont du lièvre et des perdrix blanches, mais ils manquent souvent de l'un et de l'autre ainsi quand ils ont passé deux hyvers, ils veulent revenir à Québec pour se rétablir. L'interruption d'une année détruit l'ouvrage de deux ans, ce qui retarde l'avantage qu'on en peut tirer. D'ailleurs ces hivernemens coutent beaucoup de frais, on ne peut avoir des commis et Engagés qu'à gros gages, il faut faire monter huit canots de trois places et demy dans chacun des deux postes pour y porter les marchandises et munitions. Chaque canot monté de deux hommes coute quatre vingt castors sçavoir: vingt pour le canot et trente pour chaque homme sans compter les vivres. Ces frais absorbent une grande partie du bénéfice de la traite, et font qu'il ne reste qu'un profit très médiocre, ainsi il n'est pas étonnant que des marchands se déterminent plus volontiers à abandonner ces postes qu'à des avances considérables dont le produit est peu de chose. Cependant labandon cause un préjudice considérable aux Traittes, lorsqu'on a cessé d'hiverner, il falloit envoyer tous les printems trois françois à Nekouban et autant aux Mistassins, l'Equipement de ces six engagés coutoit 1500' en gages et vivres. Les frais de canots étoient à peu près les mêmes ainsi ce que l'hivernement coute de plus est compensé par l'utilité qu'on en retire, à quoi il faut ajouter que pour les voyages annuels, on se sert de nouveaux Engagés chaque année, et que dans le nombre il s'en trouve plusieurs peu fidels qui peuvent aisément emporter avec eux en revenant à Québec des menües pelleteries dans leurs coffres ou sac d'Equipages sans que les commis des postes puissent y remédier parce qu'ils les cachent dans les bois; des Engagés volontaires ne peuvent point tomber dans ces malversations parce qu'ils ne sortent point du Poste au retour de leur voyage et que quand ils quittent, on les visite en sortant du Poste.

Suppose que l'on voulût retrancher même les voyages du Printems à Nekouban et aux Mistassins pour en épargner les frais, le Poste de Chécoutimy tomberoit de plus de moitié de son produit.

En second lieu il faut que les Postes soient garnys de bonnes marchandises et munitions, et avoir attention que les sauvages traittent de celles qui leur sont le plus nécessaire par préférences à celles qui ne sont que d'ornemens ou de plaisir comme l'eau de vie ; il y a des années ou la chasse est peu abondante, et ne peut sufire à entretenir les sauvages, on est obligé dans ce cas de les équiper de nouveau pour les mettre en estat de chasser l'année suivante, alors l'attention des commis des postes doit estre de ne leur prêter que ce qui leur

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est nécessaire, et de veiller à ce que ces sauvages payent leurs dettes après la chasse. Ces prêts sont sujets à des inconvéniens mais ils sont indispensables à moins de laisser périr les sauvages et leur perte entraineroit celle du Domaine.

On ne doit pas compter sur ces attentions de la part d'un sous fermier marchand qui n'aura en vüe que son profit au risque de laisser dépérir le fonds de la Traitte. Il cherchera à traiter préféablement l'eau de vie et les bagatelles qui sont l'ornement des sauvages dont ils sont plus avides que de ce qui leur est nécessaire, parce que la traitte d'eau de vie donne bien plus de profit que celles des munitions et des hardes nécessaires.

Enfin il faut que les commis et Engagés principaux dans les pontes soient affectionnés, sages, entendus pour la traitte, accoutumés à vivre avec les sauvages, qu'ils sachent la langue de la nation, et soient capables de s'en faire également aimer et craindre.

Le succès de la Traitte dépend entièrement des sujets qu'on y employe, on ne peut y employer que des canadiens voyageurs instruits des manières des sauvages par l'habitude de vivre avec eux, ce sont par conséquent gens grossiers, difficiles à ménager, prêts à quitter au moindre sujet de mécontentement qu'ils s'imaginent avoir, qu'il faut traiter doucement parcequ'on ne trouve pas à les remplacer sur le champ, et qu'il est rare d'en trouver de bons, ils sçavent à peine écrire, leur capacité se borne à la langue et à sçavoir conduire les sauvages, ainsi on ne peut point exiger d'eux un compte exact de leur gestion, ils ne peuvent que recevoir les marchandises qui leur sont envoyées, et remettre les effets qu'ils ont traittés avec les inventaires des marchandises qui leur restent en magasin et des prêts des sauvages. L'on ne peut sçavoir s'ils régissent bien ou mal que par une attention très suivye à balancer les retours qu'ils donnent avec les dépenses pour juger si le défaut de retour doit leur être imputé ou aux événemens des saisons. Leurs gages étoient autrefois à bien meilleur prix qu'aujourd'huy tout est devenu plus Cher en Canada.

Les Commis et Engagés ont eu jusqu'à présent outre leurs gages et leur nourriture l'a moitié de leur chasse sçavoir: les pelleteries au prix qu'elles sont vendües et des huiles à trente

livres audessous de leur prix de Québec pour indemniser le fermier des frais de Tonnelier et du transport des huiles. L'usage de leur accorder cette moitié de chasse est fondé sur ce que la moitié réservée au fermier dédommage d'une partie de leurs gages à proportion de la chasse qu'ils peuvent faire, et qu'ils ne s'y attacheroient pas s'ils n'y avoient leur intérêt.

Le missionnaire des Traittes pent aussi contribuer beaucoup à affectionner les sauvages au bien de la Traitte ou à les aliéner; l'autorité que lui donne son caractère, et les fréquentes conversations qu'il a avec les sauvages sans que les commis puissent s'y opposer n'y même en avoir connoissance et mettent en état de servir ou de nuire autant qu'il le veut, ainsi on est obligé de se l'attacher par des égards, d'autant plus qu'il est plus maître de sa conduire et que les régisseurs ne peuvent pas en changer. Le missionnaire peut aussi être d'une grande utilité pour contenir les commis et Engagés dans

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leur devoir, pour quoy on est obligé de soutenir son autorité à laquelle cependant il faut avoir attention de ne pas laisser trop d'étendue.

Pour la conservation de l'espèce des animaux it est nécessaire d'empêcher que les sauvages étrangers viennent chasser sur les terres du Domaine, et même que les sauvages du Domaine chassent ailleurs que sur leurs terres. On conservera par ce moyen l'espèce des animaux dans chaque canton, pour en retirer année commune la meme quantité de pelleteries, et si le produit est moins considérable on est certain qu'il subsistera plus longtems.

On pourroit ne point s'assujettir à toutes ces précautions dans un pays ou la Traitte seroit abondante par le quantité d'animaux et de sauvages, mais elles sont indispensables dans les terres du Domaine ou la quantité des uns et des autres en sont diminuée. L'on doit conclure de tout ce qui vient d'estre expliqué que l'on ne peut avoir trop d'attention pour la régie de cette traitte ou trop veiller à ce qu'un sous fermier se conduise sur ces principes, on ne peut guerres l'attendre d'un marchand qui n'a pour but que de faire en peu de temps plus grand profit parce que les pertes à venir ne tomberont point sur luy.

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La Traitte est exploitée dans les postes de Tadoussac de Checoutimy, Nekouban, et Mistassins, dependans du poste de Checoutimy, des islets de Jeremie et de la Riviere Moizy.

* * * *

Les sauvages de Nekouban ou Chabmouchouane qui est le même pays sont au nombre de trente sept chefs de famille.

Les Grands Mistassins et les gens de la hauteur des terres sont quarante trois chefs de famille.

Ces deux derniers postes de Nékouban et des Mistassins ont été rétablys depuis quelques annees ainsi qu'on la explique cy dessus, on marque icy seulement les sauvages qui y sont habitués. On ne sait point encor le nombre de ceux qu'on espère y attirer, la nécessité d'entretenir les Postes de Nekouban ou Chabmouchouane et du Lac des Mistassins a été

expliquée cy devant.

Le Poste des Islets de Jérémie ou Papinachois s'étend depuis le bord de la mer jusqu'à la hauteur des terres, il s'y fait des huiles de loup marin et quelques pelleteries de petite quantité. La chasse du loup marin se fait à la pointe des Bersiamistes dans l'automne et dans le printemps, on ne peut la faire l'hiver parce que les ances gèlent et qu'on ne peut s'y embarquer pour aller au large chercher le loup marin sur les glaces qui dérivent.

Le Commis fait tous les ans un voyage dans les terres pour faire la traite avec les sauvages des terres. Ce poste a donné du profit depuis qu'il est rétably, il avait été abandonné sur l'idées qu'il pourroit être exploité par les commis de Tadoussac; on a reconnu que le Poste de Tadoussac n'était pas d'un plus grand produit lorsque les Papinachois y étoient joints, qu'il n'a point diminué par le rétablissement des islets de Jérémie, et que ce dernier dont on ne retiroit rien, donne du profit, il faut être près des sauvages pour avoir leur traite, et dès qu'on en est éloigné, ils viennent bien emprunter

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mais ils vont payer ailleurs. Au reste les sauvages des islets de Jérémie sont les plus aisés et ceux qui payent le mieux.

Il y a au bord de la mer vingt quatre chefs de famille, et vingt dans les terres.

Le Poste de la Rivière Moizy s'étend aussi du bord de la mer à la hauteur des terres, il s'y fait des huiles de loup marin et de la pelleterie. La chasse de loup marin ne s'y fait comm'aux islets que dans l'automne et le printemps parce que les ances y gèlent.

On pourroit y faire aussi une pêche de saumon très abondante dans la Rivière Pacaasseeschame, on ne sy attache point à cause du peu de debit de cette marchandise dont on ne trouve plus la défaite quand il en a plus de douze ou quinze barriques à Québec.

Le Poste de la Rivière Moizy est celui où se trouvent les plus belles martres de la partie de Tadoussac, il a toujours donné du profit.

Il y a quarante chefs de famille tant au bord de la mer que dans les terres.

Lordonnance du Sr Hocquart du 12 May dernier pourra rendre ce poste meilleur. Le Sr René Cartier a projeté d'établir un hyvernement au lac Des Naskapis où sont habitués les sauvages Naskapis, nation douce et facile à gouverner, nombreuse d'environ quarante familles qui n'a point de canots, et qui ne menage point ses pelleteries pour traiter. Ils s'habillent de peaux de caribou et de castors, et leurs enfans de martres et menües pelleteries. En faisant un Etablissement près d'eux on leur fournira les munitions et hardes nécessaires moyennant quoy on aura leurs pelleteries, et on les engagera à chasser plus qu'ils ne font.

Le Poste de la Rivière Moizy et sept isles est exploité par le Sr René Cartier de compte à moitié avec le Domaine qui fait les avances d'Equipement et s'en rembourse sur les retours, il y

a pour l'exploitation de ce Poste un bastiment particulier appartenant par moitié au Domaine et au Sr Cartier. Il en a été construit un neuf l'hyver dernier, celui qui y servoit étant hors de service.

* * * *

Le Directeur tant en cette qualité qu'en celle de receveur général et particulier a esté chargé du soin de toute la régie tenir la main à ce que les employés fassent fidèlement et diligemment leur devoir, prévenir et empêcher les fraudes, poursuivre les redevables, suivre et soutenir les procès et contestations tant en demandant qu'en deffendant pour les droits du Domaine soit d'entrée ou de sortie ou Domaniaux et requérir pour ces derniers la jonction du Procureur Général du Roy, exécuter et faire exécuter les ordonnances, arrêts et règlements concernans la régie du Domaine et à cette fin requérir devant l'intendant et poursuivre tous jugemens nécessaires. Poursuivre les contrevenans jusqu'à jugement définitif, transiger de l'autorité et aveu de l'Intendant, en conséquence donner main levée des saisyés et composer des amendes et confiscations, faire par devant luy la vente des choses saisyés et confisquées, après la confiscation prononcée, demander la séquestration en ses mains de tous biens vacans, désereances aubaines et bastardises et

jusqu'à jugement définitif pour en rendre compte à qui il est ordonné et généralement veiller à la conservation de tons et chacuns les droits du Domaine.

Toutes les parties concernant la conservation des droits du Domaine seront d'orenavant suivies immédiatement et par les ordres de l'Intendant.

En la même qualité de Directeur et Receveur Général, il estoit chargé de payer les dépenses assignées sur le Domaine par l'Etat du Roy et pour les frais de justice sur les ordonnances de l'Intendant et de payer aussi les appointemens de commis et gardes et frais ordinaires de bureau et en retirer quittances valables.

Aujourd'huy ce sera le Trésorier de la marine qui sera chargé de tous ces payemens suivant les ordres qui luy seront donnés par l'Intendant.

Les fonctions du Contrôleur sont de tenir un contrôle exact de toutes les recettes et dépenses faites pour la régie du Domaine, recevoir les déclarations de l'arrivée et du départ des vaisseaux, expédier les congés d'embarquement et débarquement, les certificats de décharge des acquits à caution, et les états de chargement des navires conjointement avec le Directeur, et sous les ordres et en l'absence du Directeur de gérer pour luy les affaires du Domaine.

Les fonctions du visiteur sont de faire la vérification et visite de toutes les marchandises qui entrent en Canada et de celles qui en sortent et de tenir registre, ainsi qu'il a été expliqué cy dessus, empêcher les fraudes des droits du Domaine, veiller à la conduite des capitaine, brigadier et Gardes de la Brigade, et dresser les procès verbaux de saisie des marchandises qui se trouvent en contravention.

[April, 1737.]

Fait à Québec le Premier Septembre 1733.

HOCQUART

Declaration du roi
portant annistie
pour les coureurs
de bois, Avril
1737.
Ins. Cons. Sup.
Reg. H. Fol. 20
Ro.

No. 1087.

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**ROYAL PROCLAMATION OF AMNESTY FOR
COUREURS DE BOIS.**

EDITS ET ORDONNANCES. VOL. 1. 1854.

Louis, par la grâce de Dieu, roi de France et de Navarre; à tous présens et à venir, salut.

Le feu roi notre très-honoré seigneur et bisaïeul aurait, par sa déclaration du vingt-un mai, mil six cent quatre-vingt-seize, défendu sous peine des galères à toutes sortes de personnes d'aller en traite avec les sauvages de la Nouvelle-France, dans la profondeur des terres; et cette défense eut pour motifs non seulement les débauches des Français qui alloient courir les bois

et traiter indifféremment chez toutes les nations sauvages, mais encore le préjudice que la colonie de la Nouvelle-France souffroit de ces courses, tant par rapport à la culture des terres, que par rapport au commerce du castor; il voulut cependant bien, en différens tems, accorder à ceux qui y avoient contrevenu, des amnisties pour les mettre en état de revenir avec sureté dans la colonie ; et quoique ce parti de douceur n'eut pas eu le succès que l'on devait en attendre, nous voulûmes bien, à l'exemple du feu roi, accorder par notre edit du mois de mars, mil sept cent seize, une nouvelle amnistie à ceux de ces coureurs de bois qui dans un an reviendroient à leur domicile, en faisant défenses par le même edit à tous Francais de rester dans les bois avec les sauvages et d'y monter pour y aller faire la traite sous quelque prétexte, ni pour quelque cause que ce fût, à peine du fouet et des galères contre les contrevenans, nous avons été informé que plusieurs de ces coureurs de bois ont profité de cette amnistie ; mais il nous a été représenté qu'il y en a encore qui, touchés de leur faute, ne demandent qu'à pouvoir la réparer en revenant à leur domicile, c'est pour leur en procurer les moyens, que, sensible à leurs instances, nous voulons bien user encore de notre clémence envers eux.

A ces causes et autres à ce nous mouvans, de l'avis de notre conseil et de notre certaine science, pleine puissance et autorité royale, nous avons remis et remettons aux habitans de la Nouvelle-France qui ont été courir des bois et faire le commerce avec les nations sauvages sans congé ni permission, la peine du fouet et des galères portée par notre edit du mois de mars, mil sept cent seize, qu'ils ont encourue ; à la charge par eux de revenir dans leur domicile, dans le terme et delai d'un an, à compter du jour de l'enrégistrement des présentes, et de se présenter devant le gouverneur et lieutenant-général pour nous au dit pays ; voulons en conséquence qu'ils jouissent de la présente amnistie, sans qu'ils puissent à l'avenir être recherchés pour avoir contrevenu aux défenses portées par notre dit édit ; imposons sur ce silence perpetuel à nos procureurs-généraux, substituts et autres ; faisons très expresses inhibitions et défenses à tous Francais de rester, après le dit tems passé, dans les bois avec les sauvages, et d'y monter pour aller faire la traite sous quelque prétexte ni pour quelque cause que ce soit, à peine du fouet et des galères contre les contrevenans, ainsi qu'il est porté par notre dit édit du mois de mars, mil sept cent seize, lequel sera exécuté en ce qui n'y est dérogé par les présentes.

Si donnons en mandement à nos amés et féaux les gens tenant notre conseil supérieur à Québec, que ces présentes ils fassent lire, publier et régistrer, et le contenu en icelles garder et observer selon leur forme et teneur, nonobstant tous édits, déclarations, arrêts, ordonnances et autres choses à ce contraires, auxquels nous avons dérogé et dérogeons par ces présentes. Enjoignons au sieur marquis de Beauharnois, notre gouverneur et lieutenant-général en la Nouvelle-France, au sieur Hocquart, intendant au dit pays, et à tous autres nos officiers qu'il appartiendra, de tenir la main à l'exécution des présentes, et à tous

autres nos sujets de s'y conformer; et afin que ce soit chose ferme et stable à toujours, nous avons fait apposer notre scel à ces dites présentes.

p. 2748

Donné à Versailles, au mois d'avril, l'an de grâce mil sept cent trentesep et de notre règne le vingt-deuxieme.

Signé: LOUIS.

Et plus has, Par le roi,

Signé: PHELYPEAUX,
Avec Paraphe.

Visa, Daguesseau, et scellées du grand sceau en cire verte sur lacs soie rouge et verte.

Les lettres patentes ci-devant et des autres parts transcrites, ont été registrées, oui et ce réquerant le procureur-général du roi, suivant l'arrêt de ce jour, par nous conseiller, secrétaire du roi, greffier en chef du dit conseil, soussigné, à Québec, le dix-neuvième août, mil sept cent trente-sept.

Signé: DAINE.

[28 Oct., 1744.]

No. 1088.

C

MEMORIAL

OF THE LESSEE OF THE KING'S POSTS ON THE EFFECT OF THE ESTABLISHING
OF A TRADING POST IN ESQUIMAUX BAY.

CAN. ARCH. C. ¹¹/₁ 109, p. 287.

MÉMOIRE.

Le Sr Fornel négociant de Québec avoit obtenu depuis deux ans la permission de faire un Etablissement de Pêche a loup marin dans la Baie del Kitchechatsou.

Le veritable but de son projet a Eté de former dans les profondeurs des Terres au dessus de cette Baie un Etablissement de Traitte ou il espéroit attirer les Sauvages qui commercent dans les postes Etablis sur la coste du nord du fleuve St Laurent. Et Encor plus ceux qui vont dans les postes du domaine. Et par la s'attribuer à l'Exclusive des fermiers du Domaine Et des Concessionnaires des postes de la Coste du nord la Traitte avec les Sauvages repandus dans cette partie du Canada.

Les Sauvages Montagnais divisés En plusieurs nations sous les nonis particuliers de Mistassins, chichertigaux, Papinachois, Nascapis &^a habitués dans la profondeur des Terres du Domaine ne peuvent se rendre dans les Postes qui y ont Eté Etablis qu'avec beaucoup de difficultés. Les Rivieres

p. 2749

qui peuvent les conduire des Lacs sur lesquels ils sont habitués

Projet d'Etablissem.
pour la Baye de
Kitchechatsou pour
accoutumer les
Sauvages
qui ne conoissent
pas encore les
francois à traiter
avec eux.

aux postes françois et anglois sont d'une difficile navigation, pleines de sauts et de rapides qui les obligent a des portages presque continuels et tres longs. D'ailleurs il ne se trouve point dans ces Pais d'Ecorces propres a faire des canots. En sorte que ces Sauvages n'ont que les canots qu'ils peuvent avoir des françois et des anglois En petite quantite, Et que la plupart sont obligés de faire presque tout le chemin a pied. ils auroient au contraire beaucoup de facilité a serendre a l'Etablissement que le Sr fornell se proposoit par la Riviere de Kitchechatsou aussi large et aussi profonde que le Saguenai pourvû qu'on leur portât des Ecorces pour faire les Canots qui leur seroient necessaires.

Ceux de ces Sauvages qui occupent toute L'Etendue de Pais depuis le lac des Naskapis Jusqu'au detroit de Bellisle tant du coste de la Baie d'hudson que du coste du fleuve St Laurent S'attachent Seulement a la chasse des animaux qui peuvent les nourrir et ne tuent que le Caribou Et les ours blancs. Ils ne connoissent les françois et les anglois que par relation des autres Sauvages qui Traitent avec les uns et les autres ; lorsqu'ils tuent des martres et des Renards, qu'on assure y Etre abondans et plus beaux que ceux de Mingan et de toute la coste de labrador, Et dont ces Sauvages negligent la chasse, ils en consomment les Peaux a leur habillement Et a ceux de leurs Enfants.

Le S. Cugnet fermier des Traittes de Tadoussac a Eû ces Connoissances par le rapport de ses commis quil avoit chargés depuis plusieurs années de suite a sen instruire avec les Sauvages memes, Et par les informations qu'il en a prises de plusieurs voïageurs de la Coste du nord qui ont Eû occasion devior plusieurs fois les Sauvages des Terres on lui a même apporté une Carte de Toute l'Etenduë de ce Pals tracée par les Sauvages mêmes.

Le prejudice que l'Etablissement du S. fornell causeroit a l'Exploitation des Traittes du Domaine a determiné, Monseigneur, a Expliquer a Mrs. de Beauharnois et hocquart les Intentions de Sa Majesté Sur l'Entreprise du Sr. fornell, Les ordres qu'ils ont reçûs a cet Egard ne Sont point Encor connus.

Le Bien du Service de Sa Majesté Et l'augmentation de son domaine de Tadoussac En Canada sont des motifs suffisans de rendre compte a Monsiegnur, des avantages que la Baie de Kitchechatsou peut procurer et des moyens de s'assurer de la possibilité ou impossibilité du succès.

On peut former a quarante lieües dans la profondeur de la Baie de Kitchechatsou sur une riviere venant du Nordouest qui S'y decharge un Etablissement de Traitte qui deviendroit en quelques années avantageux parce que non seulement on attireroit les Sauvages accoutumés a Traitter avec les françois, mais que l'on parviendroit par la suite a accoutumer les Sauvages qui ne connoissent point Encor les marchandises francoises a Enfaire usage par ou on les Engageroit a faire plus de Pelleteries, Et a les menager mieux pour se procurer le secours de ces marchandises, on pourroit aussy y attirer les Sauvages qui vont a la Baie d'hudson parce qu'ils trouveroient la même facilité que les autres a venir a l'Etablissement de Kitchechatsou.

Cet etablissement se faisant a quarante lieües dans la profondeur des Terres seroit hors de portee des Eskimaux qui Se

tiennent ordinairement a l'Entree de la Baie, Et ne remontent jamais dans la profondeur, ni ne vont

p. 2750

dans les bois par la crainte qu'ils ont des autres Sauvages avec lesquels ils sont toujours En Guerre.

Quatre ou cinq hommes suffiroient pour garder ce Poste et y faire la Traitte, il Seroit Seulement necessaire de les y transporter avec leurs vivres Et les marchandises de Traitte dans un bâtiment de Soixante Tonneaux an moins. Ce bâtiment serviroit tous les ans a apporter les Pelleteries de Traitte, Et porter les vivres Et les marchandises de l'Equipment.

Le Bâtiment Seroit obligé de passer devant les Endroits ou les Eskimaux Se tiemient; mais ils ne seroient point a craindre, pour vû que personne de l'Equipage n'y descende a terre, que Pon Evite avec Soin de les harceler, Et que l'on s'attache au contraire a leur donner toutes les démonstrations d'amitié qui pourront les rassurer, en se tenant cependant tres Exactement Sur Ses gardes, pourquoi ce batiment doit Etre armé de dix a douze hommes avec quatre Pierriers, les fusils et autres munitions Suffisantes pour leur defense en cas d'attaque.

Les Eskimaux paroissent naturellement plus ouverts et plus Gais que les Sauvages montagnais et Naskapis, mais l'Envie qu'ils ont de s'emparer impunement des Ustancils françois qu'ils sont curieux d'avoir les rend voleurs et Traîtres il Est moralement certain que l'on les affranchiroit En leur fournissant les Ustancils Et les marchandises qu'ils souhaitent, et leur faisant Connoître qu'ils peuvent S'assurer de les avoir de bonne Volonté. On ne doute point de trouver dans la baie de Kitchechatsou des Endroits propres a la Pêche du loup marin, de la Baleine et de la Vache marine, il y a des isles vis a vis les deux pointes qui en forment l'Entrée. Le batiment En feroit la decouverte en allant a L'Etablissement de la Traitte Et a son retour. Lors-qu'on aura un endroit certain pour un Etablissement de Peche, il sera necessaire d'y construire un fort a l'Epreüve des Surprises des Eskimaux, Garny de six pierriers, armes et munitions avec vint hommes pour le Garder commandés par un maître Sage Et habile, Capable d'empêcher Son monde de s'Exposer Indiscretement aux attaques Imprevües des Eskimaux En S'Ecartant soit pour la chasse ou la pêche, Et de prevenir en même tems toutes les insultes que l'on pourroit faire imprudemment a ces Sauvages, les recevant au contraire humainement lorsqu'ils se presenteroient pour demander ce qu'ils voudroient avoir. Par ce moïen on les affranchiroit seurement En quelques années au point de S'en Servir utilement pour les pêches. Les nommés Augustin Raby et Charles Le Cour navigateurs canadiens les ont vûs plusieurs fois, ont Eté plus d'une Journée de suite au milieu d'Eux, et ont traité avec Eux amiablement. Ces Sauvages les Connoissent et paroissent flattés de les Entendre nommer l'On ou L'autre.

En reunissant au Domaine du Roi Et a la Traitte de Tadoussac La Baie de Kitchechatsou Et les Rivieres qui S'y dechargent, les Etablissements de Traitte que l'on pourroit y faire ne porteroient aucun prejudice a la Traitte de Tadoussac des qu'ils en feroient partie.

Le Succès de l'Etablissement de Traitte dans la profondeur de la Baie peu Etre regardé presque comme indubitable. La réussite de ceux de Pêche est tres vraisemblable. Les uns et les autres par conséquent Sont un moïen

d'augmenter de beaucoup les fonds du Domain vulgairement appellé La Traitte du Tadoussac. Mais comme le Succès n'en est pas encore connu, qu'il Est indispensable d'y hazarder des depenses Tant pour la decouverte que pour les Etablissemens La Traitte de Tadoussac jointe pour neuf années à l'Entreprise de ces Etablissemens au prix actuel du Bail de cette Traitte, faciliteroit les moiens d'y parvenir et dédommageroit En partie des depenses a y faire, Supposé que le succes ne repondit pas aux Espérances qui S'y presentent.

Les Etablissemens de Traitte et de Pêche reussissans Sa Majesté En retireroit l'avantage de se former En neuf années de tems Sans aucune depense Et meme sans rien diminuer de son revenu actuel, un Etablissement qui amelioreroit de beaucoup le fonds de son Domaine de Tadoussac et dont Elle tireroit apres les neuf années Expirées un prix de ferme plus avantageux qu'elle ne pourra jamais l'avoir de la Traitte de Tadoussac seule.

Les S^{rs} Cugnet actuellement Fermier de La Traitte de Tadoussac, Et Estèbe Garde des magazins de Sa Majesté a quebec offrent d'Entreprendre les Etablissemens cy dessus proposés dans la Baie de Kitchichatsou et Rivieres y affluantes Et d'en avancer les Depenses, S'il plaisoit a Monseigneur leur accorder pour neuf années consécutives a commencer au premier octobre 1747 Et finir a pareil jour de L'année 1756 Le bail de la Traitte de Tadoussac En y reunissant et y Compris la Baie de Kitchichatsou avec les Isles et Islets adjacens, Lacs et Rivieres qui S'y dechargent, Et toutes les Terres non coneedées contentües En l'Etenduë de Païs depuis la d. Baie de Kitchichatsou, la pointe de Bellisle Jusqu'a la baie d'Hudson moyennant le prix et Somme de 4,500 fr. de ferme par chaque année, Et a la charge par Eux de former pendant la premiere anneé du bail l'Etablissement Sedentaire de Traitte dans la riviere et profondeur et la Baie de Kichechatsou dont ils Seront tenus d'Envoyer un plan a Monseigneur dans la seconde année du d. bail avec un proces verbal du d. Etablissement dressé par le maître du bâtiment qu'ils y Envoieront Et par le Commis qui y sera Etabli pour la Traitte a l'Effet d'en Certifier Sa Grandeur, Et d'y faire pareillement dans le Cours de leur bail les Etablissemens possibles de Pêche de Loup marin, Baleine, Et vache marine dont ils rendront Egalement Compte a Monseigneur par proces verbaux de visite et d'Etablissement dans l'anneé qu'ils pourront Etre faits, Et En outre aux autres charges, clauses, Et conditions du bail de la Traitte de Tadoussac fait an S. Cugnet le 21 Aoust 1737.

fait a Quebec le Vint huit Octobre mil sept cent quarante quatre

CUGNET

ESTÈBRE.

[10 April, 1753.]

No. 1089.

**EXTRACT FROM A JOURNAL OF TRANSACTIONS
AND REMARKS AT RICHMOND FORT**

FROM AUGT. 11TH 1752 TO SEPTEMBER 31ST 1753

RECORDS, HUDSON'S BAY COMPANY.

10th April 1753.

[8 Sept., 1760.]

Mr. Isbister has taken great Pains in giving me a particular account of the natives round us in particular ye Nashcopy Indians, where in he informs me (wch. I have been already informed by our Indians) that if said. Nashcopy Indians never comes to trade wth ye English or French but, traffiks wth, the other Indians, wch trads wth Both Nations & that a trade may be got wth ym in Winter they being nearer, to us then any English or French settlement and that if I could, prevail wth. any Indians, bordering near ym to go & acquaint ym. that we are settled in ye Gulph, he is persuaded it will turn out to great advantage all which I have done. some months before Mr. Isbister's letter came to hand & is in hopes of seeing some Nashcopy Indians here in ye fall.

No. 1090.

C

**EXTRACTS FROM ARTICLES OF CAPITULATION,
MONTREAL, 1760.***

(Translation)†

Articles	de	Between	their
Capitulation	Entre	Excellencies	Major
Excellence	Le	General	Amherst,
Amherst	Commandant	en	Commander in Chief of
Chef Les Troupes &			his Britannic Majesty's

*The Articles of Capitulation of Montreal as here given, are taken from the copy enclosed in the despatch of General Amherst to Pitt, dated " Camp of Montreal," 8th Sept., 1760, as contained in Vol. 93 of the papers relating to "America and the West Indies," in the Public Record Office.

† As in the case of the Articles of Capitulation of Quebec, the English version of the Articles of Capitulation of Montreal, here given, follows that in " Capitulations and Extracts of Treaties Relating to Canada," 1797. Other versions with slight variations are to be found in Knox's "Journal," Vol. II., p. 423, in " Documents Relative to the Colonial History of the State of New York," Vol. X., p. 1107, and in the " Annual Register," for 1760, p. 222.

<p>Forces de Sa Majesté Britanique En L'Amerique Septentrionale, Et Son Excellence Le M^{is} de Vaudreuil, Grand Croix de L'Ordre Royal, et Militaire de St Louis, Gouverneur et Lieutenant Général pour le Roy en Canada.</p>	<p>troops and forces in North-America, on the one part, and the Marquis de Vaudreuil, &c. Governor and Lieutenant-General for the King in Canada, on the other.</p>
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* * * *

Art: 26

Cette Compagnie
Sera maintenue dans la
propriété des Ecarlatines
et Castors qu'Elle peut
Avoir dans La Ville de
Montreal ; Il n'y Sera
point touché, Sous
quelque prétexte que ce
Soit, Et Il Sera donné a
L'Agent principal les
facilités Necessaires pour
faire passer Cette Aimée
En france Ses Castors Sur
les Vaisseaux de Sa M^{te}
Britanique, En payant le
fret sur le pied, que les
Anglois le payeroent.—
Accordé pour ce qui pout
appartenir à la Compagnie
ou aux particuliers, mais
Si Sa Majesté Très
Chretienne y a aucune
part, Elie doit être au
profit du Roy.

* * * *

Art: 37

Les Seigneurs de
Terres, Les Officiers
Militaires et de Justice Les
Canadiens, Tant des Villes
que des Campagnes, Les
francois Etablis ou
Comerçant dans toute
l'Etendue de la Colonie de
Canada, Et Toutes Autres
personnes que ce puisse
Estre, Conserveront

Article XXVI.

The said company
shall be maintained in the
property of the Ecarlatines
and Castors, which they
may have in the town of
Montreal; they shall not be
touched under any pretence
whatever, and the
necessary Licences shall be
given to the Chief Agent to
send this year his Castors
to France, on Board his
Britannic Majesty's ships,
paying the freight on the
same footing as the British
would pay it.—“ Granted,
with regard to what may
belong to the company, or
to private persons; but if
his Most Christian Majesty
has any share in it, that
must become the property
of the King.”

Article XXXVII.

The Lords of Manors,
the Military and Civil
officers, the Canadians as
well in the Towns as in the
country, the French settled,
or trading, in the whole
extent of the colony of
Canada, and all other
persons whatsoever, shall
preserve the entire
peaceable property and

<p>L'Entiere paisible propriété et possession de leurs biens, Seigneuriaux et Roturiers Meubles et Immeubles, Marchandises, Pelleteries, et Autres Effets, même de</p>	<p>possession of the goods, noble and ignoble, moveable and immoveable, merchandizes, furs and other effects, even their ships; they shall not be touched, nor the least</p>
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p. 2754

<p>Leurs batimens de Mer; Il n'y Sera point touché ni fait le moindre damage, sous quelque prétexte que ce Soit:--Il leur Sera Libre de les Conserver, Louier, Vendre, Soit aux François, ou aux Anglois, d'En Emporter Le produit En Lettres de Change, pelleteries Especies Sonantes, ou autres retours, Lorsqu'ils Jugeront propos de passer en france, En payant le fret, Comme a L'Article 26.</p>	<p>damage done to them, on any pretence whatever. They shall have liberty to keep, let or sell them, as well to the French as to the British; to take away the produce of them in Bills of exchange, furs, specie or other returns, whenever they shall judge proper to go to France, paying their freight, as in the XXVIth Article. They shall also have the furs which are in the posts above, and which belong to them, and may be on the way to Montreal ; and, for this purpose, they shall have leave to send, this year, or the next, canoes fitted out, to fetch such of the said furs as shall have remained in those posts.—“ Granted as in the XXVIth article.”</p>
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Ils Jouiront aussi des
pelleteries qui sont dans les
postes d'En haut, & qui leur
appartiennent, Et qui peuvent
même estre En Chemin de
se rendre à Montreal. Et à
cet Effet, Il leur Sera permis
d'Envoyer dès cette Année,
ou la prochaine, des Canots
Equipés pour Chercher
Celles de ces pelleteries qui
auront restées clans ces
postes.—Accordé comme
par L'Article 26.

* * * *

Art: 40

Les Sauvages ou
Indiens Allies de Sa M^{te}
tres Chretienne Seront
maintenus dans les Terres
qu'ils habitent, S'ils
Veulent y rester ; Ils ne
pouront Estre Inquietés
Sous quelque prétexte que
ce puisse Estre, pour avoir

Article XL.

The Savages or
Indian allies of his most
Christian Majesty, shall be
maintained in the Lands
they inhabit ; if they chuse
to remain there ; they shall
not be molested on any
pretence whatsoever, for
having carried arms, and

pris les Armes et Servi Sa
 Ma^{té} très Chretienne.—Ils
 auront Comme les
 François, la Liberté de
 Religion et Conserveront
 leurs Missionnaires.— Il
 sera permis aux Vicaires
 généraux Actuels Et à
 L'Eveque, lorsque Le Siege
 Episcopal Sera rempli, de
 leur Envoyer de Nouveaux
 Missionnaires Lorsqu'ils Le
 Jugeront Necessaire.—
 Accordé, à la reserve du
 dernier Article qui a deja
 été refusé.

served his most Christian
 Majesty ; they shall have,
 as well as the French,
 liberty of religion, and
 shall keep their
 missionaries. The actual
 Vicars General, and the
 Bishop, when the
 Episcopal see shall be
 filled, shall have leave to
 send to them new
 Missionaries when they
 shall judge it necessary.
 —“Granted except the last
 article, which has been
 already refused.”

* * * *

p. 2755

Art: 41

Article XLI.

Les francois,
 Canadiens, Et Accadiens,
 qui resteront dans la
 Colonie, de quelque Estat et
 Condition qu'ils Soient, ne
 Seront, ni ne pourront Estre
 forcés a prendre les Armes
 Contre Sa M^{té} très
 Chretienne, ni Ses Alliés,
 directement, ni
 Indirectement, dans quelque
 Occasion que ce Soit. Le
 Gouvernement Britanique ne
 pourra Exiger d'Eux qu'Une
 Exacte Neutralité.—Ils
 deviennent Sujets du Roy.

The French,
 Canadians, and Acadians
 of what state and
 condition soever, who
 shall remain in the
 colony, shall not be
 forced to take arms
 against his most
 Christian Majesty, or his
 Allies, directly or
 indirectly, on any
 occasion whatsoever; the
 British Government shall
 only require of them an
 exact neutrality.—“ They
 become Subjects of the
 King.”

* * * *

Fait a Montréal
 le 8 Sep^e 1760.

Done at Montreal, the 8th
 of September, 1760.

[5 June, 1762.]

VAUDREUIL.

“VAUDREUIL.”

Fait an Camp
 devant Montreal ce 8^e
 Septembre 1760.

Done in the Camp
 before Montreal, the 8th
 September, 1760.

JEFF: AMHERST.

“JEFFERY AMHERST.”

endorsed: Copy—

Articles of Capitulation— Granted

to the Marquis de Vaudreuil.—
8th Sepr. 1700.

No. 1091.

**GENERAL MURRAY'S REPORT ON THE STATE OF
THE GOVERNMENT OF QUEBEC, 1762.**

VIDE PART VII, No. 199

No. 1092.

LEASE OF THE KING'S POSTS, 1762.

CANADIAN ARCHIVES, Q. 25.

This Indenture made at Quebec the Twentieth day of September in the Year of Our Lord One Thousand Seven Hundred and Sixty-two, between His Excellency James Murray, Esquire, Governor of Quebec and dependancies thereof, in behalf of His Majesty on the one part, and Thomas Dunn and John Gray, merchants of Quebec of the other part.— Witnesseth, That for and in consideration of the Rent and Covenants herein after reserved and contained on the part and behalf of the said Thomas Dunn and John Gray their Executors and administrators, to be paid, kept and performed, His said Excellency Governor James Murray in behalf of His Majesty hath demised, granted and to farm letten and by these presents doth demise and grant and to farm let unto the said Thomas Dunn and John Gray the several Posts for carrying on the Indian Trade and several sorts of Fishery heretofore known in this Province by the name of Kings Posts, with all and singular the impliments, profits, commodities and appurtenances thereunto belonging or appertaining to have & to hold the said Posts, with their and every of their appurtenances before mentioned, for and during the term of one year certain, from the first day of October next ensuing, as also for the term of fourteen years from the first of October, One Thousand, Seven Hundred and Sixty-three, yielding and paying therefore yearly and every year during the said term unto the Governor of Quebec for the time being, or to whom His Majesty shall please to appoint, the Sum of Four Hundred pounds this currency, in one payment upon the first day of October of every year during the continuance of this present Lease, providing no order to the contrary should arrive from Great Britain. In case the said contrary orders should not arrive before the Month of June in the next or any of the subsequent years it is the true intent and meaning of this Indenture, The said Thomas Dunn and John Gray shall enjoy the same until the first of October of the year following, as before the month of June supplies must be sent to the said Posts for twelve months to come, owing to the nature of the commerce carried on with the Indians, & the navigation of the River St. Lawrence being practicable only a certain time and that were the said Lessees obliged to relinquish these Posts after their advances and dispositions made for another year, they must be subject. to very considerable losses and the said Thomas Dunn

& John Gray shall be at liberty to relinquish the same, they also on their parts giving twelve months notice, to the Governor for the time being, that the Crown may take proper measures for supplying the same, and if it should happen the said Yearly Rent of Four Hundred Pounds or any part thereof should be behind and unpaid by the space of thirty days after the expiration

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of the Year, then the Governor of Quebec for the time being for and in behalf of His Majesty or whom He shall appoint to re-enter, have, repossess and enjoy the same again, and the said Thomas Dunn and John Gray their Executors, Administrators and Assigns thereat and from thence expel and put out anything herein to the contrary therefore in any wise notwithstanding, and the Said Honorable James Murray Esquire, Governor of Quebec doth for and in behalf of His Majesty Warrant the said Thomas Dunn and John Gray from all intrusion by any other Traders whatsoever, and in particular from such as shall possess and live at the farm of Malbaye which from its situation and easy communication therewith might otherwise intirely distroy their Trade for and during the continuance of the present Lease as do the said Thomas Dunn and John Gray agree for themselves their Executors, Administrators and Assigns, or some or One of them, shall and will at their own proper costs and charges, support keep and maintain all the appurtenances of the said Posts in such order as they receive them ; and the Said Honorable James Murray Esquire, Governor of Quebec for and in behalf of His Majesty his Heirs and Successors doth covenant & grant to and with the said Thomas Dunn and John Gray their Executors, Administrators and Assigns that they he said Thomas Dunn and John Gray their Executors, Administrators and Assigns paying the said yearly rent of Four Hundred Pounds above reserved in manner aforesaid, and performing all and every covenants and agreements herein before contained, which on their parts and behalvs are or ought to be paid, done, or performed; shall and may peaceably and quietly possess and enjoy the said Posts, hereby demised for and during the term hereby granted, with the aforementioned provisa, without the trouble or interruption.

In Witness whereof we have hereunto Interchangeably Set our hands and Seals the day and year afore written

JAMES MURRAY
Signed THOM^s. DUNN
JOHN GRAY

I do hereby certify that the foregoing deed is a true and correct copy taken from the original as recorded in the English Register Office of Enrollements for the Province of Quebec

GEO. POWNALL, Sec.

ENDORSED: Certified copy of the Lease of the King's Domain at
Tadousac &ca. granted by Governor Murray to

Thomas Dunn & John Gray
20th Sept. 1762.

No. 1093.**ROYAL PROCLAMATION OF OCTOBER, 1763.**

[7 Oct., 1763.]

CLAUSES BE INDIAN TRADE TO BE FREE.

[10 Nov., 1764]

 Vide Vol. I, page 157.

No. 1094.
AN ORDINANCE,

TO PREVENT RUM AND OTHER STRONG LIQUORS BEING SOLD TO THE
INDIANS.

Whereas many Disorders have happened, and may happen, from Rum, Brandy, Wine, Beer, and other strong Liquors, being sold to the Indians; His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, Doth Declare and Ordain, *And it is hereby Declared and Ordained, by the Authority aforesaid,* That from and after the Publication hereof, any Person or Persons whatsoever, inhabiting or trading into this Province, who shall carry any strong Liquors whatsoever to any Indian Village, or shall vend or dispose of the same to any Indian or Indians whatsoever, such Person or Persons shall forfeit for every such Offence, the Sum of *Twenty Pounds*, current Money of this Province, one Half whereof shall be for the Use of His Majesty's Government, the other Half to him, her, or them who shall inform, to be recovered by Distress and Sale of the Goods of the Offender or Offenders, on the Oath of one credible Witness, before any one of His Majesty's Justices of the Peace for the said Province.

Provided always, and it is hereby Declared and Ordained, by the Authority aforesaid, That it shall and may be lawful for any Person or Persons (having Licence to retail Liquors), to sell or vend to any Indian or Indians, any, Quantity of Ruin, or other spirituous Liquors, not exceeding half a Pint in one Day for every such Indian, on his, her, or their producing a Permit for that Purpose, signed by the Curate or Priest of the Parish where he, she, or

p. 2759

they respectively reside, or more than an equal Proportion of other strong Liquors, as shall be particularly expressed in the said Permit.

GIVEN by His Excellency the Honorable JAMES MURRAY, Esq.; Captain-General and Governor in Chief of the Province of QUEBEC, and Territories, thereon depending in America, Vice-Admiral of the same, Governor of the Town of Quebec, Colonel-Commandant of the Second Battalion of the Royal American Regiment, &c. &c. In Council, at Quebec, the 10th Day of November, Anno Domini, 1764, and in the Fifth Year of the Reign of our Sovereign Lord GEORGE the III. by the Grace of GOD, of Great-Britain, France and Ireland, KING, Defender of the Faith, &c. &c.

JA: MURRAY.

By Order of HIS EXCELLENCY in Council,
H: KNELLER, D: G: G:

No. 1095.

[22 Dec., 1766.]

PROCLAMATION

BY THE HONORABLE GUY CARLETON, LIEUTENANT-GOVERNOR AND COMMANDER IN CHIEF OF THE PROVINCE OF QUEBEC, ON SUBJECT OF VIOLENCE TOWARD INDIANS AND ILLEGAL OCCUPATION OF THEIR LANDS.

QUEBEC GAZETTE, December 29, 1766.

A PROCLAMATION

Whereas Advices have been received That several unprovoked Violences and Murthers have been committed upon the Indians under His Majesty's Protection in the Countries adjoining to His Majesty's Provinces in North-America, and that Settlements have been made in the said Countries, beyond the Limits prescribed by His Majesty's Royal Proclamation of 1763, in the Grounds therein allotted to the Indians: Whereby the said Indians have been greatly and justly discontented : His Excellency the Lieutenant-Governor and Council of this Province, do hereby strictly enjoin and command all the Inhabitants of the same, to avoid every Occasion of giving the Indians Offence, and to treat them as Friends and Brothers intitled to His Majesty's Royal Protection; and, if any of the said Inhabitants have made any Settlements on the Indian Grounds, to abandon them without Delay, under Pain., in case of Failure herein, of being prosecuted, as Disturbers of the Peace of the Province, with the utmost Rigour of the Law.

And to the End that the Persons guilty of the above-mentioned Violences may be speedily discovered and brought to Justice, His Excellency the the Lieutenant-Governor and the Council of this Province, do hereby give publick Notice, That if any Person will make Discovery of any Murther or Imprisonment, or other illegal Violence, committed upon any of the Indians on the Borders of this Province ; or of any Destruction made of their Houses, Settlements, or Goods ; or of any violent Interruption of them in their hunting upon the Grounds allotted to them by His Majesty's Royal Proclamation, dated at St. James's, the Seventh Day of October, 1763 ; or of any Settlement illegally made by any of His Majesty's Subjects of this Province on the said 11 Grounds, so that any of the said Offenders may be convicted of such Offence, upon a legal Prosecution, the Person making such Discovery, shall, upon the Conviction of the Offender, receive a Reward of Fifty Pounds.

Given Under my Hand, at the Castle of Saint Lewis, in the City of Quebec, this 22d Day of December, in the Seventh Year of His Majesty's Reign, and in the Year of Our Lord 1766.

GUY CARLETON.

By the Lieutenant-Governor's Command,
J. Goldfrap, D. Secry.

[16 May, 1767.]

GOD SAVE THE KING.

No. 1096.

**STATE OF THE POSTS OF THE KING'S DOMAIN IN
CANADA,**

WITH AN ABSTRACT OF THE PROCEEDINGS RELATING THERETO SINCE THE
REDUCTION OF THAT COUNTRY.

CAN. ARCHIVES, C.O. 42, Vol. 6, p. 117.

The Posts of the Kings Domain vizt. Tadoussac, Islets de Jeremie, Chicoutimy and Sept Isles situated on the north side of the River St. Lawrence were during the French Government under the immediate management of the Director thereof who was appointed to that charge by the Governor & Intendant of Canada. He furnished them at the Kings expence with the merchandize & effects proper for the Indian trade or fisherys which were carried on at these several Posts, and received from thence likewise upon the Kings account, the furs, oyl, fish or other produce of the same. They had formerly been

farmed but the lease expiring in 1756 they were advertised and no one bidding for them on account of the war the Intendant lest the savages should quit their usual haunts ordered them under the before-

p. 2761

mentioned direction, which continued until our arrival altho the expence far exceeded the produce. When they were let out to farm the highest rent paid for them under the french government was 7000 livres or £291.13.4 Str.

After the reduction of Canada in 1760 The Indians of the Domain deputed their Chief & Missionary to adress General Murray in their favor, & represented to him that they were in the utmost misery & distress since the Conquest, destitute of provisions & every necessary, begging that they might be taken under the protection of His Britannick Majesty and supply'd & maintained in the same manner they had been in the time of the french.

The General after enquiring into the nature and establishment of the Domain, reported a state of it to General Amherst who ordered it to be continued on the same footing as formerly, and an Agent or Director was appointed to supply them with merchandize &ca. & to receive the returns on the Kings Account. An Officer & Party was also ordered to the Posts to preserve order & prevent abuses and irregularity. In the year 1762 when the Accounts of the Domain were made up after a two years supply the clear Revenue arising to His Majesty appeared to be very trifling, which the General reported to the Board of Trade & to the Treasury, and recommended the letting them out to farm as the most advantageous measure for the public. He received in answer that he might dispose of them as he should judge most expedient. They were accordingly let out at lease to those who offered the highest price vizt. £400 p. annum. The terms of this lease were that the Leasees should enjoy the Posts of the Kings Domain for one year certain commencing from the first day of October 1762, and for fourteen years if no orders to the contrary should arrive from Great Britain, and if such contrary orders should not arrive before the month of June in the next or any of the subsequent years, that the Leasees should enjoy the same until the first of October in the year following. The General reported his proceedings in this behalf to the Boards of Trade & Treasury for their approbation but received no answer at that time.

7 Octr. 1763.

31 Jan. 1765.

His Majesty was pleased to issue His Royal Proclamation signifying his pleasure with regard to North America and enjoining that the Trade with the Indians described therein might be free & open to all His Subjects

Genl. Murray issued a proclamation in consequence of that of the King last mentioned setting forth that hostilitys were now ceased with the several Indian nations who had lately appeared in arms against His Majesty and a friendly intercourse between His Majesty's Subjects and them thereby restored, declaring that the trade with the several Indian

9 March,
1765.

nations living under his Protection was free and open to all His Subjects under the restrictions mentioned in said Royal Proclamation.

V.C. Book.
p. 80.

The General having been doubtful whether the Kings Domain in Canada & the lease thereof granted on behalf of His Majesty was or was not affected by the Kings Proclamation as no express mention was therein made of the same, had reported his thoughts on that subject to the Board of Trade and received for answer in general terms that the fate of the Posts of the Kings Domain was determined by the said Royal Proclamation of 7th Octr. 1763.

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Octr. 1765.

Several merchants in Quebec misunderstanding the purport of the Kings Proclamation (as the Leasees apprehend) apply'd to the Governor & Council for liberty to trade to His Majestys Domain. The Leasees did not conceive their Lease to be in any respect invalidated by the Royal Proclamation but rather strengthened as they apprehended the Proclamation could only be understood to give His Majestys American subjects a free passage over his ungranted & unleased lands which yield him no profit, but by no means to destroy such leases as produce a considerable annual rent to His Majesty and thereby render the lands so leased of no advantage to His Revenue; but as said Leasees had very considerable property at stake which by laying open the Domain would be greatly injured, and in order to gain time until His Majestys further pleasure should be known they Represented their case to the Governor & Council praying that they might be supported in their possession until the last day of September following. In Council it was resolved that as their request appeared highly just & reasonable an advertisement should be inserted in the Quebec Gazette forbidding all persons from interrupting them in their trade to the Domain under any pretext whatever until the last day of August following which was giving sufficient time for any traders to avail themselves of the same for the succeeding year if the Domain should finally be laid open.

21 March
1766.

2 June 1766.

Messrs. Alsop, Chinn & Co. apply'd to government for a special permission to trade with the Indians of the Domain in particular. The General on this occasion equally as tender of injuring the individuals concerned in the lease by any act of his, as zealous to comply with the letter of the King's Proclamation granted to Messrs. Alsop & Co. a general permission to trade with the Indians within the Province in conformity to the same.

Thomas Mills Esquire upon his appointment to the Office of Receiver General for the Province of Quebec being among other things charged with the Superintendancy of the Kings Domain and Estates in Canada to receive the rents & Revenues thereof and to enquire into the state & nature of the lease of the Posts of the Domain granted as before mentioned by General Murray and to report thereon, wrote to the Acting Receiver

General for the time being, directing him to apply to the Governor & Council to support the Leasees in the uninterrupted possession of their Lease until His Majesty's pleasure should be further known.

The Acting Receiver General in conformity to the above directions laid Mr. Mills's letter before the Council & joined the Leasees at same time in representing that Messrs. Alsop & Co. had prepared two vessels laden with matterials for Building on the Domain contrary to the spirit & meaning of the King's Proclamation, praying that such proceedings might be prevented and that the Leasees might remain in peaceable possession agreeable to the tenor of their lease. In consequence of the aforesaid representation the Governor & Council altho they did not consider Mr. Mills's letter to the Acting Receiver General as of sufficient authority to forbid any persons but the Leasees from trading to the Domain, ordered that Messrs. Alsop & Co. should be warned & forbid at their peril to erect buildings on the lands reserved by

July 1766.

His Maj^s Proclamation to the savages within the Province, & that they or others transgressing in such case should be prosecuted according to law.

The Receiver General arrived from England, and having examined into the state of the Kings Domain & the lease thereof granted, and finding that Mr. Alsop & Co. still persisted in erecting buildings thereon to the great hurt of the Leasees and detriment of the Kings Revenue notwithstanding the notice that had been given them, moved the Governor & Council to reconsider the case & grant protection to the Leasees who had on their parts in every respect fulfilled the conditions of the Lease, begging it might be made known to all His Maj^s subjects that the Posts of the Domain were by no means laid open & that all other persons whatsoever might be strictly forbid to trade thereto. At same time an affidavit of Mr. Peter Stuart a Justice of the Peace residing at the Posts as Agent for the Leasees, was laid before the Council setting forth, that Messrs. Alsop, Chinn & Co. had traded with the Indians of the Domain, supply'd them with quantitys of spirits the preceeding winter which kept them idle instead of hunting as usual for their support & rendered it dangerous to reside at the Posts & that they actually had erected buildings there contrary to the King's Proclamation & the orders of the Governor & Council, and further that Mr. Chinn had declared he did not value the Orders of the Governor & Council and would proceed with his buildings.

15 August 1766.

The Honble Paulus E. Irving, Esq^r. Commander in chief & President of the Council for the time being taking the matter further into consideration with consent & advice of the Council ordered a warrant to issue to said Mr. Peter Stuart authorising him to take down & remove all buildings which were or should be erected by Messrs. Alsop, Chinn & Co., their agents or others on His Majestys Domain and a party of men was dispatched to see the warrant put in execution.

9th October 1766.

Lieut. Governor Carleton being arrived, application was made to him by Messrs. Alsop, Chinn & Co., requesting a suspension of the warrant granted by Col. Irving to take down & remove their buildings, which suspension was granted and another party of men sent to recall the other, and to put Messrs. Alsop, Chinn & Co. into possession with free liberty to trade with the Indians of the Domain.

I do certify the above to be a true state of the case.

JA: MURRAY.

As Messrs. Alsop, Chinn & others may have complained of the Posts being farmed as a measure detrimental to the trade of the Province and may have insinuated that their being laid open would occasion a greater consumption of British manufactures, it may not be improper here to remark

That the country those Indians inhabit being altogether

incapable of cultivation and the hunting season lasting but for about six months of the year, they are reduced to almost an entire dependance the rest of the time on the supplies brought them by the person farming the Posts. It is well

p. 2764

*sic

known that all savage people are naturally indolent and calculate only for the present moment, and were they indulged at pleasure with spirituous liquors to which they are unconquerably addicted, and which the introducing a general trade among them must inevitably occasion from the natural competition that would arise among contending adventurers they would in a few days perhaps often in a few hours consume the whole produce of their years labour, and on the approach of the rigorous winter finding themselves, wives & children naked, destitute & exposed to all the miseries of that climate, would wreck* their vengeance indiscriminately on the first Europeans or other white people they met as the immediate authors of their misfortune. To prevent these impending consequences which were seen & proved by many examples to be inseparable from the plan of laying the Posts open, the French who more than any other nation seem to have study'd the temper and genius of the Indians, adopted this plan of farming out the Posts & it is plain they succeeded in it. Clerks or Factors were established at the different Posts to supply the savages with what their necessities reasonably required, rates were fixed for the trade—when an Indian family came to a Post, whether they had been successful in their hunting or had nothing to exchange, they were alwise* supplyd with necessarys until the chance of the hunt should enable him to pay, and in case of sickness or death, their wives and orphans were maintained & supported until capable to provide for themselves. This created the strongest ties of gratitude, friendship & interest in both parties. The Indian was spurr'd to industry & eagerly pursued the most probable means of obtaining wherewith to repay his Benefactor, & to fit himself & family out anew for another season. The merchant farming the Posts, his agents or factors on the other hand were bound by interest to supply the Indian, to keep him sober & support him in distress as the only means to recover his property, for if the poor savage is abandoned in the hour of want, or dyes by means of intoxication, as he leaves no property behind him so the merchant loses his debt. By this friendly intercourse, by this fatherly treatment of the Indians, which the French have alwise found it their interest to practice and encourage, the Indians saw the exchange or traffick they made with the eyes of sober reflection, looked forward with joy for the returning season of meeting with the trader whom they considered as their Father friend and benefactor, were pleased upon a re-view of their past transactions, and formed in the course of them such an attachment to the Trader & the nation to which he belonged as neither time, change of power, the address of the English nor any other consideration could efface. The proof of this is undeniable in the late troubles when

*sic

*sic

the* massacred almost every English subject they could lay hands on, and at same time allowed the French Canadian Traders not only a free access as their friends, but were by their interposition prevailed on to release or ransom such of the prisoners as were alive when they came to a parley at the late affair of Michilimackinac. By this system of management the affections of the Indians were also secured to the Crown without any expence to Government besides a clear revenue arising to the King. By laying them open every

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the lowest of the people whose credit may extend to a cask of spirits will have access to them & take advantage of their simplicity. All those salutary purposes above mentioned will be frustrated, for it is irreconcilable to reason & the nature of things, that it can consist with the interest of any individual to keep large storehouses with quantities of provisions & merchandize for the supply of the Indians without being assured of the produce of their hunting to pay the expence which cannot be while he is liable to be robbed of his returns by the first stragler who is wicked enough to intercept the Indian on his way to his Post & by alluring him with liquor, deprive the Indian of a future credit. And yet without such a sure & permanent resource of a fixed storehouse, the savages must often perish in numbers from mere want, so that in a little time almost the whole of the trade to the Domain will be confined to selling spirits to the Indians which from the contiguity of the Posts to the inhabited parts of the Province will be utterly impossible to hinder the lower sort of people from carrying among them. The Indian who has thus invested his produce, glutted himself with liquor, & on the return of reason sees himself & family naked & abandoned, now destitute of the resource of a certain credit he formerly was sure of in all circumstances, will naturally inveigh against the man he has been injured by, and if he happens to survive the misery he is by this means exposed to, will be sure to revenge himself the first opportunity on the first of the color he meets with. Hence murders, rapine and devastation must ensue. An instance has already happened by a New England Vessel putting into these Posts since we have been in possession of the Country when several Indians were murdered, and had it not been for the timely interposition of the General who with trouble got them soothed & ordered a recompence to the suffering familys of the Indians who were killed, it's hard to say where the vindictive spirit of these people might have carried them. On the whole it is plain that instead of increasing the consumption of manufactures as may be pretended, the sure & inevitable consequences that must follow the measure of laying the Posts open, will be fatal in their immediate effects, will depopulate the country and end in almost the total extirpation of these unhappy people in a few years time, will bring the present consumption of manufactures to nothing & by losing the people will follow a total loss of the returns to Britain.

The above remarks coincide entirely with my
Notions and Opinions of the matters in
Question.

JA: MURRAY.

p. 2766

May the 26th, 1767.

My Lords

The lands of the Kings Domain were never ceded to nor purchased by the French King, nor by His Britannick Majesty; but by compact with the savages inhabiting the said lands, the particular Posts or Spots of ground, whereon the Kings buildings are erected and now stand, were ceded to the French King, for the purpose of erecting storehouses & other conveniences for the Factors, Commis or Servants employed to carry on the trade ; and the savages residing within the limits of the Domain, & who resort to the said Posts of His Majesty at certain seasons of the year, were adopted as Domicile Indians under the sole & immediate protection of the King, & so remained till the reduction of the Province, & a Missionary was sent to reside constantly among them. The lands of the Domain therefore, are to all intents & purposes reserved, as hunting grounds to the savages, of which they are ever jealous, on the least appearance of an encroachment even amongst themselves.

With what propriety therefore, could the Governor have complyd with Mr. Alsops petition for grants of land there? would it not have been in direct contradiction to His Maj's. Proclamation? & I flatter myself the contempt he has shown to the said Royal Proclamation & his Maj^s. Government; will be far from entitling him to the favour he claims from the Kings servants here. I must further add that this man has been the author of all the disputes, factions, & jealousies which have taken place, since the establishment of civil government in the colony, and I firmly believe his enterprize to these Posts was with a view to augment the same, he being the only man who attempted it corroborates this opinion.

I have the honor to be with great Truth and Regard

My Lords your Lordships most obedient, and
most humble Servant,

JA: MURRAY.

Endorsed :

QUEBEC.

State of the Posts of the
King's Domain in Canada,
with an Abstract of Proceedings
relating thereto since the
reduction of that Country.

D. 7.
Recd. May 26. }
Read — — do. } 1767

[26 June, 1767.]

No. 1097.

**DECLARATION OF EXCLUSIVE RIGHTS OF LESSEES
OF KING'S POSTS.**

THE QUEBEC GAZETTE,
October 20, 1768.

BY THE HONORABLE GUY CARLETON, LIEUTENANT-GOVERNOR AND
COMMANDER IN CHIEF OF THE PROVINCE OF QUEBEC,
BRIGADIER-GENERAL OF HIS MAJESTY'S FORCES, &c., &c.

A PROCLAMATION.

Whereas I have received an Order of his Majesty in
Council, dated the 26th of June, 1767, in the Words following,
viz.

At the Court at St. James,

The 26th Day of June, 1767.

PRESENT:

The King's Most Excellent Majesty.

Arch-Bishop of Canterbury.	Earl of Harcourt.
Lord President.	Earl of Shelburne.
Duke of Grafton.	Viscount Townshend.
Duke of Queensberry.	Viscount Howe.
Lord Steward.	Viscount Barrington.
Earl of Huntingdon.	Viscount Clare.
Earl of Denbigh.	Viscount Villiers.
Earl of Litchfield.	Lord Sandys.
Earl of Cholmondeley.	James Stuart Mackenzie, Esq.
Earl of Marchmont.	James Oswald, Esq.
Earl of Bristol.	Sir Edward Hawke.
Earl of Ashburnham.	

WHEREAS there was this Day read at the Board, a Report
from the Right Honorable the Lords of the Committee of
Council for Plantation Affairs, dated the 12th of this Instant, in
the Words following, viz.

“Your Majesty having been pleased, by your Order in
Council, of the third of December last, to refer unto this
Committee, the humble Petition of Anthony Merry, of London,
Merchant, in Behalf of himself, George Allsopp, Joseph
Howard, and Edward Chinn, Merchants, and Inhabitants of
your Majesty's Province of Canada, in North-America, setting
forth, amongst other Things, That, in Consequence of your

“issued in your Majesty's Name, by his Excellency General MURRAY, GOVERNOR of Quebec, on the 31st of January, 1765, the Petitioners were encouraged to load a Vessel with sundry Merchandize, provide Canoes, and every Thing necessary and proper for carrying on the Trade with the Indians, at a Place called the King's Posts of Tadousac and Chegotimi, on the River Saguenay, in the Neighbourhood of Lake St. John, and having built a Shed, or Ware-house, for the Reception of their Goods, and at a very considerable Expence, established themselves, gained the Indians to their Interest, and made a Settlement on Lake St. John, they were prohibited from prosecuting their Plan, by your Majesty's Receiver-General, and the President and Council of Quebec; and humbly praying, That your Majesty will be graciously pleased to grant them an Order for Liberty to dispose of such Goods as they had sent up, or your Majesty's Royal Mandate for a Grant of such Lands as are mentioned in a Petition presented by them to Governor MURRAY, or to be otherwise relieved in the Premises.

“The Lords of the Committee, in Obedience to your Majesty's said Order of Reference, this Day took the said Petition, together with a Report made thereupon, by the Lords Commissioners for Trade and Plantations, dated the second of this Instant, into their Consideration, and do agree humbly to report to your Majesty, as their Opinion, that the Petitioners had no Right, by your Majesty's Proclamation of the 7th of October, 1763, to trade at the Posts of the Royal Domain at Tadousac and Chigotimi, on the River Saguenay, in the Province of Canada, or to erect any Magazines, or make any Establishment for the Purpose of Trade there, and that your Majesty's Right thereto ought to be considered as excluded from the general Right of Free Trade, granted by the said Proclamation, and ought to be carried on only by your Majesty's Lessees, under your particular Licence for that Purpose, and that the Buildings and Magazines erected at the said Posts by the Petitioners should be demolished, and that the Goods sent there by the Petitioners be returned to them, notwithstanding the Manner in which they conveyed them thither: And their Lordships humbly submit to your Majesty, that the said Petition of Anthony Merry, and others, should be dismissed.”

His Majesty taking the same into Consideration, was pleased, with the Advice of his Privy Council, to approve thereof, and to order, as it is hereby ordered, that the Buildings and Magazines erected at the said Posts by the Petitioners be demolished, and that the Goods sent there by the Petitioners be returned to them: And it is hereby further ordered, That the said Petition of Anthony Merry, and others, be dismissed this Board, whereof the Governor, Lieutenant-Governor, or Commander in Chief of his Majesty's Province of Quebec, for

[27 Sept., 1768.]

the Time being, and all others whom it may concern, are to take Notice and govern themselves accordingly.

W. BLAIR. 12th July, 1768.
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ALL PERSONS are therefore required to pay due Obedience to this his Majesty's Order, in Council, and govern themselves accordingly, as they will answer the Contrary at their Peril.

[30 July, 1770.]

GIVEN under my Hand and Seal at Arms, at the Castle of St. Louis, in the City of Quebec, this Twenty-seventh Day of September, in the Eighth Year of his Majesty's Reign, and in the Year of our Lord, One Thousand Seven Hundred and Sixty-eight.

GUY CARLETON.

By the Lieutenant Governor's Command,
GEO: ALLSOPP, D. Secy.

GOD SAVE THE KING.

No. 1098.

MEMORIAL OF LESSEES OF KING'S POSTS.

QUEBEC LEGISLATIVE COUNCIL, BOOK C. p. 93.

At the Council Chamber, in the Castle of St. Louis, in the City of Quebec on Monday the Thirtieth day of July 1770.—

* * * *

Read Memorial of Thomas Dunn Esquire and William Grant, Lessees of the King's Posts, complaining of being interrupted in the free Enjoyment of the sd. Posts during the years 1765, 1766 & 1767, warranted to them by the Covenants of their Lease ; and praying that the Rent during those years may be remitted to them, and that ye said Three years may not be reckoned any part of their Lease.

Resolved that the Prayer of the said Memorial be Granted, the King's Posts having been laid open by Order of Government on the first of Septemr. 1767 and not Contradicted by them, untill the Publication of his Majesty's Order in Council bearing date the 26th day of June 1767, and published in the Quebec Gazette the 20th. October 1768.

[24 Feby., 1774.]

[12 Sept., 1774.]

No. 1099.**EXTRACTS FROM “PARTICULARS OF THE
COUNTRY OF LABRADORE,”**

BY LIEUT. ROGER CURTIS.

Vide Part XVI, No. 1055.

No. 1100.**GEO. CARTWRIGHT TO LORD DARTMOUTH.**[CAN. ARCH., DARTMOUTH MSS. ORIGINALS, PT. III P. 578,
No. 2417.]

Charles Harbour

12th Sept. 1774.

My Lord

I am sorry to acquaint your Lordship that notwithstanding all my endeavours I have not been able to meet with any Fossils worthy your Lordships acceptance.

* * * *

As your Lordship kindly gave me leave to inform you of the success, and progress of the fisheries on this Coast, I think myself particularly happy in enjoying such an indulgence, and shall endeavour to give your Lordship all the information in my power.

When first I came, in the year 1770, the fisheries were on the decline; all the Newfoundland Merchants, except Noble & Pinson were grown tired of; them, finding it would not answer their end to carry on business here without erecting a variety of buildings, and being liable to loose them all the next Season, if any other vessel should arrive before them; they therefore contented themselves with sending their boats to catch fish when the season was over in Newfoundland, and withdrew all their people towards the latter end of September. Mr. Pinson hearing that great voyages of Seals had always been kill'd on this Coast, and finding that codfish were as plentiful about Chateau as in Newfoundland, determin'd to remove the greatest part

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of their business from Conch hither; they having four vessels, and determining to send them out every Spring as early as possible, were not afraid of loosing their possessions by the prior arrival of any other and saw they should be able to sieze

all the best Posts, by getting first on the Coast, but the murder of Mr. Darby's crew at Cape Charles, by the Indians, deter'd him from extending their business farther from Chateau than Bad Bay, a place not quite a mile's distance from the Blockhouse ; that, and Seal-island Chateau, were the only Sealing Posts, without the Streights of Belleisle in possession of the English when I came, and they had not one Salmon Post.

I settled in Charles River, the Salmon season being then over made preparations for the Winter ; fix'd a Sealing crew at Seal-island Cape Charles, & kept a sawing, and a Furing crew in Charles River. In 1774 I establish'd a Salmon fishery in Charles River, a Cod fishery at this place, kept one crew Sealing on the Island, and an other Boat building in St. Lewis's Bay. The same year Noble & Pinson built a Cod fishing room in Lance-Cove Temple Bay, kept a Boat building crew, and combined their two Sealing Posts as before.

The next Spring (1772) finding that I liv'd undisturbed by the Indians, and observing how much those people were reform'd by the pains I had taken with them, they took the advantage of my vessel's not arriving, owing to her being cast away on the Island of Fogo on the Coast of Newfoundland, and seiz'd upon both my Sealing, and Salmon Posts, which oblig'd me to establish new ones, the former in White Bear Sound; the latter in the River Colleroon, which empty's itself into the Head of St. Lewis's Bay. Noble & Pinson the same year held their former Possessions except Seal-island Chateau (which was taken from them by Mr. Slade) and flx'd an other Sealing crew in Lance Cove: These viz: four Sealing, and two Salmon Posts were all that were occupied at the time I first troubled your Lordship for redress and protection; at the same time setting forth that the establishing property was the only effectual way to encourage adventurers, and make the fisheries flourish. The event has fully prov'd the truth of my assertions, for the resolution of your Lordships Board, and his Majesty's order in Council in consequence thereof, were no sooner known than no less than two Salmon, and five Sealing posts were added to the former number, yet, notwithstanding the above order, Noble & Pinson took the advantage of my misfortune last year in being delay'd coming out, by the sickness and death of the Indians, and dispossessed me of my Salmon Post in the Colleroon, but this summer the Governor has been pleas'd to restore both that, and Charles River to me again, and confirm'd them in the possession of Seal-island, to which, I cannot help thinking, I have a prior, and better title than they.

This year seven new salmon rivers have been occupied, and there will also be some more Sealing Posts, but how many I do not yet know, our House have taken up one.

Last Winter prov'd a very bad one for the Seal fishery, all the adventurers in that branch lost a deal of money. This summer has turn'd out well for both salmon and codfish: the latter begins to revive again, and your

Lordship may depend upon it 'tis not only unnecessary, but even impolitic to force people into that branch of business, as it must of course encrease in proportion to the Sealing with all adventurers from Great Britain, but those from Quebec, I fancy, will never enter much into it, as their Servants are hired on different terms, and they rather chose to return to their familys in summer, than remain here to go through the drudgery of a Codfishery. The obliging all who keep business here, to have annually, one, or more vessels regularly clear'd out from Great Britain &c. is a point which, in my private opinion, ought by no means to be dispenc'd with.

I find that this coast is now annexed to Quebec, and that the Canadians are to be reinstated in all their former possessions. This, I'm afraid, will affect many of us greatly, particularly our House, as we have put ourselves to a very great expence in erecting Houses, and other conveniences, and may possibly be oblig'd to quit all, in favor of a Canadian, who may produce an old, unhear'd of Grant which he never made use of. Charles River is the only place we have that ever was occupied by them, and that only occasionally. As it will be a difficult matter for all the British adventurers to meet in order to consult on a Memorial, I take the liberty of humbly requesting the favor that your Lordship and your Board will take us under your protection, and do with us as it shall seem best.

His Majesty having now an incontestible right of disposing of any part of this Coast by Grant, I once more renew my request to your Lordship to procure me all that part of the Coast, contain'd between Cape Charles, and Cape St. Lewis, and the Islands which ly within those limits, reserving to all People a right of carrying on a Codfishery in any part thereof, and cutting what wood they may have occasion for, for the use of the same.

We have lately sent a Crew to Sandwich Bay to take possession of the rivers there, and kill Furs this Winter. The Esquimeaux Indians have not been near us this Summer, the great indulgencies the Moravians met with from Government have enabled them to engross all the trade of those People, to our no small disappointment and loss, for we have upwards of £300 in goods on our hands which are not saleable any where else.

We should have occupied three more Salmon-rivers this summer but unfortunately the vessel which one of my Partners and myself were coming out in, ran upon a Rock off the Landsend, and 'twas a miracle she carried us safe into Cork where we were oblig'd to leave her and purchase an other, in which we proceeded to this place, and had the misfortune to carry away our Masts about half seas over; these accidents caus'd so much delay, 'twas too late in the Season to attempt new Rivers.

Our Shalloway is this instant return'd from Sandwich Bay where she left our Furriers in possession of the Salmon Rivers; they saw no sign of any Uropean having dwelt there; it is a place much frequented by the Nescaupick Indians, a People

who subsist by hunting, they are good Furriers, speak broken French, are Roman Catholics, and have traded with the Canadians many years. One family have been here this Summer and sold us about fifty pounds worth of Fur.

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Next Summer I propose taking a cruise as far to the Northward as the season will permit, to visit all the Indian Tribes, and try if I can find out proper places for Summer Fisheries, and a whale fishery. Enclos'd is a list of all the Forts occupied by those British Merchants who carry on business without the Straights of Belleisle.

Wishing your Lordship a good Winter, and that Health and Happyness may attend yourself, and family, I beg leave, with the utmost respect, and gratitude, to subscribe myself

My Lord
Your Lordships
Much oblig'd and
Most obedient
Humble Servant

GEO. CARTWRIGHT

[29 March, 1777.]
Preamble.

—————
No. 1101

C

ANNO DECIMO SEPTIMO GEORGE III. REGIS.

TO PREVENT THE SELLING OF STRONG LIQUORS TO THE INDIANS IN THE PROVINCE OF QUEBEC, AS ALSO TO DETER PERSONS FROM BUYING THEIR ARMS OR CLOTHING AND FOR OTHER PURPOSES RELATIVE TO THE TRADE AND INTERCOURSE WITH THE SAID INDIANS.

No strong liquors
to be sold or
distributed to Indians.

Whereas many mischiefs may be occasioned by the practice of selling rum and other strong liquors to the Indians, and of buying their cloaths and Preamble. arms, and also by trading with the said Indians, or settling amongst them, without a license, It is *ordained* and *enacted* by his excellency the captain general and governor in chief of this province, by and with the advice and consent of the legislative council of the same, that

ART. I.

From and after the publication of this ordinance, no person or persons whatsoever shall sell, distribute, or otherwise dispose of, to any Indian or Indians within this province, or to any other person or persons for their use, any rum or other strong liquors, of what kind or quality soever, or shall knowingly or willingly suffer the same, in any manner, to come to the hands of any Indian or Indians, without a special license in writing, for that purpose first had and obtained, from

under a penalty of
£5 and 1 month's

imprisonment for the first offence and £10 and 2 month's imprisonment for the second, besides forfeiture of the licence if a publican.

No person to purchase the cloaths or arms of Indians under a penalty of £5 and 1 month's imprisonment for the 1st offence and £10 and 2 month's imprisonment for the 2d.

No person to settle in any Indian country or village without a licence, under a penalty of £10 for the 1st offence and £20 for the 2d.

Manner of inflicting and levying the said penalties.

Prosecution to be within 6 calendar months.

the governor, lieutenant governor, or commander in chief of this province for the time being, or from his majesty's agents or superintendents for indian affairs, or from his majesty's commandants of the

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different forts in this province, or from such other person or persons as the governor, lieutenant governor, or commander in chief of the province for the time being, shall authorise for that purpose.

Every person offending herein shall, for the first offence, forfeit the sum of five pounds, and suffer an imprisonment for any time not exceeding one month, and for the second, and every subsequent offence, shall forfeit ten pounds, and suffer an imprisonment for any time not exceeding two months.

If the person so offending, be a publican, inkeeper, or retailer of strong liquors, he shall, over and above the said penalty and imprisonment, be rendered incapable, from the day of his conviction, of selling or retailing liquors to any person whatsoever, notwithstanding any licence that he may have for that purpose, which licence is hereby declared to be null and void from the day of his conviction.

ART. II.

From and after the publication of this ordinance, no person or persons whatsoever shall purchase, or receive in pledge ; or in exchange, any cloaths, blankets, firearms, or ammunition belonging to any Indian or Indians within this province, under a penalty of five pounds and imprisonment for any time not exceeding one month, for the first offence, and of ten pounds and imprisonment for any time not exceeding two months, for the second, and every other subsequent offence.

ART. III.

From and after the publication of this ordinance, it shall not be lawful for any person to settle in any indian village or in any indian country within this province, without a licence in writing from the governor, lieutenant governor, or commander in chief of the province for the time being, under a penalty of ten pounds for the first offence, and twenty pounds for the second, and every other subsequent offence.

ART. IV.

It shall and may be lawful for any person or persons whatsoever, to sue for the penalties and forfeitures aforesaid, by information before one or more of the commissioners of the peace of the district, in which any offence against any of the above articles of this ordinance, shall have been committed; who is, and are hereby authorized and required to hear and determine such information, in a summary manner, and upon the oath of one credible witness (being some other than the informer himself) and to inflict the said imprisonment, and to levy the said penalties or forfeitures, together with the costs of suing for the same, by a warrant to seize and sell the goods or

lands of the offenders. Provided always that such informations shall be brought within six calendar months from the time that the offence shall have been committed, and not after different forts in this province, or from such other person or persons as the governor, lieutenant governor, or commander in chief of the province for the

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No goods to be carried for the purpose of trading above the foot of the long fall or St. Regis without a licence, or upon lands not granted by his majesty,

under a penalty of £50.

Manner of revocering the said penalty.

Goods carried beyond the said limits without a licence to be seized.

And if condemned and no security given to prosecute an appeal

then to be sold.

Goods so seized to be delivered to the owner on giving security for their amount.

Commandants of posts not being

From and after the publication of this ordinance, no person shall, under any pretence whatever, send or carry any goods, wares, merchandize, or provisions, for the purpose of trading, above the foot of the *Long Fall* on the *River Outawais*, or than *St. Regis* on the *Iroquois River*, or into any other parts of the province upon lands not granted by his majesty, without a pass or permit in writing for the same, to be signed by the governor, lieutenant governor, or commander in chief of the province for the time being, under a penalty of fifty pounds; which shall and may be sued for, at any time within the space of twelve calendar months from the time of committing the offence, but not after, by information before any two or more commissioners of the peace, who are hereby authorized and required to hear and determine such information, in a summary manner, and upon the oath of one credible witness (being some other than the informer himself) and to levy the said penalty, and the costs of suing for the same, by a warrant to seize and sell the goods and lands of the offenders, and for want of goods or lands whereon to levy the same, to commit the offender or offenders to the common goal, there to remain, without bail or mainprize, until the said penalty and costs shall be paid and satisfied, or the party otherwise discharged by due course of law.

And further it shall and may be lawful for any person, having a warrant for that purpose under the hand and seal of any one commissioner of the peace, or of any of his majesty's commandants of the different posts or forts in this province, at present established, or hereafter to be established, who are hereby authorized and required to issue such warrant or warrants, to seize all such goods, wares, merchandize, or provisions as may be carried beyond the said limits, contrary to the directions of this ordinance ; and all and every the boats, battoes, canoes, or other carriages whatsoever made use of in the transporting or conveyance of such goods, wares, merchandize, or provisions ; together with the apparel and furniture of such boats, battoes, or canoes, and the horses or cattle belonging to such carriages; and to proceed against the same by information, within the space of six months, in manner herein before mentioned, before any two or more commissioners of the peace, who are hereby authorized and required to determine the same in manner aforesaid: and in case of condemnation, where no appeal shall be made from the same, or where no security shall be given for prosecuting any appeal in the manner herein after directed, or where, on such appeal, the said sentence of condemnation shall be confirmed, to cause the whole of the said seizure to be sold, and the moneys arising therefrom, after deducting all reasonable charges, to be divided as herein after directed.

If the owner or owners of any such goods, wares,

commissioners of the peace shall send all seizures to the nearest commissioner of the peace to be proceeded against.

merchandizes, or provisions so seized, or the person or persons intrusted with the same, shall give good and sufficient security for producing the same, or paying or accounting for the value of them, in case of condemnation, such owner or owners,

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Appeal to the governor and council,

person or persons intrusted as aforesaid, shall recover the possession of all such goods so seized.

All commandants of posts, not being commissioners of the peace, are hereby required to send such security, together with all informations and papers relative to such seizure, and for want of such security, to send the goods, wares, merchandizes, provisions, boats, battoes, canoes, or other carriages so seized, together with a certificate of the cause of seizure, to the commissioners of the peace residing nearest the place where such seizure shall be made, who shall proceed therein in manner herein before mentioned.

ART. VI.

upon giving security.

If any person or persons shall think him or themselves aggrieved by the judgment or determination of the said commissioners of the peace, it shall and may be lawful for such person or persons to appeal therefrom, at any time within twelve months from the time of giving such judgment or determination, to the governor and council of this province, any five or more of whom (the commissioners of the peace who shall have given such judgment or determination only excepted) with the governor, lieutenant-governor, or chief justice, shall constitute a court of appeals for that purpose ; who are hereby authorized fully to examine into the grounds and nature of the appeal, and the judgment or determination of the said commissioners of the peace to reverse, or affirm, according to the opinion of the major part of the said court of appeals :—and in case the same shall be reversed, the appellant shall be restored to all that he has lost by such seizure and condemnation, and be allowed such costs and charges as the said court shall award and adjudge.

Execution suspended until the determination of the appeal.

Distribution of the forfeitures.

But no person shall be intitled to such appeal, unless he shall have first given good and sufficient security for prosecuting the same, and paying all such condemnation money and costs, as shall be awarded by the court of appeals, in case the judgment and determination of the commissioners of the peace shall be affirmed.

Upon such security so given, the levying of the penalty, and the sale of the goods, wares, merchandizes, boats, battoes, canoes, or other carriages seized, shall be suspended, and be made to abide the final determination and judgment of the court of appeals.

ART. VII.

All penalties and forfeitures recovered by virtue of this ordinance, shall be divided and applied in the manner following, that is to say, after deducting the charges of

prosecution from the gross produce thereof, one moiety of the net proceeds shall be paid into the hands of the receiver general of this province, for the use of the king's majesty, and the other moiety to the person or persons who shall seize inform and sue for the same.

GUY CARLETON.

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Ordained and enacted *by the authority aforesaid, and passed in council under the Great Seal of the province, at the council chamber in the castle of St. Lewis, in the city of Quebec, the twenty-ninth day of March, in the seventeenth year of the reign of our sovereign Lord GEORGE the Third, by the grace of GOD of Great-Britain, France, and Ireland, King, defender of the faith, and so forth, and in the year of our LORD one thousand seven hundred and seventy-seven.*

By HIS EXCELLENCY'S Command,

J: WILLIAMS, C.L.C.

No. 1102

C

**PETITION FOR RENEWAL OF LEASE OF KING'S
POSTS.**

[14 May, 1785.]

CANADIAN ARCHIVES, Q. 24

To the Honorable Henry Hamilton Esquire, Lieutenant Governor and Commander in Chief in and Over His Majesty's Province of Quebec, &c.

The Memorial of Thomas Dunn, William Grant, and Peter Stuart Esqrs. Lessees of the Posts of the Kings Domain situated on the North side of the River Saint Laurence.

Humbly Sheweth

That your Memorialists became possessed of the Right to the trade with the Indians at the Kings Posts in virtue of Lease bearing date the Twentieth day of September 1762. That since that period they have been at very great charge & trouble in supporting their trade and in their care of the Indians, residing in and near and resorting to the said Domain and Posts.

That at their sole expence, they have carefully attended to, supported and maintained the aged, and infirm, the Widows and Orphans; the distressed Indians residing on the King's Domain have been relieved and supported by your memorialists, without becoming a burthen or expence to Government, and which Your Honor must be sensible is not the case with any tribe of the Indians in the Province except those above mentioned, and this they have done without obligatory conditions expressed in their lease, and by it they

hoped to have obtained the most ample protection when in their occupancy, and the favor of the Crown to continue its lessees on a renewed lease when the first expired.

His Majesty is pleased by the Terms of Your Memorialists Lease to assure

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to them a peaceable, secure and uninterrupted enjoyment of the benefit of their situation in Trade as His Lessees, they have been permitted to remain on the Domain as Lessees for five years after the expiration of their Lease, and they have supported the Indians during the late Rebellion & War without expence to the Crown, and it was with reason they claimed a merit to its favor in continueing Lessees, upon a renewed lease, so soon as public tranquility was restored to the Province.

Your Memorialists beg your Honor to believe, what they can support with full testimony, that during the late Rebellion, they were not only interrupted in their Commerce by the frequent and almost continual depredations of American Armed vessels, and their crews, but they have been plundered of their property to a sum exceeding three thousand Pounds Sterling, they however remained in possession, performed the conditions of their Old Lease, and supported the Indians, in the dayly expectation of Peace, and in the firm relyance on the political justice of Government, and the favor and reward of His Majesty in continueing their possession by a renewed and long lease.

Your Memorialists, as consequent to their possession claim, and expectations, were under the necessity to keep a constant and sufficient quantity of Goods and Provisions at the Posts to supply the wants of the Indians, and prevent their occasioning that trouble & expence to the Crown, that all other Tribes have done in this Province; those objects Your Memorialists pursued & these Services performed to Government at the risque of their own ruin, in effect to a very considerable loss and distress, after the expiration of their Lease.

Your Memorialists pray that Your Honor will take into consideration their situation and their reasonable right to Petition His Majesty for a Renewal of their lease, as a justice due to their sufferings & losses, and claim to the Kings favor for their services.

That Your Honor will be pleased to Grant unto Your Memorialists, a renewal of the Lease of the said posts for One Year, from the first day of October next, and for nine years afterwards if the same should not meet His Majesty's disapprobation, to be signified by the Right Honble. the Lords Commissioners of His Majesty's Treasury. And that Your Honor will do Justice to their prayer & claims, by that representation of their situation & petition. which reason & merit may entitle them to expect with Justice from His Majesty's Government, under your Honors Command

And Your Petitioners shall as in duty bound

Ever pray

(Signed) THOM^S DUNN
DAVID ALEX^R. GRANT Att^y to
WILLIAM GRANT
PETER STUART

Quebec, 14th May, 1785.

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No. 1103.

REPLY TO LESSEE'S PETITION.

[6 June, 1786.]

CANADIAN ARCHIVES, Q. 26.

Quebec, 6th June, 1786.

Gentlemen:

In answer to your Memorial which I received this morning regarding the Posts commonly called the Kings Posts whereof you are now Lessees under a Lease which will expire on the 30th of September next, I must acquaint you, that His Majesty's Commands signified to me by the Right Hon'ble Lord Sydney, one of His Majesty's Principal Secretaries of State to grant a new lease of the said Posts to Messrs. Alexander and George Davison and Francois Baby to commence from the 1st of October next, are positive and explicit and must be obeyed.

The circumstances you represent shall nevertheless meet with due attention.

The regrets of the Indians with whom by virtue of your Lease, you have been connected, at losing the good offices they have so long experienced from your friendship and care, are natural, and I doubt not perfectly just, these cannot however, you must be sensible prove a bar against a new lease to the other persons to whom His Majesty has been pleased to order the same to be granted, who enjoying this mark of the Royal favor must be bound by every tie to treat favourably the Indians thus entrusted in some measure to their protection, and it shall be my business to state to them in the strongest terms the force of this obligation.

I am not at this moment sufficiently informed on the nature of the Lease in question to give a definitive answer to your claim on the new Lessees for reimbursement of your expenditures in buildings, &c. and for payment of the debts due to you—but you may rest assured that your rights in these matters shall be maturely considered, and that justice shall be rendered to you therein.

I am with regard, Gentlemen,

Your most obedient, humble Servent,

A true copy

(Signed) HENRY HOPE.

Henry Hope.

Thos. Dunn, Wm. Grant & Peter Stuart Esqrs. Lessees of the Kings Posts.

[1792.]

No. 1104.**EXTRACTS FROM “A JOURNAL OF TRANSACTIONS
AND EVENTS DURING A RESIDENCE OF NEARLY
SIXTEEN YEARS ON THE COAST OF LABRADOR,”**

BY GEORGE CARTWRIGHT. VOL. III, p. 231.

[1 Sept., 1828.]

Vide Part XVI, p. 2641

No. 1105.**NARRATIVE OF AN EXPEDITION INTO LABRADOR
PENINSULA UNDERTAKEN BY WILLIAM HENDRY.**

MOOSE FACTORY, SEPT. 1ST. 1828.

RECORDS, HUDSON'S BAY COMPANY.

Sir: —

I have pleasure at this time in having to communicate to you the success of the inland expedition so far as regards the ascertainment of the precise situation of the mouth of Canniappuscaw, otherwise distinguished by name of South River...I have to remark a circumstance occurring at this period which tended considerably to intimidate our Indians—while being engaged taking a Meridian Altitude of the Sun with the Indian Ouscucher present, Mr. Atkinson having ascended the hill with the other Indians to survey the Country—an Esquimaux Dog passed us on the beach which for the moment excited a little confusion—the Indian however seeing no Esquimaux near kept his station and the circumstance only occasioned us at present to trim and load guns & make preparation for sudden surprisal but subsequently together with other traces of Esquimaux inhabitants blighted occasionally every hope I had warmly cherished of being able to accomplish the primary object of the Expedition. At 3 p.m. encamped on the west side of the River in supposed latitude 57° 50' N. at which place noticed some decayed poles of an Indian tent which evidently had been pitched there many years ago and it may be well to remark these were the last traces of

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Indians tenting seen in our travels. At 7 a.m. on the 14th embarked & proceeded down the River with a strong current in favour, since leaving the encampment till noon long and narrow Islands were situated on each side of the River bearing wood

chiefly of Juniper. At Noon put onshore and observed in Latitude 57. 56. 33 N. being the situation of two strong Ripples and the River since our entering it to this period having increased in width from $\frac{1}{4}$ to $1\frac{1}{4}$ mile. At 2 $\frac{1}{2}$ p.m. the Indians put onshore and expressed their unwillingness to proceed further as the Country and River both at this period began to exhibit appearances of our approaching the Coast and they were evidently under fearful apprehensions of the Esquimaux—however at 4 $\frac{1}{2}$ p.m. they were again prevailed upon to re-embark and at 6 passed two or three high and rocky islets which considerably straiten the channel of the River and upon which was seen a water mark several feet above the level of the River at the time of observation these Rocks are in supposed Latitude 58. 12 N. At 7 p.m. encamped on the East side of the River having since passing the above mentioned Rocks, seen Esquimaux piles of stones, Ducks, Deer horns with portions cut with the saw—a seal and several white whales which latter come into the river with the flood. Observed time of high water this night about $\frac{1}{4}$ to 12—rise not less than 14 feet to appearance. Water not salt probably in consequence of our being out of the way of current. At 7 a.m. on the morning of the 15th the Indians were prevailed on with much difficulty to embark—proceeding downwards passed several rocks. At 9 observed a strong flood tide to make. At 9 $\frac{1}{2}$ water became brackish. At 10 quite Salt, and sea weed floating with the tide. At 11 $\frac{1}{2}$ put onshore on the Eastern side of the River on some low rocky projections of the Main Shore. Observed in Latitude at Noon 58. 20. 15 North being about the situation where the vessel from the Labrador settlements in 1811 cast anchor as denoted by the Charts. Having communicated which to Mr. Atkinson and others all of us ascended a hill adjacent and were much gratified with a fair prospect of the Sea—the outlet of the River was distinctly seen at about a distance of several miles due North—the Eastern side of which appeared partly closed either by a point of Main land or a chain of rocks and on the western side a small bight in which could be discerned a stream of ice....

At 4 $\frac{1}{2}$ p.m. date as above having made fruitless endeavour to induce the Indians to follow out the but few miles now seen before us, embarked—bound on return. At 6 p.m. seeing some Esquimaux workmanship laying upon the top of the rocks, exposed to view—disembarked to examine the nature of it—which proved to be the frame of an Esquimaux canoe—part of the skin was found laying near and probably had been torn away by the wolves—several implements consisting of arrows iron barbed after the manner of those of the East Main Indians—a lance made out of a large file—a fine British made clasp knife, $\frac{1}{2}$ worn and the haft set with Mother of Pearl or imitation, a British made dart or harpoon after the Esquimaux fashion—a fish dart consisting of 5 or 6 iron prongs with alternate ones barbed and others indicative of the owner being deceased were also found & apparently

had not lain 12 months—the Indians were about to make a prize of the property but being dissuaded from such intentions re-embarked and proceeded until 1 a.m. on the 16th & encamped, at which place saw a quantity of wood chips and portions of deer horn,

Having entered the mouth of Natwakamee River about noon on the 17th and subsequently being favoured considerably both by winds and weather—arrived at Little Whale River at 4 p.m. on the 28th July—All well.

From what has already been stated there is not the least reason to doubt but that Esquimaux frequently resort to this part of the country & Metakartche relates that traces of them are more numerous up the river in the vicinity of the Falls and from which I suppose our Indians had no inclination to visit there as it was left optional to them.

Having seen no recent traces of Indians I cannot think there is any likelihood of a post near the mouth of the river being visited to advantage by this class of people in this part of the country the population cannot be so numerous as must have been imagined otherwise in some situation or other we must surely have met with greater proofs—Mr. Atkinson has frequently expressed that to his knowledge and the opportunity he has had of acquiring information Indians are scarce throughout the Country and believes there are very few but who either visit the Company's posts in person or send in their furs by others and such as do not are mostly superannuate for active labor. He also acquaints me that the Indians personally known to himself and who frequently resort to Nepeethjee and parts of the country south seldom now beyond the height of land to the eastward....

How a situation may hereafter be deemed eligible for erecting an establishment upon I cannot as yet tell having viewed no piece ground which under that distinction I should be inclined to recommend neither am I able to point out any particular place where the least hope might exist for a vessel laying up in safety during the winter....

Hoping these endeavours will meet your perfect satisfaction,

I am, Sir,

Your most obedient and faithful

servant,

WM. HENDRY.

**LETTER TO THE GOVERNOR AND COMMITTEE OF
THE HONBLE. HUDSON'S BAY COMPANY.**

[20 Sept., 1830]

RECORDS, HUDSON'S BAY COMPANY.

Fort Chimo, Sept., 20th, 1830.

Honble Sir:

I had the pleasure to see the Brig. Montcalm, Captain Robert Royal Commander anchor abreast of us on the 13th of this month, having been piloted from the outlet of this river by Mr. Erlandson who had sounded it previously ; there is water for vessels of any burden to come up with a fair wind. Altho' the Montcalm lost the whole of her false keel—this was owing, I believe to the mate's mistaking an eddy for sunken rocks and steering into shallow but smooth water contrary to Mr. Erlandson's advice. This gentle-man manned a boat and sounded fathoms outside about 50 yards from the ships. He has received however, no material injury.

* * * *

I endeavoured in vain to hire some Indians as hunters here, no inducement could prevail upon them to go and hunt at South River. This was contrary to my expectations. Our canoes being small, I was obliged to leave part of my outfit at this place, provisions as well as other necessaries—we carried heavy packed in along with us to Richmond Gulf where we arrived on the 13th July, but were detained at Little Whale River three days by our guides refusing to accompany us farther—the seed of this discontent was sown by an old Esquimeau hunter and his band whom we met there and who endeavoured to persuade us to return, saying we never could get to South River and giving a very frightful picture of the country and its inhabitants—although they failed with us they were more successful with my guides and people, who got quite low spirited and I believe would have mutinied had they dared, the cause of this disaffection to the Expedition in these Indians was a fear that we should supply the Esquimaux, their ancient enemies, with the means of retaliating the many injuries they have received at their hands.

* * * *

Having arrived at a river which empties itself in Natwakamy from the S.ward our guides absolutely refused to accompany us further and rather than be pestered with their murmurs, I sent them back from this branch. I found my way down without meeting any accident and arrived here on the 1st August and having examined the River for nearly a week, pitched on this

spot as the most eligible situation for the establishment, the most convenient for the vessels from Europe to be at and the best wintering berth for a sloop but greatly destitute of wood and clay, being situate about half way between the Pulgewah of the Moravian Mission and Mr. Hendry's "best ground seen" both which are not at all convenient.

* * * *

I have only seen two parties of Esquimaux consisting of about ten families but as they had visited Okkak, the nearest Missionary Settlement in the course of the summer, had nothing to trade. Our meeting was friendly in the extreme and when I told them by the interpreter that they would be supplied with every necessity for furs, oil &c., &c., their joy was unbounded—foxes they say of color as well as white are plentiful, but the fear of meeting any of the inland Indians prevents them from going into the interior in search of other fur animals—am sanguine in the hope that a reconciliation may be effected between the two nations—the Indians, I should imagine will not be averse to a peace, as they must know that the Esquimaux will have it now in their power to retaliate.

* * * *

Enclosed Your Honors will find copy of a certificate I gave Captain Royal signed by Mr. Erlandson and myself, and which I thought necessary to send to you for your satisfaction—the last of the ships cargo was landed yesterday and he is to break ground today—Mr. E. is to pilot her out of the River—to whose active services I am much indebted—Mr. Taylor also has been useful. Having nothing else worth communicating except a sincere wish for the prosperity of your undertakings, I have the honor to be

[23 June, 1832.]

Honble. Sirs, &c, &c, &c.,

NICOL FINLAYSON.

No. 1107.

C

FACTOR AT FORT CHIMO TO W. ERLANDSON.

RECORDS, HUDSON'S BAY COMPANY.

Dear Sir:—

You are hereby directed to proceed into the Interior and establish a trading post some where up the Wasquash River which empties itself into South River a little above Clouston's falls—from this place you will take up an Indian to guide you to the lake or the place you may deem most eligible for the establishment—on arriving at which it would be prudent to get a store

built provided you think the canoes would be back here by the 25th or last of July to take up the rest of the supplies—to accomplish which you will of course be under the necessity to send all the men down.

As you are well acquainted with the manners and habits of the Indians who hunt to the N.ward of Eastmain and whose habits are nearly similar to those we have seen here—it is unnecessary in me to give you instructions regarding your mode of dealing with them. Your own good sense and long experience in the trading department will point out the best mode—tho' I cannot help observing that they must have seen strong Opposition and must be curtailed of many things usually lavished upon Indians at such places, especially now that the King's Posts are in the hands of the Honble. Hudson's Bay Company.

* * * *

[1834.]

Having nothing else to communicate except my sincere good wishes for the success of your undertaking, I remain &c., &c.,

NICOL FINLAYSON.

Ft. Chimo, 23rd June, 1832.

No. 1108.

C

**EXTRACT FROM ERLAND ERLANDSON'S JOURNAL
OF THE VOYAGE FROM FORT CHIMO, UNGAVA,
TO ESQUIMAUX BAY, LABRADOR, AND THENCE
BACK TO THE FORT, 1834.**

RECORDS, HUDSON'S BAY COMPANY.

I would certainly recommend Pettastickopau lake as the most eligible place for an inland Post principally because it is surrounded by a good Fur Country.

* * * *

If a communication with the Mingan Deptm't be an object of importance, no post could be better situated for facilitating such a measure, because the Indians invariably pass thro' that Lake, when visiting at the N.W. River, Mingan, Seven Island Bay or even Port Neuf.

No. 1109.

[14 Feby., 1835.]

**EXTRACT FROM FINLAYSON'S JOURNAL TO
HUDSON'S BAY COMPANY.**

RECORDS, HUDSON'S BAY COMPANY.

February 14, 1835.

[26 Feby., 1835.]

There is a Lake near the Height of Land Pettaustickopau by name, which would be an eligible situation for an Outpost. It is surrounded by a tolerable good fur country. At or near it the Indians always separate on their way to the different Settlements on the Gulf.

No. 1110.

C

**JOS. BEWLEY, RUPERT HOUSE, TO GOVERNOR
SIMPSON.**

RECORDS, HUDSON'S BAY COMPANY.

Rupert House, Feby. 26th, 1835.

Dear Sir:

I received on the 15th inst. advices from the several posts comprehended within the Ruperts River district—and with as little delay as possible, after devoting the requisite attention to matters of business immediately pressing thereon—and getting dispatches written and sent off to the Officers in charge of the respective stations, I joyfully avail myself of the first few moments respite from application to the local concerns of the district—to endeavour to communicate to you every information which present circumstances enable me to do in regard to the Honble. Company's affairs in this quarter. . . .

Mr. Kellock, with the party under his command, succeeded in reaching Nitchiquon Lake on the 12th Aug.—their 46th day from Ruperts House—and on the 19th of that month he dispatched two of his people to establish the post at Kaunaiaubiskau Lake—which is the source or head waters of the Kaunaiaubiskau or South River of Ungava Bay. The 2 men in company with their guide reached the lake on the 7th September, having been—owing to the difficulties experienced on the route—no less than 20 days on 30 the journey from Nitchiquan—although the distance between the 2 Lakes is supposed not to exceed 100 miles. As the letter I received from

p. 2787

Mr. Kellock may probably be interesting to you to peruse, I take the liberty to forward it to you, and to request reference thereto—merely observing that from all that I have ever heard,

particularly from Indians whose hunting grounds lie in that direction, I think Mr. Kellock under-rates the distance between Ruperts House and Nitchiquon. In former times Nisquiscon used to be reckoned 300 miles from the coast, and every Indian who knows anything of the distance between Nisquiscon and Nitchiquon says that it considerably exceeds the distance between Ruperts House and Nisquiscon.

At Nitchiquon the furs collected up to the 21st December amounted to M. Beaver; and

At Kaunaiaubiskau the furs collected up to the 10th December amounted to 15 M. Beaver. . . .

I am most unfeignedly glad that we have succeeded in establishing the posts in question—as a regular and annual communication with Ungava district may now be established by water thro' the Interior—I have in my letter to Mr. Kellock dated 21st inst. which he will probably receive on or about the 15th April—directed him forthwith to endeavour to open a communication if possible with Mr. Chief Trader Finlayson—by dispatching to Ungava two of the servants that will then be at his disposal—in company with any Indian or Indians whom he can get hired to guide and assist them on their route thither and back again to Kaunaiaubiskau Lake. I have likewise apprised Mr. Kellock that it is requisite he should be down at Ruperts House as early as possible in the summer for the purpose of receiving the temporary charge of the district on my departure hence—but as the summer may probably be far advanced before Nitchiquan Lake opens, I cannot form any opinion as to the date on which he may possibly arrive here. . .

..

I have addressed the Chief Trader Finlayson by letter dated 23rd inst. apprising him of our having succeeded in establishing last summer the posts at Nitchiquon & Kaunaiaubiskau Lakes—and of the probability of Mr. Kellock's being able to open a communication with Ungava district in course of the summer. I have stated to him that “in event of the communication being opened, as I am in expectation of, between the two districts by route through the Interior—it will ensure, if such is considered desirable, a regular and annual transmission of intelligence—as letters conveyed from Ungava to Kaunaiaubiskau prior to the 10th December in any year will be received at Mistassiny by the 8th January following—and at Ruperts House on or about the 14th February; on the other hand letters for Ungava that may be at this place on the 22nd or 23rd February may be lodged at Kaunaiaubiskau by the middle of April. Further—Letters from Ungava that may be brought to Kaunaiaubiskau between the 10th December and the opening of the Lakes in the Nitchiquon Quarter in the summer following—will be received at Ruperts House per canoe bringing down the Nitchiquon and Kaunaiaubiskau returns—and letters that may then be at Ruperts House for Ungava will be sent to Nitchiquon by the canoes conveying up the outfit.”

With the ardent hope that from all parts of the extensive territories

under your Superintendence and government—you may receive favourable intelligence in regard to affairs of the current outfit, and that for very many years you may continue to manage and direct the multifarious concerns with which you are entrusted by the Governor & Committee of the Honble. Company,

I have the Honor to be,

Dear Sir,

Very respectfully,

Your most obedient humble Servt.

(SGD) Jos^H. BEWLEY.

[18 April, 1836]

No. 1111.

C

SIR GEORGE SIMPSON TO SIMON MCGILLIVRAY.

(RECORDS, HUDSON'S BAY COMPANY.)

Ship St. James, 18th April, 1836.

Simon McGillivray Esq.,

Dear Sir:—

An opposition having lately been established at Esquimaux Bay by some people belonging to Quebec and Boston, with the view of benefitting by an encroachment on our trade with the Indians of the King's Posts and Mingan Seigniorie and of anticipating us in the occupation of the district of country situated between Ungava and Esquimaux Bay behind the Moravian Settlements on the Labrador Coast the Govr. & Committee have determined on establishing such posts as may be necessary to watch and protect the interests of the Honble. Company in that quarter and to that end an expedition will be outfitted from Montreal & Quebec as early in the course of the summer as possible which is intended to be placed under your command. The expedition will consist besides yourself of two Clerks and twelve servants, say, fifteen in all, a sufficient complement for two Posts, which are as many as you can establish with safety and advantage the first year, a sufficient quantity of goods & provisions will be in readiness at 3 Quebec for shipment and Mr. James McKenzie the Company's agent there has been instructed to have a vessel in readiness about the latter end of May to take the people, goods and provisions to their destination.

I have to request you will accompany the expedition and proceed direct to Mingan without touching or losing time at the King's Posts. At Mingan you will find Mr. Cumming whom I have requested to provide you with two or three small canoes and a couple of Indian guides, so as to enable you to

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proceed across land with six or eight men to Esquimaux Bay and as the distance is short, you will get there before the vessel

and have an opportunity of examining the country, and of acquiring much information which may be useful on entering into the contest, in which you are likely to be engaged. If there be any difficulty in procuring canoes or guides or that after your arrival at Mingan it be considered inexpedient to quit the vessel, I do not wish you to do so. In this matter you will therefore use your own discretion....

Your principal establishment should be formed sufficiently close to the principal establishment of your opponents to enable you to watch their movements and operations and your outposts in like manner placed alongside their principal outposts and instead of pursuing the violent course which usually characterises opposition in their fur-trade, I beg you will use every proper endeavour to keep on good terms with your neighbours and endeavour to show your superiority as an Indian trader by activity, address and good management & on no consideration allow yourself be drawn into misunderstandings, quarrels or violence of any kind—unless in defence of lives and property. Great address, activity and good management however will be necessary to ensure success in your present mission and you are appointed to conduct this enterprise because you are known to possess these requisites while I have to recommend strict economy in all your arrangements particularly in the expenditure of provisions and in mens' wages which are the heavy items of expense in opposition, I think it will be good policy to raise the standard of trade and to pay the Indians so liberally for their furs that they can gain nothing by going to another market with them. There is another branch of business to be attended to from Esquimaux Bay, and that is in the articles of seal skins, oil, feathers & furs, collected by some Canadians & other settlers on the Labrador coast known by the designation of Planters with whom I understand our opponents carry on a profitable trade. This branch of business we should never of thought of meddling with had not these people driven us to it by seducing our Mingan Indians in the first instance and latterly interfering with our trade generally in that quarter....

I have to beg you will address me from time to time as frequently as opportunities offer reporting fully on the business under your management and conveying every information in regard to the country, trade &c. which you may consider likely to be useful or interesting and you will by the last conveyance of the season forward an Indent for the goods, provisions &c. &c., you may require for next year with a prospective scheme of your arrangements for next outfit.

With Esteem

I remain, Dear Sir,

Your most obedient Servt.

(Sgd.) GEO. SIMPSON.

GOVERNOR SIMPSON TO JOHN SIEVRIGHT.

RECORDS, HUDSON'S BAY COMPANY.

Lachine, 7th May, 1836.

John Sievright, Esq.,

Sir:—

With reference to the different verbal communications we have had on the affairs of the Montreal Department, I beg to call your attention to a few points which will require particular notice—

The Gov^r. & Committee have determined on meeting the opposition that has recently been commenced at Esquimaux Bay by Stuart of Quebec acting it is said for himself and on behalf of some people in Boston, United States, with the view of encroaching on our trade with the Mingan Indians and anticipating us on the occupation of the back country situated between Esquimaux & Ungava Bays and to that end an expedition consisting of Mr. McGillivray, the gentleman appointed to the charge thereof, two clerks and twelve men is to be fitted out this season with a sufficient quantity of trading goods, provisions &c. which you will forward as early in the season as possible, say in the course of the month of May. . . .

*sic.

The goods ordered from England will be brought from Quebec by one of the first vessels of the season and you have no doubt provided the provisions and other supplies required, as that I am in hopes that Mr. McGillivray may get away before the close of May which is very desirable in order that he may have time to arrange his plans for the winter to erect his buildings and attend to all his preparatory measures before the close of the season. A batteau with rigging complete may be provided from Mingan and material for building are* other likewise, bark, wattap & c. and I have suggested the propriety of Mr. McGillivray crossing over by land from Mingan with a couple of Indian guides and four men in two or three small canoes in order that he may require* a knowledge of the country and have time to look about him at Esquimaux Bay before the arrival of the vessel.

*sic.

I am very anxious that this expedition should be well fitted out and provided with every requisite for an animated contest and that it should be despatched as early in the season as possible (certainly not latter than the middle of June) in order that Mr. McGillivray may have time to acquire information respecting the country, trade and natives and to erect his buildings and make other preparatory arrangements before the favourable

season for such work draws to a close. Let Mr. McGillivray be provided with a copy of the agreement entered into by Mr.

Keith with Lampson in regard to the trade of Esquimaux Bay and of Mr. Taylor's legal opinion that that agreement with Lampson is not binding on the Company now that Lampson is no longer connected with the business nor would it be binding on them even had the business been still in Lampson's hands as the interference with our Mingan trade was a breach of contract on their side liberating us from its engagement. . . .

(Sgd.) GEO. SIMPSON.

[16 Aug., 1836]

No. 1113.

C

**GOVERNOR SIMPSON TO HEAD OFFICE
HUDSON'S BAY COMPANY.**

(EXTRACT.)

16th August, 1836.

RECORDS, HUDSON'S BAY COMPANY.

... .. "The accounts of Ruperts River District are not yet closed, but I am apprehensive they will show a falling off in the Trade, there being a material reduction in the quantity of Furs as compared with that of the preceding year. This has arisen from a variety of causes, but mainly from the absence of a number of Indians who have crossed over towards Ungava and others who have pushed their way across the height of Land (separating the waters that pass through the Honble. Company's territory from those that fall into the St. Lawrence and Esquimaux Bay) and traded their hunts with some of our own people, belonging to the King's Posts and with the opposition at Esquimaux Bay—and I regret to say that the upper parts of the District suffer much from the encroachments of Abenikie trappers and traders, who cross over from the S. Maurice. We have frequently warned those people off and I have this season considered it advisable to instruct C. T. Miles to use the best endeavours to seize any Furs that may be found in their possession, as the most effectual means of checking such encroachments. The Posts now occupied in the District are Ruperts House and East Main on the Coast, and inland, Mistassiny, Temiscamay, Waswonaby, Michiskan, Pike Lake, Nichiquon and Caniapiscaw. The Post of Pike Lake has of late barely collected furs enough to cover its expense, and it is thought it may be vacated without injury to the trade or inconvenience to the Natives, as they can be divided between the posts of Mistassiny and Waswonapy; I have therefore authorised the abandonment of that establishment next spring, and in order to bring back some of the Indians who have gone to Ungava and are likely to fall into the hands of the

p. 2792

Esquimaux Bay opposition ; likewise in order to give another chance to the Esquimaux who occupy the Coast North of Richmond Gulph of doing some thing in the Oil trade I have instructed Mr. Miles to establish a small post next summer at Whale River which I think is likely to be productive of some

benefit.... ..”

[10 Sept., 1836]

(Extract from Sir G. Simpson's ltr. from Moose factory to
Govr. & Committee. Book 1266, pp. 2 & 3.)

Vol. 1292

No. 1114.

C

GOVERNOR SIMPSON TO SIMON MCGILLIVRAY.

RECORDS, HUDSON'S BAY COMPANY.

Lachine, 10th Sept., 1836

Simon McGillivray, Esq.,

Dear Sir:—

I yesterday had the pleasure of receiving your favors of 5th and 16th July with the accompanying papers and am glad to hear you reached your destination in sufficient time to make the necessary preparatory arrangements for the winter. . . . The trade with the Indians I wish particularly to be watched closely & protected & that every endeavour should be used to prevent the opposition from obtaining a footing in the interior.

The Planters I understand pick up a good many skins; it is desirable you would get as many of these as possible in barter for goods, provisions and other supplies ; you will likewise take oil, seal skins & any other marketable article of which you may be a judge & know the value at as cheap a price as possible, to be paid for in goods, provisions &c. out of your outfit, but we cannot make any money or cash transactions' of any kind in the way of trade as our operations must be entirely confined to barter as in other parts of the Indian country.

Your family have not yet arrived from the interior nor can they be here before the Tadousac sails for Mingan so they must remain until next summer, when they will be sent down by the earliest conveyance.

With esteem, &c.,

(Sgd.) GEO. SIMPSON.

GOVERNOR SIMPSON TO S. MCGILLIVARY.
(EXTRACT.)

[20 April, 1837.]

RECORDS, HUDSON'S BAY COMPANY.

Lachine, 20th April, 1837

Simon McGillivray, Esq.,

Dear Sir:—

With reference to a letter I had the pleasure of addressing you on the 20th ultimo upon the affairs of Esquimaux Bay, I beg to apprise you that in consequence of the indisposition of C. T. Cummings which renders it necessary to afford him leave of absence for the benefit of medical advice, C. F. Bewley has been appointed to the charge of Mingan, and that as the Transport Indian Trade and other arrangements of that District are closely connected with those of Esquimaux Bay, it is considered advisable in many respects to unite those two Districts, and place them together under the same superintendence, and he is now about to proceed to Mingan by the Tadoussac schooner. That vessel is to return with as little delay as possible to Quebec for the Esquimaux Bay supplies, it is intended she shall be dispatched for Esquimaux Bay about the middle of June, and Mr. Bewley will either proceed thither through the Interior, or by the Tadoussac on her return from Quebec. I have handed to Mr. Bewley copy of all the correspondence that has passed between us, on the affairs of Esquimaux Bay, by which he is made acquainted with the views of the Governor and Committee in establishing that District, and I have to beg you will afford that Gentleman every information in your power connected with the business under your management and act in all matters and things in reference thereto, as he may direct.

[25 April, 1837.]

No. 1116.

**GOVERNOR SIMPSON TO JAMES KEITH, DISTRICT
MANAGER AT MONTREAL.**

RECORDS, HUDSON'S BAY COMPANY.

25th April, 1837.

. . . . “Mingan & Esquimaux Bay. These two districts have heretofore been under distinct managements but on account of their proximity to each other, likewise with a view to guarding against internal opposition in Trade and in order to facilitate the management of both it is determined that they shall now be united under the direction of Chief Factor Bewley who after visiting Esquimaux Bay in the course of this summer will make Mingan his headquarters, relieving Mr. Cumming who is allowed leave of absence on the ground of ill-health and leaving Mr. McGillivray in charge of Esquimaux Bay. The principal object of establishing Esquimaux Bay was to check the encroachments of opposition in the trade of the King's Posts, Mingan, the Company's Territories and Ungava.”

No. 1117.

[1842.]

**EXTRACTS FROM “NOTES ON ESQUIMAUX BAY
AND THE SURROUNDING COUNTRY,”**

BY W. H. A. DAVIES, ESQ. 1842.

TRANSACTIONS OF THE HISTORICAL
SOCIETY OF QUEBEC, 1843-1862.

GENERAL REMARKS—INHABITANTS, &C.

Davis, in his Second Voyage of Discovery in 1586, is the first that appears to have noticed this extensive bay ; for there can be but little doubt, that the large opening which he saw in Lat. 54° 30', “Entering in between two lands, the lower all islands,” was the mouth of this bay, answering as it

p. 2795

does, both in appearance and situation to it. The French however, were the first who gave the bay its present name, and resorted to it for trade, which they appear to have done at an early period, for the bay appears under its present name, in maps published by them very early in the last century ; and in some of them, the form of the Bay is laid down pretty correctly. After the loss of their possessions in Canada, they abandoned the trade to Esquimaux Bay, and some time elapsed before the English took it up, for it was only in 1777, that the first Englishman wintered in the Bay—his son was still living

there a year ago—he found the remains of the old French establishments in many parts. In 1785 a Canadian from Quebec, wintered there, since that date, establishments have always been kept up in the Bay, by merchants and others of Quebec; after undergoing numerous changes, these establishments fell in 1837, into the hands of the Hudson's Bay Company, in whose possession they still remain. In the meantime, the knowledge of the Bay, possessed by the French geographers seems to have been gradually lost, as well as the name given to the inlet—instead of which the native name of Invucktoke appears to have been appropriated to it, and the entrance only marked in the map, until the last edition of Arrowsmith's Map of British North America, where the Bay once more resumes its form, with the name of Hamilton's Inlet tacked to the native designation. It is not however, very accurately laid down, the distance from the entrance to the head of the inlet being made much shorter than it really is.

The residents of Esquimaux Bay may be classed as follows, viz.: Persons in the employ of the trading companies, Planters or freemen, Esquimaux and Mountaineer Indians.

The first class are now confined to the servants of the Hudson's Bay Company, who are now the only Company that have permanent establishments in the Bay—they amount to fifteen or twenty individuals.

The Planters or freemen, are composed of persons who have come out in the service of the different mercantile establishments, and at the expiration of their engagements have remained in the country, hunting and fishing, on their own account, receiving the necessary supplies from the nearest establishment, and giving in the produce of their hunt, &c., in return ; a great portion of this class is now composed of the offspring of former planters with the Esquimaux women. The mode of living of these two classes is in some degree similar—the following is a short sketch of the annual routine pursued by the first class.

Immediately after the business of the summer season is closed, by the departure of the vessel, generally about the middle of September, the men are sent into winter quarters; that is, they are sent in parties of two each, up the different rivers, to pass the winter in trapping martens and other animals; they live in small huts, warmed by a stove; their work consists in visiting their traps, keeping them free from snow, and in hunting for a part of their subsistence. Their traps are either steel ones, or made of wood, technically called “dead falls”—these latter traps are constructed in such a manner, that the animal on taking the bait, pulls down a heavy piece of

p. 2796

wood that crushes him. The traps for martens are placed along a blazed path (called a “cat path”) leading into the interior, and varying in length from one to three days' walk, according to the address and activity of the hunter—the traps for foxes are placed along the borders of the rivers or bays. The men, on

leaving the main Post, are furnished with a certain quantity of pork, flour, and ammunition, which is expected to last them until they return in the spring, generally about the first or second week in June. On the breaking up of the ice, they return to the post, when preparations are immediately commenced for the salmon-fishery, and when that is over the cod fishery is pursued until the end of the summer season. Such is the general routine followed in Esquimaux Bay—but, in places where the seal-fishery is pursued, the men do not go into winter quarters before that fishery is finished, which it seldom is before December—other local variations take place, but such is the general routine of the year. The life the planters lead is one very similar to the above, with the exception, that having generally large families, they most commonly winter on the immediate shores of the Bay if possible, for the convenience of hunting ducks in the spring, for the subsistence of their families. Their number may be on an average, about forty-five souls, of these eight are white men, the remainder half-breed Esquimaux. They are very uncertain in their movements, often; wintering in places widely remote from their former habitations, for as they invariably carry all their property with them, in their annual migrations to and from their summer residence, they are not at all under the necessity of returning to the winter-house they last occupied, unless the situation should happen to be a favourable one ; their migrations are performed in open whale boats, in which they will often make voyages of a month's duration, the women managing the boats as well as the men, and pulling an equally good oar. Even in summer, some of them are continually changing their quarters; passing the first part of the summer in fishing salmon, in the neighbourhood of Rigolet, and then going to the entrance of the Bay, to pursue the cod fishery, until it is time to return to winter quarters. The life these people lead is one of great hardship and fatigue, from their constant exposure to the weather, and the necessity of using the most strenuous exertions, to subsist their families, for the provisions they are enabled to purchase from the traders are never sufficient to support them during the long winter; the constant decrease of the hunt and fisheries of late years has also greatly augmented their misery.

The Bay was formerly the principal residence of the Esquimaux, from the facilities that it offered for living, the seals frequenting it in great numbers, and remaining in the Bay during the whole winter. But the number of seals has been greatly diminishing of late years, this has caused many of the tribe to leave the place; we must however look to the combined effects of the rum and the vices, imported by the Europeans, for the great diminution that has taken place within the last sixty years in the number of the Esquimaux belonging to the Bay; even as late as the beginning of the present century, they numbered upwards of 300—they are now reduced

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to eight families, consisting of thirty-four individuals, viz:

[28 Jany., 1845]

nineteen males and fifteen females The Mountaineers, whose hunting-grounds are in the vicinity of the Bay, are a branch of the Cree Nation, a dialect of whose language they speak. They are very much reduced in number; of the thirty-two families that frequented the Bay in 1840, only nine belonged to it, that is, whose hunting-grounds were in the neighbourhood, the remainder were from the Posts on the St. Lawrence, from whence they had been attracted by the great number of Reindeer in the vicinity of the Bay. These nine families comprised of 48 individuals, in which however are included several orphans and widows. They resemble in every respect the Indians of the King's Posts. From the great abundance of Reindeer throughout the whole of this country, they might, if they would keep from rum, make themselves perfectly independent of the whites; but allured by that pernicious liquor, they are sunk into a state of abject slavery; and their intercourse with the whites has but served to degrade them even more than it has done the Esquimaux. As they stand greatly in awe of the latter people they rarely descend the Bay; passing the summer in the vicinity of the Post of North West River, at the head of the Bay, where the Mountaineer trade is carried on. In winter, their time is chiefly spent in the chase of the Reindeer—in summer, when the deer retire to the north or to the tops of the high mountains, out of the way of the flies, they generally subsist on fish, wild-fowl and seals. Resembling as they do, the Indians of the King's Posts in every respect little need be said on the subject of their manners and customs.

No. 1118

C

GOVERNOR SIMPSON TO WM. NOURSE.

(EXTRACT.)

RECORDS, HUDSON'S BAY COMPANY.

28th January, 1845.

. . . . “If the Indians persist in a desire to visit Mingan in order to meet a Roman Catholic Priest, you may state that, if they defer it for another year, we will endeavour to send a Priest to their own lands, without putting them to the trouble or inconvenience of so long a journey. This can be done hereafter without inconvenience when the vessel winters in the St. Lawrence; but, if the Priest were to go this season by the second trip of the “Marten” his stay would necessarily be so short, that he could only see a few of the Indians immediately round Rigolet. . . .”

**EXTRACTS FROM “NOTES OF A TWENTY-FIVE
YEARS' SERVICE IN THE HUDSON'S BAY
TERRITORY,”**

BY JOHN MCLEAN (LONDON:1849). VOL. I, p. 32.

The Company having learned, through a pamphlet published by the Moravian missionaries of Labrador, that the country produced excellent furs, were induced by the laudable desire of “ameliorating the condition of the natives,” to settle it; and a party was accordingly sent overland from Moose Factory to take possession in the summer of 1831. The Moravians, finding their intention thus anticipated, left both the cure of souls and trade of furs to the Company.

Whatever may have been the Company's real motives in forming a settlement in this quarter, the profits derived from it added but little to the dividends; the substance that glittered at a distance like gold proved to be but base metal. Beavers were nowhere to be found ; and although the martens brought an extraordinary high price, they were far from plentiful; while the enormous expense of supplying the district by sea, and supporting it on imported provisions, rendered the “ Ungava adventure ” a subject of rather unpleasant discussion among the partners, most of whom were opposed to the measure from the first.

Mr. Simpson was, in fact, the prime mover of the project, and aware of the discontent caused by its failure, determined on making every effort to reduce the expense, and, if possible, to increase the returns. Accordingly, I was directed to push outposts into the interior, to support my people on the resources of the country, and at the same time to open a communication with Esquimaux Bay, on the coast of Labrador, with the view of obtaining in future my supplies from thence by inland route; “there being no question of the practicability of the rivers.” So said not he who had seen those rivers.

Mr. Erlandson had traversed the country in the spring of 1834, and represented to me the utter impossibility of carrying my instructions into effect. Meantime, the Committee, having learned by despatches from York Factory that the vessel intended for the business of the district had been lost, and the other, in which I made my passage, placed in so critical a situation as to render her safety in spring a very doubtful matter, considered it advisable to provide for the worst by freighting a small schooner to carry us out our supplies. This vessel very unexpectedly made her appearance on the 22d of September, and we thus found ourselves supplied with goods and provisions for two years' consumption.

Having, as above mentioned, learned from Mr. Erlandson the difficulties of the inland route, and also that a great number of the natives had gone to Esquimaux Bay, with the intention of remaining there, I considered it incumbent upon me to visit that quarter at an early period of the winter, and I accordingly set out from Fort Chimo on the 2d of January. I submit the following narrative of my journey to the reader.

“Tuesday, the 2d of January, 1838,— I left Fort Chimo at eleven A.M., accompanied by the following men, viz.:—

“Donald Henderson, Henry Hay, and two Indian guides, who are to accompany me throughout the journey ; Pierre Neven and M. Ferguson go part of the way, each driving a sled of two dogs, loaded with provisions, the other men having sleds drawn by themselves.

“Wednesday, the 3d.—Left our encampment before dawn of day. Excessively cold—some of us got frost-bitten, but not severely. Our principal guide, finding his companion unable to keep up with us, set off to his lodge in quest of a substitute. Encamped early, having proceeded about nine miles.

“Thursday, the 4th. Started at seven A.M. Reached High Fall Creek at nine A.M. Halted to wait for our guide, who soon joined us, alone, finding no person willing to accompany him. Resumed our march at half-past nine; had not proceeded far, when we perceived that our young guide, Pellican, was left considerably in the rear. We waited till he overtook us, and the miserable creature appearing completely exhausted with fatigue, we encamped at an early hour. Eight miles.

“Friday, the 5th.—Lightened Pellican's sled, and set off at five A.M.; fine weather, though sharp. Advanced sixteen miles.

“Saturday, the 6th.—As the ice was covered with water close to our encampment, it was deemed advisable to await the light of day. Set off at eight A.M., but found it impossible to move forward in consequence of the immense quantity of snow that had fallen during the night. It continuing still to snow, and blowing a violent gale at same time, I gave up the struggle. Advanced about a mile.

“Sunday, the 7th.—Got up about three A.M., literally buried in snow. Our blankets being wet, we waited in our encampment drying them till eight o'clock, when we started with only half loads, with which we intended to proceed to the first lake, and then return for the remainder; but to our great satisfaction we soon discovered that the tempest which had incommoded us so much last night had cleared the ice of snow ; we therefore returned for the property we had left; then proceeding at a fine rate, having beautiful weather, we soon reached the lake ; when my guides, discovering a herd of deer on an adjacent hill, immediately set off at a bound, followed by

Pellican and my two *brules*. I saw at once my day's journey was at an end, and accordingly directed my encampment to be made. Our hunters joined us in

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the evening with the choice parts of three deer they had killed. Proceeded eight miles.

“Monday, the 8th.—Very cold, tempestuous weather. Our progress was much retarded by the great depth of snow in the woods through which our route lay. Thirteen miles.

“Tuesday, the 9th.—Blowing a hurricane; the cold being also intense, we could not venture out on the ice without incurring the risk of being frost-bitten; we therefore remained in our quarters, such as they were, until the weather should moderate.

“Wednesday, the 10th.—My guides appeared very unwilling to quit their encampment this morning, pretending indisposition. They might have been really ill; but the beastly manner in which they had been gorging themselves for the past two days being well known to be the cause of their illness, no one felt disposed to pity them. I therefore sprang into their encampment, and pitching the remainder of their choice morsels into the snow, drove them out before me. Travelled through woods the whole day. Encamped at half-past three. Eighteen miles.

“Thursday, the 11th.—Started at five, A.M. Soon fell on a large lake, on which we travelled till three, P.M., when we encamped. Thus far the lake extends S.E. and N.W., being about two miles in width. As Mr. Erlandson was the first European who had traversed these inhospitable wilds, I had the gratification of giving his name to the lake. It is reported by the natives to abound in fish of the best quality; rein-deer are also said to be numerous at certain seasons of the year. Proceeded fifteen miles.

“Friday, the 12th.—Being immoderately cold, and the wind blowing direct in our faces, we could not attempt travelling on the lake.

“Saturday, the 13th.—Weather fine. Left Erlandson's Lake about one, A.M.; it still stretched out before us as far as the eye could reach, and cannot be less than forty miles in length; its medium breadth, however, does not exceed two miles and a half. The circumjacent country is remarkably well wooded, even to the tops of the highest hills, and is reported by the natives to abound in martens. A few industrious Indians would not fail to turn such advantages to good account; but they can avail the Company very little, while the natives alone are in possession of them. Went on twenty-four miles.

“Sunday, the 14th.—Set off at five, A.M. Passed over several small lakes; the country well wooded. Entered upon a small river about noon, the banks covered with large pine. Encamped at three, P.M. Advanced sixteen miles.

“Monday, the 15th.—Took our departure at seven, A.M. Travelled without halting the whole day. Eighteen miles.

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“Tuesday, the 16th.—Decamped at five, A.M.; the snow very deep in the woods. Fell on Whale River at ten, A.M. The face of the country presents scarcely any variety; from Erlandson's Lake to this river it is generally well wooded, but afterwards becomes extremely barren, nothing to be seen on both sides of the river but bare rocks. Proceeded sixteen miles.

“Wednesday, the 17th. —Started at five, A.M. Our route in the morning led us through a chain of small lakes, and brought us out again on Whale River, on which we travelled till four, P.M. The appearance of the country much the same as described yesterday. Proceeded eighteen miles.

“Thursday, the 18th.—P. Neven being unable to travel from indisposition, I resolved on passing the day to await the issue, deeming his malady to be of no very serious nature. In the meantime I took an exact account of my provisions which I found to be so far reduced, that no further assistance was required for its conveyance. I accordingly made the necessary arrangements to send the men back.

“Friday, the 19th.—Early in the morning, P. Neven (being now convalescent) and Mordoch Ferguson set off on their return, whilst I and my party proceeded on our onward route. I retained a sled of dogs, intending to drive them myself. We travelled eleven miles on Whale River, then struck across the country to the eastward. Encamped at four, P.M. Fourteen miles.

“Saturday, the 20th.—The moon affording no longer light to find our way in the night, we must now wait till daylight. Started at seven A.M.; crossed a point of wood, chiefly larch, of a miserably small growth; then came out on a large lake (comparatively speaking), on which we travelled till four, P.M. Thirteen miles.

“Sunday, the 21st. —Set off at seven A.M. About eleven, we fell on the fresh tracks of a large herd of deer, which my guides carefully examined; their experience not only enabling them to determine the precise time they had passed, but the very spot where they were likely to be found, which they affirmed was close to us. My dogs being very much reduced, and not having the means of increasing their present

modicum of food, I determined on availing myself of an opportunity which might not again occur of procuring a supply. The Indian accordingly set off in quest of them, desiring us at their departure to make no fire until the sun had reached a certain position in the heavens which they pointed out to us. We made our encampment at the time appointed, and were soon joined by our hunters, dragging after them a fine doe; they had got only one shot at the herd, which immediately took to the bare hills, where pursuit was in vain. Our guides being encamped by themselves, I was curious to ascertain by ocular evidence the manner in which the first kettle would be disposed of, nor did I wait long till my curiosity was gratified. The cannibals fell upon the half-cooked flesh with a voracity which I could not have believed even savages capable of; and in an incredibly short

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space of time the kettle was disposed of ;—and this, too, after their usual allowance, which is equal to, and sometimes exceeds, that of the other men who say they have enough. Proceeded seven miles.

“Monday, the 22d.—On examining the remains of the deer this morning I found my quadrupeds would benefit but little by my good intentions loss of time, our guides having applied themselves so seduously to the during the night, as to leave but little for their canine brethren. We started at seven, A.M., the travelling very heavy in the woods. About noon we came upon a large lake, where we made better speed. Thirteen miles.

“Tuesday, the 23d.—Travelled through woods the greater part of the day encamped at four o'clock. Sixteen miles.

“Wednesday, the 24th.—Decamped at seven, A.M. Our route through swamps and small lakes, with strips of wood intervening. Martens appear to be numerous, but beavers must be extremely rare, for we have discovered no traces whatever of their existence anywhere along our route though innumerable small lakes and rivers, such as beavers frequent, are be met with in every direction; but the country produces no food for them At ten A.M. we arrived at a considerable lake, where my guides told me we had reached the highest land. On asking them if this were the lake where we intended to build, they pointed to the south-west, saying it was four days journey off in that direction!—so far had I been led from the route I intended to have followed, notwithstanding the perfect understanding I had with my perfidious guides prior to our departure from the establishment. Encamped at three, P.M. Twelve miles.

“Thursday, the 25th.—Immediately on leaving our encampment, we fell on a large river flowing to the north-east,

which I took to be George's River. We followed it for a short distance, and then directed our course over bare hills. Encamped at three, P.M. Eleven miles.

“Friday, the 26th.—Having passed the night in a clump of small pines which sheltered us from the inclemency of the weather, we were not aware of the violence of the storm which was raging around us, until, pursuing our route over a ridge of bare hills, we were completely exposed to its fury. We found the cold intense, the wind blowing in our faces, so that it was impossible to proceed. Observing a hummock of wood close to us, we shaped our course for it, where we were no sooner arrived, than it began to snow and drift. The few trees to which we had retreated being far apart, and the wind blowing with the utmost violence, we experienced the greatest difficulty in clearing an encampment. The storm continuing unabated, we passed a miserable day in our snow burrow. Two miles.

“Saturday, the 27th.—Arose from our comfortless couch at half-past four. The snow having drifted over us, and being melted by the heat of the fire in the early part of the night, we found our blankets and capotes hard frozen in the morning. Thawing and drying them occupied us till nine A.M., when we set off. Snow very deep. Proceeded nine miles.

“Sunday, the 28th.—Set off at seven, A.M. Snow still increasing in depth, and our progress decreasing in proportion. At one, P.M., we came upon a large river flowing to the north, on which we travelled a short distance; then followed the course of a small stream running in an easterly direction. Leaving this stream, our route lay over marshes and small lakes; the country flat, yielding dwarf pine intermixed with larch. Encamped at half-past four; advanced eight miles.

“Monday, the 29th.—Started at seven. Appearance of the country much the same as yesterday. Fifteen miles.

“Tuesday, the 30th.—Decamped at seven. Weather mild, and walking heavy. Our principal guide appears rapidly declining in strength, which does not surprise me, considering the laborious duty he has had to perform ; always beating the track a-head, without being once relieved by his worthless associate. Fourteen miles.

“Wednesday, the 31st.—Started at seven. Still very mild. Observed a few small birch trees. Encamped at four, P.M. Fifteen miles.

“Thursday, the 1st of February.—Started at the usual hour. We have been travelling through a very rough country for these two days past. The fact is, that our guides, having only passed here in summer, are unacquainted with the winter trace. We are, therefore, pursuing a circuitous course, which, with every other disadvantage, subjects us to the risk of running short of provisions,—a contingency which our reduced stock warns us to prepare for ere long. We can afford no more food to the dogs; their load is now transferred to the men's sleds. Fifteen miles.

“Friday, the 2d.—Decamped at seven, A.M. Pursued our route over extensive swamps and small lakes, where there is scarcely any wood to be seen. The face of the surrounding country being level, the least elevation commands a most extensive view; but the eye turns away in disgust from the cheerless prospect which the desolate flats present. I deemed it expedient to curtail our allowance of provisions this evening. Eighteen miles.

“Saturday, the 3d.—Set off at seven, A.M. Reached Michigama Lake at one, P.M.; on which we travelled till five o'clock, when we camped on an island. Proceeded twenty miles.

“Sunday, the 4th.—Left our encampment at the usual hour. Halted for our scanty meal at ten, A.M. After an hour's delay we resumed our march, and encamped at four, P.M., on

an island near the mainland on the east side of the lake, having performed about twenty miles. I here repeated to the Indians my earnest wish to proceed to Esquimaux Bay, by North River, which takes its rise in this lake. They replied that nothing could induce them to comply with my wishes, as inevitable starvation would be the consequence; no game could be found by the way, and we would have, there—tore, to depend solely on our own provisions, which were barely sufficient for the shortest route. I had thus the mortification to find, that I should entirely fail in accomplishing the main object I had in view in crossing the country.

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“Monday, the 5th. —Decamped at seven, A.M. Reached the mainland at half-past eight; then ascended a river flowing from the north-east, which discharges itself into Michigama Lake, Pellican taking the lead, being the only one acquainted with this part of the country. The Indians shot an otter. No wood to be seen, but miserably small pine, thinly scattered over the country. Encamped at Gull Lake. Fifteen miles.

“Tuesday, the 6th.—Left our encampment at seven. Our guide lost his way about noon, which after an hour's search, he succeeded in finding; when we resumed our slow march, Pellican proceeding at a snail's pace, which neither threats nor entreaties could in the least accelerate. Encamped at five, P.M. Eleven miles.

“Wednesday, the 7th.—Started at half-past six, A.M. Arrived at the site of an extensive Indian camp, which appeared to have been recently occupied. Our guides knowing the Indians to be their friends from Ungava, and their trail leading in the direction of our route, required no longer to be urged on. An immediate impulse was given to Pellican's sluggish motions, increasing his speed to such a degree, that it required our utmost exertions to keep up with him. Encamped near a high fall on North-West River, which is here walled in by inaccessible precipices on both sides. The view above the fall is interrupted by stupendous rocks; the natives say that the appearance of the river and surrounding country is the same from this fall to Michigama Lake; the river is deemed to be impracticable for any kind of craft. Eighteen miles.

“Thursday, the 8th.—Set off at seven, A.M. Fine travelling on the river. We passed two portages and rapids. Encamped at forty-five minutes past five. Twenty miles.

“Friday, the 9th.—Decamped at seven. Travelling good; the banks of the river high and precipitous, and almost destitute of wood. We observed, however, a few birches. Encamped at six, P.M. Twenty miles.

“Saturday, the 10th.—Started at eight, A.M. About noon we arrived at a wide expansion of the river, where it suddenly bends to the west. Here we again quitted the river, directing our course to the eastward. The navigation of this part of the river is represented by the natives to be impracticable, and similar to the upper part. Our snow-shoes being the worst for wear, we encamped at an early hour for the purpose of repairing them. Advanced fifteen miles.

“Sunday, the 11th.—Decamped at seven, A.M. Pursued our course through the roughest country I ever travelled. The appearance of it struck me as resembling the ocean when agitated by a storm, supposing its billows transformed into solid rock. We commenced ascending and descending in the morning, and kept at it till night. The men complained much of fatigue. Proceeded fourteen miles.

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“Monday, the 12th.—The weather being so much overcast that we could not find our way, we remained in our encampment till eight, A.M. Encamped at a quarter past five. Fifteen miles.

“Tuesday, the 13th.—Set off at half-past seven, amidst a tremendous snow-storm, which continued without intermission the whole day ; we sunk knee-deep in the snow, and found it not the most pleasant recreation in the world. About noon we passed a hut, which my guide told me had been the residence of a trader, two years ago. Late in the evening we arrived at another hut, on North West River, where we found two of Mr. McGillivray's people, who were stationed there for the purpose of trapping martens. Nine miles.

“Wednesday, the 14th.—The weather being unpropitious, and finding ourselves very snug in our present quarters, we passed the day enjoying the comfort of a roof.

“Thursday, the 15th.—Left our Canadian hosts at early dawn; the snow very deep on the river. Proceeded till ten, A.M., when D. Henderson was suddenly seized by a violent fit, which completely incapacitated him from travelling. Discovering a hut close by, a fire was immediately kindled in it, and a place prepared for our invalid to lie down; in our present circumstances nothing more could be done. I waited by him till two, P.M., then pursued my route, accompanied by the Indians, leaving H. Hay to take care of him. Accomplished fourteen miles.

“Friday, the 16th.—Set off at four, A.M. Arrived at dusk at Fort Smith, where, although I was well known, my Esquimaux dress and long beard defied recognition, until I announced myself by name.

“Saturday, the 17th.—An Indian was despatched early in the morning, to meet my men with a supply of the north-west panacea, Turlington Balsam; and I was glad to see them arrive in the evening, more in want of food than medicine.”

Two days after our arrival, all the Nascopie or Ungava Indians, at present residing in this part of the country, numbering seventy or eighty souls, came to the establishment, with the produce of their winter hunts. Mr. McGillivray and myself having come to an understanding regarding them, we both addressed them, representing to them the advantages they would derive from having posts so conveniently situated on their lands, &c. After some deliberation among themselves, they expressed their intention to be guided by our advice, and to return forthwith to their lands. Having sent off my despatches by Indian couriers, for Mashquaro, on the 3d of March, to be forwarded thence to Canada, via the Company's posts, along the Gulf and River St. Lawrence, I sent H. Hay for my guides (who had gone to pay the kettles of their friends a visit), preparatory to my departure hence, which has been deferred to a much later period than I had calculated upon, from the prevalence of excessively bad weather for a fortnight.

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Hay, having met the Indians on the way, returned the same evening ; but they were so emaciated that I could scarcely recognise them, looking like so many spectres—a metamorphosis caused by the influenza, at that time prevalent in the country. My principal guide, however, declared himself able to proceed on the journey, with a light load; and it was arranged that Pellican should accompany his relative. Two young men, who came in with my guide, appearing not quite so much reduced as the others, I proposed to them to accompany me as far as Michigama Lake, to assist in hauling our provisions, which they consented to do; and they accordingly took their departure along with my guide, on the 4th of March. Myself and two men, along with my “husky” interpreter, followed next morning ; but as we are to retrace our steps by the same way we came, it will be unnecessary to narrate the occurrences of each day.

We arrived in the evening at the first Indian camp, where I found one of the young men I had hired, relapsed into his former malady, and unable to proceed further. This, although a disappointment, did not affect me, as I had hopes my guide would be able to continue his route, from the circumstance of his having passed on to the farthest camp. When we arrived, about noon next day, and found, not only our guide, but every individual in the camp, suffering under the fatal malady,—this was the climax to my disappointment. I determined on returning to Fort Smith, with my guide, where, by proper treatment, I hoped he might yet recover in time to admit of my returning before the end of the season.

I accordingly returned, accompanied by H. Hay, who

conducted the dog-sledge, on which I had placed my sick Indian, leaving D. Henderson in charge of the provisions, along with the Esquimaux. On the morning of the 9th, I despatched H. Hay to join Henderson, with directions to haul the provisions on to McGillivray's hut, there to await further orders.

My guide, for a few days, appeared to be in a hopeless state, refusing sustenance of any kind, and became delirious. This was the crisis of the malady; for he soon began to take some food, and recovered strength daily. He at length proposed to attempt the journey, to which I joyfully assented; and once more took leave of Fort Smith, on the 19th of March, and joined my men next day.

Remaining two days, to give the guide time to recruit his strength, I started on the morning of the 23d; the Indians had recovered strength enough to enable them to proceed towards their winter deposit of provisions, near Michigama Lake, leaving us an excellent track. We overtook them on the 26th. I found it impossible to separate my guide from his relatives while we pursued the same route. We arrived on the 30th at their last stage, and encamped together.

Next morning as we were about to start, a message arrived from my guide, announcing his determination to proceed no farther, unless Pellican were permitted to accompany us. I sent for him immediately, and endeavoured to impress on his mind the unreasonableness of such a proposition, our provisions being scarcely sufficient for ourselves—that it would expose the whole

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party to the risk of starvation ; but I addressed a thing without reason and without understanding, and was accordingly obliged, once more, to yield.

We reached the highest land on the 2d of April, where, on examining our remaining stock of provisions, the alarming fact that it was altogether insufficient to carry us to the establishment, was but too apparent. It was therefore necessary to take immediate measures to avert, if possible, an evil that threatened so fearful consequences ; and the only course that presented itself was to divide into two parties,—the one to proceed with all possible despatch to the fort, by the shortest route, and to send forward a supply to the other, which it was anticipated would reach them ere they were reduced to absolute want.

Pursuant to this resolution I set off, accompanied by the guide and H. Hay; leaving D. Henderson to make the best of his way, with the Esquimaux and Pellican. Having taken but a very small share of the provisions with us, and meeting with no game on the way, we were soon reduced to the utmost extremity. One of our dogs being starved to death, we were ultimately obliged to knock the surviving one on the head, to supply ourselves with what we considered, in present circumstances, “food for the gods.” Such as it was, it enabled

us to keep soul and body together till we reached Fort Chimo, on the 20th of April, where we found all the Nascopies of this part of the country assembled to greet the arrival of their long-expected friends—our guides. I immediately selected a couple of smart-looking lads to go to meet my rear guard,—the other servants about the establishment, who were accustomed to snows-shoes, being absent, watching the deer.

On the third day after their departure the couriers returned, with Pellican. On inquiring of the latter what had become of my men, he replied that he had left them encamped at a lake about sixty miles distant, where the Esquimaux, abandoning himself to despair, could not be prevailed upon to go a step farther; and that he (Pellican) had been sent forward by Henderson to urge on the party whom they expected. They were within a day's journey of them; and yet the wretches returned immediately on meeting Pellican, leaving the others to their fate. No Indians I had ever known would have acted so basely; yet these are an “unsophisticated race” of aborigines, who have but little intercourse with the whites, and must, of course, be free from the contamination of their manners. Our hunters being now arrived, were sent off, without delay, in quest of the missing ; and I had the satisfaction to see my famished *compagnons de voyage* arrive, on the 26th of April.

[14 Feby., 1850]

BISHOP OF SIDYME TO LORD ELGIN.

A Son Excellence
le Comte d'Elgin & Kincardine
Gouverneur General.

Québec, 14 février 1850.

Milord,

J'ai l'honneur de transmettre à Votre Excellence une pétition des sauvages Montagnais qui habitent la partie nord du fleuve St Laurent au-dessous de l'embouchure de la rivière Saguenay. Une députation envoyée de leur part était venue ici l'automne dernier, se proposant d'aller présenter cette pétition à Votre Excellence, et de l'appuyer de leurs commentaires. Mais la saison étant bien avancée et le voyage à Toronto trop long et trop dispendieux, elle renonça à aller troubler Votre Excellence, et je pris l'engagement de recommander de mon mieux à Votre Excellence la cause de ceux qu'elle était chargée de représenter.

C'est pour accomplir ma promesse que je m'adresse aujourd'hui à Votre Excellence, et je le fais avec toute la confiance qu'inspire une des causes les plus justes qui puissent être soumises à son Gouvernement.

Votre Excellence n'ignore pas que les sauvages Montagnais ne trouvent plus dans la chasse et la pêche des moyens suffisants de subsistance, que d'ailleurs les établissements qui se forment partout sur le territoire qu'ils habitent font disparaître peu à peu ces deux ressources, les seules qu'ils avaient pour vivre; qu'il est de fait que la pauvreté en a déjà fait périr un grand nombre et que les autres ne peuvent tarder d'éprouver le même sort, dans un temps plus ou moins éloigné, si on ne vient à leur aide. Je ne doute pas que Votre Excellence, considérant que ces pauvres sauvages ont été dépossédés peu à peu d'une de leurs moyens de vivre par l'industrie et le commerce qui depuis quelques années exploitent le territoire habité par leurs pères (état de choses que le Gouvernement s'est vu forcé d'approuver et même d'encourager dans l'intérêt du pays en général) ne reconnaisse qu'il seroit injuste de les laisser périr de misère. tandis que le Gouvernement retire de l'exploitation du bois et de la vente de quelques parties de ce territoire des revenus plus que suffisants pour le mettre en état de prévenir ce malheur et empêcher l'extinction d'une race d'hommes qui a d'autant plus de droits à sa protection qu'elle est plus faible et d'une moindre importance aux yeux de la société.

Les Sauvages se proposoient dans l'origine de demander que la rivière Papinachois avec le terrain environnant fut comprise dans l'étendue de.

territoire qu'ils réclament du Gouvernement ; mais voyant que Mr Price a été autorisé à bâtir des moulins sur cette rivière et à prendre du bois dans le voisinage, ils ont renoncé à la comprendre dans leur réclamation.

Cependant ils m'ont prié de demander pour eux à Votre Excellence, et comme par compensation, une étendue d'une mine carrée de territoire, à l'endroit appelé *Bon désir*, situé entre le Saguenay et les Escoumains, puis le droit exclusif de pêche dans la rivière Betsiamis. Ce qui les engage à faire ces deux demandes c'est que le territoire qu'ils réclament offre peu de facilités pour l'agriculture et n'est à peu près favorable qu'à la pêche du loup marin, tandis que *Bon désir* leur procurerait un terrain très propre à l'agriculture, et la rivière Betsiamis une ressource précieuse pour la pêche au saumon.

Je pense qu'il n'est pas inutile que je fasse connaître à Votre Excellence que l'arpenteur actuellement employé par le Gouvernement dans ces parages juge que ce terrain leur conviendrait très bien et est prêt à en donner la circonscription dès qu'il lui sera intimé de le faire.

Mais c'est en vain qu'on donnerait aux pétitionnaires les plus grands encouragements pour se livrer à l'agriculture si on ne forme pas au milieu d'eux un établissement religieux qui les force, pour ainsi dire, d'en profiter. Il n'y a que les efforts persévérants des missionnaires qui puisse les engager à se livrer à un genre de travail si contraire à leurs habitudes, et encore ne peut-on compter sur un succès entier. C'est à *Bon désir* que devrait se faire cet établissement, parce que c'est là que les Sauvages feroient leur principale demeure: ils ne résideroient sur leur territoire qu'ils demandent dans leur pétition que pour le temps de la chasse et de la pêche ; tout au plus s'établirait-il quelques familles. J'ose en conséquence émettre la pensée qu'il seroit digne de la sollicitude du gouvernement d'aider de tout son pouvoir la formation de cet établissement religieux auquel ces pauvres sauvages sont très certainement incapables de contribuer par eux-mêmes. Ce serait là d'ailleurs pour le gouvernement un moyen efficace de rendre utiles les sacrifices qu'il pourra faire dans le but d'améliorer leur condition.

Je me flatte que Votre Excellence qui a déjà montré un si vif intérêt au sort de nos pauvres Montagnais voudra bien leur continuer sa protection et prêter une attention favorable à leur pétition, ainsi qu'aux demandes que je prends la liberté de faire en leur faveur.

J'ai l'honneur d'être &c.

(Signe) + P. F. EV. DE SIDYME.

Copie conforme aux Régistres de l'Arch. de Québec, vol. 23, pp. 175-177.

B. PH. GARNEAU, ptre. Archiv.

[1 May., 1851]

PLEA OF ARCHBISHOP OF QUEBEC

ON BEHALF OF MONTAGNAIS INDIANS

L'Hon. Lafontaine,
1851.

Proc. Gen., Toronto.

Québec, 1 mai,

Monsieur,

Mgr l'Archevêque vient d'adresser une lettre au Gouverneur pour le prier de nouveau de s'occuper du sort de nos sauvages Montagnais des Postes du Roi sur le St Laurent.

Comme cette lettre sera probablement soumise aux délibérations du Conseil exécutif, permettez-moi de vous faire connaître les différentes démarches qui ont été faites depuis quelques années en faveur de ces pauvres sauvages et les espérances qu'on leur a données.

En 1845, ils adressèrent une pétition à la Législature pour demander qu'on leur fit une réserve de terre à la Baie des Outardes ; mais il ne leur fut fait aucune réponse.

En 1846, ils envoyèrent une députation à Montreal pour réitérer leur demande. La députation arrivée à Montreal pendant la session de la Législature fut bien accueillie par le Gouverneur Général qui promit qu'on feroit justice à la demande qu'elle étoit chargée de renouveler.

En 1848, le Rev. Père Durocher, leur missionnaire, fut délégué par eux au siège du Gouvernement pour presser l'exécution des promesses qu'on leur avait faites. La Législature étoit alors en session. Interpelé dans l'Assemblée législative par Mr Latarrière, représentant du Saguenay, vous déclarâtes que deux terrains seraient donnés aux sauvages Montagnais, l'un sur le lac St Jean, et l'autre sur les bords du St Laurent ; mais que quant à un octroi d'argent pour aider les sauvages à former un établissement, cette question étoit encore sous considération.

En 1850, les Sauvages présentèrent une nouvelle pétition à l'Exécutif, accompagnée d'une carte du territoire dont ils désiroient avoir la propriété; mais cette nouvelle démarche de leur part n'eut pas plus de succès que les précédentes.

Il importe de vous faire observer que la Baie des Outardes demandée par les Sauvages est le dernier endroit du nord du fleuve, plus bas que le Saguenay, dont les terres soient propres à la culture et qu'au-delà le climat est trop rigoureux pour qu'on en puisse cultiver la terre avec quelque chance de réussite. Cependant depuis que les Sauvages ont commencé à faire des démarches auprès du Gouvernement pour demander qu'on leur donne la

abattis, l'un à l'embouchure de la rivière des Vases, l'autre à quelque distance dans l'intérieur, auprès d'une chute qui présente un pouvoir d'eau assez considérable. Ils ont même fait ouvrir une ferme à un mille environ de la rivière Papinachois, à l'entrée du territoire demandé par les Sauvages.

Le Gouvernement peut avoir des renseignements certains sur le terrain dont je viens de parler de l'agent des Terres de la couronne, Mr George Duberger, qui a entre les mains les plans du terrain demandé par les Sauvages, et qui est Bien au fait de leurs besoins.

Je ne dois pas vous cacher que, d'après les rapports qui nous arrivent, les Sauvages, à l'instar des blancs qui leur en donnent l'exemple et le conseil, sont disposés à empêcher qu'on ne s'empare du terrain qu'ils réclament et dont ils se sont mis en possession depuis plusieurs années et où même ils ont déjà fait quelque culture. Etant les premiers occupants, ils ne feraient que pratiquer tous ceux qui s'établissent sans permission préalable sur les terres du Gouvernement, et au sçu même du gouvernement. Cependant il seroit à craindre qu'il ne fut commis sur les lieux des actes de violence déplorables; et il est digne de la sollicitude du Gouvernement d'empêcher ce desordre, tout en rendant à nos pauvres Sauvages la justice qu'il leur a promise solennellement.

J'ai l'honneur d'être &c.

(signe) C. F. CAZEAU, ptre, Vic. Gen.

Copie conforme aux Régistres de l'Archev. de Québec, vol. 24, pp. 76-77.

[26 Dec., 1851]

B. PH. GARNEAU, ptre. Archiv.

No. 1122.

C

**DIRECTIONS RESPECTING DISTRIBUTION OF
GOVERNMENT GRANT TO MONTAGNAIS INDIANS.**

Québec, 26 décembre 1851.

Rev. Père Durocher,
Grande Baie, Saguenay.

Mon Rév. Père,

Le compte-rendu par le P. Arnauld de l'état de détresse des pauvres Montagnais du bord de la mer, et par vous transmis à Mr le Gr. Vicairo Cazeau, a eu l'effet que vous en attendiez. Le Gouvernement consent à avancer sur les mille livres courant allouées aux Sauvages la somme de £125 qui peut être employée immédiatement en provisions de bouche. Mr le Grand Vic. Cazeau écrit à ce sujet au bon Pere Arnauld par la malle d'aujourd'hui.

Malheureusement à la saison où nous sommes, et on il va falloir prendre ces provisions soit dans les chantiers, soit dans les magasins de la Compagnie de la Baie d'Hudson, ces provisions vont couter bien cher; mais il faut Bien se résoudre à payer le prix qui sera demandé puisu'il n'y a pas à faire autrement.

* * * *

Je fais d'avance à vous et à votre communauté mes souhaits de bonne et heureuse annee et suis &c.

(Signe) P. F. Archev. de Québec.

[26 Dec., 1851]

Copie conforme aux Régistres de l'Archev. de Québec, vol. 24, p. 314.

B. PH. GARNEAU, ptre.

No. 1123.

C

C. F. CAZEAU, VICAR-GENERAL, TO LIEUT.—COL. BRUCE.

Québec, 26 décembre 1851.

Lt Colonel Bruce,

Surintendant du Départerm. des Sauvages.

Monsieur.

J'ai reçu l'honneur de votre lettre du 23 du courant, m'informant qu'il a plu à Son Excellence d'autoriser la distribution d'une somme de £125 en faveur des sauvages Montagnais, et demandant que Mgr l'Archevêche veuille bien faire ses suggestions pour aider le Gouvernement à faire cette distribution.

Je suis chargé par Sa Grandeur de vous faire savoir que si Son Excellence le trouve convenable, elle se chargera volontiers de recommander au Père Arnauld, missionnaire des Montagnais, d'acheter à meilleurs composition possible les provisions et effets nécessaires a ces pauvres sauvages et d'en tenir compte au Gouvernement, pourvu qu'il ne dépasse pas dans cet achat la somme ci-dessus mentionnée. A cette époque de l'année, il n'est pas possible de faire de semblables achats dans la localité qu'habitent les Montagnais en question, à moins de payer un haut prix; mais il est certain que le missionnaire y mettra tout le discernement possible.

J'ai l'honneur d'être &c.

(Signe) C. F. CAZEAU, ptre, Vic.

Genl.

Copie conforme aux Régistres de l'Archev. de Québec, vol. 24, pp. 314.

B. PH. GARNEAU, ptre. Archiv.

GOVERNOR SIMPSON TO D. A. SMITH.
(EXTRACT.)

[1 April, 1853.]

RECORDS, HUDSON'S BAY COMPANY.

1st April 1853.

. . . . "You seem very desirous that arrangements should be made with the Roman Catholic Missionaries in Canada to proceed to Esquimaux Bay by way of Mingan, but after duly considering the matter I think we had better leave things as they are. It is very doubtful that any benefit would result from the proposed flying visit of the Canadian Missionaries, while it is quite certain they would be productive of expense and inconvenience in many respects, not the least of which would be the opening up a communication between Mingan and NW River, by which route we would soon find that a great part of our Esquimaux Bay trade made its way into the hands of our Rivals on the St. Lawrence. Another reason for not encouraging Romish priests from Canada to form a footing on the Labrador Coast is that, the Bishop of Ruperts Land has established a Church of England mission at East Maine, to which it would be both desirable and convenient that the Indians of F. Nascopie and other parts beyond the height of lands (who it seems are so particularly anxious to obtain instructions) should resort, more especially, as it is in contemplation to have the Ungava country re-explored this year, and with a view to the re-establishment of a Post at Ungava Bay, in which case, it may be found expedient to abandon F. Nascopie and to withdraw the Indians further into the Interior and consequently nearer the Eastmain Mission. . . ."

[9 Sept., 1857.]

No. 1125.

C

GOVERNOR SIMPSON TO A. COMEAU AT SEVEN ISLANDS.

RECORDS, HUDSON'S BAY COMPANY.

Lancine, 9th Sepr. 1857.

. . . "I fear we cannot prevent the Esquimaux Bay Indians visiting the St. Lawrence posts occasionally, while we pay such high prices for furs. I believe those high prices rather than the missions are the chief attention. I observe you have raised the tariff for furs at Seven Islands, and that 35/- is now paid for Martens at that rate the business cannot be remunerative. . . ."

[26 March, 1858.]

GOVERNOR SIMPSON TO D. A. SMITH.

(EXTRACT.)

RECORDS, HUDSON'S BAY COMPANY.

Lachine, 26th April 1853.

. . . . "I should be glad to learn you have arrived at some understanding with the Moravians, whereby in consideration of the Companys good offices in extending their missions in the direction of Esquimaux Bay, they should relinquish their trading operations to us. It is evident we must extend our posts in a Northerly direction along the Coast, in order to protect the interior trade from the encroachments being made upon it by Hunts people from that quarter; but before coming so close upon the Moravian Settlements, it would be advisable to have established a friendly understanding with them. I shall be glad to hear further from you on these matters.

I have consented to assist the Roman Catholic Priest in his Missionary tour to the Nascopies and thence to the Labrador Coast, from a variety of reasons. First we could not prevent his going if so disposed; secondly, it would have been a very impolitic thing to have thwarted the plans of the R.C. Bishop of Quebec, who would have found means to retaliate on the Company and thirdly, as the Nascopies are so bent on seeing a Priest that they come out to the St. Lawrence for that purpose, it is better to meet their wishes in the hope that they may rest quietly at their hunting grounds, instead of wasting their time in travelling to the Mission at Mingan etc.

With regard to the Bishop of Newfoundland you must be very civil and obliging in your reply to his communication; but be careful to bind the Company to nothing, in the shape of support to his missions, if established.—Hospitality, civility, interest in the cause he has at heart etc. is as much as you can promise...."

REVEREND J. B. A. FERLAND TO BISHOP OF TLOA.

A Monseigneur l'Evêque de Tloa.

MONSEIGNEUR

Au mois de juillet dernier, Votre Grandeur me chargeait d'aller au secours du R. P. Coopman, O.M.I., tombé malade à Mécatina sur la côte du Labrador, et de continuer la visite des familles catholiques de cette partie du diocèse, si je le trouvais trop faible pour achever sa mission.

* * * *

Je laissais Québec, le 20 juillet, pour aller m'embarquer à Berthier sur la goëlette Marie-Louise, prête à faire voile pour la côte du Labrador.

* * * *

Le 29, nous entrions dans le port de Mingan, pour étayer notre mat de misaine, qui s'était rompu, pendant le gros temps de la veille.

* * * *

A 7 lieues au-dessous du poste de Mingan, se trouve la Pointe aux Esquimaux, où une vingtaine de familles acadiennes se sont établies depuis trois ans. Elles viennent des îles de la Magdeleine, d'où elles se sont expatriées pour améliorer leur condition. Pêcheurs, agriculteurs et matelots, les acadiens ont fait un excellent choix en transportant leur résidence en ce lieu.

* * * *

De Mingan au grand Nataskouan, l'on compte un peu plus de trente lieues.

* * * *

Dans l'après-midi de ce jour, nous pûmes laisser Nataskouan, et nous mettre de nouveau en route. De ce havre à Wapitugan il y a environ vingt-cinq lieues: dans cette étendue de pays sont le poste de Kegashka où se termine la seigneurie de Mingan et ceux de Maskouara, de la Romaine, de Coucouthou

A Wapitugan, situé à vingt-sept ou vingt-huit lieues de Nataskouan, la côte qui, depuis Mingan, a couru de l'est à l'ouest, se replie vers le nord-est.

* * * *

L'histoire du Labrador, n'est pas longue. Ce pays, à l'arrivée des Européens, était dans la possession des Esquimaux, qui soutenaient déjà et continuèrent longtemps après à soutenir une guerre assez vive, contre les

Montagnais, et les Souriquois ou Micmacs, habitants des côtes de l'Acadie, de la Gaspésie et de Terre-Neuve. Les Esquimaux qui semblent appartenir à, la famille des Samoyèdes et des Lapons se défendaient courageusement ; mais quand les

Français se mirent de la partie contre eux, ils durent céder peu à peu et se retirer sur la côte septentrionale du Labrador.

* * * *

Abondante en poissons, cette mer continua d'être fréquentée, et le port de Brest devint le rendez-vous d'un grand nombre de pêcheurs français. Lewis Roberts dans son Dictionnaire du Commerce, imprimé à Londres en 1600, dit que c'était le principal poste de la Nouvelle France, la résidence d'un gouverneur, d'un aumônier et de quelques autres officiers: que les Français en exportaient de grandes quantités de morues, des barbes et des huiles de baleine, ainsi que des castors et autres fourrures précieuses. Il ajoute que les Français entretenaient un fort à Tadoussac, pour y faire le trafic des pelleteries avec des sauvages. Il est difficile de déterminer ce qu'il y a de vrai dans l'assertion de l'auteur cité; mais il est bien sûr que sur la baie de Saint Paul se trouvent des ruines qui ont conservé le nom de Vieux Fort. Le même nom est donné à ce lieu dans les cartes attachées à l'histoire du Canada par Charlevoix.

Quand la colonie de la Nouvelle-France eut commencé à s'affermir, des compagnies, à la tête desquelles étaient les sieurs Aubert de la Chesnaye et Riverin, obtinrent des concessions de terres sur la côte du Labrador, au nord de Blanc Sablon. Peu de temps après, le sieur Le Gardeur de Courtemanche était mis en possession de la baie de Phelypeaux, aujourd'hui nommée la baie de Brador; et le sieur Amador Godefroy de Saint Paul obtenait cinq lieues de côtes, de chaque côté de la grande rivière des Esquimaux, à laquelle il donna le nom de Saint Paul, et qui est aujourd'hui appelée Rivière aux Saumons.

Dans les limites de la seigneurie de sieur du Saint Paul, se trouvait renfermé l'ancien port de Brest. Le but des concessionnaires, tel qu'il est exprimé dans leurs demandes, était de faire "la pêche des molues, baleynes, loupsmarins, marsouins et autres."

* * * *

Sous le gouvernement britannique toutes ces pêcheries passèrent à des marchands anglais et écossais qui employaient un certain nombre d'hommes pour faire la pêche et la chasse. Le chef de la dernière compagnie qui fit valoir ces postes fut le sieur Adam Lymburner, alors un des premiers marchands de Québec.

Il y a quarante ans, l'on ne rencontrait pas sur la côte une seule femme d'origine européenne; les six ou sept postes du Labrador ne renfermaient que des hommes, presque tous originaires de Berthier.

* * * *

La langue française est la plus généralement répandue dans la partie supérieure du Labrador, depuis Mingan jusqu'à Saint Augustin; elle est

aussi ordinairement en usage à Blanc-Sablon ; mais depuis Saint Augustin jusqu'à la baie de Brador, on parle habituellement l'anglais. Beaucoup d'habitants de la cote se servent facilement des deux langues.

On rencontre peu de Montagnais; ceux qui paraissent dans [sic] ces quartiers pendant quelques semaines ne font qu'y passer, pour se rendre à leurs quartiers d'hiver et en revenir par le sivières [sic] d'Itamamiou, de Saint Augustin ou des Saumons. Quant aux Esquimaux, j'en ai vu trois ou quatre, qui vivent à l'Européenne: tous les autres se sont retirés vers le Nord.

* * * *

En laissant Wapitugan, j'entrais dans les limites de ma mission.

* * * *

Le 4, nous nous arrêtons à Natagamiou, tout près d'une chute que fait la rivière de même nom en se jetant dans la mer.

* * * *

En laissant la Tête à la Baleine, nous franchissons un étroit passage au milieu des îles et nous cotoyons le pied du Gros Mecatina, morne élevé, qui sert d'amarque aux vaisseaux arrivant de la haute mer sur la côte du Labrador.

* * * *

Le dimanche après midi, (8 aout), je terminai la mission.

* * * *

Je partis le même soir de la Tabatière, avec Monsieur Francois Lévêque, maître du poste de la Grosse-Ile de Mecatina, pour aller donner la mission à sa famille.

* * * *

De la Grosse Ile à Blanc Sablon, l'on ne compte que vingt-deux lieues en ligne droite, mais par les détours qu'il faudra faire au dedans des îles, il y a à peu près trente lieues. Le douze, je fis mes adieux à mon hôte, qui me fournit une Berge pour continuer mon voyage.

* * * *

Le soleil allait se coucher, lorsque nous arrivâmes à Chikapoué.

* * * *

La rivière Saint Augustin tombe dans la baie du même nom; à son embouchure elle est partagée en plusieurs bras par des îles nombreuses, qui occupent sur la côte une longueur de sept ou huit lieues; c'est sur une de ces îles qu'est le poste de St. Augustin.

* * * *

La rivière sort de la hauteur des terres, où quelques-unes de ses sources se croisent avec celles de la rivière Kenamou, qui va tomber dans la baie des Esquimaux. Par cette voie l'on peut passer des bords du golfe de Saint-Laurent à la baie des Esquimaux, dans l'espace de sept jours.

* * * *

lumières de la foi aux Nascapis de la hauteur des terres et aux sauvages de la baie des Esquimaux. Si Votre Grandeur les chargeait de cette mission, ils pourraient se rendre à la baie des Esquimaux, soit par la rivière Saint Augustin, soit en faisant le tour du Labrador sur la goëlette que la Compagnie de la Baie d'Hudson envoie annuellement dans son poste. De là il serait plus facile aux missionnaires de saisir une occasion favorable, pour remonter la grande rivière près de laquelle se tiennent les Nascapis.

* * * *

Comme on m'informait que le Père Coopman avait repris sa mission, il ne me restait plus qu'à gagner Blanc-Sablon, pour prendre passage à bord de la Marie-Louise ou de quelque autre vaisseau qui pouvait se trouver en partance;

* * * *

Le 17, nous nous mettons en route avec un vent favorable; notre navigation se fait au milieu des îles jusqu'à Chicataka, ancien poste de pêche établi par les français avant la conquête du pays.

* * * *

Les vents et la brume nous retinrent en ce lieu pendant trois jours, et ce ne fut que le 20 que nous pûmes reprendre la mer; le soir même, j'arrivais au Havre de Blanc Sablon, où je trouvai la Marie-Louise prête à mettre à la voile le lendemain;

* * * *

La baie de Blanc Sablon tire son nom des sables blancs d'une petite rivière, qui lui apporte le tribut de ses eaux. La baie et la rivière forment une extrémité de la ligne qui sépare le Labrador Canadien, du Labrador uni au gouvernement de Terre-Neuve.

* * * *

Blanc Sablon est situé à l'entrée du détroit de Belle-Isle; il n'y a que sept lieues de l'Isle à Bois aux côtes de Terre-Neuve, que l'on aperçoit clairement. La partie la plus étroite du détroit est à Forteau, où il n'y a que dix milles d'une pointe à l'autre.

* * * *

Le 21 août, la Marie-Louise laissait le port de Blanc Sablon pour son voyage de retour;

Pendant deux jours notre goëlette reste mouillée dans la baie de Brador, pour attendre du fret qui ne vient pas.

* * * *

Le Sieur de Courtemanche avait obtenu du Gouvernement français, la concession de la baie à laquelle fut donné le nom de Phéliepeaux; le fort qu'il bâtit à l'entrée fut appelé fort Pontchartrain. Pendant longtemps il y fit des affaires importantes. Après la mort de Monsieur de Courtemanche, qui avait épousé, non pas une fille de Henri IV, comme le prétend une

tradition du Labrador, mais la fille d'Etienne Charest, seigneur de la côte de Lauson, l'établissement passa à son gendre le Sieur Foucher, et au Sieur de Brouague, commandant sur la côte. Un des fils du Sieur Foucher ajouta à son nom celui de

Labrador; et je crois qu'il y a aujourd'hui en France une famille portant le nom de Foucher de Labrador.

* * * *

La cargaison de la goëlette se trouva à peu près complétée a la Tabatiere, d'où nous partimes le 31 août, pour voguer directement vers Québec.

* * * *

J'ai l'honneur d'être,
Monseigneur,
avec un profond respect,
de Votre Grandeur,
le très-humble et très-obéissant serviteur,

[26 June, 1860.]

J. B. A. FERLAND, Ptre.

No. 1128.

C

**GOVERNOR SIMPSON TO D. A. SMITH AT
ESQUIMAUX BAY.**

(EXTRACT.)

RECORDS, HUDSON'S BAY COMPANY.

Lachine, 26th June, 1860.

* * * *

You were at one time desirous of placing a small post on the Coast, near the confines of Mingan (St. Augustines), to secure a considerable trade in furs and oil which now passes into other channels. It has occurred to me that, by means of such an outpost from Esquimaux Bay and probably another at some good inland Station between North West River and Mingan, we might secure a considerable share of the trade of the Seigniory. The Company are the owners of the Isles and Islets of Mingan, and I think it may be practicable to establish ourselves, when our lease expires, on the island at the entrance of Mingan harbour, that is the island opposite the house forming the harbour, which is the Company's property. I am about having that island properly examined, to ascertain its capabilities, as regards water, fuel, etc. If the trade of Mingan Coast be of sufficient value in 1862, to warrant the outlay necessary in building on the island in question, I have no doubt it may be as easily collected there as at the post we now occupy, on the mainland.

An impression appears to prevail with yourself and other of our officers

that, the time has arrived when the Company should extend their operations into the interior country between Eastmain and Labrador, and in the direction of Ungava, in order to prevent strangers making a footing there. Our former experience of Ungava indisposes me from sanctioning any but a gradual and cautious occupation of that district again. But I presume a better knowledge of the country, its resources, physical characteristics, etc., is now possessed than when we formerly went there.

[29, Dec., 1862.]

The protection of our trade has already rendered necessary stations to the Northward of our old posts, at Indian Harbour and Nain; and some further means would appear necessary, now, to prevent inland Indians visiting the Labrador Coast, whereby losing the greater part of the year in travelling, and exposing themselves to the temptations and sickness to be met with at the settlements. This object might be gained, by a well situated inland post, beyond Indian Harbour and Nain; and thus by cautious' advances we might re-occupy the valuable marten grounds of Ungava. I should be glad to hear from you on this matter also more fully.

* * * *

No. 1129.

C

**EDW. M HOPKINS TO THOMAS FRASER AT
LONDON.
(EXTRACT.)**

RECORDS, HUDSON'S BAY COMPANY.

Montreal, 29th December, 1862.

. . . "It has already been arranged that Mr. Thomas Hardisty, Appce. Clerk at present temporarily employed here, shall be sent, by the first conveyance that may offer, to Esquimaux Bay at the request of C. F. Smith. I daresay we could spare another clerk in spring from this Department; but, as we have very few that can be considered efficient, I should hesitate about sending, to so remote a district as Esquimaux Bay, any one who did not give perfect satisfaction here; where they can be so easily discharged or exchanged.

If the Board determines on sending the Esquimaux Bay outfit via Canada this ensuing spring, it might be desirable to advise Mr. Smith thereof in a advance; and by the same conveyance, the necessary instructions might be given to him respecting the new posts. This is practicable, by means of an overland express from Mingan; but I shall not incur the expense of such an express, except by orders from the Board.

I duly note your very judicious remarks as to avoiding grounds of jealousy on the part of Protestant Missionaries, by securing the support of the Roman Catholics. Fortunately in the case in point, no conflict of creeds need be apprehended, as

the Roman Catholics at present hold that rather unpromising field entirely to themselves....”

[22 July, 1863.]

D. A. SMITH TO THOMAS FRASER, LONDON.

(EXTRACT.)

RECORDS, HUDSON'S BAY COMPANY.

Cartwright, Sandwich Bay, 22nd July, 1863.

. . . "In any case, but especially in view of the much greater quantity of goods and provisions which will be required on the increase of the business by the establishment of additional posts, I do not think it will be at all for the interest of the Company to continue the existing arrangements for introducing the supplies. I shall however now fully consider this matter and shall hereafter speak more at length regarding it and some other subjects to which time will hardly now permit me to refer, but in case the Board should in the meantime take any action in the matter, I would beg to say that for some years back Messrs. Hunt and Henley have been in the habit of chartering vessels in Canada, on much more favourable terms than those exacted from the Hudsons Bay Company, and I cannot see why there should be any difference, in this respect. However in the event of Ungava being re-established, the Company will, I presume, require to have a vessel of their own for the voyage, which will at same time bring in the supplies for Esquimaux Bay.

Operation at Lake Winebegan (Willow Lake) ought to have been, and but for the unfortunate detention here, of course would have been commenced at a much earlier date, but I shall lose no time after my return to North West River, in despatching a party to form an establishment there, placing it in charge of one of the gentlemen now in the District, altho' we can at present ill spare for the purpose any officer fit for the charge. I shall if possible also proceed thither myself to assist in choosing a site for the post.

My suggestions to the late Sir George Simpson with regard to the enlargement of the business of Esquimaux Bay district, embraced the re-occupation of Ft. Chimo, Ungava Bay, or should this not be considered desirable, then the formation of a station in the interior of Fraser's River near to Nain, the former being however in my opinion much preferable, and during the past winter we prepared a quantity of logs, boards and other building materials which would be available for the repair or re-erection of buildings at Ft. Chimo. Even had I not heard from the Board on the subject, it was my intention this season to have brought it to their notice, feeling satisfied that if we do not shortly make a move in that direction, others will do so, as I believe there are several on this coast who have for years back had an eye on that quarter, and amongst them Mr. N. Norman who I have been told, went so far as to engage one or more persons for the

trip. This I repeatedly urged upon the attention of Sir George Simpson once or twice officially, but more generally under private cover, and he appeared to be fully alive to the importance of protecting the Company's interests by again occupying that place hesitating only as to the comparative advantages of forwarding the supplies from Hudson Bay (Whale River) or this district. To the former I was at first inclined to give the preference, thinking that it would less attract the attention of Mr. Norman and others in this quarter who might be inclined to follow us thither, but on more mature consideration I am now of opinion that it would be better it should be outfitted from and form a part of this district, believing that a divided charge would cause very great inconvenience owing to the propensity of the natives for wandering from one district to another believing that by so doing they were relieved from the necessity of liquidating what on their return to either district had become old debts, the baneful effects of which I have too frequently seen while I was stationed at the King's Posts as well as in the relations between Mingan and Esquimaux Bay. I am of opinion that the business at Ungava should for some time at least be conducted on a more limited and consequently more economical scale than formerly, confining it in the first instance to Fort Chimo. That it will be very profitable for some years I do not think, but on the other hand if parties inimical to the Company were to find their way there, the injury to the trade not only of Ft. Nascopie, but in all probability likewise of Ruperts River District and East Main would be incalculable, and I am consequently most happy to learn that the request of the Moravian Brethren to be permitted to settle there, either as Missionaries, or Missionaries and Traders conjoined has not been acceded to by the Board.

The "United Brethren" on this Coast appear year after year to be more and more laying aside the character of Missionaries of the Gospel and assuming that of ordinary merchants or traders; and I have lately heard that they are now forming a new station about half way twixt Hopedale and Nain, in front and within a few hundred yards of a small outpost occupied by us from 1858 till the autumn of 1861. since which time owing to the irregularity in receiving our supplies and partly from having had no competent person available for the charge it has been left unoccupied, altho' in fact some of the Company's property is still in store there. I would however mention that the place is not of much importance and that I had no intention of sending any of our people there this season owing to the great depreciation in the value of Trout which formed a principal item of returns, still it would have been no undue stretch of courtesy on the part of the Missionaries to have at least informed us of their intention before proceeding with the erection of buildings, and as I hope to have an opportunity of meeting them next winter I shall then speak to them on the subject.

A rumour is current here that a large number of Esquimaux from Ungava and Richmond Gulf have found their way to Hebron in course of the past year, but I have not yet been able to ascertain how far this may be correct. . . .”

EXTRACTS FROM “EXPLORATIONS IN LABRADOR,”

[1863.]

BY HENRY YOULE HIND. VOL. I. (LONDON, 1863.)

The vast peninsula which commonly bears the name of Labrador—a term more correctly applied to the north-eastern portion—occupies an area between the Atlantic and Hudson's Bay, lying within the 49th and 63rd parallels, and between the 55th and 79th meridians. The Gulf of St. Lawrence, the North Atlantic, Hudson's Straits and Hudson's Bay are its boundaries on three sides; Rupert's River, the Mistassini, and the Bersamits River may be considered as forming the approximate limits to the south-west. From the mouth of Rupert's River on Hudson's Bay, to the mouth of the Bersamits on the Gulf of St. Lawrence, the distance is about 470 miles; and from Cape Wolstenholme—the most northern point of the country, to the Straits of Belle Isle, it is 1,110 miles. Travelling northwards, from the Hudson's Bay Company's post at Bersamits, in a direct line to Ungava Bay, the distance would be about 650 miles; while to Cape Wolstenholme, to the west, it is not less than 1,000. The area of the Labrador Peninsula is approximately 420,000 square miles, or equal to the British Isles, France, and Prussia combined, and the greater portion of it lies between the same parallels of latitude as Great Britain.

The whole of this immense country is uninhabited by civilised man, with the exception of a few settlements on the St. Lawrence and North Atlantic coasts, and some widely separated posts of the Hudson's Bay Company. It is thinly peopled by nomadic bands of Montagnais, Nasquapee, Mistassini, and Swampy Creek Indians, and by wandering Esquimaux on the northern coasts. Taken as a whole, it is a region unfit for the permanent abode of civilised man; and although once rich in fur-bearing animals, and in caribou or reindeer, it is now in many parts almost a desert. It derives great importance however, from the remarkable richness of the fisheries on its coasts; hence the establishment and maintenance of permanent fishing villages on the main land becomes a subject of great importance to Canada and Britain.

The condition, character, customs, and traditions of the aboriginal inhabitants of so large a portion of the earth's surface, many of whom have never visited the coast, are full of interest; and the geography and geology of so vast an extent of country form proper subjects of enquiry at the present day.

In the absence of any definite boundaries, the entire peninsula is divided

special name have been given. The area draining into the river and gulf of St. Lawrence belongs to Canada, whose eastern boundary is at Blanc Sablon, near the mouth of the North-West River. The country, supposed to be drained by rivers which flow into the Atlantic, is called Labrador, and is under the jurisdiction of Newfoundland. The remaining part of the peninsula, which drained by rivers flowing into Hudson's Bay, has received the designation the East Main. The names and position of the mouths only of the many rivers which flow into the Gulf of St. Lawrence, from the Bay of Seven Islands to the Straits of Belle Isle, are correctly given in published maps of the country ; and nearly the whole of our present knowledge of the east side of the Labrador Peninsula is derived from Captain Bayfield's surveys, which, are limited to the coast. No map to which I have been able to obtain access exhibits a correct geographical picture of the interior of the country.

The mouth of the Moisie or Mis-te-shipu River—the 'Great River' of the Montagnais Indians—enters the Gulf of St. Lawrence in longitude $66^{\circ} 10'$, about eighteen miles east of the Bay of Seven Islands, and has its source in some of the lakes and swamps of high table land of Eastern Canada. For centuries it has been one of the leading lines of communication from the interior of the coast, travelled by the Montagnais during the time when they were a numerous and powerful people, capable of assembling upwards of "a thousand warriors" to repel the invasion of the Esquimaux, who were accustomed to hunt for a few weeks during the summer months, a short distance up the rivers east of the Moisie, as they do now on the Coppermine Anderson's, and Mackenzie's Rivers, in the country of the Hare Indians and the Loucheux. The old and well-worn portage paths, round falls and rapids and over precipitous mountains on the Upper Moisie, testify to the antiquity of the route, independently of the traditions of the Indians who now hunt on this river and on the table land to which it is the highway.

My attention was first drawn to the Moisie by the Abbe Ferland, of Laval University, Quebec, who showed me a chart constructed by seven Montagnais Indians at the request of Pere Arnaud, a zealous missionary among the aborigines of this part of British America. The chart exhibited the route followed by these Indians from Hamilton Inlet on the Atlantic coast up Esquimaux River, a continuation of the Ashwanipi, to a great lake in the interior called Petshikupau—thence by an unbroken water communication through the Ashwanipi River and a lake of the same name to near the head waters of the east branch of the Moisie, which they reached by crossing a low water parting, and descended to the Gulf of St. Lawrence. According to the Indian chart, the Ashwanipi must flow through five degrees of longitude, traversing the elevated table land of the Labrador Peninsula in a direction roughly parallel to the coast of the Gulf of St. Lawrence.

The chart is a curious and instructive illustration of the remarkable capabilities possessed by Indians to delineate the general features of a country through which they have passed;

and as far as we were able to compare it with our own surveys,
it is singularly exact and accurate.

[1863.]

[13 Aug., 1867.]

p. 2825

No. 1132.

C

“EXPLORATIONS IN LABRADOR,”

BY HENRY YOULE HIND. VOL. II.

Vide Part XVI., p. 2638.

No. 1133.

C

D. A. SMITH TO W. G. SMITH, LONDON.

RECORDS, HUDSON'S BAY COMPANY.

S.S. Labrador, Indian Harbour,

13th August, 1867.

. . . . “Preparations as regards building materials etc. have been made for getting up a station near to the Moravian settlements where I think a profitable business may be expected to be done in course of a year or two and it will be a convenient halting place on the way to Ungava.

We have had no intelligence from Ungava, but it is believed that a good many of the Nascopie Indians frequenting Ft. Nascopie have gone to hunt in the direction of Ft. Chimo, where they will be removed from the influence of traders from the Gulf of St. Lawrence”

No. 1134.

**“ETHNOLOGY OF THE UNGAVA DISTRICT HUDSON
BAY TERRITORY,”**

BY LUCIEN M. TURNER.

Vide Part XVI., page 2628.

[23 Sept., 1895.]

No. 1135.

C

FATHER LEMOINE TO ARCHBISHOP OF QUEBEC.

ANNALES DE LA PROPAGATION DE LA FOI POUR LES PROVINCES
DE QUÉBEC ET DE MONTRÉAL, Nouvelle Serie, Juin 1896.

Notre-Dame de Betsiamis,

23 septembre 1895.

A Mgr Têtu,
Archevêché de Québec,

Monseigneur,

Si j'étais obligé de le faire, il me serait facile de me justifier de ne pas vous avoir écrit depuis deux ans, après vous avoir promis un rapport sur les missions du Golfe; et d'abord, pour ne pas parler des autres raisons, je devais prendre To temps do me renseigner, comme il faut moi-même, en faisant deux voyages aux missions dont j'avais à vous entretenir. Maintenant *ad rem*.

Ces missions sont Maskuaro, Mingan, les Sept-Iles et Godbout. Elles sont fréquentées par des Montagnais et des Naskapis, qui ont tous la même langue et ne forment plus qu'une seule tribu. Ils sont essentiellement chasseurs et ne viennent à la mer qu'une fois l'année dans les mois de juin et juillet, pour y passer cinq à six semaines. Durant tout le reste du temps, ils sont disséminés dans les bois, occupés à chasser le caribou et les animaux à fourrure, tels que l'ours, le loup-cervier, le renard, le castor, la loutre, la martre, le vison, etc.

* * * *

Tout à vous,

GEO. LEMOINE, PTRE., O.M.I.

No. 1136.

**EXTRACTS FROM "REPORT ON EXPLORATIONS IN
THE LABRADOR PENINSULA,"**

BY A. P. LOW, ANNUAL REPORT GEOLOGICAL SURVEY OF CANADA
VOL VIII, 1895, PART L.

Vide Part XVI., pages 2590, 2606.

No. 1137

EXTRACT FROM "LABRADOR ET ANTICOSTI,"

Par l'abbé V.-A. HUARD, A.M. (Montreal and Paris, 1897).

Quoique vivant isolés, famille par famille, durant une si grande partie de l'année, les Montagnais ne laissent pas d'avoir une certaine organisation civile autonome. Ce serait être par trop sauvage, que de n'en avoir aucune. Chaque tribu a donc son chef exerce le souverain pouvoir sous l'égide du gouvernement canadien et, d'un peu plus loin, de la Couronne d'Angleterre. Le P. Durocher, l'un des Oblats qui s'occupèrent autrefois des missions montagnaises, obtint un jour du gouvernement quatre ou cinq grandes médailles d'argent qu'on distribua aux chefs des diverses tribus. C'est l'insigne de leur autorité, et c'est bien près d'être tout ce qu'ils possèdent de souveraineté. Ce n'est pas que le peuple règle à lui seul les affaires importantes, comme cela se faisait dans certaines républiques anciennes. A vous-le: il n'y a plus, dans ces nations, d'affaires à régler. L'objet même du gouvernement fait presque entièrement défaut. Voilà jusqu'où la décadence peut atteindre une race ! Il n'y a pas même de règles nettement définies pour la transmission de la dignité suprême, lorsque survient le décès de l'un de ces potentats: car ils ne sont pas moins sujets à la mort que leurs collègues, empereurs, tsars, ou monarques généralement quelconques. Leur pouvoir n'est pas héréditaire, et, pour les remplacer—autant que cela se peut—on fait, suivant des formalités qui dépendent beaucoup des circonstances, l'élection d'un nouveau chef, à qui l'on remet en guise d'intronisation la grande médaille, emblème de la souveraineté.

Il paraît—car il faut se garder d'ajouter trop de foi à l'histoire contemporaine, non plus qu'aux autres histoires—il paraît donc qu'à Betsiamis il y a quelques années, les Montagnais ne furent pas tous, à un égal degré, charmés du choix que, sous la direction des missionnaires, on avait fait

d'un nouveau chef. Et, comme il n'y a pas ici à tant tourner autour du pot, disons-le franchement: il y avait eu de l' "influence indue" dans cette élection. C'est là, comme on sait, un crime épouvantable, propre à detraquer irrémédiablement tout le mécanisme électoral! Or, s'il n'y a pas de juges à Betsiamis, il y en a à Berlin, je voulais dire à Ottawa; et une délégation de Montagnais, accompagnés d'un interprète, se rendit à Ottawa, pour contester l'élection, et obtenir le choix d'un autre chef. Je ne sais vraiment s'il régnait alors, au ministère des Sauvages, à Ottawa, un conservatisme outré, ou si, par une incompréhensible aberration d'esprit, l' "influence indue" n'y inspirait pas toute l'horreur qu'elle mérite. Toujours est-il que l'administration, dont ce cas était justiciable, se régala de l'huître, comme le plus gourmet des magistrats, et donna les écailles aux délégués de la tribu de Betsiamis, qui s'en revinrent à la bourgade, enchantés de toutes les belles choses qu'ils avaient vues dans un si long voyage, mais condamnés pourtant à se soumettre au chef qu'ils avaient tenté de détrôner. Du reste, la paix ne fut pas autrement troublée par l'incident, et, après comme avant, la tranquillité de l'ordre fut complète à Betsiamis.

Mais il ne faut pas croire que ces principicules n'ont pas, à l'occasion, l'exact sentiment de leur dignité. On raconte à ce sujet le trait que voici. Un jour, à Mingan, le gouverneur général, Sir Edmund Head, arrive, accompagnant un prince d'Angleterre, qui devait bien être le prince de Galles lui-même. Dès le débarquement du prince, le chef de la tribu du lieu s'en vient à sa rencontre. Le chapeau sur la tête, et lui frappant sur l'épaule, il dit a [sic] Son Altesse: "Toi chef ?—Oui!—Moi chef aussi." Puis, en lui montrant sa grande médaille d'argent "Tiens! vois ta mère!" On dit que le prince fut très surpris de l'incident et le trouva tout à fait charmant. Il est sûr que, pour un personnage de la cour royale, l'aventure avait de l'originalité.

MONTAGNAIS INDIANS.

[1907.]

BUREAU OF AMERICAN ETHNOLOGY, BULLETIN 30, WASHINGTON, 1907

Montagnais (French 'mountaineers,' from the mountainous character of their country). A group of closely related Algonquian tribes in Canada, extending from about St. Maurice r. almost to the Atlantic, and from the St. Lawrence to the watershed of Hudson bay. The tribes of the group speak several well-marked dialects. They are the Astouregamigoukh, Attikiriniouetch. Bersiamite, Chisedec, Escoumains, Espamichkon, Kakouchaki, Mauthaepi, Miskouaha, Mouchaouaouastiirinioek, Nascapee, Nekoubaniste, Otaguottouemin, Oukesestigouek, Oumamiwek, Papinachois, Tadousac, and Weperigweia. Their linguistic relation appears to be closer with the Cree of Athabasca lake, or Ayabaskawiniwug, than with any other branch of the Algonquian family. Champlain met them at the mouth of the Saguenay in 1603, where they and other Indians were celebrating with bloody rites the capture of Iroquois prisoners. Six years later he united with them the Hurons and Algonkin in an expedition against the Iroquois. In the first Jesuit Relation, written by Biard (1611-16), they are spoken of as friends of the French. From that time their name has a place in Canadian history, though they exerted no decided influence on the settlement and growth of the colony. The first missionary work among them was begun in 1615, and missions were subsequently established on the upper Saguenay and at L. St. John. These were continued, though with occasional and long interruptions, until 1776. The Montagnais fought the Micmac, and often the Eskimo, but their chief and inveterate foes were the Iroquois, who drove them for a time from the banks of the St. Lawrence and from their strong-holds about the upper Saguenay, compelling them to seek safety at more distant points. After peace was established between the French and the Iroquois they returned to their usual haunts. Lack of proper food, epidemics, and contact with civilization are reducing their numbers. Turner (11th Rep. B.A.E., 1894) says they roam over the areas s. of Hamilton inlet as far as the Gulf of St. Lawrence. Their western limits are imperfectly known. They trade at all the stations along the accessible coast, many of them at Rigolet and Northwest r. . . .

The bands and villages of the Montagnais are: Appeelatat, Assuapmushan, Attikamegue, Bonne Esperance, Chicoutimi, Esquimaux Point, Godbout, Ile Percee (mission), Itamameou (mission), Islets de Jeremie (mission), Kapiminakouetiik, Mauthaepi, Mingan, Moisie, Mushkoniatawee: Musquarro, Nabisippi, Natashquan, Pashasheebo, Romaine, and St. Augustine.

NASKAPIE INDIANS.

[1910.]

BUREAU OF AMERICAN ETHNOLOGY,
BULLETIN 30, WASHINGTON, 1910

Nascapee (a term of reproach applied by the Montagnais). The most north-easterly of the Algonquian tribes, occupying the elevated interior of Quebec and Labrador penin. n. of the Gulf of St. Lawrence and extending from the vicinity of L. Mistassini to Ungava bay on the n. They call themselves Namenot, 'true, real men.' Many of them have inter-married with their congeners the Montagnais, and when they visit the coast the two tribes frequent the same stations. When in the neighbourhood of Ungava bay they are known as Ungava Indians.

The dwellings, for both winter and summer, are tents or tipis of reindeer skins sewed together, and measuring 10 to 18 ft. at the base and 10 to 14 ft. high. The floor is carpeted with young spruce branches, except around the central fireplace ; the smoke escapes through an opening in the top of the tipi where the supporting poles are brought together.

Transportation and travelling are conducted by means of canoes made of slats or ribs covered with birchbark, sleds or toboggans (tá-bas-kan), and snowshoes of four styles framed with wood and netted...

On account of their wandering habits, the nature of their country, and their mixture with the Montagnais, it is impossible to give an exact statement of their numbers. In 1858 they were estimated at about 2,500. In 1884 the Naskapee of the Lower St. Lawrence were officially reported to number 2,860, and the Indians of Labrador and e. Ruperts Land were returned as 5,016. In 1906 there were 2,183 Montagnais and Nascapee officially noted as such, and 2,741 unnamed Indians in the interior, 1,253 of whom were in the unorganized territories of Chicoutimi and Saguenay. See Montagnais, Nitchequon..

**EXTRACTS FROM "THROUGH TRACKLESS
LABRADOR,"**

BY H. HESKETH PRICHARD, F.R.G.S. [LONDON, 1911].

THE INDIANS OF THE LABRADOR.

The Indians of the interior are probably a diminishing people whose numbers it is difficult to compute, for they live for the most part withdrawn behind their fastnesses of wilderness and stony desert. According to the most reliable estimates they may be counted as some four thousand in all. The large majority of these hunt and trap in the southern part of the peninsula, coming out with their furs to the waters of the St. Lawrence.

In the central country are the lodges of two tribes—the Montagnais to the south and the Nascaupes further north. They have parcelled out certain districts of the interior into hunting grounds, each of which is regarded as a hereditary belonging, passing from father to son. They call no man master, and they live a life of hardship and freedom such as was more common in the world of a hundred years ago.

On their journeys their camps are set beside the waters of countless unrecorded lakes; for men, women and children follow the nomadic life. The Labrador is, as my readers will before this have recognised, a bitter mother; but all that she is unwilling to give the Indian wrings from her. In August he shoots the young Canada geese, spruce-grouse and ptarmigan. The month, in his picturesque language (on which, as on the whole subject of the Indians, Mr. William Cabot, of Boston, is incomparably the best authority) is called O-pó-o Pfishum, that is, the Moon of Flight.

By hunting and fishing the Indian obtains his food from the country over which he travels, and about August he pitches his shifting tepees deep in the interior, where the chief event of the year, the autumn killing the migrating caribou, takes place.

Both to the Montagnais of the more wooded south and the Nascaupes of the Barren Ground, the caribou forms the main support of life. From time immemorial the Indians have gathered to slay them at this season, while they cross the lakes on their mysterious journeying, the beginning and the end of which no man really knows. Even the path of the migration changes from year to year, and in some seasons the tribes fail to meet with the deer at all. At these times starvation visits the tents and sits, a grim shape, beside the fires. Such a year was 1893, when many of the people died, only half their number surviving to the spring.

It is no exaggeration to say that the Nascaupees depend for their very existence upon the caribou. They rely on the meat for their winter provision; with the sinews they sew; the clothes which protect them against the Arctic cold are fashioned from the pelts, the hair worn inside against the wearer's flesh; their lodges are covered with hides of stags, and the very sparse store of civilised luxury which finds its way to the tents on the lake promontories is largely gained by barter of smoked skins and mocassins made from the same material.

About the season when the caribou may be expected in their long-drawn battalions many thousands strong, all becomes activity in the Indian camps. Up and down the George River the scouts are watching, and when the leading deer make their appearance, he who sees them signals to his fellows, for the first deer must not be turned.

All is quiet until the advance-guard has entered the water and a fair proportion of caribou have crossed ; then the Indians flash out in their canoes and harry the herds, often slaying as many as a thousand. There is no sport in the killing—merely a massacre of helpless swimming creatures. But for days after the battle the hunters sit by their fires and enjoy the greatest of all the luxuries the wilderness provides—the marrow of the deer. Countless multitudes of caribou have been slain upon Indian House Lake; so many indeed, that the place has become historic.

This raiding of the herds, with trapping, partridge and ptarmigan shooting and freshwater fishing, makes up the Indian's hunting for a successful year. But there are few years when one month or another of the twelve does not see these nomadic people face to face with famine. This is more especially the case with the Nascaupees, who pass their lives in the most remote part of the interior, some of them probably never coming into touch with white men.

The Montagnais are a far more civilised race, partly on account of local conditions; for Southern Labrador, having a less rigorous climate, possesses more settlers with whom the Indians come in contact. Further, they long ago passed under the teaching of the Oblate Fathers, and now profess the Roman Catholic faith. The Fathers keep up annual visits with their converts, who seldom move far to the north ; and in fact (particularly of late years) they spend a part of each year encamped not very far from the coast settlements. During the winter of 1909-10 a lady of the Moravian Mission, while travelling by *komatik* southwards from Nain, visited the tent of a Montagnais some distance behind Hopedale. The old Indian received her with much hospitality and apologised for not offering her tea, as his supply was exhausted.

There is a pronounced physical difference between the Montagnais and the Nascaupees, the former being much shorter, with somewhat broad faces and blunt features, while the Nascaupees retain the tall slender forms and high features of the typical Red Indian. The tribes intermarry, for I know of at least one intermarriage, though this may be a rare instance.

The head-quarters of the Nascaupees may be said to be on Indian House Lake, the shores of which are, in truth, a battleground over which an unrecorded but terrible struggle is fought out. This battle has endured for

p. 2833

generations ; the antagonists are Nature on the one side and the little tribe of Nascaupees on the other. The Indians can hope for no aid in their conflict. Shut in upon all sides by the mighty Barrens, help cannot reach them, nor have they sought it. Few people of white race have yet set eyes on Indian House Lake, and the half-dozen expeditions which have passed up and down the River have spent but half-an-hour at the Nacaupee camp before they boarded their canoes and voyaged on.

It is believed that the Nascaupees came from the far south, being driven north before the onslaughts of the Iroquois about the date when Canada was first occupied by the French. They fled through the wooded south of Labrador, still pursued by their remorseless enemies, who were not shaken off till they had pursued the flying tribe up to those naked table-lands that occupy so much of the central regions of the country. These are dented with innumerable lakes and marshes, and covered with gigantic boulders ; enormous tracts being entirely timberless and exposed to the cruel forces of the Arctic.

* * * *

In those days the country was virgin and deer plentiful. The latter are still so, and it is certain that during many years the Indians must have fared well, for Indian House Lake appears to be the favorite crossing-place in all Labrador for the migrating caribou. Thus they learned to live by the deer ; and so, while the herds held to the old migratory route, all went well on the George. After 1828, when McLean visited them, a veil dropped over their life by the Lake for more than seventy years. No one, save a single Roman Catholic priest, saw them in their home camps ; the tribe lived secure behind their impenetrable ramparts. It can hardly be doubted that they gorged and starved alternately. At any rate, they survived in numbers not too much lessened ; and so they continued to exist until the dreadful winter of 1893, when, as I have said, deer and game failed.

The Nascaupee families were for many years in the habit of coming out to the Atlantic at Davis Bay Inlet to barter at the post of the Hudson's Bay Company which is situated there. But in 1910, for some reason, they made a change ; and a trading party of fifteen, of whom some four or five were Montagnais, came out at Voysey's Bay as usual ; but there, abandoning their canoes, they hired the resident settlers to take them by trap-boat to Nain to transact their business at the Moravian Mission store. Some travellers have dwelt upon the Indian terror of salt water ; but if this fear existed at one time it would now appear to have passed away : the Indians who came to Nain showed no symptoms of any feeling of the kind, as in coming and going from Voysey's Bay they must have covered some sixty

miles of sea-water.

No. 1141.

**CABOT, CHAP. "THE INDIANS" IN "LABRADOR, THE
COUNTRY AND THE PEOPLE."**

BY GRENFELL AND OTHERS, p. 185.

[Vide Part XVI, Page 2621.](#)

**STATEMENT OF MONEYS EXPENDED BY THE
GOVERNMENT OF THE PROVINCE OF CANADA
(1840-1867) AND BY THE GOVERNMENT OF THE
DOMINION OF CANADA FOR THE RELIEF AND
BENEFIT OF THE INDIANS AND ESQUIMAUX OF
THE LABRADOR PENINSULA.**

PREPARED BY G. M. MATHESON IN CHARGE OF RECORDS OF
DEPARTMENT OF INDIAN AFFAIRS, CANADA.

NOTE A.—RELIEF.

Since the year 1851 the Province of Canada and the Dominion of Canada, through the office of the Superintendent-General of Indian Affairs and the Department of Indian Affairs have continued to furnish relief, annually, to the Montagnais Indians at Lake St John, on the Saguenay River and on the north shore of the Lower St Lawrence.

These Indians, for the most part, make their living by fur hunting in the interior of the Labrador Peninsula, leaving for their annual hunt as early as August and September and returning with their furs in the following spring. All the able bodied Indians go on these trips taking their families with them, only the sick and infirm being left behind. (Dr. McDuff makes mention of this on several occasions).

Since the year 1893 this relief has been extended to the aborigines at the trading posts in the northern and eastern portions of the peninsula where the Esquimaux and the Montagnais and Naskopi Indians forgather.

It was the custom of the Department for years to send annually to Father Arnaud 55 pairs of blankets for distribution to destitute Indians on the north shore of the lower St Lawrence. In 1897 this number was increased to 75 pairs.

NOTE B.—MISSION GRANT.

After the termination of the lease of the King's Posts (November 15th 1860) the Hudson Bay Coy. discontinued their grant of \$500.00 a year to the Roman Catholic Missionaries of the Bersimis and the north shore. The church then appealed to the Government for aid and the sum of \$500.00 was

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paid to them annually from the "Lower Canada Grant" under authority of his Excellency the Governor General in Council dated September 11th 1861 and of his Excellency the Administrator in Council dated November 22nd. 1861 (Copies herewith—Appendices A and B).

It would appear that the Naskapis as well as the Montagnais received the benefit of this mission work. (Vide excerpt from the letter of January 21st. 1871 from Rev. Edmond Langevin—Vicar General—file L-294 of 1871—copy herewith Appendix “C”).

The Department of Indian Affairs continued to pay this grant until 1911 when Father Arnaud left Bersimis. This money was sent to Rev. C.F. Cazeau Vicar General, Bishop Langevin and Father C. Arnaud. (See files 1294 of 1861, O. 93 & O. 30 of 1862, O. 64 & 113 of 1863, O. 80 of 1864, O. 1 of 1865, O. 43 of 1866, O. 77 of 1867, O. 104 of 1868, O. 162 of 1869, O. 204 of 1870, O. 251 of 1871, 385 of 1872, 1689, 4444, 4489, 7646, 9280 and 141989).

NOTE C.—EDUCATION OF INDIANS.

Since 1874 the Department of Indian Affairs has borne the cost of the education of the Indians at Pointe Blue, Lake St. John, with its increasing annual expenditure for salaries, buildings and repairs, fuel and general maintenance. Last year (1921) this amounted to \$1192.00 and the attendance roll numbered 78. The sum of \$200.00 was also paid for tuition of one of these Indians at the Convent of Notre Dame de Bellevue, St. Foy, Quebec in 1922. (Files 21-15, 21-1-3 and 103-21.)

A school for Indians has been maintained at Bersimis since 1901. The number of the pupils on the roll for 1921 was 58 and the cost for that year amounted to \$1722.13. (File 3-1-3 and 3-1-5.)

At Escoumains tuition fees have been paid for Indians attending a white school since 1911. (File 3-2-3.)

At Lake Mistassini there has been an Indian school since 1911 and in 1921 there were 54 pupils in attendance. (Files 255284-1 and 3.)

NOTE D.—LIQUOR TRAFFIC.

The Department of Indian Affairs has for many years employed constables on the north shore of the Lower St Lawrence for the purpose of suppressing the liquor traffic carried on with the Indians by unscrupulous Whites in order to obtain their furs. Each Indian Agent has the powers of two Justices of the Peace and the prosecutions are conducted under the provisions of the Indian Act.

NOTE E.—STATEMENT OF EXPENDITURE.

The following Statement of Expenditure is divided into the calendar years in which the payments were made; the supplies in some cases were

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delivered the previous year. In the first column is the given nature of the expenditure and the reference file numbers.

The second column gives the name of the payee. In the earlier years the money was sent to the Roman Catholic Bishop, the Vicar General, the Missionary Priest or some other responsible person, for disbursement but later on orders were given to merchants through agents and vouchers sent to the department for payment. These merchants names appear in this column.

The third column gives the locality of the Indians who were benefited.

The fourth column shows the number of Indians effected, when given. In the case of vaccination, hospital expenses, insane Indians and burials &c. the number denotes individuals but in most cases of relief the numbers here are of families.

The fifth and last column shows the amount of expenditure.

The term "Lower St. Lawrence" as used in this statement refers to the north shore of the St Lawrence River below Bersimis.

As the annual grant to the missionaries and the cost of education of Indians have been dealt with generally in notes "B" and "C" the detail expenditure has been omitted from the statement.

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STATEMENT OF EXPENDITURE.

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
				£
	1851			
RELIEF. 5622, 6286 . . .	Rev. C. F. Cazeau .	North shore, Lower St Lawrence	—	125
	1852			
RELIEF. 6390, 7078 . . .	Rev. C. F. Cazeau .	Escoumains and Lower St Lawrence	—	79/2/1
5857, 6288 . . .	do. .	Chicoutimi . . .	—	100
	1853			
RELIEF. 7043	Rev. C. F. Cazeau .	Saguenay	—	50
7130, 7752 . . .	do. .	Escoumains, Islets de Jeremie, Sept. Isles, Pointe des Monts, Mingan, &c.	—	100

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
				£
	1851			
RELIEF.				
5622, 6286	Rev. C.F. Cazeau	North shore, Lower St Lawrence	—	125
	1852			
RELIEF.				
6390, 7078	Rev. C.F. Cazeau	Escoumains and Lower St. Lawrence	—	79/2/1
5857, 6288	do.	Chicoutimi	—	100
	1853			
RELIEF.				
7043	Rev. C.F. Cazeau	Saguenay	—	50
7130, 7752	do.	Escoumains, Islets de Jeremie, Sept. Isles, Pointe des Monts, Mingan, &c.	—	100

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1855				
RELIEF.				\$
8316	Rev. C. F. Cazeau .	Upper Saguenay .	—	50
8714, 9643	do.	Lower St Lawrence .	—	100
—	Rev. F. Durocher .	Bersimie	—	3/9/0
8630, 8631	D. E. Price	Upper Saguenay .	—	50
1856				
RELIEF.				
9643, 10325	Rev. C. F. Cazeau .	Lower St Lawrence .	—	50
9371, 10373	D. E. Price	Upper Saguenay .	—	50
1857				
RELIEF.				
10525	Rev. C. F. Cazeau .	Lower St Lawrence .	—	100
10234, 11666	D. E. Price	Upper Saguenay .	—	50
1858				
RELIEF.				
11486	Rev. C. F. Cazeau .	Lower St. Lawrence .	—	400.00
11376	D. E. Price	Upper Saguenay .	—	200.00
1859				
RELIEF.				
12322, 454	Rev. C. F. Cazeau .	Lower St Lawrence .	—	400.00
11796	D. E. Price	Upper Saguenay .	27 }	400.00
12754		Lake St John	29 }	
1860				
RELIEF.				
451, 1461	Rev. C. F. Cazeau .	Lower St Lawrence .	—	600.00
836, 12753	D. E. Price	Upper Saguenay .	—	400.00
1861				
RELIEF.				
" C " 39, " C " 94 .	Rev. C. F. Cazeau .	Lower St Lawrence .	—	600.00
1138	A. Fraser	Moisie	—	£54.5
861, " P " 2	D. E. Price	Upper Saguenay .	124	400.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
				\$
	1855			
	RELIEF.			
8316	Rev. C.F. Cazeau	Upper Saguenay	—	50
8714, 9643	do.	Lower St. Lawrence	—	100
—	Rev. F. Durocher	Bersimis	—	3/9/0
8630, 8631	D.E. Price	Upper Saguenay	—	50
	1856			
	RELIEF.			
9643, 10525	Rev. C.F. Cazeau	Lower St. Lawrence	—	50
9371	D.E. Price	Upper Saguenay	—	50
	1857			
	RELIEF.			
10525	Rev. C.F. Cazeau	Lower St. Lawrence	—	100
10234, 11666	D.E. Price	Upper Saguenay	—	50
	1858			
	RELIEF.			
11486	Rev. C.F. Cazeau	Lower St. Lawrence	—	400.00
11376	D.E. Price	Upper Saguenay	—	200.00
	1859			
	RELIEF.			
12322, 454	Rev. C.F. Cazeau	Lower St. Lawrence	—	400.00
11796	D.E. Price	Upper Saguenay	27	400.00
12754		Lake St. John	29	

1860**RELIEF.**

451, 1461	Rev. C.F. Cazeau	Lower St. Lawrence	—	600.00
836, 12753	D.E. Price	Upper Saguenay	—	400.00

1861**RELIEF.**

“C” 39, “C” 94	Rev. C.F. Cazeau	Lower St. Lawrence	—	600.00
1138	A. Fraser	Moisie	—	£54.5
861, “P” 2	D.E. Price	Upper Saguenay	124	400.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1862				\$
RELIEF. "O" 12, "O" 38, "O" 13, "O" 27 "C" 39, "C" 164. "O" 4, "P" 68 .	Rev. C. F. Cazeau . do D. E. Price	Lower St Lawrence . Godbout Upper Saguenay	— — —	600.00 334.67 400.00
VACCINATION. "O" 28	Dr. Fitzpatrick	Bersimis and Lower St Lawrence.	1102	740.00
1863				
SEED. "O" 44, "C" 429	Rev. C. F. Cazeau	Bersimis	60	86.50
RELIEF. "O" 58, "C" 203, "C" 267. "C" 387 "O" 50, "O" 58 . "O" 45, "P" 111 "O" 58	Rev. C. F. Cazeau do do D. E. Price Capt. Fortin	Bersimis do Godbout Upper Saguenay Lower St Lawrence, Pt. des Monts to St Paul River. Bersimis	92 65 — — —	200.00 200.00 160.00 400.00 150.00
"C" 429	Rev. C. F. Cazeau	Bersimis	—	114.40
VACCINATION. "O" 64 —	Dr. Fitzpatrick Dr. Pelletier	Bersimis and lower posts. do	92 65	400.00 92.00
1864				
SEED. "O" 84, "C" 429, "C" 1.	Rev. C. Arnaud	Lower St Lawrence	—	300.00
RELIEF. "O" 84, "C" 429, "C" 1. "O" 110 "O" 101 "C" 178, "C" 381	do A. Fraser J. Holliday Rev. C. F. Cazeau	do Moisie Moisie Godbout	74 — — —	200.00 200.00 200.00 100.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
				\$
1862				
RELIEF.				
"O" 12, "O" 38, "O" 13, "O" 27	Rev. C.F. Cazeau	Lower St. Lawrence	—	600.00
"C" 39, "C" 164	do.	Godbout	—	334.67
"O" 4, "P" 68	D.E. Price	Upper Saguenay	—	400.00
VACCINATION.				
"O" 28	Dr. Fitzpatrick	Bersimis and Lower St. Lawrence	1102	740.00
1863				
SEED.				
"O" 44, "C" 429	Rev. C.F. Cazeau	Bersimis	60	86.50
RELIEF.				
"O" 58, "C" 203, "C" 267	Rev. C.F. Cazeau	Bersimis	92	200.00
"C" 387	do.	do.	65	200.00
"O" 50, "O" 58	do.	Godbout	—	160.00
"O" 45, "P" 111	D.E. Price	Upper Saguenay	—	400.00
"O" 58	Capt. Fortin	Lower St. Lawrence, Pt. des Monts to St. Paul River	—	150.00
"C" 429	Rev. C. F. Cazeau	Bersimis	—	114.40
VACCINATION.				
"O" 64	Dr. Fitzpatrick	Bersimis and lower posts	92	400.00
—	Dr. Pelletier	do.	65	92.00

1864

SEED.

"O" 84, "C" 429, "C" 1	Rev. C. Arnaud	Lower St. Lawrence	—	300.00
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RELIEF.

"O" 84, "C" 429, "C" 1	do.	do.	74	200.00
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"O" 110	A. Fraser	Moisie	—	200.00
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"O" 101	J. Holliday	Moisie	—	200.00
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"C" 178, "C" 381	Rev. C.F. Cazeau	Godbout	—	100.00
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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1864—continued.				\$
RELIEF.				
"O" 101 . . .	Rev. C. F. Cazeau . . .	Pointe des Monts Seven Islands, Natashquan, Min- gan, St Augustine & St Paul's River.	—	300.00
"O" 80, "M" 147, "P" 177.	D. E. Price . . .			
RESERVE.				
"O" 71, "P" 173	D. E. Price . . .	Purchase of 300 acres of land and build- ings at Papinachois River for Papina- chois, Tadouac and other Indians.	—	2400.00
1865				
RELIEF.				
"O" 1, "A" 6, "B" 205.	Rev. C. Arnaud . . .	Lower St Lawrence.	—	500.00
"O" 1, "F" 3 . . .	J. Holliday . . .	Moisie, Mingan and Seven Islands.	—	300.00
"P" 9, "M" 30 . . .	A. Fraser . . .			
1866				
SEED.				
"O" 43, "C" 323, "C" 219.	Rev. C. Arnaud . . .	Bersimis	—	300.00
SEED & RELIEF.				
"O" 43, "P" 55 . . .	D. E. Price	Upper Saguenay . . .	—	300.00
RELIEF.				
"O" 43, "C" 323, "C" 219.	Rev. C. Arnaud . . .	Bersimis	—	200.00
"O" 43	Rev. C. F. Cazeau . . .	Seven Islands, Min- gan, Moisie & Baie St. Paul.	—	300.00
1867				
SEED & RELIEF.				
"O" 77	Hudson's Bay Co. . . .	Bersimis	—	500.00
"O" 77, "P" 107	D. E. Price	Upper Saguenay . . .	—	300.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1862—continued.				\$
RELIEF.				
"O" 101	Rev. C.F. Cazeau	Pointe des Monts Seven Islands, Natashquan, Mingan, St. Augustine & St. Paul's River	—	300.00
"O" 80, "M" 147, "P" 177	D.E. Price	Upper Saguenay	235	400.00
RESERVE.				
"O" 71, "P" 173	D.E. Price	Purchase of 300 Acres of land and buildings at Papinachois River for Papinachois, Tadousac and other Indians	—	2400.00
1865				
RELIEF.				
"O" 1, "A" 6, "B" 205	Rev. C. Arnaud	Lower St. Lawrence	—	500.00
"O" 1, "F" 3	J. Holliday	Moisie, Mingan and Seven Islands	—	300.00
"F" 9, "M" 30	A. Fraser	Moisie, Mingan and Seven Islands	—	—
1866				
SEED.				
"O" 43, "C" 323, "C" 219	Rev. C. Arnaud	Bersimis	—	300.00
SEED & RELIEF.				
"O" 43, "P" 55	D.E. Price	Upper Saguenay	—	300.00
RELIEF.				
"O" 43, "C" 323, "C" 219	Rev. C. Arnaud	Bersimis	—	200.00

“O” 43	Rev. C.F. Cazeau	Seven Islands, Mingan, Moisie & Baie St. Paul	—	300.00
1867				
“O” 77	Hudson's Bay Co.	Bersimis	—	500.00
“O” 77, “P” 107	D.E. Price	Upper Saguenay	—	300.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1867—continued.				\$
RELIEF. "O" 77	Hudson's Bay Co. . .	Moisie, Mingan, Seven Islands and Baie St. Paul.	—	500.00
"O" 91	do.	do.	—	250.00
"O" 77	do.	Godbout	—	75.00
"O" 91, "F" 69.	A. Fraser	Bersimis	—	273.14
"F" 71	do.	do.	—	280.14
1868				
RELIEF, SEED & IMPLEMENTS. "O" 104, "A" 185	Rev. E. Langevin . . .	Bersimis	55	500.00
"O" 104, "P" 297	D. E. Price	Upper Saguenay . . .	—	300.00
R . F. "O" 104	Rev. E. Langevin . . .	Godbout	—	75.00
"O" 104	do.	Moisie, Mingan, Seven Islands & Baie Ste Paul.	—	500.00
1869				
RELIEF, SEED & IMPLEMENTS. "O" 162, "B" 957	Bishop Langevin	Bersimis	162	500.00
"O" 162, "P" 514	D. E. Price	Upper Saguenay . . .	—	300.00
RELIEF. "O" 162	Bishop Langevin	Godbout	—	75.00
"O" 162, "L" 210	do.	Moisie, Mingan, Seven Islands & Baie Ste Paul.	—	500.00
VACCINATION. "O" 184, "H" 267	Dr. J. A. Hamel	Godbout	144	72.00
		Seven Islands	324	162.00
		Bersimis	740	370.00
1870				
RELIEF, SEED & IMPLEMENTS. "O" 204, "L" 268	Rev. E. Langevin	Bersimis	—	500.00
"O" 204, "P" 294	D. E. Price	Upper Saguenay . . .	—	300.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1867—continued.				\$
RELIEF.				
“O” 77	Hudson's Bay Co.	Moisie, Mingan, Seven Islands and Baie St. Paul.	—	500.00
“O” 91	do.	do.	—	250.00
“O” 77	do.	Godbout	—	75.00
“O” 91, “F” 69	A. Fraser	Bersimis	—	273.14
“F” 71	do.	do.	—	280.14
1868				
RELIEF, SEED, & IMPLEMENTS.				
“O” 104, “A” 185	Rev. E. Langevin	Bersimis	55	500.00
“O” 104, “P” 297	D.E. Price	Upper Saguenay	—	300.00
RELIEF.				
“O” 104	Rev. E. Langevin	Godbout	—	75.00
“O” 104	do.	Moisie, Mingan, Seven Islands & Baie Ste Paul	—	500.00
1869				
RELIEF, SEED, & IMPLEMENTS.				
“O” 162, “B” 957	Bishop Langevin	Bersimis	162	500.00
“O” 162, “P” 514	D.E. Price	Upper Saguenay	—	300.00
RELIEF.				
“O” 162	Bishop Langevin	Godbout	—	75.00

“O” 162, “L” 210	do.	Moisie, Mingan, Seven Islands & Baie Ste Paul	—	500.00
VACCINATION.				
“O” 184, “H” 267	Dr. J.A. Hamel	Godbout	144	72.00
		Seven Islands	324	162.00
		Bersimis	740	370.00
1870				
RELIEF, SEED, & IMPLEMENTS.				
“O” 204, “L” 268	Rev. E. Langevin	Bersimis	—	500.00
“O” 204, “P” 294	D.E. Price	Upper Saguenay	—	300.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1870—continued.				*
RELIEF.				
"O" 204, "L" 268	Rev. E. Langevin	Godbout	—	75.00
"O" 204, "L" 268	do.	Moisie, Mingan, Seven Islands & Baie St Paul	—	500.00
"O" 223, "P" 624, "P" 626.	D. E. Price	Lake St John	230	500.00
1871				
RELIEF, SEED & IMPLEMENTS.				
"O" 251, "L" 321, "L" 349.	Bishop Langevin	Bersimis	—	500.00
"O" 251, "P" 778, "P" 779, "P" 697	D. E. Price	Upper Saguenay & Lake St John.	—	375.00
RELIEF.				
"O" 251, "L" 312, "L" 349.	Bishop Langevin	Godbout	—	75.00
do.	do.	Moisie, Mingan, Seven Islands & Baie St Paul.	—	500.00
1872				
RELIEF, SEED & IMPLEMENTS.				
200, 201, 385	Bishop Langevin	Bersimis	—	500.00
	do.	Godbout	—	75.00
200, 321, 570, 750 . .	D. E. Price	Upper Saguenay . . .	—	544.08
RELIEF.				
200, 201, 385	Bishop Langevin	Baie St Paul, Seven Islands, Moisie, Mingan & Natash- quan.	—	500.00
1873				
RELIEF & SEED.				
1616, 1936, 3002, 3118.	D. E. Price	Upper Saguenay . . .	—	297.58
L.B. 31, 32	Bishop Langevin	Bersimis	—	500.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1870—continued.				\$
RELIEF.				
“O” 204, “L” 268	Rev. E. Langevin	Godbout	—	75.00
“O” 204, “L” 268	do.	Moisie, Mingan, Seven Islands & Baie St Paul	—	500.00
“O” 223, “P” 624, “P” 626	D.E. Price	Lake St John	230	500.00
1871				
RELIEF, SEED, & IMPLEMENTS.				
“O” 251, “L” 321, “L” 349	Bishop Langevin	Bersimis	—	500.00
“O” 251, “P” 778, “P” 779, “P” 697	D.E. Price	Upper Saguenay & Lake St John	—	375.00
RELIEF.				
“O” 251, “L” 312, “L” 349	Bishop Langevin	Godbout	—	75.00
do.	do.	Moisie, Mingan, Seven Islands & Baie St Paul	—	500.00
1872				
RELIEF, SEED, & IMPLEMENTS.				
200, 201, 385	Bishop Langevin	Bersimis	—	500.00
	do.	Godbout	—	75.00
200, 321, 570, 750	D.E. Price	Upper Saguenay	—	544.08
RELIEF.				
200, 201, 385	Bishop	Baie St. Paul, Seven Islands,	—	500.00

Langevin Moisie, Mingan & Natashquan

1873

RELIEF & SEED.

1616, 1956, 3002, 3118	D.E. Price	Upper Saguenay	—	297.58
L.B. 31, 32	Bishop Langevin	Bersimis	—	500.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1873—continued.				\$
RELIEF. L.B. 31, 32, 2264 .	Bishop Langevin .	Moisie, Mingan, Seven Islands & Baie St Paul.	—	500.00
do. .	do. .	Godbout	—	75.00
INDIAN OFFICE (Agents Salary). 1205-11971 . .	L. E. Otis	Pointe Bleue, Lake St John.	—	100.00
NOTE.—L. E. Otis was appointed Indian Agent at Pointe Bleue for Lake St John district in January 1873.				
1874				
AGENTS SALARY . .	L. E. Otis	Pointe Bleue . . .	—	200.00
TRAVELLING. 4326.	L. E. Otis	Pointe Bleue . . .	—	21.45
RELIEF & SEED. 3362.	Bishop Langevin .	Bersimis	—	500.00
4444.	do. .	Godbout	—	75.00
	do. .	Baie Ste Paul, Seven Islands, Moisie, Mingan & Natash- quan.	—	500.00
3362, 4200	D. E. Price	Upper Saguenay . .	—	400.00
3437, 3930, 3912, 3990.	L. E. Otis	Lake St John . . .	—	83.77
NOTE.—In this year a school was started for the education of Indian children at Pointe Bleue. (See note "C," page 2712.)				
1875				
AGENTS SALARY . .	L. E. Otis	Pointe Bleue . . .	—	200.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1873—continued.				\$
RELIEF.				
L.B. 31, 32, 2264	Bishop Langevin	Moisie, Mingan, Seven Islands & Baie St Paul.	—	500.00
do.	do.	Godbout	—	75.00
INDIAN OFFICE (Agents Salary).				
1206-11971	L.E. Otis	Pointe Bleue, Lake St John.	—	100.00
NOTE.—L.E. Otis was appointed Indian Agent at Pointe Bleue for Lake St John district in January, 1873.				
1874				
AGENTS SALARY				
	L.E. Otis	Pointe Bleue	—	200.00
TRAVELLING.				
4326	L.E. Otis	Pointe Bleue	—	21.45
RELIEF & SEED.				
3362	Bishop Langevin	Bersimis	—	500.00
4444	do.	Godbout	—	75.00
	do.	Baie Ste Paul, Seven Islands, Moisie, Mingan & Natashquan	—	500.00
3362, 4200	D.E. Price	Upper Saguenay	—	400.00
3437, 3930, 3912, 3990	L.E. Otis	Lake St. John	—	83.77
NOTE.—In this year a school was started for the education of Indian children at Pointe Bleue. (See note "C," page 2712.)				
1875				
AGENTS SALARY				
	L.E. Otis	Pointe Bleue	—	200.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians	Amount.
1875—continued.				\$
SEED.				
5807.	Rev. E. Langevin .	Bersimis	—	250.00
	do.	Godbout	—	75.00
RELIEF.				
4489, 5807, L.B. 38	Bishop Langevin .	Bersimis	—	575.00
do.	do.	Godbout	—	75.00
4872, 5087, 5178, 5615, 4326.	L. E. Otis and D. E. Price.	Lake St. John and Upper Saguenay.	—	672.54
VACCINATION.				
5028, L.B.	Dr. C. A. Lacombe .	Lake St. John . . .	106	55.00
HOSPITAL.				
4746.	L. E. Otis	Pointe Bleue . . .	—	300.00
	Note.—In 1875 a small hospital for Indians was established by the Department at Pointe Bleue and was maintained until 1902.			
1876				
AGENTS SALARY . . .	L. E. Otis	Pointe Bleue . . .	—	200.00
SEED.				
6634.	Rev. E. Langevin .	Bersimis	—	250.00
6634.	do.	Godbout	—	75.00
6888, 7281, 7207, 6310, 6984.	L. E. Otis	Lake St. John and Upper Saguenay.	—	150.00
RELIEF.				
7291.	Rev. E. Langevin .	Bersimis	—	250.00
5975.	A. Fraser & Co. . .	Moisie	—	316.00
6888, 7281, 7207, 6310, 6984.	L. E. Otis	Lake St. John and Upper Saguenay.	—	150.00
1877				
AGENTS SALARY . . .	L. E. Otis	Point Bleue	—	200.00
SEED.				
7646.	Rev. C. Arnaud . . .	Bersimis	50	116.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1875—continued.				\$
SEED.				
5807	Rev. E. Langevin	Bersimis	—	250.00
	do.	Godbout	—	75.00
RELIEF.				
4489, 5807, L.B. 38	Bishop Langevin	Bersimis	—	575.00
	do.	Godbout	—	75.00
4872, 5087, 5178, 5615, 4326	L.E. Otis and D.E. Price	Lake St. John and Upper Saguenay	—	672.54
VACCINATION.				
5028, L.B.	Dr. C.A. Lacombe	Lake St. John	106	55.00
HOSPITAL.				
4746	L.E. Otis	Pointe Bleue	—	300.00
NOTE.—In 1875 a small hospital for Indians was established by the Department at Pointe Bleue and was maintained until 1902.				
1876				
AGENTS SALARY	L.E. Otis	Pointe Bleue	—	200.00
SEED.				
6634	Rev. E. Langevin	Bersimis	—	250.00
6634	do.	Godbout	—	75.00
6888, 7281, 7207, 6310, 6984	L.E. Otis	Lake St John and Upper Saguenay	—	150.00
RELIEF.				
7291	Rev. E. Langevin	Bersimis	—	250.00
5975	A. Fraser & Co.	Moisie	—	316.00
6888, 7281, 7207, 6310, 6984	L.E. Otis	Lake St. John and Upper Saguenay	—	150.00
1877				

AGENTS SALARY	L.E. Otis	Pointe Bleue	—	200.00
SEED.				
7646	Rev. C. Arnaud	Bersimis	50	116.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1877—continued.				s
RELIEF & SEED. 7646, 8059, 8256, 8458, 8818, 8963, 9081.	L. E. Otis	Lake St John and Upper Saguenay.	—	400.00
RELIEF. 7646.	Rev. C. Arnaud . . .	Bersimis	42	176.40
7646.	A. Fraser & Co. . . .	Moisie	33	335.66
7646.	Hudson Bay Co. . . .	Mingan	22	250.00
1878				
AGENTS SALARY . .	L. E. Otis	Point Bleue	—	200.00
MEDICAL ATTENDANCE. 8519.	Dr. C. A. Lacombe . .	Chicoutimi	—	95.95
SEED. 9280.	Rev. C. Arnaud	Bersimis	55	250.00
RELIEF. 9280.	Rev. C. Arnaud	Bersimis	177	200.00
do.	do.	do.	31	250.00
9280.	Rev. E. Langevin . . .	Godbout	—	75.00
7646.	Hudson's Bay Co. . . .	Mingan	15	100.00
9280.	do.	do.	13	100.00
	do.	do.	38	125.00
9280.	A. Fraser & Co.	Moisie	45	103.49
9165, 9705, 10847, 10215.	L. E. Otis	Lake St John	—	193.65
1879				
AGENTS SALARY. 13137	L. E. Otis	Pointe Bleue	—	200.00
	L. F. Boucher	Lower St Lawrence . .	—	137.50
TRAVELLING. 4-3	L. F. Boucher	Lower St Lawrence . .	—	18.90

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1877—continued.				\$
RELIEF & SEED.				
7646, 8059, 8256, 8458, 8818, 8963, 9061	L.E. Otis	Lake St John and Upper Saguenay.	—	400.00
RELIEF.				
7646	Rev. C. Arnaud	Bersimis	42	176.40
7646	A. Fraser & Co.	Moisie	33	335.66
7646	Hudson Bay Co.	Mingan	22	250.00
1878				
Agents Salary	L.E. Otis	Pointe Bleue	—	200.00
MEDICAL ATTENDANCE.				
8519	Dr. C.A. Lacombe	Chicoutimi	—	95.95
SEED.				
9280	Rev. C. Arnaud	Bersimis	55	250.00
RELIEF.				
9280	Rev. C. Arnaud	Bersimis	177	200.00
do.	do.	do.	31	250.00
9280	Rev. E. Langevin	Godbout	—	75.00
7646	Hudson's Bay Co.	Mingan	15	100.00
9280	do.	do.	13	100.00
	do.	do.	38	125.00
9280	A. Fraser & Co.	Moisie	45	103.49
9165, 9705, 10847, 10215	L.E. Otis	Lake St John	—	193.65
1879				
AGENTS SALARY				
13137	L.E. Otis	Pointe Bleue	—	200.00

	L.F. Boucher	Lower St Lawrence	—	137.50
TRAVELLING.				
4-3	L.F. Boucher	Lower St Lawrence	—	18.90

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1879—continued.				\$
RELIEF & SEED.				
12090	Rev. E. Langevin	Bersimis	—	250.00
RELIEF.				
12090	Rev. C. Arnaud	Bersimis	—	140.93
12090, 15152	L. E. Otis	Lake St John	—	150.00
10589	Rev. E. Langevin	Natashquan to Bonne Esperance.	—	39.00
do.	P. Vignault	do.	—	151.86
do.	F. Dore	do.	—	201.40
12090	A. Fraser & Co.	Moisie & Seven Islands.	—	231.06
12090	Hudson's Bay Co.	Mingan	59	269.95
<p><small>NOTE.—L. F. Boucher was appointed Indian Agent for the Lower St. Lawrence "north east of the Saguenay river" in 1879. He was stationed at Bersimis and was paid a salary of \$400.00 a year, with an allowance of \$100.00 for rent, light & fuel.</small></p>				
1880				
AGENTS SALARY	L. E. Otis	Pointe Bleue	—	300.00
do.	L. F. Boucher	Lower St Lawrence.	—	400.00
RENT AND FUEL	do.	do.	—	100.00
MEDICAL A/C.				
25514	Dr. L. E. Beauchamp	Chicoutimi	—	6.90
MEDICINES.				
15865	Giroux & Freres	Bersimis	—	189.50
HOSPITAL.				
15600	L. E. Otis	Pointe Bleue	—	172.13
SEED.				
18715	L. E. Otis	Pointe Bleue	—	300.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1879—continued.				\$
RELIEF & SEED.				
12090	Rev. E. Langevin	Bersimis	—	250.00
RELIEF.				
12090	Rev. C. Arnaud	Bersimis	—	140.93
12090, 15152	L.E. Otis	Lake St John	—	150.00
10589	Rev. E. Langevin	Natashquan to Bonne Esperance.	—	39.00
do.	P. Vignault	do.	—	151.86
do.	F. Dore	do.	—	201.40
12090	A. Fraser & Co.	Moisie & Seven Islands.	—	231.06
12090	Hudson's Bay Co.	Mingan	59	269.95
NOTE.—L.F. Boucher was appointed Indian Agent for the Lower St Lawrence “north east of the Saguenay river” in 1879. He was stationed at Bersimis and was paid a salary of \$400.00 a year, with an allowance of \$100.00 for rent, light & fuel.				
1880				
AGENTS SALARY.				
	L.E. Otis	Pointe Bleue	—	300.00
do.	L.E. Boucher	Lower St. Lawrence.	—	400.00
RENT AND FUEL.	do.	do.	—	100.00
MEDICAL A/C.				
25514	Dr. L.E. Beauchamp	Chicoutimi	—	6.90
MEDECINES.				
15865	Giroux & Freres	Bersimis	—	189.50
HOSPITAL.				

15600	L.E. Otis	Pointe Bleue	—	172.13
SEED.				
18715	L.E. Otis	Pointe Bleue	—	300.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians	Amount.
1880—continued.				
RELIEF.				8
17925	L. E. Otis	Lake St John	—	58.80
18715	do.	do.	—	176.25
12096, 18715	Rev. E. Langevin	Bersimis	45	250.00
12096	do.	Godbout	—	75.00
12096	Hudson's Bay Co.	Mingan	14	171.00
18715	L. F. Boucher	Bersimis	—	250.00
	do.	Godbout	—	75.00
	do.	Baie Ste Paul, Seven Islands, Moisie and Mingan	—	250.00
1881				
AGENTS SALARY.				
28252	L. E. Otis	Pointe Bleue	—	300.00
	L. F. Boucher	Lower St Lawrence	—	400.00
RENT AND FUEL	do.	do.	—	100.00
T. SELLING.				
23600, 28920	L. F. Boucher	Lower St Lawrence	—	885.66
CONSTABLE.				
26695	L. Paradis	Lake St John	—	68.00
NOTE.—Since 1881 constables have been employed at Lake St John and along the Lower St Lawrence for the suppression of liquor traffic with the Indians.				
HOSPITAL.				
24384-1				
Doctors A/c	Dr. A. G. Matte	Pointe Bleue	—	98.88
Supplies	A. LeBel	do.	—	167.20
do.	L. E. Otis	do.	—	70.50
Fuel and Water	A. Boutin	do.	—	12.70
Nurse	G. Harvey	do.	—	34.80
VACCINATION.				
24116	L. F. Boucher	Bersimis	249	120.50
		Godbout	14	
		Seven Islands and Moisie	242	
		Mingan	178	
		Natashquan	36	
		Romaine	245	

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1881—continued.				\$
RELIEF.				
17925	L.E. Otis	Lake St John	—	58.80
18715	do.	do.	—	176.25
12096, 18715	Rev. E. Langevin	Bersimis	45	250.00
12096	do.	Godbout	—	75.00
12096	Hudson's Bay Co.	Mingan	14	171.00
18715	L.F. Boucher	Bersimis	—	250.00
	do.	Godbout	—	75.00
	do.	Baie Ste Paul, Seven Islands, Moisie and Mingan	—	250.00
1881				
AGENTS SALARY.				
28252	L.E. Otis	Pointe Bleue	—	300.00
	L.F. Boucher	Lower St Lawrence	—	400.00
RENT AND FUEL.				
	do.	do.	—	100.00
TRAVELLING.				
23600, 28920	L.F. Boucher	Lower St Lawrence	—	885.66
CONSTABLE.				
26695	L. Paradis	Lake St John	—	68.00
NOTE.—Since 1881 constables have been employed at Lake St John and along the Lower St Lawrence for the suppression of liquor traffic with the Indians.				
HOSPITAL.				
24384—1				
Doctors A/c	Dr. A.G. Matte	Pointe Bleue	—	98.88

Supplies	A. LeBel	do.	—	167.20
do.	L.E. Otis	do.	—	70.50
Fuel and Water	A. Boutin	do.	—	12.70
Nurse	G. Harvey	do.	—	34.80
VACCINATION.				
24116	L.F. Boucher	Bersimis	249	
		Godbout	14	
		Seven Islands and	242	
		Moisie	178	120.50
		Mingan	36	
		Natashquan	245	
		Romaine		

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
HOUSE FOR INDIAN CHIEF.	1881—continued.			\$
12096	A. Fraser & Co.	Moisie	—	69.80
RELIEF.	L. F. Boucher	Bersimis	—	500.00
27166	do.	Godbout	—	150.00
	do.	Moisie, Mingan and Seven Islands	—	500.00
27166	L. E. Otis	Lake St John and Upper Saguenay	—	300.00
FISHING SUPPLIES.	L. F. Boucher	Romaine	—	44.46
27166				
	1882			
AGENTS SALARY	L. E. Otis	Pointe Bleue	—	300.00
36726	L. F. Boucher	Lower St Lawrence	—	400.00
RENT & FUEL.	do.	do.	—	100.00
36726				
TRAVELLING.	L. F. Boucher	do.	—	79.57
38814, 36650				
OFFICE EXPENSES.	L. E. Otis	Pointe Bleue	—	67.03
36784				
MEDICAL ATTENDANCE.	Dr. A. G. Matte	Lake St John	—	30.50
39543	Dr. C. A. C. Lacombe	Chicoutimi	—	28.90
39543, 36767				
CONSTABLE.	A. Tremblay	Lower St Lawrence	—	135.00
31525				
LIQUOR PROSECUTION.	L. F. Boucher	Lower St Lawrence	—	433.55
38838				

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
HOUSE FOR INDIAN CHIEF.				\$
				1880—continued.
12096	A. Fraser & Co.	Moisie	—	69.80
RELIEF.				
27166	L.F. Boucher	Bersimis	—	500.00
	do.	Godbout	—	150.00.00
	do.	Moisie, Mingan and Seven Islands	—	500.00
27166	L.E. Otis	Lake St John and Upper Saguenay	—	300.00
FISHING SUPPLIES.				
27166	L.F. Boucher	Romaine	—	44.46
				1882
AGENTS SALARY.				
	L.E. Otis	Pointe Bleue	—	300.00
36726	L.F. Boucher	Lower St Lawrence	—	400.00
RENT & FUEL.				
36726	do.	do.	—	100.00
TRAVELLING				
38814, 36650	L.F. Boucher	do.	—	79.57
OFFICE EXPENSES.				
36784	L.E. Otis	Pointe Bleue	—	67.03
MEDICAL ATTENDANCE.				
39543	Dr. A.G. Matte	Lake St John	—	30.50
39543, 36767	Dr. C.A.C. Lacombe	Chicoutimi	—	28.90
CONSTABLE.				
31525	A. Tremblay	Lower St Lawrence	—	135.00

LIQUOR PROSECUTION.

38838

L.F. Boucher Lower St. Lawrence

—

433.55

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Nature of Expenditure and File No.	Payee.	Location of Indians.	Nu. of Indians.	Amount.
1882—continued.				\$
HOSPITAL.				
24384-1				
Building . . .	L. E. Otis . . .	Pointe Bleue . . .	—	117.71
Doctors A/C. . .	Dr. A. G. Matte . . .	do. . .	—	71.60
Supplies . . .	A. LeBel . . .	do. . .	—	265.93
Nurse. . .	G. Harvey . . .	do. . .	—	33.00
0 do. . .	M. LaMarche . . .	do. . .	—	10.00
RELIEF.				
36002 . . .	L. F. Boucher . . .	Lower St Lawrence.	—	1150.00
27116, 12096 . . .	A. Fraser . . .	Moisie & Seven Islands.	—	45.17
38819 . . .	Hudson's Bay Co. . .	Mingan . . .	—	239.13
1883				
AGENTS SALARIES				
39362 . . .	L. E. Otis . . .	Pointe Bleue . . .	—	300.00
	L. F. Boucher . . .	Lower St Lawrence.	—	400.00
OFFICE RENT &C.				
0 39362, 41179 . . .	do. . .	do. . .	—	100.00
TRAVELLING.				
41179 . . .	do. . .	do. . .	—	471.07
OFFICE EXPENSES.				
42360 . . .	do. . .	Bersimis . . .	—	28.18
AGENTS HOUSE.				
Repairs 21-21 . . .	L. E. Otis . . .	Pointe Bleue . . .	—	8.15
BUILDING OVEN FOR INDIANS, 21-21.				
	L. E. Otis . . .	Pointe Bleue . . .	—	7.00
CONSTABLES.				
0 31525 . . .	A. Tremblay . . .	Lower St Lawrence.	—	262.92
26695 . . .	L. E. Otis . . .	Lake St John . . .	—	20.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1882—continued.				\$
HOSPITAL.				
24384-1				
Building	L.E. Otis	Pointe Bleue	—	117.71
Doctors A/C	Dr. A.G. Matte	do.	—	71.60
Supplies	A. LeBel	do.	—	265.93
Nurse	G. Harvey	do.	—	33.00
do.	M. LaMarche	do.	—	10.00
RELIEF.				
36002	L.F. Boucher	Lower St Lawrence	—	1150.00
27116, 12096	A. Fraser	Moisie & Seven Islands	—	45.17
38819	Hudson's Bay Co.	Mingan	—	239.13
1883				
AGENTS SALARY.				
	L.E. Otis	Pointe Bleue	—	300.00
39362	L.F. Boucher	Lower St Lawrence	—	400.00
OFFICE RENT & C.				
39362, 41179	do.	do.	—	100.00
TRAVELLING.				
41179	do.	do.	—	471.07
OFFICE EXPENSES.				
42360	do.	Bersimis	—	28.18
BUILDING OVEN FOR INDIANS. 21-21.	L.E. Otis	Pointe Bleue	—	7.00
CONSTABLES.				
31525	A. Tremblay	Lower St	—	626.92

26695	L.E. Otis	Lawrence. Lake St John	—	20.00
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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1883—continued.				
HOSPITAL.				\$
Doctors A/C.	Dr. A. G. Matte	Pointe Bleue	—	44.75
Supplies	A. LeBel	do.	—	629.02
Nurse	V. Verreau	do.	—	15.00
do.	M. Laronde	do.	—	10.00
do.	G. Harvey	do.	—	30.00
SURVEY OF LAND FOR RESERVE.				
24273	E. Boivin	Escoumains	—	199.42
VACCINATION.				
43192	Dr. F. X. Laterrier	Lower St Lawrence	806	403.00
INSANE INDIAN (Care of).				
42754	E. J. Fradet	Pointe Bleue	—	37.10
MEDICAL ATTENDANCE.				
46283, 42742, 41074	Dr. A. G. Matte	Pointe Bleue	—	109.50
46219, 43550, 39542	Dr. L. E. Beauchamp	Chicoutimi	—	26.25
42413	Dr. C. A. C. Lacombe	Chicoutimi	—	16.25
SEED.				
41179	L. E. Otis	Lake St John	54	231.54
RELIEF.				
41179	L. F. Boucher	Seven Islands	34	1037.07
		Mingan	26	
		Bersimis	48	
		Godbout	8	
40634	L. F. Boucher	Bersimis	50	160.50
do.	Hudson's Bay Co.	do.	—	112.19
do.	G. W. Forrest	do.	—	195.41
do.	Girouard & Beaudet	do.	—	199.42
41179	L. E. Otis	Lake St John	41	169.81

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
				\$
1883—continued				
HOSPITAL.				
Doctors A/C	Dr. A.G. Matte	Pointe Bleue	—	44.75
Supplies	A. LeBel	do.	—	629.02
Nurse	V. Verreau	do.	—	15.00
do.	M. Laronde	do.	—	10.00
do.	G. Harvey	do.	—	30.00
SURVEY OF LAND FOR RESERVE.				
24273	E. Boivin	Escoumains	—	199.42
VACCINATION.				
43192	Dr. F.X. Laterrier	Lower St Lawrence	806	403.00
INSANE INDIAN (Care of).				
42754	E.J. Fradet	Pointe Bleue	—	37.10
MEDICAL ATTENDANCE.				
46283, 42742, 41074	Dr. A.G. Matte	Pointe Bleue	—	109.50
46219, 43550, 39542	Dr. L.E. Beauchamp	Chicoutimi	—	26.25
42413	Dr. C.A.C. Lacombe	Chicoutimi	—	16.25
SEED.				
41179	L.E. Otis	Lake St John	54	231.54
RELIEF.				
41179	L.F. Boucher	Seven Islands Mingan Bersimis	34 26 48	1037.07

		Godbout	8	
40634	L.F. Boucher	Bersimis	50	160.50
do.	Hudson's Bay Co.	do.	—	112.19
do.	G.W. Forrest	do.	—	195.41
do.	Girouard & Beudet	do.	—	199.42
41179	L.E. Otis	Lake St John	41	169.81

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1883—continued.				\$
SUPPLIES FOR HUNTING AND FISHING. 141989	Beaudet & Co.	Romaine	—	85.13
	Weston Hunt & Co.	do.	—	45.41
	Verret & Stewart	do.	—	17.85
1884				
AGENTS SALARIES. —	L. E. Otis	Pointe Bleue	—	300.00
39362	L. F. Boucher	Lower St Lawrence	—	400.00
OFFICE, RENT, &c.	do.	do.	—	100.00
TRAVELLING. 33, 41179, 50099	do.	do.	—	620.91
MEDICAL ATTENDANCE.				
53421	Dr. L. E. Beauchamp	Chicoutimi	—	2.50
55223, 50329	Dr. C. Lacombe	Chicoutimi	—	11.50
54580	Dr. H. Simard	Escoumains	—	30.00
49698	Dr. A. G. Matte	Lake St John	—	42.50
43191	Dr. F. X. Laterrier	Lower St Lawrence	57	182.64
BURIAL OF INDIAN.				
54124	L. F. Boucher	Mingan	1	10.31
CONSTABLES.				
31525	J. B. Claveau	Lower St Lawrence	—	182.00
do.	A. Tremblay	do.	—	204.00
HOSPITAL.				
24384-1				
Doctors A/C	Dr. G. A. Matte	Pointe Bleue	—	51.25
Fencing	L. E. Otis	do.	—	77.80
Supplies	A. LeBel	do.	—	436.70
Nurse	V. Verreau	do.	—	60.00
SEED.				
362	L. E. Otis	Lake St John	17	172.84

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
SUPPLIES FOR HUNTING AND FISHING.				
1883—continued.				\$
141989	Beudet & Co.	Romaine	—	85.13
	Weston hunt & Co.	do.	—	45.41
	Verret & Stewart	do.	—	17.85
1884				
AGENT SALARIES.				
—	L.E. Otis	Pointe Bleue	—	300.00
39362	L.F. Boucher	Lower St Lawrence	—	400.00
	do.	do.	—	100.00
TRAVELLING.				
14133, 41179, 50099	do.	do.	—	620.91
MEDICAL ATTENDANCE.				
53421	Dr. L.E. Beauchamp	Chicoutimi	—	2.50
55223, 50329	Dr. C. Lacombe	Chicoutimi	—	11.50
54580	Dr. H. Simard	Escoumains	—	30.00
49998	Dr. A.G. Matte	Lake St John	—	42.50
43191	Dr. F.X. Laterrier	Lower St Lawrence	57	182.64
BURIAL OF INDIAN.				
54124	L.F. Boucher	Mingan	1	10.31
CONSTABLES.				
31525	J.B. Claveau	Lower St Lawrence	—	182.00
do.	A. Tremblay	do.	—	204.00

HOSPITAL.				
24384-1				
Doctors A/C	Dr. G.A. Matte	Pointe Bleue	—	51.25
Fencing	L.E. Otis	do.	—	77.80
Supplies	A. LeBel	do.	—	436.70
Nurse	V. Verreau	do.	—	60.00
SEED.				
862	L.E. Otis	Lake St John	17	172.84

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1884—continued.				†
RELIEF.				
50774, 54978 . . .	L. F. Boucher . . .	Lower St Lawrence	—	1150.00
40634	do.	Musquarro	—	64.50
do.	do.	Esquimaux Point	—	15.00
do.	do.	Romaine	—	23.73
40634	Hudson's Bay Co.	Mingan	—	130.07
do.	do.	Seven Islands	—	100.00
48580	L. E. Otis	Lake St John	—	100.00
53862	do.	do.	27	226.30
LIQUOR PROSECUTION.				
54835, 57362 . . .	A. A. Hudon . . .	Roberval.	—	50.00
1885				
AGENTS SALARIES.				
	L. E. Otis	Pointe Bleue	—	300.00
	L. F. Boucher	Lower St Lawrence	—	400.00
OFFICE RENT, &c.				
	do.	do.	—	100.00
TRAVELLING.				
57887, 57520 . . .	L. F. Boucher	Lower St Lawrence	—	91.92 ²
EXPENSES <i>re</i> DEPUTATION OF INDIANS TO OTTAWA.				
59047	A. Fraser & Co.	Bersimis	—	56.80
BARN FOR INDIAN GRAIN.				
61600	L. E. Otis	Pointe Bleue	—	98.60
do.	A. LeBel	do.	—	96.40
MEDICAL ATTENDANCE.				
63077	Dr. C. Lacombe	Lower Saguenay	—	9.35
58995	Dr. Beauchamp	Chicoutimi	—	5.25
61533	Dr. A. Poliquin	Pointe Bleue	—	10.00
63077, 61533, 58944, 56955.	Dr. A. G. Matte	Lake St John	—	225.50

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1884—continued.				\$
RELIEF.				
50774, 54978	L.F. Boucher	Lower St. Lawrence	—	1150.00
40634	do.	Musquarro	—	64.50
do.	do.	Esquimaux Point	—	15.00
do.	do.	Romaine	—	23.73
40634	Hudson's Bay Co.	Mingan	—	130.07
do.	do.	Seven Islands	—	100.00
48580	L.E. Otis	Lake St John	—	100.00
53862	do.	do.	27	226.30
LIQUOR PROSECUTION.				
54835, 57362	A.A. Hudon	Roberval	—	50.00
1885				
AGENT SALARIES.				
	L.E. Otis	Pointe Bleue	—	300.00
	L.F. Boucher	Lower St Lawrence	—	400.00
Office, Rent, &c.	do.	do.	—	100.00
TRAVELLING				
57887, 57520	L.F. Boucher	Lower St Lawrence	—	91.92
EXPENSES re DEPUTATION OF INDIANS TO OTTAWA.				
59047	A. Fraser & Co.	Bersimis	—	56.80
BARN FOR INDIAN GRAIN.				

61600	L.E. Otis	Pointe Bleue	—	98.60
do.	A. LaBel	do.	—	96.40
MEDICAL ATTENDANCE.				
63077	Dr. C. Lacombe	Lower Saguenay	—	9.35
58995	Dr. Beauchamp	Chicoutimi	—	5.25
61533	Dr. A. Poliquin	Pointe Bleue	—	10.00
63077, 61533, 58944, 56955	Dr. A.G. Matte	Lake St John	—	225.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1885—continued.				
SEEDS. 57667, 62047 . . .	L. E. Otis . . .	Lake St John . . .	—	200.00
RELIEF. 59047, 60280 . . .	L. F. Boucher . . .	Bersimis	126	575.00
59047	A. Fraser & Co. . . .	Bersimis	—	137.98
60280	Hudson's Bay Co. . .	Seven Islands . . .	—	50.10
57667, 62041 . . .	L. E. Otis	Lake St John . . .	21	200.00
CONSTABLES. 31525	A. Tremblay	Lower St Lawrence	—	170.00
do.	J. B. Claveau	do.	—	214.00
LIQUOR PROSECUTION. # 5, 59036	A. A. Hudon	Roberval.	—	100.00
HOSPITAL. 24348-1 & 2				
Supplies	A. LeBel	Pointe Bleue	—	501.94
Fencing	T. Bolduc	do.	—	65.96
Repairs	A. LeBel	do.	—	28.05
Nurse	V. Verreau	do.	—	55.00
1886				
AGENTS SALARIES. L. E. Otis	L. E. Otis	Pointe Bleue	—	400.00
L. F. Boucher	L. F. Boucher	Lower St Lawrence	—	400.00
OFFICE RENT. 67133, 70503 . . .	do.	do.	—	100.00
TRAVELLING. 68806	do.	do.	—	499.52
BUILDING A STORE HOUSE. 21-3	P. Gauthier	Bersimis	—	231.00
CONSTABLE. 31525	J. B. Claveau	Lower St Lawrence	—	213.56

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1885—continued.				\$
SEED.				
57667, 6204	L.E. Otis	Lake St John	—	200.00
RELIEF.				
59047, 60280	L.F. Boucher	Bersimis	126	575.00
59047	A. Fraser & Co.	Bersimis	—	137.98
60280	Hudson's Bay Co.	Seven Islands	—	50.10
57667, 62041	L.E. Otis	Lake St John	21	200.00
CONSTABLES.				
31525	A. Tremblay	Lower St Lawrence	—	170.00
do.	J.B. Claveau	do.	—	214.00
LIQUOR PROSECUTION.				
60555, 59036	A.A. Huson	Roberval	—	100.00
HOSPITAL.				
24348—1 & 2				
Supplies	A. LeBel	Pointe Bleue	—	501.94
Fencing	T. Bolduc	do.	—	65.96
Repairs	A. LeBel	do.	—	28.05
Nurse	V. Verreau	do.	—	55.00
1886				
AGENT SALARIES.				
	L.E. Otis	Pointe Bleue	—	400.00
	L.F. Boucher	Lower St Lawrence	—	400.00
OFFICE RENT.				
67133, 70503	do.	do.	—	100.00

TRAVELLING.				
68806	do.	do.	—	499.52
BUILDING A STORE HOUSE.				
21—3	P. Gauthier	Bersimis	—	231.00
CONSTABLE.				
31525	J.B. Claveau	Lower St. Lawrence	—	213.56

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
HOSPITAL. 24384-2	1886—continued.			\$
Doctor's A/C	Dr. A. G. Matte	Pointe Bleue	—	7.50
do.	Dr. L. A. Poliquin	do.	—	20.00
Supplies	A. LeBel	do.	—	665.27
Nurse	V. Verreau	do.	—	60.00
INSANE INDIAN. Transport of. 24384-2	L. E. Otis	Pointe Bleue	—	67.75
FISHING SUPPLIES. 67871	A. Fraser & Co.	Bersimis	—	42.97
VACCINATION. 56345-2a	Dr. A. G. Matte	Lake St John	—	48.00
do.	Dr. L. E. Beauchamp	Chicoutimi	—	194.75
MEDICAL ATTENDANCE. 65594	Dr. L. E. Beauchamp	Chicoutimi	—	27.50
65091-1.	Dr. C. A. Cote	Lower St Lawrence	—	672.70
65607, 67702, 72956, 71944.	Dr. G. A. Matte	Lake St John	—	281.25
SEED. 66370, 67171, 71455	L. E. Otis	Pointe Bleue	—	200.00
SEED AND RELIEF. 53-21	M. Cote	Pointe Bleue	9	144.81
RELIEF. 66370, 67171, 71455	L. E. Otis	Pointe Bleue	—	200.00
67050, 71444	L. F. Boucher	Bersimis	—	575.00
67050	do.	Godbout	—	75.00
	do.	Seven Islands	—	250.00
CLOTHING FOR DESTITUTE. 66858	W. Logan	Mingan and Seven Islands.	—	106.00
do.	J. M. Garland	do.	—	127.65

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
HOSPITAL.				
24384-2	1886—continued.			\$
Doctor's A/C	Dr. A.G. Matte	Pointe Bleue	—	7.50
do.	Dr. L.A. Poliquin	do.	—	20.00
Supplies	A. LeBel	do.	—	665.27
Nurse	V. Verreau	do.	—	60.00
INSANE INDIAN Transport of.				
24384—2	L.E. Otis	Pointe Bleue	—	67.75
FISHING SUPPLIES.				
67871	A. Fraser & Co.	Bersimis	—	42.97
VACCINATION.				
56345—2B	Dr. A.G. Matte	Lake St John	—	48.00
do.	Dr. L.E. Beauchamp	Chicoutimi	—	194.75
MEDICAL ATTENDANCE.				
65594	Dr. L.E. Beauchamp	Chicoutimi	—	27.50
65091—1	Dr. C.A. Cote	Lower St Lawrence	—	672.70
65607, 67702, 72956, 71944	Dr. G.A. Matte	Lake St John	—	281.25
SEED.				
66370, 67171, 71455	L.E. Otis	Pointe Bleue	—	200.00
SEED & RELIEF.				
53-21	M. Cote	Pointe Bleue	9	144.81
RELIEF.				

66370, 67171, 71455	L.E. Otis	Pointe Bleue	—	200.00
67050, 71444	L.F. Boucher	Bersimis	—	575.00
67050	do.	Godbout	—	75.00
	do.	Seven Islands	—	250.00
CLOTHING FOR DESTITUTE.				
66858	W. Logan	Mingan and Seven Islands	—	106.00
do.	J.M. Garland	do.	—	127.65

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1886—continued.				8
FREIGHT ON SUPPLIES. 66858	A. Fraser & Co. . . .	Bersimis	—	7.45
LIQUOR PROSECUTION. 69109, 66532	A. A. Hudon	Roberval	—	100.00
66598	F. H. O'Brien	Tadousac	—	100.00
1887				
AGENTS SALARIES. L. E. Otis		Pointe Bleue	—	400.00
L. F. Boucher		Lower St Lawrence	—	400.00
OFFICE RENT. 70503	do.	do.	—	100.00
TRAVELLING. 79318, 75196	do.	do.	—	539.23
64909-2.	L. E. Otis	Pointe Bleue	—	39.30
OFFICE FURNITURE. 80636	L. E. Otis	do.	—	25.00
RE PURCHASE OF LAND FOR RESERVE. 24273	E. Boivin	Escoumains	—	18.00
CONSTABLE. 31525	J. B. Claveau	Lower St Lawrence	—	92.00
MEDICAL ATTENDANCE AND BURIAL. 81547	L. F. Boucher	Bersimis	—	67.76
SURGICAL OPERATION. 79697	Hudson's Bay Co. . . .	Bersimis	—	43.00
HOSPITAL. 24384-2				
Supplies	A. LeBel	Pointe Bleue	—	437.51
Nurse	V. Verreau	do.	—	55.00
80759	Sacred Heart Hospital, Que.	Bersimis	—	33.50

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1886—continued.				\$
FREIGHT ON SUPPLIES.				
66858	A. Fraser & Co.	Bersimis	—	7.45
LIQUOR PROSECUTION.				
69109, 66532	A.A. Hudon	Roberval	—	100.00
66598	F.H. O'Brien	Tadousac	—	100.00
1887				
AGENT SALARIES.				
	L.E. Otis	Pointe Bleue	—	400.00
	L.F. Boucher	Lower St Lawrence	—	400.00
OFFICE RENT.				
70503	do.	do.	—	100.00
TRAVELLING.				
79318, 75196	do.	do.	—	539.23
64909-2	L.E. Otis	Pointe Bleue	—	39.30
OFFICE FURNITURE.				
80636	L.E. Otis	do.	—	25.00
Re PURCHASE OF LAND FOR RESERVE.				
24273	E. Boivin	Escoumains	—	18.00
CONSTABLE.				
31525	J.B. Claveau	Lower St Lawrence	—	92.00
MEDICAL ATTENDANCE AND BURIAL.				
81547	L.F. Boucher	Bersimis	—	67.76
SURGICAL OPERATION.				

79697	Hudson's Bay Co.	Bersimis	—	43.90
HOSPITAL.				
24384-2				
Supplies	A. LeBel	Pointe Bleue	—	437.51
Nurse	V. Verreau	do.	—	55.00
80759	Sacred Heart Hospital, Que.	Bersimis	—	33.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1887—continued.				*
INSANE INDIAN, Care of, 66858	N. Blas	Bersimis	—	22.50
MEDICAL ATTENDANCE.				
73526	Dr. S. Caron	Chicoutimi	—	80.65
74239	Dr. L. E. Beauchamp	do.	—	60.25
74240, 76069, 78547, 81151.	Dr. A. G. Matte	Pointe Bleue	—	220.75
RELIEF.				
66370, 75060	L. F. Boucher	Lower St Lawrence	—	1150.00
74579	M. Cote	Bersimis	—	42.00
75905	L. F. Faffard	Godbout	—	10.00
75958	L. E. Otis	Pointe Bleue	—	200.00
LIQUOR PROSECUTION.				
69109	A. A. Hudon	Roberval	—	100.00
78727	F. H. O'Brien	Tadousac	—	100.00
SEED.				
66370, 75315, 76477	L. E. Otis	Pointe Bleue	—	275.00
AGENTS SALARIES.	1888			
	L. E. Otis	Pointe Bleue	—	400.00
	L. F. Boucher	Lower St Lawrence	—	400.00
OFFICE RENT, &c.				
70503	do.	do.	—	100.00
TRAVELLING.				
86278	do.	do.	—	596.77
86720	L. E. Otis	Pointe Bleue	—	29.00
HOSPITAL.				
24384-2				
Supplies	A. LeBel	Pointe Bleue	—	369.93
Nurse	V. Verreau	do.	—	45.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1886—continued.				\$
INSANE INDIAN Care of.				
66858	N. Blas.	Bersimis	—	22.50
MEDICAL ATTENDANCE.				
73526	Dr. S. Caron	Chicoutimi	—	80.65
74239	Dr. L.E. Beauchamp	do.	—	60.25
74240, 76069, 78547, 81151	Dr. A.G. Matte	Pointe Bleue	—	220.75
RELIEF.				
66370, 75960	L.F. Boucher	Lower St Lawrence	—	1150.00
74579	M. Cote	Bersimis	—	42.00
75905	L.F. Faffard	Godbout	—	10.00
75958	L.E. Otis	Pointe Bleue	—	200.00
LIQUOR PROSECUTION.				
69109	A.A. Hudon	Roberval	—	100.00
78727	L.E. O'Brien	Toudasac	—	100.00
SEED.				
66370, 75315, 76477	L.E. Otis	Pointe Bleue	—	275.00
1888				
AGENT SALARIES.				
	L.E. Otis	Pointe Bleue	—	400.00
	L.F. Boucher	Lower St Lawrence	—	400.00
OFFICE RENT, &C.				
70503	do.	do.	—	100.00
TRAVELLING.				

86278	do.	do.	—	596.77
86720	L.E. Otis	Pointe Bleue	—	29.00
HOSPITAL.				
24384-2				
Supplies	A. LeBel	Pointe Bleue	—	369.93
Nurse	V. Verreau	do.	—	45.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1888—continued.				\$
MEDICINES. 89138	C. O. LeBel	Bersimis	—	25.40
MEDICAL ATTENDANCE.				
74239	Dr. L. E. Beauchamp	Chicoutimi	—	4.00
81151	Dr. A. G. Matte	Pointe Bleue	—	279.75
86751	Dr. Caron	Pointe Bleue	—	70.80
SEED.				
66370, 75315, 84789, 86000, 89845.	L. E. Otis	Lake St John	—	435.00
RELIEF.				
86278	L. F. Boucher	Lower St Lawrence	—	575.00
84341	do.	Escoumains	—	50.00
66370, 75315, 84789, 86000, 89845.	L. E. Otis	Lake St John	—	570.00
LIQUOR PROSECUTION.				
69109, 78868	A. A. Hudon	Roberval	—	160.00
78727	F. H. O'Brien	Tadoussac	—	100.00
1889				
AGENTS SALARIES.				
93225	L. E. Otis	Pointe Bleue	—	400.00
	L. F. Boucher	Lower St Lawrence	—	400.00
OFFICE RENT.				
93225, 70503	do.	do.	—	100.00
OFFICE EXPENSES.				
93040	do.	do.	—	29.48
TRAVELLING.				
96500	do.	do.	—	577.14
LIQUOR PROSECUTION.				
78868	L. E. Otis	Pointe Bleue	—	72.70

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1888—continued.				\$
MEDICINES.				
89138	C.O. LeBel.	Bersimis	—	25.40
MEDICAL ATTENDANCE.				
74239	Dr. L.E. Beauchamp	Chicoutimi	—	4.00
81151	Dr. A.G. Matte	Pointe Bleue	—	279.75
86751	Dr. Caron	Pointe Bleue	—	70.80
SEED.				
66370, 75315, 84789, 86000, 89845	L.E. Otis	Lake St John	—	435.00
RELIEF.				
86278	L.F. Boucher	Lower St Lawrence	—	575.00
84341	do.	Escoumains	—	50.00
66370, 75315, 84789, 86000, 89845	L.E. Otis	Lake St John	—	570.00
LIQUOR PROSECUTION.				
69109, 78868	A.A. Hudon	Roberval	—	160.00
78727	F.H. O'Brien	Tadousac	—	100.00
1889				
AGENTS SALARIES.				
	L.E. Otis	Pointe Bleue	—	400.00
93225	L.F. Boucher	Lower St Lawrence	—	400.00
OFFICE RENT.				
93225, 70503	do.	do.	—	100.00
OFFICE EXPENSES.				
93040	do.	do.	—	29.48

TRAVELLING.				
96500	do.	do.	—	577.14
LIQUOR PROSECUTION.				
78868	L.E. Otis	Pointe Bleue	—	72.70

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1889-- continued.				\$
BURIAL OF INDIAN.				
96500	L. F. Boucher	Bersimis	—	9.50
HOSPITAL.				
98259, 24384-2				
Supplies	A. LeBel	Pointe Bleue	—	629.10
Nurse	V. Verreau	do.	—	60.00
MEDICAL				
ATTENDANCE.				
101983	Dr. J. Constantine . .	Pointe Bleue	—	26.00
81151, 100469	Dr. A. G. Matte	do.	—	239.25
92643	Dr. L. E. Beauchamp . .	Lake St John	—	10.50
81151	Dr. L. A. Paliquin . . .	Point Bleue	—	10.50
94958	Dr. T. E. Talbot	Pointe Bleue	—	6.00
MEDICINES.				
89138	C. A. LeBel	Bersimis	—	29.00
SEED.				
93225, 93660	L. E. Otis	Pointe Bleue	—	250.00
RELIEF.				
93225, 93661, 99645	L. E. Otis	Pointe Bleue	—	200.00
93225, 94340	L. F. Boucher	Lower St Lawrence . .	—	1350.00
LIQUOR PROSECUTION.				
69109, 78868	A. A. Hudon	Roberval	—	160.00
78727	F. H. O'Brien	Tadoussac	—	100.00
AGENTS SALARIES.				
	1890			
	L. E. Otis	Pointe Bleue	—	400.00
	L. F. Boucher	Lower St. Lawrence . .	—	400.00
OFFICE RENT.				
70503	do.	do.	—	100.00
OFFICE EXPENSES.				
102680	do.	do.	—	32.13

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1889—continued.				\$
BURIAL OF INDIAN.				
96500	L.F. Boucher.	Bersimis	—	9.50
HOSPITAL.				
98259, 24384—2				
Supplies	A. LeBel	Pointe Bleue	—	629.10
Nurse	V. Verreau	do.	—	60.00
MEDICAL ATTENDANCE.				
101983	Dr. J. Constantine	Pointe Bleue	—	26.00
81151, 100469	Dr. A.G. Matte	do.	—	239.25
92643	Dr. L.E. Beauchamp	Lake St John	—	10.50
81151	Dr. L.A. Paliquin	Pointe Bleue	—	10.50
94958	Dr. T.E. Talbot	Pointe Bleue	—	6.00
MEDICINES.				
89138	C.A. LeBel	Bersimis	—	29.00
SEED.				
93225, 93660	L.E. Otis	Pointe Bleue	—	250.00
RELIEF.				
93225, 93661, 99645	L.E. Otis	Pointe Bleue	—	200.00
93225, 94340	L.F. Boucher	Lower St Lawrence	—	1350.00
LIQUOR PROSECUTION.				
69109, 78868	A.A. Hudon	Roberval	—	160.00
78727	F.H. O'Brien	Tadousac	—	100.00
1890				

AGENTS SALARIES.				
	L.E. Otis	Pointe Bleue	—	400.00
	L.F. Boucher	Lower St Lawrence	—	400.00
OFFICE RENT.				
70503	do.	do.	—	100.00
OFFICE EXPENSES.				
102680	do.	do.	—	32.13

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians	Amount.
1890—continued.				
TRAVELLING. 106737, 106756 . . .	L. F. Boucher . . .	Lower St. Lawrence	—	\$ 544.92
LIQUOR PROSECUTION. 78868, 69109, 109898 . . .	A. A. Hudon . . .	Roberval . . .	—	170.00
59-3	A. P. Garon . . .	Bersimis . . .	—	43.20
59-3	L. N. Asselin . . .	Bersimis . . .	—	40.00
78727, 109928 . . .	F. H. O'Brien . . .	Tadousac . . .	—	100.00
MEDICINES. 89138	C. A. LeBel . . .	Bersimis . . .	—	35.00
VACCINE. 95230 Que	E. Gauvreau . . .	Bersimis . . .	—	18.50
HOSPITAL. Supplies	A. LeBel	Pointe Bleue . . .	—	526.28
98259				
102994, 103489 . . .	L. E. Otis	do.	—	104.10
Nurse	V. Verreau	do.	—	70.00
98259, 102994, 103489.				
MEDICAL ATTENDANCE. 102187, 105355 . . .	Dr. L. E. Beauchamp	Chicoutimi . . .	—	15.50
106273	Dr. A. Morin	Baie Ste Paul . . .	—	46.75
105353, 110533 . . .	Dr. J. Constantine . . .	Lake St John . . .	—	105.25
102903, 105354, 107982, 110533.	D. A. G. Matte . . .	Lake St John . . .	—	254.25
SEED. 104996	L. E. Otis	Chicoutimi . . .	—	100.00
do.	do.	Lake St John . . .	—	200.00
RELIEF. 109887	L. F. Boucher . . .	Lower St Lawrence	—	575.00
105862	do.	Bersimis	—	575.00
do.	Hudson's Bay Co. . .	Bersimis	—	43.00
103024, 103298, 05277, 110466.	L. E. Otis	Pointe Bleue . . .	—	260.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1890—continued.				\$
TRAVELLING.				
106737, 106756	L.F. Boucher.	Lower St Lawrence	—	544.92
LIQUOR PROSECUTION.				
78868, 69109, 109898	A.A. Hudon.	Roberval	—	170.00
59-3	A.P. Garon.	Bersimis	—	43.20
59-3	L.N. Asselin.	Bersimis	—	40.00
78727, 109928	F.H. O'Brien.	Tadousac	—	100.00
MEDICINES.				
89138	C.A. LeBel	Bersimis	—	35.00
VACCINE.				
95230 Que	E. Gauvreau	Bersimis	—	18.50
HOSPITAL.				
Supplies 98259	A. LeBel	Pointe Bleue	—	526.28
102994, 103489	L.E. Otis	do.	—	104.10
Nurse 98259, 102994, 103489	V. Verreau	do.	—	70.00
MEDICAL ATTENDANCE.				
102187, 105355	Dr. L.E. Beauchamp	Chicoutimi	—	15.50
106273	Dr. A. Morin	Baie Ste Paul	—	46.75
105353, 110533	Dr. J. Constantine	Lake St John	—	105.25
102903, 105354, 107982, 110533	Dr. A.G. Matte	Lake St John	—	254.25
SEED.				
104996	L.E. Otis	Chicoutimi	—	100.00
do.	do.	Lake St John	—	200.00

RELIEF.					
109887	L.F. Boucher	Lower St Lawrence	—		575.00
105862	do.	Bersimis	—		575.00
do.	Hudson's Bay Co.	Bersimis	—		43.00
103024, 103298, 105277, 110466	L.E. Otis	Pointe Bleue	—		260.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1891				\$
AGENTS SALARIES.				
4-3	L. E. Otis	Pointe Bleue	—	400.00
	L. F. Boucher	Lower St Lawrence	—	265.84
OFFICE RENT, &C.				
4-3	do.	do.	—	83.33
TRAVELLING.				
106737, 113805	do.	do.	—	483.52
REPAIRS TO AGENTS HOUSE.				
21-21	J. Onellet	Pointe Bleue	—	50.00
LIQUOR PROSECUTION.				
109928	F. H. O'Brien	Tadoussac	—	100.00
109898, 78868	A. A. Hudon	Roberval	—	85.00
HOSPITAL.				
98259				
Supplés	L. E. Otis	Pointe Bleue	—	260.59
do.	A. LeBel	do.	—	335.53
Nurse	M. Robertson	do.	—	24.00
do.	A. Malec	do.	—	32.00
do.	H. Laurinere	do.	—	32.00
do.	V. Verreau	do.	—	5.00
MEDICAL				
ATTENDANCE.				
117302	Dr. R. Fiset	Mingan	—	152.50
113867, 115222	Dr. A. G. Matte	Lake St John	—	168.30
SEED.				
115334	L. E. Otis	Lower Saguenay	—	100.00 3
RELIEF.				
115334	L. E. Otis	Lower Saguenay	—	200.00
110466	L. E. Otis	Lake St John	—	220.89
117302	W. D. B. Scott	Mingan	—	3.70
117302	Hudson's Bay Co.	Mingan	—	5.25
109887	L. F. Boucher	Lower St Lawrence	—	375.00
<small>NOTE.—Since 1891 the Department has been educating the Indian children at Berisimé and Escoumains. (See note "C" on page 2712.)</small>				

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
		1891		\$
AGENTS SALARIES.				
	L.E. Otis	Pointe Bleue	—	400.00
4-3	L.F. Boucher	Lower St. Lawrence	—	265.84
OFFICE RENT, &C.				
4-3	do.	do.	—	83.33
TRAVELLING.				
106737, 113805	do.	do.	—	483.52
REPAIRS TO AGENTS HOUSE.				
21-21	J. Ouellet.	Pointe Bleue	—	50.00
LIQUOR PROSECUTION.				
109928	F.H. O'Brien	Tadousac	—	100.00
109898, 78868	A.A. Hudon	Roberval	—	85.00
HOSPITAL.				
98259				
Supplies	L.E. Otis	Pointe Bleue	—	260.59
do.	A. LeBel	do.	—	335.53
Nurse	M. Robertson	do.	—	24.00
do.	A. Malec	do.	—	32.00
do.	H. Laurinere	do.	—	32.00
do.	V. Verreau	do.	—	5.00
MEDICAL ATTENDANCE.				
117302	Dr. R. Fiset	Mingan	—	152.50
113867, 115222	Dr. A.G. Matte	Lake St. John	—	168.30

SEED.				
115334	L.E. Otis	Lower Saguenay	—	100.00
RELIEF.				
115334	L.E. Otis	Lower Saguenay	—	200.00
110466	L.E. Otis	Lake St. John	—	220.89
117302	W.D.B. Scott	Mingan	—	3.70
117302	Hudson's Bay Co.	Mingan	—	5.25
109887	L.F. Boucher	Lower St. Lawrence	—	575.00
NOTE.—Since 1891 the Department has been educating the Indian children at Bersimis and Escoumains. (See note "C" on page 2712.)				

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1892				\$
AGENTS SALARY.				
4-3	L. E. Otis	Pointe Bleue	—	400.00
	L. F. Boucher	Lower St Lawrence	—	86.68
TRAVELLING.				
106756	F. Boucher	Lower St Lawrence	—	21.33
LIQUOR PROSECUTION.				
78868	T. G. Belly	Pointe Bleue	—	33.60
109928	F. H. O'Brien	Tadousac	—	50.00
CONSTABLES.				
78868	G. L. Paradis	Pointe Bleue	—	70.36
do.	J. Dumais	do.	—	5.00
PURCHASE OF LAND FOR A RESERVE.				
24273	T. J. Lamontagne	Escoumains	—	162.75
HOSPITAL.				
98259, 129644				
Supplies	L. E. Otis	Pointe Bleue	—	566.85
Nurse	M. Robertson	do.	—	88.00
BURIAL OF IND.				
118557	L. F. Boucher	Bersimis	1	6.75
MEDICAL ATTENDANCE.				
126095	Dr. Savard	Lake St John	—	39.50
113867, 131975	Dr. A. G. Matte	do.	—	240.00
113867, 117178	Dr. J. Constantine	do.	—	179.25
VACCINATION.				
95230 Que	L. F. Boucher	Bersimis	201	91.00
		Musquaro	212	
		Seven Islands	191	
		Mingan	103	
		Godbout	15	
		Escoumains	6	

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	1892			\$
AGENTS SALARIES.				
	L.E. Otis	Pointe Bleue	—	400.00
4-3	L.F. Boucher	Lower St. Lawrence	—	86.68
TRAVELLING.				
106756	F. Boucher.	Lower St. Lawrence	—	21.33
LIQUOR PROSECUTION.				
78868	T.G. Belly.	Pointe Bleue	—	33.60
109928	F.H. O'Brien.	Tadousac	—	50.00
CONSTABLES.				
78868	G.L. Paradis	Pointe Bleue	—	70.36
do.	J. Dumais	do.	—	5.00
PURCHASE OF LAND FOR A RESERVE.				
24273	T.J. Lamontagne	Escoumains	—	162.75
HOSPITAL.				
98259, 129644				
Supplies	L.E. Otis	Pointe Bleue	—	566.85
Nurse	M. Robertson	do.	—	88.00
BURIAL OF INDIAN.				
118557	L.F. Boucher	Bersimis	1	6.75
MEDICAL ATTENDANCE.				
126095	Dr. Savard	Lake St. John	—	39.50
113867, 131975	Dr. A.G. Matte	do.	—	240.00
113867, 117178	Dr. J.	do.	—	179.25

Constantine

VACCINATION.

95230 Que	L.F. Boucher	Bersimis	201	
		Musquaro	212	
		Seven Islands	191	
		Mingan	103	91.00
		Godbout	15	
		Escoumains	6	

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1892—continued.				
SEED.				\$
126520, 121774	L. E. Otis	Pointe Bleue	—	100.00
do.	do.	Chicoutimi and Lake St John.	—	200.00
RELIEF.				
123360	Hudson's Bay Co.	Romaine	—	121.00
121774	L. E. Otis	Pointe Bleue	—	86.00
1893				
AGENTS SALARY.				
—	L. E. Otis	Pointe Bleue	—	400.00
LIQUOR PROSECUTION.				
130347-1	E. St Pierre	Pointe Bleue	—	9.30
HOSPITAL.				
9644				
Supplies	L. E. Otis	Pointe Bleue	—	551.31
Nurse	M. Robertson	do.	—	72.00
PURCHASE OF LAND FOR RESERVE.				
24273	C. P. Angers	Escoumains	—	105.67
MEDICAL				
ATTENDANCE.				
113867	Dr. A. Paliquin	Lake St John	—	6.00
126095, 136076	Dr. Savard	do.	—	28.75
136076	Dr. J. Constantine	Pointe Bleue	—	28.00
131975	Dr. A. G. Matte	do.	—	126.25
138409	Dr. F. S. Caron	Chicoutimi	—	40.00
SEED.				
126520	L. E. Otis	Pointe Bleue	—	200.00
RELIEF.				
130977	L. E. Otis	Pointe Bleue	—	127.10
139926	do.	do.	—	36.05
144620	do.	do.	—	25.00
130500	Hudson's Bay Co.	Romaine	—	50.00
do.	do.	Mingan	—	100.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1892—continued.				\$
SEED.				
126520, 121774	L.E. Otis.	Pointe Bleue	—	100.00
do.	do.	Chicoutimi and Lake St. John	—	200.00
RELIEF.				
123360	Hudson's Bay Co..	Romaine	—	121.00
121774	L.E. Otis.	Pointe Bleue	—	86.00
1893				
AGENTS SALARY.				
—	L.E. Otis	Pointe Bleue	—	400.00
LIQUOR PROSECUTION.				
130347—1	E. St. Pierre.	Pointe Bleue	—	9.30
HOSPITAL.				
9644				
Supplies	L.E. Otis.	Pointe Bleue	—	551.31
Nurse	M. Robertson.	do.	—	72.00
PURCHASE OF LAND FOR RESERVE.				
24273	C.P. Angers	Escoumains	—	105.67
MEDICAL ATTENDANCE.				
113867	Dr. A. Paliquin	Lake St. John	—	6.00
126095, 136076	Dr. Savard	do.	—	28.75
136076	Dr. J. Constantine	Pointe Bleue	—	28.00
131975	Dr. A.G.	do.	—	126.25

	Matte			
138409	Dr. F.S. Caron	Chicoutimi	—	40.00
SEED.				
126520	L.E. Otis	Pointe Bleue	—	200.00
RELIEF.				
130977	L.E. Otis	Pointe Bleue	—	127.10
139926	do.	do.	—	36.05
144620	do.	do.	—	25.00
130500	Hudson's Bay Co.	Romaine	—	50.00
do.	do.	Mingan	—	100.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1894				\$
AGENTS SALARY.				
	L. E. Otis . . .	Pointe Bleue . .	—	400.00
OFFICE EXPENSES.				
151343	L. E. Otis . . .	Pointe Bleue . .	—	1.98
LIQUOR PROSECUTION.				
130347-1	C. O. Labrecque .	Pointe Bleue . .	—	110.00
do.	G. L. Paradis . .	do.	—	60.44
do.	P. D. Aubine . .	do.	—	13.25
HOSPITAL.				
129644				
Supplies	L. E. Otis	Pointe Bleue . .	—	487.75
urse	M. Robertson . .	do.	—	16.00
7375	Sr. Ste Dominique .	Chicoutimi . . .	—	63.10
INSANE INDIAN,				
Transport of.				
56-21	L. E. Otis	Pointe Bleue . .	—	26.03
MEDICAL				
ATTENDANCE.				
117302	Dr. R. Fiset	Mingan and Seven Islands.	—	147.50
127375	Dr. L. E. Beauchamp	Chicoutimi . . .	—	60.50
131975	Dr. A. G. Matte . .	Pointe Bleue . .	—	20.00
RELIEF.				
127375	L. E. Otis	Chicoutimi . . .	—	50.00
144620-22	Rev. D. Roussel . .	Pointe Bleue . .	2	10.00
130977				
144620-22	Hudson's Bay Co. .	Pointe Bleue . .	1	2.64
144620-22	L. E. Otis	do.	6	35.03
1895				
AGENTS SALARY.				
	L. E. Otis	Pointe Bleue . .	—	400.00
OFFICE EXPENSES.				
1343	L. E. Otis	Pointe Bleue . .	—	1.17

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	1894			\$
AGENTS SALARY.				
—	L.E. Otis	Pointe Bleue	—	400.00
OFFICE EXPENSES.				
151343	L.E. Otis	Pointe Bleue	—	1.98
LIQUOR PROSECUTION.				
130347—1	C.O. Labrecque.	Pointe Bleue	—	110.00
do.	G.L. Paradis.	do.	—	60.44
do.	P.D. Aubine.	do.	—	13.25
HOSPITAL.				
129644				
Supplies	L.E. Otis.	Pointe Bleue	—	487.75
Nurse	M. Robertson.	do.	—	16.00
127375	Sr. Ste Dominique.	Chicoutimi	—	63.10
ISANE INDIAN, Transport of.				
56—21	L.E. Otis.	Pointe Bleue	—	26.03
MEDICAL ATTENDANCE.				
117302	Dr. R. Fiset.	Mingan and Seven Islands	—	147.50
127375	Dr. L.E. Beauchamp.	Chicoutimi	—	60.50
131975	Dr. A.G. Matte.	Pointe Bleue	—	20.00
RELIEF.				
127375	L.E. Otis	Chicoutimi	—	50.00
144620—22, 130977	Rev. D.	Pointe Bleue	2	10.00

	Roussel			
144620—22	Hudson's Bay Co.	Pointe Bleue	1	2.64
144620—22	L.E. Otis	do.	6	35.03
	1895			
AGENTS SALARY.				
—	L.E. Otis	Pointe Bleue	—	400.00
OFFICE EXPENSES.				
141343	L.E. Otis	Pointe Bleue	—	1.17

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1895—continued.				\$
LIQUOR PROSECUTION. 130347-1	J. C. Lindsay . . .	Pointe Bleue . . .	—	33.25
MEDICAL ATTENDANCE.				
131975	Dr. E. F. Fluhmann . . .	Pointe Bleue . . .	—	64.00
do.	Dr. A. G. Matte . . .	do.	—	52.00
SEED.				
126520	L. E. Otis	Pointe Bleue . . .	—	125.00
RELIEF.				
144620-22	L. E. Otis	Pointe Bleue . . .	—	42.99
do.	Rev. F. X. Belley . . .	do.	1	5.00
AGENTS SALARY.	1896			
Pay List	L. E. Otis	Pointe Bleue . . .	—	313.77
do.	P. L. Marcotte	do.	—	66.66
OFFICE EXPENSES.				
151343	L. E. Otis	Pointe Bleue . . .	—	1.59
LIQUOR PROSECUTION.				
130347-1	C. O. Labrecque . . .	Pointe Bleue . . .	—	168.50
do.	H. Dumais	do.	—	2.60
BURIAL OF IND.				
180933	Hudson's Bay Co. . . .	Pointe Bleue . . .	—	.75
MEDICAL ATTENDANCE.				
131975	Dr. E. F. Fluhmann . . .	Pointe Bleue . . .	—	220.90
SEED.				
126520	L. E. Otis	Pointe Bleue . . .	—	100.00
RELIEF.				
144620-22	L. E. Otis	Pointe Bleue . . .	5	34.75
do.	Hudson's Bay Co. . . .	do.	1	.75
do.	Rev. D. Roussel	do.	1	5.00
144620-31	Hudson's Bay Co. . . .	Mingan	15	150.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1895—continued.				\$
LIQUOR PROSECUTION.				
130347-1	J.C. Lindsay.	Pointe Bleue	—	33.25
MEDICAL ATTENDANCE.				
131975	Dr. E.F. Fluhmann.	Pointe Bleue	—	64.00
do.	Dr. A.G. Matte.	do.	—	52.00
SEED.				
126520	L.E. Otis.	Pointe Bleue	—	125.00
RELIEF.				
144620-22	L.E. Otis.	Pointe Bleue	—	42.99
do.	Rev. F.X. Belley	do.	1	5.00
1896				
AGENTS SALARY.				
Pay List	L.E. Otis	Pointe Bleue	—	313.77
do.	P.L. Marcotte	do.	—	66.66
OFFICE EXPENSES.				
151343	L.E. Otis	Pointe Bleue	—	1.59
LIQUOR PROSECUTION.				
130347-1	C.O. Labrecque.	Pointe Bleue	—	108.50
do.	H. Dumais.	do.	—	2.60
BURIAL OF IND.				
180933	Hudson's Bay Co.	Pointe Bleue	—	.75
MEDICAL ATTENDANCE.				

131975	Dr. E.F. Fluhmann	Pointe Bleue	—	220.90
SEED.				
126520	L.E. Otis	Pointe Bleue	—	100.00
RELIEF.				
144620-22	L.E. Otis	Pointe Bleue	5	34.75
do.	Hudson's Bay Co.	do.	1	.75
do.	Rev. D. Roussel	do.	1	5.00
144620-31	Hudson's Bay Co.	Mingan	15	150.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No of Indians.	Amount.
1897				\$
AGENTS SALARY. Pay List	P. L. Marcotte	Pointe Bleue	—	400.00
AGENTS HOUSE. Repairs 21-21	P. L. Marcotte	Pointe Bleue	—	16.25
LIQUOR PROSECUTION. 130347-1	P. L. Marcotte	Pointe Bleue	—	3.15
do.	E. St Pierre	do.	—	33.05
BURIAL OF IND. 180933	P. L. Marcotte	Pointe Blue	1	4.50
BURIAL OF IND. 180933	Hudson's Bay Co. . . .	Pointe Bleue	1	3.50
do.	L. R. Bilodeau	do.	1	3.00
MEDICAL ATTENDANCE.				
180171	Dr. F. S. Caron	Pointe Bleue	—	84.25
131975	Dr. E. F. Fluhmann	do.	—	173.20
178485	Dr. A. Riverin	Chicoutimi	—	13.25
182537	Dr. C. A. Claveau	do.	—	108.40
187459	Dr. E. Savard	do.	—	46.75
SEED. 126520	P. L. Marcotte	Pointe Bleue	—	75.00
RELIEF.				
144620-22	A. Phillippe	Pointe Bleue	—	5.00
do.	L. P. Bilodeau	do.	13	86.25
do.	J. Robertson	do.	1	30.00
144620-31	Hudson's Bay Co. . . .	Bersimis	24	110.89
do.	Samson & Filien	do.	—	44.12
do.	Hudson's Bay Co. . . .	Seven Islands	10	75.05
do.	do.	Mingan	12	100.00
1898				
AGENT'S SALARIES. Pay List	P. L. Marcotte	Pointe Bleue	—	400.00
do.	A. Gagnon	Lower St Lawrence	—	66.66

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	1897			\$
AGENTS SALARY.				
Pay List	P.L. Marcotte.	Pointe Bleue	—	400.00
AGENTS HOUSE.				
Repairs 21—21	P.L. Marcotte.	Pointe Bleue	—	16.25
LIQUOR PROSECUTION.				
130347—1	P.L. Marcotte.	Pointe Bleue	—	3.15
do.	E. St. Pierre.	do.	—	33.05
BURIAL OF IND.				
180933	P.L. Marcotte.	Pointe Bleue	1	4.50
BURIAL OF IND.				
180933	Hudson's Bay Co..	Pointe Bleue	1	3.50
do.	L.R. Bilodeau.	do.	1	3.00
MEDICAL ATTENDANCE.				
180171	Dr. F.S. Caron.	Pointe Bleue	—	84.25
131975	Dr. E.F. Fluhmann.	do.	—	173.20
178485	Dr. A. Riverin.	Chicoutimi	—	13.25
182537	Dr. C.A. Claveau.	do.	—	108.40
187459	Dr. E. Savard.	do.	—	46.75
SEED.				
126520	P.L. Marcotte	Pointe Bleue	—	75.00
RELIEF.				
144620—22	A. Phillipe	Pointe Bleue	—	5.00
do.	L.P. Bilodeau	do.	13	86.25

do.	J. Robertson	do.	1	30.00
144620—31	Hudson's Bay Co.	Bersimis	24	110.89
do.	Samson & Filion	do.	—	44.12
do.	Hudson's Bay Co.	Seven Islands	10	75.05
do.	do.	Mingan	12	100.00
1898				
AGENT'S SALARIES.				
Pay List	P.L. Marcotte.	Pointe Bleue	—	400.00
do.	A. Gagnon.	Lower St. Lawrence	—	66.66

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1898—contd. nwd.				*
OFFICE EXPENSES.				
151343	J. Marcotte	Pointe Bleue	—	.91
LIQUOR PROSECUTION.				
130347-1	E. St Pierre	Pointe Bleue	—	131.10
do.	R. P. Vallie	do.	—	29.85
do.	C. O. Labrecque	do.	—	345.00
do.	E. P. Bilodeau	do.	—	30.00
MEDICAL				
ATTENDANCE.				
178485	Dr. A. Riverin	Chicoutimi	—	18.00
182537	Dr. E. A. Claveau	do.	—	128.95
187459	Dr. E. Savard	do.	—	100.98
131975	Dr. E. F. Fluhmann	Pointe Bleue	—	64.50
146900-34	Dr. C. A. Cote	Lower St Lawrence	—	750.90
VACCINE.				
146900-34	Dr. C. A. Cote	Lower St Lawrence	—	35.00
SEED.				
126520	L. P. Bilodeau	Pointe Bleue	—	50.00
RELIEF.				
144620-22	L. P. Bilodeau	Pointe Bleue	10	64.10
19502-3	Hudson's Bay Co.	Mingan	10	58.00
do.	Hudson's Bay Co.	Romaine	17	157.00
<p>NOTE.—The original number of file 143423, covering the period 1891 to 1908, has been lost for about fifteen years, but the letter registers show that it contains the following accounts from the Hudson's Bay Co. for relief supplied to Indians:—</p> <p>1896—Ungava (amount not given). 1898—Labrador, \$308.72. 1899—Ungava, \$229.60. 1901—Ungava (amount not given). 1905—Fort Chimo, \$761.71. 1906—Seven Islands, \$313.46.</p>				

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1898—continued.				\$
OFFICE EXPENSES.				
151343	J. Marcotte	Pointe Bleue	—	0.91
LIQUOR PROSECUTION.				
130347—1	E. St. Pierre.	Pointe Bleue	—	131.10
do.	R.P. Vallie.	do.	—	29.85
do.	C.O. Labrecque.	do.	—	345.00
do.	E.P. Bilodeau.	do.	—	30.00
MEDICAL ATTENDANCE.				
178485	Dr. A. Riverin.	Chicoutimi	—	18.00
182537	Dr. E.A. Claveau.	do.	—	128.95
187459	Dr. E. Savard.	do.	—	100.98
131975	Dr. E.F. Fluhmann.	Pointe Bleue	—	64.50
146900—34	Dr. C.A. Cote.	Lower St. Lawrence	—	750.90
VACCINE.				
146900—34	Dr. C.A. Cote.	Lower St. Lawrence	—	35.00
SEED.				
126520	L.P. Bilodeau.	Pointe Bleue	—	50.00
RELIEF.				
144620—22	L.P. Bilodeau.	Pointe Bleue	10	64.10
19502—3	Hudson's Bay Co..	Mingan	10	58.00
do.	Hudson's Bay Co.	Romaine	17	157.00
<p>NOTE.—The original number of file 143423, covering the period 1893 to 1908, has been lost for about fifteen years, but the letter registers show that it contains the following accounts from the Hudson's Bay Co. for relief supplied to Indians:— 1896—Ungava (amount not given)</p>				

1898—Labrador, \$308.78
1899—Ungava, \$229.60
1901—Ungava (amount not given)
1905—Fort Chimo, \$761.71
1906—Seven Islands, \$513.46

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1899				\$
AGENTS SALARIES.				
Pay List	P. L. Marcotte . . .	Pointe Bleue . . .	—	249.89
do.	W. T. A. Donahue . .	do.	—	147.09
do.	A. Gagnon	Lower St Lawrence.	—	400.00
TRAVELLING.				
206372	A. Gagnon	Lower St Lawrence.	—	227.69
OFFICE EXPENSES.				
151343	J. Marcotte	Point Bleue	—	.37
AGENCY BUILDING.				
21-3	Y. Bouliane	Bersimis	—	1202.40
21-3	A. Gagnon	do.	—	22.33
RE PURCHASE OF LAND FOR RESERVE.				
24273	J. I. Lavery	Escoumains	—	13.82
do.	C. P. Angers	do.	—	7.50
HOSPITAL.				
129644				
Services	M. Robertson	Pointe Bleue	—	2.50
Lumber	U. Tremblay	do.	—	5.30
Fuel	C. Buckle	do.	—	36.00
BURIAL OF IND.				
180933	Hudson's Bay Co. . .	Pointe Bleue	—	7.25
do.	H. Marcotte	do.	—	1.50
do.	A. Poitras	do.	—	2.50
do.	P. L. Marcotte	do.	—	4.00
SEED.				
126520	L. P. Bilodeau	Pointe Bleue	—	49.00
206373	A. Tremblay	Bersimis	—	12.00
do.	A. Gagnon	do.	—	44.00
do.	J. Rousseau	do.	—	48.00
214400	Dr. A. Poliquin	Pointe Bleue	—	14.00
131975	Dr. E. F. Fluhmann . .	do.	—	175.25

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	1899			\$
AGENTS SALARIES.				
Pay List	P.L. Marcotte	Pointe Bleue	—	249.89
do.	W.T.A. Donahue	do.	—	147.09
do.	A. Gagnon	Lower St. Lawrence	—	400.00
TRAVELLING.				
206372	A. Gagnon	Lower St. Lawrence	—	227.69
OFFICE EXPENSES.				
151343	J. Marcotte	Pointe Bleue	—	.37
AGENCY BUILDING.				
21-3	Y. Bouliane.	Bersimis	—	1202.40
21-3	A. Gagnon.	do.	—	22.33
Re PURCHASE OF LAND FOR RESERVE.				
24273	J.I. Lavery.	Escoumains	—	13.82
do.	C.P. Angers.	do.	—	7.50
HOSPITAL.				
129644				
Services	M. Robertson.	Pointe Bleue	—	2.50
Lumber	U. Tremblay.	do.	—	5.30
Fuel	C. Buckle.	do.	—	36.00
BURIAL OF IND.				
180933	Hudson's Bay Co.	Pointe Bleue	—	7.25
do.	H. Marcotte.	do.	—	1.50
do.	A. Poitras.	do.	—	2.50

do.	P.L. Marcotte.	do.	—	4.00
SEED.				
126520	L.P. Bilodeau.	Pointe Bleue	—	49.00
206373	A. Tremblay.	Bersimis	—	12.00
do.	A. Gagnon.	do.	—	44.00
do.	J. Rousseau.	do.	—	48.00
214400	Dr. A. Poliquin.	Pointe Bleue	—	14.00
131975	Dr. E.F. Fluhmann.	do.	—	175.25

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1899—continued.				
MEDICAL				
ATTENDANCE.				
65091-1	Dr. C. A. Cote	Bersimis	—	194.00
do.	Dr. J. E. Tremblay	Mingan	—	15.00
178485	Dr. A. Riverin	Chicoutimi	—	19.25
187459	Dr. E. Savard	do.	—	55.00
182537	Dr. E. A. Claveau	do.	—	315.15
RELIEF.				
144620-22	L. P. Biledeau	Pointe Bleue	—	35.50
144620-31	C. E. Belanger	Eccoumaine	2	10.00
do.	C. Dominique	do.	1	5.00
do.	Hudson's Bay Co. . . .	Bersimis	—	73.60
do.	do.	Mingan	15	183.79
1900				
AGENTS SALARIES.				
Pay List	W. T. A. Donahue	Pointe Bleue	—	400.00
do.	A. Gagnon	Lower St. Lawrence	—	400.00
AGENCY BUILDING.				
21-3				
Repairs	A. Gagnon	Bersimis	—	45.95
Land for	Rev. C. Arnaud	do.	—	15.00
Care of	M. Hunter	do.	—	25.00
LIQUOR PROSECUTION.				
130347-1	C. O. Labrecque	Pointe Bleue	—	175.00
130347-3A	G. L. Paradis	do.	—	20.15
do.	A. Gagnon	do.	—	23.10
do.	T. S. Perrault	do.	—	30.00
BURIAL OF IND'S.				
180933				
180933	Hudson's Bay Co. . . .	Pointe Bleue	—	2.50
	D. Malech	do.	—	5.11
	A. Boileau	do.	—	5.00
	A. Parent	do.	—	7.50
	W. Venault	do.	—	2.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1899—continued.				\$
MEDICAL ATTENDANCE.				
65091-1	Dr. C.A. Cote	Bersimis	—	194.00
do.	Dr. J.E. Tremblay	Mingan	—	15.00
178485	Dr. A. Riverin	Chicoutimi	—	19.25
187459	Dr. E. Savard	do.	—	55.00
182537	Dr. E.A. Claveau	do.	—	315.15
RELIEF.				
144620-22	L.P. Bilodeau	Pointe Bleue	—	35.50
144620-31	C.E. Belanger	Escoumains	2	10.00
do.	C. Dominique	do.	1	5.00
do.	Hudson's Bay Co.	Bersimis	—	73.60
do.	do.	Mingan	15	183.79
1900				
AGENTS SALARIES.				
Pay List	W.T.A. Donahue	Pointe Bleue	—	400.00
do.	A. Gagnon	Lower St. Lawrence	—	400.00
AGENCY BUILDING.				
21-3				
Repairs	A. Gagnon	Bersimis	—	45.05
Land for	Rev. C. Arnaud	do.	—	15.00

Care of	M. Hunter	do.	—	25.00
LIQUOR PROSECUTION.				
130347-1	C.O. Labrecque	Pointe Bleue	—	175.00
130347-3A	G.L. Paradis	do.	—	20.15
do.	A. Gagnon	do.	—	23.10
do.	T.S. Perrault	do.	—	30.00
BURIAL OF IND'S.				
180933	Hudson's Bay Co.	Pointe Bleue	—	2.50
	D. Malech	do.	—	5.11
	A. Boiley	do.	—	5.00
	A. Paient	do.	—	7.50
	W. Venault	do.	—	2.59

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1900—continued.				\$
INSANE INDIAN Transportation of. 56-3	J. E. Tremblay	Esquimaux Point	—	373.80
MEDICINE. 65091-1	J. A. Mosgrove	Bersimis	—	22.50
MEDICAL ATTENDANCE.				
214400	Dr. A. Poliquin	Pointe Bleue	—	9.50
131975	Dr. E. F. Fluhmann	do.	—	126.75
178485	Dr. A. Riverin	Chicoutimi	—	15.00
182537	Dr. E. A. Claveau	do.	—	192.64
187459	Dr. E. Savard	do.	—	83.00
26520	C. Lindsay	Pointe Bleue	—	150.00
206373	A. Gagnon	Bersimis	—	19.00
do.	J. Rousseau	do.	—	35.00
RELIEF.				
144620-22	C. Lindsay	Pointe Bleue	13	64.00
do.	J. Brassard	do.	1	7.00
do.	Hudson's Bay Co.	do.	6	28.00
do.	L. P. Bilodeau	do.	—	46.00
144620-31	L. F. Boucher	Escoumains	3	15.00
do.	Hudson's Bay Co.	Seven Islands	—	33.60
do.	Hudson's Bay Co.	Bersimis	16	100.59
1901				
SALARY PAY LIST.				
Agent	W. T. A. Donahue	Pointe Bleue	—	400.00
do.	A. Gagnon	Lower St Lawrence	—	400.00
do.	W. D. B. Scott	Seven Islands and St Augustine	—	33.33
NOTE.—In December 1901, W. D. B. Scott was appointed Indian Agent for the Lower St Lawrence from Seven Islands to St Augustine and A. Gagnon's jurisdiction, which had covered this district, was limited to Bersimis and Escoumains.				
AGENCY BUILDING.				
Repairs 21-3	A. Gagnon	Bersimis	—	796.17

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1900—continued.				\$
INSANE INDIAN Transportation of.				
56-3	J.E. Tremblay	Esquimaux Point	—	373.80
MEDECINE.				
65091-1	J.A. Mosgrove	Bersimis	—	22.50
MEDICAL ATTENDANCE.				
214400	Dr. A. Poliquin	Pointe Bleue	—	9.50
131975	Dr. E.F. Fluhmann	do.	—	126.75
178485	Dr. A. Riverin	Chicoutimi	—	15.00
182537	Dr. E.A. Claveau	do.	—	192.64
187459	Dr. E. Savard	do.	—	83.00
SEED.				
126520	C. Lindsay	Pointe Bleue	—	150.00
206373	A. Gagnon	Bersimis	—	19.00
do.	J. Rousseau	do.	—	35.00
RELIEF.				
144620-22	C. Lindsay	Pointe Bleue	13	64.00
do.	J. Brassard	do.	1	7.00
do.	Hudson's Bay Co.	do.	6	28.00
do.	L.P. Bilodeau	do.	—	46.00
144620-31	L.F. Boucher	Escoumains	3	15.00
do.	Hudson's Bay Co.	Seven Islands	—	33.60
do.	Hudson's Bay Co.	Bersimis	16	100.59
1901				

**SALARY PAY
LIST**

Agent	W.T.A. Donahue	Pointe Bleue	—	400.00
do.	A. Gagnon	Lower St. Lawrence	—	400.00
do.	W.D.B. Scott	Seven Islands and St. Augustine	—	33.33

NOTE.—In December 1901, W.D.B. Scott was appointed Indian Agent for the Lower St. Lawrence from Seven Islands to St. Augustine and A. Gagnon's jurisdiction, which had covered this district, was limited to Bersimis and Escoumains.

**AGENCY
BUILDING.**

Repairs 21-3	A. Gagnon	Bersimis	—	796.17
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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1901—continued.				\$
OFFICE EXPENSES.				
21-3, 65091-1 . . .	A. Gagnon . . .	Bersimis . . .	—	21.85
TRAVELLING.				
206372	A. Gagnon . . .	Lower St Lawrence.	—	354.00
INSANE INDIAN.				
56-3	Beauport Asylum .	Bersimis	—	34.52
MEDICINES.				
65091-1	J. A. Mosgrove . . .	Bersimis	—	99.55
SURGICAL INSTRUMENTS.				
65091-1	E. J. Leger	Bersimis	—	4.50
MEDICAL ATTENDANCE.				
131975	Dr. E. F. Fluhmann . .	Pointe Bleue . . .	—	83.00
178485	Dr. A. Riverin	Chicoutimi	—	13.25
182537	Dr. E. A. Claveau . . .	do.	—	234.85
187459	Dr. E. Savard	do.	—	86.00
65091-1	Dr. J. E. Tremblay . .	Lower St Lawrence.	—	385.65
SEED.				
126520	G. Tanquay	Pointe Bleue	—	90.80
do.	A. Lalouette	do.	—	33.30
126520	H. Lavois	Pointe Bleue	—	8.00
do.	W. T. A. Donahue . . .	do.	—	17.96
206373	L. Gagnon	Bersimis	—	50.00
RELIEF.				
144620-22	P. Marcotte	Pointe Bleue	16	81.57
do.	J. Brassard	do.	5	24.00
144620-31	Hudson's Bay Co. . . .	Bersimis	14	51.27
19502-4	do.	do.	20	113.40
do.	do.	Romaine	12	104.78
do.	do.	Davis Inlet	—	5.95
NOTE.—Davis Inlet is situated on the Labrador coast about 150 miles north west of Hamilton Inlet.				

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1901—continued.				\$
OFFICE EXPENSES.				
21-3, 65091-1	A. Gagnon	Bersimis	—	21.85
TRAVELLING.				
206372	A. Gagnon	Lower St. Lawrence	—	354.00
ISANE INDIAN.				
56-3	Beauport Asylum	Bersimis	—	34.52
MEDECINES.				
65091-1	J.A. Mosgrove	Bersimis	—	99.55
SURGICAL INSTRUMENTS.				
65091-1	E.J. Leger	Bersimis	—	4.50
MEDICAL ATTENDANCE.				
131975	Dr. E.F. Fluhmann	Pointe Bleue	—	83.00
178485	Dr. A. Riverin	Chicoutimi	—	13.25
182537	Dr. E.A. Claveau	do.	—	234.85
187459	Dr. E. Savard	do.	—	86.00
65091-1	Dr. J.E. Tremblay	Lower St. Lawrence	—	385.65
SEED.				
126520	G. Tanquay	Pointe Bleue	—	90.80
do.	A. Laloucette	do.	—	33.30
126520	H. Lavois	Pointe Bleue	—	8.00
do.	W.T.A. Donahue	do.	—	17.96
206373	L. Gagnon	Bersimis	—	50.00
RELIEF.				
144620-22	P. Marcotte	Pointe Bleue	16	81.57

do.	J. Brassard	do.	5	24.00
144620-31	Hudson's Bay Co.	Bersimis	14	51.27
19502-4	do.	do.	20	113.40
do.	do.	Romaine	12	104.78
do.	do.	Davis Inlet	—	5.95
NOTE.—Davis Inlet is situated on the Labrador coast about 150 miles north west of Hamilton Inlet.				

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1902				\$
SALARY PAY LIST.				
Agent	W. T. Donohue	Pointe Bleue	—	66.64
(Acting Agent).	J. McCarthy	do.	—	78.00
11971-1.				
Agent	A. Marcoux	do.	—	200.00
do.	A. Gagnon	Bersimis	—	400.00
do.	W. D. B. Scott	Lower St Lawrence.	—	400.00
Medical Officer	Dr. J. Constantine . . .	Pointe Bleue	—	416.66
do.	Dr. E. A. Claveau . . .	Chicoutimi	—	166.64
TRAVELLING.				
228444	A. Marcoux	Pointe Bleue	—	12.95
do.	W. T. Donohue	do.	—	21.20
146900-34	Dr. C. A. Cote	Lower St. Lawrence	—	153.75
BUILDING REPAIRS & OFFICE EXPENSES.				
21-21	T. Potvin	Pointe Bleue	—	5.00
do.	P. Guay	do.	—	9.00
do.	A. du Tremblay	do.	—	4.70
247830	A. Gagnon	Bersimis	—	3.88
21-3	do.	do.	—	50.70
65091-1.	do.	do.	—	4.13
146900-34				
BURIAL OF INDS.				
180933	A. Marcoux	Pointe Bleue	—	5.50
do.	P. Guay	do.	—	3.00
144620-22	U. Nepton	do.	—	1.00
MEDICINES.				
65091-1.	J. A. Mosgrove	Bersimis	—	137.54
146900-33	do.	Pointe Bleue	—	6.75
VACCINE.				
146900-38	Dr. J. E. Tremblay . . .	Lower St Lawrence.	—	75.00
146900-33	Dr. Gauvreau	Pointe Bleue	—	20.19

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	1902			\$
SALARY PAY LIST.				
Agent	W.T. Donohue	Pointe Bleue	—	66.64
(Acting Agent), 11971-1	J. McCarthy	do.	—	78.00
Agent	A. Marcoux	do.	—	200.00
do.	A. Gagnon	Bersimis	—	400.00
do.	W.D.B. Scott	Lower St. Lawrence	—	400.00
Medical Officer	Dr. J. Constantine	Pointe Bleue	—	416.66
do.	Dr. E.A. Claveau	Chicoutimi	—	166.64
TRAVELLING.				
228444	A. Marcoux	Pointe Bleue	—	12.95
do.	W.T. Donohue	do.	—	21.20
146900-34	Dr. C.A. Cote	Lower St. Lawrence	—	153.75
BUILDING REPAIRS & OFFICE EXPENSES.				
21-21	T. Potvin	Pointe Bleue	—	5.00
do.	P. Guay	do.	—	9.00
do.	A. du Tremblay	do.	—	4.70
247830	A. Gagnon	Bersimis	—	3.88
21-3	do.	do.	—	50.70
65091-1, 146900-34	do.	do.	—	4.13
BURIAL OF INDS.				
180933	A. Marcoux	Pointe Bleue	—	5.50

do.	P. Guay	do.	—	3.00
144620-22	U. Nepton	do.	—	1.00
MEDECINES.				
65091-1	J.A. Mosgrove	Bersimis	—	137.54
146900-33	do.	Pointe Bleue	—	6.75
VACCINES.				
146900-38	Dr. J.E. Tremblay	Lower St. Lawrence	—	75.00
146900-33	Dr. Gauvreau	Pointe Bleue	—	20.19

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians	Amount.
1902—continued.				\$
VACCINATION.				
146900-34	Dr. C. A. Cote	Seven Islands	424	560.00
		Godbout	30	
		Bersimis	439	
		Escoumains	38	
146900-38	Dr. J. E. Tremblay	Tadousac	14	638.00
		Mingan	125	
		Long Point	10	
		Pinster Bay	30	
		Burnt House	60	
		Natashquan	105	
		Romaine	12	
		Concochoo	150	
146900-33	Dr. J. Constantine	St. Augustine & Bonne Esperance	200	47.75
		Pointe Bleue	—	
QUARANTINE EXPENSES.				
146900-33	E. St Pierr	Pointe Bleue	—	102.50
do.	A. Lizotte	do.	—	3.75
do.	A. Phillippe	do.	—	1.50
MEDICAL ATTENDANCE.				
244635	Dr. J. D. Warren	Chicoutimi	—	12.75
178485	Dr. A. Riverin	do.	—	7.25
182537	Dr. E. A. Claveau	do.	—	29.30
187459	Dr. E. Savard	do.	—	64.00
65091-1.	Dr. J. E. Tremblay	Mingan	—	90.35
131975	Dr. E. F. Fluhmann	Pointe Bleue	—	28.05
SEED.				
126200	Tremblay Freres	Pointe Bleue	—	16.30
do.	L. E. Otis	do.	—	133.70
206373	M. Pineault	Bersimis	—	60.00
do.	A. Gagnon	do.	—	25.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1902—continued.				\$
VACCINATION.				
146900-34	Dr. C.A. Cote	Seven Islands Godbout Bersimis Escoumains Tadousac	424 30 439 38 14	560.00
146900-38	Dr. J.E. Tremblay	Mingan Long Point Piaster Bay Burnt House Natashquan Romaine Coacoachoo St. Augustine & Bonne Esperance	125 10 30 60 105 12 150 200	638.00
146900-33	Dr. J. Constantine	Pointe Bleue	—	47.75
QUARANTINE EXPENSES.				
146900-33	E. St. Pierr	Pointe Bleue	—	102.50
do.	A. Lizotte	do.	—	3.75
do.	A. Phillipe	do.	—	1.50
MEDICAL ATTENDANCE.				
244635	Dr. J.D. Warren	Chicoutimi	—	12.75
178485	Dr. A. Riverin	do.	—	7.25
182537	Dr. E.A. Claveau	do.	—	29.30
187459	Dr. E. Savard	do.	—	64.00
65091-1	Dr. J.E. Tremblay	Mingan	—	90.35

131975	Dr. E.F. Fluhmann	Pointe Bleue	—	28.05
SEED.				
126200	Tremblay Freres	Pointe Bleue	—	16.30
do.	L.E. Otis	do.	—	133.70
206373	M. Pineault	Bersimis	—	60.00
do.	A. Gagnon	do.	—	25.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1902—continued.				\$
RELIEF.				
144620-22	P. Guay	Pointe Bleue	5	19.50
do.	J. B. Bilodeau	do.	2	6.25
do.	P. Hamel	do.	1	1.25
do.	M. Robertson	do.	4	12.50
do.	Tessier & Petit	do.	1	5.00
do.	M. Robertson	do.	—	42.39
do.	J. B. Bilodeau	do.	2	8.40
144620-31	C. Belanger	Escoumains	2	10.00
19502-5	Hudson's Bay Co.	Bersimis	20	189.53
do.	do.	Mingan	54	133.43
do.	do.	Romaine	7	77.55
do.	do.	Mistassini	2	17.49
do.	do.	Ungava	82	157.75
1903				
SALARY PAY LIST.				
Agent	A. Marcoux	Pointe Bleue	—	400.00
do.	A. Gagnon	Bersimis	—	400.00
do.	W. D. B. Scott	Lower St Lawrence	—	400.00
MEDICAL OFFICERS.				
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
do.	Dr. E. A. Claveau	Chicoutimi	—	200.00
TRAVELLING.				
11971-1	J. McCarthy	Pointe Bleue	—	13.50
59-41	W. D. B. Scott	Mingan	—	7.85
OFFICE EXPENSES AND REPAIRS.				
21-21	A. Parent	Pointe Bleue	—	300.00
67-41, 65091-1	W. D. B. Scott	Mingan	—	4.27
BURIAL OF IND.				
46-21	A. Fortin	Pointe Bleue	—	2.59
LIQUOR PROSECUTION.				
59-41	W. D. B. Scott	Lower St Lawrence	—	250.00
59-3	A. Gagnon	Bersimis	—	120.00
do.	Dominion Police	do.	—	50.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1902—continued.				\$
RELIEF.				
144620-22	P. Guay	Pointe Bleue	5	19.50
do.	J.B. Bilodeau	do.	2	6.25
do.	P. Hamel	do.	1	1.25
do.	M. Robertson	do.	4	12.50
do.	Tessier & Petit	do.	1	5.00
do.	M. Robertson	do.	—	42.39
do.	J.B. Bilodeau	do.	2	8.40
144620-31	C. Belanger	Escoumains	2	10.00
19502-5	Hudson's Bay Co.	Bersimis	20	189.53
do.	do.	Mingan	54	133.43
do.	do.	Romaine	7	77.55
do.	do.	Mistassini	2	17.49
do.	do.	Ungava	82	157.75
1903				
SALARY PAY LIST.				
Agent	A. Marcoux	Pointe Bleue	—	400.00
do.	A. Gagnon	Bersimis	—	400.00
do.	W.D.B. Scott	Lower St. Lawrence	—	400.00
MEDICAL OFFICERS.				
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
do.	Dr. E.A. Claveau	Chicoutimi	—	200.00
TRAVELLING.				

11971-1	J. McCarthy	Pointe Bleue	—	13.50
59-41	W.D.B. Scott	Mingan	—	7.85
OFFICE EXPENSES AND REPAIRS.				
21-21	A. Parent	Pointe Bleue	—	300.00
67-41, 65091-1	W.D.B. Scott	Mingan	—	4.27
BURIAL OF IND.				
46-21	A. Fortin	Pointe Bleue	—	2.50
LIQUOR PROSECUTION.				
59-41	W.D.B. Scott	Lower St. Lawrence	—	250.00
59-3	A. Gagnon	Bersimis	—	120.00
do.	Dominion Police	do.	—	50.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1903—continued.				
<i>2</i>				
MEDICINES.				
65091-1.	J. A. Mosgrave	Bersimis	—	87.77
do.	J. Skinner	do.	—	38.00
QUARANTINE.				
93-21	U. Nepton	Pointe Bleue	—	47.00
do.	E. St Pierre	do.	—	6.50
MEDICAL ATTENDANCE.				
65091-1.	Dr. J. E. Tremblay . . .	Lower St Lawrence. .	—	239.25
do.	Dr. J. Devarenes . . .	Godbout	—	15.50
RELIEF.				
74-3.	Hudson's Bay Co. . . .	Bersimis	1	4.50
do.	D. Turgeon	do.	17	133.10
do.	J. Poulin	Godbout	1	5.04
144620-22	M. Robertson	Pointe Bleue	5	19.50
do.	Tessier & Petit	do.	1	5.00
19502-5.	Hudson's Bay Co. . . .	Mingan	27	100.28
1904				
SALARY PAY LIST.				
Agent	A. Marcoux	Pointe Bleue	—	400.00
do.	A. Gagnon	Bersimis	—	400.00
do.	W. D. B. Scott	Lower St Lawrence. .	—	400.00
MEDICAL OFFICER.				
69-21	Dr. J. Constantine . . .	Pointe Bleue	—	500.00
69-21	Dr. E. A. Claveau . . .	Chicoutimi	—	200.00
69-3, 65091-1	Dr. E. Allard	Escoumains	—	200.00
TRAVELLING.				
99-3	A. Gagnon	Bersimis	—	40.00
11971-1.	J. McCarthy	Pointe Bleue	—	2.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1903—continued.				\$
MEDECINES.				
65091-1	J.A. Mosgrave	Bersimis	—	87.77
do.	J. Skinner	do.	—	38.00
QUARANTINE.				
93-21	U. Nepton	Pointe Bleue	—	47.00
do.	E. St. Pierre	do.	—	6.50
MEDICAL ATTENDANCE.				
65091-1	Dr. J.E. Tremblay	Lower St. Lawrence	—	239.25
do.	Dr. J. Devarenes	Godbout	—	15.50
RELIEF.				
74-3	Hudson's Bay Co.	Bersimis	1	4.50
do.	D. Turgeon	do.	17	133.10
do.	J. Poulin	Godbout	1	5.04
144620-22	M. Robertson	Pointe Bleue	5	19.50
do.	Tessier & Petit	do.	1	5.00
19502-5	Hudson's Bay Co.	Mingan	27	100.28
1904				
SALARY PAY LIST.				
Agent	A. Marcoux	Pointe Bleue	—	400.00
do.	A. Gagnon	Bersimis	—	400.00
do.	W.D.B. Scott	Lower St. Lawrence	—	400.00

MEDICAL OFFICER.				
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E.A. Claveau	Chicoutimi	—	200.00
69-3, 65091-1	Dr. E. Allard	Escoumains	—	200.00
TRAVELLING.				
99-3	A. Gagnon	Bersimis	—	40.00
11971-1	J. McCarthy	Pointe Bleue	—	2.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1904—continued.				e
OFFICE EXPENSES				
REPAIRS, &C.				
21-21	A. Parent	Pointe Bleue	—	391.00
21-21A	P. Guay	do.	—	175.34
65091-1.	A. Gagnon	Bersimis	—	1.98
LIQUOR PROSECUTION.				
59-3	Dominion Police	Bersimis	—	265.95
MEDICINES.				
65091-1.	J. Skinner	Bersimis	—	109.90
MEDICAL ATTENDANCE.				
65091-1.	Dr. J. E. Tremblay	Bersimis	—	103.50
do.	Dr. G. Gravel	do.	—	5.25
RELIEF.				
74-3.	Hudson's Bay Co.	Bersimis	18	32.77
do.	Comcau & Morin	Godbout	2	6.00
do.	C. Belanger	Escoumains	1	3.00
74-4	Hudson's Bay Co.	Romaine	3	32.16
do.	do.	St Augustine	6	54.00
do.	do.	Mingan	47	364.02
19502-8ty	do.	Mistassini	2	21.04
19502-8	do.	Romaine	16	157.56
do.	do.	St Augustine	—	50.68
19502-7	do.	Mistassini	3	30.15
19502-9	do.	Ft. Chimo	161	385.52
1905				
SALARY PAY LIST.				
Agent	A. Marcoux	Pointe Bleue	—	400.00
do.	A. Gagnon	Bersimis	—	400.00
do.	W. D. B. Scott	Lower St Lawrence.	—	400.00
MEDICAL OFFICERS.				
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E. A. Claveau	Chicoutimi	—	200.00
69.3	Dr. E. Allard	Escoumains	—	200.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1904—continued.				\$
OFFICE EXPENSES REPAIRS, &C.				
21-21	A. Parent	Pointe Bleue	—	391.00
21-21A	P. Guay	do.	—	175.34
65091-1	A. Gagnon	Bersimis	—	1.98
LIQUOR PROSECUTION.				
59-3	Dominion Police	Bersimis	—	265.95
MEDECINES.				
65091-1	J. Skinner	Bersimis	—	109.90
MEDICAL ATTENDANCE.				
65091-1	Dr. J.E. Tremblay	Bersimis	—	103.50
do.	Dr. G. Gravel	do.	—	5.25
RELIEF.				
74-3	Hudson's Bay Co.	Bersimis	18	32.77
do.	Comeau & Morin	Godbout	2	6.00
do.	C. Belanger	Escoumains	1	3.00
74-4	Hudson's Bay Co.	Romaine	3	32.16
do.	do.	St. Augustine	6	54.00
do.	do.	Mingan	47	364.02
19502-8ty	do.	Mistassini	2	21.04
19502-8	do.	Romaine	16	157.56
do.	do.	St. Augustine	—	50.68
19502-7	do.	Mistassini	3	30.15

19502-9	do.	Ft. Chimo	161	385.52
1905				
SALARY PAY LIST.				
Agent	A. Marcoux	Pointe Bleue	—	400.00
do.	A. Gagnon	Bersimis	—	400.00
do.	W.D.B. Scott	Lower St. Lawrence	—	400.00
MEDICAL OFFICERS.				
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E.A. Claveau	Chicoutimi	—	200.00
69.3	Dr. E. Allard	Escoumains	—	200.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1905 - continued.				\$
OFFICE EXPENSES				
REPAIRS, &C.				
21-3, 67-3, 65091-1	A. Gagnon	Bersimis	—	12.57
21-3	J. N. Gignac	do.	—	87.10
TRAVELLING.				
99-41	W. D. B. Scott . . .	Lower St Lawrence.	—	275.00
LIQUOR PROSECUTION.				
59-21	E. St Pierre	Pointe Bleue . . .	—	179.90
do.	Dominion Police . .	do.	—	87.10
59-3	A. Gagnon	Bersimis	—	50.00
MEDICINES.				
65091-1	J. Mosgrove	Bersimis	—	168.90
MEDICAL ATTENDANCE.				
93-41	Dr. J. E. Tremblay .	Mingan	56	379.50
65091-1	do.	do.	—	131.75
93-3	Dr. M. G. Gravel . .	Bersimis	—	320.50
NURSE.				
65091-1	J. Maloney	Mingan	—	6.00
RELIEF.				
74-3	Reillon Bros.	Bersimis	11	23.20
do.	E. Morin	Godbout	—	8.00
do.	C. Belanger	Escoumains	2	6.75
74-41	Hudson's Bay Co. . .	Seven Islands . . .	3	32.50
do.	do.	do.	9	93.53
do.	do.	do.	3	32.25
do.	do.	Natashquan	4	43.65
do.	do.	Romaine	10	81.00
do.	do.	do.	3	32.16
do.	do.	St Augustine	6	54.00
do.	do.	Mingan	47	364.02

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1905—continued.				\$
OFFICE EXPENSES REPAIRS, &C.				
21-3, 67-3, 65091-1	A. Gagnon	Bersimis	—	12.57
21-3	J.N. Gignac	do.	—	87.10
TRAVELLING.				
99-41	W.D.B. Scott	Lower St. Lawrence	—	275.00
LIQUOR PROSECUTION.				
59-21	E. St. Pierre	Pointe Bleue	—	179.90
do.	Dominion Police	do.	—	87.10
59-3	A. Gagnon	Bersimis	—	50.00
MEDECINES.				
65091-1	J. Mosgrove	Bersimis	—	168.90
MEDICAL ATTENDANCE.				
93-41	Dr. J.E. Tremblay	Mingan	56	379.50
65091-1	do.	do.	—	131.75
93-3	Dr. M.G. Gravel	Bersimis	—	320.50
NURSE.				
65091-1	J. Maloney	Mingan	—	6.00
RELIEF.				
74-3	Revillon Bros.	Bersimis	11	23.20
do.	E. Morin	Godbout	—	8.00
do.	C. Belanger	Escoumains	2	6.75
74-41	Hudson's Bay	Seven Islands	3	32.50

	Co.			
do.	do.	do.	9	93.53
do.	do.	do.	3	32.25
do.	do.	Natashquan	4	43.65
do.	do.	Romaine	10	81.60
do.	do.	do.	3	32.16
do.	do.	St. Augustine	6	54.00
do.	do.	Mingan	47	364.02

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1906				\$
SALARY PAY LIST.				
Agent	A. Marcoux	Point Bleue	—	400.00
do.	A. Gagnon	Bersimis	—	400.00
do.	W. D. B. Scott	Lower St Lawrence.	—	460.00
MEDICAL OFFICERS.				
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E. A. Claveau	Chicoutimi	—	200.00
OFFICE EXPENSES AND REPAIRS.				
21-3, 31-3	A. Gagnon	Bersimis	—	133.70
21-3	G. Brousseau	do.	—	67.95
TRAVELLING.				
99-3	A. Gagnon	Bersimis	—	63.00
TRANSPORT OF INJURED INDIAN.				
74-21	S. Etienne	Pointe Bleue	—	12.00
do.	L. Cleary	do.	—	3.00
do.	Mrs. J. Cleary	do.	—	12.00
do.	Revillon, Freres	do.	—	12.38
LIQUOR PROSECUTION.				
59-21	J. D. P. Vallee	Pointe Bleue	—	30.00
do.	Dominion Police	do.	—	238.15
59-3	do.	Bersimis	—	260.90
do.	J. Berube	do.	—	45.00
MEDICINES.				
31-3	J. A. Mosgrove	Bersimis	—	139.00
VACCINE.				
93-3	Vaccine Institute Montreal.	Bersimis	—	2.00
MEDICAL ATTENDANCE.				
93-41	Dr. J. E. Tremblay	Seven Islands	—	234.75
93-41	W. D. B. Scott	do.	—	28.32

[Larger Html Version](#) (21 kb)

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	1906			\$
SALARY PAY LIST.				
Agent	A. Marcoux	Pointe Bleue	—	400.00
do.	A. Gagnon	Bersimis	—	400.00
do.	W.D.B. Scott	Lower St. Lawrence	—	400.00
MEDICAL OFFICERS.				
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E.A. Claveau	Chicoutimi	—	200.00
OFFICE EXPENSES AND REPAIRS.				
21-3, 31-3	A. Gagnon	Bersimis	—	133.70
21-3	G. Brousseau	do.	—	67.95
TRAVELLING.				
99-3	A. Gagnon	Bersimis	—	63.00
TRANSPORT OF INJURED INDIAN.				
74-21	S. Etienne	Pointe Bleue	—	12.00
do.	L. Cleary	do.	—	3.00
do.	Mrs. J. Cleary	do.	—	12.00
do.	Revillon, Freres	do.	—	12.38
LIQUOR PROSECUTION.				
59-21	J.D.P. Vallee	Pointe Bleue	—	30.00
do.	Dominion Police	do.	—	238.15
59-3	do.	Bersimis	—	260.90
do.	J. Berube	do.	—	45.00
MEDECINES.				
31-3	J.A. Mosgrove	Bersimis	—	139.00

VACCINE.				
93-3	Vaccine Institute Montreal.	Bersimis	—	2.00
MEDICAL ATTENDANCE.				
93-41	Dr. J.E. Tremblay	Seven Islands	—	234.75
93-41	W.D.B. Scott	do.	—	28.32

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1906—continued.				8
RELIEF.				
74-21	M. Gagnon	Pointe Bleue	3	7.00
74-3	C. Belanger	Escoumains	3	15.50
74-3	Revillon Bros.	Bersimis	9	37.13
74-41	Hudson's Bay Co.	Mingan	16	267.95
do.	do.	Natashquan	4	40.32
do.	do.	Romaine	14	201.60
do.	do.	St Augustine	10	120.49
1907				
SALARY PAY LIST.				
Agent	A. Gagnon	Bersimis	—	400.00
do.	A. Marcoux	Pointe Bleue	—	400.00
do.	W. D. B. Scott	Lower St Lawrence	—	133.32
Agent and Medical Officer	Dr. J. E. Tremblay	do.	—	499.92
Medical Officers				
69-3	Dr. C. A. Cote	Escoumains	—	200.00
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E. A. Claveau	Chicoutimi	—	200.00
OFFICE EXPENSES AND REPAIRS.				
67-3	A. Gagnon	Bersimis	—	5.91
67-41	Dr. J. E. Tremblay	Lower St Lawrence	—	12.99
21-21A	S. Larouche	Pointe Bleue	—	3.50
TRAVELLING.				
74-41	W. D. B. Scott	Lower St Lawrence	—	184.88
99-3	A. Gagnon	Bersimis	—	56.00
BURIAL OF IND.				
46-21	L. Bergeron	Pointe Bleue	3	8.25
CONSTABLE.				
59-41	C. Blouin	Lower St Lawrence	—	120.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1906—continued.				\$
RELIEF.				
74-21	M. Gagnon	Pointe Bleue	3	7.00
74-3	C. Belanger	Escoumains	3	15.50
74-3	Revillon Bros.	Bersimis	9	37.13
74-41	Hudson's Bay Co.	Mingan	16	267.95
do.	do.	Natashquan	4	40.32
do.	do.	Romaine	14	201.60
do.	do.	St. Augustine	10	120.49
1907				
SALARY PAY LIST.				
Agent	A. Gagnon	Bersimis	—	400.00
do.	A. Marcoux	Pointe Bleue	—	400.00
do.	W.D.B. Scott	Lower St. Lawrence	—	133.32
Agent and Medical Officer	Dr. J.E. Tremblay	do.	—	499.92
Medical Officers, 69-3	Dr. C.A. Cote	Escoumains	—	200.00
do.	Dr. J. Constantine	Pointe Bleue	—	500.00
do.	Dr. E.A. Claveau	Chicoutimi	—	200.00
OFFICE EXPENSES AND REPAIRS.				
67-3	A. Gagnon	Bersimis	—	5.91
67-41	Dr. J.E. Tremblay	Lower St. Lawrence	—	12.99
21-21A	S. Larouche	Pointe Bleue	—	3.50

TRAVELLING.					
74-41	W.D.B. Scott	Lower St. Lawrence	—		184.88
99-3	A. Gagnon	Bersimis	—		56.00
BURIAL OF IND.					
46-21	L. Bergeron	Pointe Bleue	3		8.25
CONSTABLE.					
59-41	C. Blouin	Lower St. Lawrence	—		120.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1907—continued.				\$
LIQUOR PROSECUTION.				
59-3	Dominion Police . .	Bersimis	—	347.05
MEDICAL ATTENDANCE.				
31411	Dr. G. W. Ross . .	Seven Islands . .	—	253.25
31997	Dr. C. A. Cote . .	Bersimis	—	510.00
33-3	Dr. J. E. Tremblay .	Bersimis	—	88.00
MEDICINES.				
31 3	J. A. Mosgrove . .	Bersimis	—	192.85
RELIEF.				
74-21	Hudson's Bay Co. .	Pointe Bleue . . .	1	4.00
74-3	Reville Bros. . . .	Bersimis	18	68.25
74-3	N. A. Comeau . . .	Godbout	1	4.50
11	Hudson's Bay Co. .	Mingan	26	131.29
1-02-11	Hudson's Bay Co. .	Fort Chimo	115	297.36
do.	do.	do.	38	50.29
<p>NOTE.—In many cases it is impossible to estimate the number of families or of individual Indians receiving relief supplies as the information given on the vouchers is indefinite. In accounts from Fort Chimo such expressions are made use of as "supplies given to natives from Leaf River who arrived hungry," "A party of Eskimos," "A party of Indians," "Destitute Widows," "Widows receiving weekly rations," &c. Many vouchers are for relief both of families (often of unstated number) and of individuals, including widows, sometimes with one or more children. Sometimes it would be misleading to give any number as the greater part of the voucher is indefinite in this particular. For the most part, however, the numbers given denote families, except in the case of vaccination, burial, insane Indians and hospital treatment.</p>				
HUNTING OUTFIT.				
215317-2	Hudson's Bay Co. .	St Augustine . . .	14	486.38

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1907—continued.</i>				\$
LIQUOR PROSECUTION.				
59-3	Dominion Police	Bersimis	—	347.05
MEDICAL ATTENDANCE.				
314111	Dr. G.W. Ross	Seven Islands	—	253.25
319997	Dr. C.A. Cote	Bersimis	—	510.00
33-3	Dr. J.E. Tremblay	Bersimis	—	88.00
MEDECINES.				
31-3	J. Mosgrove	Bersimis	—	192.85
RELIEF.				
74-21	Hudson's Bay Co.	Pointe Bleue	1	4.00
74-3	Revillon Bros.	Bersimis	18	68.25
74-3	N.A. Comeau	Godbout	1	4.50
74-41	Hudson's Bay Co.	Mingan	26	131.29
13602-11	Hudson's Bay Co.	Fort Chimo	115	297.36
do.	do.	do.	38	50.29
<p>NOTE.—In many cases it is impossible to estimate the number of families or of individual Indians receiving relief supplies as the information given on the vouchers is indefinite. In accounts from Fort Chimo such expressions are made use of as "supplies given to natives from Leaf River who arrived hungry," "A party of Eskimos," "A party of Indians," "Destitute Widows," "Widows receiving weekly rations," &c. Many vouchers are for relief both of families (often of unstated number) and of individuals, including widows, sometimes with one or more children. Sometimes it would be misleading to give any number as the greater part of the voucher is indefinite in this particular. For the most part, however, the numbers given denote families, except in the case of vaccination, burial, insane Indians and hospital treatment.</p>				
HUNTING OUTFIT.				
215517-2	Hudson's Bay Co.	St. Augustine	14	486.38

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1908				\$
SALARY PAY LIST.				
Agent	A. Gagnon	Bersimis	—	400.00
do.	A. Marcoux	Pointe Bleue	—	266.64
do.	A. Tessier	do.	—	33.33
Agent and Medical Officer.	Dr. J. E. Tremblay	Lower St Lawrence	—	600.00
Medical Officer.				
69-3	Dr. C. A. Cote	Escoumains	—	200.00
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E. A. Claveau	Chicoutimi	—	200.00
OFFICE EXPENSES.				
67-3, 31-3	A. Gagnon	Bersimis	—	12.34
67-41	J. E. Tremblay	Mingan	—	13.81
CONSTABLE.				
59-41, 69-41	P. C. Blouin	Lower St Lawrence.	—	278.71
do.	J. Gamache	do.	—	43.55
do.	J. Maloney	do.	—	38.55
59-3	J. Gravel	Bersimis	—	360.48
LOCK-UP.				
60-3	A. Gagnon	Bersimis	—	66.29
NOTE.—A small lock-up was built at Bersimis, the Indian Department paying one quarter of the cost and the Provincial Government of Quebec paying the other three quarters.				
HOSPITAL.				
50-3	Hotel Dieu, Que.	Bersimis	1	37.50
do.	S. Bacon	do.	—	8.15
TRANSPORT OF IND. TO REFORMATORY.				
321110	E. Robertson	Pointe Bleue	1	35.20
do.	M. MacNicholl	do.	—	5.25
MEDICINES.				
31-3	J. A. Musgrove	Bersimis	—	222.80

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
				1908
				\$
SALARY PAY LIST.				
Agent	A. Gagnon	Bersimis	—	400.00
do.	A. Marcoux	Pointe Bleue	—	266.64
do.	A. Tessier	do.	—	33.33
Agent and Medical Officer	Dr. J.E. Tremblay	Lower St. Lawrence	—	600.00
Medical Officer, 69-3	Dr. C.A. Cote	Escoumains	—	200.00
do.	Dr. J. Constantine	Pointe Bleue	—	500.00
do.	Dr. E.A. Claveau	Chicoutimi	—	200.00
OFFICE EXPENSES.				
67-3, 31-3	A. Gagnon	Bersimis	—	12.34
67-41	J.E. Tremblay	Mingan	—	13.81
CONSTABLE.				
59-41, 69-41	P.C. Blouin	Lower St. Lawrence	—	278.71
do.	J. Gamache	do.	—	43.55
do.	J. Maloney	do.	—	38.55
59-3	J. Gravel	Bersimis	—	360.48
LOCK-UP.				
60-3	A. Gagnon	Bersimis	—	66.29
	NOTE.—A small lock-up was built at Bersimis, the Indian Department paying one quarter of the cost and the Provincial Government of Quebec paying the other three quarters.			
HOSPITAL.				
50-3	Hotel Dieu, Que.	Bersimis	1	37.50
do.	S. Bacon	do.	—	8.15

TRANSPORT OF IND. TO REFORMATORY.				
321110	E. Robertson	Pointe Bleue	1	35.20
do.	M. MacNicholl	do.	—	5.25
MEDECINES.				
31-3	J.A. Musgrove	Bersimis	—	222.80

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1908—continued.				*
MEDICAL ATTENDANCE.				
319997	Dr. A. Bouchard	Bersimis	—	272.90
309850	Dr. A. J. Laronde	Escoumains	—	85.00
31-3	do.	Bersimis	—	245.00
RELIEF.				
143423-1Ty	Hudson's Bay Co.	Fort Chimo	191	285.31
74-3	C. Belanger	Escoumains	1	3.95
do.	Hudson's Bay Co.	Bersimis	20	59.47
do.	N. A. Comeau	Godbout	1	4.00
74-41	C. Bernatchez	Moisie	2	21.40
do.	Hudson's Bay Co.	St. Augustine	25	229.00
do.	do.	do.	19	163.46
do.	do.	do.	13	111.78
do.	do.	Seven Islands	8	93.40
do.	do.	do.	12	167.50
do.	do.	Romaine	42	321.11
do.	do.	do.	28	547.38
do.	do.	Mingan	19	165.96
do.	do.	Natashquan	2	46.02
do.	R. Joneas	do.	2	34.00
do.	A. M. Pampalon	Seven Islands	2	68.00
do.	Gaspe Lumber Co.	Esquimaux Point	2	19.00
do.	J. Galibois	Point au Maurier	2	90.00
19502-11	Hudson's Bay Co.	Mistassini	4	44.71
19502-9	do.	do.	2	33.09
1909				
SALARY PAY LIST.				
Agent	A. Gagnon	Bersimis	—	400.00
do.	A. Tessier	Pointe Bleue	—	400.00
Agent and Medical Officer.	Dr. J. E. Tremblay	Lower St Lawrence.	—	600.00
Medical Officer				
69-3	Dr. C. A. Cote	Escoumains	—	200.00
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E. A. Claveau	Chicoutimi	—	200.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1908—continued.				\$
MEDICAL ATTENDANCE.				
319997	Dr. A. Bouchard	Bersimis	—	272.90
309850	Dr. A.J. Laronde	Escoumains	—	85.00
31-3	do.	Bersimis	—	245.00
RELIEF.				
143423-1Ty	Hudson's Bay Co.	Fort Chimo	191	285.31
74-3	C. Belanger	Escoumains	1	3.95
do.	Hudson's Bay Co.	Bersimis	20	59.47
do.	N.A. Comeau	Godbout	1	4.00
74-41	C. Bernatchez	Moisie	2	21.40
do.	Hudson's Bay Co.	St. Augustine	25	229.00
do.	do.	do.	19	163.46
do.	do.	do.	13	111.78
do.	do.	Seven Islands	8	93.40
do.	do.	do.	12	167.50
do.	do.	Romaine	42	321.11
do.	do.	do.	28	547.38
do.	do.	Mingan	19	165.96
do.	do.	Natashquan	2	46.02
do.	R. Joncas	do.	2	34.00
do.	A.M. Pampalon	Seven Islands	2	68.00
do.	Gaspé Lumber	Esquimaux	2	19.00

	Co.	Point		
do.	J. Galibois	Point au Maurier	2	90.00
19502-11	Hudson's Bay Co.	Mistassini	4	44.71
19502-9	do.	do.	2	33.09
1909				
SALARY PAY LIST.				
Agent	A. Gagnon	Bersimis	—	400.00
do.	A. Tessier	Pointe Bleue	—	400.00
Agent and Medical Officer	Dr. J.E. Tremblay	Lower St. Lawrence	—	600.00
Medical Officer, 69-3	Dr. C.A. Cote	Escoumains	—	200.00
do.	Dr. J. Constantine	Pointe Bleue	—	500.00
do.	Dr. E.A. Claveau	Chicoutimi	—	200.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1909—continued				8
TRAVELLING.				
59-3	A. Gagnon	Bersimis	—	28.00
99-3	do.	do.	—	45.00
LIQUOR PROSECUTION.				
59-41	R. Bergeron	Lower St Lawrence.	—	35.60
CONSTABLES.				
69-41	P. C. Blouin	Lower St Lawrence.	—	300.00
do.	J. Gamache	do.	—	60.00
do.	C. Maloney	do.	—	60.00
BURIAL.				
46-21	D. Bazile	Pointe Bleue	1	3.00
MEDICAL ATTENDANCE.				
93-3	Dr. J. Brussieres	Bersimis	382	354.45
319997	do.	do.	—	60.00
do.	do.	Escoumains	—	82.75
REFORMATORY.				
321110	Provincial Government, Que.	Pointe Bleue	1	33.00
QUARANTINE.				
319997, 93-3	Municipality	Escoumains	—	38.28
MEDICINE.				
31-41	Dr. J. E. Tremblay	Mingan	39	44.35
31-3, 93-3	J. A. Musgrove	Bersimis	—	316.40
93-3, 31-3	A. Gagnon.	do.	—	7.95
FISHING SUPPLIES.				
40-67	C. Robin Collas Co.	Esquimaux Point	—	26.60
RELIEF.				
74-3	C. Belanger	Escoumains	—	24.90
do.	A. Gagnon	Bersimis	—	73.35

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1909—continued.				\$
TRAVELLING.				
59-3	A. Gagnon	Bersimis	—	28.00
99-3	do.	do.	—	45.00
LIQUOR PROSECUTION.				
59-41	R. Bergeron	Lower St. Lawrence	—	35.60
CONSTABLES.				
69-41	P.C. Blouin	Lower St. Lawrence	—	300.00
do.	J. Gamache	do.	—	60.00
do.	C. Maloney	do.	—	60.00
BURIAL.				
46-21	D. Bazile	Pointe Bleue	1	3.00
MEDICAL ATTENDANCE.				
93-3	Dr. J. Brussieres	Bersimis	382	354.45
319997	do.	do.	—	60.00
do.	do.	Escoumains	—	82.75
REFORMATORY.				
321110	Provincial Government, Que.	Pointe Bleue	1	33.00
QUARANTINE.				
319997, 93-3	Municipality	Escoumains	—	38.28
MEDECINE.				
31-41	Dr. J.E. Tremblay	Mingan	39	44.35
31-3, 93-3	J.A. Musgrove	Bersimis	—	316.40
93-3, 31-3	A. Gagnon	do.	—	7.95
FISHING SUPPLIES.				

40-67	C. Robin Collas Co.	Esquimaux Point	—	26.60
RELIEF.				
74-3	C. Belanger	Escoumains	—	24.90
do.	A. Gagnon	Bersimis	—	73.35

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Nature of Expenditure and File No.	Payer.	Location of Indians.	No. of Indians.	Amount.
1909 - continued.				\$
RELIEF--(cont.)				
74-3	Hudson's Bay Co.	Bersimis	—	90.51
74-41	R. Joncas	Natashquan	1	12.10
do.	J. Galebois	Point au Maurier	5	63.00
do.	C. Bernatchez	Moisie	1	27.88
do.	Hudson's Bay Co.	Romaine	5	35.40
do.	do.	do.	35	436.37
do.	do.	St Augustine	12	56.52
do.	do.	do.	15	136.38
do.	do.	Seven Islands	5	33.15
do.	do.	Mingan	11	104.14
74-21	do.	Pointe Bleue	9	51.00
143423-1Ty	do.	Fort Chimo	—	429.58
do.	do.	Davis Inlet	94	376.92
1910				
SALARY PAY LIST.				
Agent	A. Gagnon	Bersimis	—	475.00
do.	A. Tessier	Pointe Bleue	—	475.00
Agent and Medical Officer.	J. E. Tremblay	Lower St Lawrence.	—	600.00
Medical Officer				
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
do.	Dr. E. A. Claveau	Chicoutimi	—	200.00
69-3	Dr. C. A. Cote	Escoumains	—	50.00
OFFICE EXPENSES AND REPAIRS.				
67-41	J. E. Tremblay	Mingan	—	11.75
21-3	A. Gagnon	Bersimis	—	497.06
do.	O. Brodrique	do.	—	257.48
CONSTABLES.				
59-3	J. Gravel	Bersimis	—	60.00
69-3	A. Lepage	do.	—	240.00
69-41	J. Gamache	Lower St Lawrence.	—	45.00
do.	C. Maloney	do.	—	45.00
do.	A. Paradis	do.	—	30.00
do.	P. C. Blouin	do.	—	200.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1909—continued.				\$
RELIEF —(cont.)				
74-3	Hudson's Bay Co.	Bersimis	—	90.51
74-41	R. Joncas	Natashquan	1	12.10
do.	J. Galebois	Point au Maurier	5	63.00
do.	C. Bernatchez	Moisie	1	27.88
do.	Hudson's Bay Co.	Romaine	5	35.40
do.	do.	do.	35	436.37
do.	do.	St. Augustine	12	56.52
do.	do.	do.	15	136.38
do.	do.	Seven Islands	5	33.15
do.	do.	Mingan	11	104.14
74-1	do.	Pointe Bleue	9	51.00
143423-1Ty	do.	Fort Chimo	—	429.58
do.	do.	Davis Inlet	94	376.92
1910				
SALARY PAY LIST.				
Agent	A. Gagnon	Bersimis	—	475.00
do.	A. Tessier	Pointe Bleue	—	475.00
Agent and Medical Officer	J.E. Tremblay	Lower St. Lawrence	—	600.00
Medical Officer, 69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
do.	Dr. E.A. Claveau	Chicoutimi	—	200.00
do.	Dr. C.A. Cote	Escoumains	—	50.00
OFFICE EXPENSES				

AND REPAIRS.				
67-41	J.E. Tremblay	Mingan	—	11.75
21-3	A. Gagnon	Bersimis	—	497.06
do.	O. Brodrique	do.	—	257.48
CONSTABLES.				
59-3	J. Gravel	Bersimis	—	60.00
69-3	A. Lepage	do.	—	240.00
69-41	J. Gamache	Lower St. Lawrence	—	45.00
do.	C. Maloney	do.	—	45.00
do.	A. Paradis	do.	—	30.00
do.	P.C. Blouin	do.	—	200.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1910—continued.				\$
BURIAL.				
46-21	Rev. S. Beaudry	Pointe Bleue	1	3.00
INSANE.				
133394	Prov. Gov't. Que.	Escoumains	—	87.85
REFORMATORY.				
321110	Good Shepherds	Pointe Bleue	1	33.00
SEED.				
96-21	Cote, Boivin & Co.	Pointe Bleue	—	15.15
MEDICINES.				
31-41	Dr. J. E. Tremblay	Mingan and Natashquan.	36	69.45
28-68	Dr. C. A. MacDougal	Seven Islands	—	19.50
31-3	J. A. Mosgrove	Bersimis	—	365.32
FREIGHT.				
31-3	A. Gagnon	Bersimis	—	7.50
VACCINE.				
93-41	Dr. J. E. Tremblay	Seven Islands	—	45.00
do.	Dr. G. W. Ross	do.	—	7.50
93-3	Vaccine Institute	Bersimis	—	7.50
QUARANTINE.				
93-41	A. Arcand	Seven Islands	—	56.00
do.	J. Arcand	do.	—	16.00
do.	Revillon Bros.	do.	—	96.02
do.	A. St Louis	do.	—	12.00
MEDICAL				
ATTENDANCE.				
319997	Dr. J. Brussieres	Bersimis	—	359.75
do.	do.	Escoumains	—	83.00
93-41	Dr. C. A. MacDougal	River Chaloupe	—	180.50
93-3	Dr. J. Brussieres	Bersimis	147	196.55

[Larger Html Version](#) (19 kb)

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1910—continued.				\$
BURIAL.				
46-21	Rev. S. Beaudry	Pointe Bleue	1	3.00
INSANE.				
133394	Prov. Gov't. Que.	Escoumains	—	87.85
REFORMATORY.				
321110	Good Shepherds	Pointe Bleue	1	33.00
SEED.				
96-21	Cote, Boivin & Co.	Pointe Bleue	—	15.15
MEDECINES.				
31-41	Dr. J.E. Tremblay	Mingan and Natashquan	36	69.45
28-68	Dr. C.A. MacDougal	Seven Islands	—	19.50
31-3	J.A. Mosgrove	Bersimis	—	365.32
FREIGHT.				
31-3	A. Gagnon	Bersimis	—	7.50
VACCINE.				
93-41	Dr. J. E. Tremblay	Seven Islands	—	45.00
do.	Dr. G. W. Ross	do.	—	7.50
93-3	Vaccine Institute	Bersimis	—	7.50
QUARANTINE.				
93-41	A. Arcand	Seven Islands	—	56.00
do.	J. Arcand	do.	—	16.00

do.	Revillon Bros.	do.	—	96.02
do.	A. St. Louis	do.	—	12.00
MEDICAL ATTENDANCE.				
319997	Dr. J. Brussieres	Bersimis	—	359.75
do.	do.	Escoumains	—	83.00
93-41	Dr. C.A. MacDougal	River Chaloupe	—	180.50
93-3	Dr. J. Brussieres	Bersimis	147	196.55

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1910—continued.				\$
RELIEF.				
11502-11	Hudson's Bay Co. . . .	Davis Inlet	1	5.60
143423-1Ty	do. . . .	Fort Chimo	85	294.42
74-3	N. A. Comeau	Godbout	—	8.70
do. . . .	C. Belanger	Escoumains	—	29.43
do. . . .	Hudson's Bay Co. . . .	Bersimis	24	82.04
do. . . .	do. . . .	do. . . .	—	20.96
74-41	do. . . .	Mingan	22	183.07
do. . . .	R. Smith	Mingan	3	25.60
do. . . .	Hudson's Bay Co. . . .	do. . . .	17	174.35
do. . . .	do. . . .	Natashquan	3	37.16
do. . . .	do. . . .	do. . . .	3	33.95
do. . . .	Robin Collas Co. . . .	do. . . .	—	16.38
do. . . .	R. Joncas	do. . . .	4	46.80
do. . . .	Hudson's Bay Co. . . .	Romaine	21	208.18
do. . . .	do. . . .	do. . . .	44	318.40
do. . . .	do. . . .	St Augustine	12	145.20
do. . . .	do. . . .	do. . . .	6	72.60
do. . . .	do. . . .	do. . . .	15	181.50
do. . . .	do. . . .	Seven Islands	13	179.07
do. . . .	Revillon Bros. . . .	do. . . .	14	213.93
do. . . .	do. . . .	do. . . .	16	191.10
do. . . .	C. Bernatchez	Moisie	10	125.25
do. . . .	do. . . .	do. . . .	13	142.40
do. . . .	Gaspe Lumber Co. . . .	Esquimaux Point	1	13.40
do. . . .	J. Galibois	Point au Maurier	7	81.20
1911				
SALARY PAY LIST.				
Agent	A. Gagnon	Bersimis	—	500.00
do. . . .	A. Tessier	Pointe Bleue	—	500.00
Agent and Medical Officer. . . .	Dr. J. E. Tremblay	Lower St Lawrence	—	99.98
do. (69-78)	Dr. C. A. MacDougal	Seven Islands	—	277.78
Agent, 69-41	F. Doyle	Mingan	—	86.42
Medical Officer. . . .				
69-41	Dr. S. McDuff	do. . . .	—	131.86
do. 69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
do. 69-21	Dr. E. A. Claveau	Chicoutimi	—	200.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1910—continued.				\$
RELIEF.				
19502-11	Hudson's Bay Co.	Davis Inlet	1	5.60
143423-1Ty	do.	Fort Chimo	85	294.42
74-3	N.A. Comeau	Godbout	—	8.70
do.	C. Belanger	Escoumains	—	29.43
do.	Hudson's Bay Co.	Bersimis	24	82.04
do.	do.	do.	—	20.96
74-41	do.	Mingan	22	183.07
do.	R. Smith	Mingan	3	25.60
do.	Hudson's Bay Co.	do.	17	174.35
do.	do.	Natashquan	3	37.16
do.	do.	do.	3	33.95
do.	Robin Collas Co.	do.	—	16.38
do.	R. Joncas	do.	4	46.80
do.	Hudson's Bay Co.	Romaine	21	208.18
do.	do.	do.	44	318.40
do.	do.	St. Augustine	12	145.20
do.	do.	do.	6	72.60
do.	do.	do.	15	181.50
do.	do.	Seven Islands	13	179.07
do.	Revillon Bros.	do.	14	213.93
do.	do.	do.	16	191.10
do.	C. Bernatchez	Moisie	10	125.25

do.	do.	do.	13	142.40
do.	Gaspé Lumber Co.	Esquimaux point	1	13.40
do.	J. Galibois	Point au Maurier	7	81.20
1911				
SALARY PAY LIST.				
Agent	A. Gagnon	Bersimis	—	500.00
do.	A. Tessier	Pointe Bleue	—	500.00
Agent and Medical Officer	Dr. J.E. Tremblay	Lower St. Lawrence	—	99.98
do.	Dr. C.A. MacDougal	Seven Islands	—	277.78
Agent, 69-41	F. Doyle	Mingan	—	86.42
Medical Officer, 69-41	Dr. S. McDuff	do.	—	131.86
do. 69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
do. 69-21	Dr. E.A. Claveau	Chicoutimi	—	200.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1911—continued.				\$
TRAVELLING.				
99-41, 93-41	F. Doyle	Mingan	—	67.06
99-3	A. Gagnon	Bersimis	—	3.00
OFFICE EXPENSES AND REPAIRS.				
21-3, 67-3	A. Gagnon	Bersimis	—	33.37
FREIGHT.				
31-3	A. Gagnon	Bersimis	—	3.00
BOAT.				
19-67	Labrador Medical Mission.	Harrington Harbour	—	1000.00
NOTE.—The Labrador Medical Mission purchased a boat at a cost of \$4730.26 and as it was to be used in the service of the Department of Indian Affairs by Dr. H. Mather Hare the Dominion Government contributed \$1000.00 of this amount.				
CONSTABLES.				
69-68	J. Gamache	Seven Islands	—	60.00
69-3	A. Lepage	Bersimis	—	480.00
69-67	P. C. Blouin	Lower St Lawrence.	—	120.00
69-68	W. Levesque	Moisie	—	30.00
do.	A. Paradis	do.	—	30.00
INSANE.				
133394	Prov. Govt. Que.	Escoumains	2	36.60
56-21	T. Tremblay	Pointe Bleue	—	32.33
do.	M. Begin	do.	—	34.25
do.	L. Phillippe	do.	—	17.50
REFORMATORY.				
321110	Good Shepherds	Pointe Bleue	1	55.63
MEDICINES.				
31-3	J. A. Mosgrove	Bersimis	—	226.10
69-68	C. A. MacDougal	Seven Islands	—	230.55

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1911—continued.</i>				\$
TRAVELLING.				
99-41, 93-41	F. Doyle	Mingan	—	67.06
99-3	A. Gagnon	Bersimis	—	3.00
OFFICE EXPENSES AND REPAIRS.				
21-3, 67-3	A. Gagnon	Bersimis	—	33.37
FREIGHT.				
31-3	A. Gagnon	Bersimis	—	3.00
BOAT.				
19-67	Labrador Medical Mission Harrington Harbour		—	1000.00
NOTE.—The Labrador Medical Mission purchased a boat at a cost of \$4730.26 and as it was to be used in the service of the Department of Indian Affairs by Dr. H. Mather Hare the Dominion Government contributed \$1000.00 of this amount.				
CONSTABLES.				
69-68	J. Gamache	Seven Islands	—	60.00
69-3	A. Lepage	Bersimis	—	480.00
69-67	P.C. Blouin	Lower St. Lawrence	—	120.00
69-68	W. Levesque	Moisie	—	30.00
do.	A. Paradis	do.	—	30.00
INSANE.				
133394	Prov. Govt. Que.	Escoumains	2	36.60
56-21	T. Tremblay	Pointe Bleue	—	32.33
do.	M. Begin	do.	—	34.25
do.	L. Phillippe	do.	—	17.50
REFORMATORY.				
321110	Good Shepherds	Pointe Bleue	1	55.63

MEDECINES.

31-3	J.A. Mosgrove	Bersimis	—	226.10
69-68	C.A. MacDougal	Seven Islands	—	230.55

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1911—continued.				8
VACCINE.				
93-3	Dr. L. Bussiere . . .	Bersimis	—	5.63
93-21	Vaccine Institute . .	Pointe Bleue	—	20.00
93-41	V. Groux	Harrington	—	36.00
QUARANTINE.				
93-41	F. Gallienne	Seven Islands	—	75.00
93-3	P. Doucet	Escoumains	—	65.11
do.	C. Belanger	do.	—	55.50
VACCINATING.				
93-21	Dr. J. Constantine . .	Pointe Bleue	213	68.25
93-67	Dr. H. M. Hare	Natashquan	27	71.00
		Romaine	86	
		St Augustine	21	
31411	Dr. G. W. Ross	Seven Islands	—	462.05
MEDICAL ATTENDANCE.				
28-3, 319997	Dr. J. Brussier	Bersimis	—	1046.50
28-3	do.	Escoumains	—	168.00
28-41	Dr. S. McDuff	Mingan	—	216.90
28-68	Dr. C. A. MacDougal .	Seven Islands	—	252.78
do.	do.	Moisie	—	75.74
FISHING SUPPLIES.				
40-41	C. Vibert	Chaloupe River	—	9.00
do.	P. C. Blouin	Romaine	—	4.50
40-67	do.	Natashquan	—	5.27
do.	Robin Jones & Whitman.	do.	—	8.45
RELIEF.				
143423-ITy	Hudson's Bay Co. . . .	Fort Chimo	16	67.55
	do.	do.	98	464.17
74-3	P. Cote	Bersimis	—	168.64
do.	Revillon Bros.	do.	8	31.00
do.	C. Belanger	Escoumains	—	8.50
74-41	Hudson's Bay Co. . . .	Mingan	15	94.01
do.	do.	Seven Islands	3	24.83
do.	Revillon Bros.	do.	6	90.00
do.	C. Bernatchez	Moisie	10	102.29

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1911—continued.				\$
VACCINE.				
93-3	Dr. L. Bussiere	Bersimis	—	5.63
93-21	Vaccine Institute	Pointe Bleue	—	20.00
93-41	V. Groux	Harrington	—	36.00
QUARANTINE.				
93-41	F. Gallienne	Seven Islands	—	75.00
93-3	P. Doucet	Escoumains	—	65.11
do.	C. Belanger	do.	—	55.50
VACCINATING.				
93-21	Dr. J. Constantine	Pointe Bleue	213	68.25
93-67	Dr. H.M. Hare	Natashquan	27	
		Romaine	86	71.00
		St. Augustine	21	
31411	Dr. G.W. Ross	Seven Islands	—	462.05
MEDICAL ATTENDANCE.				
28-3, 319997	Dr. J. Brussier	Bersimis	—	1046.50
28-3	do.	Escoumains	—	168.00
28-41	Dr. S. McDuff	Mingan	—	216.90
28-68	Dr. C.A. MacDougal	Seven Islands	—	252.78
do.	do.	Moisie	—	75.74
FISHING SUPPLIES.				
40-41	C. Vibert	Chaloupe River	—	9.00
do.	P.C. Blouin	Romaine	—	4.50
40-67	do.	Natashquan	—	5.27
do.	Robin Jones & Whitman	do.	—	8.45

RELIEF.

143423-1Ty	Hudson's Bay Co.	Fort Chimo	16	67.55
	do.	do.	98	464.17
74-3	P. Cote	Bersimis	—	168.64
do.	Revillon Bros.	do.	8	31.00
do.	C. Belanger	Escoumains	—	8.50
74-41	Hudson's Bay Co.	Mingan	15	94.01
do.	do.	Seven Islands	3	24.83
do.	Revillon Bros.	do.	6	90.00
do.	C. Bernatchez	Moisie	10	102.20

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1911—continued.				*
RELIEF (cont.)				
74-41	Dr. H. M. Hare	Musquaro	—	98.15
19502-13	Hudson's Bay Co. . . .	St Augustine	8	94.16
do.	do.	Mingan	19	208.84
74-21	Rev. I. F. Castouguay	Pointe Bleue	—	14.93
74-67	Hudson's Bay Co. . . .	Natashquan	4	46.72
do.	do.	St Augustine	14	182.00
do.	do.	Romaine	31	324.50
1912				
SALARY PAY LIST.				
Agent	A. Tessier	Pointe Bleue	—	500.00
do. 69-41	F. Doyle	Mingan	—	200.00
do.	A. Gagnon	Bersimis	—	124.98
Agent & Medical Officer.	Dr. J. F. X. Bosse	do.	—	1041.76
do. 69-68	Dr. C. A. MacDougal	Seven Islands and Moisie	—	625.00
Medical Officers.				
69-41	Dr. S. McDuff	Mingan	—	200.00
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E. A. Claveau	Chicoutimi	—	200.00
Constables.				
69-67	P. C. Blouin	Seven Islands	—	300.00
69-68	J. Gamache	do.	—	60.00
69-68	W. Levesque	do.	—	60.00
69-67	P. Vignault	St Augustine	—	191.93
69-3	A. Lepage	Bersimis	—	480.00
AGENCY EXPENSES				
REPAIRS & FUEL.				
21-3, 67-3	A. Gagnon	Bersimis	—	154.15
44-3, 21-3	J. F. X. Bosse	do.	—	151.98
67-68	C. A. MacDougal	Seven Islands	—	12.67
44-68	W. Fergusson	do.	—	50.00
21-21A	E. Roy	Pointe Bleue	—	50.00
TRAVELLING.				
59-3, 99-3	J. F. X. Bosse	Bersimis	—	21.09
99-41	F. Doyle	Mingan	—	121.01
99-3, 74-3	L. J. Rioux	Bersimis	—	124.70

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1911—continued.				\$
RELIEF —(cont.)				
74-41	Dr. H.M. Hare	Musquaro	—	98.15
19502-13	Hudson's Bay Co.	St. Augustine	8	94.16
do.	do.	Mingan	19	208.84
74-21	Rev. I.F. Castouguay	Pointe Bleue	—	14.93
74-67	Hudson's Bay Co.	Natashquan	4	46.72
do.	do.	St. Augustine	14	182.00
do.	do.	Romaine	31	324.50
1912				
SALARY PAY LIST.				
Agent	A. Tessier	Pointe Bleue	—	500.00
do.	F. Doyle	Mingan	—	200.00
do.	A. Gagnon	Bersimis	—	124.98
Agent and Medical Officer	Dr. J.F.X. Bosse	do.	—	1041.76
do. 69-68	Dr. C.A. MacDougal	Seven Islands and Moisie	—	625.00
Medical Officers				
69-41	Dr. S. McDuff	Mingan	—	200.00
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E.A. Claveau	Chicoutimi	—	200.00
Constables				
69-67	P.C. Blouin	Seven Islands	—	300.00

69-68	J. Gamache	do.	—	60.00
69-68	W. Levesque	do.	—	60.00
69-67	P. Vignault	St. Augustine	—	191.93
69-3	A. Lepage	Bersimis	—	480.00
AGENCY EXPENSES				
REPAIRS & FUEL.				
21-3, 67-3	A. Gagnon	Bersimis	—	154.15
44-3, 21-3	J.F.X. Bosse	do.	—	151.98
67-68	C.A. MacDougal	Seven Islands	—	12.67
44-68	W. Fergusson	do.	—	50.00
21-21A	E. Roy	Pointe Bleue	—	50.00
TRAVELLING.				
59-3, 99-3	J.F.X. Bosse	Bersimis	—	21.09
99-41	F. Doyle	Mingan	—	121.01
99-3, 74-3	L.J. Rioux	Bersimis	—	124.70

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1912—continued.				8
HOSPITAL. 28-68	C. A. MacDougal	Seven Islands	—	76.00
ISSUES.				
133394	Prov. Govt. Que.	Escoumains	2	92.07
36-68	C. Bernatchez	Moisie	—	22.96
do.	W. Robichaud	do.	—	4.80
do.	C. A. MacDougal	Seven Islands	—	71.25
do.	D. A. Vignault	do.	—	44.60
MEDICINES.				
31-3	T. A. Brownlee	Bersimis	—	203.09
do.	W. J. Graham	do.	—	421.33
do.	J. F. X. Bosse	do.	—	8.35
143423-1Ty	Revellon Bros.	Ungava	—	159.52
MEDICAL ATTENDANCE.				
28-68	Dr. C. A. MacDougal	Moisie and Seven Islands.	25	134.80
do.	do.	Moisie	—	200.00
28-41	Dr. S. McDuff	Mingan	—	107.00
27-67Ty	Dr. H. M. Hare	Harrington	2	15.00
SEED.				
96-3	J. E. Rioux	Bersimis	—	75.00
REPAIRS TO INDIAN HOUSES.				
74-41	C. A. MacDougal	Seven Islands	—	25.00
OUTFITS FOR HUNTING.				
74-68	D. A. Vignault	Seven Islands	11	266.70
do.	R. D. Smith	do.	5	201.14
do.	C. Bernatchez	Moisie	10	533.24
NOTE.—About this time the Department endeavoured to make the Indians self supporting by furnishing them with provisions and hunting and fishing requisites. These supplies, as they increased in amount, were given as advances, and were to be refunded from the seasons hunt or catch but only a portion of the amount was returned to the Department.				

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1912—continued.</i>				\$
HOSPITAL.				
28-68	C.A. MacDougal	Seven Islands	—	76.00
ISANE.				
133394	Prov. Govt. Que.	Escoumains	2	92.07
56-68	C. Bernatchez	Moisie	—	22.96
do.	W. Robichaud	do.	—	4.80
do.	C.A. MacDougal	Seven Islands	—	71.25
do.	D.A. Vignault	do.	—	44.60
MEDECINES.				
31-3	T.A. Brownlee	Bersimis	—	203.09
do.	W.J. Graham	do.	—	421.33
do.	J.F.X. Bosse	do.	—	8.35
143423-1Ty	Revillon Bros.	Ungava	—	159.52
MEDICAL ATTENDANCE.				
28-68	Dr. C.A. MacDougal	Moisie and Seven Islands	25	134.80
do.	do.	Moisie	—	200.00
28-41	Dr. S. McDuff	Mingan	—	107.00
27-67Ty	Dr. H.M. Hare	Harrington	2	15.00
SEED.				
96-3	J.E. Rioux	Bersimis	—	75.00
REPAIRS TO INDIAN HOUSES.				
74-41	C.A. MacDougal	Seven Islands	—	25.00
OUTFITS FOR HUNTING.				

74-68	D.A. Vignault	Seven Islands	11	266.70
do.	R.D. Smith	do.	5	201.14
do.	C. Bernatchez	Moisie	10	533.24

NOTE.—About this time the Department endeavoured to make the Indians self supporting by furnishing them with provisions and hunting and fishing requisites. These supplies, as they increased in amount, were given as advances, and were to be refunded from the seasons hunt or catch but only a portion of the amount was returned to the Department.

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1912—continued.				\$
RELIEF.				
143423-1Ty . . .	Hudson's Bay Co. . .	Fort Chimo . . .	70	587.77
do.	Revillon Bros. . .	Ungava	6	131.04
do.	do.	do.	10	280.15
74-1	Hudson's Bay Co. . .	Davis Inlet	14	690.10
do.	P. Cote	Bersimis	—	210.81
do.	Saguenay Lbr. Co. . .	Bersimis	—	5.35
do.	N. A. Comeau	Godbout	—	9.00
74-41	F. C. Boudreau	Esquimaux Point . .	6	30.92
do.	F. Doyle	do.	—	3.90
do.	Hudson's Bay Co. . .	Mingan	6	16.42
do.	do.	do.	8	22.58
do.	do.	do.	19	208.84
do.	do.	do.	27	256.67
do.	do.	do.	2	5.21
do.	do.	do.	5	13.08
do.	do.	do.	6	15.12
do.	do.	do.	13	34.32
do.	do.	do.	2	5.14
do.	do.	do.	21	37.49
do.	do.	do.	10	104.78
do.	F. Doyle	do.	3	33.90
do.	C. Vibert	Chaloupe River . . .	2	20.20
74-68	N. Shore Power Ry. Co.	Seven Islands	1	3.00
do.	D. A. Vignault	do.	5	49.41
do.	do.	do.	4	64.90
do.	A. Vollant	do.	1	2.00
do.	O. Rochette	do.	1	8.00
do.	B. Pichard	do.	1	4.00
do.	J. Gamache	do.	—	2.00
do.	E. Gamache	do.	—	2.00
do.	C. A. MacDougal	do.	—	19.44
do.	D. A. Vignault	do.	43	432.10
do.	V. Berube	do.	2	10.95
do.	C. A. MacDougal	do.	2	12.95
do.	do.	do.	—	7.00
do.	Revillon Bros.	do.	4	39.60
do.	C. Bernatchez	Moisie	8	94.80

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1912—continued.</i>				\$
RELIEF.				
143423-1Ty	Hudson's Bay Co.	Fort Chimo	70	587.77
do.	Revillon Bros.	Ungava	6	131.04
do.	do.	do.	10	280.15
74-1	Hudson's Bay Co.	Davis Inlet	14	690.10
74-3	P. Cote	Bersimis	—	210.81
do.	Saguenay Lbr. Co.	Bersimis	—	5.35
do.	N.A. Comeau	Godbout	—	9.00
74-41	F.C. Boudreau	Esquimaux Point	6	30.92
do.	F. Doyle	do.	—	3.90
do.	Hudson's Bay Co.	Mingan	6	16.42
do.	do.	do.	8	22.58
do.	do.	do.	19	208.84
do.	do.	do.	27	256.67
do.	do.	do.	2	5.21
do.	do.	do.	5	13.08
do.	do.	do.	6	15.12
do.	do.	do.	13	34.32
do.	do.	do.	2	5.14
do.	do.	do.	21	37.49
do.	do.	do.	10	104.78
do.	F. Doyle	do.	3	33.90
do.	C. Vibert	Chaloupe River	2	20.20
74-68	N. Shore Power Ry. Co.	Seven Islands	1	3.00

do.	D. A. Vignault	do.	5	49.41
do.	do.	do.	4	64.90
do.	A. Vollant	do.	1	2.00
do.	O. Rochette	do.	1	8.00
do.	B. Pichard	do.	1	4.00
do.	J. Gamache	do.	—	2.00
do.	E. Gamache	do.	—	2.00
do.	C.A. MacDougal	do.	—	19.44
do.	D.A. Vignault	do.	43	432.10
do.	V. Berube	do.	2	10.95
do.	C.A. MacDougal	do.	2	12.95
do.	do.	do.	—	7.00
do.	Revillon Bros.	do.	4	39.60
do.	C. Bernatchez	Moisie	8	94.80

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Name of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1912—continued.				\$
RELIEF—(cont.)				
74-68	C. Bernatchez	Moisie	3	35.55
do.	do.	do.	7	78.58
do.	do.	do.	9	67.51
do.	J. Levesque	do.	31	308.70
74-67	W. Forman	Musquaro	2	54.80
do.	do.	do.	38	246.62
do.	do.	do.	6	50.04
do.	H. Jenness	do.	2	54.80
do.	R. Joncas	Natashquan	8	171.07
do.	do.	do.	5	50.00
do.	A. Vignault	do.	5	95.50
do.	P. C. Blouin	Romaine	—	14.09
do.	M. Blais	do.	33	162.98
do.	J. Galibois	Point au Marier	—	23.00
do.	do.	do.	12	144.00
do.	Hudson's Bay Co.	St Augustine	9	117.00
74-3	J. F. X. Bosse	Bersimis	—	2.70
do.	Mrs. G. Rock	do.	—	3.20
do.	do.	do.	—	5.40
do.	Hudson's Bay Co.	do.	7	21.94
do.	Revillon Bros.	do.	9	36.89
do.	do.	do.	14	48.76
do.	J. F. X. Bosse	Escoumains	—	4.00
do.	C. Belanger	do.	—	85.54
1913				
SALARIES.				
Agent and Medical Officer	Dr. H. Mather Hare	St Augustine	—	None
69-68	Dr. J. F. X. Bosse	Bersimis	—	1500.00
Agent	Dr. C. A. MacDougal	Seven Islands	—	750.00
69-41	A. Tessier	Pointe Bleue	—	500.00
Medical Officer	F. Doyle	Mingan	—	200.00
69-41	Dr. S. McDuff	Mingan	—	200.00
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1912—<i>continued.</i>				\$
RELIEF —(<i>cont.</i>)				
74-68	C. Bernatchez	Moisie	3	35.55
do.	do.	do.	7	78.58
do.	do.	do.	9	67.51
do.	J. Levesque	do.	31	308.70
74-67	W. Forman	Musquaro	2	54.80
do.	do.	do.	38	246.62
do.	do.	do.	6	50.04
do.	H. Jenness	do.	2	54.80
do.	R. Joncas	Natashquan	8	171.07
do.	do.	do.	5	50.00
do.	A. Vignault	do.	5	95.50
do.	P.C. Blouin	Romaine	—	14.09
do.	M. Blais	do.	33	162.98
do.	J. Galibois	Point au Marier	—	23.00
do.	do.	do.	12	144.00
do.	Hudson's Bay Co.	St. Augustine	9	117.00
74-3	J.F.X. Bosse	Bersimis	—	2.70
do.	Mrs. G. Rock	do.	—	3.20
do.	do.	do.	—	5.40
do.	Hudson's Bay Co.	do.	7	21.94
do.	Revillon Bros.	do.	9	36.89
do.	do.	do.	14	48.76
do.	J.F.X. Bose	Escoumains	—	4.00
do.	C. Belanger	do.	—	85.54

1913

SALARIES.

Agent and Medical Officer	Dr. H. Mather Hare	St. Augustine	—	None
	Dr. J.F.X. Bossee	Bersimis	—	1500.00
69-68	Dr. C.A. MacDougal	Seven Islands	—	750.00
Agent	A. Tessier	Pointe Bleue	—	500.00
69-41	F. Doyle	Mingan	—	200.00
Medical Officer				
69-41	Dr. S. McDuff	Mingan	—	200.00
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
AGENCY EXPENSES				\$
REPAIRS FUEL				
&c.				
67-68	C. A. MacDougal	Seven Islands	—	7.85
44-3	J. Gingras	Bersimis	—	42.60
44-3	N. A. St Pierre	do.	—	12.28
21-3	L. J. Rioux	do.	—	1500.00
21-3	J. B. Riverin	do.	—	300.00
21-3, 44-3	J. F. X. Bosse	do.	—	287.16
21-3	A. Portugais	do.	—	24.40
TRAVELLING.				
99-41, 28-41	F. Doyle	Mingan	—	237.40
59-3	J. F. X. Bosse	Bersimis	—	5.35
59-3, 99-3	A. Tremblay	do.	—	150.00
74-21	A. Tessier	Pointe Bleue	—	10.50
74-67	P. Vignault	Natashquan	—	8.36
LIQUOR PROSECUTION.				
59-68	Dominion Police	Seven Islands	—	340.00
59-41A	do.	Mingan	—	100.00
59-3	J. F. X. Bosse	Bersimis	—	50.00
59-3	Gagnon, Sasseville and Gagnon.	do.	—	20.00
CONSTABLES.				
59-3	A. Simard	Bersimis	—	47.35
69-3	A. Lepage	do.	—	480.00
69-41	P. Dupuis	Mingan	—	208.33
69-68	J. Gamache	Seven Islands	—	60.00
69-68	W. Levesque	Moisie	—	60.00
69-67	P. Vignault	Natashquan	—	150.00
BURIAL.				
46-21	G. Leclere	Pointe Bleue	1	7.50
INSANE.				
56-21	G. Leclere	Pointe Bleue	—	39.98
do.	A. Tessier	do.	—	38.30
133394	Prov. Gov't. Que.	do.	—	47.32
do.	do.	Escoumains	—	55.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	<i>1914—continued.</i>			\$
AGENCY EXPENSES				
REPAIRS FUEL & C.				
67-68	C.A. MacDougal	Seven Islands	—	7.85
44-3	J. Gingras	Bersimis	—	42.60
44-3	N.A. St. Pierre	do.	—	12.28
21-3	L.J. Rioux	do.	—	1500.00
21-3	J.B. Riverin	do.	—	300.00
21-3, 44-3	J.F.X. Bosse	do.	—	287.16
21-3	A. Portugais	do.	—	24.40
TRAVELLING.				
99-41, 28-41	F. Doyle	Mingan	—	237.40
59-3	J.F.X. Bosse	Bersimis	—	5.35
59-3, 99-3	A. Tremblay	do.	—	150.00
74-21	A. Tessier	Pointe Bleue	—	10.50
74-67	P. Vignault	Natashquan	—	8.36
LIQUOR PROSECUTION.				
59-68	Dominion Police	Seven Islands	—	340.60
59-41A	do.	Mingan	—	100.00
59-3	J.F.X. Bosse	Bersimis	—	50.00
59-3	Gagnon, Sasseville and Gagnon	do.	—	20.00
CONSTABLES.				
59-3	A. Simard	Bersimis	—	47.35
69-3	A. Lepage	do.	—	480.00
69-41	P. Dupuis	Mingan	—	208.33
69-68	J. Gamache	Seven Islands	—	60.00
69-68	W. Levesque	Moisie	—	60.00

69-67	P. Vignault	Natashquan	—	150.00
BURIAL.				
46-21	G. Leclerc	Pointe Bleue	1	7.50
INSANE.				
56-21	G. Leclerc	Pointe Bleue	—	39.98
do.	A. Tessier	do.	—	38.30
133394	Prov. Gov't. Que	do.	—	47.32
do.	do.	Escoumains	—	55.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1913—continued.				\$
CARE OF INJURED INDIAN.				
74-41	C. Povier	Mingan	1	104.25
MEDICINES.				
31-3	W. J. Graham	Bersimie	—	23.25
do.	Carleton Drug Co.	do.	—	659.80
do.	J. F. X. Bosse	do.	—	34.81
143423-1Ty	Revillon Bros.	Ungava	—	158.95
MEDICAL ATTENDANCE.				
69-68	Dr. C. A. MacDougal	Seven Islands	—	188.50
28-68	do.	Moisie	296	222.00
do.	do.	do.	118	88.50
do.	do.	do.	—	600.00
93-21	Dr. J. Constantine	Pointe Bleue	—	74.30
28-68	Dr. E. Verge	Clarke City	6	65.00
do.	Dr. A. Powers	do.	—	30.00
28-3	Dr. J. F. X. Bosse	Bersimie	2	5.00
do.	Dr. J. C. L. Bussier	do.	—	250.00
28-41, 99-41	Dr. S. McDuff	Mingan	—	90.00
DISINFECTING INDIAN HOUSES.				
28-41	Dr. S. McDuff	Mingan	20	23.50
SEED.				
96-41	J. H. Boudroux	Esquimaux Point	—	8.00
96-3	O. Bertin	Bersimie	—	64.40
96-3	J. F. X. Bosse	do.	—	17.15
REPAIRS TO WIDOWS HOUSES.				
55-68	C. A. MacDougal	Seven Islands	—	17.70
HUNTING OUTFITS.				
74-3	Hudson's Bay Co.	Bersimie	25	919.04
do.	P. Cote	do.	11	412.72
do.	Revillon Bros.	do.	19	566.63

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1913—continued.				\$
CARE OF INJURED INDIAN.				
74-41	C. Povier	Mingan	1	104.25
MEDECINES.				
31-3	W.J. Graham	Bersimis	—	23.25
do.	Carleton Drug Co.	do.	—	659.80
do.	J.F.X. Bosse	do.	—	34.81
143423-1Ty	Revillon Bros.	Ungava	—	158.95
MEDICAL ATTENDANCE.				
69-68	Dr. C.A. MacDougal	Seven Islands	—	188.50
28-68	do.	Moisie	296	222.00
do.	do.	do.	118	88.50
do.	do.	do.	—	600.00
93-21	Dr. J. Constantine	Pointe Bleue	—	74.30
28-68	Dr. E. Verge	Clarke City	6	65.00
do.	Dr. A. Powers	do.	—	30.00
28-3	Dr. J.F.X. Bosse	Bersimis	2	5.00
do.	Dr. J.C.L. Bussier	do.	—	250.00
28-41, 99-41	Dr. S. McDuff	Mingan	—	90.00
DISINFECTING INDIAN HOUSES.				
28-41	Dr. S. McDuff	Mingan	20	23.50
SEED.				

96-41	J.H. Boudrout	Esquimaux Point	—	8.00
96-3	O. Bertin	Bersimis	—	64.40
96-3	J.F.X. Bosse	do.	—	17.15
REPAIRS TO WIDOWS HOUSES.				
55-68	C.A. MacDougal	Seven Islands	—	17.70
HUNTING OUTFITS.				
74-3	Hudon's Bay Co.	Bersimis	25	919.04
do.	P. Cote	do.	11	412.72
do.	Revillon Bros.	do.	19	566.63

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
HUNTING OUTFITS		1913—continued.		\$
	(cont.)			
74-68	D. A. Vignaut	Seven Islands	24	1568.24
do.	C. Bernatchez	Moisie	11	799.44
do.	J. Levesque	do.	3	470.75
do.	R. D. Smith	Seven Islands	12	659.41
<p>NOTE.—In addition to these "Outfits" provisions were given to other Indians, in smaller quantities as relief, to enable them to "go to the woods." This year there was a refund on account of "outfits" of \$1250.77 from the Indians of Berdmis and \$327.00 from the Indians of Musquaro.</p>				
RELIEF.				
143423-1Ty	Revillon Bros.	Ungava	16	300.89
do.	do.	George's River	6	124.23
do.	Hudson's Bay Co.	Fort Chimo	—	1171.69
74-41	Hudson's Bay Co.	Mingan	10	94.18
do.	do.	do.	4	146.08
do.	do.	do.	29	282.91
do.	do.	do.	6	74.82
do.	do.	do.	6	23.73
do.	do.	do.	13	73.35
do.	do.	do.	22	120.74
do.	do.	do.	10	160.81
do.	do.	do.	13	104.39
do.	do.	do.	7	37.49
do.	F. Doyle	do.	—	18.73
do.	F. Cormier	Esquimaux Point	2	41.60
do.	J. H. Boudreau	do.	3	141.30
do.	do.	do.	12	50.00
do.	do.	do.	3	12.21
do.	F. Doyle	do.	1	23.85
74-68	J. Levesque	Moisie	2	31.00
74-68	J. Levesque	Moisie	3	32.00
do.	do.	do.	3	54.50
do.	do.	do.	—	9.00
do.	Hudson's Bay Co.	Seven Islands	2	20.00
do.	do.	do.	19	157.32
do.	do.	do.	12	121.76
do.	A. Bois	do.	3	40.50

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1913—continued.				\$
HUNTING OUTFITS (cont.)				
74-68	D.A. Vignaut	Seven Islands	24	1568.24
do.	C. Bernatchez	Moisie	11	799.44
do.	J. Levesque	do.	3	470.75
do.	R.D. Smith	Seven Islands	12	659.41
NOTE.—In addition to these "Outfits" provisions were given to other Indians, in smaller quantities as relief, to enable them to "go to the woods." This year there was a refund on account of "outfits" of \$1260.77 from the Indians of Bersimis and \$327.00 from the Indians of Musquaro.				
RELIEF.				
143423-1Ty	Revillon Bros.	Ungava	16	300.89
do.	do.	George's River	6	124.23
do.	Hudson's Bay Co.	Fort Chimo	—	1171.69
74-41	Hudson's Bay Co.	Mingan	10	94.18
do.	do.	do.	4	146.08
do.	do.	do.	29	282.91
do.	do.	do.	6	74.82
do.	do.	do.	6	23.73
do.	do.	do.	13	73.35
do.	do.	do.	22	120.74
do.	do.	do.	10	160.81
do.	do.	do.	13	104.39
do.	do.	do.	7	37.49
do.	F. Doyle	do.	—	18.73
do.	F. Cormier	Esquimaux Point	2	41.60

do.	J.H. Boudreau	do.	3	141.30
do.	do.	do.	12	50.00
do.	do.	do.	3	12.21
do.	F. Doyle	do.	1	23.85
74-68	J. Levesque	Moisie	2	31.00
74-68	J. Levesque	Moisie	3	32.00
do.	do.	do.	3	54.50
do.	do.	do.	—	9.00
do.	Hudson's Bay Co.	Seven Islands	2	20.00
do.	do.	do.	19	157.32
do.	do.	do.	12	121.76
do.	A. Bois	do.	3	40.50

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State of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				§
1913—continued.				
74-68	A. Bois	Seven Islands	—	27.00
do.	do.	do.	—	44.00
do.	do.	do.	—	6.00
do.	C. A. Maedougal	do.	8	101.98
do.	do.	do.	5	37.31
do.	do.	do.	3	13.75
do.	do.	do.	—	18.75
do.	D. A. Vignault	do.	29	415.85
do.	do.	do.	23	210.61
do.	do.	do.	1	4.70
do.	do.	do.	1	4.52
do.	do.	do.	1	20.65
do.	do.	do.	8	135.29
do.	do.	do.	10	116.90
do.	D. A. Smith	do.	2	26.90
do.	St. Maurice Lbr. Co.	do.	1	12.00
do.	W. Giasson	do.	—	9.75
do.	O. Rochette	do.	—	3.00
do.	C. Bernatchez	Moisie	6	75.36
do.	do.	do.	12	136.10
do.	do.	do.	3	67.05
74-67	W. Forman	Musquaro	4	103.27
do.	do.	do.	9	64.45
do.	Hudson's Bay Co.	St. Augustine	34	178.02
do.	R. Jencas	Natashquan	16	315.64
do.	P. Vignault	do.	—	2 0.25
do.	J. Gallibois	Point au Maurier	6	130.11
do.	M. Blais	Romaine	20	499.27
74-3	Mrs. G. Rock	Bersimis	—	3.78
do.	Hudson's Bay Co.	do.	10	100.32
do.	do.	do.	7	42.95
do.	L. Dumont	do.	—	3.20
do.	J. F. X. Bosse	do.	—	6.75
do.	P. Cote	do.	3	11.30
do.	do.	do.	6	20.55
do.	Compagnie Clinic	do.	—	30.50
do.	Rev. F. Petel	do.	—	1.50
do.	Rev. P. Le Jollee	do.	—	6.30

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1913—continued.				\$
RELIEF.—(cont.)				
74-68	A. Bois	Seven Islands	—	27.00
do.	do.	do.	—	44.00
do.	do.	do.	—	6.00
do.	C.A. MacDougal	do.	8	101.98
do.	do.	do.	5	37.31
do.	do.	do.	3	13.75
do.	do.	do.	—	18.75
do.	D.A. Vignault	do.	29	415.85
do.	do.	do.	23	210.61
do.	do.	do.	1	4.70
do.	do.	do.	1	4.52
do.	do.	do.	1	20.65
do.	do.	do.	8	135.29
do.	do.	do.	10	116.90
do.	D.A. Smith	do.	2	26.90
do.	St. Maurice Lbr. Co.	do.	1	12.00
do.	W. Giasson	do.	—	9.75
do.	O. Rochette	do.	—	3.00
do.	C. Bernatchez	do.	6	75.36
do.	do.	do.	12	136.10
do.	do.	do.	3	67.05
74-67	W. Forman	Musquaro	4	103.27
do.	do.	do.	9	64.45
do.	Hudson's Bay	St. Augustine	34	178.02

	Co.			
do.	R. Joncas	Natashquan	16	315.64
do.	P. Vignault	do.	—	20.25
do.	J. Gallibois	Point au Maurier	6	130.11
do.	M. Blais	Romaine	20	499.27
74-3	Mrs. G. Rock	Bersimis	—	3.78
do.	Hudson's Bay Co.	do.	10	100.32
do.	do.	do.	7	42.95
do.	L. Dumont	do.	—	3.20
do.	J.F.X. Bosse	do.	—	6.75
do.	P. Cote	do.	3	11.30
do.	do.	do.	6	20.55
do.	Compagnie Clinic	do.	—	30.50
do.	Rev. F. Petel	do.	—	1.50
do.	Rev. P. Le Jollec	do.	—	6.30

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				†
1913—continued.				
74-3	Revillon Bros. . . .	Bersimis	13	47.15
do.	F. Poulin	do.	3	15.55
do.	C. Belanger	Escoumainis	—	107.43
do.	N. A. Comeau	Godbout	—	5.00
do.	do.	do.	—	5.00
SALARIES.				
1914				
Agent and Medical Officer.				
4-3, 68-3. . . .	Dr. J. F. X. Bosse	Bersimis	—	1850.00
69-68.	Dr. C. A. MacDougal	Seven Islands	—	750.00
Agent.				
4-41, 69-41	F. Doyle	Mingan	—	275.00
4-21, 68-21, 69-21	A. Tessier	Pointe Bleue	—	650.00
Medical Officer.				
69-41.	Dr. S. M. McDuff	Mingan	—	200.00
69-21.	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21.	Dr. E. A. Claveau	Chicoutimi	—	200.00
AGENCY EXPENSES, REPAIRS, FUEL, &c.				
21-3	N. Landry	Bersimis	—	295.00
do.	A. Gagnon	do.	—	75.00
67-3	J. F. X. Bosse	do.	—	29.90
67-68	C. A. MacDougal	Seven Islands	—	12.54
TRAVELLING.				
99-41	F. Doyle	Mingan	—	264.04
99-3	J. F. X. Bosse	Bersimis	—	50.00
99-21	A. Tessier	Pointe Bleue	—	49.15
LIQUOR PROSECUTION.				
59-68	Dominion Police	Seven Islands	—	167.50
59-21A	L. P. Girard	Pointe Bleue	—	45.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1913—<i>continued.</i>				\$
RELIEF. —(cont.)				
74-3	Revillon Bros.	Bersimis	13	47.15
do.	F. Poulin		3	15.55
do.	C. Belanger	Escoumains	—	107.43
do.	N.A. Comeau	Godbout	—	5.00
do.	do.	do.	—	5.00
1914				
SALARIES.				
Agent and Medical Officer. 4-3, 68-3	Dr. J.F.X. Bosse	Bersimis	—	1850.00
69-68	Dr. C.A. MacDougal	Seven Islands	—	750.00
Agent. 4-41, 69-41	F. Doyle	Mingan	—	275.00
4-21, 68-21, 69-21	A. Tessier	Pointe Bleue	—	650.00
Medical Officer. 69-41	Dr. S.M. McDuff	Mingan	—	200.00
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E.A. Claveau	Chicoutimi	—	200.00
AGENCY EXPENSES REPAIRS FUEL & C.				
21-3	N. Landry	Bersimis	—	295.00
do.	A. Gagnon	do.	—	75.00
67-3	J.F.X. Bosse	do.	—	29.90
67-68	C.A. MacDougal	Seven Islands	—	12.54
TRAVELLING.				

99-41	F. Doyle	Mingan	—	264.04
99-3	J.F.X. Bosse	Bersimis	—	50.00
99-21	A. Tessier	Pointe Bleue	—	49.15
LIQUOR PROSECUTION.				
59-68	Dominion Police	Seven Islands	—	167.50
59-21A	L.P. Girard	Pointe Bleue	—	45.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1914—continued.				\$
COSTABLES.				
69-68	J. Gamache	Seven Islands	—	60.00
68-3, 69-3	A. Lepage	Bersimis	—	540.00
69-67	P. Vignault	Natashquan	—	150.00
69-68	W. Levesque	Moisie	—	60.00
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan	—	311.50
28-3	Dr. J. Bussieres	Bersimis	13	61.00
68-3, 69-3	do.	Escoumains	—	167.75
28-68	Dr. C. A. MacDougal	Moisie	—	400.00
do.	do.	Seven Islands	—	203.30
do.	do.	Moisie and Seven Islands.	—	88.50
do.	do.	Moisie and Mar- guerite River.	—	210.00
50-21	Dr. A. Simard	Pointe Bleue	—	100.00
VACCINATION.				
93-68	Dr. C. A. MacDougal	Seven Islands	259	261.31
		Moisie	134	
VACCINE.				
93-68	Lyman's Ltd.	Seven Islands	—	63.44
93-41	S. J. Stevenson	Mingan	—	39.00
MEDICINES.				
28-68	Dr. C. A. MacDougal	Seven Islands and Moisie.	—	11.50
31-3	W. J. Graham	Bersimis	—	380.25
HOSPITALS.				
50-67	Harrington Hospital	St Augustine	1	18.00
50-21	Hotel Dieu, Que.	Pointe Bleue	1	115.00
do.	A. Tessier	do.	—	31.75
do.	Mrs. P. Cleary	do.	—	30.75

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1914—continued.				\$
CONSTABLES.				
69-68	J. Gamache	Seven Islands	—	60.00
68-3, 69-3	A. Lepage	Bersimis	—	540.00
69-67	P. Vignault	Natashquan	—	150.00
69-68	W. Levesque	Moisie	—	60.00
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan	—	311.50
28-3	Dr. J. Bussieres	Bersimis	13	61.00
68-3, 69-3	do.	Escoumains	—	167.75
28-68	Dr. C.A. MacDougal	Moisie	—	400.00
do.	do.	Seven Islands	—	203.30
do.	do.	Moisie and Seven Islands	—	88.50
do.	do.	Moisie and Marguerite River	—	210.00
50-21	Dr. A. Simard	Pointe Bleue	—	100.00
VACCINATION.				
93-68	Dr. C.A. MacDougal	Seven Islands, Moisie	259 134	261.31
VACCINE.				
93-68	Lymans Ltd.	Seven Islands	—	63.44
93-41	S.J. Stevenson	Mingan	—	39.00
MEDECINES.				
28-68	Dr. C.A. MacDougal	Seven Islands and Moisie	—	11.50
31-3	W.J. Graham	Bersimis	—	380.25

HOSPITALS.				
50-67	Harrington Hospital	St. Augustine	1	18.00
50-21	Hotel Dieu, Que.	Pointe Bleue	1	115.00
do.	A. Tessier	do.	—	31.75
do.	Mrs. P. Cleary	do.	—	30.75

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1914—continued.				8
CARE OF SICK IND.				
46-68	M. Fontaine	Seven Islands	—	35.00
28-41	A. M. Potts	Mingan	—	35.00
INSANE.				
133304	Prov. Gov't. Que.	Escoumains	—	60.00
do.	do.	Pointe Bleue	—	47.32
56-21	Rev. J. E. Lemieux	do.	—	54.75
56-3	A. Tessier	do.	—	38.00
56-21	L. E. Otis	do.	—	26.03
BURIAL.				
46-68	D. A. Vignault	Seven Islands	5	53.80
SEED.				
96-3	C. Belanger	Escoumains	—	31.00
do.	J. F. X. Bosse	Bersimis	—	8.00
do.	O. Bertin	do.	—	65.00
ADVANCES FOR HUNTING.				
74-3A	Hudson's Bay Co.	Bersimis	21	1205.00
do.	Revillon Bros.	do.	17	793.00
do.	J. Boulay	do.	1	60.00
do.	F. Poulin	do.	7	329.76
do.	T. Collard	do.	3	206.68
do.	P. Tiernish	do.	1	60.00
74-68Ty	V. Berube Estate	Seven Islands	12	705.22
do.	W. Levesque	Moisie	18	1063.20
do.	D. A. Vignault	Seven Islands	13	864.35
74-67	Hudson's Bay Co.	Romaine	18	453.65
<small>Note.—Refunds were made of \$137.32 by the Indians of Seven Islands and \$75.00 by the Indians of St. Augustine.</small>				
RELIEF.				
143423-1Ty	Hudson's Bay Co.	Fort Chimo	120	1072.95
do.	Revillon Bros.	Ungava	11	340.03
do.	Hudson's Bay Co.	Davis Inlet	15	210.10

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1914—continued.				\$
CARE OF SICK IND.				
46-68	M. Fontaine	Seven Islands	—	35.00
28-41	A.M. Potts	Mingan	—	35.00
INSANE.				
133394	Prov. Gov't. Que	Escoumains	—	60.00
do.	do.	Pointe Bleue	—	47.32
56-21	Rev. J.E. Lemieux	do.	—	54.75
56-3	A. Tessier	do.	—	38.00
56-21	L.E. Otis	do.	—	26.03
BURIAL.				
46-68	D.A. Vignault	Seven Islands	5	53.80
SEED.				
96-3	C. Belanger	Escoumains	—	31.00
do.	J.F.X. Bosse	Bersimis	—	8.00
do.	O. Bertin	do.	—	65.00
ADVANCES FOR HUNTING.				
74-3A	Hudson's Bay Co.	Bersimis	21	1205.00
do.	Revillon Bros.	do.	17	793.00
do.	J. Boulay	do.	1	60.00
do.	F. Poulin	do.	7	329.76
do.	T. Collard	do.	3	206.68
do.	P. Tiernish	do.	1	60.00
74-68Ty	V. Berube Estate	Seven Islands	12	705.22
do.	W. Levesque	Moisie	18	1063.20
do.	D.A. Vignault	Seven Islands	13	864.35

74-67	Hudson's Bay Co.	Romaine	18	453.65
	NOTE.—Refunds were made of \$137.32 by the Indians of Seven Islands and \$75.00 by the Indians of St. Augustine.			
RELIEF.				
143423-1Ty	Hudson's Bay Co.	Fort Chimo	120	1072.95
do.	Revillon Bros.	Ungava	11	340.03
do.	Hudson's Bay Co.	Davis Inlet	15	210.10

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				8
1914—continued.				
74-41A	J. H. Boudreau	Esquimaux Point	3	32.93
do.	do.	do.	3	15.04
do.	do.	do.	3	14.90
do.	M. H. Foley	do.	1	10.50
do.	F. Cormier	do.	3	28.31
do.	Hudson's Bay Co.	Mingan	14	127.94
do.	do.	do.	4	29.92
do.	do.	do.	11	45.38
do.	do.	do.	5	63.70
do.	do.	do.	3	20.30
do.	do.	do.	10	133.81
do.	do.	do.	9	96.43
do.	do.	do.	3	17.94
do.	do.	do.	3	28.84
do.	J. H. Boudreau	do.	4	97.65
do.	do.	do.	2	20.50
do.	do.	do.	8	66.59
do.	do.	do.	1	9.60
do.	do.	do.	3	38.80
do.	do.	do.	5	52.52
do.	L. Cormier	do.	6	10.25
do.	do.	do.	3	28.15
do.	R. D. Smith	do.	8	189.01
do.	F. Doyle	do.	2	4.20
do.	C. Vibert	Chaloupe River	2	25.30
74-3A	N. A. Comeau	Godbout	—	5.00
74-3	C. Belanger	Escoumains	2	83.95
74-3A	do.	do.	3	75.27
do.	do.	do.	1	20.68
do.	Hudson's Bay Co.	Bersimis	3	38.25
do.	do.	do.	3	43.23
do.	do.	do.	3	35.52
74-3	do.	do.	—	38.70
do.	do.	do.	7	157.96
do.	Revillon Bros.	do.	—	142.97
do.	do.	do.	2	59.75
74-3A	do.	do.	5	29.50
do.	do.	do.	2	21.40

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1914—continued.				\$
RELIEF —(cont.)				
74-41A	J.H. Boudreau	Esquimaux Point	3	32.93
do.	do.	do.	3	15.04
do.	do.	do.	3	14.90
do.	M.H. Foley	do.	1	10.50
do.	F. Cormier	do.	3	28.31
do.	Hudson's Bay Co.	Mingan	14	127.94
do.	do.	do.	4	29.92
do.	do.	do.	11	45.38
do.	do.	do.	5	63.70
do.	do.	do.	3	20.30
do.	do.	do.	10	133.81
do.	do.	do.	9	96.43
do.	do.	do.	3	17.94
do.	do.	do.	3	28.84
do.	J.H. Boudreau	do.	4	97.65
do.	do.	do.	2	20.50
do.	do.	do.	8	66.59
do.	do.	do.	1	9.60
do.	do.	do.	3	38.80
do.	do.	do.	5	52.52
do.	L. Cormier	do.	6	10.25
do.	do.	do.	3	28.15
do.	R.D. Smith	do.	8	189.01
do.	F. Doyle	do.	2	4.20

do.	C. Vibert	Chaloupe River	2	25.30
74-3A	N.A. Comeau	Godbout	—	5.00
74-3	C. Belanger	Escoumains	2	83.95
74-3A	do.	do.	3	75.27
do.	do.	do.	1	20.68
do.	Hudson's Bay Co.	Bersimis	3	38.25
do.	do.	do.	3	43.23
do.	do.	do.	3	35.52
74-3	do.	do.	—	38.70
do.	do.	do.	7	157.96
do.	Revillon Bros.	do.	—	142.97
do.	do.	do.	2	59.75
74-3A	do.	do.	5	29.50
do.	do.	do.	2	21.40

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				\$
1914—continued.				
74-3A	Steve Ross	Bersimis	1	10.00
do.	F. Poulin	do.	5	25.85
74-3	do.	do.	1	19.20
74-3A	Rev. E. Petel	do.	1	6.72
do.	L. J. Rioux	do.	1	20.93
do.	P. Cote	do.	3	53.40
do.	do.	do.	1	49.29
74-3	do.	do.	2	39.35
do.	do.	do.	1	12.40
74-3A	Compagnie Clinic	Escoumains	—	30.50
74-21	Rev. J. P. Chalifour	Pointe Bleue	—	30.70
do.	R. B. Manning	do.	—	28.20
74-68ly	C. A. MacDougal	Seven Islands	—	6.71
do.	do.	do.	4	160.07
do.	do.	do.	7	139.00
do.	D. A. Vignault	do.	28	544.28
do.	A. St Louis	Moisie	2	7.50
do.	W. Levesque	do.	14	386.35
do.	do.	do.	15	331.25
do.	C. Bernatchez	do.	3	142.70
do.	D. A. Vignault	Seven Islands	52	655.77
do.	C. A. MacDougal	do.	2	39.74
do.	A. Bois	do.	—	35.00
do.	do.	do.	5	55.00
74-67	W. Forman	Musquaro	—	77.49
do.	do.	do.	31	207.70
do.	do.	do.	3	45.90
do.	A. Vignault	Natashquan	—	18.04
do.	do.	do.	—	30.11
do.	M. Blais	Romaine	11	199.59
SALARIES.				
Agent and Medical Officer.				1915
68-21	Dr. J. F. X. Bosse	Bersimis	—	1700.00
69-68	Dr. C. A. MacDougal	Seven Islands	—	850.00
Agent	F. Doyle	Mingan	—	300.00
68-21	A. Tessier	Pointe Bleue	—	700.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1914—continued.				\$
RELIEF —(cont.)				
74-3A	Steve Ross	Bersimis	1	10.00
do.	F. Poulin	do.	5	25.85
74-3	do.	do.	1	19.20
74-3A	Rev. E. Petel	do.	1	6.72
do.	L.J. Rioux	do.	1	20.93
do.	P. Cote	do.	3	53.40
do.	do.	do.	1	49.29
74-3	do.	do.	2	39.35
do.	do.	do.	1	12.40
74-3A	Compagnie Clinic	Escoumains	—	30.50
74-21	Rev. J.P. Chalifour	Pointe Bleue	—	30.70
do.	R.B. Manning	do.	—	28.20
74-68Ty	C.A. MacDougal	Seven Islands	—	6.71
do.	do.	do.	4	160.07
do.	do.	do.	7	139.00
do.	D.A. Vignault	do.	28	544.28
do.	A. St. Louis	Moisie	2	7.50
do.	W. Levesque	do.	14	386.35
do.	do.	do.	15	331.25
do.	C. Bernatchez	do.	3	142.70
do.	D.A. Vignault	Seven Islands	52	655.77
do.	C.A. MacDougal	do.	2	39.74
do.	A. Bois	do.	—	35.00

do.	do.	do.	5	55.00
74-67	W. Forman	Musquaro	—	77.49
do.	do.	do.	31	207.70
do.	do.	do.	3	45.90
do.	A. Vignault	Natashquan	—	18.04
do.	do.	do.	—	30.11
do.	M. Blais	Romaine	11	199.59
1915				
SALARIES.				
Agent and Medical Officer, 68-21	Dr. J.F.X. Bosse	Bersimmis	—	1700.00
69-68	Dr. C.A. MacDougal	Seven Islands	—	850.00
Agent 68-21	F. Doyle A. Tessier	Mingan Pointe Bleue	— —	300.00 700.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1915—continued.				8
SALARIES—(cont.)				
Medical Officers.				
4-67	Dr. S. McDuff	Mingan	—	200.00
4-67	Dr. J. H. West	Lower St Lawrence	—	83.33
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E. A. Claveau	Chicoutimi	—	200.00
68-3	Dr. J. Bussier	Escoumains	—	200.00
AGENCY EXPENSES				
REPAIRS AND FUEL				
21-3, 67-3	J. F. X. Bosse	Bersimis	—	72.83
44-3	Quebec Coal Co.	do.	—	36.48
44-3	N. St Pierre	do.	—	12.28
74-67	P. Vignault	Natashquan	—	2.32
21-21A	G. Leclerc	Pointe Bleue	—	6.75
21-21A	W. Simpson	do.	—	5.40
21-21A	J. H. Boldue	do.	—	60.45
21-68, 67-68	C. A. MacDougal	Seven Islands	—	17.02
67-67	J. H. West	Harrington	—	7.61
TRAVELLING.				
21-3, 90-68	J. F. X. Bosse	Bersimis	—	60.60
59-21A, 50-21	A. Tessier	Pointe Bleue	—	60.15
90-41	F. Doyle	Mingan	—	286.88
90-68	C. A. MacDougal	Seven Islands	—	124.50
LIQUOR PROSECUTION.				
59-21A	L. P. Girard	Pointe Bleue	—	753.15
do.	Galipeault St Laurent, Metayer and Laferte	do.	—	8.00
CONSTABLES.				
59-21A	H. J. Dumais	Pointe Bleue	—	51.05
68-3	A. Lepage	Bersimis	—	600.00
69-67	P. Vignault	Natashquan	—	150.00
69-68	J. Gamache	Seven Islands	—	60.00
69-68	W. Levesque	Moisie	—	60.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1915—continued.				\$
SALARIES —(cont.)				
Medical Officers				
4-67	Dr. S. McDuff	Mingan	—	200.00
4-67	Dr. J.H. West	Lower St. Lawrence	—	83.33
69-21	Dr. J. Constantine	Pointe Bleue	—	500.00
69-21	Dr. E.A. Claveau	Chicoutimi	—	200.00
68-3	Dr. J. Bussier	Escoumains	—	200.00
AGENCY EXPENSES REPAIRS FUEL				
21-3, 67-3	J.F.X. Bosse	Bersimis	—	72.83
44-3	Quebec Coal Co.	do.	—	36.48
44-3	N. St. Piere	do.	—	12.28
74-67	P. Vignault	Natashquan	—	2.32
21-21A	G. Leclerc	Pointe Bleue	—	6.75
21-21A	W. Simpson	do.	—	5.40
21-21A	J.H. Bolduc	do.	—	60.45
21-68, 67-68	C.A. MacDougal	Seven Islands	—	17.02
67-67	J.H. West	Harington	—	7.61
TRAVELLING.				
21-3, 99-68	J.F.X. Bose	Bersimis	—	60.60
59-21A, 50-21	A. Tessier	Pointe Bleue	—	60.15
99-41	F. Doyle	Mingan	—	286.88
99-68	C.A. MacDougal	Seven Islands	—	124.50
LIQUOR PROSECUTION.				

59-21A	L.P. Girard	Pointe Bleue	—	753.15
do.	Galipeault St. Laurent, Metayer and Leferte	do.	—	8.00
CONSTABLES.				
59-21A	H.J. Dumais	Pointe Bleue	—	51.05
68-3	A. Lepage	Bersimis	—	600.00
69-67	P. Vignault	Natashquan	—	150.00
69-68	J. Gamache	Seven Islands	—	60.00
69-68	W. Levesque	Moisie	—	60.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1915—continued.				\$
INSANE.				
56-21	A. Tessier	Pointe Bleue	2	80.85
133394	Prov. Gov't. Que.	Escoumains	—	60.00
do.	do.	Pointe Bleue	3	132.99
HOSPITALS.				
74-68A	St Luke's Hospital	Seven Islands	—	13.00
74-68A	Dr. A. A. Paquet	do.	—	25.00
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan	—	692.25
28-68	Dr. C. A. MacDougal	Moisie	—	840.00
28-61	Dr. H. D. Bassard	Pointe Bleue	—	25.00
MEDICINES AND VACCINE.				
31-3	Lymans Ltd.	Bersimis	—	568.64
93-3, 93-3A	Red Cross Pharmaceutical Co.	do.	—	78.64
BURIAL.				
46-48	D. A. Vignault	Seven Islands	6	65.50
46-68	W. Levesque	Moisie	1	13.00
REPAIRS TO WIDOWS HOUSES.				
55-68	J. and W. D. Brown.	Seven Islands	—	373.03
55-68	Terrance and Racine	do.	—	40.86
55-68	W. Doyle	do.	—	26.15
55-68, 74-68Ty	A. Bois	do.	—	119.65
55-68	E. Bois	do.	—	55.00
SEED.				
96-3	J. F. X. Bosse	Escoumains	—	37.76
96-3	P. Cote	Bersimis	—	60.25
AGRICULTURAL IMPLEMENTS.				
53-3	P. T. Legare	Bersimis	—	52.55

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1915—continued.				\$
INSANE.				
56-21	A. Tessier	Pointe BLEue	2	80.85
133394	Prov. Gov't. Que.	Escoumains	—	60.00
do.	do.	Pointe Bleue	3	132.99
HOSPITALS.				
74-68A	St. Luke's Hospital	Seven Islands	—	13.00
74-68A	Dr. A.A. Paquet	do.	—	25.00
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan	—	692.25
28-68	Dr. C.A. MacDougal	Moisie	—	840.00
28-61	Dr. H.D. Bassard	Pointe Bleue	—	25.00
MEDICINES AND VACCINE.				
31-3	Lymans Ltd.	Bersimis	—	568.04
93-3, 93-3A	Red Cross Pharmical Co.	do.	—	78.64
BURIAL.				
46-48	D.A. Vignault	Seven Islands	6	65.50
46-68	W. Levesque	Moisie	1	13.00
REPAIRS TO WIDOWS HOUSES.				
55-68	J. and W.D. Brown	Seven Islands	—	373.03
55-68	Terrance and Racine	do.	—	40.86
55-68	W. Doyle	do.	—	26.15

55-68, 74-68Ty	A. Bois	do.	—	119.65
55-68	E. Bois	do.	—	55.00
SEED.				
96-3	J.F.X. Bosse	Escoumains	—	37.76
96-3	P. Cote	Bersimis	—	60.25
AGRICULTURAL IMPLEMENTS.				
53-3	P.T. Legare	Bersimis	—	52.55

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1915—continued.				\$
FISHING SUPPLIES AND ADVANCES.				
40-67	Hudson's Bay Co.	Natashquan	—	28.31
74-67	do.	St Augustine	—	37.50
74-67	do.	do.	11	233.58
74-67	R. Joncas	Natashquan	24	886.22
74-67	L. Lapierre	do.	—	25.00
HUNTING SUPPLIES AND ADVANCES.				
74-3A	C. Belanger	Escoumains	5	215.00
469810	W. Levesque	Moisie	1	70.00
do.	V. Berube Est.	Seven Islands	21	936.49
do.	do.	do.	1	37.57
do.	E. Boudrault	Moisie	23	1487.49
do.	D. A. Vignault	Seven Islands	1	28.65
do.	do.	do.	5	70.75
74-67	Hudson's Bay Co.	St Augustine	22	1165.29
do.	do.	do.	38	157.30
do.	do.	Romaine	13	314.95
74-68A	W. Levesque	Moisie	26	1565.68
74-68Ty	do.	do.	3	177.77
do.	do.	do.	12	487.33
do.	E. Boudrault	do.	4	173.14
74-68	D. A. Vignault	Seven Islands	16	1013.45
NOTE.—There were refunds this year from the Indians of Seven Islands and Moisie amounting to \$1105.25.				
RELIEF.				
74-68A	W. Levesque	Moisie	1	34.65
74-68A	do.	do.	12	181.47
74-68A	do.	do.	20	76.52
do.	do.	do.	1	20.10
do.	do.	do.	16	574.56
74-68Ty	do.	do.	12	399.70
74-68A	E. Boudrault	do.	10	79.24
do.	do.	do.	7	141.73
do.	do.	do.	2	25.42
74-68Ty	do.	do.	—	91.30
74-68A	A. St Louis	do.	3	18.00
do.	do.	do.	3	21.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1915—continued.				\$
FISHING SUPPLIES AND ADVANCES				
40-67	Hudson's Bay Co.	Natashquan	—	28.31
74-67	do.	St. Augustine	—	37.50
74-67	do.	do.	11	233.58
74-67	R. Joncas	Natashquan	24	886.22
74-67	L. Lapierre	do.	—	25.00
HUNTING SUPPLIES AND ADVANCES				
74-3A	C. Belanger	Escoumains	5	215.00
469810	W. Levesque	Moisie	1	70.00
do.	V. Berube Est.	Seven Islands	21	936.49
do.	do.	do.	1	37.57
do.	E. Boudrault	Moisie	23	1487.49
do.	D.A. Vignault	Natashquan	1	28.65
do.	do.	do.	5	70.75
74-67	Hudson's Bay Co.	St. Augustine	22	1165.29
do.	do.	do.	38	157.30
do.	do.	Romaine	13	314.95
74-68A	W. Levesque	Moisie	26	1565.68
74-68Ty	do.	do.	3	177.77
do.	do.	do.	12	487.33
do.	E. Boudreault	do.	4	173.14
74-68	D.A. Vignault	Seven Islands	16	1013.45
NOTE.—There were refunds this year from the Indians of Seven Islands and Moisie amounting to \$1105.25.				
RELIEF.				

74-68A	W. Levesque	Moisie	1	34.65
74-68A	do.	do.	12	181.47
74-68A	do.	do.	20	76.52
do.	do.	do.	1	20.10
do.	do.	do.	16	574.56
74-68Ty	do.	do.	12	399.70
74-68A	E. Boudreault	do.	10	79.24
do.	do.	do.	7	141.73
do.	do.	do.	2	25.42
74-68Ty	do.	do.	—	91.30
74-68A	A. St. Louis	do.	3	18.00
do.	do.	do.	3	21.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)	1915—continued.			\$
74-68Ty	A. St Louis	Moisie	2	24.00
do.	do.	do.	2	58.00
74-68A	D. A. Vignault	Seven Islands	48	75.59
do.	do.	do.	25	49.72
do.	do.	do.	18	557.86
do.	do.	do.	104	278.79
do.	do.	do.	10	147.86
do.	do.	do.	7	129.88
74-68Ty	do.	do.	17	493.36
do.	do.	do.	—	21.00
do.	do.	do.	—	21.00
do.	do.	do.	—	27.20
do.	do.	do.	—	45.00
143423-1Ty	Hudson's Bay Co.	Fort Chimo	138	1183.06
		Whale River		
		George's River		
do.	do.	North West River	17	205.78
do.	do.	Cartwright	10	55.55
do.	do.	Davis Inlet	27	599.57
do.	Revillon Bros.	North West River	9	84.55
74-41A	Hudson's Bay Co.	Mingan	43	219.82
do.	do.	do.	25	225.28
do.	do.	do.	61	1546.23
do.	do.	do.	75	437.60
do.	do.	do.	24	212.72
do.	do.	do.	4	11.14
do.	do.	do.	63	357.48
do.	do.	do.	19	126.64
do.	do.	do.	20	142.01
do.	do.	do.	87	1381.55
do.	do.	do.	38	202.40
do.	C. Vibert	Chaloupe River	4	80.60
do.	do.	do.	4	53.60
do.	do.	do.	2	15.50
do.	F. Doyle	Esquimaux Point	20	7.00
do.	do.	do.	9	6.30
do.	J. H. Boudreau	do.	13	79.74
do.	do.	do.	25	200.11

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1915—continued.				\$
RELIEF —(cont.)				
74-68Ty	A. St. Louis	Moisie	2	24.00
do.	do.	do.	2	58.00
74-68A	D.A. Vignault	Seven Islands	48	75.59
do.	do.	do.	25	49.72
do.	do.	do.	18	557.86
do.	do.	do.	104	278.79
do.	do.	do.	10	147.86
do.	do.	do.	7	129.88
74-68Ty	do.	do.	17	493.36
do.	do.	do.	—	21.00
do.	do.	do.	—	21.00
do.	do.	do.	—	27.20
do.	do.	do.	—	45.00
143423-1Ty	Hudson's Bay Co.	Fort Chimo, Whale River, George's River	138	1183.06
do.	do.	North West River	17	205.78
do.	do.	Cartwright	10	55.55
do.	do.	Davis Inlet	27	599.57
do.	Revillon Bros.	North West River	9	84.55
74-41A	Hudson's Bay Co.	Mingan	43	219.82
do.	do.	do.	25	225.28
do.	do.	do.	61	1546.23
do.	do.	do.	75	437.60

do.	do.	do.	24	212.72
do.	do.	do.	4	11.14
do.	do.	do.	63	357.48
do.	do.	do.	19	126.64
do.	do.	do.	20	142.01
do.	do.	do.	87	1381.55
do.	do.	do.	38	202.40
do.	C. Vibert	Chaloupe River	4	80.60
do.	do.	do.	4	53.60
do.	do.	do.	2	15.50
do.	F. Doyle	Esquimaux Point	20	7.00
do.	do.	do.	9	6.30
do.	J.H. Boudreau	do.	13	79.74
do.	do.	do.	25	200.11

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Number of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
EXHIBIT--(cont.)				\$
1915--continued.				
74-41A	J. H. Boudreau	Esquimaux Point	5	22.82
do.	do.	do.	1	11.78
do.	F. Cormier	do.	6	54.86
do.	do.	do.	3	15.32
do.	do.	do.	5	75.40
do.	do.	do.	2	10.00
do.	P. Dupuis	do.	7	4.90
do.	F. Doyle	Mingan	14	15.92
do.	J. Beaudrie	do.	1	15.55
do.	T. Gravel	do.	—	3.46
74-3A	N. A. Comeau	Godbout	1	5.00
do.	C. Belanger	Escoumains	2	81.50
do.	do.	do.	3	58.50
do.	do.	do.	4	70.00
do.	F. Poulin	Bersimis	3	31.40
do.	do.	do.	6	66.13
do.	do.	do.	4	26.00
do.	do.	do.	4	36.51
do.	Revillon Bros.	do.	3	45.00
do.	do.	do.	3	33.00
do.	P. Cote	do.	3	45.00
do.	do.	do.	22	239.61
do.	do.	do.	15	169.85
do.	do.	do.	3	30.00
do.	Hudson's Bay Co.	do.	1	47.04
do.	do.	do.	9	36.28
do.	do.	do.	3	40.25
do.	do.	do.	8	68.55
do.	Rev. J. M. Briere	do.	2	5.00
do.	L. J. Rioux	do.	1	43.50
74-21	Hudson's Bay Co.	Pointe Bleue	2	9.00
do.	do.	do.	2	24.00
do.	do.	do.	1	2.11
do.	do.	do.	—	27.00
do.	L. E. Otis	do.	—	62.20
469810	E. Boudrault	Moisie	—	79.58
do.	V. Berube Est.	Seven Islands	—	178.55
74-68Ty	D. A. Vignault	Seven Islands	24	601.48

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1915—<i>continued.</i>				\$
RELIEF —(<i>cont.</i>)				
74-41A	J.H. Boudreau	Esquimaux Point	5	22.82
do.	do.	do.	1	11.78
do.	F. Cormier	do.	6	54.86
do.	do.	do.	3	15.32
do.	do.	do.	5	75.40
do.	do.	do.	2	10.00
do.	P. Dupuis	do.	7	4.90
do.	F. Doyle	Mingan	14	15.92
do.	J. Beaudrie	do.	1	15.55
do.	T. Gravel	do.	—	3.46
74-3A	N.A. Comeau	Godbout	1	5.00
do.	C. Belanger	Escoumains	2	81.50
do.	do.	do.	3	58.50
do.	do.	do.	4	70.00
do.	F. Poulin	Bersimis	3	31.40
do.	do.	do.	6	66.13
do.	do.	do.	4	26.00
do.	do.	do.	4	36.51
do.	Revillon Bros.	do.	3	45.00
do.	do.	do.	3	33.00
do.	P. Cote	do.	3	45.00
do.	do.	do.	22	239.61
do.	do.	do.	15	169.85
do.	do.	do.	3	30.00

do.	Hudson's Bay Co.	do.	1	47.04
do.	do.	do.	9	36.28
do.	do.	do.	3	40.25
do.	do.	do.	8	68.55
do.	Rev. J.M. Briere	do.	2	5.00
do.	L.J. Rioux	do.	1	43.50
74-21	Hudson's Bay Co.	Pointe Bleue	2	9.00
do.	do.	do.	2	24.00
do.	do.	do.	1	2.11
do.	do.	do.	—	27.00
do.	L.E. Otis	do.	—	62.20
469810	E. Boudrault	Moisie	—	79.58
do.	V. Berube Est.	Seven Islands	—	178.55
74-68Ty	D.A. Vignault	Seven Islands	24	601.48

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)	1915—continued.			\$
74-68Ty	V. Berube Est. . . .	Seven Islands	—	38.50
do.	do.	do.	—	13.50
do.	do.	do.	2	26.00
74-68A	C. A. MacDougal	do.	2	13.00
do.	do.	do.	2	6.25
do.	do.	do.	1	5.35
do.	do.	do.	3	43.15
74-68Ty	do.	do.	4	42.68
do.	do.	do.	2	21.80
do.	do.	do.	4	26.60
do.	do.	do.	3	23.10
74-68A	A. Bois	do.	10	85.00
do.	do.	do.	6	48.00
74-68Ty	do.	do.	8	135.00
do.	do.	do.	7	163.50
74-68A	C. A. MacDougal	do.	—	198.65
74-67	W. Forman	Musquaro	42	363.30
do.	do.	do.	10	13.00
do.	do.	do.	33	1132.49
do.	do.	do.	—	31.47
do.	do.	do.	42	227.32
do.	do.	do.	5	62.50
do.	do.	do.	6	71.50
do.	do.	do.	9	40.05
do.	do.	do.	5	78.75
do.	do.	do.	5	75.00
do.	do.	do.	8	126.00
do.	do.	do.	9	277.75
do.	Hudson's Bay Co.	St Augustine	23	129.95
do.	do.	do.	10	157.30
do.	do.	do.	—	125.15
do.	do.	do.	7	30.94
do.	do.	do.	7	164.12
do.	do.	do.	15	126.88
do.	do.	do.	4	44.80
do.	do.	do.	6	70.20
do.	do.	do.	3	35.92
do.	do.	Romaine	—	43.20

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1915—continued.</i>				\$
RELIEF —(<i>cont.</i>)				
74-68Ty	V. Berube Est.	Seven Islands	—	38.50
do.	do.	do.	—	13.50
do.	do.	do.	2	26.00
74-68A	C.A. MacDougal	do.	2	13.00
do.	do.	do.	2	6.25
do.	do.	do.	1	5.35
do.	do.	do.	3	43.15
74-68Ty	do.	do.	4	42.68
do.	do.	do.	2	21.80
do.	do.	do.	4	26.60
do.	do.	do.	3	23.10
74-68A	A. Bois	do.	10	85.00
do.	do.	do.	6	48.00
74-68Ty	do.	do.	8	135.00
do.	do.	do.	7	163.50
74-68A	C.A. MacDougal	do.	—	198.65
74-67	W. Forman	Musquaro	42	363.30
do.	do.	do.	10	13.00
do.	do.	do.	33	1132.49
do.	do.	do.	—	31.47
do.	do.	do.	42	227.32
do.	do.	do.	5	62.50
do.	do.	do.	6	71.50

do.	do.	do.	9	40.05
do.	do.	do.	5	78.75
do.	do.	do.	5	75.00
do.	do.	do.	8	126.00
do.	do.	do.	9	277.75
do.	Hudson's Bay Co.	St. Augustine	23	129.95
do.	do.	do.	10	157.30
do.	do.	do.	—	125.15
do.	do.	do.	7	30.94
do.	do.	do.	7	164.12
do.	do.	do.	15	126.88
do.	do.	do.	4	44.80
do.	do.	do.	6	70.20
do.	do.	do.	3	35.92
do.	do.	Romaine	—	43.20

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				\$
1915—continued.				
74-67	Richard White	Tessiuaksoak	7	96.90
do.	do.	do.	7	77.40
do.	Richard White	do.	9	110.70
<p>NOTE.—Tessiuaksoak is situated on the Labrador coast near Nain. Mr. White states in his letter of September 8th, 1915, that the relief supplies were issued to Nascopee Indians of the Canadian Labrador.</p>				
do.	R. Joncas	Natashquan	—	8.87
do.	do.	do.	—	8.27
do.	do.	do.	—	8.27
do.	do.	do.	2	31.50
do.	do.	do.	4	30.10
do.	do.	do.	3	30.63
do.	A. Vignault	do.	—	20.31
do.	do.	do.	—	25.72
do.	J. Gallibois	Point au Maurier	4	55.66
do.	do.	do.	4	33.75
do.	J. L. Fequet	St Pauls River	8	111.25
1916				
SALARIES.				
Agent and Medical Officer.				
69-67, 4-67.	Dr. J. H. West	Lower St Lawrence from Natashquan to Blanc Sablon (stationed at Harrington).	—	500.00
68-3.	Dr. J. F. X. Bosse	Bersimis	—	1700.00
69-68	Dr. C. A. MacDougal	Seven Islands	—	950.00
Agents 68-41	F. Doyle	Mingan	—	300.00
68-21	A. Tessier	Pointe Bleue	—	700.00
Medical Officers	Dr. S. McDuff	Mingan	—	200.00
68-3.	Dr. J. C. Bussier	Escoumains	—	200.00
69-21	Dr. A. Bouchard	Pointe Bleue	—	150.00
69-21	Dr. E. A. Claveau	Chicoutimi	—	21.25
69-21, 68-21	Dr. J. Constantine	Pointe Bleue	—	524.98

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1915—continued.				\$
RELIEF — <i>(cont.)</i>				
74-67	Richard White	Tessiujaksoak	7	96.90
do.	do.	do.	7	77.40
do.	Richard White	do.	9	110.70
NOTE.—Tessiujaksoak is situated on the Labrador coast near Nain. Mr. White states in his letter of September 8th, 1915, that the relief supplies were issued to Nascopee Indians of the Canadian Labrador.				
do.	R. Joncas	Natashquan	—	8.87
do.	do.	do.	—	8.27
do.	do.	do.	—	8.27
do.	do.	do.	2	31.50
do.	do.	do.	4	30.10
do.	do.	do.	3	30.63
do.	A. Vignault	do.	—	20.31
do.	do.	do.	—	25.72
do.	J. Gallibois	Point au Maurier	4	55.66
do.	do.	do.	4	33.75
do.	J.L. Fequet	St. Pauls River	8	111.25
1916				
SALARIES.				
Agent and Medical Officer, 69-67, 4-67	Dr. J.H. West	Lower St. Lawrence from Natashquan to Blanc Sablon (stationed at Harrington)	—	500.00
69-3	Dr. J.F.X.	Bersimis	—	1700.00

	Bosse			
69-68	Dr. C.A. MacDougal	Seven Islands	—	950.00
Agents 68-41	F. Doyle	Mingan	—	300.00
68-21	A. Tessier	Pointe Bleue	—	700.00
Medical Officers	Dr. S. McDuff	Mingan	—	200.00
68-3	Dr. J.C. Bussier	Escoumains	—	200.00
69-21	Dr. A. Bouchard	Pointe Bleue	—	150.00
69-21	Dr. E.A. Claveau	Chicoutimi	—	21.25
69-21, 68-21	Dr. J. Constantine	Pointe Bleue	—	524.98

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1916—continued.				\$
AGENCY EXPENSES				
REPAIRS AND FUEL.				
21-3	F. Landry	Bersimis	—	3.50
21-21A	L. P. Huot	Pointe Bleue	—	15.00
do.	J. P. Rinfret	do.	—	10.00
67-68, 21-68	C. A. MacDougal	Seven Islands	—	14.68
67-67	Dr. J. H. West	Harrington	—	19.13
67-67	P. Vignault	Romaine	—	1.89
44-3	Quebec Coal Co.	Bersimis	—	39.70
44-3	N. A. St Pierre	do.	—	12.28
67-3	J. F. X. Bosse	do.	—	7.05
TRAVELLING.				
74-68B	J. Gamache	Seven Islands	—	10.00
99-67	J. H. West	St Augustine	—	23.90
99-3	J. F. X. Bosse	Bersimis	—	74.70
99-41	F. Doyle	Mingan	—	358.34
28-68	Dr. C. A. MacDougal	Seven Islands	—	8.00
CONSTABLES.				
69-67	P. Vignault	Nataashquan	—	300.00
69-68	J. Gamache	Seven Islands	—	60.00
69-68	W. Levesque	Moisie	—	60.00
59-3, 68-3	A. Lepage	Bersimis	—	617.00
BURIAL.				
46-68	D. A. Vignault	Seven Islands	3	33.00
INSANE.				
133394	Prov. Gov't. Que.	Escoumains	—	60.00
do.	do.	Pointe Bleue	—	96.81
HOSPITALS AND CARE OF SICK.				
50-68	Hospital St Luc	Seven Islands	—	47.00
do.	Hotel Victoria, Que.	do.	—	89.00
do.	M. E. Plourde	do.	—	49.75
do.	B. Picard	do.	—	9.00
do.	Dr. C. A. MacDougal	Moisie	—	140.15
50-21	Hospital Fraserville	Chicoutimi	1	16.50

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1916—continued.				\$
AGENCY EXPENSES REPAIRS AND FUEL.				
21-3	F. Landry	Bersimis	—	3.50
21-21A	L.P. Huot	Pointe Bleue	—	15.00
do.	J.P. Rimfret	do.	—	10.00
67-68, 21-68	C.A. MacDougal	Seven Islands	—	14.68
67-67	Dr. J.H. West	Harrington	—	19.13
67-67	P. Vignault	Romaine	—	1.89
44-3	Quebec Coal Co.	Bersimis	—	39.70
44-3	N.A. St. Pierre	do.	—	12.28
67-3	J.F.X. Bosse	do.	—	7.05
TRAVELLING.				
74-68B	J. Gamache	Seven Islands	—	10.00
99-67	J.H. West	St. Augustine	—	23.90
99-3	J.F.X. Bosse	Bersimis	—	74.70
99-41	F. Doyle	Mingan	—	358.34
28-68	Dr. C.A. MacDougal	Seven Islands	—	8.00
CONSTABLES.				
69-67	P. Vignault	Natashquan	—	300.00
69-68	J. Gamache	Seven Islands	—	60.00
69-68	W. Levesque	Moisie	—	60.00
59-3, 68-3	A. Lepage	Bersimis	—	617.00
BURIAL.				
46-68	D.A. Vignault	Seven Islands	3	33.00
INSANE.				

133394	Prov. Gov't. Que.	Escoumains	—	60.00
do.	do.	Pointe Bleue	—	96.81
HOSPITALS AND CARE OF SICK.				
50-68	Hospital St. Luc	Seven Islands	—	47.00
do.	Hotel Victoria, Que.	do.	—	89.00
do.	M.E. Plourde	do.	—	49.75
do.	B. Picard	do.	—	9.00
do.	Dr. C.A. MacDougal	Moisie	—	140.15
50-21	Hospital Fraserville	Chicoutimi	1	16.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1916—continued.				
MEDICAL				
ATTENDANCE.				
28-41	Dr. S. McDuff . . .	Mingan	—	359.50
do.	do.	Mingan and Chaloupe	—	44.00
do.	do.	Natashquan	—	18.00
28-68	Dr. C. A. MacDougal	Moisie	—	840.00
93-68	do.	Seven Islands	—	707.50
50-68	Dr. Pagnet	do.	—	100.00
MEDICINES.				
31-3.	Lymans Ltd.	Bersimis	—	463.26
31-3.	T. T. Beattie	do.	—	28.00
FISHING SUPPLIES.				
40-67	R. Joncas.	Natashquan	—	25.00
do.	do.	do.	—	43.18
do.	do.	do.	—	390.10
do.	A. Vignault	do.	3	20.00
do.	do.	do.	11	48.71
do.	do.	do.	9	168.09
do.	do.	do.	—	36.05
do.	J. Lapierre	do.	—	25.00
do.	N. Vignault	do.	—	43.50
do.	Grenfell Ass'n. . . .	Harrington	—	34.05
do.	Hudson's Bay Co. . .	St Augustine	46	672.54
do.	Grant, Holden, Graham.	do.	—	67.80
do.	Mrs. S. Lavallee . . .	St Augustine	—	5.00
SUPERVISION OF FISHERIES.				
do.	N. Vignault	Natashquan	—	295.25
do.	do.	do.	—	3.15
do.	T. Rogers	do.	—	5.00
do.	P. Vignault	do.	—	127.25
do.	M. Maurice	St Augustine	—	200.00
HUNTING SUPPLIES.				
469810-1	W. Levesque	Moisie	4	270.51
do.	do.	do.	9	239.07
do.	do.	do.	1	25.65

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1916—continued.				\$
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan	—	359.50
do.	do.	Mingan and Chaloupe	—	44.00
do.	do.	Natashquan	—	18.00
28-68	C.A. MacDougal	Moisie	—	840.00
93-68	do.	Seven Islands	—	707.50
50-68	Dr. Pagnet	do.	—	100.00
MEDECINES				
31-3	Lymans Ltd.	Bersimis	—	463.26
31-3	T.T. Beattie	do.	—	26.00
FISHING SUPPLIES.				
40-67	R. Joncas	Natashquan	—	25.00
do.	do.	do.	—	43.18
do.	do.	do.	—	390.10
do.	A. Vignault	do.	3	20.00
do.	do.	do.	11	48.71
do.	do.	do.	9	168.09
do.	do.	do.	—	36.05
do.	J. Lapierre	do.	—	25.00
do.	N. Vignault	do.	—	43.50
do.	Grenfell Ass'n.	Harrington	—	34.05
do.	Hudson's Bay Co.	St. Augustine	46	672.54
do.	Grant, Holden, Graham	do.	—	67.80
do.	Mrs. S. Lavallee	St. Augustine	—	5.00

SUPERVISION OF FISHERIES	N. Vignault	Natashquan	—	295.25
do.	do.	do.	—	3.15
do.	T. Rogers	do.	—	5.00
do.	P. Vignault	do.	—	127.25
do.	M. Maurice	St. Augustine	—	200.00
HUNTING SUPPLIES.				
469810-1	W. Levesque	Moisie	4	270.51
do.	do.	do.	9	239.07
do.	do.	do.	1	25.65

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1916—continued.				\$
HUNTING SUPPLIES				
<i>(cont.)</i>				
469810-1	E. Boudrealt	Moisie	3	120.01
do.	do.	do.	7	154.04
do.	V. Berube Est	Seven Islands	2	131.37
do.	do.	do.	5	40.96
do.	do.	do.	5	102.69
do.	do.	do.	2	54.18
do.	D. A. Vignault	Seven Islands	3	209.04
do.	do.	do.	6	348.00
NOTE.—There were refunds this year on account of advances for hunting and fishing by the Indians of Natashquan of \$660.25; Seven Islands \$1492.24; Romaine \$1346.50 and St Augustine \$462.00.				
RELIEF.				
143423-1Ty	Revillon Bros.	Ungava	—	1031.36
do.	do.	North West River	13	138.35
do.	Hudson's Bay Co.	Fort Chimo	121	664.62
do.	Georges River	—	—	343.35
do.	Fort Chimo	—	129	859.40
NOTE.—From Hudson's Bay Co. A/C, Fort Chimo July 7th, 1916: "Fort Chimo is gradually becoming the dumping ground for all the infirm and sick in northern Ungava; every year the Northern Esquimaux and Nascope Indians bring in additions to the large number there already."				
74-41B	J. H. Boudreau	Esquimaux Point	6	48.20
do.	do.	do.	4	45.59
do.	do.	do.	25	920.56
do.	do.	do.	6	83.17
do.	C. Vibert	do.	8	24.00
do.	do.	do.	6	73.73
do.	C. Maloney	Mingan	29	40.00
do.	Hudson's Bay Co.	do.	13	115.50
do.	do.	do.	33	290.04
do.	do.	do.	6	31.38
do.	do.	do.	14	65.45
do.	do.	do.	39	229.71
do.	do.	do.	9	63.29

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1916—continued.				\$
HUNTING SUPPLIES. (<i>cont.</i>)				
469810-1	E. Boudrealt	Moisie	3	120.01
do.	do.	do.	7	154.04
do.	V. Berube Est	Seven Islands	2	131.37
do.	do.	do.	5	40.96
do.	do.	do.	5	102.69
do.	do.	do.	2	54.18
do.	D.A. Vignault	Seven Islands	3	209.04
do.	do.	do.	6	348.00
NOTE.—There were refunds this year on account of advances for hunting and fishing by the Indians of Natashquan of \$660.25; Seven Islands \$1492.24; Romaine \$1346.50 and St. Augustine \$462.00.				
RELIEF.				
143423-1Ty	Revillon Bros.	Ungava	—	1031.36
do.	do.	North West River	13	138.35
do.	Hudson's Bay Co.	Fort Chimo	121	664.62
do.	Georges River	—	—	343.35
do.	Fort Chimo	—	129	859.40
NOTE.—From Hudson's Bay Co. A/C, Fort Chimo July 7th, 1916: "Fort Chimo is gradually becoming the dumping ground for all the infirm and sick in northern Ungava ; every year the Northern Esquimaux and Nascopie Indians bring in additions to the large number there already."				
74-41B	J.H. Boudreau	Esquimaux Point	6	48.20
do.	do.	do.	4	45.59
do.	do.	do.	25	920.56
do.	do.	do.	6	83.17

do.	C. Vibert	do.	8	24.00
do.	do.	do.	6	73.73
do.	C. Maloney	Mingan	29	40.00
do.	Hudson's Bay Co.	do.	13	115.50
do.	do.	do.	33	290.04
do.	do.	do.	6	31.38
do.	do.	do.	14	65.45
do.	do.	do.	39	229.71
do.	do.	do.	9	63.29

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Name of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1916—continued.				\$
74-41B	Hudson's Bay Co.	Mingan	34	217.71
do.	do.	do.	7	62.99
do.	do.	do.	4	29.50
do.	do.	do.	49	737.22
do.	do.	do.	42	284.42
do.	do.	do.	32	140.09
do.	J. H. Boudreau	do.	7	144.60
do.	do.	do.	7	175.11
do.	do.	do.	11	47.86
do.	J. Boudry	do.	—	20.90
74-3B	F. Poulin	Bersimis	3	21.75
do.	do.	do.	5	41.80
do.	do.	do.	3	31.50
do.	do.	do.	3	28.00
do.	do.	do.	3	17.50
do.	do.	do.	3	17.50
do.	do.	do.	3	28.00
do.	do.	do.	3	14.00
do.	Hudson's Bay Co.	do.	3	24.10
do.	do.	do.	2	11.60
do.	do.	do.	3	31.10
do.	do.	do.	2	10.45
do.	do.	do.	1	5.05
do.	do.	do.	1	9.80
do.	do.	do.	3	16.60
do.	P. Cote	do.	4	47.10
do.	do.	do.	8	34.00
do.	do.	do.	—	16.00
do.	do.	do.	11	94.50
do.	do.	do.	2	22.50
do.	do.	do.	4	22.00
do.	do.	do.	8	38.00
do.	do.	do.	7	67.50
do.	Rev. J. M. Briere	do.	1	2.25
do.	do.	do.	1	.55
do.	do.	do.	—	3.20
do.	C. Belanger	Escoumains	5	25.00
do.	do.	do.	2	23.50

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1916—continued.				\$
RELIEF —(cont.)				
74-41B	Hudson's Bay Co.	Mingan	34	217.71
do.	do.	do.	7	62.99
do.	do.	do.	4	29.50
do.	do.	do.	49	737.22
do.	do.	do.	42	284.42
do.	do.	do.	32	140.09
do.	J.H. Boudreau	—	7	144.60
do.	do.	do.	7	175.11
do.	do.	do.	11	47.86
do.	J. Boudry	do.	—	20.90
74-3B	F. Poulin	Bersimis	3	21.75
do.	do.	do.	5	41.80
do.	do.	do.	3	31.50
do.	do.	do.	3	28.00
do.	do.	do.	3	17.50
do.	do.	do.	3	17.50
do.	do.	do.	3	28.00
do.	do.	do.	3	14.00
do.	Hudson's Bay Co.	do.	3	24.10
do.	do.	do.	2	11.60
do.	do.	do.	3	31.10
do.	do.	do.	2	10.45
do.	do.	do.	1	5.05
do.	do.	do.	1	9.80

do.	do.	do.	3	16.60
do.	P. Cote	do.	4	47.10
do.	do.	do.	8	34.00
do.	do.	do.	—	16.00
do.	do.	do.	11	94.50
do.	do.	do.	2	22.50
do.	do.	do.	4	22.00
do.	do.	do.	8	38.00
do.	do.	do.	7	67.50
do.	Rev. J.M. Briere	do.	1	2.25
do.	do.	do.	1	.55
do.	do.	do.	—	3.20
do.	C. Belanger	Escoumains	5	25.00
do.	do.	do.	2	23.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)	1916—continued.			¢
74-3B	C. Belanger	Escoumains	2	24.00
do.	do.	do.	3	17.00
do.	do.	do.	3	20.00
do.	do.	do.	1	10.00
do.	do.	do.	3	19.19
do.	do.	do.	4	41.59
40-67	A. Vignault	Natashquan	—	14.50
	W. Forman	Romaine	9	267.21
74-68n	V. Berube Est.	Seven Islands	1	36.20
do.	do.	do.	1	33.15
do.	do.	do.	4	115.57
do.	do.	do.	11	82.82
do.	do.	do.	15	81.57
do.	do.	do.	10	68.11
do.	do.	do.	11	130.63
do.	do.	do.	24	194.37
do.	D. A. Vignault	do.	4	141.05
do.	do.	do.	4	114.96
do.	do.	do.	1	13.90
do.	do.	do.	16	209.31
do.	do.	do.	11	105.80
do.	do.	do.	17	205.45
do.	do.	do.	11	72.99
do.	do.	do.	14	87.33
do.	do.	do.	12	71.19
do.	A. Bois	do.	9	96.00
do.	do.	do.	3	63.00
do.	do.	do.	9	159.00
do.	M. E. Plourde	do.	—	46.98
do.	do.	do.	—	21.84
74-68a	C. A. MacDougal	do.	—	5.52
do.	do.	do.	3	24.54
do.	D. A. Vignault	do.	12	67.96
do.	do.	do.	11	69.70
do.	do.	do.	29	86.38
do.	V. Berube Est.	do.	12	71.63
do.	do.	do.	9	48.23
do.	A. Bois	do.	9	119.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1916—continued.</i>				\$
RELIEF —(<i>cont.</i>)				
74-3B	C. Belanger	Escoumains	2	24.00
do.	do.	do.	3	17.00
do.	do.	do.	3	20.00
do.	do.	do.	1	10.00
do.	do.	do.	3	19.19
do.	do.	do.	4	41.50
40-67	A. Vignault	Natashquan	—	14.50
	W. Forman	Romaine	9	267.21
74-68B	V. Berube Est.	Seven Islands	1	36.20
do.	do.	do.	1	33.15
do.	do.	do.	4	115.57
do.	do.	do.	11	82.82
do.	do.	do.	15	81.57
do.	do.	do.	10	68.11
do.	do.	do.	11	130.63
do.	do.	do.	24	194.37
do.	D.A. Vignault	do.	4	141.05
do.	do.	do.	4	114.96
do.	do.	do.	1	13.90
do.	do.	do.	16	209.31
do.	do.	do.	11	105.80
do.	do.	do.	17	205.45
do.	do.	do.	11	72.99
do.	do.	do.	14	87.33

do.	do.	do.	12	71.19
do.	A. Bois	do.	9	96.00
do.	do.	do.	3	63.00
do.	do.	do.	9	159.00
do.	M.E. Plourde	do.	—	46.98
do.	do.	do.	—	21.84
74-68A	C.A. MacDougal	do.	—	5.52
do.	do.	do.	3	24.54
do.	D.A. Vignault	do.	12	67.96
do.	do.	do.	11	69.70
do.	do.	do.	29	86.38
do.	V. Berube Est.	do.	12	71.63
do.	do.	do.	9	48.23
do.	A. Bois	do.	9	119.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				
1916—continued.				\$
74-68A	D. A. Vignault	Seven Islands	11	51.37
do.	do.	do.	14	116.28
44-68	P. Arsenault	do.	4	30.00
74-67A	Richard White Jr.	Tessiujaksoak	18	281.73
do.	Hudson's Bay Co.	St Augustine	—	288.20
do.	do.	do.	—	24.42
do.	do.	do.	9	374.49
do.	do.	do.	2	50.30
do.	do.	do.	7	140.05
do.	do.	do.	5	64.06
do.	do.	do.	5	69.37
do.	do.	do.	15	310.77
do.	do.	do.	16	362.70
do.	do.	do.	6	144.10
do.	do.	Romaine	65	259.18
do.	do.	do.	21	253.95
do.	J. Gallibois	Point au Maurier	6	34.30
do.	do.	do.	3	59.59
do.	do.	do.	10	80.00
do.	R. Joncas	Natashquan	31	626.75
do.	do.	do.	—	12.05
do.	do.	do.	—	107.75
do.	do.	do.	15	150.84
do.	do.	do.	5	34.55
do.	do.	do.	—	48.93
do.	do.	do.	1	22.50
do.	do.	do.	1	11.25
do.	A Vignault	do.	—	9.15
do.	do.	do.	—	33.65
do.	G. Jones	Wolf Bay	—	21.00
do.	W. Forman	Musquaro	4	13.99
do.	do.	do.	15	158.59
do.	do.	do.	10	85.00
74-68B	W. Levesque	Moisie	5	139.68
do.	do.	do.	8	53.80
do.	do.	do.	10	56.76
do.	do.	do.	12	99.97
do.	do.	do.	9	44.56

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1916—continued.</i>				\$
RELIEF —(<i>cont.</i>)				
74-68A	D.A. Vignault	Seven Islands	11	51.37
do.	do.	do.	14	116.28
44-68	P. Arsenault	do.	4	30.00
74-67A	Richard White Jr.	Tessiujaksoak	18	281.73
do.	Hudson's Bay Co.	St. Augustine	—	288.20
do.	do.	do.	—	24.42
do.	do.	do.	9	374.49
do.	do.	do.	2	50.30
do.	do.	do.	7	140.05
do.	do.	do.	5	64.06
do.	do.	do.	5	69.37
do.	do.	do.	15	310.77
do.	do.	do.	16	362.70
do.	do.	do.	6	144.10
do.	do.	Romaine	65	259.18
do.	do.	do.	21	253.95
do.	J. Gallibois	Point au Maurier	6	34.30
do.	do.	do.	3	59.59
do.	do.	do.	10	80.00
do.	R. Joncas	Natashquan	31	626.75
do.	do.	do.	—	12.05
do.	do.	do.	—	107.75
do.	do.	do.	15	150.84

do.	do.	do.	5	34.55
do.	do.	do.	—	48.93
do.	do.	do.	1	22.50
do.	do.	do.	1	11.25
do.	A. Vignault	do.	—	9.15
do.	do.	do.	—	33.65
do.	G. Jones	Wolf Bay	—	21.00
do.	W. Forman	Musquaro	4	13.99
do.	do.	do.	15	158.59
do.	do.	do.	10	85.00
74-68B	W. Levesque	Moisie	5	139.68
do.	do.	do.	8	53.80
do.	do.	do.	10	56.76
do.	do.	do.	12	99.97
do.	do.	do.	9	44.56

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				\$
1916—continued.				
74-68B	W. Levesque	Moisie	8	42.47
74-68A	do.	do.	8	39.30
do.	do.	do.	1	6.73
do.	do.	do.	9	40.40
do.	do.	do.	10	72.15
do.	do.	do.	11	104.35
74-68B	E. Boudreault	do.	6	49.16
do.	do.	do.	7	28.56
do.	do.	do.	9	38.22
do.	do.	do.	9	38.22
do.	do.	do.	7	35.66
do.	do.	do.	8	59.49
74-68A	do.	do.	9	39.66
do.	do.	do.	10	41.04
do.	do.	do.	8	32.80
do.	do.	do.	10	37.35
74-68B	A. St Louis	do.	7	70.00
do.	do.	do.	5	87.00
SALARIES.				
1917				
Agent & Medical Officer.				
68-3	Dr. J. F. X. Bosse	Bersimis	—	1700.00
69-68	Dr. C. A. MacDougal	Seven Islands	—	950.00
69-67	Dr. J. H. West	St Augustine	—	600.00
Agent	F. Doyle	Mingan	—	300.00
68-41				
68-21	A. Tessier	Pointe Bleue	—	700.00
MEDICAL OFFICERS.				
68-41	Dr. S. McDuff	Mingan	—	200.00
68-3	Dr. J. Bussieres	Escoumains	—	200.00
9-21, 68-21, 69-21	Dr. A. Bouchard	Pointe Bleue	—	200.00
68-21, 69-21	Dr. J. Constantine	Pointe Bleue	—	650.00
AGENCY EXPENSES.				
REPAIRS, FUEL &C.				
21-3, 67-3, 44-3	J. F. X. Bosse	Bersimis	—	135.59
21-21A	G. P. Marcotte	Pointe Bleue	—	123.06

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1916—continued.				\$
RELIEF —(cont.)				
74-68B	W. Levesque	Moisie	8	42.47
74-68A	do.	do.	8	39.30
do.	do.	do.	1	6.73
do.	do.	do.	9	40.40
do.	do.	do.	10	72.15
do.	do.	do.	11	104.35
74-68B	E. Boudreault	do.	6	49.16
do.	do.	do.	7	28.56
do.	do.	do.	9	38.22
do.	do.	do.	9	38.22
do.	do.	do.	7	35.66
do.	do.	do.	8	59.49
74-68A	do.	do.	9	39.66
do.	do.	do.	10	41.04
do.	do.	do.	8	32.80
do.	do.	do.	10	37.35
74-68B	A. St. Louis	do.	7	70.00
do.	do.	do.	5	87.00
1917				
SALARIES.				
Agent & Medical Officer, 68-3	Dr. J.F.X. Bosse	Bersimis	—	1700.00
68-68	Dr. C.A. MacDougal	Seven Islands	—	950.00
68-67	Dr. J.H. West	St. Augustine	—	600.00

Agent 68-41	F. Doyle	Mingan	—	300.00
68-21	A. Tessier	Pointe Bleue	—	700.00
MEDICAL OFFICERS.				
68-41	Dr. S. McDuff	Mingan	—	200.00
68-3	Dr. J. Bussieres	Escoumains	—	200.00
9-21, 68-21, 69-21	Dr. A. Bouchard	Pointe Bleue	—	200.00
68-21, 69-21	Dr. J. Constantine	Pointe Bleue	—	650.00
AGENCY EXPENSES				
REPAIRS FUEL & C.				
21-3, 67-3, 44-3	J.F.X. Bosse	Bersimis	—	135.59
21-21A	G.P. Marcotte	Pointe Bleue	—	123.06

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1917—continued.				\$
AGENCY EXPENSES, REPAIRS, FUEL & C. (cont.)				
21-21A	F. X. E. Roy	Pointe Bleue	—	72.50
67-41	N. Vignault	Natashquan	—	3.64
67-41	J. H. West	Harrington	—	93.14
67-68	C. A. MacDougal	Seven Islands	—	36.90
TRAVELLING.				
74-67A	E. R. Jones	Wolf Bay	—	76.25
99-67	J. H. West	St Augustine	—	28.25
99-67	Thos. Green	do.	—	18.63
99-3	J. F. X. Bosse	Bersimis	—	69.00
99-41	F. Doyle	Mingan	—	174.14
COSSTABLES.				
68-67, 69-67	N. Vignault	Natashquan	—	365.25
68-3	A. Lepage	Bersimis	—	600.00
69-68	W. Levesque	Moisie	—	60.00
69-68	J. Gamache	Seven Islands	—	85.00
MEDICINE & VACCINE.				
93-68	Dr. C. A. MacDougal	Seven Islands	214	158.50
93-68	do.	Moisie	—	27.26
31-3.	Lymans Ltd.	Bersimis	—	438.98
31-3.	J. F. X. Bosse	do.	—	7.00
BURIAL.				
46-68	W. Levesque	Moisie	1	6.00
ISSANE.				
133394	Prov. Gov't. Que.	Escoumains	1	33.04
	do.	Pointe Bleue	1	37.32
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan & Chaloupe River.	—	168.50
28-68	Dr. C. A. MacDougal	Moisie	—	640.00
VACCINATION.				
93-68	Dr. C. A. MacDougal	Moisie	263	176.50

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1917—continued.</i>				\$
AGENCY EXPENSES REPAIRS FUEL & C. <i>(cont.)</i>				
21-21A	F.X.E. Roy	Pointe Bleue	—	72.50
67-41	N. Vignault	Natashquan	—	3.64
67-41	J.H. West	Harrington	—	93.14
67-68	C.A. MacDougal	Seven Islands	—	36.90
TRAVELLING.				
74-67A	E.R. Jones	Wolf Bay	—	76.25
99-67	J.H. West	St. Augustine	—	28.25
99-67	Thos. Green	do.	—	18.63
99-3	J.F.X. Bosse	Bersimis	—	69.00
99-41	F. Doyle	Mingan	—	174.14
CONSTABLES.				
68-67, 69-67	N. Vignault	Natashquan	—	365.25
68-3	A. Lepage	Bersimis	—	600.00
69-68	W. Levesque	Moisie	—	60.00
69-68	J. Gamache	Seven Islands	—	85.00
MEDICINE VACCINE.				
93-68	Dr. C.A. MacDougal	Seven Islands	214	158.50
93-68	do.	Moisie	—	27.26
31-3	Lymans Ltd.	Bersimis	—	438.98
31-3	J.F.X. Bosse	do.	—	7.00
BURIAL.				
46-68	W. Levesque	Moisie	1	6.00
INSANE.				

133394	Prov. Gov't. Que.	Escoumains	1	33.04
	do.	Pointe Bleue	1	37.32
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan & Chaloupe River	—	168.50
28-68	Dr. C.A. MacDougal	Moisie	—	640.00
VACCINATION.				
93-68	Dr. C.A. MacDougal	Moisie	263	176.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1917—continued.				\$
AGRICULTURAL IMPLEMENTS.				
53-68	W. Levesque	Moisie	—	22.50
SEED.				
96-21	G. P. Marcotte	Pointe Bleue	—	1342.80
96-67	C. A. MacDougal	Seven Islands	—	77.00
96-3.	N. A. Comeau	Godbout	—	25.85
96-3.	P. Cote	Bersimis	—	155.51
96-3.	C. Belanger	Escoumains	—	44.50
REPAIRS TO WIDOWS HOUSES.				
74-68B	Terrance & Racine	Seven Islands	—	41.68
55-68	E. Bois	do.	—	31.63
HUNTING ADVANCES.				
469S10-1	E. Boudreault	Moisie	1	30.00
do.	W. Levesque	do.	23	932.10
do.	D. A. Vignault	Seven Islands	6	370.67
74-67A	Hudson's Bay Co.	St. Augustine	19	456.00
do.	do.	Romaine	68	1947.57
FISHERY SUPPLIES AND EQUIPMENT.				
40-67	A. Mercier	St Augustine	—	45.98
99-67	R. Buckle	do.	—	12.00
do.	Wm. Green	do.	—	8.50
40-41	M. H. Foley	Mingan	—	54.00
40-67	N. Vignault	Natashquan	—	29.22
do.	do.	do.	—	96.75
do.	A. Vignault	do.	—	78.70
do.	E. Carboneau	do.	—	52.00
74-67A	J. Lapierre	do.	—	25.00
46-67	Holliday Bros.	do.	—	40.00
55-58	W. Robichaud	Seven Islands	—	30.25
40-3.	Compagnie Chicic	Bersimis	—	198.25

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1917—continued.</i>				\$
ARICULTURAL IMPLEMENTS.				
53-68	W. Levesque	Moisie	—	22.50
SEED.				
96-21	G.P. Marcotte	Pointe Bleue	—	1342.80
96-67	C.A. MacDougal	Seven Islands	—	77.00
96-3	N.A. Comeau	Godbout	—	25.85
96-3	P. Cote	Bersimis	—	155.51
96-3	C. Belanger	Escoumains	—	44.50
REPARIS TO WIDOWS HOUSES.				
74-68B	Terrance & Racine	Seven Islands	—	41.68
55-68	E. Bois	do.	—	31.63
HUNTING ADVANCES.				
469810-1	E. Boudreault	Moisie	1	30.00
do.	W. Levesque	do.	23	932.10
do.	D.A. Vignault	Seven Islands	6	370.67
74-67A	Hudson's Bay Co.	St. Augustine	19	456.00
do.	do.	Romaine	68	1947.57
FISHERY SUPPLIES AND EQUIPMENT.				
40-67	A. Mercier	St. Augustine	—	45.98
99-67	R. Buckle	do.	—	12.00
do.	Wm. Green	do.	—	8.50
40-41	M.H. Foley	Mingan	—	54.00
40-67	N. Vignault	Natashquan	—	29.22

do.	do.	do.	—	96.75
do.	A. Vignault	do.	—	78.70
do.	E. Carboneau	do.	—	52.00
74-67A	J. Lapierre	do.	—	25.00
40-67	Holliday Bros.	do.	—	40.00
55-68	W. Robichaud	Seven Islands	—	30.25
40-3	Compagnie Chinic	Bersimis	—	198.25

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1917—continued.				\$
ADVANCES TO FISHING INDIANS.				
40-67	R. Joncas	Natashquan	—	119.68
do.	do.	do.	12	156.62
74-67A	Hudson's Bay Co.	Romaine	23	580.70
do.	do.	do.	—	1303.12
do.	do.	St Augustine	—	604.95
do.	do.	do.	3	355.44
do.	do.	do.	—	585.10
do.	do.	do.	—	288.20
74-67A	A. Vignault	Natashquan	—	169.25
do.	do.	do.	—	260.90
do.	do.	do.	7	90.70
do.	do.	do.	—	161.26
FISHERY OVERSEERS.				
40-67, 68-67	N. Vignault	Natashquan	—	163.25
68-67, 69-67	R. Rogers	St Augustine	—	450.00
NOTE.—Refunds were made in 1917 on account of advances by the Indians at the following places:—				
\$				
Moisie 88.00				
St Augustine 302.35				
Romaine 158.05				
Natashquan 109.02				
RELIEF.				
74-3B	Rev. J. M. Briere	Bersimis	—	13.02
do.	do.	do.	—	13.20
do.	do.	do.	—	18.00
do.	do.	do.	—	8.10
do.	do.	do.	—	4.00
do.	Hudson's Bay Co.	do.	2	19.50
do.	do.	do.	3	26.45
do.	do.	do.	1	6.00
do.	do.	do.	3	6.15
do.	do.	do.	—	3.80
do.	do.	do.	1	7.50
do.	do.	do.	1	25.50
do.	F. Poulin	do.	3	40.00
do.	do.	do.	3	35.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1917—continued.</i>				\$
ADVANCES TO FISHING INDIANS.				
40-67	R. Joncas	Natashquan	—	119.68
do.	do.	do.	12	156.62
74-67A	Hudson's Bay Co.	Romaine	23	580.70
do.	do.	do.	—	1303.12
do.	do.	St. Augustine	—	604.95
do.	do.	do.	3	355.44
do.	do.	do.	—	585.10
do.	do.	do.	—	288.20
74-67A	A. Vignault	Natashquan	—	169.25
do.	do.	do.	—	260.90
do.	do.	do.	7	90.70
do.	do.	do.	—	161.26
FISHERY OVERSEERS.				
40-67, 68-67	N. Vignault	Natashquan	—	163.25
68-67, 69-67	R. Rogers	St. Augustine	—	450.00
NOTE.—Refunds were made in 1917 on account of advances by the Indians at the following places:—				
				\$
Moisie				88.00
St. Augustine				302.35
Romaine				158.05
Natashquan				109.02
RELIEF.				
74-3B	Rev. J.M. Briere	Bersimis	—	13.02
do.	do.	do.	—	13.20
do.	do.	do.	—	18.00
do.	do.	do.	—	8.10

do.	do.	do.	—	4.00
do.	Hudson's Bay Co.	do.	2	19.50
do.	do.	do.	3	26.45
do.	do.	do.	1	6.00
do.	do.	do.	3	6.15
do.	do.	do.	—	3.80
do.	do.	do.	1	7.50
do.	do.	do.	1	25.50
do.	F. Poulin	do.	3	40.00
do.	do.	do.	3	35.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF (cont.)	1917—continued.			\$
74-3B	F. Poulin	Bersimis	1	10.25
do.	do.	do.	2	27.50
do.	do.	do.	—	32.50
do.	do.	do.	4	25.00
do.	do.	do.	7	51.00
do.	P. Cote	do.	3	36.40
do.	do.	do.	2	14.70
do.	do.	do.	3	51.40
do.	do.	do.	3	32.00
do.	do.	do.	3	16.00
do.	do.	do.	3	35.00
do.	J. F. X. Bosse	do.	3	9.78
do.	C. Belanger	Escoumains	2	22.00
do.	do.	do.	—	23.50
do.	do.	do.	2	11.00
do.	do.	do.	3	28.50
do.	do.	do.	3	30.00
do.	do.	do.	3	17.50
do.	do.	do.	2	23.50
do.	N. A. Campeau	Godbout	1	6.75
74-41B	Hudson's Bay Co.	Mingan	18	115.23
do.	do.	do.	24	368.57
do.	do.	do.	18	101.63
do.	do.	do.	21	105.55
do.	do.	do.	16	153.57
do.	do.	do.	13	122.42
do.	do.	do.	15	198.31
do.	do.	do.	26	208.76
do.	do.	do.	23	247.82
do.	do.	do.	10	104.62
do.	do.	do.	5	47.14
do.	J. H. Boudreau	Esquimaux Point	—	8.40
do.	do.	do.	—	8.05
do.	C. Beaudin	River St John	—	7.10
143423-1Ty	Hudson's Bay Co.	Fort Chimo	166	823.23
do.	do.	do.	162	882.15
do.	Bevillon Freres	Ungava	49	213.48
do.	do.	North West River	8	145.57

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1917—continued.</i>				\$
RELIEF —(<i>cont.</i>)				
74-3B	F. Poulin	Bersimis	1	10.25
do.	do.	do.	2	27.50
do.	do.	do.	—	32.50
do.	do.	do.	4	25.00
do.	do.	do.	7	51.00
do.	P. Cote	do.	3	36.40
do.	do.	do.	2	14.70
do.	do.	do.	3	51.40
do.	do.	do.	3	32.00
do.	do.	do.	3	16.00
do.	do.	do.	3	36.00
do.	J.F.X. Bosse	do.	3	9.78
do.	C. Belanger	Escoumains	2	22.00
do.	do.	do.	—	23.50
do.	do.	do.	2	11.00
do.	do.	do.	3	28.50
do.	do.	do.	3	30.00
do.	do.	do.	3	17.50
do.	do.	do.	2	23.50
do.	N.A. Compeau	Godbout	1	6.75
74-41B	Hudson's Bay Co.	Mingan	18	115.23
do.	do.	do.	24	368.57
do.	do.	do.	18	101.63
do.	do.	do.	21	105.55

do.	do.	do.	16	153.57
do.	do.	do.	13	122.42
do.	do.	do.	15	198.31
do.	do.	do.	26	208.76
do.	do.	do.	23	247.82
do.	do.	do.	10	104.62
do.	do.	do.	5	47.14
do.	J.H. Boudreau	Esquimaux Point	—	8.40
do.	do.	do.	—	8.05
do.	C. Beaudin	River St. John	—	7.10
143423-1Ty	Hudson's Bay Co.	Fort Chimo	166	823.23
do.	do.	do.	162	882.23
do.	Revillon Freres	Ungava	49	213.48
do.	do.	North West River	8	145.57

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Name of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)	1917—continued.			\$
143423-1Ty	Hudson's Bay Co.	Georges River	—	143.90
74-67A	M. Blais	Romaine	7	232.35
do.	Hudson's Bay Co.	do.	30	847.12
do.	do.	St Augustine	2	38.75
do.	do.	do.	29	539.93
do.	do.	do.	2	40.17
do.	do.	do.	5	104.05
74-67A	do.	do.	—	3.00
do.	do.	do.	49	374.49
do.	do.	Mingan	7	31.38
74-67A	A. Vignault	Natashquan	7	154.90
do.	do.	do.	—	14.15
do.	do.	do.	1	10.00
do.	do.	do.	1	15.28
do.	do.	do.	4	74.90
do.	do.	do.	—	27.70
74-67A	R. Joncas	do.	2	30.33
do.	do.	do.	2	40.17
do.	do.	do.	2	37.40
do.	do.	do.	9	148.30
74-68C	W. Levesque	Moisie	7	141.50
do.	do.	do.	7	273.52
do.	do.	do.	2	76.76
do.	do.	do.	1	33.54
do.	do.	do.	5	170.89
do.	do.	do.	5	207.25
do.	do.	do.	2	22.00
74-68B	do.	do.	1	36.20
do.	do.	do.	4	144.37
do.	do.	do.	3	99.03
do.	do.	do.	1	40.24
do.	do.	do.	1	36.25
74-68C	E. Beaudreault	do.	6	224.58
do.	do.	do.	5	125.06
do.	do.	do.	4	164.80
74-68B	do.	do.	13	144.80
do.	do.	do.	4	148.44
74-68C	A. St. Louis	do.	3	78.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1917—continued.</i>				\$
RELIEF —(cont.)				
143423-1Ty	Hudson's Bay Co.	Georges River	—	143.90
74-67A	M. Blais	Romaine	7	232.35
do.	Hudson's Bay Co.	do.	30	847.12
do.	do.	St. Augustine	2	38.75
do.	do.	do.	29	539.93
do.	do.	do.	2	40.17
do.	do.	do.	5	104.05
74-67A	do.	do.	—	3.00
do.	do.	do.	49	374.49
do.	do.	Mingan	7	31.38
74-67A	A. Vignault	Natashquan	7	154.90
do.	do.	do.	—	14.15
do.	do.	do.	1	10.00
do.	do.	do.	1	15.28
do.	do.	do.	4	74.90
do.	do.	do.	—	27.70
74-67A	R. Joncas	do.	2	30.33
do.	do.	do.	2	40.17
do.	do.	do.	2	37.40
do.	do.	do.	9	148.30
74-68C	W. Levesque	Moisie	7	141.50
do.	do.	do.	7	273.52
do.	do.	do.	2	76.76
do.	do.	do.	1	33.54

do.	do.	do.	5	170.89
do.	do.	do.	5	207.25
do.	do.	do.	2	22.00
74-68B	do.	do.	1	36.20
do.	do.	do.	4	144.37
do.	do.	do.	3	99.03
do.	do.	do.	1	40.24
do.	do.	do.	1	36.25
74-68C	E. Beaudreault	do.	6	224.58
do.	do.	do.	5	125.06
do.	do.	do.	4	164.80
74-68B	do.	do.	13	144.80
do.	do.	do.	4	148.44
74-68C	A. St. Louis	do.	3	78.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	1917—continued.			\$
RELIEF—(cont.)				
74-68C	A. St. Louis	Moisie	4	10.00
74-68B	do.	do.	7	46.00
74-68C	Hudson's Bay Co.	Seven Islands	2	20.00
do.	V. Berube Est.	do.	2	51.66
do.	do.	do.	3	91.85
do.	do.	do.	1	31.38
do.	do.	do.	1	32.28
do.	do.	do.	1	32.33
do.	do.	do.	2	39.19
do.	do.	do.	1	34.29
do.	do.	do.	4	37.58
do.	do.	do.	4	126.12
74-68B	do.	do.	1	36.20
do.	do.	do.	3	113.25
do.	D. A. Vignault	do.	3	59.68
do.	do.	do.	4	136.72
do.	do.	do.	1	59.05
do.	do.	do.	4	69.11
do.	do.	do.	5	156.58
74-68C	do.	do.	1	32.33
do.	do.	do.	5	102.69
do.	do.	do.	3	81.87
do.	do.	do.	4	81.20
do.	do.	do.	4	158.07
do.	A. Bois	do.	6	45.50
do.	do.	do.	5	78.00
74-68B	do.	do.	5	91.00
do.	do.	do.	6	123.50
74-68C	P. Arsenault	Seven Islands	2	26.00
74-68B	do.	do.	3	63.00
do.	do.	do.	4	43.00
do.	M. E. Plourde	do.	—	26.35
74-68C	do.	do.	—	27.90
do.	do.	do.	—	28.21
do.	do.	do.	—	43.24
do.	C. A. MacDougal	do.	—	21.00
96-3	N. A. Comeau	Godbout	—	10.00
74-67A	T. Green	Mutton Bay	—	11.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1917—continued.</i>				\$
RELIEF —(cont.)				
74-68C	A. St. Louis	Moisie	4	90.00
74-68B	do.	do.	7	46.00
74-68C	Hudson's Bay Co.	Seven Islands	2	20.00
do.	V. Berube Est.	do.	2	51.66
do.	do.	do.	3	91.85
do.	do.	do.	1	31.38
do.	do.	do.	1	32.28
do.	do.	do.	1	32.33
do.	do.	do.	2	39.19
do.	do.	do.	1	34.29
do.	do.	do.	4	37.58
do.	do.	do.	4	126.12
74-68B	do.	do.	1	36.20
do.	do.	do.	3	113.25
do.	D.A. Vignault	do.	3	59.68
do.	do.	do.	4	136.72
do.	do.	do.	1	29.05
do.	do.	do.	4	69.11
do.	do.	do.	5	156.58
74-68C	do.	do.	1	32.33
do.	do.	do.	5	102.69
do.	do.	do.	3	81.87
do.	do.	do.	4	81.20
do.	do.	do.	4	158.07

do.	A. Bois	do.	6	45.50
do.	do.	do.	5	78.00
74-68B	do.	do.	5	91.00
do.	do.	do.	6	123.50
74-68C	P. Arsenault	Seven Islands	2	26.00
74-68B	do.	do.	3	63.00
do.	do.	do.	4	43.00
do.	M.E. Plourde	do.	—	26.35
74-68C	do.	do.	—	27.90
do.	do.	do.	—	28.21
do.	do.	do.	—	43.24
do.	C.A. MacDougal	do.	—	21.00
99-3	N.A. Comeau	Godbout	—	10.00
74-67A	T. Green	Mutton Bay	—	11.00

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Name of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				
1917—continued.				\$
74-67A	A. Jones	Wolf Bay	—	36.70
do.	Rich. White Jr.	Tessiujaksook	9	215.00
do.	W. Forman	Musquaro	49	297.50
do.	do.	do.	5	97.09
do.	J. Gallibois	Point au Maurier	4	22.75
do.	do.	do.	10	213.50
do.	do.	do.	7	246.00
99-67	J. H. West	St Augustine	—	1.44
SALARIES.				
1918				
Agent & Medical Officer.				
68-3	Dr. J. F. X. Bosse	Bersimis	—	1775.00
69-68	Dr. C. A. MacDougal	Seven Islands	—	950.00
69-67	Dr. J. H. West	St. Augustine	—	250.00
Agent, 68-41	F. Doyle	Mingan	—	300.00
do, 68-21	A. Tessier	Pointe Bleue	—	887.50
Medical Officer.				
68-41	Dr. S. McDuff	Mingan	—	200.00
68-3	Dr. J. Bussieres	Escoumains	—	200.00
68-21	Dr. A. Bouchard	Pointe Bleue	—	200.00
68-21	Dr. J. Constantine	Pointe Bleue	—	650.00
AGENCY EXPENSES, REPAIRS, FUEL, &C.				
44-3	Quebec Coal Co.	Bersimis	—	136.77
44-3	N. A. St Pierre	do.	—	54.30
44-3	J. Poulin	do.	—	15.00
99-3, 67-3	J. F. X. Bosse	do.	—	146.38
67-67	N. Vignault	Natashquan	—	1.87
67-67	J. H. West	St Augustine	—	17.55
99-67	Grenfell Ass'n.	do.	—	6.88
74-67B	Hudson's Bay Co.	do.	—	872.86
67-68	C. A. MacDougal	Seven Islands	—	37.03
21-3	J. F. X. Bosse	Bersimis	—	186.29
21-3	F. Miller	do.	—	12.00
21-3	J. Miller	do.	—	8.23
21-21	L'Economique	Pointe Bleue	—	38.00
21-21	A. Lauriere	do.	—	11.85
21-21	J. B. Paul	do.	—	21.75

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1917—continued.				\$
RELIEF —(cont.)				
74-67A	A. Jones	Wolf Bay	—	36.70
do.	Rich. White Jr.	Tessiujaksook	9	215.00
do.	W. Forman	Musquaro	49	297.50
do.	do.	do.	5	97.09
do.	J. Gallibois	Point au Maurier	4	22.75
do.	do.	do.	10	213.50
do.	do.	do.	7	246.60
99-67	J.H. West	St. Augustine	—	1.44
1918				
SALARIES.				
Agent & Medical Officer, 68—3	Dr. J.F.X. Bosse	Bersimis	—	1775.00
69-68	Dr. C.A. MacDougal	Seven Islands	—	950.00
69-67	Dr. J.H. West	St. Augustine	—	250.00
Agent, 68-41	F. Doyle	Mingan	—	300.00
do.	A. Tessier	Pointe Bleue	—	887.50
Medical Officer, 68-41	Dr. S. McDuff	Mingan	—	200.00
68-3	Dr. J. Bussieres	Escoumains	—	200.00
68-21	Dr. A. Bouchard	Pointe Bleue	—	200.00
68-21	Dr. J. Constantine	Pointe Bleue	—	650.00
AGENCY EXPENSES REPAIRS AND FUEL & C.				
44-3	Quebec Coal	Bersimis	—	136.77

	Co.			
44-3	N.A. St. Pierre	do.	—	54.30
44-3	J. Poulin	do.	—	15.00
99-3, 67-3	J.F.X. Bosse	do.	—	146.38
67-67	N. Vignault	Natashquan	—	1.87
67-67	J.H. West	St. Augustine	—	17.55
99-67	Grenfell Ass'n.	do.	—	6.88
74-67B	Hudson's Bay Co.	do.	—	872.86
67-68	C.A. MacDougal	Seven Islands	—	37.03
21-3	J.F.X. Bosse	Bersimis	—	186.29
21-3	F. Miller	do.	—	12.00
21-3	J. Miller	do.	—	8.23
21-21	L'Economique	Pointe Bleue	—	38.00
21-21	A. Launiere	do.	—	11.85
21-21	J.B. Paul	do.	—	21.75

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1918—continued.				8
TRAVELLING.				
99-21	A. Tessier	Pointe Bleue	—	76.30
99-67	J. H. West	St. Augustine	—	72.70
99-41	F. Doyle	Mingan	—	86.94
50-41	Anticosti Agency	do.	—	42.25
59-41	Gulf St. Lawrence Shipping Co.	do.	—	61.25
LIQUOR PROSECUTION.				
59-3A	J. H. Topping	Escoumains	—	7.46
CONSTABLES.				
68-3	A. Lepage	Bersimis	—	787.50
69-67	P. Vignault	Natashquan	—	300.00
69-68	J. Gamache	Seven Islands	—	90.00
69-68	A. Levesque	Moisie	—	60.00
BURIAL.				
46-68	A. Gamache	Seven Islands	1	14.00
46-68	D. A. Vignault	do.	2	23.30
46-68	P. E. Gallienne	do.	1	13.00
INSANE.				
133394	Prov. Gov't, Que.	Pointe Bleue	1	33.70
56-3	Rev. E. Boly	Bersimis	—	59.10
HOSPITAL & CARE OF SICK.				
93-3A	J. F. X. Bosse	Bersimis	1	3.00
28-3, 50-41	Jeffery Hale Hospital Que.	Mingan	2	35.50
50-68	do.	Seven Islands	1	7.50
50-68	C. A. MacDougal	do.	—	229.65
50-41	F. Doyle	Mingan	—	125.78
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan	—	240.25
93-41	J. E. Livernois	do.	—	31.30

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1918—continued.</i>				\$
TRAVELLING.				
99-21	A. Tessier	Pointe Bleue	—	76.30
99-67	J.H. West	St. Augustine	—	72.70
99-41	F. Doyle	Mingan	—	86.94
50-41	Anticosti Agency	do.	—	42.25
50-41	Gulf St. Lawrence Shipping Co.	do.	—	61.25
LIQUOR PROSECUTION.				
59-3A	J.H. Topping	Escoumains	—	7.46
CONSTALBES.				
68-3	A. Lepage	Bersimis	—	787.50
69-67	P. Vignault	Natashquan	—	300.00
69-68	J. Gamache	Seven Islands	—	90.00
69-68	A. Levesque	Moisie	—	60.00
BURIAL.				
46-68	A. Gamache	Seven Islands	1	14.00
46-68	D.A. Vignault	do.	2	23.30
46-68	P.E. Gallienne	do.	1	13.00
INSANE.				
133394	Prov. Gov't. Que.	Pointe Bleue	1	33.70
56-3	Rev. E. Boily	Bersimis	—	50.10
HOSPITAL & CARE OF SICK.				
93-3A	J.F.X. Bosse	Bersimis	1	3.00
28-3, 50-41	Jeffery Hale Hospital Que.	Mingan	2	35.50
50-68	do.	Seven Islands	1	7.50

50-68	C.A. MacDougal	do.	—	226.65
50-41	F. Doyle	Mingan	—	125.78
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan	—	240.25
93-41	J.E. Livernois	do.	—	31.30

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1918—continued.				8
MEDICAL				
ATTENDANCE (cont.)				
28-68	Dr. C. A. MacDougal	Moisie	—	1340.95
31-3	Corporation	Escoumains	—	39.51
28-61	Dr. H. D. Bassard	Pointe Bleue	—	75.00
28-61	Dr. E. Lemieux	do.	—	25.00
143123-1A	Revilleon Bros.	Fort Chimo	15	96.00
MEDICINES.				
28-41	Dr. S. McDuff	Mingan	—	37.85
31-67	J. Belanger	Natashquan	—	28.00
31-67	do.	Romaine & St Augustine.	—	3.45
31-21	Lyman's Ltd.	Pointe Bleue	—	129.11
31-68	do.	Seven Islands	—	118.71
31-3	do.	Bersimis	—	443.45
31-3	E. Morin & Co.	do.	—	17.30
REPAIRS TO WIDOWS HOUSES.				
55-68	A. Bois	Seven Islands	—	36.00
do.	E. Bois	do.	—	82.50
do.	Terrance & Racine	do.	—	107.69
do.	C. A. MacDougal	do.	—	1.50
do.	F. H. Vignault	do.	—	30.00
do.	W. D. Brown	do.	—	302.37
do.	V. Berube Est.	do.	—	3.06
SEED.				
96-68	C. A. Macdougal	Seven Islands	—	55.00
96-21	G. P. Marcotte	Pointe Bleue	—	96.40
96-3	Rev. E. Boily	Escoumains	—	14.00
96-3	J. Miller	Bersimis	—	59.95
ADVANCE FOR HUNTING.				
469810-1A	M. H. Foley	Seven Islands	1	74.75
74-67A	Hudson's Bay Co.	St Augustine	31	2026.45

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1918—continued.				\$
MEDICAL ATTENDANCE. (cont.)				
28-68	Dr. C.A. MacDougal	Moisie	—	1340.95
31-3	Corporation	Escoumains	—	39.51
28-61	Dr. H.D. Bassard	Pointe Bleue	—	75.00
28-61	Dr. E. Lemieux	do.	—	25.00
143423-1A	Revillon Bros.	Fort Chimo	15	96.00
MEDECINES.				
28-41	Dr. S. McDuff	Mingan	—	37.85
31-67	J. Belanger	Natashquan	—	28.00
31-67	do.	Romaine & St. Augustine	—	3.45
31-21	Lymans Ltd.	Pointe Bleue	—	129.11
31-68	do.	Seven Islands	—	118.71
31-3	do.	Bersimis	—	443.45
31-3	E. Morin & Co.	do.	—	17.30
REPARIS TO WIDOWS HOUSES.				
55-68	A. Bois	Seven Islands	—	36.00
do.	E. Bois	do.	—	82.50
do.	Terrance & Racine	do.	—	107.69
do.	C.A. MacDougal	do.	—	1.50
do.	F.H. Vignault	do.	—	30.00
do.	W.D. Brown	do.	—	302.37

do.	V. Berube Est.	do.	—	3.06
SEED.				
96-68	C.A. MacDougal	Seven Islands	—	55.00
96-21	G.P Marcotte	Pointe Bleue	—	96.40
96-3	Rev. E. Boily	Escoumains	—	14.00
96-3	J. Miller	Bersimis	—	59.95
ADVANCE FOR HUNTING.				
469810-1A	M.H. Foley	Seven Islands	1	74.75
74-67A	Hudson's Bay Co.	St. Augustine	31	2026.45

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1918—continued.				\$
SUPPLIES AND AD- VANCES FOR FISHING.				
469810-1A	M. Holliday	Seven Islands	—	500.00
40-68	M. H. Foley	do.	1	50.28
do.	D. A. Vignault	do.	3	38.36
do.	V. Berube Est.	do.	—	34.35
do.	Hudson's Bay Co. . . .	Romaine and St Augustine.	6	213.20
do.	do.	Romaine	27	552.77
40-41	M. H. Foley	Mingan	—	181.42
do.	C. Maloney	do.	39	78.00
40-67A	A. Vignault	Natashquan	1	105.41
do.	R. Joncas	do.	—	25.00
do.	J. Landry	do.	—	12.00
40-67	R. Joncas	do.	23	415.61
do.	Hudson's Bay Co. . . .	St Augustine	3	366-85
do.	do.	Romaine	14	1947.57
do.	do.	do.	47	2292.54
do.	J. Stubbart	do.	—	65.00
do.	M. Holliday	Moisie	—	25.00
do.	R. Rogers	Mutton Bay	—	21.00
<p>NOTE.—This year the Indians made the following refunds on account of advances for hunting and fishing:—</p> <p style="text-align: center;">\$</p> <p>Refund from Seven Islands . . . 684.26 " " St Augustine . . . 10.00 " " Natashquan . . . 22.00 " " Romaine . . . 640.92</p>				
RELIEF.				
74-68D	Hudson's Bay Co. . . .	St Augustine	—	96.00
74-67A	R. Joncas	Natashquan	3	26.07
do.	do.	do.	7	93.01
do.	do.	do.	10	385.92
do.	A. Vignault	do.	6	63.90
do.	do.	do.	4	81.10
do.	Hudson's Bay Co. . . .	Romaine	2	65.70
do.	J. Gallibois	Point au Maurier . .	—	25.25
74-41B	Anticosti Agency. . . .	Esquimaux Point . .	3	42.25

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1918—continued.</i>				\$
SUPPLIES AND ADVANCES FOR FISHING.				
469810-1A	M. Holliday	Seven Islands	—	500.00
40-68	M.H. Foley	do.	1	50.28
do.	D.A. Vignault	do.	3	38.36
do.	V. Berube Est.	do.	—	34.35
do.	Hudson's Bay Co.	Romaine and St. Augustine	6	213.20
do.	do.	Romaine	27	552.77
40-41	M.H. Foley	Mingan	—	181.42
do.	C. Maloney	do.	39	78.00
40-67A	A. Vignault	Natashquan	1	105.41
do.	R. Joncas	do.	—	25.00
do.	J. Landry	do.	—	12.00
40-67	R. Joncas	do.	23	415.61
do.	Hudson's Bay Co.	St. Augustine	3	366.85
do.	do.	Romaine	14	1947.57
do.	do.	do.	47	2292.54
do.	J. Stubbert	do.	—	65.00
do.	M. Holliday	Moisie	—	25.00
do.	R. Rogers	Mutton Bay	—	21.00
NOTE.—This year the Indians made the following refunds on account of advances for hunting and fishing:—				
Refund from Seven Islands			\$ 684.26	
Refund from St. Augustine			40.00	

	Refund from Natashquan		22.00	
	Refund from	Romaine	640.92	
RELIEF.				
74-68D	Hudson's Bay Co.	St. Augustine	—	96.00
74-67A	R. Joncas	Natashquan	3	26.07
do.	do.	do.	7	93.01
do.	do.	do.	10	385.92
do.	A. Vignault	do.	6	63.90
do.	do.	do.	4	81.10
do.	Hudson's Bay Co.	Romaine	2	65.70
do.	J. Gallibois	Point au Maurier	—	25.25
74-41B	Anticosti Agency	Esquimaux Point	3	42.25

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Name of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1918—continued.				\$
RELIEF—(cont.)				
74-41B	M. H. Foley	Esquimaux Point	1	13.46
do.	J. H. Boudreau	do.	1	14.50
do.	do.	do.	1	23.65
do.	Hudson's Bay Co.	Mingan	9	77.25
do.	do.	do.	7	60.99
do.	do.	do.	7	69.45
do.	do.	do.	10	69.73
do.	do.	do.	9	99.92
do.	do.	do.	6	62.44
do.	do.	do.	4	56.51
do.	do.	do.	5	62.66
do.	do.	do.	32	419.78
do.	do.	do.	16	119.37
do.	do.	do.	14	106.11
do.	do.	do.	11	217.47
do.	C. Maloney	do.	32	74.00
19502-13	Reville Bros.	North West River	2	10.15
143423-1A	do.	Ungava	10	464.91
do.	do.	North West River	2	62.20
do.	do.	Fort Chimo	6	100.00
do.	Hudson's Bay Co.	Stupart's Bay	11	121.61
do.	do.	do.	15	148.88
do.	do.	Fort Chimo	150	817.93
do.	do.	Fort McKenzie and Burgess Landing	—	90.89
do.	do.	Fort Chimo	—	968.63
do.	do.	Port Burwell	—	244.58
do.	Grant, Holden, Graham.	Fort Chimo	—	165.80
do.	Richard White Jr.	Tessujaksook	26	287.75
74-6SD	M. H. Foley	Seven Islands	—	33.23
do.	do.	do.	—	3.00
do.	A. Bois	do.	—	64.00
do.	do.	do.	—	36.00
do.	do.	do.	—	16.00
do.	do.	do.	—	8.00
74-6SC	do.	do.	—	8.00
do.	do.	do.	—	8.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1918—continued.				\$
RELIEF—(cont.)				
74-41B	M.H. Foley	Esquimaux point	1	13.46
do.	J.H. Boudreau	do.	1	14.50
do.	do.	do.	1	23.65
do.	Hudson's Bay Co.	Mingan	9	77.25
do.	do.	do.	7	60.99
do.	do.	do.	7	69.45
do.	do.	do.	10	69.73
do.	do.	do.	9	99.92
do.	do.	do.	6	62.44
do.	do.	do.	4	56.51
do.	do.	do.	5	62.66
do.	do.	do.	32	419.78
do.	do.	do.	16	119.37
do.	do.	do.	14	106.11
do.	do.	do.	11	217.47
do.	C. Maloney	do.	32	74.00
19502-13	Revillon Bros.	North West River	2	10.15
143423-1A	do.	Ungava	10	464.91
do.	do.	North West River	2	62.20
do.	do.	Fort Chimo	6	100.00
do.	Hudson's Bay Co.	Stupart's Bay	11	121.61
do.	do.	do.	15	148.88
do.	do.	Fort Chimo	150	817.93

do.	do.	Fort McKenzie and Burgess Landing	—	90.89
do.	do.	Fort Chimo	—	968.63
do.	do.	Port Burwell	—	244.58
do.	Grant, Holden, Graham	Fort Chimo	—	165.80
do.	Richard White Jr.	Tessiujaksook	26	287.75
74-68D	M.H. Foley	Seven Islands	—	33.23
do.	do.	do.	—	3.00
do.	A. Bois	do.	—	64.00
do.	do.	do.	—	36.00
do.	do.	do.	—	16.00
do.	do.	do.	—	8.00
74-68C	do.	do.	—	8.00
do.	do.	do.	—	8.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)	1918—continued.			\$
74-68C	A. Bois	Seven Islands	—	63.00
do.	do.	do.	2	136.00
do.	do.	do.	4	96.00
74-68D	D. A. Vignault	do.	—	90.63
do.	do.	do.	—	79.66
do.	do.	do.	—	4.59
do.	do.	do.	—	37.25
do.	do.	do.	4	120.84
do.	do.	do.	—	9.90
do.	do.	do.	—	9.40
do.	do.	do.	—	9.05
74-68C	do.	do.	—	9.50
do.	do.	do.	—	9.58
do.	do.	do.	2	65.74
do.	do.	do.	2	65.74
do.	do.	do.	6	197.22
do.	do.	do.	—	9.98
do.	do.	do.	—	46.02
do.	do.	do.	—	66.84
do.	do.	do.	2	40.05
do.	do.	do.	3	101.16
do.	do.	do.	4	34.50
do.	do.	do.	1	34.12
do.	do.	do.	3	98.76
do.	do.	do.	—	34.90
74-68D	M. E. Plourde	do.	—	56.20
74-68C	do.	do.	—	46.50
do.	do.	do.	—	41.61
do.	do.	do.	—	43.24
do.	V. Berube Est.	do.	—	32.42
do.	do.	do.	—	18.13
do.	do.	do.	2	65.52
do.	do.	do.	2	71.40
do.	do.	do.	2	63.32
do.	do.	do.	2	65.56
do.	do.	do.	2	69.83
do.	P. Arsenaux	do.	—	27.75
do.	do.	do.	—	12.00
do.	C. A. MacDougal	do.	—	30.75

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1918—continued.				\$
RELIEF —(cont.)				
74-68C	A. Bois	Seven Islands	—	63.00
do.	do.	do.	2	136.00
do.	do.	do.	4	96.00
74-68D	D.A. Vignault	do.	—	90.63
do.	do.	do.	—	79.66
do.	do.	do.	—	4.59
do.	do.	do.	—	37.25
do.	do.	do.	4	120.84
do.	do.	do.	—	9.90
do.	do.	do.	—	9.40
do.	do.	do.	—	9.05
74-68C	do.	do.	—	9.50
do.	do.	do.	—	9.58
do.	do.	do.	2	65.74
do.	do.	do.	2	65.74
do.	do.	do.	6	197.22
do.	do.	do.	—	9.98
do.	do.	do.	—	46.02
do.	do.	do.	—	66.84
do.	do.	do.	2	40.05
do.	do.	do.	3	101.16
do.	do.	do.	4	34.50
do.	do.	do.	1	34.12
do.	do.	do.	3	98.76
do.	do.	do.	—	34.90

74-68D	M.E. Plourde	do.	—	56.20
74-68C	do.	do.	—	46.50
do.	do.	do.	—	41.61
do.	do.	do.	—	43.24
do.	V. Berube Est.	do.	—	32.42
do.	do.	do.	—	18.13
do.	do.	do.	2	65.52
do.	do.	do.	2	71.40
do.	do.	do.	2	63.32
do.	do.	do.	2	65.56
do.	do.	do.	2	69.83
do.	P. Arsenault	do.	—	27.75
do.	do.	do.	—	12.00
do.	C.A. MacDougal	do.	—	30.75

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount. \$
RELIEF—(cont.)				
1918—continued.				
74-68C	C. A. MacDougal	Seven Islands	—	10.00
do.	P. E. Gallienne	do.	3	63.98
74-68D	W. Levesque	Moisie	10	354.70
do.	do.	do.	10	356.39
do.	do.	do.	10	353.50
74-68C	do.	do.	4	43.68
do.	do.	do.	18	638.10
do.	do.	do.	5	67.00
do.	do.	do.	1	34.12
do.	do.	do.	3	80.78
do.	do.	do.	9	315.24
do.	do.	do.	—	68.24
do.	do.	do.	6	200.87
do.	E. Boudrault	do.	5	163.48
do.	do.	do.	5	178.23
do.	A. St Louis	do.	3	60.00
do.	do.	do.	3	72.00
93-3A	Mrs. J. Miller	Bersimis	—	.95
74-3B	P. Cote	do.	14	46.00
do.	do.	do.	7	127.50
do.	do.	do.	5	56.85
do.	F. Poulin	do.	3	32.00
do.	do.	do.	4	54.00
do.	do.	do.	4	34.38
do.	Hudson's Bay Co.	do.	3	24.50
do.	do.	do.	3	31.50
do.	do.	do.	3	42.00
do.	Rev. J. M. Briere	do.	—	4.50
do.	Saguenay Lumber Co.	do.	2	22.00
do.	do.	Escoumains	—	35.67
do.	do.	do.	—	25.00
74-67B	Hudson's Bay Co.	St Augustine	30	829.68
do.	do.	Romaine	35	693.21
do.	W. Forman	Musquaro	62	617.07
do.	do.	do.	9	210.99
do.	do.	do.	1	47.95
do.	R. Joncas	Natashquan	3	13.65
do.	do.	do.	—	286.44
do.	A. Vignault	do.	—	130.24
do.	J. Gallibois	Point au Maurier	31	11.50

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1918—continued.				\$
RELIEF —(cont.)				
74-68C	C.A. MacDougal	Seven Islands	—	10.00
do.	P.E. Gallienne	do.	3	63.98
74-68D	W. Levesque	Moisie	10	354.70
do.	do.	do.	10	356.39
do.	do.	do.	10	353.50
74-68C	do.	do.	4	43.68
do.	do.	do.	18	638.10
do.	do.	do.	5	67.00
do.	do.	do.	1	34.12
do.	do.	do.	3	80.78
do.	do.	do.	9	315.24
do.	do.	do.	—	68.24
do.	do.	do.	6	200.87
do.	E. Boudrault	do.	5	163.48
do.	do.	do.	5	178.23
do.	A. St. Louis	do.	3	60.00
do.	do.	do.	3	72.00
93-3A	Mrs. J. Miller	Bersimis	—	.95
74-3B	P. Cote	do.	14	46.00
do.	do.	do.	7	127.50
do.	do.	do.	5	56.85
do.	F. Poulin	do.	3	32.00
do.	do.	do.	4	54.00
do.	do.	do.	4	34.38
do.	Hudson's Bay	do.	3	24.50

	Co.			
do.	do.	do.	3	31.50
do.	do.	do.	3	42.00
do.	Rev. J.M. Briere	do.	—	4.50
do.	Saguenay Lumber Co.	do.	2	22.00
do.	do.	Escoumains	—	35.67
do.	do.	do.	—	25.00
74-67B	Hudson's Bay Co.	St. Augustine	30	829.68
do.	do.	Romaine	35	693.21
do.	W. Forman	Musquaro	62	617.07
do.	do.	do.	9	210.99
do.	do.	do.	1	47.95
do.	R. Joncas	Natashquan	3	13.65
do.	do.	do.	—	286.44
do.	A. Vignault	do.	—	130.24
do.	J. Gallibois	Point au Maurier	31	11.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1919				\$
SALARIES.				
Agent and Medical Officer.				
68-3	Dr. J. F. X. Bosse	Bersimis	—	1440.84
68-3	Dr. D. V. Desrosiers	do.	—	282.10
69-68	Dr. C. A. MacDougal	Seven Islands	—	950.00
Agent.				
68-3	A. Maloney	Bersimis	—	25.00
68-41	F. Doyle	Mingan	—	300.00
68-21	A. Tessier	Pointe Bleue	—	1077.50
Medical Officer.				
68-3	Dr. J. Bussieres	Escoumains	—	112.50
68-41	Dr. S. McDuff	Mingan	—	200.00
9-21, 68-21	Dr. A. Bouchard	Chicoutimi	—	200.00
68-21	Dr. J. Constantine	Pointe Bleue	—	650.00
Interpreter.				
68-3	G. Rock	Bersimis	—	45.00
AGENCY EXPENSES, REPAIRS, FUEL, &C.				
21-3	A. A. Portugais	Bersimis	—	13.00
67-3, 21-3	J. F. X. Bosse	do.	—	48.39
67-67, 40-67A	N. Vignault	Natashquan	—	19.14
67-68	C. A. MacDougal	Seven Islands	—	65.37
TRAVELLING.				
99-3	D. V. Desrosiers	Bersimis	—	28.95
99-3	J. F. X. Bosse	do.	—	172.55
93-41	J. Vibert	Mingan	—	10.00
99-41	F. Doyle	do.	—	229.37
99-68	Hotel Victoria, Que.	Seven Islands	—	46.75
HOSPITAL.				
28-3	J. F. X. Bosse	Bersimis	—	16.00
50-3	do.	do.	—	25.00
50-3	do.	Escoumains	—	15.00
50-3	Jeffery Hale Hospital, Que.	do.	1	9.00
50-3	do.	Bersimis	1	27.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	1919			\$
SALARIES.				
Agent and Medical Officer, 68-3	Dr. J.F.X. Bosse	Bersimis	—	1440.84
68-3	Dr. D.V. Desrosiers	do.	—	282.10
69-68	Dr. C.A. MacDougal	Seven Islands	—	950.00
Agent, 68-3	A. Maloney	Bersimis	—	25.00
68-41	F. Doyle	Mingan	—	300.00
68-21	A. Tessier	Pointe Bleue	—	1077.50
Medical Officer, 68-3	Dr. J. Bussieres	Escoumains	—	112.50
68-41	Dr. S. McDuff	Mingan	—	200.00
9-21, 68-21	Dr. A. Bouchard	Chicoutimi	—	200.00
68-21	Dr. J. Constantine	Pointe Bleue	—	650.00
Interpreter, 68-3	G. Rock	Bersimis	—	45.00
AGENCY EXPENSES				
REPAIRS AND FUEL & C.				
21-3	A.A. Portugais	Bersimis	—	13.00
67-3, 21-3	J.F.X. Bosse	do.	—	48.39
67-67,40-67A	N. Vignault	Natashquan	—	19.14
67-68	C.A. MacDougal	Seven Islands	—	65.37
TRAVELLING.				
99-3	D.V. Desrosiers	Bersimis	—	28.95
99-3	J.F.X. Bosse	do.	—	172.55
93-41	J. Vibert	Mingan	—	10.00
99-41	F. Doyle	do.	—	229.37
99-68	Hotel Victoria, Que	Seven Islands	—	46.75
HOSPITAL.				

28-3	J.F.X. Bosse	Bersimis	—	16.00
50-3	do.	do.	—	25.00
50-3	do.	Escoumains	—	15.00
50-3	Jeffery Hale Hospital, Que.	do.	1	9.00
50-3	do.	Bersimis	1	27.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1919—continued.				8
HOSPITAL—(cont.)				
50-68	Hospital St Luc . . .	Seven Islands . . .	1	6.00
50-68	C. A. MacDougal . . .	do.	1	202.80
SCHOOL				
46-41	Labrador Co.	Mingan	1	2.60
46-41	C. Maloney	do.	1	5.00
ISSUES				
50-21	A. Tessier	Pointe Bleue . . .	2	98.83
133394	Prov. Gov't, Que. . .	do.	—	28.49
do.	do.	Escoumains . . .	—	25.75
56-68	W. Robichaud	Seven Islands . . .	1	30.00
CONSTABLES				
68-7	A. Lepage	Bersimis	—	850.00
6	J. Gamache	Seven Islands . . .	—	90.00
69-68	W. Levesque	Moisie	—	60.00
MEDICINES AND VACCINE				
93-67	A. Vignault	Natashquan . . .	—	3.75
93-68	C. A. MacDougal . . .	Seven Islands . . .	—	3.60
93-68	Lymans Ltd.	do.	—	36.22
31-68	do.	do.	—	148.76
31-68	C. A. MacDougal . . .	do.	—	20.00
93-3A	Lymans Ltd.	Bersimis	—	18.15
31-3	do.	do.	—	34.60
31-3	J. Miller	do.	—	12.75
MEDICAL ATTENDANCE				
28-41	Dr. S. McDuff	Mingan	—	146.50
28-68	Dr. C. A. MacDougal .	Moisie	—	650.00
VACCINATION				
93-21	Dr. J. Constantine . .	Pointe Bleue . . .	233	192.75
93-68	Dr. C. A. MacDougal .	Seven Islands . . .	—	156.75
93-68	do.	do.	258	193.50
93-3A	Dr. J. F. X. Bosse . .	Bersimis	405	202.50

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	<i>1919—continued.</i>			\$
HOSPITAL —(cont.)				
50-68	Hospital St. Luc	Seven Islands	1	6.00
50-68	C.A. MacDougal	do.	1	202.80
BURIAL.				
46-41	Labrador Co.	Mingan	1	2.60
46-41	C. Maloney	do.	1	5.00
INSANE.				
56-1	A. Tessier	Pointe Bleue	2	98.83
133394	Prov. Gov't. Que.	do.	—	28.49
do.	do.	Escoumains	—	25.75
56-68	W. Robichaud	Seven Islands	1	30.00
CONSTALBES.				
68-3	A. Lepage	Bersimis	—	850.00
68-86	J. Gamache	Seven Islands	—	90.00
69-68	W. Levesque	Moisie	—	60.00
MEDICINES AND VACCINE.				
93-67	A. Vignault	Natashquan	—	3.75
93-68	C.A. MacDougal	Seven Islands	—	3.60
93-68	Lymans Ltd.	do.	—	36.22
31-68	do.	do.	—	148.76
31-68	C.A. MacDougal	do.	—	20.00
93-3A	Lymans Ltd.	Bersimis	—	18.15
31-3	do.	do.	—	34.60

31-3	J. Miller	do.	—	12.75
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan	—	146.50
28-68	Dr. C.A. MacDougal	Moisie	—	650.00
VACCINATION.				
93-21	Dr. J. Constantine	Pointe Bleue	233	192.75
93-68	Dr. C.A. MacDougal	Seven Islands	—	156.75
93-68	do.	do.	258	193.50
93-3A	Dr. J.F.X. Bosse	Bersimis	405	202.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1919—continued.				\$
SEED.				
96-3	Rev. E. Boily	Escoumains	—	9.30
96-3	C. Belanger	do.	6	55.17
96-3	J. Miller	Bersimis	—	20.25
74-68D	J. E. Heppell	Seven Islands	—	57.20
AGRICULTURAL IMPLEMENTS.				
96-67	C. A. MacDougal . . .	Seven Islands	—	9.50
53-68	D. A. Vignault	do.	—	8.00
REPAIRS TO WIDOWS HOUSES.				
74-68D	W. Doyle	Seven Islands	—	14.35
55-68	A. Gamache	do.	—	72.00
do.	P. H. Vignault	do.	—	147.30
do.	W. Doyle	do.	—	37.36
do.	C. A. MacDougal . . .	do.	—	59.00
SUPPLIES FOR FISHING AND HUNTING.				
74-67B	Hudson's Bay Co. . . .	St Augustine	3	203.25
do.	do.	do.	22	960.55
do.	do.	do.	11	480.50
do.	do.	do.	10	199.55
do.	do.	do.	10	1120.35
do.	do.	do.	—	61.70
40-41	P. Vignault	Natashquan	—	12.00
do.	do.	do.	—	19.40
40-67A	do.	do.	8	95.00
do.	do.	do.	7	100.80
do.	R. Joncas	do.	11	95.08
do.	do.	do.	6	68.03
do.	Hudson's Bay Co. . . .	Romaine	—	59.48
74-41B	do.	do.	38	996.23
40-41	T. Maloney	Mingan	—	25.00
do.	C. Toby	do.	—	37.50
do.	J. Vibert	Esquimaux Point . . .	—	53.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1919—continued.</i>				\$
SEED.				
96-3	Rev. E. Boily	Escoumains	—	9.30
96-3	C. Belanger	do.	6	55.17
96-3	J. Miller	Bersimis	—	20.25
74-68D	J.E. Heppell	Seven Islands	—	57.20
AGRICULTURAL IMPLEMENTS.				
96-67	C.A. MacDougal	Seven Islands	—	9.50
53-68	D.A. Vignault	do.	—	8.00
REPARIS TO WIDOWS HOUSES.				
74-68D	W. Doyle	Seven Islands	—	14.35
55-68	A. Gamache	do.	—	72.00
do.	P.H. Vignault	do.	—	147.30
do.	W. Doyle	do.	—	37.36
do.	C.A. MacDougal	do.	—	59.00
SUPPLIES FOR FISHING AND HUNTING.				
74-67B	Hudson's Bay Co.	St. Augustine	3	203.25
do.	do.	do.	22	960.55
do.	do.	do.	11	480.50
do.	do.	do.	10	199.55
do.	do.	do.	10	1120.35
do.	do.	do.	—	61.70
40-41	P. Vignault	Natashquan	—	12.00
do.	do.	do.	—	19.40

40-67A	do.	do.	8	95.00	
	do.	do.	7	100.80	
	do.	R. Joncas	11	95.08	
	do.	do.	6	68.03	
	do.	Hudson's Bay Co.	—	59.48	
74-41B	do.	do.	38	996.23	
40-41		T. Maloney	Mingan	—	25.00
	do.	C. Toby	do.	—	37.50
	do.	J. Vibert	Esquimaux Point	—	53.00

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Name of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1919—continued.				8
EXPENSES FOR FISHING AND HUNTING—				
<i>(cont.)</i>				
40-3A	W. D. Brown	Bersimis	—	1460.71
do.	Pruneau & Cie	do.	—	28.00
do.	M. Delaire	do.	—	300.00
do.	H. P. Nightingale	do.	—	2010.00
74-68D	D. A. Vignault	Seven Islands	1	30.14
PROVISION OF FISHERIES.				
69-67, 40-67A	N. Vignault	Natashquan, St Augustine and Romaine.	—	514.00
NOTE.—Refunds on account of advances were made by Indians of Seven Islands \$390.70 and St Augustine \$897.00.				
RELIEF				
14-1A	Hudson's Bay Co.	Fort Chimo	114	1240.42
do.	do.	do.	42	1168.00
do.	Revillon Freres	North West River	2	13.25
do.	do.	do.	2	58.55
74-71	do.	do.	42	543.90
do.	do.	do.	8	78.55
143423-1A	do.	Ungava	9	573.30
74-71	Hudson's Bay Co.	Port Burwell	39	311.76
74-67B	W. Forman	Musquaro	—	387.75
do.	do.	do.	4	38.55
do.	do.	do.	2	11.50
do.	do.	do.	18	146.40
do.	do.	do.	2	33.75
do.	do.	do.	2	49.90
do.	H. Jeness	do.	3	50.40
do.	do.	do.	4	258.00
do.	do.	do.	5	94.50
do.	J. Belanger	Natashquan	—	24.20
do.	do.	do.	2	57.80
do.	A. Vignault	do.	5	53.70
do.	do.	do.	3	93.20
do.	do.	do.	2	47.02

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1919—continued.				\$
SUPPLIES FOR FISHING AND HUNTING (cont.)				
40-3A	W.D. Brown	Bersimis	—	1460.71
do.	Pruneau & Cie	do.	—	28.00
do.	M. Delaire	do.	—	300.00
do.	H.P. Nightingale	do.	—	2010.00
74-68D	D.A. Vignault	Seven Islands	1	30.14
SUPERVISION OF FISHERIES.				
69-67, 40-67A	N. Vignault	Natashquan, St. Augustine and Romaine	—	514.00
NOTE.—Refunds on account of advances were made by Indians of Seven Islands \$390.70 and St. Augustine \$897.00.				
RELIEF.				
143423-1A	Hudson's Bay Co.	Fort Chimo	114	1260.42
do.	do.	do.	42	1168.00
do.	Revillon Freres	North West River	2	13.25
do.	do.	do.	2	58.55
74-71	do.	do.	42	543.90
do.	do.	do.	8	78.55
143423-1A	do.	Ungava	9	573.30
74-71	Hudson's Bay Co.	Port Burwell	39	311.76
74-67B	W. Forman	Musquaro	—	387.75

do.	do.	do.	4	38.55
do.	do.	do.	2	11.50
do.	do.	do.	18	146.40
do.	do.	do.	2	33.75
do.	do.	do.	2	49.90
do.	H. Jeness	do.	3	50.40
do.	do.	do.	4	258.00
do.	do.	do.	5	94.50
do.	J. Belanger	Natashquan	—	24.20
do.	do.	do.	2	57.80
do.	A. Vignault	do.	5	53.70
do.	do.	do.	3	93.20
do.	do.	do.	2	47.02

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)	1919—continued,			\$
74-67B	A. Vignault	Natashquan	4	46.81
do.	do.	do.	6	67.35
do.	do.	do.	12	265.85
do.	R. Joncas	do.	25	176.48
do.	do.	do.	8	188.55
do.	do.	do.	12	104.36
do.	do.	do.	9	48.47
do.	P. Vignault	do.	3	20.00
do.	G. Jones	Romaine	3	42.05
do.	Hudson's Bay Co.	St Augustine	15	337.70
do.	do.	do.	12	288.75
do.	do.	do.	48	1096.70
do.	W. Forman	Natashquan, Romaine and St Augustine.	45	386.80
74-71	Richard White Jr.	Tessujaksoak	31	114.10
93-68	M. E. Plourde	Seven Islands	—	71.16
do.	do.	do.	—	45.76
do.	do.	do.	—	55.93
do.	W. Levesque	Moisie	—	35.47
74-68D	do.	do.	—	95.05
do.	do.	do.	7	392.23
do.	do.	do.	10	359.60
do.	do.	do.	—	287.68
do.	do.	do.	—	35.47
do.	do.	do.	9	336.42
do.	do.	do.	1	35.47
do.	do.	do.	9	224.75
do.	do.	do.	9	319.23
do.	do.	do.	10	354.70
do.	do.	do.	8	290.02
do.	E. Mercier	do.	—	44.00
do.	do.	do.	—	44.00
do.	do.	do.	—	44.00
do.	A. St Louis	do.	—	44.00
do.	D. A. Vignault	Seven Islands	—	14.40
do.	do.	do.	—	63.164
do.	do.	do.	—	18.46

Nature of Expenditure and File No.	Payee.	Location of Indian.	No. of Indians.	Amount.
1919—continued.				\$
RELIEF —(cont.)				
74-67B	A. Vignault	Natashquan	4	46.81
do.	do.	do.	6	67.35
do.	do.	do.	12	265.85
do.	R. Joncas	do.	25	176.48
do.	do.	do.	8	188.55
do.	do.	do.	12	104.36
do.	do.	do.	9	48.47
do.	P. Vignault	do.	3	20.00
do.	G. Jones	Romaine	3	42.05
do.	Hudson's Bay Co.	St. Augustine	15	337.70
do.	do.	do.	12	288.75
do.	do.	do.	48	1096.70
do.	W. Forman	Natashquan, Romaine and St. Augustine	45	386.80
74-71	Richard White Jr.	Tessiuaksoak	31	114.10
93-68	M.E. Plourde	Seven Islands	—	71.16
do.	do.	do.	—	45.76
do.	do.	do.	—	55.93
do.	W. Levesque	Moisie	—	35.47
74-68D	do.	do.	—	95.05
do.	do.	do.	7	392.23
do.	do.	do.	10	359.60
do.	do.	do.	—	287.68

do.	do.	do.	—	35.47
do.	do.	do.	9	336.42
do.	do.	do.	1	35.47
do.	do.	do.	9	224.75
do.	do.	do.	9	319.23
do.	do.	do.	10	354.70
do.	do.	do.	8	290.02
do.	E. Mercier	do.	—	44.00
do.	do.	do.	—	44.00
do.	do.	do.	—	44.00
do.	A. St. Louis	do.	—	44.00
do.	D.A. Vignault	Seven Islands	—	14.40
do.	do.	do.	—	63.16
do.	do.	do.	—	18.46

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				\$
1919—continued.				
74-6SD	D. A. Vignault	Seven Islands	4	173.46
do.	do.	do.	—	9.95
do.	do.	do.	—	9.80
do.	do.	do.	—	43.73
do.	P. H. Abraham	do.	—	33.99
do.	do.	do.	3	84.41
do.	do.	do.	—	32.64
do.	do.	do.	—	151.95
do.	do.	do.	—	9.93
do.	do.	do.	—	70.94
do.	do.	do.	—	80.30
do.	do.	do.	3	106.05
do.	do.	do.	—	9.89
do.	A. Bois	do.	—	80.00
do.	do.	do.	—	45.00
do.	do.	do.	—	24.00
do.	do.	do.	—	32.00
do.	do.	do.	—	48.00
do.	do.	do.	—	64.00
do.	do.	do.	—	48.00
do.	do.	do.	—	64.00
do.	do.	do.	—	64.00
do.	M. E. Plourde	do.	—	76.34
do.	C. A. MacDougal	do.	—	40.00
do.	do.	do.	—	40.00
do.	do.	do.	—	24.00
do.	do.	do.	—	12.50
do.	do.	do.	—	12.00
do.	do.	do.	—	48.47
74-11B	P. E. Gallienne	do.	—	18.16
do.	J. H. Boudreau	Esquimaux Point	—	18.16
do.	C. X. Foley	Mingan	7	175.21
do.	J. H. Brodreau	do.	5	90.24
do.	do.	do.	2	32.28
do.	do.	do.	3	36.20
do.	do.	do.	1	23.00
do.	C. Vibert	do.	1	20.00
do.	J. Madelene	do.	1	20.00
do.	G. Maloney	do.	5	30.75
do.	Hudson's Bay Co.	do.	13	89.50

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1919—continued.				\$
RELIEF —(cont.)				
74-68D	D.A. Vignault	Seven Islands	4	173.46
do.	do.	do.	—	9.95
do.	do.	do.	—	9.80
do.	do.	do.	—	43.73
do.	P.H. Abraham	do.	—	33.99
do.	do.	do.	3	84.41
do.	do.	do.	—	32.64
do.	do.	do.	—	151.95
do.	do.	do.	—	9.93
do.	do.	do.	—	70.94
do.	do.	do.	—	80.30
do.	do.	do.	3	106.05
do.	do.	do.	—	9.89
do.	A. Bois	do.	—	80.00
do.	do.	do.	—	45.00
do.	do.	do.	—	24.00
do.	do.	do.	—	32.00
do.	do.	do.	—	48.00
do.	do.	do.	—	64.00
do.	do.	do.	—	48.00
do.	do.	do.	—	64.00
do.	do.	do.	—	64.00
do.	M.E. Plourde	do.	—	76.34
do.	C.A. MacDougal	do.	—	40.00
do.	do.	do.	—	40.00

do.	do.	do.	—	24.00
do.	do.	do.	—	12.50
do.	do.	do.	—	12.00
do.	P.E. Gallienne	do.	—	48.47
74-41B	J.H. Boudreau	Esquimaux Point	—	18.16
do.	C.X. Foley	Mingan	7	175.21
do.	J.H. Brodreau	do.	5	90.24
do.	do.	do.	2	32.28
do.	do.	do.	3	36.20
do.	C. Vibert	do.	1	23.00
do.	J. Madelene	do.	1	20.00
do.	G. Maloney	do.	5	30.75
do.	Hudson's Bay Co.	do.	13	89.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				\$
1919—continued.				
74-41B	Hudson's Bay Co. .	Mingan	10	103.27
do.	do.	do.	9	97.33
do.	do.	do.	3	148.31
do.	do.	do.	5	49.80
do.	do.	do.	11	93.23
do.	do.	do.	13	96.70
do.	do.	do.	17	162.26
do.	do.	do.	18	166.40
do.	do.	do.	11	82.18
do.	do.	do.	11	108.09
do.	do.	do.	5	49.80
do.	F. Doyle	do.	2	30.00
do.	Hudson's Bay Co. .	Romaine	9	63.80
do.	do.	do.	2	21.40
do.	do.	do.	13	256.75
1920				
SALARIES.				
Agent and Medical Attendant.				
68-3	Dr. D. V. Desrosiers .	Bersimis	—	635.64
68-3	Dr. A. W. Powers . .	do.	—	559.52
69-68.	Dr. C. A. MacDougal .	Seven Islands . . .	—	1265.00
Agent.				
68-3	A. Maloney	Bersimis	—	330.00
68-41.	F. Doyle	Mingan	—	300.00
68-21.	A. Tessier	Pointe Bleue	—	1214.00
Medical Officers.				
68-3	Dr. J. Bussieres . . .	Escoumains	—	172.50
69-21.	Dr. A. Bouchard . . .	Chicoutimi	—	200.00
68-41.	Dr. S. McDuff	Mingan	—	200.00
68-21.	Dr. J. Constantine . .	Pointe Bleue	—	650.00
Interpreter.				
68-3	G. Rock	Bersimis	—	180.00
AGENCY EXPENSES, REPAIRS, FUEL, ETC.				
67-67	N. Vignault	Natashquan	—	3.56
44-3	Quebec Coal Co. . . .	Bersimis	—	195.80

Nature of Expenditure and File No.	Payee.	Location of Indian.	No. of Indians.	Amount.
1919—continued.				\$
RELIEF —(cont.)				
74-41B	Hudson's Bay Co.	Mingan	10	103.27
do.	do.	do.	9	97.33
do.	do.	do.	3	148.31
do.	do.	do.	5	49.80
do.	do.	do.	11	93.23
do.	do.	do.	13	96.70
do.	do.	do.	17	162.26
do.	do.	do.	18	166.40
do.	do.	do.	11	82.18
do.	do.	do.	11	108.09
do.	do.	do.	5	49.80
do.	F. Doyle	do.	2	30.00
do.	Hudson's Bay Co.	Romaine	9	63.80
do.	do.	do.	2	21.40
do.	do.	do.	13	256.75
1920				
SALARIES.				
Agent and Medical Attendant, 68-3	Dr. D.V. Desrosiers	Bersimis	—	635.64
68-3	Dr. A.W. Powers	do.	—	559.52
69-68	Dr. C.A. MacDougal	Seven Islands	—	1265.00
Agent, 68-3	A. Maloney	Bersimis	—	330.00
68-41	F. Doyle	Mingan	—	300.00

68-21	A. Tessier	Pointe Bleue	—	1214.00
Medical Officers, 68—3	Dr. J. Bussieres	Escoumains	—	172.50
69-21	Dr. A. Bouchard	Chicoutimi	—	200.00
68-41	Dr. S. McDuff	Mingan	—	200.00
68-21	Dr. J. Constantine	Pointe Bleue	—	650.00
Interpreter, 68-3	G. Rock	Bersimis	—	180.00
AGENCY EXPENSES, REPAIRS, FUEL ETC.				
67-67	N. Vignault	Natashquan	—	3.56
44-3	Quebec Coal Co.	Bersimis	—	195.80

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1920—continued.				\$
AGENCY EXPENSES, REPAIRS, FUEL, ETC.—(cont.)				
44-3	N. A. St Pierre	Bersimis	—	75.70
21-3	Mrs. A. Maloney	do.	—	75.00
21-3	F. Santerre	do.	—	182.40
21-3	P. E. D. Anjou and Fils.	do.	—	109.50
67-68	C. A. MacDougal	Seven Islands	—	55.84
TRAVELLING.				
99-3	D. V. Desrosiers	Bersimis	—	233.50
99-41	F. Doyle	Mingan	—	301.41
CONSTABLES.				
68-3	A. Lepage	Bersimis	—	850.00
69-68	J. Gamache	Seven Islands	—	90.00
1-68	W. Levesque	Moisie	—	60.00
MEDICAL ATTENDANCE.				
74-68E	Dr. R. B. McKay	Seven Islands	—	25.00
99-68	Dr. C. A. MacDougal	do.	—	954.50
28-3	Dr. A. Powers	Bersimis	—	80.00
28-41	Dr. S. McDuff	Mingan	—	504.00
28-68	Dr. C. A. MacDougal	Moisie	—	220.00
MEDICINE AND VACCINE.				
31-3	Department of Militia and Defence.	Bersimis	—	178.91
31-3	National Drug Co.	do.	—	280.94
31-3	Lymans Ltd.	do.	—	915.43
93-3A	do.	do.	—	24.03
31-68	Dr. C. A. MacDougal	Seven Islands	—	250.00
EYE GLASSES FOR INDIAN.				
28-68	C. A. MacDougal	Seven Islands	—	5.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	<i>1920—continued.</i>			\$
AGENCY EXPENSES, REPAIRS, FUEL ETC.—(cont.)				
44-3	N.A. St Pierre	Bersimis	—	75.70
21-3	Mrs. A. Maloney	do.	—	75.00
21-3	F. Santerre	do.	—	182.40
21-3	P.E.D. Anjou and Fils.	do.	—	109.50
67-68	C.A. MacDougal	Seven Islands	—	55.84
TRAVELLING.				
99-3	D.V. Desrosiers	Bersimis	—	233.50
99-41	F. Doyle	Mingan	—	301.41
CONSTABLES.				
68-3	A. Lepage	Bersimis	—	850.00
69-68	J. Gamache	Seven Islands	—	90.00
69-68	W. Levesque	Moisie	—	60.00
MEDICAL ATTENDANCE.				
74-68E	Dr. R.B. McKay	Seven Islands	—	25.00
99-68	Dr. C.A. MacDougal	do.	—	954.50
28-3	Dr. A. Powers	Bersimis	—	80.00
28-41	Dr. S. McDuff	Mingan	—	504.00
28-68	Dr. C.A. MacDougal	Moisie	—	220.00
MEDICINE AND VACCINE.				
31-3	Department of Militia and Defence	Bersimis	—	178.91
31-3	National Drug Co.	do.	—	280.94
31-3	Lymans Ltd.	do.	—	915.43

93-3A	do.	do.	—	24.03
31-68	Dr. C.A. MacDougal	Seven Islands	—	250.00
EYE GLASSES FOR INDIAN.				
28-68	C.A. MacDougal	Seven Islands	—	5.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount
1920—continued.				\$
HOSPITAL.				
74-68E	St Michels Hospital .	Seven Islands . . .	1	64.25
TRANSPORT OF INJURED INDIAN.				
28-68	C. A. MacDougal .	Seven Islands . . .	1	25.00
INSANE.				
133394	Prov. Gov't. Que. .	Escoumains	—	100.00
do.	do.	Pointe Bleue	—	7.95
56-3	Rev. E. Bolly . . .	Bersimis	—	68.65
56-21	A. Tessier	Pointe Bleue	—	66.65
56-68	C. A. MacDougal .	Seven Islands	—	325.00
SEED.				
96-67	C. A. MacDougal .	Seven Islands	—	57.00
96-67	J. E. Heppell . . .	do.	—	90.00
96-3	C. J. Belanger . . .	Escoumains	—	68.25
MOVING AND REPAIRING INDIAN HOUSES.				
55-68	L. Levesque	Seven Islands	—	5.25
do.	A. Bois	do.	—	42.00
do.	P. J. Romeril	do.	—	6.00
do.	do.	do.	—	16.50
do.	T. Jourdain	do.	—	28.50
do.	A. Jourdain	do.	—	30.00
do.	A. Gamache	do.	—	28.00
do.	do.	do.	—	40.00
do.	W. Gamache	do.	—	27.00
do.	J. Gamache	do.	—	58.50
do.	P. E. Gallienne . . .	do.	—	40.00
do.	do.	do.	—	12.70
do.	Mechanical Supply Co.	do.	—	46.05
do.	V. Berube Est.	do.	—	50.00
do.	W. Doyle	do.	—	64.13
do.	D. A. Vignault	do.	—	25.11
do.	do.	do.	—	14.25

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1920—continued.</i>				\$
HOSPITAL.				
74-68E	St. Michels Hospital	Seven Islands	1	64.25
TRANSPORT OF INJURED INDIAN.				
28-68	C.A. MacDougal	Seven Islands	1	25.00
INSANE.				
133394	Prov. Gov't. Que.	Escoumains	—	100.00
do.	do.	Pointe Bleue	—	7.95
56-3	Rev. E. Boily	Bersimis	—	68.65
56-21	A. Tessier	Pointe Bleue	—	66.65
56-68	C.A. MacDougal	Seven Islands	—	325.00
SEED.				
96-67	C.A. MacDougal	Seven Islands	—	57.00
96-67	J.E. Heppell	do.	—	90.00
96-3	C.J. Belanger	Escoumains	—	68.25
MOVING AND REPAIR- ING INDIAN HOUSES.				
55-68	L. Levesque	Seven Islands	—	5.25
do.	A. Bois	do.	—	42.00
do.	P.J. Romeril	do.	—	6.00
do.	do.	do.	—	16.50
do.	T. Jourdain	do.	—	28.50
do.	A. Jourdain	do.	—	30.00
do.	A. Gamache	do.	—	28.00
do.	do.	do.	—	40.00
do.	W. Gamache	do.	—	27.00

do.	J. Gamache	do.	—	58.50
do.	P.E. Gallienne	do.	—	40.00
do.	do.	do.	—	12.70
do.	Mechanical Supply Co.	do.	—	46.05
do.	V. Berube Est.	do.	—	50.00
do.	W. Doyle	do.	—	64.13
do.	D.A. Vignault	do.	—	25.11
do.	do.	do.	—	14.25

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
MOVING AND REPAIRING INDIAN HOUSES—(cont.)				\$
1920—continued.				
53-68	D. A. Vignault . . .	Seven Islands . . .	—	7.00
do.	Hudson's Bay Co. . .	do.	—	147.30
do.	F. H. Vignault . . .	do.	—	40.50
74-69E	J. Walker	do.	—	12.46
21-68	C. A. MacDougal . . .	do.	—	127.41
FISHERY.				
40-3A	Frank & Bryce . . .	Bersimis	—	577.73
do.	Fishery Dept. Que. Gov't.	do.	—	300.00
SUPPLIES FOR HUNTING.				
74-68E	P. J. Romeril	Seven Islands . . .	1	197.00
do.	P. H. Abraham	do.	1	196.85
do.	do.	do.	1	21.00
do.	D. A. Vignault	do.	1	200.22
do.	P. E. Gallienne	do.	20	3450.38
do.	do.	do.	1	99.58
do.	do.	do.	1	37.73
do.	do.	do.	1	37.73
74-67B	Hudson's Bay Co.	St Augustine	26	1180.50
NOTE.—Occasionally different vouchers appear in this statement for the same amount. This is not a duplication. The supplies furnished were similar. The following refunds were made this year on account of advances for outfits:—				
				\$
Indians at Romains				320.00
Indians at St. Augustine				1488.15
Indians at Musquaro				316.00
RELIEF.				
74-41C	Hudson's Bay Co.	Mingan	22	303.94
do.	do.	do.	19	199.84
do.	do.	do.	27	315.30
do.	do.	do.	37	365.27
do.	do.	do.	12	85.70
do.	do.	do.	20	152.10
do.	do.	do.	8	131.75
do.	do.	do.	20	185.01

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1920—continued.				\$
MOVING AND REPAIRING INDIAN HOUSES.— (cont.)				
55-68	D.A. Vignault	Seven Islands	—	7.00
do.	Hudson's Bay Co.	do.	—	147.30
do.	F.H. Vignault	do.	—	40.50
74-69E	J. Walker	do.	—	12.46
21-68	C.A. MacDougal	do.	—	127.41
FISHERY.				
40-3A	Frank & Bryce	Bersimis	—	577.73
do.	Fishery Dept. Que. Gov't.	do.	—	300.00
SUPPLIES FOR HUNTING.				
74-68E	P.J. Romeril	Seven Islands	1	197.00
do.	P.H. Abraham	do.	1	196.85
do.	do.	do.	1	21.00
do.	D.A. Vignault	do.	1	200.22
do.	P.E. Gallienne	do.	20	3450.38
do.	do.	do.	1	99.58
do.	do.	do.	1	37.73
do.	do.	do.	1	37.73
74-67B	Hudson's Bay Co.	St. Augustine	26	1180.50
NOTE.—Occasionally different vouchers appear in this statement for the same amount. This is not a duplication. The supplies furnished were similar. The following refunds were made this year on account of advances for outfits:—				

	Indians at Romaine		320.00	
	Indians at St. Augustine		1488.15	
	Indians at Musquaro		316.00	
RELIEF.				
74-41C	Hudson's Bay Co.	Mingan	22	303.94
do.	do.	do.	19	199.84
do.	do.	do.	27	315.30
do.	do.	do.	37	365.27
do.	do.	do.	12	85.70
do.	do.	do.	20	152.10
do.	do.	do.	8	131.75
do.	do.	do.	20	185.01

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				
1920—continued.				\$
74-41C	Hudson's Bay Co. . .	Mingan	5	79.26
do.	do.	do.	7	74.00
do.	do.	do.	6	76.76
do.	do.	do.	13	157.87
do.	do.	do.	1	20.00
do.	do.	do.	13	412.25
do.	do.	do.	—	758.66
do.	J. H. Boudreau . . .	do.	2	9.15
do.	do.	do.	2	17.30
do.	do.	do.	8	31.06
do.	North East Co. . . .	do.	1	33.87
do.	F. Doyle	do.	—	15.00
do.	O. Dupuis	Esquimaux Point . .	5	27.00
do.	C. X. Foley	do.	1	36.00
do.	do.	do.	1	21.20
do.	P. Privison	do.	5	10.40
do.	Hudson's Bay Co. . .	Romaine	20	815.05
143423-1A	do.	Stupart's Bay	20	196.36
do.	do.	Fort McKenzie	80	691.04
do.	do.	Port Burwell	—	439.82
74-71	Reville Bros.	Ungava Post	33	1130.85
do.	do.	North West River . .	19	1202.40
do.	Hudson's Bay Co. . .	Fort Chimo	90	2345.30
do.	Richard White Jr. . .	Tessujaksoak	81	448.80
74-67B	J. Belanger	Natashquan	3	10.00
do.	do.	do.	1	23.50
do.	do.	do.	2	26.50
do.	R. Joncas	do.	3	45.85
do.	do.	do.	6	78.55
do.	A. Vignault	do.	2	42.70
do.	do.	do.	2	30.40
do.	do.	do.	3	51.75
do.	do.	do.	—	114.10
do.	do.	do.	4	44.70
do.	do.	do.	4	39.00
do.	N. Vignault	do.	1	56.41
do.	J. Vignault	do.	1	5.00
do.	R. Vignault	do.	—	27.00
do.	R. Joncas	do.	6	81.50

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1920—continued.				\$
RELIEF —(cont.)				
74-41C	Hudson's Bay Co.	Mingan	5	79.26
do.	do.	do.	7	74.00
do.	do.	do.	6	76.76
do.	do.	do.	13	157.87
do.	do.	do.	1	20.00
do.	do.	do.	13	412.25
do.	do.	do.	—	758.66
do.	J.H. Boudreau	do.	2	9.15
do.	do.	do.	2	17.30
do.	do.	do.	8	31.06
do.	North East Co.	do.	1	33.87
do.	F. Doyle	do.	—	15.00
do.	O. Dupuis	Esquimaux Point	5	27.00
do.	C.X. Foley	do.	1	36.00
do.	do.	do.	1	21.20
do.	P. Privison	do.	5	10.40
do.	Hudson's Bay Co.	Romaine	20	815.05
143423-1A	do.	Stuparts Bay	20	196.36
do.	do.	Fort McKenzie	80	691.04
do.	do.	Port Burwell	—	439.82
74-71	Revillon Bros.	Ungava Post	33	1130.85
do.	do.	North West River	19	1202.40

do.	Hudson's Bay Co.	Fort Chimo	90	2345.30
do.	Richard White Jr.	Tessiujaksoak	81	448.80
74-67B	J. Belanger	Natashquan	3	10.00
do.	do.	do.	1	23.50
do.	do.	do.	2	26.50
do.	R. Joncas	do.	3	45.85
do.	do.	do.	6	78.55
do.	A. Vignault	do.	2	42.70
do.	do.	do.	2	30.40
do.	do.	do.	3	51.75
do.	do.	do.	—	114.10
do.	do.	do.	4	44.70
do.	do.	do.	4	39.00
do.	N. Vignault	do.	1	56.41
do.	J. Vignault	do.	1	5.00
do.	R. Vignault	do.	—	27.00
do.	R. Joncas	do.	6	81.50

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				\$
1920—continued.				
74-67B	R. Jones	Natashquan	17	222.35
do.	do.	do.	12	96.73
do.	Hudson's Bay Co.	St Augustine	—	960.00
do.	W. Forman	Musquaro	7	372.76
do.	do.	do.	9	168.26
do.	do.	do.	2	38.10
do.	H. Jeness	do.	4	217.28
do.	do.	do.	1	31.55
do.	do.	do.	2	42.00
74-68E	D. A. Vignault	Seven Islands	1	9.50
do.	do.	do.	1	54.30
do.	do.	do.	1	24.99
do.	do.	do.	1	26.74
do.	do.	do.	2	45.42
do.	do.	do.	1	25.69
do.	do.	do.	1	10.00
do.	do.	do.	1	9.50
do.	do.	do.	1	9.25
do.	P. E. Gallienne	do.	1	40.43
do.	do.	do.	3	45.90
do.	do.	do.	1	61.13
do.	do.	do.	5	202.15
do.	do.	do.	1	124.13
do.	do.	do.	1	125.98
do.	P. J. Romeril	do.	4	144.88
do.	do.	do.	2	34.40
do.	do.	do.	3	5.85
do.	P. H. Abraham	do.	5	19.25
do.	do.	do.	1	12.70
do.	do.	do.	2	39.14
do.	do.	do.	3	9.90
do.	do.	do.	1	22.33
do.	do.	do.	2	86.24
do.	do.	do.	1	43.12
do.	do.	do.	1	43.12
do.	do.	do.	3	9.90
do.	do.	do.	2	86.24
do.	do.	do.	2	86.24

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1920—continued.				\$
RELIEF —(cont.)				
74-67B	R. Joncas	Natashquan	17	222.35
do.	do.	do.	12	96.73
do.	Hudson's Bay Co.	St. Augustine	—	960.00
do.	W. Forman	Musquaro	7	372.76
do.	do.	do.	9	168.26
do.	do.	do.	2	38.10
do.	H. Jeness	do.	4	217.28
do.	do.	do.	1	31.55
do.	do.	do.	2	42.00
74-68E	D.A. Vignault	Seven Islands	1	9.50
do.	do.	do.	1	54.30
do.	do.	do.	1	24.99
do.	do.	do.	1	26.74
do.	do.	do.	2	45.42
do.	do.	do.	1	25.69
do.	do.	do.	1	10.00
do.	do.	do.	1	9.50
do.	do.	do.	1	9.25
do.	P.E. Gallienne	do.	1	40.43
do.	do.	do.	3	45.90
do.	do.	do.	1	61.13
do.	do.	do.	5	202.15
do.	do.	do.	1	124.13
do.	do.	do.	1	125.98

do.	P.J. Romeril	do.	4	144.88
do.	do.	do.	2	34.40
do.	do.	do.	3	5.85
do.	P.H. Abraham	do.	5	19.25
do.	do.	do.	1	12.70
do.	do.	do.	2	39.14
do.	do.	do.	3	9.90
do.	do.	do.	1	22.33
do.	do.	do.	2	86.24
do.	do.	do.	1	43.12
do.	do.	do.	1	43.12
do.	do.	do.	3	9.90
do.	do.	do.	2	86.24
do.	do.	do.	2	86.24

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)	1920—continued.			\$
74-68E	P. H. Abraham	Seven Islands	3	29.70
do.	do.	do.	3	258.72
do.	do.	do.	2	68.98
do.	do.	do.	3	125.52
do.	do.	do.	3	112.50
do.	do.	do.	6	83.20
do.	do.	do.	1	12.75
do.	do.	do.	5	9.75
do.	do.	do.	6	147.70
do.	do.	do.	1	29.54
do.	do.	do.	2	36.53
do.	A. Gamache	do.	4	7.00
do.	do.	do.	2	38.75
do.	J. Levesque	Moisie	5	54.00
do.	do.	do.	8	354.64
do.	do.	do.	3	132.99
do.	do.	do.	8	358.32
do.	do.	do.	4	42.40
do.	do.	do.	6	65.00
do.	do.	do.	8	257.34
do.	do.	do.	8	361.84
do.	do.	do.	8	334.80
do.	do.	do.	9	355.14
do.	do.	do.	2	67.50
do.	do.	do.	1	19.98
do.	do.	do.	8	287.68
do.	do.	do.	—	92.50
do.	do.	do.	9	323.64
93-68	M. E. Plourde	Seven Islands	—	75.90
do.	The Borden Co.	do.	—	41.40
74-68F	P. H. Abraham	do.	5	349.69
do.	do.	do.	3	121.41
do.	do.	do.	5	306.15
do.	do.	do.	16	54.80
do.	A. Bois	do.	9	120.00
do.	do.	do.	9	120.00
do.	D. A. Vignault	do.	1	6.00
do.	do.	do.	2	123.29

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1920—continued.				\$
RELIEF —(cont.)				
74-68E	P.H. Abraham	Seven Islands	3	29.70
do.	do.	do.	3	258.72
do.	do.	do.	2	68.98
do.	do.	do.	3	125.52
do.	do.	do.	3	112.50
do.	do.	do.	6	83.20
do.	do.	do.	1	12.75
do.	do.	do.	5	9.75
do.	do.	do.	6	147.70
do.	do.	do.	1	29.54
do.	do.	do.	2	36.53
do.	A. Gamache	do.	4	7.00
do.	do.	do.	2	38.75
do.	J. Levesque	Moisie	5	54.00
do.	do.	do.	8	354.64
do.	do.	do.	3	132.99
do.	do.	do.	8	358.32
do.	do.	do.	4	42.40
do.	do.	do.	6	65.00
do.	do.	do.	8	257.34
do.	do.	do.	8	361.84
do.	do.	do.	8	334.80
do.	do.	do.	9	355.14
do.	do.	do.	2	67.50
do.	do.	do.	1	19.98

do.	do.	do.	8	287.68
do.	do.	do.	—	92.50
do.	do.	do.	9	323.64
93-68	M.E. Plourde	Seven Islands	—	75.90
do.	The Borden Co.	do.	—	41.40
74-68F	P.H. Abraham	do.	5	349.69
do.	do.	do.	3	121.41
do.	do.	do.	5	306.15
do.	do.	do.	16	54.80
do.	A. Bois	do.	9	120.00
do.	do.	do.	9	120.00
do.	D.A. Vignault	do.	1	6.00
do.	do.	do.	2	123.29

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				\$
1920—continued.				
74-68F	D. A. Vignault	Seven Islands	1	73.42
do.	P. J. Romeril	do.	8	197.42
do.	V. V. Berube Est.	do.	—	7.45
do.	M. E. Plourde	do.	9	54.60
do.	T. Delaney	do.	—	94.33
do.	W. Levesque	Moisie	6	178.40
do.	do.	do.	8	648.69
74-68E	M. E. Plourde	Seven Islands	7	60.84
do.	do.	do.	8	127.70
do.	do.	do.	6	115.00
74-68D	do.	do.	—	93.45
74-68E	A. Bois	do.	9	90.00
do.	do.	do.	1	82.65
do.	do.	do.	13	72.00
do.	do.	do.	8	37.50
do.	do.	do.	7	30.00
do.	do.	do.	7	40.00
do.	do.	do.	7	60.00
do.	do.	do.	7	80.00
do.	do.	do.	7	90.70
do.	do.	do.	7	90.00
do.	do.	do.	7	90.00
74-68D	do.	do.	3	90.00
do.	do.	do.	—	20.00
do.	D. A. Vignault	do.	—	1.94
74-68E	do.	do.	2	80.94
SALARIES.				
1921				
Agents and Medical Officers.				
69-68	Dr. C. A. MacDougal	Seven Islands	—	1190.00
68-3	Dr. A. W. Powers	Bersimis	—	1944.25
Agent.				
68-41	F. Doyle	Mingan	—	300.00
68-21	A. Tessier	Pointe Bleue	—	1338.75
Medical Officer.				
68-21	Dr. J. Constantine	Pointe Bleue	—	650.00
68-41	Dr. S. McDuff	Mingan	—	200.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	<i>1920—continued.</i>			\$
RELIEF —(<i>cont.</i>)				
74-68F	D.A. Vignault	Seven Islands	1	73.42
do.	P.J. Romeril	do.	8	197.42
do.	V.V. Berube Est.	do.	—	7.45
do.	M.E. Plourde	do.	9	54.60
do.	T. Delaney	do.	—	94.33
do.	W. Levesque	Moisie	6	178.40
do.	do.	do.	8	648.69
74-68E	M.E. Plourde	Seven Islands	7	60.84
do.	do.	do.	8	127.70
do.	do.	do.	6	115.00
74-68D	do.	do.	—	93.45
74-68E	A. Bois	do.	9	90.00
do.	do.	do.	1	82.65
do.	do.	do.	13	72.00
do.	do.	do.	8	37.50
do.	do.	do.	7	30.00
do.	do.	do.	7	40.00
do.	do.	do.	7	60.00
do.	do.	do.	7	80.00
do.	do.	do.	7	90.70
do.	do.	do.	7	90.00
do.	do.	do.	7	90.00
74-68D	do.	do.	3	90.00
do.	do.	do.	—	20.00
do.	D.A. Vignault	do.	—	1.94

74-68E	do.	do.	2	80.94
1921				
SALARIES.				
Agents and Medical Officers, 69-68	Dr. C.A. MacDougal	Seven Islands	—	1190.00
68-3	Dr. A.W. Powers	Bersimis	—	1944.25
Agent, 68-41	F. Doyle	Mingan	—	300.00
68-21	A. Tessier	Pointe Bleue	—	1338.75
Medical Officer, 68-21	Dr. J. Constantine	Pointe Bleue	—	650.00
68-41	Dr. S. McDuff	Mingan	—	200.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1921—continued.				\$
SALARIES—(cont.)				
Interpreter.				
68-3	G. Rock	Bersimis	—	180.00
CONSTABLES.				
68-3	A. Lepage	Bersimis	—	898.75
59-3A	do.	do.	—	3.00
69-68	J. Gamache	Seven Islands	—	90.00
do.	W. Levesque	Moisie	—	60.00
AGENCY EXPENSES				
REPAIRS AND FUEL.				
21-3	Dr. A. Powers	Bersimis	—	261.45
do.	F. Santerre	do.	—	98.00
21-68	Wm. Doyle	Seven Islands	—	92.91
21-68	C. A. MacDougal	do.	—	172.35
67-68	do.	do.	—	76.66
67-67	P. Vignault	Natashquan	—	2.50
44-68	Imperial Oil Co.	Seven Islands	—	111.97
44-68	T. Davidson and Co.	do.	—	26.59
do.	C. A. MacDougal	do.	—	5.00
44-3	Quebec Coal Co.	Bersimis	—	187.97
44-3	N. A. St Pierre	do.	—	54.90
44-3	J. Poulin	do.	—	11.00
TRAVELLING.				
99-21	A. Tessier	Pointe Bleue	—	109.09
99-67	P. Vignault	Natashquan	—	71.20
99-3	Dr. A. Powers	Bersimis	—	141.80
99-41	F. Doyle	Mingan	—	296.02
BURIALS.				
59-21A	Bélgo Canadian Pulp & Paper Co.	Pointe Bleue	—	25.83
46-68	J. Gamache	Seven Islands	7	158.00
do.	A. Bois	do.	1	25.00
do.	P. H. Abraham	do.	2	40.00
do.	C. A. MacDougal	do.	1	25.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1921—continued.</i>				\$
SALARIES —(cont.)				
Interpreter, 68-3	G. Rock	Bersimis	—	180.00
CONSTABLES.				
68-3	A. Lepage	Bersimis	—	898.75
59-3A	do.	do.	—	3.00
69-68	J. Gamache	Seven Islands	—	90.00
do.	W. Levesque	Moisie	—	60.00
AGENCY EXPENSES, REPAIRS, FUEL ETC.				
21-3	Dr. A. Powers	Bersimis	—	261.45
do.	F. Santerre	do.	—	98.00
21-68	Wm. Doyle	Seven Islands	—	92.91
21-68	C.A. MacDougal	do.	—	172.35
67-68	do.	do.	—	76.66
67-67	P. Vignault	Natashquan	—	2.50
44-68	Imperial Oil Co.	Seven Islands	—	111.97
44-68	T. Davidson & Co.	do.	—	26.59
do.	C.A. MacDougal	do.	—	5.00
44-3	Quebec Coal Co.	Bersimis	—	187.97
44-3	N.A. St. Pierre	do.	—	54.90
44-3	J. Poulin	do.	—	11.00
TRAVELLING.				
99-21	A. Tessier	Pointe Bleue	—	109.09
99-67	P. Vignault	Natashquan	—	71.20
99-3	Dr. A. Powers	Bersimis	—	141.80
99-41	F. Doyle	Mingan	—	296.02
BURIALS.				

59-21A	Belgo Canadian Pulp & Paper Co.	Pointe Bleue	—	25.83
46-68	J. Gamache	Seven Islands	7	158.00
do.	A. Bois	do.	1	25.00
do.	P.H. Abraham	do.	2	40.00
do.	C.A. MacDougal	do.	1	25.00

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Number of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1921—continued.				\$
REPAIRS—(cont.)				
30-21A	Revillon Bros.	Seven Islands	1	55.40
46-67	P. Vignault	Natashquan	1	9.00
46-3	L'Hopital St Michel	Bersimis	1	12.00
REPAIRS.				
36-68	L'Hopital St Michel	Seven Islands	—	55.00
74-68F	do.	do.	1	217.50
36-68	Hotel Victoria, Que.	do.	—	95.00
36-67	T. Anderson	Harrington	—	46.23
do.	Clarke Steamship Co.	do.	—	64.65
do.	Grenfell Ass'n.	do.	—	32.00
do.	Dr. J. E. Vibert	do.	—	10.00
404-7	Hudson's Bay Co.	St Augustine	—	217.50
do.	do.	do.	—	324.20
133294	Prov. Gov't, Que.	Escoumains	—	25.75
do.	do.	Pointe Bleue	—	10.69
HOSPITAL.				
30-31	Jeffery Hale Hosp.	Pointe Bleue	1	130.95
MEDICINE AND VACCINE.				
93-67	Lymans Ltd.	St Augustine	—	30.30
31-41	do.	Esquimaux Point	—	13.88
31-3	do.	Bersimis	—	594.88
31-68	do.	Seven Islands	—	59.69
93-41	J. E. Livernois	Mingan	—	17.04
31-3	Dr. J. Bussieres	Escoumains	—	4.00
MEDICAL ATTENDANCE.				
99-68	Dr. C. A. MacDougal	Masse	—	495.00
28-41	Dr. S. McDuff	Mingan	—	645.50
SEED.				
96-67	A. Bois	Seven Islands	—	161.25
96-67	P. E. Gallienne	do.	—	90.00
96-3	J. Miller	Bersimis	—	17.00

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1921—continued.				\$
BURIALS —(cont.)				
59-21A	Revillon Bros.	Seven Islands	1	55.40
46-67	P. Vignault.	Natashquan	1	9.00
46-3	L'Hopital St. Michel	Bersimis	1	12.00
INSANE.				
56-68	L'Hopital St. Michel	Seven Islands	—	55.00
74-68	do.	do.	1	217.50
56-68	Hotel Victoria, Que.	do.	—	95.00
56-67	T. Anderson	Harrington	—	46.23
do.	Clarke Steamship Co.	do.	—	64.65
do.	Grenfell Ass'n.	do.	—	32.00
do.	Dr. J.E. Vibert	do.	—	10.00
404-7	Hudson's Bay Co.	St. Augustine	—	217.50
do.	do.	do.	—	324.20
133394	Prov. Gov't. Que.	Escoumains	—	25.75
do.	do.	Pointe Bleue	—	10.69
HOSPITAL.				
50-51	Jeffery Hale Hosp.	Pointe Bleue	1	130.95
MEDICINE AND VACCINE.				
93-67	Lymans Ltd.	St. Augustine	—	30.30
31-41	do.	Esquimaux Point	—	13.88

31-3	do.	Bersimis	—	594.88
31-68	do.	Seven Islands	—	59.69
93-41	J.E. Livernois	Mingan	—	17.04
31-3	Dr. J. Bussieres	Escoumains	—	4.00
MEDICAL				
ATTENDANCE.				
99-68	Dr. C.A. MacDougal	Moisie	—	495.00
28-41	Dr. S. McDuff	Mingan	—	645.50
SEED.				
96-67	A. Bois	Seven Islands	—	161.25
96-67	P.E. Gallienne	do.	—	90.00
96-3	J. Miller	Bersimis	—	17.00

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1921—continued.				8
REPAIRS TO WIDOWS HOUSES.				
46-68	C. A. MacDougal	Seven Islands	—	14.00
55-68	do.	do.	—	102.41
do.	W. Doyle	do.	—	65.23
do.	J. Gamache	do.	—	40.00
do.	J. E. Heppell	do.	—	182.00
do.	P. J. Romeril	do.	—	7.25
FISHERY SUPPLIES AND ADVANCES.				
40-3B	A. Maloney	Bersimis	—	300.00
do.	G. Duford	do.	—	16.30
do.	F. Poulin	do.	—	48.00
do.	P. Cote	do.	—	16.20
40-3A	A. Maloney	do.	—	300.00
do.	A. Gagnon	do.	—	107.00
do.	Talbot Ltd.	do.	—	44.50
do.	Wm. Doyle	do.	—	144.39
74-68G	W. Levesque	Moisie	16	1516.10
74-68F	P. E. Gallienne	Seven Islands	16	2862.88
ADVANCES FOR HUNTING.				
469810-1A	P. H. Abraham	Seven Islands	3	405.05
do.	P. E. Gallienne	do.	7	911.55
404-7	Hudson's Bay Co.	St Augustine	15	795.20
74-68G	D. A. Vignault	Seven Islands	1	100.00
do.	do.	do.	4	596.85
do.	P. H. Abraham	do.	4	824.55
do.	P. J. Romeril	do.	4	674.90
do.	W. Levesque	Moisie	1	79.50
NOTE.—There was a refund from the Indians of Remains of \$313.00 on account of advances.				
RELIEF.				
404-7	Hudson's Bay Co.	Fort Chimo	21	421.10
do.	do.	Fort McKenzie	7	508.70
do.	do.	Leaf River	3	97.65
do.	do.	Whale River	—	34.95

Nature of Expenditure and File No.	Payee.	Location of Indian.	No. of Indians.	Amount.
<i>1921—continued.</i>				\$
REPARIS TO WIDOWS HOUSES.				
46-68	C.A. MacDougal	Seven Islands	—	14.00
55-68	do.	do.	—	102.41
do.	W. Doyle	do.	—	65.23
do.	J. Gamache	do.	—	40.00
do.	J.E. Heppell	do.	—	182.00
do.	P.J. Romeril	do.	—	7.25
FISHERY SUPPLIES AND ADVANCES.				
40-3B	A. Maloney	Bersimis	—	300.00
do.	G. Duford	do.	—	16.30
do.	F. Poulin	do.	—	48.00
do.	P. Cote	do.	—	16.20
40-3A	A. Maloney	do.	—	300.00
do.	A. Gagnon	do.	—	107.00
do.	Talbot Ltd.	do.	—	44.50
do.	Wm. Doyle	do.	—	144.39
74-68G	W. Levesque	Moisie	16	1516.10
74-68F	P.E. Gallienne	Seven Islands	16	2862.88
ADVANCES FOR HUNTING.				
469810-1A	P.H. Abraham	Seven Islands	3	405.05
do.	P.E. Gallienne	do.	7	911.55
404-7	Hudson's Bay Co.	St. Augustine	15	795.20
74-68G	D.A. Vignault	Seven Islands	1	100.00
do.	do.	do.	4	596.85

do.	P.H. Abraham	do.	4	824.55
do.	P.J. Romeril	do.	4	674.90
do.	W. Levesque	Moisie	1	79.50
NOTE.—There was a refund from the Indians of Romaine of \$513.00 on account of advances.				
RELIEF.				
404-7	Hudson's Bay Co.	Fort Chimo	21	421.10
do.	do.	Fort McKenzie	7	508.70
do.	do.	Leaf River	3	97.65
do.	do.	Whale River	—	34.95

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)	1921—continued.			\$
404-7	Hudson's Bay Co. . .	Port Burwell . . .	7	200.35
do.	do.	Stupart's Bay . . .	28	232.92
143+23-1A	do.	Fort Chimo	—	3094.58
do.	do.	Port Burwell . . .	16	217.70
do.	do.	Leaf River	7	29.90
74-71	Revilleon Freres . . .	English River . . .	14	337.45
do.	do.	do.	18	383.53
do.	do.	do.	15	179.00
do.	do.	do.	—	1266.60
do.	do.	Ketchi Station . . .	8	332.60
do.	do.	do.	9	358.01
do.	do.	North West River . .	14	653.75
do.	Hudson's Bay Co. . .	Fort Chimo	97	512.53
do.	do.	Port Burwell	12	186.50
do.	do.	Stupart's Bay	21	208.34
do.	do.	Fort McKenzie	16	535.34
74-71	do.	Leaf River	2	39.02
do.	do.	North West River . .	5	183.60
do.	Richard White Jr. . .	Teesiujaksoak	59	437.95
404-7	Hudson's Bay Co. . .	Romaine	29	237.50
do.	do.	do.	15	1116.30
do.	do.	do.	10	111.25
do.	do.	do.	26	183.70
do.	do.	do.	37	1049.00
do.	do.	do.	27	525.45
do.	do.	do.	11	121.30
do.	do.	do.	11	179.50
do.	do.	do.	14	237.00
do.	do.	St Augustine	4	29.00
do.	do.	do.	15	284.10
do.	do.	Romaine	2	5.75
74-68F	P. J. Romeril	Seven Islands	5	232.75
74-68G	D. A. Vignault	do.	4	93.30
do.	do.	do.	3	7.75
74-68F	do.	do.	2	68.36
do.	do.	do.	5	45.78
do.	do.	do.	5	170.90
do.	do.	do.	2	6.05

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1921—continued.</i>				\$
RELIEF —(cont.)				
404-7	Hudson's Bay Co.	Port Burwell	7	200.35
do.	do.	Stuparts Bay	28	232.92
143423-1A	do.	Fort Chimo	—	3094.58
do.	do.	Port Burwell	16	217.70
do.	do.	Leaf River	7	29.90
74-71	Revillon Freres	English River	14	337.45
do.	do.	do.	18	383.53
do.	do.	do.	15	179.00
do.	do.	do.	—	1266.60
do.	do.	Ketchi Station	8	332.60
do.	do.	do.	9	358.01
do.	do.	North West River	14	653.75
do.	Hudson's Bay Co.	Fort Chimo	97	512.53
do.	do.	Port Burwell	12	186.50
do.	do.	Stuparts Bay	21	208.34
do.	do.	Fort McKenzie	16	535.34
74-71	do.	Leaf River	2	39.02
do.	do.	North West River	5	183.60
do.	Richard White Jr.	Tessiujaksoak	59	437.95
404-7	Hudson's Bay Co.	Romaine	29	237.50
do.	do.	do.	15	1116.30

do.	do.	do.	10	111.25
do.	do.	do.	26	183.70
do.	do.	do.	37	1049.00
do.	do.	do.	27	525.45
do.	do.	do.	11	121.30
do.	do.	do.	11	179.50
do.	do.	do.	14	237.00
do.	do.	St. Augustine	4	29.00
do.	do.	do.	15	284.10
do.	do.	Romaine	2	5.75
74-68F	P.J. Romeril	Seven Islands	5	232.75
74-68G	D.A. Vignault	do.	4	93.30
do.	do.	do.	3	7.75
74-68F	do.	do.	2	68.36
do.	do.	do.	5	45.78
do.	do.	do.	5	170.90
do.	do.	do.	2	6.05

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)	1921—continued.			\$
74-68F	D. A. Vignault	Seven Islands	3	40.79
do.	do.	do.	1	32.59
do.	do.	do.	2	65.18
do.	do.	do.	2	65.18
do.	do.	do.	—	7.15
74-68G	M. E. Plourde	do.	10	52.30
do.	do.	do.	11	70.00
74-68F	do.	do.	9	48.80
do.	do.	do.	14	157.70
do.	do.	do.	11	98.60
do.	do.	do.	10	67.60
do.	do.	do.	10	67.40
do.	do.	do.	10	75.10
do.	do.	do.	9	82.10
do.	do.	do.	7	73.10
do.	do.	do.	5	59.10
74-68G	Borden Co.	do.	—	31.05
do.	P. E. Gallienne	do.	6	130.75
do.	do.	do.	3	95.85
74-68F	do.	do.	1	34.65
do.	do.	do.	2	161.18
do.	do.	do.	2	93.10
do.	do.	do.	1	82.55
do.	do.	do.	6	265.40
55-68	R. D. Smith	do.	1	70.86
74-68G	P. H. Abraham	do.	5	150.50
do.	do.	do.	9	27.68
74-68F	do.	do.	5	170.90
do.	do.	do.	8	24.61
do.	do.	do.	3	162.54
do.	do.	do.	14	54.49
do.	do.	do.	5	170.90
do.	do.	do.	13	41.45
do.	do.	do.	13	55.75
do.	do.	do.	4	186.20
do.	do.	do.	8	44.40
do.	do.	do.	1	145.24
do.	do.	do.	9	33.60

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1921—continued.				\$
RELIEF —(cont.)				
74-68F	D.A. Vignault	Seven Islands	3	40.79
do.	do.	do.	1	32.59
do.	do.	do.	2	65.18
do.	do.	do.	2	65.18
do.	do.	do.	—	7.15
74-68G	M.E. Plourde	do.	10	52.30
do.	do.	do.	11	70.00
74-68F	do.	do.	9	48.80
do.	do.	do.	14	157.70
do.	do.	do.	11	98.60
do.	do.	do.	10	67.60
do.	do.	do.	10	67.40
do.	do.	do.	10	75.10
do.	do.	do.	9	82.10
do.	do.	do.	7	73.10
do.	do.	do.	5	59.10
74-68G	Borden Co.	do.	—	31.05
do.	P.E. Gallienne	do.	6	130.75
do.	do.	do.	3	95.85
74-68F	do.	do.	1	34.65
do.	do.	do.	2	161.18
do.	do.	do.	2	93.10
do.	do.	do.	1	82.55

do.	do.	do.	6	265.40
55-68	R.D. Smith	do.	1	70.86
74-68G	P.H. Abraham	do.	5	150.50
do.	do.	do.	9	27.68
74-68F	do.	do.	5	170.90
do.	do.	do.	8	24.61
do.	do.	do.	3	102.54
do.	do.	do.	14	54.49
do.	do.	do.	5	170.90
do.	do.	do.	13	41.45
do.	do.	do.	13	55.75
do.	do.	do.	4	186.20
do.	do.	do.	8	44.40
do.	do.	do.	1	145.24
do.	do.	do.	9	33.60

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1921—continued.				\$
RELIEF—(cont.)				
74-68F	P. H. Abraham	Seven Islands	5	37.25
do.	do.	do.	2	93.10
do.	do.	do.	11	180.00
do.	do.	do.	7	325.85
do.	do.	do.	2	37.25
do.	do.	do.	12	41.10
do.	do.	do.	2	93.10
do.	do.	do.	7	325.85
do.	do.	do.	8	25.30
do.	do.	do.	1	62.82
do.	do.	do.	1	58.28
do.	do.	do.	3	139.65
do.	do.	do.	11	39.30
do.	do.	do.	4	14.20
do.	do.	do.	1	60.97
do.	do.	do.	4	72.16
74-68G	P. J. Romeril	do.	2	60.20
74-68F	do.	do.	1	38.18
do.	do.	do.	4	136.72
do.	do.	do.	1	46.55
74-68G	C. A. MacDougal	do.	—	84.70
74-68F	do.	do.	4	75.90
74-68G	A. Bois	do.	10	120.00
74-68F	do.	do.	8	18.00
do.	do.	do.	9	36.00
do.	do.	do.	9	72.00
do.	do.	do.	10	72.00
do.	do.	do.	10	144.00
do.	do.	do.	11	18.00
do.	do.	do.	11	144.00
do.	do.	do.	9	150.00
do.	T. Delancy	do.	—	49.84
75-68G	W. Levesque	Moisie	11	383.40
do.	do.	do.	3	47.85
do.	do.	do.	1	40.08
do.	do.	do.	7	240.48
do.	do.	do.	9	353.16
do.	do.	do.	7	280.56

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1921—continued.</i>				\$
RELIEF —(<i>cont.</i>)				
74-68F	P.H. Abraham	Seven Islands	5	37.25
do.	do.	do.	2	93.10
do.	do.	do.	11	180.00
do.	do.	do.	7	325.85
do.	do.	do.	2	37.25
do.	do.	do.	12	41.10
do.	do.	do.	2	93.10
do.	do.	do.	7	325.85
do.	do.	do.	8	25.30
do.	do.	do.	1	62.82
do.	do.	do.	1	58.28
do.	do.	do.	3	139.65
do.	do.	do.	11	39.30
do.	do.	do.	4	14.20
do.	do.	do.	1	60.97
do.	do.	do.	4	72.16
74-68G	P.J. Romeril	do.	2	60.20
74-68F	do.	do.	1	38.18
do.	do.	do.	4	136.72
do.	do.	do.	1	46.55
74-68G	C.A. MacDougal	do.	—	84.70
74-68F	do.	do.	4	75.90
74-68G	A. Bois	do.	10	120.00
74-68F	do.	do.	8	18.00

do.	do.	do.	9	36.00
do.	do.	do.	9	72.00
do.	do.	do.	10	72.00
do.	do.	do.	10	144.00
do.	do.	do.	11	18.00
do.	do.	do.	11	144.00
do.	do.	do.	9	150.00
do.	T. Delaney	do.	—	49.84
75-68G	W. Levesque	Moisie	11	383.40
do.	do.	do.	3	47.85
do.	do.	do.	1	40.08
do.	do.	do.	7	240.48
do.	do.	do.	9	353.16
do.	do.	do.	7	280.56

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)				8
1921—continued.				
75-68G	W. Levesque	Moisie	8	78.45
do.	do.	do.	3	147.72
do.	do.	do.	8	393.92
do.	do.	do.	8	393.92
do.	do.	do.	2	108.45
74-41C	Hudson's Bay Co.	Mingan	36	168.50
do.	do.	do.	16	82.45
do.	do.	do.	50	319.44
do.	do.	do.	24	138.35
do.	do.	do.	61	363.00
do.	do.	do.	60	487.00
do.	do.	do.	60	573.00
do.	do.	do.	102	1072.77
do.	do.	do.	19	378.20
do.	do.	do.	45	686.46
do.	do.	do.	20	196.64
do.	do.	do.	29	315.09
do.	do.	do.	29	297.04
do.	do.	do.	21	234.37
do.	J. H. Boudreau	Esquimaux Point	2	17.50
do.	do.	do.	6	306.90
do.	do.	do.	6	22.50
do.	do.	do.	4	17.23
do.	C. X. Foley	do.	2	12.00
74-67B	R. Joncas	Natashquan	39	849.20
do.	do.	do.	29	218.69
do.	do.	do.	11	77.85
do.	A. Vignault	do.	—	294.85
do.	do.	do.	7	37.13
do.	do.	do.	4	74.39
do.	H. Vignault	do.	—	22.50
do.	W. Forman	Musquaro	43	345.35
do.	do.	do.	2	60.90
do.	H. Jeness	do.	10	38.25
do.	Hudson's Bay Co.	St. Augustine	13	380.90

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1921—continued.</i>				\$
RELIEF —(<i>cont.</i>)				
75-68G	W. Levesque	Moisie	8	78.45
do.	do.	do.	3	147.72
do.	do.	do.	8	393.92
do.	do.	do.	8	393.92
do.	do.	do.	2	108.45
74-41C	Hudson's Bay Co.	Mingan	36	168.50
do.	do.	do.	16	82.45
do.	do.	do.	50	319.44
do.	do.	do.	24	138.35
do.	do.	do.	61	363.00
do.	do.	do.	60	487.00
do.	do.	do.	60	573.00
do.	do.	do.	102	1072.77
do.	do.	do.	19	378.20
do.	do.	do.	45	686.46
do.	do.	do.	20	196.64
do.	do.	do.	29	315.09
do.	do.	do.	29	297.04
do.	do.	do.	21	234.37
do.	J.H. Boudreau	Esquimaux Point	2	17.50
do.	do.	do.	6	306.90
do.	do.	do.	6	22.50
do.	do.	do.	4	17.23
do.	C.X. Foley	do.	2	12.00

74-67B	R. Joncas	Natashquan	39	849.20
do.	do.	do.	29	218.69
do.	do.	do.	11	77.85
do.	A. Vignault	do.	—	294.85
do.	do.	do.	7	37.13
do.	do.	do.	4	74.39
do.	H. Vignault	do.	—	22.50
do.	W. Forman	Musquaro	43	345.35
do.	do.	do.	2	60.90
do.	H. Jeness	do.	10	38.25
do.	Hudson's Bay Co.	St. Augustine	13	380.90

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Source of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1922				\$
SALARIES.				
Agent and Medical Officer.				
68-3	Dr. A. W. Powers	Bersimis	—	2385.00
68-68	Dr. C. A. MacDougal	Seven Islands	—	1939.57
do.	Dr. L. H. Michaud	do.	—	225.35
Agent.				
68-21	A. Tessier	Pointe Bleue	—	1246.75
68-41	F. Doyle	Mingan	—	300.00
Medical Officer.				
68-21	Dr. J. Constantine	Pointe Bleue	—	650.00
68-41	Dr. S. McDuff	Mingan	—	200.00
Interpreter.				
68-3	G. Rock	Bersimis	—	150.00
CONSTABLES.				
68-3	A Lepage	Bersimis	—	815.00
59-3A	do.	do.	—	15.15
69-68	J. Gamache	Seven Islands	—	90.00
69-68	W. Levesque	Moisie	—	60.00
AGENCY EXPENSES, REPAIRS, FUEL, &c.				
67-41	F. Doyle	Mingan	—	20.58
67-67	P. Vignault	Natashquan	—	4.35
67-68	C. A. MacDougal	Seven Islands	—	202.20
21-68	A. Talbot	do.	—	104.55
do.	Clarke Trading Co.	do.	—	43.19
do.	C. A. MacDougal	do.	—	24.00
21-21A	F. E. X. Roy	Pointe Bleue	—	295.00
44-3	L. Verreault	Bersimis	—	209.75
44-68	Imperial Oil Co.	Seven Islands	—	31.98
TRAVELLING.				
99-21	A. Tessier	Pointe Bleue	—	53.64
99-67	P. Vignault	Natashquan	—	130.86
99-3	Dr. A. Powers	Bersimis	—	224.00
99-41	F. Doyle	Mingan	—	295.38

Nature of Expenditure and File No.	Payee.	Location of Indian.	No. of Indian.	Amount.
	1922			\$
SALARIES.				
Agent and Medical Officer, 68-3	Dr. A.W. Powers	Bersimis	—	2385.00
68-68	Dr. C.A. MacDougal	Seven Islands	—	1939.57
do.	Dr. L.H. Michaud	do.	—	225.35
Agent, 68-21	A. Tessier	Pointe Bleue	—	1246.75
68-41	F. Doyle	Mingan	—	300.00
Medical Officer, 68-21	Dr. J. Constantine	Pointe Bleue	—	650.00
68-41	Dr. S. McDuff	Mingan	—	200.00
Interpreter, 68—3	G. Rock	Bersimis	—	150.00
CONSTABLES.				
68-3	A. Lepage	Bersimis	—	815.00
59-3A	do.	do.	—	15.15
69-68	J. Gamache	Seven Islands	—	90.00
69-68	W. Levesque	Moisie	—	60.00
AGENCY EXPENSES, REPAIRS, FUEL & C.				
67-41	F. Doyle	Mingan	—	20.58
67-67	P. Vignault	Natashquan	—	4.35
67-68	C.A. MacDougal	Seven Islands	—	202.20
21-68	A. Talbot	do.	—	104.55
do.	Clarke Trading Co.	do.	—	43.19
do.	C.A. MacDougal	do.	—	24.00

21-21A	F.E.X. Roy	Pointe Bleue	—	295.00
44-3	L. Verreault	Bersimis	—	209.75
44-68	Imperial Oil Co.	Seven Islands	—	31.98
TRAVELLING.				
99-21	A. Tessier	Pointe Bleue	—	53.64
99-67	P. Vignault	Natashquan	—	130.86
99-3	Dr. A. Powers	Bersimis	—	224.00
99-41	F. Doyle	Mingan	—	295.38

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1922—continued.				8
HOSPITALS.				
28-61	Hotel Dieu, Roberval	Pointe Bleue	2	46.50
28-61	Dr. H. D. Bassard	do.	2	20.00
do.	P. H. Rainville	do.	—	103.85
50-68	L'Hopital St Michel	Seven Islands	—	60.00
INSANE.				
133394	Prov. Gov't. Que.	Escoumains	1	63.01
do.	do.	St Augustine	1	53.21
BURIALS.				
46-68	C. A. MacDongal	Seven Islands	1	5.00
do.	J. Gamache	do.	5	61.00
do.	W. Levesque	Moisie	1	6.00
MEDICINES.				
31-3	Lymans Ltd.	Bersimis	—	508.58
do.	Dr. A. Powers	do.	—	46.11
31-68	Lymans Ltd.	Seven Islands	—	264.45
74-71	National Drug Co.	Port Burwell	72	73.72
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan	—	563.00
SEED.				
96-3	Rev. E. Bolly	Escoumains	—	19.80
53-3	C. J. Belanger	Bersimis	—	50.50
REPAIRS TO WIDOWS HOUSES.				
55-68	E. Pelletier	Seven Islands	—	55.21
do.	Clark Trading Co.	do.	—	7.00
do.	P. E. Gallienne	do.	—	336.30

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	<i>1922—continued.</i>			\$
HOSPITALS.				
28-61	Hotel Dieu, Roberval	Pointe Bleue	2	46.50
28-61	Dr. H.D. Bassard	do.	2	20.00
do.	P.H. Rainville	do.	—	103.85
50-68	L'Hopital St. Michel	Seven Islands	—	60.00
INSANE.				
133394	Prov. Gov't. Que.	Escoumains	1	63.01
do.	do.	St. Augustine	1	53.21
BURIALS.				
46-68	C.A. MacDougal	Seven Islands	1	5.00
do.	J. Gamache	do.	5	61.00
do.	W. Levesque	Moisie	1	6.00
MEDECINES.				
31-3	Lymans Ltd.	Bersimis	—	508.58
do.	Dr. A. Powers	do.	—	46.11
31-68	Lymans Ltd.	Seven Islands	—	264.45
74-71	National Drug Co.	Port Burwell	72	73.72
MEDICAL ATTENDANCE.				
28-41	Dr. S. McDuff	Mingan	—	563.00
SEED.				
96-3	Rev. E. Boily	Escoumains	—	19.80
53-3	C.J. Belanger	Bersimis	—	50.50

**REPARIS TO WIDOWS
HOUSES.**

55-68	E. Pelletier	Seven Islands	—	55.21
do.	Clark Trading Co.	do.	—	7.00
do.	P.E. Gallienne	do.	—	336.30

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
1922—continued.				\$
ADVANCES FOR HUNTING.				
74-68G	W. Levesque	Moisie	4	485.35
74-68G	P. E. Gallienne	Seven Islands	12	1121.05
RELIEF.				
404-7	Hudson's Bay Co.	Fort Chimo	36	1354.35
143423-IA	Revillon Freres	do.	30	948.18
74-71	Richard White Jr.	Tessiujaksoak	76	393.85
404-7	Hudson's Bay Co.	Ponds Inlet	10	196.78
do.	do.	Romaine	7	87.50
74-41C	do.	Mingan	32	206.50
do.	do.	do.	28	127.05
do.	do.	do.	10	85.73
do.	do.	do.	11	70.10
do.	do.	do.	81	1362.90
do.	do.	do.	29	87.70
do.	do.	do.	15	76.45
do.	do.	do.	21	112.95
do.	do.	do.	33	298.28
do.	do.	do.	20	202.23
do.	do.	do.	55	544.65
do.	do.	do.	27	182.75
do.	do.	do.	19	116.45
do.	A. Allard	do.	5	29.00
do.	R. D. Smith	do.	11	392.25
do.	do.	do.	—	16.30
do.	S. Beaudin	River St Jean	—	11.37
do.	C. Vibert	Chaloupe River	3	54.30
do.	J. H. Boudreau	Esquimaux Point	11	508.27
do.	C. X. Foley	do.	15	609.30
do.	do.	do.	9	42.25
44-68	A. Bois	Seven Islands	7	60.00
21-68	C. A. MacDougal	do.	—	3.60
404-7	Hudson's Bay Co.	Romaine	19	551.75
do.	do.	do.	9	115.80
do.	do.	do.	10	339.35
do.	do.	do.	15	206.30
do.	do.	do.	9	153.25

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	<i>1922—continued.</i>			\$
ADVANCES FOR HUNTING.				
74-68G	W. Levesque	Moisie	4	485.35
74-68G	P.E. Gallienne	Seven Islands	12	1121.05
RELIEF.				
404-7	Hudson's Bay Co.	Fort Chimo	36	1354.35
143423-1A	Revillon Freres	do.	30	948.18
74-71	Richard White Jr.	Tessiujaksoak	76	393.85
404-7	Hudson's Bay Co.	Ponds Inlet	10	196.78
do.	do.	Romaine	7	87.50
74-41C	do.	Mingan	32	206.50
do.	do.	do.	28	127.05
do.	do.	do.	10	85.73
do.	do.	do.	11	70.10
do.	do.	do.	81	1362.90
do.	do.	do.	29	87.70
do.	do.	do.	15	76.45
do.	do.	do.	21	112.95
do.	do.	do.	33	298.28
do.	do.	do.	20	202.23
do.	do.	do.	55	544.65
do.	do.	do.	27	182.75
do.	do.	do.	19	116.45
do.	A. Allard	do.	5	29.00

do.	R.D. Smith	do.	11	392.25
do.	do.	do.	—	16.30
do.	S. Beaudin	River St. Jean	—	11.37
do.	C. Vibert	Chaloupe River	3	54.30
do.	J.H. Boudreau	Esquimaux point	11	508.27
do.	C.X. Foley	do.	15	609.30
do.	do.	do.	9	42.25
44-68	A. Bois	Seven Islands	7	60.00
21-68	C.A. MacDougal	do.	—	3.60
404-7	Hudson's Bay Co.	Romaine	19	551.75
do.	do.	do.	9	115.80
do.	do.	do.	10	339.35
do.	do.	do.	15	206.30
do.	do.	do.	9	153.25

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Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
RELIEF—(cont.)	1922—continued.			\$
74-68H	M. E. Plourde	Seven Islands	4	12.00
do.	do.	do.	11	38.41
do.	do.	do.	16	53.03
do.	do.	do.	13	58.88
74-68G	do.	do.	11	80.38
do.	do.	do.	8	33.32
do.	do.	do.	5	26.00
do.	do.	do.	7	31.60
do.	do.	do.	7	39.80
do.	do.	do.	9	49.00
do.	do.	do.	10	86.00
74-68H	do.	do.	4	12.00
do.	A. Bois	do.	11	80.00
do.	do.	do.	10	60.00
do.	do.	do.	10	40.00
do.	do.	do.	8	35.00
do.	do.	do.	9	40.00
do.	do.	do.	6	30.00
74-68G	do.	do.	7	45.00
do.	do.	do.	4	80.00
do.	do.	do.	8	85.00
do.	do.	do.	10	120.00
do.	do.	do.	10	120.00
do.	do.	do.	10	120.00
74-68H	Clark Trading Co.	do.	19	316.29
do.	do.	do.	11	130.10
do.	do.	do.	6	30.01
do.	do.	do.	5	7.35
do.	do.	do.	4	123.12
do.	do.	do.	8	29.01
do.	do.	do.	4	164.16
do.	do.	do.	6	64.76
do.	do.	do.	4	80.20
do.	do.	do.	9	22.28
do.	do.	do.	11	223.00
do.	D. A. Vignault	do.	1	13.50
do.	do.	do.	2	7.90
do.	do.	do.	2	17.65

[Larger HTML Version](#) (26 kb)

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1922—continued.</i>				\$
RELIEF —(cont.)				
74-68H	M.E. Plourde	Seven Islands	4	12.00
do.	do.	do.	11	38.41
do.	do.	do.	16	53.03
do.	do.	do.	13	58.88
74-68G	do.	do.	11	80.38
do.	do.	do.	8	33.32
do.	do.	do.	5	26.00
do.	do.	do.	7	31.60
do.	do.	do.	7	39.80
do.	do.	do.	9	49.00
do.	do.	do.	10	86.00
74-68H	do.	do.	4	12.00
do.	A. Bois	do.	11	80.00
do.	do.	do.	10	60.00
do.	do.	do.	10	40.00
do.	do.	do.	8	35.00
do.	do.	do.	9	40.00
do.	do.	do.	6	30.00
74-68G	do.	do.	7	45.00
do.	do.	do.	4	80.00
do.	do.	do.	8	85.00
do.	do.	do.	10	120.00
do.	do.	do.	10	120.00
do.	do.	do.	10	120.00
74-68H	Clark Trading Co.	do.	19	316.29

do.	do.	do.	11	130.10
do.	do.	do.	6	30.01
do.	do.	do.	5	7.35
do.	do.	do.	4	123.12
do.	do.	do.	8	29.01
do.	do.	do.	4	164.16
do.	do.	do.	6	64.76
do.	do.	do.	4	80.20
do.	do.	do.	9	22.28
do.	do.	do.	11	223.00
do.	D.A. Vignault	do.	1	13.50
do.	do.	do.	2	7.90
do.	do.	do.	2	17.65

[Back to Main Page](#)

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
				\$
BELIEF—(cont.)	1922—continued.			
74-68H	D. A. Vignault	Seven Islands	3	6.70
74-68G	do.	do.	1	13.05
do.	do.	do.	6	35.00
do.	do.	do.	2	43.56
do.	do.	do.	4	33.63
do.	do.	do.	2	43.56
do.	do.	do.	3	33.97
do.	do.	do.	3	26.57
do.	do.	do.	8	270.37
do.	do.	do.	3	25.10
do.	do.	do.	1	3.00
74-68H	P. E. Gallienne	do.	1	23.40
74-68G	do.	do.	1	23.49
74-68G	P. E. Gallienne	do.	5	90.18
do.	do.	do.	7	145.62
do.	do.	do.	6	139.05
do.	do.	do.	6	139.05
do.	do.	do.	4	687.60
do.	do.	do.	5	108.98
74-68H	C. A. MacDougal	do.	4	24.79
do.	P. H. Abraham	do.	3	5.70
do.	do.	do.	2	6.85
74-68G	do.	do.	2	45.76
do.	do.	do.	1	23.63
do.	do.	do.	3	65.34
do.	do.	do.	1	28.57
do.	do.	do.	3	10.20
do.	do.	do.	5	16.20
do.	do.	do.	8	437.05
do.	do.	do.	3	21.80
do.	do.	do.	3	67.26
do.	do.	do.	2	16.80
do.	P. J. Romeril	do.	6	13.50
do.	do.	do.	8	156.75
do.	do.	do.	—	26.55
do.	T. Delaney	do.	—	101.30
74-68H	A. Levesque	Moisie	2	20.00
do.	do.	do.	7	167.40

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
<i>1922—continued.</i>				\$
RELIEF —(<i>cont.</i>)				
74-68H	D.A. Vignault	Seven Islands	3	6.70
74-68G	do.	do.	1	13.05
do.	do.	do.	6	35.00
do.	do.	do.	2	43.56
do.	do.	do.	4	33.63
do.	do.	do.	2	43.56
do.	do.	do.	3	33.97
do.	do.	do.	3	26.57
do.	do.	do.	8	270.37
do.	do.	do.	3	25.10
do.	do.	do.	1	3.00
74-68H	P.E. Gallienne	do.	1	23.40
74-68G	do.	do.	1	23.49
74-68G	P.E. Gallienne	do.	5	90.18
do.	do.	do.	7	145.62
do.	do.	do.	6	139.05
do.	do.	do.	6	139.05
do.	do.	do.	4	687.60
do.	do.	do.	5	108.98
74-68H	C.A. MacDougal	do.	4	24.79
do.	P.H. Abraham	do.	3	5.70
do.	do.	do.	2	6.85

74-68G	do.	do.	2	45.76	
	do.	do.	1	23.63	
	do.	do.	3	65.34	
	do.	do.	1	28.57	
	do.	do.	3	10.20	
	do.	do.	5	16.20	
	do.	do.	8	437.05	
	do.	do.	3	21.80	
	do.	do.	3	67.26	
	do.	do.	2	16.80	
	do.	P.J. Romeril	do.	6	13.50
	do.	do.	do.	8	156.75
	do.	do.	do.	—	26.55
	do.	T. Delaney	do.	—	101.30
74-68H		A. Levesque	Moisie	2	20.00
	do.	do.	do.	7	167.40

[Back to Main Page](#)

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
				\$
RELIEF—(cont.)	1922—continued.			
74—68H	W. Levesque	Moisie	8	187.20
74—68G	do.	do.	7	164.43
do.	do.	do.	10	234.90
do.	do.	do.	1	31.95
do.	do.	do.	16	511.20
do.	do.	do.	10	177.40
do.	do.	do.	9	884.48
do.	do.	do.	6	86.85
do.	do.	do.	5	159.75

[Larger HTML Version](#) (14 kb)

This concludes what I have been able to find of the expenditure made, up to December 31st, 1922, by the Department of Indian Affairs, for the benefit of the Indians at Lake St John, the Unguentary river, the Lower St Lawrence and in the Labrador Peninsula with the exception of such trading posts as Wakeham Bay, Wolstenholme, Port Harrison, Great Whale River, Fort George and East Main in the west along the Hudson Bay.

I hereby certify that the foregoing statistics and data have been extracted and compiled by me from original records of the Department of Indian Affairs of the Government of the Dominion of Canada, which are in my charge or in the Public Archives of Canada, and that the same are in true and faithful accord with the statistics and data exhibited by the said original records.

Dated at Ottawa this twenty-fourth day of January, A.D. 1923.

G.M. MATHESON,
Officer in charge of Records
Department of Indian Affairs,
Ottawa, Canada.

Nature of Expenditure and File No.	Payee.	Location of Indians.	No. of Indians.	Amount.
	<i>1922—continued.</i>			\$
Relief—(cont.)				
74—68H	W. Levesque	Moisie	8	187.20
74-68G	do.	do.	7	164.43
do.	do.	do.	10	234.90
do.	do.	do.	1	31.95
do.	do.	do.	16	511.20
do.	do.	do.	10	177.40
do.	do.	do.	9	884.48
do.	do.	do.	6	86.85
do.	do.	do.	5	159.75

[Back to Main Page](#)

(Enclosure 1 in No. 1142.)

APPENDIX "A."

REPORT OF COUNCIL RESPECTING PETITION ON BEHALF OF INDIANS ON
LOWER ST. LAWRENCE.

File 1473 of 1861.

File 1294 of 1861.

COPY OF A REPORT OF A COMMITTEE OF THE HONOURABLE THE
EXECUTIVE COUNCIL, APPROVED BY HIS EXCELLENCY THE
GOVERNOR GENERAL IN COUNCIL ON THE 11TH
SEPTEMBER, 1861.

The Committee have had before them a Report dated 9th October, 1860, from the Commissioner of Crown Lands on the subject of certain petitions from the Administrator of the Diocese of Quebec and Indian Missionaries to the Lower St. Lawrence tribes.

His Lordship the Bishop of Tloa represents that the Hon. Hudson's Bay Company has formerly contributed towards the support of the Indian Missions upon the St. Lawrence Coast and interior some Five Hundred dollars per annum ; and that on the termination of the Lease of the King's Posts (15th Nov. last) and a partial withdrawal from the trading stations within that Territory, the customary allowance has been discontinued. His Lordship prays that the Government may, in consideration of deriving rents through this resumption and the disposal otherwise of fisheries within such territory, assume the obligations from which the Company conceive themselves to be released.

The Petition of the Rev. Charles Arnaud asks for further relief on behalf of the Montagnais and Naskapis Tribes—also that the River Bersimis be granted for the exclusive use of the Bersimis Indians.

With respect to the foregoing applications the Commissioner refers to the Act 14 & 15 Vic. Cap. 106, and appropriations made thereunder and suggests that should any balance remain for such purpose under control of the Indian Department, it might be applicable to the wants therein set forth.

That the principle of setting apart any River Salmon Fishery for the especial profit of Indians has already been denied by the terms of an Order in Council passed (14th May, 1858) upon an application on behalf of the

Montagnais and Naskapis bands. That it was however ordered that some portion of the rent derivable from the leasing of Salmon fisheries should inure to the advantage and support of Indians frequenting the Lower St. Lawrence and the interior.

The commissioner recommends to Your excellency that any allowances so made for the aid of Indians in want of succor be made payable through the Fisheries Branch of his Department and that it be intimated to all concerned that the continued payment of same must depend somewhat on the strict observance by the several tribes of the Laws and Regulations for the preservation and the protection of Salmon and other fisheries.

He further recommends that an exact statement of the numbers and actual conditions of the unsettled tribes on the St. Lawrence coast and through the interior be officially procured, to serve as data for the future distribution and application of whatever material aid may please your Excellency to approve.

The Committee concur in the Report of the Commissioner of Crown Lands and submit the same for Your Excellency's approval.

Certified,
WM. H. LEE,
C.E.C

(Enclosure 2 in No. 1142.)

APPENDIX "B."

ORDER IN COUNCIL ON PETITION FOR RELIEF FOR INDIANS ON LOWER
ST. LAWRENCE.

[Copy.]

COPY OF A REPORT OF THE COMMITTEE OF THE HONOURABLE THE
EXECUTIVE COUNCIL, APPROVED BY HIS EXCELLENCY THE
ADMINISTRATOR IN COUNCIL ON THE 22ND NOVEMBER, 1861.

On the application of The Very Reverend C.F. Cazeau for
the usual grant in aid of the Indians of the Lower St Lawrence
and the report of the Indian Department thereon.

The assistant Commissioner of Crown Lands suggests that
as the Indian Department is now under the control of the
Provincial Government, an Order in Council be passed
sanctioning the appropriation of the usual sums that is \$600 for
the Indians and \$500 for the Missionaries (the warrant for the
latter amount having already issued) out of the Annual grant of
£1,000 provided by the Provincial Statute 14 & 15 Vict : Cap.
106, Sec. 2, for the Indians of Lower Canada, which
suggestion is concurred in by the Hon. the Attorney General
for L.C. acting in the absence of the Hon. The Commissioner
of Crown Lands.

The Committee recommend that the appropriations
suggested be made and that a Warrant for \$600 issue in favour
of the accountant of the Indian Department.

Certified,
WM. H. LEE,

C.E.C

To the Honorable
The Commissioner of Crown Lands,
Indian Dept. Branch,
&c. &c. &c.

—
(*Enclosure 3 in No. 1142.*)

APPENDIX "C."

L 294 of 1871.
[Extract.]

St. Germain de Rimouski
January 21st, 1871.

Sir,—
(Montagnais Indians of Moisie and Seven Islands).

* * * *

These Indians spend the winter in the woods hunting and gathering furs for trade.

From the high-lands a certain number of Naskapis Indians come also to receive religious and civil instruction from the Missionaries who though residing in Bersimis, attend these Missions at fixed dates. They also show themselves zealous in learning to read and to write, under the care of the priests who volunteer their services and receive no remuneration but the free offerings of these poor people.

* * * *

EDMOND LANGEVIN,
Vicar General.

To the Honorable JOSEPH HOWE,
Secretary of State for Prov.,
Ottawa.

CORRESPONDENCE RESPECTING RELIEF TO INDIANS
IN INTERIOR OF LABRADOR.

No. 1146.

DEPARTMENT OF INDIAN AFFAIRS, CANADA.

Letter Book No. 387
1893
Page 591
143423

November 10th, 1893.

SIR,

I have the honour to enclose herewith a copy of an extract from the preliminary Report of Mr. A. P. Low, of the Geological Survey, dated Fort Chimo, 9th of September, 1893. From it you will gather the state of destitution in which the aborigines of this district are at present. It is the earnest desire of the Department to take some action at once to relieve this pressing necessity, and I write now to enquire whether your post at this point could be reached before the setting in of winter or in time to afford these Indians some relief. Although, this Department has no funds appropriated for Indians of this locality, still it does not desire that any suffering which might be prevented should occur. If it is possible to reach this post by your ordinary practice I would like you to instruct your Factor to issue whatever ammunition is necessary to supply the Indians on their hunt ; and in cases where ammunition would not be any practical benefit to issue such relief in the shape of provisions as would prevent actual starvation.

Your obedient servant,
(Sgd.) D.C. SCOTT,
Chief Clerk.

P. MCKENZIE, ESQ.,
Hudson's Bay Co.'s House,
Montreal.

Certified a true Copy.
(Sgd.) G.M. MATHESON
In charge of Records
Department of Indian

Affairs.

HAYTER REED TO C.C. CHIPMAN.

[15 June, 1894.]

Letter Book No. 398
1894

Page 375

15th June, 1894.

DEAR MR. CHIPMAN :—

This Department was advised that there was great destitution among the Indians in the country about Ungava Bay in the winter of 1892-93 and a report has recently appeared in the Brandon Mail of destitution among the Indians in that country. I am under the impression that the report refers to what occurred in the winter of 1892-93 and that the scarcity of food which was experienced in that year is not likely to be experienced again for some considerable time ; but as it is always too late to forward assistance when the Department hears of destitution, the Superintendent General has decided to authorize your company to give assistance to the Indians of that country when in extreme cases of need and to have such expenditure as your Company may be put to in that way recouped on the presentation of an account supported by vouchers in detail. Would you kindly therefore arrange to have such supplies given to any of these Indians who may be in actual destitution during next winter. The amount should, it is thought, not exceed in any event \$800.

Yours very truly,

(Sgd.) HAYTER REED.

C.C. CHIPMAN, ESQ.,
Commissioner H.B. Co.,
Winnipeg, Man.

Certified a true Copy.
(Sgd.) G.M. MATHESON
In charge of Records
Department of Indian

Affairs.

No. 1148.

D. C. SCOTT TO C. C. CHIPMAN.

[16 Dec., 1895.]

Letter Book No. 432
1895

Page 596

143423
(With cheque)

Ottawa, 16th December, 1895.

SIR:—

I have the honour to acknowledge the receipt of your letter of the 2nd instant in regard to the assistance rendered by your Officers at Ungava to the sick and destitute Indians in that vicinity ; and in reply I enclose herewith cheque (No. 2922) for \$120.17, being the amount of the account forwarded by you for ammunition, etc., distributed.

With regard to your desire to be informed as to whether aid should be continued, I may say that if it should prove necessary, which the Department hopes may not be the case, provisions, such as flour and meat, may be supplied to a limited extent, to deserving Indians who may be unable to provide for themselves, and also ammunition, if necessary, in small quantities.

Your obedient servant,
(Sgd.) D.C. Scott.
Acting Deputy Supt,
of Indian Affairs.

Gen'l.

C.C. CHIPMAN, Esq.,
Commissioner
Hudson's Bay Co.,
Winnipeg, Man.

Certified a true Copy.
(Sgd.) G.M. MATHESON
In charge of Records
Department of Indian

Affairs.

No. 1149.

HAYTER REED TO C. C. CHIPMAN.

[18 Sept., 1896.]

Letter Book No. 434
1896
Page 299.

143423

Ottawa, 18th September,

1896.

SIR,

With reference to your letter of the 2nd January last and previous correspondence on the subject of the distribution of relief supplies to destitute Indians of Ungava Bay, and other remote points, I would draw your attention to an article entitled "A Perishing Race" which appeared in the Toronto "Globe" of the 17th instant, and in which a most distressing description is given of the Indians along the Labrador coast. It is stated that aid will be absolutely necessary to preserve the lives of these people during the coming winter, as owing to the prohibition of beaver trapping, the practical depletion of the Coast of other fur-bearing animals and game, and the trade which has recently sprung up in sea-fowls' eggs, upon which the Indians formerly depended largely as a means of subsistence, they are without any resources whatever. The traffic in intoxicants with them by unprincipled traders who visit the Coast is also spoken of as another and most serious cause of destitution.

The Department would be glad to have a report from you as to whether the condition of affairs indicated is corroborated by your officers in the District referred to, and if so, as to what you think had best be done to ameliorate the condition of these unfortunate people. I might in this connection remind you, that the Department has already signified its desire (by letter of the 16th December last) to help them as far as possible by authorizing, to such extent as its resources would allow, the giving of relief by your officers at their discretion.

May I look forward to an early reply.

Your obedient servant,
(Sgd.) HAYTER REED.
Deputy Supt. Genl. of Indian

Affairs.
C.C. CHIPMAN, ESQ.,
Commissioner
Hudson Bay Co.,
Winnipeg, Man.

Certified a true Copy.
(Sgd.) G.M. MATHESON

In charge of Records
Department of Indian

Affairs.

No. 1150.

J. A. WILSON TO W. C. SWAFFIELD.

[12 July, 1899.]

HUDSON'S BAY CO. CORR. (RIGOLET) LETTER BOOK 1879-1900,
p. 274.

12th July, 1899.

Mr. W.C. Swaffield,
Davis Inlet.

Dear Sir :

I am in receipt of the following extract from a letter addressed by the Commissioner to Mr. Peter McKenzie on the subject of Relief to destitute Indians :

“Relief may be given in cases of absolute necessity, but should not, if possible, transpire that it is Government aid which is being given. Accounts for any such relief should be made out in triplicate, certified to by the officer in charge, and give details of the supplies, name of the party to whom given, and the reasons for the distribution”,

which are to be sent to this office for transmission to Winnipeg for collection.

It might happen that a band of Indians destitute and starving would come out at your post during the winter, in which case, after convincing yourself that they were in a genuine state of destitution, and had actually nothing with which to purchase provisions then you would issue to each family a small amount of provisions to enable them to return to the interior.

The Government referred to in the above is the Canadian, and not the Newfoundland Government.

The Commissioner requests that these instructions be carefully and judiciously carried out.

Yours faithfully,

J. A. WILSON.

No. 1151.

J. A. WILSON TO JAMES FRASER.

[15 July, 1899.]

HUDSON'S BAY CO. CORR. (RIGOLET) LETTER BOOK 1879-1900,
p. 272.

Rigolet, 15th July, 1899.

Mr. James Fraser,
Cartwright.

Dear Sir :

I am in receipt of the following extract from a letter addressed by the Commissioner to Mr. Peter McKenzie on the subject of Relief to destitute Indians :

“Relief may be given in cases of absolute necessity, but should not, if possible, transpire that it is Government aid which is being given. Accounts for any such relief should be made out in triplicate, certified to by the officer in charge, and give details of the supplies, name of the party to whom given, and the reasons for the distribution,”

which are to be sent to this office for transmission to Winnipeg for collection.

It might so happen that a band of starving Indians would come out at Paradise, in which case you would naturally go to that out-Post, and after convincing yourself that they were in a genuine state of starvation, and had nothing whatever with which to purchase provisions, then you would issue to such families a small amount of provisions to enable them to return to the interior.

The Commissioner requests that these instructions be carefully and judiciously carried out.

Yours faithfully,

J. A. WILSON.

No. 1152.

J. A. WILSON TO STEWART COTTER.

[12 July, 1899.]

HUDSON'S BAY CO. CORR. (RIGOLET) LETTER BOOK 1879-1900,
p. 273.

Rigolet, 12th July, 1899.

Mr. Stewart Cotter,
North West River.

Dear Sir :

I am in receipt of the following extract from a letter addressed by the Commissioner to Mr. Robert McKenzie on the subject of relief to destitute Indians:

“Relief may be given in cases of absolute necessity, but it should not if possible transpire that it is Government aid which is being given. Accounts for any such relief should be made out in triplicate, certified to by the officer in charge, and give details of the supplies, name of the party to whom given, and the reasons for distribution,”

which are to be sent to this office for transmission to Winnipeg for collection.

It might happen that a band of Indians destitute and starving would come out at your post during the winter, in which case, after convincing yourself that they were in a genuine state of destitution, and had actually nothing with which to purchase provisions then you would issue to each family a small amount of provisions to enable them to return to the interior.

The Government referred to in the above is the Canadian, and not the Newfoundland Government.

The Commissioner requests that these instructions be carefully and judiciously carried out.

Yours faithfully,

J. A. WILSON.

(B) AUTHORITIES IN SUPPORT OF SECTION II OF THE
HISTORICAL SKETCH.

[1615.]

No. 1153.

**CHAMPLAIN'S PROPOSALS FOR THE CONVERSION
OF THE INDIANS.**

OEUVRES DE CHAMPLAIN PAR L'ABBE C. H. LAVERDIÈRE (1870),
Tome iv, p. 483. Dedication of Voyage of 1615.

SIRE,

Voicy un troisieme liure contenant le discours de ce qui s'est passé de plus remarquable aux voyages par moy faits en la nouvelle France, à la lecture duquel i'estime que V.M. prendra un plus grand plaisir qu'aux precedents, d'autant qu'iceux ne designent rien que les ports, haures, scituations, declinaisons, & autres matieres plus propres aux Nautonniers, & Mariniers, que non pas aux autres. En celuy-cy vous y pourrez remarquer plus particulièrement les moeurs & façons de vivre de ces peuples, tant en particulier que general, leurs guerres, munitions, façons d'assaillir, & se deffendre, leurs expeditions, retraicte en plusieurs particularitez, seruant à contenter un esprit curieux ; Et comme ils ne sont point tant sauuages, qu'avec le temps, & la frequentation d'un peuple civilisé, ils ne puissent estre rendus polis : Vous y verrés pareillement quelle & combien grande est l'esperance que nous auons de tant de longs & penibles trauaux que depuis quinze ans nous soustenons, pour planter en ce país l'estendart de la Croix, & leur enseigner la cognoissance de Dieu, & gloire de son Saint Nom, estant nostre desir d'augmenter la Charité enuers ses miserables Creatures, qui nous conuient supporter patiemment plus qu'aucune autre chose , & encore que plusieurs n'ayent pas pareil dessein, ains que l'on puisse dire que le desir du gain est ce qui les y pousse : Neantmoins on peut probablement croire que ce sont des moyens dont Dieu se sert pour plus faciliter le saint desir des autres : Que si les fruicts que les arbres portent sont de Dieu, à celuy qui est Seigneur du Sol, où ils sont plantez, & qui les a arrousez, & entretenus, avec un soing particulier, V.M. se peut dire legitime Seigneur de nos trauaux, & du bein qui en reüssira, non seulement pour ce que la terre vous en appartient, mais aussi pour nous auoir protegé contre tant de sortes de personnes qui n'auoyent autre desseing qu'en nous troublant empescher qu'une si sainte deliberation ne peust reüssir & nous ostant la permission de pouuoir librement

negotier, en partie de ses païs, & mettre le tout en confusion, qui seroit en un mot tracer le chemin pour tout perdre, au preiudice de vostre estat, vos suiects ayant employé à cét effect tous les artifices dont il se sont peu aduiser, & tous les moyens qu'ils ont creu nous y pouvoir nuire, qui tous ont esté leués par V.M. assistée de son prudent Conseil, nous autorisant de son nom, & soustenants par ses arrests qu'elle a rendus à nostre faveur. C'est un occasion pour accroistre en nous le desir qu'auons dés long-temps d'enuoyer des peuplades & colonnies par delà, pour leur enseigner avec la cognoissance de Dieu, la gloire & les triumphes de V.M. de faire en sorte qu'avec la langue François ils consoient aussi un coeur, & courage françoise, lequel ne respirera rien tant après la crainte de dieu, que le desir qu'ils auront de vous seruir : Que si nostre desseing reüssit, la gloire en sera premierement à Dieu, puis à V.M. qui outre mille benedictions qu'elle en reçeura du Ciel, en recompense de tant d'ames ausquelles elle en donnera par ce moyen l'entrée, son nom en sera immortalisé pour auoir poeté la gloire, & le sceptre des François, autant en Occident que vos deuanciers l'ont estendu en Orrient, & par toute le terre habitable : ce sera augmenter la qualitié des Tres-Chrestien qui vous appartient par dessus tous les Rois de la terre, & montrer qu'elle vous est autant deuë par merite, comme elle vous est propre de droit, ayant esté transmise par vos predecesseurs depuis qu'ils se l'acquirent par leurs vertus, d'auoir voulu embrasser avec tant d'autres importans affaires le soing de celle-cy grandement negligée par cy-deuant, estant une grace speciale de Dieu d'auoir voulu reseruer sous vostre regne l'ouuerture de la prediction de son Euangille, & la cognoissance de son Saint Nom à tant de nations qui n'en auoient iamais oüy parler, qu'on iour Dieu leur fera la grace, comme nous, de le prier incessamment qu'il accroisse son empire, & donne mille benedictions à vostre Maiesté.

SIRE,

Votre tres-humble, tres-fidelle & obeissant,
seruiteur & subiect,

CHAMPLAIN.

No. 1154.

**ENGAGEMENT OF FIRST MISSIONARIES FOR NEW
FRANCE.**

EXTRACT FROM "VOYAGE DU SIEUR DE CHAMPLAIN, EN LA NOUVELLE
FRANCE, FAICT EN L'ANNEE 1615." (Oeuvres de Champlain
par Laverdiere.) pp. 490-4.

.... Mais auparavant il est à propos de dire, qu'ayant recogneu aux voyages precedents, qu'il y a auoit en quelques endroits des peuples arreztez, & amateurs du labourage de la terre, n'ayans ny foy ny loy, viuans sans Dieu, & sans religion, comme bestes brutes. Lors ie iugay à part moy que ce seroit faire vne grande faute si ie ne m'employois à leur preparer quelque moyen pour les faire venir à la cognoissance de Dieu. Et pour y paruenir ie me suis efforcé de rechercher quelques bons Religieux, qui eussent le zele, & affection, à la gloire de Dieu : Pour les persuader d'enuoyer, où se transporter avec moy en ces pays, & essayer d'y planter la foy, ou du moins y faire ce qui y seroit possible selon leur vacation, & en ce faisant remarquer & cognoistre s'il s'y pourroit faire quelque bon fruct, d'autant que pour y paruenir il falloit faire vne despence qui eust exedé mon pouuoir, & pour quelque raison i'ay negligé ceste affaire pour vn temps, me representant les difficultez qu'il y auroit au recouurement des choses necessaires, & requises en telle affaire, comme il est ordinaire en semblables voyages. D'ailleurs qu'aucunes personnes ne se presentoient pour y contribuër. Neantmoins estant sur ceste recherche, & la communiquant à plusieurs, il se seroit presenté vn homme d'honneur, duquel i'auois la frequentation ordinaire, appelé le Sieur Hoüel Secretaire du Roy, & Contrerolleur General des Sallines de Broüage, homme adonné à la pieté, & doué d'un grand zele, & affection, à l'honneur de Dieu, & à l'augmentation de sa Religion, lequel me donna vn aduis qui me fut fort agreable. A sçauoir qu'il cognoissant de bons Peres Religieux, de l'ordre des Recollez, desquels il s'asseuroit, & auoit tant de familiarité, & de creance enuers eux, qu'il les feroit condescendre facilement, & entreprendre le voyage, & que pour les feroit condescendre facilement, & entreprendre le voyage, & que pour les commoditez necessaires pour trois ou quatre Religieux qu'on y pourroit enuoyer, on ne manqueroit point de gens de bien qui leur donneroient ce qui leur seroit de besoing, offrant de sa part les assister de son pouuoir, & de fait il en rescriuit au Pere du Verger, lequel gousta & prit fort bien ceste affaire & suiuant l'aduis du Sieur Hoüel, il en communiqua & parla à aucuns de ses freres, qui tous bruslants de charité s'offrirent librement à l'entreprise de ce Saint voyage.

Or estoit-il pour lors en Xaintonge, dequel lieu il en enuoya deux à Paris, avec vne commission, non toutesfois avec vn pouuoir absolu, remettement

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le surplus à Monsieur le Nonce de nostre Sainct Pere le pape, qui pour lors estoit en France, en l'année 1614. & estans iceux Religieux en leur maison à Paris, il les fut visiter, estant fort aise & content de leur resolution, & lors tous ensemble fusmes trouuer ledict Sieur nonce, avec laditte commission pour la luy communiquer, & le supplier d'y interposer son auctorité. Mais au contraire il nous dist qu'il n'auoit point pouuoir pour telles affaires, & que c'estoit à leur General à qui ils se deuoient adresser. Neantmoins laquelle rent entreprendre le voyage, sur le pouuoir du Pere du Verger, craignant qu'il ne fust assez authentique, & saditte commission valable, à caufe dequoy l'affaire fut remise à l'autre année suiuite. En attendant laquelle ils prirent aduis & resolution, fuiuant laquelle on disposa toutes choses pour ceste entreprise, qui se deuoit effectuer au printemps lors prochain : en attendant lequel, les deux Religieux seroient retournez en leur Couuent en Broüage.

Et moy de mon costé, ie ne laissay de mettre ordre à mes affaires, pour la preparation de ce voyage.

Et quelque mois après le departement des deux Religieux que le Reuerend Pere Chapoüin Provincial des Peres Recollez, (homme fort pieux) fut de retour à Paris. Ledit Sieur Hoüel le fut voir, & luy fit le discours de ce qui s'estoit passé, touchant le pouuoir du Pere du Verger, & la maison qu'il auoit donnée aux Peres Recollez. Sur lequel discours ledit Pere Provincial commença a loüer ce dessein, & le prendre en affection, promettant d'y faire ce qui seroit de son pouuoir, n'ayant auparauant bien pris le subiect de ceste mission, & est à croire que Dieu l'inspira de plus en plus à poursuiure ceste affaire, & en parla dés lors à Monseigneur le Prince de Condé, & à tous Messieurs les Cardinaux, & Euesques, estans lors à Paris assemblez pour la tenuë des estats, qui tous ensemble loüerent & approuuerent ce dessein, & pour montrer qu'ils y estoient portez, assurerent ledit sieur Prouincial qu'ils trouueroient entr'eux, & ceux de la Court, vn moyen de leur faire un petit fonds, & leur amasser quelque argent pour assisster quatre Religieux, qu'on choisiroit, & furent dés lors choisis pour l'execution d'une si sainte oeuvre. Et affin d'aduancer le facilité de ceste affaire, ie fus trouuer aux estats Nosseigneurs les Cardinaux & Euesques, & leur remonstray, & representay le bien & utilité qui en pouuoit vn iour reuenir, pour les supplier & esmouuoir à donner, & faire donner à autres, qui pourroient y estre emulez par leur exemple, quelques aumosnes & gratifications, remettant le tout à leur volonté & discretion.

Les aumosnes qu'on amassa pour fournir aux frais de ce voyage, se monterent à prés de quinze cent liures, qui furent mis entre mes mains, & furent dés lors employez, de l'aduis & en la presence des Peres, en la despence & achat des choses necessaires, tant pour la nourriture des Peres qui feroient le

voyage en ladite nouvelle France, qu'habits, linges, & ornemens qui leur estoit de besoing, pour faire, & dire, le service Diuin, lesquels Religieux furent enoyez deuant à Honfleur, où se deuoit faire leur embarquement.

Or les Peres Religieux qui furent nommez & designez pour ceste sainte enterprise, estoient le Pere Denis, pour Commissaire, Jean Delbeau, Joseph le Caron, & Pacifique du Plessis, chacun desquels estoit porté d'une sainte

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affection, & brusloient de faire le voyage, moyennant la grace de Dieu, affin de voir s'ils pourroient faire quelque bon fruit, & planter en ces lieux l'estendart de Jesus-Christ, avec une deliberation de viure & mourir pour son saint Nom, s'il estoit necessaire, & que l'occasion s'en presentast. Toutes choses preparées, ils s'accommoderent des ornemens d'Englise, & nous des choses necessaires pour nostre voyage.

No. 1155.

C

**PROCEEDINGS OF THE FIRST MISSIONARIES IN
NEW FRANCE.**

FIRST ESTABLISHMENT OF THE FAITH IN NEW FRANCE BY FATHER
CHRISTIAN LE CLERQ, RECOLLECT MISSIONARY. Translated by
John Gilmary Shea, volume I.

CHAPTER III.

Beginnings are always difficult, and the greater the work the greater the difficulty. They also meet stronger opposition, especially in a religious establishment, even when it is proposed to push them on in a convenient country, where it should be easy to find all that is necessary for this design.

* * * *

Father John Dalbeau, having arrived at Quebec, had there, in concert with Monsieur de Champlain, traced the plan of our first establishment, a little chapel and a house to shelter the religious, on the very spot where the lower town is now. The whole was soon ready, for there was nothing but what was most simple and comfortable to evangelical poverty. Father Denis, the superior, had merely passed by Quebec, and had set out at the same time for Three Rivers with Father Joseph le Caron, leaving to Father John d'Olbeau the charge of the work, which being finished, and the chapel in a fit state, he had, on the 25th of June, 1615, the privilege of celebrating there the first Mass ever said in Canada.

* * * *

While at Quebec they had many conferences with monsieur de Champlain and the most intelligent Frenchmen, who unanimously, after frequently invoking the aid of Heaven, made a kind of capitulary assembly, a little conclave, where, after the example of the disciples of the Son of God upon the descent of the Holy Ghost, these new apostles had to divide among them

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this vast country and this New World, which they were going to subdue to the empire of Jesus Christ.

* * * *

The result of this assembly, and the division made, were approved by the governor. The reverend father-commissary remained at Quebec, as the centre of the country, to administer the sacraments to the French in the colony and to form a mission for the Indians ; to extend his solicitude as far as Three Rivers, and establish others further down the river, over which he might watch. Father John d'Olbeau was selected for the Montagnais ; Tadoussac being named as his post, whence he should extend to the end and mouth of the river St. Lawrence. Father Joseph le Caron had as his share the Hurons and other Western tribes ascending the river.

Father John d'Olbeau accordingly left Quebec the 2d of December in the same year, to proceed to the spot appointed for his Montagnais district, in order to learn their language and to be able to labour seriously for their conversion. He devoted himself to it during the winter with unwearied zeal, and devoured with pleasure all difficulties found in familiarizing one's self in the knowledge and practice of the language of these barbarians, of which in a little while he learnt the elements. He built a small hut there, in which he arranged a chapel in the form of a cabin, to assemble the French and Indians for instructions and prayer ; all was neat, though poor. During the winter he endeavoured to test the soil of the country, the natural temper and disposition of the Montagnais Indians; and as this nation is almost always errant and vagabond, he underwent great hardships in seeking them and visiting them in all the principal places where they had assembled. He even went as far as the Bersiamites, Papanachois Eskimaux, and other savages, up to and beyond the Seven Islands, everywhere planting the sign of salvation, so that many years after there were found, in many spots, vestiges and marks of this course and of the zeal of the first missionary.

* * * *

The Indians a second time, by the usual presents, invited Monsieur de Champlain to go to war with them against the Iroquois, but he did not deem proper to do so. His presence was necessary at Quebec, whither he descended to gain the first jubilee ever published in Canada.

Father John d'Olbeau had obtained it of His Holiness during his stay in France. It was opened with the usual ceremonies in the chapel of Quebec, July 29, 1618.

* * * *

A holy dispute arose between Fathers John and Joseph. The latter, burning with the desire of devoting his toil to the conversion of the Indians, which he always hoped to advance, although they could not remark only very remote dispositions, besought Father John d'Olbeau to relieve him of his office superior, which subjected him to a more sedentary residence at Quebec. Father John consented, the more as he was given to understand that his eyesight would not stand the great smoke of the cabins. Father

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Joseph accordingly set out from Quebec for Tadoussac, with a young Frenchman and four Indians, on the 9th of November in the same year, not finding any opportunity of returning to his mission of Carragouha in the Huron country.

This Father had a hard enough wintering and underwent great hardships. God did indeed raise him up one of the chiefs of these nations, who adopted him as a brother, so that by this means he gained ground with these barbarians and acquired credit to dispose them better and gain them more effectively to Christ. Such is the holy artifice used by the missionaries who go to winter with savage nations. They seek the most esteemed chief and the best inclined to the French. This Indian begets him (as the people say) amid a feast made expressly. This chief adopts him as a son or brother, according to the age and rank of the person, so that all the nation considers him as actually a native of their country and a relative of their chief, entering by this ceremony into an alliance with the whole family in the same degree—brother, sister, uncle, aunt, nephews, cousins, and so on.

* * * *

I have thought that the reader would be glad to see here a natural portrait of the general disposition of the Indians, such as I have found it in the fragments of the memoirs of the Superior of the mission sent to the Reverend Father-Provincial in France this present year, 1624:

FRAGMENTS OF THE MEMOIRS OF FATHER JOSEPH LE CARON,

*Addressed to France on the Disposition, Character,
Superstitions, Good and Bad Qualities of the Indians.*

“FATHER :

“As you are curious about the natural affairs of this country, and still more about what concerns the conversion of souls, and you ask me some account of both, I have deemed it proper not to mingle sacred and profane, but am obliged to

separate the two subjects in two different answers.

“I shall not give you much satisfaction by a great number of souls converted. Few real conversions are made among Indians; the time of grace is not yet come, although nothing is spared to dispose them for the Faith. It must be hoped that as the colony is peopled we shall civilize the Indians. This is necessary first; their mind will open and their good sense, of which they have the base. They will be regulated by French laws and modes of living, in order to render them capable of understanding such profound mysteries; for all that concerns humane and civil life is a mystery for our Indians in their present state, and it will require more expense and toil to render them men than it has required to make whole nations Christian. It does not follow that the work must be abandoned; on the contrary, we must apply ourselves more stedily and await the fruit in patience.

* * * *

“We have thus far traversed more than six hundred leagues inland and even wintered several years with the principal nations. They do not lack good sense in what concerns the public or private interest of the nation ; they reach their end, and even adopt very fit means and measures; and it is the subject of my surprise that, being so enlightened for their petty affairs, they have nothing but what is extravagant and ridiculous when you treat of religious dogmas or rules of morality, laws, and maxims. We have visited eight or ten different nations down the river towards Tadoussac, and we have found that almost all the Indians of New France acknowledge no divinity, and are even incapable of ordinary common and natural reasonings on this point, so material and benighted is their intellect.

* * * *

Our missionaries who were then at Quebec, after having invoked for some days the light of the Holy Ghost to concert what was most expedient for the establishment and the propagation of the faith in these countries which have been committed to their care, casting their eyes on the great number of different nations, and seeing that the colony began to form, decided that the harvest was too great for so small a number of workmen, and that the members of the Company thought they were making a great effort in supporting annually six Recollects ; that for the rest they must rely on Providence ; that their salaries were scanty for the establishment of the missions; that it would be enough for us, supported by little succors and alms from France, to maintain five missions, which promised some success; and that finally, if some religious community could be found willing at its own expense to sacrifice to this New World a number of missionaries, some advantage might be expected.

With this view our Fathers did not hesitate; having no share but uprightness, simplicity, the glory of the Almighty, a sincere desire of furthering it, without envy, by the conversion of these tribes, they all agreed to depute some one of their number to France to propose it to the reverend Jesuit Fathers, whom they judged best fitted to establish and amplify the Faith in concert with us in Canada.

No. 1156.

ESTABLISHMENT OF MISSION AT TADOUSSAC.

THE JESUIT RELATIONS AND ALLIED DOCUMENTS CLEVELAND, THE
BURROWS BROTHERS COMPANY, 1900. Vol. XXI.

RELATION DE CE QUI S'EST PASSÉ EN LA NOUVELLE
FRANCE, ÉS ANNÉE 1640 ET 1641.

D'UNE MISSION FAICTE À TADOUSSAC.

Encor que les Sauvages de Tadoussac soient quasi premiers que nos vaisseaux recontrent, si est-ce qu'on ne leur a porté les bonnes nouvelles de l'Euangile qu'apres plusieurs autres, & encor faut-il confesser que ce n'est pas nous qui les auons attirés; mais nos Neophytes, ou nouveaux Chrestiens de la Residence de Saint Joseph. Comme ils se sont visités de part & d'autre, & qu'ils ont veu que les principaux Sauvages de cette Residence, faisoient profession publique de la foy, ils s'en sont mocqués au commencement; mais efin, le bon exemple & le bon discours de leur Compatriotes leur ont fait aimer ce qu'ils haïssoient, & rechercher ce qu'ils abhorroient. L'an passé nos Neophytes, comme i'ay remarqué, les allerent inuiter par vn beau present, de venir demeurer avec eux à Saint Joseph, pour entendre parler des biens de l'autre vie; Ils respondirent par vn autre present, qu'ils n'estoient point allienés de la foy; mais qu'ils desiroient qu'on les vint instruire en leur païs; En effet, ils deleguerent Charles Meiachka8at, qui n'estoit pas encor baptisté, pour venir querir vn Pere de nostre Compagnie, & l'emmenèrent à Tadoussac, où quelques Sauvages des peuples du Sagné, se deuoient aussi trouver; comme le Pere qu'ils demandoient estoit occupé ailleurs, on leur promit qu'on ne manqueroit pas de la secourir au Printemps.

Le douziesme de May, le Capitaine de Tadoussac vint sommer nostre Reverend Pere Superieur de sa promesse, le Pere luy accorda tres-volontiers celui de nostre Compagnie qu'il demandoit: si tost que nos Chrestiens de Saint Joseph eurent connoissance de ce voyage, ils vindrent trouver le Pere le suppliant de parler à Tadoussac, c'est à dire, de faire des presens pour attirer à Saint Joseph le reliqua de ces pauvres peuples. Prie Monsier nostre Capitaine, luy disoient-ils, qu'il parler aussi, peut-etre qu'ils respecteront sa parole, s'ils viennent demeurer avec nous, nous parlerons de nostre costé, c'est à dire, nous leur ferons des presens pour applanir la terre, su laquelle ils placeront leurs cabanes, ou leurs maisons.

que ce dessein tendoit à la gloire de nostre Seigneur, fit son present avec lequel nous ioignismes le nostre, pour les offrir selon l'instruction que nos Neophytes nous avoient donnée; car ils nous informerent par le menu, comme il falloit parler. Cela fait, le Pere monte dans vne barque, qui desendoit à Tadoussac, les vents contraires le retarderent assés long temps en chemin, mais écoutons-le parler de son voyage.

Le Mercredy veille du tres-Saint Sacrement, vn canot de Sauvages nous vint aborder, comme ie vy que les vents, qui sembloient vouloir faire quelque tréue avec nous, recommençoient leur guerre, ie m'embarquay avec eux, promettant à nos François, que ie leur viendrois dire la saintes Messe le iour suivant, si le temps le permettoit; les Sauvages m'emmenèrent en vn lieu où il n'y avoit ny terre ny bois; c'estoit sur des roches, où ils auroient passé la nuict sans autre couuerture que le ciel, si ie ne me fusse trouué avec eux; ie les excite incontinent à chercher quelque meschant lieu pour nous cabaner; en ayant fait recontre, ils jettent leurs écorces sur cinq ou six perches: & bien leur en prit, & à moy aussi, dit le Pere; car nous fusmes battus tout la nuict du vent & de le pluïe.

Le lendemain ne pouuant aborder la barque, ie passay la grande feste de nostre Seigneur dans cette maison tres-pauvre des biens de la terre, mais richement pourueü des biens du ciel: La meilleure partie des Sauvages estoient Chrestiens; ie leur parlay de l'honneur qu'on rendoit ce iour là au Fils de Dieu avec pompe & magnificence, dans toute L'Europe: Là-dessus ie dresse vn petit Autel pour dire la sainte Messe; ils m'aidoient avec tant d'affection que i'en estoit tout attendry: voyans que le lieu où ie deuois marcher, estoit tout humide and fangeux, ils jettent par terre vne robe pour me seruir de marchepied. J'estendy vne petite nappe de communion au travers de la cabane, pour separer les fideles d'avec les infideles: Là dessus ie commence la sainte Messe, non sans estonnement, que le Dieu des dieux s'abaissast vne autre fois, dans vn lieu plus chetif que l'estable de Bethleem; ce bonnes gens se vouloient confessor & communier, mais ie les remis au Dimanche suiuant; les Sauvages qui n'estoient pas baptistés, garderent vn profound silence pendant ce diuin Sacrifice; aussi ont-ils bonne enuie d'estre Chrestiens.

La tempeste nous retint deux iours & deux nuicts prisoners sous ces écorces, plus ouuertes qu'une porte cochere; Comme nous songions à nostre depart, le sieur Marsolet qui commandoit la barque, m'escriuit ce peu de mots par vn ieune Sauvage, qui m'apporta la lettre; le Sauvage surnommé Boyer, est arriué en nostre barque, il dit, qu'il vous est venu querir tout exprés, pour vous mener à Tadoussac; il vous attend icy, faites luy, s'il vous plaist, vn petit mot de response; i'ay donné au present porteur vn peu de pain & de pruneaux, sçachant bien que vous en auiés besoin.

Aiant receu ce petit mot, ie vais trouuer la barque, le

Sauuage qui estoit venu au deuant de moy, me presse d'entrer à Tadoussac, disant, que tous ceux qui estoient là, souhaitoient ardemment d'estre instruits: Je m'y transporte dans les canots qui me vindrent querir; estant arriué, ils me témoignèrent toute sorte de bonne volonté, ils m'accueillirent tous avec beaucoup de bienueillance; ie visite les malades, ie trouue vne femme en danger, ie

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l'industry, ie la baptiste, & Dieu l'enleue au ciel: *Cuius vult, miseretur*. Dieu choisit ceux qui luy plaist; cette pauvre femme attendoit ce passaport pour entre en Paridis.

Si tost que ie fus arriué, poursuit le Pere, les Sauuages me bastirent vne maison à leur mode, elle fut bien-tost dressée, les ieunes hommes vont chercher des écorces, les filles & les femmes, des branches de sapin pour la tapisser d'un beau verd, les hommes plus âgés, en font la charpente, qui consiste en quelques perches qu'ils arrondirent en berceau; in iette là-dessus des écorces de fresne ou de prusse; & voila vne Eglise & vne maison bien-tost bastie; Au commencement ie songeois, où on couperoit les écorces pour faire des fenestres: mais la maison estant faite, ie reconnu qu'il ne falloit point prendre cette peine; car il y auoit assés de iour & de lumiere sans fenestres, ie dresse là dedans vn Autel, ie fay ma petite retraite tout auprès, & ie me trouue plus content, & aussi bien logé, que dans un Louure; la porte seule me mettoit en peine, car ie desirois la pouuoir fermer quand je sortirois, les Sauuges qui ne se seruent que d'une ecorce, ou d'une peau pour fermer leurs cabanes, ne me sembloient pas assés bons charpētiers pour fermer, mon palais; Mais Charles Meiachkašat, me monstra que si; il s'en va chercher deux bouts de planche, les cloüe par ensemble, faite vne petite porte: j'auois avec moy vn cadenat pendu à vn petit sac, il trouue l'inuention de s'en seruir pour fermer ma maison à clef: me voila done logé comme vn petit

Prince dans vn Palais, basty en trois heures: comme ie craignois l'importunité des enfans, le Capitaine fait vn grand cry par les cabanes, & recommande à la ieunesse de ne point entrer en ma demeure, que par ma permission: Jeunesse, disoit-il & vous enfans, respectés nostre Pere, allés le visiter: mais quand il priera, ou qu'il sera empesché, retirez vous sans bruit, portés luy du poisson, quand vous en prendrés; les enfans me suiuoient par tout, & m'appelloient leur Pere; ils m'apportoient de leur pesche, & ie leur donnois vn peu de galette; en vn mot, i'estois en paix quand ie voulois, dans ma maison d'écorce; car ie pris la liberté dès le premier commencement, de renuoyer tous ceux que je voudrois, quand j'auois quelque empeschement: encor que ce soit chose inouïe, qu'un Sauuage refuse la porte de sa cabane à vn autre Sauuage, personne neantmoins ne se formalisoit de la façon d'agir du Pere: Il faut dès vostre premiere entrée donner le ply que vous desirés à ces bonnes gens, capables de raisons, & ils ne s'estonnent pas que nous ayons des façons de faire differentes des leurs.

Quelque temps apres mon arriué ie fis festin avec les

Sauuages d'un bled d'Inde, qu'ils aimēt beaucoup, ie l'auois fait apporter exprés dans la barque pour ce sujet, ie voulu parler pendāt ce festin, mais les Sauuages ayans éuenté mon dessein, me remirent en vn autre temps; sur le soir le sieur Marsolet & moy, voulans produire les presens de Monsieur le Gouverneur & les nostres, le Capitaine nous courut au deuant, & me parla en ces termes. Mon Pere, il n'est pas besoin de nous faire des presens pour nous inuiter à croire en Dieu, nous y sommes desia tous resolu: le Ciel est vne assés grande recompense, nous ne desirons point d'estre orgueilleux, ny nous vanter d'estre honorés de vos presens, pour toute parole suffit, que vous nous enseignés le

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chemin du ciel: Sans entrer en d'autres discours, tous ceux que vous voiés icy sont dans la resolution de prier, mais non pas de quitter leur païs pour monter là haut; il apporta plusieurs raisons, pour faire voir qu'il leur estoit important, de ne se point retirer de Tadoussac: En effet, son discours estoit bon, mais fondé sur les considerations humaines & temporelles: Voila donc nos presens arrestés, Charles Meïachka8at, qui s'est retiré, comme i'ay desia dit, de Tadoussac pour viure en enfant de Dieu, à Saint Joseph, leur parla plusieurs fois tres-fortement, mais pardessus leur portée; car les hommes ne se deprennent pas si tost des interests de la terre, quoy qu'elle ne soit qu'un point, à comparaison du ciel. Ah! ie voy bien, fit ce bon-homme, que le Diable vous arreste icy, il vous donne des pensées, que vous serés pauvres, si vous quittés vostre païs, il vous fait apprehender que les richesses de la terre sont de grande importance; & que vous seruira tout cela à l'heure de la mort? il voit bien qu'il ne sçauroit vous raurir la volonté que vous aués de croire en Dieu; il vous iettera dans l'impossibilité de l'executer, vous attachant en un lieu, où vous ne pouués estre instruits : Si tost que vous ne verrés plus le Pere, vous ne penserés plus à Dieu; qui vous conseillera dans vos difficultes? qui vous empeschera de retomber dans vos chants superstitieux, & dans vos festins? Si quelqu'un a un tambour, qui prendra la hardiesse de luy oster? Nous les auons tous iettés, dirés-vous? comme si vous n'en pouués pas refaire d'autres: Moy mesme, encor que ie croye de tout mon coeur, il me semble que quand ie suis long-temps absent des Peres, que mes vieilles idées veulent retourner; voila pourquoy, quand ie deurois estre le plus pauvre du monde, ie ne le quitteray iamais. Ce bon Neophyte ne cessoit matin & soir, & la nuit mesme, de presser ses Compatriotes, de venir demeurer auprès de ceux qui enseignent le chemin de salut. Les Sauuages pressés de ces raisons, ne concludoient pas qu'il a fallust monter à Kebec, mais qu'il estoit à propos que nous descendissions à Tadoussac, pour y dresser vne Maison, afin de les instruire: Les Nations voisines y viendront demeurer, disoient ils, elles embrasseront la foy sans contredit: Mais ce païs est si miserable, qu'à peine y trouue-t'on de la terre pour leurs sepulcres, ce ne sont que rochers, steriles & affreux, si

neantmoins Monsieur le general, & la flotte de Messieurs de la Nouvelle France, qui passe tous les ans quelque mois à Tadoussac, y faisoit bastir vne maison par leur ordre, comme Monsieur de Plessis Bochart auoit commencé, cela feroit du bien à tout son équipage & aux pauvres Sauvages; car quelques Peres de nostre Compagnie se pourroient retirer là, depuis le Printemps iusques au depart des vaisseaux, pour secourir les François & les Sauvages dans leurs besoins spirituels; d'y demeurer pendant l'hyuer, c'est chose que ie ne conseillerois à aucun François; car les Sauvages s'en éloignent pendant ce temps-là, abandonnans leur rochers au froid, & à la neige, & aux glaces, dont on voioit encor quelques reliquats, cette année bien auant dans le mois de Iuin. Au reste, ie ne doute nullement, que si la fureur des Hiroquois peut estre arrestée, que tous les sauvages de Tadoussac, du Sagné, & de plusieurs autres petites Nations, ne montent plus haut, si on continuë de les secourir; mais voions toutes les remarques du Pere.

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Pendant le seiour que i'ay fait là, ces bonnes gens, dit-il, m'appelloient ordinairement à leurs conseils, ils me communiquoient leurs petites affaires, ils m'inuitoient à leurs festins, me traitant comme leur pere: Ils firent vn festin sur les fosses de leurs morts, incontinent apres non arrivée, auquel ils emploierent huict originaux & dix castors; le Capitaine haranguant, dit, que les ames des defuncts prenoient grand plaisir à l'odeur de ces bonnes viandes, ie voulus parler pour refuter cét erreur; mais ils me dirent, ne te mets pas en peine, ce n'est pas cela qui nous empeschera de croire, nous allons bien-tost jeter à bas nos vieilles façons de faire.

Voicy comme i'emploiois le temps avec eux, dés le petit jour, qui estoit enuiron trois ou quatre heures du matin, ie m'en allois faire prier Dieu par les cabanes; puis ie disois le sainte Messe, où tous les Chrestiens qui estoient descendus à Tadoussac, pour aller en traicts, assistoient tous les iours, se confessans & communians assés souuent. La Messe estans dite, ie me retirois à l'écart, hors le bruit des cabanes, pour vacquer un petit à moy mesme, i'allois en suite visiter les malades, puis i'assemblois les enfans pour leur faire le Catechisme, le Soleil ne regloit ny mon leuer, ny mon coucher, ny l'heure de mes repas : mais la seule commodité qui n'estoit guere auantageuse ny favorable au corps.

Je donnois vn temps apres le disner, tantost aux hommes, & puis aux femmes qui s'assembloient pour estre instruites, & sur le soir, apres m'estre retiré quelque temps, ie faisois faire les prieres avec vne instruction publique, où les enfans rendoient compte deuant leurs peres & meres, de ce qu'ils auoient appris au Catechisme, cela les encourageoit, & consoloit infiniment leurs parens.

I'en ay veu de si ardens à se faire instruire, qu'ils ont passé les nuicts auprès de nos Chrestiens, se faisans dire & redire vne mesme chose, pour la mettre dans leur memoire.

L'interrogeois les plus âgés publiquement comme des enfans, & tous me rendoient compte de ce que ie leur auois enseigné: En vn mot, si cette Mission est penible, elle est assaiionnée de beaucoup de consolation.

Le leur disois certain iour, que quelques François m'auoient dit à mon depart de Kebec, que ie ferois d'eux tout ce que ie voudrois deuant le venuë des Vaisseaux; mais qu'à l'abord des Navires, on ne les pourroit plus retenir, qu'ils seroiēt yures depuis le matin iusques au soir: L'vn d'eux prenant la parole, me dit avec bonne grace; Mon Pere, fay gageure avec ceux qui t'ont dit cela, & nous te ferons gagner; car assurément nous ne nous enyurerons point, demeure avec nous iusques à la flotte, & nous t'apporterons toutes les boissons que nous aurons, tu en seras l'Echanson & le distributeur, tu nous en verseras de tes mains, & nous ne passerons point la mesure que tu nous donneras.

Le vy aborder icy quelques ieunes gens du Sagné, qui n'auoient iamais vue de François; ils furent bien estonnés de m'entendre parler leur Langue: Ils demandoient de quel païs j'estois; on leur dit, que j'estois de Kebec, & de leurs parens; mais ils n'en pouuoient rien croire: car nos barbes mettent vne difference quasi essentielle, pour ainsi dire, entre un European & un Sauuage: l'ay communiqué avec quelques familles, venuës des Terres, ce sont gens simples, & tres-capables de recevoir le bon grain, & la riche semence de l'Euangile.

Estant certain iour en vne assemblée, où les Sauuages traitoient d'enuoyer la ieunesse en marchandise vers ces Nations plus éloignées; ie me presentay pour les accompagner, afin de parler de Dieu à ces pauvres peuples; cela les mit vn peu en peine, car ils ne veulent pas que les François ayent connoissance de leur commerce, ny de ce qu'ils donnent à ces autres Sauuages pour leurs pelteries; & cela se garde si bien que personne ne le sçauroit découurir: Ils me faisoient les chemins horribles & épouvantables, comme ils le sont en effet; mais ils en augmentoient l'horreur pour m'etonner, & pour me divertir de mon dessein. Aiant reconnu leur crainte, ie me mets à discourir des malheurs, & des biens eternels; les voiant touchés, ie leur demanday, s'ils seroient bien aises que ces pauvres peuples de leur connoissance, tombassent dans ces feux: Ils respondent, que non. Il les faut donc instruire, reparty-je, Qui le fera si vous me fermés la porte? Il est vray, dit l'vn des principaux, il faut qu'il soit permis au Pere d'aller par tout, il n'est point chargé ny de cousteaux, ny de haches, ny d'autres marchandises, c'est nostre Pere, il nous aime, ie suis d'auis qu'il aille où il voudra. Tous les autres s'y estans accordés; un Capitaine s'écria: Va où tu voudras, mon Pere, la porte t'est ouuerte dans toutes les Nations dont nous auons connoissance, nous t'y porterons dans nos canots; mais demeure avec nous pour ce Printemps: car estant venu pour nous instruire, il ne faut pas nous quitter que nous ne sçachions les prieres, tu pourras aller visiter ces bonnes gens vne autre année. Les voiant dans cette apprehension de leur dis, qu'ils sçavoient bien mon dessein; Il est vray, fit l'vn des principaux, le Pere ne vient pas icy pour nos pelteries, il n'a aucune marchandise entre les mains, il nous aime, c'est nostre Pere, il faut que la porte luy soit ouuerte par toutes les Nations dont nous auons connoissance; Tous les autres furent de mesme auis; mais ils me prièrent neantmoins de rester là; Ceux qui n'estoient pas baptistés, me demanderent des Chrestiens pour les embarquer & pour parler de ma part à ces peuples. Je mis des presens entre les mains de deux Chrestiens pour inuiter deux Nations à venir prester l'oreille aux bonnes nouvelles de l'Euangile; Ils me renuoyerent d'autres presens avec parole, que si ie voulois m'arrester à Tadoussac, qu'ils y viendroient, l'vn de nos Chrestiens de Saint Joseph, frere d'vn Capitaine des Sauuages qui sont dedans les Terres, l'inuitant de venir vois leurs champs, & leur bleds, pour l'inciter à cultiuier la terre; celuy-cy respondit: travaillés courageusement, priés les François de vous aider fortement à defricher la terre, si tost que vous aurés des bleds, pour nous pouuoir secourir, nous irons tous vous voir, & demeurer auprès de vous; mais nous craignons les Hiroquois.

Quelque temps apres Charles Meiachk8at alla de luy mesme, inuiter une autre Nation, de croire en Dieu, il trouua ces gens si bien disposés, qu'il s'en estonna; voicy comme il entra en discours avec eux: comme ils auoient desia ouy parler

de nostre creance, par le bruit qui en court par tout ces grands bois; ils luy demanderent s'il en auoit quelque connoissance: Ouy dea, fit-il, moy mesme ie suis baptisté, & ie croy en celuy qui a fait le ciel & la terre; Instruy donc, dirent-ils, ce pauure malade, que tu as visité, & qui s'en va mourant, il l'aborde, luy parle du pouuoir de Dieu sur tous les hommes, du

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recours qu'il deuoit auoir en luy, le fait prier, & demãder secours à sa bonté; Le malade apres cette priere, se trouue à demy guery, il se leue, il marche, auec l'estonnement de ses Compatriotes, Charles les voyant attentifs, leur parle de la creation du mōde, de l'Incarnation du Verbe; en vn mot, leur enseigne ce qu'il a appris; & nous estans las de parler, il se retiroit seul, recitoit son chapellet, & s'entretenoit en quelque sainte pensée, se pourmenant à l'écart; sans auoir égard si ses gens s'en estonnent, ou non, imitant ce qu'il auoit veu faire au Pere, qui instruisoit les Sauuages de Tadoussac. Si tost qu'il rentroit dans la cabane du malade, tous les autres Sauuages accouroient, ils se mettoient en rond à l'entour de luy, dans vn profond silence, & luy instruisoit selon sa portée, ne sçachant plus que dire, il se mit à crier si fort contre leurs superstitions, contre leurs festins à tout manger, monstrant la brutalité de leurs moeurs, & benissant Dieu, d'auoir quitté son ancienne barbarie, il dit tant de chose contre l'inutilité, & la foile de leurs tambours que tous ceux qui en auoient, les allerent tout soudainement querir, & les mirent en mille pieces en sa presence, cela l'estonna, & le consola fort: quand il fut de retour, il ne sçauoit se comprendre: Nikanis, me faisoit-il, ie les ay pensé amener icy auec moy; s'il eussent eu dequoy acheter des viures pour pour passer l'hiuer, ils m'auoient suiuy, tous ceux que i'ay veus sont dans la resolution de se faire instruire, & de quitter leurs anciennes coustumes, pour embrasser les nostres. Enfin, ie ne doute point que toutes ces pauures petites Nations qui sont dans les bois, où nos Chrestiens frequentent, ne se viennent ranger au bercail de l'Eglise, si on les peut secourir.

Pour conclusion, le Pere arriua à Tadoussac le secound iour de Iuin, & en fut rapellé le vignt-neuf, il baptisa quatorze ou quinze Sauuages, notamment des enfans & des personnes âgées; il en auroit baptisé bien dauantage, si ces pauures gens eussent esté en un lieu, où ils pourroient estre conserués en la foy, tout cela arriuera en son temps: Le Dieu qui les a touchés, & qui les appelle, leur ouurira la porte, & leur donnera le moyen d'executer ses saintes volontés. Ainsi soit-il.

[1647.]

No. 1157.

**VISIT OF JESUIT MISSIONARY TO LAKE ST. JOHN
DISTRICT.**

JESUIT RELATIONS, ETC. Vol. xxxi. Relation of 1647.

Deuât que de conclurre ce Chapitre. ie diray deux mots d'un voyage que fit le P. de Quen dans le pays de la nation du Porc-espig.

* * * * *

nous auions nauigé contre le courant de l'eau dans les deux precedentes riuieres, nous commancasmes icy à descendre dans le lac Piouagamik, sur les riuies duquel habite la nation du Porc-Epic que nous cherchions. Ce lac est si grand qu'à peine en voit-on les riuies, il semble estre d'une figure ronde, il est profond & fort poissonneux, on y pesche des brochets, des perches, des saumons, des truittes, des poissons dorés, des poissons blancs, des carpes & quantité d'autres especes.

Il est enuironné d'un plat pays, terminé par de hautes montaignes éloignées de 3. ou quatre ou cinq lieuës de ses riuies, il se nourrit des eaux d'une quinzaine de riuieres ou enuiron, qui seruent de chemin aux petites nations, qui sont dans les terres pour venir pescher dans ce lac, & pour entretenir le commerce & l'amitié qu'elles ont par entr'elles. Nous vogasmes quelque temps sur ce lac, & enfin nous arriuasmes au lieu où estoient les Sauuages de la nation du Porc-Epic. Ces bonnes gens nous ayans aperceus, sortirent de leurs cabanes, pour voir le premier François qui ait iamais mis le pied dessus leurs terres. Ils s'estonnoient de mon entreprise, ne croyans pas que iamais i'aurois eu le courage de fanchir tant de difficultez, pour leur amour.

[1649-1650.]

No. 1158.

**GROWING INFLUENCE OF JESUIT MISSIONARIES
AMONG THE MONTAGNAIS INDIANS.**

JESUIT RELATIONS, &C., VOL. XXXV, Relation of 1649-50.

Les Chrestiens avec leurs Chefs, jadis si ialoux de leur païs, & leur port de Tadoussac, qu'ils en refusoient la cognoissance aux autres Nations, voyans que les Peres ne pouuoient pas les aller trouuer dans le fonde de leurs grands bois les ont inuitées de venir demeurer aupres d'eux pour apprendre le chemin du Ciel, apportant pour raison, que'estans amis en cette vie, il ne falloit pas estre diuisez en lautre. Les 8papinachi8ek ont desia recue la Foy. Les 8mani8ek qui habitēt les terres voisines de l'Isle d'Anticosti ont commencé cette année de paroistre à Tadoussac, & de prester l'oreille à la doctrine de Iesus-Christ. Ces bons Capitaines leur ont fait des presens pour les attirer aupres d'eux, afin de leur donner enuie d'embrasser leur creance.

Ce n'est pas tout. Ces peuples qui cachotent iadis aux François les chemins des Nations où ils vont trafiquer, ne voulans pas mesme que nous en abordassions, nous pressent maintenant qu'ils sont Chrestiens, de les suiure dans ces vastes forests, pour baptiser & pour confessor les Nations qui ne peuuent approcher de leur pays. Ils ont mené le Pere Gabriel Druillettes dans ces contrées par vn chemin nouueau, mais tres-affreux, afin qu'il visitât & qu'il consolât ceux qui ne le pouuoient venir trouuer à Tadoussac.

No. 1159.

[27 March, 1659.]
XVII. Lettres
patentes. Fin de la
Puissance des
princes.

**EXTRACT FROM LETTERS PATENT, 27th MARCH,
1659, OF THE KING OF FRANCE RELATIVE TO
THE ESTABLISHMENT OF A BISHOP IN
CANDADA.**

(HISTOIRE DE LA COLONIE FRANCAISE EN CANADA, (PAR L'ABBÉ
FAILLON) VILLEMARIE : BIBLIOTHEQUE PAROISSIALE, 1865.
Tome II, p.331).

XVIII.
Résumé des
négociations pour
l'établissement d'un
évêque en Canada.

“Les grâces & les bénédictions infinies que Dieu verse continuellement sur notre personne & sur notre état, dit le jeune monarque, nous obligent, sur tous les Souverains de la terre, de prendre un soin particulier d'employer pour l'avancement de sa gloire & de son honneur la puissance qu'il nous a donnée. C'est pourquoi, désirant rendre à Sa Majesté divine une partie des reconnaissances que nous lui devons pour tant de faveurs , nous avons estimé que nous ne pouvions mieux nous acquitter de ce devoir qu'en soutenant les intérêts de la religion, & en étendant même nos soins sur les nations barbares & infidèles, pour coopérer à ce qu'elles soient appelées à la connaissance de son nom & dans le sein de son Eglise: sachant d'ailleurs que Dieu n'élève les Rois sur la terre, pour le gouvernement des peuples, que dans le dessein d'en faire les instruments de sa Providence, en se servant de leur zèle & de leur autorité pour établir son empire & étendre le culte de la vraie religion. C'est à quoi nous sommes encore excité par les exemples de piété que nous a laissés le feu Roi, notre très-honoré seigneur & père, & par les instructions que nous a données, dès notre enfance, la Reine, notre très-honorée dame & mère, qui n'a pas eu plus de soins de maintenir notre autorité & la grandeur de cette couronne que de nous inspirer par sa vertu singulière, avec ces saintes maximes, le zèle du service de Dieu & la gloire de son Eglise.

XIX.
Clauses des lettres
patentes.

“Ainsi, ayant été averti que la religion, qui commence à s'établir & à se répandre dans les provinces de Canada, ne peut être avancée ni maintenue qu'en y faisant l'érection d'un évêché, afin d'en pourvoir quelque personne d'un grand mérite, qui puisse, avec l'autorité de ce divin caractère & par l'usage de sa juridiction, donner la perfection à cet ouvrage si heureusement commencé: cette considération nous a porté à inviter notre Saint-Père le Pape à faire l'erection d'un siège épiscopal dans ces provinces éloignées. Mais Sa Sainteté ayant jugé que les choses nécessaire à cet établissement ne se trouvaient pas encore en ce pays, & qu'il y avait danger que, la

(*) Archives du séminaire de Québec, vol. intitulé: Affaires & diffivultés avant 1720. Lettres patentes du 27 mars 1659.

dignité épiscopale n'étant pas honorée avec le respect qui lui est dû, l'Eglise n'en reçut quelque désavantage, nous avons fait instance

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“pour qu'il plût à Sa Sainteté de donner ordre aux nécessités de cette Eglise naissante, par les voies qu'Elle jugerait les meilleures. Sur quoi, nous ayant offert de nommer Vicaire apostolique le sieur de Laval de Montigny, pourvu de l'évêché de Pétrée, pour faire toutes les fonctions épiscopales dans l'entendue de la Nouvelle-France, nous l'avons accepté, & ensuite les Bulles lui ont été expédiées.

“Ayant donc mis cette affaire en délibération dans notre Conseil, où la Reine, notre très-honorée Dame & Mere, notre très-cher & très-aimé Frère le duc d'Anjou, & autres princes & seigneurs, nous avons, de notre autorité royale, déclaré & nous déclarons par ces présentes, signées de notre main, que nous voulons & qu'il nous plaît que le sieur de Laval de Montigny, évêque de Pétrée, soit reconnu par tous nos sujets, dans les dites provinces, pour faire les fonctions épiscopales, sans préjudice des droits de la juridiction ordinaire; & cela, en attendant l'érection d'un évêché, dont le titulaire sera suffragant de l'archevêque de Rouen, du consentement irrévocable duquel nous avons accepté la dite disposition de notre Saint-Père le Pape; car tel est notre bon plaisir.

[1661.]

“LOUIS.” *

No. 1160.

C

NEW MISSION TO THE KILISTINONS,

CALLED S. FRANÇOIS XAVIER, TOWARDS HUDSON'S BAY.

JESUIT RELATIONS, VOL. XLVI, CHAP. III.

* * * *

Nous sçavons, il y a long temps, que nous auons à dos la Mer du Nort, habitée par quantité de Sauuages, qui n'ont iamais eü connoissances des Europeans; que c'est cette Mer, qui est contiguë à celle de la Chine, & qu'il n'y a plus que la porte à trouuer; que c'est là que se voit cette fameuse baye, large de soixante & dix lieües, & profonde de deux cens soixante, découuerte, pour la première fois, par Husson, qui luy a donné son nom, sans qu'il en ait receu d'autre gloire, que d'auoir le premier frayé un chemin, qui se termine à des Empires inconnus; c'est en cette baye que se trouuent, en certains temps de l'année, quantité de Nations circonuoisines, comprises sous le nom general des Kilistinons.

Tout l'hiuer dernier, vn Capitaine Nipissirien nous

entretint amplement du nombre de ces peuples, de la situation, & du temperament du païs, & sur tout d'une foire generale, qui s'y deuoit tenir l'Esté suiuant, à laquelle nos Sauuages de Kébec, & de Tadoussac estoient invitez. C'estoit là une belle

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occasion, pour aller nous-mesmes prendre les connoissances, que nous n'auons eu iusqu'à present, que par le rapport, assez peu fidele, des Sauuages: Connoissances, au reste, importantes, & curieuses; tant pour sçauoir au vray les longitudes, et les latitudes de ce nouveau païs, desquelles dépend en partie le fondement qu'on a d'y trouuer passage vers la Mer du Japon; comme aussi, pour voir les lieux, les moyens de trauailler efficacement à la conuersion de ces peuples.

LETTRE ECRITE AU R. P. HIEROSME LALLEMANT, SUPERIEUR DES
MISSIONS DE LA COMPAGNIE DE IESUS, EN LA NOUUELLE FRANCE.

De Nekouba, à cent lieues de Tadoüssac, dans les bois, sur le
chemin de la Mer du Nort, ce deuxiême de Iuillet 1661.
Mon R. Pere,

PAX CHRISTI

* * * *

Les trois iours suiuaus, s'employent à passer des Lacs, puis à chercher dans le bois, des riuieres, puis rentrer dans d'autres Lacs, & dans d'autres riuieres, qui nous portent enfin à Nekouba, qui est, comme i'ay dit, le milieu des deux Mers, de cette du Nort, & de celle de Tadoussac. Nous trouuons pour la latitude quarante-neuf degrez, vint minutes, & pour sa longitude trois cent cinq degrez, dix minutes, puisque de Tadoussac, tirant au Noroüest quart d'Oüest, nous rencontrons le Lac S. Iean, après trente-cinq lieües du plus court chemin; & de ce Lac, dont la latitude est quarante-huit degrez, trente minutes, & la longitude trois cent sept degrez cinquante minutes, tirant encore au Noroüest quart d'Oüest, nous nous trouuons icy, ayant fait enuiron quarante-cinq lieües en ligne droite.

Au reste, Nekouba est un lieu celebre, à cause d'une Foire qui s'y tient tous les ans, à laquelle tous les Sauuages d'alentour se rendent pour leurs petit commerce. Voicy l'accueil que nous firent soixante hommes, qui nous y attendoient, & qui se mirent en estat de nous receuoir à la mode du pays.

Au reste, nous auons veu des peuples, de huit ou dix nations, dont les vnes n'auoient iamais ny veu de François, ny entendu parler de Dieu; les autres, qui auoient esté baptisées autrefois à Tadoussac, ou au Lac de S. Iean, gemissoient depuis plusieurs années, après le retour de leurs Pasteurs. Nous auons donc la consolation, d'auoir fait entendre l'Euangile, pour la premiere fois, à diuerses nations, dont plusieurs enfans ont esté baptisez, plusieurs adultes instruits, plusieurs penitens reconciliez par the Sacrement de Confession, et toute cette pauvre Eglise vagabonde, a esté fortement encouragée à

perseuerer dans la Foy.

No. 1161.

[1660-61.]

MISSIONARY LABOURS AMONG THE MONTAGNAIS

RESORTING TO NORTH SHORE OF LOWER ST. LAWRENCE.

JESUIT RELATIONS &C., VOL. XLVII.
RELATION OF 1660-1661.

CHAPTER VI.

AUTRES ACCIDENS ARRIUÉZ A QUELQUES FRANCOIS, & SAUAGES,
CAPTIFS.

Mais, quoy que nos ennemis empeschent d'aller par tout, pour recueillir des fruits si doux & si meurs; nous n'auons pas laissé cette année, malgré tous les Iroquois, & tous les Demons, d'étendre nos Missions dans les quatre parties de ce Nouveau Monde, & d'aller quasi par tout, chercher ces pauvres brebis errantes. Au Midy, le Pere Simon le Moine est allé chez ces mesmes Iroquois, peut-estre pour arrouser de son sang, ces terres que nous auons baignées de nos sueurs. Au Couchant, le Pere René Menard est à plus de trois cent lieuës d'icy, ou mort, ou vif; car depuis deux ans qu'il est entré dans cette grande Moisson, nous n'en auons pas pû sçavoir de nouvelles; c'est assez que sa vie soit immolée à toutes les miseres imaginables, & à mille sortes de morts, pour le salut de ces Infideles. Au Nort, les deux Peres, dont nous auons décrit le voyage au Chapitre troisiéme, ont poussé leur pointe aussi loin que la famine, & l'Iroquois l'ont permis. A l'Orient, tirant au Nort, le Pere Pierre Bailloquet a donné jusqu'à l'emboucheure de nostre fleuee S. Laurent, à cent soixante lieuës d'icy; il y a visté sept ou huit Nations differentes, les Papinachiois, les Bersiamites, la Nation des Monts pelez, les Oumamiouek, & autres alliées de celle-cy. C'est là, que les uns ont pressé le Pere de les baptiser, croyant bien meriter ce bonheur, puisqu'ils auoient appris d'eux-mesmes les prieres, sans autre Maistre que le S. Esprit, par le rencontre de quelques Sauages Chrestiens; les autres luy ont presenté leurs enfans pour receuoir le saint Baptesme de ses mains, ne iugeans pas le leurs assez saintes pour ce sacré Ministere; les autres ont rallumé dans leurs coeurs le feu de deuotion, qui ne s'éteint pas tant par la vehemence des froids, & par l'abondance des neiges, que par le grand éloignement des Eglises, & des Pasteurs.

No. 1162.

[1663-64.]

**MODE OF TRANSACTING FUR TRADE AMONG
LABRADOR INDIANS.**

JESUIT RELATIONS. VOL. XLIX.
RELATIONS OF 1663-1664.

CHAPTER IV.

JOURNAL DU VOYAGE D'VN PERE DE LA COMPAGNIE DE JESUS, AU PAYS
DES PAPINACHOIS, & DES OOUCHESTIGOUETCH.

L'onzieme du mesmes mois nous arriuasmes à la riuere que les Sauuages appellent Kouakoucou; nous vismes en passant les rauages que le Trembleterre à fait aux riuieres du Port neuf; l'eau qu en sort est toute iaune, & elle garde cette couleur bien auant dans le grande fleuue, aussi bien que celle des Bersiamites: Les Sauuages ne sçauoient plus nauiger dans ces deux riuieres.

Quittant ce dernier poste nous fismes rencontre de deux Canots qui descendoient des terres bien chargez de pelleteries, ils rebrousserent chemin, & s'en vinrent avec nous. Nos Sauuages firent leur traite avec ces nouueaux venus, en suite dequoy ils acheuerent les Cantos qui nous estoient necessaires pour nostre voyage. Quelques iours apres estant arriuez a la riuere de Peritibistoukou, où nous arrestasmes iusques au deuxieme de Juin, deuant entre dans les terres par cette riuere, la disposition de nostre voyage fut, que les femmes, les enfans & quelques hommes resteroient sur le bord du grand fleuue, tandis que le reste monteroit au Lac de Manikougan.

No. 1163.

[1669-70.]

NEWS RECEIVED FROM HUDSON BAY.

THE JESUIT RELATIONS, &C. VOL. LIII.
RELATIONS OF 1669-70.

SECOND LETTRE DU PERE AU ALBANEL AU SUPERIEUR DES MISSIONS.

Comme ie me disposois le premier iour de May, à remonter à Quebec, après avoir passé l'hyver dans nos forests avec nos Sauvages; ie receus ordre de V.R. de visiter les Missions qui sont au Nord, de l'autre costé de la Riviere Saint Laurent, où ie me rendis le 12. iour de mesme mois.

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Le dernier iour de May nous partismes de Tadoussac pour aller aux Papinachois, qui en sont éloignez d'environ trente lieuës, du costé du Nord, le long de nostre grande Riviere de S. Laurent.

Le troisieme iour de Iuin, nous arriuâmes au lieu où ils estoient assemblez au nombre de cent cinquante personnes, Ie trouvay là un Sauvage, de la grande & celebre Baye du Nord, qui m'a dit qu'on avoit veu un vaiffeau Francois dans son païs, & qu'il les avoit pillez & fort mal-tra(i)tez. Que le Chef qui commandoit le Navire, les avoit asseurez que l'année prochaine il viendroit se poster dans cette Baye, & qu'on donnast advis à tous leurs gens de s'y rendre, & de luy apporter leurs pelleteries; qu'il estoit le maistre de la paix & de la guerre, & qu'il ameneroit avec luy quantité d'Iroquois pour les destruire, s'ils ne luy obeïssoient.

**EXPEDITION OF JESUIT MISSIONARIES TO
HUDSON'S BAY.**

JESUIT RELATIONS, Vol. lvi. Relation of 1671-1672.

CHAPITRE VI.

VOYAGE DE LA MER DU NORD PAR TERRE, & LA DÉCOUVERTE DE LA
BAYE DE HUTSON. MISSION DE SAINT FRANÇOIS XAVIER EN 1671. &
1672.

La mer que nous avons au Nord, est la fameuse baye, à qui Hutson a donné son nom, & qui a piqué, de puis long-temps, de curiosité nos François pour en faire la découverte par le terres, & pour sçavoir sa situation à nostre égard, sa distance, & quels sont les peuples qui l'habitent. Le desir de prendre connoissance de cette mer, s'est augmenté depuis que nous avons appris par nous Sauvages, que tout fraîchement quelques navires y avoient paru, & mesme y avoient commencé le commerce avec ces Nations, qu'on nous a toujours dit estre nombreuses & riches en pelteries.

C'est pour cela, que Monsieur Talon nostre Intendant a jugé qu'il ne devoit rien obmettre de ce qui seroit en son pouvoir, pour faire cette decouverte; & parce qu'il sçait que l'intention de sa Majesté est, que tous les Peuples de Canada soient instruits dans le Christianisme, il a demandé quelqu'un de nos Peres, qui pust ouvrir le chemin à nos François vers cette baye, en mesme-temps qu'il y porteroit l'Evangile.

On jetta donc les yeux sur le Pere Charles Albanel ancien Missionnaire de Tadoussac, parce que depuis long-temps, il a beaucoup pratiqué les Sauvages, qui ont connoissance de cette mer, & qui seuls peuvent estre les conducteurs par ces routes, jusqu'à present inconnuës.

Monsieur de saint Simon avec un autre François ayant esté choisis pour cette entreprise, & Monsieur l'Intendant les ayant tres-bien fournis de tout ce qui estoit necessaire, pour la faire reussir, le Pere partit de Quebec le 6. Aoust 1671. & leur donna rendez-vous à Tadoussac, où il devoit faire choix d'un Sauvage adroit, & intelligent pour luy servir de guide pendant tout ce voyage.

Nous le suivrons pas à pas, & nous sçaurons mieux tout ce qui s'est passé en cette expedition, mettant icy son journal, tel qu'il l'a dressé pendant sa marche.

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Le I. de Septembre, nous couchames au delà d'un petit lac

qu'on appelle Kinougamichis, renommé pour la multitude des grenouilles à longues queues

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qui l'habitent, & qui y font un croacement continuel ; on tient qu'elles sont fort venimeuses, quoy qu'en ces païs les crapaux, les serpens, & les viperes ne le soient pas.

Le 2. nous logeames sur l'entrée du la S. Jean nommé Pingagami, qui a 30. lieuës de longueur, 10. de largeur, 12 rivieres entrent dans ce lac, & il n'y en a qu'une seule, qui en sorte, laquelle forme cette belle, & grande riviere qu'on appelle le Saguenay. Ce lieu est beau, les terres sont fort unies, & paroissent bonnes, il y a de belles prairies; c'est le païs des loutres, des originaux, des castors, & principalement du porc epi; c'est pour cela que les Sauvages; qui y font leur residence, s'appellent Kakouchac, prenant leur nom du mot Kakou, qui en leur langue signifie porc epi: c'estoit autrefois l'endroit, ou toutes les Nations, qui sont entre les deux Mers, de l'est, & du Nord, se rendoient pour faire leur commerce, j'y ay veu plus de vingt Nations assemblées.

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Le 17. cinq canots s'Attikamegues, ou poissons blancs, & de Mistasirinins nous vindrent joindre; ils nous apprirent pour nouvelles que 2. navires avoient mouillé dans la baye de Hutson, & qu'ils avoient fait grande traite avec les Sauvages, s'y estant establis pour le commerce, ils nous firent voir une hache & de tablac, qu'ils avoient en d'un Papinachois, qui avoit esté en traite vers la mer du Nord, cet Esté même. Ils adjoustoient qu'il n'y avoit point d'assurance de vie pour nous, qu'ons s'y battoit rudement, qu'un Sauvage avoit esté tué dans leur demelé, & qu'un autre avoit esté emmené prisonnier. Ils en avoient assez dit pour jeter l'epouvante dans l'esprit de tous nos gens, mais comme ce n'estoit plus le temps de continuer nostre route, à cause de l'Hyver, qui nous pressoit, ce discours ne fit aucune impression sur nom esprit.

Neantmoins pour ne pas agir sans conduite en cette affaire, voyant que je n'avois aucun passeport, je pris resolution d'envoyer à Quebec, pour m'en pourvoir, donnant en même-temps advis de tout ce que je venois d'entendre, & pour sçavoir quelles mesures je devois garder en ce circonstances.

Deux Sauvages, & un François partirent le 19. Septembre avec mes lettres: je m'occupay cependant à instruire cette petite bande, que Dieu m'envoyoit bien à propos; je baptisay un petit enfant, & deux adultes, apres les instructions necessaires, & m'employay a cultiver ceux qui estoient Chrestiens jusqu'aux dixième Octobre, nostre canot estant retourné ce jour là, avec des patentes de Monseigneur nostre Evesque, & des passeports de Monsieur de Courcelles nostre Gouverneur, & de Monsieur Talon nostre Intendant, je reçeus aussi leurs advis, qui m'ont servy dans cette conjoncture d'affaires.

La saison estant trop avancée pour se rendre à la mer avant les neiges, & les glaces, par lesquelles nous fumes arrestez le

dernier jour d'Octobre, nos Sauvages choisirent ce lieu pour y passer l'hyver à cause de la chase, qui s'y trouve abondante.

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Le dixieme (Juin) sur les six heures du matin nous arrivames à Paslistaskau, qui divise les terres du Nord & du Sud, c'est une petite langue de terre d'environ un arpent en largeur, & de deux en lōgueur, les deux bouts de cette pointe sont terminez par deux petits Lacs, d'où sortent deux rivieres, l'une descend à l'Est, & l'autre au Noroüest, l'une entre dans la mer à Tadoussac par le Saguenay, & l'autre dans la baye de Hutson par Nemeskau, où est le milieu du chemin entre les deux mers. Sur le soir, nous fimes rencontre de trois Mistassirinins dans un canot, qui estoit en fort bon estat, ils venoient au devant de nous, ayant apperceu de grandes fumées que nous faisons de temps en temps approchant de cette Nation, pour signal de nostre arrivée. Ce canot prit congé de nous sur l'entrée de la nuit, feignant de pousser plus avant, & tout soudain apres avoir tourné l'Isle, dans laquelle nous estions placez, il se vint joindre à nous dés le soir mesme, considerant de pres le plus âgé des trois, qui s'appelle Moukoutagan, comme qui diroit cousteau crochu, j'entray dans la défiance, qu'il ne nous voulut faire achepter le passage, mais s'estant apperceu de ma défiance, il essaya de cacher son dessein, & ce fut le matin en partant, qu'il s'en expliqua, en me disant, Robe noire, arreste icy, il faut que nostre viellard, maistre de ce païs, sçache ton arrivée, je m'en vay l'avertir.

Ce n'est pas d'aujourd'huy que les Sauvages, par une maxime de leur politique, ou de leur avarice, sont extremement reservez à donner passage par leurs rivieres aux estrangers, pour aller aux Nations éloignées. Les rivieres sur sont ce que sont aux François leurs champs, dont ils tirent toute leur subsistance, soit pour la pesche & la chase, foit pour le traffic. Je fis neanmoins semblant de m'offenser de ce langage; c'est pourquoy je luy repondis un peu brusquement, est-ce toy qui m'arreste? Non ce n'est pas moy, & qui donc? Le Vieillard Sesibaourat; où est-il? bien loin d'icy, me dit-il, hé bien tu luy feras sçavoir, qu'aujourd'huy je me veux reposer estant fort fatigué, mais si demain au matin, ton Vieillard ne paroist, tu luy diras que je suis pressé, & que je continueray ma route. Il s'embarque, & part à l'heure mesme, mais je fus tout estonné que le soir quatre canots parurent, qui me vinrent prier de la part du Vieillard, de l'excuser, s'il n'estoit pas venu, qu'un vent contraire l'arrestoit jusqu'au lendemain.

Ce fut le 13. de Juin que dix-huit canots arriverent, la pluspart ayant peints leurs visages, & s'estant parez de tout ce qu'ils avoient de precieux, comme de tours de teste, de colliers, de ceintures, & de brasselets de porcelaine. Ils vinrent descendre tout proche de nous, & le Capitaine mettant pied à terre, je le fis saluer de dix coups de fusils en signe de réjouissance, & dés le mesme soir je le fis appeller, avec les

principaux d'entr'eux. pour leur parler par deux riches presens. En cette maniere.

Sesibahoura, ce n'est pas pour achepter le passage de cette riviere, & de ton Lac, que je te veux regaler de deux presens. Le François ayant deslivré tout ce pais des incursions de Iroquois vos ennemis, merite bien qu'on luy fasse un droit d'aller, & de venir avec toute liberté sur cette terre, qu'il a conquis par ses armes. De plus, Dieu, que vous dites vous mesme estre la maistre de toutes choses, puisque c'est luy qui a tout fait, & qui gouverne tout, m'en

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voyant pour le faire connoistre par toutes ces contrées; me donne le droit de passer librement par tout. L'Annié, L'Oneiout, L'Onontagueronon, l'Oiogouen, ny le Sonnontouan, le Nepissirininin, l'Outaouac, ny toutes les Nations estrangeres, n'ont jamais rien exigé de mes freres, lorsqu'ils passent & repassent librement sur leurs terres pour les intruire, & les informer des Loix de l'Evangile.

En qualite de vostre amy, de vostre allié, & de vostre parent, ce present est une natte pour couvrir les fosses de vos morts, qui ont este tuez par l'Iroquois vostre ennemy, & à vous, qui avez échapé leurs feux, & leur cruauté, il vous dit, que vous vivrez à l'avenir; Onnontio luy a osté des mains la hache d'arme; vostre pais estoit mort, il l'a fait revivre, il a arraché les arbes, & les rochers qui traversoient vos rivieres, & interrompoient le cours de leurs eaux; peschez, chassez, & trafique par tout, sans crainte d'estre découverts de vos ennemis, ny par le bruit de vos armes, ny par l'odeur du tabac, ny par la fumée de vos feux, la paix est generale par tout.

Ce deuxieme present vous dit que l'Iroquois prie Dieu maintenant, depuis que le François luy a donné de l'esprit, & qu'il pretend aussi que vous l'imitiez maintenant qu'il vous a rendu vostre liberté. J'aime Dieu, vous dit le François, je ne veux point avoir d'alliez, ny de parens, qui reconnoissent le Demon pour leur maistre, & qui recourent à luy dans leurs besoins. Mon amitie, mon alliance, & ma parenté ne doit pas estre seulement sur la terre, & en ce monde, je veux qu'elle soit de durée en l'autre, apres la mort, & qu'elle subsiste dans le Ciel.

Et pour cela quittez le dessein d'avoir commerce avec les Europeans, qui traitent vers la mer du Nord, où on ne prie point Dieu, & reprenez vostre ancien chemin du Lac S. Jean, où vous trouerez toujours quelque robe noire pour vous instruire & baptiser.

Tout ce soir là ne fut qu'un grand festin pour nous bien recevoir, & nous faire part à leur mode, de tout ce qu'ils avoient de meilleur; & sur la nuit s'estant tous assemblez apres le cry qu'en fit le Capitaine, pour nous mieux témoigner les transports de leur joye, on ordonna une danse publique, ou joignant quelquefois la voix & le tambour, ils passerent la nuit dans cette réjouissance, en laquelle ne se passa rien que dans l'honesteté.

Le jour suivant, le Capitaine parla à son tour apres un beau festin, en cette maniere.

C'est aujourd'huy, mon Pere, que le Soleil nous luit, & que nous favorisant de ta douce presence, tu nous fais le plus beau jour que ce païs ait jamais veu; jamais nos peres, ny nos grands peres n'ont eu tant de bonheur. Que nous sommes heureux d'estre naiz en ce temps, pour jouïr à plaisir des biens que tu nous fais! Le François nous oblige bien fort, en nous donnant la paix, il nous fait tous revivre.

Mais il nous oblige bien plus en nous voulant instruire, & nous faire Chrestiens, nous le regarderons comme celui par le moyens de qui, nous pouvons, apres nostre mort, éviter les peines eternelles. Il conclut par un present qu'il me fit, en me disant, mon Pere, nous t'arrestons icy pour nous instruire, & nous baptiser tous, à ton retour tu diras à Onnontio que nous prions tous Dieu, & que nous avons écouté sa parole.

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Il me seroit difficile d'exprimer quelle fut nostre joye, de voir en ce païs de si bonnes dispositions pour la Foy, & quel fut nostre zele pour seconder l'affection qu'ils faisoient paroistre pour le Christianisme. Apres les remereimens qui se pratiquent icy en ces occasions. Je leur dis que pour les enfans, je les baptiserois, parce qu'il leur seroit trop incommode de les porter au Lac de S. Jean. Mais que pour les Adultes, estant pressé de partir, je ne les pouvois pas informer pleinement de tous nos mysteres, & que ceux qui parloit tout de bon, allans au Lac de S. Jean pour leur trafic, m'y pourroient attendre, & qu'à mon retour je les satisferois tous, à quoy ils s'accorderent.

Le 15. tous les particuliers nous regalerent à leur mode, & je continuay à faire nos fonctions, & à les instruire.

Le. 16. apres avoir dit la sainte Messe, nous partismes & arrivasmes à Kimaganusis. Le 17. à Pikousitesinacut, c'est à dire, au lieu où l'on use les souliers, c'est ainsi qu'il est nommé pour expliquer la difficulté du chemin.

Le 18. nous entrasmes dans ce grand Lac des Mistassirinins qu'on tient estre si grand, qu'il faut vingt jours de beau temps pour en faire le tour, ce Lac tire son nom des rochers dont il est remply, qui sont d'une prodigieuse grosseur, il y a quantité de tres-belles Isles, du gibier, & du poisson de toute espece, les orignaux, les ours, les cariboux, le porcepy, & les castors y sont en abondance. Nous avons déjà fait six lieuës au travers des Isles qui l'entrecouperent, quand j'apperçeus comme une eminence de terre, d'aussi loin que la veuë se peut estendre; je demanday à nos gens, si c'estoit vers cet endroit qu'il nous falloit aller, tais-toy, me dit nostre quide, ne le regarde point, si tu ne veux perir. Les Sauvages de toutes ces Contrées s'imaginent, que quiconque veut traverser ce Lac se doit soigneusement garder de la curiosité de regarder cette route, & principalement le lieu où l'on doit aborder; son seul aspect, disent-ils, cause l'agitation des eaux, & forme des tempestes, qui font transir de frayeur les plus asseurez.

le 19. nous arrivasmes à Makoïamitikac, cest à dire, à la

pesche des Ours, c'est un lieu plat, & l'eau y est fort basse, au reste fort abondante en poissons, les petits esturgeons, le brochet, & le poisson blanc y font leur demeure; il y a du plaisir à voir les ours qui marchent sur les bords de cette eau, & qui prennent de la patte en passant avec une adresse admirable, tantost un poisson, & tantost un autre.

Le 22. nous allasmes à Oüetataskouamiou, cette journée nous fut bien rude, il fallut quitter la grande riviere, les cheutes d'eau, & les rapides estants trop violens, & prendre nostre route parmy des petits lacs, à la faveur de dix-sept portages pour retomber dans la mesme riviere. Ce fut icy, où nostre guide s'égara par deux fois, ce qui nous obligea de faire un portage de deux grandes lieuës, par des rivieres, des descentes, & des montagnes, des plaines noyées, & des ruisseaux qu'il fallut traverser ayant l'eau jusqu'à la ceinture.

Le 23. & le 24. nous trouvasmes un païs qui n'est pas si montagneux, l'air y est bien plus doux, les campagnes sont belles, & les terres y produiroient beaucoup, & seroient capables de nourrir de grands peuples, si on les faisoit valoir. Ce païs, le plus beau de toute nostre route, a continué jusqu'à Nemiskau, où nous arrivasmes le 25. Juin sur le midy.

Nemiskau est un grand lac de dix journées de circuit, entouré de grandes montagnes, depuis le Sud jusqu'au Nord, formant un demy cercle, on voit à l'emboucheure de la grande riviere, qui s'etend de l'Est au Nordest, des vastes plaines, qui regnent mesme au dessous des montagnes qui font le demy rond, & toutes ces campagnes sont entrecoupées si agreeablement d'eau, qu'il semble à la veuë que ce soient autant de riveres, qui forment un si grand nombre d'Isles, qu'il est difficile de les pouvoir conter. On voit toutes ces Isles tellement marquées des pistes d'originaux, de castors, de cerfs, de porc-epy, qu'il semble qu'elles soient le lieu de leur demeure, où ils font leurs courses ordinaires; cinq grandes rivieres se déchargent dans ce lac, qui font que le poisson y est si abondant qu'il faisoit autrefois la principale nourriture d'une grande nation sauvage qui l'habitoit, il n'y a que huit ou dix ans. On y voit encore les tristes monumens du lieu de leur demeure, & les vestiges sur un islet de roches, d'un grand fort fait de gros arbres, par l'Iroquois, d'où il gardoit toutes les avenues, & où il fait souvent des meurtres; il y a sept ans qu'il y tua ou emmena en captivité, quatre-vingt personnes, ce qui fut cause que ce lieu fut entierement abandonné, les originaires s'en estant escartez. Il y avoit grand trafic, & on y abordoit de divers endroits à cause de la riviere qui est grande, & du voisinage de la mer. Cette riviere fait un grand coude tirant au Nordest, il nous fallut faire quatre portages de tresmauvais chemin, par des petits lacs, pour la couper droit au Nordest, & nous fusmes coucher a Nataoüatikoüan.

Le 26. à Tehepimont, país fort montagneux. Le 27. nous achevasmes de franchir les portages. Jusques icy nous n'avions point senti les incommoditez qu'apporte la persecution de ces petites mouches fort picquantes, qu'on nomme mousquites & maringouins; mais ce fut icy où il nous fut impossible de pouvoir dormir, estans continuellement occupez à nous deffendre par les fumées, que nous faisons de tous costez, de la cruelle guerre que nous faisoient ces petits animaux, dont le nombre paroissoit infiny.

Le 28, à peine avions nous avancé un quart de lieuë, que nous rencontrames à main gauche dans un petit ruisseau, un heu avec ses agrez de dix ou douze tonneaux, qui portoit le Pavillon Anglois, & la voile latine; delà à la portée du fusil, nous entrasmes dans deux maisons desertes; un peu plus avant on découvrit que les Sauvages avoient hyverné là proche, & que depuis peu, ils en estoient partis, nous poursuivismes donc nostre route, jusques à une pointe esloignée de six lieues de la maison des Europeans. Là, la marée estant basse, & le vent contraire, nous nous en retirasmes les vases jusqu'au ventre, dans une petite riviere à main droite, tirant au Nordest, ou en tournant, & cherchant, nous rencontrâmes deux ou trois cabanes, & un chien abandonné, qui nous firent connoistre que les Sauvages estoient proche, & qu'il n'y avoit que deux jours

qu'ils avoient délogé. Tout ce soir nous arrestames-là, tirant de grands coups de fusils pour nous faire entendre, & nous divertissant à considerer la mer que nous avions tant recherchée, & cette si fameuse baye de Hutson, de laquelle nous parlerons cy-apres.

Le 29. un de nos canots partit pour aller à Miskoutenagachit, là où nos gens pensoient que les Sauvages devoient estre. Le 30, mon host s'estant

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mis en mauvaise humeur, perdit coeur de passer outre, & ne songeant plus qu'à son retour, disoit qu'il estoit en peine de sa petite fille agée de quatre mois, qu'il avoit laissée, nous retournasmes à la maison des Anglois, il me fallut faire violence pour condescendre à cette humeur brutale, & dissimuler mes ressentimens.

Le matin du premier de Juillet apres avoir dit la sainte Messe, je taschay de luy représenter que nostre canot n'estant pas de retour, il falloit par consequent qu'il eust rencontre des Sauvages & qu'il nous attendit.

Il proposa d'abord de grandes difficultez pour faire une traverse de vingt lieuës en canot sur la mer, je crus deslors qu'il estoit gagné; neanmoins pour l'obliger de se declarer davantage, je luy repartis; il est de ton honneur, & de ceux qui t'envoyent de ne te point arrester, estant si proche; apres tant de fatigues passées, il n'est rien de si difficile que tu ne puisse aisément vaincre avec le secours de Dieu. S'il n'y a rien de si noble, & de si grand que de porter la Foy parmy les infideles, & d'estendre l'Empire de Dieu, tu te devrois estimer heureux de cooperer au salut de quelque personne, qui s'en ressouviendra même apres sa mort, & priera Dieu pour toy, & au contraire tu auras juste sujet de craindre à l'heure de ta mort, les reproches qu'on te pourra faire, si quelqu'un perit par ta lâcheté; ce fut ce qui le gagna entierement, & l'apprehension des jugemens de Dieu à ce dernier passage, luy fit resoudre de continuer la route. J'ay toujours experimenté que les Sauvages sont fort susceptibles des impressions des peines de l'Enfer, & de l'attrait des delices de Ciel.

Alors tout brusquement, il me repartit, dépeche-toy donc, embarquons-nous. Nous partimes ce mesme jour sur les six heures, & à dix lieuës de là sur les deux heures, nous rencontrasmes un canot que le Capitaine, sçachant nostre arrivée envoyoit en diligence au devant de nous, pour nous conduire.

Du plus loin qu'on nous vit approcher, ils sortirent tous de leurs cabanes, & se rendirent sur le bord de l'eau, le Capitaine s'écrie à pleine teste pour nous complimenter, la Robe noire nous vient visiter, la Robe noire nous vient visiter, & soudain une bande de jeunesse se détache du gros, qui accourut à nous ayant l'eau jusqu'au ventre, les uns nous porterent à terre, les autres s'attachèrent à nos canots, & le reste à nostre équipage. Le Capitaine me prend d'une main, & de l'autre se saisit de mon aviron, me conduit droit à son logis, fait porter toutes nos

hardes, & met les deux François à mes deux costez. Nous restâmes là, jusqu'à ce qu'il nous eust fait dresser une cabane, à laquelle pendant que les femmes travailloient, ie tiray un beau calumet, & trois brasses de tabac, & les donnay au Capitaine pour petuner, & regaler sa jeunesse. C'est le plus grand plaisir, & la plus grande civilité qu'on puisse faire à un Sauvage de luy donner à petuner principalement en ce pays-là & dans un temps, ou le petun estoit tres-rare.

Dés que nous fumes logez le Capitaine prepara un beau festin, chacun tascha à l'envy de nous caresser, nous apportant ce qu'ils avoient de meilleur, ils vinrent tous l'un apres l'autre, pour nous visiter, les femmes mesme, menoiert leurs enfans pour voir une robe noire, n'en ayant jamais veu.

Je n'estoit pas pourtant pleinement satisfait de ces civilitez extra-

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ordinaires. Une chose me tenoit au coeur, i'avois fait reflexion, dans l'en entretien que i'auois eu avec ceux du canot, qui estoient venus au devant de nous, que sous pretexte de quelque interest de la Nation, avec laquelle ils avoient commerce ces gens entr(er)oiert en ombrage de nostre visite, & de nos pretentions, nostre intention ne leur estant pas bien connue.

Pour leur faire prendre les justes sentimens de nostre conduite, ie me resolus de leur persuader que j'estois parfaitement desinteressé dans la visite, que ie leur rendois, & que ie n'estois pas venu pour exercer aucun trafic. n'y m'enrichir à leurs despens, ou au prejudice du peuple avec lequel ils trafiquoient, mais plustost pour les enrichir en leur distribuant liberalement tout ce que nous avions apporté de si loin, avec tant de peine.

Je fis donc assembler tous les Capitaines, & tous les principaux, & leur parlay de cette sorte.

I. present. Kiaskou, c'est le mon du Capitaine, qui veut dire, mauve. Nous jöüissons souvent, & avec plaisir d'un bienfait sans en connoistre l'auteur, & sans en sçavoir la cause. Le bien de la paix avec l'Iroquois que tu gouste maintenant est de cette nature, tu ne connois pas celuy qui te donne cette paix, ny ce qu'il a pretendu en te la donnant.

Regarde ce present, qui t'ouvrira les yeux pour connoistre ton bien-facteur. C'est moy, te dit Onnontio, qui ay fait la paix à ton insceu; l'Iroquois depuis cinq ans ne vous inquiete plus, il ne fait plus d'incursions sur vos terres, je luy ay ravy son Pakamagan, sa hache d'arme, & même j'ay retiré du feu tes deux filles, & beaucoup de tes parens; à la bonne heure vivez en paix, & en assurance, je te rends ton pais, d'oü l'Iroquois t'avoit chassé. Peschez, chassez, & trafiquez par tout, & ne craignez plus rien.

II. present. Ce n'est point l'attrait du traffic, ny du commerce qui m'amene icy. Si j'ay souffert le fatigue d'un si long voyage au travers de tant de hazards, ce n'est point pour autre motif, que pour vous éclairer de la lumiere de la Foy, vous enseigner le chemin du Ciel, & pour vous rendre bien-heureux apres cette vie, ce sont mes pensées, & ce sont les

pensées mesme des François, qui m'ont envoyé icy, pour te dire, par ce present que la raison, pour laquelle ils vous ont procuré la paix, avec l'Iroquois, c'est pour vous obliger à prier Dieu tout de bon; vostre conversion au Christianisme doit estre la reconnoissance de ce grand bien, c'est le deuxiesme present.

Je sçay bien qu'il n'appartient qu'à Dieu seul de toucher les coeurs, & de rendre efficace la parole de ses ouvriers, qui l'annoncent en son nom, & pour sa gloire. Mais ces presens eurent un tel effet sur leurs esprits, qu'ils prirent sur le champ, par le mouvement du Saint-Esprit, qui les touchoit, la resolution de se faire tous instruire ; tous ensuite ont voulu embrasser la Foy, & estre baptisez; & celuy qui en est le chef a frayé le chemin à tous les autres, ne m'ayant point voulu laisser partir que je ne l'eusse baptisé.

Je prenois plaisir de disputer avec ce bon vieillard quand il me pressoit pour recevoir le baptesme, & de luy faire beaucoup d'oppositions pour l'affermir davantage dans ses bonnes resolutions.

Vous estes si chancelans, luy disois-je, & si peu fermes dans la croyance d'un Souverain esprit, qui gouverne toutes choses, qui fait tout, & de qui tout

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dépend, qu'au moindre danger de la vie, de la santé, ou de quelque mauvais succez dans les affaires, qui ne dependent que de la seule volonté de cet esprit souverain, tu auras recours aussi-tost au malin esprit, & to retomberas dans tes anciennes coutumes, & ce genereux dessein, qui t'anime maintenant à prier, à la moindre disgrâce, qui t'arrivera comme un beau-feu au moindre vent, s'esteindra, & s'en ira en fumée.

Cela seroit bon, si j'estoit un enfant, respondit il, tu aurois sujet de eraindre que ie ne fusse pas ferme, dans la resolution que ie prens de prier tout de bon. Celuy qui me donne ces bons sentimens maintenant, me les conservera à l'avenir par sa grace, & s'il a esté si bon, & si puissant pour allumer en moy le feu de ce bon dessein, il ne ; l'esteindra pas, & qui le peut esteindre, puisque luy seul fait tout, & gouverne tout!

Attends, luy repartis-ie, à une autre fois, ie suis pressé de songer à mon retour, il me faudroit trop de temps pour t'instruire à fonds; l'année suivante, ou moy, ou quelque autre viendra, & demoura icy pour vous enseigner tout ce qu'il faut croire, faire, ou éviter pour aller au Ciel, ouy mais, dit il, & qui t'a assure que tu seras en vie l'année suivante, ou que celuy, qui partira de Quebec pour venir icy, y arrivera? & qui t'a dit qu'on me trouvera moy-mesme en vie? ie suis desia vieux, & malade depuis deux lunes, si je meurs sans baptesme, veux to que je sois bruslé? ie diray à celuy, qui a tout fait, que ie voulois estre baptisé, & prier tout de bon, mais que tu n'as pas voulu m'accorder cette grace.

Ce bon-homme disoit cela, d'un si bon coeur, qu'il me tira les larmes des yeux, il estoit toujours apres moy, pour que je le ba(p)tisasse, & il m'avoit déjà retenu trois jours faisant naistre divers incidens pour m'arrester. Le soir ie luy dis

resolument demain ie partiray, ha! me repartit-il, je ne suis pas baptisé, he bien demain matin avant mon depart ie te baptiseray; voila qui va bien, dit-il, tu n'es pas menteur.

Le soir nous ayant assemblé, il parla de la sorte. Ce n'est pas la difficulté de parler, qui m'a fait differer de tenir ce Conseil, mais le rapport que tu dois faire aux François, qui me met fort en peine; les presens nous servans de paroles pour declarer nos sentimens, comment veux tu expliquer à Quebec, ce que ie dis, situ ne peux porter, ny recevoir ce que je veux donner? on dira à Quebec, que je n'ay point de bouche, que je suis en enfant, qui ne sçais pas parler. Comme tu es tout epuisé de force, que tu fais grande diligence pour te rendre au plustost, & que les chemins sont si penibles, ce seroit achever de ruiner la santé qui te reste, si je t'allois charger de beaucoup de paquets. Adieu donc, adieu va t'en, quand tu voudras, prens seulement ces lourtres pour dire au François, que voulant menager le reste de tes forces, & pour luy temoigner l'estime que j'ay fait de tes riches presens, ma jeunesse portera ma parole, & mon remerciement au lac de saint Jean l'année suivante.

Le quartriesme Juillet on luy accorda sa juste demande, je le baptisay, il fut nommé Ignace. Un vent contraire nous ayant arrêté toute cette journée luy donna moyen de faire paroistre qu'il y avoit quelque chose d'extraordinaire en luy, & que ce n'estoit pas en vain qu'il avoit receu le baptesme, il fit assembler tout son monde en nostre presence, & paroissant comme tout transporté d'une secrette impression due Ciel:

p. 2998

Mes neveux, dit-il, vous sçavez tous le bonheur qui m'est arrivé de matin, j'ay esté baptisé. Je prie Dieu maintenant, je suis Chrestien, une forte pensée de vouloir eviter les peines eternelles, & de jouir un four des delices du Ciel, m'a touche tout de bon; ie ne suis plus ce que i'ay esté autrefois, ie desavoue tout le mal que i'ay fait, i'ayme de tout mon coeur celui qui a tout fait, c'est en luy seul, que ie veux croire, c'est en luy seul que ie veux esperer; voila ce que ie dis, chacun y est pour soy, & ainsi que chacun pense pour soy, ce qu'il aura à faire.

Il anima ce discours d'un air si plein de l'esprit de Dieu, & l'accompagna de tant de devotion, que tous ses gens en furent si emeus & si fort penetrez, qu'il est certain que si i'eusse voulu condescendre à l'extreme envie de tous tant qu'ils estoient, ie leur aurois donné le saint baptesme, apres quelques iours d'instructions, cependant il nous falloit partir.

Le cinquiesme, ce me fut un sujet de douleur bien sensible, de nie voir obligé de quitter si soudainement le lieu d'une Mission si belle, principalement apres avoir gousté ces premieres douceurs, ie ne cru pas pourtant la quitter tout à fait les laissant dans l'attente de mon prochain retour. Cette separation ne fut pas moins sensible à tous ces bons Sauvages, plusieurs versans des larmes, en me disant adieu, firent assez paroistre la douleur de leur coeur. Ils nous accompagnerent iusques sur le bord de l'eau, & suivirent long-temps de veuë

notre canot, il plut à Dieu nous donner assez bon vent, nous fismes voile, & avançâmes nostre chemin iusqu'à la demeure des Anglois où nous couchâmes.

Avant que de sortir de la baye de Hutson, il faudroit vous en donner le plan. Mais le peu de sejour que j'ay fait à Meskoutenagasit ne m'a pas donné le loisir de la visiter, ny de m'instruire à fond des particularitez de cette baye, & du pays voisin, outre que j'ay esté obligé d'employer la meilleure partie de ce temps à instruire & a baptiser soixante-deux personnes tant enfans, qu'adultes ; C'est pourquoy je n'en feray pas icy l'exacte description qu'on peut trouver dans les cartes, qui en ont esté faites.

* * * *

Nous avons trouvé que l'embouchure de la riviere est au cinquantesme degré d'élevation, & nous avons veu, que dés son entrée, elle coupe la baye par quantité de detours, qui forment des Isles propres pour estre habituées.

A la pointe de l'Ouest sont logez les Kinistinons, & dans la baye, les Mataoïakirinouek, & les Monsounik ; chaque nation est separée par de grandes rivieres. Les gens de la mer habitent au coste du Nordest sur la riviere de Miskoutenagasit où nous avons esté, & avancé vingt lieuës dans la mer, c'est une longue pointe de roches, située au cinquanteunesme degré, où de tout temps les Sauvages s'assemblent pour faire leur commerce ; & plus avant, en prenant au Nordest, sont placez les Pitchiboutounibuek, les Koïakoïïkoïesioïiek, & beaucoup d'autres nations; à trois journées dans le profondeur de la baye au Norouest, est une grand riviere, que quelques Sauvages appellent Kichesiou, & quelques autres, la riviere des orignaux, Mousousiou; sur laquelle il y a beaucoup de nations, & sur le chemin on laisse à main gauche

l'Isle fameuse de Ouabaskou, qui est de quarante lieues de long & de vingt lieues de large, remplie de toute sorte d'animaux, mais principalement recommandable pour les ours blancs; on dit, qu'il y a une petite baye, où l'eau ne gele jamais, & dans laquelle les navires peuvent hyverner fort commodement.

* * * * *

Nous fumes quatre jours à gagner Nemiskau, où nous arborâmes les armes du Roy sur la pointe de l'Isle, qui coupe ce Lac, le neufiesme de Juillet.

No. 1165.

JESUIT MISSIONARIES AMONG THE MONTAGNAIS.

MISSIONS DES MONTAGNAIS OU ALGONQUINS INFERIEURS PENDANT LES ANNEES 1673 ET 1674.

[1673-1674.]

JESUIT RELATIONS &C., VOL. LIX.
RELATION OF 1673 AND 1674.

CHAPITRE I.

JOURNAL DU P. DE CRÉPIEUL.

Après être demeuré deux jours avec eux, je retournai à ma cabane, pour me disposer au voyage que je devais entreprendre chez les Mistassins et chez les Papinachois.

Le 2 février, je rencontrai encore une fois le P. Albanel.

Le 6, je le quittai, et j'allai avec les Sauvages qui m'accompagnaient me loger auprès d'une, très-belle rivière où nous fûmes quelques jours en paix, jusqu'à ce que le P. Albanel m'envoya un Français pour m'avertir que l'épouvante était partout, qu'on croyait que les Iroquois étaient en marche et qu'ils avaient surpris un parti de nos Sauvages au lac de Kinougami; que les Outabitibecs et autres tribus se rassembloient dans une enceinte fortifiée, afin de s'y mettre à couvert et en defense. Ces tristes nouvelles m'obligèrent de les aller trouver pour les confessor et les encourager, parce que le P. Albanel était encore incommodé de sa blessure. Je me mis en chemin, accompagné d'un Français.

Nous fîmes vingt lieues dans les bois, avec des peines incroyables, et dans la crainte continuelle d'être rencontrés par les Iroquois. Nous trouvions sur notre route grand nombre de cabanes que la peur avait fait abandonner.

Le 3 mars, nous arrivâmes à l'endroit où les Sauvages s'étaient fortifiés. Ils étaient bien au nombre de quatre-vingts hommes bien décidés. Ils

furent ravis de nous voir. Je les consolai de mon mieux et je les confessai. Cependant un de leurs chefs était allé avec trois jeunes gens pour découvrir l'ennemi; en attendant, nous passâmes quatre nuits dans l'épouvante, et pendant les deux premières nous couchâmes dans leur fort et sur la neige.

Le 5, ceux qui étaient allés à la découverte revinrent et nous rassurèrent un peu. Ils nous apprirent que le meurtre qui avait causé cette panique générale ne s'était pas fait si près de nous, mais au lac de Piécouagami, et que les Sauvages qui demeuraient sur ces bords allaient se fortifier et s'assembler en grand nombre pour attaquer les Iroquois, le printemps prochain.

Ces nouvelles, qui nous tranquillisaient, me permirent de retourner à ma première cabane. J'y étais depuis quelques jours, lorsque cinq Sauvages envoyés par le chef des Mistassins vinrent m'avertir de sa part de l'aller trouver pour l'instruire. Il leur avait fort recommandé de m'aider autant qu'ils pourraient pour adoucir les difficultés et la longueur du chemin qu'il y avait à parcourir pour arriver jusqu'à lui.

Je partis avec eux le 26 mars. Nous fûmes obligés de marcher dans l'eau jusqu'à mi-jambes et avec bien de la peine. Nous établîmes notre cabane au haut d'une colline qui borde la rivière qu'on nomme Emenipemagua, à cause de sa rapidité et de plusieurs ilots dont elle est entrecoupée. Elle est en outre très-large et très-profonde, et extrêmement poissonneuse. Elle descend vers le nord-ouest, où, perdant un peu de sa largeur, elle prend le nom de rivière des Papinachois.

Nous marchâmes deux grandes journées pour trouver la chute d'eau dont elle est coupée. Ce ne fut pas sans de grandes fatigues, parce que nous étions obligés de marcher continuellement sur les glaces, qui étaient extrêmement unies et glissantes. Enfin nous arrivâmes à la belle rivière de Mauchautraganich. J'y trouvai plusieurs Sauvages qui me reçurent avec tous les témoignages de joie dont ils purent s'aviser. Ils n'épargnaient ni les festins, ni les danses, ni les chants, et ils venaient incessamment me visiter, au point que je trouvai ces pauvres gens tout disposés à recevoir mes instructions, et j'admirai les miracles de la grâce, qui les avait ainsi préparés à m'écouter. Je me mis à les instruire, en particulier et en public, pendant six ou sept semaines, qui me semblèrent bien courtes. J'en baptisai cent deux, tant enfants qu'adultes, et entre autres deux de leurs chefs. Ces bons Sauvages me témoignèrent publiquement leur joie et ne savaient de quelle manière me remercier du bien que je leur avais fait en leur conférant le baptême. Quatre vieillards à qui je l'avais différé depuis un an étaient du nombre de ceux qui me reçurent dans cette bourgade; ils déclarèrent par un discours public combien ils s'estimaient heureux, et me convièrent à les instruire plus pleinement et à les revenir trouver, ce que je leur promis.

Parmi ces Sauvages, plusieurs, qui étaient descendus de la

baie du Nord, furent fort surpris de voir des Français venir de si loin, et furent ravis d'entendre les discours que je leur adressai sur la religion. Ils promirent tous de se rendre au printemps prochain à l'endroit où ils apprendraient que je ferais la Mission, afin d'être instruits plus à loisir qu'ils ne pouvaient

p. 3001

l'être pour lors; ils ajoutèrent même qu'ils s'efforceraient d'amener avec eux grand nombre de leurs compatriotes pour le même dessein.

Cependant une partie des Mistassins partirent peu de temps après pour Québec, afin d'aller présenter leurs respects à M. de Frontenac, gouverneur du Canada. Ils avaient aussi intention de lui demander sa protection contre l'Iroquois, de l'assurer qu'ils le prenaient pour leur père, et qu'afin de porter mieux la qualité de ses enfants, ils voulaient continuer d'aimer la Prière, pour laquelle ils savaient qu'il avait tant de zèle. Je m'embarquai avec eux. Pendant notre voyage, nous fûmes presque tous malades, et quatre ou cinq des plus âgés moururent. Ces bons Sauvages n'avaient point encore vu de missionnaires avant moi, et, comme ils s'étaient convertis dès les premières instructions qu'ils avaient reçues, Dieu voulut récompenser ainsi leur promptitude à obéir à la grâce, en leur accordant la grâce de mourir peu de temps après leur baptême. J'étais assez abattu par la faim que j'avais soufferte en diverses rencontres, et par les fatigues que m'avaient causées tant de voyages si difficiles, mais Dieu me donna encore assez de force pour achever le reste.

Partis le 6 de mai, nous fîmes trois grands portages avant que de nous rendre à la rivière des Mistassins et à celle des Papinachois. Le mauvais temps, la pluie et les marinois, nous incommodèrent beaucoup. Je visitai cependant quelques pauvres malades et quatre grandes cabanes, que je trouvai sur les bords du Manaouni, rivière extrêmement poissonneuse, qui nourrit quantité de brochets d'une grosseur extraordinaire. Après être demeuré quelques jours auprès du grand et profond lac d'Etchitagameth, où je baptisai trois personnes, je me remis en chemin, accompagné de vingt canots de Sauvages. Nous franchîmes heureusement douze rapides, où les eaux étaient si basses qu'il fallut nous mettre à l'eau pour trainer nos canots nous-mêmes, ce qui ne se put faire sans beaucoup de peine.

Le 24 mai, nous arrivâmes à Chécoutimi; j'y trouvai quelques Français et grand nombre de Sauvages, auxquels j'expliquai les vérités de notre Foi. Je conférai le baptême à trois enfants et je le différai à quelques adultes qui le demandaient; je voulais qu'ils en connussent encore mieux l'importance, et que j'eusse moi-même plus de loisir de connaître s'ils en étaient dignes.

Le 21, je quittai Chécoutimi, accompagné seulement de douze canots. Nous arrivâmes à Québec peu de jours après, et les Sauvages que j'avais emmenés allèrent sur-le-champ rendre leurs respects à M. le comte de Frontenac, qui les reçut avec bien de la bonté, et qui les exhorta fortement à continuer de

vivre en véritables chrétiens.

No. 1166.

INTENDANT OF QUEBEC TO MINISTER.

[EXTRACT.]

CANADA, CORRESPONDENCE GENERALE, 1699. C 11, 17, p. 129.

COLONIES M. DE. CHAMPIGNY.

20 8^{bre} 1699.

M ONSEIGNEUR,

* * * *

Il est tellement nécessaire Monseigneur, de continuer le supplément de 8000ll que le Roy a la bonté d'accorder pour partie de la subsistance des curez, qui que ce soit n'en peut parler autrement, à moins d'y ajouter en meme temps qu'il faut de départir de donner aux peuples les secours spiritüels qui leur sont nécessaires et encore ne les ont ils qu'a demy, se trouvant beaucoup de lieux qui en manquent faute de pretres et de fonds: Je vous envoie l'état de distribution des 8000ll accordez l'annee derniere et un mémoire en forme de plan pour vous faire clairement ce qui se peut faire sur sujet, dans lequel j'ay compris les églises nouvellement bâties.

* * * *

CHAMPIGNY.

[18 Oct., 1700.]

No. 1167.

**GOVERNOR AND INTENDANT OF QUEBEC TO
MINISTER.**

[EXTRACT.]

CANADA, CORRESPONDENCE GENERALE, 1700. C 11, VOL. 18,
pp. 8-9.

COLONIES

M. S^r de Callieres et Champigny, 18 oct. 1700.

M ONSEIGNEUR,

* * * *

Le Bien que sa Majesté fait de donner huit mille livres pour partie de l'entretien des curez, est si necessaire, que s'il ne se faisoit pas, il y auroit une impossibilité absolüe d'entretenir plus de huit on Neuf curez, tous les autres ne subsistans presque que par ce suplement, les dixmes n'étant pas encore considerables, ainsy nous ne scaurions nous dispenser de la suplier tres respectuesement de continuer cette grace si utile a la Religion, et nous devons luy faire scavoit en meme temps que la necessité d'avoir des curez fixes est très pressante, la plus grande partie des pretres qui ne sont point aretez par cette fixation, se laissans allez au panchant qu'ils ont de servir les nouvelles missions sur le Misissipy, a quoy ils ont un attrait tres particulier, ce qui priveroit par la suite les peuples de la colonie des secours sprituels, plusiers curez ayant desja quitté et d'autres se preparant a le faire, a quoy on ne peut remedier que par une destination certaine et fixe des pretres qu'on fait passer de France.

* * * *

LE CH^{ER} DE CALLIERE
CHAMPIGNY.

A Quebec Ce 18^e
Octobre 1700.

THE REVENUES OF THE JESUITS IN CANADA, 1701.

[1701.]

JESUIT RELATIONS, VOL. LXV.

Nous Religieux de la Compagnie de Jesus en Canada soussignez pour obeir a lordre de sa majté, lequel nous a esté notifié par Mr. le Cher. de Calliere gouverneur et lieutenant general dans toute la (nouvelle) france s(e)ptentrionale et par Mr. de Champigny jntendant du pays Certiffions que nos Revenues fixes et Casuels avec et nos Charges et obligations sont tels qujl en suit

Le Roy par sa liberalité nous donne en Canada pour le soutien de nos missions chez toutes les nations estrangeres de ce pays dans l'estendue de 7. a 800 lieues une pension sur l'estst de 5000ll

De plus par gratiffication sur les droits d'entrée 315

Item pour le 3e. Regent du College de Quebec 400

Il y a encore une aumosne en un don que fait sa majté aux Abnaquis et aux jroquois convertis en la foy pour assister les orphelins, veuves, vieillards Et pauures sans que ny nous ny les missionnaires qui ont soin de Ces sauvages en proffitions en aucune maniere ce don et aumosne est de la somme de 1500ll

LE REVENU DE NOSTRE PROPRE BIEN A QUEBEC.

Notre maison de la basse ville est louiéé 300ll

Celle de la haute ville est louiéé 120

Notre moulin attenant au College sans frais extraordinaires peut donner de reuenu 300

Une petit terre vis a vis de quebec a la Coste de lauzon 30

La Terre de nostre Dame des anges ou jl y a moulins, meteries cens et rentes et passages sur la petite Riuiere St. Charles. 1205

La Seigneurie de Sillery a cause des rentes des tenanciers de la pesche d'anguilles et d'un moulin environ	250
La Terre de St. gabriel dont le sol est presque partout steril et jngrat environ.	40
p. 3005	
La Seigneurie de Batiscan en rentes seigneurialles et pour le moulin environ	300
Le Cap de la Magdelaine qui est une terre sabloneuse sans bois de chauffage, sterile et abandonné presque de tous les habitans qui s'y estoient establis peut produire	160
La Petite terre des trois Riuieres environ	60
La Prairie de la magdelaine et de St. lambert ou jl y a moulin, terre du domaine et rentes de quelques tenanciers qui ont resté et presque tous Ruinez par la guerre des jroquois	385
Le Casuel soit en lots et ventes ou vieilles dettes ou autres choses semblables	280
Notre reuenu en france frais faits et charges payées que nous receuons icy peut monter pour le plus a	4000
[13 March 1730.]	—
Ainsy tout le Reuenu des peres jesuites de Canada peut se monter a la somme de	13145

Il est Vray que quant les années sont bonnes jl peut augmenter de 1000ll ou enuiron mais aussy quant elles sont mauvaises ou par les saisons, ou par le guerre qui fait tout encherire dans les pays eloignez les reunus diminuent de la depense augmente beaucoup.

No. 1169

C

**RESUMPTION OF JESUIT MISSIONS AFTER
TWENTY YEARS SUSPENSION**

JESUIT RELATIONS, &C., VOL. LXVIII.

RELATION DU SAGUENAY, 1720 À 1730 PAR LE R. P. PIERRE LAURE.

A Chek8timi le 13e de mars 1730.

Mon Reverend Pere,
P. X.

V. R. n'ignore pas qu'on n'ecrit d'icy a Quebec qu'une fois l'hyver. Tout tard que s'en presente l'occasion, je vous conjure d'agr er les respectueux hommages que je vous ai dej  present  de coeur au commencement de cette ann e, que je renouvelle, aujourd'huy et que je continuer ai de vous rendre

p. 3006

jusqu'a la mort. Si l'on peut vous d sire quelque chose, je fais mille souhaits pour vous. Les v tres sont et doivent  tre pour moi des ordres.

* * * *

[1750.]

Le Domaine du Roy qui comprend ici toute la profondeur de la cote du nord, et s'etend depuis le bas de l'Isle-aux-Coudres jusqu'aux Sept-Iles, n'a que 4 postes solidement establis Tadoussak, Chek tими, les Ilets-Jeremie ou Papinachois et la Riviere-Moisy. Dans ces diff rens endroits La Compagnie des fermes ou d'Occident entretient des magasins, des commis et d'autres employez fran ois, pour chasser, et pour commencer avec les Sauvages dependans de chaque district. Depuis 20 ans, a bien dire on n'y avoit point vu de missionnaire, a la fin on en demanda un. Comme il n'y avoit alors que moi de desoeuvr  au coll ge, ce fut sur moy que le sort tomba. Le R P de la Chasse pour lors Superieur de nos missions, anim  de ce z le qui luy ayant fait ensevelir tant d'admirables talens qu'il a recu de ciel et soutenir tant et de si longs travaux parmi les Sauvages, lui fait encore aujourd'huy regretter de se voir born  aux seuls francois de la colonie me fit partir le 1er de juin 1720 pour Chek tими.

No. 1170.

C

**MEMORANDUM ON THE KING'S POST BY P.
CLAUDE GODEFROI COQUART, 1750.**

JESUIT RELATIONS, &C., VOL. LXIX.

LES ISLETS DE JEREMIE.

Le Poste des Islets de Jeremie scitu  30 lieues plus bas que Tadoussak produit de L huile de Loup marin et des Pelleteries. on fait la chasse du Loup marin aux premieres glaces, jusque vers les Rois, et on le reprend vers le 15 de mars quelquefois plutost jusqua ce que les glaces disparaissent. elle se fait a la pointe de Betsiami tes a deux lieues du poste. Lespace de temps que se trouve entre le 15 de janvier et le 15 de Mars les sauvages le passent dans le bois pour chasser. ainsi ce poste est Mixte 35 a 40 Barriques c'est le produit des ann es Communes: Je ne scay pourant quel sera celui de cet hyver, car

ayant perdu Lannée dernière beaucoup de monde par la maladie, Il pourroit bien se faire que cette année ne seroit pas d'un grand produit quant a lhuile quoiqu'il en soit, il ne faut pas beaucoup de temps pour raccommoier ce poste: le commis peut en arreter pour la mer de ceux qui ont continue de chasser dans le bois, a moins qu'il ait l'experience que la chasse du bois soit plus avantagieuse que celle de la mer.

p. 3007

[1 May 1790.]

Non seulement il recoit les Pelleteries de sauvages domiciliés du Poste, mais encore celles des sauvages de la profondeur des terres qui les luy apportent a son poste et cest la querelle qui a toujours été entre les commis de Chek8timi et des islets: celui la reproche a celui ci de luy Enlever ses sauvages et veu proprement; L'un et L'autre s'attribuent les sauvages de Mana8an et d'8nichtagan—entre eux le debat: ceux qui ont les postes ne peuvent que gagner puis que L'un et L'autre commis travaillent pour le même maitre: mais la noble Emulation de leur postes sur son camarade, lenvie de montrer de bons retour entretient cette petite guerre. Ils se volent reciproquement des sauvages. Ils inventent mille petites ruses pour les attirer. Il n'y a pas grand mal a tout cela. de plus au commencement de Juin, les commis des Islets part pour Manik8agan, il remonte la Riviere jusqu'a un certain endroit ou se trouvent les sauvages qui habitent ces terres, il traite avec eux, et Rappelle leurs Pelleteries. ainsi le poste des islets produit raisonnablement de Castor 4 a 500 belles martres quelquefois 800 et davantage. Des peaux de Caribou bien passées, et des peaux de loup marins. quand les Renards donnent le long de la mer, il n'est pas celui qui en fait le moins.

Dailleurs ce poste nest point de depense, il na point de passages a essayer qu'un canot au printemps qu'on envoie des Sept isles a Quebec et le commis ne donne rien pour Rien. aussi M. Cugnet disoit de ce Poste des islets etoit celui qui luy fesoit le moins de depense, et Luy rapportoit proportion gardee plus de profit.

No. 1171.

C

**MANDEMENT OF MGR. HUBERT, BISHOP OF
QUEBEC.**

JEAN FRANCOIS HUBERT par la grâce de Dieu et du St Siège apostolique évêque de Québec &c, &c.

aux Montagnais de Portneuf, de Tadoussak, des Islets-Jérémie, des Sept-isles, et de Shecoutimi, et à toute la nation en quelque part qu'elle habite, salut et bénédiction en N. S. J. C.

Je remercie la divine Providence, mes enfants, qui me fournit l'occasion d'aller vous voir pour vous communiquer les

grâces et les bénédictions que le Seigneur veut bien accorder à ma visite pastorale. J'irai d'autant plus volontiers chez vous que je suis persuadé que vous ne mettrez point d'obstacles aux grâces de cette première visite de votre évêque dans votre pays. Rendezvous donc bien attentifs aux instructions que vous fera votre missionnaire à ce sujet. Il ne manquera pas de vous dire que pour attirer les bénédictions

p. 3008

de Dieu sur vous, il faut l'aimer, le servir en vrais chrétiens; il faut avoir horreur du péché et ne plus le commettre.

Votre missionnaire vous instruira aussi de ce qui regarde le sacrement de confirmation, que je ne donnerai qu'à ceux qui seront instruits, et qui par une vie chrétienne seront en état de recevoir le St Esprit. Car il ne sauroit demeurer dans une conscience criminelle; ainsi, les impudiques, les ivrognes, les voleurs, ceux qui ne payent pas leurs dettes, enfin les mauvais chrétiens ne doivent pas s'attendre à recevoir ce sacrement. Ce seroit pour eux le plus grand malheur s'ils le recevaient avec ces mauvaises dispositions.

[21 March 1803.]

Appliquez-vous donc, mes enfants, à vous purifier du péché afin que j'aie la consolation de ne refuser personne. C'est à quoi je vous exhorte de tout mon coeur. Je ferai la visite pastorale le 21 juillet à Portneuf.

Donné à Québec le 1 de mai 1790, sous mon seing et scel ordinaires.

(signé). + JEAN FRANCS EVÊQUE DE QUÊBEC.

Copie conforme au Rég. D. de l'Archev. de Québec, p. 223.

B. PH. GARNEAU ptre.

Archiv.

No. 1172.

C

**BISHOP OF QUEBEC TO MR. McTAVISH,
MONTREAL.**

A Mr McTavish, Ecr.

à Montréal

1803.

Longueuil, 21 mars

Monsieur,

Je n'ai pu vous rencontrer à Montréal la première fois: vous étiez à votre seigneurie de Terrebonne. Deux autres fois on m'avoit flatté du plaisir de vous voir au diner de quelques uns de vos amis, et j'en ai été frustré. Je prends le parti de vous écrire au sujet du missionnaire qui a toujours été chargé de la mission des Postes du Roi pendant le régie de ces fermes sous l'ancienne société. Si vous êtes d'avis que j'envoye encore ce missionnaire aux Sauvages qui le désirent , je dois vous

observer que, si l'on veut que le missionnaire y fasse quelque bien, et que les sauvages retirent de son ministère les fruits qu'on en doit attendre, tant pour le maintien des bonnes moeurs parmi eux que pour l'avantage de votre société, il est absolument nécessaire, d'après l'expérience, que vos agents tiennent la main aux précautions suivantes.

1.—de ne permettre jamais qu'il soit vendu, ou donné, ou livré aux sauvages une quantité de rum suffisante pour les enivrer, et que cela soit

observé même dans leurs jours de fêtes, tel que le nouvel an, les jours gras, les festins publics au retour de la chasse et quand l'huile s'apporte; 2.—que l'on ne permette aux engagés canadiens et autres aucune communication avec les sauvages, excepté celles qui sont absolument nécessaires; parcequ'on a reconnu que ces fréquentations inutiles tournoient toujours au prejudice des sauvages et de la société. Le moyen de procurer les choses ey-dessus demandées seroit de choisir pour commis des hommes de bonnes moeurs, assez fermes pour en imposer à leurs engagés, et assez soigneux pour verser eux-mêmes, ou faire verser devant eux, le rum aux sauvages dans tous les cas où il est raisonnable de leur en donner.

Quant à la subsistance et aux appointements du missionnaire, voici ce que pratiquoit l'ancienne compagnie. Elle lui donnoit annuellement la somme de 1400^l ou 50 guinées, payable au ler d'octobre. Elle l'envoyoit chercher au printemps, à Rimouski, ou payait sa traversée, le faisant conduire en canot de poste en poste pendant tout le temps de la mission; et à la fin de juillet, le fesoit reconduire à Rimouski, ou payoit encore sa traversée. Pendant tout le temps de la mission, il étoit nourri, logé et fourni de lit par la Compagnie. Il espère que les nouveaux associés ne feront pas moins.

Les postes de Mingan et de Maskouarau, qui font partie du total cette mission, ne se trouvant pas compris dans votre lot, mais en la possession de Mr Grant, ce Monsieur est convenu de payer pour sa part la somme annuelle de deize guinées en déduction des 50, de faire prendre le missionnaire par ses canots aux Sept Iles, dans le temps qu'il a coutume d'y arriver, et de le faire reconduire, après le voyage de Mingan et de Maskouarau, pendant lequel il le defrayoit, nourriroit &c, comme feront les associés des autres postes.

Les anciens Bourgeois aidoient à batir les chapelles. Il n'y en a pas à la riviere Godbout, aux Sept Iles, à Napensipon; et ce défaut gêne beaucoup le missionnaire. Un mot de votre part aux commis et engagés de chacun de ces endroits suffiroit pour leur faire lever à très petit frais une batisse d'environ vingt pieds sur quinze: le reste, l'église le feroit à ses propres frais.

Voilà, Monsieur, ce que j'avois à vous dire, si j'avois pu me procurer le plaisir de vous voir. Je vous prie d'être bien convaincu que tout ce que je vous écris, ce que j'observe, ce que je désire, ne tend, dans mes motifs, qu'à l'avantage des Sauvages et au bien de la Société. Je souhaite votre réponse avant jeudi.

Je suis &c.,

(signé). + P. EVÊQUE DE QUÉBEC.

[10 Sept., 1809]

No. 1173.

**BISHOP OF QUEBEC TO APOSTOLIC VICAR AT
NEWFOUNDLAND**

Québec, 10 september 1809.

A Monseigneur l'Evêque de Chytre,

Vic. Apostolique à Terre-neuve.

Monseigneur,

J'ai l'honneur de vous transmettre l'extrait d'un statut du Parlement impérial de la Grande Bretagne, qui annexe au Gouvernement de Terre-neuve l'Isle d'Anticosti et une partie considérable de la côte Labrador. Si la commission que vous avez du St. Siège en qualité de Vicaire Apostolique s'étend, comme je l'espère, sur tout le gouvernement de Terre-neuve, il s'ensuit que ce gouvernement étant accru, votre juridiction épiscopale doit s'accroître dans la même proportion, et que cette Isle d'Anticosti ainsi que la partie de la côte Labrador qui est au-delà de la rivière St Jean ne sont plus de mon diocèse. Je bénirai Dieu de ce raccourcissement et consentirais bien volontiers à en subir quelques autres. Le tout, au reste, dépend des termes dans lesquels est conçue la Bulle qui vous établit Vicaire Apostolique. J'ose espérer que vous voudrez bien m'en donner information.

Rien n'égale le respect avec lequel je suis &c.,

(signé) + J. O. EV. DE QUEBEC.

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 7,
p. 15.

B. PH. GARNEAU ptre.
Archiv.

[21 Oct., 1820.]

**BISHOP OF QUEBEC TO MGR. SCALLAN,
APOSTOLIC VICAR, NEWFOUNDLAND**

Québec, 21 october 1820.

A Mgr Scallan, Evêque de Drago,
Vic. Apost. de Terreneuve.

My Lord,

I enclose here an Apostolical Brief I brought from Rome, which adds to your Lordship's jurisdiction the Island of Anticosti with the part of Labrador Coast lying at the north of the St John's river. Hitherto I sent every year a missionary to pay a visit to the Montagnais Indians as far as Mingan & Maskwaru, which ports are both below St John's river. In my quality of your Vicar General I intend to continue the same in the future, as long as you deem it proper and I'll be able to answer the spiritual wants of that part of the coast.

Nothing may be more agreable to me than to hear of your Lordship and the progress of the kingdom of God in your extensive mission.

I remain, &c.,

(sign.) + J. O. EV. DE QUEBEC.

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 16,
p. 150-151.

B. PH. GARNEAU ptre.
Archiv.

[19 March, 1832.]

**BISHOP OF QUEBEC TO APOSTOLIC VICAR,
NEWFOUNDLAND**

Québec, 19 mars 1832.

A Monseigneur M. Fleming,,
Vic. Apostolique &c, &c.
à St Jean, Ile de Terreneuve.

Monseigneur,

J'ai appris que la divine Providence vous avait appelé à succéder à Mgr Scallan dans le Vicariat Apostolique de l'Ile de Terreneuve. Ayant eu plusieurs fois des relations avec le vénérable défunt pour ce qui concernait la bien de mon troupeau et du sien, je me flatte que Votre Grandeur voudra bien continuer avec moi les mêmes relations, pour le même objet.

Je vous adresse des lettres de Grand Vicaire qui vous mettront en état de secourir ceux de mes diocésains qui se trouveroient par la suite dans les limites de votre juridiction. Je prie V. G. de vouloir bien m'en adresser de semblables afin que je puisse rendre le même service aux fidèles de votre Vicariat Apostolique qui pourraient venir dans mon diocèse. J'aurai besoin prochainement de ces pouvoirs de votre part pour qu'ils puissent être exercés par un missionnaire que j'envoie tous les ans dans cette partie de mon diocèse qui avoisine la Rivière St. Jean. Cette rivière étant la ligne de séparation entre votre diocèse et le mien, il s'en suit qu'il ne peut exercer aucun pouvoir au-delà sans y être autorisé par Votre Grandeur. C'est pour cela spécialement que des lettres de grand Vicaire de votre part me seraient nécessaires. Comme je suis dans un âge bien avancé et qu'il pourrait arriver au premier moment que Dieu me retirât du monde, je prie Votre Grandeur d'adresser de semblables lettres à Mgr. Joseph Signay, évêque de Fussala, mon Coadjuteur, afin qu'à ma mort il se trouve ici quelqu'un qui puisse exercer vos pouvoirs en votre nom, en cas de besoin.

J'ai l'honneur d'être &c.,

(signé.) + BERN. CL. EVÊQ. DE QUÉB.

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 15,

p. 46.

B. PH. GARNEAU ptre.
Archiv.

[7 March, 1833.]

**BISHOP OF QUEBEC TO APOSTOLIC VICAR,
NEWFOUNDLAND**

Québec, 7 mars 1833.

A Monseigneur Fleming,,
Vic. Apostolique de Terre-neuve.
Monseigneur,

Je n'ai pas encore reçu réponse à la lettre que j'eus l'honneur d'écrire à Votre Grandeur dans le mois de décembre dernier, vous demandant des pouvoirs en faveur des Missionnaires que l'Evêque de Québec envoie tous les ans dans les Postes du Roi, et qui ont occasion d'exercer leur ministère en faveur d'un assez grand nombre de familles sauvages qui se trouvent dans les limites de votre juridiction. J'écris de nouveau à Votre Grandeur pour cet objet dont elle sait apprécier l'importance, et je lui fais passer des lettres de Grand Vicaire afin qu'elle puisse secourir mes diocésains. L'indult mentionné dans ces lettres est un indult imprimé, comprenant 29 articles, que la cour de Rome a soin d'envoyer, si je ne me trompe pas, à tous les Evêques de l'Amérique. Comme vous avez reçu probablement un pareil indult, je me dispenserai de vous envoyer copie de celui dont je vous autorise à exercer les pouvoirs.

J'ai l'honneur d'être &c.,

(signé.) + JOS. SIGNAY, EV. DE QUÉBEC.

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 15,
p. 299.

B. PH. GARNEAU ptre.
Archiv.

[4 April, 1834.]

No. 1177.

**BISHOP OF QUEBEC TO APOSTOLIC VICAR,
NEWFOUNDLAND**

Québec, 4 avril 1834.

A Mgr M. Fleming, Ev. de Carpa,
Vic. Apostolique de Terreneuve.
Monseigneur,

Ne recevant point de réponse aux différentes lettres que j'ai eu l'honneur de vous écrire depuis que j'ai l'administration du diocèse de Québec, je m'étais adressé à la cour de Rome pour obtenir le permission d'autoriser le missionnaire que j'envoie, chaque année, dans les Postes de Roi, à exercer les fonctions du saint ministère en faveur des sauvages de Portneuf, Mingan et autres lieux au-delà de la rivière St Jean qui se trouvent sous votre juridiction, et qui ont reçu régulièrement jusqu'à présent la visite d'un prêtre. J'ai en effect obtenu un Indult du St Siège, en date du 18 août 1833, qui me donne toute la latitude que je désirais. C'est pour me conformer à une disposition de cet Indult que j'ai l'honneur d'informer V. Grandeur de ce que le St Siège vient de faire en faveur d'une partie de votre troupeau. Il m'aurait été néanmoins bien plus agréable de recevoir de votre part les pouvoirs dont j'avais besoins, et que j'ai réclamés depuis près de deux ans, en plusieurs circonstances, surtout depuis le voyage que vous avez fait en Europe. Au reste, V.G. voudra bien demeurer persuadée que je n'ai demandé ces pouvoirs au St Siège pour cette partie éloignée du territoire confié à votre jurisdiction que parce que je désespérais d'en recevoir de Terreneuve, et parce qu'il me faisait peine de voir privés de secours spirituels de pauvres sauvages qui faisaient partie, il n'y a pas encore longtemps, du troupeau de l'Evêque de Québec. Présument que V.G. n'a pas un nombre suffisant de prêtres pour en envoyer à ces sauvages, j'ai lieu de croire qu'elle aura pour agréable de voir un de ses confrères aller à son secours.

Agréez, Monseigneur &c.

(signé.) + JOS. EV. DE QUÉBEC.

Copie conforme aux Régistres de l'Archevêché de Québec, Vol. 16, p. 150-151.

B. PH. GARNEAU ptre.
Archiv.

No. 1178.

**BISHOP OF QUEBEC TO MGR. FLEMING,
APOSTOLIC VICAR, NEWFOUNDLAND**

Québec, 6 mars 1838.

A Mgr Fleming, Ev. de Carpa,
Vic. Apost. de Terreneuve.

Monseigneur,

J'eus l'honneur d'écrire plusieurs fois à V. Grandeur, il y a près de cinq ans, afin de solliciter pour les prêtres que j'envoie visiter, chaque été, les sauvages de cette partie de mon diocèse qui est séparée du votre par la rivière St Jean le pouvoir d'exercer le saint ministère en faveur des sauvages soumis à votre juridiction, qui sont établis dans le voisinage de cette rivière. Ne recevant de V. G. aucune réponse à ces lettres, je fus obligé de recourir au St Siège qui, par un indult du 18 août 1833, m'accorda les pouvoirs dont j'avais besoin, comme je me fis un devoir de vous en informer par la lettre du 4 avril 1834.

Depuis cette date, des marchands m'ont appris que d'autres sauvages appartenant aussi à votre juridiction (ils habitent la Baie des Esquimaux), mais bien éloignés de la limite qui sépare votre juridiction de la mienne, seraient disposés à recevoir la semence de la foi si quelque prêtre leur était envoyé, et me pressent de leur rendre ce service. Jusqu'à présent je me suis défendu sur ce que ces pauvres infidèles n'appartiennent point à mon diocèse, et sur ce que je n'avais point de prêtre dont je puisse disposer en leur faveur, quand même ils feraient partie de mon troupeau. Comme ils sont sujets de Votre Grandeur, je crois devoir vous faire connaître leurs dispositions afin que vous leur procuriez l'assistance d'un ministre évangélique, si vous en avez à votre disposition. Il n'est pas hors de propos que vous sachiez que des Frères Moraves sont établis parmi eux, et s'efforcent, sans beaucoup de succès à la vérité, de leur enseigner leurs erreurs.

Cependant, comme V. Grandeur n'a peut-être pas de prêtre à leur envoyer, j'aimerais à être autorisé à la suppléer, dans le cas où le nombre de mes prêtres venant à augmenter, j'en pourrais trouver un ou plusieurs qui fussent assez zélés pour entreprendre une si pénible besogne. C'est pourquoi je prie V.G. de m'envoyer des pouvoirs suffisans, non seulement pour les sauvages dont je viens de parler, mais encore pour tous les fidèles ou infidèles qui habitent le territoire qui a été annexé au Vicariat Apostolique de l'Isle de Terreneuve par la Bulle de N.S. Père le Pape Pie VII, en date du 1 février 1820. Le prêtre qui seroit envoyé à la Baie des Esquimaux

Votre Grandeur peut être convaincue que ce n'est par aucun esprit d'empiétation que je lui fais la présente demande, mais par le seul désir de procurer la gloire de Dieu, en le faisant connaître par de pauvres âmes qui sont peut-être exposées à ne le connaître jamais, ou à tomber, en le connaissant, dans des erreurs qui ne leur seraient guères plus favorables que l'infidélité.

Toutefois, Votre Grandeur voudra bien comprendre que je ne me charge point de pourvoir aux besoins spirituels des sauvages en question, mais que je m'efforcerai d'y pourvoir autant que mes moyens me le permettront, si leur évêque est privé des moyens de le faire.

V.G. voudra bien me faire la faveur de répondre aussitôt que possible à la présente.

J'ai l'honneur &c.

(signé.) + JOS. EV. DE QUÉBEC.

Copie conforme aux Régistres de l'Archevêché de Québec, Vol. 18, p. 243-244.

B. PH. GARNEAU ptre.
Archiv.

[1 May, 1838.]

No. 1179.

C

BISHOP OF QUEBEC TO CURÉ AT L'ANGE GARDIEN.

Québec, 1 mai 1838.

A Mr Boucher,
curé à l'Ange Gardien.

Monsieur,

La présente est pour vous faire savoir qu'outre la mission des postes du Roi, vous serez désormais chargé de celle de Portneuf, Mingan et autres lieux à l'est de la rivière St Jean, laquelle dépend de la juridiction de Mgr Fleming, Evêque de Carpa, Vicaire Apostolique de Terreneuve. Ayant reçu juridiction sur cette mission par un indult du St Siège en date du 18 août 1833, je vous autorise à y exercer tous les pouvoirs que vous avez reçus de moi le 7 mai 1834, pour la mission des Postes du Roi.

Quand vous accordez quelque dispense en conformité au 8e article de vos pouvoirs, vous ferez mention dans l'acte de mariage que vous dresserez, que c'est en vertu d'un indult de St Siège qui nous a été accordé pour dix

p. 3017

ans, le 1 juin 1834, à la place de celui du 13 mars 1833 qui est mentionné dans cet article, et vous aurez égard aux autres clauses du même article. Ceci s'entend des Postes du Roi.

Quant à Portneuf, Mingan, &c., vous observerez la teneur du 8e article de vos pouvoirs, excepté qu'au lieu de citer dans vos actes l'indult du 13 janvier 1833, vous citerez celui de 18

août 1833 qui me donne juridiction dans ces endroits.

Mr Doucet, curé de l'Ile Verte, va être chargé du poste de Chicoutimi dont vous n'êtes pas capable de prendre soin. Ne manquez pas de donner à ce Monsieur tous les renseignements dont il aura nécessairement besoin pour que sa mission soit profitable aux sauvages qui doivent recourir à son ministère.

Je suis &c.

(signé.) + JOS. EV. DE QUÉBEC.

Copie conforme aux Régistres des lettres l'Archevêché de Québec, Vol. 18, pp. 296-297.

B. PH. GARNEAU ptre.
Archiv.

[9 May, 1844.]

No. 1180.

C

BISHOP OF QUEBEC TO MONSIEUR DE JESSÉ.

Québec, 9 mai 1844.

A Monsieur de Jessé,

Présid. de la Prop. de la foi, à Lyon.

Monsieur le Président,

J'ai l'honneur de vous accuser réception des deux lettres que vous avez eu la bonté de m'écrire par ordre du Conseil de Lyon, la première le 4 décembre 1843, et la seconde le 4 mars dernier.

A la réception de la première, j'ai été heureux d'apprendre que le Conseil avait bien voulu se rendre aux observations que je m'étais permis de lui faire dans ma lettre du 10 octobre 1843, et qu'il laissait à la libre disposition du Conseil de Québec la totalité des sommes recueillies dans la diocèse jusqu'à l'époque de la cloture de ses comptes, au 1 novembre 1843. Avant l'arrivée de cette lettre, Mr le trésorier Parant s'était conformé aux désirs du Conseil en envoyant à Lyon l'état de sa recette à l'époque cidessus mentionnée.

Monseigneur de Juliopolis, à son retour d'Europe, m'a communiqué les propositions qui lui avaient été faites par le Conseil de Lyon touchant l'accession de notre oeuvre à l'oeuvre générale, sauf toutefois l'approbation du

p. 3018

Conseil de Paris. Comme il m'a informé en même temps que le Conseil de Paris n'avait pas jugé à props d'approuver toutes ces propositions, j'ai dû attendre qu'il m'en fût communiqué de nouvelles approuvées des deux Conseils. Votre lettre du 4 mars m'ayant fait connaitre les conditions sur lesquelles les deux Conseils désirent quel'union soit basée, je me suis empressé de les communiquer aux membres de notre Conseil particulier et il m'est agréable de vous annoncer que ceux-ci les ont acceptées sans hésitation, persuadés que les Conseils

centraux ne négligeront pas les intérêts de nos missions chaque fois qu'il sera question de faire la répartition des aumônes de l'association entre les missions des deux mondes. La résolution que j'ai l'honneur de vous transmettre avec la présente vous donnera la preuve de l'acquiescement de notre Conseil à l'union telle qu'elle est proposée par les Conseils centraux.

Le diocèse de Quebec, quant à la partie de son territoire colonisée depuis longtemps, étant un diocèse régulièrement établi et se trouvant à peu près sur le même pied que les diocèses de France, je suppose que les renseignements que vous me demandez doivent se borner aux missions du diocèse qui ont besoin d'être secourues par l'Oeuvre de la propagation de la foi.

Les missions du diocèse comprennent (je ne parle pas des missions de la Rivière Rouge et de la Colombie qui viennent d'être séparées de mon diocèse et aux besoins desquelles les Conseils centraux de Lyon et de Paris veulent bien pourvoir) le territoire habité par les sauvages infidèles ou convertis à la foi et les établissements nouvellement colonisés, soit par nos compatriotes canadiens, soit par des émigrés venus de la Grande Bretagne et surtout de l'Irlande. Sept prêtres sont employés chez les sauvages, et quinze dans les nouveaux établissements du pays, soit permanemment, soit pendant une partie de l'année seulement. Je dois dire que ce nombre de prêtres est insuffisant; il en faudrait un plus grand nombre pour répondre à tous les besoins.

Il y a 26 chapelles dans ces missions, et 6 sont sur le point d'être construites ou sont déjà commencées. Je m'efforcerais d'en faire construire beaucoup d'autres si j'avais des prêtres en nombre suffisant pour les faire visiter, persuadé que le Conseil de Lyon me viendrait en aide avec libéralité dans cette entreprise.

Deux des missions chez les Sauvages se font exclusivement aux frais de l'Association. Quant aux autres, l'Association ne fait qu'ajouter aux contributions des fidèles ce qui est nécessaire tant pour le soutien et les frais de voyage des missionnaires que pour l'érection et l'ornement des chapelles; quelques missionnaires ne reçoivent qu'une juste indemnité pour leurs frais de voyage.

Comme je vous l'ai dit plus haut, le nombre des prêtres que j'ai à ma disposition est insuffisant pour les besoins de mon diocèse. Il s'y forme incessamment de nouveaux établissements, et je vois bien clairement que si les vocations ecclésiastiques ne deviennent pas plus nombreuses bien des âmes seront en souffrance. Pour remédier à ce mal, je me propose de me servir des secours que les Conseils de Lyon et de Paris voudrant bien allouer à mon diocèse pour faire étudier des jeunes gens pauvres qui montreraient des dispositions à se consacrer à l'oeuvre des missions. J'en ai déjà un bon nombre sur mes charges, mais il n'est pas en proportion avec les besoins que je vois dans l'avenir. Je

pour porter un secours plus efficace aux fidèles parlant la langue anglaise, j'ai dessein d'envoyer quelques uns de mes jeunes clercs faire une partie de leurs études théologiques dans quelque Séminaire des Etats Unis, pour qu'ils puissent s'y mettre au fait de cette langue dont la connaissance devient de plus en plus nécessaire au clergé canadien.

J'ai encore dessein de fonder à la Grande Baie sur la rivière Saguenay, poste situé à environ 60 lieues de cette ville, une maison de prêtres de la congrégation des Oblats (dont la maison-mère est dans le diocèse de Marseille) pour prendre soin des sauvages des établissements qui se forment rapidement sur les bords de cette grande rivière. J'espère que dès l'automne prochain deux et même trois de ces bons Pères pourront aller y établir leur résidence.

Vous voyez, Monsieur, par les projets que j'ai en vue, par le nombre de nos missions, de nos chapelles finies ou en construction, par l'accroissement rapide de la population dans les terres encore vierges de notre pays, quelle est à peu près la mesure des secours que nous attendons des conseils centraux. Nous avons d'autant plus de besoins d'avoir part à sa libéralité que les ministres de l'erreur soudoyés par des sociétés formées en Europe, font plus d'efforts pour pervertir nos co-religionnaires, surtout dans les nouveaux établissements où les catholiques étant mêlés avec les protestants courent plus de dangers pour leur foi. Quelques uns de ces ministres ont été mondés de la Suisse dans le but avoué de travailler à la perversion des Canadiens français.

Maintenant si le Conseil désire savoir sur quelle allocation nous croyons pouvoir compter pour faire face aux dépenses de nos missions pour l'année prochaine, je me permettrai de lui exprimer qu'une somme égale à celle dont nous lui avons rendu compte en 1842 ferait probablement notre affaire, et nous mettrait surtout en état de réaliser mes projets par rapport à l'établissement d'une maison d'Oblats sur le Saguenay. Au reste, si j'émetts un semblable voeu c'est que j'y ai été encouragé par le rapport que m'a fait le digne évêque de Juliopolis des dispositions favorables des deux Conseils à l'égard de nos missions.

La population catholique de tout mon diocèse est d'un peu plus de 200,000 âmes; mais je n'ai pas assez de données pour vous faire connaître celle que renferment nos missions. Quant aux infidèles qui y sont renfermés, il m'a été impossible jusqu'à présent de pouvoir en connaître le nombre parce qu'il n'y a pas de rapport entre le pays où ils habitent et l'intérieur du diocèse. Mais il doit être très restreint à présent que le territoire du Nord-Ouest et celui de la Colombie n'appartiennent plus au diocèse de Québec.

Les ballots qui renferment les Annales qu'on a bien voulu nous envoyer de Lyon ne nous sont pas encore parvenus; mais nous les attendons de jour en jour de New York. Ceux qui ont été expédiés il n'y a pas longtemps, du Havre à New York par Mr Legros à MM. Lasalce et Cie, ont été soumis à un droit de 45 piastres à la douane de cette dernière ville; mais nous avons fait faire des démarches pour obtenir, s'il est possible, la remise

de ce droit exorbitant. Je prie Mr le Secrétaire du Conseil de Lyon de vouloir bien adresser les ballots qu'il nous enverra à l'avenir à Mr. Cazeau, Secrétaire du

diocèse, Québec, Canada, plutôt qu'à Mr le trésorier Parant qui a demandé d'être déchargé de la correspondance que ces envois lui occasionnaient. Les ballots doivent être recommandés à Mr. R. Desrivières, Commission Merchant, No. 71, Front Street, New York.

Agréez, Mr le Président &c.
(signé) + JOS. EV. DE QUÉBEC.

Copie conforme aux Régistres de l'Archevêché de Québec, Vol. 21, pp. 18-22.

[10 May, 1844.]

B. PH. GARNEAU ptre
Archiv.

No. 1181.

BISHOP OF QUEBEC TO FATHER Fiset.

Nicolet, 10 mai 1844.

Rév. P. Fiset,
de la Congrégation des Oblats, Québec.

Mon Révérend Père,

J'aurais bien désiré me trouver à Québec à votre départ pour les postes où vous allez bientôt exercer votre zèle, afin de vous témoigner la satisfaction que j'éprouve de pouvoir vous envoyer conjointement avec Mr. Boucher y porter secours aux sauvages et autres de cette partie éloignée de mon diocèse. Mon digne Coadjuteur ne manquera pas de la faire en mon nom.

Je me fais devoir de vous autoriser par la teneur de la présente à exercer dans les lieux susdits tous les pouvoirs qui vous seront nécessaires. Ces pouvoirs sont les mêmes que ceux dont jouit Mr. Boucher comme missionnaire pour ces mêmes lieux, et mon secrétaire vous en donnera communication.

De plus, en ma qualité de Vicaire Général de Mgr Fleming, évêque de l'Isle de Terre-Neuve et autres lieux, je vous autorise à exercer ces mêmes pouvoirs au-delà de la rivière St Jean, excepté celui de faire des mariages mixtes, que ce digne prélat ne m'a pas communiqué.

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Je prie le Seigneur de bénir l'oeuvre sainte que vous entreprenez pour sa gloire, et de disposer les peuples que vous visiterez à recevoir sa divine parole dans le même esprit que vous allez la leur annoncer.

Je suis &c.

(signé.) + JOS. EV. DE QUÉBEC.

Copie conforme aux Régistres de l'Archevêché de Québec, Vol.

 No. 1182.

C

BISHOP OF QUEBEC TO FATHER HONORAT.

Québec, 4 octobre 1844.

Révd. Père Honorat, Oblat, Québec.

Mon Rêvérend Père,

Je vous confie par la présente, jusqu'à révocation de ma part de celle de mes successeurs, le soin 1.—des fidèles de la mission de St Alexis de la Grande Baie, sur le Saguenay, et de ceux de tous les autres établissements qui se sont formés ou qui se formeront par la suite sur les bords de cette rivière; 2.—des Sauvages des Postes du Roi et de la seigneurie de Mingan; 3.—des Sauvages qui fréquentent les bords de la rivière St Maurice; 4.—enfin de tous les Sauvages fidèles et infidèles qui habitent la partie nord de mon diocèse, au-delà des paroisses qui y ont été formées.

Je joins à la présente des écrits où se trouvent détaillés les pouvoirs que vous pourrez exercer soit en faveur des colons du Saguenay, soit en faveur des Sauvages.

Comme curé missionnaire vous aurez droit de percevoir de tous les colons du Saguenay les dîmes et autres oblations autorisées dans le diocèse. J'ai lieu de croire que ceux des colons qui ne se livrent pas à l'agriculture s'empresseront de contribuer, comme les autres, à votre soutien par des souscriptions libérales.

Comme missionnaire des sauvages des Postes du Roi et de la seigneurie de Mingan, vous recevrez de l'honorable Compagnie de la Baie d'Hudson un traitement de cent guinées par année. La Compagnie se charge de faire conduire le missionnaire dans les différents postes où se réunissent les sauvages, et pourvoit à sa subsistance durant la mission.

La mission chez les Sauvages du St Maurice et autres se fait au moyen des allocations de l'Oeuvre de la propagation de la foi. Chaque printemps l'on vous remettra entre les mains la somme allouée pour cet objet.

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L'établissement de Chicoutimi renfermant une population assez considérable, je serai bien aise qu'il reçoive de fréquentes visites de votre part ou de celle de vos dignes auxiliaires. Il sera à propos d'y ériger une chapelle aussitôt que possible, parce que les colons ne savent où s'assembler pour remplir leurs devoirs religieux. Quant aux autres établissements le long du Saguenay, vous voudrez bien faire en sorte qu'ils soient visités au moins deux fois par année. L'Oeuvre de la propagation de la foi a coutume de faire les frais de cette visite,

mais il serait à désirer que les intéressés fussent chargés de ce soin. La visite que vous ferez chez eux dans le cours de l'automne vous fera connaître s'ils en sont capables.

Je prie Dieu qu'il répande sur vous et sur vos excellents confrères ses plus abondante bénédictions, et je demeure &c.

(signé.) JOS. EV. DE QUÉBEC.

Copie conforme aux Régistres des lettres l'Archevêché de Québec, Vol. 21, p. 102-103..

B. PH. GARNEAU ptre.
Archiv.

No. 1183.

C

[4 Oct., 1844.]

JOSEPHUS SIGNAY

[*Eclosure in No. 1182.*]

MISERATIONE DIVINA ET SANCTAE SEDIS APOSTOLICAE GRATIA
EPISCOPUS QUEBECENSIS, &C, &C, &C.

Rev. Patri Baptistae Honorat domus Congregationis missionariorum Oblatorum Sanctissimae et Immaculatae Virginis Mariae in hac dioecesi erectae Superiori, apud sylvicolas locorum vulgo dictorum *les Postes du Roi et de Mingan* necnon amnis St Mauriti, aliosque in parte australi nostrae dioecesis degentes missionario, Salutem et Benedictionem in Domino.

Ut animabus praedictorum sylvicolarum utiliori modo ministrare possis, sequentes facultates extraordinairias, ad nutum revocabiles, tibi dare et concedere decrevimus, tenoreque praesentium damus et concedimus, videlicet:

1.—Sacramenta omnia (Ordine et Confirmatione exceptis) administrandi;

2.—A casibus et censuris tum Nobis tum S. Sedi Apostolicae reservatis, necnon ab haeresi, recepta prius catholicae fidei professione, absolvendi;

3.—Super juramentis, ubi legitima causa aderit, dispendandi;

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4.—Vota quaelibet, exceptis votis casitatis perpetuae et religionis ingrediendae, in alia pia opera commutandi;

5.—Omnes omino benedictiones quae non requirunt ordinem episcopalem faciendi;

6.—Super bannorum proclamatione, ac super prohibito nuptiarum tempore dispendandi;

7.—Dispensandi cum conjugibus super impedimentis matrimonio supervenientibus ac ipsius usum auferentibus;

8.—Super impedimentis publicae honestatis, criminis etiam (in casibus occultis tantummodo) utroque contrahentium machinante et morte secuta; cognationis spiritualis, etiam inter levantem et levatum, necnon inter baptizantem et baptisatum, dummodo sint laici; affinitatis et consanguinitatis in secundo, tertio et quarto gradu pro matrimoniis vel contractis vel contrahendis, ea tamen lege ut quaecumque juxta hunc octavum articulum dispensaveris exprimas in registris seu actibus publicis (nisi agatur de impedimentis occultis) te dispensasse vi facultatis Nobis ad decennium per indultum Apostolicum Romae datum die 6 martii 1842 concessae, tibi per Nos commicatae, et mulierem non fuisse raptam, vel si rapta fuerit, in potestate raportis non existere;

9.—Dispensandi cum hujus dioecesis habitantibus super primo affinitatis gradu ex copula illicita per lineam collateralem sive rectam resultantis, dummodo nullum subsit dubium quod conjux possit esse proles ab altero contrahentium genita, in matrimoniis ignoranter vel scienter quoque contractis, sicuti etiam in contrahendis, ubi rationabilis et legitima causa concurrat, in occultis tamen et in foro conscientiae tantum, impositis pro modo culpae poenitentis privatis salutaribus;

10.—Dispensandi cum catholicis memoratis super primo affinitatis gradu ex copula illicita tam in linea transversali quam in linea recta proveniente, dummodo constet neutrum ex contrahentibus esse alterius filium, in matrimoniis ignoranter vel scienter quoque contractis, sicuti etiam in contrahendis, in publicis et in utroque foro, impositis pro modo culpae poenitentis salutaribus;

11.—Dispensandi catholicum ut licite possit matrimonium contrahere cum acatholica, et vicissim; et si jam contractum fuerit, in eodem licite manere, praescriptis conditionibus debitis;

12.—Super disparitate cultus dispensandi;

13.—Dispensandi cum infidelibus plures uxores habentibus, ut, post conversionem, quam ex illis maluerint, si etiam ipsa fidelis fiat, retinere possint, nisi prima voluerit converti;

14.—Permittendi parti fideli cohabitandi cum parte infideli propter probabilem spem conversionis illius;

15.—Dispensandi partem fidelem ab interpellatione primae conjugis infidelis, quoties aut fieri reipsa nequeat, aut si fieret, nullius utilitatis fore reputetur;

16.—Recitandi Rosarium vel alias preces si Breviarum tuum deferre non poteris, vel divinum officium ob aliquod legitimum impedimentum recitare non valeas;

17.—Dispensandi, quando expedire videbiture super esu carnum, ovorum et lacticiniorum, tempore jejuniorum et Quadragesimae;

18.—Missam in domibus privatis vel sub dio, quando necesse erit, per unam horam ante auroram et etiam post meridiem, etiam sine ministro, eamque bis in die, in sequentibus tantummodo circumstantiis, videlicet; ut in die festo sive dominico a pluribus familiis audiatur, vel ut aegroti sacrum viaticum ministraretur alias sine communione morituro, celebrandi;

19.—Erigendi pium exercitium Viae Crucis in loci tuae jurisdictionis;

20.—Benedicendi coronas precatorias, cruces et sacra numismata, eisque applicandi indulgentias juxta folium typis impressum ac insertum, necnon divae Birgittae nuncupatas;

21.—Adhibendi pro adultis baptizandis formam in Rituali praescriptam pro baptismo infantium;

22.—Praedictas aucto facultates non tantum erga dictos sylvicolas, sed etiam erga quoscumque dioecesanos nostros quos in praefatis locis repereris, exercendi;

Supradictae facultates exerceri poterunt a presbyteris praesentibus et futuris dictae Congregationis a te vel successoribus tuis, tamquam eorum superioribus, designatis.

Quebeci, die 4 oct. 1844,

(sign.) JOS. EPUS QUEBECENSIS.

Copie conforma au Rég. N. de l'Archev. de Québec, p. 113.

B. PH. GARNEAU ptre.,
Archiv.

[28 Jany., 1845.]

No. 1184.

**GOVERNOR SIMPSON TO WM. NOURSE, 28TH
JANUARY, 1845.**

[EXTRACT.]

RECORDS, HUDSON'S BAY COMPANY.

.....“If the Indians persist in a desire to visit Mingan in order to meet a Roman Catholic Priest, you may state that, if they defer it for another year, we will endeavour to send a priest to their own lands, without putting them to the trouble or inconvenience of so long a journey. This can be done hereafter without inconvenience when the vessel winters in the St. Lawrence; but if the Priest were to go this season, by the second trip of the “Marten,” his stay would necessarily be short, that he could only see a few of the Indians immediately round Rigolet.....”

[17 Sept, 1845.]

No. 1185.

**MISSION AMONG THE MONTAGNAIS.
FATHER DUROCHER TO FATHER GUIGUES, SUPERIOR
OF THE OBLAT MISSIONARIES.**

RAPPORT SUR LES MISSIONS DU DIOCÈSE DE QUÉBEC, July 1847, No. 7.

Grande-Baie, 17 septembre 1845.

Mon Reverend Pere,

Conformement au désir que vous m'avez manifesté, je vous envoie le rapport succinct de notre mission chez les Montagnais. puisse cette légère esquisse vous être agréable et vous servir de délassement au milieu de vos nombreuses occupations!

Comme vous le savez, les Montagnais, une des tribus de la grande famille algonquine, occupent le vaste territoire dont la longueur s'étend depuis le Saguenay jusqu'au dé de Belle-Isle, et la profondeur jusqu'à la hauteur des terres. Depuis la mort du R.P. De la Brosse, vingt-unième et dernier

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missionnaire jesuite, décédé à Tadoussac en 1782, les Montagnais avaient été desservis par des prêtres seculiers du diocèse de Québec. Le dernier de ces missionnaires M. Boucher de St. Ambrose (diocèse de Québec), avait, par son zèle infatigable et persévérant, régénéré cette tribu indienne naguère dégradée, en la faisant entrer dans la société de tempérance totale. Le langage de ce digne apôtre de la

tempérance a été tellement persuasif que, depuis trois ou quatre ans que s'est opérée cette heureuse transformation, il ne s'est encore reconstruit qu'un seul cas d'infraction grave aux engagements qu'ils avaient pris.

A notre arrivée, nous dûmes nous livrer à l'étude de la langue de nos sauvages, pour pouvoir exercer notre ministère avec plus d'efficacité. Nos premiers maîtres furent les ouvrages des RR. PP. De la Brosse et Laure; mais malheureusement ces livres, composés il y a plus d'un siècle, ne sont plus en harmonie avec la langue actuelle. Deux mois consacrés à l'étude de ces anciens ouvrages ne servirent qu'à nous convaincre que tout était à refaire: grammaire, dictionnaire et catéchisme. A l'aide de quelques interprètes que nous trouvâmes à Chicoutimi, ancienne résidence des RR. PP. jésuites, où nous passâmes l'hiver, nous pûmes composer un petit catéchisme et un cahier d'examen de conscience. Les rapports continuels que nous eûmes avec les Montagnais des Islets, en quartier d'hiver à Chicoutimi, nous mirent en état d'exercer avec fruit le saint ministère parmi eux. Comme la plus grande partie de ces pauvres Indiens n'avaient pas encore été admis à la participation de la divine eucharistic, nous les disposâmes à remplir ce devoir avec le respect dû à la dignité de ce sacrement.

Nous laissâmes la Grande-Baie le 13 mai, pour nous rendre à Tadoussac où nous devions nous embarquer pour nous rendre en droiture à Maskwaro; mais des raisons pressantes appelèrent à Montreal le R.P. Fisette, mon compagnon de voyage: j'eus ordre de faire, en attendant son retour, des missions dans les environs de ce poste. Des souvenirs précieux me faisaient chérir Tadoussac, jadis chef-lieu des missions montagnaises. C'est là que reposent les cendres du R.P. De la Brosse; c'est là qu'il avait composé la plupart de ses ouvrages montagnais. Les Indiens ne parlent qu'avec la plus grande vénération de cet homme vraiment apostolique. Leur devise était: Ne rien innover dans la religion que nous a prêchée le grande Tshitshisahigan; c'est ainsi qu'ils l'appellent.

* * * *

Nous arrivâmes à Godbout, accompagnés d'un grand nombre de nos chers Montagnais. Tous nous auraient suivis, si nous eussions fait le trajet en canot d'écorce. Notre séjour dans ce poste ne fut que de trois jours. Nous devions nous embarquer à bord de La Tadoussac, goëlette appartenant à la Compagnie de la Baie d'Hudson, et qui devait nous transporter à Mingan, en touchant aux Sept-Iles. Le temps que nous passâmes à la rivière Godbout fut employé à préparer les Indiens de ce poste à la mission que nous devions leur donner au retour de Mingan.

* * * *

Le 28 juin, le temps étant favorable, nous levâmes l'ancre pour nous rendre aux Sept-Iles. A notre arrivée dans ce poste, il nous fallut préparer

les Indiens demandent, avec instances, que l'on construise une chapelle. Une croix avait été élevée sur le terrain où elle devait être érigée. Il serait à désirer que ce projet fut promptement exécuté; c'est à ce poste que viennent, de temps à autre, quelques familles Naskapis, nation infidèle qui demande, depuis vingt ans, d'être éclairée du flambeau de la foi. Ils semblaient nous dire, comme autrefois le Macedonien à l'apôtre des nations: *Transiens in Macedoniam, adjuva nos*. Leur pauvreté les empêche de faire les frais du voyage. Que ne sommes-nous assez nombreux pour voler à leur secours! Parmi ces pauvres infidèles, j'en trouvai un qui était venu plusieurs fois aux Sept-Iles, pour se faire instruire de la religion et recevoir le baptême: jamais il n'avait pu rencontrer le missionnaire à temps. Toute sa science se bornait à savoir dire le chapelet: cette dévotion fut pour lui la cause de son salut. Après quelques instructions, il me dit: "Nama tehika shuelimen ni shéwélin? Est-ce que tu "ne me feras pas miséricorde, je n'ai plus rien à manger, je désire m'en retourner." Je l'interrogeai sur les principaux mystères. Comme il ne pouvait répondre d'une manière précise, je me voyais dans l'impossibilité de lui accorder ce qu'il me demandait. Jetant un profond soupir, il se retire, gardant un morne silence. A huit heures, je vins dans le lieu de nos réunions pour y réciter l'office divin. Peu après mon arrivée, mon Naskapi entre avec sa femme, qui est chrétienne; tous deux récitent le chapelet à haute voix, puis se retirent. Le lendemain, de grand matin, ils se réunissent dans le même lieu, et récitent la même prière. Je ne doutai plus que celle qu'on n'implore jamais en vain, n'eût écouté ces humbles supplications. J'interrogeai de nouveau mon pauvre catéchumène; réponses précises à toutes demandes. Je lui conférai le sacrement de baptême en présence de nos Montagnais, puis je réhabilitai son mariage. Après la célébration des saints mystères, il donna, suivant l'usage du pays, l'accolade fraternelle, à la porte du lieu saint, à tous nos bons Montagnais qui avaient pris part à son bonheur.

* * * *

A dix heures, nous étions devant Mingan, à 136 lieues de Québec. Les Indiens, qui nous attendaient sur le rivage, m'étendant parler leur langue, s'écriaient: "Nehilowe anna! (Quoi! il parle notre langue)." Nous ne trouvâmes à ce poste que neuf familles montagnaises. Trois jours auparavant, un grand nombre de ces pauvres sauvages, pressés de la faim, avaient laissé le poste pour se rendre sur les îles voisines.

* * * *

Etant arrivés trop tard pour faire la mission de Maskwaro, et les Indiens ne venant pas nous rejoindre, nous résolûmes de terminer notre mission le plus tôt possible, afin de nous embarquer sur La Tadoussac, qui faisait voile pour les Sept-Iles. Nous annonçâmes notre départ à notre petit troupeau; nous ne pûmes les consoler qu'en leur promettant qu'à une autre visite notre séjour parmi eux serait de plus longue durée.

* * * *

La mission de Maskwaro que nous n'avons pu faire, celle de Mingan à-peu-pres nulle; les missions de Chicoutimi et du lac St. Jean, confiées à un prêtre zélé mais ne sachant pas la langue, et surtout les Naskapis, peuple infidèle qui demande, depuis si long-temps, d'être éclairé du flambeau de la foi, démontrent évidemment que le nombre des missionnaires devrait être au moins double.

Je dois encore vous faire observer, mon révérend Père, que les dons volontaires de nos pauvres Indiens ne peuvent plus suffire pour la réparation et la construction de leurs chapelles.

Daignez porter un regard sur nos pauvres missions, et agréer l'assurance du profond respect avec lequel.

Je suis,

Mon révérend Père,

Votre très-humble et très obéissant serviteur,

[25 July, 1846.]

F. DUROCHER, Ptre.

No. 1186.

C

**FATHER DUROCHER TO THE ARCHBISHOP OF
QUEBEC.**

MISSIONS DU DIOCESE DE QUEBEC.

Tadoussac, 25 juillet

1846.

Monseigneur,

L'Interet particulier que Votre Grandeur prend aux missions indiennes de son diocèse, me porte à croire qu'elle accueillera, avec bienveillance, le rapport de celles que nous venons de terminer. par son entremise, nous recûmes les secours de l'association de la Propagation de la Foi pour la construction d'une chapelle et l'impression de cantiques en langue montagnais; j'ose faire passer, par la même voie, l'expression de la reconnaissance de nos Indiens et la nôtre, et faire connaître à messieurs du conseil de l'oeuvre les bénédictions que le Seigneur se plait à répandre sur ces premiers habitants du sol canadien.

* * * *

Le 5 mai, nous arrivâmes aux Ilets de Jérémie; nous annonçâmes à ces bons habitants des forêts la visite épiscopale. C'était pour la première fois que le sacrement de confirmation allait être administré à la tribu montagnaise: déjà, il est vrai, un des illustres prédécesseurs de Votre Grandeur avait daigné se rendre à Portneuf, pour y célébrer la fête de Ste. Anne; mais, alors, les Indiens, livrés à l'intempérance et aux désordres qu'elle traîne à sa suite, ne purent recevoir les dons de l'Esprit-Saint: même à une époque

plus rapprochée il y a quatre ans, un évêque eut-il paru parmi ces peuples, il n'aurait pas donné la confirmation à une seule personne...chez le sauvage, les autres vertus sont les compagnons inséparables de la vertu de tempérance.

* * * *

La mission terminée, nous eûmes pendant dix jours consécutifs des vents contraires. Je profitai de ces moments de loisir pour traduire en montagnais les prières et les cantiques du chemin de la croix. Ce petit ouvrage imprimé serait chez nos Indiens d'un grand secours pour la sanctification du dimanche: au fond de leurs forêts, ils sanctifieraient ce saint jour par les exercices si touchants du *Via crucis*, et satisferaient à la justice divine, en gagnant les indulgences qui y sont attachées.

Le 7 juin, nous mouillâmes à mingan, diocèse de Terre-neuve. Tous les sauvages vinrent nous recevoir au rivage, avec de grands transports de joie. Campés depuis quinze jours à ce poste, ils y attendaient notre arrivée: vainement le commis du lieu avait essayé de les envoyer à la chasse du loup-marin. "Nous ne partirons pas, lui dirent-ils, que nous n'ayions vu la robe noire. C'est pour avoir suivi de tels conseils que nous fûmes privés l'été dernier, des avantages de la mission." En effet, l'an dernier, la plupart de ces pauvres gens n'arrivèrent au poste qu'après notre départ.

* * * *

Nous nous disposions à quitter ce poste pour celui de Masquaro, qui est à 180 lieues de Québec, lorsque huit berges américaines vinrent mouiller dans le port de Mingan. Nos bons Indiens de Masquaro, impatients de voir les missionnaires, venaient à leur rencontre. Pour se procurer cet avantage, ils avaient franchi une distance de 57 lieues; belles dispositions nous firent bénir la divine providence qui accélérât ainsi notre retour aux Ilets de Jérémie.

L'arrivée des Masquaroniens, en nous comblant de joie, fut pour nous un surcroît d'occupations: deux cents Indiens se pressaient autour de nous pour entendre, avec avidité, les paroles de la vie éternelle. Le jour ne suffisant plus à entendre les confessions, il fallut y donner une partie des nuits. Comme c'était un temps précieux pour la chasse du loup-marin, nous nous hâtâmes de terminer la mission. La plupart de ces sauvages n'avaient pas encore fait leur première communion; il fallait les y disposer. C'était pour la première fois qu'ils entendaient un missionnaire parler leur langue; ses paroles faisaient une vive impression sur leurs cœurs bien disposés: les nouveaux cantiques répétaient les vérités du salut qu'ils avaient entendues dans nos instructions, et les gravaient dans leur esprit et dans leur cœur. Nous étions aidés par les Indiens de Mingan, qui faisaient la fonction de catéchistes, et ils continuaient leurs instructions bien avant dans la nuit. Sept jours après l'arrivée des Masquaroniens, les trouvant suffisamment instruits, nous les admîmes à la participation de la divine eucharistie.

Deux jours après l'octave de la Fête-Dieu, nous étions aux Sept-Iles, à lieues au-dessus de Mingan. Nous ne trouvâmes

dans ce poste qu'un petit nombre de familles mantagnaises; la plupart étaient parties pour les

Ilets de Jérémie. Nous conférâmes, aux Sept-Iles, le baptême solennel à un adulte d'origine naskapite; les autres membres de sa famille étaient déjà chrétiens.

* * * *

Le 8 juillet, nous aperçumes les établissements du poste des Ilets de Jérémie ; nous arborâmes notre pavillon, et nous vîmes bientôt flotter celui de la place. Il fallut lutter contre vent et marée : à la nuit close, nous étions encore à un mille du lieu désiré. Nous saluâmes le poste par des décharges de mousqueterie, et l'artillerie de la place y répondit aussitôt; nos Indiens firent un feu roulant qui dura près d'une demi-heure. Deux canots légers, conduits par des bras vigoureux, vinrent à notre rencontre ; le Père Garin s'élança sur l'une de ces embarcations, et l'autre me reçut à son bord. Une course navale s'engagea entre ces deux canots rivaux ; ils fendirent les flots avec rapidité ; tantôt ils vont de front, tantôt l'un devance l'autre de quelques coudées : en un instant nous touchons le rivage, et nous entrons dans la chapelle dédiée à notre sainte protectrice, pour lui témoigner notre reconnaissance.

Nous n'avions que onze jours pour disposer nos Indiens au spectacle imposant que la religion allait offrir pour la première fois à leurs regards. Chaque jour, les rangs devenaient plus serrés par l'arrivée de nouvelles familles ; la marche de la mission prenait un aspect plus imposant ; des Naskapis catéchumènes ou néophytes, descendus de leurs montagnes, entendaient avec admiration des chants sacrés, inconnus à leurs oreilles : ils formaient des vœux ardents pour que le bonheur dont ils jouissaient fût enfin communiqué à leurs compatriotes encore assis dans les ombres de la mort. Hélas! depuis plus de vingt ans, cette tribu encore infidèle demandait d'être éclairée des lumières de l'évangile : leurs prières n'ont pas encore été exaucées. Généreux associés de la Propagation de la Foi, priez donc avec nous le maître de la moisson d'envoyer des ouvriers travailler à cette partie de la vigne qui est encore inculte.

Quatre familles de la mission de Chicoutimi, enrôlées, à Noël dernier, sous la bannière de la société de tempérance totale, fuyant leurs anciens compagnons de débauche, s'étaient rendues aux Ilets de Jérémie : là elles servaient Dieu au sein d'une nombreuse compagnie de frères, s'édifiant les uns les autres par la pratique des vertus chrétiennes.

Il était beau, Monseigneur, le spectacle de 74 familles s'instruisant les unes les autres, et chantant jour et nuit les louanges du divin Maître et de son auguste mère ! Ces jours de bonheur se succédaient avec rapidité: préparer les catéchumènes à recevoir solennellement le baptême ; disposer les néophytes à la première communion ; mettre toute cette chrétienté en état de recevoir les dons de l'Esprit-Saint, tel était le cercle de nos occupations.

* * * *

Une jeune Naskapie reçut des mains de Monseigneur l'évêque de Sidyme, le baptême solennel. Elle bénissait mille

fois le Seigneur de l'avoir préférée à tant d'autres de la même tribu qui gémissent sous le dur esclavage de satan.

p. 3031

Un jeune anglais, après avoir renoncé aux erreurs du protestantisme, reçut la même faveur que cette jeune Naskapie. Le prélat voulut donner audience aux Naskapis et les féliciter de leur fidélité à la grâce de Dieu qui les avait appelés des ténèbres de l'infidélité à la lumière de l'évangile. Il les chargea de porter à leurs frères la bonne nouvelle et l'assurance d'être prochainement visités par les missionnaires.

* * * *

Le moment du départ étant arrivé, il fallut enfin nous séparer de nos chères ouailles. Nous avions l'espoir de les revoir à Port-neuf ou Sa Grandeur devait mettre pied à terre. Mais la divine Providence en avait disposé autrement. Le vent qui soufflait avec violence eut infailliblement poussé notre embarcation contre les bancs de sable qui bordent l'entrée de la rivière, si nous eussions essayé de gagner le rivage. Il fallut continuer notre route jusqu'à Tadoussac où finit notre mission.

J'ose supplier votre Grandeur d'agréer, etc.
P.F. DUROCHER, O.M.J.

[19 April, 1847.]

**ARCHBISHOP OF QUEBEC TO MGR. FLEMING,
APOSTOLIC VICAR, NEWFOUNDLAND.**

Québec, 19 avril 1847.

A Mgr Fleming,
Vic. Apost. de Terre-neuve.
Monseigneur,

Votre Gr. se rappelle sans doute qu'elle a bien voulu m'autoriser à donner juridiction pour la partie de son diocèse qui appartient à la terre ferme aux prêtres de mon diocèse qui pourraient s'y rendre dans l'occasion; Depuis qu'elle a bien voulu m'écrire à cet effet, (sa lettre est du 4 décembre 1838) je n'ai été en mesure de profiter des pouvoirs qu'elle m'a communiqués qu'en faveur des sauvages de Mingan seulement les plus rapprochés de mon diocèse ; mais il m'a été impossible de pouvoir les faire exercer à l'égard des catholiques répandus sur le reste de la côte, J'ai appris néanmoins avec plaisir qu'un prêtre député par V.G. avait fait une visite à ceux-ci il y a quelques années.

Depuis cette visite, plusieurs Canadiens des différents postes de la côte de Labrador que des affaires de commerce appellent à Québec sont venue me supplier chaque année de leur envoyer un prêtre qui puisse leur parler dans leurs langue et instruire leurs enfants dont un grand nombre n'ont pas été baptisés. Pressé d'un côté par les instances de ces pauvres gens, et encouragé de l'autre par la bienveillante autorisation que V.G. a daigné m'accorder, j'ai chargé un prêtre zélé, le Rév. M. Desruisseaux, missionnaire de la Baie des Chaleurs, d'aller visiter les différents établissements de la côte, et de rendre à ceux qui y sont établis tous les secours spirituels en son pouvoir. Je vais lui recommander de prendre toutes les connaissances désirables sur l'état de la religion dans les différentes localités qu'il doit visiter, et je me ferai un devoir de communiquer à V. Grandeur le rapport qu'il me fera.

J'ai lieu de présumer que V.G. me pardonnera volontiers cette espèce d'intrusion que je ne me permets que parce que je sais qu'elle est dans l'impossibilité de pouvoir secourir cette partie de son diocèse.

J'ai l'honneur, &c.,

(signé) + JOS. ARCHEV. DE QUÉBEC.

Copie conforme aux Régistres de l'Arch. de Québec, Vol. 21, p. 624.

B. PH. GARNEAU ptre.
Archiv.

[3 May, 1847.]

**ARCHBISHOP OF QUEBEC TO FATHER
DESRUISSEAUX.**

Québec, 3 mai 1847.

Rev. Mr Desruisseaux,
Missionnaire à Carleton.

Monsieur,

Avec l'agrément de Mgr Fleming, Vicaire Apostolique de Terre-neuve, je vous confie jusqu'à révocation le soin de visiter les divers établissements disséminés le long de la côte de Labrador et de la seigneurie de Mingan, dépendantes de la juridiction de ce prélat, et d'y exercer toutes les fonctions du saint ministère envers les fidèles et les inhales que vous y rencontrerez. Je joins à la présente un écrit renfermant d'amples pouvoirs, lesquels joints à ceux dont vous jouissez déjà comme missionnaire des Isles de la Madeline, &c., vous mettront en état d'exercer votre zèle avec plus d'efficacité

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Je souhaite que le Seigneur vous protège pendant votre voyage et qu'il, accorde à votre ministère les plus heureux succès.

Je suis bien cordialement, &c.

(signé) JOS. ARCHEV. DE QUÉBEC.

Copie conformes aux Régistres de l'Archevêche de Québec, Vol. 22, p. 1.

B. PH. GARNEAU ptre.
Archiv.

**ARCHBISHOP OF QUEBEC TO REV. FATHER
DUROCHER.**

Québec, 25 septembre 1849.

Rév. Père Durocher, Oblat, Saguenay.

Mon Révérend Père

Je vous confie par la présente, jusqu'à révocation de ma part ou de celle de mes successeurs, 1.—le soin des fidèles de tous les établissements du Saguenay, à partir de l'embouchure de cette rivière jusqu'à la mission de Chicoutimi qui est sous les soins de Mr Gagnon, spécialement de l'établissement de St Alexis de la Grande Bale chef-lieu de la mission ; 2.—de tous les 10 sauvages fidèles et infidèles qui habitent la partie nord de mon diocèse audelà des paroisses qui y ont été formées.

Vous exercerez, outre les pouvoirs accordés au R. P. Honorat et à ses successeurs par le décret d'établissement des Révérends Pères Oblats de Marie dans le diocèse, tous ceux qui furent accordés spécialement au même Père, pour lui et pour tous les membres de son Institut, par deux actes du 4 octobre 1844.

Comme curé missionnaire, vous aurez droit de percevoir des cultivateurs les dîmes et autres oblations autorisées dans le diocèse. Quant à ceux qui ne se livrent pas à l'agriculture, vous les exhorterez à contribuer, comme les autres, au soutien des prêtres chargés de les desservir.

Comme missionnaire chargé des Sauvages des Postes du Roi et de la seigneurie de Mingan, vous recevrez de l'honorable Compagnie de la Baie d'Hudson un traitement annuel de cent guinées. C'est à elle qu'il appartient de faire conduire le missionnaire aux différents postes où se réunissent les Sauvages et de pourvoir à sa subsistance pendant la mission.

Quant aux petits établissements qui existent depuis Tadoussac jusqu'à la Grande Baie, vous les visiterez ou ferez visiter au moins deux fois par année, et vous engagerez les gens qui les habitent à contribuer aussi au soutien des prêtres qui vont leur porter les secours de la religion, ou du moins à payer leurs frais de voyage.

Je prie Dieu, mon Révérend Père, qu'il daigne bénir vos travaux et ceux de vos chers confrères, et je demeure bien cordialement votre tres obéissant &c.

(signé) + JOS. ARCHEV. DE QUÉBEC.

Copie conforme aux Régistres de l'Arch. de Québec, Vol. 23, p. 28-39.

ARCHBISHOP OF QUEBEC TO FATHER DUROCHER.

Québec, 29 septembre 1849.

Rév. P. Durocher, Sup. Oblat, Saguenay.

Mon Rév. Père

Dans la lettre que je vous ai écrite le 25 du présent, j'ai fait une omission qu'il est important de réparer.

Outre les différents postes qui vont être mis sous vos soins par la lettre précitée, je vous confie de plus 1.—tous les établissements qui se sont formés ou qui se formeront à l'avenir sur la rive nord du St Laurent depuis le Saguenay jusqu'à la rivière St Jean ; 2.—le soin des différents postes qui se trouvent depuis la dite rivière jusqu'à la ligne est de la seigneurie de Mingan et de tous les Sauvages qui les fréquentent, conformément à un indult du 18 août 1833 qui m'autorise à envoyer des missionnaires dans ce territoire, quoiqu'il fasse partie du Vicariat Apostolique de l'Isle de Terre-Neuve.

Je vous autorise en meme temps à exercer dans ces différentes localités tous les pouvoirs extraordinaires qui vous sont accordés par ma lettre ci-dessus mentionnée du 25 du courant.

Je suis &c.

(signé) + JOS. ARCHEV. DE QUÉBEC.

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 23, p. 48.

B. PH. GARNEAU ptre.
Archiv.

No. 1191.

BISHOP OF SIDYME TO REV^D. A. BELANGER,
ISLAND OF MADELAINE.

[23 May, 1850.]

Québec, 23 mai 1850.

Mr Al. Bélanger, Iles de la Madeleine.

Monsieur,

J'ai reçu votre lettre du 3 du courant où vous me témoignez votre disposition à vous charger de la mission de la côte de Labrador, au moins pour cette année. Je vous envoie en conséquence les pouvoirs dont vous pouvez avoir besoin dans l'exercice de vos fonctions apostoliques.

Vous avez reçu diverses instructions lorsque vous avez été chargé de la desserte des Isles de la Madeleine ; vous les suivrez, autant que faire se pourra, dans le cours de votre mission.

Les gens que vous allez visiter se sont chargés de défrayer les dépenses du missionnaire qui a la charité d'aller leur porter les secours de la religion. Je tâcherai de vous faire tenir la liste de leurs souscriptions que je ne retrouve plus ici, mais qui doit probablement se trouver entre les mains de Mr Bonenfant qui a fait la mission de l'année dernière.

Vous ne manquerez pas de me donner de vos nouvelles quand vous en trouverez l'occasion, et surtout de me faire savoir si vous revenez ou non parmi nous l'automne prochain. Je crains que les accidents ne l'emportent dans la balance.

Je souhaite bien du succès à votre mission et je suis
&c.

(signe) + P. F. EV. DE SIDYME.

Copie conforme aux Régistres de l'Arch. de Québec, Vol. 23, p. 305.

B. PH. GARNEAU ptre.
Archiv.

No. 1192.

SAGNUENAY MISSION.

RAPPORT SUR LES MISSIONS DU DIOCÈSE DE QUÉBEC, Mars, 1851,
No. 9.

Baie des Ha! Ha! 30 septembre 1850.

Monseigneur,

Tout en remplissant un devoir, je satisferai en même temps à un besoin de mon coeur, en entretenant Votre Grandeur des missions qu'elle nous a confiées de long de la côte, et que nous venons de visiter, le révérend père Garin et moi.

Cet fut pour acquiescer à vos désirs qu'au commencement de mois de mars dernier, je quittai la Grande-Baie, pour aller visiter les différentes familles canadiennes qui se trouvent échelonnées à de grandes distances, les unes des autres, depuis la Baie des Ha! Ha! jusqu'à Papinachois.

* * * *

Après que les différentes missions canadiennes furent achevées, je partis pour me rendre à Maskuaro, afin de rejoindre le R. P. Garin, qui était chargé en chef des missions sauvages. Ce ne fut qu'après avoir été ballotté, pendant plus de quinze jours, sur une mer qui paraissait ne vouloir point s'apaiser, que j'eus le bonheur de retrouver ce cher compagnon.

A Maskuaro nous trouvâmes une chrétienté, avide de la parole de Dieu. Tous les chasseurs nous y attendaient avec impatience, depuis plus de trois semaines, aimant mieux supporter la faim que de s'éloigner, de crainte de ne point rencontrer les robes noires.

* * * *

A Mingan, nous avons trouve une chrétienté bien nombreuse, dont la docilité à correspondre à la grâce, a fait la plus grande consolation des missionnaires. Ce sont surtout ces sauvages qui désireraient voir leur père, le grand-chef de la prière, car les deux ou trois familles qui se trouvaient aux Ilets, lors de la visite de Votre Grandeur, en ont parlé longuement à leur retour; et aujourd'hui encore, lorsqu'ils sont tous réunis, ils se plaisent à s'entretenir du grand-chef de la prière (Kaiamituatset), de son beau costume, de ce qu'il avait prescrit; ils se rappellent surtout combien il paraissait les aimer, puisqu'il était venu de si loin pour visiter ceux qui habitent dans les forêts.

Aux Sept Iles, il n'est rien arrivé d'extraordinaire, se ce n'est la conversion de trois Naskapis, âgés de vingt à vingt-cinq ans, admis au saint baptême

* * * *

Pres de quatre-vingt à cent familles ont assisté à la mission des Ilets. Tous les sauvages de Port-Neuf et des Escoumins y étaient accourus pour voir la fameuse procession où l'on porte en triomphe la statue de la Vierge au milieu des chants d'allégresse, dans des chemins bordés de jeunes arbrisseaux, chargés de couronnes et de guirlandes en fleurs.

Il est beau et édifiant, le spectacle qu'offre depuis quelques années cette chrétienté. C'est celle qui s'est attirée d'une manière toute particulière, la prédilection de ses missionnaires; aussi s'en sont-ils montrés dignes en correspondant si généreusement à leurs soins. C'est parmi eux que le révérend père Flavien Durocher a passé un hiver, où tout en se perfectionnant dans leur langue, il les a instruits si solidement sur leurs devoirs d'hommes et de chrétiens. Il leur a composé un livre de prières, un catéchisme, un magnifique recueil de cantiques et un livre de chant noté ; ces différents ouvrages dans une langue où il n'avait pour toute aide que les vieux manuscrits des anciens missionnaires, dont les mots se trouvaient déjà vieilles, ont dû coûter beaucoup de veilles et de fatigues. Aussi, en bons sauvages, ils ont su apprécier ses peines, et grande a été leur tristesse, lorsque cet été ils n'ont point vu paraître leur père.

C'est le R. P. Durocher qui a achevé parmi eux l'oeuvre de la tempérance, si courageusement commencée par l'infatigable et zélé M. Boucher, dont le souvenir est si cher à tous les indiens de la côte; et ils sont d'autant plus fermes à leurs promesses qu'ils avaient été auparavant faciles à se laisser séduire par l'amour de la liqueur de feu.

Ces sauvages sont les plus instruits de la côte; ils savent tous lire et écrire. Il est beau de les voir à l'église, les hommes d'un côté, les femmes de l'autre, le livre de prière à la main, rivalisant, pour ainsi dire, de modestie et de ferveur.

* * * *

De Votre Grandeur,
l'enfant soumis et respectueux,

CH. ARNAUD, O.M.I.

[30 Oct., 1850.]

ARCHBISHOP OF QUEBEC TO FATHER BELANGER.

Québec, 30 octobre 1850.

Rév. Mr. Bélanger,
Miss. Isles de la Madeleine.

Monsieur,

J'ai reçu vos lettres du 24 et du 27 août écrites de l'Anse au Blanc Sablon et de Labrador, et j'ai lu avec intérêt tout ce que vous me marquez du résultat de votre mission dans les différentes postes que vous avez visités. Je regrette que vous avez rencontré tant de gens qui montrent une si coupable indifférence pour les secours de la religion, dont ils ont pourtant un si grand besoin, et qu'ils devraient d'autant mieux apprécier qu'ils leur sont plus rarement offerts. Espérons toutefois que, témoins des efforts constants que l'on fait pour leur salut, ils en comprendront davantage l'importance, et qu'ils ouvriront leurs coeurs à la grâce qui leur est présentée par votre ministère.

Je serais bien aise que vous continuiez sur le territoire du Labrador l'oeuvre que vous y avez commencée, et j'applaudirai de bon coeur à la proposition que vous me faites d'y retourner le printemps prochain. Mais comme ce territoire est sous la juridiction de Mgr l'Evêque de Terre-Neuve et que vous vous trouvez dans le voisinage de ce Prélat, il convient que ce soit de lui que vous receviez cette mission. Vous aurez donc soin, aussitôt la présente reçue, de recourir à son autorité. Dans le cas que vous n'aurez pas reçu sa réponse à temps, je vous autorise à renouveler le printemps prochain votre expédition apostolique dans ces lieux abandonnés, et à user pour cet effet de tous les pouvoirs que vous aviez comme missionnaire des Isles de la Madeleine. . . .

Je suis bien édifié du zèle des habitants de à bâtir une chapelle, mais je regrette d'avoir à vous dire que le fonds de notre société pour la propagation de la foi sont dans un état qui ne permet pas de leur venir en aide. Peut-être aurez-vous plus de succès auprès de Mgr de Terre-Neuve qui pourrait épargner pour cette bonne oeuvre une petite partie de l'allocation qu'il doit recevoir du centre de l'association de Lyon.

Dès que vous en aurez le loisir faites un rapport au même Prélat de l'état de la religion dans les différents postes que vous avez parcourus, car c'est bien lui qui est le premier pasteur. Informez-le en même temps que si je prends la liberté d'exercer quelque autorité sur cette partie de son diocèse, je ne le fais qu'à son défaut, en vertu d'un indult du St Siège accordé

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à l'Archevêque de Québec, à cause de l'impossibilité où se trouvoit son prédécesseur de visiter ces mêmes postes. Sa

Grandeur trouvera sans doute parmi les papiers laissés par celui-ci plusieurs lettres qui lui furent adressées à ce sujet par Mgr Signay.

Au retour de votre prochaine visite, faites-moi connaître ce que vous avez fait dans chaque mission, ce qui s'y seroit passé de plus remarquable et de plus édifiant, le nombre de confessions entendues, de communions administrées, de baptêmes données, de mariages célébrés, le nombre des communicants qui n'auroient pas été à confesse, celui des familles catholiques de l'endroit; c'est une espèce de journal que je vous invite à tenir. Par ce moyen on pourra édifier nos associés de la Propagation de la foi sur le compte des pauvres catholiques que renferme le Labrador.

Quand la présente vous parviendra, vous aurez probablement appris par les papiers publics la mort de Mgr Signay arrivée le 3 du courant. Une attaque de paralysie l'a enlevé au bout de deux jours de maladie. Il m'a laissé sur les bras un fardeau bien pesant.

Je vous salue, Monsieur, &c.

(signe) + P.F. ARCHEV. DE QUÉBEC.

Copie conforme aux Régistres de l'Arch. de Québec, Vol. 23, pp. 455-456.

B. PH. GARNEAU ptre.

Archiv.

No. 1194.

C

**VICAR GENERAL CAZEAU TO BISHOP OF
NEWFOUNDLAND.**

Québec, 28 juin 1852.

Mgr l'Evêque de Terre-Neuve.

Monsieur,

Deux hommes de la côte Labrador, les nommés Gaumont et Boulé, résidant à l'endroit appelé Tabatière, sont venus me trouver en l'absence de Mgr l'Archevêque et de son coadjuteur, tous deux en visite pastorale, pour m'exprimer leur regret de ce qu'ils n'ont pas reçu la visite d'un missionnaire l'année dernière et leur crainte d'être encore privés du même bonheur cette année. Ils rapportent que, conformément aux instructions qu'ils avaient reçus de l'un de vos prêtres, Mr. Al. Bélanger, en 1850, ils ont préparé tout ce qu'il faut pour l'érection d'une chapelle, et qu'ils n'attendent plus que la présence d'un prêtre et ses directions pour terminer l'ouvrage. Mgr l'Archevêque pensait que Mr Bélanger devait continuer l'oeuvre qu'il a

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commencée et dont il s'était chargé avec beaucoup de plaisir. Il faut que ce brave prêtre en ait été empêché par des raisons importantes. Quoi qu'il en soit, Mgr l'Archevêque, à qui j'en ai écrit, me recommande de faire connaître à Votre Grandeur la

triste position où se trouvent les catholiques de la côte de Labrador et leur ardent désir qu'elle soit améliorée par la visite régulière d'un prêtre. Ils seraient bien aise que ce prêtre put aller passer l'hiver avec eux, parce que tout le monde étant revenu de la pêche, un plus grand nombre de fidèles pourraient profiter de son ministère. Je sou mets le tout humblement à la considération de V. G. qui, s'il en est besoin, pourra recevoir de Mr Bélanger tous les renseignements propres à l'éclairer sur cette partie de son diocèse.

Veillez agréer, &c.

(signé) + C.F. CAZEAU, ptre, Vic. Gen.

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 24, pp. 509.

B. PH. GARNEAU ptre.
Archiv.

No. 1195.

C

ARCHBISHOP OF QUEBEC TO FATHER SANTONI.

Québec, 11 octobre, 1852.

Rév. Père Santoni,
Sup. des Oblats, Montréal.
Mon Révérend Père,

* * * *

Quant à la mission à faire chez les Esquimaux, je suis bien aise qu'elle se fasse certainement, mais je vous prie de remarquer qu'elle est tout en dehors du diocèse de Québec et que je ne vois pas que notre association de la Propagation de la Foi puisse en faire les frais. Il est bien vrai que Mgr l'Evêque de Terre-neuve vient de m'écrire pour me prier de me joindre à lui dans une supplique qu'il fait au St. Siège pour faire attacher au diocèse de Québec la partie de la côte du Nord qui l'avoisine jusqu'à l'endroit appelé le Blanc Sablon, mais avec cet ajouté, s'il a lieu, nous n'atteindrons point encore ce qui s'appelle vraiment le pays des Esquimaux. Peut-être n'est-il question pour vos Pères que de faire la mission depuis la rivière St. Jean (limite actuelle du diocèse de Québec) jusqu'au Blanc Sablon; mais je ne vois pas encore que mon diocèse puisse en faire les frais que l'Evêque de Terre Neuve estime

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devoir monter à la somme de £150. Puis il faudrait que deux missionnaires fussent adjoints à ceux qui font aujourd'hui la mission de notre côte et qui, suivant les apparences, auront désormais de quoi s'occuper sans aller au-delà des limites du territoire jusqu'à présent commis à leurs soins. Inévitablement nous aurons à correspondre sur ce sujet d'ici à l'été porchain.

J'ai l'honneur d'être, &c.

(signe) P.F. ARCHEV. DE QUÉBEC.

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 24,
pp. 630-631.

B. PH. GARNEAU ptre.
Archiv.

No. 1196.

C

ARCHBISHOP OF QUEBEC TO FATHER DUROCHER.

Québec, 30 octobre, 1852.

Rev. Pere Durocher,
Escoumins.
Mon Révérend Père,

* * * *

On vous avait promis d'écrire au bureau principal de l'hon. compagnie de la Baie d'Hudson pour avoir raison du refus qui vous étoit fait du paiement du salaire accoutumé de 100 guinées; on l'a fait et la réponse a été assez satisfaisante puisque l'on promet de payer, mais sur l'ordre qu'en donnera Mr. Gladman. Je suppose que ce Monsieur n'aura besoin que d'attester que la mission a été faite. On ajoute que si, à l'avenir, le salaire doit être supprimé, on en avertira d'avance.

Quant au résultat de la supplique présentée, il y quelque temps, par le bon Père Arnaud et les six députés, tout ce que je puis vous dire pour le moment est que le colonel Bruce est très bien disposé en faveur de vos sauvages et qu'il promet de faire ses efforts pour leur envoyer quelque secours de provisions avant la clôture de la navigation. Mais je vous avoue que ceci ne me plaît qu'à demi parce qu'il n'annonce rien de stable pour l'avenir.

J'ai écrit au Père Pinet au sujet de l'empêchement nouvellement découvert au mariage d'Albert Potvin. . . .

J'ai déjà écrit au Père Santoni au sujet de la mission de la Baie des

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Esquimaux; mais je trouve comme vous que nous ferions mieux de nous occuper des Naskapis, c'est-à-dire de ceux que nous sommes chargés d'évangéliser que d'aller travailler hors des limites du diocèse de Québec. Nous traiterons plus tard de cette grave question. Une chose dont je dois m'occuper pour le moment, c'est de la desserte des colons de MM. Hebert et Boucher pendant l'hiver prochain. Vos Pères de la Grande Baie ont renvoyé Mr. Herbert au Père Provincial sur ce sujet. Je vais lui en écrire au plus vite.

J'ai l'honneur d'être, &c.

(signe) + P.F. ARCHEV. DE QUÉBEC.

B. PH. GARNEAU ptre.
Archiv.

No. 1197.

C

**ARCHBISHOP OF QUEBEC TO BISHOP OF
NEWFOUNDLAND.**

Québec, 22 nov. 1852.

Mgr. L'Evêque de Terreneuve.

Monsieur,

J'ai reçu bien longtemps après sa date la lettre que Votre Grandeur a bien voulu m'écrire le douze juillet dernier de l'Anse au Blanc Sablon pour me faire connaître les raisons qui l'ont engagée à demander au St Siège de vouloir bien détacher du diocèse de Terreneuve pour l'annexer à celui de Québec la partie de la côte de Labrador comprise entre l'Anse ci-dessus mentionnée et la rivière St Jean. Si je n'ai pas répondu plus tôt à Votre Grandeur, c'est que je voulais auparavant recueillir tous les renseignements désirables sur les moyens qui peuvent être à ma disposition pour porter le fardeau que vous voulez m'imposer.

Tout bien considéré, Monseigneur, je vois qu'il m'est difficile de me soustraire à ce fardeau, et si le St Siege juge à propos de m'en charger, il faudra bien que je courbe les épaules. Je comprends que j'ai plus de facilité que Votre Grandeur de faire desservir les postes disséminés sur la partie de Labrador dont je viens de parler; mais il n'en est pas moins vrai que ma part est assez large, et que l'augmentation qu'on veut lui faire subir ajoutera de nouvelles difficultés à celles que j'éprouve déjà par suite de la rareté des prêtres. Si la divine Providence veut que mon troupeau devienne ainsi plus

nombreux, elle me procurera sans doute de nouveaux moyens de pourvoir à ses besoins spirituels. Dans tous les cas, je ne puis en vouloir à V. G. de travailler à se décharger en ma faveur de la partie de son diocèse avec laquelle elle ne peut communiquer.

Permettez &c.

(signé) + P.F. ARCHEV. DE QUÉBEC.

[17 Dec., 1852.]

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 24, pp. 682.

B. PH. GARNEAU ptre.

Archiv.

No. 1198.

C

**ARCHBISHOP OF QUEBEC TO CARDINAL
FRANZONI, ROME.**

Québec, 17 décembre 1852.

Card. Franzoni, Rome.

Eminentissime Dne,

Quod Episcopus S. Joannis Terrae Novae, R.P.D. Joannes Mullock postulat, ut scilicet portio occidentalis regionis Labradoriae quae nimirum jacet trans Blanc Sablon sejungatur a sua dioecesi et Quebecensi provinciae, vel potius archidioecesi Quebecensi addita maneat, (ita ut dictus locus Blanc Sablon sit deinceps limes inter utramque dioecesim) rationabile et pro meliori animarum cura mihi videtur. Quidquid igitur S. Sanctitas in suâ sapientiâ ea de re decernere judicaverit mihi sane, sicut et meis suffraganeis, gratum erit; quod jam ipsi R. D. Episcopo S. Joannis Terrae Novae significavi.

Eminentiae Vestrae &c.

(sign) + P.F. ARCHIEP. QUEBECEN.

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 24, pp. 722.

B. PH. GARNEAU ptre.

Archiv.

[17 Dec., 1852.]

**ARCHBISHOP OF QUEBEC TO FATHER DUROCHER,
ESCOUMAINS.**

Québec, 17 décembre 1852.

Rév. P. Durocher, Escoumains.

Mon Révérend. Père

* * * *

Aujourd'hui j'ai envoyé à Rome mon acceptation de la partie de la côte de Labrador qui s'étend jusqu'au Blanc Sablon sur la demande qui m'en a été faite par le Cardinal Préfet de la Propagande par une lettre reçue ce matin même. Vous voyez que je ne perds pas de temps pour vous tailler de l'ouvrage, nos bons Pères, vous m'avez déjà parlé de ces missions et votre Provincial m'en avait aussi dit quelque chose, mais quels sont vos plans? Comment toutes ces missions pourront-elles se faire si vous ne restez que deux dans vos parages? Comment toute la côte où vous restez maintenant pourra-t-elle être desservie comme elle le devrait être, c'est-à-dire par deux prêtres résidants ou au moins un dont cette population ne peut se passer?

* * * *

Croyez-moi &c.

(signé) + P.F. ARCHEV. DE QUÉBEC.

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 25,
p. 1-3.

B. PH. GARNEAU ptre.

Archiv.

DECRETUM S. CONGNIS DE PROPAGANDA FIDE.

[4 Feb., 1853.]

LABRADOR COAST WEST OF BLANC SABLON ATTACHED TO DIOCESE OF
QUEBEC.

Episcopo S. Joannis Terrae Novae in America Septentrionali, praeter insulam eo nomine designatam, credita quoque fuit regio Labradoria. Attamen ex iis quae nuperrime relata sunt per R.P.D. Joannem Mullock episcopum memoratae sedis S. Joannis Terrae Novae innotuit, attentis omnibus adjunctis, partem illam supradictae regionis Labradoriae, quae sita est citra Blanc Sablon ad occidentem nimirum longe facilius per Archiepiscopum Quebecensem posse administrari, proindeque idem petiit ut ad jurisdictionem Quebecensis antistitis transferretur. Quapropter audito etiam R.P.D. Archiepiscopo Quebecensi, atque attento duorum Praesulum consensu, S.C. de Propaganda Fide referente infrascripto Secretario, omnibus mature perpensis, censuit supplicandum SSmo ut Blanco Sablon limitem esse decernat adeo ut regio ad orientem ad dioecesim S. Joannis, quae vero ad occidentem sita est ad Quebecensem pertineat.

Hanc vero S. Congnis sententiam SSmo Dno Nro Pio PP. IX ab infrascripto Secretario relata in Audientia diei 23 januarii 1853 Sanctitas Sua in omnibus conformavit, atque ita dioeceses illas praefiniendas edixit perinde ac si literis Aplicis illarum Ecclesiarum status hac ratione constitueretur.

Datum Romae ex aed. dictae S. Cognis de Prop. Fide die 4 Februarii 1853.

(sign) I. PH. CARD. FRASONI, Praef.

Al. Barnabo a secretis.

Copie conforme aux Régistres de l'Archev. de Québec, p. 209.

B. PH. GARNEAU ptre.
Archiv.

No. 1201.

[26 Feby., 1853.]

**ARCHBISHOP OF QUEBEC TO FATHER DUROCHER,
ESCOUMAINS.**

Québec, 26 février 1853.

Revd Père Durocher, O.I.M., Escoumains.

Mon Révérend Père,

En vous écrivant hier, j'avait omis de vous parler de la mission de la Baie des Esquimaux à laquelle je ne peux me dispenser de pourvoir puisque, sur la proposition qui m'a été faite par le St Siège, j'ai consenti que toute la côte du nord jusqu'au Blanc Sablon fut annexée au diocèse de Québec. Je dois vous dire de plus que ce que le bon Père Santoni m'avait écrit concernant la desserte de ce territoire d'une centaine de lieues d'étendue est certainement entré pour beaucoup dans le consentement que j'ai donné à la mesure. Ainsi cette mission devra inévitablement se faire en sus de celle de Mushiolagan pour laquelle le conseil de la Propagation de la Foi a voté £50.

* * * *

Votre très humble &c.,

(signé) + P.F. ARCHEV. DE
QUEBEC.

Copie conforme aux Régistres de l'Archev. de Québec, Vol. 25,
p. 92.

B. PH. GARNEAU ptre.
Archiv.

No. 1202.

[16 Dec., 1853.]

**FATHER DUROCHER, O.M.I., TO FATHER SANTONI,
SUPERIOR AT MONTREAL.**

SANTONI DE LA MÊME SOCIÉTÉ, SUPÉRIEUR A MONTREAL.

MISSIONS DU DIOCESE DE QUÉBEC.

No. 11.

Escoumains, 15 décembre 1853.

Mon Révérend Père,

Je profite avec bonheur d'un moment de loisir, que me laissent mes nombreuses et pressantes occupations, pour vous donner quelques détails touchant nos courses de cette année chez les Montagnais qui occupent la rive nord du Saint-Laurent, sur un littoral de quatre cent-cinquante lieues environ.

Je descendis, le printemps dernier, accompagné de deux charpentiers qui devaient construire, à l'entrée du Labrador, une chapelle pour la desserte de nos Montagnais de Maskuaro, et des pêcheurs [sic] établis sur la côte.

* * * *

Itamamiou, ou rivière branchue, me présentant les avantages que je désirais, attira mon choix.

* * * *

Pendant mes excursions sur la côte du Labrador, je recontraï quelques familles de Montagnais qui, à cause de la maladie dont ils étaient atteints, ne pouvaient se rendre à Mingan lieu destiné pour la visite épiscopale.

* * * *

Le temps de me rendre à Mingan était arrivé, et je m'en trouvais à 75 lieues, sans embarcation pour m'y transporter: la divine providence vint à mon aide, et m'envoya le Doris, steamer du gouvernement en croisière sur la côte, qui me fournit la plus belle occasion possible. Les capitaines Fortin et Talbot me reçurent avec la plus grande politesse, me traitèrent avec la plus franche cordialité, et me firent débarquer à Mingan. J'y étais impatientement attendu par nos chers néophytes, et par un grand nombre d'Indiens venus de la Baie des Esquimaux. Permettez-moi, ici, mon révérend père, de vous entretenir un moment de ces derniers, pour vous les faire un peu connaître, à la confusion de bien des chrétiens civilisés. Il y avait près de deux ans que ces pauvres sauvages avaient laissé leur pays pour venir se faire instruire de notre sainte religion. La plupart d'entr'eux étaient encore

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infidèles; mais aucun, même de ceux qui étaient chrétiens, n'avait vu de robes-noires. Arrivés à l'un de nos postes, l'année précédente, après la clôture de la mission et le départ des

missionnaires, ils ne perdirent pas courage, et résolurent, pour ne pas éprouver le même désappointement l'année suivante, de passer l'hiver à la chasse sur les terres des Montagnais.

* * * *

Il y a environ quatre ans, un de nos Indiens de Maskuaro, touché de l'état malheureux de quelques-uns de ses proches, qui vivaient dans l'infidélité au milieu de ces contrées lointaines, se sentit poussé à faire le voyage de la Baie des Esquimaux, dans l'espoir de les amener à nos réductions; c'était un voyage d'environ trois cents lieues. Il s'ouvrit à moi de son dessein: je l'approuvai, lui donnai quelques objets de piété, l'assurant que nous ne cesserions de nous souvenir de lui au saint autel, afin qu'il réussit dans sa pieuse entreprise. Je le chargeai de dire aux sauvages de cette baie qu'il était impossible aux missionnaires d'étendre leurs courses jusque dans ces lieux reculés: mais que pouvant venir à nos missions ils s'exposaient à un malheur éternel, s'ils faisaient la sourde oreille à nos invitations; et que d'ailleurs nous les recevions avec la plus grande bonté, qu'elle qu'eut été auparavant la grandeur de leurs désordres. Muni de ces instructions, notre cher Ishita partit avec toute sa famille, animée du même zèle que lui. Il se rendit en effet à la Baie des Esquimaux, et revint le printemps suivant avec quelques-uns de ses proches, qui n'hésitèrent pas à faire ces trois cents lieues pour venir entendre la parole du salut. Quelle leçon pour tant de chrétiens qui craignent de faire trois cents pas pour le même objet! Les commerçants de pelleterie s'opposèrent, il est vrai, autant qu'ils purent à l'émigration des autres Indiens, les assurant que les missionnaires se rendraient certainement à la baie, sur leur invitation. Mais pressés qu'ils étaient de répondre à la grâce, ils ne tinrent nul compte de cette opposition. Déjà précédemment quelques-uns des membres de l'honorable compagnie de la Baie d'Hudson nous avaient fortement engagés à entreprendre ce voyage, nous promettant que le gouvernement de leur compagnie nous accorderait volontiers, tous les ans, un passage sur leur vaisseau qui part de Québec au mois d'août pour revenir en novembre. Comme vous le savez, mon révérend père, cette partie du Labrador ne fait point partie du diocèse de Québec. Monseigneur l'Archeveque, cependant, ayant été mis au courant de ces propositions et ne pouvant y donner suite alors, nous ne punies, malgré notre désir, nous rendre à l'invitation qui nous était faite; mais nous conservâmes toujours l'espérance d'attirer ces Indiens à quelqu'une de nos réductions. Vous le voyez, l'événement est venu réaliser nos espérances; et il ne reste plus à la baie qu'un petit nombre d'infidèles, qui finiront par suivre l'exemple du reste de la tribu.

* * * *

Le révérend père Babel devant partir pour faire la mission du Lac Saint Jean, et accompagner sa Grandeur Monseigneur de Tloa dans la visite des différents postes jusqu'à Mingan, je me trouvai seul pour disposer les néophytes et les catéchumènes à la visite épiscopale.

* * * *

Le 20 juillet, M. Comeau, de retour de la rivière Saint-Jean, à 6 lieues de Mingan, nous annonça qu'il avait aperçu à quelque distance de l'embouchure de cette rivière un petit navire bien pavoisé, et qu'il avait tout lieu de croire que Mgr de Tloa était à bord.

* * * *

Le lendemain, Monseigneur fit son entrée solennelle.

* * * *

Les catéchumènes de la Baie des Esquimaux, qui n'avaient jamais vu aucune de nos grandes solennités, étaient tout émerveillés, et nos chrétiens, qui voyaient pour la première fois un Evêque, mitre en tête, la crosse à la main, et revêtu d'une étole magnifique, le suivaient du coin de l'oeil, veillant bien cependant à ne pas laisser paraître leur étonnement; en agir autrement c'eut été trahir le flegme national.

* * * *

Monseigneur de Tloa voulut également donner une audience particulière à nos Indiens de la Baie des Esquimaux.

* * * *

[31 Dec., 1853.]

F. DUROCHER, O.M.I.

No. 1203.

C

FATHER DUROCHER, O.M.I., TO FATHER SANTONI.

MISSIONS DU DIOCESE DE QUEBEC, No. 11.

Escoumains, 31 décembre 1853.

Mon Reverend Pere,

Les exercices de la visite épiscopale aux Ilots de Jérémie viennent; d'être terminés; près de cent familles les ont suivis avec beaucoup d'assiduité;

* * * *

Nos chers Indiens des Ilots avaient préparé avec goût des arcs de triomphe sur le chemin, depuis le débarcadère jusqu'à l'église. James Anderson, escr., un des membres les plus distingués de la compagnie de la Baie d'Hudson, avait mis toute sa maison à la disposition de Mgr de Tloa. On remarquait, à la cérémonie d'entrée, quelques familles de la tribu indienne des Nascapis; mais ils se tenaient à l'écart, observant cependant tout avec un vif intérêt. Ces pauvres gens n'osaient se mêler à la foule, parce qu'ils sachant bien, par

les instructions qu'ils avaient reçues de quelques-uns de nos meilleurs chrétiens, qu'il fallait renoncer à certaines pratiques superstitieuses et idolatriques fort en usage dans leur tribu, comme le respect religieux qu'ils ont pour les ossements de

certaines bêtes fauves, etc., ils ne les avaient point encore abandonnées.

* * * *

et me separant d'eux je les confiai à notre cher père Arnaud, en leur disant que ce bon père allait les suivre jusque dans leurs forêts les plus reculées. Il m'est impossible de vous dire, avec quel transport de joie, ces hommes reçurent l'annonce que le courageux missionnaire allait monter avec eux, et pousser ses courses évangéliques jusqu'au lieu de réunion de leur tribu.

* * * *

Tous nos sauvages ont reçu cette nouvelle avec allégresse. Les Nascapis aussi vont donc enfin être instruits de la prière.

* * * *

Mgr Baillargeon consulté sur cette mission du père Arnaud en eut l'âme inondée de joie. Il se chargea de vous en faire connaître de vive voix toutes les particularités. Au milieu de cette joie commune, la visite épiscopale des Ilots s'est faite avec un véritable enthousiasme. Nos Indiens ont saisi cette occasion pour demander à Sa Grandeur, Mgr de Tloa, l'autorisation de construire une église sur le terrain que le gouvernement leur réserve dans la Baie de Betsemites. Depuis longtemps le besoin d'une église plus spacieuse se faisait sentir ici; celle de Jérémie ne peut contenir au delà de la moitié de nos Indiens, tous réunis au temps de la mission. L'autorisation donnés, le R. P. Babel accompagné des chefs fit sur le champ au milieu de nos sauvages une collecte, qui se monta à £50.

* * * *

F. DUROCHER, O.M.I.

No. 1204.

[10 Nov., 1854.]

**FATHER ARNAUD, O.M.I., TO THE ARCHBISHOP OF
QUEBEC.**

MISSIONS DU DIOCESE DE QUEBEC, No. 11.

Québec, 10 novembre 1854.

Monseigneur,

Lors de mon départ pour les terres des Nascapis, Votre Grandeur a bien voulu me témoigner le désir d'avoir à mon retour quelques détails sur le voyage que j'entreprenais. Je viens donc aujourd'hui m'acquitter d'un devoir, en vous faisant le récit de ce que, cette fois, je ne puis appeler que mon exploration chez les Nascapis.

* * * *

Les préparatifs terminés, nous nous mîmes donc en route. C'était vers la fin de juin 1853. Dès notre arrivée à Manikugan, nous trouvâmes une dizaine de familles montagnaises, que le vent contraire retenait sur la côte; Comme ils étaient là depuis plusieurs jours, ils souffraient de la faim. Nous leur fîmes part de quelques petites provisions.

* * * *

Sous ces heureux auspices, le lundi dès la pointe du jour, nous entrâmes dans la rivière. La navigation était tantôt facile et agréable, tantôt fatigante et périlleuse, selon le cours plus ou moins difficile de l'eau des rapides.

* * * *

Nous naviguions ainsi, lorsque dans un rapide le canot cédant à la force du courant est entraîné, chavire et renversé dans sa chute hommes et bagages. Cet accident avait glacé d'effroi mes sauvages; ils étaient immobiles de stupeur.

* * * *

Lorsque mes sauvages furent revenus un peu de leur frayeur, on se mit à la recherche des autres effets, on en trouva une partie; mais mes hommes n'en étaient pas moins découragés; Je les engageai à faire un nouvel effort; mais ce fut en vain. Que faire? Nous n'avions que peu de vivres; je crus leur conseil sage et le retour prudent.

* * * *

Quelques Nascapis, que j'avais baptisés l'année précédente dans les postes, avaient encore quitté leurs forêts cette année pour venir voir leur grand père, le grand chef de la prière, le grand priant (Tshe ka iamituat set); c'est ainsi qu'ils désignent l'évêque.

Ayant appris que j'avais tenté de visiter leur nation et que par le

découragement de mes conducteurs j'avais été obligé de rebrousser chemin, ils vinrent me prier de commencer de nouveau le voyage, s'offrant de me conduire.

* * * *

Ce jour même, le R. P. Durocher fit part à Monseigneur de la demande et du désir des sauvages. Sa Grandeur touchée des beaux sentiments qu'exprimaient ces Indiens qui, sous un extérieur si simple, pour ne pas dire si repoussant, cachaient un coeur si noble, accéda à leur demande.

* * * *

Dès ce moment, on s'occupa des préparatifs du voyage. Quelques jours plus tard, Monseigneur de Tloa, après nous avoir tous bénis, reprenait le chemin de Québec; et nous, après un dernier adieu au R. P. Durocher, mon supérieur, et au R. P. Babel, nous nous dirigions vers les bois. Nous devions bientôt voguer sur des rivières et des lacs connus seulement des Indiens.

Le 29 août, nous arrivâmes à l'embouchure de la rivière Manikuagan. Notre petite flottille se composait de onze canots d'écorce; six autres canots, montés par des Nascapis, nous avaient devancés de quelques jours dans la rivière, afin d'avertir de notre prochaine arrivée les sauvages qui se trouvaient dans l'intérieur.

* * * *

Notre voyage sur la rivière Manikuagan n'offrit aucune particularité intéressante;

* * * *

Après un mois de fatigues et de marche, nous arrivions sur les bords du lac Muskualagan. Nous étions alors au commencement d'octobre. Les Montagnais qui m'accompagnaient avaient choisi cet endroit, comme le plus favorable pour passer l'hiver, et y rencontrer en plus grand nombre les infidèles au printemps, époque à laquelle ils ont l'habitude de se réunir; époque aussi par conséquent à laquelle je devais commencer ma mission auprès d'eux.

* * * *

Avec mes Montagnais, nous dressâmes donc nos petites huttes auprès du lac Mushualagan, dans l'intention d'y passer l'hiver peu après notre arrivée, mes Montagnais levèrent leur camp pour aller tenter fortune ailleurs.

Les Nascapis, qui étaient également montés avec moi depuis la mer, m'avaient quitté depuis plusieurs jours, pour aller rejoindre ceux de leur nation qui s'étaient fixés sur les bords du lac Pletpi, à trois journées de marche de Mushualagan; et je restai là, seul avec une famille montagnaise.

J'avais déjà passé trois semaines dans cet isolement, et alors seulement arriva la petite caravane que nous avions laissée derrière nous en partant.

* * * *

Bientôt les Indiens, ceux-mêmes qui m'avaient quitté, il y avait quelques semaines seulement, et s'étaient transportés dans les bois avec leurs familles

pour faire la chasse, ne réussissant pas, se remirent en marche pour venir me rejoindre et me faire part de leur désappointement.

Les nouvelles qu'ils donnèrent de la chasse étaient bien tristes; à eux tous, ils n'avaient tué que deux cariboux.

* * * *

En attendant, comme il fallait trouver des vivres pour tout ce monde, et afin de ne pas épuiser le peu de provisions qu'on avait, chaque matin tous nos chasseurs se dispersaient et parcouraient la forêt dans toutes les directions. Mais peu ou point de gibier. Il leur faut donc avoir recours aux provisions d'hiver.

* * * *

Le temps du caribou arrive enfin; on lève le camp;

* * * *

Nous étions alors aux premiers jours de mai; dix familles d'Indiens, misérables comme nous, se trouvaient déjà réunies sur les glaces de notre lac, avec leurs petits effets, et leurs canots chargés sur des traines, comme pour descendre à la mer; pour le moment, elles étaient indécises si elles continueraient leur route, ou si elles attendraient la mort sur cette glace. Tel était notre état, lorsque nous nous décidons au départ, et que ces familles prennent aussi le parti de nous suivre. Entre tous, nous n'avions pas une bouchée de provisions, et nous étions à une distance de 90 à 100 lieues du terme de notre voyage, obligés de nous trainer nous-mêmes et de trainer aussi nos canots et nos bagages; les lacs et les rivières étaient encore tout couverts de glace.

* * * *

Chaque jour nous donnait quelque nouveau malade, qui devenait même incapable de se conduire seul. Il nous fallut alors nous défaire de tous nos effets; je laissai, moi-même, ma chapelle dans le bois, pour mettre, sur nos traines, les malades et les enfants. Nous étions alors à moitié chemin seulement. Nous continuâmes ainsi notre route, non sans beaucoup de peines et de dangers. La glace devenait de jour en jour plus mauvaise; aussi était-ce avec la plus grande attention qu'il fallait marcher.

* * * *

Trois ou quatre jours après, un sauvage signale l'odeur de la fumée. Dieu soi béni! nous allons échapper aux atteintes de la faim. Le chasseur n'avait pas été trompé par son odorat, nous étions en effet dans le voisinage d'un campement indien. La joie devient générale, on oublie les fatigues; là nous comptons recevoir quelqu'assistance. Nous ne fûmes pas déçus dans notre attente; les braves gens nous reçurent à bras ouverts, et quoiqu'ils n'eussent de provisions que ce qu'il leur en fallait pour se rendre au poste, ils voulurent les partager avec nous et s'associer à notre sort.

A partir de cet endroit, la rivière est libre; et nos canots, mis à flot et entraînés par le courant, descendent avec la plus grande vitesse.

Pendant ce trajet, qui ne fut que de quatre jours, nous rencontrions ça et là quelques bon sauvages, qui se faisaient un bonheur de nous assister.

* * * *

p. 3055

On a pu remarquer que, dans ce voyage, j'ai rencontré peu de sauvages Nascapis. Le lac Mushualagan est cependant le lieu où ils devaient se réunir ; mais il paraît que ces pauvres gens ne s'attendaient plus à la visite du missionnaire, vu que, depuis plusieurs années, on leur avait fait espérer cette visite d'un printemps à l'autre. J'ai même appris qu'un bon nombre avaient prouvé leur bonne volonté, mais se voyant ainsi frustrés dans leurs espérances, les quelques familles qui, dans l'espoir de cette visite, étaient venues de loin se fixer en attendant sur les environs du lac, avaient repris le chemin de la baie d'Hudson, ou s'étaient établies sur le versant, de l'autre côté de la hauteur des terres. Aussi, les sauvages qui, cette aimée, étaient partis avant moi de la mer tout exprès pour leur annoncer ma venue, ne les retrouvèrent plus. Ces derniers Indiens sont ceux qui ont tant souffert des horreurs de la faim, cette année.

Egalement, d'après ce que j'ai pu conclure des observations des Nascapis, étant au milieu d'eux, ce lieu aurait été mal choisi pour point de réunion d'un grand nombre de familles, vu le manque total de ressources de chasse ou de pêche, à certaines époques, et l'absence totale de magasins où les sauvages puissent échanger leurs pelleteries pour les objets les plus indispensables, tels que poudre, plomb, fusils, haches, couvertes, etc. Aussi se portent-ils naturellement du côté où sont les postes, car là en cas de besoin, ils reçoivent toujours quelques secours.

Il resulterait de ces mêmes rapports que les Nascapis sont nombreux sur la côte orientale de la baie d'Hudson et sur le versant de la hauteur des terres. La chasse y est abondante; les magasins de la compagnie y sont disséminés de distance en distance.

* * * *

Monseigneur,

De Votre Grandeur,

Le très-humble et très obéissant serviteur,

CH. ARNAUD, O.M.I.

**FATHER ARNAUD, O.M.I., TO ARCHBISHOP OF
QUEBEC.**

[3 July, 1855.]

RAPPORT SUR LES MISSIONS DU DIOCESE DE QUEBEC,
MARS, 1855. No. 11.

Rivière Manikouagan (de la Cabane de Grégoire Pistapesh),

3 Juillet 1855.

Monseigneur,

Il y a peu de temps, après avoir reçu ordre de monter dans les terres pour aller évangéliser les sauvages infidèles Naskapis, je me mis en route au temps marqué, avec trois Montagnais et deux Canadiens Nous avons manqué perdre la vie dans un rapide. Au milieu du tourbillon, nos provisions et nos effets sont tombés à l'eau; on a ramassé ce que l'on a pu de ce qui est venu à terre. Je me suis jeté à l'eau pour sauver une poche de farine, tandis que mes hommes, courant à toute hâte, faisaient tous leurs efforts pour sauver le canot, seul moyen que nous eussions pour nous transporter à la mer. Ils furent assez heureux pour le ressaisir au bout du rapide.

C'est ainsi, Monseigneur, que nous avons été forcés d'abandonner notre voyage. . . . J'espère qu'à une autre époque nous serons plus heureux.

Ce qui avait beaucoup contribué à retarder notre voyage, c'était le hauteur des eaux. Les sauvages ne se rappellent point avoir jamais vu les eaux si grosses dans les rivières.

* * * *

J'ai l'honneur d'être,

Monseigneur,

De Votre Grandeur,

Le fils très-soumis et obéissant,

CH. ARNAUD, O.M.I.

**HISTORICAL NOTES ON THE MISSION OF STE CROIX
AT TADOUSSAC.**

[1857.]

 RAPPORT SUR LES MISSIONS DU
DIOCÈSE DE QUEBEC, 1857.

NOTICE HISTORIQUE SUR LA MISSION DE SAINTE CROIX DE TADOUSSAC.

En 1672 le P. de Crespieul qui avait hiverné à Tadoussac l'hiver précédent écrivait à son supérieur: Vous ne verrez dans le petit journal de notre voyage, qu'une suite de biens et de maux, de douceurs et de rigueurs, que la divine Providence a fait succéder les uns aux autres d'une façon bien aimable. Je partis de Québec le 25 octobre et nous nous rendîmes en 3 jours à Tadoussac où je trouvai les sauvages ravis de ma venue: ils me donnèrent des marques bien consolantes de leur piété pendant tout le temps que je fus avec eux, mais particulièrement le jour de tous les saints, ayant consacré cette grand fête par toutes les dévotions qui se pratiquent au milieu du christianisme le plus saint. Nous quittâmes ce lieu le 6 novembre pour entrer dans la rivière du Saguenay . . . Le 17 mai suivant nous revîmes avec joie Tadoussac que nous avions quitté six mois auparavant. C'était le temps d'entreprendre la mission des Papinachois pour laquelle Notre Seigneur m'avait conservé assez de force. C'est à 30 lieues audessous de Tadoussac, et je m'y trouvai heureusement au temps que ces sauvages y abondent du fond des bois pour y faire leur petit commerce avec les française.

Dans une note écrite sur les Régistres, le Père Crespieul fait connaître qu'il était chargé de la mission Montagnaise le long de la rivière Chicoutimi, et en partie de celle de S. Charles au lac S. Jean (ou Peok8agamy) ; de la mission de S. Ignace sur la rivière Nekouban, de celle de la Ste. Famille au and lac des Mistassins. Le Sieur Nicolas Bonhomme y est allé, dit-il, avec 10 français et les montagnais Kicherini8 et Ra8chin, pour rebâtir la maison de S. Nicolas et le cimetièrè commun ainsi que celui des enfants. L'église de S. François Xavier (Chicoutimi) a aussi été rebâtie de mon temps aux frais du Sieur Hazeur par Paul Quartier, charpentier, Cotté et Baiargeon sous la direction du Sieur Robert Drouïard. " Ces petits détails ne manquent pas d'intérêt. . . .

Le Père Jean Baptiste Boucher, Jésuite, natif de Paris, vint à Québec en juin 1674. Il apprit au couvent les langues sauvages et fut envoyé à Tadoussac en 1675 ; il en revint en 1677. Ce fut le premier missionnaire qui passa l'hiver avec les Papinachois, dont le pays était audessus de Tadoussac,

Papinachois. Accompagné du P. Crépieul il se rendit au lac St. Jean, à la résidence de St. Charles de Métabetchouan. Au mois de Janvier ils allèrent loger ensemble sur la rivière des Iroquois, visitèrent et instruisirent les sauvages et ne revinrent à Chicoutimi que dans le mois de Juin. Revenu à Tadoussac après des fatigues inouïes, le P. Boucher s'embarqua immédiatement pour se rendre chez les Papinachois et aux Sep.-Isles. “ J'y ai trouvé, dit-il, des sauvages qui temoignaient un grand désir d'être instruits et d'autres qui ne sont plus chrétiens que de nom, ayant été fort longtemps sans voir aucun missionnaire. La Providence est admirable sur quelques uns de ces pauvres abandonnés, qui sans le secours des sacrements et sans aucune instruction passent plusieurs années dans une merveilleuse innocence. Si ces projets qu'on a fait d'aller passer avec eux une partie de l'année s'exécutent, j'espère qu'on rétablira les anciens chrétiens dans leur première ferveur et que bon nombre d'infidèles entreront dans l'Eglise.”

Ceux qui ont lu les lettres des Missionnaires résidant chez ces sauvages savent que les prévisions du Père Boucher se sont parfaitement réalisées. . . .

Le Père Pierre Laure, natif d'Avignon, fut ordonné prêtre à l'Hôpital Général par Mgr. de St. Valier le 23 juin 1719. Il fut chargé de la mission de Tadoussac de 1720 à 1737; il visita quelquefois aussi les Abénakis. Après 1737 il fut nommé missionnaire des Eboulements, et au rapport du P. Maurice, il y mourut le 22 novembre 1738 à 64 ans. Il a laissé une carte exacte du territoire du Saguenay; qui est au dépôt de la marine, et dont il existe plusieurs copies. A défaut d'une relation suivie, voici quelques extraits de son journal.

1721.

J'hivernai à Notre Dame de bon-désir avec les Tadoussaciens.

1724.

J'hivernai encore à la mer, à Notre Dame de Bon-désir.

JOURNAL DU PERE J. B. MAURICE, S.J.

1740.

Je suis parti de Québec le 14 de juin 1740 pour venir prendre la place du Rev. Père Laure morte deux années auparavant aux Eboulements.

1742.

Sur la fin du mois de May, je m'embarquai de Québec en canot pour m'en retourner dans ma mission parfaitement guéri. Après avoir resté quelques jours à la Malbaie et près de deux semaines à Tadoussac j'arrivai le 15 de Juin à Chikoutimy. . . .

Le 14 d'octobre après avoir séjourné environ un mois à Québec au retour de ma mission, je me suis embarqué dans la petite barque des Sept-Isles nommé le St. François, dans le dessein de venir hiverner cette année là dans ce poste où je suis arrivé pour la 1ère fois, le 10 de novembre. Nous avons

mouillé le 27 d'octobre dans le Havre de St. Nicolas pour y mettre les provisions nécessaires pour l'hivernement qui se fait à la pointe à la croix à une lieue environ plus haut que ce Havre.

Le 10 de novembre j'ai enfin mis pied à terre aux Sept Isles où j'eus le bonheur de célébrer la messe pour la première fois ce même jour là, qui était un dimanche. Le 12 de Mars 1744, Joseph Philibot que j'avais pris l'automne d'auparavant avec moi et que j'avais mené aux Sept Isles pour y hiverner avec moi avec Michel Drapeau un des engagés de ce poste ont été des premiers à équarrir le bois pour la chapelle que j'ai dessein de faire lever dans cet endroit avec la grâce de Dieu; l'après diné de ce jour je fus moi même dans le bois où ils étaient à travailler donner quelques coups de hache pour animer nos ouvriers et avoir la consolation d'avoir mis aussi la main à l'ouvrage.

Le 14 d'avril je partis des Sept Isles pour aller à Mingan, où M. Volant m'avait invité plusieurs fois de l'aller voir. J'y arrivai le 12 du même mois sur les six heures du soir. Le 3 de mai, quatrième dimanche après Pâques et jour de l'invention de la Ste. Croix, j'eux la consolation d'y voir planter par M. Volant et tous les français qui étaient pour lors dans ce poste, une croix de 26 pieds de haut que je bénis ce jour là, à la grande satisfaction de tout le monde. . . .

NOTA.—Le P. Coquart était natif de Melun et arriva à Québec en 1734. Il fut envoyé sur la rivière St. Jean; suivant M. Shea (history of the C. Missions) il visita les Abénakis en 1760; ce qui s'accorde avec les Registres de Tadoussac; mais sa principale mission fut celle des Montagnais. . . .

Notice sur la vie du Pere LaBrosse.

Jean Baptiste de LaBrosse, Jésuite, natif de Trémouille en Poitou, arriva à Québec le 24 septembre 1754, et après avoir desservi des paroisses, fut envoyé à Tadoussac où il arriva le 11 juillet 1766. Il continua à en être chargé jusqu'à sa mort arrivé le 3 avril 1782: Il avait 68 ans, et était dans la compagnie depuis 25 ans et 2 mois; le P. Coquart avait reçu sa profession religieuse à Québec, le 2 fevrier 1758. . . .

Il mourut à Tadoussac le 11 Avril 1782, à l'âge de 70 ans, et fut enterré dans la chapelle par M. Compain, curé de l'Isle aux Coudres. Son corps a été depuis, dit-on, transporté à Chicoutimi.

C'est le Père LaBrosse, dit M. Tache dans ses Forestiers et Voyageurs, qui a mis la dernière main à cette belle chrétienté montagnaise si pleine de foi et de piété. Il a écrit la plupart des livres religieux qui sont encore en usage chez les Montagnais, a composé un dictionnaire de la langue de ce peuple et traduit des passages considérables de la Sainte Ecriture dans cette langue. Le Père LaBrosse a encore répandu chez ses bons et chers sauvages, l'usage de la lecture et de l'écriture qui s'est transmis de génération en génération dans toutes les familles de cette tribu jusqu'à ce jour."

*Liste des Missionnaires Jésuites de Tadoussac et du
Saguenay de 1640 à 1782.*

Noms.	lère Année.	Dernière Année.	Mort.
Lejeune Paul	1640	—	1661
Dablon Claude	1642	—	9 février 1680
Dequen Jean	1642	1648	17 Sept. 1659
Buteux Jacques	1643	1644	8 mai 1652
Druillettes Gabriel	1645	1649	8 avril 1681
Lyonne Martin	1648	1649	16 janvier 1661
Bailloquet Pierre	1661	—	25 sept. 1667
Nouvel Henri	4 octobre 1663	1669	7 oct. 1674
De Beaulieu Louis	28 octobre 1668	1671	16 sept. 1685
Albanel Charles	1651	1671	1 juin 1680
De Crespieul Frs	17 mai 1671	1702	16 janvier 1707
Boucher Jean Bte	8 nov. 1675	1677	24 juillet 1693
Morain Jean	1677	1679	3 janvier 1690
Silvy Antoine	7 octobre 1678	1681	—
Dalmas Antoine	19 sept. 1679	—	3 mars
Favre Bonaventure	1 mai 1690	1699	6 déc. 1700
André Louis	6 mai 1693	1709	—
Marest Pierre	1694	—	15 mai 1727
Chardon Jean	18 mai 1701	1740	11 avril 1743
Laure Pierre	7 juin 1720	1737	22 nov. 1738
Maurice Jean Bte	20 juin	1745	20 mars

	1740		1746
Coquart Claude Godefroi	27 oct. 1746	1765	4 juillet 1765
De la Brosse J.B.	12 juillet 1766	1782	11 avril 1782

Liste des prêtres qui ont desservi Tadoussac par voie de mission depuis 1782.

Noms des Missionnaires, ou curé	1er Acte du Régistre.	Dern. Acte.	Mort.
Pierre C. Parent	Juin 1782	1783	7 avr. 1784
Pierre J. Compain Ile-aux- Coudres	1783 1784	—	21 avr. 1806
Laurent Aubry	5 mai 1785	26 juillet 1785	7 août 1839
Jean Joseph Roy	23 oct. 1785	28 juillet 1795	13 déc. 1814
P. Robitaille Rimouski	6 mai 1796	24 juillet 1798	27 août 1834
Frs. Gabriel Le Courtois Rimouski	10 mai 1799	15 sept. 1814	18 mai 1828
Pierre Bourget	26 mai 1815	22 juillet 1816	20 fév. 1833
Thomas Maguire St. Michel	8 juin 1817	16 juillet 1818	17 jull. 1854
Chs. Joseph Primeau St. François Beauce	2 juin 1819	19 juin 1827	janvier 1855
Pierre Beland Isle-Verte	13 juin 1828	25 juillet 1832	3 déc 1859
Ferdinand Belleau Rivière du Loup	19 juin 1833	24 juillet 1833	—
François Boucher St. Ambroise	4 juin 1834	28 juillet 1844	—
Les RP. PP. Oblats Escoumins	1845	—	—
Lazare Marceau	1846	—	—
Roger Boily	1862	—	—
Augustin Bernier	oct. 1863	—	—

[April, 1859.]

No. 1207.

**REPORT TO FATHER ARNAUD ON HIS MISSION TO
THE NASKAPIS.**

 RAPPORT SUR LES MISSIONS DU DIOCESE DE QUEBEC,
Avril, 1859. No. 13.

A Mgr. l'Administrateur de l'Archidiocèse de Québec.

Après avoir reçu vos paternelles instructions concernant la mission des Naskapis encore infidèles, dont vous me chargiez, et surtout fortifié par ce zèle que vos paroles faisaient pénétrer dans mon coeur, je me dirigeai plein de joie vers les Sept-Iles, qui devaient être mon lieu de départ et où je devais compléter tous mes préparatifs de voyage. Mon esprit se portait habituellement vers ces endroits sauvages où j'étais envoyé; la pensée que mon évêque, que des pères et des frères chéris et tant d'âmes pieuses qui s'intéressent à la conversion des infidèles prient pour moi, me remplissait de courage et de confiance.

* * * *

Je mis pied à terre aux Betshiamits pour faire construire mon canot; dans les postes plus éloignés on ne trouve que difficilement de l'écorce propre à cet usage. C'était juste le temps où les sauvages descendaient des terres ; un grand nombre d'entr'eux n'avait pas revu la mer depuis la dernière mission, ils avaient passé l'année entière dans les forêts. La joie était peinte sur tous les visages : c'étaient des parents, des amis qui se revoyaient après une assez longue absence. Pour plusieurs elle avait été remplie de dangers; les uns étaient rayonnants de santé, d'autres paraissaient dans un état moins prospère et enfin quelques uns portaient les empreintes de la misère et de la faim; mais tous paraissaient heureux de/se revoir. Leur première visite était pour leur humble chapelle, ils allaient remercier le Seigneur par l'intermédiaire de Marie, de les avoir ramenés encore une fois sains et saufs : bref, toutes leurs peines étaient oubliées, car ils venaient d'entonner le cantique d'action de grâces.

Je quittai cette intéressante mission en leur recommandant l'oeuvre que Votre Grandeur m'avait confiée, et ils promirent le secours de leurs prières pour une entreprise si belle : "Nous sommes heureux, me disaient les uns, de ce que tu vas instruire nos frères les Naskapis, qui ignorent encore la sainte prière ; comme ils seront heureux, de voir la robe noire, eux qui la désirent depuis si longtemps! tous les jours nous penserons à toi et aux infidèles; que le bon Dieu bénisse tes pas! D'autres vieux cerfs des forêts, accoutumés

à parcourir de longues distances et qui devinent du regard toutes les sinuosités du terrain et des rivières, ne me rassuraient guère sur les difficultés du chemin. “ Père, me dit l'un deux, juste au moment du départ: tu ne seras jamais capable de faire ce voyage dans un été. Notre père le Grand Priant aura été trompé sur la distance que tu as à parcourir; les sauvages des terres; vu le désir ardent qu'ils ont de voir la robe noire, auront exagéré beaucoup en diminuant la distance qu'il y a pour se rendre jusqu'à leur poste. Tu n'arriveras pas à Petshikupau avant Noël ; je te donne ces renseignements pour que tu te précautionnes afin de ne pas trop souffrir dans ton voyage; en quittant la mer tu te rendras à Ashuanipi, qui est à un mois de marche des Sept-Iles; ce lac est à moitié chemin des Sept-Iles à Petshikupau. Arrivé là au commencement d'Août, tu seras obligé de te remettre entièrement à la discrétion des Naskapis pour le reste du trajet, car aucun de nous n'a été à Petshikupau ; c'est le temps où ils sont occupés à faire des amas de poissons et je crains que tu n'en trouves pas un pour t'accompagner dans la route ; ils savent qu'au poste, ils ne reçoivent point de nourriture et aucun ne voudra se mettre en chemin avant d'assurer à sa famille le moyen de vivre en son absence. Les lacs de l'autre côté de la hauteur des terres prennent en glaces dès le mois de décembre; le canot est mis alors de côté, il faut attendre que la neige soit bonne pour la raquette ; que feras-tu pendant tout ce temps? Tu mangeras tes provisions, et tu seras ensuite obligé d'errer d'un côté et d'autre avec les sauvages pour gagner ta vie ; peut-etre tu n'arriveras au poste que dans l'hiver très-avancé. Père, crois à ma parole, je connais aussi les lieux puisque c'est là que j'ai été élevé.” Ces paroles dites avec l'accent de la persuasion étaient loin de m'animer. “ N'importe je voyagerai, lui répondis-je ; je ferai tout ce qui est en mon pouvoir pour correspondre aux vœux de notre père le Grand Priant ; si je ne puis pas me rendre tout-à-fait où je suis envoyé, je tâcherai d'instruire sur ma route ceux que je rencontrerai; puis lorsque je ne pourrai aller plus loin, je retournerai sur mes pas.”

* * * *

Aux Sept-Iles je rencontrai trois autres familles descendues des terres, qui quoique éprouvées par la faim n'avaient pas été réduites à ces fâcheuses extrémités.

Le jour de la St. Pierre onze canots descendaient, armes et bagages, de la rivière Moisy; huit hommes formaient le parti de Dominique, chef des Sept-Iles, et trois celui de Marc, chef des Naskapis. Ils s'étaient donné rendez-vous sur les bords du lac Ashuanipi, et venaient en caravanes (flottille de canots) apporter le produit de leur chasse et assister à la mission. La chasse ayant été peu abondante, les deux chefs et leurs gens ne paraissaient pas beaucoup embarrassés de leurs pelleteries; plusieurs avaient allégé leurs paquets en mangeant les peaux de castor afin de s'empêcher de mourir de faim.

Monseigneur, vous connaissez déjà le costume et les mœurs de nos Montagnais; permettez-moi de vous faire en deux mots le portrait de nos pauvres Naskapis, qui se trouvent

deux filles et un garçon ; ils ont laissé leurs familles sur les bords du lac Ashuanipi avec quelques autres sauvages ; ils ne les ont point amenées avec eux afin de faire le voyage avec plus de célérité. Ils sont tous grands, assez bien faits, paraissent souples et alertes, à l'exception de leur chef que l'âge commence à appesantir. Les uns portent une longue chevelure, qui leur tombe négligemment sur les épaules et au milieu du dos. D'autres se sont coupé les cheveux, mais d'une manière bien irrégulière, et paraissent avoir mis leur petite vanité à se laisser de longues mèches de cheveux, qui leur cachent la vue. Un autre, sans doute plus original, ayant trouvé que ma tonsure produisait un bon effet à ses yeux, s'en est fait faire une semblable à la mienne et se promène la tête nue, semblant prendre plaisir à faire admirer sa couronne. Quand ils sont arrivés, leur mise répondait à leur personne; une peau de caribou agraffée sur la poitrine cachait tant bien que mal les épaules et les reins; un brayer, des mitasses et des souliers de caribou composaient toute leur toilette. A la mer, ils ont reçu en présent chacun une chemise, un capot et un pantalon, qu'ils ont aussitôt revêtus sans quitter les vêtements qu'ils avaient déjà. Ils se dédommagent amplement de la privation où ils avaient été en achetant de nouveaux; en les essayant, s'ils trouvent que le vêtement leur va, ils le gardent et ne le quittent point. Ici on en voit qui se promènent avec deux ou trois pantalons; un pauvre malheureux est boutonné jusqu'au menton dans deux gros capots d'hiver; le chef, qui a ordinairement trois chemises, a passé toute la journée de Dimanche avec cinq, les unes par-dessus les autres. Va sans dire qu'ils transpirent par la chaleur qu'il fait, comme s'ils étaient sous un étouffoir ; mais ils tiennent bon.

Après les premiers moments passés à se donner et demander des nouvelles, je réunis tous les hommes pour leur exposer les désirs de Votre Grandeur, et priai en même temps les chefs de choisir eux-mêmes les guides et les hommes qui devaient m'accompagner, afin de pouvoir fixer le jour du départ et terminer les préparatifs.

“ Notre Père, le Grand Chef de la prière, m'envoie visiter les enfants de Petshikupau qui ne connaissent pas encore la Ste prière ; il veut qu'après avoir visité ce poste je me dirige vers la Baie des Esquimaux (tshe shats heu ou Gros Homard), pour retourner cet automne à Québec avec la goëlette de la compagnie de la Baie d'Hudson.”

“ Père, me dit Dominique, nous serions heureux de retourner aussitôt avec toi, de t'accompagner, afin de prouver à notre père le Grand Priant que nous aimons et respectons sa parole; mais aucun de nous ne pourra te conduire jusqu'à Petshikupau dans l'intérieur des terres, parce qu'il ne pourrait pas revenir cet automne de ce voyage ; on serait obligé de laisser pour trop longtemps les femmes et les enfants. Le poste où tu veux te rendre est à deux mois de marche de la mer. Nous mettrions un mois pour nous rendre au lac Ashuanipi; on

y arriverait au commencement du mois d'août. Ce lac est à moitié chemin entre les Sept-Iles et Petshikupau ; de Ashuanipi à Petshikupau on mettrait encore un mois à faire le trajet; on arriverait au poste vers le commencement de l'hiver. Ces lacs gelant, la navigation pour les canots est fermée, et pour y revenir il nous faudrait prendre les

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raquettes, et faire ensuite à pied tout le trajet qu'on a parcouru en canots. J'ignore la distance de Petshikupau à la Baie des Esquimaux ; les Naskapis présents te donneront là-dessus des renseignements justes et précis.” Le vieux Marc, chef des Naskapis, parla comme les sauvages des Sept-Iles, sur la distance à parcourir et les difficultés à surmonter ; il s'offrait bien à me conduire jusqu'au lac Ashuanipi, où il se propose de passer une partie de l'hiver, parce que ses eaux lui offrent une ressource certaine. Si les caribous viennent à faire défaut, il trouvera sous la glace du lac des poissons nécessaires pour le sustenter, lui et sa famille. Mais il ne voulut point entendre parler d'aller plus loin. “ Père, me dit-il, je n'irai point à Petshikupau, parce que je n'y trouverais rien pour vivre ; on peut mourir aux portes du poste sans recevoir le moindre secours. Le commis ne reçoit dans son poste que des objets pour échanger avec la pelleterie, mais il n'a des vivres, des provisions que tout juste ce qu'il lui en faut pour lui-même. Souvent il a, eu besoin d'avoir recours aux sauvages, pour s'empêcher de mourir de faim, et lorsque quelqu'un d'entre nous se trouve sans vivres, il n'est pas assuré en gagnant le poste de recevoir une bouchée; il mourra sans secours, parce que le gardien se trouve aussi dépourvu que lui.

“ Père, j'ai abandonné ces lieux, car depuis longtemps les commis m'ont toujours trompé, ils nous faisaient toujours espérer que la robe noire viendrait nous apprendre la Saint Prière. Nous l'attendions chaque printemps, nous avons vieilli, nos enfants sont devenus grands et nous ne savons pas encore prier, ni chanter la Sainte Prière. J'ai dit à mes enfants ; nous ne retournerons plus à ce lieu, nous descendrons vers la mer où chaque année nous verrons la robe noire.

“Père, écoute encore mon conseil : suppose qu'on pût même te mener à Petshikupau, tu ne pourrais pas te rendre cet hiver jusqu'à la Baie des Esquimaux, car tu trouverais le poste désert ; tous les sauvages sont alors dispersés dans le bois. Le commis se trouve seul avec un ou deux hommes, quelques fois davantage, mais ces derniers chaque automne prennent aussi ; leurs quartiers d'hiver dans différentes places pour dresser des attrapes aux martres, renards, etc. Tu serais alors contraint de passer l'hiver dans le poste à moins que le commis ne se charge lui-même de t'emmener à la Baie. Père, écoute encore un conseil : ton voyage serait bien plus certain et moins pénible, si tu te dirigeais d'abord à la Baie des Esquimaux, et remontais ensuite la Grande Rivière ; le trajet est moins long et plus facile, en moins de quinze jours tu te rendrais à Petshikupau, tu pourrais visiter ceux de nos frères qui sont sur les bords du détroit, où de nouveaux marchands viennent d'établir des

comptoirs. Les sauvages attirés par la nouveauté s'y rendent de bien loin, j'ai visité ces lieux il y a à peine quatre ans. Robe Noire, montre à notre Grand Père, le chef de la prière, le chemin qu'on vient de te tracer sur le papier, il jugera de la distance ; tu lui expliqueras notre parole, tu lui diras combien nous sommes contents de savoir qu'il pense à notre pauvre nation."

Monseigneur, après avoir entendu tous ces sauvages, et pesé leurs raisons, je ne savais comment me décider : je connaissais le désir que vous avez de

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faire instruire cette pauvre nation, la seule de votre immense Diocèse qui n'a pas encore été éclairée du flambeau de la foi. Je fis de nouveaux efforts, auprès des anciens et des jeunes gens, forts et courageux, qui aiment ordinairement ces voyages lointains ; mêmes objections et mêmes refus. Je dus dès lors renoncer, non sans peine à ce projet, que vous aviez tant à coeur, Mgr, et que vous désiriez si ardemment de voir réussir. Ne pouvant suivre ces sauvages dans le bois, je m'occupais à les instruire pendant les quelques jours qu'ils passèrent à la mer. Ceux qui étaient descendus pour la première fois étaient ravis de ce qu'ils voyaient et entendaient ; ils assistèrent avec une modestie angélique à la sainte messe, que je disais sous la tente, et aux autres exercices. Ils promirent tous de revenir le printemps prochain avec leurs femmes et leurs enfants, afin de se faire instruire et de recevoir le baptême, car plusieurs d'entre ceux qui étaient présents sont encore infidèles.

Après avoir passé huit jours ensemble à la Rivière Moisy, on se dit adieu ; ils reprirent le chemin du bois, contents de ce qu'ils avaient vu et entendu.

* * * *

J'ai l'honneur d'être etc., etc.,

ARNAUD, Ptre.

O.M.I.

p.149.
[27 Oct., 1866.]

No. 1208

C

FATHER BABEL TO THE PROVINCIAL OF CANADA.

RAPPORTS DE L'ASSOCIATION DE LA PROPAGATION DE LA FOI,
MONTREAL. 3. 1869-1870.

Betsiamits, 27 Octobre 1866.

Révérénd Et Bien Cher Père.

Me voilà enfin de retour de ma longue et pénible excursion dans l'intérieur des terres. Devant, comme vous le savez, me trouver à Mingan, au commencement de juin, d'après les ordres laissés par M. Smith, je saisis la prochaine occasion de gagner ce poste qui se présentât à moi. Ce fut le 30 avril que je quittai Québec, en compagnie du P. Arnaud, pour me rendre à

Mingan, à bord de la goëlette du capitaine Turgeon. . . . Après avoir touché à Tadoussac, aux Escoumins, au Sault-du-Cochon, à Betsiamits, à Godboud, à la Trinité, la Pointe-des-Monts, les Sept-Iles, elle arriva heureusement à Mingan, et m'y laissa avec le P. Nédelec, mon compagnon de route. Je trouvai à Mingan M. Dorey, commis du poste de Natashkwaw, qui gardait celui de Mingan en l'absence de M. Peter Mackenzie, récemment parti en goëlette afin d'acheter des pelleteries sur les côtes du Labrador. Je demandai

à ce monsieur s'il avait reçu des ordres relativement à ma mission dans l'intérieur des terres, s'il avait un canot et les autres choses nécessaires pour un tel voyage. "M. Smith, me dit-il, est encore en Angleterre; je n'ai reçu aucun ordre concernant votre mission, et beaucoup d'effets nécessaires pour un tel voyage me manquent. J'attends moi-même avec impatience l'arrivée de la goëlette, car elle doit m'apporter des choses dont j'ai un besoin pressant. Si vous n'avez pas reçu d'ordres, dis-je à mon tour, ils ne tarderont à venir, et comme vous n'avez pas de canot, vous ferez bien de vous procurer de l'écorce à bord de la goëlette du capitaine Turgeon; il en est amplement pourvu pour faire la traite aux sauvages."

Pendant ce temps, nos sauvages de Mingan commençant à arriver au poste, je dus me disposer, ainsi que mon compagnon, à leur donner les exercices de la Mission J'avais cent trente-six enfants bien ignorants auxquels il me fallait apprendre la lettre du catechisme. . . .

Quand tous ces travaux furent terminés, je songeai à partir pour mon excursion dans l'intérieur des terres; mais plusieurs obstacles me retinrent d'abord. J'allais partir enfin, j'avais trouvé deux hommes, deux sauvages de la baie des Esquimaux, Jean Maskouaro et Jean-Marie, quand le commis du fort reçut une lettre de M. Smith, qui lui disait que, dans dix jours, il serait à Mingan avec le steamer de la compagnie, et que si je n'étais pas encore parti, je ferais mieux de l'attendre pour me rendre avec lui à la baie. Ce plan me souriait beaucoup, parce qu'il assurait le succès de mon excursion. Six ou sept jours auraient suffi au steamer pour me transporter à la baie des Esquimaux avec mon canot et mes hommes; de là, je serais monté par la rivière Pétastekoupaw jusqu'au poste de Winnaukoupaw, et de là j'aurais gagné Mingan sans être inquiet de mes hommes, qui auraient ramé avec courage pour rejoindre au plus vite leurs familles. J'attendis vainement ce steamer jusqu'au 17 juillet: ne le voyant pas arriver, et n'en recevant aucune nouvelle, je dis à M. Mackenzie de me préparer mes effets de voyage, de façon que je fusse en état de partir le lendemain par la rivière St. Jean. "Mes sauvages, lui dis-je, commencent à s'ennuyer, et s'ils me laissent, il sera absolument inutile de me rendre à la baie, où, probablement, je ne trouverais personne pour me conduire dans l'intérieur des terres."

La Compagnie n'avait rien envoyé pour mon voyage, et le poste de Mingan ne pouvait me fournir que des provisions grossières, telles qu'il les auraient données à un sauvage. Que dois-je faire, me dis-je, dois-je remonter à Québec ou entreprendre un voyage dans de telles conditions? M. Smith n'agit pas en gentilhomme à mon égard, et c'est la première fois que la Compagnie traite ainsi un Missionnaire. Mais, si je n'entreprends point ce voyage, je ne pense pas qu'on fasse une nouvelle tentative; je l'entreprendrai donc. Je sais qu'il est tard, bien tard pour rencontrer les sauvages, mais ne ferais-je que

paraître chez eux, mon voyage aura un bon resultat, car, une autre année, je les trouverai réunis en grand nombre. Le 18, au soir, je quittai Mingan, et le lendemain matin j'entrai dans la rivière St. Jean. Là, je rencontrai vingt-cinq familles qui se disposaient à suivre la même route. . . . Je fis, pendant la matinée, tracer par un sauvage une carte de chemin à suivre jusqu'au poste de Winnaukoupaw ou nouveau Mingan. . . .

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Le portage Atsouk pakatagan (portage du loupmarin: ces amphibies ne montent pas plus haut) m'attendait, et j'avais hâte de faire sa connaissance. . . .

Mon voyage, dans la rivière Saint-Jean, s'effectua sans autre incident; et le 22, nous la laissions à soixante-trois milles de son embouchure, pour fixer notre tente à l'entrée du portage Ratisch pakatagan (portage fréquenté). Nous entrons alors dans une chaîne de lacs et de portages que nous avons à franchir avant de pouvoir entrer dans la rivière Romaine. . . .

Nous avons devant nous cent quatre milles à franchir avant d'arriver à la rivière Romaine. Dans ce trajet, nous avons vingt-neuf portages longs et difficiles à travers les montagnes. . . .

Le 30, nous arrivions enfin à la rivière Romaine, que je devais suivre jusqu'à la hauteur des terres. . . .

Le 3 août, nous quittâmes momentanément la rivière Romaine. Son humeur voyageuse la portant à faire un contour qui ne nous allait pas, nous coupâmes au plus court, traversant jusqu'au grand lac Apouabowshkaw une suite continue de lacs et de portages. Ce lac une fois traversé, nous remontâmes de nouveau la rivière Romaine jusqu'au- grand lac Thsinikamaw, que nous devions traverser avec elle. Nous la suivîmes encore trois ou quatre milles au-dessus. . . .

Le 9, nous suivîmes quelque temps la rivière Natouakamou, puis nous nous engageons de nouveau dans une suite de lacs et de portages qui devaient nous faire atteindre un affluent de la grande rivière Petastekoupaw. . . . A trois heures du soir nous arrivions à la hauteur des terres, à cinq heures, nous descendîmes jusqu'à sept ou huit milles l'affluent dont j'ai parlé, puis nous entrâmes dans le lac Mouakosteton (nid des huards). . . .

Le 13, dès l'aurore, nous sommes en route; . . . à onze heures nous apercevons à trois milles la rivière Petastekoupaw, ce fleuve roi de la côte nord. A la vue de cette grande rivière, j'entonnai le Salve Regina pour recommander à la bonne Mère les nombreux Naskapis qui la fréquentent. . . . A trois heures, nous étions devant le poste de Winnaukoupaw, à cinq cent dix milles de Mingan. Mais, ô cruelle déception ! je devais renouveler, à ce poste, nos provisions de voyage et ce poste est vide. Le commis et tous les sauvages sont descendus à la baie avec leurs berges, pour remonter leurs provisions et les effets.

Les sauvages, fatigués d'attendre le missionnaire et se croyant encore trompés, sont partis, et je ne trouve que leurs campements. D'après leurs dimensions, il devait y avoir ici une centaine de sauvages. Mes deux hommes me regardent et

semblent me dire: Qu'allons-nous faire?—“Voulez-vous, leur dis-je, me descendre à la baie? En suivant le cours de la rivière nous y serons dans deux ou trois jours.” Xavier me dit, après avoir jeté les yeux sur Jean-Marie: “C'est impossible.” Jean-Marie, en effet, était fatigué; tous les jours il saignait du nez et laissait à Xavier les lourds fardeaux. “Alors, dis-je, nous passerons ici la journée de demain, et après-demain nous partirons.”

La rivière Petastekoupau ou Rivière de la baie des Esquimaux, bien

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qu'elle soit rapide et profonde, a bien un demi-mille de largeur: elle roule trois fois autant d'eau que l'Ottawa. C'est sur ce fleuve que sont bâtis tous les postes de la Compagnie, pour traiter avec les Naskapis. Winnaukoupau se trouve à moitié chemin entre la baie des Esquimaux et le poste Naskapis ou Petastekoupau. . . . A Winnaukoupau, l'an prochain, une bonne partie des Naskapis de Petastekoupau se trouveront réunis; ils savent qu'un Missionnaire y est monté, car les Naskapis descendus à la baie, pour monter les affaires du poste de Petastekoupau, doivent passer à Winnaukoupau, et le commis du fort ne manquera pas de leur montrer ma chapelle de Mission que j'y ai laissée, ainsi qu'une lettre.

Ce poste est-il bien situé pour une Mission naskapise? Non, et cela pour une raison majeure. Il faut absolument aux Naskapis et à tous les sauvages des terres poissonneuses et une place abondante en gibier, en caribou. Winnaukoupau n'a rien de tout cela. . . . Je ne comprends pas comment la Compagnie a fixé là un poste quand il y a, à une vingtaine de lieues plus loin, sur la même rivière, deux grands lacs très poissonneux et abondance de toute sorte de gibiers. Ces deux lacs sont les lacs Atikonak et Michikoman; ils sont bien plus rapprochés de Petastekoupau et de Mingan. Les Naskapis sont obligés de traverser ces lacs quand ils descendent à la baie. . . .

L. BABEL. O.M.I.

No. 1209

C

FATHER BABEL TO PROVINCIAL OF CANADA.

MISSIONS DU LABRADOR.

MISSIONS DES OBLATS, 1869

Betsiamits, le 10 novembre 1867.

Mon Révérend et bien cher Père,

Je suis enfin de retour de ma longue excursion dans l'intérieur du Labrador. Je suis rentré à la maison de notre chère mission des Betsiamits, le 28 octobre, après une absence de cinq mois et demi.

* * * *

Pour me conformer aux instructions que j'avais reçues de m'avancer dans l'intérieur du Labrador et de visiter les diverses peuplades qui l'habitent, je me suis rendu à Mingan, dès les

premiers jours du printemps, afin de donner la mission aux sauvages qui fréquentent ce poste.

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Je quittai Mingan le 9 juillet à bord d'un steamer de la compagnie de la baie d'Hudson, qui devait me conduire à la baie des Esquimaux. Le temps était calme et beau, j'étais sur un superbe bateau à vapeur, entourée des prévenances et des attentions les plus délicates, par M. Smith, officier de la compagnie, et par l'excellent capitaine de notre navire, qui avait eu la gracieuseté de me céder sa propre cabine. J'étais Missionnaire à bon marché, nous verrons plus tard les choses changer de tournure; mais je me fais un bonheur et un devoir de dire ici que l'honorable compagnie de la baie d'Hudson ne néglige rien pour nous aider dans nos différentes voyages, et nous comptons sur cette bienveillance dans toutes nos courses apostoliques.

Arrivés au delà du détroit de Belle-Ile, nous nous trouvâmes au milieu des glaces. Les ice bergs (montagnes de glaces) sont loin d'y rechauffer la température, aussi nous fûmes obligés d'y reprendre nos vêtements d'hiver. Après cinq jours d'un froid très-vif, nous jetâmes enfin l'ancre devant un poste de la compagnie appelé Rigoulette.

Ce poste se trouve au fond d'une large baie à 40 milles de l'Océan.

* * * *

Quelques Irlandais qui s'occupent de la pêche reçoivent de temps à autre la visite d'un prêtre de Terre-Neuve dont ils dépendent.

Je vis arriver avec grand plaisir le moment du départ de Rigoulette pour North-West-River, poste situé à 90 milles plus haut dans l'intérieur des terres. C'était là que je devais rencontrer les premiers sauvages Montagnais que j'avais mission d'évangéliser. J'y trouvai quatorze familles chrétiennes et deux familles infidèles. Après quinze jours de travail j'eus la consolation de donner le baptême à quinze adultes et sept enfants. Il y avait aussi à North-West-River vingt-deux Naskapis infidèles, venus du poste de Pettaustickopau pour monter les effets de traite.

Une double route s'ouvrait alors devant moi, celle de Hungava et celle de Pettaustickopau, mais je ne pouvais être longtemps indécis sur le choix que j'avais à faire, parce que mes Naskapis me demandaient d'aller les instruire et j'étais sûr de faire bon voyage en leur compagnie; il n'y avait de difficulté que pour mon retour. Cette fois encore M. Smith, par son obligeance, me vint en aide, il me promit deux hommes pour me ramener à la mer. Je me mis donc en canot avec les Naskapis et pendant trente-neuf jours que dura le voyage, j'eus le loisir de les instruire, je parvins même à leur apprendre à lire.

* * * *

Dans un petit poste qui se trouvait sur mon passage et qui s'appelle Winnaukapau, je m'arrêtai trois jours; j'y étais connu

et j'eus le bonheur d'y baptiser quelques enfants.

* * * *

Je quittai Pettaustickopau et mes bons Naskapis, le 17 septembre, et je pris la route de Mingan en compagnie de deux sauvages. J'avais à faire un voyage de 575 milles, c'est-à-dire près de 200 lieues avant d'y arriver. J'aurais pu avec deux hommes robustes faire ce trajet en treize ou quatorze jours,

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mais je n'avais malheureusement avec moi qu'un vieillard et un tout jeune homme; il me fallut endurer avec eux un long martyre de trente-trois jours.

* * * *

BABEL, O.M.I.

Prêtre missionnaire.

No. 1210

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**FATHER BABEL TO HIS SUPERIOR ON THE MISSION
AMONG THE NASKAPIS, ESQUIMAUX BAY.**

Betsiamits, le 3 novembre 1868.

Mon Révérend Père,

Me voilà enfin de retour de ma longue excursion; c'est le 22 octobre que le suis arrivé à Betsiamits, heureux de déposer la tente et l'aviron. J'ai pu visiter tous les postes que j'avais vus l'année précédente, parcourir la même route, seulement au lieu de descendre du poste de Pétatstèkupau à Mingan, je suis descendu aux Sept-îles par la rivière Moisie. En suivant cette nouvelle route, j'ai abrégé mon chemin de quatre-vingt-dix milles en canot et quatre-vingt-sept milles par mer. Mon voyage a été heureux, bien qu'il n'ait pas été exempt de fatigues et de privations; ma santé a été excellente; je n'avais pas le temps d'être malade.

Je ne vous parlerai pas des péripéties de mon voyage que les tempêtes continuelles, qui ont régné pendant l'été, ont rendu un peu difficile. Je n'ai pas eu d'été; de fréquentes giboulées de neige et de pluie entretenaient dans les terres une température glaciale; et le 3 octobre, jour où je revoyais la mer à Moisie, j'avais déjà reçu quinze fois la visite de la neige, et deux fois nous avons dit briser la glace devant notre canot.

La première mission que j'ai faite, est celle de Mingan, où j'ai passé un mois. Je trouvai là quatre-vingt-onze familles montagnaises, trois cent cinquante-trois âmes qui souffraient de la faim. Le gouvernement, avec ses lois de pêche, tue ces pauvres sauvages et les réduit à la misère. J'ai entendu deux cent soixante-cinq confessions, donné deux cent vingt-quatre communions, administré treize baptêmes d'enfants et béni quatre manages.

De Mingan, je me suis rendu avec le steamer de la compagnie, à la Bais. des Esquimaux, jusqu'à N.W.-River; là je trouvai trente-six familles, cent cinquante-quatre âmes, avec

lesquelles je demeurai quinze jours. Parmi elles se trouvaient trente-deux Naskapis, pour la plupart infidèles et venus d'Hungava. Ils avaient appris que l'année précédente j'avais pénétré jusqu'à Pétatstékupau, et ils n'avaient pas hésité à faire trois cents lieues pour me voir. Je les trouvai déjà passablement instruits; un bon sauvage

chrétien s'était emparé d'eux à leur arrivée à N.W. River, et leur avait fait régulièrement le catéchisme et l'école. J'ai entendu cent quatre confessions, donné cinquante-une communions, baptisé cinq enfants, sept adultes, béni six mariages. J'aurais pu baptiser quinze hommes de plus, si leurs femmes avaient été à N.W. River, mais elles se trouvaient à Pétatstékupau.

Là je pris les deux Naskapis qui devaient me conduire à Pétatstékupau et me redescendre aux Sept-îles. En passant je m'arrêtai un instant à Winnaukupau. Ce poste était désert, j'avais laissé les sauvages qui le fréquentent à N.W. River. Le 30 août, nous arrivâmes à Pétatstékupau, où je trouvai cent-soixante âmes. Douze familles d'Hungava fatiguées de m'attendre étaient reparties; une quinzaine de familles n'avaient pas encore pu s'y rendre, à cause des tempêtes continuelles qui régnaient à la hauteur des terres. Voici le résultat de ma courte visite: trente confessions, trente-un baptêmes d'enfants, quarante-deux baptêmes d'adultes, six mariages, quatre bigames séparés. Si j'avais pu attendre l'arrivée de la berge que montaient les Naskapis que j'avais vus à N.W.-River, j'aurais eu trente baptêmes d'adultes de plus à faire.

Lorsque j'arrivai à N.W.-River, je trouvai là un certain nombre de Naskapis venus d'Hungava, qui me priaient de me rendre chez eux. Il y a là, me disaient-ils, bien des sauvages qui te demandent. Pour m'engager à m'y rendre ils disaient: "le pays est couvert de caribous; tu seras bien." Ils pensaient me donner une raison très-forte, car manger du caribou, est le nec plus ultra du bonheur pour le Naskapis. Je désirais ce voyage et visiter ce poste, mais je ne pouvais le faire qu'avec l'autorisation de Monsieur Smith, gouverneur de ce district; je lui fis part de mon projet. Je désirerais beaucoup, lui dis-je, descendre de Pétatstékupau à Hungava au lieu de prendre la route des Sept-îles. J'espère pouvoir gagner ce poste, avant l'arrivée du steamer avec lequel je reviendrai et gagnerai St. Jean de Terrebonne, etc. Tout en approuvant beaucoup mon projet, il me dissuada de le mettre à exécution cette année-ci. Le steamer, me dit-il, manque de charbon, et ne se rendra pas à Hungava cette année; de sorte que, si vous faites le voyage que vous me proposez, vous serez obligé d'hiverner à ce poste. N'étant pas préparé à passer l'hiver dans les terres, je dus renoncer à mon projet.

No. 1211.

MISSIONS DU LABRADOR.

[6 Aug., 1871.]

FATHER ARNAUD, O.M.I., TO HIS SUPERIOR.

Rivière des Naskapis, 6 Août, 1871.

Mon Révérend Père,

Me voici arrivé au fond de la baie des Esquimaux, à l'embouchure de la rivière Nord-Ouest, que l'on appelle aussi la rivière des Naskapis. Avant de vous entretenir de cet endroit, laissez-moi vous raconter les divers incidents de mon voyage. Après avoir quitté les Betsiamits, ma première visite fut à Mingan. Cette mission qui comptait autrefois 120 familles [sic] a beaucoup diminué. Un grand nombre de familles [sic] se sont dirigées vers la baie des Esquimaux. Je me suis recontre à Mingan avec M. Perron, délégué de Mgr. l'Evêque de Rimouski, qui a donné la confirmation à 70 de mes sauvages, dont il paraît très content. Ne sachant encore quel parti prendre pour rencontrer les Naskapis, que le R.P. Babel a trouvés, une fois, sur leurs terres, et qu'ensuite il n'a plus retrouvés deux ans de suite, je pris les informations nécessaires pour le succès de cette mission. L'on croit absolument inutile de songer à former une mission à Sandy Lake; et une bonne raison de penser que c'est la vérité, c'est que la Compagnie a abandonné Winnekapau et Peterskapau, parcequ'il était trop difficile d'approvisionner ces postes. Elle a ramené les sauvages à la baie des Esquimaux, où la pêche et la chasse sont plus abondantes.

De Mingan, je me suis rendu à St. Augustin en berge avec les sauvages. Le trajet peut être de 100 lieues. J'ai pu voir tous les sauvages qui étaient restés sur la côte. En passant à Natashkouan, j'ai fait faire la mission à un certain nombre de Montagnais.

* * * *

De St. Augustin, je suis parti avec le vapeur de la compagnie qui alla me déposer à Rigolet, poste suitée a 20 lieux dans la baie des Esquimaux.

* * * *

Et au milieu de ces affreux déserts, il y a de distance en distance des habitants, que l'on nomme planteurs : ils sont fixés sur cette côte affreuse pour s'occuper de chasse et de pêche.

C'est là que viennent s'approvisionner tous les grands commerçants de poisson. Il y a plusieurs de ces établissements dans la Baie des Esquimaux. Cette baie est immensément profonde et très-large à l'entrée; elle va se retrécissant jusqu'à Rigolet: ensuite elle s'élargit de

nouveau et forme une petite mer intérieure, jusqu'à l'endroit où elle reçoit la décharge de la grande rivière de Naskapis. A Rigolet, j'ai trouvé quelques familles Esquimaux: elles ne montent jamais plus avant dans la baie, car elles ne sympathisent pas avec nos montagnais, lesquels viennent traiter ici, au petit fort qui se trouve au fond de la baie; les Naskapis y viennent également. En voyant ces pauvres esquimaux j'ai senti en moi le plus vif désir d'aller les voir chez eux. c'est-à-dire à Hungava, Nackvak, Lampson, à l'extrémité nord du Labrador. . . . J'ai rencontré ici plusieurs vieilles connaissances, qui me prêteront volontiers tout leur concours pour me faciliter un voyage par terre, jusqu'à Hungava. A ma grande satisfaction, j'ai retrouvé ici des amis de Betsiamits: Mr. Mathieu Fortescue, en charge du poste de Rigolet, et Mr. Cummins, qui m'ont accablé de politesse. Je puis compter sur eux; aussi je fais déjà mes plans pour l'année prochaine. De Rigolet au fort des Naskapis, il doit y avoir de 20 à 30 lieues. Je fis ce trajet en canot conduit par deux sauvages.

* * * *

Le poste de la rivière des Naskapis est dans un site magnifique, et le Vapeur de la Compagnie mouille juste devant le fort. C'est un poste central; il est à 48 lieues dans les terres, car la baie s'avance jusqu'à 50 lieues en gagnant le nord-ouest, de manière que nous défaisons notre chemin pour regagner St. Augustin, qui se trouve n'être séparé de la baie des Esquimaux que par une langue de terre de 60 à 70 lieues.

J'ai trouvé en cet endroit des Montagnais et des Naskapis; malheureusement ils n'étaient pas au complet. Je crois néanmoins cette place centrale pour les y attirer chaque année en grand nombre. L'on s'y rendrait de Sandy lake, de Peterskapau, et de Winnekapau. A mes yeux il ne s'agit que de les encourager et de régulariser la mission.

Sur la demande que je lui en fis, M. Connolly, me promit de faire construire une chapelle cet hiver. Je suis donc assuré de trouver ici tout le concours désirable pour la mission; la Compagnie a tout intérêt à me prêter son appui, et j'espère qu'il ne nous fera pas défaut. M. Connolly m'engage fortement à faire le voyage de Hungava, soit dans l'intérêt des âmes, soit dans l'intérêt de la Compagnie. Je serais donc le plus heureux des hommes, si vous vouliez me charger de cette expédition; je ne crains ni la fatigue, ni les privations; je compte sur le bon Dieu, qui n'abandonne jamais ses missionnaires.

Me recommandent à vos ferventes prières, je demeure, mon Rév. Père, etc.

CHS. ARNAUD, O.M.I.

“MISSIONS: DIOCÈSE DE QUÉBEC,” Vol. VI, 1870-1877 (Rapport sur les Missions du Diocèse de Québec, No. 20, pp. 34-40).

No. 1212.

[10 Aug., 1872.]

FATHER ARNAUD TO ———.

RECORDS OF THE SCHOLASTICAT DES R.P. OBLATS, OTTAWA, CAN.

N.D. des Neiges-Baie des Esquimaux 10 Aout 1872.

Mon Reverend & bien cher Père,

* * * *

Je ne veux pas me mettre en route pour Ungawa Sans vous envoyer un petit mot de lettre pour vous rassurer sur mon compte si toutefois je ne suis pas de retour sitôt cette automne que de coutume et vous envoyer en même le salut le plus affectueux que je puisse exprimer en langue Esquimaude.

* * * *

Vous dire mon Révérend père avec quelle joie j'ai été reçu à la baie des Esquimaux par tous nos sauvages et la famille de Mr Connoly bourgeois en charge de tout le district, c'est impossible. Nos bons Montagnais et Naskapis nous reçoivent comme un père.

* * * *

J'ai pu faire la mission dans notre nouvelle chapelle. L'année passé il n'y avait rien de fait, aussi je ne puis trop louer l'empressement que Mr Connoly a montré à satisfaire notre demande, la place a été déblayée, le bois de la charpente coupé et ce printemps il y avait six hommes en oeuvres, il a dirigé lui-même les travaux et tout a été si bien conduit qu'à l'arrivée des Sauvages du bois, ils ont tous été étonnés de voir une petite chapelle dont ils n'avaient pas encore entendu parler dans un endroit couvert de bois quelque temps auparavant. Là ne s'est pas borné le zèle de ce bon Monsieur, il a fait venir d'Angleterre par le Labrador une magnifique cloche du poids de cent dix livres dont il a fait don à la mission.

* * * *

Les Esquimaux sont assez nombreux ici sur la côte, mais le gros de la population se trouve réunis auprès des Moraves et surtout à Ungawa et sur les bords du détroit qui conduit à la baie D'Hudson.

* * * *

Tous les Esquimaux qui habitent le bois parlent Anglais. Ils ont des rapports continuels avec les planteurs et les gens du poste quelques uns même ont entièrement perdu l'usage de leur langue primitive; plusieurs ont

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contracté mariage avec les blancs et perdu une partie de leurs anciens usages et se sont créés de nouveaux besoins.

* * * *

Votre tout dévoué in Xte Jesu

CH. ARNAUD, O.M.I.

[16 Dec., 1872.]

No. 1213.

C

FATHER ARNAUD TO ———.

RECORDS OF THE SCHOLASTICAT DES R. P. OBLATS, OTTAWA, CAN.

1872

Bethsiamits Labrador.

R.P. Arnaud

Carte du pays.

N.D. de Betshiatmits

16 Décembre 1872.

L.J.C. & M.I.

Mon bien aimé Père,

En partant de Québec j'apprenais que vous vous dirigiez vers le Minesota. Je vous avais écrit la veille, vous ne trouverez probablement ma lettre qu'au retour de votre long voyage.

* * * *

Dans une de mes lettres datée je pense de N.D. des Neiges, au fond de la Baie des Esquimaux, je pense vous avoir mis au courant de cette mission et je vous annonçais mon futur départ pour Ungawa- je l'ai accompli heureusement mais sans succès pour l'établissement de nouvelles missions. Je suis cependant satisfait d'avoir visité tous ces lieux, j'aurais à présent le coeur tranquille, car je ne penserai plus à ces lointaines contrées.

Les Esquimaux ne sont pas si nombreux que je me l'étais figuré et qu'on me le disait je ne pense pas qu'ils nombrent au delà de deux cent familles sur tout le littoral que j'ai parcouru.

* * * *

Les Esquimaux se tiennent toujours sur le littoral, ils ne vont point comme nos naskapis ou montagnais dans l'intérieur du pays pour chasser; cependant tous les hivers ils tuent une grande quantité de renards, d'un prix très haut. le loup marin abonde dans ces parages, c'est leur nourriture

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quotidienne, ils mangent la chair et l'huile avec délice, et se vetissent de la peau, hommes, femmes et enfants;

* * * *

[29 Dec., 1877.]

Votre fils tout dévoué et affectionné in Xte

Jesu

CH. ARNAUD, O.M.I.

No. 1214.

C

FATHER ARNAUD TO SUPERIOR GENERAL.

[EXTRACT.]

MISSIONS DES OBLATS 1878.

Notre-Dame de Betshiatmits, 29 décembre
1877.

Mon Tres-Reverend et Bien-Aime Pere,

....Comme votre paternité m'a fait exprimer le desir d'avoir
quelques détails de notre résidence, je ne pourrai mieux faire
que de vous donner d'abord la topographie des lieux que nous
parcourons pour nous y rendre.

* * * *

Notre-Dame de Bethsiamits est devenue le centre de nos
missions montagnaises. C'est d'ici que partent, tous les
printemps, les Missionnaires qui vont évangéliser les sauvages.
Les principaux postes où nous avons construit des chapelles
sont Good-Bout, les Sept-Iles, Mingan, sur le littoral nord ;
Notre-Dame des Neiges, au fond de la baie des Esquimaux, la
pointe Bleue, sur les bords du lac Saint-Jean, dans le haut
Saguenay. Nous avons encore bien des postes intermédiaires
où le Missionnaire groupe les familles des environs et célèbre
la sainte Messe sous la tente ou dans quelque petite maison en
bois. Nous devons faire ainsi quand nous rendons à la
baie aux Outardes, à la pointe aux Outardes, à Manikuagan, à
la pointe des Monts, à la baie de la Trinité, à Islet-Caribou, aux
Cailles-Rouges, etc., etc.

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CH. ARNAUD, O.M.I.

No. 1215.

[1 April 1878.]

FATHER LACASSE TO FATHER TETU

REPORTING ON THE NASKAPI MISSION.

ANNALES DE LA PROPAGATION DE LA FOI POUR LA PROVINCE DE
QUEBEC, JUIN 1878.

St. Sauveur, 1er Avril 1878.

Révérénd M.H. Têtu, Ptre.,
Aumônier de l'Archevêché de Québec,
Monsieur L'Aumônier,

Comme nos missions ne vivent que par les secours de la Propagation de la Foi, il est bien juste que je fasse connaître aux lecteurs de vos Annales que Dieu s'est plu à bénir leur générosité. Excusez le retard apporté à l'envoi de ces quelques notes promises depuis longtemps. Mais l'homme propose et Dieu dispose: j'avais tenu un journal des dix-huit longs mois passés au milieu des tribus infidèles; un naufrage est venu l'engloutir. La mer rend ses victimes, dit-on ; oui, mais les manuscrits exceptés. Sans autre préambule, je commence de suite, car je vois que le temps ne me permettra même pas de finir ce rapport.

Les Sauvages que les Révérends Pères Oblats de Bethsiamites ont à visiter, habitent un littoral de plus de neuf cents lieues, si on y comprend le pays des Esquimaux qui ont aussi été les objets de leur zèle et au milieu desquels ils ont l'espoir d'établir une résidence. Les Montagnais habitent le littoral du golfe depuis Bethsiamites, distant de soixante-et-dix lieues de Québec, jusqu'au Détroit de Belle-Isle. Ils sont disséminés par petites bourgades, vivent dans l'été à l'embouchure de certaines petites rivières qu'ils remontent pendant l'automne. Ils hivernent dans les bois, y font la chasse et reviennent au printemps vendre leurs pelleteries et se munir de provisions. Pendant leur séjour à la mer, ils font leur mission là où le prêtre va les attendre et se hâtent de retourner dans leurs bois. Comme ces Sauvages sont catholiques depuis longtemps et qu'ils n'ont rien qui les distinguent de la classe des Sauvages connus de vos lecteurs, je me hâte de vous introduire au milieu de mes chers Naskapis, autre tribu qui vit dans l'intérieur des terres. Quelques uns d'entre eux qui vivaient à la hauteur des terres des Sept-Iles et de Mingan, viennent maintenant faire leur mission à ces postes respectifs. Mais il y a des Naskapis qui vivent autour des grands lacs et le long des rivières qui donnent leurs eaux au détroit d'Hudson. Ce sont ces Naskapis que je viens vous présenter aujourd'hui. Comme ils ne peuvent ni ne veulent

venir ici, il vous reste, M. l'Aumônier, l'obligation de faire route avec moi. Dites adieu à Québec que vous courez grand risque de ne plus revoir, et à bord d'une goëlette, faites route pour St. Augustin, poste distant de trois cents lieues. Vous êtes à bord du capitaine Narcisse Blais de Berthier. Ne craignez rien. Le chapelet et la prière commune de chaque jour sont votre sauvegarde. Le capitaine, que tous les missionnaires de la côte connaissent, sera plein d'égards pour vous; il vous donnera même son lit, en dépit de vos récriminations, et permettra à ses braves matelots de rire à gorge déployée quand, sous l'influence du mal de mer, vous irez jeter à l'ocean impitoyable, l'écume de votre courroux. Pauvre mal de mer ! Qu'il est acharné à tourmenter ses victimes! Après cinq ans de courses continuelles, il n'est pas encore satisfait de moi et il crie toujours: encore, encore! Et moi, penché sur le bastingage, de lui répondre: en voici!

Mais hâtons nous de passer à un sujet plus gai, car rien qu'au souvenir de la mer, mes yeux s'embrouillent, je ne distingue plus les lignes de mon papier, et mon coeur me supplie d'attendre au moins la débâcle, avant de prendre passage à bord d'un bateau. Nous sommes donc à St. Augustin: nous allons faire la mission aux pauvres Montagnais de cet endroit, et, de là, en compagnie de deux guides, traverser une langue de terre de 80 lieues pour tomber dans le fond de la Baie des Esquimaux, qui mêle ses eaux à celles de l'Atlantique. Les Rev. Pères Arnaud et Babel ont souvent visité cette mission. Voyez ces pauvres Naskapis accourir en foule au rivage. Si les haillons qui les couvrent vous invitent peu à les approcher, que leur timide sourire et les poignées de main qu'ils vous donnent vous déterminent à les presser sur votre coeur; n'en passez pas un seul, car ils sont jaloux de cette marque d'amitié de la Robe noire, et ils regardent, comme une récompense de leur bonne conduite, la faveur de presser la main du prêtre du Grand Manito. Vous avez devant vous de bons enfants, bien disposés à la piété, mais encore ignorants et superstitieux. Ils ont abandonné, sauf une exception ou deux, la jonglerie, qui rendait leur âme coupable de péchés mortels, mais ils ont encore une foule de craintes, de remarques, d'observances qui font comprendre aux missionnaires pourquoi il y a encore des superstitions en Canada, après tant de siècles de civilisation.

* * * *

Mais le coeur serré, il faut se séparer de ces chers néophytes, et vous aventurer encore plus de 300 lieues plus loin. Il y a des Sauvages à l'intérieur des terres; ils ont une âme et personne ne pense à eux. Il faut aller les voir, se rendre chez eux jusqu'au Détroit d'Hudson.

* * * *

Les premiers jour, vous mangez les quelques livres de farine que vous aviez apportées; puis viennent les portages et comme le canot et le bagage posent, il faut renoncer à apporter des provisions pour le voyage. Mes deux guides me disent qu'on en trouvera, et qu'ils préfèrent être deux jours sans

manger que d'apporter un biscuit de trop. La rivière que vous montez est la rivière Naskapise; comme elle est trop rapide pour pouvoir la suivre

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jusqu'au bout, vous la laissez pour suivre une chaîne de lacs qui vous conduiront jusqu'à la hauteur des terres. Avant d'y parvenir, vous aurez 57 portages à faire le collier au front et la charge sur le dos. Cinq de ces portages vous prennent plus de 4 heures de marche. Permettez-moi de vous mettre en connaissance avec le portage que les Sauvages appellent "Bossu"; son souvenir m'est si vivace surtout dans les jambes que je ne puis résister au plaisir de vous en parler. Il y a huit jours que nous avons lassé la mer, et, chaque jour, nous nous élevons toujours de quelques centaines de pieds. Nous arrivons aux montagnes du Loup-marin dont la cime est toujours couverte de neige. Une barrière de roches vient intercepter la rivière qui, ne pouvant arrêter son cours, devient furieuse en cet endroit. L'entendez-vous se heurter contre ces imposantes murailles de pierre, s'y faire un jour et venir tomber d'une hauteur d'une cinquantaine de pieds, en une immense nappe blanche, dans le bassin où se trouve votre petit canot tremblant? Il ne peut se frayer un passage à travers l'imposant rideau blanc que vous contemplez et qui apporte à votre œil étonné toutes les couleurs de l'arc-en-ciel. Détournez le regard; voyez à gauche cette montagne dont la paisible majesté contraste avec la turbulente grandeur de la rivière qui est à sa base. Le sommet est loin, la pente est raide et les lits inégaux des rochers, rendus glissants par la pluie qui appesantit votre bagage, vous promettant plus d'un baiser fraternel, sans que ces rigides messieurs veulent se charger de faire la moitié du chemin. Cette condition vous donne des doutes sur la sincérité de leur amitié et l'expérience vous montrera que leurs caresses ne sont pas douces. Prenez un bon diner aux poissons frais; qu'importe le sel, quand l'appétit y est? Il faut des forces pour gravir le portage Bossu. Le guide qui porte le canot, a jugé prudent d'ôter ses souliers. Les doigts des pieds sont libres et adhèrent mieux aux crevasses des rochers. Pour moi, je résolus de garder ma chaussure quoique le sauvage m'avertit de mon imprudence. "Après tout, Père, il vaut mieux se déchirer les pieds que de se casser la tête."

On commence l'ascension; les genoux, les mains, les dents qui saisissent les branches, la crosse du fusil, voire même les pieds, tout est utilisé. Plus vous montez, plus vous admirez la perpendicularité de la côte. Vous faites halte; et puis vous reprenez courage. Vous montez, vous descendez, vous remontez, vous redescendez. Vous donnez un nouveau coup, coup fatal! La bande du collier casse; chapelle, chapelets, fusil, hache, chaudière, tout part. Le missionnaire veut tout retenir par un mouvement instinctif et trop prompt pour lui être imputable; son bras le sert mal; il perd l'équilibre, et en vertu de la loi de gravitation, il parcourt promptement et en sautillant... de roche en roche, un chemin qu'il croyait plus

long. Inutile, M. l'aumônier, de dire à vos intelligents lecteurs, que ce n'est plus en montant qu'il va. Un sapin se trouve sur son passage: chapelle, fusil et missionnaire y trouvent refuge, à la grande surprise de ce dernier qui ne sait comment et pourquoi il est là. Il tient d'une main son chapeau, et de l'autre une partie d'une des jambes de son pantalon qui se plaint par de grands déchirements de la violence qu'on lui a faite. Et puis pas un brin de mal. N'est ce pas que

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ceci donne confiance au missionnaire? Marie Immaculée garde bien ceux qu'elle garde, se dit-il, quand arrivé au sommet de la montagne, il peut adresser ses remerciements à sa bonne, si bonne Mère.

Pour vous reposer, vous jouissez d'un des plus beaux coups d'oeil du monde: d'un côté, la mer et ses banquises, la mer avec ses baies, ses îles ses rochers et ses récifs, la mer dont l'orgueil des flots vient se briser sur un petit grain de sable qui se rit de la pesanteur et du bruit de ses vagues. De l'autre côté, des pics, des vallées, des lacs, des rivières, des chaînes de montagnes dont les capricieuses formes vous étonnent encore plus que leur imposante grandeur.

* * * *

Mais continuons notre voyage et hâtons-nous d'arriver à l'endroit que les Sauvages appellent la grande traverse. Tous les Naskapis sont là qui pêchent le poisson et attendent le caribou. Ils aperçoivent votre canot, et pendant qu'ils accourent au rivage en s'écriant "des étrangers, des étrangers," étudiez leur physionomie. Le Naskapis est un grand homme habillé de peaux de caribou. Il paraît robuste et ses longues jambes vous disent que le caribou est mal à l'aise lorsqu'il est à sa poursuite. Les traits de son visage annoncent de la douceur et beaucoup d'ouverture. Son teint est couleur de cuivre, recouvert d'un enduit de graisse de caribou qui, en vertu de la prescription, réclame des droits imprescriptibles de séjour sur cette peau qui ignore encore l'existence du savon. Ses beaux cheveux noirs pendent sur ses épaules. On n'y voit pas de frisures, mais en revanche, ces cheveux sont ornés de petites perles blanches, qui au besoin, se rougissent couleur sang.

* * * *

ZACH. LACASSE, O.M.I., Ptre.

NASKAPI MISSION.

[Nov. 1878.]

ANNALES DE LA PROPAGATION DE LA FOI POUR LA
PROVINCE DE QUEBEC, Fevrier 1879.

Lettre du Rev. Père Lacasse, O.M.I.

St. Sauveur, Novembre, 1878.

Rev. M.H. Têtu, Ptre.,

Aumônier de l'Archevêché de Québec,

M. l'Aumônier,

Je n'ose moi-même aller vous présenter ce rapport. Ma conscience me dit que j'ai trop retardé et elle accepte d'avance tous les reproches que vous lui ferez. Dans ma lettre précédente, j'avais laissé vos lecteurs en présence de mes chers Naskapis. C'est le temps maintenant de les étudier au milieu de leurs forêts.

Un mot de la géographie des lieux: La partie des Naskapis qui habitent la forêt Notsimiolno, vivent de l'autre côté de la hauteur des terres qui divise la vallée de la Baie des Esquimaux de celle du Détroit d'Hudson. Le canot d'écorce dans l'été, la raquette dans l'hiver, sont les deux seuls moyens de communication pour parvenir à leur lointaine patrie. L'épinette noire et le sapin sont les deux seules espèces d'arbres qui poussent sur leurs terrains de chasse. Les arbres n'arrivent pas à une croissance de plus de huit à neuf pouces de diamètre. Quand ils veulent avoir de l'écorce de bouleau pour leur canot, ils sont obligés de venir de ce côté-ci de la hauteur des terres, le long de la rivière Mestshibo. Leur canot leur coûte cher; aussi ils en ont soin comme de la prune de leur oeil. Le terrain qu'ils habitent est entrecoupé de vastes étendues d'eau. Nulle part dans le monde, les lacs sont aussi nombreux que dans l'intérieur du Labrador. Il y en a qui, par leurs grandeurs, sont véritables mers intérieures. Les lacs de dix, quinze lieues de longueur ne sont pas rares. Le grand lac Michigamao, ou Michigan, est à perte de vue.

* * * *

Les lacs quelque nombreux qu'ils soient, l'étaient encore plus à une époque antérieure. Il y a de grands marécages qui paraissent être des lacs desséchés; on peut encore suivre la décharge et on y passe maintenant à pied sec, mais les roches polies que vous foulez aux pieds vous montrent que l'eau les a lavées pendant des siècles. J'ai suivi moi-même le lit desséché d'une grande rivière, pendant plusieurs jours. Il n'y avait pas à se méprendre. Cette rivière détournait les montagnes en s'élevant graduellement. Il y avait eu

des chûtes, des rapides, des inégalités de profondeur d'eau. Le lit était des cailloux aplatis ou plutôt usés par le courant.

* * * *

Mais je vois que je me suis laissé entraîner loin de mes Naskapis, qui s'occupent encore moins de ce qui est arrivé que de ce qui arrivera. Ils habitent leur terre telle qu'elle est, se chauffent au soleil quand il paraît, et se battent les mains quand il fait froid. Chez eux rien que la pratique, point de theories ennuyeuses comme celle que vous venez d'entendre. Que ne les ai-je imités ?

Dans ces lacs desséchés dont je viens de vous parler, dans ces marécages couverts de mousse, habite le caribou qui vient y trouver sa nourriture. Le caribou est la principale nourriture du Naskapis. Il aime aussi la perdrix blanche. Quand il a faim, il mange toute ce qu'il trouve, renard blanc, jaune et noir, loutre, marte et même le loup. Les Naskapis ont maintenant des fusils pour tuer le caribou et des pièges pour prendre les animaux à fourrures précieuses. Autrefois avec leurs flèches et leurs lacets, ils approchaient plus facilement les animaux sauvages non effrayés et vivaient mieux qu'aujourd'hui. Les armes à feu ne sont qu'au profit du traiteur.

Le Naskapis (mot sauvage qui veut dire: je me tiens droit debout) est un homme de haute taille, vêtu de peaux de caribou, menant une vie errante. Il habite sous des tentes de peaux de caribou. Quant à ces croyances religieuses, le Naskapis sait qu'il existe un grand Esprit et que celui-ci a un antagoniste, l'esprit du mal qu'il redoute plus que le Grand Esprit.

* * * *

Je dressai ma tente au milieu des leurs et commençai à les instruire. C'est un travail de 20 heures par jour et cela pour des semaines entières. On varie les exercices plusieurs fois dans la journée. L'enseignement de l'alphabet, du catéchisme, des prières, du chant, de l'administration du baptême, puis quelques sermons sur les grandes vérités, nous font paraître le temps bien court. Il faut beaucoup de patience pour instruire ces Sauvages dont l'intelligence ne s'élève pas du premier bond aux choses spirituelles. Aller leur parler de sacrement, de la grâce de Dieu, dans le langage de nos chaires canadiennes serait perdre son temps. Il faut user de periphrases. Le missionnaire qui travaille au milieu des nations infidèles a besoin,—le croiriez-vous ?—d'une science dogmatique plus qu'ordinaire et plus grande que celle qui, bien souvent, serait suffisante devant un auditoire déjà instruit des vérités de notre sainte religion. Il lui faut créer des mots d'un genre nouveau et bien se garder de ne pas dépasser les limites de l'orthodoxie. Son langage doit être précis, et s'il veut rester dans les généralités, il fera mieux de ne pas parler. Dès que vos Sauvages sont suffisamment instruits et qu'ils ont fait leur preuve, vous les admettez au saint baptême. Les Naskapis étaient presque tous polygames. A ma voix, ils se sont mis en règle avec l'Eglise catholique, quant à leur mariage ; un seul catéchumène est depuis retourné à son vomissement. Lors de mon premier séjour au milieu d'eux, j'eus le bonheur de faire

cent vingt et un baptêmes. Ils me promirent d'être
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bons catholiques et je sais qu'ils tiendront parole. Ils ne veulent plus abandonner au milieu des bois leurs père et mère, ne plus faire la jonglerie et ne plus étouffer les personnes qui tombent dans le délire, comme c'était la coutume au milieu d'eux. Je dois dire qu'ils sont encore affolés par de vaines craintes superstitieuses qui finiront par disparaître. Ils sont attachés à la robe noire, pleurent lors de son départ.

* * *

Je ne puis me résoudre à vous dire adieu. Au revoir donc quand mes occupations me le permettront.

[1921.]

ZACH. LACASSE, O.M.I.

No. 1217.

C

**JURISDICTION OF THE VICAR APOSTOLIC OF THE
GULF OF ST. LAWRENCE.**

TRENTE CINQUEME ANNÉE LE CANADA ECCLESIASTIQUE. 1921.

Erigé en 1906, et confié à la Congrégation des RR. PP.
Eudistes.

CIRCONSCRIPTION:

Ce vicariat s'étend au sud: depuis la rivière Portneuf (l'île d'Anticosti incluse) jusqu'au Blanc Sablon; de l'est: depuis le Blanc Sablon jusqu'à l'extrémité nord du Labrador; du nord depuis cette extrémité jusqu'à l'entrée de la baie d'Hudson; à l'ouest: depuis la rive de la baie d'Hudson jusqu'à la baie James.

Administrateur: Le T. R. P. M. J. Leventoux, Pro-vicaire.

MISSIONS DU VICARIAT DU GOLFE ST-LAURENT.

N.B.—Toutes les missions de ce vicariat sont desservies par les RR. PP. Eudistes.

Pointe-aux-Esquimaux (Saint-Pierre): Le T. R. P. M. J. Leventoux, Pro-vicaire. RR. PP. Jos. Robin, Etienne Gallix, Eudistes.

Clark-City, Saguenay, P. Q. R. P. J. Brière, Eudiste.

Desserte: Ste-Marguerite.

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Rivière-Pentecôte, Saguenay, P. Q. (St. Patrice) : R. P. J. M. Hulaud, Eudiste.

Dessertes: Godbout, Pointe des Monts, Baie Trinité, Ilets Caribou,

Ile aux Œufs, Pointe aux Anglais.

Baie des Cêdres: R. P. Et. Régnault, Eudiste.

Rivière-au-Tonnerre, Saguenay, P. Q. (Saint-Hyppolite): R. P. Louis Garnier, Eudiste.

Dessertes: Rivière-aux-Graines, Sheldrake, Chaloupe, Le Dock.

Rivière-Saint-Jean, Saguenay, P. Q., (St-Jean): R. P. Joseph Lestrat, Eudiste.

Dessertes: Longuepointe, Mingan et Magpie.

Sept-Iles, Saguenay, P. Q. (St-Joseph): R. P. Arth. Divet, Eudiste.

Desserte: Moisie.

Natashquan, Saguenay, P. Q. (Notre-Dame): R. P. Joseph Gallix, Eudiste.

Dessertes: Aguanis, Baie Johann Beetz.

Lourdes-du-Blanc Sablon, Saguenay, P. Q., R. P. Francois Hesry, Eud.

Dessertes: St. Joseph de Tabaquen, Gethsémani: d'Olumen, Ste-Anne de la Tête à la Baleine, Sacré-Coeur de Jésus de Bonne-Espérance, St-Augustin, Belles Amours, Brador.

[1896-97.]

Ile-d'Anticosti, Golfe St. Laurent, Gaspé, P. Q. (St-Alfred) Baie Ellis; R. P. Rene Kerdelhue, Eudiste.

Dessertes: (Baie Sainte-Claire) et (l'Anse aux Fraises).

Betsiamis, Saguenay, P. Q. (Notre-Dame) et les missions montagnaises, celles des Naskapis et des Esquimaux:

RR. PP. André Jauffret, Aug. Tortellier et Denis Doucet.

No. 1218

C

EXTRACTS FROM "INDIAN LAND CESSIONS IN THE UNITED STATES."*

BY CHARLES C. ROYCE.

How, then, are we to account for the fact that the relations of the French with the Indians under their control were, as a

general rule, more intimate and satisfactory to both parties than those of other nations? Parkman has remarked that "The power of the priest established, that of the temporal

* Published in the 18th Report of the Bureau of American Ethnology (1896-97).

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ruler was secure. . . . Spanish civilization crushed the Indian; English civilization scorned and neglected him; French civilization embraced and cherished him." Although this can not be accepted as strictly correct in every respect, yet it is true that intimate, friendly relations existed between the French and their Indian subjects, which did not exist between the Spanish or English and the native population. However, this can not be attributed to the legal enactments or defined policy of the French, but rather to their practical methods.

Instead of holding the natives at arm's length and treating them only as distinct and inferior people and quasi independent nations, the French policy was to make them one with their own people, at least in Canada. This is expressly declared in the following extracts:

Colbert, writing to Talon, April 6, 1666, says:

In order to strengthen the Colony in the manner you propose, by bringing the isolated settlements into parishes, it appears to me, without waiting to depend on the new colonists who may be sent from France, nothing would contribute more to it than to endeavour to civilize the Algonquins, the Hurons and other Indians who have embraced Christianity, and to induce them to come and settle in common with the French, to live with them and raise their children according to our manners and customs.

In his reply, some seven months later, M. Talon informs Colbert that he has endeavoured to put his suggestions into practical operation under police regulations.

In another letter, dated April 6, 1667, Colbert writes to Talon as follows:

Recommendation to mould the Indians, settled near us, after our manners and language.

I confess that I agreed with you that very little regard has been paid, up to the present time, in New France, to the police and civilization of the Algonquins and Hurons (who were a long time ago subjected to the King's dominions,) through our neglect to detach them from their savage customs and to oblige them to adopt ours, especially to become acquainted with our language. On the contrary, to carry on some traffic with them, our French have been necessitated to attract those people, especially such as have embraced Christianity, to the vicinity of our settlements, if possible to mingle there with them, in order that through course of time, having only but one law and one master,

they might likewise constitute only one people and one race.

That this was the policy favored by the King is expressly stated by Du Chesneau in his letter to M. de Seignelay, November 10, 1679. "I communicated," he says, "to the Religious communities, both male and female, and even to private persons, the King's and your intentions regarding the Frenchification of the Indians. They all promised me to use their best efforts to execute them, and I hope to let you have some news thereof next year. I

shall begin by setting the example, and will take some young Indians to have them instructed.”

In another letter to the same person, dated November 13, 1681, he says: “Amidst all the plans presented to me to attract the Indians among us and to accustom them to our manners, that from which most success may be anticipated, without fearing the inconveniences common to all the others, is to establish Villages of those people in our midst.”

That the same policy was in vogue as late as 1704 is shown by the fact that at this time the Abnaki were taken under French protection and placed, as the records say, “In the center of the colony.”

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PART XVIII.

**DOCUMENTS RELATIVE TO RESERVATION OF
LANDS IN NORTH AMERICA FOR THE USE OF THE
INDIAN TRIBES FOR THEIR HUNTING GROUNDS.**

No. 1219.

[24 July, 1760.]

**COORESPONDENCE AND PROCLAMATION
RELATING TO TREATY OF EASTON, 1758,**AND THE RESERVATION OF THE LANDS WEST OF THE ALLEGHANY
MOUNTAINS TO THE INDIANS FOR THEIR HUNTING GROUNDS .*No. 1.—COLONEL CRESAP TO BOUQUET.
(ARCHIVES, SERIES A, VOL.15, p. 188.)

Old Town, July 24th, 1760.

SIR,—At the request of several of the members of the Ohio Company of which I myself am one, I take the freedom of acquainting your Honour, that they are inclined to let you be Partaker of the Grant which His Majesty has been graciously pleased to give them of five hundred thousand acres of Land lying on and adjacent to the South side of the River Ohio, on the same terms and conditions as they themselves are under, each member's share of said Land being twenty-five thousand acres.

If your Honour should approve of becoming a member of said Company, I should be glad to receive a letter from you, that I might acquaint the Gentlemen (several of whom are of His Majesty's Council in Virginia) with your Determination.

[12 Sept., 1760.]

I am, Sir, Your humble Serv.,

THO. CRESAP.

P.S.—The Company proposes, as soon as the Wars are ended, to settle the land with Germans and Switzers, which they shall send for and encourage.

No. 2.—BOUQUET TO COLONEL CRESAP.
(ARCHIVES, SERIES A, VOL.23-1, p.32.)

Presqu'Isle, 12th September, 1760.

SIR,—It was but lately that I was favoured with your letter

of the 24th July, containing an offer from you and some other members of the

* Printed in the Report on the Canadian Archives, 1889, pp. 72-77.

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Ohio Company to let me be Partaker of their Grant for Five Hundred Thousand Acres of Land; on the South Side of the River Ohio, on the same terms and conditions as they themselves are under. Each Member's Share being Twenty-five Thousand Acres.

I think myself much obliged to you, Sir, and the other Gentlemen concerned in that offer. But as an Engagement of that extent requires more consideration, I must beg leave to defer giving a positive answer till I can have the Pleasure to see you which I hope may be soon.

I could indeed procure numbers of German and Swiss families to settle upon those Lands. If the Conditions could really be made advantageous to them. But many things are to be considered before that.

1. You know that by the late Treaty at Easton, Approved and Confirmed by the Ministry at Home we have engaged not to settle the Lands beyond the Allegheny, and tho' the Government of Virgⁿ. and Maryland did not accede to that Treaty, I conceive that they are equally bound by it, and that no settlement will be permitted upon the Ohio till the Consent of the Indians can be procured.

2. The form of Government for this New Colony ought to be previously fixed, as they would be too remote to be dependent upon either of the Provinces.

I shall not enter in more details till I am better informed of the plan you have formed for the Encouragement of the Settlers, and of the means you have to Carry that scheme in Execution, as I am of opinion that such Settlement would be of great Service to the Colonies I would readily contribute to promote it whether I was personally concerned or not.

I am Sir,

Your obed. Servt.,

HENRY BOUQUET.

No. 3—[EXTRACT.]—LIEUT. COLONEL MERCER TO
BOUQUET. C

(ARCHIVES, SERIES A, VOL.15, p.391.)

Col. Cresap having informed some of the members of the Ohio Company that you would be glad to become one of them, they desired me as one of the Body, having the Pleasure of your Acquaintance, to let you know there was a share to be disposed of, and that Col. Bouquet joining them would be very agreeable to the whole Company. As I made no Doubt of meeting with you, I brought up all the Papers relative to the Concern in order to let you know the Terms they hold or expect to hold, their Lands upon. The Company have advanced

[30 Oct., 1761.]

£500 each, which will entitle you to a 20th Part of 500,000 acres of Land, and as they have some pretty considerable outstanding Debts from the Trade they intended to prosecute, the whole sum will not be entirely sunk; besides there is yet more of their Money in the Hands of the Treasurer amounting with the Debts I imagine to £2,000 or £2,500.

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No. 4.—PROCLAMATION AGAINST SETTLING, &c.

(ARCHIVES, SERIES A, VOL.26, p.10.)

PROCLAMATION by Henry Bouquet, Esq^r., Colonel of Foot and Commanding at Fort Pitt and Dependencies.

Whereas by a Treaty held at East Town in the year 1758, and since ratified by His Majesty's Ministers, the Country to the West of the Allegany Mountains is allowed to the Indians for their Hunting Ground, and as it is of the Highest Importance to his Majesty's service, the preservation of the peace and a good understanding with the Indians, to avoid giving them any just cause of Complaint, this is therefore to forbid any of His Majesty's subjects to Settle or Hunt to the West of the Allegany Mountains on any Pretence whatsoever, unless such Persons have obtained leave in Writing from the General or the Governor of their Provinces Respectively and produce the same to the Commanding Officer at Fort Pitt.

And all the officers and non commissioned officers commanding at the several Posts erected in that part of the Country for the Protection of the Trade, are hereby ordered to seize or cause to be seized any of His Majesty's Subjects who without the above Authority should pretend after the Publication hereof to settle or Hunt upon the said Lands, and send them with their Horses and Effects to Fort Pitt, there to be Try'd and Punished according to the nature of their Offence by the Sentence of a Court Martial.

[17 Jan., 1762.]

Given under my Hand at Fort Pitt this Thirtieth day of October 1761.

HENRY BOUQUET.

No. 5.—GOVERNOR FAUQUIER TO BOUQUET.

(ARCHIVES, SERIES A, VOL.18-1, p.5.)

W^{ms}burg, January 17th, 1762.

SIR,—The Proclamation issued by you concerning the settling and hunting on the Lands to the Westward of the Allegenny Hills, gives Rise to some uneasiness in this Colony (over which His Majesty has been graciously pleased to appoint me to preside as his Lieutenant Governor) as it seem to tend to obstruct the resettling the Lands by the Persons who have taken up Lands by patent under his Majesty,—And have

been formerly Settled on them, but driven from their Settlements by the late Disturbance. There are many such belonging to this Colony, who made settlements on Monongahela, Green Bryar, and New River to the Westward of the Allegheny Mountains, on the Waters of the Ohio.

On these Considerations I have been desired to apply to you that you would do me the Favour to make known to me your Intentions in publishing the said Proclamation, and whether the Certificate you require is only to

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ascertain the Identity of the Persons who are now, or hereafter may be settling to the Westward of those Hills, to prevent any other persons who have no right to settle on the Lands which may be claimed by those who have legally taken them up by patent under the Crown. This is a laudable Intention and may prevent Vagabonds from taking possession of the Just Rights of others.

As for New Settlements his Majesty's pleasure has been Signified to me by Letter from the Right honorable the Lords of Trade and Plantations that I should on no account whatever make any Grants of Lands on the Waters of the Ohio untill his Majesty's further pleasure be known. And the Governor of Pennsylvania is, as I am informed under the same Restrictions.

The particular Article relating to the offenders being tried by Court Martial has alarmed the Gentlemen of Consequence in this Colony as they Apprehend no Person is liable to Martial Law, or to tryal by Court Martial who is not in some shape Connected with the Military Department.

These Representations I have made to you by and with the advice of his Majesty's Council and I make no doubt but your Answer will be fully satisfactory to them in Every particular.

[8 Feb., 1762.]

I am with great Regard Sir

Your most obedient humble

Servant,

FRAN: FAUQUIER.

No. 6.—BOUQUET TO GOVERNOR FAUQUIER.

(ARCHIVES, SERIES A, VOL.18-1, p. 27.)

Fort Pitt, 8th February, 1762.

SIR,—I had yesterday the honor of your Excellency's Letter of the 17th Jany., Concerning the orders issued by me to prevent people hunting or settling to the Westward of the Alleghany Hills, unless they had obtained leave from the General or Governors of their Respective Provinces.

I am sorry they should have occasioned any uneasiness in your Government, but I hope to satisfy you that far from intending to invalidate the *just rights* of any person, or

Endeavouring to prevent their taking Possession of them, provided they had a legal Authority for so doing, I took the only Method to secure them till such authority could be obtained.

For two years past these Lands have been over run by a Number of Vagabonds, who under pretence of hunting, were Making Settlements in several parts of them, of which the Indians made grievous and repeated Complaints, as being Contrary to the Treaty made with them at Easton, and since Confirmed by the General at this Post.

In consequence of which General Monckton ordered these People to be

p. 3091

driven off and as the Indians still Complained of New Comers, I issued the said orders to prevent in the best manner I could those encroachments.

Notwithstanding what I have done, they still in a less degree, Continue the same Practices, and two days ago an Indian who pretends to be sent by the Six Nations to see whether we settle this Country, Complained to me that he had discovered ten New Hutts in the Woods and many Fields cleared for Corn.

I have sent two Persons with him to enquire into the truth of this, and have those People removed.

As to such Offenders being liable to be tried by a Court Martial, I conceive that people living out of the Settlements and at such places where there is no form of Civil Judicature in force and acting contrary to the orders of that Department, can be tried by the Martial Law, agreeable to the Articles of War, and that the actual Inhabitants of this and other remote Forts are liable to be tried in the Same manner if they do any injury to Indians or otherwise disobey the orders given by the General or Commanding Officer tho' they are not directly Connected with the Army.

But this can in no manner affect any Settlement that may be made hereafter in this part of the Country which Coming within the Known Limits of one of these Provinces, will consequently fall under its jurisdiction.

As you are pleased to let me know that Several Persons in your Government had formerly taken up Lands, on the Waters of the Ohio, by Patent under the Crown, I beg leave to observe that Whenever you shall think proper to permit those Persons Either to Survey or take Possession of the said Lands it will be necessary that the Commander in Chief be informed of it; that I may receive his Orders thereupon, and I beg you will be persuaded that as soon as it shall be Consistent with my orders to permit Settlements to be made in this Department: I shall take a particular Pleasure in giving the Persons Concerned all the Protection and assistance in my power.

[28 Feby., 1762.]

I have the honour to be

Your most obedient

And Most Humble Servant,

H.B.

No. 7.—GENERAL AMHERST TO BOUQUET.

(ARCHIVES, SERIES A, VOL.4, p. 105.)

New York, 28th February, 1762.

SIR,—I have lately received a letter from the Lieut. Governor of Virginia, enclosing a copy of a Proclamation issued by you, with a copy of his Letter to you on that occasion, whereby it appears that the said Proclamation has given some uneasiness to that Colony.

I must own, there appears nothing to me, but what seems
Calculated for

Page	1	2
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[12 March, 1762.]

the protection of those who may have a Just Title to the Lands and to prevent others from settling thereon, and I have accordingly acquainted Lt. Governor Fauquier that this was my opinion of your Intentions from the Words of the Proclamation, and that I did not Doubt but your answer to him would be fully satisfactory, which, I flatter myself will be the case, as I would avoid doing anything that can give the Colonies the least room to complain of the Military power.

I am, Sir,
Your most obedient Servant,
JEFF. AMHERST.

No. 8.—GOVERNOR FAUQUIER TO BOUQUET.

(ARCHIVES, SERIES A, VOL.18-1, p. 75.)

Wms Burgh, March 12th,
1762.

SIR,—I have the pleasure to Advise you that I Communicated your favour of the Inst. to his Majesty's Council who are in Every respect satisfied therewith, and have desired me to make their Sentiments known to you, which Task I undertake with great Satisfaction as they so Entirely Correspond with my own.

You may be assured that I shall give a Certificate in Writing to any one who has a Right by patent to any Lands under Consideration and shall not fail to inform you and his Majesty's Commander in Chief of my having done so.

The Persons who can make any Right appear, will be found I apprehend to claim Lands a great deal to the Southward of Fort Pitt, it having never been ascertained whether the Lands about that Fort are in this Colony or in Pennsylvania. Tho' I imagine the Instructions all the Governors on the Continent received by the last Packett will adjust all these Affairs by the absolute Prohibition of all future Settlements on Lands not regularly ceded to the King's Subjects by the Indians, which is to be by Treaty and not by private Purchasers.

[1 April, 1762.]

I am, with great Regard,
Sir, your most obed^t hum: Servant,
FRAN: FAUQUIER.

No. 9.—BOUQUET TO GENERAL AMHERST.

(ARCHIVES, SERIES A, VOL.4, p.120.)

Fort Pitt, 1st April, 1762.

SIR,—This day, two hours after Col. Eyre had left this place, I received your Excellency's letters of the 28th February

and 2nd of March, Convinced by my own experience in this
inconsiderable Part of your extensive Com-

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mand, of the multiplicity of affairs that must devolve upon you from the whole, I have avoided troubling you with a minute account of all the trifling events that occur daily here, in which number I must class Mr. Fauquier's letter to me, as I thought it intirely groundless, and expected that my answer would have been fully satisfactory to him.

As I know of no legal Title People can have to settle Indian Lands, but what must be delivered from the powers given by the Crown to the Commander-in-chief, or the Governors of Provinces, I imagined to have obviated all cavils by the exceptions I had made. Neither could I think that the Lieut.

Governor of Virginia after desiring me to explain my Intentions in issuing that order, should complain to you, before he had received that explanation. For certainly his letter to me in that case was an unnecessary trouble to himself and his express a useless expence to the Publick. I take the liberty to inclose a copy of the answer I made him at that time.

I never had any design to obstruct any man's Just Rights, or give uneasiness to any body, and much less to a respectable Colony.

After having found every other method insufficient, I thought the fear of Punishment would deter the Outlaws, who were the only Persons I had in view from their vile practices, but tho' some are since fallen into my hands, they have suffered no other molestation than to be expelled from their Improvements, and have their Hutts burnt, and they seem at last disgusted from making new attempts as they know, that tho' I overlook many things, I never do forgive a breach of orders in this departmt.

I had yet another reason to make my Intentions publickly known at that time, and which I thought best not to Communicate to Mr. Fauquier. I had been repeatedly informed that one Col. Cresap, who is concerned in one of the Ohio Companies (the favourite scheme of Virginia) was proposing by way of subscription to several familys to remove from the frontiers of that Colony and Mariland to form settlements on the Ohio. I foresaw that these poor people would be ruined by that bubble, and I was the more induced to credit that Report from an offer made me by that same Gentleman of a share, or 25,000 acres of these Lands, which did not tempt me.

In preventing in the district intrusted to me a scandalous breach of a recent Treaty, by the measure complained of, I cannot at least be charged with interested views or having exerted the little power vested in me, to the oppression of the subject or the Indian.

As an officer serving without prospect of a higher Rank in the Army, There is no object of ambition for me in this Country; and as a man I must have convinced every Individual who has been concerned in this department, of my disinterestedness in never receiving the most trifling

acknowledgment from any man in it.

No Trader or Sutler ever paid me a shilling for their Licences, nor other people for the Plantations I was authorized by Gen. Monckton to grant along the Communication and at Red Stone Creek for the support of this Post, and I have constantly observed the same Rule with the Indians in accepting no Presents from them.

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Divested of all motives of ambition, and without private views of Interest, I flattered myself to be free of any imputation of Partiality or Injustice, and having heard of no complaint from either of the two other Provinces, I must ascribe this Proceeding to the misfortune I had in the Campaign of 1758, to be obliged to differ in opinion with some persons of Virginia about Roads and Provisions, and I am afraid I remain still obnoxious to them, which can only increase my desire of being removed from this command, if it was consistent with your Pleasure.

The obliging manner in which you are pleased to mention that affair to me, and so very different from Mr. Fauquier's behaviour, required with my most grateful acknowledgments that I should clear myself of an odious Imputation, the effect of a groundless Jealousy and the greediness of ingrossing those Lands, and tho' from the distance of my station, I may be obliged to act sometimes without orders to the best of my Judgment, It shall be my Constant endeavour not to incur your disapprobation, or disoblige any of the Provinces.

* * * *

I have the honour to be &c.

HENRY BOUQUET.

No. 10.—GENERAL AMHERST TO BOUQUET.

(ARCHIVES, SERIES A, VOL.4, p.131.)

[EXTRACT.]—Soon after my letter to you relative to the Proclamation you had Issued, which had given offence to the Virginians, I had one from Lt. Gov^r Fauquier, wherein he says: “Colonel Bouquet has wrote a very Sensible, Polite and Satisfactory answer, with which His Majesty's Council seemed very well pleased, and Desired that I would express their sentiments to him.” This I make no doubt but the Lt. Governor has done and therefore I need say nothing more on the subject, as I was convinced your Intentions in publishing that Proclamation was solely for the protection and security of those who had a Just Right to the Lands, and I am very glad to find it appears in its true Light to the Lieut. Governor and Council.

I needed no assurance to be satisfied of your acting with Disinterestedness in the Department where you Command. And I cannot but approve of your never permitting any Trader

or Sutler to pay for Licences. This is what I have always prevented.

* * * *

I am, Sir,

Your most obedient Servant

JEFF. AMHERST.

[23 Nov., 1761.]

No. 1220.
**ORDER IN COUNCIL ON A REPORT OF THE LORDS
OF TRADE.***

PLANTATIONS GENERAL PAPERS, XVII. (Q.) No. 21.

At the Court at St. James's the 23^d day of November 1761.

Present—The King's Most Excellent Majesty in Council.

Upon reading this day at the Board a Report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs, dated the 21st of this Instant in the words following, viz^t

“Your Majesty, having been pleased to refer unto this Committee a Representation from the Lords Commissioners for Trade and Plantations dated the 11th of this Instant, Setting forth “That they have had under their consideration several letters and papers which they have received from Cadwallader Colden Esq^r Lieutenant Governor and late Commander in Chief of Your Majesty's Province of New York in America, and as those letters and papers have reference to certain measures of Government there which have either been acted upon, or become the subject matter of discussion, and which appear materially to affect Your Majesty's Service and the Interest and welfare not only of that province but of all other your Majesty's Colonies and Plantations in America they thought it their indispensable duty to lay the same before Your Majesty with such observations as have occurred to them thereupon. That the material Points to which those papers refer and to which the said Lords Commissioners confine these Observations are 1st The Measures which the Lieutenant Governor and Council have entered upon for granting Lands and making Settlements upon the Mohawk River, and in the Country adjacent to Lake George.

“ “2^{ndly} The Proposition made to the Lieutenant Governor by the Council to grant Commissions to the Judges during good behaviour, the limitation of which Commissions is, by Your Majesty's Instructions to all Your Governors in America to be during pleasure only.

“ “That the Said Lords Commissioners shall not upon this occasion

*Reproduced from documents relative to the Colonial History of the State of New York, edited by E. B. O'Callaghan, M.D., LL.D. (Albany 1856). Vol. VII., pp. 472-476.

“ “take upon them to controvert the general principles of Policy upon which either one or other of these general propositions is founded, but however expedient and constitutional they may appear in the abstract view and consideration of them, Yet they apprehend that when they come to be applied to the present State of Your Majesty's Colonies they will appear in a very different light and be found, the one to be dangerous to their Security and the other destructive to the Interests of the people, and subversive of that policy by which alone Colonies can be kept in a just dependance upon the Government of the Mother Country.

“ “That this is the General Light in which they see these, measures, but as they are in their nature separate and distinct, so they will as the said Lords Commissioners apprehend require a separate and distinct consideration and therefore they humbly offer to Your Majesty what has occurred to them upon each in the order in which they have placed them That it is as unnecessary as it would be tedious to enter into a Detail of all the Causes of Complaint which, our Indian Allies had against us at the commencement of the troubles in America, and which not only induced them thô reluctantly to take up the Hatchet against us and desolate the Settlement on the Frontiers but encouraged our enemies to pursue those Measures which have involved us in a dangerous and critical war, it will be sufficient for the present purpose to observe that the primary cause of that discontent which produced these fatal Effects was the Cruelty and Injustice with which they had been treated with respect to their hunting grounds, in open violation of those solemn compacts by which they had yielded to us the Dominion, but not the property of those Lands, It was happy for us that we were early awakened to a proper sense of the Injustice and bad Policy of such a Conduct towards the Indians, and no sooner were those measures pursued which indicated a Disposition to do them all possible justice upon this head of Complaint than those hostilities which had produced such horrid scenes of devastation ceased, and the Six Nations and their Dependants became at once from the most inveterate Enemies our fast and faithfull Friends.

“ “That their steady and intrepid Conduct upon the Expedition under General Amherst for the Reduction of Canada is a striking example of this truth, and they now, trusting to our good Faith, impatiently wait for that event which by putting an End to the War shall not only ascertain the British Empire in America but enable Your Majesty to renew those Compacts by which their property in their Lands shall be ascertained and such a system of Reformation introduced with respect to our Interests and Commerce with them as shall at the same time that it redresses their Complaints and establishes their Rights give equal Security and Stability to the rights and Interests of all your Majesty's American Subjects.

“ “That under these circumstances and in this scituation the granting Lands hitherto unsettled and establishing Colonies upon the Frontiers

“ “before the claims of the Indians are ascertained appears to be a measure of the most dangerous tendency, and is more particularly so in the present case, as these settlements now proposed to be made, especially those upon the Mohawk River are in that part of the Country of the Possession of which the Indians are the most jealous having at different times expressed in the strongest terms their Resolution to oppose all settlements thereon as a manifest violation of their Rights.

“ “That the principles of Policy which the said Lords Commiss^{rs} have laid down are they apprehend in their nature so clear and uncontrovertible that it is almost unnecessary to add anything further to induce Your Majesty to give immediate Orders for putting a stop to all Settlements upon the Mohawk River and about Lake George until the Event of the War is determined and such Measures taken thereupon, with respect to our Indian Allies as shall be thought expedient, and yet it may be proper to observe that independant of what regards our Connection with the Indians the conduct of those who have in former times been intrusted with the Administration of the Government of New York has in reference to granting of Lands in general been very exceptionable and has held forth a very bad example to their Successors.

“ “That the exorbitant Grants of Lands which Governors and others have heretofore made, greatly to the benefit of themselves, but very much to the prejudice of the Interests of the Crown, and of the people in general have long been the subject of great Complaint, and the said Lords Commissioners cannot but think that the Lieutenant Governor and Council would have shewn a greater regard to Your Majesty's Interest and the welfare of the province in general, by a pursuit of such measures as might have operated to correct those abuses, and remedy the Evils arising from so improper a Conduct in their proceedings in Government, than by entering upon Measures for making fresh grants and settlements which they have great reason to apprehend from Information which may be depended upon are more for the benefit of themselves and their Families than for the subject in general and therefore they submit to Your Majesty whether this may not be an additional reason why speedy and positive orders should be given for putting a stop to Measures which appear in every light so destructive of Your Majestys Interests and the general welfare and security of the Colony.

“ “That with respect to the other point relative to the granting the Judges Commissions during good Behaviour it will be less necessary to detain Your Majesty long upon this Question, as it has been already so solemnly determined in the case of a Law some time since passed in Jamaica, and one lately in the Proprietary Government of Pensilvania for establishing such a constitution.

“ “That the principles laid down in the Attorney and Sollicitor Generals Report upon the Jamaica Law, and in that of the said Lords Commiss^{rs} Predecessors in Office upon the

Act passed in Pensilvania are so clear and explicit that it is almost unnecessary to add any thing, thereto, But

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“ “as the People of New York appear from the Lieutenant Governor's letters to be so strenuous upon this point, alledging the preecedent and example of the Mother Country, The said Lords Commiss^{rs} observe that the cases are in no degree similar.

“ “That the Change which the tenure of the Judges Commissions underwent at the Revolution in this Kingdom was founded upon the most conclusive and repeated Proofs of arbitrary and illegal Interposition, under the Influence of the Crown, upon points of the greatest importance to the constitution, and the liberty and rights of the subject ; It was not however by the tenure of their Commissions alone that they were rendered independant, but such Salaries were settled upon them as not only rendered them less liable to be corrupted, but was an Encouragement for the ablest men to engage in that Profession which qualified them for such high Trusts.

“ “That the same circumstance does in no degree exist in the American Colonies where as there is no certain established allowance that may encourage men of learning and ability to undertake such offices, Your Majesty's Governors are frequently obliged to appoint such as offer from amongst the inhabitants however unqualified to sustain the character, and thô a more fit person should afterwards be found, yet if the Commission was during good behaviour such unqualified Person could not be displaced.

“ “That late years have produced but too many examples of Governors having been obliged for want of such an Establishment as might induce able persons to offer their service, to confer the Office on those who have accepted it merely with a view to make it subservient to their own private Interests, and who, added to their ignorance, of the Law, have too frequently become the Partizans of a factious Assembly upon whom they have been dependant for their support, and who have withheld or enlarged that support according as the conduct of the Judges was more or less favourable to their Interests.

“ “That it is difficult to conceive a State of Government more dangerous to the Rights and Liberties of the Subject, but aggravated as the Evil would be by making the Judges Commissions during good Behaviour without rendering them at the same time independant of the factious will and Caprice of an Assembly, The said Lords Commissioners cannot but consider the proposition as subversive of all true policy, destructive of the interests of Your Majesty's Subjects, and tending to lessen that just Dependance which the Colonies ought to have upon the Government of the mother Country.

“ “That this was in a great Degree the Opinion of the Lieut. Governor himself, as will evidently appear from a Letter to the said Lords Commissioners of the 2^d of June last, in

which he acquainted them with his having rejected a Bill passed by the Assembly for this purpose, and urges as a Reason that there was no fixed Salary to the Judges, that It was dependant from year to year on the pleasure of the Assembly and that

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“ “whilst they were thus dependant upon the people for their subsistence such a measure might be highly prejudicial to the just Rights of the Crown, and the Acts of Trade. That these were then the sentiments of the Lieu^t Governor and though the said Lords Commissioners are at a loss to guess at the motive which could have induced him to declare, as he does, in his letter to them of the 12th of August following, That he apprehended he should be under a necessity of giving way to the Proposition, Yet they cannot but be of Opinion that if under these circumstances he should have complied with so pernicious a Proposition, he would justly have deserved your Majesty's Royal Displeasure.” ”

“The Lords of the Committee this day took the said Representation into their consideration, and agreeing in opinion with the said Lords Commissioners for Trade and Plantations do humbly report to Your Majesty that they conceive it advisable that Your Majesty's Pleasure should be made known upon the first point of Granting Lands, as well in the Colony of New York as in all other Your Majesty's Colonies on the Continent of America, where such grants interfere with the Indians bordering on those Colonies. And that Your Majesty's pleasure should be made known upon the last point which relates to the appointment of Judges, not only in the Colony of New York but in all other Your Majesty's Islands and Colonies in America: And therefore that Your Majesty may be graciously pleased to order the said Lords Commissioners to prepare Draughts of Instructions proper to be sent hereupon to the Governors or Commanders in Chief of all Your Majesty's Islands and Colonies in America accordingly, to the end that due obedience be given thereto and the matters complained of so detrimental to the public service, prevented for the future.”

His Majesty taking the said Report into consideration was pleased by the advice of his Privy Council to approve of what is therein proposed and accordingly to order, as it is hereby ordered, that the Lords Commiss^{rs} for Trade and Plantations do prepare Draughts of Instructions proper to be sent with respect to the first point of granting Lands, as well to the Governor or Commander in Chief of the Colony of New York, as to the Governors or Commanders in Chief of all other His Majesty's Colonies on the Continent of America where such grants interfere with the Indians bordering on those Colonies And that they do also prepare like Draughts of Instructions upon the last point which relates to the Appointment of Judges, to the respective Governors and Commanders in Chief of all other His Majesty's Islands and Colonies in America, to the end that due obedience be given thereto, and the matters complained of,

so detrimental to the public service, prevented for the future.
And that such Draughts of Instructions be laid before His
Majesty at this Board for his Royal Approbation.

T. SENFFANE.

No. 1221.

[2 Dec., 1761.]

LORDS OF TRADE TO THE KING.*

[PLANTATIONS GENERAL ENTRIES, XLV., p. 162.]

To the Kings most Excellent Majesty.

May it please your Majesty

In obedience to your Majesty's Order in Council the 23 of last month We have prepared the Draughts of an Instruction for the Governors of such of your Majesty's Colonies upon the Continent of North America as are under your Majesty's immediate Government and where the property of the Soil is in your Majesty, forbidding them to pass Grants of or encourage settlements upon any lands within the said Colonies which may interfere with the Indians bordering thereon.

We have also in obedience to the said Order prepared the Draught of an Instruction for the Governors of your Majesty's American Islands, and for the Governors of those Colonies on the Continent of America, which are under your Majesty's immediate Government containing directions with respect to the tenure of the Commissions to be by them Granted to the Chief Judges and Justices of the Courts of Judicature of the said Colonies both which Draughts, We humbly beg leave to lay before your Majesty for your Royal approbation

Which is most humbly submitted

SANDYS
ED: BACON
GEORGE RICE
SOAME JENYNS

Whitehall

Dec.: 2, 1761.

*Reproduced from Documents relative to the Colonial History of the State of New York, edited by E. B. O'Callaghan, M.D., LL.D. (Albany, 1856). Vol. VII., pp. 477-478.

No. 1222.

**ORDER OF THE KING IN COUNCIL OF THE 3rd
DECEMBER, 1761.**

[3 Dec., 1761.]

Plantations.

Draught of instruction
to the Governor about
granting Lands and
Judge Commission
appointed.

P.C. 2, Vol. 105, p. 604

At the Court of Saint James' the 3rd Day of December 1761.

PRESENT:

The King's Most Excellent Majesty.

Earl of Cholmondely.

Lord Grantham.

Earl of Egremont.

Robert Nugent, Esq.

Lord Berkely of Stratton.

Wellbore Ellis, Esq.

Lord Melcombe.

Upon reading at the Board a Report from the Lords Commissioners for Trade and Plantation Dated the 2nd of this Instant, together with two Draughts of Instructions prepared by them; The one for the Governor of such of His Majesty's Colonys upon the continent of North America as are under His Majesty's immediate Government and where the property of the soil is in His Majesty forbidding them to pass grant of or Encourage Settlements upon any Lands within the said Colonies which may interfere with the Indians bordering thereon; the other for the Governors of His Majesty's American Islands and for the Governors of those Colonies on the Continent of America which are under His Majesty's immediate Government containing direction with respect to the tenure of the Commissions to be by them granted to the Chief Judges and Justices of the Courts of Judicature in the said Colonies.—His Majesty this day took the said draught of Instructions into consideration and was pleased with the advice of His Privy Council to approve thereof and to Order as it is hereby Ordered, That the Right Honourable the Earl of Egremont One of His Majesty's Principal Secretarys of State do cause instructions to be prepared agreeable to the said Draughts (which are hereunto annexed) for the Governors or Commanders-in-Chief of His Majesty's Colonies on the Continent of North America and also for the Governors or Commanders-in-Chief of His Majesty's American Islands and of those Colonies on the Continent of America which are under His Majesty's immediate Government and lay the same before His Majesty for the Royal Signature.

Privy Council
Documents

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[8 Sept., 1760.]

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EXTRACTS FROM ARTICLES OF CAPITULATION
OF MONTREAL.

(Vide Part XVII, Page 2752.)

[9 Dec., 1761.]
GEORGE R.

No. 1224.

**ADDITIONAL INSTRUCTION FOR THE GOVERNORS
OF NOVA SCOTIA, NEW HAMPSHIRE, NEW YORK,
VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA,
AND GEORGIA,**FORBIDDING THEM TO GRANT LANDS OR MAKE SETTLEMENTS IN
VIOLATION OF INDIAN RIGHTS.

PUBLIC RECORDS OFFICE, C.O. 324/40.

Additional Instruction for Our Trusty & Wellbeloved Sir Jeffery Amherst, Knight of the Bath, Our Captain General and Governor in Chief of Our Colony and Dominion of Virginia in North America ; And in his absence, to Our Lieutenant Governor, or Commander in Chief of the said Colony & Dominion for the Time being. Given at Our Court of S^t. James's the Ninth day of December 1761, In the Second Year of our Reign.

Whereas the Peace and Security of our Colonies and Plantations upon the Continent of North America, does greatly depend upon the Amity and Alliance of the several Nations, or Tribes of Indians bordering upon the said Colonies, and upon a just and faithful Observance of those Treaties and Compacts, which have been heretofore solemnly entered into with the said Indians, by Our Royal Predecessors, Kings, and Queens of this Realm ; And whereas notwithstanding the repeated Instructions, which have been, from Time to Time, given by Our late Royal Grand Father to the Governors of Our several Colonies on this Head, the said Indians have made and do still continue to make great Complaints, that Settlements have been made and possession taken of Lands, the property of which they have by Treaties reserved to themselves, by Persons claiming the said Lands, under Pretence of Deeds of Sale and Conveyance illegally, fraudulently and surreptitiously obtained of the said Indians; And whereas it has likewise been represented into Us, that some of Our Governors, or other Chief Officers of Our said Colonies, regardless of the Duty they owe to Us, and of the Welfare and Security of Our Colonies, have countenanced such unjust Claims and Pretensions by passing grants of y^e Lands so pretended to have been purchased of the Indians. We therefore taking this matter into Our Royal Consideration as also the fatal effects, which would attend a Discontent amongst the Indians in the present situation of Affairs and being determined upon all Occasions,

to support and protect the said Indians in their just Rights and Possessions, and to keep inviolable the Treaties and Compacts, which have been entered into with them, do hereby strictly enjoin and command

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that neither Yourself, nor any Lieutenant Governor or Commander in chief of Our said Colony and Dominion of Virginia in North America, do, upon any Pretence whatsoever, upon pain of Our highest Displeasure, and of being forth-with removed from Your, or his Office, pass any Grant or Grants, to any Persons whatever of any Lands within, or adjacent to the Territories possessed or occupied by the said Indians, or the Property, or Possession of which has, at any time been reserved to or claimed by them ; And it is Our farther Will and Pleasure, that You do publish a Proclamation, in Our Name, strictly enjoining and requiring all Persons whatever, who may either willfully or inadvertently have seated themselves upon any Lands so reserved to, or claimed by the said Indians, without any lawful authority for so doing, forthwith to remove therefrom ; And in case you shall find upon strict Enquiry to be made for that purpose, that any Person, or Persons do claim to hold or possess any Lands within Our said Colony and Dominion, upon Pretence of Purchases made of the said Indians, without a proper Licence first had and obtained, either from Us, or any of Our Royal Predecessors, or any Persons acting under Our, or their authority, You are forthwith to cause a Prosecution to be carried on against such Person, or Persons, who shall have made such fraudulent Purchases, to the end that the Land may be recovered by a due Course of Law. And whereas the wholesome Laws, which have at different Times been passed in several of our said Colonies, and the Instructions which have been given by Our Royal Predecessors, for restraining Persons from purchasing Lands of Indians without a Licence for that purpose, and for regulating the Proceedings upon such Purchases have not been duly observed: It is therefore Our express Will and Pleasure, that when any application shall be made to You for Licence to purchase Lands of the Indians, You do forbear to grant such Licence until You shall have first transmitted to Us, by our Commissioners for Trade and Plantations, the particulars of such application, as well in respect to the situation, as the Extent of the Lands, so proposed to be purchased, and shall have received Our farther Pleasure therein ; And it is Our farther Will and Pleasure, that You do forthwith cause these Our Instructions to You to be made publick, not only within all Parts of Our said Colony and Dominion inhabited by Our Subjects, but also amongst the several Tribes of Indians living within the same, to the end that Our Royal Will & Pleasure in the Premises may be known, and that the Indians may be apprized of Our determined Resolution to support them in their just Rights, and inviolably to observe Our Engagements with them.

NOVA SCOTIA.

Nº. CAROLINA.

NEW HAMPSHIRE.

A like Instruction for Henry Ellis, Esq^r, His Majesty's Captain General and Governor in Chief in & over His Majesty's Province of Nova Scotia, or Arcadia, in N^o America ; & in his absence, to the Commander in Chief, or to the President of the Council of His Ma^{ty}'s said Province for the Time being dated as above.

p. 3105

NEW YORK.

A like Instruction for Arthur Dobbs, Esq^r, His Majesty's Captain General & Governor in Chief in & over His Majesty's Province of North Carolina, in N^o America, & in his absence &c^a as Gov^r Ellis's dated 9th Dec 1761.

S^o. CAROLINA.

A like Instruction for Benning Wentworth, Esq^r, His Majesty's Captain General & Governor in Chief, in & over His Majesty's Province of New Hampshire, in N^o America, & in his absence &c. as in Fol. 6 dated as above.

GEORGIA

A like Instruction for Robert Monckton, Esq^r, His Majesty's Captain General and Gov^r in Chief of His Majesty's Province of New York, & the Territories depending thereon, in N^o America, and in his absence &c. as in Fol. 6. dated as above.

A like Instruction for Thomas Boone Esq^r, His Majesty's Captain General and Gov^r in Chief, in & over His Majesty's Province of South Carolina, in N^o America ; & in his absence &c. as Fol. 127 dated as above.

A like Instruction for James Wright, Esq^r, His Majesty's Captain General, & Governor in Chief, in & over His Majesty's Province of Georgia, in N^o America ; and, in his absence &c. as Fol. 122 dated as above.

No. 1225.

[8 April, 1762.]

1762. April 8th. Letter to Francis Fauquier, Esq. Lieut.-Gov^r. of Virginia in answer to one from him of the 30th of Nov^r. last respecting the lands of the Indians.

LORDS OF TRADE TO THE LIEUTENANT-GOVERNOR OF VIRGINIA, 8 APRIL, 1762.

PUBLIC RECORDS OFFICE, C.O. 5/1368.

VIRGINIA.

To Francis Fauquier Esq^r, Lieu^t Governor of Virginia.
Sir,

We have had under our consideration your letter to us of the 30th Novem^{er} last and the papers transmitted with it, and as We do entirely agree with the late Commissioners for Trade and Plantations in the opinion expressed in their Letter to you of the 17th of Febry 1761, that whatever may tend to alarm the jealousy of the Indians and awaken in their minds a suspicion of any intention on our part to encroach upon their property cannot fail of having the most fatal consequences, We do therefore think that for the present and untill our Indian Interests are settled upon a more firm & lasting basis, all attempts to make new Settlements upon the Lands to the west of the great mountains ought to be discouraged.

The concessions made by a few Indians at Lancaster in 1744, and at Logs Town in 1752, are so vague and void of precision, as well with respect to the Lands ceded as to the Terms and conditions of the Cession, that no reasonable Claim can in our opinion be founded upon them, and the Transactions at Easton, as well as what has passed since between the Indians and His Majesty's Generals and Governors, bear with them such strong pledges on the part of the Crown and of those who hold or act under it's authority that no Settlements whatever except what shall be absolutely necessary for securing the Dominion of the Country shall be made in that part of it beyond the Allighany hills, as not to leave the least room to doubt of the Impropiety of any further Grants of Lands in that part of the Country for the present.

The same reasons do in great measure oppose themselves to the running any boundary Line between Pennsylvania and Virginia, & the proprietor of Pennsylvania by whom we have been attended upon this occasion, seeing this matter in the same light and agreeing with Us in opinion, has declared, that he has not the least Intention for the present to continue his South Line beyond the limits of Lord Baltimore's grant, and that he will at no time proceed upon it, without giving previous timely notice thereof, and

therefore we shall for the present suspend all Consideration of the Proposition contain'd in your letter, that Commissioners should be named on the part of the Crown, to be join'd with those appointed, for running the boundary line between Maryland and Pennsylvania.

We have received your letter of the 24th of Febry last and the papers transmitted with it by His Majesty's Ship Diana and as soon as our Counsel shall have examined the Acts of the two last Sessions, we shall take them into our Consideration. We are

Sir,

Your most obedient,
humble Servants
SANDYS.
E^D. ELIOT.
E^D. BACON.
John Roberts.
Ex^d.

[7 Oct., 1763.]

Whitehall,
April 8th 1762.

C

No. 1226.

ROYAL PROCLAMATION OF OCTOBER 7, 1763.

(CLAUSES RE RESERVATION OF INDIAN LANDS.)

(Vide Vol. 1, Page 156.)

No. 1227.

[27 Aug., 1765.]

**REPRESENTATION OF THE LORDS OF TRADE TO
THE KING, 27th AUGUST, 1765.**

PUBLIC RECORDS OFFICE, C.O. 5, Vol. 1365.

VIRGINIA.

To the King's most Excellent Majesty.
May it please Your Majesty.

Having lately received several letters and papers from Francis Fauquier, Esqr., Lieutenant Governor of Your Majesty's Colony of Virginia, dated in May and June last, containing Matters of the highest Importance, and intimately affecting the dignity and Authority of Your Majesty's Government, the due Execution of the Laws and the Peace and Security of Your Majesty's Subjects in those Parts, We hold it our indispensable Duty to lose no Time in laying them before Your Majesty.

That we may state to Your Majesty the Particulars of these Dispatches with the greater perspicuity, we beg leave to rank them under three several Heads.

The first Article relates to the unwarrantable Proceedings of several of Your Majesty's subjects, who from Pensylvania and the Back Settlements of Virginia, have migrated to the Westward of the Allegheny Mountains, and there have seated themselves on Lands contiguous to the River Ohio in express disobedience to Your Majesty's Royal Proclamation of the 7th October, 1763.

As nothing in our Opinion can more effectually conduce to the Peace and Security of that part of Your Majesty's Dominions, and the continuance of that quiet and tranquility on the Frontiers, which the Treatys and Alliances lately concluded and entered into, with the Indians had so happily produc'd, than the Strict and due Observance of this Your Majesty's Royal Proclamation, whereby the Indians are secured and confirmed in their possession of the Lands, which these settlers usurped, We humbly submit to Your Majesty, whether it will not be advisable by an Express Order for the immediate evacuation of those Settlements to enjoin a more strict obedience to Your Majesty's commands signified in the former Proclamation and to provide against any future violation of it.

* * * *

All of which is most humbly submitted.

DARTMOUTH
SOAME JENYNS.
J. DYSON.

JOHN ROBERTS.
WM. FITZHERBERT

Whitehall, Aug. 27th, 1765.

1763. Nov^r. 3^d.
Instructions for
George
Johnstone,
Esq^r. Governor of
West Florida.

No. 1228.**EXTRACT FROM INSTRUCTION TO GOVERNOR OF
WEST FLORIDA, 3rd NOVEMBER, 1763.***

PUBLIC RECORDS OFFICE, C.O. 5/599.

WEST FLORIDA

Instructions to Our Trusty and Welbeloved George Johnston Esq^r Our Captain General and Governor in Chief in and over Our Province of West Florida in America, and of all other Our Territories dependent thereupon. Given at our Court.

58. And Whereas our Province of West Florida is in part inhabited and possessed by several Nations and Tribes of Indians, with whom it is both Necessary and Expedient to cultivate and maintain a Strict Friendship and good Correspondence, so that they may be induced by degrees not only to be good Neighbours to our Subjects, but likewise themselves to become good Subjects to us, you are therefore, as soon as you conveniently can, after your Arrival to appoint a proper person or persons to assemble and treat with the said Indians, Promising and assuring them of Protection and Friend-ship on our part, and delivering them such presents as you shall carry out with you, or shall be sent to you for that Purpose.

59. And you are to inform yourself with the greatest Exactness of the Number, Nature and Disposition of the several Bodys or Tribes of Indians, of the manner of their Lives, and the Rules and Constitutions by which they are governed or regulated; and you are upon no Account to molest or disturb them in the possession of such Parts of the said Province as they at present occupy or possess; but to use the best means you can for conciliating their affections, and uniting them to our Government, reporting to us, by our Commissioners for Trade and Plantations, whatever information you can collect with respect to these people, and the whole of your proceedings with them.

60. Whereas We have, by Our Proclamation dated the 7th day of October in the third Year of Our Reign, strictly forbid, on pain of Our Displeasure, all Our Subjects from making any Purchases or Settlements

* Similar Instructions are contained in the Instructions which were given to the

whatever, or taking possession of any of the Lands reserved to the several Nations of Indians, with whom We are connected, and who live under Our Protection, without Our especial Leave for that purpose first obtained; It is Our express Will and Pleasure, that you take the most effectual Care, that Our Royal Directions herein be punctually complied with, and that the Trade with such of the said Indians as depend upon your Government be carried on in the manner and under the Regulations prescribed in Our said Proclamation.

61. You are to use your best Endeavours in improving the Trade of those Parts by settling such Orders and Regulations therein, with the Advice of our said Council, as may be most acceptable to the Generality of the Inhabitants. And it is Our express Will and Pleasure, that you do not, upon any pretence whatever, upon pain of Our highest Displeasure, give your Assent to any Law or Laws for setting up any Manufactures, and carrying on any Trades, which are hurtfull and prejudicial to this Kingdom; and that you do use your utmost endeavours to discourage, discountenance and restrain any attempts, which may be made to sett up such Manufactures, or establish any such Trades.

No. 1229.**EXTRACT FROM INSTRUCTIONS TO LIEUTENANT-
GOVERNOR OF THE PROVINCE OF PENNSYLVANIA,
1765.**

PUBLIC RECORDS OFFICE, C.O. 5, Vol. 1295, p. 118.

PENNSYLVANIA.

Instructions to Our Trusty and Well beloved John Penn Esq
Lieut. Governor of Our Province of Pennsylvania in
America Given at Our Court at St. James the day of 1765
in the year of Our Reign.

Whereas it shall be represented unto Us that several persons from Pennsylvania and the Back Settlements of Virginia have migrated to the Westward of the Alleghenny Mountains, and there have seated themselves on Lands contiguous to the Ohio in express Disobedience to Our Royal Proclamation of the Seventh of October 1763 ; It is therefrom Our Will and Pleasure, and you are hereby strictly enjoined and required to use your best Endeavours to supress such unwarrantable Proceedings and to put a stop to those and all other the like Encroachments for the Future, by causing all persons belonging to the Province under Your Government who have there irregularly seated themselves on Lands to the Westward of the Alleghenny Mountains immediately to evacuate those Settlements and that you do enforce as far as you are able, a more strict Obedience to Our Commands signified in Our said Royal Proclamation, and provide against any future violation thereof.

[24 Dec., 1765.]

No. 1230.
EXTRACT FROM INSTRUCTIONS TO GOVERNOR
OF NORTH CAROLINA, 24th DECEMBER, 1765.

PUBLIC RECORDS OFFICE, C.O. 5/325.

NORTH CAROLINA

Instructions to Our Trusty and Wellbeloved William Tryon Esquire, Our Captain General and Governor in Chief in and over Our Province of North Carolina in America. Given at Our Court at St. James's the Day of in the Year of Our Reign.

* * * *

108. You are from time to time to give an Account as before directed, what strength your Neighbours have (be they Indians or others) by Sea and Land, and of the Condition of their Plantations, and what correspondence you do keep with them.

109. Whereas the Peace and Security of Our Colonies and Plantations upon the Continent of North America does greatly depend upon the Amity & Alliance of the several Nations or Tribes of Indians bordering upon the said Colonies, and upon a just & faithfull Observance of those Treaties and Compacts, which have been heretofore solemnly entered into with the Indians by Our Royal Predecessors Kings & Queens of this Realm; And Whereas, notwithstanding the repeated Instructions which have been from time to time given by Our Royal Grandfather to the Governors of Our several Colonies upon this head, the said Indians have made, & do still continue to make great complaints that Settlements have been made, and Possession taken of Lands, the property of which they have by Treaties reserved to themselves by persons claiming the said Lands under pretence of Deeds of Sale and Conveyance illegally, fraudulently, and surreptitiously obtained of the said Indians; And whereas it has likewise been represented unto Us, that some of Our Governors or other Chief Officers of Our said Colonies, regardless of the Duty they owe to Us, and of the Welfare and Security of Our Colonies, have countenanced such unjust Claims and Pretentions, by passing Grants of the Lands so pretended to have been purchased of the Indians; We therefore taking this Matter into our Royal Consideration as also the fatal Effects, which would attend a Discontent amongst the Indians

in the present situation of affairs, and being determined upon all Occasions to support and protect the said Indians in their just Rights & Possessions and to keep inviolable the Treaties and Compacts which have been entered into with them, do hereby strictly enjoin & command, that neither yourself nor any Lieutenant Governor, President of the Council, or Commander in Chief of Our said Province of North Carolina do upon any pretence whatsoever, upon pain of Our highest Displeasure and of being forthwith removed from your or his Office, pass any Grant or Grants to any persons whatever of any Lands within or adjacent to the Territories possessed or occupied by the said Indians, or the Property or Possession of which has at any time been reserved to or claimed by them. And it is Our further Will and Pleasure that you do publish a Proclamation in Our Name strictly enjoining & requiring all persons whatever who may either willfully or inadvertently have seated themselves upon any Lands so reserved to or claimed by the said Indians without any lawfull Authority for so doing, forthwith to remove therefrom. And in case you shall find, upon strict Enquiry to be made for that purpose, that any person or persons do claim to hold or possess any Lands within Our said Province, upon pretence of Purchases made of the said Indians without a proper Licence first had & obtained either from Us, or any of Our Royal Predecessors, or any person acting under Our or Their Authority, you are forthwith to cause a Prosecution to be carried on against such person or persons who shall have made such fraudulent Purchases, to the end that the Land may be recovered by due course of Law: And Whereas the wholesome Laws, which have at different times been passed in several of Our said Colonies and the Instructions which have been given by Our Royal Predecessors, for restraining persons from purchasing Lands of the Indians without a Licence for that purpose, and for regulating the Proceedings upon such Purchases, have not been duly observed ; It is therefore Our express Will and Pleasure, that, when Application shall be made to you for Licence to purchase Lands of the Indians, you do forbear to grant such Licence, until you shall have first transmitted to Us by Our Comm^{rs}: for Trade & Plantations, the Particulars of such Application, as well in respect to the situation as the Extent of the Lands so proposed to be purchased, and shall have received Our further Directions therein ; And it is Our further Will & Pleasure that you do forthwith cause this Our Instruction to you to be made publick, not only within all parts of your said Province, inhabited by Our Subjects, but also amongst the several Tribes Indians living within the same, to the end that Our Royal Will and Pleasure in the Premises may be known, and that the Indians may be apprized of Our determined Resolution to support them in their just Rights, and inviolably to observe Our Engagements with them.

110. And whereas it is highly necessary for the Welfare of Carolina, that a good Understanding should be maintained with the Indian Nations as well for the promoting of Trade as for

the Security of the Frontiers of your Government ; you are hereby particularly enjoined to use all possible

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ways and means for regaining the Affections of the said Indians, and to preserve a good Correspondence with such of them as remain faithfull to Our Interest, and you are likewise hereby directed to recommend in the strongest terms to the Indian Trader to be just and reasonable in their dealing with the native Indians, & likewise to propose to the Assembly, if you and Our Council there shall judge it necessary to pass one or more Laws for the better regulation of the said Indian Trade, and for the encouragement and protection of such Indians as shall adhere to Our Interest.

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[13 Sept., 1766.]

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To all the
Governors on
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Continent.

No. 1231.

**CIRCULAR LETTER FROM THE SECRETARY OF
STATE FOR THE COLONIES**

TO ALL THE GOVERNORS ON THE CONTINENT OF AMERICA.

PUBLIC RECORDS OFFICE, C.O. 5, Vol. 222, p. 5.

Whitehall,
Sept. 13th 1766.

Sir,

Advices having been received from His Majestys Superintendents for Indian Affairs, that the most unprovoked violence and Murthers have been lately committed on the Indians under the Protection of His Majesty and whose Tribes are at present in Peace and Unity with His Majestys Provinces, and that the Offenders have not yet been discovered & brought to Justice, and likewise that Settlements have been made on the Back of the Province, without proper Authority and beyond the Limits prescribed by His Majesty Royal Proclamation of 1763 & in some places even beyond the utmost Boundaries of any Province in America, and that in consequence the Indian Nations do everywhere discover the greatest discontents and Resentments which may endanger the Peace of His Majestys Provinces and the safety of His Subjects.

It is thereupon His Majestys Commands that you apply yourself in the most earnest manner to remedy and prevent those Evils, which are as contrary to the Rules of Good Policy, as of Justice and Equity.

The Violation of those Principles attended also with so many Dangers to the Provinces, is what cannot be permitted.— If a due obedience had been paid to His Majestys Royal Proclamation, and a due attention given to proper Restraints on the Conduct of the Indian Traders, these Evils would have been effectually avoided.

His Majestys Commander-in-Chief has received express orders to cooperate with the Civil Government for the enforcing a due Obedience to that Proclamation, and His Majesty requires and expects every measure to be taken which Prudence can dictate for the removing such Settlers, preventing in future any such Settlements as are Contrary to the Intentions of the Proclamation, and for apprehending such Offenders, whose daring crimes have so direct a Tendency to involve the whole of His Majestys Provinces in America in an Indian War,

I am etc,

SHELBURNE

[22 Dec., 1766.]

1768. June 10th**No. 1232.****PROCLAMATION OF 22nd DECEMBER, 1766, BY
LIEUTENANT-GOVERNOR OF THE PROVINCE OF
QUEBEC.**

Vide Part XVII, page 2759.

No. 1233.**REPRESENTATION OF THE LORDS OF TRADE TO
THE KING, 10th JUNE, 1768.**

PUBLIC RECORDS OFFICE, C.O. 5/1368, p. 345.

VIRGINIA

To the King's Most Excellent Majesty
May it please Your Majesty.

In obedience to Your Majesty's Commands, signified to us by the Earl of Hillsborough one of Your Majesty's principal Secretaries of State, in his Letter dated May 17th we have taken into Our Consideration an Address to Your Majesty from the House of Burgesses of Virginia, humbly representing, “ That various persons who in consequence of His late Majesty's Instructions for that purpose, had obtained Grants of Lands to the Westward of the Great Mountains, and settled themselves thereon, having in the course of the late War been driven from their Estates by the Invasion of Your Majesty's Enemies, and being upon the re-establishment of Peace desirous to return to their former Habitations, were prevented from fulfilling such their desires by the Governor's proclamation issued in consequence of Your Majesty's Instructions forbidding Settlements to be made within those “Limits.”—“ Stating withal the Advantages which they conceive will result to Your Majesty's Service and the interest of your American Dominions in general by continuing the Encouragements for settling these former Lands, & praying such Relief and Direction thereupon as Your Majesty in your great Wisdom shall think most beneficial for Your Majesty's Interest and the Happiness of your People there” ;

Whereupon we beg leave humbly to Represent to Your Majesty,

That in the year 1754, Your Majesty's Royal Grandfather at the instance of the House of Burgesses of Virginia, and for the reasons by them set forth in an humble Address preferred to the Crown for that purpose was graciously

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pleased to instruct His then Governor the Earl of Albemarle to

make & pass Grants of Lands lying to the Westward of the great Ridge of Mountains, which separates the Rivers Roanok, James and Potowmack from the Mississippi to such persons as should be desirous of settling there; the same to be granted in small and entire Quantities, not amounting to more than one thousand Acres for any one person. And as a farther Encouragement to Adventurers to take up Lands within the said Tract, from the Settlement of which it was represented that great additional security would be derived to this and the neighbouring Colonies against the Encroachments of the French, His Majesty was further graciously pleased, (in conformity to the prayer of the said Address) to direct that these Grants should be made free from the payment of any fine or quit-rent for the term of ten years from the date thereof.

The people who in consequence of these Grants, had settled themselves in this country, having been driven from their possessions, in the course of the late War your Majesty upon the reestablishment of Peace in order to quiet and allay the apprehensions of the various Tribes of Savages whom the great accession to your Majesty's Dominions in America by the total Expulsion of the French from Canada had thrown into alarm was pleased by your Royal Proclamation of October 1763, to give solemn and public Assurance of your gracious attention to, and protection of the said Indians, reserving thereby, till such time as your Majesty's further pleasure should be known all the countries therein excepted and described to their entire use and occupation, warning all persons not to settle themselves on the same, and if already settled enjoining them forthwith to evacuate on such their encroachments.

Under this Interdiction the country in question now falls as lying beyond the Sources of the Great Rivers which empty themselves into the Atlantic; and from the disorderly and irregular Conduct of several of your Majesty's Subjects who from Pennsylvania and the back Settlements of Virginia migrated to the Westward of the Alleghany Mountains seating themselves on Lands contiguous to the Waters of the Ohio, in express disobedience to your Majesty's above proclamation it has so proved that this Country has furnished one principal cause of Discontent and Complaint to the Indians inhabiting those parts, and so highly offensive to them were those Encroachments on their Lands, that in the year 1765, Your Majesty found it expedient by an additional Instruction to your Governor for that purpose to direct and require him to enforce a more strict obedience to the said Proclamation, and to cause all those irregular Settlements which in defiance thereof had been established in this Country immediately to be evacuated.

Since the publication of the provisional Arrangements, contained in your Majesty's said Proclamation respecting the territory set apart for the use of the Indians, the Expediency of establishing a Boundary Line by Solemn Compact with the several Tribes has been stated by our Predecessors in Office in the Plan for the Management of Indian Affairs prepared by them in the year 1764 ; which Plan having been communicated to the Superin-

tendants for Indian Affairs, they have made it a subject of Discussion and Negotiation with the Indians in their respective Districts, and the proposition appears to have been so favourably received by the Indians in the Northern District, that the particular Course and Extent of the said Boundary has been very precisely pointed out by them and acquiesced in by Sr William Johnson in a Congress held with these Tribes in 1765. However till this Affair is finally adjusted and a Boundary Line established, either according to the Course recommended in Our humble Representation to your Majesty of the 7th of March last, or upon some other Plan adjusted by your Majesty's Superintendants instructed for that purpose and ratified and confirmed by solemn Compact with the Indians, the same Policy which established the Regulations laid down in your Majesty's Proclamation of 1763, must be considered as still in force; and we cannot, consistently with the same advise your Majesty to give any Countenance & Encouragement to proposals for extending Settlements and Plantations beyond the Great Mountains into the Country, which by the said Proclamation is for a time given up to the Use of the Indians; nor do we apprehend it will be safe until such negotiation is concluded for those persons who claim under Grants, prior to the said Proclamation to repossess themselves of the same.

Upon this State of the Case we would humbly recommend to your Majesty, in consequence of the Application above recited to direct your Lieutenant Governor, or other Commander in Chief for the time being in Virginia, to inform the House of Burgesses, in answer to their Address, that immediately upon notification to him from your Majesty's Superintendants for Indian Affairs of the final Adjustment of the said Boundary Line, according to their Instructions for that purpose, no further Interruption will be given to persons who are disposed to settle themselves in this Country on Lands granted to them prior to the said Proclamation of 1763, provided the same shall be found to come within the Limits appropriated to Settlement, on the contrary all possible protection and encouragement will be given both to them and others who, from a Spirit of Industry and Improvement are willing to engage in the location of this rich and fertile Tract, and thereby to extend and cultivate the Frontiers of Your Majesty's Dominions in America.

All which is most humbly submitted.

CLARE
SOAME JENYNS
W^M FITZHERBERT
THO^S ROBINSON.

Whitehall June 10th, 1768.

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the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA.**

BETWEEN

THE DOMINION OF CANADA of the one part

AND

**THE COLONY OF NEWFOUNDLAND of the other
part.**

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OF

JOINT APPENDIX

CONTAINING

PART XIX.

PRECIS OF HISTORY OF KING'S POSTS AND OF THE CONCESSIONS
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1307	9th Sept. 1823	C	Deed of Sale by Claude Denéchaux, as Representative of Jacob Pozer, to Flavien Dufresne, of the Esquimaux Bay properties	3404
1308	28th March 1825	C	Deed of Sale by Louis Flavien Dufresne to Jean Olivier Brunet of the Esquimaux Bay properties	3407
1309	27th Dec. 1866	C	Rose and Ritchie's Report on Hudson's Bay Company's titles	3410
1310	3rd Feb. 1829	C	Deed of Sale by Jean Olivier Brunet to William Lampson, of the Esquimaux Bay properties	3410
1311	7th Jan. 1832	C	Deed of Sale by Wm. Lampson to Nathaniel Jones of Fishing establishments at Esquimaux Bay	3414
1312	4th Feb. 1835	C	Deed of Sale, Nathaniel Jones to David Ramsay Stewart of the Fishing and Hunting establishments at Esquimaux Bay	3418

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1313	25th April 1835	C	Keith to Simpson <i>re</i> Agreement with Lampson <i>re</i> non-interference with Lampson's trade at Esquimaux Bay	3421
1314	19th April 1865	C	Assignment of Snook's Cove Post by Charles Hunt to the Hudson's Bay Company	3421
1315	8th May 1869	C	Extract from Deed of Sale by A.B. Hunt to Hudson's Bay Company of Davis Inlet and Paul's Island Posts	3422
1316	15 Oct. 1873	C	Deed of Assignment, Hunt to Hudson's Bay Company of Sandwich Bay, Round Island, Gready Harbour, and Sandhill Posts	3423
1317	29th Apr. 1676	C	Concession to Radisson and Desgroseliers of the exclusive privilege of taking seals on Anticosti	3424
1318	Mar. 1680	C	Concession by Intendant Duchesneau of Anticosti seigniory to Louis Jolliet	3426
1319	11 Feb. 1668	C	Aveu et Declaration of Bissot de la riviere	3429
1320	10th Mar. 1679	C	Grant of Seigniory of Isles et Islets de Mingan to Jacques de la lande and Louis Jolliet	3431
1321	27th Aug. 1742	C	Ordinance <i>re</i> rental payable by mainland concessionaires to seigniors of Isles et Islets de Mingan	3434
1322	18th Oct. 1771	C	Lease of the seigniories of Isles et Islets de Mingan and of Anticosti to Dunn and Grant for 15 years	3437
1323	28th May 1781	C	Acte de foy et hommage for Isles et Islets de Mingan, Terre Ferme Mingan and Anticosti	3442
1324	12th Dec. 1789	C	Partnership Agreement between Dunn, Grant and Stuart to operate Terre Ferme de Mingan, Isles et Islets de Mingan and	

			Anticosti	3447
1325	9th Sept. 1803	C	Lease of Terre Ferme de Mingan to McTavish, Frobisher & Co.	3457
1326	19th Sept. 1804	C	Sale of fishing posts on the north shore of Gulf of St. Lawrence between Ouramanne River and the Straits of Belleisle	3462
1327	22nd Feb. 1808	C	Sheriff's Deed to John Richarson of 15/32nds of Isles et Islets de Mingan	3466
1328	22nd April 1808	C	Deed by the Curator of the Estate of William Grant and by Charles Wm. Grant to Langan, <i>et al</i> of fishing posts between Itamamiou and Anse Ste. Claire	3468
1329	22nd Apr. 1808	C	New Labrador Company, Partnership Agreement	3473

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1331	30th Apr. 1808	C	Sheriff's Deed of fishing posts between Itamamiou and Anse Ste. Claire, to Richardson <i>et al</i>	3481
1332	12th March 1810	C	Acte de foy et hommage for Isles et Islets de Mingan Seigniory	3484
1333	8th Feb. 1836	C	Deed of Sale of Isles et Islets de Mingan Seigniory to the Hudson's Bay Company	3491
1334	9th Oct. 1837	C	Acte de foy et hommage for fief St. Joseph and the Seigniories of Mille Vaches, Terre Ferme de Mingan and Anticosti	3495
1335	9th Oct. 1837	C	Acte de foy et hommage for the Seigniories of Mille Vaches, Anticosti, St. Joseph and Terre Ferme de Mingan	3502
1336	27th Dec. 1866	C	Rose and Ritchie to Hudson's Bay Company, reporting <i>re</i> title of latter to property in the Labrador Peninsula	3506
1337	1892	C	Labrador Company vs. The Queen	3511
1338	1st Sept. 1733	C	Concession of Montagamiou to Lafontaine	3527
1339	13th Mar. 1736	C	Brevet de confirmation of concession of Montagamiou	3529
1340	28th Dec. 1764	C	Sale of Montagamiou to McKenzie and Lymburner	3531
1341	15th Jan. 1740	C	Concession of Petit Mecatina to Henry Albert de St. Vincent	3533
1342	2nd May 1738	C	Concession of Gros Mecatina to Jean Baptiste Pommereau	3535
1343	20th Sept. 1739	C	Concession to Pommereau of augmentation of Gros Mecatina	3537
1344	13th Apr. 1740	C	Brevet de confirmation of concession of Gros Mecatina and of augmentation	3539
1345	4th Oct. 1743	C	Ordinance by Hocquart <i>re</i> rent payable by the Widow Pommereau to the heirs of Lalande and Jolliet	3541
1346	1st May 1749	C	Concession of Gros Mecatina and augmentation to Croisille de Montesson	3544
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1350	5th Nov. 1748	C	Concession of Kecarpoui to Breard and Estèbe	3554
1351	26th May 1720	C	Concession of St. Augustin to Lavaltrie . .	3556
1352	20th Apr. 1750	C	Concession of St. Augustin to Cheron . .	3557
1353	17th July 1753	C	Concession of St. Augustin to de Cery . .	3559
1354	25th Aug. 1761	C	Grant of St. Augustin to daughters of de Cery for nine years	3560
1355	1st May 1738	C	Concession of Apetepy to Foucault and Boucault	3561
1356	15th Oct. 1750	C	Concession of Apetepy to Lafontaine . .	3563
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1358	20th Mar. 1706	C	Concession of St. Paul Seigniorship to Amador de Godefroy	3565
1359	6th June 1708	C	Concession of Baye de Phelypeaux to Courtemanche	3567
1360	30th June 1707	C	Minister to Courtemanche to Pontchartrain, acknowledging information	3569
1361	1711[?]	C	Courtemanche to Pontchartrain, asking permission to remain at post	3571
1362	12th Nov. 1714	C	Order of the King appointing Courtemanche to be commandant for the King on the coast of Labrador	3574
1363	12th Nov. 1714	C	Concession by the King of Baye de Phelypeaux to Courtemanche for his lifetime	3575
1364	26th June 1706	C	Minister to Courtemanche, respecting operations of latter	3576
1365	13th Sept. 1716	C	Minutes of Conseil de Marine <i>re</i> Courtemanche's Report	3578
1366	11th Jan. 1718	C	Order of the King appointing Brouage to be Commandant for the King on the Coast of Labrador	3582
1367	11th Jan. 1718	C	Confirmation of augmentation of Baye de Phelypeaux concession to Widow Courtemanche, Brouage <i>et al</i>	3583
1368	13th July 1722	C	Concession of augmentation of Baye de Phelypeaux concession to Widow Courtemanche, Brouage <i>et al</i>	3585
1369	25th Dec. 1725	C	Confirmation of concession to Widow Courtemanche, Brouage <i>et al</i>	3587
1370	22nd Feb. 1726	C	Confirmation of concession to Brouage, <i>et al</i> , with concession to Brouage or his widow of shares of other concessionaires	3588

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1371	24th Apr. 1744	C	Concession of Baye de Phelypeaux to the de la Portes	3590

1372	30th March 1779	C	Petition of Col. le Compte Dupré and other heirs for reinstatement in Baye de Phelypeaux or new grant of same	3592
1373	27th May 1785	C	Opinion of Cugnet <i>re</i> claim of Favry de Chantelon to Baye de Phelpeaux concession	3593
1374	31st Aug. 1763	C	Bonfeild's Petition for grant of Brouage's fishing post	3597
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1378	25th Sept. 1754	C	Ordinance annulling grant of Anse Ste. Claire to Fortier	3602
1379	20th Aug. 1748	C	Concession of Baye Forteau to Adrien Demarais Vincent	3607
1380	30th Apr. 1749	C	Confirmation of concession of Baye Forteau	3609
1381	25th Oct. 1748	C	Concession of Anse a Loup to Deschenaux	3610
1382	30th Apr. 1749	C	Confirmation of concession of Anse a Loup	3612
1383	18th May 1713	C	Concession of Belle Isle Strait to Pierre Constantin	3613
1384	31st Mar. 1716	C	Concession of St. Modet to Pierre Constantin	3616
1385	27th Apr. 1735	C	Concession of St. Modet to Boucault and Foucault	3618
1386	17th Apr. 1736	C	President du Conseil de Marine to Beauharnois and Hocquart instructing them to investigate rival claims of Constantin, and Boucault and Foucault	3620
1387	6th Oct. 1736	C	Ordinance by Hocquart forbidding Brouage, <i>et al</i> , taking seals below Baye de Phelypeaux	3622
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1390	6th Apr. 1751	C	Concession by Jonquiere and Bigot of St. Modet to Breard	3630
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1393	7th Sept. 1762	C	Murray to Egremont <i>re</i> The Invalidity of Grant to Hocquart	3636
1394	16th May 1763	C	Grant by Murray of St. Modet to Jean Taché	3638
1395	24th Feb. 1767	C	Petition by Taché and the heirs Bissot and Jolliet against action of Governor of Newfoundland	3639
1396	2nd June 1775	C	Application of Wm. Burgess for grant of St. Modet and Anse-a-Loup	3642

1397	1849	C	Extract from Report of Committee on grievances, Legislative Council of Canada	3643
1398	14th Apr. 1689	C	Concession of Blanc Sablon, etc., to De La Chesnaye, <i>et al.</i>	3646
1399	19th Jan. 1689	C	Concession of Belle Isle to Riverin, <i>et al.</i> , also of seigniories on the south shore of the Strait of Belleisle	3649
1400	18th Sept. 1735	C	Concession of Baye des Chateaux seal fishery to Bazil	3652
1401	1st Oct. 1736	C	Concession to Louis Bazil of exclusive seal fishery at Baye des Chateaux	3653
1402	17th May 1737	C	Ratification of Concession of Baye des Chateaux	3655
1403	27th Oct. 1742	C	Fornel's report <i>re</i> Baye des Chateaux and application for authority to explore Baye des Esquimaux	3656
1404	12th Sept. 1749	C	Concession of Baye des Chateaux to Sieur Gautier	3660
1405	27th Sept. 1735	C	Concession of Cap Charles to Sieur Marsal	3662
1406	7th Sept. 1743	C	Extension of concession to Marsal for six years	3663
1407	1st Nov. 1749	C	Grant of Cap. Charles to Capt. Baune (de Bonne)	3665
1408	24th Sept. 1753	C	Cancellation of grant to Baune and re-grant to Marsal	3667
1409	20th Mar. 1758	C	Authorization by Vaudreuil to Creditors of Marsal to operate Cap Charles to expiration of Concession in 1763	3669
1410	26th Apr. 1763	C	Grant of Cap Charles to Brymer	3671
1411	8th Apr. 1721	C	Grant by King of passage des Loups-Marins to André Deleigne	3671
1412	16th Sept. 1743	C	Ordinance by Hocquart respecting differences between Deleigne and Marsal	3673
1413	15th Sept. 1786	C	Authorization by Lt.-Gov. Hope, to Perrault, <i>et al.</i> , to establish seal, cod and salmon fisheries at Indian Island Concession	3675

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1414	12th Apr. 1701	C	Agreement of Constantin with Courtmanche, to trade with Indians at Eskimo River	3676
1415	17th Oct. 1702	C	Concession to Courtmanche for a period of ten years, 1702-1712, from Kegaska River to River Kesesaskion (Hamilton River)	3679
1416	21st Apr. 1703	C	Courtmanche's instructions to Constantin	3680
1417	1705	C	Courtmanche's Memoir, <i>re</i> his exploration of Coast from Kegaska to Chateau Bay with brief description of River Kessessakiou	3683
1418	19th Oct. 1705	C	Despatch by Vaudreuil and Beauharnois to Minister <i>re</i> establishment of Courtmanche on Labrador Coast	3690
1419	1715	C	Anonymous Memoir, concerning Labrador	3691

1420	Jan. 1717	C	Supplement to anonymous Memoir concerning Labrador	3707
1421	18th Sept. 1735	C	Analysis of privileges conferred or enjoyed under concessions of lands within the Labrador Peninsula made by the Government of Canada during the French and British Regimes	3716

PART XIX.

**PRECIS OF HISTORY OF KING'S POSTS AND OF THE
CONCESSIONS AND SEIGNIORIES WITHIN THE
LABRADOR PENINSULA GRANTED BY THE
GOVERNMENT OF CANADA DURING THE
FRENCH AND BRITISH REGIMES.**

¹Ordinance by
Hocquart,
The
1 September,
1733

No. 1234.

KING'S POSTS.

²Ordinance by
Hocquart,
23 May, 1733

FRENCH REGIME.

The area included in the, so-called, King's Posts was also known as the *Traité de Tadoussac* and as the *Domaine du Roy*.

Originally set apart by leases granted by the *Conseil Souverain de Quebec* on the 30th October, 1653, and the 19th October, 1658¹, the *Domaine du Roy* was, in 1733, augmented by the addition to it of the territory between *Isle aux Oeufs* and *cape Cormoran*, the grantees of the *Isle aux Oeufs* having relinquished all claim to this territory.²

The area included in the *Domaine du Roy* was defined by Hocquart in his ordinance of 23 May, 1733. It extended on the *St. Lawrence* from the eastern boundary of *Eboulemens* seigniority to *cape Cormoran* and extended northward to the northern watershed of the *St. Lawrence* and beyond. On the east, it was bounded by the meridian of *cape Cormoran*. Westward, it extended to the western watershed of the *Saguenay* and also included a considerable area lying to the north of the seigniories on the *St. Lawrence* and to the east of the river *St. Maurice*.

³Ordinance by
Hocquart,
23 May, 1733.
p.3210. See also
Memoire by Hoc-
quart p.2745
vol. vi.

Beyond the height-of-land, its boundaries were not clearly defined, but Hocquart states that they included the "postes de . . . *Mistassinoc* . . . *Naskapis* . . . et lieux en dépendans." He also states that its bounds included the post of *Mistassins*, "et derrière les *Mistassins* jusqu'a la *Baie d'Hudson*."

Referring to the eastern portion of the *Domaine*, he states that "dans laquelle étendu seront compris . . . le *Lac des Naskapis* et autres rivières et lacs qui s'y déchargent."³

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As fort *Nemiskau* was a dependency of *Mistassini*, the bounds must have extended westward to a point on the *Rupert* river below lake *Nemiskau* and, to the northward, must have included the territory occupied by the *Grands Mistassin* Indians, which extended from lake *Mistassini* to the *Eastmain*

Charter of the
Compagnie des
Cents Associes,
29 April, 1627

²Arret du Conseil
Superlative de
Quebec
19 October, 1658

³Act of Acceptation
by the King,
March, 1663

⁴Charter of the
Cie. des Indes
Occidentales
May, 1664, p.2715

⁵Case of the
Labrador Co. vs.
The Queen; in the
Privy Council, p. 4

⁶Memoir by
Canjon *et all*, 1685.
Archives, Canada
series C 11, 1, vol.
7,
p. 276 *et seq.*

⁷ Report of Com-
mittee of
Grievances,
22 March, 1831.

⁸Ordinance of de
la Barre and de
Meulles,
13 October, 1684

⁹Ordinance of de
Meulles,
24 August, 1684.

¹⁰Memoire of the
Compagnie du Nord
1685(?).

¹Memoire by
Hocquart

river and beyond.

The Indians “dependent” upon Naskapis post on lac des Naskapis (lake Ashuanipi) must have occupied a large portion of the basin of the upper Hamilton river.

The Domaine, therefore, must have included the upper waters of the Eastmain, Fort George (Big), Kaniapiskau and Hamilton rivers and more than three-fourths of the basin of the Rupert.

1627, the King of France granted to the Compagnie des Cent Associes, otherwise known as the Compagnie de la Nouvelle France, in absolute property, all the country of Canada.¹

1658, the Company leased the “Traitté de Tadoussac” (Domaine du Roy) to the Sieur Demaure.²

1663. the King accepted the surrender of Canada by the Compagnie de la Nouvelle France.³

1664, an edict established the Compagnie des Indes Occidentales, granting to it Canada, Acadia, Newfoundland, “et autres isles et terre ferme, depuis le nord du dit pays du Canada jusqu’à la Virginie et Floride.”⁴

1674, the Compagnie des Indes Occidentales having surrendered its rights to the King, he re-established the Royal Government of Canada.⁵

1674, information respecting the names of the lessees prior to the last quarter of the 17th century is somewhat vague, but, a memoir by Chanjon, Hazeur, *et al*, 1685(?)⁶ indicates that the Domaine was leased to Jean Oudiette in 1674 or 1675.

1676, Oudiette protested against unauthorised trading in the Domaine. The King commanded Intendant Duchesneau to prosecute such trespassers.⁷

1682, de la Barre and de Meulles issued an ordinance prohibiting the transportation into the Domaine of any goods suitable for the Indian trade without the authorization of the lessees and forbidding anyone entering the limits of the Domaine without permit from the Governor and Intendant, under penalty of a fine of 2,000 livres.⁸

1684, a similar ordinance was issued by de Meulles forbidding all unauthorized persons trading within the Domaine or otherwise disturbing the lessee, Jean Oudiette.⁹

1685 (?), the lease of the Domaine was held by the Compagnie du Nord. Denys Riverin was Director of the

1 September, 1733

Company and Chanjon, Francois Hazeur, Catignon, Charles Aubert de la Chenaye, Bouthier, Ruelle d'Auteuil, Pachot, Le Ber and De Comporté Peuvret were the principal shareholders.

²Pleadings in Pierre Carlier vs. heirs of Francois Bissot, 26 Sept, 1732 p.2735

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p. 3121

1694, the lease was held by the Compagnie du Nord. Apparently their lease terminated in 1698.¹

³Memoire by Hocquart, 1 September, 1733, p. 2735.

1695 (or 1696), Jolliet and Bissot discovered lac des Naskapis (Ashuanipi) and traded there with the Naskapi Indians as indicated by the name they gave it.²

⁴Protestation of Veuve Pachot *et al* 27 October, 1700.

1698, the Domaine was sub-let to Pierre Dupont and Chas. Perthuis for three years (1698-1701) for 15,200 livres, monnaie de France.³

⁵Lease to Riverin and Hazeur, 2 October, 1700.

1700, the widow Viannev Pachot and Messrs. Dupont, Perthuis and Joseph Riverin, sub-lessees of the Domaine, protested against the departure of the Sieur de la Perade, who had left Quebec to winter in the Domaine.⁴

⁶Ordinance by Raudot, 26 September, 1707.

1701, the Domaine was sub-let for 8 years (1701-1709) by Hazeur, Gobin, Maccart and Peire, directors of the Compagnie de la Colonie de Canada, to Riverin and Hazeur at an annual rental of 12,700 livres.⁵

1707, Raudot, issued an ordinance which, after reciting the complaints of Hazeur respecting illegal trading and hunting in the Domaine, prohibited such trading and hunting under penalty of a fine of 1,000 livres.⁶

⁷Hocquart to the Minister (?) 1 September, 1733, p. 2736.

The Domaine was sub-let to Nicolas Pinaud from 1709 to 1710, for 6,100 livres per year. It was leased to Riverin from 1710 to 1714. It was again leased to said Riverin from 1714 to 1718 for 16,000 "Monnoye de cartes" (12,000 monnaie de France), but, on the death of Riverin in 1714, it was sub-let to Guillemin.⁷

⁸Hocquart to the Minister(?) 1 September, 1773, p.2736.

1718, Sieur Rivet, acting Director of the Domaine, appointed a manager, Pierre Normandin, to manage the Domaine on behalf of the Crown. From 1719 to 1720, it was managed by Cugnet. From 1721 to 1726, it was sublet to Bourgeois and from 1727 to 1732, to Carlier.⁸

⁹Lanouiller to the Fermiers Généraux, 1728.

1728, Nicholas Lanouiller, in a memorandum respecting the droit du domaine in the "Ferme de Tadoussac," stated that, in depth, it extended "jusqu'a la baye d'Hudson"; that the last lease prior to 1728, had been made to Riverin for 12,000 livres a year, but that the then lessee, Sieur Guillemin, had obtained the lease for an annual rental of 7,500 livres.⁹

1733, Hocquart issued an ordinance accepting the abandonment by Bissot de la Riviere of the seigniorship of Isle-aux-Oeufs and other concessions granted to Francois Bissot in 1661. The tract on the north shore of the St. Lawrence extending from the Isle-aux-Oeufs to cape Cormoran was united to the Domaine.¹⁰

¹⁰Ordinance by Hocquart, 12 May, 1733.

In the same year, Hocquart, at the request of the adjudicataire-general, Carlier, issued another ordinance. It repeated the prohibitions of earlier ordinances respecting trading or hunting in the Domaine du Roy. It also set forth in detail, the boundaries of the Domaine and prohibited any unauthorized person approaching within 10 leagues of the landward limits for the purpose of trading with the Indians.¹¹

¹¹Ordinance by Hocquart, 23 May, 1733.

p. 3122

In 1698, the Domaine was leased at an annual rental of 15,200 livres, in 1701 at 12,700 livres and in 1714, it had decreased to 12,000.¹

¹Hocquart to Minister(?) 1 September, 1733, p.2741.

The decrease was due to several causes. During 1710 to 1714, the lessee, Riverin, introduced a large number of Huron, Abenaki and Micmac Indians who practically annihilated the elk and thus caused the death by starvation of Indians of the Domaine; fires over-ran the forest, killing or driving away the fur-bearing animals; one fire destroyed the timber of over 200 leagues.²

²*Ibid.*

Lastly, poor administration was largely responsible. When the returns of furs decreased, the lessees reduced the quality of their goods and increased their prices ; inferior arms and ammunition injured the Indians or drove them away ; by supplying the Indians with brandy, their pelts were secured at very low prices ; some Indians, lacking ammunition for their hunt, died of starvation after trading their furs for liquor.

Guillemain, prior to the termination of his sub-lease in 1714-18, closed Mistassini and Nikabau. Mistassini was re-opened by Cugnet in 1728 or 1729, and Nikabau was re-opened in 1731.³

³*Ibid.*

Joseph Dorval, who was in charge at Mistassini post prior to 1733, discovered an Indian tribe called the "Pays Peles, parce-qu'il n'y a point de bois, Ces sauvages n'ont point de canots, d'ecorce pour en faire." ⁴

⁴*Ibid.*

This description identifies them with the Naskapis of the upper waters of the Eastmain, Fort George and Kaniapiskau rivers. Thus, W. H. A. Davies sometime in charge of Esquimaux Bay district for the Hudson's Bay Co., says that "Their rivers and lakes being covered with ice for nearly two-thirds of the year, they [the Naskapis] do not travel much in canoes and are consequently not good canoemen, being very timid." ⁵ Davies was writing in 1844, when the Naskapis had been in contact with Europeans for over a century.

⁵ Trans., Literary and Historical Society, Quebec iv. 93.

The control by the French of the Indian trade of the Domaine and adjacent territory in the Labrador peninsula was materially assisted by the conversion of the natives. For

instance, at Mistassini and at Lake St. John, houses were provided for a missionary and a lay brother at each post.⁶

⁶Ordinance by Hocquart, 1 September, 1733.

In Father Laure's map, compiled before 1731, he indicates missions at Seven Islands, Pointe-a-la-Croix, Islets-de-Jeremie, Bondesir, Tadoussac, Chicoutimi and Mistassini. On his 1731 map, he shows a mission at Lake St. John.

Bigot, in 1750, states that chapels had been built at Seven Islands and Islets-de-Jeremie, prior to that date.

1733, the trader at Nikabau reported that Indians from Hudson bay had traded there. These Indians must have come from the Nottaway river as Abitibi River Indians would be intercepted at Abitibi post and Rupert River Indians would be intercepted at Nemiskau and Mistassini posts.⁷

⁷*Ibid.*

Hocquart points out in his ordinance of 1 September, 1733, that the missionary who is labouring among the Indians can “contribuer beaucoup a affectioner les sauvages an bien de la Traitté,”⁸ demonstrating that the French
p. 3123

officials fully recognized that the missionaries at the French posts were attaching to the French, the Indians who traded at these posts.

⁸*Ibid.*

Hocquart also points out that measures should be taken to conserve the fur resources by excluding the “sauvages etrangers” and by taking other measures to ensure the restocking of the Domaine by fur-bearing animals.¹

Tadoussac was founded in 1600 and for many years was the headquarters for the Domaine. In 1733, it was maintained as a depot for Chicoutimi and Islets-de-Jeremie posts.¹

¹Ordinance by Hocquart, 1 September, 1733.

Chicoutimi, in 1733, was the most important post in the Domaine, being the headquarters for the posts of Lake St. John, Nikabau, Grands Mistassins and Petits Mistassins. The Nikabau Indians numbered 37 families and the Grands Mistassins (Mistassini post) numbered 43 families.²

Annually, a trader was sent inland from Islets-de-Jeremie post.² Other evidence indicates that he ascended the Outarde river at least as far as lake Pletipi (St. Barnabé of the old maps) where he could meet the Indians of the upper waters of four great rivers which take their rise in that region, namely, the Eastmain, Fort George (Big), Kaniapiskau and Hamilton rivers.

²*Ibid.*

In 1733, there were 24 Indian families on the St. Lawrence near Islets-de-Jeremie post and 20 families inland.³

Hocquart states, in 1733, that Rene Cartier, who operated Moisie and Seven Islands posts, planned to establish a wintering-post at lac des Naskapis (lake Ashuanipi). Traders had made trading trips to the lake each summer and Jolliet and Bissot had traded there at least as early as 1696. Evidently, the value of the trade had become of such importance that it justified occupying the post during the winter also. About 40

³*Ibid.*

Indian families traded at lac des Naskapis. The name of the lake and the fact that they had no canoes practically demonstrates that they were Naskapis of the Hamilton river and adjoining country.

⁴*Ibid.*

Solicitor General Jenkin Williams, writing in 1786, states that, when the King suppressed the Compagnie des Indes in 1674, the interests of this Company “were leased by him to the Fermiers Généraux (in France) for a term which expired in 1733. The Farmers General had deputed a Gentleman [Francois Cugnet] to manage their concerns here, and upon the determination of their Lease the same Gentleman was continued on the part of the King to direct and manage his Domaine. He remained in the Direction till the year 1741, when a Lease was granted to him of the Posts in question.”⁵

The Fermiers Généraux, in turn, sub-let the Domaine. The ordinances that were issued prohibiting unauthorised trading in the Domaine demonstrate that the authorities endeavoured to prevent any invasion of the lessees' exclusive right to trade, hunt and fish within the limits.

⁵Opinion of the Solicitor-General, 12 June, 1780.

1743, Louis Fornel returned to Quebec from Baye-des-Esquimaux. Learning that Fornel had left two Frenchmen and a number of Indians to winter near the mouth of the Nord-Ouest river and to trap and trade with the Indians; that Fornel's post at Nord-Ouest river was in an advantageous

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¹ Cugnet to the
Minister,
30 October,
1743.

² Cugnet to
Beaubassin,
2 July, 1746.

³ *Ibid.*

⁴ Cugnet to
Beaubassin,
2 July, 1746.

⁵ Lease by Bigot to
Veuve Fornel et
Cie.,
9 September, 1749.

⁶ Concession
Jonquière and Bigot
to Veuve Fornel,
20 September, 1743.

⁷ Memoire of Veuve
Fornel et Cie., to

position to intercept Indian trade and to attract the Indians of the region immediately north of the northern watershed of the St. Lawrence, Cugnet, Director of the Domaine du Roy, submitted a memoire to Beauharnois and Hocquart. He represented that Fornel, under cover of the establishment of a fishery, was preparing to divert to his post at Nord-Ouest river the trade of the Indians inhabiting the country in the rear of Mingan and Baye de Phelypeau and the trade of the northern Indians who had, thitherto, traded with the lessee of the Domaine and whose trade properly appertained to said lessee.¹

Cugnet's memoire is valuable as proof of the trading control that the lessees of the Domaine and the concessionaires of the gulf of St. Lawrence and Atlantic coasts had been exercising over the Indians of the upper Hamilton, Kaniapiskau, Fort George and Rupert rivers.

Cugnet points out that Fornel had astutely left in charge of his trading and hunting operations, one Jean Pilote ; that Pilote had been employed several years in the Domaine and that he was very well qualified to attract to his post the Indians of lakes Naskapis (Ashuanapi), Manikuagan, Mistassini and Cheburochouane.²

Following the return of Pilote, Cugnet, in 1746, applied for a concession for 9 years (1746 to 1755) of the basin of Baie de Kitchichatsou (Hamilton inlet), of Cap-Charles concession and of all unconceded lands between the strait of Belleisle and Hudson strait. He also applied for a lease, for the same period, of the Domaine du Roy, stating that he proposed to develop the new concession, jointly with the Domaine.³

Doubtless as a result of information obtained respecting the wintering-post established by Pilote in 1743, he points out that a post could advantageously be established “à quarante lieues dans la profondeur de la Baie de Kitchichatsou sur une Rivière venant du Nord-Ouest” —present Northwest or Naskapi river.³

In stating his financial difficulties in connection with the enterprises, Cugnet throws some light on the extent of his operations as lessee of the Domaine. Thus, he says that he has two sea-going vessels. He refers to the results of the operations at “Chouanipi” (Ashuanipi Lake) post, which demonstrates that this post was in operation during 1745-46.⁴

1749, the Domaine du Roy was leased to the widow Fornel and Company for 6 years (1749-1755)⁵ and the Baye-des-Esquimaux concession was granted to the widow Fornel for 12 years (1749-1761).⁶

The King having disapproved the lease of the Domaine, the widow Fornel and Company, in 1750, filed a strong protest. They pointed out that, if the trade were interrupted, the Indians would carry their furs to Three Rivers, Batiscan, Timiskaming, Hudson Bay or Mingan and that the traders of

the
Intendant, 1750.

Mingan habitually sent traders as far as the limits of the Domaine. Fornel and Co. stated that, in 1749, they had sent presents to the Indians; that their envoy had promised to meet the Indians at Chicoutimi in 1750 and to treat them as if they were his own children ; that, if there was a sudden change of lessees, the Indians would be bewildered and, becoming estranged, would resort to other posts where they would obtain brandy.⁷

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¹ Bigot to the
Minister,
30 October,
1750.

In Intendant Bigot's protest against the cancellation of the Fornel lease, he points out that if the lease were granted to unreliable persons, they would annihilate the fur-bearers and exterminate the Indians by supplying them with large quantities of brandy. He also stresses the importance of the low prices charged by widow Fornel and Company as preventing the Indians going to Hudson Bay to trade.¹

Bigot also refers to certain information which he had received from the missionary at Tadoussac, which proves that during 1748 and 1749, the missionary was still at that post.

² Commission by
Bigot to St.
Laurent,
18 July, 1755

1755, the Sieur de Laurent was instructed to make an inventory and valuation of the buildings, merchandise, etc., in the posts of the Domaine du Roy to ascertain the compensation to be paid to the then lessees, Fornel and Co., by the new lessee, the new lease to be offered at auction.² Solicitor General Jenkin Williams, in 1788, stated that, on the expiration of the French lease, "the King thought fit to resume the Management of the Posts."³

³ Opinion of
Solicitor General
Williams,
12 June, 1786.

BRITISH REGIME

⁴ Murray to Lords
of Trade
26 May, 1767.

The affairs of the Domaine du Roy (King's Posts) received early consideration by General Murray. In 1760, the Indians of the Domaine (King's Posts), through their chief and the missionary, represented to General Murray that "they were in the utmost misery and distress" and begged that they be supplied and maintained by the British "in the same manner as they had been in the time of the French."⁴

⁵ Murray to Ainslie
23 June, 1767.

⁶ Ainslie to In-
specter General,
7 August 1786.

June, 1760, Thomas Ainslie was appointed Agent for the King in the King's Posts.⁵ He was instructed to "take the Savages of that Domaine under the protection of the King."⁶ to supply them with merchandise, to receive the returns on the King's account,⁷ to obtain a statement of the goods required for the Indian trade and as full knowledge as possible concerning said trade and to make as full an inventory as possible of the cattle and crops at each post.

⁷ Murray to Lords
of Trade
25 May, 1767.

An officer and detachment of soldiers were ordered to the Posts to preserve order and to prevent abuses and irregularity.⁷

Ainslie states that he was accompanied by the "Rev'd. Mr. Cocquart, the priest who had the charge of these particular

⁸ Murray to
Earl of Halifax
(?)
26 June, 1760.

Tribes” ; that he also visited the posts in 1761 and that, in 1762, he deputed John Gray to supply his “place & meet the Indians.” He states that, in 1762, there were detachments of the 35th Regiment quartered at Tadoussac, Chicoutimi and Islets-de-Jeremie.⁶

In General Murray's despatch of 26 June, 1760, he states that, owing to the arrival of the British fleet in 1759, the French were unable to supply the posts, but his despatch makes it clear that there had been no absolute cessation of trade.⁸

A few months later, Murray states that he has opened “the fur trade to all ranks of men without distinction, it was, as I have observed, formerly

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¹ Murray to Pitt,
32 October,
1760.

confined to a few. I shall give particular attention to the Indians and that they are not cheated or abused by the traders and I have not hitherto allow'd the vending of spirituous liquors.”¹

² Murray to
Amhest,
6 March,
1761.

Murray also points out that the King “has a right to the fifth of the sales of all Fiefs or Lordships, likewise to Fines of Alienations, upon all exchanges of inheritance.” He states that he had remonstrated against the sale of furs from the King's Posts by the Navy as lawful prizes and had claimed them for the King.²

³ Murray to
Egremont,
5 June, 1762.

1762, General Murray reported on the state of the Government of Quebec. He states that the Eskimo resorted to the strait of Belleisle in summer, and that the French had traded with them though their mutual relations had not always been amicable.³

Respecting the Montagnais and Naskapis, he says that, while the Naskapis were forced to trade with the Hudson's Bay Co. during the war, “they would have ever reverted [on the conclusion of peace] to those who were Masters of the River St. Lawrence.”

Murray states that the traders estimated that the Indians between Mingan and Labrador (Bradore) bay did not number more than 80 to 100 families and that those trading at the King's Posts might number 220 families.

⁴ Lease of King's
Posts by Murray
20 September, 1762.

1762 Murray leased the King's Posts to Thomas Dunn and John Gray for an annual rental of £400 cy., for a term of one year certain and 14 years additional (1762-1777) “providing no Order to the contrary should arrive from Great Britain.”⁴

⁵ Royal Proclama-
tion, 7 October,
1763.

7 October, 1763, the King issued a Royal Proclamation which provided that the trade with the Indians “shall be free and open to all our Subjects,” provided that such person took

out a license. General Murray was doubtful whether the lease of the King's Posts was, or was not, affected by the Proclamation.⁵

⁶ Report by Murray, re King's Posts, 26 May, 1764.

Following the granting of the lease to Dunn and Gray, certain persons contended that the terms of the Royal Proclamation nullified the clause in the lease providing that the lessess should have the privilege of exclusive trade.⁶

1764, the lessees presented a memorial to the Board of Trade. In it, they pointed out that, under the existing system, "the Indians are peaceable, and satisfied with their situation, and their friendship secured to the Crown, without any expence to the Government" ; that, if the trade were thrown open, it would not be to the interest of any individual to provide at his posts "stores of Goods & provisions, lodged there for the whole year, as is now the case" ; that, if such provision were not made, the Indians might become discontented, and that, in such an extensive area, it would be impossible to prevent evil disposed persons committing abuses.⁷

⁷ John Gray to Board of Trade 21 January, 1764.

The lessees stated that "the necessary measures followed, for preserving the friendship of the Indians, led us unavoidably into a very large expense of advancing them Goods and necessarys upon Credit."

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In a memorial presented to the Lords of the Treasury the lessees pointed out that if the Indians were "indulged with Spirituous Liquors and other superfluitys . . . they would, in a few weeks, consume the whole produce of their years labour, and on the approach of the rigorous winter find themselves naked and exposed to the utmost misery, and wreak their vengeance indiscriminately on the first Europeans or other white people they met with.... On this account the Persons farming these posts are obliged by the tenor of their Lease to furnish them with necessarys and provisions in proportion to their real wants and circumstances and as they are often sick or unsuccessful, to give them Credit, and support their Familys until fortune puts it in their power to pay," whereas, if the trade were thrown open, unprincipled persons would deprive the Indians of their resources.¹

¹ Memorial by Gray, Dunn & Murray to the Lords of the Treasury (January, 1764.)

They further pointed out that, while a "universal revolt [Pontiac's War] appears to have been entered into, by all the other Indian nations in North America, those immediately under his [General Murray's] jurisdiction have not only remained faithful and peaceable, but when earnestly solicited to join the disaffected Tribes, they firmly declared that . . . they had at no time before, met with better Treatment or more Justice, than since the English have been in possession of Canada."²

² *Ibid.*

At least three-fourths of the Indians referred to in the preceding paragraph resided in the "Indian Lands" and were, therefore, outside the limits of the Government of Quebec as

defined by the Proclamation of 1763.

³ Report by Murray
re King's Posts
26 May, 1767

1765, Allsopp, Chinn & Co. applied to the Government of Quebec “for special permission to trade with the Indians of the Domain in particular.” General Murray granted the applicants “a general permission to trade with the Indians within the Province [of Quebec] in conformity” with the terms of the Royal Proclamation.³

⁴ *Ibid.*

1766, Thomas Mills was appointed Receiver General for the Province of Quebec. He was also “charged with the Superintendency of the King's Domain and Estates in Canada to receive the Rents and Revenues thereof and to enquire into the State and nature of the lease of the Posts of the Domain.” Pending his arrival in Canada. Mills instructed the Acting Receiver General that the lessees be supported “in the uninterrupted possession of their lease until His Majesty's pleasure should be further known.”⁴

Upon the application of the Acting Receiver General, the Governor and Council of Quebec forbade Allsopp, Chinn & Co. to erect buildings within the King's Posts. Notwithstanding this prohibition, Allsopp, Chinn & Co. established themselves at Tadoussac, Chicoutimi and Lake St. John, traded with the Indians of the King's Posts and supplied the Indians with liquor.

August 1766, Col. Paulus Irving, President of the Council, authorised the agent for the lessees to remove the buildings erected by Allsopp, Chinn & Co. Following the arrival of Lieut.-Governor Carleton, Allsopp, Chinn & Co. obtained from him an order suspending the warrant granted by Col. Irving authorising the removal of their buildings. Carleton granted them “free liberty to trade with the Indians of the Domaine.”⁴

¹ Imperial Order in
Council
26 June, 1767.

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1767, an Imperial Order in Council ordered that the buildings erected by Allsopp, Chinn & Co. be demolished and that the goods sent there be returned to them.¹

² Report by Murray
re King's Posts 26
May, 1767.

General Murray, in 1767, made a vigorous defense of his policy of excluding from the King's Posts every one but the lessees and their employees. He stated in emphatic language the advantages of such policy and the injurious effects of throwing this area open to all traders.²

Murray pointed out that, as the hunting season only lasted for about six months of the year, the Indians were dependent for half the year upon the supplies advanced to them by the lessees ; that, if they were allowed to purchase unlimited quantities of liquor from the competing traders, they would consume in a few hours, “the whole produce of their years labour, and on the approach of the rigorous winter, finding themselves, Wives and Children naked, destitute and exposed to all the miserys of that climate, would wreak their

Vengeance indiscriminately on the first Europeans or other White people they met.”

Murray stated that the French had adopted the leasing system and had been successful. When an Indian family arrived at a French post in the Domaine, they were supplied with necessaries either in exchange for furs, or, if their hunt had been unsuccessful, on credit. If the husband died, the widow and children were assisted until able to provide for themselves. It was to the interest of the lessee that the Indians should not perish from want or privation, as the native had no property from which he could obtain repayment of his advances. As a result, the Indian looked upon the trader as his benefactor and, during the war, 1755 to 1760, the British had not been able to alienate the French Indians.

³ *Ibid.* Murray also pointed out that, as a result of such attachment the Indians, during Pontiac's War, had “massacred almost every English subject they could lay hands on, and at the same time allowed the French Canadian Traders not only a free access as their friends but were by their interposition prevailed on to release or ransom” English prisoners at Michilimackinac.³

⁴ *Ibid.* Murray stated that, if the trade were thrown open, it would not be to the interests of the lessees or anyone else to advance large quantities of merchandise. ammunition, etc., when there was no reasonable prospect of obtaining repayment.⁴

Murray also stated that the lands of the Domaine were never ceded or purchased from the Indians by the King of France or the King of Great Britain : that the lands required for the individual posts were acquired by agreement from the Indians of each locality ; that the Indians residing within the limits of the Domaine “were adopted as Domicile Indians under the sole and immediate protection of the King, and so remained till the reduction of the Province and a Missionary was sent to reside constantly among them. The lands of the Domaine, therefore, are to all intents and purposes, reserved as hunting grounds for the Savages.”

It was, probably, due to the energetic protest of General Murray, that

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¹ Opinion of
Attorney-General
Arden, Edw.
Bearcroft and John
Lee, 1785.

² Dunn, Grant and
Stuart to Hope,
14 May, 1785.

³ Lease by
Hamilton,
18 May, 1785.

⁴ Hamilton to Sydney,
26 May, 1785.

⁵ Lease by Hamilton,
21 June, 1786.

⁶ Commission by
Hope to Harrison,
5 August, 1786.

⁷ Harrison to Hope,
1786.

⁸ Deed executed
before Pinquet and
Deschenaux, at
Quebec,
9 Sept., 1786.

⁹ Lease by
Milne,
5 April, 1802.

¹⁰ Order-in-Council,
Quebec,
6 April, 1803.

¹¹ Lease by
Dalhousie,
26 July, 1822.

¹² Report of the
Committee on
Grievances,
22 March, 1831.

Allsopp, Chinn & Co. were ejected by the Imperial Order in Council of 26 June 1767, above referred to.

Following the expiration of the lease to Dunn and Gray in 1777, it was extended for a further term of three years. After the expiration of the extension in 1780, the lessees continued as tenants at will at the same rent.¹

1785, the lessees petitioned for a new lease for 10 years (1785 to 1795). In their petition. they state that “at their sole expense, they have carefully attended to, supported and maintained the Aged, and Infirm, the Widows and Orphans ; the distressed Indians residing on the King's Domain have been relieved and supported by your Memorialists. . . . Your Memorialists, as consequent to their possession, claim, and expectations, were under the Necessity to keep a Constant and Sufficient quantity of Goods and Provisions at the Posts to Supply the Wants of the Indians.”²

1785, Lieut. Gov. Hamilton leased the King's Posts to Thos. Dunn, William Grant and Peter Stuart for one year certain and for a further period of nine years (1786 to 1795), subject to the approbation of the King, for an annual rental of £400 cy.³

The King disapproved the lease to Dunn, Grant and Stuart⁴ and, in accordance with his instructions, the King's Posts were leased to Alex. Davison, Geo. Davison and Francois Baby for 10 years (1786 to 1796) for an annual rental of £400.⁵

1786, Edward Harrison was commissioned by Lieut. Governor Hope to make an inventory of the posts and the contents thereof, the inventory to be used in determining the compensation due to the old lessees, Dunn, Grant and Stuart.⁶ Harrison submitted his report in the same year.⁷

1786, Francois Baby assigned his interest in the lease of the King's Posts to George Davison and Alexander Davison.⁸

1802, the lease of the King's Posts was awarded to the highest bidders, Simon McTavish, John Gregory and associates, commonly known as the North West Company. The lease was for the term of 20 years (1802 to 1822) at an annual rental of £1,025 cy.⁹

1803, the Legislative Council ordered that a Proclamation be issued prohibiting unauthorised persons hunting, trading or fishing in the King's Posts.¹⁰

1822, the lease of the King's Posts for 20 years (1822 to 1842), was awarded to the highest bidder, John Goudie, at an

annual rental of £1,200 cy.¹¹

1823, Goudie “transferred two-thirds of his rights therein, to Mr. James McDouall.” In 1824, William Lampson acquired McDouall's rights and claims and, in 1828, he also acquired Goudie's share.¹²

¹ *Ibid.*

1822, the Hudson's Bay Company, which, by union with the North West Company in 1821, had acquired its rights and claims, leased the seigniory

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² Commission by Dalhousie 23 February, 1828.

of Mille-Vaches. Later, they established Portneuf fur-trading post in this seigniory and, owing to its position with reference to the King's Posts, were able to carry on a considerable trade with the Indians of the Posts to the manifest injury of the lessee.¹

³ Report of the Committee on Grievances. House of Assembly, 22 March, 1831.

1828, Andrew Stuart and David Stuart were appointed Commissioners to explore “the tract of country . . . commonly called the ‘King's Posts’ and the lands adjacent thereto.”²

⁴ Bishop of Quebec to Rev. Belleau, 23 May, 1831.

1831, a committee of the House of Assembly reported that the Portneuf post had been established by the Hudson's Bay Co. “in contradiction to the conditions of the Concession deed of said Seigniory” and that the Crown officers had given it “as their opinion that Portneuf constituted a part of the Domain of His Majesty leased out under the appellation of the ‘King's Posts.’”³

⁵ Keith to Simpson, 25 April. 1835.

1831, the Hudson's Bay Co. acquired the lease of the King's Posts by purchase from Lampson.⁴

⁶ Simpson to Keith, 21 September, 1837.

When Lampson disposed of his interest in the lease of the Posts to the Hudson's Bay Co., purchaser and vendor “reciprocally engaged not to interfere or molest the Trades carried on at the King's Posts and at Esquimaux Bay, owned by each concern respectively.”⁵

⁷ Galt to Glenelg, 28 September and 15 October, 1836.

1836, “The Hudson's Bay Company purchased a transfer of the remaining (say 10 years) of the Lease of the King's Posts, together with the stock on hand for a consideration of £25,000.”⁶

⁸ Nixon to Galt, 22 September, 1836.

1836, John Galt wrote Lord Glenelg, Secretary of State for War and the Colonies, urging that the King's Posts be thrown open to settlement upon the expiration of the existing lease.⁷ Lieut. Nixon recommended that military pensioners be settled in the basin of the Saguenay river.⁸

1839, Governor Pelly, of the Hudson's Bay Co. wrote to the Colonial Secretary, the Marquis of Normanby, requesting a new lease of the King's Posts and stated that the Company

were willing that the Saguenay territory be thrown open to colonisation. He stated that the company desired to retain the exclusive right of hunting, and of trading with the Indians, that they might the more effectually “maintain in their own Territory bordering on that part of Canada, the restriction of the use of Spirituous liquors, and all those other beneficial regulations, which have been found essentially to improve the conditions of the Indians and to preserve the peace of the Country and to continue the like benefits to the Indians of the King's Posts.”⁹

⁹ Pelly to Normanby
20 March,
1839.

1841, Samuel Robertson states that there were about 50 establishments, chiefly sedentary seal fisheries, between Blanc Sablons and a point 150 miles west of it and, of the “fifty, nearly half are in the neighbourhood of Bradore, which is only three miles from Blanc Sablon river.”¹⁰

¹⁰ Transactions of the Literary and Historical Society of Quebec. vol. IV,
pp. 35-10, 1841.

Robertson states that the Hudson's Bay Company had six establishments in the King's Posts, namely, Tadoussac, Portneuf, Jérémie, River Godbout,
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Seven Islands and River Moisie ; that, in the Terre Ferme de Mingan, they had four posts, namely, Mingan, Napisipi, Natasquan and Musquarow.

Robertson estimates the number of Montagnais Indians inhabiting the coast “from the Saguenay downwards,” at about 700 “and including those about Lake St. John, may amount to 1,000—I am afraid, however, that this estimate is too large.” He estimates that, 200 years earlier, the Montagnais tribe “was four times as numerous as now.”

1842, the King's Posts were leased to the Hudson's Bay Co. for 21 years (1842 to 1863) at an annual rental of £600 cy., the Company also releasing the Crown from the payment to them of the sum of £1,800 cy., “by them paid for the value of certain Indian Debts.”¹

¹ Lease by Bagot
27 June, 1842.

This lease granted the exclusive right of trading, hunting and fishing, but, unlike earlier leases, it provided that the Crown could grant any part of the Ring's Posts tract for the purposes of settlement.

1842, Davies states that the Indians frequented the various posts as follows : Jeremie, 15 families ; Godbout, 10 families ; and Seven Islands, 8 families.²

² Memorandum by W. H. A. Davies,
31 August, 1842.

1849, Sir George Simpson wrote the Commissioner of Crown Lands. He stated that, during the previous six years, on several occasions, the Hudson's Bay Company had claimed compensation for losses occasioned to them by the granting of licenses to cut timber in the King's Posts. He suggested that a friendly suit be taken and a “decision of the Bench obtained.”³

³ Simpson to Taché
29 October, 1849.

T. Bouthillier reported that “if the Government is to be held strictly to the letter of the Lease, the Hudson's Bay

⁴ Bouthillier to
Council,
5 September, 1849.

Company may perhaps be maintained in the position they assume.”⁴

⁵ Bouthillier to
Council,
22 January, 1850.

Later, Mr. Bouthillier reported that “it would appear desirable to have the Lease, if not cancelled, at least so modified as to do away with all the exclusive privileges attached to it.”⁵

⁶ Report to Council,
11 Sept, 1861,
p. 2955, vol. vi.

The connection of the Hudson's Bay Company with the King's Posts came to an end with the termination of the lease on November 15, 1860.⁶

BAYE-DES-ESQUIMAUX CONCESSION

FRENCH REGIME

It is difficult to fix an exact date for the first appearance on the map of the body of water known under the names of Kessessakiou, Kichecatsou, Esquimaux, Sauvages, St. Louis, Ivucktoke and Touchstoke Bay and Hamilton inlet.

The Ribero map of the World, 1529, indicates a large bay in latitude 54 ½°, which may have been intended for Hamilton inlet.

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The Desceliers map of the World, 1550, indicates a large inlet designated “Grand Baie” but the latitude and the width at its mouth would seem to identify it with the mouth of Hudson strait.

Mercator's map of the World, 1569, shows a large gulf designated “Golfam de Merosro,” apparently based on the discoveries of Corte-Real. This, also, is probably the southern portion of Davis Strait.

The map of the World which accompanied Hakluyt's “Voyages.” 1600, contains the explorations made by Davis in 1586. His “great sea” is shown as a large bay with several islands near its mouth, but is not named. This defect, Hondius, in his map of Septentrio America, 1630, endeavoured to supply. He reproduces Davis' “great sea,” but identifies it with the Golfam de Merosro of Corte-Real.

On both the World map, 1600, and Hondius' map, 1630, Hudson strait is indicated with a note: “A furious overfall,” referring to the tumultuous sea sometimes caused by the tides at its mouth.

The “Baye Sauvage,” indicated on Sanson's map of Amerique Septentrionale 1669, can be identified with certainty with the present Hamilton inlet.

On Jaillot's map of Amerique Septentrionale, 1695, it is still “Baye Sauyage,” but, on de l'Isle's map of l'Amerique Septentrionale. 1700, it is “Grande Baye des Esquimaux.” During the French regime, it wits commonly known either as Baye des Esquimaux or as Baye de Kessessakiou.

Courtemanche, on the chart accompanying the report of

his exploration of the coast east of the Kegaska river, 1704, names it the “Quesesasquiou,” presumably a variant spelling of the native name.

Fornel, in his chart dated 1744, designates it: “Baye Kessessakiou ou des Esquimaux, dite Baye St. Louis” and, in the report accompanying the chart, he states that he had re-named it “St. Louis,” doubtless in honour of the reigning monarch.

¹ Narrative by Fornel,
7 September,
1743.

Fornel named present Rigolet narrows “Riviere Kessessakiou. recognizing that it is really the mouth of the present Hamilton river.¹ This usage was adopted by the famous French cartographer, Bellin, in the official French chart of the “Golphe de St. Laurent,” published by the Département de la Marine, Paris, 1753.

Subsequent to the Treaty of Paris, 1763, most maps of Canada were issued by British geographers, but it is a remarkable fact that it was only after a lapse of about sixty years that Hamilton inlet was indicated on British maps with the detail shown on the Fornel chart of 1744 and the Bellin chart of 1753.

Jefferys, in his “American Atlas,” 1776, shows the “Great Bay of the Eskimaux,” but the topographical detail shows that his knowledge could be summed up as follows : He knew that there was a large inlet in this locality but had absolutely no data respecting the shore-line and, like Arrowsmith, was ignorant of the existence of present lake Melville, although it had been indicated on the French naval charts 23 years earlier.

Jefferys, however, in a note, suggests that “This perhaps is the place about 54° 30′ where Davis saw a great Sea entering between two lands, the lower all Islands and had hopes of a N.W. Passage.”

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With our present knowledge, we are able to state with certainty that Hamilton inlet is the locality referred to by Davis, who states that, in 1586, he “had a perfect hope of the [Northwest] passage, finding a mighty great sea passing between two lands West. The South land, to our judgment, being nothing but isles, we greatly desired to go into this sea, but the wind was directly against us.”¹

¹ The Voyages and
Works of John
Davis. Edited by
A. H. Markham,
London. 1880, p.
29.

Davis' account demonstrates that he entered present Sandwich bay but was unable to enter Hamilton inlet, owing to the unfavourable wind.

In his map of North America, 1822, Arrowsmith shows an opening designated “Ivucktoke Inlet,” but the utter absence of detail of the shore-line demonstrates that he had not had access to a survey of the inlet itself. For this portion of the shore of Labrador, Arrowsmith used a sketch survey made by Lieut. Roger Curtis, R.N., in 1773. As Curtis did not enter Hamilton inlet, he shows no portion of it with any attempt at accuracy except the capes at the southern and northern sides of the entrance.

In his chart of Labrador and Greenland, 1825,

Arrowsmith shows “Ivucktoke or Hamilton Inlet” and “Lake Melville” in detail, and a note on it states that, between Hamilton inlet and Okkak, it is based on surveys by “Mr. Rt. Morison. . . .when on coasting voyages in H.M. brig Clinker in 1821 and 1822.”

Summing up: The Atlantic coast had been surveyed with a fair degree of accuracy by the French before the publication of Sanson's map in 1663, at least as far north as Hamilton inlet. It is probable that Bourdon, during his voyage in 1657, sighted the coast from Belleisle strait to the most northerly point he reached, namely, latitude 55°, or about present Kaipokok.

1737, Louis Fornel entered into partnership for seven years with Louis Bazil, concessionaire of Baye-des-Chateaux concession, and Francois Havy, a merchant of Quebec. The agreement provided that Fornel, Bazil and Havy should carry on a seal fishery within the limits of said concession.²

² Agreement executed before Barolet, at Quebec, 3 May, 1737.

1738. Fornel applied to the Minister for a concession of Baye-des-Esquimaux. As Daine and Foucault had also applied to Beauharnois and Hocquart for a concession in the same region, the Minister suggested that Fornel should unite with them, but, in any event, Fornel must receive as favourable treatment as the others.³

³ Minister to Beauharnois and Hocquart, 21 April, 1739.

1742, Fornel applied for a grant of the Baye-des-Chateaux concession on the ground that he, alone, of the partnership, had developed it ; that he had come to a good understanding with the Eskimo and offered, if granted Baye-des-Chateaux, to explore Baye-des-Esquimaux at his own expense. He also stated that he had applied for the concession of Baye-des-Esquimaux “quelques annees” before 1742.⁴

⁴ Fornel to the Minister, 27 October, 1742.

1743, Louis Fornel made a survey of the Atlantic coast of Labrador peninsula from the strait of Belleisle to the upper end of present Hamilton inlet. He sent a detailed report of his explorations, with a chart, to the Governor and Intendant. In 1744, he submitted another chart showing his own explorations and also those made by the Pilotes in present lake Melville.

Fornel, on 11 July, 1743, landed at a point near present Rigolet, planted two crosses, raised the French flag and took possession “au nom du Roy, Et de la nation françoise.”¹ The positions of the crosses are indicated on Fornel's 1743 chart. Comparison with a modern chart shows that they were erected 4 and 6 miles, respectively, east of present Rigolet.

1743, Fornel left two Frenchmen, Jean Pilote and his son, with instructions to winter in the region, and to “reconnoître Le fond la d'e baye St. Louis, comme aussy pour aller decouvrir Les deux bras de la d'e de Rivière St. Louis” (present Hamilton river and the Northwest or Naskaupi river). The Pilotes were supplied with a canoe, provisions, arms, ammunition, trade goods, etc. and five or six Indian families were left with them.²

That the Pilotes explored present lake Melville is demonstrated by the charts which Fornel submitted in 1744 and 1748, and which are now in the French Archives. These charts show present lake Melville and the Hamilton, Northwest (Naskaupi) and Kenamu rivers. Fornel gives no information respecting the operations of the Pilotes, the position of their wintering post nor the inland route they followed when returning to Quebec in 1744. These data, however, are contained in the memoirs submitted by Cugnet, his competitor for the concession of Baye-des-Esquimaux and lessee of the Domaine du Roy. These memoirs, written in 1743, 1744 and 1746, urging that the Baye-des-Esquimaux concession be granted to Cugnet, are extant, also a memoir, written in 1749, subsequent to the granting of Baye-des-Esquimaux to the widow of Fornel.³

1743, Beaubassin and Hocquart state that Fornel had despatched a ship during the last days of the navigation season of 1743, but that it had been wrecked “a la Coste de Terre neuve.” They also state that another vessel despatched by Fornel in the spring of 1744, had returned with 400 or 500 lbs. of whalebone which had been traded with the Eskimo.⁴

Cugnet, in his memoir of 30 October, 1743, states that a short time prior to the date of his writing, Fornel had despatched a vessel to Baye-des-Esquimaux ; that the Pilotes had with them seven or eight families of Indians from Baye-Phelypeau, 4 Indians from Mingan and 3 from Seven Islands, or about 30 persons in all. He also states that Fornel did not intend to establish a fishery but really designed to divert the Indian trade, not only of the Domaine du Roy, but also of Mingan, Baye-Phelypeau, St. Augustine, St. Modet, Baye-des-Chateaux, Cap-Charles and other posts ; that Jean Pilote had been employed by Fornel because Pilote had been, for several years, “dans les Traittées du Domaine en qualité d'Engagé” and was thus better qualified than anyone else to divert to his post the trade of the Indians of lakes Naskapis, Ashuanipi, Manikuagan, Mistassini and Ashuapmuchnan and that, on the

¹ Narrative by Fornel, 7 September, 1743.

² *Ibid.*

³ Cugnet to the Minister, 80 October, 1743 ; Cugnet & Estèbe to Beaubassin and Hocquart, 23 October, 1744 ; Cugnet to Beauharnois, 2 July, 1746 ; Cugnet to the Minister (?), 1749.

⁴ Beaubassin and Hocquart to the Minister, 12 October, 1744.

⁵ Cugnet to the Minister, 30 October, 1743.

vessel recently despatched. Fornel had loaded a larger quantity of goods than was being sent to Mingan and Seven Islands, combined, thus demonstrating that he designed to carry on a fur trade with the natives under cover of his declared intention to establish a fishery.⁵

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¹ Cugnet and Estèbe to Beaubassin and Hocquart, 28 October, 1744

In the following year, 1744, Cugnet and his associate, Estèbe, submitted to the Governor and Intendant a new memoir which contains some definite information which they had evidently obtained following the return of the Pilotes. This information refers to the operations of the Pilotes during 1743-44 and the position of the post they had established.¹

It is to be noted that Cugnet and Estèbe state in this memoir that there is an advantageous site for a trading post “a quarante lieues dans la profondeur de la Baie de Kitchechatsou sur un rivièrè venant du Nord Ouest” and at its mouth. This establishment would be “a quarante lieues dans la profondeur des Terres” and thus be out of reach of the Eskimo.

This statement is notable because it is the first definite reference to the name of the present Northwest (or Naskaupi) river and is the first evidence that the site coveted by Cugnet and his associate was the site of the present Northwest River post. To complete the evidence upon which this statement has been based it is summarized below, though its introduction at this point breaks the chronological sequence of the memorandum.

² Cugnet to Beauharnois,

2 July, 1746

1746, Fornel having died in 1745, Cugnet, in the following year, again presented a request for a grant of Baye-des-Esquimaux. Again, Cugnet points out that there is an advantageous site for a post “a quarante lieues dans la profondeur . . . sur une Riviere venant du Nord Ouest” which would attract not only the Indians who deal with the French but also those who go to Hudson bay.²

³ Cugnet to the Minister (?), 1749.

1749, a memoir, which, though unsigned, contains internal evidence that it was written by Cugnet, was addressed to Beauharnois and Maurepas, following the concession of Baye-des-Esquimaux to the widow Fornel.

⁴ Deposition of Goupille 23 August, 1785.

Cugnet now states definitely that, in 1743, the Pilotes had built their winter post “sur la Riviere a *quarante lieues* dans la profondeur de la Baie St. Louis” and that this was the post for the establishment of which Fornel despatched again in 1744 the same vessel that had reached there the previous year.³

⁵ Depositions of Trahan and Vachon, 11 September, 1788.

Finally, in 1785, Joseph Goupille affirmed, in an affidavit, that he had seen one Dumontier and his partners “dans la Riviere du Nord-Ouest.”⁴ Charles Trahan, in an affidavit, affirmed that Marcoux's post was “a quarante lieues dans la Profondeur de la Baie” of “Kitchichachoux.”⁵ Other evidence demonstrates that Dumontier's post was a quarter-

league from the site of present North West River post at the mouth of the Nord-Ouest (or Northwest or Naskaupi) river.

The foregoing quotations, taken together, constitute the strongest kind of presumptive proof that :—

(1) In 1743, the Pilotes established their post at the mouth of the Nord-Ouest (Northwest or Naskaupi) river.

(2) That this post had been operated continuously up to 1749 and thereafter.

In addition, there is the further fact that an examination of the map immediately discloses that the site at the mouth of the Nord-Ouest (North-

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west or Naskaupi) river possesses intrinsic strategic advantages of position as compared with any other site in the drainage basin of lake Melville. It commands the mouths of the three large rivers which fall into lake Melville, namely, the Hamilton, the Northwest and the Kenamu; it is only a short distance east of the Indian village shown on Fornel's charts and is only a comparatively short distance west of the island upon which Fornel says that the Eskimo habitually wintered ; it has important climatic advantages as compared with Rigolet and is a sandy peninsula, whereas the site of Rigolet is bare and rocky. Until the trade at Northwest River post decreased—owing to its diversion to the posts on the gulf of St. Lawrence and to the decrease of the Indian population—it was a much more important post than Rigolet or any other post in the district.

[sic.] Cugnet to the
Minister (?), 1749

Cugnet, in 1749, also states that the Pilotes returned overland to the gulf of St. Lawrence and that they brought out the marten skins but left the beaver skins at the post.¹ It is highly probable that the Pilotes reached the St. Lawrence in 1744 by way of the Kenamu and St. Augustin rivers though Fornel does not indicate on his chart any portion of these rivers except the mouth of the Kenamu, doubtless because he did not desire to publish information that would be of assistance to his competitors.

Prior to the establishment of Fornel's post in 1743, the lessees of the Domaine du Roy and the French concessionaires of the gulf of St. Lawrence and strait of Belleisle had practically monopolised the Indian trade of the upper portions of the Hamilton, Rupert, Kaniapiskau and other rivers. They had also established posts on the upper waters of the Hamilton and Rupert rivers.

The contention by Cugnet that the establishment of a post at the mouth of the Nord-Ouest (Northwest or Naskaupi) river would attract many Indians from this area and thus be detrimental to the traders of the Gulf, unquestionably, was well founded and is strong evidence of the geographical homogeneity of the peninsula. That it was well founded is demonstrated by the following : First, because the canoe routes from the interior *via* the Hamilton and North-west rivers to

lake Melville were much easier than the Romaine-St. John, the Moisie or the Manikouagan routes to the gulf of St. Lawrence ; Secondly, because the new post would have the element of novelty both as regards the route thereto and the personnel of the traders ; Thirdly, after having obtained goods on credit from the traders on the St. Lawrence, the Indians could sell their furs at the new post, where they owed nothing.

² Memoir of Cugnet and Estèbe, 28 October, 1744.

As to the Eskimo of Hamilton inlet, Cugnet states that Augustin Raby (or Araby) and Charles Le Cour had traded with them before 1744.²

1744, Cugnet and Estèbe applied for a lease of the Domaine du Roy from 1747 to 1756, the lease to include the whole of the basin draining into Hamilton inlet and all the unconceded lands from the eastern entrance of the strait of Belleisle to Hudson bay, for a rental of 4,500 livres, the lessees offering to form during the first year a permanent trading establishment at the mouth of the Riviere Nord-ouest and also to establish sedentary fisheries in Hamilton inlet for whales, seals and porpoises.

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1749, Jonquière and Bigot granted to the widow Fornel the Baye-des- Esquimaux concession extending from cap St. Gilles, situated to the north of baye des Esquimaux (Hamilton inlet), southward to the rivière des Sables (Eagle river), both inclusive, together with the river Kessessakiou (Hamilton), to have and to hold for twelve years 1749-1761. The concession included the islands opposite and granted the exclusive right to take seals, to hunt and to trade with the natives and the right to take cod in common with other French subjects.¹

¹ Concession by Jonquière and Bigot, 20 September, 1749.

In the same year, Veuve Fornel et Cie. despatched a vessel to their concession and, presumably, to their post at North West river.²

² Veuve Fornel et Cie. to Bigot, 1750

1750, this vessel sailed from North West River with the furs obtained by the Company's employees. Another vessel was despatched from Quebec in the autumn of 1750.²

³ Brevet de confirmation, 31 May, 1750

1750, the grant of Baye-des-Esquimaux was ratified for 12 years (1750 to 1762) with the exclusive right to take seals and to hunt and trade with the natives.³ The Domaine du Roy was also leased to the widow Fornel in 1749.⁴

⁴ Lease by Bigot to Veuve Fornel, 9 September, 1749.

The Baye-des-Esquimaux concession included not only the basins of the Nord-Ouest (Northwest or Naskaupi), Hamilton and Kenamu rivers, but also the basins of the Eagle and other rivers which fall into Sandwich bay.

Following the outbreak of war between France and Britain in 1755, it is probable that the concessionaires were forced temporarily to cease operations. That the Baye-des-Esquimaux concession had been effectively developed there can be little doubt. Cartwright says that William Phippard, who, in 1777-78 and 1778-79, had wintered at Ivucktoke Bay

⁵ Sixteen years on the Coast of Labrador. By George Cartwright, Newark, 1792, Vol. II, pp. 451-452

(a general name for Hamilton Inlet and Lake Melville district), “had found the ruins of three French settlements.”⁵ They were, probably, the ruins of posts constructed by Veuve Fornel and Company at North West River, Rigolet and one other place.

Fornel's chart shows that there was an Indian village opposite present North West River post and that the Eskimo wintered on Henrietta Island in the eastern portion of present lake Melville.

BRITISH REGIME

In or before 1773, Canadians from Quebec appear to have re-established the trading posts in the Indian country on the shores of lake Melville which Fornel & Company had abandoned on the outbreak of the Seven Years' War. A deed of sale of the Esquimaux Bay properties by Jean Olivier Brunet to William Lampson, dated 3 February, 1829, recites an earlier transfer of those properties by deed dated 9 September, 1823, from one Claude Denechaux, Curator of the vacant succession of the late Jacob Pozer, in his life-time a merchant at Quebec, to Flavien Dufresne of Quebec. It is further recited that the “said premises were enjoyed by the said Jacob Pozer and

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the ancestors of the said Jacob Pozer by titles and have been in their actual possession and enjoyed by them for and during the last fifty years and upwards.' From 1773, or earlier, these posts were continuously operated by Canadians until 1837 when they were acquired by the Hudson's Bay Company. Cartwright's reference to William Phippard's operations at lake Melville during the winters of 1777-78 and 1778-79 has already been noted. W. H. A. Davies, sometime officer in charge of Esquimaux Bay district for the Hudson's Bay Company, while observing that “the French . . . were the first who gave the bay [des Esquimaux] its present name, and resorted to it for trade,” states that, “it was only in 1777, that the first Englishman [i.e. English-speaking] wintered in the Bay—his son was still living there a year ago—he found the remains of the old French establishments in many parts.”¹

¹ Transactions of the Literary and Historical Society Quebec, 1843. Vol. 1V, pp. 70-94.

1784, two associations of traders from Quebec, established themselves at the mouth of Northwest river.²

² Depositions of Trahan and Vachon, at Quebec, 11 September, 1788.

One association, represented by Pierre Marco and Louis Marchand, obtained from Governor Haldimand, a license empowering them to trade at “Esquimaux Bay” with “any Indians or others His Majesty's Subjects living under His Majesty's Protection.”³

³ Licence by Governor Haldimand, 31 July, 1784.

It is endorsed thus : “This licence is granted conditionally that the said Marcoux & Marchand do not interfere with any of the Posts in the King's Domain.” This endorsement recognises the geographical homogeneity of the peninsula.

An affidavit by Jean Lebrun, an employee of Marcoux

and associates, discloses that Baptiste Dumontier, George Plante, Jean Beliveau and Raphael Dorval, members of the other association, had founded a post and were trading on the west bank of Northwest River at least as early as 1784, but, apparently, without any license from the Governor of Quebec. Lebrun affirmed that Dumontier and his associates had traded there with the Indians in 1784 ; that their vessel had returned to Quebec early in August, 1785, and had sailed for Northwest River on 16 August ; that Dorval had remained at the said post with a stock of goods for the Indian trade.⁴

⁴ Affidavit by Jean Lebrun, at Quebec 23 August, 1785.

Joseph Goupille of Quebec, affirmed, in 1785, that an Indian had told him that he had seen Dumontier, Beliveau and their partners “dans la Riviere du Nord-Ouest” (Northwest or Naskaupi river). Goupille stated that Dumontier had told him at Quebec that he had traded with the natives and that he was returning to Esquimaux Bay district with “un Equipement de traite.”⁵

⁵ Affidavit by Joseph Goupille at Quebec, 23 August, 1785.

Cartwright reports a schooner as arriving in Sandwich Bay, 20 October, 1785. This is probably the vessel in which Dumontier returned to Northwest River. Cartwright says: —“She belongs to some merchants of Quebec, and is bound to Ivucktoke Bay to winter, in order to kill furs, and trade with the Indians there.” Cartwright also says that the master's “name is Nicholas Gabourite.”⁶

⁶ Sixteen Years on the Coast of Labrador. By George Cartwright, Newark, 1792. Vol. III, p. 86,

19 June, 1786, a shallop entered Sandwich Bay. Cartwright says : “She belonged to M. Demoetie [Dumontier] and partner . . . they

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Privy Council
Documents

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¹ *Ibid*, Vol. III
pp.178-179.

² License by Hope,
15 September, 1785.

³ Marcoux to
Perrault,
16 June 1784.

⁴ Clearance at
Custom House,
Quebec,
7 September, 1787.

⁵ Report of the
Committee of the
Legislative Council
25 June, 1787.

⁶ Minutes of
Legislative Council,
24 January, 1788.

⁷ Petition of George
Plante,
1 September, 1788.

⁸ Peremptory excep-
tion of Pierre
Marcoux,
11 September, 1788.

⁹ Depositions by,
Trahan and Vachon,
before Deschenaux,
at Quebec,
11 September, 1788.

¹⁰ Statement by
George Plante,
Cour de la Paix,
Quebec,
21 August, 1789.

¹¹ Plea by Pierre
Marcoux, fyled by
Panet,

had wintered in Ivucktoke Bay, and are returning to Quebec, being Canadians.”¹

1786, Lieut-Governor Hope empowered Marcoux, Perrault, Antrobus and Dunier to establish “Seal, Cod and Salmon Fisheries” within the limits of their Indian Island concession.²

1787, Marcoux writes Perrault that he is at their Seal Island post and is sailing for Esquimaux Bay.³

1787, the schooner *Resolution*, Joseph Goupille, master, cleared from Quebec for “the great Bay of Esquimaux” loaded with trade goods, ammunition, etc., presumably for Marcoux and associates.⁴

1787, Capt. Cartwright applied for a grant at Touchstoke (Esquimaux) bay and an exclusive privilege of fishing in that bay. He applied for a “tract of Land running half a mile back from high water mark, all round the Bay ; his sole view in praying for this Grant is to carry on the seal Fishery, and a Trade with the friendly Indians, who reside chiefly in that bay.”⁵

The Committee of the Legislative Council of Quebec stated that they conceived “from the Circumstances related to Captain Cartwright's case of Canadians having wintered in Touchstoke bay in 1785 and 1786 . . . that it is an inlet of the Sea ten leagues deep, within the great Esquimaux bay. . . . where a Canadian Crew, fitted out from hence, (Quebec) actually did winter.”⁶

1788, the Committee recommended that Capt. Cartwright's request be not granted.⁶

1788, Plante, one of the associates of Dumontier, laid an information against Pierre Marcoux charging him with (1) selling liquor to Indians without a license ; (2) settling in the “Indian Country” without license ; (3) “carrying and sending into the said Indian Country upon Lands not granted by His Majesty, Goods, wares and Merchandize & provisions without license.”⁷

Marcoux contended that the Act forbidding the sale of liquor to Indians did not apply at the “Great Bay of the Esquimaux,” inasmuch as said bay was included within the limits of the Hudson's Bay Company's territories.⁸

The statements of Charles Trahan⁹ and Jean B. Vachon, employees of Marcoux and his associates, of the informant, George Plante¹⁰ and of the defendant, Marcoux, form a mass of evidence which demonstrates the following :

25 August, 1789.

¹ Depositions by Trahan and Vachon, before Deschenaux at Quebec, 11 September, 1788.

² Plea by Pierre Marcoux, filed by Panet, 25 August, 1780.

³ Anderson to White, 9 April, 1923.

⁴ Deposition by Vachon before Deschenaux, at Quebec, 11 September, 1788.

⁵ Annual Report, Geological Survey Canada, vol. VIII p. 127L.

⁶ Deposition of Charles Trahan, 11 September, 1788.

⁷ Plea by Marcoux executed before Panet, at Quebec, 25 August, 1789.

⁸ Deed executed before Voyer and Dumas,

(1) That there were two rival associations trading in the Baye-des-Esquimaux district, one directed by Marcoux, and the other by Dumontier;

(2) That the trading posts of the two associations were not more than a “quarter-league” apart ; that they were on opposite sides of Northwest(Naskaupi) river ; that Marcoux's post was on a sandy peninsula;¹¹ that it stood on, or near, the site of the present North West River post of the Hudson's Bay Company and was “a quarante lieues dans là Profondeur de la Baie”

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des Esquimaux.¹ In 1789, Marcoux, stated that his post at Nord-Ouest (Northwest or Naskaupi) river had been built “a plusieurs annees.”²

(3) That the post of Dumontier and associates was on the west bank of Nord-Ouest (Northwest or Naskaupi) river at, or near, the site of present Revillon Frères' post.

(4) In 1788, Marcoux built an outpost “two leagues” distant from his post “et en ligne de sa maison,” to intercept the Eskimo and obtain their seal oil.¹ This post was probably on what is now called Montagnais point. This point is practically in line with the Eskimo camps and the remains of old buildings and an old cemetery are to be seen there to-day. Being a salient point, it is used, at the present time, “as an assembly ground by the missionary who lights a fire on one of the islands thus notifying the Indians of the locality of his arrival.”³

(5) During the winter, the Eskimo lived on an island stated to be distant about “eighteen leagues” from Marcoux's post.⁴ Presumably this is Henrietta island, though the distance stated would indicate Neveisik or one of the smaller islands near it. On the other hand, Fornel's map shows that they habitually wintered on Henrietta island and A. P. Low states that, in 1894, they still wintered on it.⁵

(6) Marcoux, in 1787, had planned to “faire un établissement de peche à l'entree de la Baie des Esquimaux” but he arrived too late to form said establishment and was forced to winter at his establishment “a quarante lieues dans la Baie.”⁶ The projected fishing establishment was, therefore, leagues from Nord-Ouest river and was at, or near, present Rigolet. Presumably, he established this post in the spring of 1788.

(7) In 1784 and 1785, Marcoux obtained licenses to trade in Esquimaux Bay district. Dumontier and his associates traded in that region in the same years but without a license.⁷

(8) Marcoux carried on his trading operations during 1785, 1786, 1787, the winter of 1787-88 and thereafter.⁷

1799, Jean-Baptiste Dumontier and Jean Belliveau—doubtless as having acquired the rights of Dumontier and associates who had the post on the west side of Nord-Ouest (Northwest) river—and Jean Baptiste Vachon and Joseph

17 August, 1799.

⁹ Engagement executed before Voyer and Dumas, 26 August, 1799.

Faucher *dit* Chateauvert, doubtless as having acquired the rights of Marcoux and associates—who had the post on the east bank—entered into partnership for four years (1800-04). The agreement specifically refers to the “*établissement que les deux parties ont respectivement en la dite Baie des Esquimaux,*”⁸ demonstrating that it was a union of two competing companies.

In the same year, this association engaged men for “Kenomish” post, for “Newberry” post and for “divers postes” in the Baie-des-Esquimaux district.⁹

Between 1799 and 1815, a moiety of the interests of Dumontier, Belliveau, Vachon and Faucher must have been acquired by Dame Cecile Dumontier, as residuary legatee of her husband, Michel Falardeau, deceased, and by community of property with him, the other moiety being held by her late husband's partner, Jacob Pozer.

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¹ Deed executed before Lelievre and Planté, 28 June, 1815.

1815, Dame Cecile Dumontier, daughter of Jean Bte. Dumontier, *dit* Guyon, signed a lease, to run during her lifetime, whereby she leased her interest in the Baie-des-Esquimaux properties to Jacob Pozer. The lease also provided that, on the decease of the lessor, her rights in said properties should pass to Maria Pozer, daughter of Jacob Pozer, or, if Maria Pozer predeceased Dame Dumontier, said properties should pass to the brothers and sisters of Maria Pozer.¹

² Report of Capt. Wm. Martin to Governor Hamilton, 24 July, 1821.

1821, on the report that there was an extensive inlet on the coast of Labrador called “Gross Water” which abounded with very fine fir timber, fit for naval purposes, the Governor of Newfoundland, in his capacity as Commander-in-Chief of His Majesty's ships, sent Captain Martin to explore for this inlet which up to this time appears to have been unknown to the Governors of Newfoundland. Captain Martin succeeded in finding the inlet which is known as Hamilton Inlet and, with the assistance of Canadian subjects, who were settled on lake Melville, was enabled to explore that lake. He reported that the Canadians had extensive establishments and were carrying on a considerable fur trade with the “Red Indians.”² In the same year, Hon. James Irvine, in a memorandum addressed to Lord Bathurst, stated that “many other fisheries and trading posts are established and carried on by the people of Canada as well on the Mainland as on the Islands and as far as Esquimaux Bay on the outside North.”³

³ Irving to Bathurst, 1 February, 1821

In his map of British North America, 1832, Arrowsmith shows “Ivucktoke or Hamilton Inlet” and “Lake Melville,” with an accuracy of detail that demonstrates that they were based on the surveys made by officers of the British navy in 1823.

⁴ Deed executed before Tessier and Lelievre, at Quebec, 9 September, 1823.

1823, Claude Denechoux, as curator of the estate of Jacob Pozer, deceased, sold to Flavien Dufresne all Pozer's properties in the Esquimaux Bay district, Dame Cecile Dumontier being present and surrendering her rights. The agreement provided that Dufresne should pay the wages of the clerks and men then

⁵ Deed executed before Belleau and Panet, at Quebec, 28 March, 1828.

at Baie-des-Esquimaux, indicating that the posts were in active operation.⁴

1828, Dufresne sold the Pozer property to Jean Oliver Brunet. The deed of sale demonstrates that the properties were still in operation.⁵

⁶ Deed executed before Campbell, at Quebec, 3 February, 1829.

1829, Brunet sold to William Lampson, for £3,500 cy., “certain large and extensive premises with fishing and hunting establishments, situate lying and being in the Bay commonly called la Baie des Esquimaux consisting of fishing establishments, situations and locations, houses, stores . . . which said premises were enjoyed by the said Jacob Pozer and the Ancestors of the said Jacob Pozer by titles and have been in their actual possession and enjoyed by them for and during the last fifty years and upwards.” This, undoubtedly, refers to the posts erected by the Marcoux and the Dumontier associations. The agreement provided for the return to Quebec of all employees who did not desire to continue in the employ of Lampson.⁶

⁷ Deed executed before De Blois and Campbell, at Quebec, 7 January, 1832.

1832, Lampson sold his Esquimaux Bay posts to Nathaniel Jones. The deed provided that Lampson would pay all wages to 1 January, of his “clerks, agents and workmen” at Esquimaux Bay.⁷

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¹ Finlayson to Simpson, 21 July, 1834.

1834, Erlandson, of the Hudson's Bay Company, reported that Jones had two posts, one a fishing station on the coast [Rigolet], and the other (Northwest River) about 90 miles up the river.¹

² Deed executed before Campbell, at Quebec, 4 February, 1835.

1835, Nathaniel Jones sold his Esquimaux Bay properties to David Ramsay Stewart.²

³ Keith to Simpson, 25 April, 1835.

1835, when the King's Posts were transferred to the Hudson's Bay Company in 1831, an agreement had been made with Lampson, then proprietor of certain posts in Esquimaux Bay District, whereby the parties reciprocally agreed not to interfere with the trades carried on at the King's Posts and at the Esquimaux Bay posts. When Lampson sold his Esquimaux Bay posts to Nathaniel Jones in 1835, the H.B. Co. claimed that this agreement “was Keith to Simpson, no longer in force.”³

⁴ Simpson to, Finlayson, 24 December, 1835.

1835, Sir George Simpson, Governor of the Hudson's Bay Company, instructed Finlayson that a post should be established in Esquimaux Bay District “alongside the frontier post from Esquimaux Bay where D. R. Stewart has a principal establishment [North West River] from whence several outposts are equipped.”⁴

⁵ Simpson to McGillivray, 18 April, 1836.

1836, McGillivray was instructed to build his principal establishment near that of the opponents and his outposts near their outposts.⁵

⁶ McGillivray's

McGillivray stated that Stewart had three posts, namely,

journal,
18 June, 1836.

⁷ McGillivray's
journal, 21 July and
14 September, 1836.

⁸ McGillivray's
journal, 24 July and
14 Sept., 1836.

⁹ "Twenty-five
Years in the
Hudson's Bay
Territory." By
John McLean, vol.II,
p. 52.

¹⁰ Hudson's Bay Co.
to Stewart,
21 January, 1837.

¹¹ Hudson's Bay Co.
to Hopkins,
25 January, 1866.

¹ Hudson's Bay Co.
to Finlayson,
7 March, 1840.

² Simpson to
Barnston,
29 March, 1844.

³ Simpson to
Nourse,
28 January, 1845.

⁴ Simpson to Jas.
Smith,
5 February, 1847.

⁵ D.A. Smith to
H.B. Co.,

at Rigolet, Kibocock [Kaipokok] and North West River.⁶

1836, the Hudson's Bay Co. established a "petty post" at Rigolet and built "Fort Smith" at Northwest River "alongside" D. R. Stewart's post.⁷

As the H.B. Co.'s principal establishment, Fort Smith, is what is now known as North West River post, this demonstrates that this was the site of the principal establishment of D. R. Stewart. The evidence already cited also indicates that, except, possibly, for a short time during the war between Great Britain and France, and immediately thereafter, this site had been continuously occupied since the widow Fornel and associates had established themselves in the district in 1749. It is probable also that it had been occupied since 1743, the year that the Pilotes established this post for Fornel.

1836, a trader named Bird had a post at Kinimish (Kenemich). In addition to Northwest River, there were also posts at "Moolagan" (Mulligan) and "Grand River" (Hamilton River). In 1836, the Hudson's Bay Company established an outpost on the Hamilton river (at Sandy Banks ?) above their opponents and also built an outpost on the Northwest river.⁸ McLean's account indicates that the latter was a short distance from the head of Grand Lake, probably near the end of the portage from lake Nipishish.⁹

1837, Stewart's actions indicate that he considered the agreement between Lampson and the Hudson's Bay Co. to be still in force and that he regarded the latter's invasion of the Esquimaux Bay region as a breach of faith.¹⁰ The dispute, however, was terminated by the purchase of Stewart's posts by the Hudson's Bay Co. in 1837.¹¹

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1840, the principal posts of the Hudson's Bay Company in Esquimaux Bay district were : Rigolet, North West River, Kaipokok and Aillik.¹

1844, the principal posts were : Rigolet, North West River, Sandy Banks, Mainwan Lake, Fort Nascopie, "New" post, Kaipokok and Gull Island.² The appointments for the following year indicate that the "new" post was, later, named "Wingabow."³

1847, Michikamau post is listed as in operation.⁴

1863. the Hudson's Bay Company erected a post at Lake Winebaga, or Winebagan or Winouliupa (Winokapau ?).⁵

1865, Hunt and Henley sold Snooks Cove post to the Hudson's Bay Company.⁶

21 March, 1864.

⁶ Deed executed at
London,
19 April, 1865.

⁷ Deed executed at
London(?),
20 December,
1873.

1873, the Hudson's Bay Company purchased Cartwright post and Round Island, Greedy Harbour and Sandhill outposts from A. B. Hunt and Co.⁷

TERRE FERME DE MINGAN SEIGNIORY,
ISLES ET ISLETS DE MINGAN SEIGNIORY AND
ISLE D'ANTICOSTI SEIGNIORY.

SUMMARY STATEMENT OF EXTENT OF GRANTS

Terre Ferme de Mingan Seigniory.

1661, the Compagnie de la Nouvelle France, also known as the Compagnie des Cent Associés, granted to Francois Bissot de la Rivière, “l’Isle aux Oeufs, située an dessous de Tadoussac, vers les Montpellès, du Coste du Nord, quarante lieues ou environ dud. Tadoussac, avec le droit et faculté de chasse et d’établir en terre ferme aux endroits qu’il trouvera plus commodes, la penuche sédentaire des loups marins, baleines, marsouins, et les autres négoce, depuis la dite Isle aux Oeufs jusqu’aux Sept Isles et dans la Grande anse, vers les Esquimaux ou les Espagnols font ordinairement in pesche.”⁸

⁸ Aveu et déclaration executée
before
Chartier, at
Quebec,
11 February, 1668.

The original document was destroyed by fire but, in 1668, Bissot made an “aveu” to the Compagnie des Indes Occidentales, the successors of the Compagnie de in Nouvelle France, setting forth the grant made to him by the last-named Company in 1661. This aveu has been preserved and throughout the legal proceedings respecting the title to Terre Ferme de Mingan seigniory, it was treated as containing a correct statement of the original grant.

It was not disputed that this grant gave to Bissot the seigniory of the Isle aux Oeufs. Later, however, the owners of the Terre Ferme de Mingan Seigniory contended that this grant gave a seigniory not only in the Isle aux Oeufs but also on the mainland from the isle aux Oeufs to Bradore bay at the western entrance to the strait of Belleisle.

Isle d'Anticosti Seigniory.

1676, The King granted to Medard Chouart des Groseliers and Pierre Esprit de Radisson, the exclusive seal fishing of Anticosti island for 20 years (1676-1696). He also granted them permission to take white porpoises in the St. Lawrence between Montreal and Anticosti, the grant to be void if the fishing were not carried on continuously.¹

¹ Concession by the King to Radisson and Groseliers, 29 April, 1676.

1680, Duchesneau granted to Louis Jolliet “en titre de fief, seigneurie, haulte, moyenne, et basso justice, l'Isle d'Anticosti,” subject to the condition of “foi et hommage,” also that he keep “feu et lieu.”²

² Grant by Duchesneau to Jolliet, March, 1680.

1675, Louis Jolliet, seignior of Anticosti and co-seignior of Isles et Islets de Mingan, married Claire-Francoise daughter of Francois Bissot, grantee of Isle-aux-Oeufs seigniory. Bissot having died, Jolliet acquired through his wife, an interest in Bissot's grant.

From the date of this grant, 1680, the interests of the proprietors of Anticosti, Isles de Mingan and Terre Ferme de Mingan are inextricably interwoven and have, therefore, been considered under a combined heading (see below).

³ Grant by Deschesneau to Jolliet and La Lande, 10 March, 1679.

Islets et Islets de Mingan Seigniory

1679, Intendant Deschesneau granted to Jacques de la Lande and Louis Jolliet “en titre de fief, Seignerie, haulte, Moyenne et Basse Justice, les Isles, et Islets appellée Mingan etans de Costé du Nord, et qui se suivent jusqu'à la Baye appellée Lance aux Espagnols.”³

Lalande, in 1675, had married Marie Couillard, widow of Francois Bissot de la Rivière, son of the grantee of Isle-aux-Oeufs (Terre Ferme de Mingan), and had thus acquired an interest in said grant.

Similarly, Jolliet, as the husband of Bissot's daughter, Claire-Francoise Bissot, had also acquired an interest in Isle-aux-Oeufs.

As Jolliet was also co-seignior of Isles et Islets de Mingan, the seigniories of Terre Ferme de Mingan, Isles et Islets de Mingan and Anticosti have been dealt with under the combined head.

HISTORY OF TERRE FERME DE MINGAN, ISLES ET
ISLETS DE MINGAN AND ISLE D'ANTICOSTI
SEIGNIORIES.

Bissot, in 1661, on receiving the grant of Isles aux Oeufs, with the right to make establishments on the “terre ferme,” established himself at what is now Mingan village and erected other establishments on the mainland, the most easterly being at “Ouramane” (Olomanoshibo) river.

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Limits of Bissot's grant and of Isles et Islets de Mingan.

Bissot's concession extended eastward “jusqu'aux Sept Isles et dans la Grande anse, vers les Esquimaux ou les Espagnols font ordinairement la pesche.”

The Isles et Islets de Mingan seigniority extended eastward to “la Baye appelée Lance aux Espagnole.”

The similarity of verbiage practically demonstrates that both grants extended to the Baye des Espagnols. A critical examination of the available evidence discloses the identity of baye des Espagnols with present Bradore bay.

Having considered the early history of the Terre Ferme, Isles de Mingan and Anticosti seigniories, and the interlocking ownership thereof, it remains to consider their later history.

History, 1682 to 1760.

1682, a large portion of the lower town of Quebec was burnt. The titles, documents and records of the Bissot family were destroyed.¹

1696, Marie Couillard, owner of a half interest in the “terres de Mingan tant terre ferme que isles,” entered into partnership for three years with Francois Vianney Pachot to trade and fish therein.²

1709, Jean Baptiste Bissot de Vincennes transferred to Francois Bissonet all his rights and claims to a contingent share in the estate of Francois Bissot de la Rivière. This is the first claim that has been noted as asserting extensive limits for the Bissot grant. The deed purports to transfer a share of a concession which extends from “l'isle aux Oeufs jusqu'aux Blanes Sablons, avec toutes les iles de Mingan et autres contenues dans toute la dite tendue.”³

1713, the palace of the Intendant, at Quebec, was burnt and almost all the registers of the Conseil d'Etat were destroyed.

1726, Francois Brissonet transferred to Jacques Pichot the whole of his contingent share of the estate of Bissot de la Riviere, acquired by Brissonet from Bissot de Vincennes in 1709.⁴

1733, the heirs of Bissot and Jolliet, were brought before the Courts by Pierre Carlier, the Adjudicataire General. Carlier demanded that they produce the title by virtue of which they

¹ Certificate of Duchesneau, 9 March, 1684.

² Agreement executed before Chambalon at Quebec, 31 March, 1696.

³ Deed executed before le Pailleur, at Quebec, 10 July, 1709.

⁴ Deed of gift executed before La Cetière, at Quebec, 28 November, 1726.

⁵ Ordinance by Hocquart 12 May, 1733.

had taken possession of the extent of country occupied by them on the north shore of the St. Lawrence below the Moisie river.”⁵

Carlier, as Adjudicataire General, controlled the Domaine du Roy, which extended from Eboulemens Seigniorly to a point two leagues below Seven Islands, and therefore, included ile aux Oeufs, conceded to Bissot in 1661.

Carlier contended that, according to the strict language of the *aveu* of 1668, Bissot was only granted the ile aux Oeufs itself. And that, in fact,

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the Compagnie de la Nouvelle France could not give the right of property on the mainland between ile aux Oeufs and Seven Islands, because, in 1653, the Domaine reserve had been declared to extend to a point two leagues below Seven Islands.

While not contesting Bissot's right of property in the ile aux Oeufs, earlier did contest it as respects the mainland between ile aux Oeufs and the river Moisie, which is at a point two leagues below Seven Islands. In support of that contention, he urged that that portion of the mainland had previously been reserved for the Domaine, and that the language of the *aveu* did not comprise any right of property on the mainland. He, therefore, prayed for a declaration that the Domaine included that portion of the mainland, extending from ile aux Oeufs to the river Moisie.

The heirs Bissot and Jolliet answered that they did not use that portion of the mainland, and they were willing to abandon it, in order to avoid litigation and the creation of trouble to the Domaine du Roy.¹

Thereupon, Hocquart, by an ordinance duly made, re-united to the Domaine du Roy the land granted to Sieur Bissot (“le terrain concede au Sieur Bissot”) from ile aux Oeufs to cape Cormorant, a prominent point below the river Moisie. And, as to the claim of the Bissots to the remainder of the mainland, Hocquart referred them to the King for a new title.²

1733, following the decision of Intendant Hocquart, Francois Bissot the second, by a petition to the King, applied for the new title suggested by Hocquart. Bissot, in his petition, sets forth his claim to the title applied for. He states that, for 60 years, he, and his father before him, had continuously resided on the concession, and operated it in all its extent, by posts subsidiary to the main post of Mingan ; that the English had burnt his buildings three times, and that he had rebuilt them ; that the western part of the concession as far as cape Cormorant, had been re-united to the Crown ; and he asks for a new title to confirm him in the remainder.³

He complains of the invasion of the eastern end of his grant by new concessions made west of the Baye des Espagnols [Bradore Bay], referring to the grants that had been made in that area, including that of Lafontaine which was bounded on the west by the Etamamu river.

¹ Bissot and de la Gorgendière to Hocquart, 12 April, 1733.

² Ordinance by Hocquart, 12 May, 1733.

³ Petition of Bissot to Maurepas, 1733; quoted in Labrador Co. vs. The Queen; in the Privy Council. Defendants exhibit. A3, pp. 243-244.

He states that he would be satisfied, even if, in granting the new title, the King should restrict his property to the boundary of the Lafontaine grant; in other words, to time river Itamamiou (Etamamu), and he sums up his representations by saying:—

“Il luy bien triste, qu'apres une possession de soixante-dix ans de s'en voir dépouiller petit à petit. L'acte de foy et hommage dont il a honneur de joindre copie collationnée, prouve que ce terrain a été concédé a son père et il supplie qu'il sur ses vieux jours goûter la tranquillité que ces travaux dans des semblables endroits pouvaient lui permettre.”

¹ Ordinance by Hocquart, 2 May, 1736.

² Maurepas to Beauharnois and Hocquart, 9 April, 1738.

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1736, by an ordinance, issued by Hocquart at the instance of d'Haudebourg, part-owner and lessee of Mingan, Brouague, concessionaire of Baye-de-Phelypeau, was forbidden to trade within the limits of “Mingan et dependences.”¹

1733, the Comte de Maurepas wrote Beauharnois and Hocquart asking for additional information and for confirmation of the statements made by Bissot in his petition in 1733.²

³ Maurepas to Beauharnois and Hocquart, 21 April, 1739.

1739, Maurepas wrote Beauharnois and Hocquart that, as the Bissots had traded, hunted and fished “sans aucun trouble dans une étendue de côte de prés de cent cinquante lieues, il est juste d'avoir égard à toutes ces circonstances, et elles m'auraient déterminé à proposer au Roy de confirmer les heritiers Bissot dans la possession d'une partie de cette étendue de côte et de fixer leur état.”

⁴ Brevet de confirmation by the King, 13 April, 1740.

Maurepas stated that he would recommend that the concession be limited to the coast between the Domaine du Roy and Lafontaine's concession, with such depth as Beauharnois and Hocquart recommend.³

⁵ Ordinance by Hocquart, 4 October, 1743.

1740, the King, in confirming the grant of Gros-Mecatina and its augmentation, excluded the islands opposite. As the original grant included these islands in Gros-Mecatina concession, this was virtually an acknowledgment that these islands had been found to be included in Isles de Mingan seigniory.⁴

⁶ Ordinance by Hocquart, 30 December, 1743.

1743, an ordinance by Hocquart fixed the rental of these islands at three per cent upon the seals taken by the concessionaires of Gros-Mecatina. The seigniors of Isles et Islets de Mingan were also empowered to exact the same rental from other holders of concessions on the mainland opposite their seigniory.⁵

⁷ Deed executed, before Barolet, at Quebec, 9 September, 1745.

1743, Hocquart fixed the amount due to Lafontaine, as rental of the islands opposite Gros-Mecatina, at 5096 livres for

⁸ Lafontaine to
Halifax,
23 October, 1763.

the preceding four years.⁶

1745, Charles Jolliet, as part-owner of Mingan, leased his interest to Jean Lefebvre for three years, (1745 to 1748).⁷

The history of the Isles et Islets de Mingan down to 1763, is summarised by Lafontaine in a memoir which accompanied his letter to the Earl of Halifax.⁸

Lafontaine states that Jolliet and Lalande developed the seal fisheries Halifax, of the islands; that these fisheries were continued by their heirs and representatives; that sedentary fisheries were established by Lafontaine and that he was the first to establish such fisheries.

Lafontaine further states that the title to the islands was not challenged till 1739, when Pommereau applied for a concession of Gros-Mecatina; that the concession was granted, Beauharnois and Hocquart being ignorant of the extent of Isles et islets de Mingan; that, upon the petition of the seigniors, Beauharnois and Hocquart fixed the rental payable by concessionaires of the mainland opposite to Isles et Islets de Mingan, at 12 livres for each league of islands occupied by said concessionaires and that, in 1743, the rental was increased to three per cent of the produce from the islands occupied.

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¹ Lafontaine to
Halifax,
23 October, 1673.

Lafontaine, in his memorial, also refers to the continuity of fishing and hunting operations in the Terre Ferme de Mingan, Anticosti, and Isles et Islets de Mingan seigniories and his statement may be summed up as an assertion that, from the date of the grant, 1680, the fisheries and hunting of Anticosti had been continuously operated by heirs Jolliet and Lalande, or their lessees, constituting practically the same interests as operated the Terre Ferme and Isles et Islets de Mingan seigniories.¹

² Lafontaine
Halifax,
Jolliet, March,
1763.

BRITISH REGIME

Terre Ferme de Mingan Seigniority.

Lafontaine, in 1763, stated that:²

(1) Bissot de la Rivière operated Mingan from 1661 till his death (in 1678 ?)

(2) His eldest son, Francois Bissot, operated Mingan for 40 years after his father's death (1678 to 1718), jointly with his brother-in-law, Louis Jolliet, who had married Claire-Francoise Bissot in 1673. Since that date (1718), it had been held jointly by the heirs of Francois Bissot and Jolliet.

(3) 1733, Bissot leased Mingan to his son-in-law, Jacques de Lafontaine, who operated it for one year.

(4) 1734, Bissot leased Mingan to Volant d'Haudebourg, who operated it for 21 years (1740-1761).

(5) Mingan was burnt by the English in 1690, 1711, and 1769 (an error for 1759).

(6) 1761, it was leased to Joseph Isbister for nine years (1761-1770).

(7) That General Murray had forced the Bissot and Jolliet heirs to give a lease of Terre Ferme de Mingan to Isbister.

(8) That the Terre Ferme de Mingan seigniory extended from cape Cormorant to the Ouramaie (Olomanoshibo) river; that, at the last-named point, the ancestors of the seigniors had always had their most easterly establishment and that it was still (1763) in operation.

³ Lafontaine to
Halifax,
10 March, 1763.

Isles de Islets de Mingan Seigniory.

Lafontaine, in 1763, stated that:³

(1) In 1679, Isles et Islets de Mingan seigniory was conceded to Jolliet and Lalande.

Page	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
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(2) That it extended eastward to the “Bale des Espagnols, appelée aujourd’huy la Baye Phillippeaux ou la Brador”.

(3) That the concession had been developed by Jolliet and Lalande and their heirs.

(4) That no question respecting their ownership of the islands had arisen until Pommereau, in 1739, obtained a grant of Gros-Mecatina concession. That, owing to their ignorance that the islands opposite Gros-Mecatina were included in Isles de Mingan seigniory, Beauharnois and Hocquart included said islands in the Pommereau grant.

(5) That, in ordinances of later date, fixing the rent payable to the seigniors of the Isles et Islets de Mingan, Hocquart had acknowledged the heirs Jolliet and Lalande to be the proprietors of said islands and had ordered the concessionnaires of the mainland to pay rental for the islands opposite their concessions.

(6) That, since 1743, the widow Pommereau and her successors in title to Gros-Mecatina, had paid three per cent per annum as rental for the islands opposite Gros-Mecatina.

(7) That, as John Gray had acquired Gros-Mecatina, he was unquestionably subject to the payment of said rental.

(8) That Lafontaine, as donee of the Sieur Lalande and of an heiress of Jolliet, had established fisheries thirty years earlier (1733) on such islands as seemed to him suitable.

¹ Lafontaine to Halifax,
23 October, 1763.

² Murray to Halifax,
24 April, 1764.

Ile d' Anticosti Seigniory.

Lafontaine, in 1763, stated that:¹

(1) Anticosti island was granted to Jolliet in 1680.

(2) That Lafontaine held an interest as donee of an heiress of Jolliet.

(3) That this year (1763) General Murray had refused him a permit to send a vessel to Anticosti to make timber and take seals.

Respecting the various charges made by Lafontaine, Murray says that:²

(1) As to the charge that he hindered the heirs Bissot and Jolliet operating Mingan in 1761, that he does not remember any application of this nature, and that the few heirs present in Quebec would have been unable to finance it and that he would have refused such permission as the situation of the British was such that they could allow no one to “frequent those parts but such as we could confide in.”

(2) Respecting the charge that he forced Lafontaine and Taché to give a lease of Mingan to Isbister, Murray states that

he understood that Lafontaine “was well pleased with the bargain;” that he had proposed it himself and that it was a most advantageous bargain for the lessors.

(3) Respecting the charge that he deprived Lafontaine of Gros-Mecatina, Murray says that, as he was assured that the grant of Gros-Mecatina to Hocquart was illegal, in 1761, he gave it to Lafontaine for one year only, and then only “out of pure Charity”; that he would have renewed the grant had he not found that Lafontaine was assisting “Privateers and Pirates”; that, consequently it “became expedient to take” Gros-Mecatina from him and give it to “Gray, in whom I could confide”; that Gray's partner, Wm. Grant, held Lafontaine's receipt for the three per cent rental and that the payment thereof had been ordered by Murray.

¹ Deed executed before Panet, at Quebec, 13 August, 1761.

Terre Ferme de Mingan, Isles Et Islets de Mingan and Ile d'Anticosti Seigniories.

1761, Lafontaine de Belcour and Jean Taché, as part-owners of Terre Ferme de Mingan and also acting for their co-proprietors, leased Mingan for nine years (1761 to 1770) to Joseph Isbister.¹

² Proclamation by Hugh Palliser 8 April, 1765.

1765, Hugh Palliser, Governor of Newfoundland, issued a proclamation stating that the “property of all the Land on the said Coast of Labradore and the Islands of Anticosty and Madaline, is in the Crown, and since the Conquest thereof no part of it has been lawfully given or granted away; and no Power being vested in me, to give or grant any exclusive Possession or Privilege to any Persons whatever. . . . In order to invite Adventurers into that extensive field for Fishery and Trade—I hereby Order and direct, That the whole shall be publick and free to all the King's British Subjects in Preference to all others.”²

³ Declaration executed before Saillant, at Quebec, 2 November, 1765.

1765, Cugnet, as having married Marie-Josophe Bissot de la Fontaine, Guillaume Guillemin, as guardian of the heirs of Charlotte Bissot, in her lifetime wife of Jacques Bellecourt de la Fontaine, and other co-proprietors of the Terre Ferme de Mingan, Isles de Mingan and Anticosti appeared before notary Saillant, with ten “Bourgeois et anciens notables” of Quebec. These persons signed a notarial declaration that the heirs Bissot, Jolliet and Anticosti were owners of and had, for time immemorial, enjoyed peaceable and continuous possession of “la terre forme du Poste de Minguan,” and of the “Isles et Islets appellés Minguan et de l'Isle d'anticosty and that they had always kept “feu et lieu” in said posts.²

1766, Cugnet and Tache, acting on their own behalf and as representatives of other proprietors of the “Poste, fief et seigneurie de la terre ferme de Mingand,” with twelve “anciens Bourgeois et notables” of Quebec signed

¹ Declaration executed before Saillant, at Quebec, 4 October, 1766.

a notarial declaration that “les heritiers Joliet Mingand sont réellement propriétaire de la dite terre ferme appellée

communément la seigneurie et poste de Mingand;” that they had enjoyed peaceable possession from time immemorial; that they had always kept “feu et lieu” and had fished, hunted and traded with the Indians in virtue of the deeds of concession which Cugnet and Taché declared to have been destroyed by fire in 1713.¹

² Cugnet and Taché to Carleton, 10 October, 1766.

³ Declaration before Saillant, at Quebec, 5 November, 1766.

⁴ Recapitulation of proofs concerning the seigniorie; by Attorney General Maseres, 17 December, 1766.

1766, Cugnet and Taché petitioned in their own names and on behalf of their respective wives, and of 26 of their co-heirs, that they be confirmed in the possession of the “Terre Ferme de Mingan, de l’Isle d’Anticosty et des Isles et Islets de Mingan.” They complained that, although they had had peaceable possession of these seigniories for 104 years, the Government of Newfoundland had, by “Placards et des Menaces continuelles,” disturbed them in their possession; that said Government had compelled their lessee to take refuge within the limits of the province of Quebec, and that such actions destroyed the value of their seigniories and fisheries.²

1766, in November, Cugnet, with fourteen “anciens Bourgeois et Notables” of Quebec, declared that the heirs Jolliet were undoubtedly proprietors of Anticosti seigniorie.³

1766, at the request of Cugnet and Taché, Francois Maseres, Attorney General of Quebec, recapitulated the evidence they had adduced. Maseres stated that:⁴

(1) The Act of Notoriety by “the twelve antient Burgesses of Quebec” proves that the heirs Bissot and Jolliet had enjoyed “the post or settlement, called Mingan,” for an immemorial length of time but that this did not prove that it extended eastward beyond the “Ouramane”(Olomanoshibo) river.

(2) That, as the Isles et Islets de Mingan seigniorie extended to Bradore bay, it afforded a presumption that the Terre Ferme de Mingan extended eastward to the same point.

(3) The ordinance of 1743 ordering the widow Pommereau to pay three per cent rental to the heirs of Jolliet and Lalonde proves that the Terre Ferme extends at least as far as the eastern boundary of Gros-Mecatina.

(4) The grant of St. Modet to Taché in lieu of Gros-Mecatina is an acknowledgement of Taché’s claim to Gros-Mecatina, that is, of the claim of the heirs Bissot and Jolliet,” in whose name and by whose consent, Taché desired to be put in possession of it.

(5) That proofs (3) and (4) concerning Gros-Mecatina “relate equally to both the Seigniories of Mingan, that of the Mainland and that of the Isles and Islets.”

(6) “Cape Cormorant is now, and has been for these thirty years, the Western Boundary” of the Terre Ferme and Islets de Mingan seigniories.

Taché and the Opinion of Maseres. He points out that “the Canadians of all Men seem to be best calculated for carrying on the Winter Seal Fishery,” the season extending from the middle to the end of December, a season when the inclemency of the weather necessitates permanent establishments to house and protect the fishermen; that the winter fishery would not interfere with the cod fishery or the taking of whales; he feared that debarring them from it will result in “a total Loss of that valuable Branch of Commerce to the Mother Country;” that, owing to the custom of the country, the grants were “divided every Descent, so that what at first was solely held by two or three Grantees, is now parcelled out among thirty families all British subjects resident in the province of Quebec.¹

¹ Carleton to Lords of Trade,
17 January, 1767.

Carleton also transmitted a petition of some of the principal merchants of Quebec relative to these fisheries, “which are considered here as a Matter of most important concern to this Province.”

1767, the heirs Bissot and Jolliet, claiming to be Seigneurs of Terre Ferme de Mingan, Isles et Islets de Mingan and Anticosti “depuis plus d'un siecle,” and Jean Taché, owner of St. Modet concession, petitioned the King that they be maintained in possession of their respective properties. They stated that the Proclamation of 1763 placed the greater portion of their seigniories under the Government of Newfoundland; that, in 1765, the vessels sent with supplies for their posts were ordered back to Quebec by a frigate, although said vessels were provided with passports; that the lessee of Mingan seigniority had been forced to take refuge in the province of Quebec to the considerable prejudice of said heirs; that over 500 French-Canadians had thus been deprived of their usual occupation and that considerable loss had been sustained by the people of Quebec province through the loss of their fisheries. They petitioned for peaceable enjoyment.²

² Heirs Bissot and Jolliet to Shelburne,
24 February, 1767.

1767, Cugnet and Taché, as attorneys for the owners of Terre Ferme de Mingan, Isle de Mingan and Anticosti, state that Jean Lymburner, who had leased part of these seigniories—though he had not paid any rent for three years—had seized two posts not included in his lease on the ground that his vessel, coming from London, had arrived first.³

³ Petition by Cugnet,
at Quebec,
12 November, 1767.

1767, Carleton transmitted to Shelburne the petitions of Cugnet and Taché. He states that they consider it a particular hardship that “a British merchant of this Place, availing himself of the present Regulations, merely by the Arrival of his Vessell from Europe first upon that coast should reap all the advantages of the Winter Fishery, at the same time that, in order to be enabled so to do, he is under a necessity to hire Canadians, employ Craft, and send down Provisions from hence.

“They consider, that whether these Winter Fisheries are carried on by the Grantees, their Lessees or ships arriving from

Europe, the Equipments are British and the Returns sent to Britain. It is therefore not a little grating to the Canadian Grantees, to be debarred from what their Ancestors

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¹ Carleton to Shelburne, 24 November, 1767.

uninterruptedly possessed from Generation to Generation for near one hundred years past, while Britain can reap no greater advantage therefrom, than if they continued in peaceable Possession of the same . . . If matters remain upon the present Footing, several decent Families of this Province will be . . . reduced to the Greatest Poverty and Distress.”¹

² Petition by Taché, at Quebec, 12 November, 1767.

1767, Taché states that John Ord, the lessee of Taché's concession of St. Modet, had seized this post in collusion with the officers of the government of Newfoundland (“s'est approprié le dit Poste de Saint-Modet, d'intelligence avec les Officiers du Gouvernement de Terre Neuve”) who, under a pretence of maintaining order, were ruining him.²

Taché requests that he be maintained in peaceable possession of St. Modet and that other former subjects of France who held concessions on the “cote du Nord” be also protected.

³ Opinion of De Grey and Willes, 5 January, 1768.

1768, Attorney General De Grey and Solicitor General Willes rendered an Opinion to the Lords of Trade respecting the claims of the seigniors of Terre Ferme de Mingan, Isles et Islets de Mingan and Anticosti.³

They criticise Maseres' statements as appearing to be “a plea in favour of the requests of Messrs. Cugnet and Taché, on their behalf,” and not a report that “he has made in his capacity as Advocate General.” They conclude that the evidence adduced does not constitute a clear title.

Respecting the Terre Ferme de Mingan, they state that, if the original title was burned in 1662, and the registers and archives were burned in 1713, the claimants should obtain a copy from the Chambre des Comptes, in Paris, and that the limits of the seigniority would appear to be from the river St. John to the L'ouramand (Olomanoshibo).

Respecting the Isles de Mingan, they say that the only title fyled is a copy of the declaration registered at Quebec in 1738.

Respecting Anticosti, they say that the evidence consists of an “old parchment, which is supposed to be a copy of the register of Quebec, signed by the chief clerk of the Superior Council, 60 years ago,” but that it does not appear that the grant was ratified by the King and they enquire: “Why has not the investigation been made at Paris, so as to ascertain the title thereof and the confirmation?”

Taché died in April, 1768, and there is a note attached to the Opinion to the effect that, therefore, the question of the ownership of Saint-Modet is no longer in question.

The seigniors replied that they had had peaceable possession of the Terre Ferme de Mingan for more than a

century, whereas 40 years' possession was sufficient to give them a title; that possession could readily be verified by the registers of passports of the Admiralty, granted, in remote times, to Bissot and Mingan for their seigniories, also several arrets of the Conseil Superieur, sentences of the Prevoté, etc.

As to the Isles de Mingan, they stated that the title had recently been found duly registered in the register of the Insinuations du Conseil Superieur.

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- ¹ Reply of the Seigniors of the Terre Ferme de Mingan, Isles de Mingan and Anticosti, 12 November, 1768.
- ² Deed executed before Hautraye, at St. Antoine, 4 December, 1769.
- ³ Deed executed before Geneste, at Quebec, 4 July, 1771.
- ⁴ Documents in State Paper Office relating to Seigneuries in Canada, 24 April, 1771.
- ⁵ Deed executed before Panet, at Quebec, 18 October, 1771.
- ⁶ Deed executed before Panet, at Quebec, 1 June, 1772.
- ⁷ Lords of Trade to Privy Council, 30 November, 1772.
- ⁸ Deed executed before Panet, at Quebec, 10 April, 1775.
- ⁹ Deed executed before Pima, at Quebec, 20 November, 1777.

As to Anticosti, this grant was also, doubtless, registered in the same register as the Isles de Mingan. The ratification of Anticosti was registered in Register "A" of the Conseil Superieur.

They again asked for peaceable possession; that the Governor of Newfoundland be prohibited from disposing of their properties; that they should be free to carry on the sedentary seal fishery without interference and that their property rights in the Terre Ferme, Isles de Mingan and Anticosti be assured to them.¹

1769, Antoine Belcour de Lafontaine sold his rights of succession to the Isles de Mingan, Chicataka, and Montagamiou to Antoine Gris .²

1771, Noel Alain and his wife, Marie-Genevieve Mingan, sold to Jean-Marie Alain and Pierre Alain all rights in Terre Ferme de Mingan and all other properties possessed by them.³

1771, The Council for Trade recommended that, in accordance with the representations of Governor Carleton, the said Governor should be authorized to grant "the lands remaining subject to His Majesty's disposal, in fief and seigniority . . . omitting in such grants haut, moyenne et basse justice."⁴

1771, the heirs Lalande and Jolliet leased the Isles de Mingan and Anticosti seigniories to Thomas Dunn and William Grant for fifteen years (1772-1787) for an annual rental of 600 shillings cy. and three per cent of the profit from the seal oil and seal skins taken or traded in the leased area.⁵

1772, Marie Bissot, widow of Francois Vedericque and grand-daughter of Bissot de la Riviere, sold to Thomas Dunn, her one-quarter interest in the "Seigneurie et fief de Mingan." The lease of the seigniorie to Isbister had previously been transferred by Isbister to Dunn and associates.⁶

1772, The Lords of Trade reported adversely to Hocquart's claim to Gros-Mecatina.⁷

1775, Pierre Marcoux, as attorney of Antoine Gris , sold to William Grant the rights of succession to the Isles de Mingan, Chicataka and Montagamiou, acquired by said arise in 1769, by purchase from Antoine Belcour de Lafontaine.⁸

1777, Magdelaine Belcourt de Lafontaine, daughter of Jacques Belcourt de Lafontaine and Charlotte Bissot, sold to Thomas Dunn all her rights and claims in the Isles de Mingan and Terre Ferme de Mingan seigniories.⁹

¹⁰ Deed executed before Rouville and Longueuil, at Quebec, 21 Jan., 1779.

1778, the Sheriff of Quebec sold to William Grant at public auction, 18 May 1778, “nine-twentieths of the Fief and Seigniority of the Island of Anticosty; nine-twentieths of the half of the Fief and Seigniority known by the name of the Islands of Mingan” and such “share and pretensions” as Charles Jolliet Anticosty had “as co-heir of his mother,” Claire Bissot d'Anticosty, in the Terre Ferme de Mingan seigniority.¹⁰
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¹ Deed executed before Panet, at Quebec, 26 January, 1779.

1779, William Grant acquired from Gab. Elz. Taschereau, the paternal and maternal shares of Terre Ferme de Mingan, Isles et Islets de Mingan and Anticosti seigniorities inherited by Louise Therese de la Gorgénière, Marquise de Vaudreuil.¹

² Act of “foy et hommage,” before Haldimand, 28 May, 1781.

1779, William Grant purchased the shares of Joseph Marin, of Joseph Henry Quiny de la Motte and of Marie-Louise Marin in Isles et Islets de Mingan, Terre Ferme de Mingan and Anticosti seigniorities.²

³ Act of “foy et hommage” before Haldimand 23 May, 1781.

1781, the registers of Faith and Homage contain an entry purporting to be the registration of an act of “foy et hommage” before Governor Haldimand, for the seigniorities of the Terre Ferme de Mingan, Isles de Mingan and Anticosti, by Francois Cugnet, as husband of Marie Joseph de Lafontaine de Belcour, Nicolas Joseph de Lafontaine de Belcour, Francois de Lafontaine de Belcour, William Grant and Thomas Dunn, claiming to be “propriétaires par indivis.”³

⁴ Decision of Privy Council in *re* Labrador Company, Defendant, and, The Queen, Plaintiff, 1892.

The Lords of the Privy Council, however, in *The Queen vs. Labrador Company*, state that, appended to this “document is a certificate of Cugnet himself (who appears to have held the office of Keeper of the Papier Terrier) that this foi et hommage had been presented; but it is not signed by the Governor, and therefore had no validity.” They also state that this “document contains two statements which are now known to be untrue.”⁴

⁵ Deed executed before Panet, at Quebec, 12 October, 1781.

1781, Francois Belcour de Lafontaine sold to Francois Cugnet all his rights and claims to the Isles de Mingan and Terre Ferme de Mingan seigniorities.⁵

⁶ Deed executed before Dartigny, at Quebec, 17 February, 1784.

1784, Nicolas G. Boisseau, in his own name and as husband of Claire Jolliet Mingan; Jean-Marie Allain and his wife, Marie-Genevieve Jolliet Mingan, and other Bissot heirs sold to Thomas Dunn and Peter Stuart their respective shares in Isles de Mingan and Terre Ferme de Mingan.⁶

⁷ Declaration before Dartigny, Quebec, 6 August, 1781.

1784, William Grant made a declaration that, of the property deeded to him by the Sheriff on the 21 January, 1779, his share constituted one-half and that Thomas Dunn and Peter Stuart each owned one-quarter.⁷

⁸ Deed executed before Panet, at Quebec, 18 January, 1786.

1786, Cugnet, on his own part and on the part of his wife, Charlotte-Joseph Belcour de Lafontaine, sold to Peter Stuart, William Grant and David Alexander Grant, all their rights and claims in Isles de Mingan and Terre Ferme de Mingan.⁸

⁹ Deed executed before Panet, at Quebec, 15 May, 1783.

1788, Joseph Belcourt de Lafontaine and his wife, Marie Couillard de Beaumont, sold to Mathew Lymburner all their rights and claims in Isles de Mingan and Terre Ferme de Mingan.⁹

¹⁰ Deed executed before Descheneaux at Quebec, 22 June, 1789.

1789, Peter Stuart and his wife sold to Thomas Dunn and his wife all the rights that said Stuart and his wife had in the seigniorship of Isles et Islets de Mingan.¹⁰

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¹ Acte d'accord et conventions executed before Descheneaux at Quebec, 12 December, 1789.

1789, William Grant, Thomas Dunn and Peter Stuart agreed to unite their respective shares in the ownership of the seigniorships of Terre Ferme de Mingan, Isles de Mingan and Anticosti, the shares in the partnership to be as follows : Grant, one-half; Dunn and Stuart, one-quarter each. They declared that they owned practically the whole of these seigniorships.¹

The agreement recites that they have acquired all the shares except those owned by the Baron de Castlneau and his wife and of Gilles Belcourt de Lafontaine and the share sold by Joseph Belcourt de Lafontaine to Mathew Lymburner in 1788.

² Holland and Collins to Smith, 25 September, 1790.

1790, Surveyor General Holland and Deputy Surveyor General Collins stated that the Isles and Islets de Mingan seigniorship extended from the Isle aux Oeufs to the Ance des Espagnols ; that it was granted to Jacques de la Lande and Louis Jolliet, heirs of de la Lande, on 10 March, 1679, and that the grant was ratified 29 May 1680.²

Holland and Collins also stated that the Ile Anticosti seigniorship was granted to Louis Jolliet, March 1680, and that the grant was ratified, 29 May 1680.

³ Deed executed before Descheneaux, at Quebec, 31 December, 1792.

1792, Thomas Dunn and his wife sold to Mathew Lymburner their interest in the Isles et Islets de Mingan seigniorship which was determined as their share under the terms of the agreement of 12 December, 1789 ; also that equal part which they acquired from Peter Stuart, 22 June, 1789.³

1796, Gabriel Elzéard Taschereau, as attorney of Dame Marie Thomas de la Gorgendière, widow of Thomas Dufy, sold to William Grant all her interest in Isles de Mingan seigniorship as heiress of Fleury de la Gorgendière Deschambault and Dame Claire Jolliet, her father and mother, and all other rights which she might inherit in the direct or in the collateral line, in said seigniorship.⁴

⁴ Deed executed

1803, Nathaniel and Philip Lloyd entered an action against Lymburner & Crawford claiming damages for trespass

before Tetu, at
Quebec,
27 October, 1790.

in establishing and operating fisheries on the islands opposite St. Paul seigniory and for trapping and cutting timber on the mainland.⁵

⁵ Action entered by
Ker, at Quebec,
28 January, 1803.

1803, Lymburner & Crawford claimed that, as seigniors of the Isles et Islets de Mingan, they had the right to establish fisheries and cut wood on these islands as being within the limits of said seigniory.⁶

⁶ Plea filed by
Panet at Quebec,
11 February, 1803.

The Court of the King's Bench rendered an interlocutory judgment ordering that the litigants name a surveyor who would make a plan of the property in dispute and report to the Court.⁷ In 1805, Lloyds affirmed before De Bonné, that their financial resources would not permit their incurring the expense of a surveyor.⁸ In 1808, the Court of the King's Bench dismissed the action, each party to pay its own costs.⁹

⁷ Judgment
rendered at Quebec,
20 April, 1803.

⁸ Affidavit before
De Bonné,
3 June, 1805.

1803, William Grant, Thomas Dunn and Peter Stuart leased the whole of Terre Ferme de Mingan seigniory to Simon McTavish, John Gregory, William McGillivray, *et al* ; trading “under the name and firm of McTavish,

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⁹ Register of the
Court, Quebec,
12 February, 1806.

Frobisher & Company,” said seigniory extending from “Cape des Cormorants to the river Ouramane” (Olomanoshibo), for 19 years (1803-1822) for an annual rental of £500 *cv*.¹

¹ Lease executed
before Beck,
9 September, 1803.

1803. In “Extraits des Titres des Anciennes Concessions de Terre en Fief en Seigneurie dans le Bas-Canada” by Wm. Vondenvelden, late Assistant Surveyor General and Louis Charland, land surveyor, it is stated that the concession of the Terre Ferme de Mingan was made on 25 February, 1661, to Francois Bissot de la Rivière; that it extends from cape Cormorant to the “grande anse vers les Esquimaux, où les Espagnols font ordinairement la “pêche” and that it is two leagues in depth.²

² Extraits des
Titres des Anciennes
Concessions dans le
Bas-Canada. By
Vondenvelden and
Charland, Quebec,
1803.

1804, the heirs of John Crawford, in his lifetime a partner of Lymburner & Crawford, renounced their rights of succession to their father's estate on the ground that it was “more burdensome than profitable.”³

³ Deed executed
before Planté, at
Quebec, 9 March,
1804.

1804, Mathew Lymburner and John Wm. Woolsey, curator of the estate of John Crawford, sold to Wm. Grant “la juste moietie indivise appartenant aux dits sieurs Lymburner et Crawford” in all their fishing posts from Ouramane (Olomanoshibo) river to Pieds-Noirs post in the strait of Belleisle. As it is further stated that Grant already owned the other moiety of the property, he thus acquired the whole.⁴

1805, a list of the seigniories in Quebec was prepared in the Surveyor General's office in Quebec. Certain seigniories

are described as below:⁵

⁴ Deed executed before Planté, at Quebec, 19 September, 1804.

Name of Seignory	Date of Grant	Quantum of Arpents
Malbay or Murray Bay	27 April, 1762.	97,000
Mount-Murray	27 April, 1762.	104,000
Mille Vaches	15 Nov. 1653.	84, 672
Terra Firma of Mingan	25 Feb. 1661.	435,456
Isle of Anticosti	March, 1680.	1,897,222
Isle et Islets de Mingan	10 March, 1677.	16,000

⁵ General Statement of the Grants en Fief et Seigneurie and of those en Roture in the Province of Lower Canada.

1805, Mathew Lymburner and John Vin. Woolsey, sold to William Grant fifteen thirty-second parts, undivided, of the seignory of Isles et Islets de Mingan. This deed contains an agreement to order by copy-writ, the sale of the fifteen thirty-second parts appertaining to the estate of Lymburner & Crawford, to clear the title of the purchaser.⁶

⁶ Deed executed before Planté at Quebec, 5 April, 1805.

1805, the Sheriff of Quebec seized the seignories of Terre Ferme de Mingan and St. Paul at the suit of Ralph Rosslewin and his wife against Lymburner & Crawford. The Attorney General, Jonathan Sewell, notified the Sheriff “that there is due to His Majesty upon the said Seignories for droit de quint and other seigniorial rights the sum” of £600 cy. He instructed him to retain the purchase price until the claim of the Crown had been settled.⁷

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1805, March 13th, a copy-writ was issued at the instance of Ralph Rosslewin and his wife, commanding the seizure of the goods and chattels of Lymburner & Crawford.¹

⁷ Sewell to Shepherd, 7 August, 1805.

1805, August 8, the Sheriff of Quebec seized and sold to William Grant “fifteen thirty-second parts undivided in the fief and seignory of the Isles and Islands of Mingan . . . with all the rights in the Seignory of the main land of Mingan, etc., which were adjudged” on same day to William Grant. He also seized “five forty-eighth parts undivided in the fief and Seignory of St. Paul” but said parts remained unsold by reason of the formal opposition fyled by Nathaniel and Philip Lloyd.²

¹ Copy-writ and Sheriff's return, at Quebec, 1 October, 1805.

1806, as Thomas Dunn, acting in his own name and for Lymburner & Crawford, undertook to pay the *droits de quint*, the Attorney General withdrew the opposition he had fyled *re* the sale of “certaines parts de Seigneuries des Isles et Islets de Mingan, et de terre ferme de Mingan.”³

² Sheriff to Court of King's Bench, 1 October, 1805.

The compromise was renewed on 16 May following for four months and, on 19 September, was extended for a further period of three days.⁴

1806, on 22 September, the arbitrator, J. A. Panet,

announced his award, specifying the amounts to be contributed by Dunn, Lymburner and Stuart, respectively, in settlement of the *droits de quint*.⁵

³ Deed executed before Planté, at Quebec, 1 February, 1806.

1808, the Sheriff of Quebec deeded to John Richardson, as curator of the estate of William Grant, deceased, fifteen thirty-second parts undivided in the Isles de Mingan seigniory and also “all the right in the Seigniory of the mainland of Mingan” such as Joseph Lafontaine did sell to Mathew Lymburner, 15 May, 1788.⁶

⁴ Deeds executed before Planté, at Quebec, 16 May and 19 September, 1806.

1808, March 16, the Sheriff of Quebec at the suit of Patrick Langan against the estate of Wm. Grant, seized the “whole and entire Fief and Seigniory of the Isles and Islands of Mingan” and, on same day, sold same to Richardson, Langan, Burns, Woolsey and Lymburner.⁷

⁵ Deed executed before Plante, at Quebec, 22 September, 1506.

1808, March 22, the Sheriff of Quebec sold to Richardson, Langan, Burns, Woolsey and Lymburner, all the rights and claims of William Grant, deceased, and of Charles Wm. Grant in the sedentary seal and salmon fishing posts, extending from Itamnamion to Anse-Sainte-Claire, inclusive, also the posts of Anse-aux-Dunes, Anse-St. Claire and Blanc-Sablons.⁸

⁶ Sheriff's Deed executed at Quebec, 22 February, 1808.

1808, John Richardson, as curator of William Grant, deceased, and Chas. Wm. Grant abandoned all claims and guaranteed possession to Patrick Langan, William Burns, John William Woolsey and Mathew Lymburner, of the posts of fishing establishments from Itamamiou to Anse-Sainte-Claire also Anse-aux-Dunes and Blanc Sablons, as described in the advertisement of sale by the Sheriff of Quebec. The properties thus transferred were to be held in the proportion of : to Patrick Langan one-half, and to Wm. Burns, John Wm. Woolsey and Mathew Lymburner, one-sixth each.⁹

⁷ Sheriff's deed executed at Quebec, 30 April, 1808.

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⁸ Sheriff's deed executed at Quebec, 30 April, 1808.

⁹ Deed executed before Planté, at Quebec, 22 April, 1808.

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¹ Deed executed before Planté, at Quebec, 22 April, 1808.

1808, John Richardson, as curator of the estate of William Grant, deceased, sold the Isles de Mingan seigniory and also five forty-eighths, undivided, of St. Paul seigniory. The sale was made to Langan, Burns, Woolsey and Lymburner, in the proportion of Langan, one-half ; and Burns, one-sixth, Woolsey, one-sixth; Lymburner, one-sixth.¹

² Deed executed before Planté, at Quebec, 22 April, 1808.

Langan then sold to Richardson three-fourths of his rights and claims to aforesaid seigniories and posts, that is to say, three-eighths of Isles de Mingan, three-eighths of five forty-eighths of St. Paul and three-eighths of the fishing posts between Itamamiou and Anse-Sainte-Claire, retaining one-eighth of same for himself.²

³ Deed executed before Planté, at Quebec, 22 April, 1808.

1808, Richardson, Langan, Burns, Woolsey and Lymburner entered into partnership for 7 years (1807 to 1814), to trade and to operate the fishing establishments in Terre Ferme de Mingan, Isles de Mingan, and St. Paul and the posts between Itamamiou and Anse-Sainte-Claire, the partnership to be in the following proportions: Richardson, three-eighths; Langan, one-eighth; and Burns, Woolsey and Lymburner; one-sixth, each.

⁴ Deed of sale by the Sheriff of Quebec, 14 June, 1808

It was further stipulated that the “present company shall not be a general one but a private one under the name of Labrador new Concern.” Mathew Lymburner was appointed Agent and Manager.³

⁵ "Les Bourgeois de la Compagnie du Nord Ouest," vol. 11, pp. 448-453.

1808, the sheriff of Quebec sold to Patrick Langan, and John Blackwood, “one undivided third in the Fief and Seigniory of Mille Vaches. . . . And also an exact undivided half of the whole of the Fief and Seigniory of the Terre ferme de Mingan.” As Blackwood desired a separate title deed, the Sheriff deeded to Blackwood, one-half of an undivided third in the Fief and Seigniory of Mille Vaches and also one-half of an “exact undivided half of the whole of the Fief and Seigniory of the Terre ferme de Mingan.” He also deeded same to Langan.⁴

⁶ Extract from the Papier Terrier, 12 March, 1810.

1808, James McKenzie states that the North West Co. was operating Portneuf, Ile Jeremie, Godbout, Seven Islands, Mingan, Nepioshibu (Napesipi) and Masquaro posts.

He also says that Portneuf, Ile Jeremie. Mingan and Masquaro had chapels.⁵

⁷ Deed executed before Guy, at Montreal, 4 January, 1811.

1810, William Burns, in his own name and on behalf of his partners in the Labrador Company, performed faith and homage for their portion of Isles de Mingan seigniory and for live forty-eighths of St. Paul seigniory.⁶

⁸ Deed executed before Paterson at London, Eng. 14 March, 1823.

1811, John Richardson bought from Patrick Langan his one-eighth interest in the seigniory of the Isles et Islets de Mingan, thus acquiring, in all, an undivided one-half interest in

same.⁷

1823, Under and by Virtue of the terms of the will of John Blackwood, the executors of said will deeded to John and Alexander Greenshields and Andrew Weir, “one undivided sixth part” of and in the seigniorship of Mille Vaches and “one undivided fourth part” of Terre Ferme de Mingan seigniorship.⁸

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1825, The lease of Terre Ferme de Mingan expired in 1822 but, presumably, the Hudson's Bay Company, as the successors to the North West Company, continued to hold under the old lease for three years (1822–1825). In 1825, John Richardson, John Greenshields, Alex. Greenshields, the heirs of Peter Stuart and the heirs of Thomas Dunn, claiming to be proprietors of Terre Ferme de Mingan seigniorship, leased said seigniorship to the Hudson's Bay Company for 20 years (1822–1842) for £500 cy. per annum. From 1842 to 1866, the Hudson's Bay Company continued as tenants of this seigniorship.¹

¹ Deed executed before Edie, at Quebec, and before Forsyth at Montreal, 13 June, 1825.

² Deed executed before Macpherson, at Quebec, 28 June, 1826.

1826, Alexander Greenshields conveyed to John Greenshields “one undivided third part” of “the one undivided sixth part of the seigniorship or fief of Mille Vaches,” also of the “one undivided fourth part of the seigniorship or fief of Terre Ferme de Mingan.”²

³ Deed executed before Macpherson, at Quebec, 3 November, 1828.

1828, John Weir and his wife, Helen Blackwood Weir, conveyed to Thomas Weir, one-third part of “the one undivided sixth part” of Mille Vaches and one-third part “of the one undivided quarter” of the seigniorship of Terre Ferme de Mingan.³

⁴ Wm. Smith to Keith, 14 January, 1832.

1832, The Hudson's Bay Company authorised James Keith “to make proposals to Mr. H. G. Forsyth and the other proprietors of the [Anticosti] Island to take a lease of it.”⁴

⁵ Deed executed before Griffin, at Montreal, 8 February, 1836.

1836, John Wm. Woolsey, Mathew Lymburner, the heirs of John Richardson and the executors of the will of Wm. Burns sold the seigniorship of Isles et Islets de Mingan to the Hudson's Bay Company for £1,000 cy. Of the proprietors, one-half appertained to the heirs of John Richardson and one-sixth to each of the others.⁵

⁶ Deed executed before Taylor, at West Flamboro, 3 August, 1837.

1837, James Weir sold to John B. Weir all his rights and claims to parts of the seigniorships of Terre Ferme de Mingan and Mille Vaches.⁶

⁷ Extract from the Papier Terrier, 9 October, 1837.

1837, John Greenshields, as owner of two undivided third parts of a sixth part of Mille Vaches and of two undivided third parts of a quarter of Terre Ferme de Mingan and James Weir, as owner of the other third of a sixth part of Mille Vaches and

⁸ Extract from the Papier Terrier, 9 October, 1837.

of the other third part, undivided, of a fourth part of Terre Ferme de Mingan, performed faith and homage.⁷

1837, John Stewart, in the name of the heirs of Peter Stuart, performed faith and homage for an undivided fourth of Terre Ferme de Mingan seigniory and of Anticosti.⁸

⁹ Deed executed before J. G. Stewart, at Quebec, 13 July, 1842.

1842, John B. Weir, and John Greenshields, heirs and assigns of John Blackwood, deceased, and the heirs of Peter Stuart, of Thomas Dunn and of John Richardson, claiming to be proprietors of the seigniory of Terre Ferme de Mingan, leased said seigniory to the Hudson's Bay Company for 20 years (1842 to 1862), for an annual rental of £500 cy.⁹

1852, in a list of Seigniories in Lower Canada, prepared by Judge Dunkin for use before the Commission for commuting the Seigniorial tenure,
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¹ Grants en Fief and Ratifications of same, prior to 1760, by Judge Dunkin, 1852.

it is stated that Terre Ferme de Mingan seigniory was granted 25 February, 1661, by the Company of New France to Francois Bissot, Sieur de la Rivière.¹

² 19-20 Vic. chap. 53, 1856 (Chap. 41, sec. 35, Revised Statutes of Quebec, 1861).

1856, The Seigniorial Amendment Act provided that : “Inasmuch as the following the Fiefs and Seigniories, namely : Mingan and the Island of Anticosti are not settled the casual and other rights of the Crown in the said seigniories shall be ascertained and entered in the schedule of the seigniory.”²

1859, G. Okill Stuart, representing General Dunn, a proprietor of a large portion of Terre Ferme de Mingan, Mille Vaches and Portneuf, wrote the Commissioner of Crown Lands that “the rights of the proprietors of these seigniories were interfered with, by the Crown, some years ago, in granting the license of the King's Posts to Mr. Goudie. Heavy claims for indemnity were in consequence preferred by him, against the Crown.....I have deemed it expedient to bring these seigniories under your notice, so that the Crown may not interfere with the rights of the proprietors by their contemplated mode of granting licenses” for the occupation of “inferior coast fishing stations” on the St. Lawrence.³

³ Stuart to Commissioner of Crown Lands, 30 March, 1859.

1859, on behalf of the Hudson's Bay Company, James Anderson protested to Stipendiary Magistrate Fortin, “against the legality of the licenses issued this summer, to various individuals to fish” the St. John river within the limits of Terre Ferme de Mingan seigniory, on the ground that said company as lessees of said seigniory, held the “exclusive rights of hunting, farming, fishing and trading with the Indians” within its limits.⁴

⁴ Anderson to Fortin, 21 August, 1859.

⁵ Whitcher to Commissioner of Crown Lands, 24 September, 1860.

1860, W. F. Whitcher wrote the Commissioner of Crown Lands that the “Crown contends that the River Goynish or Agwanus forms” the east limit of Terre Ferme de Mingan seigniory.⁵

Whitcher suggested that “it might be deemed just and expedient to accept the Seigniors', offer of executing fishery leases with the Crown, conditioning that the present occupiers shall be dealt with by sub-lease.”

1860, Col. Wm. Denny, representing one-fourth share of Terre Ferme de Mingan and one-sixth of Mille Vaches, “by marriage into the family of the late Hon. John Richardson,” tendered, on behalf of his co-seigniors, for the net and rod fishing in Terre Ferme and Mille Vaches seigniories. He stated that his offer was made “without prejudice to the rights of the seigneurs to claim compensation for the loss of the exclusive right over those fisheries.”⁶

⁶ Denny to
Commissioner of
Crown Lands,
28 September, 1860.

1863, U. J. Tessier wrote the Commissioner of Crown Lands, suggesting that a surveyor be instructed to sub-divide the “land into lots, at all the important stations on the Crown property” between Portneuf and Blanc Sablon.⁷

⁷ Tessier to
McDougall, 2 May,
1863.

1863, W. F. Whitcher wrote the Commissioner of Crown Lands that “there is no danger of the settlers being disturbed because the existing lease

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between the Seigniors and the [Hudson's Bay] Company has other two years to run” and that “it would not be advisable for the Crown to commit a trespass by surveying private property.”¹

¹ Whitcher to
McDougall,
5 May, 1863.

1864, Henry Judah made the cadastre of the “Seigneurie de Mingan. (ou de Terra Ferma de Mingan), possédée par les héritiers Richardson.” He states that it is situated in the county of Saguenay and is not conceded; that it has 50 leagues of front by two leagues in depth, extending from cape Cormorant to the river Goynish and includes an area of 705,400 arpents. He certified the value at \$70,540.²

² Cadastre de la
Seigneurie de
Mingan, by Henry
Judah,
23 January, 1861.

1866, N. F. Belleau, Counsel for the Attorney General of Lower Canada, recommended in an Opinion : That the eastern boundary of Terre Ferme de Mingan “be established with the co-operation of the proprietors at the request of the Crown.” He pointed out that, if the seigniors refuse to admit that the Goynish river is the eastern boundary, they will “have to show where is the Grande Anse towards the Esquimaux. where the Spaniards formerly used to fish.”³

³ Belleau to
Attorney General,
20 November,
1866

Pending such action as suggested above. Belleau recommended that the proclamation erecting Duval township be not issued.

1866, the lease of Terre Ferme de Mingan was terminated in this year. By a new agreement, the area leased to the Hudson's Bay Co. was reduced to the post of Mingan and a tract of about six square miles surrounding it. In 1873, said lease was still running.⁴

⁴ Deed executed before Clapham, at Quebec, 1 April, 1873.

1868, John Blackwood Weir sold to Donald Lorne McDougall one-twelfth share of and in the seigniorship of Terre Ferme de Mingan.⁵

⁵ Deed executed before Griffin, at Montreal, 1 December, 1868.

1869, the Department of Crown Lands sold certain lots in Duval township near the Natashkwan river to Henry Thomas, Adolphe Laflamme and Jean Langlois, stipulating that "in the event of any action at law being instituted to eject" Thomas, *et al*, said purchasers shall "bear the expense and costs of defence."⁶

⁶ Patent signed by Lieut. Gov. Belleau, 2 November, 1869.

1872, an Act of the Legislature of Quebec erected the parish of St. Pierre de Is Pointe aux Esquimaux. The Act stated that said parish included "part of the Seigniorship of Mingan."⁷

⁷ 36 Vic., cap. 3. Statutes of Quebec, 1872.

1873, Ann, Eweretta and Charlotte Richardson, each owning one undivided sixteenth of Terre Ferme de Mingan and John Richardson Auldjo, Louis Auldjo and E. Helen Auldjo, each owning one-eightieth, sold their respective shares to Alexander Dennistoun "as well for himself as in trust for his associates," Hugh Allan, Andrew Allan, J. J. Redpath, George A. Drummond and J. O. Beaubien.⁸

⁸ Deed executed before Marler, at Montreal, 27 March, 1871.

1873, the daughters and son of William Taylor Peter Shortt sold one undivided quarter of Terre Ferme de Mingan seigniorship to Alex. Dennistoun and associates.⁹

⁹ Deed executed before Clapham, at Quebec, 1 April, 1873.

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1873, William Hew Dunn sold to Alexander Dennistoun "five undivided twenty-fourths, or five-sixths of an undivided quarter," of the seigniorship of Terre Ferme de Mingan, the sale being subject to the lease to the Hudson's Bay Company. Dennistoun effected the purchase "as well for himself as in trust for his associates."¹

¹ Deed executed before Clapham, at Quebec, 1 April, 1873.

1873, Alex. Thos. Paterson and Donald Lorn McDougall, owning one-sixth and one-twelfth, respectively, of Terre Ferme de Mingan, sold said shares to Alex. Dennistoun and associates.²

² Deed executed before Marler, at Montreal, 4 April, 1873.

1873, Ann Catherine Dunn, wife of William Rhodes, sold one undivided twenty-fourth of Terre Ferme de Mingan seigniorship to Alex. Dennistoun and associates.³

³ Deed executed before Clapham, at Quebec, 15 September.

1874, Eweretta Jane Auldjo, wife of Edward Alexander Prentice, sold one undivided eightieth of Terre Ferme de

1873. Mingan seigniory to Alex. Dennistoun and associates.⁴
- ⁴ Deed executed before Phillips, at Montreal, 10 July, 1871. 1882, Mary Eweretta Richardson, daughter of Henry Ogden Andrews, sold one undivided eightieth of Terre Ferme de Mingan to Alex. Dennistoun and associates.⁵
- ⁵ Deed executed before Spicer, at Leamington, Eng., 12 April, 1882. 1882, Octave Vincelot Beaubien, son of Joseph O. Beaubien, deceased, sold to Alex. Dennistoun the interest in Terre Ferme de Mingan which he had inherited from his father.⁶
- ⁶ Deed executed before Gendreau, at St. Thomas, Que. 28 September, 1883. 1882, Alix Fremont, daughter of J. O. Beaubien, sold to Alexander Dennistoun, the interest in Terre Ferme de Mingan which she had inherited from her father.⁷
- ⁷ Deed executed before Sirois, at Quebec, 28 September, 1882. 1883, the Labrador Company, incorporated as a joint stock company, acquired the seigniory of Terre Ferme de Mingan, from Dennistoun and his associates for \$100,000.⁸
- ⁸ Deed executed before McLennan, at Montreal, 8 October, 1883. 1888, The Superior Court of Quebec rendered judgment in *re* The Queen vs. Labrador Company. The judgment declared that the Labrador Company, as owners of Terre Ferme de Mingan seigniory, had no title to any territory between the river Goynish and the eastern boundary of Quebec.⁹
- ⁹ Judgment of Superior Court of Quebec, 18 September, 1858. 1891, The Court of the Queen's Bench rendered judgment in *re* the appeal of The Queen and the Labrador Company against the decision of Justice Routhier in the Superior Court. The judgment stated that the terms of 19-20 Vic., chap. 53, 1856, commonly known as the Seigniorial Tenure Act, expressly recognised the existence of a seigniory of Terre Ferme de Mingan and made provision for the cadastre of same ; that Henry Judah, a Seigniorial Tenure commissioner, had made a cadastre of said seigniory, and had described the limits of same ; that said cadastre had not been contested ; that said actions had definitely determined and established the rights of the Labrador Company, and had, virtually established a seigniory which, thitherto, had been non-existent ; and that the judgment of the Superior Court was confirmed, the seigniory of Terre Ferme de Mingan to include an area two leagues in depth and extending from cape Cormorant to the river Agwanus or Goynish.¹⁰

¹⁰ Judgment of the Court of the Queen's Bench, 6 February, 1891.

¹ Decision of Privy Council in *re* the Labrador Company defendant, and The Queen, plaintiff.

1892, in *re* the appeal of the The Queen *vs.* Labrador Company, the Imperial Privy Council stated that : “In an action of ejectment by the Crown, it appeared that the appellant company derived title through a grant made in 1661 by the French Government which gave no seigneurie over the land in suit but only a right to make establishments for hunting and fishing within certain limits” ; that an Ordonnance [by Hocquart] in 1733, together with the action of the French Crown thereunder, did not create or recognize any title in the heirs of the grantee to such seigneurie ; that, down to 1854, there was no evidence of either its creation or recognition by the British Crown; but that, in 1854, the Canadian Act, 18 Vic., cap. 3 (amended by subsequent Acts,) recognized that there was a seigneurie of Mingan, being part of the disputed land the boundaries whereof were conclusively established by a schedule authorized by the Acts.”¹

The Privy Council held that the Court of the Queen's Bench was right in confirming the title of the Labrador Company to the scheduled lands.

They concurred in the conclusion arrived at by Justice Routhier, namely, that “the territory in which the right to make establishments for fishing, etc., was granted by the Concession of 1661, did not extend further eastward than the River Goynish and that there is no foundation for the claim to extend it to Bradore bay” and that “the bay referred to in the grant of 1661 as that where the Spaniards ordinarily fished was not that which is now called Bradore bay, but was the one indicated as the Baye des Espagnols (mouth of Natashkwan river) on the map.” They observed, however, that this point was not important inasmuch as the “schedule drawn up by Mr. Judah is conclusive on the sub jet of boundary.”

² *Ibid.*

The Privy Council held, further, with regard to the claim of the Company to hold the whole of the land in suit by prescription and immemorial possession, that, inasmuch as it had disclosed the true root of its title, “there is no room for the application of the law of prescription.”²

³ Bacon to Dept of Justice Canada, 12 May 1921.

1921, the Secretary of the Labrador Company stated that the Company “is the owner of the Seigniorie of Mingan, which extends from Cape Cormorant to the liver Agwanus (Goynish), by two leagues in depth. . . . At present, we are only doing some salmon fishing We apply for fishing licenses to the Canadian Government.”³

MONTAGAMIOU CONCESSION.

FRENCH REGIME

⁴ Concession by Beauharnois and Hocquart to Lafontaine, 1 September, 1733.

1733 Beauharnois and Hocquart granted Montagamiou concession to Lafontaine de Belcour for nine years (1733 to 1742). The concession granted the exclusive right to establish

¹ Brevet of

confirmation,
13 March. 1736.

seal fisheries on the north shore of the St. Lawrence from
Itamamiou river, inclusive, to the Montagamiou river.⁴

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² Minister to
Beauharuois and
Hocquart, 13 April,
1740 and 26 April,
1745.

1736, the King confirmed the concession of
Montagamiou to Lafontaine de Belcour.¹

³ Deeds executed
before Panet, at
Quebec, 21 October,
1745 and 9 August,
1749.

1745, Lafontaine had petitioned, in 1739, for a grant in
perpetuity. The King refused this request but granted an
extension of six years (1745-1751).²

⁴ Deed executed
before Sanguinet,
at Quebec,
31 August, 1751.

1749, Lafontaine leased his concession to Jean Taché for
six years (1749 to 1755), but the lease was cancelled in 1749).
3

⁵ Inventory
executed before
Saillant, at Quebec,
29 September, 1751.

1751, Lafontaine entered into partnership for five years
(1751 to 1756) with William Strouds (or Stroude), the
association to operate Montagamiou, Chicataka (Apetepy) and
St. Augustin.⁴

1751. the fishing gear. trade goods and supplies at
Montagamiou were duly inventoried.⁵

⁶ Deed executed
before Panet,
at Quebec,
10 June, 1751.

1756, Jean Taché, as assignee of the estate of Lafontaine,
sold the returns from Montagamiou and Chicataka for the
benefit of the creditors.⁶

⁷ Deed executed
before Boucault,
at Quebec,
22 June, 1756.

1756, Joseph Godin engaged as master of the *La Trinite*
to navigate it on the St. Lawrence on behalf of William
Strouds (or Stroude).⁷

⁸ Deed executed
before Saillant,
at Quebec,
2 September, 1756,

1756, Gilles de Lafontaine and William Strouds entered
into partnership for three years (1756-1759) to operate
Montagannot and Grosse Isle.⁸

BRITISH REGIME.

⁹ Grant by Murray,
15 June, 1761.

1761, Murray granted Lafontaine permission to carry on
the fishery and to take seals in Montagamiou concession for
one year, on the ground that it had been represented to him by
said Lafontaine that it belonged to him “par droit de
Succession.”⁹

¹⁰ Declaration before
Saillant, at Quebec,
15 October, 1762.

1762, Jean Tache protested the seizure and sale of
Montagamiou post and other properties owned by
Lafontaine.¹⁰

¹¹ Deed by
Lafontaine, at
Quebec, registered
by Goldfrap,
January, 1765.

1764, Lafontaine sold Montaganmiou to Alex. McKenzie
and John Lymburner. The concession is described as having a
frontage of about 9 leagues “by four leagues in depth,”
whereas, in the original concession, no depth was specified. It

¹² Deed executed before Planté, at Quebec, 19 September, 1804.

¹³ Deed executed before Planté, at Quebec, 22 April, 1808.

¹⁴ Deed by Sheriff of Quebec, 30 April, 1808.

is possible that in one of the renewals of the grant, the said depth may have been inserted.¹¹

1804, Lymburner & Crawford sold Itamamiou (Montagamiou) and other fishing posts on the north shore of the gulf of St. Lawrence to William Grant.¹²

1808, James Richardson, as curator of the estate of Wm. Grant and Chas. Wm. Grant sold Montagamiou and other fishing posts to Langan, Burns, Woolsey and M. Lymburner.¹³

1808, The Sheriff of Quebec sold the fishing posts on the islands opposite Montagamiou concession and on other islands to the east and west of it to John Richardson *et al.*¹⁴

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PETIT-MECATINA CONCESSION

FRENCH REGIME

1740, Beauharnois and Hocquart granted to Henry Albert de St. Vincent, for nine years (1740 to 1749), Petit-Mecatina concession with a frontage of about seven leagues, a depth of four leagues and extending from the Pommereau concession (Gros-Mecatina) to the Lafontaine concession (Montagmiou), also the islands opposite said concession, with the exclusive light to take seals and to hunt and to trade with the Indians within the limits of said concession.¹

St. Vincent entered into partnership with Guillaume Estèbe for the operation of his concession, conceding to Estèbe a moiety thereof, the partnership to last for nine years, or, if extensions of the concession were granted, it was to continue in force during the period of such extensions.²

BRITISH REGIME

1804, Mathew Lymburner and John Wm. Woolsey, curator of the estate of John Crawford, sold to William Grant fishing posts on the north shore of the gulf and river St. Lawrence, including "Petit-Mecatina et dependances."³

1808, James Richardson, as curator of the estate of Wm. Grant, and Chas. Wm. Grant sold Petit-Mecatina and other fishing posts to Langan, Burns, Woolsey and M. Lymburner.⁴

1808, the Sheriff of Quebec sold to Richardson, Langan, Burns, Woolsey and Lym burnner, certain fishing posts and establishments, including "Little Mecatina."⁵

¹ Concession by Beauharnois and Hocquart, 15 January, 1740.

² Deed executed before Latour, at Quebec, 27 April, 1740.

³ Deed executed before Planté at Quebec, 19 September, 1804.

⁴ Deed executed before Planté, at Quebec, 22 April, 1808.

⁵ Deed by Sheriff of Quebec, 30 April, 1808.

GROS-MECATINA CONCESSION

FRENCH REGIME.

1738, Beauharnois and Hocquart granted to Jean Baptiste

Pommereau for ten years (1738–1748), Gros-Mecatina concession extending from cape Gros-Mecatina and including the cape, five leagues northeastward on the north shore of the Gulf of St. Lawrence, by four leagues in depth and including the islands opposite, with the exclusive right to take seals, hunt and trade with the Indians, and permission to take fish concurrently with other French subjects.⁶

⁶ Concession by Beauharnois and Hocquart, 2 May, 1738.

1738, Hocquart issued an ordinance authorising Pommereau to establish sedentary fisheries on the islands opposite his concession, such permission being granted without prejudice to the rights and claims of Volant d'Haudebourg, lessee and part owner of Isles et Islets de Mingan seigniory.⁷

⁷ Ordinance by Hocquart, 25 September, 1758.

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1739, Pommereau “subrogue en son lieu et place” to each of his partners, Guillaume Estebe and Daniel de Beaujeu, a one-quarter interest in Gros-Mecatina.¹

¹ Deed executed before Latour, at Quebec, 30 April, 1739.

1739, Beauharnois and Hocquart granted to Pommereau for nine years (1739 to 1748), an augmentation of his Gros-Mecatina concession. It extended northeastward about four leagues to the river Thekapoin, with a depth of four leagues, with the exclusive right to take seals and hunt and trade within the limits of his concession.²

² Concession by Beauharnois and Hocquart, 20 September, 1739.

1740, the King confirmed the grants of 1738 and 1739, but explicitly excluded the islands opposite, doubtless because it had been discovered that they were within the limits of Isles et Islets de Mingan seigniory.³

1742, sixteen men from Quebec and vicinity engaged themselves as employees in Gros-Mecatina concession.⁴

³ Brevet de confirmation by the King, 13 April, 1740.

⁴ Engagements executed before Boucault, at Quebec, 17 September, 1742.

1743, Beauharnois and Hocquart issued an ordinance regulating the respective rights of the concessionaires of the north shore of the gulf of St. Lawrence and the proprietors of Isles et Islets de Mingan seigniory. In 1739, they had fixed a rent of 25 livres per league of the islands conceded by the proprietors of the seigniory to the concessionaires of the mainland. In 1743, they fixed the rental to be paid to the seigniors of Mingan Islands seigniory at three per cent upon the total amount of seal oil and seal skins.⁵

⁵ Ordinance by Hocquart 4 October, 1743.

1743, Hocquart, by an ordinance, determined the amount owing by the widow Pommereau to Lafontaine and the Bissot heirs as owners of Mingan Islands seigniory for rental of the islands opposite Gros Mecatina. The owners of the seigniory were ordered “d'accorder Titre de Concession a la ditte veuve Pommereau des Isles, Islets et Battures qui se trouvent vis-à-vis” Gros-Mecatina.⁶

1749, An extension of six years (1748 to 1754) of Gros-Mecatina concession—including the Augmentation—was granted to Croisille de Montesson, au nom et comme avant epousé le veuve du Jean-Baptiste Pommereau,” and to Guillaume Estèbe.⁷

⁶ Ordinance by Beauharnois and Hocquart, 30 December, 1743.

1753, Maseres says that the widow Pommereau operated Gros-Mecatina till 1751 in which year Hocquart returned to France; that the seigniors of the Terre Ferme and of Isles et Islets de Mingan “obliged her to quit it, and it remained unoccupied for about two years”—till about 1753. Intendant Bigot, however, refused to allow the said seigniors to resume full possession.⁸

⁷ Concession by Galissonnière and Bigot, 1 May, 1749.

In accordance with the advice of Bigot, the seigniors authorised Tache who had married one of the co-heiresses of the Family,” and who was then going to France, to “endeavour to obtain an Order from him [the King] to have their right acknowledged and the Possession of the Post delivered to them.”

⁸ Maseres to Carleton, 3 January, 1767.

Taché obtained the promise, but, after his departure, the King, in 1754, was

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prevailed upon to grant it to Hocquart for his lifetime, subject to the payment of a rental of three per cent to the seigniors of the Terre Ferme and Isles et Islets de Mingan. Hocquart also agreed to surrender St. Modet to Taché.¹

1754, upon the strength of the promise he had received in 1753, Taché made preparations for Occupying and Improving” [sic.] Gros-Mecatina. However, he rented it from Hocquart in 1754 for a yearly rental of 7000 or 8000 livres paid to Hocquart, in addition to the rental of three per cent paid to the seigniors. Taché held it, as Hocquart's lessee, from 1754 to 1759.²

¹ *Ibid.*

1756, Estèbe, acting “pour ses associés cy-devant propriétaires” of Gros-Mecatina, sold to Pierre Revol, Alexandre Dumas and Sérvant Durand the buildings, fishing gear, etc., in the concession.³

² Maseres to Carleton, 3 January, 1767.

1760, the concession of Gros-Mecatina to Hocquart in 1754, was ratified by the King of France, 20 January 1760.⁴

³ Deed executed before Saillant, at Quebec, 20 April, 1756.

BRITISH REGIME

1761, Governor Murray granted the seal fishery of Gros-Mecatina to Lafontaine for seven years.⁵

⁴ Memoir by Hocquart, 6 March, 1763.

1762, Governor Murray granted the seal fishery of Gros-Mecatina to John Gray for seven years “or until his Majesty's

Pleasure is further known.”

⁵ Murray to
Egremont,
7 September, 1762.

1763, Hocquart requested that Gros-Mecatina concession be confirmed to him by the British Government.⁷

⁶ Return by Murray,
22 July, 1763.

1763, Lafontaine stated to the Earl of Halifax, Secretary of State, that, although Gros-Mecatina was Lafontaine's private property, Murray had made an absolute grant of it to John Gray and that such grant was made without any legal or regular examination of his title.⁸

⁷ Memoir by
Hocquart,
6 March, 1763.

1764, Murray stated that : “I, out of pure Charity for Mr. Lafontaine and his family, gave him leave to occupy that post [Gros-Mecatina] for one year only. Had he behaved properly he might still have Possessed that Post.” But, as Lafontaine sheltered privateers at his posts, Murray says that “it, consequently, became expedient” to take Gros-Mecatina from him and give it to Gray in whom he could confide.⁹

⁸ Lafontaine to
Halifax,
23 October, 1763.

Murray further says that Gray's partner, William Grant, paid Lafontaine “three per cent from the produce” of Gros-Mecatina and that, as Panet had assured him of the equity of Lafontaine's claim to the three per cent, he, Murray, had ordered payment thereof.

⁹ Murray to Halifax,
20 April, 1764.

1772, the Lords of Trade reported against Hocquart's claim to Gros-Mecatina. They state that Gros-Mecatina is “comprised within the Limits of the Seigneuries or Lordships of the Main Land and of the Isles of Mingan.”¹⁰

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¹⁰ Lords of Trade to
Privy Council,
30 November,
1772.

1804, Lymburner & Crawford sold Gros-Mecatina and other fishing posts on the north shore of the gulf of St. Laurence to Wm. Grant.¹

¹ Deed executed before Planté, at Quebec, 19 September, 1804.

1808, James Richardson, as curator of the estate of Wm. Grant, and Chas. Wm. Grant sold Gros-Mecatina and other fishing posts to Langan, Burns, Woolsey and M. Lymburner.²

² Deed executed before Planté, at Quebec, 22 April, 1808.

1808, The Sheriff of Quebec sold the fishing posts on the islands opposite Gros-Mecatina concession and on other islands to the east and west of it to John Richardson et al.³

³ Deed by Sheriff of Quebec, 30 April, 1808.

KECARPOUI CONCESSION.

FRENCH REGIME

⁴ Concession by Galissonière, 5 November, 1748.

1748, Galissonière and Bigot granted Kecarpoui concession for nine years (1749 to 1758), to Jacques Breard and Guillaume Esètebe, said concession having about four leagues of front and extending from the river Thekapoin to the western boundary of St. Augustin concession and having a depth of six leagues, together with the islands opposite. The concession granted the exclusive right to take seals, hunt and trade with the Indians within the limits of the concession.⁴

⁵ Sub-lease executed at Quebec, 29 August, 1778.

BRITISH REGIME

⁶ Deed executed before Planté, at Quebec, 19 September, 1804.

1778, Thomas Dunn sub-let to Dame Charlotte de Boucherville, widow of Jacques Perrault, such rights as he had to Pakahachoux, and Quekapoy (Kecarpoui) posts and the right of fishery on the shores between a point one and one-half leagues west of said islands and a point one and one-half leagues east of same.⁵

⁷ Deed executed before Planté, at Quebec, 22 April, 1808.

1804, Lymburner and Crawford sold Kecarpoui and other fishing posts to William Grant.⁶

⁸ Deed by Sheriff of Quebec, 30 April, 1803.

1808, James Richardson, as curator of the estate of Wm. Grant, and Chas. Wm. Grant sold Kecarpoui and other fishing posts to Langan, Burns, Woolsey and M. Lymburner.⁷

1808, the Sheriff of Quebec sold the fishing posts on the islands opposite Kecarpoui concession and on other islands to the east and west of it to John Richardson *et al.*⁸

ST. AUGUSTIN CONCESSION.

¹ Concession by the

FRENCH REGIME

King,
26 May, 1720.

1720, the King granted Saint Augustin concession to Francois Marganne de Lavaltrie for his lifetime. It extended two leagues east of the river St. Augustin and two leagues west of same, by four leagues in depth and included the islands opposite. It granted the exclusive right to take seals and permission to take fish concurrently with other French subjects and to trade with the Indians.¹

² Deed executed before Barolet, 11 September, 1737.

1737, Lavaltrie leased Saint-Augustin for three years (1738 to 1741) to Michel Petrimoult, Charles Cheron and Nicolas Cheron.²

³ Deed executed before Barolet, 9 December, 1711.

1741, Lavaltrie leased Saint-Augustin for six years (1742 to 1748), to Jean-Baptiste Pommereau.³

⁴ Concession by Jonquière and Bigot, 20 April, 1750.

1750, On the death of Lavaltrie in 1750, Jonquière and Bigot granted Saint-Augustin for nine years (1750 to 1759), to Sieur Cheron.⁴

⁵ Deed executed before du Laurent, 31 August, 1751.

1751, In a deed of partnership, Lafontaine states that he has leased Saint-Augustin from Cheron.⁵

⁶ Concession by Duquesne and Bigot 17 July, 1753.

1753, Following the death of Cheron, Duquesne and Bigot granted Saint-Augustin for nine years (1753 to 1762) to Philippe d'Ailleboust de Cery.⁶

⁷ Brevet de confirmation by the King, 1 May, 1754.

1754, The King confirmed the concession to de Cery for nine years (1753 to 1762).⁷

⁸ Return by Murray, 22 July, 1763.

BRITISH REGIME

1761, Governor Murray granted the seal fishery of Saint-Augustin to "Morisseaux in Trust for the two Daughters of Monsr. de Cery" for four years (1761 to 1765).⁸

⁹ Cugnet, *et al*, to Carleton,

1775, Cugnet, Lafontaine and Taschereau petitioned for a grant of St. Augustin for 21 years (1775 to 1796) that they might establish a fishery. They state that Jacques Perrault had operated on the islands opposite St. Augustin for the last nine years but had not paid any rental "depuis cinq ou six ans."⁹

¹⁰ Deed executed before Planté, at Quebec, 19 September, 1804.

1804, Lymburner and Crawford sold "St. Augustine et dependances" and other fishing posts on the north shore of the gulf of St. Lawrence, to William Grant.¹⁰

¹¹ Deed executed before Planté, at Quebec, 22 April, 1808.

1808, James Richardson, as curator of the estate of Wm. Grant, and Chas. Wm. Grant sold Saint-Augustin and other fishing posts to Langan, Burns, Woolsey and M. Lymburner.¹¹

¹² Deed by Sheriff

1808, the Sheriff of Quebec sold the fishing posts on the islands opposite St. Augustin concession and on other islands

of Quebec,
30 April, 1808.

to the east and west of it to John Richardson *et al.*¹²
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APETEPY (CHICATAKA) CONCESSION.
FRENCH REGIME

1738, Beauharnois and Hocquart granted Apetepy concession for ten years (1738 to 1748) to Francois Foucault and Nicolas-Gaspard Boucault. It comprised the frontage between Saint-Augustin and Baye-Phelypeau concessions by four leagues in depth, and also the islands opposite. It granted the exclusive right to take seals, hunt and trade with the Indians within the limits of the concession.¹

¹ Concession by
Beauharnois and
Hocquart,
1 May, 1738.

Apetepy, as defined in this concession, is "l'Etendue de terrain le long de la cote du nord qui se trouve Entre les concessions des d. srs. La Valterie et De Berouague." It, therefore, purported to grant a strip four leagues wide which, in part, included a portion of the front of Saint-Paul seignior, granted in 1706, the remainder of said front portion being nominally included in Baye-des-Phelypeau concession and the augmentation thereto granted in 1722.

1741, Nicolas Trudel and ten others engaged themselves to go to Apetepy for the seal fishery, to construct buildings, etc.²

² Engagements
executed before
Louet, at Quebec,
6 June and
5 September, 1741.

1749, Lafontaine de Belcour entered into partnership with Chas. Turpin to operate Chicataka (Apetepy) for one year, Lafontaine transferring a half-interest to Turpin.³

³ Deed executed
before Panet, at
Quebec,
7 October, 1749.

1750, La Jonquière and Bigot granted "Apetepi ou Chicativan" to Lafontaine de Belcour, for fifteen years (1751 to 1766), with the exclusive right to take whales, hunt and trade with the Indians.⁴

⁴ Concession by
Jonquière and
Bigot,
15 October, 1750.

1751, Lafontaine entered into partnership with William Strouds (or Stroude) for five years (1751 to 1756), to operate Apetepy, Montagamiou and Saint-Augustin.⁵

⁵ Deed executed
before du Laurent,
at Quebec,
31 August, 1751.

1752, The fishing gear, trade goods, etc., at Apetepy, owned by Lafontaine, were inventoried in detail.⁶

BRITISH REGIME

⁶ Inventory
executed before
Saillant, at Quebec,
5 January, 1752.

1761, Governor Murray granted to the Whale Fishing Company "a Tract of Land on the North Shore of the St. Lawrence lying between Latitude 50° 4' ; Longitude 58° 30' . . . and 51° 15', Longitude 57° 45' for three years from the date, or until His Majesty's Pleasure is further known."⁷

⁷ Return by Murray,
22 July, 1763.

1804, Lymburner and Crawford sold the posts between Itamamiou and Anse Ste. Claire, including Chicataka, to

William Grant.⁸

⁸ Deed executed before Planté, at Quebec, 19 September, 1804.

1808, James Richardson, as curator of the estate of Wm. Grant, and Chas. Wm. Grant sold "Chicataka" and other posts to Langan, *et al.*⁹

⁹ Deed executed before Planté, at Quebec, 22 April, 1808.

1808, the Sheriff of Quebec sold the fishing posts on the islands opposite Apetepy and on other islands to the east and west of it, to John Richardson, Patrick Langan, *et al.*¹⁰
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¹⁰ Deed by Sheriff of Quebec, 30 April, 1808.

SAINT-PAUL SEIGNIORY.

FRENCH REGIME

1706, Vaudreuil and Raudot granted to Amador Godefroy, Saint-Paul seigniory, with a frontage of five leagues east and five leagues west of Quitzezaqui (Eskimo) river by ten leagues in depth, with the islands opposite, to have and to hold "en propriété a toujours a titre de fief et seigneurie, haute, moienne et basse justice" with the exclusive right of hunting, fishing and trading with the Indians within the limits of the seigniory except that other French subjects engaged in fishing should have access to the shore. The grant was subject to the performance of "foy et hommage" and was subject to the payment of the customary dues "suivant la coutume de Paris" and that the seignior should keep "feu et lieu."¹

¹ Concession by Vaudreuil and Raudot, 20 March, 1706.

1724, Joseph le Plé *dit* de Voisy performed "foy et hommage" as proxy for Amador Godefroy de Saint-Paul.²

As proxy, le Plé also "avoué et déclaré" that Godefroy held Saint-Paul seigniory from the King in accordance with the terms of the concession of 20 March, 1706.³

² "Foy et hommage," at Quebec, 13 August, 1721.

BRITISH REGIME

1781, Nathaniel and Philip Lloyd purchased Saint-Paul seigniory from the heirs of the Sieur Saint-Paul.⁴

³ Aveu et denombrement, at Quebec, 14 August, 1724.

1785, Lloyds ordered Adam and Mathew Lymburner to cease fishing or trading within the limits of Saint-Paul or on the islands opposite unless they were prepared to pay the Lloyds five per cent, Quebec prices, of the value of their annual take.⁵

⁴ Deed executed before Badeaux and Maillet, at Three Rivers, 16 August, 1781.

1794, Philip and Nathaniel Lloyd, claiming to be joint owners of Saint-Paul, entered into partnership for six years with James McCullum who covenanted to act as the agent of the association at Quebec and to furnish supplies for the operations of the partnership.⁶

⁵ Notice served by Farineau, at Quebec, 5 Oct., 1785.

1796, Philip Lloyd and Nathaniel Lloyd fyled a formal protest, claiming that McCullum had not fulfilled the

⁶ Deed executed before Dumas, at Quebec, 10 October, 1794.

⁷ Protest served upon McCullum, at Quebec, 5 November, 1796.

⁸ Deed executed before Dumas, at Quebec, 20 March, 1797.

⁹ Protest served by Tetu and Lelievre, at Quebec, 29 April, 1797.

¹⁰ Notice served by Dumas at Quebec, 18 May, 1797.

¹¹ Protest served by Tetu and Lelievre, at Quebec, 15 May, 1797.

¹ Action entered by Ker, at Quebec, 7 April, 1798.

² Protest served by Nathaniel Lloyd at St. Paul (Eskimo) River, 11 June, 1800.

³ Deed executed before Tetu and Lelievre, at Quebec, 22 July, 1801.

⁴ Action entered by Ker at Quebec, 28 January, 1803.

⁵ Plea filed by Panet, at Quebec, 11 February, 1803.

conditions of the partnership and, thereby, had caused them financial loss.⁷

1797, In March, McCullum sold his interest in the partnership with the Lloyds to Lymburner & Crawford.⁸

In April, the Lloyds made a formal demand upon McCullum that he provide a vessel and certain articles required for the fishing operations of the firm.⁹

Lymburner & Crawford notified Lloyds that, as they had acquired McCullum's interest, they would supply the requirements of the Lloyds.¹⁰

The Lloyds, however, refused to recognise the transfer and filed a formal protest.¹¹

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1798, Lloyds entered an action in the court of the King's Bench against McCullum for breach of covenant. They claimed £3,000 damages.¹

1800, Nathaniel Lloyd protested against the salmon fishing that was being carried on by employees of Lymburner & Crawford on the Eskimo river.²

1801, Lymburner & Crawford purchased from Joseph Jutras his interest in St. Paul seigniority as heir of his father, Joseph Jutras, and of his mother, Marie-Anne Godefroy de St. Paul.³

1803, Nathaniel and Philip Lloyd entered suit against Wm. Grant, Mathew Lymburner and John Crawford. Lloyds claimed £10,000 damages for fish and fur-bearing animals taken within the limits of the seigniority, timber taken by them, etc.⁴

Lymburner and Crawford contended that, as seigniors of the Isles et Islets de Mingan seigniority, they had the right to take fish, seals, etc., and to cut wood on the islands opposite Saint-Paul seigniority and that, as owners of the shares purchased from Joseph and Antoine Jutras, they were entitled to cut wood on Saint-Paul seigniority.⁵

The Lloyds replied that, on 16 August, 1781, they had purchased the rights and claims of Marie Anne Godefroy de St. Paul, widow of Joseph Jutras and mother of Joseph and Antoine Jutras and had thus acquired the rights and claims of said Joseph and Antoine Jutras.⁶

1803, the Court of the King's Bench rendered an interlocutory judgment ordering that Lloyds and Lymburner, Crawford and Grant, name a surveyor who should "draw up a plan descriptive of the premises in contest between the parties and of their respective pretensions therein" and should report to the Court.⁷

⁶ Deed executed
before Badeaux and
Maillet, at Three
Rivers,
16 August, 1781

1804, the firm of Lymburner & Crawford, became insolvent and inspectors were appointed to administer their estate.⁸

⁷ Interlocutory
Judgment rendered
at Quebec,
20 April, 1803.

1805, Mathew Lymburner and John Win. Woolsey sold to William Grant five forty-eighth parts, undivided, of the seigniori of Saint-Paul.⁹

⁸ Declaration before
Planté, at Quebec,
21 February, 1801.

1805, Philip Lloyd made an affidavit that, it would cost not less than £300 to comply with the interlocutory judgment, and that the plaintiffs “have not the means.....of carrying such Interlocutory Judgment into Effect.”¹⁰

⁹ Deed executed
before Planté, at
Quebec,
5 April. 1805.

1806, the Court "adjudged that the present action be dismissed each party paying his own costs, without prejudice nevertheless to the judgment of the tenth of October last, awarding costs to Mathew Lymburner . . . and reserving to the Plaintiffs such other recourse in the premisses as they may be advised and legally take."¹¹

¹⁰ Affidavit made
before De Bonné,
at Quebec,
3 June, 1805.

1808, James Shepherd, as Sheriff of Quebec, sold to John Richardson as attorney of the estate of William Grant, deceased, five forty-eighths of the seigniori of Saint-Paul.¹²

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¹¹ Judgment of the
Court of the King's
Bench,
12 February, 1806.

¹² Deed by Sheriff
of Quebec,
22 February, 1808.

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¹ Deed by Sheriff
of Quebec,
30 April, 1803.

² Deed executed
before Planté at
Quebec,
22 April, 1808.

³ Deed executed
before Planté at
Quebec,
22 April, 1808.

[sic.] Deed executed
before Planté at
Quebec,
22 April, 1808.

⁵ Deed executed
before Planté and
Lelievre, at Quebec,
22 April, 1803.

⁶ Extract from the
Papier Terrier,
12 March, 1810.

⁷ Deed executed
before Guy, at
Montreal,
4 January, 1811.

⁸ Deed executed
before Planté, at
Quebec,
14 June, 1823.

⁹ Grants en Fief
and Royal
Ratifications of
same; by Judge
Dunkin, 1852.

¹⁰ Report of Dept. of
Agriculture and
Fisheries for 1862.

¹¹ Fyle No. 522
Dept. of Fisheries,

1808, the Sheriff of Quebec sold the interests of William Grant, deceased and of Charles William Grant in the fishing posts from Itamamiou to Anse-Sainte Claire to John Richardson, Mathew Lymburner and associates.¹

Richardson, as curator of the estate of William Grant, deceased, and Chas. Wm. Grant sold to Langan, Burns, Woolsey and M. Lymburner all their rights and claims in and on their posts and fishing establishments from Itamamiou, inclusive, to Anse Ste. Claire.²

John Richardson, as curator of the estate of William Grant, sold to Patrick Langan, Wm. Burns, John Wm. Woolsey and Mathew Lymburner all the rights and claims of William Grant in the undivided moiety of the Isles and Islets of Mingan seigniority and of five forty-eighths of Saint-Paul seigniority.³

Langan re-sold to John Richardson three-fourths of the moiety of Mingan Islands and of the moiety of five forty-eighths of Saint-Paul.⁴

1808, following the above sales and transfers, Richardson, Langan, Burns, Woolsey and Lymburner signed an acknowledgment that they had entered into an association on 15th September 1807, for seven years (1807-1814), to carry on the taking of seals, fishing, hunting, etc. on the "coast of Labrador." Mathew Lymburner was appointed manager. The partnership was divided as follows :—Richardson, three-eighths; Langan, one-eighth ; Burns, Woolsey and Lym burner, one-sixth each. The agreement provided that the association should be "a private one under the name of Labrador new Concern."⁵

1810, William Burns, on his own part and on behalf of his co-partners in the Labrador Company, performed faith and homage for "cinq quarante-huitièmes indivis dans la totalité du fief et Seigneurie de St. Paul."⁶

1811, Patrick Langan sold his interest in the Labrador Company to John Richardson.⁷

1823, the Labrador Company sold to Louis Chevalier five forty-eighths of Saint-Paul seigniority with the islands opposite it.⁸

1852, in a list of Seigniories in Lower Canada, prepared by Judge Dunkin for use before the Commission for commuting the Seigniorial tenure, St. Paul seigniority is enumerated.⁹

Stipendiary Magistrate Fortin states, in his report of 1862, that the Lloyds bequeathed their interests in Saint-Paul seigniority to their adopted son, Louis Chevalier ; that Chevalier died in 1846 and that, from 1849 to date of writing, Louis

Can.

Chevalier's grandson had operated the fisheries.¹⁰

1890, L. D. Chevalier, as owner of Saint-Paul, protested against the issuance of a fishing license to W. O. Carbonneau, empowering him to fish in St. Paul (Eskimo) river.¹¹

Carbonneau claimed to have acquired by purchase from the Quebec Government, both banks of the St. Paul and the ile a la Perche at its mouth.

No cadastre of Saint-Paul can be found at Quebec. This is strong proof that, owing to the failure to perform the duties or pay the fees prescribed in the grant, the Commissioners for commuting the Seigniorial tenure adjudged that the seigniors had lost title.

¹ Indenture
executed before
Perrot, at Quebec,
12 April, 1701.

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KESSESAKIOU—KEGASKA CONCESSION.

1701, Pierre Constantin, voyageur, signed an engagement to go to the Eskimo river as an employee of Legardeur de Courtemanche. Constantin engaged to hunt and to trade with the Eskimo. The indenture sets forth that Constantin had discovered the Eskimo river in 1700.¹

² Concession by
de Callière and
Beauharnois,
17 October, 1702.

1702, de Callière and Beauharnois granted to Augustin Legardeur de Courtemanche a concession extending from the Kegaska river to the Kessessakiou, which rivers “feront les deux bornes” of said concession, to have and to hold for ten years (1702 to 1712). It gave Courtemanche the exclusive right to take seals and trade with the Indians. The grant also recites that Courtemanche had already “fait un fort et un établissement” on the Eskimo river and within the limits of his concession.²

³ Memorandum
executed at Quebec,
21 April, 1703.

⁴ Memoir by
Courtemanche,
1705.

1703, Courtmanche gave Constantin written instructions to proceed to Eskimo river or beyond, to carry on trade with the Indians. The instructions indicate that Sieur Perret was in command of Courtemanche's fort near Eskimo river.³

1705, Courtemanche submitted to Raudot a memoir⁴ respecting his exploration of the coast from Kegaska river to the river Kessessakiou (Hamilton). It was an exhaustive report respecting the natural resources of his concession, its harbours and similar data.

⁵ *Ibid.*

Courtemanche stated that the Indians travelled into the interior by way of the St. Augustin river demonstrating that, within the limits of his grant, the St. Augustin and Kenamu canoe-route was then, as now, the principal route to the Hamilton river.

From Courtemanche's memoir, it is evident that his first fort was on what is now known as Old Fort bay, “une demie lieue” west of present Eskimo river. In 1705, he stated that he had commenced his second “établissement.” This was fort

Pontchartrain on baye Phelypeau (Bradore bay).⁵

Courtemanche reported that, at the river Kessessakiou (Rigolet “narrows”), salmon and seals were in abundance; that the Eskimo lived at that point because it afforded them in abundance everything they required for their subsistence; that they were becoming more peaceable and were beginning to trade with the French. He also stated that he had attracted from the interior a tribe of Indians who had not, thitherto, come in contact with the French, and, though he does not explicitly say so, who, doubtless, had never before come in contact with white men.⁵ These Indians were Montagnais or Naskapis or both. He stated that a missionary would have no trouble implanting Christianity among them.

⁶ Minister to
Courtemanche,
26 June, 1706.

1705, Courtemanche removed his headquarters from his fort near the Eskimo river to his new fort, fort Pontchartrain, on baye de Phelypeau (Bradore bay).⁶
p. 3176

¹ Minister to
Courtemanche,
30 June, 1707.

1707, the Minister instructed Vaudreuil and Raudot to send a missionary Courtemanche's fort.¹

² Courtemanche to
Minister, 1711.

1711, Courtemanche stated that he was maintaining a missionary at his own expense.²

³ Minister to
Courtemanche,
6 June, 1708.

1708, the Minister wrote Courtemanche that the King hoped that he would be as successful in coming to a good understanding with the Eskimo as he had been with the Indian tribes.³

⁴ Vaudreuil and
Raudot, to Minister,
14 November, 1708.

1707 and 1708, the King granted an annual subsidy of 500 francs to Courtemanche. Vaudreuil and Raudot, writing in November, 1708, recommended Vaudreuil and that it be continued in the following years.⁴ Later, Courtemanche complained that his subsidy was three years in arrears.

BAYE-DE-PHELYPEAU CONCESSION.

The Kessessakiou-Kegaska concession to Augustin Legardeur de Courtemanche expired in 1712.

1714, the King granted to Courtemanche during his lifetime, “la baye de Phelypeaux” and “quatre lieues de front sur la dite coste,” to be taken two leagues above and two leagues below said bay by four leagues in depth, and the islands in said bay and opposite the coast thus granted, with the exclusive right to take seals and to fish concurrently with other French subjects, and to trade with the Indians.⁵

⁵ Concession by
the King,
12 November, 1711.

⁶ Ordre du Roy,
12 November, 1714.

1714, the King also appointed Courtemanche to be

Commandant for the King on the coast of Labrador, with authority to settle all disputes that arose respecting “emplacements pour la pesche a la dite coste.”⁶

⁷ Courtemanche to the Minister, 13 September, 1716.

⁸ Ordre du Roy, 11 January, 1718.

1716, Courtemanche applied to Vaudreuil for permission to enlist 12 men and requested that an officer be sent with them to act as their commander. He proposed to send this force, with five Indian families, to garrison the fort he proposed to construct at the “rivière de Kescakiou” (Hamilton river), to overawe the Eskimo.⁷

Following Courtemanche's death in 1717, his stepson, Brouague, was appointed Commandant for the King on the coast of Labrador.⁸ Brouague continued Courtemanche's policy of endeavouring to conciliate the Eskimo and to open up trade with them.

⁹ Brevet de confirmation by the King, 11 January, 1718.

1718, the King granted Baye-de-Phelypeau concession in the proportions of : widow de Courtemanche, one-quarter ; Brouague, her son by her first marriage, one-quarter and the three daughters of Courtmanche one sixth each.⁹

In 1718 and later years, Brouague made annual reports respecting conditions on the coast. These reports show that he had achieved considerable success in his policy of conciliating the Eskimo ; that the instructions

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contained in the letter from the Minister, 30 June 1707, instructing Vaudreuil and Raudot to send a missionary to Baye-de-Phelypeau had been carried out and that the missionary had been labouring among the natives ; that, on the average, about 25 vessels fished in the strait of Belleisle and near the western entrance thereof.¹

¹ Brouague to the Conseil de Marine, 9 Sept., 1718, 6 Sept., 1719, 27 Aug., 1720, 17 Sept., 1721, 15 Sept., 1722 and 20 Sept., 1729.

² Concession by the King, 13 July, 1722.

³ Brevet de confirmation by the King, 25 December, 1725.

1722, the King conceded an augmentation of Baye-de-Phelypeau concession extending five leagues westward from the original grant and four leagues in depth, also the islands opposite, said concession to be enjoyed by the concessionaires so long as they continued to develop the fisheries therein. The widow Courtemanche and Brouague were granted one-quarter each and the three daughters of Courtemanche, one-sixth each.² As the whole of this augmentation was included within the limits of Saint-Paul seigniory, the grant was, *ab initio*, null and void.³

1725, the new grant was confirmed by the King, but, as one of Courtemanche's daughters had died in 1724, the King granted her share of one-sixth of the original grant and of the augmentation to Brouague, thus giving him five-twelfths of the concession and of the augmentation.

1726, the King ordained that, if the widow Courtemanche

or the daughters by her second husband predeceased Brouague, their shares should pass to the latter, or, if Brouague were survived by his mother or step-sisters, his share should pass to his wife, Ann Faury du Ponceau, and, on the death of said survivor, or survivors, the shares of such survivors would also pass to dame Faury du Ponceau. The succession to Brouague's widow was contingent upon her residing upon the concession and continuing fishing operations therein.⁴

⁴ Concession by the King,
22 February, 1726.

1726, Louis-Jacques, Sieur de St. Jean, and his wife Marie-Margueritte de Courtemanche, sold to Brouague and his wife, such interest as Marie-Margueritte de Courtemanche had in Baye-Phelypeau concession.⁵

⁵ Deed executed before Lederdet and Lounet, at St. Malo,
4 April, 1726.

1729, an English vessel from Boston was forced by stress of weather, to take refuge at Isle a Bois (Woody Island). Her captain declared that he was carrying provisions to four other English vessels that were fishing at St. Jan Islands and, as his declaration was found to be "en forme," the French commander released her.⁶

⁶ Brouague to Maurepas,
20 September,
1729.

1732, Brouague and Pierre Trottier Desauniers entered into an agreement for nine years (1733 to 1742) whereby Desauniers agreed to act as agent for Brouague at Quebec, shipping to him all necessary supplies, paying wages of crews, repairs, etc., of his vessels.⁷

⁷ Agreement passed before Hiché at Quebec,
6 September, 1732.

1740, Brouague inventoried his goods and chattels at Baye-de-Phelypeau and valued them at 655,783 livres.⁸
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⁸ Inventory made by Brouague,
10 August, 1740.

1744, the King granted the Baye-de-Phelypeau concession to Armand de la Porte and his brother, Jean de la Porte. The grant provided that it would pass to them upon the deaths of Brouague and Marie-Joseph Foucher, only surviving daughter of the widow Courtemanche.¹

¹ Patent by the King,
24 April, 1744.

1745, the widow Courtemanche and two of her daughters having died, Brouague held five-sixths of Baye-de-Phelypeau, the other sixth being held by the surviving daughter, Marie-Joseph de Courtemanche, wife of Sieur Foucher. Brouague obtained a lease of the one-sixth interest held by Madame Foucher.²

² Deed executed before Panet and du Laurent, at Quebec,
16 December, 1715.

1746, the partnership between Brouague and Desauniers was dissolved by mutual agreement.³

1751, Charles he Court, Sr., engaged himself to Brouague to command a schooner and to navigate same between Quebec and Labrador.⁴

³ Agreement executed before du

1754, following a dispute respecting the limits of Baye-

Laurent, at
Quebec,
7 November, 1746.

⁴ Engagement
executed before
Barolet, at Quebec
13 May, 1751.

⁵ Ordinance by
Duquesne and
Bigot,
25 September,
1756.

⁶ Arret de Conseil
d'Etat,
1 December, 1853.

de-Phelypeau, Duquesne and Bigot issued an ordinance fixing its eastern limit at “environ 400 toises [one-half mile, nearly] clans l'Est de L'ance Ste. Claire.”⁵ This demonstrates that the four leagues of front of the concession was to be measured two leagues from the eastern limit of Phelypeau (Bradore) bay and two leagues from the western limit of said bay.

1758, the Conseil d'Etat issued an edict annulling the grant made to the la Portes in 1744.⁶

1759, the King granted Baye-de-Phelypeau and the augmentation to Francois Foucher, Jean Favry de Ponceaux and Charles Favry de Chantelon, for their lifetime, in the proportions of: to Foucher one-half, and to Ponceaux and Chantelon one-quarter each. The concession provided that the grant should be operative “immédiatement apres le décès du S. de Brouague” and that, on Foucher's death, his share should pass to his children and that the shares of Ponceaux and Chantelon should pass to their respective wives.⁷

1762, the President of the Conseil de Marine wrote to the Marquis de Puiseux that he could not secure Baye-de-Phelypeau concession for the Sieur de Grandelos Mesle.⁸

BRITISH REGIME

⁷ Cugnet to
Hamilton, 27 May,
1735.

1760, the heirs of Brouague stated that Governor Murray had dispossessed the concessionaries in 1760 and had transferred the Baye-de-Phelypeau concession to Mackenzie, Lymburner and others.⁹

⁸ Minister to
Marquis de Puiseux,
17 March, 1762.

1763, A. R. Bondfield, son-in-law of Martel Brouage, petitioned the British government for a grant of Brouague's fishing post on the coast of Labrador. He stated that Brouague had held this post from 1728 to 1759.¹⁰

⁹ Dupre, Hugues
et al to Lords of
Trade,
30 March, 1779.

1764, Favry du Ponceau and Favry de Chanteloup submitted, through the French Ambassador, a memorial claiming to be the proprietors of

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¹⁰ Acts of the Privy
Council (Colonial)
Unbound Papers,
p. 357.

¹ Memoir of du Ponceau and de Chanteloup, 1764.

² Lords of Trade to the King, 18 May, 1764.

³ Dupré, Hugues *et al* to Lords of Trade, 30 March, 1779.

⁴ Cugnet to Hamilton, 27 May, 1785.

⁵ Deed executed before Planté at Quebec, 19 September, 1804.

⁶ Deed executed before Planté at Quebec, 22 April, 1808.

⁷ Concession by Jonquière [sic.] and Bigot, 6 October, 1750.

⁸ Ordinance by Duquesne and Bigot, 25 September, 1754.

Baye-de-Phelypeau and requesting that the British Government recognise their claim as it had been practically impossible to dispose of the concession with the period of 18 months after the signing of the Treaty of Paris, as provided by the terms of the treaty.¹ Falling ratification of the grant, they asked for compensation.

The Lords of Trade recommended that the stipulations of the treaty be not departed from and that no new grant be issued to subjects of the French King residing in France.²

1779, The heirs of Brouague petitioned for, reinstatement in their concession or a new grant of same.³

1785, Cugnet, an eminent jurisconsult, reported to Lieut. Governor Hamilton that, if the Governor authorised the registration of the patent of 1759, de Chanteloup and other heirs would have the right to demand compensation from the persons who had operated the concession after the death of Brouague, 15 March, 1761.⁴

1804, Mathew Lymburner and John Wm. Woolsey, curator of estate of John Crawford sold “Bradore” and other posts to William Grant.⁵

1808. John Richardson, as curator of the estate of William Grant, sold “Mador” (Bradore) and other posts to Langan, Burns, Woolsey and Lymburner.⁶

PETIT-HAVRE CONCESSION.
FRENCH REGIME

1730, Jonquière and Bigot granted Petit-Havre concession for nine years (1751 to 1760) to Antoine Marsat. The concession included a front of one league above and one league below Petit havre by three leagues in depth and also the islands opposite. It granted the exclusive right to take whales and seals and to hunt and trade with the Indians within its limits.⁷

1754, Duquesne and Bigot issued an ordinance defining the eastern limit of Baye-de-Phelypeau as about 400 toises (one-half mile, nearly) east of anse Ste. Claire. As Petit-Havre is between anse Ste. Claire and Baye-de-Phelypeau (Bradore bay) this decision also annulled Marsal's grant.⁸

¹ Concession by Jonquière and Bigot,

1 May, 1750.

FRENCH REGIME

1750, Jonquière and Bigot granted to Sieur Tache for nine years (1750 to 1759) the tract of ungranted land lying between Baye-Forteau and Baye-de-Phelypeau concessions, by four leagues in depth, with the islands opposite. The grant included the exclusive right to take seals, hunt and trade with Indians within the limits of the concession.¹

² Concession by Jonquière and Bigot, 13 October, 1751.

1751, Taché having abandoned his concession, Jonquière and Bigot granted to Michel Fortier for six years (1752 to 1758), a tract with a frontage of about two leagues and lying between pointe des Blanc Sablons and pointe de la Forte (Forteau) or Grincédents, by four leagues in depth, with the islands opposite and with the same privileges as had been granted to Taché.²

³ Ordinances by Bigot, 15 May, 1752, 23 September, 1752, and 15 September, 1753.

1752, as Brouague had claimed that Fortier's grant was included in Baye-de-Phelypeau concession, Bigot issued an ordinance ordering the determination of the eastern limit of Baye-de-Phelypeau. Pending such determination, he granted Fortier permission to take seals during 1752. This permit was renewed for 1753 and for 1754.³

⁴ Ordinance by Duquesne and Bigot, 25 September, 1754.

1754, Duquesne and Bigot cancelled Fortier's concession on the ground that a survey by Pellegrin had proved that Fortier's post was within the limits of Baye-de-Phelypeau.⁴

⁵ Return by Murray, 22 July, 1763.

BRITISH REGIME.

1761, Governor Murray granted, for the purposes of a seal fishery, the tract of land from a point two leagues west of Belsamont to two leagues east of Anse St. Claire for three years (1761 to 1764).⁵

⁶ Deed executed before Planté, at Quebec, 22 April, 1808.

1808, John Richardson, as curator of the estate of William Grant, sold certain posts, including Anse-Sainte-Claire, to Langan, Burns, Woolsey and Lym burner.⁶

⁷ De Ramezay and Begon to Minister, November, 1715

BAYE-FORTEAU CONCESSION.

FRENCH REGIME.

1715, De Ramezay and Begon state that Boishebert, who had just returned from a cruise along the coast to a point seven leagues below Bradore bay, had reported that fishing operations were being carried on as far east as Forteau bay.⁷

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¹ Concession by Galissonnière and

1748, Galissonnière and Hocquart granted to Adrien Desmarais Vincent for nine years (1748 to 1757), Forteau bay,

Hocquart,
20 August, 1748.

² Brevet de confirmation by the King,
30 April, 1749.

together with the tract of land of about three-quarters of a league frontage, lying between pointe des Dunes and pointe de Grincédents, by four leagues in depth, with the islands opposite. They granted the exclusive right to take seals, hunt and trade with the Indians.¹

The concession was ratified in 1749 for a period of seven years only (1749 to 1756).²

ANSE-A-LOUP CONCESSION.

FRENCH REGIME.

³ Concession by Galissonnière and Bigot,
25 October, 1748.

1748, Galissonnière and Bigot granted to Joseph Deschenaux for nine years (1749 to 1758), a tract of land to be taken from cap au Diable, and including the cape, westward about two leagues to the western limit of the anse a Loup, by six leagues in depth, and including the islands opposite. They granted the exclusive right to take seals, hunt and trade with the Indians within the limits of the concession.³

⁴ Brevet de confirmation by the King,
30 April, 1749.

1749, the grant was confirmed for the term of seven years only (1749 to 1756).⁴

BELLEISLE STRAIT SEIGNIORY.

FRENCH REGIME.

⁵ Concession by Vaudreuil and Begon,
18 May, 1713.

1713, Vaudreuil and Begon granted to Pierre Constantin for ten years (1713 to 1723), a tract with thirty leagues of front “depuis le détroit de Belisle en descendant au nord nordest,” by ten leagues in depth, with the islands opposite. It granted the right of hunting, fishing and trading with the Indians within its limits subject to the performance of “foy et hommage,” the payment of the “droits et redevances accoutumées, suivaut la coutume de Paris” and keeping “feu et lieu” thereon.⁵

Constantin established himself at two points on the strait, namely, Baye-Rouge and Riviere-des-Francois and applied for a grant known, later, as St. Modet concession, which see.

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ST. MODET CONCESSION.

FRENCH REGIME.

¹ Courtemanche to Constantin,
12 July, 1715.

1715, Courtemanche, as Commandant on the coast of Labrador, forbade Constantin to erect a permanent establishment “au dessous de la Forteau” bay and ordered him to return with his employees before winter set in.¹

Brouague, in 1738, stated that Constantin's first “hyvernement” was on the rivière des Francois. His evidence

² Evidence of Brouague, at Quebec, 2 April, 1738.

also proves that Constantin carried on fishing operations at his Rivière-des-Francois and Baye-Rouge posts in 1713, 1714, 1715 and 1716.²

³ Concession by the King, 31 March, 1716.

1716, the King granted Rivière-des Francois (St. Modet) concession to Pierre Constantin for his lifetime, provided he continued to develop it. The concession granted the exclusive right to take seals within its limits, to take fish in common with other French subjects and to trade with the Indians. It extended two leagues eastward and two leagues westward from Constantin's "habitation" (post), on rivière des Francois (Pinware river) by four leagues in depth and included the islands opposite.³

⁴ Courtemanche's report, 13 September, 1716.

In a marginal note on Courtemanche's memoir, it is stated that Vaudreuil recommended that this concession be granted to Constantin on the ground that Constantin had been the first who had gone to Labrador and that, later, he had taken Courtemanche there.⁴

⁵ Petition of Villeneuve, *et al* to Vaudreuil, 22 July, 1717.

1717, captains and other officers of vessels stated that it was in the interest of the State and of commerce both of the "Baye of Canada que de la Coste du petit Nord" that Constantin be appointed to receive and protect the boats and gear left on the coast in the autumn. They also petitioned that a post be established at Baye-Rouge. This was, later, cited by Constantin as a proof that his Baye-Rouge post was established at a later date.⁵

⁶ Evidence of Brouague, at Quebec 2 April, 1738.

1719, Brouague stated that Constantin established his Baye-Rouge post in the autumn of 1719.⁶

⁷ Brouague to Conseil de Marine, 27 August, 1720.

1720, Brouague stated that the Eskimo had killed three of Constantin's men and burned his post.⁷

⁸ Brouague to Conseil de Marine, 17 September, 1721.

1721, Brouague reported that Constantin was rebuilding Baye-Rouge post.⁸

⁹ Boucault and Foucault to Beauharnois and Hocquart, 8 April, 1738.

1723, Boucault and Foucault stated, in 1738, that Constantin leased Baye-Rouge to Canan and Deferrière, merchants of St. Maio, who operated it till 1723.⁹

¹⁰ Deed executed before Dubreuil, at Quebec, 4 November, 1732.

1732, Constantin leased his posts at Baye-Rouge, Rivière-des-Francois (Pinware river) and Ste.-Marie-de-l'Ancre to Francois and Pierre Rotot and Pierre Hamel for seven years (1733 to 1740).¹⁰

1734, Foucault, Boucault and Cheron petitioned Beauharnois and Hocquart for the grant of a seigniorship with the right of "haute, moyenne et

Basse Justice" the concession to extend from the rivière des

Francois to anse à Loup, with such depth as Beauharnois and Hocquart might determine, and including the islands opposite.¹

¹ Petition of Foucault, *et al.*, to Beauharnois and Hocquart, August (or September), 1734.

1735, Beauharnois and Hocquart granted to Francois Foucault and Gaspard Boucault for nine years (1735 to 1744), a tract of land with five leagues of front by six leagues in depth extending westward from the rivièrè des Francois (Pinware river) but not including same, and with the islands opposite. The concession granted the exclusive right to take seals and trade with the Indians within the limits of the concession.²

² Concession by Beauharnois and Hocquart, 27 April, 1735.

A fortnight later, Boucault and Foucault entered into partnership with Cheron, conceding a one-third interest to Cheron.³

³ Deed executed before Boisseau, at Quebec, 13 May, 1735.

After reciting Constantin's complaint that Foucault and Boucault's grant at St. Modet included part of his concession, the Prèsident du Conseil de Marine instructed Beauharnois and Hocquart to investigate and report.⁴

⁴ Prèsident to Beauharnois and Hocquart, 17 April, 1736.

Foucault and Boucault, in their memoir to Hocquart, stated that Constantin's "habitation" in 1716, when the concession was granted to him, was at Baye-Rouge and, therefore, as it was four or five leagues distant from Grand St. Modet island, the latter was outside the limits of Constantin's grant.⁵

⁵ Foucault and Boucault to Hocquart, 1736?

1736, Boucault and Foucault complained that Brouague's employees were killing seals at Longue pointe, seven or eight miles from St. Modet, to the detriment of St. Modet post. Hocquart issued an ordinance forbidding Brouague and his partner, Desauniers, to take seals to the southeast of, and below, baye Phelypeau.⁶

⁶ Ordinance by Hocquart, 6 October, 1736.

1737, the Prèsident du Conseil de Marine instructed Beauharnois and Hocquart to investigate the dispute respecting St. Modet and, if either party deserved a preference, Constantin, as the first grantee, should receive it.⁷

⁷ Prèsident to Beauharnois and Hocquart, 30 April, 1737.

1738, Beauharnois and Hocquart, pending further investigation, adjudged St. Modet to be operated by Constantin, Boucault and Foucault in the proportion of one-third each. Boucault and Foucault having demurred to this arrangement, Constantin was ordered to take over the vessel and crew that Boucault and Foucault had engaged, also the post they had constructed at St. Modet and the munitions and gear at Quebec and St. Modet.⁸

⁸ Ordinance by Beauharnois and Hocquart, 18 April, 1738.

Hocquart also appointed arbitrators to inventory and value the munitions and fishing gear in the stores of Foucault and Boucault at Quebec and St. Modet.⁹

Boucault and Foucault stated that, in May 1733, they had sent a schooner, with a crew of 17 men under Capt. Cheron, on

⁹ Ordinance by
Hocquart,
21 April, 1738.

a voyage of discovery. Having found a seal fishery, they sent Cheron there in 1734; in 1735, they sent a vessel with a crew of 30 men; in 1736, they sent two ships with 50 men and in 1737, they also continued operations.

They petitioned for the confirmation of the St. Modet concession and for a grant of the Vieux Fort islands, although the latter were unquestionably in Isles de Mingan seigniory.¹⁰

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¹⁰ Boucault and
Foucault to
Maurepas, 1738

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¹ Deed executed
before Barbel,
at Quebec,
12 May, 1739.

1739, a deed was passed between Constantin and his sons-in-law, Rènè Cartier and Pierre Hamel, whereby he transferred to them a one-third interest in Grand St. Modet, Petite St. Modet, and Baye-Rouge.¹

² Deed executed
before Barbel, at
Quebec,
17 May, 1740.

1740, Cartier and Hamel transferred to Havy and Lefebvre, for seven years, such interest as they possessed in Grand St. Modet.²

³ Deed executed
before Latour,
at Quebec,
17 May, 1740.

On the same day, Cartier and Hamel sold to Francois Foucault all their rights and claims to St. Modet.³

⁴ Ordinance by
Hocquart,
18 September, 1740.

1740, Boucault and Foucault having renounced all pretensions to the concession of St. Modet, granted to them in 1735, Hocquart issued an ordinance confirming Constantin in possession thereof and declared that the concession to Boucault and Foucault was null and void.⁴

⁵ Deed executed
before du Laurent,
at Quebec,
7 March, 1713.

1743, Foucault sold all his rights and claims to St. Modet to Pierre Jehanne.⁵

⁶ Ordinance by
Galissonière and
Bigot,
8 October, 1748.

1748, Galissonière and Bigot issued an ordinance forbidding Durant freres, Mourongeau and other fishermen casting nets or discharging muskets within the limits of St. Modet concession. The ordinance states that Constantin is the owner of St. Modet, Baye-Rouge and Rivière-des-Francois posts.⁶

⁷ Ordinance by
Jonquière and
Bigot,
6 April, 1751.

1751, following the death of Constantin, Jonquière and Bigot granted to Breard for nine years (1751-1760), the St. Modet concession but with a depth of six leagues, as compared with a depth, of four leagues when granted to Constantin. They also granted him an augmentation adjoining the western boundary of St. Modet. It extended about three-quarters of a league westward by six leagues depth and included the whole of the anse au Diable.⁷

⁸ Ordinance by
Bigot,
20 April, 1751.

Bigot issued an ordinance prohibiting Bouvier and his partner, le Balais, and all others from taking seals in the anse an Diable or elsewhere within the limits of St. Modet.⁸

⁹ Brevet de con-
cession by the King,
20 July, 1753.

1753, the King granted St. Modet to Hocquart, with the same limits as specified in the grant to Constantin, namely, four leagues in front by four leagues in depth. together with the islands opposite, with the exclusive right to take seals and trade with the Indians within the limits of the concession.⁹

¹⁰ Ordinance by
Bigot, 25 May,
1756.

¹¹ Maseres to
Carleton,
3 January, 1767.

1756, Bigot, in an ordinance, of 25 May, 1754, states that the King had granted Gros-Mecatina to Hocquart and St. Modet to Taché ; that Volant d'Haudebourg had leased St. Modet on 5 March, 1754 ; that the grant to Taché was to go

into effect in 1756, and that d'Haudebourg should pay rental to Taché as from 5 March, 1754.¹⁰

¹ Deed executed before Panet, at Quebec, 30 August, 1762

1759, Maseres stated that Taché had enjoyed this concession without molestation until 1759. receiving a rent of 900 livres per year from d'Haudebourg.¹¹
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² Grant by Murray, 16 May, 1763.

BRITISH REGIME

1762, Jean Taché leased St. Modet to John Ord for nine years (1762 to 1771).¹

³ Petition of Taché, *et al*, to the King, 1766.

1763, Murray granted St. Modet to Jean Taché for three years “or until His Majesty's pleasure is further known.”²

⁴ Murray to Lords of Trade, 25 August, 1761.

1763, Taché stated that in 1763, he was disturbed in his possession of St. Modet, a frigate having ordered back the vessels he and the seigniors of Mingan had sent to operate their respective concessions. He petitioned the King to instruct the Newfoundland government that he be given peaceable possession of his concession.³

⁵ Taché to Carleton, 10 November, 1766

1764, Murray reported that St. Modet and St. Augustin were sub-let to “British merchants.”⁴

⁶ Maseres to Carleton, 3 January, 1767.

1766, Taché stated that, as a result of the Proclamation of 1763, the vessel he had despatched from Quebec to operate St. Modet post had been ordered back on the ground that, it was in territory under the jurisdiction of Newfoundland. Taché petitioned for peaceable possession of his post.⁵

⁷ Taché to Carleton, 12 November, 1767.

1767, Maseres writing in 1767. stated that Taché had continued to enjoy possession of St. Modet from 1759 “till the late Interruption of the Settlements on the Coast of Labrador by the Governor of Newfoundland.” Taché desired to obtain Gros-Mecatina and offered, if granted it, to surrender St. Modet.⁶

⁸ Dartmouth to Carleton, 2 June, 1767.

1767, Taché stated that his lessee, John Ord, had appropriated St. Modet as a result of an agreement with Newfoundland.⁷

⁹ Talbot to Select Committee, 5 January, 1849.

1775, Wm. Burgess applied for a grant of St. Modet and Anse-a-Loup concessions.⁸

¹⁰ Granville G. Loch to Ellis, 10 August, 1818.

1838, Antoine Talbot purchased St. Modet from James Dumaresq in 1838 and operated it from 1838 till he was violently dispossessed in 1845.⁹

1848, Antoine Talbot, who had been dispossessed by

William Henry Ellis in 1845, obtained from the commander of H.M.S. "Alarm" an order directing Ellis to restore his post and effects.¹⁰

¹¹ Talbot to
Select Committee,
20 January, 1849.

1848, Antoine Talbot petitioned the Legislative Assembly of Canada "to take such measures as in their wisdom they may deem fit, with a view to permit the shippers to carry on the fisheries of the coast in safety, and to exert their industry without danger."¹¹

¹² Report of the
Select Committee
on the petition of
Antoine Talbot,
12 April, 1849.

A Select Committee of the Assembly recommended that consideration of the subject of securing sufficient protection "to those who were disposed to carry on the fisheries, honestly and peaceably . . . be taken up and continued with activity, and that in the meantime the Provincial Government do solicit the protection of Her Majesty's Government, and the co-operation of that of Newfoundland, to obtain the desired end."¹²

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BLANC SABLON CONCESSION AND SEIGNIORY.

1689, Denonville and Champigny granted to Charles Aubert de la Chesnaye, Francois Pachot, Francois Poisset, Mathew de Lino, *et al*, a concession to take whales, seals, porpoises, and cod and other fish in Belleisle strait between the lower (eastern) portion of Blanc Sablon bay and the tract granted to the "Sieurs Riverin et compaigne an 52° degre [sic.]" of latitude—Belleisle seigniory and concession—and on the west coast of Newfoundland between latitude 49° N. and the western boundary of said Riverin's concession.

The concessionaires were also granted "en propriété a tiltre de fief et seigneurie," in perpetuity, a seigniory which included two areas. The first contained an area of three leagues in front and three leagues in depth, situated on the north shore of Belleisle strait and the second, containing three leagues in front and three in depth, was situated in their concession on Newfoundland.

¹ Concession by
Denonville and
Champigny,
14 April, 1689.

They were also granted the exclusive right to trade or fish within a radius of one-quarter league surrounding their hunting and trading establishments.¹

BELLEISLE SEIGNIORY AND CONCESSION.

1689, Denonville and Champigny granted to the sieurs Riverin, Chanion, Catignon and Routhier. "en toutte propriétté fiefs, seigneuries et justice" (a) Belle isle (b) tract with six leagues of front on the "coste des Esquimaux" (north shore of Belleisle strait) and a similar tract on the coast of Newfoundland on the south shore. They also received the concession for twenty years (1689 to 1709) of the exclusive right of trading with the Indians from Blanc Sablons bay to a point thirty leagues eastward along the north shore of Belleisle

Concession by
Denonville and
Champigny,
19 January.
1689.

strait, also, the exclusive right of trade with the Indians on the south shore of Belleisle strait.

The grantees were empowered to erect fishing and trading establishments and to fortify same.²

PORTACHOIS SEIGNIORY, NFLD.

1705, Vaudreuil and Beauharnois granted in perpetuity to Francois Hazeur, Portachois seigniory on the west coast of Newfoundland. This seigniory was ten leagues in depth and extended from the Salmon river northward to the rivière l'Ours Blanc, a frontage of about 35 leagues. It was granted "en titre de fief et seigneurie, haute, moyenne et basse justice," with
p. 3187

¹ Concession by
Vaudreuil and
Beauharnois,
20 April, 1705.

the right of hunting, fishing and trading with the Indians within the area of the seigniory under the condition that the grantee "rendre foy et hommage ... faire tenir feu et lieu," etc.¹

² Brevet de confirmation by the
King, 17 June 1707.

1707, the King confirmed and ratified the grant of Portachois seigniory to Hazeur.²

³ Ordinance by
Raudot,
6 June, 1709.

1709, prior to Hazeur's death in 1708. he entered into partnership with Pierre Constantin. In 1709, Raudot issued an ordinance accepting the renunciation of Portachois by Hazeur's heirs in favour of Constantin.³

⁴ Agreement
executed before
Rivet, at Quebec,
3 May 1710.

1710, Constantin and Jean de Rouvray entered into a partnership agreement for five years (1710-1715), for the operation of Portachois.⁴

⁵ Lease executed
before du Breuil,
at Quebec,
4 November, 1732.

1732, Constantin leased to Francois Rotot, Pierre Rotot and Pierre Hamel, for seven years (1733 to 1740) the Baye-Rouge and Riviere-des-Francois posts on the north shore of Belleisle strait and Port-Ste. Marie-a-la-Pointe-aux Ancres (Portachois), the lessees to pay 200 livres per year.⁵

⁶ Concession by
Beauharnois and
Rouvillière,
15 December, 1736.

1736, Beauharnois and Rouvillière granted to sieur Antoine Marsal for nine years (1736 to 1745) the exclusive right to take seals on the Goelans islands and on the coast of Newfoundland between the southwestern point of bay St. Barbe and a point three leagues northeast thereof.⁶

⁷ Ordinance by

1738, as a result of a protest by Blais, Regnier and Jolliet Maingan, partners in the fishery at Pointe-aux-Ancres, Hocquart issued an ordinance empowering Maingan and partners to operate their Pointe-aux-Ancres post except that they were forbidden to shoot seals between 15 June and 15 July. Marsal was confirmed in his concession of the Goelans islands.⁷

BAYE-DES-CHATEAUX CONCESSION.

1735, Beauharnois and Hocquart granted to Louis Bazil for nine years (1735-1744) a concession to form establishments on the Atlantic coast between a point one-half league west of baye des Chateaux and a point three and one-half leagues northeast thereof, and on all the islands opposite said coast, with permission to fish, hunt and trade with the natives.⁸

⁸ Concession by Beauharnois and Hocquart, 18 September, 1738.

1736, Bazil was conceded the exclusive right for nine years (1736 to 1745) to take seals and permission to fish, hunt and trade with the Indians in the area included in the concession of 1735.⁹

⁹ Concession by Beauharnois and Hocquart, 1 October, 1736.

1737, the King confirmed and ratified the concession of Baye-des-Chateaux to Bazil.¹⁰

¹⁰ Brevet de confirmation by the King, 17 May, 1737.

1737, Bazil entered into partnership with Francois Havy and Louis Fornel for the operation of his Baye-des-Chateaux concession for seven years (1737 to 1744).¹¹

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¹¹ Deed executed before Barolet, at Quebec, 3 May, 1737.

1742, Fornel reminded the Minister that, while operating the Baye-des-Chateaux concession, he had applied for a grant of the Baye-des-Esquimaux concession but that his partners would not permit him to use the firm's vessels to explore this bay. Fornel requested that the Baye-des-Chateaux concession be granted to him and, if conceded, offered to explore the baye des Esquimaux at his own expense.¹

¹ Fornel to the Minister, 27 October, 1742.

1746, Beauharnois and Hocquart reported that the Baye-des-Chateaux concession had been abandoned by the concessionaire and his partners.²

² Beauharnois and Hocquart to the Minister, 23 September, 1746.

1747, Galissonière and Hocquart reported that there was no likelihood that application for the Baye-des-Chateaux concession would be made while the war lasted.³

³ Galissonière and Hocquart to the Minister, 7 October, 1747.

1749, Jonquière and Bigot granted the Baye-des-Chateaux concession to sieur Gaultier for nine years (1749 to 1758).⁴

⁴ Concession by Jonquière and Bigot, 12 September,

1754, Charles-Francois de la Pérade, Sieur de Lanaudière, states, in a deed, that he is proprietor of the Baye-des-Chateaux. He engaged Charles Gilbert, ship-captain, as master of the schooner "La Diligente" for two years, 1754 to 1756, and for three additional years, 1756 to 1759, if Lanaudière obtained an extension of his concession. On 4 April, 1754,

CAP-CHARLES CONCESSION.

FRENCH REGIME

⁵ Deed executed before Barolet, at Quebec, 5 July, 1754.

1735, Beauharnois and Hocquart granted to Antoine Marsal for nine years (1735 to 1744) a concession on the Atlantic coast extending from cape Charles, inclusive, to St. Alexis bay and including the islands opposite said portion of the coast, with the right of fishing, hunting and trading with the Indians within the limits of this concession. All persons were forbidden to molest Marsal within the limits of his concession or to make any establishments therein.⁶

⁶ Concession by Beauharnois and Hocquart, 27 September, 1735.

1743, Marsal petitioned for an extension of his concession that he might recoup himself for the losses he had sustained from the Eskimo. His concession was extended for six years (1744 to 1750).⁷

1749, Marsal having ceased to operate his concession, it was re-granted for nine years (1750 to 1759) to Capt. Baune (de Bonne).⁸

⁷ Extension granted by Beauharnois and Hocquart, 7 September, 1743.

1753, Marsal stated that, during his absence in France, de Bonne had obtained a grant of Cap-Charles but had made no attempt to operate his concession. He petitioned for its restoration. It was re-granted to him for nine years (1754-1763).⁹

⁸ Concession by Jonquière and Bigot, 1 November, 1749.

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⁹ Concession by Duquesne and Bigot, 24 September, 1753.

1758, Marsal died in 1757. In 1758, Vaudreuil and Bigot authorised his creditors to operate Cap-Charles till the concession expired in 1763.¹

¹ Permit by
Vaudreuil and
Bigot,
20 March, 1758.

BRITISH REGIME

1763, Governor Murray granted Cap-Charles to William Brymer for four years (1763 to 1767).²

² Return by Murray,
22 July, 1763.

PASSAGE-DES-LOUPS-MARINS CONCESSION.

³ Concession by the
King to Deleigne,
8 April, 1721.

FRENCH REGIME

1721, the King granted to André Deleigne a concession with a frontage of four leagues extending two leagues northwest and two leagues southeast of the passage des Loups-Marins and four leagues in depth, with the islands opposite the concession, to hold during his lifetime or so long as he continued to develop the fishery thereat. Deleigne was granted the exclusive right to take seals and the concurrent right with other French subjects to take fish within the limits of his concession and was empowered to trade with the natives “sur les terres et Costes de Labrador,”³

⁴ Minister to Begon,
5 June. 1722.

1722, Begon was informed that Deleigne's request for two cannon for his fort could not be complied with.⁴

⁵ Ordinance by
Hocquart,
16 September,
1743.

1743, Hocquart issued an ordinance forbidding Antoine Marsal to set nets or cut firewood within the limits of Deleigne's concession.⁵

INDIAN ISLAND CONCESSION.

BRITISH REGIME

1786, Lieut.-Governor Hope authorized Perrault, Pierre Marcoux, John Antrobus and Louis Dunier, to establish seal, cod and salmon fisheries on Indian island and on a tract on the mainland of Labrador peninsula extending from a point opposite the western extremity of said island, northward for five leagues in front and two leagues in depth “with the rivers which shall be found therein,” provided that no portion of the area should be found to be within the limits of the land granted to the Society of Unitas Fratrum and that “no Right or Privilege is or shall be hereby given or conveyed Subversive of the rights and Privileges granted” to the Hudson's Bay

⁶ Grant by Hope,
15 September, 1786

Pending the promulgation of “certain local Regulations . . . to render the Establishments in that quarter of more advantage and Utility,” Hope declined to grant exclusive privileges to the concessionaires but stated that the licence was “intended not only to secure to them the present enjoyments thereof,” but also to give them a “claim upon Governments for a preference in obtaining a Concession or grant of the whole or parts of the Lands above described, under such restrictions and limitations as may hereafter be devised for the better regulation of the Fisheries and matters appertaining thereto in that Quarter.”

¹ Concession by Murray, 27 April, 1762.

MURRAY BAY SEIGNIORY.

BRITISH REGIME

1762, Governor Murray granted Murray Bay seigniority to Capt. John Nairne. “All kinds of traffick with the Indians of the back Country” was “specially excepted” to preserve the rights of the lessees of the King's Posts.¹

² Concession by Murray, 27 April, 1762.

MOUNT MURRAY SEIGNIORY.

BRITISH REGIME

1762, Governor Murray granted Mount Murray seigniority to Lieut. Malcolm Fraser. “All kinds of traffick with the Indians of the back Country” was “specially excepted” to preserve the rights of the lessees of the King's Posts.²

³ Concession by de Lauzon, 15 November, 1763.

MILLE VACHES SEIGNIORY.

FRENCH REGIME

1653, de Lauzon granted to Robert Giffard a tract with a frontage of three leagues by four leagues in depth on the north shore of the St. Lawrence “au lieu dit Mille Vaches . . . pour jouir des dits lieux en fief et en tous droits de haute, moyenne et basse justice et seigneurie,”³

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BRITISH REGIME

¹ Petition of the Hudson's Bay Co.,

1822, the Hudson's Bay Company, which, by union with

20 November,
1830.

² Third Report of
the Committee on
Grievances, House
of Assembly,
22 March, 1831.

the North West Company in 1821, had acquired its rights and claims, leased the seigniority of Mille-Vaches. Later, they established Portneuf fur-trading post in this seigniority and, owing to its position with reference to the King's Posts, were able to carry on a considerable trade with the Indians of the Posts to the manifest injury of the lessee.¹

1831, a Committee of the House of Assembly reported that the Portneuf post had been established by the Hudson's Bay Co. "in contradiction to the conditions of the Concession deed of said seigniority" and that the Crown officers had given it "as their opinion that Portneuf constituted a part of the Domaine of His Majesty."²

1864, Henry Judah, as Commissioner under the Seigniorial Tenure Act, certified that Mille Vaches included an area of 84,612 arpents and he valued it at \$21,168.00.

KING'S POSTS.

No. 1235.

[1728.]

**MEMORANDUM BY LANOUILLER, 1728,
re FERME DE TADOUSSAC.**

CANADIAN ARCHIVES, SERIES C¹¹ A., Vol. 50, pp. 341-345.

1728, Canada. Droit du Domaine Occident.
Nicolas Lanouiller.

FERME DE TADOUSSAC.

A Messieurs les Fermiers Généraux
des Domaines de France.

Ferme de Tadoussac. Droits de Domaine.
Pour Mémoire.

La Ferme de Tadoussac est un poste distant de Quebec de
trente lieues, situé à l'embouchure du Sagney, fleuve
considérable.

(Translation.)

1728, Canada. Rights of Western Domain.
Nicolas Lanouiller.

LEASE OF TADOUSSAC.

To Messrs. The Farmers General
of the Domain of France.
Farm of Tadoussac. Rights of domain.
Memorandum.

The lease of Tadoussac consists of a post thirty leagues distant from Quebec and
situated at the mouth of the Saguenay, a large river.

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La traite s'y fait avec les Sauvages qui habitent la partie
Nord du fleuve Saint-Laurent, depuis l'Isle aux Coudres,
jusqu'aux Sept Isles.

Il y a environ 70 à 80 lieues de l'isle aux Coudres aux sept
Isles.

Cette Ferme contient cette étendue de pais en superficie le
long de la Rivière, dont la profondeur s'étend jusqu'à la baye

d'Hudson qui a été cédée aux Anglais par le traité d'Utrecht.

Les sept Isles sont environ deux degrés trente minutes, plus au Nord que l'isle aux Coudres.

ENTRETIEN DU POSTE DE
TADOUSSAC.

Il est nécessaire de garnir ce poste de farines, biscuits, lards, pois, et autres vivres pour les Engagés qui en font l'exploitation.

De biscuits pour les Sauvages qui font la pêche des loups marins.

Il en faut aussi pour ceux qui viennent du fond des terres traiter leurs castors et autres pelleteries.

De draperies, capots et autres marchandises de merceries et quincailleries propres à l'usage des sauvages, et principalement de fusils, poudre, plombs et haches, et autres ustanciles pour les aider et faciliter dans leurs chasses.

PRODUIT DU POSTE DE
TADOUSSAC.

En échange de toutes ces avances

Ce poste fournit

Des castors gras et secs, des pelleteries de différentes espèces.

Des huiles de poisson.

Des peaux de loups marins.

(Translation.)

Trading is carried on with the Indians inhabiting the northern part of the St. Lawrence river, from the Isle aux Coudres to Seven Islands.

The distance between l'isle aux Coudres and Seven Islands is about 70 or 80 leagues.

This lease includes this extent of country in area bordering the River, and the depth of which stretches as far as the Hudson bay which was ceded to the English under the Treaty of Utrecht.

Seven Islands is about two degrees and thirty minutes farther north than the isle aux Coudres.

MAINTENANCE OF TADOUSSAC.

This post must be provided with flour, biscuits, lard, pease and other foodstuffs for the men engaged in its operation.

With biscuits for the Indians employed at the seal fishery.

Some of these are also required for those who come from the interior to trade their beaver and other furs.

With cloths, coats and other mercer's and iron wares fit for the use of the Indians and more particularly with

PRODUCE OF TADOUSSAC.

In exchange for all such advances

This post furnishes

Raw and dry beavers, pelts of various kinds.

Fish oils.

Seal skins.

muskets, powder, lead and other utensils
so as to assist them in their chase and
facilitate the same.

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ENTRETIEN DU POSTE DE
TADOUSSAC.

PRODUIT DU POSTE DE
TADOUSSAC.

Payer les gages à ceux
qui servent à l'exploitation.

Il faut entretenir une
barque avec quatre matelots
pendant tout le cours de la
Navigation, tant pour y
porter des vivres et
provisions, que pour
rapporter les effets traités.

PRIX DU DERNIER BAIL

12000 L.

Ce poste a été affermé au Sieur Riverin adjudicataire du
dernier bail, douze mille livres payables en Cartes non
réduites.

Les enchères de cette année n'ont été portées qu'à 7,500
livr. payables aussi en Cartes non réduites, ce qui feroit en
Cartes réduites 3750 livres.

Comme le S^r Guillemain, qui est au lieu et place du Sr
Riverin dernier adjudicataire, vouloit encore conserver a cette
condition la clause insérée dans ledit Bail.

Qu'à la fin dudit Bail, le nouvel adjudicataire seroit tenu de
recevoir généralement tous les effets qui resteroient dans les
postes qui sont exploités, tels qu'ils seroient, lesquels lui
seroient payés sur le pied du détail de Québec, moitié en
monnays de cartes, et l'autre moitié en castor, ou autres bons
payements.

(Translation.)

MAINTENANCE OF TADOUSSAC.

PRODUCE OF TADOUSSAC.

Wages must be paid to those
employed in the operation.

A barque must be maintained with
four sailors during the full season of
navigation, both to carry thereto
provisions and foodstuffs and to bring
back the effects traded in.

PRICE OF THE LAST LEASE

12000 Livres.

This post was leased to the Sieur Riverin, purchaser of the last lease, twelve thousand
livres in card money without reduction.

The bids offered this year only reached 7,500 livres, also payable in card money

without reduction, which in reduced cards would amount to 3,750 livres.

The Sieur Guillemin, who was the last purchaser in the place and stead of the Sieur Riverin, wished to have this clause incorporated in lease.

That, at the expiration of the said lease, the new purchaser should be held to take over generally all effects that were found in the posts in operation, and which would be transferred to him on the basis of the Quebec retail price, one half in card money, and the other half in beaver or other valid consideration.

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Monsieur l'Intendant ayant connaissance que le dernier adjudicataire avait dans le poste pour environ 50 à 60—livres de mauvais effets et qu'il ne le garnissoit ainsi qu'afin de se perpétuer le Bail aux conditions qu'il voudroit, mondit Sieur l'Intendant a jugé à propos, pour faciliter les enchères, augmenter le prix de la ferme et même dans la suite la faire valoir ce qu'elle a valu par les Baux précédens, de la faire exploiter par régie pendant le cours de cette année.

Comme la traite de cette année, se fera des effets de l'ancien adjudicataire, et que le Régisseur n'en enverra point de nouveaux, les effets étant eu entièrement traités ou beaucoup diminués, il sera aisé de retrancher dans l'adjudication de l'année prochaine, cette clause si contraire aux intérêt de Messieurs les Fermiers, ce qui doit faire croire que la ferme sera poussée à son juste prix.

DROITS DE DOMAINE.

Les droits de domaine sont beaucoup plus considérables et —plus étendues dans l'Amérique Méridionale, que dans l'Amérique Septentrionale, comme je ne connais pas parfaitement l'Amérique Méridionale, je ne renfermeray dans la Septentrionale ou le Canada, qui en comprend la meilleure partie.

Les terres du Canada, sont habitées de Français et de Sauvages.

(Translation.)

The Intendant having been informed that the last purchaser had, in the post, some 50 to 60 livres worth of effects of poor quality and that he kept the post thus provided with the sole purpose of securing for himself an extension of the lease on his own terms, the said Sieur Intendant, in order to encourage the bidding, to increase the price of the lease and, in like manner to bring it to what it was worth under the previous lease, deemed it expedient to have it operated under management during the present year.

Seeing that this year the trade will be carried on with the former lessee's goods and that the manager will not send any new merchandise, the goods being either sold or materially reduced, it will be easy to strike out this clause in the sale of next year, which is indeed against the interest of the fermiers généraux, as it gives the impression that the price will be raised to its fair level.

RIGHTS OF THE DOMAINE.

The rights of the Domaine are far more considerable and . . . more extended in South America than in North America. I am not fully acquainted with South America, and therefore I will confine myself to North America or Canada, which forms the major part of

the same.

No. 1236.

**ORDINANCE BY INTENDANT HOCQUART, 12 MAY,
1733, re EXTENT OF COUNTRY OCCUPIED BY
CUGNET, BISSOT AND GORGENDIERE.**

[12 May, 1733.]

ARCHIVES DE LA PROVINCE DE QUEBEC. ORDONNANCES DES
INTENDANTS, VOL. 21, p. 620.

GILLES HOCQUART &c.

Entre Pierre Carlier adjudicataire général des fermes unies de France et du Domaine D'occident stipulant pour luy François Estienne Cugnet, Directeur du d. Domaine d'Occident en Canada demandeur En requeste de nous respondue le vingt six Septembre 1732. D'une part

Et François Bissot tant en son nom qu'ayant les droits de cedez du feu sr. de Vallerenne et Jeanne Bissot, son épouse, et du feu Sr. Charles Bissot, le sr. Joseph Fleury de la Gorgendière et Claire Joliet son épouse fille de deffuncts Louis Joliet et Claire françoise Bissot tant pour eux que pour leurs coheritiers des d. deffuncts Sr. et Dame Joliet deffendeurs, et le Sr. Jacques Gourdeau fils de Deffuncts Jacques Gourdeau et Marie Bissot héritier bénéficiaire de son d. Pere faisant tant pour luy que pour ses coheritiers de la de. deffuncte Dame Bissot sa mere, aussi deffendeur et intervenant d'autre part.

Vû la d. requeste du d. sr. Cugnet au d. nom tendante a ce que pour les

(Translation.)

GILLES HOCQUART, &c.

Between Pierre Carlier, adjudicataire-général for the combined revenue of France and the western domain, acting for himself, and François Estienne Cugnet, director of the western domain in Canada, plaintiffs, by petition, answered by us on the twenty-sixth day of September, 1732, of the one part;

And François Bissot, both in his own name and as holding the rights assigned from the late sieur de Vallerenne and Jeanne Bissot, his wife, and the late sieur Charles Bissot, the sieur Joseph Fleury de la Gorgendière and Claire Joliet, his wife, daughter of the late Louis Joliet and Claire François Bissot, both for themselves and for their co-heirs of the said late sieur and dame Joliet, defendants, and the sieur Jacques Gourdeau, son of the late Jacques Gourdeau and Marie Bissot, beneficiary heir of his said father, acting both for himself and his co-heirs of the said late dame Bissot, his mother, also defendant and intervenant, of the other part.

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raisons y contenues il nous plust ordonner que les d.

deffendeurs fussent tenus de représenter Et produire en notre secrétariat dans tel délai qu'il nous plairoit ordonner les titres en vertu desquels ils se sont mis en possession et jouissance de Lestendue de Pays qu'ils occupent a la terre du nord audessous de la Riviere Moisy, pour lesd. titres communiquez au procureur général du Roy et au demandeur ou faute de representaon diceux dans le délai qu'il nous auroit plu ordonner estre par eux pris telles conclusions qu'ils aviseroient lade. requête signée dud. Sr. Cugnet au bas de laquelle est notre ordonnance du vingt six septembre mil sept cent trente deux, portant que lesd. Deffendeurs seroient tenus de représenter et produire devant nous dans un mois pour tout délai les titres en vertu desquels ils se sont mis en possession et jouissance de l'estendue de Pays quils occupent depuis lade. Riviere Moisy, pour le tout estre communiqué au Procureur général du Roy, et aud. Sr. Cugnet aud. nom; L'exploit d'assignation faite par Clesse huissier au Conseil Superieur de ce pays le trois octobre suivant a la requête dud. sr. Cugnet Des d. requête et ordonnance au d. sr. de la Gorgendière, tant pour luy que pour lesd. Srs. Joliet cydessus dénommés, et aud. sieur Bissot avec commandement de satisfaire à notred. ordonnance dans le délai y porté; L'Ecrit de réponse des d. deffendeurs et dud. sr. Gourdeau intervenant et procedant conjointement avec eux, par lequel écrit signé desd. Sieurs de la Gorgendière, Bissot et Gourdeau ils concluent pour les raisons y con-tenues a estre maintenues en la possession et jouissance des terres concedées a Deffunct francois Bissot sr. de la Riviere suivant le titre de concession du vingt cinq fevrier 1661, enoncé en l'acte de foy et hommage du onze fevrier

(Translation.)

mentioned therein, we have been pleased to ordain that the defendants be required to exhibit and produce in our secretary's office, within such time as we might be pleased to determine, the titles by virtue of which they took possession and enjoyed the extent of country occupied by them in the Terre du Nord, below the Moisie river, the said titles to be delivered to the King's attorney general and to the plaintiff, or in default of their exhibiting and producing the same within the time we may have been pleased to prescribe, to take such decisions as they might advise; the said petition, signed by the said sieur Cugnet and at the foot of which is our ordinance of the twenty-sixth September, one thousand seven hundred and thirty-two, setting forth that the said defendants should be held to exhibit and produce before us, within a month, at the latest, the titles in virtue of which they have taken possession and enjoyment of the extent of country occupied by them, from the said Moisie river, the whole to be delivered to the King's attorney general and to the said sieur Cugnet, in the said name; the service by Clesse, bailiff of the Superior Council in this country, on the third of October, following at the request of the said sieur Cugnet, of the said petition and ordinance to the said sieur de la Gorgendière, as well for himself as for the said sieurs Jolliet hereinbefore recited, and to the said sieur Bissot with command to comply with our ordinance within the limits mentioned therein; the answer in writing of the said defendants and of the said sieur Gourdeau, intervening and proceeding jointly with them, by which writing under the hands of the said sieurs de la Gorgendière, Bissot and Gourdeau, they urge, for the reasons mentioned therein, that they be maintained in the possession and enjoyment of the lands conceded to the late François Bissot, sieur de la Rivière, according to the deed of concession of the twenty-fifth February, 1661, mentioned in the *acte* of fealty and homage of the eleventh February, 1668; the writ of summons served by Desalines, bailiff of the said Superior Council, on the second December, 1732, on

1668, L'exploit de signification faite par Desalines huissier aud. conseil superieur le deux décembre 1732. a la request desd. Deffendeurs et intervenant au d. sr. Cugnet ez d. noms tant dud. écrit de response que dud. acte de foy et hommage ; L'écrit de replique dud. sr. Cugnet Directeur Receveur général du Domaine d'occident en Canada pour et au nom de M. Nicolas Desboves nouvel adjudicataire général des fermes unies de france et dud. Domaine d'Occident Par lequel écrit dud. sr Cugnet, il conclud pour les raissons y contenues a ce que led. fermier du Domaine fust maintenu en sondroit de faire seul à L'exclusion de tous autres la traitte, chasse, Pesche, et Commerce dans L'estendue dudit Domaine du Roy depuis L'isle aux Coudres jusques et compris lade. Rivière Moisy aux termes de L'arrest d'adjudication du 19^e Octobre 1658, des ordonnances de M. Raudot du 26^e septembre 1707, de Mr. Bègon du cinq avril 1720 et des Conclusions prises par led. Sr. Cugnet ez d. noms par sa requête du trente mars 1731, que les Deffendeurs et intervenant fussent condamnez au nom quil agit de luy payer les arrerages de la redevance annuelle de deux castors d'hyver ou dix Livres Tournois depuis l'année 1661. jusqu'a la presente année en deniers ou quittances, si mieux ils n'aimoient se desister de la concession en question, et consentir la reunion au Domaine de la seigneurie de L'Isle aux oeufs qu'ils ont abandonnée depuis Longtemps, et en outre a payer aussy les droits pour la traitte qu'ils ont faite a Maingan depuis le d. temps jusqua present sur le pied qu'ils seroient par nous reglez; et que les d. Deffendeurs et intervenant fussent tenus de prendre nouveau titre pour L'establissement par eux fait au d. Maingan a commencer de la pointe des Cormorans en allant a la Baye des Espagnols sur tel front et

(Translation.)

the petition of the said defendants and intervenant to the said Sieur Cugnet, both of the said answer in writing and of the said *acte* of fealty and homage ; the written replication of the said Sieur Cugnet, director, receiver general of the western Domaine in Canada for and in the came of M. Nicolas Desboves, newly appointed fermier général for the combined revenue of France and the said western Domaine, by which writing of the said Sieur Cugnet, he urges for the reasons set forth therein, that the said lessee of the Domaine should be maintained in his rights to carry on, to the exclusion of all others, the trade, hunting, fishing and commerce in the extent of the said Domaine du Roy from the Isle aux Coudres as far as, and including, the said Moisie river upon the terms of the decree of adjudication of the 19th October, 1658, of the ordinances of M. Raudot dated the 26th September, 1707, of Mr. Bégon dated the fifth of April, 1720 and of the conclusions arrived at by the said Sieur Cugnet in the said names by his petition of the thirtieth March, 1731, and to the effect that the defendants and intervenant be condemned, in the name of those for whom he is acting, to pay him the arrears of the annual rent of two winter beavers or ten *livres tournois*, from the year 1661 to the current year in money or acquittances, if they will not surrender the concession referred to and agree to the reunion to the Domaine of the seigniori of *l'Isle aux Oeufs* which they have abandoned long ago, and further to pay also the dues for the trade which they have carried on at Mingan, from the said time to the present day, on such basis as may be determined by us; and that the said defendants and intervenant should be held to take a new title for the establishment formed by them at said Mingan, commencing from cape Cormorant and extending to the bay des Espagnols on such frontage and by such depth and for such rent as it may please His Majesty to grant them; the said writing under date of the thirty-first March last signed by the said Sieur Cugnet and delivered on the eighth April also last to the said

profondeur et sous telles redevances qu'il plairoit a Sa Majesté leur accorder, Le d. Ecrit en date du trente un Mars dernier signé du d. Sr. Cugnet, et communiquée Le huit avrilly dernier aux d. Deffendeurs et intervenant suivant la reconnaissance du d. St. Bissot L'un d'Eux dud. jour huit avrilly estant au bas du d. écrit ; L'Ecrit de responses des d. Deffendeurs et intervenant aux de. répliques, par lequel écrit les d. Deffendeurs et intervenant pour les raisons y contenues concluent a estre déchargez des arrerages des redevances en Question prétendues par le d. Sr. Cugnet ez. d. noms et ce attendu la non jouissance et abandon volontaire que les d. deffendeurs et intervenant déclarent par le d. écrit faire dez a present du terrain qui a esté concedé au d. deffunct françois Bissot de la Riviere depuis L'isle aux oeufs jusqu'a la riviere Moizy ; consentant en outre les d. Deffendeurs et intervenant par le meme écrit pour éviter toute discussion et faire Connoistre l'éloignement ou ils sont D'aporter aucun trouble a la ferme de Tadoussac, que la de. Riviere Moizy soit la borne de leur concession jusqu'a la baye des Espagnols ; de la quelle Concession les d. Deffendeurs et intervenant requereroient qu'il leur fust donné un nouveau titre. le d. écrit en date du douze du d. mois d'avrilly dernier signé Bissot et de la Gorgendière, et non signifié, et seulement communiqué de la main à la main ; Vu aussy les titres et pièces a nous representées et produites par les d. parties, scavoit, de la part du d. sr. Cugnet ez noms, copie non signée d'arrest du Conseil Supérieur de ce Pays du 19^e octobre 1658, d'adjudication au sr. Demaure de la traitte de Tadoussac, ordonnance de M. Raudot cy devant intendant en ce Pays en date du vingt six Septembre 1707, estant au bas de la requeste a luy présentée par le sr. françois Hazeur Conser au d. Conseil superieur sous fermier des traittes du d. Tadoussac ;

(Translation.)

defendants and intervenant according to the acknowledgment by the sieur Bissot ; one of them, dated the eighth April and being at the foot of the said writing ; the answers in writing of the said defendants and intervenant to the said replications, by which writing the said defendants and intervenant, for the reasons set forth therein, urge that they be released from the arrears of the rent referred to as claimed by the said sieur Cugnet, in the said names, and this on account of the non-enjoyment and voluntary relinquishment which the said defendants and intervenant declare, by the said writing, to make from this day, of the land which has been conceded to the late François Bissot de la Rivière, from the Isle aux Oeufs as far as the Moisie river; the said defendants and intervenant, agreeing further by the same writing, in order to avoid any discussion and show how far they are from causing any trouble at the farm of Tadoussac, that the Moisie river be the boundary of their concession as far as the bay des Espagnols ; of which concession the said defendants and intervenant would require that they be given a new title ; the said writing dated the twelfth of April last, not served, and only delivered from hand to hand, and signed Bissot and de la Gorgendière ;

Seeing also the titles and documents exhibited and produced before us by the said parties, to wit, on the part of the said sieur Cugnet, in his capacities, an unsigned copy of the decree of the Superior Council of this country under date of the 19th October, 1658, being the adjudication to the sieur Demaure of the lease of Tadoussac, ordinance by M. Raudot, formerly Intendant in this country, under date of the twenty-sixth September, 1707, being at the foot of the petition presented to him by the sieur François Hazeur, councillor in the said

Superior Council, sub-lessee of the lease of said Tadoussac; another ordinance by Mr. Bégon, formerly Intendant in this country, of the fifth April, 1720, upon the petition presented to him by the said sieur Cugnet, in his capacities,

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autre ordonnance de Me. Bégon cy devant intendant en ce Pays du cinq avril 1720. sur la requeste a luy présentée par le d. sr.

Cugnet ez noms au bas de la quelle ordonnance est la publication d'icelle du 21^e du meme mois d'avril, Certiffiée par de la Riviere huissier au d. Conseil Superieur, et une autre ordonnance par nous rendue le trente mars 1731. sur la requeste du d. sr. Cugnet au d. nom ; Et de la part des dits deffendeurs et intervenant L'acte d'aveu fait le onze fevrier 1668. au papier terrier de la Compagnie-Royale des indes occidentales alors seigneurs de ce Pays par le d. deffunct françois Bissot sr. de la Riviere dans lequel aveu est énoncé la concession a luy faite par la de. Compagnie Le vingt cinq fevrier 1661. de Lisle aux oeufs située au dessous de Tadoussac vers les monts Pelez du costé du nord quarente Lieues où environ du d. tadoussac avec le droit et faculté de chasse et d'establir en terre ferme aux endroits qu'il trouveroit plus commodes la pesche sédentaire des Loups marins, Baleines, Marsouins et autre négoce depuis la de. isle aux oeufs jusqu'aux sept isles et dans La Grande anse vers les Esquimaux, où les Espagnols font ordinairement la pesehe, avec les Bois et terres necessaires pour faire Le dit Establissement, a la charge de payer par chacun an deux Castors d'hyver où dix Livres tournois au Receveur de la de. Compagnie, et les droits accoutumez pour la traite a la communauté de ce Pays ; Lequel titre de concession de 1661. les d. Deffendeurs et intervenant déclarent ne pouvoir représenter, attendu L'incendie arrivée a la basse ville il y a environ cinquante deux ans dans laquelle le d. titre a esté envelopé ; Conclusions du Procureur général du Roy du vingt huit du d. mois d'avril dernier ; Parties ouyes et tout Consideré.

Nous Avons Donne Acte aux deffendeurs et intervenant de L'abandon par eux fait par leur écrit de response du douze avril dernier du terrain concedé

(Translation.)

at the foot of which ordinance is the publication thereof on the 21st of the same month of April, certified by de la Rivière, bailiff of the said Superior Council, and another ordinance made by us on the thirtieth of March, 1731, upon the petition of the said Sieur Cugnet in the said name ; and on the part of the said defendants and intervenant, the act of acknowledgment made the eleventh of February, 1668, in the land register of the Royal Company of the West Indies, then seigniors of this country, in which acknowledgment is set forth the concession to him François Bissot] granted by the said company, on the twenty-fifth February, 1661, of the Isle aux oeufs, situated below Tadoussac, towards the monts Pelés, on the north side, forty leagues, more or less, from the said Tadoussac, with the right and option of hunting and of establishing on the mainland, at such places as he may deem most convenient, the sedentary fishery of seals, whales, porpoises, and other commerce, from the Isle aux Œufs as far as Sept-isles and in the “ Grande anse vers les Esquimaux,” where the Spaniards usually carry on fisheries, together with the timber and land required for the formation of the said establishment, on the condition that lie paid, per year, two winter beavers or ten *livres tournois* to the receiver of the said company, and the usual

trading dues to the community of this country ; which title of concession of 1661, the said defendants and intervenant declared themselves unable to exhibit, because of the fire which occurred some fifty-two years ago in the lower town [of Quebec] and in which the said title was destroyed.

Conclusions of the King's Attorney General of the twenty-eighth of April, last ; The parties having been heard and everything considered.

WE HAVE GIVEN ACTE to the defendants and intervenant of the abandonment made by them by their answer in writing of the twelfth April last, of the land conceded to the late François

Page	1	2	3	4
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a deffunct françois Bissot sieur de la Rivière par la Compagnie de la nouvelle france du vingt cinq fevrier mil six cent soixante un depuis L'isle aux oeufs jusqu'a la Rivière Moisy, et en consequence ayant égard a la demande du d. Sr. Cugnet ez d. noms portée par son écrit de répliques du trente un mars derner Nous avons en tant que besoin réuni et réunissons au Domaine de Sa Majesté, le d. terrain concédé au d. sr. Bissot, depuis et compris la de. isle aux oeufs jusqu'a la pointe des Cormorans qui est a quatre ou cinq Lieues au dessous de La de. riviere Moisy, ce faisant Deffendons aux d. Deffendeurs et intervenant et a tous autres de faire directement ny indirectement aucune traitte, chasse Pesche, commerce ny Establissement dans Lestendue du terrain cy dessus réuni ny dans la de. rivière Moisy et autres Lacs et Rivieres y affluantes et de troubler dans la jouissance, possession et exploitation des d. terrains et Rivieres Le d. Sr. Cugnet ez d. noms, et ce sous les peines de droit, et en considération de l'abandon et désistement cy dessus fait par les dits deffendeurs et intervenant, Nous sous le bon plaisir de Sa Majesté les avons déchargéz et dechargeons des arrérages qui pouroient par eux estre dubs des rentes et droits dont estoit chargée la de. concession, et quant au nouveau titre de concession par eux requis pour L'establissement fait par eux, et par le d. françois Bissot de la Rivière Leur auteur au Lieu dit Maingan Les Parties se retireront par devers Sa Majesté pour L'obtention diceluy sur tel front et profondeur et sous telle redevance quil plaira a Sa Majesté Leur accorder.

Mandons &c. fait a Québec Le douze may mil sept cent trente trois.

HOCQUART.

(Translation.)

Bissot, Sieur de la Rivière, by the Company of New France on the twenty-fifth February, one thousand six hundred and sixty-one, from the Isle aux Œufs as far as the Moisie river, and accordingly in consideration of the petition of the Sieur Cugnet, in the said names, as set forth in his written replication of the thirty-first March last we have reunited and we do reunite to His Majesty's Domaine, the said land conceded to the Sieur Bissot, from and including the said Isle aux Œufs as far as cape Cormorant, which is four leagues below the said Moisie river, and in so doing we prohibit the said defendants and intervenant and others from carrying on, directly or indirectly, any trade, hunting, fishing, commerce or establishment in the extent of the land hereinbefore reunited, or in the river Moisie and other lakes and rivers emptying therein, and from disturbing, in the enjoyment, possession and working of the said lands and rivers, the said sieur Cugnet, in the said names, and this under penalty of being punished according to the law, and in consideration of the abandonment and desistance hereinbefore made by the said defendants and intervenant. WE, subject to His Majesty's pleasure, have released and we do release them from the arrears in rents and dues which may be due by them and which were charged against the said concession, and as to the new deed of concession requested by them for the establishment formed by them, and by the said François Bissot, their predecessor at the place called Mingan, the parties shall apply to His Majesty for the obtainment of the same on such frontage and depth and under such rent as His Majesty may be pleased to grant them.

Thus ordered, &c., donec at Quebec, the twelfth May, one thousand seven hundred

Vraie copie.

Quebec, 29 avril 1921.

C.J. SIMARD,

Assistant-registraire

provincial.

Archives de la
Province
de Quebec.

Pierre-Georges Roy
Archiviste.

G.H.

Archives de la Province
de Quebec.

Copié par L.M.
Collationné par

Date 11/4/21

[23 May, 1733.]

(Translation.)

True Copy.

Quebec, 29th April, 1921.

(Signed) C.J. SIMARD,

Provincial Deputy-Registrar.

No. 1237

C

**ORDINANCE OF INTENDANT HOCQUART, 23 MAY,
1733, *re* LIMITS OF TRAITE DE TADOUSSAC.**

EDITS ET ORDANNANCES, Vol. II, 1855, p. 358.

Gilles Hocquart, etc.

Vu la requête à nous présentée par M. Pierre Carlier, adjudicataire-général des fermes unies de France, et du domaine d'Occident, stipulant pour lui le sieur Cugnet, directeur du dit domaine d'Occident, en ce pays,

(Translation.)

Gillies Hocquart, etc.

Having examined the petition presented to us by M. Pierre Carlier, Adjudicataire-Général of the united farms of France and of the domain of the West, stipulating for himself

tendante, pour les raisons y contenues, à ce qu'il nous plaise, (vu l'arrêt du conseil d'etat du roi, du seize mai, mil six cent soixante-et-dix-sept, et l'arrêt du conseil supérieur de Québec, du 19e. octobre 1658, portant adjudication au sieur Demaure de la traite de Tadoussac, l'ordonnance de M. Raudot, dit 26. septembre 1707, et l'ordonnance de M. Begon, du 5e. avril 1720,) ordonner que le dit Carlier, ses successeurs, fermiers du dit domaine d'Occident, leurs procureurs, commis et préposés, continueront de faire seuls, à l'exclusion de tous autres, la traite, chasse, pêche, le commerce dans retendue du domaine du roi, depuis l'Isle-aux-Coudres, jusqu'à deux lieues au-dessous des Sept-Isles, et dans les postes de Tadoussac, Chekoutimy, Lac Saint-Jean, Nekoubau, Mistassinoc, Papinachois, Naskapis, Rivière Moisy, les Sept-Isles et lieux en dépendans, y compris la terre et seigneurie de la Malbaye ;

En conséquence, faire défenses à toutes personnes de quelque qualité et condition qu'elles soient, tant les marchands et habitans de la colonie, que les capitaines et maîtres de charrois, barques, bateaux et navires, gens de leur équipage et passagers, et tous autres généralement quelconques, de traiter, chasser, pêcher ni faire aucun commerce sous quelque prétexte que ce puisse être directement ni indirectement, soit par eux-mêmes ou en envoyant des marchandises, vivres, boissons et munitions par des sauvages affidés, dans les pays dépendans des dites traites du domaine de Sa Majesté, sans la commission expresse et par écrit du dit Carlier, ses successeurs fermiers, leurs procureurs, commis et préposés, à peine de confiscation des armes, chasse, marchandises de traite, pelleteries et effets traités, canots, chaloupes, barques, charrois, bateaux et autres bâtimens généralement quelconques, et de la somme de deux mille livres d'amende, qui ne pourra être remise ni modérée sous aucun prétexte, lesquelles confiscations et amendes

(Translation.)

contained, we may be pleased (reference being had to the decree (arrêt) of the King's Council of State, 16 May, 1677, and the decree of the Superior Council of Quebec, of the 19 October, 1658, giving control of the trade of Tadoussac to Sieur Demaure; the ordinance of M. Raudot of the 25 September, 1707, and the ordinance of M. Begon of the 5 April, 1720), to ordain that the said Carlier, his successors, lessees of the said Western domain, their attorneys, clerks and foremen, continue to enjoy (faire) alone, to the exclusion of all others, the trade (traite), hunting and fishing, in the extent of the King's Domaine, from the isle aux Coudres to a point two leagues below Seven Islands, and in the posts of Tadoussac, Chekoutimy, Lake St. John, Nekoubau, Misstassinoc, Papinachois, Naskapis, River Moisy, the Seven Islands, and the places dependent on them, including the lands and seigniory of Malbaye.

Consequently, that all persons, of whatever quality and condition they may be, as well as merchants and habitans of the colony, captains and masters of fishing-boats, barques, bateaux, ships, crews and passengers, and all others whosoever, be forbidden to trade, hunt, fish, or to carry on any commerce under any pretext, directly or indirectly, by themselves or by sending merchandise, provisions, liquors, or ammunition through friendly

Indians, in the country dependent on the said limits (traites) of His Majesty's domain, without the express commission in writing of the said Carder, the lessees, his successors, their attorneys, clerks and foremen, on pain of confiscation of the arms, products of the chase, merchandise intended to be used in trade, furs and other effects, obtained in trade, canoes, large boats, barques, fishing boats, bateaux, and all other vessels whatever, and a fine of two thousand livres, which can neither be remitted nor decreased under any

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appartiendront, savoir, deux tiers au dit Carlier, et l'autre tiers au dénonciateur ;

Faire pareillement défenses à toutes personnes de quelque qualité et condition qu'elles puissent être, qui descendront en canot, chaloupes, charrois et autres petits bâtimens, le long du fleuve Saint-Laurent, de s'arrêter sur les terres du domaine, ailleurs que dans les postes et maisons françaises établies le long du dit fleuve, à peine d'être réputés avoir fait la traite et commerce avec les sauvages, en fraude du privilège du dit Carlier, et des peines ci-dessus ;

Permettre au dit Carlier d'envoyer dans les postes dépendans du domaine, pour garder ses limites et empêcher les traites qui pourroient s'y faire à son préjudice, telles personnes, et par tels chemins qu'il jugera à propos, à la charge par lui de ne faire aucune traite sur sa route, hors des limites du domaine, à quoi il se soumet sous les peines de droit ;

Permettre pareillement au dit Carlier, ses procureurs, commis ou préposés, de saisir et arrêter tous les canots qui se trouveront dans l'étendue du dit domaine, chargés de marchandises, convenables à la traite, ou de pelleteries et autres effets traités ; toutes les marchandises, vivres, boissons et munitions, convenables à la traite, ou pelleteries et effets traités qui se trouveront en cache ou à découvert dans les pays dépendans du dit domaine, à quelques personnes qu'elles puissent appartenir, comme aussi de saisir et arrêter tous les bâtimens généralement quelconques qui se trouveront traiter ou avoir traité avec les sauvages, dans l'étendue du dit domaine, et la confiscation des choses saisies prononcée, sur les procès-verbaux des commis du dit Carlier, d'eux affirmés ;

Et pour l'exécution de notre ordonnance, permettre au dit Carlier de la faire publier et afficher partout où besoin sera, et où il jugera nécessaire :

(Translation.)

pretext whatever ; of which confiscations and fines two-thirds shall belong to the said Carlier, and the other one-third to the informer ;

That all persons, of whatever quality and condition, who descend the river St. Lawrence in canoes, large boats, fishing-boats, or other small vessels, be likewise forbidden to land on this domain excepting at the posts and French establishments on the said river, on pain of being regarded as having traded with the Indians, and transgressing the privilege of the said Cartier and under the penalties above mentioned.

That the said Carlier be authorised to send to the posts dependent on the domain, such persons and by such routes as he may judge proper, to guard the limits and to prevent trading that might be made to his prejudice ; subject to the condition that he shall not trade

on the way, outside of the bounds of the domain, a condition by him accepted under the penalties provided by law ;

That the said Carlier, his attorneys, clerks or overseers be empowered to seize all canoes found within the extent of the said domain, laden with merchandise, suitable for trading, or with furs and other objects of trade, wines and liquors (boissons) and ammunition and other effects, whether concealed (en cache) or exposed, in the country dependant on the said domain, to whomsoever they may belong, and also to seize and arrest all vessels whatever which are found trading or have traded with the Indians within the limits of said domain, and the confiscation of such goods is to be recorded by a " proces-verbal " drawn up by the clerks of the said Carlier and affirmed by them.

And that for the execution of our ordinance, the said Cartier be permitted to cause it to be posted up wherever need shall be, or he may deem necessary ;

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Notre ordonnance sur la dite requête en date du trente mars, mil sept cent trente-un, par laquelle, avant faire droit, et en exécution des ordres particuliers que nous avons reçus de Sa Majesté à ce sujet, pour fixer d'une manière invariable les limites de la traite dite de Tadoussac dans les pays réservés pour la domaine de Sa Majesté, suivant le dit arrêt du conseil d'etat du roi du 16e. mai 1677, et l'ordonnance de M. Begon, du 5e. avril 1720 ;

Nous avons ordonné qu'à la diligence du sieur Cugnet, il sera fait une carte exacte de l'étendue du dit domaine, sur laquelle seront désignées les côtes du fleuve Saint-Laurent, depuis le bas de l'Isle-aux-Coudres, jusques et compris la Rivière Moisy, et dans la profondeur des terres derrière la dite étendue de pays, les lacs et rivières qui se déchargent dans la rivière du Saguenay, le rumb-de-vent qu'elles tiennent, l'étendue de pays qu'elles parcourent, depuis leur source jusqu'à leur embouchure, et les noms des principaux postes où se fait et se peut faire la traite avec les sauvages ;

A l'effet de quoi, nous avons, par la dite ordonnance, commis le sieur Louis Aubert de la Chenaye, pour relever et mesurer les côtes du fleuve Saint-Laurent, comprises dans l'étendue du dit domaine de Sa Majesté, depuis le bas de l'Isle-aux-Coudres, jusques et compris la Rivière Moisy, ainsi que la Rivière du Saguenay, et les rivières et lacs qui s'y déchargent, les rumb-de-vent qu'elles tiennent et l'étendue du terrain qu'elles parcourent depuis leur source jusqu'à leur embouchure, et en dresser des plans figurés, et des procès-verbaux en forme de journal, où seroit marqué jusqu'à quel endroit elles peuvent être navigables, en barques, bateaux ou canots, les saults ou rapides où l'on est obligé de faire portage, la situation et étendue des lacs,

(Translation.)

Our ordinance delivered on the said request, of 30 March, 1731, by which, before giving judgment, and pursuant to private instructions which we have received from His Majesty on the subject, of fixing permanently the boundaries of the Traité de Tadoussac, in the country reserved for the Domaine of His Majesty, according to the said arrêt of the King's Council of State of tiffe 16th May, 1677, and the ordinance of M. Begon of the 5

April, 1720 ;

We have ordered that, at the suit of Sieur Cugnet, an exact map of the extent of the said Domaine shall be prepared ; on which map shall be shown the banks of the river Saint Lawrence from the lower part of isle aux Coudres to and including the River Moisy and, in the hinterland of the said tract of country, the rivers and lakes which discharge into the Saguenay river, with their magnetic bearings, the extent of the country traversed by them, from their sources to their mouths, and the names of the principal posts where trading is or can be carried on with the Indians;

To which end, we have, under the said ordinance, commissioned¹ Sieur Louis Aubert de la Chenaye to survey and traverse the banks of the river Saint Lawrence, comprised in the extent of the said domain of His Majesty, from the lower part of isle aux Coudres to and including the river Moisy, as well as the Saguenay river, and the rivers and lakes which discharge into it, with their magnetic bearings and the extent of land through which they run from their sources to their mouths ; to make finished plans, and to draw up an account of the same in the form of a journal, marking the points to which navigation by barques, bateaux or canoes extends ; the falls or rapids

¹ (?) 30th March 1731 (see p. 2).

les noms des lacs et rivières et des pays situés sur icelles, les établissements et magasins où se fait actuellement la traite avec les sauvages et la pêche de loup-marin et saumon, ensemble les anciens établissements où la traite s'est faite ci-devant, et dont il reste encore des vestiges, les noms des nations sauvages habituées dans la dite étendue de pays, ou qui peuvent y venir en traite, avec la quantité de sauvages qui les composent, et généralement tout ce qui peut contribuer à déterminer précisément l'étendue de la dite traite et en faire connoître les avantages, suivant l'instruction particulière jointe à notre dite ordonnance ;

Autre ordonnance de nous rendue le douze mai, 1732, par laquelle nous avons nommé et destiné le sieur Joseph-Laurent Normandin, pour, conjointement et de concert avec le sieur de la Ganière, suivre l'exécution de notre dite ordonnance du 30e. mars, 1731, au lieu et place du dit sieur Aubert de la Chenaye, qui avoit été obligé de revenir à Québec, s'étant cassé une jambe, à la Petite-Rivière, chez le nommé Simard, ainsi et comme auroit pu faire le dit sieur de la Chenaye, conformément à notre instruction du dit jour, 30 mars, 1731 ; à cet effet parcourir toutes les rivières et lacs qui se déchargent dans la Rivière du Saguenay, en tirant vers l'ouest, depuis le poste de Checoutimy jusqu'à la hauteur des terres, y marquer les limites par des fleurs-de-lis plaquées sur les arbres, et du tout dresser procès-verbal exact en forme de journal, contenant toutes les observations portées en nos dites ordonnance et instruction ;

Les procès-verbaux des dits sieurs de la Chenaye et Normandin, en forme de journal, la carte que nous avons fait dresser sur iceux.

Vu aussi notre ordonnance rendue le douze du présent mois, entre M.

(Translation.)

where portages have to be made ; the names of the lakes and rivers, and the countries situated upon them ; the establishments and store-houses where trade is now being carried on with the Indians, and the seal and salmon fishing, together with the ancient establishments where trade was previously carried on, the vestiges of which still remain ; the names of the Indian nations inhabiting the country, or that are likely to come and trade there, as well as the Indian population ; and generally everything which can contribute to determine precisely the extent of the said limits, and make their advantages known, according to the private instruction annexed to our said ordinance ;

Another ordinance rendered by us, 12 May 1732, by which we named and designated Sieur Joseph-Laurent Normandin to execute, jointly with Sieur de la Ganière, our ordinance of 30 March, 1731. instead of Sieur Aubert de la Chenaye, who was obliged to return to Quebec, having broken his thigh at the Petit Rivière [sic.], at the house of a person named Simard, in the same way it would have been done by the said Sieur de la Chenaye, conformably, to our instructions of the said day, 30 March, 1731 ; and for this purpose they are to traverse all the rivers and lakes which discharge into the Saguenay river, proceeding in a westerly direction, from the post of Checoutimy to the height-of-land ; to

quark the limits there by placing the fleur-de-lis on the trees, and to keep a journal recording all the observations mentioned in our said ordinance and instructions ;

The "procès-verbaux" of the said Sieurs de la Chenaye and Normandin, in the form of a journal, the map which we have caused to be drawn up therefrom ;

Seeing also our ordinance of the twelfth of the present month, between M. Pierre Cartier, "Adjudicataire-Général" of the united farms of France and of the domain of the West, stipulating

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Pierre Carlier, adjudicataire général des fermes unies de France et du domaine d'Occident, stipulant par le dit sieur Cugnet, demandeur en requête de nous réponde le 26e. septembre, 1732, d'une part ; et Francois Bissot, tant en son nom qu'ayant les droits cédés du feu sieur de Vallerenne, et Jeanne Bissot, son épouse, et du feu sieur Charles Bissot, le sieur Joseph Fleury de Lagorgendière, et Claire Jolliet, son épouse, fille de défunts Louis Jolliet et Claire Francoise Bissot, tant pour eux que pour leurs co-héritiers des dits défunts sieur et dame Jolliet, défendeurs, et le sieur Jacques Gourdeau, fils de défunts Jacques Gourdeau et Marie Bissot, héritier bénéficiaire de son dit pere, faisant tant pour lui que pour ses co-héritiers de la dite défunte Bissot, sa mère, aussi défendeur et intervenant, de l'autre part ; par laquelle nous avons donné acte aux défendeurs et intervenant de l'abandon par eux fait, par leur écrit de défenses du douze avril dernier, du terrain concédé à défunt Francois Bissot, sieur de la Rivière, par la Compagnie de la Nouvelle-France, du vingt-cinq février, 1661, depuis l'Isle-aux-Oeufs jusqu'a la Rivière Moisy, et, en conséquence, ayant égard à la demande du dit sieur Cugnot, ès dit nom, portée par son écrit de répliques du trente un mars dernier ;

Nous avons, en tant que besoin, réuni au domaine de Sa Majesté le dit terrain concédé au sieur Bissot, depuis et compris la dite Isle-aux-Oeufs, jusqu'à la Pointe-des-Cormorans, qui est à quatre ou cinq lieues au-dessous de la dite Rivière Moisy ; ce faisant,

Avons fait défenses aux dits défendeurs et intervenant et à tous autres de faire directement ni indirectement, aucune traite, chasse, pêche, commerce ni établissements dans l'étendue du dit terrain, ni dans la Rivière Moisy, et autres lacs et rivières y affluentes, et de troubler dans la jouissance, possession

(Translation.)

through the said Sieur Cugnet, plaintiff; whose petition was replied to by us on the 26 September, 1732, of one part and Francois Bissot, in his own name as well as having had conceded to him the rights of the late Sieur de Vallereune and Jeanne Bissot his wife, and of the late Sieur Charles Bissot, the Sieur Joseph Fleury de Lagorgendière and Claire Jolliet, his wife, daughter of the late Louis Jolliet, and Claire Francoise Bissot, Loth for themselves and for the co-heirs of the said late Sieur and Madame Jolliet, defendants, and Sieur Jacques Gourdeau, son of the late Jacques Gourdeau and : Marie Bissot, heir of his said father, acting for himself as well as for the co-heirs of the said late Bissot, his mother, also defendant, and intervening party of the other part ; by which we have given act to the said defendants and intervening party of the surrender by them, in their written plea of 12 April last, of the land conceded to the late Francois Bissot, Sieur de la Rivière [sic.] by the

Company of New France, of the 25 February, 1661, from the isle-aux Oeufs to the River Moisy ; and considering the request of the said Sieur Cugnet in said name, as set forth in his written reply of the 31st March last ;

We have, as far as necessary, re-united to the Domaine of His Majesty, the said land granted to the said Sieur Bissot, from and including the said Isle-aux-Oeufs, to cape Cormorant, which is five or six leagues below the said River Moisy ; doing this,

We have forbidden the said defendants and intervenants, as well as all others to carry on, directly or indirectly any trade, hunting, fishing, commerce, or establishments, within the extent of this land, either in the River Moisy or other lakes and rivers which form its affluents, or to disturb

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et exploitation des dits terrains et rivières, le dit sieur Cugnet, ès dit nom, et ce sous les peines de droit.

L'arrêt du conseil supérieur de Québec, portant adjudication au sieur Demaure, de la ferme de la traite de Tadoussac, contenant les limites de la dite traite et privilèges d'icelle ;

L'arrêt du conseil d'état du roi, du seize mai 1677.

Ordonnance de M. Raudot, du 26 septembre 1707, portant défenses à toutes personnes, même aux sauvages étrangers, de traiter ni chasser dans l'étendue des limites de Tadoussac ;

Autre ordonnance de mon dit sieur Raudot, du 7e. septembre, 1709, portant défenses à toutes personnes de faire festin aux sauvages de Tadoussac, ni les détourner en aucune manière, et permission aux sous-fermiers de la traite de Tadoussac, de piller les Français qu'ils trouveront traiter dans l'étendue des dites limites ;

Autre ordonnance de mon dit sieur Raudot, du sept avril, 1710, portant permission de saisir les marchandises qui se trouveront entre les mains des Français qui auront traité dans l'étendue des limites de Tadoussac, même ce qui se trouvera en cache dans les dites limites ;

Ordonnance de M. Begon, du cinq avril, 1720, portant défenses de traiter, chasser ni pêcher dans l'étendue des limites de Tadoussac, et tout considère :

Nous avons borné l'étendue du domaine du roi appelé la Traite de Tadoussac, savoir, par la côte du nord du fleuve Saint-Laurent, depuis le bas de la seigneurie des Eboulemens, qui est vis-à-vis la pointe du nord-est de l'Isle-aux-Coudres, jusqu'à la Pointe ou Cap des Cormorans, faisant environ quatre-vingt-quinze lieues de front avec l'Isle-aux-Oeufs et autres isles, islets

(Translation.)

Monsieur Cugnet in the enjoyment, possession and improvement of the said land and rivers, under the penalties pronounced by the law :

The arrêt [sic.] of the Superior Council of Quebec, vesting Demaure with jurisdiction over the lease of the Traité de Tadoussac, containing the limits and privileges of the said trade ;

The arrêt [sic.] of the King's Council of State, of 16 May, 1677 ;

Ordinance of Monsieur Raudot, of 26 September, 1707, forbidding all persons, even foreign Savages, to trade or hunt within the extent of the Traité de Tadoussac ;

Another ordinance of said Sieur Raudot of the 7 September, 1709, prohibiting all persons to treat (faire festin) the Indians of Tadoussac, or to draw them away in any mariner, and permitting the sub-lessees of the Traité de Tadoussac to confiscate the goods of the French whom they shall find trading within the extent of the said limits ;

Another ordinance of said Sieur Raudot, of 7 April, 1710, giving permission to seize merchandise found in the hands of the French who had traded within the extent of the Traité de Tadoussac, even that which may be found concealed in the said limits ; Ordinance of M. Begon, of 5 April, 1720, prohibiting trading, hunting, and fishing within the extent of the Traité de Tadoussac ;

And the whole being considered ;

We have fixed the limits of the domain of the King called the Traité de Tadoussac, that is to say, on the north bank of the river Saint Lawrence from the lower end of the seignory of Eboulemens, which is opposite the north-east point of isle-aux-Coudres, to cape Cormorant, being about ninety-five leagues of front, with the isle-aux-Oeufs and other isles, islets,

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et battures y adjacentes ; du côté de l'Ouest, par une ligne supposée tirée Est et Ouest, à commencer depuis le bas de la seigneurie des Eboulemens jusqu'à la hauteur des terres où est le portage du Lac Patitachekao, par la latitude de quarante-sept degrés, quinze minutes, auquel portage le dit sieur Normandin a plaqué quatre fleurs-de-lis sur quatre sapins épinettes, duquel Lac Patitachekao la Rivière de Metabetchouanon prend sa source et se décharge dans le Lac Saint-Jean, d'où elle tombe dans le Saguenay ; plus, à l'Ouest, par les Lacs Spamoskoutin, Sagaigan et Kaouakounabiscat, à la hauteur des terres par la latitude de quarante-sept degrés, vingt-sept minutes, où le dit sieur Normandin a aussi plaqué quatre fleurs-de-lis sur quatre sapins épinettes : le dit Lac Kaouakounabiscat formant d'autres lacs et la Rivière Ouatechouation qui se décharge par le dit Lac Saint-Jean dans le Saguenay, lesquels deux lacs feront la borne des pays de chasse des profondeurs de Batiscan ; et courant encore à l'Ouest du côté des Trois-Rivières, et dans la profondeur, par la hauteur des terres à deux lieues environ du petit Lac Patitaouaganiche, par les quarante-huit degrés, dix-huit minutes de latitude, où le dit sieur Normandin a pareillement plaqué quatre fleurs-de-lis sur quatre sapins épinettes, lequel lac passe par le Lac Askatiche d'où il tombe dans la Rivière de Nekoubau, où se rendent aussi les eaux du Lac Nekoubau, tous lesquels lacs et rivières se rendent par le lac Saint-Jean dans le Saguenay et feront la borne de séparation des terres du domaine avec les pays de chasse des Trois-Rivières et de la Rivière-du-Lièvre ; les dites bornes ci-dessus désignées suivant les journaux des dits sieurs de la Chenaye et Normandin, et la carte que nous avons fait dresser sur iceux, dont les minutes resteront et demeureront déposées en notre secrétariat, dans l'étendue desquelles bornes se trouvent renfermés les postes de Tadoussac, la Malbaie, Bondésir, Papinachois, Islets-

(Translation.)

and shoals adjacent thereto; on the western side, by an imaginary line drawn east and west, to commence from the lower end of the seignory of Eboulemens to the height of land at the portage of lake Patitachekao, latitude 47° 15', on which portage the said Sieur Normandin has affixed four fleur-de-lis, on four balsam firs, from which lake Patitachekao the river Metabetchouamon takes its rise, and discharges into lake St. John, whence it falls into the Saguenay ; further to the west by lakes Spamoskoutin, Sagaigan and Kaouakounabiscat, at the height-of-land, in the latitude of 47° 27', where the said Sieur Normandin has also affixed four fleur-de-lis on four balsam firs, the said lake Kaouakounabiscat forming other lakes, and the river Quiatechouanon, which discharges into the Saguenay through the said lake St. John, which two lakes form the boundary of the hunting country in the rear of Batiscan; and running still to the west, towards the region of Three Rivers, and in depth by the height-of-land, about two leagues from the Little lake Patitaouaganiche, latitude 48° 18', where the said Sieur Normandin has also placed four fleur-de-lis on four balsam firs, which lake flows through lake Askatiché where it falls into the river Nekoubau, where flow also the waters of lake Nekoubau ; all of which lakes and rivers pass through lake St. John into the Saguenay, and form the boundary which separates the lands of the Domaine from the hunting country of Three Rivers and Rivière-du-Lièvre; [sic.] the said boundaries above designated, according to the journals of the said Sieur de la Chenaye and Normandin, and the map which we have caused to be made therefrom, the minutes of which will remain deposited in our Secretary's office ; within which boundaries are the posts of Tadoussac, Malbaie, Bondésir, Papinachois, Islets-de-Jérémie and Pointe-des-Bersiamaites, Chekoutimy, Lake

p. 3210

de-Jérémie et Pointe-des-Bersiamaites, Chekoutimy, Lac Saint-Jean, Nekoubau, Chomonthouane, Mistassins, et derrière les Mistassins jusqu'à la Baie d'Hudson, et au bas de la rivière le domaine sera borné, en conséquence de notre dite ordonnance du douze du présent mois, par le Cap des Cormorans jusqu'à la hauteur des terres, dans laquelle étendue seront compris la Rivière Moisy, le Lac des Kichestigaux, le Lac des Naskapis et autres rivières et lacs qui s'y déchargent ;

Ordonnons que le dit M. Pierre Carlier, ses successeurs fermiers du domaine d'Occident, leurs procureurs, commis et préposés, continueront de faire seuls, à l'exclusion de tous autres, la traite, chasse, pêche et commerce dans toute l'étendue des pays renfermés dans les limites ci-dessus désignées ;

Faisons défenses à toutes personnes de quelque qualité et condition qu'elles soient, tant les marchands et habitans de la colonie, que les capitaines et maîtres de charrois, barques, bateaux et navires, gens de leur équipage et passagers, et à tous autres généralement quelconques, même aux sauvages étrangers, non habitués dans les terres du domaine, de traiter, chasser, pêcher, ni faire aucun commerce, sous quelque prétexte que ce puisse être, directement ni indirectement, soit par eux-mêmes, ou en envoyant des marchandises, vivres, boissons et munitions par des sauvages affidés dans toute l'étendue des pays désignés par notre présente ordonnance, et généralement dans aucunes rivières et lacs qui prennent leur course en la Rivière du Saguenay et la Rivière Moisy, encore qu'ils ne soient nommément exprimés dans notre dite ordonnance ; faire festin aux sauvages habitués dans le dite étendue de pays, ni les détourner en aucune manière, même d'approcher des limites ci-dessus marquées dans les terres, plus près de dix lieues pour y faire la traite avec les

St. John, Nekoubau, Chomonthouane [Chamuchuan], Mistassins, and behind the Mistassins as far as Hudson Bay ; and, on the lower part of the river, the Domaine will be bounded, in consequence of our said ordinance of the twelfth of the present month, by cape Cormorant as far as the height of land, in which extent will be comprised the river Moisy, the lake of the Kichestigaux [lake Pletipi], the lake of the Naskapis [1. Ashuaopi], and other rivers and lakes which discharge therein.

We ordain that the said M. Pierre Cartier, his successors, fermiers of the western domain, their attorneys, clerks and foremen, continue to carry on alone, to the exclusion of all others, the trade, hunting and fishing, in the whole extent of the country, included within the limits above designated.

We forbid all persons of whatever quality and condition, as well merchants as habitants of the colony, captains and masters of fishing-boats, bateaux and vessels, the men employed to manage them and passengers, and all others whomsoever, even foreign Indians who do not reside in the lands of the Domaine, to trade, hunt, fish, or carry on any commerce under any pretext whatever, directly or indirectly, whether by themselves or by sending in merchandise, victuals, liquors, and ammunition, through friendly Indians, in any part of the country designated by our present ordinance, and generally any rivers or lakes the waters of which flow through the Saguenay river, and the river Moisy, though they may not be specially named in our said ordinance; to treat the Indians who live in the same extent of country, or to draw them away in any manner, or even to approach within ten leagues of the limits above drawn in the lands, for the purpose of trading with the Indians or other establishments without the express permission in writing of the said

sauvages ou autres établissemens sans la commission expresse et par écrit du dit Carlier, ses successeurs fermiers, leurs procureurs, commis et préposés, à peine de confiscation des armes, chasse, marchandises de traite, pelleteries et effets traités, canots, chaloupes, barques, charrois, bateaux et autres bâtimens généralement quelconques, et de la somme de deux mille livres d'amende qui ne pourra être remise ni modérée sous aucun prétexte, lesquelles confiscation et amende appartiendront, savoir, deux tiers au dit Carlier, et l'autre tiers aux dénonciateurs.

Permettons au dit Carlier, ses successeurs fermiers, leurs procureurs, commis et préposés, d'envoyer dans les postes dépendans du domaine, pour garder ses limites et empêcher les traites qui pourroient s'y faire au préjudice des défenses ci-dessus, telles personnes et par tels chemins qu'ils jugeront à propos, à la charge de ne pouvoir passer hors des limites portées par notre présente ordonnance, sans en avoir auparavant obtenu permission de nous par écrit, à peine de tous dépens, dommages et intérêts de qui il appartiendra.

Permettons pareillement au dit Carlier, ses successeurs, leurs procureurs, commis et préposés, de saisir et arrêter tous les canots qui se trouveront dans l'étendue du dit domaine chargés de marchandises, vivres, boissons et munitions convenables à la traite, ou pelleteries, et effets traités qui se trouveront en cache ou à découvert, dans les pays dépendans du dit domaine, à quelques personnes qu'elles puissent appartenir, comme aussi de saisir et arrêter tous les bâtimens généralement quelconques qui se trouveront traiter ou avoir traité avec les sauvages dans l'étendue du dit domaine, et poursuivre devant nous la confiscation des choses saisies sur les procès-verbaux des dits commis et préposés, duement affirmés.

(Translation.)

Carlier, the lessees his successors, their attorneys, clerks and foremen, on pain of confiscation of their arms, produce of the hunt, merchandise for trading, furs and other articles obtained in trade, canoes, large boats, barques, fishing boats, bateaux, and other vessels of whatever kind, and a fine of two thousand livres which can neither be remitted nor decreased under any pretext, of which confiscation and fine, two-thirds is to belong to the said Carlier, and the other third to the informers.

We permit the said Carlier, the lessees his successors, their attorneys, clerks and foremen, to send into the said posts dependent on the Domaine, to guard the limits, and to prevent trading which might be made in contravention of the above prohibition, such persons and by such roads, as they shall judge proper, but they are not to pass beyond the limits assigned by our present ordinance without having previously obtained permission from us in writing, on pain of such costs, damages, and interests as may appertain

We also permit the said Carlier, his successors, their attorneys, clerks and foremen, to seize and retain all canoes which may be found within the extent of the said Domaine laden with merchandise, provisions, liquor, and ammunition suitable for trade, or furs and

negotiable articles, which shall be found hidden or not hidden in the country dependent on the said Domaine, to whomsoever they may belong ; as also to seize and retain all vessels whatever which shall be found trading, or to have traded, with the Indians, within the extent of the said Domaine, and the confiscation of the articles seized, is to be proceeded with before us, upon the procès-verbaux of the said clerks and foremen duly affirmed.

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Et sera notre présente ordonnance, lue, publiée et affichée partout où besoin sera. Mandons, etc.

Fait en notre hôtel, à Quebec, le vingt-trois mai, mil sept cent trente-trois.

Signé : HOCQUART.

[1 Sept., 1773.]

(Translation.)

And our present ordinance shall be read, published, and posted up wherever need shall be. We order &c.

Done in our residence, at Quebec, 23 May, 1733.

HOCQUART.

No. 1238

C

**EXTRACTS FROM INTENDANT HOCQUART'S
MEMOIR,**

DATED 1 SEPTEMBER, 1773, *re* THE TRAITE DE TADOUSSAC.

Vide p. 2731, Vol. VI.

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[9 Sept., 1749.]

No. 1239.

**LEASE OF TRAITTE DE TADOUSSAC, 9 SEPTEMBER,
1749, TO THE VEUVE FORNEL ET CIE.**

ARCHIVES DE LA PROVINCE DE QUEBEC. JUDICIAL RECORDS OF
QUEBEC, REGISTRY OF LANOULLIER.

Pardevant les Notaires Royaux en la Prevosté de Québec, y résidons soussignés, furent présens Monseigneur François Bigot, chevalier, conseiller du Roy, en ses Conseils, intendant de justice, police, finances et de la marine en toute la Nouvelle-France, Mr Jacques Bréard, controlleur de la Marine en ce pais, stipulants pour Sa Majesté en exécution de ses ordres cy-devant donnés, lequel mon dit seigneur intendant a donné à titre de bail et ferme à prix d'argent pour six années consécutives à commencer la jouissance au premier octobre de la présente année mil sept cent quarente neuf, et finira à pareil jour de l'année mil sept cent cinquante cinq, à demoiselle Marie-Anne Barbel, veuve du feu sieur Fornel et Compagnie demeurante en cette ville vis-à-vis la place du marché où elle fait élection de domicile, à ce présente et acceptante pour elle au d. nom pendant le dit temps la traitte, de Tadoussac et privilege de faire icelle et à l'exclusion de tous autres la traitte, chasse, pêche et commerce dans toute l'étendue des costes, rivières, terres et pays reservés pour le Domaine de Roy vulgairement appellé la Traitte de Tadoussac y compris la terre et seigneurie de la Malbaye, pour [sic.] par elle en jouir en vertu

(*Translation.*)

Before the undersigned royal notaries in the provostship of Quebec, residing thereat, were present Monseigneur François Bigot, knight, King's Councillor in his councils, Intendant of Justice, Police, Finance and Marine in the whole of New France, Mr. Jacques Bréard, Comptroller of the Marine in this country, stipulating in the name of His Majesty in execution of his orders as previously given, which said seigneur Intendant has given under lease and farm for money consideration for six consecutive years, enjoyment thereof to commence on the first of October of the year one thousand seven hundred and forty-nine, and to expire on the corresponding day of the year one thousand seven hundred and fifty-five, to Demoiselle Marie-Anne Barbel, widow of the late Sieur Fornel, and partners, residing in this city opposite the market-place where she elects a domicile, hereto present and accepting for herself in the said name for the said term the lease of Tadoussac and the privilege of carrying on the same and, to the exclusion of any others, of trading, hunting, fishing and commerce in the whole extent of the coasts, rivers, lands and countries reserved for the Domaine du Roy, commonly called the land and seigniori of Malbaye, to be enjoyed by her

du présent bail tout et ainsi que le sieur Cugnet cy-devant fermier en a jouy ou dû jouir et de tous les droits appartenants à Sa Majesté dans l'étendue de la ditte traite ; le présent bail fait pour et moyennant le prix et somme de sept mille livres par an qui seront remises chaque année au mois d'octobre entre les mains du trésorier de la Marine en ce pais dont le premier payement échoira au trente un octobre mil sept cent cinquante et duquel la ditte delle veuve Fornel sera déchargée sur la quittance qu'elle raportera du dit trésorier ; à la sureté duquel payement et de remboursement cy-après stipulé, les castors, huilles et autres effets provenants de la d. traite seront et demeureront specialienient hipotequés et affectés par préférence comme deniers Royaux. Et en outre aux charges, clauses et conditions suivantes :

1° La ditte demoiselle veuve Fornel et Compagnie se chargera des prests faits aux Sauvages dans les postes de la ditte traite de Tadoussac suivant les estats que les commis des dits postes en donneront par eux certifiés véritables la présente année mil sept cent quarante neuf, lesquels seront arrestés par mon dit seigneur intendant, et dont le montant des dits prests sera remplacé à la fin du bail par la ditte demoiselle veuve Fornel et Compagnie par ceux qu'elle laissera alors, sans que le montant des dits prests puissent estre augmentés. En sorte que quant même ils monteraient à plus la ditte demoiselle veuve Fornel et Compagnie ne pourra en pretendre aucun remboursement : mais au contraire s'il arrivait qu'ils fussent au dessous du nombre de ceux qu'elle recevra en prenant la ditte ferme, elle sera obligée d'en payer la différence à raison de vingt sols par castor.

(Translation.)

in virtue of the present lease entirely and as the sieur Cugnet, former lessee has enjoyed or should have enjoyed the same as well as all the rights belonging to His Majesty throughout the said lease ; the present lease made for and in consideration of the price and sum of seven thousand livres per year which shall be paid every year in the month of October into the hands of the Treasurer of the Marine in this country and the first payment of which shall fall due on the thirty-first day of October, one thousand seven hundred and fifty and from which the said widow Fornel shall be released through the receipt to be received by her from the said Treasurer ; as a security for which payment and the reimbursement hereinafter stipulated, the beaver, oil and other articles from the said trade shall be and shall remain hypothecated and mortgaged in preference as the King's moneys. And furthermore subject to the following charges, clauses and conditions :

The said Veuve Fornel et Cie. shall assume the advances made to the Indians in the posts of the said Traité de Tadoussac according to the statements thereof to be given by the clerks of the said posts and certified correct by them this present year of one thousand seven hundred and forty-nine, which statements shall be determined by said Seigneur Intendant, and to the amount of the said loans shall be repaid at the termination of lease by the said Veuve Fornel et Cie. by such advances as she shall leave at that time, without the total of the said advances being increased. So that even in the event of their amounting to a larger sum, the said Veuve Fornel et Cie. shall not be entitled to any refund : but, on the contrary, should they happen to be less than the sum of those she shall have received at the time of taking the

2° La ditte demoiselle veuve Fornel et Comp^{nie} se chargera également envers Sa Majesté des maisons ustenciles, meubles et bestiaux contenus aux inventaires qui en seront faits et arrestés par mon dit seigneur intendant pour les rendre à la fin du présent bail, sçavoir les ustenciles, meubles et bestiaux en nature ou d'en payer le prix de ce qu'il en manquera pour lors, et les maisons dans l'estat qu'elles se trouveront à la fin du dit bail, la ditte damoiselle veuve Fornel et Comp^{nie} sera en outre tenue d'entretenir les dittes maisons et autres bâtimens des menues réparations seulement et de les rendre dans le même estat qu'elles luy auront été remises.

3° La ditte damoiselle veuve Fornel et Comp^{nie} s'oblige de rembourser au sieur Cugnet cy-devant fermier des dits postes le prix des marchandises qui se trouveront conformément aux inventaires qui en seront dressés et suivant qu'ils seront réglés par Monseigneur l'intendant et ce dans le mois d'octobre de l'année prochaine mil sept cent cinquante.

4° Promettent et s'obligent la de. damoiselle veuve Fornel et Compagnie de rembourser au d. sieur Cugnet dans le mois d'octobre de l'année prochaine le montant des derniers envoys qui ont été faits de ces deniers pour l'exploitation des dittes traittes suivant l'estimation qui en sera faite par mon dit seigneur intendant.

5° Les castors, huilles pelleteries et autres effets qui viendront en retour des dittes traittes chaque année seront et demeureront obligés et affectés par privilège et préférence comme pour deniers Royaux au paiement des sept milles livres de ferme qui seront remis ainsi qu'il est cy-devant dit entre les mains du trésorier de la Marine en ce pais, en conseq^{ce} des ordres de mon dit seigneur intendant.

(Translation.)

The Veuve Fornel et Cie. shall also become responsible to His Majesty for the houses, utensils, moveables and cattle included in the inventories thereof to be drawn up and determined by said Seigneur Intendant and shall return the same at the expiration of this lease, namely, the utensils, moveables and cattle in kind or to pay the price of whatever may be missing at the time, and to maintain the houses in the condition they were in at the expiration of the said lease ; the said Veuve Fornel et Cie. shall further be held to keep in good repair said houses and other buildings and to return them in the same condition as when they were delivered to her.

3° The said Veuve Fornel et Cie. bind themselves to repay the said Sieur Cugnet former lessee of the said posts the price of the goods which are found, according to the inventories to be made thereof and as the same may be adjusted by Monseigneur Intendant in the month of October.

4° The said Veuve Fornel et Cie. promise and obligate themselves to repay the said Sieur Cugnet in the month of October of next year the amount of the last moneys advanced by him for the operation of the said lease, as estimated by said Seigneur Intendant.

5° The beaver, oil, furs and other effects which are returned each year from the said lease shall be held and appropriated by way of a preference mortgage for the King's moneys for the payment of the seven thousand livres of rent which, as hereinbefore stipulated, shall be paid to the Treasurer of the Marine in this country, in pursuance of said Seigneur Intendant's orders.

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6° Comme toutes les marchandises, munitions, vivres et autres effets généralement quelconques qui se trouveront dans les traittes de Tadoussac et dépendance appartenants au dit sieur Cugnet au jour de l'inventaire qui en sera fait demeurent dès à présent affectés et hipotequés au payement des sommes qu'il doit au Roy, la ditte Delle veuve Fornel et Compagnie ne pourra faire aucun payement ni remboursement au dit sieur Cugnet pour raison du prix des d. marchandises et effets sans un ordre par écrit de mon dit seigneur l'intendant à peine d'en répondre en son propre et privé nom.

7° Le remboursement des marchandises et autres effets qui se trouveront dans les différents postes dépendants des d. traittes et les envoys qui auront esté faits d'avance par la de. delle veuve Fornel et Compagnie pour l'année mil sept cent cinquante six seront faits à la de. veuve Fornel et Compagnie en la même manière stipulée dans les articles trois et quatre du présent traité par les fermiers qui luy succéderont.

8° Tous les castors qui proviendront des d. traittes pendant le cours du présent bail seront portés et remis par la d. veuve Fornel et Compagnie au bureau de la Compagnie du Castor établi en cette ville.

9° La de. delle veuve Fornel et Compagnie promettent et obligent pour la conservation et augmentation des d. traittes de Tadoussac de les exploiter et régir le plus avantageusement qu'il sera possible pour la meilleure ration (?) de ces postes et de ni faire faire la chasse que par les Sauvages établis dans ces contrées. Et si par négligence ou autrement de la part de la de. veuve

(Translation.)

6° Inasmuch as all the goods, munitions, provisions and other effects generally whatsoever which may be found in the said Traité de Tadoussac and dependencies belonging to the said Sieur Cugnet on the day of the inventory to be made thereof remain from now appropriated and hypothecated for the payment of such sums owing by him to the King, the said Veuve Fornel et Cie. shall make no payment or reimbursement to the Sieur Cugnet in respect of said goods without a written order from said Seigneur Intendant under pain of

being answerable for the same in her own name.

7° The repayment of the goods and other effects that may be found in the different posts connected with the said lease and the shipments which may be made in advance by said Veuve Fornel et Cie. for the year one thousand seven hundred and fifty-six shall be made over to said Veuve Fornel et Cie. in the same manner as that stipulated in sections three and four of the present agreement by the lessees who shall succeed them.

8° All beaver which may come from the said commerce during the course of the present lease shall be conveyed and handed over by said Veuve Fornel et Cie. to the office of the Compagnie du Castor established in this city.

9° The said Veuve Fornel et Cie. promise and engage that, for the maintenance and improvement of said Traittés de Tadoussac, they will operate and manage them in the most profitable manner with a view to the better supplying of such posts and to cause hunting to be carried on thereat by none but by the Indians settled in these countries. And should, through neglect

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Fornel et Compagnie ces postes devenaient a estre mal exploités ou a manquer des choses nécessaires pour la traite et pour l'entretien des Sauvages pendant le cours du présent bail, mon dit seigneur l'intendant se reserve en ce cas ainsi que dans celuy de deffaut de payement du prix de ferme de les affermer à d'autres.

10° La ditte Delle veuve Fornel et Compagnie sera tenu de fournir incessamment à mon dit seigneur intendant la grosse des présentes en bonne forme à ses frais et depends et une expedition au Bureau du Controlle de la marine avec le double des états des prests faits aux Sauvages et les inventaires des maisons, meubles, ustenciles et des marchandises restantes dans les postes, ainsi que des copies des factures des envoys faits par le dit sieur Cugnet cette présente automne mil sept cent quarente neuf.

Et pour l'exécution des présentes la d. delle veuve Fornel et Comp^{gnie} a élu son dom^{cille} ainsi qu'il est cy-devant spécifié en sa d. maison seize vis-à-vis la place du marché de cette ville auquel lieu etc nonobstant etc prométant etc obligeant etc renonçant etc Fait et passé en l'hotel de mon dit seigneur l'intendant à Quebec le neuf septembre mil sept cent quarente neuf et ont mon dit seigneur l'intendant mon dit sieur Bréard et la ditte veuve Fumel signé avec les notaires soussignés après lecture faite suivant l'ordonnance.

VVE FORNEL

SANGUINET

BIGOT

BRÉARD

LANOULLIER

(Translation.)

or otherwise on the part of said Veuve Fornel et Cie., said posts become improperly operated or ever lack the things necessary to the trade and the livelihood of the Indians during the course of the present lease, said Seigneur Intendant retains the right, in such case as well as in that of default of payment of the price of rent, to lease them to others.

10° The said Veuve Fornel et Cie. shall be held to furnish forthwith said Seigneur Intendant with the engrossed copy of these presents in due form at their own cost and expense, and a copy to the Bureau du Controlle de la Marine together with the duplicate of the statements of advances made to the Indians and the inventories of the houses, moveables, utensils and goods left in the posts, as well as copies of invoices of the shipments made by the said Sieur Cugnet this present autumn, one thousand seven hundred and forty-nine.

And for the execution of these prescrites said Veuve Fornel et Cie. have elected domicile as hereinbefore specified in her house situate opposite the market-place in this city at which place &c., notwithstanding, &c., promising, &c., obliging, &c., and refinquishing, &c. Done and passed in the residence of said Seigneur Intendant at Quebec, the ninth of September, one thousand seven hundred and forty-nine and my said lord the intendant, said Sieur Bréart and said veuve Funnel have signed with the undersigned notaries, after these presents had been read according to the ordinance.

VVE FORNEL

BIGOT

BRÉARD

SANGUINET

LANOULLIER

Vraie copie.

Québec, 30 avril 1921,

C.J. SIMARD,

Assistant-registraire

provincial.

[25 Sept., 1749.]

Archives de la
Province
de Quebec.

Pierre-Georges Roy
Archiviste.

L.M.

Archives de la Province
de Quebec.

Copié par G.H.
Collationné par

Date 27/4/21

No. 1240.

C

**DESPATCH, 25 SEPTEMBER, 1749, INTENDANT
BIGOT TO MINISTER INFORMING LATTER OF
LEASE OF FERME DE TADOUSSAC TO VEUVE
FORNEL ET CIE.**

ARCHIVES OF CANADA, Series F, Vol. 93, p. 259.

Nous avons eu l'honneur de vous marquer en commun que nous avons expédié la concession de la baie des Esquimaux à la veuve Fornel. Il est heureux qu'elle ait voulu continuer cette découverte qui ne peut qu'être très-avantageuse à la Colonie, étant important pour nous d'occuper cette baie dont les Anglais se seraient emparés par la suite, elle y a envoyé cette année. Cette même veuve m'a demandé le ferme de Tadoussac à raison de sept mille livres. J'ai trouvé ce prix si avantageux pour le Roy que je n'ai pas hésité un moment à la lui donner pour six ans aux memes conditions de l'ancien bail.

J'ai agi en conséquence des ordres et de la permission que M. Le Comte de Maurepas avait donnés à M. Hocquart en 1745, '46 et '48 de passer un nouveau bail pour cette ferme et qu'il le laissait le maître des conditions.

(Translation.)

We have the honour to inform you in common that we have expedited the concession of Baye-des-Esquimaux to the widow Fornel. It is fortunate that she has agreed to continue this discovery which cannot help but be most profitable to the Colony, it being

of great importance that we occupy this bay as the English would have taken possession of it in the future. She has sent there this year. This same widow has asked me for the Ferme de Tadoussac at the rate of seven thousand livres. I considered that figure so advantageous to the King that I did not hesitate for a moment to grant the same to her for six years upon the same terms as those of the former lease.

I have acted according to the orders and instructions which Mr. Comte de Maurepas had given to Mr. Hocquart in 1745, '46 and '48 to issue a new lease for this lease and that he was leaving him free as to the terms.

p. 3219

Il était temps d'en ôter le régie à M. Cugnet, le Roy ne s'en serait pas trouvé bien. Il n'a pas encore rendu son compte de régie de 1747. Il a toujours quelques raisons qui l'en empêchent et insensiblement ses dettes s'accumuleraient envers Sa Majesté. Il a retiré considérablement de la poste je le sais à n'en pas douter et il ne paie aucun de ses créanciers, et il n'est pas possible qu'il n'ait pas fait passer ses fonds en France.

Après l'expiration de la concession de la baie des Esquimaux que la dite veuve a pour douze ans, il conviendra de la joindre au domaine du Roy, elle sera pour lors établie et Sa Majesté pourra y envoyer au lieu que si elle l'eut été à ses dépens, il lui en aurait couté des sommes et on n'y aurait peut-être pas réussi. La veuve Fornel a une compagnie et c'est ce qui convient le mieux pour les nouveaux établissements, étant plus en état de faire les avances et je suis persuadé qu'il ne manquera de quoi que ce soit au poste de Tadoussac et que le Roy sera bien payé chaque année.

Elle se prépare à faire les envois nécessaires pour l'année prochaine ; je n'en ai pas encore averti le Sr Cugnet voulant voir ce que je pourrai faire saisir dans ce poste et dans le produit pour la sureté des deniers du Roy.

Vraie copie.

Québec, 30 avril 1921,

(Signé) C.J. SIMARD,

Assistant-registraire

provincial.

Archives de la
Province
de Quebec.

Pierre-Georges Roy
Archiviste.

G.H.

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de Quebec.

Copié par L.M.
Collationné par

Date 25/4/21

(Translation.)

The time had come to withdraw the management from Mr. Cugnet, as a result of which the King has fared badly. He has not as yet rendered his account of the administration for 1747. He constantly has excuses that he is prevent from so doing and his debts to His Majesty imperceptibly increase. I know beyond a doubt that he has made considerable withdrawals from the post. He pays none of his creditors, and, unquestionably, he has not transferred his funds to France.

Upon the expiration of the concession of Baye-des-Esquimaux which the said widow has for twelve years, it will be in order to reunite the same to the Domaine du Roy. It will then be established and His Majesty will be in a position to send there, while, should it have been at his expense, it would have cost him heavily and it might not have met with success. The widow Fornel has a company and this is what is more suitable for new establishments, she being in a better position to make the advances and I feel sure that Tadoussac post will not lack anything whatsoever and that the King will be regularly paid each year.

She is preparing to make the necessary shipments for the coming year ; I have not notified the Sr. Cugnet as yet, as I wanted to see what I shall be able to seize in this post and from the produce for the security of the King's dues.

No. 1241.

**MEMOIRE (1750), PRESENTED TO INTENDANT
BIGOT BY VEUVE FORNEL ET CIE., re LEASE OF
FERME DE TADOUSSAC.**

ARCHIVES OF CANADA.

CANADA, GENERAL CORRESPONDENCE, 1750, Vol. 96, p. 85.

Plus il y a de Sécurité et plus La surprise est Grande, Elle n'a pu estre qu'Extreme Lorsque vous avés prevenu Les fermiers du Domaine du Roy que Sa Majesté n'ayant pas approuvé Le Bail passé par Lanouiller Et Sanguinet notaires en datte du neuf Septembre 1749 en notre presence et en celle de Mr. Breard Controlleur de La marine ; vous avies reçu des ordres du ministre de faire un nouveau Bail par voye d'adjudication, par consequent que Le Bail actuel ne pouvoit subsister ; Sur quoy La ve fornell et compagnie prennent La Liberté de vous faire Les Representations cy apres.

Les fermiers Exposent Respectueusement, que si avec un titre aussy autentique que L'est un Bail ou autre acte, Bail et contract de pareille nature, revêtu de toutes les formes requises et prescrites par les loix, Les Contracteurs ne sont pas en sureté sur Leur Etat, il n'y aura plus a compter sur rien ; Le tout étant fondé sur les loix du Royaume par une suite de La Sagesse de nos Rois, ces mêmes Loix doivent subsister autant que Le Royaume afin que personne ne puisse Estre dans L'incertitude de son sort.

(Translation.)

Monseigneur,

The greater the security, the greater the disappointment, and it could not be otherwise than extreme when you informed the lessees of the Domaine du Roy that His Majesty had disapproved the lease passed by Lanouiller and Sanguinet, notaries, under date of 9 September, 1749, in our presence and in that of Mr. Bréard, comptroller of the Marine ; you had been instructed by the Minister to give a new lease through auction, and that consequently the present lease cannot be maintained ; whereupon Veuve Fornel et Cie. take the liberty of submitting to you the following representations.

The lessees respectfully submit that if, with as binding a title as a lease or other act, lease and contract of like nature, with all the forms required and prescribed by the statute, the contracting parties are not secured in their rights, one will not be able to rely on anything ; when everything is based on the laws of the kingdom, as a result of the wisdom of our Kings, such laws should endure as long as the kingdom, that no one may entertain any uncertainty as to his fate.

p. 3221

On pourra dire pour toute Raison que la ve fornell Et

compagnie ont contracté avec le Roy et que Sa Majesté ayant le pouvoir suprême, Elle est maîtresse d'approuver ou de desapprouver ce qui pourroit avoir été fait a L'insu de ses ordres, ou contre des regles qu'Elle auroit prescrit.

Pour repondre a cette objection, Les fermiers qui ont contracté avec Monseigneur L'intendant ont ignoré jusqu'a present qu'il ne fût pas revêtu des ordres et pouvoirs necessaires ; ils n'ont pu ny du prevoir qu'il auroit fallu que la ferme du Domaine du Roy se fût donnée par voye d'adjudication, par consequent ils sont dans La bonne foy, et ils ont contracté de même, rien ne peut prouver Le contraire, et s'il y a quelque manque de formalité dans le bail dont est question ; ils n'en sont pas responsables ; D'ailleurs Le prix de La ferme a Eté asses longtems defendu ou disputé Et s'est enfin trouvé Exceder de la somme de 2500" celui de M. Cugnet ancien fermier Lequel a toujours dit, et s'est attaché a vouloir faire connoistre qu'il perdoit annuellement sur L'Exploitation desd. traittes. La ve fornel et Compagnie se seroient aisement Laissé seduire aux Raisons susdittes dud. Cugnet n'etoit L'interest particulier qu'ils avoient de poursuivre L'obtention du bail en question, a cause des difficultés que led. S. pretendoit former a L'Etablissement du poste de La baye St. Louis dont La cour a eu La bonté d'accorder La concession a La ve fornel, disant que cet Etablissement feroit un grand tort aux traittes du Domaine du Roy, et demandoit en consequence qu'il fût Deffendu aux Concessionnaires de la Baye St. Louis de faire aucune traitte avec Les Sauvages, Cependant La distance d'un Endroit a L'autre est si grande qu'il ny avoit pour des personnes Desinteressées aucune apparence que cela pût Estre. La ve fornel qui se voyoit en avance d'une Somme considerable qu'il luy en a coûté, pour

(*Translation.*)

It may reasonably be alleged that Veuve Fornel et Cie. have contracted with the King, and, His Majesty being the supreme authority, he is free to approve or disapprove what has been done without his instructions or in violation of any regulation that may have been ordered by him.

In response to this objection, the lessees who have contracted with Monseigneur the Intendant, were unaware until this day that he was not invested with the necessary instructions and powers ; they could not foresee that the lease of the Domaine du Roy was to be sold by auction, and therefore they are in good faith and have contracted likewise, there being no evidence to the contrary, and if the lease referred to lacks any formality, they are not liable ; Moreover the price of the lease was disputed and discussed long enough and, when finally decided, it exceeded by the sum of 2500 livres that of Mr. Cugnet, former lessee, who has always declared and been willing to assert that the operation of said lease meant to him a yearly loss. Veuve Fornel et Cie. might have been easily misled by the allegations of the aforesaid Cugnet, but for the fact that they were specially interested in obtaining the lease referred to, on account of the difficulties raised by said gentleman to the establishment of the post of Baye-St.-Louis, the concession of which the court has been pleased to grant to the widow Fornel, he alleging that such establishment would be highly detrimental to the trades of the Domaine du Roy, and he accordingly requested that the

grantee of Baye-St.-Louis be prohibited from carrying on any trade with the Indians. However the distance between one place and the other is so great that, for disinterested persons, there is no indication that such could be the case. The widow Fornel, who had advanced a large sum for the discovery of this place, increased this sum by twenty-five thousand livres for the fitting out

p. 3222

La découverte de cet Endroit a encor augmenté cette somme d'Environ vingt cinq mil livres par L'armement d'un bâtiment qu'Elle et ses associez ont Expedié l'automne dernier 1749. Ce bâtiment n'ayant pu se rendre aud. Lieu a cause des glaces ; L'Equipage a Eté obligé d'hyverner en chemin, et ne s'est rendu au poste que dans le mois de juillet, on y a laissé quatre hommes et Led. Bastiment est arrivé en cette ville vers la fin du mois d'Aoust a rapporté pour retour Environ quatre cent peaux de martres provenant de la chasse des Engagés, et dailleurs ils n'ont pas vu dans tout Le voyage un seul Sauvage, si ce n'est des Eskimaux. Lad. veuve fornel et compagnie viennent Encor de faire partir un bâtiment pour le même endroit dans L'Esperance qu'ils auront un plus heureux succès.

Ce qui augmente La somme de Sept mil Livres du prix du Bail est que depuis qu'il est passé, Monseigneur a imposé aux fermiers actuels, de donner aux Sauvages, Les Marchandises munitions et Vivres, a un prix Beaucoup au-dessous de celui que L'ancien fermier Les donnoit, tout cela forme une Difference considerable La quelle produit cette année une perte Bien réelle a La Ve fornel et compagnie, Laquelle perte se Leve a La somme de Soixante et quinze mil trois cent trente sept Livres dix sept sols-Suivant Le Compte de dépenses et recette qu'on a L'honneur de produire, Lequel est constaté par les factures d'Envoi faits tant par M. Cugnet pour Le Dernier Envoy (Sans approbation des prix portés par ses factures) Lesquels ne sont pas Encor Replés ; que par la Ve fornel et compge dans tous les differens postes du Domaine, et Les retours qu'ils ont produits, par les Etats Signés des commis et Du me Du Bâtiment qui a Eté dans lesd. traittes, il est vray que depuis bien des années on n'a point vu ces postes produire Si peu d'huile ny des pelleteries que La presente année, on peut peutestre en Esperer une meilleur pour La prochaine, cela fondé sur ce qu'il n'y a rien de plus incertain que

(Translation.)

of a ship which she and her partners sent in the autumn of 1749 last. The ship having been unable to proceed to said place owing to ice conditions, the crew were compelled to winter on the way and only reached the post in the month of July where four men were left. The said vessel arrived in this city towards the end of the month of August, bringing a return cargo of some four hundred marten skins, the produce of the articulated men, and moreover, except some Eskimo, they did not meet a single native during the whole journey. The said Veuve Fornel et Cie. have sent another vessel to the same place in the hope that they will be more successful.

The sum of seven thousand livres, being the price of the lease, has been increased since it was signed by the fact that Monseigneur has ordered the present lessees to sell merchandise, munitions and food to the natives at a price much lower than that charged by

the previous lessee, all of which makes a great difference resulting this year in a heavy loss to Veuve Fornel et Cie., which loss amounts to the sum of seventy-five thousand three hundred and thirty-seven livres, seventeen sols, according to the statement of expenditures and receipts we have had the honour to submit, and which is confirmed by the bills of shipments made both by Mr. Cugnet for the last shipment (with no certificate of the prices appearing on his bills) which have not been settled, and by Veuve Fornel et Cie. in all the various posts of the Domaine, and by the profits made on the same, also by the written statements of the clerks and of the master of the vessel employed in said trades. It is true, of course, that, for years, these posts have produced little oil and few pelts, but there being nothing so uncertain as the chase and the fisheries,

p. 3223

La pesche et La chasse. Supposant Le Bail fini La Ve fornol Et Compge ne peuvent se flatter de Retrouver La perte que L'Exploitation de La presente année Leur cause.

Le Bail dont est question ayant Eté fait pour Six années Revetu de toutes Les formes Requises on ne peut refuser de droit Le Remboursement a La Ve fornol et Compge de Lad. Somme de Soixante et quinze mil trois cent trente sept Livres, 17 s. a quoy monte La perte que L'Exploitation desd. traittes a produit La presente année ; En outre on ne peut refuser un dedommagement a La Ve fornol et Compge pour La non jouissance du terme de son Bail, ce Dedommagement ne peut Estre moins que de deux années du prix de La ferme ce qui compose La somme de quatorze mil Livres.

Cette Somme en Elle même est peu considerable Si L'on considere Les depenses qu'il a fallu faire pour aller prendre possession de cette ferme, ainsy que pour se mettre en Etat de L'Exploiter, il a fallu Louer des magasins pour Loger Les Vivres et autres Effets, ainsy que pour Les Retours, il a fallu acheter des bâtimens de mer, Et Enfin La. Ve fornol et Compge a Eté obligé de faire toutte La Depense, Eu Egard aux Batimens et aux Marchandises fait venir de france ; comme ayant du jouir de son bail de six années ; on ne doit pas omettre Les peines et Le travail que donne La Regie de ces traittes. il faut même plus D'une année pour connoistre Les interest de ces Differens postes, ainsy que ceux des Sauvages Et Leur inclinations ; ils sont d'un naturel trop inconstant pour que L'on puisse faire fond sur Eux ; Les Sauvages qui sont sur les terres du domaine se pretendent aussy Libres que tous Leur semblables des Environs, au moyen de quoy ils vont ou il leur plaît traiter, soit aux trois Rivières, soit a Batiscan a temiscaming, a la Baye d'hudson ;

(Translation.)

one may hope for an improvement during the coming year. Should the present lease be terminated, Veuve Fornel et Cie. cannot entertain any hope of recovering the loss they have sustained through the operations of the current year.

The lease referred to having been passed for a term of six years, and in compliance with all the formalities required, Veuve Fornel et Cie. cannot be denied their claim to the said sum of seventy-five thousand three hundred and thirty-seven livres, seventeen sols,

being the loss incurred through the operations, during the first year, of the said lease ; Moreover, Veuve Fornel et Cie. cannot be refused compensation for the deprivation of enjoyment of the term of their lease, which compensation should not be less than the equivalent of two years' rent, or the sum of fourteen thousand livres.

This sum in itself is not very large considering the expenditure that had to be incurred in taking possession of this lease, as well as to be in a position to operate the same. Stores had to be rented for the housing of food and other effects, as well as for the returns, and lastly the Veuve Fornel et Cie. have had to incur the whole expenditure in connection with the vessels and merchandise imported from France ; being supposed to enjoy their lease for a term of six years, one must also take into account the difficulties and the toil involved in the management of such enterprises. It takes more than a year to become familiar with the interests of these various posts, as well as with those of the natives and their propensities ; the latter are of too fickle a disposition for any one to rely on them ; the Indians who are on the lands of the Domaine claim just as much freedom as any of their fellow-creatures in the surrounding district, and for this reason, they go and trade where they please, at Three Rivers, Batiscan, Timiskaming, or at Hudson bay ; those of the

p. 3224

Ceux de La Riviere Moisy vont traiter aux differens postes de Mingan, et de plus Les propriétaires de ces Endroits Envoyent des traitteurs jusques dans Le Sein Du Domaine du Roy ; il faut donc plusieurs années pour se faire connoistre des Sauvages et même s'en faire aimer, car L'un est aussy utile que L'autre ; c'est par ce point que La Ve fornel et ses associés ont commencé des L'Été dernier, en allant sur Les lieux Leur faire des presens, Les voir et Les festiner, pour s'en faire connoistre, celui qui y a Été n'a pu voir que Les Sauvages du bord de La mer, et quant a ceux des terres il leur a Envoyé des presens Et fait porter parole qu'il se trouveroit L'Été prochaine a Chéccoutimi pour les voir et Les cherir comme ses Enfants.

On a L'honneur de représenter a Monseigneur L'intendant que le changement subit de fermier ne pourra produire qu'un tres grand Dérangement clans Les traittes du domaine, Les commis, Les Engagés et les Sauvages accoutumés depuis si longtemps a obeir a un même maistre, voyant un changement nouveau ne Scauront plus a qui ils auront a faire, chacûn tirera et pourra frauder de son côté, Les Sauvages s'alieneront de Leur affection et se retireront dans les autres postes Ecartés ou L'abondance de l'Eau de vie ne Les attire deja que trop. . . ? Et enfin Les traittes de Tadoussac autres fois si vantées se reduiront a rien, et ces contrées autres fois si peuplées deviendront desertes, Car il faut observer que depuis plusieurs années les Sauvages des terres ont diminué tant par la mortalité que par le nombre de ceux qui se sont Retirés a la Baye D'hudson a cause de La cherté des Marchandises.

Dailleurs Les Bestes fauves sont presque detruittes ce qui fait que ces mêmes sauvages ont beaucoup de peine a trouver Leur subsistance dans les

(Translation).

these places send traders as far as within the limits of the Domaine du Roy; therefore, it takes several years to get acquainted with the Indians and win them over, for one is just as necessary as the other ; that was the first thing which veuve Fornel and her partners did last summer, sending some one to them with presents to visit them, entertain them, and make himself known to them ; the person who went could only see the natives of the sea-coast but he sent them some presents and word that next summer he would be at Chicoutimi to meet them and to treat them as his own children.

We have the honour to submit to Monseigneur the Intendant that a sudden change of lessee would only lead to a very great disturbance in the trades of the Domaine. The clerks, articulated men and the natives, so long accustomed to obey the same master will be at a loss, seeing a new state of things, as to what to do, every one going where he chooses and indulging in smuggling on his own account ; the natives will become estranged in their affections and withdraw to the other isolated posts where the abundance of brandy is already too much of an attraction to them. And, lastly, the once famous trading-posts of Tadoussac will be reduced to naught, and this country, formerly so densely settled, will become deserted, for it must be pointed out that the number of Indians of the interior has decreased owing to deaths as well as to the fact that a number of them have withdrawn in Hudson bay on account of the high cost of commodities.

Moreover, the wild animal life is almost completely extinct, and, as a result, the same Indians experience great difficulties in drawing their living from the forests ; a great many dying from

forests, il en meurt de faim et de misere tous les ans surtout L'hyver dernier Lequel a Ete Rude, il a peri nombre de familles ; quant a ceux du bord de La mer Le fermier Leur fournit des vivres.

Les inconveniens qui peuvent résulter de tout cecy, point de sauvages point de chasse, point de credits payés, ny par consequent de traitte à Esperer.

Autre article que Monseigneur L'intendant est supplié d'observer, c'est que dans le fait en question, supposant que le bail ne subsiste plus, tout reste en suspens, quel Derangement cela ne causera t il pas dans Les comptes, Le mois de juin dernier et apres les inventaires faits, il se trouve, que Les marchandises, ustencils Vivres etc appartiennent tant au S. Cugnet ancien fermier, qu'au nouveau ; En supposant qu'il y ait un nouveau fermier L'année prochaine tous les Effets appartiendront a trois differens fermiers Quel cahos et qu'elles difficultés cela ne produira t il pas, et quand pourra t'on en avoir La fin.

Tous les faits cy dessus allegués par La Ve fornel Et Compge ne Le sont que pour faire connoistre Le Mal, que tous ces changemens subits peuvent produire a Leur interests et a ceux du Roy, parcequ'au lieu de faire augmenter La ferme cela ne peut que La diminuer ainsy La Ve fornel et Compge soutiennent Respectueusement La validité du Bail qui Leur a Eté fait par Mondit Seigneur L'Intendant et Recu par La nouillier et Sanguinet notaires en presence de Mr Le Controlleur de La marine Le neuf Septembre mil sept cent quarante neuf, et demande que La jouissance Leur soit continuée jusqu'a La fin des six années, à deffaut persistent a demander qu'il Leur soit Remboursé et payé L'année prochaine 1751 La Somme de LXXV^m III^c XXXVII^l XVII⁸ pour raison des depenses et pertes que Leur a produit L'année de

(Translation.)

starvation and hardships every year, especially last winter which was severe, and many families perished ; as to those living on the coast, they have been supplied with food by the lessee.

The disadvantages likely to result from all this, are the following : no natives, no chase, no debts paid, and consequently no commerce to be hoped for.

Another point which Monseigneur is entreated to consider is that, in the present case, it being premised that the lease is cancelled, everything remains at a standstill ; what a disturbance would thus be occasioned in the accounts. In the month of June last and after the taking of the inventories, it happens that the merchandise, utensils, food, &c., belong both to Sieur Cugnet, the former lessee and to the new one. Should there be a new lessee next year all the effects will be the property of three different lessees. What a mess and what an embarrassment would this not give rise to, and when would one see the end of it all.

All the facts above submitted by Veuve Fornel et Cie. are only cited with a view to pointing out the injury which all such changes are liable to cause to their interests and to those of the King, for, instead of increasing the returns, they can only decrease the same.

Therefore, Veuve Fornel et Cie. respectfully contend for the validity of the lease granted to them by said Monseigneur Intendant and passed by Lanoullier and Sanguinet in the presence of the Comptroller of the Marine on the ninth of September one thousand seven hundred and forty-nine, and pray that the enjoyment thereof be continued to them until the expiration of the six years, failing which they insist upon the refund and payment, in the coming year 1751, of the sum of 75,367 livres, 17 sols covering the expenditure and losses resulting from the year during

p. 3226

jouissance du Bail, et en outre La somme de quatorze mil Livres pour La non jouissance des cinq années restantes a Expirer dud. Bail. C'est ce que Lad. Ve fornel et Compge Esperent de La Justice et de L'Equite de Mon-seigneur L'Intendant.

VE FORNEL ET COMPGE.

Vraie copie.

Québec, 30 avril 1921,

C.J. SIMARD,

Assistant-régretraire

provincial.

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de Quebec.
Pierre-Georges Roy
Archiviste.

Province
Archives de la
de Quebec.

Copié par L.M.
Collationné par G.H.,
21/4/21

(Translation.)

which they held the lease, and, further, the sum of 14,000 livres for the non-enjoyment of the six years still to run of the said lease. The above being what said Veuve Fornel et Cie. expect from the sense of justice and equity of Monseigneur the Intendant.

V^E FORNEL ET COMPAGNIE.

[8 May, 1750.]

No. 1242.

**EXTRACT FROM INSTRUCTIONS, 8 MAY, 1750,
INTENDANT BIGOT TO MR. GUILLIMIN.**OPINION OF SOLICITOR GENERAL JENKIN WILLIAMS, 12 JUNE, 1786,
AND FROM THE LATTER'S OBSERVATIONS.

ARCHIVES OF CANADA. SERIES Q, VOL. 26, p. 428.

The Paper No. 2, registered in Book No. 38, purports to be likewise a Commission dated the 8th of May, 1750.

* * * *

The said Intendant did thereby Commission Mr. Guillimin, a member of the Superior Council to proceed in his quality of Commissioner, to the Inventory & Estimations aforesaid, in the presence of the old and new Lessees, or persons empowered by them, according to the written Instructions delivered to Him.

In the same Paper No. 2, are inserted the Instructions as near as I am capable of translating them in the words following, vizt—

Written Instructions for Mr. Guillimin, a Member of the Superior Council of Quebec, appointed to make the Inventory and Estimation of the Posts of Tadoussac.

* * * *

We deliver him an account of Pere Cocquart a Jesuit Missionary at the said Posts, concerning a Chapel which was built by His Predecessors at seven Islands, which is become useless, the Savages going to attend Him at the Isle Jeremie. He will examine that building and in a particular Report state the Utility which it may be of to the Post, as there is no Storehouse there, and will have it estimated to direct us concerning the Proposition of the Missionary to sell it to the King or the second Lessee.

* * * *

The Papers No. 1, 2 & 3 induce me to imagine, that as the Posts were first managed by the Indian Companies & afterwards by the King himself, and (as may naturally be conceived) were in good condition when the King thought proper to lease them out to individuals about the year 1733 ; when the Interests of the India Company in this Country were

taken by the French King into His own hands, those Interests were leased by him to the Fermiers Generaux (in France) for a term which expired in 1733. The Farmers General had deputed a Gentleman to manage their concerns here, and upon the

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determination of their Lease the same Gentleman was continued on the part of the King to direct and manage his Domaine. He remained in the Direction till the year 1741, when a Lease was granted to him of the Posts in question (I am not informed for what term of years) but that Gentleman dying in 1749, or perhaps his lease expiring then, a new Lease was granted to Madam Fornel for six years. There was an Inventory made out, which perhaps contained an Estimation likewise, of all the Chattels or moveable property at the different Posts, together with a correct state of the buildings perhaps estimated likewise, to be annexed to the Lease ; and that the first Lessee stipulated to Surrender them all to the King at the expiration of his Lease in the same state and Condition, or make good the deficiency in Money ; but that when a new Lease was granted it was thought proper by the Intendant, probably at the instance of the Comptroller of the Marine, to verify the state of the Posts, by ordering new Inventories to be made out ; and upon comparing the old Inventories with the new ones, to ascertain the necessary Ameliorations which might have been made (perhaps under express stipulations in the original lease, or by the subsequent Order or consent of the Crown) at the Posts. And that the same mode was pursued in 1750 after the lease had been granted to Madam Fornel ; as well as in 1755 when at the expiration of her Lease, the King thought fit to resume the Management of the Posts.

* * * *

No. 1243

C

**LETTER, 30 OCTOBER, 1750, INTENDANT BIGOT TO
MINISTER, STATING REASONS FOR GRANTING
LEASE OF FERME DE TADOUSSAC TO VEUVE
FORNEL ET CIE.**

ARCHIVES OF CANADA, SERIES F, VOL. 96, p. 77-94.

“ J'ai l'honneur de repondre a la lettre que vous m'avés ecrite le 14 juin der concernant la ferme de Tadoussac. Conformement aux ordres dont vous m'avés honoré a l'occasion du traitté que j'ai passé l'année derniere a la veuve fornел et compagnie pour la ferme pendant six années des traittes de tadoussac

(Translation).

I have the honour to reply to the letter you wrote to me on 14 June last concerning the Ferme de Tadoussac. In accordance with the instructions you honoured me with on the occasion of the agreement concluded by me last year with the Veuve et Cie. in connection with the leasing of the *Traité de Tadoussac* for six years. . . .

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“J’ai informé, monseigneur, ces nouveaux fermiers que je résillois ce traité et qu’ils eussent à prendre en conséquence leurs arrangements. ils ont été surpris de cette rupture, et ils m’ont représenté qu’ils étoient ruinés, si je ne leur continuois pas cette ferme, attendu le peu de pelleterie et d’huile qu’il y avoit eu cette année dans des postes et que je savois être général dans tout le bas du fleuve, et vu les avances considérables qu’ils avoient fait dont ils ne pouvoient se dédomager que par quelques bonnes années.

“Ils me prieront de ne pas trouver mauvais qu’ils me présentassent un mémoire à ce sujet. j’ai l’honneur de vous l’adresser cy joint avec leur compte.

“À la vue des prétentions qui y sont déduites pour les indemniser des avances qu’ils exposent avoir faites pour le mettre en état d’exploiter ces postes, j’ai pris le parti de surseoir jusqu’à l’année prochaine l’adjudication d’un nouveau bail, et de leurs laisser pour cette année cette traite en qualité de régisseurs. Seulement, en attendant votre décision sur la façon dont vous voudrés avoir la bonté de les traiter, ou sur la continuation de leur ferme, si vous la jugés plus avantageuse à Sa Majesté que de la renouveler en les indemnisant.

“Il est mortifiant pour moi, Monseigneur, que vous m’ayés donné le désagrément de rompre un traité que j’avois passé par devant notaire. il y a apparence que je n’ai pas votre confiance, ce qui m’aflige infiniment, je n’ai pas l’honneur d’être connu de vous.

* * * *

voulussent les donner à ce prix, il est de la dernière conséquence de retenir les Sauvages des terres par le bon marché et de les empêcher d’aller à la baie

(Translation.)

Monseigneur, I have advised these new lessees that I have cancelled this agreement and that they are to govern themselves accordingly. They were astonished at such a rupture and represented to me that they were ruined unless I continued this lease, inasmuch as little fur and oil had been obtained this year in some posts—a condition which I was aware was general throughout the lower part of the river—and seeing the large advances made by them and for which they could only be indemnified by a few successful years.

They requested that I would not consider it improper for them to submit a memoir on this subject. I have the honour to enclose same herewith along with their account.

After examining the claim set forth therein, urging that they be indemnified for the advances which they claim to have made in order to enable them to operate these posts, I have decided to defer until next year the adjudication of a new lease, and, for this year, to

leave them this trade as overseers only, pending your decision as to the manner in which you may have the kindness to deal with them, or on the continuation of their lease, should you deem the same more profitable to His Majesty than renewing it or indemnifying them.

Monseigneur, that you mortified me by revoking an agreement I had passed before notaries, is humiliating for me ; it seems as though I do not enjoy your confidence, and what I am infinitely grieved at is that I have not the honour of being known by you.

* * * *

It is of the utmost importance that the Indians of the interior be retained by low prices and prevented from going to Hudson bay where some have already gone. Monseigneur, do not feel, I

p. 3230

dhudson ou il y en a deja passé. ne croyés pas je vous suplie, Monseigneur, que ce soit la peine que j'ai de voir un traité que j'ai passé resillé qui me fait parler en faveur du dernier fermier, je ne suis ocupé que du menagement des deniers du roy a qui il en couteroit pour en placer un autre et de l'interest du poste qui est entre les mains dhonetes gens, ils meritent dailleurs de ma part quelque attention par raport a l'établissement de la baye des eskimaux qui doit être reunie au domaine dans onze ans. ils y ont perdu cette année 12 a 15 m'' les hommes qu'ils y avoient envoyés n'ayant pu y entrer et ayant pensé perir dans les glaces. je les ai averti que s'ils y attiroient des Sauvages du domaine, ils seroient déchus de cette concession ; je ne crois pas qu'ils le fassent. leur seule vue est d'en attirer de la baye dhudson et de commercer avec les eskimaux.

Vraie copie.

Québec, 30 avril 1921,

C.J. SIMARD,

Assistant-régreistraire

provincial.

Archives de la
Province
de Quebec.

Pierre-Georges Roy
Archiviste.

Archives de la
Province
de Quebec.

Copié par L.M.
Collationné par G.H.,
Date 25/4/21

(Translation.)

entreat you, that it is the regret of seeing an agreement concluded by me revoked that induces me to speak in favour of the last lessee ; I was only concerned with the careful handling of the monies of the King who would be put to some expense in negotiating another lease and with the interests of the post which is in the hands of honest people. Besides, they are entitled to some consideration on my part on account of the establishment of the Baye-des-Eskimaux which is to be reunited to the Domaine in eleven years. They have lost at this place this year from 12,000 to 15,000 livres ; the men they sent there were unable to reach the place and nearly perished in the ice. I warned them that, should they attract there the Indians of the Domaine, they would lose this concession ; I do not think they will do so, their only object being to attract some from Hudson bay and to trade with the Eskimo.

[23 June, 1760.]

Malbaye—1. René
Briand— Farmer.

Tadoussac—2.
François Doré—
Commis.

Chicoutimi—3.
Collet— Commis.

Islettes Jeremie—4.
Louis Garrièpi—
Commis.

Sept Isles—5.
Abandoned.

**INSTRUCTIONS BY GEN. MURRAY TO THOMAS
AINSLIE, *re* INSPECTION OF THE KING'S POSTS, 23
JUNE, 1760.**

CANADIAN ARCHIVES, LETTER-BOOK OF GEN. JAMES MURRAY,
1759- 89, Vol. I. pp. 39-40.

You are to proceed with the utmost Expedition to the several Posts of the King's Domain marked in the Marg[in] or such of them as you can conveniently to.

You are to require of the Commis Clerks a faithfull account of the Fu[rs] which are in their Hands, and that [they] deliver the same to you ; it has been a usual custom that of what they have killed themselves, they give up half to the King, and other they a[re] paid for at stated prices, which the Miss[ionary] can give you an account.

You are to get from the Clerk of Ma[lbaye] an account of the Cattle upon his Fa[rm] Specifying the Species, and the Grain [he has] sown this year.

You are to procure from these Clerks [a] return of the Necessaries wanted at ea[ch] Post, and the best time & manner of providing them.

If any are Refractory, or do not comply readily with what is required of them, you will bring them with you, but such whose Behaviour you are satisfied with, you may assure, that they shall be continued in their several Employments and protected.

Finally as we have hitherto had a knowledge of that Country, and the manner of carrying on the Traffick with the Savages only from those whom we have all the Reason in the World to be diffident of, You will endeavour to examine into this matter as narrowly as the circumstances will allo[w] you, and report your observations th[ereon] to me at your Return.

Given under my han[d]

Quebec this 23^d June 17[60]

J. M[URRAY].

Countersigned
H.T.C.

No. 1245.

GEN. MURRAY TO LORD COLVILLE, 26 JUNE, 1760.

[26 June, 1760.]

 CANADIAN ARCHIVES, LETTER-BOOK OF GEN. JAMES MURRAY, 1759-89, pp. 41-42, VOL. I.
Quebec 26th June 1760.

My Lord

The Indian Trade is carried on belo[w] at different Posts in the Country, some belong[ing] to the King, some the private Property of Indi[viduals]. At each of the King's Posts there is a resid[ent] Clerk, who receives the Stores they are supplied i.... deals with the Indians for their Furs, and giv[es] an account of the produce every Year. By reason of our Fleet's coming into the River last Campaign, they had been ill furnishe[d] the French employed as well as Indians we[re] near Famished, and they were obliged to aba[ndon] one of the King's Posts. Least this might be [the] case with others, and as they may hereaft[er] prove a Source of Riches to our Mother Cou[ntry] not being able in our present Circumstanc[es] to attend to such Matters, I have employed this year some Gentlemen whom I could depend upon, to supply what was proper to be sent, and have given them the Profit. For this purpose I have invested Mr. Thomas Ainslie with the proper powers to traffick with these people, and he goes down with a Cargo to supply their Necessities. I must therefore Request you will give him the proper Passeports for himself and Vessell, and that you will give positive instructions to your Cruisers not to interfere or suffer any Body else to interfere in this Affair, As it requires Care and attention to manage these Savages, and we[re] they once put out of their usual Channel [of] carrying on Business, they probably would [go] off, and might prove a most difficult matter ever to regain them—Annexed I send your Lordship the names of the King's Posts, and an Inventory of the Goods I have allowed to be carried to them.

The more I consider this Affair, [the] more I think myself obliged to act as I [have] and have the Honor to be with Regard

My Lord

&a

J.M[URRAY].

[Lo]RD COLVILL.

No. 1246.

**GENERAL MURRAY TO WILLIAM PITT, 22
OCTOBER, 1760.**

[22 Oct., 1760.]

ARCHIVES OF CANADA. LETTER-BOOK OF GEN. JAMES MURRAY,
1759-89, BUNDLE II, pp. 37-39, VOL. III.

Sir :

Hitherto I have given you an account of the affairs of this country in my military capacity, now that his Majesty has the quiet possession of it I imagine it will not be disagreeable to know what I have learnt concerning it in other respects.

* * * *

Sic.

In my Government I have open'd the fur trade to all ranks of men with out distinction, it was, as I have observed formerly confined to few. I shall give particular attention to the Indians, and that they are not cheated, or abused by the Traders and I have not hitherto allow'd the vending of Spirituous liquors so distractive to the Troops, and all in general of which some of our provinces are melancholy examples. I have sent Detachments to the Kings posts of Tadasack, Chicutimi, the Sept Isles, and those of Jeremi and have appointed M. Ainsley Agent for his Majesty in those posts. The French King used to let them for six or seven hundred livers p^r an but I am informed they should yeald a much greater rent, of late years the King occupy'd them by his own comis, & they surrender'd to me five or six days after the raising of the seige of Quebec but His Majestys Magazines were afterwards seized by the Navy, and the furs to the amount of 1600 pounds were sold by Lord Colvils orders, & deem'd lawfull prise. I remonstrated Against this proceeding, and claim'd it for the King. I have [39] the honor to enclosed ² the papers relative to this affair, & I hope for the future there will be such orders and laws established for this country that the inhabitants may depend upon the faith of the British Governor. I have had no dispute with the gentlemen of the navey about this matter. I am too sensible how essential it is for the Kings affairs that a constant harmony should subsist betwixt the two services, and therefore I think it indispensibly my duty to lay this matter before you for your decision.

(Unsigned rough draft in Murray's handwriting.)

Endorsed : From Governor Murray to Mr. Pitt 22 Oct^r 1760.

² In a different handwriting.

**GENERAL MURRAY TO WILLIAM PITT, 1
JANUARY, 1761 (?).**

[1 Jany., 1761 (?).]

ARCHIVES OF CANADA.

LETTER-BOOK OF GEN. JAMES MURRAY, 1759-89, pp. 60-61,
Vol. III.

Mr Pitt

Sir :

By the Mail which arrivd from New York yesterday I had the honor to receive your letter of the 27th Oct^r. acquainting me of the melancholy news of the sudden death of the late King and this day his present Majesty was proclaimd in my Government in English at the head of the troops and in french to his Majestys Canadian Subjects.

* * * *

Since I had the honor to write to you last nothing extraordinary has happend here except the murder of two Tadasac Indians by John Collins Master of a New York Schooner which was wreckd near the mouth of the river Saguiney in attempting to make this Port.

I confind Collins upon his arrival here, he confessd the fact but declard it proceeded from self defence, which may be true, tho circumstances were against this opinion, and would induce me to think him entirely to blame had he not a very good character from many creditable people now residing in this town. By the intercession of the Hurons of Lorrette this affair has been accommodated to the satisfaction of the Savages consistant with the safety of the Prisoner and the dignity & justice of the British Government. In the course of this treaty the Savages desird I would acquaint all the King's Subjects that they having submitted [61] [sic.] to his Majesty's Governmt expected his Protection and to be exempted for the future from the insults of the crews of the ships trading in the river. I have in consequence begd of Gen'. Amherst to publish this request in the manner he shall think proper to his Majestys Colonies, and if it was hinted to the Vessels from Europe disorders may be prevented which when they happen Allienate the affections of the Indians and confirm them in the bad opinion of the English nation the French have assiduously endeavoured to instill into them.

* * * *

No. 1248.

GEN. AMHERST TO GEN. MURRAY, 6 MARCH, 1761.

[6 March, 1761.]

ARCHIVES OF CANADA.

COPY FROM LETTER-BOOK OF GENERAL MURRAY, 1759-89
BUNDLE III.

New York, 6th March, 1761.

Dear Sir :

I have waited some time for the arrival of a packet, but none comes, and as there is intelligence here, of her having sailed from England on 29th December, there is too much reason to apprehend some accident has happened to her, so I shall not delay any longer answering your several letters, which I proposed to have done, at the same time that I sent you what arrived by the packet, besides I have now an opportunity of sending this by an officer of the 48th who is going to join his regiment.

* * * *

I am glad you have made up the affair of the murder of the two Tadousac Indians, the Master of the Schooner is an inhabitant of this place, has a good character and the affair being accommodated, gives great pleasure to people here.

* * * *

General Gage has acquainted me that he has discovered the King has a right to the fifth of the sales of all Fiefs or Lordships, likewise to Fines of Alienations, upon all exchanges of inheritance, amongst the inhabitants, and that in consequence he would propose an ordonnance, to be published in support of those rights, and to obligate all new seigneurs to do homage for their manors according to custom. I have begged of him to send information to you and Colonel Burton of every thing he does on this head, and you will please to pursue the same measures, as far as you shall think adviseable and applicable to your Government. [sic.] by what I understand from General Gage this right extends through all Canada, the Lordship of Montreal, excepted only in one part.

I send you the several letters which I have wrote to the officers under your command open for your approval.

* * * *

JEFF. AMHERST.

Honorable Governor MURRAY.

Endorsed : SIR JEFFERY AMHERST, 6th March, 1761.

[27 March, 1761.]

No. 1249.

**GENERAL MURRAY TO GENERAL AMHERST, 27
MARCH, 1761.**

ARCHIVES OF CANADA, LETTER-BOOK OF GEN. JAMES MURRAY, 1759-
89, pp. 63-64. VOL. III.

Quebec, March 27th, 1761.

My Dear General—

* * * *

The discovery w^{ch} M^r. Gage acquaints you, he has made
of the Kings rights in Canada, he had from me ; I hereby send
you Copy of a paper, w^{ch} has beenⁿ Sent to the first Lord of the
Treasury in a letter with a flying Seal, under Cover to M^r Pit, it
will inform you of every thing, & I shall expect instructions
from home, relative to the Kings Domaine in my Government,
In the mean time as I have acquainted his grace, I have
asserted the Kings Claims in every respect ;

* * * *

[7 Aug. 1786.]

No. 1250

**THOS. AINSLIE TO THE INSPECTOR GENERAL,
REPORTING ON HIS PROCEEDINGS IN 1760-1762.**

Sir,—

In answer to your favour of the 5th Instant I beg leave to
acquaint you that in June 1760 Our then Governor, General
Murray was pleased to appoint me his Majesty's Agent of the
Domaine on the North side of the River St. Lawrence; and
directed that I should provide myself with a Vessel and all the
necessaries for these Posts; go down, & take the savages of that
Domaine under the protection of the King.

I accordingly made the necessary provision, and sailed
about the end of July following accompanied by the Revd. Mr.
Cocquart the priest who had the charge of these particular
Tribes. On our arrival at Malbaye I had an account of the farm
and the Stock on
it. . . .

In June 1761 I went down again visited the posts posts of
Malbaye, Tadoussac, Chicoutimi, & Isles Jeremie. I found
them all in such repair as prevented request from the Commis
for Materials. At Chicoutimi I had engaged to meet the Indians
of St Johns, Chummumchuan & Mistacine¹ & some others on
the 24th June 1762 at their request, this appointment I was not

disposed to Brake, therefore mentioned it to the Governor, who approved of it and directed me to signify this to Collect the Commis when I sent down the supplys. That fall I went to England and being later in returning

i[n] 1762 than I expected His Excellency was pleased to send down Mr. John Gray to supply my place & meet the Indians at Chicoutimi from whence & all the other posts he brought up the Returns to Quebec.

About the 25th July 1762 being off the Seven Islands in the Lord Anson on my return to Quebec, I quitted her and Went a shore near Egg Island, where I mett with two Indian Boys belonging to the Isles Jeremie with whome I went there and, from thence, in a canoe to Tadoussac & so to Quebec about the beginning of August. I enquired of Gariepi & Hervieux the Commis of these posts how matters were, & he acquainted me of Mr. Grays Visite. As I did not know his Excellencys intention of making any alteration, I enquired if they wanted any thing, & they answered No. At that time the posts of Kings Domaine were in good repair, & the people free of complaint, tho they had in addition to their number of Lieut Fortye of the 35th Regt. with thirty Men Quartered at Tadoissac [sic.], Chicoutimi, & Isles Jeremie.

On my arrival at Quebec His Excellency intimated to me his intentions of Leasing the posts to Mr. Gray, whom he directed to settle with & pay me the outfitts, in October 1761 together with my sallary amounted to £2721..6..0 Currency which he did the October following ; & Mr. Gray receiv'd the posts in September 1762 not in the state I left them without any Inventory from me or any compensation made on behalf of the Crown at the settlement except my Sallary & Outfits as above, which closed the Transaction.

If any explanation of this Letter should be thought necessary for the further Information of the Commander in Chief or of you as Inspr of His Majesty's Domaine I shall think it my duty to wait on you

Quebec 7th August,
1786
J. WILLIAMS Esqr.
I.G.

I have the Honor to be with
great respect
Sir
Your most obet. Humble
servant

THOS. AINSLIE.

Entered in Documents page 28.

¹Lake St. John, Chamuchuan and Mistassini.

No. 1251.

LEASE OF KING'S POSTS, 20 SEPTEMBER, 1762,

[20 Sept., 1762.]

BY GEN. MURRAY TO THOS. DUNN AND JOHN GRAY FOR 15 YEARS.

ARCHIVES OF CANADA, SERIES Q, VOL. 25, p. 281.

This Indenture made at Quebec the Twentieth day of September in the Year of Our Lord One Thousand Seven Hundred and Sixty two, between His Excellency James Murray Esquire Governor of Quebec and Dependencies thereof, in behalf of His Majesty of the one part, and Thomas Dunn and John Gray Merchants of Quebec of the other part.

Witnesseth, That for and in consideration of the Rent and Covenants herein after reserved and contained on the part and behalf of the Said Thomas Dunn and John Gray their Executors and Administrators, to be paid kept and performed, His said Excellency, Governor James Murray in behalf of His Majesty hath demised, granted and to farm, letten and by these Presents doth demise grant and to farm let unto the Said Thomas Dunn and John Gray the Several Posts, for carrying on the Indian Trade and several sorts of Fishery heretofore known in this Province by the Name of Kings Posts, with all and Singular the Implements, Profits, Commodities and Appurtenances thereunto belonging or Appertaining ; to have & to hold the said Posts, with their and every of their Appurtenances before mentioned, for and during the full term of one year certain, from the first day of October next ensuing, as also for the Term of Fourteen Years from the first of October One Thousand Seven Hundred and Sixty Three, Yielding and paying therefore yearly and every Year, during the said term, unto the Governor of Quebec for the time being, or to whom His Majesty shall please to appoint, the Sum of Four Hundred pounds this Currency, in One payment upon the first day of October of every Year during the Continuance of this present Lease, providing no order to the contrary should arrive from Great Britain, In case the said contrary orders should not arrive before the Month of June in the next or any of the subsequent Years, it is the true intent and meaning of this Indenture, The Said Thomas Dunn and John Gray shall enjoy the Same untill the first of October of the Year following, as before the Month of June Supplies must be sent to the said posts for Twelve Months to come, owing to the Nature of the Commerce carried on with the Indians, & the Navigation of the River St. Laurence being

p. 3239

practicable only a space of certain Time, and that were the said Lessees obliged to relinquish these Posts after their advances

and dispositions made for another Year, they must be Subject to very Considerable losses and the said Thomas Dunn & John Gray shall be at liberty to relinquish the same, they also on their parts giving twelve months notice, to the Governor for the time being, that the Crown may take proper measures for supplying the same, AND if it should happen the said yearly Rent of Four Hundred Pounds or any part thereof should be behind and unpaid by the space of Thirty days after the expiration of the Year; then the Governor of Quebec for the Time being for and in behalf of His Majesty or whom He shall appoint to Re enter, have, Repossess and enjoy the same again, and the said Thomas Dunn and John Gray their Executors, Administrators and Assigns thereat and from thence expel and put out any thing herein to the contrary therefore in any wise notwithstanding, AND the said Honorable James Murray Esquire Governor of Quebec doth for and in behalf of His Majesty Warrant the said Thomas Dunn and John Gray from all intrusion by any other Traders whatsoever, and in particular from such as shall possess and live at the farm of Malbaye which from its Situation and easy communication therewith might otherwise intirely destroy their Trade for and during the Continuance of the present Lease; as do the Said Thomas Dunn and, John Gray agree for themselves, their Executors, Administrators and Assigns, or some or One of them, Shall and will at their own proper Costs and Charges, Support, Keep and Maintain all the Appurtenances of the said Posts in such order as they receive them; And the said Honorable James Murray Esquire Governor of Quebec for and in behalf of His Majesty his Heirs and Successors doth Covenant & Grant to and with the said Thomas Dunn and John Gray their Executors Administrators and Assigns that they the said Thomas Dunn and John Gray their Executors. Administrators and Assigns paying the said Yearly Rent of Four Hundred Pounds above reserved in manner aforesaid, and performing all and every Covenants and Agreements herein before contained, which on their parts & behalfts are or ought to be paid, done, or performed, shall and may Peaceably and Quietly possess and injoy the said Posts, hereby Demised for and during the term hereby Granted, with the aforementioned proviso, without let, trouble or interruption.

In Witness whereof we have hereunto Interchangeably set our hands and Seals the day and year afore Written

Signed Sealed and Delivered
DUNN
in the presence of Us

JAMES MURRAY
THOMS.

JOHN GRAY

H. T. CRAMAHÉ

JOHN McLONE

I do hereby Certify that the foregoing deed is a true and Correct Copy taken from the Original as recorded in the English Register Office of Enrollements for the Province of Quebec

GEO : POWNALL Sec :

[21 Jany., 1764.]

Endorsed: Certified Copy of the Lease of the King's domain at Tadousac & ca. granted by Governor Murray To Thomas Dunn & John Gray, 20th Sepr. 1762. No. 2

No. 1252

C

**DUNN AND GRAY REQUEST CONFIRMATION OF
THEIR LEASE OF THE KING'S POSTS, 21 JANUARY,
1764.**

ARCHIVES OF CANADA. COLONIAL OFFICE PAPERS, VOL. I, p. 166.

London 21 January 1764.

My Lords

When I had the honour of appearing yesterday before Your Lordships, being unacquainted with the real matters contained in the Petition of Mr. Mirrie¹ and others until it was read before the Board and unequal to the task of speaking with that directness & propriety in public, which might have been necessary upon that Occasion ; I beg leave to lay before Your Lordships, a few circumstances, which have since occurred to me, relating to the Posts of the Kings Domain, in Canada and a copy of a Memorial which I presented to the Lords Commissioners of the Treasury, on that Subject, having been informed, that it came naturally under their Consideration as a part of the Revenue, which was the reason it was not immediately laid before Your Lordships.

By the present system of management, in these Posts, the Indians are peaceable, and satisfied with their situation, and their friendship secured to the Crown, without any expence to the Government, with an addition to the Revenue, of Four hundred pounds per annum. By laying them open, the expence of presents, and the appointments of the several Commissarys that will be needful at the different Posts, may amount, to one thousand pounds a year, as a certain charge, on the Government ; and it cannot consist with the interest of any Individual of the number that will goe to these places, when the trade to them becomes general, to have stores of Goods & provisions,

¹ Anthony Merry.
p. 3241

lodged there for the whole year, as is now the case; and it is to be feared, the want of that resource they have always had, may

occasion discontents among the Indians, the consequences of which, may be difficult to obviate. Besides, as the limits of the barren Country they inhabit, are very extensive, it will be next to impossible to prevent the lower Class of people from making journeys privately, into the interior distant parts of it, and committing abuses of a dangerous nature, and which in the present case, has seldom been attempted, but never without detection.

These particulars I have taken the liberty to lay before your Lordships, not from any view, to insinuate the propriety of continuing the Posts, as heretofore, if the consequences, I have suggested can be avoided by a different Plan ; But as the lease, granted to me and my Partners, for one year certain, and fourteen if approved by the Government with power in us to relinquish it, upon giving twelve months notice, not only carried a probability, from appearances, of our enjoying the lease for some years longer, but also the necessary measures followed, for preserving the friendship of the Indians, led us unavoidably into a very large expence, of advancing them Goods and necessarys upon Credit, besides the charge of building and repairing dwelling and Storehouses, which had been rifled or destroyed by the Privateers, in the time of the Late war, with many utensils and materials, we were obliged to lay in, to a considerable value, and which if the Posts are immediately laid open, can serve for no other purpose, and will therefore be almost a total loss; I'm encouraged to hope from these Facts which may be made appear more fully if needful, that your Lordships will be pleased to take our case into Consideration, being singularly hard upon us, And if it should be found expedient to alter the present establishment of the Posts, to Grant us a reasonable time to retire our Debts and Effects, which otherwise will be impracticable for us. but a certain, Severe, and heavy Loss. I have the honor to be with the most profound respect

My Lords

Your Lordships most Obedient &
most humble Servant

Letter signed
GRAY.

JOHN

Endorsed: QUEBEC. Letter from Mr. JOHN GRAY to the Board, dated 21st January 1764 relating to the Posts of the Kings Domain in Canada and inclosing :

Recd

Read June 18 1764

No. 1253.

[*Enclosure in No. 1248.*]

**MEMORIAL TO THE LORDS, COMMISSIONERS OF
THE TREASURY BY RICHARD MURRAY JOHN
GRAY & THOMAS DUNN.**

ARCHIVES OF CANADA. COLONIAL OFFICE PAPERS, VOL. I, p. 169.

To the Right Honble the Lords Commissioners of the
Treasury.

The Memorial of Richard Murray John Gray & Thomas
Dunn.

Humbly Sheweth

That Your Memorialists being Residenters in Canada, have for some time farmed the Posts of the Kings Domain, situated on the north Side of the River St. Lawrence, commonly known by the names of Tadoussac, Chicoutimy, Jeremies and Seven Islands which are places of Rendezvous for some Tribes of Indians inhabiting the northern parts of lower Canada, whither they resort to trade for European Commodities and provisions; for which Your Memorialists pay at the rate of four hundred Pounds p. annum, being the highest offer. The Country these Indians inhabit being altogether incapable of Cultivation, and the hunting Season lasting but for about Six months in the year, they are reduced to an entire dependance for support, the rest of the time, upon the supplys brought them by the Traders.

They are naturally a very inconsiderate people, and were they indulged with Spirituous Liquors and other superfluities, to which they are unconquerably addicted, they would in a few weeks, consume the whole produce of their years labour, and on the approach of the rigorous winter find themselves naked and exposed to the utmost misery, and wreak their vengeance indiscriminately on the first Europeans or other white people they met with, as the immediate authors of their misfortune. On this Account the Persons farming these posts are obliged by the tenor of their Lease to furnish them with necessaries and provisions in proportion to their real wants and circumstances and as they are often sick or unsuccessful, to give them Credit, and support their Familys, until fortune puts it in their power to pay, And in ease of death, to maintain their Widows and Orphans, till they are capable of providing for themselves, But should these Posts be laid open, numbers of people void of principle, and who have no Characters to Lose, would croud in among them, with a view to take advantage of their Simplicity, and deprive

them of those Resources they are now often obliged to have recourse to, for one half of the year.

The French who more than any other Nation, seem to have study'd the nature & genius of the Indians were sensible of these disadvantages & therefore established Factors, or obliged the Farmers to do so, at the Posts above mentioned, to supply the Savages abundantly with what their necessities reasonably Required, Common rates were fixed and agreed upon, for the exchange of every Commoditie, so that the Indian knew the Standard value of whatever he brought to market. The Leasees were restricted as to the quantity of Spirits, they were allowed to distribute among them. All others were excluded from a Commerce in these Posts, for the better maintainance of Good order, and Securing their affections, for by this means the Offenders could be immediately detected, in case any injury or injustice were offered to this ignorant, unwary but vindictive people.

The present Governor, General Murray, sensible of the propriety of this method of managing the Indians, in that quarter of the Country, and in consequence of their own Solicitations, as well as to prevent abuses, which might have had dangerous effects, thought proper hitherto, to continue them on the same footing as formerly. He has by this means, conciliated the minds of the Savages to his Government, in so much, that when an universal revolt appears to have been entered into, by all the other Indian nations in North America those immediately under his jurisdiction, have not only remained faithful and peaceable, but when earnestly solicited to join the disaffected Tribes, they firmly declared they had no wish to change their Masters, as they had at no time before, met with better Treatment or more Justice, than since the English have been in possession of Canada.

Your Memorialists humbly hope, that as they have had the farming of these Posts for some time past, and are now Recommended by His Excellency Governor Murray, on Account of their experience, and the Satisfaction they have hitherto given, Your Lordships will be pleased, upon finding the expediency of keeping these Posts, under the same regulations as heretofore, to Grant them a Lease, for such a number of years, and on such Conditions, as Your Lordships shall judge proper. All of which is humbly submitted &c &c &c.

(Signed) RICHARD

MURRAY

JOHN GRAY

in behalf of themselves and Partners.

Endorsed: QUEBEC. Copy of a Memorial of RICHD. MURRAY, JOHN GRAY & THOMAS DUNN to the Lords of the Treasury.

R/ with Mr. Gray's Letter of 21 Janry 1764. Read June
18th 1764. A 47.

No. 1254.

**PETITION OF MESSRS. DUNN AND GRAY TO
GOVERNOR MURRAY, 9 MARCH, 1765.**

[9 March, 1765.]

ARCHIVES OF CANADA, SERIES Q, VOL. 3, pp. 299-302.

To His Excellency the Honble James Murray Esquire,
Captain General and Governor in Chief of the Province of
Quebec &c. &c. &c. and the Honorable the Council for His
Majesty in said Province.

The Petition of Thomas Dunn & John Gray.

Humbly Sheweth

That your Petitioners have for these two years past been Lessees of the Posts of the King's Domain in this Province according to their antient Limits, by virtue of a Lease granted to them on the part of His Majesty, for one year certain, and for fourteen years, if approved of by the King, reserving a power in his said Majesty to annul the Lease upon giving your Petitioners Six Months Notice before the Commencement of any subsequent Year, and in the Lessees to relinquish their Lease upon giving twelve Months Notice to His Majesty's Governor of this Province for the time being, And in default of the said Notice being given on either side, then the Lease to continue and be in force during and until the Expiration of the said ensuing or subsequent Year.

That your Petitioners had occasion to show their Lease and explain the nature of it to the Board of Trade in England last Year, with the received Opinions and given Motives of the French Government formerly in this Province, for that Method of conducting the Posts of the King's Domain ; and also the state of them when this Country was conquered, which rendered their being continued upon the same footing necessary, until His Majesty's pleasure should be known in that behalf. Upon this Occasion their Lordships were pleased to observe, that the Lease was very proper, very prudently and cautiously made, and under such Circumstances every reasonable Power reserved to His Majesty.

That your Petitioners in faith of their Lease Strengthen'd and encouraged by this Just declaration from their Lordships of the Board of Trade, have equipped and supplied the Indians of the Domain for this present Year to a very large amount, the Returns for which they cannot come at, before the

p. 3245

Month of September next at soonest, and as they have not received warning of His Majesty's Intentions to lay the Posts of the Domain open, until the present Year was commenced,

several Months thereof elapsed, and all their advances made to the Indians, and as the laying them immediately open must inevitably and totally ruin your Petitioners ;

Well assured that neither His Majesty, His Ministry, nor the Legislative Body of any of his Colonies or Provinces, when duly informed of the Merits of their request, will see Individuals destroyed and ruined especially where no Injury to the publick can ensue by supporting them in their claim.

Your Petitioners humbly pray and earnestly beseech Your Excellency and Honors not only for their own sakes, but in behalf of their Creditors, and Correspondents, who otherwise must suffer as well as your Petitioners, that They may be allowed the fair Benefit which Justice entitles them to, by granting them your Protection and Support in the uninterrupted possession and enjoyment of their Lease, until the end of this Year, which elapses the first day of October next.

And your Petitioners shall ever pray &c. &c.

THOM^s DUNN

JOHN GRAY

Quebec 9th March 1765.

Endorsed: Copy of a Petition of Mess^{rs} Dunn & Gray to Gov^r Murray.

9 March 1765.

No. 1255.

**PERE COQUART'S LETTER TO GOVERNOR
MURRAY, 12 MARCH, 1765.**

[12 March, 1765.]

ARCHIVES DE L'UNIVERSITÉ LAVAL, QUEBEC.

Monsieur,

Je viens de recevoir une députation de mes sauvages qui m'a beaucoup surpris; et par leurs discours, Ils m'ont témoigné encore plus d'étonnement que je n'en avois moi-même. Mon père, m'ont ils dit avec un peu d'émotion nous apprenons qu'on veut donner nos terres, non pas seulement pour y venir traiter, mais les donner en propriété, une partie à L'un, une partie à L'autre, en sorte que nous serons depouillé de ce que nous possédons: Car tu scais, mon père, que nous avons chacun notre terrain, nos grands pères L'ont eu avant nous, ils L'ont laissé à leurs Enfants, nous en jouissons aujourd'huy. Pierre ne vas pas chasser sur les terres de Jacques, nous le traittons de voleurs Lorsqu'il a été tendre des chemins de Martres ou qu'il a détruit des chaussées de castor sur ce terrain qui nous appartient ou veut'on que nous nous retirions si nous n'avons pas les bords de la mer pour nous. Il faudra donc payer à ces propriétaires pour avoir La vie que nous trouvons en Été dans les rivieres [sic.] et dans les Lacs proche du fleuve, car on ne nous laissera ni chasser ni pescher sans payer quelque chose pour en avoir la permission. tu scais, Mon père, quo nous avons bien de la peine à vivre : et si on nous vend notre vie que veut-on que nous devenions? Sont ce la les promesses

(Translation.)

MONSIEUR :—

To my surprise, I have received a deputation of my Indians and, by their statements, they prove that they are more astonished than I am. With some emotion, they said to me : My father, we learn that our lands are to be given away not only for the fur trade but to grant them in fee simple, part to one and part to another in such a way that we will be despoiled of our possessions. But you know, my father, that we have each our own district which our grandfathers had before us. They have bequeathed them to their children and we hold them to-day. Pierre does not hunt on the lands owned by Jacques. He would be treated as a thief. When he has set traps in the marten paths or has broken into the beaver houses in the district which belongs to us, where shall we live if we have not the sea-shore?

It will be necessary, therefore, to compensate the proprietors for the wild life that we find in the summer in the rivers and in the lakes near the large rivers. The owners will not surrender the hunting or the fishing unless they are compensated for the surrender. You know, my father, that we have much difficulty in making a living; and if our wild life is sold, what will become of

que nous que nous a fait faire notre pere Le Roy d'Angleterre; toy, mon père, tu nous a dis que son intention estoit de nous faire jouir des avantages de la paix comme ses autres sujets, nous esperons qu'il voudra bien nous tenir la parole qu'il nous a fait donner, nous reconnoissons Le Roy d'Angleterre pour notre pere et notre Maitre nous voulons Luy obéir, et Luy etre fideles mais il nous permettra de luy représenter que depuis Cent Cinquante Ans, et au dela, C'est a dire bien avant que Ceux de L'autre bord, (les Européens) soient venus s'emparer de ce pays, nos Pères et nous avons toujours habités les Terres que nous habitons aujourd'hui, les bords de la mer et La profondeur pour La chasse tant en hyver qu'en été. Il est vray que le Roy de france a pris cette terre pour Luy, mais ca été pour nous la conserver, nous étions ses enfants, Il nous regardois comme tels, et il chargeoit quelcun de nous donner nos besoins pour La vie et pour L'habit. nous donnions a Celui qu'il avait chargé de Ce soin nos Pelleteries, et tout ce qui provenoit de notre chasse: nous étions tranquiles, nous chassions sans nous embarasser qui faisait la paix ou la guerre. aujourd'hui notre Père Le Roy d'Angleterre a fait par Les armes la Conquête de Ce pays, Ce pays Luy appartient donc: C'etoient des terres que le Roy de france s'etois reservées elles appartiennent aujourd'hui a notre Pere le Roy d'Angleterre, qu'il les prenne donc, qu'il se les reserve nous voulons etre ses enfants, et nous Luy serons toujours fideles: nous demandons seulement qu'il nous fasse chasser tranquillement et sans Inquiétude, que nous n'ayions à repondre qu'a luy ou au chef qu'il mettra a québec pour nous gouverner, mais qu'il ne permette pas que l'on donne ou vende nos terres a plusieurs particuliers. Nous avons toujours été nation libre, et nous deviendrons Esclaves, ce qui nous seroit bien dur, après avoir

(Translation.)

us? Are these the promises that have been made to us by the King of England? Thou, my father, hast stated that it was his intention that we enjoy the advantages of peace as we are his subjects and we hope that he will keep his promises to us. We recognise the King of England as our father and master. We are willing to obey him and to be faithful but he will allow us to represent that, 150 years ago and more, that is to say, a very long time ago, people from the other side (Europeans) took possession of this country. Our fathers and we ourselves have been inhabitants of the lands that we occupy to-day, of the sea-shores and of the interior for hunting in winter and summer. It is true that the King of France has taken this land for himself but it was to conserve it for us. We were his children. He considered us as such and he charged somebody to give us the necessaries of life and clothing and we were assigned to the one in charge (the Governor) that he might take care of our health and all that we obtained from our hunting. We were not worrying. We hunted without being concerned as to who was at peace or at war. To-day, our father the King of England has taken this country by conquest and it belongs to him. These lands that the King of France had reserved for himself, belong to-day to our father the King of England so he may take them and reserve them. We are willing to be his children and we will always be faithful to him. We only ask that he permit us to hunt in peace and without interference and that we be not answerable to anybody or to the chief that he places at Quebec to govern us but that he do not alienate our lands to various individuals. We have always been a free nation and we would become slaves which would be very hard after being free so long. This, my father, is what, at present, we desire to tell

jouis si Longtemps de notre Liberté: Voila, mon père ce que nous voulions te dire jusqu'a présent. au reste nous allons penser tous en Commun, et si nous trouvons necessaire de te faire de nouvelles representations, nous to Les ferons. tu es notre père, nous ne connoissons ny notre père ny les chefs qu'il a mis pour nous commander C'est a toy a prendre soin de tes Enfants, nous te prions donc de faire connoitre à notre chef de Québec nos sentiments, afin qu'il écrive à notre père le Roy d'Angleterre notre scituation et nos besoins; nous voulons etre ses enfants et nous le serons a quelque prix que ce soit.

Voila, Monsieur les representation de mes sauvages telle qu'elle est; je Les soumets à la sagesse et la prudence de Votre Excellence, mais Jay cru etre obligé de vous en faire part pour vous Instruire de tout ce qui se passe

Jay l'honneur d'etre avec le plus profond respect

Monsieur
de votre Excellence
le Très humble et Très obéissant Serviteur
COQUART

Missionnaire des traittes de Tadoussac, a Tadoussac 12^o Mars
1765.

Collationné sur la copie conservée aux Archives de l'Université Laval. par nous archiviste soussigné ce 22 juillet 1921

AMEDEE GOSSELIN, Ptre
A.U.L.

(Translation.)

you. We will think it over and, if we find it necessary to make new representations to you, we will do so. Thou art our father. We do not know our father or the chiefs he has sent to govern us. As it is your duty to take care of your children, we ask you to inform our chief at Quebec respecting our sentiments that he may write to our father the King of England concerning our situation and our needs. We are determined to be his children and at any cost.

Here, Sir, are the representations of my Indians. I am submitting them to the wisdom and consideration of your Excellency but I thought it my duty to inform you respecting all that is going on.

I have the honour to be with the greatest respect

Sir,

Your Excellency's very humble
and obedient servant,

COQUART

Missionary of the Traité de Tadoussac, 12 March, 1765.

Compared with the copy conserved in the Archives of Laval University by our Archivist, the undersigned, 22 July, 1921.

AMEDEE GOSSELIN, Ptre
A.V.L.

No. 1256.**FORM OF LICENCE TO TRADE WITH THE INDIANS**;
USED IN 1766.

ARCHIVES OF CANADA, SERIES Q, VOL. 3, pp. 303-304.

Quebec Gs.

Whereas by a Proclamation of the Governor and Council of this Province published on the 31st January 1765 wherein all intercourse and Trade with the Several Indian Nations living under His Majesty's Protection was declared to be Free and open to all His Subjects, under the Restrictions mention'd in His Majesty's Royal Proclamation dated at St. James's the Seventh day of October, one Thousand, seven hundred and sixty three ; In conformity thereto this Licence is Granted unto
to trade with any of the said Indian Nations, having given bond to observe such Rules and Regulations as now are or may hereafter be made by His Majesty's Superintendant for Indian Affairs, or other His Majesty's Officers properly authorized serving in these Regions.

This Licence to be in force for Months and no longer.

Given under my hand & Seal at arms this day of 1766.

By order of the Commander in Chief of the Province.

Endorsed : Copy of an Indian Licence Granted by L^t Col. IRVING.

[10 March, 1766.]

No. 1257.**EXTRACT FROM INSTRUCTIONS TO THE KING'S
RECEIVER GENERAL IN THE PROVINCE OF
QUEBEC, 10 MARCH, 1766.**

PUBLIC RECORDS OFFICE. TREASURY DOCUMENT T. 28, VOL. I, p. 88.

His Majesty having by his Commission under his Royal Sign Man^l dated the 10th day of July 1765 appointed you Receiver General and Collector of all the patrimony Estates Revenues Farms Taxes Tythes Duties Imposts Profits and Casualties whatsoever (his Revenue of Customs always excepted) belonging to his Majesty and which had arisen or should arise within his Majesty's Province of Quebec, And his Majesty having in the same Commission required you to follow such Orders Rules & Instructions as you should receive from his Majesty as therein is mentioned, or from the Comm^{rs} of his Majesty's treasury or his Maj^{ty's} High Treasurer for the time being. We the Comm^{rs} of his Majesty's, Treasury now being have thought fit to give unto you the Orders Rules and Instructions herein after contained for your Government in the Execution of the Trust committed to you in and by the said Recited Commission That is to say . . .

We having been informed that the Posts and places of resort to which the Indian & Savage Nations used at stated times of the year to come with their Furrs and peltries were formerly kept as part of the Kings Domain and Estate, But that a Lease of the said Posts and places both been granted by Gov^r Murray to a Company of Merchants for a term of years upon the same plan as when the Country was subject to the French King, You are hereby strictly directed to examine into the nature and condition of that Lease, and acquaint us for his Majesty's Information whether in your opinion by the continuance of the said Lease, the Confidence of the Savages may be gained and their affections to his Majestys Government be conciliated and preserved in the most effectual manner ; or whether the s^d purposes may not be better answered & obtained by opening a free intercourse of Trade between them and the Province. . .

And lastly We charge and require you Annually to transmit to the Comm^{rs} of his Majesty's Treasury for the time being Exact Accounts of all Your Receipts and payments and other Your Transactions in the premisses taking care that Duplicates thereof be sent by different Ships to prevent the Consequences of any Miscarriages by dangers of the Seas. Given under Our hands at the Treasury Cham hers in Whitehall the 10th day of March 1766.

WM. DOWDESWELL
I. CAVENDISH
GEO. ONSLOW

To our very loving Friend Thos Mills Esqr. Recr. General
& Colin of his Maj^{ts} Revenues arising within the Province
Quebec the Revenue of Customs Excepted.

**MEMORIAL OF DUNN AND GRANT, LESSEES OF
THE KING'S POSTS, 22 OCTOBER, 1766.**

[22 Oct., 1766.]

ARCHIVES OF CANADA, SERIES Q, VOL. 3, pp. 318-325.

1762.
Sept^r20th

To the Hon'ble Members of His Majesty's Council appointed as a Committee to enquire into the present State of the posts of His Majesty's Domain.

The Memorial of the Lessees

1763.
Oct^r7th

Thomas Dunn & W^m. Grant.

Your Honors having thought proper to communicate to us a Memorial from Mr. Joseph Howard and others relative to the Posts of His Majesty's Domain, We beg leave to give you a Detail of what Occurs to us at present on that head, since the commencement of our Lease.

1765.
Jan^y31st

His Excellency Governor Murray granted to Thomas Dunn and John Gray, a Lease for a certain number of years of the Posts, formerly known in this Country by the Name of King's Posts or Domain, on several conditions which will more fully appear by the Lease.

In March.

His Majesty was pleased to issue His Royal Proclamation signifying His pleasure with Regard to North America, and enjoining that the Trade with the Indians described therein might be free and open to all His Subjects.

His Excellency Governor Murray in Council Issued a Proclamation (in consequence of that of the King last before mentioned) setting forth, " That Hostilities were now ceased with the several Indian Nations, who lately appeared in Arms against His Majesty ; and a friendly Intercourse between His Majesty's Subjects and them thereby restored" : Publishes and declares, " That the Trade with the Several Indian Nations living under His Majesty's Protection was free and open to all his Subjects, under the restrictions mention'd in the said Royal Proclamation."

October
1765.

Mess^{rs}. Rotote & Launier Merch^{ts} in this City misunderstanding the above recited Proclamations applied to the Gov^r and Council " For Liberty to Trade with the Indians of His Majesty's said Domain," which His Excellency and Council thought proper to refuse : Nevertheless in order to gain time for knowing His Majesty's express commands respecting his said Domain, and also to prevent more applications untill his pleasure could be known, He requested the Lessees to write him the Memorial.

October.

p. 3252

1766.

In consequence of which His Excellency the Governor

inserted the advertisement, B, in the Quebec Gazette.

March 21st.

Mess^{rs}. Alsop & Co. Merchants (in this City) applied to Government for a permission to Trade with the Indians of His Majesty's Domain, which was refused ; they then desired a general Pass as given to His Majesty's other Subjects ; this they immediately obtained. At same time the Secretary of the Province by command of the Gov^r adverted to them, “ That they were strictly forbid and at their peril to Trade at the Posts of the King's Domain.

May.

The acting Receiver General by express desire of His Excellency the Gov^r received the Rent of this year, and gave the Lessees his receipt for the same in the usual Form.

His Majesty's Receiver General Thomas Mills Esq^r on receiving his Instructions from the Lords Commissioners of the Treasury wrote his Excellency Gov^r Murray and the then Acting Receiver General, “ That he was appointed to receive His Majesty's Revenues, and to take care of his Domain and Estates in Canada, And particularly to enquire and examine into the Lease made of the Posts of His Majesty's Domain to a Company of Merchants.

June.

Your Memorialists and the acting Receiver General in Conjunction informed the Gov^r and Council “ That, notwithstanding the order signified to Mess^{rs} Alsop & Co. by the Secretary of the Province in October 1765, as above mentioned, * Mr. Edward Chinn had gone to the said Posts, traded with the Indians, to the great detriment of the Lessees, and without leave of Government, or that of the Lessees, had erected buildings at Chicoutimy ;” And farther, “ That at this very time they had entered at the Custom House Goods and Materials to build Houses, and desired the same to be cleared out for His Majesty's Domain.”

July.

August.

This the Collector and Comptroller will prove.

In consequence of the last aforesaid application ; His Excellency and Council intimated and Strictly forbid Mr. Alsop to Erect buildings on His Majesty's said Domain, which was signified to him by the Secretary of the Province.

Octo^r 11th.

Thomas Mills Esq^r Receiver General arrived ; who, after having examined the said Lease, Published in the Gazette his advertisement, dated the 9th August, To the End that the Lessees might quietly and peaceably enjoy their Said Lease, and that His Majesty's Revenue might not suffer.

A Warrant was Issued by the Hon'ble Paulus Emilius Irving Esq^r Commander in Chief of the Province in Council, ordering Peter Stuart Esq^r (agent for the Lessees and Resident at the said Posts,) “ To take down and remove all Buildings, which were or should be erected by Messrs Alsop & Co. their Agents, or others, on His Majesty's said Domain.

One of your said Memorialists, to his great astonishment was informed by a Committee of His Majesty's Council then assembled, That a Warrant

had been granted to M^r. Alsop or his Associates to suspend the execution of the former Warrant given to M^r. (Stuart) Stuart.

Your Memorialists now beg leave to make such Remarks as Naturally Occur to them on this Occasion.

The Lessees continued uninterrupted in the enjoyment of their Lease from the date thereof 1762 untill Nov^r 1765, when Mess^{rs} Chinn & C^o, contrary and in defiance of Government went to said Posts to Trade with the Indians, and to debauch their Morals by the Sale of Spirituous Liquors, Strictly forbid by an Ordinance of this Province.

Your Memorialists cannot conceive, that His Majesty's Proclamation in 1763, nor that of Gov^r Murray two years thereafter, in the least affects their Lease. It cannot be presumed, that the Lessees by their Memorials of March 1765 meant to hurt themselves, Nor that the Gov^{rs} advertisement of 14th of said Month could be with an Intent to lay open the posts, otherwise many of His Majesty's Subjects, besides Mess^{rs} Alsop & C^o. would have taken advantage thereof : And the Acting Receiver General by Express Orders from the Governor would not, had that been the meaning of Government, have presumed to receive the Rent ; nor can it be supposed, that his Majesty has given up to the Public that part of His private Estate and Domain, when the Contrary evidently appears from the Advertisement published in the Gazette by the Receiver General aforesaid.

Your Memorialists never understood, that any past Action of Government was with an intent to annul their Lease ; on the contrary every step, untill the Suspension of the Warrant to Mr. Stuart was evidently with a View to protect the Lessees, who still hope and expect the Protection and Justice which their Lease entitles them to, as they have hitherto and always will carefully fulfill every Covenant & Condition thereof.

Your Memorialists have only now to Request, that your Honors will be pleased, after considering the above premises, to lay this Memorial before his Honor the Lieut^t Governor in Council.

THOMAS DUNN
WILLIAM GRANT.

Quebec 22(d) Octob^r 1766.

Endorsed : Copy of the Answer of Mess^{rs} Dunn & Grant to M^r.
Howards Petition. 21 Oct^r 17 66.

[13 Oct., 1766.]

No. 1259.

**MEMOIRE BY F. S. CUGNET RESPECTING THE
KING'S POSTS, 13 OCTOBER, 1766.**

(Enclosure in Lt.-Gov. Carleton's letter to Lord Shelburne,
25 Oct. 1766.)

ARCHIVES OF CANADA, SERIES Q, VOL. 3, pp. 290-294.

Les Postes et Traittes du Roy, communement apellez les Traittes de Tadoussac, prennent au Cap aux oyes, Joignant aux Boulemens Et sesuivent le long du fleuve du Costé du Nord Jusqu'au Cap des Corps morans a quinze lieues au dessous des sept Isles.

La malbaye a été achetée par mon Pere. Il'y a Environ 30 a 35 ans, des Messieur harens a qui elle appartenoit 25000^{lb} pour le compte du Roy, dans la vue que ces formes fourniraient aux differens Postes Etably les farines, Lards, Baufre, Beurres, Graisses et planches dont ils auroient besoin. La Crainte que les Proprietaires de cette Seigneurie, ne firent la traité avec les Sauvages des Postes, ayant a la malbaye une petite Riviere Communiquant a celle du Saguenay, a été un dits principaux motifs pour l'acheter Elle a depuis fait partie des postes Et traittés du Roy, et a Toujours beaucoup faciliter leur exploitation.

N^a Ce Contract d'achat se trouver dans les Papiers de l'Intendance.

Tadoussace a 14 Lieues plus bas que la malbaye a toujours ete le principal Poste.

(Translation.)

The King's Posts and trades commonly known as the *Traité de Tadoussac*, begin at Cape aux Oyes, adjacent to Les Eboulements and extend along the north shore of the river as far as cape Cormorant, fifteen leagues above Seven Islands. Malbaye was acquired by my father some thirty or thirty-five years ago from Messieurs Harens, owners of the same, at the price of 25,000 *livres*, for the King's account, on the assumption that its farms would supply the various posts with the flour, pork, "baafre," butter, fats and lumber required by them. One of the chief inducements to purchase that seigniory was the fear that the owners of the same might trade with the Indians of the King's Posts, there being at Malbaye a small river which afforded a means of communication with the Saguenay. Since that time, it has formed part of the King's Posts and trades, and has always materially facilitated operations therein.

Note.—The deed of purchase should be found in the records of the office of the Intendant.

Tadoussac, 14 leagues lower than Malbaye, was always the chief post.

Chicoutimy a 40 Lieues plus haut dans les Terres en montant la Riviere du Saguenay.

Le Lac S^t Jean 40 Lieues plus haut que Checoutimy en partant du Lac S^t Jean. Il'y a Deux Postes, Sçavoir les mistussins au N.N.O. a 150 Lieues de son Embouchure et Chobmonchouane au O.S.O. a 60 Lieues dud. lac.

N^a Ce trois postes dependent de celuy de Checoutimy.

Les Isles de Jerémie a 25 Lieucs plus bas que Tadoussac.

La pointe à la Croix où Haire S^t Nicolas a 18 Lieues.

N^a Ce posta depend de celuy des Isles de Jeremie mon Pere avoit fait reunir au Domaine mille Vaches qui faisait partie de ce poste. Cet acte de Reunion doit se trouver dans les papiers de l'Intendance. Il est a présumer que la famille aubert Heritiers de cette Seigneurie. En a etc pour lors de dommagée.

Et les Sept Isles ou Rivière Moizy, pris et Egalement reunis au Domaine a la Requête de mon Pére, de la Concession en Seigneurie de la Terre ferme de Mingan appartenant aux Heritiers Bissot par Ordonnance de Monsieur Hoc quart Intendant. Jly a environ Trente ans, qui se doit Trouver dans les papiers de l'Intendance Jusqu'au Cap des Corps Morans à 35 Lieues plus bas que le Haire des Nicolas, a quoy les Heritiers Bissot n'ont fait alors aucune oppositions N'ayant dans cette Distance aucun Etablissement.

Ce qui faisoit une etendue de Terre le long du Fleuve de 97 Lieues de front sur Environ 190 de Profondeur connue.

Tous ces differens Postes etaient etablys et avaient Chacun un hivernement. Ces Postes depuis leur Etablissement avaient Toujours Ete Exploités et Réglés par mon Pere pour le compte du Roy, En sa qualité de Directeur et

(Translation.)

Chicoutimy, 40 leagues further inland, ascending the Saguenay river. Lake St. John is situated 40 leagues above Chicoutimy. After leaving lake St. John two posts are to be found, namely Mistassin, to the N.N.W., 150 leagues from its mouth, and Chobmonchouane, to the W.S.W., 60 leagues from the lake.

Note.—The above three posts are dependencies of Chicoutimy post.

Isles-de-Jérémie, 25 leagues lower than Tadoussac.

Pointe-de-la-Croix or Havre St. Nicholas, 18 leagues distant.

Note.—The last-named post is dependent on Isles-de-Jérémie, my father having reunited Mille Vaches to the Domaine, which thus formed part of that post. This deed of reunion should be in the records of the office of the Intendant. Presumably, the Aubert family, heirs of that seigniory, incurred losses from that time.

Seven Islands or River Noisy was also reunited to the Domaine at my father's request, being taken from the concession, as a seigniory, of Terre Ferme de Mingan belonging to the heirs Bissot by an ordinance of Mr. Hocquart, Intendant, as far as cape Cormorant, 35 leagues lower than Havre de Nicolas, to which reunion the heirs Bissot raised no objection at the time, they having no establishment in this area.

This formed an extent of land along the river of 97 leagues in front by some 190 leagues in depth as known.

All these various posts were established and each one had a wintering staff : since

Receveur Général de Ses Domaines Jusqu'eu L'année 1744 ou 1745 qui'ils lui ont été affermés comme une Recompense de ses Services En sa qualité de premier Conseiller du Conseil superieur de cette Colonie, a 4500 ^{lb} par an de ferme, dont les profits luy ont aidés a Suporter les Pertes que luy ont occasionné les forges de St Maurice.

Ils ont Ensuite ete affermés a sa mort a M^{lle} Fornel et Compagnie pendant cinq ans, qui n'y a pas Trouué son Compte, les Exploitant mal, et ayant, par l'Eau de vie qu'elle donnait abondamment aux Sauvages, occasionne la mort de plusieurs familles.

Depuis 1716 Ils ont été regis pour le Compte du Roy par le Directeur du Domaine. Jusqu'a la Conquête.

Au tems de l'Exploitation de mon Pere, Les Sauvages de ces differens Postes, Etaient au Nombre de 200 Families, Il etait Expressément defendu aux Commis de donner de L'Eau de vie aux Sauvages, qui dans des Cas pressants et Toujours en très petite quantité et l'Armement des dits Postes montait a 100 a 110000 ^{lb} et les Retours Année Commune a 130 a 140000 ^{lb}.

Quebec ce 13 Octobre 1766.

Fs. S. CUGNET.

Endorsed : Copy of M. Cugnett's Account of the Posts of the Domain during the French Government.

(Translation.)

lishment they always had been operated and managed by my father for the King's account, in his position as Director and Receiver-General of the Domaine, up to the year 1744 or 1745 when they were rented to him in recognition of his services as Premier Conseiller in the Superior Council of this colony, at 4,500 *livres* per year, and the profits therefrom made up to some extent the losses he had suffered in connection with the St. Maurice ironworks.

Upon his death they were leased to Mlle. Fornel et Cie. for five years, but they derived no profit from the same, owing to mismanagement and too free a distribution of brandy to the Indians, which caused the ruination of several families.

Since 1716, they were managed for the King's account, by the Director of the Domaine, and this condition prevailed up to the conquest.

When these posts were under my father's management, the Indians numbered 200 families. The clerks were strictly prohibited from giving any brandy to the Indians excepting in case of emergency and then always in very small quantity. And the equipment of the said posts amounted to front 100,000 to 110,000 *livres*, while the returns averaged from 130,000 to 140,000 *livres* a year.

Quebec, 13 October, 1766.

F. S. CUGNET.

[May 1767.]

[16 June 1767.]

No. 1260.

**STATE OF THE POSTS OF THE KING'S DOMAINE IN
CANADA, ETC., MEMOIRE BY GOVERNOR
MURRAY.**

Vide page 2760, Vol. VI.

No. 1261.

**LETTER, 16 JUNE, 1767, WALPOLE TO LOWNDES,
re PETITION BY ANTHONY MERRY.**

PRIVY COUNCIL, 2, VOL. 112, p. 338.

Whitehall Council Office,

16th June 1767.

Sir

The Lords of the Committee of Council having taken into consideration a Petition of Anthony Merry and others relating to their having been prevented from establishing a Trade with the Indians at the King's Posts of Tadousac and Chegotimi on the River Saguenay in the Province of Canada together with a report made to the Board of Trade thereupon. And their Lordships understanding that the Subject Matter of keeping the said Posts in the Hands of the Crown has been under the consideration of the Lords of the Treasury, I am directed to transmit to you the enclosed copy of the Committee's Report upon the above mentioned Paper, in order to your laying the same before the Lords of the Treasury, that they may be pleased to signify to the Committee, whether they have any objections to what is Proposed in the said Report.

ROBT WALPOLE.

To CHARLES LOWNDES Esq.
Secy to the Treasury

No. 1262.

**ORDER-IN COUNCIL, 26 JUNE, 1767, RESPECTING
THE TRADE OF TADOUSSAC, ETC.**

QUEBEC GAZETTE, THURSDAY, OCTOBER 20, 1768.

By the Honorable Guy Carleton, Lieutenant-Governor
and Commander in Chief of the Province of Quebec,
Brigadier-General of His Majesty's Forces, &c. &c.

A PROCLAMATION

Whereas I have received an Order of his Majesty in
Council, dated the 26th Day of June, 1767, in the Words
following, viz.

At the Court at St. James's,
The 26th Day of June, 1767.

PRESENT,

The King's Most Excellent Majesty.

Arch-Bishop of Canterbury,	Earl of Harcourt,
Lord President,	Earl of Shelburne,
Duke of Grafton,	Viscount Townshend,
Duke of Queensberry,	Viscount Howe,
Lord Steward,	Viscount Barrington,
Earl of Huntingdon,	Viscount Clare,
Earl of Denbigh,	Viscount Villiers,
Earl of Litchfield,	Lord Sandys,
Earl of Cholmondeley,	James Stuart Mackenzie, Esq.,
Earl of Marchmont,	James Oswald, Esq.,
Earl of Bristol,	Sir Edward Hawke,
Earl of Ashburnham,	

Whereas there was this Day read at the Board, a Report
from the Right Honourable the Lords of the Committee of
Council for Plantation Affairs, dated the 12th of this Instant, in
the Words following, viz.

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“ Your Majesty having been pleased, by your Order in
Council, of the third of December last, to refer unto this

Committee, the humble Petition of Anthony Merry, of London, Merchant, in Behalf of himself, George Allsopp, Joseph Howard, and Edward Chinn, Merchants, and Inhabitants of your Majesty's Province of Canada, in North-America, setting forth, amongst other Things, That, in Consequence of your Majesty's Royal Proclamation, of the 7th of October, 1763, and of another Proclamation, issued in Your Majesty's Name, by his Excellency General Murray, Governor of Quebec, on the 31st of January, 1765, the petitioners were encouraged to load a Vessel with sundry Merchandize, provide Canoes, and every Thing necessary and proper for carrying on the Trade with the Indians, at a Place called the King's Posts of Tadousac and Chegotimi, on the River Saguenay, in the Neighbourhood of Lake St. John, and having built a Shed, or Ware-house, for the Reception of their Goods, and at a very considerable Expence, established themselves, gained the Indians to their Interest, and made a Settlement on Lake St. John, they were prohibited from prosecuting their Plan, by your Majesty's Receiver-General, and the President and Council of Quebec ; and humbly praying, That your Majesty will be graciously pleased to grant them an Order for Liberty to dispose of such Goods as they had sent up, or your Majesty's Royal Mandate for a Grant of such Lands as are mentioned in a Petition presented by then to Governor Murray, or to be otherwise relieved in the Premises.

“ The Lords of the Committee, in Obedience to your Majesty's said Order of Reference, this Day took the said Petition, together with a Report made thereupon, by the Lords Commissioners for Trade and Plantations, dated the second of this Instant, into their Consideration, and do agree humbly to report to your Majesty, as their Opinion, that the Petitioners had no Right, by your Majesty's Proclamation of the 7th of October, 1763, to trade at the Posts of the Royal Domain at Tadousac and Chegotimi, on the River Saguenay, in the Province of Canada, or to erect any Magazines, or make any Establishment for the Purpose of Trade there, and that your Majesty's Right thereto ought to be considered as excluded from the general Right of Free Trade, granted by the said Proclamation, and ought to be carried on only by your Majesty's Lessees, under your particular Licence for that Purpose, and that the Buildings and Magazines erected at the said Posts by the Petitioners should be demolished, and that the Goods sent there by the Petitioners be returned to them, notwithstanding the Manner in which they conveyed them thither : And their Lordships humbly submit to your Majesty, that the said Petition of Anthony Merry, and others, should be dismissed.”

His Majesty taking the same into Consideration, was pleased, with the Advice of his Privy Council, to approve thereof, and to order, as it is hereby ordered, that the Buildings and Magazines erected at the said Posts by the Petitioners be demolished, and that the Goods sent there by the Petitioners be returned to them : And it is hereby further ordered, That the said Petition

of Anthony Merry, and others, be dismissed this Board, whereof the Governor, Lieutenant-Governor, or Commander in Chief of his Majesty's Province of Quebec, for the Time being, and all others whom it may concern, are to take Notice and govern themselves accordingly.

W. BLAIR.

12th July, 1768.

All Persons are therefore required to pay due Obedience to this His Majesty's Order, in Council, and govern themselves accordingly, as they will answer the Contrary to their Peril.

Given under my Hand and Seal at Arms, at the Castle of
St. Louis, in the City of Quebec, this Twenty-seventh
Day of September, in the Eighth Year of his
Majesty's Reign, and in the Year of our Lord, One
Thousand Seven Hundred and Sixty-eight.

GUY CARLETON.

By the Lieutenant Governor's Command,
GEO. ALLSOPP, D. Secy.

GOD Save the KING.

[14 May, 1785.]

No. 1263.**MEMORIAL, 14 MAY, 1785, OF THOS. DUNN,
WM. GRANT AND PETER STUART,**

PRAYING FOR A RENEWAL OF THEIR LEASE FOR TEN YEARS.

ARCHIVES OF CANADA, SERIES Q VOL. 24, p. 338 (in
LIEUT.- GOVERNOR HAMILTON'S DISPATCH, 26 MAY, 1785.)

To the Honorable Henry Hamilton Esquire Lieutenant
Governor and Commander in Chief in and over His
Majesty's Province of Quebec &ca.

The Memorial of Thomas Dunn, William Grant and
Peter Stuart Esqrs. Lessees of the Posts of the Kings
Domain, situated on the North side of the River Saint
Lawrence.

Humbly Sheweth

That Your Memorialists became possessed of the Right to
the trade with the Indians at the Kings Posts in Virtue of Lease
bearing date the Twentyeth day of September 1762. That since
that period they have been at very great charge & trouble in
supporting their trade and in their Care of Indians, residing in
and near and resorting to the said Domain and Posts.

That at their sole expense, they have carefully attended to,
supported and maintained the Aged, and Infirm, the Widows
and Orphans ; the distressed Indians residing on the King's
Domain have been relieved and supported by your
Memorialists, without becoming a burthen or Expence to
Government, and which Your Honor must be sensible is not
the case with any tribe of the Indians in the Province except
those above mentioned, and this they have done without
Obligatory Conditions expressed in their Lease, and by it they
hoped to have Obtained the most Ample protection when in
their Occupancy, and the favor of the Crown to continue its
Lessees on a renewed Lease when the first expired.

His Majesty is pleased by the Terms of Your
Memorialists Lease to assure to them a peaceable, Secure and
uninterrupted enjoyment of the benefit of their situation in
Trade as His Lessees, they have been permitted to remain on
the Domain as Lessees for five Years after the expiration of
their Lease, and they have supported the Indians during the late
Rebellion & War, without expense to the Crown, and it was
with reason they claimed a merit to its favour in continueing
Lessees, upon a renew'd lease, so soon as Public tranquility
was restored to the Province.

Your Memorialists beg your Honor to believe, what they can support with full testimony, that during the late Rebellion, they were not only interrupted in their Commerce by the frequent and almost continual depredations of American Armed Vessels, and their Crews, but they have been plundered of their property to a Sum exceeding Three thousand Pounds Sterling, they however remained in possession, performed the Conditions of their Old Lease, and supported the Indians, in the dayly expectation of Peace, and in the firm relyance on the Political Justice of Government, and the favour and regard of His Majesty- in continueing their possession by a renewed and long Lease.

Your Memorialists, as consequent to their possession, claim, and expectations, were under the Necessity to keep a Constant and Sufficient quantity of Goods and Provisions at the Posts to Supply the Wants of the Indians, and prevent their Occasioning that trouble & Expence to the Crown, that all other Tribes have done in this Province ; those Objects Your Memorialists pursued & these Services performed to Government at the risque of their Own Ruin, in effect to a very Considerable loss & distress, after the expiration of their Lease.

Your Memorialists pray that Your Honor will take into Consideration their Situation and their reasonable rights to Petition His Majesty for a Renewal of their Lease, as a Justice clue to their sufferings & Losses, and claim to the Kings favor for their Services.

That Your Honor will be pleased to Grant unto Your Memorialists, a renewal of the Lease of the said posts for One Year, from the first day of October next, and for Nine Years afterwards if the same should not meet His Majesty's disapprobation, to be signified by the Right Honble. the Lords Commissioners of His Majesty's Treasury. And that Your Honor will do Justice to their prayer & Claims, by that representation of their Situation & Petition, which reason & Merit may entitle them to expect with Justice from His Majesty's Government, under Your Honors Command.

And Your Petitioners shall as in duty bound

Every Pray

(Sign'd) THOMS. DUNN
DAVID ALEX. GRANT Atty. to
WILLIAM GRANT
PETER STUART

Quebec 14th May 1785.

Endorsed : Copy. Memorial of THOMAS DUNN, WILLIAM GRANT and PETER STEWART Esqrs.

Praying for a renewal of their Lease of the Posts of the King's Domaine. 14th May 1785, Quebec. No. 1. In Lt. Govr. Hamilton's of 26 May 1785.

[18 May, 1785.]

No. 1264.**LEASE OF KING'S POSTS, 18 MAY, 1785, TO THOS.
DUNN AND JOHN GRAY FOR TEN YEARS, 1785-1795
(SUMMARIZED).**

* * * *

To "Thomas Dunn, William Grant and Peter Stuart. . . .
.to the first day of October. . . .One thousand Seven Hundred
and Ninety-five upon the several covenants, conditions,
payment of rents and services particularly mentioned in the
said lease of September, One thousand Seven Hundred and
Sixty-two."

[6 June, 1786.]

"Provided always that the said lease. . . .shall be subject
to the disapprobation of His Majesty. . . ."

No. 1265.**LETTER, 6 JUNE, 1786, LT.-GOV. HOPE TO
THOS. DUNN, WM. GRANT AND PETER STUART,**

RESCINDING LEASE OF KING'S POSTS.

ARCHIVES OF CANADA, SERIES Q VOL. 26, p. 403

Quebec 6th June 1786.

Gentlemen

In answer to your Memorial which I received this
morning regarding the Posts commonly called the King's Posts
whereof you are now Lessees under a Lease which will expire
on the 30th of September next, I must acquaint you, that His
Majesty's Commands signified to me by The Right Honble.
Lord Sydney one of His Majesty's Principal Secretaries of
State to grant a new Lease of the said Posts to Messrs.
Alexander and George Davison and Francois Baby to
commence from the 1st of October next, are positive and
explicit and must be obeyed.

The Circumstances you represent, shall nevertheless meet
with due attention.

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The regrets of the Indians with whom by virtue of your
Lease, you have been connected, at losing the good offices
they have so long experienced from your friendship and care,
are natural, and I doubt not perfectly just, these cannot
however, you must be sensible prove a bar against a new Lease
to the other Persons to whom His Majesty has been pleased to

order the same to be granted, who enjoying this Mark of the Royal favor must be bound by every tie to treat favourably the Indians thus entrusted in some measure to their Protection, and it shall be my business to state to them in the strongest terms the force of this obligation.

I am not at this moment sufficiently informed on the Nature of the Lease in question to give a definitive Answer to your Claim on the New Lessees for reimbursement of your Expenditures in Buildings &c. and for payment of Debts due to you, but you may rest assured that your rights in these matters shall be maturely considered, and that justice shall be rendered to you therein.

I am with regard
Gentlemen
Your most obedient
humble servant

(sign'd) HENRY

HOPE.

A true copy.

[21 June, 1786.]

THOS. DUNN, WM. GRANT & PETER STUART Esqrs. Lessees of
the Kings Posts.

No. 1266.

C

**LEASE, 21 JUNE, 1786, OF THE KING'S POSTS TO
ALEX. DAVISON, GEO. DAVISON AND FRANCIS
BABY (SUMMARIZED).**

* * * *

[To] Alexander and George Davison and Francis Baby. . .
. . .until the first day of October. . . .one Thousand seven
hundred and ninety-six. . . .[and] that the said Lessees. . . .
. . .shall moreover, hold possession. . . . unto the first day of
October which will be in the year of our Lord 1802, if notice to
quit shall not be given. . . .PAYING therefor yearly. . . .the sum
of FOUR HUNDRED POUNDS, estimating Spanish milled Dollars at
five shillings each.

* * * *

[5 April, 1802.]

No. 1267.

**LEASE, 5 APRIL, 1802, OF THE KING'S POSTS TO
McTAVISH, GREGORY, McGILLIVRAY, *et al*
(SUMMARIZED).**

* * * *

To Simon McTavish, John Gregory, William McGillivray, Duncan McGillivray, William Hallowell and Roderick McKenzie [otherwise known as the North West Company]for and during the term of twenty years from the second day of October nextpaying therefor unto Us, Our Heirs and Successors the yearly sum of One thousand and twenty-five Pounds current money of our said Province.

[1808.]

* * * *

No. 1268.

EXTRACT, 1808, *re* MASQUARO POST.¹

Masquaro post is built on the river of that name, in a bay .

...

The Indians are much in the habit of trading with the Labrador fishermen, and of going with their furs to Great Esquimaux Bay [Hamilton Inlet] to which the distance across the country is but short, and where a number of peddlars from Quebec trade and fish.

* * * *

¹ A Journal of a Jaunt through the King's Domain, Mingan Seigniorie &c. in the Summer of 1808. By James McKenzie (In Les Bourgeois de la Compagnie du Nord-Quest, Vol. II, p. 453. Par L. R. Masson).

No. 1269.

**LEASE, 26 JULY, 1822, OF KING'S POSTS TO JOHN
GOUDIE FOR 20 YEARS FROM 1st OCTOBER, 1822,
AND SUB-LEASE TO WILLIAM LAMPSON,
FROM 1 APRIL, 1828.**

ARCHIVES DE LA PROVINCE DE QUEBEC.
MINUTES OF NOTARY CAMPBELL, No. 42.

LEASE OF THE KING'S POSTS FROM 1 OCTOBER, 1822.

* * * *

[To] John Goudie . . . for the term of twenty years, to take effect from the first day of October one thousand eight hundred twenty two. . . . paying therefor unto His Majesty . . . the yearly sum of one thousand two hundred pounds, current money of this Province.

* * * *

SUB-LEASE OF KING'S POSTS FROM 1 APRIL, 1828.¹

* * * *

William Lampson, in a petition to Lord Aylmer, Administrator of Lower Canada, Upper Canada, etc., in a petition dated 21 December 1830, states : That from the first day of April one thousand and eight hundred and twenty eight, Your Petitioner has been the sub-lessee of His Majesty's Domain Lands known by the name of the King's Posts.

* * * *

¹Journals of the Legislative Assembly of Lower Canada. Appendix AA, No. 4, 1831.

No. 1270.

REPORT OF WILLIAM LAMPSON *re* KING'S POSTS,
22 DECEMBER, 1830.

JOURNALS OF THE LEGISLATIVE ASSEMBLY OF LOWER CANADA,
APPENDIX A.A., No. 5, 1831.

The Lessee of the King's Posts, in explanation of his Petition and with a view that it may be easily understood, deems it advisable to subjoin a short sketch or account of the King's Domain Lands, generally known by the name of the King's Posts :

To render the subject, in the outset, plain, he begs leave in the first place, to refer to the maps made out by Sax, Land Surveyor, in the year 1828 or 1829, for the purpose of conveying information to the Members of the Assembly when engaged on the Internal Communications and Improvement of the Province. On perusing this map, it will be seen how stands the Bay of Mille Vaches, what spot allotted for the Seigniorship of that name, and from the scale on the map itself the exact distance from Bay of Mille Vaches to the River Portneuf, can be ascertained ; this process will at once prove how stands the frivolous and unfounded pretensions of the owners and lessees of Mille Vaches, who lay claim to the River Portneuf and the Post established on the Bank of the River. It may be right here to observe, that Sax's map is a diminution taken from an old map of the Province made out some fifty years ago, by two land-surveyors of high repute in the Colony, (Vondenvelden and Charland,) under the directions of the late Major Holland, Surveyor General. The latter map will more clearly shew the place designated for Mille Vaches embracing the Bay of that name, and exhibits the space or distance from that to the Post of Portneuf including the River ; these maps are the only Documents that can be referred to, as made since the conquest, (1759.) the Survey and Map made before the conquest of the King's Domain Lands, (1773) having been destroyed : therefore, as to the geographical or local situation of the premises no other map or plans can be resorted to.

The King's Posts or Domain Lands embrace all that extensive tract situated on the north shore of the River St. Lawrence, between the Seigniorship of *Les Eboulemens* and the Point or *Cap des Cormorans*, making a front of about two hundred and eighty five miles, extending in depth in various directions, and at one point until it reaches Hudson's Bay. The description and exact limits of these valuable lands of the Crown are given in the

Ordonnance “ *pour les limites du Domaine,*” made by authority of the French Government in 1733, (2 vol. of *Edits*, page 87.) This *Ordonnance* was made by order of Government at the request of M. Carlier, Lessee of the Domain Lands, after a regular and minute survey taken.

When this Survey was taken, and the *Ordonnance* in question made, it was with a view to inform the public of the true limits of the Domain Lands, and of the peculiar and exclusive right of trade or traffic attached to them to afford the Lessee relief against intruders who had shortly before encroached on his privilege, and to assure him the free and uninterrupted enjoyment of that *exclusive privilege*, and for that it was, that the *Ordonnance* of 1733, after giving an accurate and formal description of the Domain Lands with their limits, proceeds by explaining in what the rights of the Lessee consist, and thus the *Ordonnance* concludes :

“ Faisons defenses à toutes personnes de quelque qualité et condition qu'elles soient, tant les marchands et habitants de la Colonie que les capitaines et maîtres de charois, barques, batteaux et navires, gens de leur équipage et passagers et à tous autres généralement quelconques, même aux sauvages étrangers non habitués dans les Terres du Domaine, de traiter, chaiser, pêcher, ni faire aucun commerce, sous quelque pretexte que ce puisse être, directement ni indirectement, soit par eux-mêmes ou en envoyant des marchandises, vivres, boissons et munitions par des sauvages affidés dans toute l'étendue des pays désignés par notre presente Ordonnance, et généralement dans aucunes rivières et lacs qui prennent leur course en la rivière du Saguenay et la rivière Moisy, encore qu'ils ne soient nommément exprimés dans notre dite Ordonnance, faire festin aux Sauvages habitués dans le dite étendue de pays, ni le détourner en aucune manière, même d'approcher des limites ci-dessus marquées dans les terres plus près de dix lieues pour y faire la traite avec les Sauvages ou autres établissements sans la commission expresse et par écrit du dit earlier, ses successeurs fermiers, leurs procureurs, commis et préposés, a peine de confiscation des armes chasse, marchanises de traite, pelleteries et effets, traités, canots, chaloups, barques, charois, batteaux et autres bâtimens généralement quelconques, et de la somme de deux mille livres d'amende qui ne pourra être remise ni modérée sous aucun prétexte.”

On reading the *Ordonnance* itself, we acquire at once a full and correct account of Domain Lands, and the exclusive trade attached to them.

After reading this *Ordonnance* attentively, it must strike the mind of every impartial and disinterested man, that the policy of the French Government was to secure to itself and the King's lessee, exclusive trade with the Indians, and that it never entered into the mind of any (The Hudson's Bay Company only excepted,) that competition could be allowed in the exercise of such a right, and for that it is, that in framing

and promulgating the “ *Ordonnance des limites du Domaine*,” no notice whatever is taken of the grant or concession of 1653 for Mille Vaches ; if the French Government had ever intended to convey such a right to the grantee of Mille Vaches, it would have been mentioned in the deed if such had been the French King's

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intention, the necessary exception or reservation in their favor, would have been included in the *Ordonnance* of 1733, if it had ever been considered a right attached to Mille Vaches to assume the exercise of such a right within the three leagues upon four, which they hold for the purpose of Agricultural Settlement alone, no doubt such a reservation would have been made in the old *Ordonnance*, and in the several leases granted by the Crown for the King's Posts. Let the several leases executed as well before as since the conquest be referred to, and no such reservation will be found for Mille Vaches,—for the best of reasons, the exclusive right of trade or traffic with the Indians, in an entire thing,—allow competition to Mille Vaches, or to any one else, and there is an end to the privilege itself.

On looking farther back, in reference to the King's Domain and the exclusive right of trade attached to it, it will appear (vol. 1 *Edits*, page 96), that *M. Nicolas Oudiette, fermier de la Traite de Tadoussac a l'exclusion de tous autres*, having in 1676 remonstrated in relations to intrusions in the King's Domain, to his prejudice, His most Christian Majesty commanded the Intendant as follows :

“Le Sieur Duchesneau tiendra la main, que la défense soit exécutée ; et que ceux qui y contre viendront soient seulement punis de la peine portée par l'Ordonnance.” By an *Arrêt du Conseil d'Etat du Roi* of the year 1666, (1 vol. *Edits*, page 43,) the exclusive right to trade in the King's Posts, then called *la Traite de Tadoussac*, is granted to the *Compagnie des Indes Occidentales*. Thus much to prove that prior to the Conquest, and from the very first establishment of the King's Posts, the right of traffic with the Indians was an exclusive privilege belonged to and reserved by the King.

We next proceed to shew, that since the Crown of Great Britain rules over the Colony, the same policy has prevailed, and that having succeeded to the rights of the King of France under the Treaty of 1763, the King's Posts have from the period of the Conquest to the present time, been from time to time granted for a term of twenty years, with the exclusive right of trade or traffic with the Indians ; the evidence of this fact appears by the lease to Goudie in 1822, by the lease to Simon McGillivray and others in 1802, by a lease granted by Government in 1786, and a former lease given about the year 1766, but a few years after the conquest ; so many repeated acts on the part of both Governments, the right of exclusive trade and the exercise of that right by the Crown cannot be

doubted or susceptible of any difficulty, can for an instant be imagined that at any period the Crown of France before the Conquest, or Great Britain since, had lost sight of the Grant of Mille Vaches of 1653, when but a few years after (in 1666), this exclusive trade is granted by the French King to the “*Compagnie des Indes Occidentales* ;” when, again, in 1676, on the remonstrances of the King's Lessee, (Nicholas Oudiette,) the Crown afford immediate relief, when, *in fine*, in 1733, such salutary provisions are made to secure the King's Lessee, (Le Sieur Carlier,) in the unmolested enjoyment of that right, when but a few years after the Conquest, (in 1768) by Proclamation issued by the Honorable Guy Carleton,
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Governor of the Province, under a Special Order from the King and his Privy Council, efficient steps are taken to keep this exclusive right free and unmolested, when by a series of leases from the Crown since the Conquest, that exclusive trade is granted to the King's Lessee for a valuable consideration.

No, at all times the Crown was satisfied, the grant of Mille-Vaches had been made for Agricultural Settlement, and for no other purpose, that the assumption to trade with the Indians of the King's Posts, on the part of the owners of Mille-Vaches or their Lessees, was on their part a mere visionary dream, a frivolous pretension unfounded both in law and in reason ; for, again, and to conclude, the right in question is the exclusive trade ; how therefore can that right ever be enjoyed or exercised by two rival Companies ?

This subject was never brought under the consideration of His Majesty's Government before now, from obvious reasons, before the pending of the present Lease, the Lessees of the King's Posts were either Lessees of Mille-Vaches at the same time, or owners of that Seigniory, and holding both, excluded all questions of adverse interest. This accounts also, why a Survey of Mille Vaches was never called for, how it happens that encroachments unnoticed, have taken place on the Domain Lands to the prejudice of the Crown, and by what means the Post of Portneuf has been established and lately set up, in direct violation of His Majesty's rights, and to the prejudice of the Lessee of the Domain Lands.

The whole very respectfully submitted by

(Signed,)

WM.

LAMPSON.

Quebec, 22nd December 1830.

True Copy.

J. B. GLEGG,
Sec'y.

[23 May, 1831.]

No. 1271.

**LETTER, 23 MAY, 1831, BISHOP OF QUEBEC TO
MR. BELLEAU, *re* MISSION AT KING'S POSTS.¹**

Quebec, 23 mai 1831.

A Mr Belleau, Curé à la Riv. du Loup.

Monsieur,

Par les derniers arrangements passés entre Mr Lampson et la Baie d'Hudson, cette dernière se trouve maintenant en possession des Postes du Roi. Vous commencerez votre mission plus à bonne heure que vous ne vous y attendiez. La goelette de la Société ira vous prendre à la Rivière du Loup et vous conduira en droite ligne à Mingan au lieu de Portneuf qui désormais sera desservie par Mr. Béland. Les principaux postes que vous aurez à visiter sont, outre Mingan, Masquaro, Quoquocho et Napissipi. Ayez soin que tous vos préparatifs soient faits lorsque la goelette passera chez vous. Je vous souhaite de la santé et du courage pour supporter toutes les fatigues de votre mission.

Je suis &c.

(Signé) BERN, + Cl. Ev. de Québec.

(Translation.)

(Copy.)

Quebec, 23 May, 1831.

Mr. Belleau,
Curate at Riv. du Loup.

Sir,

Under the recent agreement concluded between Mr. Lampson and the Hudson's Bay Company, the latter is now in possession of the King's Posts. You will begin your mission earlier than you expected at first. The Company's schooner will take you on board at Riviere du Loup and will carry you to Mingan direct instead of to Portneuf, which, in future, will be served by Mr. Beland. In addition to Mingan, the principal posts you will have to visit, are the following : Masquara (Musquaro), Quoquocho (Coacocho) and Napissipi (Napisipi). Take care that you are ready to leave when the schooner arrives at your place. I wish you good health and courage in order that you may endure the hardships of your mission.

I am, &c.

(Signed)+ BERN. Cl. Bishop of Quebec.

¹ Registers of the Archbishopric of Quebec, Vol. 14, p. 394.

No. 1272.

**LETTER, 28 SEPTEMBER, 1839, GOVERNOR PELLY
TO
LORD JOHN RUSSELL *re* RENEWAL TO HUDSON'S
BAY CO. OF LEASE OF KING'S POSTS.**

ARCHIVES OF CANADA, SERIES Q VOL. 267, pp. 34-36.

Hudson's Bay House
28th September, 1839.

My Lord.

I have the honor to acknowledge the receipt of Mr. Stephen's letter of the 16th Inst. (in reference to mine of the 20th March to the Marquis of Normanby, on the subject of the King's Posts in Lower Canada) together with Copy of a Letter from Sir J. Colborne of 22nd July, and of the Report of the Executive Council on the proposal made by me on the part of the Hudson's Bay Company for a renewal of the lease of those Posts now held by the Company : And requesting that in laying the same before the Hudson's Bay Company, I should move them to inform Your Lordship, whether they are willing to accept the Lease in question on the terms stated by the Governor.

In reply I beg leave to refer your Lordship to my letter of the 20th March for the reasons for desiring a renewal (not of the whole but) of a small part of the privileges of the present Lease.

“The Hudson's Bay Company in wishing to obtain a renewal of the Lease as far as regards the exclusive right of hunting and of trading with the Indians, have in view the more effectually to maintain in their own Territory, bordering on that part of Canada, the restriction of the use of Spirituous liquors, and all those other beneficial regulations, which have been found essentially to improve the condition of the Indians and to preserve the peace of the country, and to continue the like benefits to the Indians of the
' King's Posts.' ”

From the following extract of the Report of the Council to whom Sir John Colborne submitted the proposition. “The Indians of the King's Posts, in number about 400 Souls, having for a long period of years been accustomed to the protection and fostering care of the different Lessees, it would be neither wise or just to allow them to be abandoned at once, without some provision being made for them : they are generally of a mild and tractable disposition, and a Majority of them have been converted to Christianity. The Lessees supplying the means for Annual Visit of a Missionary of the Roman Catholic Faith to the different Posts, where Small Churches have

been erected, Chiefly by the late order of Jesuits. They have moreover no Agricultural pursuits, and it is not likely that the present generation would be induced to forsake their Indian habits, sojourning as they do, alternately in the forest and on the coast of St. Lawrence, to which latter they resort in the Winter season for the purpose of Killing Seals, living chiefly on the Oil, which these animals produce. It may be proper to add that these Indians are not included in the Schedule annexed to an approved Report of Council on Indian Affairs dated 13th June 1837, nor have they ever received assistance in provisions or outfits of any kind from the Government.

Under these Circumstances and before throwing the Country open to the Public, some previous Arrangement should be made for the care of the Indians, else they would of necessity turn idle and dissolute, and become a burthen to Society. The proposal of the Hudson's Bay Company seems to offer the most convenient and least expensive mode of protection and employment, and the Committee are therefore humbly of opinion that it may be expedient to grant them a new Lease for an additional twenty one years to be limited to an exclusive right of hunting and trading with the Indians, including also the Seal Fishery.”

Your Lordship will perceive that the Council distinctly admit the expediency of granting a lease for the purpose of hunting and trading only with the Indians, not only from the necessity of some arrangement being made for the care of the Indians, else they would of necessity turn idle and dissolute and become a burthen to Society, but that it offers the most convenient and least expensive mode of protection and employment.

On the measure itself we are quite agreed and the only difference is the terms proposed, namely, That the Crown have immediate right of entry and occupation for the purpose of settlement, and that the Hudson's Bay Company be restrained to the trade with the Natives, but that the present rent of £1200 be paid till the 1st of October 1842 ; That the Hudson's Bay Company relinquish the Sum of Eighteen hundred pounds, which the Government will leave to pay them on 1st October 1842 ; and that then a new Lease be granted them at Eight hundred pounds a year.

Under all the circumstances which have been detailed, I trust your Lordship will consider that in making the following proposition on the part of the Hudson's Bay Company, it will be considered liberal. That the present Lease be cancelled and that the claim for Eighteen hundred pounds be relinquished on a new Lease for twenty one years at a Rent of Five Hundred pounds p annum being granted by the Government for the exclusive right of hunting and trading with the Indians, including the Seal fishery.

The Right Honble.
LORD JOHN RUSSELL

I have the honor to be
My Lord
Your Lordship's most obedt. Servt.

&c. &ca. &ca.

J. H. PELLY
Govr.

No. 1273.

**LEASE, 27 JUNE, 1842, OF KING'S POSTS TO
HUDSON'S BAY COMPANY FOR 21 YEARS
(SUMMARIZED).**

JOURNALS OF THE LEGISLATIVE ASSEMBLY, CANADA.
APPENDIX JJJ, 8 August, 1851.

* * * *

[To] the Governor and Company of Adventurers of England, trading into Hudson's Bay for the term of twenty-one years, to be computed from the second day of October one thousand eight hundred and forty two . . . paying for the same . . every year during the said term, the sum of six hundred pounds Currency of this Province Provided nevertheless that nothing herein contained shall extend, or be construed to extend, to prevent the right to enter into and upon and take possession of, and to grant and convey any part or portion of the said tract or parcel of land hereby demised, as We, Our Heirs, and Successors may deem expedient and the benefit of Our said Province, and of Our loving Subjects therein, may require for the purposes of actual settlement and cultivation thereof, but for no other purpose or on any other account whatever.¹

¹ In the earlier leases it was covenanted that the lessee should have, possess and enjoy the said tract and premises hereby demised . . . free from all intrusion, hindrance and molestation by any other trader or traders whomsoever on the said premises.

[21 April,
1739.]

BAYE-DES-ESQUIMAUX CONCESSION.

No. 1274.**DESPATCH, 21 APRIL, 1739, MINISTER TO
BEAUHARNOIS AND HOCQUART,**

APPROVING EXPLORATION OF BAYE DES ESQUIMAUX.

ARCHIVES OF CANADA, GENERAL CORRESPONDANCE, SERIES B, VOL.
68.

A Versailles le 21 avril 1739.

J'ay receu les Lettres que vous m'avés ecrites les 6. et 7.
8bre de l'année dre avec pièces qui y estoient jointes.

Les srs Daine et foucault vous ayant demandé la
permission d'envoyer faire a leurs fraix la decouverte de la
Baye des Esquimaux j'ay approuvé que vous la leur ayiés
accordée, et que vous leur ayiés fait esperer une con-cession de
10 Lieues dans cette Baye. Mais mon intention est que le S.
fornel qui s'étoit adressé a moy pour avoir la concession de
cette même Baye puisse aussy de son coté travailler a en faire
la decouverte aux même conditions que les Srs Daine et
foucault. Peut estre conviendroitel que ces trois particuliers se
joignissent ensemble comme vous me marqués qu'ils pourront
faire ; Mais quoy qu'il en soit, si cette decouverte se fait, it faut
que le Sr. fornel soit traité aussy favorablement que les deux
autres, et je suis persuadé que vous aurés attention de ne leur
donner aucune preference a son prejudice. C'est de quoy je
seray en etat de juger par le Compte que vous aurés agreable
de me rendre de ce qui se passera a ce sujet.

(Translation.)

VERSAILLES,

April 21st, 1739.

I have received the letters you wrote me on the 6th and 7th of October of last year
also the papers attached thereto.

The Srs. Daine and Foucault having also applied to you for permission to explore
Esquimaux bay, at their own expense, I have approved of your having granted it to them
and of your having given them reason to hope for the grant of a 10-league concession in this
bay. But intend, that the Sr. Fornel, who applied to me for the concession of this bay, may
also, on his part, try for the discovery of same, under the same conditions as the Srs. Daine
and Foucault. It would perhaps be convenient that these three individuals unite, as you point
out to me that they may do ; but at all events, if this discovery be made, the Sr. Fornel must
be treated as favourably as the two others, and I am satisfied that you will be careful not to
give them any preference to his prejudice, of which I will be able to judge by the report you

will kindly make to me respecting all incidents connected therewith.

We are, Monseigneur, with the deepest respect, your most humble and most obedient servants,

BEAUHARNOIS, HOCQUART.

Quebec,

14 September, 1739.

'Daine.

No. 1276.

FORNEL TO THE MINISTER, 27 OCTOBER, 1732.[27 Oct.,
1742.]APPLYING FOR CONCESSION OF BAYE CHATEAUX AND
BAYE DES ESQUIMAUX.LE S^R FORNEL,
27 8^b 1742.Sur la concession faite au S^f Basile
du 1^{er} Octobre 1730 des la Baye des
Chateaux en Canada.

Monseigneur

Comme je me croy obligé d'informer La Cour de ce qui s'est passé au poste de La baye des Chateaux située dans le détroit de Belisle sur la Coste de Labrador dont j'ay fait la découverte, Et l'exploitation depuis plusieurs années au lieu et place Et par cession du S^f Basile de cette ville à qui la Concession en auroit été faite cy devant Et qui n'étoit point en moyen de Le faire valour, c'est ce qui me procure l'honneur d'Ecrire à Votre Grandeur pour luy rendre compte que j'ay travaillé avec succes à humaniser, Et rendre traitables les Sauvages Eskimaux qui ont toujours été les pirates de cette Côte.

*(Translation.)*SIEUR FORNEL
27 October, 1742.

Re Concession to the Sieur Bazile,
1 October, 1730, of Bay-des-
Chateaux, Canada.

Monseigneur,

Feeling it my duty to inform the Court respecting occurrences at Bay-des-Chateaux post, situated in Belleisle strait, on the Labrador coast, which I discovered and operated for several wars in the stead and place and by assignment of the Sieur Bazile, of this city, to whom the concession had been granted and who could not develop the same, to which fact I owe the honour of writing to Your Grace to inform you that I successfully employed myself in civilizing and making tractable the Eskimaux who have always been the pirates of this coast.

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Votre Grandeur aura pour agréable le récit que je vais luy en
faire.

* * * *

Il y a quelques années que j'eus l'honneur de demander La

Concession de la baye des Eskimaux, dite autrement baye des hollandois, nommées par les Sauvages Quichechaquiou. Vous eutes la bonté, Monseigneur, de faire attention à ma demande, et d'écrire en consequence à M. le gouverneur général et à M. L'Intendant de m'en donner la préférence. Si tot que j'en aurois fait la découverte, je n'ai pu la faire jusqu'à ce jour d'autant que j'ay des associés dans l'exploitation de la baye des Chateaux qui n'ont pas voulu me permettre de me servir à mon usage de ce qui appartient à la Société, ainsy comme il est nécessaire pour cette découverte d'avoir un poste dans le voisinage pour y attirer les Eskimaux, pour s'y Equiper Et s'y refugier au cas de besoin, c'est ce qui me fait demander le poste de la baye des Chateaux dont j'ay fait l'Etablissement, Et que le S^r Basile n'est pas en moyen d'Exploiter. J'ay présenté a M. le Gouverneur General et à M. l'Intendant plusieurs requestes avec le mémoire cy joint pour demander pendant neuf années le privilege Exclusif pour faire la pesche sédentaire du Loup marin avec droit de Chasse, Et de traite au poste de La baye des Chateaux, Et je leur ay fait ma soumission d'aller faire à mes frais, Et depuis La decouverte de la Baye des Eskimaux, sitost que j'aurois la Concession de la baye des Chateaux, qui est le seul poste a main qui puisse faciliter cette Entreprise, Et dédommager des frais. J'espère, Monseigneur, que vous voudrez bien être favorable a ma demande, Et m'accorder par preference a tous autres la Concession de la baye des Chateaux sans préjudice de celle des Eskimaux. Lorsque j'en auray fait la découverte.

(Translation.)

Your grace will be pleased with the following account I herewith submit.

* * * *

Some years ago I had the honour to request the concession of Baye-des-Eskimaux, otherwise known as the bay des Hollandois, and called Quichechaquiou by the Indians. You were kind enough, Monseigneur, to consider my request and to instruct Monsieur the Governor General and Monsieur the Intendant in writing that I was to be given the preference as soon as I had explored it. This, as yet, I have been unable to do inasmuch as I have partners in the operation of Bay-des-Chateaux who refuse to allow the use, for my personal benefit, of what belongs to the partnership. As the exploitation referred to necessitates a post in the neighbourhood to which the Esquimaux would be attracted, and to serve as an equipment station and a place of refuge in case of emergency, I am applying for Bay-des-Chateaux post established by me and which the Sieur Basile could not allord to develop. I have presented to Monsieur the Governor General and Monsieur the Intendant several petitions together with the annexed memoir applying for the exclusive privilege for nine years of the sedentary seal fishing with the right to trade at Bay-des-Chateaux, and then and since, I offered to develop Baye-des-Eskimaux at my own expense as soon as I had obtained the concession of Bays-des-Chateaux which is the only post near at hand likely to facilitate this undertaking and make up for the costs. I trust, Monseigneur, that you will consider my request favourably and grant to me, in preference to any other, the concession of the Baye-des-Chateaux without prejudice to tint of Baye-des-Eskimaux, as soon as I have explored it.

Comme il est à propos de faire connoître à ces barbares le nom du Roy par quelques présens, qui leur soyent distribués au nom de Sa Majesté je prie Votre Grandeur de me faire délivrer chaque année dans les magasins de Quebec des marchandises de traite Et d'autres Effets à L'usage des Eskimaux jusqu'à la concurrence de telle somme qu'il luy plaira arbitrer, desquels effets je promets me charger pour en faire la distribution aux Eskimaux au nom du Roy ce qui pourra contribuer à attirer ces barbares, Et empescher leur piraterie.

Je suis avec un très profond respect, Monseigneur, de votre grandeur
Le très humble et très obéissant serviteur.

FORNEL

A Québec
27 8^b 1742

It being expedient that the King's name be made known to these barbarians by means of a few presents which should be distributed to them in His Majesty's name, I ask your Grace to cause to be delivered to me each year, in the store at Quebec, trading goods and other effects for the Eskimaux, to the extent of such amount as you may be pleased to determine, which effects I promise to take charge of to distribute them among the Eskimaux in the King's name, which would tend to attract those barbarians and prevent their depredations.

I am, Monseigneur, with the deepest respect, Your Grace's most humble and most obedient servant,

FORNEL.
Quebec, 27 Octobre, 1742.

**NARRATIVE OF VOYAGE BY SIEUR LOUIS FORNEL
TO BAYE DES ESQUIMAUX, 16 MAY TO 27 AUG.
1743.**

ARCHIVES DE LA MARINE, PARIS.

La Relation que j'entreprend de La decouverte que j'ay fait de La baye des Eskimaux, n'est point un Journal de Pilote, ou Les routes, rhumbs de vent, Et, Hauteurs soyent observés ; Comme notre navigation ne doit etre que d'une terre a une autre, afin d'etre plus sur de rencontrer la d^e baye qui nous auroit pent être Echapé En prenant Le grand Large c'est pourquoy j'ay crû qu'une simple description de mon voyage jointe a une carte dressée suivant les observations de nos pilotes Costiers Suffiroit pour donner a la Cour une connoissance exacte de cette Coste des Eskimaux ou personne jusqu'à ce jour n'a osé pénétrer Le Long des terres par la crainte de ces barbares.

16 MAI 1743

Je suis parti de Quebec avec Le passeport Et une Commission de M. le Gouverneur General pour La découverte de la d^e baye des Eskimaux En qualité de passager sur Le brigantin L'Experience avec Le S^r Charles de Cour et son fils mes deux chefs de route, Et avec tout un Equipage complet destiné

Translation.

The narrative which I undertake of the discovery made by me of Baie des Esquimaux is not a pilot's diary in which the distances, magnetic bearings and latitudes are noted. We sailed from one point to another, so as to be more certain to find said bay which, had we kept off-shore, might perhaps have escaped our attention, I therefore believe that a mere description of my voyage, accompanied by a chart based upon the observations of our coast pilots will be sufficient to give to the Court an exact knowledge of the Esquimaux coast, where no one, previously, had ventured to sail near the shore, for fear of these barbarians.

16 MAY, 1743.

With a passport and a commission from the Governor General to explore baie des Esquimaux I left Quebec as a passenger on the brigantine L'Expérience with Sieur Charles Le Cour and his son, my two chief steersmen, together with a full crew engaged for the said exploration, intending to charter a vessel at Petit Nord, not having obtained the permission to put to sea

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pour la La d^e decouverte, dans Le dessein d'affreter un batiment au petit nord, n'ayant pu obtenir La permission de

faire sortir un bâtiment à cause de la disette des vivres : Et sur
Le d^t Brigantin, j'ay Embarqué quatre pièces de Canon,
quarante fusils, des pistolets, sabres, haches d'armes et autres
munitions de guerre pour me rendre a la baye des Chateaux
suivant la destination du d. Brigantin dans lequel voyage nous
avons été contrariés par les vents du Nord-Est forcés, Et sur le
point de perir plusieurs fois par les Glaces qui nous ont obligé
de ranger la terre du nord ne pouvant pas tenir Le Large.
Cependant à la faveur d'un Eclairci qui s'est fait entre Les
glaces nous sommes entrés dans L'ance à Loup le 19^e Juin. Sur
le champ j'ay envoyé un canot a St Modet pour inviter le S^r
Chauveau maître de pesche de venir en personne pour chercher
des effets que j'avois a luy remettre a son arrivée Luy ayant
demandé pour faire une decouverte La Goelette La Marie-
Anne dans Laquelle j'ay un Interest, il me dit que j'en etois le
maître et que je pouvois en disposer, Cependant qu'il falloit
attendre Les grandes marées par ce que Le bâtiment etoit tout a
fait a haute mer, me voyant dechû de mes Esperances de ce
Costé la J'ay pris le parti de Louer une grande Chaloupe
pescheuse, Et d'Envoyer En diligence au Tierpon situé dans le
nord de Plaisance Le S^r Le Cour mon Pilote, Et maitre de route
pour y affreter un bâtiment.

20 JUIN 1743.

Ensuite nous avons continué notre route vers la baye des
Chateaux, Et avant d'y arriver nous avons essuyé un coup de
mauvais tems avec de La brume, en sorte que pour Eviter Le
danger, Et nous tirer de la coste il nous a fallu laisser un ancre,
Et un Cable : ne sachant que devenir a La

(Translation.)

in this vessel, on account of the shortage of provisions. On the brigantine I embarked four guns, forty rifles, pistols, swords, battle-axes and other munitions of war to proceed to the bay des Chateaux, the destination of said brigantine, during which journey we encountered a strong north-east wind, and were on the verge of perishing many times on account of the ice which forced us to sail along the north shore, being unable to keep off. By the help, however, of an opening in the ice, we entered anse à Loup [sic.], on the 19 June. I immediately sent a canoe to St. Modet to invite the Sr. Chauveau, fishing-master, to come personally to take the goods I had for him. On his arrival, having asked him to endeavour to find the schooner La Marie-Anne in which I have an interest, he told me that I was the master of her and that I could dispose of her, but that, as that vessel was on the high seas, I would have to wait for the spring tides. Disappointed in my expectations in that respect, I decided to charter a large fishing-boat and to send immediately the Sr. Le Cour, my pilot and sailing master, to charter a boat at Tierpon situated to the north of Plaisance.

20 JUNE, 1743.

We then continued our voyage toward baie des Chateaux, and, before arriving at that place, we encountered stormy weather and fog, so that, to escape danger and to keep off the coast, we had to slip an anchor and a cable. Uncertain of our fate in view of the threatening danger,

veue du danger qui nous menaçoit, Et qui nous paroissait inevitable dans cette Extremité, nous avons eu recours à Dieu Et nous avons fait un veu que nous devons accomplir si tost notre a Quebec. peu de tems après notre voeu fait, Les vents ont Changé, Et la brume a tombé, ce qui nous a donné lieu d'Entrer Enfin dans la d^e baye des Chateaux, ou nous sommes arrivés Le Dimanche vingt-trois Juin après trente huit jours de traversée.

Et depths le d^t jour 23e Juin jusqu'au premier Juillet j'ay resté au d^t Lieu de La baye des Chateaux, ou j'ay vû Les preparatifs de la pesche qui n'a pas reussi par ce que Le Loup marin etoit desja passé, Et que nous etions arrivé trop tard.

2 JUILLET 1743.

Le d. S^r le Cour est arrivé a la baye des Chateaux avec La goelette de M. de Lafontaine qu'il avoit trouvé au Tierpon, en echange de laquelle il auroit cedé outre le prix du Louage une Chaloupe biscayne pour faire la pesche. La d^e goelette n'auroit été cedée que pour vingt-deux jours seulement au d. S^r Le Cour qui se seroit obligé en mon Lieu et place En vertu du pouvoir que je luy en aurois donné de payer dix Ecus par chaque jour de retardement de La d^e goelette apres les vingt-deux jours Expirés.

3 JUILLET 1743.

Après avoir fait done Embarquer sur la d^e goelette Les vivres, munitions de guerre ; Et autre effets qui m'etoient necessaires nous avons fait voile sur Les heures Sept du matin vers La baye des Eskimaux, mais Etant contrariés par les Vents nous avons mouillé au poste du S^r Marsal entre les Isles et les

(Translation.)

and which seemed inevitable in our extreme distress, we had recourse to God and made a vow, which we will fulfil immediately after our return to Quebec. Soon after we had made our vow, the wind shifted and, the fog having cleared, we succeeded at last in entering baie des Chateaux, where we arrived on Sunday the twenty-third of June after a voyage of eight days.

And from 23 June to the first of July, I remained at baie des Chateaux where I saw the preparations for the fishing which was unsuccessful, as the seals had already passed and we had arrived too late.

2 JULY, 1743.

Sr. Le Cour arrived at baie des Chateaux with Mr. Lafontaine's schooner, which he found at Tierpon, in exchange for which he gave, in addition to the charter price, a Biscayan fishing chaloupe. The said schooner has been chartered for twenty-two days only to Sr. Le Cour, who pledged himself in my place and stead, by virtue of the power I had given him, to pay ten crowns (écus) for each day of delay of the schooner after the expiration of the twenty-two days.

3 JULY, 1743.

Having taken on board the schooner, the required provisions, munitions of war and other goods, we sailed about seven o'clock in the morning toward the baie des Esquimaux, but encountering a contrary wind, we anchored at Sr. Marsal's post, between the islands and the

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terres du Cap Charles, Lequel poste distant environ de Six a sept Lieus de La baye des Chateaux est le dernier poste Etabli dans La Coste de Labrador. Le d^t S^r Marsal est aussy tost venu a notre bord pour nous Inviter de descendre à son habitation, nous disant qu'il ne nous Conseilloit pas d'aller plus loin à cause de La brume, des vents contraires, Et du danger qu'il y avoit de passer outre.

4 JUILLET 1743.

Nous avons Levé L'ancre Sur Les trois heures du matin pour profiter du vent sud-ouest, mais une brume epaisse qui s'etait Elevé tout d'un coup nous a fait prendre le parti d'aller chercher notre premier mouillage ou nous Sommes arrivé a huit heures du matin. Sur les onze heures Le tems etant devenu clair nous avons poursuivi notre route, Et sur Le midy nous nous sommes trouvé par Le travers du Cap Charles. apres avoir fait cinq a six Lieues depuis Le d^t Cap nous avons vû L'ouverture de La baye St. Alexis qui nous a paru Etre d'Environ trois lieues de Large, Et de Cinq Lieues de profondeur avec quelques Isles Et Ilots au dedans : La d^e baye au nord est fermée par un Cap Escarpé qui Commence une chaine de Caps et de Montagnes tres hautes Le long de la mer. Et faisant route au Nord quart Nord-Ouest nous avons fait environ cinq à six Lieues de Chemin Le Long de la Coste des Eskimaux Laquelle est de rochers fort hauts, Et Escarpés sans aucun bois au pieds desquels rochers il y a grand fond Et sur les sept heures du soir nous avons decouvert un Cap fort haut Escarpé que nous avons nommés Cap Percé pour y avoir reconnu an pied une ouverture qui forme un chemin couvert dans le cap au dessus du niveau de l'eau En façon de route Lequel chemin communique a une baye dans laquelle nous sommes Entrés pour y chercher

(Translation.)

mainland of cape Charles, which post is distant about six or seven leagues from baie des Chateaux [and] is the last [most northerly] post established on the coast of Labrador. Sr. Marsal also came on board to invite us to his dwelling, saying that he would not advise us to go any further on account of the fog, the contrary wind, and the dangers that we would encounter.

4 JULY, 1743

To take advantage of the south-west, wind, we weighed anchor at about three o'clock in the morning, but, as a dense fog had suddenly arisen, we decided to seek our first anchorage, which we reached at eight o'clock in the morning. About eleven o'clock, the

weather having cleared, we continued our voyage, and, about noon, we arrived opposite cape Charles. After sailing for five or six leagues from said cape, we saw the entrance of bay St. Alexis, which seemed to be about three leagues wide by five leagues deep with some islands and islets within. This bay is closed to the north by its steep bluff which begins a chain of capes and very high mountains along the sea-shore. Steering it north-quarter-north-west course, we sailed about five or six leagues along the Esquimaux coast, which is a very high and steep treeless cliff. At the foot of these cliffs the water is very deep. About seven o'clock in the evening, we discovered it very high and steep cape which we called cape Perc [sic.] , beca, usewe [sic.] saw, at its base, an opening which formed a covered way in the cape above the water-level, in the manner of a road which road connected with a bay, which we entered

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mouillage Environ une lieue et demi dans la d^e baye Laquelle peut etre d'une Lieue de Large dans Son entrée sur deux Lieues de profondeur, Et plus de gros vaisseaux y peuvent Entrer facilement pour y trouver havre. Nous avons nommé cette baye du nom de baye des Meniques pour y avoir vû une quantité de gros poissons d'Environ Seize de pieds long que les pescheurs apelent Meniques, Lequel poisson porte un dard Sur le dos d'Environ cinq pieds de Long. Il fait La guerre au Loup-marin, Et le fait fuir Le Long de terre ce qui donne Lieu à la pesche sedentaire du Loup-marin, Lequel passeroit dans le large s'il n'etoit poursuivi par la Menique. Au nord Et au sud de La d^e baye il y a des Isles Et Ilots Le Long de La terre. Et nous avons mouillé Entre Les dte Isles Et terre à vingt brasses d'Eau L'on a ensuite mis la Chaloupe à L'Eau Et plusieurs de notre Equipage sont descendus sur une Isle Escarpée au haut de Laquelle ils ont allumé du feu avec de La tourbe, ayant ensuite aperçu Six Canots Eskimaux avec trois Chaloupes qui Approchoient Sur Le champ nos gens se sont embarqués dans la Chaloupe Et sont venus à bord, nous criant de Loin de Lever l'ancre et d'aller mouiller dans le Large afin d'etre plus éloigné de terre Et hors de la portée des flèches des Eskimaux: de sorte qu'apres avoir changé de mouillage nous avons ensuite disposé notre artillerie, Et préparé nos armes afin d'etre toujours sur la deffensive au cas d'attaque, Et afin de n'etre pas surpris pendant la nuit. Les d^{ts} Eskimaux n'osant venir nous aborder ont mis pied a terre dans une Isle voisine, ou ils faisoient des cris levant leurs avirons en haut. Et disant en patoie tout Camara Troquo balena, non Characo, ce qui signifie point de guerre, Je suis ton camarade, troquons de la baleine Et ayant à notre bord pris le porte-voix pour Leur repondre dans les mesmes termer, trois Eskimaux Se Sont rembarqués dans Leurs Canots Et sont venus à notre bord, ou ils nous ont fait beaucoup de Caresses. J'ay fait La remarque que La veue de notre petite artillerie,

(Translation.)

in search of an anchorage about a league and a half in the said bay, which is about one league wide at its entrance, by two leagues deep, and larger vessels can easily enter to find shelter. We called that bay the baye des Meniques, on account of the number of big fish, sixteen feet long seen there and which the fishermen called meniques. This fish has a back-

fin five feet long. He fights the seal and chases him along the land, which permits the sedentary fishing of seal which would pass at a distance, were he not pursued by the meniques. To the north and south of this bay are islands and islets along the land, and we anchored between these islands and the land in twenty fathoms of water. We then put a boat to sea, and many of our crew landed on a steep island at the summit of which they kindled a fire with peat. Having seen Esquimaux approaching in six canoes and three boats, our men jumped into the boat and came on board crying out to us to weigh anchor and to moor further from the shore so as to be out of reach of the arrows of the Esquimaux. Having shifted our anchorage, we then put our artillery in readiness and prepared our arms in order to be always on the defensive in case of an attack, and to avoid being taken by surprise during the night. Not venturing to board us, the said Esquimaux landed on a neighbouring island where they uttered cries, raising their oars and saying in their jargon, *Tout Camara Troquo balena, non Characo*, which means. *No war, I am your comrade, let us trade whale*. As we had a speaking-trumpet on board, we took it to answer them in the same terms. Three Esquimaux then jumped into their canoes and came on aboard where they showed us great affection. I remarked that the

Et de nos armes Les intimidoit jusqu'a trembler de tout Leur corps par la peur qu'ils en avoient. Et jusqu'a saigner du nez naturellement Sans se donner aucun coup, ce qui m'a paru fort singulier. Je leur ay fait quelques présens dont ils ont paru flattés, Et en retour ils m'ont donné quelques barbes de baleine, avec de Leurs habillemens de Loup marin qui ne sont d'aucun prix, Et que J'ay accepté seulement pour ne pas paroistre rebuter Leurs presens apres quoy ils ont descendus dans leurs Canots; Comme ils s'Eloignoient du bord Je leur ay fait tirer quelques coups de fusils, ce qui auroit parus le allarmer, Et Leur auroit fait faire des cris comme pour nous demander grace.

5 JUILLET 1743.

Après être sorti de La baye des Meniques nous aurions fait environ Sept Lieues de Caps Le Long de la d^e Coste des Eskimaux. Ensuite Les vents contraires s'étant déclaré nous aurions été contraints de Chercher havre dans une autre baye d'Environ un Lieue de Large dans son Entrée Sur plusieurs Lieues de profondeur, dans laquelle baye de gros navires peuvent havrer à l'abri de tous les vents ; au Nord Et au Sud de Laquelle baye il y a des Isles et Ilots avant de mouiller les vents s'étant rangés à L'est nous avons essayé de Courir La bordée pour sortir de La d^e baye. Et en même tems que les vents nous refusoient, nous aurions aperçus neuf Canots Eskimaux, Et une Chaloupe ou il ne nous a paru que des femmes, Et des enfans pour la manoeuvrer : de Crainte de Surprise nous aurions préparé nos armes neuf canots Eskimaux ayant gagné Le bord. L'un d'entre eux nous auroit fait Entendre qu'il se nommait Le Capitaine hapé, Lequel voyant que nous ne pouvions sortir de La Baye à cause des vents contraires, s'offrit de nous

(Translation.)

presence of our small artillery and of our arms frightened them to such a degree that all their bodies were trembling for fear of them and to such an extent that they naturally bled from the nose without striking themselves, which I found very queer. I had some gifts distributed to them, which seemed to please them, and in return they gave me whale fins, together with some of their seal clothing which is valueless, and which I accepted only to avoid appearing to refuse their gifts. They then embarked in their canoes. As they were leaving, I had a few rifle shots fired, which appeared to frighten them and caused them to cry as if asking for mercy.

5 JULY, 1743.

Having left baye des meniques, we sailed about seven leagues along the Esquimaux coast. Then contrary winds having set in, we were compelled to seek shelter in another bay about one league wide at its entrance by several leagues long, in which large vessels can obtain shelter from all winds ; To the north and south of it are islands and islets. Before anchoring, the wind having veered to the east, we tried to tack about to leave this bay. And, at the same time, as the wind decreased, we saw nine canoes of Esquimaux and a boat which appeared to us to be paddled by only women and children. Fearing an attack, we had our arms in readiness, nine canoes of Esquimaux having reached the vessel. One of them

gave us to understand that his name was Captain Hapé, and, seeing that we could not leave the bay on account of a contrary wind, he

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montrer un mouillage pour cela s'etant mis dans son canot, Et ayant marché devant nous pour nous montrer la route, il nous auroit conduit dans le fond de la baye pour nous montrer Le mouillage ou nous aurions resté jusqu'au Lendemain. Ensuite Le Capitaine hapé étant monté a bord pour rejoindre les liens, En reconnoissance du bon servi ce qu'il nous auroit rendu, je luy auroit fait quelques presens Et aux autres Sauvages de sa troupe, qui nous, ont témoigné bien de L'amitié, Et nous ont donné quelques barbes de baleine, nous avons nommé la baye d'hapé du nom de ce Capitaine Eskimaux.

6 JUILLET 1743.

Les vents etant de la part du sud-ouest nous avons apareillé sur Les quatre heures du matin. Comme nous etions à la voile on a vû trois Chaloupes d'Eskimaux avec quelques canots de ces barbares dont il n'y a eu qu'un seul canot qui ait pû Le bord, Les autres n'ayant pu nous joindre ayant fait conoitre a cet Eskimaux notre route, il c'est offert de nous conduire. pour cet effet ayant pris le gouvernail, il lions a piloté fort bien pendant plus de deux heures au Sortir de la baye d'hapé, Et il nous a ainsy conduit pendant quatre Lieues de Caps escarpés jusqu'a L'Entrée d'une autre baye qui a une Lieue d'ouverture à son entrée Et plusieurs lieues de profondeur, dans laquelle baye il nous auroit fait Entendre que Le Capitaine Araby etoit mouillé, Et que c'estoit la ou demeuroit Le Capitaine Amargo autre chef des Eskimaux, ce qui nous auroit fait porter son nom a cette baye. Le d' Eskimaux notre Pilote seroit retourné à terre, Et nous auroit abandonné voyant que nous ne voulions pas Entrer jusqu'au fond de la have ou il voulait nous conduire. au mesme tems

(Translation.)

offered to show us an anchorage. Having embarked in his canoe and proceeded ahead to indicate the course, he led us to the bottom of the bay to show us the anchorage. There we remained until the day after. Captain Hapé having then gone on board to join his companions, as an acknowledgment of the good service he had rendered us, I gave him a few gifts, and some to the other Indians of his troop, who expressed great friendship for us and gave us whale fins. We named this bay after the name of this Esquimaux captain.

6 JULY, 1743.

The wind blowing from south-west, we sailed about four o'clock in the morning. As we were under sail, we saw three Esquimaux boats and a few canoes of these barbarians, only one canoe of which could reach our vessel. The others having been unable to do so and having indicated our course to that Esquimaux, he offered to pilot us. Having taken the helm, he piloted us very well for more than two hours after leaving Hapé bay, and he piloted us for a distance of four leagues past steep bluffs to the entrance of another bay of one league width at its entrance by many leagues in depth, in which bay he gave us to understand that Captain Araby was anchored and that there lived Captain Amargo, another Esquimaux chief, which caused us to name this bay after him. Our Esquimaux pilot,

returned to shore and left us, seeing that we would not proceed to the bottom of the bay where he had intended to lead us. At the same time, we recognized the vessel of the said Araby, which was sailing to leave the bay. And having waited for him, to speak to him, he

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nous aurions reconnu Le bâtiment du d^t Araby qui faisoit voile pour sortir de la baye, Et L'ayant attendu pour luy parler, il nous auroit dit que dans la nuit il Seroit venu à Son bord neuf Canots Eskimaux, Et qu'il auroit vû vingt-deux Chaloupes mais que Le grand nombre de ces barbares L'auroit Empesché de traiter : ce qui est contraire à ce que nous auroit fait Entendre L'Eskimaux notre Pilote, En disant que Le Capitaine Araby avoit traité de La baleine avec Le Capitaine Amargo. Le d^t Araby auroit ajouté que dans cette baye etoit La troupe d'Amargo Capitaine Eskimaux, que ces barbares etoient en grand nombre, Et qu'il ne nous conseilloit pas d'aler plus loin, vu que nous trouverions à qui parler Le Long de la Coste à quoy je luy aurois fait reponse que nous avions des armes pour nous deffendre. Comme Le d^t bâtiment en société appartenant aux S^{rs} Martel de Brouague et Desaulnier négociant de Québec aprochoit de nous, nous aurions reconnu un Prestre Recolet parti de Québec avec le S^r Desaulnier Commis a la baye Philipeaux pour Les d^{ts} S^{rs} Brouague et Desaulnier Son frere. Ensuite ayant demandé au d^t Araby ce qu'il auroit fait des Sauvages qu'on s'avoit qu'il avoit Embarqué pour luy servir de guide, il auroit repondu que la pour des Eskimaux leur auroit fait prendre la fuite, apres nous etre separé ayant voulu observer la route qu'il tenoit nous l'aurions vû s'en retourner du Costé de Bel Isle n'osant pas Sans doute aler plus loin faute de passeport qu'il n'auroit obtenu que pour la baye de Philipeaux.

Notre Equipage intimidé de ce que nous auroit dit le d^t Araby se seroit revolté disant qu'on les mesnoit à la boucherie, Et qu'ils vouloient s'en retourner, apres leur avoir remontré avec Le Capitaine que notre vie nous etoit aussy chere que La Leur, Et que le d^t Araby n'auroit tenu ce langage que dans la seule veue de les decouragor, Et de faire echouer cette decouverte, je les ay menacé Leur disant quo j'alloys faire mettre à terre les poltrons pour

(Translation.)

told us that, at night, he had been boarded by nine Esquimaux canoes and had seen twenty-two boats, but that the great number of these barbarians had prevented him from trading : which is in contradiction with the statement of our Esquimaux pilot, who said that Captain Araby had traded in whales with Captain Amargo. The said Araby added that the land of Amargo, the Esquimaux captain, was in this bay ; that these barbarians were great numbers, and that he advised us not to proceed any further, as we would find opposition along the coast. I answered him that we were armed and could defend ourselves. As this vessel, which is owned by the partners, the Sieurs Martel de Brouage and Desaulnier, merchant of Quebec, was approaching us, we recognized a Recollet priest who had left Quebec with the Sr. Desaulnier, clerk at Philippaux bay for the said Srs. Brouage and Desaulnier, his brother. Having then asked the said Araby what had become of the Indians whom it was known he had taken on board to serve as his guides, he answered that the fear of the Esquimaux had caused them to flee. Having separated, and having waited to ascertain his course, we saw

him return toward Belle isle, undoubtedly not daring to proceed any further for want of a passport further than Philipeaux bay.

Frightened by Araby's statement, our crew mutinied, saying that they were being led to slaughter, and wanted to return. Having been shown by the Captain and myself that we prized life as much as they did, and that Araby had made that statement for the sole purpose of discouraging them and causing the discovery to voyage to come to naught, I threatened them, saying

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ne garder que les gens de bonne volonté. Ce qui parut d'abord Les Intimider, Et les calmer, Cependant comme ils persistoient dans leur revolte, je les aurois menacé de dresser avec Le Capitaine un procès verbal contre eux Leur declarant qu'ils perdrieroient Leurs gages, Et qu'ils seroient puni sur la plainte que je porterois contre eux, ce qui auroit achever de les calmer. Ensuite ayant mis le Cap en route, nous Sommes Sorti de la baye d'amargo, Et après avoir fait quatre à cinq lieues de Caps, nous avons vû à une heure apres midy de La fumée dans une autre baye, dont L'Entrée n'a qu'une demie Lieue Et Laquelle en dedans s'Elargit de plus en plus, Et peut avoir deux Lieues de profondeur avec des Isles, Et Ilots, et grande Eau par toute son Entrée. Etant Entré dans la d^{te} baye nous avons tiré quelques coups de fusil, Et notre Surprise a été de voir qu'on nous repondroit à terre par d'autres coups de fusil, ce qui nous auroit fait comprendre que c'etoient d'autres Sauvages que des Eskimaux, parce que ces derniers n'ont pas L'usage des armes a feu, nous aurions mis Le Cap sur la fumée, Et Les vents contraires nous auroient obligé de mouiller Entre les Isles, Et terre a dix brasses d'eau. apres avoir de nouveau fait tirer d'autres coups de fusil ausquels en nous auroit repondu, sur les huit heures du soir, il seroit venu à notre bord des Sauvages Lesquels nous auroient dit avoir été Embarqués sur Le batiment d'Araby. Comme plusieurs de ces Sauvages parloient françois, je leur aurois demandé pourquoi ils etoient restés, a quoy ils m'auroient repondu qu'ils devoient conduire le d^t Araby jusqu'a La baye Kessessakiou, mail que le d^t Araby ayant eu peur des Eskimaux, il Les avoit laissé, Et qu'il s'en retournoit. Leur ayant ensuite demandé s'ils connoissoient la d^e Baye, ils m'auroient repondu que ouy, Et que si je voulois les embarquer avec Leurs femmes, et Leurs enfans, ils nous montreroient La route, Et nous y conduiraient, à quoi j'aurais consenti et pour avoir rencontré des Sauvages en ce lieu, nous lui aurions donné le nom de baie des Sauvages.

(Translation.)

that I would send the cowards ashore and keep only those of good will. That, first, seemed to frighten, and to quiet them. However, as they persisted in their mutiny, I threatened them, saying that they would lose their wages, and be punished on the complaint I would make against them. That, finally, appeased them. Then, standing on our course, we sailed out of Amargo bay, and, after travelling four or five leagues, we saw, at one o'clock in the afternoon, smoke in another bay, the entrance of which is only one league and which widens gradually, and may have two leagues in depth, with islands and islets and deep water everywhere in its entrance. Having entered the said bay we fired a few gun shots, and were surprised by being answered from land by other gun shots, and we perceived that they were

natives other than Esquimaux, because the latter do not use fire-arms. We steered our course towards the smoke, but a contrary wind forced us to anchor between the islands and land in ten fathoms of water. Having ordered other gun shots to be fired, they were answered About eight o'clock in the evening, Indians came on board and told us that they had been taken on board of Araby's vessel. As many of these Indians spoke French, I asked them why they had remained. They told us that they were to pilot Captain Araby to Kessessakiou bay, but that the said Araby, fearing the Esquimaux, had abandoned them and was returning. Having then asked them whether they knew the said bay, they answered that they did, and if we would take them on board with their wives and children, they would show us the way and pilot us there. I agreed to these terms, and meeting the Indians in that place caused us to name it baye des Sauvages.

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7 JUILLET 1743.

Sur les quatre heures de relevée Les vents s'etant rangés de la part du Sud, et Sud, Sud-Ouest, nous aurions appareillé pour sortir de la d^e baye des Sauvages, Et en passant levant L'endroit ou etoient Cabanés Les Sauvages on Leur a tiré quelques coups de fusil pour Les faire venir a bord, ou ils Seroient versus avec armes, Et bagages, femmes, Et Enfans, apres avoir fait Environ deux Lieues de Chemin Le Long de La Coste des Eskimaux qui court nord, Et Sud depuis La baye St. Alexis, nous Serions Entrés dans une Chaine d'Isles Et Ilots tres hauts Et Escarpés qu'on voit jusqu'a huit, Et dix Lieues dans Le large, Et apres fait route au milieu des d^{tes} Isles jusqu'a dix heures du Soir, nous aurions mouillé dans les d^{tes} Isles que nous avons apelé Isles des Eskimaux, ou mille Isles. Il y a quantité de gibier, Et ce que nous aurions remarqué dans ces Isles, c'est un grand nombre de monceaux de pierre En forme humaine, qui sont l'ouvrage des Eskimaux qui rôdent toujours dans ces Isles ou qui y font Leur residence.

8 JUILLET 1743.

Les vents an sud ouest, Et Le Cap au nord-ouest quart de nord nous avons Levé L'ancre a trois heures du matin, Et sur Les huit heures nous avons découvert dans la profondeur des terres En une distance tres Eloignée une grosse montagne Et tres haute que Les Sauvages nous ont dit Estre celle de Kessessakiou. sur le midy un gros vent du nord s'etant Elevé avec de la pluye Et de la brume, il nous a fallu Encore mouiller dans les d^{tes} mille Isles.

(Translation.)

7 JULY, 1743

About four o'clock in the afternoon, the wind having veered from south, and south-south-west, we set sail out of baye des Sauvages, and, when passing in front of the place where the Indians lived in their cabins, we fired a few gun shots to cause them to come on board, which they did, bringing their arms, luggage, women and children. Having travelled about two leagues along the Esquimaux coast, which runs north and south from bay St. Alexis, we entered a chain of very high and steep islands and islets to be seen at a distance

of eight or ten leagues off. Having travelled through these islands until ten o'clock in the evening, we anchored among the Esquimaux Islands or Mille Isles (Thousand islands). The game is abundant there. We noticed in these islands big heaps of stone having the form of a human being, the work of the Esquimaux, who are always roving in these islands or making their residence there.

8 JULY, 1743

With southwest winds, and steering north-west quarter north, we weighed anchor at three o'clock in the morning, and, about eight o'clock we discovered in the interior, at a very great distance a big and very high mountain¹ which the Indians told us to be that of Kessessakiou. About noon, a heavy north wind having risen, with rain and fog, we were still compelled to remain at anchor in the said Mille isles.

¹Mealy mountains.

9 JUILLET 1743.

Les vents S'etant rangés au Sud-Est quart de Sud sur les deux heures de relevé nous avons continué route pour sortir des d^{tes} mille Isles, dont L'Etendu nous a paru Estre d'Environ vingt cinq Lieues de route tres difficile, d'ou nous ne sommes sortis que par Le secours de nos Sauvages, Et nous sommes Entrés dans L'ance de La riviére [sic.] au Sable, ainsy nommé par Les Sauvages à cause de La quantité de sable qu'il y a : au fon de Laquelle ance est une riviére [sic.] du mesme nom dont nous avons entendu en passant le bruit de la chute. Cette riviere suivant le rapport des Sauvages est poissonneuse : Et abondante en Saumons. depuis cette riviere le terrain est bas Et couvert de bois de sapin, et autres bois gommeux, En allant au Nord Le tour de l'ance est rempli d'un grand nombre d'Isles qui sont Le Long de la terre, ce qui forme cette ance qu'on pourroit nommer baye est une presqu'Isle : du Costé du Sud, Laquelle avance beaucoup dans Le Large, Et joint par l'autre bout à la terre ferme. c'est par cette pointe que Les Eskimaux font le portage de Leurs canots. cette presqu'Isle fait une pointe avancée dans Le Large Laquelle est fort difficile à doubler.

10 JUILLET 1743.

Quoy que Les vents Soyent de prés nous aurions neanmoins marché En route, Et sur les onze heures nous aurions aperçu devant nous une pointe dans le large que les Sauvages nous ont dit former L'Entrée de La baye des

(Translation.)

9 JULY, 1743.

The wind having veered to south-west quarter south, at about two o'clock in the afternoon, we pursued our course to emerge from the Mille isles, which seemed to us to be about twenty-five leagues of very difficult navigation. It was only with the assistance of our Indians that we left them, and we entered Rivière au Sable inlet¹, so called by the Indians because of the quantity of sand found in it. At the end of that inlet, lies a river of the same name, the falls,² of which we heard in passing. This river, according to the report of the Indians, is full of fish and abounds with salmon. From this river, the land is low and covered with pines (spruce) and other resinous woods. Sailing northwardly, there are a great number of islands along the shore of the inlet. This inlet, which we might call a bay, is formed by a peninsula on the south side, which juts out a long way and connects at the other end with the mainland. The Esquimaux avoid that point by portaging their canoes. This peninsula projects into the open sea and is very difficult to double.

10 JULY, 1743.

Although the wind was still strong, nevertheless, we made headway, and, about eleven o'clock, we saw ahead of us a point of land which, the Indians told us, formed the entrance of Esquimaux

¹Sandwich bay.

²The falls identify the rivière an Sable with our present Eagle river. The falls near the mouth of Eagle river are 40 feet high.

Eskimaux que Les Les Sauvages nomment Kessessakiou, apres avoir passé L'ance de La riviere aux Sables dont nos Pilotes ont Estimé la longueur d'Environ vingt Lieues, sur les deux heures apres midy nous aurions doublé la d^e pointe dont les terres sont basses Et nous serions entré dans la d^e Baye des Eskimaux, dont L'Embouchure d'une pointe à l'autre nous a paru estre d'Environ douze Lieue de Large, Laquelle baye retracit dans la suite a huit Et neuf Lieues Et va en diminuant peu a peu, au Large de laquelle pointe d'Entrée au sud sont deux Isles tres hautes, L'une grande, L'autre mediocre, apres avoir examiné L'embouchure de la d^e baye cy devant nomée des Eskimaux, Et par Les Sauvages Kessessakiou, nous Luy avons donné Le nom de baye St. Louis : Et nous avons nommé St. frederic Les deux grandes Isles d'entrée. nous avons apelé pointe de Beauharnois celle qui forme au Sud L'Entrée de La d^e baye dont L'autre pointe du Costé du nord a été nommé pointe de St. Gilles.

Ensuite nous avons fait route pour Entrer dans la d^e baye, qui court dans les terres ouest-nord-ouest, au sud de laquelle à quelque distance de terre nous avons trouvé douze et quinze brasses d'eau ainsy cette baye peut estre utile pour donner havre a de tres gros vaisseaux. Nous sommes Entrés dix Lieues avant dans cette baye a la faveur des vents de Sud-Est quart d'Est Et Sur Les dix heures du soir qui est L'heure à laquelle Le soleil se couche, Les vents s'etant jettés au Nord-Nord-Quest il nous a fallu mouiller à six brasses d'eau Entre Les Isles, Et terre au Nord Et au Sud de La d^e baye depuis Son Entrée il y a des Isles Et Ilots Le Long de la terre qui continue d'etre boisée a L'Egard de La Latitude n'ayant point de Pilote pour prendre hauteur nous ne la pouvons pas donner juste. suivant Le Coucher du Soleil qui est a dix heures du soir au Commencement de Juillet, L'on Estime que cette baye doit

(*Translation.*)

bay, or Kessessakiou, as they call it. Having passed Rivière aux Sables inlet—the length of which our pilots estimated at approximately twenty leagues—about two o'clock in the afternoon, we doubled the said point of low-lying land and entered Esquimaux bay. The entrance to it, from one point to the other, seemed to be about twelve leagues in width, afterwards, narrowing to eight or nine leagues, and gradually decreasing. South of this point at the entrance, lie two very high islands, one large, and the other rather small. Having explored the mouth of the said bay, heretofore called Esquimaux, and, by the Indians. Pessessakiou, we called it St. Louis bay ; we gave the name of St. Frederic to the two large islands at the entrance. The one forming the southern entrance of the bay we called pointe de Beauharnois, the other point, on the north side, has been called St. Gilles point.

We then steered the course to enter the said bay, which runs inland west-north-west. In the southern part of it, at some distance from land, we found twelve and fifteen fathoms of water, so this bay may harbour very large vessels. We sailed ten leagues into this bay with the help of south-east quarter east winds, arriving at about ten o'clock in the evening, the hour of sun-set. The wind having veered to the north-north-west, we had to anchor in six

fathoms of water between the islands and shore. Northwest and south of the said bay from its entrance are islands and islets along the land which is forested. As regards the latitude, not having a pilot to take observations, we cannot give it exactly. According to sun-set, which is at ten o'clock in the evening at the beginning of July, it is estimated that this bay must be between 55 and 56 degrees of north

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estre par Les 55 Et 56 degrés Latitude Nord Les Sauvages que j'ay Emmené nous ont dit qu'il entra il y a deux ans dans cette baye deux gros navires anglois ce ne pent etre que Les deux vaisseaux Anglois qui vont tous Les ans a la baye d'HUDSON. Les mesmes Sauvages nous ont assuré qu'au Nord de La pointe St. Gilles, sans pouvoir nous en marquer La distance, Etoit Le grand village des Eskimaux qu'ils disent Etre en grand nombre à L'Embouchure de La riviere blanche, qu'ils disent etre un bras de cello de Kessessakiou que nous nommons Riviere St Louis du nom de La baye ou Elle se decharge, Et ils assurent que cette mesme riviere St. Louis a une autre branche à la hauteur des terres qui va tomber dans la baye d'HUDSON par laquelle Les Sauvages descendent En Canot pour aller traiter avec Les Anglois.

11 JUILLET 1743.

Etant resté tout Le jour mouillé à cause des Vents contraires nous serions descendu a terre ; Et sur une Eminence nous aurions planté deux grandes Croix aux pieds desquelles étant à genoux nous aurions chanté plusieurs cantiques, Et hymnes en action de graces de notre heureuse arrivée Et au mesme Lieu nous aurions arboré Le Pavillon françois En criant à diverses reprises Vive Le Roy pour marquer de La prise de possession que nous faisons au nom du Roy, Et de la nation française d'une terre qui n'auroit Encore jamais été habitée par aucune nation, Et dont nous sommes Les premiers qui en prenons possession.

(Translation.)

latitude. The Indians whom I took away told us that, two years ago, two English vessels entered that bay. These must be the two English vessels which go every year to Hudson bay. The same Indians assured us that north of St. Gilles point, without being able to give us the distance, was the big village of Esquimaux, who, they say, are in great numbers at the mouth of river Blanche.¹ They say that this river is a branch of the Kessessakiou river, which we called St. Louis river after the name of the bay into which it discharges, and they assured that this same river St. Louis has another branch at the height-of-land, which falls into Hudson bay, and which the Indians descend in canoes to trade with the English.

11 JULY, 1743.

Being anchored all day on account of contrary winds, we landed and erected two large crosses on a hill at the foot of which we knelt down and sung many psalms and hymns thanking God for our successful arrival. At the same time, we raised the French flag, shouting repeatedly "Long live the King," to demonstrate that we were taking possession in the name of the King and of the French nation, of a land never before occupied by any nation, and of which we were the first to take possession.

J'aurois souhaité n'ayant plus aucun danger à Essuyer penetrer jusqu'au fond de La baye St Louis afin d'etre en Etat d'en rendre compte, Et de voir La decharge de la Riviere St Louis, Mais comme Le temps nous pressoit de nous en retourner nous voyant d'ailleurs contrariés par les vents, J'aurois proposé au nommé Pilote, Et à son fils de rester avec Les Sauvages dont il entend La Langue, Et avec Lesquels il est accoutumé d'hyverner dans les bois pour aller reconnoître Le fond de la d^e baye St-Louis, comme aussy pour aller decouvrir Les deux bras de La d^e Riviere St. Louis, L'un qui va à la baie d'HUDSON, Et L'autre au grand Village des Eskimaux suivant Le report des Sauvages qui ne mettent que douze Lieues de distance de La pointe St. Gilles. Etant convenu avec Le d^t Pilote Et son fils d'une somme pour Leur hyvernement je leur aurois fourni un Canot d'Ecorce, des Vivres, des armes, des munitions de guerre, de Chasse. Et autres effets necessaires.

Les Sauvages au Nombre de cinq à six familles ayant consenti de rester avec Le d^t Pilote je leur aurois fait Les mesmes fournitures, Et Leur aurois donné En present des habillemens des Couvertures Et autres effets tant pour. La Chasse que pour La pesche. En quittant Le d^t Pilote Et son fils je leur aurois recommandé de ne pas S'exposer Le Long de la mer à cause des Eskimaux, Et je leur aurois promis sous le bon plaisir de M. Le Gouverneur General et de M. L'Intendant de Leur envoyer du secours dès cet automne.

Ensuite nous étant rembarqués nous aurions fait voile le d^t jour douze Juillet à une heure apres midy pour nous en retourner au detroit de Bel Isle. Les vents s'etant rangés à L'Est nous aurions courru bord sur bord pour sortir de la d^e baye St Louis. Comme Les courans nous jettoient en Coste nous aurions touché deux fois En dedans de la pointe Beauharnois, d'ou nous nous

(Translation.)

12 July, 1743.

Having no more perils to encounter, I would have preferred to penetrate to the end of the bay St. Louis, so as to be able to describe it, and see the inlet of the river St. Louis. But, as the time for our return was pressing, and as the winds were contrary, I proposed that a man named Pilote and his son remain with the Indians whose language he understands, and with whom he is accustomed to winter in the forest, in order to explore the end of bay St. Louis, as well as discover the two branches of said river St. Louis, the one going to Hudson bay, and the other to the big village of Esquimaux, according to the report of Indians who estimate that it is only twelve leagues distant from St. Gilles point. Having agreed with the said Pilote and his son for the payment of a certain sum for their wintering, I supplied them with a birch-bark canoe, provisions, arms, munitions of war, for hunting, and other necessary goods.

The Indians, to the number of five or six families, agreed to remain with Pilote. I left them the same supplies and gave them clothing, blankets, and other articles for fishing and hunting. When I left Pilote and his son, I recommended them not to expose themselves on

the sea-shore for fear of the Esquimaux, and, subject to the approval of the Governor General and the Intendant, I promised to send them assistance in the fall.

Having then re-embarked, we sailed on the twelveth of July, at one o'clock in the afternoon, to return to Belleisle strait. The wind having veered to the east, we made tack for tack to leave

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serions heureusement relevé par Le moyen d'un ancre porté au Large. Et sur Les dix heures du soir nous aurions mouillé à la Pointe de Beauharnois, Entre Les Isles et terre.

13 JUILLET 1743.

A Sept heures du matin nous avons Levé l'ancre Et à la faveur des vents de nord nous avons dépassé la pointe Beauharnois. Et apres avoir heureusement traversé La grande anse de La riviere au sable avec les Vents de Nord-Ouest malgré La brume Et La pluye apres avoir doublé La pointe de La presqu'Isle nous Sommes Entrés dans Les mille Isles à minuit Les vents étant contraires nous avons jetté L'ancre.

14 JUILLET 1743.

Nous avons mis à la voile avec Les vents de sud-ouest Et ouest-Sud-ouest, Et après avoir courru plusieurs bords avec Les vents qui ont été variables à midy avant les vents debout nous avons mouillé dans les d^{tes} Isles à huit brasses d'eau. Le reste du jour nous avons Eu de la pluye et du calme toute la nuit.

15 JUILLET 1743.

Nous avons apareillé avec Les vents au sud-ouest, nous avons fait plusieurs bordées dans les d^{tes} Isles, Enfin nous avons jetté L'ancre à midy. Une heure après Les vents au Nord-Ouest nous avons Continué route, Et nous Sommes

(Translation.)

the said bay St. Louis. As the current drove us ashore, we grounded twice within Beauharnois point, but happily righted the vessel by means of an anchor carried out, and, at about ten o'clock in the evening, we anchored at Beauharnois point between the islands and shore.

13 JULY, 1743.

At seven o'clock in the morning, we weighed anchor, and, with the assistance of a north wind, we passed Beauharnois point, and, having successfully passed the big riviere au Sable inlet, with a north-west wind, in spite of fog and rain, and having doubled the point of the peninsula, we entered the Mille isles (Thousand islands) at midnight. Contrary winds compelled us to anchor.

14 JULY, 1743.

We set sail with south-west and west-south-west winds, and, after many tacks, with

variable winds at noon and a head-wind we anchored in the said islands in eight fathoms of water. We had rain the remainder of the day and calm all night.

15 JULY, 1743.

We sailed with a south-west wind, made many tacks among the islands, and, finally, anchored at noon. One hour later, the wind being north-west, we pursued our course and emerged from

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sortis des mille Isles. Les vents ayant changé nous avons Soutenu dans le large Le Calme nous a pris qui a duré toute la nuit, ce qui nous a Empesché de pouvoir Entrer dans aucun havre : Le rouli a été fort gros, nous apprehendions de demâter.

16 JUILLET 1743.

Les vents du Nord, Et Nord-Est nous mettant En route nous avons passé trois bayes Le Long des Caps. Les vents de sud, Et de sud-Est nous ont obligé de ranger La terre pour y chercher un havre, Et a la faveur du vent de sud nous Sommes Entrés dans la haye des Meniques et en y Entrant nous avons vû un feu Eloigné. Enfin sur les deux heures de relevée nous avons mouillé à vingt brasses d'eau près des Isles. Une heure après il a paru à la pointe huit Canots Eskimaux qui ont débarqué sur une Isle faisant Leurs cris ordinaires auxquels nous ayons répondu, ce qui est comme Le Signal pour leur marquer qu'ils peuvent venir. Lest d^{ts} Eskimaux s'etant rembarqués dans Leurs Canots sont versus a notre bord Les voyant s'approcher nous avons pris Les armes. Ils sont montés à bord et nous ont aporté huit barbes de baleine que j'ay traité avec eux. Une heure apres qu'ils se sont retirés il est venu a bord six autres Canots Eskimaux qui nous ont traité quatre barbes de baleine. Un de ces Eskimaux nous a fait Entendre qu'il etoit Le Capitaine Amargo Et que Le Capitaine Araby Luy avoit fait tirer un Coup de fusil Sur les Loups marins sans doute pour Luy apprendre L'usage des armes, avant de nous quitter il nous a aussy fait Entendre qu'il alloit dormir, Et que le Lendemain il Emmemeroit d'autres Sauvages de sa Nation pour traiter avec nous. J'ay fait donner à ce chef et à sa troupe de la viande cuite qu'ils ont mangé, ils ont bû de L'eau douce qu'on leur a donné ; ce qui detruit La fable de ceux qui disent que ces barbares ne mangent que des viandes crues Et qu'ils boivent L'eau

(Translation.)

the Mille isles. The wind having shifted, we stood out to sea. The calm which set in lasted all night, and prevented us from entering any harbour. The ship rolled heavily, and we feared we would lose our masts.

16 JULY, 1743.

The wind was from the north and north-east and, holding our course, we passed three bays along the capes. The south and south-eastern winds compelled us to sail along the coast seeking a harbour. and, with the assistance of a south wind, we entered the bay of Meniques, and, on entering, we saw a distant fire. Finally, at about two o'clock in the afternoon, we anchored in twenty fathoms of water near the islands. One hour later, eight canoes of Esquimaux appeared at the point. They landed on an island, uttering their usual cries, which we answered, which is equivalent to inviting them to approach. The Esquimaux having re-embarked in their canoes came on board. As we saw them approaching, we armed ourselves. They hoarded us and brought aboard eight whale this which I bartered with them.

One hour after their departure. six other canoes of Esquimaux hoarded us, and they traded four whale fins. One of them gave us to understand that he was Captain Amargo, and that Captain Araby had ordered him to fire a gun shot at a seal to teach him the use of arms. Before leaving us, he also gave us to understand that he was going to sleep and, in the morning would bring his other Indians of his nation to trade with us. I ordered that this chief and his band be given cooked meat, which they ate. They drank fresh water that we gave them. This disproves the story that these barbarians eat only raw meat and drink salt

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salée ce qui paroist impossible de croire. mais ils nous ont refusé du pain, du vin. Et de L'eau de vie dont ils ne connoissent point L'usage Il seroit a souhaiter qu'il en fut de mesme de nos autres Sauvages. Il est a craindre seulement que si cette Coste des Eskimaux est Etablie par un trop grand nombre de françois on ne mette ces barbares dans le goust d'user de boissons, comme on a fait aux autres Sauvages, j'ay remarqué que plusieurs d'entre eux saignoient du nez naturellement Et qu'ils buvoient leur sang, nos gens pretendoient que La pour en etoit la Seule cause, j'ay peine a la croire par ce que ces barbares ne nous ont point paru timides, peut-etre vouloient ils nous faire Entendre qu'ils desireroient ainsy boire notre sang, c'est pourquoy taut qu'ils out resté a bord nous avons toujours été sur nos gardes.

17 JUILLET 1743.

Les vents contraires nous Empesehant de sortir de La d^e baye des Meniques Sur les Sept heures du matin il seroit venu a notre bord vingt-quatre Canots d'Eskimaux qui avoient a Leur Suite dix huit Chaloupes, ou il ne nous a paru que des femmes, Et des enfans aver du bagage. Les d^{tes} Chaloupes se seroient tenus un peu au loin n'osant Sans doute aprocher. Les Eskimaux des vingt-quatre Canots apres avoir fait Leurs cris ordinaires ausquels nous aurions repondu En nous tenant sur la deffensive, sont montés à notre bord, ou ils ont traité avec nous Environ un quintal de baleine, trois Canots, des habillemens de Loup-marin, Et quelqu'un de Leurs armes ; car voila tout le profit que j'ay retité de ma découverte pour Les grosses depenses qu'il m'a fallu faire. Les d^{ts} Eskimaux nous voyant appareiller à midy à cause des vents du nord-ouest Seroient descendus, dans leurs canots pour s'en retourner à terre Nous n'avons pas plus tôt été sortis de La d^e baye que Les vents contraires nous ont contraint de Courir La bordée La reste du jour, Et toute La nuit.

(Translation.)

water, which seemed incredible, but they refused bread, wine and whisky, the use of which was unknown to them. It would be desirable that it be the same with our other Indians. It is only to be feared that, if the Esquimaux coast is settled by too many Frenchmen, the liquor habit will be acquired by these barbarians, as has been the case with other Indians. I noticed that many of them were bleeding naturally from the nose, were drinking it. Our men pretended that fear was the only cause of it. I doubt it, because these barbarians did not seem frightened. Their intention was perhaps to let us understand that they likewise wished to drink our blood. Therefore, as long as they remained on board, we were on our guard.

17 JULY, 1743.

Contrary winds prevented us from leaving the Bay of Meniques. About seven o'clock in the morning, twenty-four canoes of Esquimaux boarded us, followed by eighteen boats which seemed loaded only with women, children and luggage. The boats kept at a distance, undoubtedly fearing to approach. Having uttered their usual cries, which we answered while keeping on the alert, the Esquimaux of the twenty-four canoes came on board where they traded with us about one quintal (hundredweight) of whalebone, three canoes, seal clothing and some of their weapons. That is the only profit I made during my exploration in return for the heavy expense I incurred. The Esquimaux, seeing that we were setting sail at noon on account of the north-west winds, returned to their canoes and went ashore. We had hardly left the bay when contrary winds compelled us to tack about for the remainder of the day and during the night.

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18 JUILLET 1743.

Les vents du sud, Et de sud-Est qui out duré tout Le jour,
Et toute la nuit nous ont fait continuer nos bordées dans Le
Large.

19 JUILLET 1743.

Les vents au Sud-ouest nous avons vû Le Cap Charles En
faisant nos bordées. Le vent a augmenté, Et la mer est devenue
fort agitée. sur les sept heures du soir nous voyant proche de
La baye des Chateaux nous avons tiré trois coups de Canon sur
Le champ L'on a Envoyé au devant de nous une Chaloupe qui
nous a aidé malgré La nuit Et la brume à, Entrer dans le
mouillage, à notre arrivée Les pescheurs nous ont dit que
depuis notre depart ils avoient eu des brumes Et des pluyes
continuelles avec des vents Si impetueux qu'ils nous croyoient
perdus sans ressources, Et ce avec d'autant plus de fondement,
que Le nommé Araby à Son retour en avoit fait courrir Le bruit
Le Long de Coste, Et en avoit porté La nouvelle au Tierpon, Et
dans les autres havres du petit nord dès le lendemain de mon
arrivée mon premier soin a été de renvoyer au Terpon la
goelette qui m'avoit été prestée ou elle a été rendue le 21e Jour
Il estoit temps de precipiter mon retour, puisque je n'ay resté
que trois jours au d^t Lieu de La have des Chateaux, Et que le
24e Juillet je Suis parti pour Quebec à cinq heures du maths
sur le mesme batiment qui m'avoit Emmené. Enfin apres une
longue, Ennuyeuse et perilleuse navigation Nous sommes
Enfin arrivé a Quebec Le 25e aoust jour de St Louis Sur les
neuf heures du Soir : Et Le sur Lendemain 27^e aoust nous nous
sommes tous acquité du Voeu que nous aurions fait clans Le
Cours de notre voyage.

(Translation.)

18 JULY, 1743.

The south and south-west winds which blew all day and all night caused us to keep tacking about in the open sea.

The wind being from the south-west, we saw cape Charles while tacking about. The wind increased, and the sea became very rough. At about seven o'clock in the evening, seeing we were near baie des Chateaux, we fired three gun shots. They immediately sent us a boat which helped us, in spite of the night and fog, to enter the anchorage. Upon our arrival, the ushermen told us that since our departure they had suffered continuous fog and rain with winds so fierce that they believed we were assuredly lost. What seemed to make it a certainty was that this Araby, on his return, had reported it along the coast and at Tierpon, as well as at other harbours of the Petit Nord. The very day after my arrival, my first care was to send back to Tierpon the schooner I had chartered, where it arrived on the 21st day. As it was necessary to hasten my return, I only remained three days at the baie des Chateaux, and on the 24th of July, I sailed for Quebec at five o'clock in the morning on the same vessel that had carried me thence. At last, after a long, wearisome and perilous voyage, we arrived at Quebec on the 25th of August, day of St. Louis' day, about nine o'clock in the evening. The second day after, on the 27th of August, we fulfilled the vow we had made during our voyage.

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REMARQUES.

J'ai a faire remarquer que dans La decouverte que j'ay fait de La baye des Eskimaux aujourd'hui baye St Louis, nous n'avons pû observer Le Long de La Coste ny dans les bayes Les passe-a-Loup-marins, d'autant qu'il estoit trop tard, Et que Le poisson estoit desjà passé pour retourner au Nord. Comme Le Loup-marin est abondant Le Long de cette Coste qui est bordée d'une Infinité d'Isles, Et Ilots, Il est à croire qu'il y a un grand nombre de passes, ou L'on peut faire La pesche sedentaire de ce poisson, mais on ne peut Les désigner autrement que par Conjecture, pour Les conoitre avec certitude il faudroit frequenter cette Coste. Comme Le froid doit Commencer plus tôt a la baye St Louis Et le Long de la Coste des Eskimaux que dans les postes de Labrador. Il est incertain si La pesche d'automne pourra avoir Lieu, Laquelle se fait à Labrador au mois de Decembre jusqu'aux Roys, il paroist bien tard pour la pouvoir faire dans ce mesme tems. toute La ressource sera la pesche du printemps.

Ce qui est a observer pour Le Loup-marin, c'est que ce poisson Se retire du grand Nord au Commencement du froid, et va En cotoyant la terre Le Long de La Coste des Eskimaux, et de celle de Labrador, il passe L'hyver dans le golfe sans remonter Le fleuve St Laurent. Le printemps de L'année suivante au mois de Juin Lorsque les Glaces Sortent du nord, ce poisson se mesle parmy Les glaces, descend Le Long de La Coste, il va jusqu'au detroit d'hudson : mais il est incertain s'il va passer L'Esté dans la baye d'hudson, S'il passe Le detroit de Davis pour aller dans la mer Christiane, ou si il va jusqu'aux terres du nouveau groenland. Ce poisson qui est tres abondant est Environ trois semaines à passer dans chaque Endroit, ce qui fait une pesehe Successive d'un poste à un autre.

(Translation.)

I must remark that, during the exploration I made of Esquintaux bay—now St. Louis bay—we were unable to discover the seal-passes either along the coast or in the bays, as it was too late: the seals had already passed on their return to the north. As seals are numerous along this coast which is bordered with innumerable islands and islets, it is believed that there are a great number of passes where sedentary seal fisheries may be established, but they cannot be indicated other than by conjecture. To determine them with certainty would require repeated visits to this coast. As the winter must set in earlier at St. Louis and along the Coste des Esquimaux than in the posts of Labrador, it is uncertain whether the fall fishery could be made, which takes place at Labrador in the month of December until the Twelfth Day. It seems as if it would be very late if made at the same time. The only resource will be the spring-fishery.

What has been observed respecting the seal is that it leaves the Grand Nord when the cold weather sets in, and follows the shore along the Esquimaux coast and the coast of Labrador. In the spring of the year following, it takes to the ice, which is carried along the coast [by the Arctic current], and proceeds to Hudson strait, but it is uncertain whether it remains in Hudson bay during the summer, or whether it passes Davis strait to go into “ la mer Christiane ” or goes to the shores of New Greenland. This fish, which is very abundant, takes about three weeks to pass each place, and that permits a successful fishery in one post after another.

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La Carte qui est jointe à la presente relation est une Carte dressée Sur les observations de nos deux Pilotes Costiers, mais j'Espere dans la Suite En donner une plus exacte ou les degrés de Latitude seront observés, afin de Servir aux vaisseaux Du Long cours qui cherchent des havres ; Et si tost que je seray Etabli En la d^t baye St Louis, cela me mettra En Etat de decouvrir plus facilement Le reste de La Coste du Nord jusqu'au detroit d'HUDSON.

Le grand nombre d'Esquimaux que nous avons trouvé dans la baye des Meniques donnent lieu de croire qu'ils y Etaient comme en rendez-vous, d'où ils se dispoient d'aller faire Leur pillage Le Long de La Coste de Labrador, ils attendoient que les pescheurs fussent partis, or s'ils se faisoit des Etablissements pour la pesche sedentaire du Loup-marin dans les bayes et Isles qui sont Le Long de la coste des Esquimaux on empescherait Leurs brigandages, car ces barbares ne trouvant de havre pour se refugier, Et pour y estre en Sureté, S'Eloigneroient de plus en plus, Et n'oseroient aprocher du detroit de Bel Isle, ce qui mettroit Les pescheurs, Et toute La Coste ensuretée. autrefois Les Esquimaux montoient jusqu'a Mingan, mais Les Etablissements qui se sont fait Le Long de La Coste Les ont obligé de s'Eloigner, il en seroit de mesme. ces barbares sont agiles Et habiles a manœuvrer dans Leurs Chaloupes, Les femmes comme Les hommes. Ce sont d'insignes voleurs Et des piratessa redouter Le Long de La Coste plusieurs fois en s'aprochant de nous pour nous donner des marques d'amitié ils ont par subtilité mis les mains dans nos poches pour nous voler. nos françois qui les ont surpris en flagrant delit ne Leur out point épargné la bastonade, ny Les coups de poing pour leur faire rendre ce qu'ils avoient volé, jusqu'aux ustensiles de navires qu'ils vouloient emporter. toute Leur ruse de guerre est de prendre par Surprise ou d'attaquer Lorsqu'ils se sentent les plus forts. ainsy connu on n'est pas toujours sur ses

(Translation.)

The chart attached to this narrative is based upon the observations of our two coast pilots, but I hope, later on, to give a more correct one on which the degrees of latitude will be indicated, that it may be useful to other sea-going vessels looking for harbours. As soon as I am established in St. Louis bay, it will facilitate my exploration of the remainder of the Coste du Nord to Hudson strait.

The great number of Esquimaux we found in the bay of Meniques induce me to believe that they were there as at a meeting place, from whence they intended to go plundering along the coast of Labrador. They waited for the departure of the fishermen. So, if sedentary seal-fishing establishments were erected in the bays and islands along the Esquimaux coast they would prevent their brigandages, because these barbarians, finding no harbour in which they could take cover, and be in safety, would move farther and farther away, and would not dare come near Belleisle strait. This would assure the safety of the fishermen and of all the coast. Formerly, the Esquimaux ascended to Mingan, but the establishments made along the coast compelled them to move away. Here, the result would be the same. These barbarians are quick and skilful in the handling of their boats, the woman as well as the men. They are notorious plunderers and are pirates to be feared. Along the coast, many times, as they approached us to express their signs of friendship, they cleverly put their hands in our pockets to rob us. Having caught them red-handed, our Frenchmen did not spare them the club nor the fist to make them return what they had stolen. They would even

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garde Et comme il ne reste pas toujours dans Les postes la mesme quantité de monde c'est ce qui Les rendra toujours redoutables dans La Coste du nord.

Cependant il sera aussy dangeureux que differents concessionnaires fassent des Etablissements Le Long de la Coste des Eskimaux parce que si les uns pour Les rendre traitables veulent essayer de Les attirer, Et de Lier commerce, d'autres pour Les Eloigner de Leurs postes feront sur eux des actes d'hostilité, d'ou il arrivera que ces barbares pour se venger mettront a feu et a sang, Et ravegeront toute la Coste. on n'a vû que trop d'exemples jusqu'a ce jour de Leur barbarie. Le Sr Marsal on fournit un Exemple tout recent dans cette année. Il seroit facile de les humaniser comme les autres Sauvages. ils en ont donné La preuve année derniere à la baye des Chateaux ou ils ont travaillé comme nos matelots à charger Le batiment que j'avois Envoyé En Société; après avoir traité dans le Cour de L'Esté au d^t poste, ils y sont revenus L'automne, Et ont reste jusqu'aux glaces sans faire du mal aux quâtre hommes qui ont gardé le poste pendant l'hyver.

à L'Egard du nombre de ces Sauvages Eskimaux on n'en peut rien scavoir : ils sont répandus depuis le detroit de Belle-Isle Le Long de la mer juspu'au detroit d'HUDSON, de sorte qu'ils occupent plus de deux cent Lieues de pays. Nos Sauvages disent que Le grand village des Eskimaux est Environ à douze Lieues de la baye St Louis, Et que de la ils se repandent Le Long de la Coste. M. de Laraguy de Bayonne actuelement en cette ville vient de me rapporter qu'en 1737 Etant allé faire la pesche de la baleine vers le detroit d'HUDSON, il fit rencontre dans le large une glace, ou il y avoit plus de quatre cent cadavres, qu'il reconnut etre des hollandois, Et des Eskimaux qui

(Translation.)

attempt to carry naval equipment away. Their stratagem of war is to take us by surprise or to attack us when in superior numbers. As one is not always on his guard, and as the same number of men do not always remain in the posts, they will always be a source of danger on the Côte du Nord.

It will be dangerous if various grantees make establishments along the Esquimaux coast, because if some to render them tractable try to attract them and trade with them, others, to keep them away from their posts, will commit acts of hostility. In consequence, these barbarians, to avenge themselves, will put everything to fire and sword, and will devastate the whole coast. We have, in the past, seen too many instances of their cruelty. The Sr. Marsal recently informed us of one that occurred this very year. It would be as easy to civilize them as the other natives. They proved it last year at baie des Chateaux where they worked as our seamen in the loading of the ship I had sent in partnership. After having traded at the same post during the summer, they returned in the autumn and remained until frost set in, without injuring the four men who kept the post during winter.

With regard to the numbers of these savage Esquimaux, nothing could be ascertained. They are scattered from Belleisle strait along the sea to Hudson strait, so that they occupy more than two hundred leagues of land. Our Indians say that the big village of Esquimaux lies at about twelve leagues from St.Louis Bay, and that, from there, they spread along the coast. Mr. de Laraguy de Bayonne, now in this town, stated to me that, in 1737, while on a whaling expedition toward Hudson strait, he discovered in the open sea, ice on

S'etoient Sans doute battu Les uns contre Les autres. Cela fait conoitre qu'il ne faut frequenter cette coste qu'avec beaucoup de précaution à cause du grand nombre. Et de la férocité de ces barbares.

On ne scait rien de Leur vie, Et moeurs non plus que du Lieu de Leur habitation dans L'hyver, car dans L'Esté ils Sont errans, et vagabons, on ignore d'ou ils tirent Les barbes de baleine dont ils font un grand usage, Et qu'ils trafiquent avec nous. On ne scait s'ils font la pesche de la baleine ou bien ce sont des baleines qu'ils trouvent Echouées Le Long de la Coste: Le dernier me paroist plus probable d'autant que les barbes qu'ils nous ont trafiqué ne paroissoit pas fraîchement arrachées, mais vieilles et batues de la mer. Cependant je leur ay vu des dards Et des harpons Semblables a ceux dont nous nous servons pour cette pesche. pour Leur nourriture ils vivent de toutes sortes de poissons, Et Oiseaux de mer qu'ils tuent avec des flesches et des dards a plusieurs branches de fer amanchés au bout d'un Long baton qu'ils lancent adroitement, et d'une maniere Singuliere ; car les flesches Et les dards sont toutes Leurs armes Ils cabanent En rang comme les autres Sauvages, avec cette difference que leurs Cabanes sont couvertes de peaux de Loup-marin, Et que les autres se servent d'Ecorce d'arbres. Leur Chasse est Le Long de La mer, Et non dans les bois, ou ils n'osent penetrer par la Crainte qu'ils ont des Sauvages des terres. Pour leur habillement ils sont vetus de peaux de Loup-marin qu'ils sçavent passer, Et coudre fort artistement avec du serf. Les Hommes ont un Capot ou pourpoint cousu devant, Et derriere qui leur descend à la ceinture, avec un capuchon cousu avec l'habit pour se couvrir La Teste. ils ont des culotes, des bottes ou brodequins ausquels est attaché Le soulier. Les femmes portent un pourpoint de mesme avec un capuchon fort grand dans lequel Elles mettent leurs Enfans a la mamelle: avec cette difference que Leur pourpoint a une longue queue

(Translation.)

fought one another. This shows that this coast must not be frequented without the utmost precaution, in view of the great number and ferocity of these barbarians.

Nothing is known of their life and manners or of their dwelling place in winter time, because during the summer, they wander and rove. We are ignorant as to where they obtain the whale fins which they use so much and trade with us. We do not know whether they kill the whale or find it ashore on the coast. The latter seems to me more probable, all the more that the fins they traded with us did not appear freshly taken, but old and sea-beaten. I saw, however, in their hands spears and harpoons similar to those we use for that fishing. They feed on all kinds of fish and sea-birds they kill with arrows and with harpoons with many barbs fastened to a long stick, which they throw in a skilful and peculiar way. But arrows are their weapons. They live in cabins arranged in rows like other aborigines, with this difference that their cabins are covered with seal skins and that the others use tree-bark.

They hunt along the sea, and not in the woods, which they dare not penetrate owing to their fear of the Indians of the interior. For their clothing, they use seal skins which they know how to dress and to sew very cleverly with sinew. The men wear a coat or doublet sewed before and behind, which reaches to the waist, with a hood to cover the head, which is sewn to the clothing. They wear breeches, boots or brodequins to which the shoe is fastened. The women wear a like doublet with a very large hood in which they carry their infants

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qu'Elles se passent Entre les cuisses pour L'attacher par devant avec deux boutons, au lieu de culotes elles ont des brodequins ou bottes qui leur montent à la ceinture avec un soulier joint à la botte. Les hommes, Et Les femmes ont un Casque de Bois sur le front attaché derriere la teste a cause du soleil pour se conserver La veue. A L'Egard de Leur navigation ils se servent de canots dans chacun desquels il n'y a que la place d'un homme. Les femmes avec, les enfans vont dans Les chaloupes qui leur servent à porter leur bagage, Et dans lesquels Elles manoeuvrent fort bien. Leurs Canots sont pointus par les deux Extremités, Et sont revestus de peaux de Loup-marins si bien cousus ensemble avec de la baleine qu'ils ne prennent point L'eau. pour leurs Chaloupes ils Les volent aux pescheurs Le long de La Coste de Labrador, et au Petit Nord, ils en font quelques-unes mais au lieu de Bordages, ils les couvrent en dehors de peaux de Loup-marins. Ils Les garnissent de voiles commes Les notres pour en sçavoir davantage il faudroit pouvoir Les frequenter, Et apprendre Leur langue. Si je n'avois apprehendé faire un acte d'hostilité j'aurois assayé de prendre un Jeune homme de quinze à seize ans afin d'apprendre sa langue. Et de luy apprendre La notre. mais cela pourra avoir Lieu dans la Suite.

Si j'ay laissé deux hommes a la d^e baye St Louis j'ay cru le devoir faire pour avoir une juste connoissance de La profondeur des terres, Et pour Examiner Les passes à Loup-marins. je me suis flatté que M. Le Gouverneur general, et M. L'Intendant auroient pour agreable mon zele, ainsy comme il importe de partir cet automne pour porter du Secours aux deux francois Et aux Sauvages que j'ay laissé au d^e Lieu, Et comme il est nécessaire a cause de la distance des Lieux, et de La rigueur du froid qui Commence de

(Translation.)

at the breast. with this difference that their doublet has a long tail which they pass between their thighs to attach it in front with two buttons. Instead of breeches, they have brodequins or boots as high as the waist with a shoe fastened to the boot. The men and women wear a wooden shade on the forehead and attached to the head, to protect their eyes from the sun.

As regards navigation, they use canoes in which there is room for only one man. Women and children travel in boats in which they carry their luggage and which they handle quite cleverly. The canoes are tapered at both ends and covered with seal skins so well sewed with baleine that they do not leak. They steal boats from fishermen along the coast of Labrador and at Petit Nord. They construct a few, but instead of planks, they cover the outside with seal skins. They equip them with sails as we do ours. To know more, we must visit them frequently and learn their language. Had I not feared an act of hostility, I would have tried to take a young man of about fifteen or sixteen years of age, in order to learn his language and to teach him ours. But that can be done in the future.

I left two men at St. Louis bay, as I believed it my duty to have an exact knowledge

of the interior, and to examine seal-passes. I prided myself on the fact that the Governor General and the Intendant would be pleased with my zeal. So, as it is important to leave this fall to carry assistance to the two Frenchmen and to the Indians whom I left at the said place, and, as it is necessary, on account of the distance of the place and of the severity of the winter which sets in

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bonne heure dans le Nord de faire partir sans delais, c'est pourquoy j'ay Eu l'honneur de presenter mon placet à M. Le gouverneur general. Et à M. L'Intendant pour les prier de m'accorder La permission d'y Envoyer cet automne, Et de me donner le brevet de concession de la d^e baye St Louis dont j'ay L'avantage d'avoir fait La découverte. Quebec 20e 7^b 1743.

FORNEL

(Translation.)

early in the north, to sail without delay, therefore I have the honour to present my petition to M. the Governor General and M. the Intendant, praying them to give me the patent of concession of the said St. Louis bay which I had the good fortune to discover.

FORNEL

Quebec, 20 September, 1743.

[30 Oct., 1743.]

No. 1278.

C

**LETTER, 30 OCTOBER, 1743, CUGNET TO MINISTER,
ENCLOSING COPY OF HIS PROTEST TO BEAUHARNOIS AND HOCQUART
AGAINST CONCESSION OF KESSESAKIOU (BAYE DES ESQUIMAUX)
TO FORNEL.**

CANADA. CORRESPONDANCE GÉNÉRALE, 1743, Vol. F. 79, p. 55.

M. CUGNET
Monseigneur

Je prens libertè de prèsender cy Joint, a vôtre Grandeur,
les Remontrances que je ne suis crû de faire à Mrs. De
Beauharnois et Hocquart

(Translation.)

M. CUGNET,

30 October, 1743.

Monseigneur,

I take the liberty of transmitting herewith to Your Grace the observations whihc I felt bound to address to Messrs. De Beauharnois and Hocquart for the preservation of the foundation of the

p. 3404 [sic]

pour la conservation du fonds de la Traitte du Domaine de Sa

Majestè, au sujet d'un arnement fait par le S. fornèl, nègociant de cette ville Sons pretexte d'un Etablissement de Pesche dans le Baie de Kitchechatchou, dans lequel jl [sic.] parôit n'avoir d'autre vüe que celle de s'attirer le commerce de la plus grande partie des sauvages du Nord a la Ruine des Postes du Domaine aussi bien que de tous les autres Postes Etablis sur la Coste du Nord du fleuve St. Laurent, Le fernier du Poste de Mingan et le Concessionnaire de celui De Labrador leur ont fait de semblables Remonstrances pour leurs Interests [sic.], sur lesquelles Ils [sic.] attendent Respectueusement aussi bien que noy, ce qui sera Règle par De Beauharnois et hocquart en consèquence des ordres qu'ils Recevrent de Votre Grandeur.

J'ai l'honneur d'être avec un tres profond Respect Monseigneur.

De vôtre grandeur Le très humble et tres obeissant serviteur

CUGNET

de Quebec le 30 Octobre

1743.

(Translation.)

trade in His Majesty's domain, in connection with the expedition made by the Sieur Furnel under pretence of forming a fishery establishment in the bay of Kitchechatchou, concerning which his sole aim appears to be no other than that of attracting to himself the trade of the greater number of the northern Indians (Sauvages du Nord) to the prejudice of posts of the Domaine as well of all other posts established on the north shore of the river St. Lawrence. The lessee of the post of Mingan and the grantee of that of Labrador [Bradore Bay] have made similar representations to him in respect to which they are respectfully waiting, as well as myself, upon whatever may be determined by Mrs. De Beauharnois and Hocquart in conformity with such orders as they may receive from Your Grace.

I have the honour to be with the deepest respect, Monseigneur,

Your Grace's most humble and most obedient servant

CUGNET.

Quebec, 30 October, 1743.

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Etablis-
sements Et
Decouverts
Baie de Kit-
chechatchou
Cote du
Nord.

Establish-
ment and
discovery
Bay of
Kitche-
chatchou
North shore.

CANADA. CORRESPONDANCE GÉNÉRALES, Vol. F. 79, p. 55.

(CUGNET'S PROTEST)

A Monseigneur le Marquis De Beauharnois
Commandeur de l'ordre Roial de militaire de St. Louis, chef
d'Escadre des armées Navales de Sa Majesté, Gouverneur et
Lieutenant Général pour le Roy en toute la Nouvelle france.

et

Monseigneur Rocquart Chevalier, Conseiller du Roy en
ses Conseils Intendant de Justice. Police et finances aud^t. Pais
de la nouvelle france Mosseigneurs

Francois Etienne Cugnet, Directeur de Domaine
d'occident fernier des Traittes dépendantes dud. Domaine Dite
vulgairement la Traitte de Tadoussac, a l'honneur de
Remontrer très humblement a Vos Grandeurs qu'il a été
informè depuis quelques jours que le S. Fornel Nègotiant en
cette vine de Quebec sureit sous le prètexte d'un Etablissement
de Pesche de Loup marin qu'il a proposè de faire dans la Baie
de Kitchechatchou, obtenu la permission de faire la
Dècouverte de lad. Baie pour en obtenir la concession, et qu'en
vertu de cette Permission, JI [sic.] auroit envoiè a la coste du
Nord du fleuve St. Laurent un Bastiment conduit par Charles
Le Cour. Ce Batimeat n'a point ètè jusqu'a la Baie de
Kitcheschatchou, et est restè au lieu nomme en sauvage
Pichonoustekoüen, en francois Teste de Loup cervier, et a qui
le Sr. Fornel donne le nom de Baïe St. Louïs. JI n'a point

(Translation.)

To Monseigneur the MARQUIS DE BEAUHARNOIS, Commander of the Royal Military
Order of St. Louis, rear-admiral of His Majesty's naval forces, Governor
and Lieutenant general for the King in the whole of New France

and

Monseigneur HOCQUART, Knight, King's Councillor in his councils, Intendant of Justice,
police and finances in the said country of New France.

Nosseigneurs,

Francois Etienne Cugnet, Directeur de Domaine d'Occident, lessee of the trades
depending from the said Domaine and commonly known as the Trade of Tadoussac, begs to
represent most humbly to Your Graces that he has been informed, in the last few days, that
the sieur Fornel, merchant of this city, has, under the pretense of a seal fishery
establishment which he intends to form in the bay of Kitehechatchou, obtained the
permission to make the discovery of the said bay in order to secure the concession thereof
and that, in virtue of this permission, he has despatched to the north shore of the river St.
Lawrence, a vessel under the command of Charles Le Cour. This vessel did not get to the
bay of Kitchechatchou, but remained at the place called Pichonoustekoüen in Indian and
Teste de loup-cervier [Lynx-head] in French, and which the sieur Fornel named the bay de
St. Louis. He has not yet made the discovery of the bay of Kitchechatchou which was the

encor fait la Decouverte de la Baïe de Kitchechatchou qui Etoit le seul objet de la permissions par lui deinandèe et obtenüe. Il n'a Jesquà Jusquà prèsent auoune concession, ni de la Baïe de Kitchechatchou, ni de la pretendüe Baïe de St. Louïs ; Il a cependant laissè dans cette derniere Baïe lw [sic.] nomme Jean Pilotte et son fils avec des vivres et de l'Eau de vie. Ces deux Engagez ont arrestè avec Eux Sept a huit familles de sauvages resident ordinairement sur lit concession du St. De Broüague a Labrador, quatre sauvages du Poste de Mingan et trois du Poste des Sept Isles dependant des Traittes du Domaine du Roy, Et le S. fornèl vient de Renvoïer a la Baïe St. Louis le même Bâtiment conduit par Jean Le Cour Le Remontrant n'auroit aucune opposition a former a l'Entreprise du S. fornèl si Effectivement Elle pouvoit tendre a un Etablissement de Pêche, mais il est aisè de juger qu'il n'a d'autre vus clue de faire la Traitte non seulement avec les sauvages des Postes de Mingan, Labrador, Riviere St. Augustin, St. Modet, Baïe des châteaux, Mecatina, Cap St. Charles et autres Postes Etablis avant lui sur la Coste du Nord du fleuve St. Laurent mais aussi avec les sauvages des Postes du Domaine tint au bord de la Mar que dans la profondeur des Terres. En Effet il ne s'est point mis en devoir de Remplir son principal et unique objet, qui ètoit de faire la Dècouverte de la Baie de Kitchechatchou, Jl [sic.] n'y a pas Etè, ainsi Jl [sic.] ne scait point Encor s'il est possible ou non d'y Etablir une Pesche de Loup marin on autres Poissons a lard, qu'il a cependant presentee pour notif de la concession qu'il demande. Jl [sic.] se fixe a une Baïe qu'il nomme Baïe St. Louïs fort Eleignée de la Baïe de Kitchechatchou dont la Coste est bordèe d'Islets eleven sur Lesquels la Mer Brise en tout tems, et ou il est Impossible [sic.] de tendre des Retz pour une Pesche de Loup marin, ni d'Etablir d'autres Pesche de Poissons a lard. Jean Pilotte dont jl [sic.] se sert pour son Etablissement,

(Translation.)

sole object of the permission requested and obtained by him. So far, he has no concession, either of the bay of Kitchechatchou, or of the so-called bay of St. Louis; nevertheless, he left at this latter bay, one Jean Pilotte and his son with provisions and some brandy. These two *engagés* have induced to stay with them seven or eight Indian families who ordinarily reside on the Sieur De Brouages concession at Labrador [Bradore Bay], four Indians of the post of Mingan and three from the post of Sept Isles depending upon [an outpost] the trades of the King's Domaine, and the Sieur Fornel has just despatched back to the bay of St. Louis the same vessel under the direction of Jean Le Cour. The petitioner would have no objection to the Sieur Fornel forming his establishment if he were really establishing a fishery, but it is obvious that he has no other end in view than that of trading, not only with the Indians of the posts of Mingan, Labrador, river St. Augustin, St. Modet, Baye des Chateaux, Mecatina, Cap St. Charles and other posts established before him on the north shore of the river St. Lawrence, but also with the Indians of the posts of the Domaine, both on the sea shore and in the interior. In fact, he took no step whatever towards fulfilling his chief and sole objective, which was to make the discovery of the bay of Kitchechatchou. He did not go there, and therefore does not know yet whether it is possible or not to form thereat a fishery for seal or other oil-producing fish, such being nevertheless the reason advanced for the concession he is requesting. He fixes himself at a bay which he calls bay St. Louis, situated

a great distance from the bay of Kitchechatchou, the coast of which is lined with elevated islets constantly swept by the sea in all kinds of weather, and whereon one could not cast any net for a seal-fishery nor form any establishment for the fishery of other oil-producing fish. Jean

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n'est point un sujet propres a ces Pesches. Le S. fornèl ne l'a choisi que par ce qu'aïant ête Emploïe pendant bien des annèes dans les Traitte du Domaine en qualité d'Engagè, JI [sic.] l'a crû plus capable qu'aucun autre de faire la Traitte, et d'attirer a lui les sauvages du Domaine des Lacs des Naskapis, Atchouanipi, Mankougan, Mistassins et Choburonchouane, par ce qu'il peut les connoitre, qu'il soit lours Langucs, et peut les persuader qu'il leur sera plus aisè de venir en traitte avec lui dans la Baïe St. Louïs que d'aller a leur ordinaire chercher les francois que le Remontrant Envoie dans les Lacs cy dessus nonnez Dans quelle autre vüe auroit il dèja arrestè avec lui les sept ou huit familles sauvages de Labrador, les quatre sauvages de Mingan, et les trois Sauvages des Sept Isles ? Pourquoi le S. fornèl auroit il chargè sur le Bâtiment qu'il vient de faire partir plus de marchandises de Traitte qu'il n'en Est Envoïe pour L'Equipement des deux Postes des Sept Isles et de Mingan, S'il Etoir vrai qu'il pensât seulement a un Etablissement de Pêches, et qu'il n'Eut pas en vue de se rendre naitre de la Traitte aver tons les sauvages du Nord. En tel prejet ne pent s'Exècuter que par la Ruine des Postes du Domaine ainsi que des autres Postes Etablis actuellement sur la Coste du Nord depuis les bornes du Domaine jusqu'au cap St. Charles ; Le Remontrant de peut se dispense d'y former opposition pour prevenir la dimution du produit ordinaire de la Traitte et la Ruine du fonds du Domaine de Sa Majestè JI [sic.] y est fondè sur des ordonnances de Monseigneur L'Intendant des doune et vingt trois mai 1733. Concernant les privileges de la Traitte de Tadounac [sic.] JI [sic.] y est olbigè par devoir en qualité de Directeur du Domaine, et JI [sic.] y a Interest [sic.] comme formier de lad. Traitte.

(Translation.)

Pilote, whose aid he has enlisted for his establishment, is not competent to carry on such fisheries. The Sieur Fornel selected him because the latter having spent several years in the trades of the Domaine as an *engagé*, he considered him to be in a better position than anyone else, to carry on trading and to attract to him the Indians of the Domaine from the lakes of Naskapis, Atchouanipi, Manikoagan, Mistassins and Cheburonchouane, as he can get acquainted with them, speaks their language and can convince them that they will find it more convenient to trade with him in the bay St. Louis than to go, as they usually do, in search of the Frenchmen whom the petitioner sends to the above mentioned lakes. To what other end would he have retained with him the seven or eight families of Indians of Labrador [Bradore Bay], the four Mingan Indians and the three Sept-Isles Indians ? Why would the Sieur Fornel have loaded on board of the vessel which he has just despatched a larger quantity of trailing goods than is being sent for the equipment of the two posts of Sept isles and Mingan, if he really only intended to form a fishery establishment and did not him to acquire the control of the trade with all the Indians in the north. Such an undertaking can only be carried out through the destruction of the posts of the Domaine as well as of the other posts established on the north shore from the limits of the Domaine as far as cape St. Charles. The petitioner cannot but record his opposition to the same in order to prevent the decrease of the customary produce of the trade and the ruin of the property of His Majesty's

Domaine. He is justified in so doing by the ordinances of Mousigneur the Intendant, under date of the twelfth and twenty-third of May respectively, 1733, concerning the rights of trading at Tadoussac, as to which he is duty bound as Directeur of the Domaine and in which he is interested as lessee of the said trade

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Ces Raison, Nosseigneurs, autieisent Le Remontrant a vous supplier très humblement de ne point Expèdier la Concession demandèe par la S. Fornel, et ou vous jugerieu qu'Elle dût lui être accordèe pour l'Etablissement d'une Peche de loup marin on autres Poissons a lard dans la Baïe de Kitchechatshou lui faire dèffenses de S'Etablir, même s'arrester ni laisser aucuns Engages clans d'autres Endroite qu'a lad. Baïe de Kitchechatchou, et de faire dans l'Etendüe des Terres du Domaine aucune traitte directement ni judirectement ayes aucuns Sauvages du Domaine en quelque maniere que ce puisse Etre, Soit en les attirant et les Recevant Enquelqu' Endroit qu'il puisse s'Etablir, ou en Encoïant dans la profondeur des Terres aucuns francois ou sauvages affidex a lui pour y faire le Traitte, de faire ni faire par ses Engagez ou Sauvages affidez ansuns Prèsens ni festins aux sauvages du Domaine, ni leur porter aucunes Paroles Le tout a paine de troit mille livres d'amende applicable un tiers a Sa Majestè et les deux autres tiers au Remontrant, et de Confiscation an profit du Remontrant des marchandises, Canots et effets generalement quelconques que led. S. Fornel pourroit au prèjudice des d. Deffenses Envo2er [sic.] dans les Terres et des Pelleteries qu'il pourroit y avoir Traittès, et permettre an Remontrant de faire toutes les Recherches et visites dans les Bastimens du S. fornel a leur Retour en cette ville et de faire juformer par deposition de ses Engages et gens de ses Equipages des contraventions qu'il pourroit avoir Commises auxd. Deffences, et le Remonstrant continuera ses Voeux pour la prospèritè.

De vos Grandeurs

sans signature

sans lieu ni date

(Translation.)

Therefore, Nosseigneurs, the petitioner is justified in requesting most humbly that you do not grant the concession asked for by the Sieur Fornel, and should you deem fit to grant the same to him for the establishment of seal or other oil producing fishery in the bay of Kitchechatchou, that he be prohibited from settling, stopping or allowing any *engagé* in any other place than at the said bay of Kitchechatchou, and from carrying on, in the extent of the Domaine lands, directly or indirectly, any trade, with the Indians of the Domaine in any manner whatsoever, either in attracting them or in admitting them in whatever place he may establish himself, or in despatching into the interior Frenchmen or Indians in his service for the purpose of trading there : from making or causing to be made by his *engagés* or Indians allied with him any present or feasts to the Domaine Indians nor from sending any message to them, the whole under pain of a fine of three thousand livres payable one third to His Majesty and the remaining two thirds to the petitioner, and of confiscation, for the profit of the petitioner, of any goods, canoes and effects generally whatsoever which the said Sieur Fournel might, in violation of the said prohibition, send into the interior and of the pelts he may have traded there, and that the petitioner be given permission to search and

inspect the vessels of the Sieur Fornel upon their arrival in the city and to have, through declaration from his *engagés* or members of his crews, information laid respecting such violations as may have been made of the said prohibition, and the petitioner shall not cease to pray for the prosperity

of Your Graces.

No signature.

No place, no date.

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[28 Oct., 1744.]

No. 1279.

**APPLICATION, 28 OCTOBER, 1744, OF CUGNET
AND ESTÈBE**

FOR A CONCESSION OF THE BASIN OF THE BAYE DES ESQUIMAUX.

Projet d'Etablisem^t clans la Baye de Kitschatsou
pour accoutumer les sauvages qui ne conoissent
pas Encore les françois à traiter avec Eux.

Le S^r Fornel Négotiant de Québec Avoit obtenu depuis
deux ans la permission de faire un Etablissement de Pêche a
loup marin dans la baie de Kitchechatsou.

Le véritable but de Son projet a Eté de former dans la
profondeur des Terres au dessus de cette Baie un
Etablissement de Traitte ou il Espéroit. attirer les Sauvages qui
commercent dans les Postes Etablis Sur la coste du nord du
fleuve S^t Laurent, Et Encor plus ceux qui vont dans les postes
du domaine, Et par la S'attribuer al Exclusive des fermiers du
Domaine Et des Concessionnaires des postes de la Coste du
nord la Traitte avec les Sauvages repandus dans cette partie du
Canada.

Les Sauvages Montagnais divisés en plusieurs nations
sous les noms particuliers de Mistassins, chichertigaux,
Papinachois. Nascapis &c habitués

(Translation.)

Proposal of an Establishment in the bay of
Kischatson for the promotion of trade
between Frenchmen and Indians not
yet acquainted with the former.

The Sieur Fornel, merchant of Quebec, obtained two years ago, permission to form
a seal fishery establishment in the bay of Kitchechatsou.

The real objective of his project was to form in the interior above this bay a trading
establishment where he hoped to attract the Indians who are trading at, the posts established
on the north shore of the St. Lawrence river, and particularly those who resort to the posts of
the Domaine, and thus secure for himself, to the exclusion of the lessees of the Domaine
and the grantees of the posts on the Coste du Nord, the track with the Indians scattered in
this part of Canada.

The Montagnais Indians, divided in several nations under the respective names of
Mistassins, Chichertigaux. Papinachois, Nascapis, &c., residing in the interior of the
Domaine lands, can only

p. 3310

dans la profondeur des Terres du Domain ne peuvent se rendre
dans les Postes qu'avec beaucoup de difficultés. Les Rivières
qui peuvent les conduire des Lacs sur lesquels ils sont habitués
aux postes françois et anglois sont d'une difficile navigation,

pleines de sauts et de rapides qui les obligent a des portages presque continuels et très longs. D'ailleurs il ne se trouve point dans ces Pais d'Ecorces propres à faire des canots. En sorte que ces Sauvages n'ont que les Canots qu'ils peuvent avoir des françois et des anglois. En petite quantité, Et que la plus part sont obligés de faire presque tout le chemin a pied. Ils auraient au contraire beaucoup de facilité a se rendre à l'Etahissement que le S^r fornel se proposoit par la Rivière de Kitchechatson aussi large et aussi profonde que le Saguenau pourvu qu'on leur portat des Ecorces pour faire des les Canots qui leur seroient nécessaires.

Ceux de ces Sauvages qui occupent toute l'Etendue de Pais depuis le lac dit des Naskapis Jusqu'au détroit de Bellyse tant du costé de la Baie d'HUDSON que du costé du fleuve S^t Laurent S'attachent Seulement a la Chasse des animaux qui peuvent les nourrir et ne tuent que le Caribou Et les ours blancs. Ils ne connoissent les françois et les anglois que par relation des autres Sauvages qui traitient avec les uns et les autres ; lorsqu'ils tuent des martes et des Renards qu'on y Etre abondans et plus beaux que ceux de Mingan et de toute la coste du Labrador, Et dont ces sauvages négligent la Chasse, ils en consomment les peaux a leur habiliment et a ceux de leurs enfans.

Le S. Cugnet fermier des Traittes de Tadoussa a Eu ces Connoissances par le rapport de ses commis qu'il avoit chargés depuis plusieurs années de suite à l'en instruire avec les Sauvages memes, Et par les informations qu'il

(Translation.)

reach the posts with great difficulties. The Rivers through which, from the lakes frequented by them, they reach the French and English posts, are not easily navigable, have numerous falls and rapids compelling them to portage continually and to make very long portages. Moreover in these regions there is no bark suitable for the manufacture of canoes, so that the only canoes which these Indians have, are such as they can get from the French and English and in small numbers, and most of them must cover practically the whole distance on foot. On the contrary, it would be much easier for them to proceed to the establishment contemplated by the sieur Fornel on the river of Kitchechatsou is as broad and as deep as the Saguenay, provided they be given bark with which to make whatever canoes they would require.

Those amongst the Indians who occupy the whole extent of country from the lake called des Naskapis to the strait of Belleisle, both on the Hudson bay side and in the direction of the St. Lawrence, only hunt such animals as may provide them with food and only kill caribou and white bears. They only know the French and the English from what is told them by the other Indians who trade with either of them ; when they kill martens and foxes, which it is assured are there in abundance and finer than those of Mingan and of the whole coast of Labrador, the hunting of which these Indians neglect : they use the skills for clothing themselves and their children.

The Sieur Cugnet, lessee of the Traitte du Tadoussac, got such information through the reports of his clerks whom he had entrusted for seven consecutive years with the gathering of the same amongst the Indians themselves, and through the reports of several voyageurs of the Coste du Nord who had

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en prises de plusieurs voyageurs de la Coste du nord qui ont eu occasion de voir plusieurs fois les Sauvages des Terres. on lui a meme rapporté une Carte de Toute l'Etendue de ce Pais

tracée par les Sauvages mêmes.

Le préjudice que l'Etablissement du S. Fornel causeroit a l'Exploitation des Traittes du domaine a déterminé, Monseigneur, a Expliquer a M^{rs} De Beauharnois et hocuquart les Intentions de Sa Majesté sur l'Entreprise du S^r Fornel. Les ordres qu'ils reçus a cet Egard ne Sont point encor connus.

Le Bien du Service de Sa Majesté Et l'augmentation de son domaine de Tadoussac En Canada sont des motifs suffisans de rendre compte à Monseigneur, des avantages que la Baie de Kitchechatsou petit procurer et des moyens de s'assurer de la possibilité ou, impossibilité du succès.

On peut former a quarante lieues dans la profondeur de la Baie de Kitchechatsou sur une rivière venant du Nord ouest qui s'y décharge un Etablissement de Traitte qui deviendroit en quelques années avantageux par ce que non seulement on attireroit les Sauvages accoutumés à Traitter avec les françois, mais que l'on parviendroit par la suite à accoutumer les Sauvages qui ne connoissent point encor les marchandises françoises à En faire usage par ou on les Engageroit à faire plus de Pelleteries, Et a les ménager mieux pour se procurer le secours de ces marchandises, on pourroit aussy y attirer les Sauvages qui vont a la Baie d'hudson parcequ'ils trouveroient la même facilité que les autres a venir a l'Etablissement de Kitchechatsou.

Cet établissement se faisant à quarante lieues dans la profondeur des Terres seroit hors de portée des Eskimaux qui Se tiennent ordinairement a l'Entree de la Baie Et ne remontent jamais dans la profondeur ni ne vont dans les bois par la crainte qu'ils ont des autres Sauvages avec lesquels ils sont toujours en Guerre.

(Translation.)

had an opportunity to meet the Indians of the interior. He was even given a map of the whole extent of this country drawn by the Indians themselves.

Seeing the prejudice which the establishment of the Sieur Fornel might cause to the working of the Trades of the Domaine, Monseigneur, it has been decided to inform Mrs. de Beauharnois and Hocquart of His Majesty's intentions in connection with the Sieur Fornel's undertaking. The orders they have received in regard to this are not known, as yet.

The welfare of the service of His Majesty and the expansion of his Domaine de Tadoussac in Canada are sufficient reasons why Monseigneur should be made acquainted with the advantages the bay of Kitchechatsou may bring and with the means of ascertaining any chance of success or failure.

Forty leagues in the upper portion of the bay of Kitchechatsou, on a river flowing from the north west and emptying therein, an establishment for trading could be formed and, in the course of a few years, it would prove remunerative, as not only would it attract the Indians accustomed to deal with the French, but, later on, one would succeed in getting the Indians who are not yet familiar with French goods to use the same, thus inducing them to secure more pelts and take greater care of them in order that they might obtain the benefit of such goods ; the Indians who go to Hudson bay would also be drawn there as it would be just as easy for them as for the others to come to the establishment of Kitchechatsou.

This establishment would be formed forty leagues inland and would thus be out of reach of the Eskimaux who generally stop at the entrance to the bay and never venture in the bay nor in the woods for fear of the other Indians with whom they continually are at war.

Quatre ou cinq hommes suffiroient pour garder ce Poste et y faire la Traitte, il seroit Seulement nécessaire de les y transporter avec leurs vivres Et les Marchandises de Traitte dans un batiment de Soixante tonneaux au moins. Ce batiment serviroit tous les ans à apporter les Pelleteries de la Traitte, Et porter les Vivres Et les marchandises de l'Equipement.

Le Bâtiment Seroit obligé de passer devant les Endroits ou les Eskimaux Se tiennent ; mais ils seroient point à craindre, pourvû que personne de l'Equipage n'y descende a terre, que l'on Evite avec Soin de les harceler, Et que l'on s'attache au contraire a leur donner toutes les démonstrations d'amitié qui pourront les rassurer, en se tenant cependant très Exactly sur ses gardes, pourquoi ce batiment doit être armé de dix à douze hommes avec quatre Pierriers les fusils et autres munitions Suffisantes pour leur défense en cas d'attaque.

Les Eskimaux paroissent naturellement plus ouverts et plus Gais que les Sauvages montagnais et naskapis, mais l'envie qu'ils ont de s'emparer impunément des Ustancils françois qu'ils sont anxieux d'avoir les rend voleurs et Traitres. it Est moralement certain que l'on les affranchiroit En leur fournissant les Ustancils Et les marchandises qu'ils souhaitent, et leur faisant Connoître qu'ils peuvent s'assurer de les avoir de bonne de Volonté. On ne doute point de trouver dans la baie de Kitchechatsou des Endroits propres a la Pêche du loup marin, de la Baleine et de la Vache marin, il y a des isles vis a vis les deux pointes qui en forment l'Entree. Le batiment en feroit la decouverte en allant a l'Etablissement de la Traitte Et a son retour, Lorsqu'on aura un endroit certain pour un Etablissement de Peche, il sera nécessaire d'y construire un fort a l'Epreuve des Surprises des Eskimaux. Garny de six pierriers, armes et munitions avec vint hommes pour le garder

(Translation.)

Four or five would be enough to man this post and carry on the trade ; to take them there with their foodstuffs and trading goods it would be absolutely necessary to have a vessel of sixty tons at least. This vessel would be used every year for the conveyance of the traded pelts and to carry the food and merchandise of the equipment.

The vessel would have to pass opposite the places where the Eskimaux reside ; but there would be nothing to apprehend from them, so long no member of the crew landed. Any interference with them is to be carefully avoided, and, on the contrary, they should be made the object of friendly demonstrations in order to allay their fears, although at the same time, constant watch will have to be kept, and for this reason the vessel must be provided with ten or twelve men and fitted with four swivel-guns, muskets and ammunition necessary for their defence in the event of an attack.

The Eskimaux seem to be naturally more open and candid than the Montagnais Indians, but their great inclination to seize with impunity whatever French utensils they are most anxious to have makes thieves and traitors of them. It is probably sure that they could be tamed if they were supplied with the utensils and the goods they want and were informed that they could procure them readily. There is no doubt but that in the bay of Kitchechatsou could be found suitable places for seal, whale and porpoise fishery ; there being some islands and islets opposite the two points forming the entrance to the bay. The vessel would make the discovery of them either on its way to the establishment or on the return trip. When a safe place has been found for a fishery establishment, a fort will have to be erected strong enough to resist the attacks by the Eskimaux,

commandés par un maitre sage et habile, Capable d'Empêcher Son monde de s'Exposer Indiscretement aux attaques imprévues des Eskimaux En l'Ecartant soit pour la chasse ou la pêche, Et de prevenir en même tems toutes les insultes que l'on pourroit faire imprudemment a ces Sauvages, les recevant au contraire humainement lorsqu'ils se présenteroient pour de demander ce qu'ils voudroient avoir Par ce moien on les affranchiroit Seurement En quelques annees au point de S'en Servir utilement pour les pêches. Les nommes Augustin Baby et Charles Le Cour navigateurs canadiens les ont vus plusieurs fois, ont Ete plus d'une Journée de suite au milieu d'Eux, et ont traité avec Eux amiablement. Ces Sauvages les Connoissent et paroissent flattés de les entendre nommer l'un ou L'autre.

En réunissant au Domaine du Roi Et a la Traitte de Tadoussac La Baie de Kitchechatsou Et les Rivières qui S'y déchargent, les Etablissements de Traitte que L'on pourroit y faire ne porteroient aucun préjudice a la Traitte de Tadoussac des qu'ils en feront partie.

Le Succès de l'Etablissement de Traitte dans la profondeur de la Baie peut être regardé presque comme indubitable. La réussite de ceux de Peche est tres vraisemblable. Les uns et les autres par conséquent sont un moien d'augmenter de beaucoup les fonds du Domaine vulgairement appelé La Traitte de Tadoussac. Mais comme le Succes n'est en pas encor connu, qu'il Est indispensable d'y hazarder des dépenses Tant pour la découverte que pour les Etablissements La Traitte de Tadoussac jointe pour neuf annees ; à l'Enterprise de ces Etablissements au prix actuel du Bail de cette Traitte facilitent les moiens d'y prevenir et dédommageroit En partie des dépenses à

(Translation.)

provided with six swivel-guns, arms and ammunition, along with twenty men to guard it under the command of a master wise and skilful who could prevent his people from carelessly leaving themselves open to the sudden onslaughts of the Eskimaux who would be kept at a distance either for the fishing or the hunting, and prevent at the same time any insults that might be unwisely offered to these aborigines ; on the contrary they would have to be made welcome when they would ask what they might require, thus they could surely be tamed in a few years to the extent of profitably employing them at the fisheries. One Augustin Raby and one Charles Le Cour, Canadian navigators, saw them on several occasions, stopped with them more than a day at a time, and traded with them in a friendly way. The natives knew them and were evidently pleased at the very mention of their respective names.

By the reunion, to the King's Domaine and to the Trade of Tadoussac, of the bay of Kitchechatsou and the rivers emptying therein, whatever establishments for trading could be formed there would not prejudice the trade of Tadoussac so long as they form part thereof.

The success of the establishment of trading in the interior of the bay may be considered as practically unquestionable. The success of the fishery establishments is also most likely. Therefore, both area means whereby the property of the Domaine commonly known as the Trade of Tadoussac could be increased. But, as the success is not yet known, and as it is necessary to incur expenditures both for the discovery and the establishments, reuniting the trade of Tadoussac for nine years to the undertaking of such establishments at the present price of this trade's lease

y faire, Supposé que le succes ne répondit pas aux Espérances qui S'y presentent.

Les Etablissements de Traitte et de Pêche réussissant Sa Majesté en retireroit l'avantage de se former En neuf années de tems Sans aucune dépense et meme sans rien diminuer de son revenu actuel un Etablissement qui amélioreroit de beaucoup le fonds de Son Domaine de Tadoussac et dont Elle tireroit après les neuf années Expirées un prix de ferme plus avantageux qu'elle ne pourra jamais l'avoir de la Traitte de Tadoussac seule.

Les Sieurs Cugnet actuellement Fermier de La Traitte de Tadoussac Et Estèbe Garde des magasins de Sa Majestè à Quebec offrent d'Entreprendre les Etablissements cy dessus proposés dans la Baie de Kitchechatsou et Rivières y affluentes Et d'en avancer les Dépenses, S'il plaisoit à Monseigneur leur accorder pour neuf années consécutives a commencer au premier octobre 1747 et finir a pareil jour de L'année 1756 Le bail de la Traitte de Tadoussac En y reunissant et y compris la Baie de Kitchechatsou avec les Isles et Islets adjacens, Lacs et Rivières qui s'y décliargent, Et toutes les Terres non concédées contenues En l'Etendue de Pais depuis la d. Baie de Kitchechatsou, la pointe de Bellisle jusqu'à la baie d'HUDSON moyennant le prix et Somme de 4.500' de ferme par chaque année, Et a la charge par Eux de former pendant la première année du baie l'Etablissement Sedentaire de Traitte dans la rivière et profondeur de la Baie de Kichechatsou dont ils seront tenus d'Envoyer un plan a Monseigneur dans la seconde année du d. bail avec un procès-verbal du d. Etablissement dressé par le maitre du batiment qu'ils y Envoieront Et par le Commis qui y sera Etabli pour la Traite à l'Effet d'en

(Translation.)

offers the way to success and would compensate for part of the costs to be incurred, supposing that it does not meet with the success anticipated.

Should the trading and fishery establishments prove successful, His Majesty would derive therefrom the advantage of forming, in nine years, with no expense, and even without any decrease in his present income, an establishment which would materially increase the value of his domain of Tadoussac and which, upon the expiration of the nine years lease, would bring him a rental price greater than that which could be obtained from the trade of Tadoussac by itself.

Sieur Cugnet, present lessee of the Trade of Tadoussac, and Sieur Estebe, in charge of His Majesty's stores at Quebec, propose to undertake the establishments hereinbefore submitted in the bay of Kitchechatsou and rivers emptying therein and to advance the costs thereof, should Monseigneur be pleased to grant them for the space of nine consecutive years beginning on the first of October, 1747, and ending on the same day in the year 1756, the lease of the Trade of Tadoussac, reuniting to and including in the same the bay of Kitchechatsou together with the neighbouring islands and islets, lakes and rivers emptying therein, and all the lands not conceded contained in the whole extent of country from the said bay of Kitchechatsou, the point of Belleisle to the bay of HUDSON for the price and sum of 4,500 livres, annual rent, and on the condition that they shall form within the first year of the lease the sedentary trading establishment in the river and in the interior of the bay of Kitchechatsou of which they shall be held to forward a plan to Monseigneur in the second

year of the said lease with a *proces-verbal* of the said establishment drawn up by the master of the vessel they send there and by the clerk who will be stationed

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Certifier Sa Grandeur Et d'y faire pareillement dans le Cours de leur bail les Etablissements possibles du Pêche de Loup marin, Baleine, et Vache marine, dont ils rendront également compte a Monseigneur par *proces-verbaux* de visite et d'Etablissement dans l'année qu'ils pourront être faits, Et en outre aux autres charges et conditions du bail de la Traitte de Tadoussac fait au S. Cugnet le 21 Aoust 1737.

fait a Quebec le Vint huit Octobre mil sept cent quarante quatre.

CUGNET.

ESTEBE.

(*Translation.*)

there for the trade, as an attestation for His Grace, and to form likewise in the course of their lease the feasible seal, whale and porpoise fisheries, of which they shall also give an account to Monseigneur by inspection and establishment *proces-verbaux* in such year as they may be formed, and furthermore subject to other charges and conditions set forth in the lease of the Trade of Tadoussac granted to the Sieur Cugnet, on the 21st of August, 1737.

Done at Quebec, the twenty eight of October, one thousand seven hundred and forty four.

CUGNET.

ESTEBE.

[12 Oct., 1744.]

No. 1280.

**EXTRACT FROM DESPATCH, 12 OCTOBER, 1744,
BEAUBASSIN AND HOCQUART TO MINISTER,
re FORNEL'S EXPEDITIONS,**Fornel.
Baie des
Esquimaux.AND RECOMMENDING THAT BAYE DES ESQUIMAUX BE INCLUDED IN THE
DOMAINE DU ROY.ARCHIVES OF CANADA, SERIES C¹¹, VOL. 81-1, p. 22.

Canada 12 Octobre 1744.

Mrs de Beaubassin et Hocquart

Monseigneur

* * * *

Le Sr Fornel avait expédié l'année dernière sur l'arrière saison un petit bâtiment pour Labrador dans la vue de continuer les découvertes de la Baye des Esquimaux 3 ou 4 engagés devoient y rester pour hyverner ; nous avons appris ce printems par le retour de l'équipage que le batteau avait fait naufrage à la Coste de Terre neuve Il a cependant envoyé ce printemps encor un batteau de 50 tonneaux qui est de retour et qui a raporté 4 a 500^l de fanons qui ont esté traitor avec quelques Esquimaux, il sera peut estre convenable dans le nouveau bail de la ferme de Tadoussac, qui sera fait après l'expiration de l'ancien, de comprendre cette Baye dans les limites du Domaine ; cette circonstance pourroit faire trouver un prix plus avantageux de la ferme, Monsieur Hoc quart l'estime ainsy, it examinera ce qui en pout estre.

Fornel.
Bay des
Esquimaux.*(Translation.)*

Mrs. de Beaubassin and Hocquart.

Canada, October 12th, 1744.

Monseigneur,

. . . The Sieur Fornel despatched last year [1743], in the last days of the season, a small vessel for Labrador with a view to continuing the discoveries of the bay des Esquimaux ; two or three engages were to winter there. We have been told this spring by the returned crew that the vessel had been wrecked on the coast of Newfoundland. Nevertheless, he despatched another vessel this spring, of 50 tons, which vessel has returned and brought back some 4 or 500^l. of whale fins that had been traded with the Esquimaux ; it may be expedient, in the new lease of the ferme de Tadoussac to be drawn up upon the expiration of the former one, to include this bay in the limits of the Domaine; this fact might tend to secure a better price for the lease; Monsieur Hocquart is of this opinion ; he will consider what there may be in it.

No. 1281.

MEMOIR, 22 JULY, 1746, FROM CUGNET,

[22 July, 1746.]

RENEWING APPLICATION FOR GRANT OF THE BASIN OF BAYE DES
ESQUIMAUX AND OTHER LANDS.

CANADA, CORRESPONDENCE GÉNÉRALE, VOL. 121, 11, p. 147. (A reference on p. 236 indicates that copies of this memoire were addressed to Beauharnois and to Maurepas.)

C'est dans cette vue qu'en l'année 1744, j'ai pris la liberté de proposer au Ministre d'entreprendre l'établissement de la Baie de Kitchichatsou es Rivières y affluentes s'il lui plaisoit n'accorder pour neuf années consécutives. à commencer au premier octobre 1746, et finir à pareil jour de l'année 1755. Le Bail de la Traite de Tadoussac en y réunissant et y compris la Baie de Kitchichatsou avec les isles, et islets adjacens lacs et Rivières qui s'y déchargent et toutes les terres non concédées contenues en l'étendue de Pais depuis la dite Baie de Kitchichatsou à prendre des limites de la concession du cap Charles, noïennant le prix de 4 00^l par chaque année à la charge de former pendant la première année du Bail l'établissement sédentaire de Traite dans la Rivière et profondeur de la Baie de Kitchichatsou et d'en fournir dans la seconde année au plan avec un procès verbal du dit Etablissement dressé par le commis qui y seroit établi pour la Traite et d'y faire pareillement dans le cours du Bail les Etablissements possibles de pêche de loup marin, Baleine et vache marine, dont seroit pareillement rendu compte

Quebec,
2d of July
1746.

(Translation.)

It was in this view that in the year 1744, I took the liberty of proposing to the Minister to undertake the establishment of the Baie de Kitchichatsou and the rivers emptying thereinto, that he would be pleased to grant to me for nine consecutive years, commencing October 1st, 1746, and ending on the same day of the year 1755, the lease of the Tadoussac Trade uniting to it the Baie de Kitchichatsou with the islands and islets adjacent, the lakes and rivers which empty therein and all the unconceded lands contained in the extent of territory, from the said Baie de Kitchichatsou, taking in the limits of the concession of Cape Charles, for four thousand five hundred livres a year, on condition of forming during the first year of the lease the sedentary trading establishment in the river and interior of the Baie de Kitchichatsou, and to furnish the second year a plan and *proces-verbal* of this establishment drawn up by the clerk who will be stationed there for trade, and also to construct there during the course of the lease establishments practicable for the seal, whale and walrus fishery, of which an exact account should be equally rendered during the year, in which

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par procès verbaux de visite et d'Etablissement dans l'année qu'ils pourroient être faits et en outre aux autres charges clauses et conditions du Bail qui n'a été fait de la Traite de Tadoussac le 21 août 1737.

Ou pent former a quarante lieues dans la profondeur de la Baie de Kitchechatsou sur une Rivière venant du nord Ouest qui s'y Dècharge un Etablissement de Traitte ou l'on peut non seulement attirer les sauvages accoutunès à traitter aver les francois, mais aussi ceux qui vent à la baie d'Hudson parce que les uns les autres trouverciant la meme facilitè a venir à l'Etablissement de Kitchechatsou au lieu qu'il leur est difficile de se rendre à la Baïe d'Hudson et aux postes francois ètablis le long de la coste du nord du fleuve de Saint Laurent ; on peut meme accoutuner dans la suite les Sauvages qui ne connoissent point encor la Traitte avec les Francois ni avec les anglois a faire plus d'usage des marchandises francoises par ou on les engageroit a faire plus de pelleteries, et a les mènager mieux pour se procurer le secours de ces marchandises.

On assure que les martres et les renards sont plus shondanrs dans cette ètendue de païs, et plus beaux, que dans toute la coste de la Brador, mais que les Sauvages en nègligent la chasse ou en consonnent les peaux à leur habillement et celui do leurs enfans parce qu'ils ne connoissent les frabcois et les anglois que par la relation des autres sauvages qui traittent avec les uns et les autres ainsi le succès de cet etablissement pour la Traitte pout être regardè comme certain.

Ceux qui seront destinès a le faire en y allant et venant dècouvrir dans la Baïe des endroits propres à la pesche du loup marin, de la baleine et de la vache marine et on ne doute presque point d'y en trouver parsequ'il y a des isles vis à vis les deux pointes qui forment l'entrèe de cette Bäie si l'en

(Translation.)

they are formed ; also in addition, to the other burdens, clauses and conditions of the lease, which was made with him for the Tadoussac Trade, on August 21st, 1737.

There may be made at forty leagues within the Baie de Kitchechatsou on a river coming from the north west, which empties in it, a trading post, where one might attract not only the Indians accustomed to deal with the French, but also those who go Hudson bay, since both will find the same facility to come to the establishment at Kitchechatsou, instead of which it is difficult for them to go to Hudson bay or to the French posts established along the North Shore of the river St. Lawrence. One may even eventually accustom the Indians who do not know the trade of either French or English goods, by which they would be incited to obtain more pelts, and more induced to procure for themselves the benefit of these goods.

It is certain that the martens and the foxes are more abundant and of finer quality in this extent of territory than in all the coast of Brador, but that the Indians neglect to hunt them or use the skins for their clothing and that of their children, because they know the French and the English only by what has been told them by the other Indians who trade with both, and thus the success of this establishment for the trade may be regarded as certain.

Those who will have the undertaking of same may, when going and coming, discover within the bay proper places for the fishing of seal, whale and walrus, and it is almost certain that these will be found there because there are islands opposite the two points which form the mouth of the said

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permettoit à d'autres qu'au fermier de Tadoussac de former cet Etablissement ce seroit leur donner les noïens d'y attirer les sauvages qui commercent dans les postes du Domaine et de causer un très grand prèjudice à la traitte de Tadoussac.

Le projet du Sieur Fornel dans la permission qu'il avoit obtenue d'ètablie la Baïe de Kitchechatsou avoit ètè de s'attirer la Traitte avec les sauvages des postes du Domaine tant du bord de ka mer que des profondeurs, et ceux des postes francois ètablis sur la coste du nord du fleuve Saint Laurent depuis la Traitte Tadoussac jusqu'su cap Saint Charles.

La rèunion de la Baie de Kitchechatson a la Traitte de Tadoussac remédie a cet inconvenient et supposè que le succès ne rèponde pas a ce qu'on en espère, on en tirera du moms l'utilitè d'ètre dèabusè des idèes avantageuses qu'on s'est formèes de ces etablissemens depuis quelques annèes et de ne plus penser a cette entreprise qui peut toujours servir de prètèxte au dessein d'y attirer lcs sauvages de tout le nord an prèjudice des postes etablis.

Si au contraire la rèussite la est telle qu'on a lieu d'espèrer Sa Majestè en retireroit l'avantage de se former un ètablissement qui amèlioreroit de beaucoup le fonde de Son Domaine duquel elle pourroit avoit après le premier bail un prix de fermes plus fort qu'elle ne pourra jamais l'avoir de la Traitte de Tadoussac, et cola sans ausune dèpense, sans meme rein diminuer de son revenu actual, puisqu'on ne pourroit demander aucun prix de ferme de la concession qu'en pourroit faire de la Bäie de Kitchechatson à tout autre qu'au fermier de Tadoussac attendu les dèpenses a faire pour la dècouverte et les Etablissemens.

(Translation.)

bay. If others than the lessee of Tadoussac were permitted to form this establishment, they would be given the means to attract there the Indians who trade in the posts of the Domaine and to cause a very great prejudice to the Tadoussac Trade.

The proposal of the Sieur Fornel in the concession which has been granted unto him to establish the Baie de Kitchechatsou, was to attract to himself the trade with the Indians of the Domaine posts both from the sea shore and from the interior, and those of the French posts established on the north shore of the river St-Lawrence from the Tadoussac Trade as far as cape Saint-Charles.

The reuniting of the Baie de Kitchechatsou to the Tadoussac Trade remedies this inconvenience and supposing the success would not be that which is expected from same, one will find it at least useful to be disabused of the ideas of the advantages which one has conceived with reference to these establishments since several years and to think no more of this undertaking which may always serve as a pretext for the scheme of attracting there the Indians of the whole North to the prejudice of the posts already established.

If, on the contrary, the success is such as one can conceive it will be, His Majesty would gain from it the advantage of forming an establishment which would increase a great deal the value of his Domaine for which he could obtain, at the end of the first lease, a price of location much higher than that he could ever obtain for the Tadoussac Trade only, and this without any disbursement and without even affecting his present revenue, as one could not ask any price for the lease of the concession that might be granted of the Baie de Kitchechatsou except from the lessee of Tadoussac because of the expenses to be incurred for the discovery and the establishments.

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La situation malheureuse ou n'ont rèduit l'exploitation des forges de Saint Maurice, et les suites des engagemens que j'ai ètè forcè de prendre pour soutenir cette entreprise n'ont mis dans la nècessitè de demander au Ministre la continuation du Bail de la Traitte de Tadoussac en y rèunissant la Bäie de

Kitchechatson aux conditions vy dessus exprimées, et en m'accordant la pain leveè du sequestre des effets provenans de la Traitte pour ne laisser la libre disposition tant de l'exploitation que des effets en provenans, à la charge outre le prix du Bail de remettre entre les mains du Trèsoirier de la Marine à Quebec la somme de dix mille livres chaque a pendre sur les castors provenans de la dite Traitte.

Il y a quatre ans que je travaille à obtenir les moiens d'acquitter les dettes des forges et eviter na ruine totale, les graces que Monsieur l'Intendant conformèmment aux dècisions du Ministre a bien voulu ne procurer pour n'en faciliter les moiens n'ont pu encor me conduire qu'a asseurer aux creanciers sur le poste de Temiscaming une somme de 31 oo pendant neuf annèes a commencer du nois d'aoust 1747. Les deux autres postes de Michipicoton et de Gamanistigoiq qui n'ont ètè accordès par le meme notif ne sont point encor affermes je ne puis en jouir que dans l'annèe prochaine. Je ne scai point ce qu'ils me pourrent produire, mais je ne puis en espèror plus du double de ce que j'en paë à Sa Majestè, comme j'ai àffermè Temiscaming ainsi tout le secours que je puis tirer des Trois postes en neuf ans peut aller au plus à soixante sept mille cinq cens livres qui ne suffisent pas a beaucoup près a acquitter plus de cinquante mille ecus dont je ne trouve aujourd'ay chargè pour les Dettes des forges sans espèrance d'aucun recours sur mes

(Translation.)

The unfortunate position which I was put into by the development of the Forges of the Saint Maurice, and by the results of the engagements I was forced to contract in order to support this undertaking, have compelled me to ask the Minister to continue the lease of the Tadoussac Trade, reuniting unto it the Baie de Kitchechatsou according to the conditions hereabove mentioned, and in granting unto me the withdrawal of the sequestration of the effects proceeding from the Trade and leaving unto me the free disposal either for the development as of the effects proceeding from same, under the condition to remit, besides the rental of the lease, into the hands of the Treasurer of Marine at Quebec, the sum of ten thousand livres each year to be taken in the beaver skins obtained from the said trade.

For four years, I have been struggling to find the means to pay the debts of the Forges and to prevent my complete ruin, The favours which Mr. the Intendant, according to the decisions of the Minister, has willingly procured unto me in order to facilitate the settlement of same have only enabled me, up to now, to assure to the creditors, upon the post of Temiscaming, the payment of a sum of 31 00 during nine years to begin from the month of August 1747, as the two other posts of Michipicoton and of Gamanistigoia, which were granted unto me by the same agreement, are not as yet leased, I shall not enjoy same before next year. I do not know what they will pay me, but I cannot expect more than the double of what I pay to His Majesty. As I have also leased Temiscaming, all that I can draw from the three posts in nine years is liable to amount at the utmost to sixty seven thousand five hundred livres, which is hardly sufficient for the payment of the fifty thousand écus, the burden of which I have to-day to support in connection with the debts of the Forges without any hopes of a right of action against my associates, as they have nothing,

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associès parcequ'ils n'ont rein et sans que l'on puisse dire que j'aie rein profitè dans cette entreprise laquelle j'ai sacrifiè pendant sept annèes de suite gratuitement mes soins je suis seul poursuivi pour les remplacer.

Je n'ai pu amener les Crèamciers des forges a des

arrangemens convenables pour fixer leur paiemens et arreter les interests. Je n'ai pas meme osè les leur demander n'aïant a leur prèsender de certain que la somme de 37500. et ne pouvant leur assurer le produit des deux autres postes tant que la guerre durera, les intèrêts a'accoumulent d'annèe en annèe et non sort devient chaque annèe plus dèplorable.

Si j'avois pu obtenir en 1742. la libre administration de ferme de Tadoussac en me chargeant de paier chaque annèe entre les mains du Trèsorier de la marine 10000' sur les Castors provenans de Tadoussac, qu'il ètoit ègalement sur et simple d'arrester entre les mains de l'agent de la Compagnie des Indes, il y auroit actuellement 40000' de paie sur les dettes de la compagnie des forges, le sequestre n'a liè les mains. Je n'ai pu disposer d'un sol pour des occasions avantageuses prèsentés et certaines que les retours de Tadoussac auroient pu faciliter.

Il n'y a eu ausun profit sur la Traitte de Tadoussac dans les deux deraières annèes, il y a jusqu'è prèsent 3333³ 18. 6. de perte rèelle sur l'annèe 1745 qui ne peut etre rèparèe que par l'augmentation du prix du Castor, si cite peut avoir lieu pour celui que j'ai fourni a la Compagnie des Indes, J'ai tout lieu de craindre d'en essüier une encore plus considèrable. Cette annèe la chasse de loup marin devoit produire plus qu'elle n'a fair depuis longtems par l'abondanee extraordinaire de ce poisson, il y a en moms d'huiles quo dams

(Translation.)

and it cannot be said that this undertaking has been in any way profitable to me to which I have sacrificed freely during seven years my cares, my work and I might also say, my money, as I am the only one to be prosecuted for the repayment of same.

I have been unable to induce the creditors of the Forges to agree to proper arrangements for the fixing of payments and interest. I did not even dare to ask them as I could only promise as certain the sum of 375000 livres, and being unable to assure unto them the proceeds of the two other posts so long as the war will last. The interest accrues from year to year and my position becomes, each year, more and more deplorable.

In 1742, if I could have obtained the free administration. of the lease of Tadoussac in endeavouring to pay each year into the hands of the Treasurer of Marine 10000 livres out of the beaver obtained from Tadoussac, this sum being as easily and as certainly collected in the hands of the agent of the Compagnie des Indes, 40000 livres would be paid at present on the debts of the Forges company, but the sequestration has tied my hands. I did not find the opportunity of paying one sol for advantageous occasions, present and certain, which might have been facilitated by the returns of Tadoussac.

In the two last years, there was no profit whatever on the Tadoussac Trade. Up to the present, there is 3333.³ 18s. 6d. in actual loss for the year 1745 and same cannot be covered unless the price of beaver is increased, if said increase can be made on the beaver that I have transferred to the Compagnie des Indes. Everything leads me to believe that I shall experience still greater loss.

This year the seal hunting should have yielded more than it did since a long time because of the extraordinary abundance of this fish, but there has been less oil than in the preceding years on

les années précédentes parce que la poudre a manqué dans les postes. La Traite des Pelleteries peut être également diminuée par la même raison. Les Sauvages ayant manqué de munitions pendant tout l'hiver les huiles et les pelleteries ne se vendront pas vraisemblablement avec plus d'avantage que l'année dernière, surtout si elles sont vendues par adjudication.

Les marchandises qui sont trouvées restantes dans les magasins des postes l'automne dernier suivant les inventaires que les commis en ont envoyés montent à 19438^l 1^s. 11. Elles sont vraisemblablement consommées à présent d'autant que je n'ai pas pu en envoyer ce printemps ainsi je ne dois pas compter que cet article fasse à la fin de mon Bail un objet de remboursement il ne me reste en magasin à Québec que quelques marchandises très désassorties qui ne font pareillement qu'un très petit objet.

Je n'ai par conséquent pour satisfaire aux dettes des forges que les deux Batimens de mer qui n'ont servi à l'exploitation pendant mon Bail, et ce qui restera du produit de la vente des retours après avoir payé ce qui est dû pour munitions et vivres achetées pour l'exploitation dont il me reste une grande partie en magasin à Québec pour l'envoi du mois d'août le produit de ces retours est très incertain. J'ai moins d'huile que l'année dernière tout n'annonce qu'il y aura beaucoup moins de martres parce que j'ai été informé que dans les postes de Mingan et au dessous on en a fait très peu.

Par le retour du Batteau le Saint François des sept îles et de la Golette je suis certain que dans les deux postes des sept îles et des îlots de Jérémie il y aura sept cents martres de moins que l'année dernière le Commis de Checoutimy par sa dernière lettre n'annonce également une diminution considérable sur les martres il y aura aussi moins de castors. l'hiver-

(Translation.)

account of a lack of gun-powder at the posts. The fur trade may also show a decrease for the same reason. The Indians having been short of ammunition during the whole winter, the oil and the furs will not likely sell to more advantage than last year, especially if they are sold by auction.

The goods which were found to remain in the stores of the posts last fall according to the inventories furnished by the clerks amount to 19,438^l 1^s 11^d. Probably they are disposed of now as I have been unable to send any this spring, so I cannot rely upon this article as being, at the termination of my lease, a subject of reimbursement, and I have in store at Québec only some badly assorted goods which constitute also a very small asset.

In consequence, to pay the debts of the Forges, I have only the two sea-going vessels with which I carried on business during the term of my lease, and that which will remain of the proceeds of the sale of the returns after I have paid what I owe for ammunition and supplies bought for the development. A large portion of same I have in my possession in store at Québec for the shipment of the month of August, the proceeds of these returns being most uncertain. I have less oil than last year, everything tells me that there will be much fewer martens as I have been informed that at the posts of Mingan and below a small number of same has been traded.

By the return of the vessel the " Saint-François " from the Seven Islands and of the

schooner, I have the assurance that in the two posts of the Seven Islands and of the Jérémie Islets, there will be seven hundred martens less than last year ; in his latest letter the clerk at Checoutimy reports a considerable decrease in the number of marten ; there will also be fewer beaver. The wintering

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ment de Choïanupï n'a pas rëussi quoiqu'il y soit venu plus de sauvages qu'il n'en vient d'ordinaire. les martres ont manque gënëralement dans tout le nord les Sauvages n'ont pu chasser au Caribou ils ont ètè obligès de vivre au poisson et aux vivres françois presque tous ont souffert beaucoup, et quelques uns sont morts de fain dans le Bois.

Toutes les apparences sont que ce qui me resters à la fin de mon bail ne pourra païer plus du tiers des dettes des forges, si mem il pent y suffire j'ai desja exposè cy dessus ce quien sera païe par les trois postes de Temiscaming, Michipicoton et Gamanistigoïa et dans quels détails il est certain que dëpouillè des traittes de Tadoussac les crëamciers des forges ne ne voiant plus aucumes ressources feront vendre mes meubles et immeubles, et me conduiront moi et ma famille à la dernière misère.

La vente de tout ce que je possède en meubles et en immeubles dans les circonstances prësentes ne suffira pas avec le produit de la ferme de Tadoussac à la fin du Bail, et celui des trois postes d'en haut a païer tout ce qui est dû aujourduy en principal et intèrets qui augmentent tous les jours.

Il me restera mes appointemens pour subsister tant que je vivroi : mais he puis mourir d'un jour à l'autre il me faut meme que la duretè de ma situation pour avancer me mort. dès que j'aurai les yeux fermès mes appointemens cessant, il ne rests pour ressource à ma femme et a mes enfans que de se mettre en service ou demander l'aumône.

Aujourduy meme quand je resterois dans la situation ou je suis actuellement quand j'aurais l'exploitation des Traittes pendant plusieurs annès le sequestre subsistant je me trouve dans l'affreuse impossibilitè de pouvoir procurer aucun Etablissement a ma famille qu'un de mes enfans eut ètè

(Translation.)

at Chouanipi has not been successful although many more Indians came there than usual. The martens were scarce generally in the whole of the North ; the Indians have not been able to hunt the caribou ; they have been compelled to live on fish and on French supplies ; nearly all of them have suffered much, and some of them died from starvation in the woods.

It appears that the amount I will have on hand at the expiration of my lease will not cover more than one third of the Forges debts, and I am not even sure it will do that ; I have already explained hereabove what shall be paid on same by the three posts of Temiscaming, Michipicoton and Gamanistigoia and in which way ; it is certain that being deprived of the Tadoussac Trades and the creditors of the Forges, seeing that I have no pecuniary means whatever, will cause my movables and immovables to be sold, and will reduce myself and family to the direst poverty.

In the present circumstances, the sale of all that I possess in movables and immovables will not be sufficient, together with the proceeds of the lease of Tadoussac at the termination of the lease and with the proceeds of the three posts above [Quebec] to pay all that is now outstanding in capital and the interest which accrue, each day.

There will remain my salary to support me up to my last moment ; but I may die any day and the hardships I am struggling against can only accelerate my death. When my eyes are closed for ever, my salary being discontinued, the only means of support for my wife and my children will be to lure themselves or to live on charity.

Even to-day, if I were to remain in the position I am at present, if I were to develop the Trades for several years to come, as the sequestration is being maintained, I find myself in the frightful impossibility of providing any establishment for my family, and, if one of my children were

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appelé à l'état eslesiastique que je ne puis pas lui assurer un titre clèrical. Je ne puis disposer de rien. Je ne pense pas qu'il y ait de situation plus accablante pour qui que ce soit dans le plus has ordre. C'est ou me reduit aujourduy la malheureuse facilitè que j'ai eue de me livrer au soutien de l'exploitation des forges.

Je touche au moment de ma ruine absolue les malheures que je viens d'exposer et que je prévois me sont inèvibales ; il ne me rests d'espèrance que clans la boutè de Monsieur l'Intendant. C'est de lui seul je puis en attendre la fin, si j'obtiens ce que je demande au Ministre, et qu'il a renvoie à sa decision en me marquant qu'il est persuade que Monsieur l'Intendant aura ègard à mes propositions si elles peuvent le conciliar avec les interets du Roy.

Ces propositions ont ètè de suplier le Ministre de n'accorder la continuation du bail de la Traitte de tadoussac en y rèunissant la Bale de Kitchechatzou avec les isles et islets adjacents, lacs et Rivières qui s'y dèchargent et toutes les terres non concedèes contenues en l'etendus de païs depuis la dite Bäie de Kitehechatson et pointe de Bellisle a pendre des limites de la concession du Cap Charles jusqu'a la Baie d'Hudson pendant neuf annèes consècutives à commencer du premier octobre prochain et finit a pareil jour 175 moiennant le prix et somme de 4500. par chacune des dites neuf annèes, moiennant qu'il me soit fait main levèe du sèquestre stabli sur les effets de la dite Traitte et que la librrre administration de la ferme me soit laissèe a la charge de paier chaque annèe entre les mains du Trèsorier de la Marine pout servir à l'acquittement des dettes des forges, outre le prix du bail la somme de 10000/ sur les castors provenans de la traitte de Tadoussac laquelle somme de 10000/ pourra estre arrestèe entre les mains de l'agent de la Compagnie des Indes

(Translation.)

called to enter the ecclesiastical orders, I would be unable to secure for him a clerical title. I cannot dispose of anything. I do not think there exists a more crushing situation for anybody of the lowest condition. This is where I have been driven to-day by the unfortunate readiness with which I undertook to support the development of the Forges.

I am on the verge of absolute ruin : the hardships related hereabove and those I foresee are unavoidable ; my only hope rests upon the kindness of M. the Intendant. He alone can put an end to all these evils, if I am granted the favours asked for to the Minister and if the latter appeals to the decision of the former in telling me that he is persuaded M. the Intendant will take my proposals into consideration if they can be reconciled with the interests of the King.

These proposals have been to request the Minister to grant unto me the renewal of

the lease of the Tadoussac Trade uniting to it the Baie de Kitchechatsou with the islands and islets adjacent, the lakes and rivers which empty therein and all the unconceded lands contained in the extent of territory, from the said Baie de Kitchechatsou and point of Belleisle, taking in the limits of the concession of Cape Charles as far as Hudson bay for nine consecutive years, commencing October first next and ending on the same day in the year 1755, for the price and sum of 4500'' for each of the said nine years, provided withdrawal is made of the sequestration established on the effects of the said Trade and that the free administration of the lease be left to me at the condition to pay each year into the hands of the Trésorier de la Marine as a means of paying the debts of the Forges, besides the price of the lease, the sum of 10000''. out of the beaver obtained from the Tadoussac Trade, the said sum of 10,000''. may be collected from the hands of the agent of the Compagnie des Indes and as to the establishment of the sedentary trade on the bay and in the

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et quant a L'Etablissement de la Baïe sedentaire de Traitte dans la rivière et profondeur de la Baïe de Kitchechatson, et d'en rapporter dans la seconde année un plan avec un procès verbal du dit Etablissement dressèpar le commis qui t sera etabli pour la traitte et d'y faire pareillement dans le cours du Bail les Etablissements possibles de pesche de loup marin baleine et vache marine dont sera pareillement rendu compte par procès verbaux de visite et d'Etablissement dans l'année qu'ils pourront etre fairs, et en outre aux autres charges clauses et conditions du Bail qui m'a ètè fait de la Traitte de Tadoussac le 21 aoust 1737.

Monsieur l'Intendant pourra reconnoître clans de que j'ai eu l'honneur de lui exposer pa le prèsent Memoire que la Traitte de Tadoussac me peut pas porter un prix de ferme tel qu'on le persuader et que dans les circonstances prèsentes le fermier n'y qu'un très mediocre profit au prix memo de mon Bail. Je na suit pas capable de lui imposer sur cela et je crois en avoir donne la demonstration, D'ou il suit que mes propositios ne s'écartert en rien des intèrets du Roy.

Sa Majestè y trouve l' Etablissement d'un nouveau poste qui peut augmenter le fonds de son Domaine sans aucune dèpense et sans ausune diminution de son revenu j'ose dire que par la Règie que j'ai toujours tenüe et que je continuerai clans l'exploitation de la Traitte de Tadoussac parce que je le crois la plus convenable Sa Majestè y trouvera aussi la conservation du fonds de son Domaine de Tadoussac qui court risque d'etre ruinè au premier bail qui pourrait etre fait à d'autres, comm' il l'a ètè par les sous fermiers qui ont precèdè na Regie.

(Translation.)

river and interior of the Baie de Kitchechatsou and to furnish the second year a plan with a report of this establishment drawn up by the clerk who will be stationed there for trade, and also to construct there during the course of the lease establishments practicable for the fishing of seal, whale and walrus of which an exact account shall be also rendered in reports of inspection and of establishment during the year in which they are built, and all, in addition to the other burdens, clauses and conditions of the lease, which was made with me for the Tadoussac Trade on the 21st of August 1737.

By the explanations contained in this present memoir, M. the Intendant will admit that the Tadoussac Trade cannot be leased for the price mentioned to him and that in the present circumstances the lessee will find in it only a very small profit even at the price of my lease. I am unable to impose my views to him upon that, but I think I have sufficiently demonstrated same. And it thus follows that my proposals are in perfect accordance with the

King's interests.

His Majesty finds there the establishment of a new post which can increase the value of his Domaine without any expenses being incurred and without any decrease of his present revenue.

I venture to say that, by the management I have always kept and which I will continue, in developing the Tadoussac Trade, because I find it to be the most convenient, His Majesty will also find in same the conservation of the value of his Domaine de Tadoussac which runs the risk of being ruined through the first lease which might be made to others, as has been the case by the sublessees who preceded my management.

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La graxe que je demande n'etant accordée, je puis proposer aux Crèanciers des forges un païement assure de ce qui leur est du dans le cours des dix annèes en commençant à remettre des l'annèe a la Caisse du Trèsor dix mille livres sur les castors de Tadoussac, ce qui produiroit en dix ans la somme de cent mille livres laquelle jointe au produit des trois postes de Tèmiscaming, Michipicoton et Gamanistigoia donnera envrion cent soixante mille livres qui assurecient le païement entier de tout ce qui est dû en principal et intèrêts suivant le privilège et préfèrence de chacun des crèamciers, au noïen de quoi je pourrois espèrer qu'ils voudroient bien arrester les demeures et consentir la main levée des saisies faites sur moi, ce que je ne puis pas meme proposer si je n'obtiens pas est arrangement de la bontè de Monsieur l'Intendant.

J'espère trouver clans la libre disposition des effets de Tadoussac tant pour la vente des effets que pour l'achat des marchandises nècessaires à l'exploitation et autres nègotiations qu'elle pourroit me procurer la facilitè de remettre par annèe la somme de 10000^l. Suivant non offre.

Je n'attache a demander cette grace préfèrablement à tout autre parceque c'est l'affaire de commerce que je connois mieux depuis vint sept ans que j'en fais la règie et par consequent celle que j'espère avec plus de raison de pouvoir encor par la suite bonifier de plus en plus à l'avantage meme de Sa Majestè en y tenant la memo conduite que j'ai suivie jusqu'a present pour retablir, conserver et amèliorer le fonds de cette partie du Domaine que^l j'ai trouvè presque dètraite en 1719.

Quant aux Etablissements proposes de la Baie de Kitcheatsou je ne trouve en ètet de satisfaire à l'offre que je fais àcet ègard au moien deux

(Translation.)

The favour I am asking for being granted unto me, I shall then be in a position to propose to the creditors of the Forges a sure payment of what I owe them in the course of the ten years next ensuing to remit this present year unto the Treasury ten thousand livres upon the beaver of Tadoussac, which would yield within ten years the sum of one hundred thousand livres. This added to the proceeds of the three posts of Temiscaming, Michipicoton and Gamanistigoia will yield in the neighbourhood of one hundred and sixty thousand livres which will ensure the payment in full of all that is due, capital and interest, according to the privilege and preference of each of the creditors, by means of which I could hope they will be willing to stop the arrears and withdraw the seizures made against me, a proposal I cannot even dare suggest if I do not obtain this arrangement through the kindness of Mr. the Intendant.

I hope that the free disposal of the effects of Tadoussac, either by the sale of the

effects or by the purchase of the goods necessary to the development and other transactions which it could procure unto me, will enable me to remit each year the sum of 10000'' according to my offer.

I insist upon asking this favour preferably to all others because I am more familiar with this commercial affair, since, for twenty-seven years [1719-1746] I have been dealing with same and consequently that which I hope with greater reason to be able once more in future to improve more and more to the advantage of His Majesty, continuing the same conduct as that which I have followed up to now to reestablish, preserve and improve the properties of this portion of the Domaine which t found almost destroyed in 1719.

With regards to the proposed establishments of the Baie de Kitchechatsou, I find myself in a position to comply with the offer I am making in this respect by means of two associates who,

associes qui sans aucun intèrêt dans la Traitte de Tadoussac, que je me rèsèrve, veulent se joindre a moi pour les faire ; l'un pour y fournir un Batiment a lui appartenant et l'avance des marchandises vivres et munitions nécessaires et l'autre y aller luimême pour les exploiter aux conditions de reprendre les avances sur les retours, et ensuite partager les profits et pertes par tiers entre eux et moié.

Fait à Quebec le vint deux Juiller 1746. Signè Cugnet.

Four copie conforms à l'original que j'en airemis à Monsieur l'Intendant le vint aoust 1746.

CUGNET.

(Translation.)

without any interest whatever, in the Tadoussac Trade, which I retain for myself, are willing to enter into partnership with me to undertake them ; one to furnish a vessel belonging to him and to advance the goods, supplies and ammunition necessary, and the other to go there personally in order to develop same under the condition of recovering the advances out of the returns, and of subsequently dividing the profits and losses into thirds between them and myself.

Done at Quebec on the twenty-second day of July 17 46.

Signed CUGNET.

True copy from the original that I have remitted unto M. the Intendant on the twentieth of August 1746.

CUGNET.

[24 Oct., 1746.]
Labrador
Concessions
Tadousac.

No. 1282.

**EXTRACT FROM LETTER, 24 OCTOBER, 1746,
HOCQUART TO THE MINISTER, re RENEWING
LEASE OF THE DOMAINE DU ROY,**

AND INCLUDING BAYE DES ESQUIMAUX WITHIN LIMITS OF THIS POST.

CANADA—CORRESPONDANCE GÉNÉRALE—1746—F. 85, p. 386.

A Québec, le
24 8^{bre} 1746.

Monseigneur

Les affaires ne me permettent pas de répondre séparément
à chacune de vos lettres de 1745 ; Je vous prie de trouver bon
que je traite par une seule et même lettre quelques articles de
celles qui demandent réponse.

* * * *

Vous verrez, Monseigneur, par une autre despeche qu'il
ne n'a pas esté possible d'affermir encor cette année Le Poste
de Tadoussac par le manque de Marchandises, lorsqu'il en sera
question j'auray attention de comprendre dans les limites de ce
Poste la Baye des Esquimeaux, Le Sr. fornel qui vous en avoit
fait la demande est mort il y a 18 mois.

* * * *

HOCQUART.

(Translation.)

Quebec, 24 October, 1746.

Monseigneur,

Stress of business prevented me from replying separately to each one of your letters
of 1745 ; I beg of you to approve of my dealing in the one and same letter with a few items
from such as call for a reply.

* * * *

You will find, Monseigneur, in another dispatch, that this year again, it has been
impossible to lease the post of Tadoussac for want of merchandise. When the time comes to
do so, I will make it a point to include within the limits of this post the bay des Esquimaux.
The Sieur Fornel, who petitioned you to this effect, died eighteen months ago.

* * * *

HOCQUART.

[1927lab]

Labrador
Concessions
and
Tadousac.

No. 1283.

**LETTER, 8 NOVEMBER, 1748, BIGOT TO MINISTER,
re CONCESSION OF BAYE DES ESQUIMAUX AND
LEASE OF DOMAINE DU ROY.**

ARCHIVES OF CANADA. SERIES C 11-1, VOL. 92, p. 105.

Canada,
8 9bre 1748.

Monseigneur

Nous avons eu l'honneur de vous demander en commun la concession de la baye des eskimaux située au bas du fleuve a cent lieues du détroit de belisle, pour la veuve fornél dont le mari avoit fait la decouverte.

les Srs avi et le fevre negotiants de rouen établis ici depuis longtems associés de cette veuve m'ont priés depuis quelques jours, de leurs doner la ferme de Tadoussac sur le pié de 4500' comme elle etoit avant la guerre. ils seront les plus interessés dans les établissements que fera la veuve fornél a la baye des eskimaux, étant persuadé qu'elle n'y aura qu'une part. Cet offre me paroît convenir de toute façon aux interets du roy. cette baye sétablirait sans que la ferme de Tadoussac diminuât, et a l'expiration du tems de la concession je serois d'avis que sa majesté la reunît à cette ferme.

(Translation.)

Canada, 8 November, 1748.

Monseigneur,

We had the honour of requesting of you jointly the concession of the bay des Eskimaux, situate below the river, one hundred leagues from the strait of Belleisle, for the widow Fornel whose husband made the discovery of the same.

The Sieurs Havy and Le Fevre, merchants of Rouen, established here for many years and partners of the said widow have requested, a few days ago, a lease of the Ferme de Tadoussac at the rate of 4,500^l. as fixed before the war. They will have the chief interest in such establishments as the widow Fornel may form at the bay des Eskimaux, she being satisfied with only a share in them. This proposal appears to me to be in line with the King's interests. This post would be established without diminishing the [returns] of the Ferme de Tadoussac and, at the expiration of the term of the concession, I would advise that His Majesty reunite it to this ferme.

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j'attendray vos ordres a ce sujet sans rien prométre a ce sujet sans lien prométre a ces negotiants la recette general du castor monte cette année a 166172 L. 3—

j'ai l'honneur d'être avec un profond respect Monseigneur
Vôtre très humble et très obeissant serviteur

BIGOT.

a quebec le 8 9bre 1748.

(Translation.)

I shall await your instructions in this matter and abstain from making any promise in this connection to these merchants. The general receipts from the beavers this year amounts to 166172 L. 3.

I have the honour to be, with the deepest respect, Monseigneur, your most humble and most obedient servant

BIGOT.

[20 Sept., 1749.]

Quebec, 8 November, 1748.

No. 1284.

C

**CONCESSION, 20 SEPTEMBER, 1749, BY JONQUIÈRE
AND BIGOT, TO WIDOW FORNEL, OF BAYE DES
ESQUIMAUX.**

ARCHIVES DE LA PROVINCE DE QUEBEC, BOOK 9, FOLIO 43 VERSO.
Le Marquis de la Jonquiere etc.

François Bigot etc.

Sur les représentations que nous fimes l'année dernière à Sa Majesté en faveur de la veuve du S. Fornel pour luy faire obtenir la concession de la Baye des Esquimaux dite Baye St. Louis située à la Coste du Nord à environ cent lieues du detroit de Belisle, Elle nous auroit envoyé ses ordres en vertu

(Translation.)

The Marquis de la Jonquiere, etc,

François Bigot, etc.

Upon the representations we made last year to His Majesty in favour of the widow of the Sr. Fornel, in order that she may be granted the concession of the Baye des Esquimaux, called Baye St. Louis, situated on the coast of Labrador about one hundred leagues from Belleisle strait,

p. 3331

desquels. Nous avons concédé et concédons par ces présentes à la de De. veuve Fornel la de. Baye des Esquimaux dite Baye St. Louis pour le temps et espace de 12. années à compter du present jour, a prendre depuis et compris le Cap St. Gilles situé au nord de la de. Baye en remontant au Sud jusques à la Riviere des Sables icelle comprise, ensemble la Riviere Kessessakiou située au font de la de. Baye et qui se décharge jusques à la hauteur des Terres, avec les isles et islots qui se trouvent tant en dedans de la de. Baye St. Louis qu'au devant de l'etendue de terrain cy dessus concédée ; pour en jouir par la

de. veuve Fornel pendant le dit temps et y faire un ou plusieurs etablissemens de pesche a loup marin ainsi que la Chasse et Traitte avec les Sauvages à l'exclusion de tous autres, et en outre avec la faculté d'y faire la pesche de la morue concurement avec les batimens françois, à la charge par la de. veuve Fornel de faire valoir la présente concéssion, à faute de quoy elle demeurera de nul effet et aussi de payer au Domaine de Sa Majesté en ce pais par chacune année deux castors ou la somme de quatre livres. En temoin de quoy etc. Fait a Quebec le 20.7bre 1749. Signé Lajonquiere et Bigot, Contresignez et Sçelléz.

Pour copie.

BIGOT.

(Translation.)

he has forwarded his orders by virtue of which we have granted and do hereby grant to the said widow Fornel the said Esquimaux bay, called bay St. Louis, for the time and term of 12 years from this day, to be taken from and including the cape St. Gilles, situate to the north of the said bay, descending to the south to the rivière des Sables [Eagle river], the same included, together with the river Kessessakiou situate at the end of the said bay, and flowing into same from the height of lands, with the islands and islets lying both within the said bay St. Louis and opposite the tract of land hereinbefore conceded ; to be enjoyed by the said widow Fornel for the said time and term and there to make one or more establishments for seal fishing, as well as the right of hunting and trading with the Indians, to the exclusion of all others, and also with the power of cod-fishing there, concurrently with the French vessels, on the condition that the said widow Fornel shall develop the said concession, by default of which the same shall be null and void, and to pay to the Domaine of His Majesty in this country, for each year, two beaver or the sum of four livres. In testimony whereof, etc. Made at Quebec, on the 20th of September, 1749. Signed Lajonquière and Bigot. Countersigned and sealed.

For copy.

BIGOT.

No. 1285.

**LETTER, 25 SEPTEMBER, 1749, BIGOT TO
MINISTER, *re* LEASE OF DOMAINE DU ROY TO
WIDOW FORNEL.**

ARCHIVES OF CANADA. SERIES C 11, VOL. 93, p. 259.

A Quebec le 25 Septembre 1749

Monseigneur,

Nous avons eu l'honneur de vous marquer en commun que nous avons expédié la concession de la baie des Esquimaux à la veuve Fornel Il est heureux qu'elle ait voulu continuer cette découverte qui ne peut qu'être tres avantageuse à la colonie, étant important pour nous d'occuper cette baie dont les Anglois se seroient emparés par la suite, elle y a envoyé cette année. Cette même veuve m'a demandé la ferme de Tadoussac à raison de sept mille livres. J'ai trouvé ce prix si avantageux pour le Roy que je n'ai pas hésité un moment à la lui donner pour six ans aux mêmes conditions de l'ancien bail.

J'ai agi en conséquence des ordres et de la permission que M. le Comte de Maurepas avait donnés à M. Hocquart en 1745, 46 et 48 de passer un nouveau bail pour cette forme et qu'il le laissait le maitre des conditions.

Il était temps d'en ôter la régie à M. Cugnet, le Roy ne s'en serait pas trouvé. bien. Il n'a pas encore rendu son compte de régie de 1747.

(Translation.)

Monseigneur,

We have the honour to inform you that we have drawn up the concession of the Baye des Esquimaux in favour of the widow Fornel. It is fortunate that she was willing to continue this discovery which can only benefit the colony, it being important that we should occupy this bay which the British would certainly have taken hold of eventually ; she is sending an expedition there this year. The same widow has requested of me the Ferme de Tadoussac for seven thousand livres. I considered this price so advantageous for the King that I did not hesitate a single moment to grant it to her for six years under the same conditions as set forth in the former lease.

I have acted according to the orders and the permission given in 1745, 1746 and 1748 by the Count de Maurepas to M. Hocquart, to grant a new lease for this ferme, the conditions being left to his discretion.

The time had come to take the management of the same from Mr. Cugnet, as it would have

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Il a toujours quelques raisons qui l'en empêchent et insensiblement ses dettes s'accumuleraient envers sa Majesté. Il a retiré considérablement de la poste je le sais à n'en pas douter et il ne paie aucun de ses créanciers, et il n'est pas possible qu'il n'ait pas fait passer ses fonds en France.

Après l'expiration de la concession de la baie des Esquimaux que la dite veuve a pour douze ans, il conviendra de la joindre au domaine du Roy, elle sera pour lors établie et sa Majesté pourra y envoyer au lieu que si elle l'eut été à ses dépens, il lui en aurait couté des sommes et on n'y aurait peut-être pas réussi.

La veuve Fournel a une compagnie et c'est ce qui convient le mieux pour les nouveaux établissements, étant plus en état de faire les avances et je suis persuadé qu'il ne manquera de quoi que ce soit au poste de Tadoussac et que le Roy sera bien payé chaque année.

Elle se prépare à faire les envois nécessaires pour l'année prochaine ; je n'en ai pas encore averti le Sr Cugnet voulant voir ce que je pourrai faire saisir dans ce poste et dans le produit pour la sûreté des deniers du Roy.

J'ai l'honneur d'être avec un profond respect,
Monseigneur, votre très-humble et très obéissant serviteur.

BIGOT.

(Translation.)

prejudiced the King. He has not, as yet, given an account of the management for 1747. He always has reasons preventing from so doing and his debts to His Majesty gradually would accumulate. He has drawn a good deal from the post, and that I know positively and he pays none of his creditors, and he surely must have transferred his funds in France.

Upon the expiration of the concession of the Baye des Esquimaux which the said widow holds for twelve years, it will be expedient to reunite the same to the Domaine du Roy ; it would then be established and His Majesty could send thereto : while, should it have been settled at his expense, it would have entailed heavy expenditures ; besides the venture might have met with failure.

The widow Fornel has a company and this is the most suitable for the new establishments, they being in a position to make all advances and I am satisfied that there will be nothing lacking at the post of Tadoussac and that the King will be paid regularly every year.

She is getting ready to make the necessary shipments for the coming year; I have not yet advised the Sieur Cugnet, as I wish to ascertain what may be seized in this post and from its returns as security for the King's dues.

I have the honour to be, with the deepest respect, Monseigneur, your most humble and obedient servant,

BIGOT.

No. 1286.

**EXTRACT FROM LETTER, 11 OCTOBER, 1749,
BIGOT TO MINISTER, *re* CONCESSION OF BAYE DES
ESQUIMAUX.**

CANADA — CORRESPONDANCE GÉNÉRALE — 1740 — F. 93, 309.

A Quebec le 11 octobre 1749

* * * *

Je ne doute point que ce soit la concession de la baie des Esquimaux qu's eue la veuve Fournel, qui l'ait engagé à demander la traite de Tadoussac pour éviter toute dispute avec le fermier et si elle ont tombè entre les mains du St. Cugnet, il y aurait en des plaintes continualles de sa part, ayant desirè la rèunion de cette baie au domaine dans l'espèrance que le Roy aurait pu faire travailler à son ètablissement et qu'il en aurait retirè le profit. Et ces plaintes auraient à la suite du temps, degoutè la dite veuve de faire cet ètablissement qui est des plus essentiels, comme vous l'avez vu par les comptes que nous avons eu l'honneur do vous rendre, et j'ai ètè fort aise qu'elle me fait demandè.

(*Translation.*)

At Quebec, 11th October, 1749.

I have no doubt that it was the concession of Esquimaux Bay to the widow Fornel which induced her to apply for the *Traité de Tadoussac* in order to avoid all disputes with the lessee, and, if it had fallen into the hands of sieur Cugnet, there would have been continual complaints on his part, he having desired the union of this bay to the *Domaine* in the hope that the King would have made improvements at his establishment of which he [Cugnet] would have derived the benefit. And these complaints would, in the course of time, have disgusted Madame Fornel, and prevented her from setting up this establishment, which is most essential, as you have seen from the accounts which we have had the honour to send you, and I was highly pleased that she requested it of me.

No. 1287.

CUGNET'S (?) MEMOIRE, 1749,

[1749.]

APPLYING FOR CONCESSION OF BAYE DES ESQUIMAUX.

CANADA—CORRESPONDENCE GÉNÉRALE—F. 109, p. 15.

Memoire Commerant les Veuvieux Etalissements permis dans le Baie St. Louïs et depuis la Rivière de Kitchechatchou jusqu'd la Rivière blanche.

En l'annee 1743, le Sr fornèl nègotiant a Quebec obtint de Mrs. les Marquis de Beauharnois Gouverneur Gèneral et Hocquart Intendant En Canada ka Permission de faire la Dècouverte de la Baïe de Kitchechatchou sous pretexte d'un Etablissement de Fêche de Loup marin pour apres la Dècouverte faire du obtenir la Concession.

En vertu de cette permission le Sr. fornèl Envoïa a la Coste du Nord du fleuve St. Laurent vn Batiment Conduit par Le Nommè Charles le Cour Navigateur, ce Batiment n'alla point jusqu'a la Baye de Kitchechatchou Il [sic.] resta au lieu nommè En sauvage Pitchou ouste Keüene En francois Teste de Loup Cervier, auqa' el Sr. fornèl a donnè le non de la Baïe St. Louïs, et sans avoir la Concession ni de la Baïe de Kitchechatchou dont la dècouvorte n'a point Etè faite ; ni de la Baïe St. Louïs, Il [sic.] laissa dans cette dernière

¹ Died
31 May,
1745
(Tanguay).

(Translation.)

Memoir concerning the new establishments authorised
in the bay St. Louis and between river of
Kitchechatchou and river Blanche. (By Cugnet ?)

In the year 1743, the Sieur Fornel, merchant of Quebec, obtained from Mrs. the Marquis de Beauharnois, Governor General, and Hocquart, Intendant in Canada, permission to make the discovery of the bay of Kitchechatchou under the pretense of forming a seal fishery establishment and. upon the discovery being made, of obtaining the concession thereof.

By virtue of this permission the Sieur Fornel despatched a vessel to the north shore of the river St. Lawrence under the command of one Charles le Cour, navigator. This vessel did not reach the bay of Kitchechatebou, but remained at the place called Pitchou ouste Kouéne in Indian and Tête de loup-cervier in French, and to which the sieur Fornel gave the name of bay of St. Louis. And, without having either made the discovery of the bay of Kitchechatchou or obtained the concession of the baie de St. Louis, he left in the latter place one Jean Pilotte and his son with

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le Nonnè Jean Pilotte et Son fils avec des Vivres, de L'Eaudevie et quelques Marchandises de Traitte. Ces deux hommes avec un sauvage de la Baïe des Chateaux formerent Sur la Riviere a quarante lienes dans la profondeur de la Baïe St. Louïs vn hivernement pour l'Etablissement duqu'el le Sr. fornèl.

Renvoie En L'annèe 1744 le même Batiment qui y avoit Etè l'annèe precedents conduit par le nommè Jean le Cour. Le premier Batiment n'avait point Etè Jusqu'à la Baie de Kitchechatchou et avait fait n'aufrage avant de s'y rendre, de dernier ne Sy Rendit point, Pilotts et son fils Revinrent par Terre Jusqu'au mekatina, ou Jls [sic.] apportèrent les martres du produit de leur hivernement. Jls [sic.] avoient laise au lieu de leur hivernement les castors qu'ils avoient traittès.

Le Directeur de Domaine alors fernier des Traittés de Tadoussac Inforne [sic.] du prèjudice Considerable qu'en tel Etablissement Casseroit non seulement aux Postes de Mingan Baie Phelippeaux, Rivière St. Augustin, St. Modet, Baie des Châteaux mekatina et autres Postes Etablis Sur La Coste du Nord du fleuve St. Laurent plusieurs annèes avant l'Etablissement progettè par le Sr. fornèl, mais Encore plus aux Postes du Domaine du Roy, prit la Libertè de presenter a ce sujet à Mrs. de Beauharnois et Hocquart ses Representations tant En qualité de Directeur du Domaine que Conne fernier de la Traitte de Tadoussac, et leur agrement JI [sic.] Eut lhonneur d'adresser les memes Representations a Monsieur La Comre de Maurepas qui Eut la bontè de luy marquer par la Rèponse du 24 Avil 1744 que dès que l'Entreprise du Sr. fornèl paroisoit pouvoir prèjudicier à l'Exploitation due Domaine JI [sic.] avoit bien fait de faire des Representations Sur cela à Mrs. de Beauharnois et Hocquart et quo conne jls [sic.] lui avoient Ecrit Eux-mêmes à ce sujet JI [sic.] leurs Expliquoit les Jntentions [sic.] du Roy par rapport a cette Entreprise.

(Translation.)

provisions, brandy and a few trading goods. These two men, with an Indian of the baye des Chateaux erected on the river, forty leagues in the upper portion of the baie St. Louis, a winter post for the establishment of which the sieur Fornel despatched again, in the year 1744, the same vessel that had proceeded there the previous year under the command of the one Jean Le Cour. The first vessel did not get as far as the bay of Kitchechatchou and was wrecked before reaching there. This last one did not get there and Pilotte and his son returned by an overland route as far as Mekatina where they brought the martens from their wintering. They had left at their wintering quarters the beaver they had traded.

The director of the Domaine, then lessee of the trade of Tadoussac, being informed of the great prejudice such an establishment would cause, not only to the posts of Mingan, Phelippeaux Bay, River St. Augustin, St. Modet, Baie-des-Chateaux, Mekatina and other posts established on the north shore of the river St. Lawrence several years previous to the establishment contemplated by the Sieur Fornel, but also and to a greater extent to the posts of the Domaine du Roy, took the liberty of submitting his representations, both as director of the Domaine and as lessee of the trade of Tadoussac, to M. de Beauharnois, and agreeably to them he had the honour to address the same representations to the count de Maurepas who was kind enough to inform him, in his reply of the 24th of April, 1744, that, since the Sieur Fornel's establishment seemed to prejudice the operation of the Domaine, he had been well advised in making representations to that effect to Mrs. de Beauharnois and Hocquart and that, the latter having written to him themselves in this connection, he was explaining to them the King's intentions concerning this undertaking.

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Mrs. de Beauharnois et Hocquart n'ent point communiqué au Directeur de Domaine ce que le Ministre leur avoit marqué des Jntentions [sic.] du Roy a cet Egard, JI [sic.] a prèsumè

seulement que Sa Majestè ne vouloit point que La Concession demandèe par le Sr. Fournel fut accordèe, et l'entreprise de ce Negotiant qui mourut En 1746 n'ayant point eu de suite, le Directeur du Domaine prit la libertè d'adresser En l'annee 1744 a Monsieur le Comte de Maurepas un nouveau mèmòire par lequel il Exposait les motifs des Représentations qu'il avoit faites l'annèe précédènte j[sic.] a l'honneur de les Rapeller joy a Monseigneur pour En Rendre Compte a Sa Grandeur.

Le véritable But du projet du Sr. Fournel avoit Etè de former d'ans la profondeur des Terres au dessus de la Baïe St. Louis un Etablissement de Traitte pour y attirer les Sauvages qui commercent d'ans les Postes sur la Coste du Nord du fleuve St. Laurent, et Encore plus ceux qui vont d'ans les Postes du Domaine, Et par le S'approprier a l'Exclusion des fermiers du Domaine et des Concessionnaires des Postes de la Coste du Nord la Traitte avec les Sauvages Repeudus dans cette partie du Canada.

L'Exploitation des Traittes du Domaine y est bien plus Intèressèe [sic.] que celle des Concessionnaires des entres Postes de la coste du Nord, Ces derniers ne peuvent traitter que d'ans l'Etendue de leurs Concessions, toutes bornèes a cinq ou six Lieues de profondeur, et n'ont point Droit d'Envoyer audela des Bornes de leurs Concessions, le Domaine du Roy j'Etend la long de Ses Limites depuis le fleuve St. Laurent d'ans toute la Profondeur Jusques a la Baïe D'hudson et dans les Rivieres Et Lacs qui se dechargent d'ans la fleuve St. Laurent par les Rivieres saguenay, manikouagan, et Riviere moizy. le fermier du Domaine a eu Droit de tout tans d'etablir des Portes de Traittes,

(Translation.)

Mrs. De Beauharnois and Hocquart have not communicated to the director of the Domaine what the Minister has told them, about the King's intentions in this connection. He merely presumes that His Majesty was opposed to the granting of the concession applied for by the Sieur Fournel, and the undertaking of this merchant, who died in 1746,¹ not having been carried out, the director of the Domaine took the liberty of addressing, in the year 1744, another memoir to the count de Maurepas, giving the latter the reasons on which were based the representations he had made the previous year ; he has the honour to reiterate the same herewith to Monseigneur so that he may transmit them to His Grace.

The actual aim of the project of the Sieur Fournel had been the forming, in the depth of the interior, above the bay de St. Louis, of a trading establishment to which he would draw the Indians who now trade in the posts of the north shore of the St. Lawrence river, and to a greater extent those who resort to the posts of the Domaine, and thereby obtain control, to the exclusion of the lessee of the Domaine and of the grantees of the posts of the north shore, of the trade with the Indians scattered in this section of Canada.

The working of the trades of the Domaine is far more at stake than that of the grantees of the other posts on the North Shore. The latter are only allowed to trade within the limits of their concessions, every one of which is limited to five or six leagues in depth, and they have no right to despatch any one beyond the limits of their concessions ; the Domaine du Roy spreads its boundaries from the St. Lawrence river as far as Hudson bay and into the lakes and rivers emptying in the rivers Saguenay, Manikouagan and river Moizy. The Domaine lessee was at all times entitled to

Maskapis, atchouanipi, manikouagan, Mistaseins, et Chobnouchoüiane

Les Sauvages montagnais Divisés en plusieurs Nations sous les nons particuliers de Grans* et petis mistassins, Kichestigaux, Papinachois Naskapis, &a habituès dans la Profondeur des Terres du Domaine ne peuvent se rendre dans les Postes qui y ont Etes Etablis qu'avec beaucoup de Difficultès, des Rivieres qui peuvent les Conduire des Lacs sur les quels Jls [sic.] sent habituès aux Postes francois sont d'une difficile navigation, pleines de fautes et de Rapides qui les obligent a des Portages presque Continuels et très longs d'ailleurs JI [sic.] ne se trouve point d'ans ce Pays d'Ecorces propres à faire des Canots, En forte que ces sauvages n'ont que les Canots qu'ils peuvent avoir des francois en petite quantité, et que la plupart sont obligès de faire presque tout le chemin a pied ce qui net le fernier du Domaine dans la nècessità d'Envoyer tous les Printems dans la Profondeur des Terres Jusqu'aux Lacs des naskapia, atchoüanipi, manikouagan, mistassins et Chobnonchouane avec des frais considerables porter aux Sauvages les marchandises et munitions nècessaires à leurs subsistance et habillement Entroc des Pelleteries de leur Chasse dont le produit consists principalement En martres Et En Peaux de Caribou les sauvages surcient aucontraire beaucoup de facilitè a Se rendre par la Rivierè de Kitchechatchou et de Lacs en Lacs par d'autres Rivieres qui tombent a l'Etablissement que le Sr. fornèl propossit.

Si cet Etablissement a lieu JI [sic.] est indubitable que les Traittes Etablis par Le fernier du Domaine d'ans las Lacs cy dessus mentionnès Tomberoit Totalement par deux Raison Egalement puissantes sur l'Esprit des sauvages.

(Translation.)

establish trading posts, and in fact has actually established such posts on the lakes of Naskapis, Atchouanipi, Manikouagan, Mistassins and Chobnouchouiane.

The Montagnais Indians, divided into several nations under the respective names of Grands and Petits Mistassins, Kichestigaux, Papinachois, Naskapis, &c., settled in the interior of the Domaine lands cannot reach the posts established there but with great difficulty, as the rivers through which they could proceed to the French posts from the lakes which they frequent are hard to navigate, full of obstacles and rapids that compel them to make practically continuous portages, equally very long, there being in this country no bark suitable for making canoes, so that these Indians only have such canoes as they can get from the French and in limited numbers, and the greater number of them are compelled to walk all the way, as a result of which the lessee of the Domaine has to despatch every spring into the interior as far as the lakes of the Naskapia, Atchouanipi, Manikouagan, Mistassins and Chobnonchouane, and at considerable expense, goods and ammunition required by the Indians for their subsistence and clothing, in exchange for the pelts from their hunting, the produce of which consists specially of martens and caribou skins ; on the contrary, the Indians could travel much easier by the river of Kitchechatchou and from one lake to another through other rivers leading to the establishment which the Sieur Fornel intends to form.

Should such an establishment be formed there is no question but that the trade built up by the lessee of the Domaine on the lakes hereinbefore mentioned would be completely destroyed, and this for two reasons which would both appeal to the minds to the Indians.

*Grands.

La première Jls [sic.] voudront Essaièr s'ils ne trouveront pas plus d'avantage d'ans un nouveau Posts, que dans ceux cu jls [sic.] vont ordinairement. les sauvages aiment la nouveauté autant et plus que tous les autres hommes. La seconde pour S'Exemter de payer ce qu'ils doivent d'ans les Postes du Domaine. Jls [sic.] de rendencient a l'Etablissement du Sr. fornèl d'ans l'Espérance de ce procurer de nouveaux Credits sans Entre obligès d'acquitter les anciens et d'obtenir par ce moien le Double des narogabdises qu'ils veulent avoir, ceux qui ont qu'elque connoissance du Commerce des Traires d'ans tout le Canada savent qu'il est Judispensable d'avancer aux sauvages les armes, munitions, et hardes nécessaires a leur hivernement. Jls [sic.] ne payent ces avances qu'au printems de l'annèe suivante du Produit de la Chasse qu'ils ont faite pendant l'hiver. Jls [sic.] se feroient denner comptant le paiement de leurs Pelleteries en Eaudevie et Parures a leur usage, et prendroient a Crèdit les Armes Et munitions dont Jls [sic.] auroient Besoin pour leur hivernement.

L'unique moien d'Eviter ces Inconvèniens [sic.] très prèjudiciables au Domaine Le St. fornèl aiant commencè de nettre au jour un projet que personne n'avoit Encor formè de Reünir au Domaine du Roy, et a la traitte de Tadoussac la Baïe de Kitchechatchou et Rivieres y affluentes avec la Profondeur des Terres depuis lad. Baïe Jusqu'a la Mer du Coste de la Baïe D'hudson, afin que personne ne pût d'avantage former le même projet. L'Etablissement de Traitte que l'on pourroit y faire ne porteroient aucun prèjudice à la Traitte de Tadoussac, des qu'ils En feroient partie.

Sur ce principe qui paroist n'Etre susceptible d'aucume difficultè le Dirceteur du Domaine En Continuant de demander a Monsieur Le Comte de Maurepas le Renouvellement du Bail qui luy avoit Ete fait de la Traitte

(Translation.)

Firstly, they will wish to try and find out whether they would not fare better by trading in another post than in those where they usually go. The Indians are fond of novelty as much as, and even more, than the rest of mankind. Secondly, in order to avoid paying for what they owe in the Domain posts, they would proceed to the Sieur Fornel's establishment in the hope of obtaining further credits without having to settle the former ones and of obtaining thereby twice the merchandise they require. Any one familiar with the business of the [fur] trade in the whole of Canada, is aware that one must advance the Indians the arms, ammunition, and clothing they need for their wintering. They only pay for such advances in the spring of the ensuing year out of the produce of their winter chase. They would get paid in ready money for their pelts with brandy and trinkets for their own use, and would then buy on credit such arms and ammunition as they would require for their wintering.

The only way to avoid such disadvantages, most harmful to the Domaine, the sieur Fornel having commenced the execution of a project which no one else had ever conceived as yet, is to reunite to the Domaine Du Roy, and to the trade of Tadoussac, the baits of Kitchechatchou and the rivers flowing therein, together with the interior from the said bay to the sea-coast of Hudson bay, so as to prevent anyone from forming a similar project. The establishment of the trade that might be made there would in no way affect the trade of Tadoussac, the moment they formed part thereof.

According to this principle which seems in no way likely to offer any inconvenience, the director of the Domaine, reiterating his request to the count de Maurepas

for the renewal of the lease

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de Tadoussac commence au premier octobre 1737 et finissant à pareil jour 1746 avoit offert d'Entreprendre les Etablissements a faire dans la Baie de Kitchechatchou et Rivieres y affluentes et d'En avancer les Dèpendances à Condition que le Bail de la Traitte de Tadoussac luy fut accordè pour neuf annèes consècutives a Commencer au premier octobre 1747 et finir a pareil jour de l'annèe 1756 au mème prix de 4,500^l de son precedent Bail, en y reünissant et y compris la Baie de Kitchechatchou et Pointe de Belleisle Jusqu'à la Baie d'HUDSON, et a la charge par luy de former pendant la première annee du Bail l'Etablissement Sèdentaire de Traitte dans la Rivière et Proondeur de la Baie de Kitchechatchou, dont jl [sic.] seroit tenu d'Envoyer au Ministre un Plan d'ans la Seconde annèe du d. Bail avec vn Prociès Verbal du d. Etablissement dressè par le Maitre du Bastiment qu'il y Envoierroit et par le Commis qui y seroit Etably pour la Traitte afin d'En certifier la Cour, et d'y faire pareillement dans le Cours de on Bail les Etablissements possibles de Pêche de Loup marin Baleine Et Vache marine dont Jl [sic.] Rendroit Egalement Compte au Ministre par procès Verbaux de visite et d'Establissement d'ans la première annèe qu'ils pourroient Etre faits.

Le Directeur de Domaine demandoit depuis deux annèes la Continuation du Bail de la Traitte de Tadoussac comme l'unique ressource qui pourroit lut faciliter des moïens d'acquitter les Engagemens qu'il avoit Etè forcè de Contracter pour l'Entreprise des forges de St. Maurice qui l'Exposcient a ce voir Reduit lut et sa famille a l'Extreme nècessite par la mauvaise administration des associès, qui luy avoient Etè donnès pour la Conduite de cette Entreprise, sans qu'on put luy Reprocher aucune Dissipation de Sa part du Deniers qui y avoient Etè Employès.

(Translation.)

of the trade of Tadoussac granted to him as from the first of October, 1737, to the same day in 1746, offered to undertake the establishments to be formed in the bay of Kitchechatchou and the rivers emptying therein and to establish the dependent [posts] on condition that the lease of the trade of Tadoussac he granted to him for a term of nine consecutive years commencing on the first of October, 1747 and ending the same day of the year 1756, at the same price as that of the previous lease, 4,500*l.*, reuniting to the same and including therein the bay of Kitchechatchou and the point of Belleisle as far as Hudson bay, and also subject to his forming within the first year of the lease the sedentary trading establishment in the river and the upper portion of the bay of Kitchechatchou, of which establishment he shall be held to send a plan to the minister within the second year of the said lease together with a *procès-verbal* on the said post, drawn up by the master of the vessel he would despatch there and by the clerk he would station there for the trade, in order to satisfy the Court, and to establish, in the course of the lease, all practicable seal and sea cow fisheries thereat of which he would also give an account in the form of *procès-verbaux* of inspection and establishment within the first year of the formation thereof.

For the past two years the director of the Domaine has been praying for the extension of the lease of the Tadoussac trade as being the only source of aid that could enable him to meet the liabilities he was compelled to assume in connection with the St. Maurice iron-works undertaking as a result of which he and his family were liable to become reduced to dire want in consequence of the mismanagement of the partners that had

been assigned to him, and without anyone being able to reproach him with any squandering of the money invested in the undertaking.

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Jl [sic.] avoit Joint a Sa Demande celle de la Reünion de la Baïe de Kitchechatchou pour Eviter le prejudice que le Projet du S. fornel conseroit Infailliblement [sic.] a la Traitte de Tadoussac ce projet eioit devenu public et d'autres pouvoit le former a on Exemple, Jl [sic.] vouloit En prèvenir l'Inconvèniement [sic.] qu'il prevoioit des lors jl [sic.] Etoit persuadè que Sa proposition Seroit Jugèe recevable non Seulement Sur le notif de la Conservation des Traittes de Tadoussac, mais auf sy par l'avantage que Sa Majestè retiroit du Succès de l'Etablissement qu'il proposoit de faire à Ses frais de trouver vne amèlioration du fond de son Domaine dont Elle tireroit après les neuf annèes Expirèes vn prix de ferme plus avantageux qu'elle ne pourroit l'avoir de la Traitte de Tadoussac Seule Sans qu'il Coûtât a se Majestè aucune dèpense ni même aucune diminution de son Revenu actuel ; au lieu que Si cet Etablissement de Kitchechatchou se faisoit par des particuliers, la ferme de Tadoussac ne pourroit se soutenir au prix ou Elle Etroit alors et se Majestè couroit le Risque depordre le Revenu de cette Partie a sen Domaine Sans retirer ausun fruit de l'Etablissement de la Baïe de Kitchechatchou.

Le geurre survenue entre la France et l'Angleterre a Suspendu la Decision du Ministre Sur les propositions du Directeur du Domaine Jl [sic.] a continuè d'Exploiter la Traitte de Tadoussac a ses frais et y an souffert des partes pendant les trois dernieres annèes de la Guerre.

La nouvelle venus au mois d'aoust 1748 par la frègate le zephir de la suspension d'arnes Entre la france et l'Angleterre a Reveillè les Jdèes [sic.] de la Veuve fornel et de ses associès sur le projet que son mary avoit formè cinq en six ans aparavant. Sous pretexte des dèpenses faiths per son mary pour la Dècouverte do la Baïe St. Louïs Elle en a demandè la Concession a

(Translation.)

He had annexed to his request another for the reunion of the bay of Kitchechatchou in order to do away with the prejudice liable to be caused unfailingly to the trade of Tadoussac by the sieur Fornel's project. The latter had been made public and others could follow his example and carry it out. He was endeavoring to prevent the inconvenience which he even then foresaw. He was convinced that his proposal would be considered acceptable, not only for the sake of the conservation of the trades of Tadoussac, but also on account of the benefit that accrue to His Majesty's through the success of the establishment he proposed to form at his own expense, thus profiting by an improvement of His Domaine from which he would draw, upon the expiration of the nine years, a rental price higher than could be the case from the Ferme de Tadoussac alone, and this without His Majesty incurring any expense nor any decrease in his present revenue ; on the other hand, should such establishment be formed by individuals, the Ferme de Tadousac could not carry on at the price it was then quoted and His Majesty was liable to lose the income from this part of his Domaine and at the same time would derive no profit from the establishment at the bay of Kitchechatchou.

The war which was declared between France and England has left in abeyance the Minister's decision on the proposals submitted by the director of the Domaine who continued the working of the trade of Tadoussac at his own expense and at a loss during the

last three years of the war.

The news brought here in the month of August by the frigate Zephir, of the truce between France and England, gave a new life to the plans of the widow Fornel and her partners concerning the project formed five or six years previously by her husband. Under pretense of the expenses incurred by her husband for the discovery of the baye de St. Louis, she asked [1748] for the

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perpétuité et Sur sa demande Mrs. les Gouverneur Gènèral et Intendant en Canada ont Recu ordre de Monseigneur de luy accorder cette Concession, f'ils Jugeoient qu'elle ne portat ausun prèjudice aux Interets du Domaine.

Le Directeur du Domaine En a Eu Connoissance par Mr. Le Marquis de la Jonquière même qui luy dit le jour de ja Reception au Conseil qu'il avoit ordre d'Expedier la d. concession apres qu'il luy auroit communiqué la demande de la veuve fornel et Examinè les observations qu'il y auroit a y faire le Directeur du Domaine Eut l'honneur de lui rèpondre qu'aussi tôt qu'il aurait la bontè de luy faire savoir le projet de la veuve fornel les observations feroient prestes le jour même.

Jl [sic.] n'en a pas Entendu parler depuis Jl [sic.] aurait regardè comme une Judiscretion de Sa part de Demander Mr. Le Marquis de la Jonquière un Eclercissement sur ce qu'il avoit bien voulu le premier luy dire qu'il luy communiquerait. Jl [sic.] ne Soait point Encore Si la Concession a Etè Expèdièe. Jl [sic.] soait feoniement quo la Veuve fornel d'ans le mois de Septembre dernier a fait partir vn Batteau pour aller continuer l'Etablissement de la Baïe St. Louis.

Suposè que la Concession ait Etè Rècellement Expèdièe les notifs de l'accorder ont pû être.

Premièrement qu'il convient au bien de la Colonic que la Baie de Kitehechatchou fut Etablie solidement non soudement pour Empecher les Anglois de S'en emparer a la premiere Guerre mais Ecce pour se mettre plus aportèe d'observer ce que l'on pourroit Entrepandre du Côte du Canada sur les Etablissements Anglous de la Baïe d'hudson d'ans le même Cas de Guerre on ne peut guère attendre cette vtilitè d'vn Etablissement fait par des nègotians qui S'occupent bien plus de leur Intèrest [sic.] que de celui de l'Etat

(Translation.)

concession forever of the same and at her request Mrs. the Governor General and the Intendant of Canada were instructed by Monseigneur to grant her this concession, should they consider that it would not prejudice the interests of the Domaine.

The director of the Domaine was informed of the same by the Marquis de la Jonquière himself who, on the day of its receipt at the Council, stated that he had been ordered to draw up the said concession after he had transmitted the request of the widow Fornel and had considered such remarks as the director of the Domaine might have to make on the matter. The latter had the honour of replying that as soon as he would be kind enough to acquaint him with the prject of the widow Fornel, his observations would be ready the same day.

He heard no more about it since and he would have considered himself as committing an indiscretion to ask from the Marquis de la Jonquière a further explanation on what he had first meant to say he would tell him. He is not, as yet, aware whether the concession has been drawn up. He only knows that in the month of September last [1749 ?]

the widow Fornel despatched a vessel to go and carry out the establishment of the bay de St. Louis. On the supposition that the grant has been actually made, the reasons for such a grant may have been—

Firstly, it is in the interest of the colony that the bay of Kitchechatchou be firmly established not only in order to prevent the English from taking it at the outbreak of war but also in order to be in a better position to observe what could be undertaken from Canada against the English establishments on Hudson bay also, in case of war. One can hardly expect such benefits from an establishment formed by merchants who consider their own interest before that of the state and

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et du bien public, Il [sic.] seroit moins a Graindre que les Anglois pensassent a s'ètablir d'ans cette baïe, si Elle leur demeuroit Inconnüe [sic.] Ils [sic.] n'y penseroient pas alors. on Scait qu'avant la derniers Guerre Ils [sic.] negligoient Extremement leura Etablissements de Terre neuve.

Secondement, qu'il Etoit plus convenable aux Interests [sic.] dy Roy de laisser faire ces Etablissent par des particuliers que d'Engager sa Majestè d'ans Dèpenses considerables qui peut etre ne produiroient aucun Etablissent solide.

La proposition du Directeur du Domaine ne tondoit point à Engager Sa Majesté d'ans ancume Dèpense puis qu'il offroit de faire l'Etablissement a ses frais, et Il [sic.] proposait de le faire Serieusement et solidement puisqu'il offroit de rendre Compte annuellement du progrè pour Justifier au Ministre du succès de l'Entreprise, ou du peu d'Espérance du reüssir.

Enfin ou a pû penser que le projet de la veuve fornol seroit domains avantageux au Commerce de la Colonie par l'augmentation tant des huiles que des Pelletries, qu'il produiroit. Il [sic.] y sur de notif quelques observations a faire Il [sic.] est donteux qu'il soit de l'avantage de la Colonie de multiplier les pêches de Loup marin dans le bas du fleuve St. Laurent autant qu'on se l'Est persuadè Il [sic.] est naturel de penser au Contraire qu'on multipliant trop, ou détruira En moins d'annèes l'Espace de ces animaux Jls [sic.] ne produisent qu'un petit chaque année. Il [sic.] est rare qu'ils En anement deux, les Pêches se sont ou dans le Printems, qui est la saison du fray, ou d'ans l'automne qui est le tems ou les fennelles Sont plaines par consèquent on ne peut an prendre une plus grande quantité Sans détruire l'espèce, et Sans courir risque de tarir en peu

(Translation.)

the public welfare. Should it remain unknown to them, there would be less cause to apprehend any establishment being formed there by the English. They would not even think about it, as it is known that, before the last war, they entirely neglected their Newfoundland posts.

Secondly, it was more advisable in the King's interest to leave the formation of such establishments to private individuals than to involve His Majesty in a considerable outlay which might not lead to any firm establishment.

The proposal of the director of the Domaine did not commit His Majesty to any expense since he offered to form the establishment at his own expense, and proposed to do so in an earnest and permanent manner since he was willing to report every year on the progress accomplished in order to convince the Minister as to the success of the

undertaking, or as to the likelihood of failure.

Lastly, it may have been thought that the widow Fornel's project would at least be profitable to the trade of the Colony as a result of the increased output of oils as well as pelts. A few remarks are in order on this argument. It is questionable whether it would be in the interest of the Colony to multiply the seal fisheries in the lower St. Lawrence river, as was primarily thought to be the case ; on the contrary, it is logical to conclude that too great a number of the same would lead in a shorter space of time to the destruction of this species of animals. They only produce one cub a year and very rarely two ; the fishing takes place in the springtime which is the season of breeding or in the autumn at which time the females are pregnant, and, in consequence, a large number could not be caught without destroying the species of such animals, and risking the

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d'années la source de ces Pêches, en S'apperscoit d'année En année que la quantité de Loup marine diminuè et que les Pêches produisent moins Quand même Elles produiroient toujours la même quantité d'hailes La Colonie n'y trouveroit pas un plus grand avantage Le Prix de cette marchandise ainsy que tous autre depend du plus ou moins nècessairement d'abondance Il [sic.] Est Egal a la Colonie d'avoit pour ses retours En france deux mille Barriques d'huile lorsqu'elle les vendrs 80' la Barrique ou d'En avoir quatre mille Barriques lors qu'elle ne pourra les vendre que 40' on ne sauroit douter que la quantite des huiles doublant le prix n'en diminüe de moitié ; cependant Il [sic.] En coute les mêmes Dèpenses pour chacun des Etablissemens tant anciens que nouveaux ces Depenses augmentent même a proportion qu'il Se fait plus d'Etablissemens les Engages devieient plus Rares parce qu'il En faut un bien plus grand nombre et par consèquent plus plus chers, les autres depenses augment a proportion en même tems que Le prix du Produit diminüe nècessairement.

Chaque particulier ne fait point ces Reflexions, jl [sic.] pense seulement a l'esperance du gain qu'il pourra tirer d'une Entreprise qu'il vent former. La sagesse du Gouvernement va plus loin Elle ne se preste point a Multiplier des Etablissemens nouveaux qui Sans Etre d'un profit certain pour seux qui veulent les former peuvent d'Etruire ceux de meme nature, qui sont Etablis et Subsistent depuis plusieurs années.

Le Directeur du Domaine croit alabry du reproche de deonner dans le même jneonvenient [sic.] qu'il veut faire craindre de la part des autres. Il [sic.] n'a proposè le nouvel Etablissement de Kitchechatchou que pour prèvenir le tort que celuy projecttè par le Sr. fornèl aujourd'hui Suivi par Sa vele ou pour mieux

(Translation.)

exhaustion in a few years of this source of fisheries. It is noticed from year to year that the number of seals is decreasing and that the fisheries are not so productive even though the output of oil might be the same. The colony would not profit any more by it, the price of this commodity as well as of any other being dependent more or less necessarily upon the supply ; it is the same thing for the colony to have, for the returns in France, two thousand barrels of oil that sells at £80 a barrel or to have four thousand barrels which could be sold at only £40 a barrel ; it is beyond doubt that the quantity of oil being increased twofold the price of the same decreases by one half; at the same time the expense incurred for both the old and the new establishments are the same and they increase as more establishments are

formed ; the engagés become scarcer as a result of the greater demand for them and consequently ask for more pay, and other expenses are increased with a resulting decrease in price.

The average man does not stop to consider these various points and merely thinks of the expected gain to be drawn from the undertaking he is about to launch. In its wisdom the Government, looks further ahead and is reluctant to multiply the new establishments which, besides the fact that they imply no guarantee of profit to their promoters, often ruin those of the same kind established and in existence for several years.

The director of the Domaine could not be charged with the same mistake which he endeavours to have others deterred from. His sole aim, in proposing the new establishment of Kitchochatchou is to prevent the injury that might result from the project of the sieur Fornel, now carried out

dire par des associès que ne Se découvrent point pent Canser au
Domaine du Roy par la Ruine de la Traitte de Tadoussac.

Jl s'est Rependu d'ans Quebec que le St. Desauniers
Beaubien negotiant de cette ville sans doute soutenue
d'associès qu'on ne connoit pas plus que ceux de la veuve
fornel apresentè un Placet a Monsieur le Gouverneur Gèneral
pour obtenir un Titre de Concession dupuis la Rivière de
Kitshechatchou Jusqu'à la Rivière Blanche sur neuf lieues de
front Entiant vers la Baie d'hudson. Cette concession si Elle
Etoit accordèe seroit Egalement Ruineuse a celle même qui
vient d'Être accordèe a la veuve fornèl, aux autres Concessions
Etablies depuis quatre vingt ans et aux Postes du Domaine
encore plus qu'aux autres parce qu'elle approcheroit d'avantage
de la Profondeur des Terres du Côté des Lacs sur les qu'els le
fornier du Domaine a Droit de faire des Etablissemens de
Traitte l'Etendüe de païs depuis la Baie de Kitchechatchou
Jusqu'à la Rivière Blanche est l'Endroit ou tous les Sauvages,
du Nord je Rendent pour faire la Tüerin du Caribou et S'il S'y
fait un Etablissement Jls [sic.] ne Retourneront payer de qu'ils
deivent au fornier du Domaine non plus qu'aux Concessions
des anciens Postes Etablis depuis long tems Jls [sic.] se
retirement Egalement a l'Etablissement de la veuve fornèl j'il
[sic.] subsiste les anciens Concessionnaires ferent sur ces deux
nouveaux Etablissement les mêmes Représentations que le
Directeur du Domaine toutes les fois qu'ils pourront se faire
Entendre.

Depuis le present mèmèire fait La Traitte de Tadoussac a
ètè donnèe a fermes sous le non empruntè de la veuve fornèl
sans qu'il Et ait ètè donnè aucune Connoissance au Directeur
du Domaine qui parconsequent n'y Est

(Translation.)

by his widow, or to be more accurate, by partners who keep in the background, to the
Domaine du Roy through the destruction of the trade of Tadoussac.

It was reported at Quebec that the Sieur Desauniers Beaubien, merchant of this city,
evidently supported by partners, whose identity is concealed similarly to those of the widow
Fornel, has sent a memoir to the Governor General requesting that he be given a deed of
concession from the river of Kitchechatchou as far as the river Blanche of nine leagues in
front towards Hudson bay. Should this concession be granted, it would equally prejudice the
very one which has just been granted to the widow fornèl and the other concessions
established for twenty-four years and, to a greater extent, the Domaine posts than the others,
as it would be further in the interior in the direction of the lakes on which the lessee of the
Domaine has the right of forming establishments for trading purposes ; the stretch of
country between the bay of Kitchechatchou and the river Blanche is the place where all the
Indians of the north gather for the hunt of the caribou and, should an establishment be
formed there, they will not return to pay what they owe the lessee of the Domaine or to the
concessionaires of the older establishments long organised and existing for several years.
They would also resort to the widow Fornel's post if it is in operation. The former
concessionaires [Cugnet & Estebe] submit, on these two new establishments, the same
representations as those of the director of the Domaine every time the opportunity is
afforded to them of being heard.

Since the writing of the present memoir, the trade of Tadoussac has been leased
under cover of the name of the widow Fornel without the director of the Domaine being

plus Intèressè [sic.] en qualité de fernier de la Traitte ; mais JI [sic.] n'est pau moins de jon [sic.] Devoir En Qualité de Directeur du Domaine de faire valoir autant qu'il Est En luy Les mêmes raisons sur Lesqu'elles JI [sic.] a fondè few Premieres remontrances, soit que la veuve fornèl ètablisse sa nouvelle Concession de Kitchechatchou ou qu'elle L'abandonne L'Interest [sic.] du Roy y est Egalement Lenè si elle ne fait pas son Etablissement de Kitchechatchou ja [sic.] Majestè sera Privèe de cet Etablissement pour l'augmentation de son Domaine. ji [sic.] la veuve fornèl l'Etablie La Domaine des Traittes de Tadoussac sera Totalement ruinè. JI [sic.] en a Présume qu'elle Etablira de prèference Kitchechatchou pour s'attirer par ce moïen toute la Traitte des Postes appartement aux Particuliers de facon ou D'autre Le Directeur du Domaine ose avancer qu'à la fin du Bail de la veuve fornèl La Traitte de Tadoussac se Trouvers ruinèe au même Etat qu'il la Trouvèe en 1720. La veritè de cette avanèe se reconnoitre par l'Evenement Lorsqu'il ne sera Plus Temps d'y remèdier.

(Sans date, sans lieu et non signè.)

(*Translation.*)

therefore, is no longer interested as lessee of the trade ; but, as director of the Domaine, he is none the less in duty bound to show, as much as he can, the same reasons upon which his representations were based in the first instance, namely that the widow Fornel should either organise her new concession or relinquish the same. His Majesty's interest is similarly affected if she does not form her establishment of Kitchechatchou ; His Majesty will be deprived of this establishment for the development of his Domaine. In the event of it being made by the widow Fornel the trade of Tadoussac in the Domaine will be entirely ruined. He presumes that she will prefer to form that of Kitchechatchou in order to divert to it all the trade from the privately owned posts. One way or another, the director of the Domaine makes bold to predict that, at the expiration of the lease of the widow Fornel, the trade of Tadoussac will be ruined and in the same condition as he found it in 1720. The accuracy of such an assertion will be confirmed by the turn of events when it will be too late to remedy the same.

(No date, no place and no signature.)

No. 1288.

**PATENT, 31 MAY, 1750, OF CONFIRMATION OF
CONCESSION OF BAYE DES ESQUIMAUX TO
WIDOW FORNEL.**

ARCHIVES DE LA PROVINCE DE QUEBEC. INSINUATIONS DU
CONSEIL SOUVERAIN, BOOK 9, FOLIO 79 VERSO.

Aujourd'huy trente un mai mil sept cent cinquante le Roy estant a Versailles ayant egard a la demande qui luy a été faite par la de. veuve du s. Fornel tendante a ce qu'il plust a Sa Majesté confirmer et ratifier une concession a elle faite le vingt septembre mil sept cent quarente neuf par les srs. Marqs. de la Jonquière gouverneur et lieutenant général de la Nouvelle France, et Bigot intendant au dit País. de la Baye des Esquimaux ditte baye Saint Louis a prendre depuis et compris le Cap Saint Gilles scitué au Nord de la d. Baye en remontant au sud jusqu'à la Riviere des Sables icelle comprise, ensemble la Riviere Kessessakiou scituée au fond de la d. Baye, et qui se décharge jusques a la hauteur des Terres, avec les isles, et islots qui se trouvent tant en dedans de la d. Baye Saint Louis qu'au devant de la d. etendue de Terrain, Sa Majesté a confirmé et ratifié la d. concession, veut en consequ'ence que la d. Veuve Fornel en jouisse pendant l'espace de douze années seulement, a commencer de la presente avec droit d'y faire un, ou plusieurs etablissements de pêche du loup marin, et de chasse et de traite avec les Sauvages,

(Translation.)

Today, the thirtieth of May, one thousand seven hundred and fifty, the King being at Versailles and considering the petition to him presented by the said widow Fornel, praying that His Majesty be pleased to confirm and ratify a concession to her made on the twentieth of September, one thousand seven hundred and forty-nine by the Sieurs Marqs. de la Jonquiere, Governor and Lieutenant General of New France, and Bigot, Intendant in the said country, of the Esquimaux Bay, called Bay Saint-Louis, to be taken from and including cape Saint Gilles, situate to the north of the said bay, descending to the south to the Rivière des Sables [Eagle river] and including same, as well as the Kessessakiou river situated at the bottom of the said bay Saint Louis and opposite the said tract of land, His Majesty has confirmed and ratified the said concession, therefore wishes that same be enjoyed by the said widow Fornel for the term of twelve years only, from the present year, with the right of making one or more fishing establishments for seal, and that of hunting and trading with the Indians, to the exclusion of all

à l'exclusion de tous autres, pendant le dit temps, comme aussy le droit de faire la pesche de la Moluë concurremment avec les Batimens françois, qui pourront venir au dit lieu de la Baye des Esquimaux, tout ainsy quil est porté dans la d. concession, a la charge encore par la d. De Veuve Fornel d'exploiter et faire

valoir la presente concession, et faute de quoy elle demeurera nulle, et de nul effet, comme aussy de paier par chaque année au Domaine de Sa Majesté en Canada deux castors de la somme de quatre livres pour toute Redevance seulement, et pour temoignage de sa volonté Sa Majesté ma ordonné dexpedier le present brevet qui sera enregistré au greffe du Conseil Superieur de Quebec, et quelle a voulu signer de sa main, et entre contresigné par moy son Coner. secretaire d'Etat, et de ses commandemens et finances, Signé Louis et plus bas Rouillé

Registré suivant l'arrest ce ce jour, oüy et le requerant et le procureur général du Roy par nous greffier en chef soussigné a Quebec le 12 8bre 1750.

BOISSEAU.

(Translation.)

others, during the said period, together with the right of cod-fishing concurrently with the French vessels which may come to the said place of the baie des Esquimaux, as stated in the said concession, on condition also that the said widow Fornel shall operate and develop the said concession, by default of which the same shall become void and null, and also that she shall pay each year to the Domaine of His Majesty in Canada two beaver or the sum of four livres as the only due [redevance], and in testimony of His will, his Majesty has ordered me to send this patent which shall be registered at the Registrar's Office of the Superior Council of Quebec, and which he was pleased to sign with his hand and to be countersigned by me, his Councilor, Secretary of State, and of his commands and finances, Signed Louis and further Rouillé.

Registered according to the decree of this day, heard and the petitioner and the attorney general of the King by us Head Registrar undersigned at Quebec, the twelveth of October, 1750.

BOISSEAU.

[1750.]

Tadoussac
Fornel
Grant.

No. 1289.

**MEMOIR, 1750, OF VEUVE FORNEL ET CIE., re BAYE
DES ESQUIMAUX CONCESSION AND DOMAINE
DU ROY.**

CANADA—CORRESPONDANCE GÉNÉRALE—1750—f. 96, p. 85.

Memoire presentè a Monseigneur Le Intendant de la nouvelle france par la Ve. fornèl et compagnie fermiers des traittes de Tadoyssac Domaine du Roy en consequence du Bail qui Leur a Etè fait par Mond Seigneur L8Intendant [sic.] presence de Mr Breard controlleur Et passè par Lanouiller et Sanguinet notaires Royaux en datte du neuf Septembre de l'année derniere 1749.

Monseigneur

Plus il ya a de Securità et plus la surprise est Grande, Elle n'a pu estre qu'Extreme Lorsque vous avès prevenu Les fermiers du Domaine du Roy que Sa Majestè n'ayant pas approuvè Le Bail passè par Lanouiller Et Sanguinet notaires en datte du neuf Septembre 1749 en notre presence et en celle de Mr. Breard Controlleur de la marine ; vous avies recudes ordres du ministre de faire tun nouveau Bail par Voye d' adjudication, par consequent que le Bail actuel ne pouvoit subsister ; Sur quoy La ve fornèl et compagnie prennent La Libertè de vous faire Les Representations cy apres.

(Translation.)

Memoir presented to Monseigneur the Intendant of New France by the widow Fornel and company, lessees of the trades of Tadoussac, in the King's domain, in consequence of the Lease granted to them by Monseigneur the Intendant, before M. Bréard, comptroller and executed by Lanouiller and Sanguinet, royal notaries, under date of the ninth of September of last year 1749.

Monseigneur,

The greater the security the greater the disappointment, and ours could not but be extreme when you advised the lessees of the Domaine du Roy that, His Majesty having disapproved of the lease passed by Lanouiller and Sanguinet, notaries, under date of the ninth of September, 1749, in our presence and in that of M. Bréard, Comptroller of the Marine, you had been instructed by the Minister to have a new lease sold by auction, and accordingly that the present lease could not subsist ; whereupon Veuve Fornel and Company take the liberty of submitting to you the following representations.

p. 3350

Les fermiers Exposit Respectueusement qui si avec un titre aussy autentique que L8est [sic.] un Bail ou autre acte, Bail et contract de pareille nature, revètu de toutes les formes requises et prescrites par les loix, Les Contracteurs ne sont pas en Suretè sur Leur Etat, Jl [sic.] n'y aura plus a compter sur

rein ; Le tout étant fondé sur les Loix du Royaume par une Suite de la Sagesse de nos Rois, ces mêmes Loix doivent Subsister aitant que Le Royaume afin que personne ne puis Estre dans L'Incertitude [sic.] de son sort.

On purra dire pour toute Raison que La Ve fornèl Et Compagnie ont contracts avec le Roy et que Sa Majeste ayant le pouvoir Suprême, Elle est amitresse d'approuver ou de desaprouver ce qui pourroit avoir Etè fait a L'jnscu [sic.] de Ses ordres, ou contre des regles qu'Elle auroit prescrit.

Pour respondre a cette objection, les fermiers qui ont contractè avec Monseigneur L'jntendant [sic.], ont ignorè jusqu'a present qu'jl [sic.] ne fût pas revètu des ordres et pouvoirs necessaires ; jls [sic.] n'ont pu my du prévoir qu'jl [sic.] auroit fallu que La ferme du Domaine du Roy se fût donnèe par voye d'adjucation, par consequent jls [sic.] sont dans la bonne foy, et jle [sic.] ont contractè de même, rien ne peut prouver Le contraire, et s'jl [sic.] y a quelque manque de formalitè dans le bail dont est question ; jls [sic.] n'en sont pas responsables ; Dailleurs Le prix de la ferme a Etè asses longtems defendu ou disputè Et s'est Enfin trouvè Exceder de La somme de 1.2500^l celuy de M. Cugnet ancien fermier Lequel a toujours dit et S'est attachè a vouloir faire connoistre qu'jl [sic.] perdoit annuellement Sur L'Exploitation dead traittes. Le ve fornèl et Compagnie se seroient aisement Laissè Seduire aux Raisons susdittes dud . . . Cugnet n'Etoit L'hnterest particulier qu'jls [sic.] avoient de poursuivre L'obtention du bail en question, a cause des difficultès que led S. pretendoit former à L'Etablissement

(Translation.)

The lessees respectfully submit that, if a title deed as authentic as a lease or other deed, lease and contract of like nature, drawn up with every form prescribed and determined by the statutes, does not guarantee to the contracting parties the security of their position, then one can not rely on anything whatsoever ; the whole being based on the laws of Kingdom as a result of the wisdom of our king, such laws ought to endure as long as the Kingdom itself so that no one may have cause to feel uncertain as to the future.

It may be alleged as a general argument that Veuve Fornel and Company having contracted with the King, and, that His Majesty being the supreme authority, the latter is free to approve or disapprove whatever may have been done without his instructions or contrary to such regulations as have been passed by him.

In reply to such an objection, the lessees who have contracted with Monseigneur the Intendant, were not aware until now that he was not invested with the necessary orders and powers ; they could not, nor should they, foresee that the lease of the Domaine du Roy should have been sold by auction, and therefore they are in good faith and they have contracted likewise, and, if there is any lack of form in the lease referred to, they are not responsible for the same ; Moreover the price of the lease has been long enough discussed and argued and finally was fixed at the sum of 2500 *livres*, that is the price paid by Mr. Cugnet, previous lessee, who always said and was insistent in declaring openly that he was losing money every year on the working of the said trades. Veuve Fornel and Company would have readily given in before the above reasons but for the fact that they were particularly interested in obtaining the lease in question, owing to the obstacles which the said Sieur

d'accorder La concession a La Ve. fornèl. Disant que cet Etablissement feroit un grand tort aux traittes du Domaine du Roy, et demandoit en consequence qu'il [sic.] fût defendu aux concessionnaires de La Baye St. Louis de faire aucune traite avec les Sauvages. Cependant La distance D'un Endroit a L'autre est si grande qu'il [sic.] ny avoit pour des personnes Desinterressées [sic.] aucune apparence que cela pût Estre. La Ve fornèl qui se voyoit en avance d'une Somme considerable qu'il [sic.] luy en a coûté, pour la découverte de cet Endroit a encor augmente cette Somme d'Environ vingt cinq nil livres par L'armement [sic.] d'un bâtiment qu'Elle et ses associez ont Expediè L'automne dernier 1749. Ce Bâtiment n'ayant pu se rendre Se rendre aud. Lieu a cause des glaces ; L'Equipage a Etè obligè d'hiverner en chemin, et ne S'est rendu au poste que dans le mois de juillet, on y a laissè quatre hommes et Led. Bastiment est arrivè en cette ville vers la fin du mois d'Aou a rapportè pour retour Environ quatre cent peaux de martres provenant de la chasse des Engagès, et dailleurs Ils [sic.] N'ont pas vu dans tout Le voyage un seul Sauvage, si ce n'est des Eskimaux. Lad. veuve fornèl et compagnie viennent Encor de faire partir un bâtiment par le même Endroit dans L'Esprance qu'ils [sic.] auront un plus heureux Succès.

Ce qui augmente La Somme de Sept mil Livres du prix du Bail est que depuis qu'il [sic.] est passè, Monseigneur a imposè aux fermiers actuels, de donner aux Sauvages, Les Marchandises munitions et Vivres, a un prix Beaucoup audessous de celuy que l'ancien fermier Les donnoit, tout cela forme une Difference considerable La quelle produit cette annèe une perte Bien relie a La Ve. fornèl et compagnie. Laquelle perte se Leve a La Bomme de Soixante

(Translation.)

intended to raise against the establishment of the post of the Bay St. Louis the concession of which the Court was good enough to grant to the widow Fornel, he alleging that this establishment would cause great prejudice to the trades in the Domaine du Roy, and therefore was asking that the grantees of the Bay St. Louis be prohibited from carrying on any trading with the Indians. However the distance between one place and the other is so great that, in the eyes of impartial persons, there was no likelihood of such being the case. The widow Fornel who found she had already advanced a large sum for expenses connected with the discovery of this place still increased that sum by about twenty-five thousand *livres* for the outfitting of a vessel which she and her partners sent in the autumn of 1749. This vessel, having been unable to reach the said place owing to ice conditions, was compelled to winter [1749-50] on the way and only reached the post in the month of July, leaving there four men and the said vessel arriving in this city at the end of August, has brought back in return about four hundred marten skins from the *engagés* hunt, and moreover they did not meet a single Indian during the whole trip except some Eskimaux. The said Veuve Fornel and Company have just sent another vessel to the same place in the hope of meeting with greater success.

The sum of seven thousand *livres* as the price of the lease is further increased by the fact that it was drawn up two years ago and that Monseigneur has ordered the present lessees to give to the Indians, goods, ammunition and food at a far lower price than that at which they were being given by the former lessee, all of which makes quite a difference, as a result of which Veuve Fornel and Company are incurring an actual loss, amounting this year to the sum of seventy-five thousand

et quinne nil trois cent trente Sept Livres dix Sept Sols Suivant Le compte de dépenses et recette qu'on a L'Honneur De produire, Lequel est constate par les factures d'Envoi faits tant par M. Cugnet pour de la Dernier Envoy (Sans approbation des prix portès par ses factures) Lesquels ne sont pas Encor Reglès ; que par La Ve fornèl et compg^e dans tous les differens postes du Domaine, et les retours qu'ils [sic.] ont produit, par les Etats Signès Des Commis et Du me du Batiment qui a Etè dans Lead. traittes. Il [sic.] est vray que depuis bien des annèes on n'a point vu ces postes produire Si peu d'huile ny des pelleteries que La presente annèe, on peut peutestre en Esperer une meilleure pour La prochaine, cela fondè sur ce qu'il [sic.] n'y a rien de plus jncertain [sic.] que La peache et La chase. Supposant Le Bail fini La Ve fornèl Et. Comp^e ne peuvent se flatter de Retrouver La perte que l'Exploitation de La presente annèe Leur cause.

Le Bail dont est question ayant Etè fait pour Six annèes Revetu de toutes Les formes Requisites on ne peut refuser le droit Le Remboursement a La Ve fornèl et Comp^e de Lad. Somme de Soixante et quinze nil trois cent trents sept Livres, 17 q quoy monte La perte que l'Exploitation dead. traittes a produit La presente annèe ; En outre on ne peut refuser un dedommagement a La Ve fornèl et Comp^{se} pour La non jouissance du terme de son Bail. Ce Dedommagement ne peut Estre moins que de deux annèes du prix de La ferme ce qui compose la Somme de quatorze nil Livres.

Cette Somme en Elle mème est peu considerable Si L'on considere Les despenses qu'il [sic.] a fallu faire pour aller prendre possession de cette ferme, ainsy que pour se mettre en Etat de l'Exploitter, il [sic.] a fallu Louer des magasin pour Loger Les Vivres Et autres Effets, ainsy que pour les Retours, il [sic.] a

(Translation.)

three hundred and thirty *livres* seventeen *sols*, according to the statement of receipts and expenditure we had the honour of submitting, and which is certified by the shipping invoices made by Mr. Cugnet for the last shipment (with no certificate of the prices appearing on his invoices) the latter not being determined as yet, as well as Veuve Fornel and Company in all the various posts of the Domaine and the returns produced by them, by the statements under the signature of the clerks and of the master of the vessel which went to the said trades. It is true that, for years, these have never produced so little oils and pelts as they did in the present year, but one may perhaps hope for better results during the coming year as there is nothing more uncertain than fishery and the hunt. Taking it for granted that the lease is terminated Veuve Fornel and Company cannot even hope to make up for the loss they suffered as a result of the operations of the present year.

The lease referred to having been passed for ten years and drawn up according to the form prescribed, Veuve Fornel and Company cannot be denied the right to be reimbursed the said sum of seventy-five thousand three hundred and thirty-seven *livres*, 17*s.* which is the amount of the loss arising from the working of the said trades for the present year ; furthermore, one could not deny Veuve Fornel and Company an indemnity for the non-enjoyment of the period of their lease. Such an indemnity can hardly be any less than the price of two years of the lease, which makes up the sum of fourteen thousand *livres*.

This sum in itself is not very large if one takes into consideration the expenses that had to be incurred to go and take possession of this leasehold, as well as to be prepared for the working of the *saine* ; stores had to be rented for the housing of the food and other

fallu acheter des bâtimens de mer, Et Enfin Lad. Ve. fornel et Comp^ge a Etè obligèe de faire toute La Depense, En Egard aux Batimens at aux Marchandises fait venir de france ; comme ayant du jour de Son bail de six annèes ; on ne doit pas emettre Les peines et Le travail que donne Le Regis de ces traittes. Il [sic.] faut même plus D'une annèe pour connoistre Les interest de ces Differens postes. ainsy que ceux des Sauvages et Leur jnclinations [sic.] ; jls [sic.] sont d'un naturel trop inconstant pour que L'on puisse faire fond sur Eux ; Les Sauvages qui sont sur les terres de domaine se pretendent aussy Libres que tous Leur semblables des Environs, au moyen de quoy Jls [sic.] vont ou jl [sic.] leur plait traitter, soit aux trois Rivieres, soit a Batiscan, a Temiscaming, a La Baye d'hudson ; Ceux de La Riviers Noisy vont traitter aux differens postes de Mingan, et de plus Les propriétaires de ces Endroits Envoyent des traitteurs jusques dans Ke Sein du domaine du Roy ; jl [sic.] faut donc plusieurs annèes pour se faire connoistre des Sauvages et même s'en faire aimer car L'un est aussy utile que L'autre ; C'est par ce point que La Ve fornel et ses associès et ses associès ont commencè des L'Etè dernier, en allant sur Les lieux Leur faire des presens, Les voir et Les festiver, pour s'en faire eonnoistre, celuy qui y a Etè n'a pu voir que Les Sauvages du bord de de La mer, et quant a ceux des terres jl [sic.] Leur a Envoyè des presens Et fait porter parole qu'jl [sic.] se trouveroit L'Etè prochain a chècoutimi pour Les voir et Les cherir comme Ses Enfants.

On a L'honneur de représenter a Monseigneur L'jutendant [sic.] que Le chandement subit de fermier ne pourra produire qu'un tres grand Derangement dans Les traittes du domaine, Les commis. Les Engages et les Sauvages accoutumes depuis si longtems a obeir a un même maistre, voyant un changement

(Translation.)

sea-going vessels had to be purchased and lastly, Veuve Fornel and Company had to undertake the whole expenditure, considering the vessels and goods ordered from France, as if she had been to enjoy her lease for the six years . . . one must also take into account the trouble and labour involved in the management of these trades. It takes even more than a year to become familiar with the interests of these various posts, together with those of the natives and their inclinations; they are of too unsteady a disposition to be relied on : the Indians who are settled on the lands of the Domaine consider themselves as free as any of their own race of the vicinity, and therefore they go and trade where they please, either at Three Rivers, at Batiscan, at Temiseaming, or at Hudson bay ; those of the river Moisy and trade at the various posts of Mingan, and moreover the proprietors of those places send traders as far as within the limits of the Domaine du Roy ; it takes therefore several years to get acquainted with the Indians and also to win their friendship, as the one is as important as the other. It was at this very thing that the widow Fornel and her partners first employed themselves last summer, going to the place in order to give them presents, to visit them and to entertain them, thus making themselves known to them ; the one who went there could only see the aborigines of the sea-shore [Eskimo], and, as to those of the interior, he sent them presents and had them informed that he would be at Chicoutimi next year to visit them and to treat them with affection as his own children.

We had the honour to represent to Monseigneur the Intendant that a sudden change of lessee would only lead to a great disturbance in the trades of the Domaine; the clerks, the engagés and the Indians accustomed for such a long time to obey the same master, would be at a loss, upon seeing this change, as to whom to deal with, and each one will go and defraud, each in bis own way.

nouveau, ne Scauront plus a qui jls [sic.] auront a faire, châcum tirera et pourra fauder de son côté, Les Sauvages s'alieneront de Leur affection et se retireront dans les autres postes Ecartès ou L'abondance de l'Eau de vie Les attire dejâ que trop. Et enfin Les traittes de Tadoussac autres fois si vantées se reduiront a rien, et ces contrées autres fois si populées deviendront desertes, Car jl [sic.] faut observer que depuis plusieurs années les Sauvages des terres ont diminuè tant par la mortalitè que par le nombre de ceux qui se sont Retirès a La Baye D'HUDSON a cause de La chèrte des Marchandises.

Dailleurs Les Bestes fauves sont presque detruittes ce qui fait que ces mêmes Sauvages ont beaucoup de peine a trouver Leur subsistence dans les forests, jl [sic.] en meurt de fain et de misere tout les ans, sur tout L'hyver dernier Lequel a Etè Rude, il a peri nombre de familles ; quant a ceux du bord de La mer le fermier Leur fournit de vivres.

Les jnconveniens [sic.] qui peuvent rèsulter de tout cecy, point de sauvages, point de chasse, point de credits payès, ny par consequent de traitte a Esperer.

Autre article que Monseigneur L'jntendant [sic.] est suppliè d'observer, c'est que dans le fait en question, supposant que le bail ne subsiste plus, toute rests en suspens, quel derangement cela ne causera t jl [sic.] pas dans les comptes, Le mois de juin dernier et apres Les jnventaires [sic.] faits jl [sic.] se trouve, que Les marchandises, ustencils, Vivres etc. appartiennent tant au S. Cugnet ancien fermier, qu'au nouveau ; En supposant qu'jl [sic.] y ait un nouveau fermier L'année prochaine tous les Effets appartiendront a trois differens fermiers Quel cahos et qu'elles difficultes cela ne produirs t jl [sic.] pas, et quand pourra t'on en avoir Le fin.

Tous les faits cy dessus alleguès par La Ve fornel Et Compg^e ne Le

(Translation.)

The Indians will be estranged in their affection and withdraw to other distant posts where brandy is already too much of an attraction for them. Lastly, the trades of Tadoussac, once so famous, would be reduced to nothing, and these countries, formerly so densely settled, shall become deserted. In fact, it must be pointed out that for several years the number of inland Indians has decreased both as a result of deaths and through a great many of them having withdrawn to Hudson bay on account of the high price of goods.

Moreover, the wild animals are almost entirely destroyed and, in consequence, these same Indians experience great difficulty in finding their maintenance in the forests; every year, some of them die of starvation, especially during last winter which was a very severe one and when several families perished ; as to those of the sea-shore they were supplied with food by the lessee.

The disadvantages likely to arise from all this would be : No Indians, no hunting, no debts paid and, in consequence, no trade to be expected.

Another point which Monseigneur the Entendant is requested to note, is that under the circumstances alluded to, should the lease no longer subsist, everything is held in suspense ; what a disturbance would not this cause in the accounts. In the month of June last and after the inventories have been made, it happens that the goods, utensils, provisions, &c., belong to the Sieur Cugnet, former lessee, as well as to the new one ; in the event of

there being a new lessee next year, all the effects would belong to three different lessees. What a mess and what a confusion would this not give rise to and when could one expect to see the end of it all.

Every one of the foregoing facts as alleged by Veuve Fornel and Company are only recited

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sont que pour faire connoistre Le mal, que tous ces changemens subits peuvent produire a Leur Interrets [sic.] et a eaux du Roy, parcequ'au lieu de faire augmenter La ferme cela ne peut que La diminuer ainsy La Ve fornel et Compge. soutiennent Respectueusement La validitè du Bail qui Leur a Etè fait par Mondit Seigneur L'Intendant [sic.] at Recu par La nouillier et Sanginet notaires en presence de Mr Le Controlleur de la marine Le neuf Septembre mil sept cent quarante neuf, et demande que La jouissance Leur soit continuee jusqu'a La fin des six annèes, a deffant persistent a demander qu'jl [sic.] Leur soit Remboursè et payè Lannèe prochaine 1751. La Somme de IXXV^m III^c xxxVII^l XVII^s pour raison des depenses et pertes que leur a produit L'annèe de jouissance du Bail, et en outre La somme de quatorze mil livres pour la non jouissance des cinq annèes restantes a Expirer dud. Bail. C'est ce que Lad. Ve fornel et Compge^e. Esperent de La Justice et de L'Equite de Monseigneur L'Intendant [sic.].

VE FORNEL ET COMPAG^E.

(Translation.)

in order to point out the harm which all such sudden changes are likely to cause to their interests and to those of the King, as, instead of improving the leasehold it could only tend to impair it. Therefore Veuve Fornel and Company respectfully submit that they uphold the validity of the lease which was granted to them by the said Monseigneur the Intendant and executed by the notaries Lanouillet and Kauguinet in the presence of the Comptroller of the Marine on the ninth of September, one thousand seven hundred and forty-nine, and pray that the enjoyment thereof be continued to them until the expiration of the six years, in default of which they persist in their request for the reimbursement and payment to them, next year 1751, of the sum of 75,337 *livres* 17s. in consideration of the expenditure and Losses incurred by them during the year's enjoyment of the lease, and further of the sum of fourteen thousand livres for the non-enjoyment of the remaining five years to run of the said lease. The above being what Veuve Fornel and Company expect from Monseigneur the Intendant's sense of justice and fairness.

VEUVE FORNEL ET COMPAGNIE.

**LICENSE, 31 JULY, 1784, BY GOV. HALDIMAND TO
PIERRE MARCOUX AND LOUIS MARCHAND**

[31 July, 1784.]

Names of the
men.Merchan-
dize, viz^t
2 Punchions
Rum,
18 Fusils,
200 Gun
Powder,
6 cwt. Shott
and other
Dry goods
to
the amount
of L800.

TO TRADE AND TRAFFIC WITH THE INDIANS IN ESQUIMAUX BAY.

By His Excellency Frederick Haldimand, Captain General and Governor in Chief of the Province of Quebec ; General and Commander in Chief of His Majesty's Forces in the said Province and the Frontiers thereof &c. &c. &c.

To all to whom these Presents shall come—

Know Ye that in consequence of His Majesty's Commands to me signified I do hereby permit and Licence Pierre Marcoux fils ainé and ¹ Junior, to pass and have free passage and Conveyance, together with manned with eight men, to depart from Quebec to go to the Bay of the Esquimeaux on the Coast of Labrador, and there to trade and traffic with any Indians or others His Majesty's Subjects living under His Majesty's Protection for the Disposal of the said Merchandize.

And know ye that this Licence and Permission is hereby granted to the said Pierre Marcoux and Louis Marchand on the several express Conditions hereafter mentioned.

First, that they the said Pierre Marcoux and Louis Marchand, and all and every their Agents, Servants or those by them employed, shall and will in all things fulfill and obey the Laws as well of Great Britain as of this Province and the Ordinances thereof, made or to be made, which do or may concern or respect the Trade or Commerce with the Indians under His Majesty's Protection.

Second, that they shall first and before entering upon the said Voyage and trade have given lawful, good and sufficient Security to our Sovereign Lord the King his heirs and Successors, to keep, fulfill and perform all and every article and the several Conditions of this Licence, to be certified thereon by time Secretary of the Province or his Agent for that purpose.

And lastly I do grant, permit and licence the said Pierre Marcoux and Louis Marchand to trade to and with the said Indians, agreeable to and under the express Conditions above mentioned for and during the space of Twelve months from the date hereof ; Provided always, and I do hereby declare

This Liscence is granted conditionally that the said Marcoux & Marchand do not Interfere with any of the Posts in the

¹ Louis Marchand erased in the original.

that this Licence and permission shall be held as valid and

King's Domain.
By His Excel^{ty}
orders—
GEO. POWNALL
Sec.

effectual only and for so long as they the above named Pierre Marcoux and Louis Marchand shall keep, fulfill and perform all and every the above mentioned Conditions.

Given under my hand and Seal at Arms at the Castle of Saint Lewis in the City of Quebec this thirty first day of July One thousand seven hundred and eighty four and in the twenty fourth year of His Majesty's Reign.

FRED. HALDIMAND

By His Excellency's Command,
GEO. POWNALL. Sec^{ry}

Endorsed : Licence for P. MARCOUX and to go to the Grande Bay of the Esquimaux to trade with the Indians.

No. 1291.

C

**DEPOSITIONS, 23 AUGUST, 1785, BY JEAN LEBRUN
AND JOS. GOUPILLE OF QUEBEC,
re TRADE WITH INDIANS IN ESQUIMAUX BAY.**

Pardevant nous est comparu ; Jean Lebrun de Québec, lequel après serment fait a déclaré qu'il a parfaite connaissance que les Nommés Raphael Dorval, Baptiste Dumontier, Jean Beliveau & Plante ont hiverné a la Baie des Eskimaux et qu'ils ont fait la traite avec les Sauvages de la dite Baie. qu'ils sont revenus dans leur chaloupe dans le commencement de ce mois avec le produit de leur traite et qu'ils sont repartis le 16 courant ayant laissé

(Translation.)

Before us appeared : Jean Lebrun of Quebec, who, upon being sworn, stated that he is fully aware of the fact that the parties called Raphael Dorval, Baptiste Dumontier, Jean Beliveau Plante wintered at the Bay of the Esquimaux and that they traded with the Indians of the said bay: that they came again in their shallop at the beginning of this month with the produce from their trade and left again on the 16th instant, having left the sieur Raphael Dorval, their Domain.

p. 3358

le Sieur Raphael Dorval leur interprête dans la dite Baie, avec tout l'assortiment nécessaire pour la traite des Sauvages de la dite Baie. Il déclare de plus qu'il a entendu le Sieur Dumontier lui même parler de la traite qu'il a fait et du teins qu'il avait mis à faire le voyage l'année dernière et du projet d'y retourner et qu'il lui a vu même empaqueter et emballer parti de son équipement de traite.

Québec le 23^e. Aoust 1785.
JEAN LEBREUN

Affirmé devant moi ce jour et an
C. D. P.

Joseph Goupille de Québec declare et affirme aussi par serment ; Qu'il a vu cette hiver Un Sauvage qui lui a dit qu'il avait vu les dit Dumontier, Beliveau et ses deux autres associés dans la Rivière du Nord-ouest de la dite Baie des Eskimaux et que le dit Sieur Dumontier lui a parlé à Québec de Sa traite avec les Sauvages et du dessein de retourner avec un Equipement de traite et qu'il les a vu partir il y a quelques jours pour la dite baie.

Québec le 23. Aoust 1785.
Marque de X JH. GOUPILLE.

Affirmé devant moi ce jour et an
C. D. P.

(Translation.)

interpreter, in the said Bay veith all the necessary stock to carry on the trade with the Indians of the said Bay. The deponent further saith that he heard the sieur Dumontier himself speak of the trading he had done and of the time it had taken him for the journey last year and of his intention to return thither and that he even had seen him bundle up and pack up part of his trading equipment.

Quebec, 23 August, 1785.
JEAN LEBBEUN

Affirmed before me this day and year
C. D. P.

Joseph Goupille of Quebec declares and also affirms upon oath : That lie saw this winter an Indian Indian told him that he had seen the said Dumontier, Beliveau and his two other partners in Northwest river of the said Bay of the Esquimaux and that the said sieur Dumontier spoke to him at Quebec about his trade with the Indians and his intention to return with a trading equipment and that he saw them leaving, a few days ago, for the said Bay.

Quebec, 23 August, 1785.
Mark of X JH. GOUPILLE.

Affirmed before me this day and year
C. D. P.

[16 June, 1787.]

No. 1292.

**LETTER, 16 JUNE, 1787, MARCOUX TO PERRAULT,
re TRADING OPERATIONS CARRIED ON BY HIM IN
ESQUIMAUX BAY.**

JUDICIAL ARCHIVES, QUEBEC.

Les Isles a loup-marin le 16 Juin 1787.

M^r Jacques Perrault Marcht. a Québec.

Monsieur tout est changé présentement comme vous pouvez le voir par la présente. Je ne sais ce que le Capt^{ne} Lebreun prétend faire je crois qu'il veut se jouer de moi jusqu'a la fin. Samedi le 9 du courant lorsque je suis arrivé a son poste, lui et son frere son venu a bord me sommer d'une chose que je ne leur ai jamais refusé ni ne pouvoit leur avoir refusé ne m'en ayant pas touché un mot de l'hiver. pour quelques loup-marins de glaces qui ont passés dans les Isles du large on a fait beaucoup plus de bruit que l'on fera de profit l'on a mit opposition a mes entreprises pour la baie et défendu de toucher une Epingle dans le poste avant qu'ils eussent fait leur pesche d'été. Je ne me suis opposé a rien et les ai laissés faire. Mardi au matin le 12 ma Goelette étant chargée, leurs rets a l'eau le Capt^{ne} Lebreun est venu me dire que si j'avois quelque objection a le laisser pescher il alloit mettre tout son grément a terre—je lui ai dit que le vin étoit versé qu'il falloit le boir et que tout étoit sur ses charges qu'il pouvoit mettre son grément a terre ou le laisser

(Translation.)

Seal Islands, 16 June, 1787.

JASQUES PERRAULT, Esquire,
Merch^t at Quebec,

Sir, as you may judge by the present letter, everything is changed at the present time. I hardly know what Cap^t Lebreun intends to do; I think he means to deceive me to the very end. Saturday, on the 8th instant, when I arrived at his post, he and his brother came on board and commanded me to do a thing which I never had refused them nor would have refused inasmuch as they did not mention the matter once to me in the course of the winter. In connection with a few winter seals that traveled through the islands off the shores there was made much more ado than will be profitable; they objected to my undertakings on the bay and forbade me to even touch a pin in the post until they would be through with their summer fishing. I did not offer any resistance and I let them alone. On Tuesday morning, the 12th, my schooner being laden, and their nets being sunk, Cap^{tn} Lebreun came to tell me that if I had any objection to his fishing he would draw his fishing gear on land. I replied that "now the ale was drawn, it had to be drunk," and the whole responsibility lay upon him and that it was immaterial to me whether he pulled his

p. 3360

a l'eau que ce m'étoit indifférent. J'ai été ici le 3 du mois et n'en

suis parti que le Sept S'il avoit envie de pescher il pouvoit fort bien me le demander dans ce tems je ne l'aurois pas plus empeché que j'ai fait dans ce moment mais je crois que c'est un tour fait a la main pour garder son poste dans le quel il se soucie fort peu de faire le proffit de la Comp^{ie} pourvu qu'il y vive. mon Eskimau dit que ce n'est pas autre chose que les glaces que le vent a brisé et fait jeter le loup marin a l'eau que dans deux ou trois jours il n'en passera plus. quand même il feroit quelque chose cette été je ne crois pas que ça vous engage a garder le poste car vous devez etre certain que nous n'y ferons jamais pour payer nos dépenses. J'attends la goelette dans la Baie cet automne que vous gardiez son poste ou non. vous ferez attention que je suis tres cour de provision je ne sais ce qu'il a fait des Siennes. J'a vois 8 B/ques de biscuit dont deux ont été entierement perdu et 4 p. M^r Carthright qu'heureusement je n'ai pu lui faire tenir l'automne dernier. Je reste comme vous voyez avec Six B/ques de Biscuit lui en ayez laissé 4 j'avois un tierçon de farine de reste au poste que j'ai été obligé de lui laisser. Si vous gardez son poste Goupille prendra possession de la goelette aussitot qu'il aura mis ses effets a terre et viendra hiverner dans la Baie. Si vous m'envoyez Lebreun dans la baie vous pouvez être certain que quelqu'avancée que puisse être la Saison j'arme l'Eskimau et monte a Québec. je lui ai laissé plusieurs articles des effets de Goupille en cas que vous tentiez encore cet automne a son poste et emporte le reste avec moi dans la baie. je n'entends pas qu'une fois a terre personne ait aucun commandement que celui que je voudrai lui donner. il me faudra presentement quantité de futailles je faisoit compte d'emporter toutes celles qui étoient ici. vous avez cy inclus un certificat, la note de ce

(Translation.)

fishing gear on shore or left it under water. I came here on the 3rd of the month and only left in September. Had he wanted to do any fishing he could very well have asked me during that time and I would not have objected any more than I do at the present time, but I think this is a trick attempted in order to retain his post in which he cares little for the interest of the Company so long as he gets his living out of it. My Eskimau tells me that the only thing that caused the seals to take to the water was the breaking up of the ice by the wind and that, after two or three days, no more seals will be passing through. Even though he should make anything out of it this summer, I do not think this a sufficient reason for you to keep the post, for you may be sure that we will never make our expenses there. I am waiting for the arrival of the schooner in the Bay this autumn, whether you keep his post or not. You may note that I am very short of provisions. I do not know what he did with his. I had 8 barrels of biscuit two of which were totally lost and four were for Mr. Cartwright, but, fortunately, I could not deliver them to him last fall. As you may see, I still have six barrels of biscuit, having left 4 with him ; I had a tierce of flour left at the post but I was compelled to leave this to Should you decide to keep his post, Goupille will take possession of the schooner and will come and winter in the Bay. If you send Lebreun to me in the Bay, you may be sure that, no matter how advanced the season may be, I shall outfit the Eskimau and go back to Quebec. I left with him several articles out of Goupille's effects, in case you should make another attempt this fall at his post and I am taking the remainder with me to the Bay, once landed I do not want any one to take any order except such as I am agreeable to give. I will presently require a number of casks as I intended to take along with me all those that were

que j'ai laissé au Capt^{ne} Lebreun et la copie d'une lettre que je lui ai laissé a mon départ. vous m'enverrez 3 chassis de 12 carreaux de 7/8 . le Capt^{ne} Lebreun a 11 ou 12 renards Blanc a vous remettre que l'Eskimau qui a hiverné a son poste a pris pendant l'hiver un fusil pour faire raccommoder 4 haches et 1 pioche. vous en enverrez Six grosses et avertirez toupin de les faire meilleures que l'année dernière. 3 Echevaux de fil a voile 6 Equilles a voile il vous remettra l'ancre de la chaloupe qu'il a cassé l'automne dernier. Si vous ne pouvez trouver un homme a Québec qui sache arranger le Saumon vous pourrez donner ordre au Capt^{ne} Goupille d'arreter a la Baie des Chateaux et écrire a M^r Dormer pour qu'il vous en procure un. je fais voile demain pour la Baie si les vents ne me sont pas contraires ou j'espere être tranquille et n'avoir personne qui veuille être plus maitre que moi.

je suis Sincerement

Votre tres hble & Obeisst. Serviteur.

MARCOUX FILS.

N.B. vous avez a bord de la Resolution 2 3/4 B/ques d'huile que l'Eskimau a fait ce printems marqué P.M.C.

Antoine Bourassa s'est arrangé avec le garçon pour ce qu'il avoit a lui payer et ils sont quites M. . . .

N'oubliez pas de ns envoyer un permis pour la traite avec les deux nations.

(Translation.)

here. Enclosed please find a statement, being a list of what I left with Captn. Lebreun on my departure, as well as a copy of a letter which I left for him. Send me 3 sashes of twelve lights of 7/8. Captⁿ Lebreun is to deliver to you 12 white foxes taken by the Eskimau who wintered at his post during the season, a musket to be repaired, 4 axes and one mattock. Please send me six large ones and tell Toupin to make better ones than last year. [Send] 3 skeins of sail thread, 6 sail-sewing needles. He will deliver to you the shallop anchor which he broke last year. Should you be unable to find at Quebec a man who can prepare salmon you might order Captⁿ Goupille to stop at the Bay des Châteaux and write to Mr. Dormer asking him to secure you one. I am sailing tomorrow for the Bay if the wind is not contrary, I hope I shall be left in peace and have no one who will overrule me.

I am sincerely Your most humble
& Obedient Servant,

MARCOUX, Fils.

Note.—You have on board the Resolution 23/4 barrels of oil made this spring by the Eskimau marked P. M. C.

Antoine Bourassa has come to an arrangement with the boy for what he owed the latter and they are quit with each other. M. . . .

Do not forget to send me a licence to trade with the two nations [Eskimo and Indians].

No. 1293.

**CUSTOMS HOUSE CLEARANCE, QUEBEC,
7 SEPT., 1787, OF SCHOONER “ RESOLUTION,”
BOUND FOR BAYE DES ESQUIMAUX.**

Port of Quebec

These are to certify all whom it doth concern,

That Joseph Goupille.....Master or Commander of the Schooner Resolution Burthen Thirty five Tons, or thereabouts, mounted with Guns, navigated with five men, plantation built, and bound for the great Bay of Esquimaux, having on Board Sixty Quintals flour, twenty quintals Biscuit, fifteen barrels Pork, five firkins Butter & Lard, twenty-one Bushels Peas, Two hundred twenty five Boards, Eight barrels Gunpowder, different Utensils & Stores pour la peche la traite et la Chasse hath here entered and cleared his said Vessel according to Law.

Given under our Hands and Seals at the Custom House of Quebec this Seventh Day of Sepr. 1787 and in the 27th Year of His Majesty's Reign.

THOS. AINSLEE Collr.

THO. SCOTT Com.

General Clearance.

No. 1294.

**PETITION AND INFORMATION OF GEO. PLANTE TO
SESSIONS OF THE PEACE, DISTRICT OF QUEBEC,
1 SEPTEMBER, 1788,**

COMPLAINING OF BREACHES BY PIERRE MARCOUX IN ESQUIMAUX BAY,
OF PROHIBITING THE SALE OF LIQUOR TO INDIANS.

To their Honors the Commissioners of the Peace for the
District of Quebec or any of them.

The Petition & Information of George Plante of Quebec
Trader.

Humbly Sheweth

That Pierre Marcoux of Quebec Trader hath in the Course
of the last winter & spring at various times been guilty of the
most flagrant contraventions of the Ordinances of this
Province made and passed the 29th of March 1777 Intitled “ An
ordinance to prevent the selling strong liquors to the Indians of
this Province &^{ca} chapter 7th By carrying into the Indian
Country in the Bay of Kichatcoux or Bay Eskimaux without
the straits of Belisle on the Coast of Labrador, quantities of
Goods wares & Merchandize as well as strong liquors, and
there settling himself and his servants for the purpose of trading
with the Indians, to whom he hath not only distributed or
disposed of Rum and other strong liquors himself, but caused
the same to be so distributed or disposed of, and by means of
the said Goods wares and Merchandize so carried as aforesaid,
hath trade with the Indians in the country aforesaid, and that
without Licence as directed & required by the aforesaid
Ordinance

That from these several contraventions which the
Informant is ready to prove the said pierre Marcoux is lyable to
& ought to be condemned in the penalties & forfeitures
following to witt : For distributing or disposing of Rum and
other strong liquors to Indians without Licence In the penalty
of five pounds and one month of Imprisonment for the first
offence. For settling in the said Indian Country without
Licence in the penalty of ten pounds, for the first offence ; and
for carrying and sending into the said Indian Country upon
Lands not granted by his Majesty Goods wares and
Merchandize & provisions without Licence the Sum of Fifty
pounds, all which

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finer and forfeitures do of right belong to and ought to be
distributed as the said ordinance directs between his Majesty

and the Informant.

Wherefor the Informant as well for and on behalf of His Majesty the King that now is as for himself Prays Your Honors that summary proceeding may be had in the premises & Judgement & Execution Issue as the said Ordinance Directs.

According to Justice

GEORGE PLANTE

Quebec 1st September, 1788

George Plant

v^s Informⁿ

Pierre Mareoux

aug^t 17

Plainte

1788.

[1 Sept., 1788.]

No. 1295.

C

**WRIT OF SUMMONS, 1 SEPTEMBER, 1788,
TO PIERRE MARCOUX, JR.,**

TO ANSWER GEO. PLANTE'S COMPLAINT.

District de Quebec.

Par Thomas Scott, Louis Deschenaux Ecuyers Commissaires de la Paix.

A Pierre Marcoux fils—March^d a Berthier

Il vous est enjoint et Ordonné de comparaitre dans la Chambre de la Cour, dans la Ville de Québec, devant les Susdits Commissaires de la paix lundi le huitieme jour de Septembre courant à dix heures du Matin pour

(Translation.)

District of Quebec.

By THOMAS SCOTT, LOUIS DESCHENAUX, Esquires,
Commissioners of the Peace,

To PIERRE MARCOUX, Junior, Merch^d at Berthier.

You are hereby commanded and required to appear at the Court House in the city of Quebec, before the aforesaid Commissioners of the Peace, Monday the eighth day of September, current, at ten o'clock in the forenoon to answer to the complaint made against you by George Plant of several

p. 3365

repondre a la plainte faite contre Vous par George Plant pour

diverses Contraventions de l'Ordonnance passée le 29^{me} jour de Mars 1777, Intitulée Ordonnance pour empêcher à Vendre des liqueurs &c^a aux Sauvages de cette province Contenue dans la declaration cy-Jointe —

Ne manquez pas sous peine de Dix Louis d'amendes,
Donné à Québec le 1 jour de Septembre 1788.

De par la Cour
DAVID LYND

Je soussigné Lieutenant de milice dans la paroisse de Berthier en bas de Quebec certifie avoir signifié copie du present ordre et le papier y annexé à Pierre Marcoux fils parlant à sa personne à Berthier le 3 Jour de septembre mil sept cent quatre vingt huit

ne schansan signer
marque ordinaire de X

FRANCOIS MARCIER (MERCIER)

(Translation.)

contraventions of the Ordinance passed the 28th day of March, 1777, intitled : An Ordinance to prevent the selling of strong liquors &c^a to the Indians of this Province, as contained in the annexed Declaration. . . .

Herein fail not under pain of a fine of Ten Pounds sterling. Given at Quebec the 1st of September, 1788.

By order of the Court,

DAVID LYND.

I, the undersigned, lieutenant of militia in the parish of Berthier, below Quebec, do hereby certify that I did serve Pierre Marcoux, junior, with the copy of this Writ of Summons and the annexed Declaration, speaking to him personally at Berthier on the 3rd day of September, one thousand seven hundred and eighty eight.

Not knowing how to write
Ordinary mark of X

FRANCOIS MARCIER (MERCIER).

No. 1296.

**PEREMPTORY EXCEPTION, 11 SEPTEMBER, 1788,
BY PIERRE MARCOUX,
TO INFORMATION IN PLANTE vs. MARCOUX.**

[11 Sept., 1788.]

District de Quebec.

JUSTICE DE LA PAIX.

GEORGE PLANTE Dénonciateur,
contre

PIERRE MARCOUX, Négociant. . accusé

EXCEPTION PEREMPTOIRE

L'information ou requête du dénonciateur qui se plaint de
contravention aux 1^{er} et 5^{eme} articles de l'Ordonnance
législative de Québec, de la 17^e année du règne de Sa Majesté,
chapitre 7^e, qui défend de vendre des liqueurs fortes aux
Sauvages dans cette Province et concernant la traite &c. porte
le vice essentiel de se plaindre et d'exiger Jugement à Québec
sur des faits allégués commis dans la Grande Baie des
Eskimaux, qui est hors de la Province de Québec, telle qu'elle
est bornée par le statut d'Angleterre de la 14^e année de

(Translation.)

District of Quebec.

SESSIONS OF THE PEACE.

GEORGE PLANTEInformant

vs.

PIERRE MARCOUX, merchant Accused.

PREREMPTORY EXCEPTION.

The information or petition of the Informant who alleges contraventions of sections
1 and 5 of the legislative ordinance of Quebec, 17th year of His Majesty's reign, chapter 7th,
which prohibits the sale of strong liquors to Indians in this Province and regulates trading
&c. is fundamentally defective inasmuch as it refers to, and calls for judgment at Quebec on
offences alleged to have been committed in the Great Bay of the Esquimaux which bay is
outside of the Province according to

p. 3367

Sa Majesté, chapitre 83. puisqu'il règle que cette Province est
bornée au Nord aux bornes meridionales du pais concédé aux
Marchands d'Angleterre qui font la traite à la Baie de Hudson,
et que la concession faite à la Compagnie de Hudson avoit mis
et a conservé tous les pais, les mers, baies, havres, traites &c.
que les Rois Chrétiens n'avoient pas concédés, et que l'accusé

soutient n'avoir jamais été concédés plus loin que le Cap Charles. Or le Denonciateur pour soutenir son information doit montrer et prouver les bornes de cette Province dans lesquelles il prétend que les contraventions ont été commises, supposé qu'elles l'ayent été ou non, faute de quoi cette exception éteint péremptoirement sa poursuite, dont il doit être debouté avec dépens ; c'est à quoi l'accusé conclud. Et ferez Justice.

Quebec 11 Septembre 1788.

A. PANET.
Avocat pour l'accusé.

(Translation.)

the limits thereof fixed by the statute of England of the 14th year of His Majesty, chapter 83, which provide that this Province is bounded on the north by the southern limits of the country conceded to the Merchants of England trading in Hudson's Bay and that the grant made to the Hudson's Bay Company included and retained all the countries, seas, bays, harbours, trades &c., that had not been conceded by the Most Christian King, and which the accused submits have never been conceded beyond cape Charles. Wherefore the Informant, in order to maintain his information must show and prove the limits of this Province within which he alleges the contraventions took place, whether they were actually committed or not, in default whereof the present exception annuls peremptorily his prosecution which ought to be rejected with costs; wherefore the accused prays accordingly.

Quebec, 11 September, 1788.

A. PANET

Attorney for the accused.

No. 1297.

MARCOUX'S APPLICATION, 11 SEPTEMBER, 1788,

[11 Sept., 1788.]

FOR PERMISSION TO FILE THE HUDSON'S BAY COMPANY'S
CHARTER.

District de Quebec.

JUSTICE DE LA PAIX.

GEORGE PLANTE, Dénonciateur.

c

PIERRE MARCOUX, Accusé

L'accusé en soutenant son exception peremptoire ayant offert de produire dans un delai raisonnable la Chartre ou concession de la Compagnie de Hudson pour constater les limites entre ladite Compagnie et la Province de Québec, quoique le Dénonciateur doit prouver les d. limites et ne l'a pas fait, ou s'il veut lui même produire ladite Chartre ou Concession plus promptement, a supplié la cour de lui donner acte sur le registre de l'offre de produire ladite Chartre ou concession. Et comme l'accusé a offert ladite preuve avant Jugement sur l'exception, il conclut à ce qu'il lui en soit donné acte sur le registre et se reserve de se pourvoir à cet égard.

(Translation.)

District of Quebec.

SESSIONS OF THE PEACE.

GEORGE PLANTE Informant

vs.

PIERRE MARCOUX Accused.

The accused, in the support of his peremptory exception, having offered to produce, within a reasonable time the charter or deed of concession of the Hudson's Bay Company in order to ascertain the boundaries between the said company and the Province of Quebec, although the onus of proving the said boundaries rests with the Informant and the latter has failed to prove the same, or is free to produce the said charter himself at an earlier date, prays the Court that he be given act in the records of the offer to produce the said charter or concession. And, whereas the accused has offered to submit the said evidence prior to the ruling on the exception, moves that he be given act thereof in the records and reserves unto himself the right to enter an appeal to that end.

Quebec, 11 September, 1788.

A. PANET

Attorney for the accused.

[11 Sept., 1788.]

No. 1298.

DEPOSITION, 11 SEPTEMBER, 1788, OF CHARLES
TRAHAN IN PLANTE vs. MARCOUX,

SESSIONS OF THE PEACE.

District de Quebec.

COUR DE LA PAIX.

GEORGE PLANTE . . . Denonciateur.

VS

M. L. MARCOUX . . . Accusè

Charles Trahan Temoin Dépose qu'il a été l'Automne dernier engagé par M. Perrault & Jos. Goupy en qualité de matelot pour aller a la Baie que Kitchchachoux au delà du Detroit de Belisle—qu'il est parti le 7.7^{bre} 1787 a bord du Batiment de Goupy chargé de Provision et de planches qu'étant arrivé à la Baie de Kitchachoux le 31. octobre ils y ont trouvé M. Marcoux fils, que M. Marcoux y avoit une maison ; que les effets du batiment ont été remis à M. Marcoux—Qu'il n'a pas vu faire la traite par M. Marcoux avec les Sauvages si ce n'est que les Esquimaux traitoient pour de la graisse.—Que M. Marcoux leur donnoit a manger dans sa maison et leur donnoit un

(Translation.)

District of Quebec.

SESSIONS OF THE PEACE.

GEORGE PLANTE Informant

vs.

M. L. MARCOUX, Accused.

Charles Trahan, witness, saith that last fall he was engaged by Mr. Perrault and Jos Goupy¹ as a sailor to go to the bay of Kitchchachoux, beyond the Strait of Belleisle—that he left on the 7th September, 1787, on board Goupy's vessel with a cargo of provisions and lumber, that when he arrived at the Bay of Kitchachoux on the 31st October they found there Mr. Marcoux, junior, that Mr. Marcoux had a house there ; that the effects from the vessel were delivered to Mr. Marcoux ; That he did not see Mr. Marcoux trading with the Indians excepting that the Esquimaux were trading grease.—That Mr. Marcoux would give them some food in his house and would give them a

¹ Goupille.

coup d'Eau de vie à chaque fois qu'ils venoient par gracieuseté dans les mois de février Mars et Avril.—Que M. Marcoux a eu d'eux des Peaux de Loups Marins—Que dans le mois d'avril M. Marcoux a envoyé un homme au devant de Geo. Plante

qu'il croyoit etre un Esquimaux nommé Loocoupiart que cet homme trouva que c'etoit Plante qui lui donna un petit papier pour M. Marcoux—que lui déposant a entendu dire par M. Marcoux à cet envoyé que si c'etoit le Bonhomme Loocoupiart de lui dire de venir a la maison qu'il vouloit lui parler—Qu'il n'a pas connoissance que Plante ait reproché a M. Marcoux de ce qu'il s'etoit établi là et qu'il y faisoit le commerce que cela lui faisoit tort—Que la distance entre les maisons de M. Marcoux et de Plante est comme de cette cour a l'Eglise de la Basse ville—Que M. Marcoux a envoyé dans le mois d'avril deux hommes pour faire une cabanne à deux ieues de sa maison et en ligne de sa maison pour tacher d'avoir de la graisse des Esquimaux—Que M. Marcoux donnoit aux Esquimaux des couteaux, des arpons, couvertes en échange, mais qu'il n'a pas connoissance que le dit Sr Marcoux ait donné aucun fusil—que la maison de M. Marcoux est tout à fait au bord de l'eau et que cette maison est a quarante lieues dans la Profondeur de la Baie—Que M. Marcoux appelle communem^t cette Baie la baie des Esquimaux—Que lorsqu'ils sont partis d'ici l'automne dernier ils avoient a bord Trois quarts de rum et Deux quarts de vin—qu'ils ont débarqués dans la maison de M. Marcoux que M. Marcoux compris ils étoient trois personnes dans l'hivernement—Et que M. Marcoux avoient aussi dans la maison pendant tout l'hiver et printems un Montagnés et sa soeur que le capitaine Goupis avoit mis a bonne esperance—qu'il a vu ce Montagnés deux ou trois fois ivre dans sa maison vers Noel lors des diver-

(*Translation.*)

drink of brandy out of kindness every time they came in the months of March and April [1788 ?].—That Mr. Marcoux got some seal skins from them.—That, in the month of April, Mr. Marcoux sent it man to meet an Esquimau by the name of Loocoupiart ; that this man found out it was Plante who gave him a small piece of paper for Mr. Marcoux—that the Deponent heard Mr. Marcoux telling that employee to ask the old man Loocoupiart, if it was he, to come to the house as he wished to speak to him.—That he is not aware of Mr. Plante having reproached Mr. Marcoux with having settled there and that his carrying on trade there was detrimental to him.—That the distance between the Marcoux and Plante houses was like the distance between this court and the church in the Lower Town.—That Mr. Marcoux sent two men, in the month of April, to erect a cabin two leagues from his house and in line with his house in order to try and get grease from the Esquimaux.—That Mr. Marcoux gave the Esquimaux knives, harpoons, blankets in return, but that he is not aware of the said sieur Marcoux having given any musket—that the said Marcoux's house is built on the very edge of the water—and that the said house is forty leagues in the depth of the Bay.—That Mr. Marcoux commonly calls that bay the Bay of the Esquimaux.—That when they left here last fall they had on board three casks of rum and two casks of wine.—That they landed and went into Mr Marcoux's house, that, including Mr. Marcoux, three wintered there—And that Mr Marcoux also had in the house, during the winter and the spring, a Montagnais and his sister who had been left at Bonne Espérance by Captain Goupis—that, in two or three instances, he saw that Montagnais drunk in his house around Christmas, at time of the festivities—that he did not

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tissements—qu'il n'a pas vu autres Sauvages ou Esquimaux ivres dans sa maison—qu'il n'a pas connoissance que les esquimaux et Sauvages aient emporté des Boissons fortes hors

de la maison—Que M. Marcoux donnoit de la farine à son Montagnès lors qu'il l'envoyoit a la chasse mais point de vivres aux autres esquimaux ni Sauvages hors la maison—que M. Marcoux a apporté a Quebec les pelleteries que ces gens avoient faites dans le cours de l'hiver—qu'il n'a point connoissance qu'il en ait eu des esquimaux ni des Sauvages—Que M. Marcoux n'a pas fait la peche.

CHARLES TRAHAN

examen de l'accusé

L. D. DESCHENAUX

Qu'il est d'usage la de nommer les Esquimaux—Esquimaux et non Sauvages—les Sauvages Montagnès—Que les Esquimaux passent l'Eté sur le Bord de le mer et l'hiver se retirent sur une Isle vers le milieu de la grande Baie—Que le genre de vie des Esquimaux est généralement de faire l'été la chasse aux gibiers de nier et la peche aux Loups Marins—Qu'ils ont des chaloupes et des canots avec lesquels ils vont dans la mer—Qu'ils donnent le plus généralement en échange de la graisse de Loups Marins—Que dans l'hiver ils font leurs cabannes sur la Glace Dans la Baie ; que la Baie prend vers Noel et se dissout vers les premiers jours de Juin—Que M. Marcoux avoit

(Translation.)

see ally other Montagnais drunk in his house—that he is not aware of the Esquimaux and Indians having taken any strung liquor outside of the house.—that Mr. Marcoux gave flour to his Montagnais when he sent him hunting but no provisions to the other Esquimaux or Indians outside of the house—that Mr. Marcoux brought to Quebec the pelts which these people had traded during the winter, that he is not aware of his having secured any from the Esquimaux or from the Indians.—That Mr. Marcoux did out carry on any fishing.

CHARLES TRAHAN.

Examination by the accused.

L. D. DESCHENAUX.

That it is the custom there, to call, the Esquimaux—Esquimaux and not Indians—[and to call] the Montagnais Indians.—That the Esquimaux spend the summer on the seaside and, in winter, they withdraw to an island lying towards the middle of the Great Bay [Esquimaux].—That as a rule their manner of life chiefly consists, in summer time, in chasing the sea game; and in seal hunting.—That they have shallops and canoes in which they go out at sea—that they more generally trade in seal oil.—That in winter they build their huts on the ice in the bay ; that the bay freezes around Christmas

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pris ce Montagnès par charité n'ayant pas de quoi se cabanner qu'il l'a occupé l'hiver à la chasse—Que dans tout le cours de l'Hiver il n'a vu que Trois ou quatre Montagnès que le genre de vie de ses sauvages Montagnès est de chasser dans la Profondeur des Terres—Que M. Marcoux avoit dans la Baie à

son établissement des Grements de peche a Loups Marins et deux quarts, soit disant, contenant des retz à Saumons—Que M. Marcoux a souvent dit aux Esquimaux de lui apporter des graisses—Que M. Marcoux leur donnoit en echange des harpons qui leur servoit à faire la peche—Qu'il a été engagé pour faire la peche et que l'expédition de M. Marcoux étoit pour faire un établissement de peche à l'entrée de la Baie des Esquimaux—Mais qu'ils sont arrivés trop tard pour former cet établissement et qu'il étoit aussi trop tard pour revenir le meme automne à Quebec ; ce qui les a fait aller trouver M. Marcoux à son établissement à quarante lieues dans la Baie—Que le déposant n'a été que cette fois dans la Baie—Que le Montagnès dont il a parlé étoit sédentaire a la maison avec M. Marcoux qu'il étoit meme encore a l'établissement lorsque M. Marcoux est parti ce printems—Et a signé

CHARLE TRAHAN

Entendu en Cour à Quebec—ce 11 7^{bre} 1788

L. DUCHESNAUX J.P.

(Translation.)

time and the ice melts: away of June. That Mr. Marcoux had taken in that Montagnais out of charity as the latter could not afford to build a hut and that he employed him as a hunter during the winter.—That, in the course of the whole winter, he only saw three or four Montagnais Indians ; that the chief occupation of these Montagnais Indians consists in hunting in the depths of the forest.—That Mr. Marcoux had at his post, in the Bay, seal-fishing gear and two barrels supposed to contain salmon nets.—That Mr. Marcoux often asked Esquimaux to bring him oil.—That Mr. Marcoux would give them in exchange harpoons which they used for their fisheries.—That he was hired for the fisheries and that the expedition undertaken by Mr. Marcoux was for the purpose of forming a fishing post at the entrance to the bay des Esquimaux, but that they arrived too late to form the said establishment and that it was also too late to return to Quebec the same fall, which compelled them to go to M. Marcoux's establishment forty leagues in the bay.—That the Deponent was only once, [namely,] at that time, in the bay.—That the Montagnais mentioned by him was settled at the house with Mr. Marcoux and that he was still at the post when Mr. Marcoux left this spring.—And has signed

CHARLES TRAHAN.

Taken in Court, at Quebec, 11 September, 1788.

L. DUCHESNAUX, J.P.

No. 1299.

DEPOSITION, 11 SEPTEMBER, 1788, OF JEAN B.
VACHON, IN PLANTE *vs.* MARCOUX,

[11 Sept., 1788.]

SESSIONS OF THE PEACE.

District de Quebec.

COUR DE LA PAIX.

GEO. PLANTE . . . Denonciateur.

VS

M. PIERRE MARCOUX . . . Accusé

DÉPOSITION DE JEAN B. VACHON.

Après avoir preté serment Déclare

Que M. Marcoux l'Année dernière au mois de Juin vous l'a engagé étant aux îles aux Loups Marins pour aller dans la Baie des Esquimaux pour bâtir & faire la traite ; qu'il est parti des Îles aux Loups Marins le 24 de Juin 1787. qu'il croit qu'il est arrivé dans la Baie des Esquimaux à la fin de Juillet et qu'il en est revenu dans le mois d'Aoust dernier—qu'ils ont fait la traite avec les Esquimaux et qu'il n'y avoit point de Montagnés, excepté quelques uns qu'ils ont trouvés à leur arrivée avec lesquels M. Marcoux n'a point traité ; qu'on à des Esquimaux autre chose que de la graisse de Loup Marin que M. Marcoux leur donnoit des éguilles, harpon, couvertes et qu'il avoit changé un fusil pour avoir un Canot d'un Esquimaux que M. Marcoux donnoit un

(Translation.)

District of Quebec.

SESSIONS OF THE PEACE.

GEO. PLANTE . . . Informant

vs.

PIERRE MARCOUX . . . Accused.

DEPOSITION OF JEAN B. VACHON.

Upon having taken oath, Saith :

That Mr. Marcoux engaged him last year [1787] in the month of June while he was at the Seal islands to go into Esquimaux bay as a carpenter and trader ; that he left the Seal islands on the 24th of June, 1787 ; that, he thinks, he reached Esquimaux bay at the end of July and that he returned from there on August last ; that they traded with the Esquimaux and that there were no Montagnais, excepting a few whom they found upon their arrival and with whom Mr. Marcoux did not trade ; that, from the Eskimaux, other things are secured besides seal oil ; that Mr. Marcoux would give them needles, harpoons, blankets and that he had traded a musket for a canoe with an Esquimaux—that Mr. Marcoux would give a drink

coup d'Eau de vie aux esquimaux quand ils venoient à la maison, et leur donnoit a manger dans la maison dans le tems de la traite dans les mois de Mars Avril et commencement de Mai dernier—que les Esquimaux vont ordinairement d'endroits à autres pour trouver leurs vies—que Plante a un établissement à un quart de lieue de celui d. M. Marcoux et que leurs établissements respectifs sont séparés par une petite Rivière que l'établissement de M. Marcoux est sur une presqu'île dans la Baie des Esquimaux audela du Détroit de Bellisle—Que M. Marcoux a eu des Peaux de Loups Marins des Esquimaux en traite et en présents—Qu'il a connoissance que Plante est venu lui meme avec Dumontier vers la fin de septembre dernier ou le premier d'Octobre 1787—faire deffense à M. Marcoux de bâtir dans cet endroit—que M. Marcoux lui demanda s'il avoit une concession de l'endroit, que plante repondit que non et s'il avoit des limites connues que plante dit que non—Qu'il n'a pas connoissance que Plante ait dit à M. Marcoux qu'il avoit une Licence de Lord Dorchester—qu'un Montagnès & sa soeur ont hiverné avec M. Marcoux—que le Montagnès s'est enivré dans le tems des divertissements et non en d'autres tems—que M. Marcoux n'a pas donné d'Eau de vie ou autres liqueurs enivrantes aux Montagnès qui venoient à la maison dans le cours de l'Hiver.

sa
J. B. X VACHON
marque
LD.

Entendu en Cour Quebec Le 11 7^{bre} 1788

L. DESCHENAUX, J.P.

(Translation.)

at trading time in the months of March, April, and in the early part of May last—that the Esquimaux generally wander from one place to another in search of their subsistence—that Mr. Plante has an establishment a quarter of a league from that of Mr. Marcoux and that their respective establishments are separated by a small river—that Mr. Marcoux's establishment is on a peninsula in the bay of the Esquimaux, beyond the strait of Belleisle—That Mr. Marcoux got some seal skins from the Esquimaux both in trade and as gifts—That he is aware of the fact that Plante himself came, with Dumontier and, about the end of September last or on the 1st of October, 1787, prohibited Mr. Marcoux from building at that place—that Mr. Marcoux having asked him whether he had a concession of the place, Plante replied in the negative ; and whether he any known limits, Plante answered in the negative—That he is not aware of Plante having told Mr. Marcoux that he held a licence from Lord Dorchester—that a Montagnais and his sister had wintered with Mr. Marcoux—that the said Montagnais had got drunk in the season of festivities and in no other time—that Mr. Marcoux gave no brandy nor any other intoxicating liquors to the Montagnais who came to his house during the winter.

his
J. B. X VACHON
mark
L.D.

SUR LES QUESTIONS DE L'ACCUSE.

Qu'après les deffenses par Plante à M. Marcoux—M. Marcoux et Dumontier sont venus en arrangement de vivre en paix étant si proche et convenus qu'ils n'iroient ni l'un ni l'autre audevant des sauvages pour les attirer mais que chacun profitera de ceux qui viendront chez lui—Qu'il n'a hiverné à sa connoissance que deux famille Montagnès dans le fond de la Baie des Esquimaux, qu'ils ont changé d'endroits a plusieurs fois—Et que ces familles venoient souvent chez M. Marcoux dans le cours de l'Hiver paroissant au Déposant désirer qu'on leur eu offert de l'eau de vie, et que M. Marcoux ne leur en n'a pas donné à sa connoissance—Que M. Marcoux n'a point traité à sa connoissance avec le Montagnès en aucun tems—

Que communement les Esquimaux passent l'été sur les greves sur les Iles et sur la mer, dans leurs canots et des chaloupes dans les Baies—et l'hiver ils cabanent sur les Iles de la baie et de la Cote et meme sur les greves dans le mois de Mars tems de la peche Que les Esquimaux avec qui M^r Marcoux a traité des graisses ont la plus part hiverné sur l'Isle qui se trouve dans la Baie et distante d'environ dix huit lieues de la maison d. M. Marcoux—Que les Montagnès chassent dans les bois et font la Peche du saumon au harpon dans les Rivieres rapideuses, qu'ordinairement ils cabanent dans les bois et quelques fois sur les Isles dans le tems du gibier dont ils vivent et des Oeufs qu'ils trouvent sur les greves des Isles—Qu'il n'a point vu les

(Translation.)

ON EXAMINATION BY THE ACCUSED.

That after the prohibitions made by Plante to Mr. Marcoux, Messrs. Marcoux and Dumontier came to an understanding that they were to live amicably being near each other and it was agreed that neither of them would go to meet the Indians in order to attract them but that each of the parties would profit by those who came to his place—That he only knows of two Montagnais families having wintered in the tipper portion of Esquimaux bay, that they moved several times from one place to another—And that these families often went to Mr. Marcoux's place during the winter and to the Deponent it seemed as if they had been desirous of being offered brandy and that, as far as he knows, Mr. Marcoux did not give them any—That Mr. Marcoux did not, within his knowledge, trade with the Montagnais at any time.

That, as a rule, the Esquimaux spend the summer on the shores of the islands and at sea in their shallops and canoes in the bays—and in winter time they camp on the islands in the bay and along the coast as well as on the beaches during the fishing season in March—That the Esquimaux with whom Mr. Marcoux traded in grease spent, for the greater number, the winter on the island lying in the bay and some eighteen leagues distant from Mr. Marcoux's house—That the Montagnais hunt in the woods and take salmon with the harpoon in the rapids of the rivers that, as a rule, they camp in the woods and, at times, on the islands during the season for the game from which they derive their subsistence, as well as the eggs which they gather on the shores of the

Montagnès offrir des graisses en échange—Qu'il n'a pas
connoissance que les Esquimaux aillent dans les Bois pour
faire la chasse des pelleteries et qu'autant qu'il les connoit ils
occupent la plus grande partie de l'année a la peche aux Loups
Marins—

L.D.

sa
J. B. X VACHON
marque

Entendu à Quebec En Cour ce 11. 7^{bre} 1788
L. DESCHENAUX J.P.

(Translation.)

islands—That he did not see the Montagnais offering any grease in exchange—That he is
not aware of the Esquimaux going into the woods to hunt fur-bearing animals and, from
what he knows of them, they spend most of their time in the year at seal fishing.

L.D.

his
J. B. X VACHON

mark

Heard in court at Quebec, 11th Sept. 1788
L. DESCHENAUX, J.P.

No. 1300.

STATEMENT, 21 AUGUST, 1789, OF PLANTE IN *re*
PLANTE *vs.* MARCOUX.

[21 Aug., 1789.]

District de Quebec.

JUSTICE DE LA PAIX.

GEO. PLANTE D nonciateur.

VS

M. PIERRE MARCOUX N gociant . . Accus 

OBSERVATIONS DU DENONCIATEUR

Le d nonciateur a fait dans cette cour, le 1^{er} septembre 1788 une information sur trois chefs 1^o pour s'etre  tabli dans la baie des Eskimaux pays sauvage sans license 2^o pour avoir port  et envoy  dans led^t pays sur les terres non conced es par Sa Majest  diffenrentes marchandises aussi sans licence et 3^o pour y avoir distribu  et donn  du Rum et d'autres liqueurs fortes aux Sauvages.

Le 11. septembre suivant l'accus  fit une exception peremptoire, disant que le lieu des pr tendus contraventions  toit hors les limites de la Province et par consequent hors la Jurisdiction de cette cour.

(Translation.)

District of Quebec.

SESSIONS OF THE PEACE.

GEORGE PLANTE Informant.

vs.

PIERRE MARCOUX, Merchant Accused.

STATEMENT BY THE INFORMANT.

On the 1st of September, 1788, the Informant preferred an information on three contraventions 1st having settled himself in Eskimaux bay, in the Indian country, without licence 2^{ly} having taken and sent into the said country not conceded by His Majesty, sundry merchandize, also without licence and 3^{ly}, having distributed and given rum and other strong liquors to the Indians.

On the 11th September following, the accused presented a peremptory exception, pleading that the place where the alleged contraventions supposedly had taken place were outside the limits of the Province and consequently do not fall under the jurisdiction of this Court

La cour par son Jugement Interlocutoire du deboutta l'accusé de cette exception et ordonna de plaider au mérite.

En conséquence il fut procédé à l'audition des témoins sur les dépositions desquels le dénonciateur, pour se conformer au Jugement interlocutoire du 20 aoust présent, fait les observations suivantes

Il parroit évidemment par les dépositions des deux témoins. Charles Trahan et Jean B. Vachon, 1^o que M^r Marcoux avoit une maison, un établissement sur une presqu'île dans la baie des Eskimaux au delà du détroit de Belile 2^o qu'il y a fait la traite avec les Eskimaux dans les mois de Fevrier, Mars et Avril 1788 ; qu'il donnoit des Eguilles, harpons, couvertes et qu'il en recevoit de la graisse et des peaux de loup-marin qu'il a trafiqué un canot pour un fusil &^{ca} &^{ca} ainsi les deux premiers chefs sont clairement constatés.

A regard du troisieme les témoins s'accordent à dire que pendant la traite M^r Marcoux donnoit régulièrement un coup d'eau-de-vie à chaque Eskimau qui venoit chez lui ; qu'il a même enivré un montagnais qui a hyverné chez lui.

L'accusé croit peut être avoir une sorte d'excuse sur ce qu'il ne donnoit qu'un coup d'eau de vie aux Esquimaux et cela par gracieuseté.

M^r Marcoux est fort gracieux ; mais l'ord^{ce} ne se soucie guères qu'il le soit ; elle n'à point d'égard aux Gracieusetés et quand au nombre, un seul coup en vaut mille puisque sa prohibition est générale reserve. Si on pouvoit tolerer un coup nonobstant la générosité de ses termes, pourquoi n'en pas tolerer deux, pourquoi pas trois et ainsi de suite ; à quel nombre plaira-t-il à l'accusé de s'arrêter ? dira-t-il qu'on peut aller Jusqu'à l'ivresse. L'ord^{ce} ne donne point une si large mesure, ubi lex non distinguit, non est distinguendum.

(Translation.)

By an Interlocutory Judgment the court, on the [20 August last] dismissed that exception of the accused and ordered the action to be pleaded on its merits.

In consequence followed the hearing of the witnesses on whose evidence the informant, in compliance with the Interlocutory Judgment of the 20th August instant, submits the following comments :

From the depositions of the two witnesses, Charles Trahan and Jean B. Vachon, it is obvious, 1st that Mr. Marcoux had a house, an establishment on a peninsula in Esquimaux bay beyond the strait of Belleisle 2^{ly} that he traded with the Eskimaux in the months of February, March and April, 1755 : that he would give needles, harpoons, blankets in exchange of which he received grease and seal skins ; that he traded a canoe for a musket, &c., &c., and, therefore, the first two contraventions are clearly established.

As to the third one the witness are unanimous in their statement that during the trading reason Mr. Marcoux regularly gave a drink of brandy to every Eskimau that came to his house and that he even intoxicated a Montagnais who was wintering with him.

The accused may consider himself as having an excuse in the fact that he only gave one drink of brandy to the Eskimaux and that out of kindness.

Mr. Marcoux is indeed very kind ; but the ordinance cares but little about his being so ; it does not consider acts of kindness and as far as the number is concerned, one drink is as much as a thousand it being general and unqualified in its prohibition. If one were to tolerate one drink, notwithstanding the liberality of its terms, there is no reason why two should not be tolerated, or three or and so on : what number would the accused stop at ? Would he argue that he could go as far as drunkenness ? The ordinance does not give such a wide latitude : ubi lex non distinguit, non est

n'eut-il fait que leur en donner une larme, la contravention est consommée, parce que le danger est d'en donner le gout. D'ailleurs il parroit que ces coups gracieux ont été distribués très régulièrement.

Dans les réponses sur les questions de l'accusé on voit “ qu'il est d'usage là de nommer les Eskimaux Eskimaux et non Sauvages, les Sauvages montagnois.” On y voit une description très scrupuleuse du genre de vie des uns et des autres ; et tout est si bien distingué qu'on y voit, clair comme le Jour, que les Montagnais vivent dans les montagnes et les Esquimaux dans la baie des Eskimaux. Il va sans doute s'élever la dessus une question délicate et curieuse Savoir Si les Eskimaux sont des Sauvages et d'après les efforts qu'on a fait pour démontrer qu'un Eskimau ne vit pas dans les montagnes et qu'un montagnois n'est pas un gibier de grève, il est à présumer que l'Achille de l'accusé va être, que puisqu'un eskimau n'est pas un montagnois et qu'un montagnois est un sauvage, il s'ensuit évidemment qu'un Eskimau n'est pas un sauvage.

Si une loi défendoit de tracer aucune figure sur un certain plan que le public auroit interet de conserver ; celui qui auroit tracé des quarrés sur ce plan. auroit-il lieu de bien se réjouir et de se flatter d'avoir trouvé une défense bien solide et bien sensée, s'il venoit à découvrir qu'un quarré n'est pas un cercle ? un quarré n'est pas un cercle, un Eskimau n'est pas un Montagnois, mais un quarré est une figure et un Eskimau est un Sauvage. Si l'accusé avoit goûté aux universaux il se seroit épargné les frais de son histoire naturelle de la baie des Eskimaux. Il auroit vu qu'un montagnois n'est pas un Sauteu, qu'un Sauteu, n'est pas un Iroquois et que cependant un montagnois un Sauteu et un Iroquois sont trois sauvages.

(Translation.)

distinguendum. Even if he had only given a drop, the offence is consummated, because the danger lies in their acquiring a liking for it. Moreover, it appears that these drinks thus kindly given were distributed regularly indeed.

In their answers to the questions asked by the accused it is seen that “ it is the custom out there to call the Esquimaux ' Esquimaux ' and not Indians the Montagnais Indians.” There is also a very precise description of the manner of life of the ones and the others ; and every thing is so clearly distinguished that it appears as plain as daylight that the Montagnais live in the mountains and the Esquimaux in the bay of the Esquimaux. No doubt this will give rise to the rather delicate and curious question of ascertaining whether the Esquimaux are Indians and from the attempts made to show that an Esquimaux does not live in the mountains and that a Montagnais is not a frequenter of strands, it is to be supposed as a refutation of his argument that since an Eskimau is not a Montagnais and a Montagnais is an Indian, it follows necessarily that an Eskimau is not an Indian.

Supposing that a statute made it an offence to trace any figure on a certain plan that should be preserved intact in the public interest, would any one having traced squares on that plan have cause to be pleased and flatter himself with having worked out a strong and sensible plea on discovering that a square is not a circle ? a square is not a circle, an Esquimau is not a Montagnais, but a square is a figure and an Esquimau is an Indian. If the accused had even a slight notion of the universals he would have spared himself the trouble his natural history of the bay of the Esquimaux gave him. He would have seen that a

Il est d'usage là d'appeller les Eskimaux, Eskimaux. Il est d'usage partout d'appeller les choses par leurs noms, ainsi pour continuer la comparaison il est d'usage en Geometrie d'appeller un triangle, un triangle ; mais cela nempêche pas qu'un triangle ne soit une figure et qu'un Eskimau ne soit un Sauvage.

D'ailleurs qu'importe comment ceux qui traitent à la baie des Eskimaux appellent les Eskimaux les termes d'une loi ne sont pas sujets à ne signifier que ce que ceux-ci et ceux-là veulent qu'ils signifient ; Sans cela pour la transgresser en sureté, le transgresseur n'auroit qu'à nommer les choses autrement qu'elle ne les nomme, Les voleurs de grand chemin par exemple n'auroient qu'à donner au vol, au pillage et au meurtre, le nom de chasse. Au reste s'il faut avoir enivré un sauvage et qu'il n'y ait que les Montagnois qui soient des Sauvages. M^r Marcoux à enivré un Montagnois. Mais laissons ces petitesesses et concluons que l'informant ayant prouvé clairement les trois chefs de sa déclaration il peut avec confiance supplier cette cour de lui en accorder les conclusions avec dépens.

ALEX GRAY
for the Informant.

Quebec 21 aoust 1789
Endorsed : Justice de Paix
George Plante Observations
vs du
Pierre Marcoux Dénonciateur
21 Aoust 1789.

(Translation.)

It is the custom out there to call the Eskimaux Eskirnaux. It is customary everywhere to call every thing by its name, therefore to go on with the comparison it is usual in geometry to call a triangle a triangle : but that does not hinder a triangle from being a figure and an Esquimau from being an Indian.

Besides it matters little what these who trade at the bay of the Eskimaux may call the Esquimaux, the terms of a statute are not supposed to mean just what this or that one may wish them to mean : otherwise any one violating the same could do so with impunity simply by calling things differently from what it is customary to call them. For instance, the highwaymen would simply call robbery, pillaging and murder by the name of chase. Moreover, if the person to have been intoxicated must be an Indian, and if the Montagnais alone are Indians, then Mr. Marcoux intoxicated a Montagnais. But let us have no more of these trifles and move that the Informant having clearly established the three contraventions of his declaration he may confidently pray that the court may be pleased to grant him his demands with costs.

ALEX GRAY

for the Informant.

Quebec, 21st August, 1789.
Endorsed: SESSIONS OF THE PEACE.
GEORGE PLANTE Statement
vs of the
PIERRE MARCOUX Informant.

21 August 1789.

No. 1301.

STATEMENT, 25 AUGUST, 1789, OF MARCOUX IN re PLANTE vs. MARCOUX.

[25 Aug., 1789.]

District de Quebec.

COUR DE LA PAIX.

GEORGE PLANTE . . . Dénonciateur.

VS

M. PIERRE MARCOUX . . . Accusé

DEFENSES

L'accusation porte trois chefs de contravention à l'ordonnance législative de la Province de Québec, de l'année 1777. chapitre 7e.

1.—Pour avoir, contre l'article 1er, dans la Baie de Kischachoux ou Grande Baie des Eskimaux, distribué ou disposé de rum ou liqueurs fortes aux Sauvages en cette Province, sans licence, la peine d'une amende de £5. et un emprisonnement qui n'excédera pas un mois pour la première offense.

2.—Pour s'être, contre l'article 3e. établi dans un pais Sauvage en cette Province, sans licence, l'amende de £10. pour la première contravention.

(Translation.)

District of Quebec.

SESSIONS OF THE PEACE.

GEORGE PLANTE Informant

vs.

PIERRE MARCOUX Accused.

PLEA.

The declaration contains three contraventions of the legislative ordinance of the Province of Quebec, of the year 1777, chapter 7.

1. Having, contrary to section I, in the bay of Kischachoux or Great Bay of the Esquimaux, distributed or disposed of rum or other strong liquors to the Indians of this Province, without licence, a penalty of £5 and not more than one month of imprisonment for the first offence.

2. Having, contrary to section III, settled in an Indian country of this Province, without licence, a penalty of £10 for the first offence.

3.—Et pour avoir, contre le 5e. article, porté et envoyé dans le païs Sauvage en cette Province sur des terres non concédées par Sa Majesté des effets, marchandises et provisions, sans licence, l'amende de £50.

Les dites amendes à poursuivre dans les délais fixés moitié à Sa Majesté, et l'autre moitié au Dénonciateur suivant l'article 7e.

VOICI LE FAIT

Avant la conquête comme depuis, la Province de Québec n'avoit fait aucun commerce de pelleteries, ni loi pour la Grande Baie des Eskimaux, qui est sur les côtes de la Nouvelle Bretagne par les 55. degrés de latitude, excepté quelques reglemens pour la pêche de laBrador.

Le 31. juillet 1784. Mr. Pierre Marcoux dans le doute sur ces reglemens autrefois faits à Terreneuve seulement pour la pêche, qui n'avoient été publiés à Quebec, obtint de Son Excellence Frederic Haldimand. alors Gouverneur de cette Province la première licence de traiter avec les Sauvages et autres dans la Grande Baie des Eskimaux, en cas qu'il y eut des pelleteries. Mais avant été informé que George Plante étoit réellement parti au commencement d'Août de la même année pour y aller, sans licence, Monsieur Marcoux ne voulut y aller, pour éviter à difficulté ni le poursuivre sur ladite ordonnance de 1777. parcequ'il n'aime à faire le métier de Dénonciateur, et que cette ordonnance n'a jamais eu en vue les greves, la mer, les glaces, ni la pêche du loup marin de la Grande Baie des Eskimaux, ni les peuples pêcheurs qui y viennent faire la pêche de la Baie d'Hudson, du Groenland et de toutes parts,

(Translation.)

3. And, having, contrary to section V, carried and sent into the Indian country of this Province. on lands not conceded by His Majesty, wares, merchandize and provisions, without licence, a penalty of £50.

The said fines te be sued for within the time prescribed, one half for His Majesty and one half for the Informant pursuant to section VII.

STATEMENT OF FACTS.

Before the conquest, as well as since that time, the Province of Quebec had no trading in furs, nor any legislation in connection the Great Bay of the Eskimaux, which is situate on the coasts of New Britain, in latitude 55 degrees, excepting a few regulations for the Labrador fisheries.

On the 31st July, 1784, Mr. Pierre Marcoux being dubious as to these regulations formerly made at Newfoundland for the fisheries only, and which had not been published at Quebec, secured from His Excellency Frederick Haldimand, then Governor of this Province the first licence for trading with the Indians and others in the Great Bay of the Esquimaux, should there be any pelts. But, being informed that George Plante had actually left at the beginning of August in the same year, to go there, without licence, Mr. Marcoux decided not to go himself in order to avoid trouble and prosecuting him according to the said

Ordinance of 1777, as he was loath to act as Informant, and as that ordinance never was intended to cover the shores, the sea, the ice, nor the seal fisheries in the Great Bay of the Eskimaux, nor the people who come there for fishing purposes from Hudson

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sans empêchement, notamment en ce qui ne concerne que la pêche, qui seule peut y attirer les Savants et braves navigateurs et pêcheurs.

George Plante etant revenu de ladite Baie à Québec, Monsieur Marcoux obtint le 16. Août 1785. de l'Honorable Henry Hamilton lieutenant Gouverneur la seconde licence d'aller traiter avec les Sauvages et autres dans ladite Grande Baie des Eskimaux. Cela en cas qu'il y eut quelques pelleteries à traiter avec les vrais Sauvages ou chasseurs des forêts, s'il y en avoit.

Le 23. Août même année 1785. un des associés de M. Marcoux informé que George Plante avoit été en 1784. et retournoit en Août 1785, sans licence à ladite Baie pour y faire la traite qui s'entend des pelleteries, s'en assura par les déclarations sous serment de Jean le Brun et de Joseph Goupil devant un Juge de Paix alors ; mais il ne voulut, ni Mr. Marcoux, dénoncer ni l'empêcher de partir voulant bien laisser à chacun la chance du commerce dans ces parages périlleux. Ils ne troublèrent point Plante

En Eté 1786. Monsieur Marcoux revint à Québec, y amena le premier Eskimaux qui fut présenté avec sa famille à l'Honorable Henry Hope lieutenant Gouverneur au Chateau St. Louis à Québec et montré dans la ville au peuple par curiosité et comme une découverte nouvelle avec son canot et ses ustensiles de pêche. Et le 15. Septembre de la même année 1786. Monsieur Marcoux obtint de Son Honneur le lieutenant Gouverneur une licence pour établir des pêches à Indian's Island, qui est à la côte Est de la côte de laBrador et de la Grande Baie des Eskimaux, durant le plaisir de Sa Majesté, avec préférence de la concession de ladite Isle et d'une étendue de terre sur ladite côte sous les reglemens qui pourront être faits à l'avenir dans cette

(Translation.)

bay, Greenland, and anywhere else, without being disturbed, particularly in so far as fisheries are concerned exclusively, such being the only thing to draw the scientists and the bold navigators and fishermen.

George Plante having returned from the said bay to Quebec, Mr. Marcoux obtained, on the 16th August, 1785, from the Honorable Henry Hamilton, lieutenant-governor, the second licence to go and trade with the Indians and others in the said Great Bay of the Eskimaux. And that, in case there were pelts to be traded with the actual natives or forest hunters, if there were any.

On the 23rd August in the same year, one of Mr. Marcoux's partners, being informed that George Plante had gone, in 1784, and was returning in August, 1785, without licence, to the said Bay for the purpose of trading in what is known as the fur trade, ascertained himself by the declarations under oath made before a Justice of the Peace by Jean le Brun and Joseph Goupil ; but neither he nor Mr. Marcoux would lay an information nor prevent his departure as they wanted to let every one have his chance to trade in that dangerous region. They did not interfere with Plante.

In the summer of 1786, Mr. Marcoux returned to Quebec, and brought back with

him the first Eskimau who was introduced, with his family, to the Honourable Henry Hope, Lieutenant-Governor at Castle St. Louis and exhibited to the people as a curiosity and a new discovery with his canoe and fishing utensils. And, on the 15th September of the same year, 1786, Mr. Marcoux obtained from His Honour the Lieutenant-Governor, a licence to form establishments in connection with fisheries at Indian is'and, situated on the east coast of Labrador and of the Great Bay of the Eskimaux, during His Majesty's pleasure, with preference as to the concession of the said island and an extent

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partie du nouveau monde, pourvu que Monsieur Marcoux ne s'immisçat point dans la limite des terres accordées à la société d'Unitas Fratrum, ni dans celle du commerce accordé à la compagnie de Hudson.

M. Marcoux muni de cette licence de 1786. duement enrégistrée, repartit pour laBradador avec des planches des gremens de pêche à loup marin, y ramena l'Eskimaux et sa famille, mais ne put se rendre qu'aux Isles à loup marins sur les côtes de laBradador, ou il fut contraint d'hiverner.

Le 18. juin 1787. qui est le printems de ces endroits sans Été, Monsieur Marcoux écrivit des Isles à loup marin à Mons. Perrault Négociant à Québec par la goelétte la Résolution Capitaine le Brun, une lettre ou après avoir fait le récit de son malheureux hivernement, il le prioit en ces mots : “ N'oubliez pas de m'envoyer un permis pour la traite avec les deux nations.”

Monsieur Marcoux croyoit alors comme il le croit encore qu'il falloit une licence de traiter des pelleteries avec les Sauvages des forêts quand il y en a audessus du long Sault.

L'Honorable Lord Gouverneur étant parti de Québec le 3. Septembre 1787. pour Montréal, la saison pressant le Capitaine Goupil qui s'en alloit à laBradador de partir le 9. du même mois ; ne s'agissant d'aucune traite de pelleteries avec les Sauvages des forêts en cet endroit, enfin Monsieur Perrault ne put envoyer et n'envoya point la licence que Monsieur Marcoux ne lui avoit demandé qu'en cas de traite de pelleteries avec les Sauvages s'il y en avoit des forêts de cette Province.

Selon le témoignage de Baptiste Vachon, Mons Marcoux ne put partir de l'Isle aux loups marins que le 24. Juin 1787. et se rendit à la fin de Juillet à la Baie des Eskimaux, où il se mit en sureté, attendant la licence pour

(Translation.)

of land en the said coast ululer such regulations as may be made in future in that part of the New World, provided that Mr. Marcoux should not venture within the limits granted to the Society of *Unitas Fratrum* nor in those of the trade granted to the Hudson's Bay Company.

Mr. Marcoux, armed with the licence of 1786, duly registered, left again for Labrador, with lumber and seal-fishing gear, and took back with him the Eskimaux and his family, but could only get as far as the Seal island, on the coast of Labrador, where he was compelled to winter.

On the 18th June, 1787, which is spring time in these summerless places, Mr. Marcoux wrote, from Seal island, a letter to Monsieur .Jos. Perrault, merchant at Quebec, through the schooner Resolution, captain le Brun. a letter in which, after giving an account of his unfortunate wintering, he made a request in the following terms : “ Do not forget to send me a licence to trade with the two nations ” [of aborigines].

Mr. Marcoux thought then. as he still thinks, that it licence was required to have fur

trading with the Indians of the forests when there are auiv above the Long Sault.

The Honourable Lord Governor having left Quebec on the 3rd September, 1787, for Montreal, and the season being late, Captain Goupil was forced to leave for Labrador on the 9th of the same month : as no trading in furs with the Indians of the forests was contemplated, finally Mr. Perrault could not and did let send the licence which Mr. Marcoux had only asked for in case any fur trade might he had with the Indians, if any in the forests of this Province.

According to the evidence of Baptiste Vachon, Mr. Marcoux could not leave Seal island until the 24th of June, 1787, and, on the last days of July, proceeded for the bay of the Esquimaux where he stayed, without apprehension, pending the arrival of the licence and of his fishing gear."

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traiter et ses gremens de pêche. Il avoit quelques provisions qu'il avoit emportés selon sa licence de 1785. Il trouva de vrais Sauvages Montagnois dans le fond de la Baie, auxquels il ne distribua aucune liqueur forte ni marchandises de traite, quoiqu'ils en désiroient, et ces Sauvages se retirèrent dans les forêts.

La déposition de Charles Trahan prouve qu'il partit de Québec le 7. Septembre 1787. à bord du Capitaine Goupil chargé de planches provisions. Qu'étant arrivé le 31. Octobre à la Baie de Katchatchoux, il y trouva Monsieur Marcoux, avec treize personnes lui compris et par charité un montagnois et sa soeur que le Capitaine Goupil avoit sauvé de bonne Esperance, n'ayant aucun moyen de cabaner, Que Monsieur Marcoux avoit des gremens de pêche à loup marins et Saumons ; que son expédition étoit pour la pêche ; mais que le batiment arriva trop tard l'automne, et que ne pouvant revenir, ils furent obligés d'hiverner à quarante lieues dans la Baie des Eskimaux, d'où ils sont revenus ce printemps 1788.

La déposition de Jean Bte. Vachon prouve encore que vers le 1er. d'Octobre 1787. lorsque M. Marcoux attendoit le Capitaine Goupil, Plante vint avec Dumontier faire défense à M. Marcoux de bâtir dans l'endroit qui est une presque ile de sable. Que M. Marcoux lui demanda s'il avoit une concession de l'endroit, que Plante répondit que non ; et s'il avoit des limites connues ; que Plante lui dit que non. Que Plante ne dit point à Mons. Marcoux qu'il eut une licence de traite. Qu'ensuite Plante, M. Marcoux et Dumontier s'accordèrent et convinrent qu'ils n'iroient point au devant des Sauvages pour les attirer et que chacun profiteroient de ceux qui viendroient chez lui.

(Translation.)

He had some provisions which he had brought with him under his licence of 1785. He found some real Montagnais Indians in the bottom of the bay, and he distributed to them no strong liquors nor any trailing goods, although they were desirous for some, and these Indians withdrew into the forests.

The evidence of Charles Trahan shows that he left Quebec on the 7th of September, on board Captain Goupil's vessel with a cargo of hoards and provisions. That, reaching the bay of Katchatchoux on the 31st of October, he found Mr. Marcoux there, with thirteen men, himself included, and, out of charity, a Montagnais and his sister whom Captain Goupil had saved from Bonne Espérance, the said Indian not having the means of erecting a hut. That Mr. Marcoux had seal and salmon fishing gear : that his expedition was for the purpose of forming a fishing establishment ; but that the vessel arrived too late in the fall,

and, as he could not return, they were compelled to winter forty leagues in the bay of the Esquimaux, whence they returned this spring, 1788.

The deposition of Jean Bte. Vachon further shows that about the 1st of October, 1787, while Mr. Marcoux was waiting for Captain Goupil, Plante came along with Dumontier and prohibited Mr. Marcoux from building at the place which is a sand peninsula. That, upon being asked by Mr. Marcoux whether he held a concession of the place, Plante replied in the negative ; and whether he had any known limits, Plante also replied in the negative. That Plante did not tell Mr. Marcoux that he had a trading licence. That, subsequently, Mr. Marcoux and Dumontier came to terms and agreed that they would not go to meet the Indians in order to attract them and that each one would profit by such of them as would come to him.

Les dépositions de tous les témoins s'accordent à prouver que l'on ne connoit à laBrador que les vrais Sauvages des forêts et des Eskimaux qui vivent à la mer et ne s'occupent que de la pêche au loup marin Que les vrais Sauvages qui sont les Montagnois vivent, courent, cabanent et chassent la pelleterie dans les forêts, et que les Eskimaux ne vivent, ne courent, ne cabanent et ne font que la pêche au loup marin en mer, dans des canots, même des chaloupes; qu'ils ne vont que sur les greves, d'îles en îles en Eté et que l'hiver ils cabanent sur les glaces qui prennent en Décembre et se dissolvent en Juin dans la Grande Baie des Eskimaux ; qu'ils ne vont point à la chasse des pelleteries dans les forêts comme font les vrais Sauvages, et que ce n'est qu'un peuple du Nord, peuple pêcheur à la mer.

Enfin ces témoignages se réduisent quant à l'accusation à prouver qu'après l'accord fait entre Plante et M. Marcoux ce dernier a refusé des liqueurs aux vrais Sauvages ; qu'il n'a point traité avec eux ; qu'il n'a suivi que son entreprise de pêche autant que la rigueur des circonstances lui ont pu permettre, et que contraint dans cette partie du nouveau monde de passer un long et rigoureux d'hiverner avec ce peuple pêcheur qui ne lui offroit que de la graisse de loup marin, il a accepté d'eux en présent et pour des ustensiles propres à la pêche, le loup marin pour lequel il avoit fait son expedition légale. Il est vrai qu'il a donné avec prudence un seul coup de rum à chacun de ces gens pêcheurs mouillés et transis de froid l'hiver et à manger lorsqu'ils avoient grand faim, plus pour accomplir la loi de Dieu et de la charité que pour traiter ou vendre ces vivres contre la loi des hommes, et dans la nécessité et l'embaras où il étoit M. Marcoux devoit s'assurer la protection ou les bons égards des Eskimaux et de tous les pêcheurs de la

(Translation.)

The evidence as taken from all the witnesses concurs in proving that, at Labrador, the only Indians known are those from the forests and the Eskimaux who live by the sea and are exclusively engaged in seal fishing. That the real Indians, that is, the Montagnais, live, roam, camp and hunt for furs in the forests, and that the Eskimaux do not roam, do not camp and only carry on seal fishing on the sea, in canoes, as well as in shallops ; that they only frequent the shores, going from one island to another in summer and that in winter time they camp on the ice which is formed in December and melts away in June in the Great bay of the Esquimaux ; that they do not hunt for furs in the forests as the real Indians do, and that they are a people from the North, fishing on the seas.

Lastly, these depositions, in so far as the charge to be proven is concerned, simply tend to show that, after the agreement made between Plante and Mr. Marcoux, the latter refused [to give] any liquor to the real Indians ; that he had no trade with them, and that compelled to spend a long and hard winter in that part of the New World with this nation of fishermen who only had seal oil to offer him, he accepted from them as a gift and in exchange for fishing gear, the seal oil which was the objective of his lawful expedition. It is true, that he reservedly gave each of these people a drink of rum, as they were wet and trembling with cold, and that he gave them something to eat when they were very hungry, more to comply with the divine law and out of charity than to trade with these people or sell them wares contrary to the laws of men, and owing to the need and difficulty for him, Mr. Marcoux, to make sure of the protection or the good will of the Eskimaux and of the

côte ; en quoi il a réussi, en les informant de la bonté et des l'avantage du Gouvernement Britannique et évitant toute querelle, et tout excès. Il n'en est arrivé ni prouvé aucun.

SUR LE 1ER. CHEF D'ACCUSATION.

OU 1ER ARTICLE DE L'ORDONNANCE.

1.—Pour convaincre l'accusé le Dénonciateur aurait dû, mais n'a pu prouver que le lieu indiqué par l'accusation, soit dans les limites au Nord de la Province. Au contraire l'accusé offre actuellement d'exhiber la chartre ou concession de la Baie d'Hudson du 2. May. 1669. que le Statut de la 14. année ch. 83. reserve en pleine force et vertu et la proclamation de 1763. que ledit Statut reserve en force pour la côte de laBradador, qui n'est jointe à la Province de Québec que pour la pêche et la mer sous les directions seulement du Gouverneur.

2.—L'ordonnance A.D. 1777. dont est question ne défend pas la pêche ni d'équiper les Eskimaux qui ne sont pas des chasseurs de pelleteries dans les bois mais bien des gens de mer des pêcheurs de loup marin et baleine et qui sont toujours à l'eau froide ou sur les glaces de la mer. L'Accusé leur a fourni des harpons et des choses nécessaires à la pêche ; il les a équipé pour faire la pêche des poissons à ses risques, la loi ne le défend point, donc il n'y a point de contravention, dont même sa licence permanente du 15. Septembre 1786. le garantit, et quoiqu'il ait donné gratuitement un coup d'eau de vie modéré à boire dans sa maison sur les territoires ou terres véritablement

(Translation.)

and the merits of the British Government and avoiding any dispute or abuse. Nothing of the kind developed nor is there any evidence of the same having taken place.

ON THE 1ST CONVENTION OR 1ST ARTICLE OF THE ORDINANCE.

1. In order to convict the accused, the Informant should have—but could not—proved that the place mentioned in the accusation, is within the northern limits of the Province. On the contrary the accused actually volunteers to produce the charter or deed of concession of the Hudson's Bay Co. under date of 2nd May, 1669, as maintained in full force and effect by the Statute of the 14th year, chapter 83, and the Proclamation of 1763 maintained in force by the said statute for the coast of Labrador which is only united to the Province of Quebec in respect of the fisheries and the sea under the exclusive jurisdiction of the Governor.

2. The Ordinance. A.D. 1777, referred to, does not prohibit fishing nor the equipment of the Eskimaux who are not fur hunters in the forests but are really seafaring men, seal and whale fishermen who are constantly plying in the cold water and on the frozen seas. The accused supplied them with harpoons and other articles suitable for the fisheries ; he equipped them at his own risk, which is not contrary to the law, and therefore not a contravention, but even authorised under his standing licence of the 15th September,

conçédées à la Compagnie de Hudson hors cette Province, qu'il ne leur en a point laissé abuser ni emporter sur l'eau ni sur les glaces dans les limites de la pêche de cette Province, il ne peut être constaté aucune contravention à la loi faite pour les véritables Sauvages chasseurs ou traitteurs de pelleteries des bois non concédés en cette Province. Quand au seul Montagnois mentionné par les dépositions, il est prouvé qu'il étoit sédentaire à la maison de l'accusé, sujet aux règles du maître auquel il étoit au service, et que s'il en a abusé ce n'a été que vers Noël 1787. de sorte que l'information a été égard ne peut avoir d'effet, n'ayant pas été faite dans les six mois ordonnés.

SUR LE 2. CHEF.

L'Accusé ne s'est point établi sur la côte de laBrador sans licence, il en a plusieurs, notamment celle du 15. Septembre 1786. qui dure durant plaisir, et la loi défendant de s'établir sur des terres non concédées par Sa Majesté n'est pas applicable, parceque cette partie est concédée à la Compagnie d'Hudson ou à la société d'*Unitas Fratrum*, ; et parceque la bâtisse qui est la prétendue contravention, étant évidemment faite il y a plusieurs années, l'information n'a pas été faite dans le délai requis par lad. Ordonnance.

SUR LE 3. ET DERNIER CHEF.

L'Accusé étoit autorisé d'emporter ou recevoir les effets et les grements de pêche en question, parceque la pêche est libre parceque l'ordonnance ne la défend pas ; la permission de faire un établissement de pêche à laBrador

(Translation.)

of brandy in his house on the territories or lands actually conceded to the Hudson's Bay Co., he did not allow them to abuse the same nor to carry away any on the water or on the ice within the fishery limits of this Province ; There is no evidence of any contravention of the law enacted in connection with the real Indian hunters or fur traders of the forests not yet conceded in this Province. As for the one Montagnais mentioned in the depositions, it is proven that he was permanently settled in the house of the accused, subject to the orders of the master by whom he was employed, and that, if he made a bad use of it it was only around Christmas, 1787, so that, in this respect, the Information is null and void, as it was not laid within the six months required.

ON THE 2ND AND CONTRAVENTION.

The Accused did not settle on the coast of Labrador without licence ; he holds several permits, particularly that under date of the 15th September, 1786, granted during pleasure, and the law prohibiting any one from settling on lands not conceded by His Majesty is not applicable, as that region is conceded to the Hudson's Bay Company or to the Society of *Unitas Fratrum*, and as the building which is the basis of the alleged contravention, was evidently erected many years ago, the Information was not laid within the time specified by the said Ordinance.

The Accused was authorized to take with him or accept the fishing utensils referred to, since the fisheries are free, there being no prohibition to that effect in the Ordinance; under the

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datée du 15. Septembre 1786. l'autorisoit alors et l'autorise encore à la faire parcequ'elle dure encore avec le plaisir de Sa Majesté. Enfin ces effets et grements n'ont point été portés sur des terres non concédées mais bien sur les greves libres à la pêche seulement qui dépend de cette Province ; s'il y en a eu de mis sur les terres en cette partie, elles sont concédées à la Compagnie d'Hudson à qui le proviso de Statut de la 14. année ch. 83 les reserve expressement hors les limites de cette Province.

1.—Enfin le Dénonciateur n'est plus recevable à informer parcequ'il ne l'a jamais régulièrement, n'ayant pas fait authentifier son information devant aucun juge à Paix dans la forme d'une information dont le Dictionnaire de loi par Jacob, donne le modèle, et n'ayant obtenu aucun ordre ni prise de corps signé d'un Juge à paix dans le délai requis l'ordre seulement signé du Greffier qui ne porte qu'une peine de dix livres ne pouvant suffire ou ne devant avoir plus de force que ne porte sa forme et teneur.

2.—Le Dénonciateur avant cessé de comparoitre le Septembre dernier quoique la cour eut ordonné de reparoitre ayant été appelé et n'ayant point comparu alors, aucontraire ayant été en Mer depuis ce tems et ayant exposé l'accusé à être privé de faire entendre alors et depuis d'autres preuves et d'avoir son secours pour ses frais et retardations en ce procès, l'accusation doit être déboutée, parceque l'accusateur devoit continuer alors a poursuivre ; il ne le pouvoit le faire par agent ni par le pouvoir qu'il avoit donné alors de poursuivre en son absence, et ne pouvant poursuivre qu'en six mois, la peremption est acquise de droit par six mois après faute de poursuite : car

(Translation.)

permission, dated 15th September, 1786, to form a fishery establishment at Labrador, he was authorized, and he is still authorized, to form the same during His Majesty's pleasure. Lastly, these effects and gear were not taken to unconceded lands but actually to the beaches open to the fisheries depending exclusively upon this Province ; if any were included in the lands in that region, they were conceded to the Hudson's Bay Company in whose behalf they are expressly reserved as being outside the limits of this Province, under the proviso contained in the Statute of the 14th year, chapter 83.

Lastly the informant is no longer allowed to prefer an information as he did not do so in the proper manner, not having had the same declared before a Justice of the Peace in the form of an Information as called for by Jacob's *Dictionnaire de loi*, and not having either secured any order nor a writ of arrest under the hand of a Justice of the Peace within

the time required, the writ being only signed by the clerk and setting forth only a penalty of ten pounds, the same being insufficient or having no further force than is conveyed by the form and tenor thereof.

2. The Informant not having appeared in court since the of September, although summoned by the Court to appear again, having been called again and not having then appeared, on the contrary, being on the seas since that time and having exposed the accused to be prevented from being heard then and since to adduce further evidence and from obtaining relief for his costs and delays in this action, the Information should be dismissed, because the Informant was bound to proceed then with the suit ; he could not do so through an agent nor by means of the authorization he had at the time to take action while he was absent, limitation is acquired as a right in six

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une action annale est perie par le même tems de sa durée d'une année, et ainsi de toute action.

3.—L'accord prouvé avoir été fait entre le Dénonciateur et l'accusé selon les témoignages suffit pour le faire débouter de son information irregulière et l'exclut d'obtenir sa part des sommes imposées aux contraventions en supposant même qu'elles auroient été prouvées avoir été commises dans les limites connues et certaines de cette Province.

Pourquoi l'accusé conclud à ce que le Dénonciateur soit entièrement débouté de sa requête irregulière et injuste avec dépens. Et ferez Justice.—

Quebec 25 Aout 1789

A. PANET
Avocat.

(Translation.)

months after failure to prosecute : for an annual action becomes extinct at the end of the said term of a year, and the same applies to any action.

3. The agreement proved to have taken place between the Informant and the Accused, according to the evidence adduced, is sufficient to cause the court to reject his irregular information and bar him from obtaining his share of the fines fixed for the contraventions, even supposing that they had been established as having been committed within the known and determined limits of this Province.

Wherefore, the accused prays that the irregular and unfair petition of the Informant be completely dismissed with costs. According to Justice.

Quebec, 25 August, 1789.

A. PANET,
Attorney.

[17 Aug., 1799.]

No. 1302.

**PARTNERSHIP AGREEMENT, 17 AUGUST, 1799,
BETWEEN DUMONTIER AND BELLIVEAU AND J. B.
VACHON AND JOSEPH FAUCIER, *re* TRADE WITH
INDIANS IN ESQUIMAUX BAY.**

ARCHIVES DE LA PROVINCE DE QUEBEC. ORIGINAL FOUND IN THE
OFFICE OF THE LATE M^{TR}E. A. DUMAS.

Pardevant les Notaires Publics en la Province du Bas Canada résidens à Québec soussignés.

Furent présens les sieurs Jean Batiste Dumontier et Jean Belliveau résidens à Québec d'une part ; et Jean Batiste Vachon tant pour lui que pour Joseph Faucher dit Chateauvert du dit Québec d'autre part ;

Lesquels comparans ont fait et par ces présentes contractent ensemble la société suivante pour la période de quatre années qui commenceront le premier de janvier prochain et finiront le trente unième de décembre qu'on comptera mil huit cent quatre et à moitié profit et perte entre les deux parties et par chacune d'elles fournir aussi par moitié à la dépense des armemens des desarmemens, gages de matelots ou engagés, vivres et marchandises qu'il sera nécessaire d'acheter et généralement a la dépense aussi de tout utensile outils et chose quelconques convenable à la dite société ; dont le trafic consistera

(Translation.)

17th August, 1799.

Before the undersigned, notaries public in the Province of Quebec, residing at Quebec.

Were present the sieurs Jean Baptiste Dumontier and Jean Belliveau, residing at Quebec, of one part ; and Jean Baptiste Vachon, both for himself and for Joseph Faucher surnamed Chateauvert, of said Quebec, of the other part :

The above parties hereto have contracted and do contract by these presents the following partnership for the space of four years to begin the first day of January next and to end on the thirty-first day of December in the year one thousand eight hundred and four and on the basis of equal share of profits and losses between the two parties and it is also covenanted that each of them shall bear one half of the expenses for the fitting out and the laying up of vessels, the wages of the crews or hired men, food and goods required to be purchased and generally of the expenses for any gear and things generally whatsoever suitable for the said partnership; the traffic of which shall

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principalement en la traite avec les Indiens en la Baie des Esquimaux ou ailleurs si les dits associés le jugent convenable à leurs intérêts.

Les établissemens que les deux parties ont

respectivement en la dite Baie des Esquimaux seront employés en entier ou partie pour l'usage de la société et suivant que les dits associés le détermineront et les frais d'entretien des dits établissements ainsi employés seront à la charge de la Société.

Quant aux grémens outils utensiles qui se trouveront par inventaire aux dits établissements la dite société s'en servira et à la fin d'icelle les rendra en même quantité et qualité.

Les marchandises vivres et effets de traitte qui seront existans dans chaque établissement seront estimés en janvier prochain et la société en tiendra compte à la parte respective d'iceux.

La Société prend et prendra à son compte pour cent quatre vingt livres courant de la Province la Goelette appelée la Sainte Anne appartenante auxdits Dumontier et Belliveau, avec ses deux ancrs voile cable chaloupe et tout grément en dépendant.

Les retours qui proviendront du trafic de la dite société seront à mesure de leur arrivée en cette ville de Québec vendus en total ou partagés en nature suivant que les dits intéressés en conveindront.

En cas de mort de l'un ou de l'autre des quatre intéressés sus dits sa veuve sera libre de continuer l'intérêt de son feu mari en la dite société aux conditions de fournir son contingent et de le recevoir aussi.

(Translation.)

chiefly consist in trading with the Indians at the bay of the Esquimaux or elsewhere should the said partners see fit and in the interest of the society.

The establishments respectively owned by the two parties at the bay of the Esquimaux aforesaid shall be wholly or in part for the use of the society and as may be determined by the said partners and the costs of maintaining the said establishments thus used shall be borne by the society.

As to the rigging, tools and utensils which are found by inventory in the said establishments, the said partnership shall use them and, at the end thereof, shall return the same in like quantity and condition.

Such goods, food and trading effects as may be found in the said establishments shall be estimated in January next and the society shall account for the same to the respective parties concerned.

Such food, goods and other articles as it shall be necessary to buy at Quebec each year shall be purchased by and supplied by each of the two parties and in so far as possible in equal shares.

The society takes over and shall take over for their own account at the price of one hundred and eighty livres in currency of the Province, the schooner called the Sainte-Anne, belonging to the said Dumontier and Belliveau, together with her two anchors, sail, rope, shallop and all rigging depending from the same.

The returns from the trade of the said society shall, as they arrive in this city of Quebec, be sold wholly or divided in kind as may be agreed upon by the said parties concerned.

In the event of any or either of the four parties concerned dying, his widow shall be free to carry on the interests of her late husband in the said society upon the condition that she shall supply her share as well as receive her share.

Dans les cas de difficulté entre les sus dits associés pour raison de la sus dite société les dite associés s'obligent l'un envers l'autre de les soumettre à la décision de trois arbitres

dont deux choisis par les parties et la troisième par les deux autres la décision desquels trois arbitres sera finale.

Ainsi a été fait et passé à Québec en l'étude de Maître Dumas notaire la dix septième jour du mois d'aoust après midi l'an mil sept cent quatre vingt dix neuf et requis les dits sieurs contractans de signer, les dits Dumontier et Belliveau ont déclaré ne le savoir et le dit sieur Vachon a signé avec les dits notaire lecture faite.

JEAN BAPTISTE VACHON.

CHS. VOYER n. public

A. DUMAS Not. Pub.

(Translation.)

In the event of any dispute arising between the aforesaid partners in respect of the said society, they mutually bind themselves to refer the matter to the decision of three arbitrators two of whom shall be appointed by the parties and the third one by the other two, and whose award shall be final.

This done and executed at Quebec in the office of Master Dumas, Notary, on the seventeenth day of the month of August, in the year one thousand seven hundred and ninety-nine and the said sieurs contracting were required to sign, the said sieurs Dumontier and Belliveau having declared themselves unable to sign and the said sieur Vachon has signed with us, the said notaries, upon the same being read.

JEAN BAPTISTE VACHON.

CHS. VOYER. Notary Public.

A. DUMAS, Not. Publ.

[26 Aug., 1799.]

No. 1303.

**AGREEMENT BETWEEN HERVIEUX, ROUILLARD
AND OTHERS, AND DUMONTIER AND OTHERS,**

FOR SERVICE AT ESQUIMAUX BAY, 26 AUGUST, 1799.

ARCHIVES DE LA PROVINCE DE QUEBEC. ORIGINAL FOUND IN THE
OFFICE OF THE LATE M^{TRE}. A. DUMAS.

Par devant les notaires publics en la Province du Bas
Canada, résidens à Québec soussignés ;

Furent présens les sous dénommés, lesquels de leur bon
gré et volonté se sont par ces présentes engagés envers les
sieurs Jean Batiste Dumontier, Jean Belliveau, Jean Batiste
Vachon et Joseph Faucher dit Chateauvert de la ville de
Québec ; ces trois premiers a ce présens et acceptans pour eux
et pour le dit Joseph Faucher absent, et leur associé en le trafic
ou traite avec les indiens en la Baie des Esquimaux ; chacun
des dits sous dénommés pour le tems ou période et en les
qualités et conditions respectives à chacun d'eux ci-après
mentionnés savoir :

Barthelemi Hervieux voyageur dans les postes du Roi
audessous de Québec pour être commis, forgeron et armurier
pour la dite société pendant deux campagnes ou hivernement
au lieu ou poste de Kenomish dans la dite Baie des Esquimaux
pour le prix ou salaire de huit cent livres de vingt sols

(Translation.)

Before the undersigned, notaries public in the Province of Quebec, residing at
Quebec.

Were present the hereinafter named parties who, of their free will and volition have,
by these presents, hired themselves to the sieurs Jean Baptiste Dumontier, Jean Belliveau,
Jean Baptiste Vachon and Joseph Faucher, surnamed Chateauvert, of the city of Quebec ;
the first three mentioned being present and accepting for themselves and for the said Joseph
Faucher, absent, and their partner in the traffic or trade with the Indians in Esquimaux bay ;
each of the said undermentioned parties for a term or period and in the respective capacities
and upon the respective conditions hereinafter set forth, to wit :

Barthelemi Hervieux, voyageur in the King's posts below Quebec, as a clerk,
blacksmith and gunsmith for the said society for two campaigns or winterings at the place or
post called Kenomish, in the said Esquimaux bay at the price or salary of eight hundred
livres of twenty sols for

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pour chaque campagne ou hivernement, où la dite société le
logers chauffera nourrira de même que sa femme et leurs

enfants s'ils en ont.

Jean Batiste Rouillard de Québec navigateur et pour commis aussi, au lieu ou poste de Newberry en la dite baie des Esquimaux pour deux campagnes ou hivernement pour cinq cent soixante seize livres aussi de vingt sols par chaque hivernement.

Paul Perron de la paroisse Ste. Anne en le comté Hamshire navigateur ; pour matelot et engagé en tel lieu ou poste de la dite société en la dite baie des Esquimaux qu'icelle société jugers à propos de l'employer pendant deux campagnes ou hivernement, pour le prix ou salaire de cinquante cinq piastres par chacune des dites deux campagnes.

Pierre Laviolette navigateur pour matelot et engagé aussi et pour être employé par la dite société pour deux campagnes ou deux hivernements le première campagne à tel lieu ou posts quicelle société jugera à propos en la dite baie des Esquimaux pour cinquante piastres d'Espagne pour la dite première année ; et la seconde campagne pour être employée au lieu ou poste de Kenomishes pour quarante piastres, pour la dite seconde campagne.

Claude Amiot de la ville de Québec tonneller pour deux campagnes ou deux hivernements aussi, et pour faire l'ouvrage de son métier, dont la dite société aura besoin en ses divers postes en la dite Baie des Esquimaux pour quatre cents livres de vingt sols par chacune des dites deux campagnes en par la dite société lui fournissant les outils, en outre des salaires susdits, les susdits engagés auront chacun d'eux cinq et respectivement la moitié de la chasse

(Translation.)

each campaign or wintering, during which the said society shall supply him, his wife and children, if any, with lodging and heat.

Jean Baptiste Mouillard, of Quebec, navigator and as a clerk also, at the place or post of Newberry in the said Esquimaux bay for two campaigns or winterings for the sum of five hundred and seventy-six livres of also twenty sols per each wintering.

Paul Perron, of the parish of Ste. Anne, in the county of Hampshire, navigator; as a seaman and hired in such place or post belonging to the said company in the bay of the Esquimaux as they may deem fit to employ him for two campaigns or winterings, at the price or salary of fifty-five piastres for each of the two said campaigns.

Pierre Laviolette, navigator, as a seaman and also hired and to be employed by the said society for two campaigns or two winterings, the first campaign at such place or post as the said society may deem proper in the said Esquimaux bay in consideration of fifty Spanish dollars for the said first year : and the second campaign at the place or post of Kenomishes at the price of forty dollars for the said second campaign.

Claude Amiot, of the city of Quebec, cooper, for two campaigns or two winterings also, and to work at his trade, as may be required by the said society in their various posts at

the said Esquimaux bay, for four hundred livres of twenty sols for each of the said two campaigns; the said society to provide him with such tools as are required, in addition to the aforesaid salaries : the five above mentioned hired men shall each and respectively have one half of the game which they

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qu'ils feront dans les bois ou forêts l'autre moitié de laquelle chasse sera pour la dite société et laquelle dite chasse les dits engagés ne pourront prétendre de faire, que lorsqu'ils ne seront pas occupés par la dite société pour des ouvrages d'icelle relatifs à leur profession respective et susdite, promettant et s'obligeant les susdits engagés d'être exacts, ponctuels, actifs et assidus à faire et exécuter ce que leur sera prescrit par la dite société ou par l'un ou l'autre des dits quatre associés, ou par leurs commis d'être fidèles, de veiller aux intérêts d'icelle, de l'avertir s'ils s'aperçoivent que quelqu'un lui fasse tort ; d'avoir soin et de ménager tout ce qu'elle leur confiera et d'en rendre un compte exact ; et d'autre part la dite société ou les susdits trois associés présents s'obligent solidairement sans division ni discussion à quoi ils renoncent de fournir aux dépens de la dite société d'occasion convenable par eau pour transporter les dits engagés aux dits postes ainsi que leurs coffres, outils et bagages et pour les remener en cette ville lorsque les dites deux campagnes seront finies aux dits postes de la baie des Esquimaux ; pendant lesquelles deux campagnes la dite société logera, chauffera et nourrira convenablement les susdits engagés et leur fournira aussi toutes ustensiles, ammunition et choses nécessaires pour faire le susdite chasse et finalement leur paiera à Québec, ou à ceux qu'ils indiqueront pour les recevoir, leurs susdits salaires respectifs aussitôt les retours de chaque campagne ce que dessus fait et accordé pour être exécuté à peine par la partie contrevenante de tous dépens, dommages et intérêts envers la partie souffrante de la contravention, promettant &c. obligeant &c. renonçant &c. Fait et passé à Québec en l'étude de M^{re}. Dumas notaire le vingt sixième jour du mois d'août après midi l'on mil sept

(Translation.)

may take in hunting in the woods, the other half of which game shall belong to the said society and for which game the said hired parties shall not claim to hunt except when they are not on duty in the company's service and not occupied by the latter's work in connection with their respective and aforesaid profession; the said hired parties promising and binding themselves to be exact, punctual, diligent and faithful in the accomplishment and performance of whatever may be required of them by the said society or any or either of the said four partners, or by their clerks, to be watchful and faithful as far as the interests of the said company are concerned ; to give them notice whenever they discover any one interfering ; to take good care and to be economical of whatever the said society may entrust to them and to correctly account for the same ; and on the other part, the said society or the aforesaid three partners hereto present, bind themselves jointly and severally, to provide, at the expense of the said society, at a seasonable opportunity, the transportation by water of the said hired parties to the said posts, together with their tool chests and baggage, and back to this city upon the completion of the said two campaigns at the said posts in Esquimaux bay ; during which two campaigns the said society shall provide the aforesaid hired parties with suitable lodging, heat and food, and also supply them with all the utensils, ammunition and things required for the above mentioned chase and finally shall pay them at Quebec, or to such persons as they may appoint to that end, their abovementioned respective salaries as

soon as the returns of each campaign are received.

Thus done and covenanted to be executed under pain, for the party offending of all damages, costs and interests to the wronged party. Promising, &c., obliging, &c., renouncing, &c. Done and executed at Quebec in the office of Maitre Dumas, notary, the twenty-sixth day of August, in

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cent quatre vingt-dix neuf et les dits engagés s'obligent de partir pour les deux dites campagnes dès que la dite société les en requerrera et les contractant requis de signer ceux sachant le faire, ont signé les autres ont déclaré ne le savoir.

B. HERVIEUX
J. B. ROUTARD
B. VACHON
PAUL PAIRON
CLAUDE AMIOT
CHS. VOYER N. Public
A. DUMAS Not. Pub.

(Translation.)

the afternoon, in the year one thousand seven hundred and ninety-nine and the said hired parties bind themselves to leave for the said campaigns as soon as required to do so by the said society and the contracting parties being requested to sign ; those who could do so did sign, the others declaring their inability.

B. HERVIEUX
J. B. ROULARD
B. VACHON
PAUL PAIRON
CLAUDE AMIOT
CHS. VOYER, N. Public
A. DUMAS, Not. Pub.

[28 June, 1815.]

No. 1304.

**LEASE BY DAME CECILE DUMONTIER TO JACOB
POZER,**

28 JUNE, 1815, OF ONE-HALF INTEREST IN FISHING ESTABLISHMENTS AT
ESQUIMAUX BAY.

ARCHIVES DE LA PROVINCE DE QUEBEC. ORIGINAL FOUND IN THE
OFFICE OF THE LATE M^{TR}E. JH. PLANTÉ.

Fut présente Dame Cécile Dumontier veuve du Sieur Michel Falardeau vivant Trafiquant dans la Baye des Esquimaux, demeurante en la haute ville de Québec ; Laquelle a par ces présentes volontairement cédé et abandonné a titre de Bail pour sa vie durant seulement, sans aucune autre garantie que de ses faits et promesses seulement à Monsieur Jacob Pozer marchand demeurant en cette ville rue de la Fabrique, à ce présent et acceptant preneur au dit titre de bail pendant le dit tems pour lui ses hoirs et ayans cause, c'est à savoir tous les droits de propriété possession jouissance et autres généralement quelconques que le dit feu Michel Falardeau avoit et que sa dite épouse comme le représentant a et peut avoir, dans les établissemens de pêches dans la dite Baye des Eskimaux possédés par le dit feu Michel Falardeau et le dit Sieur Pozer ; le tout consistant en places de pêche, maisons, hangards chaloupes, rez et autres gréments de pêche que le dit preneur déclare bien savoir & connaitre pour être en possession, étant droits sus baillés de la moitié indivise au total des dits objets et appartiennent à la dite veuve Falardeau

(Translation.)

Was present Dame Cécile Dumontier, widow of the Sieur Michel Falardeau, in his lifetime, merchant in the Bay of the Esquimaux, residing in the upper town of Quebec, who hereby has willingly made over and relinquished, as a lease during her life only, with no other security than that of lier deeds and promises, to Mr. Jacob Pozer, merchant, residing in this city, Fabrique street, hereto present and accepting lessee to the said lease for the said term, for himself, his heirs and assigns. that is to say, every ownership, possession and holding rights and other rights generally whatsoever which the said late Michel Falardeau had and which his said wife as his representative has or may have in the fishing establishments at the said Esquimaux Bay owned by the said late Michel Falardeau and the said Sieur Pozer ; the whole consisting in fishing places, sheds, shallops, nets and other fishing gear which the said lessee declares to be well known by him he having held them, such rights, as above leased, being the undivided moiety of the whole of the said objects and they belong to the said widow Falardeau, one half by community of property and the other half as legatee of her

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moitié par droit de communauté et l'autre moitié comme légataire de son dit défunt mari, suivant son testament reçu par

Me. Michel Berthelot Notaire à Québec présence de témoins en date du trente may mil huit cent sept.

Ce bail ainsi fait moyennant la somme de cent livres du cours actuel de cette Province de rente annuelle que le dit sieur Jacob Pozer promet et s'oblige par ces présentes bailler et payer en bonne monnoie de cours à la dite Dame Cécile Dumontier veuve Falardeau en sa demeure en cette ville ou ordre porteur des présentes chaque année sa vie durant par quartiers de vingt cinq livres chacun dont le premier écherra et se fera le premier août prochain et ainsi continuer de trois mois entrais mois la vie durant de la dite Dame veuve Michel Falardeau, nonobstanttout manque de profit de la part du dit Sieur Pozer ou toute perte qui pourroient arriver même en cas d'expulsion desd. établissements et la dite rente sera éteinte et amortie au. décès de la dite Dame Falardeau. Pour sureté de laquelle rente viagère le dit Sieur Jacob Pozer a affecté obligé et hipothéqué généralement tous les biens présents et futurs.

Et par ces mêmes présentes la dite Dame Cécile Dumontier veuve Falardeau, fait volontairement donation entrevifs, sans autre garantie que de ses faits et promesses, des droits qu'elle a ainsi baillés par le bail ci-dessus, en faveur de Demoiselle Maria Pozer, fille mineure du dit Sieur Jacob Pozer, icelui acceptant pour sa dite fille, pour par elle en jouir faire et disposer en toute propriété et à perpétuité, après l'extinction du dit bail ci-dessus, à condition que si la dite Maria Pozer venait à décéder avant d'entrer en jouissance des dits droits, ils seront reversibles à ses frères et soeurs qui se succède-

(Translation.)

said late husband, pursuant to his will received by Maitre Michel Berthelot, notary at Quebec, in the presence of witnesses, under date of the thirtieth day of May, one thousand eight hundred and seven.

This lease is thus made in consideration of the sum of one hundred livres, current money of this Province, being the annual rent which the said Sieur Jacob Pozer binds and obliges himself hereby to give and pay in lawful money to the said Dame Cécile Dumontier, widow Falardeau, in her residence in this city or to her order to the holder of these presents every year during her life in quarterly payments of twenty-five livres each, the first of which payments shall fall due and be made on the first day of August next and so to be continued every three months during the life of the said Dame Veuve Michel Falardeau, notwithstanding any absence of profit on the part of the said Sieur Pozer or any loss likely to occur, even in case of expulsion from the said establishments and the said annuity shall be bought up or redeemed upon the death of the said Dame Falardeau. As a security for which life rental the said Sieur Pozer has assigned, pledged and hypothecated all his present and future property.

And, by these same presents, the said Dame Cécile Dumontier, widow Falardeau, voluntarily makes over by deed of gift, with no other guarantee than that of her deeds and promises, the rights which she has thus given by the above lease, in favour of Miss Maria Pozer, daughter of the said Sieur Jacob Pozer, to be enjoyed, used and disposed of by her as her exclusive property in perpetuity, upon the expiry of the said above lease, subject to the condition that, should the said Maria Pozer decease before taking possession of the said rights, they shall revert to her brothers and

p. 3400

ront en iceux les uns aux autres encas de décès avant d'avoir entrée en jouissance de leurs parts respectives en iceux. La

présente donation ainsi faite pour la bonne amitié que la dite dame veuve Falardeau porte aux enfants du dit Sieur Pozer et particulièrement à la dite Maria Pozer.

Car ainsi &c. Promettant &c. Obligeant &c. Renonçant &c. Fait et passé à Québec étude de M^e Planté l'un des Notaires soussignés l'an mil huit cent quinze le vingt huit juin avant midi. Et ont les parties signé, lecture faite.

CÉCILE DUMONTIER Veuve FalarDaux
JACOB POZER

R. LELIÈVRE JH. PLANTE.
PIERRE GEORGES ROY, D.P.C.S.

(Translation.)

sisters who shall succeed one another therein in case of death before having taken possession of their respective shares therein. The present donation so made because of the said Dame Veuve Falardeau's great affection for the children of the said Sieur Pozer and particularly the said Maria Pozer.

Wherefore &c., Promising &c., obliging &c., renouncing, &c. Done and executed at Quebec in the office of Maitre Planté, one of the undersigned notaries, in the year one thousand eight hundred and fifteen, the twenty-eighth of June, in the forenoon. And the parties have signed, the presents having been read.

CÈCILE DUMONTIER Widow of Falardeaux.
JACOB POZER.
R. LELIÈVRE. JH. PLANTÉ.

True copy of the original as found in the office of late Master Jh. Planté, in his lifetime a notary for the Province of Quebec, filed in the archives of this district, collated and compared with the original by us undersigned, keeper thereof and Deputy Prothonotary of the Superior Court for the district of Quebec, at Quebec, this fifteenth day of February, in the year one thousand nine hundred and twenty-three.

(Signed) PIERRE-GEORGES ROY, D.P.S.C.

Archives of the Province
of Quebec.
Copied by L. J. N.
Collated by L. E. P.
Date 15/2/23.

[28 June, 1815.]

No. 1305.**DEED OF SALE, 28 JUNE, 1815, BY DAME CECILE
DUMONTIER TO JACOB POZER,**OF BOATS AND OTHER EQUIPMENT IN HUNTING ESTABLISHMENTS
AT ESQUIMAUX BAY.ARCHIVES DE LA PROVINCE DE QUEBEC. ORIGINAL FOUND IN THE
OFFICE OF THE LATE M^{TR}E. JH. PLANTÉ.

Fut presente Dame Cécile Dumontier veuve du Sieur Michel Falardeau, vivant trafiquant dans la Baye des Esquimaux, la dite Dame demeurante en cette ville ; laquelle a par ces présentes vendu, cédé quitté, transporté délaissé et abandonné dès maintenant à toujours, promettant garantir de toutes revendications quelconques au Sieur Jacob Pozer marchand demeurant à Québec, à ce présent et acceptant acquéreur pour lui ses hoirs et ayans cause à l'avenir, c'est à savoir :

Premièrement de la moitié de la goelette Nancy du Port de cent douze tonneaux, maintenant au cul de sac de cette ville avec la moitié de sa chaloupe agrès et appaiaux, disant l'acquéreur la bien connoitre pour être propriétaire de l'autre moitié. Secondement. La moitié de tous les effets provisions, marchandises et dettes actives dépendantes et appartenantes à la société qui a existée entre le Sieur acquéreur et le dit feu Michel Falardeau, dans leur exploitation de pêche et commerce à la Baye des Eskimaux sans en rien

(Translation.)

Was present Dame Cécile Dumontier, widow of the Sieur Michel Falardeau, in his lifetime a merchant at Esquimaux Bay, the said Dame residing in this city; who, hereby, has sold, made over, granted, conveyed, relinquished and abandoned from this day and forever, promising to secure from any claim whatsoever, to the said Sieur Jacob Pozer, merchant, residing in the city of Quebec, hereto present and accepting purchaser for himself and for his future heirs and assigns, that is to say :

Firstly, of one half of the schooner Nancy, of one hundred and twelve tons burden, now in the haven of this city, together with the moiety of the shallop, rigging and fittings thereof, which the said purchaser declares to be well known to him, he owning the other half thereof. The moiety of all the effects, provisions, goods and debts owing to, depending from or belonging to the partnership which existed between the Sieur purchaser and the said late Michel Falardeau, in their fishery undertaking and trade at Esquimaux Bay, without any exception therefrom save what is

p. 3402

réserver que ce qui est porté dans le bail consenti ce jour par la venderesse à l'acquéreur devant les notaires soussignés ; tout ce que dessus vendu appartenant à la venderesse moitié comme commune enbiens avec le feu sieur son mari et l'autre moitié

comme sa légataire universelle suivant son testament reçu par Me. Michel Berthelot notaire à Québec présence de témoins le trente may milhuit cent sept ; disant le dit acquéreur le tout bien savoir et connaitre pour être propriétaire de l'autre moitié et est content et satisfait.

Cette vente faite à la charge par l'acquéreur de payer et acquitter la part des dettes de la dite société d'entre lui et le dit feu Michel Falardeau à laquelle part de dette sa veuve qui le représente pourroit être tenue en sorte qu'elle ne puisse en être recherchée directement ni indirectement, le dit acquéreur s'obligeant de la garantir et indemniser de toute chose à cet égard même de ne pouvoir répéter contr'elle aucunes des dettes qu'il peut présentement avoir payés à son acquit ou à l'acquit de son mari ou de la société, se déchargeant mutuellement de tous comptes précédents à l'égard de la d. société.

En outre cette vente faite moyennant le prix et somme de quatre cent livres du cours actuel de cette province, laquelle somme le dit sieur acquéreur promet et s'oblige par ces présentes bailler et payer en bonne monnoie courante à la dite venderesse ou à son ordre à sa première demande sans intérêt. Pour sureté de laquelle dite somme le dit acquéreur a affecté obligé et hypothéqué généralement tous ses biens présents et futurs. Il est entendu que le dit sieur Jacob Pozer reste seul chargé de ce qui est encore du au sieur J. Bte. Dumontier sur la vente qu'il a faite du tiers de la dite goellette Nancy aux dits sieurs Pozer et Falardeau.

(Translation.)

set forth in the lease granted this day by the vendor to the purchaser before the undersigned notaries ; the whole as above sold belonging to the vendor, one half as her joint property with her late husband and the other half as his residuary legatee pursuant to his will as received by Maitre Michel Berthelot, notary at Quebec, in the presence of witnesses on the thirtieth of May, one thousand eight hundred and seven ; the said purchaser declaring the whole to be well known to him, he being the owner of the other half, and being content and satisfied.

This sale is made subject to the condition that the purchaser shall pay and clear the share of the debts of the said partnership as between himself and the said late Michel Falardeau, to which share of debt his widow, as his representative might be held so that she shall not be called upon to account either directly or indirectly, the said purchaser binding himself to secure and indemnify her from anything whatever in this respect and likewise not to claim from her any of the debts which he may at the present time have paid for his own account or for the account of her husband or of the partnership, reciprocally clearing themselves of any previous indebtedness in respect of the said partnership.

This sale is further made in consideration of the price and sum of four hundred livres current money of this province, which sum the said Sieur purchaser promises and obliges himself to pay and give, in valid current money, to the said vendor on her first request and without interest. As a security for which said sum, the said purchaser has assigned, pledged and hypothecated all of his present and future property. It is understood that the said Sieur Jacob Pozer shall remain alone to pay what is still owing to the said Sieur J. Bte Dumontier on the sale which he made of the third of the said schooner Nancy to the said Sieurs Pozer and Falardeau.

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Et au moyen de ce que dessus la dite venderesse consent que l'acquéreur jouisse fasse et dispose de tout ce que dessus vendu en toute propriété et à perpétuité. Car ainsi &c.

Promettant &c. Obligéant &c. Renonçant &c. Fait et passé à Québec demeure de la venderesse, l'an mil huit cent quinze le vingt huit juin avant midi. Et ont les parties signé, lecture faite.

CÉCILE DUMONTIER Veuve Falardaux
JACOB POZER
R. LELIÈVRE JH. PLANTE.

(Translation.)

Wherefore the said vendor agrees that the purchaser shall enjoy, use and dispose of the above sold property in fee simple and forever. Therefore &c., promising &c., obliging &c., and renouncing &c. Done and executed at Quebec in the house of the vendor, in the year one thousand eight hundred and fifteen, the twenty-eighth of June, in the forenoon. And the parties have signed, the presents having been read.

CÈCILE DUMONTIER Widow of Falardaux.
JACOB POZER.
R. LELIÈVRE. JH. PLANTÉ.

No. 1306.

C

**REMARKS BY JAMES IRVINE OF QUEBEC, ON ACT
49 GEORGE III, c. 27.**

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Vide Vol. III, p. 1218.

[9 Sept., 1823.]

No. 1307.

**DEED OF SALE, 9 SEPTEMBER, 1823, BY CLAUDE
DENÉCHAU—AS REPRESENTATIVE
OF JACOB POZER—TO FLAVIEN DUFRESNE,
OF THE ESQUIMAUX BAY PROPERTIES.**

(Seal.)

Par devant les notaires publics en la Province du Bas Canada résidens à Québec, soussignés.

Fut présent Monsieur Claude Denéchaux Exuier de la paroisse de Berthier de présent à Québec, lequel comme curateur dûment élu en justice à la succession vacante de feu Jacob Pozer de son vivant, marchand, à Québec, et conformément à un avertissement publié dans la gazette de Québec, pour la vente des droits de propriété &c ci-après mentionnés, a èsqualité sans aucune garantie quelconque, cédé et abandonné à Monsieur Flavien Dufresne étudiant en droit, demeurant à Québec, à ce présent acquéreur pour lui ses hoirs et ayans cause, c'est à savoir, tous les droits depropriété, possession, jouissance et autres généralement quelconques que le dit feu Jacob Pozer avoit et pouvoit avoir dans les établissemens de pêche et de chasse dans la baie des Esquimaux consistant en place de pêche, maisons, hangards, chaloupes, rets et autres gréments de pêche et de chasse que le dit preneur ou acquéreur déclare biensavoir et connoitre pour en être content. De plus

(*Translation.*)

9th September, 1823.

Before the undersigned public notaries for the Province of the Lower Canada, residing at Quebec.

Was present Monsieur Claude Denéchaux, Esquire, of the parish of Berthier now at Québec, who, as legally appointed curator of the vacant succession of the late Jacob Pozer, in his life-time a merchant at Quebec, and according to an advertizement published in the Gazette of Quebec, for the sale of the rights, property &c. hereinafter mentioned, has, with no guarantee whatsoever, sold and relinquished to Monsieur Flavien Dufresne, law student, residing at Quebec, hereunto present and accepting purchaser for himself, his heirs and assigns, to wit, all rights generally whatsoever of ownership, possession, enjoyment and others which the said late Jacob Pozer had or might have had in the fishing and hunting establishments in the Bay of the Esquimaux, consisting of fishing places, houses, sheds, shallops, nets and other fishing and hunting utensils, which the said purchaser or grantee declared to be well known to him, being content and satisfied. Further, the said Claude

p. 3405

cède et abandonne le dit Claude Denéchau èsqualité de curateur sans aucune garantie comme susdit, les effets, provisions marchandises et dettes actives dépendants et appartenants à la dite succession de feu Jacob Pozer dans la dite baie des Equimaux & dont et du tout le dit Flavien Dufresne se dit

content pout le bien connoitre.

Cette vente ou transport fait à la charge de payer à Sieur Joseph Turgeon par le dit Flavien Dufresne la somme de cinq chelins cours de Québec par jour jusqu'au retour du dit Joseph Turgeon de la dite baie des Esquimaux à ce port de Québec à la fin de cet automné, à commencer La dite somme de cinq chelins du dit cours comme gage alloué au dit Joseph Turgeon comme commis pour la dite succession vacante du dite feu Jacob Pozer du septième juin dernier de payer en outre par le dit Flavien Dufresne les gages et autres argents dûs et dettes contractées par le dit feu Jacob Pozer avec les hommes et commis employés dans la baie des Esquimaux pour le compte et avantage du dit feu Jacob Pozer ou de la succession vacante d'icelui, pourvu que le tout n'excéde pas la somme de trois cents louis cours de Québec nonobstant tout manque de profit de la part du dit Flavien Dufresne ou de toutes pertes quipourroient arriver même dans le cas d'expulsion des dits établissements sus cédés et abandonnés. Et enfin cette vente outransport fait pour et moyennant quatre cent trente et une livres cours de Québec que le dit Flavien Dufresne a payé, compté & délivré en argent monnoie ayans cours au dit Claude Denecheau, à veu et présence des dits notaires dont quitte. A ce faire est intervenue et étoit présent Dame Cécile Dumontier, St. Vallier, laquelle après avoit eu lecture de l'acte ci-dessus et dans autres parts, elle s'est volontairement rendue caution et s'est obligée solidairement sans division

(Translation.)

Dénéchau, in the quality of curator, sells and relinquishes, with no other guarantee as above written, the effects, goods, provisions and active debts held by and belonging to the said succession of the late Jacob Pozer in the said Bay of the Esquimaux, and the whole being well known to the said Flavien Dufresne, he being content and satisfied.

This sale or conveyance is made subject to the condition that the said Flavien Dufresne shall pay to the Sieur Joseph Turgeon the sum of five shillings, Quebec currency, per day until the return to Quebec of the said Joseph Turgeon from the said Bay of the Esquimaux at the end of this fall, to begin the said sum of five shillings of said currency allowed to the said Joseph Turgeon, as clerk for the said vacant succession of the said late Jacob Pozer from the seventh day of June last, further that the said Flavien Dufresne shall pay the wages and other monies due and debts incurred by the said late Jacob Pozer with the men and clerk employed in the Bay of the Esquimaux for the account and profit of the said late Jacob Pozer or the vacant succession thereof, provided the whole does not exceed the sum of three hundred pounds sterling (louis) Quebec currency notwithstanding the absence of profit on the part of the said Flavien Dufresne or any losses which might likewise result in case of expulsion from the said establishments sold and relinquished as above. And lastly this sale or conveyance is made for and in consideration of the sum of Four hundred and thirty-one pounds Quebec currency which the said Flavien Dufresne paid, told and delivered in current money to the said Claude Denecheau, in presence of the said notaries, whereof discharge. In the presents intervened and was present Dame Cécile Dumontier, St. Vallier, who, upon the present deed being read to her, and the other parts, voluntarily becomes surety and obliges herself jointly and severally,

p. 3406

ni discussion, à quoi elle renonce, aux charges, clauses et conditions mentionées aux autres parts, dont et du tout elle fait sa propre affaire avec le dit Flavien Dufresne comme principale obligée.

Car ainsi &c. Promettant &c. Obligeant &c. Renonçant

&c. Fait et passé à Québec, étude de Mtre. Lelièvre le neuvieme jour de septembre après midi huit cent vingt trois et ont les parties signé avec nous notaire lecture faite.

CLAUDE DÉNÉCHAU
FLAVIEN DUFRESNE
CÉCILE DUMONTIER
VEUVE FALARDEAU
M. TESSIER, N.P.
R. LELIÈVRE, N.P.

(Translation.)

to the charges, clauses and conditions mentioned of the other parts, the whole of which she undertakes jointly with the said Flavien Dufresne as being the principal obligor.

Thus &c., Promising &c., Obliging &c., Renouncing &c. Done and executed at Quebec, in the office of M^e Lelièvre, the ninth day of September, in the afternoon, one thousand eight hundred and twenty-three and, the presents having been read, the parties have signed with us notary.

CLAUDE DÉNÉCHAU.
FLAVIEN DUFRESNE.
CÉCILE DUMONTIER.
VEUVE FALARDEAU.
M. TESSIER, N.P.
R. LELIÈVRE, N.P.

True copy of the original found in the office of late Roger Lelièvre in his life-time notary for the Province of Quebec ; deposited in the Archives of this district ; compared and diligently examined by us the undersigned keeper of the same and deputy prothonotary of the Superior Court, at Quebec, this thirtieth day of the month of November, one thousand nine hundred and twenty-two.

(Signé) PIERRE-GEORGES ROY,
D.P.S.C.

[28 March, 1825.]

No. 1308.

**DEED OF SALE, 28 MARCH, 1828, BY LOUIS
FLAVIEN DUFRESNE TO JEAN OLIVIER BRUNET,**

OF THE ESQUIMAUX BAY PROPERTIES.

Par devant les Notaires Publics pour la Province du Bas-Canada, soussignés :

Fut présent Louis Flavien Dufresne Exuier avocat et procureur demeurant en cette ville, Lequel a par ces présentes cédé, transporté et abandonné dès maintenant de à toujours, sans toutes fois aucune espèce de garantie quelconque, recours contre lui ni restitution de deniers, (dont et de quoi l'acquéreur ci-après nommé fera son affaire) à Jean Olivier Brunet Ecuier marchand demeurant en la basse ville de Québec rue sous le Fort, à ce présent et acceptant pour lui ses héritiers et ayant-cause à l'avenir ; c'est à savoir ; Tous les droits de propriété, possession jouissance et autres généralement quelconque que feu Jacob Pozer avait et pouvait avoir dans les établissements de pêche et de chasse dans la Baie des Exkimaux, consistans en places de pêcheé maisons, hangards, chaloupes, rêts et autres grémens de pêche et de chasse, tel que le tout est et peut être actuellement, que le dit cessionnaire et acquéreur dit bien savoir et connaître et s'en déclare satisfait et content cédant et abandonnant en outre le dit Louis Flavien Dufresne au dit Jean

(Translation.)

28th March, 1828.

Before the undersigned notaries for the Province of Lower Canada :

Was present Louis Flavien Dufresne, Esquire, advocate and attorney, residing in this city, who hereby sold, conveyed and relinquished from this day and forever, with however no guarantee of any kind whatsoever, no relief against him nor restitution of monies, (wherefor the purchaser hereinafter named shall assume the responsibility) to Jean Olivier Brunet, Esquire, merchant residing in the Lower Town of Quebec, Sous-le-Fort street, here present accepting for himself, his heirs and assigns in the future ; that is to say : All the rights of property, possession and enjoyment rights and others generally whatsoever which the late Jacob Pozer had and might have had in the fishing and hunting establishments in Esquimaux bay, consisting of fishing places, houses, sheds, shallops, nets and other fishing and hunting utensils, such as the whole is and may be at the present time, declared to be well known by the said grantee and purchaser, he being content and satisfied, and the Louis Flavien Dufresne further sells, conveys and relinquishes to the said Jean

p. 3408

Olivier Brunet, sous la même exclusion de garantie que ci-dessus exprimée, tous les effets provisions, marchandises et

dettes actives qui appartenait et dépendaient de la succession du dit feu Jacob Pozer dans la dite Baie de Eskimaux et qui ont été cédés et transportés au dit Louis Flavien Dufresne avec les autres droits succédés par Claude Dénéchau Ecuier en sa qualité de Curateur dûment élu en Justice à la succession vacante du dit feu Jacob Pozer, suivant acte de vente passé à Québec devant M^{re}. Lelièvre et son confrère notaires le neuf septembre mil huit cent vingt cinq. Expédition duquel acte a été remis au dit Jean Olivier Brunet ainsi qu'il le reconnaît, dont quittance.

Pour par le dit Jean Olivier Brunet ses héritiers et ayanscause à l'avenir jouir, faire et disposer de tous les dits droits et choses succédés en pleine et entière propriété et comme bon lui semblera, à l'effet de quoi le dit Louis Flavien Dufresne le met et subroge en tous ses lieux et place droits, noms, se démettant et desaisissant de tous les dits droits, et consentant que le dit Jean Olivier Brunet en soit et demeure saisi et vêtu de ce jour et à toujours et qu'il en soit mis en possession et saisine par qui il appartiendra en vertu des présentes.

La présente vente est ainsi faite à la charge par le dit Jean Olivier Brunet de payer et acquitter de ses propres deniers et de manière à ce que le dit Louis Flavien Dufresne n'en soit jamais trouble, inquiété, ni recherché toutes les dettes et sommes d'argent quelconques qui peuvent rester deus aux commis, hommes et autres employés dans la dite Baie des Eskimaux pour le compte du dite feu Jacob Poser ou de sa succession vacante et que le dit Louis Flavien Dufresne s'était obligé de payer et acquitter en vertu du dit acte de

(Translation.)

Olivier Brunet, under the same exclusion of guarantee as above expressed, all the effects, provisions, goods and active debts which belonged to and depended from the succession of the said late Jacob Pozer in the said Esquimaux bay and which have been sold and conveyed to the said Louis Flavien Dufresne, together with all the other rights inherited by Claude Dénéchau, Esquire, in his quality of legally appointed curator of the vacant succession of the said late Jacob Pozer, pursuant to a deed of sale executed at Quebec before M^c Lelièvre and his confrere notaries at Quebec on the ninth of September one thousand eight hundred and twenty-five. A copy of which deed was delivered to the said Jean Olivier Brunet as acknowledged by him, whereof discharge.

The said rights and property conveyed to be enjoyed, used and disposed of by the said Jean Olivier Brunet, his heirs and assigns in the future, as his exclusive property and as he may deem proper, wherefore, the said Louis Flavien Dufresne substitutes him in his stead to his rights, claims, disseizing and dispossessing himself of all the said rights and being willing that the said Jean Olivier Brunet be put into possession of the same from this day forever by whom it may appertain in virtue of these presents.

The present sale is so made subject to the condition that the said Jean Olivier Brunet shall pay and discharge, out of his own monies and in such a manner that the said Louis Flavien Dufresne may never be disturbed, troubled nor called to account in respect of the same, all debts and any sum of money which may be owing to the clerk, men and other employees in the said Esquimaux bay for the account of the late Jacob Pozer or of his vacant succession and which the said Louis Flavien Dufresne has bound himself to pay and discharge in virtue of the said above

vingt trois. En outre à cette condition expresse que tous comptes existans entre les parties, à quelques titres que ce soit et puisse être, demeureront respectivement réglés, acquittés et quittancés jusqu'à ce jour par convention expresse entre les dites parties.

Enfin la présente vente est faite pour et en considération de la somme de quinze cents livres courant, que le dit Louis Flavien Dufresne reconnait et confesse avoir reçu à son entière satisfaction dès avant l'exécution des présentes—dont quittance générale.

Car ainsi &c. Dont acte, fait et passé à Québec en l'étude de M^{re} Louis Panet l'un des dits notaires, l'an mil huit cent vingt huit le vingt huit mars après midi—les dites parties ayant signé avec nous dits notaires après lecture faite.

L. F. DUFRESNE.

J. O. BRUNET

R. G. BELLEAU.

LS. PANET Not.

Lower Canada, Quebec

To the Honourables Justices of His majesty's court of King's Bench.

(Translation.)

mentioned deed of sale of the ninth September one thousand eight hundred and twenty-three. Further, to the explicit condition that all the existing accounts between the parties, of whatever nature they are and may be, shall stand settled, paid and discharged respectively, up to this day, by mutual agreement between the said parties.

Lastly the present sale is made for and in consideration of the sum of fifteen hundred pounds currency, which the said Flavien Louis Dufresne acknowledges and confesses having received to his entire satisfaction before the execution of these presents—whereof general discharge,

Thus &c., whereof act, done and executed at Quebec in the office of M^{re} Louis Panet one of the said notaries, in the year one thousand eight hundred and twenty-eight, the twenty-eighth of March in the afternoon—the said parties having signed with us said notaries, the presents having been read.

L. F. DUFRESNE

J. O. BRUNET

R. G. BELLEAU.

LS. PANET

Notary.

Quebec, Lower Canada.

To the Honourable Justices of His Majesty's Court of the King's Bench.

No. 1309.

**ROSE AND RITCHIE'S REPORT ON HUDSON'S BAY
COMPANY'S TITLES.**

[27 Dec., 1866.]

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Vide page 3506.

[2 Feby., 1829.]

No. 1310.

**DEED OF SALE, 3 FEBRUARY, 1829, BY JEAN
OLIVIER BRUNET TO WILLIAM LAMPSON,**

OF THE ESQUIMAUX BAY PROPERTIES.

—
ARCHIVES DE LA PROVINCE DE QUEBEC.

This indenture made at Quebec in the Province of Lower Canada the third day of February in the year of Our Lord one thousand eight hundred and twenty nine. Between Jean Olivier Brunet Esquire of the City of Quebec Merchant of the one part and William Lampson Esquire also of the City of Quebec Merchant of the other part witnesseth, that the said Jean Olivier Brunet did by virtue of a certain assignment entered into at Quebec on the twenty eighth day of March last between him the said Jean Olivier Brunet and one Flavien Dufresne Esquire of Quebec Advocate become possessed of certain large and extensive premises with fishing and hunting establishment situate lying and being in the Bay commonly called la Baie des Esquimaux consisting of fishing establishment situations and locations houses, stores, hangards, boats chaloupes nets and other fishing apparatus furniture and hunting materials and articles. All of which were in the actual possession and accordingly enjoyed by the said Flavien Dufresne in consequence and by virtue of an assignment which was made to him of the said premises by and from Claude Dénéchau Esquire of the parish of Berthier who acted in that behalf in his quality of curator to the vacant succession of the late Jacob Pozer in his lifetime of Quebec Merchant as appears by the said assignment bearing date at Quebec the ninth day of the month of September

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which was in the year of Our Lord one thousand eight hundred and twenty three and remaining of record in the office of Roger Lelièvre of Quebec Notary Public which said premises were enjoyed by the said Jacob Pozer and the Ancestors of the said Jacob Pozer by titles and have been in their actual

possession and enjoyed by them for and during the last fifty years and upwards. Now these presents witness that the said Jean Olivier Brunet as well for the consideration hereinafter mentioned as also for divers other good causes and considerations him the said Jean Olivier Brunet hereunto moving he the said Jean Olivier Brunet hath assigned transferred ceded abandoned and made over and by these presents he doth assign transfer cede abandon and make over without any other guarantee than that under which the said Jean Olivier Brunet enjoys & possesses the property & premises hereinafter described by virtue of his title transport from the said Flavien Dufresne unto the said William Lampson his heirs and assigns that is to say : all the rights of possession enjoyment jouissance and other rights of what kind or description soever that he the said Jean Olivier Brunet, Flavien Dufresne, Jacob Pozer and others from whom they claimed and became invested with his enjoyment and possession of the said premises hereinafter described had or might have had in and to the said establishments the said large tract of land & premises with fishing and hunting establishments situate lying and being in the Bay commonly called la Baie des Esquimaux consisting of fishing establishments situations and locations, houses, stores, hangards, boats, chaloupes, nets and other fishing apparatus furniture and hunting materials and articles together and with all and every part and parcel thereof belonging or in any wise appurtenant with also all the estate, right, title, interest, property, claim and demand whatsoever of him the said Jean Olivier Brunet of, in and unto the said premises or any part or parcel thereof as enjoyed by the said Jean Olivier Brunet and others in possession thereof from whom the said Jean Olivier Brunet acquired and became possessed of the same. And these presents further witness that the said Jean Olivier Brunet for the said considerations assigns transfers and makes over and by these presents doth assign transfer and make over unto the said William Lampson all the goods, property, effects, provisions merchandise, furs, fish, oil, household furniture, Indian debts claims & demands stock of goods utensils & implements whatsoever due owing or in any wise belonging to the said Jean Olivier Brunet as well in his own name as for & in his quality of legal representative of the persons formerly in possession of the said premises by virtue of the transfers and assignments of the said to him the said Jean Olivier Brunet made and granted in due form of law. To have and to hold the said premises with the said fishing and hunting establishments houses stores hangards boats chaloupes nets and other fishing apparatus furniture and hunting materials and articles, stock of goods utensils implements, property effects provisions merchandise furs, fish, oil, household furniture Indian debts claims and demands whatsoever and other the premises before by these presents assigned, transferred and made over or intended to be hereby assigned, transferred and made over and the issues and profits, and every part and parcel thereof with their and every of their appur-

tenances unto the said William Lampson his heirs and assigns in as full ample and beneficial or manner to all intents and purposes as he the said Jean Olivier Brunet hath enjoyed the same and doth now to all intents and purposes enjoy & possess the said premises now transferred assigned & made over or intended to be by these presents assigned transferred and made over. It is further agreed and concluded by & between the said parties that should any of the clerks or other persons in the employ and service of the said Jean Olivier Brunet have sold or disposed of any of the goods effects property or returns belonging to the said Jean Olivier Brunet situate upon the said premises or elsewhere but belonging or appurtenant to the establishment and premises now sold that the proceeds of the sale of the property fish, fur, oil or other articles arising from the disposal of any of the said goods effects property or returns now at the said Baie des Esquimaux shall and will be delivered and put into the possession of the said William Lampson or his agent or assigns as part and parcel of the premises now assigned transferred and made over or intended to be assigned transferred and made over and further the said Jean Olivier Brunet doth hereby oblige himself and guarantee to the said William Lampson the true & bona fide delivery of all the stock of goods effects provisions merchandise furs, fish, oil, household furniture, Indian debts claims and demands stock, utensils and implements fishing apparatus houses stores hangards boats chaloupes, nets hunting materials & every thing connected with or belonging to the said establishment due owing or belonging to the said Jean Olivier Brunet situate at the said Bay commonly called La Baie des Esquimaux now in the possession & custody of the Clerks Agents & workmen of the said Jean Olivier Brunet. And the said Jean Olivier Brunet did and by these presents doth further bind & oblige himself to pay & liquidate all servants & clerks wages & other debts and demands due & owing by him the said Jean Olivier Brunet to the first day of the month of May now next ensuing without the said William Lampson being troubled or *inquiété* for the same or any part thereof and also the said Jean Olivier Brunet doth guarantee the said William Lampson of and from all claims dues or demands that may be due owing or payable to any person or persons with whom the said Jean Olivier Brunet may have associated himself for the purpose of carrying on the fishing & hunting operations & business at the said Bay. It is further agreed by and between the said parties that all debts and sums of money now due & owing to the said Jean Olivier Brunet after a settlement of accounts whether by his associates adventurers clerks or workmen so far as respects the said establishment & premises at the said Bay des Esquimaux but without any guarantee shall and will be paid to the said William Lampson by the said associates adventurers clerks & workmen. It is further agreed by & between the said parties that the said Jean Olivier Brunet did and by these presents doth declare that he, the said Jean Olivier Brunet hath no partners or

associates in the premises now assigned transferred and made over who have any right interest or claim in the said premises further known in the profits thereof for the current year and the said Jean Olivier Brunet doth oblige himself to guarantee the said William Lampson of and from any claims & demands whatsoever of the said partners

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or associates and to settle with such partners for such profits if any himself without the said William Lampson being troubled or inquieté by any such partner or partners, associate or associates de modo that the said William Lampson shall & will be & he is by these presents invested with the whole possession property estate & premises of the said Jean Olivier Brunet situate at the said Bay des Esquimaux and that free & clear of all debts servants wages or other obligations contracted or entered into by the said Jean Olivier Brunet his agents clerks servants associates or partners. The present transfer is made for and in consideration of the sum of three thousand five hundred pounds current money of this province of which sum the said William Lampson hath paid to the said Jean Olivier Brunet at & before the execution of these presents the sum of eight hundred pounds current money aforesaid the receipt & payment of which the said Jean Olivier Brunet did & by these presents doth acknowledge and accordingly discharges the said William Lampson of so much on account and the said William Lampson hath also delivered to the said Jean Olivier Brunet his three several promissory notes bearing date in the three presents one of which for the sum of three hundred & thirty five pounds current money of this province payable in ninety days from this date & payable to the order of the said Jean Olivier Brunet, another for the sum of five hundred pounds current money of this province payable in four months from this date & payable to the order of the said Jean Olivier Brunet and the last for the sum of three hundred and seventy five pounds current money aforesaid payable in five months from this date to the order of the said Jean Olivier Brunet the receipt & delivery of which said notes the said Jean Olivier Brunet did and by these presents doth acknowledge which with the former sum by him the said Jean Olivier Brunet received as aforesaid forms in all the sum of two thousand pounds current money of this province on account of the present contract dont quittance accordingly. And with respect to the balance or sum of one thousand five hundred pounds current money of this province it is agreed that the said William Lampson shall & will pay the same to the said Jean Olivier Brunet upon his giving & delivering to the said William Lampson a discharge quittance from the said Jean Olivier Brunet clerks workmen agents associate or associates partner or partners or other persons whomsoever having any transaction or business relating or connected with the premises now assigned transferred & made over as aforesaid or intended so to be or upon the said Jean Olivier Brunet giving an indemnity in favour of the said William Lampson of and from

any such claims dues or demands that may be made by the said clerks workmen agents, associate or associates partner or partners or other persons whomsoever having any transaction or business relating or connected with the said premises in manner & form following that is to say : the sum of five hundred pounds on the first day of September next a like sum on the first day of October next and the balance or like sum of five hundred pounds on the first day of April which will be in the year of Our Lord one thousand eight hundred and thirty.

And the said Jean Olivier Brunet did and by these presents doth moreover bind & oblige himself from time to time and all times hereafter at the reason-

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able request costs & charges in the lieu of the said William Lampson to do acknowledge suffer and execute or cause and procure to be made done acknowledged and executed all and every such further and other lawful and reasonable act and acts for the further better and more absolutely conveying & assuring unto the said William Lampson his heirs & assigns all the rights pretentions claims and demands of him the said Jean Olivier Brunet aforesaid to the premises now transferred & assigned or intended so to be hereby assigned transferred & made over unto the said William Lampson his heirs and assigns. In witness whereof the said Jean Olivier Brunet and the said William Lampson have to these presents set and subscribed their respective names signatures & seals at the city of Quebec in the province of Lower Canada on the day month & year first above written.

J. O. BRUNET
WM. LAMPSON

Signed, sealed & delivered in the presence of

GEORGE ROBERTS F. PADER

In testimonium venter

[7 Jan., 1832.]

ARCH. CAMPBELL,
His Majesty's Notary & Notary Public.

No. 1311.

C

**DEED OF SALE BY WM. LAMPSON, 7 JANUARY, 1832,
TO NATHANIEL JONES,**

OF FISHING ESTABLISHMENTS AT ESQUIMAUX BAY.

ARCHIVES DE LA PROVINCE DE QUEBEC. ORIGINAL FOUND IN THE
MINUTES OF THE LATE ARCHIBALD CAMPBELL

This Indenture made at Quebec in the Province of Lower Canada, the seventh day of January, one thousand eight

hundred and thirty two, Between William Lampson, esquire of Quebec, merchant, of the one part, and Nathaniel Jones, esquire of Quebec aforesaid, merchant of the other part, witnesseth that the said William Lampson as well for the considerations hereinafter mentioned, as also for divers other good causes and considerations him moving hath granted, bargained, remised, released and for ever quitted claim and confirmed & by these presents doth grant, bargain, remise, release and for ever quit claim and confirm unto the said Nathaniel Jones, his heirs and assigns, all the rights, of possession, enjoyment, jouissance and other rights of what kind or description soever which he the said William Lampson now hath or can claim in and to all that large tract of land and premises with fishing and hunting establishments situate, lying and being in the Bay com-

monly called La Baie des Esquimaux, consisting of fishing and hunting establishments, houses, stoves, hangards, boats, chaloupes, nets and other fishing apparatus, furniture and other hunting materials and articles belonging or in any wise appertaining, with all the Estate, right title, interest, property, claim and demand whatsoever of him the said William Lampson, of in and unto the said premises or any part thereof as enjoyed by the said William Lampson, under the title derived by him from Jean Olivier Brunet by deed bearing date at Quebec, the third day of February, one thousand eight hundred and twenty nine, and remaining of record in the office of Archibald Campbell of Quebec, His Majesty's Notary, and all the goods, property, effects, provisions, merchandise, furs, fish, oil, household furniture, indian debts, claims and demands, stock of goods, utensils and implements whatsoever due, owing or in anywise belonging or appertaining to the said William Lampson, at the said Bay. To have and to hold the said premises, with the said fishing and hunting establishments, houses, stores, hangards, boats, chaloupes, nets, and other fishing apparatus, furniture and hunting materials and articles, stock of goods, utensils, implements, property, effects, provisions, merchandize, furs, fish, oil, household furniture, indian debts, claims and demands whatsoever and other the premises by these presents assigned, transferred and made over or intended so to be, and the issues and profits and every part and parcel thereof with their and every of their appurtenances unto the said Nathaniel Jones, his heirs and assigns, in as full, ample and beneficial a manner to all intents and purposes, as he the said William Lampson hath enjoyed the same and doth now enjoy and possess the said premises now transferred, assigned and made over or intended so by these presents to be. It is further agreed and concluded by and between the said parties that should any of the clerks or other persons in the employ and service of the said William Lampson have sold or disposed of any of the goods, effects, property or returns belonging to the said William Lampson, situate upon the said premises or elsewhere, but belonging or appertaining to the establishment and premises now sold, that the proceeds of the sales or the property, fish, furs, oils or other articles arising from the disposal of any of the said goods, effects, property or returns now at the said Baie des Esquimaux, shall and will be delivered and put into the possession of the said Nathaniel Jones or his agent or assigns, as part and parcel of the premises now assigned, transferred and made over or intended to be assigned, transferred and made over. And further the said William Lampson doth hereby guarantee to the said Nathaniel Jones the true and faithful delivery of all the stock of goods, effects, provisions, merchandize, furs, fish, oil, household furniture, indian debts, claims and demands, stock, utensils and implements, fishing apparatus, houses, stores, hangards, boats, chaloupes, nets,

hunting materials, and everything connected with or belonging to the said establishment due, owing or belonging to the said William Lampson, situate at said Baie des Esquimaux, now in the possession and custody of the clerks, agents or workmen of the said William Lampson. And the said William Lampson did and by these presents doth further bind and oblige himself to pay and liquidate all servants' and clerks' wages, and

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other debts and demands due and owing by him the said William Lampson, to the first day of January, instant, without the said Nathaniel Jones being troubled or “ iniquité ” for the same or any part thereof. And also the said William Lampson doth guarantee and assure the said Nathaniel Jones of and from all claims dues, or demands that may be due owing or payable to any person or persons with whom the said William Lampson may have associated himself for the purpose of carrying on the fishing and hunting operations and business at the said Bay. And it is further agreed by and between the said parties that all debts and sums of money now due and owing to the said William Lampson upon a settlement of accounts whether by his adventures, clerks or workmen, so far as respects the said establishment and premises at the said Baie des Esquimaux but without any guarantee, shall and will be paid to the said Nathaniel Jones by the said adventurers, clerks, or workmen. The Present transfer is made for and in consideration of the sum of Two thousand five hundred pounds current money of this province, paid before the execution hereof, the receipt whereof he the said William Lampson doth hereby acknowledge and therefrom doth hereby for ever acquit and discharge the said Nathaniel Jones, his heirs and assigns, And the said William Lampson did and by these presents doth moreover bind and oblige himself from time to time and at all times hereafter, at the reasonable request costs and charges in the law, of the said Nathaniel Jones to do acknowledge, suffer and execute or cause and procure to be made, done and acknowledged, suffered and executed all and every such further and other lawful and reasonable act and acts for the further, better and more absolutely conveying and assuring unto the said Nathaniel Jones, his heirs and assigns, all the rights, pretensions, claims or demands of him the said William Lampson of in and to the premises now transferred and assigned or intended so to be unto the said Nathaniel Jones, his heirs, and assigns. And the said William Lampson doth further covenant and declare that he now hath good right, full power and lawful authority to grant, bargain, sell, release and assure all and singular the said premises mentioned to be hereby granted and released with the appurtenances, unto and to the use of the said Nathaniel Jones, his heirs and assigns in manner aforesaid, according to the true intent and meaning of these presents. And further that he the said Nathaniel Jones and his heirs shall and may at all times for ever hereafter peaceably and quietly have, hold, occupy, possess and enjoy the said tract of land, with the fishing and hunting establishments, houses,

stores, hangards, boats, chaloupes, nets, and other fishing apparatus, furniture and other hunting materials and articles, and all and every other the premises mentioned to be hereby granted and released and receive and take the rents, issues and profits thereof to and for his and their own use and uses, without the let, suit hindrance interruption or denial of the said William Lampson or the heirs of the said William Lampson or of any other persons claiming or to claim by from or under them and that free and clear and freely and clearly acquitted exonerated or discharged or otherwise by the said William Lampson or the heirs of the said Wm. Lampson well and sufficiently saved harmless and kept indemnified of from and against all and all manner of former and

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other gifts, grants, bargains, sales, leases, mortgages, surrenders, forfeitures, rents, arrears of rent, dowers and titles of dower, statutes, judgments, executions, estates, titles, charges and incumbrances whatsoever, made, done, committed or executed by the said William Lampson, or by any other persons through, by, or with his consent, privity or procurement. And in order that the assignment and transfer now made in favor of the said Nathaniel Jones may have its due and complete effect in law, and that such further acts, deeds, assignments and conveyances may be made, as the said Nathaniel Jones or his Counsel may require, he, the said William Lampson did and by these presents doth name, constitute and appoint David Tasker, esquire of Newfoundland, merchant, and John Sinclair of the same place, gentleman, jointly, and either of them seperately his due and lawful attornies or attorney, for him, the said William Lampson, and in his name, to sign, seal and execute all and every such further and other lawful act, and acts, thing and things, conveyances and assurances for perfecting such sale or sales of the premises aforesaid or of any part thereof to the said Nathaniel Jones, his heirs and assigns, as shall be necessary and requisite, and as shall be reasonably devized, or advised and required, and with power to enregister the present Indenture and assignment, or the assignment or conveyance that may be made by the said Attornies jointly or separately, hereby ratifying, allowing and confirming all and whatsoever his said Attornies jointly or either of them separately shall do or can be done in and touching the premises.

In Witness whereof the said parties have hereunto set their hands and seals at Quebec, the day, month and Year first above written.

WM. LAMPSON
NATH. JONES

Signed, sealed and delivered
in the presence of
TOM ROBERTS ?

In Testimonium Veritatis

ARCH. CAMPBELL, His Majesty's notary.

AUGUSTUS SEWELL

A. M. B. DEBLOIS, N.P.

Received from Nathaniel Jones, esq., the sum of Two thousand five hundred pounds, Halifax Currency, being the amount of the consideration money mentioned in the foregoing Indenture

WM. LAMPSON

Quebec, January 7th, 1832

TOM ROBERTS ?

Witness

AUGUSTUS SEWELL

A. M. B. DEBLOIS, N.P.

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No. 1312.

**DEED OF SALE, 4 FEBRUARY, 1835,
NATHANIEL JONES TO DAVID RAMSAY STEWART,**

[4 Feby., 1835.]

OF THE FISHING AND HUNTING ESTABLISHMENTS AT ESQUIMAUX BAY.

ARCHIVES DE LA PROVINCE DE QUEBEC. ORIGINAL FOUND IN THE
MINUTES OF THE LATE ARCHIBALD CAMPBELL.

This Indenture, made at the city of Quebec in the Province of Lower Canada the fourth day of February in the year of Our Lord one thousand eight hundred and thirty five, between Nathaniel Jones of the city of Montreal, in the said Province, Esquire, of the one part and David Ramsay Stewart of the city of Quebec aforesaid merchant of the other part, Witnesseth that the said Nathaniel Jones, as well for the considerations hereinafter mentioned, as also for divers other good causes and considerations him hereunto moving, hath granted, bargained, received, released and for ever quitted claim and confirmed, and by these presents doth grant, bargain, sell, receive, release, and for ever quit claim and confirm, unto the said David Ramsay Stewart his heirs and assigns, all the rights of possession enjoyment, jouissance, and other rights of that kind or description soever which he the said Nathaniel Jones now hath or can claim in and to all that large tract of land and premises with fishing and hunting establishments situate lying and being in the Bay commonly called La Baie des Esquimaux consisting of fishing and hunting establishments, houses, stores, hangards, boats, chaloupes, nets and other fishing apparatus, furniture and hunting materials, and articles belonging or in any wise appertaining, with all the Estate, right, title, interest, property, claim and demand whatsoever of him the said Nathaniel Jones, of in and unto the said premises or any part thereof as enjoyed by William Lampson of Quebec, merchant, under the title derived by him from Jean Olivier Brunet by deed bearing date at Quebec the third day of February one thousand eight hundred and twenty nine, remaining of record in the Office of Archibald Campbell of Quebec, His Majesty's Notary, and all goods, property, effects provisions, merchandize, furs, fish, oil, household furniture, Indian debts, claims and demands, stock of goods, utensils and implements whatsoever due owing or in anywise belonging or appertaining to the said Nathaniel Jones at the said Bay purchased by him of & from the said William Lampson by Indenture of bargain and sale, bearing date at Quebec aforesaid, the Seventh day of January in the year One thousand eight hundred and thirty two, or since acquired by him the said Nathaniel Jones. To have and to hold the said premises, with the fishing and hunting establishments, houses, stores, hangards, boats, chaloupes, nets and other fishing

apparatus furniture and hunting materials and articles, stock of goods, utensils, implements, property, effects, provisions, merchandize, furs, fish, oils, household furniture, Indian debts, claims and demands whatsoever and other the premises by these presents

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assigned, transferred and made over or intended so to be, and the issue and profits and every part and parcel thereof, with their and every of their appurtenances unto the said David Ramsay Stewart his heirs and assigns, in as full, ample and beneficial a manner to all interests & purposes as he the said Nathaniel Jones hath enjoyed the same and both now enjoy and possess the said premises now transferred, assigned and made over or intended so to be by these presents. And it is further concluded and agreed by and between the said parties that should any of the clerks or persons in the employ of the said Nathaniel Jones have sold or disposed of any of the goods, property or returns belonging to the said Nathaniel Jones situate upon the said premises or elsewhere, but belonging or appertaining to the establishment and premises now sold, that the proceeds of the sales, and the property, fish, furs, oil or other articles arising from the disposal of any of the said goods, effects, property or return now at the said Baie des Esquimaux shall and will be delivered & put into the possession of the said David Ramsay Stewart or his agent or assigns, as part and parcel of the premises now assigned, transferred and made over or intended to be assigned transferred and made over. And it is further concluded and agreed upon by & between the said parties that all debts and sums of money now due and owing to the said Nathaniel Jones upon settlement of accounts whether by his adventures, clerks or workmen or others so far as respects the said establishment and premises, at the said Baie des Esquimaux, but without any guarantee, shall & will be paid to the said David Ramsay Stewart to the said adventures, clerks or workmen or others and the same are hereby transferred and assigned by the said Nathaniel Jones to the said David Ramsay Stewart. And further the said Nathaniel Jones doth hereby guarantee to the said David Ramsay Stewart the true & faithful delivery of all the stock of goods, effects, provisions, merchandize, furs, fish, oil, household furniture, Indian debts, claims and demands, stock utensils & implements, fishing apparatus, houses, stores, hangards, boats, chaloupes nets, hunting material & every thing connected with or belonging to the said Nathaniel Jones situate at said Baie des Esquimaux now in the possession and custody of the clerks, of the said Nathaniel Jones. And also the said Nathaniel Jones doth guarantee and assure the said David Ramsay Stewart of & from all claims dues or demands that may be due owing or payable to any person or persons with whom the said Nathaniel Jones may have associated himself for the purpose of carrying on the fishing and hunting operations and other business at the said Bay or elsewhere & against all or any claim or claims, or demands of his partners

in the late Firm of H. Gates & Co. or of Jones Murray & Co. or of their creditors or assigns & also against all claims or demands of any person or persons having made advances of monies or goods for the use of or as outfits for the said Ports & trade at the said Baie des Esquimaux and these presents further witness this sale and transfer hereby made is so made for and in consideration of the sum of two thousand five hundred pounds current money of the said Province paid before the execution hereof the receipt whereof lie the said Nathaniel Jones doth hereby acknowledge and therefrom doth for ever acquit and discharge the said David Ramsay Stewart his heirs &

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assigns ; and the said Nathaniel Jones did and by these presents doth moreover bind and oblige himself from time to time, and at all times hereafter at the reasonable request, costs and charges in the law of the said David Ramsay Stewart, to do acknowledge, suffer and execute, or cause and procure to be done, acknowledged, suffered and executed, all & every further and other lawful and reasonable act and acts for the further better and more absolutely conveying and assuring unto the said David Ramsay Stewart his heirs and assigns, all the rights, pretensions, claims or demands of him the said Nathaniel Jones of in and to the premises now transferred and assigned or intended so to be unto the said David Ramsay Stewart his heirs and assigns. And the said Nathaniel Jones doth further covenant and declare that he the said David Ramsay Stewart and his heirs and assigns shall and may at all times hereafter ever peaceably and quietly have, hold, occupy, possess and enjoy the said tract of land with the property the fishing and hunting establishments, houses, stores, hangards, boats, chaloupes, nets and other fishing apparatus, furniture & hunting materials and articles, and all and every other the premises mentioned to be hereby granted and released and receive and take the rents issues and profits thereof, to and for his and their own use and uses, without the let, suit interruption or denial of the said Nathaniel Jones or the heirs of the said Nathaniel Jones or of any other person claiming or to claim by from or under him or them ; Provided always and it is hereby expressly agreed by & between the said parties that he the said Nathaniel Jones shall not be bound in any manner to guarantee the said David Ramsay Stewart, his heirs and assigns against any eviction from and out of the said tract of land and premises of which the enjoyment is hereby transferred nor against any claims or demand whatsoever which may be made against or by reason of the same, or other the things and debts hereby assigned, unless such eviction claim or demand shall be out of the proper act and doing of him the said Nathaniel Jones (ses faits et promesses seulement).

In witness whereof the said Parties have hereunto set their hands & seals at Quebec the day month & year first above written.

NATHANIEL JONES
D. R. STEWART

Signed sealed and delivered
in the presence of

AUGUSTUS SEWELL
MICHEL PAQUET

of Quebec writer Etudiant on droit à Québec.

In testimonium Meritatis

ARCH. CAMPBELL, Not. Pub.

No. 1313.

**KEITH TO SIMPSON, 25 APRIL, 1835,
re AGREEMENT WITH LAMPSON,**

[25 April, 1835.]

re NON-INTERFERENCE WITH LAMPSON'S TRADE AT ESQUIMAUX BAY.

HUDSON'S BAY COMPANY'S RECORDS. SIR GEORGE SIMPSON'S
CORRESPONDENCE, No. 1219

Extract from letter from James Keith to Governor Simpson,
dated Lachine 25. April 1835.

. “ At the time of passing the agreement with Mr.
Bullock for the transfer of the Kings Posts, another agreement
was entered into with Mr. Lampson then proprietor of certain
Trading Posts in Esquimaux Bay, by which we reciprocally
engaged not to interfere with or molest the Trades carried on at
the Kings Posts and at Esquimaux Bay, owned by each
Concern respectively : this agreement however having ceased
to be in force, since Lampsons transfer to Mr. Jones of the
Posts in Esquimaux Bay I will have early communication with
Mr. T. Cumming accordingly.”

[19 April, 1865.]

No. 1314.

**ASSIGNMENT, 1865, OF SNOOK'S COVE POST BY
CHARLES HUNT TO THE HUDSON'S BAY
COMPANY, 19 APRIL.**

HUDSON'S BAY COMPANY'S RECORDS.

Extract from Assignment of Property at Hamilton Inlet,
Labrador. Chas.

Hunt to Hudson's Bay Company, 19th April 1865.

I, Charles Hunt, of the city of London and Labrador,
Merchant, trading under the firm of Hunt & Henley, in
consideration of four hundred pounds the receipt of which I do
hereby acknowledge, Do hereby sell, assign and transfer to the
Honorable the Hudson's Bay Company of London all my
trading and fishing establishment at Snooks Cove in Hamilton
Inlet on the said Coast of Labrador and all the Salmon and
Sealing Posts and furring grounds held by me in said Hamilton
Inlet and all buildings, boats and fishing tackle and other
implements and appurtenances, upon or belonging to said
establishment posts and hunting grounds To hold to the said
Company their successors and assigns as on and from the
thirtieth day of September One thousand eight hundred and
sixty four.

Dated at London this nineteenth day of April One
thousand eight hundred and sixty five.

&c. &c.

(Signed) CHAS. HUNT.

[8 May, 1869.]

No. 1315.**EXTRACT FROM DEED OF SALE BY A. B. HUNT TO
HUDSON'S BAY COMPANY OF DAVIS INLET AND
PAULS ISLAND POSTS, 8 MAY, 1869,**

HUDSON'S BAY COMPANY'S RECORDS.

I, Arthur Brock Hunt, of 26, New Broad Street in the City of London. Merchant, trading under the firm of A. B. Hunt & Co., in consideration of Five hundred Pounds, the receipt of which I do hereby acknowledge, Do hereby sell, assign and transfer unto the Governor and Company of Adventurers of England trading into Hudson's Bay, commonly known as the Hudson's Bay Company of London. All the fishing and trading establishment held by or belonging to me, the said Arthur Brock Hunt, at Davis Inlet on the coast of Labrador. And the post or establishment at Pauls Island on the said coast now in the occupation of John Ford with the houses wharves and all other buildings and the fixtures attached to the same also the salmon and other posts and the buildings thereon held by me the said Arthur Brock Hunt in connection with the said establishments To hold to the said Governor and Company their successors and assigns as on and from the thirty first day of August. One thousand eight hundred and sixty nine. Dated in London this eighth day of May, One thousand eight hundred and sixty nine.

&c. &c.

(Sgd.) A.B. HUNT.

[15 Oct., 1873.]

No. 1315.**DEED OF ASSIGNMENT, 15 OCTOBER, 1873,
HUNT TO HUDSON'S BAY COMPANY,**OF SANDWICH BAY, ROUND ISLAND, GREADY HARBOUR AND
SANDHILL POSTS.

HUDSON'S BAY COMPANY'S RECORDS.

Deed of Assignment between Arthur Brock Hunt and Hudson's
Bay Company.

“ I, Arthur Brock Hunt of 21 Great Saint Helens in the City of London, Merchant, trading under the firm of A. B. Hunt & Co. in consideration of two thousand pounds the receipt of which I do hereby acknowledge do hereby sell assign and transfer unto the Governor and Company of Adventurers of England trading into Hudson's Bay commonly known as the Hudson's Bay Company of London all the fishing and trading establishments held by or belonging to me the said Arthur Brock Hunt in and at Sandwich Bay, Round Island, Grady [Gready] Harbor and Sandhill on the Coast of Labrador, with the houses, wharves and all other buildings and the fixtures attached to the same held by me the said Arthur Brock Hunt to hold to the said Governor and Company their successors and assigns as on and from the fifteenth day of October one thousand eight hundred and seventy-three.

ARTHUR BROCK HUNT.

Signed by the said Arthur Brock Hunt in the presence of

S. CRZUSAZ Clerks to Messrs. Ridgway Bros. Notaries
28 Royal Exchange, London

GEO. WEBB

Received this twentieth day of December one thousand eight hundred and seventy-three the sum of Two thousand pounds being the consideration money named in the above written transfer.

A. B. HUNT.

SEIGNIORY OF ANTICOSTI.

[29 April, 1676.]

No. 1317.**CONCESSION, 29 APRIL, 1676, TO RADISSON AND
DESGROSELIERS,**

OF THE EXCLUSIVE PRIVILEGE OF TAKING SEALS ON ANTICOSTI.

REGISTERS OF THE CONSEIL SOUVERAIN, QUEBEC.

Privilège pour établir sur le fleuve Saint Laurent en la nouvelle
 france la pesche du marsouin blanc et loup marin, en
 faveur des Sieurs Desgroseliers et Radisson.

A Saint Germain

le bi^e Avril 1676.

Louis par la grace de Dieu Roy de franco et de Navarre, à
 tous ceux qui les présente verront, salut, nos chers et bien amés
 Medard Chouart Sieur Desgroseliers, et Pierre Esprit de
 Radisson nous ont très humblement fait remontrer qu'ayant fait
 divers voyages dans les pays estrangers, ils se sont acquis des
 lumières particulières au fait du commerce, et particulièrement
 pour faire la pesche du marsouin blanc a laquelle les matelots
 de Nostre Royaume ne se sont jamais appliqué faute de
 connaissance, et comme la

(Translation.)

CONCESSION OF THE WHITE PORPOISE AND SEAL FISHERY ON THE ST. LAWRENCE RIVER
 IN NEW FRANCE, IN FAVOUR OF THE SIEURS DESGROSELIEURS AND RADISSON.

St. Germain

29 April, 1676.

Louis, by the Grace of God, King of France and Navarre, to all to whom these
 presents may come, greeting, our dear and beloved Medard Chouart, Sieur Desgroseliers,
 and Pierre Esprit Radisson have humbly represented to us that having made several journeys
 in foreign countries, they have acquired particular information in connection With
 commerce and especially as to the white porpoise fishery which the seamen of our Kingdom
 have never undertaken for want of

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dite pesche dans le fleuve de Saint Laurent en la nouvelle
 france seroit d'une très grande utilité à nos sujets du dit pays, et
 à ceux de nostre royaume, les dits exposants nous ont fait
 proposer de L'establir dans le dit fleuve de Saint Laurens, s'il
 nous plaisait leur en accorder la permission ensemble pour la

pesche du loup marin dans l'isle d'Anticosty seulement, à l'exclusion de tous autres pendant trente années. A ces causes d l'avis de nostre Conseil nous avons par ces presentes signées de nostre main, permis et accordé, permettons et accordons aus dits Desgroseliers et Radisson, d'establir tel nombre de vaisseaux, batteaux, barques que bon leur sembera dans le fleuve de Saint Laurent en la nouvelle franco, depuis l'isle d'Anticosty, icelle comprise jusques à Montreal, pour y faire la pesche du marsouin blanc, et celle du loup marin, dans l'isle d'Anticosty seulement, mesme d'entrer dans toutes les Bayes et Rivières, qui bordent et tombent dans le dit fleuve pour faire la dite pesche, faisant très expresses inhibitions et deffenses a toutes personnes de quelque qualité et condition qu'elles soient, d'y troubler ny inquieter les dits exposans, ny de s'immitter à faire la pesche du marsouin blanc dans l'étendue du dit fleuve Saint Laurent, Bayes et Riviers qui abordant et tombent dans iceluy en quelque sorte et maniere que ce soit, ny la pesche du loup marin dans la dite isle d'Anticosty, pendant vingt années sans la permission des dits exposans, a peine de confiscation des batteaux, barques, filets et autres choses servans à la dite pesche et deux mil livres d'amande applicable moitié à l'hospital de Quebec et l'autre moitié aux exposans, sans néanmoins qu'ils puissent empescher les habitants du dit pays de la nouvelle france de continuer à faire leur pesche ordinaire au dit loup marin dans les autres lieux tout ainsy qu'a l'accoustumée, Voulons néanmoins que les Seigneurs des terres qui bordent

(Translation.)

experience, and as the said fishery in the St. Lawrence river in New France would be most profitable for our subjects in the said country and those in our Kingdom, the said petitioners caused to be submitted to us their proposal for the setting up in the said St. Lawrence river, should we be pleased to grant them the permission thereof jointly, of a seal fishery in the island of Anticosty solely, to the exclusion of any other for a term of thirty years. Therefore, with the advice of our Council we have, by these presents signed with our hand, permitted and allowed, do permit and allow the said Desgroseliers and Radisson to fit up such a number of vessels, batteaux and barques as they may deem proper in the St. Lawrence river in New France, from the island of Anticosty, inclusive, as far as Montreal, to carry on thereat the white porpoise fishery, and the [fishery] of seal in the island of Anticosty only, likewise to enter any bay or river which borders and empties into the said river to carry on the said fishery, we expressly prohibiting any person of whatever quality and condition they may be, from disturbing or annoying the said petitioners, or from interfering with the white porpoise fishery in the extent of the said St. Lawrence river, bays and rivers bordering and emptying therein, in any way or manner whatsoever, nor with the seal fishery in the island of Anticosty aforesaid, for a space of twenty years, unless authorized by the said petitioners, under pain of confiscation of any batteaux, barques, nets and other things used for the said fishery, and of a fine of two thousand livres payable one half to the hospital in Quebec and the other half to the petitioners, without nevertheless they being empowered to prevent the inhabitants of the said country of New France from going on with their usual said seal fishery in other places according to the custom. Nevertheless it is our desire that the Seigniors of lands bordering the said

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le dit fleuve Saint Laurent, et les Bayes et rivières qui y tombent ne puissent prétendre comme épaves, et les marsouins qui pourront eschapper des filets exposans, et être jetter a la

coste morts ou blessés laquelle présente permission nous avons accordé aux dits exposans à la charge qu'ils commenceront la dite pesche du marsouin blanc et loup marin dans le courant de la presente année et la continueront incessamment pendant les dites vingt années, a peine de nullité des presentes, si donnons en mandement à nos amis et féaux les gens étenant nostre conseil souverain à Quebec, que ces présentes ils ayent à faire lire et enregistrer et du contenu en icelles faire jouir et user les dits exposans pleinement et paisiblement cessant et faisant cesser tous troubles et empeschement qu contraire. Car tel est nostre plaisir.

Donné, &c.,

(No signature.)

(Translation.)

St. Lawrence river be not entitled to claim as floatsam such porpoises as may escape from the petitioners' nets as well as those that may be washed ashore dead or wounded ; which permission we have given to the said petitioners upon the condition that they begin the said white porpoise and seal fishery in the course of the present year and shall carry on the same continuous during the said twenty years, under pain of these presents being void ; we do require our trusty and well-beloved the members of our Sovereign Council at Quebec to cause these presents to be read and registered, and the terms thereof to be enjoyed and used by the said petitioners fully and peacefully, forbearing front and putting a stop to all hindrances and disturbances to the contrary. For such is our pleasure.

Given &c.,

(No signature)

[March, 1680.]

No. 1318.

C

**CONCESSION BY INTENDANT DUCHESNEAU,
MARCH 1680, OF ANTICOSTI SEIGNIORY TO LOUIS
JOLLIET.**

REGISTERS OF THE COUSEIL SOUVEREIGN, BOOK 2, FOLIO 3, VERSO.

Jacques Duchesneau, Chevallier, Conseiller du Roy en ses Conseils, Intendant de la Justice police, et finances en Canada, Acadie, Terre Neuve, et autres pais de la France Septentrionale, a tous ceux qui ces presentes Lettres verront Salut sçavoir faisons que sur le Requeste a nous présentée par la

(Translation.)

Jacques Duchesneau, Knight, King's Councillor, Intendant de la Justice, Police and Finance in Canada, Acadia, Newfoundland, and other countries of France Septentrionale. To all to whom these presents may come, greeting. We do hereby make known that, on the petition presented to

Sieur Louis Jolliet demeurant a Quebec, a ce qu'il nous pleust luy voulloir accorder en tiltee de fief, seigneurie, haulte moyenne et basse justice, l'Isle d'Anticosty sc̄itue a l'emboucheure due fleuve St. Laurens, dans laquelle il desircroit faire des establissemens de pesche de molue verte et seiche, huiles de loups marins et de ballaines, et par ce moyen commercer en ce pais, et dans les Isles de L'Amerique.

Nous conjointment avec Monsier le Comte de Frontenac, Conseiller du Roy en ses Conseils, Gouverneur et Lieutenant general pour Sa Majesté en Canada, Acadie, Isle de Terre Neuve, et autres pais de la France Septentrionale, et en consideration de la decouverte que led. sieur Jolliet a faite du pais des Illinois, dont il nous a donné le plan, sur lequel la carte que nous avons envoyé depuis deux ans, a Monseigneur Colbert ministre et secretaire d'Estat, a esté tirée, et du voyage qu'il vient de faire a la baye d'Hudson, pour l'interest et l'avantage de la ferme du Roy en ce pais. Avons aud. sieur Jolliet donné, accordé et concedé, donnons, accordons, et concedons par ces presentes lad. Isle d'anticosty estant a l'ernboucheure du fleuve St. Laurens, pour en jouir par luy, ses hoirs et ayant cause a l'advenir, en tiltre de fief, seigneurie, haulte, moyenne, et basse justice, a la charge de la foy et hommage que led. sieur Jolliet sesd. hoirs, et ayant cause seront tenus de porter au Chasteau St. Louis de Quebec, duquel ils releveront aux droits et redevances accoustumées, et au desir de la coustume de la Prevoté et viconté de Paris qui sera suivie pour cet esgard par provision en attendnant qu'il en soit autrement ordonné par Sa Majesté, et que les appellations du juge qui pourra estre estably aud. lieu ressortiront pardevant le Lieutenant gnal de Quebec, en attendant qu'il en soit estably un plus proche de lad. Isle d'Anticosty ; comme aussy

(Translation.)

us by the Sieur Louis Jolliet, residing at Quebec, praying that he would be pleased to grant him, under the title of fief and seignior, *haulte, moyenne et basse justice*, the Island of Anticosty, lying at the mouth of the river St. Lawrence, on which he is desirous of forming fishing establishments for green and dry cod-fish, seal and whale oil, and trading therein between this country and the West India Islands.

We, jointly with the Count de Frontenac, King's Councillor, Governor and Lieutenant General for His Majesty in Canada, Acadia, the Island of Newfoundland and other countries in France Septentrionale, and in consideration of the discovery which the said Sieur Juliet has made of the country of the Illinois, whereof he has given us the plan on which was drawn the map which we sent two years ago to Monseigneur Colbert, Minister and Secretary of State, and of the voyage which he has just made to Hudson bay in the interest and for the advantage of the King's revenue in this country, have given, granted and conceded and, by these presents, do give, grant and concede unto the said Sieur Jolliet the said Island of Anticosty, lying at the mouth of the River St. Lawrence, to have and to hold the same unto him, his heirs and assigns, under the title of fief and seignior, and *haulte, moyenne et basse justice*, subject to the condition of fealty and homage (*foi et homage*), which the said Sieur Jolliet, his said heirs and assigns, shall be held to perform at the Castle of St. Louis in Quebec, of which they shall hold under the customary rights and dues, agreeably to the Custom of the provostship and viscounty of Paris, which shall be followed in this respect provisionally and until otherwise ordained by His Majesty ; and that the

appeals from the judge who may be established at the said place shall lie before the Lieutenant General of Quebec, until one shall have been established nearer the said Island of Anticosty ; also that he shall keep

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qu'il tiendra et fera tenir feu et lieu par ses tenanciers sur les concessions qu'il leur accordera, et faute de ce faire qu'il rentrera de plain droit en possession d'icelles, et conservera led. Jolliet, et fera conserver par ses tenanciers les bois de chesne qui se trouveront propres pour la construction des vaisseaux dans l'estendue de lad. Isle, et qu'il donnera incessamment avis au Roy ou a nous, des mines, minieres, ou mineraux si aucuns sy trouvent, et laissera et fera laisser tous chemins et passages necessaires, le tout sous le bon plaisir de Sa Majesté, de laquelle il sera tenu de prendre la confirmation des presentes dans un an, en temoin de quoy nous avons signé ces presentes, a icelles fait aposer le sceau de nos armes, et contresigner par nostre secretaire.

Donné a Quebec en Mars G B Y C, quatre vingt.

Registre au greffe du Conseil Souverain a Quebec, par moy greffier en iceluy soussigné.

PEUVRET.

(Translation.)

house and home (*fen et lieu*) and cause the same to be kept by his tenants on the concessions which he may grant them, and, in default of their so doing, he shall re-enter *pleno jure* into the possession of the said lands and that the said Jolliet shall preserve and cause to be preserved by his tenants the oak timber fit for ship-building which may be found throughout the extent of the said island ; that he shall give immediate notice to the King or to us of the mines, ores or mineraux, if any be found therein ; and that he shall leave and cause to be left all necessary roads and paths ; the whole under the pleasure of His Majesty, by whom lie shall be held to have these presents confirmed within one year.

In testimony whereof we have signed these presents, and caused the same to be sealed with our seal at arms and countersigned by our secretary.

Given at Quebec in the month of March, one thousand six hundred and eighty

Registered at the office of the Conseil Souverain, at Quebec, by one, the undersigned, chief cleric of same :

(Signed) PEUVRET.

TERRE FERME DE MINGAN, ISLETS DE MINGAN AND
ANTICOSTI.

[11 Feby., 1668.]

No. 1319.

**AVEU ET DECLARATION OF BISSOT DE LA
RIVIERE,**

11 FEBRUARY, 1668.*

MINISTÈRE DE LA MARINE ET DES COLONIES
SERVICES DES COLONIES.

ARCHIVES COLONIALES.

Dépôt des Papiers publics des Colonies, créé par édit du mois de Juin, 1776.

Extrait de la correspondance générale du Canada, 1773.—
Registre 59c. 11.—page 293.

Extrait du Terrier de la Compagnie Royale des Indes Occidentales, Seigneur de ce Pays. Est comparu :

François Bissot, Sr. de la Rivière, lequel avoue et déclare tenir de nos seigneurs l'Isle aux Oeufs, située au dessous de Tadoussac, vers le Montpellès, du costé du Nord, quarante lieues ou environ dud. Tadoussac, avec le droit et faculté de chasse et d'établir en terre ferme aux endroits qu'il trouvera plus commodes, la pesche sédentaire des Loups marins, baleines, marsouins, et les autres négoce, depuis la dite Isle aux Oeufs jusqu'aux Sept Isles et dans

(Translation.)

MINISTÈRE DE LA MARINE ET DES COLONIES.
COLONIAL DIVISION.

COLONIAL ARCHIVES.

Depository of Colonial Public Records, established by edit, June, 1776.

Abstract from the General Correspondence of Canada, 1773. Register 59c. 11, p. 293.

Abstract from the Terrier of the Compagnie Royale des Indes Occidentales, Seigniors of this country.

Was present :

François Bissot, Sieur de la Rivière, who acknowledges and declares that he holds from Our Seigniors the Isle aux Oeufs, situate above Tadoussac, towards the Montpellès, on the north shore, forty leagues or thereabouts from said Tadoussac, with the right and privilege of hunting and of establishing on the mainland at such places as he may deem most suitable, sedentary seal, whale, porpoise fishery and other trades, from the said Isle aux Oeufs as far as the Sept Isles and in the

la Grande anse, vers les Esquimaux où les Espagnols font ordinairement la pesche, avec les bois et terres nécessaires pour faire le dit établissement. Le tout à luy appartenant par titre de concession en date du vingt cinq Février mil six cent soixante et un, signé par extrait des délibérations de la Compagnie de la Nouvelle France, A. Chefault, à la charge de payer par chacun an, deux castors d'hyver, ou dix livres tournois au receveur de la dite Compagnie, et les droits accoutumés pour la traite à la communauté de ce pays, au bas duquel titre est écrit Dubois Davaugour, ratifié le don que dessus de laquelle dit déclaration il nous a requis acte et a signé. Ainsi signé, Bissot, avec paraphe.

Sur quoy, ouy le procureur fiscal, nous avons accordé acte au dit sieur Bissot de son dit aveu et déclaration, et iceley condamné payer la dite redevance, tant pour le passé que pour l'advenir, suivant et conformément au dit titre de concession, sans néantmoins que le dit acte puisse être tiré à conséquence n'y préjudice, remettant au Roy ou à la Compagnie de faire valoir le dit titre ou point. Mandons, etc.

Donné par nous Louis Théandre Chartier, essuyer, Seigneur de Lotbinière, conseiller du Roy, Lieutenant Général civil et criminel, à Québec, les assises tenant le onzième jour de Février mil six cent soixante-huit.

(Signé) ROGER, Greffier.

Collationné à l'original par le Notaire Royal en la Prévosté de Québec représenté par la Sieur François Bissot négociant, en cette ville, et à lui à l'instant rendu, ce dix huit octobre mil sept cent trente sept.

(Signé) BONNERET.

(Translation.)

Grand anse, towards the Esquimaux where the Spaniards usually carry on fishing, as well as the timber and lands is required for the formation of the said establishment. The whole belonging to him in virtue of a deed of concession dated the twenty-fifth February, one thousand six hundred and sixty-one, signed as an abstract from the proceedings of the Company of New France, A. Chefault, subject to the yearly payment of two winter beaver, or ten livres tournois to the receiver of the said Company, and of the customary trade dues to the community of this country, at the foot of which title-deed is written Dubois Danaugour, confirmed the hereinabove concession, of which declination he required act and signed. Signed thus, Bissot, with a flourish.

Thereupon, the procureur fiscal (attorney) being heard, we have given to the said Sieur Bissot act of his said *aveu et declaration*, and adjudged him to pay the said rent both for the past and for the future, according and conformably to the said deed of concession, the said act not to become a precedent or prejudicial, leaving it to the King or the Company to or not to avail themselves of the of the said title-deed. Ordered, &c.

Given by us Louis Théandre Chartier, Esquire, Seignior of Lotbinière, Conseiller du Roy, Lieutenant Général Civil et Criminel, at Quebec, session of the eleventh day of February, one thousand six hundred and sixty-eight.

(Signed) ROGER, Clerk.

Compared with the original by the Royal Notary in the Prévosté of Quebec represented by the Sieur François Bissot, merchant. in this city, and to him forthwith given back, this eighteenth day of October, one thousand seven hundred and thirty-seven.

(Signed) BONNERET.

[10 March, 1679.]

No. 1320.

**GRANT OF SEIGNIORY OF ISLES ET ISLETS DE
MINGAN TO JACQUES DE LA LANDE AND
LOUIS JOLLIET, 10 MARCH, 1679.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, QUEBEC.

Q. 1. 1761-1763.
10 Mars 1679.

Jacques Duchesne au Chevalier Conseiller du Roy en ses conseils, jntendant [sic.] de Justice, Police, Et finance en Canada, Accadie, terre neuve, et autre Païs de la franco septentrional.

A tous Ceux qui ces Presentes Lettres verront Salut Sçavoir faisons, que Sur la requeste a Nous Présenté par Les S^{rs} Jacques de La Lande, et Louis Joliet Demeurant a Quebec, a ce qu'il nous Plut Leur Vouloir accorder en titre de fief Seigneurie, haute, Moyenne, et Basse Justice, Les jsles [sic.], et jslets [sic.], appellée Mingan Etans du Costé du Nord, et qui se suivent jusqu'a la Baye appellé Lance aux Espagnols, auxquels Lieux jls [sic.] Desireroient faire des Etablissements de Pesche de Morue, et Loups Marins. Nous En vertu du Pouvoir a Nous donné par sa Majesté conjointement avec Monsieur Le Comte de frontenac Conseiller du Roy en ses Conseils Gouverneur, et Lieutenant Général pour sa Majesté en Ce Pays, avons aux d. sieurs La Lande fils et Joliet Donné, Accordé et Concedé, Donnons, accordons, et Concedons, par ces Presentes, Les d. jsles [sic.] et jslets [sic.] de Mingan Etant du costé du Nord, et qui se suivent Jusqu'a la Baye appellé L'ance aux Espagnols, pour en

(Translation.)

Q. 1. 1761-1763.
10th March, 1679.

Jacques Duchesneau, Knight, King's Counsellor in his Councils, Intendant of Justice, Police and Finance in Canada, Acadia, Newfoundland, and other countries of Northern France.

To all who these presents shall see, greeting, know ye that, upon the request presented to us by the Sieurs Jacques de la Lande, and Louis Joliet, residing at Quebec, praying that we be pleased to grant them, with right of fief, seignory, *hante, moyenne et basse justice*, the islands and islets called Mingan, situated on the north shore, and which follow each other as far as the bay called l'Ance aux Espagnols, at which places they were desirous of forming cod and seal fishery establishments. We, in virtue of the power conferred to us by His Majesty jointly with Monsieur le Comte de Frontenac, King's Counsellor in his Councils, Governor and Lieutenant General for His Majesty in this

country, have given, granted and conceded, and give grant and concede by these presents to the said Sieurs La Lande, Jr., and Joliet, the said isles and islets of Mingan, being on the north shore and which follow one another as far as the bay called l'Anse aux Espagnols, to be enjoyed forever by them,

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jouïr par Eux Leur hoirs, et ayant causes A L'avenir En titre de fief et Siegneurie, haute, Moyenne, et Basse Justice, a La Charge de la foy Et hommage que Les d. Sieurs de la Lande, et Joliet Leurs d. hoirs et ayant Cause, seront tenüe de porter au Chateau S^t Louïs de Quebec, duquel ils releveront aux Droits et redevances accoutumé, et au Desir de la Coutume de la Prevosté et vicométe de Paris qui sera suivie pour Cet Egard, par provision en attendant qu'il en soit autrement ordonné par sa Majesté, et que Les appellations du Juge qui pourra estre Etably aux d. Lieux ressortiront par devant le Lieutenant General de Quebec en attendant qu'il en soit Etably Un plus Proche des d. jles [sic.] et jslets [sic.] de Mingan, Comme aussi qu'ils tiendront, et feront tenir feu et Lieu par Leurs tenanciers sur Les Concessions qu'ils Leurs accorderont, et faute de ce faire, qu'ils rentreront, de plein Droit En possession d'jcelle [sic.], Et Conserveront les d. Sieurs de La Lande, et Joliet, et feront Conserver par Leur tenanciers, Les Bois de Chesne qui se trouveront propres pour la Construction des Vaisseaux dans L'Etendue des d. jsles [sic.], et islets, et qu'ils donneront incessamment Avis au Roy, ou a Nous des Mines, Minieres ou Minereaus, si aucuns se trouve, Laisseront, et feront Laisser tous chemins, et Passages necessaires, Le tout sous le Bon Plaisir de sa Majesté, de laquelle ils Seront tenus de prendre La Confirmation des Presentes dans un an, En temoin de quoy Nous avons signé Ces Presentes a jcelles [sic.] fait apposer Le sceau de nos armes, et Contre signé par Notre Secretaire Donné a Quebec Le dixieme jours de Mars, Mil six Cens soixante et dix Neuf signé Duchesneau, pour Copie, et plus Bas est Ecrit

Registré suivant L'arret du Conseil du vingt quatre octobre Mil six Cent quatre Vingt, jntervenue [sic.] En Consequence D'arrest du Conseil d'Etat du

(Translation.)

their heirs and assigns, by right of fief and seignior, superior, mean and inferior jurisdiction (*haute, moyenne et basse justice*) upon the condition of fealty and homage which the said sieurs de la Lande and Joliet, their said heirs and assigns shall be held to render at the Castle of St. Louis in Quebec, to which they shall be held for the accustomed dues and rents, according to the custom of the provostship and viscounty of Paris to be followed, in this respect, provisionally until otherwise ordained by His Majesty, and that an appeal shall lie from the judge who shall be established there to the Lieutenant General of Quebec pending the establishment of one nearer the said islands and islets of Mingan ; on condition also of residing and causing their tenants to reside upon the concessions which they may grant, and that, in default of so doing, they shall reenter into possession of the same, and the said Sieurs de La Lande and Joliet shall preserve and cause to be preserved by their tenants, the oak trees which may be found fit for the construction of ships in the extent of the said islands and islets, and shall give forthwith notice to the King, or to us, of mines and minerals, if any be found, shall leave and cause to be left sufficient roadways and passages, the whole during the pleasure of His Majesty from whom they shall be held to take

ratification of these presents within a year. In testimony of which we have signed these presents, caused the seal of our arms to be affixed to the same and caused them to be countersigned by our secretary. Given at Quebec, the tenth day of March, one thousand six hundred and seventy-nine. Signed Duchesneau, true copy, and lower down is written—

Registered pursuant to the decree of the Council of the twenty-fourth October, one thousand six hundred and eighty, rendered in consequence of a decree of the King's Council of State, given at

p. 3433

Roy, donné a fontainblau Le Vingt Neuf May au d. an portant Confirmation de la Concession Cy dessus, par Moy Greffier du d. Conseil. Soussigné. signé Pevret, avec paraph. Collationné Sur Le registre des jnsinuations [sic.] du Conseil Superieur de la Nouvelle france par Nous Con^{er} secretaire du Roy, Greffier en Chef en jceluy [sic.], a Quebec Le 10 Septembre 1738.

(Signé) DAINE.

Collationné et Vidismé sur une Copie Collationne sur le registre des insinuations du Conseil superieur de la Nouvelle france representée et a l'instant [sic.] rendue par nous notaire Royal a Quebec soussigné aujourd'huy deux avril mil sept cent soixante trois.

SAILLANT.

Endorsed : Coppie du titre du fief des jsles [sic.] de Mingan, du 10^e Mars 1679.

Rd Dec^r 12. in M. de la Fontaines of 23 Oct.

Inclosure 2 in N^o 4. C 38

(Translation.)

Fontainebleau, the twenty-ninth May in the said year being a ratification of the above concession, by me the undersigned, clerk of the said Council. Signed Pevret, with a flourish. Collated with the register of the *insinuations* of the Superior Council of New France by us Counsellor, Secretary to the King, Chief Clerk of the said Council, at Quebec the 10th of September, 1738.

Signed DAINE.

Collated and certified with a collated copy on the register of the *insinuations* of the Superior Council of New France, presented to us and forthwith given back, by us the undersigned, royal notary, at Quebec this second day of April one thousand seven hundred and thirty-three.

SAILLANT.

Endorsed : Copy of the title of fief of the Isles de Mingan, dated 10 March, 1679.

Rd. Dec. 12th. in Mr. de la Fontaine's of 23 October.

Inclosure 2 in no 4. C 38.

[27 Aug. 1742.]

**ORDINANCE *re* RENTAL PAYABLE BY MAINLAND
CONCESSIONNAIRES TO SEIGNOIRS OF
ISLES ET ISLETS DE MINGAN, 27 AUGUST, 1742.**

ARCHIVES DE LA PROVINCE DE QUEBEC. ORDINANCES OF THE
INTENDANTS, REGISTER 30, FOLIO 68.

CHARLES MQS. DE BEAUHARNOIS ETC.

GILLES HOQUART ETC.

Sur les contestations mues entre les heritiers des feus Srs. Joliet et Lalande proprietaires des isles et islets Mingan en vertu de la concession faite a eux ou leurs auteurs le dix neuf mars mil six cent soixante dix neuf par M. Ducheneau cy devant intendant en ce pais, et les proprietaires de diverses concessions en terre ferme vis a vis desd. isles et islets, a l'occasion des pesches de loup marin qui ont esté etablies par ces derniers nous aurions rendu des le trente septembre mil sept cent trente neuf un reglement, qui entre autres dispositions fixe les redevances dont les concessionnaires en terre ferme seroient tenus envers lesd. Joliet et Lalande pour les isles situées vis a vis de leur concession dont ils auront besoin pour l'exploitation de leurs pesches mais le reglement cy dessus n'ayant eû lieu, nous aurions rendu compte a Sa Majesté

(Translation.)

CHARLES MARQUIS DE BEAUHARNOIS ETC.

GILLES HOQUART, &C.

Upon the differences existing between the heirs of the late Sieurs Joliet and Lalande, proprietors of the Islands and Islets of Mingan, in virtue of the grant made to them, or to their predecessors, on the 19th March 1679, by Mr. Duchesneau, formerly Intendant in this country ; and the owners of several concessions on the mainland opposite to the said islands and islets, with respect to the seal fisheries which have been established by the latter, we did, as far back as the 30th September 1739, make a regulation which, among other provisions therein contained, fixes the rents to be paid by the said grantees to the said Sieurs Joliet and Lalande, for the use of the islands situated in front of their lands and which they required to carry on the fisheries aforesaid.

But the said regulation not having been carried into effect, we have communicated to His Majesty the new representations made by the heirs of the said Sieurs Joliet and Lalande, upon

des nouvelles representations qui ont esté faites par lesd. heritiers Joliet et Lalande, sur lesquelles elle nous a envoyé ses ordres contenus dans la depesche que Mr. le Comte de Maurepas nous a ecrite le 12 : avril der. en exécution de laquelle. Nous sans avoir egard au reglement dud. jour trente septembre mil sept cent trente neuf que nous avons revoqué et annullé, et em maintenant en tant que de besoin lesd. heritiers Joliet et Lalande dans la propriété desd. isles et islets en question ; avons réglé ce qui suit.

1°

Les propriétaires des isles et islets seront tenus a la premiere requisition qui leur en sera faite par les propriétaires de la Terre Ferme, de leur conceder les isles et islets sizes vis a vis et le long de leurs concessions en Terre Ferme et dont ils auront besoin pour l'etablissement et le succez de leurs pesches sedentaires et ce pour le temps dont ils jouiront de leurs concessions en Terre Ferme ; a la charge de payer auxd. propriétaires des isles un et demi pour cent du produit total de la pesche de chaque année en huiles et peaux de loup marin.

2°

La redevance d'un et demi pour cent cy dessus sera payée en nature a Quebec aux propriétaires desd. isles, a l'arrivée des batiments des lieux de la pesche.

3°

Pourront les propriétaires desd. isles et islets faire comme cy devant la chasse du loup marin au fusil concurrement avec les concessionnaires en Terre Ferme dans lesd. isles et islets après le temps expiré de la pesche sedentaire ; sans qu'il leur soit permis de faire aucun etablissement de pesche sedentaire

(Translation.)

which His Majesty has sent us his orders contained in the despatch which the Count de Maurepas has written to us, on the 18th April last, and in execution thereof.

We, not regarding the regulation of the 30th September 1739, which we have revoked and annulled, and maintaining the said heirs Joliet and Lalande in their right of property, have ordained as follows, to wit :

1°

The proprietors of the islands and islets will be required, on the first application to that effect by the tenants on the mainland, to grant to them the islands and islets situated opposite to and along their grants on the mainland, and which they require for the establishment of their sedentary fisheries the said grant to be for and during the time they are in possession of their grants on the mainland, subject, in favour of the proprietors of the islands and islets aforesaid, to the payment of one and a half per cent of the annual produce of the said fisheries, in oil and seal skins.

2°

The said rent shall be paid to the proprietors of the said islands in kind, at Quebec, on the arrival of the vessels from the fishing grounds.

3°

The proprietors of the said islands and islets shall, as heretofore, be allowed to hunt the seals with gulls, concurrently with the grantees of the mainland, upon the said islands and islets, at the expiration of the sedentary fishery season ; they shall not, however, be allowed to establish any

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attendu la redevance cy dessus réglée, et que deux pesches trop voisines ne peuvent que se nuire l'une a l'autre.

4°

S'il est expédié par la suite des concessions en Terre Ferme a d'autres particuliers qu'a ceux qui en ont cy devant obtenu ; les propriétaires des isles seront obligez de leur concéder les isles et les islets aux termes, aux charges des articles premier et second du present reglement ; et faute par ceux cy de le faire, il leur en sera expédié des titres au nom du Roy.

5°

A l'égard des redevances dues jusques a ce jour par le s. Pommereau pour la jouissance qu'il a eue des isles qui sont vis-a-vis sa concession ; nous les avons réglées sur le pied porté au per. article du present reglement et ordonné qu'il les payera en argent aux d. heritiers Joliet et Lalande a compter de l'année mil sept cent quarante datte du brevet de ratification de la concession en Terre Ferme ; et ce au prix que les huiles et peaux de loup marin ont esté vendues ez années mil sept cent quarante, mil sept cent quarante un, et mil sept cent quarante deux, par led. s. Pommereau, ce qu'il sera tenu de declarer et affirmer.

Ordonnons que le present reglement sera exécuté entre les parties selon sa forme et teneur. Fait a Quebec le vingt sept aoust mil sept cent quarante deux.

Signé BEAUHARNOIS ET HOCQUART

Contresignez et scellez. Pour copie
HOCQUART

(Translation.)

sedentary fishery, in consideration of the above rent, inasmuch as two fisheries can only injure each other by being too close.

4°

Should any grant of land on the mainland be made hereafter to other individuals besides the present grantees, the owners of the said islands will be required to grant to them the islands and islets upon the terms mentioned in the first and second articles of this ordinance; and, in default of so doing, deeds shall be granted to them in the name of His Majesty.

5°

As to the arrears due by the Sieur Pommereau up to this day, we have fixed them at the rate mentioned in the said first article, and order that he shall pay them, in money, to the said heirs Joliet and Lalande, from the year 1740 (the date of the certificate of ratification of his grant on the mainland), according to the prices at which seal oil and seal skins were sold in the year 1742 by him, the said Sieur Pommereau, who will be bound to declare and attest it.

We order that the present regulation be executed between the parties, according to its tenor and effect.

Done at Quebec, on the twenty-seventh day of August one thousand seven hundred and forty-two.

Signed BEAUHARNOIS and HOCQUART.

Countersigned and sealed.

HOCQUART.

No. 1322.

**LEASE, 18 OCTOBER, 1771, OF THE SEIGNIORIES OF
ISLES ET ISLETS DE MINGAN AND OF ANTICOSTI
TO DUNN AND GRANT FOR 15 YEARS.**

ARCHIVES DE LA PROVINCE DE QUEBEC.

Pardevant les Notaires Publics à Québec y résidens soussignés, furent présens François Joseph Cugnet, écuyer Seigneur de St. étienne, au nom et comme ayant épousé Demoiselle Joseph De la fontaine, et Comme chargé du pouvoir De Joseph De la fontaine, François L'evêque, écuyer, au nom et Comme chargé de la procuration De Gilles de la fontaine, Pierre Marcoux, au nom et Comme chargé de la procuration D'antoine de la fontaine. faisans tant pour eux et se portans fort pour Marie de la fontaine, Magdelaine De la fontaine et François de la fontaine, aux quels ils promettent de fair ratifier Ces présentes : tous Seigneurie et propriétaires par indivis d'une moitié, Comme heritiers De feu Louis de la fontaine leur frere ; Légataire et heritier de Jacques de la Lande, et des deux vingtièmes deux tiers Dans l'autre moitié Comme usufruitiers De la part de la Baronne De Castelnau, De la Seigneurie des isles et islets De Mingan situés au nord Dans le fleuve & Golfe Saint Laurent, depuis Le cap Des Corps-morans et qui se suivent Jusqu'a L'ance aux espagnols ou Baie Phelipeaux, Vulgairement appelée La Brador, Veuve Volant D'hautebourg en qualité D'usufruitiere [sic.], Comme épouse en premieres nôces de defunt Joliet Minga, et Gabriel Tachereau, écuyer, faisant tant pour eux, et

(Translation.)

Before the undersigned, notaries public at Quebec, residing thereat, were present Francois Joseph Cugnet, Esquire, seignior of St. Etienne, in the name of and as having married Demoiselle Joseph de la Fontaine, and as attorney of Joseph de la Fontaine, Francois Leveque, Esquire, in the name of and as attorney of Gilles de la Fontaine, Pierre Marcoux, in the name of and as attorney of Antoine de la Fontaine, acting for them and answering for Marie de la Fontaine, Magdelaine de la Fontaine and Francois de la Fontaine, to whom they promise to have these presents ratified, all of them seigniors and joint owners of one half, as heirs of the late Louis de la Fontaine, their brother, legatee and heir of Jacques de la Lande, and of the two-twentieths of two-thirds of the other moiety, as usufructuaries, from the Baroness de Castelnau, of the seigniory of the Isles et Islets de Mingan situated north of the river and gulf of St. Lawrence, from the cape Cormorant and which follow one another as far as ance aux Espagnols ou Phelipeaux Bay, commonly called La Brador [Bradore], the widow Volant, in the capacity of usufructuary, as the wife by a first marriage of the late Joliet Mingan, and Gabriel Tachereau, Esquire, acting both

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se portant fort pour Veuve de la gorgendiere, Joseph

Deschambault, écuyer, Dugy Désauniers, Comme ayant épouse Demoiselle Thomas de la Gorgendiere, Rigaud de Vaudreuil, écuyer, comme aiant epousé Demoiselle Charlotte de la gorgendiere, et ignace fleury de la Gorgendiere, au nom et Comme heritiers de défunte Claire Joliet, aux quels ils promettant de faire ratifier ces présentes et aussi Comme representans les heritiers de defunt Joliet d'anticosty, Située à L'embouchure de la dite riviere et Golfe St. Laurent ; Propriétaires chacun d'eux pour Leurs parts et portions comme heritiers de Jacques de La Lande et Louis Joliet, Propriétaires chacun pour moitié de la dite Seigneurie des isles et islets de mingan, en Vertu du titre de Concession qui leur en a été accordé par Messieurs de frontenac et Duchesneau, Gouverneur général et intendant de la nouvelle france, Le dix mars De L'année mil six cent soixante dix neuf, ratifié par Sa Majesté tres chrétienne, Le vingt neuf may mil six cent quatre Vingt, et aussi pour leurs parts et portions comme heritiers de Louis Joliet, propriétaire de la Seigneurie de L'Isle d'anticosty en Vertu du titre de Concession qui lui en a été accordé par mes dits sieurs de frontenac et duchesnau Dans le mois de Mars de L'année mil six cent quatre vingt, ratifiée par Sa Majesté Tres Chrétienne, Le Vingt neur may de la dite annee. Les dites deux Seigneuries Situées dans L'étendue de pays reconnue appartenir a la Couronne de france, par L'article treize du Traité de paix conclu à Utrecht, le onze avril Mil sept cent-onze. Les dits deux titres et ratification duiment enrégistrés dans les registres des Insinuations du Conseil Superieur, à celui numero B. folios trois et quatre et dont ils ont toujours joui paisiblement et sans aucune interruption depuis les dites années mil Six cent soixante dix-neuf et mil Six cent quatre Vingt ; et Sur les quelles dites deux seigneuries

(*Translation.*)

for them and answering for the widow de la Gorgendiere, Joseph Deschambault, Esquire, Dufy Desauniers, as having married Demoiselle Thomas de la Gorgendiere, Rigaud de Vaudreuil, Esquire, as having married Demoiselle Charlotte de la Gorgendiere, and Ignaco Fleury de la Gorgendiere, in the name of and as heirs of the late Claire Joliet, to whom they promise to have the presents ratified and also, as representing the heirs of the late Joliet d'Anticosty, situated at the mouth of the said river and gulf of St. Lawrence each of them owners for their shares and portions as heirs of Jacques de La Lande and Louis Joliet, owners each for a moiety of the said seigniory of Isles et Islets do Mingan, in virtue of the deed of concession thereof granted to them by Messieurs de Frontenac and Duchesneau, Governor General and Intendant of New France, the tenth March of the year one thousand six hundred and seventy, ratified by His most Christian Majesty the twenty-ninth May, one thousand six hundred and eighty, and also for their shares and portions as heirs of Louis Joliet, proprietor of the seigniory of the Isle de Anticosty, in virtue of the deed of concession granted to him by the said 'Messieurs de Frontenac and Duchesneau in the month of March, of the year one thousand six hundred and eighty, ratified by His Most Christian Majesty, the twenty-ninth May, in the said year. The two said seigniories situate in the extent of country known to belong to the Crown of France, in virtue of section thirteen of the peace treaty signed at Utrecht, the eleventh April, one thousand seven hundred and eleven. The said two deeds and ratifications duly registered in the registers of *insinuations* of the Superior Council, in that numbered B, folios three and four, and of which they have always had the peaceful and continuous enjoyment since the said years one thousand six hundred and seventy-nine and one thousand six hundred and eighty; and on

leurs ancetres ont toujours tenu feu et lieu, et y ont fait depuis, le dit tems la pêche Sedentaire et tuerie de loups-marins, tant par eux même que par leurs fermiers. Les quelles Parties ont par les présentes Vonontairement donne a titre de Bail à ferme pour le tems et espace de quizne annèes consécutives et devolues a compter du premier aoust de L'annee prochaine mil Sept cent Soixante et douze, jour au quel ils entreront en jouissance, Jusqu'a pareil jour De L'année que l'on Comptera mil sept cent quatre Vingt huit, a L'honorable Thomas Dunn, et Quillaume Grant, écuyers, à Ce presens et acceptans, Preneurs pour eux leurs hoirs et ayans cause pandant les dites quinze années au dit titre de bail à ferme, la dite Seigneurie des isles et islets de Mingan depuis le cap des Corps-morans, et qui Se suivent jusqu'a L'ance des espagnols ou Baie Phelipeaux Vulgairement appellée La brador, et les batimens en dépendans qui Se trouvent Sur les isles chikatakas, ou sur d'autres isles qui leur appartiennent par L'axiôme De droit, *aedificium Solo Cedit*, et aussi la dite seigneurie de L'isle entiere D'anticosty, ainsi que les batimens qui en dependent ; pour par eux en jouir faire et disposer pour y faire le pêche Sédentaire et tuërie du loup marin, et chasse et pêche ainsi qu'ils le jugerong a propos, aux droits, privileges et Prérrogatives qui Sont attribués aux dits Bailleurs par leurs Titres de Concession ; les dits Bailleurs subsistans par les présentes à L'egard des dites deux Seigneuries les dits Preneurs en leur Lieu et place pandant le tems et espace des dites quinze années, aux charges clauses et Conditions Suivantes, scavoir : Primo de paier par chacune des dites quins zes annees aux representans et héritiers de Jacques de la lande, la somme de Six cent Schellins courant de la province à cause de L'etablissement qui est sur L'isle de Chikataka à eux appartenans,

(Translation.)

which two said seigniories their ancestors have always kept fire and home, and have, since the said time, carried on a permanent fishery and the killing of seals, both by themselves and by their lessees. Which parties have, by these presents, willingly given to lease on rent for the time and space of fifteen consecutive and full years, reckoning from the first clay of August of next year, one thousand seven hundred and seventy-two, day on which they shall enter into enjoyment, until the same day of the year to be numbered one thousand seven hundred and eighty-eight, hereto present and accepting, lessees for themselves, their heirs and assigns during the said fifteen years under the said title of lease on rent, of the said siegnory of the Isles et Islets de Mingan, from the cape Cormorant, and which follow one another as far as ance des Espagnols or bay of Phelipeaux, commonly called Labrador [Bradore bay], and the buildings depending therefrom which are on the Chikatakas islands, or on the other islands belonging to them under the legal axiom, *aedificium Solo Cedit*, and also the said seignory of the whole of the Island of Anticosty, together with the buildings depending thereupon : to have and to hold and use unto them for the carrying on thereat of sedentary fishery and hunting seals, and chase and fishery as they may see fit, under the rights, privileges and prerogatives vested in the said lessors by their deeds of concession ; the said lessors substituting themselves by these presents, with respect to the said two seigniories, for the time and space of the said fifteen years, to the said lessees in their stead and place, on the charges, clauses and conditions following, to wit : Firstly to pay for each one of the said fifteen years to the representatives and heirs of Jacques de la Lande the sum of six hundred shillings, currency of the province, because of the establishment which is on Chikataka island belonging to them, the first payment of which

dont le premier payement écherra au premier aoust Mil Sept Soixante treize, et Continuer ainsi D'année jusqu'a la fin du présent bail. Secundo. de paier à tous les dits Seigneurs et propriétaires par indivis des dites deux Seigneuries, aussi par chacune des dites quinze années, dont le premier Payement echerra au même dit jour premier d'aoust Mil Sept Soixante treize, et continuer ainsi d'année en année Jusqu'a la fin du present Bail, trois pour cent sur le Produit entier des juilles et Peaux de lour parin que les dits preneurs exploiteront ou feront exploiter dans les dites deux Seigneuries, soit par eux ou par d'autres, de redevance en nature, ainsi qu'il a été fixé par le réglément de Messieurs De beauharnois et hocquart Gouverneur General et intendant, fait en conséquence des ordres du Roy Sa Majesté tres chrétienne, en datte du quatre Octobre Mil Sept cent Quarante et trois, enrégistré au Régistre des Jugements d'intendant, numéro Vingt un folio quatre Vingt dix-neuf Verso. tertio qu'il Sera loisible à Joseph de la fontaine L'un des dits Seigneurs et propriétaires, qui fait cette exploitation depuis Sa tendre jeunesse de choisir dans L'étendue de la Seigneurie des isles et islets de Mingan, L'endroit le plus Convenable a ses interest, pour y faire son etablissement de pêche, a l'exception des isles et islets qui servent à L'exploitation du gros Mekatina, et qui sont situés depuis les islets d'entrée ou a marmettes à L'ouest jusqu'a la Baie des hahas a L'est, en par le dit joseph de la fontaine payant aux dits Seigneurs et propriétaires la Redevance de trois pour cent du produit entier des juiles et peaux de loups-marins en nature, provenans de Son exploitarion, a L'acquis et décharge Des Preneurs, et Sil choisissait les isles de Chikatakas il paiera la dite Somme de Six cent Schelins pour les batiments, et pour Sureté du payement annuel de la dite

(Translation.)

sum shall fall due on the first of August, one thousand seven hundred and seventy-three, and so on from year to year, until the expiration of the present lease. Secondly, to pay the said seigniors and joint owners of the said two seigniories, also for each of the said fifteen years, the first payment of which shall fall due the first day of August, one thousand seven hundred and seventy-three, and so on from year to year until the end of this lease, three per cent on the entire profit from the oils and seal skins which the said lessees may trade in or cause to be traded in in the two said seigniories, either by themselves or through others, by way of rent in kind, as fixed by regulation made by Messieurs de Beauharnois and Hocquart, Governor General and Intendant, in compliance with His Most Christian Majesty, the King's orders under date of the fourth October, one thousand seven hundred and forty-three, registered in the register of Intendant's judgments, number twenty-one, folio ninety-nine, reverse ; thirdly, that Joseph de la Fontaine, one of the said seigniors and owners, who has been carrying on this enterprise from his youth, may select, in the extent of the seigniority of the Isles et Islets de Mingan, the most suitable site to serve his own interests, to form thereat his fishery establishment, with the exception of the islands and islets which are used for the exploitation of Gros-Mecatina and which are situated between the islets *d'autree* or marmettes on the west side as far as Ha-ha bay on the east side, the said Joseph de la Fontaine paying therefore to the said seigniors and owners a rental of three per cent on the entire produce of oils and seal skins, in kind, resulting from his operations, as full acquittance and discharge to the lessees, and, in the event of his selecting Chikatakas

islands, he shall pay the sum of six hundred shillings for the buildings, and, as a guarantee of the annual payment of the said sum of six hundred shillings, in currency of the province and of the rent

p. 3441

Somme de six cent Schellins Courant de la province et De la Redevance de trois pour cent Sur le produit entier des huiles et peaux de loups-marins qui seront exploités tant dans la Seigneurie des isles et islets de mingan, que dans la Seigneurie de L'isle d'anticosty les dits honorable Thomas dunn et Guillaume Grant, Ecuyer, affectent, et hipothequent par ces dites presentes spécialement et par préférence aux dits Seigneurs et propriétaires, toutes les juilles et peaux de loups marins provenantes de la dite exploitation, dont ils promettent de leur fournir un Compt fidele et exact chacun des dites quinze années. Les quelles dites Conventions les parties promettent exécuter à peine &c. car ainsi, &c. promettant &c. fait et passé à Québec étude de Mr. Panet L'un desnotaires Soussignés, l'an Mil Sept cent Soixante onze le dix huit octobre avant midy ; et ont les dites parties Signé apres Lecture faite Suivant L'ordonnande, Signé a la minute des présentes Demeurée en L'étude du d. Mr. Panet f. j. Cugnet f. L'evesque, Veuve Volant d'audebourg, P. Marcoux, G. Taschereau, William Grant. Thomas dunn, Saillant notaire, et nous notaire Susdit et Soussigné.

Signé PANET.

(Translation.)

of three per cent of the entire produce of the oils and seal skins which shall be traded in, both in the seigniorie of the Isles et Islets de Mingan and in that of the island of Anticosty, the said Honourable Thomas Dunn and William Giant, esquire, prefer and mortgage by these presents, especially and by preference of the said seigniors and owners, all the oils and seal skins from the said operations, of which they promise to render a true and correct account every one of the said fifteen years. Which said conventions the parties promise to execute under pains &c. Thus &c. promising &c. Done and executed at Quebec, in the office of Mr. Panet, one of the undersigned notaries, in the year one thousand seven hundred and seventy-one, the eighteenth October, in the forenoon ; and upon the presents being read in pursuance of the ordinance, the said parties have signed the original of the presents, kept in the office of the said Mr. Panet, F. J. Cugnet, F. l'Evesque, Veuve Volant d'Audebourg, P. Marcoux, G. Taschereau, William Grant, Thomas Dunn, Saillant, notary, and we, aforesaid and undersigned notary.

Signed PANET.

No. 1323.

**ACTE DE FOY ET HOMMAGE FOR ISLES ET ISLETS
DE MINGAN, TERRE FERME MINGAN, AND
ANTICOSTI, 28 MAY, 1781.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE ACTES DE
FOY ET HOMAGE, VOL. 1, pp. 355-361.

DISTRICT DE QUEBEC.

[28 May,
1781.]

François Joseph Cugnet, comme
ayant épousé la D^{elle} Marie Joseph De
la Fontaine, Nicholas Joseph et
François De la Fontaine, Guillaume
Grant et Thomas Dunn, Ecuiers,
comme représentans feu Jacques
Lalande, Louis Jolliet et Bissot De la
Rivière, tous et seigneurs et
propriétaires par indivis des Fiefs et
Seigneuries, des Isles et Islets de
Mingan, de l'Isle d'Anticosty et de la
terre ferme de Mingan.

Du vingt-huit May.

En procédant à la confection du papier Terrier du
Domaine du Roy en la Province de Québec, sont comparu au
Château St. Louis en la ville de Québec, et par devant nous.

Frédéric Haldimand, Capitaine Général et Gouverneur en
Chef de la Province de Québec, et territoires en dépendans en
Amérique, Vice-Amiral et Garde du Grand Sceau d'icelle,
Général et Commandant en Chef des Troupes de Sa Majesté,
en la dite province et frontière, etc., etc., etc.

François Joseph Cugnet, Ecuyer et au nom comme ayant
épousé Dame Marie Joseph De la Fontaine de Belcour,
Nicholas Joseph et François De la Fontaine de Belcour ;
Guillaume le Grant et Thomas Dunn, Ecuyers, comme
représentans feu Jacques Lalande, Louis Jolliet et Bissot De la
Rivière, tous seigneurs et propriétaires par indivis des Fiefs
Seigneuries des Isles et Islets de Mingan, de l'Isle d'Anticosti
et de la terre ferme de Mingan sis et situés à la Côte du Nord,
dans le Fleuve et Golfe St. Laurent, dans le district de Québec,
lesquels comparans nous ont dit qu'ils viennent pardevant nous
pour rendre et porter au Château St. Louis de Québec, la foy et
hommage lige qu'ils sont tenus de rendre et porter à Sa Très
Excellente Majesté George Trois à cause des dits fiefs et
seigneuries cy-après expliqués savoir tous comme

représentans feu Jacques de Lalande et Louis Jolliet dans la moitié du Fief et Seigneurie des Isles et Islets de Mingan, chacun pour une part et portion égale dans la dite moitié du chef de Jacques Lalande et Guillaume Grant, tant en son nom que comme ayant épousé Dame Catherine Henry De la Gorgendière, héritière en partie de Louis Jolliet, seigneur et propriétaire de l'autre moitié comme représentans Louis Jolliet, à l'exception de deux vingtième deux tiers appartenant aux héritiers De la Fontaine comme usufruitiers de Dame Baronne de Castelman, héritière Jolliet le même seigneur et propriétaire du Fief et Seigneurie de l'Isle d'Anticosti, à l'exception de deux vingtièmes deux tiers de la dite Isle appartenant aux héritiers De la Fontaine, comme usufruitiers de la dite Dame Baronne de Castelman, tous chacun pour un huitième dans le Fief et Seigneurie de la terre ferme de Mingan, dont les héritiers De la Fontaine sont aussi au surplus de leur huitième usufruitiers de celui de la dite Baronne de Castelman, lesquels dits comparans nous ont représenté pour titres de leurs propriétés respectives dont ils jouissent tous ensemble et par indivis, ces différentes seigneuries n'ayant point de partage entre leurs auteurs.

Premièrement, quant au Fief et Seigneuries des Isles et Ilets de Mingan. Primo : une copie authentique d'une concession donnée et accordée le dix mars 1679 ; par Monsieur Jacques Duchesneau, ci-devant Intendant en la Nouvelle France, conjointement avec Monsieur le Comte de Frontenac, ci-devant Gouverneur Général au dit pais, aux Sieurs Jacques de Lalande, fils, et Louis Jolliet, les Isles et Islets de Mingan, étant du côté du Nord, et qui se suivent jusqu'à la Baie appelé l'Ante aux Espagnols, pour, par eux en jouir, leurs hoirs et ayant cause à l'avenir à titre de fief et seigneurie, haute moyenne et basse justice à la charge de la foy et hommage qu'ils seront tenus leurs dits hoirs et ayant cause de rendre et porter au Château St. Louis de Québec, duquel ils relèveront aux dits droits et redevances accoutumés, suivant la coutume que les appellations du juge qui pourra être établi aux dits lieux ressorteront pardevant le Lieutenant Général de Quebec, de tenir feu et lieu, et le dit faire tenir à leurs tenanciers, de conserver et faire conserver les bois de chesne qui se trouveront propres pour la construction des vaisseaux et de donner avis au Roy ou à ses Gouverneurs des Mines, minières ou minéraux si aucuns s'y trouvent comme aussy de faire laisser tous chemins et passages nécessaires, au bas de laquelle copie est rappelé, un arrêt du Conseil d'Etat du Roy qui confirme la concession ci-dessus en date du 29 mai 1780 ;

Secundo : Une copie authentique du testament de Monsieur de Lalande passé à Bayonne devant Taillet et Ducharme, Notaires, et témoins, le trois août 1753, par lequel il assert que le dit Sieur de Lalande a donné et légué au Sieur Louis De la Fontaine, fils, tous et chacuns des biens droits et actions qu'il a, et peut avoir en Canada ; dont le dit légataire avait alors l'administration, en quoi que le tout puisse consister ;

Tertio : Un acte de Foy et Hommage rendu par devant Monsieur Begon, ci-devant Intendant, le 12 avril 1725, par

dans le dit Fief et Seigneurie des Isles et Islets de Mingan, dans lequel est rappelé le titre de concession ci-dessus et la ratification de Sa Majesté ;

Quarto : Un contrat passé devant Hautroy, Notaire, à St. Antoine, sur la Rivière de Richelieu, le 4 décembre 1769, de vente faite par Antoine De la Fontaine de Belcour, Ecuyer, au Sieur Antoine Greyé, de tous ses droits successifs dans les Isles et Islets de Mingan, pour et moyennant le prix et somme de trois mille soixante livres, au bas duquel contrat est la quittance de Thomas Dunn, Ecuyer, faisant fonction de Receveur Général, en date du 11 août 1775, au dit Antoine Greyé de la somme de deux cents livres pour droit de quint, le trois déduit de son acquisition :

Quento : Un contrat passé devant Panet et son confrère, Notaire, à Québec le 10 avril 1775, de vente faite par les sieurs Pierre Marcoux, au nom et comme procureur fondé du Sieur Antoine Greyé au dit comparant Guillaume Grant, de tous les droits successif d'Antoine la Fontaine, qu'il lui a par le contrat ci-dessus vendu pour et moyennant le prix et somme de quatre mille livres ;

Sexto : Un contrat en langue anglaise par devant témoins le 21 janvier 1779, de vente faite sur saisie réelle à la poursuite de Joseph Henry de la Gorgendière, Ecuyer, sur les biens immeubles des héritiers Jolliet, Mingan et Anticosty au dit Guillaume Grant, des neuf vingtièmes dans la moitié du Fief et Seigneurie des Isles et Islets de Mingan, des neuf vingtièmes du Fief et Seigneurie de l'Isle d'Anticosty et aussi des parts et portions qui appartenaient au dit Sieur Jolliet Mingan et Anticosty, dans le Fief et Seigneurie de la terre ferme de Mingan, pour le prix et somme de cinq cent vingt-neuf livres, trois chelins, quatre pences courant ;

Septimo : Un contrat passé devant la Grève et Aubert, Conseiller du Roy, Notaires au Châtelet de Paris, le 17 Novembre 1779, de vente faite par Joseph Marin, Chevalier, tant en son nom que comme chargé de la procuration de Charles Joseph Henry Quiny de la Motte, Chevalier, Seigneur du St. Age et autres lieux et de Dame Marie Louise Marin, son épouse héritiers de feu Joseph Marin, Ecuyer, et de Dame Louise Charlotte Henry De la Gorgendière, leur père et mère ; et aussi de Marin, Ecuyer, leur frère à Dominique Dontreleau, Ecuyer, comme chargé de la procuration de Guillaume Grant, et pour luy, ses hoirs et ayant cause de tous les droits qu'ils ont et peuvent prétendre dans les Fiefs et Seigneuries des Isles et Islets de Mingan, de l'Isle d'Anticosty de la terre ferme de Mingan et de la Nouvelle Beauce, pour et moyennant le prix et somme de six mille livres ;

Octavo : Un contrat passé devant Panet et son confrère, Notaires, à Québec le 20 novembre 1777, de vente, faite par Demoiselle Magdelaine De la Fontaine à Thomas Dunn, l'un des comparans, de tous les droits et prétentions qu'elle peut

avoir et prétendre dans les Fiefs et Seigneuries des Isles et Islets de Mingan, et de la terre ferme de Mingan pour et moyennant le prix du et somme de soixante-deux louis, dix chelins courant de la province au bas duquel contrat est la quittance de Guillaume Grant, Ecuyer, Député Receveur-Général du Domaine du Roy, du 20 de ce mois au dit Thomas Dunn,

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de la somme de huit livres six schelins huit pences pour droit de quint, le tout déduit de la dite acquisition ;

Nono : Contrat passé devant Panet et son confrère, Notaires, à Québec, le 1 février de cette année pour lequel Gabriel Elzéar Taschereau, Ecuyer, cède et transporte au dit Guillaume Grant, les portions paternelles et maternelles, échus à Dame Louise Thérèse Henry De la Gorgendière, épouse de François Rigault, Marquis de Vaudreuil, dans les Fiefs et Seigneuries des Isles et Islets de Mingan, de l'Isle d'Anticosty et de la terre ferme de Mingan, et Guillaume Grant, en échange lui cède les parts et portions qu'il a acquis des héritiers de feu Joseph Marin et de Dame Louise Charlotte Henry De la Gorgendière, son épouse dans les Seigneuries de la Nouvelle Beauce, domaine, moulin et dans toutes les autres dépendances d'icelles ;

Desimo : Un contrat passé devant Panet et son confrère, Notaires, à Québec, le 1 juin 1772, de vente faite par Dame Marie Bissot, veuve de feu Mr. François Védéric, à Thomas Dunn, du quart dans la moitié du Fief et Seigneurie de la terre ferme de Mingan, comme héritier de feu Monsieur Bissot, son père pour et moyennant le prix et somme de quinze cent livres au bas duquel contrat est la quittance de Guillaume Grant, Ecuyer, Député Receveur Général du Domaine du Roy, du vingt de ce mois au dit Thomas Dunn, de la somme de huit livres, six scheling, huit pences courant de cette Province, pour droit de quint, les tiers déduit du prix de son acquisition ;

Secondement : Quant au Fief et Seigneurie de l'Isle d'Anticosty, une copie authentique d'une concession donnée et accordée en mars 1780, par Monsieur Duchesneau, conjointement avec Monsieur le Comte de Frontenac, au Sieur Louis Jolliet de l'Isle d'Anticosty, étant à l'embouchure du Fleuve St. Laurent, pour en jouir, pour lui, ses hoirs et ayant cause à l'avenir, à titre de fief et seigneurie, haute moyenne et basse justice, à la charge de la foy et hommage à rendre et porter au Château St. Louis de Québec, duquel ils relèveront aux droits et redevances accoutumés suivant la coutume ; que les appellations du juge qui pourra être établi au dit lieu, ressortiront par devant le Lieutenant Général de Québec, de tenir et faire tenir feu et lieu par ses tenanciers de conserver et faire conserver les bois de chesne qui se trouveront propres pour la construction des vaisseaux dans l'étendue de la dite Isle, de donner avis au Roy ou à ses gouverneurs des mines minières ou minéraux si aucuns s'y trouvent et de laisser et faire laisser tous les chemins et passages nécessaires ;

Troisièmement : Quant au Fief ou Seigneurie de la terre

ferme de Mingan, les dits comparans nous ont déclaré que cette seigneurie commence au Cap des Corpsmorans à la Côte du Nord, jusqu'à la grande Ance vers les Esquimaux ou les Espagnols, faisaient ordinairement la pêche sur deux lieux de profondeur, qui a été concédé par la Compagnie, le vingt-cinq février 1661, au Sieur François Bissot De la Rivière, dont le titre est adhérent et qu'on croit avoir été brûlé dans l'incendie du Palais de l'Intendance il y a cinquante ou soixante ans, mais dont ils jouissent depuis plus de cent ans sans aucun trouble n'y empêchement, tant par leurs auteurs que par les fermiers à qui ils ont loué et

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affermé la dite seigneurie pour y faire la pêche du loup-marin et la traite avec les sauvages et nous ont représenté pour titres de leurs possessions et jouissance.

Primo : Un contrat passé devant Panet et son confrère, Notaires, à Québec, le 13 août 1761, de bail à ferme du poste de Mingan, par ordre de Son Excellence le Général Murray, par Monsieur Maître Jacques Belcour De la Fontaine et Monsieur Jean Taché, tous deux propriétaires en partie du dit poste de Mingan, tant en leur noms qu'en ceux des copropriétaires absents pour le terme et espace de neuf années consécutifs et entières à Monsieur Joseph Isbister, négociant le poste de Mingan, dans l'étendue qu'il peut avoir en terre ferme du côté du Nord, et tel qu'en a joui, ou dû jouir Monsieur Bissot, beau-père de mon dit Sieur De la Fontaine et Messieurs Anticosty et Mingan, pour, par le dit fermier, faire les pêches, chasse et traite qu'il jugera à propos dans l'étendue du dit poste, sans en rien réserver ni excepter pour et moyennant la somme de cinquante livres sterling, par chaque année ;

Secundo : Un extrait des Régistres de la Cour des Plaidoyers communs du District de Québec, en date du 21 de ce mois signé David Lyn, Greffier de la dite Cour, contenant un verdict rendu en la dite Cour, le 16 octobre 1770, qu'en assurant la propriété du dit poste de Mingan, aux héritiers Bissot et Jolliet, condamne le dit Sieur Isbister à payer à François Cugnet, représentant Bissot sur sa requête présentée à la dite Cour, une somme de cinquante livres sterling ;

Tertio : Un acte sous seing privé passé entre Etienne Charest, Catherine Bissot, Louis Jolliet et Claire François Bissot, en date du 26 août 1683, par lequel il assert que Louis Jolliet et Claire Bissot, ont cédé pour toujours à Etienne Charest et Catherine Bissot, son épouse, la part qu'ils auraient dû prétendre de la succession de feu Sieur François Bissot, dans la moitié, terres, moulins et cuais de la Pointe de Livy, moyennant quoi le dit Etienne Charest et Catherine Bissot, abandonnent à Louis Jolliet tout ce qui aurait pu leur revenir en quelque manière que ce soit du côté des Sept Isles, depuis l'Isle aux Oeufs et jusque dans la Baie aux Espagnols, pour les terres et autres choses qui sont tous les titres que les dits comparans ont dit avoir à nous représenter demandant souffrante pour François Belcour De la Fontaine, absent de cette ville, demeurant sur un établissement qu'il a fait au Grand Bots dans

la Baie des Chaleurs, nous supplians qu'il nous plaise les recevoir à la foy et hommage des dits trois Fiefs et Seigneuries des Isles et Islets de Mingan, vulgairement appelé le Poste de Mingan, relevans en plein, Fief de Sa Majesté, et à l'instant s'étant mis en devoir de vassaux, têtes nus, sans épés, et éperons et un genoux en terre auraient dit a haute et intelligible voix qu'ils portaient et rendaient entre nos mains la foi et hommage qu'ils sont tenus de rendre et porter au Roy au Château St. Louis de Québec, à cause des dits fiefs et seigneuries, à laquelle foi et hommage nous les avons reçus et recevons par ces présentes, sauf des droits du Roy en autres choses et de l'autrui en toutes et les dits comparans ont fait et souscrit entre nos mains le serment de bien et fidèlement servir Sa Majesté et de nous avertir et nos successeurs s'ils apprennent qu'il se fasse quelque chose contre son service

et se sont obligés de fournir leurs aveux et dénombrements dans le temps prescrit par les lois, coutumes et usages de cette province ; dont et du tout ils nous ont requis acte que nous leur avons accordé et ont signé avec nous.

Par ordre de Son Excellence.

N.B.—Remis à la demande de Messieurs Cugnet, Nicholas, Joseph et François De la Fontaine, Grant et Dunn, un certificat de leur presentation à Foi et hommage, ce matin à 4 h. ½ dans l'après diner, le 28 Mai 1781.

(Signé) J. F. CUGNET.

I hereby certify that what is written on the nine preceding pages of paper is a true copy of an original Entry in the Register of Fois et hommages for the Fiefs of Canada, volume first No. 78, folios 355 to 361 both inclusive remaining of Record in my office.

Quebec, 7th March, 1829.

(Signed) F. H. PRIMROSE,

C.L.R.

[12 Dec., 1789.]

No. 1324.

C

**PARTNERSHIP AGREEMENT, 12 DECEMBER, 1789,
BETWEEN DUNN, GRANT AND STUART, TO
OPERATE TERRE FERME DE MINGAN, ISLES ET
ISLETS DE MINGAN AND ANTICOSTI.**

IN THE PRIVY COUNCIL. ON APPEAL FROM THE COURT OF THE
QUEEN'S BENCH FOR LOWER CANADA. THE LABRADOR
COMPANY AND THE QUEEN, 1891, pp. 379-387.

Pardevant Les Notaires Publics en la Province de Quebec residents a Quebec soussignes.

Furent presents l'Honorable William Grant Ecuier demeurant en cette ville de Québec Rue des Pauvres et Dame Marie Anne Catherine Fleury Deschambault Baronne Douarière de Longueuil, son épouse du dit Sieur son mari duement autorisée à l'effet des présentes, encore le dit Honorable William

(Translation.)

Before the undersigned Notaries Public for the Province of Quebec, residing at Quebec.

Were present the Honourable William Grant, Esquire, residing in this city of Quebec, Des Pauvres street, and Dame Marie Anne Catherine Fleury Deschambault, Dowager Baroness of Longueuil, his wife, duly authorised by the said Sieur her husband for the purposes of the presents,

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Grant au nom et comme se portant fort et faisant pour les héritiers Fleury Deschambault, représentant Dame Claire Jolliet conjointement avec la dite Dame Grant de la première part.

L'Honorable Thomas Dunn Ecuier demeurant en cette ville rue St. Louis de la seconde part.

Et Peter Stuart Ecuier, demeurant en cette ville rue St. Pierre de la troisième part.

Lesquels ont par ces présentes reconnu et déclaré qu'ils sont propriétaires de presque le total des fiefs et Seigneuries de la Terre ferme de Mingan des Isles et Islets de Mingan et de l'Isle d'Anticosti sont seulement à distraire les parts et droits de Monsieur le Baron de Castelno et de son épouse et du Sieur Gilles Belcourt de la Fontaine absent de cette Province depuis plus de trente ans si aucune ils ont en outre la partie vendue par Monsieur Joseph De la Fontaine à M. Lymburner en l'année mil sept cent quatre vingt huit.

Qu'ils [sic.] la vérité ils sont propriétaires de diverses parts inégales et indivises mais à fin de constater les acquisitions et fixer les proportions de chacun va être fait un tableau des dites acquisitions telle qu'elles sont portées aux divers titres de chacun des dits Sieurs Comparants avec référence aux dits titres comme aussi de ce que chacun a acquis tant en son nom seul qu'en son nom et en celui d'un des dits Sieurs Comparants le tout comme suit.

Le dit Sieur William Grant premièrement comme ayant acquis du Sieur. Antoine Grise Notaire à Chambly par acte passé devant M^r [Panet] le [10

(Translation.)

also the said Honourable William Grant in the name and as becoming security and acting for the Fleury Deschambault, heirs representing Dame Claire Jolliet jointly with the said Dame Grant of the first part.

The Honourable Thomas Dunn, Esquire, residing in this city, St. Louis street, of the second part.

And Peter Stuart, Esquire, residing in this city, St. Peter street, of the third part.

The said parties, by these presents, have acknowledged and declared that they own practically the whole of the fiefs and seigniories of Terre Ferme de Mingan, Isles et Islets de Mingan, and of Isle d'Anticosti, excepting only the shares and rights of M. the Baron de Castelno and of his wife, and of the Sieur Gilles Belcourt de la Fontaine, absent from this Province for over thirty years, if any is owned by them besides the portion sold by Mr. Joseph de la Fontaine to Mr. Lymburner in the year one thousand seven hundred and eighty-

eight.

That truly, they own divers shares, unequal and undivided, but that, in order to ascertain the purchases and to determine the proportions belonging to each, a schedule will be prepared of such acquisitions as are described in the various title deeds in the hands of each of the said sieurs here present, with references to the said title deeds ; also of the property acquired by each, in his own name and in the name of any of the said sieurs here present, the whole as follows :

The said Sieur William Grant, *Firstly*, as having purchased from the Sieur Antoine Gris , notary at Chambly, by a deed executed before Maitre [Panet], on the [10 April] one thousand

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April] mil sept cent [et . . .] 1775 les droits de Monsieur Antoine Belcourt de la Fontaine lesquels droits le dit Sieur Antoine Grise avait acquis du dit Sieur Antoine Belcourt dela Fontaine lui meme par acte passe devant M^e Naubray le quatre decembre mil sept cent soixante neuf auquel dit Sieur La Fontaine les dits droits appartenant de la succession de D^e Charlotte Bissot sa mere et de succession collaterale de feu Sieur Louis Belcourt de La Fontaine son frere donataire de Monsieur De La Lande ou de toute maniere quelconque. Secondement comme ayant acquis par voie d'echange de Gabriel Elzear Taschereau Ecuier par acte passe devant M^e Panet Notaire le premier fevrier mil sept cent quatre vingt un les portions paternelles et maternelles echues a Dame Louise Therese Fleury De la Gorgendiere epouse de Messire Pierre Francois Rigaud de Vaudreuil marquis de Vaudreuil dans les dites Seigneuries de Mingan, Isles et Islets de Mingan, dans l'Isle d'Anticosti et autres Isles Islets battures et toutes seigneuries en bas du Golfe et Fleuve St. Laurent annexes et extensions de Mingan lesquelles portions ont ete declarees par la Marquise de Vaudreuil etre d'un sixieme dans les dites Seigneuries de Mingan jusques a Labrador, depuis et compris l'Etablissement de Mingan en bas et sur la Rive Gauche du Fleuve Saint Laurent.

Troisiemement et enfin le dit Honorable William Grant comme se declarant representant et se portant fort pour tous les Sieurs et Dame Fleury Deschambault heritiers de la dite De Claire Jolliet et pour plus grande surete de la presente declaration du dit Sieur Grant envers les dits Sieurs Thomas Dunn et Pierre Stuart les droits et pretentions des dits Sieurs et Dame heritiers Deschambault dans les Seigneuries sus dites serong incluses et seront

(Translation.)

seven hundred [and seventy-five] the rights of Mr. Antoine Belcourt de la Fontaine, which rights the said Sieur Antoine Gris  had acquired from the said Sieur Antoine Belcourt de la Fontaine himself by a deed executed before Maitre Naubray, on the fourth of December, one thousand seven hundred and sixty-nine, to which said Sieur la Fontaine, which said rights belonged to the estate of Daine Charlotte Bissot, his mother, and from the collateral succession of late Sieur Louis Belcourt de la Fontaine, his brother, donee of Mr. de la Lande, or from any other source whatsoever.

Secondly, as having acquired, through exchange, from Gabriel Elzéar Taschereau, Esquire, by a deed executed before Maitre Panet, notary, on the first of February, one thousand seven hundred and eighty-one, the paternal and maternal shares inherited by Dame Louise Thérèse Fleury de la Gorgendière, wife of Messire Pierre François Rigaud de Vaudreuil, Marquis de Vaudreuil, in the said seigniories of Mingan, Isles et Islets de Mingan, in Anticosti island and other islands, islets, shoals and any other seigniories in the lower gulf and river St. Lawrence, adjunctions and extensions of Mingan, which shares have been declared by the Marquise de Vaudreuil to be one-sixth of the said seigniories of Mingan as far as Labrador, from and including the establishment of Mingan in the lower part and on the left shore of the St. Lawrence river. *Thirdly* and lastly, the said Honorable William Grant asserting himself to represent and become security for all the Sieurs and Dames Fleury Déchambault, heirs of the said Dame Claire Jolliet; and to further guarantee the present declaration of the said Sieur Grant towards the said Sieurs Thomas Dunn and Peter Stuart, the rights and claims of the said Sieurs and Dames heirs Deschambault in the above mentioned seigniories shall be included in and be inherent

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adherentes a la moitié du dit Sieur William Grant de tenir compte aux dits Sieurs et Dame heretier de Deschambault de leurs proportions et revenus et profits de leurs droits dans les dites Seigneuries de Mingan Isles et Islets de Mingan et Isle d'Anticosti ou de transiger et composer avec eux comme bon lui semblera dont le dit Sieur William Grant fait et declare faire sa propre affaire sans que les dits Sieurs Thomas Dunn et Peter Stuart leurs hoirs et ayants cause successeurs et administrateurs a l'avenir puissent pour raison de ce etre aucunement inquietes ni recherches directement ou indirectement. Et en cas de recours ou reclamation a l'avenir de la part des dits Sieurs et Dame heritiers Deschambault leurs hoirs et ayants cause successeurs administrateurs ou d'aucun d'eux tant pour leurs droits reels et personnels dans les dites Seigneuries Terre ferme de Mingan Isles et Islets de Mingan et l'Isle d'anticosti que pour leurs proportions des revenus et profits sy aucuns y a contre les dits Sieurs Thomas Dunne, et Peter Stuart leurs hoirs et ayant cause successeurs et administrateurs les droits du dit Sieur William Grant dans les sus dits fiefs et Seigneuries demeureront de ce jour affectes et hypotheques. L'Honorable Thomas Dunn, Ecuier, Premièrement, comme ayant acquis les droits de Marie Bissot, veuve de Monsieur Francois Vederique, dans dite Seigneurie de Terre ferme de Mingan, a elle echus par le deces de Monsieur Francois Bissot et Dame Marie Lambert Dumont, ses pere et mere, dont elle s'etait declaree heretiere pour un quart suivant l'acte passe devant Me Panet, Notaire, le premier juin mil sept cent soixante-douze.

Secondement. Le dit Honorable Thomas Dunn comme ayant acquis les droits de Demoiselle Magdelaine Belcourt de La Fontaine, fille de feu Maitre

(Translation.)

to the moiety of the said Sieur Grant, as hereinafter mentioned and the said Sieur William Grant shall be held and holds himself to account to the said Sieurs and Dames heirs Deschambault for their shares, and revenues and profits of their rights in the said seigniories

of Mingan, Isles et Islets de Mingan and Isle d'Anticosti, or to transact and reach an adjustment with them as he may see fit, of which the said Sieur William Grant assumes and declares to assume personally the responsibility, in consequence of which the said Sieurs Thomas Dunn and Peter Stuart, their heirs and assigns, successors and trustees in the future are not to be disturbed nor called to account, directly or indirectly. And in case of any future recourse or claim on the part of the said Sieurs and Dames heirs Deschambault, their heirs and assigns, successors or trustees, or of any of them both as to their rights, real or personal, in the said seigniories of Terre Ferme de Mingan, Isles et Islets de Mingan and Isle d'Anticosti, and in their shares in the revenue and profits, if any, against the said Sieurs Thomas Dunn and Peter Stuart, their heirs and assigns, successors and trustees, the rights of the said Sieur William Grant in the above fiefs and seigniories shall remain from this day appropriated and hypothecated.

The Honourable Thomas Dunn, Esquire. *Firstly*, as having acquired the rights of Dame Marie Bissot, widow of Mr. François Védérique, in the said seigniority of Terre Ferme de Mingan inherited by her upon the death of Mr. François Bissot, her father, and Dame Marie Lambert Dumont, whose heiress she declared herself to be for one fourth according to the deed executed before Maitre Panet, notary, on the first day of June, one thousand seven hundred and seventy-two. *Secondly*, the said Honourable Thomas Dunn as having acquired the rights of Miss Madelaine Belcourt de la Fontaine, daughter of late Maitre Jacques Belcourt de la Fontaine and of Dame

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Jacques Belcourt de La Fontaine et de D^e Charlotte Bissot, tant en ligne directe que collaterale dans la Terre ferme de Mingan, Isles et Islets de Mingan, ainsi que le tout est plus au long designe en l'acte de vente, passe devant Maitre Panet, Notaire, le vingt Novembre mil sept cent soixante-dix-sept.

Le dit Honorable Thomas Dunn, Ecuier, et Pierre Stuart, comme ayant acquis par moitie les droits de D^e Claire Jolliet de Mingan, epouse de Monsieur Nicolas Gaspard Boisseau, Ecuier, de D^e Marie Genevieve Jolliet Mingan, epouse de Sieur Noel Hallain et de D^e Marie Anne Jolliet de Mingan, decedee, veuve de Monsieur Jean Tache, heritiere chacune par tiers, de defunt Sieur Jean Jolliet Mingan, second fils de feu Sieur Louis Jolliet, consistants les dits droits.

Premierement. En cinq vingtiemes, deux tiers dans la moitie du total des Isles et Islets de Mingan, ou telles autres parts plus ou moins considerables qui pourraient appartenir ou etre echus aux dites Dames Claire Marie Genevieve et Marie Anne Jolliet Mingan comme representant le dit Sieur Jean Jolliet Mingan second fils de Sieur Louis Jolliet consistants en outre en tous et tels droits echus par la succession de D^e Claire Bissot, autrefois epouse du dit Sieur Louis Jolliet ayeule et bisayeule des descendants et cedants ci apres mentionnes et nommes dans la Terre ferme du cote du nord du fleuve St. Laurent &c. ainsi que le tout est plus au long detaille au contrat d'acquisition que les dits Sieurs Thomas Dunn et Pierre Stuart en ont faites de la dite Dame Claire Jolliet Mingan, epouse du dit Sieur Boisseau des Sieurs Jean Marie et Pierre Hellain donataire des biens du dit Sieur Noel Hallain et de la dite D^e Marie Genevieve Mingan son epouse leur pere et mere de Sieur Charles Tache Demoiselle

Charlotte Bissot, both through direct and collateral succession, in Terre Ferme de Mingan, Isles et Islets de Mingan, as the whole is more fully described in the deed of sale executed before Maitre Panet, notary, on the twentieth of November, one thousand seven hundred and seventy-seven.

[3rd.] The said Honourable Thomas Dunn, Esquire, and Peter Stuart as having acquired, on half shares, the rights of Dame Claire Jolliet de Mingan, wife of Mr. Nicolas Gaspard Boisseau, Esquire, of Marie Geneviève Jolliet Mingan, wife of Mr. Noel Hallain, and of Dame Marie Anne Jolliet de Mingan, deceased, widow of Mr. Jean Taché, respectively heirs for one third of the late Sieur Jean Jolliet Mingan, second son of the late Sieur Louis Jolliet, the said rights consisting of :

Firstly. Of five twentieths of two-thirds of the moiety of the whole of the Isles et Islets de Mingan or such other parts, more or less in extent, as might have belonged to or fallen to the said Dames Claire, Marie Geneviève and Marie Anne Jolliet Mingan as representing the said late Sieur Jean Jolliet Mingan, second son of the late Sieur Louis Jolliet. Further, consisting of the whole and such rights as were acquired through the succession of Dame Claire Bissot, formerly wife of the said Sieur Louis Jolliet, grandmother and great-grandmother of the hereinafter mentioned and designated descendants and grantors, in Terre Ferme on the north shore of the St. Lawrence river, &c., the whole according to the more detailed description contained in the deed of purchase thereof by the said Sieurs Thomas Dunn and Peter Stuart from the said Dame Claire Jolliet Mingan, wife of the said Sieur Boisseau, frein the Sieurs Jean Marie and Pierre Hallain, donees of the property formerly owned by the said Sieur Noel Hallain, their father, and the said Dame

Angelique Tache encore le dit Sieur Charles Tache, au nom et comme curateur elus en justice a l'absence du Sieur Pierre Tache, son frere, et Demoiselle Marie Joseph Tache, tous freres et soeurs, enfants et heritiers de la dite Dame Marie Anne Jolliet Mingan, decedee, veuve de Sieur Jean Tache, le dit acte passe devant M^e Panet, le dix-sept Fevrier mil sept cent quatre-vingt-quatre.

Les dits Honorables William Grant, Thomas Dunn, Ecuier, et Pierre Stuart, Ecuier.

Premierement. Comme acquereurs, conjointement, suivant la declaration du dit Honorable William Grant, saite en l'acte de depot ci-apres mentionne des droits de D^e Marie Joseph Jolliet Anticosti, veuve de Pierre Certes et de Charlotte Jolliet Anticosti, veuve de Vital Caron et autres co-heritiers dans la succession de deffunt Sieur Charles Jolliet Anticosti, et de Jeanne Lemelin consistant les dits droits en neuf-vingtiemes deux-tiers dans le fief et Sieigneurie de l'Isle d'Anticostie, encore neuf-vingtiemes deux-tiers dans la moitie du fief et Seigneurie connu sous le nom d'Isles de Mingan, enfin le part et portion du dit Charles Jolliet Anticostie, dans la terre ferme de Mingan, comme heretier de feu Claire Bissot d'Anticosti, sa mere, suivant l'acte d'adjudication qui en a ete faite au dit Honorable William Grant, Ecuier, par James Sheppherd, Ecuier, Sheriff de ce District de Quebec, en date du vingt-et-un Janvier, mil sept cent soixante-dix-neuf, dont l'original est depose en l'etude de M^e Berthelot, Notaire, le six Aoust, mil sept cent quatre-vingt-quatre, par lequel acte de Depot, le dit Honorable William Grant declare qu'il a fait la dite acquisition tant pour lui que pour les dits Sieurs Thomas Dunn et Peter Stuart.

(Translation.)

Geneviève Mingan, his wife and their mother, from the Sieur Charles Taché, Demoiselle Angélique Taché, also the said Sieur Charles Taché, in the name of and as curator, legally appointed, in the absence of the Sieur Pierre Taché, his brother and Demoiselle Taché, all brothers and sisters, children and heirs of the said Dame Marie Anne Jolliet Mingan, deceased, widow of the Sieur Jean Taché, the said deed executed before Maitre Panet, on the seventeenth of February, one thousand seven hundred and eighty-four.

The said Honourable William Grant, Thomas Dunn, Esquire, and Peter Stuart, Esquire.

Firstly. As joint purchasers, according to the declaration made by the said Honourable William Grant in the deed of deposition hereinafter mentioned, of the rights of Dame Marie Joseph Jolliet Anticosti, widow of Pierre Certes and of Charlotte Jolliet Anticosti, widow of Vital Caron and other co-heirs in the succession of the late Sieur Charles Jolliet Anticosti and of Jeanne Lémelin, the said rights consisting of nine twentieths of two-thirds in the fief and seigniorie of Isle d'Anticosti, also nine twentieths of two-thirds in the moiety of the fief and seigniorie known as Isles de Mingan ; lastly the share and portion of the said Charles Jolliet Anticosti in the mainland of Mingan, as heir to the Late Claire Bissot d'Anticosti, his mother, according to the act of adjudication which was made

of the same to the said Honourable William Grant, Esquire, by James Shepherd, Esquire, Sheriff for the District of Quebec, under date of the twenty-first January, one thousand seventy-nine, the original of which is filed in the office of Maitre Berthelot, notary, the sixth of August, one thousand seven hundred and eighty-four, by which act of deposition the said Honourable William Grant declares having made the said acquisition both for himself and for

p. 3453

Secondement. Comme ayant acquis conjointement tant pour eux-memes que par leurs procureurs de Francois Joseph Cugnet Ecuier, et D^e Joseph Belcourt La Fontaine, son epouse. Premierement les droits et pretentions du Sieur Francois Belcourt de la Fontaine, tant en ligne directe que collaterale dans les Isles et Islets de Mingan et dans la Terre ferme anciennement concedee a Sr Francois Bissot de la Riviere les dits droits du dit Sr Francois Bellecour de la Fontaine, consistant notamment quant aux Isles et Islets de Mingan, en un quart dans la moitie du total d'icelles ou telles autres ou plus ou moins grandes portions ou autrement par successions directes ou collaterales.

Et quant a la Terre ferme consistant notamment en ce qui pouvait appartenir au dit Sieur Francois Belcour de la Fontaine par D^e Charles Bissot sa mere, decedee, veuve de feu Monsieur Maitre Jacques Belcourt de la Fontaine, son pere, comme aussi tous autres droits successifs, echus audit Sieur Francois Belcourt de la Fontaine, par le deces de Dame Marie Belcourt de la Fontaine, sa soeur, et generalement tous autres droits quelconques qui pouvaient lui etre echus le douze Octobre mil sept cent quatre-vingt-un, soit a titre d'heritage, soit par successions directes ou collaterales ou autrement, tels que les dits droits appartaient au dit Sr Francois Joseph Cugnet et la dite Dame son epouse suivant le transport qui leur en a ete faite par le dit Francois Belcourt de la Fontaine, le douze Octobre mil sept cent quatre-vingt-un.

Duxiemement. Tous et tels droits successifs, noms raisons et actions rescindants et recisoirs echus a la dite Dame Joseph de la Fontaine epouse du dit Sieur Francois Joseph Cugnet tant dans les dites Isles et Islets de Mingan par successions directes ou collaterales, ou en vertu du legs et des conditions portees au testament de feu Sieur Jacques La Lande du profit de feu Sieur

(Translation.)

the said Sieurs Thomas Dunn and Peter Stuart. *Secondly.* As having jointly acquired both for themselves and for the attorneys of François Joseph Cugnet, Esquire, and of Dame Joseph Belcourt de la Fontaine, his wife. Firstly the rights and claims of the Sieur François Belcourt de la Fontaine, both through direct and collateral succession, in the Isles et Islets de Mingan and in Terre Ferme, formerly granted to the Sieur François Bissot de la Rivière, the said rights of the said Sieur François Belcourt de la Fontaine consisting, particularly as far as the Isles et Islets de Mingan are concerned, of one fourth of the moiety of the whole thereof or such other parts or more or less extensive parts, or otherwise by direct or collateral succession. And, as to Terre Ferme consisting particularly of what might have passed to the said Sieur François Belcourt de la Fontaine from Dame Charles Bissot, his mother, deceased widow of the late Sieur Maitre Jacques Belcourt de la Fontaine, his father,

as well as of all other inherited rights fallen to the said Sieur François Belcourt de la Fontaine, upon the demise of Dame Marie Belcourt de la Fontaine, his sister, and generally of all other rights whatsoever which might have fallen to him on the twelfth of October, one thousand seven hundred and eighty-one, through inheritance, by direct or collateral succession, or otherwise, such as the rights appertaining to the said Sieur François Cugnet and to the said Dame his wife pursuant to the deed of conveyance thereof made to them by the said Sieur François Belcourt de la Fontaine, on the twelfth of October, one thousand seven hundred eighty-one. *Secondly*, all and such rights of succession, names, styles, and actions of an abrogating and rescinding character as may have come to the said Dame Joseph de la Fontaine, wife of the said Sieur Francis Joseph Cugnet in the said Isles et Islets de Mingan, through direct or collateral succession, or under the legacy and terms set forth in the will of the late Sieur Jacques la Lande in favour of the late Sieur Louis Belcourt de la Fontaine, brother of the said Dame Cugnet

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Louis Belcourt de la Fontaine, frere de la dite Dame Cugnet qui en a herite, que dans la dite Terre ferme par successions directed ou collaterales, echues a la dite Dame Cugnet soit par le deces de Sieur et Dame ses pere et mere ou de ses autres parents pour un sixieme dans un huitieme au total de la dite Terre ferme ou moins grande portion, soit a titre d'heritage ou autrement. Enfin une vente de cent cinquante livres que la dite Dame Cugnet pouvait avoir droit d'y pretendre ainsi que le tout est plus au long detaille et mentionne en l'acte de transport consenti par les dits Sieur et Dame Cugnet par acte passe devant Mr. Panet, Notaire, le dix-huit Janvier mil sept cent quatre-vingt-six, et autres clauses mentionnees en un acte portant ratification par la dite D^e Cugnet passe devant Me Deschenaux, qui en a garde minute, et son confrere le dix sept Decembre mil sept cent quatre-vingt-sept.

* * * * *

Fait convenu, arrete et passe a Quebec en l'etude de M^e Deschenaux l'un des Notaires oussignes, et a regard de la dite Dame Grant en l'hotel du dit Honorable William Grant sise rue des Pauvres l'an mil sept cent quatre vingt neuf le douzieme jour de Decembre apres midi et ont les dites parties presentes signe avec nous dits Notaires apres lecture faite.

WILLIAM GRANT.
THOMAS DUNN.
PETER STUART.
DECHAMBAULT GRANT.

CHAS. STEWART, Not^{re} Pub.

L. DESCHENAUX.

(Translation.)

who inherited the same from him, as well as in Terre Ferme fallen, through direct or collateral succession, to the said Dame Cugnet, either upon the death of her father and of her mother or of other relatives, to the extent of one sixth of one eighth of the whole of said Terre Ferme or smaller portion, either as a legacy or otherwise. Lastly, an annuity of one hundred and fifty livres which the said Dame Cugnet might be entitled to claim, the whole as more fully detailed and mentioned in the deed of conveyance agreed to by the said Sieur and Dame Cugnet, being an act executed before Maitre Panet, notary, on the eighteenth day of January, one thousand seven hundred and eighty-six, and according to other clauses set forth in an act of ratification by Dame Cugnet and executed before Maitre Deschenaux who kept the original thereof and his colleague, the seventeenth of December, one thousand seven hundred and eighty-seven.

Done, agreed upon, resolved upon and executed at Quebec in the office of Master Deschonaux, one of the undersigned notaries, and in respect of the said Dame Grant in the residence of the said Honourable William Grant, des Pauvres street, in the year one thousand seven hundred eighty-nine, the twelfth day of December, in the afternoon, and the said parties hereto present have signed with us said notaries, upon reading the presents

WILLIAM GRANT
THOMAS. DUNN
PETER STUART
DECHAMBAULT GRANT

CHA. STEWART, Not. Publ.

L. DESCHENAUX.

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State of Purchases, evaluations and sums paid by William Grant, Esq., for certain parts of the Seigniories of the terre ferme de Mingan, Isles et Islets de Mingan, and Isle d'Anticosti : —

	Livres	sol d.
For Antoine Belcourt la Fontaine's share purchased by him from Antoine Grise of Chambly, as stated in the annexed act	5,500	0 0
As representing the heirs of Fleury Deschambault, as heir of Claire Jolliet, as stated in the annexed act, valued at	10,000	0 0
For half of the succession of Charles Jolliet, Anticosti, and James Lemelin, sold by the sheriff, as stated in the annexed act for 12,700 livres, of which he paid half	6,350	0 0
For one-third of the purchase from Francois Joseph Cugnet and Joseph Belcourt de la Fontaine, his wife, of all the rights of his said wife, and of Francois Belcourt de la Fontaine, her brother, as stated in the annexed act for 10,000 livres, of which he paid	3,333	6 8
	Livres 25,183	6 8

	Livres	sol d.
State of purchases made and sums paid by Thomas Dunn, Esq., for certain parts of the Seigniories of the terre ferme de Mingan, Isles et Islets de Mingan and Isle d'Anticosti. For his purchase of Mr. Bissot Vederique's share in the terre ferme de Mingan, as stated in the annexed act, for	1,596	0 0
For the share of Magdelaine Belcourt de La Fontaine, purchased by him as stated in the annexed act	2,000	0 0
For half the shares of the heirs of Jean Jolliet Mingan, purchased by him and Peter Stuart, Esq., as stated in the annexed act for 12,000 livres, of which he paid half	6,000	0 0
For one-third of the shares of the heirs of Charles Jolliet, Anticosti, sold by the sheriff, as		

stated in the annexed act for 12,700 livres, of which paid one-third.	4,233 6 8
For one-third of the shares of Francois Belcourt de la Fontaine and of Joseph Belcourt de la Fontaine, wife of Francois Joseph Cugnet, purchased by William Grant Thomas Dunn and Peter Stuart, as stated in the annexed act for 10,000 livres, of which he paid	3,333 6 8
	Livres 17,162 13 4

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	Livres	sol	d.
State of purchase made and sums paid by Peter Stuart, Esq., for certain parts of the seigniories of the terre ferme de Mingan Isles et Islets de Mingan, and Isle d'Anticosti. For half the shares of the heirs of Jean Jolliet Mingan, purchased by him and Thomas Dunn, as stated in the annexed act for 12,000 livres, of which he paid	6,000	0	0
For one-sixth of the shares of the heirs of Charles Jolliet, Anticosti, sold by the sheriff, as stated in the annexed act for 12,700 livres, of which he paid	2,116	13	4
For one-third of the shares of Francois Belcourt de la Fontaine, wife of Francois Joseph Cugnet, purchased by William Grant, Thomas Dunn and Peter Stuart, as stated in the annexed act for 10,000 livres, of which he paid	3,333	6	8
	Livres 11,450 0 0		

Dr. General state of the Seigniories of the terre ferme de
Mingan, the Isles et Islets de Mingan, and the Isle
d'Anticosti, with William Grant, Thomas Dunn, and
Peter Stuart, Cr.

	Livres	sol	d.
To William Grant for the amount of his purchases and evaluations as particularized in the foregoing state	25,183	6	8
To Thomas Dunn for amount of purchases made by him as particularized in the foregoing state	17,162	13	4
To Peter Stuart for amount of purchases made by him as particularized in the foregoing state	11,450	0	0
	Livres 53,796 0 0		

	Livres	sol	d.
Dr. By William Grant for his half of the whole amount of all the purchases and his evaluations	26,898	0	0

By Thomas Dunn for his quarter or fourth part of
ditto 13,449 0 0
By P. Stuart for his quarter or fourth part of ditto 13,449 0 0
Livres 53,796 0 0

Page	1	2	3	4
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We do hereby acknowledge that we have examined and approved the three foregoing states referred to in the above account current, and that we have also examined and approved the said above account or statement.

Witness our hand at Quebec this twelfth day of September, 1789.

WILLIAM GRANT
THOMAS DUNN
PETER STUART

I do hereby acknowledge to have received from William Grant, Esq. seventeen hundred and fourteen livres thirteen sols and four deniers, and of Peter Stuart, Esq., the sum of nineteen hundred and ninety-nine livres in full for my reimbursement of what I have paid more than my own portion of thirteen thousand four hundred and forty-nine livres for my quarter or fourth share held by me as above stated in the Seigniories of the terre ferme de Mingan, of the Isles and Islets de Mingan, and of the Isle d'Anticosti.

Quebec, this twelfth day of December, 1789.

THOMAS DUNN.
L. DESCHENAUX.

CHAS. STEWART, Not Pub.

[9 Sept., 1803.]

No. 1325.

C

**LEASE, 9 SEPTEMBER, 1803, OF TERRE FERME DE
MINGAN TO McTAVISH, FROBISHER & CO.**

IN THE PRIVY COUNCIL. ON APPEAL FROM THE COURT OF THE
QUEEN'S BENCH FOR LOWER CANADA. THE LABRADOR
COMPANY AND THE QUEEN, 1861, pp. 408-411.

Before the subscribing Public Notaries residing in the City of Montreal, in the Province of Lower Canada, duly admitted and sworn, it is by these presents covenanted and agreed between William Grant, of St. Roch, in the District of Quebec and Province aforesaid, Esquire, acting on the part and behalf of himself and on the part and behalf of Peter Stuart and Thomas Dunn, Esquires, residing in the City of Quebec and Province aforesaid, proprietors of the undivided Seigniority of Mingan, that is to say, the said

William Grant for one-half, the said Peter Stuart for one-

quarter, and the said Thomas Dunn for the remaining quarter, of the one part ; and Simon McTavish, John Gregory, William McGillivray, Duncan McGillivray, William Hallowell and Roderick McKenzie, of the City of Montreal, merchants and co-partners in trade under the name and firm of McTavish, Frobisher and Company, of the other part. And these presents witnesseth that for and in consideration of the yearly rent, covenants and agreements in these presents after reserved and contained, which on the part and behalf of the said McTavish, Frobisher & Company as aforesaid, their and each of their executors, administrators and assigns, are to be paid, done and performed, the said William Grant, Peter Stuart and Thomas Dunn, by him the said William Grant acting in manner as aforesaid, have demised, leased and to farm letten, and by these presents do and each of them doth demise lease and to farm let unto the said McTavish, Frobisher & Company as aforesaid their said Seigniory or Post of Mingan, extending easterly from the limits of the King's Posts or Cape des Cormorants to the River Ouamane, in which is included the establishments or posts of Cormoran, Mingan, Napeusipeu, and Masquarou, the whole lying and being on the north shore of the River or Gulph of St. Lawrence, in the Province of Lower Canada, and all the stores, houses and buildings thereon erected, with the full and exclusive rights of hunting, fishing and trading with the savages within the limits of the said Seigniory and posts, with all and singular the rights, benefits and advantages belonging or appertaining thereunto. To have and to hold the said Seigniory and posts and the premises aforesaid, with all and every of their appurtenances hereby intended to be demised, granted and confirmed unto the said McTavish, Frobisher & Company as aforesaid, their and each of their executors, administrators and assigns, from the first day of October next ensuing, the date of these presents, for and during and unto the full end and term of nineteen years thence next ensuing, to be fully complete and ended, that is to say, from the first day of October, one thousand eight hundred and three, to the first day of October, one thousand eight hundred and twenty-two, yielding and paying therefor on the first day of October of or in every year during the continuance of this lease unto the said William Grant, Peter Stuart and Thomas Dunn, their heirs, executors, administrators or assigns annually the rent or sum of five hundred pounds of lawful money of the Province of Lower Canada, in payments or proportions as follows, that is to say : To the said William Grant, his heirs, executors, administrators or assigns, the sum of two hundred and fifty pounds ; to the said Peter Stuart, his heirs, executors, administrators or assigns, the sum of one hundred and twenty-five pounds, and to the said Thomas Dunn, his heirs, executors, administrators or assigns, the remaining sum of one hundred and twenty-five pounds annually as aforesaid, the first payment to be made on the first day of October, in the year one thousand eight hundred and four, and the last payment on the first day of October which will be in the year one thousand eight hundred and twenty-two. Provided always and upon

condition nevertheless that if it should so happen that the said yearly rent

p. 3459

of five hundred pounds or any part thereof shall be behind and unpaid by the space of thirty days next after the day on which the same ought to be paid as aforesaid, being lawfully demanded, that then and at all times then after it shall and may be lawful to and for the said William Grant, Peter Stuart and Thomas Dunn, their or either of their heirs, executors, administrators or assigns, into the said demised seigniory and premises, and into every part thereof, to re-enter, and the same to have again, retain, re-possess and enjoy, and the said lessees and each of them, their and every of their heirs, executors, administrators and assigns, thereout and from every part thereof to expel, and put out anything contained herein, to the contrary thereof in any wise notwithstanding. And the said Simon McTavish, John Gregory, William McGillivray, Duncan McGillivray, William Hallowell and Roderick McKenzie do hereby for themselves and either of them for himself, his executors and administrators covenant, promise and agree to and with the said William Grant, Peter Stuart, and Thomas Dunn, their and each of their heirs, executors, administrators and assigns in manner following, to wit : That they, the said Simon McTavish, John Gregory, William McGillivray, Duncan McGillivray, William Hallowell and Roderick McKenzie as aforesaid, jointly and severally, their and each of their heirs, executors, administrators or assigns, shall and will well and truly pay or cause to be paid unto the said William Grant, Peter Stuart and Thomas Dunn, or to their executors, administrators or assigns, the yearly rent of five hundred pounds as aforesaid, at the days and times and in such manner as is hereinbefore appointed for payment thereof according to the respective proportions thereof aforementioned and the true intent and meaning of these presents. And the said Simon McTavish, John Gregory, William McGillivray, Duncan McGillivray, William Hallowell and Roderick McKenzie, their and each of their executors, administrators and assigns, shall and will at all times during the term and continuance of this lease, at their and each of their own proper costs and charges, well and sufficiently repair, amend, support, maintain, preserve and keep in repair all the houses, buildings, stores, forges and appurtenances, and likewise the church or chapel, that are now upon the said Seigniory and posts in like good state and repair, as they may be in on the first day of October next, and at the period of the said lessee receiving possession of the same (the casualty of fire which may burn down the same or any part thereof only excepted), and to restore the same in like good order and condition at the expiration of this lease (except as hereinbefore excepted.) And whereas circumstances may require to make alterations, additions and improvements to the buildings now upon the said premises, it is hereby understood and agreed by and between the said parties to these presents that the said lessees shall have

permission so to do, provided always that at the expiration of the said lease the said buildings shall be upon the whole of the same extent or value as at the time of the commencement thereof. And the said William Grant, Peter Stuart and Thomas Dunn, for themselves, their and each of their executors, administrators and assigns, do covenant, promise and agree to and with the said Simon McTavish, John Gregory, William

p. 3460

McGillivray, Duncan McGillivray, William Hallowell and Roderick McKenzie as aforesaid, their and each of their executors, administrators or assigns, paying the yearly rent hereinbefore reserved, and well and truly doing performing, fulfilling and keeping all and every the covenants and agreements hereinbefore mentioned or contained which on their and each of their parts and behalf are to be kept and performed according to the true intent and meaning of these presents. That they, the said McTavish, Frobisher & Company as aforesaid, their and each of their executors, administrators and assigns, shall and lawfully may peaceably and quietly have, hold, occupy and enjoy all and singular the premises and appurtenances hereby demised or intended so to be during the full term hereby granted, without any molestation or interruption whatsoever of or by the said William Grant, Peter Stuart and Thomas Dunn, or either of them, their or either of their executors, administrators or assigns, or any of them, or any person or persons lawfully and equitably claiming or to claim under them, or any of them, or by or through their or any of their acts, means, consent or procurement.

And it is further agreed between the said parties to these presents that the said McTavish, Frobisher & Company shall have and take on their account all such goods, wares and merchandise, provisions, vessels and other effects and moveable property as are now upon or belonging to the different posts in the said Seigniorie of Mingan, agreeable to an inventory thereof to be made by Mr. Keable Sargeant, appointed by the said William Grant, Peter Stuart and Thomas Dunn, and Mr. Alexander Fraser, appointed by the said McTavish, Frobisher & Company, who are now returned from the said posts, deducting therefrom such part of the said goods, merchandise, provisions and other effects and moveable property as the clerk and servants now in the service of the said William Grant at the said posts may take therefrom prior to the commencement of the present lease. And the said McTavish, Frobisher & Company do hereby agree to take the said goods, merchandise, provisions, vessels and effects and moveable property, and pay for the same unto the said William Grant, Thomas Dunn and Peter Stuart at and after the same rate and manner and at the same term for payment as they the said McTavish, Frobisher & Company received, took and paid for the goods, merchandise, vessels and effects and moveable property remaining on the posts of the King's Domain at the commencement of their lease of the said posts. And the said McTavish, Frobisher & Company do hereby agree to take and

receive from the said William Grant a certain quantity of goods he imported this year from England, amounting by invoice to fourteen hundred pounds sterling or thereabouts, and to give the said William Grant bills of exchange on London in October next payable in one year after date for the amount thereof, together with interest thereon from the fifteenth day of March next to the time the said bills will become due and payable, but the said goods are to remain in the possession and at the risk of the said William Grant until the first day of October next, unless the said McTavish, Frobisher & Company should make a demand for

p. 3461

any part thereof sooner, in which case the whole is to be at the risk of the said McTavish, Frobisher & Company.

And lastly, the said William Grant doth hereby promise, bind and oblige himself to procure the consent and ratification of the said Peter Stuart and Thomas Dunn to the several covenants and agreements herein contained, the same to be executed at Quebec before two Notaries Public within one calendar month from the date hereof on the counterpart of these presents, and an attested copy of said consent and ratification to be transmitted to the said McTavish, Frobisher & Company as soon as the same shall have been so executed, to be annexed to the minute of record of these presents.

And for the due execution whereof and all its dependencies the said parties have elected their domiciles at their respective places of abode above mentioned, at which places, &c., notwithstanding, &c., for thus, &c., promising, &c., binding and renouncing, &c.

Done and passed at Montreal aforesaid at the counting house of the said McTavish, Frobisher & Company, in Saint Gabriel Street, on the ninth day of September, in the year one thousand eight hundred and three, and signed, the parties present with us Notaries, these presents, after being duly read.

(Signed,) WILLIAM GRANT,
SIMON McTAVISH,
JOHN GREGORY,
W. McGILLIVRAY, for self and

for

DUNCAN McGILLIVRAY,
WILLIAM HALLOWELL,
ROD. McKENZIE.

(Signed,) J. BTE. DESEVE,
Notary.

(Signed,) J. G. BECK,
Notary Public.

[19 Sept., 1804.]

No. 1326.

**SALE OF FISHING POSTS ON THE NORTH SHORE
OF GULF OF ST. LAWRENCE BETWEEN
OURAMANNE RIVER AND THE STRAITS OF
BELLEISLE,
19 SEPTEMBER, 1804.**

ARCHIVES DE LA PROVINCE DE QUEBEC. ORIGINAL FOUND IN THE
OFFICE OF THE LATE JH. PLANTÉ

Furent présents Monsieur Mathew Lymburner Negociant à Quebec y demeurant rue St. Pierre Associé, survivant de feu Sieur John Crawford, sous les noms de Lymburner et Crawford et John William Woolsey Ecuyer demeurant à Québec au nom et come curateur élu en justice à Quebec le neuf Mars mil huit cent quatre à la succession vacant du dit feu Sieur John Crawford ; lesquels es dits noms et qualités ont par ces présentes venu, cédé, quitté, transporté, delaissé et abandonné dès maintenant et à toujours avec garantie de leurs faits et promesses seulement à William Grant Ecuyer demeurant en la haute ville de Quebec rue des Pauvres, à ce présent et acceptant acquéreur pour lui ses hoirs et ayans cause à l'avenir c'est à savoir, la juste moitié indivise appartenant aux dits sieurs Lymburner et Crawford, dans tous les etablissemens de Pêche qui sont sur la Cote de Labrador et notamment dans tous les differents Postes depuis la Riviere Ouramanne jusques et compris le Poste de Pieds noirs dans le Détroit de Belisle, tant sur les Isles et Islets que sur la terre ferme et particulièrement ceux nommés Itamamion, Petit Mecatina et dépendances, Baye Moutons,

(Translation.)

Were present Mr. Mathew Lymburner, merchant at Quebec, residing thereat, St. Peter street, surviving partner of the late Sieur John Crawford, under the name of Lymburner and Crawford, and John William Woolsey, Esquire, residing at Quebec, in the name of and as legally appointed curator, at Quebec the ninth of March, one thousand eight hundred and four, of the vacant succession of the said late Sieur John Crawford; which parties in the said names and qualities have hereby sold, made over, granted, conveyed, relinquished and abandoned from this day and forever, with no other security than their own doings and pledges, to William Grant, Esquire, residing in the Upper Town of Quebec, des Pauvres Street, hereto present and accepting purchaser for himself, and his heirs and assigns in the future, that is to say, an exact undivided moiety belonging to said Sieurs Lymburner & Crawford in all the fishing establishments which are on the coast of Labrador, and particularly in all the various posts from Ouramanne river as far as and including Pied Noirs post in the strait of Belleisle, both on the islands and islets and on the main land and particularly those called Itamamiou, Petit Mecatina and dependencies, Baye Moutons Gros Mecatina and dependencies,

Gros Mecatina et dépendances, Kekapoui, St. Augustine et Dependances, Lac Sally, Grosse Isle, Kakassipi, Chicataca, Bonne Esperance, Post Stewart, Bradore, Blanc Sablon, L'ance aux Dunes, L'ance Ste. Claire, Pied Noir, Ensemble la moitié de tous les batimens, maisons, hangards, Magazins Boutiques, échaffauds, Gréements, effets, ustenciles, de pêche soit à Loups marins, saumons ou autres, chaloupes, batteaux, canots et generalement tous les effets quelconques tels qu'il se trouvent sur la dite Côte, avec aussi Droits de Proprieté en roture ou D'occupation, ou de Pêche et de chasse tels que les possèdent les dits Sieurs Lymburner et Crawford, sans y comprendre néanmoins aucuns des droits ou prérogatives de seigneurie que le dit sieur Lymburner a ou peut y avoir, Vendent en outre la moitié des dits sieurs Lymburner et Crawford dans les deux batimens savoir le Bateau nommé le Québec et la Goilette nommé Dorchester avec leurs agrés et apparaux sans en rien reserver, Déclarant le dit acquéreur le tout bien savoir et connoître pour être propriétaire lui même ou possesseur de l'autre moitié des dits biens et effets sur le même pied que les dits sieurs Lymburner et Crawford et en est content et satisfait.

Cette vente faite avec réserve de la part des vendurs de tous les retours de la Pêche, chasse et traite de l'année courante c'est à dire de l'hyver dernier, et de l'été de l'année mil huit cent quatre ainsi que les retours du commerce avec les Etrangers nommés (Planters) ou les balances que les dits Planters pourront redevoir, ces objets ainsi réservés devant appartenir à l'ancien fond d'exploitation entre les dits William Grant Exuyer acquéreur, et Lymburner et Crawford, pour être partagés entr'eux par moitié, sans être compris dans la présente vente.

(Translation.)

Kakapoui, St. Augustine and dependencies, Lake Sally, Grosse Isle, Kakassipi, Chicataca, Good Hope (Bonne Espérance), Post Stewart, Bradore, Blanc Sablon, L'ance-aux-Dunes, L'ance Ste. Claire, Black Foot (Pied Noir), together with the moiety of any buildings, houses, sheds, storehouses, shops, stages, rigging, effects, fishing utensils, either for seal, salmon or other fisheries, chaloupes, canoes and any effects generally whatsoever which may be found on the said coast, also with the rights of ownership *en roture* or of occupation, or fishing and hunting rights as enjoyed by the said Sieurs Lymburner and Crawford, not including however any of the seigniorial rights or prerogatives which the said Sieur Lymburner enjoys or may enjoy therein. Further sell the moiety owned by the said Sieurs Lymburner and Crawford in two vessels, viz.—the bateau called the Quebec, and the schooner called Dorchester, with their rigging and fittings, with no reservation therefrom, the said purchaser declaring them to be well-known to him, he being the proprietor personally, or the owner of the other moiety of the said property and effects on an equal footing with the said Sieurs Lymburner and Crawford, and being content and satisfied.

This sale is made with reservation on the part of the vendors of all the returns from the fishery, chase, and trade of the current year, that is to say of last winter and of the summer of the year one thousand eight hundred and four, as well as of the returns of the trade with the outsiders (called “ planters ”) or the balances which the said planters may owe, such items so reserved belonging to the old fund of operation between the said William Grant, Esquire, purchaser, and Lymburner and Crawford, to be divided between themselves in half shares, without being included in this sale.

Et la dite présente vente faite pour et moyennant le prix et somme de quatre mille sept cent cinquante Livres courant de cette Province que le dit William Grant Ecuyer acquereur promet et s'oblige bailler et payer aux dits Sieurs Mathew Lymburner et John William Woolsey aux dits noms ou a l'un d'eux, en sa demeure à Québec, ou ordre porteur des présentes, en espece d'or ou d'argent ayant cours a la date des présentes, nonobstans mutation d'autre monnoie quelconque en trois payemens égaux de quinze cent quatre vingt trois livres six shellins et huit sols courant chacun, dont le premier écherra et se fera le premier du mois d'octobre de l'anné mil huit cent cinq, le second, à pareil jour de l'année mil huit cent six, et le troisieme et dernier, à pareil jour de l'anné mil huit cent sept, avec interet à six pour cent payable chaque année, courant de ce jour et diminuant a proportion des paymens qui seront faits. Pour sureté de quoi, le dit William Grant Ecuyer acquéreur a affecté obligé et hipothequé generalement tous ses biens présents et futurs, et spécialement, sans qu'une obligation deroge à l'autre, les biens susvendus sur lesquels les vendurs auront un privilege comme bailleurs de fonds.

A ce faire étoit présent et est intervenu David Alexandre Grant Ecuyer, Seigneur de la Baronie de Longueuil, demeurant à l'isle St. Helène pres de Montréal, de présent en la ville de Québec, lequel s'est volontairement rendu et constitué caution du dit William Grant Ecuyer, envers les dits Sieurs vendeurs esdits noms pour la dite somme de quatre mille sept cent cinquante livres courante et s'est obligé solidairement avec lui, lui seul pour le tout au payement de la dite somme dans le tems et de la maniere mentionnés cidessus et des autres parts, ainsi qu'à l'interêt, faisant son propre fait et dette de la

(Translation.)

And the said present sale is made for and in consideration of the price and sum of four thousand seven hundred and fifty livres current money of this province, which sum the said William Grant, Esquire, purchaser, binds and obliges himself to deliver and pay to the said Sieurs Mathew Lymburner and John William Woolsey, in the said names or to one of them, in his residence at Quebec, in current gold or silver specie at the time of these presents, notwithstanding any change of currency whatsoever, in three equal payments of fifteen hundred eighty-three livres, six shillings, and eight sols current money each, the first of which shall fall due and be made on the first of October of the year one thousand eight hundred and five, the second on like day in the year one thousand eight hundred and six, and third and last, on like day in the year one thousand eight hundred and seven, with interest at the rate of six per centum to be paid each year, running from this day and decreasing proportionately to payments made. As a security for the above, the said William Grant, Esquire, purchaser, has appropriated, pledged and hypothecated generally all his present and future property, and specially, without one obligation derogating from the other, the property as above sold on which the vendors shall have a lien as lenders.

At which was present and intervened, David Alexander Grant, Esquire, Seigneur of the Barony of Longueuil, residing on St. Helen island, near Montreal, at the present time in the city of Quebec, who willingly made and constituted himself surety for the said William Grant, Esquire, towards the said sieurs vendors, in the said names, for the said sum of four thousand seven hundred and fifty livres current money, and has bound himself jointly, himself for the whole, for the payment of the said sum within the time and in the manner above mentioned and of the other parts, as well as of the interest, accepting as his own deed and debt the said sum both as to principal and interest, to

dite somme en principal et intérêt, auxquels paymens le dit David Alexandre Grant Ecuyer a affecté obligé et hipotequé tous ses biens présents and avenir sans qu'une obligation deroge à l'autre.

Et pour l'exécution des présentes les dits débiteur et caution ont élu leur domicile irrevocable en la maison du dit William Grant Ecuyer susdit rue des Pauvres Auquel lieu & nonobstant & Promettant & Obligeant & Renonçant fait et passé à Québec, etude Me. Planté l'un des Notaires soussignés l'an mil huit cent quatre le dix neuf Septembre avant midi. Et ont les parties signé, lecture faite.

R. LELIEVRE
Not. Pub.

M. LYMBURNER
J. WM. WOOLSEY
WILLIAM GRANT
D. A. GRANT
JH. PLANTÉ,

(Translation.)

secure which payments the said David Alexander Grant, Esquire, has appropriated, pledged and hypothecated all his present and future property, without the one obligation derogating from the other.

And for the execution of these prescripts the said debtor and surety have elected their irrevocable residence in the house of the aforesaid William Grant, Esquire, des Pauvres street, at which place and notwithstanding and promising and obliging and renouncing done at Quebec, in the office of Master Planté one of the undersigned notaries, in the year one thousand eight hundred and four, on the nineteenth of September in the forenoon. And the said parties have signed: the presents having been read.

R. LELIEVRE
Not. Pub.

M. LYMBURNER
J. WM. WOOLSEY
WILLIAM GRANT
D. A. GRANT
JH. PLANTÉ,

[22 Feb., 1808.]

No. 1327.

**SHERIFF'S DEED TO JOHN RICHARDSON OF
15/32nds OF ISLES ET ISLETS DE MINGAN,
22 FEBRUARY, 1808.**

IN THE PRIVY COUNCIL. ON APPEAL FROM THE COURT OF THE
QUEEN'S BENCH FOR LOWER CANADA. THE LABRADOR
COMPANY AND THE QUEEN, 1891, pp. 424-425.

THIS Indenture, made the twenty-second day of February, in the year of our Lord one thousand eight hundred and eight, between James Shepherd, Sheriff of the District of Quebec, in the Province of Lower Canada, of the one part, and John Richardson, Esquire, of the City and District of Montreal, in the said Province, Curator, to the vacant succession of William Grant, late of Quebec, Esquire, deceased, of the other part. Whereas His Majesty's writ of execution bearing date 13 March, one thousand eight hundred and five, issued out of the Court of King's Bench, for the said District of Quebec, at the suit of Ralph Rosslewin and Archange Baby, his wife, against the lands and tenements of Mathew Lymburner and of the late John Crawford, deceased, in the hands of John William Woolsey, Curator to the vacant succession of the said John Crawford, directed to the Sheriff of the District of Quebec, which writ was on the said 13th day of March, 1805, delivered to the said James Shepherd, Sheriff, as aforesaid, to be executed, in virtue whereof the said Sheriff did seize into his hands and take in execution as belonging to the said Mathew Lymburner and the late John Crawford, deceased, fifteen thirty-second parts undivided in the Fief and Seigniorie of the Isles and Islands of Mingan, situated on the Coast of Labrador, in the District of Quebec, said Seigniorie consisting of the Isles and Islands which being on the North Shore follow in continuation to the Bay called L'anse aux Espagnols, in such manner as the said Seigniorie, with its rights, is more amply conceded and designated by the title of Concession, granted to Jacques de Lalande and Louis Jolliet, of date the tenth of March, 1679, also with all the right in the Seigniorie of the mainland of Mingan, to the north of and opposite to the said Isles and Islands such as Joseph La Fontaine as descendants of the deceased François Bissot de la Rivière, might have possessed and did sell the same to the said Mathew Lymburner, by contract passed before Mr. Jacques Pinguet, Notary of Quebec, the 15th May, 1788, with the rights, honors and prerogatives annexed to the said Isles and Islands and mainland without reserves. And whereas the said Sheriff, having so seized into his hands and taken the said premises in execution, did cause the same to be advertised

and proclaimed in the Quebec Gazette and at the Church door of the parish of Quebec, according to law, to be sold and adjudged to the highest bidder, at the Court House in the City of Quebec, on Thursday the eighth day of August, 1805, at eleven o'clock in the forenoon and the same premises being then put up to sale in the usual manner at the place aforesaid, the said William Grant, deceased, being the last and highest bidder, became the purchaser thereof at the price of three hundred and sixty-six pounds, currency of the Province of Lower Canada. Now in order to convey the said premises and to confirm the purchase thereof to the said John Richardson, as curator to the vacant succession of the said William Grant, deceased, his heirs and assigns.

This Indenture witnesseth that the said Sheriff, by virtue of the said writ of execution and of his said office of Sheriff, for and in consideration of the said sum of three hundred and sixty-six pounds, to him by the said John Richardson, in his quality aforesaid, at or before the execution of these presents in hand paid, the receipt whereof the said Sheriff doth hereby acknowledge and thereof acquit and discharge the said John Richardson, in his said quality, his heirs and assigns, hath granted, bargained and sold and by virtue of the said writ of execution and these presents doth as much as in him is and he lawfully may grant, bargain and sell to the said John Richardson, as curator to the vacant succession of the said William Grant, deceased, the said premises hereinbefore described and of the appurtenances thereunto belonging, and also all and singular the right, title, interest, property, claim and demand whatsoever, of him, the said Sheriff, of, in and to the same and every part and parcel thereof. To have and to hold the said premises and appurtenances unto the said John Richardson, in his said quality, his heirs and assigns to the only proper use and benefit and behoof of him, the said John Richardson, in his said quality of curator to the vacant succession of the said William Grant, deceased, his heirs and assigns forever under such rents, duties, and services as the said premises are subject to. In witness whereof the said parties have hereunto interchangeably set their hands and seals, at the City of Quebec aforesaid, on the day and year first above written.

J. A. SHEPHERD.

Signed, Sealed and delivered, in the presence of.

J. W. WOOLSEY

(L.S.)

D. MONRO

[22 April, 1808.]

No. 1328.

**DEED BY THE CURATOR OF THE ESTATE OF
WILLIAM GRANT AND BY CHARLES WM. GRANT
TO LANGAN, *et al*,**

22 APRIL, 1808 OF FISHING POSTS BETWEEN ITAMAMIOU AND ANSE
STE. CLAIRE.

ARCHIVES DE LA PROVINCE DE QUEBEC. ORIGINAL FOUND IN THE
OFFICE OF THE LATE JH. PLANTÉ.

Furent présents l'Honorable John Richardson Ecuier l'un des membres du Conseil Exécutif de Sa Majesté en cette Province, demeurant ordinairement à Montréal de présent en cette ville de Québec au nom et comme curateur élu en justice le vingt quatre juin dernier à la succession vacante de feu William Grant Ecuyer ; et Charles William Grant Ecuyer garçon majeur demeurant en cette ville ; lequel ont par ces présentes, savoir le dit honorable John Richardson en sa dite qualité de curateur et le dit Charles William Grant Ecuyer en son propre et privé nom, reconnu et confessé avoir vendu, cédé, quitté, transporté délaissé et abandonné dès maintenant à toujours, promettent chacun en sa qualité respective garantir de tous troubles, dettes hipotheque évictions aliénations, dons douaires et autres empêchements généralement quelconques à Messieurs Patrick Langan, William Burns, John William Woolsey et Mathew Lymberner Ecuyers demeurants en cette ville à ce présents et acceptants acquéreurs pour eux leurs hoirs et ayans cause à

(Translation.)

Were present the Honourable John Richardson, Esquire, one the members of His Majesty's Executive Council in this Province, usually residing in Montreal and, at the present time, in this city of Quebec, in the name of and as curator, appointed by law on the twenty fourth of June last, of the vacant succession of late William Grant, Esquire ; and Charles William Grant, Esquire, a bachelor of age residing in this city ; the parties hereto present, to wit : the said Honourable John Richardson, in his said quality of curator and the said William Charles Grant, Esquire, in his own and private name, have acknowledged and declared that they have sold, made over, waived, conveyed, relinquished and abandoned from this day forever, each of them in his respective quality promising to guarantee from any disturbance, debts, mortgage, dispossession, alienation, donation, dowry and other impediments generally whatsoever, to Messrs. Patrick Langan, William Burns, John William Woolsey and Mathew Lymburner, Esquires, residing in this city, hereto present and accepting purchasers for themselves, theirs heirs and assigns in the future, to wit : the said Sieur

des biens ci-après vendus et les trois autres acquéreur, l'autre moitié entr'eux chacun par égale portion, c'est à savoir ; tous et tels droits, fond, titres, intérêts, propriété, prétentions et demandes quelconques que le dit feu William Grant Ecuyer et le dit Charles William Grant Ecuyer et chacun d'eux avoient ou ont ou pourroient avoir dans et sur tous leurs postes et établissements de pêche, soit à loup marins ou à saumon ou autre exploitations sur la côte de Labrador dans le district de Québec depuis le poste d'Itamamiou inclusivement jusqu'à l'ance Ste. Claire aussi inclusivement, particulièrement les postes d'Itamamiou, petit Mecatina, Baye Mouton, gros Mecatina, Tabatière Kekaporie, St. Augustin, Chicataca, Bonne Espérance, Mador,¹ l'ance aux Dunes, Blanc Sablon, l'ance Ste. Claire ainsi que tous droits ou prétentions de quelque nature que ce soit que les dits vendeurs peuvent avoir sur aucuns autres postes ou places d'exploitation de pêche non denommés particulièrement dans la sus dite étendue sur la côte de Labrador, avec toutes leurs dépendances et tous les batimens dessus construits tous les grémens de pêche fixés ou non fixés et tous les effets quelconques appartenants aux dits vendeurs es dits noms, aux dits endroits, tel que le tout se poursuit et comporte sans en rien réserver et que le dit feu William Grant Ecuyer et le dit Charles William Grant Ecuyer en ont joui ou du jouir et ainsi que le tout est plus amplement expliqué et désigné par l'avertissement que James Shepherd Ecuyer comme shériff de ce district en a fait publier dans la Gazette de Québec le dix neuf novembre mil huit cent sept et autres jeudis subséquents pour la vente d'iceux par décret ; de laquelle vente par décret les vendeurs s'obligent fournir aux acquéreurs et à leurs frais le titre du Shériff qui en sera qu'un

(Translation.)

Patrick Langan for one whole half of the property hereinafter sold and the three other purchasers, the other half between themselves each in an equal share, to wit: any and such rights, matter, title, interest, property, claim and pretension whatsoever as the said late William Grant, Esquire, and the said Charles William Grant, Esquire, and each of them had have or may have in and on each one of their posts and fishing establishments on the coast of Labrador, in the district of Quebec, from the post of Itamamiou inclusive, as far as the Ste. Claire cove also inclusive, particularly the posts of Itamamiou, the Petit Mecatina, Baye Mouton, Gros Mecatina, Tabatière, Kekaporie, St. Augustin, Chicataca, Bonne-Espérance, Mador, Anse-aux-Dunes, Blanc Sablon, Anse Ste. Claire, together with all rights and pretensions of any kind whatsoever which the said vendors may have on any other posts or operating places for the fisheries in the aforesaid extent on the coast of Labrador, not expressly specified, as well as all their dependencies and all the buildings erected thereon, all the fittings, fixed or otherwise, and effects whatsoever belonging to the said vendors in the said names, at the said places, the whole as it is with no reservation whatsoever, and as the said late William Grant, Esquire, has or would have enjoyed the same, and the whole as more fully described in the advertisement caused to be published in connection with the same in the Quebec Gazette on the nineteenth of November, one thousand eight hundred and seven and on other subsequent Thursdays by James Shepherd, Esquire, as Sheriff of this district ; of which sale by a writ of execution the vendors bind themselves to deliver to the purchasers and at their expense the Sheriff's title deed

¹Bradore Bay.
p. 3470

seul et même titre avec le présent sur lequel néanmoins les parties régleront quant au prix de cette vente. Vendent en outre les dits vendeurs es dits noms aux dits sieurs acquéreurs ce acceptant tous les effets et marchandises qui sont à Québec et qui dépendent de l'exploitation des dits postes selon l'inventaire qui en a été fait le quinze septembre dernier montant à quatre cent quatre vingt seize livres quinze shillins et neuf sols du cours actuel de cette Province ; lesquels effets et marchandises les acquéreurs reconnaissent avoir reçu dès le dit jour quinze septembre dernier. Vendent en outre comme dessus la goelette Dorchester du Port de cent onze tonneaux et la goelette le Président Matson du port de quatre vingt tonneaux avec tous leurs agrès et apparaux pour lesquels deux batimens les vendeurs s'obligent de faire des contrats séparés s'il est nécessaire avec transport sur le registre respectif de la propriété d'iceux batimens en faveur des sieurs acquéreurs a première requisition.

Tous les biens droits prétentions effets batimens et autres objets sus vendus appartenants savoir deux tiers à la succession vacante du dit feu William Grant Ecuyer et l'autre tiers au dit Charles William Grant Ecuyer, pour l'avoir acquis du dit feu William Grant Ecuyer par contrat passé devant les notaires à Québec et dont Me. F. Têtu l'un d'eux a gardé minute le vingt deux septembre mil huit cent quatre.

Cette présente vente ainsi faite pour et moyennant le prix et somme de trois mille sept cent soixante quinze livres courant de cette Province y compris les quatre cent quatre vingt seize livres quinze shellins neuf sols courant pour la valeur des effets et marchandises à Québec comme sus dit. En déduction de laquelle somme totale les dits sieurs vendeurs ès-dits noms

(Translation.)

which shall be held as the one and same title with the present, as to which nevertheless the parties shall determine between themselves the price of this sale. Further, the said sieurs vendors, in the said names, sell to the said sieurs purchasers all the effects and goods which are at Quebec and which belong to the operation of the said posts according to the inventory made of the same on the fifteenth September last, amounting to ninety-six livres and nine sols, present currency of this Province ; which effects and goods the purchasers acknowledge having received from this said day of the fifteenth September last. Furthermore, they sell, as above stated, the schooner Dorchester, of one hundred and eleven tons, and the schooner President Matson, of eighty tons, with all their rigging and sails, tackles, &c., for which two vessels the vendors oblige themselves to enter into distinct agreements, if necessary, with the transfer, on the respective register, of the ownership of the said vessels to the said sieurs purchasers upon a first request.

All the property, rights, pretensions, effects, vessels and other articles sold as above belonging, to wit : two thirds to the vacant succession of the said late William Grant, Esquire, and the remaining third to the said Charles William Grant, Esquire, as having been acquired from the said late William Grant, Esquire, under a contract executed before the notaries at Quebec, and of which Maitre Têtu, one of the said notaries kept the original, on the twenty-second of September, one thousand eight hundred and four.

This sale thus made for and in consideration of the price and sum of three thousand seven hundred and seventy-five livres, currency of this Province, including the four hundred and ninety-six livres, fifteen shillings, nine sols, current money, for the value of the goods and effects at Quebec as above mentioned. Deduction having been made from such sum

reconnaissent avoir reçu des sieurs acquéreurs dès le premier octobre dernier celle de douze cents cinquante huit livres six shillings huit sols dont ils sont contents et satisfaits et dont quittance à compte. Et quant à la somme de deux mille cinq cent dix sept livres treize shillings et quatre sols courant restant pour parfait paiement les sieurs acquéreurs promettent et s'obligent la bailler et payer à chacun des vendeurs selon sa proportion en espèces d'or ou d'argent ayans cours à la date des présentes, nonobstant mutation d'autre monnoie quelconques à Québec ou à leur ordre porteur des présentes savoir, moitié ou douze cent cinquante huit livres six shillings et huit sols dans le cours du mois d'octobre prochain et pareille somme dans le cours du mois d'octobre de l'année mil huit cent neuf avec intérêt à raison de six pour cent courant depuis le premier octobre mil huit cent sept sur les deux derniers paiements lequel diminuera à proportion d'iceux.

Pour sûreté de laquelle somme restant à payer et des intérêts qui en proviendront les dits sieurs acquéreurs ont affecté obligé et hypothéqué généralement tous leurs biens présents et futurs et spécialement sans qu'une obligation déroge à l'autre les biens sus vendus sur lesquels les dits vendeurs auront un privilège spécial comme bailleur de fonds.

Et au moyen de tout ce que dessus les vendeurs ès dits nom transportent aux acquéreurs tous droits de propriété nom raison action prétention et demande qu'ils pourroient avoir et prétendre sur les objets sus vendus s'en demêtant devêtant et dessaisissant en faveur des dits acquéreurs et de leurs hoirs et ayans causes voulant et consentant qu'ils en jouissent fassent & disposent en toute propriété et à perpétuité au moyen des présentes.

(Translation.)

in the said names, acknowledged having received from the sieurs purchasers, on the first of October last the sum of twelve hundred and fifty-eight livres, six shillings, eight sols, of which they are satisfied and give a final discharge. And as to the sum of two thousand five hundred and seventeen livres, thirteen shillings and four sols current money, remaining to be paid in order to make payment in full, the sieurs purchasers pledge and oblige themselves to give and pay the same to each of the vendors according to his share, in gold or silver specie of the currency in force at the date of these presents, notwithstanding any change in any other currency whatever, at Quebec, or at their order to the bearer of these presents, to wit : one half or twelve hundred and fifty-eight livres of six shillings and eight sols in the course of the month of October next and a like sum in the month of October of the year one thousand eight hundred and nine, with interest at the rate of six per centum to be computed from the first of October, one thousand eight hundred and seven on the last two instalments, which shall decrease proportionately to the said instalments.

As a guarantee for the said sum remaining to be paid and of the interest that may accrue thereon, the said sieurs purchasers have appropriated, pledged and hypothecated generally their present and future property and particularly, without the one commitment derogating from another, the property sold as above on which the said vendors shall have a special privilege as lenders.

And, in consideration of the above, the vendors in said names convey to the purchasers any such rights of ownership, name, share, action, pretension and claim as they might have and claim on the articles hereinbefore sold, disseizing and dispossessing

themselves of the same in behalf of the said purchasers and their heirs and assigns, granting and consenting to their using, enjoying and disposing of the same as their exclusive property and forever under these presents.

p. 3472

Car ainsi &c. Promettant &c. Obligeant &c. Renonçant
&c. Fait et passé à Québec en la maison du dit feu William
Grant Ecuier rue des pauvres, l'an mil huit cent huit le vingt
deux avril avant midi et ont les parties signé, lecture faite.

R. LELIÈVRE

JOHN RICHARDSON
C. WM. GRANT
PATRICK LANGAN
WM. BURNS
J. WM. WOOLSEY
M. LYMBURNER
JH. PLANTÉ

(Translation.)

Wherefore &c. promising, &c., obliging, &c., renouncing, &c. Done and executed
at Quebec, in the residence of said late William Grant, Esquire, des Pauvres street, in the
year one thousand eight hundred and eight, the twenty-second of April, in the forenoon, and
the parties have signed after reading of these presents.

R. LELIÈVRE

JOHN RICHARDSON
C. WM. GRANT
PATRICK LANGAN
WM. BURNS
J. WM. WOOLSEY
M. LYMBURNER
JH. PLANTÉ.

No. 1329.

**NEW LABRADOR COMPANY, PARTNERSHIP
AGREEMENT, 22 APRIL, 1808.**

[22 April, 1808.]

ARCHIVES DE LA PROVINCE DE QUEBEC. ORIGINAL FOUND IN THE
OFFICE OF THE LATE JH. PLANTÉ.

Furent présents l'Honorable John Richardson Ecuyer l'un des membres du conseil Exécutif de Sa Majesté en cette Province demeurant ordinairement à Montréal de présent à Québec, Patrick Langan Ecuyer, demeurant à Québec, Messieurs William Burns, John William Woolsey et Matthew Lymburner négociant demeurant aussi à Québec.

Lesquelles parties ont dit que par deux contrats passés devant les notaires soussignés en date de ce jour Les dits Patrick Langan, William Burns, John William Woolsey et Matthew Lymburner, auraient acquis du dit honorable John Richardson, au nom et comme curateur à la succession vacante de feu William Grant Ecuier, le fief et seigneurie des Isles et Islets de Mingan, avec cinq quarante huitièmes indivis du fief et seigneurie de St Paul tous deux situés sur la côte de Labrador dans le district de Québec, et encore du dit honorable John Richardson en sa dite qualité de curateur et de Charles William Grant Ecuyer, tous les postes et établissements de pêches qui sont sur la côte de Labrador, avec deux geolettes, divers effets et marchandises pour l'exploitation des dits postes, tel et ainsi que le tout est plus au long expliqué et désigné

(Translation.)

Were present the Honourable John Richardson, Esquire, one of the members of His Majesty's Executive Council in this Province, usually residing at Montreal, and at the present time, at Quebec, Patrick Langan, Esquire, residing at Quebec, Messrs. William Burns, John William Woolsey and Mathew Lymburner, merchant, also residing at Quebec.

The above-named parties stated that, under two agreements executed this day before the undersigned notaries, the said Patrick Langan, William Burns, John William Woolsey and Mathew Lymburner, had acquired from the said Honourable John Richardson, in the name of and as curator of the vacant succession of the late William Grant, Esquire, the fief and seigniory of the Isles et Islets de Mingan, together with five forty-eighths undivided of the fief and seigniory of St. Paul, both situate on the coast of Labrador, in the district of Quebec, and also from the said Honourable John Richardson, in his said quality of curator, and from Charles William Grant, Esquire, all the fishing posts and establishments which are on the coast of Labrador, together with two schooners, divers effects and goods for the operating of the said posts, the whole as more fully

dans les dits deux contrats auxquels les parties auront recours en ces de besoin, ainsi qu'aux titres de la vente et adjudication par décret, que le sheriff doit leur en délivrer. Que par autre contrat passé cejour'hui aussi devant les mêmes notaires le dit Patrick Langan Ecuyer l'un des dits acquéreurs, aurait retrocédé et vendu au dit honorable John Richardson certaines portions des parts par lui acquises en vertu des actes susmentionnés au moyen de quoi les susdites parties sont maintenant propriétaires du total des biens et effets batiments, marchandises, expliqués et désignés aux susdits actes, chacun pour les parts et portions indivises ci-après déclarées, savoir, le dit honorable John Richardson de trois huitièmes ; le dit Patrick Langan Ecuyer, d'un huitièmes ; les dits William Burns, John William Woolsey et Mathew Lymburner chacun d'un sixième.

Et les susdites parties reconnaissent en outre par ces présentes, s'être associés dès le quinze septembre dernier comme il s'associent pour l'espace de sept années entières et consécutives qui ont commencées le dit jour quinze septembre dernier, pour faire conjointement entr'eux pendant le dit temps et chacun selon les parts et portions ci dessus mentionnées l'exploitation de la pêche à Loup marin et à saumon, ainsi que la chasse &c. sur la dite côte de Labrador à telles postes et places et en telle manière et étendu qu'ils jugeront à propos, et chacun d'eux dans la même part et portion qu'il y est intéressé er qu'il possède dans les propriétés sus dites tel que ci dessus expliqué. Et pout cet effet les sus dites parts et portions indivises dans les sus dites propriétés mobilières et immobilières formeront un fond pour la société dont chaque associé contribuera à fournir et payer sa part de toutes les avances dépensés armements faite ou à faire, et recevra ensuite sa part et portion du gain ou

(Translation.)

set forth and described in the said two agreements to which the parties shall refer when need shall be, as well as to the deeds of the titles of sale and adjudication by writ, to be delivered by the Sheriff to them. That, by another instrument executed this day also before the same notaries, the said Patrick Langan, Esquire, one of the said purchasers, had retroceded and sold to the said Honourable John Richardson certain portions of his share acquired by him under the hereinbefore mentioned acts whereby the aforesaid parties are now owners of the whole of the property, and effects. vessels, goods as detailed and described in the hereinbefore mentioned acts, each for the undivided shares and portions hereinafter set forth, to wit : the said Honourable John Richardson, of the three eighths ; the said Patrick Langan, of one eighth ; the said William Burns, John William Woolsey and Mathew Lymburner, each of one sixth.

And, further, the aforesaid parties hereby acknowledge having formed a partnership from the fifteenth day of September last as an association for the space of seven full and consecutive years which began the said day of the fifteenth September last, to carry on jointly between themselves during the said time and each one according to the shares and portions above mentioned, the seal and salmon fishing operations, as well as the chase, &c., on the said coast of Labrador, at such posts and places and in such manner and extent as they may deem proper, and each of them in the same share and portion of his interest therein and which he may have in the above mentioned properties as hereinbefore recited. And, therefore, the aforesaid shares and undivided portions in the above properties, real and personal, shall form a stock for the society in which each partner shall contribute, providing

bénifice des retours et produits du dit commerce et exploitation, et sera tenu de supporter aussi les pertes qui en pourront résulter chacun selon sa part et portion sus mentionnée.

Secondement. Et pour mieux gérer et conduire les exploitations et les intérêts de la dite société les dites parties nomment et appointent par le présent le dit Sr. Mathew Lymburner, ce acceptant auquel ils donnent l'agence et gestion des affaires de la société, à l'effet de faire tous les achats, armements, équipements, de la dite société, faire les engagements d'équipages ouvriers ou autres employés, faire les ventes et embarquements des produits et effets, tenir les livres et comptes écrire les lettres de correspondance et généralement faire tout ce qui sera nécessaire pour le plus grand intérêt de la sus dite société, et du tout sera tenu de donner communication à tous et chacun des intéressés, dont il sera en outre tenu et obligé de demander et suivre les instructions dans les choses et importances et principalement quant à l'étendue des armements à faire annuellement, comme aussi sera tenu de faire, dans le cours du mois de janvier ou de février de chaque année un état général de toutes les affaires de l'année précédentes et un compte de toutes les recettes et dépenses afin qu'il soit examiné et signé par les parties qui examineront en même temps les livres de la société et signeront la ballance sheet. Et en considération des peines et soins que le dit Sieur Mathew Lymburner aura dans la dite gestion les dits associés lui allouent par ces présentes une commission de deux et demi par cent qu'il aura le droit de charger et de recevoir sur le montant de toutes les dépenses et armements aussi bien que sur le montant de tous les produits et retours annuels. En outre il lui est alloué par ces présentes une somme de soixante livres du cours actuel de cette Province chaque année pour frais

(Translation.)

made, and shall receive his share and portion of the profit or gain in the returns and produce from the said trade and operations, and shall be held to bear also the losses which may result therefrom, each proportionately to his share and portion as aforesaid.

Secondly. And, in order to ensure the better management and direction of the operations and interests of the said society the said parties designate and appoint hereby the said sieur Mathew Lymburner, hereto accepting, to whom they give the agency and management of the affairs of the said society, in order to look after all the purchases, rigging, equipments, of the said society, hire the crews, workmen and other employees, keep the accounts, attend to the correspondence and, generally, to do whatever may be necessary in the best interest of the aforesaid society, and the whole of which he shall be held to communicate to each and every party concerned; he shall further be held and bound to ask for and follow instructions in matters of importance, particularly in connection with the equipments to be made yearly, and will also be held to submit, in the course of the month of January or February of every year, a general statement of all the business transacted in the previous year and a statement of receipts and expenditures in order that it be inspected and signed by the parties who, at the same time, examine the books of the company and sign the balance sheet. And, in consideration of the labour and attention which the said Sieur Mathew Lymburner will give to the said management, the said partners

hereby allow him a commission at the rate of two and one half per centum which he shall be entitled to charge and collect on the sum total of all expenditures and equipments, as well as on the total of all the yearly produce and returns. Furthermore, he is hereby granted a sum of sixty livres, present currency of

p. 3476

et gages d'un commis qu'il employera pour les affaires de la dite société et surtout pour vaquer aux angards caves et assister aux embarquements et pourvoir aux équipages.

Troisièmement. Il est expressement stipulé et convenu entre les parties qu'il ne sera pas loisible à aucune d'elles de vendre ceder ou transporter le tout ou partie de sa part ou portion dans les propriétés mobilières ou immobilières, exploitation ou intérêts quelconques de la présente société pendant le cours d'icelle à aucun étranger, sans en avoir préalablement offert la préférence à toutes et chacun des parties composant la présente société, ou sans avoir obtenu leur consentement et approbation pour faire telle vente, excepté toutefois le dit honorable John Richardson qui se réserve le droit de ceder et transporter le tout ou partie de sa part et portion, à aucun de ses associés dans la société de Forsyth, Richardson et co. ou à Charles William Grant Ecuyer.

Quatrièmement. Il est en outre convenu que la présente société ne sera pas générale mais seulement particulière sous le nom de Labrador new concern, de sorte qu'aucun des associés n'aura le droit de contracter de dettes au nom de la dite société, excepté l'agent qui en pourra contracter de cette manière pour les équipements et armements nécessaires, en consultant les autres associés autant que possible et surtout dans les cas d'achats ou ordres considérables.

Cinquièmement et enfin il est de plus stipulé entre les susdites parties qu'à l'expiration de cette société elles seront libres de la renouveler et continuer de

(Translation.)

this province, every year for the wages and expenses of a clerk to be employed by him in connection with the business of the company and specially to look after the sheds, cellars, and to assist in the lading of cargoes and to provide for the crews.

Thirdly. It is expressly stipulated and covenanted between the parties that it shall not be lawful for any of them to sell, make over or convey the whole or part of his share or portion in the real or personal property, operation or interests, whatever they may be, in this partnership, unless the preference has been previously offered to each and every one of the parties forming part of the present company, or unless their consent has been secured to the said sale, provided however that an exception be made in the case of the said Honourable John Richardson who reserves unto himself the privilege of selling, making over and conveying the whole or part of his share or portion, to any of his partners, in the firm of Forsyth, Richardson & Co., or to Charles William Grant, Esquire.

Fourthly. It is further stipulated that the present company shall not be a general one but a private one under the name of Labrador New Concern, so that none of the partners shall contract any debts in the name of the said society, except the agent who may contract

such debts for the required equipments and armaments, taking the advice of the others partners in so far as possible, especially in connection with purchases or orders involving large sums.

Fifthly, and lastly. It is further stipulated between the aforesaid parties that upon the expiry of the aforesaid partnership, they shall be free to renew or continue the same in such manner as

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la manière qu'elles jugeront à propos et que si quelqu'un des associés ne voulait pas continuer, il donnera la préférence de sa part aux autres associés, y comprenant ou non les parties de fiefs, tels que les parties le trouveront convenable ; et si alors tous les associés ne veulent plus continuer la dite société, les fonds qui la composeront, soit mobiliers ou immobiliers seront divisés entr'eux d'après les principes et les proportions de la présente société ou vendus par tous les associés conjointement, s'il est jugé plus avantageux pour les dits associés pour le prix de telle vente être partagé entr'eux selon leur intérêt respectif dans cette société. Et pour l'exécution des présentes chacune des parties a élu son domicile irrévocable en sa demeure sus dite Auxquels Lieux &. nonobstant &. Car ainsi &. Promettant & obligeant & Renonçant & fait et passé a Québec en la maison du dit feu William Grant en la haute ville rue des Pauvres, L'an mil huit cent huit le vingt deux avril après midi. Et ont les parties signé, lecture faite.

R. LELIEVRE.

JOHN RICHARDSON
PATRICK LANGAN
WM. BURNS
J. WM. WOOLSEY
M. LYMBURNER
JH. PLANTÉ.

(Translation.)

they may deem proper and that, should any of the partners not wish to carry on, he shall give the other partners the priority as to his share, including or excluding such parts of fiefs as the parties may see fit : and if, then, all the partners do not wish to continue said company, the assets forming part of the same, whether real or personal property, shall be divided between them on the basis and in the proportions of the present society or sold collectively by all the partners, if deemed more profitable for the said partners, the proceeds from such sale to be divided between them according to their respective interest in this society. And for the execution of the presents each of the parties has elected domicile in his aforesaid house, at which places &. Notwithstanding, &. Wherefore, &c. renouncing, &., promising, &c., and obliging &c., Done and executed at Quebec in the because of the said William Grant, in the Upper Town, Des Pauvres street, in the year one thousand eight hundred and eight, on the twenty-second April, in the afternoon. And the same having been read, the parties have signed.

R. LELIÈVRE.

JOAN RICHARDSON [sic.]
PATRICK LANGAN
WM. BURNS
J. WM. WOOLSEY
M. LYMBURNER
JH. PLANTÉ.

No. 1330.

**SHERIFF'S DEED OF ISLES ET ISLETS DE MINGAN
SEIGNIORY TO RICHARDSON *et al*, 30 APRIL, 1808.**

[30 April, 1808.]

IN THE PRIVY COUNCIL. ON APPEAL FROM THE COURT OF THE QUEEN'S
BENCH FOR LOWER CANADA. 1891. THE LABRADOR COMPANY AND
THE QUEEN, pp. 426-428.

THIS INDENTURE, made the thirtieth day of April, in the year one thousand eight hundred and eight, between James Shepherd, Esq., Sheriff of the District of Quebec, in the Province of Lower Canada, of the one part, and the Honorable John Richardson, residing in Montreal, Patrick Langan, William Burns, John William Woolsey and Mathew Lymburner, residing in Quebec, both in the said province of Lower Canada, of the other part. Whereas His Majesty's writ of execution, bearing date the fifth day of November, in the year one thousand eight hundred and seven, issued out of the Court of King's Bench, holding civil pleas for the said district at the suit of Patrick Langan, Esq., of Quebec. against the lands and tenements of William Grant, late of Quebec, Esq., deceased, in the hands of the Honorable John Richardson, Esq., curator to the vacant succession of the said William Grant, directed to the Sheriff of the said District, which writ was on the sixth day of November, one thousand eight hundred and seven, delivered to the said James Shepherd, Sheriff, as aforesaid, to be executed, in virtue whereof the said Sheriff did seize into his hands and take in execution, as belonging to the said William Grant, deceased, the whole and entire Fief and Seigniorie of the Isles and Islands of Mingan, situated in the coast of Labrador, in the said District of Quebec, said Seigniorie consisting of the Isles and Islands which, being on the north shore, follow in continuation to the Bay called L'Anse aux Espagnols, in such manner as the said Seigniorie, with its rights, is more amply conceded and designated by the title of concession granted to Jacques de Lalande and Louis Jolliet, of date the tenth day of March, in the year one thousand six hundred and seventy-nine, with the rights, honours and prerogatives annexed to the said Isles and Islands without reserve, subject to the exploitations of the fisheries ; agreeable to the ancient regulations and usages of the Province. And whereas the said Sheriff having so seized into his hands and taken the said premises in execution did cause the same to be advertized and proclaimed in the Quebec Gazette and at the church door of the parish of Quebec, according to law, to be sold and adjudged to the highest bidder at the Court House, in the City of Quebec, on Wednesday, the sixteenth day of March, in the year one thousand eight hundred and eight, at ten o'clock, in the

forenoon, and the said premises being there put up to sale in the usual manner at the place aforesaid, the said John Richardson, Patrick Langan, William Burns, John William Woolsey and Mathew Lymburner, being the last and highest bidder became the purchasers thereof at the price of one hundred and fifty pounds current money of the Province of Lower Canada. Now in order to convey the said premises and to confirm the purchase thereof to the said John Richardson, Patrick Langan, William Burns, John William Woolsey and Mathew Lymburner, their heirs and assigns, This indenture witnesseth that the said Sheriff, by virtue of the said writ of execution and of his said office and for and in consideration of the said sum of one hundred and fifty pounds to him by the said John Richardson, Patrick Langan, William Burns, John William Woolsey and Mathew Lymburner, at or before the execution hereof in hand paid, the receipt whereof the said Sheriff does hereby acknowledge, and therefore doth acquit and discharge the said John Richardson, Patrick Langan, William Burns, John William Woolsey and Mathew Lymburner, their heirs and assigns, hath granted, bargained, and sold, and by virtue of the said writ of execution and of these presents, doth as much as in him is, and he lawfully may, grant, bargain and sell to the said John Richardson, Patrick Langan, William Burns, John William Woolsey and Mathew Lymburner, the said fief and Seignior, and also all and singular the rights, titles, interest, property, claim and demand whatsoever of him the said Sheriff in and to the same and every part and parcel thereof.

To have and to hold the said premises and appurtenances unto the said John Richardson, Patrick Langan, William Burns, John William Woolsey, and Mathew Lymburner, their heirs and assigns, to the only proper use, benefit and behoof of them, the said John Richardson, Patrick Langan, William Burns, John William Woolsey and Mathew Lymburner, their heirs and assigns for ever, under such rents, duties and services as the said premises are subject to.

In witness whereof the said parties have hereunto interchangeably set their hands and seals, on the day and year first above written.

JAS. SHEPHERD.

Sealed and delivered in the presence of

D. MUNRO.

PETER STOBELLEN.

Je, soussigné, certifie qu'il n'est point du de quint sur ce contrat qui resulte que de la clause de décret conventionnel stipulé dans le contrat de vente des mêmes propriétés consentie par l'Honorable John Richardson,

comme curataire à la succession de feu W. Grant, Ecuier, en faveur des mêmes acquéreurs, passé devant Mre Plante, Notaire, le 22 Avril, 1808, sur lequel le quint a été réglé ce jour'hui 11 Juillet 1808, par le soussigné.

JA. PLANTE, J.D.G.R.

I do hereby certify the foregoing to be a true copy of the original as recorded in the Registrar's Office at Quebec, in the English Public Register letter F—, page 34, Provincial Secretary's Office, Quebec, the 20th day of July 1810.

JNO. TAYLOR,
Deputy Registrar.

His Excellency Sir James Henry Craig, Knight of the most honorable order of the Bath, Captain General and Governor-in-Chief in and over the Province of Lower Canada, Vice-Admiral of the same, etc., etc., etc.

To all to whom these presents may concern :

I do hereby certify that James Shepherd, Esquire, is Sheriff of the District of Quebec, Joseph Plante is Inspector of the King's Domaine and Clerk of the Land Roll for said District, and John Taylor, Esquire, is Deputy Secretary and Registrar of the Province of Lower Canada, duly commissioned and authorized as such.

In consequence whereof, full faith and entire credit are and ought to be given to their signatures in their respective capacities wherever the same may appear.

Given under my hand and seal at arms, at the Castle of Saint Lewis, in the City of Quebec, this twenty-first day of July, one thousand eight hundred and ten, and in the fiftieth year of His Majesty's Reign.

J. H. CRAIG,
Governor.

By His Excellency's command.

JNO. TAYLOR,
Deputy Secretary.

Let this instrument be enrolled in His Majesty's Supreme Court of Newfoundland, St. John, 17th September. 1810.

E. FO. 49. THOMAS TREMLETT,
Chief Justice.

(On the back)

N.B.—The three Sheriffs' title deeds in this file relate to the same properties as the two notariat deeds in the other file, the former being granted for the greater security of the purchasers. That is, title No. 1 corresponds to title Nos. 3 and 4, and title No. 2 corresponds to title No. 5.

[30 April, 1808.]

No. 1331.

**SHERIFF'S DEED OF FISHING POSTS BETWEEN
ITAMAMIOU AND ANSE STE. CLAIRE, TO
RICHARDSON, *et al*,**

30 APRIL, 1808.

IN THE PRIVY COUNCIL. ON APPEAL FROM THE COURT OF THE QUEEN'S
BENCH FOR LOWER CANADA, 1892, pp. 429-431.

THIS INDENTURE made the thirtieth day of April, in the year one thousand eight hundred and eight, between James Shepherd, Esquire, Sheriff of the District of Quebec, in the Province of Lower Canada, of the one part, and the Honourable John Richardson, residing at Montreal, Patrick Langan, William Burns, John William Woolsey, and Matthew Lymburner, residing in Quebec, both in the said Province of Lower Canada, of the other part.

Whereas His Majesty's writ of execution bearing date the fifth day of November, one thousand eight hundred and seven, issued out of the Court of Queen's Bench holding Civil Pleas for the said District, at the suit of Lawrence Brickwood, John Brickwood, the younger, James Daniels, Joseph Todhunter and Edward Colson of the City of London, merchants, and co-partners against the Estate and Succession of William Grant, late of Quebec, Esquire, deceased, in the hands and possession of the Honourable John Richardson, Esquire, curator to the vacant succession of the said William Grant, and also of Charles William Grant, of Quebec, Esquire, the said William Grant in his lifetime and the said Charles William Grant being co-partners in the Labrador Fisheries, directed to the Sheriff of the said District, which writ was on the seventeenth day of November, one thousand eight hundred and seven, delivered to the said James Shepherd, Sheriff, as aforesaid, to be executed ; in virtue whereof the said Sheriff did seize into his hands and take into execution as belonging to the said William Grant, deceased, and the said Charles William Grant, all such rights, estate, title, interest, property, claim, and demand whatsoever as the said William Grant and the said Charles William Grant, or either of them, had or have or ought to have in and to all the fishing posts and establishments on the Coast of Labrador, district of Quebec, Province of Lower Canada, occupied and possessed by the said William Grant, and Charles William Grant, for the purpose of carrying on Sedentary Seal and Salmon fisheries and other exploitations extending along the said coast, at and from the river and Posts of Itamamioux, inclusive down to the Post and Bay of Lance St. Clair and

dependencies, inclusive in the Straits of Belleisle, particularly all such rights, estate, title, interest, property, claim and demand whatsoever as the said William Grant and Charles William Grant, or either of them, had or have or ought to have in and to the Posts of Little Mecatina, Great Mecatina, with large island, Kecaponi, St. Augustin and Chicataca, with all their dependencies which are sedentary seal fisheries, and which together with their sedentary salmon fishing posts of Lake Sally and Big Island, adjoining the River St. Augustin, all situated within the bounds of the seigniority of the Isles and Islets of Mingan. Also in and to the sedentary seal fishing posts of Mutton Bay, with Mutton Harbour, and of Tabatiere, with their dependencies, which are situate partly on the seigniority aforesaid and partly on the main land. Also in and to the sedentary salmon fishing posts of Itamamioux and St. Augustin, on the respective rivers so called, with all their dependencies which are situated on the mainland. Also and lastly, in and to the following posts situated at or near the Straits of Belleisle, that is to say the establishment and Posts of Brador or LaBrador, with Bay and harbour of that name, and islands, in such manner and with all the rights as now held by said William Grant and Charles William Grant, or as has been held heretofore by those from whom they derive with the seal fishery carried on there and all its dependencies, likewise the sedentary seal fishing posts at Lance aux Dunes, Blanc Sablons, and Lance St. Clair, with all their several dependencies, all which sedentary seal and salmon fishing posts are now held and have been held for a long series of years by past uninterruptedly by constant and exclusive right of possession and occupancy by the said William Grant and Charles William Grant, and their predecessors in the fisheries as well of the particular posts as of a space of sundry leagues around each post requisite for their due exploitation, agreeable to the ancient regulations and usages of the province, free of all rent and burthens saving a rent of three per cent. due to the Seigniors of the Seigniority of the Isles and Islands of Mingan, on the gross produce of the seal fisheries, situated within the bounds of that Seigniority. And further all such rights, estate, title, interest, property, claim and demand whatsoever, as the said William Grant and Charles William Grant, or either of them, had or have or ought to have in and to all other posts and places not enumerated within the aforesaid limits on the said coasts, where the said William Grant and Charles William Grant may have possession or effects, as well as in and to all the houses, stores, and buildings erected on and at all and each of the aforesaid posts and places, with all the fixtures, utensils, effects, and implements thereunto appertaining.

And whereas the said Sheriff having so seized into his hands and taken the said premises in execution, did cause the same to be advertised and proclaimed in the Quebec Gazette, and at the Church Door of the Parish of Quebec, according to law to be sold and adjudged to the highest bidder, at the Court house, in the City of Quebec, on Tuesday, the twenty-second

day of March, one thousand eight hundred and eight, at two o'clock in the afternoon.

p. 3483

And the said premises being there put up to sale in the usual manner, at the place aforesaid, the said John Richardson, Patrick Langan, William Burns, John William Woolsey, and Matthew Lymburner, being the last and highest bidders, became the purchasers thereof at the price of two hundred pounds, current money of the Provnice [sic.] of Lower Canada. Now in order to convey the said premises and to confirm the purchase thereof to the said John Richardson, Patrick Langan, William Burns, John William Woolsey, and Matthew Lymburner, at or before the execution hereof in hand paid, the receipt whereof the said Sheriff does hereby acknowledge, and thereof doth acquit and discharge the said John Richardson, Peter Langan, William Burns, John William Woolsey and Matthew Lymburner, their heirs and assigns, hath granted, bargained and sold, and by virtue of the said writ of execution and of these presents doth as much as in him is and he lawfully may grant, bargain and sell to the said John Richardson, Patrick Langan, William Burns, John William Woolsey and Matthew Lymburner, all such rights, estate, title, interest, property, claim or demand, whatsoever as the said William Grant and the said Charles William Grant, or either of them had, have or ought to have in and to the fishing posts, establishments, houses, buildings and premises aforesaid, or in or to any part or parcel of them, or either of them together with their appurtenances, and each and every of them. To have and to hold unto the said John Richardson, Patrick Langan, William Burns, John William Woolsey and Matthew Lymburner, their heirs and assigns to the only proper use, benefit and behoof of them the said John Richardson, Patrick Langan, William Burns, John William Woolsey and Matthew Lymburner, their heirs and assigns forever, under such rent, duties and services as the said premises are subject to.

In witness whereof the said parties have hereunto interchangeably set their hands and seals on the day and year first above written.

(Signed). JAS. SHEPHERD, (L.S).

Sealed and delivered in the presence of

(Signed). D. MUNRO,
PATRICK STOBELLBEN.

I do hereby certify the foregoing to be a true copy of the original as recorded in the registrar's office at Quebec, in the English public register, letter F. page 31, Provincial Secretary's Office.

Quebec, the 20th day of July,
1810.

(Signed). JNO. TAYLOR

No. 1332.

**ACTE DE FOY ET HOMMAGE FOR ISLES ET ISLETS
DE MINGAN SEIGNIORY, 12 MARCH, 1810.**

REGISTER OF ACTES DE FOY ET HOMMAGE, VOL. II, p. 324 ET SEQ.,
QUEBEC.

[12 March, 1810.]

PROVINCE DU BAS-CANADA.

Du douze mars, mil huit cent

dix.

DISTRICT DE QUEBEC.

No. 155.

L'Honorable John Richardson,
Patrick Langan, William Burns, Ma-
thew Lymburner et John William
Woolsey, hers., Seigneurs du Fief et
Seigneurie des Isles et Islets de Ming-
an et 5/48 du Fief St-Paul.

En procédant à la confection du papier Terrier du domaine du Roi en la Province du Bas-Canada est comparu au Château St-Louis de Québec et pardevant nous Sir James Fleury Craig, Chevalier du très honorable ordre du Bain, Capitaine Général et Gouverneur en chef des Provinces du Haut et Bas-Canada, Nouvelle-Ecosse et Nouveau-Brunswick et leurs différentes dépendances, Général et Commandant de toutes les forces de Sa Majesté dans les dites Provinces du Bas-Canada, Haut-Canada, Nouvelle-Ecosse et Nouveau-Brunswick et leurs différentes dépendances et dans l'Isle de Terre-neuve &c., &c., &c. William Burns, Ecuyer, demeurant à Québec tant en son nom comme seigneur et propriétaire pour un sixième indivis au total du fief et seigneurie des Isles et Islets de Mingan et pour un sixième aussi indivis dans cinq quarante huitièmes aussi indivis dans la totalité du fief et Seigneurie de St-Paul ; que comme faisant pour et au nom de l'honorable John Richardson, l'un des membres du Conseil Exécutif de Sa Majesté en cette Province demeurant à Montréal, Seigneur et propriétaire de trois huitièmes indivis dans la totalité du dit fief Seigneurie des Isles et Islets de Mingan et dans les cinq quarante-huitièmes indivis de la totalité du fief et Seigneurie de St-Paul de Patrick Langan, Ecuyer de Montréal, pour un huitième, John William Woolsey et Mathew Lymburner, marchand à Québec, aussi Seigneur et propriétaire chacun pour un sixième indivis dans la totalité du dit fief et Seigneurie des Isles et Islets et Mingan, et dans les cinq quarante huitièmes indivis dans la totalité du fief et Seigneurie de St-Paul, lequel

comparant nous a dit qu'il vient par-devant nous pour rendre et porter au Château St-Louis de Québec la foi et hommage lige que lui et ses co-propriétaires sus nommés sont tenus de rendre et porter à Sa Très Excellente Majesté Georges Trois à cause de leur susdite propriété du fief et seigneurie des Isles et Islets de Mingan, et de cinq quarante huitièmes du fief et seigneurie de St-Paul et nous a représentés pour titres des dites propriétés.

Quant au fief et Seigneurie des Isles et Islets de Mingan :

Primo.—Une copie collationnée, d'une concession en date, de Québec, du six mars mil six cent soixante-dix-neuf, accordée par Jacques Duchesneau, Chevalier, Conseiller du Roi en les Conseils, intendant de justice, police et finance en Canada, Acadie, Terre-neuve et autres païes de la France Septentrionale à Jacques de Lalande et Louis Jolliet, des Isles et Islets de Mingan, étant du côté du nord et qui se suivent jusqu'à la Baye, appelée l'Ance aux Espagnols, pour en jouir par eux, leurs hoirs et ayant cause à l'avenir, à titre de fief, seigneurie haute, moyenne et basse, justice à la charge de la foy et hommage que les dits Sieurs de Lalande et Jolliet, leurs hoirs et ayans cause seront tenus de porter au Château St-Louis de Québec du quel ils relèveront aux droits et redevances accoutumés et au désir de la Coutume de la Prevosté et Vicomté de Paris qui sera suivie pour cet égard par provision en attendant qu'il en soit autrement ordonné par Sa Majesté, et que les appellations du juge qui pourra être établi aux dits lieux ressortiront par-devant le Lieutenant-Général de Québec, en attendant qu'il en soit établi au plus proche des dits Isles et Islets de Mingan, comme aussi qu'ils tiendront et feront tenir feu et lieu par leurs tenanciers sur les concessions qu'ils leur accorderont, et faute de ce faire, qu'ils rentreront de plein droit en possession d'icelles et conserveront les dits Sieurs de Lalande et Jolliet et feront conserver par leurs tenanciers les bois de chêne qui se trouveront propres pour la construction des vaisseaux dans l'étendue des dites Isles et Islets, et qu'ils donneront incessamment d'avis au Roi et à nous des mines minières et minéraux, si aucune ne se trouvent et laisseront et feront laisser tous chemins et passages nécessaires, le tout sous le bon plaisir de Sa Majesté de laquelle ils seront tenus de prendre la confirmation des présentes dans un an (Signé.) Duchesneau et plus bas est écrit :—Registré suivant l'arrêt du Conseil du 24 octobre 1680, intervenu en conséquence d'arrêt du Conseil d'Etat du Roi, donné à Fontainebleau, le 29 mai, au dit an portant confirmation de la concession ci-dessus par moi, Greffier en chef du dit Conseil, soussigné, signé. Peuvret avec paraphe.

Secundo.—Un acte de foi et hommage pour plusieurs fiefs y-mentionnés notamment celui des Isles et Islets de Mingan, situé au bas du fleuve St-Laurent, vendu par Joseph Fleury de la Gorgendière au nom et comme ayant épousé Delle Claire Jolliet, fille et héritière de feu Sieur Louis Jolliet et

Delle Marie Claire Bissot, sa femme, ses père et mère et encore héritière de feu Louis Jolliet et François Jolliet, ses frères décédés garçons et en ces qualités propriétaire pour un tiers dans le dit fief, faisant aussi pour Charles Jolliet, Sieur d'Anticosti,

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et Jean Jolliet, Sieur de Mingan, ses beaux-frères héritiers comme la dite Delle Claire Jolliet, leur soeur, chacun pour un autre tiers dans le dit fief entre les mains de Michel Bégon, Intendant en ce pais, le 12 Avril mil sept cent vingt-cinq dans lequel acte de foi et hommage, la concession ci-dessus est rapportée.

Tertio.—Un acte d'aveu et Dénombrement de plusieurs fiefs y-mentionnés, notamment de celui des Isles et Islets de Mingan, fait par le dit Joseph Fleury de la Gorgendière ès noms et qualités ci-dessus mentionnés entre les mains du dit Michel Bégon, le dix-huit Avril mil sept cent vingt-cinq.

Quarto.—Un acte passé devant Hauteraye, Notaire à St-Antoine rivière Richelieu, portant vente par Antoine Belcourt de la Fontaine et sa femme à Antonio Grisé, de tous les droits successifs mobiliers et immobiliers qu'il peut avoir sur divers biens y-mentionnés et notamment dans les Isles et Islets de Mingan pour lui été échue partie de la succession de Charlotte Bissot, sa mère, et partie de succession collatérale, le dit contrat en date du quatre décembre mil sept cent soixante-neuf. Quittance des droits de quint le onze avril mil sept cent soixante-quinze suivant la quittance au bas signée, Thomas Dunn, A. R. S.

Quinto.—Un contrat passé devant M. A. Panet, fils, notaire, le dix avril mil sept cent soixante-quinze, portant vente par Pierre Marcoux, comme procureur de Mr Antoine Grisé à William Grant, Ecuyer, des droits par lui acquis en vertu de l'acte précédant.

Sexto.—Un contrat passé devant M. A. Panet, Notaire à Québec, le premier février mil sept cent quatre-vingt-un, portant échange en l'honorable William Grant, membre du Conseil Legislatif de la Province de Québec et Gabriel Elzéard Taschereau, Ecuyer Seigneur de Ste-Marie Linière, Nouvelle Beauce, par lequel acte le dit Gabriel Elzéard Taschereau cède entre autres choses au dit William Grant les portions paternelle et maternelle échues à Dame Louis Thérèse Fleury de la Gorgendière, épouse de haut et puissant seigneur, Messire Pierre François Rigaud de Vaudreuil, Marquis de Vaudreuil, dans les seigneuries des Isles et Islets de Mingan, lesquelles portions ont été déclarées par la Marquise de Vaudreuil être d'un sixième.

Septimo.—Un contrat passé devant M. F. Tétu, Notaire à Québec, le vingt-sept octobre mil sept cent quatre vingt-seize,

portant vente par Gabriel Elzéard Taschereau, Ecuyer comme procureur de Dame Marie Thomas de la Gorgendière Veuve de Thomas Dufy Desaunier, Ecuyer, à William Grant, Ecuyer des droits quels, dite Dame Veuve Dufy peut avoir en divers biens et notamment dans la Seigneurie des Isles et Islets de Mingan, du chef de défunt Fleury de la Gorgendière Deschambault, Ecuyer et de Dame Claire Jolliet, son épouse, ses père et mère et tous autres droits qui pourroient lui été échus tant en ligne directe que collatérale dans la dite seigneurie.

Octavo.—Un acte passé devant M. A. Panet Notaire à Québec, le vingt novembre 1777, portant cession par Delle Magdeleine Belcourt de la Fontaine à l'honorable Thomas Dunn de tous les droits successifs de la venderesse

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tant en ligne directe que collatérale dans les Isles et Islets de Mingan, consistans notamment en la portion de la venderesse, soit en vertu du Testament de Sieur Jacques Lalande, soit comme légataire ou héritière de feu monsieur Louis Belcourt de la Fontaine, frère de la cédante ou même par successions directes.

Nono.—Un acte passé devant M. A. Panet, Notaire à Quebec, le douze octobre mil sept quatre-vingt-un, portant cession par le Sieur François Belcourt de la Fontaine en faveur de François Joseph Cugnet, Ecuyer, son beau-frère de ses droits dans les Isles et Islets de Mingan consistans notamment en la portion du cédant soit en vertu du testament de feu Sieur Jacques Lalande, ou comme héritier de feu monsieur Louis Belcourt de la Fontaine, frère du cédant ou autres par successions directes.

Decimo.—Un acte de vente par décret du shériff de Québec de neuf vingtièmes dans la moitié du fief et seigneurie des Isles et Islets de Mingan, saisis sur Marie Jolliette, Jolliet d'Anticosti, veuve de Pierre Sert, Charlotte Jolliet d'Anticosti, veuve de Vital Caron, et autres co-héritiers dans la succession de Charles Jolliet d'Anticosti et Jeanne Lemelin adjugés à Wm. Grant, Ecuyer, suivant le dit acte en date du vingt-un janvier 1779, déposé en l'étude de M. Berthelot Dartigny, Notaire à Québec, par acte du six août mil sept cent quatre-vingt-quatre portant déclaration par Wm. Grant qu'il a fait la dite acquisition, moitié pour lui, un quart pour l'honorable Thomas Dunn et un quart pour Peter Stuart, Ecuyer.

Undecimo.—Un contrat passé pardevant M. A. Panet, notaire, le 17 février 1784, portant vente par monsieur Boisseau, Dame Claise Jolliet Mingan, son épouse, Jean Marie Allain pour Noël Alain et Marie Geneviève Jolliet Mingan, son épouse, et les enfants de Dame Marie Anne Jolliet Mingan décédée, veuve de monsieur Jean Taché à l'honorable Thomas Dunn et Pierre Stuart, Ecuyer, de cinq vingtièmes et deux tiers dans la moitié au total des Isles et Islets de Mingan et telle

autre part plus ou moins considérable que les cédans peuvent avoir comme seuls héritiers ou représentans de feu Sieur Jean Jolliet Mingan, leur père et ayeul, que comme second fils de feu Louis Jolliet Mingan, leur ayeul et bis-ayeul.

Duodecimo.—Un contrat passé devant le dit M. A. Panet, Notaire, le 18 janvier 1786, portant cession par François Joseph Cugnet, Ecuyer, tant pour lui que pour Dame Joseph Belcourt de la Fontaine, son épouse, à l'honorable Thomas Dunn, William Grant et Pierre Stuart de tous les droits successifs et autres échus, le douze octobre mil sept cent quatre-vingt-un au Sieur François Belcourt de la Fontaine tant en lignes directes que collatérales dans les Isles et Islets de Mingan, consistans en un quart dans la moitié ou environ, en vertu du testade feu Jacques Lalande qui en avait fait legs particulier à Louis Belcourt de la Fontaine. En outre, tous les droits successifs échus au dit François Belcourt de la Fontaine par la décédée Dlle Marie Belcourt de la Fontaine, sa soeur, aussi tous les droits successifs échus à la

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dite Dame Cugnet dans les dites Isles et Islets de Mingan, par successions directes ou collatérales, &c.

Decimo tertio.—Un acte passé devant M. Ls. Deschesnaux, Notaire à Québec, le 22 juin 1789, d'échange entre l'honorable Thomas Dunn et son épouse et Pierre Stuart écuyer, et son épouse, ces derniers cédant aux premiers tous leurs droits dans les Isles et Islets de Mingan.

Decimo quarto.—En acte passé devant le dit M. Deschesnaux, Notaire, le douze décembre mil sept cent quatre-vingt-neuf, portant déclaration et division des droits appartenant à Thomas Dunn, Wm. Grant et Peter Stuart, Ecuyers. Par lequel acte, le dit Wm. Grant, Ecuyer demeure propriétaire de la moitié de toutes les acquisitions faites conjointement avec les deux autres ou par chacun d'eux dans le dit fief des Isles et Islets de Mingan, et chacun des dit Thomas Dunn et Peter Stuart demeure propriétaire d'un quart au total dans les dites acquisitions.

Decimo quinto.—Un acte passé devant M. J. Pinguet, Notaire à Québec, le quinze mai mil sept cent quatre-vingt-huit, portant cession par Joseph Belcourt de la Fontaine, Ecuyer et son épouse à monsieur Mathieu Lymburner, de tous les droits successifs du dit vendeur tant en ligne directe que collatérale, dans les Isles et Islets de Mingan, lesquels consistant en un quart dans la moitié au total des dites Isles et Islets de Mingan plus ou moins.

Decimo sexto.—Un contrat passé devant M. L. Deschesnaux, Notaire à Québec, le trente-un décembre mil sept cent quatre-vingt-douze, de vente par l'honorable Thomas Dunn et son épouse à M. Mathieu Lymburner des droits leur

appartenait dans dans les dites Isles et Islets de Mingan et qui sont constatés par l'acte de division sus-daté du 12 décembre 1789 ainsi que pareille part qu'ils ont acquise de Peter Stuart ; Ecuyer, par l'acte d'échange du vingt-un juin mil sept cent quatre-vingt-neuf ci-dessus mentionné.

Decimo septimo.—Un contrat passé devant M. Jh. Planté, Notaire à Québec, le cinq avril mil huit cent cinq, portant vente par M. Mathieu Lymburner et Jean Guillaume Woolsey aux noms qu'ils agissent à William Grant, Ecuyer, de quinze trente deuxième indivis plus ou moins selon les titres dans la totalité du fief et seigneurie des Isles et Islets de Mingan situés sur la côte du Labrador lequel contrat porte la convention de faire décréter les dits quinze trente deuxièmes sur la masse de Messieurs Mathieu Lymburner et feu John Crawford, pour plus grande directe de l'acquéreur. Lequel décret a eu lieu suivant l'acte qu'en a consenti James Sheppherd, Ecuyer Shériff du District de Québec, le vingt-deux février mil huit cent huit en faveur de l'honorable John Richardson comme curateur à la succession vacante du dit feu William Grant, Ecuyer.

Decimo octavo.—Un contrat passé devant M. Jh. Planté, Notaire à Québec, le vingt-deux avril mil huit cent huit, de vente par l'honorable John Richardson comme curateur à la succession au dit feu William Grant, Ecuier

à Patrick Langan, pour une moitié et à Messieurs William Burns, John William Woolsey et Mathieu Lymburner, par l'autre moitié par part égale et indivise entr'eux de la totalité du fief et seigneurie des Isles et Islets de Mingan pour et moyennant le prix et somme de sept cent cinquante livres du cours actuel de cette Province y compris cinq quarante huitièmes du fief et seigneurie de Paul comme cy-après expliqué, au bas duquel contrat est la quittance du droit de quint pour la somme de cent livres courant, le tiers rabattu par Henry Caldwell, Ecr. Réceveur général en date du vingt-cinq septembre mil huit cent neuf.

Decimo nono.—Un contrat passé devant M. Planté, Notaire susdit, le vingt-deux Avril mil huit cent huit, portant vente par Patrick Langan, Ecuier, à l'honorable John Richardson, des trois quarts indivis appartenant au vendeur dans l'acquisition faite par le contrat précédent.

Vicesimo.—Un contrat portant vente et adjudication par James Sheriff, Ecuier Shériff du District de Québec, en date du trente avril mil huit cent huit à l'honorable John Richardson, Patrick Langan, William Burns, John William Woolsey et Mathieu Lymburner de la Seigneurie des Isles et Islets de Mingan, saisie sur la succession du dit feu Win. Grant, Ecuier, en conséquence du décret conventionnel stipulé au contrat ci-dessus mentionné du vingt-deux avril mil huit cent huit pour la sureté des acquéreurs.

Et quant aux cinq quarante-huitièmes du fief et seigneurie de St. Paul.

Primo.—Une copie certifiée véritable par George Pownall, Secrétaire de cette Province d'une concession datée de Québec du vingt mars mil sept cent six, accordée par Philippe de Rigault, Gouverneur et Jacques Raudot, Intendant en ce pais à Amador Godfroy Ecuier, Sieur de St-Paul d'une baye et rivière appelée Quitzezaqui, autrement dit la Grande Rivière, pais des Eskimaux et de cinq lieues de terre de large de chaque côté le long de la dite Rivière sur dix lieues de profondeur avec les Isles, Islets et battures qui se trouveront dans les dites bayes rivière et au-devant d'icelles, sous le nom de St-Paul, à titre de fief et seigneurie, haute, moyenne et basse justice avec droit de chasse, pêche et traite avec les sauvages dans toute l'étendue de la dite concession, à la charge de laisser la grève libre à tous les pêcheurs à l'exception de celle dont le dit Sieur de St-Paul aura besoin pour faire sa pêche, de porter la foi et hommage au Château St-Louis de Québec, duquel il relèvera aux droits et redevances accoutumés suivant la coutume de Paris, suiie en ce pais de conserver et faire conserver les bois de chène propres pour la construction des vaisseaux de Sa Majesté, de donner avis au Roi ou au

Gouverneur du pais des mines, minières, minéraux si aucun se trouvent dans la dite étendue, d'y tenir feu et lieu et de le faire tenir par ses tenanciers, de désertter et faire désertter la dite terre après la guerre finie et enfin de laisser les chemins et passages nécessaires pour l'utilité publique.

Secundo.—Un contrat passé devant M. F. Tétu, Notaire à Québec, le vingt-deux juillet mil huit cent un, de vente par Joseph Jutra à Messieurs

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Mathieu Lymburner et John Crawford, négociants associés à Québec, de tous les droits d'ainesse préciput et autres héritages du vendeur comme fils aîné de feu Joseph Jutra et de Marie Anne Godfroy de St-Paul, ses père et mère dans la dite seigneurie de St-Paul, et comme héritier pour moitié dans le tiers ou la part paternelle qu'avait Jean-Bte. Jutra, son frère.

Tertio.—Le dit contrat mentionné au titre des Isles et Islets de Mingan, sous le nombre Decimo septimo, portant aussi vente au dit Wm. Grant de cinq quarante-huitièmes indivis de la seigneurie de St-Paul.

Quarto.—Un contrat en date du deux février mil huit cent huit, portant vente par James Shepherd, Ecuier, comme shérif de Québec à l'honorable John Richardson, comme procureur de la succession de feu Wm. Grant des dits cinq quarante huitièmes de la seigneurie de St-Paul, saisis sur la masse des Sieurs Lymburner et Crawford, en conséquence du décret conventionel stipulé au contrat ci-devant mentionné du cinq avril mil huit cent cinq pour sureté de l'acquéreur.

Quinto.—Le dit contrat mentionné aux titres des Isles et Islets de Mingan, sous le nombre Decimo octavo, portant aussi vente par le dit honorable John Richardson, comme curateur de la succession de Wm. Grant, Ecuier, à Patrick Langan pour moitié et Messieurs William Burns, John William Woolsey et Mathieu Lymburner pour l'autre moitié des dits cinq quarante huitièmes de la seigneurie de St-Paul.

Sexto.—Le dit contrat mentionné à l'autre part Decimo nono portant aussi vente par Patrick Langan, Ecuier, ou dit honorable John Richardson, des trois quarts indivis de la part par lui acquise dans les dits cinq quarante huitièmes du fief et seigneurie de St-Paul par le contrat ci-dessus mentionné Decimo octavo.

Septimo.—Un acte de vente en conséquence de l'adjudication par décret faite à messieurs Richardson, Langan, Burns, Woolsey et Lymburner des dits cinq quarante-huitièmes saisis et vendus par décret sur la succession du dit William Grant, Ecuier, en vertu de la stipulation énoncée au dit contrat de vente du vingt-deux avril mil huit cent huit, qui sont tous les titres que le dit comparant au dit nom a dit avoir à nous

représenter, nous suppliant qu'il nous plaise les recevoir à la foy et hommage lige des dits fiefs et partie de fief ci-devant expliqué relevant en plein fief de Sa Majesté. Et à l'instant, s'étant mis en devoir de vassal, tête nue, sans épée ni éperons, un genouil en terre aurait dit à haute et intelligible voix qu'il rendait et portait entre nos mains la foy et hommage que lui et ses co-propriétaires sus-nommés sont tenus rendre et porter au Château St-Louis de Québec pour raison des dites seigneuries des Isles et Islets de Mingan, et partie de la seigneurie de St-Paul, à laquelle foy et hommage nous l'avons reçu et recevons par ces présentes, sauf les droits du Roi entre'autres choses et de l'autrui en toutes.

Et le dit comparant a fait et souscrit entre nos mains le serment de bien et fidèlement servir Sa Majesté et de nous avertir et nos successeurs s'il

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apprend qu'il se fasse au trame quelque chose contre son service. Et s'est obligé de fournir aveux et dénombrement dans le tems prescrit par les lois, usages et coutume de cette Province dont et du tout il nous a requis acte que nous lui avons accordé. Et a, le dit comparant, signé avec nous.

(Signé) J. H. CRAIG, Gov.

(Signé) WM. BURNS.

Par ordre de Son Excellence.

(Signé) JH. PLANTÉ,
G.P.T.

[8 Feby., 1836.]

No. 1333.

C

**DEED OF SALE OF ISLES ET ISLETS DE MINGAN
SEIGNIORY TO THE HUDSON'S BAY COMPANY, 8
FEBRUARY, 1836.**

ARCHIVES OF THE SUPERIOR COURT, MONTREAL. ORIGINAL FOUND IN
THE NOTARIAL RECORDS OF H. GRIFFIN.

On the eighth day of February, in the Year of our Lord
one thousand eight hundred and thirty-six

Before the undersigned Public Notaries, duly
commissioned and sworn in and for the Province of Lower
Canada residing in the City of Montreal in the district of
Montreal in the said Province.

Came and appeared, Thomas Brown Anderson, of the
City of Montreal aforesaid, Merchant and Anne Richardson his
wife by him hereunto duly authorized, George Auldjo of
Montreal aforesaid Merchant and Helen Richardson his wife
by him hereunto duly authorised, Euretta Richardson and
Charlotte Richardson, both of Montreal aforesaid spinsters and

usant de leurs droits, the said Anne Helen Euretta and Charlotte being the daughters of the late Honorable John Richardson, John William Woolsey merchant. The Honorable Mathew Bell, also merchant and a member of the Legislative Council of this Province, the Honorable John Stewart, a member of the said Legislative Council and one of His Majesty's Executive Council for the said Province, all three of the said City of Quebec in the said Province Esquires, acting in this behalf in their quality of Executors of the last will and testament of The late Honorable William Burns in his lifetime of the said City of Quebec a member of the said Legislative Council, the said will bearing date at Quebec aforesaid the twenty-sixth day of November in the Year one thousand eight hundred and twenty-three, and duly proved before the late Honorable Jean Thomas Taschcreau one of His Majesty's Justices of the Court of King's Bench for the District of Quebec on the thirtieth day of September one thousand eight hundred and twenty-nine, by which said will they the above named executors, are specially authorised and invested

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with full and unlimited power to sell, vend, alienate or otherwise dispose of all the real and immoveable property of the said Testator, which on reference thereto, an authentic copy whereof is to these presents annexed will more fully appear : The said John William Woolsey The Honorable Mathew Bell and The Honorable John Stewart, acting and represented by Thomas Brown Anderson their Attorney specially authorised for the purposes of these presents by a special power of Attorney duly made and passed at Quebec aforesaid, before Lindsay and Colleague public Notaries, and bearing date the twenty-eighth day of January last past, and annexed to these presents. Also the said John William Woolsey for himself and in his own name also acting and stipulating by the said Thomas Brown Anderson his Attorney by a certain power of Attorney or Letter of Procuracy passed before the said Lyndsay and Colleague Notaries at Quebec aforesaid and bearing date at Quebec the twenty-eighth day of January, one thousand eight hundred and thirty-six, and annexed to these presents ; and Matthew Lymburner formerly of Quebec merchant ; presently residing at Kilmarnock in the County of Ayr North Britain, in that part of the United Kingdom of Great Britain, called Scotland, acting by his Attorney the said Thomas Brown Anderson by virtue of a certain procuracy or power of Attorney duly executed in Scotland aforesaid on the twelfth day of November one thousand eight hundred and thirty-five and hereunto annexed, of the one part, and The Governor and Company of Adventurers of England trading into Hudson's Bay, acting, accepting, stipulating and represented by John Sievewright of Lachine, a chief Trader in the Honorable Hudson's Bay Company, their agent and Attorney for the purposes of these presents of the other part : which said persons hereinbefore named and parties hereto in their said Capacities of the first part, acting as aforesaid did and do

hereby sell, cede, assign, transfer and make over, with guarantee or warranty from henceforth for ever each one for himself and herself respectively and not jointly, against all troubles, debts, *hypotheques*, alienations, gifts, dowers, evictions, substitutions and other hindrances whatsoever unto the said Governor and Company of Adventurers of England trading into Hudsons Bay, accepting by and through the said John Sievewright in his quality aforesaid, that is to say, the whole and entire Fief and Seigniory of the Isles et Islets of Mingan, situated and being on the Coast of Labrador in the said District of Quebec and Province aforesaid, the said Fief and Seigniory consisting of the Isles et Islets which being on the North Shore follow in Continuation to the Bay called L'Anse aux Espagnols, in such manner as the said Seigniory with its rights is more amply conceded and designated by the Title of Concession granted to Jacques de Lalande and Louis Jolliet of date the tenth day of March in the year one thousand six hundred and seventy-nine, with the rights, honors and prerogatives, annexed to the said Isles et Islets hereby sold without reserve subject to the exploitations of the fisheries agreeably to the ancient regulations and usages of the Province and as the same are now held and possessed by the said Vendors.

To the said late Honorable John Richardson three undivided sixths of

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the said fief and Seigniory belonged as having acquired the same from the late Patrick Langan, that is to say three eighths thereof by deed passed before Maître Joseph Planté and his Colleague Notaries at Quebec aforesaid on the twenty second day of April one thousand eight hundred and eight and another eighth by deed executed before Mtre. Louis Guy and his Colleague Notaries at Montreal on the fourth day of January in the Year one thousand eight hundred and eleven, and to the said Patrick Langan, the said three undivided sixths or four eighths of the said fief were duly sold and assigned by the said late Honorable John Richardson in his quality of Curator to the Vacant Estate of the late William Grant by deed passed before the said Joseph Planté and Colleague Notaries on the said twenty-second day of April in the Year one thousand Eight hundred and eight.

And to each of them the said late Honorable William Burns John William Woolsey and Matthew Lymburner one undivided sixth of the said Fief belonged as having acquired the same from the said Vacant Estate of the said late William Grant under and by Virtue of the Deed last aforesaid.

And which several sales of the said fief and Seigniory to the said Honorable John Richardson, William Burns, John William Woolsey and Matthew Lymburner were confirmed by a Decret or Sheriffs sale thereof, obtained at the suit of the said Patrick Langan against the lands and tenements of the said William Grant as will more fully appear by the title deed granted to the above named John Richardson and others by the

late James Shepperd then Sheriff for the said District of Quebec bearing date the thirtieth day of April in the Year One thousand Eight hundred and Eight.

And which said entire fief and Seigniory belonged to the said late William Grant under and by virtue of good and authentic titles which the said John Sievewright acting as aforesaid did and doth hereby acknowledge to have received from the said Vendors at the time of the Execution hereof dont quittance.

To have and to hold the said Fief and Seigniory of the Isles et Islets of Mangan hereby sold or intended so to be unto the said Governor and Company of Adventurers of England trading into Hudsons Bay, their successors administrators Curators assigns or representatives to their only proper use, benefit and behoof for ever, in the same manner as the same are now held by the said Vendors and subject to such rents, duties and services as the said Fief and Seigniory may be charged with towards His Majesty of whom the same are held, the said Vendors hereby reserving to themselves the rent accrued from the first day of October last to the date hereof as lessors thereof.

The present sale is thus made and granted for and in consideration of the price or sum of One thousand pounds current money of the said Province of Lower Canada, which the said Vendors acting as aforesaid each of them for his share, do hereby acknowledge to have received to their entire satisfaction at and before the Execution of these presents of and from the said Governor and Company of Adventurers of England trading into Hudson's Bay and of and from the same and Every part and parcel thereof they the said Governor

and Company their successors, administrators, Curators and representatives are hereby fully acquitted exonerated and discharged.

And in consideration of the premises foregoing, the said Vendors acting as aforesaid did and by these presents do transfer and assign unto the said Governor and Company of Adventurers of England trading into Hudson's Bay all and every the property right of property, action, right of action, title interest, claim, demand, pretention, possession, right of possession or other things whatsoever which they the said Vendors respectively have or may have or claim of, into or out of the premises hereby sold of which they the said Vendors acting in their several capacities as aforesaid did and do hereby deseize and divest themselves to and for the benefit profit and advantage of the said purchasers agreeing that the said Governor and Company of England trading into Hudsons Bay be put in good possession and seizin thereof as of right.

And for the due execution of these presents the said parties acting as aforesaid have made election of domicile at the Office of the Prothonotary of the Court of King's Bench of and for the District of Montreal, where &c.,

Thus done and passed in the said City of Montreal at the house of the above named George Auldjo on the day and Year first above written.

In faith and testimony whereof the said parties acting as aforesaid have to these presents first duly read according to Law, severally set their hands in the presence of the said Notaries hereunto subscribing.

Matthew Bell, executor
by his Attorney, Thomas B. Anderson
John Stewart, executor
by his attorney, Thomas B. Anderson
John W. Woolsey, executor
by his attorney, Thomas B. Anderson
Matthew Lymberner
by his attorney Thomas B. Anderson
(The Governor & Compy. of the

Adventurers

of England trading into Hudsons Bay,

by

their attorney, John Siveright
Thomas B. Anderson
Ann. Anderson
George Auldjo
Helen Auldjo
Euretta Richardson
Charlotte Richardson
John William Woolsey,
by his attorney Thomas B. Anderson
J. J. Gibb N.P.

[9 Oct., 1837.]

No. 1334.

**ACTE DE FOY ET HOMMAGE FOR FIEF ST. JOSEPH
AND THE SEIGNIORIES OF MILLE VACHES,
TERRE FERME DE MINGAN AND ANTICOSTI,
9 OCTOBER, 1837.**

REGISTER OF ACTES DE FOY ET HOMMAGE, QUEBEC.

Mary Stuart, Jas. T. S. Stuart, Ecuyer & William Peter Short Ecuyer, Seigneurs et Propriétaires du Fief St. Joseph d'un tiers indivis de la Seigneurie de Millevaches et d'un quart indivis des fiefs & Seigneuries de la Terre ferme de Mingan & de l'Isle d'Anticosti.

En procédant à la confection du papier Terrier du Domaine de la Reine dans la Province du Bas-Canada est comparu au château St. Louis de Québec et par devant nous Archibald Comte de Gosford Baron Workingham de Beccles dans le comté de Suffolk, Capitaine Général et Gouverneur en chef dans et sur les Provinces du Haut Canada et du Bas Canada. Vice Amiral d'icelles et un des très Honorables Conseillers de sa Majesté &c. &c. l'Honorable John Stewart Ecuyer, un des membres du Conseil Législatif pour la dite Province du Bas Canada au nom et comme procureur spécial de Mary Stuart, James T. S. Stuart Ecuyer & William Taylor, Peter Short Ecuyer, tous en qualité d'héritiers de feu Pierre Stuart Ecuyer, Seigneurs & Propriétaires du fief St. Joseph d'un tiers indivis de la Seigneurie de Mille vaches & d'un quart indivis des fiefs & Seigneuries de la Terre ferme de Mingan & dans l'isle d'Anticosti suivant procurations sous seings privés, l'une en date du six septembre mil huit cent dix neuf, & l'autre en date du dix neuf février mil huit cent vingt-trois, passées en forme Anglaise et dûment légalisées ; Lequel Sieur Comparant nous a dit qu'il vient par devant nous pour rendre et porter au Château St Louis de Québec la Foi et Hommage lige que ses dits constituants sont tenus de rendre et porter à sa très Excellente Majesté la Reine Victoria, à cause des dits fiefs & seigneuries, et nous a représenté pour titres de sa propriété, savoir :

* * * *

Troisièmement. Quant aux Seigneuries de la Terre ferme de Mingan et de l'Isle d'Anticosti.

1o. Copie authentique de l'acte de foi et Hommage rendue par Sieur Joseph Fleury de la Gorgendière entre les mains de Monsieur Begon, Intendant en ce pays le douze d'avril, mil sept cent vingt cinq pour le fief de l'isle d'Anticosti dans lequel acte de foy et d'Homage est rapporté une concession

de Mr. Descheneau intendant conjointement avec Monsieur le Comte de Frontenac, en Mars, mil six cent quatre vingt, par laquelle ils ont donné et concédé au Sieur Louis Jolliet l'isle d'Anticosty située à l'embouchure du fleuve St. Laurent pour en jouir par lui ses hoirs et ayant cause à l'avenir en titre de fief et seigneurie haute, moyenne et basse justice avec droits de chasse, pêche et traite avec les sauvages dans toute l'étendue de la dite concession à la charge de la foi et Hommage à rendre et porter au dit château St. Louis de Québec, duquel le dit fief relève aux droits et redevances accoutumés suivant la coutume de Paris que les appellations du juge qui y sera établi ressentiront a la Prévosté de cette ville de conserver à faire conserver les bois de chesne propres pour la construction des vaisseaux de sa Majesté, de donner avis au Roi ou au Gouverneur du pays des mines, minières, ou minéraux, si aucuns sy trouvent d'y tenir feu et lieu et le faire tenir de désarter et faire désarter la dite Isle et délaisser les chemins et passages nécessaires.

2o. Copie authentique de l'aveu et dénombrement fourni au papier Terrier du Domaine de Sa Majesté par le dit Sieur Joseph Fleury de la Gorgendière pour le dit fief de l'Isle d'Anticosti en date du dix huit d'avril mil sept cent vingt cinq.

3o. Copie authentique d'un jugement rendu le douze de Mai, mil sept cent trente trois par Mr. Gilles Hocquart alors Intendant en ce pays, entre Pierre Curlier adjudicataire général des fermes unies de France et du Domaine d'Occident stipulant pour lui François Etienne Cugnet Directeur du d. Domaine d'Occident en Canada demandeur d'une part et François Bissot tant en son nom qu'ayant les droits cédés du feu S. de Vallerand et Sieur Bissot son épouse et de feu Sieur Charles Bissot, le sieur Joseph Fleury de la Gorgendière et Claire Jolliet son épouse, fille de deffunt Louis Jolliet et Claire Françoise Bissot tant pour eux que pour leur cohéritiers des d. deffunts S^r et Dame Jolliet deffendeur et le Sieur Jacques Gourdeau fils de deffunt Jacques Gourdeau et Marie Bissot héritiers bénéficiaire de son dit père, faisant tant pour eux que pour ses cohéritiers de la d. deffunte Dame Bissot sa mère aussi défendeur et intervenant d'autre part ; par lequel jugement il parait que les dits deffendeurs et intervenants ont alors produit comme pièce dans la dite cause un acte d'aveu fait le onze février mil six cent soixante et huit au papier Terrier de la compagnie royale des Indes Occidentales, alors seigneurs de ce pays par le dit deffunt François Bissot S^r de la rivière, dans lequel aveu est énoncé la concession à lui faite par la dite compagnie le vingt cinq février, mil six cent soixante un, de l'Isle aux œufs situé au dessous de Tadousac vers les Monts Pelez du côté du Nord quarante lieues ou environ du d. Tadousac avec le droit et faculté de chasse et d'établir en terre ferme aux endroits qu'il trouverait plus commode la pêche sédentaire de Loups marins, Baleines,

Marsouins et autre négoce depuis la dite Isle aux Oeufs jusqu'aux sept Isles et dans la grande Anse vers les Esquimaux ou les Espagnols font ordinairement la pêche avec les bois et terres nécessaires pour faire le dit établissement à la charge de payer par chacun an deux castors d'hyver, ou dix livres tournois au Receveur de la dite compagnie et les droits accoutumés pour la traite à la

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communauté de ce pays lequel titre de concession de 1661 les dits deffendeurs et intervenants déclarent ne pouvoir représenter attendu l'incendie arrivée à la Basse Ville, il y a environ cinquante deux ans dans laquelle le dit titre a été enveloppé, et que parties ouies et tout considéré acte a été donné aux dits deffendeurs et intervenants de l'abandon par eux faits par leur écrit de réponse du douze Avril alors dernier du terrain concédé au dit deffunt François Bissot de la Rivière par la compagnie de la Nouvelle France depuis l'Isle aux œufs jusqu'à la rivière Moisy par le titre susdits et en conséquence le dit terrain depuis et compris la dite Isle aux Œufs Jusque la pointe des Cormorans qui est à quatre ou cinq lieues au dessous de la dite rivière Moisy a été réunie au Domaine de sa Majesté et les dits deffendeurs et intervenants ont été ordonnés de se retirer devers Sa Majesté pour un nouveau titre pour l'établissement fait par eux et par le dit François Bissot de la Rivière leur auteur au lieu dit Mingan sur tel front ou profondeur et sous tels redevance qu'il plaira à sa Majesté leur accorder.

40. Copie authentique d'un jugement rendu le deux de Mai mil sept cent trente six par le dit Gilles Hocquart alors Intendant en ce pays entre le S^r Volant d'Handebourg en qualité de propriétaire du Poste de Mingan, tant parcequ'il avait épousé Delle. Marie Massé Vve. de Sieur Jolliet Mingan que pour l'avoir affermé pour neuf années du Sieur François Bissot d'une part et le Sieur Martel de Brouage de l'autre part.

50. Acte passé devant Berthelot d'Antigny et son confrère Notaires, à Québec, en date du six d'Aout mil sept cent quatre vingt quatre de dépôt fait l'Honorable William Grant d'un acte passé en langue et forme Anglaise de vente par James Sheppard Ecuyer shériff du district de Quebec au dit William Grant des neuf vingtièmes de la moitié du fief et seigneurie des Isles de Mingan, de neuf vingtièmes du fief et seigneurie de l'isle d'Anticosty et la part et prétentions de Charles Jolliet d'Anticosty dans la seigneurie de Terre ferme de Mingan en qualité de co-héritiers de feu Madame Claire Bissot d'Anticosty sa mère, les dits biens saisis en vertu d'un Writ d'Exécution émané de la cour des Plaidoyers communs pour le district de Montréal dans la Province de Québec à la poursuite de Joseph Fleury Deschambault Ecuier, et les autres co-héritiers de Joseph Fleury de la Gorgendière Ecuier, décédé contre les biens de Marie Josette Jolliet Anticosti veuve de

Pierre Lest et Charlotte Jolliet Anticosti veuve de Vital Caron et autres co-héritiers dans la succession de feu Charles Jolliet Anticosti et Jane Lemelin et adjudés le dix huit de Mai mil sept cent soixante et dix huit au dit William Grant pour la somme de douze mille sept cent livres ancien cours égale à la somme de cinq cent vingt neuf livres trois chelins et quatre pence courant ; le dit acte de vente en date du vingt et un Janvier mil sept cent soixante dix neuf. Et a été déclaré par le dit William Grant par le dit acte de dépôt que lors du dit acte d'adjudication il a omis de déclarer que la dite adjudication était savoir moitié pour lui, un quart pour l'Honorable Thomas Dunn Ecuier, et un quart pour Monsieur Pierre Stuart Ecuier, et que deux quarts de la dite adjudication appartiennent aux dits Honorable Thomas Dunn et Pierre Stuart Ecuier, de laquelle déclaration

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les dits Honorables Thomas Dunn et Pierre Stuart Ecuier, présents et parties au dit acte de dépôt ont demandé acte ce qui leur a été à l'instant octroyé.

60. Un acte passé devant A. D. Panet et son confrère, Notaires, à Quebec, le dix-huit de Janvier mil sept cent quatre-vingt-six, de cession et abandon par François Joseph Cugnet, Ecuier, tant pour lui que se portant fort de Dame Joseph Belcour de la Fontaine, son épouse, à Pierre Stuart, Ecuier, à l'honorable William Grant, Ecuier, et à l'honorable Thomas Dunn, Ecuier, à chacun un tiers de tous droits successifs aux autres échus le douze Octobre mil sept cent quatre-vingt-un, au Sieur François Belcour de la Fontaine, tant en lignes directes que collatérales dans les îles et îlots de Mingan anciennement concédés aux Sieurs Jacques de la Lande et Louis Jolliet et dans la terre ferme de Mingan anciennement concédée à feu François Bissot de la rivière, lesquels droits échus au dit François Belcour de la Fontaine quant à la Terre Ferme par succession directe échue au dit François Belcour de la Fontaine par dame Charlotte Bissot, sa mère décédée, épouse de feu monsieur maître Jacques Belcour de la Fontaine, en outre tous les droits successifs échus au dit Sieur François Belcour de la Fontaine par le décès de demoiselle Marie Belcour de la Fontaine sa sœur, et généralement tous les autres droits que le dit Sieur François Belcour de la Fontaine pouvait prétendre le dit douzième jour d'Octobre mil sept cent quatre-vingt-un, dans les dites îles et terre ferme comme héritier ou autrement par le décès de ses parents ou autres surnommés ou autre que ce puisse être en ce que tous les dits droits du Sieur François Belcour de la Fontaine pourraient alors consister, c'est-à-dire tels que mon dit Sieur Cugnet cédant a acquis les dits droits pendant sa communauté avec la dite Dame Cugnet par cession consentie par le dit Sieur François Belcour de la Fontaine, devant maître Panet, notaire à Québec, le douze Octobre mil sept cent quatre-vingt-un ; item tous les droits successifs échus à la dite Dame Joseph Belcour de la Fontaine, épouse du dit François Joseph Cugnet, Ecuier, tant dans les dits îles et îlots

de Mingan par succession directe et collatérale ou en vertu et faveur du legs et des conditions portées au Testament du dit Sieur Jacques de la Lande, fait à Baynonne le trois Août mil sept cent cinquante-trois, déposé en l'office de monsieur Boisseau, Greffier à Québec, le vingt-deux Janvier mil sept cent soixante-huit, au profit du dit feu Sieur Belcour de la Fontaine, frère de la dite Dame Cugnet qui en a hérité, ou qui en a quelques droits quelconques, que dans la dite terre ferme par succession directe et collatérale échus actuellement à la dite Dame Cugnet, soit par le décès des Sieurs et Dame ses père et mère susnommés ou. de ses autres parents pour un sixième dans un huitième au totale de la dite Terre ferme, au plus ou moins grande portion soit à titre d'héritages ou autrement, et aussi une rente viagère de cent cinquante livres de vingt sols due sur le Poste de Mingan appartenant aux dits Sieur et Dame Cugnet, cette cession faite à la charge par les dits acquéreurs d'acquitter les dits droits, cédés au *pro rata* de la totalité dont ils font partie des devoirs féodaux et autres, redevances envers Sa Majesté dont les dites îles et Terre ferme relevant en fief ou autrement, tant pour le passé que pour l'avenir et moyennant le prix et somme de dix mille livres de vingt sols. Ensuite du dit acte de cession est un

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acte de ratification de celui passé devant maître Deschenaux et son confrère, notaires à Québec, le dix-sept de Décembre mil sept cent quatre-vingt-sept, par la dite Dame Joseph Belcour de la Fontaine, épouse du dit François Joseph Cugnot de son dit mari dûment autorisée.

7o. Un acte de déclaration et division de droits et conventions passé devant Mtre. Deschenaux et son confrère, notaires à Québec, en date du douzième jour de Décembre mil sept cent quatre-vingt-neuf, entre l'honorable William Grant et Dame Marie Anne Catherine Fleury Deschambault, Baronne Douairière de Longueuil, son épouse, encore le dit Honorable William Grant se portant fort et faisant pour les héritiers Fleury Deschambault, représentants Dame Claire Jolliet conjointement avec la dite Dame Grant de la première part, l'honorable Thomas Dunn de la seconde part, et Peter Stuart, Ecuyer, de la troisième part, par lequel acte les dites parties ont reconnu et déclaré qu'ils étaient propriétaires de presque le total des fiefs seigneuries de la terre ferme de Mingan des isles et islets de Mingan et de l'isle d'Anticosti, du total desquels dits fiefs et seigneuries sont seulement à distraire les parts et droits de Monsieur le Baron de Costelno et Dame son épouse, et du Sieur Gilles Belcourt de la Fontaine absent de cette province depuis plus de trente ans, si aucuns ils ont, en outre la partie vendue par M. Joseph Belcourt de la Fontaine à monsieur Lymburner en l'année mil sept cent quatre-vingt-huit, qu'ils étaient propriétaires de diverses parts égale et indivises en vertu de divers titres d'acquisition faites par chacune des dites parties tant en son nom seul qu'en son nom et de celui d'une ou de toutes les dites parties, savoir ; le dit William Grant, lo.

comme ayant acquis du Sieur Antoine Gris , notaire   Chambly, les droits de M. Antoine Belcourt de la Fontaine, lesquels droits le dit Antoine Gris  avait acquis du dit Antoine Belcourt de la Fontaine lui-m me par acte pass  devant Mtre. Hautray, le quatre D cembre mil sept cent soixante-neuf auquel dit Sieur Lafontaine les dits droits appartenaient de la succession de Dame Charlotte Bissot sa m re, et de succession collat rale de feu Sieur Louis Belcourt de la Fontaine, son fr re Donataire de Monsieur de la Lande ou de toute autre mani re quelconque ; 2o. comme ayant acquis par voie d' change de Gabriel Elz ar Taschereau, Ecuier par acte pass  devant Mtre. Panet, le premier f vrier mil sept cent quatre-vingt-un, les portions paternelles et maternelles  chues   Dame Louise Th r se Henry de la Gorgendiere de Messire Pierre Fran ois Rigaut de Vaudreuil, marquis de Vaudreuil, dans les dites seigneuries de Mingan, isles et islets de Mingan dans l'isle d'Anticosti et autres isles, islets, battures et toutes autres seigneuries au bas du golfe et fleuve St. Laurent annexes et extensions de Mingan, lesquelles portions ont  t  d clar es par la marquise de Vaudreuil  tre d'un sixi me dans les dites seigneuries de Mingan jusqu'a Labrador, depuis et compris l' tablissement de Mingan au bas et sur la rive gauche du fleuve St. Laurent ; 3o. Et enfin le dit William Grant comme se d clarant repr sentant et se portant fort pour tous les Sieurs et Dames Fleury Deschambault, h ritiers de la dite Dame Claire Jolliet, lesquels droits il est convenu seront inclus et inh rents   la moiti  du dit William Grant apr s mentionn  : L'honorable Thomas Dunn, Ecuyer, lo. comme ayant acquis les droits de Dame Marie Bissot,

Vve. de Monsieur François Veredique dans la dite Seigneurie de Terre ferme de Mingan à elle échus par le décès de M. François Bissot et Dame Marie Lambert Dumont, ses père et mère, dont elle s'était déclarée héritière pour un quart suivant l'acte passé devant M^{re} Panet, notaire, le premier juin mil sept cent soixante-douze. 2o. Comme ayant acquis les droits de Demoiselle Magdeleine Belcourt de la Fontaine, fille de feu maître Jacques Belcourt de la Fontaine et de Dame Charlotte Bissot, tant en ligne directe que collatérale dans la terre ferme de Mingan, isles et islets de Mingan ainsi que le tout est plus au long désigné un l'acte de vente passé devant M^{re}. Panet, notaire, le vingt Novembre mil sept cent soixante dix-sept; le dit Honorable Thomas Dunn, Ecuier, et Pierre Stuart comme ayant acquis par moitié les droits de Dame Claire Jolliet de Mingan, épouse de monsieur Nicolas Gaspard Boisseau, Ecuier, de Dame Marie Geneviève Jolliet Mingan, épouse de Sieur Noël Hallain et de Dame Marie Anne Jolliet de Mingan, décédée veuve de monsieur Jean Tache, héritière chacune par tiers de défunt Sieur Jean Jolliet Mingan second fils de feu Sieur Louis Jolliet consistants les dits droits en cinq vingtièmes deux tiers dans la moitié au total des isles et islets de Mingan ou telles autres parts qui pourraient appartenir ou être échues aux dites Dames Claire Marie Geneviève et Marie Anne Jolliet Mingan comme représentant le dit Sieur Jean Jolliet Mingan, second fils de Sieur Louis Jolliet consistant en outre en tous et tels droits échus par la succession de Dame Claire Bissot, autrefois épouse du dit Sieur Louis Jolliet, ayeule et bisayeul des descendants et cédants cy-après mentionnés et nommés clans la Terre ferme du côté du nord du fleuve St. Laurent, et ainsi que le tout est plus au long détaillé au contrat d'acquisition que les dits Sieurs Thomas Dunn et Pierre Stuart en ont faite de la dite Dame Claire Jolliet Mingan, du dit Sieur Boisseau, des Sieurs Jean Marie et Pierre Hallain, donataires des biens du dit Sieur Noël Hallain et de la dite Dame Marie Geneviève Mingan son epouse, leurs père et mère, de Sieur Charles Taché, Demoiselle Angélique Taché, encore le dit Sieur Charles Taché au nom et comme curateur a l'absence du Sieur Pierre Taché, son frère, et Demoimoielle Marie Joseph Taché, tous frères et sœurs, enfants et héritiers de la dite Dame Marie Anne Jolliet Mingan, décédée veuve de Sieur Jean Taché. le dit acte passé devant M. Panet, notaire, le dix-sept février mil sept cent quatre-vingt-quatre. Et les dits Honorables William Grant, Thomas Dunn et Peter Stuart comme ayant fait les acquisitions ci-dessus énoncées sons les Nos. 5 et 6, savoir par l'acte de vente par le sheriff du district de Québec, en date du vingt-un de janvier mil sept cent soixante-dix-neuf, déposé au greffe de M. Berthelot d'Artigny, notaire, par acte de dépôt du six août mil sept cent quatre-vingt-quatre, et par l'acte de cession passé devant M. A. Panet, notaire, le dixhuit de janvier mil sept cent quatre-vingt-six, et que les dites acquisitions respectives particulières ou conjointement cy-dessus

mentionnées ayant été faites au profit et avantage d'eux dits Sieurs William Grant, Thomas Dunn et Peter Stuart, sauf à constater à l'amiable la proportion de chacun d'eux sous les dites acquisitions ; ils se sont convenus et reconnaissent être propriétaires, savoir : le dit sieur William Grant pour la juste moitié d'icelles comprise dans la dite moitié les parts, portions et prétentions au

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total de la dite Dame Grant et de tous les héritiers et co-héritiers Fleury Deschambault, le dit Honorable Thomas Dunn pour un quart ou quatrième partie des dites acquisitions, et le dit Peter Stuart l'autre quart ou quatrième partie des dites acquisitions, Qui sont tous les Titres que le dit Sieur comparant aux dits noms a dit avoir à nous représenté, nous suppliant qu'il nous plaise le recevoir aux dits noms, à la foi et Hommage lige du dit fief St Joseph et des dits portions indivises des fiefs et Seigneuries de Milvaches et de la Terre ferme de Mingan et de l'isle d'Anticosti, relevant en plein fief de Sa Majesté, et à l'instant s'étant mis en devoir de vassal, tête-nue, sans épée ny éperons et un genouil en terre, il aurait dit à haute et intelligible voix qu'il rendait et portait entre nos mains la foi et hommage lige que ses dits constituants sont tenus de rendre et porter au château St. Louis de Québec, à sa très Excellente Majesté la Reine Victoria, à cause du dit fief St. Joseph et des dites portions indivises de la Seigneurie de Milvaches, de la Seigneurie de la Terre ferme de. Mingan et de la Seigneurie de l'isle d'Anticosti à laquelle foi et Hommage nous l'avons reçu et recevons par ces présentes, sauf les droits de la Reine et autres choses et de l'autrui en toutes. Et le dit comparant aux dits noms a fait et souscrit entre nos mains le serment de bien et fidèlement servir Sa Majesté et de nous avertir et nos successeurs s'il apprend qu'il se fasse quelque chose contre son service, il s'est obligé aux dits noms de fournir ses aveux et dénombremens dans le temps présent par les lois, usages et coutumes de cette Province dont et du tout il nous a requis acte, ce que nous lui avons accordé et a signé avec nous.

GOSFORD,
Governor in chief.

P. STUART,
Par ordre de Son Excellence,

F. W. PRIMROSE,
G.P.T.

No. 1335.

**ACTE DE FOY ET HOMMAGE FOR THE
SEIGNIORIES OF MILLE VACHES, ANTICOSTI, ST.
JOSEPH AND TERRE FERME DE MINGAN, 9
OCTOBER, 1837.**

REGISTER OF ACTES DE FOY ET HOMMAGE, VOL. IV, p. 28 et seq.,
QUEBEC.

John Greenshields Ecuier, propriétaire de deux tiers indivis, et James Weir, Ecuier, propriétaire de l'autre tiers indivis de la Seigneurie de la Rivière de la Magdelaine, encore le dit John Greenshields, propriétaire de deux tiers indivis & le dit James Weir propriétaire de l'autre tiers indivis dans une sixième partie de la Seigneurie de Millevaches, et enfin le dit John Greenshields, propriétaire de deux tiers indivis, & le dit Dames Weir, propriétaire de l'autre tiers indivis de la quatrième partie de la Seigneurie de la Terreferme de Mingan.

En procédant à la confection du Papier Terrier du Domaine de la Reine dans la Province du Bas Canada est comparu au Château St. Louis de Québec & pardevant Nous Archibald, Comte de Gosford, Baron Worthingham de Beccles dans le Comté de Suffolk, Capitaine General et Gouverneur en chef dans & sur les Provinces du Haut Canada & du Bas Canada, vice amiral d'icelles & un des Très-Honorables Conseillers de Sa Majesté, etc., etc., etc. Andrew Paterson, de la Cité, Comté et District de Québec, Ecuyer, au nom et comme fondé des procurations spéciales de John Greenshields et James Weir, Ecuycers, Seigneurs et propriétaires de la totalité de la Seigneurie de la Rivière de la Magdeleine situes dans le District de Gaspé, et de certaines parts et portions des fiefs et Seigneuries de Mille Vaches dans la District de Québec, et de la Terre ferme de Mingan, située sur la coté Nord du Golfe St. Laurent, savoir : le dit John Greenshields, propriétaire de deux tiers indivis de la dite Seigneurie de la Rivière de la Magdeleine, et le dit James Weir, propriétaire de l'autre tiers indivis de la dite Seigneurie ; encore le dit John Greenshields, propriétaire de deux tiers indivis dans un sixième indivis de la Seigneurie de Mille Vaches, et le dit James Weir, propriétaire de l'autre tiers indivis dans le même sixième indivis de la dite Seigneurie, et enfin le dit John Greenshields, propriétaire de deux tiers indivis dans un quart indivis de la Seigneurie de la Terre ferme de Mingan, et le dit James Weir, proprietaire de l'autre tiers indivis dans le même quart indivis de la dite Seigneurie, les dites procurations, savoir : celle du dit, John Greenshields passée devant Thomas Paul et John Cleland, Notaries a Lanark, dans cette partie du Royaume uni de la Grande Bretagne et Ireland, appelée Ecosse, le douze d'Aout

et celle du dit James Weir, passée devant L. J. McPherson, Notaire à Québec, le vingt de Septembre mil huit cent trente deux. Lequel Sieur comparant nous a dit qu'il vient pardevant nous pour rendre et porter entre nos mains au Château St. Louis de Québec la foi et Hommage lige que ses dits Constituans sont tenus de rendre et porter à Sa Très Excellente Majesté la Reine Victoria, à cause du dit fief et seigneurie de la Rivière de la Magdeleine et des dits portions des fiefs et Seigneuries de Millevaches et de la Terre ferme de Mingan et nous a représenté pour Titre de sa Propriété, Savoir :

* * * *

90. Copie authentique d'un jugement rendu le douze de Mai Mil sept cent trente trois par Monsieur Gilles Hocquart alors Intendant en ce pays entre Pierre Carlier Adjudicataire général des Fermes unies de France et du Domaine d'Occident, stipulant pour lui François Etienne Cugnet, Directeur du d. Domaine d'Occident en Canada Demandeur d'une part, et François Bissot tant en son nom qu'ayant les droits cédés de feu Sieur de Valleranne et Jean Bissot son épouse et de feu Sieur Charles Bissot le Sieur Joseph Fleury de la Grogendière, et Claire Joillet son épouse, fille de défunt Louis Jolliet et Claire Françoise Bissot, tant pour eux que pour leurs co-héritiers des d. deffunts Sieur et Dame Joillet Deffendeurs, et le Sieur Jacques Gourdeau, fils de deffunt Jacques Gourdeau et Marie Bissot héritière bénéficiaire de son d. père faisant tant pour eux que pour ses co-héritiers de la de. défunte Dame Bissot sa mère aussi Défendeur et Intervenant d'autre part, par lequel jugement il paroît que les dits deffendeurs et Intervenant ont alors produit comme pièce dans la dite cause un acte d'aveu fait le onze Février mil six cent soixante-huit au Papier Terrier de la Compagnie Royale des Indes Occidentales alors Seigneur de ce pays par le dit deffunt François Bissot Sr. de la Rivière, dans lequel aveu est énoncé la concession a lui faite par la d. compagnie le vingt-cinq février mil six cent soixante-un de l'Isle aux Œufs scituée au dessous de Tadousac vers les Monts Pelez du costé du Nord quarante lieues ou environ du d. Tadoussac avec le droit et faculté de chasse et d'établir en terre ferme aux endroits qu'il trouverait plus commodes la pesche sédentaire de Loup-marins, baleines, marsouins et autres négoce depuis la dite Isle aux Œufs jusqu'aux sept Isles et dans la Grande Ance vers les Esquimaux ou les Espagnoles font ordinairement leur pesche avec les Bois et terres nécessaires pour faire le dit Etablissement, à la charge de payer par chacun an deux castors d'hyver en dix livres tourmoises au Receveur de la d. Compagnie et les droits accoutumés pour la Traitte à la Communauté de ce pays, lequel titre de concession de 1661 les dits défendeurs et Intervenant déclarent ne pouvoir représenter attendît l'incendie arrivée à la Basse-Ville il y a environ cinquante deux ans, dans laquelle le d. titre a été enveloppé et que parties ouïes et tout considéré acte a été donné aux dits défendeurs et intervenant de l'abandon par eux fait par leur

écrit de réponse du douze avril alors dernier du terrain concédé au dit deffunt François Bissot de la Rivière par la Compagnie de la Nouvelle France depuis l'Isle aux Œufs jusqu'à la Rivière Moisy par le titre susdit, et en conséquence le dit Terrain depuis et compris la dite Isle aux Œufs jusqu'à la Pointe des Cormorans qui est à quatre ou cinq lieues au-

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dessous de la de. Rivière Moisy a été réuni au Domaine de Sa Majesté, et les dits défendeurs et Intervenant ont été ordonné de se retirer devers Sa Majesté pour un nouveau titre pour l'Etablissement fait par eux et par le dit François Bissot de la Rivière leur auteur au lieu dit Mingan sur tel front et profondeur et sous tel redevance qu'il plaira à Sa Majesté leur accorder.

10o. Copie authentique d'un jugement rendu le deux de Mai mil sept cent trente-six par le dit Gilles Hocquart alors Intendant en ce pays entre le Sr. Volant d'Haubourg en qualité de propriétaire du Poste de Mingan, tant parce qu'il avait épousé Delle Marie Masse, Veuve de feu Sr. Joilliet Mingan, que pour l'avoir affermé pour neuf années du Sieur François Bissot d'une part et le Sieur Martin de Brouage de l'autre part.

11o. Un contrat en langue et forme anglaise de vente et adjudication par James Shepherd, Ecuyer, shériff du district de Québec à John Blackwood, Ecuyer, d'une moitié indivise du tiers indivis dit fief et Seigneurie de. Mille-Vaches, et d'une moitié indivise de la moitié indivise du dit fief et seigneurie de la terre ferme de Mingan situé dans le Golfe de St-Laurent sur le coté Nord commençant au Cape Cormoran et s'étendant au Nord-Est jusqu'à la Baye appelé la Grande Ance vers les Esquimaux ou les Espagnols font ordinairement la pêche sur deux lieues de profondeur lesquelles parts et portions des dits fiefs et seigneuries font exactement la moitié de ce que le dit shériff a saisi en vertu d'un writ d'exécution émané de la Cour du Banc du Roi du district de Québec, en date du cinq de Novembre mil huit cent sept, à la poursuite de Patrick Langan, Ecuyer, contre les biens de feu William Grant, Escuyer, entre les mains de John Richardson, Ecuyer, curateur à la succession vacante du dit William Grant, et adjudgé le seize de Mars mil huit cent huit à John Blackwood et Patrick Langan conjointement moitié par moitié pour le prix et somme de trois mille cinquante-cinq livres courant de cette Province, dont la moitié montant à la somme de mille cinq cent vingt-sept livres dix chelins courant a été payée par le dit John Blackwood au dit Sheriff le dit titre de Vente en date du quatorzième jour de juin mil huit cent huit, au bas duquel est la quittance de Henry Caldwell, Ecuyer, Receveur-Général pour cette Province en faveur du dit John Blackwood pour la somme de deux cent vingt-neuf livres deux chelins et demie pour droit de quint sur la dite acquisition, la dite quittance en date du trois septembre mil huit cent huit et portant inféodation.

12o. Copie authentique du Testament du dit John Blackwood en datte du premier Juin mil huit cent dix-neuf, par lequel le dit John Blackwood a légué a ses Exécuteurs Testamentaires savoir Frederick Grant, Kenelm Connor Chandler, John Greenshields, Hugh Grey et Andrew Weir, Ecuyer, tous ses biens meubles et immeubles qu'il délaissera au jour de son décès en fidei commis, pour après le paiement de ses dettes et certains legs y mentionnés quant au résidu, l'usage et bénéfice de ses neveux John Greenshields and Alexander Greenshields résidens en Ecosse et Andrew Weir résidant à Quebec, pour être également devisés entre eux en portions égales et pour en jouir par

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eux leurs hoirs et ayans cause comme tenanciers en commun et point comme tenanciers joints (joint tenants).

13o. Copie authentique du Testament olographe du dit Andrew Weir en datte du neuvième jour de Décembre mil huit cent vingt-trois, en langue anglaise, par lequel après avoir donné plusieurs legs pécuniaires à divers particuliers, il a fait le legs suivant : “ The remainder and residue of my Estate, whatever it may amount to, to be divided one half to my parents or either of them being the survivor and the other half to my brother Thomas ;” le dit Testament dument prouvé le deuxième jour de Janvier, mil huit cent vingt-six et enregistré au bureau du Prothonotaire de la Cour du Banc du Roi pour le District de Québec.

14o. Un acte passé devant L. T. McPherson et confrère Notaires à Québec en datte du huit de Décembre, mil huit cent vingt-six, de Renonciation par Thomas Weir et James Weir à la succession de feu Andrew Weir, leur frère décédé.

15o. Un acte passé devant L. T. McPherson et confrère Notaires à Québec le trois Novembre, mil huit cent vingt-huit de Vente, par Messrs. Robert Paterson et Andrew Houston Young pour et au nom de Monsieur John Weir de Grahamston dans le Comté de Sterlingen Ecosse, et de Mde Helen Weir son épouse à Monsieur Thomas Weir représenté par Andrew Paterson, Ecuier, son procureur de la moitié du résidu des biens de feu Andrew Weir leur fils à eux légué suivant le Testament du dit Andrew Weir ci-dessus énoncé, sauf excepté un immeuble vendu par les dits vendeurs au dit acquéreur par acte passé devant les mêmes Notaires le même jour, pour le prix et somme de trois mille cinq cent livres courant.

16o. Copie authentique du Testament olographe du dit Thomas Weir en datte du trente et un de Mai, mil huit cent vingt-huit par lequel (entre autres choses) il a donné et légué à son frère James Weir toute sa part dans les immeubles situés dans cette Province appartenant autrefois à Mr. John Blackwood ; le dit Testament dûment prouvé le quatre Avril

1829.

17o. Un acte passé devant L. T. McPherson et son confrère Notaires à Québec le vingt-huit de Juin mil huit cent vingt-six de Vente par Robert Paterson, Ecuier, pour et au nom de Alexandre Greenshields, Ecuier, à John Greenshields, Ecuier, représenté par Andrew Paterson, Ecuier d'un tiers indivis d'un quart indivis de la Seigneurie de la Terre Ferme de Mingan, a lui appartenant en vertu du Testament de feu John Blackwood, Ecuier, cy-dessous énoncé. Qui sont tous les Titres que le dit Sieur Comparant aux dits noms a dit avoir à vous représenter. Nous suppliant qu'il nous plaise le recevoir aux dits noms à la Foi et Hommage lige de la dite Seigneurie de la Terre Ferme de Mingan relevans en plein fief de Sa Majesté. Et à l'instant s'étant mis en devoir de vassal tête nue, sans épée ny éperons et un genouil en terre, il aurait dit à haute et intelligible voix qu'il rendait et portait entre nos mains la Foi et Hommage lige que ses dits constituants sont tenus de rendre et porter à Sa Très Excellente Majesté la Reine

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Victoria au Château St-Louis de Québec, à cause du dit Fief et Seigneurie de la Rivière de la Magdeleine et des dites parts et portions des dits Fiefs et Seigneuries de Millevaches et de la Terre ferme de Mingan à laquelle Foi et Hommage nous l'avons reçu et recevons par ces présentes, sauf les droits de la Reine en autres choses et de l'autrui en toutes : Et le dit Comparant aux dits noms a fait et souscrit entre nos mains le serment de bien et fidèlement servir Sa Majesté, et de nous avertir et nos successeurs s'il apprend qu'il se fasse quelque chose contre son Service et s'est obligé aux dits noms de fournir ses aveux et dénombremens dans le temps prescrit par les loix, coutumes et usages de cette Province dont et du tout il nous a requis acte, ce que nous lui avons accordé et a signé avec nous.

(Signé) GOSFORD,
Governor in Chief.

AND. PATERSON,
Par ordre de Son

Excellence.

[27 Dec., 1866.]

(Signé) J. H. PRIMROSE,
G.P.T.

No. 1336.

C

**ROSE AND RITCHIE TO HUDSON'S BAY COMPANY,
REPORTING *re* TITLE OF LATTER TO PROPERTY IN
THE LABRADOR PENINSULA, 27 DECEMBER, 1866.**

HUDSON BAY COMPANY'S RECORDS.

Montreal, 27th December 1866.

Sir,

We have carefully investigated the titles to the various properties and rights claimed by the Hudson's Bay Company on the North shore of the River St. Lawrence, and the Labrador coast, and now beg to report the result of that investigation.

We would premise that the absence of proper maps and the very general definition of the boundaries, have interposed much difficulty in the way of forming accurate conclusions ; while the age of the various documents, the number of them, and the irregular manner in which many of those of earlier date have been executed, have made the task more than ordinarily tedious.

The properties or rights would appear to be three in number, viz :

1st. The Seigniory of the Isles and Islets of Mingan.

2nd. The fishing and other rights along the Coast, in front of and extending beyond the Northeasterly limits of the Seigniory.

3rd. The property at Esquimaux Bay on the Labrador Coast.

1. The Seigniory of the Isles and Islets of Mingan.

This was originally conceded on the tenth of March, 1679, by the Intendant representing the Crown of France to two persons named Jacques De la Lande and Louis Jolliet, and the grant is in the following terms :

“ The said Isles and Islands of Mingan, which are on the North shore, and which continue as far as the Bay called L'Ance aux Espagnols, to enjoy by themselves their heirs and assigns for the future, *en titre di fief, Seigneurie Haute Moyenne et Basse Justice*, with the charge of faith and homage which they, the said Sieurs De la Lande and Jolliet, their said heirs and assigns shall be obliged to render at the Castle of St. Lewis at Quebec, which they shall perform according to the rights and services customary and in accordance with the *Coutume de la prevote et vicomte de Paris*, which shall be followed in this respect until otherwise ordained by His Majesty. ”

We have traced the intermediate titles from this grant down to the Hudson's Bay Company, who acquired it on the eighth of February, 1836, from the heirs of the late John Richardson and others by deed executed on that day before Griffin, Notary Public at Montreal. This title is acknowledged by the Crown, and is enregistered in Newfoundland, and we think no reasonable doubt can be thrown on the validity of the Company's rights to the property. The only difficulty which arises is as regards the Boundaries & extent. It will be observed that there is no point of departure at the Westerly limit, but we think the grant includes all the islands in front of the Seigniory of the same name on the Mainland. The Westerly boundary of which begins at the Eastern limits of the King's Posts or Cape Cormorant. The Eastern boundary of the Seigniory is by no means so clear. According to the maps and reports of Mr. Bouchette the Surveyor General the Easterly limit is at Natasliquin¹ harbour in the Longitude while the Proprietors claim that it extends to Salmon Bay on Esquimaux

River now Anse a Blanc Sablon, near longitude

The description by which the Company acquired it is :

“ The whole and entire Fief and Seigniory of the Isles et Islets of Mingan, situated and being on the Coast of Labrador in the said district of Quebec and Province aforesaid, the said Fief and Seigniory consisting of the Isles and Islets which belong on the North shore, follow in continuation to the Bay called “ L'Anse aux Espagnols ” in such

¹Natashkwan.

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manner as the said Seigniory with its rights is more amply conceded and designated by the title of Concession granted to Jacques De la Lande and Louis Jolliet, of date the tenth day of March in the year 1679, with the rights, honors and prerogatives annexed to the said Isles et Islets hereby sold without reserve, subject to the exploitations of the fisheries agreeably to the ancient regulations and usages of the Province and as the same are now held and possessed by the said vendors.”

2nd. Fishing posts or establishments, and the rights of fishing or Royalty on Fishing Rights on the Coast of Labrador.

The original claim in respect of these rights or properties would seem to have arisen from the mere possession of William Grant and Charles William Grant, anterior to 1808— at least we can find no deed or trace of writing conferring on them any of the rights which are hereinafter recited. Having been taken in execution as belonging to the two Grants, they were sold on the thirtieth of April, 1808, by Sheriff's sale, to John Richardson, Patrick Langan, and others, and in the Indenture executed by the Sheriff they are described as follows :—

“ All such Right, estate, title interest, property, claim and demand whatsoever, as the said William Grant and the said Charles William Grant or either of them had or have or ought to have in and to all the Fishing posts and Establishments on the Coast of Labrador, District of Quebec, Province of Lower Canada, occupied and possessed by the said William Grant and Charles William Grant for the purpose of carrying on Sedentary Seal and Salmon fisheries and other exploitations extending along the said coast at and from the River and Post of Itamamionx inclusive, down to the Post and Bay of L'Anse St. Clair and dependencies inclusive in the straits of Belleisle, particularly all such right, estate, title, interest, property, claim and demand whatsoever, as the said William Grant and Charles William Grant or either of them had or have or ought to have in and to the posts

of Little Mecatina, Great Mecatina with large Island Kecapoui, St. Augustin, and Chicataca with all their dependencies, which are sedentary Seal fisheries, and which together with their Sedentary Salmon Fishing Posts of Lake Sally and Big Island, adjoining the River St. Augustin all situated within the Bounds of the Seigniorship of the Isles and Islands of Mingan. Also in and to the Sedentary Salmon Fishing Posts of Itamamioux and St. Augustin on the respective Rivers so called with all their dependencies which are situated on the Main Land. Also and lastly in and at the following posts situated at or near the Straits of Belleisle, that is to say the Establishment of Posts of Brador or Labrador with Bay and harbour of that name, and Islands in such manner and with all the rights as now held by said William Grant and Charles William Grant or as have been held heretofore by those from whom they derive, with the Seal fishing carried on there and all its dependencies likewise the

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sedentary seal Fishing Posts at L'Anse aux Dunes Blanc Sablons and L'Anse St. Clair, with all their several dependencies. All which sedentary Seal and Salmon Fishing Posts are now held and have been held for a long series of years by past uninterruptedly by constant and exclusive right of possession and occupancy by the said William Grant and Charles William Grant and their predecessors in the fisheries as well of the particular posts as of a space of sundry leagues around each post requisite for their due exploitation, agreeable to the ancient regulations and usages of the Province, free of all rents and burthens, saving a rent of three per cent due to the Seigniors of the Seigniorship of the Isles and Islands of Mongan on the gross produce of the Seal Fisheries situated within the bounds of that Seigniorship. And further all such Right, estate, title, interest, property, claim and demand whatsoever of the said William Grant and Charles William Grant or either of them had or have or ought to have in and to all other posts and places not enumerated within the aforesaid limits on the said coast, where the said William Grant and Charles William Grant may have possession or effect as well as in and to all the Houses, stores and buildings erected on and at all and each of the aforesaid Posts and Places with all the fixtures, utensils, effects and implements thereunto appertaining.”

We can find no conveyances from the purchaser under this deed to the Hudson's Bay Company, but we are informed that they may be in the possession of the Company in England. We cannot however trace to any better foundation than the interests which the several partners seem to have as between themselves, assumed they possessed the various rights in or

incidental to the different properties described in the Sheriff's Sale. And under these Circumstances we do not think the Hudson's Bay Company could validly enforce them.

3. The third property would appear to be at Esquimaux Bay or as it is more properly known—Hamilton Inlet or Ivocoke, on the Easterly coast of Labrador. We have traced the titles bearing on this as far back as 1823 to one Jacob Pozer. We can find no valid conveyance to him nor are we inclined to think that his rights rested on any better foundation than that of many years possession. On the 9th September, 1823, Pozer's representative (one Claude Duchesneau) sells to one Flavien Dufresne. The seller declares that he owned the property in virtue of Titles (without specifying them as is customary), and by actual possession and enjoyment during fifty years and upwards. On the 28th of March, 1828, Dufresne sells to J. O. Brunet—and on the 3rd of February 1829 Brunet sells to Mr. W. Lampson. The Property is thus described :—

“ All the estate, right, title, interest, property, possession, rights of possession, enjoyment, jouissance, benefit, claim and demand, and all other rights of what kind or description soever at Law and in Equity which he the said David Ramsay Stewart now hath, can, or ought to

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have or claim in and to all the large tract of land and premises, fisheries with fishing, and hunting establishments situate lying and being in the Bay commonly called La Baie Des Esquimaux, Esquimaux Bay, together with the stock in trade, implements, commodities, appurtenances and premises thereunto belonging consisting of fishing and hunting establishments, houses, buildings, stores, hangards, boats, chaloupes, nets and other fishing apparatus, furniture and hunting materials and articles belonging or in any wise appertaining ; with all the estate, right, title, interest, property, claim, and demand whatsoever of him the said David Ramsay Stewart, of, in and unto the said premises or any part thereof, as heretofore possessed and enjoyed by William Lampson of Quebec, merchant, under the title derived by him from Jean Olivier Brunet, by deed bearing date the third day of February one thousand eight hundred and twenty nine and as subsequently enjoyed by Nathaniel Jones of the City of Montreal in the district of Montreal in the said Province Esquire under and by virtue of a certain transfer and assignment from the said William Lampson to the said Nathaniel Jones at Quebec aforesaid, bearing date the seventh day of January one thousand eight hundred and thirty two and as now enjoyed by the said David Ramsay Stewart in virtue of a transfer or assignment from him the said Nathaniel Jones to him the said David Ramsay Stewart bearing date at Quebec aforesaid the

fourth day of February one thousand eight hundred and thirty five and all the goods, property, effects, produce, provisions, merchandise, firs, skins, peltries, fish-oil, household furniture, Indians' debts, planters' debts, returns, claims and demands stock of goods, utensils and implements, whatsoever, due, owing, or in any wise belong or appertaining to the said David Ramsay Stewart at or on the Shores of the Indian Country on the said Esquimaux Bay, or in any part of the Country, situate lying and being to the Northward of Mingan Seigniorie, likewise any prescriptive right of trade he may have or claim, either by purchase, enjoyment, possession, or occupation by himself, his agents, clerks or servants.”

We have caused diligent examination to be made in the Public Archives, and have exhausted all the other information accessible to us, but can find no trace of any direct grants from the Crown of France or England of these two properties (nos. 1 & 2) or of the rights purporting to be conveyed other than that of the Isles and Islands of Mingan under date of the tenth of March 1679.

Though recited in the various deeds to which we have referred we fear the rights rest on no legal foundation and that the various conveyances were only operative to settle the interests of the different copartners or adventures among themselves.

Your Obt. Serts.
JOHN ROSE.
THOS. W. RITCHIE.

No. 1337.

LABRADOR COMPANY vs. THE QUEEN (1892).

A.C. 104-126.

J. C. *
1892
July 26, 27, 28, 29 ;
Aug. 2, 3 ;
Nov. 19

Present : LORD WATSON, LORD HOBHOUSE, LORD MACNAUTEN,
LORD MORRIS, and LORD HANNEN.

THE LAW REPORTS. HOUSE OF LORDS, JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL AND PEERAGE CASES. 1893, pp. 104-126.
LONDON, WM. CLOWES AND SONS.

[PRIVY COUNCIL.]

LABRADOR COMPANY Defendants:
AND
THE QUEEN Plaintiff.

AND THE CROSS-APPEAL.

ON APPEAL FROM THE COURT OF QUEEN'S BENCH FOR LOWER CANADA,
PROVINCE OF QUEBEC.

*Action of Ejectment—Effect of Act (18 Vict. c. 3) as to Defendant's
title—Prescription—Immemorial Possession—Disclosure of Title with its Infirmities.*

In an action of ejectment by the Crown, it appeared that the appellant company derived title through a grant made in 1661 by the French Government, which gave no seigneurie over the land in suit, but only a right to make establishments for hunting and fishing within certain limits ; that an Ordonnance in 1733, together with the action of the French Crown thereunder, did not create or recognise any title in the heirs of the grantee to such seigneurie ; that down to 1854 there was no evidence of either its creation or recognition by the British Crown ; but that in 1854 the Canadian Act, 18 Vict. c. 3 (amended by subsequent Acts), recognised that there was a seigneurie of Mingan, being part of the disputed land the boundaries whereof were conclusively established by a schedule authorized by the Acts :—

Held that the High Court was right in dismissing the suit as regards the scheduled lands. If a mistake had been made the legislature alone could correct it ; a court of law must give effect to the enactment as it stands :

Held, further, with regard to the claim of the company to hold the whole of the land in suit by prescription and immemorial possession, that inasmuch as it had disclosed the true root of its title, the law of prescription did not apply.

CONSOLIDATED CROSS-APPEALS from a decree of the Court of Queen's Bench (Feb. 6, 1891), affirming by a majority a decree of the Superior Court (Sept. 18, 1888).

The question at issue was as to the title of the Crown to a large tract of territory within the Province of Quebec, forming the northern sea coast of

the Gulf of St. Lawrence and extending [105] from Cape Cormorant at the mouth of the River St. Lawrence to the eastern boundary of the province near Brador Bay by Belle Isle Straits. The tract of land in dispute is about 450 miles long, and is of a uniform width throughout of six miles inland from

the sea coast.

The facts and proceedings are stated in the judgment of their Lordships.

The Judge of the Superior Court decided that the Company had satisfactorily proved the grant of the seigneurie in question ; that they had not surrendered any portion of it except the district from the Île aux Œufs to the River Moisy in the proceedings in 1733, and that the result of such proceedings left the rights of the predecessors of the company untouched except in respect of the district surrendered. He further decided that the company and their predecessors in title had been in practically undisturbed possession of the seigneurie for more than two centuries, that there had repeatedly been a recognition of the rights of their predecessors by the Crown, both in the Maurepas correspondence, by the receipt of dues, which were only owing to the Crown on the hypothesis that a seigneurie existed, and finally by the schedule of 1864. He left open and undecided the point raised by the company that their immemorial possession and their possession for over 100 years amounted to a title. But while thus in favour of the company on the main point, that of the existence of the seigneurie, the judge was in favour of the Crown as to what constituted its eastern boundary.

The Court of Queen's Bench affirmed the judgment of the Superior Court, but solely upon the ground that the Crown was bound by the recognition of the existence of the seigneurie contained in the seigneurial Acts, and that as against the company the schedule of 1864 was binding as to the eastern boundary of the seigneurie.

Rigby, Q.C., Abbott, Q.C. (of the Canadian Bar), and *Tyrrell T. Paine*, for the Labrador Company, contended that the Courts below were right, so far as they held upon the evidence that the company had proved the existence of the seigneurie in question. They referred to the evidence as shewing an original grant [106] thereof by the French Government to the appellant's predecessor—a subsequent recognition of its existence first by the French and afterwards by the British authorities, and that the rights thereunder, so far as they were asserted in the present suit, had not been surrendered.

With regard to the points of law involved, they contended that the majority of the Court of Queen's Bench were right in holding that the statutory recognition of the existence of the seigneurie, by the Acts of 1854, 1855, and 1856, related to the terra firma of Mingan, and bound the Crown. The error was in holding that the schedule of 1864 definitely settled the question of the eastern boundary. In the case of an unsettled seigneurie, which the terra firma of Mingan was, such schedule had no effect whatever except to fix the amount of the difference in value of the dues occasioned by the change from seigneurial tenure to that of franc aleu roturier.

Two classes of seigneuries are dealt with by the Acts,

unsettled ; in other words, seigneuries in which there had been subinfeudation, and those in which there had not. In regard to settled seigneuries it would be necessary to ascertain the difference in value of the dues not only between the Crown and the seignior, but also as between the seigneur and his censitaires, to whom the land was conceded and by whom it was settled (see sect. 7, sub-sect. 4, of the Consolidated Statutes of 1861, c. 41). A “ censitaire ” is defined by sect. 8 to be “ every person occupying or possessing any land in any seigneurie with the permission of the seigneur or from whom the seigneur has received rents or other seigneurial dues in respect of such lands.” In the case of lands held by censitaires, but only in such case, the Commissioners were directed to ascertain the extent and nature of the lands held by them (see sect 7, sub-sect. 5). No such direction was given in the case of seigneuries : indeed it was by sect. 9 expressly enacted that for the purpose “ of making the schedule of any seigneurie the boundaries thereof shall be deemed to be those actually possessed by the seigneur although all or any part thereof may be in “ dispute.” Neither as between seigneur and censitaire, nor as between Crown and seigneur, nor as between seigneur and adjoining seigneur, was any jurisdiction [107] as to boundaries given to the Commissioners, and it is expressly stated in sect. 9 that for the purpose of making the schedule of any seigneurie “ the boundaries ” of a seigneurie are to “ be deemed to be those actually possessed by the seigneur although all or any part thereof may be in dispute.”

Further than that, as regards unsettled seigneuries, the change of tenure was effected eo instanti by the passing of the Act of 1856, and there was no necessity for settling boundaries by a subsequent schedule. Consequently, those who prepared the schedule of 1864 acted without jurisdiction in fixing the eastern boundary of Mingan at the River Goynish, and disregarded the direction of the Act to adopt the boundaries actually possessed by the proprietors ; and a schedule so drawn is not binding on the appellants. [LORD WATSON :—How can a court of law go behind what has been done by the Legislature ?]

It was also contended that the company and its predecessors in title had been in possession, in good faith, for more than 100 years, of the lands in suit, with the knowledge of, and without the interference of, the Crown. Such possession is equivalent to, or is sufficient evidence of, a title even against the Crown; especially in the case of wild and unsettled lands, which under the feudal law were alienable, although forming part of the domain of the Crown. Such possession is evidence of a grant by the Crown of the whole of the property in dispute. [LORD WATSON :—Is there any evidence of possession which is inconsistent with a licence ? Can you use possession for any other purpose than to explain the original grant ? Can you prescribe contrary to the title which you produce and rely on ?]

The authorities cited upon the question of prescription were the Edit de Moulins de Février, 1566 ; Bosquet, vol. ii. pp. 90 and 96 (2nd ed. pp. 112 and 120) ; Bacquet, Troisième Traicté, partie iii. ; Du Droit de Déshérence, ed. 1664, p. 170, ch. 7, No. 8, and p. 177 ; Bourjon, Droit Commun de la France, vol i. p. 183, ed. 1770,

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pt. i. sect. 2, ss. 23 and 24 ; Tit. iii. chap. prélim. sect. 1, ss. 3, 4, and 5 ; Tit. xii. c. 4, s. 3, p. 1093. Dalloz, Jurisprudence, 1838: première partie, Cour de Cassation, p. 166 ; ditto, 1849, deuxième partie, Cour d'Appel, p. 149 ; Pothier's Works, ed. 1827, par Dupin, vol. viii. pp. 517, 534, sects. 278-284, 288 ; Hervé, ed. [108] 1785, Théorie des Matières Féodales et Censuelles, vol. i. pp. 335, 397, which is an authority that there may be prescription of a seigneurie against the Crown ; 5 Guyot, Tr. des Fiefs, p. 5, citing Dumoulin, vo. Dénombrement, sect. 7, N. 24 ; and 5 Guyot, c. 7, p. 157. See also sect. 2213 of the Civil Code, on which it may be said that a prescriptive censitaire is not covered by it, and also that prescription, having begun to run while the old law was in force, was governed thereby.

Sir *Horace Davey*, Q.C., *Laflamme*, Q.C., and *Belleau*, Q.C. (both of the Canadian Bar), and *Gore*, for the Crown, contended that under the grant of 1661, the company's predecessors did not derive title to any territory upon the mainland, but only a right to establish stations thereon within the limits and for the purpose stated therein. The effect of the judgment in 1733 was that the grant was held not to be binding on the Crown, and in the proceedings the grantee surrendered to the French Crown all claims thereunder. Upon the cession of French Canada to England the claims of the grantee were considered and rejected, and nothing has happened since to preclude the present claim of the Crown. The evidence entirely negatives any possession or occupation of the lands in dispute except for the limited purposes mentioned in the grant. Nor were there any acts of ownership exercised by the appellants' predecessors which were not referable to the terms of the grant.

As regards the two points of law raised by the appellants, it was contended, first, that no title to any part of the territory in dispute had been obtained under the Act of 1856 and the schedule of 1864. Reference was made to the three Acts of 1854, 1855, and 1856, and to c. 41 of the Consolidated Statutes, 1861, which consolidated them. In the Act of 1856 there was nothing to shew what seigneurie was referred to in sect. 10 under the name of Mingan. At that time the seigneurie of the mainland of Mingan had, as was held by all the judges of the Court of Appeal, no existence. The only seigneurie known by that name was that of the Isles of Mingan, which latter seigneurie had never been settled or conceded, and, therefore, did not come within the terms of sect. 10. The evidence shewed that the schedule had [109] been prepared by

the chief clerk to the Commissioners, who acted on erroneous information, and had been signed by the Commissioners without any steps being taken to verify either the title or extent of the seigneurie. Neither the Crown nor any of the parties interested had any notice of the contents of the schedule nor any opportunity of being heard before it was published. An erroneous statement in an Act, a reference to a non-existing state of things, does not give existence thereto, unless it appears from some part of the Act that the object was to settle the point in a particular way. Reference was made to Municipal Corporation

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Act, 5 & 6 Will. 4, c. 76, s. 6, to Schedule A, where Gateshead is mentioned. But in *Rex v. Greene**, it was held that Gateshead was not a municipal corporation, and that its mention in the schedule was a mistake. See also *Rex v. Haughton*.† The Act cannot create a seigneurie contrary to the fact, there not being any intention so to do.

With regard to the other point, viz., the claim of title by prescription or immemorial possession, it was contended that no title as against the Crown could be acquired in that way. Art. 2213 of the Code is not new ; see Pothier, Bugnet's ed. vol. 9, pp. 416, 421, sects. 278-288. See also art. 2208 of the Civil Code, according to which no one can prescribe against his title. The title relied upon by the company binds it, and cannot be altered by any length of possession under it unless it is shewn that acts were done with the intention of altering the rights as conferred by the grant. Reference was made to Dunod, *Traité de Prescription*, part i., c. 8 ; Merlin's *Répertoire*, Title Prescription, vol. 24, pp. 142, 145. The title explains the possession ; the quality of the latter will not be changed in the absence of a clear proof of intention so to do : Troplong, *Prescription*, vol. ii., p. 47. The title adduced by the defendants being manifestly insufficient, no new title has been created either by possession or by recognition by the Crown. Reference was also made to art. 2203 of the Civil Code, which specifies numerous restrictions upon the power of prescribing.

Rigby, Q.C., replied [110].

1892. Nov. 19. The judgment of their Lordships was delivered by

LORD HANNEN :—

The subject-matter of these appeals is a tract of country on the northern shore of the Gulf of the St. Lawrence, extending from Cape Cormorant to the Strait of Belle Isle, a distance of more than 400 miles, with a depth of six miles.

The Labrador Company is in possession of this territory. The Attorney-General for the province of Quebec, on behalf of Her Majesty, seeks to recover it from the company, who claim title to the whole of the land in question under a grant alleged

to have been made in 1661 to one François Bissot by “ the Company of New France,” deriving its powers from the Crown of France. The Labrador Company also claimed a title by prescription and immemorial possession. In answer to this claim the Attorney-General denies that the alleged grant of 1661 gave a title to the land in question, or that a title by prescription can be acquired against the Crown. He also alleges that the grant to Bissot was revoked by the French Crown and abandoned by Bissot's successors in title. The company further rely on certain alleged acts of recognition by the Crown, which they contend

* 6 Ad. & E. 548.

† 1 E. & B. 501, 515.

preclude the Crown from setting up the said revocation and abandonment of the grant, or from denying its validity.

The judgment of the Superior Court affirmed the title of the Crown to the larger portion (about 250 miles) of the tract in dispute, leaving the company in possession of the rest. The River Agwanus or Goynish was taken as the dividing line, the Crown recovering all that lies to the east of that river, and the company keeping all that lies to the west.

Both parties appealed from the judgment, and the Court of Queen's Bench dismissed both appeals.

The basis of the company's claim is the alleged grant of the 25th of February, 1661. It is necessary therefore, in the first place, to examine the nature and extent of this grant. In 1627 a company, called the Company of New France (or of the Cent Associés) was formed, to which the King of France conceded the pays de la Nouvelle France, including the land in question, “ en [111] toute propriété, justice et seigneurie,” with the right to distribute the lands. The rights of this company were subsequently surrendered to the King, and by him ceded to a fresh company, called “ the Company of the West Indies ; ” but in 1661, while the Company of New France retained its original powers, it made, on the 25th of February of that year, a grant to François Bissot, under whom the Labrador Company claim as successors in title.

This grant is no longer in existence, the original document, as well as the copy supplied to Bissot, having been destroyed by fire. Before their destruction, however, François Bissot, on the 11th of February, 1668, made an aveu, or declaration, to the Company of the West Indies, the successors of the Company of New France, setting forth the grant made to him by the last-named company in 1661. This aveu has been preserved, and it has been treated throughout these proceedings as containing a correct statement of the original grant.

This aveu is in the following terms :—

“ François Bissot, Sr. de la Rivière, lequel avoue et déclare tenir de nos Seigneurs l'Isle aux Œufs, située au dessous de Tadoussac, vers les Montpells, du costé du Nord, quarante lieues environ dud. Tadoussac, avec le droit et faculté de chasse et d'établir en terre ferme aux endroits qu'il trouvera plus commodes, la pesche sédentaire des loups marins, baleines, marsouins, et les autres négoes, depuis la dite Isle aux Œufs jusqu'aux Sept Isles et dans la Grande Anse, vers les Esquimaux où les Espagnols font ordinairement la pesche, avec les bois et terres nécessaires pour faire le dit établissement. Le tout à luy appartenant par titre de concession en date du vingt cinq Février mil six cent soixante en un, signé par extrait des délibérations de la Compagnie de la Nouvelle France, A. Chefault, à la charge de payer par chacun an, deux castors d'hiver ou dix livres tournois au receveur de la dite

Compagnie, et les droits accoutumés pour la traite à la communauté de ce pays, au bas duquel titre est écrit

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Dubois Davaugour, ratifié le don que dessus de laquelle dite déclaration il nous a requis acte et a signé. Ainsi signé, Bissot, avec paraphe.

“ Sur quoy, oüy le procureur fiscal, nous avons accordé acte au [112] dit sieur Bissot de son dit aveu et déclaration, et iceley condamné payer la dite redevance, tant pour le passé que pour ladvenir, suivant et conformément au dit titre de concession, sans néantmoins que le dit acte puisse être tiré à conséquence n'y préjudice, remettant au Roy ou à la Compagne de faire valoir le dit titre ou point. Mandons; &c.

“ Donné par nous Louis Théandre Chartier, Escuyer, Seigneur de Lotbinière, Conseiller du Roy, Lieutenant-Général Civil et Criminel, à Québec, les assizes tenant le onzième jour de Février mil six cent soixante-huit.”

It is not disputed that this concession gave to Bissot the seigneurie of the Isle aux Œufs, situated some distance to the west of Cape Cormorant, the western boundary of the land now in question. The contest arises on the passage commencing “ Avec le droit et faculté de chasse, &c.”

For the Crown it is contended that the effect of the grant is to give the seigneurie of the Isle aux Œufs, with the accessory right of hunting, &c., on the mainland within certain limits, the extent of which will be considered later. The company, on the other hand, contend that this grant gave a seigneurie, not only in the Isle aux Œufs, but in the territory on the mainland within the defined limits.

Their Lordships are of opinion that this contention of the company is wholly untenable. They agree on this point with the opinion expressed by all the judges in the Courts below, that the rights to be exercised on the mainland are only accessory to the seigneurie of the island. They consist in the permission (not to take possession of a defined district on the mainland, but) to establish at such places as may be most convenient, fixed stations for the capture of seals, &c., with the privilege of taking the timber and land necessary for the establishment of such stations. This last-mentioned provision effectually excludes the idea that the whole land was conceded to Bissot in fee, in which case it would have been superfluous to give him the right to take the wood and land necessary for the stations. Further, the reservation of an annual payment of two beaver skins for the right to hunt and fish is stated by Sir A. A. Dorion, C.J., in the judgment of himself and his colleagues, to be inconsistent [113] with the hypothesis that a fief on the mainland was granted, and this appears also to have been the opinion of Routhier, J., and it has not been controverted before this board.

One fact remains to be noticed, tending strongly to negative the company's contention that a seigneurie on the mainland was conceded by the grant of 1661. That document contains no limitation inland of the supposed fief. It might,

therefore, as well have been made the basis of a claim to the whole territory northwards, forming part of La Nouvelle France, as to the land for six miles inland. A license to make stations for fishing and hunting, and trading with the natives in an unsettled country, might naturally be given without fixing its limits inland ; but it cannot be supposed that a fief would be created without some indication of what its boundaries were to be.

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This leads to the consideration of the question, over what extent of territory on the mainland is the right of establishing stations for fishing, &c., conceded ? It is thus defined: “ Depuis la dite Ile aux Œufs jusqu'aux Sept Isles, et dans la Grande Anse, vers les Esquimaux où les Espagnols font ordinairement la pesche ;” that is, “ from the said Isle aux Œufs, up to the Seven Islands, and in the great cove in the direction of the Esquimaux where the Spaniards usually fish.” In English there can be no doubt this means that the fishing stations may be established in the land between the Isle aux Œufs and the Seven Islands, and also in the Grande Anse. It has, however, been contended that the proper construction of the French is different, and that the force of the word “ jusque ” is carried on to the word “ dans,” and that the passage has the same meaning as if it had run “ jusqu'aux Sept Isles et jusque dans la Grande Anse.” No authority for this construction has been given, and all the judges of the Court below, whose mother-tongue is French, agree that the right of establishing a station in the Grande Anse is distinct from the right to make stations up to the Sept Isles. Routhier, J., says : “ Ces derniers mots comprenaient-ils toute la terre ferme depuis Ies Sept Isles jusqu'à la Grande Arise ? Je ne le crois pas, car autrement on aurait fixé l'étendue de la concession depuis l'Isle aux Œufs jusque dans la Grande Anse.” And Dorion, C.J., thus paraphrases [114] the grant ; “ Que la concession était de l'Isle aux Œufs en seigneurie, et de plus le droit de faire des établissements de pêche et de chasse sur la côte Nord jusqu'aux Sept Isles, puis dans la Grande Anse vers les Esquimaux.” Their Lordships have no doubt that this is the correct interpretation of the grant, and that it conceded to Bissot no seigneurie on the mainland, but only a right to make establishments for fishing and hunting up to Sept Isles, and also in the Grand Anse. Where that Grande Anse was situated will be considered hereafter.

It may be convenient at this point to refer, in order of date, to a map of 1678, which has been relied on as shewing that a seigneurie on the mainland was recognised as belonging to Bissot. This map is described as one “ pour servir à l'éclaircissement de papier terrier de la Nouvelle France,” and was dedicated to the Minister Colbert by the Intendent Duchesneau. Upon this map is printed “ Seigneurie du Sieur Bissot,” stretching along the coast from a little east of the Sept Isles to a place about two-thirds along the “ Isles de Mingan.” These islands follow another to a river along which is written “

Esquimaux,” and at a short distance eastward “ Baye des Espagnols ” is inscribed.

The bearing of this map on the question of boundary will, so far as is necessary, be referred to by-and-by. Its value as evidence of a seigneurie on the mainland is now the subject of consideration. The utmost effect that could be given to this map would be as evidence of reputation at the date it bears of the existence of seigneurie ; but this must necessarily give way before the proof which the representatives of Bissot have supplied that this grant to him did not in fact concede a seigneurie on the mainland. But undue importance has been given to this inscription on the map. Bissot had, in fact, a

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seigneurie, namely, that of the Isle aux Œufs, to which belonged as an accessory a right of making establishments for hunting, fishing, &c., on the mainland. It was not necessary for the purpose of the cartographer that all this should be set out on the map. What was of importance to him was, to indicate over what extent of coast Bissot exercised rights whatever they might be, and he did this by writing the words referred to. This [115] interpretation is indeed impliedly adopted by Routhier, J., who is most favourable to the contention of the Labrador Company. He says speaking of the right of continuing the establishment of Mingan, “ Comme cette exploitation était un accessoire de l'ancienne seigneurie de l'île aux Œufs, il n'est pas étonnant que depuis des temps reculés on l'ait appelée seigneurie du sieur Bissot.”

But it is contended, on behalf of the Labrador Company, that, even if the grant of 1661 did not in itself create a seigneurie on the mainland in favour of Bissot, this effect was produced by an Ordonnance of Intendant Hocquart in 1733, and the subsequent action upon it by the French Crown.

This Ordonnance was pronounced in a suit instituted in 1732 by Pierre Carlier, the Adjudicataire Général des Fermes Unies de France, et du Domaine d'occident, against the heirs of François Bissot (who had died in 1676), and the heirs of Sieurs Lalande and Louis Jolyet, to whom the seigneuries of the isles and islets of Mingan had been granted by the French Crown in 1679, calling upon them to shew by virtue of what title they had taken possession of the territory occupied by them on the terre du nord (i.e., the mainland north of the St. Lawrence) below the River Moisy up to the Bay of the Spaniards.

The Adjudicataire Général did not dispute the title of Jolyet (deceased) to the Isles of Mingan, described in the grant of 1679, as the “ Islets du Mingan du côté du nord et qui se suivent jusqu'à l'ance des Espagnols.” He only required the title to anything claimed on the mainland. The seigneurie of the isles and islets of Mingan will therefore only be of importance in considering the question of boundary.

In answer to the demand of the Adjudicataire Général, the Defendants relied solely on the grant of 1661, under which they allege they had formed establishments and had continual possession for seventy-one years, and they conclude by a

specific claim to be maintained in the possession and enjoyment of the lands granted to François Bissot, deceased, “ in accordance with the title of concession of the 25th of February, 1661.”

In reply the Adjudicataire Général, after taking the objection, not now insisted on, that the grant of 1661 was in conflict with [116] certain earlier grants, said that, admitting the grant of 1661 and the declaration of 1668 as valid title-deeds, and construing them in the sense most favourable to the defendants, the grant gave no proprietary title except on the Isle aux Œufs. On the mainland it conferred no right of ownership, but only the right to establish there “ la pesche sédentaire,” from l'Isle aux Œufs, up to the Seven Isles and in the Bay of the Spaniards, “ a right,” he continues, “ which it would have been useless to express, if the intention of the concession had been to give a right of property, and which by its expression positively

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excludes a right of property.” He then presents substantially the arguments against the then defendants' claim which have been repeated before this Board, and he proceeds : “ Though the defendants have not even the right to make establishments in the tract of country from the Seven Islands up to the Bay of the Spaniards, it is in consequence of their title of concession that Bissot, deceased, has founded the establishment of Mingan continued by the defendants, for which they allege a continued possession of seventy-one years. Having regard to this long enjoyment of the seigneurie of Mingan, he will not dispute it, provided that they be limited to a concession of which the limits shall be certain and determined, so that they cannot injure or prejudice the 'Traites du Domaine du Roi.' It is at Mingan that they have fixed their establishment on the mainland. The Farmer-General will not offer opposition to the enjoyment of it being continued to them, and even that the property in it be accorded to them by a new title, if His Majesty should think ht to accord to them as recompense for the establishments which they have made there.” The Mingan here referred to as the place where the defendants are said to have fixed their establishment on the mainland is a station on the mainland opposite to the islands of Mingan, and is marked on several maps as the Mingan settlement.

The Adjudicataire Général concludes by demanding that he be maintained in his right, to the exclusion of all others, to exercise trading, hunting, fishing, and commerce in the tract of the domaine between l'Isle aux Coudres up to and including the River Moisy, that the defendants be condemned to pay him the [117] arrears of the annual dues of two beaver skins or ten livres tournois from 1661 to the then present year, unless they should prefer to give up (se désister de) the said concession, and consent to the reunion to the domaine of the said seigneurie of the Isle aux Œufs, which they long since abandoned, and moreover, also to pay the dues for the trading which they had carried on at Mingan ; and that the said

defendants be bound to take a new title for the establishment made by them at Mingan aforesaid, to commence from Cormorant Point (“en allant”) in the direction of the Bay of the Spaniards, with such depth and on (payment of) such dues as it should please His Majesty to accord them.

By way of rejoinder to the reply of the Adjudicataire Général, the defendants reassert in general terms their claims, and ask whether their possession for seventy years, and the expenses they have been put to, and the losses they have suffered from the English in times of war, ought not to serve them in the place of title, and they conclude that, though they have proved their right, they consent to the River Moisy being the western limit of their concession up to the Bay of the Spaniards, and, therefore, they pray they may be relieved from the payment of the dues with which that territory is charged, and that they may be given a new title to it.

This was the state of the controversy which the Intendant Hocquart had to decide. After reviewing the pleadings, Monsieur Hocquart gave his judgment as follows:—

He took notice of the abandonment by the defendants of the territory

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conceded to François Bissot, deceased, by the Company of Nouvelle France on the 25th of February, 1661, from the Isle aux Œufs up to the River Moisy, and, in consequence, as far as was necessary, reunited to the domain of His Majesty the said territory conceded to the said François Bissot from and including the Isle aux Œufs to Cormorant Point, four or five leagues below the River Moisy ; forbade the defendants and all others directly or indirectly to exercise any trading, hunting, fishing, commerce, or establishment in the territory so reunited, or in the said River Moisy and its affluent lakes and rivers ; and, in consideration of the abandonment aforesaid by the defendants, [118] he discharged them from any arrears which might be due from them, and “ as to the new title of concession required by them for the establishment made by them and their predecessor François Bissot at the place of Mingan aforesaid, the parties shall apply to His Majesty to obtain the same, with such frontage and depth and on payment of such dues as His Majesty shall be pleased to grant.”

The effect of this Ordonnance was entirely to put an end to the seigneurie in the Isle aux Œufs, and to the rights, whatever they were, which had been conceded to Bissot by the original grant, as far as Cormorant Point, and to reannex the district from and including the said Isle aux Œufs up to Cormorant Point to the domain of the King. This, with the remission of the arrears, was the whole operative part of the Ordonnance. As to the request of the defendants that the limits of their concession should be from the River Moisy to the Bay of the Spaniards, and that of this district a new title should be granted to them, this was not acceded to. The district for five or six leagues eastward of the River Moisy was reunited to the Crown, and no mention whatever of the Bay of the Spaniards is made, and the defendants are remitted to the Crown to obtain a new title for “ the establishment made by them and the said François Bissot, at the place of Mingan aforesaid,” for such frontage and depth as His Majesty might think fit to grant.

François Bissot, the son, addressed several petitions for a new title to the Comte de Maurepas, the French Secretary of State. In these petitions he set out the substance of the original grant of 1661, explained that his father had made his first establishment at Mingan, where the family residence was formed, but that he had made many others at different places, which, after they had been destroyed by the English, had been from time to time re-established. He stated that the limits of the Royal domain had been fixed by Hocquart at Cormorant Point, and he prayed that he might be continued in the remainder of his concession from that point “ down the river to the conceded lands ” (by which appears to be meant, conceded to other persons), and the exclusive privilege of continuing there his establishments, and others, if possible, for the hunting of seals, with the rights of [119] hunting and trading with the

savages such as he and his late father had enjoyed for seventy years.

The result of a correspondence which followed between the Comte de Maurepas and the Marquis de Beauharnois, the Governor of La Nouvelle

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France, and the Intendant Hocquart, was that the Comte de Maurepas stated, in a letter to MM. de Beauharnois and Hocquart, that the circumstances of the case would have determined him to propose to the King to confirm the heirs of Bissot in the possession of a part of the coast conceded by the grant of 1661, and to fix their condition ; but that, having regard to the existing circumstances of the family, and the discussions which such a confirmation might give rise to, he had taken the course recommended by MM. de Beauharnois and Hocquart, to suspend all determination on the subject, and that he had only induced the King to agree that the heirs (of Bissot) should enjoy such extent of coast as they (Beauharnois and Hocquart) had designated in their letter, from the boundary of Tadoussac down the river to the concession of the Sieur Lafontaine, with such depth as they (Beauharnois and Hocquart) should think right to fix ; and he concluded with a request that they would consider whether it would be convenient to leave them this extent of territory, or whether it would not be right to reduce it for the purpose of locating other concessionaires.

It does not appear that these suggestions of M. de Maurepas were ever communicated to the heirs of Bissot. No new title was ever granted to them. This letter imports no engagement on the part of the Crown to give one ; it contains only the expression of a possible intention to do so if, upon the examination of this matter by MM. Beauharnois and Hocquart, it should be thought expedient. No further action on the subject is shewn. No boundary inland was ever fixed. All that can be inferred is that the representatives of Bissot continued to carry on their stations for fishing, &c., at Mingan as before. Their Lordships, therefore, are of opinion that the judgment of Hocquart and the action of the French Crown upon it did not create or recognise any title in the heirs of Bissot to a seigneurie on the mainland.

Nothing between the date of M. de Maurepas' letter, down to [120] the cession of Canada to England in 1763, calls for observation. In 1766 the representatives of François Bissot laid before the British Government a claim to be proprietors of the terre ferme de Mingan, commonly called “ the seigneurie and post of Mingan.” In support of their claim they do not appear to have furnished evidence of the contents of the grant of 1661, but they relied on an “ Acte de Notoriété,” signed by several citizens and notables of Quebec, two of whom, at least, were parties interested, to prove an immemorial possession of the seigneurie of the mainland of Mingan by the heirs of MM. F. Bissot and Lewis Jolyet. This claim was referred to the law officers of the Crown in England, who, in the year 1768,

reported upon it. After observing that “ the claim is of an exclusive right of property in the soil containing originally, in extent along the north shore of the River St. Lawrence from the Isle of Eggs to the Bay Phelippeaux which appears to be about 500 miles, and in depth into the country without bounds or limitation,” but of which a space of about thirty leagues from Egg Island to Cape Cormorant was acknowledged to have been surrendered, the law officers comment on the uncertainty of the grant as well as of possession,

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and they conclude, “ Under these circumstances, we are of opinion that this claim, standing as it does at present upon these papers, could not in any judicial inquiry be allowed in point of law as valid and effectual ; at the same time there is reason to think that some part of this family has been in some kind of legitimate and authorized possession of some particular parts of the shore within the limits described; but the ground, the nature, and extent of such possession does not appear at present in such authentic manner as to be capable of receiving any judicial confirmation.”

In 1781 the claimants appear to have endeavoured to supply the want of proof thus pointed out. On the 28th of May in that year F. J. Cugnet, on behalf of himself and others named, claiming to be seigneurs and proprietors in undivided shares of the seigneurial fiefs of the isles and islets of Mingan, of the isle of Anticosty, and of the terre ferme de Mingan, is alleged to have presented an Act of foi et hommage in respect of the said fiefs and seigneuries. A document of this date and to this effect [121] is found in the register of foi et hommage, and it states that the “ Seigneurie de la terre ferme de Mingan,” commencing at Cape Cormorant, “ jusqu'à la grande Ance vers les Esquimaux où les Espagnols faisaient ordinairement la pêche sur deux lieux de profondeur,” was conceded by the company (of La Nouvelle France) on the 25th of February, 1661, to the Sieur François Bissot. Appended to this document is a certificate of Cugnet himself (who appears to have held the office of Keeper of the Papier Terrier) that this foi et hommage had been presented : but it is not signed by the Governor, and therefore has no validity. But from its having been found in the registry it has since been frequently assumed, though erroneously, to have had an official character.

This document contains two statements which are now known to be untrue, whether wilfully or not it is unnecessary to inquire. The one is that the grant of 1661 conceded a seigneurie from Cape Cormorant as far as the Grande Anse. It omits altogether the mention of the Sept Isles, and changes the language with regard to the Grande Anse. The second is that it introduces a limitation inland, thus supplying words which would meet the objection taken as to the uncertainty of the grant in this respect. It is said that these words are introduced in the margin of the document ; but as the original is not before them, their Lordships cannot verify this statement.

The effect of these inaccuracies, whether intended or not,

was that in 1803 MM. Vondenvelden and Charland, surveyors, in a work on the subject of the titles of ancient concessions include that of la terre ferme de Mingan, on the authority of the supposed Act of foi et hommage of 1781 ; and from this work the same error has been derived and continued in subsequent transactions. Thus in 1805, in an action at the suit of Ralph Rosslewin against one Crawford and others, the sheriff seized fifteen thirty-second undivided parts of the seigneurie of the Isles Mingan, “ with all the rights in the seigniorie of the mainland of Mingan.” The Procureur Général claimed the droit de quint due to the Crown on the sale. The matter was referred to the arbitration of M. Planté, an advocate, who gave his decision

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and based it upon the supposition that the grant of [122] 1661 was a concession of the terre ferme de Mingan to Sieur Fr. Bissot, and refers for his authority to the false entry of the 28th of May, 1781, in the register of foi et hommage and the work of MM. Vondenvelden et Charland. The demand and receipt on this occasion of the droit de quint by the Procureur Général has been relied on by the company as a recognition by the Crown of their title to a seigneurie of the terre ferme de Mingan. There is no proof that it was paid ; but assuming that it was, it does not amount to a recognition by the Crown. A recognition to be effectual for the purpose of curing a defective title must be made with knowledge of the defects to be cured, and no such knowledge on the part of the Crown can in this case be inferred from the mere receipt by its officer of a fiscal due, under a mistake induced by the company's predecessors.

In 1837 James Stuart, on the part of several persons named, rendered faith and homage for, amongst other things, certain undivided shares in the Seigneurie de la terre ferme de Mingan. On this occasion the act of faith and homage is signed by the Governor, Lord Gosford. This would be primâ facie proof of the existence of some seigneurie on the mainland of Mingan ; but this primâ facie proof is rebutted by the title relied on by the claimants, namely, that supposed to be derived from the grant of 1661, and the Ordonnance of Hocquart of 1733. The effect of these documents of title has been already considered.

Nothing calling for observation occurred after 1837 until the year 1854. Down to this time their Lordships are of opinion that the facts proved fail to establish that there was a seigneurie of the mainland of Mingan, or that the Crown had recognised its existence, although, chiefly from the supposed act of foi et hommage of 1781 containing the erroneous statement of the effect of the grant of 1661, a reputation had arisen that there was such a seigneurie.

With regard to the claim of the company to hold by prescription and immemorial possession, it is unnecessary to consider what would have been the effect of the evidence if the title of the company had rested upon this basis alone, because as the true root of their title has been shewn by the company

themselves, there is no room for the application of the law of [123] prescription. This is clearly stated by many authors of authority : On ne peut pas prescrire contre son titre en ce sens que l'on ne peut pas se changer à soi-même la cause et le principe de sa possession . . . il suit de là que lorsque le titre est représenté, c'est par lui qu'il faut régler la cause et le principe de la possession ; et tant que le possesseur ne prouve pas une interversion légale soit par le fait d'un tiers, soit par une contradiction formelle, le titre reste la loi invincible qui sert à qualifier sa possession. Il y est ramené sans cesse par la loi et par la raison. C'est ce que les praticiens ont voulu exprimer par ce brocard ; *ad primordium tituli posterior semper refertur eventus* :” Troplong de la Prescription, 522, 4th ed.

In this state of things the Legislature of the province of Canada, deeming it expedient to abolish all feudal rights and duties in Lower Canada,

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passed for this purpose the Seigniorial Act of 1854 (18 Vict. c. 3), amended by the Act of 18 Vict. c. 103 (1855), and the Seigniorial Amendment Act of 1856 (19 Vict. c. 53). The 10th section of this last-mentioned Act is as follows : “ Inasmuch as the following fiefs and seignories, namely : Perthuis, Hubert, Mille Vaches, Mingan, and the island of Anticosti, are not settled, the tenure under which the said seignories are now held by the present proprietors of the same respectively, shall be and is hereby changed into the tenure of franc aleu roturier.”

This is an absolute statement by the legislature that there was a seigneurie of Mingan. Even if it could be proved that the legislature was deceived, it would not be competent for a court of law to disregard its enactments. If a mistake has been made, the legislature alone can correct it. The Act of Parliament has declared that there was a seigneurie of Mingan, and that thenceforward its tenure shall be changed into that of franc aleu roturier. The courts of law cannot sit in judgment on the legislature, but must obey and give effect to its determination.

It remains only to consider what was the seigneurie of Mingan to which the Act of 1856 referred. It has been contended for the Crown that there was a seigneurie of the isles and islets of Mingan which may have been intended.

The answer to this contention is that the proper name of this last-named seigneurie [124] was that of “ the isles and islets of Mingan,” and that there is no trace of evidence that it has been on any occasion otherwise designated, or that it has ever been known as the Seigneurie de Mingan.

An examination of the Act further proves that a seigneurie on the mainland was contemplated.

The original Act provides for the appointment of Commissioners (sect. 2), to whom (sect. 4.) the Governor shall assign the seigneurie or seigneuries in and for which each of them shall act, and whose duty it shall be (sect. 5) “ to value the several rights . . . with regard to each seigniori which shall

be assigned to him as aforesaid.”

By virtue of these provisions Henry Judah, one of the Commissioners, had assigned to him the making of the cadastre, and the valuation of the rights of the seigneurie of Mingan, and he has discharged his duties specifically with regard to the “ seigneurie of the terre firme de Mingan,” while on the other hand no mention has been made of the seigneurie of the isles and islets of Mingan.

Before beginning to prepare the schedule for any seigneurie it was the duty (sect. 7 of the Act of 1854) of the Commissioner to give public notice of the place, day, and hour at which he would begin his inquiry ; he had power to examine on oath any person appearing before him.

Immediately after the making of the schedule, the Commissioner was bound (sect. 11 of the Act of 1854, and sect. 5 of the Act of 1856) to give eight days' public notice that such schedule would remain open for the inspection of the seignior and the censitaires of the seigniory during thirty days following the said notice, “ and any person interested in the schedule may point out in writing any error or omission therein, and require that the

same be corrected or supplied.” Provisions are also made for the revision of the schedule, and it is enacted (sect. 8 of the Act of 1856) that no revision shall be allowed, unless application be made for the same within fifteen days after the Commissioner shall have given his decision under sect. 11 of the Act of 1854 ; and by the 10th section of the Act of 1855 it is enacted that, “ after any schedule shall have been completed and deposited [125] under the said Act, it shall not be impeached, or its effect impaired for any informality, error, or defect in any prior proceeding in relation to it, or in anything required by the said Act to be done before it was so completed and deposited, but all such prior proceedings and things shall be held to have been rightly and formally had and done, unless the contrary expressly appear on the face of such schedule ; and the same rule shall apply to all proceedings of the Commissioners under the said Act, so that no one of them, when completed, shall be impeached or questioned for any informality, error, or defect in any previous proceeding, or in anything theretofore done or omitted to be done by the Commissioners or any of them.”

It was open, therefore, to the Government on the one hand, or the persons claiming to be proprietors of the seigneurie of the terre ferme of Mingan to have complained in due time and in the manner prescribed, of any error in the schedule. As no such complaint was made, the schedule as deposited must be deemed to be correct.

Now, by the schedule drawn up by Henry Judah (dated the 23rd of January, 1864), it is certified that the “ seigneurie de Mingan ou de terre ferme de Mingan ” is scheduled in the country and district of Saguenay, and is not conceded ; it contains fifty leagues of frontage by two leagues of depth, extending from Cape Cormorant up to the River Goynish, forming an area of 705,400 arpents, and is bounded in front by the River St. Lawrence, and along its depth and two sides by the public domain.

This schedule, with the Act under which it was made, must now be deemed to have conclusively established the existence and boundaries of the Sieigneurie de Mingan referred to in the 10th section of the Act of 1856.

Routhier, J., by an independent examination of the evidence, has arrived at the conclusion, in which their Lordships entirely concur, that the territory in which the right to make establishments for fishing, &c., was granted by the Concession of 1661, did not extend further eastward than the River Goynish, and that there is no foundation for the claim to extend it to Brador Bay in the strait of Belle Isle. Their Lordships concur with [126] Routhier, J., in thinking that the bay referred to in the grant of 1661 as that where the Spaniards ordinarily fished was not that which is now called Brador Bay, but was the one indicated as the Baye des Espagnols on the map, presumably drawn up on the information of Sieur Jolyet,

an experienced navigator, and one of the parties having an interest under the Concession of 1661. This bay exactly answers the description given in the grant of 1679 to Laland and Jolyet of the seigniorie of the isles and islets of Mingan, “ which follow one another to the bay called l'Anse aux Espagnols,” and to the position assigned to it in the map of 1678, near the eastward end of

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those islands and near a place or river marked " Esquimaux." It is, however, unnecessary to examine this question in detail, as their Lordships are of opinion, for the reasons already given, that the schedule drawn up by Mr. Judah is conclusive on the subject of boundary.

Their Lordships will humbly advise Her Majesty that both appeals be dismissed, and that the judgment of the Court of Queen's Bench be affirmed, and they direct that the parties pay their own costs of the appeals.

Solicitors for the company : *Paine, Son, & Pollock.*

Solicitors for the Queen : *Bompas & Co.*

No. 1338.

C

[1 Sept., 1733.]

**CONCESSION OF MONTAGAMIOU TO LAFONTAINE,
1 SEPTEMBER, 1733.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
VOL. 7, FOLIO 37.

Charles Marquis de Beauharnois etc.
Gilles Hocquart etc.

Sur la requete a nous presentée par le sr. Delafontaine De Belcour tendante a ce qu'il nous plust luy accorder pendant 9 années a commencer de ce jourdhuy le privilege exclusif de faire des establissemts. pour la pêche sedentaire du loup marin a la coste du Nord, du fleuve St. Laurent a prendre depuis la Rivière Itamamion icelle comprise jusqu'a celle de Montagamion avec les droits de pêche chasse et traite avec les sauvages dans lad. estendue, lequel etablissement pouroit contribuer par sa réussite a laugmentation du

(Translation.)

Charles Marquis of Beauharnois etc.
Gilles Hocquart etc.

On the petition presented to us by the Sieur Delafontaine De Belcour praying that we would be pleased to grant him during nine years to begin from to-day the exclusive right to make establishments for the sedentary seal fishery at the North shore of the river St. Lawrence to begin from river Itamamion, including the river, as far as that of Montagamion with the right of fishing, hunting and trading with the Indians in the said extent, which said establishment might contribute by its success

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commerce des huiles qui se fait en cette colonie se soumettant de payer a Sa Majesté quatre castors dhyver de redevance par chacun an po. le privilege exclusif qu'il demande, Nous ayant egard a lad. requeste, et voulant faciliter aud. sr. Delafontaine les moyens de réussir dans son entreprise avons en vertu du pouvoir a nous donné par Sa Majesté avons accordé et accordons aud. sr. Delafontaine le privilege exclusif qu'il demande dans l'estendue de terrain cy dessus enoncé, pour y faire lesd. établissements et ce pendant le temps et espace de neuf années a compter de ce jourdhuy a la charge par led. sr. Delafontaine d'establir lesd. pêches et de payer au Domaine de Sa Majesté quatre castors dhyver par chacun an au Receveur dud. Domaine et ce dans le cours du mois de septembre— Deffendons a toutes personnes de quelque qualité et condition qu'elles soient de troubler et inquietter led. sr. Delafontaine dans led. établissement sous quelque pretexte que ce soit ny d'en faire dans lad. estendue sous les peines a nous reservées
Fait a Québec le premier septembre 1733, Signé Beauharnois et Hocquart.

Pour copie
HOCQUART

(Translation.)

to the development of oil trade which is going on in this colony, agreeing to pay to His Majesty a yearly rent (redevance) of four winter beavers for the exclusive privilege he asks for. In consideration of the said position, and so as to facilitate to the said Sieur Delafontaine the means to succeed in his undertaking, We, in virtue of the power entrusted to us by His Majesty, have granted and grant to the Sieur Delafontaine the exclusive privilege that he asks for in the above mentioned extent of land, to form there the said establishments and this for the time and period of nine years from and after this day, at the expense for the said Sieur Delafontaine to establish the said fisheries and to pay His Majesty's Domain four winter beavers each year to the "Receveur" of the said Domain, and this, in the course of the month of September—We forbid all persons of whatever qualifications and condition to disturb and annoy the said Sieur Delafontaine in the said Establishment under no pretext whatsoever neither to form any in the said extent subject to penalties by us provided for. Done at Quebec on the first day of September 1733.

(Signed) Beauharnois and Hocquart.

For copy
HOCQUART.

No. 1339.

**BREVET DE CONFIRMATION OF CONCESSION OF
MONTAGAMIOU, 13 MARCH, 1736.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 8, FOLIO 38.

Aujourd'huy treize mars mil sept cents trente six le Roy étant a Versailles voulant ratiffier et confirmer une concession faite le premier septembre mil sept cens trente trois par les srs. Marquis de Beauharnois Gouverneur et Lieutenant général pour Sa Majesté et Hocquart intendant en la Nouvelle France au sr. de Lafontaine de Belecourt du privilege exclusif de faire pendant l'espace de neuf années des etablissements pour la pésche sedentaire du loup marin a la côte du nord du fleuve St. Laurent a prendre depuis la riviere Itamamion icelle comprise jusqua celle de Nontagamion, Sa Majesté a ratiffié et confirmé la d. concession veut, en consequence que le d. sr. de Lafontaine puisse pendant l'espace des d. neuf années a compter de la datte d'icelle faire la pesche sedentaire du loup marin dans l'etendue du d. terrain, a la charge par luy dy faire les etablissements necessaires et en outre de payer an Domaine de Sa Majesté quatre castors par chacun an entre les mains du Receveur du d. Domaine et ce dans le cours du mois de septembre, fait deffense

(Translation.)

To-day the thirteenth of March one thousand seven hundred and thirty-six, the King being at Versailles, and wishing to sanction and confirm a concession granted on the first of September one thousand seven hundred and thirty-three, by the Sieurs Marquis of Beauharnois, Governor and Lieutenant General for His Majesty, and Hocquart, Intendant in New France, to the Sieur de Lafontaine de Belecourt of the exclusive privilege to make, during the period of nine years, establishments for the carrying on of sedentary seal fishery on the North shore of the river St. Lawrence, from the river Itamamion, including the latter, as far as that of Nontagamion, His Majesty has sanctioned and confirmed the said concession, and wishes consequently that the said Sieur de Lafontaine may, during the period of nine years from and after the date of which, carry on sedentary seal fishing in the extent of the said land, at the expense for him to make there the necessary establishments and further to pay His Majesty's Domain four beavers each year in the hands of the

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Sa Majesté a toutes personnes telles quelles soient de le troubler ny inquiéter dans les etablissements qu'il pourra faire en vertu de la d. concession et du present brevet lequel sera registrée au Conseil Superieur de Quebec et que Sa Majesté pour le temoignage de sa volonté a voulu signer de sa main et estre contresigné par moy son conseiller secretaire d'Etat et de

ses commandemens et finances signé Louis et plus bas Phelypeaux.

Registré ouy le procureur general du Roy suivant l'arrest de ce jour par nous Coner. Secre. du Roy Greffier en chef du Conseil Superieur de la Nouvelle France a Quebec le vingt trois septembre 1737.

DAINE.

(Translation.)

“ Receveur ” of the said Domain, and this, in the course of the month of September, His Majesty forbids all persons whoever they are to disturb or annoy him in the establishments that he may make under the said concession and the present certificate, which will be registered at the Superior Council of Quebec and which his Majesty as an evidence of his will was pleased to sign with his own hand and have countersigned by me his councillor secretary of State and of his household and treasury.

(Signed) Louis and further down Phelypeaux.

Registered after having heard the King's Attorney General, under the decree of this day by us Councillor Secretary to the King, Chief Clerk of the Superior Council of New France at Quebec on the twenty-third of September 1737.

DAINE.

Privy Council
Documents

Volume VII
Contents

No. 1340.

**SALE OF MONTAGAMIOU TO MCKENZIE AND
LYMBURNER, 28 DECEMBER, 1764.**

Received into the
Registrar's Office in
Quebec on
Wednesday
the 2nd day of
January 1765 at
12 o'clock at noon.

Registered in said
office on
Wednesday
the 2nd day of
January 1765 at
half after one
o'clock afternoon
in the French
Register Letter A.
Page 20.

[28 Dec., 1764]

3½ pages.

Received into the
Registrar's Office in
Quebec on
Wednesday
the 2nd day of
January 1765 at
half after one
o'clock afternoon in
the French Register
Letter A. Page 20.

3½ pages.

Quebec 28th December 1764.

SIR,—Please to enter the within sale of the Post
commonly called Montagamiou by Monsieur De La Fontaine
to Us equally, one half each, to be Registered in the Publick
Register of this Province.

We are Sir,
Your Most Humble Servants,

(Signed) ALEX'R MCKENZIE.
JOHN LYMBURNER.

Please to let a Copy of this letter precede the registration
of the Sale. To James Goldfrap Esq'r.

CONVENTIONS faite par Nous Jacques De La Fontaine en
lieu Conseiller du Conseil Superieur en le pays, et Alexandre
McKenzie et Jean Lymburner tous deux négociants en cette
ville, c'est asçavoir que moy De La Fontaine cedde aux Sieurs
McKenzie et Lymburner, la terre, ferme du poste de
Montagamiou a prendre a La Riviere d'ytamumiou jusqu'a
celle du dit Montagamiou de neuf lieux ou environs de frond,
sur quatre lieux de profondeur, pour en jouir eux leurs hoirs et
ayants causes aperpetuitée, sauf les faits de Notre nouveau
Souverain dont jeneseray point Garent ; Je cedde de plus les
Isles sur lesquelles on fait la pesche du Loup Marin qui sont
audevant de l'établissement du dit Poste Me réservant toutes
les autres Isles presques Isles, et Islots qui se trouvent dans
l'etendue du dit postes cy dessus designé en payant

(Translation.)

Quebec 28th December 1764.

* * * * *

Please to let a Copy of this letter precede the registration of the Sale.
To James Goldfrap Esq'r.

AGREEMENT between Us, Jacques de la Fontaine en lieu Councillor in the Superior
Council in this country, and Alexander McKenzie and John Lymburner, both merchants in
this city, namely, that I, De La Fontaine, assign unto the Sieurs McKenzie and Lymburner
the land, farm of the post of Montagamiou extending from the river of Ytamumiou¹ as far as
that of the said Montagamiou, nine leagues or so in front by four leagues in depth, to have
and to hold the same unto them, their heirs and assigns for ever, subject to the conditions of
our new Sovereign, and for which I shall not be answerable ; I further assign the islands
upon which the seal fishing is made, and which are situated in front of the buildings of the
said post, reserving in my favour all the other islands, peninsulas and islets which

par eux trois pour cents, sur le produit des huiles, et peaux de Loup Marin qui se feront chaque années a la pêche.

Je cedde en outre pour six années a commencer de la date du présent La peche que jay découverts a la tête des Islets, du Petit Mekatina, aux conditions de la meme redevance de trois pour cent.

En consideration des quelles cessions je demeureray quitte avec mes dits Sieurs McKenzie et Lymburner, de toutes les sommes, généralement que jay pue ou peut leurs devoirs jusqu'a ce jour, et suivant ce qu'il en a été refile par les arbitres ; et s'il ne plaisoit pas a sa Majesté Britanique de faire valider mes concessions, et qu'ils soient troublés a cet égard je resteray leurs redevables des mêmes sommes que je leurs dois aujourd'huy qui est la somme de deux cent soixante douze livres, cinq chelings, huit sols monnoye courante, au moyen de quoy le present demeurera nul telle sont nos volonté de part et d'autres en foy de quoy nous avons signé le présent qui a été fait doubles et de bonne foy, en présence des temoins sousignés, ce jourd'huy quinze septembre mil sept cent soixante quatre.

(Signé) ALEX'R McKENZIE.
JOHN LYMBURNER.

De La Fontaine
LeBrun de DuPlessis, temoin
Mich'l Cornud, temoin.

The foregoing Letter & Convention are true Copies of the original, Registered & examined by
J. GOLDFRAP, D. Reg'r.

(Translation.)

are to be found in the extent of the said post hereabove described subject to their paying three per cent on the proceeds of the oils and seal skins which are obtained each year during the fishing.

Further, for six years from the date of these presents, I assign the fishery which I have discovered at the head of the islets of Petit Mekatina, subject to the same rental of three per cent.

In consideration of the said assignments I shall be acquitted by my said Sieurs McKenzie and Lymburner, from all the sums that generally I have been or am, at present, indebted unto them up to this day, and according to what has been awarded therefor by the arbitrators ; and, if it should not please His British Majesty to validate my grants, and they be disturbed in this regard, I shall remain their debtor for the same sum that I owe them to-day which is the sum of two hundred and seventy-two livres, five shillings, eight sols, in current money, as a result of which these presents shall remain null and void ; such is our will on either aide. In testimony whereof we have signed these presents which have been made in duplicate and in good faith in presence of the undersigned witnesses, this day being the fifteenth of September one thousand seven hundred and sixty-four.

ALEX'R McKENZIE,
JOHN LYMBURNER.

De La Fontaine
LeBrun de DuPlessis, witness
Mich'l Cornud, witness.

The foregoing Letter and Convention are true Copies of the original. Registered and
examined by

J. GOLDFRAP, D. Reg'r.

No. 1341.

**CONCESSION OF PETIT MECATINA TO HENRY
ALBERT DE ST. VINCENT, 15 JANUARY, 1740.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE
INTENDANTS, BOOK 9, FOLIO 24.

Charles mqs de Beauharnois etc.
Gilles Hocquart etc.

Sur la requeste a nous presentée par Henry Albert de St. Vincent officier des troupes entretenues pour le service du Roy en ce pais contenant qu'il auroit fait l'esté dernier un voyage a la Coste de la Brador pour tacher de découvrir quelque endroit propre a faire un etablissement pour la pesche du loup marin, et qu'il auroit dans la visite qu'il a fait de la ditte coste trouvé un terrain d'environ sept ou huit lieues de front non concedé et situé au Petit Mécatina borné du costé du Nord-Est a la concession accordée au Sr. Pommereau et au Sud-ouest a celle du Sr. Lafontaine, requerant le dit Sr. de St. Vincent a ce qu'ayant egard aux peines et fatigues qu'il a souffert et aux depenses que luy à occasionné ce voyage, il nous plaise lui accorder le dit terrain avec les isles islots et batures qui se trouvent au devant, pour en jouir par luy ses hoirs et ayant cause a perpétuité A quoy ayant egard, Nous en vertu

(Translation.)

Charles Marquis of Beauharnois etc.
Gilles Hocquart etc.

On the petition presented to us by Henry Albert, Sieur de St. Vincent, officer in the forces kept for the service of the King in this country, stating that, last summer, he had made an exploration on the coast of Labrador for the purpose of discovering some suitable place for a seal-fishing establishment, and that, in the voyage which he has made to the said coast, he found a tract of about seven or eight leagues in front not already granted and situated at Petit Mécatina, bounded on the north-eastern side by the concession granted to the Sieur Pommereau and on the south-west by that of the Sieur Lafontaine, and the said Sieur St. Vincent having represented to us that, considering the pains and fatigues suffered and the expense incurred by him during said exploration, it should be our pleasure to grant him the said land with the islands, islets and shoals that are in front, to have and to hold same unto him, his heirs and assigns for ever. In consideration of which, We, in virtue of the power

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du pouvoir a nous conjointement donné par Sa Majesté et sous son bon plaisir, avons accordé et accordons, concedé et concedons par ces presentes pour le temps et espace de neuf années consecutives a commencer de la presente année au dit

Sr. de St. Vincent un terrain qui se trouve non concédé entre le concessions des Srs. Pommereau et Lafontaine a prendre led. terrain trois lieues au dessus de la Riviere du Petit Mecatina en tirant au Sud-ouest vers la concession du dit Sr. Lafontaine et trois lieues au dessous en tirant vers la concession dud. Sr. Pommereau sur quatre lieues de profondeur pour en jouir par led. Sr. de St. Vincent et y faire un ou plusieurs etablissemens de pesche de loup marin ainsy que la chasse et traitte avec les sauvages a l'exclusion de tous autres pendant le dit temps et en outre avec la facilité d'y faire la pesche de la morue concurrement avec les batimens françois a la charge par le dit Sr. de St. Vincent de faire valoir la presente concession a faute de quoy elle sera et demeurera de nul effet et aussi de payer au Domaine de Sa Majeste en ce pais par chaque année deux castors ou la somme de quatre livres. En temoin de quoy Nous avons signé ces presentes, a icelles fait apposer les cachets de nos armes et contresigner par nos secretaires Fait et donné a Quebec le quinze janvier 1740. Signé Beauharnois et Hocquart, Contresignez et scellez.

Pour copie.

HOCQUART

(Translation.)

jointly entrusted to us by His Majesty and upon his good pleasure, have granted and grant, conceded and concede by these presents for the time and period of nine consecutive years from and after the present year, to the said Sieur St. Vincent a tract which has not already been granted and which is situated between the concessions of the Sieurs Pommereau and Lafontaine ; to take the said tract three leagues above the river Petit Mecatina towards the south-west in the direction of the concession of the said Sieur Lafontaine and three leagues below towards the concession of the said Sieur Pommereau, by four leagues in depth to have and to hold unto the said Sieur de St. Vincent and form there one or several seal fishing establishments together with the right of hunting and the trading with the Indians to the exclusion of all others during the said time and further with the privilege to carry on their cod fishing concurrently with the French vessels, at the expense for the said Sieur de St. Vincent of developing the present concession, in default of which it shall be and remain null and void ; and also to pay each year to His Majesty's Domain in this country two beavers or the sum of four livres. In witness whereof, We have signed these presents, and caused our seals at arms to be affixed thereto and the same to be countersigned by our secretaries. Done and given at Quebec the fifteenth day of January, one thousand seven hundred and forty.

(Signed) Beauharnois and Hocquart, Countersigned and sealed.

For copy,

HOCQUART.

No. 1342.

**CONCESSION OF GROS MECATINA TO JEAN
BAPTISTE POMMEREAU, 2 MAY, 1738.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 8, FOLIO 67.

Charles Marquis de Beauharnois Commandeur de l'ordre
militaire de St. Louis, Gouverneur et Lieutenant General pour
le Roy en la Nouvelle France et Province de la Louizianne,

Gilles Hocquart Chevallier, Conseiller du Roy en ses
Conseils, Intendant de Justice, police et finance ez d. Pays,

Sur la Requete a nous presentée par le sr. Jean Baptiste
Pommereau Ecrivain Employé dans Magazins du Roy de cette
ville tendante a ce qu'il nous plût luy accorder et conceder une
etendue de terrain de cinq lieues de front a la Côte de Labrador
depuis la pointe du gros Mecatina, icelle comprise en allant au
Nord-Est sur quatre lieues de profondeur avec les isles et islots
et batures qui se trouveront au dévânt d'icelle avec le privilege
d'y faire a l'exclusion de tous autres la pêche du loup marin,
chasse et traitte avec les Sauvages à quoy ayant egard Nous en
vertu pouvoir a nous donné par Sa Majesté, et sous son bon
plaisir avons accordé et concédé par ces presentes

(Translation.)

Charles, Marquis de Beauharnois, Commander of the Military Order of St. Louis,
Governor and Lieutenant General for the King in New France and the Province of Louisiana
;

Gilles Hocquart, Knight, King's Councillor in his Councils, Intendant of Justice,
Police and Finance in the same country.

On the petition presented to us by the Sieur Jean-Baptiste Pommereau, clerk
(ecrivain) employed in the King's stores of this city praying that we might be pleased to
grant and concede unto him an extent of land of five leagues in front on the coast of
Labrador from cape Gros Mecatina, including the cape, thence towards the north-east by
four leagues in depth together with the islands, islets and shoals which may be found
opposite, with the privilege to carry on there, to the exclusion of all others, seal fishing,
hunting and trading with the Indians. In consideration of which, We, in virtue of the power
entrusted to us by His Majesty, and during His pleasure, have granted and conceded by

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pour le temps et espace de dix années consecutives a
commencer de la presente année au d. sr. Pommereau le d.
terrain de cinq lieues de front situé a la Côte de Labrador, a
prendre depuis la la pointe du gros Mecatinat icelle comprise,
en allant au Nord-Est sur quatre lieues de profondeur avec les
isles, islots et batures qui se trouveront au devânt de la d.

etendue pour en jouir par le d. sr. Pommereau et y faire un ou plusieurs etablissements de pêche du loup marin ainsi que la chasse et traite avec les Sauvages a l'exclusion de tous autres pendant le d. temps, et en outre avec la faculté dy faire la peche de la Morue concurrant avec les battiments françois, a la charge par le supliant de faire valoir la presente concession a faute de quoy elle demeurera de nul effet, et aussy de payer au Domaine de Sa Majesté en ce pays par chaque année trois castors ou la somme de six livres : En temoin de quoy nous avons signé les presentes, icelles fait contresigner par nos secretaires et y avons fait apposer les cachets de nos armes, fait et donné a Quebec le deux may mil sept cent trente huit Signé Beauharnois et Hocquart, et plus bas par Monseigneur signé Channazart et encore par Monseigneur signé Benard.

Registré suivant l'arrest de ce jour, ouy le procureur general du Roy, par nous &c. a Quebec le deux octobre 1741.

DAINE.

(Translation.)

these presents, for the time and period of ten consecutive years from and after this present year unto the said Sieur Pommereau the said tract of five leagues in front situated on the coast of Labrador, to start from cape Gros Mecatina, including the cape, thence towards the north-east, by four leagues in depth together with the islands, islets and shoals which may be found opposite the said extent, to have and to hold the same unto the said Sieur Pommereau to form there one or several establishments for seal fishing and also to carry on hunting and trading with the Indians, to the exclusion of all others during the said period, and further with the right of cod fishing thereat concurrently with the French vessels, the petitioner to develop this concession at his own expense ; in default of which same shall be void, and also to pay each year the Domain of His Majesty in this country three beaver or the sum of six livres : In testimony whereof we have signed these presents and caused the same to be countersigned by our secretaries and to be sealed with our seals at arms. Done and given at Quebec on the second day of May in the year one thousand seven hundred and thirty eight. Signed Beauharnois and Hocquart, and, further down, by His Lordship.

Signed Channazart and also by His Lordship, signed Benard.

Registered under the decree of this day, the King's Attorney General being heard, by us etc. at Quebec on the second day of October 1741.

DAINE.

[20 Sept., 1739.]

No. 1343.

**CONCESSION TO POMMEREAU OF
AUGMENTATION OF GROS MECATINA, 20
SEPTEMBER, 1739.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 8, FOLIO 68.

Charles Marquis de Beauharnois Commandeur de Lordre
Royal et Militaire de Saint Louis Gouverneur et Lieutenant
General pour le Roy en la Nouvelle France et Province de la
Louiziane

Gilles Hocquart Chevalier Conser. du Roy en ses
Conseils, Intendant de Justice, police et finance ez dits pays,

Sur la Requete a nous presentée par le Sieur Jean
Baptiste Pommereau Ecrivain Employé dans les Magazins du
Roy en cette ville, contenant quil nous auroit plû luy accorder
un terrain situé a la coste de la Brador, de cinq lieues de front a
prendre depuis la pointe du gros Mecatinat icelle comprise en
allant au Nord Est sur quatre lieues de profondeur, aux charges
clauses conditions enoncées en la de. concession que le
supliant qui auroit voulu estre parfaitement instruit des
etablissements qu'on pourroit faire dans retendue de cette
dernière concession auroit fait armer un batiment et une
chaloupe, l'automme derniere munis de toutes les provisions et
ustanciles nécessaires pour former les dits etablissements, que
son d. battiment ayant esté contrarié par les vents, le Pilote
auroit eté obligé de relacher a Gaspé ou il a passé l'hyver

(Translation.)

Charles, Marquis de Beauharnois, Commander of the Royal and Military Order of
St. Louis, Governor and Lieutenant General for the King in New France and the Province of
Louisiana.

Gilles Hocquart, Knight, King's Councillor in his Councils, Intendant of Justice,
Police and Finances in the same countries.

On the petition presented to us by the Sieur Jean Baptiste Pommereau, clerk
(ecrivain) employed in the King's stores in this city, setting forth that we had been pleased
to grant unto him a tract of land situated on the coast of Labrador, measuring five leagues,
extending to start from cape Gros Mecatinat including the cape, thence toward the north-
east by four leagues in depth, upon the obligations, clauses and conditions mentioned in the
said concession ; that the petitioner, wishing to be perfectly informed with regard to the
establishments that might be made in the extent of this last concession, equipped a vessel
and a boat, last fall, with all the necessary provisions and utensils for the making of the said
establishments, that his said vessel having encountered adverse winds, the pilot had been
obliged to put into port at Gaspé where he spent the winter, even the boat having

la chaloupe même n'ayant pû se rendre a son poste, qu'un pareil armement qui a jetté le suppliant ainsi que le sr. Estèbe son associé dans des depenses considerables fit prendre le party a ce dernier de se rendre au Printemps sur la de. concession pour sinstruire de ce que pouvoit estre devenû les d. Batiment et chaloupe et connoistre au juste les avantages qu'on pourroit tirer de la dite concession que dans l'examen que le d. sr. Estèbe a fait des lieux quil a vizité, il a reconnû qu'on ne pouvoit tirer de cette de. concession que trez peu d'avantages a moins qu'on ny joignit un terrain non concedé a prendre au bout des cinq lieues portées par la concession du deux may 1738, jusques et compris la Riviere Thekaapoin le tout allant au Nord'est pourquoy nous requereroit le suppliant a ce que eu egard aux depenses considerables quil a faites, qui montent a plus de neuf mille livres, il nous plut luy accorder le d. terrain cy devant designé d'environ trois a quatre lieues de front ensuite de la de. concession cy devant accordée au suppliant jusques et compris la de. Riviere Thekaapoin pour en jouir par luy ses hoirs et ayant cause a perpetuité, et ne faire avec les d. cinq lieues cy devant accordées qu'un seule et même concession ; a quoy ayant egard, Nous en vertu du pouvoir a nous conjointement donné par Sa Majesté et sous son bon plaisir, avons accordé et concedé par ces presentes pour le temps et espace de neuf années consecutives a commencer de la presente année au d. sieur Pommereau le d. terrain cy devant désigné d'environ trois a quatre lieues de front en allant au Nord-Est a prendre au bout des cinq lieues a luy concedées le deux may 1738, jusques et compris la Riviere Thekaapoin sur quatre lieues de profondeur, pour la de. etendue de terrain ne faire avec les cinq lieues cy devant accordées au dit sieur Pommereau

(Translation.)

been prevented from returning to her post ; that such equipment, which has put the petitioner and also his partner, the Sieur Estèbe, to considerable expense induced the latter, in the following spring, to return to the said concession so as to enquire respecting the fate of the said vessel and boat and to ascertain exactly such advantages as the said concession offered ; that in the inspection which the said Sieur Estèbe has made of the places that he visited, he came to the conclusion that very few advantages could result from the said concession unless there be joined to same a tract not already granted and commencing at the end of the five leagues mentioned in the concession of the 2d of May 1738 as far as the river Thekaapoin, and including same, thence toward the north-east, and therefore the petitioner prays that, considering the heavy expenses he has incurred, which amount to more than 9,000 livres, we may be pleased to grant him the said tract, hereinbefore designated, of about three or four leagues in front in addition to the said concession formerly granted the petitioner as far as the river Thekaapoin, and including same, to have him, his heirs and assigns enjoy same for ever, and to form with the said five leagues formerly granted only one and single concession ; having regard thereto, We, in virtue of the power jointly entrusted to us by His Majesty and under His good pleasure, have granted and conceded unto the said Sieur Pommereau, by these presents for the time and period of nine consecutive years from and after the present year the said land hereinbefore mentioned of about three to four leagues in front running toward the north-east, to start at the end of the five leagues unto him conceded on the second day of May 1738 as far as the river Thekaapoin, and including same, by four leagues in depth, the said extent of land together with the five leagues heretofore granted unto the said Sieur Pommereau to form one sole

qu'une seule et même concession et en jouir par luy pendant le d. temps et y faire un ou plusieurs etablissements de peche du loup marin ainsi que la chasse et traitte avec les sauvages a l'exclusion de tous autres, et en outre avec la faculté d'y faire la peche de la morue concurremment avec les Battiments françois, a la charge par le supliant de faire valoir la presente concession a faute de quoy elle demeurera de nul effet, et aussi de payer au domaine de Sa Majesté en ce pays par chaque année deux castors ou la somme de quatre livres En témoin de quoy nous avons signé et fait contresigner ces presentes par nos secretaires, et a icelles fait apposer les cachets de nos armes fait et donné a Quebec le vingt septembre 1739 signé Beauharnois et Hocquart et plus bas par Monseigneur signé Channazard et encore par Monseigneur signé Bénard.

Registré, ouy le procureur general du Roy suivant l'arrest de ce jour, par nous &c. A Quebec le deux octobre 1741.

DAINE.

(Translation.)

and to hold unto him during the said time and to make there one or several establishments for seal fishing and also for the hunting and the trading with the Indians to the exclusion of all others, and further, with the power to carry on there cod fishing concurrently with the French vessels, the petitioner to develop the present concession at his own expense in default of which it shall be void, and also to pay each year to His Majesty's Domain in this country two beaver or the sum of four livres. In witness whereof we have signed and caused these presents to be countersigned by our secretaries, and caused our seals at arms to be affixed thereto. Done and given at Quebec on the twentieth of September 1739 signed Beauharnois and Hocquart and, further clown, by His Lordship, signed Channazard and also by His Lordship, signed Bénard.

[13 April, 1740.]

Registered, the King's Attorney General being heard, under the decree of this day, by us etc. At Quebec on the second day of October 1711.

DAINE.

No. 1344

C

**BREVET DE CONFIRMATION OF CONCESSION OF
GROS MECATINA AND OF AUGMENTATION,
13 APRIL, 1740.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 8, FOLIO 70 VERSO.

Aujourd'huy treize avril mil sept cent quarante le Roy etant a Versailles ayant egard a la demande qui luy a été faite par le srd. Jean Baptiste Pommereau ecivain employé dans les magasins de Sa Maté. en Canada tendante a ce

(Translation.)

This thirteenth day of April in the year one thousand seven hundred and forty, the King being at Versailles, and with regard to the petition that has been addressed to him by the Sieur Jean Baptiste Pommereau, clerk (writer), employed in the stores of His Majesty in Canada, praying that it may

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quil plut a Sa Maté. de confirmer et ratifier deux concessions a luy faites par les srs. marquis Debauharnois Gouverneur et Lieutenant general en la Nouvelle France et Hocquart Intendant au dit pais l'une le 2 may 1738 dun terrain de cinq lieues de front a la côte de la Brador depuis la pointe de gros Mecatinat icelle comprise en allant au Nord Est sur quatre lieues de profondeur, et l'autre le 20 : 7 : bre 1739 d'un terrain d'environ trois a quatre lieues de front a prendre au bout des cinq lieues cy dessus jusques et compris la Riviere de Theapoin en allant au Nord Est pour les deux terrains cy dessus ne faire qu'une seule et même concession. Sa Maté. a confirmé et ratifié les dites concessions a l'exception. neantmoins des isles islets & batures comprises dans la concession du 2 may 1738 et de ceux qui pourroient se trouver dans retendue de la seconde concession du 20e. 7bre 1739 : Veut en consequence que le d. sieur Pommereau jouisse pendant l'espace de neuf années a commencer de l'année dernière conformement a la d. concession du 20e. 7bre 1739 des deux terrains a luy concédés a l'exception des d. isles islets et Batures avec droit d'y faire un ou plusieurs etablissements de peche de loup marin, de chasse et de traitte avec les Sauvages a l'exclusion de tous autres, comme aussi le droit de faire la peche de la morue concurremment avec les Battiments françois sans que pour raison de ce il soit tenû de payer a Sa Majesté ny a ses successeurs Roys aucune finance ny indemnité desquelles a quelque somme qu'elles puissent monter Sa Maté. luy a fait don et remise, a la charge de conserver et faire conserver les bois de chene propres pour la construction des Vaisseaux de Sa Majesté de donner avis a Sa Maté. ou aux Gouverneurs et Intendant des mines, minieres et Mineraux sy aucuns se trouvent dans les d. Terrains voulant Sa Maté. que les d. Concessions soient sujettes aux conditions cy dessus

(Translation.)

please His Majesty to confirm and sanction unto him two concessions made by the Sieurs Marquis de Beauharnois, Governor and Lieutenant General in New France, and Hocquart, Intendant of the said country, one dated 2d May 1738, of a tract of five leagues in front on the coast of Labrador from cape Gros Mecatinat, and including the cape, thence toward the north-east, by four leagues in depth, and the other, dated 20th of September 1739, of a terrain measuring about three to four leagues in front, to commence at the end of the five leagues aforesaid as far as the river of Theapoin, including the latter, thence towards the north-east, so that the two tracts aforesaid may form one and single concession. His Majesty has confirmed and sanctioned the said concessions with the exception of the islands, islets and shoals included in the concession dated 2d of May 1738 and of those that may be found in the extent of the second concession dated 20th of September 1739 : Consequently, it is

His Majesty's desire that the said Sieur Pommereau have and hold unto him, during the period of nine years from and after last year according to the said concession of the 20th of September 1739, the two tracts conceded unto him with the exception of the said islands, islets and shoals, with the right to form there one or several establishments for the seal fishing, hunting and trade with the Indians to the exclusion of all others, as also the right to carry on cod fishing concurrently with the French vessels without any obligation for him as regards to this to pay His Majesty or the Kings his successors any finance or indemnity, which, to whatever sum it may amount to, His Majesty has given and remitted unto him, on condition that he shall preserve and cause to be preserved the oak timber fit for the building of the King's ships, that he shall give notice to His Majesty or to the Governors and Intendants of the mines, ores and minerals which may be found within the said lands, being His Majesty's desire that the said concessions be subject to the terms above set forth without

p. 3541

expliquée sans aucune exception et a celles stipulées dans les deux concessions, et pour témoignage de sa Volonté Elle ma ordonné d'expedier le present brevet qui sera enregistré au Greffe du Conseil Superieur de Quebec pour y avoir tel recours quil apartiendra et qu'elle a voulu signer de sa main et estre contresigné par moy son Conseil secretaire d'Etat et de ses commandemens et finances Signé Louis et plus bas Phelipeaux.

Registré, ouy le procureur general du Roy, suivant l'arrest de ce jour, par nous Coner. secretaire du Roy, Greffier en Chef du d. Conseil soussigné. A Quebec le deux octobre 1741.

DAINE.

(Translation.)

any exception and to those which are stipulated in the two concessions, and in testimony of His will, He has given me the command to draft the present patent letters which shall be registered at the Clerk's office of the Superior Council of Quebec, to have any recourse thereat, and which He was pleased to sign with his own hand and to have same countersigned by me his councillor Secretary of State and of his Commands and Fnanee. Signed, Louis and, further down, Phelipeaux.

Registered, the King's Attorney General being heard, under decree of this day, by us Councillor, Secretary to the King, Chief Clerk of the said Council, the undersigned. At Quebec the second day of October 1741.

[4 Oct., 1743.]

DAINE.

No. 1345.

C

ORDINANCE BY HOCQUART *re* RENT PAYABLE BY THE WIDOW POMMEREAU TO THE HEIRS OF LALANDE AND JOLLIET, 4 OCTOBER, 1743.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL SOUVERAIN, BOOK 31, FOLIO 99 VERSO.

Charles Mis. de Beauharnois etc.
Gilles Hocquart etc.

Sur les contestations survenues entre le feu Pommereau et

aujourd'huy sa veuve propriétaire d'un terrain de cinq lieues de front a la côte de la Brador au lieu appelé le Gros Mecatina ;
et les heritiers Jolliet et le sr. Jacques

(Translation.)

Charles, Marquis de Beauharnois, etc.
Gilles Hocquart, etc.

In consequence of the differences which have arisen between the late Sieur Pommereau, now represented by his widow, proprietor of a tract of five leagues in front, on the coast of Labrador, at a place called Gros Mecatina, and the heirs Joliet and Sieur Jacques Lalande, proprietors of

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Lalande propriétaires des isles Mingan scis a la ditte Côte, en vertu du titre de concession expedié par feu M. Duchesneau intendant, a eux ou leurs autheurs le dix mars mil six cent soixante dix neuf. Nous aurions des le mois de septembre mil sept cent trente neuf rendu nôtre ordonnance en forme de reglement qui fixait entr'autres une redevance de vingt cinq livres par chaque lieue d'isles que les propriétaires d'icelles seroient tenus de conceder aux propriétaires de la Terre Ferme pour mettre ces derniers en estat et leur donner les facilités nécessaires pour faire leurs pesches sedentaires du loup marin. Nous aurions informé Sa Majesté des nouvelles representations que les dits heritiers et representans Lalande nous ont faites au sujet de la modicité de la ditte redevance sur lesquelles il luy a plû nous envoyer ses ordres l'année derniere et la presente ; nous en consequence des dits ordres sans avoir egard a nôtre ditte ordonnance qui demeurera nulle et comme non avenue, et main-tenant en tant que de besoin les dits heritiers et le dit Jacques Lalande en la propriété et possession des dites isles Mingan. Avons réglé.

Art. pr.

Que les heritiers Jolliet et Jacques Lalande ou ses representans seront tenus a la premiere requisition de conceder aux particuliers auxquels il a esté accordé des concessions en Terre Ferme ou qui en obtiendront par la suite, les isles, islots, et batures qui se trouveront vis-avis et le lon de leur terrain et dont ils auront besoin pour le succès de leurs pesches sedentaires, et ce pendant tout le temps qu'ils jouiront de leur concession en Terre Ferme, et moyennant une redevance de trois pour cent sur le total des huiles et peaux de loup marin qui auront esté exploités ; payable en nature ou en argent aux

(Translation.)

the Mingan islands, situated on the said coast, in virtue of the said grant to them made, and to their successors, by the late Sieur Duchesneau, intendant, on the tenth of March 1679, we have, as early as the month of September 1739, rendered our ordinance in the form of a regulation, which, among other things, fixed a rent of twenty-five livres for each league of islands which the proprietors should be obliged to concede to the owners of the Terre Ferme, to enable them to carry on their sedentary seal fisheries ; and having informed His Majesty that new representations had been made to us by the said heirs and representatives of Lalande, respecting the insufficiency of the said rent, His Majesty was pleased to send us, last year and this year, His orders on the subject.

We, in consequence of the said orders, and setting aside our said ordinance, which is hereby annulled, and with a view to maintain the said heirs and the said Jacques Lalande, as much as is necessary, in the ownership and possession of the said Mingan Islands, order as follows, to wit :

1°.

That the heirs Jolliet and Jacques Lalande, or their representatives, shall be held on the first demand, to concede to the grantees of tracts on the mainland, or those who shall obtain such grants hereafter, the islands, islets and shoals lying opposite to, and along their said lands, and which they shall require for the success of their sedentary fisheries, the said

grantees to enjoy the said islands, &c., as long as they shall remain in possession of their mainland grants, and for and in consideration of a rent of three per cent. upon the total amount of the seal oil and seal skins produced by the said

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propriétaires des dites isles et a leur choix a l'arrivée des effets provenant de la pesche ; ou au mois d'octobre chaque année en argent si lesd. effets sont chargés directement au lieu de l'établissement pour les ports de France, etce au prix du cours des dits effets a Quebec.

2.

Faisons deffenses aux propriétaires des dites isles de faire aucun etablissement de pesche sedentaire entre les isles qui auront esté ainsi concedées, et même dans celles qui pourront leur rester dans une distance assés proche pour pouvoir nuire aux etablissements desja faits ou qui le seront par les proprietaires de la Terre Ferme dans l'etendue de leur concession, sous les peines de droit.

3.

Pourront les propriétaires des dites isles faire la chasse du loup marin a coup de fusil concurrement avec les concessionnaires de la Terre Ferme après le temps expiré de la pesche sedentaire.

4.

A regard de la redevance deue par la ditte dame Pommereau pour la jouissance qu'elle à eû des isles qui sont vis-a-vis de sa concession, nous l'avons réglée a commencer la premiere année de son exploitation qui est l'année mil sept cent trente neuf ; a venir jusques a mil sept cent quarante deux pour continuer d'année en année tant que la ditte veuve jouira de sa concession en Terre Ferme sur le même pied de trois pour cent du produit total

(Translation.)

fisheries, the said rent payable either in kind or in money, at the option of the proprietors of the said islands, islets and shoals, on the arrival of the produce of the fisheries, or if the said produce is shipped directly from the fishing grounds for France, the said rent shall be payable in money, in the course of October in each year, according to the current prices of the said produce at Quebec.

2°.

And we prohibit the proprietors of the said islands from establish any sedentary fishery among the islands so conceded, or even on those that they still retain, if near enough to disturb or interfere with those that may be established by the proprietors of concessions on the mainland, within the extent of their grants, under the penalties imposed by law.

3°.

The proprietors of the said islands may, however, hunt the seals with guns, jointly with the said grantees of the mainland, after the expiration of the period of sedentary fishing.

4°.

And, as to the rent due by the said widow Pommereau, for the use and occupation of the islands opposite her concession, from the first year thereof to wit : from the year 1739 to 1742, we have fixed it as follows, to continue from year to year, during all the time she enjoys her concession of the

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des dittes pesches en huiles et peaux de loup marin, laquelle ne sera néantmoins tenue de payer la ditte redevance qu'en argent pour les quatre années d'exploitation compris celle de mil sept cent quarante deux, a venir a la presente, et ce sur le pied de la vente quelle aura faite des dits effets. Fait a Quebec le quatre octobre mil sept cent quarante trois.

Signé Beauharnois et Hocquart, contresignez et scellez.

Pour copie

HOCQUART.

(Translation.)

mainland, to wit, three per cent of the produce of the said fisheries in oil and skins. She will, however, pay the said rent in money only, for the four years of her said occupation, that is to say from the year 1742 to the present year inclusive, according to the prices obtained by her for the said produce.

Done at Quebec, the fourth day of October 1743. Signed Beauharnois and Hocquart. Countersigned and scaled.

HOCQUART.

Quebec, 29 April, 1921.

[1 May, 1749.]

No. 1346

C

**CONCESSION OF GROS MECATINA AND
AUGMENTATION TO CROISILLE DE MONTESSON,
1 MAY, 1749.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 40

Rolland Michel Barrin etc.

François Bigot etc.

Vu la Requête a nous présentée par Mrs. Croisille de Montesson officier des troupes, au nom et comme ayant épousé la veuve du Sr. Jean Bapte. Pommereau, Daniel de Beaujeu, capitaine d'infanterie et Guillaume Estebe Con'er. au Con'el. Supérieur de Quebec associez dans l'exploitation des pesches à loup marin du poste du Gros Mecatina contenant que par brevet

(Translation.)

Rolland Michel Barrin etc.
François Bigot etc.

On the petition presented to us by MM. Croisille de Montesson, officer in the forces, on behalf of and as having married the widow of the Sieur Jean-Baptiste Pommereau, Daniel de Beaujeu, captain of Infantry, and Guillaume Estèbe, Councillor in the Superior Council of Quebec, partners in the operation of the seal fisheries of the post of Gros Mecatina, stating that under patent dated

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du treize avril 1740. Sa Majesté auroit accordé aud. Sr. Pommereau une concession à la Coste de la Brador et ce pour neuf années, a prendre depuis la pointe du Gros Mecatina, icelle comprise en descendant au Nord-Est jusques à la Riviere Tekapouin aussi icelle comprise, ce qui fait un espace de terrain d'environ neuf lieues de front sur quatre de profondeur. Et qu'ayant esté informés que Sa Majesté a bien voulu accorder une prolongation de six années du terme de la ditte concession qui a fini en 1747.¹ Ils nous suplient de leur en expédier le titre en leur nom, attendu l'acte de Société passé Entre led, feu Sr. Pommereau et lesd. Srs. Beaujeu et Estebe le trente avril 1739. —Vû aussi le dit acte de société cy dessus passé devant Mr. Latour notaire par lequel il est entre-autree choses stipulé que si Sa Majesté veut bien accorder à l'expiration de la pre. concession la continuation d'icelle pour de plus longs intervalles de temps, lesd. srs. Beaujeu et Estebe leurs hoirs et ayant cause y seront subrogés, comme des lors led. Pommereau tant pour luy que pour ses hoirs ayant cause les y subroge pour chacun l'interest qu'ils ont pris dans l'exploitation dud. poste. Et le dit brevet en datte dud. jour treize avril 1740, par lequel Sa Majesté accorde aud. Pommereau la de. concession pour le temps et espace de neuf années à commencer de l'année 1739. Led. brevet enregistré au greffe dud. Conseil Supérieur le deux octobre 1741. Nous en conséquence des ordres de Sa Majesté contenus dans le Lettre de Mgr Le Comte de Maurepas Ministre et secretaire d'Etat en datte du vingt trois fevrier de l'année derniere 1748, avons accordé aux supliants une prolongation de la de. concession pour le temps et espace de six années, a commencer de

(Translation.)

the thirteenth of April 1740, His Majesty had granted unto the said Sieur Pommereau a concession on the coast of Labrador, and that, for nine years, extending from cape Gros Mecatina, and including the cape, downward in a northeasterly direction as far as the river Tekapouin, also included, which forms a tract of land of about nine leagues in front by four in depth. And that having been informed that it was His Majesty's pleasure to grant an extension of six years to the term of the said concession which has expired in 1747. They pray that we may execute the title of same in their name, according to the deed of partnership passed between the late Sieur Pommereau and the said Sieurs Beaujeu and Estèbe on the thirteenth of April 1739.—Considering also the said deed of partnership aforesaid, passed before Mr. Latour, notary, under which it is, among other things, stipulated that if His Majesty is willing to grant, at the expiration of the present concession, the extension of same for longer intervals of time, the said sieurs Beaujeu and Estèbe, their heirs and assigns shall be surrogated thereto, as from then the said Pommereau both for himself as well as for his heirs and assigns surrogates thereto each of them for the interest that they have assumed in the operation of the said post. And the said patent dated the said day thirteenth of April 1740, under which His Majesty grants unto the said Pommereau the said concession for the time and period of nine years from and after the year 1739. The said patent registered at the Clerk's Office of the said Superior Council the second day of

October 1741. We, in consequence of the orders of His Majesty included in the letter of Mgr. Comte de Maurepas, Minister and Secretary of State, dated the twenty-third of February of last year, 1748, have granted the petitioners an extension of the said

¹ An error for " 1748."

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l'année dernière 1748, pour par eux jouir des dites neuf lieues de front sur quatre de profondeur suivant et conformément aux privilèges, conditions et exemptions portées aud. brevet de Sa Majesté et acte de Société sus datté. Fait a Quebec le premier May 1749.

Signé La Galissoniere et Bigot, Contresignez et Scellez.

Pour copie
BIGOT.

(Translation.)

concession for the time and space of six years, from and after last year, 1748, to have and to hold unto them the said nine leagues in front by four in depth pursuant and according to the privileges, conditions and exemptions mentioned in the said patent of His Majesty and deed of partnership dated as heretofore. Done at Quebec on the first day of May 1749. Signed La Galissonière and Bigot. Countersigned and Sealed,

For copy.

BIGOT.

[15 June 1761]

No. 1347.

C

**GOVERNOR MURRAY'S PERMIT TO LAFONTAINE
TO OCCUPY GROS MECATINA FOR ONE YEAR,
15 JUNE, 1761.**

COLONIAL CORRESPONDENCE, NEWFOUNDLAND, VOL. I, 1761, JUNE 15.

Par Son Excellence Jacques Murray Gouverneur de Quebec &c. &c.

Nous ayant été représenté par le Sieur de La Fontaine, que Nontagamiou, le gros Mekatinat et plusieurs Isles au Nord de ce Fleuve lui appartenoient par droit de Succession, permettons et accordons, (pour la presenté année, et jusques a ce que ces memes droits puissent être Constatés) au dit Sieur de

(Translation.)

By His Excellency James Murray Governor of Quebec, &c., &c.

Upon representations made to us by the Sieur de la Fontaine that the Gros Mekatinat and several islands on the north side of this river belong to him by right of inheritance, we do permit and authorize, (for the present year, and until such time as the said rights may be contested) the

la Fontaine dy' exploiter ou faire exploiter les Peches de Loups Marins, sans souffrir aucun empechement, et de les affermer si bon lui semble, sons la Clause cy dessus mentionée—en Foi de quoi Nous avons signé de notre Main la presente a icelle fait apposer le Sceau de Nos Armes et contresigner par notre Secretaire.

Donné a Quebec 15 de Juin 1761.

(L.S.) JA. MURRAY.
Par Son Excellence
H. T. Cramahé.

Endorsed.

(Translation.)

said Sieur de la Fontaine to carry on or cause to be carried on thereat seal fisheries, without any impediment, and to lease the same should he see fit, subject to the hereinbefore mentioned clause—In witness whereof We have signed these presents, caused the seal of our arms to be affixed thereto and countersigned by our secretary.

Given at Quebec the 15th June 1761.

(L.S.) Ja. MURRAY.
By His Excellency
H. T. Cramahé.

Endorsed.

1762
March 20th

No. 1348.

C

**CONCESSION OF GROS MECATINA SEAL FISHERY
BY MURRAY TO JOHN GRAY FOR 7 YEARS,
20 MARCH, 1762.**

RETURN OF THE POSTS OR LANDS GRANTED BY MURRAY IN THE
GOVERNMENT OF QUEBEC OR DEPENDENCIES THEREOF TO THE
22ND JULY 1763, INCLUSIVE.

For the Seal Fishery to Mr. John Gray all that Tract of Land lying upon the North Shore commonly known by the Name of Great Mekatina, bounded to the West by the Islets a Marmet, and to the East by the Bay of Haha, Longitude 58° 55' for the Space of Seven Years or until His Majesty's Pleasure is further known.

**MURRAY'S REPLY TO LAFONTAINE'S
COMPLAINTS, 24 APRIL, 1764.**

[24 April, 1764]

ARCHIVES OF CANADA, SERIES Q. VOL. 2, p. 111.

Governor Murray's answer to the complaints Lodged against him by Monsieur De la Fontaine in his letter to the Earl of Halifax Secretary of State dated the 23rd October 1763 in two memorials therein inclosed.

In a Respectfull Obedience to my Royal Sovereigns Commands and agreable to the wishes of my own heart, I very cheerfully deliver this publick reply to several matters of Complaint against me, as stated by Monsieur De la Fontaine in a letter to the Earl of Halifax Secretary of State of the 23rd October 1763 as well as in two memorials therewith transmitted by said Lafontaine.

I do this with the greater Perspicuity, it is necessary to reduce the whole accusation, very Artfully blended by the Plaintiff under four principle heads or articles, to each of which in as few words as the nature of the case will admitt, I shall give a distinct and separate answer, supported by proper and undeniable proofs.

1st. That I hindered the heirs of Bissot & Jolliet to repair & Settle the Post of Mingan in the year 1761.

Ans. I do not recollect any applications having been made to me for that purpose. Mr. Tachet, the widows Vederic and Volant three of the Coheirs may be asked what they know of the matter ; but certainly no Canadian in this town is ignorant, that the greatest part of the heirs of Jolliet & Bissot were absent in the year 1761 & that those present were incapable of the great expense requisite for the undertaking in Question. Had it been otherwise I should probably have refused Permission to some of them to go below at that time 1761 ; our situation made it necessary to allow none to establish themselves in, or frequent those parts but such as we could confide in.

2nd. That contrary to their inclination I made Mr. Lafontaine and Mr. Tachet give a lease of the Post of Mingan to Mr. Isbister.

Ans. It never could have entered the head of a Briton to order a man to sign a deed giving away his own property, but Mr. La Fontaine to prove the contrary, quotes a letter wrote to him by Mr. Panet. Mr. Panet's evidence, I imagine will set that

par ordre de son Excellence le Bail du post de Mingan " proceeded from my having desired him at Isbister's request to get that affair settled and finished as soon as possible, that the Isbister might not by delays loose the season. That it meant no more will be evident from the other part of the letter, which the court will be pleased to order Mr. Lafontaine to produce, as he acknowledges in his memorial to Lord Halifax that he is Possession of it.

I declare I understood at that time that Mr. Lafontaine was well pleased with the bargain, that it was what he had proposed himself & that it was a most advantageous one for him & the Coheirs. His own letter of the 10th August 1761 seems to affirm this & Mr. Isbisters evidence may perhaps corroborate it, as to the goodness of the bargain at the time, let it be considered & Determined on Oath by five of the most Creditable Merchants of the Place, Mr. La Fontaine to name two, Mr. Isbister two, & the council the fifth. It will be proper to hear Mr. Tachet ; if he chuses to speak all he knows of the matter, I shall be well pleased.

That I did recommend Mr. Isbister to Mr. La Fontaine & Mr. Tachet as the most proper man for the post of Mingan is most certain ; This Mr. Isbister had been long Principle Governor at Hudson Bay, he came here in the year 1760 with a wife and six small children, had merchandise to the amount of nine hundred Pounds, which were entirely calculated for the Posts below. Compassion for he had no Recommendation to me, made me desirous to see this man in a way to get a livelihood. Good Policy made me wish to have him established in the Posts below as he had the character of an honest man & was thoroughly acquainted with the language of the Indians residing there, & prudence made it necessary at that time of War, to be carefull who occupied the Posts in the Gulph & River St. Lawrence, & therefore passports were necessary. Now if Mr. La Fontaine can even insinuate and produce any man French or English who will join in that insinuation, that I or any person employed under me ever took a shilling for Passports or posts, it may create a suspicion in his favor & make the world believe that I had other motives in all this business of the Posts, than those consistent with my Duty. In his reply if he chuses to make any, it therefore behoves him to produce and support such insinuations.

3rd. That I stripped him of his property and gave it to other People.

Ans. This should mean nothing but the Post of Grand Mekatinat, He long attempted to deceive me with Regard to this Post but the Information of many honest men regarding it, and some unwarrantable behaviour of his when he was employed by me at first in a Court of Justice for the Canadians, opened my eyes and put me upon my guard. However, as I was

well assured that the Grant of the Gros Mekatinat to Mon^r Hocquart, was not a legal one, as it had not been registered at the Conseil Superieur, I out of pure Charity for Mr. Lafontaine and his family gave him leave to occupy that post, as is expressed in my letter of the seventh September 1762 to the late Earl of Egremont in the following words “ and (I) gave Mr. Lafontaine a person in indigent circum-

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stances with a numerous family, leave to fish and trade there (at Mekatinat) for one year only.”

Had he behaved properly he might still have Possessed that Post, but that very autumn 1761 in his way to another Post of his Montagamiou his conduct confirmed every bad thing I had heard of him, and in place of being his Protector, I ever after looked upon him as an enemy to the State. Mr. Isbisters Letter of March 1762 supported by Ross, and Algeos affidavits, evince with how much justice and how faulty I should have been to have countenanced such a man. This behaviour of Mr. Lafontaine and the Intelligence we had that winter of Privateers and Pirates, who sheltered and subsisted themselves by means of the Posts and the Bay of Chaleur made me think it highly necessary at the solicitation of all the merchants here, to arm a vessel for the Protection of their trade and the examination of the Posts, and likewise to redouble my caution with regard to the people who were to occupy the Posts in the Gulph and River St. Lawrence. It consequently became expedient to take the post of Mekatinat from Lafontaine, and to give it to Mr Gray in whom I could confide. I further declare, that could I have laid my hands on La Fontaine I should have brought him to this place not only to prevent the Mischief he was doing below, but likewise to answer the complaints of his Creditors Lymburner & Mackenzie.

The Officer commanding the armed vessel had orders to Seize him, but those orders could not be executed from an accident which happened to the vessel.

He says peremptorily in his memorial to Lord Halifax dated the 23rd October that I had declared while I was Governor of Quebec, he never should be paid the Three per cent from the produce of the Post of Mekatinat, but here is produced the minute of an order by Mr. Gray, before his departure for Great Britain, upon the 13th of last September to his Partner for discharging the same, which has been accordingly executed as Mr. Will^m Grant the said Partner is ready to prove. What credit is to be given to anything this man can say ? When he spoke to me about the Post of Mekatinat last autumn before Mr. Panet I certainly said he should never have a Grant of it, while I was Governor of Quebec, if I could prevent it, but as to the three per cent I would inform myself, and if I found he had a just claim, I would order Payment. Mr. Panet soon told me he was assured of the Equity of that claim and payment was ordered accordingly. Mr. Cramahe is to be asked the conversation he had with Mr. Lafontaine which will shew the man had no reason to be alarmed and send home such

groundless complaints, and a comparison of the memorials he gave into Mr. Cramahe my Secretary, with those sent to Lord Halifax, will at least further demonstrate the Disingenuity of this unhappy gentleman.

4th That when he set forth his claims to the Posts of Mingan and Mekatinat, I gave him gross personal abuse, and pushed my Resentment, so far, as to distress his family, by taking away the Royal Pension from two of his daughters.

p. 3551

Ans. Perhaps since the beginning of the World, nothing was ever more artful & more false than Mr. Lafontaine representation of these circumstances.

That I called him “ Scelerat, et monstre qui faisait honte a la nature Humaine ” is certain that I desired him to go out of my house is as certain, that he deserved this treatment and ten times more, I flatter myself will be allowed by all who are not dead to virtue. Many complaints had been lodged by Lymburner & Mackenzie two of the most considerable & opulent merchants of this place, accusing Mr. Lafontaine of very unfair Practices in his dealings with them., such as Mortgaging Estates to them which were the property of his children by which deception he would defraud them of their money, his children of their subsistence, and was still a large sum in their Debt, without any visible means of repaying it.

These complaints having been examined, and found to be considered with truth, part of his Estate was disposed of and the Remainder sequestered for the Payment of his Creditors, which however was by no means equal to their just claims.

The memorial of Messrs. Mackenzie & Lymburner, my order thereupon, and the proceedings of the council are hereto annexed, and will answer for themselves. Mr. Lafontaine was at this time below at his Post and his family which was here was by this act of Justice reduced to great extremity ; The two young Ladies, which I had before placed at their Brother in Laws house, where at my own expence Rooms were fitted up for them found their situation there disagreeable, and as he could not maintain them for nothing, I prevailed upon Chaloux at Beauport to board them. I paid for their board out of my own pocket, the sum Mr. Lafontaine mentions, & gave some trifle to the eldest to buy necessaries.

At his return to Quebec last summer Mr. Lafontaine found his family & affairs in this unhappy situation. I sincerely pitied him, and could not prevail upon myself to add to his wretchedness by an exposition of Isbisters accusation, supported by the depositions of Ross and Alges and therefore prevented Isbisters prosecution. But we had not been here long, when I was told by everybody French and English, that he loudly complained . . . of the Injustice which had been done him, with regard to Mackenzie and Lymburner and by his Artfull insinuations was endeavouring to make the Canadians believe that they were to expect no Equity from Englishmen. I then thought it necessary to send for him La Fontaine,

Mackenzie & Lymburner, I heard them all three with patience and found that I had not been deceived in the reports made to me. I upbraided him for mortgaging his poor children's effects and by his extravagance reducing them to misery he immediately replied that Mr. Panet was the man to be blamed for that horrid act, for that he had deceived him, and said much more to this honest man's disadvantage. I sent for Panet who vindicated himself and before my face made Mr. Lafontaine acknowledge his uprightness. I then summed up his whole conduct and finished by saying as well as I can remember, you was not Sir contented with reducing your family to Beggary, defrauding your creditors falsely accusing the Justice of Government & endeavoring to prevent that confidence and union so necessary for the

p. 3552

happiness of His Majesty's old and new Subjects, but you must labor to ruin a worthy honest man who by his Industry and Integrity can with difficulty Subsist a wife & ten small children. I will not send you to Gaol as you deserve but I pronounce you a wicked man, whose conduct is monstrous and shocking to Humanity. Such is the language and such the terrible injuries which he tells the minister he suffered, when he was claiming his rights to the Post above mentioned.

The language I confess, but he must allow the application he has made of it to be unjust, for it was no more than a reprimand for the Injustice and calumny he had been convicted of which had nothing to do with the affairs of the Posts.

Lymburner, Mackenzie, Cramahe, Panet and Major Mills to be examined and likewise Chaloux and Cugnet the son in law as to the attention I had to the young ladies.

It is not true that I withdrew my charity from the young ladies after this monstrous behaviour, the board of the Eldest was paid by me since, Madame Cartier will evince it, the second I know is well provided for tho' not at my expence. Mr. La Fontaine injures the greatest King in the world by supposing the charity of the mienest of his subjects could be the Royal Pension, nobody could have told him so, nor do such Pension exist.

Mr. Dunn and Mr. Lymburner are to be asked whether or not it was at my Recommendation that young La Fontaine was employed last summer by the Whale Fishing Company, I recommended him too to Mr. Ross my agent in London at the very time he carried home the complaint against me & begged him to endeavour to procure for him the command of a ship trading to this Colony. Let Tachet be asked whether or not he did pay to Lafontaine Six hundred dollars for the Post at Mekatinat, which I gave him and then let all the Earth Judge, if sought the destruction of this man or his family. Let him get four honest intelligent Canadians to subscribe to the character he has given of himself in the last part of his letter to Lord Halifax and I will say I was to blame for calling him Scelerat and ask his Pardon in the most Publick manner.

Upon the whole it may really appear to His Majesty

servants that I have Bribed this man to give me thus opportunity of displaying my own justice, charity and moderation but no Canadian will suppose so, they know the man who probably reasoned thus Mr. Murray (for it was reported and believed here) is not to be Governor of Canada, consequently is disliked at court, any complaint against him will be Relished by the Minister who has prevailed upon the King to supersede him, now is my time to get a grant of Mekatinat, a Pathetic remonstrance of Injuries done me will procure me that Grant.

But Mr. Lafontaine is mistaken. The King who hears the complaints of the meanest of his subjects and does them the strictest justice, would not even in that Situation have condemned Mr. Murray unheard.

RECAPITULATION.

It is proved that all the heirs of Bissot & Jolliet together were incapable of Equipping the Post of Mingan, and that no application for that purpose was ever made to me by any of them it is likewise incontestably proved, that of his own free will & accordance upon his own terms, the Post of Mingan was left to Mr. Isbister by Mr. Lafontaine ; and it is plain, that Panets letter, quoted by Lafontaine to Lord Halifax, was designedly curtailed, had the whole been inserted, in place of proving the force Majeure that letter of itself is sufficient to demonstrate the contrary.

In place of being stripped of his Property, it was evident he received Eight Hundred Dollars from Tachet for the Post of Mekatinat, a gift from me ; which Mr. Lafontaine chuses to forget ; and he has the assurance to say in his letter to Lord Halifax of the 23rd Oct. that the payment of the Three per cent from the Post of Mekatinat was peremptorily refused him ; But it is proved, that orders were issued in September to Mr. Gray to pay what was due on that score.

The personal reprimand was for Injuries he had done to all the world, and most probably prevented his Creditors from throwing him into prison : It at least exculpated me for not doing it, to have winked at such behaviour must have injured the Publick this reprimand had no connection with his claims to the Posts, but he says it was for attempting to ascertain them ; and thereby to destroy my handyworks. In short the very manner of representing this matter to the Minister, shows how richly he merited the epithets I gave him on that occasion, his Ingratitude conforms everything, for it is certainly proved that his family in place of being distressed, has been long supported by me. By representing himself a man of dignity, and much esteemed in the Province, he does injustice to the Canadians. They can distinguish better, and must be shock'd that he had been ruined, “ par la fleau de la guerre.” Monsieur Foucault the senior Counsellor is here alive ; Sound in health & Judgment and esteemed by all who know him. Mr. Lafontaine's extravagance, many years before the war, put it out of the power of fortune to ruin him. Such idle deliberate falsehoods are sufficient to debase the first blood in Europe, but when told seriously to the King's minister, and that to the prejudice of his Majesty's Governor, they require a greater punishment, than I would chuse should be inflicted, upon the Unhappy father of Eight Children.

JA. MURRAY.

No. 1350.

CONCESSION, 5 NOVEMBER, 1748, OF KECARPOUI TO BREARD AND
ESTÈBE

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 39.

Rolland Michel Barrin Chevalier, Marquis de La
Galissonniere etc.
François Bigot etc.

Vû la Requête â nous présentée par les Srs. Jacques Breard controlleur de la marine et Guillaume Estebe conseiller au Conseil Superior et Garde des magasins du Roy, contenant qu'il y auroit entre les concessions cy devant accordées aux Srs. Pommereau et La Valterie à la Coste du Nord du fleuve St. Laurent un terrain d'environ quatre lieues de front non concédé, et comme les suplians desireroient y establir des pesches sedentaires de loup marin, ils nous suplient de vouloir bien leur accorder un titre de concéssion dud. terrain pour le temps et espace de neuf années a prendre depuis la Riviere de Thekapoin, qui est la borne au Nord-Est de la concéssion dud. Sr. Pommereau jusques à la borde de celle dud. Sr. Lavalterie, avec les isles islots et battures qui se trouvent au devant dud. terrain sur six lieues de profondeur, avec le

(Translation.)

Rolland Michel Barrin,
Knight, Marquis de La Galissonniere etc.
François Bigot etc.

On the petition presented to us by the Sieurs Jacques Breard, Comptroller of the Marine, and Guillaume Estèbe, Councillor in the Superior Council and Keeper of the King's stores, stating that there lies between the concessions heretofore granted the Sieurs Pommereau and La Valterie on the north shore of the river St. Lawrence, a tract measuring about four leagues in front which has not already been conceded, and as the petitioners are desirous of establishing there sedentary seal fisheries, they pray that we grant unto them, for the time and space of nine years, a title of concession of the said tract, to start from the river Thekapoin, which is the northeast limit of the concession of the said Sieur Pommereau, as far as the boundary of that of the said Sieur Lavalterie, together with the islands, islets and shoals which are to be found in front of he said land, by six leagues in depth, with the privilege, to the exclusion of all others, to

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privilege d'y faire à l'exclusion de tous autres la pesche du loup marin chasse et Traitte avec les sauvages dans toute l'etendue de la de. concéssion et la pesche de la morue concurament avec les batimens qui pourront y venir. Nous en vertu du pouvoir à nous donné par Sa Majesté et sous son bon plaisir, avons accordé et concédé pour le temps et espace de neuf

années a commencer de l'année prochaine, auxd. Srs Breard et Estebe, un terrain d'environ quatre lieues de front sur six lieues de profondeur ainsi qu'il est cy dessus designé avec les isles, islots et battures qui se trouvent au devant dud. terrain, pour en jouir par eux et y faire un ou plusieurs etablissemens de pesche du loup marin à l'exclusion de tous autres, ainsi que la Chasse et Traitte avec les sauvages pendant led. temps, et la pesche de la morue concurament avec les batimens qui pourront venir aud. lieu, à la charge par lesd. Srs. Bréard et Estebe de faire valoir la présente concéssion, faute de quoy elle demeurera de nul effet, et aussi de payer au Domaine de Sa Majesté en ce pais par chacune année deux castors ou la somme de quatre livres. Fait et donné à Quebec le cinq novembre mil sept cent quarante huit, signé La Galissonniere et Bigot, Contresignez et sçellez.

Pour copie

BIGOT.

(Translation.)

carry on seal fishing, hunting and trading with the Indians in the whole extent of the said concession, and the cod fishing concurrently with the vessels which may come there. We, in virtue of the power entrusted to us by His Majesty and subject to his good pleasure, have granted and conceded for the time and space of nine years from and after next year, unto the said Sieurs Breard and Estèbe, a tract of about four leagues in front by six leagues in depth as hereinbefore described with the islands, islets and shoals which are to be found in front of the said territory, to have and to hold same unto them and to establish there one or more seal fishing establishments to the exclusion of all others, together with the hunting and trading with the Indians during the said time, and the cod fishing concurrently with the vessels which may come to the said place, to develop the present concession, at the expense for the said Sieurs Bréard and Estèbe, in default of which it shall become void, and also to pay to the Domain of His Majesty in this country, each year, two beaver or the sum of four livres. Done and given at Quebec on the fifth of November one thousand seven hundred and forty eight, signed la Galissonnière and Bigot, Countersigned and sealed.

For copy.

BIGOT.

No. 1351.

**CONCESSION OF ST. AUGUSTIN TO LAVALTRIE,
26 MAY, 1720.**

[26 May, 1720.]

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 5, FOLIO 50 VERSO.

Auiourdhy XX6 e. may mil sept cent vingt le Roy estant a Paris ayant ecouté favorablement la demende quy luy a esté faite par le sieur de la Valterie, d'un terrain a la Coste de la Brador pour y establir des peches sedentaires de la morüe et du loup marin Sa Majesté de l'avis de monsieur le duc dOrleans Regent luy a concedé le havre nommé la riviere Saint Augustin dans la Coste de la Brador avec deux lieües de front de chaque costé sur quatre lieues de proffondeur dans les terres ensembles les isles et islets adjacentes au dit havre pour en jouïir par luy sa vie durant et tant quil fera valloir la de. concessïon par les peches quil y fera, veut et entend Sa Majesté quil ait seul dans le dit havre et dans les deux lieues a luy concedés ensemble dans les isles et islets y adjacents la faculté de faire la pesche du loup marin et qu'a legard des autres pesches il la fasse concurrement avec les vaissx. quy viendront au dit havre et aux terres isles et illets concedés par le present brevet luy permet Sa Majesté de faire la traitte avec tous les Sauvages qui peuvent se trouvér sur les terres et Costes de la Brador sans que pour raison de la de. concessïon il soit tenu de payér a Sa Majesté ny a ses successeurs, Roys aucune finance ni indemnité de laquelle a quelque somme quelle puisse monter Sa Majesté luy a fait don et remise par le present brevet quy sera enregistré au Conseil Superieur de Quebec et partout ailleurs ou besoin sera

(Translation.)

To-day, the twenty-sixth of May, in the year one thousand seven hundred and twenty, the King being in Paris, and having favourably regarded the petition presented to him by the Sieur de la Valterie, for a terrain situated on the coast of Labrador for establishing there permanent cod and seal fishing, His Majesty, upon the advice of Monsieur le Duc d'Orleans, the Regent, has conceded unto him the harbour called river Saint-Augustin in the coast of Labrador, together with two leagues in front on each side by four leagues in depth inland and also the islands and islets adjacent to the said harbour to have and hold same unto him during his life-time and so long as he develops the said concession by the fisheries which he shall make there, His Majesty ordains and approves that he alone in the said harbour and within the two leagues unto him conceded and also in the islands, and islets adjacent to same, has the power to take seals and that, with reference to the other fisheries, he may make them concurrently with the vessels which might come in the said harbour and to the lands, islands and islets conceded by the present patent, His Majesty permits him to trade with all the Indians who are to be found on the lands and coasts of Labrador; the said concession not binding him in any way to pay His Majesty or the Kings, his successors, any

money or indemnity, of which, to whatever sum it may amount, His Majesty has granted and remitted under the present patent which will be registered at the Superior Council of Quebec and everywhere else when need is felt and that

p. 3557

et que Sa Majesté pour temoignage de sa vollonté a voulu signér de sa main et estre contresigné par moy conseiller secretaire d'Etat et de ses commendemens et finances signé Louis et plus bas Fleuriau.

Le brevet de concession cy dessus a esté registré au greffe. du Conseil superieur de Quebec suivant son arrest de ce jour Ouy et ce requerant le procureur General du roy pour par led. sieur de la Valterie jouir de leffetet contenuau dit brevet par nous greffé en chef du dit conseil sousigné a Quebec le septieme octobre mil sept cent vingt.

RIVET.

(Translation.)

His Majesty in testimony of his will has decided to sign with his own hand and to be countersigned by me, Councillor, Secretary of State and of his Commands and Finance. Signed, Louis and, further down, Fleuriau.

The above mentioned patent of concession has been registered at the Clerk's Office of the Superior Council of Quebec under its decree, being heard this day and this the King's Attorney General requesting that the said sieur de la Valterie enjoy the effect and the contents of the said patent as registered by us Chief Clerk of the said Council, the undersigned, at Quebec on the seventh day of October in the year one thousand seven hundred and twenty.

RIVET.

No. 1352.

C

**CONCESSION OF ST. AUGUSTIN TO CHERON FOR
NINE YEARS, 20 APRIL, 1750.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 59.

Le marqis. de Lajonquiere etc.
François Bigot etc.

Sur la requeste a nous presentée par le S. Cheron, Capne de navire, tendante a ce qu'il nous plaise luy accorder une concession a la Coste Brador au lieu appellé St. Augustin de quatre lieues de front sur quatre lieues de profondeur, sçavoir deux lieues au Nord Est de la riviere St. Augustin,

(Translation.)

The Marquis de Lajonquiere etc.
François Bigot etc.

On the petition presented to us by the Sieur Cheron, ship captain, praying that we would be pleased to grant him a concession of four leagues in front by four leagues in depth on the coast of Labrador at the place called Saint-Augustin, to wit, two leagues north-east of the river Saint-

p. 3558

et deux au sud ouest, avec le droit de pesche, de Chasse et Traitte, avec les Sauvages a l'exclusion de tous autres laquelle concession appartenoit cy devant au feue LaValterie, pour en jouir par le suppliant pendant le tems qu'il nous plaira limiter aux memes droits des autres concéssionnaires des Postes du Nord, a quoy ayant egard. Nous en vertu du pouvoir a nous conjointement donné par Sa Majesté et sous son bon plaisir, avons donné, accordé et concédé, par ces presentes pour le temps et espace de neuf années consécutives, a commencer de la presente année aud. S. Cheron la de. concession scituée a la Coste de la Brador au lieu appellé St. Augustin de quatre lieues de front sur quatre de profondeur, ainsi qu'elle est cy dessus desgnée, pour en jouir par led. S. Cheron et y faire un ou plusieurs etablissements de pesche du loup marin ainsy que la Chasse et Traitte avec les Sauvages a l'exclusion de tous autres pendant led. tems, et en outre avec la facilité d'y faire la pesche de la Morue concurrement avec les batimens françois, a la charge par led. S. Cheron de faire valoir la presente concession a faute de quoy elle demeurera de nul effet, et aussi de payer, au Domaine de Sa Majesté en ce pays, par chaque année deux castors, ou la somme de quatre livres le tout sous le bon plaisir de Sa Majesté, de laquelle il sera tenu de prendre confirmation des presentes dans l'an, a peine de nullité d'icelles En temoin de quoy etc. Fait et donné a Quebec le vingt avril 1750. Signé Lajonquiere et Bigot, Contresigné et Sçelléz.

Pour Copie.

BIGOT.

(Translation.)

Augustin. and two leagues south-west, with the right of fishing, hunting and trading with the Indians to the exclusion of all others, said concession belonging previously to the Late La Valterie, to have and to hold the same unto the said petitioner during such time as we shall be pleased to fix and pursuant to the same rights as enjoyed by the other grantees of the Postes du Nord; having regard to the said petition, We, in virtue of the power jointly entrusted to us by His Majesty and subject to his good pleasure, have given, granted and conceded, by these presents, for the time and space of nine consecutive years, from and after the present year, unto the said Sieur Cheron the said concession, situated on the coast of Labrador at the place called St-Augustin, measuring four leagues in front by four leagues in depth, such as same is hereabove described, to have and to hold same unto the said Sieur Cheron and to make there one or more establishments for seal fishing and also the hunting and trading with the Indians, to the exclusion of all others during the said period, and further with permission to carry on cod fishing concurrently with the French vessels ; on the condition that the said Sieur Cheron develop the present concession, in default of which it shall become void, and also to pay each year to His Majesty's Domain in this country two beaver or the sum of four *livres* the whole upon the good pleasure of His Majesty by whom he shall be held to have these presents confirmed within one year : the whole on pain of nullity of these presents. In testimony whereof etc. Done and given at Quebec on the twentieth of April 1750. Signed Lajonquière and Bigot. Countersigned and sealed.

For Copy.

BIGOT.

[17 July, 1753.]

No. 1353.

**CONCESSION OF ST. AUGUSTIN TO DE CERY,
17 JULY, 1753.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 10, FOLIO 15 VERSO.

Le Mis. Duquesne etc.
François Bigot etc.

Sur la requeste a nous presentée par le S. Philippe Dailleboust Ecuyer S. de Cery capitaine de port en cette ville tendante a ce qu'il nous plaise luy accorder une concession a la coste de Labrador au lieu appellé St. Augustin de quatre lieues de front sur quatre lieuës de proffondeur sçavoir deux lieuës au N.E. de la rivièrè St. Augustin et deux au S.O. avec le droit de pesche, chasse et traitte avec les Sauvages, a l'exclusion de tous autres, laquelle concession appartenait cy devant au S. Charles Cheron decedé a St. Domingue pour en jouïr par le supliant pour le tems et espace de neuf années aux memes droits des autres concessionnaires des postes du nord, a quoy ayant egard, nous en vertu du pouvoir a nous conjointement donné par S.M. et sous son bon plaisir, avons donné, accordé et conçédé par ces presentes pour le tems et espace de neuf années consecutives, a commencer de la presente année au dit S. de Cery la ditte concession située a la coste de Labrador au lieu appellé St. Augustin de quatre lieuës de front sur quatre lieuës de proffondeur, ainsi quelle est cy dessus designée pour en jouir par le dit S. de Cery et y faire un ou plusieurs etablissements de pesche du loup marin, ainsi que la chasse et traitte avec les Sauvages a l'exclusion de tous autres pendant le dit tems et

(Translation.)

The Marquis Duquesne etc.
François Bigot etc.

On the petition presented to us by the Sieur Philippe Dailleboust, Esquire, Sieur de Cery, Capitaine de Port of this city, praying that we would be pleased to grant him a concession of four leagues in front by four leagues in depth on the coast of Labrador at the place called Saint-Augustin, to wit, two leagues to the north-east of the river Saint-Augustin, and two leagues south-west, with the right of fishing, hunting and trading with the Indians, to the exclusion of all others, said concession belonging previously to the Sieur Charles Cheron, deceased at Saint-Domingue, to have and to hold the same unto the said petitioner for the time and space of nine years and pursuant to the same rights as enjoyed by the other grantees of the Postes du Nord ; Having regard to the said petition, We, in virtue of the power jointly entrusted to us by His Majesty and subject to his good pleasure, have given, granted and conceded by these presents for the time and space of nine consecutive years, from and after the present year, to the said Sieur Cery the said concession, situated on

the coast of Labrador at the place called St-Augustin, of four leagues in front by four leagues in depth, such as same is hereabove described, to have and to hold same unto the said Sieur Cery and to make there one or several seal fishing establishments and also carry on hunting and trading with the Indians, to the exclusion of all others during the said time, and, in addition, with the privilege

p. 3560

en outre avec la façilité d'y faire la pesche de la moruë concurremment avec les batiments français, a la charge par le dit S. de Cery de faire valoir la presente concession a faute de quoy elle demeurera de nul effet et aussi de payer au Domaine de S.M. en ce pays par chaque année deux castors ou la somme de quatre livres. Le tout sous le bon plaisir de Sa Majesté de laquelle il sera tenu de prendre confirmation des presentes dans l'an a peine de nullité dicelle. En temoin de quoy &c. Fait a Quebec le 17 juillet 1753. Signé Duquesne et Bigot, Contresigné et Scellé.

Pour copie.

BIGOT.

(Translation.)

of cod fishing concurrently with the French vessels, on the condition that the said Sieur de Cery do develop the present concession in default of which it shall become void, and also to pay each year to His Majesty's Domain in this country two beaver or the sum of four *livres*. The whole upon the good pleasure of His Majesty by whom he shall be held to have these presents confirmed within one year : the whole on pain of nullity of these presents. In testimony whereof etc. Done at Quebec on the seventeenth of July 1753. Signed Duquesne and Bigot. Countersigned and sealed.

For copy.

[August 25, 1761.]

BIGOT.

No. 1354.

C

**GRANT OF ST. AUGUSTIN TO DAUGHTERS OF DE
CERY FOR NINE YEARS, 25 AUGUST, 1761.**

RETURN OF THE POSTS OR LANDS GRANTED BY MURRAY IN THE
GOVERNMENT OF QUEBEC OR DEPENDENCIES THEREOF TO THE
22ND JULY 1763, INCLUSIVE.

For the Seal Fishery to Monsieur Morisseaux in Trust for the two Daughters of Monsr. de Cery, the Post commonly known by the Name of St. Augustine upon the Coast of Labrador, of the old Lease whereof two Years are unexpired, two years more, in all four from the date hereof or until His Majesty's Pleasure is further known,

No. 1355.

APETEPY CONCESSION.

[1 May, 1738.]

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 8, FOLIO 23 VERSO.

Charles Mis. de Beauharnois
Gilles Hocquart etc.

Sur La Requête a nous présentée par les srs. François Foucault Conseiller au Conseil Superieur de ce Pays, et Nicolas Gaspard Boucault. “ Lieutenant particulier de la Prevôté et Lieutenant de L'amirauté ” En cette ville contenant que suivant les intentions du Roy qui ne tendent pour le bien et avantage de cette colonie qu'a l'Etablissement des Terres et Lieux non habitez ; il est a leur connoissance que dans les terres du Nord de la Côte de Labrador, il y a Encore des Endroits a concéder dont on pouroit tirer de l'utilité pour le bien general et particulier en y faisant des Entreprises et depenses convenables pour leur Etablissement, Et que notamment il y a une Etendue de Terrain nommé Apétépy située Entre la concession du s. De Lavalterie et celle accordée au Sr. De Berouage le treize juillet 1722. dans lequel lieu et Etendue de terrain, on pouroit former des Etablissements de pêche du Loup marin ; ils nous suplient en consequence du pouvoir a nous donné de vouloir bien leur

(Translation.)

Charles, Marquis de Beauharnois.
Gilles Hocquart etc.

On the petition presented to us by the Sieurs François Foucault, Councillor in the Superior Council of this Country, and Nicolas Gaspard Boucault, Lieutenant particulier of the Provostship of Quebec and Lieutenant of the Admiralty in this city, stating that, according to the intentions of the King which tend only, to the welfare and advantage of this colony, to the settlement of uninhabited Lands and Places, they are aware that in the Terres du Nord of the coast of Labrador, there are still places to be conceded which could be utilized for the general and particular welfare if proper undertakings were performed and expenses incurred for their settlement, and that more particularly there is an extent of land called Apétépy, situated between the concession of the Sieur De Lavalterie and that granted unto the Sieur De Berouage on the thirteenth of July 1722 ; that in said place and terrain, establishments could be formed for seal fishing ; they pray us in con-sequence of the power entrusted to us, that we should be pleased to grant and concede unto them

p. 3561

accorder et concéder la de. Etendue de terrain avec les isles islets et Batures qui se trouveront au devant d'icelle avec le privilege d'y faire a l'Exclusion de tous autres la pêche du Loup marin, chasse et traite avec les sauvages, a quoy ayant

Egard Nous En vertu du pouvoir a nous donné par Sa Majesté, et sous son bon plaisir, avons accordé et concédé pour l'Espace de dix ans a commencer de la presente année aux d. srs. Foucault et Boucault led. lieu nommé Apétépy avec l'Etendue de terrain le long de la côte du nord qui se trouve Entre les concessions des d. srs. La Valterie et De Berouague sur quatre lieues de profondeur ainsy que les isles, islets et batures qui sont audevant de la de. Etendue pour en jouir par Eux par indivies et y faire un ou plusieurs Etablissements de pêche du Loup marin ainsy que la chasse et traite avec les sauvages a l'Exclusion de Tous autres pendant led. temps, et En outre avec la faculté d'y faire la Pêche de la morue concurremment avec les Batiments françois, a la charge par les supliants de faire valoir la presente concession a faute de quoy Elle demeurera de Nul Effet, et aussi de payer au Domaine de Sa Majesté en ce Pays par chaque année cinq castors ou la somme de dix Livres. fait et Donné a Quebec le premier may 1738. Signé Beauharnois et Hocquart et plus bas par messeigneurs signé Channazart et Benard Et scellez. Pour Copie.

HOCQUART.

(Translation.)

the said extent of land and also the islands, islets and shoals which are to be found in front of same together with the right carry on there, to the exclusion of all others, the seal fishing, hunting and trading with the Indians : Having regard to the said petition, We, in virtue of the power entrusted to us by His Majesty, and subject to his good pleasure, have granted and conceded, for the period of ten years, from and after the present year, unto the said Sieurs Foucault and Boucault the said place called Apétépy together with the extent of land along the Côte du Nord which is to be found between the concessions of the said Sieurs LaValterie and De Berouague, by four leagues in depth and also the islands, islets and shoals which are in front of the said tract to have and to hold same unto them jointly and to make there one or several seal-fishing establishments, together with the hunting and trading with the Indiana, to the exclusion of all others, during the said period, and, further, with the right carry on cod fishing concurrently with the French vessels, on condition that the petitioners develop the present concession, in default whereof the said concession shall be and remain null and void, and also to pay each year to the Domain of His Majesty in this country five beaver or the sum of ten *livres*. Done and given at Quebec on the first day of May 1738. Signed, Beauharnois and Hocquart and, further down, by Their Lordships. (Signed) Channazart and Benard. And sealed. For copy.

HOCQUART.

No. 1356.

**CONCESSION, 15 OCTOBER, 1750, OF APETEPY TO
LAFONTAINE FOR FIFTEEN YEARS, 1751-1766.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 67 VERSO.

Le marquis. de Lajonquiere etc.
François Bigot etc.

Le S. Lafontaine coner au Conseil superieur de Quebec nous ayant demandé l'année dre. de luy conceder pour 20. ans l'etendue de terrain nommé apetepi, ou Chicativan cy devant appartenant aux Srs. Foucault et Boucault, situé entre la concession du Poste St. Augustin, appartenant au feu S. Lavaltrie et celle du S. Brouague, avec quatre lieues de profondeur, ainsi que les isles, islots et battures qui sont au devant de la de. etendue, pour y etablir une pesche de baleine, nous en rendimes compte a Sa Majesté qui nous à envoyé ses ordres, en vertu desquels, nous avons accordé et concédé, accordons et concedons par ces presentes aud. S. de Lafontaine, pour le teins et espace de quinze années seulement, a compter de l'année prochaine, la de. etendue de terrain situé au lieu nommé Apetepi et cy dessus designé, avec les isles, islots et battures qui se trouveront au devant de la de. Concession. Pour en jöuir par luy et y faire un ou plusieurs etablissemens de pesche a la baleine, a l'exclusion de tous autres,

(Translation.)

The Marquis of Lajonquiere etc.
François Bigot etc.

The Sieur Lafontaine, Councillor in the Superior Council of Quebec having prayed last year that we would be pleased to grant unto him for a period of twenty years, the extent of land called Apetepi or Chicativan, previously belonging to the Sieurs Foucault and Boucault, situated between the concession of the Post of St. Augustin, belonging to the late Sieur Lavaltrie, and that of the Sieur de Brouague, with four leagues in depth, together with the islands, islets and shoals which are to be found in front of the said extent, for the establishing there of a whale fishery, We reported on same to His Majesty who has sent us his orders under which we have granted and conceded, and do grant and concede by these presents unto the Sieur de Lafontaine, for the time and space of fifteen years only, from and after next year, the said extent of land situated at the place called Apetepi and hereabove described, together with the islands, islets and shoals which are to be found in front of the said concession, to have and to hold unto him and to make there one or more establishments for whale fishing, to the exclusion of all others, and also to carry on hunting and trading with

ainsi que la Chasse et traite avec les sauvages pendant led. tems et la pesche de la morüe concurament avec les batimens qui pourront venir aud. lieu, a la charge par led. Lafontaine de faire valoir la presente concession faite de quoy elle demeurera de nul effet et aussi de payer au Domaine du Roy en ce pays par chaque année cinq castors ou la somme de dix livres. Fait et donné a Quebec le 15 8bre 1750. signé Lajonquiere et Bigot.

Pour copie.

BIGOT.

(Translation.)

the Indians during the said period, and the cod fishing concurrently with the vessels which may come to the said place, the said Lafontaine to develop the present concession at his own expense ; in default of which it shall become null and void, and also to pay each year to the Domain of the King in this country five beaver or the sum of ten litres. Done and given at Quebec, on the 15th of October 1750. Signed Lajonquiere and Bigot.

For copy.

BIGOT.

1761
August 21st.

No. 1357.

C

**CONCESSION OF APETEPY TO WHALE FISHING
COMPANY, 21 AUGUST, 1761.**

RETURN OF THE POSTS OR LANDS GRANTED BY MURRAY IN THE
GOVERNMENT OF QUEBEC OR DEPENDENCIES THEREOF TO THE
22ND JULY 1763, INCLUSIVE.

To the Whale Fishing Company a Tract of Land on the North Shore of the St. Lawrence lying between Latitude 50° 4' ; Longitude 58° 30 W. two Leagues Southwest of Channel Island, and 51° 15' ; Longitude 57 ; 45 W. bounded on that side by the River Misener, for three Years from the date, or until His Majesty's Pleasure is further known.

No. 1358.

ST. PAUL SEIGNIORY.

CONCESSION OF ST. PAUL TO AMADOR DE GODEFROY,
20 MARCH, 1706.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 5, FOLIO 42

Philippe de Rigaud etc.
Jacques Raudot etc.

A tous ceux qui ces presentes lettres verront salut savoir faisons que sur la requete a nous presentée par Amador Godefroy Ecuyer Sr. de St. Paul tendante a ce qu'il nous plust lui acorder concession d'une baye et riviere apellée Quitzezaqui autremt. dit la grande riviere pais des Esquimaux et de cinq lieues de terre de large de chaque coté le long de lad. riviere sur dix lieues de profondeur avec les isles islets et batures qui se trouveront dans lesd. baye et riviere et au devant dicelle et de donner a lad. concession le nom de St-Paul, nous en consideration des services que led. Sr. de St Paul a rendu en ce pais dans les guerres precedentes, et en vertu du pouvoir a nous conjointemt. donné par Sa Maté. lui avons donné accordé et concedé donnons, accordons et concedons par ces presentes lad. baye et riviere et lesd. cinq lieues de terre de large de chaque cote le long de lad. riviere sur dix lieues de profondeur avec les isles islets et batures qui se trouveront dans lesd. baye et riviere de la maniere qu'elles sont cidessus designées a laquelle nous donnons le nom de St. Paul, pour en jouir par lui ses hoirs et ayant cause en proprieté

(Translation.)

Philippe de Rigaud, etc.
Jacques Raudot, etc.

To all to whom these present letters shall come, greeting. Know ye that, on the petition to as presented by Amador Godefroy, Esquire, Sr. de St. Paul, praying that we would be pleased to grant him the concession of a Bay and River called Quitzezaqui, otherwise called the Grande Rivière, in the country of the Esquimaux, and of five leagues of land in width on each side along the said river by ten leagues in depth, together with the isles, islets and shoals lying in the said bay and river and opposite the same, and to give to the said concession the name of St. Paul. We, in consideration of the good services the said Sr. St. Paul has rendered in this country in past wars, and in virtue of the power to us conjointly entrusted by His Majesty, have given, granted and conceded, and give, grant and concede by these presents the said river and bay, together with the five leagues of land in width by ten leagues in depth, as well as the isles, islets and shoals lying in the said bay and river, in the manner they are hereinbefore described, to which we give the name of St. Paul; to have and to hold the same unto him, his heirs and assigns, in fee, for ever, in fief and seigniority, and the right of

a toujours a titre de fief et seigneurie, haute moienne et basse justice avec droit de chasse pesche et traite avec les sauvages dans toute l'etendue de la d. concession a la charge de laisser la grave libre a tous les pecheurs a l'exception de celle dont le d. s. St. Paul aura besoin pour fre sa pesche, de porter la foi et hommage au Chau St. Louis de Quebec duquel il rellevera aux droits et redevances acoutumées suivant la coutume de Paris suivie en ce pais, de conserver et faire conserver les bois de chesne propres pour la construction des vaisseaux de sa Maté., de donner avis au Roy ou au Gouverneur du pais des mines minieres ou mineraux si aucuns se trouvent dans lad. etendue, d'y tenir feu et lieu et de le faire tenir par ses tenanciers, de deserter et faire deserter lad. terre aussitot la presente guerre finie, et enfin de laisser les chemins et passages necessaires pour l'utilité publique. Le tout sous le bon plaisir de Sa Mte. de laquelle il sera tenu de prendre confirmaon des pntes dans un an, En foy de quoi nous les avons signées, a icelles fait apposer les sceaux de nos armes et contresigner par nos secretaires. donné a Quebec ce vingt mars 1706. Signé Vaudreuil Raudot et plus bas par Mgr.

BARRASSY ET DUMONTIER.

(Translation.)

superior, mean and inferior jurisdiction (*haute, basse et moyenne justice*), and that of hunting, fishing and trading with the Indians throughout the whole extent of the said concession, under the condition of leaving access to the beach to all the fishermen, except the beach which the said Sr. St. Paul will require for his fishery ; and subject to the performance of fealty and homage (*foi et hommage*) at the Castle of St. Louis in Quebec, of which he shall hold, under the customary duties and dues agreeably to the Custom of Paris followed in this country ; on the condition that he shall preserve and cause to be preserved the oak timber fit for the building of ships of His Majesty ; that he shall give notice to the King or to the Governor of the Country of the mines, ores and minerals which may be found therein ; and that he shall keep and cause to be kept fire and light (*feu et lieu*) therein by his tenants ; that immediately after the present war he shall clear and cause to be cleared the said tract of land ; and lastly that he shall leave the necessary road and paths for the use the public. The whole under the pleasure of His Majesty, by whom he shall be bound to have these confirmed within a year. In testimony whereof we have signed these presents and caused the same to be sealed with our seal at arms, and countersigned by our Secretaries. Done and given at Quebec, this twentieth of March, 1706. Signed Vaudreuil Raudot, and below by Mgr.

BARRASSY and DUMONTIER.

No. 1359.

BAYE DE PHELYPEAUX CONCESSION.

MINISTER TO COURTEMANCHE, 6 JUNE, 1708.

ARCHIVES OF CANADA, SERIES B, VOL. 29, p. 981.

A Versailles le 6. Juin 1708.

J'ay receu avec la lettre que vous m'avez ecrit le 20 du mois de Septembre de lannée derniere le journal de ce qui S'est passé a Labrador depuis vostre retour de Quebec et le memoire de ce qui est necessaire pour l'Establissement du fort, j'en ay rendu compte au Roy Sa ma.^{te} a esté bien aise d'apprendre que cet establissement commence a devenir considerable par la pesche du loup marin et de la morue qui Sy peut faire Elle a bien voulu vous continuer la gratification de cinq cent livres qui vous fut accordée lannée derniere et j'esoris a M.^{rs} de Vaudreuil et Raudot de vous donner les Secours qui pourront dependre d' Eux.

J'ay escrit aussy aux com.^{res} de Bayonne et de S.^t Malo d'engager lès marchands qui envoient des V^{aux} de vostre costé de charger dix tonneaux de Sel plus que leur provision pour vous en pouvoir fournir jls [sic.] m'ont fait reponse qu'jls [sic.] n'ont pu les y engager pour cette quantité mais qu'ils avoient promis de vous en donner ce qu'ils pourroient a un prix raisonnable c'est a

(*Translation.*)

Versailles, 6 June 1708.

Together with the letter which you have written to me on the 20th of the month of September of last year, I have received the report of what happened at Labrador since your return from Quebec, and also the memo of what is needed for the establishment of the fort. I have rendered an account of same to the King. His Majesty was very much pleased to hear about this establishment beginning to grow considerably through the seal and cod fishing which can be made therein. He has also been pleased to continue in your favour the allowance of five hundred livres which was granted unto you last year, and I am writing to Messrs. de Vaudreuil and Raudot to provide you with all the assistance in their power.

I have also written to the commissioners at Bayonne and at St. Malo in order that they may see that the merchants who are sending vessels in your direction add ten barrels of salt to their ordinary and personal supply so that you may have your share. In their answer they told me that they could not have put this quantity on board but that they have promised to let you have all that

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vous de vous en accomoder avec Eux, faites moy Scavoir ce que vous en aurez tiré.

Je fais envoyer de Rochefort a M.^r Raudot les ustancils de pesches que vous demandez jl [sic.] vous les envoyera de

Quebek.

Vous avez bien fait de m'jnformer [sic.] de ce qui vous est arrivé avec les Sauvages Esquimaux, j'attendray avec beaucoup d'jmpatiance [sic.] de vos nouvelles pour Scavoir Si vous aurez pu parvenir a les aprivoiser de mesme que les autres Sauvages qui sont alliez des francois, jl [sic.] me paroist qu'jl [sic.] Seroit fort jmportant [sic.] pour vostre etablissement que vous en pussiez venir a bout, ainsy je vous recomande de ne rien oublier pour cela et de ne prendre le party de leur faire la guerre pour les detruire qu'a la derniere extremité, observez dans le compte que vous me rendrez de ce qui regardera ces Sauvages d'entrer dans le plus grand detail qujl [sic.] Se pourra pour me donner une parfaite connoissance de leur nombre et de leurs forces.

Je vous recomande aussy de vous attacher a mettre le fort que vous avez fait faire en estat de deffense comme c'est vous qui profitez du commerce qui Sy fait jl [sic.] est juste que vous Soyez chargé de la depense de la garnison.

A lesgard du commandement que vous demander du poste de Labrador Sa ma^{te}. vous l'accordera Si vous voulez quitter celuy de vostre compagnie et c'est Sur quoy j'attendray de vos nouvelles.

Je suis bien aise que le terrain de ce poste Soit aussy bon que vous me le marquez tant pour estever des bestiaux que pour recueillir toutes Sortes de grains, jl [sic.] me paroist que cela joint a la pesche on y peut former un etablissement considerable, envoyez moy un memoire bien détaillé de tout ce qu'jl [sic.] faudroit

(Translation.)

they can spare and at a reasonable price. It is incumbent upon you to settle the matter with them. Please let me hear about the results.

I shall forward from Rochefort to Mr. Raudot the fishing tackle you ask for. He will send them to you from Quebec.

Your information as to what occurred with the Esquimaux Indians was found to be most interesting and I shall anxiously await further news from you with reference to your being able or not to tame them together with the other Indians who are allies of the French. It seems to me of great importance for your establishment that you should manage them, and I therefore recommend you to omit nothing and to reach the decision of declaring war for their destruction only when you cannot do otherwise. In the report that you make to me with reference to these Indians, please give every detail that you can that I may have a perfect knowledge of their numbers and of their strength.

I also recommend you to endeavour to place the fort which you have erected in a state of defence. As you benefit by the trade which is being made there, it is only just that you should be responsible for the cost of the garrison.

With regard to the command of the post of Labrador you are applying for, His Majesty is willing to grant same unto you provided you shall quit that of your Company, and it is upon said matter that I will await further news from you.

I am pleased to hear that the soil of this post is as good as you say either for the breeding of cattle or for the cultivation of all sorts of grains. It seems to me that this, combined with the fishing, will contribute toward making it a very important establishment. Send me a detailed memo of all

faire pour parvenir a cet etablissement avec un plan du fort que vous avez fait faire et Si cela est possible une petite carte

de cette coste Sur laquelle vous marquerez les ports qui Seront propres pour recevoir des Vaisseaux.

Je n'ay pu faire accorder au S.^r Prat marchand de Quebec qui vous a secouru le fret de plusieurs tonneaux de Sel que vous avez demandé pour luy parce que Sa ma.^{te} a traité cette année avec un particulier pour la depense du navire qui va a Quebec.

Je vous recommande de me donner de vos nouvelles par toutes les occasions que vous en aurez et de Suivre exactement tous les ordres que M.^r de Vaudreuil pourra vous donner.

(Translation.)

that would be needed to place said establishment on the above footing, together with a plan of the fort which you have had erected and, if possible, a small map of the coast, upon which you should indicate the ports capable of receiving vessels.

[30 june, 1707.]

I was unable to arrange that Sr. Prat, merchant at Quebec, who has assisted you, be granted the cargo of several barrels of salt which you requested in his behalf, because His Majesty has dealt this year with a private individual as to the expense of the ship which goes to Quebec.

I recommend you to never miss an occasion to send me all the news you can and to strictly follow all the orders Mr. de Vaudreuil sees fit to give you.

No. 1360.

C

MINISTER TO COURTEMANCHE, 30 JUNE, 1707.

ARCHIVES OF CANADA, SERIES B, VOL. 29-2, p. 303.

A Versailles le 30. Juin 1707.

J'ay receu la lettre que vous m'avez escrite le 26. du mois de juillet de lannée dernière. J'y esté bien aise d'apprendre que letablissement que vous avez commancé a Labrador devient tous les jours plus considerable et que la morue y est tres abondante, si les commoditez pour la pesche sy trouvent

(Translation.)

At Versailles, 30 June, 1707.

I have received the letter which you wrote to me the 26th of the month of July last year. I was pleased to bear that the establishment which you have commenced at Labrador is growing in importance every day and that the cod are very abundant there ; if the fishing facilities are such as you

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telles que vous me le marquez il faut s'attacher a soutenir ce poste, et je vous recommande de continuer a vous y appliquer.

J'ay veu avec plaisir ce que vous me marquez sur la

pesche des Loups Marins et du saumon, et sur l'esperance que vous avez destablir aussy la pesche de la Baleine, Mrs de Vaudreuil et Raudot vous donneront toute la protection dont vous aurez besoin pour soutenir cet establissement, ainsy vous n'avez qu'a vous adresser a eux pour les choses qui vous sont indispensables, on ne scauroit vous accorder de soldats parcequ'il n'y en a pas suffisamment pour faire le service et garder les postes des gouvernements de Quebec et de Montreal, dailleurs je crois qu'il vous convient mieux d'avoir des habitans a quoy lesd. Srs de Vaudreuil et Raudot vous ayderont, je leur escris de vous envoyer un missionnaire et de faciliter a vostre famille les moyens de vous aller trouver.

Sa Ma^{te} a bien voulu vous continuer la gratifficaon qui vous fut accordée lannée derniere en consideration de vostre establissement et vous pouvez compter qu'en vous appliquant a le mettre en bon estat Elle vous fera dautres graces dans la suite.

Je me souviendray de vostre frere qui sert avec vous si sa Ma^{te} prend le Party de vous envoyer un detachment de soldats, continuez de me mander les suites qu'aura vostre establissement.

(Translation.)

describe them to me, efforts must be made to maintain this post and I advise you to proceed with the same interest.

I noticed with satisfaction your statement on the seal and salmon fishery and on your intention or hope of forming as well a whale fishery. Messrs. de Vaudreuil and Raudot will extend to you the protection required for the maintenance of this establishment, and, therefore, you simply have to apply to them for such things as are absolutely necessary to you ; you cannot be supplied with soldiers as there is not a sufficient number of them for the service and to guard the Quebec and Montreal government posts ; besides, I am of the opinion that habitants would be more suitable to your ends and, in this, the said Sieurs de Vaudreuil and Raudot will assist you ; I am writing to them to the effect that they send you a missionary and provide your family with the required accommodation to join you.

His Majesty has been agreeable to continue to you the allowance which was granted last year in consideration of your establishment and you may expect further favours from Him in the future should you bring the same to a good condition.

I shall remember your brother who is in the service with you, should His Majesty decide to despatch a detachment of soldiers ; keep me informed of the results of your establishment.

No. 1361.

COURTEMANCHE TO PONTCHARTRAIN, 1711 (?).

ARCHIVES OF CANADA, SERIES C, VOL. 109, p. 421.

[No date but probably 1711.]

DEMANDES que le S.^r de Courtemanche fait a Monseigneur de Pontchartrain pour luy aider a soutenir l'Etablissement de La Bras d'or, Suivant Ses intentions [sic.].

Vous represente tres humblement Monseigneur Le d. S.^r de Courtemanche qu'il est nécessaire pour suivre l'Etablissement de ce poste qu'il y soit ce dentaire ; pour cet effet, jl [sic.] supplie tres humblement vôtre Grandeur de luy accorder la permission d'y rester quelques années de suite afin de le rendre plus solide, amoins que la necessité ne l'oblige soûs vôtre bon plaisir. Monseigneur de passer en france Suivant les avis qu'il en donneroit par un Canot qu'il enverroit exprés à Mr. de Vaudreüil a qui il feroit entendre Ses raisons.

Il est de la derniere consequence, Monseigneur, que vous ayez la bonté d'ordonner a Mrss.^{rs} les Commissaires de S.^t Malo, de Bayonne, de S.^t Jean du lush et autres lieux de S'informer du nombre de vaisseaux qui viennent dans ce continent afin de les éngager d'y apporter du sel suffisamment auprix de france comme il la exposer dans les Memoires de Lannée derniere, en leur tenant compte de lavance dargent, du coulage, et dés assurances, ce qui est le moyen

(Translation.)

REQUESTS of Sr. de Courtemanche to Monseigneur de Pontchartrain in order that he may be granted assistance for the maintenance of the Establishment of La Bras d'or, following the latter's intentions.

The said Sr. de Courtemanche most respectfully represents to Your Lordship that, for the upkeep of the Establishment of this post it is necessary that he should remain there alone ; for this purpose, he very humbly prays Your Lordship to grant unto him permission to remain there several consecutive years in order to strengthen same, unless he is compelled under Your Lordship's good pleasure to return to France following the orders conveyed by a canoe specially despatched to Mr. de Vaudreuil to whom reasons for this would be given.

It is of the utmost consequence, My Lord, that you be kind enough to issue orders to Messrs. the Commisioners at St-Malo, at Bayonne, at St. Jean du lush ¹ and at other places that they enquire as to the number of vessels coming to this continent and have same bring salt in sufficient quantity at the price paid for it in France as it has been explained by him in the statements of last year, keeping into account in their favour the sums of money advanced, the leakage and the insurances,

¹ St. Jean de Luz, probably.

d'y attirer des familles pour y faire l'Etablissement de la pesche ? Les deux vaisseaux qui y sont venus cette année n'en ont pü fournir que deux Boisseaux, n'en ayant eu par labondance du Poisson que pour faire leur pesche, mais jls [sic.] ont promis a leur départ d'en fournir chacun quatre thonneaux l'année prochaine et d'engager autant qu'ils pourront les autres vaisseaux qui y viendront de faire de mesme.

JL [sic.] vous supplie tres humblement Monseigneur de considerer ques les gratifications que vous luy avez accordé en faveur de cet Etablissement ne luy ont point été remise depuis trois années Sans compter celle qu'on a pretendu être dans la Seine lorsqu'elle fut prise, ce qui ne doit pas retomber a son prejudice puisqu'il n'a point discontinué de faire valoir ce poste.

JL [sic.] est de la derniere consequence Monseigneur que vôtre Grandeur ait la bonté d'entrer dans la depense que le d. S.^r de Courtemanche est obligé de faire pour le grand nombre d'hommes qu'il convient d'entretenir aud. poste tant pour la garde du fort que pour celle qu'il a fait faire cette année alavantgarde des vaisseaux du costé des Esquimaux afin de les garantir de leurs jnsultes [sic.], et leur donner moyen de faire tranquillement leurs travaux de pesche par lapréhention qu'ils on d'être surpris de ces Barbares, pourquoy il Supplie tres humblement vôtre grandeur de luy accorder de Canada vn teldettachement quil luy plaira, ou bien la Compagnie.

Comme vous avez donné ordre Monseigneur aud. S.^r de Courtemanche de prendre connoissance de L'Etablissement des Esquimaux, de leur nombre, et de leur force, ce qui luy paroist assés par ce que cette Nation est herrante, Jl [sic.] fera son possible pour satisfaire a vos jntentions [sic.], mais jl [sic.] ne le peut faire

(Translation.)

which is the best means for bringing there families desirous of settling at this place to carry on fishing. The two vessels which came there this year were able to furnish only two bushels of same, and as the fishing was abundant, they had just enough to cure their fish, but when leaving, they promised to provide next year four barrels each of same and to do their utmost to have the other vessels coming there do the same.

He very humbly prays you, My Lord, to take into consideration that the allowances granted unto him by yourself in favour of this Establishment have not been paid to him since three years¹ without speaking of that which has been contended to be lost in the " La Seine " when it was taken, a condition on account of which he should not have to suffer as he never discontinued to maintain this post,

It is of the utmost consequence, My Lord, that your Lordship be good enough to share the expense that the said Sr. de Courtemanche is compelled to incur in order to keep at the said post the great number of men necessary for the protection of the fort and also for that which he has had accomplished this year at the vanguard of the ships on the Esquimaux coast so that they may be protected against their insults, and give them means to carry on their fishing in peace [without] fear of their being taken by surprise by these barbarians, wherefore he most humbly prays Your Lordship to grant unto him from Canada such a detachment as he may be pleased to grant, or else his Company.

As Your Lordship has ordered Sr. de Courtemanche to look into the establishment of the Esquimaux, their number and their strength, which he deems sufficient, as this nation leads a wandering life, he will do his utmost to gratify your desires, but he will be unable to do so without being

sans être Secondé, C'est pour quoy il a Supplié M^r le Gouverneur general de Luy accorder le printemps prochain aux frais du Roy six hommes avec vn Charroy, les vivres et munitions de guerre pour faire cette decouverte qu'il fera luy même afin de vous en rendre vn Compte exact, aussy bien de ce qu'il pourra découvrir le long de cette coste.

Comme vous avez laissé la liberté Monseigneur aud.^t S. de Courtemanche de prendre le Commandement de labras d'or en faisant cession de sa Compagnie, il en accepte tres volontiers le Commandement pourveu que vôtre Grandeur ait la bonté d'y joindre des appointements convenables au caractere, Sans quoy il se tiendra a sa Compagnie avec vôtre permission de rester a ce poste pour le faire valoir.

Le d. S.^r de Courtemanche vous représente Monseigneur que le Missionnaire qu'il a a les charges dans ce lieu, est d'une utilité indispensable pour le Soulagement des aines qui y sont, pour ceux d'Europe qui y viennent faire la pesche et pour Etablir le Christianisme parmy ces Sauvages qui y sont habitez lesquels l'embrassent avec Exemple c est ce qui luy fait espérer que vôtre grandeur aura la bonté d'entrer dans la dépense qu'il est obligé de faire pour son entretien et sa nourriture en luy accordant ce qu'on donne dans les autres missions.

JL [sic.] prend la liberté Monseigneur de réitérer a vôtre Grandeur Ses tres humbles jnstances [sic.] pour le retablissement du S.^r de Lavalterie qui depuis dix ans a Lhonneur de servir Sa Majesté en qualité de Cadet, ce sont deux personnes tres necessaires au d. Poste pour seconder dans les occasions le d. S.^r de Courtemanche y etant experimentez et qui y servent actuellement.

COURTEMANCHE.

(Translation.)

assisted. Accordingly, he has requested Mr. the Governor General to grant unto him next spring at the King's expense, six men together with a cart, supplies and war ammunitions to undertake this discovery which he will make personally in order to report faithfully on same and also on what he may discover along the said coast.

The said Sr. de Courtemanche being at liberty through Your Lordship's permission to assume the command of Labrador after surrendering his Company, he indeed accepts most willingly the said command, provided Your Lordship will be kind enough to join to same adequate compensation. Otherwise. he will remain with his Company with your permission to stay at this post to keep it up.

The said Sr. de Courtemanche represents to Your Lordship that the Missionary whom he keeps here at his own expense, is of an indispensable usefulness for the relief of the individuals who are here, for the Europeans who conic to carry on fishing, and for the establishment of Christianity amongst these Indians accustomed to same who embrace it with example, and this is why he cherishes the hope that Your Lordship will be kind enough to share the expense which he is compelled to incur for his upkeep and his food, by granting unto him what is given in the other missions.

He takes the liberty, My Lord, to reiterate to Your Lordship his very humble

entreaties for the reestablishment into the service of Sr. de Baumont, and for the promotion of Sr. de Lavalterie who, for ten years, has had the honour of serving His Majesty as Cadet. These two persons are absolutely necessary at the said post and, occasionally, assist the said Sr. de Courtemanche, being experienced and serving there at present.

COURTEMANCHE.

[12 Nov., 1714.]

No. 1362.**ORDER OF THE KING, 12 NOVEMBER, 1714,
APPOINTING COURTEMANCHE TO BE
COMMANDANT FOR THE KING ON THE
COAST OF LABRADOR.**A Marly le 12 9^{bre} 1714.

De par le Roy

Sa Majeste estimant necessaire qu'il y ait un officier de ses troupes pour commander a la coste de Labrador pays des equimaux et estant satisfaite des fermiers du Sieur de Courtemanche Capitaine d'une de ses compagnies entretenues en la nouvelle france qui a deja fait un etablissement a la dite coste, Sa Majesté veut et entend qu'il commande en la dite coste de Labrador et qu'il y regle et accomode les differents qui pourront arriver entre les sujets de Sa Majeste au sujet des emplacements pour la pesche a la dite coste mande Sa Majesté au Sieur Marquis' de Vaudreuil gouverneur et lieutenant general en nouvelle france de le faire reconnoitre en la dite qualité et a tous autres qu'il appartiendra de luy obeir et entendre.

Fait a Marly le 12 Novembre 1714.

(Translation.)

At Marly, 12 November, 1714.

By the King's command

His Majesty deeming it necessary that an officer of his troops should be in command on the coast of Labrador, the country of the Esquimaux, and being satisfied with the fermiers of the Sieur de Courtemanche, Captain of one of his companies maintained in New France, who has already made a settlement at the said coast, His Majesty ordains and approves that he command on the said coast of Labrador and that he settle and adjust the disputes which arise between His Majesty's subjects in connection with the situations of fisheries on the said coast. His Majesty commands the Sieur Marquis de Vaudreuil, Governor and Lieutenant General in New France, to have him acknowledged as such and to all others to obey and hear him.

Done at Marly on the 12th of November 1714.

No. 1363.

**CONCESSION, 12 NOVEMBER, 1714, BY THE KING,
OF BAYE DE PHELYPEAUX TO COURTEMANCHE,
FOR HIS LIFETIME.**

ARCHIVES OF CANADA, SERIES C 11, VI, VOL. 8, p. 151.

Aujourd'hui 12 Novembre 1714, le Roy estant a Marly et estant informé de la reussite de l'establissement que le Sieur de Courtemanche a fait a la baye de Phelypeaux coste de Labrador pays des esquimaux ou il luy a esté accordé en l'année 1702 une concession pour l'espace de dix années par les sieurs de Vaudreuil et Beauharnois gouverneur et intendant en la nouvelle france laquelle a esté confirmée par Sa Majesté l'année suivante la dite concession contenant depuis la riviere de Kegaskat du costé de Quebec jusques a celle de Kesessaskiou qui est au dessous de Bellisle, avec pouvoir au dit Sieur de Courtemanche seul d'y faire la traite avec les sauvages, la pesche de Baleines, loups marins et Morues, Sa Majesté voulant continuer a le traiter favorablement en consideration des peines et soins qu'il s'est donné pour le dit etablissement, elle luy a concédé par le present brevet la baye de Phelypeaux ou il est presentement etabli avec quatre lieues de front sur la dite coste joignant la dite Baye, scavoir 2 lieues en remontant du costé de Quebec et deux lieues en descendant du costé du detroit de Belisle, le tout sur quatre lieues de profondeur dans les terres et ensemble les isles et islots adjacents a la dite Baye et coste concédée, pour en jouir sa vie durant et tant qu'il fera valoir la dite concession par les pesches qu'il y fera, veut Sa Majesté qu'il ait seul dans la dite baye de Phelypeaux et dans les 4 lieues de front a luy concédées sur la dite coste, ensemble dans les

(Translation.)

To-day, 12th of November 1714, the King being at Marly and being informed of the success of the establishment which the Sieur de Courtemanche has made at the baye de Phelypeaux on the coast of Labrador, country of the Esquimaux, where, in the year 1702, a concession was granted unto him for a period of ten years, by the Sieurs de Vaudreuil and Beauharnois, Governor and Intendant in New France, the same having been confirmed the following year by His Majesty, the said concession extending from the river of Kegaskat towards Quebec as far as Kesessaskiou river which is below Belleisle, with the exclusive power for the said Sieur de Courtemanche to carry on there trade with the Indians, whale, seal and cod fishing, His Majesty wishing to continue treating him favourably in consideration of the trouble and care he went to in connection with the said establishment, has granted unto him under this patent the baye of Phelypeaux where he is at present established, together with four leagues in front on the said coast joining the said Baye, that is to say, two leagues ascending towards Quebec and two leagues descending towards the strait of Belleisle, the whole by four leagues in depth in the interior, and also the islands and islets adjacent to the said Baye and coast thus granted, to enjoy same all his life and so long

as he shall develop the said concession through the fishing that he will carry on there, it being His Majesty's will that, in the said baye of Phelypeaux and in the four leagues in front to him granted on the said coast, together with the islands and islets adjacent to the said Baye and

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isles et islots adjacents a la dite Baye et coste, la faculté d'y faire la pesche du loup marin, et qu'a l'egard des autres pesches qu'il les fasse concurramment avec les vaisseaux qui viendront a la dite Baye. Luy permet Sa Majesté de faire la traite avec tous les Sauvages qui peuvent se trouver sur la dite coste et terre de Labrador, sans que pour raison de tout ce que dessus il soit tenu de payer a Sa Majesté ny a ses successeurs Rois aucune finance ni indemnité, de laquelle ft quelque somme qu'elle puisse monter Sa Majesté luy a fait don et remise par le present brevet qui sera enregistré au Conseil Superieur de Quebec et partout ailleurs ou besoin sera et que Sa Majesté pour témoignage de sa volonté a voulu signer de sa main et estre contre signé par moy Conseiller Secretaire d'estat et de ses commandements et finances et commandeur de ses ordres.

(Translation.)

coast, he alone enjoy the power of taking seals there, and that, with regard to other fisheries, he shall carry them on concurrently with the vessels coming to the said Baye. His Majesty authorizes him to trade with the Indians who are to be found on the said coast and land of Labrador, without, in respect to the foregoing, being held to pay to His Majesty or the Kings his successors any tax or indemnity, which, whatever sum it may amount to, His Majesty has donated and remitted to him by the present patent which shall be registered at the Superior Council of Quebec and wherever else may be required, and that His Majesty in testimony of his will has signed in his own hand, same being countersigned by nie Councillor Secretary of State and of his Household and treasury and his mandatory.

[26 June, 1706.]

No. 1364.

C

MINISTER TO COURTEMANCHE, 26 JUNE, 1706 (?).

ARCHIVES OF CANADA, SERIES B, VOL. 34-1, p. 246.

Mr. de Courtemanche.

a Marly le 26 Juin, 1706 (?).

Jay receu les lettres que Vous mavez Ecrite les 2 7^{bre} et 7. 8^{bre} de l'année derniere.

Sa Majesté a approuvé que Vous ayez change Votre Etablissement et que Vous layez transporté dans la Baye de Phelypeaux ou Vous me marqués quil

(Translation.)

I am in receipt of your letters of the 2nd September and 7th October of last year.

His Majesty has approved of your having changed your establishment and transferred the same to Phelypeaux bay, where you state its location will be more convenient for the fishermen ; you must

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sera mieux pour la commodité des pecheurs, il est necessaire que Vous menvoyez une description exacte de cette Baye comme aussy de toutes celles dont Vous me parlez en me marquant en même Tems si la pesche y est abondante si elle y dure longtems quelle qualité de poisson on y pesche et pour combien de Navires il y a de grave, et si les brumes qui sont fréquentes dans l'endroit ou Vous estes n'empeschent point le poisson de secher, Il seroit aussy necessaire que Vous me marquassies la qualité de la Terre ce quelle pourroit rapporter et sil y a du Bois dans ces Bayes.

Il seroit bien a souhaiter que Vous puissiez reussir a la pesche de la Baleine que Vous me marquez aller entreprendre, lhuile est un bon commerce et dont il ny en a jamais trop dans le Royaume.

Je doute que lon ne puisse a la fin parvenir a pratiquer avec les Esquimaux, le Vol que Vous me marquez quils ont fait au Sr Tapin ne me surprend point ce sont des peuples qui manquent faute de Commerce des choses dont ils ont absolument besoin et que nous pourions leurs fournir, et je suis persuadé outre cela persuadé que s'ils voyoient que par le moyen des peaux quils ont et des huilles quils font ils peussent tirer ce quil leur est necessaire ils se defferoient de cette mauvaise qualité. Pour y parvenir il ne faut point se reputer, ce nest quavec le tems et la patience quon Vient a bout des hommes et il en faut bien d'avantage pour ceux la, Jay appris que ces sauvages estoient dispersés par famille, Vous deveriés tacher d'en attirer quelq. une pour venir commercer tous les ans a Votre Etablissement pour cela il faut les bien recevoir, leur faire des caresses et leur donner dans les commencement apres avoir commercé avec eux.

Vous me demandez 6 : milliers de poudre pour la gratifficaõn d'un millier que Sa Majesté a la bonté de Vous accorder par an, Envoyez moy Je Vous prie

(Translation.)

send me a correct description of this bay as well as of all those you refer to and tell me at the same time if the fishery is abundant, if it lasts long, what quality of fish is caught and how many vessels the shore can accommodate, and if the frequent fogs at the place where you now are do not prevent the drying of fish. It will also be necessary for you to inform me of the quality of the soil, of what it is likely to yield and if there is any timber in these bays.

It is desirable that you succeed in the whale fishery which you are about to undertake ; the oil trade is a good one and the supply of the same is never excessive in the Kingdom.

I doubt whether we shall ever win over the Esquimaux ; I am not surprised at the robbery which you told me they committed against the Sieur Tapin ; they are people who, for want of commerce, lack everything they stand in need of and which we could supply them, and, furthermore, I am satisfied that, should they realize what the skins they have and

the oils they make would bring them they require, they would forsake this vice. To accomplish this end, one must be persistent, as it is only through time and patience that men can be subdued, and all the more in the case of such as they. I have been told that the Indians are scattered by families ; you ought to try and induce a few of them to come and trade every year at your establishment. To that end, they must be made welcome, they must be pampered and given presents at the start after having traded with them.

You are asking for six thousand pounds of powder, being the allowance of a thousand pounds per

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une notte des années qui Vous sont dues avec le nom de la personne a qui je la feray remettre.

Le S. Prat me mande de Quebec quil a ordre de Vous pour la recevoir et quil Vous en tiendra compte sur les avances quil a faite pour le poste ou Vous este. Vous navez qu'a envoyer LAnglois prisonnier que Vous avez a Quebec.

A IEgard de la garnison que Vous me demandés, j'examineray sil convient de le proposer au Roy la chose ne paroist guerre possible a present, Vous ne devez pas Cependant douter de lenvie que j'ay de vous faire plaisir.

(Translation.)

annum that His Majesty has been pleased to grant you. I would request of you that you send me a memo of the years due you with the name of the person to whom the powder is to be delivered.

The Sieur Prat informs me from Quebec that you instructed him to receive the same and that he would give you credit accordingly on the advances he made for the post where you are at the present time. Just send the English prisoner whom you hold at Quebec.

In connection with the garrison requested, I will consider if it is expedient to submit the proposal to the King ; it scarcely seems possible at the present time. However you must not doubt my desire to assist you.

[13 Sept., 1716.]

No. 1365.

C

**MINUTES OF CONSEIL DE MARINE, re
COURTEMANCHE'S REPORT, DATED
13 SEPTEMBER, 1716.**

Le sieur de COURTEMANCHE, capitaine du canada commandant à Labrador à la Baye Philypeaux le 13 septembre 1716.

La côte de Labrador s'augmente de plus en plus tous les vaisseaux au nombre de 15 y ont fait une pêche très avantageuse, même plus que d'ordinaire.

Tous les capitaines demandent que ce continent ne soit point concédé à aucun particulier, ils assurent qu'ils trouveront plus d'avantages à cette côte qu'ils n'avaient autrefois à Plaisance.

(Translation.)

The sieur de COURTEMANCHE, captain in Canada, in command at Labrador, at Phelypeaux Bay, 13 September, 1716.

The coast of Labrador is steadily improving ; every vessel engaged in the fisheries at this place had a very profitable catch, even larger than usual.

All the captains are requesting that this continent be not conceded to any individual ; they affirm that they will derive more benefits from this coast than they did formerly at Plaisance.

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NOTA.—Le conseil lui a écrit le 16 juin 1716 qu'il ne convenait point d'accorder aux propriétaires des navires qui vont à la pêche des établissements certaines a la côte de Labrador parceque cela nuirait à l'augmentation de la pêche et que leur demande sur cela leur avait été refusée.

Il a écrit à M. de Vaudreuil pour lui demander de permettre à son correspondant à Québec la levée de 12 hommes et de lui envoyer un officier pour les commander. Il y joindra cinq familles de sauvages pour faire l'établissement de la rivière de KESCAKIOU le tout à ses dépens.

La D.^e de COURTEMANCHE à Bayonne le 9 Décembre 1716. Son mari était sur le point de passer en France lorsqu'il a été averti qu'un parti de 800 esquimaux paraissait aux environs de son poste et qu'ils avaient déjà brulé deux cabanes de pêcheurs français, elle est venue à son défaut et une indisposition l'oblige de rester à Bayonne où elle a débarqué.

Le principal sujet de son voyage est pour justifier la conduite de son mari dont elle prétend qu'on a fait des plaintes au conseil, elle les attribue au nommé La Vallée Constantin qui ayant été son domestique a fait connaissance avec les sauvages qu'il s'attire et détourne des limites où ils doivent se rendre, c'est dans cette vue qu'étant venu à la côte de Labrador sous prétexte d'y faire un établissement il courut cette côte pour enlever ce que les sauvages auraient porté chez eux à qui ils doivent, son mari, connaissant cet homme capable de donner de mauvaises impressions aux sauvages les renvoya à Québec et informa M. de Vaudreuil des raisons qu'il avait de le faire, il lui en rendit encore un compte plus particulier étant à Versailles il y a deux ans, M. de Vaudreuil

(Translation.)

NOTE.—On the 16th June, 1716, the Council wrote to him, stating that it was not deemed proper to grant to owners of vessels permanent establishments on the coast of Labrador, as this would be prejudicial to the development of fisheries and their application for same had been rejected.

He wrote to M. de Vaudreuil and requested that his agent at Quebec be permitted to levy twelve men and that an officer should be sent to him to act as their commander. He would add to the above five Indian families, in view of forming the establishment of the River KESCAKIOU [Hamilton river], the whole at his own expense.

Dame de Courtemanche was at Bayonne, on the 9th of December, 1716. Her husband was about to take passage for France when he was informed that a party of 800 Esquimaux had put in an appearance in the vicinity of his post, and that, already, they had burnt two French fishermen's huts. She came instead of her husband who, owing to an indisposition, is compelled to stay at Bayonne, where she landed.

The chief object of her journey is to defend the conduct of her husband against whom, she claims, grievances have been submitted to the Council. Such grievances she lays

at the door of one La Vallée Constantin ¹ who, having been, at one time, in her employ as a servant, has come in contact with the Indians whom he attracts to himself and induces to go beyond the limits allotted to them. It was with this end in view that, having come to the coast of Labrador under the pretense of forming an establishment at this place, he overran this coast for the purpose of taking away from the Indians whatever they would have carried to their creditors. Her husband being aware that this man was such as would instil improper notions into the minds of the Indians, sent him back to Quebec and informed M. de Vaudreuil of his reasons for so doing. He gave him a still more detailed explanation while at

¹ Evidently Pierre Constantin, concessionaire of St. Modet.

convint qu'un homme de ce caractère n' était pas propre dans de nouveaux établissements et lui promit qu'il ne le reverrait plus dans le sien cependant il prétend y revenir y être indépendant.

NOTA : Le conseil a accordé l'année dernière une concession au dit Constantin sur l'avis de M. de Vaudreuil qui a représenté que cet homme a été le premier à Labrador et y avait mené le sieur de Courtemanche.

Son mari ne demanderait pas mieux que de voir des familles s'établir dans son quartier, mais le bois si nécessaire pour la pêche y est si rare qu'il n'a pu se dispenser de faire sur cela ses remontrances qui sont sincères et n'ont pour but que l'avantage de la pêche.

Elle représente que l'expérience a fait connaître combien la morue est abondante dans les différents ports de cette côte, il ne reste qu'à mettre les pêcheurs à l'abri des surprises des esquimaux ce qui se peut faire par le moyen d'un fort qu'il faudrait bâtir, comme son mari l'a proposé à M. de Vaudreuil au dessous de Belisle, un officier et douze hommes suffiraient pour le garder ; son mari en aurait fait la dépense s'il n'était pas épuisé par celle de son établissement de sorte qu'il n'a pas peu de peine de fournir à l'entretien du fort qu'il garde.

Il lui est dû 3 années d'appointements et une avance de plus de 2000 au sujet des canots qu'il envoya à Québec pour donner avis de l'entreprise des anglais sur le Canada et ensuite de l'échouement de leur flotte (en marge est écrit : ses appointements sont employés sur l'état de Québec comme capitaine. Il a fait une pareille demande il y a deux ans, elle a été renvoyée à M. de Vaudreuil et Bégon pour lui faire rembourser ce qui se trouverait juste).

(Translation.)

Versailles two years ago. M. de Vaudreuil admitted that a man of such character was not fit to be in newly formed establishments and he promised that he would see him no more in his own ; nevertheless he means to return there and be independent.

Note.—Last year [31 March, 1716] the Council granted a concession to the said Constantin, upon the advice of M. de Vaudreuil who represented this man as being the first to have gone to Labrador and that he had taken the Sieur de Courtemanche to that place.

Her husband is only too desirous of having families settle in his district, but the timber, so necessary for the fisheries, is so scarce that he could not help but voice his grievances on this score, and he did so in sincerity and with no other motive than the interest of the fisheries.

She represents that, from experience, it has been ascertained that the cod fishery is abundant in the several harbours of this coast. It only remains to insure the protection of the fishermen against the attacks of the Esquimaux, which can be accomplished, as her husband has suggested by M. de Vaudreuil, by the erection of a fort which would be guarded by an officer and twelve men ; her husband would have borne the cost of the same but for the fact that his resources were depleted as a result of the expenses incurred for his own establishment ; consequently he experiences no little difficulty in providing for the upkeep of the fort he is maintaining.

There is owing to him three years salary and an advance of over 2000 livres for canoes sent by him to Quebec in order to give warning of the attempt of the English against Canada and of the subsequent stranding of their fleet (a marginal note reads : His salary figures in the Quebec statement as that of a captain. Two years ago a similar demand was

Elle supplie le conseil d'ordonner que cette somme et les appointements de son mari lui soient payés pour la mettre en état de régler ses affaires et de lui porter les vivres et munitions nécessaires pour l'entretien de son poste. Elle représente que ces vivres sont très utiles aux pêcheurs qui font naufrage comme il est arrivé le printemps dernier à un navire normand de 58 hommes d'équipage qui a péri dans les glaces à 40 lieues au large et dont l'équipage s'est sauvé au poste de son mari et y a été nourri de ses vivres, il serait à propos qu'il en eut pour ces cas imprévus et pour la garnison qu'il demande une quantité plus forte que celle dont il est en état de faire provision, il lui faudrait aussi de la poudre et des balles pour se défendre des esquimaux. Elle ajoute que son mari a écrit du 11 Octobre dernier que ces sauvages sont venus à une lieue de son fort et ont brûlé toutes les cabanes et ustensiles que les pêcheurs partis pour France y avaient laissés, il les a poursuivis inutilement pendant six jours par mer et par terre, ce succès les fera revenir les années suivantes si on ne les arrête par le poste proposé ;

Observation : On pourrait renvoyer cette demande pour l'établissement d'un nouveau poste à M. de Vaudreuil.

En marge est écrit : Renvoyer A Messieurs de Vaudreuil et Begon tant pour l'établissement qu'il propose que pour ce qui peut lui être du afin d'avoir son avis. Demander à la D.^e De courtemanche de quelle quantité de vivres elle a besoin et à quelle condition.

Fait et arrêté par le conseil de marine le 23 Février 1717.

Signe : L. A. DE BOURBON.

Le Maréchal d'ESTRÉES.

Par le conseil : Signé LACHAPELLE.

(Translation.)

She begs of the Council that such sum and her husband's salary be ordered to be paid to her so as to enable her to settle his affairs and take to him such provisions and ammunition as are required for the maintenance of his post. She submits that these provisions are most useful for the fishermen in distress, as it happened last spring in the case of a Norman vessel, with a crew of 58 men, which was lost 40 leagues in the open sea. The members of the crew, having taken refuge at her husband's post, were fed out of his provisions. It is desirable that he should have some [provisions] to meet with such contingencies, as well as for the garrison, the latter requiring a larger quantity than his situation enables him to lay in. He should also have powder and shot to protect himself against the Esquimaux. She further says that her husband has written, on the 11th October last [1715], stating that these Indians had come within a league of his fort and had burnt all the huts and utensils left there by the fishermen who had returned to France. He had chased them for six days by land and sea, but unsuccessfully. Emboldened by this success, they will return in the coming years, unless they are stopped by the proposed fort.

Remark: This application for the establishment of a new post might be referred to M. de Vaudreuil.

Written in the margin : To be referred to Messrs. de Vaudreuil and Begon for their opinion both as to the establishment suggested and as to what may be due to him. Inquire from the Dame de Courtemanche as to what quantity of provisions she requires and upon what terms.

Approved by the Conseil de Marine, on the 23rd February, 1717.

Signed : L. A. DE BOURBON.

Marshal d'ESTREES.

By the Council : Signed LACHAPELLE.

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[11 Jany., 1718.]

No. 1362.**ORDER OF THE KING, 11 JANUARY, 1718,
APPOINTING BROUAGE TO BE COMMANDANT
FOR THE KING ON THE COAST OF LABRADOR.**

ARVHIES OF CANADA, SERIES F 3, VOL. 10, p. 41.

Ordre du Roi
au S.^r Brouage pour commander en la côte de
Labrador.

11 Janvier 1718.

Sa Majesté estimant nécessaire de destiner une personne capable pour commander à la côte de Labrador, pays des Esquimaux et étant satisfait des services que le Sr Brouage a rendus à ladite côte où il a servi sous le feu S.^r, de Courtemanche qui y commandoit, Sa Majesté de l'avis de M. le Duc d'Orléans Regent veut et entend que le dit S.^r Brouage commande en ladite Côte de Labrador et qu'il regle et accomode les differends qui pourront arriver au sujet des emplacements pour la pêche sans que pour raison dudit commandement il puisse pretendre aucuns appointemens. Mande et ordonne Sa Majesté au Sr Marquis de Vaudreuil, Gouverneur et Lieutenant General en la Nouvelle France de le faire reconnoître en la dite qualité et à tous autres qu'il appartiendra de lui obeir et entendre.

Fait à Paris etc.

(Translation.)

ORDER OF THE KING
to Sr. Brouage appointing him commander at the coast of Labrador.

11th of January 1718.

His Majesty deeming it necessary to appoint a person able to command on the coast of Labrador, the country of the Esquimaux, and being satisfied with the services rendered by the Sr. Brouage on the said coast, where he served under the late Sr. de Courtemanche who commanded thereon, His Majesty, with the advice of M. the Duc d'Orleans, Regent, ordains and approves that the said Sr. Brouage command on the said coast of Labrador and that he settle and adjust the disputes which may arise with reference to the situations of fisheries without, by reason of the said command, he being entitled to any fees. His Majesty commands and ordains the Sr. Marquis de Vaudreuil, Governor and Lieutenant General in New France, to have him acknowledged as such and all others to obey and hear him.

Done at Paris, etc.

No. 1367.

**CONFIRMATION, 11 JANUARY, 1718, OF BAYE DE
PHELYPEAUX CONCESSION TO WIDOW
COURTEMANCHE *et al.***

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 5, FOLIO 25 VERSO.

Aujourd'huy onze janvier mil sept cent dix huit, le Roy etant a Paris setant fait représenter le brevet de concession qui a été accordé par le feu Roy le dix neuf novembre mil sept cent quatorze au S. de Courtemanche capne d'une des Compies du detachment des troupes de la marine entretenue en Canada lequel est mort l'année dernière ; de la Baye de, Phelypeaux avec quatre lieues de front sur la Coste de la Brador ainsy quil est mentionné au dit brevet pour en jouir sa vie durand, et tant ql. fera valoir la dite concession par les peches quil y fera, et desirant Sa Majesté donner a la veuve du dt Sr. de Courtemanche et aux enfans qu'elle a eu de luy des marques de la satisfaction qu'elle a de ses services et de pareilles au S. Broüage fils d'un premier lit de la dite veuve de Courtemanche pour les services ql a rendu a l'establissement. que ledt. feu S. de Courtemanche a fait sur la dite. concession, Sa Majesté de l'avis de Monsieur la Duc d'Orleans son oncle Regent a concedé a la dite veuve de Courtemanche, au S. Brouage son fils dun premier lit, et aux trois filles quelle a eu de son mariage avec ledt. feu S. de Courtemanche, la dite Baye de Phelipeaux, ou estoit etably le dt. feu Sieur de Courtemanche avec quatre lieues de front sur la dite. Coste de Labrador joignant la dite. Baye, scavoir deux lieues en remontant du costé de Quebec, et deux lieues en descendant du costé du

(Translation.)

This eleventh day of January, one thousand seven hundred and eighteen, the King being at Paris and having caused to be produced before him the deed of concession, which was granted by the late King, on the nineteenth of November one thousand seven hundred and fourteen, to the Sieur de Courtemanche, captain of one of the companies of the detachment of marines maintained in Canada, who died last year, of the bay of Phelippeaux with four leagues in front on the coast of Labrador, as mentioned in the said patent, to have and to hold during his life-time, and so long as he shall develop the said concession by the fisheries he carries on thereat, and His Majesty wishing to give to the widow of the said Sieur de Courtemanche and to the children born to her by him, marks of appreciation of his services and similar marks to the Sieur de Brouage, son by a first marriage of the said widow de Courtemanche, for the services rendered by him to the establishment which the late Sieur de Courtemanche has formed on the said coast, His Majesty, with the advice of Monseigneur the Duc d'Orleans, his uncle Regent, has conceded to the said widow de Courtemanche, to the Sieur Brouage, her son by a first marriage, and to the three daughters born to her by her second marriage to the late sieur de Courtemanche, the said bay of Phelippeaux, where the late Sieur de Courtemanche had settled, with four leagues in front

on the coast of Labrador, joining the said bay, namely, two leagues ascending in the direction of Quebec and two leagues descending in the direction of the straits of Belleisle, the

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detroit de Belleisle, le tout sur quatre lieues de profondeur dans les terres, et ensemble les isles et islets adjacentes a la dite. Baye et Coste concedées pour en jouir par eux, tant qu'ils feront valoir la dite. concession par les peiches qu'ils y feront, veut Sa Majesté qu'ils aient seuls dans la dite. Baye de Phelipeaux et dans les quatre lieues de front a eux concedées sur la dite. Coste ensemble dans les isles et islets adjacentes a la dite. Baye et Coste la faculté de faire la peiche du loup marin et qu'a regard des autres peiches qu'ils les fassent concurrement avec les vaisseaux qui viendront a la Baye, leur permet Sa Majesté de faire la traite avec les Sauvages qui peuvent se trouver sur les terres et Costes de Labrador sans que pour raison de la dite. pnte concession dont ils jouiront, scavoir, la dite. veuve de Courtemanche d'un quart, le dit. S. Brouage aussy d'un quart, et les dites trois filles du dit feu S. de Courtemanche de l'autre moitié a raison d'un tiers par chacune par portions egales, ils soient tenus de payer a Sa Majesté ny a ses successeurs Rois aucune finances ny indemnité de laquelle a quelque somme qu'elle puisse monter Sa Majesté leur a fait don et remise par le present brevet qui sera enregistré au Conseil Superieur de Quebec et partout ailleurs ou besoin sera et que Sa Majesté pour temoignage de sa volonté a voulu signer de sa main et estre consigné par moy Conseiller Secretaire d'Etat et des ses Commandements et finances Signé Louis et plus bas Phelipeaux avec paraphe.

Le brevet de concession cy devant transcrit a esté registre au greffe du Consl. Superieur de Quebec Ouy et ce requerant le procureur general du Roy, suivant son arrest de ce jour par moy greffier commis aud. Conel. Soussigné, a Quebec le deux, octobre mil sept cent dix neuf.

RIVET.

(Translation.)

whole by four leagues in depth inland, together with the isles and islands adjacent to the said bay and coast conceded, to be enjoyed by them so long as they develop the said concession by the fisheries which they may carry on there ; it is His Majesty's pleasure that they have, in the said bay of Phelipeaux and in the four leagues in front conceded to them on the said coast together with the isles and islets adjacent to the said bay and coast, the exclusive privilege of fishing there for seals and that, in respect to other fisheries they may carry them on concurrently with the vessels that may come in the said Bay : His Majesty authorizes them to trade with the Indians who may be on the lands and coasts of Labrador without they being held, by reason of the said permanent concession of which they shall enjoy, to wit, the said widow de Courtemanche, one quarter, the said Sieur Brouage also one quarter, and the said three daughters of the said late Sieur de Courtemanche the other half in the proportion of one third for each in equal shares, to pay to the King or to the Kings, his successors any tax or indemnity, which, whatever sum it may amount to, His Majesty has donated and remitted to them by the present patent which shall be registered at the Superior Council of Quebec and wherever else may be required and which His Majesty has been pleased to sign with his own hand and to order to be by me, Councillor, Secretary of State and of his Household and Treasury. Signed Louis. And lower down, Phelipeaux with a flourish.

The above transcribed patent of concession was registered in the office of the Superior Council of Quebec, after hearing the King's Attorney General and at his request, in pursuance of his decree of this day, by me, the undersigned Clerk of the said Council, at Quebec, the second day of October, one thousand seven hundred and nineteen.

RIVET.

No. 1368.

**CONCESSION, 13 JULY, 1722, OF AUGMENTATION
OF BAYE DE PHELYPEAUX CONCESSION TO
WIDOW COURTEMANCHE, BROUAGE, *et al.***

ARCHIVES OF CANADA, SERIES F. 109, p. 43.

AUJOURD'HUY le treize juillet nil sept Cent vingt deux, Le
Roy estant a Versailles.

* * * *

Sa Majestè defirant Traitter favorablement la d. de
Courtemanche et ses enfans, de l'avis de Monsieur le Duc
d'Orleans Règent, Elle a concédé a la d. clame veuve du feu St.
de Courtemanche, au St. Brouïage, son fils du premier lit et aux
trois filles qu'elle a en de son mariage avec le feu Sr. de
Courtemanche cinq lieues de Terre de front sur la d. Coste de
Labrador en remontant du Coste de Québec. et Joignant les
Terres a eux concédées par de le dit Brevet du once Janvier
1718, les d. cinq lieues de front sur quatre de profondeur,
Ensemble les isles [sic.] et jalots adjacents pour en jouïr par
eux tante qu'ils feront valoir la Concession a eux faite par le
present Brevet par les pesches qu'ils y feront, vent Sa Ma.^{te}
qu'ils ayent Seuls sur les d. cinq lieues

(Translation.)

This day, thirteenth of July one thousand seven hundred and twenty-two, the King
being at Versailles.

* * * *

Wishing to treat favourably the said Dame de Courtemanche and her children, His
Majesty, with the advice of the Regent, Monsieur le Duc d'Orleans, has granted unto the
said Dame, widow of the late Sr. de Courtemanche. to the Sr. Brouage, her son by her first
marriage, and to the three daughters born to her by her marriage to the late Sr. de
Courtemanche, five leagues of land in front on the said coast of Labrador ascending towards
Quebec and joining the lands to them granted under the said patent dated the eleventh of
January 1718, the said five leagues in front by four leagues in depth, together with the
adjacent islands and islets, for them to have and to hold as long as they shall develop the
concession to them granted by the present patent through the fisheries which they will carry
on there, His Majesty wishes that upon the said five leagues in front granted unto them on

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de front a eux concédés sur la d. coste Ensemble dans les isles
[sic.] et jalots adjacents la facultè d'y faire la pesche du
Loupmarin et qu'a regard des autres pesches ils [sic.] les
fassent concirremment avec les vaisseaux qui Tiendrent a la d.
coste lesquels pourront sur les d. cinq lieues de front et quatre
lieues de profondeur Ensemble sur les isles [sic.] et islots [sic.]
adjacents y faire le Bois qui leur sera necessaire pour les d.
pesches ou autrement, Pernet Sa Majestè a la d. veuve

Courtemanche et a Ses enfans de faire la Traitte avec tous les Sauvages qui pauvent se trouver sur les Terres et Costes de Labrador sans que pour raison de la presente concession dont Jls [sic.] Jouïront, Scavoir la d. Veuve du St. de Courtemanche d'Unquart, le dit Sr. Brouage aussy d'Unquart et kes d. trois autres filles de l'autre moitié a raison d'un Tiers pour chacune par portions Egalles Jls [sic.] scient tenûs de payer a Sa Ma.^{te} my Ses Successeurs et Roys aucume finance ou Judemnité de laquelle a quelque somme qu'elle puisse monter Sa Ma.^{te} leur a fait don et remise par le present Brevet qui sera Registrè au Conseil Supèrieur de Quebec et partout ailleurs ou besoin sera et que Sa Ma.^{te} a voulu signer de sa main et Etre contresigné per moy son Con.^r Secretaire d'État et de ses Commandemens et finances.

Fait et arrestè au Conseil de Marine le 13 Juillet 1722.

L. AÇ DE BOURBON,

Par le Conseil,

DELACHAPELLE.

(Translation.)

the said coast and also in the adjacent islands and islets they enjoy the exclusive power of taking seals there and that, with regard to other fisheries, they carry them on concurrently with the vessels coming to the said coast, these being authorized, in the said five leagues in front and four leagues in depth and also on the adjacent islands and islets to take there the timber which they may be in need of for the said fisheries or otherwise, His Majesty authorizes the said widow de Courtemanche and her children to trade with all the Indians who may be found on the lands and coasts of Labrador, without, on account of the concession hereby granted and to be enjoyed, that is to say by the said widow of the Sr. de Courtemanche one fourth, by the said Sr. Brouage also one fourth and by the said three other daughters the other half, each one to have one third in equal portions, they being held to pay His Majesty nor the Kings, his successors, any tax or indemnity which, to whatever the sum they may amount to, His Majesty has donated and remitted to them under the present patent which shall be registered at the Superior Council of Quebec and wherever else need shall be, and that His Majesty has been pleased to sign with His own hand and have countersigned by me, His Councillor, Secretary of State and of His Household and Treasury.

Done and agreed upon at the Conseil de Marine on the 13th of July 1722.

L. A. DE BOURBON.

By the Council,

DELACHAPELLE.

No. 1369.

**CONFIRMATION, 25 DECEMBER, 1725, OF
CONCESSION TO WIDOW COURTEMANCHE,
BROUAGE, *et al.***

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 8, FOLIO 38 VERSO.

Aujourd'huy vingt cinq decembre mil sept cents vingt
cinq le Roy estant a Versailles.

* * * *

Sa Majesté a concédé aud. sr. Brouague le titres dans la
moitié de lad. Baye Phelypeaux qui a cy devant appartenû, a
lad. deffunte de Courtemanche en vertu desd. brevets des onze
janvier mil sept cent dix huit et treize juillet mil sept cent vingt
deux pour en jouïr par luy a compter du jour du deces de lad
Courtemanche et par accroissement avec le quart a luy concédé
par les d. brevets tant et sy longuement qu'il ferra valoir les dits
portions par les pesche qu'il y fera avec la faculté dy faire la
pesche du loup marin, et qu'a l'egard des autres pesches qu'il
les fasse concurrentt., avec les vaisseaux qui iront a la baye
permettant Sa Majesté au d. sr. Brouague de faire la traite
avec tous les Sauvages qui peuvent se trouver sur les terres et
costes de L'abrador sans que pour raison de lad. concession il
soit tenu, de payer a Sa Majesté ny a ses successeurs Roys
aucune finance ny indemnité de laquelle a quelque somme
qu'elle puisse monter Sa Majesté luy a fait dont el remise par le
present brevet qui sera enregistrés au Conseil Superieur de
Quebec et partout aillieurs ou besoin sera et que Sa

(Translation.)

This day, the twenty-fifth of December, one thousand seven hundred and twenty-five, the King being at Versailles.

* * * *

His Majesty has conceded to the said Sieur Brouague the titles in the half of the Bay of Phelypeaux which formerly belonged to the said defunct de Courtemanche in virtue of the said patents of the eleventh January, one thousand seven hundred and eighteen and of the thirteenth July, one thousand seven hundred and twenty-two to be enjoyed by him as from the day of the death of the said Courtemanche and by increment with the quarter to him conceded by the said patents, as fully and as long as he shall develop the said portions by the fisheries he shall carry on there, with the privilege of taking seals, and that in respect of the other fisheries he shall carry them on concurrently with the vessels who may come to the bay ; His Majesty authorizing the said Sieur Brouague to trade with all the Indians who may be on the lands and coasts of Labrador without, by reason of the said concession, being bound to pay to His Majesty or the King's successors, any tax or indemnity, of which, to whatever sum it might amount, he makes him a gift or remission

main et estre contresigné par moy son conseiller secretaire d'Etat et de ses commandemens et finances Signé Louis et plus bas Phelypeaux.

Registré ouy le procureur general du Roy suivant l'arrest de ce jour par nous conseiller secretaire du Roy et greffier en chef au Conseil Superieur de la Nouvelle France. A Quebec le vingt cinq novembre mil sept cent trente sept.

DAINE.

(Translation.)

by the present patent which shall be registered at the Superior Council of Quebec and everywhere else it may be required and that His Majesty, in testimony of his pleasure has been pleased to sign with his own hand and ordered to be countersigned by me, his Councillor, Secretary of State and of his Household and Treasury. Signed Louis, and lower down, Phelypeaux.

Registered after having heard the King's Attorney General, in pursuance of the decree of this day, by us, Councillor, Secretary to the King and Chief Clerk of the Superior Council of New France. At Quebec, the twenty-fifth of November, one thousand seven hundred and thirty-seven.

DAINE.

[22 Feby., 1726.]

No. 1370.

C

**CONFIRMATION, 22 FEBRUARY, 1726, OF
CONCESSION TO BROUAGE, *et al*, WITH
SUCCESSION TO BROUAGE OR HIS WIDOW OF
SHARES OF OTHER CONCESSIONAIRES.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 8, FOLIO 40.

Aujourd'huy vingt deux fevrier mil sept cent vingt six le
Roy estant a Marly.

* * * *

Sa Majesté desirant traiter favourablement le d. sr.
Brouague elles a ordonné et ordonné que le deceds de la d. de.
de Courtemanche et des deux filles du deuzième lit arrivant les
parts et portions qui leur auront appartêñü

(Translation.)

On this day, the twenty-second of February, one thousand seven hundred and twenty-six, the King being at Marly.

* * * *

His Majesty, wishing to treat favourably the said Sieur Brouague, has ordained and does ordain that, in case of the death of the said Dame de Courtemanche and the two daughters by a second marriage, the shares and portions which may have belonged to them, during their life-time, in virtue of the said

de leur vivant en vertu des d. brevets des onze janvier 1718. et treize juillet 1722, appartiendront par accroissement au d. sr. Brouague et que pareillement le decés du d. sr. Brouague arrivant les parts dont il aura esté en possession de son vivant appartiendront a la d. Marie Anne Faury du Ponceau son epouse mesme celles de la d. veuve de Courtemanche et de ses filles si elles viennent a deceder après la mort du d. sr. Brouague pour par la d. de. Faury du Ponceau le cas de la mort de son mary arrivant jôûir des d. parts et portions ou totalité d'iceux terrains en vertu du present brevet conformemt. et relativement au d. brevets des onze janvier 1718 et treize juillet 1722, et vingt cinq decembre der. et servir a sa subsistence et a celle des enfans [qui] naistront de leur mariage et a leur education tant qu'elle residera sur les d. concessions et les fera valloir par les pesches quelle y ferasinon et a faute par la d. ve. Brouague dy resider et faire valloir les concessions par les peches qu'elle y fera la totalité ou partie dont elle sera en jôûissance pour lors seront remis au domaine de Sa Majesté et concedées adautres en vertu du present brevet qui sera registres au conseil superieur de Quebec et pour assurance de sa volonté Sa Majesté ma commandée d'expedier le present brevet qu'elle a voulu signer de sa main et estre contresigné par moy son coner. secretaire d'Etat et de ses commandemens et finances signé Louis et plus bas Phelypeaux.

Registré ouy le procureur general du Roy suivant l'arrest de ce jour par nous coner. secretaire du Roy Greffier en chef du d. Conseil soussigné a Quebec le vingt cinq novembre 1737.

DAINE.

(Translation.)

patents of the eleventh January, 1718 and the 13th July, 1722, shall belong by increment to the said Sieur Brouague, and that likewise, in the event of the death of the said Sieur de Brouague, the shares which he may have held during his life-time, shall belong to the said Marie Anne Faury du Ponceau, his wife, as well as those of the said widow de Courtemanche and her two daughters, should their death occur after that of the said Sieur Brouague, the said Dame Faury du Ponceau, in the event of her husband's death, to enjoy the said shares and portions of the whole of these lands in pursuance of, and according to the said patents of the eleventh January, 1718 and of the thirteenth July, 1722 and of the twenty-fifth December last, and to use the same towards her subsistence and that of the children [who] may be born of their marriage and to their education, so long as she shall reside on the said concessions and improve them by the fisheries she may carry on thereat ; if not, and in default of the said widow Brouague residing thereat and improving the said concessions by the fisheries she may carry on there, the whole or the part of which she shall then have the enjoyment shall be reunited to His Majesty's domain and conceded to others in virtue of the present patent, which shall be registered at the Superior Council of Quebec and, in testimony of his will, His Majesty commanded me to draw up the present patent which he has been pleased to sign with his own hand and to be countersigned by me, his Councillor, Secretary of State, and of his Treasury. Signed, Louis, and lower down, Phelypeaux.

Registered after having heard the King's Attorney General, in pursuance of the decree of this day, by us, the undersigned Councillor, Secretary to the King, Chief Clerk of the said Council, at Quebec, the twenty-fifth November, 1737.

DAINE.

No. 1371.

**CONCESSION, 24 APRIL, 1744, OF BAYE DE
PHELYPEAUX TO THE DE LA PORTES.**

ARCHIVES OF CANADA, SERIES F 111, VOL. 13, p. 202.

Aujourd'huy 24 Avil 1744, le Roy etant à Versailles.

* * * *

Sa Majestè etant informèe que ladite Dlle. Duponceau ainsi que les enfants mès de son mariage avec ledit Sr. de Brouague sont dècedès, que ladite Veuve Courtemanche est pareillement dècedès, que des trois filles nées de ce mariage des Sr. et Dame de Courtemanche il n'en reste plus qu'une laquelle est marièe au Sr. Foucher ; Et que le Sr. de Brouague se trouve par là possèder la totalitè desdites concessions, à l'exception du sixieme appartenant à la dite dame Foucher ; mais que l'un et l'autre ne doivent jouir de leurs portions que leur vie durant ; Et Sa Majestè voulant donner au Sr. Armand de la Porte, commissaire de la Marine, premier commis du Bureau des Colonies à la suite de la Cour, Et au Sr. Jean de la Porte La Lenne, son frere, aussi Commissaire de la Marine servant audit Bureau des marques de la satisfaction qu'Elle a des services qu'ils ont rendus et de ceux qu'ils continuent de rendre journellement, Sa Majestè leur a concède et concède la dite Baye Phelypeaux avec tons les

(Translation.)

Patent

of Survival in favour of the Srs de la Porte brothers of the Baye Phelypeaux and dependencies.

This day the 24th of April 1744, the King being at Versailles.

* * * *

His Majesty being informed that the said Faury Duponceau together with the children born from her marriage to the said Sr. de Brouague were dead, that the said widow Courtemanche is also dead, and that of the three daughters born from this marriage of Sr. and Dame de Courtemanche one only remains who is married to the Sr. Foucher ; And as the Sr. de Brouague is found thus to possess the whole of the said concessions, with the exception of the one sixth belonging to the said Dame Foucher ; but that the one and the other should have and hold their portions only during their life ; And, His Majesty wishing to prove His satisfaction for the services which the Sr. Armand de la Porte, Commissioner of Marine, first clerk in the Bureau des Colonies after the Court (à la suite de la Cour), and the Sr. Jean de la Porte La Lenne, his brother, also Commissioner of Marine employed in the said office have rendered and still continue to render daily, has granted and do grant unto them the said Baye Phelypeaux

p. 3591

terrains concédés par les Brevets des 19 novembre 1714 et 13 juillet 1722 pour en jouir et les possèder chacun par moitié et

leur vie durant, immédiatement après le décès dudit Sr. de Brouague, ainsi qu'il aura fait ou dû faire, aux termes, clauses et conditions portées par lesdits Brevets.

Ordonne Sa Majestè que le décès de la troisieme fille des dits St. et Dame de Courtemanche arrivant après celui dudit Sr. de Brouage, la part à elle apartemante dans les dites Concessions apartiendra par accroissement aux dits Srs. Delaporte freres, ainsi qu'elle auroit appartenu au dit Sr. de Brouage, piur en jouir par eux pareillement par moitié et leur vie durant, comme des autres portions. Veut Sa Majestè que le deces de l'un d'eux arrivant, la part à lui apartemente tourne par accroissement au survivant, pour jouir ègalement du tout sa vie durant, sans que pour raison de la prèsentee concession dont ils seront mis en possession, ainsi qu'il a ètè dit ci dessus, immédiatement après la mort dudit Sr. de Brouague, ils soyent tenus de payer à Sa Majestè ni à ses successeurs Roys ausune finance ni indemnité, de laquelle, à quelque somme qu'elle puisse monter, Sa Majestè leur fait don et remise. Et pour témoignage de sa volentè, Sa Majestè n'a ordonné d'expedier le present Brevet qu'Elle a voulu signer de sa main et ètre contresigné par moy son Conseiller et Secretaire d'État et de ses Commandements et finances, lequel sera registrè au Conseil Superieur de Quebec.

(Translation.)

together with all the lands conceded under the patents dated on the 19th of November 1714 and on the 13th of July 1722 to have and to hold and possess one half each of same for ever, immediately after the death of the said Sr. de Brouague, in like manner as he shall or ought to have done, under the terms, clauses and conditions as provided in the said patents.

His Majesty orders that, should the death of the third daughter of the said Sr. and Dame de Courtemanche occur after that of the said Sr. de Brouague, the share belonging to her in the said concessions shall belong by extension to the said Srs. de la Porte brothers, as it would have belonged to the said Sr. de Brouague, each of them to have and to hold one half of same for ever, as for the other portions. His Majesty wishes that should the death of one of them occur, the part belonging to him return by increase to the survivor, for him to have and to hold also the whole for ever, without they being, by reason of the present concession unto them granted, as mentioned above, and immediately following the death of the said Sr. de Brouague, held to pay His Majesty or the Kings, his successors, any tax or indemnity which, whatever the sum to which same might amount, His Majesty has donated and remitted unto them. And, in testimony of His will, His Majesty has ordered me to deliver the present patent which He was pleased to sign with His own hand and have countersigned by me, his Councillor and Secretary of State and of his Household and Treasury, said patent to be registered at the Superior Council of Quebec.

[30 March, 1779.]

**PETITION, 30 MARCH, 1779, OF COL. LECOMPTE
DUPRÉ AND OTHER HEIRS FOR
REINSTATEMENT IN BAYE DE PHELYPEAUX
OR
NEW GRANT OF SAME.**

ARCHIVES OF CANADA, SERIES C.O. 42, VOL. 9, p. 104.

TO THE RIGHT HONOURABLE, THE LORDS COMMISSIONERS OF TRADE
AND PLANTATION, &c., &c.

THE MEMORIAL OF COLONEL LECOMPTE DUPRÉ, JAMES HUGUES
ESQR. AND FOUR OTHERS, COHEIRS OF THE LATE FRANÇOIS
BROUAGUE, ESQR. OF QUEBEC.

HUMBLY SHEWETH,

That in the year 1718 and 1721 the French Court did give to the said Francis Brouague and to his Heirs a Tract of Land on the Labradore Coast on the Gulph of St. Lawrence, nine Leagues in Front on the Sea Coast, with the Islands thereunto belonging and four Leagues into the Land, which he enjoyed until the year 1760 when he was dispossessed by an Order of General Murray, then commanding officer at Quebec, and his property given to Messrs. Mackenzie, Lime Burner¹ and others, and by them unjustly held to the present Time.

Your Memorialists therefore pray your Lordships to take this their hard and unjust Treatment into your Lordships' Consideration and order them Possession on their original grant ; or a new One from their Lordships Board ; this being almost every thing that Mr. Brouague had to leave for the support of six children, his other Property being burnt, during the siege of Quebec and your Memorialists will ever pray Ec., &c.,

Coheirs:	{	Le Cte Dupré Colonel de	JAMES HUGUES
		Québec	Town Major Montreal
		Pour le Chevalier de Lery	WILLIAM JOHNSTON
		Conseiller	Captain Royal
		De Richarville Esqrs.	Artillery
	{	Veuve Bondfield	

Endorsed—Quebec. Memorial of Colo. LeComte Dupré
& others. G. 18.

Read March 30, 1779.

¹ Lymburner.

[27 May, 1785.]

No. 1373.

**OPINION OF CUGNET, 27 MAY, 1785, *re* CLAIM OF
FAVRY DE CHANTELON TO BAYE DE PHELYPEAUX
CONCESSION.**

En Obéissance des ordres de Son Honneur le Lieutenant
Gouverneur, J'ai lû avec attention

1° une lettre de Lord Sydney en date du 15 décembre
1784

2° La copie d'une note les prétentions du s. Favry de
Chantelon, de la jouissance, sa vie durant du Poste de la Baie
Phelipeaux sis à la Côte de la Brador.

3° La Copie d'un Brevet de concession de sa Majesté T.C.
signé à Versailles le 20 Février 1759, de la Baie Phelipeaux
avec tous les terrains concédés par les Brevets du 19 novembre
1714 et du 13 juillet 1722 aux S^{rs} François Foucher pere,
Hugues, Jean Favry de Ponçeaux Et Charles Favry de
Chantelon, pour en jouir et les possédor, savoir, le dit S.
Foucher de la moitié totale des dites concessions, les. Favry du
Ponçeau d'un quart et le s. Favry de Chantelon, de l'autre quart
restant, et ce leur vie durant immédiatement après le décès du
S de Brouague Voulant Sa Majesté, qu'en cas du décès du S.
Foucher ses enfans jouissent par égales portions de la moitié
des dites concessions, leur vie durant, et que dans le cas de
mort des S^{rs} Hugues, Jean Favry du Ponçeau et Charles Favry
de Chantelon, leurs femmes jouissent pareillement, leur vie

(Translation.)

In compliance with His Honour the Lieutenant Governor's instructions, I carefully
read :

1st. A letter from Lord Sydney under date of the 15th December, 1784.

2nd. The copy of a memoir[re] the claims of the Sieur Favry de Chatelon to the
enjoyment, during his life, of the post of the bay Phelipeaux, situated on the coast of
Labrador.

3rd. The copy of a patent of concession by His Most Christian Majesty, signed at
Versailles the 20th February, 1759, of the bay of Phelipeaux together with all the lands
conceded by the patents of the 19th November, 1714, and of the 13th July, 1722, to the
Sieurs François Foucher the elder, Hugues Jean Favry de Ponceaux and Charles Favry de
Chantelon, to have and to hold, to wit, the said Sieur Foucher the entire half of the said
concessions, the sieur Favry du Ponçeau one quarter and the sieur Favry de Chantelon the
other remaining quarter, and this during their life forthwith upon the death of the Sieur de
Brouague, His Majesty ordaining that, in the case of the death of the Sieur Foucher, his
children should enjoy in equal shares the moiety of the said concessions, during their life,
and that, in the case of the death of the Sieurs Hugues, Jean Favry du Ponçeau and Charles

durant, de la portion accordée à leurs maris dans la moitié des dites concessions. Les dits trois papiers à moi remis par Hugue Finlay Ecuier, Secrétaire de son Honneur le 24 de ce mois :

Et J'Estime :

1° Que le Brevet de Sa Majesté T.C. en date du 20 février 1759 dans un tems oit le Canada appartenait à sa Couronne qui accorde ces concessions aux ci-des-sus-nommés, contenant un terrain de Neuf lieux de front sur quatre de profondeur, doit avoir son effet, qunat à la jouissance des concessionnaires seulement leur vie durant, ainsi qu'elle est expliquée au dit Brevet, parce que lors de la Capitualtion de la Province 1760: il est constaté que les Propriétaires de biens par titres en demeureraint posseseseurs, Et que cet Article de la Capitulation a été ratifié et confirmé par le Traité définitif de paix du 10 Février 1763.

2° Qu le défaut d'Enregistrement de ce Brevet au Conseil Supérieur, ne peut lui préjudicier, a cause de L'impossibilité où se sont trouvés les Concessionnaires de l'y faire enregitrer la conquest de ce Pais aiant été faite par les Armes de sa Majesté en Septembre de cette même année 1759.

3° Que quoique les dits concessionnaires ne dussent jouir en conséquence de ce Brevet, des concessions de la Baie Phelipeaux, qu'après le deçes du S. de Brouague leur beau-frère ils en ont eu, dès le moment de la Signature du Brevet, la Véritable propriété qui leur a donné. Jus ad rem. et qui audéçcs du S. de Brouage leur a donné Jus in rem. Et qu'en conséquence la jouissance de ces concessions de la Baie Phelipeaux a commencé en leur faveur au moment du deçes du S. de Brouague leur beau-frère.

(Translation.)

their wives should likewise enjoy, during their lives, the shares granted to their husbands in the moiety of the said concessions. The said three papers handed to me by Hugues Finlay, Esq., Secretary to his Honour, the 24th of this month.

And my opinion is :

1st. That His Most Christian Majesty's patent under date of the 20th February, 1759, at a time when Canada appertained to His Crown, which grants these concessions to the hereinbefore mentioned parties, containing a piece of land of nine leagues in front by four in depth, must be effective in so far as the grantees' enjoyment is concerned, during their lives only, as set forth in the said patent, because, at the time of the capitulation of the Province in 1760, it was provided that the holders of property under deeds shall retain the ownership thereof, and that this article of the Capitulation has been ratified and confirmed by the final peace treaty of the 10th February, 1763.

2nd. That the default of registration at the Superior Council of this patent cannot affect it, on account of the impossibility in which the grantees found themselves of causing the same to be registered, this country having been conquered by His Majesty's forces in

3rd. That, under this patent, although the said grantees should only have enjoyed, the concessions of the bay Phelipeaux, upon the death of the Sieur de Brouague, their brother-in-law, they had, from the moment the patent was signed, the actual ownership which gave them *jus ad rem*, and which gave them, at the death of the Sieur de Brouague, *jus in rem*. And, that, in consequence, the enjoyment of these concessions of the bay Phelipeaux, began in their behalf at the time of the death of the Sieur de Brouague, their brother-in-law.

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4° Que S'il est du plaisir de Sa Majesté à ordonner l'Enregistrement de ce Brevet qui maintiendrait le dit S. Favry de Chantelon dans la jouissance du dit Poste, sa vie durant (dans le cas où le Septième Paragrafe de l'acte de Québec qui statue que tous les Sujets Canadiens, tiendront leurs propriétés & possessions et enjouiront, en gardant à sa Majesté la foi et la fidélité qu'ils lui doivent, et la Soumission due à la Courone & et au Parlement de la Grande Bretagne, Ne soit point un obstacle à l'octroi de sa demande, il est incontestable qu'il sera dans le droit de réclamer et de demander aux Particuliers qui ont exploité cette Baie de Phelipeaux quelques dédommagements depuis le Déces du S. de Brouague arrivé le 15 mars 1761.

5° Mais que dans ce cas le S. Favry de Chantelon, pour éviter toutes contestations, dit Suivre le même sort que celui qu'ont essuié les Seigneurs et propriétaires du Fief & Seigneurie des Isles et Islets de mingan qui na ne sont point obstinés à retirer aucuns profits de leur dit Fief & Seigneurie depuis 1763, jusqu'en 1775 tems, pendant lequel, il était réputé être et dépendre du Gouverne-ment de terre neuve, en conséquence de la Proclamation roiale de sa Majesté du 7 Octobre 1763, qui par l'acte de Quebec, ainsi que le Baie Philipeaux ont rentré dans les limites de cette Province, Et ne peut raisonnablement exiger des particuliers qui ont exploité les pêches dans cette Baie, qu'une rente annuelle de puis la ditte année 1775 sur le même pied que les Seigneurs des Isles et islets de Mingan sont paiés de leurs fermiers, en conséquence d'une Ordonnance en règlement de M^{rs} de Beauharnois & Hocquart Gouverneur general & intendant de ce Pais en date du 4 Octobre 1743, qui en conséquence des Ordres de Sa Majesté T. C. ordone que les propriétaires des isles et islets de Mingan, seroit en droit de recevoir des particuliers qui Exploiteront des Pêches sur & dans

(Translation.)

4th. That, if it is His Majesty's pleasure to ordain the registration of this patent which would confirm the said Sieur Favry de Chantelon in the enjoyment of the said post (in case the seventh paragraph of the Quebec Act which enacts that all Canadian subjects shall retain their property and possessions and enjoy the same, by keeping faith and fealty to His Majesty as they are bound to, and subjection to the Crown and to the Parliament of Great Britain, is no impediment to the granting of his request, it is indisputable that he will have the right of claiming and asking from the individuals who operated this bay of

Phelipeaux, some indemnity since the death of the Sieur de Brouague on the 15th March, 1761.

5th. That, in such a case, the Sieur Favry de Chantelon, in order to avoid any controversy, must share the fate of the seigniors and proprietors of the fief and seigniory of the Isles et Islets de Mingan who did not insist on deriving any profit from their said fief and seigniory between 1763 and 1775, during which time, it was deemed to be in and belong to Newfoundland, in consequence of His Majesty's Royal Proclamation of the 7th October, 1763, and which, along with the bay Phelipeaux, under the Quebec Act, was returned within the limits of this province, and could not reasonably demand from the individuals who carried on the fisheries in this bay more than a yearly rent from the said year 1775 on the same basis as that paid to the seigniors of the Isles et Islets de Mingan by their lessees, in consequence of an ordinance in settlement of Mrs. de Beauharnois and Hocquart, Governor General and Intendant of this country, under date of the 4th October, 1743, which, in pursuance of His Most Christian Majesty's instructions, ordains that the proprietors of the Isles et Islets de Mingan should be

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l'Etendue des dites Isles, une redevance annuelle de trois. pour Cent sur le total des huiles & Peaux de lousps marins qui y auront ete Exploitès. La dite Baie Philipeaux n'ayant ete concèdée qui dans la vue d'y exploiter des Pêches, qui ont toujours ete les plus abondantes sur la Côte de la Brador.

Ce reglement est au Regitre d'intendance N° 31. f° 99.

6° Que le S. Favry de Chantelon qui réclame la dite jouissance, comme appartenant a lui seul, suivant sa note a cause de la mort de son frère et de celle du S. Foucher doit avant de se l'aproprier poruver que le fils du dit S. Foucher qui a passé en France avec lui En 1760, est aussi décédé, ce qui j'ignore.

Le soussigné soumet humblement Sa presente opinion a son Honneur le Lieutenant Gouverneur

Quebec this 27th of May,
1785.

(Signed)
F. J. CUGNET, S.F.

Endorsed : Opinion de Monsieur Cugnet
In L^t Governor Hamilton's
of 4 June 1785.
(N° 1.)

(*Translation.*)

entitled to collect from the individuals who may operate fisheries on and in the extent of the said Isles, a yearly rental of three per cent on the total of the oils and seal skins produced therein, the said bay de Phelipeaux having been only conceded in view of the fisheries which have always been the most abundant on the coast of Labrador.

This regulation is in the register of the Intendants, No. 31, f° 99.

6th. That the Sieur Favry who claims the said enjoyment, as belonging exclusively to himself, according to his memoir, as a result of his brother's death and that of the Sieur Foucher must, before taking it over, prove that the said Sieur Foucher's son who returned to France with him in 1760, is also dead, of which I am ignorant.

The present opinion is respectfully submitted by the undersigned to His Honour the Lieutenant Governor.

Quebec, 27 May, 1785.
F. J. CUGNET. S.F.

Endorsed : Opinion de Monsieur Cugnet,
In L^t Governor Hamilton's
of 4 June, 1785.
(No. 1.)

[31 August, 1763.]

No. 1374.

**BONFIELD'S PETITION FOR GRANT OF BROUAGE'S
FISHING POST, 31 AUGUST, 1763.**

ACTS OF THE PRIVY COUNCIL, COLONIAL SERIES (UNBOUND PAPERS),
p. 357.

LABRADOR. Grant of land. Order referring to the B. of T. (I) the petition of A. R. Bondfield. Martel Brouage held this fishing post from 1728 to 1759 under a French grant. He then withdrew to Quebec and died there in 1761. Bondfield married one of his three daughters and has agreed to make satisfaction to the other two for their share in the buildings, stock, &c., if a grant should be made to him.

No. 1375.

[6 Oct., 1750.]

PETIT HAVRE CONCESSION.

CONCESSION, 6 OCTOBER, 1750, OF PETIT HAVRE TO ANTOINE MARSAL
FOR NINE YEARS, 1751-1760.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 63 VERSO.

Le marquis. de Lajonquière etc.
Francois Bigot etc.

Sur la Requête a nous présentée par le S. Antoine Marsal
negotiant en cette ville, contenant qu'il seroit dans le dessein de
faire un etablissement a la Coste du Nord, a l'entrée du detroit
de Belleisle, pour y faire la pesche de la baleine et du loup
marin ; qu'il avoit même pris dès dette année des mesures pour
y aller commencer cet etablissement, estant venu a Quebec
avec un navire et les equipages necessaires, mais que led.
navire ayant eu besoin de quelque

(Translation.)

Marquis de Lajonquiere, etc.
Francois Bigot, etc.

On the petition presented to us by the Sr. Antoine Marsal, trader in this city, stating that he plans to make an establishment for whaling and seal-fishing on the Cote du Nord, at the entrance of Belleisle strait ; that he had even taken steps this year to go there and commence this establishment, having come to Quebec with a vessel and the necessary crews, but, that the said

radoub, il l'auroit fait mettre a terre et que s'estant trouvé trop fin dans ses façons, il n'a pu soutenir l'echouage et s'est écrasé et perdu sans ressource, mais qu'il repasse en France pour y faire un nouvel armement et venir le printemps prochain au lieu de l'establissement projeté, pourquoy il nous supplie de luy accorder un terrain a la de. Coste du Nord, au lieu appellé le petit havre, d'une lieue au dessus et une lieue au dessous, led. havre compris, ainsy que les isles islots qui se trouveront au devant de la de. etendue sur trois lieues de profondeur, avec la permission de faire dans cette etendue la pesche de la Baleine et du Loup marin a l'exclusion de tous autres, ainsi que la traite avec les sauvages et la pesche de la morue concurament avec les batimens qui pourront venir aud. lieu. Et ce pendant le tems et espace de neuf années consécutives, Nous en vertu pouvoir a nous donné par Sa Majesté, avons accordé et concedé pour le tems et espace de neuf années, a commencer de l'année prochaine, aud. S. Marsal, l'etendue de terrain cy dessus désignée, avec les isles islots et battures qui se trouveront au devant de la de. concession ; pour en jouir par luy et y faire un ou plusieurs etablissemens de pesche a la baleine et du loup marin, a l'exclusion de tous autres, ainsi que la Chasse et Traitte avec les Sauvages, pendant led. tems et la pesche de la morue concurament avec les batimens qui pourront venir aud. lieu du petit havre, a la charge par led. S. Marsal de faire valoir la presente concession, faute de quoy elle demeurera de nul effet et aussi de payer au Domaine du Roy en ce pays par chaque année deux castors ou la somme de quatre livres. Fait et donné a Quebec le six 8bre 1750. Signé Lajonquiere et Bigot.

Pour copie.

BIGOT.

(Translation.)

vessel having required some repairs, he beached it, and that the ship having been found too fine in her shape, she could not bear beaching and was crushed and wholly wrecked but that he returns to France there to equip himself anew and that he will be back next spring to the place of the proposed establishment ; therefore, he prays us to grant him a tract of land on the said Cote du Nord, at the place called le Petit-Havre, of one league above and one league below, including the said harbour, together with the islands and islets lying opposite the said tract of land, by three leagues in depth, with the permission of whaling and seal-fishing within this extent, to the exclusion of all others, as well as that of trading with the Indians and of cod-fishing concurrently with the vessels which may come to the said place. And that for the time and term of nine consecutive years. We, by virtue of the power entrusted to us by His Majesty, have granted and conceded for the time and term of nine years, to begin next year, to the said Sr. Marsal, the tract of land hereinbefore described, together with the isles, islets and shoals lying opposite the said concession ; to have and hold the same unto him, and there to make one or more whaling and seal-fishing establishments, to the exclusion of all others, with the right of hunting and trading with the Indians, for the said time and term, and of cod-fishing concurrently with the vessels which may come to the said place of the Petit-Havre, under the condition that the said Sr. Marsal shall operate the present concession, by default of which the same shall be void and null, and also subject to the payment to the Domaine of the King in this country, for each and every year, of two beavers or the sum of four livres. Done and given at Quebec, the sixth of

October, 1750. Signed Lajonquiere and Bigot.

For copy.

BIGOT.

No. 1376.

ANSE SAINTE CLAIRE CONCESSION.

[1 May, 1750.]

CCONCESSION, 1 MAY, 1750, OF ANSE STE. CLAIRE TO TACHÉ
FOR NINE YEARS, 1750-1759.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 6.

Le marquis. de Lajonquiere etc.
François Bigot etc.

Sur la Requête a nous présentée par le S. Taché négociant de cette ville, tendante a ce qu'il nous plaise luy concéder l'espace de terrain qui se trouve non concédé a la Coste de la Brador, entre les limites de la concession accordée aux auteurs du S. Brouague en descendant au nord Est jusques au Sud ouest de celle de l'Anse a la Forteau appartenant au S. Demaret, ensemble les isles, islots et Battures adjacentes sur quatre lieues de profondeur, avec la faculté d'establir sur led. terrain une pêche a loup marin, d'y faire la peche de la morue et la traite avec les sauvages. Nous en vertu du pouvoir a nous conjointement donné par Sa Majesté avons accordé et concédé accordons et concedons, aud. S. Taché, pour le tems et terme de neuf années, l'espace de terrain non concédé entre les limites de la concession accordée aux auteurs dud. S. Brouague en descendant au nord Est jusques a celle de l'anse a la Forteau, ainsy qu'il est cy dessus designé sur quatre lieues de profondeur, ensemble les isles islots et battures qui se se trouveront au devant dud. terrain,

(Translation.)

The Marquis de Lajonquiere, etc.
Francois Bigot, etc.

On the petition to us presented by the Sr. Taché, merchant of this city, praying that we would be pleased to concede to him the ungranted tract of land situated at the coast of Labrador, between the northeast limits of the concession granted to the predecessors in title (auteurs) of the Sr. De Brouague descending to the south-west to the limits of l'Anse a la Forteau, belonging to the Sr. Desmarts, together with the contiguous isles, islets and shoals by four leagues in depth, as well as the power of establishing on the said tract of land a seal-fishery, and of cod-fishing and of trading with the Indians. We, in virtue of the power jointly entrusted to us by His Majesty, have granted and conceded, and do grant and concede, to the Sr. Taché, for the term and time of nine years, the tract of land between the limits of the concession granted to the predecessors in title of the said Sr. Brouague descending to the north-east as far as that of l'Anse a la Forteau, as hereinbefore stated, by four leagues in depth, together with the isles, islets and beaches lying in front of the said tract of

p. 3600

pour en jouir par luy et y faire un ou plusieurs etablissements

de pesche du loup marin a l'exclusion de tous autres, ainsi que la chasse et traitte avec les Sauvages pendant led. tems et la pesche de la morue concurremment avec les batimens qui pourront venir aud. lieu, a la charge par led. S. Taché de faire valoir la presente concéssion, faute de quoy elle demeurera de nul effet, et aussy de payer au Domaine de Sa Majesté en ce pays, par chacune année deux castors ou la somme de quatre livres. Fait et donné a Quebec le premier May 1750. Signé Lajonquiere et Bigot, Contresigné et Sçelléz.

Pour copie.

BIGOT.

(Translation.)

land, the same to be enjoyed by him, with the right of making one or more seal-fishing establishments, and that of hunting and trading with the Indians, for the said time and term, and that of cod-fishing concurrently with the vessels which may come to the said place, under the condition that the said Sr. Taché shall operate the present concession, in default of which it shall remain null and void, and also that he shall pay for each and every year, to His Majesty in this country, two beaver or the sum of four livres. Done and given at Quebec, the first day of May, 1750.

(Signed) Lajonquiere and Bigot, Countersigned and sealed.

For copy.

BIGOT.

[13 Oct., 1751.]

No. 1377.

C

**CONCESSION, 13 OCTOBER, 1751, OF ANSE STE.
CLAIRE TO MICHEL FORTIER FOR SIX YEARS,
1752-1768.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 126.

Le Mis. de LaJonquiere etc.
Francois Bigot etc.

Le S. Michel Fortier marchand de Québec nous ayant supplié de luy concéder un poste a la Coste du Nord, consistant en deux lieües ou environ de front, sur la profondr. ordinaire, joignant au sud-ouest la Pointe des Blanes Sablons, et au N.E., la Pointe de la Forté ou Grincedents, led. terrein faisant partie de la

(Translation.)

The Marquis de la Jonquiere, etc.
Francois Bigot, etc.

The Sr. Michel Fortier, merchant of Quebec having, prayed us to grant him a post on the Coate du Nord, comprising two leagues or so in front, by the usual depth, joining on the south-west point Blancs Sablons, and on the north-east, point la Forté or Grincedents, the said tract of land

p. 3601

concession, par nous cy devant accordée au S. Taché et dont il s'est désisté, avec la faculté d'y faire la pesche des loups marins, la chasse & la traite avec les Sauvages & la pesche de la moruë.

Nous, en vertu du pouvoir qui nous a esté donné par le Roy, avons accordé et concédé, accordons & concedons aud. S. Fortier pour le temps et terme de six années, a commencer de l'année prochaine les d. deux lieues de front, joignant au sud-ouïest la Pointe des Blancs Sablons et au Nord Est la Pointe de la Forté ou Grincedents, sur quatre lieuës de profondeur, avec la faculté d'y faire la pesche du loup marin a l'exclusion de tous autres, ainsy que la chasse & traite avec les Sauvages ; et la pesche de la moruë concurrement avec les batimens qui pourront venir aud. lieu, a la charge par led. S. Fortier de faire valoir laprésente concession, faute de quoy elle demeurera de nul effet, et aussy a payer au Domaine de Sa Majesté en ce païs par chaque année deux castors ou la somme de quatre livres. Fait & donné a Québec le 13 8bre 1751. Signé La Jonquiere et Bigot.

Pour copie.

BIGOT.

(Translation.)

forming part of the concession, by us previously granted to the Sr. Taché, and which the latter has abandoned ; with the right of seal-fishing, hunting and trading with the Indians, and cod-fishing.

We, in virtue of the powers entrusted to us by the King, have granted and conceded, and do grant and concede, to the said Sr. Fortier for the time and term of six years, to begin next year, the said two leagues in front, joining on the south-west point Blancs Sablons, and on the north-east, point la Forté ou Grincedents, by four leagues in depth, with the right of seal-fishing, to the exclusion of all others, and that of hunting and trading with the Indians ; and that of cod-fishing concurrently with the vessels which may come to the said place, under the condition that the said Sr. Fortier shall operate the present concession, in default of which the same shall remain null and void, and also that he shall pay to the Domaine of His Majesty in this country for each and every year two beaver or the sum of four livres. Done and given at Quebec, the 13th of October, 1751. Signed La Jonquiere and Bigot.

For copy.

BIGOT.

No. 1378.

**ORDINANCE ANNULLING GRANT OF ANSE
STE. CLAIRE TO FORTIER, 25 SEPTEMBER, 1754.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 40, FOLIO 103.

Le Marqis Duquesne etc.
François Bigot etc.

Entre Les Srs. Pierre Glemet et François Joseph de Vienne fermiers du poste de La Baye Phelipeaux Et dependances, demandeurs En Requete de nous reponduë, présens En personne d'une part,

Et le S. Michel Fortier negociant En cette ville, deffendeur, aussy present En personne, d'autre part,

Vu La ditte Requete Contenant que Sur les Contestations muës Entre Le S. de Brouague propriétaire du d. poste Et Le deffendeur se disant concessionnaire de Vance apelé Ste Claire, nos ordonnances avant faire droit, que Le S. Pellegrin Lieutenant de port Tireroit Les limites du poste de La Baye Phelipeaux, que ce der. n'ayant pû S'y transporter dans Le temps pour cette opération, Le deffendeur a continué d'Exploiter La ditte anse Ste Claire, ce qui a donné Lieu aux demandeurs de Faire Leur Declaration au Greffe de L'amirauté au retour du Batiment du S. Fortier aux fins de restitution du produit

(Translation.)

The Marquis Duquesne, etc.
Francois Bigot, etc.

Between the Srs. Pierre Glemet and Francois Joseph de Vienne, lessees of the post of the Baye Phelipeaux and dependencies, plaintiff in the petition by us answered, present in person on the first part,

And the Sr. Michel Fortier, merchant in this city, defendant, also present in person, on the second part,

Seeing the said petition stating that upon the contestations arisen between the Sr. de Brouague, the owner of the said post, and the defendant claiming to be the grantee of the inlet called Ste. Claire, our ordinances, before rendering judgment, that the Sr. Pellegrin, " lieutenant de port, " would determine the limits of the post of the Bay of Phelipeaux ; that the latter having been unable to reach that place then for that survey, the defendant has continued to operate the said inlet of Ste. Claire, which caused the plaintiffs to make their declaration at the Record Office of the Admiralty, on the return of the vessel of the Sr. Fortier, for the purpose of recovering the proceeds of the fishing which he

p. 3603

de la pesche qu'Il avoit Induement Faite, Le dt. anse Ste Claire dependant de La Baye Phelipeaux ; que nonobstant cette Declaration et protestation, Le deffendeur S'Estant pourvû

Pardevant nous, En soutenant que la dite. anse n'Estoit pas Comprise dans cette Baye, nous rendimes nôtre ordonnance Le 15 7.bre 1753. qui permet provisoirement au d. deffendeur de faire La pesche a L'ance Ste Claire. Et que comme il paroît par Le procès vbal du S. Pellegrin du 24. Juin der. des Limites de La Baye Phelypeaux, que la dite anse Ste Claire Est en la dependance de la dite Baye, Les demandeurs concluent a ce qu'il nous plaise faire aprocher Pardevant nous Le deffendeur pour voir homologuer le d. procès Verbal, En Consequence que deffenses luy Seront faites de plus a lavenir Exploiter la dite. anse Ste. Claire, Et pour l'avoir fait, Se voir Condamner En 20. m. de dommages Et Interests, Tant pour la non jouissance, que pour le produit de la pesche qu'a Fait Le d. deffendeur.—Notre ordonnance Estant au bas de la dite. Requete Portant soit Communiqué au S. Fortier pour En venir Pardevant nous ce jourd'huy, L'Ecrit de deffenses du d. S. Fortier par Lequel Il conclut a Estre renvoyé de L'action contre luy intentée, Et dans Le cas neantmoins ou le deffendeur se vit obligé de déguerpir de la dite anse Ste Claire, Il nous plaise le recevoir Incidement demandeur a ce qu'Il soit autorisé a Enlever les Effets a luy appartenans, Et Quant aux Batimens de terre ordonner qu'Il En Sera remboursé Suivant l'Estimaon qui En Sera Faite.—Vû aussy La concession acordée au dit deffendeur par Mr. Le mis. de la Jonquiere Et Bigot Gouverneur gal Et Intendant, En datte du 13. 8bre 1751. par laquelle Il Luy concede deux Lieües ou Environ de front sur quatre Lieues de profondeur, Situés a La Coste de La Brad'or, joignant au S.O. La pointe des Blanes Sablons Et au N.E. La pointe de la Forteau pour y Faire

(Translation.)

had illegally carried on, the said inlet of Ste. Claire being in the dependency of the Bay of Phelipeaux ; that, notwithstanding this declaration and protestation, the defendant having appealed to us, claiming that the said inlet was not included in that Bay : We rendered our ordinance, on the 15th of September, which allows the defendant, temporarily, to fish in the inlet of Ste. Claire. And, as it appears from the procès-verbal of the Sr. Pellegrin of the 24th of June last respecting the limits of the Bay of Phelipeaux, that the said inlet of Ste. Claire is within the dependency of the said Bay, the plaintiffs make a motion that we would be pleased to bring the defendant before us to witness the homologation of the said procès-verbal. Therefore, that he shall, in the future, be prohibited to operate the said inlet of Ste. Claire, and for having so done, be condemned to 20,000 livres of damages and interest, both for the non-enjoyment, and for the proceeds of the fishing by the said defendant.—Our ordinance being at the foot of the said petition ordering the same to be communicated to the Sr. Fortier that he might appear before us this day, the plea of defence of the said Sr. Fortier by which he moves that the action taken against him should be dismissed, and in. the case, however, the defendant be compelled to surrender the said inlet Ste. Claire, we would be pleased to admit him incidentally as a plaintiff to take the effects belonging to him, and, as regards the buildings on shore, that he should be reimbursed according to the appraisal which will be made. Seeing also the concession granted to the said defendant by Messrs. de la Jonquiere and Bigot, Governor-General and Intendant, dated the 13th of October, 1751, by which they concede to him two leagues or so in front, by four leagues in depth, situated on the coast of Labrador, joining on the south-west point Blancs Sablons, and on the north-west, point de la Forteau for seal-fishing pur-

renduë Entre le S. Fortier demandeur Et le S. Brouague deffendeur a l'ocasion des Limites de la dite. Baye Phelipeaux, par Laquelle nous aurions ordoné avant Faire droit, que Le S. Pellegrin Lieutenant de port qui a Esté sur Les Lieux Et le S. Bonecamp Jesuite Geographe du Roy determineroient s'Il Estoit possible par Ecrit Le Rumb de vent par Lequel on doit proceder a L'arpentage de deux Lieuës au N.E. de la Baye Phelypeaux que posede Le d. S. Brouague, Lequel avis ils nous raporteront Le lundy Suivant, auquel jour Les parties Comparoitraient devant nous. Autre ordonance Estant Ensuite du 15. du d. Mois de May, par Laquelle Vu l'avis du d. S. Pellegrin Et du S. Bonecamp sur le Rumb De Vent En question, Et atendû qu'Il avoit Esté Remarqué par Eux dvant nous presence des dittes parties qu'En operant suivant le dt. avis, L'ance Ste Claire dans Laquelle Le deffendeur Vouloit aller faire La pesche En vertu de sa Concession Se trouveroit appartenir En Entier au S. Fortier, Nous en attendant une decision de la Cour aurions permis au d. S. Fortier d'aller faire La pesche dans La ditte ance Ste Claire la ditte année 1752. seulement. Autre ordonance du 23. 7bre. de la ditte année 1752. renduë Entre le S. Fortir demandeur Et Lotiis Ralé deffendeur, Et Encore Le d. S. Brouague mis En Cause au sujet de l'Interruption de Jouissance pretendue par le d. S. Fortier contre le d. Rallé qui avoit empesché Sa pesche dans la ditte ance Ste Claire, par laquelle nous aurions renvoyé le d. Ralé de l'action contre luy intentée, Et afin d'Eviter par la suite toute sorte de difficultés Entre Le d. S. Brouague Et Fortier Il nous avoit parû Convenable de faire Constater L.'Endroit ou doivent Se borner Les Deux Lieuës acordées au S. Brouague au

(Translation.)

poses, and our ordinance of the 13th of May, 1752, rendered between the Sr. Fortier, plaintiff, and the Sr. Brouague, defendant, concerning the limits of the said Bay of Phelipeaux by which we have ordered before rendering judgment, that the Sr. Pellegrin, " lieutenant de port " who proceeded to these places, and that the Sr. Bonecamp Jesuit, King's Geographer, should determine, if it was possible, in writing, the magnetic bearing by which one would be governed in surveying of the two leagues on the N.E. of the Bay of Phelipeaux owned by the said Sr. Brouague. Which advice they were to give us on the following Monday, the day on which the parties would appear before us. Another ordinance having then been rendered on the 15th of the said month of May, by which, in consideration of the advice of the said Sr. Pellegrin and of the Sr. Bonecamp respecting the magnetic bearing in question, and whereas it had been pointed out by them, in the presence of the said parties, that, in operating according to the said advice, the whole of the inlet Ste. Claire, where the defendant wished to go and fish under his concession, would belong to the Sr. Fortier, We, pending a decision of the Court, had permitted the said Sr. Fortier to go and fish in the said inlet of Ste. Claire for the said year 1752 only. Another ordinance of the 23rd of September of the said year 1752, rendered between the Sr. Fortier, plaintiff, and Louis Ralé, defendant, and also the said Sr. Brouague *mis en cause*, in connection with the interruption of enjoyment alleged by the said Sr. Fortier against the Sr. Rallé who had prevented his fishing in the said inlet of Ste. Claire, by which we had dismissed the action taken against the said Kalé, and, in order to do away with all future disputes between the said Sr. Brouague and Fortier, we have deemed it convenient to order the determination of the limit of the

dessous de La Baye Phelypeaux ; En consequence aurions ordonné que le S. Pellegrin qui devoit aller au mois de may Suivant a la Brad'or pour Le Service, se transporterait sur les lieux, ou Estant présence des Srs. Brouague Et Fortier ou Iceux duëment appellés, Détermineroit le point ou doivent comencer Les deux Lieüs appartenant au d. S. Brouague au N.E. de La ditte Baye, Et aussy Le point ou Elles doivent se terminer, afin de constater La borne Entre Luy Et Le S. Fortier, dont Il dresserait procès verbal Circonstancié, pour Iceluy a nous raporté. Estre ordonné ce qu'il apartiendroit aurions neantmoins permis au s. Fortier d'Envoyer Le printemps 1753. Faire La pesche dans la ditte ance Ste Claire. autre ordonnance du 15. 7bre. 1753. par Laquelle atendû que Le S. Pellegrin n'avoit pû aller a La Coste du Nord Le printemps precedent En Consequence de notre ordonnance du 23. 7bre. 1752, ayant Esté ocupé ailleurs pour Le Service, nous aurions prorogé La permission portée par La Susditte ordonnance, pour un an En faveur du d. Fortier pendant Lequel Temps Le d. S. Pellegrin se transporterait sur Les Lieux. Le proces Verbal du d. S. Pellegrin En datte du 28. Juin der., par Lequel après avoir opéré sur Les lieux pour Le mesurage des deux lieuës En question de la ditte Baye Phelypeaux présence du S. Cerelé Capne. du nre. Le Constant de Grandville Et amiral de la Coste, Et du S. Morin faisant pour Le s. Brouague, Il a trouvé que Les dittes deux Lieuës se terminent a Environ 400. toises dans L'Est de L'ance Ste Claire, Et L'iventre. des Batimens de terre, ustenciles Et chaloupes Estant, au d. Lieu de L'ance Ste Claire Le 4. aoust der., Certifié Et Signé par Barthelmy Zil Me. de la pesche pour le d. S. Fortier.—Parties Oüies Et atendû qu'Il paroît par Le procès Verbal du S. Pellegrin que L'ance Ste Claire se trouve comprise

(Translation.)

two leagues granted to the Sr. Brouague below the said Bay of Phelypeaux ; We, therefore, have ordered that the Sr. Pellegrin who was to go in the month of May following, to Labrador for the service, would proceed there, where in the presence of the Srs. Brouague and Fortier, or the same duly called, he would determine the point where the two leagues belonging to the said Sr. Brouage, on the N.E. of the said Bay must begin, and also where they must end, in order to ascertain the boundary between him and the St. Fortier, of which he should make a detailed return (procès-verbal), the same to be forwarded to us. We would, however, have permitted the Sr. Fortier to send next spring to the fisheries in the said inlet of Ste. Claire, another ordinance of the 15th of September, 1753, by which, whereas the Sr. Pellegrin could not proceed to the coste du Nord the preceding spring, according to our ordinance of the 23rd of September, 1752, having been occupied elsewhere for the service, we would have extended the permission granted by the said ordinance, for one year, in favour of the said Fortier, the time during which the Sr. Pellegrin should go there. The return (procès-verbal) of the said Sr. Pellegrin dated the 28th of June last, by which after having surveyed there for the measurement of the two leagues in question of the said Bay Phelypeaux, in presence of the Sr. Cerelé, Captain of the vessel *Le Constant de Grandville* and Admiral of the coast, and of the Sr. Morin acting for the Sr. Brouague, he has found that the said two leagues end at about 400 *toises* on the east of the inlet Ste. Claire, and the inventory of the buildings on land, fishing-gear and boats being at the said place of the inlet Ste. Claire on the 4th of August last, certified and signed by Barthelmy Zil, fishing-master for the said Sr. Fortier. Having heard the parties, and whereas it appears from the procès-verbal of the Sr. Pellegrin that the inlet Ste. Claire is found

daus L'Etenduë de deux Lieuës au N.E. dépendantes de la dté. Baye Phelypeaux, Nous avons révoqué La Concession acordée au d. S. Fortier Le d. jour 13. 8bre 1751. qui demeurera de nul Effet, En conséquence Avons Maintenu Les Deffendeurs Es noms qu'Il s'agissent dans La possession de L'ance Ste Claire, deffenses a Toute personne de les y troubler. Et faisant droit sur les dedomagemens prétendus par les deffendeurs, Nous ordonons que les Batimens de terre Et ustenciles de pesche restant actuellement au d. Lieu, suivant L'inventaire sus datté Et de nous paraphé, Leur apartiendront pour Toutes prétentions, a L'Exception neantmoins de 200. Bariques En bottes faisant partie des 266. Restantes au dt. lieu, etdescent chaioupes mentionées au dt. Inventaire, que Nous permettons au S. Fortier d'Enlever Et disposer comme bon luy Semblera. Mandons &ca A Quebec le 25. 7bre. 1754. Signé Duquesne Et Bigot.

Pour copie.

BIGOT.

(Translation.)

to be included within the extent of two leagues on the N.E. in the dependency of the said Bay Phelypeaux, we have cancelled the concession granted to the said Sr. Fortier, on the said 13th day of October, 1751, which shall be null and void. Therefore, we have continued the defendants acting as such in the possession of the inlet Ste. Claire, and do forbid all persons to disturb them there. And adjudging in the compensation applied for by the defendants, we order that the land buildings, and fishing-gear remaining actually at the said place, as per the inventory above-dated and by us initialed, shall belong to them for all purposes, excepting, however, 200 barrels en bottes forming part of 266 remaining on said place, and one of the one hundred boats mentioned in the said inventory, which we allow the Sr. Fortier to take and dispose of as he may see fit. We order, etc. At Quebec, the 25th of September, 1754. Signed Duquesne and Bigot.

For copy.

BIGOT.

No. 1379.

BAYE FORTEAU CONCESSION.

[20 Aug., 1748.]

CONCESSION, 20 AUGUST, 1748, OF BAYE FORTRAU TO ADRIEN
DEMARAIS, VINCENT FOR NINE YEARS, 1748-1757.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 34 VERSO.

Rolland Michel Barrin etc.
Gilles Hocquart etc.

Sur la requête a nous présentée par le Sr. Adrien Desmarais Vincent, ancien capitaine de navire, contenant que par les fréquentes navigations qu'il auroit faites en la côte de la Brador il auroit reconnu dans le passage de cet endroit un havre ou baye appelé Laforteau que Sa Majesté n'a point encore concédé et qui est convenable pour y faire la pesche du loup marin en faisant les dépenses a ce nécessaires, ce que le suppliant entreprendroit en vue de procurer quelque soulagement à sa famille isolée par les differens abandons de ses etablisemens qu'elle a esté forcée de faire et particulieremt. en der. lieu par la prise de Louisbourg et de ses environs où elle estoit etablie ; pourquoy il nous supplie de luy accorder, un titre de concéssion dud. havre ou baye nommé Laforteau selon son etendue, située dans le passage de la Brador à la Coste du Nord au bas du fleuve St. Laurent, pour y faire la pesche du loup marin à l'exclusion de tons autres en vertu de la de. concéssion et aux charges qui y

(Translation.)

Rolland Michel Barrin, etc.
Gilles Hicquart, etc.

On the petition presented to us by the Sr. Adrien Desmarais Vincent, former vessel captain, stating that by the frequent voyages he had made on the coast of Labrador he had discovered in passing that place, a harbour or bay called La Forteau which His Majesty has not yet granted, and convenient for the seal-fishing ; in making the necessary expenditure, which the petitioner would undertake for the purpose of giving some assistance to his family isolated by the different abandonments of its establishments which they were compelled to make, and in particular in the last place, by the capture of Louisbourg and of its environs, where they were established ; therefore, he prays us to grant him a deed of concession of the said harbour or bay called La Forteau according to its extent, situated in the thoroughfare of Labrador at the Côte du Nord in lower St. Lawrence river, for seal-fishing, to the exclusion of all others, by virtue of the said concession and under the charges there

p. 3608

seront enoncées, sans prejudicier aux pesches ordinaires des morues que les differens batimens sont en usage de faire dans

cet endroit où ils continueront de jouir des graves à ce nécessaires.—Nous en vertu du pouvoir a nous donné par Sa Majesté et sous son bon plaisir avons accordé et concédé pour l'espace de neuf ans a commencer de l'année prochaine aud. Sr. Desmarais Vincent, le havre ou baye nommé Laforteau située à la Côte de la Brador au bas du fleuve de St. Laurent, avec l'etendue de terrain d'environ trois quarts de lieue qui se trouve entre la pointe des Dunes et celle de Grincendent, sur quatre lieues de profondeur, pour en jouir par luy et y faire un ou plusieurs etablissemens de pesche du loup marin, ainsi que la Chasse et Traitte avec les sauvages a l'exclusion de tous autres pendant led. temps, sans néanmoins que lesd. etablissemens puissent nuire ny préjudicier aux batimens qui font chaque année la pesche de la morue dans la de. Baye de Laforteau, lesquels continueront de jouir des graves qui leur sont nécessaire pour leur de. pesche à la charge par le supliant de faire valoir la présente concession a faute de quoy elle demeurera de nul effet et aussi de payer au Domaine de Sa Majesté en ce pays par chaque année cinq castors ou la somme de dix livres. Fait et donné a Quebec le vingt aoust mil sept cent quarante huit. Signé La Galissoniere et Hocquart Contresignez et Sçellez.

Pour copie.

HOCQUART.

(Translation.)

to be set forth, without affecting the ordinary cod-fishing usually carried on by the different vessels in that place, where they shall continue to use the beaches necessary for the purpose.—We, in virtue of the power entrusted to us by His Majesty and subject to his good pleasure, have conceded and granted for the term of nine years to start this year, to the said Sr. Desmarais Vincent, the harbour or bay called La Forteau, situated on the coast of Labrador in the lower St. Lawrence river, together with the tract of land of about three quarters of a league lying between cape Dunes and cape Grincendent, by four leagues in depth, to have and to hold the same unto him, and there to make one or more seal-fishing establishments, with the right of hunting and trading with the Indians, to the exclusion of all others during the said term, but the said establishments must not interfere with or cause any prejudice to the vessels proceeding there each year for cod-fishing in the said bay of La Forteau, which [vessels] shall continue to enjoy the beaches required by them for their said fishery, under the condition that the petitioner shall operate the present concession, by default of which the same shall be null and void, and subject also to the payment to the Domaine of His Majesty in this country, for each and every year, of five beaver or the sum of ten livres. Done and given at Quebec, the twentieth of August, one thousand seven hundred and forty-eight. (Signed) La Galissonière and Hocquart. Countersigned and sealed.

For copy.

HOCQUART.

No. 1380.

**CONFIRMATION, 30 APRIL, 1749, OF CONCESSION
OF BAYE FORTEAU FOR SEVEN YEARS, 1749-1756.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
SOVERAIN, BOOK 9, FOLIO 73 VERSO.

Aujourd'hui trente avril mil sept cent quarante neuf le Roy étant à Versailles ayant égard à la demande qui luy a esté faite par le s. Adrien Desmarets Vincent ancien capne. de navire tendante à ce qu'il plust à Sa Majté confirmer et ratifier une concession à luy faite le vingt août 1748. par les srs Marqs. de la Galissonniere commandant général de la Nouvelle France et Hocquart Intendant an d. pais. du havre, ou baye nommé La Forteau scitué à la Coste de la Brador au bas du fleuve St. Laurent avec letendue de terrain d'environ trois quarts de lieüe qui se trouve entre la pointe des Dunes et celle de Grincédent par quatre lieues de profondeur, Sa Majesté a confirmé et, ratifiée la d. concession. Veut en conseqe. que le d. Adrien Desmarets Vincent en jouisse pendant l'espace de sept années seulement à commencer de la presente, avec droit de faire un ou plusieurs etablissemens de pêche du loup marin, de chasse et de traite avec les Sauvages, à l'exclusion de tous autres pendant le dit temps, et à condition neantmoins que les d. etablissemens ne pourront nuire ny prejudicier aux Batimens qui font chaque année la pesche de la morüe dans la de. Baye, de la Forteau, lesquels continueront de jouir des Graves qui leur sont necessaires pour leur ditte pesche, et à la charge encore par le d. sr. Vincent d'exploiter et faire valoir la presente concession à faute de quoy elle

(Translation.)

To-day, the thirtieth of April, one thousand seven hundred and forty-nine, the King being at Versailles, considering the petition presented to him by the Sr. Adrien Desmarets Vincent, former vessel captain, praying that His Majesty be pleased to confirm and ratify a concession granted to him on the twentieth of August, 1748, by the Srs. Marquis de la Galissonniere, General Commandant of New France, and Hocquart, Intendant in the said country, of the harbour, or bay called La Forteau, situated on the coast of Labrador, in the lower St. Lawrence river, together with the tract of land of about three-quarters of a league lying between Cape Dunes and Cape Grincédent, by four leagues in depth, His Majesty has confirmed and ratified the said concession. Will therefore that the same be had and held unto the said Adrien Desmarets Vincent during the term of seven years only, to commence this present year, with the right of making one or more seal-fishing establishments, and of hunting and trading with the Indians, to the exclusion of all others, during the said term, and under the condition, however, that the said establishments shall not interfere with or be of prejudice to the vessels engaged in cod-fishing every year in the said bay of La Forteau, which shall continue to have the use of the beaches which are required for their said fishery, and also, that the said Sr. Vincent shall operate and develop the present concession, by default of which the same shall be null

demeurera nulle et de nul effet, comme aussy de payer par chaque annee an domaine de Sa Majté en Canada cinq castors ou la somme de dix livres pour toute redevance seulement le tout ainsy quil est porté dans la d. concession, et pour temoignage de sa volonté Sa Majté. m'a commandé dexpedier le pnt brevet qui sera enregistré au greffe du Conseil Supr. de Quebec et quelle a voulu signer de sa main et estre contresigné par moy coner. secretaire dEtat et de ses commandemens et finances, Signe Louis, et plus has Rouillé.

(Translation.)

and void, as well as subject to the payment, for each and every year, to the Domaine of His Majesty, of five beaver or the sum of ten livres as sole dues, the whole as set forth in the said concession, and in testimony of his will His Majesty has ordered me to issue the present patent which shall be registered at the Registrar's Office of the Superior Council in Quebec, and which he was pleased to sign with His hand and to be countersigned by me, Councillor, Secretary of State and of his Household and Treasury.

(Signed) Louis, and further down, Rouillé.

No. 1381.

C

[25 Oct., 1748.]

ANSE A LOUP CONCESSION.

CONCESSION, 25 OCTOBER, 1748, OF ANSE A LOUP TO DESCHENAU
FOR NINE YEARS, 1749-1758.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 38.

Rolland Michel Barrin
Chev Marquis de La Galissonniere etc.
François Bigot etc.

Vû la Requête à nous présentée par le Sr. Joseph Deschenaux ecrivain employé dans les Bureaux de Sa Majesté, contenant qu'estant dans le dessein de faire l'entreprise d'une pesche à loup marin il auroit esté informé qu'il y a à la Coste de la Brador un endroit nommé l'Anse à Loup qui est propre pour un pareil etablissement, pourquoy il nous supplie de luy accorder un titre de

(Translation.)

Rolland Michel Barrin
Knight Marquis de la Galissonnière, etc.
Francois Bigot, etc.

Considering the petition to us presented by the Sr. Joseph Deschenaux, "Ecrivain" (clerk) employed in the stores of His Majesty, stating that, contemplating seal-fishing, he

was informed that here is on the coast of Labrador a place called L'anse à Loup which is convenient for such an establishment [sic.]. Therefore, he prays us to grant him a deed of concession of the said place to be taken [sic.]

p. 3611

concession dud. lieu a prendre du Cap au Diable, iceluy compris, en remontant jusques à la de. Anse à Loup. icelle aussi comprise, ce qui fait environ deux lieues de front, sur six lieues de profondeur, avec les isles islots et battures qui se trouvent au devant de la de. etendue de terrain, avec privilege d'y faire la pesche de loup-marin à l'exclusion de tous autres, Chasse et Traitte avec les sauvages dans toute l'etendue de la de. concession, et la pesche de la morue concurement avec les batimens qui pourront venir aud. lieu ; et attendu les avances considérables que le supliant sera obligé de faire pour former des etablissemens solides il nous plaise luy accorder la de. concession pour quinze années au moins, autrement il ne pent esperer d'en retirer aucun profit, malgré les peines et soins qu'il se donnera pour etablir un nouveau poste qui ne tend qu'au bien et avantage du commerce de cette Colonie. Nous en vertu du pouvoir à nous donné par Sa Majesté et sous son bon plaisir, avons accordé et concédé pour l'espace de neuf années seulement a commencer de l'année prochaine aud. Sr. Deschenaux, la de. Anse à Loup, avec l'etendue de terrain d'environ deux lieues de front sur six lieues de profondeur, ainsi qu'il est cy dessus designé avec les isles, islots, et battures qui se trouvent an devant dud. terrain. Pour en jouir et y faire un ou plusieurs etablissemens de pesche du loup marin, à l'exclusion de tons autres, ainsi que la Chasse et Traitte avec les sauvages, pendant led. temps et la pesche de la morue concurement avec les batimens qui pourront venir aud. lieu de l'Anse à Loup. à la charge par led. Sr. Deschenaux de faire valoir la présente concession, faute de quoy elle demeurera de nul effet et aussi de payer an Domaine de Sa Majesté en ce pais par chaque année deux castors de la somme de quatre livres. Fait et donné a Quebec le 25 8bre 1748. Signé LaGalissonniere et Bigot Contresignez et sçellez.

BIGOT.

(Translation.)

from the cape Diable, the same included, ascending to the anse à Loup (Wolf inlet), including the same, that is about two leagues in front, by six leagues in depth, together with the islands, islets and beaches lying opposite the said tract of land, with the privilege of seal-fishing, to the exclusion of all others, and that of hunting and trading with the Indians throughout the whole extent of said concession, and of cod-fishing at said place ; and considering the considerable advances which the petitioner will have to make to form substantial establishments, we would be pleased to grant him the said concession for a term of at least fifteen years, otherwise he could not derive any profit therefrom, in spite of the pains and the care he will take to establish a new post in view of the welfare and advantage of the trade of this Colony. We, in virtue of the power entrusted to us by His Majesty and under His good pleasure, have granted and conceded for the term of nine years only, to start next year, to the said Sr. Deschenaux, the said Anse à Loup, together with the tract of land of about two leagues in front by six leagues in depth, as hereinbefore set forth, as well as the islands, islets and beaches lying opposite the said tract of land, the same to have and hold and there to make one or more seal-fishing establishments, to the exclusion of all others,

with the right of hunting and trading with the Indians, for the said term, and that of cod-fishing concurrently with -the vessels which may come to the said place of l'Anse à Loup, under the condition that the said Sr. Deschenaux shall operate the present concession, by default of which the same shall be null and void, and subject to the payment to His Majesty's Domaine in this country, for each and every year, of two beaver of the value of four livres. Done and given at Quebec the 25th of October, 1748.

(Signed) La Galissonnière and Bigot. Countersigned and sealed.

BIGOT.

No. 1382.

**CONFIRMATION, 30 APRIL, 1749, OF CONCESSION
OF ANSE A LOUP FOR SEVEN YEARS, 1749-1756.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 76 VERSO.

Aujourd'hui trente avril mil sept cent quarante neuf, le Roy étant à Versailles ayant égard à la demande qui luy a été faite par le s. Joseph Deschenaux Ecrivain Employé dans les magasins de Sa Majesté en Canada tendante à ce qu'il plust à Sa Majté. de confirmer et ratifier une concession à luy faite le vingt cinq octobre 1748. par les srs. Marqs. de la Galissonniere commandant gnal de la Nouvelle France et Bigot intendant au d. país d'un terrain d'Environ deux lieües de front sur six lieües de profondeur scitué à la Coste de la Brador dans un endroit nommé Lance a loup, à prendre de cap au Diable en remontant jusqu'à la d. anse, avec les isles islets et Batures qui se trouvent dans l'étendue du d. terrain Sa Majesté a confirmé et ratifié la d. concession, Veut en consequence. que le d. s. Deschenaux en jouisse pendant l'espace de sept années seulement à commencer de la presente, avec droit de faire un ou plusieurs établissements de peche du loup marin, de chasse et de traite avec les Sauvages à l'exclusion de tous autres pendant le dit tems, comme aussy le droit de faire la peche de la morüe concurremment avec les batimens françois qui pourront venir au d. lieu de Lance a loup, le tout ainsy qu'il est porté dans la d. concession, et à la

(Translation.)

To-day, the thirtieth of April, one thousand seven hundred and forty-nine, the King being at Versailles, considering the petition to him presented by the Sr. Joseph Deschenaux, "Ecrivain" (clerk), employed in the stores of His Majesty in Canada, praying that His Majesty be pleased to confirm and ratify a concession to him granted on the twenty-fifth of October, 1748, by the Srs. Marquis de la Galissonniere, General Commandant of New France, and Bigot, Intendant in the said country, of a tract of land of about two leagues in front by six leagues in depth, situated on the coast of Labrador at a place called l'Anse a Loup, to be taken from the cape au Diable, ascending to the said inlet, together with the isles, islets and beaches lying within the extent of the said tract of land, His Majesty has confirmed and ratified the said concession, and orders consequently that the said Sr. Deschenaux shall have and hold the same for the term of seven years only, to start this year, with the right there to make one or more seal-fishing establishments, and that of hunting and trading with the Indians, to the exclusion of all others, during such term, and that of cod-fishing concurrently with the French vessels which may come to the said place of rancee a Loup, the whole

charge encore par le d. s. Deschenaux d'exploiter et faire valoir la dite concession ; à faute de quoy elle demeurera nulle et de

nul effet, comme aussy de paier par chaque année au domaine de Sa Majesté en Canada deux castors ou la somme de quatre livres pour toutes redevance seulement, et pour temoignage de sa volonté Sa Majesté ma commandé dexpedier le present brevet qui sera registre au greffe du Conseil Supr. de Quebec, et quelle a voulu signer de sa main et estre contresigné par moy son Coner. secretaire dEtat et de ses commandemens et finances. Signé Louis, et plus bas Rouillé.

Registré, suivant le arrest de ce jour, ouy et ce requerant le Procureur gnal du Roy par nous greffier en Chef soussigné a Quebec le 9 decembre 1749.

BOISSEAU.

(Translation.)

as set forth in the said concession, and under the condition that the said Sr. Deschenaux shall operate and develop the present concession ; by default of which the same shall be null and void, and subject to the payment, for each and every year, to the Domain: of His Majesty in Canada, of two beaver or the sum of four livres as sole dues, and in testimony of His will, His Majesty has ordered me to issue the present patent which shall be registered at the Registrar's office of the Superior Council in Quebec, and which He was pleased to sign with His own hand and to be countersigned by me, His Councillor, Secretary of State and of his Household and Treasury.

(Signed) Louis, and further down Rouillé.

Registered according to the decree of this day, having heard the General Attorney of the King and at his request, by us Chief Clerk, undersigned, at Quebec on the 9th of December 1749.

[18 May, 1713.]

BOISSEAU.

No. 1383.

C

BELLE ISLE STRAIT CONCESSION.

CONCESSION, 18 MAY, 1713, OF BELLEISLE STRAIT TO CONSTANTIN
FOR TEN YEARS, 1713-1723.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
SOVERAIN BOOK 4, FOLIO 51.

Philippe de Rigaud, marquis de Vaudreuil, commandeur de l'ordre militaire de St-Louis, gouverneur et lieutenant-général pour le Roy en toute la Nouvelle-France.

(Translation.)

Philippe de Rigaud, Marquis de Vaudreuil, Commander of the Military Order of St. Louis, Governor and Lieutenant General for the King over the whole of New France.

p. 3614

Michel Bégon, chevalier, seigneur de la Picardière, Murbelin et autres lieux, cone^{er} du Roy en ses conseils, et au

Parlement de Metz, intendant de justice, police et finances en la Nouvelle-France.

Sur la requeste à nous présentée par Pierre Constantin, habitant de la coste et seigneurie de Maure, contenant qu'il a beaucoup contribué à l'établissement fait par le sieur de Courtemanche à la coste de la bras d'or (*sic*), et que dans les voyages qu'il a fait le long de cette coste, il y a découvert plusieurs bons ports et havres, dans lesquels on pourrait faire des établissements considérables, non seulement pour la pesche de molue, et des loup-marin qui y est très abondante, mais aussy pour un commerce avantageux avec les Sauvages esquimaux, nous ayant representé qu'il n'est pas possible que le sieur de Courtemanche puisse establir tout le pays à luy concédé, ny mesme decouvrir tous les ports et havres qui sont au delà de Belisle esloigné de vingt-trois lieues de L'establissement du d. sr de Courtemanche, le d. Constantin nous ayant proposé d'establir le pays au delà de Belisle, en descendant au nord nord-est, s'il nous plaisait de luy en faire une concession ; à quoy ayant esgard et ne nous paraissant pas, attendû l'esloignement, que ce nouvel establissement puisse préjudicier à celui fait par le dit S. de Courtemanche, mais au contraire qu'il pourra estre très utile pour l'augmentation de la pesche du loup-marin et contribuer à la découverte de quelques bons ports et havres dont on pourra dans la suite tirer de grands avantages.

Nous en vertu du pouvoir à nous conjointement donné par Sa Majesté avons donne, accordé et concedé, donnons accordons et concédons par ces présentes au dit Constantin trente lieues de terre de front, depuis le détroit

(*Translation.*)

Michel Bégon, Knight, Seignior de la Picardière, Murbelin and other places, Councillor of the King in his Councils and in the Parliament of Metz, Intendant of Justice, Police and Finance of New France.

On the petition presented to us by Pierre Constantin, inhabitant of the coast and seignory of Maure, stating that he has largely contributed to the establishment formed by the Sieur de Courtemanche on the coast of la bras d'or (*sic*), and that in the explorations undertaken by him along said coast, he has discovered thereat several good ports and harbours in which important establishments could be formed, not only for the fishing of cod and seal which are there in abundance, but also for a profitable trade with the Esquimaux savages ; and having represented to us that it is impossible for the sieur de Courtemanche to settle all the country conceded to him, nor even discover all the ports and harbours which are beyond Belleisle, as far as twenty-three leagues from the establishment of the said de Courtemanche, and the said Constantin having proposed to us that he may settle the country beyond Belleisle, the said country running down towards the north-northeast, if it were our pleasure to grant him said concession : In consideration of which and, as it does not appear to us, owing to the distance, that this new establishment would be prejudicial to that settled by the said Sieur de Courtemanche, but, on the contrary, that it might become most advantageous for the development of the seal fishing and contribute towards the discovery of several good ports and harbours which should be, in future, of great benefit.

We, in virtue of the power jointly entrusted to us by His Majesty, have given, granted and conceded, and do hereby give, grant and concede unto the said Constantin, thirty leagues of land

proffondeur avec les isles et bâtures qui se trouveront sur la d. estendue, pour en jouir par le dit Constantin, ses successeurs et ayant cause pendant dix années avec droit de chasse, pesche et traite avec les Sauvages dans toute l'estendue de la d. Concession, à la charge de porter foy et hommage au chasteau Saint-Louis de Québec, duquel il relevera aux droits et redevances accoutumées, suivant la coutume de Paris suivie en ce pays, de conserver et faire conserver les bois de chesne propre pour la construction des vaisseaux du Roy, de donner avis à Sa Majesté des mines, minières ou minéraux si aucuns se trouvent dans la d. estendue et establir la d. concession, laisser la grève libre à tous pêcheurs, à l'exception de celle dont il aura besoin pour faire sa pesche, le tout sous le bon plaisir de sa Majesté, de laquelle il sera tenû de prendre confirmation des pntes dans un an, et après la d. ratification prise a faute par luy de tanir feu et lieu sera la d. concession réunie au domaine de sa Majesté. En foy de quoy nous les avons signé, à icelles fait apposer les sceaux de nos armes et contresigner par nos secrétaires. Fait à Quebec et donne le dix-huit May mil sept cent treize, signé Vaudreuil, Begon, et plus bas, Par Monseigneur, Dumontier, et, par Monseigneur . . . , et sont apposés les sceaux encire rouge de Monseigneur de Vaudreuil et de Monseigneur Begon—

Collationné par le nottaire royal en la Prevosté de Quebec soussigné à l'original en papier qui nous a esté présenté par Pierre Constantin y nommé, et à luy à l'instant rendu avec ces présentes. A Quebec le quatorze^e jour d'octobre mil sept cent treize signé de la Cettièrè avec paraphe.

(Translation.)

in front, commencing at the strait of Belleisle and running down towards the north-northeast, by ten leagues in depth with the islands and shoals which may be within the said extent, to have and to hold the same unto him, his heirs and assigns, for ten years, with the right of hunting, fishing and trading with the Indians within the whole extent of the said concession, under the condition of fealty and homage (*foi et hommage*) at the castle of St. Louis at Quebec, of which he shall hold, subject to the customary duties and dues agreeably to the Coutume de Paris followed in this country, and further, that he shall preserve and cause to be preserved the oak timber fit for the building of His Majesty's ships, and that he shall give notice to the King of such mines, ores and minerals as may be found within the said extent of land, and that he shall settle the said concession, and keep the shore free to all fishermen, with the exception of that which he will need for his own fishing, the whole under the will and pleasure of His Majesty, by whom he shall be bound to have these presents confirmed within one year ; and after said confirmation, upon neglect by him of keeping house and home (*feu et lieu*), said concession will be reunited to His Majesty's Domaine.

In testimony whereof, we have signed these presents, and caused our seals to be affixed thereto, and the same to be countersigned by our secretaries.

Done and given at Quebec, the eighteenth day of May, one thousand seven hundred and thirteen, Signed : Vaudreuil, Begon and, lower down, by Monseigneur, Dumontier, and, by Monseigneur, and are affixed the seals with red wax of Monseigneur de Vaudreuil and of Monseigneur Bégon.

Compared by the undersigned the notary royal in the provostship of Quebec with the original on paper which has been to us presented by Pierre Constantin herein mentioned, and to him immediately returned. At Quebec the fourteenth day of October, one thousand seven hundred and thirteen. Signed de la Cettièrè with a flourish.

No. 1384.

ST. MODET CONCESSION.

[31 March, 1716.]

CONCESSION, 31 MARCH, 1716, OF THE KING, OF RIVIERE DES FRANCOIS (ST. MODET) TO PIERRE CONSTANTIN FOR HIS LIFETIME.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS, SOUVERAIN BOOK 4, FOLIO 52 VERSO.

Aujourd'huy trente une, mars mil sept cent seize. le Roy estant a Paris et estant informe que le sr. Constantin a esté un des premiers qui ait esté du Canada a la decouverte de la coste de Labrad'or pays des esquimaux et mesme qu'il a fait un establissement en la d. coste en vertu d'une concession quy luy a esté accordée par les srs Vaudreuil et Begon gouverneur et intendant au dit pays ; Sa Majesté voulant favoriser l'establissement du dit Constantin a la d. coste elle luy a concede de l'avis de Monsieur le duc d'Orleans son oncle regent quatre lieues de terre de front dans la d. coste, sçavoir deux lieues au dessus en courant au nord est, de l'habitation nommée a present habitation du sr. Constantin située au nord est de la riviere des François et deux lieues au dessous en allant a la de. riviere des François, le tout sur quatre lieues de proffondeur dans les terres, et ensemble les isles, et islots adjacents, aux d. quatre lieues de front, pour en jouir sa vie durant, et tant qu'il fera valoir lad. concession par les pêches et traittes qu'il y fera ; veut Sa Majesté qu'il ayt

(Translation.)

On this clay, the thirty-first of March, one thousand seven hundred and sixteen, the King being in Paris and being informed that the Sieur Constantin was among those who first went from Canada to discover the coast of Labrador, the country of the Esquimaux, and that he has even formed an establishment on the said coast under a concession granted unto him by the Sieurs Vaudreuil and Begon, Governor and Intendant of the said country ; His Majesty, desirous of favouring the establishment of said Constantin on the said coast, has conceded unto him, upon the advice of Monsieur le Duc d'Orléans, his uncle the Regent, four leagues of land in front on the said coast, to wit, two leagues running toward the north-east, above the habitation presently called habitation of the Sieur Constantin, situated north-east of the Riviere-des-François and two leagues below towards the said river des François, the whole by four leagues in depth inland, and also the islands and islets adjacent to the said four leagues in front, to have and to hold the same during his life-time, and so long as he shall develop the said concession by the fisheries and trades that he may carry on there ; it is ordered by His Majesty that, in the said four leagues in front on the said coast and also in the

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seul dans les d. quatre lieues de front sur la d. coste ensemble dans les isles et islots adjacents, la faculté d'y faire la pêche du loup marin et qu'a l'esgard des autres pêches, qu'il les fasse concurremment avec les vaisseaux qui viendront a la d. coste,

luy permet Sa Majesté de faire la traite avec tout les Sauvages qui peuvent se trouver sur la d. coste et terre de labrasd'or sans que pour raison de tout ce que dessus, il soit tenû de payer a Sa Majesté, ny a ses successeurs Roys aucune finance, ny indemnité de laquelle, a quelque somme qu'elle puisse monter Sa Majesté luy a fait don et remise par le present brevet qui sera enregé. au Conseil superieur de Quebec, et partout ou besoin sera, et que Sa Majesté pour temoignage de sa volonté, a voulu signer de sa main et estre contresigné par moy Coner. secretaire d'Etat et de ses commandements et finances, signé Louis et plus bas Phelypeaux, avec paraphe, et plus has est escrit.

Aujourd'huy le titre de confirmation cy dessus et la copie collationnée de la concession accordées au dit Constantin ont esté regées. au greffe du Conseil superieur de Quebec suivant son arrest de ce jour, par moy Coner. secretaire du Roy Greffier en chef du dit Conseil, soussigné ; a Quebec le dix neuf avril mil sept cent dix sept :

DE MONSEIGNAT.

(Translation.)

adjoining islands and islets, he have the exclusive right to catch seal, and that, as regards the other fisheries, he shall make them concurrently with the vessels coming to the coast, and he is authorized by His Majesty to trade with all the Indians who may be on the said coast and land of Labrador without being held, in respect of all the above, to pay unto His Majesty, or to the Kings his successors any tax or indemnity of which, to whatever sum they may amount to, His Majesty has made him a gift and remission under the present patent which shall be registered at the Superior Council of Quebec, and wherever necessary, and that His Majesty, as an evidence of His will, has been pleased to sign with His own hand and have countersigned by me, Councillor, Secretary of State and of His Majesty's Household and Treasury. Signed Louis, and further down, Phelypeaux, with a flourish, and still further down is written :

The deed of the above confirmation and the collated copy of the concession granted to the said Constantin have this day been registered at the Record Office of the Superior Council of Quebec in pursuance of its decree of this day, by me, Councillor, Secretary to the King, Chief Clerk of the said Council, the undersigned ; at Quebec, the nineteenth day of April one thousand seven hundred and seventeen :

DE MONSEIGNAT.

No. 1385.

**CONCESSION, 27 APRIL, 1735, OF ST. MODET TO
BOUCAULT AND FOUCAULT, FOR NINE YEARS,
1735-1744.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 7, FOLIO 32 VERSO.

Charles Marquis de Beauharnois etc.
Gilles Hocquart etc.

Sur la requête a nous présentée par les srs. Foucault conseiller au Conseil le Superieur, et garde magasin du Roy a Quebec, et Boucault procureur du Roy ez sieges de la Prevôté et amirauté de cette ville tendante a ce qu'il nous plaise leur accorder une concession au lieu dit le Grand St. Maudet Coste de Labrador avec le privilege d'y faire a l'exclusion de tous autres la pêche du loup marin et la traite avec les sauvages, dans lequel endroit ils ont commencé a grands frais dez l'année dernière de faire un établissement, a quoy ayant egard, nous en vertu du pouvoir a nous donné par Sa Majesté et sous son bon plaisir, avons accordé et concédé pour l'espace de neuf années a commencer de la presente auxd. srs. Foucault et Boucault une estendue de terre de cinq lieues de front sur six de profondeur sise a la Coste de Labrador, bornée au Nord Est a la Riviere des François icelle non comprise, et au sud ouest aux Terres non concedées

(Translation.)

Charles, Marquis de Beauharnois, etc.
Gilles Hocquart, etc.

On the petition presented to us by the Srs. Foucault, Councillor in the Superior Council, and Store-keeper of the King at Quebec, and Boucault, King's Attorney at the court of the Prevostship and Admiralty of this city, praying that we would be pleased to grant them a concession at the said place called Grand Saint-Maudet, coast of Labrador, with the privilege, to the exclusion of all others, of seal-fishing and trading with the Indians, in which place they have begun at great cost, last year to make an establishment. We, in consideration thereof, by virtue of the power entrusted to us by His Majesty and under His pleasure, have granted and conceded for the term of nine years from the present year, to the said Srs. Foucault and Boucault a tract of land of five leagues in front by six in depth situated on the coast of Labrador, bounded on the north-east by the rivière des François, not including same, and on the south-west by the ungranted lands together, with the

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avec l'isle appelée le Grand Saint-Maudet, et les autres isles, islets et batures qui se trouveront vis a vis lad. estendue, de cinq lieues de front, pour en jouir par les supliants par indivis et y faire un ou plusieurs établissements de pêche du loup

marin et la traite avec les sauvages a l'exclusion de tous autres pendant led. temps et en outre avec la faculté d'y faire la pêche de la morue concurremment avec les autres bâtiments françois, a la charge par les supliants de faire valoir lad. concession et de continuer les etablissements commencez, a faute de quoy la presente concession sera de nul effet, et aussy de payer au domaine de Sa Majesté en ce pays par chacune année cinq castors ou la somme de dix livres. Faisons deffenses a toutes personnes de quelque qualité et condition qu'elles soient de troubler lesd. srs. Foucault et Boucault dans l'exploitation desd. pesches et traite dans l'estendue dud. terrain a peine de desobéissance et de tous dépens dommages et interests envers les supliants. Fait et donné a Quebec au Chateau St Louis le vingt sept avril 1735. Signé Beauharnois et Hocquart.

Pour copie.

HOCQUART.

(Translation.)

island called the Grand Saint-Maudet, islands, islets and beaches lying opposite the said tract of land, by five leagues in front, the same to be enjoyed by the petitioners as joint owners, and there to make establishments for seal-fishing and trading with the Indians, to the exclusion of all others, for the said term and, in addition, with the power of cod-fishing concurrently with the other French vessels, under the condition that the petitioners shall operate the said concession and maintain the establishments commenced, by default of which the present concession shall be void, and that they shall pay to the Domaine of His Majesty in this country every year five beaver or the sum of ten livres. We forbid all other persons, of whatever capacity and condition they might be, to disturb the said Srs. Foucault and Boucault in the said fishing and hunting within the said tract of land, subject to punishment for disobedience as well as costs, damages and interest to the petitioners. Done and given at Quebec at the Castle of St. Louis the twenty-seventh of April, 1735. Signed Beauharnois and Hocquart.

For copy.

HOCQUART.

[17 April, 1736.]

No. 1386.**PRESIDENT DU CONSEIL DE MARINE, 17 AVRIL,
1736, TO BEAUHARNOIS AND HOCQUART,
INSTRUCTING THEM TO INVESTIGATE RIVAL
CLAIMS OF CONSTANTIN, AND BOUCAULT
AND FOUCAULT.**

ARCHIVES OF CANADA, SERIES B, VOL. 64-2.

A Versailles le 17 Avril 1736.

Le Sr. Constantin repnte qu'au mois de mars 1716. le Roy luy conceda 4. lieues de terre de front a la côte de la Brador savoir deux lieues an dessus en courant au N. H. de l'habitation nominee de Constantin et située an N.E. de la R. des francois et 2. Lieues au dessous en courant allant a la même R. Que plusieurs années avant cette concession il avoit deja formé un Etablissement a une demie lieüe ou Environ au N.E. de la R. des francois. Qu'il a toujours fait valoir cet Etablissement, et en a fait d'antres pour la pêche du loup marin dans l'Etendüe de Sa concession sans qu'il y ait été troublé jusqu'en 1734 que le Sr Cheron amateur et associé avec le srs Boucault et foucault s'est emparé de l'Isle St. Modet comprise dans sa concession a tendu ses retz pour la pêche du Loupmarin entre cette Isle et la terre, et a troublé la peche que luy Constantin faisoit faire a la Rivière des francois a une demie lieue ou Environ de cette Isle. Qu'au retour du Sr. Cheron les srs Boucault et foucault vous ont demandé la concession de cette même Isle. Qu'ayaut été informé de cette demande il vous a reprsenté que la concession demandée par les Srs Boucault et foucault

(Translation.)

Versailles, 17 April, 1736.

The Sr. Constantin represents that, in the month of March, 1716, the King conceded to him four leagues of land in front on the coast of Labrador, namely, two leagues above running to the northeast from Constantin's dwelling and situated to the northeast of the rivière des François and two leagues below running towards the saute river. That, many years before that concession, he had already formed an establishment at about a league towards the northeast of the river des François. That he had always operated this establishment, and has made others for seal-fishing within the extent of his concession without having been disturbed till 1734, when the Sr. Cheron, ship-owner and the partner of the Srs. foucault and Foucault took possession of St. Modet island included in his concession, cast his nets for seal-fishing between this island and the mainland, and has disturbed the fishing that he, Constantin, had caused to be carried at the River des Francois at a distance of half a league or so from that island. That, on the return of the Sr. Cheron the Srs. Boucault and Foucault have applied to you for the concession of this same island. That, having been informed of that petition, it has been represented to you that the concession requested by the Srs. Boucault and Foucault could not be granted to them without taking a

ne pouvoit leur estre accordée sans prendre une partie du terrain compris dans celle qu'il a obtenue en 1716 et sans faire tomber les Etablissements qu'il a faits. Que les Srs Boucault et foucault ayant pretendu que l'Etablissement principal du Sr. Constantin estoit a la Baye Rouge et non a la Rivière des françois, on fit comparoitre devant M. Hocquart 4. Temoins dont deux furent choisis par les Srs Boucault et foucault eux mêmes, et qui tour deposerent qu'a la Vérité il y avoit une cabane a la Baye Rouge pour loger les Pecheurs, mais que le principal Etablissement du Sr. Constantin estoit a la Rivière des françois. Que la dessus il fut dabord resolu d'attendre les Eclaircissemens qu'on pouroit prendre sur la Carte que lc Sr. de la Richardiere devoit dresser de la Cote du N. du fleuve. Qu'on proposa ensuite au S. Constantin un arrangement qui ne luy convint point. Qu'il envoya cependant a son ord^{re} un batiment a son poste pour y faire la peche mais que 8. jours après l'arrivée de ses pecheurs a St. Modet, le Sr. Cheron y arriva et leur notifia une concession que vous avés expédiée aux Srs. Boucault et foucault, En sorte que les Pecheurs du Sr. Constantin leverent leurs Rets et se retirerent.

Il a ajouté que par cette Concession il se trouve depouillé d'une grave qu'il faisoit valoir depuis plusieurs années et qui faisoit son unique ressource pour subsister et faire subsister sa famille, il a demandé d'Estre maintenu dans sa concession de 1716. Et it a Envoyé un plan suivant lequel it paroît que l'Isle St. St. Modet doit effectivement estre comprise dans cette dre concession.

Si cele est, les representations qu'il fait sont fondées, et il ne seroit pas juste de laisser subsister la concession expédiée aux Srs Boucault et foucault. Vous aurés agreable de me marquer ce qui en est, et de me donner votre avis sans prevention ni complaisance.

(Translation.)

of the terrain comprised the one he obtained in 1716 and without the destruction of the establishments he has made. That the Srs. Boucault and Foucault having pretended that the principal establishment of the Sr. Constantin was situated at the Baye Rouge and not at the Rivière des François. Four witnesses were summoned before M. Hocquart, two of whom were selected by the Srs. Boucault and Foucault themselves, and who all gave evidence and stated that there really was a cabin at the Baye Rouge for the accommodation of the fishermen, but that the principal establishment of the Sr. Constantin was at the Rivière des François. That, thereupon, it was at first decided to wait for the enlightenment which could be obtained front the chart the Sr. de la Richardière was to prepare of the north coast of the river. That an arrangement was afterwards proposed to the Sr. Constantin to which he could not see convenient to agree. That he nevertheless ordered the sailing of a vessel for fishing there ; but that eight days after the arrival of his fishermen at St. Modet. Sr. Cheron arrived there and notified them of a concession which you have despatched to the Srs. Boucault and Foucault. Consequently, the fishermen raised their nets and withdrew.

He added that, by this concession he was deprived of a beach which he was operating for many years and which constituted his only resource to subsist and to support his family. He has asked to be maintained in his concession of 1716. And he has sent a plan according to which it scents that St. Modet island must actually be included in the said

concession.

If it is so, the representations he makes are well founded, and it would not be just to allow the remaining in force of the concession forwarded to the Srs. Boucault and Foucault. You will please inform me of the occurrences and give me your advice without prejudice or favour.

No. 1387.

**ORDINANCE, 6 OCTOBER, 1736, BY HOCQUART,
FORBIDDING BROUAGE *et al* TAKING SEALS
BELOW BAYE DE PHELYPEAUX.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 24, FOLIO 118.

A Mgr L' Intendant.

Suplie humblement Nicolas Gaspard Boucault Lieutenant particulier de la Prevôté Et Lieutenant Général de L'amirauté de Québec faisant tant pour luy que pour le sr. Foucault Coner. au Conseil superieur dud. Québec tons Deux Concessionnaires du Poste de St. Modet situé a la coste de LaBradord, Disant que le jour d'hier ayant l'honneur d'estre devant vous avec le sr. Dezauniers marchand en cette ville associé du sr. de Brouague concessionnaire d'un autre poste Etably par feu M. De Courtemanche aud. Lieu de LaBradord, Et commandant en iceluy le supliant ezd. noms Eut l'honneur de vous représenter que sur ce qu'il s'estoit plaint aud. sr. Dezauniers que l'Etablissement d'une nouvelle pêche au fusil faite par le nommé LeCourt que luy sieur Dezauniers, Et led. sr. de Brouague auroient formé cette année au lieu nommé la Longue Pointe distant de 7 a 8. lieues du poste des supliants, etoit cause en partie du

(Translation.)

To Mgr. the Intendant.

Prays humbly Nicholas Gaspard Boucault, Lieutenant Particulier of the Prevostship and Lieutenant-General of the Admiralty of Quebec, both in his name and in the name of the Sr. Foucault, Councillor in the Superior Council of Quebec, both grantees of the post of St. Modet situated on the coast of La Bradord, stating that, yesterday, having had the honour to appear before you with the Sr. Dezauniers, merchant in this city, the partner of the Sr. de Brouague, the grantee of another post established by the late M. de Courtemanche at the said place of La Bradord, and commandant of the same, praying him in the said names, had the honour to represent to you that, upon his having complained to the said Sr. Dezauniers that the establishment of a new fishing with muskets made by one LeCourt to the effect that he, the Sieur Dezauniers, and the said Sr. de Brouague would have formed this year at the place called Longue point, at a distance of seven or eight miles from the post of the petitioners,

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tort considerable qu'ils out souffert cette année par la non valeur de la pêche qu'ils ont Etably aud. Lieu de St. Modet parce que les coups de fusil qui ont Esté tires par led. LeCourt et ses Gens en cet Endroit qui est la passe naturelle des Loups Marins forcoient ces animaux Blessez et qui s'echapoint de

prendre une autre Route que celle naturelle et en Entrainoient d'autres avec Eux, pourquoy le suppliant vous auroit demandé Mgr, qu'il Vous plût luy donner acte de la declaration que luy venoit de faire en votre presence led. sr. Desauniers faisant tant pour luy que pour led. sr. De Brouague qu'il n'entendoit plus faire la pêche au fusil que c'estoit même le dessin dud. sr. De Brouague qui luy en avoit Ecrit en cet Esprit. Et comme ce qui vous a esté Exposé Monseigneur de la declaraon dud. sr. Dezauniers est a notre connoissance ; Le suppliant aud. nom vous supplie de vouloir bien luy en donner acte, et En consequence faire deffenses aud. sr. Dezauniers taut pour luy que pour led. sr. DeBrouague de plus a l'avenir faire faire la pêche au fusil, et a Eux et a toutes personnes de tirer ou faire tirer aucuns coups de fusil sur la passe des Loups marins a peine d'amende arbitraire, et de tous depens dommages et interests Et vous ferez justice signé Roucault et plus bas Est Ecrit soit commniqué de la main a la main pour en venir devant nous ce jourd'huy Mandons etc. a Québec le six octobre 1736. signé Hocquart, Et plus bas Est Ecrit Gilles Hocquart intendant de la nouvelle france, Les parties ayant comparu ; et apres qu'il a esté dit par le sr. Dezauniers que le sr. Brouague et luy ne sont plus dans le dessein de faire faire la pêche au fusil a la Longue Pointe nous en avons donné acte aux demandeurs et ayant aucunement Egard a la demande dud. sr. Boucault ez noms, faisons deffenses aud. sr. de Brouague et a tous autres, de faire aucune chasse

(Translation.)

was, in part, the cause of considerable damage which they have suffered this year on account of the failure of the fishery which they have established at the said place of St. Modet, because the musket shots which have been fired by the said LeCourt and his men in that place, which is the natural seal-way, were compelling these wounded animals who were running away, to take another way than the natural one, and leading away others with them. Therefore, the petitioner requests you, Monseigneur, that you would be pleased to give him a written certificate of the declaration which had just been made in your presence by the said Sr. Dezauniers, in his name as well as in the name of the said Sr. de Brouague. to the effect that he had no longer intended to fish with muskets and that it was also the design of the said Sr. de Brouague. who had written him to that effect, And as what has been stated to you, Mgr. of the declaration of the said Sr. Dezauniers is known to us: The petitioner in the said name prays you to be kind enough to deliver to him an official declaration, and consequently to forbid the said Sr. Dezauniers, both for him and for the said Sr. de Brouague, not to fish in the future with muskets, and to forbid them and all other persons to fire or cause musket shots to be fired on the seal-way, under the penalty of an arbitrary fine, as well as under the penalty of all costs. damages and interest. And you shall do justice. Signed Boucault, and below, is written : To be communicated from hand to hand to be returned to us this day. We order, etc. At Quebec. the sixth of October. 1736. Signed Hocquart, and below is written Gilles Hocquart, Intendant of New France. The parties having appeared : and after the Sr. Dezauniers had said that he and the Sr. de Brouague no longer intend to cause fishing to be done with muskets at Longue Pointe, we have delivered an official declaration to the petitioners. And we, without taking into consideration the petition of the said Boucault in these names, do forbid the said Sr. De Brouague

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de Loups marins au fusil au sud ouest¹ et au dessous de la Baye Phélypeaux a peine de tous depens dommages et interests Mandons etc fait a Quebec le six octobre 1736. signé Hocquart

et plus bas par Monseigneur.
Signé de Valmur.

HOCQUART.

Vraie copie.

Québec, 29 avril 1921.

C. J. SIMARD,

Assistant-registraire

provincial.

Archives de la Province
de Quebec.

Archives de la Province de
Copié par L. M.

Pierre-Georges Roy
Arcitiviste.

Collationné par G. H.
Date 14/4/21.

(Translation.)

as well as all others, to do seal-hunting with muskets towards the south-west and below the Baye Phélypeaux,. under the penalty of all costs, damages and interests. We order, etc. Done at Quebec, the sixth day of October, 1736. Signed Hocquart and below by Monseigneur.

[2 April, 1738.]

Signed de Valmur.

HOCQUART.

No. 1388.

C

**INQUIRY, 2 APRIL, 1738, BY BEAUHARNOIS AND
HOCQUART, RESPECTING THE CLAIMS OF
CONSTANTIN, BOUCAULT AND FOUCAULT.**

Enquete faite par nous Charles Marqs de Beauharnois &c
Et Gilles Hocquart Intendant Ce jourd'huy vingt sept mars 1738
et Jours suivants an sujet de l'affaire d'Entre le S. Constantin et
les Srs Foucault et Boucault concernant leurs concessions a la
Côte de Labrador.

(Translation.)

[2 April, 1738.]

Inquiry made by us. Charles, Marquis de Beauharnois &c. and Gilles Hocquart, Intendant, this day the twenty-seventh of March, 1738, and the following days, respecting the case between the Sieur Constantin and the Sieurs Foucault and Boucault concerning their concessions on the coast of Labrador.

¹ Clerical error for "est"

Dud. jour Est comparû par devant Nous Gouverneur general et Intendant le Sr Charles Couillard de Beaumont propriétaire de la seigneurie de Beaumont par nous mandé suivant la requisition que nous en a faite le S. Constantin, Lequel apres serment presté de dire verité En presence des Srs foucault et Boucault qui n'ont articulé aucun reproche contre la personne du d. S. Beaumont et aussy en presence de Pierre Hamel fondé du pouvoir du S. Constantin, et de Rene Cartier associé du d. hamel dans l'Exploitation du Poste du d. Constantin sur les connoissances qu'il a de l'Endroit ou Estoit, et qui Estoit appelé en 1713, 1714, 1715 et 1716 habitation du S. Constantin a la Côte de Labrador désignée estre située au N.E. de la Riviere des francois dans le Brevet de Concession a luy accordé par Sa Majesté le trente un Mars 1716 dont nous luy avons fait Lecture A dit qu'Estant a la Coste de Labrador chez M. de Courtemanche, il a vû le S. Constantin dans les années 1713, 1714, 1715, 1716 aller et venir dans la Coste, qu'il luy a ouy dire qu'il alloit a La Riviere des francois sans que le Sr de Beaumont sçut ou il alloit ; Qu'il ne connoit point l'Endroit ou Estoit, et qui Estoit appelé alors habitation du Sr Constantin ; Qu'il luy a settlement ouy dire dans ces temps la, que luy Constantin vouloit faire un fort et une grande pêche a la de Riviere des francois, Et qu'il n'a aucune Connoissance qu'il ayt fait faire aucun fort, ny maison, ny pêche a la de Riviere Lecture faite aud. Sr de Beaumont de sa declaration a dit icelle contenir verité, y a persisté et a signé ainsy signé Beaumont, Beauharnois et hocquart.

Du même jour Est comparu par devant Nous le S. Testu de la Richardiere Capitaine de Brulot et Capitaine de Port a quebec par nous mandé suivant le S. Constantin Lequel apres serment presté de dire verité En presence comme dessus, et quil a esté dit par les Srs foucault et Boucault qu'ils n'ont d'autre

(Translation.)

on the said day, has appeared before us, the Governor General and the Intendant, the Sieur Charles Couillard de Beaumont, the owner of the seigniorie of Beaumont summoned to us according to the requisition made by us relating thereto by the Sieur Constantin, who, after having taken oath to speak the truth, in the presence of the Sieurs Foucault and Boucault, as well as in the presence of Pierre Hamel, the attorney of the Sieur Constantin, and of René Cartier, partner of the said Hamel in the operation of the Post of the said Constantin respecting the knowledge which he has concerning the situation and what was called in 1713. 1714, 1715 and 1716. the "habitation" of Sieur Constantin on the coast of Labrador, described as lying on the north-east of the Riviere des Francois in the deed of concession granted to him by His Majesty on the thirty-first of March. 1716, which was read to him. has stated that being on the coast of Labrador at the house of M. de Courtemanche, he has seen the Sieur Constantin in the years 1713. 1714, 1715, 1716 going and coming on the coast, that he has heard him say that he was going to riviere des Francois without the Sieur de Beaumont knowing where he was going ; that he does not know the place where was, and which was then called the habitation of the Sieur Constantin ; that he only heard him say at those times that he, Constantin. wanted to establish a fort and a large fishery at riviere des Francois, and that has no knowledge that he has established any fort, or house or fishery at the said river. The declaration of the said Sieur. de Beaumont having been read to him, he said that, it contained the truth, persisted in his statement and signed it

so : Signed Beaumont, Beauharnois and Hocquart.

On the same day has appeared before us the Sieur Testu de lit Richardière, Capitaine de Brulot port-captain, summoned by us according to the Sieur Constantin, who, after having taken oath to speak the truth in such presence as aforesaid, and the Sieurs Foucault and Boucault having

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reproche a faire au d. S. La Richardiere sinon qu'il leur a paru que le d. S. La Richardiere leur avoit paru jusques a present favorable a leur partie, que cependant ils ne recusoient point son temoignage, sur les connoissances quil a de l'Endroit ou Estoit, et qui Estoit appellé en 1713, 1714, 1715 et 1716 habitation du S. Constantin a la Coste de La Brador designée Estre située au N.E. de la Riviere des françois clans le Brevet de Concession a luy accordé par Sa Majesté le 31 Mars 1716 dont nous luy avons fait Lecture A dit qu'il ne sçait point ou Estoit l'Endroit et qui estoit appelé habitation du S. Constantin En aucun temps ; Qu'il y a trois ans Estant au Petit St. Modet pour le service, il a ouy dire par ceux qui y Estoient que Constantin y avoit fait la pêche ainsi qu'a la Baps Rouge ; qu'il a vû an Petit St. Modet quelques vieux vestiges de Cabane, qu'au surplus il ne sçait rien autre chose Lecture faite au dit S. La Richardiere de sa declaration, a dit icelle contenir verité, y a persisté, Et a signé ainsy signé Testu, Beauharnois, hocquart, De Valmur.

Et avenant le deux avril dix heures du matin Est comparu par devant nous francois Martel de Buouague Commandant a La Brador

* * * *

A dit quil n'a dautres connoissances de l'Endroit out Estoit et qui estoit appelé habitation du S. Constantin, sinon que les d. Constantin dans les d. années a Etabli des Pêches au Petit St. Modet et a la Baye rouge, qu'il luy a ouy dire dans les des années a luy Constantin qu'il alloit au petit St. Modet et a la Baye rouge quil qualifioit de ses Postes, quil a connoissance par le recit qui luy en a esté fait par les gens de Constantin et autres

(Translation.)

stated that they had no reproach to make against the said Sieur la Richurdière, save that it had appeared to them that the said Sieur la Richardière had seemed to them as being hitherto in favour of their party, that, however, they did not challenge his evidence upon the knowledge he has respecting the place where was, and which was called in 1713, 1711, 1715 and 1716 the habitation of the Sieur Constantin on the coast of Labrador, described as being situated to the north-east of rivière des Francois in the deed of concession granted to him by His Majesty on 31 March. 1716. which we read to him; has stated that he does not know where was the place which was called the habitation of the Sieur Constantin at any time; that, three years ago [1735], being at Petite St. Modet for the service, he has heard from those who were there that Constantin had fished at that place. as well as at the Baye Rouge : that he has seen at the Baye Rouge some old remnants of a cabin, that after all he does not know anything else. His declaration having been read to him, the said Sieur la Richardière has stated that it was true, persisted in his statement and signed as follows : Signed Testu, Beauharnois. Hocquart. De Valmur.

And on the second of April, at ten o'clock in the morning, has appeared before us François Martel de Brouagnes, commandant at La Brador.

* * * *

He stated that he has no other knowledge of the place where was and which was called the habitation of the Sieur Constantin, save that the said Constantin in the said years has established fisheries at Petit St. Modet and at Baye Rouge, that he has heard him, the said Constantin. say, in the said years, that he was going to the post of Petite St. Modet, as well as to the. Baye Rouge, which he styled his posts, that he has knowledge by the account which was given to him by the men of Constantin and others at the said time, that he, Constantin, fished for

dans le d. Temps, que luy Constantin a fait ses premieres Peches au Petit St. Modet et à la Baye Rouge dans le meme Eté dez premieres années, qu'il a pareillement connoissance que le d. Constantin a fait un fort a la Baye rouge L'automne 1719, qu'il ne peut dire, et qu'il ne sçait lequel des deux postes du Petit St. Modet ou de la Baye Rouge Estoit nommé habitation du S. Constantin, Qu'il sçait que le d. Constantin a fait son premier hyvernement Environ a une lieüe du Board de la mer clans la Riviere des francois ou il fit une Cabane d'hyver ou il mit ses ustenciles de pêche, Et ou les gens de Constantin hyvernerent sans que luy Constantin y ait jamais hyverné ; Lecture faite au d. S. de Brouagues de sa declaration a dit icelle contenir verité, y a persisté et a signé, ainsy signé De Brouagues, Beauharnois, hocquart Et De Valmur.

Du meme jour deux avril onze heures du matin est comparu par devant nous francois Marganne De la Valterie.

* * * *

A dit qu'il n'avoit autre connoissance de l'habitation du Sr Constantin que de celle qui a esté faite par les Beau-freres du d. Constantin qui estoit a la Baye Rouge ou il y avoit un petit fort de pieux ou les d. Beaufreres ont esté tuez et qu'a l'Egard de la Riviere des francois. il n'y avoit vû qu'une simple Cabane sauvage, A dit de plus qu'il connoissance que les premiers Retz qui ont esté tendues pour le loup marin C'a esté dans la de Baye rouge. et depuis le d. Brevet accordé que le d. Constantin et luy S. de la Valterie revenant Ensemble de La Brador (ne se souyient point En quelle année) luy a toujours parlé de la de Baye rouge comme Estant son Poste, Et Est tout ce qu'il a tit Scavoir Lecture Faite an d.

(Translation.)

the first time at Petite St. Modet and at the Baye Rouge in the same spring of the first years: that he has also knowledge that the said Constantin has established it fort at Baye Rouge in the fall of 1719; that he cannot say. and that he does not know which of the two posts of Petite St. Model or of Baye Rouge was called the habitation of the Sieur Constantin; that he is aware that the said Constant in wintered for the first time at a distance of about one league from the sea-shore in Rivière des Francois where he built a winter-cabin where he put his fishing gear and where melt wintered, but that he, Constantin, never wintered there. His declaration having been read to the said Sieur de Brouague, he stated that the same was true, persisted in his statement and signed it as follows : De Brouague, Beauharnois, Hocquart and De Valmur.

On the same day, the second of April, at eleven o'clock in the morning, has appeared before us Francois Marganne de la Valterie.

* * * *

He stated that he has no knowledge of the habitation of the Sieur, Constantin nor of the one which was built by the brothers-in-law of the said Constantin who was at Baye Rouge where there was a stockaded fort, where the said brothers-in-law were killed, and that with respect to Rivière des Francois he had only seen there an Indian cabin; has stated, in addition, that he is aware that the first nets for seal fishery were cast in said Baye Rouge, and that, since the granting of the said deed, as he was returning with the said Constantin from La Brador (he does not remember in what year), the said Constantin has always spoken to him if Faye Rouge as being his post, and that he knows all he has stated. His declaration having been read to him, the said Sieur de la

S. De La Valterie de sa declaration, a dit icelle contenir verité y a persisté et a signé Ainsy signé De La Valterie, Beauharnois, hocquart et De Valmur.

Et le d. Jour Les parties prendront communication de l'Enqueste cydessus et des autres parts au Secretariat du Chateau en tirer telles inductions qu'Elles aviseront, et ce dans huitaine pour toute prefixion et Delay. Le d. Jour deux Avril 1738. Signé Beauharnois Et hocquart.

(Translation.)

Valterie has stated it to be true, has persisted in his statement and signed as follows Signed : de la Valterie, Beauharnois, Hocquart and De Valmur.

And, on the said day, the parties shall take communication of the above inquiry and of other parts at the Secretariat of the Castle and draw such deductions as they shall see fit, and this within the week for any prefixion and delay. The said day, the second of April, 1738. Signed Beauharnois and Hocquart.

No. 1389.

C

[28 Sept., 1740.]

**ORDINANCE, 28 SEPTEMBER, 1740, BY HOCQUART,
CONFIRMING CONSTANTIN IN POSSESSION
OF ST. MODET AND ANNULLING CONCESSION
TO BOUCAULT AND FOUCAULT.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 28, FOLIO 80.

Charles Mis. de Beauharnois etc.
Gilles Hocquart etc.

Vû par nous nôtre reglement provisoire en datte du 18. avril 1738. Sur la contestation mue entre le s. Constantin capne. de milice de la coste de St. Augustin, proprietaire d'une concession size a la coste de la Brador en vertu d'un brevet de Sa Majesté en date du 31. mars 1716. d une part. Et les srs.

(Translation.)

Charles Marquis de Beauharnois. etc.
Gilles Hocquart. etc.

In consideration of our temporary settlement dated April 18th, 1738, upon the contestation arisen between the Sr. Constantin. captain of militia of the coast of Saint-Augustin, owner of it concession situate at the coast of La Brador by virtue of it patent of His Majesty, dated March 31st, 1716, on the

Foucault coner. an Consl. Superieur, et Boucault Lieutenant de l'amirauté, comme fondés sur un titre par nous expedié le 27 avril 1735 pour une autre concession size a la de. coste vulgairement appellée grand St. Modet, d'autre part. Par lequel reglement nous donnâmes acte aux dts. srs Foucault et Boucault de l'abandon qu'ils firent alors du terrain en question et ce sous les reserves y portées, en attendant que nous prissions de plus amples eclaircissemens sur le different des parties. Nous aurions mandé les d. srs. Foucault et Boucault pour sçavoir d'eux s'ils n'avoient point de nouveaux eclaircissemens a fournir, et led. s. Foucault nous auroit dit qu'il avoit cédé toutes ses pretentions aud. s. Boucault, et led. s. Boucault qu'il abandonnoit tant les pretentions a luy cedées que toutes celles qu'il pouvoit avoir de son chef sur le poste du grand St. Modet sans aucune reserve. En consequence ordonnons que sans avoir egard aud. titre du 27 avril 1735. qui sera regardé comme non avvenu led. Constantin demeurera seul propriétaire dud. poste du grand St. Modet, ainsy que des autres lieux compris dans l'etendue du terrain a luy concedé a la coste de Labrador aux termes dud. brevet du 31 mars 1716. Fait et donné a Quebec le 28 7bre 1740. Signé Beauharnois et Hocquart, contresignez et scellez.

Pour copie.

HOCQUART.

(Translation.)

one part, and the Srs. Foucault, Councillor of the Superior Council, and Boucault, Lieutenant of the Admiralty, as founded on a title-deed forwarded by us on the 27th of April 1735, for another concession situated on the said coast commonly known as Grand St. Modet, on the other part, by which settlement we gave an official declaration to the said Srs. Foucault and Boucault of the abandonment they then made of the tract of land in question, and that, under the reservations therein mentioned, pending that we obtain further enlightenment upon the dispute between the parties. We have summoned the said Srs. Foucault and Boucault to ascertain from them whether they had any other explanations to give, and the Sr. Foucault has answered us that he had transferred all his pretensions to the said Boucault, and the Sr. Boucault that he renounced without any reservation both the pretensions transferred to him and those he could have by his own right to the post of the Grand St. Modet. We, therefore, order that, without taking into consideration the title-deed of the 27th of April, 1735, which shall be deemed null and void, the said Constantin shall remain the sole owner of the said post of St. Modet, as well as of the other places included within the tract of land granted to him on the coast of Labrador under the terms of the said patent of the 31st of March, 1716. Done and given at Quebec on the 28th of September, 1740. Signed Beauharnois and Hocquart, countersigned and sealed.

For copy.

HOCQUART.

No. 1390.

**CONCESSION, 6 APRIL, 1751, BY JONQUIERE AND
BIGOT OF ST. MODET TO BREARD FOR NINE
YEARS, 1751-1760.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 79 VERSO.

Le Marqis. de Lajonquiere etc.
François Bigot etc.

Vû la Requête a nous présentée par M. Breard
controlleur de la marine en Canada, contenant qu'il auroit
obtenû de Sa Majesté le 30 avril 1749. un Brevet de
ratification de concession pour un terrain d'environ 4 lieues de
front sur 6 lieues de profondeur a prendre depuis la riviere de
Tekapoin qui est la borne au Nord-Est de la concession du S.
Pommereau en descendant jusqu'a la borne de celle du S.
Lavalterie, qu'il auroit envoyé en consequence de ce brevet au
mois de juillet de la de. années 1749. le nommé Araby pour
faire un etablissement de pesche sur led. terrain ce qui l'auroit
constitué dans une dépense de plus de 2500^l lequel Araby luy
auroit raporté a son retour qu'il ny auroit dans toute l'etendue
de cette coession qui est remplie d'islets, qu'une seule passe a
loup marin qui ne pent luy estre d'aucune utilité en ce qu'elle
asseche chaque marée, ce qui cause que cette concession
devient infructueuse au supliant, pourquoy il nous supplie, pour
le dédommager de la non valeur de la de. concession et de la
dépense qu'il a faite a son sujet luy accorder pour neuf années,
celle cy devant donnée sous be nom de St. Maudet au feu S.
Constantin avec les mêmes privileges et limites et en outre
l'anse au Diable qui se trouve a

(Translation.)

Marquis de Lajonquiere, etc.
François Bigot. etc.

On the petition presented to us by M. Breard, Controller of the Navy in Canada, setting forth that he had secured from His Majesty, the 30th of April, 1719, a patent of ratification of concession for a tract of land of about 4 leagues in front by 6 leagues in depth, to be taken from the river Tekapoin which is the north-east limit of the concession of the Sr. Pommereau in descending to the limit of that of the Sr. Lavalterie ; that he had sent, by reason of this patent, in the month of July of last year, 1749, one Araby to form a fishery establishment on the said tract of land, which would have caused him an expenditure of over 2500^{l.}, which Araby had reported to him, on his return, that there was, within the whole extent of this concession comprising numerous islets, but one seal-pass ; it cannot be of use to him because it dries each tide, as a result of which this concession is valueless to the petitioner. Therefore, he prays, as a compensation for the unproductiveness of the said concession and the expense he has incurred in that connection, that he may be granted, for a

environ $\frac{3}{4}$ de lieue au sud ouïest de la de. concession ou il a une petite passe qui feroit un tort considerable a la pesche de St. Maudet si la de. anse estoit concedée a un particulier, sur la même profondeur de la susde. concession, avec les isles islots et battures qui se trouveront au devant de toute l'estenduë dud. terrain. Nous en vertu du pouvoir a nous donné par Sa Majesté et sous son bon plaisir avons accordé et concedé pour l'espace de neuf années a commencer de la presente aud. S. Breard une etendüe de terre de quatre lieues de front sur six lieues e profondeur, sise a la Coste de la Brador, sçavoir deux lieües au Nord-Est de l'habitation nommée de Constantin (située au Nord-Est de la riviere des François) et deux lieües au dessus de la de. habitation en allant a la même riviere, ainsi qu'elle a esté accordée aud. Constantin, et en outre le terrain qui se trouve non concedé entre la borne all sud-ouïest de la de. concession en remontant jusques a l'anse au Diable icelle comprise sur la de. profondeur avec les isles, islets et batures qui se trouveront au levant de toute l'etenduë dud. terrain, pour en jouir par le supliant et y faire un ou plusieurs etablissemens de pesche du loup marin et la chasse et traitte avec les Sauvages a l'exclusion de tous autres pendant led. temps, et en outre avec la faculté d'y faire la pesche de la moruë concuremment avec les autres batimens françois, a la charge par le supliant de faire valoir la presente concession, faute de quoy elle domeurera de nul effet et aussi de payer au Domaine de Sa Majesté en ce pays par chaque année deux castors ou la somme de quatre livres. Fait et donné a Quebec le six avril mil sept cent cinduante un. Signé Lajonquiere et Bigot contresigner et scellez.

Pour copie.
BIGOT.

(Translation.)

and, in addition, $\frac{3}{4}$ of a league south-west of the said concession where there is a small pass which would cause a serious damage to the fishery of Saint-Modet, if the said inlet was conceded to an individual. with the same depth as the said concession, together with the islands, islets and beaches lying opposite the said tract of land. We, by virtue of the power entrusted to us by His Majesty and subject to his pleasure, have granted and conceded for the term of nine years, to begin with the present, to the said Sr. Breard a tract of land of four leagues in front by six leagues in depth, situated on the coast of Labrador, namely, two leagues towards the north-east of the habitation called Constantin's (situated towards the north-east of the rivière des François) and two leagues above the said habitation towards the same river, as it has been granted to the said Constantin, and, in addition, the ungranted land lying between the south-west boundary of the said concession ascending to the anse au Diable (Devil's inlet) the same included, at the said depth, together with the islands, islets and shoals lying opposite the whole extent of land, the same to be enjoyed by the petitioner, with the right of making one or more seal-fishing establishments, and hunting and trading with the Indians, to the exclusion of all others during the said term, and, in addition, that of cod-fishing concurrently with the other French vessels, under the condition that the said petitioner shall operate the present concession, by default of which it shall be null and void. and that he shall also pay o the Domaine of His Majesty in this country, for each and every

year, two beaver or the sum of four livres. Done and given at Quebec, the sixth of April, one thousand seven hundred and fifty one. Signed : Lajonquiere and Bigot countersigned and sealed.

For copy
BIGOT.

[20 July, 1753.]

No. 1391.**CONCESSION, 20 JULY, 1753, OF ST. MODET BY THE
KING TO HOCQUART.**

Aujourd'huy vingt Juillet mil sept cent cinquante-trois, Le Roy étant en Champagne et voulant traiter favorablement le S^r Hocquart Intendant de la Marine à Brest et lui donner une marque particulière de la satisfaction que Sa Majesté ressent des services qu'il lui à rendus, et notamment dans l'Intendance du Canada qu'il a remplie durant près de vingt années avec un zele distingué ; elle lui a concédé dans la de Colonie et sur la Côte de La Brador les quatre lieues de terre de front sur quatre lieues de profondeur avec les Isles et Islots adjacents aux dites quatre lieues de front que Sa Majesté a cy devant concédées par brevet du trente mars mil sept cent seize au S^r Pierre Constantin sa vie durant ; pour par le dit S^r Hocquart en jouir aussi sa vie durant après le décès du d^t Constantin, et avoir la faculté à l'exclusion de tous autres de faire dans l'estendue de la de concession, la pêche du Loup marin seulement et les autres pêches concurrement avec les vaiseaux qui pourront aller à la dite Côte et de faire pareillement la traite avec les Sauvages ; Le tout ainsi et de la même maniere que le d^t S^r Constantin l'a fait, ou d'en faire en vertu du d^t brevet, et sans que pour raison de tout ce que dessus il soit tenu de payer à Sa Majesté, ni à ses successeurs Roys aucune finance ni indemnité de laquelle à quelque somme qu'elle puisse monter, Sa M^{te} lui a fait don et remise par le présent brevet qui

(Translation.)

On this day, the twentieth of July, one thousand seven hundred and fifty-three, the King being at Champagne and being willing to deal favourably with the Sieur Hocquart, Intendant of Marine at Brest, and to extend to him a special appreciation of the services rendered by him, particularly in the Intendancy of Canada, the duties of which he discharged for twenty years with a marked zeal, has conceded to him in the said Colony and on the coast of Labrador, the four leagues of land in front by four leagues in depth, together with the islands and islets adjacent to the said four leagues in front, which His Majesty has formerly conceded by letters patent of the thirtieth of March, one thousand seven hundred and sixteen, to the Sieur Constantin during his life, upon the death of the said Constantin, and to have the right, of carrying on in the extent of the said concession, seal fishery solely, to the exclusion of all others, and any other fishery jointly with such vessels as may visit the said coast, and to likewise trade with the Indians, the whole in the manner in which the said Sieur Constantin is doing or should have done under the said patent ; And, that, in consideration of everything as aforesaid, he shall be not held to pay His Majesty or his receivers any indemnity of which, whatever sum it may at: emit to, His Majesty makes him a gift and remittance by the present patent which shall be registered

besoin sera, et que Sa Majesté pour témoignage de sa volonté a voulu signer de sa main et être contresigné par moy son Conseiller Secrétaire d'Etat et de ses commandances et finances.

LOUIS
ROUILLE

Le Brevet de Lautre part a été Registre En Registres du Conseil Supérieur Ouy le Requerant le Procureur Général du Roy suivant L'arrest de ce jour par nous le D^t Secrétaire du Roy Greffier en Chef de ce Conseil, soussigné.

Québec le vingt-sept octobre mil sept cent cinquante-trois.

BOISSEAU.

(Translation.)

at the Superior Council of Quebec and wherever need shall he and which, in testimony of his pleasure, His Majesty has been pleased to sign with his own hand and to order to be countersigned by me, his Councillor, Secretary of State and of his Household and Treasury.

LOUIS.
ROVILLE.

[13 Aug., 1762.]

The patent on the other part has been registered in the registers of the Superior Council after hearing the King's Attorney General and upon his request, in pursuance of the decree of this day, by me, the undersigned Councillor, Secretary to the King, Chief Clerk of the said Council, at Quebec, the twenty-seventh October, one thousand seven hundred and fifty-three.

BOISSEAU.

No. 1392.

C

LEASE 13 AUGUST, 1762, OF ST. MODET BY JEAN TACHE TO JOHN ORD FOR NINE YEARS, 1762-1771.

ARCHIVES OF CANADA, C.O. 42, VOL. 6, p. 87.

PAR DEVANT LES NOTAIRES ROYAUX a Quebec, y residens Soussignés FUT PRESENT Sieur Jean Taché, Negociant demeurant en cette Ville, au nom et comme etant aux Droits de Monsieur Hocquart, Cy devant Intendant de ce

(Translation.)

Before the undersigned royal notaries at Quebec residing thereat, was present the Sieur Jean Taché, residing in this city, in the name of and as having the legal rights of M. Hocquart, formerly Intendant in this country, to the post of St. Modet, on the coast of Labrador, in pursuance of the

pays du poste de Saint Modet Côte de Labrador Suivant le brevet accordé a Mon d^r Sieur Hocquart par sa Majesté tres Chrestienne en date du Vingt Juillet Mil Sept Cent Cinq^{te} Trois, Enregistré au Conseil Superieur de ce pays le Vingt Sept Octobre de la de Année, annexé a ces presentes ; Et Le d^r Poste accordé au d^r Titre au d. Sieur Taché, par Vn Brévet de Concession par Ordre de la Cour, de la part de Monsieur Bigot, Cy devant aussy Intendant de ce d. pais en l'année Mil Sept Cent Cinq^{te} Cinq avec l'agrement et Sous le bon plaisir de Son Excellence, Monsieur Jacques Murray Escuyer, Gouverneur Général de cette d. Ville de Québec ; A le d. Sieur Taché, reconnû et Confessé par ces presentes avoir fait bail a ferme et a Loyer a prix d'argent, pour Neuf année suivie et Accomplies a Commencer de ce jourd huy date de ces dites presentes, et qui finiront a pareil jour au bout des d. Neuf années, et promet garantir et faire jouir durant le d. teins. sieur Jean Baptiste Ord, Negociant demeurant en Cette Ville à ce present et Acceptant, Preneur pour luy au d. Titre, Le d. Poste de Saint Maudet Coste de Labrador, avec ces appartenances et dependances, Conformément au d. Brevet Sus d'até, sans aucunes Exceptions Ny reserves et Tel que Mon d. Sieur Hocquart, en a Jouï ou deû Jouir, a L'Exception des Agrés et Vstensciles quelconques qui pourront Se trouver au d poste St. Modet, appartenans aux sieurs l'avis et lefebvre, Anciens Negocians de Cette dite Ville, Lesquelles Vsteuciles Ne sont point comprises au present Bail, et il sera loisible au d. Sieur Preneur Sil le juge apropos, de S'en accommoder avec le Sieur Bailleur, Suivant L'invantaire et Estimation qui en sera faite par le Maître qui sera envoyé au d. Poste, Ce Bail fait pour et Moyennant, Scavoir La Somme de Cent Cinquante Piastres, pour La premiere année de la d. ferme et loyer, Et deux Cents Piastres pour Chacune des autres huit années

Term of years.

(Translation.)

patent granted to M. Hocquart by His Most Christian Majesty under date of the twentieth of July, one thousand seven hundred and fifty-three, registered at the Superior Council of this country, annexed to the presents : and the said post being granted by the said title to the said Sieur Taché by a deed of concession ordered by the Court, from Monsieur Bigot, likewise former Intendant in this country, in the year one thousand seven hundred and fifty-five, with the approval and during the pleasure of His Excellency Mr. James Murray, Esquire, Governor General of this said city of Quebec, the said Sieur Taché has acknowledged and admitted having leased and let, payable in money, for nine consecutive and full years to begin this day, date of the said presents, and to end on the same day upon the expiration of the said nine years premises to secure and cause to be enjoyed during the said term by the Sieur John Baptiste Ord, merchant, residing in this city, here present and accepting lessee for himself and in the said right, the said post of St. Modet, on the coast of Labrador, together with its appurtenances and dependances, according to the said patent as hereinbefore dated, with no exception nor reservation, and in the same manner as the said Sieur Hocquart has enjoyed or should have enjoyed the same, with the exception of such accessories and utensils as may be found in the said post of St. Modet and belonging to the Sieurs Havis and le Febvre, former merchants of this said city, which utensils are not included in the present lease.

And the sieur lessee may, should he see fit, acquire them from the said sieur lessor according to the inventory and estimation that shall be made of the same by the manager who shall be despatched to the said post.

This lease is being made for and in consideration of, to wit, the sum of one hundred

and fifty dollars for the first year of the said ferme and rent, and two hundred dollars for each of the remaining

p. 3635

Contenues au present Bail, que le d. sieur Preneur Promet et S oblige de Bailler et payer au d^r Sieur Bailleur ; ou au porteur des presentes, dans tout le Cours du Mois de Juillet de Chacune des d. Neuf années, Dont le premier payement de Cent Cinquante Piastres, Eseherra et Se fera dans tous le Cours du d. Mois de Juillet Prochain, Et ainsy Continuer d'année en année le d. payement étant apres de Deux Cents Piastres, Jusques a la fin du d. Bail, a peine de tous depens damages et Interêts Car ainsi &c., Promunettant &c. obligéant &c. Renonçant &c. fait et passé a Quebec Etude de Sanguinet, L'vn des d. Notaires Soussignes L'an mil Sept Cent Soixante Deux Le trente aoust apres Midy, Et ont les d. Parties Signé avec Nous, a la minute des presentes demeurés au d. Sanguinet L'vn des Notaires Sus d. et soussigné, Lecture faite, Signe a la Minute, Taché, John Ord, Panet Notaire et Nous dit Notaire Soussigné, deux mots Surchargés Approuves.

SANGUINET

Collationné et Vidimé par les notaires à Quebec y residens soussignés sur vne expedition à Eux représenté et à L'instant rendu ; à Quebec le treizième octobre mil Sept cens soixante six.

SANGUINET SAILLANT

(Translation.)

consecutive eight years of the present lease, which the said sieur lessee promises and obliges himself to give and pay to the said sieur lessor or to the hearer of the presents, during the month of July in each of the said nine years, of which the first payment of one hundred and fifty dollars shall fall due and he made during the said month of July next, and so to be continued from one to another the said payment, being then of two hundred dollars, until the end of the said lease, under pain of all damages, costs and interests.

Thus therefore &c. ; promising &c. ; obliging &c. ; waiving &c.

Done and executed at Quebec, in the office of Sanguinet, one of the said undersigned notaries, in the year one thousand seven hundred and sixty-two, on the 13th August in the afternoon. And the said parties have signed with us the minute of the presents left with the said Sanguinet one the aforesaid notaries. the same being read.

Signed on the minute.

TACHE
JEAN ORD
PANET, notary

and we, said undersigned notary
(two words added approved)

SANGUINET.

Compared and certified by the undersigned, notaries at Quebec, residing thereat, with a copy presented to them and forthwith given : at Quebec, the thirteenth October, one thousand seven hundred and sixty-six.

SANGUINET SAILLANT

Nous Bourgeois et Citoyens de la Ville de quebec soussignés
Certifions à tous qu'il appartiendra que M^{es} Sanguinet et
saillant sont notaires en la d^e ville de Québec Entemoignage de
quoi nous avons Signés ces présentes du d. Québec Le
treizieme octobre mil Sept cent soixante six

LA NAUDIERRE METOT
PARANT PERRAULT
AMIOT L. FREMONT
D. M. DEPLAINE E. DESAUNIE
BEAUBIEN
CHEUIGNY
Endorsed : No. 9.

(Translation.)

We, the undersigned burgesses and citizens of the city of Quebec certify to whomever it may concern that Maitres Sanguinet ami Saillant are notaries in he said city of Quebec. In witness whereof, we have signed these presents at said Quebec the thirteenth of October, one thousand seven hundred and sixty-six.

[7 Sept., 1762.]

LA NAUDIERRE METOT
PARANT PERRAULT
AMIOT L. FREMONT
D. M. EPLAINE E. DESAUNIE BEAUBIEN
CHEVIGNY
Endorsed: No. 9.

No. 1393.

C

**MURRAY TO EGREMONT, 7 SEPTEMBER, 1762, re
THE INVALIDITY OF GRANT TO HOCQUART.**

Quebec, 7th Sept. 1762.

MY LORD :

I am honored with your Lordship's favor of the 12th June last, inclosing a copy of Monsieur D'Affey's to Sir Joseph Yorke, wherein that Minister sets forth Monsieur Hocquart's title to a certain District of Land,¹ situate in the lower part of the River St. Lawrence, and makes a formal complaint of my having, to the prejudice of this Gentleman, granted the same away to a Monsieur La Fontaine.

I must first beg leave to inform Your Lordship that this place, which lies a great way below Anti Costi, and not far from the entrance into the Straights of Belleisle on this side, is only fit for carrying on the Seal Fishery, and to trade with the Northern Indians resorting to those parts, and as I think it highly

necessary in the present circumstances, for reasons too obvious to mention, to know for whom and by whom this trade is carried on, I have all along paid a due attention thereto.

Monsieur Hocquart's agent could produce no title in favour of his principal, at the same time I was well informed, the King's grant to him for life had never been registered at the Conseil Superieur of Quebec, a form absolutely necessary to authenticate the same, and as I did not thoroughly approve of the Persons who held it in Farm, I laid the lease aside for the present and gave Monsieur La Fontaine, a person in indigent circumstances with a numerous family, leave to fish and trade there for one year only.

The confirmation of the grant which Monsieur Hocquart is said to have obtained in 1760, is a sufficient proof how sensible he was, that the original title was defective ; in a letter to his agent, of which I have the honour to inclose an extract, he acknowledges his having the title by him, which consequently had not been transmitted, and registered here in due form.

If Monsieur Hocquart's original title was defective, the confirmation, as Monsieur D'Affey is pleased to stile it, appears to me as ill founded. His Majesty's ships rid triumphant in every part of the river below Quebec, long before the period which he assigns for the execution of this Act of Sovereignty, and His Majesty's Forces were in full possession of Lower Canada.

When Monsieur La Fontaine's time expired, I granted the same¹ for seven years, or untill His Majesty's pleasure was further known, to a Mr. Gray, one of the British Merchants residing here, and as he is an intelligent sensible young man, I meant upon a settlement of the affairs of this Colony to recommend this Gentleman for a further indulgence herein, as he promises to become a most usefull member of society.

Your Lordship will please to lay the affair before His Majesty, with a full assurance that the same is the plain and true state of time fact, without the least alteration in any one circumstance, without any view to injure or molest the parties concerned, and to which I was moved only by the unalterable zeal with which I have and shall always continue to act for His Service.

I have the Honor to be,

My Lord,

Your Lordship's most obedient and most
faithfull humble Servant.

J. A. MURRAY.

Right Honourable the Earl of Egremont,
One of His Majesty's Principal Secretaries of State.

Endorsed : Quebec, Sept. 7th, 1762, for Murray.

Rd. Nov. 2nd by Colonel Maitland, representing the invalidity of Mr. Hocquart's claim to a District of Land in the River St. Lawrence, and explaining his own conduct with regard to that land ; with an inclosure.

¹ Gros Mecatina.

[16 May, 1763.]

No. 1394.**GRANT, 16 MAY, 1763, BY MURRAY, OF ST. MODET
TO JEAN TACHÉ FOR THREE YEARS.**

ARCHIVES OF CANADA. C.O. 42, VOL. 1 PT. 2, p. 390.

By the Honble James Murray Esqr.
Governor of Quebec &c.

St. Modeste

WHEREAS it is for the Benefit of Trade and a Singular to Great Britain to Promote and Encourage every Branch of Fishery in the River St. Lawrence, that of Seals in particular being extremely usefull, and it being Necessary towards the Carrying on said Fishery that the adventurers therein Possess Certain Tracts of Land upon the adjoining Coast for the purpose of Curing, saving and dressing the said Fish or any other which may be Caught within the Limits Assigned ; I do for these Reasons and until His Majesty's Pleasure is further known, hereby Grant and Concede unto Monsieur Jean Taché of Quebec One of His Majesty's Canadian Subjects, all that Tract of Land lying upon the Coast of Labrador (known by the name of Great St. Modet) firmly to hold the same to Himself, his Heirs Executors and Administrators for the space of Three years from the Date hereof, or untill His Majesty's Pleasure is further known, for the Purposes afore mentioned, in the quiet Possession whereof he is in no shape to be molested or Disturbed.

Given under my Hand and Seal at Quebec this 16th day of May 1763.

L. S. JA. MURRAY.

By His Excellency's
Command

(Countsd) H. T. CRAMAHÉ.

QUEBEC.

Copy of Governor Murray's Grant of St. Maudet to
Monsr. Tachet for three years—15th May 1763.

In the Govr's letter of 25 August 1764.

Read Novr. 27. A 117.

No. 1395.

**PETITION, 24 FEBRUARY, 1767, BY TACHÉ AND
THE HEIRS BISSOT AND JOLLIET.**

CANADIAN ARCHIVES, C.O. 42, VOL. 6, p. 62.

REQUETE AU ROY,

de Jean Taché et des heritiers Bissot Et Joliet, Nouveaux sujets Canadiens, présentée par Antoine Pierre Houdin fondé de leur procuration.

SIRE,

Les heritiers Bissot et Joliet Seigneurs, depuis plus d'un siècle, de la Terre ferme de Mingan, des Isles et Ilets de Mingan et de L'isle d'anticosty ; Et Jean Taché propriétaire à Vie du Poste de St. Modet (Les dits biens situés dans la Riviere St. Laurent), sont forcés de recourir à la justice de Vôtre Majesté, pour Etre maintenus dans La possession de Leurs biens.

Les limites tirés en 1763 entre les Provinces de Quebec Et de terre Neuve ont mis sous le gouvernement de cette deniere Province La plus grande partie de leurs Seigneuries. En 1763 L'on a commencé de les troubler dans leurs possessions, une fregatte ayant renvoyé les batimens partis de Quebec (quoi que munis de passeports) pour aller Exploiter les Postes de St. Modet Et autres Postes des dittes Seigneuries, Et les placards Et menaces Continüels ayant obligé Leur fermier de La Seigneurie de Mingan de se refugier dans les Limites de la Province de Quebec, d'où il en a resulté vn tort très considerable Vos

(Translation.)

PETITION TO THE KING

from Jean Taché and the heirs Bissot and Juliet, new Canadian subjects, presented by Pierre Houdin, their attorney.

SIRE,

The heirs Bissot and Juliet, seigniors for over a century of Terre Ferme de Mingan, of the Isles it Islets de Mingan and of Isle d'Anticosty and Jean Taché, owner for life of the post of St. Modet (the said property being situated on the river St. Lawrence), are compelled to appeal to Your Majesty's sense of justice so that they may be maintained in the possession of their property.

As a result of the boundaries drawn in 1763 between the provinces of Quebec and Newfoundland, the greater part of their seigniories have been placed under the Government of the latter province. In 1765 they commenced to be disturbed in their possessions, a frigate having ordered back the vessels which had left Quebec (although provided with passports) to go and operate the St. Modet post and other posts in the said seigniories, and continuons notices and threats having forced their lessee of Mingan seigniority to take refuge within the limits of the province of Quebec, the result of which has been

Nouveaux sujets, privés de leur travail ordinaire, Et pour la Province de Quebec En général par la perte totale de la Pêche ; Perte qui ne peutêtre réparée ; la pêche qui se fait dans cette partie N'ayant lieu que dans un certain Temps de L'hyver où Le poisson passe, Et qui ne peut par conséquent être faite que par les gens Etablis sur le lieu.

Le Seul droit des Gens ; Une possession réelle et immémoriale ; Une jöissance d'un siècle ; La capitulation générale du Canada confirmée par le traité de Paix, Et ce traité Luy même Sembloient assurer aux Sujets du même MONARQUE, Sous deux gouvernemens séparés, Ils Sont troublés dans leur jöissance sous de faux prétéxtes, Et cette privation est assuretment egalle pour eux, a les en depouïller.

Vôte Majesté est trop juste, Sire, pour souffrir L'oppression, Et trop Compatissante pour Exposer à Ses yeux La situation de 50. des dits heritiers reduits a la mendicité par les malheurs de la Guerre ; que leurs ancêtres ont obtenu ces seigneuries pour prix du sang qu'ils ont versé en combattant et Soumettant les Sauvages de ces parties, et par leurs découvertes ; choses qui ont contribüé a L'Etablissement d'un Païs passé en La possession de Vôte Majesté par la gloire de ses armes. Non Sire, Vos nouveaux sujets n'employent point ces ressources attendrissantes auprès d'un Monarque Conduit par L'esprit de justice ! La Seulle exposition de Leurs droits est suffisante auprès de Vôte Majesté.

Ces droits Sont, pour les heritiers Bissot Et Joliet, 1°. La Seigneurie de la terre ferme de Mingan, prendre du cap des corps morans, jusqu'a la baye Phelippaux, ou ance des Espagnols. 2°. La Seigneurie des isles Et ilets de Mingan, Sur le même front que la Terre ferme. 3°. La Seigneurie de L'isle d'anticosty. 4°. La réunion à la terre ferme de Mingan, d'une portion de la

(Translation.)

a very considerable injury to your new subjects, deprived of their usual occupation, and to the province of Quebec generally through the entire loss of the fisheries ; a loss which cannot be repaired as the fisheries in this district can only be carried for a certain time in the winter when fish are migrating, and consequently can only be worked by people residing in the region.

The mere rights of man, an actual and immemorial possession, an enjoyment for a century, the general capitulation of Canada confirmed by the treaty of peace, and that treaty itself seemed to assure to the subjects of the same monarch under two separate governments. They are troubled in their enjoyment under false pretexts and that deprivation is just as much for them as if they had been robbed.

Your Majesty is too just to tolerate oppression and too humane to be shown the situation of 50 of the said heirs reduced to beggary through the misfortunes of war; that the ancestors obtained these seignories as a reward for having shed their blood in the fight against the Indians in these parts and their submission and for their discoveries, all of which made for the building up of a country now passed into Your Majesty's possession as a result of the glory of his arms. Nay, Sire, your new subjects need not have recourse to such pitiable arguments with a Monarch actuated by a sense of justice : The mere recital oft heir rights is sufficient for Your Majesty.

As far as the heirs Bissot and Joliet are concerned these rights consist : 1st. The

seigniory of Terre Ferme de Mingan, to start from cape Cormorant, as far as the bay Phelypeux or Spaniard's inlet. 2nd. The seigniory of the Isles of Isles de Mingan, on the same front as the Terre Ferme. 3rd. The seigniory of Isle d'Anticosty. 4th. The reunion to the Terre Ferme de Mingan, of a part

p. 3641

dite seigneurie, Nommée le Poste du grand Mecatinat, qui en avoit été detachée pour 9. années, Seulement et dont la jouissance a ensuite été accordée en 1762. pour 7. années au Sr. John Gray négociant, par son Excellence Le Général Murray, qui Connut que cette partie du Commerce Etôt negligée, les Canadiens rüinés, Etant alors hors d' Etat de la faire Valoir : Ne demandant cependant cette reünion, qu'après l'expiration des 7. années de jouissance accordées au dit Sr. John Gray, qui pave une rente aux dits heritiers. Les Droits du Sr. Jean Taché, Sont, La jouissance pendant Sa vie du Poste de St. Modet.

Les heritiers Bissot Et Joliet Et le Sr. Jean Taché convaincus que Votre Majesté, moins glorieuse par ses Conquêtes, que par Le bien Et la tranquillité dont Elle entend faire jouür ses nouveaux sujets, s'adressent donc avec La Confiance la plus Entiere Et la plus respectueuse aux pieds du Thrône, Et Suplient Vôtre Majesté, de Vouloir bien donner ses ordres au Gouvernement de Terre Neuve, pour Empêcher qu'ils soient troublés à L'avenir dans Leurs Possessions Et qu'ils puissent jouür au contraire de Leurs dites Seigneuries Et postes Paisiblement Et En toute propriété, Soit par Eux mêmes ou Leurs fermiers. Comme ils en ont jouü depuis vn siècle, Et que L'ordre de vôtre Majesté soit intimé au Gouverneur de la dite Province de Terre Neuve, affin qu'il n'en puisse prétendre Cause d'Ignorance. C'est La justice que Vous demandent, Sire, Les dits heritiers Bissot Et Joliet Et le Sr. Jean Taché ; Leurs Coeurs penetrés de La plus respectueuse reconnoissance ne cesseront de Continüer les Voeux sincerès qu'ils font pour la Gloire Et L'heureux Régne de Vôtre Majesté. ainsi que Le suppliant, qui en travaillant pour d'infortunes Compatriotes, N'a d'autre intèret que de faire Eclater la justice de Vôtre Majesté.

P. HOUDIN.

(Translation.)

of the said seigniory, called the post of Grand Mecatinat, which had been separated therefrom for nine years only and the enjoyment of which was subsequently granted in 1762, for seven years, to Sieur John Gray merchant by His Excellency General Murray, who was aware that this part of the trade was neglected, the Canadians ruined, they being then unable to develop the same ; such reunion being asked only after the expiration of the seven years of enjoyment granted to said Sieur John Gray who pays rent to the said heirs. The rights of the Sieur Jean Taché consists in the enjoyment for life of the post of St. Modet.

The heirs Bissot and Joliet and the Sieur Jean Taché, convinced that Your Majesty takes more glory from the welfare and tranquillity he intends to be enjoyed by his new subjects than from his conquests, most confidently and respectfully beg of Your Majesty, at the foot of the throne, to be pleased to give to the Newfoundland Government instructions that they be no longer disturbed in their possessions and that they may, on the contrary, enjoy peaceably and as their exclusive property their said seigniories and posts either themselves or through their lessees as they have enjoyed the same for a century, and that the Governor of the said Province of Newfoundland be notified of Your Majesty's order so that

he may not plead ignorance thereof. Such is the justice requested of you Sire, by the heirs Bissot and Joliet and the Sieur Jean Taché, who, their hearts filled with the most respectful gratitude, shall not cease to pray for the glory and welfare of your Majesty's realm, and so shall the petitioner who, in lending assistance to unfortunate fellow countrymen, has no other end in view than to proclaim Your Majesty's justice.

P. HOUDIN.

No. 1396.

**APPLICATION, 2 JUNE, 1775, OF WM. BURGESS FOR
GRANT OF ST. MODET AND ANSE-A-LOUP.**

 ARCHIVES OF CANADA, SERIES Q 11, FOLIO 141.

Whitehall, June 2, 1775.

[DARTMOUTH TO CARLETON, Enclosing an application from Wm. Burgess, a merchant of London. applying for a grant of land beginning at Island point to the northward of Pettit Modest crossing the river Des francais southward to a point of land called Ance au Loup including the islands of Grand and Pettit St Modeste. The Canada merchants assure Burgess that no grant has been made of this territory.

In his letter of transmittal, Dartmouth says that he would recommend Burgess for such countenance and protection as shall correspond with the rules Carleton may think fit to adopt for the better ordering and governing the fisheries and possessions on that Coast.]

[May, 1775]

To the right honorable the Earl of Dartmouth one of his
Majesty's principal Secretaries of State—

The Memorial of William Burgess
Merchant of London.

HUMBLY SHEWETH—

That your Memorialist having been for some years concern'd in the fishery on the Coast of Labrador, under the control of the Governor of Newfoundland is in a great measure prevented carrying his undertakings to any Extent unless favor'd by Government with a Grant of Land ; because on that part of Labrador for which he now petitions—to obtain seals & other animals that breed in those seas—it is necessary to keep a settlement the year round to be ready for the opening of the Ice in the Spring inhabited by a number of Settlers & to build such places for shelter as may secure them from the Inclemency of the weather & the Encroachments & depredations of the Indians [Eskimo] who wander about that Country & who have at times cut off many people, which might have been averted by this plan of Settlement.

Your Memorialist begs leave to represent, that to accomplish his design, he must be at a considerable expence to raise those Buildings, victual & cloath the people & the only chance he can see of reimbursing this Expense is by a

Grant confirming it to his, securing a certain possession—& that this design when put into execution will be of great advantage to the Commerce of this Nation, as the produce of it will be a supply of Oils for the Lamps of the metropolis & other cities of the Kingdom—Sealskins &c.—besides the shipping & Seamen necessary for carrying it on from hence.

The Situation your Memorialist petitions for is on the Coast of Labrador, beginning at Island point to the Northward of petit Modeste crossing the river Desfraneois Southward to a point of Land call'd Ance au Loup including the small Islands of grand & petit St. Modeste.

The coast is inhospitable & the Islands barren sands unfit for cultivation.

Your Memorialist humbly hopes that your Lordship will consider the reasonableness of his plea & grant him his petition.

London, May 1775.

B[urgess] has enquired of the Canada Merchants & at the plantation office, if any Grant had already been made, he is inform'd not & knows it to be so as his Vessels have those two Last Summers attempted the fishery on that spot—& if the old Canadian subjects had any claim—the merchants say no, as the old settlers have never made a progress—so far to the Eastward of Quebec-tho' he cannot succeed without a Grant for reasons stated, yet notwithstanding the whole concern w^d center in London in sanie manner as if it co^d be carried on without that Grant.

Endorsed : Memorial of William Burgess,
Merchant of London

Copy sent to Gov.^r Carleton in Lord Dartmouth's
Letter of June 2.^d 1775.

[1849.]

No. 1397.

C

**EXTRACT FROM REPORT OF COMMITTEE ON
GRIEVANCES, LEGISLATIVE COUNCIL OF
CANADA, 1849.**

SESSIONAL PAPERS NO. 3. REFERRED TO IN THE EIGHTH VOLUME OF
THE JOURNALS OF THE LEGISLATIVE COUNCIL OF THE PROVINCE
OF CANADA, VOL. 8, APP. LLLL., 1849.

Antoine Talbot, of the Parish of Berthier, County of Bellechasse, and District of Quebec, mariner, having been duly sworn on the Holy Evangelists, deposeth and saith :—From the year 1838, to the the spring of the year 1846,

I possessed, as proprietor, an establishment¹ on the Coast of Labrador, where I carried on the cod, seal, and herring fishery : I had bought this establishment in the year 1838, from a certain James Dumaresq, for the sum of forty pounds sterling, which I duly paid him in money. During that period of time, I was always recognized by all the fishermen of the coast as sole proprietor of the said establishment, where I made generally above three hundred pounds currency net profit each year, so that although I had taken this establishment with very limited means, I improved it considerably and augmented my stock of fishing tackle, which were worth in the spring of the said year, 1846, about eighteen hundred pounds currency. With these means, I was then capable of carrying on the fishery on a tolerably large scale, and could expect to make larger profits than I had hitherto made. In the spring of the said year, 1846, I left Berthier with twenty-three men whom I had engaged to conduct my establishment. Before I had arrived, a certain William Henry Ellis had taken it by force, having broken in the doors of my buildings and driven away the person I had left in charge, to take care of my effects and fishing implements ; I called on the said Ellis to give me up my property and effects, but obtained nothing but menaces ; he even struck me, telling me to leave the place immediately unless I wished him to take my life ; the said Ellis had with him. about sixty men. I retired with my hired men on board my schooner, and as it was impossible for me to regain my property by force, with the small number of men I had, I was obliged to keep away.

In order not to lose the fishing season entirely, I employed my men in fishing on board my schooner, and returned to Quebec in the autumn, with the few fish I had taken, the produce of which was not sufficient to pay the wages of my men. I had then lost nearly the whole of my summer, as well as the store of fishing implements, and also my establishment, as I have above stated.

In the hope that the said Ellis would at least leave me my establishment, with the buildings I had thereon erected, I went down to Labrador in the following spring, with some fishermen I had engaged at Berthier ; I then took possession of my buildings which were unoccupied, and repaired the said establishment for the fishery ; but about three weeks afterwards, the said Ellis arrived with twenty-eight men, and again drove me away ; I was thus obliged to take refuge on board my schooner, where I employed to the best of my means the few men I had, in the same manner as the preceding summer, fishing on board my schooner.

On my insisting upon entering my buildings, I was nearly killed by Ellis's gang, one of whom tried to shoot me with a gun ; Ellis' people even cut the cables with which I had moored my schooner to the shore. I returned to Quebec in autumn after suffering considerable loss. Not being able to make up my mind to abandon a property on which I had expended all I possessed, and the enjoyment of which might ensure to me

considerable profits, I again went down to Labrador last spring, with some men I had

¹ Later, Talbot stated that his post was Isle St. Modette [St. Modet.]
p. 3645

engaged, but I still found the said Ellis in possession of my property, and again had to lose nearly my whole time in fishing on board my schooner. On the 10th of August, Her Majesty's ship the "Alarm," commanded by the Hon. Granville Gower Loch, Companion of the Bath, having touched at the place I was at, I went on board of the vessel, and laid my complaint before its Commander, who condemned the said Ellis to restore to me immediately my said establishment, as well as the effects he had taken from me ; this took place on the 16th of time said month, but the said ship having left the coast, the said Ellis returned me nothing ; he retained my said establishment as well as all my effects, and I returned to Quebec this autumn, with the produce of a fishery insufficient to cover my expenses. The losses I experienced in the manner stated, nearly ruined me. I have also to state that I know no authorities whatsoever on the Labrador coast to whom I could have applied to render me justice ; that the nearest Court of Justice to my establishment, is at St. Johns, Newfoundland, which is about 150 leagues from my post.

I have, moreover, to state, that a great part of the Labrador coast is exposed to aggressions similar to those I have described, by the crews of above 1500 vessels, which arrive annually on this coast.

(Signed,) ANTOINE TALBOT.

Sworn in my presence, at
Quebec, the 5th of January, 1849.

(Signed,) L. FISET,
C.B.R.

MINUTES OF EVIDENCE.

* * * *

No. 1398.

BLANC SABLON CONCESSION.

[11 April, 1689.]

CONCESSION, 14 APRIL, 1689, TO DE LA CHESNAYE *et al*, ALSO OF A SEIGNIORY ON THE NORTH SHORE OF THE STRAIT OF BELLEISLE AND OF A SEIGNIORY ON THE NORTH SHORE OF NEWFOUNDLAND.

ARCHIVES DE LA PROVINCE DE QUEBEC.

Jacques René de Brisay, etc.
Jean Bochart, etc.

A tous ceux qui ces présentes lettres verront, salut, etc.

Scavoir faisons que sur ce qui nous a esté représenté par les sieurs Charles Aubert de la Chesnaye, François Pachot, François Poisset, Mathieu de Lino, Pierre Lallement, Charles Pattu, et Jean Gobin tous marchands negotians en ce pays quil nous plut : leur accorder une permission de faire les pesches de molüe, baleynes, lousp marins, marsoins, et autres que faire se pourra dans le golphe et fleuve St. Laurent entre le bas du Blanc Sablon (dans la terre du nord) scitué en latitude par 51 degrés jusques au lieu concédé aux sieurs Riverin et compaignye au 52^e degré et entre les 49^e degrez sur le dit golphe Saint Laurens dans l'Isle de Terre Neuve jusques a la concession des dits sieurs Riverin et compaignye dans la dite isle, et pour cet effect de leur donner en proprietté a toujours pour taire leur establissement trois lieues de front sur trois lieues de profondeur, a prendre dans l'endroit quil trouveront le plus commode dans les espaces cy dessus marquez, ou ils ont dessein de faire la

(Translation.)

Jacques Rene de Brisay, etc.,
Jean Bochart, etc.

To all who these present letters shall see, greeting, etc.

Know ye that. upon the representations of the Sieurs Charles Aubert de la Chesnaye, François Pachot, François Poisset, Mathieu de Lino, Pierre Lallement, Charles Pattu, and Jean Gobin. all merchants and traders in this country, we were pleased to grant them the permission to take cod, whale, seal. porpoise and other fish which can be, found in the gulf and river of St. Lawrence, from a point below Blane Sablon in Terre du Nord, situated in 51 degrees of latitude, as far as the tract granted to the Sieurs Riverin and Company, in the 52nd degree, and between the latitude of 49 degrees in the said gulf of St. Lawrence in the Island of Newfoundland and the concession of the said Sieurs Riverin and Company in the said Island, and to that effect: to grant them in fee simple for their establishments three leagues in front by three leagues in depth, to be taken in such locality they may find the most convenient within the tracts heinbefore described, where they intend to fish, together with the islands

pesche, ensemble les isles et islets qui se trouveront dans les devantures des dites trois lieues dans la terre du nord et des autres trois lieues dans l'Isle de Terre Neuve, pour le tout tenir en fief et seigneurie avec droit de chasse, pesche et traite dans les dites deux espaces de terre de trois lieües chacune ; Nous en vertu du pouvoir que Sa Majesté nous a donné, avons aus dits sieurs Charles Aubert de la Chesnaye, François Pachot, François Poisset, Mathieu de Lino, Pierre Lallemand, Charles Patu, et Jean Gobin, permis et permettons de faire la pesche de molue, baleynes, loups marins, marsoüins, et autres que faire ce pourra dans le dit golphe et fleuve St. Laurens, entre les espaces et degrez cy dessus marquez, et affin de faire les établissements qui leurs seront nécessaires, a cet effect leur avons concédé en propriété a filtre de fief et seigneurie pour en jouir par eux a toujours par portions égales trois lieües de front sur trois lieües de profondeur dans la terre du nord, et pareille quantité de terre dans l'Isle de Terre Neuve, avec droit de chasse, traite et pesches dans les dites espaces de terre a eux concédées en propriété sans pouvoir empescher la pesche et la traite aux François sujets du roy meme dans les lieux de leur établissement, à la reserve dun quart de lieue au tour de leurs maisons pour les chasses et traittes seullentent, a l'exclusion de tous autres, laissant liberté entiere dans toute lesterndue du restant des dites terres, et a la charge de rendre la foy et hommage au chateau St. Louis de Quebec duquel la dite concession relevera aux droits et redevances accoutuméz suivant la Coutume de Paris qui sera suivie à cet egard par provision, attendant qu'il en soit ordonné par Sa Majesté, et que les appellations du juge qui pourra estably aux dits lieux ressortiront pardevant le lieut-general de Quebec ; plus, a con-

(Translation.)

and islets lying opposite the said three leagues in the Terre du Nord and facing the other three leagues in the Island of Newfoundland, to have and to hold all of the same in fief and seignory, as well as the right of hunting, fishing and trading within the said two tracts of land of three leagues each We, by virtue of the power entrusted to us by His Majesty, have granted and do grant to the said Sieurs Charles Aubert de la Chesnaye François Pachot, François Poisset, Mathieu de Lino, Pierre Lalenrnd, Charles Pattu. and Jean Gobin, the permission to take cod, whale, seal, porpoise and other fish, which may be found in the said gulf and river St. Lawrence, between the tracts and degrees hereinbefore described, and for the purpose of making the establishments which will be necessary to them for that purpose, have granted to them in full property under the title of fief and seigneurie, to have and to hold the same for ever, in equal portions, three leagues in front by Have leagues in depth in " la terre du Nord." together with a like tract of land in the Island of Newfoundland, with the right of hunting, trading and fishing within the said tracts of land to them conceded in full property without having the right of preventing the French subjects of the King themselves from fishing and trading in the places of their establishment with a reserve of one-quarter league surrounding their fishing and trading establishments to the exclusion of all others, leaving absolute freedom in the whole extent of the remainder of said lands, and under the condition of fealty and homage (*foi et hommage*) to be performed at the Casile of St. Louis in Quebec, of which they shall hold under the customary rights and dues, and agreeably to the Custom of Paris, which shall be followed in this respect provisionally, and until otherwise ordained by His Majesty : and that appeals from the decisions of the judge who may be established for the said places shall lie before the Lieutenant General of

dition de conserver et faire conserver par leurs tenanciers les bois de chesne qui se trouveront dans toute l'estendue de la dite concession, propres pour la construction des vaisseaux, et de donner avis à Sa Majesté ou au gouverneur du pays des mines, minieres et minéraux sy aucuns sy trouvent ; de faire inserer pareille condition dans les concession quil leur sera permis d'accorder sur les dites terres, et de commencer dans trois ans de ce jour a travailler pour habiter la dite terre, a peine destre dechus de la possession dicelles.

En témoins de quoy nous avons signé ces presentes a icelles fait apposer les cachets de nos armes et fait contresigner par l'un de nos secretaires.

Fait à Quebec le quatorziesme jour d'avril mil six cent quatrevingt neuf.

J. R. BRISAY M. DE DENONVILLE

BOCHART CHAMPIGNY

Par Messeigneurs,

FREDIN.

(Translation.)

they shall preserve and cause to be preserved by their tenants the oak timber fit for ship building, which may be found within the limits of the said concession, and that they shall give notice to His Majesty or to the Governor of the Country of the mines, ores and minerals which may be found therein ; and that they shall insert the same condition in the concessions that they may be authorized to grant on said lands, and that they shall commence in three years from this day to labour to settle the said land, under the penalty of being deprived of the possession of same.

In testimony whereof we have signed these present and caused our seals at arms to be affixed, and the same to be countersigned by one of our Secretaries.

Given at Quebec, the fourteenth day of April, one thousand six hundred and eighty-nine.

J. R. BRISAY M. DE DENONVILLE

BOCHART CHAMPIGNY

By My Lords,

FREDIN

No. 1399.

BELLE ISLE SEIGNIORY.

[19 Jany., 1689.]

CONCESSION, 19 JANUARY, 1689, OF BELLE ISLE TO RIVERIN *et al*,
ALSO OF SEIGNIORIES ON THE SOUTH SHORE OF THE STRAIT OF
BELLEISLE.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTER OF THE INTENDANTS,
BOOK 3, FOLIO 21, VERSO.

Jacques René de Brisay, etc.
Jean Bochart, etc.

A tous ceux qui ces présentes lettres verront, salut, etc.

Que sur ce qui nous a esté représenté par les Sieurs Riverin, Chanion, Catignon et Bouthier, marchands négocians en ce pays, qu'il y auroit un commerce considerable a ouvrir avec les sauvages le long des costes des Esquimaux mesme avec ceux qui sont habitués dans l'isle de Terre Neuve, et qu'ils estoient prests de sassocier en compagnie pour tenter le dit commerce des le printemps prochain sil nous plaisoit leur voulloir accorder en propriété à toujours a titre de fief, seigneurie et justice, l'isle apellée Belisle, scituée a l'entrée du destroit du mesme nom, en venant de l'est, avec six lieues de front le long de la dite coste des Esquimaux, et pareille estendue le long de la coste de l'isle de Terre Neufve qui regarde et qui forme le detroit de Belisle, avec la faculté de faire, à l'exclusion de tous autres pendant vingt années consecutives, la trette et autres commerces avec les dits sauvages depuis les

(Translation.)

Jacques René de Brisay. etc.
Jean Bochart, etc.

To all who these present letters shall see, Greeting, etc.

That, upon the petitions of the Sieurs Riverin, Chanion, Catignon and Bouthier, merchants and traders in this country, setting forth the possibilities of large trade with the Indians along the Coste des Esquimaux, as well as with those inhabiting the Island of Newfoundland, and that they were ready to enter into partnership and form a company to venture in the said trade next spring, should we be pleased to grant them, in full property, with " titre de fief, seigneurie et justice," the island of Belleisle, lying at the entrance to the strait of the same name, from the east, together with six leagues in front along the said coast of Esquimaux,¹ and an equal extent of land along the coast of Newfoundland facing and forming the strait of Belleisle, with the power, to the exclusion of all others, during twenty consecutive years, of trading and doing other business with the said Indians, from the Blancs Sablons

¹ North shore of strait of Belleisle.

Blancs Sablons situés le long de la dite coste des Esquimaux jusques a trente lieues le long de la coste de Labrador allant au destroit dutson et encor tout le long de la coste de la dite isle de Terre Neufve qui forme le dit destroit de Bellisle, avec pouvoir de sestablir dans la dite isle de Belisle ou autres lieues qui leur seront propres dans la grande terre ou dans la dite isle de Terre Neufve, mesme d'y fortiffier sy besoing y estoit pour la conservation de leur establissement. Sur quoy, considerant que rien n'est plus advantageux au bien et a lagrandissement de cette colonnie que de donner les mains a ce quil sy forme des compaignies de negossians pour ouvrir de nouveaux commerces qui donneront lieu dans la suite a de nouvelles descouvertes et à porter la foy chez les nations sauvages les plus esloignéz, et jusques a present incognus, Nous, en vertu du pouvoir qui nous a esté donné par Sa Majesté, avons donné, accordé et concedé et par ces présentes donnons, accordons et concedons en toute propriété, fiefs, seigneuries et justice aus ditz Sieurs Riverin, Chanion, Catignon et Bouthier la dite isle de Belisle avec six lieues de front le long de la dite coste des Esquimaux et pareille estendue le long de la coste de l'isle de Terre Neufve qui forme le dit destroit de Belisle pour en jouir leurs ayantz cause en propriété a tousjours, et encore la faculté de faire à l'exclusion de tous autres pendant vingt années consecutives la frette et commerce avec les sauvages depuis les Blancs Sablons, situéz le long de la dite coste des Esquimaux jusques à trente lieus le long de la coste de Labrador allant au destroit dutson, ensemble tout le long de la coste de la dite isle de Terre Neufve qui forme le destroit de Belisle, avec pouvoir de sestablir dans la dite isle de Belisle ou autres lieux qui leur seront propres dans la grande terre ou dans l'isle de Terre Neuve, mesme dy fortiffier dans lestendue de la presente concession si besoing estoi

(Translation.)

situated on the said Coste des Esquimaux, as far as thirty leagues along the coast of Labrador extending to Hudson strait, and also along the coast of the said Island of Newfoundland which forms the said strait of Belleisle. with the power of establishing in the said island of Belleisle or other places which will be fit for them on the continent or the said Island of Newfoundland, also to erect fortifications, if necessary, for the conservation of their establishment. Thereupon, considering that nothing is more advantageous to the welfare and to the development of this colony than to assist in the formation of companies of traders for the opening of new commerce which will subsequently lead to new discoveries and the evangelization of the most remote and heretofore unknown Indian nations. We, by virtue of the power entrusted to us by His Majesty, have given, granted and conceded, and do hereby give, grant and concede, in full property, " fief, seigneurie et justice " to the said Sieurs Riverin, Chanion, Catignon and Bouthier the said island of Belleisle, as well as six leagues in front along the said Coste des Esquimaux, together with an equal extent of land along the said coast of the Island of Newfoundland which forms the said strait of Belleisle, to have and hold unto their assigns in fee simple, for ever, and moreover the power, to the exclusion of all others during twenty consecutive years, of trading and doing business with the Indians front the Blanc Sablons, lying along the said Coste des Esquimaux, extending thirty leagues along the coast of Labrador, toward Hudson strait, together all along the coast of the said island of Newfoundland which forms the [south shore of the] strait of Belleisle, with the

power of establishing in the said Belleisle island or other places which will be suitable for them on the mainland or on the Island of Newfoundland, also to erect fortifications within the extent of the present concession, if necessary, for the protection of their establishment, with the right of hunting

p. 3651

pour la conservation de leur établissement, avec droit de chasse et de pesche dans l'estendue des ditz lieux concedéz ; à la charge de rendre la foy et hommage au chasteau St.-Louys de Quebecq, duquel la dite concession relevera aux droitz et redevances accoustumées suivant la Coutume de Paris qui sera suivie a cet esgard par provision en attendant quil en soit ordonné par Sa Majesté et que les appellations des juges qui pourront estre établis aus diz lieux ressortiront pardevant le lieutenant general de Quebecq ; plus à la charge d'aporter au dit Quebecq les castors et autres peltries qui proviendront de leur dit commerce pour acquitter les droitz deubs au domaine d'occident et les payer aus fermiers a la maniere accoustumée ; a condition de conserver et faire conserver les bois de chesne qui se trouveront propres pour la construction des vaisseaux, et de donner advis à Sa Majesté ou aus gouverneurs du pays des mines, minieres ou mineraux sy aucuns sy trouvent, de faire inserer pareille condition quil leur sera permise d'accorder sur les dites terres concedées, et de prendre la ratification du roy des presentes dans deux ans.

En tesmoing de quoy nous avons signé la presente, a icelle fait apposer les cachets de nos armes, et fait contresigner par l'un de nos secretares a Quebecq le dix neufviesme jour de janvier mil six cent quatre vingt neuf

J. R. DE BRISAY DE DENONVILLE

BOCHART CHAMPIGNY

Par Messieurs,

FREDIN.

(Translation.)

and fishing within the extent of the said conceded places ; under the condition of paying fealty and homage (*foi et hommage*) at the Castle of St. Louis of Quebec, of which they shall hold, subject to the customary duties and dues, and agreeably to the Custom of Paris, which shall be followed in this respect provisionally, and until otherwise ordained by His Majesty ; and that appeals from the decisions of the judge who may be established at the said places shall be before the Lieutenant General of Quebec ; and under the condition, moreover, to take to Quebec the beaver and other furs from their said trade, to pay the rights due to the Domaine d'Occident and to pay them to the *fermiers* in the accustomed manner ; under the condition of preserving and causing to be preserved the oak timber fit for ship building, which may be found, and that they shall give notice to His Majesty or to the Governors of the country of the mines, ores and minerals which may be found therein ; and that they shall insert the same condition in such grants as they may be authorized to make from the said conceded lands and that they shall have the present ratified by the King within two years.

In witness whereof, we have signed this present and have caused our seals at arms to be affixed, and the same to be countersigned by one of our secretaries at Quebec, the nineteenth day of January, one thousand six hundred and twenty nine.

J. R. DE BRISAY DE DENONVILLE

By Messieurs

BOCHART CHAMPIGNY

FREDIN

persons, of whatever quality and condition they may be, from disturbing or annoying the said Sieur Bazil in his establishments or from forming any in the extent of the land hereinbefore described under penalties reserved by us. Done at Quebec this eighteenth of September, 1735.

BEAUHARNOIS and HOCQUART
HOCQUART

No. 1401.

**CONCESSION, 1 OCTOBER, 1736, TO LOUIS BAZIL
OF EXCLUSIVE SEAL FISHERY AT BAYE DES
CHATEAUX FOR NINE YEARS, 1736-1745.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 3, FOLIO 29.

Charles Marquis de Beauharnois Commandeur de l'ordre
militaire de Loûis gouverneur et lieutenant general pour le Roy
en toute la Nouvelle France et province de la Louisiane,

Gilles Hocquart Chevalier Conseiller du Roy en ses
conseils intendant de justice police et finances au d. pâys ;

Sur la requeste a nous presentée par le sr. Loûis Bazil
negociant en cette ville, tendante a ce qu'il nous plût luy
accorder pendant cy années à commancer de ce jourd'huy, le
privilege exclusif de faire des etablissemens pour la pêches
sedentaire du loup marin a la côte du nord du fleuve St.
Laurent a prendre une demie liêue en remontant de la baye des
Châteaux au sud'Ouëst et trois lieues et demie en des cendans
au nord'Est et sur toutes les isles et islots qui se trouveront all
devant de la d. etendûë et en outre la permission d'y faire la
pesche chasse et traitte avec les Sauvages ; a la charge de
payer a Sa Majesté au receveur du Domaine quatre castors
d'hiver par chacun an, pour le privilege exclusif qu'il demande
a quoy ayant egard et voulant faciliter

(Translation.)

Charles Marquis de Beauharnois Commander of the military order of St. Louis,
Governor and Lieutenant-General for the king in all New France and the Province of
Louisiana,

Gilles Hocquart, Knight Councillor of the King in his Councils, Intendant of Justice,
Police and Finances of the said country ;

Upon the petition presented to us by the Sr. Louis Bazil, merchant of this city,
praying that we shall be pleased to grant hint during nine years from to-day, the exclusive
privilege of making sedentary establishments for seal fishery on the north shore of the St.
Lawrence river, to be taken one half of a league above the Baye des Châteaux toward the
south-west, by three leagues and a half below towards the north-east, together with all the
island and islets lying opposite the said tract, and, in addition, permission to fish, hunt and
trade with the Indians therein; under the condition that he shall pay to the King in the hands
of the receiver of the Domaine four winter beaver for each and every year, for the exclusive
privilege asks for. We, in consideration thereof and wishing to facilitate to

au d. sr. Bazil les moyens de reussir dans son entreprise nous en
vertu, du pouvoir a nous donné par Sa Majesté, avons accordée

et accordons au d. Sr. Bazil le privilege exclusif qu'il demande dans l'etendue du terrain cy dessus enoncé sur toute la profondeur pour y faire les d. etablissements et ce pendant le tems et espace de neuf années a compter de ce jourd'huy a la charge par le d. sr. Bazil d'establir les d. pêches et de payer au Domaine de Sa Majesté quatre castors d'hyver par chacun an, au receveur du d. Domaine et ce dans le cours du mois de septembre. Deffendons a toutes personnes de quelque qualité et condition quelles soient de troubler et inquietter le d. sr. Bazil dans le d. etablissement sous quelque pretexte que ce soit ny d'en faire dans la d. etendûe sous les peine a nous reservées le tout sous le bon plaisir de Sa Majesté de laquelle il sera tenûe prendre confirmation des presentes d'an la'n en foy de quoy nous avons signé ces presentes a icelles fait apposer le cachet de nos armes et contresigner par nos secretaires ; fait a Quebec, ce per. octobre mil sept cent trente six, signé Beauharnois et Hocquart et icelles du cachet de leurs armes et plus bas par nos seigneurs signe Chevreumont et de Valemur avec paraphe.

(Translation.)

the said Sr. Bazil the means to succeed in his enterprise, by virtue of the power entrusted to its by His Majesty, have conceded and do concede the exclusive privilege he asks for within the tract of land hereinbefore mentioned with such depth as is required for the said establishments, and during the time and term of nine years front this day ; under the condition that the said Sr. Bazil shall establish the said fishery and that, for each and every year, he shall pay to the Domain of His Majesty four winter beavers in the hands of the receiver of the said Domain. and that in the course of the month of September. We forbid all other persons, of whatever quality and condition they might be, to disturb the said Sr. Bazil in the said establishment, under whatever pretext it might be, or to make same within the said tract under the penalties to us reserved, the whole under the pleasure of His Majesty by whom he shall be obliged to have of these presents confirmed in the year. In witness whereof, we have signed these present and caused the same to be sealed with our seal at arms and countersigned by our Secretaries. Done at Quebec, this first day of October one thousand seven hundred and thirty-six. Signed Beauharnois and Hocquart and the same sealed with their seal at arms and below by our Seigneurs. Signed Chevreumont and de Valemur with a flourish.

No. 1402.

**RATIFICATION OF CONCESSION OF BAYE DES
CHATEAUX, 17 MAY, 1737.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 8, FOLIO 30.

Aujourd'huy dix sept may mil sept cent trente sept, le Roy etant a Versailles ayant egard à la demande qui luy a été faite par le sr. Louïs Bazil negociant a Quebec, tendante a ce qu'il plût a Sa Majesté de confirmer et ratifier la concession a luy faite le per. octobre mil sept cent trente six par les srs. Marquis de Beauharnois gouverneur et lieutenant général de la Nouvelle France et Hocquart intendant au d. pây's du privilege exclusif de faire des etablissement pour la pesches sedentaire du loup marin a la coste du nord du fleûve St. Laurent a prendre une demy lieue en remontant de la baye des Chateau au sud'Ouêst et trois lieuês et demy en descendant au nord'Est et sur toute les isles et islots qui se trouveront au devant de la d. etendûe Et en outre la permission de faire la pesche, chasse et traitte avec les sauvages : Sa Majesté a ratifier et confirmé la d. concession veut en consequence que le d. sr. Bazil jôûisse du privilege a luy concédé de faire des etablissement pour la pesche sedentaire du loup marin dans l'etenduê du terrain cy dessus enoncé et ce pendant le temps et espace de neuf années consécutives à commencer du jour et datte de la d. concession a la charge par luy d'establir la d.

(Translation.)

On this, the seventeenth of May, one thousand seven hundred and thirty-seven, the King being at Versailles having regard to the petition which has been submitted to him by the Sieur Louis Bazil, merchant of Quebec, praying that His Majesty would be pleased to confirm and ratify the concession made to him on the 1st of October, one thousand seven hundred and thirty-six by the Sieurs Marquis de Beauharnois, Governor and Lieutenant-General of New France and Hocquart, Intendant in the said country of the exclusive privilege of forming establishments for the sedentary fishery of seal on the north shore of the river St. Lawrence, to be taken one half league ascending the baye des Chateau south-west and three leagues and one half descending north-east and on all the isles and islets which may be found in front of the said extent and furthermore the permission of carrying on fishery, hunt and trade with the savages : His Majesty has ratified and confirmed the said concession and accordingly is willing that the said Sieur Bazil enjoys the privilege to him granted of forming establishments for the sedentary seal fishery in the extent of the aforesaid land and this during the time and space of nine consecutive years to commence from the day and date of the said concession under the condition that

p. 3656

pesche et de payer au domaine de Sa Majesté dans le mois de septembre de chacun an quatre castors d'hyver avec deffense a

touts autres de le troubler dans les d. etablissements ny den faire dans la d. etendûe le tout conformement a la d. concession a luy expediee et pour assurance de sa volonte Sa Majeste m'a ordonne d'expedier le present brevet qui sera enregistre au greffe du conseil superieur de Quebec et qu'elle a voulu signer de sa main et estre contresigne par moy son conseiller secretaire d'Etat et de ses commandemens et finances.

Les concession et brevet de confirmation cy devant et des autres parts transcrits ont este registres ouy le procureur general du Roy suivant l'arrest de ce jour par nous Coner. secretaire du Roy Greffier en chef du d. Conseil soussigne a Quebec le seize septembre 1737.

DAINE.

(Translation.)

he shall establish the said fishery and pay to the Domaine of His Majesty in the month of September of each year four winter beaver, with prohibition to all others from disturbing him in the said establishments or from forming any in the said extent. The whole in pursuance to the said concession granted to him and as a guarantee of his good will His Majesty has ordered me to draw up the present patent which shall be registered in the office of the clerk of the Superior council at Quebec and which he has been pleased to sign with his own hand and caused to be countersigned by me his Councillor, Secretary of State and his Household and Treasury.

The above concession and patent of confirmation and other parts transcribed have been registered, after having heard the King's Attorney General, pursuant to the decree of this date, by us the undersigned Councillor, Secretary to the King, Chief Clerk of the said Council at Quebec this sixteenth of September, 1737.

DAINE.

[27 Oct., 1742.]

No. 1403.

C

**FORNEL'S REPORT RE BAYE DES CHATEAUX AND
APPLICATION FOR AUTHORITY TO EXPLORE
BAYE DES ESQUIMAUX, 27 OCTOBER, 1742.**

ARCHIVES OF CANADA. CORRESPONDANCE GENERALE, F. 109, p. 416.

MONSEIGNEUR,

Comme je me croy obligé d'informer La Cour de ce qui s'est passé au poste de La baye des Chateau située dans le detroit de Belisle sur la Coste de Labrador, dont jay fair la découverte, Et L'exploitation depuis plusieurs

(Translation.)

MONSEIGNEUR,

Feeling that I am bound to inform the Court of what took place at the post of the Baye des Chateaux, situated in the strait of Bellisle, on the Labrador coast, of which I made the discovery and

années au lieu et place, Et par cession du S.^r Basile de cette ville à qui la Concession en auroit été faite cy devant, Et qui n'etoit point en moyen de Le faire valoir, c'est ce qui me procure l'honneur d'Ecrire a Votre Grandeur pour luy rendre compte que j'ay travaillé avec Succes a humaniser, Et rendre traitables Les Sauvages Eskimaux qui ont toujours été les pirates de cette Côte.

Votre GRANDEUR aura pour agreable le recit que je vais luy en faire.

L'année derniere deux Chaloupes d'Eskimaux etant venu a bord du batiment de La baye des Chateaux, ces barbares ayant mis les armes bas, Et ayant fait signé aux françois d'en faire de meme, demanderent à traiter. on leur fit quelques presens. Leur traite faite, ils firent entendre qu'ils viendroient en plus grand nombre. Le Lendemain ils vinrent à bord au nombre de cinq Chaloupes ; ayant mis les armes bas de part et d'autre ; ils traiterent Environ huit quintaux de barbe de baleine pour des marchandises françoises. Il [sic.] leur fut fait aussy quelques presens dont ils parurent fort contents.

Cette année ayant été obligé de faire partir de cette rade au mois de Septembre un batiment pour aller chercher les huiles restées au poste de la baye des Chateaux Les Eskimaux au nombre de vingt-deux hommes sans y comprendre Les femmes, Et les Enfans attirés Sans doute par la reception qu'on Leur avoit fait l'année precedente Sont venus à bord du batiment pour y traiter. Ils [sic.] y ont mesme travaillé pendant plusieurs jours de suite avec nos matelots pour les aider à charger Les huiles. Et comme il n'y avoit point auposte de marchandises pour la traite, ils Sont restés avec les francois qui gardoient le poste disant qu'ils attendoient le batiment qui devoit arriver pour L'hyverneme nt afin de traiter avec luy. ce récit fait connoitre qu'il y a lieu d'Espérer d'apriver ces barbares qui se sont rendus redoutables le

(Translation.)

carried on the operation for several years in the stead and place and by assignment of the Sieur Bazile, of this city, to whom the concession had been granted and who could not develop the same, to which fact I owe the honour of writing to Your Grace to inform you that I successfully employed myself to civilize and make tractable the Eskimaux savages who have always been the pirates of this coast.

Your Grace will be pleased with the following account I submit herewith.

Last year, a party of Eskimaux, in two boats, came on board the vessel at Baye des Chateaux, and these barbarians having laid down their arms and motioned the Frenchmen to do likewise, wanted to trade. They were given a few presents. Their trading over, they gave us to understand that they would return in larger numbers. The following day they came on board from five boats, and arms being laid down on both sides, they traded some eight hundred-weights of whale fins for French goods. They were also given a few presents with which they seemed to be quite pleased.

This year, it being necessary to despatch a vessel from this roadstead in September to fetch the oil left at the post of Baye des Chateaux, the Eskimaux, numbering twenty-two men, besides the women and children, evidently drawn by the reception accorded to them the previous year, came on board of the vessel to trade. They even worked for several days with our sailors helping at the loading of the oil. And, as there were no trading goods at the post, they remained with the Frenchmen in charge of the post and said they were waiting for the vessel about to arrive for the winter to do their trading then. This account leads us to

long de La Coste par leurs brigandages, Et de les rendre traitables. pour cet effet dans les Instructions du Capitaine, il luy estoit deffendu de tirer sur Eux, ny de leur faire aucun mal, afin de les attirer par ce moyen. En profitant de cette heureuse Conjoncture, Et en les attirant par presens au poste des Chateaux, Il [sic.] sera facile, Et l'on pourra avec plus de sureté penetrer jusques dans leurs villages ou jamais personne n'a osé aller, Et faire quelques decouvertes vtilés a La Colonie.

L'année dernière au poste du S.^r Marsal qui est au dessous de celui cy, il fut imprudemment tiré quelques coups de fusil pour les chasser d'une Isle ou ils estoient cabanés. ce printemps pour se venger jls [sic.] sont venus En armes au poste du S.^r Marsal qu'ils ont brulé et pillé, Et de trois françois qui gardoient le poste ils en ont massacré deux, Le troisieme s'est sauvé par la fuite. on craignoit qu'ils n'en fissent de meme au poste des Chateaux, qui est voisin, mais ils y ont restés avec nos françois sans leur faire aucun mal.

Il y a quelques années que j'eus l'honneur de demander La Concession de la baye des Eskimaux, dite autrement baye des hollandois, nommée par les Sauvages Quichechaquiou. Vous Eutes la bonté, Monseigneur, de faire attention à ma demande, et d'ecrire en consequence à M. Le gouverneur general et à M. L'Intendant de m'en donner la preference, si tot que j'en aurois fait la découverte. je n'ai pû la faire jusqu'à ce jour d'autant que j'ay des associés dans L'exploitation de la baye des Chateaux qui n'ont pas voulu me permettre de me servir à mon usage de ce qui appartient a la Société. ainsy comme il est necessaire pour cette découverte d'avoir un poste dans le voisinage pour y attirer les Eskimaux, pour S'y Equiper, Et s'y refugier au cas de besoin, c'est ce qui me fait demander le poste de la baye des Chateaux

(Translation.)

along the coast for their depredations, and make them tractable. To that end, in the instructions issued to the Captain it was forbidden to shoot at them, or to harm them in any way, so as to attract them. By taking advantage of this fortunate happening and in attracting to the post des Chateaux by means of presents, it will be easy and safer to go as far as their own villages where no one has dared to venture up to this day, and thus make discoveries useful to the Colony.

Last year at the Sieur Marsal's post, situated above this one, a few shots were imprudently fired at them in order to drive them away from an island where they had built huts. This spring, out of revenge, they came in arms to the Sieur Marsal's post which they burnt and sacked. And out of three men who garrisoned the post, they killed two, the third having escaped through flight. It was apprehended that the post des Chateaux, in the vicinity, would meet with the same fate at their hands, but they remained with our Frenchmen without molesting them.

Some years ago I had the honour of requesting the cocession of Baye des Eskimaux, otherwise known as the baye des Hollandais, and called Quichechaquiou by the Indians. You were kind enough, [onseigneur, to consider my request and, accordingly, to instruct, by letter, Monsieur the Governor General and Monsieur the Intendant that I was to be given the preference as soon as I had made the ex loration of the same. This, I have been unable to do as yet, inasmuch as I have partners in the working of Baye des Chateaux who refused to

allow the use, for my personal benefit, of what belongs to the partnership. As the exploration referred to calls for a post in the neighbourhood whither the Eskimaux could be attracted, and to serve as an equipment station and a place of refuge in case of emergency, it is why I am asking for the post of Baye des Chateaux established by me and which the

p. 3659

dont j'ay fait L'Etablissement, Et que le S.^r Bazile n'est pas En moyen d'Exploiter. J'ay presenté à M. le Gouverneur Général et à M. L'Intendant plusieurs requestes avec le memoire cy-joint pour demander pendant neuf années Le privilége Exclusif pour faire la pesche sedentaire du Loup marin avec droit de Chasse, Et de traite au poste de La baye des Chateaux, Et je Leur ay fait ma Soumission d'aller faire à mes frais, Et depens La decouverte de La baye des Eskimaux, sitost que j'aurois la Concession de la baye des Chateaux, qui est le seul poste a main qui puisse faciliter cette Entreprise, Et dédommager des frais. J'espere, Monseigneur, que vous voudrez bien être favorable a ma demande, Et m'accorder par preference a tous autres la Concession de la baye des Chateaux Sans préjudice de celle des Eskimaux Lorsque j'en auray fait la decouverte.

Comme il est a propos de faire connoitre à ces barbares le nom du ROY par quelques presens, qui leur soyent distribués au nom de SA MAJESTÉ je prie Votre Grandeur de me faire delivrer chaque année dans les magasins de Quebec des marchandises de traite, Et d'autres Effets A L'usage des Eskimaux jusqu'à la concurrence de telle somme qu'il Luy plaira arbitrer, desquels effets je promets me charger pour en faire la distribution aux Eskimaux au nom du Roy, ce qui pourra contribuer a attirer ces barbares, Et empescher leur piraterie.

Je suis avec un tres profond respect, Monseigneur, De votre Grandeur, Le tres humble et tres obeissant serviteur.

FORNEL.

A Quebec,
27 8^{bre} 1742.

(Translation.)

Sieur Bazile could not afford to develop. I have presented to Monsieur the Governor General and Monsieur the Intendant several petitions together with the annexed memoir requesting for the space of nine years the exclusive privilege of sedentary seal fishing with the trading and hunting right of the post of Baye des Chateaux, and I offered to make, at my own expense and costs, the exploration of Baye des Eskimaux as soon as I would have obtained the concession of the Baye des Chateaux which is the only post at hand which could facilitate this undertaking and compensate for the costs. I trust, Monseigneur, that you will favourably consider my request and grant to me, in preference to all others, the concession of Baye des Chateaux without prejudice to that of the Eskimaux, when I have explored it.

It being expedient that the King's name be made known to these barbarians by the means of a few presents that would be distributed to them in His Majesty's name, I would ask Your Grace to cause to be delivered to me every year, in the store at Quebec, trading goods and other effects for the Eskimaux, to the extent of such a sum as you may be pleased to determine, which effects I promise to take charge of, for distribution among the Eskimaux in the King's name, which would tend to attract those barbarians and prevent their depredations.

I am, Monseigneur, with the deepest respect, Your Grace's most humble and most obedient servant,

FORNEL

At Quebec,
27 October 1742.

No. 1404.

**CONCESSION, 12 SEPTEMBER, 1749, OF BAYE DES
CHATEAUX TO SIEUR GAUTIER FOR NINE YEARS,
1749-1758.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 42 VERSO.

Le Marquis de la Jonquiere etc.
François Bigot etc.

Le. s. Bazil ayant cessé d'exploiter le poste de la Baye des Chateaux sçis à la Coste du Nord du fleuve St. Laurent auquel la concession en avoit été accordée et qui a finie en mil sept cent quarante cinq, Sa Majesté nous auroit donné ses ordres contenus dans la Lettre à nous écrite par M. Rouillé ministre et Secretaire d'Estat en datte du trente avril dernier pour expédier un Titre de Concession du même Poste pour l'espace de neuf années en faveur du sieur Gautier Coner. au Conseil Supérieur et medecin du Roy, en vertu desquels ordres. Nous avons concédé et concédons par ces présentes au dit Sieur Gautier led. Poste de la Baye des Chateaux pour le temps et espace de neuf années a compter de la présente année, a prendre une demie lieue en remontant de la ditte Baye au sud-ouest et trois lieues et demie en descendant au Nord-Est avec toutes les isles et islots qui se trouveront au devant de la de. étendue de terrain, sur toute la profondeur, pour en jouir par led.

(Translation.)

Marquis de la Jonquière &c.
François Bigot &c.

The Sieur Bazil having given up the operation of the post of the Baye des Châteaux situated on the north shore of the river St. Lawrence, to whom the concession thereof had been granted and which has expired in one thousand seven hundred and forty-five, His Majesty has given to us his orders contained in the letter addressed to us by M. Rouillé, Minister and Secretary of State under date of the thirtieth April last to draw up a title of concession of the same post for the space of nine years in favour of the Sieur Gaultier, Councillor in the Superior Council and King's physician, in virtue of which orders. We have conceded and do hereby concede to the said Sieur Gaultier the said post of Baye des Châteaux for the period and space of nine years to be computed from the present year, to be taken half a league ascending from said bay south-westward and three and one half leagues descending north-eastward with all the islands and islets which may be in front of the said extent of land, on the whole length, to be

p. 3661

Sieur Gautier, pendant led. temps et y faire un ou plusieurs établisemens de pesche à loup-marin ainsi que la Chasse et

traite avec les Sauvages à l'exclusion de tous autres, et en outre avec la faculté d'y faire la pesche de la morue concurrement avec les batimens françois, a la charge par le dit Sieur Gautier de faire valoir la présente concession a faute de quoy elle demeurera de nul effet et aussi de payer au Domaine de Sa Majesté en ce pais par chaque année deux castors ou la somme de quatre livres, En temoin de quoy nous avons signé et fait contresigner ces présentes par nos secretaires et à icelle fait apposer les cachets de nos armes. Fait et donné à Quebec le douze septembre 1749. Signé La Jonquiere et Bigot, Contresignez et Sçellez.

Pour copie.

BIGOT.

(Translation.)

enjoyed by the said Sieur Gaultier during the said period and to form there at one or more seal fishery establishments as well as to carry on hunting and trading with the savages to the exclusion of all others, and, furthermore, with power to carry on therein the cod fishery concurrently with the French vessels, subject to the condition that the said Sieur Gaultier shall develop the said concession, in default of which the same shall remain null and void and also that he shall pay to the Domaine of His Majesty in this country each year two beaver or the sum of four livres. In testimony whereof, we have signed and caused to be countersigned the presents by our secretaries and caused the same to be sealed with our arms. Done and given at Quebec the twelfth of September, 1749. Signed La Jonquière and Bigot, countersigned and sealed.

For copy,

BIGOT.

No. 1405.

CAP CHARLES.

[27 Sept., 1735.]

CONCESSION, 27 SEPTEMBER, 1735, OF CAP CHARLES TO SIEUR
MARSAL FOR NINE YEARS, 1735-1744.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 23, FOLIO 63.

Charles Mis de Beauharnois etc.
Gilles Hocquart etc.

Nous avons permis au s. Marsal négociant, de cette ville d'aller a la cote de la Brador pour y faire des Etablissements de peche a Loups Marins et ce pendant neuf années a compter de la date des presentes dans les Endroits, sçavoir depuis le Cap Charles inclusivement en descendant jusqu'a la Baye vulgairement appelée St. Alexis et sur toutes les isles et islots qui se trouveront au devant de l'Etendue dud. Terrain avec les droits de pêche chasse et traite avec les sauvages dans la de. Etendue ainsy qu'il sera plus au long expliqué dans le titre de concession qui sera expédié aud. S. Marsal aussitost que nous aurons pris des connoissances plus précises de ces Endroits Deffendons a toutes personnes de troubler ny inquietter led. sr. Marsal dans ses etablissemts. ny d'en faire dans la de. Etendue de Terrain sous les peines a nous reservées fait a Québec le vingt sept septembre 1735.

HOCQUART
BEAUHARNOIS et
HOCQUART.

(Translation.)

Charles, Marquis de Beauharnois, etc.
Gilles Hocquart, etc.

We have granted to the Sieur Marsal, trader of this city, permission to proceed to Labrador, there to make seal-fishing establishments, during nine years from the date of this concession in the localities, to wit, from cape Charles inclusive descending as far as the bay commonly called St. Alexis, as well as on all the islands and islets to be found opposite the said tract of land, together with the right of fishing, hunting and trading with the Indians within the said extent, as will more fully be explained in the deed of concession to be made in favour of the said Sieur Marsal, as soon as we have received more precise information concerning these places. We forbid all persons to disturb the said Sieur Marsal in his establishments, or to form any within the said tract of land under the penalties to us reserved. Given at Quebec, the twentieth of September, 1735.

HOCQUART
BEAUHARNOIS and HOCQUART.

No. 1406.

**EXTENSION OF CONCESSION, 7 SEPTEMBER, 1743,
TO MARSAL FOR SIX YEARS, 1744-1750.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 20.

Charles Marqis. de Beauharnois etc.
Gilles Hocquart etc.

Vû la requeste a nous presentée par le Sr. Antoine Marsal negociant en cette ville, contenant qu'il auroit fait un etablissement de pesehe de loup marin au Cap Charles Coste de la Brador en dehors du détroit de Belisle en vertu d'une permission que nous luy aurions accordée levingt sept septembre mil sept cent trente cinq pour neuf années, que les depenses qu'il y auroit faites ces années dernieres avec des travaux considerables luy faisoient esperer un peu de succès dans la suite lorsque les Esquimaux ayant surpris l'esté dernier, et egorgé une partie des gens que le suppliant avoit laissé a la garde de son poste pillerent et enleverent généralement tous ses agrés et effets et detruisireut les batimens qu'il y avoit fait construite ; que ce funeste accident reduisit le suppliant a la nécessité de recourir a ses amis, qu'avec un peu de leur secours il fit un armement beaucoup plus couteux que les precedents dans l'esperance que les experiences qu'il avoit faites luy procureroient enfin quelque succès ; que la rigueur excessive de l'hyver der. auroit fait evanouir dans un moment le fruit de ses penibles travaux, les glaces ayant emporté toutes ses rets ; qu'un evenement aussi facheux epuise absolument tous les

(Translation.)

Charles, Marquis de Beauharnois, etc.
Gilles Hocquart. etc.

On the petition presented to us by the Sieur Antoine Marsal, trader of this city, setting forth that he formed a seal-fishing establishment at Cape Charles, on the coast of Labrador, outside of the strait of Belleisle, under a permission that we granted to him on the twenty-seventh of September, one thousand seven hundred and thirty-five, for the term of nine years; that the expenses which he incurred during recent years, with considerable works, led him to hope for a little success thereafter, when the Esquimaux having surprised him last summer, and killed a party of men whom the petitioner had left to look after his post, plundered and took away generally all his appliances and goods and destroyed the vessels he had had constructed ; that this disastrous mischance forced the petitioner to appeal to his friends ; that, with a little assistance from them, he outfitted with much heavier expenses than previously in the hope that his experiences would finally bring him some success ; that the excessive severity of last winter destroyed the fruit of his arduous labours, all his nets having been carried away by the ice ; that such an unfortunate occurrence

moyens du suppliant et le reduit a la plus triste situation, qu'il se trouve a present forcé d'abandonner une quantité d'agréés de pesche qu'il a caché aux environs du dit poste, personne ne voulant se joindre a luy pour en continuer l'exploitation a cause que la permission accordée au suppliant expire l'année prochaine Pourquoi il espere que nous voudrons bien luy renouveler la susd. permission pour neuf autres années, afin qu'il ayt le temps de reparer s'il est possible par quelque nouvelle tentative une partie des pertes qu'il a souffertes. Vû la permission par nous accordée aud. Sr. Marsal le vingt sept septembre mil sept cent trente cinq pour faire des etablissements de pesche a loup marin et ce pendant neuf années a compter du jour de la de. permission, dans les endroits scavoir depuis le Cap Charles inclusivement en descendant jusqu'a la Baye vulgairement appelée St. Alexis et sur toutes les isles et islots qui se trouvent au devant de retendue dud. terrain, avec droit de chasse et traitte avec les sauvages dans la ditte etendue. Nous ayant aucunement egard a la ditte requeste et sans tirer a consequence, avons prorogé la ditte permission cy dessus pendant six années seulement et ce a compter du vingt sept septembre de l'année prochaine mil sept cent quarante quatre jour de l'expiration de la ditto permission, jusqu'a pareil jour de l'année mil sept cent cinquante.

Deffendons a toutes personnes de troubler ny inquieter led. Sr. Marsal dans ses etablissemens ny d'en faire dans la ditto etendue de terrain, sous les peines a nous reservées. Fait et donné a Quebec le sept septembre mil sept cent quarante trois Signez Beauharnois et Hocquart, contresignez et scellez.

Pour copie.

HOCQUART.

(Translation.)

petitioner and has put him in the worst condition ; that he, at present, is obliged to abandon a quantity of fishing gear which he had cached in the vicinity of the said post, as no one cares to join him to carry on the operations, because the permission granted to the petitioner expires next year, Therefore, he hopes that we will be pleased to renew him the permission above referred to for nine years, so that he may have time to make up for a part of the losses he has suffered. In consideration of the permission granted by us to the said Sieur Marsal on the twenty-seventh of September, one thousand seven hundred and thirty-five for seal-fishing establishments, and this for the term of nine years, in the places, to wit, from cape Charles inclusive below, as far as the bay commonly called St. Alexis, and on all the islands and islets which are found opposite said tract of land, with the right of hunting and trading with the Indians within the said tract. We, not taking into consideration the said petition and without creating any precedent, have extended said permission abovementioned for six years only, and this from the twentieth of September of next year one thousand seven hundred and forty-four, the day of the expiration of the said permission, to the same day of the year one thousand seven hundred and fifty.

We forbid all persons to disturb or trouble the said Sieur Marsal in his establishments, or to make any within the said tract of land, under the penalties to us

reserved. Made and given at Quebec the seventh of September, one thousand seven hundred and forty-three. Signed Beauharnois and Hocquart, countersigned and sealed.

For copy
HOCQUART.

No. 1407.

**GRANT, 1 NOVEMBER, 1749, OF CAP CHARLES TO
CAPT. BAUNE (de BONNE) FOR NINE YEARS, 1750-
1759.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 9, FOLIO 47.

Le Marquis. de Lajonquière etc.
François Bigot etc.

Vû la requête à nous présentée par Mr. Baune Capitaine reformé dans le Regiment de Condé infanterie, contenant qu'estant dans le dessein de faire l'entreprise d'une pesche à loup marin il auroit esté informé qu'il y(a)à la Coste de la Brador un endroit nommé le Cap Charles cy devant concédé aus. Marsal qu'il a abandonné depuis cinq ou six ans ; pourquoy il nous supplie, vû led. abandon, de luy accorder un Titre de Concéssion dud. lieu et ce pour neuf années, a prendre depuis le dit Cap Charles, inclusivement en descendant jusques à la Baye vulgairement appelée St. Alexis, avec les isles, islots et bitures qui se trouvent au devant de la de. etendue de terrain, avec privilege d'y faire la pesche du loup marin à l'exclusion de tous autres, Chasse et Traitte avec les Sauvages dans toute retendue de la de. Concéssion, et la pesche de la morue concurement avec les batimens qui pourront venir aud. lieu. Nous eu vertu du pouvoir à nous donné par Sa Majesté avons accordé et concédé pour l'espace de neuf années a commencer de l'année

(*Translation.*)

Marquis de Lajonquière, etc.
François Bigot, etc.

On the petition presented to us by M. Baune, half-pay Captain in the Condé Regiment of infantry, setting forth that. intending to make an enterprise of seal-fishery, he had been informed that there is on the Coast of Labrador a place called Cape Charles previously granted to the Sieur Marsal, abandoned by him for five or six years ; therefore, he prays that, in view of said abandonment, we grant him a deed of concession of the said place, and this for nine years, to be taken from the said Cape Charles, inclusive, descending to the bay commonly called St. Alexis, together with the islands and islets and beaches lying opposite the said tract of land, with the privilege of seal-fishing thereinto the exclusion of all others, hunting and trading with the Indians within the whole extent of the said concession, and of cod-fishing concurrently with the ships that may come to the said place. We, by virtue of the power to us entrusted by His Majesty, have granted and conceded for the term of nine years from next year to the said Sieur Baune the tract of land hereinbefore specified, together with

prochaine aud. s. Baune l'etendue de terrain cy dessus designée avec les isles islets et battures qui se trouvent au devant de la de. concession. Pour en jouir par luy et y faire un ou plusieurs etablissements de pesche de loup marin à l'exclusion de tous autres ainsi que la Chasse et Traitte avec les Sauvages, pendant led. temps et la pesche de la morue concurement avec les batimens qui pourront venir aud. lieu le Cap Charles, à la charge par led. S. Baune de faire valoir la présente concession, faute de quoy elle demeurera de nul effet et aussi de payer au Domaine de Sa Majesté en ce pais par chaque année deux castors ou la somme de quatre livres. Fait et donné à Quebec le per novembre 1749. Signé Lajonquiere et Bigot, Contresignez et scellez.

Pour copie.

BIGOT.

(Translation.)

the islands, islets and beaches lying opposite the said concession, to have and hold the same unto him, and there to make seal-fishing establishments, to the exclusion of all others with the right of hunting and trading with the Indians, during the said term, and of cod-fishing concurrently with the ships that may come to the said place of Cape Charles, under the condition that the said Sieur Baune shall operate the present concession, by default of which it shall remain void and null, and that he shall pay to the Domaine of his Majesty in this country, for each year. two beavers or the sum of four livres. Done and given at Quebec, the first of November, 1749. Signed, La Jonquiere and Bigot, 20 Countersigned and sealed.

For copy

BIGOT.

No. 1408.

**CANCELLATION OF GRANT TO BAUNE AND
REGRANT TO MARSAL, 24 SEPTEMBER, 1735, FOR
NINE YEARS, 1754-1763.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 10, FOLIO 16 VERSO.

Le Marquis Duquesne etc.
François Bigot etc.

Vû la requête a nous présentée par le S. Antoine Marsal négociant de cette ville, contenant qu'il auroit découvert il y a un nombre d'années le poste du Cap Charles situé a la Coste de Labrador sur lequel il auroit fait divers essais de pesche a Loup marin ; que quelques accidents imprevis et le pillage du poste par les Esquimaux luy avoient causé de grosses pertes dans cet établissement jusque la dernière guerre que ses affaires l'obligerent de passer en France. Que pendant son absence M. de Bonne capitaine d'infanterie auroit obtenu ce poste par brevet de Sa Majesté, comme si le suppliant l'eut abandonné, mais le dit S. de Bonne n'y ayant jamais envoyé personne pour le faire valoir et ayant meme remis son brevet, le dit S. Marsal qui voudroit encore faire un nouvel essay de ses observations precedentes, nous supplie de luy renouveler le titre de la dite. concession a prendre aud. lieu du Cap Charles jusqu'a la Baye St. Alexis, Nous attendu que le dit S. de Bonne a remis le brevet de la concession qui luy a été faite du dit Cap Charles

(Translation.)

Marquis Duquesne, etc.
François Bigot, etc.

On the petition presented to us by the Sieur Antoine Marsal, trader of this city, stating that he had discovered, some years ago, the post of Cape Charles, situated on the coast of Labrador, where he had made several attempts of seal-fishing ; that unforeseen happenings and the plundering of the post by the Esquimaux has caused him heavy losses in this establishment until the last war, that his affairs compelled him to return to France. That, during his absence, M. de Bonne, Infantry Captain had obtained this post by a patent of His Majesty, as if the petitioner had abandoned it, but that the said Sieur de Bonne having sent no one to operate it and having even returned his patent, the said Marsal, would like to make another attempt, benefitting by his previous experience, prays that we may renew to him the deed of concession to hold from Cape Charles as far as the Bay St. Alexis. We, whereas the said Sieur de Bonne has returned his patent of the concession granted to him of the

p. 3668

et en vertu du pouvoir a nous donné par Sa Majesté avons

accordé et concédé pour l'espace de neuf années a commencer de l'année prochaine au dit S. Marsal une etendue de terrain situé a la Coste de Labrador a prendre depuis le dit Cap Charles inclusivement en descendant jusqu'a la dte Baye St. Alexis avec les isles, islets et battures qui se trouvent au devant de la dte concession pour en jouïr par luy et y faire un ou plusieurs etablissements de pesche a loup marin a l'exclusion de tous autres ainsi que de la chasse et traitte avec les Sauvages pendant le dit tems et la pesche de la moruë concurremment avec les batiments qui pourront venir au dit lieu du Cap Charles. a la charge par le dit S. Marsal de faire valoir la presente concession, faute de quoy elle demeurera de nul effet et aussi de payer au Domaine de Sa Majesté en ce pays par chaque année deux castors ou la somme de quatre livres. Fait et donné a Quebec le 24 7bre 1753.

Pour copie.

BIGOT.

(Translation.)

said Cape Charles, and by virtue of the power entrusted to us by His Majesty, have granted and conceded for the term of nine years, to commence from next year, to the said Sieur Marsal a tract of land situated on the Coast of Labrador, to hold from the said Cape Charles, inclusive, below, as far as the Bay called St. Alexis, together with the islands, islets and beaches therein to be found, opposite the said concession, to have and hold the same unto him, and there to form one or more seal-fishing establishments, to the exclusion of all others, with the right of hunting and trading with the Indians for the said term, and of cod-fishing concurrently with the ships that may come to the said place of Cape Charles under the condition that the said Marsal shall operate the present concession, by default of which the same shall remain null and void, and that he shall also pay to the Domaine of His Majesty in this country, for each and every year, two beavers or the sum of four livres. Done and given at Quebec, the 24th of September, 1753.

For copy

BIGOT.

[20 March, 1758.]

No. 1409.

**AUTHORIZATION, 20 MARCH, 1758, BY VAUDREUIL
TO CREDITORS OF MARSAL TO OPERATE CAP
CHARLES TO EXPIRATION OF CONCESSION IN
1763.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 10, FOLIO 21 VERSO.

Requête présentée par l'Executeur Testamentaire et les
Cranciers du feu Sr. Marsale à Mrs. les Gouverneur et
intendant de la Nouvelle France.

L'Executeur Testamentaire et les creanciers du Sr.
Marsale ont l'honneur de vous représenter, que le dit Sr.
Marsale avoit obtenu de Sa Majesté le brevet de ratification de
la concession qu'il avoit obtenue de votre autorité le 4
septembre 1753, du poste du Cap Charles avec les privileges
exclusif pour les Chasse et Traitte.

Cette concession, Mgrs., du 4 may 1754. est pour neuf
années, c'est-à-dire devoit durer jusqu'en 1763.

Personne de la colonie n'ignore les dépenses
considérables qu'a fait le S. Marsal à cet etablissement, c'est où
il a employé dix sept mille livres de dettes que les supliants
réclament aujourdhuy à sa succession et qu'eux ny l'Executeur
Testamentaire ne pourront trouver sans un effet de vos bontés
et justice.

Les dépenses considérables qu'a fait le feu Sr. Marsale à
ce poste, les

(Translation.)

Petition presented by the executor and the creditors of the late Sieur Marsal to Mrs.
the Governor and Intendant of New France.

The executors and the creditors of the Sieur Marsal beg to represent to you, that the
said Sieur Marsal had obtained front His Majesty a patent of ratification of the concession
which he had obtained by your authority, the 4th of September, 1753, of the post of Cape
Charles, together with the exclusive privileges of hunting and trading.

This concession, Mgrs., of the 4th of May, 1754, is for nine years, that is to say, was
to last till 1763.

No one from the colony is ignorant of the heavy expenditure made by the Sieur
Marsal at this establishment, where he incurred seven thousand livres of debts which the
petitioners claim this day from his estate, and that neither they nor their successors will be
able to recover without, in fact, your kindness and justice.

The late Sieur Marsal having incurred heavy expenditures and done a considerable
amount of

travaux pour le metre en etat semblent en reclamer les fruits
pour sa succession, ses creanciers dont il a employé les fonds à

cette exploitation, qu'il a si souvent eû soin de repaître de cette attente, et a qui il ne reste que cette ressource pour être payés, semblent avoir les titres les plus justes pour obtenir cette grace.

Tous se réunissent, l'exécuteur testamentaire créancier luy même, les créanciers particuliers réclament de vôtre justice, la liberté d'exploiter ce poste et d'en jouir pendant le reste du temps qui reste à expirer de la concession ; dont l'ordonnance ou continuation de concession sera au nom du S. Tachet, par la vous leur procurerez la seule ressource pour être payés. Signé Tachet, Havy et Lefebvre, Malroux et B. Thouron.

Vû la présente requête, Nous en considération des avances que le feu Sr. Marsale a faites pour l'exploitation du poste en question et pour faciliter à ses créanciers les moyens de recouvrer les prêts qu'ils ont faits aud. deffunt pour cette exploitation, PERMETTONS sous le bon plaisir de Sa Majesté aux dits créanciers de faire exploiter led. Poste a leurs risques, perils et fortune sous le nom dud. Sr. Tachet et d'en jouir pendant l'espace de temps porté en la concession sus dattée.

Fait a Quebec le 20 de mars 1758. Signé Vaudreüil et Bigot.

Pour copie.

(Translation.)

work in connection with that post and its fitting up, his estate should reap the benefits of the undertaking ; and his creditors whose funds he used for that purpose and to whom he so often held out the expectation of profits, feel that they are fully entitled to the favour requested, as this is the only means they have of securing payment.

All unite, the executor, himself a creditor, and the individual creditors claim from your justice, the liberty to operate this post and to hold the same for the remaining part of the unexpired term of the concession ; the ordinance or extension of concession to be made in the name of the Sieur Tachet ; thereby you will provide the only resource to be paid. Signed Tachet, Havy et Lefebvre, Malroux et B. Thouron.

Seeing the present petition, We, in consideration of the advances which the late Marsal has made towards the operation of the post in question and in order to facilitate to his creditors the means of recovering the advances which they have made to the said deceased for this operation, do grant, under the pleasure of His Majesty, to the said creditors PERMISSION to operate the said post at their risks, perils and fortune, under the name of the said Sieur Tachet, and to have and hold the same for the term referred to in the above dated concession.

Done at Quebec. the 20th of March, 1758. Signed Vaudreuil and Bigot.

For Copy.

1763.
April
26th.**No. 1410.****GRANT, 26 APRIL, 1763, OF CAP CHARLES TO
BRYMER FOR FOUR YEARS, 1763-1767.**

RETURN OF THE POSTS OR LANDS GRANTED BY GOVERNOR MURRAY IN
THE GOVERNMENT OF QUEBEC OR DEPENDENCIES THEREOF TO
THE 22ND JULY, 1763, INCLUSIVE.

For the Seal Fishery to Mr. William Brymer, that Tract of Land
on the North Shore of the St. Lawrence, commonly
known by the Name of Cape Charles, opposite the Mouth
of the Straights of Belleisle ; for four Years from the date
hereof, or until His Majesty's Pleasure is further known.

[8 April, 1721.]

No. 1411.**PASSAGE DES LOUPS-MARINS.**

GRANT, 8 APRIL, 1721, BY KING, OF PASSAGE DES LOUPS-MARINS TO
ANDRÉ DELEIGNE DURING HIS LIFETIME.

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE CONSEIL
SOVERAIN, BOOK 5, FOLIO 726.

Aujourd'huy, huitieme avril Mil Sept cent Vingt un le
Roy Estant a paris re April, ayant Ecouté favorablement la
demande qui luy a Eté faite par le Sieur 1721. André Deleigne
Lieutenant général de là prevosté de Quebec d'vn Terrain a la
Coste de la Brador pour y Etablir La pesche du Loup marin, Sa
Majesté de

(*Translation.*)

On this day, the eighth of April, one thousand seven hundred and twenty-one, the
King being at Paris and having favourably heard the petition presented to him by the Sieur
André Deleigne, Lieutenant-General in the Provostship of Quebec, to the effect that he be
granted a tract of land on the coast of Labrador to establish thereon a seal fishery, His
Majesty, with the advice of Monsieur le Duc d'Orléans;

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lavis de Monsieur Le Duc d'orleans Regent lui a concedé vn
Terrain a la dite Coste de labrador de quatre lieux de front Sur
quatre de profondeur hors de d'Etroit de Bellisle allant au
Nord'Est a prendre le dit terrain au lieu apellé le passage des

loup marins deux lieux au Nord'Est audessous du dit passage et deux lieux audessus au Sud'ouest, Ensemble les Isles et Islets adjacentes au dit terrain, pour En Jouir pa lui Sa vie durant et tant qu il fera valoir la dite Concession par les pesches qu'il y fera, veut et Entend Sa Majesté qu'il ait Seul dans l'Etendue au dit terrain a luy Concedé la faculté de faire la pesche du Loup Marin, et qu'a légard des autres pesches il les fasse Concurrement avec les Vaisseaux qui iront a la dite Coste et au dites terres, et Isles, Islots Concedé par le present Brevet, luy permet de faire la traite avec tous les Sauvages qui peuvent Se trouver Sur les terres et Costes de Labrador, Sans que pour raison de la dite Concession il Soit tenu de payer a Sa Majesté N'y a Ses Succesure Roys aucune finances Ny Indemnité de laquelle a quelque Somme quelle puisse Monter Sa Majesté lui a fait don et remise par le present Brevet qui Sera Registré au Conseil Superieur de Quebec et patout ailleurs ou besoin sera, et que Sa Majesté pour assurance de sa Volonté a Voulu Signer de Sa Main et Estre contre Signer par Moy Son Conseiller Secretaire d'Estat et de ses Commandement et finances Signé Louis et plus bas fleurian.

Registré ouy et ce Requerant le procureur général du Roy Suivant larrest du Conseil Superieur de ce Jour par Moy greffier Comie au dit Conseil ce Vingt Trois Septembre Mil Sept cent Vingt vn.

BARBEL.

(Translation.)

Regent, has conceded to him, on the said coast of Labrador, a tract of land of four leagues in front by four leagues in depth, outside of the strait of Belleisle in a northeasterly direction, the said land to be taken at the place called Passage des Loups-marins, two leagues northeast above the said pass and two leagues southwest below the same, together with the islands and islets contiguous to the said land, to have and to hold during his lifetime and as long as lie shall develop the said concession by the fisheries he may carry on thereat : It is His Majesty's will and desire that he shall have, throughout the said land, the exclusive right of carrying on the seal fishery, and that, in so far as the other fisheries are concerned, he shall carry them on concurrently with such vessels as may visit the said coast and the said lands, and islands and islets conceded by this patent ; he is given permission to trade with all the natives who may be on the lands and the coasts of Labrador, without being held, for the said concession, to pay to His Majesty, or to the Kings his successors, any tax or indemnity of which, to whatever sum they may amount to, His Majesty has made him a gift and remission by this patent which shall be registered in the office of the Superior Council at Quebec and wherever need shall be, and which, in testimony of his will, His Majesty has been pleased to sign with his own hand and to order to be countersigned by me, Councillor, Secretary of State and of his Household and Treasury. Signed Louis and lower down Fleurian.

Registered, after hearing the King's Attorney General and on his requisition to that effect, pursuant to the Superior Council's decree of this day, by me, Chief Clerk of the said Council, this twenty-third day of September, one thousand seven hundred and twenty-one.

BARBEL.

No. 1412.

**ORDINANCE BY HOCQUART, RESPECTING
DIFFERENCES BETWEEN DE LEIGNE AND
MARSAL, 16 SEPTEMBER, 1743.**

ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 31, FOLIO 91 VERSO.

Gilles Hocquart etc.

Entre le sr. André Deleigne lieutenant général de la
Prevosté de cette ville, demandeur en requeste de nous
répondue le jour d'hier, comparant par le sr. Rouville son
gendre assisté du sr. Panet praticien porteur de pieces d'une
part.

Et le sr. Antoine Marsal negociant en cette ville,
deffendeur present en personne d'autre part.

Vû la ditte requeste tendante a ce que vû le brevet de
concession a luy accorde le huit avril mil sept cent vint un
registré au Conseil Superieur le vingt trois Septembre suivant
d'un terrain scis et situé a la Coste de la Brador de quatre lieues
de front sur quatre de profondeur hors du detroit Belisle allant
au n.e. a prendre le dit terrain au lieu apellé le passage des
loups marins deux lieues au n.e. au dessous du dit passage et
deux lieues au dessus au s.o. ensemble les isles et islots
adjacens, il nous plaise permettre au dit demandeur de faire
approcher devant nous le dit Sr. Marsal pour voir dire et
ordonner que deffenses luy seront faites de plus a l'avenir
tendre des rets ou filets sur la concession appartenante au dit
demandeur, ny de couper du bois de chauffage et en outre afin
d'obvier aux contestations qui pourroient naitre entre les
parties pour les

(Translation.)

Gilles Hocquart, etc.

Between the Sieur André de Leigne, Lieutenant-Général of the Prevostship of this
city, petitioner, on a petition answered by us yesterday, appearing for the Sr. Rouville, his
son-in-law, assisted by the Sr. Panet, practioner, process holder, on the one part.

And the Sr. Antoine Marsal, trader of this city, defendant, present in person, on the
second part.

Considering the petition setting forth that., in consideration of the patent of
concession granted unto him on the eighth of April, one thousand seven hundred and
twenty-one, registered at the Superior Council, on the twenty-third of September following,
of a tract of land situated on the coast of Labrador, of four leagues in front by four in depth,
outside of the strait of Belleisle extending to the N.E. to hold the said tract of land at a place
called Passage des Loups-marins, two leagues on the N.E., below the said passway and two
leagues above on the S.W., together with the adjacent islands and islets, we are pleased to

allow the said petitioner to have the said Sr. Marsal appear before us to hear and he ordered that he shall hereafter be forbidden to lay nets on the concession belonging to the said petitioner, or to cut fire-wood, and, in addition, in order to prevent any contestation which might arise

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limites de leurs Postes, il nous plaise en donnant au Poste du demandeur l'estendue qu'il doit avoir suivant son titre, regler les limites des dits deux Postes, lesquelles limites ils ne pourront transgresser, le tout sous peine de confiscation des rets, filets ou autres instruments de pesche et des dépens dommages et interests du supliant et d'amende arbitraire. Notre ordonnance estant ensuite du dit jour d'hier, portant soit communiqué pour en venir devant nous ce jourd'huy deux heures de relevée. Les dites requeste et ordonnance signifiées a la requeste du dit demandeur au dit deffendeur ce dit jour avec assignation a comparoir devant nous deux heures de relevée. Vû aussi le brevet sus datté. Ensemble la permission accordée au dit deffendeur par Mr. le Marquis de Beauharnois et par nous le vingt sept Septembre mil sept cent trente cinq d'aller a la Coste de la Brador pour y faire des Etablissements. de pesches a loups marins et ce pendant neuf aimées, dans les endroits sçavoir depuis le Cap Charles inclusivement en decendant jusqu'a la baye vulgairement appelée St. Alexis, et sur les isles et islots qui se trouveront audevant du dit terrain. Ouy les parties comparantes et après que par le dit sr. Marsal a esté dit qu'il s'en tient a la permission qui luy a esté donnée et qu'il n'entend point tendre de rets, ny prendre aucun bois sur la concession du dit sr. André et par le dit sr. André demandé acte des dres du dit sr. Marsal. Nous avons donné acte aux parties de leurs dres et consentement en consequence, faisons deffenses au dit sr. Marsal de tendre aucuns rets ny enlever aucun bois de chauffage sur la concession du dit sr. André. a peine de tous dépens dommages et interests contre le dit sr. Marsal. Mandons etc. Fait a Quebec le seize septembre mil sept cent quarante trois.

HOCQUART.

(Translation.)

between the parties respecting the limits of their posts, we are pleased, in giving to the post of the petitioner the extent it should have under his title, to settle the limits of the said two posts, upon which they shall not encroach, all under the penalty of forfeiture of nets and other fishing appliances, as well as of costs, damages and interests of the petitioner and of arbitrary fine. Our ordinance being then of the said day of yesterday, ordering that it shall be communicated for appearance before us this day at two of the clock in the afternoon. The said petition and ordinance served at the request of the said petitioner to the said defendant this day that the latter shall appear before us at two of the clock in the afternoon. Seeing also the patent above-dated. Together the permission granted to the said defendant by M. le Marquis de Beauharnois and by us, on the twenty-seventh of September, one thousand seven hundred and thirty-five, to proceed to the coast of Labrador there to make establishments of seal-fisheries, and this during nine years, in the places, to wit, from Cape Charles inclusive below, as far as the bay commonly known as St. Alexis, as well as on the islands and islets which may be opposite the said tract of land. Having heard the persons present and after the statement of the said Sr. Marsal that he would observe the permit granted to him and that he does not intend to lay nets, or take wood on the concession of the

said Sr. André, and a written certificate having being asked by the said Sr. André of the statements of the Sr. Marsa,. We have given an official declaration to the parties of their statements and consequent assent, we do hereby forbid the said Sr. Marsal to lay nets, or take any firewood from the concession of the said Sr. André, under the penalty of all costs, damages and interest against the said Sr. Marsal. Order, etc., Done at Quebec, the sixteenth of September, one thousand seven hundred and forty-three.

HOCQUART.

No. 1413.

INDIAN ISLAND.

[15 Sept., 1786.]

F

AUTHORIZATION, 15 SEPTEMBER, 1786, BY LT.-GOV. HOPE, TO
PERRAULT *et al.*, TO ESTABLISH SEAL, COD AND SALMON
FISHERIES AT INDIAN ISLAND CONCESSION.

ARCHIVES DE LA PROVINCE DE QUEBEC.

By the Honble. Henry Hope Esqr., Lieutenant Governor and
Commander in Chief in and over the Province of Quebec
; Brigadier Genl. Commander in Chief of His Majesty's
Forces in the said Province and the Frontiers thereof &c.
&c. &c.

Whereas It hath been represented unto me by Messrs.
Perrault, l'aine, Pierre Marcoux, John Antrobus, and Louis
Dunier of Quebec Merchants, that a Concession or Grant of
Indian's Island¹ On the Eastern Coast of Labrador and of a
certain Portion of Land on the mainland opposite thereto, to be
taken from a line drawn from the Western Extremity of the
said Island until it touches the Shore, and from thence running
along the said Shore to the North and North East Five leagues
in front on two Leagues in Depth with the Rivers which Shall
be found therein, would enable them to establish Sedentary
Fisheries Seal, Cod and Salmon fisheries in that quarter in
which they might hope to find their own Emolument, and that
material advantage would also thereby accrue to the Trade of
this Province. And Whereas it is not expedient at this time to
make any Concessions or grants of Land Conceiving that
certain local Regulations Should previously be made to render
the Establishments in that quarter of more advantage and
Utility. But in order that the above Merchants may in the mean
time receive Such Sanction as is consistent with present
circumstances and as may Induce them to proceed in this
undertaking which may tend manifestly to promote the
Commerce and Welfare of the Province.

I have thought fit to authorize and empower the said
Messrs. Perrault l'ainé, Pierre Marcoux, John Antrobus and
Louis Dunier to establish Seal, Cod and Salmon Fisheries in
the whole or any part of the Island and Shore above described,
and in the rivers which shall be found therein, and there to
carry on the said fisheries without Lett or molestation.
Provided always that if the said Island or lands are or shall be
found to be within the limits of the lands granted to the Society
of Unitas Fratrum no Settlement shall be made thereon without
the consent of the said Society and that no Right or Privilege is
or shall be hereby given or conveyed Subversive of the rights
and Privileges granted to the Merchants Adventurers of

And Provided also, that the said Messrs. Perrault, Marcoux, Antrobus and Dunier, shall not under colour of this authority exclude or prevent any others of His Majesty's Subjects from fishing or drying fish on the said Island and Shore unless from such parts only as are necessary for their carrying on the said Fisheries and Actually employed and used by them for these Purposes. And In Witness of this Privilege granted to Messrs. Perrault l'aine, Pierre Marcoux, John Antrobus and Louis Dunier I do hereby give to them this Licence for Enjoying the same during pleasure by which it is intended not only to secure to them the present enjoyments thereof. But of their claim upon Governments for a preference in obtaining a Concession or grant of the whole or parts of the Lands above described, under such restrictions and limitations as may hereafter be devised for the better regulation of the Fisheries and matters appertaining thereto in that Quarter.

Given under my hand and seal at arms at the Castle of Saint Lewis in the City of Quebec, this fifteenth day of September One thousand seven hundred and Eighty Six, in the Twenty-Sixth Year of His Majesty's Reign.

(Signed) HENRY HOPE.

[12 April, 1701.]

By Command of the Lieut. Governor
Countered. GEO. POWNALL, Secy.

No. 1414.

C

KEGASKA-KESSESAKIOU CONCESSION.

AGREEMENT, 12 APRIL, 1701, OF CONSTANTIN WITH COURTEMANCHE,
TO TRADE WITH INDIANS AT ESKIMO RIVER.

ARCHIVES DE LA PROVINCE DE QUEBEC.

Pardevant le nore Royal en la prevosté de Québec soussigné y résidant et tesmoins cy-bas nommés fut présent le sieur Pierre Constantin voyageur, de présent demeurant en cette d. ville. lequel de son gré, s'est vollontairement engagé pour le temps et espace qu'il sera nécessaire pendant la navigation

(Translation.)

Before the undersigned, Royal Notary in the provostship of Quebec, residing

thereat, and the witnesses hereinafter recited, was present the Sieur Pierre Constantin, voyageur, now residing at this said city, who of his own volition, has voluntarily agreed to hire himself, for such time and space

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prochaine pour aller et revenir de la Rivière des Esquimaux distant de cette ville d'environ trois cents lieux en canot, le tout de la terre du nord, à Monsieur de Courtemanche, dame Charlotte son épouse et sa procuratrice à ce présente et acceptant pour luy promettant de luy faire agréer et approuver ces présentes toutes fois et quantes pour, pendant le d. temps servir le d. sr de Courtemanche en quallité de commandant sur les personnes qu'il jugera à propos debvoir envoyer cette présente année au d. lieu de la Rivière des Esquimaux pour y faire et faire faire chasses et traites tant avec les Esquimots qu'avec les Sauvages qui se trouveront au d. lieu, et de prendre soin comme de son bien propre de tous les effets et marchandises que le d. sieur de Courtemanche jugera devoir envoyer au d. lieu tant par le canot que le d. sieur Constantin y soit mener que par le batiment que le d. sr de Courtemanche y soit envoyer à la navigation. et sera tenu le d. sr Constantin l'establir et mettre les personnes ql. advisera sur les lieux pour traite les plus avantageux, tant pour l'esté prochains que pour l'hivernement aussy prochain sur les d. lieux, et de suivre en tout les ordres et advis dont il sera porteur, du d. sr Courtemanche ou d'elle ditte dame procuratrice à l'effet de quoy le d. Constantin sera tenu suivre en tout les d. ordre et instructions dont il sera porteur ce. dit est. Ce présent engagement fait aux clauses cy-dessus et outre ce à la charge que le d. sr de Courtemanche ou d'elle ditte dame procuratrice de payer au d. sr Constantin pour tous gages et sallaire du teins qu'il luy faudra à aller et revenir du d. lieu de la Rivière des Esquimaux en cette ville la somme de six cents livres et une bonne barrique de vin de Coart sçavoir trois cents livres lorsque le d. Constantin sera prêt de partir de cette ville pour le d. voyage et les autres

(Translation.)

as may be required during the coming voyage to go to and return from the Esquimaux river, about three hundred leagues distant from this city, the whole distance being in the Terre du Nord to Monsieur de Courtemanche, Dame Charlotte. his wife and attorney, hereto present and accepting in his behalf and promising to have these presents agreed to and approved of by the said Sieur de Courtemanche, in his capacity of Commandant over the persons he may deem fit to send, this current year, to the said place of Esquimaux river, for the purpose of carrying on or of causing to be carried on thereat hunting and trading with the Esquimaux as well as with the Indians who may be at the said place ; and of taking care, as if they were his own property, of all the goods and merchandise which the said Sieur de Courtemanche shall deem proper to send to the said place either by the canoe which the said Sieur Constantin is to take there or by the ship which the said Sieur de Courtemanche is to send there at navigation season, and the said Sieur Constantin shall establish and place such persons as he shall deem fit at the places most suitable for trading, both for the coming summer and for the also coming wintering at the said places, and to fully comply with instructions and orders from the said Sieur de Courtemanche or from the said dame his attorney, and of which he may be the bearer and in execution of which the said Sieur Constantion shall be held to fully comply with such orders and instructions as he may be

entrusted with, to wit. The present engagement made subject to the above clauses and further to the condition that the said Sieur de Courtemanche or the said dame, his attorney, shall pay to the said Sieur Constantin, for all wages and salary during the time required by him to go to the said place of the Esquimaux river and return therefrom to this city, the sum of six hundred livres, and a good barrel of Coart wine, to wit, three hundred livres when the said Sieur Constantin shall be ready to leave

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trois cents livres lorsqu'il en sera de retour, et la d. barique de vin à la volonté du d. Constantin, et en considération des peines et soins que le d. Constantin a pris dès l'année dernière tant à la découverte du d. lieu de la Rivière des Esquimaux et de ceux ql. prendra pendant la d. esté prochaine, que de ce qu'il n'entrera point en part dans la concession qui pourra être faite par la suite des d. lieux de la Rivière des Esquimaux, au d. sr Courtemanche et autre, il sera permis au d. Constantin de chasser sur les d. lieux à moitié profits pendant le d. voyage et outre sera tenu le d. sieur de Courtemanche ou autre en cas de succès de la d. entreprise de luy faire un présent honneste à la générosité du d. sr de Courtemanche et autres. Car ainsy etc promettant etc obligeant etc Au moyen du présent engagement les parties ont déclaré bon gré ainsy qu'elles agissent, cassé et annulé certain marché de societté ou conventions fait sous seing privé le d. année dernière le premier jour d'avril entre le d. sr de Courtemanche et le d. Constantin au sujet de la trette au d. lieu des Esquimaux. Fait et passé au d. Québec estude du d. nore après-midy le deuxiesme avril mil sept cent un en présence des sieurs Nicolas Perrot et Jean Prieur fils tesmoins demeurants au d. Québec qui ont avec la d. dame de Courtemanche, le d. Constantin et nore signé.

MARIE

CHARLOT

CHARET

CONSTANTIN

N. PERROT

(Translation.)

this city for the said voyage and the remaining three hundred livres upon his return therefrom, and the said barrel of wine to said Constantin in consideration of the trouble and care taken last year by the said Constantin in connection with the discovery of the said place of the Esquimaux river and those he shall take during the coming summer, and of the fact that he shall not share in any concession which may thereafter be made of the said places of the Esquimaux river to the said Sieur de Courtemanche and others, the said sieur Constantin shall be allowed to hunt at the said places during the said expedition, with a half of the profits as his share ; further, should the undertaking prove successful, the said Sieur de Courtemanche shall be held to make a decent present to him according to the liberality of the said Sieur de Courtemanche and others. Therefore, &c. promising, &c., obliging, &c. By means of the present engagement the parties thereto have, willingly and in their respective capacities, declared repealed and annulled certain partnership agreements or conventions passed the said last year, on the first day of April, between the said Sieur de Courtemanche and the said Constantin concerning the trade at the said place of the Esquimaux.

Done and executed at said Quebec, in the office of the said notary, in the afternoon of the twelfth day of April, one thousand seven hundred and one, in the presence of the Sieurs Nicolas Perrot and Jean Prieur, the younger, witnesses residing at said Quebec, who, with the said Dame de Courtemanche, the said Constantin and notary have signed.

MARIE CHARLOT CHARET.

CONSTANTIN.

N. PERROT.

[17 Oct., 1702.]

No. 1415.**CONCESSION TO COURTEMANCHE FOR A PERIOD
OF TEN YEARS, 1702-1712, FROM KEGASKA
RIVER TO RIVER KESESASKION (HAMILTON
RIVER), 17 OCTOBER, 1702.**ARCHIVES DE LA PROVINCE DE QUEBEC. REGISTERS OF THE INTENDANTS,
BOOK 5, FOLIO 39.Hector chev. de Calliere etc.
François de Beauharnois etc.

Sur la requisition a nous faite par le sr. Augustin le Gardeur de vouloir luy acorder une concession au lieu appellé l'abrador pays des sauvages Esquimaux, a commencer depuis la riviere appellée Kegaska jusqu'a celle nommée Kesesaskion qui feront les deux bornes de la d. concession, au millieu desquelles se trouve la riviere des Esquimaux, ou il a desja fait un fort et un etablissement pour en jouir par luy, ses hoirs et ayant cause pendant dix années consecutives a lexclusion de tous autres, y faire le commerce avec ces sauvages et la pesche du loup marin. Nous en consequence du pouvoir a nous conjointement donné par Sa Maté avons donné, acordé et concedé, donnons accordons et concedons par ces presentes aud. sr. Le Gardeur lad. concession au lieu appellé Labrador pays des Sauvages esquimaux a commencer depuis la Riviere dite Kegaska jusqu'a celle nommée Kesesaskion qui feront

*(Translation.)*Hector, Chevalier de Callières, &c.
François de Beauharnois, &c.

On the requisition presented to us by the Sieur Augustin le Gardeur, praying that we would be pleased to grant him a concession at the place called Labrador, country of the Esquimaux savages, commencing from the river called Kegaska to that called Kesesaskion, which rivers shall be the two boundaries of the said concession and between which is the Esquimaux river, where he has already erected a fort and formed an establishment, to have and to hold the same unto him, his heirs and assigns, exclusive of all others, for ten consecutive years, to carry on thereat trade with these savages and the seal fishery.

We, therefore, in virtue of the power jointly vested in us by His Majesty, have given, granted and conceded, and, by these presents, do give, grant and concede unto the said Sieur le Gardeur the said concession situate at the place called Labrador, country of the Esquimaux savages, commencing from the river called Kegaska as far as that called Kesesaskion, which shall form the two boundaries

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les deux bornes de la de. concession au millieu desquelles se trouve la Riviere des Esquimaux ou il a desja fait un fort et un etablissement, pour en jouir par luy ses hoirs et ayant cause

pendant dix années consecutives a l'excluon de tous autres, y faire le commerce avec ces sauvages et la pesche du loup marin, et ce en consideration de son entreprise et dud. établissement a la charge de donner avis au Roy, ou aux gouverne. et intendt. de ce pays des mines, minieres, ou mineraux, si aucuns se trouvent dans lad. etendue et de prendre confirmation de Sa Maté. des presentes dans un an, en foy de quoy nous les avons signées a icelles fait aposer les sceaux de nos armes et contresigner par nos secretes. Donné a Quebec le 17^e octobre 1702.

(Translation.)

of the said concession, between which rivers runs the river des Esquimaux, where he has already erected a fort and formed an establishment, to have and to hold unto him, his heirs and assigns, exclusive of all others, for a period of ten consecutive years, to carry on thereat trade with these savages and the seal fishery. This, in consideration of his enterprise and of the said establishment, subject to the condition that he shall give notice to the King, or to the Governor or Intendant in this country, of mines, ores and minerals, if any be found in the said area ; and that he shall have these presents confirmed by His Majesty within a year. In testimony whereof, we have signed these presents and caused the same to be sealed with our seal at arms and countersigned by our secretaries.

Given at Quebec, 17 October, 1702.

[21 April, 1703.]

No. 1416.

C

**COURTEMANCHE'S INSTRUCTIONS TO
CONSTANTIN, 21 APRIL, 1703.**

BUREAU OF JUDICIARY ARCHIVES OF THE DISTRICT OF QUEBEC.

MÉMOIRE PAR LE SIEUR CONSTANTIN.

Il partira incessamment dans un canot avec les nommés Michel Doré Jean Garrié et Jean Tapin pour se rendre à la rivière des Esquimaux mesme plus loin s'il le juge nécessaire il se fera obéir par les sus nommés qui n'ont

(Translation.)

MEMORANDUM FOR THE SIEUR CONSTANTIN.

He shall leave forthwith in a canoe with the parties named Michel Doré, Jean Carrié and Jean Tapin to proceed to the river of the Esquimaux, even farther should he deem it necessary he shall make himself obeyed by the above named parties who were hired on this sole condition the

p. 3681

esté engagés qu'à cet condition il a esté remis au de. sieur Constantin les marchand^e destinées à la traitte dont il a esté fait un estat de luy signé pour estre les marchand^e par luy traittées ou par ceux des sus nommés qu'il voudra commettre s'il le juge

nécessaire avec le plus d'avantage qu'il pourra trouver

Les vivres nécessaires au de. sieur et aux de. trois hommes luy ont esté remis pour leur subsistance pandt. le voyage dont il a esté fait un estat de luy signé

Il prendra bien garde que les de. hommes ne commettent aucune malversation soit en consommant malà propos les vivres ou en dissipant malicieusement les marchandises. destinées pour le traite sur quoy lon est persuadé que le de. Sr. donnera tous ses soins ausy bien que de l'attachement particulier qu'il aura pour procurer tout l'avantage possible dans cette entreprise

Ayant esté résolu de faire hiverner à ce fort quatre ou cinq hommes il y laissera les sus nommés engagés à cette condition et en retirera ceux quy y sont desjà en y laissant seulement un ou deux des hivernants pour commander dans le fort qu'il fera reconnoistre en cette qualité après leur avoir donné les instructions nécessaires pour la garde du fort et pour le succès de la chasse que ces hommes feront pandt. l'hiver et tout le temps qu'ils y seront comme ausy pour prendre toutes les mesures nécessaires pour que les peaux et peletries nesoient détournées ny dissiper en considération de quoy les d. hivernants auront la moitié de leur chasse franche de l'hiver à la vente de laquelle je me suis réservé la préférence comme ils en sont convenues

Comme le maistre du brigantin aura ordre daler joindre le d. Sr. Constantin au poste où il sera où dans l'endroit désigné par un signal dont ils sont convenus ensemble le d. Constantin prendra ses précautions en arrivant

(Translation.)

said Sieur Constantin has been intrusted with goods for the trade of which a statement has been drawn up signed by himself, the said goods to be traded by him or by such of the above named parties as he may be willing to appoint should he consider expedient in the most profitable manner possible.

The necessary provisions for the said sieur and the said three men have been delivered to him for their subsistence during the journey, of which a statement signed by him has been drawn up.

He shall see to it that no malversation be committed by the said men either through the improper use of the provisions or through the malicious squandering of the goods meant for the trade, a matter concerning which we feel confident that the said sieur will be very attentive as well as concerning his special application towards securing the best results possible from that undertaking.

It having been decided to station four or five men during the winter at that fort [Eskimo River] he shall leave at the post, the above named parties hired under such condition and shall recall those who are already there, leaving only one or two of the "winterers" in order to command in the fort whom he is to announce in such quality after having given to them the necessary instructions for the defence of the fort and the success of the hunt to be made by these men during the winter and the entire period of their stay and to take the necessary steps to prevent the skins from being embezzled or wasted, in consideration whereof the said winterers shall have one half of their winter hunt as to the sale of which I have reserved unto myself the preference as agreed upon by them.

As the master of the brigantine will be instructed to meet the said Sieur Constantin at the post where he may be or at a place to be recognised by a signal agreed upon

sur les lieux pour ce signal en sorte qu'il n'en puisse mésarriver

en aucune façon s'il trouvoit dans sa route quelques navires et sur les lieux quelques bâtimens anglois ou autres à la pêche il prendra toutes les précautions imaginables pour les reconnoître auquel cas il évitera non seulement les d. bâtimens mais encore en donnera advis au d. Ferret afin qu'il prene garde que le Brigantin ne soit pris lorsque le dit Brigantic sera prêt en sen retourner il fera mettre toutes les peaux et peletries quil aura traittés en paquet et embaler ceux qu'il sera nécessaire affin que rien ne se gaste

Il fera charger le tout dans le Brigantin après avoir fait un estat bien exact au bas duquel il fera donner un reçu au d. Ferret

Les marchandises detraite vivres et provisions nécessaires pour l'hivernement seront envoyés par le Brigantin et remises au d. Sr. Constantin

Lequel avant que de sen revenir fera un estat bien exact de toutes les marchande. munitions vivres et autres effets quil laissera au Fort dont il chargera les command^{ts} solidairement avec ceux qu'il commettra pour avoir inspection non seulement des dits effets mais encor de toutes les peaux et pelleteries qui proviendront des chasse et traite

Et au surplus fera tout ce qu'il jugera estre de plus avantageux dans cette entreprise et pour la seureté de son exécution et des effets qui luy sont confiés

Il est ordonné par nous au Sr. Ferret d'obéir au Sieur Constantin en tout et de suivre ses ordres lorsqu'il l'aura joint. Fait à Québec ce vingt et un avril 1703

CONSTANTIN

MARTEL

(Translation.)

between them, the said Sieur Constantin shall, in connection with the said signal, take good care upon his arrival thither that no mishap of any kind whatever result therefrom ; should he, on his way come across any ships and on the premises find any English or other fishing vessels he shall take every possible precaution to reconnoitre the same in which case he must not only avoid them, but also warn the said Ferret accordingly so that he shall take care lest the brigantine be captured, when the said brigantine shall be ready to return, he shall cause to be bundled up all the skins and pelts he shall have traded and, as the case may be, bale up those likely to be deteriorated.

He shall cause the whole to put on board the brigantine after having made a list of the same at the foot of which he shall cause the said Ferret to give a receipt to that effect.

Such trading goods, food and provisions as are required for the wintering shall be shipped by the brigantine and delivered to the said Sieur Constantin.

Before leaving to return, he shall make an exact list of all the goods, ammunition, food and other effects loft by him at the Fort and which he shall intrust to the commandants jointly with those he shall appoint to look after, not only the said effects, but also all the skins and pelts obtained from the chase and trade.

Further he shall do whatever he may deem proper and in the best interests of that undertaking and conducive to the securing of its accomplishment and of the effects intrusted to him.

It is ordered by us that the Sieur Ferret obey the Sieur Constantin in everything and follow his instructions when with him. Done at Quebec this twenty-first of April, 1703.

CONSTANTIN MARTEL.

No. 1417.

**COURTEMANCHE'S MEMOIR, 1705, re HIS
EXPLORATION OF COAST FROM KEGASKA
TO CHATEAU BAY,**

WITH BRIEF DESCRIPTION OF RIVER KESSESAKIOU (HAMILTON).

ARCHIVES DE LA PROVINCE DE QUEBEC.

Kegaska est une rivière à cinquante lieues plus bas que Mingan. Son embouchure est fort étroite et sableuse, mais abondante en saumon et c'est tout ce que l'on peut faire que d'y entrer avec un bâtiment de vingt tonneaux encore il faut que la marée soit toute haute : mais une lieue au-dessous, il y a un havre où toutes sortes de bâtiments peuvent entrer et y estre en sureté ; il n'y a que le vent directement du large qui puisse empêcher d'en sortir et c'est le sud su est le lon de la coste est remply d'illets et on y trouve une grande quantité de gibiers, comme outarde, canard, monjacques et gouellants qui y pondent depuis le mois d'avril jusqu'à la fin d'août, en sorte que l'on y peut vivre, pourvu que l'on soit garnie de poudre et de plomb ; à 5 lieues au dessous est la baye des Mascouavau dans le fond de laquelle il y a deux rivières très abondantes en saumons la coste continue toujours remplie d'illet, d'îles de loups-marins, de gibiers plus bas environs une demie lieue est une autre baye qui ne cède en rien aux autres endroits pour l'abondance du gibiers, de saunions, et de loups-marins, en descendant l'on trouve plus bas la rivière appelée par les sauvages Ouxaminisiby qui veut dire rivière de la peinture

(Translation.)

The Kegaska is a river situated fifty leagues below Mingan. Its mouth is very narrow and sandy, but it contains salmon in abundance, and one can scarcely enter it with a twenty ton vessel, and at that, it must be at high tide. However, a league further down there is a harbour¹ in which vessels of all kinds can safely take refuge. Ships can only be prevented from leaving the harbour by a wind directly from the open sea, that is, the south-east by east wind. All along the coast there are numerous islets, on which can be found large quantities of game, such as wild geese, ducks, monjacques, and gulls whose laying-time extends from the month of April to the end of August, so that one, with a supply of powder and shot, can subsist in this place. Five leagues lower down is the bay of Mascouavau², into the head of which flow two rivers very rich in salmon. As one descends the coast, the islands and islets are still in larger number, and seals and game are still abundant. About half a league further down, there is another bay³ equally as rich as the other places in seals, salmon, and other game. Descending, one finds lower down the river called by the Indiana Ouxaminisiby⁴, meaning the river of paint and a really fairly nice paint is found in this river

¹ Kegaska bay.² Muskwaro bay.³ Washikuti bay.⁴ Olomanoshibo river.

et effectivement il s'y en trouve d'assez belle dont les Sauvages se servent à leurs usages. Cette rivière n'est pas remplie à beaucoup près de saumons comme les autres, mais aussi elle ne diffère en rien non plus que le reste de la coste en Isles et Illest, gibiers de toutes sortes et loups marins.

Les Sauvages ont coutume de montrer dans les terres par une rivière qui se trouve à 7 lieues plus bas appelée la rivière au caribou je croy appelée ainsy à cause de l'abondance du caribou qu'ils trouvent. Il y a aussi beaucoup de castors et c'est une répétition inutile que celle de dire l'abondance des loups marins, d'isles et d'isles que l'on trouve.

Devant la rivière appelée Estaouemaniou les Isles sont fort larges em mer, l'abondance des loups marins y est plus grande que dans tous les endroits dont j'ai parlé si devant, il a des havres très beaux et pour toutes sortes de bâtimens et la rivière se trouve remplie de saumons dans la saison.

A dix lieues de là, c'est de la rivière Nautouagamicou qui est très grande mais impraticable pour des bastimens, l'on voit de la mer sa chute qui est très belle, les bastimens peuvent se mettre à l'abry des vents dans les Isles qui sont devant la dite rivière et c'est icy ou l'on voit des troupeaux de loups marins sur les pointes des Isles et sur les rochers tant l'abondance est grande.

Huit lieues plus bas est la baye du petit mescatina dans le fond de cette baye une des cranches de la rivière de Nantouagamiou et au large est une groce isle, mais il ne fait pas bon passer en terre à moins que ce ne soit avec un charois ou en canot, de là jusqu'au grand mescatina tous les Isles et Islest sont remplis de gibiers et loups marins.

L'on découvre ensuite une grande pointe fort haute et qui avance près

(Translation.)

which the Indians use for their own requirements. This river is far from being as abundant in salmon as the others, but on the other hand it in no wise differs from the remainder of the coast as far as islands and islets, game of all kind and seals are concerned.

The Indians are in the habit of travelling inland by a river which is seven leagues lower and called the Caribou river, on account, I presume, of the large number of caribou found there. There are also many beaver, and it is needless to repeat it, seals, islands and islets are very numerous at this place.

In front of the river called Estaouemaniou¹ the islands are further out in the sea, and the seals are in greater abundance there than at any of the other places referred to previously; there are excellent harbours, suitable for ships of all kinds, and the river is full of salmon in the season.

Ten leagues away from this place, the river of Nautouagamicou² flows. This river is wide but impracticable for ships. From the sea, one sees a fall which is very beautiful. Vessels can take shelter from the wind among the islands in front of said river. At this place, there is such an abundance of seals that herds of them may be seen on the points of the islands, as well as on the rocks.

Eight leagues lower down is the bay of Petit Mescatina, and at the end of the bay there is one of the arms of the river de Nantouagamiou³ and a large island at some distance from the shore. But it is not advisable to cross over by land unless with a cart or a canoe. From that spot to the Grand Mescatina all the islands and islets abound with game and seals.

Then, one discovers a large and very high point of land advancing nearly five leagues into

¹ Etamamu river.

² Netagamau river.

³ Petit Mecatina river.

de cinq lieues en mer et c'est ce qui se nomme le grand Mescatina ; il y a de très beaux mouillages à terre, mais comme il se trouve dans l'entrée de la dite pointe de groces isles que les mouillages et les havres y sont beaux et bons, à l'abry de la mer de quelque côté qu'elles viennent, j'estimerois beaucoup mieux se tenir dans les isles qu'à terre, quoy que les mouillages soient très beaux comme j'ai dit.

Dans la baye d'ahaha qui est à quatre lieues plus bas, ou j'ai fait tuer à coup de fusils 200 loups marins en deux jours de tems les batimens de quelque grandeur qu'ils soient peuvent entrer entre les isles qui bordent la dite baye et si mettre en sûreté dans de très beaux havres qui y sont, la terre abonde en caribou, et les Isles en gibiers, c'est dans cet endroit où les Esquimaux firent leurs hivernement. Il y a deux ans, ce qui se connait par leurs cabannes ou plus tost casmate qui y sont encore et ces là où je remarquée que ce que l'on dit d'eux qu'ils ne faisoient point de feu pendant l'hiver, n'est que trop vray et les os des loups marins, de caribou, et de balleines qui sont encore dans les cabannes à tas, comme des charniers y causent une puanteur infecte de manière que l'on y peut enter sans avoir mal au coeur et enfin l'on peut dire à ce quil' paroist qu'ils rongent les os comme feroient des chèvres.

Les Sauvages montant dans les terres et en descendant par la rivière St Augustin qui est à une lieue plus bas ; il y a quatre petites rivières en chemin nommée Cuescatacaou, la rivière au Saumon, celle Cuyatefalou et celle de Missina ; la terre est bordée au large par des Isles qui sont fort saines où il n'Y a aucune crainte pour les batimens pour peu que l'on aye l'aperceance de la terre, l'on peut faire sur ces iles quantité de peaux d'huilles.

(Translation.)

the sea, and this is what is called the Grand Mescatina. There are very good anchoring-places by the shore, but, inasmuch as at the entrance to the said point of land, large islands afford good and pretty anchorages and safe harbours, sheltered from the open sea on all sides, it would be better, in my estimation, to remain among the islands than close to land, although, as I have stated, the anchoring places are quite good.

Four leagues lower down, in the bay of Ahaha¹, where I had killed 200 seals with muskets in two days, vessels of any size can enter between the isles bordering the said bay and remain in security in very good harbours there. The land abounds with caribou and game is found in abundance in the islands. This is the place where the Esquimaux had their winter quarters two years ago, as indicated by their cabins, or casements rather, which are still there, and I remarked they really, as has been said of them, have no fire in winter time. Bones from seals, caribous and whales, still lying in heaps in their cabins, as if in a charnel house, exhale such a pestilential odour that one cannot enter into the cabins without being sick. In short it may be said, as it appears, that they gnaw bones after the manner of goats.

The Savages reach the interior and return by the river St. Augustin which is a league further down. On the way, there are four small rivers, one called Cuescatacaou, Salmon river, river Cuyatefalou and river Missina. Off the shore, the land is bordered by islands which are very safe and where ships have nothing to apprehend if only they do not lose sight of land. Quantities of skins and oils can be obtained from these islands.

¹ Haha bay.

L'établissement François est à 20 lieues de là, l'aspect est fort gay ; le havre y est très beau et toutes sortes de batimens peuvent y entrer.

Il y en pouvoit mesme ranger plus de cent navires ; cette baye est bordée d'islets tres abondants en toutes sortes de vivres et le gibier y est en si grande quantité sur les isles que l'on en nourirait facilement tous les françois et sauvages, dans le fond de la baye ; au dessus du fort sont trois costeaux très agréables à la vue ; au haut desquels sont de petits lacs ou la truite et le saumon sont en telle abondance qu'avec deux trois simples lignes à main ou une petite rais rets l'on y pecheroit suffisamment de quoy faire vivre une garnison mesme considérable et une demie lieue plus bas est la rivière des Esquimaux très abondante en saumon.

Yls y sont d'une grosseur extraordinaire.

Huit lieues ensuite est la baye des Espagnols dans laquelle la pêche de morue est très abondante ; j'en ay fait L'expérience par moy-même y ayant sondé en plusieurs endroits et fait pêcher trois hommes qui en ont pris treize cents dans un jour ; elle se pêche à quatre trois et deux brasses et demie d'eau ; enfin la ligne n'a pas le temps d'aller jusqu'au fond, tant la morue y est abondante. C'est dans cette baye qu'il se trouve un endroit ou j'espère tendre aux loups marins, brasseurs est ou j'ay commencé un second établisse-ment pour y faire une pêche considérable.

Les Espagnols au dire des Sauvages l'y ont fait autrefois et probablement y seroient encore, sy se n'était le mauvais traitement qu'ils y ont reçu des Esquimaux. L'on y voit encore les vestiges de leurs établissemens, fourneaux à fondre l'huile de loups marins maisons, couvertures et huile et autre chose semblable.

(Translation.)

The French establishment is twenty leagues away ; its appearance is very gay ; the harbour at this place is very beautiful and all kinds of vessels can enter it.

Over a hundred ships could be accommodated there. This bay is bordered with islands where food of all kinds can be found in abundance and the islands are so rich in game that one could easily feed with it all the Frenchmen and savages. Above the fort, at the head of the bay, are three pretty hills,¹ on the summits of which are small lakes in which trout and salmon abound to such a degree that, with two or three hand lines or a common net, one might catch enough to feed a considerable garrison, and half a league lower down is the Esquimaux river, rich in salmon of extraordinary size.

Eight leagues further is the bay des Espagnols² in which the fishery of cod is very abundant ; I found out such to be the case by personal experience, having sounded in several places, and three men, whom I had fishing there, caught thirteen hundred of them in a single day. The fishing is carried on at depths of four, three, and two and a half fathoms. In a word, the cod are so numerous that the line has not even time to reach the bottom. In this very bay is a place where I intend hunting brasseur seals and where I have started a second establishment to carry on a considerable fishery.

According to the Indians, the Spaniards formerly had fisheries at this place and they would probably still be there but for the ill usage they suffered at the hands of the Esquimaux. One may still see traces of their establishment, stoves for melting oil from seals, houses, roofs and oil, and other similar things.

A une lieue plus bas est la grande pointe. Les Sauvages Thamahichiban qui veut dire furie de Monjacque et se nets (ce n'est) point sans raison puisque le printemps, ils en font la tuerie un mois durant à coup de bâton et en si grande quantité que c'est une chose incroyable, l'on pourrait aussy appeler cette pointe là passée des loups marins brasseurs, puisqu'ils ne cessent point d'y passer à centaine et plus de quatre mois durans. Il y a un petit havre où l'on se poste pour les tarrer et ce printemps dernier en moins de quinze jours, j'en ay fait tuer à coups de fusils à la passée de quoy remplir plus de trente barriques d'huile et si nous avions eu des rais pour barrer un petit chenal par où ils passent nous en aurions fait la charge d'un gros bâtiment cet endroit au rapport des sauvages ne manque jamais et nous en avons l'expérience depuis l'establissement de fort. Il y a au large une Isle où il se trouve une si grande abondance de peroquets qu'avec des bâtons fairrés l'on en pourroit tuer pour nourrir plusieurs personnes ; cette pointe est très agréable dans la vue. Il y a une très belle prairie et une petite rivière où l'on prend de très beaux saumons. Le caribou est en cet endroit en si grande quantité qu'il est impossible de l'exprimer puisqu'il y est en plus grande abondance que ne sont les boeufs dans les prairies des Illinois. Il a aussi dans cet endroit quantité de loups serviers, renards, martres et ours, à une lieue de la pointe il y a une petite rivière appelée la Rivière au Sable, cet endroit est encore très propre pour barrer les loups marins brasseurs, ou toutes les mêmes bandes qui passent à la suite y viennent passer, la dépense qu'il conviendrait faire seroit très médiocre n'y ayant pas plus de deux brasses et demie d'eau et une espace de deux arpents au plus à barrer, de manière que ces trois endroits occupés

(Translation.)

One league lower down is the great point (called) by the Indians Thamahichiban, which means carnage of Monjacques, and this appellation is quite appropriate, inasmuch as, for a whole month, at springtime, they slaughter them with iron-tipped clubs, in such quantities that it is an incredible thing. This point might also be called Passée des Loups-marins Brasseurs, as they pass this place by the hundred and for more than four months. There is a small harbour that is used as a station from which to fire on them and this last spring, in less than fifteen days, I have had killed with muskets, as they passed along, enough to fill more than thirty barrels of oil ; and had we had a net with which to obstruct a little channel, through which they pass, we would have made enough to load a large ship. This place, according to the Indians, never fails and we have had the [same] experience since the establishment of the fort.

Off the shore is an island¹ where peroquets are in such abundance that, with iron-tipped clubs, one could kill enough to feed many persons ; this point is very agreeable to the eye. At this place, caribou are found in such large quantities that it is beyond description, they being more numerous than cattle in the prairies of Illinois. There are also large numbers of lynxes, foxes, martens and bears. A league away from the point is a small river called the river au Sable,² which place is also very suitable for a barrier to stop the brasseur seals, the same herds passing there one after another. The outlay required would be very small, as the depth is not over two and one-half fathoms and the space to be barred would only be of two arpents at the most, so that once these three places were

¹ Perroquet island.

² Blanc Sablon.

peuvent sans peine en deux mois de temps charger leurs bastimens d'huile, de peaux quand mesme ils seroient de trente tonneaux chaque.

J'ai présumé que l'on pouvoit aussi très facilement y faire la pêche de la ballaine puisqu'elle y est en abondance qu'elle vient même de si proche de terre que l'on la pouroit darder de dessus les pointes des rochers. J'ay conjecturé par les ossements et par les têtes qui sont à la coste que la pêche y avoit esté faite autrefois, mais probablement tous ceux qui y venoient ont esté contraint d'abandonner soit par la crainte qu'ils avoient des esquimaix, soit par les insultes qu'ils en souffroient.

Trois lieues plus bas dans la baye des forteaux je trouvé une très grande abondance de morue les mouillage est bon jusque dans le fond de la baye quoi-qu'elle ne soit à couvert d'aucune Isle qui abrie la mer, les vaisseaux y venoient autrefois et en 1702 un malouin assura que de tous tems ils y venoient faire la pesche et qu'ils n'avoient point trouvé d'endroit dans tous terres neuve où le poisson fut plus abondant, mais que les Esquimaux les obligeoient d'abandonner parce que quand ils revenaient ils trouvoient leurs chaloupes et échafauts brisés ou brulés et que même ils étoient toujours en risque de perdre la vie s'ils se laissoient surprendre.

L'embouchure de la rivière des Français distante de six lieues est de sable ou une barque peut entrer à marée basse, elle est abondante en saumon, truite, caribou, ours, renards, loups cerviers et pêche de morue au large.

Le havre St Benoist pouroit contenir une flotte tant grande fut elle. Il est à dix lieues plus bas, il abondance de loups marins et particulièrement des brasseux, c'est aussy dans ce havre ou l'on fait autrefois la pêche de

(Translation.)

occupied, their vessels, even if they be thirty ton ships, could be loaded without trouble, and in two month's time, with oil and skins.

I believe that one could also very easily carry on at this place a fishery for whales, of which there is such an abundance that they come so close to land that they could be harpooned from the summits of the rocks. I have surmised from the bones and skulls covering the coast that this fishery was formerly carried on there, but probably those who used to visit there have been forced to abandon it either because of their fear of the Esquimaux or of the outrages they suffered.

Three leagues further down in the bay des Forteaux,¹ I found a great abundance of codfish. The anchoring grounds are good as far as the head of the bay, although it has no island to insure protection from the sea. The place was formerly visited by vessels, and in 1702, a fisherman from St. Malo aserted that they had fished there for ages and that they had found no place in all Newfoundland where fish were more abundant, but the Esquimaux had compelled them to abandon it because, upon their return, they would find their boats and stages broken up or burnt, and they were in constant danger of losing their lives if they allowed themselves to be taken by surprise.

The mouth of the river des Français,² six leagues away, is sandy and a barque may enter it low tide. It abounds with salmon, trout, caribou, bears, lynxes, and with codfish, off

the shore.

The harbour of St. Benoit³ could accommodate a fleet of any size. It is ten leagues lower down and it contains an abundance of seals, especially brasseurs. It is also in this harbour that fisheries

¹ Forteau bay.

² Pinware river.

³ Chateau bay.

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balaine et que les Esquimaux au rapport des sauvages ont fait abandonner Européens. On y avoit encore les fourneaux à fondre les huilles et les ossements de ballaine, Ils sont à la coste comme des bois renversés les uns sur les autres et nous estimions qu'il falloit qu'ily en eut été plus de deux cents ou trois mils vue la quantité d'ossements qu'il ya avait et que nous contâmes quatre vingt dix têtes dans un seul endroit d'une grosseur prodigieuse.

A vingt lieues de là se trouvè la rivière Kesesakiou, le saumon et le loup marin sont en abondance ; dans les terres il se trouve quantité de caribous, renards, loups cerviers, martres et castors, c'est dans cet endroit où les Esquimaux font leur résidence à cause de la commodité de la vie qui s'y trouve jusqu'au Kesesakiou et mesme par de là tous ces espaces est bordée d'isles habitée par les Esquimaux, toutes ces îles sont remplies de loups marins, de vaches marines et de toutes sortes de gibiers ; les Esquimaux commencent à s'affranchir et à commercer avec les français qui sont établis et qui ont traité leurs denrées. J'ai aussi attiré une nation sauvage dans les terres qui n'avoient jamais eu encore connoissance des François. Ce sont des esprits fort aisés et très soumis ; un missionnaire n'aura pas de peine à y établir parmi eux le christianisme.

(Translation.)

for whales were once carried on by the Europeans who, as reported by the Indians, were compelled by the Esquimaux to withdraw. One may still see there the oil and bones from whales. Judging from the quantity of bones piled up on the coast like sticks of woods, one on the other, there must have been, in our estimation, the remains of more than two or three thousand ; in one place alone, we counted ninety skulls of a prodigious size.

Twenty leagues away is the river Kesesakiou,¹ in which salmon and seals are in great abundance. Inland, caribou, foxes, lynxes, martens and beaver can be found in large numbers. It is at this place the Esquimaux take up their abode because of the easy means of subsistence to be found there. As far as the Kesesakiou and even beyond these spaces are groups of islands inhabited by the Esquimaux. All these islands are filled with seals, walrus and game of all kinds. The Esquimaux are becoming more sociable and are beginning to trade with the French who are settled there and who trade in their commodities. I have also attracted in the interior a tribe of Indiana who had not as yet come into contact with the French. They are very intelligent and a missionary would have no trouble to implant Christianity among them.

¹ Hamilton river.

[19 Oct., 1705.]

No. 1418.

**DESPATCH, 19 OCTOBER, 1705, BY VAUDREUIL AND
BEAUHARNOIS TO MINISTER, *re* ESTABLISHMENT
OF COURTEMANCHE ON LABRADOR COAST.**

ARCHIVES DE LA PROVINCE DE QUEBEC. SERIES 11, VOL. X, FOLIO
5986.

* * * *

Nous joignons ici, Mongr, un mémoire que le Sr de Courtemanche a présenté au Sr Raudot au sujet de l'établissement qu'il a fait dans la côte de Labrador, pays des Esquimaux ; il demande des secours à Sa Majesté, et nous pouvons vous assurer, Mongr, qu'il en mérite et que cet établissement est très bon tant par la grosse quantité d'huiles qu'on y peut faire tant de loup-marin que de vaches marines dont les dents ressemblent parfaitement au bel ivoire que par les pelleteries que l'on y traite et la pêche de la morue qui y est très bonne. Le Sr de Vaudreuil a l'honneur de vous marquer sur ce sujet qu'il est hors d'état de lui donner des soldats ; les sieurs de Vaudreuil et Raudot lui permettront d'emmener des habitants.

* * * *

(*Translation.*)

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Annexed hereto please find, Monseigneur, a memoir presented to the sieur Raudot by the sieur de Courtemanche concerning the establishment which he has formed on the coast of Labrador, country of the Esquimaux ; he is asking his Majesty for some assistance, and we may assure you, Monseigneur, that he is deserving of same and that this establishment is very important, both on account of the large quantities of oils that may be produced there from seals as well as from the walrus the teeth of which are like fine ivory and on account of the furs that are traded in at this place and the cod fishery which is very abundant. In this connection the sieur de Vaudreuil begs to inform you that he is no position to let him have any soldiers ; he has been authorized by the sieurs de Vaudreuil and Baudot to take some inhabitants with him.

* * * *

No. 1419.

**ANONYMOUS MEMOIR, 1715, CONCERNING
LABRADOR.**

ARCHIVES DE LA PROVINCE DE QUEBEC.

Le Labrador contient tout ce vaste pays qui est à l'Est du Canada et au Nord du fleuve et du Golfe St. Laurent, ce grand pays est une presqu'île entourée du fleuve et du Golfe St. Laurent au Sud, de la grande mer à l'Est, du détroit d'Hudson, au Nord et de la Baie d'Hudson, à l'Ouest, il ne touche au Canada que du côté de l'Ouest, depuis les Iles de Mingan, où il commence jusqu'à Baie d'Hudson.

Le Labrador appartenait tout entier à la France, avant la paix d'Utrecht à l'exception de quelques petits forts, que les Anglais avaient bâtis dans le fond de la Baie d'Hudson. Le Roi leur a cédé par cette paix, une partie du Labrador, c'est-à-dire le Détroit de la Baie d'Hudson avec toutes les côtes et toutes les rivières qui se rendent dans le dit détroit et dans la dite baie, ce qui fait une étendue de pays considérable, mais presqu'inhabitable et de difficile abord. La plus grande et la meilleure partie du La Brador reste au Roi, c'est-à-dire depuis Mingan où finit le Canada et où commence le Labrador jusqu'à Belle-Isle ; et depuis Belle-Isle jusqu'à l'entrée du détroit d'Hudson, avec toutes les rivières et tout le dedans des terres, ce qui fait plus de 400 lieues de côtes.

La Suède est un pays bien plus septentrional que le Labrador. Elle est aussi bien que le Labrador un pays fort froid rempli de montagnes et de

(Translation.)

Labrador is all that vast country to the east of Canada and north of the river and the gulf of St. Lawrence. It is a peninsula bounded by the river and gulf of St. Lawrence on the south, the ocean on the east, Hudson strait on the north, and Hudson bay on the west. It joins Canada on its western border, from the Mingan islands, where it commences, to Hudson bay.

Labrador belonged entirely to France before the Treaty of Utrecht, with the exception of a few small forts which the English had built at the bottom of Hudson bay. The King ceded to them, by that treaty of peace, a part of Labrador—that is to say, Hudson bay [and] strait with all the coasts and rivers which fall into the said strait and the said bay of Hudson. This constitutes a large extent of country, but almost uninhabitable and difficult to reach. The greater and better part of Labrador remains to the King, that is to say, from Mingan, where Canada ends and Labrador commences, to Belleisle, and from Belleisle to the entrance of Hudson strait, with all the rivers and inland country. This coast is over 400 leagues in extent.

Sweden is a far more northern country than Labrador. As well as Labrador, it is a cold

lacs. Cependant la Suède est très peuplée, elle a quantité de belles villes et est un très puissant royaume qui dès les temps les plus reculés a été formidable à l'Espagne, à l'Italie, à l'Allemagne, et même à la France et à toute l'Europe.

Preuve que le Labrador, par le moyen des colonies et de la culture, peut un jour devenir un puissant royaume qui fera un des plus beaux fleurons de la Couronne de l'Empereur des Français. Car outre que par la culture de la terre, le Labrador produira tout ce que produit la Suède, blé, grains, légumes, fruits, etc. etc. C'est qu'il y a apparence que l'on y trouvera des mines de cuivre comme en Suède et en Norvège. On y trouvera même peut-être du bois comme dans ces deux royaumes.

Ce qui est certain, c'est que les pelleteries sont bien plus abondantes dans le Labrador qu'en Suède et en Norvège, et même que dans le Canada. Mais ce qui mérite plus d'attention, c'est que la pêche, qui peut se faire sur environ 400 lieues de côte, de saumon, de morue, de lous marins, de vaches marines et de baleines, peut produire plus de richesses que la plus riche mine d'or du Pérou et avec moins de peine et de frais.

Il est donc très important et même nécessaire pour le bien de l'Etat, de faire incessamment au moins 3 ou 4 établissements sur la côte du Labrador. La pêche très abondante de Saumon, de morue, de marsouins, de lous marins, de vaches marines et de baleines ; remarquez que des peaux de vaches marines qui ont dix-huit pieds de long et neuf de large, on peut faire des impériales, des carosses, des harnais et des bottes, et même des buffles. Avec les peaux de lous marins on peut faire des culottes, des bas et des vestes. En la passant au maroquin, on peut en faire des bottines, des souliers, couvrir des livres, des chaises, faire des tapis, etc. etc., les dents de vaches marines qui sont plus belles que l'ivoire dont on fait de beaux ouvrages, les peaux de

(Translation.)

country, full of mountains and lakes. Still, Sweden has a very large population, several beautiful cities and is a very powerful kingdom and, from ancient times, has been a formidable opponent to Spain, Italy, Germany ; as well as to France and the whole of Europe.

A proof that Labrador, by means of settlements and agricultural development, may become in time a powerful kingdom, that would be one the brightest gems in the crown of the Emperor of the French. For besides what may be derived from the tilling of the soil, Labrador will produce everything produced by Sweden, namely, wheat, grain, vegetables, fruits, &c., &c. In fact, there are indications of the existence, in this country, of copper mines as in Sweden and in Norway. There may also be found timber similar to that in those two kingdoms.

It is certain that furs are more abundant in Labrador than in Sweden, Norway or even Canada. But that which merits more attention is that the fishery which can be carried on of salmon, codfish, seals, walrus and whales, on about 400 leagues of coast, is capable of yielding greater riches than the richest gold-mine in Peru, and with less trouble and expense.

It is very important and even necessary for the good of the State to form at once three or four establishments on the coast of Labrador. The abundant fishery of salmon, codfish, porpoises, seals, walrus and whales—note that the porpoise skins, measuring eighteen feet in length by nine feet in width, may be turned into coach tops, coaches, harness, boots or buff-jackets. From the skins of seals, breeches, socks and waistcoats can

loup marin que l'on passe en maroquins, les huiles de loup marin, de vache marine et de baleine ; une infinité de caribous.

On dit que la peau de caribou prend mieux la couleur d'écarlae qu'aucune autre espèce de peau d'autres bêtes qu'il y a dans le vaste pays de Labrador qui fourniront un nombre infini de pelleteries les plus belles, les plus fines et les plus précieuses qu'il y ait au monde ; tout celà avec les mines de cuivre et d'acier que l'on trouvera inmanquablement dans le Labrador est capable de rendre considérable en peu de temps les établissements que l'on y fera et même produire tant de richesses et de grands avantages à l'Etat qu'il doit regarder le Labrador comme son Pérou.

En effet il fournira à la France de poissons, d'huiles de côtes et de barbes de baleines, de peaux de loups marins et de caribou, de pelleteries et d'ivoire et d'édredon. Pour ce qui est de l'édredon c'est une marchandise précieuse. Il y en a en Suède et en Norvège, mais il est défendu d'en transporter hors du pays. Il n'en sort que fort peu et en fraude, et de tout celà en telle abondance que l'on pourra en faire un grand commerce avec les étrangers et même de plume pour les lits à l'exemple de la Moscovie.

L'abondance de toutes ces choses augmentera en proportion que la pays se peuplera et que les établissements deviendront considérables. Pour en venir là, il faut commencer par trois ou quatre établissements le premier à la baie Phelippeaux, ce poste est très avantageux, le port et la rade sont bons ; la pêche de morue et de loup marin y est très facile et très abondante. On y pêche aussi les baleines. Il y a un prodigieux nombre d'oiseaux appelés Moyace et qui fournissent quantité de plume et d'édredon et dont les oeufs sont bons à manger.

Le Roi a donné ce poste à Mr. de Courtemanche, gentilhomme canadien pendant sa vie. Il y est établi et assez bien bati et meublé. Il y fait fair

(Translation.)

are finer than ivory and are used in the fine arts, the skins of seals which are dressed like morocco ; seal, walrus and whale oils ; an inexhaustive supply of caribou. It is said that the skin of the caribou takes the colour scarlet better than any other kind of skins from animals in this vast country of Labrador, and will furnish an infinite number of skins and furs, the handsomest, the finest and most precious in the world. All this, with mines of copper and iron, than can certainly be found in Labrador, is capable of making, in a short time, the proposed establishments both rich and flourishing and of such great advantage that Labrador should be regarded as its Peru.

In effect, it will furnish France with fish, oil, whalebone, skins of seals and caribou, furs, ivory and eiderdown. As to eiderdown, it is a very valuable merchandise. It is found in Sweden and Norway, but the exportation of same out of the country is prohibited, and very little finds its way out and surreptitiously at that. And all of this in such abundance that a large trade can be established with foreign countries. Add to these, feathers for beds, such as are used in Muscovy.

The abundance of all these things will be increased in proportion as the country becomes peopled and establishments become numerous. To achieve this, it is necessary to begin with three or four establishments : the first one at the bay of Phelippeaux, which post is very advantageous with a good harbour and roadstead ; the fishery for cod and seal is very easy and very abundant. Whales are also caught. There are a prodigious number of birds called MOYACE, which furnish quantities of feathers and of eiderdown, and the eggs of which are good to eat.

The King has given this post to M. de Courtemanche, a Canadian gentleman, during his life-

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la pêche principalement de loup marin qui fournit quantité d'huile et de peaux que l'on passe en maroquin lequel est fort beau, et d'un bon usage.

Il y a grand jardin où il vient de toutes sortes de legumes, pois, fèves, etc. etc., de toutes sortes de racines et d'herbages et de salades. Il y a des chevaux, des vaches, des moutons, des cochons. Il y a fait semer de l'orge et de l'avoine qui y viennent bien. Peut-être que le blé et le seigle y viendront comme en Suède et en Norvège si on se donne la peine convenable pour cela.

Aux environs de la baie, le pays est découvert. C'est une plaine de quatre lieues où il y a peu de bois. Mr de Courtemanche en envoie querir à trois ou quatre lieues avec ses chevaux et une charette. On peut en aller quérir avec des chaloupes dans la rivière des Esquimaux qui en est peu éloignée et qui en a quantité. M. de Courtemanche a engagé trente familles de sauvages montagnais à venir s'établir proche de sa maison. Il en tire de grands services et pour ses pêches en été et pour ses chasses en hiver. Il les a rendus fort sociables. Proche de la maison de Mr de Courtemanche il y a une petite rivière dans laquelle on pêche quantité de saumons et de truites.

En temps de guerre la baie Phélippeaux n'est pas sure parce qu'elle est fort ouverte ; mais à trois lieues il y a une baie et un port nommé St Amour. La pêche n'y est pas si abondante qu'à Phelippeaux mais étant fort à couvert et facile à defendre on y serait en sureté contre les entreprises des ennemis.

Le second établissement doit être fait au Petit Nord, dans le détroit de Belle-Isle à la baie de Ste Barbe où à la baie château. Cet établissement aura outre les avantages de celui de la baie Phélippeaux, l'avantage d'être au détroit par lequel le poisson et les baleines de la grande mer entrent dans le Golfe St Laurent et par où ils en sortent pour retourner à la grande mer.

(Translation.)

time. He carries on the seal fishery as a principal industry, and quantities of oils and skins are obtained. The seal skins are dressed like morocco and give a very nice and lasting leather.

He has a large garden and grows with success all kinds of vegetables—peas, beans, &c., &c., as well as all kinds of roots, herbs and salads. He keeps horses, cows, sheep and pigs. He has sown barley and oats which grow well, and, with proper care, perhaps wheat and rye would also grow well, just as in Sweden and Norway.

The neighbourhood of the bay has been explored. It is a plain of about four leagues in extent, but with little wood, so that M. de Courtemanche has to send for firewood to a distance of three or four leagues with his horses and carts. It can also be reached by boat from the river of the Esquimaux, which is at a little distance. M. de Courtemanche has engaged thirty families of Montagnais to settle near his house. They are of a great use to him, for the fisheries in summer and for the chase in winter. He has made them very friendly. Near the house of M. de Courtemanche is a little river in which many salmon and trout are caught.

In time of war, Phelippeaux bay is not safe because it is very open, but, three leagues away, there is a bay and a port called St. Amour, where the fishery is not so abundant as in Phelippeaux bay, but, being easy of defence, one would be in safety there from the attacks of enemies,

The second establishment should be at Petit Nord, in the strait of Belleisle. either at St. Barbe bay or at Chateau bay. This establishment would have, besides the advantages of Phelippeaux bay, that of being in the strait by which the fish and whales from the ocean enter into

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Le Poste peut en retirer des grands avantages des Esquimaux qui y viennent tous les étés en grand nombre.

Le troisième établissement sera sur la côte Orientale du Labrador à Kessellaki.

Kessellaki est une belle et grande rivière entre les 52ème et 53ème degrés de latitude. La pêche de toutes sortes de poissons, molusques, vaches marines, et baleines y est facile et abondante. Il y a quantité de beaux bois pour faire des échafauds et des huiles de poisson bâtir des maisons et des navires.

Les grands bois et ces beaux arbres sont des marques que la terre y est bonne, que l'on pourra y élever toutes sortes de bestiaux et de volailles, y faire venir du blé et toutes sortes de grains, de légumes, de racines et d'herbages ; enfin que l'on peut y faire un établissement très considérable et qui dans la suite, sera une puissante colonie d'autant plus utile à l'Etat que : 1° Elle n'est pas fort éloignée de la France, 2° Qu'elle rendra des profits immenses sans grandes dépenses, 3° Des profits certains intarissables sans faire périr du monde, avantages qui ne se trouvent pas dans les mines d'or et d'argent qui coûtent infiniment, qui font périr une infinité de personnes et qui sont bientôt épuisées.

Ce qui sera encore infiniment avantageux à cet établissement c'est que la rivière de Kessellaki est beaucoup fréquentée par les Esquimaux qui étant fort adroits à la chasse et à la pêche pourront rendre de grands services aux Français et leur fournir quantité d'huile de poisson, de dents de vaches marines et une infinité de peaux de caribou, et de pelleteries précieuses, le pays immense qu'ils habitent étant rempli de bêtes.

Les Esquimaux sont plus de trente mille, à ce que l'on dit. Ils n'ont aucune communication avec les Européens ni avec les autres sauvages dont

(Translation.)

and return from the gulf of St. Lawrence. At this post, a lucrative trade could be carried on with the Esquimaux, who come there in great numbers every summer.

The third establishment would be on the east coast of Labrador, at Kessellaki.

Kessellaki is a large river between 52° and 53° north latitude. The fishery of all kinds of shell-fish, walrus and whales, is very easy and abundant. There is a quantity of excellent wood for fish, building stages, houses or ships, as well as fish oils.

These large woods and fine trees are a sign that the land is fertile, and that one will be able to keep animals of all sorts, including poultry, to grow all kinds of grains, vegetables and root crops. In short, it should become a considerable colony and useful to the State because : (1) it is not distant from France ; (2) it will return great profits for little outlay ; (3) the fisheries will yield certain and inexhaustible profits-advantages which are not found in gold mines or silver mines, that are very costly to work and soon exhausted and cause the death of a great many persons.

Another great advantage for this establishment will be that the river Kessellaki is much frequented by the Esquimaux, who are adroit in the chase and in the fishery, and will be able to render great service to the French and furnish them with quantities of fish oil, walrus teeth, an infinity of caribou skins and valuable furs. This immense country is filled with animals.

It is said that the Esquimaux number more than thirty thousand. They have no communication with any Europeans nor with the other savages, from whom they differ greatly. They have

ils sont tous différents ayant de la barbe, étant blancs, bien faits et fort adroits. ils sont habillés très proprement de peaux de loup-marin, ayant des vestes et des culottes ; ils ne se maltraitent point, ils font des canots et des barques dont la construction est admirable ; ils sont bons forgerons, ce qui fait croire qu'ils tirent leur origine des Islandais ou des Norvégiens, ou bien de la colonie que les Danois avaient au Groenland il y a environ 300 ans, laquelle on ne sait ce qu'elle est devenue. Je crois que cette colonie ne recevant ni vesseaux ni secours du Danemark dont elle ne pouvait se passer dans un pays aussi mauvais que le Groenland hasarda de repasser hommes et femmes en Danemark dans de méchantes barques et chaloupes qui, par la tempête et les courants furent jettés sur les côtes du Labrador. Toutes les manières des Esquimaux, le bon air et la propreté de leurs femmes prouvent cette verité. Il y aussi parmi eux selon toutes les apparences des pecheurs basques qui ont fait naufrage sur ses côtes, sans doute que dans leur langue on trouvera des mots des langues des Européens dont ils tirent leur origine. Il est facile de s'en eclairer par le moyen de quelques Basques, Islandais Norvegiens et Danois. Les Esquimaux passent pour être extrêmement sauvages, et inabordables, féroces et cruels. Ils fuient à la vue des Européens parce qu'ils en ont maltraites, parce que l'on tire sur eux et qu'on les tue, et s'ils font du mal aux Européens et s'ils les tuent ce n'est pas par représailles. Je veux croire que dans le commencement qu'ils ont vu des Européens venir sur leurs côtes, ils leur ont pris quelques bagatelles et qu'après leurs larcins ils s'enfuyaient, mais celà ne méritait pas que l'on tirât sur eux et qu'on les tuât.

Les Sieurs Jolliet et Constantin qui ont été chez eux en ont reçu mille amitiés. Mr de Courtemanche qui a eu dix fois des entretiens avec eux m'a dit à Versailles l'an 1715 qu'ils sont bons, doux, civils, gais, caressants, hommes

(Translation.)

beards, are light colored, well made and very adroit. They clothe themselves very decently in seal skins and wear waistcoats and breeches. They make canoes and barques the construction of which is admirable, and are good smiths, which leads one to believe that they take their origin from the Icelanders or Norwegians, although they may have originated from the colony of Danes in Greenland some three hundred years ago, and which has since disappeared. I think that, receiving neither the ships nor the assistance from Denmark so necessary in a land as inhospitable as Greenland was, this colony ventured to return, men and women, to Denmark in poor barques and canoes which, tossed by heavy seas, became stranded on the coast of Labrador. The manners of the Esquimaux, the neat appearance and tidiness of their wives, point to this fact. There is indication of there being amongst them some Basque fishermen who were wrecked on the coasts, and without doubt one will find in their language words of the languages of the Europeans from whom they take their origin. It is easy to throw light upon them by means of Basque, Icelanders, Norwegians and Danes. The Esquimaux are considered extremely savage and intractable, ferocious and cruel ; they flee at the sight of Europeans, and if they attack and kill Europeans it is only by way of reprisal, because they have been maltreated, fired on and had some of their people killed by them. I think that in the beginning of their intercourse with the Europeans on their coast,

they stole some trifling articles and then fled, but this did not warrant firing on and killing them.

The Sieurs Jolliet and Constantin, who have visited them, have received a thousand tokens of friendship. M. de Courtemanche, who has had ten interviews with them, told me at Versailles in 1715 that they were kind, mild, civil, gay and warm-hearted men and women, that they danced to

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et femmes, qu'elles dansent pour lui faire honneur. Ils sont fort chastes n'aimant pas la guerre et ont mille bonnes qualities. Ils sont plus timides que sauvages et cruels. Celà fait voir qu'il sera très aisé de les apprivoiser surtout si on en prend efficacement les moyens qui sont :

1° Empêcher les sauvages montagnais et les autres sauvages de leur faire la guerre, si les montagnais avaient chez eux un missionnaire jésuite il les empêcherait de faire du mal aux Esquimaux.

2° Il faut défendre aux Français pêcheurs et autres, sous des rigoureuses peines, de tirer sur eux et leur faire aucun chagrin.

3° Ordonner aux pêcheurs et aux Français de tâcher de les attirer et de faire toutes sortes d'amitiés et même quelques présents à ceux que l'on pourra joindre.

4° Dans l'échange de leur marchandise et dans le commerce que l'on aura avec eux faire en sorte qu'ils ne soient jamais mécontents et en toute occasion les traiter avec douceur et bonté.

5° Leur donner à manger mais ne leur point donner ou vendre de liqueurs enivrantes.

6° Engager les Jésuites d'entreprendre cette mission d'aller chez eux et de les apprivoiser. Ils en viendront bientôt à bout, ayant un merveilleux talent pour les missions les plus difficiles et pour humaniser les sauvages les plus féroces. Quand on aura lié commerce avec les Esquimaux, on en fera facilement de bons chrétiens. Leur esprit doux, leur aversion pour la guerre, leur amour pour la chasse sont des dispositions admirables pour cela.

(Translation.)

do him honour. They are very chaste, dislike war and have a thousand good qualities. They are more timid than savage or cruel. From this it is very easy to see that there will be no difficulty in civilizing them if the following proper steps are taken :

1. To forbid the Montagnais and other savages to make war on them. If the Montagnais have with them a Jesuit missionary, he could prevent them from interfering with the Esquimaux.

2. It is also necessary to forbid the French fishermen and others, under the severest

penalties, to fire at them or to offer them any insult.

3. To order the French and the fishermen to endeavour to win them over by offering friendship and even presents to those who join them.

4. In trading for their merchandise and in all commerce with them, to be sure that they are not discontented and, on all occasions, treat them with kindness and good will.

5. To give them food, but neither to give nor to sell them intoxicating liquors.

6. To engage the Jesuits to undertake this mission of going amongst them and to endeavour to civilize them, for the Jesuits have a great talent for humanizing the most ferocious savages. When commerce has been established with them, it will be easy to make them good Christians. Their gentle spirit, their aversion to war, and their chastity make them easily disposed to conversion.

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C'est surtout la vue que l'on doit avoir en faisant des établissements dans le Labrador, et ce qui attirera les bénédictions non seulement spirituelles mais aussi temporelles sur ceux qui procureront cette gloire à Dieu et à la religion. Les Esquimaux apprivoisés rendront de grands services aux Français par la chasse qu'ils feront dans leur vaste pays et par la pêche, étant fort adroits à l'une et à l'autre. Ils leur apporteront des peaux, des pelleteries, des dents de vaches-marines, de l'huile de poisson, de l'édredon et de la plume pour les lits, y ayant sur leurs côtes une infinité d'oiseaux dont la plume est fort bonne et fort fine.

Ainsi les Esquimaux contribueront à rendre le commerce de Labrador très considérable et très lucratif pour les établissements de ces pays. J'oubliais de dire qu'il faut employer tous les moyens imaginables non seulement pour apprivoiser les Esquimaux mais aussi pour les engager à venir s'établir en villages proche des Français. Il n'est pas nécessaire de faire un détail des avantages qu'eux les Français en retireront. On les conçoit assez. On ne doit rien craindre du voisinage des Esquimaux, parce qu'ils sont doux, point du tout guerriers mais lâches et timides. Ceux qui trouvent tout difficile, qui n'ont pas le courage de faire de grandes entreprises, et qui n'aiment pas que d'autres plus courageux qu'eux les fassent disent :

1° Que le Labrador est un pays froid, stérile, où rien de ce qui est nécessaire à la vie ne peut venir, par conséquent un pays inhabitable et dans lequel il ne faut pas penser de faire des établissements. L'Ecosse, la Suède, la Norvège, la Moscovie, la Sibérie, l'Islande, les Isles de Fairo (Feroe) sont des pays bien plus septentrionaux que le Labrador, et, par conséquent autant ou plus froids que le Labrador. Ces pays sont remplis de lacs et de montagnes autant ou plus que le Labrador. La terre en est elle même aussi stérile que

(Translation.)

It should specially be held in view in making these establishments on the Labrador, that not only spiritual but also temporal blessings will be poured upon those who shall have procured this glory to God and religion. The Esquimaux, if civilized, will render important services to the French through the fishery and by the chase they carry on in their country, they being very adroit both in the one and in the other. They will bring skins, furs, walrus tusks, fish-oils, eider-down, feathers for beds, having on their coast an infinity of birds with fine and very good plumage.

Thus the Esquimaux will contribute to render commerce on the Labrador both large and lucrative for the establishments in these countries. I forgot to say that it is necessary to use every conceivable means to induce them to come and establish themselves in villages near the French, the advantages of which, both for themselves and the French, it is unnecessary to detail, as they can be sufficiently appreciated. Their proximity need not be feared, as they are not warlike but lazy and timid. Those who are always making difficulties and have not have the courage to undertake large enterprises, begrudging others their superiority, say :

1. That the Labrador is a place both cold and sterile, where nothing that is necessary for life can be found and, consequently, is uninhabitable, and no one should dream of colonizing there. Sweden, Norway, Muscovy, Siberia, Iceland, Scotland, the Isles of Fairo (Faroe) are all more northern countries than Labrador and consequently as cold if not colder. These countries are filled with mountains and lakes to the same or to a greater extent than Labrador. The land is as sterile as that of Labrador, and still, were one willing, what is being done, has been done, and what might

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celle du Labrador, et cependant, par la culture elles ont fait, ce qu'elles font encore, ce qu'elles feraient dans le Canada si on le voulait est une preuve incontestable de cette vérité : que les pays froids sont plus favorables aux Français que les pays chauds, que dans les pays froids, ils sont beaucoup forts, plus robustes, plus entreprenants et plus courageux, que dans les pays chauds et qu'en France même. C'est pour cette raison qu'il est plus convenable de se servir pour les établissements dans le Labrador de Canadiens fait au froid et à la fatigue que non pas de Français qui n'y sont pas accoutumés. Pour la même raison il n'y faut pas mener des Françaises mais des Canadiennes.

On dit encore que pour faire des établissements dans le Labrador, il en coûterait beaucoup au Roi qui a des dépenses à faire plus pressées que celles-là. Je réponds que ces établissements peuvent se faire sans qu'il en coûte rien au Roi. Celui que Mr de Courtemanche a fait dans la baie Phelippeaux, n'a rien couté à Sa Majesté. Les autres ne lui coûteront pas davantage. Pour celà il faut engager deux Canadiens sages et entreprenants à aller s'établir : l'un au Petit Nord et l'autre à Kesselaki, comme Mr de Courte-manche l'est à la baie de Phelippeaux. Afin que ces hommes est devenu fertile et elle fournit des vivres aux habitants de ces pays qui sont en nombre infini. L'Ecosse, la Suède, la Norvège, et la Moscovie sont des pays très puissants, rempli de grandes et magnifiques et riches villes toutes plus septentrionales que Kesselaki.

Edinbourg, capitale d'Ecosse est au 56me degré ;

Hambourg, Lubeck et Dants sont au 54me degré quelques minutes ;

Stranslund en Pomeranie au 54me degré ;

(Translation.)

be done, in Canada is an undeniable proof of this fact : that the cold countries are more suitable to the French than the warm climes ; that in cold places, they are more robust, more enterprising and more courageous than in the cold regions and than in France also. For this reason it will be better to have Canadians, accustomed to cold and fatigue, rather than Frenchmen who are unaccustomed, to conduct these establishments at Labrador. For the same reasons, Canadian women should go there rather than French women.

It is also said that, to start establishments in Labrador, would be too expensive for the King who has more pressing claims upon his purse than this outlay. To this I would reply that these establishments can be formed without costing the King anything. What M. de Courtemanche has done at Phelippeaux bay has cost His Majesty nothing. The others will not cost the King any more. It is only necessary to engage two Canadians, wise and enterprising, to undertake the settlements : one at Petit Nord and the other at Kesselaki, as

M. de Courtemanche has done at Phelippeaux bay. In order that these men has become fertile and capable of supporting their large population. Scotland, Sweden, Norway and Muscovy are very powerful countries, and filled with many large, magnificent and rich cities, all farther north than Kesselaki.

Edinburgh, capital of Scotland is in latitude 56° N. ;

Hamburg, Lubeck and Dantzic are in latitude 54° N. and a few minutes ;

Stranslund, in Pomerania, in lat. 54° N. ;

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Moscou, capitale de Moscovie, au 56me degré ;

Copenhague, capitale de Danemark au 56me degré ;

Rega, en Livonie au 57 degré ;

Revel aussi en Livonie au 59me degré.

Petersbourg, que le Czar rend magnifique, au 60me degré

;

Stockholm, capitale de la Suède, et Upsal au 60me degré.

Bergen, capitale de Norvège au 61me degré

Drontheim, en Norvège au 64me degré

Archangel, la plus riche ville de Moscovie au 64me degré

Evardhus, en Laponie, au 71me degré.

Toutes ces villes qui sont beaucoup plus septentrionales que Kesselaki qui est environ au 42me degré 30 minutes que le Petit Nord qui est au 42me et que la baie Philippeaux qui est au 41me degré, quelques minutes, les villes, dis-je sont toutes capitales de puissants royaumes ou de provinces. Elles sont toutes des plus grandes, des plus peuplées, des plus riches et des plus magnifiques de l'Europe. Faut compter que dans les royaumes et les provinces où elles sont situées, il y a encore une grande quantité de belles villes et un nombre infini de peuples qui par la culture, ont rendu fécondes ces terres septentrionales et par le commerce, ont rendu ces pays glacés très riches.

Qu'est-ce qui empêche que l'on fasse du Labrador un aussi bon pays que ceux là que l'on bâtit des villes, qu'on l'habite et qu'on la cultive comme ceux là.

Celà, dit-on, demande bien du travail et de la patience.

(Translation.)

Moscow, capital of Muscovy, in lat. 56° N. ;

Copenhagen, capital of Denmark, in lat. 56° N. ;
Riga, in Livonia, in lat. 57° N. ;
Revel, also in Livonia, in lat. 59° N. ;
Petersburg, made so magnificent by the Czar, in lat. 60° N. ;
Stockholm, capital of Sweden, and Upsal, in lat. 60° N. ;
Bergen, capital of Norway, in lat. 61° N. ;
Drontheim, in Norway, in lat. 64° N. ;
Archangel, the most opulent city in Muscovy, in lat. 64° N. ;
Evardhus, in Lapland, in lat. 71° N.

All these towns are much farther north than Kesselaki which is somewhere in latitude 42° 30' N.,¹ than the Petit Nord, in latitude 42° N. and the bay of Phelippeaux in latitude 41° and a few minutes N., are the capitals of powerful kingdoms or provinces. They are the largest, the most populous, the richest and the most magnificent in Europe. One must also consider that, in the kingdoms or provinces wherein they are situated, there also are a large number of fine towns and an infinity of people who, by cultivation, have rendered these northern lands productive and by commerce have made these cold countries very wealthy. What is there that would prevent making Labrador as good a country as any of these, by the founding of cities, the settlement of the land and the cultivation of its soil.

This, it is said, will require a great deal of industry and perseverance.

¹ Clerical error for 52° 30'. see *ante*.

Je réponds que quand les Français sont bien conduits, ils sont autant ou plus capables de l'un et de l'autre que les Ecossais, les Suèdois, les Norvégiens, les Moscovites, et autres peuples septentrionaux. Les Français sont capables de tout ce qu'il y a de plus difficile, quand ils sont conduits par des chefs entreprenants et constants. Ce qu'ils ne se ruinent pas, et même afin qu'ils s'enrichissent, en se sacrifiant pour l'Etat, il faut leur accorder tout ce qui se peut, les combler d'honneur et de grâces. Rien de plus juste. Pour que ces postes se peuplent et deviennent considérables, il faut par les bienfaits et par les privilèges engager des Bayonnais et autres Français, mais surtout des Canadiens, à s'y aller établir et à s'appliquer à faire valoir le commerce de ce pays, principalement la pêche, dont les profits sont prompts, certains et intarissables et ne demandent que très peu d'avances.

Il faut enfin donner à ceux qui entreprendront les établissements du Petit-Nord et de Kesselaki (que l'on pourra nommer labradorville) le titre et brevet de commandant et de capitaine de milice s'ils ne sont pas, comme à celui de la baie Phélippeaux, donner à chacun la compagnie complète pour résider dans son poste et leur ordonner :

1° De ne rien entreprendre l'un sur l'autre et de vivre en paix et en bonne union et de ne point débaucher les sauvages les uns les autres ;

2° D'empêcher que les sauvages se fassent la guerre les uns aux autres ;

3° De vivre en paix avec les sauvages de les apprivoiser de lier commerce avec eux, de les engager par la douceur à venir s'établir proche des Français, enfin de ne leur faire aucune violence ni injustice ;

(Translation.)

I claim that when the French are well led they are as capable, both of one and the other, as the Scotch, Swedes, Muscovites, or any other northern people. The French are capable of overcoming all difficulties when led by enterprising and steady commanders.

They would not ruin themselves, but would even grow rich in sacrificing themselves for the State, it is necessary to grant to them all that is possible, to heap upon them honours and gifts, nothing being more just. In order that these posts may be peopled and become important, it is necessary, by bounties and privileges, to induce the Bayonnais and other French, especially Canadians, to establish themselves there and devote themselves to the development of commerce in this country, particularly the fishery, the profits of which are immediate, certain and inexhaustible, and do not require a great outlay.

Lastly, it is necessary to give to those who shall undertake the settlements of Petit Nord and Kesselaki (which should be named Labradorville), the title and patent of Commandant and Captain of militia, if they have not received them already, as in the case of Phelippeaux bay, and to give to each an entire company to reside at his post. Instructions must be given to them :

1. Not to encroach one upon the other, to live in peace, and harmony, and not entice

the natives from each other

2. To forbid the natives to make war on one another ;

3. To live in peace with the natives, to civilize them, trade with them and induce them by kindness to come and live near the French, and, lastly, not to do them any violence or injustice.

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4° D'avoir soin des missionnaires qui travailleront à la conversion des sauvages et au salut des Français.

5° De faire reconnaître le pays non seulement les côtes, mais aussi dans l'enfoncement des terres ; pour cet effect faire remonter toutes les rivières jusqu'à leurs sources et à engager des Français ; surtout des Jésuites à aller trouver les sauvages chez eux et à les accompagner dans leurs chasses et dans leurs voyages.

6° De faire reconnaître la qualité de la terre, s'il y a des mines de cuivre, d'acier et autres métaux, s'il y a des pierres de quelque mérite comme marbre et porphyre ; s'il y a des bois propres à faire des maisons ou des navires ; s'il y a des plantes ou autres drogues médicinales, enfin tout ce que le pays produit. La plupart des pays sont moins nous le long des côtes qu'à une ou deux lieues dans les terres.

7° D'avoir soin qu'on, y élève quantité de boeufs et de vaches, de moutons et de brebis, de cochons et de chèvres, et même des chevaux et d'y faire multiplier tous les animaux. Si les espèces du Canada ne peuvent pas résister à ces climats, il en faut faire venir des isles de Ferro (Feroe) ou d'Islande, qui sont des pays bien plus rudes et plus froids que le Labrador. De tous ces animaux on pourra, faire des salaisons pour la subsistance de la colonie. De plus ces animaux feront du fumier qui servira à engraisser ces terres et à produire du grain, des légumes, racines et herbages.

8° De tâcher d'apprivoiser des caribous qui sont de la même chose que les Rennes dont les Lapons et les Moscovites tirent de grands services, mais il faut éviter tout ce qui ressent de la magie.

(Translation.)

4. To have the care of missionaries who shall work at the conversion of the savages and for the salvation of the French ;

5. To explore the country, not only on the coasts, but also in the interior ; for this end, to ascend all rivers to their sources, and to engage the French as well as the Jesuits to seek the natives in their own homes, and to accompany them on their hunting trips and voyages.

6. To examine the quality of the soil, to see if there are mines of copper, iron or other metals, if there are valuable stones, such as marble and porphyry ; if there are woods fit for the building of houses and ships, if there are medicinal plants or drugs. In short, to discover all that the country may produce. Nearly all countries are less fertile along the coast than a league or two inland.

7. To see that cattle, sheep, pigs and goats, as well as horses are reared in large numbers and to promote the breeding of animals of all kinds. If the Canadian species are not such as to resist the climate, it is necessary to import cattle from the Faro (Faroe) Islands or from Iceland, which countries are more rugged and colder than Labrador. All these animals will provide food for the colony. Besides, they will furnish manure to be used for the fertilizing of these lands so as to render them capable of producing grain, vegetables, and root crops.

8. To endeavor to tame the caribou, which is the same animal as the reindeer, so greatly used by the Laplander and the Russians, but it is necessary to avoid anything that has the appearance of magic.

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9° D'élever quantité de volailles, poules, pigeons, canes, oies et oitardes.

10° De semer du blé, du seigle, de l'orge, de l'avoine et autres sortes de grains. L'orge et l'avoine y viennent et mûrissent bien et peuvent servir à nourrir des bestiaux et des volailles, sans doute que le blé de Turquie y viendra. Avec un peu de soin, le blé et le s les échauffer, ce qui les rend très fertiles. Il en faut faire de même dans le Labrador, au bien y porter des farines du Canada.

11° D'y faire semer toutes sortes de légumes, pois, fèves, feverolles, lentilles, etc., etc. Les pois y viennent bien pour être mangés verts mais ne mûrissent pas assez pour être gardés. Il faut aussi tâcher d'y élever des arbres fruitiers.

12° D'y faire cultiver toutes sortes de racines, d'herbages et de salades. Toutes ces choses viennent fort bien, à ce que m'a dit Mr de Courtemanche à la baie Phélippeaux et sont de grandes douceurs pour les équipages des navires pêcheurs.

13° Pour la commodité de ces mêmes équipages avoir dans chaque établissement une ou deux grandes auberges bien bâties avec de bons lits et les autres choses convenables pour le soulagement des gens de mer, mais il faut empêcher l'ivrognerie et toutes les autres débauches.

14° Il faut qu'il y ait dans chaque établissement un curé, honnête homme, avec une église propre et bien ornée, où le service se fasse avec décence. C'est un moyen pour enseigner aux sauvages du respect et de l'inclination pour

(Translation.)

9. To breed quantities of birds, fowls, hens, pigeons, geese, ducks, &c.

10. To sow wheat, rye, oats, barley, and other grains. Oats and barley will grow well and afford food for cattle and fowls. Without doubt, Turkey wheat will thrive. In Poland, where the lands are cold, they sow a little salt to warm them and render them fertile. The same must be done in Labrador, or grain must be brought in from Canada.

11. To plant all sorts of vegetables, peas, beans, Scotch beans, lentils, &c., &c., and also endeavour to cultivate fruit trees.

12. To cultivate all sorts of roots, herbs and salads, all of which grow very well at Phelippeaux bay, so M. de Courtemanche tells me, and are highly appreciated by the crews of the fishing vessels.

13. For the use of the same crews, to have at each settlement one or two large inns, solidly built, with good beds and other conveniences for the comfort of the seamen, but drunkenness and debauchery must be strictly forbidden.

14. At each establishment there must be a curé, an honest man, with a church well built and properly adorned, where services can be performed with decency. It is a means to inspire the

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le christianisme. Il est à propos que ces curés soient de St Sulpice ou de quelqu'autre communauté si les Jésuites ne veulent pas s'en charger.

15° Il faut ordonner aux Commandants de donner avis à la cour de tout ce qu'ils reconnaîtront être convenable pour le bien et l'augmentation de ces établissements.

16° Il faut aussi qu'ils aient soin que l'on bâtisse des maisons solides et commodes et qu'ils en donnent l'exemple. On peut faire de la chaux dans le pays ; on y pourra faire aussi de la brique ; de la tuile et de la poterie.

Les moyens et plusieurs autres connus de ceux qui ont plus l'expérience que moi, sont capables de rendre en peu de temps et sans qu'il en coûte rien à Roi, les établissements du Labrador très considerables et d'y attirer quantité de vaisseaux qui apporteront dans ces pays ce qui y est et en rapporteront ce qu'il produit ; poissons, huiles côtes et barbes de baleines, dents de vaches-marines, peaux de loup-marins et de caribous, une infinité de fines et précieuses pelleteries, de l'édrédon et de la plume pour faire des lits et dans la suite des mâts et autres bois, du cuivre, de l'acier et autres choses ; ce qui entretiendra un grand commerce qui enrichira le pays et les marchands et qui sera même très utile à l'Etat. On fait encore deux difficultés. 1° On dit que dans le Labrador le froid est de si longue duree que les habitants ne pourront pas résister ; Qu'il n'y a pas de vivres et de commodités pour faire subsister une nombreuse colonie. Je répons à cette objection que les Norvégiens et les Suédois ne meurent point de froid et que de bonnes maisons bien fermées avec de bons poeles, comme en Suède, en Norvège et

natives with respect and admiration for Christianity. It is fitting that these curés should be of the order of St. Sulpice or of some other community, if the Jesuits will not undertake the work.

15. The Commamlants must be instructed to keep the Crown informed of what, in their opinion, is required for the good and for the increase of the settlements.

16. They should also see to it that solid and commodious houses be built, and that they set the example. Lime can be made in the country, and it is possible to make bricks, tiles and pottery.

These means, and many others known to those who are more experienced than I, are capable of rendering the Labrador settlements very considerable in a short time and without any expense to the King, and to attract there numbers of vessels which will bring all that is required, and take back the products of this country ; fish, oils, whalebone, walrus teeth, skins of seals and caribou, an infinity of fine and valuable furs, eider-down, feathers for beds, and, later on, wood for masts and other kinds of wood, copper, iron and other things. This will maintain a great commerce, will enrich the country and the merchants, and be very useful to the State. Two further objections are offered :

1. It is said that, in Labrador, the cold weather is of such long duration that the colonists would not be able to stand it ; 2. That there are not sufficient food and commodities there to support a large colony. To this objection, I reply that Norwegians and Swedes do not perish from cold at all, and that good houses, well built, with good stoves, such are used in Sweden,

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autres pays septentrionaux sont de bons preservatifs contre le froid. Ajoutez que les Canadiens et Canadiennes dont on se servira pour faire les etablissements du Labrador sont accoutumés aux froids les plus insupportables. 3° On dit qu'il n'y a pas de vivres. Je réponds à celà que le boeuf, le veau, le laitage, le mouton, et la volaille n'y manqueront point, non plus que le poisson frais et le salé, ni les légumes, racines et herbages.

On peut y elever de bons cochons en empêchant qu'ils ne mangent du poisson. Il faut pour celà les tenir enfermés dans le temps de la pêche ou les élever un peu loin des bords de la mer. On peut y saler du boeuf et du cochon et aussi saler ou fumer du caribou. Le pays est très abondant en gibier. Il y a des oiseaux appeles moyacks qui fournissent une infinie d'oeufs bons à manger. Le duvet de ces oiseaux s'appelle édredon. L'orge et l'avoine y viennent à maturité. Tout celà avec le grand commerce des denrées est plus que suffisant pout faire subsister une très nombreuse colonie. Si le froment et le seigle n'y peuvent pas venir à maturité, on aura facilement des farines du Canada, ce qui sera très avantageux au dit Canada. Si on peut y avoir des mouches à miel on y fera de l'hydromel comme en Moscovie et en Pologne où il y a quantite de mouches quoique le pays soit plus septentrional que le Labrador.

La laine des moutons fournira dans la suite de quoi faire des habits. Dès à present on peut faire des habits avec des peaux de moutons comme on le fait en plusieurs pays, et même dans le Médoc et dans les Landes de Bordeaux. On peut aussi y faire des habits de peaux de loup-marins comme les Esquimaux qui en sont habillés très proprement.

Les vaisseaux leur porteront du vin et toutes les autres

choses que le pays ne pourra pas fournir et que l'on ne jugera pas à propos de cultiver. En échange

(Translation.)

Norway and other northern countries, are complete protection against it. Add to this that the Canadian men and women, who will form these establishments, are accustomed to the severest cold. 3. It is said that there is no food. To this, I may reply that beef, veal milk-diet, mutton and poultry shall not be wanting, nor fresh and salt fish, nor vegetable and roots.

It is possible to raise excellent pigs, but they must not be allowed to eat fish and during the fishing season, they must be kept at a distance from the sea. Beef and pork, also caribou meat, can be salted and smoked. The country abounds with game, and there are birds called moyacks which furnish an infinity of eggs good to eat. The down from these birds is called eider-down. Oats and barley will come to maturity. All this, with the great commerce in the commodities of the country, is more than sufficient to support a large and numerous colony. If wheat and rye will not come to maturity, they can be imported from Canada, which will be a good thing for Canada. If it is possible to keep bees, one can make hydromel, as in Muscovy and Poland, where quantities of bees are kept although these countries are farther north than Labrador.

The wool from the sheep will furnish the material required to make clothes. Even now, clothes can be made from sheep skins, as is done in several countries, such as in the Landes of Bordeaux. Also, clothes can be made from seal skins like the Esquimaux, who are very neatly clad.

The ships can bring wine and other commodities which the country will not be able to furnish or which it may not be deemed advisable to grow. In exchange, the inhabitants will give fish, oils,

les habitants donneront du poisson, des huiles, des peaux, des pelleteries et autres choses que le pays produit en si grande abondance. Que la colonie, si nombreuse qu'elle puisse être aura de quoi acheter des denrées de France et du Canada dont elle aura besoin, elle sera même en état de devenir riche et puissante.

La colonie de Plaisance était dans un pays où il ne pouvait rien venir et même plus stérile que le Labrador. Cette stérilité était cause que les habitants s'appliquaient exclusivement à la pêche de la morue qui leur donnait le moyen d'avoir abondamment tout ce qu'il leur était nécessaire et même de s'enrichir.

Ce serait peut-être le plus avantageux pour les habitants du Labrador et pour l'Etat qu'ils s'appliquassent uniquement à la pêche qui produit des profits immenses.

On convient à ce que je crois, de tout ce qui est dans ce mémoire ; on avoue que les raisons de faire des établissements dans le Labrador sont convaincantes et que les moyens en sont bons et faciles. Reste donc d'en venir à l'exécution, et de laisser faire ceux qui auront le courage de commencer ces établissements et de leur accorder tout ce qui est convenable afin qu'ils ne se ruinent pas en se sacrifiant pour l'honneur et l'avantage de l'Etat et même de Dieu et de la religion.

(Translation.)

skins, furs, and other things which the country produces in such large quantities, that the colony, numerous as it may be, will be able to buy, from France and Canada, all commodities they have need of, and thus the colony will even become a rich and a powerful one.

The colony of Placentia is a more sterile place than Labrador, being in a country where nothing will grow. Such barrenness compels the colonists to apply themselves entirely to the cod fishery, which furnishes the means to supply them with all that is necessary and even to enrich them.

It is possible, perhaps, that it will be more advantageous for the colonists of Labrador and for State, that they should apply themselves entirely to the fishery which produces such immense profits.

In my opinion, the whole of this present memoir is admitted ; it is acknowledged that the reasons for the making of the establishments at Labrador are convincing and that the means thereto are good and easy. It remains then to carry out the proposal, to grant permission to those who have the courage to found these settlements and accord to them all that is suitable so that they may not be ruined in sacrificing themselves for the honour and advantage of the State as well as for God and religion.

No. 1420.

**SUPPLEMENT TO ANONYMOUS MEMOIR
CONCERNING LABRADOR, JANUARY 1717.**

ARCHIVES DE LA PROVINCE DE QUEBEC.

Il y a environ six mois que je donnai à Mr de Forcade deux mémoires, un touchant le Canada, qui me semble mériter quelque attention et pouvoir être utile, et un autre touchant le Labrador qui n'a pas moins de mérite. Pour ne point répéter ce qu'il contient, je prie de le lire, et je crois que si l'on veut bien prendre cette peine on avouera que le Labrador est un pays dont l'Etat peut tirer de grands avantages, qu'il est important de bien s'y établir et de mettre en valeur.

On s'aperçoit tous les jours de plus en plus de l'utilité de ce pays et combien il est important d'y faire des établissements fixes. En voici les preuves, preuves d'autant plus convaincantes qu'elles sont déduites avec moins d'art et plus de simplicité, et qu'elles ne peuvent pas être contestées par ceux qui sont au fait de ce qui regarde ce pays affreux d'après quelques uns, mais selon les vrais connaisseurs un vrai Pérou à raison des pelleteries précieuses et fourrures dont il est tout rempli ; mais surtout à raison des abondantes et intarissables pêches de morue, de loups-marins, de vachesmarines, et de baleines, etc., qui, sans grandes dépenses, sans coûter la vie à une infinité d'hommes, peuvent produire à la France plus de richesses que les meilleurs et plus abondantes mines d'or. Je reviens aux preuves que j'ai promises. Outre celles que fournit le mémoire que j'ai donné il y a

(Translation.)

About six months ago, I gave Mr. de Forcade two memoirs, one concerning Canada, which in my estimation, is deserving of some consideration and may prove useful, and the other, no less deserving, on the Labrador. To avoid any duplication of its contents, I would ask that same be read, and I feel that, should this trouble be taken, it will be admitted that the Labrador is a country from which the State may derive material benefits and that it is of importance to have there a solid establishment and see to its development.

As time passes, each day brings home more forcibly the usefulness of this country as well the importance of forming permanent establishments there. Here is the proof of this, a proof all the more convincing since it is being arrived at in a manner devoid of artifice and complication. Such proof, moreover, cannot be disputed by those familiar with facts concerning this country, a country considered by some as horrible, but which, according to the well informed, is held to be a real Peru on account of its precious peltries and furs, and more particularly owing to its abundant and inexhaustible cod, seal, walrus and whale fisheries, &c., which, without great cost, and without causing the death of a great many persons, may bring to France more wealth than the best and richest gold mines. I now return to the proof I have promised. Besides such evidence as can be found in my memoir as submitted six months ago, we find that what took place since last year at

six mois, ce qui s'est passé depuis un an au Labrador en fournit de nouvelles si pressantes que l'on ne peut pas se dispenser de faire incessamment des établissements fixes sur cette côte, ni de prendre toutes les mesures convenables pour mettre ce pays en valeur et pour en faire une colonie utile à l'Etat et aux particuliers. Les preuves sont renfermées dans une lettre que j'ai reçue de Mr. de Courtemanche et deux des lettres que Mr de Ramsay et Mr Bégon lui ont écrites. Ces trois lettres telles que je les ai reçues sont jointes à ce mémoire. J'ai aussi reçu de Mr de Courtemanche la copie écrite et les réponses qu'il leur a faite, et aussi copie de la lettre qu'il a écrite à Mr de Vaudreuil. Toutes ces copis de lettres sont entre les mains de Mr d'Avbenton.

Mr de Courtemanche écrit du mois d'octobre 1716 à Mde de Courtemanche à Bayonne, les nouvelles suivantes qu'elle m'a envoyées Article de la lettre que Mr de Courtemanche m'écrit 11 jours après mon départ dans le mois d'octobre 1716:

“ Depuis votre depart les sauvages esquimaux nous ont presque toujours tenus en occupation. Un de mes gens qui était à la chasse les aperçut et aussitot m'en vient donner avis sur le soir. Je ne manquai pas d'envoyer Mr votre fils avec deux ou trois de nos gens pour leur parler et les amuser pendant que je faisais équiper une chaloupe pour y aller moi-même. Mais les Esquimaux qui en apparence qui avaient remarqué que nos gens étaient plus alertes que ceux qu'ils avaient coutume de voir (et même ils avaient eu beaucoup d'épouvante d'en avoir vu à cheval), se servirent de l'obscurité de la nuit pour s'enfuir. Nous les avons chassés deux fois. J'ai été obligé pareillement d'aller à la Fortian, mais je n'ai pas pu les attraper. Ils étaient

(Translation.)

Labrador affords further proof of such an urgent character that one cannot ignore the necessity of forming immediately permanent establishments on this coast or of taking the proper steps conducive to the development of this country so as to make it a settlement profitable for the State as well as to individuals. The evidence is to be found in a letter I have received from Mr. de Courtemanche and in two of the letters addressed to him by M. de Ramsay and M. Begon. These three letters are annexed to the present memoir exactly as they reached me. I have also received from M. de Courtemanche a written copy and his answers to them, as well as a copy of the letter he wrote to M. de Vaudreuil. All of these copies of correspondence are in the hands of M. d'Avbenton.

In a letter written in October, 1716, and addressed to Madame de Courtemanche at Bayonne, M. de Courtemanche gives her the following news, which she has communicated to me. Paragraph from the letter addressed to me by M. de Courtemanche eleven days after my departure in the month of October, 1716.

“ Since your departure the Esquimaux savages have kept us almost continuously occupied. One of my men, who was out hunting caught sight of them and immediately came to notify me towards the evening. I did not fail to send M. your son with two or three of our people that he might speak with them and detain them while I ordered a boat to be equipped so that I could go myself. But the Esquimaux, who apparently had noticed that our men were more alert than they had been accustomed to see (and they had even been struck with awe at the sight of one them riding a horse), took advantage of the darkness of night to make their escape. Twice we chased them. I was likewise compelled to go to the Fortian [Forteau], but I could not overtake

environ 400 et autant à Blanc-Sablon, qui est à une lieue de la maison, comme vous le savez.

“ Ces malheureux ont fait de très grands dégâts à toutes les loges et encore plus à l'île à bois où ils n'ont laissé pour tout que deux bateaux. Ils ont enlevé tout le reste, mais je ne sais pas le nombre que ces messieurs y avaient laissé, non plus que ce de Mr Bernard. Ils ont aussi emporté tous les grappins, pillé ou brisé et jeté à la mer leurs avirons, et de plus généralement pris tous leurs meubles dans les loges.

“ En ceux qui ont paru à la petite rivière il y en avait 3 qui avaient chacun un fusil et d'autres quelques pistolets.

“ L'officier de Mr Gane qui fut après eux lorsqu'ils l'eurent pillé, nous dit dernièrement à la maison qu'ils lui avaient tiré un coup de pierrier qui donna fort près de leur chaloupe.

“ NOTA.—On veut croire qu'il y avait quelques Français avec eux, car ils n'avaient point coutume de se servir d'armes. Il est de conséquence que vous donniez avis à tous les armateurs de ce désordre afin qu'ils ne fassent pas de fonds sur leurs meubles.”

COPIE DE LA LETTRE QUE MR LAIR, AUMONIER DE MR DE COURTEMANCHE, ECRIT DE LA BAIE PHELIPPEAUX EN DATE DU 16 OCTOBRE 1716 A MDE DE COURTEMANCHE A BAYONNE.

“ Madame,—Celle-ci est pour avoir l'honneur de vous saluer en qualité du plus soumis de vos serviteurs. Je souhaite, madame, que la présente vous trouve en parfaite santé, bien heureusement arrivée en France.

(Translation.)

them. They were about 400 strong and there were as many at Blanc-Sablon which, as you are aware, is one league away from the house.

“ The wretches have caused great depredations in all the cabins and did still greater damage at *l'île à bois* [Woody I.] where they only left two boats. They took the remainder away, but I could not say how many these gentlemen, or M. Bernard, had left there. They also took away all the grappling-irons, stole their oars or broke them and threw them into the sea, and, in a more general way, took all their movables in the cabins.

“ Amongst those who were seen at Petite Rivière were three who had each a musket and others who had a few pistols.

“ M. Gane's officer, who pursued them after they had pillaged his property, told us recently, when at the house, that they had fired a shot from a swivel-gun and had very narrowly missed hitting their boat.

“ Note.—One is inclined to believe that they were accompanied by a few French, inasmuch as they are not in the habit of using arms. It is important that you inform all the vessel-owners of this disturbance so that they will not rely on their goods.”

COPY OF A LETTER ADDRESSED, ON THE 16TH OCTOBER, 1716, FROM THE BAY OF PHELIPPEAUX, BY M. LAIR, CHAPLAIN OF M. DE COURTEMANCHE, TO MADAME DE COURTEMANCHE, AT BAYONNE.

“ Madame,—This is to afford the writer the honour of greeting you as the most devoted of your servants. It is my earnest wish, Madame, that the present will find you in

“ Depuis votre départ, madame, les sauvages esquimaux ont visité votre côte de LaBradour. Ils sont venus à la Fortiau. Les gens de Mr de la Rue ont traité avec eux le premier dimanche d'après votre départ qui était le 4^{me} jour du courant.

“ Mestay étant à la chasse les aperçut sur la pointe entre l'échaffaud du Sieur Lavallée et du Sieur Chardot, qui aussitôt vint donner nouvelles après vêpres à Mr de Courtemanche qui ne manqua pas d'envoyer Mr votre fils avec quelques uns de nos gens pour leur parler et les amuser pendant qu'il faisait équiper une chaloupe pour y aller lui-même.

“ Mais les Esquimaux qui en apparence avaient remarqué que nos gens n'avaient pas de froid aux yeux, et que même ils avaient eu beaucoup d'épouvante d'en avoir vu un qui était à cheval, se servirent de l'obscurité de la nuit pour fuir de sorte que Monsieur ne put pas les attraper avec sa chaloupe, quoiqu'il ait été trois jours consécutifs à les chercher.

“ Je vous assure Mde que Mr s'est un peu trop exposé à cause du grand vent et de la pluie qui tombait sans cesse ; de sorte que nous avons été fort inquiets à la maison, vos enfants et moi, jusqu'à son retour, lequel a causé bien de la joie à Melle de Courtemanche et à nous tous, non pas à cause de la grande santé que Mr a rapportée de sa course, car il en est revenu incommodé à cause du grand froid et de la pluie. J'espère moyennant la grâce de Dieu que celà ne sera rien. Celà n'a pas empêché que ces animaux sauvages n'aient pris plusieurs chaloupes à la côte. Je ne sais pas combien Mrs. de Dumène en avaient à l'île à bois. Vos gens disent qu'il n'y en a plus que deux vieilles dont ils ont voulu bruler une. Ils ont ouvert sur la dite île les cabanes et piles de bois, ou ils ont cassé avec des haches une barrique où il y avait des serres. On a trouvé aussi la même chose aux échaffaud de la petite

(Translation.)

“ Since you left, Madame, the Esquimaux Indians have visited your coast of Labrador. They went to la Fortiau. M. de la Rue's people traded with them on the first Sunday following your departure, which was the fourth day of this month.

“ Mestay, who hunting, caught sight of them on the point between the stages (*échaffauds*) of the Sieur Lavellée and the Sieur Charlot, and came after vespers to inform M. de Courtemanche who made it a point to send M. your son, with a few of our men, to talk to them and detain them while he ordered a boat to be equipped in order to go there himself.

“ But the Esquimaux who apparently had noticed the intrepidity of our men, and who had even been seized with great fright at the sight of one of them on horse-back, took advantage of the darkness of night to take to flight and Monsieur could not overtake them with his boat, although he pursued them during three consecutive days.

“ I assure you, madame, that Monsieur has run a rather great risk owing to the high wind and continuous rain ; as a result, we at the house, your children and myself, were very anxious until his return, which was the cause of great rejoicing for Mademoiselle de Courtemanche and every one of us, but not because of the excellent state of health of Mr. de Courtemanche upon his return from his journey, as he returned indisposed on account of the intense cold and the rain. I hope that, with the help of God, it will be of no consequence. This has not prevented these beastly Indians from taking several bouts on the coast. I do not

know how many Mrs. de Dumêne had at l'île à Bois. Your people state that there are only two left and that they made an attempt to burn one of them. They have broken into the cabins and wood piles on the said island, where they broke open, with axes, a barrel containing some stores. It was found that they had done the

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rivière, plusieurs grappins sur le plain et même à l'eau, toutes les cabanes et piles de bois ouvertes, jusqu'à du sel jeté dehors, plusieurs sènes coupées par bouts sur le plain.

“ Vos enfants, Madame, se portent tous biens, votre petite fille demande si vous viendrez bientôt. Il n'y a rien de nouveau à la maison. Ménagez s'il vous plait votre santé Mde et ne vous inquiétez point. L'indisposition de Mr ne sera rien. On fait toujours bon quart pour les Esquimaux. Je vous demande la liberté, Mde, de me dire votre très humble et très obéissant serviteur,

“ LAIR, prêtre.”

On dit que les Esquimaux étaient à la Fortiau 3 à 400. Ils n'ont pas paru à la petite rivière plus de cinquante, mais il y en avait une autre troupe sur l'île à bois où on a trouvé leur cabane avec une vieille grande sène et environ la charge d'un homme de flotte de linge avec quelques poules françaises. Vos gens en apportèrent hier 4 ou 5 qu'ils attrapèrent près de leurs cabanes. Entre ceux qui ont paru à la petite rivière il y en avait trois qui avaient chacun un fusil et d'autres quelques pistolets. L'Officier de Mr Gane qui fut après eux lors-qu'ils eurent pillé Mr Gane nous dit dernièrement à la maison qu'ils lui avaient tiré un coup de pierrier qui donna fort proche de leur chaloupe. On veut croire qu'il y a quelques Français avec eux car ils n'avaient pas de coutume de se servir d'armes. N'ayez point d'inquiétude. On fait bonne garde et ils se retireront bientôt.

LAIR, prêtre.

(Translation.)

same thing at the stages of Petite-Rivière, a number of grappling-irons having been thrown about on the ground and even in the water ; every cabin and pile of wood had been broken into ; even the salt had been thrown out, and several nets, cut into pieces, were on the ground.

“ Your children, Madame, are in perfect health, and your young daughter wishes to know whether you will return soon. There is nothing new at the house. Please take care of your health, Madame, and do not worry. Monsieur's indisposition will amount to nothing. We always keep a good look-out for the Esquimaux. May I take the liberty, Madame, of subscribing myself your most humble and most obedient servant,

“ LAIR, priest.”

It is reported that the Esquimaux at la Forteau numbered 300 or 400. They did not appear at Petite Rivière, but there was another troop of them at l'île à Bois where their cabin was found with an old net of large dimensions, about a seaman's load of linen, as well as a few French fowls. Your people brought in 4 or 5 of them yesterday having caught them near

their cabins. Amongst those who came to Petite Rivière, there were three who each had a musket and a few others were armed with pistols. M. Gane's officer who pursued them after they had pillaged him, told us recently, at the house, that they had shot at him from a swivel-gun and narrowly missed hitting their boat. It is thought that there were a few French with them as they are not accustomed to the use of arms. Do not let anything worry you. We are keeping guard and they shall soon withdraw.

LAIR, priest.

Il faut gagner ces Français et s'unir pour apprivoiser les Esquimaux.

De toutes les nouvelles qui ont été mandées du Labrador l'année 1716 et du contenu de toutes les lettres ci-jointes on doit conclure :

1° Qu'une lettre écrite à la baie Phélippeaux le 4me de septembre étant arrivée à Versailles le 18me octobre, le voyage de France à Labrador n'est ni long ni difficile et par consequent que ce pays peut être secouru en peu de temps ;

2° Que les Esquimaux sont en grand nombre et bons marins ; que le pays est bon et habitable et que l'on peut y faire des établissements fixes puisqu'il y a des chevaux et des vaches, des brebis et quantité de volailles, que les herbages, les racines, et les légumes de France y viennent bien, sans parler de la chasse et de la pêche qui y sont en abondance ;

3° Que la poche étant très abondante et d'un grand profit sur la côte du Labrador qui a près de 400 lieues, il faut y faire au moins trois établissements fixes ; un à la baie de Phélippeaux, le second au détroit de Belle-ile et le troisième à la baie de Kesselaki, tant pour y faire la pêche que pour arrêter les sauvages des Esquimaux. Pour cet effet il faut dans chacun des trois postes avoir une garnison d'environ 15 soldats avec un officier. La compagnie de Mr de Courtemanche suffira pour ces trois postes dans chacun desquels il faut bâtir une tour d'environ 40 pieds de haut à cause des neiges. Dans laquelle les soldats et l'officier logeront et sur laquelle on mettra des coulevrines pour empêcher les Esquimaux d'approcher. Il est même à

(Translation.)

The Frenchmen must be won over and we must be united in order to render the Esquimaux sociable.

From all the news received from Labrador during the year 1716 and the contents of every letter hereto annexed, it must be concluded :

1° That a letter, written at Bay Phélippeaux, on 4 September, having reached Versailles on 18 October, the journey from France to Labrador is neither long nor trying, and therefore, this country may obtain relief in a short time ;

2° That the Esquimaux are numerous and are good sailors ; that the country is a good one and inhabitable and that permanent establishments may be formed, inasmuch as there are horses, cows, sheep and a number of fowls ; herbs, roots and vegetables from France grow well, without mentioning game and fish which are in abundance;

3° That the fisheries being very abundant and very lucrative on the coast of Labrador which is nearly 400 leagues long, at least three permanent establishments should be formed there; one at the bay of Phélippeaux, the second at the strait of Belleisle and the third one at the bay of Kesselaki, to carry on fishing as well as to check the Esquimaux savages. To this end, each of the three posts will require with a garrison of about 15 soldiers

with an officer. M. de Courtcmanche's company will be sufficient for these three posts in each of which will have to be built a tower of about 40 feet in height on account of the snow. The soldiers and their

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propos d'avoir dans chaque poste un brigantin bien armé pour leur donner la chasse ;

4° Qu'il faut employer tous les moyens imaginables pour apprivoiser les Esquimaux.

Ces moyens sont : 1° De défendre aux Français de tirer sur eux et de les maltraiter ; 2° de tâcher d'en attirer ou attraper quelques-uns de leur faire toutes sortes de bons traitements, et de les renvoyer avec des présents pour eux et pour leurs compatriotes ; 3° d'engager quelques Français hardi et adroit d'aller chez eux pour tâcher de les gagner ou du moins pour engager les Français que l'on croit être parmi eux de les persuader d'avoir commerce avec les Français. Pour cet effet promettre et donner de bonnes récompenses à ces Français ; 4° Engager les Jésuites à établir une mission chez les sauvages. C'est certainement le meilleur moyen pour les apprivoiser, ces Pères ayant un talent admirable pour gagner les Français. Quand ils seront apprivoisés on en retirera des avantages infinis. On profitera de leurs pêches, auxquelles ils sont fort adroits, de leur chasse et de leurs précieuses pelleteries. On les rendra chrétiens. Les Français feront leur pêche avec assurance étant en paix avec eux.

Cet article mérite de sérieuses attentions.

Car si les Esquimaux s'agguerrissent et les Français les aient toujours pour ennemis il faut renoncer au Labrador et à la pêche qui s'y fait ce qui serait une grande perte ; 5° Il faut aussi que dans chaque poste il y ait un magasin de vivres afin que les équipages des navires qui peuvent périr ou qui par d'autres accidents peuvent être obligés de passer l'hiver dans ce

(Translation.)

officer will live in it, and on it, will be the culverins to keep the Esquimaux at a distance. It is also desirable to have, at each post, a well armed brigantine to pursue them ;

4° That all conceivable means must be employed to render the Esquimaux friendly.

Such means are : 1. To forbid the French to shoot at them or ill-treat them ; 2. To endeavour to win over or seize a few of them, then to treat them with kindness and send them back with presents for themselves and their fellow-people ; 3. To induce a few bold and clever Frenchmen to go among them in order to win them over or, at least, to prevail upon those Frenchmen believed to be with them to persuade them to trade with the French. To this end, suitable rewards ought to be promised and given to those Frenchmen ; 4. To engage the Jesuits to establish a mission amongst them, for these fathers have an astonishing talent for winning over [to] the French. Once they have been civilized, immense benefits may be derived from them. We will profit by their fisheries, at which they are very clever, by their chase and their valuable furs. We will convert them to Christianity. Being at peace with them, the French will be able to carry on their fishery in security.

This article is deserving of the most careful consideration. In fact, if the Esquimaux become hardened against us and are always considered by the French as enemies, the Labrador and the fisheries must be given up that are carried on there, which would mean an enormous loss ; 5. At every post there must also be a store of provisions to save from death by cold or hardships the crews from any vessels that may be wrecked, or as a result of other accidents, may be compelled to winter in this

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pays-là n'y meurent pas de faim ni de froid ni de misère ; 6° Il faut marquer les limites des dépendances de chaque poste, faire défense à ceux qui les auront d'aller dans les dépendances de leurs voisins tant pour la pêche que pour la traite avec les sauvages ; défense de débaucher les hommes et les sauvages de leurs voisins même de les recevoir et prendre à leurs gages ; défendre de vendre de l'eau-de-vie, des armes et de la poudre aux sauvages crainte qu'étant très nombreux et fort adroits ils ne deviennent trop puissants ; 7° Ordonner aux concessionnaires de vivre en union, de se secourir aider et défendre les uns les autres ; et recommander au commandant ou gouverneur du Labrador d'y tenir la main et de donner avis à la Cour de ceux qui feront leur devoir et qui s'appliqueront à rendre la colonie florissante afin qu'ils soient récompensés, rien n'étant plus précieuse et estimable pour les colonies nouvelles qu'un bon et zélé habitant ; 8° Il faut donner une grande liberté aux pêcheurs et ne les point inquiéter ni gêner dans leur commerce. Il me semble néanmoins que l'on pourrait les obliger d'entretenir les trois petits forts et la compagnie de soldats qui y sera en garnison, et même de tenir la dite compagnie toujours complète par les recrues qu'ils y mèneront à leurs dépens. Dans chaque poste ils auront un magasin de munitions de guerre et de bouche rempli et entretenu à leurs dépens, et le garde-magasin qu'ils auront droit de mettre dépendra d'eux. Il y aura aussi dans chaque poste un magasin de vivres et d'habits appartenant aux pêcheurs.

Le garde-magasin dépendra d'eux. Il ne distribuera ou vendra ces vivres et habits que par leurs ordres et ne rendra compte qu'à eux, ou bien il faut faire pour l'entretien des forts et de la garnison du Labrador ce que le Roi a fait depuis peu pour l'entretien des forts de Guinée. Il est juste

(Translation.)

country : 6. The boundaries of the dependencies of each post must be determined. It must also be forbidden to the owners of such dependencies to enter their neighbours' dependencies either for fishing or to carry on trade with the Indians ; to prohibit the enticing away of their neighbours' men and Indians or from harbouring them and hiring them ; to prohibit the sale of brandy, arms and powder to Indians lest the latter, owing to their great number and adroitness, become too powerful ; 7. Enjoin the grantees to live united, to help, assist and defend one another ; and to recommend to the Commandant or Governor of Labrador to be vigilant and report to the Court those who have done their duty and who have been instrumental in rendering the colony prosperous, as nothing is more valuable or highly prized for a new colony than a good and zealous settler ; 8. The fishermen must be given the greatest freedom possible and they must not be disturbed nor interfered with in their trade. Nevertheless, it seems to me that they might be held to maintain the three small forts and the company of soldiers garrisoned therein, and also to keep up to strength the said company with recruits they would bring there at their own expense. At each post, they shall

have a magazine of ammunition and provisions to be kept filled and maintained at their expense, and the storekeeper, whom they shall be authorised to appoint there, shall be dependent on them. There shall also be at each post a store-room for food and clothing belonging to the fishermen.

The store-keeper shall be dependent on them. Such food and clothing shall only be issued or sold by him on their order and he shall only be accountable to them. Or else what the King has done lately for the maintenance of the forts in Guinea will have to be done for the upkeep of the

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que les pêcheurs qui ont tous les profits fassent les frais nécessaires pour la sûreté et la commodité de leur commerce ; frais qui ne seront pas considérables et qui cependant leur procureront de grands avantages. Mais aussi il faut absolument empêcher qu'ils ne soient inquiétés par les officiers et soldats, ni par les Esquimaux ; 9° Le grand nombre dès Esquimaux, leur hardiesse à venir en flotte au nombre de 800 jusqu'à la baie Phélippeaux, les fusils, pistolets, pierreries et chaloupes qu'ils ont, les Français qui sont avec eux, les courses, ravages et pelleteries qu'ils ont faites et qui augmenteront si on n'y met pas ordre, font voir qu'il est de la dernière importance de s'y opposer au plus tôt soit par l'établissement des trois postes dont j'ai parlé ; surtout de celui du district de Belle-Ile par où passent ces sauvages et où il faut avoir quelques brigantins armés pour les arrêter à ce passage, soit en prenant les moyens pour les apprivoiser et les rendre amis des Français ; 10° La vigilance et la hardiesse de Mr. de Courtemanche pour s'opposer à une flotte d'environ 800 sauvages et pour les mettre en fuite méritent bien quelques récompenses, au moins quelques gracieusetés ; un homme qui veut bien, pour le service de l'Etat demeurer presque seul, dans un pays inhabité tel que le Labrador, étant impayable.

(Translation.)

forts and garrison in Labrador. It is fair that the fishermen, who get all the profits, should bear the necessary expense to insure the safety and convenience of their business ; such costs would not be very heavy and still they would derive great benefits therefrom. On the other hand, their being disturbed by the officers and soldiers or by the Esquimaux should be absolutely prevented ; 9. The large numbers of the Esquimaux, their boldness in coming, 800 strong, as far as the bay of Phélippeaux, the muskets, pistols, swivel-guns and boats which they have, the Frenchmen who are with them, their incursions, ravages, the peltries they have secured, which are bound to increase unless they are stopped, are all so many things which tend to show that it is of the utmost importance to take action against them at the earliest possible moment. either by the establishment of the three posts above referred to, particularly that of the district of Belleisle through which these Esquimaux travel and where there should be a few armed brigantines to intercept them at this pass, or by taking the necessary means to civilize them and make them the friends of the French ; 10. The vigilance and gallantry displayed by M. de Courtemanche in opposing himself to a fleet of some 800 Indians and putting them to flight are well worth some recognition, at least a few presents ; a man who is willing, for the service of the State, to live, practically alone, in an uninhabited country like Labrador, is almost priceless.

No. 1421.

ANALYSIS OF PRIVILEGES CONFERRED OR ENJOYED UNDER CONCESSION OF LANDS WITHIN THE LABRADOR PENINSULA MADE BY THE GOVERNMENT OF CANADA DURING THE FRENCH AND BRITISH REGIMES.

CONCESSIONS.

Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Terre Ferme de Mingan Seignior	Francois Bissoz de la Riviere	1661	Isle aux Oeufs granted en seigneurie ; and right to form establishments for purposes hereafter mentioned on the mainland from "Isle aux Oeufs jusqu'aux Sept-Iles et dans la Grande Anse, vers les Esquimaux où les Espagnols font ordinairement la pesche."	In perpetuity, subject to the payment of "deux castors d'hyver ou dix livres tournois . . . et les droits accoutumés de ce pays."	With the right and faculty of hunting and of establishing on the mainland, within the area specified, "la pesche sédentaire des loupes marines, balaines, marsouins, et les autres négroces."
Iles et Islets de Mingan Seignior	Jacques de Lande and Louis Jolliet	10 March, 1679	The islands "qui se suivent jusqu'à la Baye appelée l'Ance aux Espagnols."	In perpetuity, subject to the usual conditions attached to seigniorial grants.	The grant recites that the grantees desired to make establishments at those islands for the cod and seal fisheries.

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Ile d'Anticosti Seigniory	Louis Jolliet	March, 1680	Island of Anticosti	In perpetuity, subject to the usual conditions attached to seigniorial grants.	—
St. Paul Seigniory	Amador Godfrey de Saint-Paul	20 March, 1706	Extended from a point 5 leagues west of Eskimo river to a point 5 leagues east of said river by 10 leagues in depth, and also included the islands opposite.	In perpetuity, subject to the performance of "for et hommage", censives residence and payment of customary dues.	" Avec droit de chasse, pêche et traité avec les sauvages dans toute l'étendue de la d. concession" subject to the stipulation that French fishermen should be permitted to use the shore at any point other than the beach specifically reserved by the grantee for his own use.
Belle Isle Seigniory	Riverin, Channon, Cadignon and Bouthier	19 Jan., 1689	(a) Belleisle island; (b) Six leagues of the north shore of Belleisle strait opposite said island (Labrador); (c) Six leagues of the shore of Newfoundland on the south shore of Belleisle strait, to be held <i>en seigneurie</i> .	The seigniory was granted in perpetuity, subject to the usual seigniorial conditions. The right to take cod, seals, etc., within the limits of their concession was also unlimited in time.	The seigniory was granted "en toute propriété, de fief, seigneurie et justice." The grant included the exclusive right for twenty years (1689-1709) to trade with the natives "depuis les Blancs Sablons, situez le long de la dite coste des Esquimaux jusques a trente lieues le long de la dite coste de Labrador" toward Hudson strait; also, the same right on the shore of Newfoundland which forms the south shore of Belleisle strait; also "avec droit de chasse et de pêche dans l'estendue des dits lieux concédés."

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Blanc-Sablons Seigniorial and Concession	De la Chesnye, Yachot, Poissot, <i>et al.</i>	14 Apr., 1689	Granted permission to take cod, whale, seals, porpoise, and other fish "entre la bas du Blanc Sablon (dans la Terre du Nord) situé en latitude par 51 degrés jusques au lieu concédé aux sieurs Riverrin et compagnie (Belle Isle seignior) au 52° degré" and between latitude 49° "au la dit golphe Saint Laurens" dans l'île de Terre Neuve jusques a la Riverrin et compagnie dans la dite île." On the coast of Newfoundland, it is extended from latitude 49° northward and eastward to said western limits of Belle Isle seignior. An area on the North shore, three leagues in front by three leagues in depth, and another area on the coast of Newfoundland, also three leagues by three leagues, were granted <i>en seigneurie</i> .	The tracts granted in seigneurie were granted in perpetuity, subject to the usual seigniorial conditions.	" Avec droit de chasse, traite, et pesche dans les dites espaces de terre a eux concédés en propriété" and to make necessary establishments. Permission "de faire la pesche de morues, balayues, loyses marines, marsoisins, et autres que faire ce pourra dans le dit Golphe et fleuve St. Laurens" but not exclusively except within one-quarter of a league surrounding their establishments for hunting and trading only.
Portachois Seigniorial	François Hazeur	20 Apr., 1705	Extended from Salmon river, in Newfoundland, northward to White Bear river, a distance of about 30 leagues by 10 leagues in depth, with the islands and beaches opposite.	Granted in perpetuity, subject to the usual seigniorial conditions.	Exclusive right to hunt fish and trade with the natives and the right to take fish in common with other French subjects.

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Belleville Strait Seignory	Pierre Constantin	18 May, 1713	A tract of 30 leagues of front "depuis le détroit de Belleville en descendant au nord nord-est," by 10 leagues in depth and also including the islands opposite.	Ten years (1713-1723).	"Avec droit de chasse, pêche et traite avec les sauvages dans toute l'estendue de la d. concession," subject to the stipulation that French fishermen should be permitted to use the shore at any point other than the beach specifically reserved by the grantee for his own use.
Gros-Mecatina	Jean-Baptiste Pommereau	2 May, 1738, and 20 Sept., 1739	From cape Mecatina, and including the cape, 5 leagues northward by four leagues in depth. In 1739, an augmentation extending about 4 leagues to the river Thokapoin, was granted to Koumearou; also included the islands opposite.	The original grant was for 10 years (1738-1748). The augmentation was granted for 9 years (1739-1748). On 1 May, 1749 the original grant and the augmentation were extended for 6 years (1748-1754). In 1754, Hocquart obtained a grant of Gros-Mecatina for his lifetime.	The right to make establishments "de pêche du long marin ainsi que la chasse et traite avec les Sauvages a l'exclusion de tous autres . . . et en outre avec la facilité d'y faire la pêche de la Morue couramment avec les battiments françois."
Petite-Mecatina	Henry Albert de St. Vincent	13 Jan., 1740	Three leagues above Petit Mecatina river and three leagues below, by four leagues in depth; also included the islands opposite.	Nine years (1740-1749).	The right to make establishments "de pêche de long marin ainsi que la chasse et traite avec les sauvages . . . et en outre avec la facilité d'y faire la pêche de la morue couramment avec les battiments françois."
Kecarponi	Jacques Beaud and Guillaume Estébe	5 Nov., 1748	About 4 leagues of front extending from the Thokapoin river to the western boundary of St. Augustin by 6 leagues in depth and the islands opposite.	Nine years (1749-1758).	The right to make establishments "de pêche du long marin a l'exclusion de tous autres, ainsi que la Chasse et Traite avec les sauvages . . . et la pêche de la morue couramment avec les battiments qui pourront venir aux lieux."

Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Right. Conferred or to be Enjoyed.
St. Augustin	François Mar- ganne de Laval- Trio	26 May, 1720 and 30 April, 1750 and 17 July, 1753	From a point 2 leagues west of the River St. Augustin to a point 2 leagues east of said river by 4 leagues in depth and also included the islands opposite.	During Lavaltrie's life- time. On his death in 1750, it was granted to Cleron for 9 years (1750-1759). Follow- ing Cleron's death, it was granted to de Cury for 9 years (1753-1762).	The exclusive right "de faire la pêche de loup marin et qu'à l'égard des autres pêches il la fasse concurremment avec les vaisseaux qu'y viendront" and "de faire la traite avec tous les Sauvages qui peuvent se trouver sur les terres et Cotes de la Brador."
Apetopy (Chicoutaki)	François Foucault and Nicolas- Gaspard Bon- cault	1 May, 1738 and 15 Oct., 1750	Frontage between St. Augustin and Baye- Phelypeau by 4 leagues in depth and also in- cluded the islands oppo- site.	Ten years (1738-1748). On 15 October, 1750, it was granted to La- fontaine de Beloeur for 15 years (1751-1766), with the exclusive right to take whales; the natives and to fish for cod concurrently with other French subjects.	The right to make establish- ments "de pêche du Loup marin ainsi que la classe et la traite avec les sauvages et l'Exclusion de tous autres . . . et en outre avec la faculté d'y faire la Pêche de la morue concurremment avec les bâti- ments français."
Baye-Phelypeau	Le g a r d e u r d e Courtemanche	12 Nov., 1714, and 13 July, 1722	Included Bradore bay, also a frontage extending to a point 2 leagues west of said bay and to a point 2 leagues east of said bay. by 4 leagues in depth and included the islands oppo- site. In 1722 an aug- mentation extending 5 leagues westward from the original grant, by 4 leagues in depth and the islands opposite, was con- ceded to Brouague, <i>et al.</i>	Granted to Courte- manche for his life- time. Following Cour- temanche's death in 1717, it was granted to his widow, his children and his stepson, Bro- sage. 24 April, 1744, it was granted to Armand de la Porte and his brother Jean, who were to obtain possession upon the deaths of the surviving grantees.	With "la faculté d'y faire la pêche du loup marin, et qu'à l'égard des autres pêches qu'il les fasse concurremment avec les vaisseaux qui viendront à la dite Baye"; the exclusive right to take seals and also permission "de faire la traite avec tous les Sauvages que peuvent se trouver sur la dite cote et terre de Labrador."

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Terre Ferme de Mingan Seigniory	Francois Bissot de la Riviere	1661	Isle aux Oeufs granted en seigneurie ; and right to form establishments for purposes hereafter mentioned on the mainland from "Isle aux Oeufs jusqu'aux Sept-Isles et dans la Grande Anse, vers les Esquimaux où les Espagnols font ordinairement la pesche."	In perpetuity, subject to the payment of "deux castors d'hyver ou dix livres tournois . . . et les droits accountumes de ce pays."	With the right and faculty of hunting and of establishing on the mainland, within the area specified, "la pesche sédentaire des loups marins, baleines, marsouins, et les autres négoocs."
Isles et Islets de Mingan Seigniory	Jacques de La-lande and Louis Jolliet	10 March, 1679	The islands "qui se suivent jusqu'a la Baye appelé Pance aux Espagnols."	In perpetuity, subject to the usual conditions attached to seigniorial grants.	The grant recites that the grantees desired to make establishments at these islands for the cod and seal fisheries.

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ANALYSIS OF PRIVILEGES CONFERRED OR ENJOYED UNDER CONCESSIONS OF LANDS WITHIN THE LABRADOR PENINSULA MADE BY THE GOVERNMENT OF CANADA DURING THE FRENCH AND BRITISH REGIMES.

CONCESSIONS.

Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Terre Ferme de Mingan Seigniory	Francois Bissot de la Riviere	1661	Isle aux Oeufs granted en seigneurie ; and right to form establishments for purposes hereafter mentioned on the mainland from " Isle aux Oeufs jusqu'aux Sept-Isles et dans la Grande Anse, vers les Esquimaux où les Espagnols font ordinairement la pesche."	In perpetuity, subject to the payment of " deux castors d'hyver ou dix livres tournois . . . et les droits accountumes de ce pays."	With the right and faculty of hunting and of establishing on the mainland, within the area sepcified, " la pesche sédentaire des loups marins, baleines, marsouins, et les autres nègoces.
Isles et Islets de Mingan Seigniory	Jacques de Lande and Louis Jolliet	10 March, 1679	The islands " qui se suivent jusqu'a la Baye appellé l'ance aux Espagnols."	In perpetuity, subject to the usual conditions attached to seigniorial grants.	The grant recites that the grantees desired to make establishments at these islands for the cod and seal fisheries.

Isle d'Anticosti Seigniorie	Louis Jolliet	March, 1680	Island of Anticosti . . .	In perpetuity, subject to the usual conditions attached to seigniorial grants.	—
St. Paul Seigniorie	Amador Godefroy de Saint-Paul	20 March, 1706	Extended from a point 5 leagues west of Eskimo river to a point 5 leagues east of said river by 10 leagues in depth and also included the islands opposite.	In perpetuity, subject to the performance of "foi et hommage," continuous residence and payment of customary dues.	"Avec droit de chasse, pesche et traite avec les sauvages dans toute l'etendue de la d. concession," subject to the stipulation that French fishermen should be permitted to use the shore at any point other than the beach specifically reserved by the grantee for his own use.
Belle Isle Seigniorie	Riverin, Chanion, Catignon and Bouthier	19 Jan., 1689	(a) Belleisle island ; (b) Six leagues of the north shore of Belleisle strait opposite said island (Labrador) ; (c) Six leagues of the shore of Newfoundland on the south shore of Belleisle strait, to be held <i>en seigneurie</i> .	The seigniorie was granted in perpetuity, subject to the usual seigniorial conditions. The right to take cod, seals, etc., within the limits of their concession was also unlimited in time.	The seigniorie was granted "en toute proprietté, fiefs, seigneuries et justice." The grant included the exclusive right for twenty years (1689-1709) to trade with the natives "depuis les Blancs Sablons, situez le long de la dite coste des Esquimaux jusques à trente lieus le long de la dite coste de Labrador" toward Hudson strait ; also, the same right on the shore of Newfoundland which forms the south shore of Belleisle strait ; also "avec droit de chasse et de pesche dans l'estendue des dits lieux concedéz."

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Isle d'Anticosti Seigniorie	Louis Jolliet	March, 1680	Island of Anticosti . .	In perpetuity, subject to the usual conditions attached to seigniorial grants.	—
St. Paul Seigniorie	Amador Godefroy de Saint-Paul	20 March, 1706	Extended from a point 5 leagues west of Eskimo river to a point 5 leagues east of said river by 10 leagues in depth and also included islands opposite.	In perpetuity, subject to the performance of "foi et hommage," continuous residence and payment of customary dues.	" Avec droit de chasse, pesche et traite avec les sauvages dans toute l'etendue de la d. concession," subject to the stipulation that French fishermen should be permitted to use the shore at any point other than the beach specifically reserved by the grantee for his own use.
Belle Isle Seigniorie	Riverin, Chanion, Catignon and Bouthier	19 Jan., 1689	(a) Belleisle island ; (b) Six leagues of the north shore of Belleisle strait opposite said island (Labrador) ; (c) Six leagues of the shore of Newfoundland on the south shore of Belleisle strait, to be held <i>en seigneurie</i> .	The seigniorie was granted in perpetuity, subject to the usual seigniorial conditions. The right to take cod, seals, etc., within the limits of their concession was also unlimited in time.	The seigniorie was granted " en toute proprietté, fiefs, seigneuries et justice." The grant included the exclusive right for twenty years (1689 - 1709) to trade with the natives " depuis les Blancs Sablons, situez le long de la dite coste des Esquimaux jusques à trente lieus le long de la dite coste de Labrador " toward Hudson strait ; also the same right on the shore of Newfoundland which forms the south shore of Belleisle strait ; also " avec droit de chasse et de pesche dans l'estendue des dits lieux concedèz."

Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Blanc-Sablons Seigniorly and Concession	De la Chesnaye, Pachot, Poisset, <i>et al.</i>	14 Apr., 1689	Granted permission to take cod, whales, seals, porpoise, and other fish "entre la bas du Blanc Sablon (dans la Terre du Nord) scitué en latitude par 51 degres jusques au lieu concédé aux sieurs Riverin et compaignye [Belle Isle seigniorly] au 52 ^e degré" and between latitude 49° "sur le dit golphe Saint Laurens dans l'Isle de Terre Neuve jusques a la concession des dits sieurs Riverin et compaignye dans la dite isle." On the coast of Newfoundland, it is extended from latitude 49° northward and eastward to said western limits of Belle Isle seigniorly. An area on the North shore, three leagues in front by three leagues in depth, and another area on the coast of Newfoundland, also three leagues by three leagues, were granted <i>en seigneurie</i> .	The tracts granted <i>en seigneurie</i> were granted in perpetuity, subject to the usual seigniorial conditions.	"Avec droit de chasse, traitte, et pesches dans les dites espaces de terre a eux concédées en propriété" and to make necessary establishments. Permission "de faire la pesche de molue, baleynes, louns marins, marsouins, et autres que faire ce pourra dans le dit Golphe et fleuve St. Laurens" but not exclusively except within one-quarter of a league surrounding their establishments for hunting and trading only.
Portachois Seigniorly	Francois Hazeur	20 Apr., 1705	Extended from Salmon river, in Newfoundland, northward to White Bear river, a distance of about 30 leagues by 10 leagues in depth, with the islands and beaches opposite.	Granted in perpetuity, subject to the usual seigniorial conditions.	Exclusive right to hunt fish and trade with the natives and the right to take fish in common with other French subjects.

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Blanc-Sablons Seigniory and Concession	De la Chesnaye, Pachot, Poisset, <i>et al.</i>	14 Apr., 1689	Granted permission to take cod, whales, seals, porpoise, and other fish “ entre la bas du Blanc Sablon (dans la Terre du Nord) scitué en latitude par 51 degres jusques au lieu concédé aux sieurs Riverin et compagnye [Belle Isle seigniory] au 52° degré ” and “ sur le dit golphe Saint Laurens dans l'Isle de Terre Neuve jusques a la concession des dits sieurs Riverin et compagnye dans la dite isle.” On the coast of Newfoundland it is extended from latitude 49° northward and eastward to said western limits of Belle Isle seigniory. An area on the North shore, three leagues in front by three leagues in depth, and another area on the coast of Newfoundland, also three leagues by three leagues, were granted <i>en seigneurie</i> .	The tracts granted <i>en seigneurie</i> were granted in perpetuity, subject to the usual seigniorial conditions.	“ Avec droit de chasse, traite, et pesches dans les dites espaces de terre a eux concédées en propriété ” and to make necessary establishments. Permission “ de faire la pesche de molue, baleynes, loups marins, marsouins, et autres que faire ce pourra dans le dit Golphe et fleuve St. Laurens ” but not exclusively except within one-quarter of a league surrounding their establishments for hunting and trading only.
Portachois Seigniory	Francois Hazeur	20 Apr., 1705	Extended from Salmon river, in Newfoundland, northward to White Bear river, a distance of about 30 leagues by 10 leagues in depth, with the islands and beaches opposite.	Granted in perpetuity, subject to the usual seigniorial conditions.	Exclusive right to hunt fish and trade with the natives and the right to take fish in common with other French subjects.

21 N	Belleisle Strait Seigniory	Pierre Constantin	18 May, 1713	A tract of 30 leagues of front "depuis le detroit de Belisle en descendant au nord nord-est," by 10 leagues in depth and also including the islands opposite.	Ten years (1713-1723).	"Avec droit de chasse, pesche et traite avec les sauvages dans toute l'estendue de la d. concession," subject to the stipulation that French fishermen should be permitted to use the shore at any point other than the beach specifically reserved by the grantee for his own use.
	Gros-Mecatina	Jean-Baptiste Pommercau	2 May, 1738, and 20 Sept., 1739	From cape Mecatina, and including the cape, 5 leagues northwestward by four leagues in depth. In 1739, an augmentation extending about 4 leagues to the river Thekapoin, was granted to Pommercau; also included the islands opposite.	The original grant was for 10 years (1738-1748). The augmentation was granted for 9 years (1739-1748). On 1 May, 1749 the original grant and the augmentation were extended for 6 years (1748-1754). In 1754, Hocquart obtained a grant of Gros-Mecatina for his lifetime.	The right to make establishments "de pêche du loup marin ainsi que la chasse et traite avec les Sauvages a l'exclusion de tous autres . . . et en outre avec la faculté dy faire la peche de la Morue concurrement avec les battiments francois."
	Petit-Mecatina	Henry Albert de St. Vincent	15 Jan., 1740	Three leagues above Petit Mecatina river and three leagues below, by four leagues in depth; also included the islands opposite.	Nine years (1740-1749).	The right to make establishments "de pesche de loup marin a l'exclusion de tous autres . . . et en outre avec la facilité d'y faire la pesche de la morue concurrement avec les batimens francois."
	Kecarpoui	Jacques Breard and Guillaume Estebe	5 Nov., 1748	About 4 leagues of front extending from the Thekapoin river to the western boundary of St. Augustin by 6 leagues in depth and the islands opposite.	Nine years (1749-1758).	The right to make establishments "de pesche du loup marin a l'exclusion de tous autres, ainsi que la Chasse et Traitte avec les sauvages . . . et la pesche de la morue concurrement avec les batimens qui pourront venir aud. lieu."

Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Belleisle Strait Seigniory	Pierre Constantin	18 May, 1713	A tract of 30 leagues of front “ depuis le detroit de Belisle en descendant au nord nord-est,” by 10 leagues in depth and also including the islands opposite.	Ten years (1713-1723).	“ Avec driot de chasse, pesche et traite avec les sauvages dans toute l'estendue de la d. concession,” subject to the stipulation that French fishermen should be permitted to use the shore at any point other than the beach specifically reserved by the grantee for his own use.
Gros-Mecatina	Jean-Baptiste Pommereau	2 May, 1738, and 20 Sept., 1739	From cape Mecatina and including the cape, 5 leagues northwestward by four leagues in depth. In 1739, an augmentation extending about 4 leagues to the river Thekapoin, was granted to Pommereau ; also included the islands opposite.	The original grant was for 10 years (1738-1748). The augmentation was granted for 9 years (1739-1748). On 1 May, 1749 the original grant and the augmentation were extended for 6 years (1748-1754). In 1754, Hocquart obtained a grant for Gros-Mecatina for his lifetime.	The right to make establishments “ de pêche du loup marin ainsi que la chasse et traite avec les Sauvages a l'exclusion de tous autres . . . et en outre avec la faculté dy faire la peche de la Morue concurrant avec les battiments francois.”
Petit-Mecatina	Henry Albert de St. Vincent	15 Jan., 1740	Three leagues above Petit Mecatina river and three leagues below, by four leagues in depth ; also included the islands opposite.	Nine years (1740-1749).	The right to make establishments “ de pesche de loup marin ainsy que la chasse et traite avec les sauvages a l'exclusion de tous autres . . . et en outre avec la facilité d'y faire la pesche de la morue concurrant avec les batimens francois.”
Kecarpoui	Jacques Breard and Guillaume Estebe	5 Nov., 1748	About 4 leagues of front extending from the Thekapoin river to the western boundary of St. Augustin by 6	Nine years (1749-1758).	The right to make establishments “ de pesche du loup marin a l'exclusion de tous autres, ainsi que la Chasse et Traitte avec les sauvages . . . et la

leagues in depth
and the islands
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venir aud. lieu.”

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
St. Augustin	Francois Mar- ganne de Laval- trie	26 May, 1720 and 20 April, 1750 and 17 July, 1753	From a point 2 leagues west of the River St. Augustin to a point 2 leagues east of said river by 4 leagues in depth and also included the islands opposite.	During Lavaltrie's life-time. On his death in 1750, it was granted to Cheron for 9 years (1750-1759). Following Cheron's death, it was granted to de Cery for 9 years (1753-1762).	The exclusive right "de faire la pesche du loup marin et qu'a legard des autres pesches il la fasse concurrement avec les vaissx. qu'y viendront" and "de faire la traite avec tous les Sauvages qui peuvent se trouver sur les terres et Costes de la Brador."
Apetepy (Chicataka)	Francois Foucault and Nicolas- Gaspard Bou- cault	1 May, 1738 and 15 Oct., 1750	Frontage between St. Augustin and Baye-Phelypeau by 4 leagues in depth and also included the islands opposite.	Ten years (1738-1748). On 15 October, 1750, it was granted to Lafontaine de Belcour for 15 years (1751-1766), with the exclusive right to take whales; to hunt and trade with the natives and to fish for cod concurrently with other French subjects.	The right to make establishments "de peche du Loup marin ainsy que la chasse et traite avec les sauvages a l'Exclusion de tous autres . . . et en outre avec la faculté d'y faire la Pêche de la morue concurrement avec les Bati-ments francois."
Baye-Phelypeau	Legardeur de Courtemanche	12 Nov., 1714, and 13 July, 1722	Included Bradore bay, also a frontage extending to a point 2 leagues west of said bay and to a point 2 leagues east of said bay, by 4 leagues in depth and included the islands opposite. In 1722 an augmentation extending 5 leagues westward from the original grant, by 4 leagues in depth and the islands opposite, was conceded to Brouague, <i>et al.</i>	Granted to Courtemanche for his life-time. Following Courtemanche's death in 1717, it was granted to his widow, his children and his stepson, Brouage. 24 April, 1744, it was granted to Armand de la Porte and his brother, Jean, who were to obtain possession upon the deaths of the surviving grantees.	With "la faculté d'y faire la pesche du loup marin, et qu'a l'egard des autres pesches qu'il les fasse concurrement avec les vaisseaux que viendront a la dite Baye"; the exclusive right to take seals and also permission "de faire la traite avec tous les Sauvages que peuvent se trouver sur la dite coste et terre de Labrador."

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
St. Augustin	Francois Marganne de Lavaltrie	26 May, 1720 and 20 April, 1750 and 17 July, 1753	From a point 2 leagues west of the River St. Augustin to a point 2 leagues east of said river by 4 leagues in depth and also included the islands opposite.	During Lavaltrie's lifetime. On his death in 1750, it was granted to Cheron for 9 years (1750-1759). Following Cheron's death, it was granted to de Cory for 9 years (1753-1762).	The exclusive right " de faire la pesche du loup marin et qu'a legard des autres pesches il la fasse concurrement avec les vaisss. qu'y viendront " and " de faire la traite avec tous les Sauvages qui peuvent se trouver sur les terres et Costes de la Brador."
Apetepy (Chicataka)	Francois Foucalt and Nicolas-Gaspard Boncault	1 May, 1738 and 15 Oct., 1750	Frontage between St. Augustin and Baye-Phelypeau by 4 leagues in depth and also included the islands opposite.	Ten years (1738-1748). On 15 October, 1750, it was granted to Lafontaine de Belcour for 15 years (1751-1766), with the exclusive right to take whales ; to hunt and trade with the natives and to fish for cod concurrently with other French subjects.	The right to make establishments " de peche du Loup marin ainsy que la chasse et traite avec les sauvages a l'Exclusion de tousautres . . . et en outreavec la faculté d'y faire la Péche de la morue concurrement avec les Batiments francois."
Baye-Phelypeau	Legardeur de Courtemanche	12 Nov. 1714, and 13 July, 1722	Included Bradore bay, also a frontage extending to a point 2 leagues west of said bay and to a point 2 leagues east of said bay, by 4 leagues in depth and included the islands opposite. In 1722 an augmentation extending 5 leagues westward from the original grant, by 4 leagues in depth and the islands opposite, was conceded to Brouague, <i>et al.</i>	Granted to Courtemanche for his lifetime. Following Courtemanche's death in 1717, it was granted to his widow, his children and his stepson, Brouague. 24 April, 1744, it was granted to Armand de la Porte and his brother, Jean, who were to obtain possession upon the deaths of the surviving grantees.	With " la faculté d'y faire la pesche du loup marin, et qu'a l'egard des autres pesches qu'il les fasse concurrement avec les vaisseaux que viendront a la dite Baye " ; the exclusive right to take seals and also permission " de faire la traite avec tous les Sauvages que peuvent se trouver sur la dite coste ete terre de Labrador."

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<p>Petit-Havre</p>	<p>Antoine Marsal</p>	<p>6 Oct., 1750</p>	<p>One league above and one league below Petit Havre, and including said harbour, by 3 leagues in depth, and also included the islands opposite. The decision fixing the east limit of Baye-Pheycyean at half-mile east of Anse-Ste-Claire, placed this grant within the limits of said Baye-Pheycyean.</p>	<p>Nine years (1751-1760).</p> <p>The right to make establishments "de pesche a la baleine et du loup marin, a l'exclusion de tous autres, ainsi que la Chasse et Traite avec les Sauvages . . . et la pesche de la morue concurrement avec les batimens qui pouront venir aud. lieu du petit havre."</p>
<p>Anse-Ste-Claire</p>	<p>Jean Tache</p>	<p>1 May, 1750, and 13 Oct., 1751</p>	<p>Included terrain between Baye-Forteau and Baye-Pheycyean concessions, by 4 leagues in depth, and also included the islands opposite.</p>	<p>Nine years (1750-1759). In 1751, the frontage between Blanes-Sablons point and point Grincoedens, by four leagues in depth and the islands opposite was granted to Michel Fortier for 6 years (1752-1758). An ordinance of 25 Sept., 1754, annulled this Concession on the ground that it was within the limits of the Baye-Pheycyean grant.</p> <p>The right to make establishments "de pesche du loup marin a l'exclusion de tous autres, ainsi que la chasse et traite avec les Sauvages . . . et la pesche de la morue concurrement avec les batimens que pouront venir aud. lieu."</p>
<p>Anse-à-Loup</p>	<p>Joseph Deschenaux</p>	<p>25 Oct., 1748</p>	<p>From cap au Diable, and including the cape, westward about 2 leagues to the western limit of the anse à Loup, by 6 leagues in depth, and also including the islands opposite.</p>	<p>Nine years (1749-1758) but, when ratified, was reduced to 7 years (1749-1756).</p> <p>The right to make establishments "de pesche du loup marin a l'exclusion de tous autres, ainsi que la Chasse et Traite avec les Sauvages . . . et la pesche de la morue concurrement avec les batimens qui pouront venir aud. lieu de l'Anse a Loup."</p>

Name of Concession,	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Riviere-des-Francois	Pierre Constantin	31 Mar., 1716 and 6 April, 1731	Extending 2 leagues eastward and 2 leagues westward from Constantin's post near the riviere des Francois (Pinware river) by 4 leagues in depth and included the islands opposite.	During grantee's lifetime contingent upon continuous development. Following Constantin's death, it was granted to Breaud—with an augmentation of ½ league wide on the southwest—for 9 years (1731-1760).	Within the limits of the concession, the grantee was given "la faculté d'y faire la pêche du loup marin et qu'à l'égard des autres pêches, qu'il les feroit concurrement avec les vaisseaux qui viendront à la d. coste" and permission "de faire la traite avec tous les Sauvages qui peuvent se trouver sur la d. coste et terre de Labrador."
St. Modet	François Foucault and Nicolas-Gaspard Foucault	27 Apr., 1735	Extended from the Riviere des Francois westward for 5 leagues, by 6 leagues in depth and also included the islands opposite.	Nine years (1735-1744). In 1740, St. Modet was awarded to Constantin, on the ground that it was within the limits of his Riviere-des-Francois concession.	The grantee was empowered to y faire un ou plusieurs établissements de pêche du loup marin et la traite avec les sauvages à l'exclusion de tous autres pendant led. temps et en outre avec la faculté d'y faire la pêche de la morue concurrement avec les autres bâtimens français."
Baye-des-Chateaux	Louis Bazil	18 Sept., 1735, and 1 Oct., 1736, and 13 Sept., 1749	From a point one-half league southwest of baye des Chateaux to a point 5½ leagues northwest of said bay and including the islands opposite the depth to be, presumably, sufficient for the purposes of the seal fishery.	Nine years (1736-1745). In 1740, it was re-granted to Sieur Gaultier for 9 years (1740-1738).	The exclusive privilege "de faire des établissemens pour la pêche solitaire du loup marin . . . et en outre la permission d'y faire la pêche, chasse et traite avec les Sauvages."

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Cap-Charles	Antoine Marsal	27 Sept., 1735, and 7 Sept., 1743, and 1 Nov., 1749, and 24 Sept., 1753	Extended from cap Charles to bay St. Alexis and the islands opposite, the depth to be presumed, ably, sufficient for the purposes of the seal fishery.	Granted in 1735, permission to establish seal fishery for nine years (1735-1744). In 1743, the grant was extended for 6 years (1744-1750). In 1749, it was granted to Capl. Baume for 9 years (1750-1759). In 1753, it was re-granted to Marsal for 9 years (1754-1763).	" Avec les droits de peche, chasso et traite avec les Sauvages dans la de. etendue."
Passage des Loups-marins	André Deboigne	8 April, 1721	Extended from Passage des Loups-marins, two leagues northerly and two leagues southerly by four leagues in depth.	During Deboigne's life-time.	Exclusively within the limits of the concession, " la faculté de faire la pesche du loup marin et qu'a regard des autres pesches il les fasse concurrement avec les vaisseaux qui iront a la dite Côte et au terres et isles, ilôts concédé" and permission " de faire la traite avec tous les Sauvages qui peuvent se trouver sur les terres et Costes de Labrador."
Baye-des-Esquimaux	Veuve Fornel	20 Sept., 1749	Extended from cap St. Gilles, north of baye des Esquimaux (Hamilton inlet) to the riviere des Sables (Eagle river) and including the basins of the Hamilton and Eagle rivers and other streams falling into the Atlantic between said rivers.	12 years (1750-1762).	The right to make establishments " de pesche à loup marin ainsi que la Chasse et Traite avec les Sauvages a l'exclusion de tous autres et en outre avec la faculté d'y faire la pesche de la morne concurrement avec les batimens françois."

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Montgaminion	Lafontaine de Belcour	1 Sept., 1735	" La cote du Nord du fleuve St. Laurent " from the river Hanamion to the Montgaminion.	Nine years (1735-1742). Annual rental, 4 beaver skins. In 1739, Lafontaine, the Concessionaire, was granted an extension of 6 years. Further extensions must have been granted as Lafontaine, in 1756, entered into partnership with Stronds for 3 years (1756-1759).	" Le privilege exclusif de faire des etablissements pour la peche solentaire du loup marin . . . avec les droits de peche, chasse et traite avec les sauvages dans lad. estendue."
Baye-Forteau	Adrien Demarais Vincent	20 Aug., 1748	Porteau bay, together with the tract of land of about 2 leagues frontage between pointes Dunes and point Grincelets, by four leagues in depth and the islands opposite.	Nine years (1748-1757) but, when ratified, was reduced to 7 years (1749-1756).	The right to make establishments " de peche du loup marin, ainsi que la Chasse et Traite avec les sauvages a l'exclusion de tous autres."
Kenosakion to Kegaska	Legardeur de Courtemanche	17 Oct., 1702	" Au lieu appelle l'alandor pays des sauvages Esquimaux, a commencer depuis la riviere appelee Kegaska jusqu'a celle nommee Kenosakion [Hamilton river] qui feront les deux bornes de lad. concession."	Ten years (1702-1712).	The exclusive right " y faire le commerce avec ces sauvages et la peche du loup marin."
Isles de Goelans	Antoine Marsal	15 Dec., 1736, and 26 Feb., 1738.	The 1736 grant extended from the south west point of Baye Ste. Barbe to a point three leagues north-east of same. In 1738, Marsal's concession was reduced to the Goelans islands.	Nine years (1736-1745).	Exclusive right to take seals between 15 June and 15 July.

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Anticosti and St. Lawrence	Désgrèziers and Radisson	29 Apr., 1675	Island of Anticosti and river St. Lawrence from Anticosti to Montreal.	Twenty years (1676-1696).	Granted the exclusive right to establish seal fisheries in Anticosti Island and exclusive right to take "maroonin blanc" in the river St. Lawrence between Montreal and the eastern extremity of Anticosti. Also to take seals in said portion of the St. Lawrence in common with other French subjects.
Indian Island	Perrault, Marcoux <i>et al.</i>	15 Sept., 1786	Indian Island and adjacent mainland on coast of Labrador.	—	Empowered "to establish Seal, Cod and Salmon Fisheries in the whole or any part" of Indian Island and the mainland between the western extremity of said island and a point five leagues northward thereof by "two leagues in depth, with the Rivers which shall be found therein" but without authority to exclude other British subjects "from fishing and drying fish on the said Island and Shore."

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Petit-Havre	Antoine Marsal	6 Oct., 1750	One league above and one league below Petit havre, and including said harbour, by 3 leagues in depth and also included the islands opposite. The decision fixing the east limit of Baye-Phelypeau at half-mile east of Anse-Ste.-Claire, placed this grant within the limits of said Baye-Phelypeau.	Nine years (1751-1760).	The right to make establishments “ de pesche a la baleine et due loup marin, a l'exclusion de tous autres, ainsi que la Chasse et Traitte avec les Sauvages . . . et la pesche de la morue concurrant avec les batimens qui pourront venir aud. lieu du petit havre.”
Anse-Ste.-Claire	Jean Tache	1 May, 1750, and 13 Oct., 1751	Included terrain between Baye-Forteau and Baye-Phelypeau concessions, by 4 leagues in depth, and also included the islands opposite.	Nine years (1750-1759). In 1751, the frontage between Blancs-Sablons point and point Grincedents, by four leagues in depth and the islands opposite was granted to Michel Fortier for 6 years (1752-1758). An ordinance of 25 Sept., 1754, annulled this Concession on the ground that it was within the limits of the Baye-Phelypeau grant.	The right to make establishments “ de pesche du loup marin a l'exclusion de tous autres, ainsi que la chasse et traitte avec les Sauvages . . . et la pesche de la morue concurrement avec les batimens que pourront venir aud. lieu.”
Anse-à-Loup	Joseph Deschenaux	25 Oct., 1748	From cap au Diable, and including the cape, westward about 2 leagues to the western limit of the anse à Loup, by 6 leagues in depth, and also including the islands opposite.	Nine years (1749-1758) but, when ratified, was reduced to 7 years (1749-1756).	The right to make establishments “ de pesche du loup marin a l'exclusion de tous autres, ainsi que la Chasse et Traitte avec les sauvages . . . et la pesche de la morue concurement avec les batimens qui pourront venir aud. lieu de l'Anse a Loup.”

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Riviere-des-Francois	Pierre Constantin	31 Mar., 1716 and 6 April, 1751	Extending 2 leagues eastward and 2 leagues westward from Constantin's post near the riviere des Francois (Pinware river) by 4 leagues in depth and included the islands opposite.	During grantee's lifetime contingent upon continuous development. Following Constantin's death, it was granted to Breard—with an augmentation $\frac{3}{4}$ league wide on the southwest—for 9 years (1751-1760).	Within the limits of the concession, the grantee was given "la faculté d'y faire la pêche du loup marin et qu'à l'esgard des autres pêches, qu'il les fasse concurrement avec les vaisseaux qui viendront a la d. coste" and permission "de faire la traite avec tous les Sauvages qui peuvent se trouver sur la d. coste et terre de labrasd'or."
St. Modet	Francois Foucault and Nicolas-Gaspard Boucault	27 Apr., 1735	Extended from the Riviere des François westward for 5 leagues, by 6 leagues in depth and also included the islands opposite.	Nine years (1735-1744). In 1740, St. Modet was awarded to Constantin on the ground that it was within the limits of his Riviere-des-François concession.	The grantee was empowered to y "faire un ou plusieurs établissements de pêche du loup marin et la traite avec les sauvages a l'exclusion de tous autres pendant led. temps et en outre avec la faculté d'y faire la pêche de la morue concurrement avec les autres bâtiments françois."
Baye-des-Chateaux	Louis Bazil	18 Sept., 1735, and 1 Oct., 1736, and 12 Sept., 1749	From a point one-half league southwest of baye des Chateaux to a point $3\frac{1}{2}$ leagues northeast of said bay and including the islands opposite the depth to be, presumably, sufficient for the purposes of the seal fishery.	Nine years (1736-1745). In 1740, it was re-granted to Sieur Gaultier for 9 years (1749-1758).	The exclusive privilege "de faire des établissemens pour la pêches sedentaire du loup marin . . . et en outre la permission d'y faire la pesche, chasse et traite avec les Sauvages."

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Riviere-des-Francois	Pierre Constantin	31 Mar., 1716 and 6 April, 1751	Extending 2 leagues eastward and 2 leagues westward from Constantin's post near the riviere des Francois (Pinware river) by 4 leagues in depth and included the islands opposite.	During grantee's lifetime contingent upon continuous development. Following Constantin's death, it was granted to Breard—with an augmentation $\frac{3}{4}$ league wide on the wouthwest—for 9 years (1751-1760).	Within the limits of the concession, the grantee was given “ la faculté d'y faire la pêche du loup marin et qu'a l'esgard des autres pêches, qu'il les fasse concurrement avec les vaisseaux qui viendront a la d. coste ” and permission “ de faire la traitte avec tous les Sauvages qui peuvent se trouver sur la d. coste et terre de labrasd'or.”
St. Modet	Francois Foucault and Nicolas-Gaspard Boucault	27 Apr., 1735	Extended from the Riviere des François westward for 5 leagues, by 6 leagues in depth, and also included the islands opposite.	Nine years (1735-1744). In 1740, St. Modet was awarded to Constantin on the ground that it was within the limits of his Riviere-des-Francois concession.	The grantee was empowered to y “ faire un ou plusieurs etablissements de pêche du loup marin et la traitte avec les sauvages a l'exclusion de tous autres pendant led. temps et en outre avec la faculté d'y faire la pêche de la morue concurrement avec les autres bâtimens français.”
Baye-des-Chateaux	Louis Bazil	18 Sept., 1735, and 1 Oct., 1736, and 12 Sept., 1749	From a point one half league southwest of baye des Chateaux to a point $3\frac{1}{2}$ leagues northeast of said bay and including the islands opposite the depth to be, presumably, sufficient for the purposes of the seal fishery.	Nine years (1736-1745). In 1740, it was regranted to Sieur Gaultier for 9 years (1749-1758).	The exclusive privilege “ de faire des etablissements pour la pêches sedentaire du loup marin . . . et en outre la permission d'y faire la pesche, chasse et traitte avec les Sauvages.”

Cap-Charles	Antoine Marsal	27 Sept. 1735, and 7 Sept., 1743, and 1 Nov., 1749, and 24 Sept., 1753	Extended from cape Charles to bay St. Alexis and the islands opposite, the depth to be, presumably, sufficient for the purposes of the seal fishery.	Granted in 1735, permission to establish seal fishery for nine years (1735-1744). In 1743, the grant was extended for 6 years (1744-1750). In 1749, it was granted to Capt. Baune for 9 years (1750-1759). In 1753, it was re-granted to Marsal for 9 years (1754-1763).	"Avec les droits de peche, chasse et traite avec les sauvages dans la de. etendue."
Passage des Loups-marins	André Deleigne	8 April, 1721	Extended from Passage des Loups-marins, two leagues northerly and two leagues southerly by four leagues in depth.	During Deleigne's lifetime.	Exclusively within the limits of the concession, "la faculté de faire la pesche du loup marin et qu'a légard des autres pesches il les fasse concurrement avec les vaisseaux qui iront a la dite Coste et au terres et isles, islots concédé" and permission "de faire la traite avec tous les Sauvages qui peuvent se trouver sur les terres et Costes de Labrador."
Baye-des-Esquimaux	Veuve Fornel	20 Sept., 1749	Extended from cap St. Gilles, north of baye des Esquimaux (Hamilton inlet) to the riviere des Sables (Eagle river) and including the basins of the Hamilton and Eagle rivers and other streams falling into the Atlantic between said rivers.	12 years (1750-1762).	The right to make establishments "de pesche à loup marin ainsi que la Chasse et Traitte avec les Sauvages a l'exclusion de tous autres et en outre avec la faculté d'y faire la pesche de la morue concurement avec les batiemens francois."

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Cap-Charles	Antoine Marsal	27 Sept., 1735, and 7 Sept., 1743, and 1 nov., 1749, and 24 Sept., 1753	Extended from cape Charles to bay St. Alexis and the islands opposite, the depth to be, presumably, sufficient for the purposes of the seal fishery.	Granted in 1735, permission to establish seal fishery for nine years (1735-1744). In 1743, the grant was extended for 6 years (1744-1750). In 1749, it was granted to Capt. Baune for 9 years (1750-1759). In 1753, it was re-granted to Marsal for 9 years (1754-1763).	“ Avec les droits de peche, chasse et traitte avec les sauvages dans la de etendue.”
Passage des Loups-marins	André Deleigne	8 April, 1721	Extended from Passage des Loups-marins, two leagues northerly and two leagues southerly by four leagues in depth.	During Deleigne's lifetime.	Exclusively within the limits of the concession, “ la faculté de faire la pesche du loup marin et qu'a légard des autres pesches il les fasse concurrement avec les vaisseaux qui iront a la dite Coste et au terres et isles, islots concédé ” and permission “ de faire la traitte avec tons les Sauvages qui peuvent se trouver sur les terres et Costes de Labrador.”
Baye-des-Esquimaux	Veuve Fornel	20 Sept., 1749	Extended from cap St. Gilles, north of baye des Esquimaux (Hamilton inlet) to the riviere des Sables (Eagle river) and including the basins of the Hamilton and Eagle rivers and other streams falling into the Atlantic between said rivers.	12 years (1750-1762).	The right to make establishments “ de pesche à loup marin ainsi que la Chasse et Traitte avec les Sauvages a l'exclusion de tous autres et en outre avec la faculté d'y faire la pesche de la morue concurement avec les batimens francois.”

Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Montagamiou	Lafontaine de Belcour	1 Sept., 1733	"La coste du Nord du fleuve St. Laurent" from the river Itamanion to the Montagamiou.	Nine years (1733-1742). Annual rental, 4 beaver skins. In 1739, Lafontaine, the Concessionaire, was granted an extension of 6 years. Further extensions must have been granted as Lafontaine, in 1756, entered into partnership with Strouds for 3 years (1756-1759).	"Le privilege exclusif de faire des establissem'ts pour la pêche sedentaire du loup marin . . . avec les droits de pêche, chasse et traite avec les sauvages dans lad. estendue."
Baye-Forteau	Adrien Demarais Vincent	20 Aug., 1748	Forteau bay, together with the tract of land of about $\frac{3}{4}$ league frontage between point des Dunes and point Grincedents, by four leagues in depth and the islands opposite.	Nine years (1748-1757) but, when ratified, was reduced to 7 years (1749-1756).	The right to make establishments "de pesche du loup marin, ainsi que la Chasse et Traitte avec les sauvages a l'exclusion de tous autres."
Kessessakiou to Kegaska	Legardeur de Courtemanche	17 Oct., 1702	"Au lieu appellé l'abrador pays des sauvages Esquimaux, a commencer depuis la riviere appellée Kegaska jusqu'a celle nommée Kesesaskion [Hamilton river] qui feront les deux bornes de la d. concession."	Ten years (1702-1712).	The exclusive right "y faire le commerce avec ces sauvages et la pesche du loup marin."
Isles de Goelans	Antoine Marsal	15 Dec., 1736, and 26 Feb., 1738.	The 1736 grant extended from the south west point of baye Ste. Barbe to a point three leagues north-east of same. In 1738, Marsal's concession was reduced to the Goelans islands.	Nine years (1736-1745).	Exclusive right to take seals between 15 June and 15 July.

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Montagamiou [sic.]	Lafontaine de Belcour	1 Sept., 1733	“ La coste du Nord du fleuve St. Laurent ” from the river Itamamion to Montagamion.	Nine years (1733-1742). Annual rental, 4 beaver skins. In 1739, Lafontaine, the Concessionaire, was granted an extension of 6 years. Further extensions must have been granted as Lafontaine, in 1756, entered into partnership with Strouds for 3 years (1756-1759).	“ Le privilege exclusif de faire des etablissements pour la pêche sedentaire du loup marin . . . avec les droits de pêche, chasse et traite avec les sauvages dans lad. estendue.”
Baye-Fortean	Adrien Demarais Vincent	20 Aug., 1748	Fortean bay, together with the tract of land of about ¾ league frontage between point des Dunes and point Grincédents, by four leagues in depth and the islands opposite.	Nine years (1748-1757) but, when ratified, was reduced to 7 years (1749-1756).	The right to make establishments “ de pesche du loup marin, ainsi que la Chasse et Traitte avec les sauvages a l'exclusion de tous autres.”
Kessressakiou to Keguaska	Legardeur de Couremanche	17 Oct., 1702	“ Au lieu appelé l'abrador pays des sauvages Esquimaux, a commencer depuis la riviere appelée Kegaska jusqu'a celle nommée Kesaskion [Hamilton river] qui ferout les deux bornes de la d. concession.”	Ten years (1702-1712).	The exclusive right “ y faire le commerce avec ces sauvages et la pesche du loup marin.”
Isles de Goelans	Antoine Marsal	15 Dec., 1736, and 26 Feb., 1738.	The 1736 grant extended from the southwest point of baye Ste. Barbe to a point three leagues northeast of same. In 1738, Marsal's concession was	Nine years (1736-1745).	Exclusive right to take seals between 15 June and 15 July.

reduced to the
Goelans islands.

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Anticosti and St. Lawrence	Desgroseliers and Radisson	29 Apr., 1676	Island of Anticosti and river St. Lawrence from Anticosti to Montreal.	Twenty years (1676-1696).	Granted the exclusive right to establish seal fisheries in Anticosti island and exclusive right to take "marsouin blanc" in the river St. Lawrence between Montreal and the eastern extremity of Anticosti. Also to take seals in said portion of the St. Lawrence in common with other French subjects.
Indian Island .	Perrault, Marcoux <i>et al.</i>	15 Sept., 1786	Indian Island and adjacent mainland on coast of Labrador.	—	Empowered "to establish Seal, Cod and Salmon Fisheries in the whole or any part" of Indian Island and the mainland between the western extremity of said island and a point five leagues northward thereof by "two leagues in depth, with the Rivers which shall be found therein" but without authority to exclude other British subjects "from fishing or drying fish on the said Island and Shore."

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Name of Concession.	Grantee.	Date of Grant.	Area of Grant.	Tenure.	Nature of Rights Conferred or to be Enjoyed.
Anticosti and St. Lawrence	Degroseliers and Radisson	29 Apr., 1676	Island of Anticosti and river St. Lawrence from Anticosti to Montreal.	Twenty years (1676-1696).	Granted the exclusive right to establish seal fisheries in Anticosti island and exclusive right to take “ marsouin blanc ” in the river St. Lawrence between Montreal and the eastern extremity of Anticosti. Also to take seals in said portion of the St. Lawrence in common with other French subjects.
Indian Island	Perrault, Marcoux <i>et al.</i>	15 Sept., 1786	Indian Island and adjacent mainland on coast of Labrador.	—	Empowered “ to establish Seal, Cod and Salmon Fisheries in the whole or any part ” of Indian Island and the mainland between the western extremity of said island and a point five leagues northward thereof by “ two leagues in depth, with the Rivers which shall be found therein ” but without authority to exclude other British subjects “ from fishing or drying fish on the said Island and Shore.”

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AND

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part.**

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1599	23rd Aug. 1926 ..	N	Affidavit of Stephen Bradbury	4185
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1601	29th Sept. 1926 ..	N	Affidavit of Sir P. T. McGrath	4187

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1604	26th Mar. 1858 ..	N	Sir G. Simpson to D. A. Smith	4193
1605	1863 ..	N	Extract from "Explorations in the Interior of the Labrador Peninsula," by H. Y. Hind ..	4194
1606	July 1916 ..	N	Notes and comments from "Among the Deep Sea Fishers"	4195

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CANADIAN LABRADOR.

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1610	July 1896 ..	N	Extract from letter by Dr. Grenfell	4196
1611	17th June 1926 ..	N	Affidavit of E. G. Grant	4196
1612	23rd Oct. 1912 ..	N	Extracts from "Among the Deep Sea Fishers"	4197
1613	13th July 1901 ..	N	Extracts from Dr. Grenfell's Log	4199

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PART XX.

MISCELLANEOUS DOCUMENTS

[16 March, 1926.]

SECTION I.

CENSUS STATISTICS OF CANADA.

No. 1422.

MEMORANDUM BY DOMINION STATISTICIAN ON
CANADIAN CENSUS RETURNS FOR
THE LABRADOR PENINSULA.

In submitting a statement upon the census returns of Canada affecting the territory within the Labrador peninsula, it is desirable first to take note of certain changes affecting the territorial limits of the Dominion in that quarter. The Dominion of Canada was called into existence by the British North America Act, 1867. Under section 6 of this Act, the part of the Province of Canada (as it existed at the date of the Act) which had formerly constituted the Province of Lower Canada was made the Province of Quebec. Three years later—by Imperial Order-in-Council of the 23rd June, 1870—Rupert's Land was admitted into and made a part of the Dominion of Canada. Since that time the whole Peninsula, exclusive only of the coastline from Blanc Sablon to Cape Chidley, has always been considered and treated for the purposes of the census as embraced within the Dominion as being part and parcel either of the Province of Quebec or of the unorganized territories of the Dominion.

Various censuses had been taken prior to Confederation which affected

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territory within the Peninsula, but except as regards the censuses taken in the old Province of Canada (1840-1867) in 1851 and 1861, the published returns of these censuses consist merely of a general abstract of the aggregate return of population for each census district, and there are no details indicating the distribution of the population within each district. For instance, the report of the census of 1825 in the Province of Lower Canada gives for the county of Northumberland (which as constituted by Proclamation of the Lieutenant-Governor of Lower Canada of 7th May, 1792, published in pursuance of the Imperial Act 31 Geo. III., chap. 31, s. 14, comprehended all that part of the Province to the

¹ Vide, Census of Canada, 1870-71, Vol. IV (Censuses of Canada 1665-1871),

p. 87.

² *ib. sup.* p. 95.

³ ib. sup. p. 98.

north of the St. Lawrence and east of the river Montmorency) simply a total return of 11,189.¹

Similarly, the census or rather statistical inquiry made in December, 1827 (as adjusted to the new civil divisions and subdivisions of the Province established by the Act 9 Geo. IV. (1829), chap. 73, L. Can.), gives only a general return for the county of Saguenay (which under that Act replaced the County of Northumberland as regards the Labrador peninsula) of 8416.² This return was accompanied by a “recapitulation and estimates” which included the following³:

Number of men employed in the King's Posts and Mingan, within the Province	400
souls	

⁴ ib. sup. p. 106.

Voyageurs employed in the Indian trade, some- times sojourning in the Indian territories	300
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⁵ ib. sup. p. 144.

The figures given in this statement were, moreover, stated to be “exclusive of the military forces of the country and the aborigines wandering in the interior.”

The published returns of the censuses taken in Lower Canada in 1831 and 1844 are correspondingly general : they give a total return for the county of Saguenay in 1831 of 9,891⁴and in 1844 of 13,787.⁵

Brief notes are given below of the censuses taken under the Act of 1847 (10-11 Vic. c. 14, Can.) in the Province of Canada and, since Confederation, in the Dominion of Canada under the Census Act of 1870 (33 Vict. c. 21, Can.), and succeeding legislation. The Act last cited provided for a census of the Dominion of Canada in the first year of each decade.

⁶ Census of Canada, 1851-52, Vol. I. p. 96.

CENSUS OF 1851-1852.

The census returns for the county of Saguenay give details for various places along the Saguenay River and the north shore of the River and Gulf of St. Lawrence, and include for sub-district No. 364 “Escoumins, Sault au Cochon, Isle Jeremie et Postes du Roi” (King's Posts), a return of 1284⁶ (which return, a footnote states, “includes 500 for King's Posts, and back settlements not taken”), and for sub-district No. 378 “Indians,” a return of 663.⁷

⁷ ib. sup. p. 98

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¹ Census of Canada, 1860-61, Vol. I, p.34.

CENSUS OF 1860-61

In the report of this census, the returns for the county of Saguenay¹ are detailed for several sub-districts, including the various localities along the north shore of the St. Lawrence and places which are not named. e.g.:—

River Moisi and other places	705
Shelldrake and other places	1050
Gibraltar Cove and other places	370

	River St. Jean and other places	649
² ib. sup. p. 35	Bay of Kegasca and other places	933

³ ib. sup. p. 542

The table of census by origin for this county shows that the total return for the county of 6,101 included 804 Indians, all of them tributary to places named along the north shore of the Gulf of St. Lawrence.² The table of census by “professions, trades and occupations” shows that the return for the county of Saguenay included 1,038 hunters.³

⁴ Census of Canada, 1870-71 Vol. I, p. 56.

CENSUS OF 1871

In the report of this census, the returns for the southeastern part of the Peninsula vast of the Bersimis River included under the Province of Quebec, in census district No. 152, “Labrador.”⁴ The detailed returns are given for various sub-districts lettered from A to H, identified with the names of places along the north shore of the St. Lawrence and comprising in all a superficial area of 38,856,353 acres. These returns include for:—

⁵ ib. sup. p. 306

190	Sauvages des Sept Isles	
552	Sauvages Betsiamites	
560	Sauvages de Mingan	
		1032 ⁵

¹ Census of Canada, 1870-71, Vol. IV, p. lxvi, and map pp. lxxvii and lxxix.

These figures indicate that the census contained an enumeration of a very considerable portion of the Indians inhabiting the interior country of the southeastern half of the Peninsula. The census, however, contained a special return of the aboriginal population of Canada, which shows that the whole of the Indians within the Labrador peninsula were enumerated as subjects of Canada. This return was set forth in the form of a table with an accompanying illustrative map indicating the territory occupied
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by each aboriginal group.¹ Extracts from this table with the map are given below :

Names of Tribes.	Description of Places Inhabited.	Popu- lation.	Territorial Super- ficies in English square miles.
	Littoral of the North Sea from Labrador to Alaska, the northern		

² ib. sup. lxii,
lxiv

The Esquimaux, In.	shores and islands of Hudson's Bay, with the islands of the Arctic Ocean. .	4,000	600,000
The Naskapis, Al.	Interior of Labrador, South-East Watersheds of Labrador, Rupert's Land to the east of Hudson's Bay, and the Mistassin Country	2,500	330,000
The Montagnais, Al.	North shore of the Gulf and mouth of the St. Lawrence, valley of the Saguenay River (These Indians do not fish). .	1,745	115,000

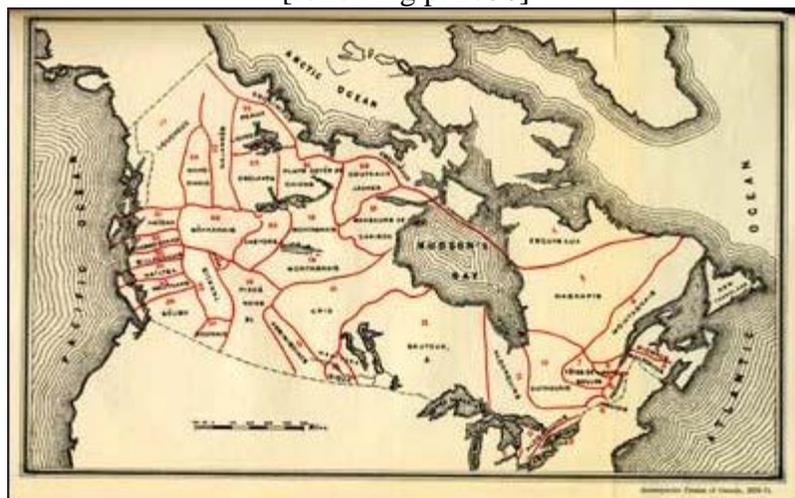
(See map opposite.)

The following statements explanatory of the above table and the map appear in the accompanying text :²

“By the Census of 1871, an exact enumeration has for the first time been made of the aboriginal population within the limits of the Province of Prince Edward Island (323), of Nova Scotia (1,666), of New Brunswick (1,403), of Quebec (6,988), and of Ontario (12,978), showing a total for these five Provinces of 23,358.

“However, as the Census has recorded this population only by localities and not by tribes, it has been thought desirable to supply this deficiency, and at the same time to try to establish the number of the indigenous population throughout the whole extent of the British possession in North America, together with the approximate extent of

[following p. 2730]



the superficies inhabited by each of the tribes, or groups of tribes ; the result of which will be found summarized in the Table which follows. The information has been drawn from the Census of 1871, from the writings and notes of the missionaries ; from reports, works and memoirs published at different periods, and from details received, *viva voce*, from persons who have been in intimate relations with these clans.”

“The names given in the following Table are those sanctioned by history or by the authority of ethnographers to mark the distinct groups ; there are added to each, letters indicating the race to which the tribe belongs.

* * * *

“Al. for the Algonquin race ; H. I. for Huron-Iriquois race ; D. D. for the Dene-Dindjie race ; and In. for the Esquimaux race (Innok.-Innoit).

* * * *

“The small map which accompanies this Table is given to enable the reader to easily form an idea of the territory occupied by each aboriginal group, of the relative extent of the hunting grounds and of their situation as to the maritime shores or fisheries of the interior. The figures of reference pertain alike to the Table and the map.

¹ Census of Canada, 1880-81, Vol. I, p. 44.

² *ib. sup.* p. 248

“It is scarcely necessary to say that the hunting grounds of each Indian tribe are not actually marked off by precise and invariable limits, like those which divide the Provinces of an organized country from one another, and that, therefore, the figures, beyond those taken from the Census of 1871, are only approximate. As to the calculations of the superficies, they have, in common with the rest of the work, been very carefully made, and it is confidently believed they do not yield in point of exactitude to the estimates made from time to time (which all necessarily vary) of the superficies of the unsurveyed regions of the American continent. From the total superficies, shown in the Table by tribal occupancy, and given in detail hereafter, for each Province, the bays and the great estuaries have been eliminated.”

CENSUS OF 1880-81.

The census returns for census district No. 76, “Chicoutimi and Saguenay” (Province of Quebec), contains details for various sub-districts along the north shore of the River and Gulf of St. Lawrence and includes for sub-district “ff. Unorganized Territory” a total return of 1,416.¹ The table of census by origin shows that the returns for the whole census district of Chicoutimi and Saguenay included 1,480 Indians, of

which number 1,398 were in the unorganized territory.²

Census district No. 192, designated "The Territories," gives the returns for the unorganized territories of Canada, including as sub-districts

“v. Eastern Rupert's Land,” and “w. Labrador.” The total return given for Eastern Rupert's Land is 4,349 ; that for Labrador 1,035.¹

The table of census by origin gives a return of 4,016 Indians for “Eastern Rupert's Land,” and of 1,000 for “Labrador (Can'n. Interior).”²

In the introduction to the report of this census, the following observations were made with regard to the census of the aboriginal population :

“It has been almost impossible to make an enumeration, properly so-called, of the Indian population over a great extent of the unorganized territory of the Confederation ; consequently the rate of the aboriginal population of the sub-districts thus situated has been settled by estimate, these districts being :

* * * *

All the sub-districts of District 192 (Territories) with the exception of those included in the Indian Treaties Nos. 1, 2, 3, 4, 5, 6 and 7, the enumeration of these being made according to the indemnity per head paid by the Department of the Interior ; and also with the exception of the principal portion of the Indian population of Eastern Rupert's Land, which has been regularly enumerated.

“The estimates of the Indian population of the sub-districts, not susceptible of enumeration, are the same as those published in the fourth volume of the Statistics and Census of 1871, whose approximate correctness is fully proved by a comparison of them with the portion regularly enumerated in 1881. In round numbers, of the total aboriginal population, amounting to 108,547 souls in the Census of 1881, the estimate just spoken of has been made in respect to 34,000.”

CENSUS OF 1890-91.

The census of this year includes detailed returns for census district No. 148, “Chicoutimi and Saguenay,” Province of Quebec. The returns for this district are identified with various sub-districts including as one of them “mm. Unorganized Territory” with a total population of 1,387.³ Census district No. 201, “The Unorganized Territories,” includes “Labrador,” but only the total return for the whole district, viz., 32,168, is given.⁴ There are no details to show what proportion of this enumeration belonged to “Labrador.”

CHANGES OF TERRITORIAL DIVISIONS OF CANADA.

Several changes of the territorial divisions of Canada

¹ ib. sup.
pp. 94-97.

² ib. sup.
pp. 300-301.

³ Census of
Canada, 1890-91,
Vol. I, p.82.

⁴ ib. sup.
pp.112, 378.

respecting territory within the Labrador peninsula have now to be noticed.

By Order-in-Council (Dom.) of the 18th December, 1897, rescinding a previous Order-in-Council of the 2nd October, 1895, the unorganized portions of Canada were divided into provisional districts. One of these districts—

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the district of Ungava—as described by the Order-in-Council and outlined on accompanying map, comprised all that part of the Labrador peninsula bounded on the south by the northern boundary of the Province of Quebec as subsequently fixed by chap. 3 of the Statutes of Canada, 1898, saving the coastline northward from Hamilton Inlet to Cape Chidley. By the statute just cited, the northern and northeastern boundaries of the Province of Quebec were conventionally defined. The boundary was drawn along the middle of the Eastmain river from its mouth to its source in Patamisk Lake and from the most northerly point thereof along a straight line approximately in latitude 52° 55' north to its intersection with the Ashuanipi branch of the Hamilton River, thence along the middle of that river to “the Bay du Rigolet or Hamilton Inlet” and thence easterly along the middle of the said bay or inlet “until it strikes the westerly boundary of the territory under the jurisdiction of Newfoundland,” and thence southerly along the said boundary to the point where it strikes the north shore of the Anse Sablon in the Gulf of St. Lawrence. Contemporaneously, the boundary on the north of the county of Saguenay, which had theretofore been coterminous with “the limits of the Province” (vide, R. S. Q. 1888, Art. 64, No. 54) was changed and the county now became limited on the north “by the parallel of 52° 45' north latitude and by the line dividing the waters of the basin of the River St. Lawrence from those of the River Ashuanipi, Hamilton or des Esquimaux” (vide, 62 Vict. (Que.) c. 6, s. 8). The county, nevertheless, continued to be, and still is, bounded on the east by “the limits of the Province” (vide, 62 Vict. (Que.) c. 6, s. 8 ; R. S. Q. 1909, Art. 67, No. 60 ; 13 Geo. V. c. 13, s. 1). The lands within the Province, north of the county of Saguenay, were constituted a territory to be known and designated under the name of “Territory of Ashuanipi” (vide, 62 Vict. (Que.), c. 5, s. 2). As defined by this Act “the territory of Ashuanipi is bounded on the north, east and west by the limits of the Province ; and on the south and southwest by the county of Saguenay. The territory so bounded comprises the basin of the River Ashuanipi, Hamilton or Esquimaux, as well as all other parts of territory watered by water-courses flowing directly towards the Atlantic.”

¹ Census of Canada, 1901, Vol. I, pp.98-99

² *ib. sup.* pp. 360-62.

³ *ib. sup.* p.130

CENSUS OF 1901.

The report of this census contains detailed returns for census district No. 149, “Chicoutimi and Saguenay,” Province

¹ ib. sup.
pp.392-393

² ib. sup. p.412.

³ ib. sup. p.142.

⁴ ib. sup. p.404.

of Quebec. These returns are identified with fifty-five sub-districts embracing all the localities along the north shore of the St. Lawrence and all the unoccupied and unorganized territory in the district.¹ The table of census by origin for this district shows that the total return includes 1,990 Indians, most of them included in the sub-districts along the north shore of the St. Lawrence.² For the unorganized districts of the Province of Quebec, viz., Abittibi, Mistassini and Ashuanipi, the census gives a return of 2,405.³ Of this total 1,270 are, by the table of origin, classified as Indians, 49 as half-breeds, and 925

p. 3734

unspecified.¹ The whole number, 2,405, are, by the table of nationalities, shown as Canadian.²

⁵ Census of
Canada, 1911, Vol. I,
pp.100-101.

Census district No. 206, "Unorganized Territories," includes a return for the district of Ungava of 5,113,³ of which 560 are shown in the table of origin as Indians, 50 as half-breeds, and 4,500 unspecified.⁴

⁶ ib. sup. p.119.

CENSUS OF 1911.

The report of this census gives detailed returns for census district No. 154, "Chicoutimi and Saguenay," Province of Quebec, in much the same manner as the census report of 1901, except that the details are given for 69 sub-districts.⁵ The total return for the unorganized parts of the Province is 2,066.⁶ The published returns of this census did not include the returns for the district of Ungava as the details had not been received at the time the volumes went to press. An addition of 1,285 was, however, made on this account to the general total. The pertinent details of the enumeration which was made are as follows :

301	Rigolet	
225	Northwest River	
8	Wickham Bay	
10	Hope's Advance Bay	
710	Chimo on Koksoak River	
31	Wolstenholme	
	1,285	

Mr. P. G. Smith took the census of Northwest River, which included the population of Goose Bay and Mud Lake on the Hamilton River. Mr. William E. Swaffield took the census returns for Rigolet.

CHANGE OF THE BOUNDARIES OF THE PROVINCE OF QUEBEC.

By chap. 45 of the Statutes of Canada, 1912, the boundaries of the Province of Quebec were extended so as to embody in that Province the whole of the Peninsula exclusive only of the area of the coastline over which the Colony of Newfoundland exercised lawful jurisdiction. The territory so annexed to the Province of Quebec was constituted a new territory under the name of " New Quebec " (Statutes of Quebec, 1912, chap. 13).

¹ Census of Canada, 1921, Vol. I, pp.281-82

CENSUS OF 1921.

The census returns for all that part of the Province of Quebec east of the Bersimis River were included under the census district of Saguenay. These returns gave details not only for all the localities along the north shore
p. 3735

² ib. sup. p.442

of the St. Lawrence, but also for Ungava,¹ under which the enumeration included:—

Rigolet	..	..	..	..	..	..	..
155							
Northwest River	..	..	..	..	..	..	..
317							
Port Burwell	..	..	..	..	..	..	..
155							

627

The total return for Saguenay included, according to the table of origin, 2,368 Indians, of which 1,068 were shown as in Ungava, and 1,292 on Indian reserves ; 1,557 were of unspecified racial origin.²

It may be added that the census of Ungava was carried out through the agency of the Royal Canadian Mounted Police, the Hudson's Bay Company's factors, and Roman Catholic and Church of England missionaries. With regard to the Lake Melville district, the method of the census may be illustrated by the following report of the officer in charge, Mr. John S. Black-hall, Post Manager of the Hudson's Bay Company's post at Rigolet :

“I have divided the names into two sections : (1) those who reside in this vicinity (Rigolet) all the year, and (2) those who only come within my jurisdiction during the summer months-July to September. The remaining months they trek inland, say, one hundred miles west and then come within the station at Northwest River, named by you North West Arm.

“These will be found at the end pages of the book.

“This district comprises an area of, say, forty miles, West and North, and twenty miles East and South. The natives and settlers being scattered along the inlet and rivers in various creeks and coves.

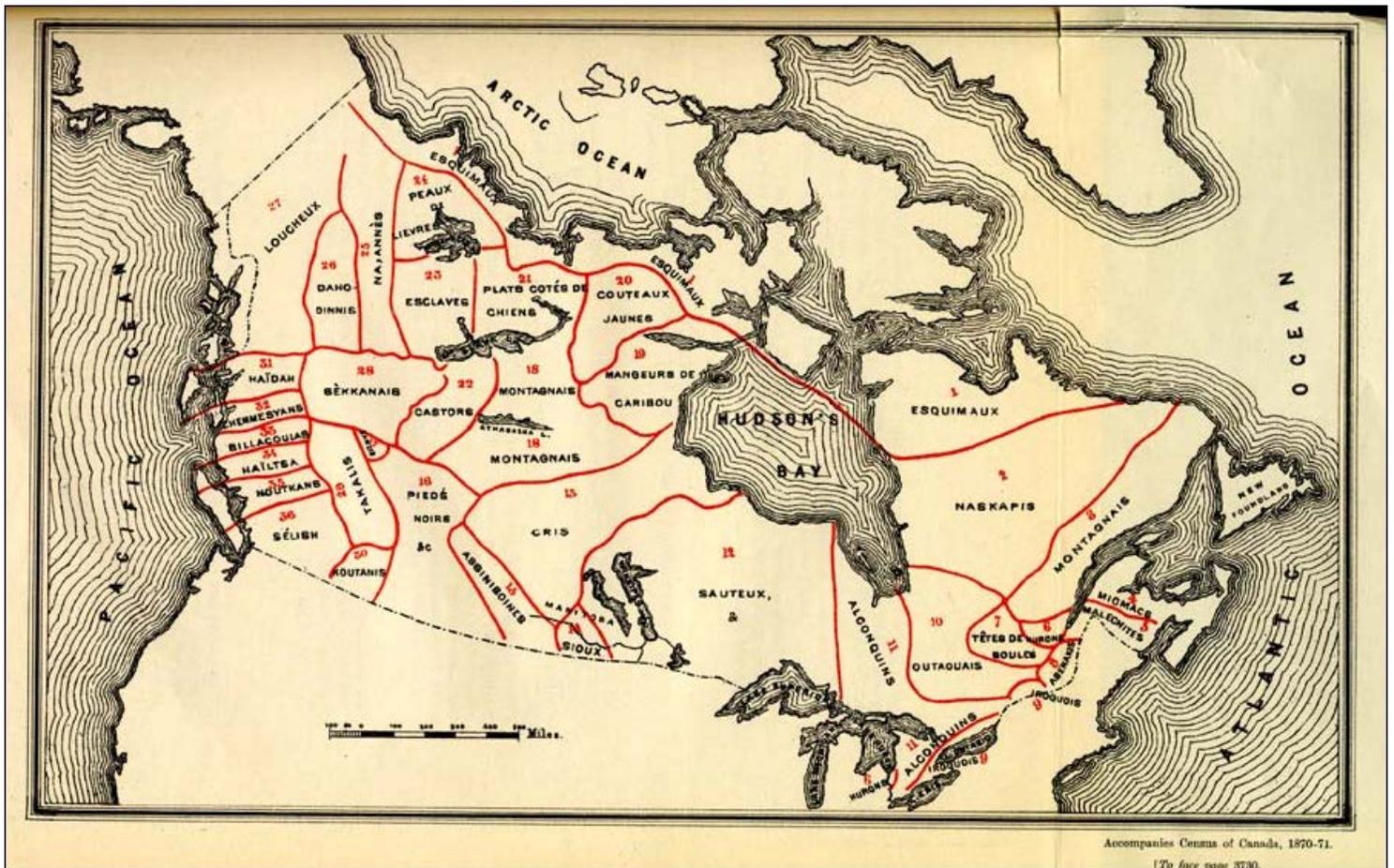
“I have not included the coast dwellers, that is, those who remain on the coastline all the year, as admittedly they belong to Newfoundland.” A second officer in this district, Mr. E. F. Ewing, reported as follows :

“I have now completed the census of Northwest River and the following outlying settlements, Grand River, Kenemish, Traverspine, Sabasquashew, and North West Islands.”

R. H. COATS,
Dominion Statistician.

Dominion Bureau of Statistics,
Ottawa,
March 16, 1926.

Map of Canada indicating the territory occupied by each aboriginal group



Accompanies Census of Canada, 1870-71.

[To face page 3730.]

[22 July, 1921.]

SECTION II.

VOLUNTARY STATEMENTS OF INHABITANTS OF THE LAKE MELVILLE DISTRICT AND TWO AFFIDAVITS RELATING TO THE VOLUNTARY STATEMENTS.

No. 1423.

IN THE PRIVY COUNCIL.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND ON THE
LABRADOR COAST.

Voluntary Statement of ERNEST F. EWING, of North West River,
Lake Melville.

1. I am the Post Manager of the Hudson's Bay Company's post situated at the mouth of North West River in Lake Melville. I have served with the Hudson's Bay Company at Cartwright as accountant, at Rigoulette Post as acting Manager and four years as Post Manager at North West River Post. From my experience on the Labrador and examination of the ancient records of the Hudson's Bay Co., I have acquired some knowledge of the conditions of trade and happenings in this region for some years past, and, more particularly, of the facts and matters hereinafter mentioned.

2. *Re Indian Trade* : The fur trading post at North West River, operated by the Hudson's Bay Company, was established in the year 1836, for the purpose of trading with the Indians. During the time North West River was supplied from Quebec with a French Canadian priest, this Post was the headquarters (during summer months) of large bands of Indians, chiefly of the Montagnais tribe. A few Nascaupes also come this way. With the passing of the caribou, the Nascaupes ceased to come, as the journey was too far to undertake unless deer were plentiful. These Indians now come from Ungava (their headquarters) to Davis Inlet and from there get enough grub to enable them to resume their hunting back to Ungava.

The Montagnais or Mountaineer Indians still continue to visit North West River annually and each year we receive contingents from Mingan, Seven Islands, Nascarrow, and St. Augustine. These Indians are dependent on North West River for sufficient supplies to enable them to hunt furs on their way out to the above mentioned gulf posts. The country over which Indians hunt, ranges as follows : St. Augustine Indians hunt and always have hunted from St. Augustine to Sandwich Bay. Mingan and Seven Island Indians' hunting grounds extend from Mingan and Seven Islands respectively to Lake Michikamau and the Grand or Hamilton River. Over these hunting grounds they claim their fathers and forefathers have always hunted and trapped. The Nascaupes hunt from Ungava to Lake Michikamau. Indians, when hungry, will kill game and in fact all animals at any season of the year, for food, irrespective of the condition of the skin, and of game regulations. When hunting fur, however, they conform to the game laws of Quebec rather than to those of Newfoundland for the reason that they would otherwise be unable to dispose of their pelts at the gulf post which are regularly visited by the Quebec game inspectors.

3. *Re Customs Duties* : This Post has been in the habit of paying Customs Duties to the Newfoundland Government for some years, but always under protest, as we claim that this post comes under the jurisdiction of Canada rather than of Newfoundland.

4. *Re Game and Fish Regulations* : Salmon and trout are netted during July and August in Lake Melville and its tributary rivers and streams. Newfoundland's game laws are, the hunters claim, not applicable to this country. Owing to climatic differences, the seasons are not the same as Newfoundland's, and, therefore, as the different fur bearing animals change with the seasons, the natives cannot conform with Newfoundland game laws even if they were otherwise disposed to do so. Representation has been made by the natives to the Newfoundland Government to have the existing laws altered, but their requests have not been granted. The game laws as applied in the province of Quebec will be of great advantage to Lake Melville and the Hamilton Inlet.

5. *Re Magisterial Authority in Lake Melville* : M. Murphy, J.P., of Cartwright, one of the commissioners of the Newfoundland Supreme Court, and Dr. W. T. Grenfell, have authority to try cases in Labrador. Dr. Grenfell has to my knowledge tried a few cases in this Bay. In one case, an Indian was tried for catching furs out of season. This case was dismissed. Some few cases of seduction have also been tried. Samuel Hope, charged with seducing a young girl, was fined \$100.00 and James Michelin was sentenced to one year in gaol for the like offence. He was incarcerated at St. Johns.

6. *Re Grants of Mineral Lands* : I have been informed by

Charles Goudie of North West River that sixteen grants were made on Lake Winokapau on the Hamilton River, all of which have lapsed with the exception of five, which, I understand, Goudie is holding for himself and others, paying \$20.00 per annum for each grant to the Newfoundland Government.

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7. *Re Grants of Poor Relief* : The Newfoundland Government dispenses relief at Rigoulette and Cartwright and along the coast. Owing to the hunting facilities being good and possibly to more energy being shown by the natives of North West River, there has been very little need of relief at this post. When necessary however I have issued relief to natives on account of the Newfoundland Government. I also issue relief when occasion arises to sick and destitute non-treaty Indians who, being considered Canadians, have no claim on the Newfoundland Government. Relief was issued by me to Indians last year, and application has been made to the Indian department at Ottawa for payment of the same.

8. *Re Religious Dependence of Indians* : The Indians visiting and inhabiting this post, depend as their forefathers did before them, upon the diocese of Quebec to furnish them with a priest for spiritual instruction and for the purpose of christening their infants and burying their dead. They will carry their dead about with them for hundreds of miles until they meet a priest in order that their dead may be buried upon consecrated ground. The religious superstitions of the Indians are very pronounced and their belief in the rites of the Roman Catholic Church very strong.

9. *Re Census*. The census of North West River and surroundings was taken by Mr. P. Smith of the Hudson's Bay Company in 1911. The Hudson's Bay Company is taking it this season for the Canadian Government.

10. *Re Codfish in Lake Melville*. There are no codfish in Lake Melville proper. Some years codfish will come to within a short distance of Rigoulette post, and in 1919 whilst I was at Rigoulette the natives caught large quantities at Burnt Wood Head one mile below the Hudson's Bay Company's post. This is a very unusual occurrence and possibly does not happen once in a decade. The caplin which the codfish pursues for food does not enter this Inlet and this together with prevalence of fresh water in this bay, accounts for the fact that there are not now, nor apparently ever have been, any deep sea codfish in Lake Melville.

11. *Re Natives Attitude Towards Boundary Question* : The natives of North West River and outlying settlements have expressed the wish that they desire a change in their condition ; that whilst the boundary question is in dispute they still have to pay taxes to the Newfoundland Government for

which they receive nothing in return, except a more or less casual mail service.

I make the foregoing statement voluntarily, verily believing it to be true according to the best of my knowledge, information and belief.

Dated at North West River this twenty-second day of July, A.D. 1921.

E. F. EWING.

Witness:

C. P. PLAXTON.

[21 July, 1921.]

No. 1424.

IN THE PRIVY COUNCIL.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND ON THE
LABRADOR COAST.

Voluntary Statement of RAOUL THEVENET, of North West River,
Lake Melville.

1. I am the manager of the fur trading post of Revillon Freres Trading Co. Ltd., which is situated at the mouth of the Northwest River in Lake Melville. This post was established in 1901 for the purpose of trading in furs with the Montagnais and Nascaupee Indians but more particularly with the former, sometimes called the Gulf of St. Lawrence Indians, which we knew were "hunting" in the country in and about Lake Melville and its tributary rivers. I took charge of the post in 1909.

2. *Re Indian Trade* : The Indians with whom we trade are mostly Montagnais. We see also a few Nascaupees but only a few families make North West River their headquarters. All the others, the Montagnais, come from St. Augustine, Mingan, Seven Islands and Nascarow, on the Gulf of St. Lawrence. These we see only during the winter months when they come out to replenish their provisions, it being too far for them to go and come back to and from their original trading posts to their hunting grounds in the same season. The territory at and around North West River as far as Hopedale towards the coast has been the best of the Indian hunting ground for generations past, but these last few years the so-called Natives (half-breeds) and Newfoundlanders have been making a regular business of trapping, some of them having as many as three to six hundred traps set during the hunting season. In doing this they have overrun the Indian hunting grounds. The Indians are continually complaining to me about the matter, for, as hunting is their only means of living, they are getting poorer every year. Indeed but for the relief which has been given them at the expense of the Government of Canada some of them would surely have starved. They are becoming very bitter against the white trappers and any year trouble may break out. No relief whatever has been given to the Indians by the Newfoundland Government. The North West River Posts

get only a small share of the Indian fur trade ; by far the largest part goes to the posts on the Gulf of St. Lawrence. Perhaps this is accounted for, in a large measure,

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by the fact that the Indians for generations past have been devout Roman Catholics and have been in the habit of going out each year to the Gulf posts to meet the priest in charge of the Missions which have been long established at these posts. In former times, a Roman Catholic priest from Quebec used to visit North West River and for some time there was a Roman Catholic Mission here ; but for some reason unknown to me the priest discontinued his visits about thirty years ago, telling the Indians to meet him thereafter at the Missions on the Gulf.

3. *Re Customs Duties* : My Company pays each year about Three Thousand Dollars in duties to the Newfoundland Government, and has been doing this since the post was established. We have always paid under protest. We have never been required to pay any duties on furs caught in Canadian territory and exported to Newfoundland via North West River and Rigoulette. Only goods imported from Canada and coming through Rigoulette to points inland have been taxed. We never see any Newfoundland officials, except the Customs Officer at Rigoulette and some years a Game and Fish Warden. In 1910 and 1911 Judge Morris and Minister of Marine Picott paid us a visit. It was short. I complained about the mail service which was and is still shamefully handled and nil during the winter. They made a good many promises which they did not or could not keep, and it is the last we saw or heard of them. This mail service is the only return ever given to the people here for all the moneys paid to the Newfoundland Government by way of duties. The Labrador people have no representative in the Newfoundland Legislature.

4. *Re Land Grants* : Some grants of lands were made by the Newfoundland Government in 1905 to some of the natives, notably to Malcolm McLean of Carter's Basin and to a number of the natives at Grand Village, Mud Lake, but I cannot say how much land was granted. The fee charged appears to have been about Three Dollars for Fifty Acres. Licenses of mining locations have also been granted by the Newfoundland government as far inland as Lake Winokapou on the Hamilton River. I submit herewith two of these licenses ; one, in favour of Charles H. Goudie and, the other, in favour of Joseph Lescandron, both of North West River.

5. *Re Magisterial Authority* : For some ten or fifteen years past, Doctor W. T. Grenfell, of the Deep Sea Mission, who is a Newfoundland Justice of the Peace for The Labrador, occasionally has visited North West River and heard a number of cases. In 1914 a Canadian, Mr. Armand Martin, then the Manager of Revillon Freres Post here, was appointed a Justice of the Peace for North West River. He vacated the office in

1915 when he left North West River. Dr. Paddon of the Grenfell Mission was appointed in his room and stead. Dr. Paddon heard three cases here : two were cases of seduction and one a breach of the game regulations. In one of the seduction cases, Dr. Paddon imposed a fine of \$100 ; in the other, he sentenced the accused to one year in gaol. The prisoner was taken to the gaol at St. John's

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and when he came back he reported that it was the best time he ever had had in his life. His term was shortened three months for good conduct and on his release the Warden of the gaol showed him the " sights " of the City. Thus, the administration of Justice at North West River has been made as attractive as possible to the natives. In the third case, relating to the breach of the game regulations, Dr. Paddon dismissed the charge but forfeited the pelts which were 1 Silver and 2 Red Foxes.

6. *Re Game and Fish Regulations* : During recent years an attempt has been made to apply the Newfoundland game and fish regulations at and about North West River, but these regulations are not observed by the natives except during the occasional visit of the Customs Officer at Rigoulette or of the Game and Fish Warden. The Indians make no pretense of observing these regulations at any time, being governed apparently only by their own customs. I understand that a Newfoundland Game and Fish Warden first visited North West River about 1906 ; he was a man named White, Robert Montague says he was told by White to take up his nets which were in the Rapids about three miles above the mouth of North West River, but that he paid no attention to him. Four years ago, however, Game and Fish Warden Delaney required Montague to remove his nets from the Rapids. His reason for doing this is not at all clear in view of the fact that my Company as well as the Hudson's Bay Co. and the Natives of North West River were permitted to continue to fish by nets in the mouth of the River as has been their custom time out of memory. It is the practice of the Game and Fish Warden when he comes here to require the trading companies to fill out forms showing the quantities of furs which they have bought during the season.

7. *Re Poor Relief* : I know of only one case of relief given by the Newfoundland Government at North West River. The recipient was Mrs. McKenzie. She had just arrived from the coast. The relief amounted to \$12 as per order from relieving officer Gosse. It looked much like a personal gift, and she spent it all on fancy articles. That was in 1919. During the Spanish Influenza crisis, the same year, many of the natives died, and the Newfoundland Government was called upon for help. The government's answer, as publicly announced by Sir John C. Crosbie, Minister of Shipping, and published in "The Plaindealer," a weekly newspaper published

at St. John's, Newfoundland, early in November, 1919, was "Let them die." This statement is characteristic of the attitude of indifference and neglect which the Newfoundland Government at all times has shown towards the Labrador.

8. *Re Cod Fish.* No Cod Fishing was ever carried on, so far as I have been able to ascertain, in the waters of Lake Melville, for the good reason that there are no cod fish there. The explanation, resides in the fact that these waters are largely fresh and consequently not a suitable habitat for the deep sea cod fish. This condition of things appears to have existed time out of memory, so there is no reason to believe that cod fish were ever caught in

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Lake Melville. They have been caught occasionally in the Hamilton Inlet a few miles eastward of Rigoulette, but that I believe is the nearest point to Lake Melville where they have been found.

9. To the best of my knowledge every one of the natives living in this country earnestly wished that this will be held to be Canadian territory. They say, "We do not think anything worse could happen to us than to be put under the jurisdiction of Newfoundland."

I make the foregoing statement voluntarily, verily believing it to be true according to the best of my knowledge, information and belief.

Dated at North West River this Twenty First Day of July, A.D. 1921.

(Sgd.) R.

THEVENET.

Witness:—(Sgd.) C.P. PLAXTON.

No. 1422.

[19 July, 1921.]

IN THE PRIVY COUNCIL.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND ON THE LABRADOR
COAST.

Voluntary Statement of MALCOLM McLEAN of Carter Basin,
Lake Melville.

1. I came to Labrador from the Island of Lewis, Scotland, a young man of 19 years of age, in the year 1872, in the service of the Hudson's Bay Company. For five years I worked at the Company's posts at Rigoulette and Northwest River ; then I left the Company's service in order to do trapping and fishing on my own account and I have followed that occupation ever since. I have resided continuously on and about the Hamilton Inlet and Lake Melville, and have an intimate knowledge of the conditions which have obtained from time to time and of everything that has happened in this region since I came here.

2. The Montagnais and Nascaupée Indians, with whom the trade at the posts at Rigoulette and the Northwest River has always been carried on, hunt over all the territory north and south of Lake Melville and the Hamilton Inlet, right out to the sea-shore, wherever there is game to be found. They have always been doing that since I came to this country and I believe their forefathers ranged over the same territory. The Eskimo live along the sea-shore north of the Hamilton Inlet, the first considerable settlement of them being at Hopedale where the Moravian Brothers have a mission. A few of them trade at the Hudson's Bay Company's post at Rigoulette but none of them trades at the posts at North West River.

3. The first grants or leases of lands or of timber rights upon Lake Melville of which I have knowledge, were made by the Newfoundland government about 1901. In that year two concerns began operations. One, the Grand River Pulp and Lumber Co., of Nova Scotia, began to cut timber on limits lying upon Goose Bay and the Hamilton River. The Company established two mills : one at Mud Lake and another at Carter's Basin, though they were operated at different times. The Company continued operations until about 1911 or 1912, when the mills were closed down and all operations suspended. Since then. I have cut 5,000 ft. of timber on the Company's

good order under the Newfoundland regulations ; but beyond this no further operations have been carried on.

The other lease granted in 1901 was to the firm of Messrs. Calder and Muir of Nova Scotia, of a timber limit upon the Kenamou River. In the fall of 1901, they erected a portable mill at Carter's Basin ; they cut timber throughout the winter and sawed it in the following summer. The lumber was sold to the Grand River Pulp and Lumber Co., which shipped it away. About 1907, Messrs. Carter and Muir sold their limit to S. P. Benjamin, of Nova Scotia, who in the winter of that year had a gang of 14 or 15 men on the limit. They cut a large quantity of logs but nothing further was done. The logs are still rotting on the ground. I understand Mr. Benjamin some time afterwards sold the limit to the McMartins of Montreal but this firm never worked the limit.

In or about September 1913, a man named Edward E. Robinson came to Carter's Basin as the manager of The London and Labrador Corporation, Ltd., of London, England. He began operations for his company on the Kenamou River. They cut logs up to Christmas time the first winter and the next winter they cut a large quantity of pit props on Carter's Basin, and on the north side of Lake Melville about 12 miles east of Northwest River. These props are still on the ground. No further operations were ever carried on by the company.

About 1910 or 1911, and for several years following, a concern called The Labrador Syndicate in which I believe a number of Newfoundlanders were interested, had some cruising done in the timberland around the head of Lake Melville ; also a search was made for minerals. No operations of any kind were started, however.

During two or three summers (1916, 1917 and 1918, I think), a Mr. Penny, agent of the Reids of Newfoundland, did some cruising over the lands around the head of Lake Melville, but no operations resulted from this work.

4. The game and fish regulations of Newfoundland are observed neither by the Indians nor by the settlers in and about the Lake Melville country. During the past six or seven years a Newfoundland game and fish warden has paid an annual visit to Lake Melville, going up as far as Mud Lake. There were many breaches of the law if he had wished to take notice of them, but I have never heard of his taking any action to secure the punishment of offenders.

5. No cod fishing has within my recollection ever been carried on in Lake Melville for the reason that the water of this lake, whilst slightly brackish, contains too much fresh water to make the lake a suitable habitat for this species of fish. On one or two occasions cod-fish have been caught in the Narrows, about three miles eastward of Rigoulette, but this was regarded as a most exceptional event. Usually they are caught about two

miles east of Rigoulette in the Hamilton Inlet but rarely to the westward of that limit.

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6. According to my certain knowledge, a census has been taken for the Canadian government of the settlers living around Lake Melville on three different occasions, namely, in 1891, 1901 and 1911, and this year it is again being taken. The census of 1891 was taken by Mr. Mesber of Sandwich Bay ; that of 1901 by Mr. Guy, of Sandwich Bay and that of 1911 by Mr. Peter Smith of the Hudson's Bay Company at the Northwest River post.

7. Ever since I came to Labrador, the Indians of the country, both Montagnais and Nascaupée, have been, without exception, devout members of the Roman Catholic Church ; and until last year their spiritual needs were attended to by priests belonging to the diocese of Quebec. Pere Babel was the first priest to visit the Northwest River post. That was in the " Sixties." He was followed by Pere Arnaud who came here several years. He was succeeded in this mission by Pere Lacasse who also made a number of visits. Later on Pere Favert came ; and still later, Pere Le Moine. The last named was the last priest from Quebec to come here. He discontinued his visits about thirty years ago, telling the Indians to come down thereafter to the missions on the Gulf of St. Lawrence. Last year a priest from Newfoundland came here.

8. The inhabitants of this country are dissatisfied with the present state of things and are anxious, according to my knowledge, hardly without exception, that this country should be held to constitute part of Canada rather than Newfoundland.

They believe that their lot cannot be any worse and expect that it is likely to be a great deal better if the question as to the boundary is decided in that way.

9. In 1905, I may add that I secured from the Newfoundland government a grant of 160 acres on Carter's Basin, subject to a reservation of gold, silver, coals and other minerals. I paid the government the sum of \$49.00 for this land.

The foregoing statement has been read over to me and I sign the same verily believing it to be true according to the best of my knowledge, information and belief.

Dated at Dated at Carter's Basin, Lake Melville, this 19th day of July A.D. 1921.

MALCOLM McLEAN.

Witness:

LE ROY T. BOWES.

No. 1426.

IN THE PRIVY COUNCIL.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND ON THE
LABRADOR COAST.

Voluntary Statement of THOMAS L. BLAKE and AMON CHAULK of
Mulligan Bight, Lake Melville and JOSEPH MICHELIN of
Traverspine on the Hamilton River.

1. We, the undersigned are amongst the oldest inhabitants on and about Lake Melville and the Hamilton Inlet.

I, Thomas L. Blake, was born about 20 miles west of Rigoulette 78 years ago.

I, Joseph Michelin, am 75 years of age and was born at a settlement on Lake Melville about 12 miles east of North West river.

I, Amon Chaulk, aged 66 years, came to the Labrador Coast in 1868 and, except for four years spent at Stag Bay, have lived continuously on and about Lake Melville.

We have been trappers and fishermen all our lives, our practice being to fish in the summer for salmon and to trap fur-bearing animals in the winter time. We have a fair remembrance of the conditions and happenings which have obtained and taken place in this region since we were young men and more particularly of the facts and matters hereinafter mentioned.

2. The Indians who have traded for a great many years at the North West River Post are the Montagnais or Mountaineer Indians who come north-wards from the Gulf of St. Lawrence and in particular from St. Augustine, Mingan and Seven Islands to hunt and trap the fur bearing animals. Many years ago we used to see Nascaupée Indians from the Ungava country, but when the outposts of the Hudson's Bay Company at Lake Winokapau and Fort (Nascaupée) Nascopie which was located near the headwater of the Hamilton River, were closed about 1873 or 1874, these Indians ceased to come down here in any considerable numbers. The Indians have always hunted north and south of Lake Melville, generally speaking, as far eastward as Mulligan Bight.

3. The principal fishery carried on in Lake Melville and the Narrows between the said lake and Hamilton Inlet is the salmon fishery. Very occasionally we have caught the deep sea codfish in the Narrows about 2 or 3 miles west of Rigoulette, but this is a very exceptional occurrence, the nearest point to Rigoulette at which this fish is usually caught being Black Island in the Hamilton Inlet 20 miles or more distant.

4. We have never at any time been in the habit of observing the Newfoundland game and fish regulations, being governed in our hunting and fishing only by certain customs which have long been recognized by the inhabitants of this region. We understand that the Newfoundland fishermen who fish for cod in the Hamilton Inlet have always been governed by the Newfoundland regulations.

5. We know of no grants of land which have been made by the Newfoundland government except the grant of 60 acres of land at Traverspine, which was made to the undersigned Joseph Michelin a few years ago, and also we understand some grants of land were made about 1905 to a number of the settlers at Mud Lake.

I, the undersigned Joseph Michelin, obtained two mining licenses from the Newfoundland government, one relating to a location on the Hamilton river about five miles above Muskrat Falls and the other to a location at Lake Winokapau. These licenses have lapsed.

6. Although we have been required for some years past to pay Customs Duties upon the goods imported by the Hudson's Bay Company and other posts and bought by us from the posts, we have never been given any representation in the Newfoundland Legislature nor any return for the revenue contributed by the inhabitants of Labrador except a Mail Service, which at best is a very poor one, letters posted to us in the fall of the year frequently not reaching us until the following June.

According to our information, the inhabitants of Lake Melville and the Hamilton Inlet are, without a single exception that we have heard of, most anxious that Labrador shall be held to constitute part of the Dominion of Canada.

The foregoing statement has been read to us and we sign the same verily believing the same to be true according to the best of our knowledge, information and belief.

THOMAS LEA BLAKE
JOSEPH MICHELIN
AMON CHAULK

Witness : H. A. W. PLAXTON

No. 1427.

[18 July, 1921.]

IN THE PRIVY COUNCIL.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND ON THE
COAST OF LABRADOR.

Voluntary Statement of JOHN MICHELIN and JOHN BLAKE, both of
Grand Village, Mud Lake, on the Hamilton River.

1. We, the undersigned, are the oldest inhabitants of the country on and about Lake Melville and the Hamilton Inlet.

2. I, John Michelin, was born in 1852 at Sabisisquasho on Lake Melville about twelve miles east of the Northwest River. My father, Merceller Michelin, was a French-Canadian who came from Three Rivers, Quebec, to work at the Hudson's Bay Company's post at the Northwest River shortly after it was established. I have lived in this country ever since my birth. The greater portion of my time, since early manhood, I have spent in the service of the Hudson's Bay Company : during the past fifteen years I have been in charge of an outpost for the company at Grand Village, Mud Lake.

3. I, John Blake, the son of the late William Blake, deceased, was born at a settlement on Lake Melville near Rigoulette in 1856 and have always lived in this country, except for two winters spent in Nova Scotia. My occupation, for the most part, has been that of a trapper and fisherman.

4. We both have an intimate knowledge of the country on and about Lake Melville and the Hamilton Inlet, of the natives who inhabit or range over this region, and of the conditions and happenings which have existed and taken place from time to time since our early boyhood, and, in particular, of the facts and matters hereinafter mentioned.

5. The Montagnais Indians have been in the habit of trading furs annually at the trading posts situated at the Northwest River and also to an inconsiderable extent at the Hudson's Bay Company's post at Rigoulette, the trade at the latter post being carried on for the most part with the planters

living around the Hamilton Inlet and a few Eskimo families.
The said

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Indians call themselves the “ Gulf Indians.” They sojourn at the various trading posts along the Gulf of St. Lawrence during the summer months, usually leaving these posts some time in August to travel northwards by canoe routes to their hunting grounds in the interior country. Originally these Indians never visited the trading posts hereabouts, but since the “ seventies ” they have been in the habit of coming out to the Northwest River about the middle of December to obtain fresh supplies of provisions. Some of them come back in the early spring to trade their furs, but the most of them go to the gulf posts, claiming that they receive higher prices for their furs at those posts. Before the Montagnais Indians began to come to the Northwest river, the trade at this place was carried on chiefly with the Northwest River Indians who hunted over this region and with the Nascaupee Indians who came down from the North, but in the course of time many of the Northwest River Indians died off and others of them joined the Gulf Indians and the Nascaupees were attracted to the trading posts in the Ungava country, and to some extent also to the posts of Davis Inlet and to the posts on the Gulf of St. Lawrence.

The Indians hunt over all the territory north and south of Lake Melville and the Hamilton Inlet, as far seawards as the coastal mountain range, near the seashore, wherever game is to be had, and they have done this, we believe, for a great number of years.

6. *Re grants and leases of lands, timber limits and mineral rights.*

The first grant or lease of timber limits or of lands made in this region by the Newfoundland government was that made to the Grand River Pulp and Lumber Co. about twenty years ago of a timber limit on Goose Bay and the lower part of the Hamilton River. The company erected three mills,—one at the Kennemish River, one at Mud Lake, and still another at Muskrat Island in the Hamilton River. They carried on operations until 1911 or 1912 when they closed the mills and abandoned all operations, except (we believe) the annual cutting by hand-saw of 5,000 feet of lumber in order to keep alive the said grant or lease.

Another timber limit on the Kenamou River was granted about the same time to a man named Caulder of Nova Scotia. He worked this limit during one winter (1902–3) cutting upwards of 800,000 feet of deals.

In 1905 each of us as well as a number of other settlers obtained from the Newfoundland government grants of the lands on which our homes are now situated, the other settlers referred to being Robert Best, Mark Best, and Joseph Blake. We understand the Methodist Mission also secured a grant of the lands occupied here by the chapel and parsonage. In 1917

we each obtained from the Newfoundland government a grant of mineral rights on Lake Winokapau up the Hamilton River. We know that Charles Goudie, Donald Michelin, Joseph Blake, Rev. Wm. S. Mercer and George Serricks secured similar grants in the same region. None of us worked our claims and we believe the grants have all lapsed.

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7. *Re Game and fishing regulations.*

Until 10 years ago no pretence was made to notify or apply Newfoundland regulations in regard to the killing of game and the catching of fish, in and about Lake Melville and the Hamilton River, but during the last 10 years posters have been hung up from time to time at the trading posts requiring the inhabitants to observe certain game and fishing regulations. However, very little has been done towards securing the enforcement of these regulations. During the last six years (excepting last year), Mike Delaney, a Newfoundland fish warden, paid an annual visit to Lake Melville and Mud Lake. Three years ago he required Robert Montague of Northwest River, to remove his trout nets from the rapids just below Grand Lake, but this is the only case of an exercise of authority by him which has come to our notice. The Indians do not observe the game and fish regulations of the Newfoundland government. They seem to be governed only by their own customs in regard to hunting and fishing seasons.

8. *Re magisterial authority.*

Dr. Wilfrid T. Grenfell and Dr. Henry Paddon of the Deep Sea Mission, are justices of the peace on the Labrador Coast, the former having been appointed some twenty years ago, and the latter six or seven years ago. These gentlemen have visited Rigoulette and the Northwest River annually during the periods of time above mentioned, but we do not know of more than four cases which they have heard and disposed of, one of them being a case relating to an infraction of the game laws and the others relating to charges of seduction.

9. Although the Newfoundland government, of recent years, has been in the habit of granting relief through the Hudson's Bay Company's post at Rigoulette, to poor and destitute planters and Eskimos on the sea-coast to the eastward of Rigoulette, no such grant has to our knowledge ever been made to any person on or about Lake Melville on the Hamilton River.

10. An inconsiderable number of cod fish are caught during a few days each year in the Hamilton Inlet about four miles east of Rigoulette, but at no time within our recollection has this species of fish been caught or found in the Narrows or in Lake Melville to the eastward of the limit above mentioned.

In our opinion, the reason for this is the prevalence of fresh water within the area above described, the cod fish being strictly a salt-water fish.

11. The inhabitants of Labrador have never been given the franchise, neither have they been allowed representation in the Newfoundland legislative assembly, although on one or two occasions they petitioned the Newfoundland government to be allowed such representation. They feel that they are entitled to it in view of the considerable revenue which Newfoundland derives

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from Labrador. Moreover, they are greatly dissatisfied with what Newfoundland has done and, more particularly, left undone on the Labrador coast and earnestly hope that Labrador will be held to form part of Canada.

The foregoing statement has been read over to us and we sign it, verily believing it to be true in every particular.

Dated at Grand Village, Mud Lake, this 18th day of July, A.D. 1921.

(Signed) JOHN MICHELIN.

(Signed) JOHN BLAKE.

Witnesses :

C. P. PLAXTON.

JOHN E. KEATS.

No. 1428.

[23rd July, 1926.]

AFFIDAVIT OF ERNEST FREDERICK EWING.

IN THE PRIVY COUNCIL.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND ON THE
LABRADOR COAST.

I, ERNEST FREDERICK EWING, Fish Merchant, of Rose Blanche, Newfoundland, make oath and say as follows :—

I am a native of St. John's, Newfoundland, and was employed with the Hudson's Bay Company for six years, the first two in travelling for the Company between the posts of Cartwright, Rigolet and Northwest River, buying furs and auditing, after which I took charge of the post at Northwest River, which appointment I held for four years, resigning in 1922 to engage in my present work.

There were three trading posts at Northwest River—one owned by the Hudson's Bay Company, one by Revillon Freres of Paris, and one by the Porters of New York.

There were about fifteen families on our post, that is, within the land we claimed as our own ; five families at the Revillon post, which was across the river from us, and two families at the Porter post, somewhat to the south of ours. There were also various families of half-breeds and natives within the vicinity, in small settlements.

About fifty families, or, say, 200 persons in all, of Montagnais Indians would come out semi-annually from the interior. They claimed Northwest River as their native home, and most of them had never been across the height of land except to hunt, while others travelled as far as Seven Islands, Mingan, and intermarried with some of the natives on Canadian Labrador. They were Roman Catholics, and came out every summer to meet the priest from Newfoundland, who comes to Northwest River to visit them, and they came out in winter about Christmas and New Year to barter their furs for supplies.

Our post at Northwest River operated an outpost at Mud Lake, some 18 miles away ; another at Traverspine River, 23 miles away, and recently started one at Nascopie River, 50 miles inland from Northwest River, which we ran in winter for the convenience of the Indians, to save the expense of hauling supplies there by dog teams. It was proposed to build there shortly and stock it by means of a motor-boat in summer.

In the summer of 1921 a Canadian Government steamer came to Northwest River in connection with the Labrador Boundary Case and had on board Mr. Plaxton, a lawyer from the Canadian Department of Justice. He, with the assistance of a Frenchman. Mr. Thevenet, the manager of the Revillon Post,, circulated among the residents a printed paper with various questions on it, some of which suggested that the residents would be better off under Canadian control than under Newfoundland control, and requested them to declare themselves in favour of, and petition for, the territory to pass into the control of Canada. Messrs. Plaxton and Thevenet would get the settlers to visit the latter's office, discuss with them the matters included in the circular, and then persuade them to sign this statement. Most of the people signed it under the impression that they would be better off, because they were told that if Canada had control they would not have to pay any taxes, would have a better mail service there, and a better development of the region would be undertaken. I am confident that if the facts were properly put to the people they would all sign another petition declaring in favour of Newfoundland control.

ERNEST FREDERICK EWING.

Sworn at Rose Blanche, Newfoundland,
this 23rd day of June, 1926.

Before me,
ARTHUR SQUAREY, J.P.,
Stipendiary Magistrate,
Channel, N.F.

No. 1429.

[18 July, 1921.]

AFFIDAVIT OF J. C. CROSBIE.

IN THE PRIVY COUNCIL.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND ON THE LABRADOR.

Newfoundland
St. John's, S.S.

I, JOHN C. CROSBIE, Minister of Finance and Customs, make
Oath and say as follows :—

1. In early November 1919 I was Minister of Shipping in
the Government of the Colony which went out of office
following the General Election held that same month.

2. I have read an extract from a statement made at North
West River on the Labrador on the 21st day of July, 1921, by
Mr. Raoul Thevenet and witnessed by Mr. C. P. Plaxton.

3. I have seen the statement there made that in answer to
a request made to the Government of Newfoundland for relief
for the natives of Labrador in that year I had replied “Let them
die.”

4. I never made any such statement either directly or
indirectly ; nor did I or any other member of the Government
of the day, to my knowledge, make any statement or
declaration of such a nature, or of any nature which - could
indicate any less concern or interest in the welfare of the
natives of Labrador than we would show towards those of
Newfoundland.

5. If any statement were attributed to me by the
“Plaindealer” newspaper, as stated by Mr. Thevenet, it would
be in the nature of political propaganda. I was a candidate for
the then pending General Election, and the said newspaper was
a publication printed solely for political purposes and for the
benefit of the cause of the Party opposed to the Government of
which I was a member.

6. Even if I had seen the statement in the said
publication, I would not consider its effect as being of
sufficient importance to warrant my taking any notice of it, the
circulation of the “Plaindealer” being insignificant and its
credibility negligible.

JOHN C. CROSBIE.

Sworn at St. John's this 31st day
of July, A.D. 1926, before me,
D.Q. KENT,

Commissioner of Affidavits of the
Supreme Court of Newfoundland.

SECTION III.

AUTHORITIES AND OPINIONS ON EVIDENTIAL VALUE
OF MAPS.

[1755]

No. 1430.

MEMORANDUM OF AUTHORITIES AND OPINIONS
ON EVIDENTIAL VALUE OF MAPS.I.—*Dispute Concerning the Limits of Nova Scotia or Acadia,*
1750-1755.¹

[11 Jany., 1751.]

By the 12th article of the Treaty of Utrecht, 1713, France yielded and made over to Great Britain, in the most ample manner and form, “all Nova Scotia or Acadia, with its ancient boundaries,” etc. A dispute afterwards arose between the two Crowns with regard to the limits of Nova Scotia or Acadia, as so yielded to the Crown of Great Britain. In July, 1749, it was agreed between the two Crowns that commissaries should be appointed to define, in an amicable spirit, the boundaries between the colonial possessions of Great Britain and France in North America. General William Shirely, Captain-General and Commander-in-Chief of the Province of Massachusetts Bay, and Mr. William Mildmay, were appointed commissaries on behalf of Great Britain. The commissaries held sittings in Paris from 1750 till May, 1755. Negotiations were suspended preliminary to the outbreak of the Seven Years' War on the 17th May, 1756. Several memorials were exchanged between the British and French commissaries upon the question of the limits of Acadia.

In a memorial dated 11th January, 1751, the British Commissaries, after referring to the evidence afforded by certain maps in support of their contention, said :

“But for these there is no occasion to cite them
after the Proofs of an higher Nature already produced, and
Maps are appeal'd to by us only in answer to the Assertion,
that Charts of all Nations confine the Limits of Acadia or
Nova Scotia precisely to the Peninsula ;

¹ Memorial of the English and French Commissaries, Nova Scotia (London : 1755) Vol. I, pp. 71-33, 263-265, 275-279.

Evidence, Geographers often lay them down 'upon incorrect Surveys, copying the Mistakes of one another ; and if the Surveys be correct, the Maps taken from them, tho' they may show the true Position of a Country, the Situation of Islands and Towns, and the Course of Rivers, yet can never determine the Limits of a Territory, which depend entirely upon authentic Proof ; and the Proofs in that Case, upon which the Maps should be founded to give them any Weight, would be themselves a better Evidence, and therefore ought to be produced in a Dispute of this Nature, in which the Rights of Kingdom are concern'd.'

In their answer to the French memorial the English Commissaries made the following additional observations on the subject of the map evidence :

“In Treating of Maps it may not be improper to remind the French Commissaries, that the Commissaries of the King of Great Britain were not the first who appealed to these as an Authority in the present Discussion : That they never have cited them but to correct Mistakes made by the French Commissaries : That they in their last Memorial disclaimed any great Reliance upon the Evidence of Maps, even where they have proved them to favour the Claim of the King of Great Britain. And that they should not at this Time have gone into a more minute Consideration of them, if the French Commissaries had not made it necessary, by again giving a much greater credit to Maps than they deserve, and by affecting to make them seem material in the Discussion of the Point before us ; and if they did not themselves judge it to be essential, not to leave any one of the Proofs urged by the French Commissaries in Support of their system without a sufficient Confutation.

“The three English Maps cited by the French Commissaries are, one by Mr. Halley, another by Mr. Popple, and a third by Mr. Salmon ; and to give them the greater Weight, they are very careful to do Justice to the great Knowledge of Mr. Halley in Geography and Astronomy, and they observe that Mr. Popple is one of those who have 'travaille sur les titres.' The fact is, that Acadia is marked in Mr. Halley's Map within the Peninsula near the Sea-Coast, and Nova Scotia near the Isthmus, from which it appears, that he did not think Acadia was confined to the South-east Part of the Peninsula, and that he was very little attentive to the Position of Countries in his Map ; his only View having been to shew the several Variations of the Needle in the several Degrees of Longitude there marked ; the whole Map full of geographical Errors proves this to have been his Design, and the French Commissaries chose an unfortunate Topic to commend Mr. Halley upon, when they cited this Chart as a Specimen of his profound Knowledge in Geography ; however strong an Example this very Map may be of that

Gentleman's great Skill in Astronomy, and however perfect it may be in the Light and for the Purpose he designed it.

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“As to Mr. Popple's Map, the French Commissaries have no other Authority from any Circumstances attending the Publication of that Map, for supposing that it was made under the Inspection or Patronage of the Board of Trade, or for representing Mr. Popple as a Person whose Situation should given additional Credit to it ; than that Mr. Popple has said in the Margin of his Map, that he undertook that Work with the Approbation of the Lords Commissioners of Trade and Plantations, who might very well approve of such an Undertaking but who never superintended or approved of Mr. Popple's Manner of executing it. Mr. Popple inserted this marginal Note meerly to secure a better Reception to his Work ; he does not pretend in it, that the then Board of Trade had ever approved of any thing farther than the Undertaking, his Map was framed according to his own particular Notions ; he published it upon his own single Authority : the Board of Trade at the Time gave it no extraordinary Sanction. It is inconsistent with the very Records it pretends to have copied ; it came into the World as the Performance of a single Person ; it has ever been thought in Great Britain to be a very incorrect Map, and has never in any Negotiation between the two Crowns been appealed to by Great Britain, as being correct, or a Map of any Authority.

“But if the French Commissaries could make this Map to have been the Work of a Servant of the English Government directed at the time by the Board of Trade, what Evidence could they draw from it, of any Effect in the present Discussion ? Mr. Popple has marked the Peninsula with the Name of Acadia, and the whole Country westward as far as the Southern Bank of the River St. Lawrence with the Name of Nova Scotia, of which he makes St. Croix the western Boundary, which shows he thought the Country of Acadia or Nova Scotia extended from the southern Bank of the River St. Lawrence to St. Croix, and makes his Map but a very slight Authority for the French Commissaries, who confine Acadia or Nova Scotia to the south-eastern Part of the Peninsula, or for the Opinion of the Sieur Durand, who confines it to the whole of the Peninsula only.”

[1846.]

* * * *

II.—*The Oregon Boundary Controversy, 1817-1846.*¹

In his treatise entitled “The Oregon Question Examined” (London, 1846), Sir Travers Twiss dealt with the question of the evidential value of maps as follows :—

“Maps are but pictorial representations of supposed territorial limits, the evidence for which must be sought for elsewhere. There

¹“The Oregon Question Examined.” By Sir Charles Travers Twiss. London, 1846, pp. 288, 305-306, vi-viii.

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may be cases, it is true, where maps may be evidence ; when, for instance, it has been specially provided that a particular map, such as Melish's Map of North America, shall be the basis of a convention ; but it is to be regretted that maps of unsurveyed districts should ever have been introduced into diplomatic discussions, where limits conformable to convenient physical outlines, such as headlands or watercourses, are really sought for, and are understood to be the subject of negotiation. The pictorial features of a country, which, in such cases, have been frequently assumed as the basis of the negotiation, have not unusually caused greater embarrassment to both the parties in the subsequent attempt to reconcile them with the natural features, than the original question in dispute, to which they were supposed to have furnished a solution. That the name of Nouvelle France should have been applied by French authors and in French maps to the country as far as the shores of the Pacific Ocean, was as much to be expected as that the name of California should have been extended by the Spaniards to the entire north-west coast of America. which we know to have been the fact, from the negotiations in the Nootka Sound controversy.”

Referring in a later chapter to the claim illustrated by some French geographers to the westwardly extension of New France to the Pacific Ocean, and remarking that this claim required “some better evidence than the maps of the French geographers,” Sir Travers Twiss proceeds to say :—

“A map can furnish no proof of territorial title ; it may illustrate a claim, but it cannot prove it. The proof must be derived from facts, which the law of nations recognises as founding a title to territory. Maps, as such, that is, when they have not had a special character attached to them by treaties, merely represent the *opinions of the geographers* who have constructed them, which opinions are frequently founded on fictitious or erroneous statements : e.g., the map of the discoveries in North America, by Ph. Busche and J. N. de Lisle, in 1750, in which portions of the west coast of America were delineated in accordance with De Fonte's story (supra. Ch. IV), and the maps of north-west America at the end of the seventeenth and beginning of the eighteenth centuries, which represent California as lately ascertained to be an island. An examination of the collection in the King's library at the British Museum, will remove all scepticism on this head.”

In his preface to this treatise Sir Travers Twiss added the following remarks on the subject of maps :

“Some observations have been made in Chapter XII. and other places, upon the general futility of the argument from maps in the case of disputed territory. The late negotiations at Washington have furnished an opposite illustration of the truth of the Author's remarks. Mr. Buchanan, towards the conclusion of his last letter to Mr. Pakenham,

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addressed an argument to the British Minister, of the kind known to logicians as the *argumentum ad verecundiam* :—
'Even British geographers have not doubted our title to the territory in dispute. There is a large and splendid globe now in the Department of the State, recently received from London, and published by Maltby and Co., manufacturers and publishers to “The Society for the Diffusion of Useful Knowledge,” which assigns this territory to the United States.' The history, however, of this globe is rather curious. It was ordered of Mr. Malby (not Maltby) for the Department of State at Washington, before Mr. Everett quitted his post of Minister of the United States in this country. It no doubt deserves the commendation bestowed upon it by Mr. Buchanan, for Mr. Malby manufactures excellent globes ; but the globe sent to Washington was not made from the plates used on the globes published under the sanction of The Society for the Diffusion of Useful Knowledge,' though this is not said by way of disparagement to it. The Society, in its maps, has carried the boundary line west of the Rocky Mountains, along the 49th parallel to the Columbia River, and thence along that river to the sea : but in its globes the line is not marked beyond the Rocky Mountains. Mr. Malby, knowing that the globe ordered of him was intended for the Department of State at Washington, was led to suppose that it would be more satisfactorily completed, as it was an American order, if he coloured in, for it is not engraved, the boundary line proposed by the Commissioners of the United States. The author would apologise for discussing so trifling a circumstance, had not the authorities of the United States considered the fact of sufficient importance to ground a serious argument upon it.”

[1884.]

III.—*Ontario-Manitoba Boundary Dispute*, 1884.¹

In his argument before the Judicial Committee of the Privy Council, Mr. Dalton McCarthy, Q.C., (of counsel for Manitoba), introduced his observations upon the maps which had been put in on either side, by the following remarks :

“Now, my Lord, I come to the maps, which I may just

as well refer to now. And the first observation I make with regard to them is this. I am going to refer to the maps put in by the other side, and also to deal with those we put in, bearing upon this question. It was stated (and I ask our Lordships to adopt it as my argument if I cannot read it) by those who have been concerned in investigations of this kind, that there is nothing more deceptive than a map. Nothing has given rise to greater trouble in the settlement of international boundaries than reliance being placed upon maps. Of course it is a different thing if a map is

¹ Proceedings before the Judicial Committee of Her Majesty's Imperial Privy Council on the Special Case respecting the Westerly Boundary of Ontario (printed by order of the Legislative Assembly, Toronto, 1889, p. 267).

referred to in a treaty, and incorporated in a treaty, or Act of Parliament, or any document of that kind, but maps published independently, or under Royal authority, as many of these are said to be, are apt to be, and have been proved by experience to be, the most deceptive possible kind of evidence to be guided by ; so that whilst I put in maps which may or may not be useful, I disclaim relying very much upon them, and at the same time I argue before your Lordships that very little reliance is to be placed upon maps put in by either side.”

IV.—*British Guiana-Brazil Boundary Dispute, 1901-1903.*

In submitting her argument in this controversy, Great Britain made the following observations upon maps in relation to the question of their value as evidence in a dispute as to boundaries :

(i) *General Observations.*

“In questions as to the boundaries of territory claimed by conterminous nations the maps of the territory which have from time to time been prepared, whether published or unpublished, may be referred to in illustration of the questions at issue from two different points of view.

“They may be cited as showing the contemporary ideas of the geography of the particular district and the existence or non-existence - of towns, villages, or posts ; or they may be considered in respect of the boundaries shown upon them.

“In neither case can a map taken by itself be regarded as an authoritative document ; in cartography, perhaps more than in most documentary evidence, it is necessary to study and verify the whole history of a document before it can be admitted to have any authority at all. This statement holds good, though in a less degree, in respect of geographical details as well as lines of boundaries. Boundary lines are the more liable to error because geographers have in very many instances been without adequate information on which to base their conclusions.

“The manner in which map-makers so often mechanically copy one another introduces further difficulty into the consideration of cartographical evidence ; and the want of system in selecting the maps to be copied adds yet more ; atlases often contain different maps of the same territory with very different presentations of it, more particularly as regards the lines of boundary exhibited. This is specially true of atlases prepared about the end of

the eighteenth and the beginning of the nineteenth century.”

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“(b) As to Boundaries.

“On a question of boundary, maps may be cited as evidence—

1. Of the general reputation as to the boundary ;
2. Of the claims put forward by any particular nation ;
but in either case the extent to which a map is entitled to carry authority requires careful investigation.

“It does not follow that a map which deservedly enjoys a high reputation in respect of its delineation of physical features should be treated as of equal authority on a question of boundary.

“D’Anville’s great Map of 1748 was the first map of South America which portrayed what apparently are definite political boundaries. But there is no record of the information on which D’Anville based his lines, and they accordingly cannot be accepted as having any weight in the face of definite historical facts which are against them.”

“Fundamental Difference in the Point of View.

“There is a fundamental difference in the view taken by the British and Brazilian Governments as to the importance of maps as evidence in an international case. Brazil appears to appeal to the whole cartography of Guiana without any reference to its authority, and without any real attempt to investigate critically the value of any of the maps. Great Britain, on the other hand, holds that the value of a map depends upon various circumstances which must be carefully determined ; that, of itself, a map is of no value as evidence at all ; and, therefore, that the accumulation of maps all showing the same line carries no weight whatever. The repetition of an erroneous fact upon a series of maps does not prove the fact any more than the repetition of errors by historians alters the actual truth when it is discovered. The lake of Parima was marked on maps of repute down to the middle of the 19th century, but this did not give the lake existence. The British Government maintain that each map, like each document, must be investigated carefully and verified by contemporary evidence. They have endeavoured all through this inquiry to maintain a rigid standard of criticism in regard to every map which they have brought before the Arbitrator.”

[1903.]

V.—*Alaska Boundary Dispute*, 1903.¹

In his argument before the arbitral tribunal, in the Alaska

Boundary Case, Sir Robert Finlay, of Counsel for Great Britain, said:—

“Of course I do not attach any very great importance to maps. The question of what value is to be attached to the maps depends entirely

¹ Alaska Boundary Tribunal, Protocols, Arguments, Awards, etc., Sept. 3rd to Oct. 20th, 1903, (London, printed at the Foreign Office, 1903), pp. 160-161, 167, 158, 944.

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on the circumstances under which it was made. If a map merely represents something taken from an earlier map, or the impression which the map-maker formed, which was a convenient one to put on paper, then it comes to nothing. It is merely hearsay. When it comes to accurate investigation of boundaries, really the evidence of the maps requires to be very carefully weighed before it is determined what importance should be attached to any particular map.”

Further on in his argument, Sir Robert Finlay said :—

“Now I have thought it my duty to go through these maps, calling attention to what they show. I am very sensible of the fact that after all these subsequent maps are of no very great value in a matter of this kind. The maps that were before the negotiators may be very useful indeed. Subsequent maps merely show the impression of the mapmaker, and we do not always know from what source he derived it ; they very often copy from one another, and when it comes down to a mere question of boundary, as indicated either by colour or by drawing a line, the information of the mapmaker is not necessarily of any particular value. So that the evidence of the maps must be discounted by all these considerations.”

Little importance is apparently attached by jurists to the colouring of maps or to the manner in which names are written or printed thereon. Interrupting Sir Robert Finlay in the course of his argument on the evidence of maps, Lord Alverstone, the President of the tribunal, took occasion to say:

“Mr. Attorney : May I suggest to you, only as a result of very long experience and having had to do with these sort of maps, as you know, on several occasions, with regard to legends and popular representations of the names and places, channels, and things of that kind, they are extremely valuable ; but with regard to these minor details such as colouring, we have always found them to be something that you cannot act upon for the reason that they are done by hand and very often done by people who do not understand what they were doing ? On broad lines they are useful to both sides, but on the minor points I do not think they give us much assistance.’

“Sir Robert Finlay : I quite agree, my Lord.

“The President : I think that is our general feeling.”

In his opinion in support of the award, Lord Alverstone said:

“For the purpose of identifying the channel, known as Portland Channel, the maps which were before the negotiators may be useful. This is one of the points upon which evidence of contemporary maps as to general reputation is undoubtedly admissible.

* * * *

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[1926.]

“I do not attach particular importance to the way in which names on the maps are written or printed, and therefore I do not rely on the fact that in the case of some of these contemporary maps, the words 'Portland Channel' are written so as to include, within the name, the lower part of the channel which is in dispute. From long experience I have found that it is not safe to rely upon any such peculiarities.

* * * *

“In the view I take of the terms of the treaty, it is not necessary to discuss subsequent action. Had the terms of the treaty led me to a different conclusion and entitled me to adopt the view presented by Great Britain, I should have felt great difficulty in holding that anything that had been done or omitted to be done by or on behalf of Great Britain or that any conduct on her part prevented her from insisting on the strict interpretation of the treaty ; nor do I think that the representations of map-makers that the boundary was assumed to run round the heads of the inlets could have been properly urged by the United States as a sufficient reason for depriving Great Britain of any rights which she had under the treaty, had they existed.”

VI.—*The King v. Price* (1926) S. C. R. (CAN.) 28.

“A grant was made in 1693 by Frontenac, Intendant of New France, and confirmed in 1694 by royal warrant of Louis XIV, King of France, upon the request of Augustin Rouer, for and in the name of Louis Heuer, his son, for the concession of a lake, or one lake ('d'un lac'), called Mitis, which discharged itself into a river of the same name, with one league of land all about the lake. This grant was and still is commonly known under the name of the seigniori of Lake Metis. According to the topography, it is not a single body of water which is to be found at the source of the River Metis, but three bodies of water, two of them being approximately of the same altitude above sea level and the third being of an altitude approximately eight feet above the other two ; all three discharged naturally, from one to another by channels of flowing water which form no part of the lake expanse. At the time of the grant, these bodies of water were situated in a remote locality and uninhabited unless by Indians. After various changes of ownership, the respondent became the proprietor of the seigniori in 1922 and it then instituted a petition of right for the purpose of determining the extent of the property. It is alleged that, at the time of the grant, it was not known that there was any difference of level between the three bodies of water and that what are now shown in the modern maps and known generally as three lake sections with

connecting channels were, by the grant, considered and described as a single lake ; and it concluded by asking for a declaration that the three bodies of water should be considered as 'a lake' within the meaning of that term in the grant.

* * * *

“At the trial, the respondent produced a number of maps which were admitted in evidence on its behalf : they came originally from various sources, but were mostly selected from the collection of maps at the Dominion Archives. The earliest are of the date of 1765 and in all these maps down to 1863, there is a single lake shown at the head of the River Metis.”

* * * *

The Supreme Court of Canada (Anglin, C.J., Idington, Mignault, Newcombe and Rinfret, J.J., Duff, J. dissenting), reversing the judgment of

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the Court of Appeal for Quebec and affirming the judgment of the Court of King's Bench for Quebec, allowed the appeal of the Crown and identified the upper lake, now known as Lake Metis, as the “Lac Mitis” referred to in the original grant. The judgment of Anglin, C.J., Mignault and Newcombe, J.J., was delivered by Newcombe, J. The following extracts, with regard to the evidential value of the maps which were admitted in evidence on behalf of the respondent, are taken from his judgment.

“Maps are from their nature of very slight evidence. Geographers often lay them down upon incorrect surveys or information, copying the mistakes of one another. This may be illustrated by reference to Holland's map of 1803, where it is said, under the figure of Lake Metis, surrounded by lines to represent the boundaries of the seignior, that ' these lakes are laid down not from actual survey but from information of travellers.' Now this drawing which is the first representation of a lake which is of any use for the purpose of realizing its size or shape was certainly laid down without any reliable information ; there is no lake of its outline or size upon the ground, and yet the lake as shown here re-appears in subsequent maps with considerable regularity until 1863, a time considerably subsequent to Ballantyne's survey. It must be remembered that these are all maps of an unsurveyed district, and they are really of little or no value to prove the facts which they depict or represent ; they may however be useful as admissions against the party who produces them ; and, in this aspect, the inference which they support is that, until the time of Ballantyne's survey, everybody, both cartographers and the persons from whom they got their information, were under the impression that the River Metis had its source in one lake only. It may be that the description of the grant is apt or sufficient to include the upper or the lower lake as a lake, or one lake, called Metis, which is the subject of the grant, but upon what principle the description can be extended to include more lakes than one I am unable to realize. I see no convincing evidence that the 3 lakes were called Metis ; but, if they were, how

does that improve the respondent's case ? If there were 3 lakes called Metis discharging into the River Metis the grant is surely void for uncertainty, or because it is impossible to apply the description to any defined subject-matter ; and, if it be only the lower lake which discharges into the River Metis, that fact, while perhaps sufficient to identify the lake as the subject of the grant, does not entitle the respondent to include also 2 other lakes called Metis which do not discharge into the River Metis.

“Maps, when they have no conventional or statutory significance, should be regarded merely as representing the opinions of the persons who constructed them, they furnish at best no adequate proof, and none when it appears that they are founded upon misleading or unreliable information or upon reasons which do not go to establish the theory or opinion represented, and when they have not the qualifications requisite

to found proof of reputation. Some of the later printed or coloured maps issued by the Departments of Colonization or of Crown Lands represent the Seigniorship in accordance with the respondent's contention, others adopt that of the Crown. These maps embrace large districts, if not the whole Province ; they are issued for departmental use. . . . Territorial limits and the boundaries of wilderness grants are, perhaps more frequently than not, lacking in definition or precision of statement, and when a general map of a Province or district is in course of preparation, the attention of the departmental draftsman is not apt to be specially directed to careful consideration of the particular features or details upon which claims may depend, and sometimes, not unnaturally, particulars creep into the draft without due consideration of their use or trustworthiness. They are matters of detail, perhaps proper to be shown if verified, but not contributing to the main purpose of the work, which is not essentially concerned to verify them. These maps are prepared and issued not for the purpose of establishing facts or as admissions ; they merely illustrate, and the proof must come from sources outside the maps. *Mercer v. Denne* (1904), 2 Ch. 534. Neither the Minister nor the Governor in Council can in the reasonable course of administration consider and conclude all the particulars or details which find place in a general map, or all the questions which, if the map import admission or proof, it might be used to determine. The map-makers of the department use the information which is available, and they in turn, no matter how carefully they execute their work, are not proof against oversight or errors, the consequence of which might be very serious if these erroneous representations are to be taken as determining the facts with relation to pending claims. It is not in this manner that the Crown domain can be alienated."

VII. In *Bidder v. Bridges*, 54 L. T. (N.S.) 529, the action was to establish commonable rights over a piece of land on behalf of all the proprietors and occupiers of lands or tenements in a certain parish, the chief questions raised by the evidence being (1) whether the land in question was within the parish, and (2) if so, whether the plaintiffs had any right to maintain the action. The Ordnance map, tithe maps, and several other maps of the district, some of which had been kept in the British Museum, were tendered in evidence for the purpose of showing the position of the boundaries of the parish. Kay, J., who tried the case, held that the maps were not admissible in evidence. On this part of the case he said :

"The Ordnance map and several other maps, some of which came from the British Museum were tendered in evidence on either side. The Ordnance map excludes the

land in question from the parish of Mitcham. Many of the other maps included it. In the case of the Ordnance map, it seems an investigation on the question of the disputed parish boundary was made under the provisions of the statute 4 & 5 Vict. c. 30 and subsequent Acts. No public inquiry was held. Certain men were appointed

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by justices of the peace in the locality to point out the boundaries. Tracings of maps then produced were taken, and a statutory declaration was made by the lord of the manor of Wallington, detailing the acts of ownership which have been proved in this action, or some of them. But the maps which were produced from the British Museum were not then referred to. It was argued that hearsay evidence, and evidence of reputation is admissible to prove the position of parish boundaries (1 Taylor, pp. 541, 542), and that therefore all these maps should be received. As to the greater part of them, I am not informed how, or on what information, the boundary was laid down. None of them probably was made with the same care in this respect as the Ordnance map, and it is obvious that nothing like the amount of evidence on the question was produced for the purpose of that map which has been given before this court. *In my opinion these maps are not admissible as evidence in such an action as this ; if they were, they amount to no more than a statement of the opinion of the particular map-maker upon such information as he obtained at the time.** Upon this part of the case, namely, in what parish the land in question lies, I am bound to say that the plaintiffs have not proved to my satisfaction that this portion of the common is within the vill of Mitcham, or if it were, that it is not waste of the manor of Wallington. If it be waste of the manor of Wallington, though within the vill of Mitcham, the lord of that manor would have a right to separate it from the rest of Mitcham Common, and so to exclude the plaintiffs and the other commoners claiming in right of Mitcham (Co. Litt. 122a). This is sufficient to decide the case against the plaintiffs, but so much evidence was given, and so much argument was used upon the other points raised, that I feel bound to express my opinion upon them.”

*With regard to the question of admissibility of old maps as evidence of reputation, see also *Mercer v. Denne*, 1904, 2 Ch. 534; 1905, 2 Ch. 538, C.A.

No. 1431.

[1845.]

**EXTRACT FROM “HISTORY OF OREGON AND
CALIFORNIA.”**

BY ROBERT GREENHOW, TRANSLATOR AND LIBRARIAN TO THE
DEPARTMENT OF STATE OF THE UNITED STATES. 2ND EDITION

[Boston: 1845.]

Proofs and Illustrations.

* * * *

F.

SHOWING THAT THE FORTY-NINTH PARALLEL OF LATITUDE WAS NOT
SELECTED AS THE LINE OF SEPARATION BETWEEN THE FRENCH AND
THE BRITISH TERRITORIES IN NORTH AMERICA, BY COMMISSARIES
APPOINTED AGREEABLY TO THE TREATY OF UTRECHT.

Mr. Monroe, minister plenipotentiary of the United States
in London, in his letter of September 5th, 1804, to Lord
Harrowby, the British secretary for foreign affairs,* makes the
following statement with regard to the adoption of the 49th
parallel of latitude as the northern boundary of Louisiana :—

“By the tenth article of the treaty of Utrecht, it is agreed
that 'France shall restore to Great Britain the Bay and Straits of
Hudson, together with all the lands, seas, sea-coasts, rivers,
and places, situate in the said bay and straits, which belong
thereto ; and it is also agreed, on both sides, to determine,
within a year, by commissaries to be forthwith named by each
party, the limits which are to be fixed between the said Bay of
Hudson and the places appertaining to the French, which limits
both the British and French subjects shall be wholly forbid
to pass over, or thereby to go to each other, by sea or by land :
the same commissioners shall also have orders to describe and
settle in like manner the boundaries between the other British
and French colonies in those parts.' Commissaries were
accordingly appointed by each power, who executed the
stipulations of the treaty, in establishing the boundaries
proposed by it. They fixed the northern boundary of Canada
and Louisiana by a line beginning on the Atlantic, at a cape or
promontory

* Communicated to Congress, and published with President Jefferson's message of
March 30th, 1808.

in 58 degrees 30 minutes north latitude, thence south-westwardly to the Lake Mistissin, thence farther south-west to the latitude of 49 degrees north from the equator, and along that line indefinitely.”

Mr. Monroe does not give his authority for the assertion respecting the adoption of this line by the commissaries ; he, however, most probably derived his information from the map of America attached to Postlethwayt's “Dictionary of Commerce,” published in 1751, to which he alludes in other parts of his correspondence, and in which a line appears nearly as described by him, with a note on the map, saying, “The line that parts French Canada from British Canada was settled by commissaries, after the peace of Utrecht, making a curve from Davis's Inlet, in the Atlantic Sea, down to the 49th degree, through Lake Abitibis, to the North-West Ocean.” In the dictionary to which this map is attached, the limits of these territories are expressly declared to be undetermined. The map of North America, by Palairt and Delaroche, published at London in 1765, also gives the same line, without any note as to the manner in which it was adopted. In the map of the British Possessions in America, published by Bowen and Gibson in 1775, and in one or two other inferior maps, the 49th parallel is given as the southern limit of the Hudson's Bay Company's territories, from the vicinity of Lake Superior, westward to Red River, down which the boundary is continued to Lake Winnipeg. These are the only authorities, as yet discovered, for the belief that the 49th parallel was adopted as a boundary by commissaries appointed according to the treaty of Utrecht.

On the other hand, Mitchell's great map of America, published in 1755 at London, under the patronage of the colonial department, presents a line drawn around Hudson's Bay, at the distance of about one hundred and fifty miles from its shore, as “the bounds of Hudson's Bay by the treaty of Utrecht” ; and the same line appears on the map of America accompanying Smollett's “History of England,” published in 1760, on that of Bennet, published in 1770, on that of Faden, in 1777, and on some other maps of that period.

No line of separation whatsoever, between the Hudson's Bay territories and the French possessions in America, is to be found on the large and beautiful map of America by Henry Pople, published in 1738, also under the patronage of the colonial department, and bearing the stamp of the approbation of Dr. Halley, which is particularly minute in all that relates to the territories in question ; or on any of the maps in the atlas of Maxwell and Senex, published in 1721, or in any of those attached to the volume of Boyer's “Political State for 1721” ; to the “History of Hudson's Bay,” by Dobbs; to the “American Traveller,” by Cluny ; to the “History of the British Empire in America,” by Wynne ; to Alcedo's “Dictionary of America,” or on many other maps, of inferior merit, which might be named.

These discrepancies should not excite surprise ; for maps, and books of geography, which are most frequently consulted in relation to boundaries, are, or rather have been, the very

worst authorities on such subjects ; as they are ordinarily made by persons wholly unacquainted with political

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affairs. Of this, numerous examples may be cited from works of authors the most highly esteemed as geographers, even at the present day.”*

* In a large and beautifully engraved map of the United States, published at Philadelphia, in 1821, “from the most undoubted authorities, by —, geographer and draughtsman,” the northern boundary of the United States west of the Mississippi is represented by a line drawn westward from the sources of that river, nearly under the latitude of 47 degrees and 40 minutes, the country north of this line being stated to be “in dispute between Spain and Great Britain.” Now, three years before this map appeared, the boundary between the United States and the British possessions in that part of America had been fixed by treaty, according to which, the dividing line followed the course of the 29th parallel, and, two years before the date of the map, Spain had also, by treaty, ceded to the United States her rights to all territories in America north of the 42nd parallel. These treaties had been published, and it is scarcely credible that they should have been unknown to an American geographer engaged in preparing a map of the United States. Mistakes of the same kind, equally great, are, however, committed in Europe. In the *Encyclopedia of Geography*, published at Edinburgh, in 1834, by Hugh Murray, and other scientific persons, we find it stated (p. 1374), that “the whole region west of the Rocky Mountains, extending between the 42nd and the 49th parallels of latitude, has, by discovery and treaty, been assigned to the United States,” and a statement to the same effect may be found in the *London Quarterly Review* for January, 1822. These mistakes evidently arose from ignorance; but the same defence cannot be pleaded in all cases ; for maps have been drawn, and engraved, and colored, with a full knowledge of their falsehood, in order to forward the ends of governments or of individuals.

[27 April, 1627.]

SECTION IV.

DOCUMENTS RELATIVE TO THE GEOGRAPHICAL EXTENT OF CANADA AND OF TERRA LABRADOR.

No. 1432.

EXTRACT FROM: ACT FOR THE ESTABLISHMENT OF THE COMPANY OF THE HUNDRED ASSOCIATES FOR THE TRADE OF CANADA, CONTAINING THE ARTICLES GRANTED TO THE SAID COMPANY BY THE CARDINAL DE RICHELIEU, THE 27TH APRIL, 1627.¹

IV.—And for the purpose of repaying to the said company the heavy expenses and advances necessary to be made by the said company, for the purposes of the settlement of the said colony and the support and preservation of the same, His Majesty will grant to the said associates, their heirs and assigns forever, in full property, with right of seignior, the fort and settlement of Quebec, with all the country of New-France called Canada, all along the coast, from Florida, which the predecessors of His Majesty have caused to be settled, ranging from the sea shore as far as the Arctic circle for latitude, and in longitude from the Island of Newfoundland, towards the west, as far as the Great Lake called fresh water sea and beyond, together with the lands within, and along the rivers which pass therein and discharge themselves in the river called Saint Lawrence, otherwise called the Great River of Canada, and in all other rivers which carry them towards the sea, together also with the lands, mines and minerals, the said mines nevertheless to be used in compliance with the terms of the ordinance, ports, harbours, rivers, ponds, islets and islands, and generally all that extent of the said country, in length and in breadth, and beyond as far as it will be possible to extend and to make known the name of His Majesty,—His Majesty merely reserving the right of Fealty and Homage, which shall be rendered to him and to his royal successors by the said associates or by one of them, with a gold crown weighing eight marks, upon each mutation of the crown, and the appointment of the officers of the royal court, who shall be named and presented by the said associates, when it shall be deemed proper to establish such court : with permission to the said associates to cast cannon, balls, to make weapons offensive and defensive of every description, make gun-powder, erect and fortify fortresses, and generally do in the said country everything which may be necessary, either for the safety of the

said country, or for the preservation of its commerce.

¹ Edicts, Ordinances, Declarations and Decrees relative to Seigniorial Tenure, Québec, 1852.

No. 1433.

[1657.]

p. 2.

verso.

**EXTRACT FROM "L'AMERIQUE EN PLUSIEURS
CARTES..."**

BY NICOLAS SANSON D'ABBEVILLE. Paris, 1657, pp. 2-3 verso.

Dans mes Tables Geographiques i'ay divise cette Amerique Septentrionale en Canadienne, & Mexicane ; sous le nom de Canadienne i'entens la partie de l' Amerique, qui est aux anuirons du Canada ; & là où les François, les Anglois, les Holandois, les Danois, & les Suedois ont fait diverses Colonies ; sous le nom de Mexicane, j'entends la partie que le Roy Catholique seul a occupé pour la pluspart, & là où il a estably nombre de Colonies. I'ay subdivisé la Canadienne en Terres Arctiques, & Canada, ou Nouvelle France : la Mexicane, en Nouveau Mexique, & Mexique ou Nouvelle Espagne.

Entre les deux parties du milieu, la plus orientale, & la plus proche de nostre Europe se doit estimer sous le nom general de Canada, ou Nouvelle France : de Canada par ce que ceste Region est la premiere de ces quartiers ou les nostres ont pris terre ; Nouvelle France par ce que les François s'y sont establish les premiers ; & paravant que les Anglois, que les Hollandois, & que d'autres peuples de l'Europe s'y fussent arrestés. La plus occidentale, & la plus éloignée de l'Europe se peut appeller on general Nouveau Mexique parce que les Espagnols du Mexique on Nouvelle Espagne ne l'ont decouvert que quelque temps apres qu'ils ont esté établis, & Maistres de ce Mexique, ou Nouve le Espagne.

De ces quatre parties de l'Amerique Septentrionale, Sçavoir the Mexique, ou Nouvelle Espagne, le Nouveau Mexique, le Canada ou Nouvelle France, & l'Amerique Arctique ; la Nouvelle Espagne est baignée & par la Mer de Nord, & par la Mer de Sud, l'Amerique Arctique encor par l'une & l'autre Mer, la Nouvelle France seulement par la Mer de Nord, le Nouveau Mexique seulement par la Mer de Sud.

CANADA, OU NOUVELLE FRANCE.

Sous le nom de Canada, ou de Nouvelle France, nous estimons ce qui est aux deux costées de la Grande Riviere de Canada, ou de S. Laurens ; depuis les Isles, qui sont au devant de son emboucheure, jusques & si avant que cette Rivere sera connue & depuis les Golfes & Destroits de Davis, & de Hudson jusques à la Nouvelle Espagne. En ceste estendue de Pays nous aurons les Isles de Terres Neuves, la Terre de Labrador, le Canada, qui communique, son nom au reste, l'Acadie, le Saguenay, les Irocois, les Hurons, les Algonquins

& un tresgrand nomble d'autres Peuples, y en ayant une centaine dont les noms sont connus.

p. 3772

verso.

Les Isles de Terres Neuves, ou suivant les Basques de Bacallaos, 1. des Morues, son ainsi appellées à cause de ces Poissons, qui s'y peschent ; & y sont en telle quantité, que quelquefois ils semblent empescher le cours des Vaisseaux ; & le Golfe, ou Baye de S. Laurens en est presque de mesme.

La plus grande de ces Isles, & qui prens communement le nom de Terre Neuve, a quatre ou cinq cens lieues de circuit. Pays mal habité à l'Orient ; & au Midy, les habitans s'estants retirés plus avant dans les Terres. Le terroir ne seroit pas à mespriser s'il estoit cultivé : il y a force Volailles, Fruits, Poissons. L'air tire sur le froid, la coste a quantité de bons Ports, & de belles Eades.

* * * *

Le Canada pris particulierement est à droit, & dessus la plus basse partie de la Grande Riviere ; & ce nom s'est communiqué & a la Riviere, & aux Pays circonvoisins. Ceste Riviere est la plus belle do l'Amerique Septentrionale, & une des plus belles du monde : elle a deux cent brasses de profondeur à son emboucheure, & trente lieues de Largeur. Son cours, suivant la rapport de crux du Pays, est des-ja connu de quatre ou cinq cens lieues ; avec apparence que nous decouvrirons à la fin que le Lac, qui semble faire sa source, se descharge dans la mer par deux ou par trois cours differents ; l'un vers nous, qui est celuy de Canada ; un autre vers l'Ouest, & au dessus de Californie ; le dernier vers le Nord, & dans la Mer Christiane, & que ces ouvertures nous monstrent le chemin que nous cherchons, il y a si long-temps pour aller aux Indes orientales par l'Ouest.

Les Peuples avec qui les François negotiant icy, sont les Canadiens, les Hurons, les Algonquins, les Attiquameques, Nipisininiens, Montagnets, ceux du Saguenay, de l'Acadie, &c. & pour ce sujet nous avons diverses Colonies sur la Grande Riviere à Tadoussac, à Quebec aux Trois Rivieres, à Sillery, a Richelieu, a Montreal ; & au dehors a la Baye de Chaleur, a Miscou, A. Port Royal, &c. Ce Negoce ne se fait quo par eschange : Ils nous donnent des Peaux de Castors, do Loutres, Martres, Loups Marine &c. pour du Pain, des Pois, des Febves, des Pruneaux ; pour les instruire au Christianisme, plusieurs Ecelesiastiques, & Religieux cy ont diverses Missions, & Residences, encor un Hospital, un Seminaire, d'Ursulines. Les P. Iesuites ont le principal soin de ces Maisons.

Au Septentrion de Canada est l'Estottlande ou Terre de Labrador pres le Destroit de Hudson ; & on l'appelle quelquefois Terre de Cortereal, & quelquefois Nouvelle Bretagne : quoy que e'en soit, je l'estime faire partie de la Nouvelle France : Le Pays est plein de Montagnes, charge do Bois, avec beaucoup de Sauvages.

No. 1433.

[1669]

A NEW MAPP OF AMERICA SEPTENTRIONALE.¹

DESIGNED BY MONSIEUR SANSON AND REVISED INTO ENGLISH, AND
ILLUSTRATED BY RICHARD BLOME. 15 x 22. London, for R. Blome,
1669.

Blome follows Sanson and shows Canada or New France as extending to Hudson bay as far west as Button bay and to Hudson strait, on the north, and to the Atlantic on the east. In the text, part IV, p. 4, he says that :

“Under the name of *Canadiana* is understood that part of America which is about Canada, where the English, French, Hollanders, Danes and Swedes have divers Colonies.”

The country to the north of Canada is designated “Artick Landes.” Ungava peninsula is designated “Estotiland, Terra de Labrador & New Britanie.”

Blome also says:

“Under the name of Canada or New France, we esteem that which is on both sides the great River of Canada, or St. Laurence, with the Isles that are before its Mouth, unto, and so far as this River is known and from the Gulfs and Streights of Davis and Hudson unto New Spain or Mexico. In this extent of Country, we have the Isles of Newfoundland, Terra di Labrador, Canada, which communicates its name to the rest, Acadia. Saguenay, the Irocois, the Hurons, the Algonquins, with about a hundred other sorts of people, whose names are known.

“North of Canada is Estotiland, or Terra de Labrador near Hudsons Streight ; it is called sometimes the land of Cortereal, and sometimes New Brittany ; however, I esteem it a part of New France.”

¹In Blome (Richard). A geographical description of the four parts of the world. fol. London, for R. Blome, 1670. pl. 4.

No. 1435.

EXTRACTS FROM “REMARQUES SUR LA CARTE DE
L'AMERIQUE SEPTENTRIONALE,”¹

Les Traités de Géographie ne nous donnent pas une connoissance bien juste & suffisamment détaillée de l'Amérique Septentrionale. Les Cartes qui ont été publiées pour cette Partie du Monde, à la fin du siècle dernier & au commencement de celui-ci, ne sont pas plus exactes, & si on les compare entre elles, on sera frappé des différences considérables qui s'y trouvent, tant sur l'étendue que sur la situation des mêmes Parties ; mais on peut excuser leurs Auteurs sur le peu de connoissances qu'on en avoit alors, & qui ne commencent à se développer que depuis une dizaine d'années : & quoique nous soions encore loin de la précision nécessaire, à laquelle il y a tout lieu d'espérer que nous parviendrons dans quelques années ; en attendant ces connoissances, j'ai cru qu'il étoit utile de fixer celles que nous avons aujourd'hui, & d'en faire connoître le degré de certitude.

Parmi les Cartes les plus récentes, & qu'on doit avec justice regarder comme les meilleures celle qui a été faite en 1746, par M. Danville, Géographe du Roi & de l'Académie des Inscriptions, doit tenir le premier rang : ensuite viennent deux Cartes Angloises, publiées à Londres ; la première en 1753 par M. Green, en trop petit point à la vérité pour y trouver les détails nécessaires que l'on y a même trop négligés ; mais elle est accompagnée d'un Mémoire rempli de Remarques utiles à la perfection de la Géographie ; la seconde a pour titre, Carte des Possessions des François & des Anglois dans l'Amérique Septentrionale, par M. Mitchell en 1755. Elle est en huit feuilles, & contient les mêmes Parties que la nouvelle Carte dont il s'agit. On peut joindre à ces Cartes celle que M. Robert a publiée en 1753. Je crois qu'il est inutile de rappeler ici ce que j'ai donné en 1744 sur l'Amérique ; & surtout ces trois Cartes du Canada & de la Louisiane, qui, si je l'ose dire, ont servi de base à ceux qui ont travaillé depuis, comme il est aisé de s'en convaincre à la première inspection, malgré les changements & les améliorations qu'ils peuvent y avoir faits, & dont je crois être en droit de profiter.

Qu'on ne croie pas que j'aie envie d'attaquer ni les Auteurs, ni leurs Ouvrages ; je connois le mérite des uns & des autres, & je leur rends la

¹By M. Bellin, Ingénieur de la Marine & du Dépôt des Cartes, Plans Journaux, Censeur Royal, de l'Académie de Marine, & de la Société Royale de Londres. (Paris : 1755,

justice qui leur est dûe : si je suis forcé d'employer la critique, je ne m'en servirai que comme d'un flambeau pour m'éclairer, & me conduire dans une carrière obscure où il est si facile de s'égarer ; que si malgré cet aveu, quelques Auteurs, soit François, soit Anglois, s'en trouvoient offensés, ce mot sera toute ma réponse :

Caedimus, inque vicem prebemus crura sagittis.*

Un écueil qu'il faut éviter avec soin, & contre lequel beaucoup d'Auteurs ne sont pas assez en garde, c'est cette prévention particulière, soit pour sa Nation, soit pour quelques idées séduisantes, auxquelles on sacrifie toute autre connoissance, & que l'on défend souvent avec aigreur.

La Géographie n'est qu'une, & par conséquent vraie : c'est la dégrader, que de s'en servir pour appuyer de fausses conjectures, ou d'injustes prétentions ; c'est cependant ce qu'on a vu dans plusieurs Cartes de l'Amérique Septentrionale, & surtout dans celles que les Géographes Anglois ont publiées récemment ; mais il est certain que l'amour de la Patrie n'est pas plus une excuse pour le Géographe, que sa façon de représenter les choses ne fait loi pour les Nations voisines.

En effet, qu'un Géographe, Anglois ou François, change les noms reçus anciennement pour chaque Pays, qu'il les porte aux Contrées voisines, qu'il en resserre ou étende les limites, suivant certaines circonstances ; qu'il ajuste sa Carte à des idées particulières qu'il a adoptées, on n'en peut assurément rien conclure, & de pareils Ouvrages ne sont pas des titres qu'on oppose sérieusement en cas de contestation. Mais le Géographe qui cherche le vrai, remonte aux premières découvertes, & suit leurs progrès ; il connoît les premiers noms, & les changemens que le tems & les circonstances leur ont fait essuyer ; il distingue les premiers établissemens, de ceux qui les ont suivis, & ne marque de limites que celles qui sont constatées par des Traités.

Voilà les règles que je me suis imposées, c'est au Public à juger si je ne m'en suis pas écarté.

Après ces réflexions préliminaires, qui m'ont paru essentielles dans les circonstances présentes, je vais entrer dans la discussion géographique des principales Parties de l'Amérique Septentrionale, refermées entre le 28 & le 72^e degré de Latitude, & pour le faire avec quelque ordre, je diviserai cette grande étendue de Pays en six Parties principales, en commençant par le Nord, & suivant vers le Sud, ordre assez naturel en Géographie, ce qui forme autant d'articles différens.

1°. La Baie de Hudson, & les Pays voisins.

2°. La nouvelle France, ou le Canada.

3°. Les Côtes Orientales de l'Amérique, depuis l'Acadie jusqu'à la Floride, contenant les Pays possédés par les Anglois,

*Perse, Satyre 4.

p. 3776

ARTICLE II.

LA NOUVELLE FRANCE, OU LE CANADA.

Le Canada est un grand Pays découvert¹ & possédé depuis plus de deux siècles par les François. On lui donne également le nom de Nouvelle France.

Pour donner une juste idée de son état, tel qu'il étoit possédé par les François au commencement de ce siècle, il faut le diviser en Partie Orientale & Partie Occidentale.

La Partie Orientale comprend l'Isle de Terre neuve² les Terres de Labrador ou Nouvelle Bretagne, le Golfe S. Laurent, le Fleuve de ce nom dans toute l'étendue de son cours, depuis son embouchure jusqu'au Lac Ontario, la Gaspésie, le Pays des Etchemins, & l'Acadie.³

La Partie Occidentale contient ces grands Lacs connus aujourd'hui sous les noms de Lac Ontario, Lac Erié, Lac Huron, Lac Supérieur & Lac Michigan, avec les Pays qui en sont au Nord & au Sud, jusqu'aux Montagnes des Apalaches, les cours des Rivières d'Ohio, d'Ouabache & des Illinois, jusqu'au Fleuve Mississipi ; ensin les Terres qui sont à l'Ouest, comme le Lac des Bois, celui de Gouynipique, le Lac Bourbon, celui des Prairies &c, avec les Postes que nous y avons établis.

Au Nord de l'Isle de Terre neuve, on trouve le Détroit de Belle-Isle, qui fait une des entrées du Golfe S. Laurent ; ce Détroit a au moins 40 lieues

¹ La découverte du Canada & de ses diverses Parties, ne peut leur être contestée, étant établie sur des titres auxquels on ne peut rien opposer, au lieu que les nouvelles prétentions des Anglois sur ces Pays, n'ont aucun fondement ; c'est en vain qu'ils cherchent à s'appuyer sur le Voyage que Jean Cabot, Venitien, entreprit en 1497 à ses dépens, & mit Pavillon d'Angleterre, pour chercher un passage à la Chine & au Japon par le Nord-Ouest. Ce Navigateur vit en passant les Côtes Orientales de l'Isle de Terre neuve, & quelques Parties du Continent voisin, mais il ne débarqua en aucun endroit de l'Isle ni du Continent, & les Anglois ne peuvent rien montrer qui puisse le prouver ; au lieu que toute l'Europe sait que dès l'année 1504, & même de tems immémorial, des Pêcheurs Basques, Normands & Bretons, faisoient la pêche de la Morue sur le grand Banc & le long des Côtes de Terre neuve, & qu'ils avoient un Etablissement pour le pêche au Cap de Rase; on sait encore qu'en 1506 un Habitant de Honfleur, nommé Jean Denis, avoit tracé une Carte du Golfe, qui porte aujourd'hui le nom de Saint Laurent; enfin en 1508 un Pilote Dieppois, nommé Thomas Aubert, amena en France des Sauvages du Canada. Depuis ce tems jusqu'en 1534, les François firent différens Voyages aux Côtes de Terre neuve & dans le Golfe, traitant avec les Sauvages. Mais en 1534, Jacques Cartier fut prendre possession de ces Pays pour le Roi de France. Alors les Anglois n'avoient pas encore mis le pied dans cette Partie de l'Amérique, à-peine en avoient-ils in connoissance, & ce ne fut qu'en 1583 que le Chevalier Humfrey Gilbert fit la vaine cérémonie de prendre possession, au nom de la Reine Elizabeth d'Angleterre, des Côtes orientales de l'Isle de Terre-neuve seulement, sans y faire aucun Etablissement. On sait encore qu'en mil cinq cent vingt-cinq Jean Verazani, charge par François Premier du continuer les découvertes de l'Amérique, commencées par les François, en parcourut les Côtes depuis le 34° degré de latitude jusqu'au 50° degré ; on en trouve la preuve dans les Lettres que ce Navigateur écrivit au Roi à son retour.

² Elle a été cédée aux Anglois par le Traité d'Utrecht en 1713, avec réserve.

de long sur 10 à 12 de large. Au Nord du Détroit de Belle-Isle sont les Côtes de Labrador, grand & vaste Pays, que les François avoient nommé anciennement nouvelle Bretagne ; mais le nom de Labrador (qui veut dire Terre du Laboureur), qu'on prétend lui avoir été donné par les Espagnols, a prévalu. Les François ont seuls droit sur ces Pays, puisqu'ils l'ont découvert en même tems que le Golfe Saint Laurent dont il fait partie, & que dès les premiers tems ils ont commercé & qu'ils y commercent encore seuls avec les Naturels du pays. A la Côte Orientale de ce Pays, on trouve la grande Baie des Esquimaux, située par les 55 degrés 30 minutes de Latitude, concédée aux Habitans de Quebec par le Gouverneur du Canada ; cette Baie est très grande & très profonde, semée de beaucoup d'Isles à son entrée, & s'enfonçant dans les Terres plus de 40 lieues. Le sieur Joliet, qui fut envoyé en 1694 par M. de Frontenac, Gouverneur du Canada, pour visiter la Côte de Labrador, la nomma Baie S. Louis ; il y trouva parmi les Sauvages qui vinrent faire la traite avec lui, des vestiges fort anciens de commerce fait avec des Vaisseaux François, & nous avons continué depuis de fréquenter cette Baie & d'y faire le commerce. Les Peuples qui habitent cette Contrée sont connus sous le nom général des Esquimaux, ils sont errans & vagabonds & très sauvages ; le commerce qu'on fait avec eux consiste en peaux de Loups marins & quelques Pelleteries.

Le Cap Charles fait la Pointe la plus Orientale de Labrador, & forme l'entrée du Golfe de Saint Laurent du côté du Nord ; il est situé par les 52^e degrés 4 minutes de Latitude, & par les 55 degrés 40 minutes de Longitude. Depuis ce Cap en allant à l'Ouest-Sud-Ouest, jusqu'à la Rivière Saint Augustin (autrement Pegouatchiou) il y a près de 80 lieues. La Côte entre deux est arrosée de beaucoup de Rivières, dont quelques-unes sont considérables & tombent dans des Baies, à l'entrée desquelles il y a quantité d'Isles. Les principales sont la Baie des Châteaux, la Baie Rouge, le Grand & le Petit Saint Modeste, la Baie de Forteau, la Baie Phelippeau & autres où nous avons des Habitations & de petits Forts, entr'autres le Fort de Pont-Chartrain.

GOLFE SAINT LAURENT, & FLEUVE SAINT LAURENT.

Ce Golfe, qui a pris son nom du Grand Fleuve S. Laurent qui s'y décharge, a pour bornes du côté de l'Est la Côte Occidentale de l'Isle de Terre-Neuve, du côté de l'Ouest & du Midi les Côtes de la Nouvelle France, & au Nord la Côte de Labrador qui est aussi de la Nouvelle France.

[1717]

EXTRACT FROM “ ATLAS GEOGRAPHUS.”¹

XI. TERRA DE LABORADOR ; OR, NEW BRITAIN.

Is a Country of vast Extent, lies N. from Newfoundland and the River of St. Lawrence, and along Hudson's Bay and Streights, to N. Lat. 64. Some name it Corterealis and Estotiland. Others reckon the two others to be Subdivisions of it. The Name of Laborador is ascrib'd to its being fit for Cultivation ; that of Corterealis to a Portuguese Gentleman, who was here in 1500 ; and Nova Britania came from some Britons in France, who were here in 1504 ; But the English claim'd a Right to it from Cabot, who discovered it with Newfoundland in Henry VIIIth's Time. The French reckon it part of Canada, and have some Settlements here The Natives were like the rest of the Northern Americans, dwelt for most part in Caves, and liv'd by Fishing and Hunting. By Conversation with the French they are said to be more civiliz'd. The Sansons in their Map ascribe that part of it which lies on the N. Side of the River of Canada to New France, and the most easterly Part of that Division is called Great and Little Eskimaux. They say the whole is a mountainous Country, and abounds with Wild Beasts. The length of it from the River St. Lawrence to the Entrance of Hudson's Bay, is, according to our Maps, 1020 Miles, and the greatest breadth from E. to W. 450.

¹ “ Atlas Geographus or a Compleat System of Geography (Ancient and Modern) for America.” By Eliz. Nutt for John Nicholson, London, 1717, p. 770.

No. 1437.

[1726.]

EXTRACT FROM “ DICTIONNAIRE UNIVERSEL DE LA FRANCE ANCIENNE ET MODERNE ET DE LA NOUVELLE-FRANCE, TRAITANT DE TOUT CE QUI Y A RAPPORT, &c.” Paris, Saugrain, 1726. Tome III., p. 1182-1183.

NOUVELLE FRANCE ISLES ET AUTRES COLONIES FRANÇOISES.

Toutes ces nouvelles Colonies Françaises peuvent être divisées selon les Parties du monde où elles sont situées, & subdivisées en Regions & Provinces.

Celles de l'Amerique Septentrionale se peuvent divisées en Colonies situées dans la Terre ferme, & en celles situées dans les Isles. Les Colonies de la Terre Ferme forment ce que nous appellons la Nouvelle France, divisée en Canada ou Nouvelle France propre, & en Louisiane, qui forme la Nouvelle France Meridionale. Le Canada est cette grande Region, qui est située le long & des deux côtés du fleuve Saint Laurent, des Lacs que ce fleuve traverse & des rivières qui se rendent, tant dans le fleuve que dans les lacs ; elle se divise en plusieurs Provinces & Gouvernements particuliers, qui sont la Terre de Labrador ou Pais des Eskimaux, & le Saguenai où se trouvent Tadoussac & Chicoutimi au Septentrion du grand fleuve S. Laurent ; la Gaspésie et le Pais des Abenakis & Etchemins au Midy du même fleuve ; le Canada propre ou Gouvernement particulier de Quebec, celui des Trois-Rivières, celui de Montréal & celui des grands Lacs.

No. 1438.

[1754.]

**EXTRACTS FROM "ÉTAT PRÉSENT DU CANADA, DRESSÉ SUR
NOMBRE DE MÉMOIRES ET CONNAISSANCES ACQUISES SUR LES
LIEUX. PAR LE SIEUR BOUCAULT (1754)."**

(RAPPORT DE L'ARCHIVISTE DE LA PROVINCE DE QUÉBÉC 1920-1921),
pp. 11, 28.

IDÉE GÉNÉRALE DU CANADA OU DE LA NOUVELLE-FRANCE.

Le Canada, ou la Nouvelle-France n'est proprement borné au Nord que par la Baye d'Hudson, à l'Est par la mer et l'isle de Terre-Neuve, au Sud et au Sud-est par les colonies anglaises, au Sud-est par la Louisiane, à l'Ouest par les terres espagnoles et par des terres ou des mers inconnues ; il était plus considérable avant le traité d'Utreck, par lequel le roy a cédé à la reine d'Angleterre et a ses successeurs, à perpétuité, la Nouvelle-Ecosse, ou l'Acadie, conformément à ses anciennes limites, la ville de Port-Royal, l'isle de Terre-Neuve, et la Baye d'Hudson.

Son étendue actuelle comprend.

1". . . .L'Isle Royale qui est à l'entrée du golfe de Canada, (St-Laurent), avec toutes les isles qui se trouvent dans cette baye.

2". . . .La terre ferme de l'Acadie, le long de la presqu'isle d'Acadie, jusqu'à la mer, et ce qui se trouve jusqu'à la Nouvelle-Angleterre, en tirant à l'Ouest.

3". . . .La terre ferme de Labrador, et toutes les côtes maritimes qui se terminent et s'étendent du Détroit de Belle-Isle jusqu'à la Baye d'Hudson.

4". . . .Toutes les terres aboutissantes au fleuve de St-Laurent, depuis son embouchure jusqu'à sa source, et a celle de toutes les rivieres qui s'y déchargent.

* * * *

DU GOLFE DU CANADA, DU FORT ET TERRES DE LABRADOR.

Sur la droite au bout de l'isle de Terre Neuve, qui régne tout le long du golfe, et dont l'étendue est de plus de 80 lieues on trouve par les 52 degres latitude nord, le detroit de Belle-Isle appelé communement le passage du Nord ; ce détroit est forme par l'extremité des terres du continent de l'Amerique, et

par le bout du côté septentrional de l'isle de Terre Neuve.

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Les terres qui sont vis-à-vis cette coste, se nomment les terres de Labrador, elles s'étendent jusqu'à la baye d'Hudson, dont l'entrée est par les 62 degres et quelques minutes de latitude nord.

Dans ce détroit, a la distance d'environ 40 lieues du golfe, sur les costes des terres de Labrador, pres d'une grande baye appelée la baye de Philippaux est scituée le fort Pontchartrain de Labrador, qui a été établi par le sieur de Courtemanche, qui y commandait ; ce fort est par 52 degres et quelques minutes de latitude nord ; c'est aujourd'huy le sieur Martel de Berouague qui le possède. Il se fait dans toute cette coste, et principalement dans cet endroit, une grande pesche de morues mais elles sont ordinairement plus petites que celles qu'on pesche audessus de l'Isle de Terre-Neuve, et dans le golfe du Canada ; le sieur de Courtemanche y a fait faire la pesche aux loups marins qui y sont fort abondants, de même que dans le golfe de Canada, et dans le fleuve St-Laurent, cette pesche se continue et se fait au printens, et produit ordinairement 4 à 500 barriques d'huile, au dit sieur de Berouague.

No. 1439.

Terra de Labrador, or
New Britain.

**EXTRACT FROM “A COMPLETE SYSTEM OF
GEOGRAPHY.”**

Its situation.

TERRA DE LABRADOR.

III. This Country which is call'd New Britain by the English, lies to the South-west of Greenland ; it has Hudson's Streights, and Part of the Atlantick Ocean, on the North-east ; and the last, also, on the East. On the South-east it is divided from Newfoundland by the Streights of Belle-Isle ; on the South it has the Gulph and River of St. Laurence, and Part of Canada ; and on the West Hudson's Bay. It extends from the 50th to the 63rd Degree of Latitude, and from the 51st to the 79th Degree of Longitude West from London. Its Form is almost triangular. The Name of Terra de Labrador, which the Spaniards gave it, and which signifies the Ploughman's Land, seems to hint that this Country is cultivated ; and yet it is very probable, says la Martiniere, that the greatest Part of it lies untill'd. We have no Knowledge of the Inland Parts of this Country, and but an imperfect one of the Coast.

¹ “A Complete System of Geography.” The whole illustrated with Seventy Maps. By Emanuel Bouman, Geographer to His Majesty, Vol. II, p. 767, London, 1747.

No. 1440.

[1755.]

**EXTRACT FROM “A CONCISE DESCRIPTION OF
THE ENGLISH AND FRENCH POSSESSIONS IN
NORTH AMERICA”**

FOR THE BETTER EXPLAINING OF THE MAP PUBLISHED WITH THAT TITLE,
BY J. PALAIRET, AGENT OF THEIR HIGH MIGHTINESSES THE STATES
GENERAL OF THE UNITED PROVINCES, &c. London:
1755, p. 8.

NEW BRITAIN

This Country is situated betwixt the 50th and 64th Degrees of N. Latit., and bounded on the North by Hudson's Bay and Streights, which separate it from the Countries of the Artie Circle ; on the East by the North Sea, on the South by Canada and the Gulph of St. Lawrence, and on the West by Countries unknown.

It received the Name of New Britain from the English. That Part of it which lies to the East of Hudson's Bay, received the Name of Labrador from the Spaniards ; and that of Esquimaux, from a savage People who inhabit the South-East Part of it.

* * * *

The Coasts are all that is known of this great Country. New Britain consists properly in that Track of Land, which is divided into two Parts by Hudson's Bay, one to the East of it, and the other to the West.

No. 1441.

[1762.]

EXTRACT FROM “AMERICAN GAZETTEER.”

Vol. II. London: Printed for A. MILLER, &c. 1762.

“LABRADOR, TERRA DE, one of the northern countries of America, called also New Britain and Esquimaux. It lies to the S.W. of Groenland. It has Hudson's Streights and part of the Atlantic Ocean on the N.E. and the latter also on the E. On the S.E. it is divided from Newfoundland by the streights of Bellisle, on the S. it has the gulph and river of St. Lawrence, with part of Canada ; and on the W. Hudson's Bay. It extends from lat. 50. to 63. N. and from long. 51°. to 79. W. It is almost of triangular form, but we have no knowledge of the inland parts of the country, and only an imperfect one of the coast. The great poverty and ferocity of the people who live near the sea shore, with the excessive coldness of the climate, have deterred Europeans from settling any colonies here. The natives hunt for furs, in which they carry on a traffic with the Europeans. This, with the coast on Hudson's Bay and the neighbouring country was ceded by France to Great Britain by the treaty of Utrecht, in 1713.

No. 1442.

[1769.]

't Land van Labrador.

**EXTRACT FROM "HEDENDAAGSCHE HISTORIE OF
TEGENWOORDIGE STAAT VAN AMERIKA."**

Amsterdam: By ISAAC TIRION. 1769, pp. 557-558.

Aan de Noordzyde van den Golf van St. Laurens heeft men, als gezegd is, een zeer hooge Kust, die de Zuidkust is van een zeer groot Land, het welk van ouds den naam van Terra De Labrador of Terra Laboratoris, dat is het Arbeiders Lands, gevoerd heeft. De eigentlyke reden, dat 'er de Spaanschen dien naam aan gegeven hebben, is nog een Raadzel : ten ware het mogt zyn, om dat zy oordeelden, dat 'er zonder Arbeid niet uit te haalen was : terwyl de Landen, door hun in Zuid-Amerika ontdekt, van zelf genoegzaam Vrugten, tot Levensonderhoud, uitleverden. De Engelschen gaven 'er, naderhand, den naam van NIEUW-BRITTANNIE aan ; hoewel zy, so het schynt, nimmer eenige moeite aangewend hebben, lom de binnenlandsche gesteldheid te ontdekken, of bezitting van de Kust te neemen.

Dit Land strekt zig van vyftig tot meer dan zestig Graaden Noorder Breedte uit ; in Lengte Oost- en Westwaards, ongevaar, van den vyf-en-vyftigsten tot den zes-en-zeventigsten Graad, bewesten Londen. Men kan hier uit de uitgestrektheid opmaaken van een plek Lands, die de drie Ryken van Groot Britannie ver to boven gaat in grootte ; ja mooglyk zelfs wel geheel Frankryk, en Spanje, in dat opzigt, overtreft. De gedaante, echter, schynt driehoekig te zyn, aan de Zuidzyde breed, en Noordwaards, smal toeloopende, daar zy paalt aan de Straat Hudson, hebbende de Baay van dien naam ten Westen, en de Zee van Groenland ten Noordoosten. De Zuidzyde paalt ten deele aan de Grenzen van Kanada, ten deele aan den Golf van St. Laurens, wordende, wordende door een Kanaal, de Straat van Bellisle genaamd ; van Terreneuf afgescheiden.

(Translation.)

The north side of the Gulf of St. Lawrence is bounded by a very high The country coast which forms the south coast of a very large country which has always had the name of Terra de Labrador, or Terra Laboratoris, i.e., Labourers' Land. Why it has thus been called by the Spanish is still unexplained,

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unless they thought, that, without labour, nothing could be got

out of it, whilst the countries they had discovered in South-America produced without work sufficient fruit for subsistence. The English, subsequently, called it New-Britain, but it seems they have never done anything to explore the conditions of the interior, or to take possession of the coast.

[1792.]

This country extends from fifty to over sixty degrees north latitude, and from about the fifty-fifth to the seventy-sixth degree of longitude, west of London. This gives one an idea of the extent of an area which far exceeds the three kingdoms of Great-Britain in size, nay which possibly surpasses France and Spain in that respect. The form of the country seems, however to be triangular, wide in the south, and narrowing to the north, where it is bounded by the Hudson Strait, having the bay of that name to the west and the Greenland Sea to the north-east. The south side is bounded for a part, by the borders of Kanada, and the remainder by the Gulf of St. Lawrence, being separated from Terrenew by a Channel called the Strait of Bellisle.

C

No. 1443.

**EXTRACT FROM "A SHORT NATURAL HISTORY OF
THE COUNTRY."**

Labrador is a large peninsula, joined at the isthmus to Canada, which, together with Hudson's Bay, bounds it on the west ; on the north are Hudson's Straits ; the Atlantic Ocean on the east ; and the Straits of Bell Isle, and the Gulph of St. Laurence on the south . .

¹ "A Journal of Transactions and Events of a Residence of nearly Sixteen Years on the Coast of Labrador." By George Cartwright, Newark : 1792. Vol. III. p. 220.

No. 1444.

[1797.]

EXTRACT FROM “THE AMERICAN GAZETTEER,”

COLLECTED AND COMPILED FROM THE BEST AUTHORITIES AND
ARRANGED WITH GREAT CARE, BY, AND UNDER THE DIRECTION OF,
JEDIDIAH MORSE, BOSTON, 1797.

LABRADOR, TERRA DE, one of the northern countries of America, called also Esquimaux, and is comprehended in New Britain ; bounded north by Hudson's Strait, south by part of Lower Canada and the river St. Lawrence, west by Hudson's Bay, north-east by the Ocean and Davis's Straits, and E. by the Straits of Belisle and the Gulf of St. Lawrence. The Coast is rocky, and interspersed with innumerable isles. The only attempt to trade with Labrador, has been directed towards the fishery ; the annual produce of which, amounts to upwards of £49,000 sterl. The inhabitants, whose number is unknown, hunt for furs and skins. The Moravian Brethren maintain a communication with their mission on the coast of Labrador. The property of their ship is divided into shares of £10 only, with the supply intended for the brethren ; articles are sent for traffic with the natives, enabling them to bring back cargoes that have afforded them not always a dividend of more than the interest of the capital employed. See New-Britain.

No. 1445.

[1797.]

EXTRACT FROM "THE NAVAL GAZETTEER."¹

LABRADOR is a country of North America, frequently called by the name of New Britain and Eskimaux or Esquimaux, having Hudson's Straits and part of the North Atlantic Ocean on the N.E., with the same ocean also on the E. Groenland also lies to the N.E. On the S.E. it is divided from Newfoundland by the straits of Belleisle, and on the S. it has the gulf and river of St. Lawrence, with part of Canada and Hudson's Bay on the W. Its extent is from lat. 50 deg. to 63 deg. N., and from long. 51 deg. W. to 79 deg. W.

¹ "The Naval Gazetteer or Seamen's Complete Guide." By John Malham, Boston. W. Spotswood and J. Nancrede, 1797, 2 vols., p. 21.

**SECTION V.
SUPPLEMENT TO PART XIV.**

REPORTS AND DOCUMENTS RELATING TO THE
LOCATION OF THE SEA-COAST LINE WITH
RELATION TO THE ESTUARY OF THE HAMILTON
RIVER SYSTEM.

No. 1446.

**PHYSIOGRAPHIC ASPECTS OF THE LABRADOR
BOUNDARY PROBLEM.**

BY PROFESSOR DOUGLAS W. JOHNSON.*

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* Professor Douglas Johnson, Ph.D., Hon. D., is Professor of Physiography in Columbia University, New York City. During the World War he made special geographical studies in Europe for the Department of State of the American Government and for the American Geographical Society. At the Peace Conference in Paris, 1918-19, he served as Chief of the Division of Boundary Geography of the American Commission to negotiate Peace, as member of several international territorial Committees dealing with boundary problems, and as a geographical adviser to President Wilson and the Department of State in the Adriatic and other boundary disputes. He has specialized in shoreline and coastal studies, having published two volumes on these subjects ("Shore Processes and Shoreline

Development” and “The Nature and Origin of Fjords”) and having received a number of native and foreign distinctions for his work.

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PARTIAL LIST OF DOCUMENTS CONSULTED IN THE PREPARATION OF THIS REPORT.

Cases and Counter-cases of the Dominion of Canada and the Colony of Newfoundland.

Joint Appendix, Volumes III and IV (Second Proof.) containing Documents Relating to Tidal and Other Surveys, Geologic and Geographic Reports affecting the Labrador Coast, and various other Documents relating to the Case (*vide* Final Print, Joint Appendix, Vol. V).

“Geography and Geology of Lake Melville District, Labrador Peninsula.” Memoir 141, Canadian Geological Survey. E. M. Kindle.

“Memorandum on the Depth of the Strand Allowed for the Purposes of Fisheries in Newfoundland and elsewhere.” Department of Justice, Canada.

“Observations on the Hydrographic Survey and Reports by the Canadian Government of Lake Melville, Hamilton Inlet and The Narrows, 1921-23.” Vice-Admiral Sir Frederick C. Learmonth, K.B.E., CB.

“Hydrographic Charts of Labrador Coast,” Nos. 222, 263, 1422, 375, Naval Service Chart of Lake Melville and The Narrows, No. 420.

“Geographical considerations as to the Canadian-Newfoundland Boundary in Labrador.” J. W. Gregory.

“Observations on the Fauna and Flora of Hamilton Inlet.” C. Tate Regan, M.A., F.R.S.

“Reply to Observations by Vice-Admiral Sir Frederick C. Learmonth regarding Lake Melville and The Narrows.” W. Bell Dawson.

“A Review of the Data concerning the Labrador Boundary as discussed in the Newfoundland Counter-Case, and of other memoranda concerning the Boundary.” E. M. Kindle.

“Alaskan Boundary Tribunal,” 7 Volumes of Proceedings and 3 Atlases of Maps and Charts, Sheets 6-10 of the South-east Alaska Boundary issued by the International Boundary Commission. Detailed Coast Survey Charts of the Alaskan Coast.

“The Alaskan Boundary.” John W. Foster. National Geographic Magazine, X, 425-456.

“The Alaska-Canadian Frontier.” Thomas Willing Balch. 45 pp. Philadelphia, 1902.

“International Law Digest.” John Bassett Moore. I, 462-475, on Alaskan Boundary.

Various Coast Survey Charts of the Louisiana Coast for Lake Pontchartrain and other lakes near the Gulf Coast.

Various Encyclopaedias, Dictionaries, Law Dictionaries, and Legal Reports cited in the Text.

Various Maps and Atlases, including among Wall Maps those by Phillips, J. Perthes, Oxford, Stanford ; and among the Atlases, Rand McNally Commercial Atlas, “Times” Survey Atlas, “Daily Telegraph” Victory Atlas, Andree’s Hand-Atlas, Stieler’s Hand-Atlas, Bartholomew’s Advanced Atlas of Physical and Political Geography, and the Century Atlas.

Various Texts on Physiography, including " An Introduction to Physical Geography," by Gilbert and Brigham ; " College Physiography," by Tarr and Martin ; " Physical, Economic and Regional Geography," by J. F. Chamberlain ; " Physiography," by Arey, Bryant and Clendenin ; " Shoreline Topography," by F. P. Gulliver ; " North America," by I. C. Russell ; " Geomorphology of New Zealand," Part I ; " General Geomorphology," by C. A. Cotton ; "Shore Processes and Shore-line Development," by D. W. Johnson ; " The Sea Coast," by W. H. Wheeler ; " Tidal Rivers," by W. H. Wheeler ; " Coast Erosion and Protection," by E. R. Matthews ; " The Nature and Origin of Fjords," by J. W. Gregory ; " The Nature and Origin of Fjords," by D. W. Johnson.

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P R E F A C E.

IN the following report I have endeavoured to answer, in so far as the geographer may, two questions of prime importance in connection with the Labrador Boundary dispute: —

A. What precisely is the coast-line from which the territory known as the " coast " should be measured inland?

B. Where precisely should the coast-line be traced in the vicinity of Hamilton Inlet?

In seeking an answer to these questions I have examined the various reports, maps, charts and other documents listed below, and in addition many briefer memoranda and other sources of information not specifically cited in the text.

Throughout the report I have endeavoured to emphasize fundamental physical distinctions and to avoid theoretical niceties which have no place in a practical problem such as this. There are sound scientific reasons for distinguishing between seas and rivers, bays and lakes ; and these reasons we must understand and respect. But fine theoretical distinctions and controverted questions upon which specialists themselves cannot agree, need not greatly concern us. We will seek rather the fundamental reasons for making broad distinctions which are widely recognised and which form the basis of important actions in law, and in diplomacy, as well as in the every-day affairs of men.

To aid the reader in keeping clearly before him the general argument, I have summarized the substance of the report in the pages immediately following this Preface. This summary will be found convenient for ready reference, will show at a glance the relation of any details of the discussion to the general argument, and may serve a useful purpose where one desires to review the substance of the discussion without following it step by step.

S U M M A R Y O F R E P O R T.

IN answer to the first of two questions treated in this report—" What precisely is the coast-line from which the territory known as the *coast* should be measured inland ?"—it is answered that the coast-line is the line which outlines or

contours a land mass where such land mass comes in contact with the *sea*. In elaboration of this answer it is shown (p. 1) that the scientific definition of coast-line places it at the inner edge of the shore, at the line reached by the highest storm tides (Fig. 1A). There is a scientific distinction between coast-line and shore-line (p. 2) and between coast and

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shore, which the law has sometimes recognized (p. 3). In popular usage “ coast-line ” and “ shore-line ” are commonly confused (p. 4), although it is generally recognized that “ coast-line ” is a term inapplicable to the margin of lakes and rivers (p. 5). “ Coast-line ” is sometimes confused with “ coast ” or “ coastal strip,” even in diplomacy (p. 5), although it is properly a line without width. We must recognize and distinguish an “outer coast-line,” an “inner coast-line,” and a “ political coast-line,” each different from the other (Fig. 2, p. 7). It is the inner coast-line which chiefly concerns us here.

We now consider carefully the important and critical fact that the coast-line does not enter rivers and lakes (p. 9). It is first shown that physiographers and geographers restrict the terms “ coast ” and “ coast-line ” to the margins of lands bordering the sea. Then it is made clear that this restriction is so sound and practical that it is fully recognized by the law (p. 11), with only rare exceptions (p. 12). Popular custom follows the lead of science and the law (p. 13). Contrary arguments presented on behalf of the Colony of Newfoundland are considered at some length (p. 16 *et seq.*), especially the contention that the Alaskan Boundary Case forms a precedent for drawing the coast-line at the head of tide or head of salt water in tidal rivers (pp. 20-26). This contention, like the others, is shown to be erroneous, and it is concluded that the coast-line follows the border of the sea and its *bona fide* bays, but does not enter rivers or lakes, even where these are penetrated by salt water and by the pulsations of the tides (p. 26).

Having defined the coast-line, we now proceed to answer the second question—“ Where precisely should the coast-line be traced in the vicinity of Hamilton Inlet ?” The answer (p. 27) places it on the margins of Hamilton Inlet proper, but does not permit it to enter the Narrows or Lake Melville. Hamilton Inlet, east of Tikoralak Head, is thus recognized as a true arm of the sea (p. 27) ; but before we can justify the answer in so far as it relates to the Narrows and Lake Melville, we must dispose of some preliminary considerations. It is first shown that the presence of salt water in a river or a lake does not constitute it an arm of the sea (pp. 27-31) ; next that the propagation of tides into a river or a lake does not make it a sea arm (pp. 32-34). These scientific views are then shown to be recognized as sound and practical in the law (pp. 34-40) and in diplomacy (pp. 40-42). Navigability, the test proposed by Vice-Admiral Learmonth for distinguishing sea arms from land waters, is next shown to be wholly inapplicable in geographic and territorial problems such as the Labrador

question (pp. 43-47).

The three preliminary considerations mentioned in the preceding paragraph having been disposed of, it is next shown that the Hamilton River system is a unit from its sources on the watershed to its mouth at Tikoralak Head, the Narrows and Lake Melville representing the tidal lower portion of this river system (p. 47). The criteria for recognizing true rivers are first set forth (p. 49), and it is shown that the Narrows stream corresponds in all essentials to the requirements for a normal river which is affected as most rivers are near the sea, by the tides (pp. 50-51). Special peculiarities of tidal

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rivers are then discussed, and it is demonstrated that all such peculiarities are typical of the Narrows stream (pp. 51-55). Finally, stream characteristics due to glaciation are set forth, and the presence of these characteristics in the Narrows-Lake Melville basin is pointed out (pp. 55-57). It is shown that if we had only the Narrows to deal with, and if Lake Melville were suppressed (Fig. 3, p. 57), no one could doubt that the Hamilton River continued to Tikoralak Head, the head of Hamilton Inlet proper.

Lake Melville is next considered, and it is argued that this water body is neither a fjord nor a bay of the ocean, but a true lake (p. 58). Inasmuch as the Colony of Newfoundland has presented testimony to the effect that Lake Melville is a fjord, apparently in the belief that this would fix its status as a sea arm, the fjord problem is fully considered, and it is shown—first, that the fjord problem is one of much intricacy and wholly irrelevant to the present issue (pp. 58-66); second, that the theory of fjord formation applied to the Labrador coast is highly improbable, and that Lake Melville lacks the essential characteristics of a fjord (pp. 66-70); and, third, that however interesting these theoretical considerations may be, territory cannot be assigned to sovereignty on such debatable grounds (p. 71). After the fjord problem is disposed of, it is shown that Lake Melville lacks the ordinary physical characteristics which are essential to a bay of the ocean (pp. 71-73). The obvious affinities of this water body with true lakes are then discussed, examples of other lakes affected by salt water and tides being cited (pp. 73-76).

In order to make more evident the fact that Lake Melville and the Narrows stream are terrestrial water-bodies whereas Hamilton Inlet proper is an arm of the sea, an imaginary drop of sea-level is assumed, and the resulting conditions (Fig. 4B) are compared with the conditions actually existing (Fig. 4A). It is shown that Lake Melville and the Narrows stream would exist independently of the sea, whereas Hamilton Inlet must be extinguished if the sea is withdrawn (pp. 76-82). Such a test fixes the mouth of the Hamilton River system at the mouth of the Narrows, and the head of the true sea inlet at Tikoralak Head (p. 83). This completes the demonstration as to the precise position of the coast-line in the vicinity of Hamilton Inlet.

A. —THE “ *COAST-LINE* ” IS THE LINE WHICH
OUTLINES OR CONTOURS A LAND MASS WHERE
SUCH LAND MASS COMES IN CONTACT WITH THE
SEA.

It will later appear that the “ coast ” of any land mass is a zone or belt of country of indefinite breadth extending inward from the coast-line. It is important, therefore, that the precise significance of this base line, from which the breadth of the coast is to be measured, be clearly understood. Fortunately the meaning of “ coast-line ” is less open to controversy than is the broader term “ coast,” and it is thus convenient to treat it first, leaving the discussion of “ coast” to subsequent paragraphs.

SCIENTIFIC DEFINITION OF COAST-LINE

For the physiographer “ coast-line ” has been defined as the line which forms the boundary between the *shore zone* alternatively covered and uncovered by the tides, and the *coast zone* always exposed to view. “ It marks the seaward limit of the permanently exposed coast.”*

The essential relations will be clear from Fig. 1, reproduced from a volume on “ Shore Processes and Shore-line Development ” published by the present writer in 1919. This shows the shore divided into two minor zones : the foreshore traversed by the normal play of the tides, and the backshore covered only at times of extraordinary high water. At the inner edge of the backshore, and just at the base of the wave-cut cliffs where such exist, is the coast-line. The coast-line thus traces the landward limit of the realm dominated by the action of marine forces, and the seaward limit of the realm dominated by subaerial agencies.

SCIENTIFIC DISTINCTION BETWEEN “COAST-LINE” AND “SHORE-LINE.”

It will be seen from Fig. 1A that the physiographer makes a distinction between “ coast-line ” and “ shore-line,” and that he recognizes a high-tide shore-line and a low-tide shore-line. If he speaks of shore-line without qualification he usually means the low-tide shore-line, the line bounding the seaward limit of the foreshore. This is the physiographic basis for the fact, pointed out by Gilbert and Brigham, that in applying to the edge of the land washed by ocean waters the terms shore-line and coast-line, “ the latter suggests more particularly the margin of the land, the former the border of the sea.”†

The physiographer makes a further distinction between coast-line and shoreline, for he recognizes that rivers and bays, as well as the oceans, have shore-lines, whereas he restricts the term coast-line to “ the line along which the ocean waters wash the edge of the land.”‡

This distinction is clearly expressed in different terms in a modern textbook of physiography when the authors say : “ The shore is the margin of the land next to any large body of water, whereas the coast is the margin of the land next to the sea ” (Arey, Bryant and Clendenin).

LEGAL DEFINITION OF “COAST-LINE.”

The terms “ coast ” and “ shore ” figure abundantly in the law, but rarely have the courts been called upon to define the term “ coast-line.” That the law will recognize the “ coast-line ” as a line drawn at the inner edge of the shore when circumstances make clear that the coast was meant to exclude the shore, is clear from a decision in such a case where it was held that the expression “ coast-line ” used to describe a property boundary in

*JOHNSON, DOUGLAS, "Shore Processes and Shore-line Development" p. 160.
 1919.
 †GILBERT G.K. and BRIGHAM, A.P. "An Introduction to Physical Geography," p.
 302.
 ‡Ibid.

p. 3795

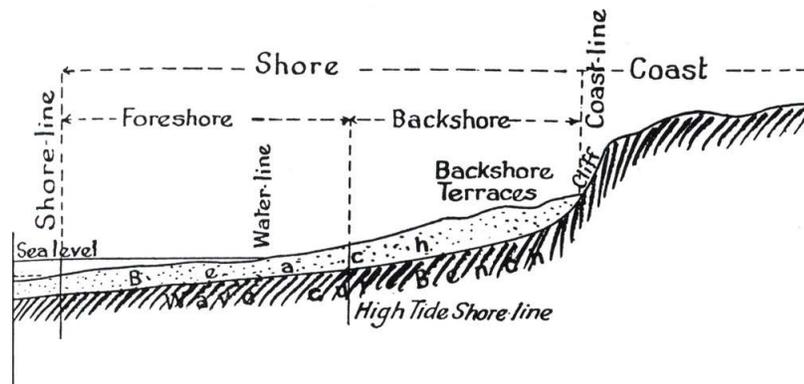


Fig. 1A. Physiographic Terminology
 [In Fig 1A above, just below the word "Beach,"
 it reads "Wave cut Bench" [sic] - webmaster]

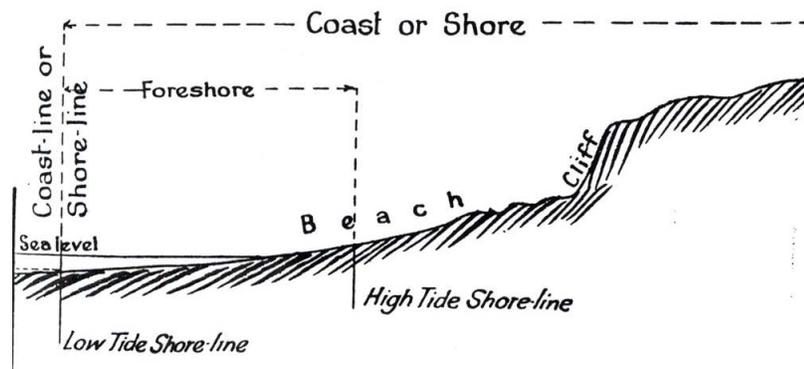


Fig. 1B. Popular Terminology
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a certain grant of land was "intended to indicate the actual and the normal boundary of land which was divided from the sea by high water mark, and that it consequently included the land down to the normal high water mark, and not further, to the exclusion of the foreshore and all rights to mine under it." *

POPULAR CONFUSION OF THE TERMS "COAST-LINE"
 AND "SHORE-LINE."

Obviously one cannot expect that popular usage will, in referring to the limit between land and sea, make the fine distinction between coast-line and shore-line recognized by the physiographer. The reasons for confusing coast-line and shore-line are easily understood. Except on low shores where the tidal range is great, the two lines are commonly but a few yards apart. It would not be possible to show both lines correctly on maps of ordinary scale. Most people fail to distinguish between sea-coast and sea-shore (see Fig. 1B) ; while others

who recognize a difference think of coast as including the narrower shore, with both having the same limiting line seaward. Under these conditions it was inevitable that “ coast-line ” and “ shore-line ” should be used interchangeably as applied to the margin of the sea, and even the physiographer has sometimes fallen into this loose manner of speaking. The fact that such confusion exists is immaterial to the present issue, for there is here no dispute as to who shall possess the narrow strip of shore between coast-line and low-tide shore-line. It is assumed that in the present case possession of the coast will carry with it possession of the bordering strip of narrow shore. The popular confusion of the terms coast-line and shore-line is mentioned here simply to make clear actual usage as affecting the term coast-line, and to emphasize two significant facts, referred to below :

(1) That despite the confusion as to terminology along the shores of the sea, even popular usage recognizes coast-line as a term inapplicable to the shores of lakes and rivers ; and

(2) That as commonly employed the term “ coast ” is conceived to be such a narrow zone that it is usually made synonymous with sea-shore, the terms coast-line and shore-line therefore being used interchangeably.

“ COAST-LINE ” CONFUSED WITH “ COASTAL STRIP ”

It should be clear that the term “coast-line” properly denotes a line without width. It therefore should not be confused with “ coast ” or with such expression as “ strip of coast ” or “ coastal strip,” all of which expressions imply a belt of country having some width. Unfortunately such

* Joint Appendix, Second Proof, Volume III., p. 1758 (Final Print, Vol. V, p. 2092).
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confusion is sometimes encountered, as in the English translations of that part of the convention between Great Britain and Russia, dated February 28/16, 1825, relating to the eastern boundary of Alaska, where the French “ *lisière de Côte* ” is improperly translated “ line of coast, ” instead of the more correct “ strip of coast.” This results in a confused and absurd treaty provision which becomes intelligible only in the light of the context. The same confusion reappears elsewhere in connection with this Alaskan Boundary dispute, as, for example, in the places cited at page 7 of the Counter Case of the Colony of Newfoundland, where Sir C. Bagot is quoted as speaking of “ a line of coast extending ten marine leagues into the interior,” and Count Nesselrode of “ the width of coast-line necessary for the safe existence and consolidation of our colonies.” Whether these uses of the terms coast-line and line of coast be attributed to incorrect translation from French texts of the original convention, to careless use of language by

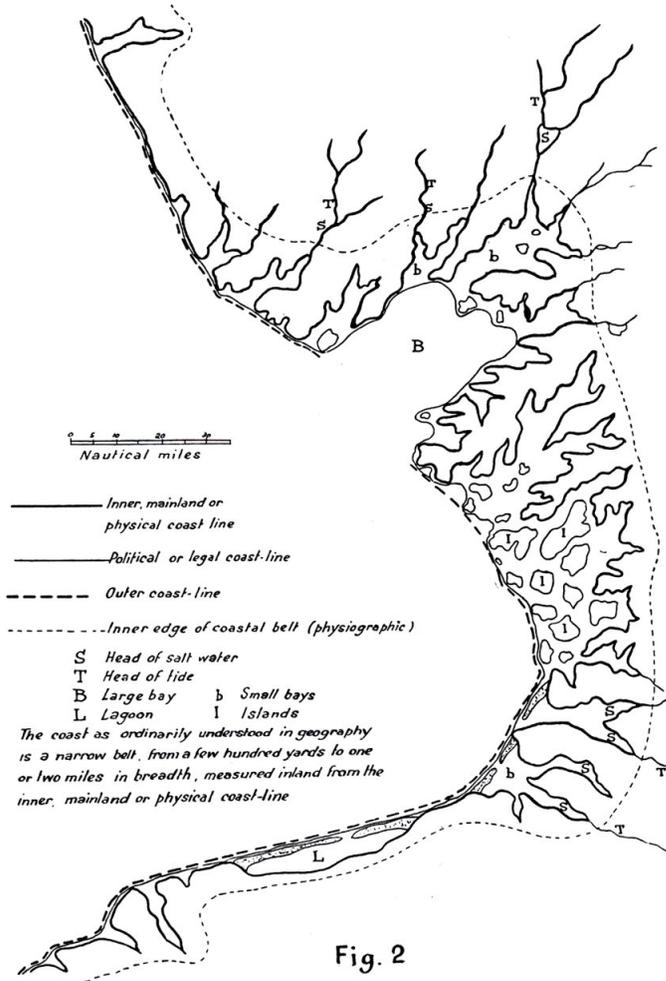
diplomatic agents, or to some other cause, there can be no doubt that such usage is both improper and exceptional. In the documents relating to the negotiations, the territory in question is usually described simply as the “ *lisière*,” as a “ strip of mainland,” “ strip of seacoast,” “ strip of territory,” etc. ; and the English translation of the authoritative French text of the convention, given by the Honourable John W. Foster* (then Ex-Secretary of State and a United States member of the Joint High Commission) in his account of the boundary dispute written while negotiations were still pending, correctly translates “ *lisière de côte* ” as “ strip of coast.” On the other hand, the United States representatives, in presenting their argument, repeatedly confused “ coast-line ” and “ coast.” Notwithstanding the fact that “ coast-line ” is not infrequently employed in the unfortunate manner indicated by several of the foregoing citations, it remains true that overwhelmingly preponderant usage recognizes the coast-line as a line without width which forms “ the contour of the coast ” (Funk and Wagnalls), “ the outline or contour line of a coast ” (Webster), “ the outline of a shore or coast ” (Century).

While recognition of the occasional confusion of “ coast-line ” with “ strip of coast ” is necessary to a full understanding of certain citations set forth in the Counter Case of the Colony of Newfoundland, the matter is not vital to the present issue, since it is not questioned that Newfoundland is entitled to jurisdiction over the “ coast ” of Labrador within specified limits, and it cannot be disputed that the coast has breadth, measured from the coast-line as a line of departure.

“ OUTER COAST-LINE,” “ INNER COAST-LINE ”
AND “ POLITICAL COAST-LINE.”

Islands (I, I, Fig. 2) closely bordering a coast are commonly treated as part of the coast. This usage holds in physiography, in general geographic

* FOSTER, JOHN W. “ The Alaskan Boundary,” National Geographic Magazine, X, 436. 1899.



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descriptions and nomenclature and in popular discussions and legally the term coast “ includes the natural appendages of the territory which rise out of the water.”

In physiography and in general geography the term “ coast ” includes likewise certain types of bars which separate undoubted ocean bays or lagoons (L, Fig. 2) from the mainland, as well as the margin of the mainland bordering the inner sides of such bays or lagoons.

On both types of coasts it is customary to distinguish between an “ outer coast-line ” discontinuous and contouring the seaward sides of the outer islands or the seaward sides of the bars ; and an “ inner coast-line ” or “ mainland coast-line ” continuous and contouring the edge of the main-land (*see* Fig. 2). The outer coast-line does not enter the mouths of deep bays (B, Fig. 2), but it does follow the great or major windings of the coast as shown in Fig. 2. The inner or mainland coast-line is sometimes called the “ physical coast-line.” This was the line claimed by the United States as the base from which the ten marine leagues were to be measured inland in the Alaskan Boundary dispute.

Besides the inner and outer coast-line known to physiographers, political geography recognizes a third line, the “ political coast-line ” or “ legal coast-line.” This differs from the outer coast-line in being continuous, and in entering bays broadly open to the sea (B, Fig. 2), although it cuts across the mouths of bays where such mouths are not more than six miles wide (sometimes a greater width is permissible). It is the political coast-line which is adopted in international law as the base from which to measure the belt of high sea contiguous to the territory of a given nation formally recognized as under the jurisdiction of that nation. In the Alaskan Boundary dispute, the “ political coast-line ” is apparently confused with “ outer coast-line ” in the Printed Argument of the United States, perhaps because they are often coincident for long distances. It is understood that in the present controversy there is no dispute as to the possession of coastal islands or bars, nor any claim to use the political coast-line as a base of measurement. Attention, therefore, centres on the inner or mainland coast-line, the precise position of which is a subject of dispute in the vicinity of Hamilton Inlet.

THE COAST-LINE DOES NOT ENTER RIVERS AND LAKES.

Few geographical concepts are more firmly established or more widely accepted than that coast, and hence the coast-line which contour them, are restricted to lands bordering on the sea. It would not be correct to say that a contrary conception has never found its way into geographical literature, for in a subject to which men without technical physiographic training have contributed largely, and in which popular geographic terms are loosely used, it would be strange indeed if occasional authority could not be found for the application of the term “

coast-line ” to lands bordering rivers and lakes. The definition of “ coast ” in Ash's Dictionary, London, 1775 and 1795, cited on page 8 of the Counter Case of the Colony of Newfoundland, and

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which extends the term to cover “ the bank of any large river or water,” is a case in point. This exceptional definition of the term “ coast ” only serves to set out in bold relief the overwhelming mass of authority specifically restricting the term to lands bordering the sea. The surprising and significant thing is that despite the confusion (noted above) of the terms shore-line and coast-line as applied to the sea margin, and the further fact that rivers and hays as well as seas have shores, all classes of writers—physiographic, geographic, legal and popular—should be so near to perfect agreement in restricting “ coast ” and “ coast-line ” to lands washed by the ocean waters.

By scientists the terms “ coast ” and “ coast-line ” are defined in texts on physical geography or treatises on shore-lines (sometimes without distinguishing them from the shore or shore-line of the sea) as “the line along which the ocean waters wash the edge of the land ” (Gilbert and Brigham), “ the contact of land and sea ” (Tarr and Martin), “ the margin of the sea ” and “ the line formed by the meeting of the land and the sea ” (Chamberlain), “ the region immediately to the landward of the shore-line formed by the intersection of the plane of the sea with the land ” (Gulliver), “ the narrow intricate belt where the sea and land meet ” (Russel), and in the terms of the physiographic text already quoted in an earlier paragraph, “ the shore is the margin of the land next to any large body of water, whereas the coast is the margin of the land next to the sea ” (Arey, Bryant and Clendenin). Physiographers and geographers are unanimous in restricting the coast-line to the border of the sea.

The law fully recognizes the geographic fact that “ coast ” and “ coast-line ” refer to the margins of lands washed by oceanic waters. Thus we find “ coast ” defined in the law dictionaries as “ the margin of a country bounded by the sea ” (Bouvier), “ the edge or margin of a country bounding on the sea ” (Black), “ the land on the edge of a country bordering on the sea ” (English), “ the land which bounds the sea ” (Stroud). The meaning of coast has repeatedly been clearly set forth in the course of judicial decisions involving the interpretation of such terms as coast, coast-line and coast-wise, etc. These tell us that the coast is “ the seaboard of a country ” (*Ravesies v. United States*, 35 Fed. Rep. 919), “the contact of the mainland with the main sea, where no bay intervenes, and with the latter wherever it exists ” (*Hamilton v. Menifee*, 11 Tex. 751), “ the land bordering on and washed by the sea ” (*Soult v. Corvette l'Africaine*, Bee's Adm. Rep. 1810, 208), “ the land which bounds the sea ” (*King v. Forty-nine Casks of Brandy*, 3 Hagg, Adm 275). These definitions of coast are accepted and promulgated in various legal works (*see* citations in Joint Appendix, Second Proof, Vol III, p. 1744, Final Print, Vol. V,

pp. 2076-2078) Sometimes “ coast ” is made synonymous with “ shore ” but in such cases the context makes it clear that “ seashore ” is meant (*Ravesies v. U.S.*, 35 Fed. Rep. 919).

Since sea-water and tides flow from the ocean into the lower parts of rivers, and the transition from bays to rivers is frequently a gradual one, and since, furthermore, ocean vessels enter freely the mouths of many rivers, we must not be surprised to find an occasional judicial decision apparently

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out of harmony with the overwhelming mass of legal opinion concerning the significance of “ coast.” Two instances are cited in footnote 5 on page 1743, Volume III, of the second proof of the Joint Appendix (*vide* Final Print, Vol. V, p. 2077). In one case the words “ seashore ” and “ coast ” in a certain act were held to be broad enough to include tide and overflowed lands along a river emptying into the ocean, and in another case an act regulating pilotage on vessels on the coast of England was held to extend to the River Thames. But these decisions, whether or not to be explained as so justified by the special matters to which they relate as to constitute apparent rather than real exceptions to the usual rule of law, stand out in relief against the generality of legal usage, and are offset by decisions that vessels on rivers, even if carrying merchandise between different states of the United States, are not engaged in “ coastwise trade,” since “ coast-wise trade means trade or intercourse carried on by sea ” (*see Ravesies v. U.S.*, 35 Fed. Rep. 919). Even more specific are certain of the contrary opinions : “ coast (is) a word very strangely applied to a river, but the proper word applied to the sea ” (*The Twee Gebroeders*, 3 C. Rob. Adm. 343) ; “ the term coast, in its popular sense is, we believe, applied to the land fronting on the open sea, or inlets off the sea, or bays, but is never applied to that fronting on rivers ” (*Regina v. Cox*, 1859, 1 P. E., I. Rep. 173) ; “ I do not apprehend that the banks of a river, although subject to tidal influence, come within that description,” i.e., “ coasts of Scotland ” (*Bowie v. Marquis of Ailsa*, 14 Court of Sessions Cases, 4th Ser. 666).

Following the lead of scientific and legal usage, popular custom almost universally restricts the terms “ coast ” and “ coast-line ” to the margin of the sea. This is reflected in the definitions given by standard dictionaries, where we find “ coast ” (often made synonymous with shore of the sea, as already noted) defined as “ the margin of land next to the sea, the sea-shore ” (*Funk and Wagnalls*), “ the sea-shore or land near it ; the seaboard or sea marge, that is, land immediately abutting the sea ” (*Webster*), “ the side edge, or margin of the land next to the sea ; the sea-shore ; the boundary line formed by the sea ; the coast-line (*Century*), the edge or margin of the land next the sea, the sea-shore ” (*Murray's New English*) and “ coast-line ” usually in some such terms as “ the outline or contour of a coast ” (*See* preceding section). Looking backward to past usage, one finds in the older dictionaries almost as great uniformity as in these of to-day. With the

exception of Ash's broad definition (1775, 1795) already cited, and one by Richardson (1867) defining coast merely as “ the side, the edge, or margin ; border, limit, or boundary, a district,” we find remarkable agreement that the coast is “ the sea-shore and the adjoining country, in fact, the sea front of the land ” (Smyth 1867), “ the edge, border, or margin of a country bounded by the sea ; the shore ” (Webster 1857 and 1865), “ the edge or margin of the land next the sea ; the shore ” (Johnson 1895, 1818, 1831), “ the edge or margin of the land next the sea, the shore ” (Sheridan 1780), “ the edge of the land next the sea, the sea-shore ” (Bailey 1764), “ a shore or land, which lies near and is washed by the sea ” (Barclay 1744). Some of these authorities admit as other meanings “ side of

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anything,” “ frontier border,” “ exterior line or limit,” but such meanings are marked “ obsolete,” “ archaic,” or “ dialect ” by Webster (1857 and 1865) and later authorities. We will recur to this point in discussing the significance of “ coast ” as used in early days, but it is irrelevant to the question as to whether a “ coast-line ” as restricted to the sea margin, or enters tidal rivers and lakes. Among all the authorities Ash (1775 and 1795) alone allows “ coast ” to be applied to the bank of any large river or water, and he gives the first meaning as “ the edge of the land next the sea, the sea-shore,” Bailey (1764) and Johnson (1818 and 1831) specifically state that the term coast “ is not used for the banks of less waters,” Webster (1857), after giving the definition cited above, “ the edge or margin of the land next to the sea, the sea-shore,” says : “ This is the more common application of the word ; and it seems to be used for sea-coast, the border of the sea. Hence it is never used for the bank of a river.”

From the preceding discussion it is clear that we have to deal here, not with a term which is so loosely used as to give equal right to employ the term in any one of several meanings, but with a term which according to the overwhelming mass of authority-scientific, legal, and popular-has one perfectly definite, well recognized significance. If a somewhat figurative use of “ coast ” is justified by some authorities and found in certain Biblical passages, the literal application of the term presents no difficulties. Only by rejecting the overwhelming mass of scientific, legal, and popular authority can one apply the term “ coast ” to the banks of rivers or lakes. The line which contours the coast, the coast-line, is therefore of necessity restricted to lands bordering the sea. It follows around the heads of ocean bays, ocean inlets, and other true arms of the sea ; but it does not enter rivers or lakes.

It appears to be argued in paragraph 16 and 17 of the Newfoundland Counter Case that authority is found in the Alaska Boundary Dispute, and in the *King v. Forty-nine Casks of Brandy* (3 Hagg. Adm. 257) for drawing the coast-line (from which the belt of territory belonging to Newfoundland is to be measured inland) about the heads of bays, inlets and

creeks, and at the head of the tide in rivers and streams ; and that *Hamilton v. Menifee* (11 Tex. Rep 718) and *Regina v. Cox* (1859 1 P.E. I. Rep. 170) show that the sinuosities of bays and inlets must be followed. Further, the reference to the Alaskan Boundary Dispute is so worded as to imply that the decision in that case justifies the drawing of a coast-line along “the banks of, e.g., rivers or lakes.”

It is true that the coast-line follows the sinuosities of bays and inlets of the ocean, as understood in the cases of *Hamilton v. Menifee* and *Regina v. Cox*, for the bays and inlets there cited are physiographically parts of the sea. This does not mean that the coast-line follows anything which on a given map may happen to be named bay or inlet, for it is common knowledge that such terms are sometimes loosely used, and that a true river may be named an “inlet,” just as true inlet or bay of the ocean is frequently named a “river.” But in the cases cited it will be observed that the Court in the one instance contrasts “bay” with “the main sea” in such a manner as clearly

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to indicate its opinion, which I believe is physiographically correct, that the bay in question was a branch of the sea ; and in the other the Court specifies “inlets off the sea, or bays,” contrasts them with “the open sea,” and specifically excludes tidal rivers. These two cases therefore support Newfoundland's contention that the coast-line (from which the belt of coast belonging to her is to be measured) should follow the margins of bays and inlets which are physiographically parts of the sea ; but they offer no support for drawing the coast-line into rivers or lakes, being indeed specifically opposed to such an extension of the coast and its bounding line.

Neither the Alaskan Boundary case nor the case of the *King v. Forty-Hine Casks of Brandy* constitutes any authority for drawing the coast-line into such creeks as are to be classed with tidal streams, or into lakes, or at the head of the tide in rivers or streams. The latter case seems irrelevant to the present issue, while the Alaskan case, like the other two cases cited above, merely supports the contention that the Coast-line should follow true bays and inlets of the sea, including those salt-water bays which, although unquestionably arms of the sea, are called “creeks” in certain coastal regions.

The use of the word “creeks” for true arms of the sea is common in diplomatic documents, and appears, for example, in the Reciprocity Treaty of 1854 between Great Britain and the United States, where it is agreed that fisherman of both countries shall have the liberty to take fish “on the coasts and shores, and in the bays, harbours and creeks” of certain territories, it being specifically stated that such liberty “applies solely to the sea fishery.” while “all fisheries in rivers and the mouths of rivers” are definitely excluded. The Honourable John Hamilton Gray, in his Award as Umpire under the Reciprocity Treaty, points out that Webster and Maunders both define “creek” to be, according to English usage and

etymology, “ a small inlet, bay or cove, a recess in the shore of the sea or of a river,” although it is recognized that American usage also applies the term to small rivers.*

Geographically the case of *The King v. Forty-nine Casks of Brandy* does not seem to be related to the present issue. The question there decided was not whether the coast or coast-line extended inland along tidal rivers. Such a question is not even indirectly touched upon. The decision related to Admiralty jurisdiction “ on the coast ” or on the high sea as affected by the rise and fall of the tide, and the court held that “ below the low-water mark the Admiral hath sole and absolute jurisdiction, but between high-water and low-water mark the common law and the Admiral have jurisdiction by turns,” provided always that the area in question is on the coast. “ If the water is within a county the common law claims jurisdiction.” It is true that the Court cites authority for the view that “ a port, haven or creek is *divisum imperium*, except when in the body of a county ” ; but the geographic features of the locality involved in this case, and the full text of the

* One American geographer has stated that he can tell what part of the country a man comes from if he will answer three questions. Of these questions one is : “ What is a creek ?” selected because in one region a creek is a small fresh water stream, at another an arm or bay of the sea.

decision leave no doubt that “ port, haven or creek ” here refer equally to true arms of the sea. After a careful reading of the ease and a study of maps of the locality involved, I do not see how it can be held pertinent to the present issue.*

The geographic setting of the Alaska dispute serves to make clear the meaning of the text relating to it. The Alaskan coast is a true fjord coast, with deep arms of the sea penetrating far into the land and branching most intricately. These true sea arms are usually easily distinguished from the rivers which enter them, the mouths of the latter being most often clearly defined, and in many instances obstructed by deltas or bars. Tides run inland for miles along certain of the rivers, and a few are navigable for a considerable distance. The true sea arms are known as canals, inlets, passages, coves, bays, passes, ports, sounds, gulfs, bights, arms, harbours and straits. It was around the sinuosities of these that the coast-line, used as a reference line for boundary purposes, was to run. The word “ creeks ” does not occur in the Convention of 1903 establishing the Alaskan Tribunal, in the questions submitted to the Tribunal for adjudication, or in the Decision handed down by the Tribunal. The phrase used is always “ the bays, ports, inlets, havens, and waters of the ocean.” The chief point in dispute was not whether the coast-line should run around the inner ends of these arms of the sea, or far up the rivers at the head of the tide ; it was in essence whether it should run from headland to headland across the sea arms, or follow the sinuosities of the coast around their inner ends.

Did the United States, in contending that the eastern boundary of the *lisière* should follow around the heads of the sea arms, argue that measurement should be made from the head of tide in rivers or lakes, or from the head of salt water in stream channels or lakes basins? By no means.

A careful reading of the Cases, Counter Cases, and Arguments presented before the Alaskan Boundary Tribunal will show : —

(1) That while the word “ tide-water ” is used by the representatives of the United States in referring to the points from which marine leagues was to be measured inland, it was not used in a technical sense to denote head of tide on rivers, but solely to denote the sea-water of the bays, ports, inlets, havens, and other undoubted arms of the sea.

(2) That the word “ salt-water ” was more commonly employed, but again always as a synonym for the water of undoubted sea arms, and never with respect to the salt water entering the channels of rivers or basins of lakes.

(3) That where surveys were made to secure data for determining the correct position of the boundary at

selected localities, the point of departure for calculating the marine leagues was always on the broad expanse of an undoubted sea arm, or at the mouth of a river, and never at the head of tide or salt water in a river channel.

* See Hagg. Adm. Rep. 3, 257-293.

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(4) That at no point is the eastern boundary of the *lisière* more than 10 marine leagues from a broadly open sea arm, whereas the head of tide on many of the rivers is found miles inland from the heads of these open sea arms ; and, what is even more pertinent,

(5) That at no point did the eastern boundary of the *lisière* as claimed by the United States before the Tribunal exceed the distance of 10 marine leagues from the water of an undoubted sea arm, whereas had head of salt water or head of a tide on the rivers been used as a basis of measurement the boundary claimed must have lain much farther eastward in Canadian territory.

It is true that the use of the word “ tide-water ” in connection with the United States' claim gave rise to some uneasiness on the part of the Canadian representatives, and in their printed Argument it is pointed out that New Orleans, 110 miles above the mouth of the Mississippi, is on tide-water. The glaring absurdity of the theory that the ocean extends to all tide-waters is strongly commented on, and the rejection of the theory is called for.* In the oral argument Sir Robert Finlay still further exposed the absurdity of the contention that measurement should be made from salt water or from tide-water. He spoke in part as follows :—

“ The contention put on behalf of the United States comes to this : That you are to measure your distance from salt water or from tide-water. Sometimes it is put in the shape of salt water, and sometimes in the shape of tide-water. Well, these two contentions may have a very different effect, and it is necessary to look at the precise meaning of that contention. This is a point, of course, of the most enormous importance, because if the answer to this question given by the United States is coupled with their contention as to tide-water, it is difficult to say to what point the *lisière* may not be carried back. I do not know how far the tide runs up these rivers at the various points on this coast, and to set up such a canon as that which the United States seeks to set up, of taking the limit of tide-water as the point from which you are to measure, is to invite a series of controversies of the most irritating and difficult character.”

Mr. Turner, a United States member of the Tribunal, thereupon asked Sir Robert Finlay :

“ Do you not think the United States' contention might be reasonably construed as meaning tide-water within the bays and inlets?”

Mr. Dickinson, of Counsel on behalf of the United States, then explained :—

“ Mr. Attorney-General, if you will permit me, it might save you some trouble and the Court also if I say that what you are referring to was not used in the technical sense in which you are insisting upon, and was only meant to apply to the heads of the inlets. *We do not claim that the coast-line goes up the rivers,*† and the line which has been projected upon these maps

* Alaskan Boundary Tribunal, V, Part II, 30, 31 (26,27) Washington, 1903.

† Italics are mine.

was not measured up from the water extending up the river, but only from the heads of the inlets. . . . It (tide-water) was only intended to be synonymous with the heads of inlets. No further weight was intended to be given it.”*

Thus it is clear that in the Alaskan Boundary dispute both the United States and Canada expressly repudiated the contention now set up by Newfoundland. that the coast-line enters rivers and that measurement inland from a coast-line should begin at the head of tide on rivers.

The American position was further emphasised by Mr. Hannis Taylor, of Counsel for the United States. The phrase repeatedly used by Mr. Taylor in his oral argument cited in paragraph 33 of the Case of Newfoundland, was not head of tide, but “ where the salt water touches the land,”—a very different thing, as Sir Robert Finlay observed. In fact, Mr. Taylor made it clear that the principle of rise and fall of the tides was not applicable to the issue before the Tribunal ; and it is equally clear from the geographical references in his discussion that when he speaks of salt water touching the land, he has in mind undoubted branches of the sea, like the broad, salt-water inlets characteristic of the coast of Maine and the coast of Alaska. to both of which he refers. In order to show how far he was from advocating any strained interpretation of the extent to which the sea advanced into the land, we may quote the following from his argument, directed specifically to Sir Robert Finlay's reference to tide-water at New Orleans on the Mississippi River :—

“ To avoid any possible question, instead of going 110 miles up some river beyond these inlets, we have stopped at a point at which there can be no claim or controversy. It would be just as easy to prove that the Admiralty Courts had no jurisdiction at the mouth of the Thames as it would be to prove that the water in question is not sea up to the point at which we claim.” He then quotes the Prime Minister of Canada, Sir Wilfred Laurier, as recognizing the head of Lynn Canal as the “ ocean terminus ” of a certain railway, and continues : “ This I am simply giving as a popular interpretation, and it concurs exactly with the scientific, that the end of the head of the inlet is the ocean itself, ...”†

The boundary claimed by the United States is shown on

Plate 2 of the Atlas accompanying the Case and Counter Case of the United States. In determining the boundary claimed, preparatory studies were made on a base map published by the United States Coast and Geodetic Survey in May, 1903. Several hundred circles were drawn with a radius of ten marine leagues, centering on points selected along the shore-line, the intersections of the circumferences of the circles then being connected by a curved line to give the boundary sought by the United States. From an inspection of these circles it appears that “ these points were chosen without regard to the exact limits reached by salt water or the high points reached by the tides,” but were rather chosen on the shore of mainland or of inlets ; and

* Alaskan Boundary Tribunal, VI, 210-212 (193-195), Washington, 1904.

† Alaskan Boundary Tribunal, VII, 613-614 (549-550), Washington, 1904.

even when at the heads of inlets were almost without exception “ at points where the inlet in each case has an appreciable width and in my judgment might be regarded as an arm of the sea.”* In response to a query as to whether, in reaching its decision, the Alaskan Boundary Tribunal itself paid any attention to head of tide-water or head of salt water, the Engineer to the United States Section of the International Boundary Commission has replied as follows : “ I think you are right in assuming that no attention was ever paid to such fine points as determining whether the ten marine leagues should be measured from the head of tide-water or from any other particular point.”

From the foregoing paragraphs it will be clear that no possible authority can be found in the Alaskan Case for drawing a coast-line into the mouths of rivers or lakes, or for measuring a coastal strip from the head of tide in river channels or lake basins. On the contrary, the Alaskan negotiations served to establish more firmly than ever the principles that the coast-line is limited to the borders of the ocean, including undoubted sea arms ; that it does not enter the rivers ; and that it is not related to the extreme head of salt-water or to the head of tide, where these are found beyond the true borders of the sea.

It is concluded, therefore, that none of the four cases cited by Newfoundland constitute any precedent for deviating from the sound geographic rule, accepted generally by legal authorities and strongly supported by popular usage ; that the coast-line follows the border of the sea and its bona fide bays and inlets by whatever names called, but does not enter rivers or lakes, even where these may be subject to the action of salt water or to the pulsations of the tide.

It now becomes our duty to apply this rule in the vicinity of Hamilton Inlet.

B.—THE COAST-LINE OF LABRADOR ENTERS HAMILTON INLET NEAR THAT PART OF THE MAINLAND OPPOSITE INDIAN HARBOUR,

FOLLOWS SOUTHWESTWARD ALONG THE MARGIN OF THE INLET TO THE VICINITY OF TIKORALAK HEAD. THENCE EASTWARD ALONG THE SOUTH MARGIN OF THE INLET TO THE VICINITY OF WEST BAY HEAD. IT DOES NOT ENTER THE NARROWS, BUT CUTS ACROSS THEIR MOUTH IN THE VICINITY OF TIKORALAK HEAD.

So obvious is it that Hamilton Inlet as above defined belongs to the domain of the sea, that detailed evidence in support of this conclusion need not detain us. This will more clearly appear in a later section. That the arrows and Lake Melville are not arms of the sea seems to me equally certain,

* Personal communication from the Engineer, United States Section, International Boundary Commission, Washington, D.C.

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although perhaps less obvious. Confusion is due largely to the fact that salt water flows from the sea arm, Hamilton Inlet, through the Narrows into Lake Melville, and the ocean tides are likewise propagated through the Narrows into the lake. These facts are abundantly established by competent evidence of qualified experts, and we may therefore pass directly to consideration of the question :—

“ Does the presence of salt water and the propagation of the tides in a river or a lake constitute it an arm of the sea ?” To this the physiographer must reply in the negative.

THE PRESENCE OF SALT WATER IN A RIVER OR A LAKE DOES NOT
CONSTITUTE IT AN ARM OF THE SEA.

It is the rule in Nature that rivers join the sea with “ accordant junctions.” That is to say, streams do not normally (although they do under certain special conditions) enter the sea by falling over steep cliffs, but rather flow smoothly into the ocean, with the surface of the river, at its mouth, at the same level as the surface of the sea. This means, necessarily, that the bed of the river channel is below sea-level ; and this condition may continue far into the land. Thus the bottom of the channel of the Mississippi River is below sea-level more than 200 miles inland, measured from the mouths of the principal passes on the delta. Now since the salt water of the sea is heavier than the fresh water of rivers, it is obvious that conditions may be favourable for the penetration of salt water into river channels, especially along the bottoms of the channels. If results of researches by F. L. and V. W. Ekman are valid, this tendency of salt water to penetrate river channels, due to difference in specific gravity, is accentuated by the development of “ reaction currents ” which are alone sufficient to carry salt water “ well into the bed of a river.”* But whatever the cause or causes of the phenomenon, it is one of the commonest at river mouths. In the Hudson the salt water penetrates beyond the Highlands, passing through the lake-like

expansion of the river known as the Tappan Zee 25 to 40 miles from the sea, and reaching Poughkeepsie 75 miles inland. In the Mississippi River salt water may extend inland 40 to 45 miles under ordinary conditions, and in exceptional circumstances is reported to have been detected more than 100 miles from the sea.

The amount of salt water which enters a river and the distance inland to which it penetrates will depend in considerable part upon the volume of the river water flowing outward. In time of freshets the salt water will be more effectively washed out than when the river discharge is at a minimum. In some streams the percentage of salt water will always be higher than in others, due to differences in size and depth of the river channel, differences in river discharge, and other factors. But in all cases, and at all times, the

* EKMAN, F. L. "On the General Causes of the Ocean Currents," *Nova Acta Regiae Societatis Scientiarum Upsaliensis*, Serie 3, X, 16-37, 1876. EKMAN, V. W. "Ein Beitrag zur Erklärung und Berechnung des Stromverlaufs an Flussmündungen." *Kongl. Vetenskaps-Akademiens Ford-handlingar*, 479-507. 1899.

appearance of the river may be sensibly the same, the stream flowing between restricted banks to the ocean where the transition from narrow channel to boundless ocean basin may be abrupt and striking, leaving no possible doubt as to where the mouth of the river is located.

Under such circumstances it must be obvious that the presence or absence of salt water in the lower part of a river's course, and the variable percentage of salt water at a given point at different times, depend upon factors quite independent of the river's existence as such. We cannot stand on the bank of a stream, miles inland from its clearly defined mouth at the edge of a perfectly developed delta, and say : " I cannot tell whether or not this is a river until I determine the salinity of the water ;" nor can we say : " It was a river yesterday, because I found no salt water then, not even in the bottom of the channel ; but I have no idea whether it is a river to-day, because I have not tested the water since yesterday."

In the Gulf of Mexico the lighter water of the Mississippi River flows out over the salt water of the sea in a layer some feet in thickness ; yet this part of the gulf is still as much a part of the sea as ever. Opposite the mouth of the Rhone the surface water is sometimes fresh 10 miles out to sea,* while the Amazon affords a classic example of this phenomenon on a big scale. The Baltic is an arm of the sea, despite the fact that the water in the northern part is relatively fresh clear to the bottom. In Albemarle Sound the water is quite fresh to the bottom in the heads of bays which all physiographers would agree must be classed as arms of the sea. I have watched cattle drinking from the head of the Baltic, and observed healthy cypress trees standing in fresh water, eight feet deep, in Albemarle Sound, yet cannot regard either as anything but arms of the sea. And if percentage of salt does not determine the extent of the sea in these cases, it cannot determine the extent of the sea in river channels. As a matter of fact, seas and rivers are physiographic entities quite independent of the extent to which fresh water may enter the one, or salt water may enter the other. Salt water is usually characteristic of the sea, as fresh water is usually characteristic of rivers. But where sea and rivers meet their waters mingle in varying ways under varying conditions, so that degree of salinity has no scientific value as a means of determining where the sea ends and rivers begin.

On the grounds just outlined I cannot regard the presence of salt-water, mingled with the fresh, in the Narrows and in Lake Melville as having any bearing on the question as to whether or not these water bodies are arms of the sea. In both bodies the salt water occurs in the manner common to true river channels and lake basins located close to the sea. And since fauna and flora vary with variations in salinity of water, it follows that the presence of a marine fauna or a marine flora, or both, along parts of the water bodies In question, is

irrelevant to the present issue. We might accept as valid all the observations presented by Mr. C. Tate Regan as to the theoretical possibility that marine animals and marine plants may penetrate into Lake

* WHEELER, W.H. "Tidal Rivers," p. 116, London, 1893.
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Melville (although Regan opposes theoretical possibilities to observed facts) without being one step nearer the solution of the problem before us. Similarly we might accept the brief observations of Vice-Admiral Learmonth on density and temperature of the waters in the Narrows and Lake Melville, without securing light on the critical point at issue. These observations are all of value as tending to emphasize the fact brought out above, that where fresh water streams meet the sea, there is a mingling of fresh water with that of the sea, and a mingling of salt water with that of the streams in proportions that vary widely under changing conditions. But salt water does not make the river or lake part of the sea, any more than fresh water makes the sea a river or lake.

THE PROPAGATION OF THE TIDES INTO A RIVER OR A LAKE DOES NOT
CONSTITUTE AN ARM OF THE SEA.

If the mingling of salt water with the fresh in a river channel or lake basin does not constitute such river or lake an arm of the sea, much less can the entrance of the tides be held to transfer a stream or lake to the domain of the ocean. For the tidal undulation is transferred from salt to fresh water with perfect ease, and normally penetrates inland far beyond the greatest reach of the salt water.

"From the general formation of the country (Prince Edward Island), the tides ebb and flow many miles up all the rivers and almost to the source of many others," said the Court in the case of *Regina v. Cox* when holding that the term "coast" was not applicable to land fronting on a certain tidal river. Along the improved River Nene in England the tides reach to Peterborough, 25 to 30 miles above the point where that stream empties into the Wash. In the River Trent the tide enters as a bore or eagre which passes Gainsborough and is felt above Torksey, 34 miles from the river's junction with the Humber. The tidal wave in the Seine passes Rouen and reaches some distance above Martot. If we consider that the mouth of this river is found at the head of the long narrow estuary, some miles above Quilleboeuf, the tide penetrates 60 miles along the course of the river proper. The Scheldt is tidal 58 miles above Antwerp, or 70 miles above the point where the channel suddenly expands into an estuary three or four times as broad, below Lillo. Tidal pulsations are constantly felt on the St. Lawrence as far up as Three Rivers and under favourable circumstances (low stage of river and high spring tides) have been detected at Montreal, 150 miles above Quebec. In the Hudson River the tide flows strongly to Albany and Troy, 150 miles from where the stream enters the inner New York

harbour. At Troy the mean range of the tide is still nearly three-quarters as great as at the river's mouth, and the tide would flow farther were it not stopped by a dam. On the Amazon the tides penetrate far into the interior of the country, both along the main river and along its tributaries. Thus on the Rio Tapajos the tides rise and fall several inches at a point 380 miles above that river's junction with the main Amazon, or 750 miles from the point where the Amazon first begins to expand

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into its estuary, and 900 miles from the Atlantic.* If we are to admit that Albany and Troy, situated behind a high mountain barrier through which the Hudson escapes by a narrow and picturesque gorge, are coastal cities ; if we are to admit that the coast-line of South America is to be drawn not only up the Amazon for hundreds of miles but up its tributaries for additional hundreds of miles, then “ coast ” and “ river ” no longer have any sure significance as geographic terms. To state the proposition that we should go between 300 and 400 miles up the Amazon to the mouth of the Tapajos, then 380 miles up the Tapajos, to a point 900 miles from the open Atlantic, before we draw the line from which to measure inland a certain breadth of coast, is sufficient to show the absurdity of the proposition. Manifestly tides are not phenomena peculiar to the ocean. They arise in the ocean, but are communicated to any water bodies open to receive them, whether such bodies be sea inlets, true rivers or lakes, or artificial canals or reservoirs.

LEGAL VIEW OF TIDAL RIVERS.

Thus far I have considered the problem of salt water and tidal undulations in rivers solely from the physiographic point of view. To show that the conclusions stated are not based on highly theoretical grounds or reached by fine-spun academic reasoning, but, on the contrary, are such as to commend themselves to the sound common sense of mankind, it is pertinent to point out that these same conclusions have long been firmly established in our legal procedure, and are reflected in popular custom and usage. To convince himself of the latter fact one has only to note how far below the head of tide and head of salt water our rivers continue to be named and described in the same terms applied to them farther inland. Legal usage is less widely appreciated, but it concerns us more because it represents a studied effort to describe facts and conditions with precision. Science seeks to determine abstract truths, while the law endeavours to apply those truths accurately and fairly to the solution of practical problems. In the question before us legal usage offers a useful commentary on the practical applicability of the scientific facts stated above.

Callis (1622), in his “ Treatise on Sewers,” states : “ A river, therefore, is a running stream, pent in on either side with walls and banks ; and beareth that name as well where the waters flow and re-flow, as where the waters have their current one way, as is expressed in the case of the piscary of the Banne

in Ireland ” (4th Edition, 1824 95 (77)). This definition was adopted by Woolrych in his “ Treatise on Waters ” (2nd Edition, 1851, p. 40). In the case of *Gordon v. Moray* (Mor. Diet. Dec. XV, 12 798) the House of Lords held that the *ostium fluminis* comprehended the whole space between the lowest ebb and the highest flood mark, a decision quoted in the House of Lords as authority in later cases. In *Bowie v. Marquis of Ailsa* (14 Ct. of Sess. Cases, 4th Ser., 667-8) Lord Young, concurring in the opinion of the

* See WHEELER, W.H. “Tidal Rivers,” Chapter V, for an account of many rivers along which the tide penetrate far inland.

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Lord Justice Clerk, and referring to the River Doon in Scotland, where the tides rise and fall, and the water is sometimes brackish throughout the area then in dispute, said : “I agree with Your Lordship that the River Doon is no part of the sea. It runs into the sea, but it is not the sea.” In the case of *Vail v. McGuire* (50 Wash., 190-1) the Court quoted and applied the modern meaning of estuary as given in the “ Century Dictionary ” — “ that part of the mouth or lower course of a river flowing into the sea which is subject to tides and specifically an enlargement of a river channel towards its mouth in which the movement of the tide is very prominent.” That a tidal estuary is a part of the river and does not belong with the sea is further indicated in the opinion of the Lord Chancellor in the case of *Gammell v. Commissioners of Woods and Forests* (3 Macq., Scotch App., 460), where Lord Chelmsford said : “ But the grants since the Union are many of them not capable of being referred to rivers or estuaries, because they are grants of fishings in the sea adjacent to lands 'upon the sea coast,' or 'upon the sea shore,' or 'along the sea coasts,' or 'lying along the sea coast.’”

In Scotland the placing of cruives and other machinery in the tidal lower portions of rivers, where the sea ascends and withdraws, and where certain fish, whether of the sea or of fresh water, descend and ascend, was prohibited by statutes dating back as far as 1318. These statutes have received judicial interpretation in several cases, among them two relating to the River Don in 1820 and the River Conon in 1839. In the Don case (*Earl Kintore v. Forbes*, 3 Wilson and Shaw App. Cas. 266) the House of Lords adopted the construction of the statutes stated by the Lord Chancellor, which held that they “ refer not the sea-coast but to rivers and continuations of rivers,” a decision later referred to as settled law by the Lord Chancellor in the River Conon case.

The presiding judge in this latter case (*Horne v. McKenzie, McLean and Rob.* Rep. 1839, 983-984) charged the jury in part as follows : “ Now, I have to lay it down to you, in the first place, that the statutes, as explained by decisions, make these machines unlawful, if they be placed in what is usually known as a river, in the ordinary sense of this word. . . . There are many rivers which only join the sea through a firth,

or through a land-locked valley, where the fresh and salt waters meet. . . . If it (the valley space) shall be so fully and distinctly occupied by the flowing fresh waters, as that it is really a river, though the common river features may be periodically effaced by the tide, it comes under the preceding rule—that is, being still a river, these machines are unlawful. Moreover, rivers have estuaries ; that is, spaces intermediate between the strictly proper river and the strictly proper sea. Through these partly fresh and partly salt estuaries, though its ordinary river features may be impaired, or at high tides even obliterated, the river still does in truth exist and operate. . . . The estuary is a part of the river.” On appeal seven judges united in a written opinion holding that :

“ If in such an estuary, there is absolutely no sensible admixture of

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fresh water whatever, when the tides are ebbing and flowing . . . we can scarcely conceive a more decided proof that an estuary of such a description could not be considered as a river, in the sense of the law referred to. On the other hand, if, during the ebbing and flowing of the tides, and in the average condition of the waters, the fresh water actually predominates, or forms more than a half of the whole, it seems almost as difficult to hold that such an estuary could ever be regarded as the sea, or an arm or branch of the sea.” These judges pointed out, however, as had the Judge of first instance in the case, that in determining what was sea and what was river, the proportion of salt water was but one among many factors which must be considered. Thus, they would hold that a river does not lose its character as such merely by being met by the advancing tide, provided (1) that this be within what are called the jaws of the land, and provided (2) that the relative size of the river, and (3) the other circumstances, would satisfy a jury that on the whole the space is river, including in this term its estuary. Lord Moncrieff concurred in part of the foregoing opinion, but qualified his concurrence by holding that the absence or prevalence of fresh water was not a proper test as between sea and river. The Judgment of the House of Lords was delivered by the Lord Chancellor, who said, among other things : “ I see nothing in the statutes, or in any authority, to justify the putting the legality or illegality of the act upon such a test ; and on principle there is nothing to support it. If this were the test, the legality of the act at any particular place would depend upon the state of the tide, and the right of fishing would belong to one party at high tide, and to another at low tide. Suppose a small river flowing into a large estuary, at low water there might at any particular place be scarcely any salt water, whereas at high water the presence of fresh water might be scarcely perceptible. Whereas in a large river the fresh water might predominate long after the junction with the sea. The large rivers of America are perceptible at a great distance from the shore, and in the Mediterranean ships take in their water from the Rhone in the open sea. The test suggested

is therefore, I think, erroneous, whether it be treated as exclusive, or as an important ingredient in the consideration of the question.” The Lord Chancellor then suggested that a proper test might be to determine the point where the river reaches the level of the sea at low tide. Down to this point all would be river ; beyond it would be sea. “ Down to the point of low tide the waters descend, but no further. Into these waters the sea rises, and the fish ascend, which cannot be said of any part beyond that point.” *

Under the Reciprocity Treaty between Great Britain and the United States (Washington, 1854) it became necessary to determine what were properly rivers and what were arms of the sea, since certain fishing rights under the Treaty applied only to the sea fishery “ all fisheries in rivers and the mouths of rivers” being reserved in a different category. The Umpire

* *Horne v. McKenzie, McLean and Rob.*, Rep. 1839, 989, 992, 1014, 1015, 1016.

under the Treaty, the Hon. John Hamilton Gray, in setting forth the criteria for distinguishing rivers from sea arms, speaks in part as follows :—

“ There is no limitation as to size, or volume ; the Mississippi and the Amazon roll their waters over one fourth the circumference of the earth. The Tamar, the Ex. and the Tweed would hardly add a ripple to the St. Lawrence—yet all alike bear the designation, are vested with the privileges, and governed by the laws and regulations of Rivers. It is not the absence or prevalence, of fresh or salt water, that distinction has been expressly ignored in the celebrated case of Horne against McKenzie, on appeal to the House of Lords. It is not the height or lowness of the banks ; the Rhine is still the same river, whether flowing amid the mountains of Germany, or fertilizing the low plains of Holland. It is not the rise or fall of tide, or the fact that there may be little, if any, water when the tide is out. The Stour and Orwell in England are dry at low water ; yet they have always been recognized, and treated, as rivers. The Petitcodiac in New Brunswick, and the Avon in Nova Scotia, owe their width, their waters, their utility, entirely to the Bay of Fundy, yet their claim to be classed among rivers has never been doubted.” The Umpire then goes on to give, as a useful test, the existence or non-existence of bars at the river's mouth, assuming that such bars result from a conflict between the river waters and the waters of the sea. Where such bars are lacking he would rely upon “ the physical features of the surrounding country,” and other criteria independent of those mentioned above, in the application of all which criteria “ the exercise of a sound discretion ” is recognized as essential. A study of the disputed cases adjudged by the Umpire shows that most, if not all, of those declared to be rivers are subject to tidal movements or are entered by salt water, or both. The Umpire quotes the opinion of the distinguished hydrographer, Admiral Bayfield : “ The point where the fresh water enters the estuary, and mixes with the tide waters, may be miles inland, but it does not, I think, cease to be a river until it flows over its bar into the sea,” and continues :—

“ This view of Admiral Bayfield, that such waters do not lose their character as rivers because flowing through an inlet, or an estuary, is confirmed by the principles laid down to determine what are “ navigable ” rivers, in the technical sense of the term, as distinguished from its common acceptation. To the extent that fresh waters are backwardly propelled by the ingress and pressure of the tide, they are denominated navigable rivers ; and to determine whether or not a river is navigable, both in the common law and in the Admiralty acceptation of that term, regard must be had to the ebbing and flowing of the tide. In the celebrated case of the River Banne, in Ireland, the sea is spoken of *as ebbing and flowing in the river*. These principles are recognized in the Courts of the

United States and the authorities collated, and most ably commented upon by Angel.” *

These citations might be expanded at length, but enough has been said to show how the scientific fact that salt water and tidal undulations penetrate

* See Joint Appendix, Second Proof, Vol. IV, pp. 2047-2076: Final Print, Vol. V, pp. 2445-2478.

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true rivers and lakes without altering their most essential characteristics, is fully recognized in law and in diplomacy as a sound basis of action in the practical affairs of mankind.

THE FACT THAT A RIVER OR A LAKE IS PERMANENTLY NAVIGABLE TO VESSELS ENTERING FROM THE SEA DOES NOT CONSTITUTE IT AN ARM OF THE SEA.

It would hardly seem necessary to state this geographically obvious proposition, were it not for the fact that Vice-Admiral Learmonth, in his Memorandum, has stated that “ for practical purposes a useful test often adopted in determining what is an inlet of the sea is whether the waters in question are permanently navigable by ocean-going vessels,” and has so applied the test as to support the contention that the Narrows and Lake Melville together constitute an arm of the sea. I do not question the accuracy of the Vice-Admiral's initial statement, but it seems to me that the gist of the whole matter lies in the words “ for practical purposes.” For what practical purposes? If for the purpose of navigation, it is clear that the test may be very useful, for one can understand that to the navigator the important point is not where he passes from sea into river or lake, but the point where he must halt and transship his cargo to rail or to smaller vessels. But if the purpose be, as here, to determine where the line between oceanic and terrestrial water bodies should be drawn, the test is worse than useless. For not only would the application of the test place in the domain of the ocean extensive sections of many true rivers and some lakes ; it would at the same time exclude from the category of sea arms countless bays and inlets which all authorities accept as branches of the ocean, although too shallow to be navigable by ocean-going vessels.

Many rivers are navigable to ocean-going vessels far into the interior of a country, often far beyond the uttermost limit ever reached by salt water, and sometimes far beyond the reach of the tides. Large merchant vessels can reach Montreal, 150 miles above Quebec. The Hudson River is navigable for first-class ships to the town of Hudson, 117 miles upstream. Large numbers of ocean steamers reach Rosario on the La Plata, 230 miles up from Buenos Aires. Grain has been shipped from St. Louis in sea-going vessels, 1,266 miles from the mouth of the Mississippi. Ocean-going vessels penetrate 680 miles into the heart of China, to Hankow, on the Yangtze. Steamers from England regularly ascend the Amazon to Manace, 860 miles

above Para, while sea vessels, drawing 15 feet of water, reach Iquitos, 1,100 miles farther up the river, or nearly 2,000 miles from its mouth. In this connection we may refer again to the quotation given in an earlier section from the award of the Umpire under the Reciprocity Treaty, the Hon. John Hamilton Gray, in which he refers to “ the principles laid down to determine what are navigable rivers,” as confirming the view that navigable tidal streams are true rivers and a study of his award will show that so far from making navigability a cause for excluding a tidal stream from the class of rivers, in

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more than one case he cites the presence of a navigable channel as one of the proofs that a given stream is properly to be classed as a river. Thus, Award No. 5 : “ The Murray is a river, and entitled to be so considered in view of its abundant supply of fresh water, its formation, and deep and navigable channel,” and Award No. 7 : “ The Boughton is entitled to be considered a river. It is deep and broad, affording accommodation for vessels, and facilities for ship building far in the interior.”

Perhaps it was the realization of the fact that navigable rivers can not appropriately be classed with sea inlets which led Vice-Admiral Learmonth to state that “ Such a test is specially applicable to cases where, as here, no rivers navigable by such vessels flow into the waters under consideration.” This seems to imply that if a navigable river entered Lake Melville, the application of the test would be less appropriate, and hence that the marine character of the waters would be more doubtful. If this be the meaning, the test for geographical purposes is highly artificial ; for why should the marine character of a supposed inlet depend upon whether or not one of the rivers which enters it happens to be navigable? One might perhaps argue that the large quantity of fresh water poured into a basin by a navigable river would make its marine character less obvious ; but in this case the real criterion becomes quantity of fresh water, and two or more non-navigable streams may bring in more fresh water than one which is navigable. And if the mere entrance of a navigable river into a basin makes the test of doubtful applicability, how much more completely must the test fail when a navigable river lies *between the basin and the sea* ! Lake Melville is separated from the sea by a long narrow channel navigable by ocean-going vessels ; and one of the essential points at issue is whether this channel (the Narrows) should be classed as an arm of the sea or as a navigable tidal river. If, as I shall show below, the latter classification is correct, it would seem that the test of navigability is in any event inapplicable to Lake Melville.

We must look to other criteria for a safe guide when drawing the limits between marine and terrestrial water bodies. Bays and sea inlets on the one hand, rivers and lakes on the other, have physiographic characteristics which distinguish them one from the other. In each and every class some examples are navigable, others are not. Hence, however

important navigability may be from the standpoint of the marine officer, it is obviously irrelevant to the geographic problems of drawing coast-lines, determining coastal extent, and separating marine water bodies from rivers and lakes. And however valuable the classification of inlets presented by Admiral Learmonth may be from the point of view of the navigator, a scheme which would group together such diverse features as Lake Melville, the Amazon River, the Dardanelles Strait and the Black Sea, simply because all are navigable to ocean-going vessels, has no geographic significance or utility.

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THE HAMILTON RIVER SYSTEM IS A UNIT FROM ITS SOURCES ON THE WATERSHED TO ITS MOUTH AT TIKORALAK HEAD. THE NARROWS AND LAKE MELVILLE REPRESENT THE TIDAL LOWER PORTION OF THIS RIVER SYSTEM.

What, then, are the criteria for discriminating between bays and other sea inlets on the one hand, and rivers and lakes on the other? They are physiographic, and have to do with the forms of the containing channels or basins, rather than with the composition of the waters which occupy them. Both rivers and lakes may be salt under certain circumstances, even when far in the interior of a continent ; but their channels and basins have certain physical characteristics quite independent of their water content. What those characteristics are form the subject matter of text books of physiography. Streams in an early stage of erosion appear differently from those more advanced in the cycle of stream development. Valley forms vary with the internal structure of the rocks in which they are cut, with the presence or absence of fractures or “ faults,” and with other geological factors. Glacial erosion modifies valley forms according to well-recognized laws. Lake basins are formed in a great variety of ways, a single text book sometimes describing eight or ten distinct types of lakes. Obviously, then, any general consideration of all the peculiar features of rivers and lakes would be much beyond the scope of the present report.

Fortunately no such extended treatment is necessary for the purpose in view, since the features essential to a proper determination of the true character of the Narrows and Lake Melville are few in number and easily apprehended. We need concern ourselves first, with the features common to all streams and lakes ; and, second, with those features especially characteristic of streams and lakes in a glaciated region of crystalline rocks, such as Labrador. In following this program it will be convenient to deal separately with river characteristics and with lake characteristics, in the order named.

THE NARROWS STREAM IS A TIDAL RIVER.

The normal features of a river are five in number :—

(a) It ordinarily occupies a depression or “valley” which is long in proportion to its breadth.

(b) The walls of the valley are sensibly parallel, although usually farther apart toward the river's mouth than toward its head, and in weak rocks than in resistant rocks.

(c) The pattern of the valley is apt to be irregular or more or less sinuous in horizontal rocks and in massive crystalline rocks, but may be straight for long distances where parallel to tilted layers of sedimentary rocks or determined by a fracture.

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(d) The floor of the valley descends toward its mouth at variable rates, but always continuously enough to conduct water prevailingly seaward. Exceptional floods, or the incoming of the tide in the valley mouth, may locally and temporarily reverse the current ; and some parts of the valley floor may be deeper than others. But these facts never prevent the river from discharging its waters through the valley in a single direction.

(e) Because of the relations described in the preceding section, the surface of a river, no matter how much checked by obstacles such as shallows, or how much embarrassed by incoming tides, has an average surface slope inclined seaward.

Such are the normal characteristics of rivers in general. When we apply to the stream through the Narrows these five tests for a river, we find that it meets them all. The stream in question occupies a depression which is long in comparison with its width. Charts and maps show a total length for the whole passage from Lake Melville to Tikoralak Head of some twenty miles or more, with a width varying from a little more than one mile to a little more than three miles. Descriptions and pictures agree in giving to this passage the typical form of a fairly youthful valley cut by a stream in resistant crystalline rocks. The walls of the valley are in general strikingly parallel, although farther apart in some places than in others, the greatest breadth occurring near the mouth. In pattern the Narrows passage shows the irregular or roughly sinuous course typical of river valleys cut in crystalline rocks. The floor of the valley is notably irregular, some parts being much deeper than others ; but the average slope is seaward, from depths (below sea-level) of ten to twenty fathoms at the head of the western passage around Henrietta Island, and twenty-six to thirty fathoms at the head of the eastern passage, to thirty-five to fifty fathoms near the mouth. Despite the " deeps " in the channel (to which reference will again be made), and the fact that incoming tides temporarily reverse the current, the waters of the Hamilton River system never fail to discharge seaward through the valley in a single direction. Careful surveys show that the average surface slope of the water in the valley inclines seaward at a rate comparable with that of the Ottawa and St. Lawrence (Joint Appendix, Second Proof, IV, pp.

1914, 1958, Final Print. Vol. V, p. 2320). In every respect the Narrows passage conforms to the requirements of a river valley, and I see no room for the slightest doubt that it is a true river valley, which, like most rivers of the Atlantic seaboard, is markedly tidal in its lower portion because a subsidence of the land, or a rise of sea-level, has permitted sea water to enter more freely into the valley than it otherwise would. Like the St. Lawrence above Quebec, the Hudson to Albany, the Potomac beyond Washington, the Narrows is a typical “drowned river” which has not been sufficiently affected by the drowning to lose its true river characteristics.

The normal features of a river described above impose upon the tidal

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undulations entering them such marked peculiarities that “ river tides ” require special treatment in works upon the tides, while in works on rivers and hydraulics special treatment is commonly accorded “ tidal rivers.” Indeed, “ tidal rivers ” frequently form the subject of special treatises, like those by Calver, Unwin, Bouncieau, Mengin, Partiot, Wheeler, and others. Among the peculiarities of river tides are :—

(a) An unusually marked retardation in the advance of the tidal wave, due in large part to the opposing force of the river current and to the ascent of the river slope.

(b) A progressive diminution in the vertical range of the tide, due in part to the ascent of the river slope.

(c) A distortion of the form of the tidal wave, with resulting inequality in duration of rise and fall of the tide.

(d) A marked increase in duration and velocity of the ebb current, and a decrease in the duration and velocity of the flood current.

The tidal surveys carried on in the Narrows in 1923, and reported in full in Volume IV of the Joint Appendix, pp. 1913-1957, were, in my opinion, sufficiently accurate in character and carried on for a period sufficiently long, to demonstrate beyond any doubt that all four of the above peculiarities of river tides are strikingly developed within the Narrows. Thus the rate of advance of the crest of the tidal wave, which in Hamilton Inlet proper averages two and one-third miles per minute, drops suddenly to an average of little more than one-third of a mile a minute within the Narrows (Joint Appendix, Second Proof, TV, p. 1929. Final Print, Vol. V, p. 2335). The vertical range or amplitude of the tide is increasing slightly as the wave advances up the Inlet as far as Tikoralak Head ; but on entering the Narrows it drops off quickly to about 78 per cent. of its normal value at Rigolet (Final Print. p. 2335), while farther inland towards Lake Melville it is still less (as noted above, this is due only in part to river slope). The distortion of the tidal wave in the Narrows is evident from the fact that the period of rising tide averaged but five hours and fifty-six minutes, whereas the fall required on the average six hours and twenty-nine minutes (Final Print, p. 2335). In duration the ebb current everywhere predominates over the flood current, the maximum excess period of the ebb amounting to one hour and seven minutes in mid-channel on the surface (Final Print, p. 2332). In velocity also the ebb current predominates everywhere over the flood current, the measured velocities of the ebb averaging 80 per cent. greater than the flood (Final Print, p. 2332). Thus in every detail the peculiarities well known to characterize tides in rivers are strikingly manifest in

the Narrows, affording convincing confirmation of the fact that the Narrows is a true river.

Long period observations might alter slightly the precise values given above ; but I do not see how they could possibly change the essential facts pertinent to the issue before us. If the object were to determine with

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highest possible precision exact values for each of the above-mentioned factors, the long-period observations recommended by Vice-Admiral Learmonth would be necessary. But where the object is, as here, merely to determine whether or not the peculiar features of tidal rivers are present in the Narrows, no such necessity exists. In fact, without any surveys one could, having before him pertinent information regarding the physical features of “ the Narrows,” safely conclude that this lower portion of the Hamilton River system must exhibit the peculiarities described. It appears, indeed, that the “ river slope ” through the Narrows, a feature involved in the peculiarities of tidal rivers, was not only predicted, but its value was estimated with considerable accuracy, before any surveys were undertaken (Joint Appendix, Second Proof, TV, p. 1956, Final Print, Vol. V, p. 2359). The surveys merely demonstrate the development in the Narrows of tidal river characteristics to an unusually marked degree—so marked that no conceivable changes in rates of river discharge, or in other seasonal variations of physical conditions could possibly change the essential relations.

In respect to the Vice-Admiral's observations that the peculiarities observed in the Narrows and Lake Melville are also found in sea inlets “ of this configuration and depth,” “ where a connecting waterway with a moderate tidal range expands into a large deep basin, into which a very extensive drainage falls from the distant watershed of the interior,” and in part depend on “ the depth, width, and sinuosities of any waterways offering obstruction ” to the travel of the tidal undulation, it is to be noted that the physical features thus described are not found in true sea inlets, but only in tidal rivers and estuaries including tidal lakes. It is because the Vice-Admiral makes navigability the test of a sea inlet, that he is able to class tidal rivers as inlets, and then to compare the Narrows with them.

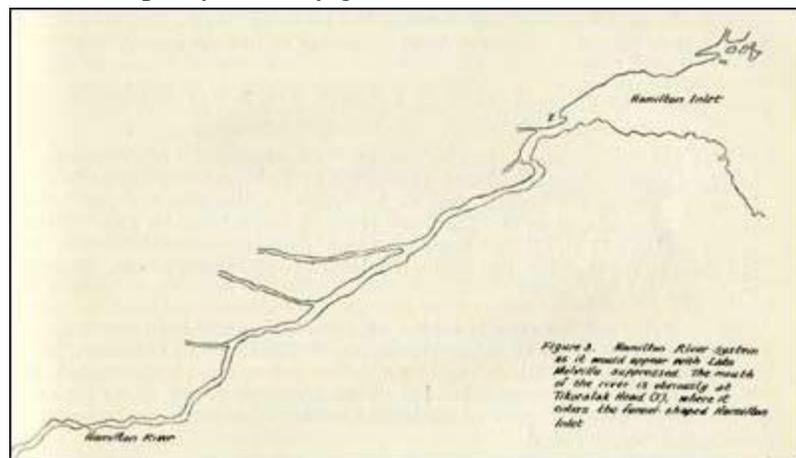
When a land area has been subjected to glaciation, the river systems have impressed upon them certain features which cause physiographers to apply to them the term “ disturbed drainage.” Some rivers are turned from their former valleys into new courses, often flowing from one broad, pre-glacial valley or lowland across a former divide (usually via minor side valleys or ravines) into another broad, pre-glacial depression. Erosion in time transforms the new course through the former dividing range of hills or mountains into a gorge or canyon which contrasts strangely with the broader depressions occupied by other parts of the same stream. Where the new course leads over cliffs or ledges, waterfalls develop. Glacial

debris obstructs stream valleys, ponding or laking the waters, and often diverting the streams into erratic courses. Glacial erosion over-deepens parts of the valley floors to produce lake basins in the broad valleys, smaller “deeps” in very narrow valleys or channels. Where belts of weak rocks favour extensive erosion, broad and deep lakes are apt to develop. Where a narrow gorge compresses the ice within limited compass, thus accelerating ice-movement and increasing erosive power, local deeps may alone result.

Labrador is such a glaciated land, and its drainage system well displays the features described above. The Narrows seems to be a typical example

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of a gorge cut transversely across a former divide and connecting two broader lowlands, one occupied in part by Lake Melville, the other largely submerged to form Hamilton Inlet proper; Lake Melville is one of many similar lakes which repeatedly interrupt the river courses. The falls in the Hamilton River are just as normal characteristics of “disturbed drainage” as are the lakes. In the Narrows. “deeps” interrupt the average seaward descent of the valley floor, giving depressions greater than are found in adjacent parts of Hamilton Inlet proper. These are typical of narrow gorges traversed by ice-currents at some stage of the glacial period, and call to mind the much greater deeps in the Hudson gorge through the Highlands of New York, where depths between 765 and 950 feet below sea-level were scoured in solid rock by the ice current. (These were later partly filled by glacial debris,



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but their initial depths were greater than any known in the lower course of the river, or in adjacent parts of the sea floor.) In short, not a feature of the Lake Melville-Narrows district is unusual or without its counterpart in other lake basins and river valleys in the glaciated regions of America. Were they located farther inland, not a doubt would arise as to their true character. It is only if we allow ourselves to be confused by the presence of salt water and tidal phenomena, common enough in lakes and rivers near the sea, that any question as to the essential nature of Lake Melville and the Narrows can trouble

us.

It is probably safe to say that if Lake Melville alone were farther inland, and the Narrows remained precisely as they are, no one would question that Hamilton River was continuous to the mouth of the Narrows, and that the sea began near Tikoralak Head. Fig. 3 shows the conditions essentially

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as they would then appear. Can it be doubted that with these conditions the river would clearly be indicated as a unit to the point where it enters Hamilton Inlet proper, opposite Tikoralak Head ? The slightly expanded mouth of the river is clearly differentiated from the greater expansion of the Inlet, not only by a distinct change in the course of the shores, but also by the fact that the river does not enter the apex of the Inlet, but a little farther east, distinctly to one side of the Inlet's axis. And if the Narrows would clearly constitute the tidal lower portion of Hamilton River were there no lake, it cannot be held to belong in a different category simply because a lake happens to interrupt the river's continuity. The interposition of a lake in a river's course effects no change in the essential nature of that river, either above or below the lake. The lake may regulate the rate of flow in the outlet stream, and dampen the effect of floods ; but that stream is a river in precisely the same degree, whether or not the lake be present.

LAKE MELVILLE IS NEITHER A FJORD, NOR A BAY INDENTING
THE COAST. IT IS A TRUE LAKE.

In his interesting memorandum on “ Geographical Considerations as to the Canadian-Newfoundland Boundary in Labrador ” Professor J. W. Gregory devotes the greater part of his text to a discussion of the “ fjord problem ” as related to the Labrador coast in general and to Lake Melville in particular. With all due respect to this distinguished authority, it does not seem to me that this discussion is relevant to the present issue. It seems irrelevant for two reasons :—

(a) First, because it relates to fine distinctions between, and controverted theories of origin concerning, different kinds of inlets (fjords, fiards, rias, etc.) which are of much interest to the physiographer, but which are of no practical value to the geographer, lawyer, or diplomat charged with the duty of distinguishing between marine and terrestrial water bodies ; and

(b) Second, because fjords, no matter what theory of origin one accepts, are never the product of marine agencies, and have no genetic relation to the sea ; they are basins of independent origin which are called fjords, fiards, etc., if occupied by true arms of the sea, but are called by other names if occupied by terrestrial water bodies. Thus, even if one were to accept Professor Gregory's theory respecting the origin of fjord basins, we must still determine first whether Lake Melville is a lake

or an arm of the sea before we can apply to it the term fjord.

A further word of explanation may serve to clarify these two points.

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THEORIES OF FJORD FORMATION.

(a) The origin of fjords has long been disputed. In various countries geologists and geographers have contributed a voluminous bibliography to the subject, which I have reviewed at some length in my volume on "Shore Processes and Shoreline Development." In order to show the complexity of the subject I cannot do better than repeat what I said there regarding the fjord problem, in words written more than ten years before the Labrador boundary question was brought to my attention. Incidentally the quotation will reveal my doubts regarding the correctness of Professor Gregory's ideas on fjord formation, and will serve to emphasize the fact that whether or not the term fjord is applicable in any given case depends wholly on whether or not it happens to be occupied by a true arm of the sea.

Fjord Shorelines.-Perhaps no type of shoreline has given rise to so much discussion as has the fjord shoreline. We may note in the first place that geologists and geographers may be divided into two main groups whose ideas regarding the origin of fjords are mutually opposed. The first group may be designated as the "glacialists," because in their opinion all the phenomena peculiar to fjords may be explained as the result of extensive glacial over-deepening of pre-glacial river valleys near the sea. The second group, or "non-glacialists," reject the theory of ice erosion, and attempt to account for the phenomena of fjords in other ways.

According to the glacial theory, fjords are partially submerged glacial troughs. The troughs of glaciated mountains far from the sea are similar to fjords, except that the former have not been drowned by marine waters. In both cases the troughs were formed by extensive glacial over-deepening of former river valleys. The pre-glacial valleys guided the glaciers which later came to occupy them, and by confining the ice streams to the narrow limits imposed by the valley walls, insured a maximum efficiency of glacial erosion. The glacial theory asks no questions as to what determined the courses of the pre-glacial valleys ; but it is fully recognized that among other causes ancient fault lines must be considered, since a fault may give a crushed zone which is weaker than the unfractured rock, or may bring a belt of weak rock into such position that subsequent valleys will soon be excavated along it, parallel to the fault. This would satisfactorily account for the fact that many fjord shorelines have a more or less angular pattern.

Esmark was the first to advocate the glacial origin of fjords, almost a century ago. The fjord valleys of New Zealand

were ascribed largely to ice erosion by von Haast in 1865, while Helland a few years later, in discussing the fjords of Norway and Greenland, gave the best exposition of the glacial theory as applied to the interpretation of fjords which had appeared up to that time. Helland seems to have anticipated Shaler in recognizing the ability of glaciers to excavate their channels below sea-level, and to have given a fairly good account of the essential significance of hanging valleys some twenty years before Gannett's classic statement. The influence of rock fractures on the orientation of fjord valleys was recognized by Brögger,

who did not fail, however, to attribute the actual excavation of the fjords to glacial erosion. In a similar manner Reusch for the Norwegian fjords, and Andrews for those of New Zealand, make a clear distinction between the rôle of faulting in determining lines of weakness favourable to rapid stream and glacial erosion, and the role of glaciers in giving to the fjords their present form and depth.

In 1895 Shaler, in discussing changes of sea-level, accepted the glacial origin of fjords and stated that since glaciers may cut their channels below the surface of the sea, the flooding of a glacial trough may be accomplished as the ice melts, without any sinking of the land or rising of the water-level. This same view, that fjords do not indicate past changes of level, was adopted by Hubbard in a brief review of the fjord problem which he published in 1901, by Daly in his account of the Labrador fjords, and by Andrews in discussing the fjords of New Zealand. It is further elaborated by Gilbert in his report on glacial studies, forming the third volume of the Harriman Alaska Series, where the reader will find a discussion of the physics of glacial erosion below sea-level. Marshall in his "Geography of New Zealand," and Tarr in his report on "The Physiography and Glacial Geology of the Yakutat Bay Region, Alaska," are among other students of fjords who attribute their excavation to ice erosion.

Members of the non-glacialist group are by no means in agreement among themselves as to the origin of fjords. They agree on one thing only—that ice did not excavate these deeply submerged canyons. Some consider fjords the product of normal stream erosion followed by a partial submergence which permitted the valleys to be drowned. This was the view expressed by Dana, who first emphasized the restriction of fjords to high latitudes, but did not suggest for them a glacial origin. Upham definitely rejects the glacial explanation, and follows Dana in considering fjords as drowned normal river valleys. Brigham and Hull seem to incline to the same view, the former speaking of "the common-sense conclusion that they are river valleys made tidal by drowning," but both recognize that fjords have been to some extent modified by glaciers. Hirt in a review of "Pas Fjord-Problem," Dinse in a more elaborate study of "Die Fjordbildungen," and Grossman and Lomas, in a report of the Faroe Islands, tend to assign to glaciers but a moderate rôle in modifying pre-existing valleys ; while J. W. Tayler and Fairchild definitely reject the glacial theory of fjord formation, Fairchild specifically invoking coastal subsidence to account for the fjord embayments.

Among those students who admit that ice erosion played an essential part in fashioning fjord valleys, there are a number who either expressly require coastal subsidence, or else tacitly assume that subsidence is necessary for the drowning of the glacial troughs. Robert Brown, writing on "The Formation of

Fjords ” in 1869 and 1871, required the combined action of glacial erosion and coastal subsidence. The same view is supported by Remmers in his “ Untersuchungen der Fjorde an der Küste von Maine,” and by Güttner

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in an essay on “ Geographische Homologien an den Küsten ” published in 1895. Those writers, assuming the necessity of subsidence without specifically discussing the point, include Penck in his “ Morphologie der Erdoberfläche,” de Lapparent in his “ Traité de Geologie,” Gallois in his account of “ Les Andes de Patagonie,” Le Conte, in his “ Elements of Geology,” and Hobbs in his “ Earth Features and Their Meaning.”

Formerly many observers were inclined to regard every fjord as either a rift valley formed by the dropping down of a narrow strip of the earth's crust between two parallel faults, or as a gaping chasm opened along a single fault. This tectonic theory of the origin of fjords, once much in vogue as an explanation for all valleys, is now generally regarded as obsolete. Statements of the tectonic theory in which ice is credited with a very minor role in clearing out crushed and broken rock left in the fault cleft, or in the moderate widening of an open chasm, will be found in a short paper by Gurlt entitled “ Über die Entstehungsweise der Fjorde,” published in 1874; in Peschel's “Neue Probleme der vergleichenden Erdkunde als Versuch einer Morphologie der Erdoberfläche,” dated four years later ; and in Kornerup's account of the fjords of south-west Greenland. A more modern supporter of the tectonic origin of fjords is Steffen in a shore paper on “ Der Baker-Fjord in West-Patagonien.” But by far the most elaborate thesis in support of the tectonic theory is J. W. Gregory's recent book on “ The Nature and Origin of Fjords.” This serious attempt to rehabilitate a much-discredited theory of fjord origin contains extensive references to the literature of fjords, but frequently misinterprets the view held by the authors quoted. In a critical review of the book the present writer has endeavoured to show that Gregory's arguments are based upon a misconception of what the glacial theory of fjords implies, and upon an uncertain and variable interpretation of the tectonic theory.

Readers who wish to follow the discussion of the fjord problem further will be interested in an essay by Nordenskjöld on “ Topographisch-geologische Studien in Fjordgebieten,” and in a shorter paper by Werth entitled “ Fjorde, Fjärde, and Föhrden.” Both contain many references to the literature of the subject, and Werth's paper explains the differences between typical fjords, the allied forms in low rocky coasts like south-western Sweden some-times called “ fiards ” (Plate XX), and the “ föhrden ” of the Baltic shores of Denmark and Schleswig-Holstein, similar to fiards but lacking their rocky shores. The relations of these three sub-types of fjords are also considered by Penck, Dinse, and Hubbard. An early paper by Ratzel discusses at some length the essential characteristics of

fjords.

Without, at this time, entering into any elaborate discussion of the several theories of fjord formation, it may be said that the interpretation which would regard fjords as partially submerged river valleys fails to account on any rational basis for the restriction of true fjords to glaciated high latitudes, for the identity in form between fjord-valleys and the glacial troughs of glaciated high altitudes, for the almost uniform violation of Mayfair's law by tributary valleys which enter main fjords with discordant junctions, and for the occurrence of submerged fjord basins which, were the land to stand higher,

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would become lake-basins not distinguishable from those of typical glacial troughs. Special pleading and strained reasoning have suggested a variety of possible explanations for each of these characteristic relationships, some of which might apply in one given instance, others in another. Glacial over-deepening of pre-existing river valleys alone offers a single explanation adequate to account at once for all of the specified relationships in all of the observed cases.

The tectonic theory of fjords is based on a misunderstanding of the significance of the known occurrence of fault-lines in certain fjords, and of the rectangular pattern of other fjords, which suggests an intersecting fault pattern. There can be little doubt but that crushed zones along faults, and unfaulked strips of weak rock, have often determined the position and pattern of fjord-valleys. It is, however, an error of reasoning to jump to the conclusion that faults make fjords. As already noted, the glacial theory of fjord origin fully recognizes the fact that the pre-glacial valleys later transformed into fjords were often excavated along ancient fault-lines. Stream erosion naturally took advantage of the weak belts determined by faulting, forming fault-line valleys ; but not until ice occupied these pre-glacial stream valleys and profoundly changed their shape and their depth, were the forms which we called fjords produced.

To prove the presence of a fault-line through a fjord is, therefore, to prove nothing as to the tectonic origin of the fjord. The tectonic theory, moreover, affords no rational explanation of the restriction of fjords to high latitudes, nor of the identity in form between fjord-valleys and unsubmerged glacial troughs, between fjord-basins and trough lake-basins. In the glacial theory alone do all of the phenomena cited, including the relation of fjords to faults, find a logical interpretation.

The foregoing paragraphs are sufficient to show that I regard the fjord problem as one of considerable importance, and that I have given much attention to it in its proper place. A more detailed analysis of Professor Gregory's ideas on fjords was published by me in 1915,* and is proof that I am not averse to discussing at length the theories which Professor Gregory supported some years ago, and which are now incorporated in his Memorandum and applied to the Labrador coast. But while such a discussion might be of interest to the

physiographer, I do not see how it could be pertinent to the present issue. Certainly Newfoundland's claim to the Labrador coast will not hang on the slender thread of a special theory of fjord formation rejected at the present time by the great majority of physiographers. Surely the coast-line must be drawn, for geographical and territorial purposes, on the basis of fundamental physical distinctions widely recognized and accepted as valid, and not on the basis of theories which are still disputed by specialists. In law and in diplomacy, in the engineering profession and in the common walks of life, the essential phenomena of tidal rivers and sea inlets are well understood, and are made the basis of important acts ; but what place do fjords, and fiards, and theories of their origin hold in the practical affairs of man?

* JOHNSON, DOUGLAS. "The Nature and Origin of Fjords," Science, N.S. XLI, 537-543, 1915.

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(b) But even if we were to admit that the theories of fjord formation were pertinent to the present issue, and that the fine distinctions between fjords, fiards, förden, and rias of various types should be mastered by the practical man as well as by the professional physiographer, we would still face a curious dilemma. All these theories and distinctions relate to the origin of the basins occupied by the water, and not to the nature or behaviour of the water bodies as affected by the special forms of the basins.

Thus, suppose we accept Professor Gregory's theory that fjords are basins formed primarily by fracturing of the earth's crust. Identically similar fractures occur in the interior of the continents as well as on the margins. Every geological and physiographic feature assigned by Professor Gregory to Lake Melville can be duplicated repeatedly far inland in North America. The resulting basins hold fresh water in the interior and are therefore called lake basins. On the coast they may be entered freely by the sea, when they will be called fjords, fiards, förden, or rias by different students, according to the details of form exhibited, or the theory of origin accepted as most plausible. If the sea enters but partially and with difficulty by a narrow passage, the student must first decide whether the water body in the basin is more closely related to lakes or to sea arms, before he knows whether to call the whole feature a lake basin or a fjord. It is a curiously illogical procedure to say ; " fractures produce fjords ; fractures produce the Lake Melville basin ; hence Lake Melville is a fjord ; therefore it is not a lake." If one started with the even more valid premise : " Fractures produce lake basins," the same reasoning would lead to an opposite conclusion.

EVOLUTION OF NORTH-EASTERN AMERICA.

In order that there may be no misunderstanding of my own position, let me say specifically that in my opinion the fracture origin of the Labrador coast, as set forth by Professor

Gregory in his Memorandum, is in the highest degree improbable. It is contrary to the known history of the whole eastern section of Canada as deciphered by a number of competent geologists working on the ground. All the geologic facts which Professor Gregory adduces in support of his theory are better accounted for in the well-established sequence of events worked out by Daly, Kindle, Goldthwait and many others. This sequence places the observed fractures far back in geologic time, and limits their effect upon present topography chiefly to an indirect influence upon erosion by providing infaulted strips of weak rock which rivers and glaciers could readily excavate. The basins were not formed by the sinking of the floors between fractures as assumed by Professor Gregory, but by normal stream erosion etching out the infaulted weaker rocks long after all topographic effects of the fracturing had been obliterated. For since the fracturing there have elapsed long periods of denudation, during which the land was reduced to a nearly level plane close to sea-level. Uplift of the plane permitted rivers to entrench themselves anew, and it was in this erosion period that the infaulted strips of weak rocks were quickly removed to give unusually broad

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valley lowlands, while youthful valleys were carved in resistant rocks. (Professor Gregory unfortunately confuses the old and doubtful theory of " Pre-Cambrian Valleys " with the well-established and almost universally accepted present view that all the valleys date from Tertiary or later time ; and from this confusion draws wholly unwarranted conclusions as to the origin of the youthful valleys.) More recently, glaciers spread over the northern part of the country disturbing the drainage in the manner already described in an earlier paragraph. Where the ice passed through valley low-lands underlain by weak rocks, it found conditions especially favourable for easy excavation of deep basins which were occupied by water as the ice melted away. Infaulted weak rock strips were more abundant in the interior than on the coast, and their erosion by streams of water and ice produced countless broad river valleys and lake basins. The uplifted and dissected plane was gently warped, without any appreciable fracturing at this period, so that the margins of the continent were encroached upon by the sea. Valleys and lowlands were " drowned " giving sea inlets or bays where the sea entered freely and largely extinguished the land topography ; giving partially drowned tidal rivers or lakes where the former topography was but slightly affected. Of the true sea inlets those deeply cut and profoundly altered by glacial erosion to give certain specific forms are today called fjords ; those of less relief moderately affected by glaciation are called fiards ; and those which have suffered little or no changes due to glacial erosion are called rias. The same types of basins found inland give glacial troughs if ice erosion has profoundly affected the form of the original valley, glaciated valleys if the effects of ice erosion

are moderate, and normal valleys if the ice produced little or no change. Wherever such inland valleys have over-deepened places in their courses lakes are formed.

LAKE MELVILLE NOT A FJORD.

Thus, whether the Lake Melville basin is a true lake basin, or is a fjord, fiard, or ria, depends wholly on whether its essential features are little affected by marine submergence, or are largely extinguished by the sea. In my opinion Lake Melville undoubtedly is a true lake. Even if its basin were deeply submerged by a free entrance of the sea, it could not properly be called a fjord, since according to all descriptions it clearly lacks the essential topographic features of a true fjord. It shows, for example, striking contrasts with the true fjords found farther north on the Labrador coast. Instead of trough walls descending steeply to the water, the lake is for long stretches bordered by lowland plains reaching inland from the shore for several miles before high land is encountered. The catenary cross-profile of the true fjord appears to be lacking, and the broad and irregular form of the basin is unusual for a fjord. Streams from the highlands do not descend directly to the lake from the ordinary type of hanging valleys but have their fall over a probable fault-line scarp far back from the supposed fjord waters. All this is normal for a lake basin developed by erosion of an infaulted block

of weak rock, but is abnormal for a fjord. Professor Gregory notes that the Lake Melville basin extends below sea-level, but this is not peculiar to fjords, lakes of every type have basins deeper than their outlets, and many of those near the sea, and some far inland (e.g., the Great Lakes) have their bottoms below sea-level. Depth is merely a matter of how effectively the glaciers happened to erode, how far a fault block dropped, or other extraneous factors. Professor Gregory is able to classify Lake Melville as a fjord only because he makes fracturing the primary cause of fjords ; but as has been pointed out above (*a*) the fracturing is vastly more ancient than the period of fjord formation, and (*b*) fractures are as commonly found associated with river valleys and lake basins as with fjords. The fact that earlier writers applied the term fjord to Lake Melville, a fact stressed by Professor Gregory, should not mislead us. It was common practice in earlier days, especially among geologists who were not specialists in physiography, to use the term “ fjords ” very loosely for narrow sea inlets of all kinds and for lake basins closely associated with them. Even inland lakes with steep-walled basins were sometimes called “ fjords.” Thus the name “ fjord ” has been applied to bays and lakes on the coasts of Maine, Massachusetts, Nova Scotia, Cape Breton Island, Denmark, and to lakes in Switzerland, none of which are now classed as fjords.

I have stated in the above terms my reasons for rejecting the contention that Lake Melville is a fjord, not because I believe this theoretical matter pertinent to the present issue, but merely to make clear the fact that Professor Gregory's whole memorandum is based on a theory of fjord origin which has been rejected as untenable by most physiographers, on a history of the Labrador coast which is in conflict with that worked out for the whole north-east coast of America by those geologists and physiographers best acquainted with the region, and on a standard of fjord topography which is at variance with that generally recognized by specialists in land forms. As an eminent authority, Professor Gregory is most assuredly entitled to hold and defend these several views, and to demonstrate, if he can, their superiority over the views more generally accepted throughout the geologic fraternity. But coast-lines cannot be delimited, or territory assigned to sovereignty upon any such debatable grounds.

LAKE MELVILLE NOT A BAY OF THE OCEAN.

True arms of the sea may result from the extensive submergence of former river valleys (producing rias), glacial troughs (producing fjords), or other types of depressions. Whatever their origin they have certain features in common. The valleys, troughs or other land features are sufficiently drowned by marine submergence to change completely the general appearance of the region. The sea has free access to the depressions ; it may find such access through narrow inlets, or

large inflow of water from rivers may freshen the headward portions of the sea arms, but the sea does not have to make headway against a definite outflowing current of land water. The mean level

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of the sea arm is substantially that of the open sea nearby. Tides are not greatly affected by river action, so fail to develop in any marked degree, if at all, the behaviour characteristic of tidal rivers.

In none of these respects does Lake Melville resemble a sea arm. There is no extensive marine submergence of the basin. The lake is deep, but most of the submergence actually existing would remain if the sea were a thousand miles distant and thousands of feet lower. Of the thousand feet of depth recorded for the lake only the upper 150 is due to the entrance of the sea ; the rest would persist if there were no sea. Even with this addition the floor of the basin is still visible over large areas as a low plain bordering the lake. The essential form of the basin and its narrow outlet are little obscured by such sea-water as finds its way into the depression. Access of sea-water to the basin is not free ; the incoming flood must overcome the outflow of the largest river on the east coast of America north of the St. Lawrence, a river draining a basin so vast that all of England could be put into it, with plenty of room to spare. Against this outflow the sea must struggle for miles along a narrow and crooked river valley. The mean level of the lake is above the mean level of the sea, even when the river outflow is not at its maximum. Tides cannot reach the lake without first undergoing the striking modifications characteristic of river tides. The lake is not directly connected with the sea, but as shown in a preceding section, is separated from it by a narrow tidal river 20 miles in length. For all of these reasons it would be altogether improper to classify Lake Melville as a bay or arm of the sea.

LAKE MELVILLE IS A TRUE LAKE.

A careful consideration of all the evidence makes it clear that Lake Melville must be classed with the countless other lakes which diversify the glaciated area of north-eastern America. Deep lake basins, while far less numerous than those of moderate depth, are none the less well recognised as normal features in glaciated districts. The Hamilton drainage system includes, in addition to Lake Melville, Grand Lake with a depth of 540 feet, and Lake Winikapau, far in the interior, over 400 feet deep. Lake Superior has depths slightly over 1,000 feet, Lake Michigan over 800 feet, and Lake Ontario over 700 feet. Kindle has referred to Lake Mjosen in Norway, with a depth of more than 1,000 feet. Nor is there anything peculiar in the fact that the bottom of Lake Melville is below sea-level. Of the various lakes mentioned above, all but one have their bottoms hundreds of feet below sea-level, notwithstanding the fact that most of them are far inland. The great depth of Melville is not only normal for a glacial lake, but it finds a

ready explanation in the presence of a belt of weak sandstones, first etched out by streams to form a broad lowland in pre-glacial times, then easily deepened by ice erosion.

Salt water and tides in lakes are of frequent occurrence where such lakes are near the coast. Lake Kennebecasis in New Brunswick, with a level

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distinctly above that of mean sea-level * is entered by the sea at high tide, and is itself tidal. Inasmuch as Lake Kennebecasis is directly connected with the sea by a very short tidal inlet it is far more closely allied to bays than is Lake Melville, and while such classification is certainly incorrect, it is understandable why it should sometimes be called a bay. This is done in certain maps and atlases, and I have myself been guilty of the error. Nevertheless, it is more widely known as a lake, is regarded by the Canadian Department of Marine and Fisheries as an expansion or lake of the St. John River, and the fishery in the lake is regarded and treated in the Department's Regulations as a river fishery.†

Lake Pontchartrain in Louisiana is separated from the sea by a narrow channel eight miles long, through which both salt water and tides enter the lake basin. Yet David Starr Jordan cites it as a type example of lakes formed by the damming effects of river deposits.‡ The Secretary of War of the United States has stated that the War Department regards Lake Pontchartrain as “ a body of water distinct and separate from the Gulf of Mexico, and hence a waterway, the navigable portions of which lie wholly within the limits of a single state.”§ It may be added that although this lake is mostly fresh, sea fish find their way into the basin with the salt water, and have been observed there by Jordan mingling with fresh water species. The lake is accessible to small ocean-going vessels drawing nine feet. Both the long narrow channel leading into the lake, and the name, Rigolets, remind one curiously of the entrance to Lake Melville. In this same region Lake St. Catherine, while nearer the sea, is fresher than Pontchartrain although entered by salt water and the tides, Lake Maurepas is farther inland, yet subject to tidal undulations and to some access of salt water. Grand Lake, like Lake Melville, is separated from the sea by an irregular channel 20 miles long, and is generally fresh, yet salt water and the tides penetrate into it. Farther west, on the Gulf Coast, Calcasieu Lake and Sabine Lake, through which large rivers of the same names discharge are separated from the sea by narrow channels a few miles in length. Both lakes are brackish from sea water, and both are tidal, and it may be added that both basins differ in origin from those previously mentioned. All of the foregoing lakes in the Louisiana-Texas area are true lakes in every sense of the word, and are accessible to small boats entering from the Gulf of Mexico. Furthermore, “ all of these lakes are classed as inland waters by the Steamboat Inspection Service, i.e., the pilot rules for inland waters or for western rivers apply on these lakes as distinguished from the high seas where the

international rules apply.”**

* The difference is at least two feet, because differences of 1.96 and 2.04 feet were determined by two lunar months' tide-gauge readings during the autumn level of the river, the gauge in the lake being well down toward the tidal inlet.

† “Special Fishery Regulations for the Province of New Brunswick,” 1924, p.17, Sec.32.

‡ “High Lights of Geography, North America.” Jordan, D.S., and Cather, K.D., p.102, 1926.

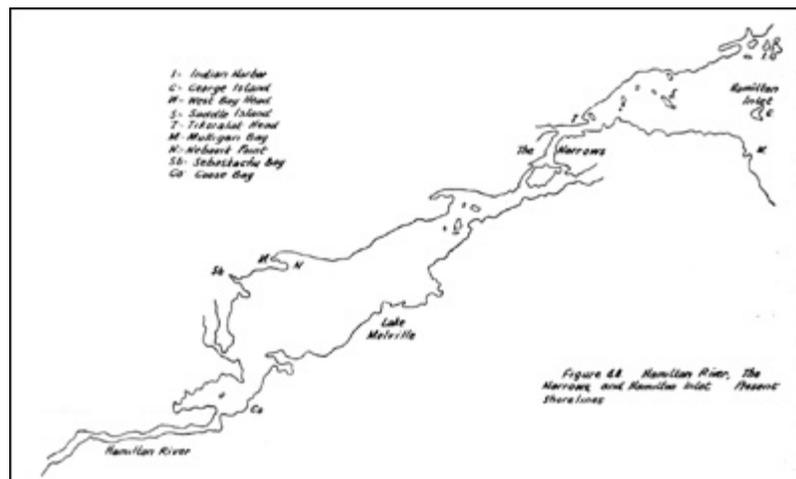
§ Personal communication from United States Engineer's Office, New Orleans, La.

** Personal communication from U.S. Coast and Geodetic Survey, Washington, D.C.

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PHYSICAL CONTRAST BETWEEN HAMILTON RIVER AND HAMILTON INLET.

No one familiar with the loose and variable way in which names are frequently printed on maps and charts can attach any significance to the fact that the name Hamilton Inlet has occasionally been so printed as to cover the tidal lower portion of the Hamilton River system. The distinction between the true inlet and the true river system must depend, not on the whim nor even on the best judgment of the cartographer,* but rather on the fundamental physical features described in preceding sections. It is submitted that those physical distinctions have been shown to be real and practical, but it may emphasize the validity of those distinctions to apply a



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very simple and non-technical test to the whole area here under discussion. This is to imagine the sea to be entirely withdrawn from the area, as would be the case for example if sea-level were to drop, say, 1,500 feet. The result would be accomplished by a drop of but one-fifth this amount, but to avoid any confusion we may assume the figure of 1,500 feet in order to carry the sea far below the lowest part of the Lake Melville basin.

Fig. 4A is an outline of the present hydrography of the region, in so far as it relates to the Lower Hamilton River, Lake Melville, the Narrows

* In preparing maps and charts the United States Geological Survey, The United States Coast and Geodetic Survey, and presumably similar government bureaus in other

countries follow the practice of naming physical features as they understand them to be named locally. Experience shows that not infrequently their understanding is a mistaken one, due perhaps to insufficient inquiry on the part of the surveyor.

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and Hamilton Inlet, and is based on surveys by Low and Kindle of the Geological Survey of Canada, and on Chart 420 of the Canadian Naval Service. Fig. 4B is an outline of the hydrography as it would appear if the sea were to abandon the area entirely, consequent upon a 1,500 foot drop in sea-level. It is based in part on contours drawn from soundings and in part directly on soundings. For Lake Melville and the Narrows the data are found on Chart 420 and is abundant. If we assume that the ponded lake waters will have a depth of 35 feet where they escape through the narrow channel at Pike Run, at the upper end of the Narrows (an assumption which cannot be far wrong), the 20-fathom subaqueous contour, already drawn on Chart 420. except where close inshore, will give with more than needful accuracy the shore-line of Lake Melville under the new conditions.* Goose Bay, however, will be held at a slightly higher level by the narrow and shallow channel which connects it with the rest of the lake.

For Hamilton Inlet proper the data are far less abundant, although sufficient for our needs. Soundings (Admiralty Chart No. 375) are too few in number to make possible the drawing of accurate contours, but a study of these soundings makes it clear that after the drop in sea-level there would remain no large water bodies to require contouring. Near the head of the funnel-shaped inlet or embayment there is a deep area revealed by soundings of thirty-four, thirty-three, fifty and forty-six fathoms. Eastward there is a belt several miles broad in which the deepest soundings are twenty-two and twenty-three fathoms. Still farther eastward there are evident channels deeper than twenty-three fathoms. From these figures we may be sure that with the drop of sea-level all water would drain off eastward down to the twenty-two fathom level. Below this there might persist in the head of the embayment a small lake (L) occupying the " deep " above referred to. If there is a channel deeper than twenty-two fathoms, not revealed by the soundings, the lake might be smaller than shown in Fig. 4B, or it might be wholly replaced by a normal river channel, but in no case could it be very much larger than it is represented.

Eastward from the lake there appears to be a depression or channel twenty to twenty-five miles long, running close to the south side of Saddle Island (S), thirty to forty fathoms deep throughout most of its length, and forty to fifty fathoms at its extreme eastern and north-east of George Island (G). In places this channel may shallow to depths of twenty-five fathoms, as depths of twenty-five and twenty-six fathoms are recorded at two places, or it may be that the deep channel continues in the areas without soundings in this section of the Inlet's floor. Soundings toward the south-east from

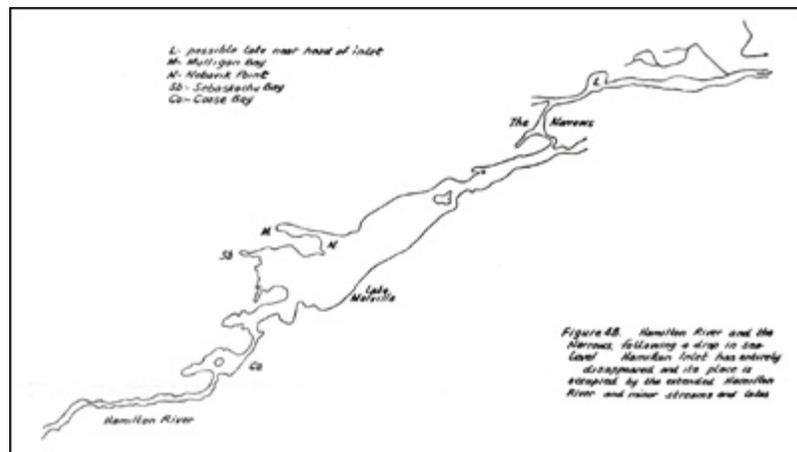
*Unpublished soundings brought to my attention since this was written indicate the presence of a 16-fathom shallow or bar in the Narrows just above Rigolet. The effect of this

would be to hold the water above the bar at a slightly higher level than I have assumed. Consequently the Lake and Narrows under the new conditions would resemble the present Lake and Narrows even more closely than I have indicated in Figure 4B.

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Saddle Island indicate a broad, relatively shallow (fifteen to twenty-three fathoms) plain south of the deep channel.

North of the channel above described there appears to be a branch channel, deepest along the north side of Saddle Island (S), apparently itself joined by a minor tributary still farther north. It is possible that the branch channel might be deep enough and broad enough to hold small lake north of the island, as shown in Fig. 4B, but it seems equally probable that no such expansion of the river would occur. Farther north-east there is evidence of another small channel heading west of Indian Harbour. It may join the main channel within the limits of the figure, or more probably farther east. Between George Island (G) and the mainland near West Bay Head (W),



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soundings are relatively shallow, but ten or twelve miles south-east of George Island there is a belt of deep soundings.* Whether the main channel just north of George Island turns south-east to this belt, or continues eastward or north-eastward to another belt of deep soundings, is not evident from the available data.

No special significance should be attached to the precise locations or dimensions of the lakes and channels described above and represented on Fig. 4B. As to these details there can be no doubt that more abundant and more accurate data would justify significant changes. This much, however, is certain. The *kind* of hydrography represented in Fig. 4B would not be at all changed by any new data. Whatever errors of detail are inherent in the Hamilton Inlet portion of Fig. 4B, due to lack of abundant soundings, there

* See also Chart No. 222.

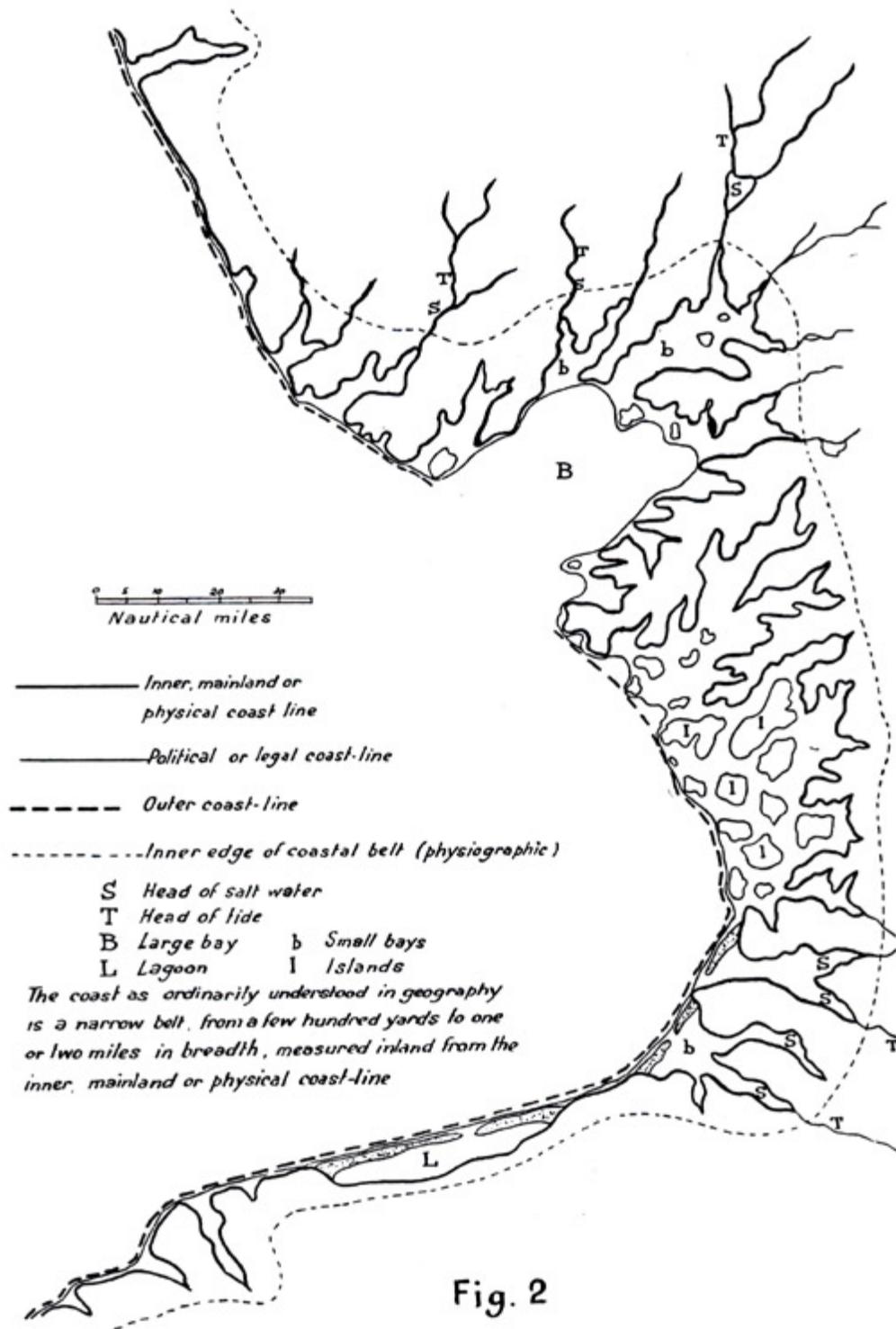
is no doubt that a drop of sea-level such as we are assuming would reveal in this area a single main river and some minor tributaries either continuous or interrupted by small lakes. The funnel-shaped inlet would disappear entirely, and in its place

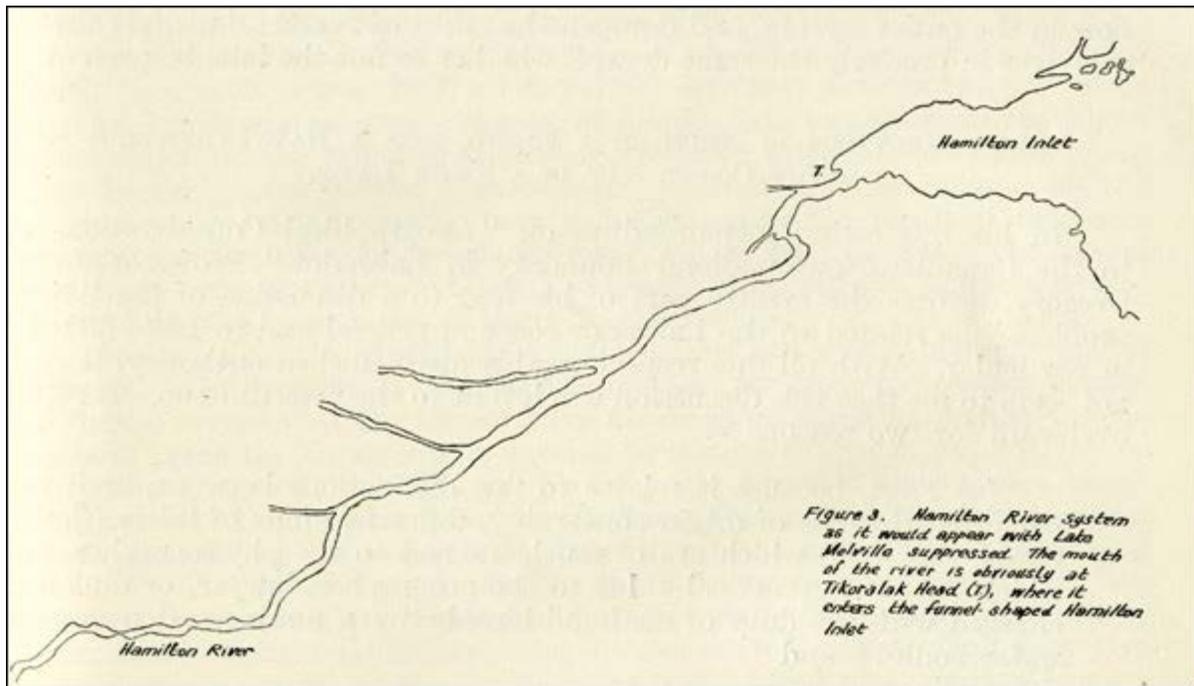
would come a river system bearing no resemblance whatever to the former water body it replaced.

How different is the case with Lake Melville and the Narrows stream. Under the new conditions Lake Melville is still there. Some shore details are changed with the moderate fall of lake-level, but the general pattern of the lake remains much as before. One can even trace such details as Mulligan Bay (M), Nebavik Point (N), Sebaskachu Bay (Sb), and Goose Bay (Go), now better called Goose Lake because of its slightly higher level. The Narrows show no other modification than the change in level and breadth, while the west arm no longer connects with the lake. The pattern and character of the gorge remain the same, and the lake continues to discharge through it as before.

Suppose an explorer, furnished with a proper map of Lake Melville, the Narrows and Hamilton Inlet (Fig. 4A) were to enter this region following the imagined drop in sea-level, and hence were to find conditions as shown in Fig. 4B, what would his verdict be? It would run something like this “ The lake is undoubtedly the one named Lake Melville on the map, for while there are inaccuracies in the map, the general form of the lake, its tread, and even many of its details are easily recognized, leaving no question that this is Lake Melville. So, too, with the outlet channel marked 'The Narrows' on the map. The identity of the present outlet with that shown on the map is remarkably close. The only noticeable error is found where the map continues the west arm of the outlet valley clear back to the lake, and this is pardonable, for on the ground there is a distinct depression or low pass connecting this arm with the lake. But eastward from this point the map is hopelessly wrong. It shows a funnel-shaped bay of the sea called 'Hamilton Inlet.' As a matter of fact there is nothing in this region bearing the slightest resemblance to such an inlet. The Hamilton River continues eastward for many miles, flowing through occasional small lakes and receiving small tributary streams, right where the sea inlet is supposed to be.”

Such a test emphasizes the essential point brought out by a study of the physical features of the district. Lake Melville and the Narrows are terrestrial water bodies, a true lake and a true river, merely modified to a limited extent by accidental entrance of the sea. Remove the sea and they remain intact. Hamilton Inlet is a marine water body, a true arm of the sea, dependent on the sea for its very existence. Remove the sea and it disappears entirely. The point where the true sea inlet ends and the Hamilton River system begins is thus clearly indicated. It is at the inner end of the disappearing bay, at Tikoralak Head.





[Text reads: "Figure 3. Hamilton River system as it would appear with Lake Melville suppressed. The mouth of the river is obviously at Tikoralak Head (T.), where it enters the funnel-shaped Hamilton Inlet."]

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Figure 4A. Hamilton River, the Narrows and Hamilton Inlet

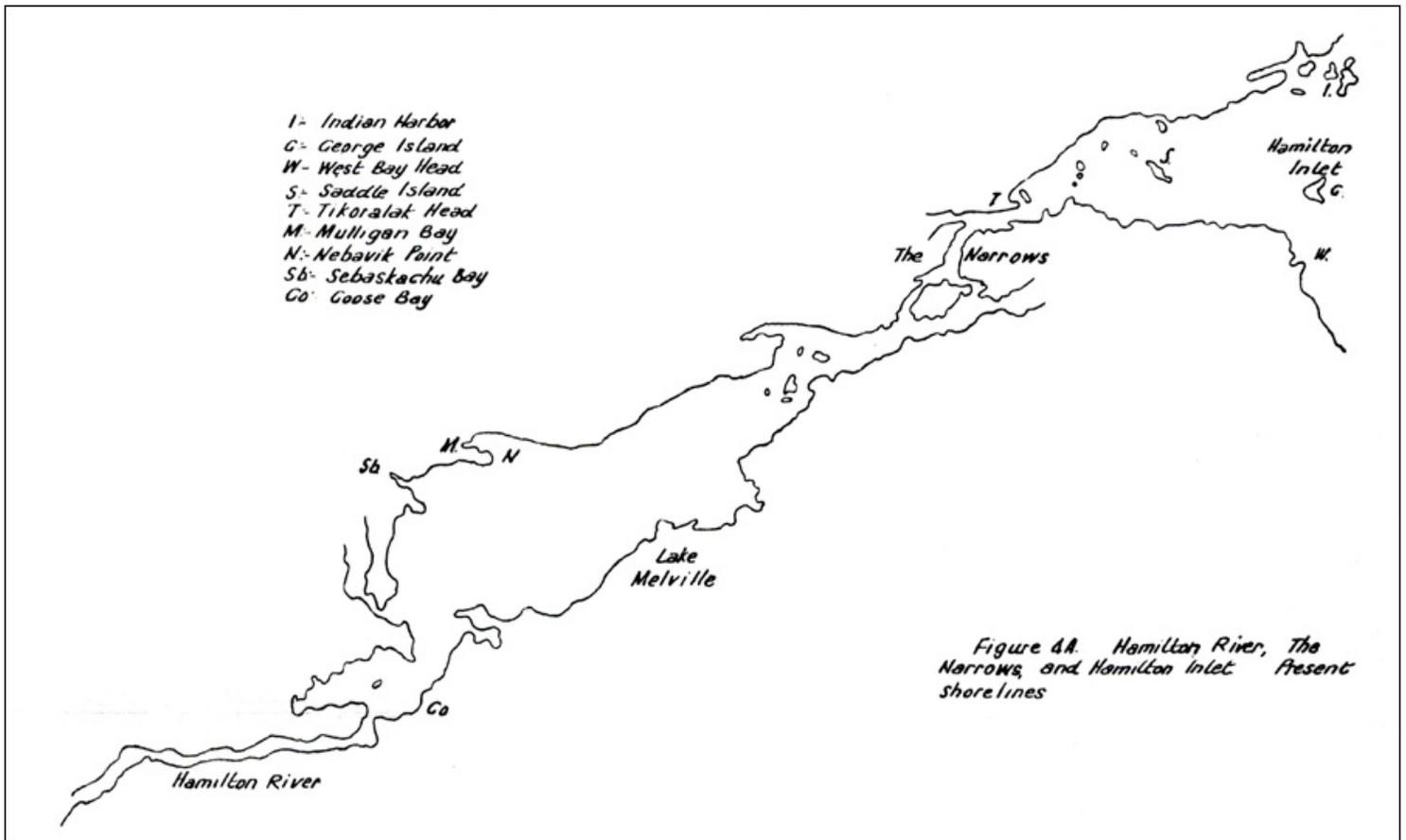
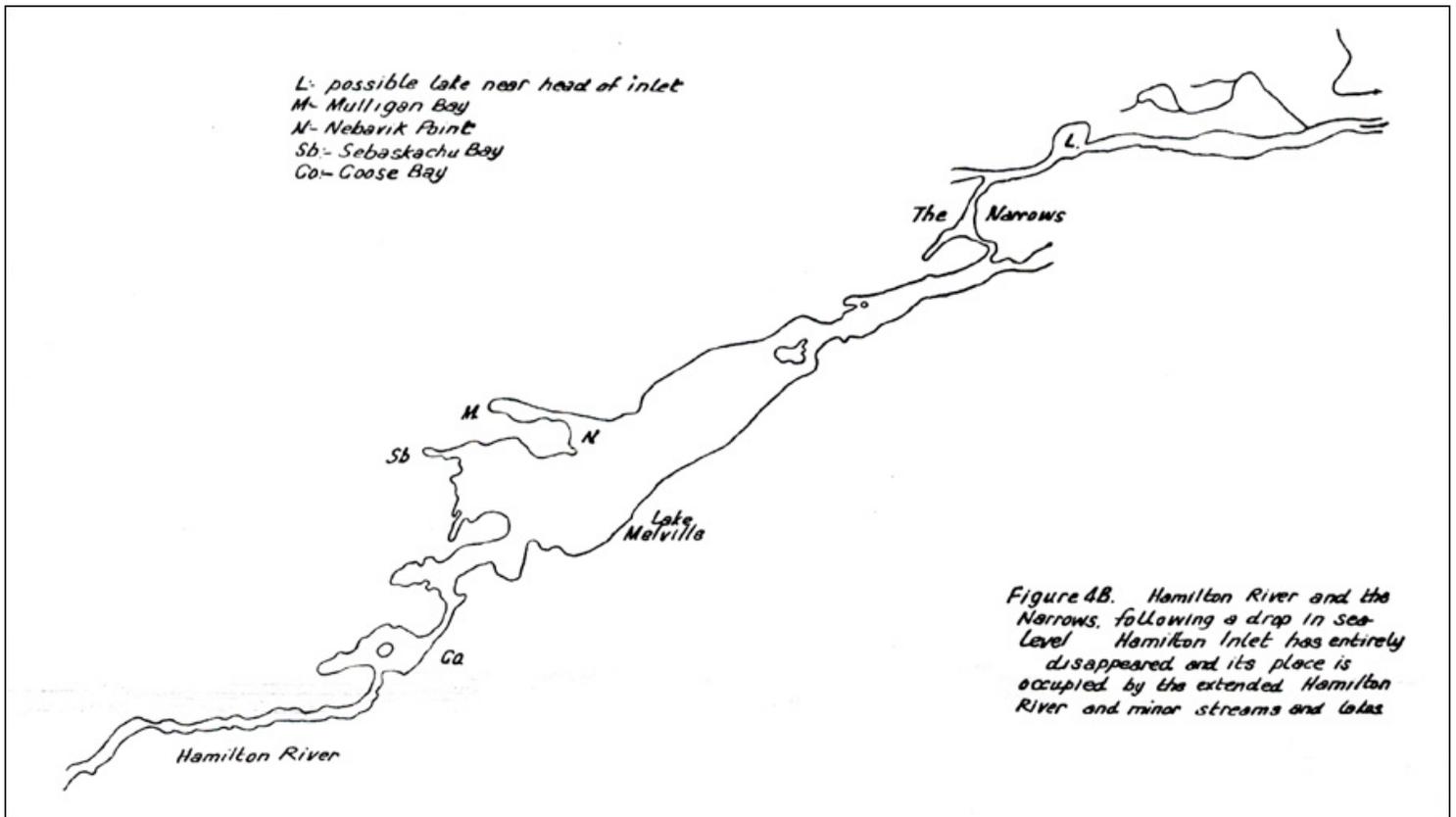


Figure 4B. Hamilton River and the Narrows



No. 1447.

**REMARKS BY CAPT. FREDERIC ANDERSON, CHIEF
HYDROGRAPHER, CANADA,**

RESPECTING THE "OBSERVATIONS BY VICE-ADMIRAL LEARMONTH, K.B.E., C.B., ON THE HYDROGRAPHIC SURVEY AND REPORTS CONTAINED IN THE DOCUMENTS EXHIBITED BY THE CANADIAN GOVERNMENT IN THE APPENDIX OF DOCUMENTS IN RELATION TO LAKE MELVILLE, HAMILTON INLET AND THE NARROWS."

I. Basis of Remarks

Vice-Admiral Learmonth, states that the materials upon which his Observations are chiefly based are the Dominion Government Chart No. 420 and the Hydrographic Report included in the Documents accompanying the Canadian Case.

He further states that, if certain data which he enumerates, had been available, they would have formed a more complete and satisfactory basis "for judging the characteristics of the area under discussion."

Inspection of these data does not indicate that they would have added materially to the knowledge available, and, in any event, had Admiral Learmonth applied to the Government of Canada, they would have been supplied immediately.

Referring to the survey of lake Melville by the Chief Hydrographer of Canada. Admiral Learmonth states that :

"Moreover an expansive sheet of water with deep water throughout and a tidal stream of 5 knots in the Narrows area and extending for 20 miles in length had to be surveyed. Apart from the rigours of the climate, the Labrador season is short and there are no facilities on the spot for the conduct of a survey. No data were available from previous surveys, so that a rigid triangulation was necessary over the whole area involving the establishment of elevated stations in a trackless and timbered country. Accordingly it is not unlikely that the time available proved insufficient for a survey in any great detail."

Admiral Learmonth's statement indicates that he lacked a knowledge of the time during which the survey was carried on, of the size and power of the survey steamship used, of the number of parties engaged upon the survey, of the weather experienced by the survey parties in 1921, of the nature of the country as regards the facility of access to commanding triangulation stations and other pertinent data, and also of the equipment and general

has been in existence since 1883, and has charted and published charts of many miles of the inland and coastal waters of Canada. It may fairly be stated that these charts, in point of accuracy and clearness of delineation, are comparable with the best.

With regard to the survey of Lake Melville, the following are the facts of the case :

The steamer *Acadia*, a vessel of some 1,000 tons displacement and 177 H.P., built specially to meet surveying requirements in 1913 by Swan, limiter and Wigham-Richardson, Newcastle-on-Tyne, England, was detailed for this service.

In addition to the undersigned, who was in command, the surveying staff consisted of the following :—

Three Senior Surveyors.

Four Junior Surveyors of several years experience.

One Junior Surveyor.

Two shore-parties were landed with full equipment, including gasolene launches, at Rigolet, and Carter basin at the west end of the lake, respectively. In the main portion of the lake three parties were operated from the ship.

These parties were employed in carrying out the survey of Lake Melville and the “ narrows ” from 15 July till the end of September. This large organization was employed owing to the shortness of the season and the extensive area to be covered, extending some 90 miles or more from the entrance to the “ Narrows ” to the head of Goose bay. The whole area was triangulated and traversed and the bases measured at either end checking up closely, thus proving the accuracy of the work.

The “ Narrows ” and vicinity were plotted on a scale of 4,000 feet to one inch, also the narrows entering Goose bay, the main portion of the lake being on a scale of 12,000 feet to one inch. It was the intention to extend the survey some considerable distance into Hamilton inlet. However, owing to the non-arrival of the second coal supply, the operations were terminated in consequence of the lateness of the year.

The numerous elevations in the vicinity of the lake furnished exceptionally good triangulation stations some of which were accessible with ease and the others without much difficulty. The survey staff worked with great zeal and accomplished much more than their critic estimates. As everyone will recollect, the summer of 1921 was a particularly fine one and with much less than the average rainfall both in Great Britain and North America.

The numerous elevations in the vicinity of the lake furnished exceptionally good triangulation stations some of which were accessible with ease and the others without much difficulty. The survey staff worked with great zeal and accomplished much more than their critic estimates. As everyone will recollect, the summer of 1921 was a particularly fine one and with much less than the average rainfall both in Great Britain and North America.

It is not an over-statement to assert that the survey of lake Melville is of as high a degree of accuracy as the Admiralty

surveys.

It should be noted that, throughout his observations, Admiral Learmonth consistently bases his remarks and argument upon the sailor's point of view and ignores geographical and physical facts which absolutely nullify some of his deductions.

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II. Admiral Learmonth states that :

“ Chart No. 375 was first published in 1864 and entitled 'Hamilton Inlet' ; the 1864 Chart shows the Pelter's track from Tub Harbour on the Eastern extremity to Goose Bay at the head of Lake Melville. Charts No. 222 and 1422 though they touch the area in question are less valuable for the present purpose.

“ It is noteworthy that Chart No. 375 uses the term Hamilton Inlet as covering the whole of Lake Melville. The Eastern or outer portion of Hamilton Inlet extending so far as the Narrows would be properly described as a Sound, but no distinguishing name has hitherto been given to it in Admiralty publications, the description Hamilton Inlet being used as indicated above to cover the whole Inlet as far as and including Goose Bay. A probably reason why no separate name has been given to the 'Sound' is that it affords no convenient shelter or stopping places for vessels. So far as I am aware the use of the term has not been challenged until the present proceedings. It is true that the term is not so used in the Chart No. 420 included as No. 13 in the Canadian Atlas, but this Chart does not clearly identify the actual geographical locality of Lake Melville and places the comparatively well known name Hamilton Inlet without prominence beyond the Narrows in the margin of the Chart. In spite of the materials disclosed in the documents appended to the Canadian Case I still consider that the descriptive Title used for Canadian Chart No. 420 is incorrect and certainly confusing.”

The history of the nomenclature of present lake Melville and Hamilton inlet may be conveniently divided into French usage and British usage and a study of such history discloses that both French and British recognised the riverine quality of the waterway discharging lake Melville and the lake-expansion of the Hamilton river, now known as lake Melville.

In 1704, Le Gardeur de Courtemanche, in the chart which accompanied the report of his exploration (Map No. 7a, Canada Atlas) designates this waterway Riviere Quesesasquiou.

In an anonymous memoir concerning Labrador, 1716, the authorship of which is attributed to Courtemanche, the author recommended that a post be established at Kessellaki, which he describes as a “ grande rivière entre les 52 ème et 53 ème degré de latitude ” and as “ beaucoup fréquentée par les Esquimaux.”

As the Eskimo did not frequent any portion of Lake Melville except the extreme eastern portion, this statement

unquestionably refers to the water-connection between Lake Melville and Hamilton Inlet.

Pierre Constantin's chart, 1715 (Map No. 7B, Canada Atlas) also shows the outlet and designates it " Grande Riviere de Ouessesakiou."

In 1743, Sieur Jean Louis Fornel, commissioned by the Governor General of Canada to make the discovery of La Baie des Eskimaux, explored Hamilton inlet and the lower portion of the Narrows, ascending to a point about four miles from the present site of Rigolet. He planted two crosses, raised the French flag, and took possession of the country "au nom du Roy et do la

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Nation Francoise." On his return, he compiled several charts of his explorations and, in the one reproduced as Map No. 8, Canada Atlas, he shows his own explorations and those of a French Canadian named Pilotte, and his son, whom he left in 1743 with instructions to establish a post and to make surveys. In his narrative, Fornel states that he examined the bay " cy devant nommée des Eskimaux et par les Sauvages Kessessakiou " and named it " baye St. Louis," and, with regard to the river referred to by the savages as Kessessakiou, he says, " que, nous nommons riviere St. Louis du nom de la baye ou elle se decharge." On his 1748 chart (Map No. 8, Canada Atlas) the waterway which discharges lake Melville is designated " R. de Kessessakiou."

In 1753, Bellin, the famous French geographer, published a chart (Map No. 19, Canada Atlas) of the " Golphe de St. Laurent contenant les costes de Labrador depuis Mecatina jusqu'a la Baye des Esquimaux." Bellin designates the body of water to the east of present Ticolorak island, " Baye St. Louis ou Baye des Esquimaux cy devant Baye des Kessessakiou." The waterway discharging lake Melville is designated " Riviere de Kessessakiou."

The first known use of the name "Lake Melville" antedates Chart No. 375 by 39 years. As applied to the lake-expansion of the lower Hamilton river, it appears in Arrowsmith's chart of 1825 (Map No. 29, Canada Atlas), entitled : " Chart of Labrador and Greenland, including the North West Passages of Hudson, Frobishers and Davis." By A. Arrowsmith, Hydrographer to His Majesty. London. Published 1st June, 1809, by A. Arrowsmith. Additons to 1825.

This chart—called for convenience, the Arrowsmith chart—shows the track of His Majesty's Brig 'Clinker,' designated " Track of the 'Clinker' in 1821," and contains a printed note in which it is stated, with respect to " that part of the Coast of Labrador . . . from Okkak to Ivucktoke or Hamilton Inlet, many places are now more correctly laid down from the observations of Mr. Rt. Morison, Surgeon, R.N., when on coasting voyages in H.M. Brig 'Clinker' in 1821 and 1822." The chart evidently incorporates a survey of Hamilton Inlet and Lake Melville and the connecting water-way, as the

configuration of these areas is shown with tolerable accuracy. The lake-expansion of the lower Hamilton is designated “Melville Lake,” and the outer expanse eastward of the Narrows “Ivucktoke or Hamilton Inlet.” A small reach of the Hamilton river above lake Melville is shown, and named “Hamilton R.” The Arrowsmith chart signalizes the origin of the names “Hamilton,” as applied to the inlet and to the river, and “Melville Lake” to the lake-expansion of the river. This lake-expansion is also designated “Lake Melville” in chart No. 375, referred to by Admiral Learmonth, but published thirty-nine years later, and in all other charts of this region.

Comparing the foregoing with the French usage, we find that Arrow-smith varied their nomenclature to the extent of applying a specific name—Lake Melville—to the lake-expansion of the Hamilton river and of replacing “Baie St. Louis ou Baie des Esquimaux cy devant Baie Kessessakion” of

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the Bellin chart, by “Ivucktoke or Hamilton Inlet” as the name for the outer expanse.

Chart 375, “Hamilton Inlet,” published in 1860, only includes the inlet and lake Melville, whereas present Chart 375, “Sandwich Bay to Nain,” includes 3 degrees of latitude and nearly 7 degrees of longitude.

As the use of the same number for two charts which differ so radically is confusing, they are below referred to by their respective territorial names.

Between Rigolet and the lower portion of Hamilton river, there are nine names on the Arrowsmith chart. Of the nine names, seven are included in Chart 375, Hamilton Inlet, 1860. On Chart 375, South Brook is changed to the Indian name—Kenemiehe River. The name Hamilton Falls is omitted, and Melville Island appears. The name “Lake Melville” appears on the chart for the first time and was undoubtedly given either by Morison or Arrowsmith.

Chart No. 375, Hamilton Inlet, 1860, adopts Arrowsmith's names for Hamilton Inlet, Lake Melville and Henrietta Island.

On the “Sandwich Bay to Nain” chart, published in 1871, and republished, at intervals, since that date, the above names are re-engraved as on the “Hamilton Inlet” chart.

Chart 375 (of 1864) shows the track of H.M. Brig “Pelter,” and is entitled :—“Labrador, Hamilton Inlet (Ivucktoke Inlet).

Compiled from Sketch Surveys by William Robinson, Midshipman, H.M.B. 'Pelter,' Lieut. R. C. Curry, Commanding, 1823, and by J. W. Reed, Master, H.M.S. 'Bulldog,' under the orders of Capt. Sir F. McClintock, R.N., 1860. London, Published at the Admiralty, 9 Feb'y. 1864. Capt. G. H. Richards, R.N., Hydrographer.”

In this connection, the following points are to be noted :—

(1) That Surgeon Morison undoubtedly furnished Arrowsmith with the data which he incorporated in his 1825 chart (No. 29, Canada Atlas). This is practically demonstrated

by the note inserted on this chart and by Morison's letter to the Admiralty, 24 March, 1825.

(2) That Robinson's survey was not published by the Admiralty until 1864-39 years after Arrowsmith's chart—and, during the intervening time, Arrowsmith had given to the world the nomenclature which the Government of Canada contends is correct and is not confusing.

(3) That, if it may be assumed that the purpose of an Admiralty chart is the communication of hydrographic information which will conduce to the safe navigation of the ships of all nations, then it is a fair deduction that the Hydrographer, in preparing Chart No. 375 in 1860, intended the name “ Hamilton Inlet ” (Ivucktoke Inlet) to apply only to the outer expanse eastward of the Narrows, for, although many soundings are shown within that area, hardly any are shown within the area of lake Melville. Moreover, that expanse is specifically designated “ Lake Melville.” The more consistent and probable interpretation of the chart is that the Hydrographer did not intend to disregard the nomenclature that had already been used for more than one-third of a century.

(4) That the interpretation of Chart No. 375 (Hamilton Inlet), suggested above, is not only the more consistent and probable construction, but is actually that which was intended by the hydrographic surveyor who prepared the chart, is demonstrated by the fact that Chart No. 1422 (Sandwich Bay to Nain), published at the Admiralty, 30 March, 1871, under the superintendence of Rear-Admiral G. H. Richards, F.R.S., Hydrographer—was also the Hydrographer under whose direction Chart No. 375 was published—adopts the same nomenclature for the waters in question as appears on Arrowsmith's chart of 1825. The lake-expansion of the lower Hamilton is designated “ L. Melville ” and the expanse eastward of the Narrows is designated “ Hamilton Inlet (Ivucktoke) (see plan 375).” Thus, Chart No. 375 was unequivocally interpreted by its author in a manner entirely consistent with Canada's present contention and he referred to the area (viz., the true inlet) with respect to which it was intended, as its title suggests, to furnish the latest hydrographic information. In a word, it unqualifiedly confirms, rather than disaffirms, the nomenclature of the Arrowsmith chart of 1825. Even part of the printed note which appears on the latter chart is reproduced on the chart of 1871. There is, consequently, no basis in fact for Vice Admiral Learmonth's assertion “ that Chart 375 uses the term 'Hamilton Inlet' as covering the whole of Lake Melville.” The fact that, in later editions of this and other charts the name “ Hamilton Inlet (Ivucktoke) ” is engraved in a manner which might suggest (though, perhaps, not intended to do so) the application of this description to Lake Melville (which is so specifically designated on all the Admiralty charts) as well as the Inlet, is not a sufficient ground for putting forward this innovation as against settled prior usage.

(5) Again, Chart No. 375 (Hamilton Inlet) published in 1864, is not in any sense the same Chart as No. 375, published in 1876 and bearing the title “ Sandwich Bay and Nain including Hamilton Inlet.” The latter is not on the same scale as the former ; it includes a much larger area ; it does not include lake Melville in Hamilton inlet and has no connection with it except that it bears the same number and, incidentally, includes lake Melville and Hamilton inlet.

Admiral Learmonth states that Chart 320 (No. 13 in the Canada Atlas) “ does not clearly identify the actual geographical locality of Lake Melville and places the comparatively well known name Hamilton Inlet without prominence beyond the Narrows in the margin of the Chart.”

The purport of this statement is not quite clear. Chart 320, as clearly stated in the title, is a chart of “ Lake Melville.” The surveys, though carried eastward only a short distance beyond Broomfield island in the Narrows, were not continued into the Inlet owing to the lateness of the season and the name “

Hamilton Inlet ” was engraved at the outer end of the seaward part of the Narrows merely to indicate that expanse as being the body of water into which the Hamilton river, through its outlet, locally known as the “ Narrows,” debouches.

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III. Admiral Learmonth states that, for “ practical purposes a useful Test often adopted in determining what is an Inlet of the Sea is whether the waters in question are permanently navigable by ocean-going vessels ” and that this “ test was adopted by the Inter-Departmental Committee on the Limits of Territorial Waters appointed by the British Government in 1922.” He, further, says that such a “ Test is specially applicable to cases where, as here, no rivers navigable by such vessels flow into the waters under consideration.”

These statements are of such a surprising nature that it is difficult to reply to them. The application of such “ test ” would result in such anomalies and absurdities that it is difficult to imagine a Committee of such high standing adopting a test* that converts the St. Lawrence to Three Rivers, the Amazon for 1,000 miles, the Mississippi to New Orleans, the Yangtsekiang to Hankow and many other well-known “ rivers ” into “ sea-inlets.” Moreover, in many instances, it is absolutely opposed to the usage of centuries and numerous legal decisions.

Probably the nearest analogy to conditions at the outlet of lake Melville is to be found where the St. John river, in New Brunswick, falls into St. John harbour, discharging through “ a narrows ” about one mile long. Above the “narrows,” the St. John expands into a lake designated on the Admiralty charts Kennebecasis “ bay. ” *The Nova Scotia and Bay of Fundy Pilot* describes conditions at the “ Narrows ” —commonly called the “ Reversible falls ” —as follows :

“ The Falls.—A little more than a mile above the city [St. John] are the Falls, narrow channels about 80 yards in width and about 3 ½ cables apart, where at low tide the surface of the river water is from 11 to 15 feet above that of the sea ; as the ordinary tidal rise is from 23 to 27 feet, the sea level at high water is (except in great freshets) from 8 to 12 feet higher than the waters of the river.

“ Thus there are two falls during every tide, viz., one outward, and one inward, the vessels can only pass when the waters of the ocean and those of the river are on a level, and this occurs only for the space of about 10 minutes during each ebb and flow of the tide ; at all other times it is either impassable, or extremely dangerous. During great freshets, which generally happen between the beginning of April and the middle of May, from the melting of the snow, the Falls are absolutely impassable to vessels bound up the river, as the tide does not rise to the river level.”

* For obvious reasons, the “ Report of the Inter-Departmental Committee on the Limit

of Territorial Waters, 1923," is a highly confidential document, and it is not permissible to quote the whole or any portion of it. An examination of this document by a representative of the Government of Canada, however, failed to disclose anything which bore out the statements by Admiral Learmonth respecting the adoption by the Committee of such "Test." Further, a member of the Inter-Departmental Committee has confirmed that said Committee did not adopt the "Test" referred to.

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The foregoing contains some anomalous statements but, apparently the writer intended to state that, during the low-water season, mean tide in the St. John river above the "Narrows" is 1½ feet above mean tide in St. John harbour.

In 1908, a line of levels was run from a gauge at Indiantown, on Kennebecasis bay, to the Tidal and Current Survey gauge on Reed's Point wharf, St. John.

The gauge readings at Indiantown during the period, 29 August to 27 September, showed that, during the summer-water season, mean tide in Kennebecasis bay is 2.00 feet above mean tide in St. John harbour.

Dr. W. Bell Dawson states that the difference of level between Half-tide at Indiantown, on Kennebecasis bay, and Mean Sea-Level in St. John harbour, was deduced from observations of the tide at Indiantown, obtained by the Tidal Survey in 1908; the tide gauge at Indiantown being connected with the permanent tide gauge in St. John harbour by levels taken by the District Engineers of the Public Works Department.

The Half-tide level at Indiantown was obtained by computing the average level of High Water and the average level of Low Water during periods of a lunar month at a time in the Autumn of 1908, when the water of the river was low. In this way, the true level of Half-tide was obtained, as the mean between High tide and Low tide.

The result in September comprised the lunar period, August 29 to September 27. The result in October comprised the lunar period, September 29 to October 28.

	During Sept., 1908.	During Oct., 1908.
Half-tide level at Indiantown ; above the Low-water Datum of the tide in St. John harbour	16.04 feet	15.96 feet
Mean Seal-level in St. John harbour above Datum ; as determined from 19 complete years of observation	14.00 feet	14.00 feet
<i>Half-tide level</i> at Indiantown above Mean Sea-Level in St. John har.	2.04 feet	1.96 feet

The gauge at Reed's Point wharf was established before

1896 and the readings, therefore, extend over a period of 30 years.

In this connection, a comparison with the Thames is pertinent. The Hamilton river at the foot of the "Narrows" has a drainage area of 54,110 square miles. Using the results obtained for the Ottawa river as a basis, namely, a mean run-off of 1 cubic foot per second per square mile of drainage

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area, and assuming that the discharge of the Hamilton is two-thirds of the Ottawa, would give an average discharge of 36,073 cubic feet per second.

The "Encyclopaedia Britannica" states that :

"The average gaugings at Teddington for the summer months of the years 1883 to 1900 were in July 413,000,000 gallons a day [767 cubic ft. per second] in August 395,000,000 gallons a day [734 cubic ft. per second] and in September 375,000,000 gallons [697 cubic ft. per second]. The normal natural flow in ordinary summer weather is about 350,000,000 gallons a day [601 cubic feet per second], and of this, after the companies have taken 130,000,000 only 220,000,000 gallons are left to pass over Teddington Weir. After a long period of dry weather the natural flow has been known to fall considerably below 200,000,000 gallons [less than 371 cub. ft. per second]."

In short, the average discharge of the Hamilton would be 47 times the discharge of the Thames in July, 49 times the August discharge and 52 times the September flow.

Down to its expansion into Goose bay, no one questions the identity of the stream claimed by the Government of Canada as the Hamilton. Down to that point, the river current ranges from fairly strong to rapids and falls. At Goose bay, the river expands and for a distance of 80 miles between Goose bay and Pike run, at the east end of Henrietta island, it passes through what is known as lake Melville. Lake Melville has an average width of about 10 geographical miles and a maximum width of 20 miles. In this expansion, the river necessarily flows with a very slow current and the flow is affected by the tidal inflow at the eastern extremity but it cannot be too strongly stated that, except for these modifying conditions, lake Melville is just as much a part of the Hamilton river as any part of the stream commonly known by that name, above Goose Bay. I repeat : That, although increased width and depth slow down the current, the character of the Hamilton river in its Lake Melville expansion is not lost though it is materially modified. Every drop of water that enters Goose bay, unless lost by evaporation, eventually passes through the "Narrows" and into the ocean. And that the riverine character is not lost was demonstrated when the precise levels by the Geodetic Survey of Canada proved that there is a descent at the outlet of the

lake-expansion of the Hamilton called, for the sake of convenience — “ lake Melville.”

Admiral Learmonth states that Canadian Chart 420 (No. 13 in the Canada Atlas) “ does not clearly identify the actual geographical locality of Lake Melville.”

It is submitted that it is quite clear that lake Melville extends to Henrietta island. If there were any doubt as to the eastern extremity, it would be placed beyond question by the plans to illustrate the Tide Gauging and Levelling operations in the vicinity of Rigolet (No. 15, Canada Atlas) which indicate plainly the eastern limits of the lake.

In the case of large rivers which discharge into inlets of the ocean, such

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as Hamilton inlet, it not infrequently happens that the exact point where the river ends and the inlet begins is a question concerning which there may be an honest difference of opinion. There is one criterion, however, concerning which there can be no dispute, namely, that a river does not end until it reaches the point at which it ceases to descend whether part of the fall to said point be measurable or immeasurable.

In the case of the Hamilton, it has been demonstrated that there is a descent to at least as far as Lester point and there are substantial grounds for believing that it falls about 0.1 foot below it and that the river continues to descend to at least as far as Ticorolak and Turner headlands.

Admiral Learmonth's comments regarding the passages entering lake Melville both to the eastward and westward of Henrietta island do not exactly coincide with the facts obtained during the progress of the survey. Generally speaking, navigation through these channels is greatly handicapped by excessive cross currents. Even with a fair tide the greatest caution must be exercised in order to keep out of trouble.

The passage to the eastward of Henrietta island, known as Pike run, at the narrowest point, is not recommended for navigation, except at slack water, even with a fair tide, owing to the great disturbances and cross-currents to be found at this point and combined with a sharp bend of 9 points in the channel.

It is true that the powerful steamer *Acadia* made this turn against an ebb neap tide, but with great difficulty, and it would be unsafe for a modern freight vessel, with or against the current, as a ship of this size could not be handled with the same ease as the *Acadia*.

The passage close to the westward of Henrietta island was always used by the *Acadia* and generally with a fair tidal current, but under these circumstances frequently the cross-currents both above and below Henrietta island were such that the greatest care was required to be exercised. Therefore this channel would not be available for modern freight vessels except at slack water or perhaps at neap tides with a fair current under favourable conditions but could not be attempted with safety at spring tides.

The channel to the westward of Henrietta island is quite out of the question for navigation except for small craft owing to the narrowness of the channel and the strong cross currents.

Observing these strong tidal disturbances from the islands in the vicinity gave one the impression that the slope in the river to the lower entrance to the Narrows would be much greater than that shown by the precise levelling. It is to be regretted that time did not admit of current observations being taken at these points, which would undoubtedly prove considerably in excess of that found in the Narrows off Rigolet.

The Commissioners appointed under the terms of the Reciprocity Treaty, 1854, disagreed respecting the mouth of the St. John river, in New Brunswick. the British Commissioner claimed that a line connecting Sheldon point and Inner Mispick point designated the mouth of the St. John river, while

the United States Commissioner claimed that the line connecting Negro point and Red head designated the mouth.*

It is noteworthy that the inner line—the line claimed by the United States Commissioner—includes in the river St. John the whole of the Inner St. John harbour.

Had the United States Commissioner had the support of Admiral Learmonth, doubtless, he would have claimed that the mouth was somewhere above Kennebecasis bay.

The opinion of the Umpire under the Reciprocity Treaty, 1854, is pertinent in connection with the discussion as to the determination of the “ mouth ” of a river. Referring to the determination of the mouths of the Miramichi and Buctouche rivers, he said :—

“ There are large and magnificent bays and harbours, unconnected with Rivers ; there are bays and harbours dependent upon and formed by mouths of Rivers. The terms are not indicative of locality. Bays and harbours may be found far up in the interior of a country ; in lakes or in rivers, and on the sea-board. The 'mouths of Rivers' are found in one locality only, namely, in that part of the River by which its waters are discharged into the sea or ocean, or into a lake, and that part of the River is by the express language of this Treaty excluded. Is the use of a term which may be applicable to many places, to supersede that which can only be applied to a particular place, when the latter is pointedly, *eo nomine*, excluded? But why should such a construction be required, when the object of the Treaty can be obtained without it. The cause of the difficulty was not the refusal to permit a common fishery within the mouths of Rivers, but within three marine miles of the sea coast. That difficulty is entirely removed, by the liberty to take fish 'on the sea coast and shores, and in the bays, harbours and creeks, without being restricted to any distance from the shore.'

“ The position taken by the Commissioner of the United States, is further pressed, upon the ground, 'That the terms of a grant are always to be construed most strongly against the granting party.' The application of that principle to the present case is not very perceptible. This is rather the case of two contracting parties exchanging equal advantages ; and the contract must be governed by the ordinary rules of interpretation. Vattel says : 'In the interpretation of Treaties, compacts, and promises, we ought not to deviate from the common use of the language, unless we have very strong reasons for it.' And, 'When we evidently see what is the sense that agrees with the intention of the contracting parties, it is not allowable to wrest their words to a contrary meaning.' It is plain that the framers of this Treaty intended to exclude the 'mouths of Rivers' from the common possession. Ought we, by construing the terms of the Treaty most strongly against the nation where the River in dispute may happen to be, to 'wrest

their words to a contrary meaning?' I think not.

* History and Digest of the International Arbitrations to which the United States has been a party. By John Bassett Moore, Vol. I, p. 478.

[following p. 3846]



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“ Mr. Andrews, for many years the United States Consul in New Brunswick and in Canada, a gentleman whose great researches and untiring energies were materially instrumental in bringing about this Treaty, and to whom the British Colonies are much indebted for the benefits they are now deriving and may yet derive from its adoption, thus speaks of the Miramichi in his Report to his Government in 1852 : 'The extensive harbour of Miramichi is formed by the estuary of the beautiful River of that name, which is two hundred and twenty miles in length. At its entrance into the Gulf, this river is nine miles in width.

“ 'There is a bar at the entrance of the Miramichi, but the River is of such great size, and pours forth such a volume of water, that the bar offers no impediment to navigation, there being sufficient depth of water on it at all times for ships of six or seven hundred tons, or even more. The tide flows nearly forty miles up the Miramichi, from the Gulf. The River is navigable for vessels of the largest class full thirty miles of that distance, there being from five to eight fathoms of water in the channel ; but schooners and small craft can proceed nearly to the head of the tide. Owing to the size and depth of the Miramichi, ships can load along its bank for miles.'

“ In 'Brook's Gazetteer,' an American work of authority, the width of the Potomac, at its entrance into the Chesapeake, is given at seven and a half miles.

“ In the same work the mouth of the Amazon is given at 'one hundred and fifty-nine miles broad.'

“ In 'Harper's Gazetteer' (Edition of 1855), the width of the Severn, at its junction with the British Channel, is given at ten miles across. That of the Humber, at its mouth, at six or seven miles ; and that of the Thames, at its junction with the North Sea at the Nore, between the Isle of Sheppey and Foulness Point, or between Sheerness and Southend, at fifteen miles across. And the Saint Lawrence, in two different places in the same work, is described as entering 'the Gulf of Saint Lawrence at Gaspa Point, by a mouth one hundred miles wide.' And also that 'at its mouth, the Gulf from Cape Rosier to Mingan Settlement in Labrador, is one hundred and five miles in length.'”*

The Umpire decided that a line connecting Fox and Portage Islands designated the mouth of the Miramichi.

IV. Admiral Learmonth devotes considerable space to a discussion of inlets of two kinds. As it has already been demonstrated that lake Melville is not an inlet, such discussion is not germane to the subject.

* History and Digest of the International Arbitrations to which the United States has been a party. By John Bassett Moore, Vol. I, pp. 468-469.

V. As Burrard inlet, Masset inlet, Sandwich bay, Skyring water and the sea of Marmora open into the sea, without any fall, comparisons with lake Melville are of no value.

VI. Admiral Learmonth states that :—

“ Although the time available was short and it was not possible to employ the test of a closure for the actual levelling operations between the two Tidal Station.”

This statement shows a complete misapprehension of the levelling operations. Admiral Learmonth seems to be under the impression that the levelling was done with an ordinary dumpy or a “ Y” level. It is necessary, therefore, to state that the levelling was done with a precision level of the highest grade and the work was carried out by one of the ablest levellers in Canada.

The whole line was levelled and re-levelled in opposite directions, and, wherever the difference was in excess of the very narrow limits of permissible error, it was re-levelled.*

VII. Admiral Learmonth states that :—

“ This difference of Mean Tidal Level determined between August and September is accepted in the Canadian Report as not being an unchanging quantity representing a permanent difference between the level of Lake Melville and Mean Sea Level.”

So far from this deduction being correct, it is exactly the opposite. The Canadian report is insistent that there is a “ permanent difference between the level of Lake Melville and mean sea level,” that lake Melville is the higher and that such difference is permanent.

This permanent difference is due to the inflow from the upper Hamilton, Northwest, Kenamu and other tributaries of the Hamilton which fall into its lake-expansion, called, for the sake of convenience, lake Melville.

That the outflow of the Hamilton is arrested for part of the day and that such arresting slightly increases the fall is immaterial. The only essential point is that, so long as the Hamilton discharges through the so-called “ narrows,” the fall will be there and such fall fully justifies Canada's contention that it is the lowermost portion of the Hamilton river.

Navigability or non-navigability is immaterial. Whether the “ narrows ” is navigable by a steamship of the greatest tonnage or so studded with rocks as to be practically un-navigable is immaterial and unimportant. The crucial test of its riverine quality is : Is there a fall?

VIII. Admiral Learmonth states that :

“ The Period embraced by the observations must also be carefully noted. They were limited to a Period of two months, at the end of the summer in a

* See Mr. Montgomery's report, Annex A, p. 306.

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particular year, and conclusions correctly drawn for this Period may not be true for other Periods, and should not be taken as a permanent state of the physical conditions that occur. Thus the Difference in Level found may be seasonal only, and due to the fresh water accumulating in the broad expanse of lake Melville during the summer flood and then making a gradual egress through the Narrows.”

This is a statement that the water in lake Melville may have been abnormally *high* during the summer of 1923—an assumption that cannot be justified. It would be as reasonable to assume that the water in lake Melville was abnormally *low* in 1923 and that, in a normal season, the descent would have been greater than was found to be the case.

The Canadian observers were in close touch with the local inhabitants and, had 1923 been an abnormal summer, they would have heard it discussed by them. That such was not the case is proof that it was neither an abnormally wet nor an abnormally dry summer.

In 1894, A. P. Low ascended the Hamilton river. Leaving North West River House on snowshoes on 5 March, he reached the portage past the Grand falls on 30 April. From 1 to 29 May he was either in. camp or portaging past Grand falls.

In short, for nearly four weeks, he was waiting for the break-up of the Hamilton river.

He states that on 11 June, the ice had all gone out of the river and on 14 June, he states that the river fell three inches during the night, which indicates that the crest of the spring freshet has passed.

It is notorious that June is the high-water month in the Hamilton ; that the June freshet water is discharged before the end of July and that August and September are summer-water months.

To put forward theories and suppositions of abnormal conditions in opposition to well-ascertained facts and measurements of the highest degree of accuracy is futile.

The records of the Hudson's Bay Company post at North West River show the following :—

1890-1909.—The opening of the river ranged from 5 April to 19 June ; average date was 10 May.

1923.—On 24 April, the river was “ practically clear ” in front of North West River post.

1924.—On 22 May, Grand lake was open.

1925.—On 25 May, the *Beaver* was launched showing that the river was open in front of the post and that navigation was open in lake Melville.

Mr. Ralph Parsons, District Manager of the Montreal-Labrador District of the Hudson's Bay Company, who, for some time, was in charge of the Lake Melville posts and is thoroughly familiar with conditions on the Labrador coast, states that the freshet usually commences about mid-May and lasts

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three weeks. He states that the freshet period is almost always over by 20 June, and certainly not later than 1 July. After that the flow is quite normal.

T. L. Blake, “ an old trapper who has passed most of his days ” at lake Melville states that :

“ The flow of water following the spring freshets becomes normal about the middle of June each year.”

Admiral Learmonth states that :

“ Nothing short of a prolonged Series of Observations would suffice to establish with certainty the existence of any Permanent Difference of Level between the river and outer portions of Hamilton Inlet.”

So far as this can be taken as a statement that a “ prolonged series of observations ” would demonstrate that there was *no fall* between lake Melville and mean sea level, I take direct issue with such statement.

It is possible that such “ series of observations ” might reduce the fall as determined by Canadian observers in 1923

by a few hundredths of a foot or it might increase it by a similar amount but, on the other hand, I assert that, in the nature of things, so long as the discharge of the Hamilton and its tributaries, passes through the “ narrows ” there is and must be a fall there which, for the twelve-month period, would be as great, or greater, than the fall determined in August-September, 1923.

Admiral Learmonth states that the “ prolonged series of observations ” “ would have to be determined with great precision,” which seems to indicate that the work already done was not done with great precision. The answer to that inference is an assertion that it was done with great precision.

IX. Admiral Learmonth states that :

“ When attempting to compare the slope of the River St. Lawrence with the slope which has been deduced for the Narrows of the Hamilton inlet, certain cautions should be regarded :

(a) The levelling operations referred to above were not sufficiently prolonged or extensive to prove the existence of any permanent slope in the Narrows.

(b) In the case of the St. Lawrence, the Gulf of that name is an undoubted Inlet of the Sea, which gradually as it is ascended merges into the well-known river system in order to define a division between the two, some more or less arbitrary line of demarcation a choice of criteria must be adopted ; in the case of the Hamilton Inlet, where all vessels have natural permanent access from the open sea free of all obstruction, by means of a short, deep, narrow connecting Waterway to a Sea Basin which is navigable without hindrance to its head, no river enters into the question.”

As to (a) strong exception must be taken to the statement that the levelling was not “sufficiently prolonged or extensive.” The levelling operations between Lester Point and “The Backway” were carried out with the same type of instrument and the same degree of precision as the precise levelling along the St. Lawrence and elsewhere in Canada.

As to (b), the argument lacks clarity but it seems to be, in essence, a statement that, if access to the waterway under consideration is obtained through “a short, deep connecting waterway” which then expands into a lake, said lake and short, deep connecting waterway form an Inlet but, if access is had from “an undoubted inlet of the sea” into the St. Lawrence “river system,” a “choice of criteria must be adopted.”

Unfortunately, no “choice of criteria” is set forth and we are left in the dark, both as to Admiral Learmonth's dictum respecting the position of the mouth of the St. Lawrence and of the other criteria which would enable us to decide the upper and lower limits of choice.

Just why the “short, deep, narrow connecting waterway” exercises such an overwhelming influence in the determination of the riverine or nonriverine status of the lower Hamilton is not clear.

As to (c), it is stated that :

“Lake Melville is nevertheless an Arm of the Sea, although owing to its expanse, depth of penetration into the interior of the country, and general configuration it possesses the characteristics of a Sea Inlet in a less degree than the Sound seaward of the narrows.”

Like the “short, deep, narrow connecting waterway,” the “expanse,” “depth of penetration into the interior” and the “configuration” of Lake Melville have no bearing upon the question so long as there is a fall at its outlet and such fall has been demonstrated.

X. Admiral Learmonth states that, if the amplitude of the Tidal wave were very much less than it is (6½ feet maximum), conditions in lake Melville “would then be similar in some respects to those prevailing in the Dardanelles and the Sea of Marmora.”

Inasmuch as there is a definitely ascertained fall in the “narrows,” there can be no doubt that a decreased range of tide would result in lower salinity than at present.

Further, comparisons of conditions in the Sea of Marmora which is demonstrably at the same level and practically of the same salinity as the Mediterranean are hardly pertinent.

XII. Admiral Learmonth states that :

“The distribution of Fresh Water on the surface, due to the

drainage of rain water and melted ice and snow, may have been abnormally large in the 1923 season.”

p. 3852

This supposition has already been dealt with. It has been pointed out that there is no evidence that 1923 was an abnormal season and that it would be just as reasonable to say that the “distribution of Fresh Water on the surface” may have been abnormally *small*.

XIII. Admiral Learmonth states that the suggestion in the Canadian Case that " the connecting Waterway between lake Melville and the Sound extends seaward as far as Turner and Ticorolak headlands, 10 miles from the entrance to the Narrows, is in my opinion entirely incorrect."

As the officer in command of the *Acadia* during the survey of lake Melville in 1921, I am of the opinion that it may be fairly contended that the mouth of the Hamilton river is defined by a line drawn from Ticorolak to Turner headland, but, in any event, it cannot be successfully contended that it does not extend, at least, to that point.

As to the contention that there are :

“Sufficient reasons of Imperial Policy against placing Lake Melville in the category of River Systems, instead of, as heretofore among the Sea Inlets, inasmuch as a new precedent would be thus set up which would involve a general re-classification of similar Water-Basins joined to the sea and an alteration in the standards now applied to determine their nature, and further any such change might very likely serve to prejudice the position of the British Empire, as a maritime power, in any future Territorial disputes or Congresses with other Nations.”

I cannot acquiesce in this statement, for I fail entirely to understand how, if Lake Melville is placed in the category of a river, a new precedent for determining the territoriality of a similar waterway would be set up or the position of the British Empire as a maritime power prejudiced. Whether lake Melville is a part of a river or an inland sea, it is by English law a part of the Dominions of the Crown. It is *inter fauces terroe*, and, there-fore, part of the British possessions in America. Also, it seems to me that Admiral Learmonth's argument is based on a false assumption, for lake Melville has not, heretofore, been placed among sea inlets, if by that term he means it has the character of an inland sea. The history of this expanse of water shows that it has always been considered as riverine rather than marine in its characteristics. The French, as early as 1704, recognised its riverine quality. Commander William Martin, H.M. Brig *Clinker*, took the same view : for, in his log for July 1821, he states that he sailed up the “River Ivucktoke,” meaning lake Melville and the waterway which discharges it, and I surmise that it was in view of the information communicated to him by this officer that A. Arrowsmith, Hydrographer to His Majesty, when he published his chart in

June, 1825, incorporating in it a survey of this waterway, determined to classify it and name it as a lake—a lake-expansion of the river. That these early views as to the characteristics of this water-way are correct is amply borne out by the levelling and tidal operations carried out under the directions of the Government of Canada in 1921 and 1923.

F. ANDERSON.

p. 3853

ANNEX "A" TO No. 1447.

**SUPPLEMENTARY REPORT ON PRECISE
LEVELLING IN LABRADOR.**

BY R. H. MONTGOMERY,
Chief of Levelling Division, Geodetic Survey of Canada.

After perusal of Vice-Admiral Learmonth's report I find the only reference to the precise levelling operations is contained in the following extract of Paragraph VI :

“Although the time available was short, and it was not possible to employ the test of a closure for the actual levelling observations between the two Tidal stations, the following conclusions as to the determination of the Tide Level Slope between the two Stations mentioned may be accepted as substantially accurate during the period embraced.

(a) That at any instant throughout the period of the observations there was a Definite Slope of the water surface between the two Stations, the Mean Tide Level of the Lake Melville Station being higher than that of the Lester Point Station.

(b) That the Average Difference between the Mean Tide Levels of the two Stations during this period was 5 inches.

(c) That the difference was not always constant, but subject to variations at the times of Spring and Neap tides, being greater during the outgoing than the incoming tide, and greatest during the Neap tides.”

In other words, Admiral Learmonth accepts as substantially accurate that during the period embraced, the Mean Tide Level at the Lake Melville station was, on the average, five inches

higher than Mean Tide Level at the Lester Point Station.

In view of the frank acceptance of this fact, which was the result ascertained by the tide gauge records and the levelling operations, further

p. 3854

comments on this phase of the case would appear unnecessary. However, while I am satisfied that Admiral Learmonth, in view of his undoubted technical ability, had no intention, inferentially or otherwise, of casting any reflection on the accuracy of the levelling operations, I believe his remark "Although the time available was short, and it was not possible to employ the test of a closure for the actual levelling observations between the two Tidal Stations." may tend to create such an impression. To obviate this, I feel constrained to elucidate my original report on the levelling operations as contained in the Canadian Case in reference to this particular remark.

When the Geodetic Survey of Canada was requested to carry out this investigation, in view of the undoubted difficulties of running precise levels in such a country and the probable importance which the results might have, it was decided that I should personally take charge of these operations. Special care was taken throughout the execution of this work, and, in my opinion, the precise levels under consideration, as far as precision goes, compare favourably with any of the 22,000 miles of precise levels which have been run in this Dominion under the supervision of the Geodetic Survey of Canada.

In spite of the precision and refinement now exercised in precise levelling, there still remain inherent errors of a small order, resulting from accidental and systematic causes. In developing a national system of levels it is customary to run the lines in such a manner as will form a network of polygons, or circuits. In this net, each circuit closure represents the algebraic sum of these small errors in its perimeter and, by a rigorous mathematical adjustment of the net in its entirety, these closures are reduced to zero. While the adjustment removes the small inherent errors, its effect on actual difference of elevation between two adjacent bench-marks is so slight as to be undeterminable by field operations. Hence, in an isolated short line of levels, as occurs in the Labrador work, where a difference of elevation of the magnitude of 5 inches was under consideration, it was manifestly out of the question to secure a circuit closure even if the country had permitted doing so.

It is true that, while a circuit closure also reveals the presence of a gross error that is one which would be detected by field operations. In our precise levelling procedure, the route to be levelled is divided into sections, approximately one mile in length and, on each section, at least two lines, one forward and one backward, are run under as different atmospheric conditions as possible. If the difference of elevation between the terminal bench marks of each section, as

determined by these two lines, is more than 0.015 of a foot, then additional lines are run until this agreement is reached. These additional lines are designated as releveling. Owing to the exceptionally difficult nature of the route, the amount of releveling on this line was unusually high. At times, as many as six separate lines were run in a section before this agreement was reached. Consequently the possibility of a gross error existing in this work is negligible.

p. 3855

The formula for determining the probable error of a line of double levelling is

$$\text{probable error} = 0.67 \frac{d^2}{4n} \cdot m \cdot .1$$

where d = the local discrepancy in feet between the forward and backward measure in such section

m = length of each section in miles

n = number of sections

L = length of the line in miles.

The probable error of this line, using the above formula, is ± 0.012 feet or ± 0.14 inch, which is well within the limits adopted by the International Union of Geodesy and Geophysics as their standard for levelling of high precision.

R. H. MONTGOMERY.

ANNEX "B" TO No. 1447.

COMMENTS ON THE OBSERVATIONS OF VICE-ADMIRAL LEARMONTH, AND MR. C. TATE REGAN, By H. W. JONES, TIDAL AND CURRENT SURVEY, CANADA.

Comments on the "Observations of Vice-Admiral Sir Frederick C. Learmonth, K.B.E., C.B., on the Hydrographic Survey and Reports by the Canadian Government on Lake Melville, Hamilton inlet, at the Narrows, 1921-23," and supplementary note respecting criticisms by C. Tate Regan, M.A., F.R.S.

For the purpose of brevity and convenience reference will be made directly to the divisions of Sir Frederick's observations.

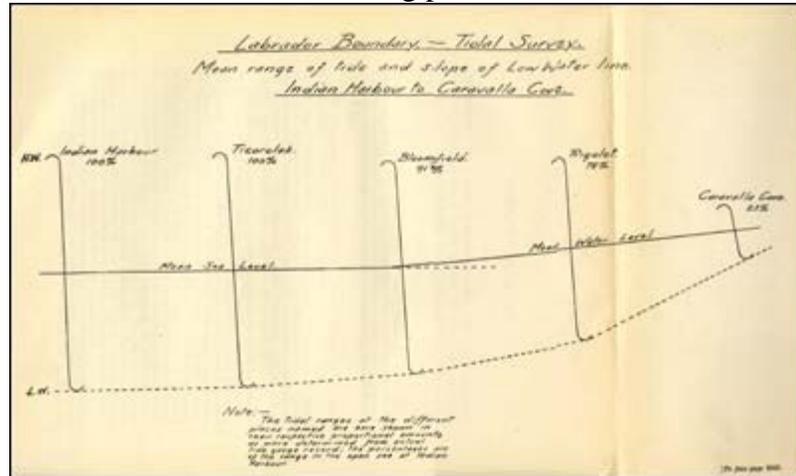
II. That the body of water concerned may have been improperly named at the first, through imperfect knowledge of the physical features resulting from incomplete investigation, is not a sound or just reason for confirming the appellation now. That the term "Lake" has been used as well as "Inlet" indicates indecision in the past as to which it really is.

III. The test of accessibility by ocean-going vessels would make of the St. Lawrence river a sea inlet as far as lake St. Peterwhere the first extensive dredging has been done, whereas the Commissioners appointed under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th of June, 1854, agreed and decided with respect to the river St. Lawrence that "a line bearing N. 40° W. (magnetic) connecting Cape Chat with Pointe de Monts . . . shall mark the mouth or outer limit of said river," and that all the waters within or to the westward of this line should be reserved and excluded from the common right of fishing therein under the first and second articles of the said treaty (Moore's International Arbitrations, Volume 1, page 487) ; and in the Royal Proclamation on the 7th of October, 1763, the boundaries of the Province of Quebec as thereby established are defined in part by a liminary line drawn "from thence (i.e. Cape Rosiers) crossing the *mouth of the river St. Lawrence* by the west end of the Island of Anticosti terminates at the aforesaid river St. John." (Canadian Constitutional Documents, 2nd edition, page 164.)

If it be a sound criterion for determining the limit between a river and the sea that the river carries its title down to the

point at which it reaches the level of the sea at low tide-this being the level at low tide to which the

[following p. 3856]



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p. 3857

waters of the river fall and beyond which the level of the sea never drops-then a determination of the position of the dividing line may be quite approximately made from the tidal record obtained from the self-registering tide gauges.

Taking the mean range of the tide at Indian Harbour as being that of the open ocean and as 100 per cent., the range at Ticoralak Island was found to be also 100 per cent. ; at Broomfield Island 91 per cent. ; at Rigolet 78 per cent., and at Caravalla 23 per cent. of the ocean range. Thus the elevation of the level of the water at low tide is lower at Rigolet than at Caravalla, lower at Broomfield island than at Rigolet, and lower at Ticoralak than at Broomfield island, but from there outward to Indian Harbour it remains the same. From this it is clear that the lowest level to which the waters can be reached somewhere between Broomfield Island and Ticoralak Island, or in the neighbourhood of Ticoralak Point and Turner Headland (see diagram of tidal ranges).

The argument in par. III. premises that no river here comes into consideration, ignoring that the outlet from Lake Melville for a distance approximately 15 miles, after consideration of its physical features, may be judged as such. Its abbreviated length does not make it any the less a river.

It cannot be claimed that the “lake” is accessible at all times by the largest ocean-going vessels except at very great risk. Currents, with tides that were not maximum springs, measured up to 51 knots in the “Narrows” or river stretch opposite Rigolet, and in the passages around Henrietta Island, because of the natural laws where the cross-sectional area is much restricted, they must be much stronger. The figure of 3¼ knots (*see* III, p. 5) for the strength of the currents that may be expected is certainly in error ; they are likely up to 7 or 8 knots, and possibly more, in these passages on the ebb, when with maximum tides. While the Tidal Survey party lacked the

time to make determinations here, the descriptions of the flow through these passages by those who knew them indicated violent currents. A small vessel was said to have foundered in the whirlpools at one time, and the writer had the opportunity of observing the very strong cross-currents between Pike Run and Strathcona Point. Ordinary caution would limit the times to make the passage to the periods at or near slack water.

V. In comparing Lake Melville and its outlet to numerous other water bodies similar in some respects, no discussion is given to the degree of evidence of river water flowing through the discharge. The amount of tidal current itself is dependent upon whether the oceanic tide adjacent is large or small. But the amount of outward discharge and velocity, compared with the inward, is the measure by which we must judge whether the stretch from the lake to the sea is a river or not. The relative densities are also important.

In the case of the Bras d'Or Lakes there are no streams worthy the name of river flowing into them, and the same might be said of Burrard and Masset Inlets. The streams in the outlets are essentially due to the tides. On the other hand, great rivers flow into Lake Melville, and their waters

p. 3858

must find their way through the outlet, giving to this channel more or less—as may be judged—the nature of a river.

A comparison with the St. John River-system of lake basins is suggested. It has an outlet with very strong combined tidal and river currents and through which vessels can pass only at times of slack water. The tidal undulation reaches a distance of ninety miles, but the distance of penetration of sea water has perhaps never been determined. Whether it is found in the strata of the adjacent lakes I cannot say, but have been told on good authority that hake are caught in the Kennebecasis arm. I leave it to the biologists to tell the habits of this fish.

On the other examples cited for comparison, I have not the means at hand to enable me to comment, except as to the Black Sea, which, by its size alone, is perhaps removed from the same class. Also its effluent would be affected by the great evaporation basin of the Mediterranean with which it is connected through the Sea of Marmora.

VII. The fact that river influence, as shown by the Tidal Survey observations, is a sensible quantity, is admitted, and that it accounts “in a great measure” for the difference of level between the gauging stations. I am in agreement with the statement that the cause of the mean level of Lake Melville being higher at neap than at spring tides is the greater volume of water flowing inwards or outwards during the latter than the former periods, but not with the explanation to show that the tidal action is responsible for holding up the mean level of the lake. . . .

That the turn of both the flood and ebb streams occurs “at approximately the same time at each end of the waterway” is

very much open to question as concerns the under current, and as to the surface current such is not the case, for, from our point of observation at anchor in midstream, the approach of the current after slack water could be plainly seen at considerable distance as a ridge of turbulent water, while it was yet stationary in the vicinity of our mooring. Doubtless after a time, as the difference of levels increased more rapidly, the remaining stretch would begin to move almost as a body. In the case of the under current, the factors of momentum and inertia, coupled with the changing in the height of the tide affecting one end before the other, would preclude a simultaneous reversal. Also, if the momentum of the flood current, inwards for 1½ hours after high water tends to bank up the water in the lake, it should also hold true that a similar but even longer and stronger ebb current continuing outward after low water would assist the flow outward to a similar extent or more. For with a greater volume flowing outward, the frictional resistance is proportionately less, and its greater momentum carrying it farther into the open sound (*see* diagram of Relative Velocities) would have a drawing effect after it on the water from the lake above, and also delay the following flood tide, thus prolonging the duration of the ebb flow. For these reasons the argument presented does not establish that the tidal action has the “cushioning effect” spoken of to hold the lake to a higher level.

p. 3859

On the contrary (since proven by the gauging and levels) the water level in the lake is higher through the periods of neap tides than through the periods of spring tides. Or in other words, the less the amount of tide, the higher is the level in the lake. Thus it appears the tide is responsible for the level of the lake being as low as it is.

VIII. “Nothing short of a prolonged series of observations would suffice to establish with certainty the existence of any permanent difference of level between the inner and outer portions of Hamilton Inlet.”

The laws of gravitation and inertia alone are sufficient to prove that there is a “permanent difference of level” between the lake and the sea. The gauging and precise levelling are only necessary to prove that the difference is a sensible amount which may be measured. Large rivers flow into the lake. Its area or the local climate is not such that evaporation from its surface need be considered. The water accumulates until, owing to difference of level, the force of gravity overcomes the inertia, and flow results through the short river to the sea. As there is no other escape, so long as the rivers flow, there must be a difference in the mean levels. The dominant flow outward is very pronounced, as shown by the observations.

IX. (a) Dealt with in VIII.

(b) It is said that “no river enters into the question.” Attention is called to the evidence of river influence, and characteristics of a tidal river in the reach known as the Narrows, as shown by the Tidal Survey Report.

X. (No comment.)

XI. (Last paragraph.) The features which are distinctly characteristics of tidal rivers are here said to belong to sea inlets, i.e., those dependent principally upon the element of watershed discharge, but also on the frictional resistance of an attenuated channel and slope.

XII. In this section the percentages of density refer to the excess over unity as compared with the same of sea water and not to the relation between the densities themselves. This was not made sufficiently clear in the original report, and this opportunity is taken to prevent mis-interpretation.

A General Consideration of the Problem.

A shallow strait connecting the sea with a deep inlet into which no streams discharge would have an equal flow each way, of water of uniform sea density, neglecting for the purpose of illustration such modifications as would be caused by barometric disturbance, convection, and other temporary or irregular influences.

The water of a river flowing directly into the sea is also of uniform (fresh) density, but flows all one way, losing itself abruptly at its mouth.

p. 3860

Between these two extremes is the tidal river with its estuary and reaches which are penetrated by the sea water, and pulsate in the manner of flow with the tide. The water of the sea flows and ebbs mainly along the bottom under the water of the river as far as the slope of the river bed permits, and because of agitation caused by obstructions and irregularities of the channel it permeates to a more or less extent the waters of the river. The flood and ebb currents in such a stream show characteristics common to all of them.

Now, if a waterway conducting a river discharge lead from a deep basin, the outlet being like a weir, followed by a channel, so that only at the highest tides would any salt-laden water enter, the water in the lower undisturbed recesses of that lake or basin would be as salt as the sea and the outlet would still have the features of a tidal river.

The case under consideration is such as this only that the outlet, while much restricted in width, is deep enough that all tides penetrate the basin, but the features of river flow and presence of river water are strongly evident.

For illustration, let us revert to the contemplation of the shallow strait connecting the sea with a deep inlet into which no rivers discharge. “Other things being equal,” the tidal flow

will be equal in both directions, the water uniform in density, and the mean levels equal. If sufficient streams could be deflected into such an inlet it would be converted into a lake at a higher elevation than the sea, and the strait would become a river.

The purpose of this is to show that whether the outlet from Lake Melville through the Narrows to the "sound" below is a strait or river depends upon the amount of river water present and the nature of the flow

Very large rivers flow into the lake which may not be relatively large, having in mind the Great Lakes and St. Lawrence river, and the flow through the outlet has been shown by the Tidal Survey investigations to resemble less the flow through a strait, than of a tidal river. Per contra, the density of the water is nearer that of sea water than fresh water, but this is also true of nearly all tidal rivers in their lower courses and estuaries.

SUPPLEMENTARY NOTE TO THE ORIGINAL TIDAL SURVEY REPORT
REFERRING TO THAT PART CONCERNING THE DENSITY OF THE WATERS.

Mr. C. Tate Regan calls attention to certain figures given as percentages of density of sea water. For the sake of brevity and as the purport is so obvious, the term "density" was used for the "excess-of-density-overunity." It is this "excess" or difference in density of the numerous samples of water over the density of pure water which indicates the existence of salt water and which is also the measure of its presence. The "percentages" are therefore between zero (density of pure water being 1,000) and 0.024 as 100 per cent., the density of standard sea water being 1.024. Thus a sample of brackish water of specific gravity 1.012 has only 50 per cent. by weight of substances foreign to pure water, that standard sea water bears ;

p. 3861

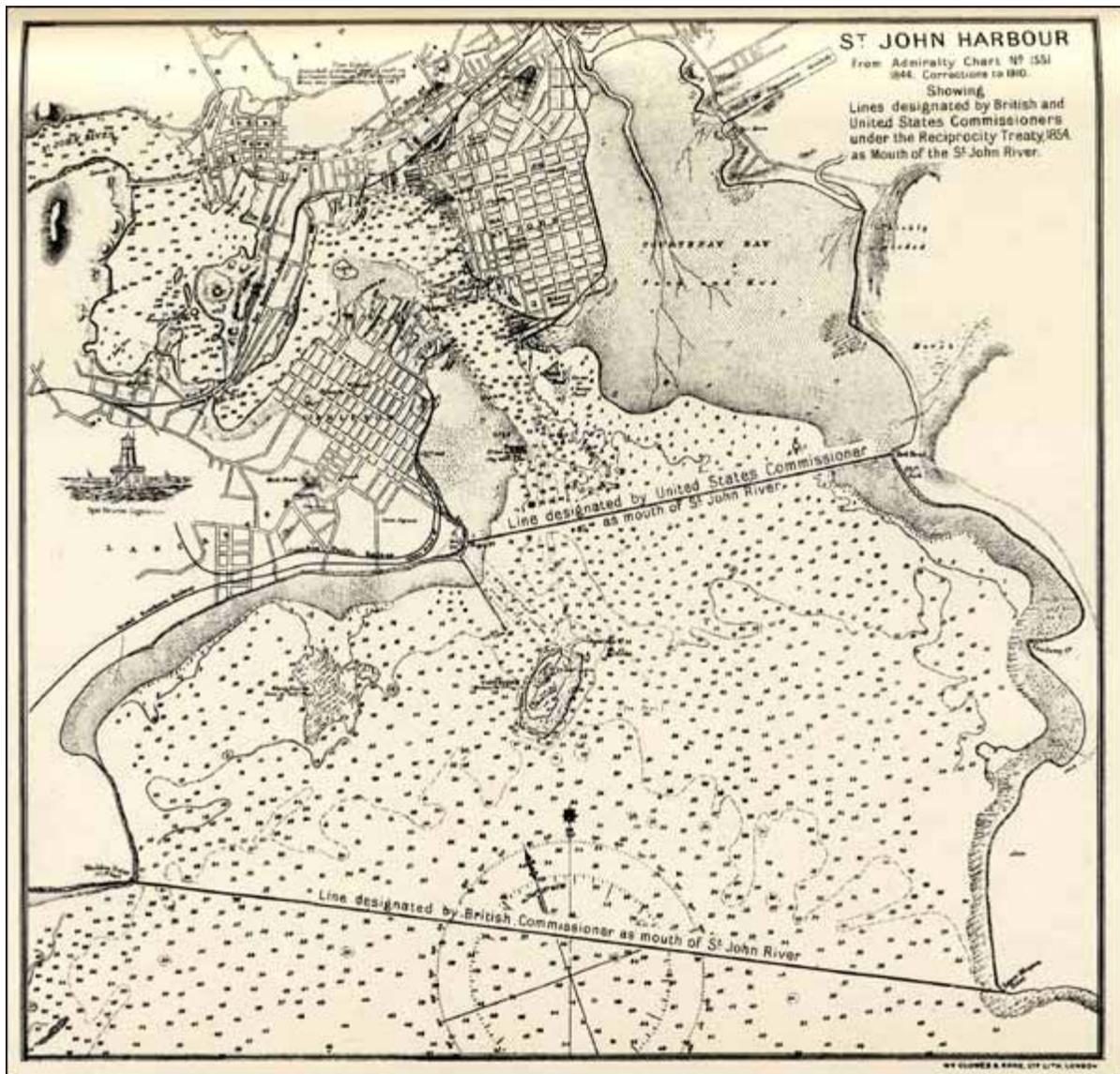
or, in simple language, it has 50 per cent. the character of sea water as distinguished from fresh water in regard to weight. The figures for the densities are all given, so this particular use of the term is quite obvious.

The use of the term "salinity" is also brought up. It was not my intention to deal with salinity at all, but this word was used instead of "density" in the instance pointed out.

H. W. JONES.

following p. 3846

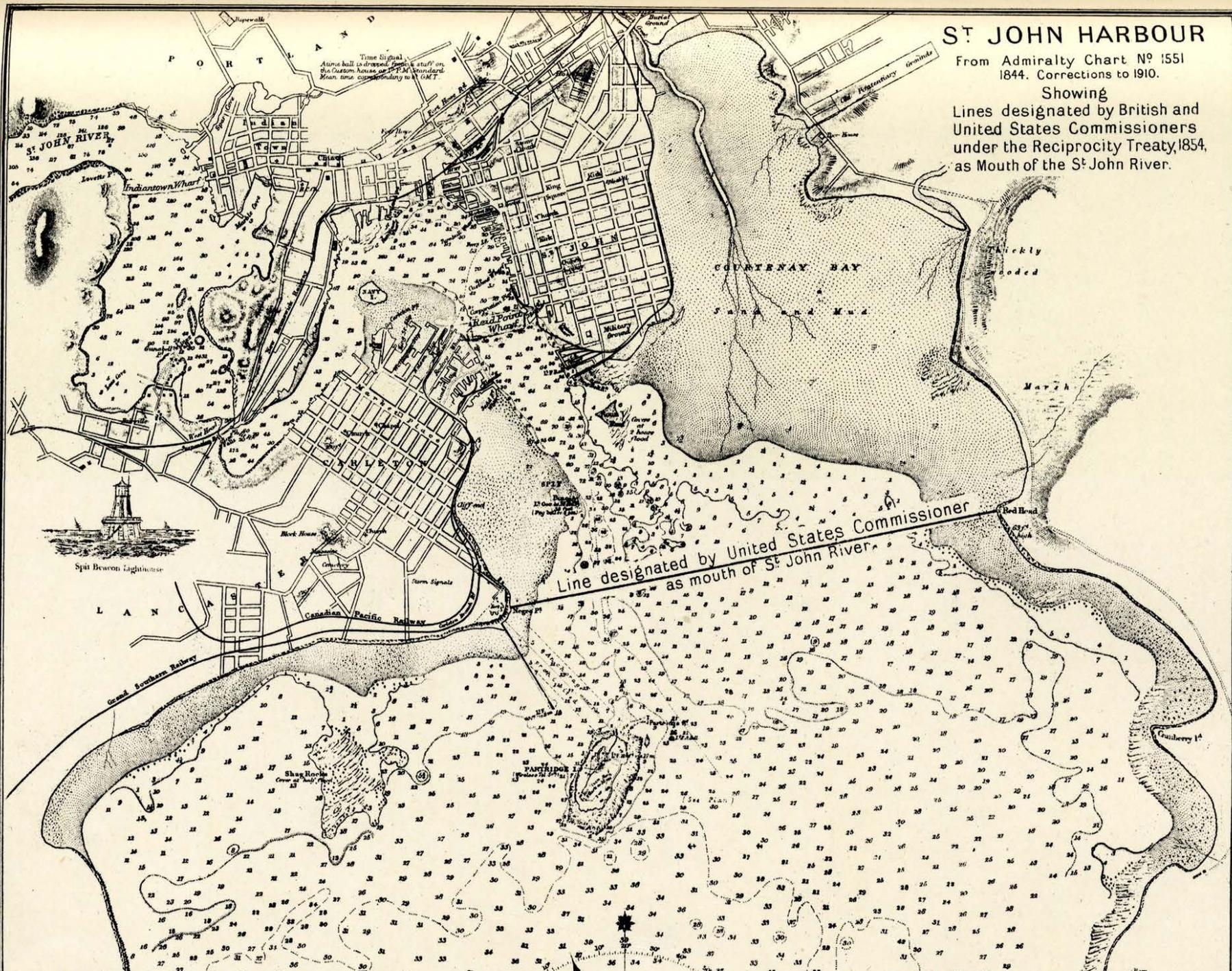
St. John, New Brunswick, Harbour

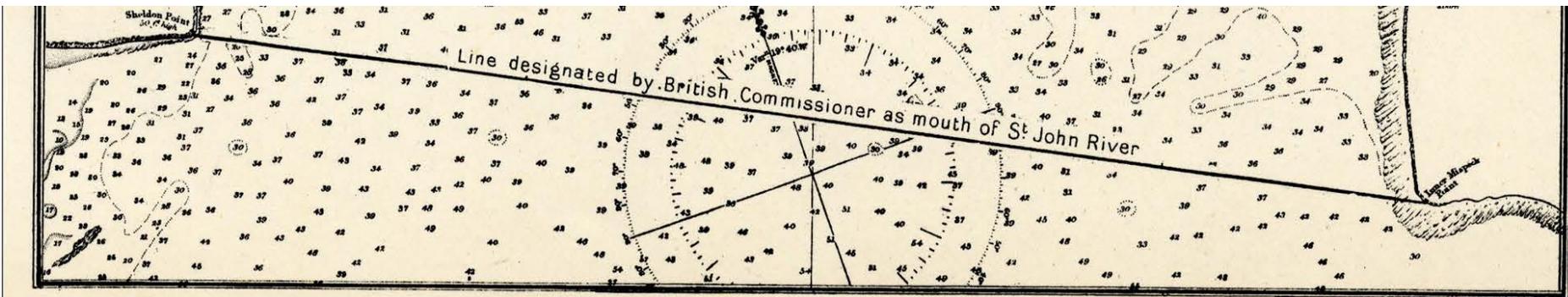


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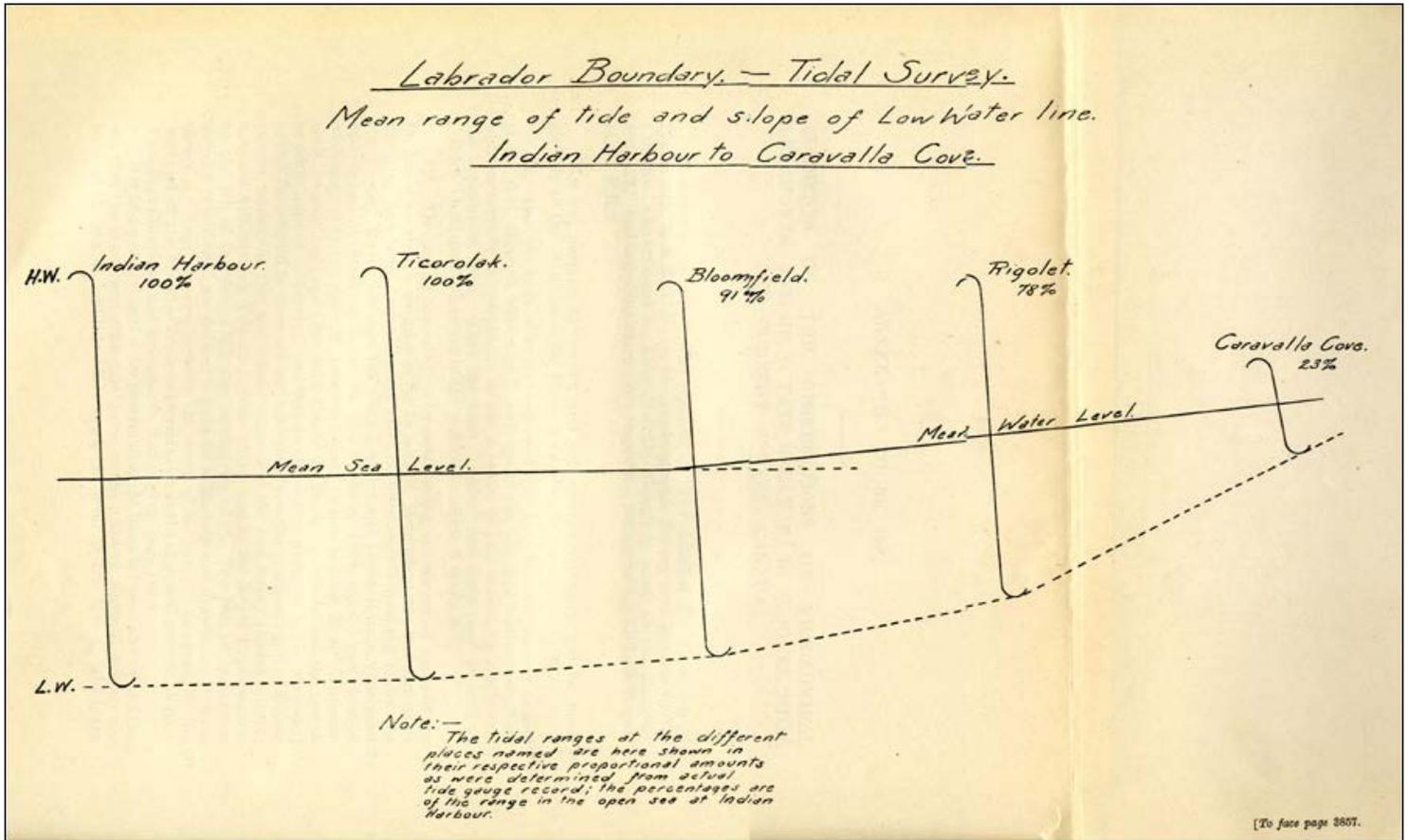




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Labrador Boundary - Tidal Survey: Indian Harbour to Caravalla Cove



[Note reads - The tidal ranges at the different places named are here shown in their respective proportional amounts as were determined from actual tide gauge record; the percentages are of the range in the open sea at Indian Harbour.]

No. 1448.

**EXTRACT FROM JOURNAL OF THE PROCEEDINGS
OF HIS MAJESTY'S BRIG "CLINKER," 1st
NOVEMBER, 1820, TO 5th MAY, 1822. [WM.
MARTIN, COMMANDER.]**

P.R.O. ADMIRALTY.
CAPTAINS' LOGS, VOL. 3129.

H	K	F	Course.	Winds.	Sig.	Remarks, &c., Friday, 13th July, 1821.
1	.	.	At Anchor	S.E.		A.M. light Breezes and fine w ^f . Washed
2	.	.	in Sandy			clothes. 8 Moderate and fine made signal
3	.	.	Cove.			for Pilot with a gun. 9.30 out boats
4	.	.	Entrance			received a pilot for the River (or Inlet). 10
	.	.	of River			weighed and made sail up the River
	.	.	Ivucktoke.			Ivucktoke. 11 in 1 st and 2 nd reefs of
	.	.				topsails. 11.30 lowered the topsails. Noon
5	.	.				fresh B ^{rs} and fine. Boats in tow.
6	.	.				
7	.	.				
8	.	.				
9	.	.				
10	.	.				
11	6	4				
12	6	6	NW.B.N.	S.E. ^{ly}		

Course.	Distance.	Lat. in.	Long. in.	Bearing and Distance.	
..	..	..	Land Intervening.	Running up Ivucktoke Inlet,	
1	6	.	NW½W	S.E.	P.M. Moderate breezes and fine w ^f .
2	5	4			4 Fresh B ^{rs} and fine. 4.15
3	6	4			Shortened sail and came to in 5
4	4	4	NWBW½W		f ^{ms} in Rigoulette Harbour. Fish
	2	4	W½S	v ^{ble}	flake NBW ½ W ½ mile. 5 Strong
5	2	.	WBS		breezes with a strong tide. Veered
6	.	.			to a whole cable. Fell overboard
					Bsn M ^f . Connell. Sent the boats and
					picked him up. 8 Moderate
					breezes and fine w ^f . Midnight
					moderate and fine w ^f .
3	SW	Rate of	N.E.		
7	3	"	Tide.		
8	.	.	At Anchor		
9	.	.	at	10.30	tide
10	.	.	Rigoulette.	turned to	
				S.E. 4fms.	
11	.	.	Ivucktoke	water,	
12	.	.	Inlet.	rocky	
				bottom.	

HIS MAJESTY'S BRIG "CLINKER."

H	K	F	Courses.	Winds.	Sig.	Remarks, &c., Friday, 14th July, 1821.
1	.	.		N.E.		A.M. Light b ^{rs} . and fine w ^r . 4 D°. W ^r . Washed clothes. 7.30 Sent boat for wood. 8 D°. W ^r .
2	.	.	At Anchor			discharged the English pilot and received an Esquimaux in stead. Sent 3 men on board a shallop to keep company with us.
3	.	.				10.15 weighed and made sail. 11.15 in 1st reef. Squally. 11.40 made sail. Noon moderate and cloudy running between a low island called Esquimaux and the main. shallop in Co[mpany].
4	.	.				
5	.	.				
6	.	.	At Rigoulette River	S.E.		
7	.	.				
8	.	.	Ivucktoke			
9	.	.				
10	.	.				
			3	WSW		
11	3	.	West			
			3	W½S		
12	3	6	WSW	Easterly		

Course.	Distance.	Lat. in.	Long. in.	Bearing and Distance.
"	"	"	"	
..	2 4			Moderate Breezes and Fine. 2 up Fore Sail Rounded in. 3 boer up and made sail. 4 D°.
1	3 4	W½S		W ^r . 6 Mustered at Quarters A shallop in Company. 8 Moderate and Rainy sounded the bottom 20 Fath ^s . line off the north Shore 1 ¼ miles. Shallop in Comp ^y . 8.30 shortened Sail and came to in 6 faths. Muddy bottom Midnight light breezes with heavy rain.
2	6 "	W½N		
3	" "	Up S ^b W	off P.M.	
4	3 "	NW ^b W		
..	4 .			
5	2 2	NW ^b W¼W		
..	2 .			
..	2 2			
6	6 "			
7	6 2			
..	2 .	W ^b N½W		
8	2 "			
..	2 .	W ^b N		
9	" "	W ^b N½N		
10	" "	W ^b N¼N		
11	" "	WNW		
12	" "	At Anchor in River Ivucktoke		

HIS MAJESTY'S BRIG "CLINKER."

H	K	F	Courses.	Winds.	Sig.	Remarks on Sunday, 14th July, 1821.
1	.	.	At anchor			Light Breezes and rainy. 4 D°. W ^f . 5 got
			in River			shallop along side and got stream anchor
2	.	.	Ivucktoke			and cable into her. 6.30 weighed and
3	.	.				made sail up the River. Shallop in comp ^y .
4	.	.				7.40 Rounded to, sent weeks provisions to
5	.	.				shallop for their men. 8 Filled lost anchorage
6	.	.				N.E. ^b .E due Thoik East 7 or 8 miles noon
			W ^b N	East		moderate breezes and fine sounded in 12
						faths. Hard Running up the River very rainy
						weather.
						—
						2
7	3	.				
8	4	4				
9	3	4				
10	3	.				
11	2	.	N ^b W			
						—
						1
12	3	6				

Course.	Distance.	Lat. in.	Long. in.	Bearing and Distance.
1	.	.	A	Light Breezes and Cloudy at 12.15. Found the
2	.	.	Ground	Bring aground shortened sail. Sound. under
			in Kin A	the Bow 1 ½ Fath ^s . main chain 2½ abaft 3
			Mish.	Fath ^s . Muddy Bottom, at 1 Laid the Sheet
3	.	.		anchor out astern and Brought the cable to
4	.	.	East	the Capstain and have her off into 6 Fath ^s . 7
5	.	.	Single	came to with Best Bower off Kin a Mish
			anchor	[Kenemich river]. Furled Sails. 7.30
6	.	.	off S.E.	Commander went away in shallop sounding.
7	.	.	Kin a	Sunset Light and Cloudy, midnight Do. weather.
			Mish.	
8	.	.		
9	.	.		
10	.	.		
11	.	.		
12	.	.		

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HIS MAJESTY'S BRIG "CLINKER."

H	K	F	Courses.	Winds.	Sig.	Remarks on Sunday, 14th July, 1821.
1	.	.	Single			Light airs and Rainy. 4 D° W ^f . 8 Calm and Fine
2	.	.	Anchor			w ^f . Commander came on Board. 9 Boat came
			in Kin a			along side from the Fishing Establishment and
3	.	.	Mish			8 canoes with 26 mountaineers at 11.30 D°.
			River			Left the Brig detained 3 For pilots and 1
			Ivuctoke			Canadian at 12 quite calm weighed the anchor.
			Calm			
4	.	.				

5 . . .
6 . . .
7 . . .
8 . . .
9 . . .
10 . . .
11 . . .
12 . . .

Course.	Distance.	Lat. in.	Long. in.	Bearings and Distance.
		53° 27' N.		
1 . .	Hove to			At single anchor off Kin a Mish. At 12.15
2 . .	W ^b W			made sail to River Head at 12.30. Found
3 1 4				the Brig take ground, out kedge and
				Hover her off made Sail. 4 Do. W ^r .
	1 4			English point W ^b .S 3 miles at 5 ship
4 1 4	NW ^b W			again took the Ground Laid out kedge
	°W	East		and Let go the B Bower at 6.30 hauled
5 1 .	SW ^b .W			her off in to 3½ Fath ^s . Found it
6 . .	at anchor			impossible from the shoalness of the
7 . .	off			River to go any higher in the Brig. 8
	English			Comm. &c. and 4 men left the Ship in
	point			Shallop For the purpose of exploring
	River			the River Took with him 1 weeks
	Ivuctoke			provisions 2 canoes 3 mountaineer
8 . .				Indians 1 Canadian as Pilot 8.30 parted
9 . .				compy. with shallop. 12 Cloudy wr
10 . .				
11 . .				
12 . .				

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HIS MAJESTY'S BRIG "CLINKER."

Date.	Winds.	Sig.	Remarks at Anchor off English Point, Tuesday, 17th July, 1821.
July 1821 Tuesday 17th	Easterly N.E.		A.M. Moderate breezes and raining at 4 D°. W ^r . Noon Fresh Breezes and Rainy. People mending cloaths. P.M. Fresh Breezes thick and cloudy weather Sunset Do. Veered to half a Cable. Down Top Gall ^{nt} yards. Midnight Moderate and Rainy.
Wednesday 18th	Easterly		A.M. moderate and Cloudy W ^r . 8 D°. W ^r . 9 Loosed Sailes to Dry observed Shallop turning Down the River. Mr. Barnard (Master) went away to Survey the River Sent Jolly Boat and a party to cut fire wood. 11 Do. Returned Sent 10 Days provision to Shallop. 11.30 Do. parted comp ^y For River. P.M. Cloudy W ^r . 1.30 Sent a Boat and officers away to Sound. 6 D° Returned Sunset Moderate and Cloudy up Jolly Boat Midnight Rainy Weather.

HIS MAJESTY'S BRIG "CLINKER."

Date.	Winds.	Sig.	Remarks &c., at Anchor off English Point, River Ivuctoke.
Thursday 19th	Easterly		Rainy w ^f . At 8 moderate and cloudy sent A party to Cut Fire wood—Employed watering and wooding ship at 1.30 P.M. Sent the Cutter For wood Rainy w ^f . Employed watering the Brig Sunset light winds and Cloudy. Midnight D ^o . weather.
Friday 21st	N.E.		A.M. Light Breezes and Cloudy 4 D ^o . W ^f . Employed Scrubbing Hammocks and washing Cloaths. At 7 Commander Returned at 7.30 obs ^d . Shallop comeing down the River sent the cutter for wood. 11.30 Punished George Norcote /S/ with 24 Lashes for Mutinous Conduct and Jos ^h . Henshaw M/ with 24 Lashes for the same offence. P.M. Light airs and fine crossed top gall ^t . yards and loosed Sails today arrived the Shallop Sunset Furled Sailes. Midnight Calm and fine.
Saturday 21st	N.E.		Light breezes and Cloudy W ^f . Employed washing Decks — 8. D ^o . W ^f . opend pork and Flour noon. Moderate and Fine Sent the Boats away Sounding. 11.30 Do Returned P.M. Fine weather Sunset rainey weather People mending cloaths Issued Vinegar to the ships Co Midnight moderate and rainy weather.
Sunday 22nd	Calm N.E. Westerly		Rainy Weather. At 4 Do. W ^f . at 8. Moderate and Cloudy washed Decks At 11 Musterd By Divisions at Noon Fine with little Rain At 4 d ^o . w ^f . Gave the Ships Co. leave to Bathe. 8 Fine W ^f . Midnight Moderate and Cloudy W ^f .

HIS MAJESTY'S BRIG "CLINKER."

H	K	F	Courses.	Winds.	Sig.	Remarks, Monday, 23rd July, 1821.
1	.	.				Moderate and Fine Clear w ^f . Employed washing
2	.	.				Decks 8.30 washed lower deck 10.30
3	.	.				Weighed and made sail shallop in co. Noon
4	.	.				Light Breezes and Fine Adair E ^b , S ½ S
5	.	.				Shallop in Co. in Shore.
6	.	.		Westerly		
7	.	.				
8	.	.				
9	.	.				
10	.	.				
11	2	.	NNE			
12	1	6	N.E.			

Course.	Distance.	Lat. in.	Long. in.	Bearing and Distance.
		53.27		
1	3			Light Breezes and Fine 2.30 hauled up
2	4	4	E½N	NE made sail 3.30 up Courses hove
3	2			to. 4 Bore up. 5 Rounded to sent
				Jolly Boat to Shallop 5.40 Bore

4	2	4			away Cutter Ret ^d . 6 Cape Mt.
5	2				Comme Mie NW ^b W Pt La Pinette
6	5		West		S.W. Tide Running Westerly
7	5	N.E.			mustered at Quarters 8 Entrance of
8	4	4			Narrows E ¹ / ₄ N. met 2 Canoes
9	5	.			Ne- bow-du-thoik NNW ¹ / ₂ WW clewed
10	.	.	East		up Top Sails Furled Top Gallant Sail ^s
11	1	4			10 Bore up sounded every ¹ / ₂ hour no
12	2	.			Bottom 12. Fine W ^r . Shallop in Co.

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HIS MAJESTY'S BRIG "CLINKER."

H	K	F	Course.	Winds.	Sig.	Remarks, Tuesday, 24th July, 1821.
1	2	.	E ¹ / ₂ N			Light Breezes and Fine 2 Set Top Gall ^t Sail ^s and
2	3	.				fore Sail 4 D°. W ^r . Low Island SW ^b S 4.15
3	4	.		Westerly		entered the Narrows 5 Trimmed Sails 6.50
4	3	.				Set the jib passing La Pettit isle De Aquilon
5	2	.	East			7.20 hauled up for Esquimaux Island tide Run
.	3	.				to East ^{wd} 8 Esquimaux Isl ^d . WSW 9
6	3	.				Shortened Sail and came to in 10 fathoms N°.
.	3	.	E ¹ / ₂ S			side of River Employed wooding came a Boat
7	3	1				From Sandwich Bay.
.	2	2				
8	2	.				
9	2	4	E ¹ / ₂ N			
10	"	"				
11	"	"	NE ^b E			
12	"	"				

Course.	Distance.	Lat. in.	Long. in.	Bearing and Distance.
At anchor	River	N.E.	Calm	Moderate and Fine 1.30 Sent Ships Co. on Shore
Ivuctoke				to cut Firewood employed stowing it away 4 D°.
				W ^r . with rain 6 Moderate heavy rain furled sails
				7 Light winds Cloudy 8 D°. W ^r . Midnight calm.

H	K	F	Course.	Winds.	Sig.	Remarks, Wednesday, 25th July, 1821.
1	.	.				Light breezes and Fine with Rain 4 Do. W ^r .
2	.	.				Employed getting Ready for weighing 7.30
3	.	.				Returned Shallop to the owner Rigoulet 8
4	.	.		Easterly		Moderate Breezes and Fine 9.30 Trimmed
5	.	.				Sails and Set the courses At noon Moderate
6	.	.				and Fine.
7	.	.				
8	.	.				
9	.	.				
10	4	4	ESE	West		

11	4	"	E ^b S
12	4	6	E ^{1/2} S

No. 1449.

**CHART OF LABRADOR AND GREENLAND, BY A.
ARROWSMITH, HYDROGRAPHER TO HIS
MAJESTY (LONDON). PUBLISHED 1st JUNE,
1809, WITH ADDITIONS TO 1825.**

Vide Canada's Atlas Map No. 29.

No. 1450

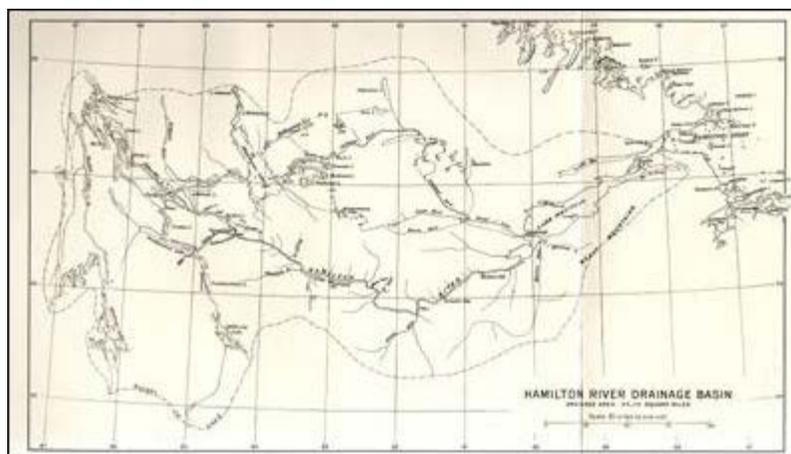
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ADMIRALTY CHART, No. 1422, LABRADOR, 1871.

Vide Canada's Atlas Map No. 35.

[1st. page following p. 3870]

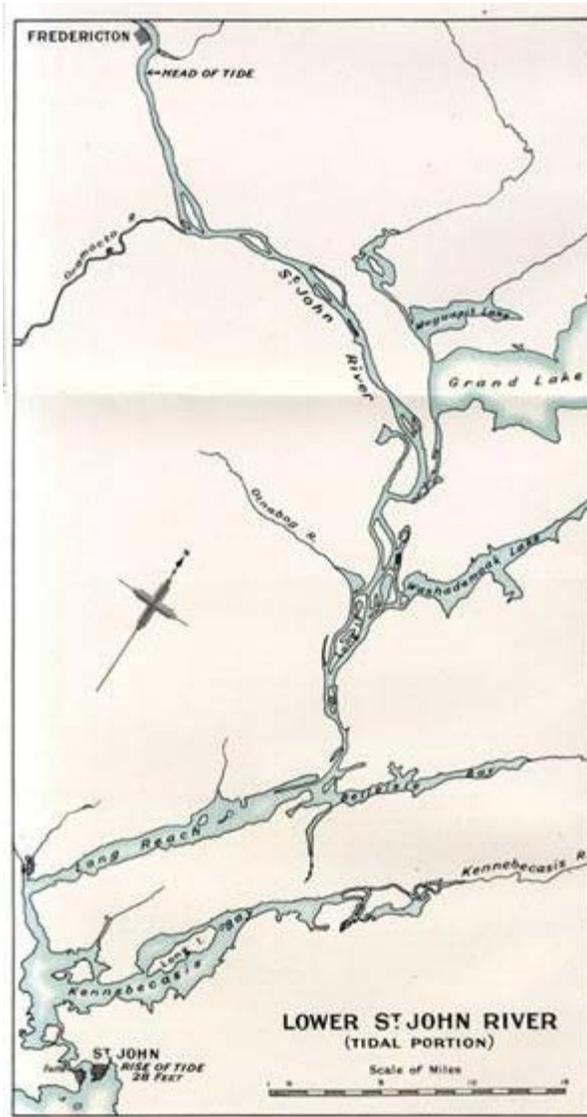
Hamilton River Drainage Basin



[Larger Version](#) (114 kb)

[2nd. page following p. 3870]

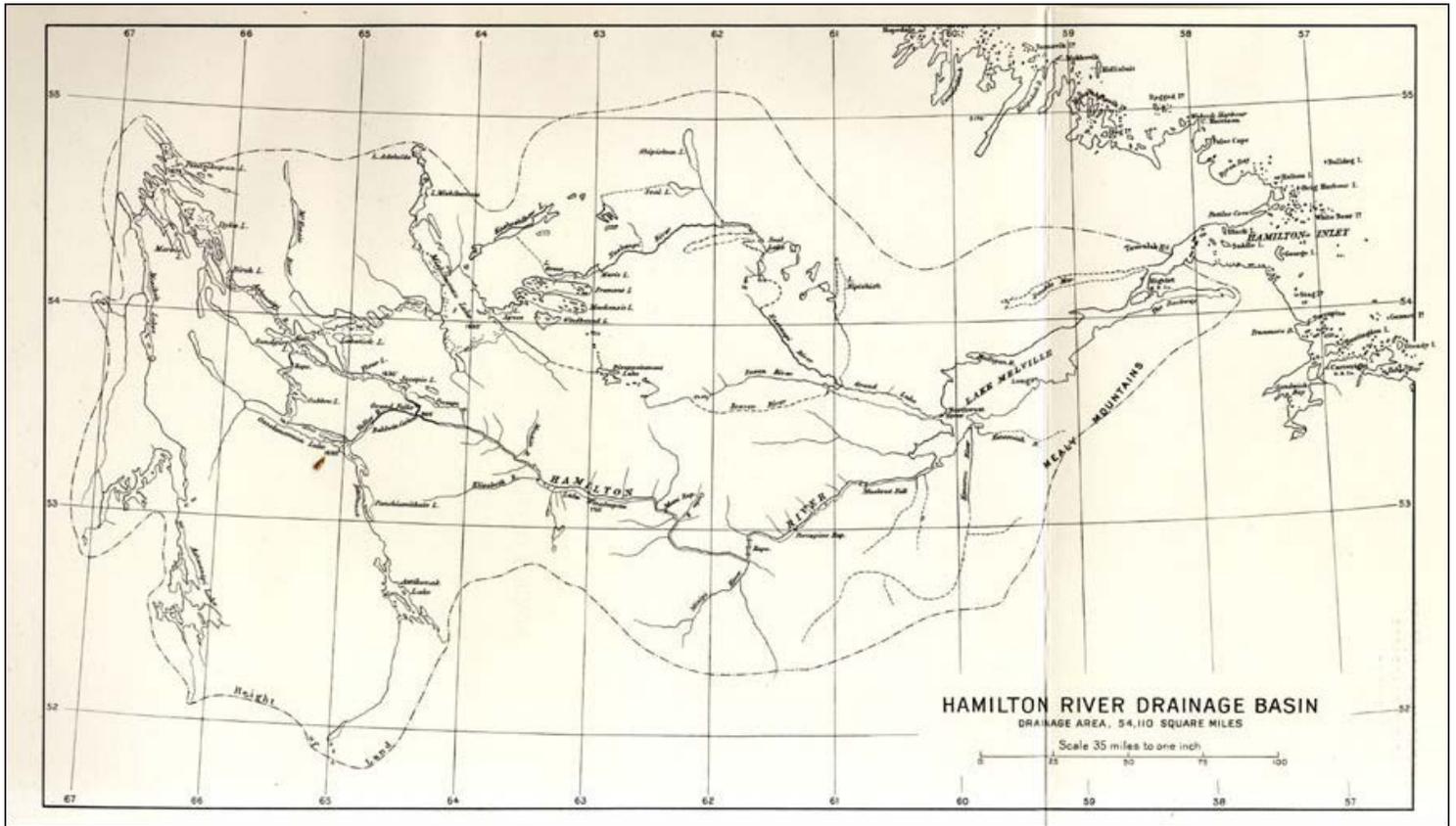
Lower St. John River



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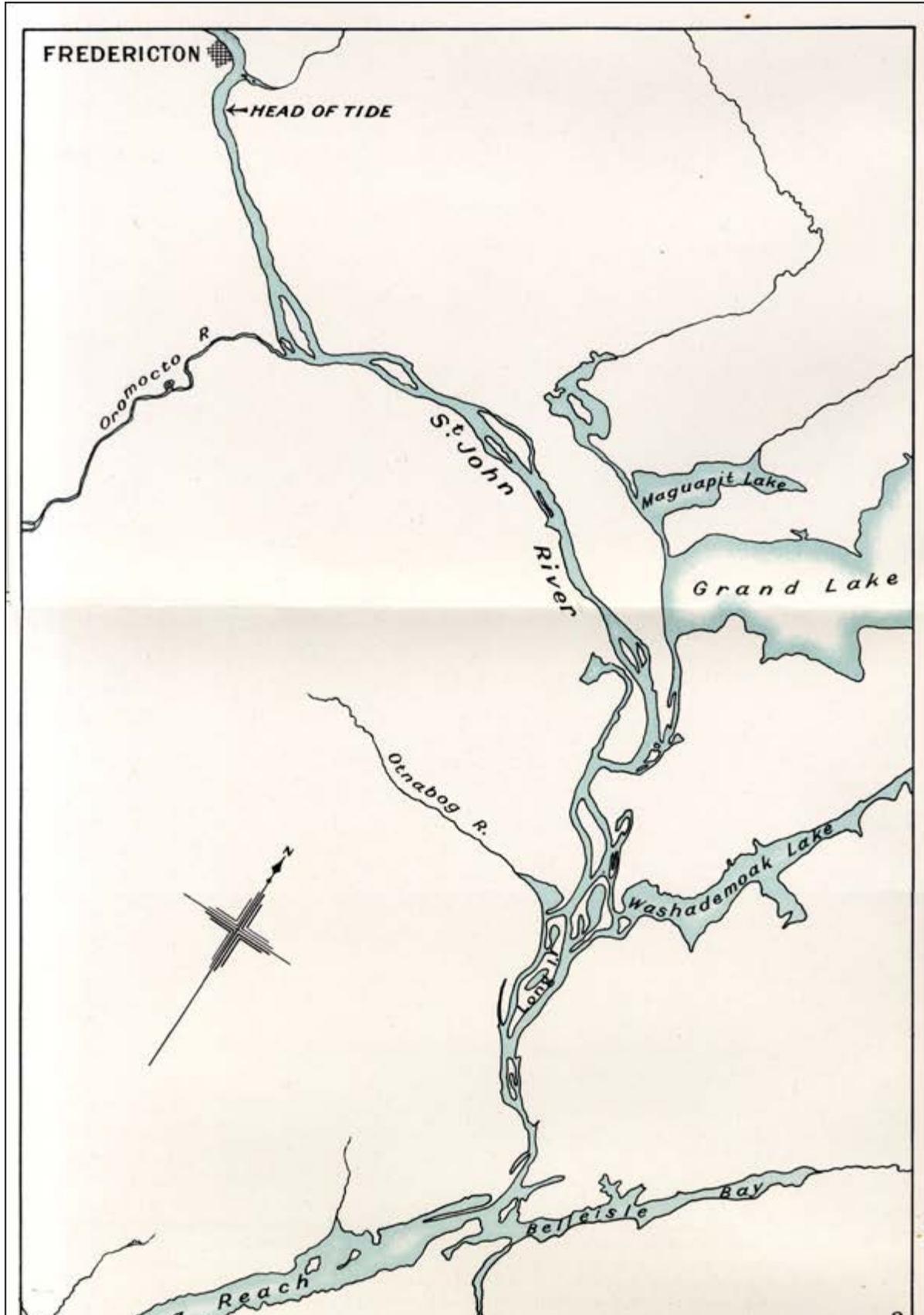
Hamilton River Drainage Basin

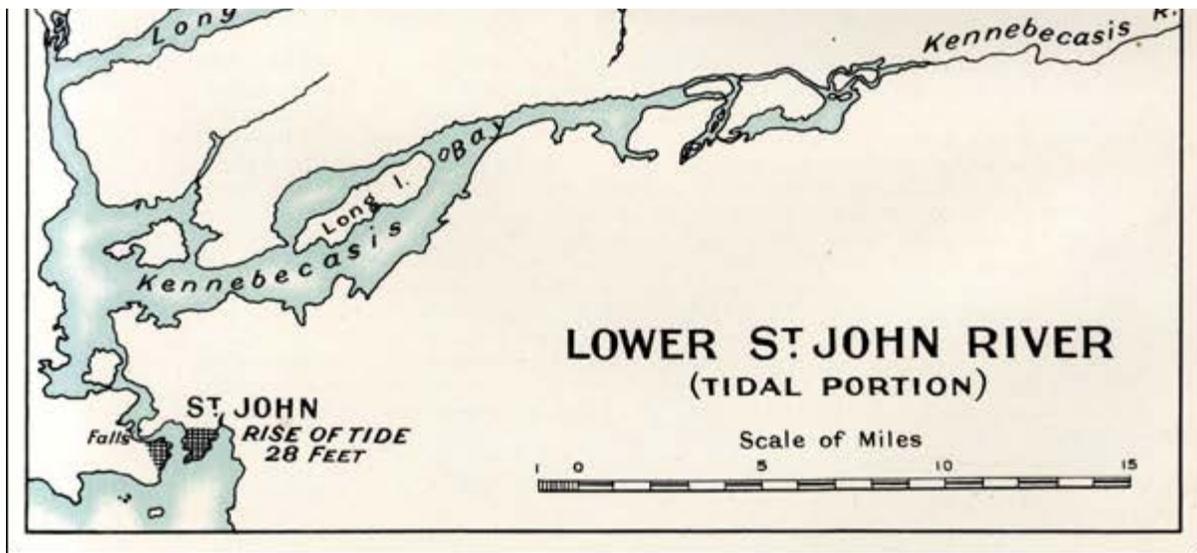


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Lower St. John River





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No. 1451.

**REPLY TO OBSERVATIONS BY VICE-ADMIRAL SIR
FREDERICK C. LEARMONTH REGARDING LAKE
MELVILLE AND THE NARROWS.**

BY DR. W. BELL DAWSON.

In the discussion of the question whether Lake Melville is an arm of the sea or part of a river system, it may be well to note at the outset that this can only be decided by considering the physical conditions which characterize the waters of true inlets and river estuaries. It is thus no mere question of language or an academic discussion of names. This is evident from the names of maps. Take, for example, two bodies of water connected with the ocean by a narrow channel, one in the Queen Charlotte Islands and the other in Cape Breton Island. In any physical geography, these would be classed together because identical in their features ; yet on the maps, one is named an inlet (Masset Inlet) and the other a lake (Bras d'Or Lake). A third very similar one is named a sound (Puget Sound).

The general contention in the “ observations” submitted by Vice-Admiral Sir F. C. Learmonth, is that any body of water into which ships can enter from the ocean, is an Arm of the Sea. The matter is regarded purely from the viewpoint of navigation. The seaman may no doubt consider that any water he can navigate is an extension or branch of the general ocean ; and it does not matter to him whether it is the mouth of a river or a lake, whether it is salt water or fresh, so long as his vessel can get there.

Admiral Learmonth takes this view, and includes all types of inlets and estuaries as “ Arms of the Sea,” so long as they are accessible to ocean-going vessels. The question of navigation is thus made the only criterion. If we take this definition of an arm of the sea, and follow it out, it will become clear that it entirely ignores all physical distinctions in navigable waters. For ocean-going vessels reach Montreal on the St. Lawrence, and ports 2.300 miles from the ocean on the Amazon, and as far as Hankow on the Yang-tze in China. According to the definition, these rivers would have to be classed as arms of the sea up to the head of ocean navigation. Such a view can only be understood from the seaman's standpoint. To the deep-sea captain, a river only begins where his cargo has to be discharged and transferred to river craft.

It will be seen as we proceed, that in the classification of water-areas connected with the ocean, the main distinctions between them must be based on their physical characteristics. A rational classification can thus be made.

The question whether Lake Melville is to be considered as an inlet or arm of the sea, or as part of the Hamilton river system, can then be determined by making a comparison with the various types of inlets and estuaries. The descriptions of inlets given by Admiral Learmonth, are very good so far as they go ; but the primary distinctions between one and another, according to their physical characteristics, are not brought out with sufficient clearness to afford a basis for a decision in the question before us.

In Canadian waters, we find so wide a diversity of characteristics that we have, as it were, a museum containing probably every type that can be imagined ; and we may therefore utilize Canadian inlets and estuaries as examples. Furthermore, the tidal behaviour in all those cited, has been investigated by the Tidal and Current Survey of Canada.

The features and characteristics of inlets and estuaries that we have to consider, are such matters as water-slope, the behaviour of the tide, the outflow to the ocean, and so forth ; and the distinctions between them depend primarily on whether or not they receive a large volume of river water. They may therefore be classified as follows :—

(A) *Inlets of the sea* which are not modified in their characteristics by river inflow.

(a) The typical inlet is a long arm of the sea, fairly uniform in its width, its sides being approximately parallel. These abound on the coasts of British Columbia and Alaska, and they form the fjords of Norway.

(b) Expanded inlets, connected with the sea by a narrow entrance ; but which receive no river discharge of consequence.

(B) *Estuaries of rivers.* (To show the bearing of tidal features on the classification, it is noteworthy that where there is little or no tide, a delta is formed at a river mouth instead of an estuary.)

(a) The estuary of the ordinary type where the shores of the river are no longer parallel, but (as a rule) open out towards the ocean. These are well known everywhere.

(b) Expanded estuaries, where the river enlarges to a lake-like area before discharging into the ocean. These are comparatively rare ; but the lower part of the St. John river and the Hamilton river estuary afford characteristic examples. At the one extreme of this class, Lake St. Peter on the St. Lawrence may be cited as an expansion which is just reached by the tide ; and at the other extreme there are bays or ponds at the mouths of rivers at the coast, which are enclosed by bars, or islands.

In this classification, we are dealing throughout with water-

areas affected by the tide ; because they are all connected with the ocean. The mere fact that a tidal undulation advances over a water area, does not prove the area to be a part of the ocean. For the tidal undulation may run a long way up

[1st. page following p. 3872]

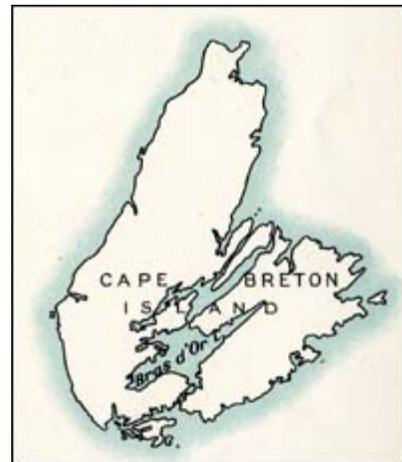
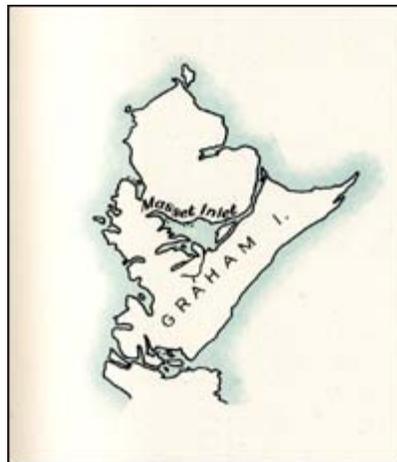
INLETS OF THE SEA (Class A. a.)



Dean Channel, Burke Channel
and arms from them
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Knight Inlet, Bute Inlet
and others
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EXPANDED INLETS (Class A. b.)



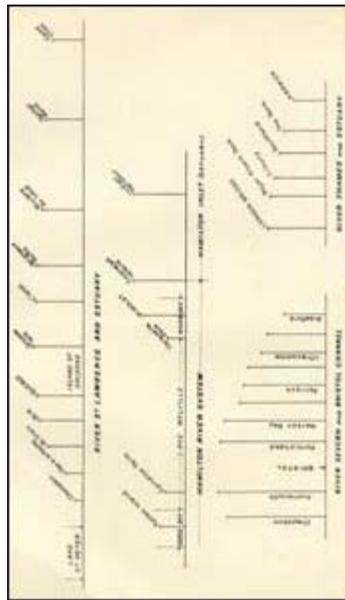
Masset Inlet
[Larger Version](#) (57 kb)

Bras d'Or Lake
[Larger Version](#) (70 kb)

[2nd. page following p. 3872]

MAXIMUM RISE OF TIDE IN TIDAL RIVERS AT HEAD OF ESTUARY

Vertical lines show Rise of Tide at each locality (Same scale in each region)



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a river, where the banks are parallel and the water fresh. This is well exemplified by the rivers in any maritime country.

The classes to which such water-areas belong are more clearly indicated than in any other way by the manner in which the tide acts in them. We will describe this as concisely as possible, to explain only those physical differences which are distinctive in their bearing on the Hamilton river system.

The typical inlet (such as those of the British Columbian coast and the fjords of Norway) has approximately parallel shores and is usually deep ; it rims a long way inland (as much as 60 or 80 miles) and it may have branches. Such inlets are properly arms of the sea ; the tide rises fully as high at the head as at the mouth ; and the water is salt throughout their extent. For there is rarely any river discharge of consequence in these inlets, because of the topography in which they are found. Even when their entrance has become somewhat narrow and shallow (through an exceptional circumstance), as in the case of Burrard inlet, the rise of the tide is not decreased up to the head, and the water is perfectly salt. The typical estuary of any large river, is a complete contrast to this. The rise of the tide increases from the ocean inwards ; and its characteristics differ in many ways that we need not enter upon.

It is the second sub-division in each of the above classes that chiefly concerns us—namely, a large expanse of water connected with the ocean by a narrow entrance. When their physical characteristics are considered, it will be found that the leading influence which dominates them is the amount of river discharge which they receive. This will accordingly justify the primary distinction made in the classification.

As examples of such expanses in the inlet class, there are the Bras d'Or Lakes in Cape Breton Island, and Masset Inlet in the Queen Charlotte Islands. (It has been noted that one is called a lake and the other an inlet, although their characteristics are identical.) They both occupy the central part

of islands, so that the river discharge they receive is negligible. [See the outline maps herewith.] Their leading features are :—

(1) They are practically as salt as the sea. (2) The water surface is at the mean level of the outside ocean. (3) The tidal streams outward and inward have the same strength. (4) The rise of the tide is greatly reduced, because the entrance is so narrow and the area so large that it has not time to fill up, during the tidal period. Such an expanse is in reality a part of the ocean ; and the amount of navigation into it will depend chiefly on the depth of the connecting entrance ; and on trade conditions.

As examples in the estuary class of large expanses of water connected with the ocean, we may cite the lower part of the St. John river in New Brunswick, which in the lowermost portion of its course includes several lake -expansions with different appellations. Lake Melville is also a characteristic example of this type. [See the outline maps herewith.] The leading features of the type are :—

(1) The water is less salt than sea water, and it may even be fresh in part. (2) The surface is higher than the mean level of the ocean. (3) The

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tidal stream outwards towards the ocean is much stronger than inwards ; and in extreme cases, the current may not reverse at all. (4) The decreased rise of the tide is due to the water slope up which the tidal undulation has to make its way, as well as to the size of the expanse. The contrasting features of the two types may be further considered.

(1) *Salt and Fresh Water.*— It is usual at the head of the estuarine portions of such rivers for the salt water to flow in along the bottom when the tide begins to rise, because it has a greater density, being *salt* water and being almost always *colder* than the river water. The sea water thus acts as a wedge and raises the water level while the surface water is still running out. Very definite examples of this could be given in various river mouths. In this respect the Narrows resemble an estuary and not an inlet of the sea.

(2) *Water Slope.*— An expanse in a river mouth is always at a higher level than the mean level of the sea ; whereas in a true inlet (though it may have the same general shape) there is nothing to keep the level higher than in the ocean outside. Lake St. Peter, on the St. Lawrence, affords an example of this. In the case of the St. John, there is a rocky barrier at the river mouth which accentuates the differences unduly. The writer calculated the level of Lake Melville above mean sea level, on the assumption that it was part of the Hamilton river system ; the calculation being based on comparison with stretches of the Ottawa and the St. Lawrence ; and the result he obtained was 0.50 of a foot. The difference, as afterwards deter-mined by the

levelling was 0.42 of a foot ; and this might have been slightly more if the levels had been extended further seaward as he had recommended when the surveys were undertaken. This certainly corroborates the view that Lake Melville is part of a river system.

Admiral Learmonth reviews quite elaborately the nature of the observations taken, and their interpretation ; but he seems to make the matter unnecessarily complicated. In these observations every precaution was taken to obtain a truly balanced result, as well as to carry out the work under normal conditions. The Hamilton river was not in flood at the time, as the freshet season only lasts about three weeks, and is always over by the middle or end of June at the latest. The result given by the observations cannot properly be challenged therefore on the ground that it might be different under other conditions at other times.

(3) *Tidal Streams*.— The greater strength of the outward tidal stream through the Narrows is itself a proof, according to the laws of flowing water in hydraulics, that a difference in level must exist ; that is, that the average level of Lake Melville must be higher than sea level. This greater strength of the outward stream was also found to persist throughout the whole of the time during which the observations were made, which corroborates the validity of the levelling results beyond the two months period of observations on which they are based.

Retardation of the Tidal Undulation.— The retardation in the advance

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of the tide, which causes high water to be later in time as the tide progresses, is a somewhat complex problem. But when Admiral Learmonth says that “ it is a common feature in sea inlets,” this cannot be accepted as a general statement. For it is remarkable that in the most typical of all inlets, there is practically no retardation, as the time of high water at the mouth and the head is almost simultaneous on a distance of 50 miles.

The following examples from the British Columbia coast will show, that, in truly typical inlets, the time of the tide is practically simultaneous throughout :—

From Hartley Bay, at the entrance, to Kittimat, at the head of Douglas channel, distance 49 miles, the time of high water is 4 minutes later.

From Namu, at the entrance, to Bella-kula, at the head of the inlet, distance 69 miles, the time of high water is 2 minutes later.

From Vancouver, in Burrard inlet, to Port, Moody, at the head, the tide, though it has to pass through Second Narrows, is only 13 minutes later.

Also, the rise of the tide at the head of these inlets is actually greater than in the entrance by 2 to 12 per cent.

These small differences of time were determined by means of registering instruments to record the tide, with the use of chronometers for accurate time.

In contrast with the above the retardation of the tide in an ordinary estuary for an equal distance would be about two hours, as found in the St. Lawrence estuary in its narrower parts. (See the differences of time in the Canadian tide tables.)

The greatest amount of retardation that occurs is therefore in estuaries and as far up a river as the tide extends, where it is chiefly due to the counter-flow of the river and to river slope. In these respects the retardation of the tide in the Narrows and Lake Melville has a closer resemblance to estuarine conditions than to tidal action in any true inlet.

Maximum Rise of Tide.— In any funnel-shaped estuary, the rise of the tide increases from the ocean inwards, and the head of the estuary can be defined (in most cases) as the point where the tide has its maximum range. Beyond this point the tide may still make itself felt a long way up the river, but it gradually decreases in height. On comparing the whole stretch from the outer bay to the head of tide in the Hamilton river with a noteworthy estuary, such as the St. Lawrence, the similarity in this respect is striking, for the maximum rise occurs outside the Narrows, and from this tidal indication these Narrows and Lake Melville within them are to be considered as part of the river system. (See chart accompanying Tidal Survey report, where a comparison with the St. Lawrence is shown, and diagram herewith.)

Supposed Modifications.—In maintaining the marine character of Hamilton inlet, Admiral Learmonth discusses the modifications that would occur if there were no tide on the open coast of that region ; and this supposition is made to institute a comparison with the Black Sea and the Sea of

Marmora. It would be more to the point to consider what would occur if there were no river inflow into Goose Bay at the head of Lake Melville. which conies from a drainage area of nearly 52,000 square miles. It is evident that if there were no inflow of fresh water there would be nothing to keep the lake surface at a higher level than the ocean outside. The tidal streams would become equal out and in through The Narrows, and the water throughout would become as salt as the ocean. The rise of the tide would become greater, for there would be no water slope against its entering, nor would there be a preponderance of outflowing water for the tide to overcome. Lake Melville would thus pass into the other class and become a true inlet of the sea, but with a decreased area.

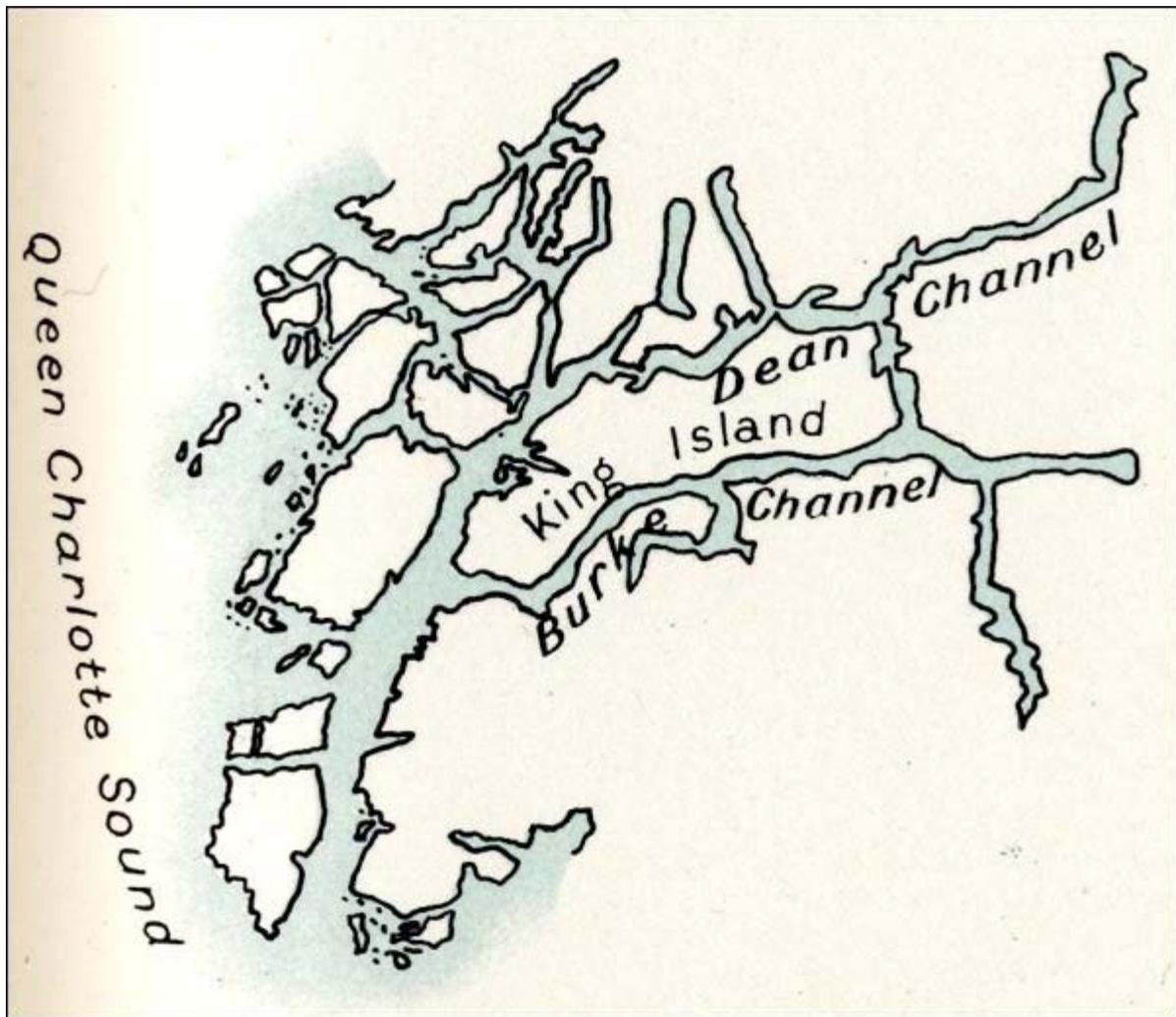
Summary.—The conditions in Lake Melville and the Narrows that connect it with the ocean may be summarized as follows : The rivers that flow into Lake Melville dilute the sea water to such an extent that sea fish do not enter the lake ; the volume of the inflowing rivers is so great that it maintains the level of the lake above sea level, and modifies the ordinary tidal action of the sea ; this higher level together with the large river volume causes the outflowing ebb in The Narrows to be stronger than the flood ; and the point where the tide attains its maximum range is outside the Narrows, which shows that the river system extends as far as this point. The features are all those of a tidal river, as distinguished from an inlet or arm of the sea ; and accordingly the Lake Melville area may properly be considered part of the Hamilton river system with the mouth of the river at the outer end of the Narrows.

W. BELL DAWSON,

Former Superintendent, Tidal and
Survey of Canada ;
Current President of Section of
Oceanography, for Canada, in the
International Union of Geodesy
and Geophysics.
18th July, 1926.

following p. 3872

INLETS OF THE SEA (Class A. a.)

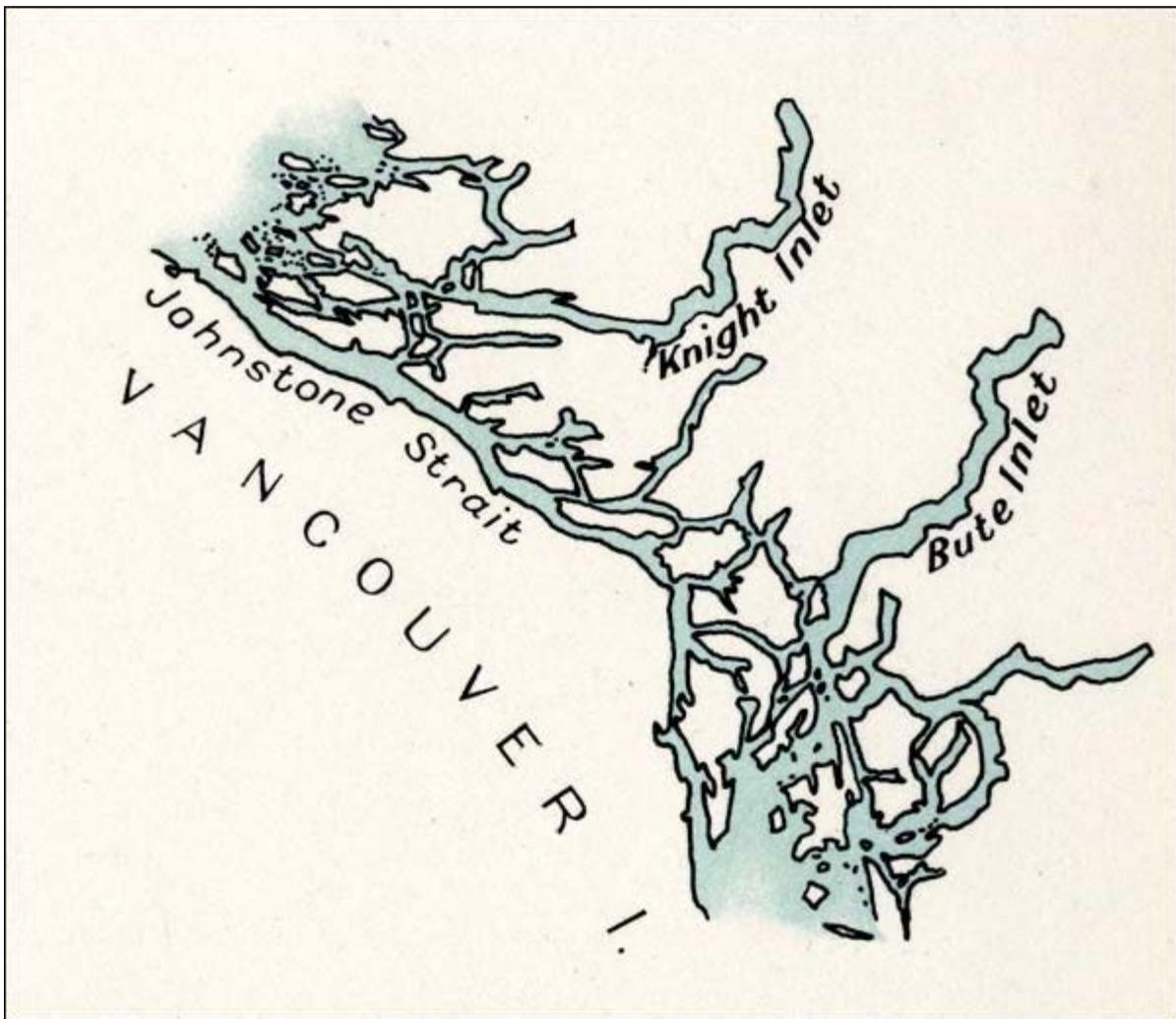


Dean Channel, Burke Channel and arms from them.

[Back to Main Page](#)

following p. 3872

INLETS OF THE SEA (Class A. a.)

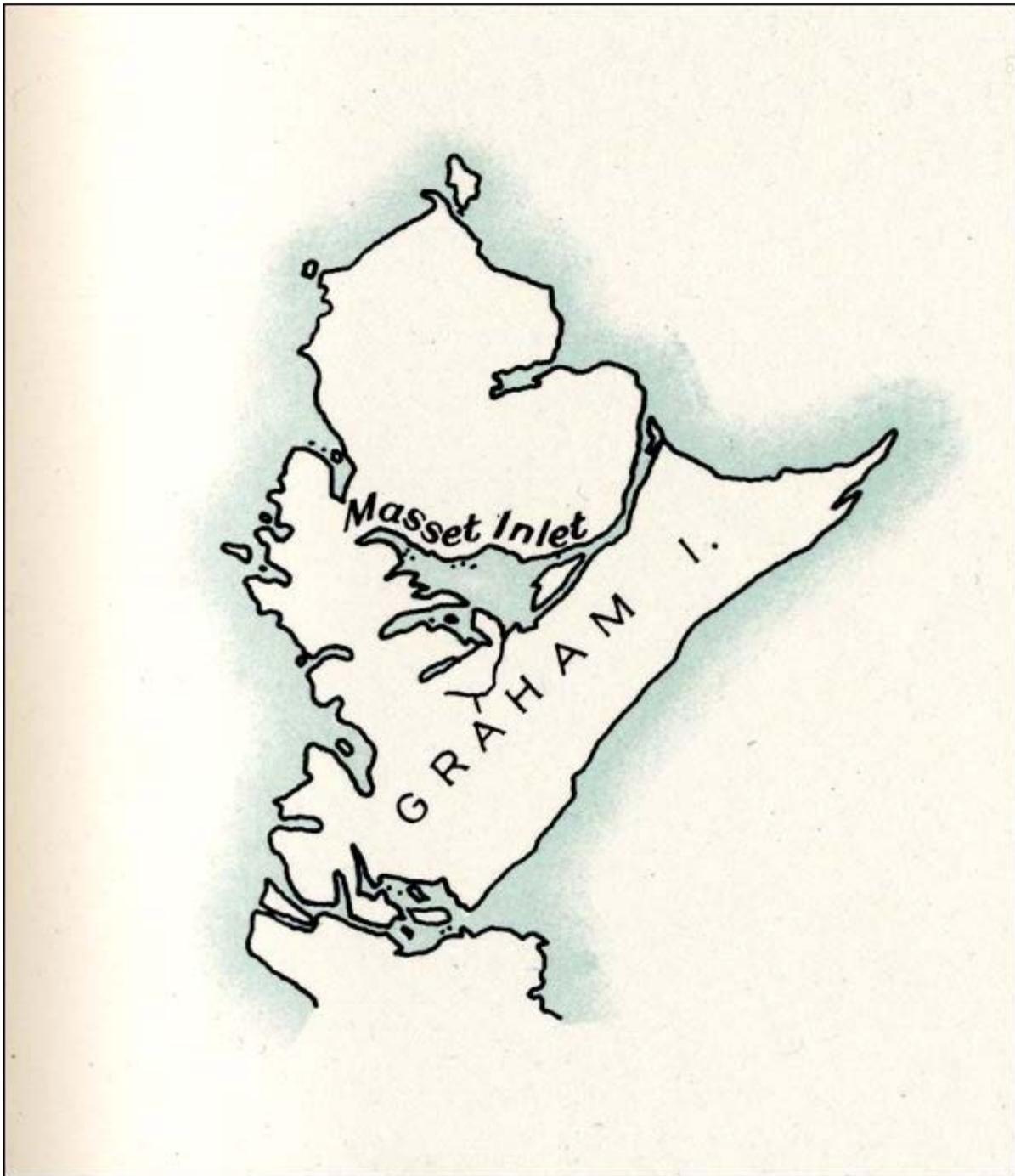


Knight Inlet, Bute Inlet and others.

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following p. 3872

EXPANDED INLETS (Class A. b.)

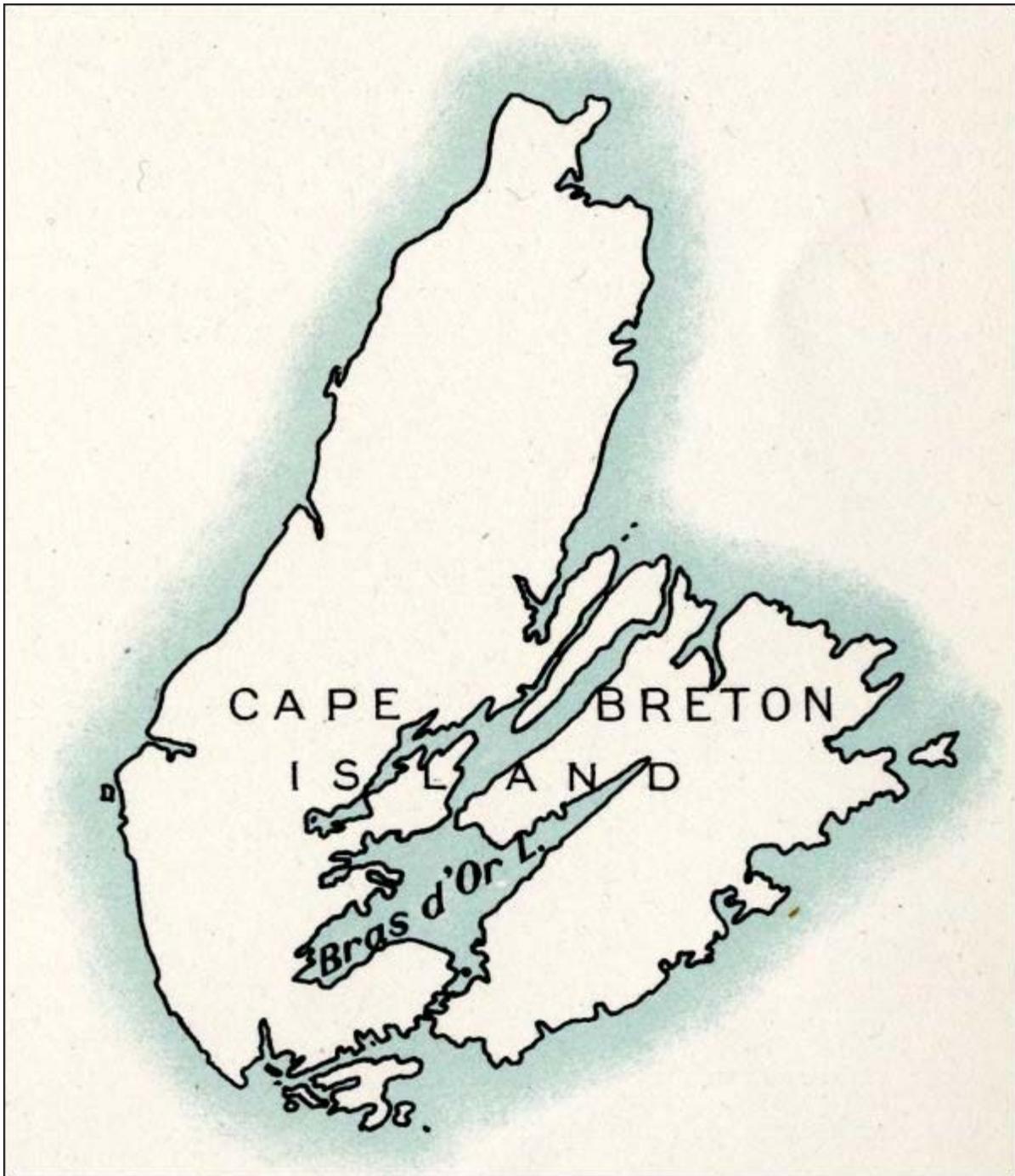


Masset Inlet.

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following p. 3872

EXPANDED INLETS (Class A. b.)

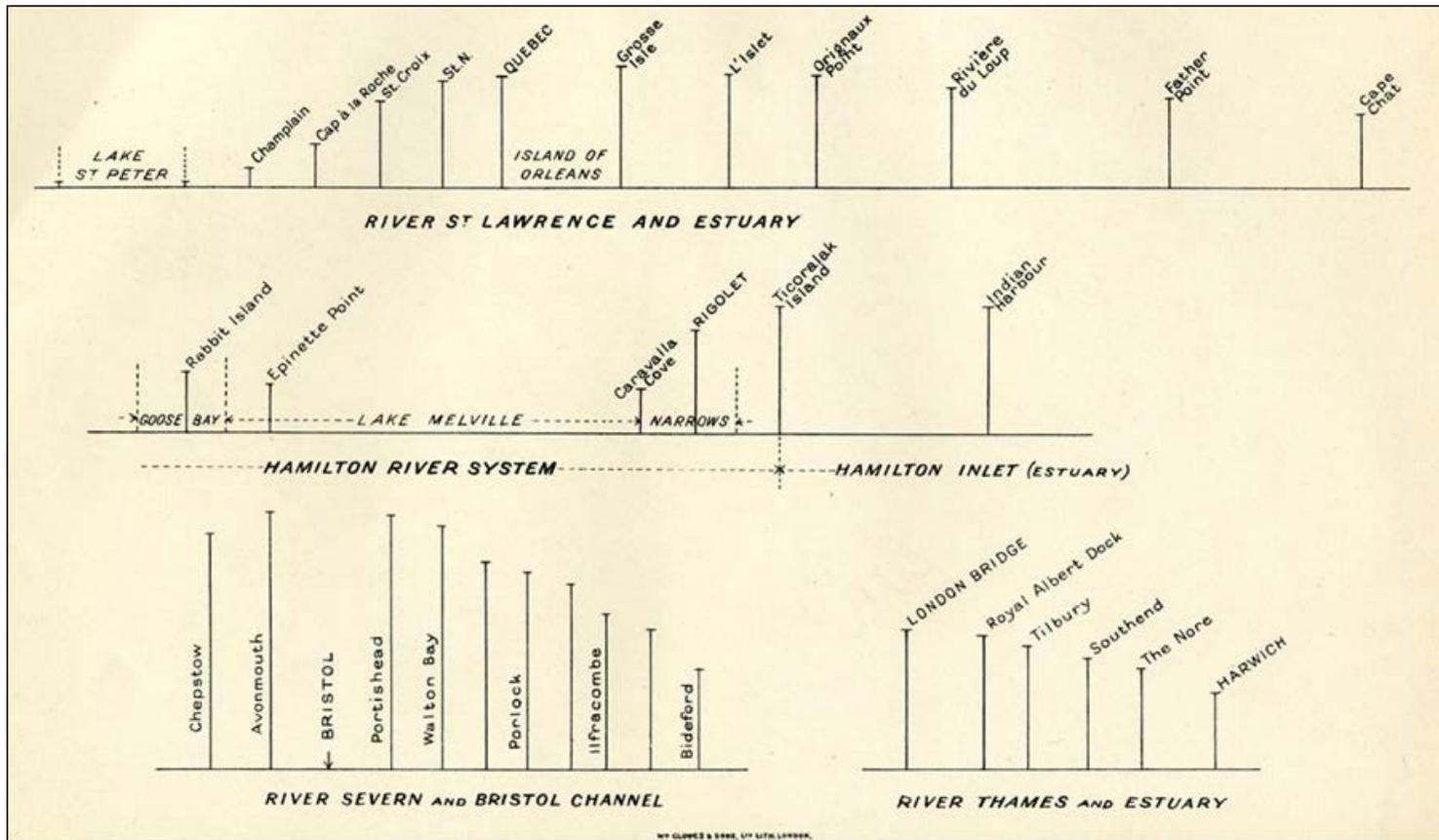


Bras d'Or Lake.

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MAXIMUM RISE OF TIDE IN TIDAL RIVERS AT HEAD OF ESTUARY

Vertical lines show Rise of Tide at each locality (Same scale in each region)



[Back to Main Page](#)

EXAMPLES OF RIVER MOUTHS.

BY DR. BELL DAWSON.

EXAMPLES OF RIVER MOUTHS

*to show what is included as part of the **RIVER**, according to the British Tide Tables.*

These Tide Tables are published by the Hydrographic Department of the British Admiralty, and they are signed by Vice-Admiral F. C. Learmonth as Hydrographer of the Navy.

The references given are to Part II. of the Tide Tables, Third Edition, 1920. This second part is only published at intervals of five years, as it contains standard information which does not often require revision.

The River Mouths here illustrated are as follows :—

RIVER THAMES	RIVER AMAZON
RIVER FORTH	RIO GRANDE, BRAZIL
SHANNON RIVER	JAMES RIVER, VIRGINIA
MAAS (OR MEUSE) RIVER	RIVER ST. LAWRENCE

(Some of these are examples of the class of “ Expanded Estuaries ” as explained in my Report.)

W. BELL DAWSON.

9 Sept: 1926.

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RIVER THAMES

LOCALITIES IN THE
BRITISH TIDE TABLES :—(Part II, page 6.)

PANSAND HOLE.
THE NORE.

RIVER MEDWAY :—
Sheerness
Chatham.

NOTE : The Medway is taken to
— extend to Sheerness, thus
including the area
opposite Chatham as part
of the River.

The Thames is considered

to extend to Foulness;
and the Nore light-ship is
off its mouth.

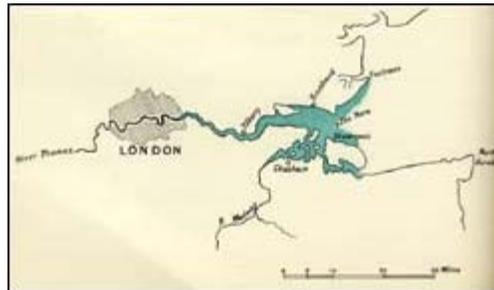
W.B.D.

RIVER THAMES :—

Southend pier.
Hole haven.
Tilbury dock.
Stone ness.
Royal Albert dock.
Woolwich ferry.
Greenwich pier.
LONDON BRIDGE.
Maplin Lighthouse.
Foulness.

Rise of
tide :—
14 to 22
feet.

RIVER CROUCH :—



[Larger Version](#) (83 kb)

p. 3878

RIVER FORTH

LOCALITIES IN THE BRITISH TIDE TABLES :—
(Part II, page 10.)

LEITH.
GRANTON.

RIVER FORTH :—

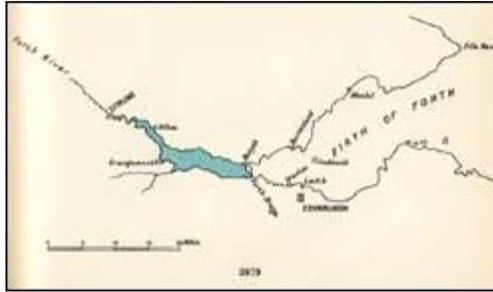
Rosyth.
Grangemouth.
Alloa.
Stirling.

Rise of tide in this
expanded area,
16
to 17 feet.

BURNTISLAND.
METHIL.
FIFE NESS.

N : The whole expanse, above the Forth bridge, is
— included with the River Forth, as a part of it. This
expanse is connected with the outer Firth by the
narrow natural opening, where the Forth Bridge has
been built.

W.B.D.



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RIVER SHANNON

NOTE : The Shannon RIVER is taken to extend to the outer
— headlands, as shown in blue. The large expanse at
the mouth of Fergus River, between Clare and
Beagh, is included as a part of the Shannon River.

The localities on the open coast, north and south of
the Shannon, are Mutton island and Fenit.

W.B.D.

LOCALITIES IN THE BRITISH TIDE TABLES :—
(Part II, page 28.)

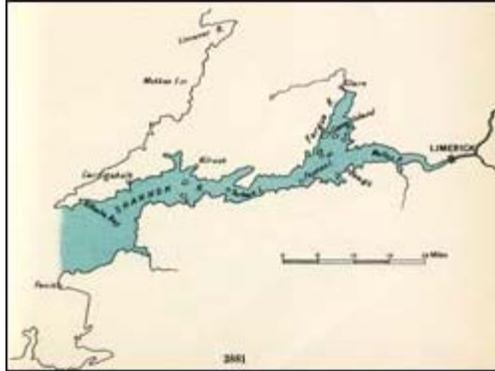
LISCANOR BAY.
MUTTON ISLAND.

RIVER SHANNON :—

Kilbaha bay.	} Rise of tide :— 13 to 19 feet.
Carrigaholt.	
Kilrush.	
Tarbert island.	
Foynes island.	
Beagh quay.	
Coney island.	
Clare.	

Mellon.
Limerick dock.)

FENIT PIER.
SMERWICK.



[Larger Version](#) (103 kb)

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MAAS RIVER

NOTE The whole of the wide areas, coloured blue, are included :— as part of the Maas (or Meuse) RIVER, in all its esuarine enlargements in which the various localities are situated ; even though some of these enlargements have local names.

W.B.D.

Rise of tide, as far
as Rotterdam and
Dordrecht, 5 feet.

LOCALITIES IN THE BRITISH TIDE TABLES :—
(Part II, page 44.)

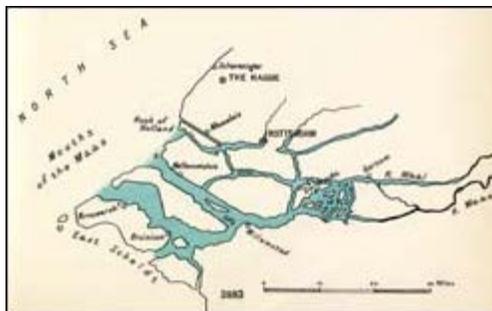
SCHEVENINGEN.

MAAS RIVER :—

Maas light-vessel.
Hook of Holland.
Maasluis.
Rotterdam.
Dordrecht.
Hellevoetsluis.
Willemstad.
Willemsdorp.
Schouwenbank light-vessel.
Brouwershaven.
Bruinisse.
Steenbergsche vliet.

EAST SCHELDE :—

Westkapelle.
Veere.



[Larger Version](#) (106 kb)

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p. 3884

RIVER AMAZON

LOCALITIES IN
BRITISH TIDE TABLES :—(Part II, page 78.)

RIVER AMAZON :—

Balique island.	} Rise of tide :—
Pedrèra point.	
Macapa.	

15 to 17 feet.

NOTE The RIVER is considered to extend as far as it is
:— coloured in blue. The large expanse, 50 miles wide, on
which Macapa is situated, is thus included with the
RIVER. This discharges by two restricted channels into
the Atlantic Ocean.

W.B.D.



[Larger Version](#) (85 kb)

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RIO GRANDE

The name Rio Grande is recognized in the British Tide Tables as applying to the outlet from the *Lago dos Patos* to the Ocean.

The lake is thus included in the river system.

(See BRITISH TIDE TABLES, Part II, page 74.)

W.B.D.



[Larger Version](#) (85 kb)

p. 3887

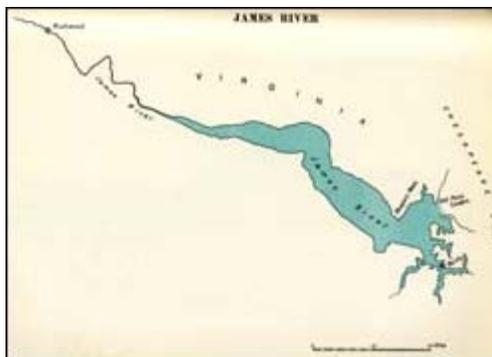
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p. 3888

JAMES RIVER

NOTE According to the Tide Tables, the whole area coloured :— blue is considered as the RIVER.

W.B.D.



[Larger Version](#) (85 kb)

LIST OF LOCALITIES
IN BRITISH TIDE TABLES :— (Part II, page 96.)

CAPE HENRY. (Last place in the open.)

JAMES RIVER AND BRANCHES :—

Old Point Comfort.	}	Rise of tide at Old Point Comfort and point above :— From 2 to 4 feet.
Norfolk Navy yard.		
Newport News.		
Hog point.		
Barrets point.		
Windsor shades.		
Sturgeon point.		
City point.		
Petersburg.		
Dutch gap.		
Richmond.		

BACK RIVER LIGHT. (Next place beyond the river.)

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RIVER ST. LAWRENCE

LOCALITIES IN THE BRITISH TIDE TABLES.
(Part II, pages 112 and 114.)

MAGDALEN RIVER	}	GULF OF ST. LAWRENCE ; South Shore.
MOUNT LOUIS		
BAY.		

RIVER ST. LAWRENCE.

POINT DES MONTS.
SAINTE ANNE DES MONTS.
CAP CHAT.
GRANDS MECHINS.
MANIKUAGAN RIVER.

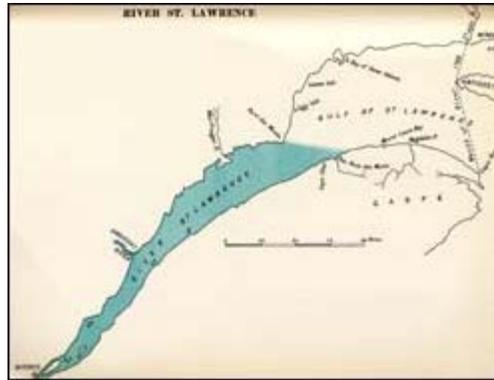
QUEBEC.

THREE RIVERS.

GULF OF ST. LAWRENCE.
(North Shore).

EGG ISLAND.

CAWEE ISLAND.
BAY OF SEVEN ISLANDS.



[Larger Version](#) (85 kb)

NOTE According to the British Tide Tables, the furthest
:— localities within the mouth of the St. Lawrence RIVER
are Point des Monts, Ste. Anne des Monts and Cap
Chat. Beyond these localities the Gulf of St. Lawrence
begins.

The line limiting the mouth of the RIVER according to
the Proclamation of 1763 is also shown.

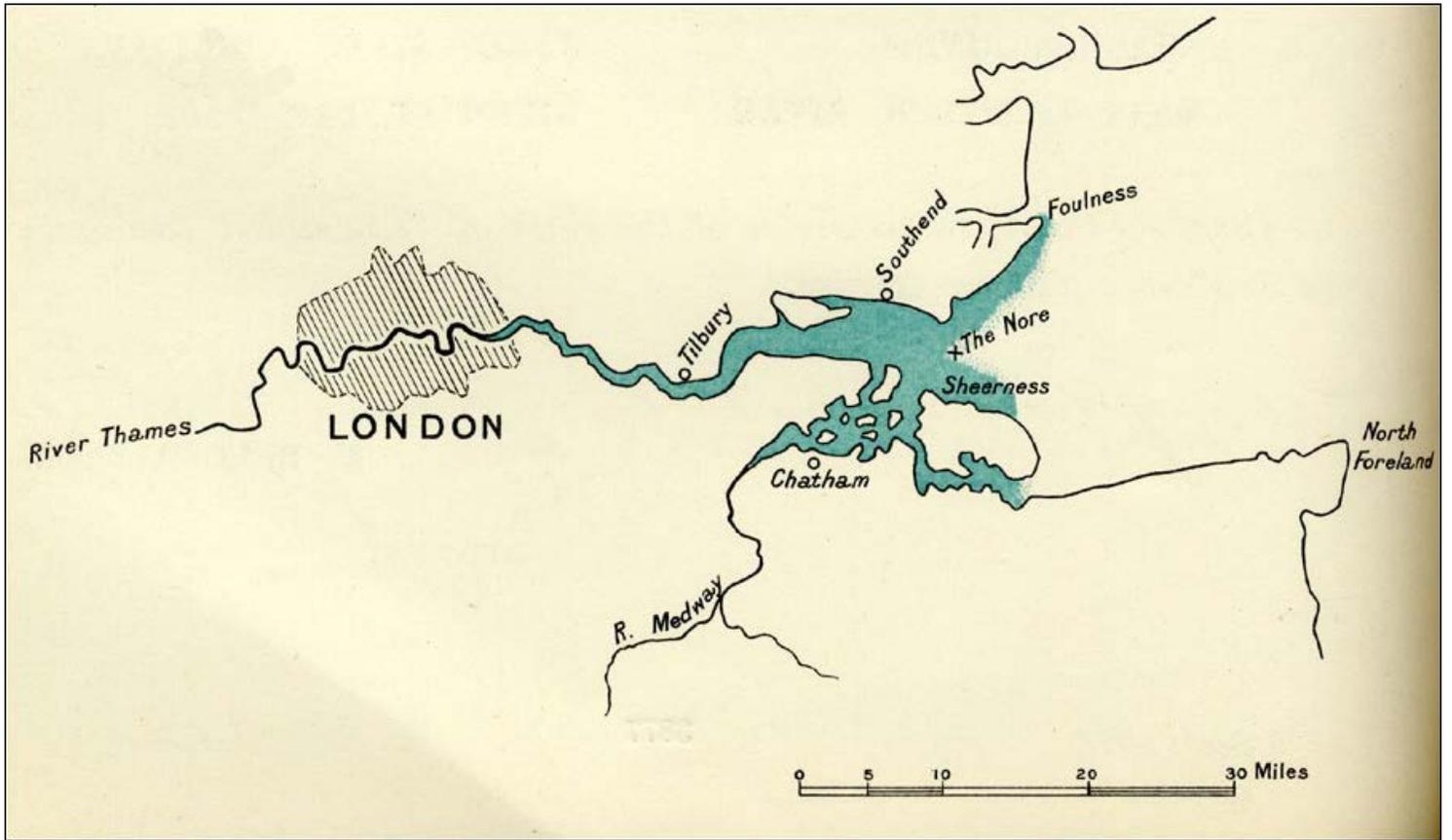
W.B.D.

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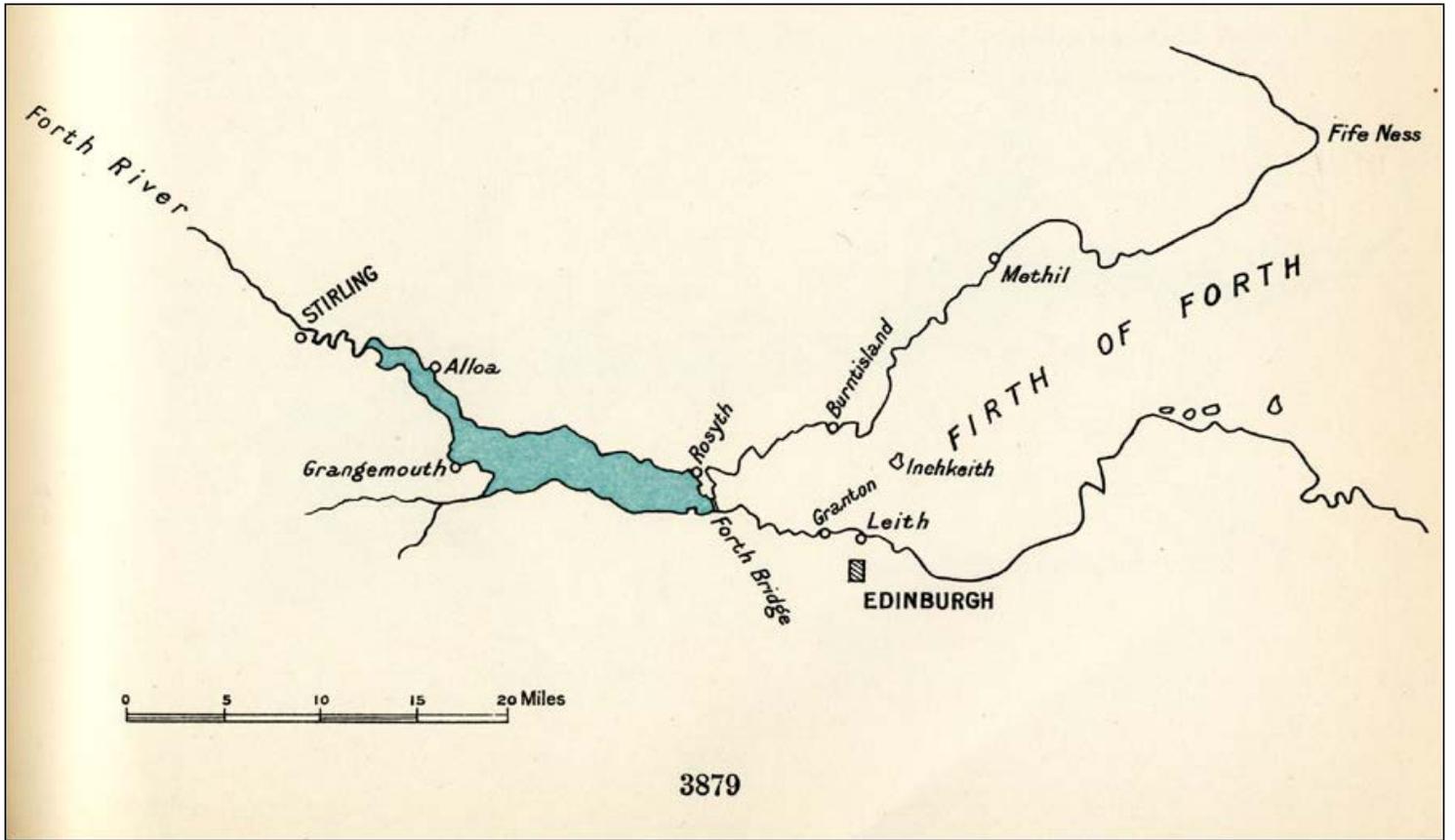
p. 3892

River Thames



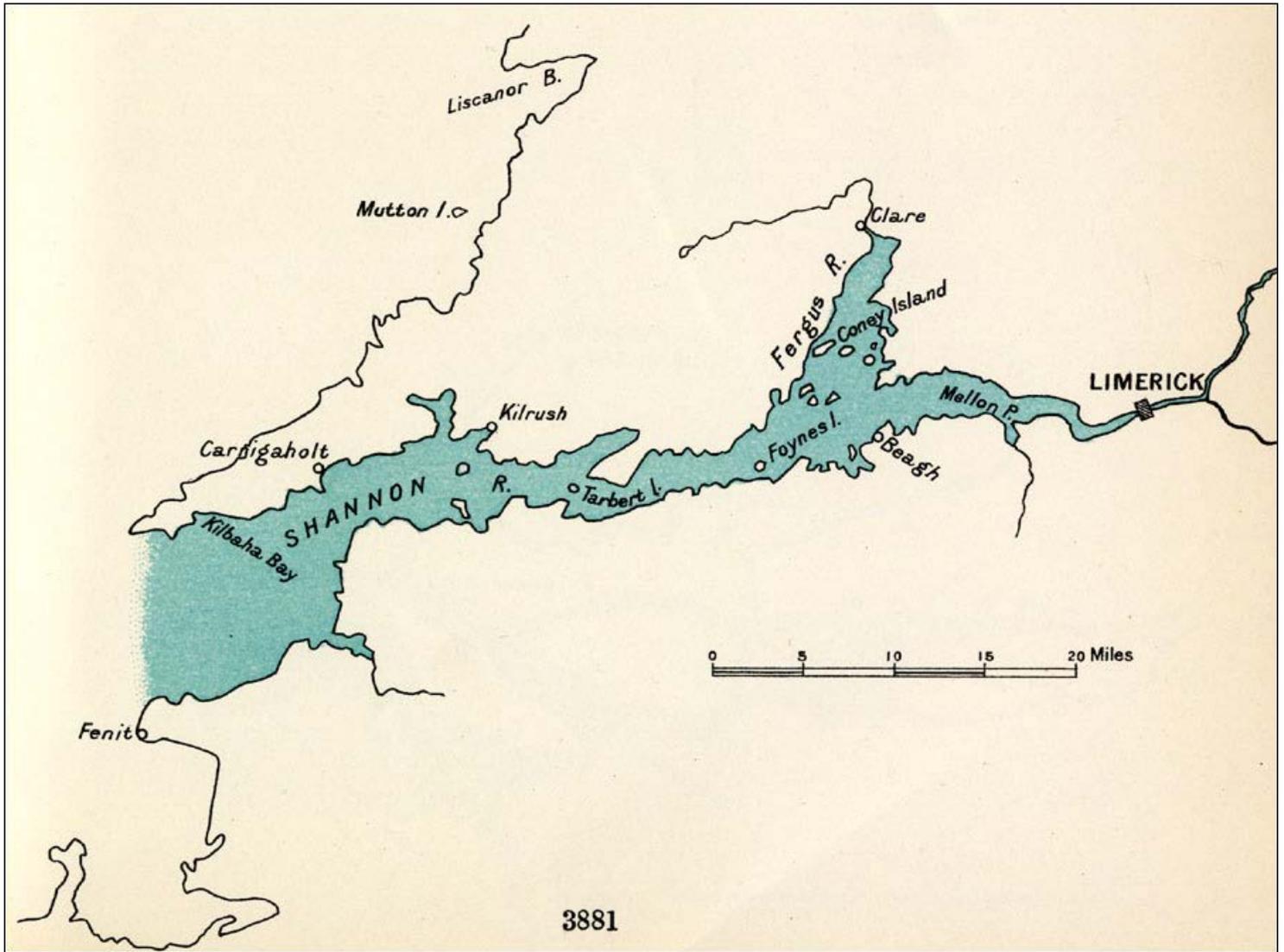
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River Forth

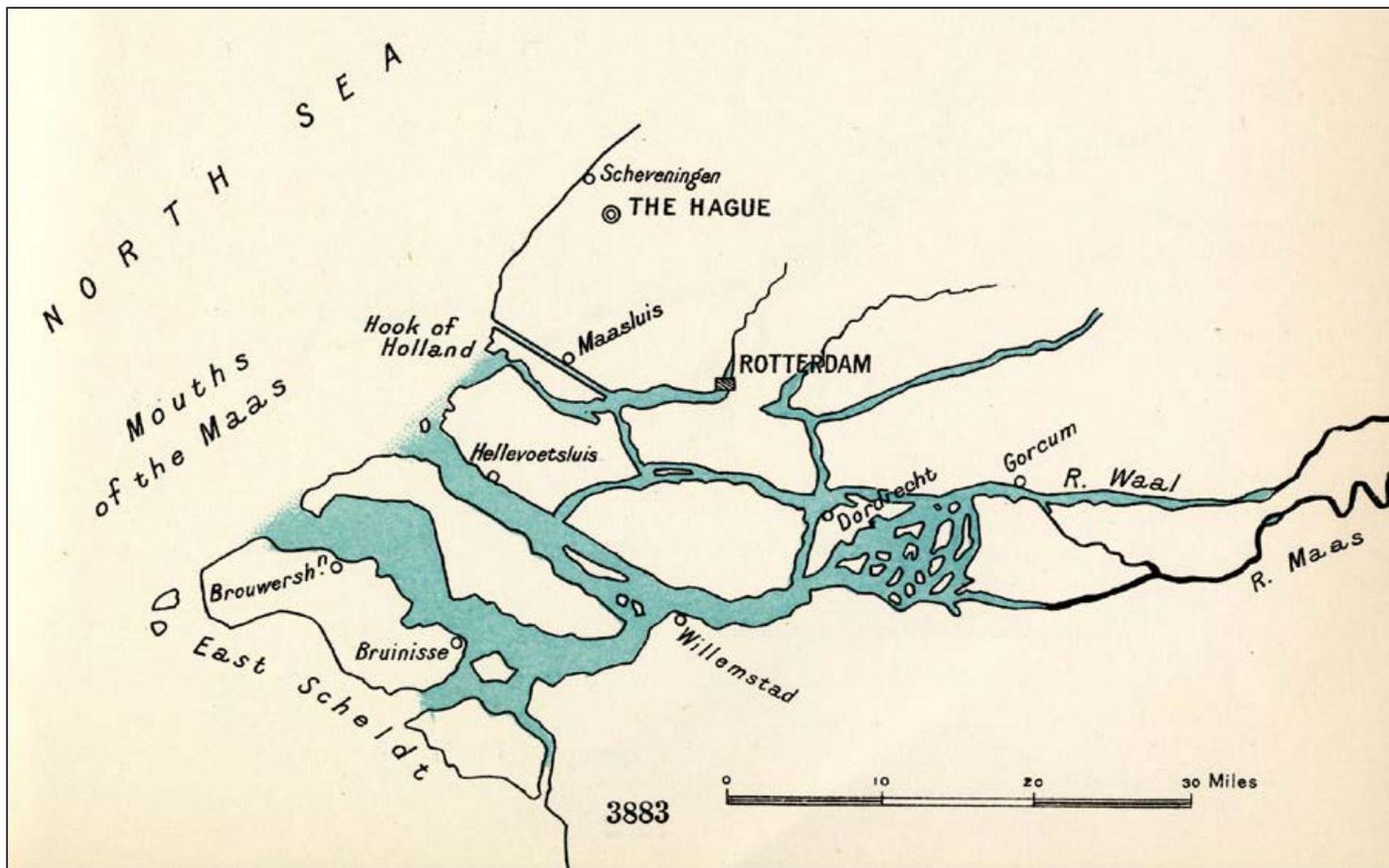


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River Shannon

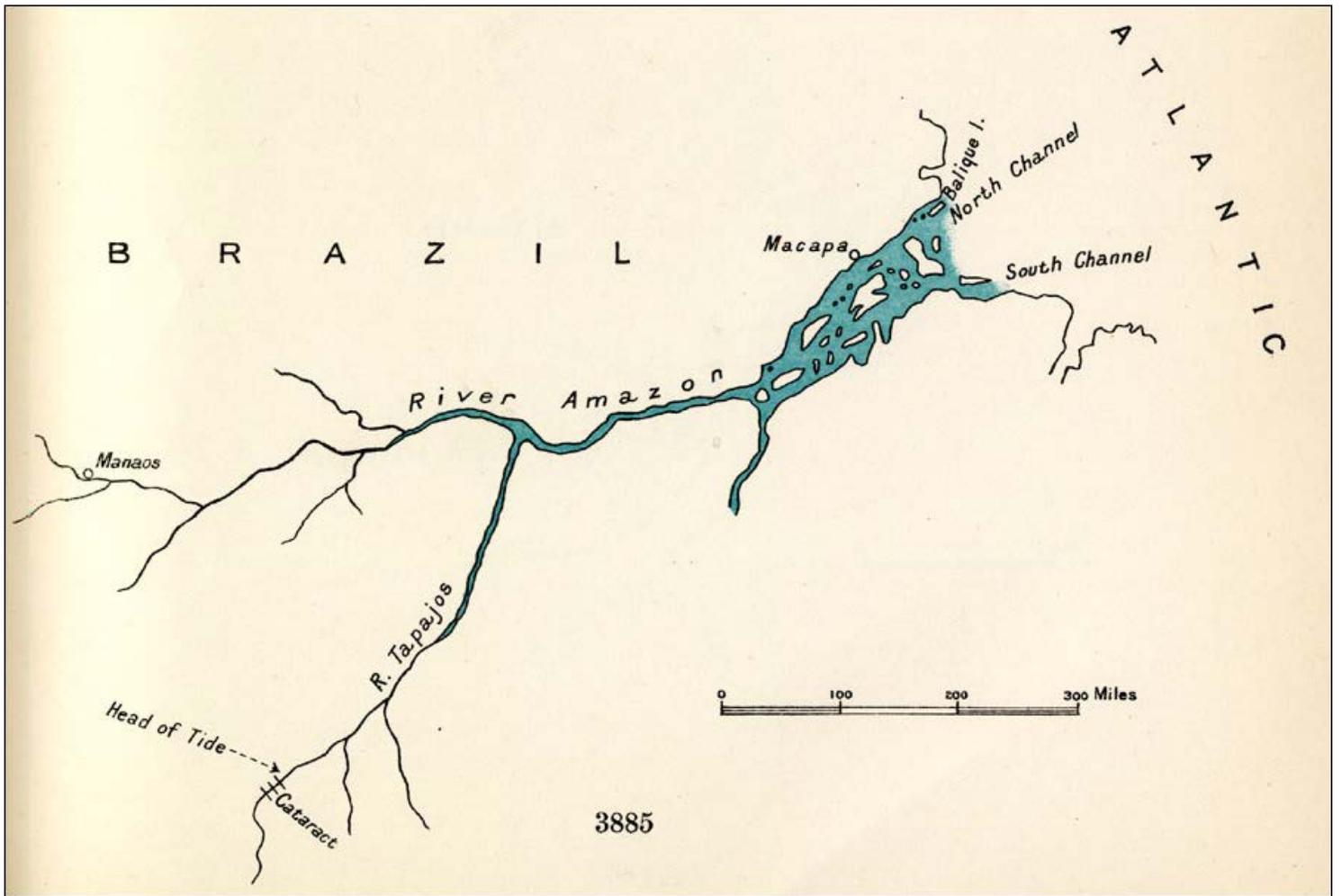


Maas River



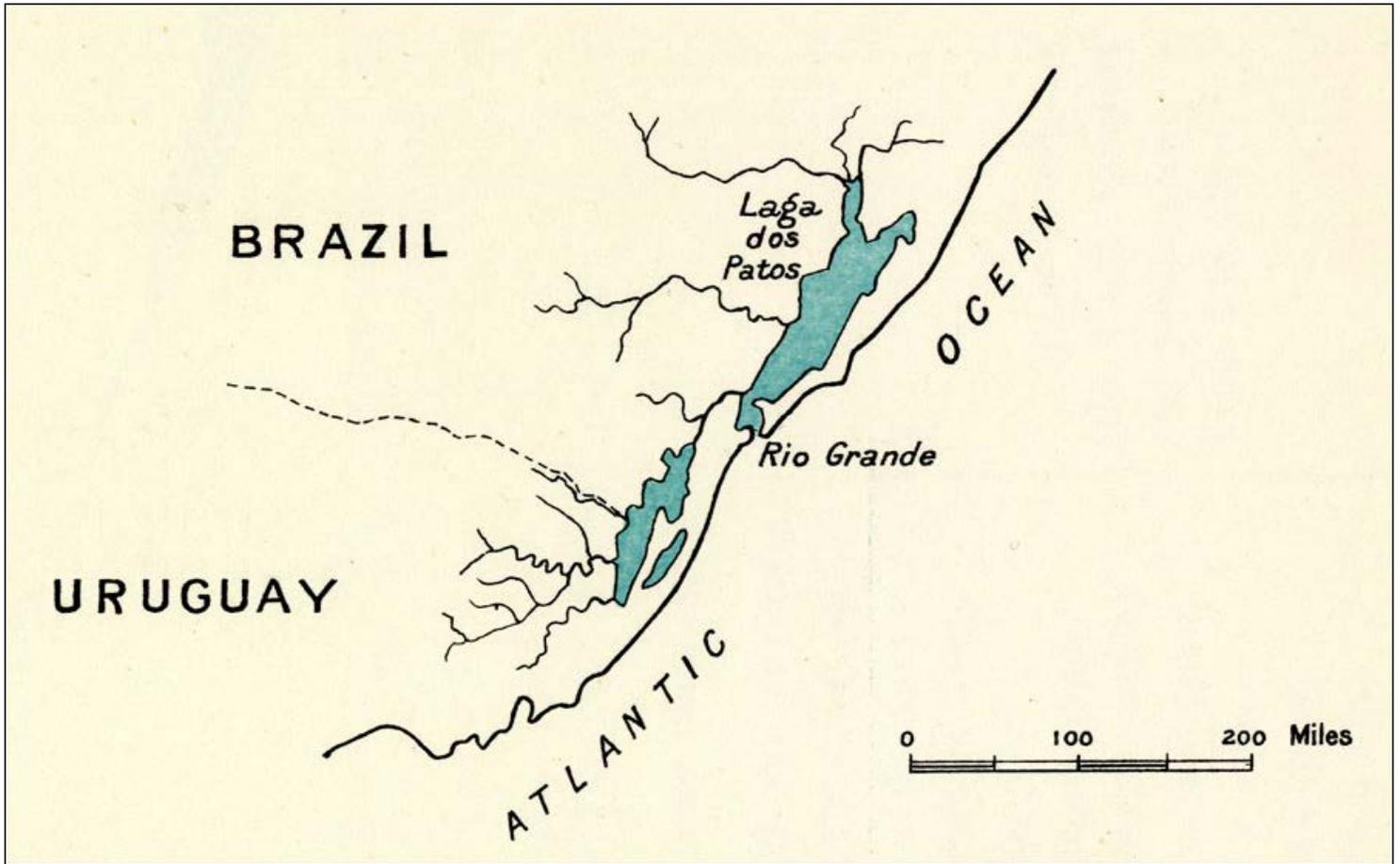
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River Amazon



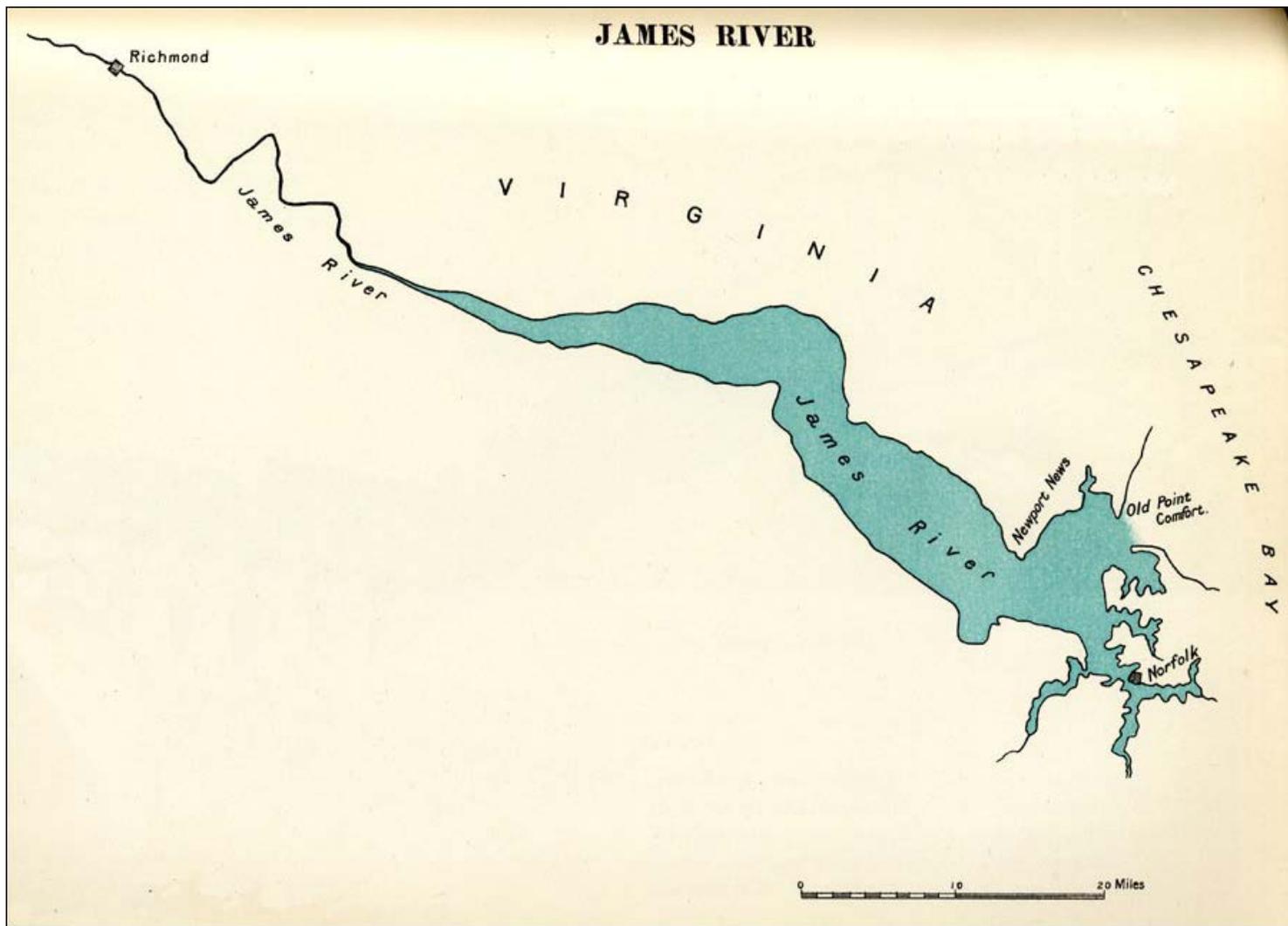
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Rio Grande, Brazil



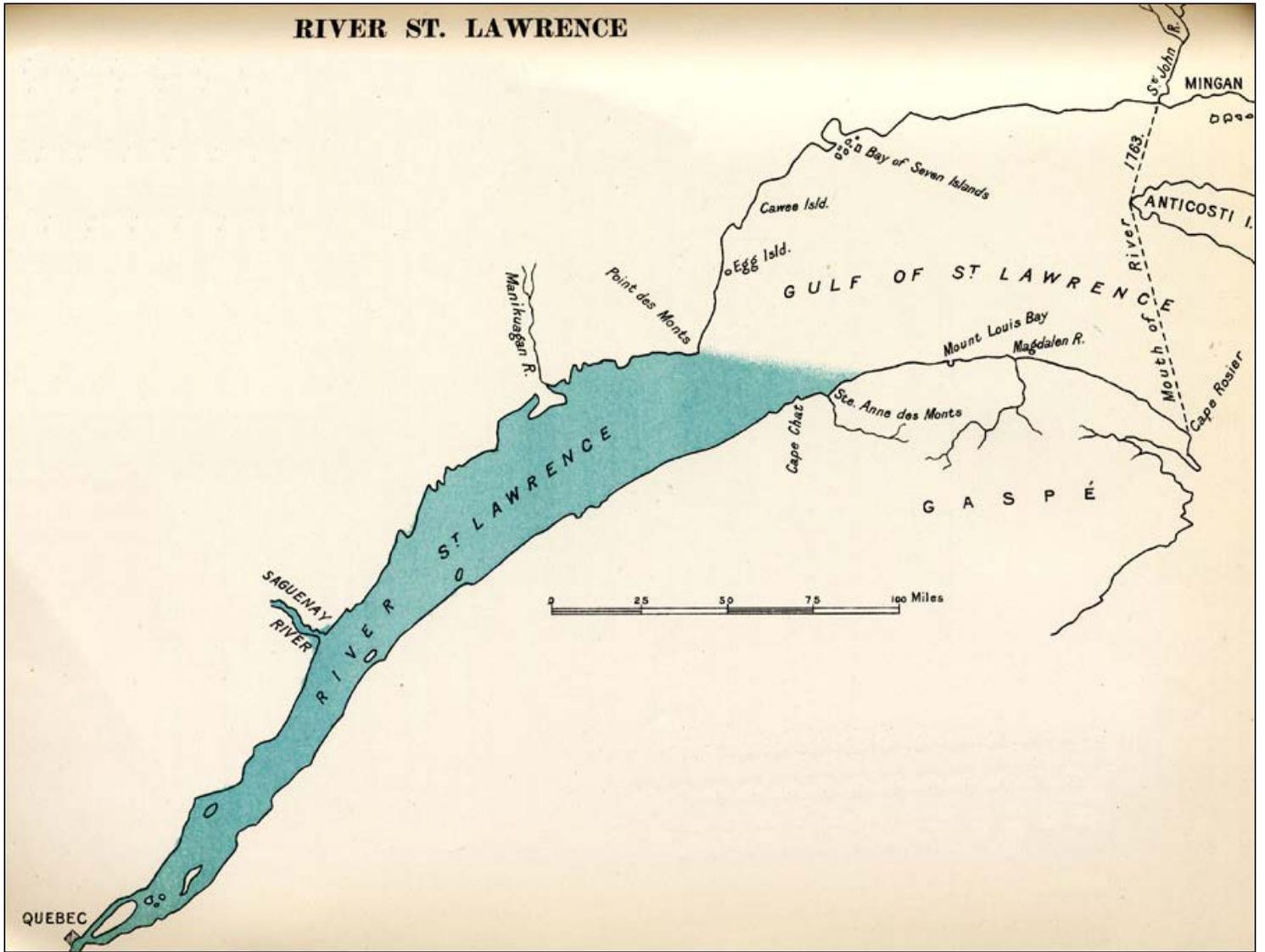
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James River, Virginia



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River St. Lawrence



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No. 1453.

MARINE LIFE IN THE ST. LAWRENCE.

BY DR. W. BELL DAWSON.

The occurrence of sea shells and other marine creatures on the shores of the Lower St. Lawrence is well known to those who frequent the seaside resorts there ; and the marine forms here referred to have been observed by the present writer who has spent more than one summer at each of the places which are here referred to.

The mouth of the St. Lawrence River is placed at Point des Monts, where the estuary narrows appreciably before opening out into the arm of the Gulf of St. Lawrence in which Anticosti is situated. This position for the mouth is recognized in the British Tide Tables as well as by the decision of the Commissioners appointed under the Reciprocity Treaty of 1854. The localities here referred to, can therefore best be described by their distance above this point.

On the south shore, at Metis Beach and Cacouna, resorts that are 53 and 138 miles respectively within Point des Monts, the boulders and rocks of the foreshore between high and low tide, have quantities of periwinkles upon them (the *Littorina rudis*), and mussels are common near low water (the *Mitylus edulis*). The whelk (*Buccinum undatum*) and the *Natica* are also commonly found, washed up from the deeper water.

On the north shore, at Tadoussac at the mouth of the Saguenay 135 miles above Point des Monts) besides the common mussel there are beds of sea-urchins (*Echinus drobachiensis*) to be found at the lowest tides, as well as star-fish (*Uraster vulgaris*). At Murray Bay (172 miles above Point des Monts and only 80 miles below Quebec) the periwinkle abounds as well as the limpet; and star-fish are also found.

At most of these places the clam (*Mya arenaria*) and the cockle (*Cardium Islandicum*) are found where conditions are suitable for them.

In the deep water as far up as Murray Bay, sea shells and other marine forms were obtained by dredging, which Sir William Dawson carried out there. The results are described by Dr. J. F. Whiteaves, Naturalist of the Geological Survey of Canada, who himself carried out dredging operations in the Anticosti region. The following quotation is from a Paper by Dr. Whiteaves entitled : *On some Results obtained by Dredging in Gaspé and off Murray Bay* :—

“ By dredging in the St. Lawrence opposite Murray Bay, 60 species of marine mollusca, identical with well-known

by Principal Dawson. It was not previously known that such strictly marine species lived so far up the river. Among the most interesting of these shells is an *Astarte*. Not only, too, are these Murray Bay shells of a very marine type, but in many cases they are of an unusually large size." (From *Canadian Naturalist*, Second Series, Vol. IV, 1869, pages 270-273.)

In another Paper by Dr. Whiteaves entitled : *Notes on a Deep-sea Dredging Expedition . . . in the Gulf of St. Lawrence*, he thus again refers to the matter :—

“ In the centre of this river (the St. Lawrence) opposite Murray Bay, about 80 miles below Quebec, Principal Dawson has dredged quite a large series of Labrador marine invertebrates ; but how much further up the stream these salt-water denizens extend, we have yet to learn.” (From *Canadian Naturalist*, Second Series, Vol. VII, 1875; pages 98-99.)

The matter is explained by Sir William Dawson himself in an extended paper entitled : *The Post Pliocene Geology of Canada* ; published in the *Canadian Naturalist*, Second Series, Vol. VI. One section of this paper, from pages 369 to 403, is occupied by a list of the mollusca found fossil in the geological deposits, and those still living in the St. Lawrence River and Gulf. From this extensive list, the shells found living in the waters off Murray Bay, have been compiled by the present writer ; and they include the following :—

BRACHIOPODA

(BIVALVE SHELLS, similar in appearance to the mussel.)

RHYNCONELLA PSITTACEA. In great abundance at Murray Bay, in about 20 fathoms.

TERREBRATELLA SPITZBERGENSIS. At Murray Bay this is not uncommon, and is found attached to stones in 20 to 25 fathoms.

LAMELLIBRANCHIATA.

(Ordinary bivalve shells.)

KENNERLIA GLACIALIS. Found off Murray Bay.

LYONSIA ARENOSA. " "

MACOMA GROELANDICA. " "

MACOMA INFLATA. " "

ASTARTE LAURENTIANA. " "

ASTARTE ELLIPTICA. " "

MODISLARIA CORRUGATA. " "

NUCULA EXPANSA. " "

LEDA MINUTA. " "

GASTEROPODA.

(Univalve spiral shells, similar to the snail.)

AMICULA EMERSONII. Found off Murray Bay.

TURRITELLA ACICULA. " "

BELA ; (five species.) " "

BUCCINUM ; (six species.) " "

TRICHOTROPIS BOREALIS. " "

CHRYSODOMUS SPITZBERGENSIS. " "

TROPHON SCALARIFORME. " "

No. 1454.

MEMORANDUM BY MR. A. LANDMARK.
SOMETIME INSPECTOR OF THE FRESHWATER AND SALMON FISHERIES
OF NORWAY.

In my opinion the following are the factors which mainly come into consideration in deciding the question as to whether an area covered by water at the outlet of a large river, which is connected with the sea by a comparatively narrow and shallow channel, must be regarded as a bay of the sea or as a part of the watercourse :—

- (1) The average height of the water in relation to the sea outside the narrow connecting channel ;
- (2) The salinity of the water in the partly enclosed basin ;
- (3) The nature of the vegetable and animal life there.

With regard to these factors :—

Re (1) On account of the tidal movements in the sea and also of the irregularity of the supply of water in the watercourse caused by variations in the weather, it follows as a matter of course that the relation between the height of the water in the partly enclosed basin and that of the surface of the sea is not constant but varies incessantly. If the threshold in the narrow connecting channel lies higher than the level at high water in the adjacent sea, the surface of the water in the partly enclosed basin will always be more or less above the level of the sea, and in that case it is clear that the partly enclosed basin is a part of the watercourse and not a part of the sea. Doubt will only arise when the threshold is lower than the level of an ordinary high tide in the adjacent sea, since it may readily happen that the level of the water during high tide is higher outside the threshold than inside and the reverse during ebb tide. As a result the current in the connecting channel will be alternately in-going and out-going. If, however, in such cases the surface of the water in the partly restricted basin is known *on an average* to be higher than in the sea outside, and if as a result the current is known to be out-going for a longer time than it is in-going, it would appear to be difficult to regard the basin as a bay of the sea. For disregarding the accumulation of water which the tidal movement of the sea, with or without the assistance of storms, occasions at certain places, especially in

open sea bays which run to a point, it would appear to be incompatible with the natural law of equilibrium that the main height of the surface of the sea at one place should be known to be higher than at another and adjacent place.

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Re (2) and (3) When the threshold of the connecting channel lies sufficiently low, the salt water of the sea outside, on account of its greater specific weight, will run into the basin and thus by degrees to a greater or lesser extent replace the lighter fresh water in the deeper parts of the basin. But this is nothing other than what is also the case in relatively large and some what sluggish rivers, even though they have no deeply lying or extensive basin at their outlet, because during high tide the salt water will penetrate a longer or shorter distance up the river along its bed, even though the current in the higher layers of water runs out the whole time, The circumstance that the water has a considerable salinity in the deeper layers of the basin is therefore no hindrance to regarding the partly enclosed area as a part of the watercourse. It is only when the salinity in the upper layers of water becomes relatively large that there would appear to be reason to regard the basin as belonging to the sea.

But even if we disregard the fact that the salinity is not constant at all parts of the basin, but in the upper layers in any case will vary with the dimensions of the mass of water which the river conveys to the basin at any given time, it would scarcely be possible to state any definite degree of salinity either at the surface or at a slight depth below it, as a decisive factor in reply to the question as to whether the basin is to be regarded as part of the sea or part of the watercourse. Valuable guidance is given here, however, in the nature of the vegetable and animal life inside the connecting channel as compared with the corresponding conditions outside the latter. For if the majority of the vegetable and animal forms characteristic of the salt water outside the connecting channel are lacking in the less saline basin within, whilst in their place appear species which are characteristic of fresh or slightly saline water and which are lacking outside, this would appear to indicate so great a difference in the character of the basin that it could not reasonably be regarded as a part of the salt sea, and this applies to an even greater degree the more sudden the transition is from salt water to fresh water (brackish water) flora and fauna.

With regard to the special case lying before us, it appears to me from the information contained in the documents of the case, that all the three factors mentioned above tend towards the opinion that Lake Melville is a part of the Hamilton watercourse. According to the observations which were made uninterruptedly for two months, the main height of the water inside the narrows lies 5-6 inches higher than that outside the same, and at every spring tide the current is about one hour longer out-going than in-going, and at neap tide about three hours longer outgoing than ingoing. The salinity in the upper layers of water is also seen to diminish considerably in the

narrows and markedly so inside Henrietta Island, and in full agreement therewith both the vegetable and animal life within the latter island are essentially of a different character from that outside the narrows, in particular there are quite lacking, as far as I can see, seaweed and practically speaking *cod*. It may also be mentioned that the name of the basin in question is *Lake Melville* which indicates that from ancient times

p. 3897

the basin has been regarded as part of the watercourse and not as a bay of the sea. As far as I can see the name given was employed in oldest maps, whilst it was not until more recent maps that the basin was given the name Hamilton Inlet. In my opinion, therefore, it is correct to regard Lake Melville as a part of the Hamilton watercourse. It is no argument against this that the connecting channel between the sea and Lake Melville is so broad and deep that large sea-going ships can pass through it. Because this is nothing else than what applies to numerous rivers of approximately the same size as the Hamilton River, *e.g.*, the Thames and the Tyne.

With regard to the true interpretation of the expression “coast” employed in the Royal Proclamation of October 7th, 1763, I assume that the English (American) word, like the corresponding Norwegian word “kyst,” can be employed in somewhat different ways. In addition to indicating actual coast line, *i.e.*, the boundary line between the sea and the land, the expression can be employed to indicate a large or small area of land adjoining the sea, the extent of which must be estimated according to the rest of the text in which the expression occurs. Thus we may speak of coast fishermen, in contradistinction to fjord fisherman, of coast districts in contradistinction to inland districts, of coast climates in contradistinction to inland climates. In the explanation of the said Royal Proclamation of October 7th, 1763, the object is said to be the promotion of fishing “to the end that open and free fishing of our subjects may be extended to and carried on upon the coast of Labrador and the adjacent islands.” But as the promotion of “open and free fishing” is the sole object of the measure, the territory which it is intended to include in the expression “coast” must be restricted to the comparatively insignificant stretch of land along the sea, which it is necessary for fishermen to be able to make use of in order to carry on fishing and to utilise its products. Moreover, since, as far as I can see. in 1763 just as now no commercial fishing of salt water fish was carried on in Lake Melville, but at the utmost an inconsiderable amount of fishing for household purposes, the expression “open and free fishing” appears to apply only to the great sea fisheries of Labrador and Newfoundland, and even if we regard Lake Melville as a part of the sea, it would not appear probable that the expression “coast” was intended to include the land adjoining the basin as well.

Although on account of the dissimilarity of the conditions the following is only of slight interest in the case before us, I

will add that the question as to whether a basin lying at the outlet of a river which is connected with the sea by means of a comparatively narrow and shallow channel, is to be regarded as a part of the watercourse or of the sea, has been submitted to the courts of law in Norway for decision twice. Both cases, however, applied to areas of water of a very inconsiderable extent in comparison with Lake Melville.

One concerned Mivannet in Hardanger, which lies at the outlet of a quite small river. It is only a little more than 1 kilometer long and

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somewhat less in breadth, and it is separated from the sea by a channel of less than 100 metres in length. Its height above the level of the sea is not greater than that the salt water of the sea flows in at every high tide, and its bed is, therefore, covered with salt water in which there occur a number of salt water fish, although not in very large numbers. The water at the surface is also so saline that cattle will not drink it. The surface of the basin however lies on an average somewhat higher than the surface of the adjacent arms of the sea, although it is not possible to state the exact figure. Both the lower court and the High Court came to the conclusion that the basin must be regarded as part of the watercourse and special emphasis was given to the circumstance that the surface on an average lies higher than that of the sea. In addition, importance was also attached to the fact that the fish in the basin are mainly fresh water fish.

The other case concerns what is known as Bolstad Fjord in Nordhordland, which lies at the outlet of the Voss River, which at its outlet in the basin has a catchment area of 1,450 square kilometers. Bolstad Fjord is about 16 kilometers long and on an average not more than 1.5 kilometer in breadth. The depth goes down to 75 fathoms. The channel which connects the fjord with the arm of the sea lying outside is 2-3 kilometers long, but at its narrowest part only 50-60 meters broad, and its threshold is situated 1.6 meters below the lowest level of water in the sea outside. When the water is at its lowest, the smallest depth of water in the channel is about 2.2 meters. At that time it was regularly traversed by a small steamer, but only when the water was somewhat high in the sea. The level of Bolstad Fjord at ebb tide is about 0.7 meter higher but at high tide 0.1 meter lower than the surface of the sea outside, that is on an average 0.3 meter higher than the sea. There are found a number of salt water fish of various kinds, but not very many, and there is no seaweed. The two lower courts came to the conclusion that Bolstad Fjord must be regarded as part of Voss River, importance being attached to the fact that the level of water on an average lies higher than that of the sea, but in addition importance was attached to the information submitted regarding the nature of the animal and vegetable life in the fjord. In the Supreme Court, however, the question as to whether Bolstad Fjord should be regarded as a part of the river or a part of the sea was not decided, the Court finding that the

question regarding fishing rights could be decided on a foundation which was independent of the question regarding Bolstad Fjord's nature as a watercourse or sea.

Oslo, August 26th, 1926.

A. LANDMARK.

For the legalisation of the above official signature of A. Landmark, Inspector Fresh Water Fisheries, Norway.

Dated at the British Consulate at Oslo this Thirtieth Day of August, 1926.

(Seal)

A. CAIRD.
British Pro Consul.

No. 1455.

**A REVIEW OF THE DATA CONCERNING THE
LABRADOR BOUNDARY AS DISCUSSED IN
THE NEWFOUNDLAND COUNTER-CASE AND
OF OTHER MEMORANDA CONCERNING
THE BOUNDARY.**

BY E. M. KINDLE.

NEWFOUNDLAND COUNTER-CLAIM.

I have given careful consideration to the paragraphs of the Newfoundland counter-case on behalf of the Colony of Newfoundland re the Labrador boundary to which Mr. C. P. Plaxton has directed my attention in his letters of April 12 and July 5, 1926. Below I submit some observations and comments concerning the paragraphs 19, 20, 21 and 22.

The Newfoundland counter-case implies, in the first half of paragraph 19, that the “ admittedly tidal ” character of the western part of Lake Melville is to be regarded as supporting the Newfoundland claim that Lake Melville is an arm of the sea. The futility of supporting this claim in any degree upon the presence of tidal action is indicated clearly by the fact that both Northwest river and Little Lake have tidal waters but waters which are perfectly fresh. The water at the north or upper end of Northwest river has a tidal rise and fall of two feet or more (estimated), and I found the water in it as satisfactory for drinking purposes as that in the mountain streams.

Concerning the part of paragraph 19 of the Newfoundland counter-case quoting Low's reference to Hamilton inlet as a fiord it must be pointed out that Mr. Low's report was written thirty odd years ago. Since 1895, when it appeared, considerable advance has been made toward developing a more precise nomenclature of land and water forms. At that time *fjord* was given a breadth of meaning comparable with that which still attaches to the word “ loch ” in Scotland, and the term *ria* was hardly known. The typical fresh-water lake, Loch Katrine, of Sir Walter Scott, and Loch Lomond, so well known from its literary associations, and numerous other Scottish lakes connected with the sea by swift fresh-water rivers go under the name lochs along with Loch Killisport, a typical marine inlet on the west coast of Scotland.

Mr. A. P. Low presumably applied the term “ fiord ” to Lake Melville in the same broad sense that the Scotch call both Lake Lomond and the marine bays of their west coast lochs.

The broad way in which the term “ fiord ” was used in the 'eighties may be seen in Geikie's text, 1885 edition, p. 267, where he says :—“ Some of the Alpine lakes (Lucerne, etc.) are inland examples of fjords.” The inlets on the west coast of Denmark have also been often termed fiords,¹ but they are not now so classed.

It is unlikely that Low was much concerned with any precise classification of the physiographic features of the coastal region. His fame rests on the splendid contribution which he made to our knowledge of the interior of Labrador.

The contention of the Dominion that Lake Melville should be regarded as an expansion or widening of the Hamilton river rather than as an inlet of the sea is supported by at least four separate classes of facts. The character of the water in the lake, the physiography of the shore and outlet, the distribution of the plant life, and the character of the animal life in the water all strongly support the classification of Lake Melville as a part of the Hamilton river drainage system or as an integral part of the river.

Perhaps the most satisfactory, as well as the simplest way, to decide whether Lake Melville should be classed as a part of the Hamilton river drainage system or as an inlet of the sea is to taste the water. This simple test I applied by cooking and making tea with the lake water for two days at one of my camps near McLean Point east of Goose Bay. This test happened to be made because a camp site convenient in other respects was remote from any small stream. The water was found entirely usable—a statement which certainly could not be made of the water of any true marine inlet or bay.

Permanent residents of the Lake Melville basin say that in spring, when the Hamilton river is high, the water of the western part of the lake is perfectly fresh. My own published figures on salinity² are open to criticism from the Canadian viewpoint in this discussion because they represent salinity when the Hamilton river was low and the salinity of the lake at its maximum figure.

The physiographic considerations which lead me to consider Lake Melville a part of the Hamilton river drainage system may be briefly stated as follows :—The Hamilton river, in common with hundreds of other rivers throughout the glaciated parts of North America, has had parts of its valley transformed by glacial scour or by morainal damming into lakes during the Glacial period. One of these lakes, called Lake Winokapau, is located about 200 miles above the Narrows and has a length of 34 miles and a depth of 427 feet. Lake Melville differs from Lake Winokapau chiefly in having been formed so near the old river outlet that the tide comes in and makes it brackish. The slight width of the Narrows through which Lake Melville empties into Hamilton inlet, about 1 mile, and their length, approximately 12 miles, are dimensions which perfectly fit the conception of a river channel.

¹ Awebury (J. Lubbock), *Prehistoric times*, 1865, p. 81.

² *Memoir Geol. Surv. Can. No. 141*, p. 54, 1924.

Its junction with the head of the trumpet-shaped embayment called Hamilton inlet appears to be the most suitable point to designate as the mouth of the river.

A careful inspection of the shores of the Narrows at low tide shows that the sea weeds of various kinds, including *Fucus*, gradually become scarce and disappear altogether after passing the entrance to Lake Melville.

The molluscan life characteristic of the intertidal zone reacts to the changed environment at the outlet of the lake in the same way. Two of the most abundant creatures in the shallow water everywhere along the Atlantic coast of Canada are a small shell called *Littorina* and the common barnacle. These are found on the seashore wherever it is rocky, hundreds of individuals to the square foot often being present. Both of these hardy shells grow scarce in approaching the head of the Narrows from the sea. But a few stragglers persist to the vicinity of Henrietta Island, where they completely disappear (*see* figure Mem. Can. Geol. Surv. 141).

Briefly summarised, Lake Melville is a part of the inland waterway with a long narrow outlet of the river type. The water is fresh enough toward the western end to drink, and completely excludes such characteristic marine fish as the cod and the common marine creatures and plants of the intertidal zone which can be seen at low tide anywhere seawards from Rigolette.

The essential defect in the statements contained in paragraph 21 lies in the fact that it follows the indiscriminating method of lumping all the inlets and river mouths of the Labrador coastal region into the single class of geographical forms called fiords. This is an easy but an inaccurate and incorrect way of dealing with them.

The coast of Labrador has fine examples of fiords in the high mountainous region south of Cape Chidley. Professor Coleman has described one of them in detail. Comparison of Coleman's map¹ of Nachvak fiord, with a map² of Lake Melville brings out clearly the contrasts. The steep mountain walls come down to the water's edge in the case of Nachvak fiord and its sides are nearly parallel. The map of Lake Melville shows, instead of the nearly parallel sides of Nachvak and most other fiords, very irregular shore lines expanding to a width of 20 miles and bordered by a terraced plain many miles in width at its maximum. Through this lake go the waters of one of the largest rivers of the eastern coast of North America.

Nachvak fiord, like most other fiords, receives only the drainage of the immediately adjacent mountains.

It is alleged in paragraph 21 of the Colony's counter-case that Lake Melville is a basin of salt water with a surface layer of fresh water, and consequently we are advised "it is an arm of the sea." The inference drawn does not follow from the conditions stated. If these conditions are approximately as alleged Lake Melville will still differ in no material degree from many ordinary rivers in the lower parts of their channels.

¹ Mem. Can. Geol. Surv. No. 124.

² Mem. Can. Geol. Surv. No. 141, fig. 4

sea mouth of a river commonly rests upon a body of sea water. Vaughan Cornish, a well known English geographer, has given the reason for this superposition of fresh upon salt water in ordinary rivers in the following passage :—“ A river flowing into the sea as a surface current of light water creates an induction current of sea water which flows landwards under the outflowing water.”¹ Johnson² has directed attention to the fact that the Fraser river in British Columbia, although a shallow stream, rests upon salt water in the lower part of its course. “ It was observed in determining the upstream limit of sea water beneath the river water that at times the sea water at the bottom continued to move upstream for some time after high tide and for some time after the surface water had started to flow out.” “ It was also found, from the water density determinations, that the sea water continues to move in at the bottom or is near stationary for considerable lengths of time when the surface current was outward.” The alleged fact that the deeper water of Lake Melville is salt water cannot therefore be adduced as evidence that this lake is an arm of the sea. The line of reasoning followed in the Newfoundland counter-case (latter part of paragraph 21) could just as well be employed to prove that the lower part of the Fraser river in B.C., which has an average width of a quarter of a mile, is an arm of the sea. The western third of Lake Melville is bordered on both sides by a densely forested plain several miles in width. I spent two days in trying to cross this wooded plain to the foot of the mountains south of Carter basin, and failed. Mr. LeRoy Bowes, of the Hydrographic Service, had a similar experience, and did not carry the traverse of the Kenamou river hack to the mountains (*see* map by Hydrographic Surv.). To class as a fiord a lake 20 odd miles wide which is bordered for many miles by a plain too wide to cross in a two days' journey, may suit the purpose of our legal opponents, but it would astonish a Scandanavian geologist familiar with the typical Norwegian fiords. Nachvak inlet, with its steep mountain walls coming nearly to the water's edge, answers well to the Norwegian type of fiord, but Lake Melville does not.

I have pointed out in my report the fact that Hamilton inlet answers perfectly to the definition of a *ria*. If the authors of paragraph 21, who deny this classification of the inlet, can cite a better example of a *ria*, I would be gratified if they would indicate just how it conforms better than Hamilton inlet does to the definition of that term quoted by me in Memoir 141, page 14. I am willing, however, from the standpoint of usage elsewhere, to grant an alternative classification of this coastal indentation, although it does not, in my opinion, fit so well the geological and biological facts as does the application of the term *ria*. If nomenclature comparable with that used for the

entrance to the Amazon were applied here, the mouth of the Hamilton river should be drawn seaward of the Narrows entrance 30 odd miles from the points limiting Potties Bay and Tub harbour. This would give the Hamilton river mouth a width of only about 20 miles, whereas the mouth of the Amazon

¹ Geog. Jour. Vol. XI, p. 530.

² Geog. Journ. Surv. Can. No. 125, pages 17, 18, 29, 1921.

p. 3903

as generally defined has a width of 207 miles (“ Ency. Britannica ”). Neither tides nor salt water are considered in drawing the line between the coast line of Brazil and the mouth of the Amazon river, as the following quotation from the “ Encyclopedia Americana ” will show : “ The river is perceptibly affected by the tides as far up as the town of Obidos, 400 miles from its mouth.” At the mouth of the river at Springtides the bore or pororca rushes up the river in the form of huge waves 10 feet to 15 feet high, “ three or four of which follow each other with irresistible force.”

MEMORANDA BY SPECIALISTS REPRESENTING THE NEWFOUNDLAND GOVERNMENT.

Additional memoranda prepared by specialists in the interest of the Newfoundland boundary claims which has been submitted to me for consideration will be separately discussed in the following pages.

OBSERVATIONS BY VICE-ADMIRAL SIR FREDERICK C. LEARMONTH, K.B.E., C.B., ON THE HYDROGRAPHIC SURVEY AND REPORTS BY THE CANADIAN GOVERNMENT OF LAKE MELVILLE, HAMILTON INLET, AND THE NARROWS, 1921-23.

Paragraph II of Vice-Admiral Sir F. C. Learmonth's memorandum concludes with the statement that he considers that the “ Title used for Canadian chart No. 420 is incorrect, and certainly confusing.” This chart bears the title Canada E. coast Lake Melville. While not prepared to admit in any sense the correctness of this assertion, it may be stated to fairly describe the nomenclature and geography of the Lake Melville and Hamilton inlet waterways as laid down on an old British Admiralty chart of even later date than the one which the Vice-Admiral wishes to have accepted as a standard for present hydrographic nomenclature. I refer to chart 2060B, originally published November 1870. In this chart Hamilton river is given a length of about 5 *miles*, while the lakes of the Upper Hamilton valley are connected up with an imaginary stream which empties into the Strait of Belle Isle. This chart make the name Hamilton inlet apply up to the the mouth of the 5-mile

Hamilton river as it might well do if no larger stream than that entered the waterway. Neither the geography nor the hydrographic nomenclature of chart 2060B, and older charts cited by Vice-Admiral Learmonth, fit present knowledge, and their nomenclature can hardly be seriously considered as having a chance of surviving the nomenclature of the Canadian 1922 chart and the Geol. Surv. Canada, Memoir 141, page 44.

Although supporting the old nomenclature of certain charts, viz., the the application of Hamilton inlet to Lake Melville, the Narrows, and the bay outside, the Vice-Admiral quite fails to refer to the original nomenclature of

the old French chart of this coast on which the eastern end of the Narrows is indicated as the mouth of Hamilton river. If priority has any weight in deciding the proper nomenclature, then we must accept the original French usage of Hamilton river to include the waterways to the eastern end of the Narrows. The use of the name Lake Melville for a part of the lower portion of the Hamilton river is by no means a recent innovation. This term and Hamilton inlet are applied on the 1871 Adm. Chart No. 1422 precisely as used in Memoir 141. Certain later Adm. charts, however, like the 1881, 375 chart, apply Hamilton inlet in the broadly inclusive way up to the head of Goose Bay instead of following the original French plan of designating the Lake and Narrows as the lower end of Hamilton river. As a matter of fact, the Admiral finds it necessary in order to make his own statements understandable to adopt our nomenclature in parts of his memorandum, e.g., line 1, page 8.

The test is proposed (paragraph III) for deciding what constitutes an inlet of the sea by classing as such any waterway debouching into the sea which is “ permanently navigable by ocean-going vessels.” If this were generally applied in North America, Quebec and Washington would become coastal cities, whereas both are conceded to be located well about the mouths of the rivers on which they are situated. If this criterion is not acceptable on the St. Lawrence and Potomac rivers, it is not any more appropriate in connection with the waterways connected with the Hamilton river. The Lower St. Lawrence and the Saguenay rivers are both several times deeper than the Narrows.

Application to South America of the test of permanent navigability by sea-going vessels gives even more extraordinary results than it does in North America. The Amazon main river is navigable for ocean steamers as far as Iquitos, 2,300 miles from the sea, and 486 miles higher up for vessels drawing 14 feet of water. (“ Ency. Britannica.”)

Such a criterion manifestly cannot be seriously considered in the light of these examples. Neptune himself would beg to be excused if asked to rule over two thousand miles of the Amazon forests.

In its concluding paragraph this memorandum objects to accepting Ticoralak and Turner headlands as marking the proper mouth of the Hamilton river drainage system. But various other examples could be cited to show that from the standpoint of custom and usage that this is a very modest claim. This would give the mouth of the river system a width no more than three times that of the Hamilton immediately above Lake Melville. The width of the mouth of the Amazon river is usually measured from Cabo do Norte to Punto Patijoca, a distance of 207 statute miles.

GEOGRAPHICAL CONSIDERATIONS AS TO THE
CANADA-NEWFOUNDLAND BOUNDARY IN
LABRADOR.

BY J. W. GREGORY.

The Newfoundland Government is fortunate in having so eminent a geologist as Professor Gregory to discuss my report on the Lower Hamilton river basin. I only regret that Professor Gregory has not had an opportunity for a personal examination of the region dealt with in his twenty page memorandum. That might have led him to revise his own earlier published view of the nature of Hamilton inlet based on the observations of Dr. Robert Bell and others, but not on his own. Geological discussions and opinions based on any other than an intimate personal knowledge of the field in question are apt to yield unsatisfactory or erroneous results. A single example will illustrate the point. Several years ago a well-known geologist was sent by the United States Government to Alaska during the Nome gold stampede, to make a reconnaissance report. The report included a description of a volcano in south-eastern Alaska, observed only from the deck of a steamer, which had never been previously reported. This geologist had seen a conical mountain with sides having just the angle which volcanoes ordinarily assume and the new volcano was accepted until later investigation, at closer quarters than the deck of a steamer, showed it to be composed of limestone.

Dr. Robert Bell, whom Professor Gregory quotes as having classed Lake Melville as a fiord, examined a great deal of the Labrador coast, but many of his observations, like the Alaskan one just mentioned, were made unavoidably from the deck of a vessel. His observations of Hamilton inlet and Lake Melville appear to have been made from outside the Narrows. Dr. Bell's Labrador Peninsula map includes a strip of Palaeozoic rocks across the north-western arm of the Labrador Peninsula. (Scott. "Geogra Mag." Vol. XI, opposite page 361, 1895). This may possibly be correct, but it has never been placed on the official maps of the Geological Survey of Canada. Dr. Bell's knowledge of the Lake Melville physiography is based not on such long range observations as Professor Gregory's, but his classification of the Lake Melville basin as a fiord is not entitled to greater weight than has been accorded his belt of Palaeozoic rocks west of Ungava bay. I have referred elsewhere in discussing the Labrador Counter-case to another authority, A. P. Low, whom Professor Gregory quotes as having applied the term "fiord" to this basin, but it may be added here that while Low called Hamilton inlet a fiord he considered it to be the product of river erosion as the following quotation¹ plainly indicates :—"From the above facts some idea can be had of the great length of time required for the erosion of the main valley of the river, from the falls to the mouth of Hamilton inlet, which is really a submerged portion of this river valley."

¹ Geological Survey, Canada, Vol. 8, Pt. L., 1895

Professor Gregory shows considerable zeal in citing from the old Admiralty charts and other sources (pages 8 and 9) the application of Hamilton inlet to the waterway called Lake Melville on Chart 420 and in Memoir Geological Survey of Canada, 141. But he fails to mention a still earlier chart which designates this lake and the Narrows as a river. The hydrographic nomenclature used by me in Memorandum 141 adopts, in a general way, the river conception of the early French charts, including one prepared by Sieur Jean Louis Fornel under the authority of the Governor General of New France. This chart bears the date of 1748 and has priority in date of publication over all the Admiralty charts cited by Professor Gregory. It was prepared after Fornel had landed men on the coast near Rigolet to spend a winter in exploration, and includes presumably the results of their observations in the interior. Some of the British hydrographers evidently had an entirely erroneous conception concerning the volume of river drainage entering what they at a much later date called Hamilton inlet which was doubtless a factor in causing them to disregard Fornel's designation of the Narrows and Lake Melville as a river and class these waterways as an inlet. The general chart (Admiral No. 2060B), which shows Hamilton river as a stream less than 10 miles long entering Goose Bay, is evidence of the misleading character of the information which was accessible to some of the British chart makers. The French had a far better knowledge of the interior geography of Labrador than their British successors which lead them in the 1748 chart to designate correctly the terminal end of the Hamilton river waterways as a river. On Fornel's chart (1748) the designation "R. de Kessessakiou," printed just seaward of the present Narrows, makes it plain that he included the Narrows as a part of the Hamilton river.

The French explorers who preceded Fornel on this coast also used for the Narrows the designation river. Le Gardeur de Courtemanche, in his chart dated 1704, called them the "R. Quesesasquion," and another chart, showing the explorations of Pierre Constantin in 1715, includes an outlet corresponding with the position of the Narrows which is designated "Grande Riviere des Quesesakion." The Arrowsmith map, "Chart of Labrador and Greenland," published in 1825 by A. Arrowsmith, "Hydrographer to His Majesty," shows nothing in contravention of the previous French application of the term "river" to the Narrows. On it, as on succeeding maps, the expansion above the Narrows is called Lake Melville, and Ivuktuk or Hamilton inlet is applied only to the expansion well to the eastward of the waterway now called the Narrows. In the Admiralty chart, 1422, printed in 1871, Hamilton inlet is applied in the same way, including nothing above the Narrows, the interior expansion being called Lake Melville.

In view of the evidence of the old charts cited above, it appears that Professor Gregory's statement, "The traditional use of the name Hamilton inlet for the part now known as Lake

Melville seems historically correct,” should be revised to read seems—“ historically incorrect.” The early French charts have agreed in applying the name river to the Narrows, while early English charts have confined Hamilton inlet to the expansion east of the Narrows.

p. 3907

In Mein. 141 Hamilton inlet was used in conformity with the old charts for the outermost funnel-shaped part of these waterways which I have classed as a ria. Professor Gregory gives three reasons for objecting to the classification of the outermost funnel-shaped entrance to the Hamilton river basin as a ria. Although admitting that in its funnel shape the bay corresponds to his own and other definitions of a ria, he claims (a) that it extends into the land farther than a ria should according to the maximum of 31 miles allowed by Professor Penck's definition. But since the Hamilton inlet ria extends into the land only 45 miles, and no farther than the Firth of Forth, which Gregory cites as a British example of a ria, its size cannot be seriously held even by him to exclude it from the class of rias ; (b) even if the Hamilton inlet ria has not been associated with Hamilton river drainage previous to the Glacial period, it must have been the outlet of the Double Mer valley from the time of its birth, which should furnish it a sufficiently ancient lineage to meet Professor Gregory's requirements ; (c) Ria has been given by some geographers a wider meaning than the usage of Gregory and Penck admit. Professor Gregory's third objection to calling Hamilton inlet a ria because it leads up to a fiord—the Double Mer—has no weight, according to Gulliver's usage of the term, who indicates its limitations as follows : “ The term ria, from the Spanish, may be advantageously used to cover all types of subaerially carved triangles, including Von Richthofen's fjord, ria, Dolmian, and liman types” (“ Shoreline Topography,” Proc. Am. Academy Arts and Sciences, vol. 34, no. 8, p. 220, 1899).

Thus it will be seen that while the funnel-shaped bay outside the Narrows does not quite fit some, it does fit other definitions of ria in a satisfactory manner.

An important difference of opinion between Professor Gregory and myself exists regarding the nature of the body of water called Lake Melville, on chart 420, and in my report (Memoir 141, Geological Survey of Canada). Professor Gregory considers it a fiord. Lake Melville is the outermost and largest of a series of three closely connected lakes. Narrow, short channels, a fraction of a mile in length, join Grand lake and Little lake to Lake Melville near its north-western extremity, while its south-western end narrows through Goose Bay into the normal Hamilton river channel, which, just above Goose Bay, is approximately a mile wide, nearly as wide as the outlet of Lake Melville. A careful measurement of the drainage basin of this lake shows it to receive the drainage of 60,750 square miles.¹ Professor Gregory has compared the Hamilton river to the Thames, but the latter, including the Medway river, has a drainage basin of only 5,924 square miles

—less than one-tenth that of the Hamilton river basin. The drainage basin, which reaches the sea through the Narrows, the outlet of the Hamilton river system, is thus seen to be equivalent to about three-quarters of the total area of Great Britain, which is estimated at 84,447 square miles (E. Réclus, “The Earth and its Inhabitants,” vol. 4, P. 1). The Hamilton river system, including the chain of lakes near its head

¹ Low's map of Labrador peninsula has been used in making this estimate.

and the terminal Lake Melville, has a length of about 630 miles, and, as stated above, a drainage basin of 60,750 square miles. Professor Gregory asks us to class the outermost lake, which is more than 20 miles wide, of this great drainage system as a fiord. A typical fiord on the west coast of America is called the Portland canal. The name is sufficient indication of the long parallel sides which characterise it and other ordinary fiords. In the words of Professor Gregory (“Nature and Origin of Fiords,” p. 487) : “Their valleys are long and straight, and many miles of them can be seen at a glance.” Again he says: “They are typically long, straight, narrow channels ” (page 5). But Gregory points out a still more important characteristic of fiords. He writes : “Thus, in Scandinavia, the chief rivers rise near the fiords, but flow south-eastward across Sweden into the Baltic ; in New Zealand the rivers which rise close to the western fiords flow south-eastward across nearly the whole width of the country to the eastern coast ; and in America, both in the far south in Patagonia and in the north-west in Alaska and north-western Canada, the rivers flow *away from the fiords* (italics are mine), and either after a sinuous course reach the sea to the north, or across America to the Atlantic. Hence, owing to the comparative shortness of the rivers that flow into the fiords, the alluvial plains beside them are small and scattered.” This statement of Gregory's is well supported by the measurement which I have made of the drainage area of the longest and most typical fiord in Norway. As depicted on a large scale Norwegian chart, its total drainage basin is 4,715 square miles. Comparison of these figures with the 60,750 square miles of the Lake Melville drainage basin and the parallel sides of the Sogne and other representative fiords with the irregular widely flaring ones of Lake Melville will indicate at once how very far Lake Melville departs from the physiographic form called fiord.

This review of the contrasts between Lake Melville and characteristic examples and definitions of fiords appears to indicate that the name lake is a far more suitable term for this body of water than fiord. Its great extension below sea level, which it shares with the adjacent Grand Lake, as well as with Lake Ontario, which reaches 492 feet below tide, cannot in any way be held to remove it from the category of lakes. The great drainage system, which it transmits, and to which it belongs, its shape and the considerable lowland plain bordering it, are

features which put it outside the class of fiords. My usage of the name lake is also historically correct, since it conforms with the earliest charts which designated the Narrows as a river.

Before concluding these remarks on the lacustrine aspects of the Lake Melville basin attention may be called to the fact that none of the bodies of water with which Professor Gregory has compared Lake Melville resemble so much as does the long inland basin in eastern Sweden, 75 miles long, which joins the Baltic in the vicinity of Stockholm. Like Lake Melville this waterway is directly connected with the sea, and a certain amount of salt water enters the eastern end. This basin is known on the charts on Lake Maelar not as a fiord.

COMPARISON OF LAKE MELVILLE AND DOUBLE MER.

Professor Gregory urges that Lake Melville should be called a fiord because the adjacent Double Mer has been thus classed by me. His reasons (1 and 2) for classing thorn in the same category may be stated as similarity of origin. Lake Mjösen, in Norway, with an area of 140 square miles, and extending 1,080 feet below sea level, Professor Gregory would doubtless admit, has essentially the same origin as most of Norwegian fiords, yet no one calls it a fiord. Professor Gregory gives as the third reason why the Double Mer and Lake Melville should be classed alike that they “are bounded by sub-parallel mountain walls.” But this cannot be admitted as true. Double Mer expands to a maximum width of 5 miles or less, while Lake Melville reaches a width of 25 miles or a little less. In the western part of Lake Melville basin the mountains retreat, leaving a wide terraced plain on both sides comparable with the lake itself in width. But the most significant and striking contrast between the two is seen in the fact that the long narrow approximately parallel-sided Double Mer receives, like other fiords, only the drainage of a trifling area, while Lake Melville transmits to the sea the drainage of an area equal to three-quarters of Great Britain. In other words, one is a fiord and the other is, with the Narrows, the terminal end of the largest river entering the Atlantic north of the St. Lawrence.

Even if Professor Gregory's claim that “fiord valleys are independent of river action” were well founded, it would be useless to claim that the Lake Melville basin and the Narrows are not essentially a river valley in origin. Faulting was responsible for the old pre-glacial Hamilton river following the present valley, but the river was the essential active excavating tool which did most of its work when the continent stood many hundred feet higher than at present and when all of the Atlantic coast rivers emptied far to seaward of their present mouths. The approximate seaward extension of the Hamilton river in pre-glacial times is suggested in the supplementary sketch map attached to the accompanying copy of Spencer's chart¹ showing the submarine river valleys of the north Atlantic coast.

Professor Gregory points out (page 11) that Lake Melville has a much greater tidal range than the Baltic, where it is less than 1 inch in places, and states that higher salinity is reported by Mr. Jones for Lake Melville than the northern part of the Baltic shows. It has apparently not occurred to him that the strong tidal currents of Lake Melville which are wanting in the Baltic because it is not part of a river system, together with the river current, result in a mixing of river and sea water in the lake which give, when compared with the *fresh water end* of the Baltic, relatively high salinity figures. Elsewhere in this Memorandum I have pointed out that a river current does in

one case known to me entirely prevent thermal stratification of the water and that the salinity figure cited by Gregory is explained by the river current, which he overlooks, and the tidal currents together. Elsewhere

¹ Plate 10, Hull's *Mert*, on the Sub-Oceanic Physiography of the N. Atlantic ocean, 1912.
p. 3910

I have pointed out, however, the futility of comparing water bodies so entirely unlike in size as Lake Melville and the Baltic Sea, the latter having more than twenty times the breadth of the former.

The fragmentary character or trifling amount of data available concerning Lake Melville salinities make satisfactory comparison impossible on any basis at present.

HAMILTON INLET.

“OBSERVATIONS ON THE FAUNA AND FLORA.”

BY C. TATE REGAN, M.A., F.R.S.,
Keeper of Zoology in the British Museum (Natural History).

Much of this memorandum is occupied with a criticism of my discussion of certain biological data contained in Memoir 141, Geological Survey of Canada.

I am willing to grant that it is sometimes difficult to draw hard and fast lines for the limits of a halophyte flora just as it is for a calciphile flora. But the fact that a particular species has been recorded both from seashore and the shores of inland lakes is not alone proof that such a plant may not be considered a halophyte. One or two of the most typical halophytes known to me have been found growing on the shores of Lake Winnipegosis near the middle of the continent and in the Slave river basin in highly alkaline and saline soils.

Professor Regan is so imbued with a belief in the high relative salinity of Lake Melville that he is disposed to believe that cod will yet be found in the lake. In view of the universal agreement of fishermen that they are entirely absent from this body of water such an opinion seems to be without foundation. The absence of the cod from waters which we are assured by Professor Regan have the proper salinity leads to the conclusion that either Professor Regan, or the cod, have made a mistake. I am not able to believe that the cod would overlook such a desirable habitat as Professor Regan suggests Lake Melville to be.

Ancylus lake, with its fresh water bivalves, the geological antecedent of the Baltic sea, probably represents a closer analogue to Lake Melville than the present Baltic sea with which Professor Regan compares it.

The great discrepancy in the size of Lake Melville and the Baltic sea should have deterred Professor Regan from his courageous attempt to predict the inaccuracies which the expects to be found in my Lake Melville report. The Lake is

less than 100 miles long, with an average width of 15 miles or less, while the Baltic sea has a length of 960 miles and a maximum width of about 400 miles. The particular fallacy to which I wish to call attention resulting from the comparison of large and small bodies of water is associated with the thermal and other stratification of water bodies. In a large body

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of water subject to sea waves like the Baltic summer thermal stratification will be quite different from that which will develop in a lake the size of Lake Melville. Two examples of lakes near Ottawa will illustrate my meaning. A small lake (McKay) shows a July thermocline at 10 feet, the water above being near air temperature and below dropping abruptly to near freezing. Lake Deschenes, through which the Ottawa river flows, shows no thermocline in July, the temperature being nearly the same from top to bottom, a result of the current mixing the warm surface and cold bottom waters. In recent years naturalists have been learning to scrap their old ideas with reference to predicting from the biological conditions found in one body of water the conditions to be expected in another. B. W. Evermann, one of the keenest American ichthyologists has stated (*see* "Lake Maxinkuckee, a physical and biological survey") that the United States Bureau of Fisheries has wasted thousands of dollars by working on that theory in introducing fish into lakes where an intelligent examination of the local conditions would have shown the species introduced could not live. It is possible to take trout from a lake in which they thrive and drown them in a few minutes in the water of another fresh-water lake a mile away (*see* Birge and Juday, "Inland Lakes of Wisconsin," page 130). Yet the British Museum Zoologist undertakes, by comparing a brackish water Canadian lake with one of the great inland seas of Europe, to predict (page 8), that: "It is not unlikely that cod may be found" in the former. A comparison of the hydrography of the Baltic sea and Lake Melville, in which certain alleged errors of the Canadian hydrographers are revised, as Professor Regan thinks they should be, led him to the extraordinary conclusion that the greater salinity of Lake Melville "is very evident." This conclusion is reached by comparing in diagrammatic charts (pages 3-4) the salinity of Lake Melville as deduced from a limited number of water samples, none of which represent the river flood season, with the salinity of the Baltic based on several thousand samples and observations extending over a long term of years and including the *four seasons* of the year.

The exhaustive and elaborate character of the investigations of salinity and temperature conditions carried out by the Swedish and Danish Governments in the Baltic sea are sufficiently indicated by extracts from Peterson's account of them.¹ "The system adopted by the Swedish naturalists at the present time, in their exploration of the sea which surrounds the Scandinavian peninsula, is to despatch a number of ships simultaneously from different ports across that part of the sea

which is to be explored, each ship being provided with a complete set of hydrographic instruments worked by assistants specially trained for their task in the laboratories of Stockholm's Hogskola, the Polytechnic Institute, etc. The route of each ship, and the position of every sounding station, are determined beforehand, according to previous experience.”

* * * *

“ In less than a week we collected at about seventy sounding stations

¹ Scottish Geog. Mag. Vol. 10, pp. 281-282, 1894.
p. 3912

more than 1,000 water samples, and took the same number of temperature observations, besides 200 samples for gas analysis.”

* * * *

“ The hydrographic condition of the Baltic was minutely investigated in July, 1877, by a Swedish expedition, conducted by Professor F. L. Ekman, who collected about 1,800 records of temperature and salinity from different depths at sounding stations in all parts of the Baltic.”

* * * *

“ Four times a year, on the 1st February, May, August and November, thirteen hydrographic sections in different parts of the Kattegat and the Sounds are made by Danish gunboats.”

It should be noted that the Baltic figures of salinity represent the four quarters of the year, and any other figures compared with them, if reliable deductions are to result, must do the same. The Lake Melville figures used by Professor Regan, however, are based on samples taken *in summer only*, when the rivers are at their *lowest stage*. The important fact to note here is that the Lake Melville salinity figures entirely fail to cover the early spring period when the three-foot layer of ice melts and leaves a thick layer of quite fresh water which accumulates over much of the lake during the period when the ice prevents wave action and the consequent mixture with the brackish water below. These figures also fail to show the salinity of the lake during the flood period of late spring when the Hamilton, Kenimou and other large streams are emptying into Lake Melville the melted snow from their 60,750 square miles of drainage basin.¹ It is the comparison of the Baltic salinity figures representing the four quarters of the year with Lake Melville salinity figures representing only one quarter, and that the summer period of minimum stage of rivers, which leads Professor Regan to his erroneous conclusion that Lake Melville is more saline than the Baltic sea. He might as reasonably take the temperature figures recorded for the Ottawa valley during July and August, and, ignoring winter figures, deduce from these the character of the climate of eastern Canada. This unfortunate comparison has even led him to question some of my carefully established facts which are recorded in map form concerning the distribution of two typical marine animals (figure 6, page 52, Memoir 141, Geol.

Surv. Can.). Professor Regan in questioning the accuracy of this map on the basis of a salinity of Lake Melville claimed to be greater than that of the Baltic overlooked the fact that his information regarding the salinity of Lake Melville during the freshet season was equivalent to zero. Biological predictions based on that sort of data need no discussion. Without

¹ The contrast between the summer-autumn as compared with the winter-spring salinity of the terminal portions of many N. American rivers is widely recognized in the eastern United States as the following quotation will suggest :

“ The oyster fishery in Mississippi is prosecuted in Mississippi Sound. The absence of oysters in the rivers may be due to the fact that, while the waters are brackish a distance of 5 to 10 miles up from the river mouths from June to November, they are practically fresh the remainder of the year.” (U.S. Commission of Fish and Fisheries ; Report of Commissioner, Pt. 29, 1905, p. 454.)

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having been closer to the problem he is writing about than the opposite side of the Atlantic, Professor Regan states, speaking of *Littorina*, that “ further investigation may be expected to reveal its widespread occurrence west of the Narrows wherever there are shores suitable for it,” and finds the distribution recorded by me difficult to believe. My results are plainly shown as regards the intertidal zone by the map (page 52), which indicates abrupt termination of the *Littorina* marine tidal zone fauna at the entrance to the lake.] began the study of the estuarine distribution of marine animals more than ten years ago (*see Amer. Jour. Sci.*, May, 1916, pp. 449-461), and gave the most careful attention to gathering the facts for the map in question because of my general interest in the control exercised by fresh and brackish water over the upstream range of marine shells. In the present case the facts were secured by cruising near the whole of the north and south shores of Lake Melville with the aid of a small launch and canoe. The rocky shores, which are essential for the abundant occurrence of *Littorina* and *Balanus balanus*, are nearly everywhere present, but these shells are *absent*. Only one conclusion is possible in the face of these carefully established facts of distribution concerning Professor Regan's claim for a salinity of Lake Melville comparable with the Baltic sea. It is entirely unwarranted. The marine intertidal fauna fails to extend west of the Narrows because of the fresh and brackish water which they everywhere encounter to the westward. Within the Narrows the violent currents mix so completely the fresh water with sea water that the salt water fauna suffers no great harm.

In his conclusion Professor Regan states that the “ most striking feature of my report is the absence of any positive evidence as to the character of the fauna and flora of the Hamilton inlet west of the Narrows.” I am glad he has called attention to this feature of the report. If he will examine the literature on the Pleistocene deposits of the Upper St. Lawrence and Lake Ontario valley he will find it displays the same “ striking feature ” for the region west of Brockville, which he has noted in my report, while below Brockville marine fossils from numerous localities are recorded. The

reason for this is that during the Pleistocene submergence of the St. Lawrence valley brackish water conditions prevailed along the head of the present St. Lawrence and Lower Lake Ontario valley, which suited neither marine nor fresh water faunas, and no organic remains representing the shore deposits of this time have ever been found between Brockville and Lake Ontario. For the same reason there is little to record concerning the intertidal zone of Lake Melville. Fresh water shells may be carried down to it from the rivers at times, but I saw none.

No. 1456.

MEMORANDUM BY JOHAN HJORT, Sc.D., F.R.S.

Professor in the University of Oslo, Norway.

In 1922, I was asked to express an opinion on the statement : “ the conditions existing in Lake Melville are so unfavourable for cod, that neither their spawning, nor their life-development, nor their adult life would be possible in the waters referred to.” This opinion was given in a statement (Document No. 1016, page 2403. Vol. V of Joint Appendix) which aimed at showing that the *pelagic cod* does not go up to Lake Melville, which therefore cannot be included in the coast, granted that the *latter is interpreted as a field of activity for British fishermen*. This was admitted in accordance with the Royal Proclamation of 7th October 1763 (Canada Case, p. 8). In an annex (Doc. No. 1018, Vol. V of Joint Appendix, page 2410) Professor Schetelig proved by means of the quaternary geological data that the geographical and hydrographical conditions in Lake Melville had not changed in character *in this respect* since 1763.

On examination of the communications and documents which I have now received I am unable to find that this statement is in any way weakened, but the question is dealt with also from other points of view. Thus the conception “ coast ” in general is discussed by Newfoundland (Counter-Case, Newfoundland, par. 17). For example, “ coast-line ” is defined as “ the line where the salt water touches the land ” (Case, Colony of Newfoundland). In my view no *absolute* conception can be deduced from the terminology, neither scientific nor popular, as to the specific application of the word “ coast ” or what belongs to the coast.. A “ fjord,” for example, can quite rightly be understood to be a submersion of the surface plane of the land itself, which in the present geological period has sunk beneath the niveau of the sea and which has a certain characteristic configuration of its bottom. From *that* point of view a fjord is not coast—does not belong to the coast—even if tidal movement can be observed along its entire length and if layers of brackish water occur in a fairly long or short stretch of the fjord. It may be of some interest in this connection to remember that in Norway, whence the word fjord originates, this word is in many instances used for lakes which have no other connection with the sea than a descending river, which in some cases lies much higher than the sea level, but which have the same characteristic configuration as deep excavations of the superficial rocky plane of the land as the fjords which directly communicate with the sea (e.g. Tyrifjord,

Skurdalsfjord and others).

On the other hand the word " coast " is given a clear, well-defined

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meaning, if it is used in relation to a definite occupation, as for example the large cod fisheries of Labrador. And my expression of opinion in 1922 was to the effect that Lake Melville from that point of view did not belong to the coast. " Coast in its relation to Imperial Policy " is of course also a clear idea (as proposed by Sir Fr. C. Learmonth, Doc. No. 1035, page 2522, Appendix).

In the Newfoundland Counter-Case, par. 18, it is further stated that it was also presumed that other livelihoods than the coast fisheries were to be assigned to Newfoundland in Labrador. In this event the foundation is quite different from that upon which I was required to base my opinion. It is not for me to criticise this historical-juridical foundation, which lies quite outside my province. But provided that in 1763 the opinion ruled that Newfoundland should protect the coastal fishing interests and administer the land territory which is of importance for this purpose, I take it for granted that Lake Melville can in no way be considered as included therein, as it clearly appears from old literature and that recently sent that the natural conditions of Lake Melville have not since 1763 been suitable for the influx of shoals of sea cod, for which reason no sea cod fishing has taken place there.

In a memorandum called " The Hamilton Inlet," C. Tate Regan discusses the question from a point of view different to this. In his conclusion, page 2520, he says : " The general purport of the biological evidence put forward in support of the Canadian Case is to suggest that the marine fauna and flora do not extend beyond the Narrows owing to the reduced salinity of the water. I have disproved this contention by showing that the species specially selected to illustrate it are found elsewhere in water of salinity as low as, or lower than that of the Hamilton Inlet west of the Narrows." Mr. Regan refers principally to the Baltic, in which marine animals and among them also the cod species are known to live in brackish waters of a salinity even lower than what seems to be characteristic, partly in any case, west of the narrows in " Lake Melville." Mr. Regan's contention that a fish belonging to the cod species might be found in " Lake Melville " may therefore be correct, if we suppose the salinity is the only dominating factor for the distribution of this species, and if other circumstances, e.g. lack of oxygen, would not prevent its appearance as in many Norwegian inlets with a very similar configuration of the bottom, that is inlets with comparatively shallow barriers at the entrance and deep excavations inside these barriers.

Questions like these, however, cannot be decided with certainty without special investigations of the kind. Such investigations would be of interest in themselves, but they seem to me unnecessary for the question, which I am discussing here. Neither Mr. Regan nor any other author has,

as far as I have been able to discover, produced any *positive* information as to the appearance of the species of cod inside the “ Lake Melville.” In his interesting “ Report on Labrador Fisheries, 1892-1924 ” (Appendix, p. 2564), Mr. Wilfrid T. Grenfell says as follows : “ I have visited Labrador and cruised in my own steamer amongst the peoples of the coast for 32 years ” ;

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and page 2566, “ It is safe to say that few codfish enter Melville Bay, a fact that is attested by the Eskimo cod fishery at Caravalla. This is at 'the Narrows' or only entrance to Lake Melville, and is about 20 miles inside Rigolet. They have always led me to understand that all they get are Rock cod, a fish that so far has no value for Newfoundland fishermen. They are accustomed to reject these when taken by mistake amongst the cod on the outside. That no cod fishery (has been carried on) by Newfoundlanders or Canadians, or anyone except for Rock cod by native Labrador men, further up the Hamilton Inlet than the Narrows, or ever has been is fairly certain. At any rate during the past 32 years I would assert with great confidence that none has been.”

This information, which must be taken as the most reliable at hand, seems to me quite conclusive as a corroboration of my statement in the Memorandum of 1922, that the *pelagic cod* does not go up into Lake Melville.

It is in this connection of interest to consider the comparison which Mr. Regan has drawn between the one region, the coast of Labrador and the Hamilton Inlet on the one hand and on the other hand the North Sea and the Baltic. The quite correct statement that the *species* of cod occurs in the Baltic is by no means any proof of the *pelagic cod* of the Norwegian coast or the North Sea migrating into the Baltic. There is in the Baltic a characteristic race or stock of cod of a small size, quite different from the *stock* of cod living in the larger open areas of the sea, and individuals belonging to this latter stock are never known to migrate into the area of brackish water. to which the small-sized race is confined. Mr. Regan's comparison would, therefore, be a strong argument *against* “ Lake Melville ” being a ground for the stock of *pelagic cod*, but as the appearance even of the *species* of cod in the “ Lake Melville ” has not been recorded, it seems of little value to draw this comparison at all.

For the purposes of the British fishermen annually resorting to that coast, in the ordinary conduct of their fishing operations. for the purposes of “ the open and free fishery ” (Canada's contention in the Case of Canada, para. 4) “ Lake Melville ” may, therefore, be rightly claimed as a water quite apart from what has been intended by and can rightly be included in the conception of the word “ coast ” as used by the Royal Proclamation of the 7th October, 1763.

Oslo, 27th August, 1926.
JOHAN HJORT.

For the legalisation of the above official signature of Johan Hjord, Sc.D., F.R.S., Professor in the University of Oslo, Norway.

Dated at the British Consulate at Oslo this Thirtieth day of August 1926.

J. C. AIRD,
British Pro Consul.

(Seal)

Stamps
9/6d.

No. 1457.

**THE BIOLOGY OF HAMILTON INLET, THE
NARROWS AND LAKE MELVILLE.**

BY DR. A. G. HUNTSMAN,
Director, Marine Biological Station and Fisheries
Experimental Station, Atlantic Coast.

In the second paragraph of his article Mr. Regan takes exception to the use by Mr. Jones (Canadian Case, pp. 1927-1928) of a certain definition for percentage of the density of sea-water or percentage of sea salinity. It is a matter of common practice to express density or specific gravity (meaning density relative to water) by subtracting 1 and multiplying by 1,000. The density 1,024 becomes 24, as is the case throughout in Hydrographical Tables by Martin Knudsen, Copenhagen, 1901, which tables were prepared under the direction of an international committee. When Mr. Jones uses this practice as a basis for calculating his percentages, and at the same time gives the actual extended figures of relative density for the water samples, his meaning is, or should be, perfectly clear.

We may ask what Mr. Regan's definition of percentage of salinity is. On page 6 of his article he quotes in support of his contentions and emphasizes by putting it in italics, "sea-water between 8 and 35 per cent. salinity." The salinity, as ordinarily defined, of the open Atlantic is only in the neighbourhood of 3½ per cent. The authors, from whom he quotes, did not make this error, but used the sign ‰ (meaning "per mille"), which in his article becomes "per cent."

The coast placed "under the care and inspection of our Governor of Newfoundland" by the proclamation of the 7th October, 1763, was "to the end that the open and free Fishery of our Subjects may be extended to and carried on upon the coast of Labrador and the adjacent Islands." What is then the extent of the coast selected for a fishery purpose? There can be no question as to the nature of this fishery. Cod has been the lure that has brought European fishermen to the coast of North America for centuries, and to this day in Newfoundland and Labrador fish and cod are synonymous terms.

The cod is distinctly a deep-sea fish, and a characteristic fish neither of the estuaries nor of the fresh waters. Typically it is to be found on the offshore banks, but it not infrequently occurs during part of the year close to the shore. This is true particularly on the coast of Labrador owing to the

northern limit of its range. It approaches that coast only during a short summer season, that shortens as one proceeds north, being only about a fortnight in duration at the entrance to Hudson strait, where lies the terminus of the cod's migration.

The main mass of the Labrador current is of very low temperature (below $-1^{\circ}\text{C}.$) and consequently unsuitable for the cod. The shallow coastal portion warms during summer sufficiently to be suitable, and in it the cod are to be found. The Labrador fishery is, therefore, distinctly a coastal fishery.

The largest river system of the Labrador coast discharges through Lake Melville into Hamilton inlet. The geological evidence shows that Labrador has a drowned coast, the result of subsidence. This subsidence has brought the mouth of Lake Melville to sea-level. Does that fact make Lake Melville a part of the coast, in particular a coast for cod fishing? Where does river end and sea begin? The river brings a steady stream of fresh water driven by gravity. The sea, through the pumping action of the tide, sends its salt water into the river mouth. Hamilton inlet connects with Lake Melville through the Narrows. The chief struggle between river and sea has been, and still is, taking place at that point. The evidence shows clearly that the river still prevails in Lake Melville (though with a definite sea-water influence shown), and that the sea prevails in Hamilton inlet (though with a pronounced fresh-water influence shown). What is the evidence?

The mean level of Lake Melville is higher than that of Hamilton inlet by more than five inches (Stewart, p. 1914). The tide entering from the ocean scarcely increases in amplitude when approaching the head of the inlet, and, in passing through the narrow passage from Ticoralak island to Caravalla cove into Lake Melville, decreases in amplitude by more than 75 per cent. (Jones, p. 1929). This gives on a much reduced scale an effect similar to that seen in the reversing falls at the mouth of the St. John river, New Brunswick, the outside water being on the average about a foot higher at high tide and about two feet lower at low tide than the inside water. The river influence through the Rigolet narrows is shown in several ways. The outflow is 80 per cent. stronger (Jones, p. 1926) than the inflow, and continues for about 15 per cent. longer time (Jones, p. 1926). The outflowing water from surface to bottom in 18 fathoms is about 15 per cent. (outside ocean water as standard) less salt (Jones, p. 1928) and about 4° warmer (Jones, p. 1919) in summer than the inflowing water.

As Lake Melville is in places more than 150 fathoms deep, the densest water reaching it through the Narrows is permitted to accumulate at the bottom and remain practically undisturbed for long periods. Yet in both 1921 and 1923 the deep water even at a depth of 172 fathoms was far from being as salt (under 2.8 per cent.) and was little colder (over $0^{\circ}\text{C}.$) than the water passing toward the lake at the bottom opposite Rigolet during July and August. Let us contrast with this the conditions, which we found in Mistanoque bay on the north shore

of the Gulf of St. Lawrence inside Belle Isle strait, in Temple bay, Labrador, at the outer end of that strait, and in Notre Dame bay on the east coast of Newfoundland in 1923. Each of these is shallow at the entrance (for the two former indeed less than ten fathoms) in comparison with the water inside. In each of these the bottom water was saltier and colder (salinity over 33 per cent. and temperature below $-1^{\circ}\text{C}.$) than any water at the entrance, and than any water for a considerable distance outside the entrance. These facts prove that the winter water of the Labrador and Newfoundland coasts is, as would be expected, both colder and saltier than that of summer and enters and remains at the bottom of the deep fjords throughout the summer. Lake Melville differs from these in that, as shown by its deep water, the dense, salt water is never able, even when winter conditions stop both rain and the melting of ice, to dominate the Rigolet Narrows and enter Lake Melville. The river outflow must, therefore, control the strategic situation in the Narrows throughout the year.

Animals and plants are distinctly limited by the physical conditions of their environment. On land the contrast between the coast and the interior of Labrador is largely one of temperature, the coast being dominated by the sea, which carries a burden of ice coming from the north. On the coast the snow persists in places at sea-level and with a south exposure at least as late as September and as far south as the strait of Belle Isle, as we found in 1923. Hamilton inlet shows this condition, its waters bearing fragments of icebergs and its shores with snow patches as late as August. Lake Melville, on the contrary, has the warmer temperature of the interior. The flora reflect this climatic contrast, the sub-arctic treeless vegetation of the coast steadily giving place to the north temperate forest vegetation of the interior as one passes towards the head of Hamilton inlet, the most abrupt change taking place finally at Rigolet Narrows. As this difference is the result of sea influence, it should not be surprising that the life of the water should show as great or even greater contrast. Temperature as well as salinity here distinguish ocean from river and lake. Hamilton inlet shows a decrease in salinity and an increase in temperature from its mouth to its head, as is the case with estuaries generally. Into the Rigolet Narrows water with the low salinity of that at the surface of the ocean off the coast (density at $60^{\circ}\text{F}.$, 1.0240) enters as a bottom layer and is thoroughly mixed with the brackish water from Lake Melville. This mixed water (density about 1.020) flows out in large volume and occupies the upper levels of the inlet. The same mixed water enters Lake Melville (probably only during the winter, when it is coldest and therefore heaviest) and occupies the depths below about twenty fathoms from the surface (data in Jones, p. 1945). From twenty fathoms depth up in Lake Melville there is at first a slow and later a rapid decrease in salinity till at the surface, particularly near the head of the lake, the water is nearly or altogether fresh. There are accordingly the following water : sea-water toward the bottom in Hamilton

inlet, estuarial Water above in the inlet, produced in the Narrows, and below in Lake Melville ; and brackish to fresh water near the surface in the lake. The

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temperatures of these waters were : sea-water, 31° to 35° F. ; estuarial water, 35° to 45° F. ; and brackish to fresh water, 45° to 57° F.

The above described variable conditions set limits to the distribution of the marine and fresh-water life of the region. Dr. E. M. Kindle (pp. 1989 and 1990) has traced the distribution of two estuarial animals, the detection of whose presence or absence can be readily made as they live in the intertidal zones. These animals are the periwinkle, *Littorina rudis*, var. *groenlandica*, and the barnacle, *Balanus balanoides*. The former was found on the shores of Hamilton inlet and of the Narrows as far up as Henrietta island. It did not occur on the shores of Lake Melville. It was found along the channel on the north and west of Henrietta island, but not along the other channel (Pike Run) on the east side of that island. This is in harmony with the expectation that the rotation of the earth would deflect the inflowing (and therefore estuarial) water to the western channel, and the outflowing (and therefore brackish) water to the eastern channel. The barnacle occurred with the periwinkle, but did not extend as far through the Narrows on either shore. Dr. Kindle states that the other species of animals commonly associated with these did not extend west of the Narrows. These facts clearly show that these estuarial animals are limited by the extent of the estuarial water and have failed to invade Lake Melville, with its brackish water.

The estuarial Greenland or rock cod (*Gadus ogac*) shows a similar distribution. According to Grenfell (pp. 2109 and 2112) this fish is taken by ; the natives as far up as Caravalla cove, that is the limit in distribution of the periwinkle. The rock cod is definitely limited by lowered salinity. The capelin is a sea-fish that comes to the coast and into the estuaries to spawn. Dr. Kindle (p. 1991) states that they were common (1921) at Rigolet in the Narrows, but were not seen west of Henrietta island, that is they were restricted to the estuarial water.

The true cod (*Gadus callarias*) is an ocean or bank fish, but at certain seasons it comes to the coast. Certain varieties range far and wide, accomplishing extensive migrations, but even of these, and, when abundant, very few, and these the immature, penetrate even to the heads of estuaries. This is also true of a huge inlet like the Bay of Fundy. Passamaquoddy bay, which opens into the Bay of Fundy, is about twelve miles long and five broad, and it contains water with a salinity of over 30 per cent. Nevertheless, its cod fishery is confined to the passages at its mouth. In correspondence with this, Dr. Kindle, from his investigations of Hamilton Inlet in 1921, states (p. 1982) : “ The cod is unknown in the Narrows and the waters west of them. Cod-fishing is confined to the waters adjacent to the islands in the eastern part of Hamilton inlet.” Mr. Jones, from

investigations made in 1923. states (p. 1930) that “ it was learned that occasionally, and late in the fall only, they were caught in the vicinity of Double Mer Point.” Also he states (p. 1931) : “ A fisherman who had spent the last eleven seasons on the Labrador coast, said the farthest up the Inlet that ha had known cod-traps to be set was at Black Island on the north side and at

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Turners Bight on the opposite shore. These places are twenty-five and thirteen miles respectively below Rigolet.” Professor Coleman, as reported by Professor Prince (p. 199i), on his visit to Hamilton inlet, saw no cod being taken there, though the waters outside were swarming with fishing craft. Dr. Grenfell states (p. 2113) : “ I have seen schooners from the south fishing in this inlet as far as Turners Bight, Ticoralak and Double Mare,” and “ I have never seen or heard of any genuine summer cod, or any other fishing carried on in Hamilton inlet . . . above the Narrows.” All these accounts agree as to the cod occurring in abundance only in the outer part of Hamilton inlet and as to its inner limit being the outer part of the Narrows, that is only so far as the sea water extends along the bottom where the cod live. The cod accordingly is shown to be limited to the extent of this sea water, which is unable to penetrate through the Narrows into Lake Melville.

The investigations extended from Indian Harbour (well out in Hamilton inlet) inwards through the Narrows well into Lake Melville. They give the most definite evidence that marine fishes and invertebrates are co-extensive with the sea water and the superficial estuarial water, which do not penetrate beyond the Narrows.

MR. C. TATE REGAN'S " HAMILTON INLET—
OBSERVATIONS ON THE FAUNA AND FLORA."

Mr. Regan claims to have disproved a contention “ that the marine fauna and flora do not extend beyond the Narrows owing to the reduced salinity of the water . . . by showing that the species specially selected to illustrate it are found elsewhere in water of salinity as low as, or lower than, that of the Hamilton inlet west of the Narrows.” He makes the mistake of considering that, since under certain conditions lowered salinity fails to exclude certain marine species, it must necessarily always fail to do so, although the conditions other than those of salinity may be very different and the species themselves may be of different varieties or races in the two cases. His argument is the more surprising as it is made in the face of actual observations of the distribution of certain intertidal animals, the determination of whose presence or absence does not present any particular difficulty. His assumption that Dr. Kindle “ did not think it worth while to find out whether they (certain species found in the Narrows) reappeared in the more shallow areas further west, in which the salinity is considerably higher than in the Baltic, where some

of these species occur ” is not justified in view of Dr. Kindle's statement on page 1960 (which Mr. Regan should have noticed) “ during the field work the writer traversed the north and south shores of Lake Melville.”

The following is an example of reasoning that is false through failure to take account of variable material and variable conditions. A person with a knowledge of fresh water only might argue that water cannot remain liquid below 32° F., but a seaman knows that salt water will not freeze until

its temperature is considerably below 32°, and the scientist knows that the freezing-point of fresh water itself is considerably lowered by increasing the pressure to which it is subjected. To what extent facts may refute reasoning by analogy in the case of the relation of animals to their environment will perhaps be clear from the following examples. On the south side of the Strait of Belle Isle the cod leave when the temperature of the bottom water, where they are living, rises to and above 10° C., as we observed in 1923, yet off Cape Cod the cod has been taken in quantity by the United States Bureau of Fisheries in water with a temperature as high as 14° C., as we have been informed by Dr. H. B. Bigelow. In 1915 Captain Thor Iversen caught in the Gulf of St. Lawrence cod that were living and spawning in water with a temperature below 0°C. (see Report of Canadian Fisheries Expedition, 1914-1915, p. xxvii, Hjort ; and p. 44, Dannevig), yet Adolph Nielsen in his work for the Newfoundland Government (Annual Report of the Newfoundland Fisheries Commission for the year 1893, Appendix No. 1, Report for the Year 1893, by A. Nielsen, Superintendent of Fisheries) found that the cod that he was attempting to hold for spawning purposes were killed when the temperature fell below 0° C. The apparent discrepancies in these facts are doubtless to be attributed not to any errors in observation, but to our use of the word “ cod ” not for one thing, but for a group. The cod species, *Gadus callarias*, as scientifically defined, certainly includes a very considerable number of varieties or races, differing in geographical distribution, in habits, in temperature relations, and in salinity relations. Such races have been studied in considerable detail in the case of the herring, but we have as yet very little knowledge of those of the cod.

Mobius and Heincke on page 233 of their account of the fishes of the Baltic (“ Die Fische der Ostsee,” IVte Bericht Comm. Wiss. Untersuchung der deutsehen Meere, s. 193-296, 1883) do indeed separate the cod of the Baltic as a distinct variety, “ Küstendorsch,” from the cod of the North Sea, “ Hochseedorsch,” and they refer to the fact that von Linnée considered the cod of the Baltic as a distinct species from the cod of the North Sea. Although this Baltic cod occurs and supports a fishery as far up as the Finnish Gulf, and although its eggs have often been found in the deeper, saltiest water of the Baltic, it cannot be considered as established that it breeds successfully in the Baltic, as would be inferred from Mr. Regan's statements on pages 5 and 6. Jacobsen and Johansen on page 21 of their article “ Remarks on the changes in specific gravity of pelagic fish eggs,” from which Mr. Regan quotes for support of his statements, state “ the majority of the pelagic fish eggs in the Belt Sea and the Southern Kattegat are present in the lower layers, and the same seems to hold good for the pelagic young of such species as cod and plaice.” The waters referred to are at the entrance of the Baltic. Also for the

Baltic itself, Otterstrom (" Eggs and young of fishes in the Danish waters," Rep. Dan. Biol. Sta., XIII, 1906) shows how the pelagic eggs are chiefly in the deep, salter water, and he states, " In the inner parts of the true Baltic *the upper water layers cannot float the pelagic fish eggs*, or if so only quite exceptionally. On the other

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hand, *numerous pelagic fish eggs are found in the salt bottom-layers.*" This deep salt water, in which the eggs and fry of the cod chiefly or altogether occur, moves into the Baltic from without at a rate estimated by Jacobsen and Johansen as between 0.04 and 0.12 miles per hour. Any cod fry occurring in the Baltic or in the waters at its mouth may well have been carried in with this inflowing water. Otterstrom on page 16 of the article mentioned above states, " We have not up to the present found pelagic cod young in the true Baltic Cod and plaice thus do not develop in the true Baltic, which is probably connected with the extremely low temperature ruling in the deeper, egg-carrying water layers." There are, therefore, good reasons for believing- that even in the case of the Baltic race of cod, brought forward by Mr. Regan, to show that cod would be expected to occur and to breed in Lake Melville, estuarial conditions with very low salinity of the surface water, and low salinity of the bottom water prevent development. There is no evidence whatever to show that the deep-sea cod which migrate to the Labrador coast for a short summer season, either live, breed or develop in the brackish and estuarial waters of Lake Melville.

Not only may species and varieties differ in the salinities that they frequent or can endure, but the individual fish may exhibit such differences from one stage to another of its life history. The eggs and fry of the salmon, as experiments by Dr. A. H. Leim and Mr. F. R. Hayes have shown, cannot endure salinities approaching those of the sea water frequented by the adults. That, since certain cod live, spawn, and develop in low salinities in the Baltic, therefore, cod in " Hamilton inlet beyond the Narrows . . . are not deterred by the decreased salinity of the water " (Regan, p. 8) is not a justifiable conclusion for the Labrador cod in view of the existence of racial differences, and is not necessarily valid even for the Baltic cod under the special conditions, which Lake Melville presents. In a region where life for European man depends almost wholly upon the cod fishery, the presence or absence of the cod in sheltered waters with easy conditions for fishing is certain to have been determined by frequent trials. As quoted in our " Biology of Hamilton inlet, the Narrows, and Lake Melville," the reports are unanimous that the true cod, *Gadus callarias*, does not extend even into the Narrows, and that it furnishes a fishery only in the outer part of Hamilton inlet. Such facts afford no ground for Mr. Regan's supposition on the basis of conditions in the Baltic that the true cod will be found in Lake Melville.

In the concluding paragraph of his article Mr. Regan

assumes from analogy with other waters “ that a marine fauna and flora extends nearly to the mouth of the Hamilton river.” The Canadian investigations have demonstrated an admixture of sea water well to the head of Lake Melville. Under such a condition it would be expected that the waters of the lake would contain forms of life unable to live in strictly fresh water. Should all of these forms be called marine ? The various forms of plant and animal life show the most varied relations to salts dissolved in water. In no case are they able to dispense altogether with the salts. A very large proportion

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of the earth's aquatic plant and animal life lives neither in the saltiest water of the sea, nor in strictly fresh water (which contains but a minute percentage of salts), and presumably such forms are unable to endure either extreme. Some of these at least should be placed in an intermediate group or groups between the fresh-water and the marine forms, and there should be not only a brackish-water group, but also an estuarial group. Mr. Regan restricts the fresh water group and broadens the marine group with the result that he excludes from the former (p. 9) and includes in the latter (p. 5) fishes such as the salmon, *Salmo salar*, and the brook trout, *Salvelinus fontinalis*, that “ enter fresh water to breed.” This classification is inept seeing that these species can, and in fact do, either occasionally or usually, pass their whole life history in fresh water, and on the other hand cannot do so in the sea, being unable until well along in life to endure the salinity of the sea.

No hard and fast lines of division can be set. It would be expected that in Lake Melville the superficial or brackish water and the deep or estuarial water will have each to a certain extent its own characteristic forms of life, but also that each will have forms in common with one or more of the other kinds of water (including fresh water and sea water), or have either as strays or as more or less permanent residents forms properly belonging to one or more of the other kinds of water.

Adult whitefish, *Coregonus alba*, and adult brook trout, *Salvelinus fontinalis*, are to be considered as fresh-water forms. Occasionally the adults are found in water with a salinity of 32 per mille or over, but that does not make the water fresh, but merely shows that at that stage they are able to endure such a condition. Similarly should certain forms that ordinarily go through their entire life-history in the sea be found nearly to the head of Lake Melville, it would prove no more than that they were able for a time at least to endure the brackish or estuarial conditions existing there. It would not invalidate the conclusion based upon the hydrographic conditions that have been described and upon the distribution of certain piscian, molluscan, and crustacean species, that the sea conditions and the sea fauna and flora, properly speaking, stop short of Lake Melville.

A. G. HUNTSMAN.

A. SUBMITTED BY NEWFOUNDLAND

No. 1458.

10th Oct. 1902—**LETTER FROM SECRETARY FOR
DEPARTMENT OF THE INTERIOR TO GRAND
RIVER PULP AND LUMBER COMPANY.**

Vide Vol. I, p. 145.

No. 1459.

N

16th Feb. 1926—**AFFIDAVIT OF W. E. SWAFFIELD**
(paras. 10 and 12).

Vide Vol. II, p. 384.

No. 1460.

N

4th March 1926—**AFFIDAVIT OF RALPH PARSONS**
(para. 7).

Vide Vol. III, p. 1562.

No. 1461.

N

18th June 1926—**AFFIDAVIT OF W. J. CARSON**
(para. 7).

Vide Vol. III, p. 1589.

No. 1462.

15th Aug. 1924—**REPORT ON LABRADOR FISHERIES
1892-1924.**

BY DR. WILFRID T. GRENFELL.

—
Vide Vol. V, p. 2564 (at p. 2566).

No. 1463.

N

1895—**EXTRACT FROM “REPORT ON
EXPLORATIONS IN THE LABRADOR PENINSULA.”**

BY A. P. LOW.

—
Vide Vol. V, p. 2590 (at p. 2593).

No. 1464.

N

**EXTRACTS FROM HUDSON'S BAY COMPANY
HEAD OFFICE RECORDS.**

—
Vide supra.

No. 1465.

N

28th Sept. 1926—**AFFIDAVIT OF E. C. ROBINSON,
F.R.G.S.**

—
Vide supra.

DESCRIPTIONS OF HAMILTON INLET.
BY NAVAL OFFICERS, TRAVELLERS AND GEOGRAPHERS.

[1860.]

“EXTRACT FROM A DIARY OF THE VOYAGE ON BOARD H.M.S.
BULLDOG*, BY G. C. WALLICH.”

* * * *

Aug. 28.—At 8 A.M. we arrived at Rigolette, a very picturesque little [1860.] station belonging to the Hudson's Bay Company, occupied at present by a couple of their *employés*. It is situated in an extensive reach, bounded by granitic hills, clothed with spruce-fir and white birch. The salmon-fishery is carried on here on a large scale, but, as already mentioned, is just over for the season. It appears that two large decked boats which passed us yesterday afternoon were conveying the salmon, and also the furs collected, to Indian Harbour, where they are shipped for their destination by the Company's Agent.

* * * *

On emerging from “The Narrows,” we entered a large expanse of water stretching away to the westward as far as the eye could reach, and apparently about twelve or fifteen miles in breadth. When we anchored for the night, there was still no land visible above the waterline to the westward.†

The higher we advance up this magnificent arm of the sea, the greater is the distance reported to be between its eastern and western boundaries. At Indian Harbour we were informed that the extreme length was between ninety and a hundred miles. Today, at Rigolette, it is stated to be nearly 120. I mention the circumstance because, although it is by no means to be wondered at, that persons moving about from settlement to settlement should only possess a general knowledge of the geography of the country,

* The North-Atlantic Sea-Bed : comprising A Diary of the Voyage on board H.M.S. Bulldog, in 1 860 ; and Observations on the presence of Animal Life, and the Formation and Nature of Organic Deposits, at great depths in the Ocean. By G. C. WALLICH, M.D., F.L.S., F.G.S., Surgeon on the Retired List H.M. Indian Army ; Naturalist to the Expedition despatched in the above year, under Command of Sir F. L. M'Clintock, R.N., to survey the proposed North-Atlantic Telegraph Route between Great Britain and America. Published with the sanction of the Lords Commissioners of the Admiralty.

† This extensive tract of water is noted in some charts as “Melville Lake”; but none of the settlers along the inlet know it by that name. The Esquimaux name of Hamilton's Inlet is Ivuktok.

[1860.]

as this correctly laid down in the most modern maps, and it seems almost incredible that, within a few hundred miles of our North American colonies and naval stations, an arm of the sea of sufficient extent to shelter the largest fleet in the world, possessing very extensive salmon-, cod-, and capelin-fisheries, the shores of whose tributaries are said to abound in timber of large size which might be floated down in rafts and shipped in deep water, and whose mineral resources are probably neglected solely because they have been undeveloped, should have remained up to the present day so partially explored.

[1860.]

Aug. 29.—Arrived at North-west River, the head of Hamilton's Inlet, and the principal settlement of the Hudson's Bay Company in this part of Labrador. Towards the upper extremity of the inlet, the shores converge somewhat, and become gradually flatter and more closely wooded. At this point the channel receives the waters of "North-west" and "Hamilton's" Rivers. The former, or more northerly branch as its name implies, debouches into the inlet by a narrow channel only about eighty yards in width—the settlement being on the northern shore, and situated on a small tract of flat land from which the forest has been cleared. The opposite shore is low, and densely wooded to the water's edge, but none of the trees are above 30 or 35 feet in height.

* * * *

Salmon and salmon-trout are taken in great quantity throughout the entire length of Hamilton's Inlet and the rivers that flow into it. Mr. Smith states that the pike also occurs, and a species of shark about 4 feet in length, quite distinct from the dog-fish. I was unable to procure specimens, however. Capelins and cod-fish are only taken near the mouth of the inlet and along the coast.

* * * *

Aug. 30.—Leaving North-west River at an early hour this morning, the 'Bulldog' commenced her return voyage down the inlet, and at noon anchored off the bluff headland known as "Long Point," in order to survey.

* * * *

The length of Hamilton's Inlet, from Indian Harbour to North-west River, is 118 miles. At its mouth the width is nearly fifteen miles. the deepest water at this part being about the central portion of the five miles intervening between George Island and the northern shore.

* * * *

* * * *

H.M.S. "Vesuvius."

St. John's.

Newfoundland

[1863.]

I have visited the Labrador Coast from Bradore Bay to North West River, at the head of Hamilton Inlet, or Gros Water Bay, as it is more commonly called by the fishermen.

* * * *

EXTRACTS FROM "EXPLORATIONS IN THE INTERIOR OF THE LABRADOR PENINSULA." BY HENRY YOULE HIND, M.A., F.R.G.S.

The shores of Hamilton Inlet have already been described, with their wall-like boundary formed by the Mealy Mountains on the south side of the inlet. The most important river draining the vast table-land of the Peninsula falls into the bay. The Ashwanipi or Hamilton River, rising in the rear of Seven Islands, near the head waters of the east branch of the Moisie, is the great river of Labrador. It is nearly a mile and a half broad at its mouth, which is situated at the head of the inlet, and twenty-five miles up the river its breadth varies from a quarter of a mile to one-eighth of a mile, from which dimensions it does not change to any great extent as far as it has been examined. About one hundred miles from its mouth the great falls and rapids occur, which extend over twenty miles and involve fifteen portages. The Hudson's Bay Company's barges were taken as far as the foot of these rapids ; the remaining part of the river, up to the now abandoned Fort Nasquapee, is traversed in canoes. The river above the grand falls is tranquil and easily navigable. In 1839, Mr. McLean descended the Ashwanipi from Fort Nasquapee to its mouth. He reached the fort from Ungava Bay, after enduring many hardships and privations.

* * * *

As we proceed in a north-westerly direction along a very rugged line of coast, with deep bays and indents, the Great Inlet, called Esquimaux Bay, Invertoke Bay or Hamilton Inlet opens to view. It is situated 250 miles beyond the Straits of Belle Isle, the entrance being in lat. 54° 23' N., long. 57° 25' W.

It is by far the largest of the many inlets which indent that part of the coast. At its entrance it is upwards of thirty miles in breadth, thence decreasing, until at the Port of Rigolette, about fifty miles from the sea, it is reduced to about a mile in width, after which it again expands, and about

p. 3930

ninety miles from the sea forms a magnificent salt-water lake upwards of twenty miles in breadth, and fully thirty in length.

At the western extremity of the lake, it again contracts to a narrow width for a short distance, above which it forms another lake about seven miles wide and twenty long, when the head of the inlet is reached. Its total length may be taken at 150 miles, and its mean breadth about fifteen miles, exclusive of two large arms that join it in the neighbourhood of Rigolette, the one running to the south-east about forty miles, and the other having a course nearly parallel to the main bay, and a length of sixty miles. Including these arms, the surface covered by its waters may be taken at about 1,700 miles.

EXTRACT FROM LETTRE DU REV. PÈRE ARNAUD, OBLAT DE MARIE À SES SUPÉRIEURS. (See also Vol. VI. p. 3017.)

Rivière de Naskapis, 6 Août,
1871.

* * * *

Il y a plusieurs de ces établissements dans la Baie des Esquimaux. Cette baie est immensément profonde et très-large a l'entrée ; elle va se retrécissant jusqu'à Rigolet : ensuite elle s'élargit de nouveau et forme une petite mer intérieure, jusqu'à l'endroit où elle reçoit la décharge de la grande rivière de Naskapis.

EXTRACT FROM "A JOURNEY IN THE INTERIOR OF LABRADOR, JULY TO OCTOBER 1887," BY RANDLE F. HOLME.

[Proceedings of the Royal Geographical Society—Read at the evening meeting, February 15th 1888.]

[15th Feb. 1888.]

We started to sail up the inlet in a small schooner belonging to the Company . . . A sail of two days brought us to the post at North West River, at the head of the inlet.

* * * *

Mr. Duff and I explored all the Rivers that flow into the Head of the Bay, ascending them in most cases as far as they are navigable. They are as follows :—

[He mentions Gudders Bight, Kenamish, Kenamon, Travespines, North West and Grand Rivers.]

* * * *

p. 3931

While on the subject of the Map of Labrador, it may be remarked that the settlement called Southbrook, generally marked on the head of Hamilton Inlet by the mouth of the Kenamon River, may, in future Maps be omitted, as the sea has very largely encroached, and some years ago, the last vestige of the village was obliterated.

* * * *

[1896.]

Hamilton Inlet.

There are small kitchen gardens at North-West River, Rigolet and other places on the shores of Hamilton Inlet, which meet with very fair success.

Sandy Point.

EXTRACT FROM "REPORT ON EXPLORATIONS IN THE LABRADOR PENINSULA" BY A. P. LOW, 1836.

Hamilton Inlet.

Goose Bay.

Hamilton Inlet, Invuktoke, or Esquirnaux Bay is the largest and most important of the many long, narrow fiords or inlets that indent the Atlantic coast of Labrador and Newfoundland. Its greatest length, from Indian Harbour to the mouth of the Hamilton River at its head, is slightly over one hundred and fifty miles, while its average breadth is about fourteen miles.

* * * *

Rise of Tide.

From the mouth of the North-West River, the shore trends southward nine miles to the end of Sandy Point, a low, broad expanse of sand stretching Sandy Point. this distance out from the north side, evidently the remains of drift brought down by the Hamilton River. Opposite Sandy Point the Bay is only three miles and a half wide, and shoal water, caused by an extension of the point, continues to the south side, with only eighteen feet of water at the deepest part, where the channel is less than a half mile wide.

Beyond the point, the shore again trends northward, forming Goose Bay, Goose Bay. which averages nine miles in width and is nearly twenty miles long, to the head of Terrington Basin, where Goose Bay River flows in. This is a shallow stream, draining a considerable area of country between the Grand and Northwest rivers. Goose Bay is in most places quite shallow, being filled up with sand brought down by the Grand or Hamilton River, which flows in on the south side, nine miles above Sandy Point. A low sandy point, about five miles wide, separates the river from the upper part of Goose Bay.

* * * *

At Indian Harbour the tide rises seven feet at springs ; at the lower end of the narrows the rise is four feet, while above the narrows the rise is only about two feet and continues the same to the head of the inlet, where the rise and fall of the tide is much modified by the direction and strength of the wind. Below the narrows, there is a strong current formed by the ebb and flow of the tide ; while through the narrows the rising and falling water

[1897.]

rushes with a velocity varying from four to seven miles an hour, and in a number of places heavy rapids occur, which, with whirlpools and eddies, render the passage of small boats dangerous when the current is at its strongest. Above the narrows, there is no perceptible current, except that caused by winds.

EXTRACT FROM STANFORD'S COMPENDIUM OF GEOGRAPHY AND
TRAVEL.

(New Issue.)

Vol. I. Canada and Newfoundland. By Samuel Edward Dawson
(Litt. D. Laval), F.R.S.C.

[Jan. 1919.]

Sandwich Bay is one of the more important inlets. It is 25 miles long and 6 miles wide. It contains several good harbours, and here, at a place which still bears his name, the adventurous Major Cartwright established his trading post at the end of the last century. The most important, however, is Hamilton Inlet. This extends 35 miles inland where it narrows to one-third of a mile, and then expands into Lake Melville, 18 miles wide, and reaching 90 miles farther inland to where the Grand or Hamilton river discharges its waters. The whole distance from the headland at the mouth of the inlet to the Hamilton river is 150 miles, and the average width is 14 miles. At the narrows is Rigolet, the chief post of the Hudson's Bay Company in the district. The country round is bold and rocky especially on the south shore where the Mealy mountains rise abruptly 800 to 1200 feet from the waters of the inlet.

[1906.]

EXTRACT FROM LIPPINCOTT'S "A COMPLETE PRONOUNCING
GAZETTEER OR GEOGRAPHICAL DICTIONARY OF THE WORLD."
EDITED BY ANGELO AND LOUIS HEILPRIN.

Labrador.—"That portion belonging to Newfoundland is that which is drained by rivers flowing into the Atlantic Ocean. . . . The coast is deeply indented with fiords, the largest on the Atlantic side being Hamilton Inlet."

EXTRACT FROM "AMONG THE DEEP SEA FISHERS." DR. HENRY L.
PADDON. BY ON WHO KNOWS HIM.

Winter at North West River.—Far up at the head of Hamilton Inlet, over one hundred miles from the open sea, lies the little winter settlement of North West River, with its population of trappers, its rival fur and trading posts and its magnificent hospital. Round this last centres the whole life of

the settlement as indeed that of the entire head of the bay.

No. 1467.

In the Privy Council.

**IN THE MATTER of the BOUNDARY between the
DOMINION of CANADA and the COLONY of
NEWFOUNDLAND in the LABRADOR
PENINSULA.**

BETWEEN
THE DOMINION OF CANADA — — — OF THE ONE PART

AND

THE COLONY OF NEWFOUNDLAND - OF THE OTHER PART

I, George Washington Littlehales, C.E., of Washington, D.C., Hydrographic Engineer of the U.S. Hydrographic Office, make oath and say as follows :—

1. That the Hydrographic Office is an established institution of the United States of America and the Hydrographic Engineer is the Senior Scientist of that institution.

2. That I have been engaged in marine hydrography ever since graduation from the U.S. Naval Academy and for the last twenty-five years have been Hydrographic Engineer of the U.S. Hydrographic Office.

3. That the attached document, marked A, was prepared by me as a commentary on the Canadian Reports respecting the hydrography and kindred question respecting Hamilton Inlet and the tract embraced within the limits of Canadian Government chart No. 420, and that the statements therein are true according to the best of my knowledge, information and belief.

G. W. LITTLEHALES.

Sworn at Washington, D.C.,
this 23rd day of July, 1926,
before me,

J. DUTTON WAINWRIGHT,
Notary Public,
District of Columbia.

My commission expires Nov. 20, 1929.

p. 3934

TO CANADIAN GOVERNMENT CHART NO. 420, ENTITLED “CANADA-EAST COAST—LAKE MELVILLE,” AND THE REPORTS OF THE HYDROGRAPHIC AND PHYSICAL OBSERVATIONS UPON WHICH THE CHART IS BASED.

I have examined the documents sent to me by the Government of Newfoundland, comprising Canadian Government Chart No. 420, entitled Lake Melville, and the reports of the hydrographic and physical observations upon which the chart is based ; and have considered them in connection with British Admiralty chart No. 375, entitled Coast of Labrador—Sandwich Bay to Nain including Hamilton Inlet, and also with the Newfoundland and Labrador Pilot, Volume II, fifth edition, published in 1917 by order of the Lords Commissioners of the Admiralty, together with its official supplements up to the 7th issue in February, 1926.

The charts and the Pilot remarks are explicit in showing Lake Melville to be a part of an inlet of the sea, accessible to heavy-draft shipping, and the physical observations from the field of survey show that it is tided throughout by dependence on the tides of the Atlantic Ocean and permanently occupied by oceanic water, which was over-spread during the season of the Canadian survey by water derived by precipitation from the atmosphere over the water-shed of which it is the catchment basin—a condition often observable in the ocean itself in localities of heavy rainfall and at the mouths of large rivers. Although the considerations of the dynamic hydrography of Rigolet Narrows would have been better subserved by stating the density of the water in situ instead of reducing the specific gravities to a standard temperature, this proceeding has not overbalanced the preponderance of the evidence of the physical observations which divests Hamilton Inlet of the characteristics of a river flowing into the ocean below the Narrows and instead confirms the traditional view that this Inlet is a marine tract all the way to the head of the tide water at the mouth of the Hamilton River.

The Narrows constitute a strait connecting two tided bodies of water each of which is alternately higher and lower than the other ; and the residual flow is that which characterizes the tidal interaction between the Atlantic Ocean and its dependent sea, the Arctic Ocean, which is less dense in its upper layers than is the Atlantic water, that is to say, the interaction is such as results when the lighter body of water has higher mean surface-level.

The tide in Hamilton Sound is of the progressive-wave type, and the tide in the Hamilton Inlet or Lake Melville is also of the progressive-wave type, while in the Narrows separating these two bodies of water there is a hydraulic movement brought about by the fact that part of the time the level of the water in the sound is higher than in the inlet and part of the time it is lower. The Narrows thus acts as a channel through which the water flows from the body having, temporarily, the higher level to the one having

the lower level. If the details of the readings of the gauges had been published in the Reports, the lines joining simultaneous heights of the tide at the two ends of the Narrows could have been plotted to show by their slope the difference of level.

While it is true that, “ in river mouths, sea water finds its way along the bottom especially during the rise of the tide,” this is to preserve a hydrostatic balance which results in the retreat of the sea water when the tide falls. But, in the arm of the sea called Lake Melville, the sea water occupies the basin permanently.

The Reports also point out as a feature of tidal rivers that “ the outward flow or 'ebb stream ' during the fall of the tide is stronger and continues for a longer time than the inward flow or ' flood stream,' which is weaker and of shorter duration because of the opposed current of the river ” ; but this also occurs when two tided bodies of water—one more saline and the other less saline—are connected by a strait, and the lighter body has the higher mean surface-level.

I have also read the “ Observations of Vice Admiral Sir Frederick C. Learmonth on the Hydrographie Survey and Reports of the Canadian Government of Lake Melville, Hamilton Inlet, and the Narrows, 1921-23,” and, in expressing concurrence in the conclusions reached therein, I would mention, in addition to the instances cited of the application of the term “ Coast ” to territories of large inland extent, the Central American territory known in political history as the Mosquito Coast.

(Signed) G. W. LITTLEHALES,
Hydrographic Engineer.

[1926.]

**THE BOTANICAL EVIDENCE OF MARINE
CONDITIONS IN HAMILTON INLET, LABRADOR.**

M. L. FERNALD, Sc.B.,

Fisher Professor of Natural History (Botany) in Harvard
University.

I have been actively and practically continuously engaged since 1891 in research in and teaching of botany (systematic and geographic) in Harvard University, and for twenty-three years I have devoted the summers to intensive field studies of the flora from New York State to Newfoundland and Labrador.

1.—INACCURATE BOTANICAL STATEMENTS IN THE FIRST KINDLE
REPORT ON HAMILTON INLET.

It is necessary, before proceeding with a detailed consideration of the botanical evidence presented by Dr. Kindle, to examine carefully his status as a botanist and, consequently, his ability to use botanical data without error.

Dr. Kindle has published two articles upon the flora of Hamilton Inlet. The first of these, "Notes on the Forests of Southeastern Labrador,"¹ appeared in 1922; the second, as a portion of his report on the "Geography and Geology of Lake Melville District, Labrador Peninsula,"² in 1924. In the first article the quality of its author's botanical knowledge became perfectly apparent. On page 62, in describing the Lake Melville district, he said:

"The white birch (*Betula pendula*) is a very common tree"; and, at the bottom of the page, he continued:

"The principal trees in the approximate order of their abundance in the Lake Melville district are: black spruce (*Picea mariana*, B. S. P.); white, or canoe, birch (*Betula pendula*, Roth, var. ?); tamarack (*Larix laricina*, Koch); fir (*Abies balsamea*, Mill); white spruce (*Picea canadensis*, B. S. P.); balsam poplar (*Populus balsamifera*, L.); yellow, or grey, birch (*Betula lutea*, Michx. f.); black, or white, birch (*Betula lenta*, L.); trembling

¹ E. M. KINDLE, "Notes on the Forests of Southeastern Labrador," Geogr. Rev. xii, 57-71 (Jan. 1922).

² Canad. Dept. Mines, Geol. Surv. mem. No. 141 (1924).

poplar, or aspen (*Populus tremuloides*, Michx.) ; ground juniper (*Juniperus communis*, L., var. *depressa*, Pursh)."

Now, to any careful botanist, who knows the trees of Canada and of Labrador, it is at once obvious that the author of the above statements does not know them. The tree of eastern America which has been mistaken for the Old World *Betula pendula* is quite unknown from Labrador. I write with assurance because it was I who first recognised the existence of a second species of canoe birch in eastern America and called attention¹ to it under the erroneous name, *B. pendula*. Subsequently, it was described as an endemic eastern American species and in a recent study² I have discussed it and its range, as *Betula coerulea grandis*, Blanchard. So far as known from actual specimens it occurs from Nova Scotia and Prince Edward Island to the region of the city of Quebec, thence south into New England. Dr. Kindle's party contained a student, Mr. R. H. Wetmore, subsequently one of my students, who was instructed to collect specimens of all flowering plants seen ; but Mr. Wetmore's collection, which I personally examined, contained no material of *Betula pendula* or of *B. caerulea grandis*. The white or canoe birch of Lake Melville is the regular and abundant canoe birch (*Betula papyrifera*) which abounds in the forests of boreal America and which was recorded by the great student of the Labrador Peninsula, A. P. Low, as "common. . . about Hamilton Inlet . . . at the head of the inlet, trees up to ten inches in diameter are not uncommon."³ Dr. Kindle did not mention this ubiquitous tree in his first account of the forests of the region, though in his second report he made the correction.

Again, let us consider the other birches : " Yellow, or grey, birch (*Betula lutea* . . .) ; . . . black, or white, birch (*Betula lutea* . . . :)." Mr. Wetmore's collection contained no specimen of either of these comparatively southern species ; Low, who certainly knew Labrador, in listing the trees of the Peninsula (including the Hamilton drainage) did not mention either of them ; Robert Bell and A. T. Drummond,⁴ both competent botanists, in their detailed map of ranges of Canadian trees did not recognise *B. lenta* as extending north of the United States and they indicated the northern limit of *B. lutea* as hundreds of miles south of Lake Melville. The latter species was not found as far north as Anticosti by Schmitt,⁵ nor about Lake St. John by Marie-Victorin.⁶ On the accompanying map I have indicated the approximate northern boundaries of both *B. lutea* and *B. lenta*, the range of the former derived largely from Bell and Drummond, of the

¹ FERNALD, " The Relationships of some American and Old World Birches," Am. Journ. Sci., Ser. 4, xiv, 179 (1902).

² FERNALD, " Rhodora," xxiv, 171 (1922)

³ A.P. LOW, " Report on Explorations in the Labrador Peninsula along the East Main, Koksoak, Hamilton, Manicouagan and Portions of other Rivers," Geol. Surv. Can. Ann. Rep., n.s. viii, Part L. 32 (1896).

⁴ Map showing Northern Limits of the Principal Timber Trees, in DRUMMOND, " Canadian Timber Trees " (1879).

⁵ SCHMITT, " Monographie de l'Ile d'Anticosti " (1904).

⁶ MARIE-VICTORIN, " Etude floristique sur la region du Lac Saint-Jean " (1925).

latter from Blanchard, who, pointing out the confusion of the two species among lumbermen, concluded : “ a line drawn from Portland, Maine, to Montreal will mark its eastern and northern limit.”¹



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The last species enumerated by Dr. Kindle as one of “ the principal trees ” is “ ground juniper (*Juniper communis*, L., var. *depressa*, Pursh).” Even if an author does not know whereof he is writing, he might be put on guard by the names “ ground juniper ” and “ var. *depressa*.” The only form of *Juniperus communis* in Labrador is a depressed shrub, var. *montana*, Ait. (not var. *depressa* Pursh), forming prostrate mats or carpets and never rising more than a foot or two from the ground. In a list of “ principal trees ” it has no more place than does “ partridge-berry ” (*Vaccinium Vitis-Idoea*) or the “ ground hurt ” (*Vaccinium uliginosum*).

To the botanist, therefore, it is sufficiently clear that Dr. Kindle is undoubtedly a better geologist than botanist and that his botanical statements cannot be accepted as final until they are most rigidly verified.

2.—MISLEADING STATEMENTS OF HABITAT IN THE SECOND KINDLE REPORT.

The plants collected in Hamilton Inlet by Mr. R. H. Wetmore were identified by Mr. Wetmore under my direction, and I stand back of the identifications. Mr. Wetmore's original report² was published by him in

¹ W.H. BLANCHARD, “ The Range of the Black Birch to be restricted,” *Rhodora*, xiii, 206, 207 (1911).

² R.H. WETMORE., “ Plants of the Hamilton Inlet and Lake Melville Region, Labrador,” *Rhodora*, xxv, 4-12 (Jan., 1923).

January, 1923, as an independent article entitled “Plants of the Hamilton Inlet and Lake Melville Region, Labrador.” He there enumerated twenty stations or areas from which collections were made and modestly stated that “this does not represent an exhaustive study of the flora of the area covered, for the Survey itself was pre-eminently hydrographical and geological in its intent, hence those elements in the work were stressed accordingly ; also the mode of travel of our party—by motor-boat and canoe—was conducive only to botanizing those points at which stops were made.” It was this report which I helped prepare and with which my responsibility ceases.

The details of the second report on the flora, included as pages 23-27 of Dr. Kindle's “Geography and Geology of Lake Melville District, Labrador Peninsula,”¹ in 1924, were not referred to me and I had nothing to do with the statements of the preferences of the plants for littoral, brackish or fresh conditions, nor with the deductions drawn by Dr. Kindle from the list. My thirty-five years of active botanical exploration of the region from western New York to Newfoundland and Labrador would have led me to quite different statements and conclusions. Furthermore, the statements of habitat for many of the species listed in Dr. Kindle's report are so opposed to the statements of such distinguished and authoritative Canadian botanists as the late Professor John Macoun² and Professor Marie Victorin,³ that the contradictions are at once apparent. John Macoun, during a long lifetime Chief Naturalist of the Geological Survey of Canada, had an intimate knowledge of plants of all Canada ; Marie-Victorin, Professor of Botany at the University of Montreal, since the death of Macoun, the outstanding systematist of eastern Canada, knows the flora of the lower St. Lawrence and the Gulf as no other Canadian has known it. Surely no one will question whether the active botanists, Macoun and Marie-Victorin, or the geologist, Kindle, state more accurately the habitats of plants.

When we turn to the deduction by Dr. Kindle, that *Iris setosa* var. *canadensis*, *Polygonum viviparum* and *Ranunculus lapponicus* are “salt-loving plants” which have shown “inability to extend their range west of the head of the Narrows,” we are at once forced to the conclusion that his wish was father to his thought. In his independent publication in Rhodora Mr. Wetmore, assistant on the Survey, who was detailed to collect the plants, explicitly stated that *Iris setosa* var. *canadensis* occurs on the “South side of Lake Melville, from Carter Basin to English River” and on “Shores at Sabascachew Bay” (Stations 16 and 20 of Mr. Wetmore's paper). The discrepancy between this original and independent statement and the later one in the Kindle report, that it does not extend west of the Narrows, is apparent.

¹ E.M. KINDLE, Can. Dept. Mines, Geol. Surv. Mem. no. 141 (1924).

² MACOUN, “Catalogue of Canadian Plants,” Parts I-IV, Geol. and Nat. Hist. Surv. of Canada (1883-1888).

³ MARIE-VICTORIN, “La Flore du Temiscouata” (1916).

The other two plants which, not found by his party west of the Narrows, seem to Dr. Kindle to “ afford very clear botanical evidence of the change that takes place in the salinity of the water west of the Narrows,” are *Polygonum viviparum* and *Ranunculus lapponicus*. To an experienced botanist their citation as plants indicating saline habitats is a further indication that Dr. Kindle was so convinced that the Narrows is a natural check to saline water, that any plant found by his party only from the Narrows eastward was to his mind an inhabitant of *brackish* or *saline* soil. *Polygonum viviparum*, however, is a widely dispersed plant of fresh soil, found across the northern parts of Eurasia and America and southward on cool shores or mountains. Its occurrence in Canada was thus summarized by John Macoun : “ Quite common on cold, boggy points along lakes in the northern part of Canada ” ; its range is thus given in Gray's “ Manual of Botany ” : “ Alpine summits of New England, shores of Lake Superior, Colorado and Utah to Alaska and Greenland.” That certainly does not make it an indicator of salinity. Here is the statement in Dr. C. E. Moss's “ Cambridge British Flora ” of its distribution in Great Britain : “ Damp, mountainous grassland and grassy ledges of mountainous cliffs,” a British range indicated on the accompanying map traced directly from Professor Moss's publication. This map, with the areas occupied by *Polygonum viviparum* dotted, clearly demonstrates the lack of foundation for Dr. Kindle's assertion that this species can grow only where there is strongly saline water. (See Map on next page.)

Similarly, the third plant specially selected by Dr. Kindle as strictly dependent on salt water, *Ranunculus lapponicus*, is an arctic species which occurs southward in America on cold or mossy places to Labrador, the Lake Superior region and the Canadian Rocky Mountain region. On the Hamilton drainage, instead of “ not extending west of the Narrows,” as Dr. Kindle states, it has been known for thirty years from Seal Lake at the head of the Nascaupée River (entering the western end of Lake Melville at Northwest River), where it was collected by A. P. Low in 1896.⁽¹⁾

The Kindle report lists forty-five species of flowering plants as occurring in brackish or littoral habitats, but there is absolutely no question that twenty-four of these species are in no case specially characteristic of sea-beaches. These twenty-four species are enumerated below ; and I have appended statements of their habitats as given by experienced Canadian and American botanists.

HIEROCHLOE ALPINA.—On the summits of high mountains and northward (*Macoun*) ; exposed hill crests (*St. John*)²; alpine regions, New England, New York and northward (*Gray's Man.*) ; south to the high mountains of New England and New York (*Britton and Brown*, 111, Fl.) ; granitic mountains (*Fernald*).³

PHLEUM ALPINUM.—Mountain summits and elevated mountain slopes (*Macoun*) ; exposed hill crests (*St. John*) ; alpine regions of New England and northward (*Gray's Man.*) ; south to the

¹ See J.M. MACOUN, "Canadian Record of Science," January, 1897, p. 267.

² ST. JOHN, "A Botanical Exploration of the North Shore of the Gulf of St. Lawrence," Canada Dept. Mines, Vict. Mem. Mus. Mem. no. 126 (1922).

³ FERNALD, "The Soil Preferences of Certain Alpine and Subalpine Plants," *Rhodora*, ix, 149-193 (1907).

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mountains of New Hampshire, Vermont, etc. (*Britton and Brown*) ; mountain-tops and river-banks (*Fernald*).

CALAMA GROSTIS CANADENSIS, var. LANGSDORFI.—Low grounds, across Canada (*Macoun*) ; grassy shores and borders of woods (*St. John*) ; moist meadows, Labrador, mountains of New England, Lake Superior, etc. (*Gray's Man.*) ; south to mountains of New England and New York, etc. (*Britton and Brown*) ; granitic mountains (*Fernald*).

CAREX CANESCENS.—Bogs and swamps from the Atlantic to the Pacific (*Macoun*) ; sloughs, meadows, thickets and borders of woods (*St. John*) ; wet places (*Gray's Man.*) ; swamps and bogs (*Britton and Brown*).

CAREX BRUNNESCENS.—Alpine or subalpine, across the continent (*Macoun*).

CAREX LENTICULARIS.—Beds of rivers, growing in crevices of rocks (*Macoun*) ; clump open spots (*St. John*) ; gravelly or sandy shores, Labrador to the Mackenzie, etc. (*Gray's Man.*) ; shores (*Britton and Brown*) ; granitic mountains and shores (*Fernald*).

CAREX RARIFLORA.—Peat bogs (*Macoun*).

CAREX VESICARIA.—Ditches and along streams (*Macoun*) as *C. monile* ; swales (*St. John*) ; meadows and low grounds, across the continent (*Gray's Man.*) ; marshes and wet meadows (*Britton and Brown*).

JUNCUS FILIFORMIS.—Along river margins, in gravel, and on lake shores, across the

continent (*Macoun*) ; grassy shores and sandy borders of ponds (*St. John*) ; wet shores and bogs (*Gray's Man*) ; south to the mountains of Pennsylvania, etc. (*Britton and Brown*).

SALIX PLANIFOLIA. (*S. chlorophylla* and *S. phylicifolia* of American botanists). Labrador to Lake Winnipeg and Great Slave Lake (*Macoun*) ; brooksides and river banks (*St. John*) ; south to alpine districts of Quebec and northern New England (*Gray's Man.*) ; swamps (*Britton and Brown*) ; granitic mountains (*Fernald*).

COMANDRA LIVIDA.—Cold bogs, and on mountain tops in the south, and on exposed shores in the north (*Macoun*).

POLYGONUM VIVIPARUM.—Discussed above.

ARENARIA LATERIFLORA.—Sandy soil or swampy ground, Nova Scotia to Vancouver (*Macoun*) ; thickets and borders of woods (*St. John*) ; gravelly shores, thickets, etc. (*Gray's Man.*) ; moist places and on shores (*Britton and Brown*).

STELLARIA LONGIPES, var. LAETA.—Arctic regions, south to mountain tops (*Macoun*) ; open places near the shore (*St. John*) ; sandy or gravelly beaches, Gulf of St. Lawrence, northward and westward (*Gray's Man.*).

RANUNCULUS LAPPONICUS.—Discussed above.

DRABA INCANA.—Labrador to Rocky Mountains (*Macoun*) ; turfy headlands and hillsides (*St. John*) ; rocky places (*Britton and Brown*) ; calcareous cliffs and shores (*Fernald*).

PARNASSIA PALUSTRIS.—Swamps throughout Canada (*Macoun*) ; Labrador to Alaska and Wyoming (*Gray's Man.*) ; wet places (*Britton and Brown*).

POXTENTILLA MONSPELIENSIS. (*P. norvegica*).—Cultivated grounds, river bottoms and lake shores (*Macoun*) ; grassy shores and banks (*St. John*) ; open soil (*Gray's Man.*) ; dry soil, often a weed in cultivated ground (*Britton and Brown*).

POTENTILLA PALUSTRIS.—Marshes and bogs across the continent (*Macoun*) ; bogs, borders of ponds, etc. (*St. John*) ; cool bogs (*Gray's Man.*) ; swamps and peat-bogs (*Britton and Brown*).

POTENTILLA TRIDENTATA.—Westward through the wooded country to the Rocky Mountains—it seems to thrive equally well on rocks and sand (*Macoun*).

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CORNUS CANADENSIS.—Cool, sandy woods, from the Atlantic to the Pacific (*Macoun*) ; in open or wooded places (*St. John*) ; damp cold woods (*Gray's Man.*) ; low woods (*Britton and Brown*).

GENTIANA AMERALLA. (*G. acuta*).—Labrador to the Rocky Mountains (*Macoun*) ; rocky, sandy or turf slopes (*St. John*) ; barrens, meadows and rocky banks (*Gray's Man.*) ; moist or wet places (*Britton and Brown*) ; calcareous cliffs (*Fernald*).

CALUM LABRADORICUM.—Wet shores and borders of thickets (*St. John*) ; in moss (*Gray's Man.*).

ACHILLEA TMILLEFOLIUM, var. NIGRESCENS (*A. borealis*).—Borders of woods and on grassy banks on mountains, and by streams from the Atlantic to the Pacific (*Macoun*) ; grassy or rocky shores (*St. John*) ; wet rocks and mossy slopes (*Gray's Man.*).

More than half the plants listed in Dr. Kindle's report as maritime (of brackish or littoral habitat) are, then, definitely inland species. These plants rarely seen west of the Narrows, include several arctic-alpine species. Their relatively greater abundance toward the outer coast is unquestionably *due to the bleaker conditions there, not to the salinity*. The discussion

thus far makes it clear, then, that Dr. Kindle's conclusion, that certain plants do not extend in Hamilton Inlet west of the Narrows because they are " salt-loving plants " is wholly fallacious.

3.—OCCURRENCE OF MARITIME PLANTS ON LAKE MELVILLE.

It should not be concluded, simply because Dr. Kindle's report erroneously records so many inland plants as maritime, that there are no true maritime plants in Hamilton Inlet. The usual maritime flowering plants of that latitude are all there—twenty-five species collected either by Dr. Kindle's party or by the Bowdoin College Expedition of Professor Leslie A. Lee, Mr. Austin Carey, and others in 1891.¹ Some of these species, however, are also found in favourable areas in the interior of the continent and may be omitted from the discussion, as not conclusive evidence of maritime conditions ; but others are absolutely unknown in north-eastern America away from the sea-margin. These include seven that extend to or nearly to the head of Lake Melville, which are enumerated below, with a statement of their distribution in Hamilton Inlet, and of their habitats elsewhere in eastern America as given by the leading botanical authorities.

1. POA EMINENS.—At mouth of Mulligan River (*Wetmore, Kindle*) ; gravel beaches, turfy shores, and rocky ledges near the sea (*St. John*) ; essentiellement halophytique (*Victorin*)² ; gravelly sea-shore (*Gray's Man.*) ; beaches and shores (*Britton and Brown*). See accompanying map of the range of the species in eastern America.

2. IRIS SETOSA, var. CANADENSIS (*I. Hookeri*).—Outer coast to the east end of Lake Melville ; shores of Mulliock Cove ; Carravalla Bay ; south side of Lake Melville, from Carter Basin to English River ; shores at Sabascachew Bay (*Wetmore*) ; common where water is strongly saline ; not seen above the Narrows (*Kindle*)—(note the contradiction of *Wetmore's* statement) ; peculiar to the sea coast and always within the limit of spray from the sea (*Macoun*) ; " along the edges of gravelly beaches and at the crests of the ocean cliffs where the plants are often subjected to baths of salt

¹ See FERNALD and SORNBORGER, " Some Recent Additions to the Labrador Flora," *Ottawa Naturalist*, xiii, 89-107 (1899).

² MARIE-VICTORIN, " La Flore du Temiscouata " (1916).



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spray ” (*Collins*¹) ; sea beaches and headlands (*Gray's Man.*) ; rocky, gravelly or turfy shores near the sea (*St. John*) ; “ get iris est particulier au bas Saint-Laurent et a la cote de l'atlantique ” (*Victorin.*). See accompanying map of range.

3. POLYGONUM ISLANDICUM.—Mulligan Point, Lake Melville, July 25, 1891 (*Bowdoin College Expedition*). A northern sea-beach species, extending south to northern Newfoundland and represented southward by the closely-related and perhaps not specifically separable *P. Fowleri* and *P. allocarpum*. See accompanying map of range of the series.

4. STELLARIA CRASSIFOLIA.—Caravalla Bay (*Kindle*) ; Mulligan Point, Lake Melville, July 20, 1891 (*Bowdoin College Expedition*), the specimen in the Gray Herbarium ; brackish or springy places (*St. John*) ; strictly coastal in eastern America, on saline or brackish shores. See accompanying map of range in eastern America.

5. POTENTILLA PACIFICA.—Westerly into the lake as far as Northwest River (*Kindle*) ; brackish or saline soil (*Fernald*, *Rhodora*, xi, 9, where the species was first recognised in eastern America) ; brackish shores (*St. John*).

6. PLANTAGO OLICANTHOS. (recently recognised² as a species distinct from *P. decipiens*).—Recorded under the latter name by Wetmore from shores of Sebaschew Bay ; Mulligan Point, 1891 (*Bowdoin College Expedition*)—specimen in Gray Herbarium ; salt marshes and saline or brackish shores (*Fernald*) ; salt marshes (*Macoun*) ; saline shores (*St. John*) ; “ Espece exclusivement maritime ” (*Victorin*). See accompanying map of range of the species.

7. SENECIO PSEUDO-ARNICA.—Westward into Lake Melville as far as Sebaschew Bay (*Kindle*) ; gravel beaches along the coast (*Macoun*) ; saline shores (*St. John*) ; “ rivages maritime ” (*Victorin*). See accompanying map of range in eastern America.

4.—RELATION OF THE RANGES OF MARITIME FLOWERING PLANTS TO THE DISTRIBUTION OF MARINE ALGAE.

It is a very significant point that, although it is asserted that marine algae and invertebrates do not extend up Lake Melville, several species of strictly maritime flowering plants

of the outer sea-margin extend to or nearly to the head of the “Lake,” and that seven of these are so uncompromisingly fastidious that elsewhere in eastern North America they are confined to the true sea-margin. On the St. Lawrence³ they are abundant on the outer coast, reaching Riviere du Loup (opposite the mouth of the Saguenay), and two of them getting as far as Cap a l'Aigle (or Murray Bay). These facts are displayed in the accompanying map, showing the actual known stations for these strictly maritime flowering plants on the Lower St. Lawrence.

The reputed absence of marine algae and marine invertebrates at the head of Lake Melville has been emphasized. I am not equipped to discuss the invertebrates ; but in case of the marine algae it is important to note that the Kindle report contains no enumeration of them even from the outer shores of Hamilton Inlet where they certainly must abound. In

¹ J.F. COLLINS, “ The Distinctive Features of *Iris Hookeri*,” *Rhodora*, iv, 179 (1902).

² See FERNALD, “ The Maritime Plantains of North America,” *Rhodora*, xxvii, 102 (1925).

³ The records from the lower St. Lawrence are taken from the published reports and the collections of St. Cyr, Macoun, St. John and Victorin, and from my own extensive collections and daily field-notes kept every season of exploration from 1903 to 1925.

other words, the Kindle party was not sufficiently interested to collect or a least to report upon the algae of the region. One must, therefore, wonder



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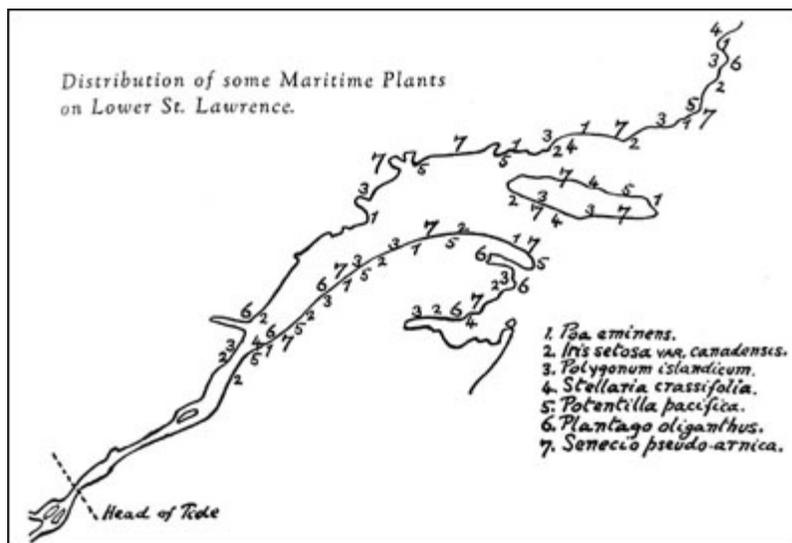


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if the alleged absence of them from Lake Melville is based upon an energetic and intelligent effort to find them ; for, in view of the demonstrated presence

near the head of the Lake of the maritime flowering plants, it is quite unbelievable that the marine algae do not likewise extend to the head of Lake Melville.

The only extensive report which I know on the marine algae of the lower St. Lawrence is that of Kemp,¹ but it is surely a most significant fact that the truly marine species extend in the St. Lawrence up to the limit of the strictly maritime flowering plants. Thus at Murray Bay, near the inner limit of the maritime flowering plants, such genera of algae are found



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as *Cladophora*, *Enteromorpha*, *Chorda*, *Chordarie*, *Ectocarpus*, *Delesseria*, *Phyllophora*, *Polysiphonia*, *Rhodomela*, etc., etc., and near the inner limits of *Poa eminens*, *Stellaria crassifolia* and *Senecio pseudo-arnica* such genera of marine algae as *Laminaria* and *Agarum* occur.

It should be perfectly evident, then, that the marine algae extend quite as far as the strictly maritime flowering plants ; and as these same species of flowering plants reach nearly to the head of Lake Melville, it is only reasonable to believe that the marine algae must also be present in the waters near the head of the Lake.

¹ A. F. KEMP, " Classified List of Marine Algae from the Lower St. Lawrence," *Canadian naturalist*, v, 30-42 (1860).

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5.—CONCLUSIONS.

It is shown that Dr. Kindle has not hesitated to guess at the identities of plants, and that his guesses are too often erroneous.

It is shown that the statements of habitat in the Kindle report are so largely at variance with the statements by the most accurate Canadian and American botanists that no reliance can be placed upon them. Of the three species specially emphasized by him as occurring only from the Narrows eastward and, therefore, to his mind " salt-loving " plants, two are most emphatically not plants of saline habitats, and the third, instead of stopping at the Narrows, actually extends to the head of Lake Melville.

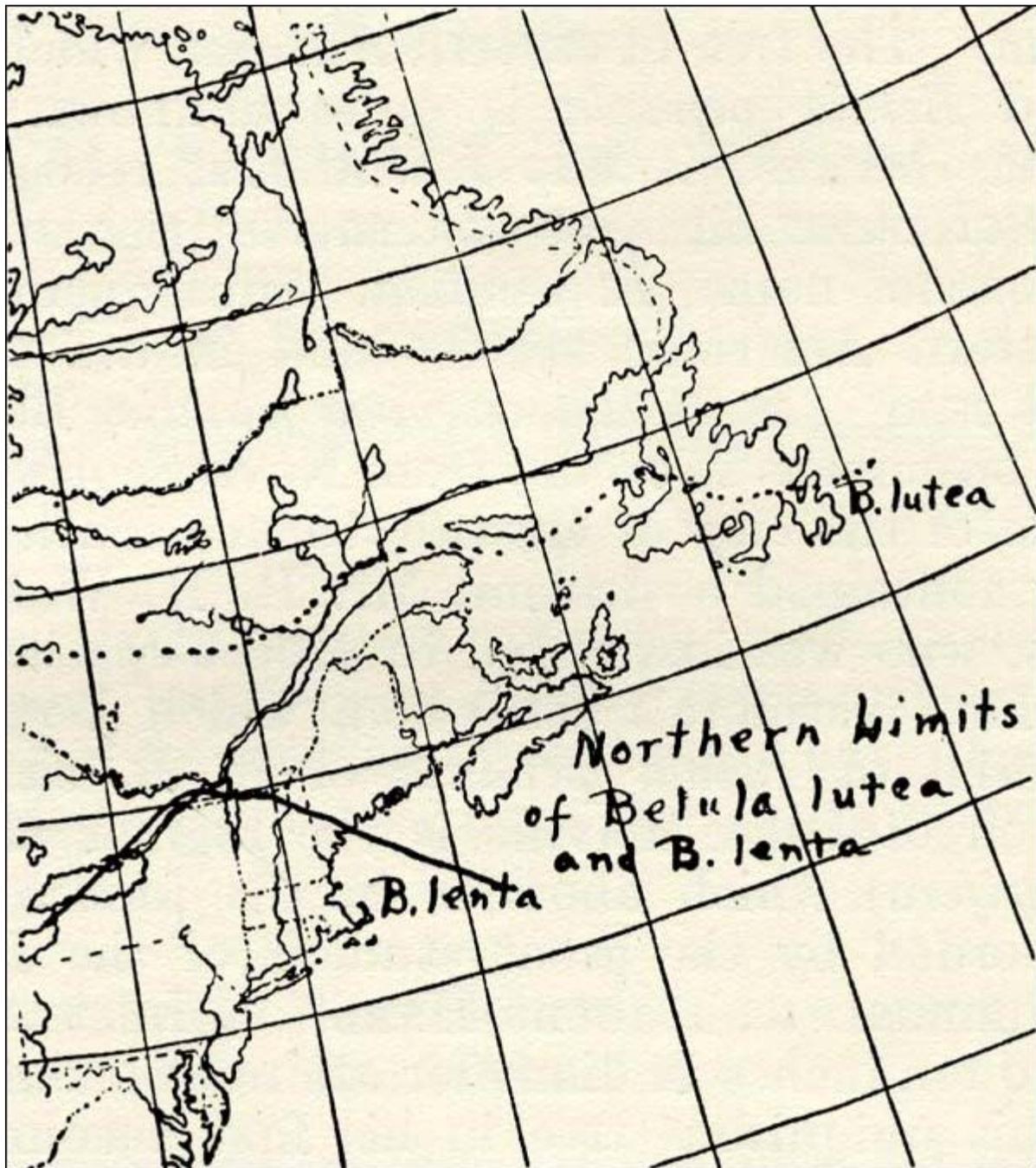
It is demonstrated, largely on evidence collected by Dr. Kindle's party, that several of the maritime plants known from the Hamilton Inlet region extend westward nearly to the head of Lake Melville. These plants elsewhere in Eastern America occur only on the ocean-margin or about the Gulf of St. Lawrence or the lower River St. Lawrence. Their occurrence at the head of Lake Melville is evidence that Lake Melville is an arm of the sea.

It is shown that in other regions, notably the lower St. Lawrence, the distribution of the strictly maritime plants, which we positively know from near the head of Lake Melville closely coincides with the distribution of the marine algae. It is, consequently, impossible to avoid the conclusion that Dr. Kindle's contention, that marine algae do not occur far up Lake Melville, is based on a preconception rather than upon a vigorous attempt to find the algae there.

Gray Herbarium, Harvard University,

July 6, 1926.

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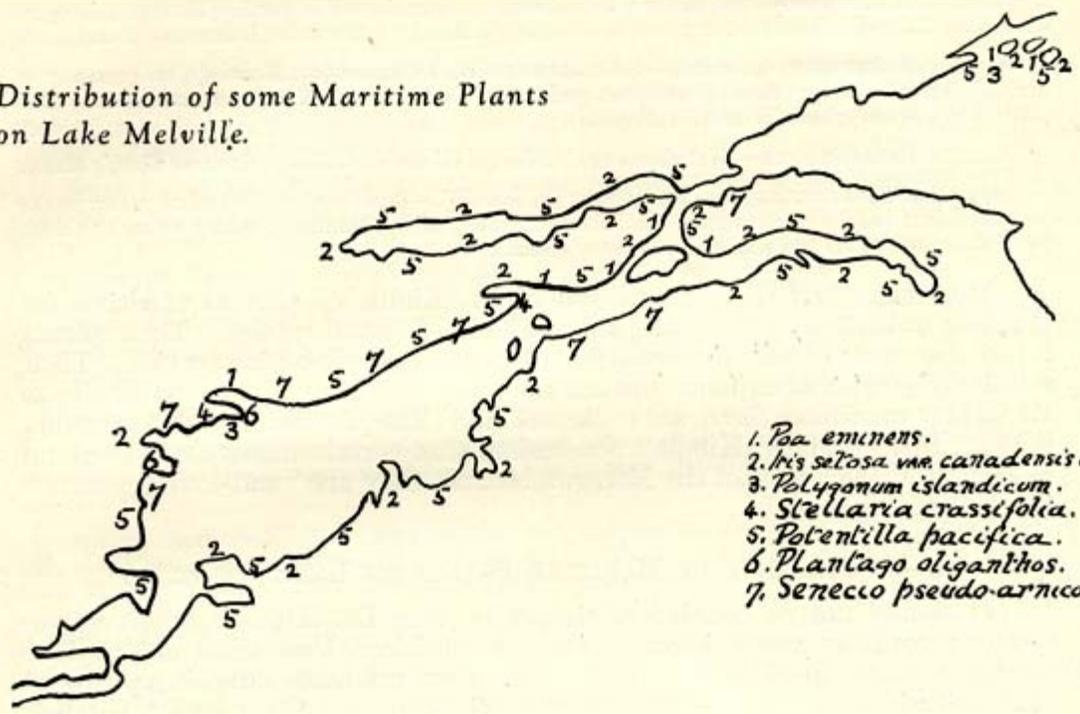
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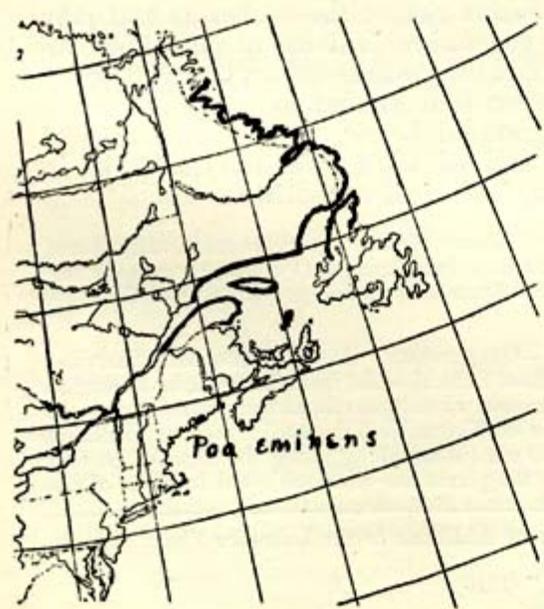
British Range of *Polygonum viviparum*
(after Moss)

A species cited by Dr. Kindle as unable
to grow away from salt water.

Distribution of some Maritime Plants
on Lake Melville.



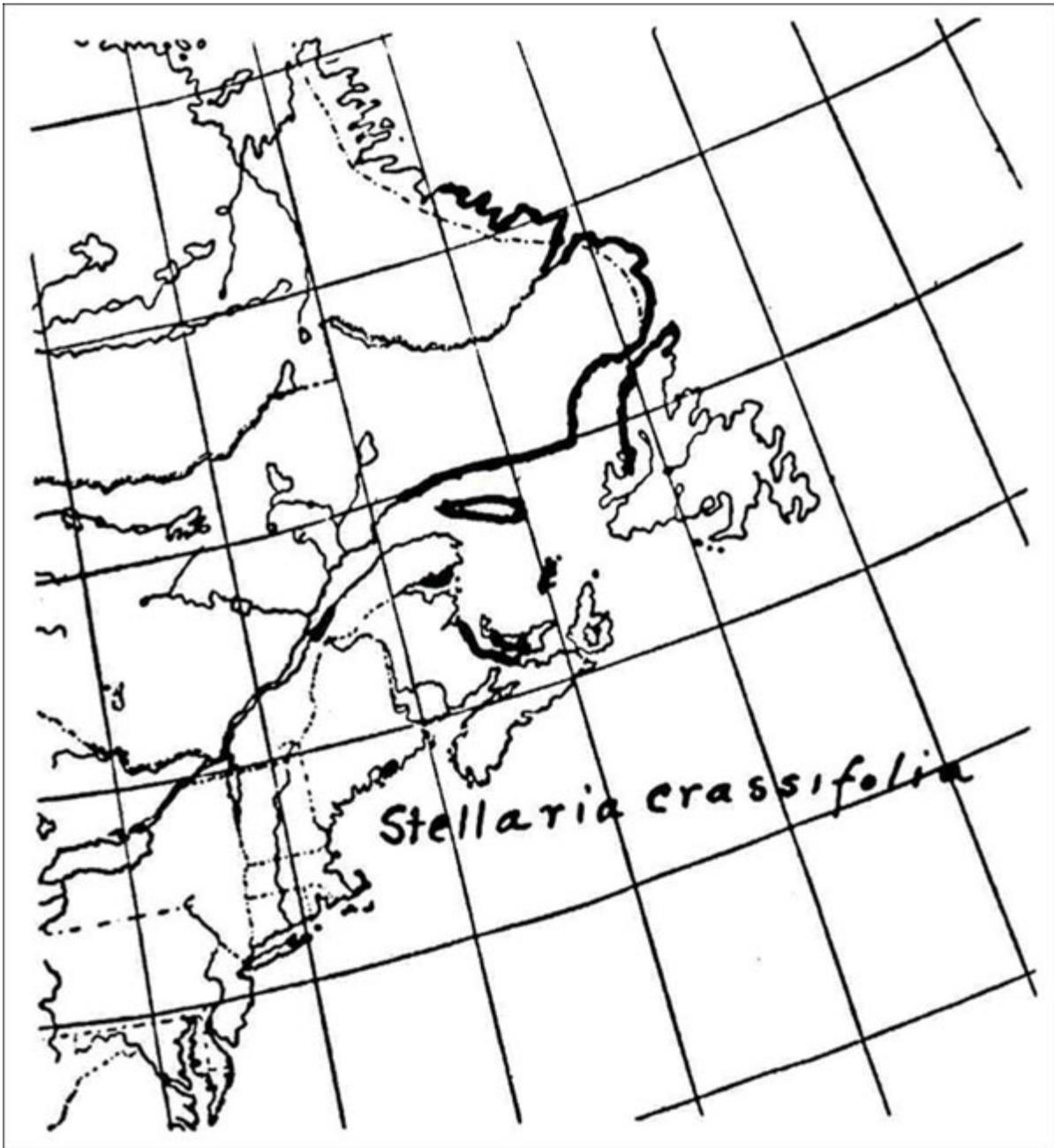
- 1. *Poa eminens*.
- 2. *Iris setosa* var. *canadensis*.
- 3. *Polygonum islandicum*.
- 4. *Stellaria crassifolia*.
- 5. *Potentilla pacifica*.
- 6. *Plantago oliganthos*.
- 7. *Senecio pseudo-arnica*.



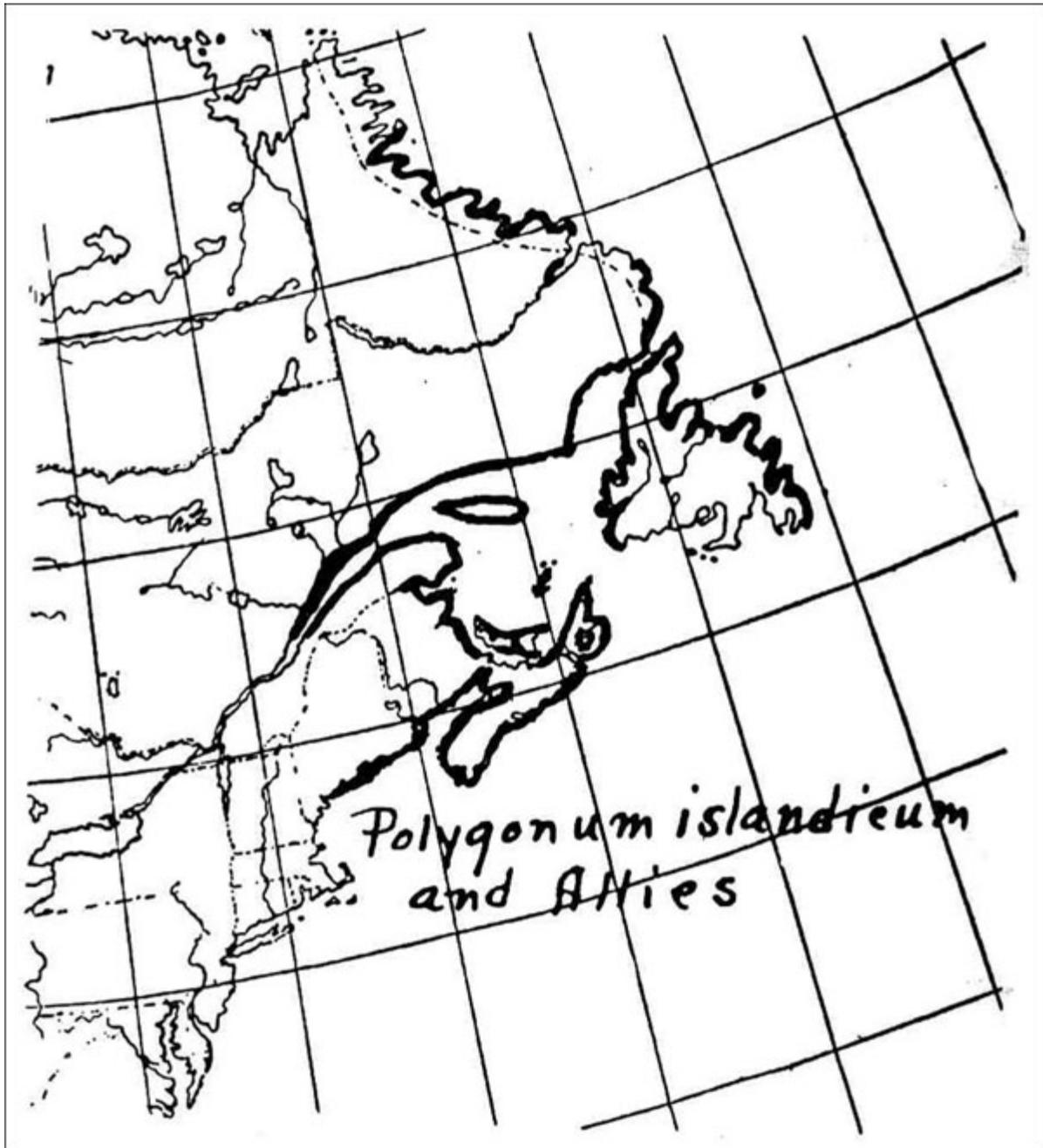
Poa eminens



Iris setosa,
var. *canadensis*



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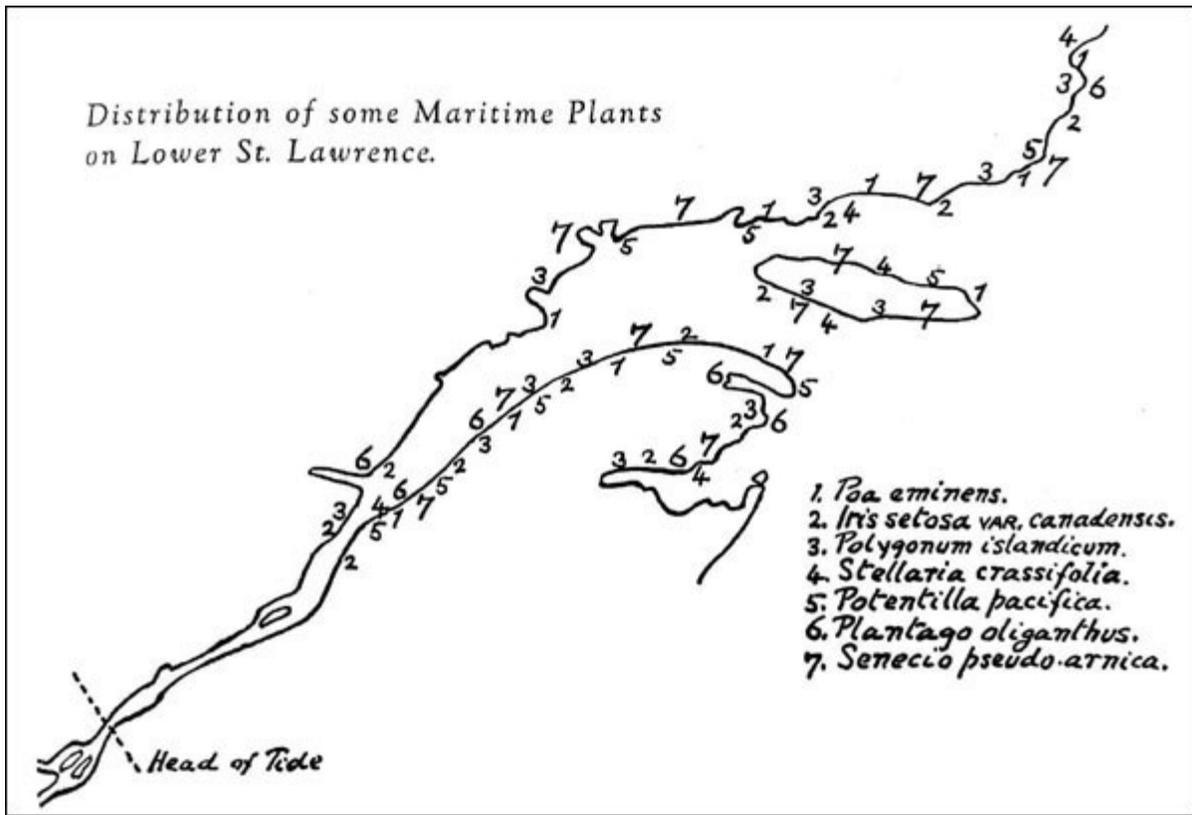
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No. 1469.

[1926.]

**REVIEW OF THE PAPERS BY E. M. KINDLE AND J.
W. GREGORY.**

BY CHARLES SCHUCHERT,

Professor Emeritus of Historical Geology in the Sheffield
Scientific School, and Professor Emeritus of Paleontology in
Yale University.

The writer (who has been Professor of Historical Geology since 1904 at Yale University and has visited and studied the geology widely in the United States, Canada, Newfoundland, Labrador and Greenland) carefully studied an original copy of Doctor Kindle's report, entitled "Geography and Geology of Lake Melville District, Labrador Peninsula," rather than the abbreviated copy, No. 11, of the documents in the matter of the Boundary Dispute between Canada and Newfoundland. This was done to get the whole of Doctor Kindle's account. Then the writer studied Professor J. W. Gregory's paper, "On the Labrador Boundary Question," and Professor R. A. Daly's "Topography of the Northeast Coast of Labrador." In addition he carefully read Doctor A. P. Low's very valuable "Report on Explorations in the Labrador Peninsula," 1896, published by the Geological Survey of Canada ; and Professor R. A. Daly's "The Geology of the North-east Coast of Labrador," 1902, published by Harvard College.

In studying Kindle's report of his observations in the Lake Melville area, the writer was soon made aware that his major object was to take a narrow view of the phrase "the coast of Labrador," and this attitude appears in the opening paragraph. Throughout his report the stress is laid upon the word "coast," and it is clear that his use of this word is in the narrowest maritime sense, namely, restricting it to the littoral area of salt-water overlap of the Atlantic Ocean upon the Peninsula of Labrador. Throughout we see his labouring with redefinitions of geographic and geologic terms and then applying them in his redefined sense to the specific areas visited.

Kindle says : "Lake Melville and Hamilton Inlet together afford continuous waterway which permits sea-going vessels to penetrate about 150 miles inland beyond the outer islands. The entire eastern coastline of Labrador is a succession of deep bays, inlets, and fringing islands." (10)

"The most striking topographic feature of the region is the great depth to which the fiord-like valleys extend below the level of the adjacent plateau margin." (11)

Daly remarks : "The Labrador Peninsula as a whole was

temporarily depressed during the Glacial period—simply by the great weight of the ice.

p. 3950

After the ice cap melted away the earth's crust did not immediately respond and rise to its pre-Glacial level. Hence for a considerable time the Atlantic water transgressed upon the coast," when " the ocean waves built hundreds of short beaches in the bays and among the islands of the coastal fringe. These beaches have recently been elevated because the earth's crust ultimately responded to the removal of the ice load." (Daly, Documents, Part XV, p. 2079.)

In this matter of the raised beaches Kindle says : " No fisherman can fail to recognise the autographs of the sea in the elevated boulder beaches and terraces of sand which may be seen in many places 200 feet or more above the present sea-level. These elevated sea beaches, which at scores of localities look almost as fresh and perfectly preserved as those now being built, demonstrate that the eastern coastline has risen 300 feet or more in Hamilton Inlet district." (8)

" Lake Melville, into which Grand Lake empties, is a tidal lake, and shows a maximum depth of 160 fathoms." (Kindle, 13.)

Kindle discusses the fiordal nature of Lake Melville but finally objects to calling it a fiord because " one of the largest rivers in Labrador Peninsula (namely, Hamilton river) flows into Lake Melville. . . . It appears, therefore, that Lake Melville can be more properly regarded as a lake-like expansion of the Hamilton than as a fiord."

This argument shows at once that Kindle wants to make of Lake Melville a fresh-water and landlocked lake, so that the seashore can be drawn at the inner end of the Narrows. This is made plainer from the following :—" Hamilton Inlet (*sensu stricto*) belongs to the class of seashore indentations called rias and that physiographers would consider at least its outer shores to be a part of the seacoast. . . . Since neither the lake nor the Narrows conforms, even approximately, with the definition of a fiord, the Narrows may be technically regarded as the mouth or outlet of greater Hamilton River enlarged by the waters of Grand Lake, Kenama and Kenemich rivers. From the standpoint of a physiographer the term seacoast would, therefore, not be applicable beyond or southeast of the junction of the Narrows and Hamilton Inlet." (14)

In regard to this decision of Kindle the writer would say that it is far more natural and correct to agree with geographers in general and specifically with Gregory, who " regards Lake Melville Basin, the Narrows, and the entrance to them as part of one arm of the sea." (17)

No geographer was more familiar with Labrador than Doctor A. P. Low, Geologist of the Geological Survey of Canada, and in his well-known and highly-valued report of 1896 he says :

" The Atlantic coast (of Labrador) is exceedingly irregular, being deeply cut by many long, narrow bays, or

fiords. . . . Hamilton Inlet is the largest and longest of these inlets, extending inland over one hundred and fifty miles from its mouth. The fiords, as a rule, have greater depths than the banks outside the island fringe.” (20 L.) The last-named collection is a characteristic feature of fiords.

p. 3951

Low always speaks of Lake Melville as a “ bay ” and a part of Hamilton Inlet.

“ Hamilton Inlet, Invuktoke, or Esquimaux Bay, is the largest and most important of the many long, narrow fiords or inlets that indent the Atlantic coast of Labrador and Newfoundland. Its greatest length, from Indian Harbour to the mouth of the Hamilton River at its head, is slightly over one hundred and fifty miles, while its average breadth is about fourteen miles.” (124 L.)

Hamilton Inlet. “ At Indian Harbour the tide rises seven feet at springs ; at the lower end of the Narrows the rise is four feet, while above the Narrows the rise is only about two feet and continues the same to the head of the Inlet, where the rise and fall of the tide is much modified by the direction and strength of the wind. Below the Narrows there is a strong current formed by the ebb and flow of the tide ; while through the Narrows the rising and falling water rushes with a velocity varying from four to seven miles per hour.” (127 L.)

From the previous quotations we learn that at the close of the Glacial period most of the Atlantic coast of Labrador was lower by about 300 feet than it is now. Accordingly marine water, tides, and waves entered more deeply into all the fiords and rivers and especially so into the Lake Melville and Hamilton River areas. This is confirmed not only by the many places with sand terraces, which Low says go up Hamilton River 70 miles to Gull Rapid Gorge, but especially by the basal clays having marine Pleistocene shells which are listed by Kindle and Packard. They also occur 10 miles above the mouth of Kenemich River and at Muskrat Falls of the Hamilton River. These fossil forms are still represented by individuals living off the coast of Labrador. Since the time of this greater flooding the east Labrador coast has risen about 300 feet and appears to be rising even now. As this evidence is admitted by all, it helps us the more easily to understand the significance of the present coastal conditions.

Kindle says that Lake Melville can be navigated by sea-going vessels, “ that it is a tidal lake,” and that “ the most striking topographic feature of the region is the great depth to which the fiord-like valleys extend below the level of the adjacent plateau margin.” These are all characteristic of fiords and marine inlets. So far as the writer knows, all geographers call the Lake Melville area a fiord and an inlet of the sea. On the other hand, freshwater lakes are never referred to as tidal lakes, since in them the pull of the moon is so slight as to raise very minor tides. In Lake Melville the tides, according to Low, are readily measured and are variable according to time and wind conditions, causing two daily tides rising anywhere up to

about two feet. Here, then, we have a “ lake ” into which there flows (twice daily) oceanic water, and that causes the “ lake level ” to rise and sink even into Goose Bay. And the latter is said, by Kindle, to have brackish water in midsummer (54). Accordingly we see why all geographers regard Lake Melville as but a part of Hamilton Inlet ; it is truly but an arm of the sea and an inlet that is open to sea-going vessels for about 150 miles.

p. 3952

In regard to what constitutes the seaboard or seacoast, attention is directed to the fact that there are in the United States eight chief “ seaports,” or “ ports of entry,” and these are situated on or near the oceanic fronts (as Boston, New York City, which is 10 miles inland, Galveston, and San Francisco, 5 miles inland), or are far from the ocean (as Seattle, 40 miles from the Straits of Juan de Fuca, Philadelphia, 96 miles inland, New Orleans, 106 miles from the Gulf of Mexico, and Baltimore, 180 miles, as ships go, to the Atlantic).

Kindle lays unduly great “ coastal ” value upon the allegation that practically all the marine animals of the Atlantic Ocean fail to get a foothold in Lake Melville.

What bearing has this on the geographic fact that Lake Melville is but an extension of Hamilton Inlet, which is truly an arm of the sea ? None whatever, for he is discussing the distribution of a marine fauna that has no relation to the physiographic and geographic continuity of the land, and geography in this case is of far more significance than is the distribution of marine life.

That geographic entities cannot be bounded wholly by the distribution of marine life becomes all the more evident when we consider the conditions of the Baltic Sea. Though this sea is almost without tides and is said to have the characteristics of a great lake, but with a salt content variable between 6 and 10.5 parts per thousand of water, yet no geographer regards it other than as a sea and an extension of the Atlantic Ocean. Any atlas will demonstrate this acceptance. Heilprin, in 1906, defined the Baltic Sea as “ a sea of Europe, enclosed by Sweden, Russia, Prussia, and Denmark and communicating with the North Sea.” Its area is 160,000 square miles and receives the drainage of at least 800,000 square miles, which is the main cause why the Baltic Sea has so greatly freshened water. In this sea with variable marine waters there lives a mixture of marine and fresh-water life that totals around 240 forms, while around Great Britain, where the waters are normal marine, there live about 1,040 species. In these facts we see to what extent normal marine life fails to enter the Baltic Sea because of its freshened waters, and finally none of it gets a foothold in the inner ends of the Gulf of Bothnia and the Gulf of Finland. Here the life is all of fresh-water kinds, because the waters are completely fresh, yet the Baltic Sea with its various gulfs is regarded by all as a geographic unit of the marine realm, and one separating political entities.

The leading authorities on Labrador—A. P. Low, J. W. Gregory, R. A. Daly, A. Heilprin—and nearly all geologists regard the Lake Melville area as a genuine fiord and the longest by far of all “ the glorious fiords ” of Labrador. Daly says there are thirty or more large fiords and that twelve of them extend inland from 30 to 50 miles. Kindle's objections to calling the Lake Melville area a fiord are not well taken.

The topography of the Lake Melville region, Kindle says, resulted from “ subaerial and river erosion modified by glaciation and directed in some degree by important structural features. Their main features were developed in pre-Glacial time when the Labrador coast stood considerably higher than

p. 3953

at present. These waterways cannot, therefore, be regarded as representing in any degree the work of the sea in cutting back or eroding the coast along lines of least resistance.” (70-71) Professor Gregory does not agree to this interpretation of Kindle and describes its evolution differently, but even so this difference of opinion as to the origin of fiords has no bearing whatever on the present sea-level and with the fact that the present tides of the Atlantic Ocean penetrate to the head of Lake Melville. If there were no Hamilton River back of the lake, there would be instead of a lake a typical marine body of water, so that even Kindle would not hesitate to call Melville Bay an arm of the sea.

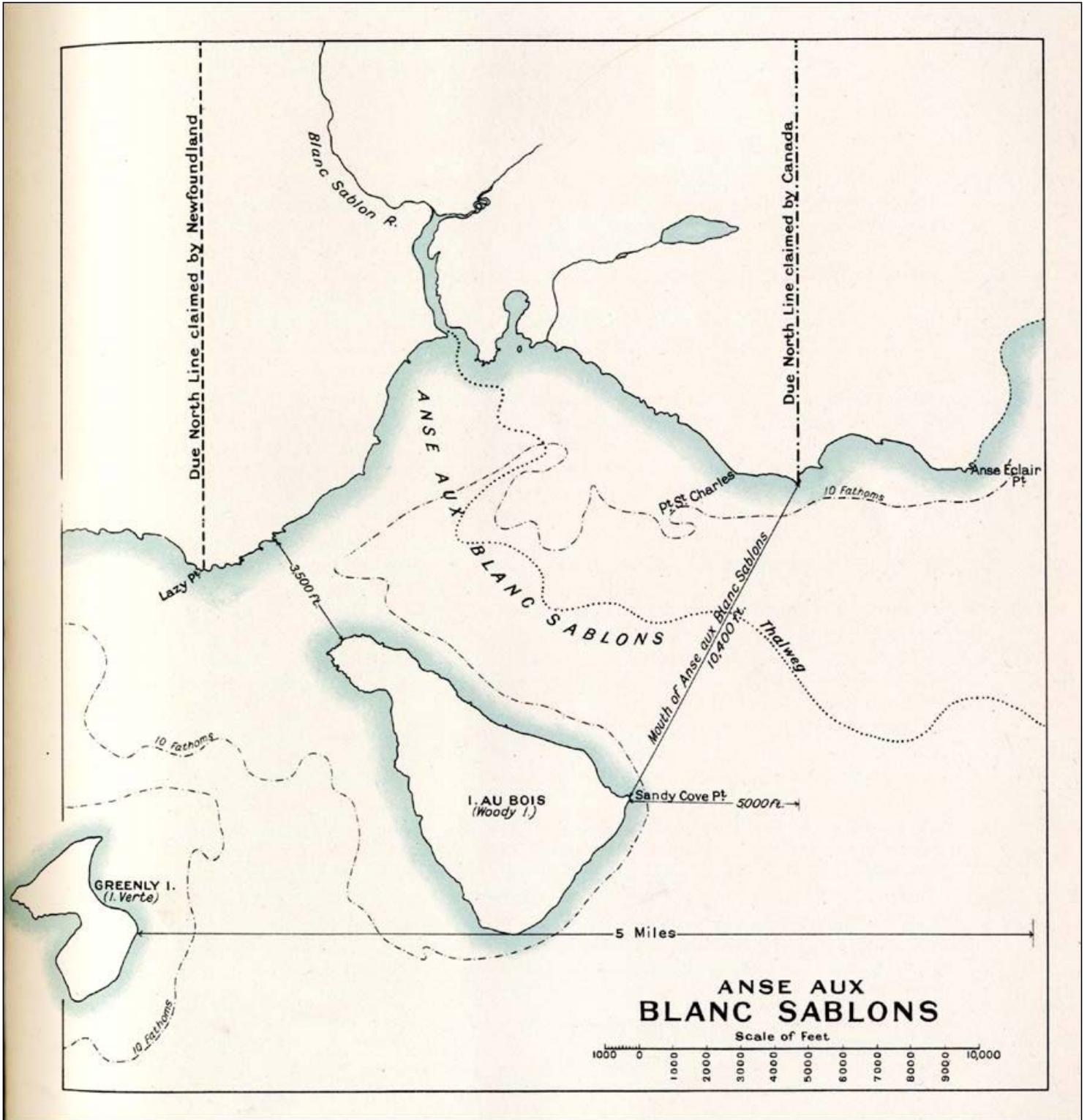
The writer first saw Labrador in the summer of 1897 and again in 1910, when he often heard the terms “ On the Labrador,” and “ Coast of Labrador,” understanding by them then and ever since an undetermined width of mountainous and back of the salt-water coastline. That this is the general conclusion of geographers as well finds excellent support in Lippincott's “ A Complete Pronouncing Gazetteer or Geographical Dictionary of the World,” 1906, edited by the well-known geographers Angelo Heilprin and Louis Heilprin. Here we read :—“ Labrador Coast, that portion of the peninsula of Labrador which drains east into the Atlantic Ocean. It is a dependency of Newfoundland.” Under “ Labrador ” we read the same : “ That portion belonging to Newfoundland is that which is drained by rivers flowing into the Atlantic Ocean. The coast is deeply indented with fiords, the largest on the Atlantic side being Hamilton Inlet.”

The writer sees no possibility of a natural boundary in the geology of Labrador, nor in the distribution of marine or land life. The only natural line is one to be surveyed along “ the crest of the watershed ” between the various rivers. Accordingly, the writer is in complete accord with Gregory and Daly that the Atlantic Coastal Belt of Labrador is a distinct and natural geographic entity, bounded on the west by the height of land or the watershed between it and the plateau of Labrador. This height of land or the line of drainage into the Atlantic Ocean, Hudson Bay, and Gulf of St. Lawrence is the only place where a natural boundary can be drawn between the claims of Newfoundland and Canada (Quebec). “ The

watershed is the natural geographical division, as it determines the direction of trade and commerce, since exports would go down the waterways to the coast.” (Gregory).

(Signed) CHARLES SCHUCHERT.

Sketch Map Illustrating Rival Contentions of Canada and Newfoundland



No. 1471.

[25 Feb., 1860.]

**SIR EDMUND B. HEAD TO DUKE OF NEWCASTLE, 25
FEB., 1860.¹**

Government House,
Quebec, 25th February, 1860.

My Lord Duke,—I have the honor to enclose a copy of a recommendation of the Executive Council of Canada, approved by myself, with reference to Wood Island on the coast of Labrador.

This island is situated about 57° 10' west longitude, just at the entrance of the Strait of Belle Isle.

Now, if I am not mistaken the Commission of the Governor of Newfoundland limits the jurisdiction of that Government as follows :—

* * * *

“ In and over our Island of Newfoundland and the islands adjacent, and all the Coast of Labrador, from the entrance of Hudson's Straits to a line to be drawn due north and south from Anse Sablon on the said coast to the fifty-second degree of north latitude, and all the islands adjacent to that part of the said Coast of Labrador, as also of all forts and garrisons erected and established, or which shall be erected or established, within the said Island of Newfoundland and the islands adjacent, or on the Coast of Labrador within the limits aforesaid, or in the said islands adjacent to that part of the said coast, for and during our will and pleasure.”

It will be observed—1st. That the due north line forming the western boundary in Labrador of the Government of Newfoundland, begins to run from Anse Sablon or Blanc Sablon Bay, as it is called in *Bayfield's Chart* of 1832-4 ; consequently, that line of itself can affect nothing south of its commencement.

2. That the islands given to Newfoundland are those adjacent to the Coast of Labrador, belonging to that Government. But the word adjacent is hardly applicable to an island which is nearer to another territory, viz., that of Canada.

If, for example, in dividing the bed of a river the islands were annexed, respectively, to the bank to which they were adjacent, no one would say that an island which was nearer to the right bank than it was to the left could be called adjacent to the latter.

I hold, therefore, that the whole of Wood Island, which clearly, according to *Bayfield's Chart*, is much nearer to Canadian ground than it is to the Territory of Newfoundland, must be taken to be already part of the Territory of Canada,

and I have to request Your Grace's consideration of the question.

I have, &c.,

EDMUND HEAD.

His Grace the Duke of Newcastle.

&c., &c., &c.,

¹ Return and Supplementary Return to House of Commons (Can.) 1868, p. 1.

No. 1472.

[23 Feb.,
1860.]

**ORDER-IN-COUNCIL (CANADA), 23 FEBRUARY,
1860.²**

COPY OF A REPORT OF A COMMITTEE OF THE HONORABLE THE
EXECUTIVE COUNCIL, APPROVED BY HIS EXCELLENCY THE
GOVERNOR-GENERAL ON THE 23RD FEBRUARY, 1860.

The Committee of Council have had before them a memorandum of the Hon. the Commissioner of Crown Lands transmitting a report of Jos. Bouchette, Esqr., Deputy Surveyor General, dated 18th January, 1860, on a communication from P. Fortin, Esquire, commanding the Government vessel “ La Canadienne ” respecting “ Wood Island,” better known as “ Isle au Bois Blanc,” and on the expediency of the demarcation, on the ground of the line of boundary between the Provinces of Canada and Newfoundland, the latter Province claiming the said Island, which would, however, appear more properly to be an appendage to Canada.

In a subsequent memorandum dated 16th February, 1860, the Commissioner states that the said Island would, in the opinion of Mr. Fortin, be valuable to Canada as a Fishing Station, there being extensive cod and herring fishery establishments (by Canadians only) thereon already. That it is well sheltered and under the lee affords good anchorage. That it would be suitable for the landing place of a submarine telegraph cable, and with a Light House on the S.E. point could be securely approached by Ocean steamers to deliver despatches at all times ; whilst it possesses advantages for the establishment of a coaling station for Canadian line in the Straits ; and that the acquisition by Canada of that part which lies towards the Newfoundland border is considered by him of importance to this Province.

That Messrs. Edmonstone, Allan & Co. are of opinion that the Island affords convenient shelter and safe anchorage, but that until that part of the Gulf is properly lighted, few vessels will adopt the route thro' the Straits, whilst the Harbour could always be resorted to as a refuge whether belonging to Canada or Newfoundland. That as regards its advantage as a coaling depot

“ no steamers will,” they state, stop for coal at a way station. That the position of the Island as regards the Canadian coast and boundary, and the nominal value to Newfoundland of that portion lying East of the probable line of demarcation make the acquirement of the whole by Canada desirable provided it can be done for a very trifling consideration.

The Committee recommend that Your Excellency invite the attention of the Colonial Secretary to this subject with the view of determining to which Province the Island in question belongs or shall belong.

[13 April,
1860.]

Certified,
WM. H. LEE.
C.E.C.

Endorsed : Enclosure in Sir E. Head's despatch. No. 16. Feb'y. 25/60.

No. 1473

C

**DUKE OF NEWCASTLE TO SIR EDMUND B. HEAD,
13 APRIL, 1860.³**

(Copy,—Canada,—No. 35.) Downing Street, 13th April, 1860.

Sir,—I have to acknowledge your Despatch, No. 16, dated the 24th February last, enclosing a copy of a Report from a Committee of the Executive Council of Canada, approved by yourself, recommending to my consideration the question whether the Island called Wood Island or “ Ile au Bois ” on the coast of Labrador, should be held to belong to Canada or to Newfoundland.

2. You refer me to “ *Bayfield's Chart* of 1832–34,” and consider that the Island as laid down in this chart cannot be esteemed “ adjacent ” to that part of the Labrador coast, which is placed by Royal Instructions under the Government of Newfoundland, and that it is consequently within the Territory of Canada. On referring to this chart, I cannot say that I think it so conclusive on the question of proximity as it appears to yourself. Before, however, Her Majesty's Government consider this question further, they would be glad to have before them a Report of the Law Officers of your Government, as to the legal authority on which the claim of Canada rests to the Territory to which you consider the island an appendage. I refer you, among other matter for the consideration of those officers, to the Acts of Parliament named in the margin.

I have, &c.

NEWCASTLE.

14 Geo. 3,
cap. 83.
49 Geo. 3,
cap. 27,
9 & 4
Vic.,
cap. 35,
sec. 60.

³Return and Supplementary Return to House of Commons (Can. 1868), pp. 2-3.

No. 1474.

[7 May, 1860.]

No. 35, April
13th, 1860.

**GOVERNOR'S SECRETARY TO THE ATTORNEYS-
GENERAL FOR CANADA, 7 MAY, 1860.⁴**

Governor's Secretary's Office,
Quebec, 7th May, 1860.

Gentlemen,—I am directed by His Excellency the Governor General to transmit to you the accompanying copy of a Despatch from the Secretary of State for the Colonies, respecting Wood Island on the coast of Labrador, and to request that you will report to His Excellency on the legal bearings of the case.

I have, &c.,
R. J. PENNEFATHER,
Governor's Secretary.

[28 Sept.,
1860.]

The Law Officers of the Crown,
&c., &c., &c.,

⁴ *Ibid*, p. 2.

No. 1475.

**GOVERNOR'S SECRETARY TO THE ATTORNEYS
GENERAL FOR CANADA, 28 SEPT., 1860.⁵**

Governor's Secretary's Office,
Quebec, 28th September,
1860.

Gentlemen,—I am directed by His Excellency the Governor General to draw your attention to my letter of the 7th May last, transmitting copy of a Despatch from the Secretary of State for the Colonies, on the subject of Wood Island, and to request that you will report to His Excellency on the legal bearings of the question with as little delay as possible.

I have, &c.,
R. J. PENNEFATHER,
The Law Officers of the Crown,
&c., &c., &c.,

⁵ *Ibid*, p. 3.

No. 1476.

**ATTORNEYS GENERAL FOR CANADA TO
COMMISSIONER OF CROWN LANDS :
REFERRING DUKE OF NEWCASTLE'S
DESPATCH FOR REPORT.⁶**

No. 12257—1860.

Governor's Secretary transmits to Law Officers of the Crown copy of Despatch from the Secretary of State for the Colonies respecting "Isle au Bois," on the Coast of Labrador.

Referred to the Hon. the Commissioner of Crown Lands for report as to the exact geographical position of the Island.

GEO. ET. CARTIER,
Atty. Genl.

⁶ Return and Supplementary Return to House of Commons (Can. 1868), p. 5 ; File No. 1778 (187 4) Dept. of Justice, Can. ; File No. 1655 (1860) S. of State, Can.

No. 1477.

[11 Oct.,
1860.]

**ASSISTANT COMMISSIONER OF CROWN LANDS TO
ATTORNEY GENERAL FOR LOWER CANADA,
11 OCTOBER, 1860.⁷**

(Copy.) Crown Lands Department,
Quebec, 11th October, 1860.

Sir,—In compliance with your reference to the Honorable the Commissioner of Crown Lands, endorsed on a letter from the Secretary of His Excellency the Governor General, transmitting a Despatch from His Grace the Duke of Newcastle, respecting Isle au Bois on the Coast of Labrador, I have the honor of transmitting, together with the reference, a Report of the Commissioner, in regard to the exact geographical position of that island.

I have the honor to be, Sir,
Your most obedient humble
servant,

ANDREW RUSSELL,
Assist.

Commissioner.
The Honorable
The Attorney General, &c., &c., &c.
Quebec.

(True Copy.)
DEPARTMENT OF CROWN LANDS,
Quebec, April, 1864.
Assist. Commissioner.

⁶ Return and Supplementary Return to House of Commons (Can. 1868), pp. 4-5; File No. 1655 (1860) S. of State, Can.

[10 Oct.,
1860.]

No. 1478.

[*Enclosure in No. 1477.*]

**REPORT OF COMMISSIONER OF CROWN LANDS AS
TO EXACT GEOGRAPHICAL POSITION OF
WOODY ISLAND, 10 OCT., 1860.⁸**

Department of Crown Lands,
Quebec, 10th October, 1860.

The only exhibit of the coast of Labrador, upon which any certain knowledge of the exact geographical position of the Island known as “ Isle au Bois,” can be safely and satisfactorily relied, is the hydrographical chart, better known as *Captain Bayfield's Chart* of the Gulf of St. Lawrence and Strait of Belle Isle, published in sheets by the Admiralty of England in 1843.

According to this chart (sheet No. 1) “ Isle au Bois,” called on the chart “ Wood Island ” (which is in fact a translation from the French word “ bois ” into the English one “ wood ”), is situated on the northerly coast of the western outlet of the Strait of Belle Isle from the Gulf of St. Lawrence, and adjacent to that part of the coast of Labrador, well known as the Basin or Harbour of “ Anse au Blanc Sablon.”

The island in its general configuration, is much in the shape of a rightangled triangle, its northern or longest side bearing nearly due north-west and south-east. The apex of the triangle being at the north-west extremity of the island, leaving a channel of about half of a marine mile between it and the main land, whilst at its south-eastern extremity or easternmost point, bearing nearly south-south-west from the easternmost point of the Bay of “ Anse au Sablon,” a broad channel of about two miles opens upon the Strait of Belle Isle.

The geographical position of the above external boundaries of Wood Island, more especially as regards its eastern extremity as relative to the geographical position of the eastern boundary of the Province, to be hereinafter referred to, may be set down, according to Captain Bayfield's said chart, as follows :—

Easternmost point	Latitude	51° 23' 20”	Longitude	57° 9' 33”
Southernmost point	”	51° 22' 50”	”	57° 10' 20”
North-west extremity	”	51° 24' 10”	”	57° 11' 40”

Now, agreeably to the Imperial Act, 6 Geo. IV., chap. 59, clause whereby certain parts of the coast of Labrador and adjacent islands are reannexed to Lower Canada, and wherein it is enacted

“ that so much of the said coast as lies to the westward of a line to be drawn due north and south from the Bay or Harbour of ' Anse au Sablon,' *inclusive*, as far as the 52nd degree of north latitude, with the Island of Anticosti and all other islands adjacent to such part, as last aforesaid, of the coast of Labrador, shall and the same are hereby reannexed to make a part of the said Province Lower Canada,” &c., the eastern limit or boundary of the Province, so as to include the Bay of “ Anse au Sablon,” would properly lie at the southernmost point of that part of the Coast of Labrador, situated between the said Bay or Harbour of “ Anse au Sablon,” and the small bay called “ St. Clair ” lying east of said “ Anse au Sablon,” as shewn on the chart, wherefrom a line being drawn due north to the 52nd parallel of latitude, all the territory to the west of said line pertains to Canada, whilst all or any islands lying west of a line drawn due south from the aforesaid southernmost point or eastern limit of the Bay of Anse au Sablon,” being adjacent to such part of the territory of the Province on the coast of Labrador, also, of right belong to Canada, and form part of the District of Saguenay in Lower Canada.

Referring again to *Bayfield's Chart*, the easternmost point of the Bay or Harbour of Anse au Sablon, identical with the southernmost point of that part of the coast of Labrador lying between “ Anse au Sablon ” and the Bay adjoining on the east, appears so clearly defined as to admit of its geographical position being set down from the chart as lying in latitude 51° 25' 5” north and in longitude west from Greenwich 57° 8' 15”. Whence a line drawn due south towards the sea will pass 1' 20” of arc (equal to about 1,700 yards) to the eastward of the easternmost point of

“ Isle au Bois,” which places that island geographically within the jurisdiction of this Province, as shewn on the annexed plan.

All which is respectfully submitted.

P. M. VANKOUGHNET,
Commissioner Crown Lands.

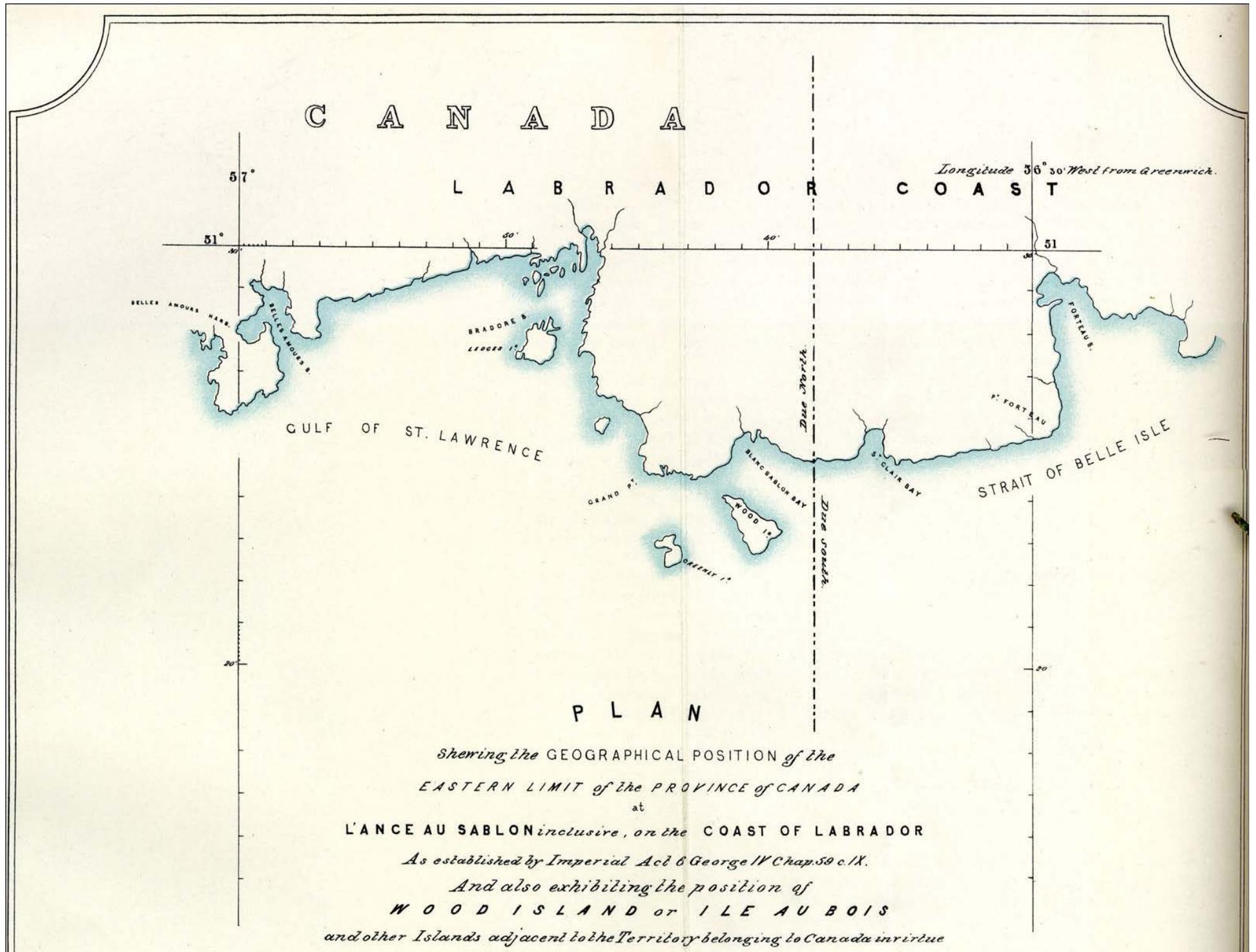
I have to explain and ask to be excused that the Statute of 6th Geo. 4th was not referred to by me in my former Report on which His Excellency based his Dispatch to His Grace the Colonial Secretary. I had overlooked it, feeling that the case in favour of Canada was, on the partial examination which I had then made, sufficiently strong.

P. M. V.
Comr.

[following p. 3962]



Larger Version (139 kb)



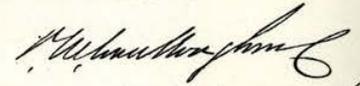
of the Imperial Act above cited.

NOTE.

This exhibit of Isle au Bois and adjacent Coast of Labrador enlarged from Bayfield's Chart of the Gulf of St. Lawrence Sheet No. 1.

Three minutes must be deducted from the Longitudes in this Chart to agree with Admiral Bayfield's latest edition in 1857

CROWN LANDS DEPARTMENT.
Quebec October 1860.



Commissioner.

No. 1479.

*(Map annexed to No. 1478.)*⁹

[5 Nov.,
1860.]

⁹ File No. 1655 (1860), Secretary of State, Canada.

Map of the Province of Canada, October, 1860.

No. 1480.

C

**CLERK OF CROWN LAW DEPARTMENT TO THE
GOVERNOR'S SECRETARY.¹⁰**

Crown Law Department,
Quebec, November 5, 1860.

SIR,

By direction of the Law Officers of the Crown, I have the honor to enclose to you herewith, for the information of His Excellency the Administrator of the Government, their opinion respecting Wood Island, on the coast of Labrador, as requested by your letter of the 7th of May last, transmitting to them copy of a Despatch from the Secretary of the Colonies, relative to that Island, of the 13th of April last.

I have the honor to be, Sir,
Your most Obedt. Servt.,

GEO. FUTVOYE,
Clk. of Cn. Law Dept.

R. T. PENNEFATHER, Esquire,
Governor's Secretary.

¹⁰ File No. 1655 (1860), Secretary of State, Canada.

No. 1481.

[2 Nov.,
1860.]

[*Enclosure in No. 1480.*]

**OPINION OF ATTORNEYS GENERAL FOR THE
PROVINCE OF CANADA *re* WOODY ISLAND.¹¹**

On reference from the Secretary of his
Excellency the Governor General, of a
Despatch of the 13th of April 1860,
relative to Wood Island, on the Coast of
Labrador. } Crown Law
Department,
Quebec, 2nd
November, 1860.

On the above reference and in consideration of the
Imperial Statute (6 Geo. IV, cap. 59, sec. 9), and the report of
the Commissioner of Crown Lands, it seems to us clear that
Wood Island is within the limits of Canada.

[26 April,
1858.]

GEO. ET. CARTIER,
Atty. Genl. L.C.
JOHN A.

MACDONALD,

A. G., U.C.

¹¹ File No. 1655 (1860), Secretary of State, Canada.

No. 1482.

C

**E. T. FLETCHER TO COMMISSIONER OF CROWN
LANDS, 26 APRIL, 1858.¹²**

Capt. P. Fortin enquiring whether Isle à Bois belongs to
Canada.

Referred 12th April, 1858.

Department of Crown Lands,
Toronto, 26th April, 1858.

Having carefully examined the Hydrographical Chart No.
1 by Admiral Bayfield, of the Gulf of St. Lawrence, it would
appear that, the island designated as Wood Island, situate in
Blanc Sablon, on the Labrador Coast,

¹² File No. 1778 (1874), Dept. of Justice, Canada.

as shown on the annexed trace, lies, according to the Eastern
limit or boundary line of the Province, established in virtue of

the Imperial Act 6 Geo. IV, ch. 59, in greater part within this Province, there being only about one-third of the said Island, at its Eastern extremity, lying on the East side of the said line, prolonged into deep water, and therefore, out of this Province until such time as the province line shall have been drawn bounded in the field by competent authority.

Respectfully submitted,

E. T. FLETCHER, S. &

D.

In the absence of the Dy. Survr.

Genl.

To the Honble.

The Commissioner of Crown Lands,
&c., &c., &c.

Memo.
[18 Jan.,
1860.]

C.L. Dept., 19th
Jany., 1860. Re-
ferred to the Com-
mittee of the Hon.
the Executive
Council.—Sd/
P.M.
Vankoughnet, C.C.
Lands.

No. 1483.

C

**DEPUTY SURVEYOR-GENERAL BOUCHETTE TO
COMMISSIONER OF CROWN LANDS, 18 JAN., 1860¹³**

P. Fortin, Esquire, commanding the
Government Vessel “La Cana-
dienne.” Respecting the Eastern
limit of the Province, on the
Labrador Coast.

C.[rown]

L.[ands]

Department,

Quebec, 18th Jany. 1860.

The question submitted in Capt. Fortin's Communication under date 31st July last, relative to Wood Island (better known as Isle au Bois blanc), in a mean latitude 50° 23' 40" & Longitude 57° 10' 30", Bayfield's Chart), at the Eastern limit of the Province, which has already formed the subject of a report from this Department, dated 26th April 1858, is becoming, under the increased developments of the resources of the Gulf Shores & its fisheries, of the first importance, and would appear to demand of the Government this Province some early action with the cooperation of the Government of Newfoundland, for the demarcation on the ground of the line of boundary

¹³ File No. 1778 (1874), Dept. of Justice, Canada,
p. 3966

between these Provinces, in accordance with the Imperial Acts defining the limits of the territories respectively belonging to either province, on the Labrador Coast, Gulf of St. Lawrence. With reference more immediately to the Isle au Bois Blanc, this Island, which, were a line drawn due south from the middle of the Bay or Anse au Blanc Sablon, would be divided between Canada & Newfoundland, in the proportion of about

two thirds to the former, and one third to the latter, appears, from its geographical position, at the outlet of the Gulf of St. Lawrence, by the Straight of Belle-Isle, into the Atlantic Ocean ; also in a maritime point of view, as a shipping or naval depot on the direct route of Our Canadian line of Steamers, and for inward or outward bound vessels, to be of permanent importance to this province ; while it is comparatively of lesser consideration to Newfoundland, and in the case of its two fold occupancy, that circumstance could not otherwise than be attended with much inconvenience in regard to the different custom duties to be levied for either province, as even now appears to be a subject of difficulty, for those cogent reasons, besides other minor considerations, this Island should obviously belong in whole to this Province.

The Imperial Act 6th Geo. IV, ch. 59, which fixes the Eastern limit of Canada along the Labrador Coast, by a line to be drawn

“ due North to the 52° parallel of North Latitude,” makes no mention of any Islands in front of the coast, consequently, contains no provision as to the mode in which any Island or Islands that may be situate in front of the conterminous point of boundary of both Provinces, may be assigned.

The question would, therefore, appear to be open to Imperial adjudication, on the respective merits of the claim which either Province may lay to the jurisdiction of the Isle au Bois Blanc, and the Islands in the Bay of Anse au Blanc Sablon.

Respectfully submitted,

JOSEPH BOUCHETTE, D.S.G.

To the Honorable the

Commissioner of Crown Lands,

&c., &c., &c.

The undersigned desires to bring under the notice of His Excellency in Council the subject treated of in the within report, in order that such action, as may be necessary on the part of the Imperial Authorities, can be invoked before the British Parliament closes its next Session.

P.M. VANKOUGHNET,
Commiss'r.

No. 1484.

[18 May,
1861.]

**ASST. COMMISSIONER OF CROWN LANDS TO
P. FORTIN.¹⁴**

Department of Crown Lands,
Quebec, 13th May, 1861.

P. Fortin, Esq., Quebec.

Sir,—In reply to your letter of the 2d. Inst., enquiring whether the Eastern limit of the Province, at the Strait of Belle-Isle, has been settled, and also whether Isle a Bois belongs wholly to Canada, I have the honor to inform you that the subject appears to be still under consideration of the Imperial Government, respecting which however no decision has yet been communicated to the Executive Government of this Province, although such decision may now be expected at an early moment, whereof you will be duly apprized.

[12 Mar.,
1864.]

I have, &c.
A. RUSSELL,
Asst. Commissr.

¹⁴ File No. 1778 (1874), Dept. of Justice, Canada.

No. 1485.

**P. FORTIN TO COMMISSIONER OF CROWN LANDS,
12 MARCH, 1864.¹⁵**

Laprairie, 12th March, 1864.

Sir,—In my report of progress of the date of the 31st August last, and in my general report of last year, I had the honor to bring to your knowledge the acts of authority practised by a Customs Officer of the Government of Newfoundland on Canadian Territory, at a place called Anse aux Blancs Sablons, in the Strait of Belle Isle.

These acts of authority consisted in the exaction of customs duties on goods that Messrs. Fruing & Co., and Messrs. Le Boutillier & Brothers had

¹⁵ Return and Supplementary Return to House of Commons (Can. 1868), pp. 6-7.

in their stores, which are situated in a part of l'Anse aux Blancs Sablons, which has always been recognized as belonging to

Canada, and which is made to appear as being within the limits of Canada on a diagram officially furnished to me, in 1858, by the Department of Crown Lands, through the Provincial Secretary's Office, at my demand, with a view to know exactly where the eastern frontier of Canada lay in the Strait of Belle Isle, and how, much our Province owned of l'Anse aux Blancs Sablons, and of the Island called l'Ile à Bois, which is opposite to it, and contains valuable cod fishing establishments, and being rich fishing grounds, and which on that account it would be most important never to surrender to the Government of Newfoundland, as this island might be of great consequence in the future.

It seems to me that Canada has a right to the whole of the Bay of Blancs Sablons, by virtue of the Imperial Act, 6 Geo. IV., cap. 59, while the Officers of Newfoundland (for along with the Custom Officer above referred to, there was a Judge sent by the Government to exercise his authority on the coast), pretend it is entirely within the limits of the territory owned by Newfoundland on the coast of Labrador.

Before last year, no Officer of Newfoundland had ever attempted to claim any authority beyond a line drawn from the Anse aux Blancs Sablons Brook, at the bottom of the said Anse, and extending due south to the sea, and as I did not myself pretend to go beyond that said line, no conflict of jurisdiction was apprehended between the Officers of Newfoundland and Canada, and, indeed, there has never been any difficulty between any officer of the last named Province and me, but now with the pretensions of the neighboring Government over the whole of *Anse aux Blancs Sablons*, *what will take place ?* Will there not be a conflict of authority between the officers of the two interested countries, which will certainly turn to no good results ?

Under the existing circumstances, and pending the decision of the Imperial Government as to the eastern frontier of Canada in the Strait of Belle Isle, I have the honor to ask you, Sir, to instruct me as to what I shall do next season in l'Anse aux Blancs Sablons. Will I continue to exercise my jurisdiction over that part of the Bay which has always been recognized as belonging to Canada, or will I yield to the quite recent and extraordinary pretensions of the officials of the Government of Newfoundland.

Hoping that I may receive an answer before the opening of navigation.

I remain, Sir,
Your most obedient servant,

P. FORTIN.

Honorable Wm. McDougall,
Commissioner of Crown Lands, Quebec.

No. 1486.

[19 Mar.,
1864.]
[sic.]

**REPORT OF COMMISSIONER OF CROWN LANDS TO
PRIVY COUNCIL, CANADA, 19 MARCH, 1864.¹⁶**

Department of Crown Lands,
Quebec, 19th March, 1864.

The Commissioner of Crown Lands has the honor to report the recurrence of acts of jurisdiction on the part of officers of the Government of Newfoundland, on that part of the coast of Labrador which is within the eastern frontier of Canada, at Blanc Sablon Bay.

The Imperial Statute, 6 Geo. IV, cap. 59, re-annexed to Canada certain portions of the coast of Labrador, and all adjacent islands, formerly within the Province of Newfoundland. That Act established the boundary line as drawn due north and south from the Bay of Blanc Sablon (inclusive) as far as the 52nd degree of north latitude, including all islands adjacent. In consequence of seizures made at Wood Island by the Customs Officers of Newfoundland, in 1860, a report of facts was made by this Department to the Law Officers of the Crown, describing the geographical position of the island and also the exact line of boundary, as laid down from the terms of the Imperial Statute. The joint opinion of the then Attorneys General is, that Wood Island is within the limits of Canada. Acting upon that opinion, the Department has instructed its officers to regard as Canadian territory and exercise authority over the islands and mainland situated west of the line so drawn. At the bottom of Blanc Sablon Bay, close to the frontier, but clearly inside (or westward) of such a line, there are important fishing establishments owned by Canadians. Last year, an officer of Newfoundland levied Customs dues at one of these establishments ; and the parties aggrieved apply for redress through this Department.

The undersigned respectfully submits this matter for the consideration of the Governor General in Council.

WM. McDOUGALL.
Commissioner.

⁶ Return and Supplementary Return to House of Commons (Can. 1868), pp. 6-7.

No. 1487.

[22 Oct.,
1923.]

**THE UNDER SECRETARY OF STATE FOR THE
COLONIES TO MR. STUART MOORE.¹⁷**

To Sir E.
Head,
13 April,
1860.

48329/1923

Downing Street,
22 October, 1923.

Sir,—I am directed by the Duke of Devonshire to acknowledge the receipt of your letter of the 2nd October, and to state that though the Colonial Office records after the end of the year 1860 are not ordinarily open to public inspection, the Secretary of State has no objection in the circumstances to your inspecting and making copies of any correspondence in the Public Record Office between the Colonial Office and the Canadian Government on the subject mentioned both during and after that year, subject to the understanding that this permission does not extend to any Newfoundland records later than 1860.

2. It may be of assistance however to you to know that though it is the case that the Governor of Canada was asked in a despatch dated 13th April, 1860 (of which a copy is enclosed) for a report by the Canadian Law Officers in connection with the claim to Wood Island, the records of this Department seem to show that no reply was received from the Canadian Government at least up to the end of 1864.

I am, Sir,
Your obedient servant,
(Signed)

¹⁷ Copy furnished by Mr. Stuart Moore, 6 King's Bench Walk, Temple, London, England,

No. 1488.

**DEED OF SALE BY MATHEW LYMBURNER AND
JOHN WM. WOOLSEY, CURATOR OF THE
SUCCESSION OF JOHN CRAWFORD,
DECEASED, TO WILLIAM GRANT, 19
SEPTEMBER, 1804.**

Mathew Lymburner and John William Woolsey
in the name of and as legally appointed curator of the
vacant succession of said late Sieur John Crawford have
hereby sold, to William Grant the fair undivided moiety
belonging to said Sieurs Lymburner and Crawford in all the
fishing establishments which are on the coast of Labrador and
particularly Blanc Sablon, L'ance-aux-Dunes, l'ance Ste.
Claire, Blackfoot (Pied Noir).

No. 1489.

**DEED OF SALE FROM JAMES SHEPHERD. SHERIFF
OF QUEBEC TO JOHN RICHARDSON *et al*,
30 APRIL, 1808.**

Whereas the said [James Shepherd] Sheriff did seize
into his hands all such rights, title whatsoever as the
said William Grant and the said Charles Williams Grant
had or ought to have in and to all the fishing posts along
the said coast [of Labrador] at and from the river and Posts of
Itamamioux inclusive down to the Post and Bay of Lance St.
Clair and dependencies, inclusive, in the Straits of Belleisle,
particularly Lance aux Dunes, Banc Sablons and Lance St.
Clair, with all their several dependencies, all which sedentary
seal and salmon fishing posts are now held and have been held
for a long series of years by past uninterruptedly by constant
and exclusive right of possession and occupancy by the said
William Grant and Charles William Grant and their
predecessors in the fisheries as well as of the particular posts
as of a space of sundry leagues around each post requisite for
their due exploitation, agreeable to the ancient regulations and
usages of the province. . . . In order to convey the said
premises and to confirm the purchase thereof to the said John
Richardson, Patrick Largan, William Burns, John William
Woolsey and Matthew Lymburner the said Sheriff does
hereby grant bargain and sell to the said John Richardson
. . . . all such rights, estate title whatsoever as the said

William Grant and the said Charles William Grant have in and to the fishing posts . . . aforesaid.

[5 Jan.,
1849.]**No. 1490.****DEPOSITION OF ANTOINE TALBOT, 5 JANUARY
AND 24 JANUARY, 1849.**

See Counter-Case, Canada.

[1852-1867.]

No. 1491.**EXTRACTS FROM ANNUAL REPORTS OF PIERRE
FORTIN, STIPENDIARY MAGISTRATE,
COMMANDING THE FORCES CHARGED WITH
THE PROTECTION OF THE FISHERIES IN THE
GULF OF ST. LAWRENCE, 1852-1867.**1852.¹⁸CRUISE OF THE COASTGUARD SCHOONER *Alliance*.

* * * *

On the 13th [July] we cast anchor in Blancs Sablons Bay.
I devoted ten days to visiting the ports on Blancs Sablons
Bay, and the Bay of Brador, 5 miles distant to the west.

* * * *

On the 18th [September] we came to an anchor in Blancs
Sablons Bay, having touched at Bonne Espérance.

All the schooners had left the bay to fish further to the
eastward.

* * * *

On the 4th October we cast anchor, for the third time, in
Blancs Sablons Bay.

On the 8th we weighed anchor, and touching at several
ports on the coast, made sail for Quebec, where we arrived on
the 22nd October, 1852,

* * * *

¹⁸ Report of Pierre Fortin for 1852.. Appendix I.I.I.I. to the Journals of the
Legislative Assembly. Session, 1853.

COAST OF LABRADOR.

What is generally designated in Canada as the Coast of
Labrador comprises the King's Posts, the Seignory of the
Mainland of Mingan, and that part of the coast which extends
from the eastern limits of that Seignory to Blanc Sablons Bay,
the eastern boundary of the Province of Canada. This bay is

about 300 leagues from Quebec.

* * * *

That part of the Coast which extends from the River Gagnish to Blancs Sablons Bay is most important. It is on the numerous Isles and Islets in the neighbourhood of this Coast, that the greater part of the fishing establishments for the stationery Seal fishery are situated.

* * * *

A STATEMENT OF THE SETTLEMENTS ON THE COAST OF LABRADOR,
SHEWING THE SITUATION, THE OCCUPANT AND THE REVENUE,
&C. OF EACH.

POT POINT (POINTE AU PÔT).

Spring Seal-Fishery, established by Martin Parent, in 1817.

Produce of the fishery, 300 Seals.

Population, 4 men, 1 woman, 2 children.

BLANCS SABLONS BAY.

Establishment for Cod fishing, belonging to Thomas Lavallee.

Produce of the fishery, 100 quintals of Cod.

Population, 4 men, 1 woman, 2 children.

BOTTOM OF BLANCS SABLONS BAY.

Establishment of Philippe Lebrocq, for Cod fishing.

Produce of the fishery, 1700 quintals of Cod.

” ” 16 barrels of Oil.

” ” 100 barrels of Herring.

Philippe Lebrocq employs 60 men, and owns two brigantines and 16 fishing barks.

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WEST POINT OF WOOD ISLAND.

Establishment of David LeBouthillier, Brother & Co.

Produce of the fishery, 1700 quintals of Cod.

” ” 16 barrels of Oil.

They employ 69 men, own a brigantine of 180 tons, and 17 fishing barks.

They have caught 127 Seals.

TOTAL POPULATION OF THE WHOLE COAST.

Men, 364.—Women, 62.—Children, 222.

1855.¹⁹

As the season was now far advanced, it was impossible for me to visit all the fishing stations on the coast of Labrador ; the fogs, which are very frequent on these coast, often prevent us from making the land. I nevertheless reached L'Anse aux Blancs Sablons and visited all the fishing stations belonging to Canada on that part of the coast.

1856.²⁰

In the afternoon I visited Bradore Bay and in the evening went on to Blancs Sablons Bay, where *La Canadienne* came to anchor. The curing of the herring was going on, on all sides. The fish had been taken in great quantities in both these Bays.

At the establishment of Mr. De Quetteville they were preparing to ship to Jersey 1000 barrels of this excellent fish, so well known as the Labrador herring. Messrs. Le Boutilliers and brothers had 500 barrels at Wood Island. About 1,200 barrels had been taken by the inhabitants of the coast, and the fishermen from the Magdalen Islands and the Lower Provinces had carried away more than 5,000 barrels.

* * * *

The Government of Newfoundland sent an officer this year to Labrador, to collect, upon all goods and produce imported into that part of the coast which is within their jurisdiction, the same duties which are paid on their admission into the Island of Newfoundland.

I had not the pleasure of meeting that officer, but I know that he applied to several proprietors and agents of establishments situated near our frontier, at Blancs Sablons Bay, and that on their refusal to pay the duties,

¹⁹ Report of Pierre Fortin for 1855. Appendix 25 to the Journals of the Legislative Assembly. Session, 1856.

²⁰ Report of P. Fortin for 1856. Appendix 23 to the Journals of the Legislative Assembly. Session, 1857.

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he delivered to them a copy of the tariff of Newfoundland and other papers relating to his mission, with an intimation that next year the Government of Newfoundland would, in his opinion, send to Labrador, with the officer of customs, an armed force sufficient to enable him to seize all goods on which the duties should be refused to be paid.

In the afternoon of the 7th we left Blancs Sablons Bay.

1857.²¹

The house of Le Boutillier and Brothers own an establishment on the island of Bonaventure, opposite Percé,

and others at Wood Island and Forteau, in the Straits of Belleisle. The last named is not in Canada. The business done by these two houses is considerable, amounting probably to \$200,000 ; that of Le Boutillier and Brothers to \$150,000. The men in their employ are numbered by hundreds. Each establishment is composed of half a score large buildings, timber built, and in good order, serving to store goods, cordage, fishing tackle, provisions and cured fish, the last mentioned article awaiting shipment to a foreign market.

* * * *

Canada extends on the Straits of Belleisle as far as Anse aux Blancs Sablons, at the head of which is the river which marks the line of separation between the part of Labrador belonging to Canada and that part which is under the jurisdiction of Newfoundland.

* * * *

Anse aux Blancs Sablons is situated in 51° 25' north latitude, and in 57° 10' longitude west of Greenwich. It is about a mile in depth by a mile and three quarters wide.

Wood Island, on which are situated three considerable cod fishing establishments, and Green Island, at present uninhabited, but near which there are excellent fishing grounds, shelter it from the south east wind, while the mainland protects it from those from the east, north and north east winds.

* * * *

L'ANSE AUX BLANCS SABLONS.

POINT AU POT.

Mr. Martin Parent is owner at this place of a stationary seal fishery, which yields him, annually, from 160 to 300 seals, besides 25 barrels of herring.

Mr. Thomas Lavallée is owner of a cod fishing station, which yields 250 quintals of cod and 100 barrels of herring.

²¹ Report of P. Fortin for 1857. Appendix 31 to the Journals of the Legislative Assembly. Session, 1858.

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FOND DE L'ANSE.

Mr. Phillip LeBrocq is owner of a cod fishery here in which he employs fourteen fishing boats and forty-five men.

The average yield is 1,750 quintals of cod, 4 tons of oil and 350 barrels of herring.

Mr. LeBrocq owns a barque of 200 tons burthen in which he sends his fish to the European Market.

WOOD ISLAND.

Messrs. Le Boutillier and Brothers own a flourishing fishing establishment here, which gives occupation to seventy men and nineteen boats.

Yield of the fishery, 2,400 quintals of cod.

” ” ” 24 barrels of oil.

” ” ” 250 barrels of herring.

South of Wood Island is a stationary seal fishery belonging to Messrs. Le Boutillier which brings them in from 150 to 200 seals annually.

Total population of the north coast from Godbout River to Anse aux Blancs Sablons, 1,225.

* * * *

1858.²²

On the 5th, I visited the fishing establishment of l'Anse des Dunes at Long Point, of the Little Harbour, at White Sand Bay and Wood Island....

At La Pointe aux Pots the fishing was also successful. At the old establishment of Lebrocq, now belonging to Fenning and Co., fourteen boats were employed, and at the estai lishment of Le Boutillier and Brothers, at Wood Island, nineteen boats.

1859.²³

[47] We left in the afternoon and arrived in Blancs Sablons Cove at 10 o'clock p.m.

On the 23rd, I visited Fruing & Co.'s establishment—Mr. Fall, the agent, paid me the duties on the goods in their store. I next settled a difficulty between two fishermen residing at the bay, respecting the possession of a piece of land, and then proceeded to Little Harbor where I visited the vessels lying there, and the fishing establishments. Tranquility prevailed everywhere.

²² Annual Report of Pierre Fortin. Season of 1858. Printed by Order of the Legislative Assembly, Toronto, 1859.

²³ Annual Reports of the Superintendants of Fisheries for Upper and Lower Canada . . . also that of Pierre Fortin for 1859. Quebec, 1860, p. 47.

In the evening I crossed over to Wood Island, and went to Messrs. Le Boutillier & Brothers' establishment, and requested the agent to pay the duty on the goods I noticed in their store, all of which appeared to be foreign merchandize. He said that being under the impression that the whole of Wood Island belonged to Newfoundland, in as much as a Custom-house officer of that island had called two years before to collect the Customs duties, he could not accede to my request, until I gave him positive proof that the island formed part of the territory of Canada. For my part, I did not think it proper to act with severity and seize the goods before receiving further instructions from the Commissioner of Customs.

1860.²⁴

Having landed the supplies for the Light houses at Forteau and Belleisle, I resumed my duties on the 29th in the afternoon in Blancs Sablons Bay, where I visited all the fishing establishments. The house of Le Boutillier and Brothers had 36 boats there, engaged in the cod-fishery ; Dequitteville on Wood Island, and Captain Hulin, 20 boats. On the mainland, the house of Dequitteville employed 54 boats ; Fruing and Co., 24 ; Lavallée, 2 ; and different outfitters of Long Point, 12. In these establishments, not less than 800 men are employed, including fishermen and salters ; besides these there were 40 schooners, chiefly from Nova Scotia, at anchor in the Bay, and engaged in cod-fishing.

* * * *

1861.²⁵

[13] On the 21st I continued my journey in the boat, and went to the River Metagamu, where *La Canadienne* came to pick me up ; we then touched at Little Mecatina and at Whale's Head, and in the evening, the wind being very favourable, we continued our voyage, coming to an anchor the next morning at l'Anse aux Blancs Sablons.

* * * *

The duties of my office and those imposed upon me by the taking of the census, detained me up to the 29th in l'Anse aux Blancs Sablons and in Bradore Bay.

As in the preceding years, I visited all the posts, and tried to collect useful information respecting the fisheries.

There never had been seen a greater quantity of cod than this year in

²⁴ Annual Report of Pierre Fortin. Session of 1860. Sessional Paper, No. 15.

that part of the Strait of Belle Isle. Summer fishing had begun on the 20th June, and closed on the 28th July ; and, consequently, had lasted 44 days. But out of those 44 days, on account of the bad weather, our fishermen could fish but 34, and I may give an idea of the enormous quantity of cod caught in the neighbourhood of l'Anse aux Blancs Sablons, either by our own fishermen or by those of the Nova Scotia schooners, by stating that 33 boats employed at l'Isle à Bois by Messrs. Le Boutillier & Bros., during that time caught 408,257 cod.

* * * *

STATISTICS OF THE NORTH SHORE OF THE RIVER AND GULF OF ST. LAWRENCE, FROM PORT NEUF TO L'ANSE AUX BLANCS SABLONS, 540 MILES OF SEA SHORE, IN 1861.

* * * *

Comparative statement of the population of the North Shore of the River and Gulf of St. Lawrence in 1852 and 1861 :—

Population from l'Anse aux Blancs Sablon to			
Coacoahoo in 1861..	..	..	804
Do. in 1852..	..	..	<u>648</u>
Increase..	..	..	156
Population from Coacoahoo to Portneuf, in 1861			
			.. 3,609
Do.	do.	in 1852	.. <u>760</u>
Increase..	..	..	2,849
Total population of North Shore, in 1861			
			.. 4,413
Do.	do.	in 1852	.. <u>1,408</u>
Total increase..	..	..	3,005

1862.²⁶

[44] On the afternoon of the 26th June, we again set off for Forteau, and this time again the ice prevented us from reaching that place ; we were obliged to anchor under the lee of Wood Island. But the same evening the ice, brought down by the sea, compelled us to get away from the land for the night ; I had been able, however, to land on Wood Island for an hour and visit Mr. Alfred LeBoutillier, the agent at the largest fishing station on that island.

* * * *

[45] In the evening we returned for anchorage to Anse à l'Eau, and on the morning of the 2nd July, we reached Anse aux Blancs Sablons.

* * * *

²⁶ Annual Reports of Pierre Fortin. Seasons of 1861 and 1862. Printed by Order of the Legislative Assembly, Quebec, 1863, pp. 44-46, 61, 74-76.

[46] In the Blancs Sablons harbor, there were six brigantines and eight schooners engaged in the codfishery. I went over the fishing establishments A Blancs Sablons, Wood Island and Long Point, and found everything in good order at those places.

* * * *

There were in Anse aux Blancs Sablons and in Bradore Bay about the same number of fishermen as last year.

* * * *

At 10.30 a.m , as my presence was no longer necessary at Anse aux Blancs Sablons, we left for St. Augustin, where we arrived in the afternoon.

* * * *

At the end of this report may be seen. in the table of fishing vessels, the produce of cod fishery at Blancs Sablons and at all the other fishing posts on the North Shore. [47-61]

* * * *

The English Government every year sends one or two frigates or corvettes to protect the coast of Labrador fisheries, which belong to Newfoundland, as well in the Straits of Belle Isle as on the Atlantic shore, as far as the establishments of the Hudson's Bay Company ; it is seldom, however, that they visit the shores of Canada, and when they do, they rarely come further than Anse aux Blancs Sablons or Bradore Bay. The latter place had been visited by the usual number (from 200 to 250) of schooners from Nova Scotia and Prince Edward's Island, but a smaller number than usual ,of American schooners had been observed.

With the exception of a difficulty between two persons at Anse aux Blancs Sablons, which I disposed of, the public peace had not been disturbed in those parts. [62-76]

TABLE NO. 1.—Showing the number of Boats, Men, &c., engaged in the Fisheries of the Counties of Bonaventure and Gaspé, Coast of Labrador, North Shore of the Gulf and Lower part of the River St. Lawrence in 1862.

COAST OF LABRADOR, NORTH COAST OF THE GULF AND LOWER PART OF THE RIVER ST. LAWRENCE.

Locality.	Number of Fishing Boats.	Value of Boats. \$	Number of Fishermen.	Quantity of Fish Taken.								Remarks.
				Codfish. Quintals.	Halibut. Quintals.	Halibut. Quintals.	Herring. Barrels.	Macarel. Barrels.	Salmon. Barrels.	Trent. Barrels.	Quintals of Cod Oil.	
Anse aux Blancs Sablons	54	1,600	108	6,125	..	..	110	..	..	..	3,675	
Wood Island	62	1,880	124	5,800	..	..	150	..	..	..	3,480	

Larger HTML version (12 kb)

[29] On the 5th I visited the fishing establishments of Messrs. Le Boutillier Bros., on Isle à Bois, and those of Fruing & Co., at the foot of the bay, where I was surprised to learn that on the 20th July last, two armed schooners, employed by the Customs of Newfoundland for the protection of the fisheries on the coast of Labrador, which is under the jurisdiction of this province, had anchored at Blanc Sablon. Justice Benjamin Sutherland was on board one of these schooners, and Mr. J. Winter, Collector of Customs, on the other.

The last-named gentleman went to the above establishments, and notwithstanding the refusal of the agents, in the first instance (by reason of these establishments having to this date being recognized as being on Canadian territory), he succeeded to collect custom duties on the goods then in store :—£178 4s. 8d. stg., at Mr. Le Boutillier Bros.' establishment, and t62 Os. 3d. stg., at that of Mr. Fruing & Co.

I was, moreover, informed that dues had been collected on empty barrels, intended to be filled with fish, and on salt on board the “ Canadian ” and other provincial schooners, anchored in Blancs Sablons bay. In my quality of customs' officer for these shores, I have reported to the Commissioner of Customs, for the information of His Excellency the Governor General, all the circumstances relating to the acts of an officer of the government of Newfoundland at places which, according to a diagram furnished to Inc by the Board of [30] Public Works, through the honorable the Provincial Secretary of the province, are entirely inside of our Custom boundary.

We found 118 schooners in Blancs Sablons bay and at Green Island, engaged in the herring fishery, which was abundant, although the fish were generally small. Codfishing had not been good in the above places and had begun very late.

Mr. Le Boutillier of Isle à Bois, laid a complaint before me to the effect that about twenty of his men were refusing to continue codfishing as they had agreed with him, under the pretence that the fishing was not good enough. Having met them, I explained to them all the obligation under which they were to fulfil the terms of their engagement, under the penalty of a fine. Mr. Le Boutillier told them that he would not detain them more than five days if the fishing did not improve ; upon this, they put all their boats to sea and went on with their work, to the great satisfaction of the head of the establishment [31-54].

* * * *

²⁷ Fisheries Appendices, from the Annual Report for 1863, of the Commissioner of Crown Lands for 1863. Quebec, 1864, pp. 29-31, 54.

TABLE NO. 1.—Showing the number of Boats, Men, &c., engaged in the Fisheries of the Counties of Bonaventure and Gaspé, Coast of Labrador, North Shore of the Gulf and Lower part of the River St. Lawrence in 1862.

COAST OF LABRADOR, NORTH COAST OF THE GULF AND LOWER PART
OF THE RIVER ST. LAWRENCE.

Locality	Number of Fishing Boats	Value of Boats \$	Number of Fishermen	Quantity of Fish Taken							Gallons of Cod Oil	Remarks
				Codfish Quintals	Haddock Quintals	Halibut Quintals	Herring Barrels	Mackerel Barrels	Salmon Barrels	Trout Barrels		
Anse aux Blancs-Sablons	54	1,620	108	6,125	110	3,675	
Wood Island	62	1,860	124	5,800	150	3,480	

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STATEMENT showing the number of Fishing boats, Men, &c., &c., engaged in the Fisheries of the Counties of Gaspé and Bonaventure, the Coast of Labrador, the north shore of the Gulf and Lower St. Lawrence, in 1863.

COUNTY OF SAGUENAY.

Coast of Labrador, and North shore of the Gulf and River St. Lawrence.

Locations.	Number of Fishing Boats.	Value of Fishing Boats.	Number of Fishermen.	Number of Engines.	Quantity of Fish Caught.										Remarks.
					Codfish.		Halibut.	Herring.	Mackerel.	Salmon.	Trout.	Cod-line Oil.			
					Summer Fishing.	Fall Fishing.									
Blanc Sablon Bay	25	750	50	25	1,500	250	150	600	Cod fishing on the north shore, from Blanc Sablon to Mingan, was not very good. It is calculated that this fishery did not yield more than one-third of a good sea, taking into consideration the number of fishermen engaged on this part of the shore during the season. Cod came late, and in some places, as at Matine Bay, Little Misamis, and other parts, the fishermen could catch but a few quintals.
Isle à Bois...	40	1,200	80	57	2,000	150	250	645	

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[12] During my visit at Blanc Sablon Bay, and while engaged in visiting the ports which have always been considered as a part of the territory of Canada, those namely of Fruing & Co., at the head of the bay, and Le Boutillier & Co., on Wood-Island, I was informed that the officers of customs, of the Labrador coast, which belongs to the Government of Newfoundland, had been to those establishments, and had demanded from the persons in charge, the duties payable on the goods which they had imported from Europe this year, amounting to a considerable sum, under pain of having them confiscated, as they had been last year. I shall remark, further, that the said officers claimed the whole of Blanc Sablon Bay, as well as Wood Island, as belonging to Newfoundland, in virtue of a clause in an Imperial Act, which declares that the western boundary of the territory belonging to Newfoundland, on the Labrador coast, shall be *in 51° 25' N. and 57° 09' W.* (The words in Italics are extracted from the Commission of the Governor General.) [13]

On 25th July, I went on board of the armed cutter “Hawk,” Stephen Marsh, Esquire, Commander, belonging to the Government of Newfoundland. That gentleman, who is the Commissioner of the Fisheries, told me that he had received orders from his Government to consider the western boundary of the territory belonging to Newfoundland, as lying on the meridian of 50° 9' W. from Greenwich, and that accordingly the whole of Blanc Sablon Bay and Wood Island lie within his jurisdiction. Now, as my letter of instructions from the Department, dated 20th June, 1864, directed me to treat Wood Island as a possession of Canada, a conflict of jurisdiction arose, creating for the inhabitants of these parts, a state of things full of difficulty and even peril, as they did not know to which Government obedience was due, and their industrial as well as their commercial pursuits suffered in consequence.

If I had been at Blanc Sablon Bay when the

Newfoundland officers of customs made their visit to the establishments on Wood Island to collect duties, I should have resisted their claims, as required by my instructions, and should have made use of all the means at my disposal to prevent them from levying contributions on fishing establishments, which, up to that time, had always been considered as belonging to Canada. The House of Le Boutillier and brothers, at Wood Island, were forced to pay, this year again, £60 sterling for duties, and the House of Fruing & Co., of Blanc Sablon Bay, £46 8s. 11d. sterling. But as an undesirable conflict of jurisdiction might have ensued, and as the claims of the Newfoundland officers of Customs will probably be renewed next year, and it might happen again, as it has happened in the present year, that I should not be on the spot in time to protect our traders and fishermen against these encroachments on our territory, and it is very desirable to put an end to these conflicts of jurisdiction, I take the liberty of recommending that the Governments of Canada and Newfoundland come to an understanding, with a view to a final arrangement of the matter in dispute, and that monuments should be planted on the division line, by competent persons, to show, in an unmistakable manner, the boundary line (East) of Canada, in Blanc Sablon Bay. [13-75]

²⁸ Annual Report of Pierre Fortin, Stipendiary Magistrate, Commander of the . . . Protection of the Fisheries in the Gulf of St. Lawrence during 1864. Quebec, 1865, pp. 12-13, 75.

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COUNTY OF SAGUENAY.																					
Localities.	Number of Boats.	Number of Fishermen.	Number of Slogans.	Number of Fish Boats.	Harling Nets.	Shallop Nets.	Herring Boats.	Cod Boats.	Shallop Boats.	Small Fish Boats.	Cod Boats.	Cod Quota.	Salmon Boats.	Trout Boats.	Shallop Boats.	Herring Boats.	Shallop Boats.	Cod Boats (St. Gallien).	Commencement of Cod Fishing.	Conclusion of Cod Fishing.	Remarks.
Blanc Sablon, Wood and Green Islands	37	114	30	13	2	8	..	6	2	1,900	200	10	1,116	June 20	Aug 15	<p>CODS.</p> <p>Cods made its appearance on the Coast of Labrador and on the North Shore of the Gulf of St. Lawrence, from Blanc Sablon to Mingan, about the 10th and 13th June.</p> <p>SAND EEL.</p> <p>The Sand Eel came at the same time as the Herring; that is, from Blanc Sablon to Mingan, about the 10th June, and from the latter place to St. Nicholas Harbor on the 1st June.</p> <p>COB.</p> <p>This fish appeared on the 13th June on Blanc Sablon Bay, and at about the same time as far as Mingan.</p>

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1865.²⁹

[18] At Anse aux Blancs Sablons, at Woody Island and at Green Island, the products of the cod fishery had, up to that time, been below the average. However, the cod had appeared in larger numbers for some day past, and there was ground for hope that the fishery might yet yield average results. [19]

The Collector of Customs of the Government of

STATEMENT shewing[sic] the number of Fishing Boats, Men, &c., &c., engaged in the Fisheries of the Counties of Gaspé and Bonaventure, the Coast of Labrador, the north shore of the Gulf and Lower St. Lawrence, in 1863.

COUNTY OF SAGUENAY.

Coast of Labrador, and North shore of the Gulf and River St. Lawrence.

Localities	Number of Fishing Boats	Value of Fishing Boats	Number of Fishermen	Number of Stagers	Quantity of Fish Caught										Remarks
					Codfish - Summer Fishing	Codfish - Fall Fishing	Haddock	Halibut	Herring	Mackerel	Salmon	Trout	Cod-liver Oil		
		\$			Quintals	Quintals	Quintals	Barrels	Barrels	Barrels	Barrels	Barrels	Gallons		
Blancs Sablons Bay	25	750	50	35	1,500	250	150	600	Cod fishing on the north shore, from Blanc Sablon to Mingan, was not very good. It is calculated that this fishery did not yield more than one-third of a good one, taking into consideration the number of fisherment engaged on this part of the shore during the season. Cod came late, and in some places, as at Mutton Bay, Little Meccatina, and other ports, the fishermen could catch but a few quintals.	
Isle à Bois.. ...	40	1,200	80	57	2,000	150	250	645		

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COUNTY OF SAGUENAY.

Localities	Number of Boats	Number of Fishermen	Number of Splitters	Number of Flat Boats	Herring Nets	Mackerel Nets	Herring Seines	Caplin Seines	Mackerel Seines	Sand Eel Seines	Cod Seines	Cod - Quintals	Salmon - Barrels	Trout - Barrels	Mackerel - Barrels	Herring - Barrels	Halibut - Barrels	Cod Liver Oil - Gallons	Commencement of Cod Fishing	Conclusion of Cod Fishing	Remarks
Blancs Sablons, Wood and Green Islands	57	114	90	15	5	4	..	6	2	1,900	200	10	1,116	June 20	Aug. 15	<p>CAPLIN.</p> <p>Caplin made its appearance on the Coast of Labrador and on the North Shore of the Gulf of St. Lawrence, from Blancs Sablons to Mingan, about the 10th and 15th June.</p> <p>SAND EEL.</p> <p>The Sand Eel came at the same time as the Herring ; that is, from Blancs Sablons to Mingan, about the 10th June, and from the latter place to St. Nicholas Harbour on the 1st June.</p> <p>COD.</p> <p>This fish appeared on the 13th June in Blancs Sablons Bay, and at about the same time as far as Mingan.</p>

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COUNTY OF SAGUENAY.

Name of Place	Number of Boats	Number of Fishermen	Number of Shoremen	Number of Flat Boats	Herring Nets	Mackerel Nets	Caplin Seines	Herring Seines	Mackeral Seines	Cod Seines	Number of Brush Fisheries	Cod Fishery-Summer Quintals	Cod Fishery-Autumn Quintals	Herring-Barrels	Smoked Herring, in Boxes	Halibut-Barrels	Tongues and Cod Sounds-Barrels	Cod Liver Oil-Gallons	Salmon-Barrels	Trout-Barrels	Commencement of the Cod Fishing	Termination of the Cod Fishing	Salmon Nets-Fathoms	Remarks
Anse aux Blancs Sablons	15	30	22	15	2	2	900	..	150	..	9	..	540	15 June	15 Aug.	..	
Woody Island	30	60	45	20	1	..	2,100	490	350	2,331	"	15 Sep.	..	

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[19] At 5.20 p.m., we followed up our course to the eastward, and the next day, at 4 a.m., we came to anchor at Ile à Bois. In Anse aux Blancs Sablons I found 15 schooners, and at Green Island 8 others, all engaged at cod-fishing ; among the latter there were four French schooners. I boarded each of them, and, after having told their masters that they had no right to fish on the British shores, ordered them to depart as soon as the weather would permit them to do so. [20]

* * * *

On the 13th and 14th the weather was bad. I went to Ile à Bois, and a second time to Green Island, then to Bradore, to see that the French schooners had left our shores. [21-68]

³⁰ Annual Report of Pierre Fortin, Stipendiary Magistrate, Commander of the ... Protection of the Fisheries in the Gulf of St. Lawrence during 1866, pp. 19-20, 68-69.

COUNTY OF SAGUENAY.																		
Number.	Name of Place.	Number of Vessels.	Number of Fishing Boats.	Number of Fish Boats.	Number of Sallies.	Number of Fisheries.	Number of Skrimmen.	Number of Codfish Scaus.	Number of Mackerel Scaus.	Number of Herring Scaus.	Number of Capelin Scaus.	Number of Lance Scaus.	Number (by Kilometre) of Seal Nets.	Codfish.				
														Summer Fishing—Quintals.	Fall Fishing—Quintals.			
1	Blancs Sablons	..	17	6	..	34	22	300	98	568	..
2	Ile à Bois	..	38	15	..	76	50	2	..	1	2	1	200	140	1,200	250

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**EXTRACTS FROM REPORTS OF P. FORTIN AND
T. TÉTU.**

P. FORTIN'S REPORT.

[8] On the 12th, in the evening, we left this Station, and the next day we arrived at Meccatina.

From that place I continued along the North Shore as far as Blanc Sablons, stopping at all the [9] principal places, as may be seen by the extracts from the log-book, and granting Fishing Licenses wherever it was necessary to do so.

There we met twelve schooners, nine of which were from Esquimaux Point, one from Nova Scotia, and two from Newfoundland in the Harbour at Sheep Bay five, four of which were from the Magdalen Islands, and the other from Nova Scotia ; in Blanc Sablon Bay forty vessels, one of which was a

brig, one was a brigantine, and thirty-eight were fishing schooners. [9-17]

* * * *

THÉOPHILE TÉTU's REPORT.

“ During our stay at Blanc Sablon, I visited Wood Island, Little Harbour, Long Point, Sandy Bay and Bradore Bay. Order reigned in all those places. [18-50]

³¹ Reports of Pierre Fortin and Théophile Tétu, Stipendiary Magistrates in command of the Expedition for the Protection of the Fisheries in the Gulf of St. Lawrence during 1867. Ottawa, 1868, pp. 8-17, 50-51.

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COUNTY OF SAGUENAY.																						
Number.	Name of Place.											Cwt.										
		Number of Vessels.	Number of Fishing Boats.	Number of Fish Boats.	Number of Sallies.	Number of Padereaux.	Number of Herry Boats.	Number of Cod Boats.	Number of Mackard Boats.	Number of Herring Boats.	Number of Caplin Boats.	Number of Pigeon Boats.	Number of Fishboats of Seal Nets.	Number of Cod Nets.	Number of Mackard Nets.	Number of Herring Nets.	Number of Fishboats of Salmon Nets.	Number of Fishboats of Trout Nets.	Number of Brush Boats.	Number of boats.	Summer Fishing.	Autumn Fishing.
1	Blanc Sablon	13	5	..	26	20	1	..	1	..	1	500	40	1,250	..
2	Wood Island	40	15	..	80	55	2	300	64	4,000	20

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COUNTY OF SAGUENAY.

Number	Name of Place	Number of Vessels	Number of Fishing Boats	Number of Flat Boats	Number of Sailors	Number of Fishermen	Number of Shoremen	Number of Codfish Seines	Number of Mackerel Seines	Number of Herring Seines	Number of Capelin Seines	Number of Lance Seines	Number (by fathoms) of Seal Nets	Number of Cod Nets	Number of Mackerel Nets	Number of Herring Nets	Number (by fathoms) of Salmon Nets	Number (by fathoms) of Trout Nets	Number of Brush Fisheries	Number of Seals Captured	Codfish - Summer Fishing— Quintels	Codfish - Fall Fishing —Quintels
1	Blancs Sablons	..	17	6	..	34	22	200	98	568	..
2	Ile à Bois	..	38	15	..	76	50	2	..	1	2	1	200	140	1,200	250

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COUTNY[sic] OF SAGUENAY.

Number	Name of Place	Number of Vessels	Number of Fishing Boats	Number of Flat Boats	Number of Sailors	Number of Fishermen	Number of Shore Hands	Number of Cod Seines	Number of Mackerel Seines	Number of Herring Seines	Number of Capelin Seines	Number of Plaice Seines	Number of Fathoms of Seal Nets	Number of Cod Nets	Number of Mackerel Nets	Number of Herring Nets	Number of Fathoms of Salmon Nets	Number of Fathoms of Trout Nets	Number of Brush Weirs	Number of Seals	Cod - Cwts.— Summer Fishing	Cod - Cwts.— Fall Fishing
1	Blanc Sablon	..	13	5	..	26	20	1	..	1	..	1	300	40	1,250	..
2	Wood Island	..	40	15	..	80	55	2	..	2	2	2	300	64	4,000	20

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SECTION VII.

[7 May, 1792.]

DOCUMENTS RELATIVE TO CIVIL DIVISIONS OF THE PROVINCE OF LOWER CANADA (AND QUEBEC) AND TO THE PROVISIONAL DISTRICTS OF CANADA AFFECTING TERRITORY WITHIN THE LABRADOR PENINSULA, AND TO THE BOUNDARIES OF THE PROVINCE OF QUEBEC.

No. 1492.

**PROCLAMATION DIVIDING THE PROVINCE OF
LOWER CANADA INTO COUNTIES AND
ELECTORAL DISTRICTS.¹**

Alured Clarke,

GEORGE THE THIRD by the Grace of God, of Great Britain France and Ireland, King, Defender of the Faith, &c. To all Our loving Subjects whom these presents may concern. WHEREAS in pursuance of an Act of Parliament lately made and provided, passed in the Thirty first Year of Our Reign and of Authority by Us given for that purpose, Our late Province of Quebec is become divided into the two Provinces of Upper Canada and Lower Canada, and Our Lieutenant Governor of the said Province of Lower Canada by Power from Us derived, is authorised in the absence of Our Right Trusty and Wellbeloved Guy Lord Dorchester, Captain General and Governor in Chief of Our said Province of Lower Canada to divide the said Province of Lower Canada into Districts, Counties, Circles or Towns and Townships for the purpose of effectuating the intent of the said Act of Parliament, and to declare and appoint the number of Representatives to be chosen by each to serve in the Assembly of the said Province. KNOW YE THEREFORE, that our Trusty and Wellbeloved ALURED CLARKE, Our Lieutenant Governor of Our said Province of Lower Canada, in the absence of Our said Governor in Chief, hath and by this Our Proclamation doth divide the said Province of

¹ From *The Quebec Gazette* of Thursday, May 24, 1792.

Lower Canada into Counties, Cities, and Towns, and declare and appoint the number of the Representatives of them and each of them to be as herein after limited, named, declared and appointed, that is to say, that the first of the said Counties

be all that part of the said Province on the southerly side of the River of St. Lawrence, now called the District of Gaspé, as described in Our Royal Proclamation under the Great Seal of Our late Province of Quebec, bearing date the twenty-fourth day of July in the twenty-eighth year of Our Reign.

* * * *

That the nineteenth of the said Counties to be called Quebec, shall comprehend all that part of Our said Province on the northerly side of the River St. Lawrence between the easterly side of the said County of Hampshire, and a line running north north-west from the southwesterly angle of a tract of land commonly called the Seigniori of Beaupré, near the mouth of the River Montmorency, together with all the Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same, (except the Island of Orleans,) including within the said County the tract of land comprehended within the limits of the City and Town of Quebec herein after described, and that the twentieth of the said Counties to be called Northumberland, shall comprehend all the rest of Our said Province on the northerly side of the River St. Lawrence, and on the easterly side of the said County of Quebec, together with the Island of Coudre and all the other Islands in the said River St. Lawrence nearest to the said County, and in the whole or in part fronting the same, except the Island of Orleans.

* * * *

AND KNOW YE ALSO that Our said Lieutenant Governor hath also declared and appointed, and doth hereby declare and appoint that the several Counties of Cornwallis, Devon, Hertford, Dorchester, Buckingham-shire, Richelieu, Surrey, Kent, Huntingdon, York, Montreal, Effingham, Leinster, Warwick, St. Maurice, Hampshire, Quebec and Northumberland, afore-mentioned, shall and may be represented in the Assembly of the said Province by two Members or Representatives to be duly chosen in and for each of the same Counties respectively ; and the Counties of Gaspé, Bedford and Orleans, by only one Member or Representative for each of the said Counties respectively ; and the Cities or Towns of Quebec and Montreal respectively, by four Members or Representatives for each of the said Cities or Towns, to wit, two for each Subdivision thereof respectively ; and the Town or Borough of Three Rivers, by two Members or Representatives for the said Town or Borough ; and the Town or Borough of William Henry, by only one Member or Representative for the said Town or Borough. Of which Our loving Subjects and all others concerned are to take due notice and govern themselves accordingly. In Testimony whereof, We have caused these Our Letters to be made Patent and the Great Seal of Our said Province of Lower Canada to be hereunto affixed. Witness our Trusty and Well beloved

[1829.]

and Major General Commanding Our Forces in North America, &c. &c. &c. At Our Castle of Saint Lewis, in the City of Quebec, this Seventh Day of May, in the Year of Our Lord One thousand seven hundred and ninety-two in the Thirty-second Year of Our Reign.

A. C.

HUGH FINLAY,
Acting Secretary.

No. 1493.

C

**STATUTE OF LOWER CANADA, 9 GEO. IV. (1829),
CAP. 73.**

Preamble.

ACT to make a new and more convenient subdivision of the Province into Counties, for the purpose of effecting a more equal Representation thereof in the Assembly than heretofore.

14th March 1829. Presented for His Majesty's Assent, and reserved " for the signification of His Majesty's pleasure thereon."

17th August, 1829. Assented to by His Majesty in His Council.

5th October, 1829. The Royal Assent signified by the Proclamation of His Excellency the Administrator of the Government.

WHEREAS the present division of this Province, for the purpose of electing Members to serve in the Assembly thereof, as made by a certain Proclamation, issued by virtue of and in conformity to the provisions of the Statute in that case made and provided, by His Excellency *Alured Clarke*, Esquire, Lieutenant Governor, then administering the Government of this Province, bearing date at the Castle of St. *Lewis*, the seventh day of May, in the year one thousand, seven hundred and ninety-two, is, by reason of the great extension of the old settlements and the formation of new settlements in remote parts of the Province, become inconvenient :—And whereas the appointment of Fifty Members to serve in the Assembly, among the said divisions respectively, is, from the aforementioned causes, and the increase of the population of the Province since the date of the said Proclamation, become unequal and insufficient, for remedy thereof, and to remove as speedily and equitably as may be, the causes of the existing complaints, and

From and after the passing of this Act the Province to be divided in the

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uneasiness on the subject:—Be it therefore enacted by the

following
Counties.

Bounds of
the
County
of
Quebec.

King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, “ An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An 'Act for making more effectual provision for the Government of the Province of 'Quebec in North America,' and for making further provision for the Government of the said Province;” And it is hereby enacted by the authority of the same, that from and after the passing of this Act, this Province shall be divided into the following Counties, which Counties shall consist of, be bounded and limited as hereinafter described, that is to say :

* * * *

Bounds of the
County of
Mont-
Morency.

37°. The County of Quebec shall be bounded on the north east by the south west bounds of the seigniory of Cote de Beaupré until it meets the south east boundary line of the Township of Tewkesbury, thence north easterly along the said south east boundary line to the south east angle of the said Township, thence northward along the north east boundary or lateral line of the said Township to its depth, and from thence by the prolongation of the said line on the south west by the said County of Portneuf, on the north west by the northern boundary of the Province, and on the south east by the River Saint Lawrence ; which County so bounded comprises the seigniories of Beauport, Notre Dame des Anges, Dorsainville, Lepinay, fief Saint Ignace, fief Hubert, and the seigniories of Sillery and Saint Gabriel, and the Townships of Stoneham and Tewkesbury, and the Parishes of Beauport, Charlesbourg, Saint Ambroise, Jeune Lorette, part of Ancienne Lorette and Sainte Foi, and the Parish, City and Suburbs of Quebec, and all the Parishes in the whole or in part comprehended within the above described limits of the said County.

Bounds of the
County of
Saguenay.

38°. The County of Montmorency shall be bounded on the south west by the said County of Quebec, on the north east by a line to be run from Cap de l'Abatis on the River Saint Lawrence on a course north westward parallel to the said boundary line of Beauport to the northern boundary of the Province, on the north west by the said northern boundary of the Province, and on the south east by the River Saint Lawrence ; comprehending the Parishes of Saint Féréol, Saint Joachim, Sainte Anne, Château Richer and l'Ange Gardien.

Counties en-
titled to
elect

39°. The County of Saguenay shall be bounded on the south west by the said County of Montmorency, on the north east by the north easterly boundary of the Province, on the south east by the River Saint Lawrence, including all the Islands in the River Saint Lawrence nearest to the said County and in whole or in part fronting the same, and on the north west by the northern boundary of the Province ; which County so bounded comprises

Members according to their population.

part of the seigniory of Beaupré, the seigniories of Gouffre, Eboulemens, Murray Bay and Mount Murray and the Township of Settrington.

* * * *

The Cities of Quebec and Montreal entitled to four Members each, Three Rivers two Members, and William Henry one Member.

And be it further enacted by the authority aforesaid, that each and every County now formed, or which shall or may hereafter be formed, the population of which shall amount to one thousand souls, shall be represented in the Provincial Parliament by one Member, and when the population of such County or Counties as aforesaid, shall amount to four thousand souls, the said County or Counties shall be represented by two Members, and when any County now formed or hereafter to be formed shall contain less than one thousand souls, the said County or Counties shall be attached to the next adjoining County in which there shall be the smallest number of souls, and the Cities, Towns or Boroughs herein after mentioned, shall respectively elect and send Representatives to serve in the House of Assembly, as follows, that is to say: the City of Quebec, four Members ; the City of Montreal, four Members; the Town or Borough of Three Rivers, two Members, and the Borough of William Henry, one Member.

Places of Election.

III. And be it further enacted by the authority aforesaid, that the Places of Elections in the respective Counties of this Province, above mentioned, shall Election. be held in the several places following, that is to say :

* * * *

When two Polls are held in the same County, Election to commence at each place, alternately.

the Election for the County of Quebec at Charlesbourg ; the Election for the County of Montmorency, at Sainte Anne; the Election for the County of Saguenay at the Bay Saint Paul, and at Murray Bay ;

* * * *

Provided always, that where two Polls are authorized to be held within the same County, the Election shall commence at each of the said places alternately.

* * * *

No. 1494.

[1853.]

STATUTE OF CANADA, 16 VICT. (1853), CAP. 152.

Preamble.

AN ACT to enlarge the Representation of the People of this Province in Parliament.

[Assented to 14th June, 1853.]

Counties,
Ridings,
Cities and
Towns here-
inafter men-
tioned to be
those on
which
Repre-
sentation
shall be
based
after the end
of the
present
Parliament.

WHEREAS the increasing population of this Province, and the necessity of providing for its growing wants and the developement of its resources, render it imperative to enlarge the Representation of the People thereof in the Legislative Assembly, and to apportion that representation more fairly, and with this view—to alter the limits of certain Counties and other Electoral divisions—to divide certain Counties into Ridings—to erect certain other Counties—and to adopt other Legislative provisions in the behalf aforesaid : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the end of this present Provincial Parliament, the Counties, Ridings, Cities and Towns and Unions of Counties hereinafter mentioned, shall be the subdivisions of the Province upon which the Representation of the People thereof shall be based and regulated in the manner hereinafter prescribed, and such subdivisions shall in so far as they may differ from those now existing for like shall be based purposes, be substituted for them as regards Elections of Members of the said after the end Assembly and all Acts, Laws and provisions of Law now in force and thereunto relating and all matters therewith connected : That is to say :

County of
Chicoutimi.

LOWER CANADA.

* * * *

14. The County of Chicoutimi shall be bounded on the west by the County of Portneuf as hereinafter described, on the south by the parallel of the forty-eighth degree of north latitude, as far as the prolongation of the eastern line of the Township of Saint Johns on the Saguenay, thence on the east by the said prolongation and the said line to the River Saguenay, and crossing the river Saguenay, by the prolongation of the said eastern line to the River Sainte

County of
Tadoussac.

the above point on the River Sainte Marguerite due north to the limits of the Province, on the north by the limits of the Province ; the said County so bounded comprising the Townships and Settlements of Saint Johns, La Trinité, Harvey, Simard, Tremblay, Bagot, Chicoutimi, Laterrière, Simon, Jonquière, Kinogomi, Labarre, Metabetchouan, Signay, Métsy, Caron, Charlevoix, Bourgette, Taché and Delisle.

15. The County of Tadoussac shall be bounded on the south-east by the River Saint Lawrence, including all Islands nearest to the said County and wholly or in part opposite thereto on the south by the parallel of the forty-eighth degree of north latitude to the County of Chicoutimi as above described, on the north-west and west by the said County of Chicoutimi, and on the north and north-east by the limits of the Province ; the said County so bounded comprising the Townships and settlements of Saguenay, Tadoussac, Little Saguenay, Sainte Marguerite, Bergeronnes, Escoumins, Iberville, Laval, Latour, Betsiamites, the Seigniory of Mille Vaches or Portneuf, the *Terra Firma* of Mingan, the Islets of Mingan, the Island and Seigniory of Anticosti, the settlements and posts of Manicouagan, Betsiamites, Godbout, Saint Pancras, Pointe des Monts, Saint Paul, the Seven Islands, the Jeremie Islands, and all the other tracts of land comprised within the limits aforesaid.

* * * *

16. The County of Saguenay shall be bounded on the north-west by a line to be drawn from Cap de l'Abattis on the River Saint Lawrence towards the north-west and parallel to the north-eastern line of the Seigniory of Beauport, to the County of Chicoutimi as above described, on the north by the Counties of Chicoutimi and Tadoussac as above described, on the south-east by the River Saint Lawrence ; the said County so bounded comprising the Parishes of Little River, Baie Saint Paul, Saint Urbain, Eboulements, Saint Irène, Malbaie, Sainte Agnès, Saint Fidèle, the Townships of Settrington, De Sales, and Callières, Isle-aux-Coudres, Hare Island, and all the other tracts of Land comprised within the above limits, and all Islands in the River Saint Lawrence nearest to the said County and wholly or partly opposite thereto.

* * * *

Representa-
tion of the
several
Elec-
toral Divi-
sions in
L.C.
Counties of
one
Member
each.
United
Counties.

GENERAL PROVISIONS.

III. And be it enacted, That in Lower Canada, the Counties of. . .Saguenay, Montmorency, Quebec, Portneuf, shall be represented each, by one Member in the Legislative Assembly ; the United Counties of Chicoutimi and Tadoussac, by one Member.

* * * *

No. 1495.

[1860.]

**CONSOLIDATED STATUTES OF LOWER CANADA
(1860), CAP. 75.**

General pro-
visions.

TITLE II.

TERRITORIAL DIVISIONS FOR GENERAL PURPOSES.

CAP. LXXV.

An Act respecting the Division of Lower Canada into
Counties,—and the boundaries of certain Cities and
Towns for the purpose of Representation in the
Legislature.

County of
Saguenay.

Her Majesty, by and with the advice and consent of the
Legislative Council and Assembly of Canada, enacts as
follows :

1. The Counties, Cities and Towns hereinafter mentioned,
shall be the subdivisions of Lower Canada upon which the
Representation of the People thereof in the Legislature shall be
based ; and the said Counties are those intended for all
purposes in these Consolidated Statutes and in the
Consolidated Statutes of Canada, except only where it is
otherwise expressly provided, either in the said Consolidated
Statutes or in some local or special Act remaining in force and
applicable to the subject of the enactment :—That is to say :

* * * *

District of Saguenay—(St. Etienne Murray Bay.)

* * * *

County of
Chicoutimi.

33. The County of Saguenay shall be bounded on the
south-east by the River Saint Lawrence, including all Islands
nearest to the said County and wholly or in part opposite
thereto, on the south by the parallel of the forty-eighth degree
of north latitude to the County of Chicoutimi as hereinafter
described, on the north-west and west by the said County of
Chicoutimi,—and on the north and north-east by the limits of
the Province ;—The said County so bounded comprising the
townships and settlements of Saguenay, Tadoussac, Little
Saguenay, Sainte Marguerite, Pergerones, Escoumains,
Iberville, Laval, Latour, Betsiamites, the Seigniori of Mille
Vaches or Portneuf, the *Terra Firma* of Mingan, the Islets of
Mingan, the Island and Seigniori of Anticosti, the settlements
and posts of Manicouagan, Betsiamites, No. 1495.

Godbout, Saint Pancras, Pointe des Monts, Saint Paul, the Seven Islands, the Jeremie Islands, and all the other tracts of land comprised within the Hunts aforesaid ; Ibid, *sub-sect.* 15, —18 V. e. 76, s. 10.

District of Chicoutimi—(Chicoutimi.)

34. The County of Chicoutimi shall be bounded on the west by the county of Portneuf as herein before described,—on the south by the parallel of the forty-eighth degree of north latitude, as far as the prolongation of the eastern line of the township of Saint Johns on the Saguenay, thence on the east by the said prolongation and the said line to the River Saguenay, and crossing the River Saguenay, by the prolongation of the said eastern line to the River Sainte Marguerite,—on the north-east by a line to be drawn from the above point on the River Sainte Marguerite due north to the limits of the Province,—on the north by the limits of the Province ;—The said County so bounded comprising the townships and settlements of Saint Johns, La Trinité, Harvey, Simard, Tremblay, Bagot, (including the Municipalities of Bagotville and Grande Baie) Chicoutimi, Laterrière, Simon, Jonquière, Kinogami, Labarre, Metabetchouan, Signay, Mésy, Caron, Charlevoix, Bourgette, Taché, Roberval, Ouiatchouan and Delisle ; 16 V. e. 152, s. 1. *sub-sect.* 14,—22 V. (1859) e. 69.

* * * *

The Districts above referred to in Italics are the Civil Districts, and the Electoral Divisions are those for Representation in the Legislative Council.

No. 1496.

**STATUTE OF THE PROVINCE OF QUEBEC, 49 & 50
VICTORIA (1886), CAP. 96.**

AN ACT respecting the territorial division of the Province.

[Assented to 21st June 1886.]

SECTION FIRST.

GENERAL PROVISIONS.

1. For the purposes of the Legislature, the Province of Quebec is divided :

1. Into sixty-eight electoral districts which form, for the purposes of the representation of the people in the Legislative Assembly, the sixty-five electoral districts constituted by the British North America Act, 1867, B.N.A. Act, 1867, ss. 40 and 80 and second schedule ; C.S.L.C. c. 75, s. 1.

* * * *

SECTION SECOND.

ELECTORAL DISTRICTS.

5. The sixty-eight electoral districts are named ; described and bounded or composed as follows :

* * * *

No. 54. SAGUENAY.—The County of Saguenay is bounded on the south and south-east by the Gulf and River St. Laurence, on the south by the parallel of the forty-eight degree of North latitude as far as the county of Chicoutimi, on the north-west and west by the county of Chicoutimi, on the north and north-east by the limits of the province, including the islands and islets of Mingan, the island of Anticosti and the nearest islands situated wholly or in part opposite to such County. The county, so bounded, comprises the townships of Saguenay, Sagard, Dumas, Tadoussac, Albert, Bergeronnes, Escoumains and Iberville, the seigniorie of Mille Vaches or Portneuf, the townships of Laval, De La Tour, Betsiamites, Manicouagan, Laflèche, De Monts, Le Neuf, Arnaud, Letellier and Moisie, the Parish of St. Pierre de la Pointe aux Esquimaux, and all other territories comprised within these limits C.S.L.C., c. 75, s. 1, § 33 ; 26 V., c. 8 ; 36 V., c. 30

No. 1497.

[1888.]

**EXTRACT FROM REVISED STATUTES OF QUEBEC,
1888.**

Division of the
Province into:

TITLE I.

Electoral districts
for the
Legislative
Assembly.

TERRITORIAL DIVISION.
* * * *

Divisions for the
Legislative
Council.

CHAPTER SECOND.

DIVISION OF THE PROVINCE FOR CERTAIN PURPOSES.

SECTION I.

GENERAL PROVISIONS.

Further division
into:

60. For the purposes of the Legislature, the Province of Quebec is divided :

Judicial districts ;

1. Into sixty-eight electoral districts which form, for the purposes of the representation of the people in the Legislative Assembly, the sixty-five electoral districts constituted by the British North America Act, 1867—B.N.A. Act, 1867, ss. 40 and 80 and second schedule ; C.S.L.C., c. 75, s. 1 ; 49-50 V., c. 96, s. 1, § 1.

Registration
divisions ;

2. Into twenty-four divisions for the Legislative Council—B.N.A. Act, 1867, ss. 22 and 72 : C.S.C., c. 1, s. 1, and schedule ; 49-50 V., c. 96, s. 1, § 2.

County, city and
town
municipalities.

61. The Province is also divided :

Division of county
municipalities.

1. Into twenty districts, for the purposes of the administration of justice—*C.S.L.C., c. 76, s. 5 and schedule ; 49-50 V., c. 96, s. 2, § 1.

2. Into sixty-nine divisions for registration purposes—†C.S.L.C., c. 37, ss. 83, 96 and 97 ; 49-50 V., c. 96, s. 2, § 2.

Basis for the division
of the Province

3. Into sixty-seven county municipalities, and into city and town municipalities constituted by special act, for municipal purposes—M.C., 1, 2, 24 and 1081 ; 49-50 V., c. 96, s. § 3.

* See Act 43-44 V., c. 7 and article 71 of the Revised Statutes at page 53 of this volume.

† See Act 49-50 V., c. 24 and note to page 55 of this volume.

Names, &c. of
electoral
districts.

62. County municipalities are subdivided, in conformity with the Municipal Code, into rural, village and town municipalities—M.C. 2; 49—50 V., c. 96, s. 3.

63. Excepting for the cities and towns, and saving the modifications mentioned in their proper place, the division into electoral districts serves as a basis for the other divisions—C.S.L.C., c. 37, s. 96 ; C.S.L.C., c. 75, s. 1 ; M.C., 24 ; 49-50 V., c. 96, s. 4.

SECTION II.
ELECTORAL DISTRICTS.

61. The sixty-eight electoral districts are named, described and bounded or composed as follows

TABLE OF THE ELECTORAL DISTRICTS.

No.	Names of Electoral Districts.	Description
54	Saguenay	<p>The county of Saguenay is bounded on the South and South-East by the Gulf and River St. Lawrence, on the South by the parallel of the forty-eighth degree of North latitude as far as the county of Chicoutimi, on the North-West and West by the county of Chicoutimi, and on the North and North-East by the limits of the Province, including the islands and islets of Mingan, the island of Anticosti, and the nearest islands situated wholly or in part opposite to such county.</p> <p>The county, so bounded, comprises the townships of Saguenay, Sagard, Dumas, Tadousac, Albert, Bergeronnes, Escoumains and Iberville, the seigniory of Mille Vaches or Portneuf, the townships of Laval, De La Tour, Betsiamites, Manicouagan, Laflèche, De Monts, Le Neuf, Arnaud, Letellier and Moisie, the parish of St. Pierre de la Pointe aux Esquimaux, and all other territory comprised within these limits—C.S.L.C., c. 75, s. 1, § 33 ; 26 V., c. 8 ; 36 V., c. 30 ; 49-50 V., c. 95, s.</p>

What is comprised
within electoral
districts.

Banks of a river in
district.

Boundary of district
by a river.

p. 4002

Measurement of
nearness of

65. These electoral districts include all places within their respective limits, although not expressly enumerated in the list of places comprised—C.S.L.C., c. 75, s. 2 ; 49-50 V., c.

island,
&c., to a district.

96, s. 6.

66. That portion of a river of which the two banks are within one electoral district is comprised therein—C.S.L.C., c. 75, s. 3, § 1 ; 49-50 V., c. 96, s. 7.

67. The limits of every electoral district bounded by a river extend Boundary of district to the middle of such river—C.S.L.C., c. 75, s. 3, § 2 ; M.C., 19, § 1 ; 49-50 V., e. 96, s. 8.

68. The nearness of an island or islet to an electoral district is measured by the relative distance between either side of the island or islet and the shore of the opposite electoral district—49-50 V., c. 96, s. 9.

No. 1498.

**EXTRACTS FROM SESSIONAL PAPER No. 65,
VOL. XLV., No. 23, 1911 (CANADA).**

RETURN.

TO AN ADDRESS OF THE HOUSE OF COMMONS, dated the 9th December, 1910, calling for a copy of all Orders in Council, correspondence, papers, maps or other documents which passed between the Government of Canada or any member thereof, and the Government of Quebec, or any member thereof, or any other parties on their behalf, or between the Government of Canada and the Government of Ontario, or any members thereof, regarding the extension of the boundaries of the Province of Quebec, as set forth in an Order in Council dated 8th July, 1896, establishing a Conventional Boundary, therein specified. And also any correspondence, papers, documents, &c., that may have passed between the aforesaid Governments or members thereof, relative to the passing of an Act to confirm and ratify the aforesaid Conventional Boundary which was passed in 1898.

CHAS. MURPHY,
Secretary of State.

Hotel du Gouvernement.
Quebec, 6 décembre

1894.

MONSIEUR,—J'ai l'honneur de vous transmettre ci-joint, copie d'un arrêté en Conseil en date du 30 novembre dernier, au sujet de la frontière nord et nord-est, de la province de Québec, et de vous prier de vouloir soumettre ce document à Son Excellence le Gouverneur général en Conseil.

J'ai l'honneur, &c.,

(Sd.) J. A. CHAPLEAU,
Lieutenant

Gouverneur.

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[21 Nov., 1894.]

L'honorable Secrétaire d'Etat,
Ottawa.

COPY OF A REPORT OF A COMMITTEE OF THE HONOURABLE THE EXECUTIVE COUNCIL, DATED THE 21ST NOVEMBER, 1894. APPROVED BY THE LIEUTENANT GOVERNOR THE 30TH NOVEMBER, 1894.

RESPECTING THE SETTLEMENT OF THE NORTH AND THE NORTH-
EASTERLY BOUNDARY OF THE PROVINCE OF QUEBEC.

The Honourable the Commissioner of Crown Lands, in a report dated the 21st of November instant (1894), sets forth : that the important question of the North and North-eastern Boundary of the Province of Quebec, although submitted on various occasions to the Federal authorities at Ottawa, remains up to the present unsettled, notwithstanding the fact that the pretensions of the Province of Ontario, for an analogous extension of territory, have been recognized by the Parliament of Canada and the Imperial Parliament.

That as a matter of justice and right, the Province of Quebec is fully justified in persisting as it does persist, in the views embodied in the resolutions of the Quebec Legislative Assembly of 1886, having reference thereto, copy of which has already been transmitted to His Excellency the Governor General in Council, and in claiming, as it does claim, for reasons similar or somewhat similar to those successfully urged by the Province of Ontario, for an extension to its boundaries, all the territory situate north of the height of land, as far as the northerly limits held by the French Government, at the time of the negotiations preliminary to the signature of the treaty of Utrecht in 1713, and more particularly the territory defined in the aforesaid resolutions, as follows :—

“All the country bounded on the west by a prolongation of the present boundary line between Ontario and Quebec to the south shore of James Bay, and by the shore line of this bay as far as the mouth of East Main River, on the north by the right bank of East Main River from its mouth to its source, thence by a line drawn to the northernmost waters of the Grand River Esquimaux, Ashuanipi or Hamilton, and by the left bank of this river to its mouth in Rigolet Bay (Hamilton's Inlet), on the east and north-east by the meridian of the easternmost point of the source of the River St. Paul or Little Esquimaux, and again on the east by this same river to the fifty-second degree of north latitude, following this parallel to its intersection by the meridian of Anse au Blanc Sablon, the present recognized eastern boundary of this province.”

That the lack of information relating to this extent of country is one of the explanations given for the delays which have occurred in the settlement of this just claim ;

That within the last three years exhaustive explorations have been effected by competent officers of the Geological Commission of Canada, through the principal waters system of that region, and that the Government

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of Canada is no doubt at present in possession of the necessary data regarding the geography and resources of that country.

That these studies being now completed, the necessary legislation can be adopted by the Parliament of Canada, and the Honourable Commissioner recommends that a despatch be

sent through His Honour the Lieutenant Governor to the Honourable the Secretary of State for Canada, praying that the Government of Canada submit at the next session of Parliament the adoption of a measure sanctioning the North Eastern Boundary of the Province of Quebec as laid down in the Resolutions of the Quebec Legislative Assembly of 1886 above cited.

Certified,

(Sd.) GUSTAVE GRENIER,
Clerk, Executive Council.

(P .C. 2623.)

CERTIFIED COPY OF A REPORT OF THE COMMITTEE OF THE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCY THE GOVERNOR GENERAL OF THE 8TH JULY, 1896.

On a Memorandum dated 6th July, 1896, from the Minister of the Interior, submitting the annexed Report from the Deputy Minister of the Interior, having relation to the subject of the Northern, North-western and North-eastern boundaries of the Province of Quebec, and containing a proposed description of the same.

The Committee on the recommendation of the Minister of the Interior advise that the said report be approved, and that the necessary steps be taken to obtain the acceptance by the Government of Quebec and the ratification by Parliament of the proposed description of the North-western, Northern and North-eastern Boundaries of the Province of Quebec therein contained.

RODOLPHE BOUDREAU,
Clerk of the Privy

Council.

Department of the Interior,
Ottawa,

29th January, 1896.

(P.C. 2623a.)

The Hon. T. MAYNE DALY,
Minister of the Interior.

SIR,—I have the honour to report that I have, in accordance with your request, given careful consideration to the various references which have been made from Council of despatches from His Honour the Lieutenant Governor of Quebec, having relation to the subject of the Northern, North-western and North-eastern boundaries of that Province.

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The views of the Provincial authorities as to what these boundaries should be are set forth in a report, dated 4th June, 1886, made by a select committee of the Legislative Assembly

“ to consider the question of the Northern and North-eastern limits of the Province of Quebec, and the necessary measures to be taken in order that such limits do include the territories to which it is entitled by establishing and defining such rights.” The correspondence which has passed between the Province and the Government of Canada in this relation has been laid before Parliament, and shows in effect that what the Province contends for is the continuation to the shore of James Bay of the due north line from the head of Lake Temiscamingue which already constitutes the Eastern boundary of the Province of Ontario ; thence along the shores of James Bay to the mouth of the East Main River, and along that River to its source ; thence by a right line to the most northerly waters of the Ashuanipi or Hamilton River ; thence descending that stream until it intersects the boundary of Newfoundland territory in Labrador ; and finally following the last named boundary to Blanc Sablon on the north shore of the Gulf of St. Lawrence.

This proposal, with the correspondence arising out of it, was referred to the Department of the Interior in December, 1889. I then reported that next to nothing was known about the East Main and Hamilton Rivers ; that like all other rivers they undoubtedly had several sources and branches, and that before they could be adopted as a boundary it would be necessary to determine in each case which of the branches is to be adopted as the dividing line. It was then regarded as possible that some of the branches of both streams might extend far away to the north, and include territory which it was not contemplated by either Government should be included in the Province of Quebec. Even if both Governments were agreed as to the propriety of adopting the Legislative Assembly's suggestion on its merits, the branches and sources of the respective rivers to be adopted for the purposes of the boundary, and to be connected by a right line, should first be agreed upon.

With a view to the acquisition of as much as possible of the information which was thus indicated as being necessary, Mr. William Ogilvie was despatched to James Bay in the spring of 1890. His survey settled definitely and affirmatively a point upon which up to that time there was more or less doubt ; that is, as to whether the Temiscamingue meridian, although actually made the Eastern boundary of the Province of Ontario by an Act of the Imperial Parliament on the assumption that it intersected James Bay at the point indicated upon all existing maps, really did touch the waters of the Bay at all. Mr. Ogilvie fixed the point at which the Temiscamingue line reaches the waters of the Bay, made a reliable survey of the coast-line from that point to the mouth of the East Main River, and determined the latitude of the mouth of the River. In 1892 Mr. A. P. Low of the Geological Survey connected by a micrometer survey Ogilvie's station at the mouth of the East Main River with Lake Mistassini, 308 miles of the East Main River being included in this survey. Again in 1893 Mr. Low continued his survey

from the point on the river which he reached the previous season up to the head of Patamik Lake, from which he went to Ungava Bay by the Koksoak or Ungava River, and from thence to Hamilton Inlet, where he spent the winter. In the spring of 1894 he surveyed the Hamilton River from Goose Bay to a point some distance up the Ashuanipi branch, and returned to that section last year with the object of obtaining further particulars respecting the country about the head waters of the Manicougan River.

The Government are now in possession of sufficient information to show that the proposal made by the Government of Quebec in 1886 is a practicable one.

I do not contend that the boundary proposed is a legal boundary, but on the contrary admit that it is a conventional one. The true limit of the Province of Quebec on the North would probably be the boundary between New France and the territories of Great Britain on the northern part of the continent. There was some difference of opinion between France and England as to where the boundary should be, and the commissioners appointed to decide the question never reported. Even if that boundary had been finally established it could not now be adhered to, because in the interval, after an arrangement and a re-arrangement, the Imperial Government finally detached from the Province of Quebec and placed under the jurisdiction of Newfoundland the strip along the Atlantic coast extending from Anse Sablon to Hudson Strait described by " Letters Patent " dated 28th March, 1876, as follows : " The Coast of Labrador from the entrance of Hudson's Strait to a line to be drawn due north and south from Anse Sablon on the said coast to the 52nd degree of north latitude, and all the Islands adjacent to that part of the Coast of Labrador."

What therefore is now aimed at is a conventional line which will also be convenient and easily ascertained, and it is believed that in the description appended to this memorandum that aim has been attained, the only portion of the lines it describes which would appear to require to be established by any further actual survey being the right line connecting the waters of the East Main River with the water of the Ashuanipi. The suggestion made by the Hon. David Mills when this matter was discussed in the House of Commons in 1893 was that the Rupert River should be the boundary, his contention being that the territory lying to the south of it would be equal in extent and it might be presumed superior in value and importance to the territory which the Province of Quebec would yield to Canada north of that river. But the Rupert River would serve as a boundary only in respect of the territory lying between Lake Mistassini and James Bay, and there would be a great tract of country lying between Lake Mistassini and the Hamilton River which would have to be connected by an artificial line, the cost of surveying which it is impossible to estimate, but which would in any event be very great. All that is known about that part of the country, including the exploration of Mr. Lowe, would indicate that neither its soil nor its climate make it suitable for agricultural or pastoral

purposes ; that its supply of timber is of no great value ; and there would appear to be no indications from

its geological structure of much available mineral wealth. The conventional boundary proposed has the advantage of being for five-sixths of its distance a natural boundary which needs no surveying to establish it, and it gives to the Province of Quebec not any more, and probably a good deal less territory than it would have obtained had the Commissioners appointed to define the boundary between the French and British possessions in the Northern part of the continent arrived at a decision. Moreover, it is substantially the proposition of the Province itself. The Provincial Government and Legislature originally described the territory which they thought should be included as lying south of the East Main River followed to its source, the last mentioned point to be connected with the most northerly source of the Hamilton River. At that time, if I am not very much mistaken, the sources of both rivers were assumed to be situated geographically, in relative proximity to each other—a theory which is now no longer entertained. It would take many years of exploration and the expenditure of a good deal of money to settle what are the true sources of the East Main and the Hamilton Rivers respectively, but as I read the correspondence which has passed upon the subject, the boundary line as hereinafter described will meet the views of the authorities of the Province to all intents and purposes. I therefore respectfully submit it for your consideration, and recommend that the necessary steps be taken to obtain its acceptance by the Government of Quebec and its ratification by the Parliament of Canada.

Proposed description of the North Western, Northern and North Eastern boundaries of Quebec :—

Commencing at the head of Lake Temiscamingue thence along the province of Ontario due North to the shore of the part of Hudson Bay commonly known as James Bay, and thence north-easterly, following upon the said shore to the mouth of the East Main River, and thence easterly ascending along the middle of the said river up to the confluence of the Branch thereof flowing from Patamisk Lake, and thence ascending along the middle of the said branch up to Patamisk Lake, and thence along the middle of the said Lake to the most northerly point thereof, the said point being about fifteen miles south from the Hudson's Bay Company's post on Lake Nichigun and approximately in Latitude fifty-two degrees and fifty-five minutes north, and longitude seventy degrees and forty-two minutes west of Greenwich ; thence due east along the parallel of latitude of the said point to the intersection of the river discharging the waters of Lake Ashuanipi, which river is known under the names of Hamilton or Ashuanipi or Great Esquimaux River, and thence descending along the middle of the said river through Menihek, Marble, Astray and Dyke Lakes to the most southerly outlet of Dyke Lake, and thence along the middle of the said outlet to Birch Lake, and thence along the middle of Birch and Sandgirt Lakes to the

most southerly outlet of Sandgirt Lake, and thence along the middle of the southern channel of the Hamilton River to Flour Lake, and thence along the middle of Flour Lake to its outlet, and thence along the middle of Hamilton River to the Bay du Rigolet or Hamilton Inlet, and thence easterly along the middle of the said bay or inlet

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until it strikes the Westerly Boundary of the territory under the jurisdiction of Newfoundland, and thence southerly along said boundary to the point where it strikes the north shore of the Anse Sablon in the Gulf of St. Lawrence, the said boundary being shown in red as far as Hamilton Inlet on the map hereto attached.

I have the honour to be,

Sir,

Your obedient servant,

(Sd.) A. M. BURGESS,

Deputy Minister of the

Interior.

[2 Oct. 1895.]

No. 1499.

C

**EXTRACT FROM A REPORT OF THE COMMITTEE
OF THE HONOURABLE THE PRIVY COUNCIL
(DOMINION), APPROVED BY HIS EXCELLENCY
ON THE 2nd OCTOBER, 1895.**

Ref. 389,977 on 37,906

On a Report, dated 26th July, 1895, from the Minister of the Interior, submitting that it is expedient for the convenience of settlers in the unorganized and unnamed districts of the North-West Territories¹ and for postal purposes, that the whole of such Territories should be divided into provisional districts, and recommending that four such districts be established, to be named Ungava, Franklin, Mackenzie and Yukon.

The Minister further recommends that the Boundaries of such districts shall be as follows :—

1. UNGAVA.—The District of Ungava (coloured brown on the map hereto attached), of indefinite extent, to be bounded as follows :—

On the North by Hudson Strait ; on the West by the East Coast of Hudson Bay and James Bay ; on the South by the Province of Quebec ; on the East by the boundary between Canada and the Dependency of Newfoundland, on the Coast of Labrador.

And with regard to the Islands in Hudson Strait, Hudson Bay and James Bay, it is to be understood that only those islands which lie within a distance

¹ The Northwestern Territory and Ruperts' Land, when made part of the Dominion of Canada in 1870, became, for purposes of Government, styled and known as " The Northwest Territories " (32-33 Vict. (Dom.), Cap. 3, 1869 ; 33 Vict. (Dom.), Cap. 4, 1870; R.S.C. 1906.

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of three sea mile from the Coast are to be included in the District ; all outside of this limit are to be under the control of the Dominion Government.

2. FRANKLIN.—The District of Franklin (coloured pink on the map hereto attached), of indefinite extent, to be bounded as follows :—

Beginning at Cape Best, at the entrance to Hudson Strait from the Atlantic ; thence westerly through said Strait, Fox Channel, Gulf of Boothia, Franklin Strait, Ross Strait, Simpson Strait, Victoria Strait, Dease Strait, Coronation Gulf and Dolphin and Union Strait, to a point in the Arctic Sea, in Longitude about 125° 30' West, and in Latitude about 71° North ; thence northerly including Baring Land, Prince Patrick Island, and the Polynea Islands ; thence north-easterly to the " farthest of Commander Markham's and Lieutenant Parr's sledge journey " in 1876, in Longitude about 63½° West, and Latitude about 83¼ North ; thence southerly through Robeson Channel, Kennedy Channel, Smith Sound, Baffin Bay, and Davis Strait to the place of beginning.

* * * *

To the Honourable

The Minister of the Interior.

N.B.—Published in " Canada Gazette " of November 9th, 1895, Vol. 29, No. 19, for the fourth consecutive week.

N.B.—As this Order in Council is to be rescinded and amended by another Order, and the Map to be changed in accordance with the new Order, it is not considered necessary to lithograph the Map referred to in this Order.

No. 1500.

[18 Dec., 1897.]

P.C. No. 3388—No. 29, 1897.

**EXTRACT FROM ORDER IN COUNCIL (DOMINION)
OF THE 18th DECEMBER, 1897, ESTABLISHING
PROVISIONAL DISTRICTS IN THE
UNORGANIZED PORTIONS OF CANADA.**

On a Report, dated 10th December, 1897, from the Minister of the Interior, stating that by Order in Council of the 2nd October, 1895, the unorganized portions of Canada were divided into Provisional Districts, four new districts being created and changes made in the boundaries of one of the old districts. It was further provided that at the next session of Parliament, a Bill should be introduced having for its object the addition of territory to the District of Keewatin. Shortly after the date of the above Order deficiencies were found in the description of the district boundaries, and as doubts existed as to the form of the proposed amendments to the Keewatin Act, no steps were taken to carry out the directions of the Order.

The Minister recommends that the Order in Council of the 2nd of October, 1895, be cancelled, and that such legislation as may be necessary be introduced at the next session of Parliament to authorize the division of the portions of Canada not comprised within any Province into nine Provisional Districts in accordance with the annexed description and map.¹

The Minister adds that should these recommendations be approved, the Districts of Assiniboia, Alberta, Saskatchewan and Athabasca will remain as they were established by the Order in Council of the 2nd October, 1895, and previous Orders, but the boundaries of Ungava, Keewatin, Mackenzie, Yukon and Franklin will be slightly changed.

The Committee submit the above recommendations for Your Excellency's approval.

To the Honourable (Signed) JOHN J. McGEE,

The Minister of the Interior. Clerk of the Privy Council.

N.B.—Published in the “ Canada Gazette ” of 4th June, 1898, Vol. 31, No. 49, for the fourth consecutive week.

With P.C. No. 3388-1897 ; Ref. 455,482 on 389,977.
(ANNEX “ A ” to P.C. 3388, 18th December, 1897).

DESCRIPTION OF PROVISIONAL DISTRICTS.

* * * *

UNGAVA.

The District of Ungava (outlined purple on the map herewith) containing about 456,000 square miles, bounded as follows :—

On the West by the District of Keewatin ; on the South by the Province of Quebec ; on the East by the territory under the jurisdiction of Newfoundland ; on the North by a line drawn along the middle of Hudson Strait and a continuation of said line passing between Salisbury and Nottingham Islands to the eastern boundary of Keewatin.

* * * *

FRANKLIN.

The District of Franklin (situated inside of the grey border on the map herewith) comprising Melville and Boothia Peninsulas, Baffin, North Devon, Ellesmere, Grant, North Somerset, Prince of Wales, Victoria, Wollaston, Prince Albert and Banks Lands, the Perry Islands and all those lands and islands comprised between the one hundred and forty-first meridian of longitude west of Greenwich on the west, and Davis Strait, Baffin Bay, Smith Sound, Kennedy Channel and Robeson Channel on the east, which are not included in any other Provisional District.

No. 1501.

[19 May, 1855.]

**THE PARLIAMENTARY REPRESENTATION
AMENDMENT ACT OF 1855, STATUTE OF CANADA,
18 VIC., CAP. 76.**

[Assented to 19th May, 1855.]

WHEREAS it is expedient, for greater convenience, to amend the Act passed in the sixteenth year of Her Majesty's Reign, intituled, An Act to enlarge the Representation of the People of this Province of Parliament : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada, and it is hereby enacted by the authority of the same as follows :—

* * * *

X. The County now called the County of Tadousac shall hereafter be known and designated as the County of Saguenay.

XI. The County now called the County of Saguenay shall hereafter be known and designated as the County of Charlevoix.

No. 1502.

Preamble.

STATUTE OF QUEBEC, 62 VICTORIA (1898), CAP. VI.¹

AN ACT RESPECTING THE DELIMITATION OF THE NORTH-WESTERN,
NORTHERN AND NORTH-EASTERN BOUNDARIES OF THE
PROVINCE OF QUEBEC.

[Assented to 15th January, 1898].

WHEREAS the act 34-35 Victoria, chapter 28, of the Parliament of the United Kingdom of Great Britain and Ireland, intituled, “ An Act respecting the establishment of Provinces in the Dominion of Canada,” enacts that the Parliament of Canada may, from time to time, with the consent of the Legislature of any Province, increase, diminish or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase, diminution or alteration of territory ;

Consent of
Legislature
to certain
boundaries.

WHEREAS it has been agreed, between the Government of Canada and that of this Province, that the north-western, northern and north-eastern limits of the Province of Quebec should be those hereinafter indicated, and it is expedient to give effect to such agreement :

Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows :—

1. The Legislature of the Province of Quebec hereby consents that the north-western, northern and north-eastern limits of the Province of boundaries. Quebec be the following :—

“ Commencing at the head of Lake Temiscamingue, thence along the eastern boundary of the Province of Ontario due north to the shore of the part of Hudson Bay commonly known as James Bay, and thence north-easterly following upon the said shore to the mouth of the East Main River, and thence easterly ascending along the middle of the said river up to the confluence of the branch thereof flowing from Patamisk Lake, and thence ascending along the middle of the said branch up to Patamisk Lake, and thence along the middle of the said Lake to the most northerly point thereof, the said point being about fifteen miles south from the Hudson Bay Company's post on Lake

Coming into
Force.

Nichigun, and approximately in latitude fifty-two degrees fifty-five minutes north, and longitude seventy degrees forty-two minutes west of Greenwich ; thence due east along the parallel of latitude of the said point to the intersection of the river discharging the waters of Lake Ashuanipi, which river is known under the names of Hamilton or Ashuanipi or Great Esquimaux River, and thence descending along the middle of the said river through Menihek, Marble, Astray and Dyke Lakes, to the most southerly outlet of Dyke Lake, and thence along the middle of the said outlet to Birch Lake, and thence along the middle of Birch and Sandgirt Lakes to the most southerly outlet of Sandgirt Lake, and thence along the middle of the southern channel of the Hamilton River to Flour Lake, and thence along the middle of Flour Lake to its outlet, and thence along the middle of the Hamilton River to the Bay du Rigolet or Hamilton Inlet, and thence easterly along the middle of the said bay or inlet until it strikes the westerly boundary of the territory under the jurisdiction of Newfoundland, and thence southerly along the said boundary to the point where it strikes the north shore of the Anse Sablon, in the Gulf of St. Lawrence, the said line being shown in red as far as Hamilton Inlet, upon the plan accompanying the copy of the Order of the Governor General in Council No. 2623, dated the 8th July, 1896, transmitted to the Lieutenant-Governor of this Province, and now deposited among the archives of the Provincial Secretary.”

2. This act shall come into force on the day of its sanction.

No. 1503.

C

STATUTE OF CANADA, 61 VICT. (1898), CAP. 3.

[Vide Vol. I.](#)

No. 1504.

[22 Feby., 1899.]

STATUTE OF QUEBEC, 62 VICT. (1899), CAP. 6.

Preamble.

AN ACT RESPECTING THE NORTH-EASTERN, NORTHERN AND NORTH-
WESTERN LIMITS OF CERTAIN COUNTIES IN THE PROVINCE.

[Assented to 25th February, 1899.]

Id. No. 54,
amended.

County of
Saguenay.

WHEREAS the north-eastern, northern and north-western frontier of the Province of Quebec, which served as the boundary of certain counties of this Province, was definitively established by the act of the Parliament of Canada, 61 Victoria, chapter 3, in accordance with the consent of the Legislature of Quebec, expressed by the act 61 Victoria, chapter 6 ;

Whereas the aforesaid delimitation of the frontier necessitates a new description of the limits of the said counties :

Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows :—

* * * *

8. The first paragraph of the description of the country of Saguenay, in Number 54 of the said table of the said article, is replaced by the following:—

“ The county of Saguenay is bounded on the south and south-east by the Gulf and River St. Lawrence ; on the south by the parallel of the forty-eighth degree of north latitude as far as the county of Chicoutimi ; on the north-west and west by the county of Chicoutimi ; on the north by the parallel of fifty-two degrees and forty-five minutes north latitude, and by the line dividing the waters of the basin of the River St. Lawrence from those of the River Ashuanipi, Hamilton or des Esquimaux, and on the east by the limits of the Province, including the islands and islets of Mingan, the Island of Anticosti, and the nearest islands situated wholly or in part opposite to such county.”

No. 1505.

Preamble.

STATUTE OF QUEBEC, 62 VICT. (1899), CAP. 5.

AN ACT RESPECTING THE TERRITORIES OF ABITTIBI, MISTASSINI AND
ASHUANUPI.

Division of
certain
portions of
the
Province
into three
territories.

[Assented to 25th February, 1899.]

Names of
territories.

WHEREAS the definition of the northeastern, northern and north-western frontiers of the Province of Quebec by the act of Canada, 61 Victoria, chapter 3, passed in accordance with the consent of this Legislature expressed by the act 61 Victoria, chapter 6, has necessitated a new description of the limits of certain counties comprised in the basin of the St. Lawrence,—which is contained in chapter 6 of these statutes—and the organization of the territory lying to the north of the said basin ;

Description
of territory
of : Abittiti
;

Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

Mistassini ;

1. The whole of the territory of the Province, comprised between the northeastern, northern and northwestern limits of the counties of Pontiac, Montcalm, Joliette, Berthier, Maskinongé, St. Maurice, Champlain, Lake St. John, Chicoutimi and Saguenay and the northeastern, northern and north-western frontiers of the Province, as defined in the act of Canada, 61 Victoria, chapter 3, and the act of this Legislature, 61 Victoria, chapter 6, is divided into three territories to be known and designated under the names of : Territory of Abittibi, territory of Mistassini and territory of Ashuanipi.

Ashuanipi.

2. These three territories are described as follows :

(1) The territory of Abittibi is bounded on the north and on the west by the limits of the Province ; on the northeast by the new territory of Mistassini ; towards the south by the county of Pontiac ; and towards the southeast by the counties of Montcalm, Joliette, Berthier, Maskinongé, St Maurice, Champlain and Lake St. John.

The territory, so bounded, comprises the basin of James's Bay, less the part watered by the Rivers East Main and Rupert.

(2) The territory of Mistassini is bounded on the north and west by the limits of the Province ; on the southwest by the new territory of Abittibi ; and on the southeast by the counties of Chicoutimi and Lake St. John.

Laws in
force in
territories.

The territory, so bounded, comprises the basin of the East Main and that of Rupert river.

(3) The territory of Ashuanipi is bounded on the north,

east and west by the limits of the Province ; and on the south and southwest by the county of Saguenay.

p. 4019

Power of
Lieutenant-
Governor to
suspend
game
and fishing
laws, &c.

The territory so bounded comprises the basin of the River Ashuanipi, Hamilton or Esquimaux, as well as all other parts of territory watered by water-courses flowing directly towards the Atlantic.

Annexation
of
territories
to certain
counties
for certain
purposes.

3. The laws and regulations in force in the Province of Quebec are and shall be in force in the said territories, in so far as they may apply and in so far as they may not be modified or amended by competent authority.

It shall, however, be lawful for the Lieutenant-Governor in Council to suspend, in the said territories, in whole or in part, for the time deemed convenient, the laws respecting game and fisheries, and to make, amend and repeal such regulations as he may deem expedient respecting such matters.

Appointment
of justices
of
the peace
for
territories.

4. For judicial and registration purposes, the territory of Abitibi shall be deemed to form part of the county of Pontiac, the territory of Mistassini, of the second division of the county of Lake St. John, and the territory of Ashuanipi, of the county of Saguenay.

Qualifications.

R.S. 2574
to supply.
Coming
into
force.

5. The Lieutenant-Governor in Council may, by commission, appoint one or more residents in any of the said territories as justices of the peace, with jurisdiction over all these territories or over that one or those which he shall be pleased to indicate.

The persons so appointed must be British subjects of the full age of twenty-one years, but need not possess any of the other qualifications required of justices of the peace.

Article 2574 of the Revised Statutes apply to such justices of the peace.

6. This act shall come into force on the day of its sanction.

No. 1506.

**EXTRACT FROM REVISED STATUTES OF QUEBEC,
1909.**

CHAPTER THIRD.

DIVISION OF THE PROVINCE FOR CERTAIN PURPOSES.

SECTION I.

GENERAL PROVISIONS.

[1909.]
Division of the
Province into
Electoral districts
for the Legislative
Assembly.

Divisions for the
Legislative
Council.

Judicial districts.

Registration
divisions :
County,
city and town
municipalities.

Division of county
municipalities.

Basis for the
division of
the
Province.

Territories.

Names, &c., of
electoral
districts.

62. For the purposes of the Legislature, the Province of Quebec is divided :

(1) Into seventy-five electoral districts for the representation of the people in the Legislative Assembly—R. S. Q., 60, § 1 ; 53 V., cc. 2 and 3 ; 59 V., c. 6.

(2) Into twenty-four divisions for the Legislative Council, comprising the four districts mentioned in article 85—R. S. Q., 60, § 2 ; 55-56 V., c. 2, s. 1.

63. The Province is also divided :

(1) Into twenty-one districts for the purposes of the administration of justice ;

(2) Into seventy-five divisions for registration purposes ;

(3) Into seventy-one county municipalities, and into city and town municipalities, constituted by special act or by letters-patent for municipal purposes—R. S. Q., 61 ; 53 V., c. 2 ; 55-56 V., c. 45 ; 60 V., c. 15 ; 62 V., c. 7 ; 2 Ed. VII, c. 11 ; 3 Ed. VII, c. 38, s. 14.

64. County municipalities are subdivided, in conformity with the Municipal Code, into rural, village and town municipalities—M.C. 2 ; R. S. Q., 62.

65. Except for cities and towns, and with the modifications mentioned in their proper place, the division into electoral districts shall serve as a basis for the other divisions—M. C., 24 ; R. S. Q., 63.

66. The Province also comprises three territories—62 V., c. 5, s. 5.

SECTION II.

ELECTORAL DISTRICTS.

67. The seventy-five electoral districts are named, described, bounded and composed as follows :—R. S. Q., 64 ; 53 V., cc. 2 and 3 ; 59 V., c. 6.

SAGUENAY.—The county of Saguenay is bounded on the south and southeast by the gulf and river St. Lawrence ; on the south by the parallel of the forty-eighth degree of north latitude as far as the county of Chicoutimi ; on the northwest and west by the county of Chicoutimi ; on the north by the parallel of fifty-two degrees and fifty-five minutes north latitude, and by the line dividing the waters of the basin of the river St. Lawrence. from those of the river Ashuanapi, Hamilton or des Esquimaux, and on the east by the limits of the Province, and includes the islands and islets of Mingan, the island of Anticosti, and the nearest islands situated wholly or in part opposite to such county.

The county, so bounded, comprises the townships of Saguenay which includes the municipality of St. Firmin, Sagard, Tadoussac which includes the village of. Tadoussac, the townships of Albert, Bergeronnes, Escoumains Lagorgendière, Lalande and Iberville, the seigniory of Mille Vaches or Portneuf, the townships of Laval, De La Tour, Pontgravé, Fitzpatrick, Royer, Cannon, Grenier, Pontchartrain, Phellyppeaux, Cery, St. Vincent, Chevalier, Bonne Espérance, Brest, Peuvret, L'Archipel Ouapitagone, L'Archipel Washicooti, Duchesneau, Liénard, Bissot, Charner, Légardeur, Cook, Archipel de St. Augustin, Bougainville, d'Audebourg, Montesson, Boishébert, Rochemonteix, Archipel de Kecarpouï, Archipel de Ste. Marie, Beaune, Bellecourt, Brouage, Marsa, Archipel du Gros Mecatina, Archipel du Petit Mecatina, Archipel du Vieux Fort, Blanche, Betsiamites, Manicouagan, Laflèche, De Monts, Le Neuf, Arnaud, Letellier and Moisie, the parish of St. Pierre de la Pointe aux Esquimaux, and all other territory comprised within these limits—R. S. Q., 64, § 54 ; 53 V., c. 2, ss. 1, 3 ; 62 V., c. 6, s. 8 ; 3 Ed. VII, c. 6, s. 1.

What is comprised within electoral districts.

Banks of a river in district.

Boundary of district by a river.

Measurement of nearness of island, &c., to a district.

Territories.

* * * *

68. These electoral districts include all places within their respective limits, although not expressly enumerated in the list of places comprised—R. S. Q., 65.

69. That portion of a river of which the two banks are within one electoral district, is comprised therein—R. S. Q., 66.

70. The limits of every electoral district bounded by a river extend to the middle of such river—R. S. Q., 67.

71. The nearness of an island or islet to an electoral district is measured by the relative distance between either side of the island or islet and the shore of the opposite electoral district—R. S. Q., 68.

Names of territories.	76. The whole of the territory of the Province, between the north-eastern, northern and north-western limits of the counties of Pontiac, Mont-calm, Joliette, Berthier, Maskinongé, St. Maurice, Champlain, Lake St. John, p. 4022
Description. Abittibi.	Chicoutimi and Saguenay and the north-eastern, northern and north-western frontiers of the Province, as defined in the act of the Parliament of Canada, 61 Victoria, chapter 3, and the act of this Legislature, 61 Victoria, chapter 6, is divided into three territories named : “ Territory of Abittibi ; ” “ Territory of Mistassini ” and “ Territory of Ashuanipi ”—62 V., c. 5, s. 1.
Mistassini.	77. The said territories are described as follows : (1) The territory of Abittibi is bounded on the north and on the west by the limits of the Province ; on the north-east by the new territory of Mistassini ; towards the south by the county of Pontiac ; and towards the south-east by the counties of Montcalm, Joliette, Berthier, Maskinongé, St. Maurice, Champlain and Lake St. John.
Ashuanipi.	The territory, so bounded, includes the basin of James' Bay, less that part watered by the rivers East Main and Rupert. (2) The territory of Mistassini is bounded on the north and west by the limits of the Province ; on the south-west by the new territory of Abittibi ; and on the south-east by the counties of Chicoutimi and Lake St. John.
Laws in force in territories.	The territory, so bounded, includes the basin of the East Main and that of Rupert river. (3) The territory of Ashuanipi is bounded on the north, east and west by the limits of the Province : and on the south and south-west by the county of Saguenay.
Suspension of fish and game laws, &c.	The territory, so bounded, includes the basin of the river Ashuanipi, Hamilton or Esquimaux, as well as all other parts of territory watered by water-courses flowing directly towards the Atlantic—62 V., c. 5, s. 2.
Annexation to certain counties for certain purposes.	78. The laws and regulations in force in the Province are and shall be in force in the said territories, in so far as they may apply and in so far as not modified or amended by competent authority. The Lieutenant-Governor in Council may, however, suspend in the said and game laws, &c. territories, in whole or in part, and for such time as may be thought proper, the laws respecting game and fisheries, and may make, amend and repeal such regulations as he may deem expedient respecting such matters—62 V., c. 5, s. 3.
Appointment of justices of the peace.	79. For judicial and registration purposes, the territory of Abittibi shall be deemed to form part of the county of Pontiac, the territory of Mistassini to form part of the second division of the county of Lake St. John, and the territory of Ashuanipi to form part of the county of Saguenay—62 V., c. 5, s. 4.
Qualifications.	

R.S., 3363 to apply.

80. The Lieutenant-Governor in Council may, by commission, appoint one or more residents in any of the said territories as justices of the peace, with jurisdiction over all the territories or over that one or those which he shall be pleased to indicate.

The persons so appointed shall be British subjects of the full age of twenty-one years, but need not possess any of the other qualifications required of justices of the peace.

Article 3363 shall apply to such justices of the peace—62 V., c. 5, s. 5.

No. 1507.

[1 April, 1912.]

Preamble.

**THE QUEBEC BOUNDARIES EXTENSION ACT, 1912,
STATUTE OF CANADA, 2 GEORGE V. (1912), CAP. 45.**

Short Title.

AN ACT TO EXTEND THE BOUNDARIES OF THE PROVINCE OF QUEBEC.

[Assented to 1st April, 1912.]

Boundaries
extended.

WHEREAS on the thirteenth day of July, one thousand nine hundred and eight, the House of Commons resolved that the limits of the province of Quebec should be increased by the extension of the boundaries of the province northwards so as to include the territory hereinafter described, as in the said resolution is more particularly set out, upon such terms and conditions as may be agreed to by the Legislature of Quebec and by the Parliament of Canada : Therefore, subject to the consent of the said Legislature, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1808, c. 3.

1. This Act may be cited as *The Quebec Boundaries Extension Act, 1912.*

Population as
affecting
representa-
tion.

2. The limits of the province of Quebec are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said province, the territory bounded and described as follows :—Commencing at the point at the mouth of East Main river where it empties into James bay, the said point being the western termination of the northern boundary of the province of Quebec as established by chapter 3 of the statutes of 1898, intituled *An Act respecting the north-western, northern and north-eastern boundaries of the province of Quebec* ; thence northerly and easterly along the shores of Hudson bay and Hudson strait ; thence southerly, easterly and northerly along the shore of Ungava bay and the shore of the said strait ; thence easterly along the shore of the said strait to the boundary of the territory over which the island of Newfoundland has lawful jurisdiction ; thence south-easterly along the westerly boundary of the said last mentioned territory to the middle of Bay du Rigolet or Hamilton Inlet ; thence westerly along the northern boundary of the province of Quebec as established by the said Act to the place of commencement ; and all the land embraced by the said description shall, from and after the commencement of this Act, be added to the province of Quebec, and shall, from and after the said commencement, form and be part of the said province of Quebec upon the following terms and conditions

Population
under
decennial
census.

B.N.A. Act,
s. 51.

Indian rights
in new
territory.

Surrenders.

Trusteeship.

Hudson's Bay
Co. rights
preserved.

Commence-
ment of
Act.

Consent of
Quebec
legislature.

and subject to the following provisions :—

(a) That the population of the territory hereby added to the province

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of Quebec shall be excluded in ascertaining the population of the said province for the purposes of any readjustment of representation of the other provinces consequent upon any census ;

(b) That in the general census of the population of Canada which is required to be taken in the year one thousand nine hundred and twenty-one and in every tenth year thereafter the population of the territory hereby added to the province of Quebec shall be distinguished from that of the said province as heretofore constituted, and the representation of the said territory in the House of Commons shall be determined according to the rules enacted by section 51 of “ The British North America Act, 1867,” regulating the representation of the provinces other than Quebec ;

(c) That the province of Quebec will recognize the rights of the Indian inhabitants in the territory above described to the same extent, and will obtain surrenders of such rights in the same manner, as the Government of Canada has heretofore recognized such rights and has obtained surrender thereof, and the said province shall bear and satisfy all charges and expenditure in connection with or arising out of such surrenders ;

(d) That no such surrender shall be made or obtained except with the approval of the Governor in Council ;

(e) That the trusteeship of the Indians in the said territory, and the management of any lands now or hereafter reserved for their use, shall remain in the Government of Canada subject to the control of Parliament.

3. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Ruperts Land to the Crown.

4. This Act shall come into force on a day to be fixed by proclamation C. of the Governor in Council published in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Quebec shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid.¹

¹ Proclamation of the Governor in Council (Canada) of the 10th May, 1912, proclaiming Chapter 45 of the Statutes of Canada, 1912, in force, was published in *Canada Gazette*, 1912, vol. 45, pp. 4276-4277.

No. 1508.

[3 April, 1912.]

STATUTE OF QUEBEC, 2 GEORGE V. (1912). CAP. 7.

Preamble.

AN ACT RESPECTING THE EXTENSION OF THE PROVINCE OF QUEBEC BY
THE ANNEXATION OF UNGAVA.

[Assented to 3rd April, 1912.]

WHEREAS the act 34–35 Victoria, chapter 28, of the Parliament of the nited [sic.] Kingdom of Great Britain and Ireland, intituled, “ An Act respecting the establishment of Provinces in the Dominion of Canada,” enacts that the Parliament of Canada may, from time to time, with the consent of the Legislature of any Province, increase, diminish or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase, diminution or alteration of territory ;

Whereas the Parliament of Canada has passed an act reproduced in the schedule to this act, by which it has declared that the Province of Quebec comprises the territory therein described in addition to its present territory subject to acceptance by the Legislature of Quebec of the terms, conditions and provisions set forth in the said act ;

Whereas in the said act of the Parliament of Canada it is declared that the provisions thereof shall come into force on a day to be fixed by proclamation by the Governor-General of Canada in Council published in the *Canada Gazette*, but that such proclamation shall not be made until after the Legislature of Quebec shall have consented to the increase of the limits of the Province upon the terms and conditions and subject to the provisions therein stipulated ;

Whereas it is expedient to consent to the change of the limits proposed and to accept the terms, conditions and provisions to which this increase of the said limits is subject :

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec enacts as follows :—

Legislature
consents
that
certain terri-
tory form
part of
Province,
&c.

Coming into force.

1. The Legislature of the Province of Quebec consents that the territory described in the act of the Parliament of Canada set forth in the schedule to this act, do form part of the Province of Quebec ; the whole on the terms and conditions and subject to the provisions therein set forth, and that proclamation to that effect be made by the Governor-General of Canada in

Council, fixing the day on which this change in the boundaries of the Province shall take effect.

2. This act shall come into force on the day of its sanction.

SCHEDULE.

WHEREAS on the thirteenth day of July, one thousand nine hundred and eight, the House of Commons resolved that the limits of the Province of Quebec should be increased by the extension of the boundaries of the province northwards so as to include the territory hereinafter described, as in the said resolution is more particularly set out, upon such terms and conditions as may be agreed to by the Legislature of Quebec and by the Parliament of Canada : Therefore, subject to the consent of the said Legislature, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. This Act may be cited as *The Quebec Boundaries Extension Act, 1912*.

2. The limits of the Province of Quebec are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said province, the territory bounded and described as follows :—Commencing at the point at the mouth of East Main river where it empties into James Bay, the said point being the western termination of the northern boundary of the Province of Quebec as established by chapter 3 of the statutes of 1898, intituled *An Act respecting the north-western, northern and north-eastern boundaries of the province of Quebec* ; thence northerly and easterly along the shores of Hudson bay and Hudson strait ; thence southerly, easterly and northerly along the shore of Ungava bay and the shore of the said strait ; thence easterly along the shore of the said strait to the boundary of the territory over which the Island of Newfoundland has lawful jurisdiction ; thence south-easterly along the westerly boundary of the said last mentioned territory to the middle of Bay du Rigolet or Hamilton Inlet ; thence westerly along the northern boundary of the Province of Quebec as established by the said Act to the place of commencement ; and all the land embraced by the said description shall, from and after the commencement of this Act, be added to the Province of Quebec, and shall, from and after the said commencement, form and be part of the said Province of Quebec upon the following terms and conditions and subject to the following provisions :—

(a) That the population of the territory hereby added to the Province of Quebec shall be excluded in ascertaining the population of the said province for the purposes of any readjustment of representation of the other provinces

consequent upon any census ;

(b) That in the general census of the population of Canada which is required to be taken in the year one thousand nine hundred and twenty-one and in every tenth year thereafter the population of the territory hereby added to the Province of Quebec shall be distinguished from that of the said

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province as heretofore constituted, and the representation of the said territory in the House of Commons shall be determined according to the rules enacted by section 51 of “ The British North America Act, 1867,” regulating the representation of the provinces other than Quebec ;

(c) That the Province of Quebec will recognize the rights of the Indian inhabitants in the territory above described to the same extent, and will obtain surrenders of such rights in the same manner, as the Government of Canada has heretofore recognized such rights and has obtained surrender thereof, and the said province shall bear and satisfy all charges and expenditure in connection with or arising out of such surrenders ;

(d) That no such surrender shall be made or obtained except with the approval of the Governor in Council ;

(e) That the trusteeship of the Indians in the said territory, and the management of any lands now or hereafter reserved for their use, shall remain in the Government of Canada subject to the control of Parliament.

3. Nothing in this act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Ruperts Land to the Crown.

4. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council published in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Quebec shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid.

No. 1509.

[21 Dec., 1912.]

STATUTE OF QUEBEC, 1912, 3 GEORGE V.. CAP. 13.

Preamble.

AN ACT RESPECTING THE UNGAVA AND ERECTING THAT TERRITORY
UNDER THE NAME OF “ NEW QUEBEC ”

Boundaries
of
territory.

[Assented to 21st December,
1912.]

WHEREAS the annexation of the territory of Ungava to the Province of Quebec, since the 15th day of May, 1912, by proclamation of the Governor-General in Council of date the 10th day of May, 1912, and issued in virtue of the act of the Parliament of Canada, 2 George V, chapter 45, and of the act of the Legislature, 2 George V, chapter 7, has necessitated the administrative organization of the said territory :

Therefore His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec enacts as follows :—

Name.

Laws, &c.,
governing
territory.

Suspension of
certain laws,
&c.

Notification
of certain
grants.
Exception.

1. All the territory of the Province bounded by a line “ commencing at the point at the mouth of the East Main river where it empties into James Bay, the said point being the western termination of the northern boundary of the Province of Quebec as established by the act of the Parliament of Canada, 61 Victoria, chapter 3, and the act of the Legislature, 61 Victoria, chapter 6 ; thence northerly and easterly along the shores of Hudson bay and Hudson strait ; thence southerly, easterly and northerly along the shore of Ungava bay and the shore of the said strait ; thence easterly along the shore of the said strait to the boundary of the territory over which the Island of Newfoundland has lawful jurisdiction ; thence south-easterly along the westerly boundary of the said last mentioned territory to the middle of Bay du Rigolet or Hamilton Inlet ; thence westerly along the northern boundary of the Province of Quebec as established by the said acts to the place of commencement ” ; and as defined by the act of the Parliament of Canada, 2 George V, chapter 45, and the act of the Legislature, 2 George V, chapter 7, shall constitute a territory called “ New Quebec.”

2. The laws and regulations in force in the Province of Quebec are and shall be in force in the said territory in so far as applicable, and in so far as they are not changed or amended by competent authority,

It shall, however, be lawful for the Lieutenant-Governor in Council to suspend in the said territory, in whole or in part

and for such time as may be thought proper, the hunting and fishing laws, and to make, amend and repeal such regulations respecting these matters as he may deem expedient.

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Notice how given.

Judicial and registration arrangements.

Coroners' inquests, &c.

3. All grants of lands or other rights whatsoever, in New Quebec, before the 15th day of May 1912, the date of the coming into force of the proclamation of the Governor-General in Council—except those relating to the Hudson's Bay Company or to the rights of the Indian inhabitants if such last mentioned rights there be ; the whole as mentioned in the act of the Parliament of Canada, 2 George V, chapter 45—shall be notified to the Provincial Secretary within twenty-four months of the coming into force of this act, under pain of absolute nullity.

Such notice may be given by registered letter and shall be accompanied Notice how by a copy of the title, if any, evidencing the grant.

Justices of the peace.

4. For judicial purposes, New Quebec forms part of the district of Quebec, and for registration purposes of the registration division of the county of Quebec.

Their qualifications.

R.S., 3363 to apply.

5. It shall be lawful for the Lieutenant-Governor in Council to separate New Quebec from the district of Quebec for the purposes of coroners' inquests and to appoint one or more coroners for such territory with such exclusive or concurrent territorial jurisdiction as he may think proper to assign him or them. It shall also be lawful for him, if the needs of administration so require, to re-unite said territory to the district of Quebec or to unite it to any other district for the purposes of such inquests.

Coming into force.

6. The Lieutenant-Governor in Council may, by commission, appoint Justices of one or more persons residing in the Province, justices of the peace with such the peace. exclusive or concurrent territorial jurisdiction as he may be pleased to assign him or them.

Except that the persons appointed justices of the peace must be British Their subjects and of the age of majority, it is not necessary that they should have cation.. the qualifications required of justices of the peace.

Article 3363 of the Revised Statutes, 1909, shall apply to such justices of the peace.

7. This act shall come into force on the day of its sanction.

PART XX.

SECTION VIII.

DOCUMENTS RELATIVE TO THE BOUNDARY OF THE
HUDSON'S BAY COMPANY'S TERRITORY WITHIN
THE LABRADOR PENINSULA.

No. 1510.

[24 Jan., 1682.]

**EXTRACTS FROM CHARTER OF HUDSON'S BAY
COMPANY, 1670.**

Vide Vol. II at pp. 367-370

Copy of
the French
Ambassadors

No. 1511.

C

memoriall
agst. the
Company.

**MEMORIAL OF THE FRENCH AMBASSADOR AND
THE HUDSON'S BAY COMPANY'S ANSWER, 1682.**

HUDSON BAY COMPANY'S RECORDS.

The 24 January 1682 at a Committee

Ordered the Secretary coppey faire out into the Coppey book of
Lrs. outward the French Ambassadors memoriall exhibited
agst. the Company, with ye answer thereunto prepared by Sr
James Hayes.

Extrait d'une Lettre de M^r de Labarre, Gouverneur de
Canada du 11 Novemb^r 1682.

The Answer
prepared by
Sr James
Hayes to
the
above
mem-
orial.

Du coste du Nord il y a une Compagnie en Angleterre
pour la traitte de la Baye d'Hudson qui commence a faire des
habitations dans les terres dont le Roy nôtre maître a pris
possession depuis plus de vingt ans. Je ne troubleray point son
commerce de la Mer, mais s'ils avancent comme ils font le
Mechante petite forte dans les terres du Roy pour debaucher
nos Indiens, je les en fairay chasser, ce qui me sera aise estante
fort foibles, mais je seray bien aise qui sa Majeste Britanique
seache que je ne veux rien faire qui luy puisse deplaire que
quand iy seray forcé &c.

* * * *

May it please your Majesty.

Soe the Governour & Committee of the Company of Adventurers of England trading into Hudsons Bay have by your Majestys gracious allowance seene & perused an extract of a late letter from Mons. Dela Barre to the present Governour of Canada w^{ch} hath been delivered by the French Ambassador as a memoriall of complainte. That the Hudsons Bay Company did begin to make habitations and to erect forts upon the Land within the said Bay, of which he assumes that the King his Master hath taken possession above 20 years since, in which course if they proceed, he threatens to drive them out of the country by force, But desires that your Majesty should be advertised that he is not willing to doe anythinge which may displease except he be forced thereunto whereupon your Majesty having commanded us, who have the Government of the affaires of the said Company, to give an acct. of their title and pretence to the said Bay and to the lands & territories thereabout & to the Trade & commerce which they have with the Indians

We doe in all humility represent to your Majesty that the Subjects of your Imperiall Crowne, have for above 100 years last past discovered and frequented the said Bay & the Rivers, Islands and Territorys thereabouts years frequented and from time to time in the reignes of severall of your Royall Predecessors have taken possession of severall places there, & that none of the subjects of his most Christian Majesty have ever bin knowne to sayle or traffique English. within the sd. Bay.

That above 15 yeares since some Members of this Company did adventure to make further Discoveryes within the said Bay and by the good conduct of one Zachary Gillam in the Nonsuch Ketch, they Discovered a river in the bottom of the sd. Bay upon the East Maine, where he met with ye native Indians & having made a League of Friendship with ye Capt. of the said River & firmly purchased both the river itselfe & the Lands thereabout, he gave it the name of Rupert River (his Highness Prince Rupert being principally concerned in that expedition) and built a Fort which in honours of your Majesty was called Charles Fort & tooke possession of the said River & all the Land & Territory thereabout in the name of your Majesty & then and there entered into a Trade & Commerce with the Natives which hath bin ever since maintained without any Interruption either from ye French or others.

That there upon your Majesty was graciously pleased by ye Royall Ltrs. Pattente under the great scale of England to Incorporate the said Adventurers & so gain them & their Successors forever all the said Bay & the Straits leading there

The English
have for
above 100
years
frequented
ye Bay

Possession taken
of ye bay by ye
English.

15 years
since ye Compy.
tooke possession
by
Capt. Gillam,
he purchased the
lands of the
Indians

a Fort built called
Charies fort
entered into a
Trade with ye
Natives

The King
incorporates
the
Compy.

Governour
Bayley confirms
ye
League with ye
Indians

a fair
correspondence

between ye

Gouverneur of
Canada &
Gouverneur
Baylay.

Other Forts
erected more
remote from ye
French &
solem
compacts made
with ye
Natives.

Pray ye Kings
protection.

unto called Hudsons Straits with all the Lands and Territories,
Rivers & Islands in and aboute the said Bay and the sole Trade
and commerce there.

That the above mentioned agreemt made by Zachary
Gillam with the Indians was afterwards repeated and
confirmed by one Charles Baily who was sent as Governor of
the affaires of the Company within the said Bay with whome
Mons. Fontenae who was then Gouverneur of Canada by his
letters bearing date 8th Octob. 1673 did concilliate a good
Intelligence & amity without complaining of any Injury done
by the Company in building Forts & makeing

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settlements & commerce there or without being any preference
to the land thereabout as Mons. de la Barre his successors
hath now done.

That since that time we have erected other Forts upon ye
coast of the said Bay, in places more remote from Canada than
Charles Forte is, still makeing solemne compacte and
agreement with the Natives for their Rivers & Territories,
where we have wth great expence discovered and maintained a
Trade & commerce which we hope will in tyme turne to our
benefitt & also produce a considerable emolument to your
Majesty & the nation wherefore we Doubt not but by your
royall authority and protection the Company which hath been
of your Majestys creation shall be enabled to defend your
Majestys undoubted Rights & their owne within the said Bay
where in never any nation but the Subjects of your Imperiall
Crowne have made discovery or have any commerce

All which is humbly submitted to your Majestyes
gratious consideration and Royall pleasure by your
sacred Majestyes most dutifull Loyall Subjects.

By Commande of his Royall Highness the Governour
& the Committee of the said Comp^y.

ONESIPHORUS ALBIN, Secretary.

[29 June, 1699.]

No. 1512.

**THE STATE OF THE CASE OF THE HUDSON'S BAY
COMP^A WTH A NARRATIVE OF THEIR GREAT
SUFFERINGS BY THE FRENCH FROM THEIR
INVASIONS EVER SINCE THE YEAR 1682.**

HUDSON BAY COMPANY'S RECORDS.

The Comp^{ies} Case, Left with the
Lords Justice the 3^d July 1699.

The Title of the Crowne of England to all Hudson Bay haveing been made out & Deduced for 200 years upwards That the English only did Navigate the Streight & Bay of Hudson, and at last after many Voyages to Discover & fix a Trade wth the Indians, His Ma^{tie} King Charles the Second for better Encouragem^t to the Adventurers was pleased in the yeare 1670 to Grant his Lres patents of Incorporation to his Highness Prince Rupert, Duke of Arbemarle, Earle of Shaftsbury, Earle of Arlington, Earle of Craven, & Divers others for the Sole Trade of Hudson Bay, & by his said Grant, to Create & Constitute them and their Successors for Ever, the True and absolute Lords & Proprietors of the same, & of all the Territories, Limitts, & Places thereto belonging To Have hold, possess & Enjoy the same, As of his Mat^{ties} Mannor of East Greenwich in Free & Common Soccage.

That the Hudson Bay Comp^a upon the Encouragem^t of Such his Ma^{tie} Royall Charter continued yearely Voyages sent Govern^{es} & Factors over wth Tradeing Goods & provisions, Erected Forts, made Settlements & gained a Very Considerable Trade wth the Native Indians which was never knowne to England before, to the Increase of his Mat^{ties} Customes & Promoteing of Navigation.

That the Comp^a Prosecuted & Enjoyed this Trade without the least Interruption disturbance or pretence from the French untill the yeare 1682 when the Fame & report of the Considerable Trade which they drew from thence began to awaken the Envy of the French, & in that yeare 1682 one La Chanay a Private Merch^t of Canada sett out an Expedition in a Piraticall way, not only without Publick Commission or Authority, But Expressly against the order & Prohibition of the Governour of Canada, who Owned that Hudson Bay was the Right of the English, & it would cause a Breach

between the Two Crownes & therefore would by noe means permitt it Nevertheless the s^d La Chanay, & his Accomplices under hand, proceeded in their designe, & wth 2 ships Invaded the Comp^{as} Factory of Yorke ffort in Port Nelson, dispossessed them of their Settlement tooke their Ships & carried the English Governour & Men away Prisoners to Canada, And the Comp^a will mainetaine That this was the first Time, that ever the French did Saile a Vessell in Hudson Bay since the begining of the World, and this Invasion was then disowned by his most Christian Ma^{tie} and satisfaction directed, (and the Manner of it) by Mons^r Calliere one of the Plenipotentiaryes at the Treaty of Riswicke.

Whilst the Comp^a were complaining of this Invasion here in England & by Memorials at the French Court, & demanding satisfaction for their Damages sustained, The French pursuing their Designes to get the Trade of Hudson Bay to themselves, tho it was a time of Perfect Peace and Amity between the Two Crownes, framed another Expedicon over Land from Canada wth a great Force in 1686 And coming suddenly to the Bottome of the Bay, Surprized three Factories of the Comp^{as} tooke the Value of Fifty Thousand Pounds in goods stores, Merchandize & Ammunition, Murthered & Destroyed severall of his Ma^{tie} Subjects, & Exposed the rest in a rotten Vessell (with small Provision) to the Mercy of the Sea a Barbarity scarce Used in the feircest Warr.

This soe Notorious an Invasion & Depredation was loudly complained of in his late Ma^{tie} Reigne, & soe much resented by his then Ma^{ty} That he was Graciously pleased to declare, That his Hon^r was concerned with the Comp^{as} Interest, and he would have Reparation for both.

WHEREUPON the French King Impowred Mons^r Barillion his Embassador here, and Mons^r Bonrepos (whome he sent over hither for that purpose) to be his Comm^{es} To treat with the Earle of Sunderland, Earle of Middleton & Lord Godolphin Comm^{es} appointed by his Ma^{tie} of England in Order to the Adjusting all Differences that had arisen or might arise between both Nations in America.

That after all that could be said on Either side had been heard and Examined, the s^d English Comm^{es} made their report to his Majesty That it was their Opinion that it plainly appeared his Ma^{tie} & his Subjects had a right to the whole Bay & Streights of Hudson And to the Sole Trade thereof and that it might be fitt for his Ma^{tie} to Support the Comp^a of Hudson Bay, in the Recovery and Maintenance of their Right since otherwise that Trade will be Totally lost & fall into the hands of the French if they be permitted to Continue in the Possession of those Forts or of any Fort or place of Trade within the said Bay or Streights. Whereupon his then Ma^{tie} did Declare to the French Comm^{er} That haveing maturely considered his owne Rt & the right of his Subjects to the whole Bay & Streights, of Hudson, & haveing been alsoe informed of the reasons Alleadged on the part of the French to Justify their late Proceedings in Seizeing three Forts, which for many yeares past have been possessed by the English, & in comitting

His Ma^{tie} upon the whole matter did conceive the s^d Comp^a well founded in their Demands, & therefore did insist upon his owne Right & the Right of his Subjects, to the whole Bay & Streights of Hudson, & to the Sole Trade thereof As alsoe upon the Demand of full Satisfaction for the Damages they have reed, & Restitution of the three Forts surprized by the French in the Bottome of the Bay. This was Transacted & declared towards the Latter end of the yeare 1687, And Memorialls were Repeated by his Ma^{tie} Comand at the French Court to press for satisfaccon & restitution w^{ch} had accordingly followed, if the Revolution in England (w^{ch} Ensued the yeare after) had not prevented it.

Upon his p^{esent} Ma^{tie} happy Accession to the Throne, the Hudson Bay Comp^a in Aprill 1689, revived their Complaints by a Memoriall Setting forth their Sufferings, & praying his Ma^{tis} Protection & releife, But his Ma^{tie} being then upon declaring Warr against France was graciously pleased to make the Injuries done by the French, to this Comp^a one of the Articles & causes of the s^d Warr, w^{ch} made the s^d Company patiently to await, the Success of his Ma^{tis} Armes and to be righted at the Conclusion of the Warr.

That hitherto the losses and Damages sustained by the Comp^a from the French by their Robberys, Invasions & Depredations Comitted in a time of Peace and the Strictest Amity between the Two Crownes amounted to at least One hundred & Twenty Thousand pounds as hath been made appeare not onely in that former Dispute wth the French in 1687 but now also wth these New Com^{es} wth an Addition of Damages & Charges since the Warr of above One Hundred thousand pounds more :

In 1692 (it being now a time of Publick Warr between the two Nations) the Hudson Bay Comp^a (that they might not be wanting to themselves and bee found Outed of their Possession, at the Conclusion of the Warr) thought they had reason, & were Warranted to Right themselves, and therefore by setting out this yeare a very Chargeable Expedition at their owne sole Expense & Charge of neare Twenty Thousand pounds they Recovered their Forts & Factories in the Bottome of the Bay (Traacherously taken from them in a time of Peace) which they Justly held to this day.

But their Factory of Yorke Fort in Port Nelson run sever^{ll} Fates dureing the Warr, for in 1694 the French tooke it under the Conduct of Mons^r de Ibreville Assisted with some Ships of Warr by the French King upon a Capitulation of w^{ch} they did not performe one Article & tooke in Beavor skins & other Effects of the Comp^a at that Time to their Damage of above Forty thousand pounds In 1696 By his Ma^{tis} Gracious Favour by the Assistance of Two Men of Warr conjoynd with the Companies Ships, they recovered Yorke Fort againe, but Cap^t Allen Comand^{er} of the Man of Warr Capitulated Contrary to

his Orders and Instructions, when the French must have Surrendred within two dayes at Discretion being almost famished, As he also brought the Beav^r Skins found in the Fort home on board the Kings ffrig^t which by his Instructions he ought to have delivered to the Comp^a Upon the Place.

But the following yeare 1697 the French sent a much greater Force then ever they did, & in Septem^{br} when the Treaty of Riswick was Concludeing

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and Yorke Fort supposed to be still in the English Possession, It was then taken againe by the French together wth a Ship of the Comp^{as} and a greate quantity of Trading Goods, Provision & Ammunition.

That the French got there Concessions into the Treaty of Peace by undue Suggestions and misinformations, they haveing noe Tytle to those Goods, for w^{ch} they would p^tend to be satisfyed. And the King haveing twice Granted them to the Comp^a And for their being restored to the Bottome of the Bay as haveing been in possession of it before the Warr It is an Egregious misinformation, for it must be a rightfull possession onely which can Intitle any one to Restoracon, & what kind of possession or Right they had before the Warr is Evident by the preceeding Narrative. And therefore all the Concessions in the Treaty must be understood to be founded in Right or Else they cannot bee binding Especially where the property of an other is given away Which Wee humbly Conceive to be the p^sent Case of the Hudson Bay Comp^a And the Article Expressly providing That Comes on both sides shall Examine and Determine the Rights & Pretensions w^{ch} Either of the Kings hath to the Places scituate in Hudsons Bay, This is the Foundation & Ground Worke on which all the other Concessions are Built, and His Ma^{ties} Honour & Justice is not Capable of giveing away the Inherent Right of the Imperiall Crowne of England, and much less the Property of his Subjects—otherwise Tenetur Reperare, Damnum Datum facit enim contra verum Jussubdite, Grotlus De Jure Bell. et Pac. Lib. 2, Capt. 14.

The Comp^a since the Arrivall of these French Com^{es} have Exhibited the Title of the Crowne of England and their owne Right to all Hudson Bay with an account of their Damages sustained by the French both in the time of Peace, & since the Warr amounting in the whole to above Two hundred Thousand pounds. Whether the French have well refuted the English Right or well Justified their Invasions & Rapine in a Time of perfect Peace, Is humbly offered to his Ma^{tie} Royall Consideration, And if the Hudson Bay Comp^a shall be divested of any of their places & Property there, They will not onely be left in worse Condition than they were in before the Warr (for the Righting of whome the Warr was partly undertaken) But it will bee contrary to the Justice which was ready to be done them in the late Reigne, And they doe Promise themselves, that what was maintained to them at that time cannot Possibly bee lost or given away from them now in the Reigne of our

pesent Gracious Sovereigne.

Wherefore they humbly pray that his Ma^{tie} will be Graciously Pleased to Review this whole matter, & the Foundation & Equity of the Treaty in this Case. And by his Royal Authority to Interpose with his Most Christian Ma^{tie} by some Expedient or Commutation and to Insist upon the Inherent Right of the Crowne of England, and the Property of his Subjects not to be Alienated. That soe Considerable a Trade (first raised and settled by the English) may not be lost. And the Hudson Bay Company left the onely Mourners in a Peace.

Signed By Order of the said Company,

W^M POTTER, Secretary.

June the 29th 1699.

No. 1513.

[4 March, 1699.]

**HUDSON'S BAY COMPANY'S STATEMENT OF THE
RIGHT AND TITLE OF THE CROWN OF
ENGLAND AND OF THE COMPANY'S RIGHTS
UNDER ITS CHARTER, 4th MARCH, 1699.**

HUDSON BAY COMPANY'S RECORD.

Left with Mr. Secretary Vernon
ye 4th March $\frac{6}{9}$ 98

1497 A Deduction of the Right & Title of the Crown of
England, and therein of our Most Gracious Sovereigne Lord,
King William the Third, to all ye Straits, Bay, Seas, Rivers,
Lakes, Creeks, Islands, Shores, Lands, Territories & Places
whatsoever within Hudsons Straits & Hudsons Bay, and of the
Right and Propriety of the Hudson Bay Company derived from
the Imperiall Crowne of England by Latters Pattents of
Incorporation, And a Free Grant of all the Premises from King
1575 Charles the Second Anno 1670.

1585 The said Hudson Bay Company being required on their
Parts to lay before the Right Honble the Lords Commissioners
appointed by His Ma^{tie} the Right & Title of the Imperiall
Crowne of England to all those Places within Hudsons straits
and Hudsons Bay, the s^d Comp^a saveing to themselves all
1610 Right & Propriety—Derivative to them from the s^d Crowne, &
all Advantages Rights and Claimes Proper & Just to them by
the Civill Law & the Law of Nations, Doe humbly offer & say,

That Hudson Bay (with all that Belongs thereto w^{thin}
Hudsons Straites) was first Discovered by Sr Sebastian Cabott,
Grand Pilott to King Henry the 7th, who gave English Names to
severall Places of the s^d Bay, Anno 1497.

S^r Martin Frobisher in Queen Elizabeths time made 3
Voyages to the Bay in 1576 ; 1577 ; & 1578 & gave English
Names to severall Places there.

1612 Captain Davice made 3 Voyages thither in ye years 1585
; 1587 ; & 1588 & gave English Names to severall Parts of the
s^d Bay.

1631 In 1610 Henry Hudson an English man sailed into the
straits & Bay, 1610 from him Called Hudsons Straites &
Hudsons Bay, & keeps that Denomination to this Day in all of
Authenticke Mapps in the World, & Even in the Mapps of the
best—Geographers of France, The s^d Hudson stayed a Whole
Winter there tooke possession thereof in the Name of the King
of England, Traded wth ye Savages & gave Names to severall
other Parts of the straites & Bay

In 1612 Sr Thomas Button pursued the Discovery & Possession of the afores^d Hudson sayled into the straits & Bay wth Two Ships & particularly into Port Nelson—where he wintered & Buried the Comand^r of his Ship there, in Memory of Whome he gave it the Name of Port Nelson & called that particular Bay Buttons Bay (as it is still called in the Mapps) tooke possession thereof in the Name of his Master King James the ffirst, & gav. severall other English Names to other Places in the Bay, Erecting a Cross there Declareing thereon the Right of the Crowne of England.

In 1631 Captaine Lake Fox by Command of King Charles the ffirst made a Voyage to Hudsons Bay, & amongst other Places Entred Port Nelson, & finding there the Cross Erected by Sr Thomas Button with the Inscription Defaced and almost worne out, He erected it again with a New Inscription Declaring the Right and Possession of His Hon Ma^{tie} King Charles the ffirst, named the Adjacent Country New North Wales and Published a Journal of His Voyage.

1663 Note, That the Troubles & Civill Warrs which soon after Broke out in England might be one Principall Cause Why those Voyages were not Prosecuted Trade in generall failing amongst those Divisions, And Navigation & Discoveries wanting the Encouragem^t of the Government, till after the Restoration of King Charles the Second, yet it is observable that all that while (for soe many years) that those Places and Countries lay Neglected & unfrequented by the Navigation or Commerce of any Europa'an Nations, the French Doe not in the least Pretend to have then Visited those Parts, to have formed a possession or attempt any Commerce wth any People upon those Coasts, Nor will they say that ever any French Vessell sailed Hudsons Straits or Hudson Bay till very lately, as shall hereafter be declared & is the Subject matter of Our Complaint.

1667 It was therefore after the Happy Restoration of King Charles the Second, That Trade & Commerce began to revive & in Particular that some Noble Men & other Publick Spirited English Men, not unmindful of the Discovery & Right of the Crowne of England to those Parts in America (And to Canada it selfe which in one time will be insisted on) designed at their own charge to adventure the Establishing of a regular and Constant Trade to Hudson Bay, & settle fforts & Factories there upon the Coasts, Whereby to invite the Indian Nations (who lived like Savages many Hundred leagues up in the Country) downe to their Factories for a Constant & yearly intercourse of Trade w^{ch} was never attempted by such settlements to reside in an inhospitable Country, before the aforesaid English Adventurers undertooke the same.

1669 Wherefore after a long time of Consultation & the Necessary Preparations for soe great a Charge. In the yeare

1667 One Zachary Gilham was Provided of a Ship & Goods in London, sailed through Hudsons straits to the Bottome of the Bay, settled a Trade and Built a Fort there, which he called Charles Fort on a River w^{ch} he named Ruperts River, in Honour to Prince Rupert, Who was pleased to be Concerned wth & was One of those

p. 4039

1670 Adventurers, in which Place the Hudson Bay Comp^a continued a Trade, & have there a Factory to this Day.

In 1669, Another Voyage was undertaken by the same Adventurers, 1669 and one Capt^t Newland was sent Who Entered Port Nelson, settled there & aNew Declared the Right & Title of His Ma^{tie} to that River & the Countries Adjacent, & there fixed up His Ma^{ties} Armes as a Marke of His Sovereignty over ye s^d Places.

1670 After the Charge of these Voyages, & ye Experience by these settlem^{ts} that a great Trade might be brought to England by Beavor Furrs & other Comodities, for the Just Encouragem^t of soe Good & Publick a Benefitt, & the Persons that had Laboured in it, His then Ma^{tie} King Charles the Second was graciously pleased in the yeare 1670 According to the undoubted & inherent Right of His Imperiall Crowne of England by His Royall Lres Patents to Incorporate the sa Adventurers & to Grant unto His Highness Prince Rupert, the Duke of Albermarle, Earle of Craven, Lord Arlington, Lord Ashly & divers others & Their Success^{er} for Ever the sole Trade to Hudson Bay wth all ye Lands & Territories to be reckoned & reputed as One of His Ma^{ties} Plantations & Colonies in America, By the Name of Ruperts Land & further to Create & Constitute them & their Successes the True & Absolute Lords & Proprietors of the same, & of all ye Territories Limits & Places thereto belonging to Have Hold Possess & Enjoy the same for Ever ; as of His Ma^{ties} Manner of East Greenwich in Free and Common Soccage &c.

1772

1680

In the same yeare 1670 the Company soe Incorporated sent out One Charles Baley as Governour of their Factories & Settlements in the Bay, with whom Mons^r Frontenac then Govern^r of Canada by Lres of the 8th of October 1675 Entertained a good Correspondence, not in the least Complaining in severall yeares of any Pretended Injury done to the French by the s^d Companies settling a Trade & Building of Forts at the Bottome of the Bay.

1682

In 1672 the s^d Charles Baily (as the Comp^{as} Govern^r) sent a Ship from the Bottome of the Bay, Called the Imploy, to Port Nelson to settle a Trade there with the Natives As in 1680 did allso Cap^t Draper in the Shipp Albemarle.

But after above 15 yeares labour and charge, Continuall Voyages Factories & Settlements, & the Trade wth the Natives Established to some Degree of hoping to reimburse Their Charge, The French began now to Envy this New & growing Trade, & thought it worth their

while to study some Pretences to invade & robb the
Comp^a Or at least to share the Benefitt wth them

Wherefore in 1682 When the English Comp^a were Building a Fort & Settling a Trade at Port Nelson, The French haveing formed a Private Piraticall Expedition at Quebeck in Canada by Confederacy of One La Chaney & other Private Persons, came suddenly with two ships into the s^d River of Port Nelson & wth a stronger force surprized the s^d Compas Men & Dispossessed them of their Place & settlement Carried them Prisoners to Canada and pretended to settle a Trade there Themselves ; But Wee doe Maintain

p. 4040

1683 that this was the first time that Ever the French did sail a Vessell in Hudson Bay since the Begining of the World, Let them Prove otherwise if they can. Moreover Wee doe further maintaine that this was a Piraticall Expedit^a the Authors of it were prosecuted as such by frequent Memorialls from hence at the Court of France it was Disowned by his most Christian Ma^{tie} and Satisfaction Promised, as the Hudsons Bay Company will be ready to Prove —Now as the French Seldome want Assurance for their Pretentions or Claime to anything for their Advantage soe they never faile of Artifice or Force (when they can) to back such their pretences & whom by Violence rapine or Murther they have gott themselves into an unjust Possession, then to Expostulate all by a Treaty (as if they were upon an Even Foot wth the right Possessor) And gett it Rivitted by Concessions, Thus they seconded this Injurious Invasion & Assault & a yeare or two after Tooke another ship of the Compas one Edward Humes Comand^r wth the Goods & Carryed' the Men away Prisoners & for above a yeare fed them wth Bread & Water,

1686

1687

But in 1686 they formed a greater Designe & went a Considerable Force over Land from Canada to the Bottome of the Bay, by force or Treachery Suprized & tooke all the Comp^{ies} Factories there, their Ammunition Goods Stores & Merchandize to a very great value & Murdered & destroyed many of his Ma^{ties} Subjects, And all these Invasions Seizures & Depredations were in a Time of Peace & the best Correspondence between the Two Crowns which is a thing noe other Nation ever Did in a time of Mutuall Amity when the way is open for Complaints to the Prince. on Either side,

1689

Upon these repeated Injuries the s^d comp^a Complained Severall times in 1687 to his then Matie & severall Memorialls were presented at the French Court by the Publick Ministers then there, my Lord Preston S^r W^m Trumbull M^r Skelton, at last his most Christian Ma^{tie} was willing to appoint Commes to meet at London To Treat of those Matters & Mons^r Bonrepos was sent over hither to be Joyned wth Mons^r Barrillon ye French Ambassadour in that Affaire, What the Issue of those Conferences was wherein very many Papers was Exchanged on both sides, Wee humbly Referr to the Originalls themselves (as wee presume) kept in the proper Office (But this is

Certaine that in that Reigne soe Advantageous to the French Intrest) they did not obtain one Inch from the right of the Imperiall Crowne of England nor from the property of the Hudson Bay comp^a

At his Present Majestys Happy Accession to the Crowne the s^d Comp^a put in a fresh Petition & Memoriall to his Matie of their Grievous Sufferings from the French which his Ma^{tie} was Graciously Pleased to resent soe farr that he made it one of his Articles & Grounds of a Declaration of Warr against France as these Exhorbitant Encroachments of the French allmost everywhere Necessitated the Warr.

And now after waiting the End of a long & Chargeable Warr, if wee are not presently restored by the Peace to all our Rights Properties & Priviledges and a Just satisfaction for all our Damages (which wee shall Exhibite in one time) yet Wee hope wee shall give that satisfaction in this Deduction and all our Subsequent Papers to the right Hon^{ble} the Lords Comm^{or} as by his

p. 4041

Majestys Royall Justice shall Lead us in a little Time to full Satisfaction for our s^d Damages & Restitution to all our rights & Properties,

And lastly wee humbly Crave leave to add or alter in our after Papers if anything Materiall shall at any Time be omitted or not fully fully Expressed or Explained & in the whole Course of Our Transactions and Defence Humbly pray the Favourable Opinion & Construction of the Right Hon^{ble} the Lords Commissioners.

My Lord

Your Lords^{ps} most Obedient humble Servants The
Governour and Company of Adventurers of
England Trading into Hudson Bay—
SAM^{LL} CLARKE, Deputy
Govern^r.

No. 1514.

[4 June, 1700.]

**REPRESENTATION OF THE HUDSON'S BAY
COMPANY, 4th JUNE, 1700.**

HUDSON BAY COMPANY'S RECORD.

The Comp^{ies} Representation
Left with y^e L^{ds} Commissn^{rs}
& Councill of Trade, the
12th June 1700.

To the R^t Hon^{ble} the L^{ds} Commiss^{rs} appointed by his Majesty to
Treat wth the French Commissioners.

The humble Represent^{tn} of the Gov^r & Comp^a of
Adventurers of England Trading into Hudson Bay.

SHEWETH

That the s^d Comp^a did humbly hope pursuant to the 8th
Article of the Treaty of Risewick the Right & Pretentions w^{ch}
either Crowne had to the Place Situated in Hudsons Bay would
have been examined by yo^r Lord^{ps} before any Agreement or
Determination was made (the Comp^a not Doubting but to make
it evidently appeare that the whole Bay & Streights of Hudson
doth of Antient R^t wholly belong to the Crowne of England, &
Consequently ought to be in the Comp^{ies} Possession as rightfull
Proprietore of the same) And therefore they hope yo^r Lord^{pps}
will not Deprive them of their R^t w^{thout} Due examinacon had
& Proof made by the ffrench of a Prior R^t & better Title w^{ch}
hitherto has not been performed, nor did they ever pretend to
the same till the yeare 1682 Or ever sailed a Vessell into those
Parts since the Creation of the World till that time, And then in
a Piraticall manner w^{thout} any Comission or Authority from his
Most Christian Majesty, and which he himselfe was
Afterwards pleased to Disapprove of

But if yo^r L^{dpps} cannot obtaine an Inspection according to
the s^d 8th Article but pressed by the French to settle Boundaries
(w^{ch} wth humble Submission is not the first stepp, nor ought to
be till y^e R^t has been fully Discussed)

p. 4043

Yo^r Pet^{rs} humbly pray yo^r Lordshipps not to proceed
therein till Wee have further informed yo^r L^{dps} ye true state &
Scituation of the Countrey, And ye Dangers Wee shall always
be exposed to by the French haveing soe great a Part of

Hudsons Bay as they Seeme to Insist upon, And the rather for
that the Hon^r of the Nation as well as the Estates of your Pet^{rs})
are soe greatly Concerned therein.

And yo^r Pet^{rs} Shall Pray &^{ca}
By Order of the Generall Cout of ye s^d Comp^a
W^M. POTTER, Secretary.

June the 4th 1700.

No. 1515.

[22 Jany., 1700.]

**STATEMENT OF LIMITS CLAIMED BY THE
HUDSON'S BAY COMPANY, 22 JANUARY, 1700,
AFTER THE TREATY OF RYSWICK, 1697.**

HUDSON BAY COMPANY'S RECORD.

Left with the L^{ds} Comissn^{rs}
& Councill of Trade The
22th January 1700.

The Limitts which the Hudsons Bay Company Conceive to be Necessary as Boundaries between the French and them In Hudson Bay (in Case of an Exchange of Places) And that the Comp^a cannot obtaine the whole Streights & Bay which of Right belongs to Them, Viz.

1st That the French be Limitedd not to Trade by wood Runers or otherwise, nor Build any House Factory or Fort, beyond the Bounds of 53 Degrees or Albany River, Vulgarly called Checkewan to the Northward on the West Maine or Coast.

2. That the French be likewise Limitedd not to Trade by wood Runers or otherwise nor Build any House Factory or Fort, beyond Ruperts River to the Northward on the East Maine or Coast.

3. On the Contrary the English shall be obleiged not to Trade by wood Runers or otherwise, nor Build any House Factory or Fort beyond the afores^d Lattitude of 53 Degrees or Albany River vulgarly called Checkewan South East Towards Canada, on any Land which belongs to the Hudsons Bay Company.

4th As also the English be likewise obliged not to Trade by wood Runers or otherwise, nor Build any House Factory or Fort beyond Ruperts River to the South East towards Canada, on any Land which belongs to the Hudsons Bay Company.

5th As likewise that neither the French nor English shall at any time hereafter Extend their Bounds contrary to the afores^d Limitations nor Instigate the Natives to make Warr or Joyne with Either, In any Acts of Hostility to the Disturbance or Detrement of the Trade of Either Nation.

Which the French may Verry Reasonable Comply wth for that they by such Limitations will have all the Countrey South Eastward betwixt Albany

p. 4045

Fort & Canada to Themselves which is not onely the Best & most Fertile part, but also a much Larger Tract of Land then can be Suposed to be to the Northward, and the Comp^a Deprived of that which was Alwayses their undoubted Right.

And unless the Comp^a can be Secured according to these Propositions they think it will be impossible for them to Continue Long at Yorke Fort (should they exchange wth the French) nor will the Trade Answer their Charge, And therefore, If your Lordshipps cannot obtaine these soe Reasonable Propositions from the French, But that they Insist to have the Limitts settled between Yorke & Albany Fort, as in the Latitude of 55 Degrees or thereabouts. The Company can by noe means agree thereto for that they by such an Agreement will be the Instruments of their owne Ruine never to be Retreived.

Confirmed By the Generall Court of the s^d Comp^a
the 10th of July 1700.

No. 1516.

Lords Com-
missioners
of
Trade to
Hudson's
Bay Com-
pany, 22
Jan.,
1701

**LORDS COMMISSIONERS OF TRADE TO HUDSON'S
BAY COMPANY, 22 JAN., 1701.**

To the Governor or Deputy-Governor of the Hudson's Bay
Company, or either of them.¹

Gentlemen,—Upon consideration of what was this day offered to the Lords Commissioners for Trade and Plantations, by yourselves and other members of the Hudson's Bay Company, their Lordships have commanded me to acquaint you with their desire, that the Resolution of your Court may be taken and communicated to them, whether (in case the French cannot be prevailed with to consent to the settlement of the boundaries proposed in your Court of the 10th July last), the said Court will not think fit to consent, that the limits on the east side of the Bay be extended to the latitude of 52 ½ degrees, with whatever further that Court may think advisable to propose, in reference to their own affairs, for the more easy settlement of all disputes between the Company and the French in Hudson's Bay.

W. P[OPPLE].

Whitehall, January 22nd, 1701.

¹ Reprinted from Joint Appendix of Documents; Ontario-Manitoba Boundary Case (P.C.) 20 pp. 562-563.

No. 1517.

[29 Jan., 1701.]

The above
said as wee
were in-
formed was
never de-
livered the
French
Ambassador

he being
upon his
departure
from
England.

**HUDSON'S BAY COMPANY TO THE LORDS OF
TRADE, 29th JANUARY, 1701.**

HUDSON BAY COMPANY'S RECORD.

Left with the L^{ds} Comissn^{rs}
of Trade the 31th Jany 1700.

To the R^t Hon^{ble} the Lords Commiss^{rs} for Trade &
Plantations.

The Hudsons Bay Comp^a haveing lately Exhibited to your
Lordships the Resolution of their Generall Court the 10th July
last Concerning Limitts between them & the French in
Hudsons Bay. And though the Comp^a cannot but still Insist
upon their Undoubted Right to the whole Bay & Streights of
Hudson, as has been Clearly made out by them.

Yet in Obedience to yo^r L^{dps} L^{re} of the 22^d Instant & to
Shew how Desireous they are to Comply therewth as much as
in them Lyes (& is Consistant wth their future Safety) they doe
further offer to your Lordshipps the following Proposals of
Limitts between them & the French In Hudsons Bay Viz

1st That the French be Limited not to Trade by wood
Runners or otherwise, nor build any House Factory or Fort to
the Northward of Albany River Vulgarly called Chechechewan
on the West Maine or Coast

2^d That the French be likewise Limited not to Trade by
wood Runners or otherwise, nor Build any House Factory or
Fort to the Northward of Hudson River Vulgarly called Canuse
on the West Maine or Coast.

3^d On the Contrary the English upon such an Agreement
doe Engage not to Trade by wood Runners nor Build any
House Factory or Fort to the Southward of Albany River
Vulgarly Called Chechechewan on the west Coast on any
Ground belonging to the Hudsons Bay Comp^a.

4th As also the English be likewise Limited not to Trade
by wood Runners or otherwise, nor build any House Factory
or Fort to the Southward of Hudsons River Vulgarly called
Canuse River on the East Coast on any Ground belonging to
the Hudsons Bay Comp^a.

5th That all the Islands in the s^d Bay & Streights of Hudson Lyeing to the Northward of Albany River on the West Coast & of Hudsons River Vulgarly called Canuse River on the East Coast Shall be & remaine to the English.

p. 4048

6th Likewise that all the Islands in the s^d Bay of Hudson Lyeing to the Southward of Albany River on the West Coast, & of Hudsons River Vulgarly Called Canuse River on the East Coast shall be & remaille to the French.

7th That neither the French nor English shall at any time hereafter Extend their Bounds Contrary to the afores^d Limitations nor instigate the Natives to make Warr or Joyne wth Either in any Acts of Hostility to the Disturbance or Detrement of the Trade of Either Nation.

These Termes the Comp^a are willing to agree to, Upon Condition they may be Secured from any Claime, That has been or may be made on them, by Virtue of the 8th Article of the Treaty of Risewick, or by any other matter or thing Relateing to the said Treaty. And If the French thinke fitt to accept thereof the Comp^a are willing to Exchange Places wth them, But not without Settling of Limitts, for that the s^d Eight Article which Saith there Shall be an Exchange of places, doth also say that Limitts Shall be likewise Settled, And it would seme Verry Unreasonable that one Should be performed without the other. As to the Comp^{ies} Nameing of Rivers as Boundaries, & not Lattitudes, the same is more Certaine and Obvious, both to the Natives as well as to Europions (and the Contrary Impractacable) nor can the Latitude be soe well Laid Downe, in that Wild Countrey, the Indians well knowing the one but not the other.

But should the French Refuse the Limitts now Proposed by The Comp' the Company thinke Themselves not bound by this or any former Concessions of the like Nature ; But must (as they have alwayes done) Insist upon their Prior and undoubted Right to the whole Bay & Streights of Hudson which the French never yet would Strictly Dispute or Suffer to be Examin'd into (as knowing ye weakness of their Claime) Though the first Stepp in the s^d 8th Article of Risewick Directs the Doeing of it.

By order of the Generall Court of the s^d Comp^a,

W^M. POTTER, Secretary.

Janu^r the 29th 1700
1701

No. 1518.

[2 April, 1709.]

This Letter
with the
Books &
Map
was sent
over
to Holland to
Mr. Cardon-
nell by
Mr. Craggs,
The 12 of
Aprill, 1709.

**GOVERNOR OF HUDSON'S BAY COMPANY TO
ADAM CARDONELL, SECRETARY TO THE
DUKE OF MARLBOROUGH, HER BRITANNIC
MAJESTY'S PLENIPOTENTIARY AT THE
HAGUE, 2nd APRIL, 1709.**

HUDSON BAY COMPANY'S RECORD.

London, ye 2^d Aprill, 1709.

S^r

Herewith you will receive a Booke of the Transactions between England & France anno 1687 Relating to Hudsons Bay, as also a map of the said coasts, which Cont^a not only the whole Bay & Streights of Hudson, which the Comp^a by their charter are Rightfully Entituled to, But likewise & of New France, Quebeck &c^a belonging to the French, who have not only for many years been unjustly possessed of Yorke Fort alias Port Nelson in the said Bay of Hudson but by that means may extend their settlements even to halfe that vast Tract of Land belonging to the Comp^a, In their Humble Petition to the Queen they Prey that when ever Her Maj^{ty} in her great wisdom shall thinke fitt to enter into a Treaty of Peace with the French King, that the said Prince be obliged by such Treaty to Renounce all Right or Pretentions to the Bay & Streights of Hudson, to Quitt & Surrender all Ports & Settlements erected by ye French or which are now in Their Possession, as likewise not to saile any Shipp or Vessell within the Limitts of the Comp^{ies} Charter & to make Restitution of what they Unjustly dispoiled the Comp^a of, in times of Peace am^o to £108514:19:8 besides Interest am^o to much more than the Principall.

S^r you may upon casting your Eye on The Map* observe a Line drawn Cross the Grand Lake Miscosinke Twixt Hudsons Bay & Canada, which may serve as a Boundary between the Two Nations, Viz, The French not to goe to the northward of that Line by wood Runers or otherwise or make any settlement from the same towards Hudsons Bay, nor the English in like maner to the Eastward of the said Line towards Quebeck, whereby both Nations may be Limited in Their Possesions, for the future I have not to Enlarge but am with all due Respect, Sir

Y^r most Humble Serv^t,

STEP: EVANCE, Gov^r.

To Adam Cardonnell, Esq^r.

* This Map is reproduced in Canada's Atlas, vide Map No. 24A.

No. 1519.

[24 April, 1709.]

**HUDSON'S BAY COMPANY'S PETITION TO THE
QUEEN, 24th APRIL, 1709.**

HUDSON BAY COMPANY'S RECORD.

Presented the 24th of Aprill
1709 In Councill.

To The Queens Most Excell^{tt} Mat^{ie}

The Petition of the Governor & Comp^a of Adventurers of
England Tradeing into Hudsons Bay.

Humbly Sheweth

That your Petitioners are farr from Enquiring into The great Affaires of your glorious government, especially in what Relates to warr or Peace, Both which they know your high wisdom will soe order as shall be most for The good of your whole People, But Beleiveing the justice of your Cause & The Terror of your Arms must soone Reduce the French King to sue for such A Peace as all Europe desiers & wants, your Petitioners Crave Leave with the Profoundest Duty to Submitt the hardshipp of Their Case to y^r Royall Consideration.

That the French in A Time of Perfect Amity between the Two Kingdomes, Viz Anno 1682 did Arbitrarily Invade The Comp^{ies} Territories, at Port Nelson burn their Houses & seize Their Effects.

That in the yeares 1684 & 1685 They Continued Their Depredations.

That in the yeare 1686 They forcibly tooke from ye Comp^a 3 Factories Viz Albany Fort, Rupers Fort & Moose River Fort, Which violent proceedings they Continued The yeares 1687 & 1688 The whole Damages done by the French to the Comp^a in Times of Peace amounting to £108514: 19 : 8 : as your Petitioners are Ready to make Appeare.

That in the yeare 1685 They suplicated His then Mat^{ie} King James the 2^d to Interpose in their behalfe and by his Ambassador at the French Court to demand Reparation for the Damages done to the Comp^a & Restitution of their Places Unjustly taken from them by the French in times of Peace,

Whereupon Commissioners were Apointed by His Mat^{tie}, viz
The Earle of

p. 4051

Sunderland, The Earle of Middelton, & The L^d Godolphin, (Now L^d High Treasurer of England) to Treat with The French Comissioners, Before whome The Comp^a Clearly made our Theire Right to The Whole Bay & Streights of Hudson, to the satisfaction of The English Comissioners who on The 16th of November 1687 Reported The Right of your Petitioners, Upon which King James was pleased to Declare, That he Conceived the Comp^a well founded in their Demands, & Therefore did Insist upon his owne Right & The Right of His Subjects to The whole Bay & Streights of Hudson, & to the sole Trade Thereof, as also Upon the Demand of full satisfaction for the Damages they had Received & c^a The Cobby of which Report & of His Mat^{tie} Resolution thereupon is hereinto annexed, This was Transacted & declared Towards the Latter end of 1687, at which time the L^d Churchill now Duke of Marlborough was Governor of The Company) and Memorialls were Repeated by the s^d Kings Comand at the French Court soe Pressingly for Satisfaction & Restitution, That your Petitioners had certainly been Releived & Restored to their Rights, But for the Warr which soone after Broke out Between the Two Kingdomes.

That Upon His Late Mat^{tie} King William^s accession to the Throne The Comp^a Renewed Their Claime to Their Territories & for Reparation of Damages Suffered from y^e French in Times of full Peace, of which his said Mat^{tie} was soe sencible That He was pleased to make The Proceedings of France in That Affaire one of the Causes & Articles of His Declaration of Warr Against the French King in Hac Verba,

But that the French King should Invade our Charibbee Islands & Posses Himselfe of our Territories of y^e Province of New Yorke & of Hudsons Bay in A Hostile Manner Seizeing our Forts burning our Subjects Houses and Enriching his People with the Spoile of Their goods & Merchandizes, detaineing some of our Subjects Under The Hardship of Imprisonment, causeing others to be Inhumanly Kill^d & driveing The Rest to sea in A small Vessell without Food & Necessary^s to suport them, are Actions not becomeing even an Enemy And yet he was soe farr from Declareing himselfe so That at That Verry Time he was Negotiateing here in England by his Ministers, A Treaty of Newtrality and good Correspondence in America.

So That your Petitioners did Patiently await for the end of that warr, not doubting but to have Justice done them when a Peace was Concluded.

But soe it is May it Please your Most Excell^{tt} Mat^{tie} That

the Comp^a found Their Interest not Comprehended in the Treaty of Risewick, which they are far from attributeing to any want of care in That Gracious Prince of this Kingdome's Honour & Trade, and Rather Thinke Their Right & Claime was Then overweyed by matters of Higher Consequence depending in that Juncture for By the said Treaty They found Their Condition much worse Then it was before, By the 8th Article whereof the French were to be Left

p. 4052

in The Possession of such Places Sittuated in Hudsons Bay, as had been Taken by them dureing the Peace which preceeded that warr.

That at A meeting of Commissioners on both sides (as directed by the s^d Treaty to Adjust These differences) The Comp^a did Againe sett forth The Undoubted Right of the Crowne of England to the whole Bay & Streights of Hudson, Against which nothing but sophistry & Cavils were offered no The French side, & The matter Remained Undetermined,

That the onely settlement now Remaineing to the Comp^a in Those parts (of 7 they formerly had) is Albany Fort or Chechechewan, where they are surrounded by ye French on every side, Viz by their Settlements on the Lakes & Rivers from Canada to The Northwards towards Hudsons Bay, as also from Port Nelson (alias Yorke Fort) to the Southward, the French Likewise have lately made another settlement between Port Nelson & Albany Fort whereby the Indians are hinderd from comeing to Trade with the English Factory at The Bottome of The Bay, And If They are Suffered to Fix & fortify in those parts, Beyond all Question They will Deprive ye Ma^{ties} subjects of that Tract of Lands, which is soe Large A Part of your American Dominions, & Rightfully belongs to ye Crowne of England.

That not only y^e Ma^{ties} Glory is Concerned to preserve Those Plantations, but it verry much Imports The Gener^l Trade of your Kingdome^s since your Petitioners notwithstanding The Losses & discouragements They have Laboured Under and Dureing The warr have brought from thence between 30 & 40 Thousand skins p^r Arm, & doubt not If They were Reinstated in Their Right according to Their Charter to bring the s^d Importation to 100000 skins p^r Arm.

That the s^d Countrey doth abound with severall other Comodities (of which y^r Peti^{tr}s have not been able to begin A Trade, by Reason of The Interuptions They have nett with from y^e French) as with whale oyle, whale bone (of which last) your Subjects now purchase from Holland & Germany to the Vallev of above £26000 p^r Arm, which might be had in your owne plantations, besides many other valluable Comodities which in Time may be discovered.

That If The French come once to be Entirely possess^d of Hudsons Bay They will Undoubtedly sett up A whale Fishing in those parts, which will greatly lend to the Encrease of their Navigation & to Their Breed of Seamen.

That there is Carried Thither & Consumed there nothing but of the product & manufactories of England, your Petitioners Encourageing & duly bringing The Indians to weare Course cloth instead of Skins, which in process of time will considerably Advance The Woollen Trade at home.

That it must needs Reflect Upon The Honour of England to Relinquish to The French That Territory of which their Violent Usurpation in A Time of Peace was alledged as A maine Article in the first Declaration of warr Against That Kingdome.

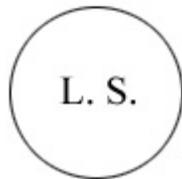
p. 4053

That If the French could pretend to any Right to y^e said Teretories by the Peace of Risewick this Right must needs be Determined by Their Notorious Infraction of the said Treaty,

The Premises Considered, when your Ma^{tie} in your high wisdom shall thinke fitt to give Peace to those Enemies whome y^r Victorious Arms have soe Reduced & humbled, & when y^r Ma^{tie} shall Judg it for y^e Peoples good to Enter into A Treaty of Peace with The French King, your Petitioners Pray That the said Prince be obleiged by such Treaty to Renounce all Right or Pretentious to the Bay & Streights of Hudson, Quitt & surrender all Forts and Settlements Erected by the French, or which are now in Their Possession, as Likewise not to saile any Shipp or Vessell within The Limitts of The Comp^{ies} Charter, & to make Restitution of The £108514 : 19 : 8 : of which They Robb & dispoiled your Petitioners in Times of Perfect Amity between The Two Kingdoms.

And your Petitioners as in Duty Bound

By Order of the Govern^r & Comp^a of Adventurers



of England Tradeing into Hudsons Bay.

W^M POTTER, Seer.

Memorandum to
this Petition was
Anexed. The L^{ds}
Comiss^{rs}
Report to K James
ye 2^d Anno 1687 as
y^e same is worded in
ye Transactions of
y^e yeare Concerning
y^e Differences with
y^e ffrench about
Hudsons Bay
together with his
s^d Ma^{ties} Resolution
Thereupon folio 71
& 72.

No. 1520.

[20 Oct., 1711.]

**STATEMENT OF LIMITS CLAIMED BY HUDSON'S
BAY COMPANY, 20th OCTOBER, 1711.**

HUDSON BAY COMPANY'S RECORD.

Deld. the 20th of
Octob^r 1711.

The Hudson's Bay Company desire, And Report it Necessary to the end That in time to come, no Dispute & Difference may arrise, Between the Said Company and the french settled in Canada.

First that noe wood runners or any other Person whatsoever Either french or Indians, be permitted to Travell or Seeke for Trade Beyond the Limmitts hereafter mentioned

That the said Limmitts Begin from the Island Called Grimingtons Island, alias Cape Pedrix, in the Lattitude of 58 ½ northwards which wee desire may be the Boundary between the English and french on the Coast of Laboradore, Towards Ruperts Land, on the East maine, & Nova Britannia, on the French side.

That a Line be supposed to pass from the southwest from the said Island to the Great Lake Miscosinke alias Mistoseny Devideing the same in Two parts, (as in the Mapp^l now Delivered) & that the french shall not come or any others Employed by them, to the north or northwestward of the Land Lake or supposed Line by Land or water, on or through any rivers, Lakes, Or Settle on any river Leading towards or into the Bay of Hudsons to Trade or Erect any Forts or Settlements whatsoever, & the English on the Contrary not to pas the said supposed Line Either to the Southward, or Eastward.

That the french be Likewise Obleidged to Quit Port Nelson alias Fort Bourbone, undemollished Together with all forts factories and Settlements whatsoever Taken from the English in the Condition they are now in, Together with all other Places They are Possessed of within the Limmitts aforesaid, or within the Bay or Streights of Hudsons.

And that for the future noe french ships Barke, Boate or Vessell. whatsoever shall pas to the northwestward of the said Cape, or Grimingtons Island, Towards or into the Streights & Bay of Hudson on any Pretence.

These Limmitts Being first Settled and Adjusted the Company are willing to referr their Losses and Damiages formerly Sustained by the, french in times of Peace, to the Consideration of Commissioners to Be Appointed for that

purpose.

¹See page 4049 and footnote.

No. 1521.

[8 Feb., 1712.]

**MEMORIAL OF HUDSON'S BAY COMPANY TO
LORDS COMMISSIONERS OF TRADE, 8th
FEBRUARY, 1712.**

HUDSON BAY COMPANY'S RECORD.

Presented the 8th of
Feb. 1711/12

To the Right Hon^{ble}. the Lords Commissioners of
Trade and Plantions.

The memoriall of the Governor and Comp^a of
Adventurers of England Tradeing into Hudsons
Bay.

That for avoiding all Disputes and Differences that may
in time to come arrise Between the said Company and the
french settled in Cannada, they Humbly represent & Conceive
it necessary.

First that no wood runners Either French or Indians or
any other person whatsoever Be permitted to travel or seeke
for Trade, Beyond the Limitts Hereafter mentioned.

That the said Limitts begin from the Island Called
Grimington Island, or Cape Pedrix, in the Lattitude of 58 ½
North which they desire may Be the Boundary Between the
English & French on the Coast of Laborodore Towards
Ruperts Land on the Eastmaine, and Nova Brittainia on the
French side. And that no French Ship Barque Boate or vessell
whatsoever shall pass to the Northwestwards of Cape Pedrix or
Grimingtons Island, Towards or into the Bay or Streights of
Hudson, or any pretence whatsoever.

That a Line be Supposed to pass to the Southwestward of
the said Island of Grimingtons, or Cape Pedrix to the Great
Lake Miscosinke alis Mistoseny, Divideing the same into Two
parts, as in the Mapp* now Delivered And that the french nor
any others Employed by them, shall Come to the North or
Northwestward of the said Lake, or Supposed Line By Land or
water, on or through any Rivers Lakes or Countries to Trade,
or erect any Forts or Settlements whatsoever, And the English
on the Contrary Not to pass the said supposed Line Either to
the Southward or Eastward

That the French be Likewise Obleiged to Quitt Surrender
and Deliver up to the English upon Demand York Fort by them
Called Fort Bourbone Undemollished, Together with all Forts

* See page 4049 and footnote.

p. 4056

whatsoever Taken from the English or Since Erected or Built by the French with all the Attilery & amunition, in the Condition they are now in, Together with all other places they are possessed of, within the Limitts aforesaid, or within the Bay & Steights of Hudson.

These Limitts being first settled and adjusted, the Company are willing to Referr their Losses and Damages formerly Sustained by the French in times of Peace to the Consideration of Commissioners appointed for that Purpose.

Hudsons Bay House

the 8th ffeb^r 1711/12

By order

Of the Gov^r and Comp^a of Adventurers
of England tradeing Hudsons Bay.

W. P. SECRETARY.

Note the said Company are by their Charter Constituted Lords Propretors of all those Lands Territories, Seas, Streights, Bays, Rivers, Lakes & Soundings within the Entrance of the Streights Commonly Called Hudsons Streights to hold the same as of her Majesty's Manor of East Greenwich in the County of Kent.

No. 1522.

Lords of
Trade to Earl
Dartmouth
19 Feb.
1712.

**THE LORDS OF TRADE TO THE EARL OF
DARTMOUTH.***

To the Right Honourable the Earl of Dartmouth.

MY LORD,—In obedience to Her Majesty's commands, signified to us, we have considered the enclosed petition from the Hudson's Bay Company to Her Majesty, and are humbly of opinion that the said Company have a good right and just title to the whole Bay and Streights of Hudson.

Since the receipt of which petition, the said Company have delivered us a memorial, relating to the settlement of boundaries between them and the French of Canada. a copy whereof is enclosed, and upon which we take leave to offer, that as it will be for the advantage of the said Company that their boundaries be settled, it will also be necessary that the boundaries between Her Majesty's colonies on the continent of America and the said French of Canada be likewise agreed and settled ; wherefore we humbly offer these matters may be recommended to Her Majesty's Plenipotentiaries at Utrecht.

We are,

My Lord,

Your Lordship's most obedient, and most humble
servants,

WINCHELSEA,
PH. MEADOWS,
CHAS. TURNER,

GEO. BAILLIE,
ARTH. MOORE,
FRA. GWYN.

Whitehall, February 19th, 17 11/12.

* Reprinted from Joint Appendix of Documents, Ontario-Manitoba Boundary Case, (P.C.) p. 575.

No. 1523.

[23 May, 1713.]

**PETITION OF HUDSON'S BAY COMPANY TO THE
QUEEN, 23rd MAY, 1713.**

HUDSON BAY COMPANY'S RECORD.

Presented y^e 23th of
May 1713.

To the Queen's Most Excellent Majesty.

The Humble Petition of the Governor and Comp^a of
Adventurers of England Traideing into Hudsons Bay.

SHEWETH

That your Petitioners Being inform'd that the Act of
Cession is Come over whereby amongst other matters thereby
consorted, The french King Obleiges himselfe to restore to
Your Majesty (or to whom your Majesty Shall appoint to take
possession thereof) the Bay and Streights of Hudson Together
with all the Lands Seas Sea Coasts Rivers and places Situate in
the said Bay & Streights, as also all forts and Edifices
whatsoever intire and not Demolished, Together with Gunns
Shott powder and other warlike provisions, (as mentioned in
the 10th Article of the present treaty of Peace) within 6 months
after the Rattification thereof or sooner If Possible it may be
Done.

Your Petitioners doe most humbly Pray your Majesty will
be Graciously Pleased to Direct the said Act of Cession may
be, Transmitted to Your Petitioners, as also your Majestys
Commission to Capt. James Knight & Mr. Henry Kelsey to
Authorise them or Either or them to take possession of the
Premises above mentioned & to Constitute Capt. James Knight
to be Governor of the Forts so called Port Nelson and all other
forts Edefices Lands Seas Rivers and places Afforesaid, & the
Better to Enable your Petitioners to Recover the same they
Humbly Pray your Majesty to give order they may have A
small man of Warr to Depart with their Ship by the 12^d. day of
June next Ensueing w^{ch} Shipp may in all probability Returne in
the month of Oct^r next.

And your Petitioners as in Duty Bound Shall Ever Pray
&c.

By Order of the Hudsons Bay Comp^a.

W. P., Secr.

No. 1524.

[26 May, 1713.]

**LORD DARTMOUTH TO THE HUDSON'S BAY
COMPANY, 26th MAY, 1713.**

HUDSON BAY COMPANY'S RECORD.

Whitehall, 26th May, 1713.

My L^d Dartmouths Letter to the Comp^a :

Gentlemen

I have laid your Petition before the Queen who desirs
Comeing to any resolution upon the Severall Particulars
therein Contained till the Councill of Trade Report their
Opinion w^{ht} is Most Proper to be done therein. In the meantime
I am to Acquaint you that her Majesty would not Except of a
Cession of the Country from the French King, because it
belong'd of ancient Right to his Subjects as will appear by your
Charter of which I am to Desire you to Send me an Authentiek
Copp^y however it was Necessary to Procure an Order from the
french Court for the delivery of the Possession, A copy
whereof you'l find Enclosed,

I am Gentlemen,

Your Most Humble Servant,

DARTMOUTH.

To The Hudson Bay Camp^a :

No. 1525.

[5 May, 1713.]

**LETTER FROM COUNT DE PONCHARTRAIN TO
MARQUES DE VAUDREUIL, GOVERNOR OF
NEW FRANCE, 5th MAY, 1713.**

HUDSON BAY COMPANY'S RECORD.

(Translated out of French.)

Coppy of the Letter from ye Count de Pontchartrain to y^e Marques de Vandreuil Comand^r of the Military order of St Lewis Govern^r & Leiftenant Generall for the King in New France Dated at Marly y^e 5 May 1713.

S^r

The King haveing Thought fitt by the Treaty of Peace Concluded at Utrich the 11th of the Last month, to Grant to The Queen & Crowne of Great Brittain Accadia, The Island of Newfound Land & Hudsons Bay to be possessed henceforward in full Right (or Sovereignty) & his Ma^{tie} desireing That The Same should be punctually perform^d he has Comanded me to give you Advice Thereof & Lett you know That his Intention is That you should not obstruct or hinder y^e same But on the Contrary That you should Conforme y^rselfe Thereunto same.

Y^e Most humble & Afection^t Serv^t

PONCHARTRAIN.

Earl Dart-
mouth to
Lords of
Trade, 27
May,
1713.

No. 1526.

**THE EARL OF DARTMOUTH TO THE LORDS OF
TRADE.***

*To the Right Honourable the Lords Commissioners of
Plantations.*

My Lords and Gentlemen.—The Queen has commanded me to transmit to you the enclosed Petition of the Hudson's Bay Company, that you may consider of it and report your opinion, what orders may properly be given upon the several particulars mentioned. In the meantime, I am to acquaint you that the places and countries therein named, belonging of right to British subjects, Her Majesty did not think fit to receive any Act of Cession from the French King, and has therefore insisted only upon an order from that Court for delivering possession to such persons as should be authorized by Her Majesty to take it ; by this means the title of the Company is acknowledged, and they will come into the immediate enjoyment of their property without further trouble.

I am,

My Lords and Gentlemen.

Your most humble servant,

DARTMOUTH.

Whitehall, May 27th, 1713.

* Reprinted from Joint Appendix of Documents, Ontario–Manitoba Boundary Case (P.C.), p. 576.

No. 1527.

[11 June, 1713.]

**REPRESENTATION OF THE HUDSON'S BAY
COMPANY TO LORD DARTMOUTH, 11th JUNE, 1713.**

HUDSON BAY COMPANY'S RECORD.

Presented the 11th June 1713.

The Humble Representation of the Hudsons Bay
Company to my Lord Dartmouth One of Her Majestys
Principall
Secretarys of State.

Humbly Sheweth

That the orders Delivered them to take possession of Port Nelson (alias Port Bourbone so Called By the french) Being Directed to the Governor. of Queebec which is at Least 12 or 1400 Miles from Port Nelson and likewise the Passage Land so Impracticable this Company Can have no Benifitt from the same & therefore Humbly Pray that an order be Procured from the Court of france to the Governor of Port Nelson alis Port Bourbone Directly, or it will be impossible to take possession of the Bay and Streights of Hudson this year Conformable to the treaty of Peace Lately made at Utrich, and the time of your being so farr Spent that unless a Speedy order be obtained from france it will be Impossible to send out of England thether this year altho our Shipp Should winter in the Country.

Signed

S^r: B. L.
T. M.
S. C.
R. N.
T. P.
T. F.

Hudson Bay House the 11th June 1713.

No. 1528.

[23 June, 1713.]

**LORD DARTMOUTH TO THE HUDSON'S BAY
COMPANY, 23rd JUNE, 1713.**

HUDSON BAY COMPANY'S RECORD.

Whitehall 23th June 1713.

My L^d Dartmouths Letter to y^e Comp^a

Gentlemen

Upon The Aplication you have made to the Queen that you would be pleased to procure an order from y^e French King to the Gov^r of Port Nelson to deliver that Place to such Persons as should be Impowred to Receive it, by which means the Inconveniencies of waiteing for Instructions from y^e Gov^r of Quebeck would be prevented, I am to acquaint you, That Her Ma^{tie} gave imediate directions to her Ministers at Parris to Endeavor to obtaine such an order as you desired & That The Court of France have promis^d it should be dispatched hither in A few dayes, I am further to Lett you Know that Two French shippes will be sent to Hudson^s Bay, to Bring away such of the Effects belonging to them as by the Treaty They are allowed to withdraw to y^e Performance of which you will take Care, That noe obstruction or Impediment be given on your Part I am

Gentlemen

Y^r most humble Serv^t

DARTMOUTH.

To the Hudsons Bay Comp^a

No. 1529.

[6 August, 1713.]

**ORDER OF THE KING OF FRANCE TO COMMANDER
OF YORK FORT, 6th AUGUST, 1713.**

HUDSON BAY COMPANY'S RECORD.

The French Kings order
to Mons^r Jeremie to
Deliver up Yorke
Fort &ca to the
Comp^{ie}

BY THE KING.

Mr Jeremie Commander of the ffort and Streights of
Hudsons Bay is Comanded to Deliver to the Bearer of the
Queen of Great Brittain's order the Bay and Streights of
Hudson Together with all Buildings and fforts there Erected In
the Condition they now are, with all the Canon and Canon ball
as also a Quantity of Powder (if it be there found) In
proportion to the Canon Ball And the other things belonging to
the Artillery According to and In Execution of the Tenth
Article of the Treaty of Peace Concluded at Utrick the
Eleventh of Aprill last between his Majesty's Plenipotentiary's
& those of the Queen of Great Brittain Done at Marly the Sixth
August 1713.

Signed
LEWIS.

underneath
PHELYPEAUX.

No. 1530.

[9 August, 1713.]

**LETTER FROM COUNT DE PONCHARTRAIN TO
COMMANDER AT YORK FORT, 9th AUGUST, 1713.**

HUDSON BAY COMPANY'S RECORDS.

Mons^r Pontchartraine Letter
to Mons^r Jeremie Comand^r
at Yorke Fort to Deliver
Up That Place to the
Company.

Marly the 9th August,
1713.

I have already Informed you that the King had Granted to the Queen of Great Britaine the Bay and Streights of Hudsons with the fforts In the Condition they now are, the Artillery Canon ball a quantity of powder in proportion to the Canon ball (if it be there found) and the other things belonging to the Artillery.

The Queen of Great Brittain haveirig Demanded the Execution of the Tenth Article of the Treaty of Peace Concluded at Utrich the Eleventh of Aprill Last by vertue whereof the grant was made His Majesty has Caused an Order to be Dispatched whereby you are to Deliver to the Bearer of the Queen of Great Britain's Order the said Bay & Streights with the fforts and Artillery thereunto belonging According to and In Execution of the said Treaty of Peace And His Majesty haith Comanded me to signifie to you that his Intention is as soone as this order is produced to you you to obey the Same & Evacuate the Place According to the Article of the said Treaty whereof I send you a Copy.

The English Ministers Say that the Person who shall be Authorised to take Possession of the Bay and Streights of Hudson In the Name of the Queen of great Britain, Shall have Orders from her Britannick Majesty to Agree upon the Place, on the Manner and time of the withdrawing the Effects of the Kings subjects I have informed Mess^r. Neret & Gayot hereof that they might order you what measures to take for the Security of your Effects and the Returne of your Clerks and hired Servants to Europe.

Signed

PONTCHARTRAINE.

Directed

To Mr Jeremie Comander
of the fforts and Streights
of Hudson's Bay & at
Hudsons Bay

PONTCHARTRAIN.

No. 1531.

[10 August, 1713.]

**LORD DARTMOUTH TO HUDSON'S BAY COMPANY,
10th AUGUST, 1713.**

HUDSON BAY COMPANY'S RECORDS.

Whitehall 10th August
1713.

My L^d Dartmouths Letter to the Comp.

Gentlemen,

You'll find Enclosed a Letter from the Persons who have enjoy'd Hudson's Bay By a Grant from the french King to the Present Governor there together with a copy thereof, this and the Order from M^r Pontchartrain to the french Governor In Chief on the Continent of America will I hope be Sufficient to Procure you full Possession of that Place according to the Treaty of Utrich I am

Gentlemen

Your most humble

Servant

DARTMOUTH.

To the Hudsons
Bay Comp^a.

No. 1532.

[4 August, 1714.]

**REPRESENTATION OF HUDSON'S BAY COMPANY
TO LORDS COMMISSIONERS OF TRADE,
4th AUGUST, 1714.**

HUDSON BAY COMPANY'S RECORD.

Representation Presented
The 4th August 1714.

To the Right Hon^{ble} the Lords Comiss^{rs} of Trade and
Plantations.

The Humble Representation of the Govr: & Company
of Adventurers of England Tradeing Into Hudsons
Bay.

SHEWETH

That Pursuant to the fourth Article of the Treaty of Utrich they did in the Begining of June Last Send a Ship for Hudsons Bay and Therein a Govr. One Capt. James Knight and his Deputy M. Henry Kelsey to Take Posession of the whole Bay and Streights of Hudson Together with all other Places Relateing thereto, As mentioned in the Said Article They haveing not onley her Late Majesty (of Blessed Memory) Her Comission for the Same Purpose Together with one from the Company ; Butt Likewise the Most Christian Kings order under his hand and Seale with a power from the Canada Comp^a. to Deliver up the same According to the Said Treaty.

Which Ship at the request of the Canada Comp^a. is not onley to Bring away the French Settled in Hudsons Bay But Likewise all their Effects. Pursuant to the Aforesaid Treaty they Paying freight for the same. Which Ship may be Expected the Latter End of September or Begining of October next.

They further Represent to your Lordships that According to a memorial formerly Delivered this honourable Board Relateing to the Limitts or boundarys to be Settled by Comisaries Twixt the English and french in those Parts They Humbly Pray. That for avoiding all Disputes and Differences that may in Time arrise between the said Company and the french Settled In Canada. That noe Wood Runners Either french or Indians, or any other Person Whatsoever, be Permitted to Travell or Seeke for Trade Beyond the Limitts hereafter mentioned.

That the said Limitts begin from the Island Called Grimningtons Island or Cape Pedrix In the Lattitude of 58 ½

North, May be the Boundary between the English and French on the Coast of Labradore Towards Ruperts Land on the East maine, and Nova Britannia on the French side.

p. 4068

That no french Ship, Barque or boats or Vessell Whatsoever Shall Pass to the Northwestward of Cape Pedrix or Grimingtons Island towards or Into the Bay and Streights of Hudson on any Pretence Whatsoever.

That a Line be Supposed to Pass to the Southwestward of the Said Island of Grimington or Cape Pedrix, to the Great Lake Miscosinke Alias Mistoseny, Divideing the same into Two parts (as in the Map now Delivered) and from the said Lake a Line to Run Southwestward Into 49 Degrees North Lattitude, As by the red Line may more Plainly Appear, & that that Lattitude be the Limitt that the french do not Come to the North of it, Nor the English to the South of it.

That the french nor any other Employed by them Shall Come to the North or Northwestward of the said Lake or Supposed Line by Land or water, on or through any Rivers, Lakes or Countreys to Trade, or Errect any Forts or Settlements whatsoever and the English on the Contrary not to Pass the said Supposed Line Either to the Southward or Eastward.

The Said Company haveing Already Delivered to your L^dShips an Abstract of the Damages Sustayned by the french in Times of Peace Am^o. to £100543: 13:9: According to the Direction of the 11th Article of the Aforesaid Treaty which they humbly Entreat your L^dShips to Take Effectuall Care of, to the Releife of the Great hardships they have soe Long Laboured under.

By Order
of The Govern^r & Comp^a of Adventurers
of

England Tradeing into Hudsons Bay
W. P. Sec^r.

Hudsons Bay House
The 4 August 1714.

Bolingbroke
to Lords of
Trade,
12 August,
1714.

No. 1533.

LORD BOLINGBROKE TO THE LORDS OF TRADE.*

To the Right Honourable the Lords Commissioners of Trade,
&c.

MY LORDS,—The Lords Justices desire to have an account forthwith laid before them of what has been done since the peace, relating to Hudson's Bay, Nova Scotia and St. Christopher's. Some things have passed in my office, others, I believe, in the Treasury, and a considerable deal I doubt not has been done by your Lordships ; wherefore, if your Lordships be pleased to collect a perfect state of the whole I will furnish you with what you want from me.

I am likewise on this occasion to put your Lordships in mind of the point referred by the Treaty of Peace with France, to the discussion of commissaries, that their Excellencies may be acquainted with the orders given to the commissaries of commerce in these matters, and their proceedings thereupon.

* * * * *

I am,
My Lords,
Your Lordships' most humble
servant,

BOLINGBROKE.

Whitehall, August 12th, 1714.

* Reprinted from Joint Appendix of Documents, Ontario-Manitoba Boundary Case (P.C.), pp. 578-579.

No. 1534.

Lords of
Trade
to Lord
Bolingbroke.
14 August,
1714.

THE LORDS OF TRADE TO LORD BOLINGBROKE.*

To the Viscount Bolingbroke.

MY LORD,—In obedience to their Excellencies the Lord Justices' commands, signified to us by your Lordship's letter of the 12th inst., requiring to know what has been done since the peace relating to Hudson's Bay, Nova Scotia, and St Christopher's, we take leave to represent :

That upon your Lordship's letter of the 22nd July, requiring us to prepare proper instructions for the British commissaries who are appointed to treat with those of France upon the 10th, 11th, and 15th Articles of the Treaty of Peace, we wrote letters to several persons concerned in the Leeward Islands, and several parts of the continent, for what they might have to offer to such parts of the said Articles as did relate to them respectively, and have received answers from some of them. We pray your Lordship will please lay the enclosed copies thereof before their Excellencies, the Lords Justices, as follows :

Copy of a memorial from the Hudson's Bay Company, describing the limits which they desire may be fixed between them and the French in those parts, as also an abstract of the damages they have sustained by the French in times of peace.

* * * * *

We are,
My Lord,
Your most obedient and humble
servants,

PH. MEADOWS, SAMUEL PYTTS,
ARTHUR MOORE THOS. VERNON
JNO. SHARPE,

Whitehall, August 14th, 1714.

* Reprinted from Joint Appendix of Documents, Ontario-Manitoba Boundary Case (P.C.), p. 579.

Proceedings
of the Com-
missaries,
under
Treaty
of Utrecht,
1719-20.

PAPERS RELATING TO THE PROCEEDINGS OF THE
ENGLISH AND FRENCH COMMISSARIES, UNDER
THE TREATY OF PEACE OF UTRECHT, 1719-20.

No. 1535.

THE COMMISSARIES.*

[The English Commissaries were Daniel Pulteney and Martin Bladen, Esquires. They appear to have been of the Lords of Trade. The Commission of Queen Anne appointing them, is dated 3rd September, 1719, and is signed by Lords Justices—

PARKER, C.
ARGYLE AND GREENWICH.
ROXBURGH.
BERKELEY ; and by
J. CRAGGS.

The French Commissaries were the Marechal Comte d'Estrées, and the Sr Abbé Dubois, Minister and Secretary of State. The Commission is dated the 24th October, 1719, and is signed LOUIS.

Par le Roy, le DUC D'ORLEANS,
REGENT, present,—LE BLANC.

(The English Commissaries, under the Treaty of Commerce of 1713, were Charles Whitworth, James Murray, Joseph Martin and Frederick Herne ; their Commission being dated 13th December, 1713.—The French Commissaries, under the same treaty, were the Srs Anisson and Fenelon : they were commissioned 10th February, 1714.)]

* Reprinted from Joint Appendix of Documents, Ontario-Manitoba Boundary Case (P.C.), p. 506.

No. 1536.

Mr. Bladen to
Mr.
Delafaye,
July 3, 1719.

**MR. BLADEN TO MR. DELAFAYE, SECRETARY OF
THE LORDS JUSTICES.***

London, July 3rd, 1719.

Sir,—Since you was pleased to do me the honour to propose, in behalf of their Excellencys, the Lords Justices of Great Britain, that I should go to France in order to Treat there with such persons as shall be appointed by His Most Christian Majesty, concerning the several matters left undecided by the late Treaty of Peace, concluded at Utrecht, and referred to Commissarys to be hereafter named for the purpose,

* * * * *

It will be proper that the person, who shall leave the honour to be charged with their Excellencys' Commands concerning them, should be fully apprized of the demands which the Hudson's Bay Company and His Majesty's subjects of the Island of Montserat, have to make upon those of France, and this will be best done by their Excellencys' Orders to the Board of Trade to examine the same, who may likewise, if their Excellencys' please, be directed to make a collection of all such papers and memorials now remaining in the Plantation Office, as may serve to fix the Boundrys of Nova Scotia and of Hudson Bay....

If it should be my lot to go upon this Commission [I shall only ask] that one of my instructions may be to communicate and consult upon all occasions with the Earle of Stairs, His Majesty's Ambassador at Paris, and that the said Earle may be empowered, if he pleases, to be present and assist at all the conferences that shall be held upon the subject matter of my Commission.

* Reprinted from Joint Appendix of Documents, Ontario-Manitoba Boundary Case, (P.C.), PP. 506-7.

No. 1537.

[26 August, 1719.]

**REPRESENTATION OF THE LORDS OF TRADE
RESPECTING THE POWERS AND INSTRUCTIONS OF
THE ENGLISH COMMISSARIES, 26 AUG., 1719.***

To Their Excellencies, the Lords Justices :

May it please Your Excellencies :

In obedience to Your Excellencies' Commands signify'd to its by Mr. Delafaye, in his letter of the 16th of July, 1719, we have prepar'd the inclos'd commission and instructions for Mr. Bladen, to treat, as His Majesty's Commissary or Deputy, with the Commissary or Commissaries to be appointed on the part of France, concerning several matters left undetermin'd by the 10th, 11th, 12th, 13th, 14th and 15th Articles of the Treaty of Peace concluded at Utrecht, the ^{31/11} day of March/April, 1713, between Her late Majesty and the late French King, Louis the 14th.

It was not in our power to give more dispatch to this matter, by reason of the multiplicity of books and papers which were necessary to be read and well consider'd upon this subject, besides that we were oblig'd to consult with several persons, and to wait for such lights as the Company of British merchants trading to Hudson's Bay, the African Company and several other parties concern'd in the success of this negotiation cou'd give us, touching their respective interests and demands, for which we have made the most effectual provision we cou'd think of, in Mr. Bladen's instructions.

We have perus'd and consider'd the several Charters granted by His Majesty's royal predecessors to the respective British Colonies on the Continent of America, from Hudson's Bay and Nova Scotia, as far as the Bay of Mexico, of which many are very extensive, stretching from sea to sea ; but as the French wou'd not perhaps be determin'd by these authorities only, and since we have not hitherto been able to get such maps of the said plantations as may be depended on, or to obtain such further informations as might be requir'd to support the right and title of His Majesty or any of his subjects have, to places which the French possess or pretend to, either on the back of the British plantations or westward from New England down to the Gulf of Mexico, we thought it proper to leave out of Mr. Bladen's full powers, that part of the Tenth Article which relates to a general settlement of the boundaries between the colonies of the two nations in America, and

to restrain his commission to the boundaries of Hudson's Bay and Nova Scotia only, where we have proofs and authorities against which, we think, no exception can reasonably be made.

In all other matters, Mr. Bladen's commission and instructions are made agreeable to the several Articles of the Treaty of Utrecht above mention'd, comprehending the mutual pretensions of both nations then left undetermin'd ; and we hope, may prove to Your Excellencies' satisfaction.

Upon this occasion, we beg leave to represent to Your Excellencies that, considering the several accounts we have receiv'd from the Governors of his Majesty's plantations, as well as from persons with whom we have discours'd, concerning the progress of the French settlements, from the mouth of the River St. Lawrence northward to that of the Mississippi southward, in the Bay of Mexico, and the daily increase of their power in those parts, we cannot but be something alarm'd at a scheme that seems one day to threaten the destruction of all the British Colonies in America, for which reason, we have prepar'd an instruction for Mr. Bladen, directing him to get the best information he can, of the state of the French colonies in those parts, and of the constitution of the Mississippi Company. In the meantime, we cannot help observing to Your Excellencies, that among the other grants that we have perus'd upon this occasion, we have seen one from King Charles the First, to Sir Robert Heath, which, by several mean conveyances, is become the property of Doctor Cox, and contains not only the greatest part of Florida, but likewise extends itself westward beyond the River Mississippi..

It were heartily to be wish'd that, in imitation of our industrious neighbours of France, some means cou'd be found to extend our settlements likewise towards the Bay of Mexico, more especially while we are at war with Spain, and might possibly preserve by a future Treaty whatever might be now acquir'd.

Your Excellencies will find by the maps of those countries that the Fort of St. Augustine, which lyes on the coast of Florida to the southward of Carolina, wou'd be a great security to our plantations on that side, and by the best information we have had thereupon, might be reduced at a very small expense.

All which is most humbly submitted.

CHARLES COOKE,
P. DOCMINIQUE,
D. PULTENEY,
MARTIN BLADEN.

Whitehall, Aug'st ye 26th, 1719.

No. 1538.

Instructions
to
Commissary
Bladen,
1719.

INSTRUCTIONS TO COMMISSARY BLADEN, 1719.*

INSTRUCTIONS FOR MARTIN BLADEN, ESQ., APPOINTED HIS MAJESTY'S
COMMISSARY TO TREAT WITH THE COMMISSARY OR
COMMISSARIES TO BE APPOINTED BY THE MOST CHRISTIAN
KING.—GIVEN.

Together with those instructions, you will receive His Majesty's Commission under the Great Seal of Great Britain, appointing you, the said Martin Bladen, to be His Majesty's Commissary for treating of and concluding with the Commissary or Commissaries on the part of the French King, all such matters and things as are referred to your cognizance and determination by the said Commission, in pursuance of the 10th, 11th, 12th, 13th, 14th and 15th Articles of the Treaty of Peace, concluded at Utrecht the 31/11 day of March/April in the year of our Lord 1713, between Her late Majesty Queen Anne and Lewis the 14th late most Christian King. . . .

It being provided by the 10th Article of the Treaty of Utrecht, that the limits and boundaries between Hudson's Bay and the places appertaining to the French, be settled by Commissaries on each part, " which limits both the British and French subjects shall be wholly forbid to pass over, or thereby to go to each other by sea or by land," you are to endeavour to get the said limits settled in the following manner, that is to say :—

That the same begin from the Island called Grimington's Island, or Cape Perdrix, in the latitude of 58½ north, which the Company desire may be the boundary between the British and French subjects, on the coast of Laboradore towards Rupert's Land, on the East Main, and Nova Britannia on the French side ; and that no French ships, barque, boat or vessel whatsoever shall pass to the northwestward of Cape Perdrix or Grimington's Island towards or into the Streights or Bay of Hudson, on any pretence whatsoever. And further, that a line be drawn from the south-westward of the Island of Grimington or Cape Perdrix (so as to include the same within the Limits of the Bay) to the great Lake Micosinke alias Mistoveuy, dividing the said lake into parts (as in the map to be delivered to you) ; and that where the said line shall cut the 49th degree of northern latitude, another line shall begin, and be extended westward from the said lake, upon the 49th degree of northern latitude ; over which said line, so to be described as above mentioned, the French and all persons by them employed, shall be prohibited

to pass to the northward of the said 49th degree of latitude, and to the north or north-westward of the said lake or supposed line, by land or water, on or through any rivers, lakes or countries, to trade, or erect any forts or settlements. And the British subjects shall likewise be forbid to pass the said supposed line, either to the southward or eastward.

But you are to take especial care, in wording such articles as shall be agreed on with the Commissary of His Most Christian Majesty, upon this head, that the said boundaries be understood to regard the trade of the Hudson's Bay Company only ; that His Majesty does not thereby recede from the right to any lands in America, not comprized within the said boundaries ; and that no pretension be thereby given to the French to claim any tracts of land in America, southward or south-west of the said boundaries.

And whereas it hath been represented by the said Company that the French have, since the Peace of Utrecht, viz., in 1715, made a settlement at the head of Albany River, upon which river the Company's principal factory is settled, whereby the French may intercept the Indian trade from coming to the said factory, and may in time utterly ruin the trade of the Company if not prevented ; you are to insist that the said fort be given up, or demolished by the French, and their subjects be withdrawn from that settlement.

And it being further provided, by the 11th Article of the said Treaty, that satisfaction be made according to justice and equity, to the Hudson's Bay Company for the “ damages and spoil done to their colonies, ships, persons and goods, by the hostile incursions and depredations of the French, in time of peace ; ” and the said Company having delivered to his Majesty's Commissioners for Trade and Plantations, an account under their common seal, of the losses sustained by them from the French in times of peace, which will be delivered to you, with proper vouchers for the same ; you are in like manner to insist that satisfaction be made to the said Company pursuant to the said Article.

If the French Commissary or Commissaries should pretend to ground a more extensive claim upon the French Treaty than does appertain to them by the Latin one, you are to insist upon it, that the Latin Treaty is to be your guide in all cases, though even by the French Treaty they can have no title to any islands lying in the Bay or Gut of Canceau.

Whereas it has not been thought proper to empower you by your Commission to treat of any boundaries beside those of Hudson's Bay and Novia Scotia ; nevertheless, lest the French should take this as a tacit acknowledgment of their pretended right to several settlements they have made on the back and westward of the British Plantations on the continent of America ; you are to declare to the French Commissary or

Commissaries, that His Majesty has reason to believe the French have made several encroachments upon the British settlements in those parts, which may be discussed when His Majesty shall have received, from the respective Governors of his colonies in those parts, a full and particular account of all such encroachments as they have already complained of. And in the meanwhile, you are to take particular care

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in the wording of such articles as shall be agreed to between you and the French Commissaries, in relation to the boundaries of Hudson's Bay and Nova Scotia, that His Majesty be not thereby concluded with respect to the boundaries of any other lands or territories His Majesty or his subjects may have a right to on the continent of America.

You are hereby directed, during the time of your residence in France, to get the best information you can concerning the situation, trade, strength, laws and government of the French colonies in America, but more particularly, concerning the establishment and constitution of the Mississippi Company, which you are to transmit to one of His Majesty's principal Secretarys of State, and to His Majesty's Commissioners for Trade and Plantations.

You are hereby required to communicate, from time to time, all your proceedings, during the course of your negotiations, unto the Earl of Stair, His Majesty's Ambassador Extraordinary, now residing at the French Court, and to confer and consult with the said Earl on all matters relating thereto.

And whereas divers matters and difficulties may arise during the course of your negotiation, which could not be sufficiently foreseen and provided for by these instructions, you are hereby directed to keep a constant correspondence with one of His Majesty's principal Secretarys of State, to whom you shall by all occasions transmit an exact account of your proceedings, and you are to govern yourself by such further instructions as you shall from time to time receive from him thereupon.

At your return from the French Court, you are to lay before His Majesty a full and particular account of your proceedings in the several matters contained in His Majesty's said Commission and in these instructions ; as likewise in all such other matters as shall from time to time be referred to your negotiation by one of His Majesty's principal Secretarys of State ; and you are to deliver to His Majesty's Commissioners for Trade and Plantations a duplicate of the said account, so far as the same may relate to their cognizance.

[The above were the instructions prepared by the Commissioners of Trade for Mr. Bladen. On the same 3rd day of September, 1719, the like instructions were prepared for Messrs. Pulteney and Bladen, by order of, and signed by, the Lords Justices. The two Commissaries were, by their Commission, empowered to act jointly and severally.]

No. 1539.

MR. BLADEN TO MR. DELAFAYE.*

Mr. Bladen
to Mr. Dela-
faye, 1st
Nov.,
1719.

Paris, November y^e 1st, N.S. 1719

. The meeting first intended for Saturday took not place till yesterday. My Lord Stair was present at the opening of the Commissions, and judging their powers to be sufficient, we proceeded to fix the method of treating.

It was agreed to take the several matters separately and distinctly, in the order the Treaty of Utrecht has ranged them, and at our next meeting, which will be on Saturday, we are to enter on the pretensions of the Company trading to the Hudsons' Bay.

As you know the particular regard I have for the Earl of Stair, and the great opinion I have of his abilities, you will easily imagine how great a consolation it must be to me to have his assistance in an affair of this consequence.

I am glad to understand, by your favour of the 15th past, o.s., which I received last night, that my brother Pulteney thinks of leaving London. His presence will likewise be of great use to His Majesty's affairs.

* Reprinted from Joint Appendix of Documents, Ontario-Manitoba Boundary Case (P.C.), p. 510.

No. 1540.

[7th Nov., 1719.]

MR. BLADEN TO MR. DELAFAYE.*

Paris, November ye 7th, 1719, N.S.

I was not a little surprized to see the copy of a deposition from Barbadoes this morning in my Lord Stair's hands, relative to the actual seisure of *Santa Lucia*, by ye French, especially after the answer I had receiv'd from the Abbé Dubois, upon that subject, but it seems he was very little informed of the state of this matter, for the Regent, with whom my Lord Stair had a conversation about it this morning, avows the fact, and says the Marechal d'Estrées assured him the French had a constant possession and an undoubted right to ye said island, by treaty.

On Saturday last, my Lord Stair and I met Marechal d'Estrées and Abbé Dubois. Our time was spent in preparatory discourses concerning the intent of the 10th Article of the Treaty of Utrecht, relating to the boundaries of Hudson's Bay ; and at our next meeting, which will be to-morrow, at my Lord Stair's house, we design to give in the claim of the Hudson's Bay Company, in writing, with some few additions pretty material for their service, in case the Abbé Dubois his health will allow him to be there, which I fear it will not, for he is confined at present to his bed. . . .

But I confess, I cannot help thinking it will be to very little purpose to puzzle ourselves about settling boundaries, by treaty, in the North of America, if the French have so concise a way of fixing theirs in the South, without asking our concurrence ; it is to be hoped they will have the modesty to recede from this new acquisition, but in the meantime I cannot help saying this gives me no very good relish either of their friendship or discretion. . . .

I cannot leave this subject without observing how much it imports us to be upon our guard in our American Colonys. It were to be wished that the several Governments of his Majesty's plantations would pay the respect they owe to their instructions, and if those of Barbados for some time past had observed theirs, relating to *Santa Lucia*, the settlement of a hundred French families there could never have been put upon us at this day as a proof of their right to that island.

* Reprinted from Joint Appendix of Documents, Ontario-Manitoba Boundary Case (P.C.), p. 510.

No. 1541.

[Undated.]

**BOUNDARIES CLAIMED BY THE ENGLISH
COMMISSARIES, 1719.**

CAN. ARCH., C^{II} E, VOL. 2, pp. 31-33.

Sans lieu ni date.

Mémoire remis par Milord Stairs a M. le Maréchal d'Estrées.

Sa Majesté le feu Roy tres chrétien ayant stipulé par l'article 40^e du traité de paix conclu a Utreckt que la Baye et le detroit d'Hudson avec toutes les terres, mers, rivages, fleuves et lieux qui en dépendent seront restitués au Royaume de la Grande Bretagne, qu'il sera nommé des Commissaires de part et d'autre qui détermineront les limites de chaque nation, lesquels il ne sera pas permis aux sujets des deux nations de passer pour aller les uns aux autres ny par mer, ny par terre :

Les Commissaires nommés par Sa Majesté Britannique demandent que lesd. limites soient réglés dans la manière suivante, assavoir que les limites commenceront depuis le Cap Nord de la Baye de Davis dans le 56 ½ degré de latitude qui servira de limites entre les Anglois et les François sur la Cote de Laboradore vers les terres de Rupert sur le continent d'Orient, et de la Nouvelle Bretagne du côté des François, et qu'aucun vaisseau françois, barque ou bâtimens quelconque, ne puisse passer au nord, du côté de l'Ouest du Cap Nord de la Baye de Davis, vers ou dans le detroit ou Baye d'Hudson, sous quelque prétexte que ce soit ; et que de plus on tirera une ligne depuis led. Cap du Nord de lad. Baye de Davis vers le grand lac Miscosinke als Mistovery, separant led. Lac en deux, Et qu'a l'endroit ou lad. ligne coupera le 49^e degré de latitude du Nord, une autre ligne commencera et sera étendue du coté de l'Ouest depuis led. lac sur le 49^e degré de latitude du Nord, au dela desqu'elles lignes ainsy descrites les françois ny aucune autre personne qu'ils employent ne passeront pas vers le nord dud. 49^e degré de latitude, et vers le nord du nord-ouest dud. Lac ou ligne ainsy supposée ny par Terre, ny par eau, ny a travers aucune Rivière, Lacs ou pays pour négotier, ny batir aucun fort, ny faire aucun établissement.

Et d'autant que les sujets de Sa Majesté tres chrétienne ont fait depuis la paix d'Utrecht un établissement a la source de la rivière Albany les Commissaires de Sa Majesté Britannique insistent sur ce que les François quittent . led. établissement, et que le fort s'il y en a quelqu'un de bati soit remis a la Compagnie des marchands anglois negotians dans lad. Baye d'Hudson.

Lesd. Com^{res} demandent de plus que les sujets de Sa
Majesté très

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[11 Nov. 1719.]

Mr. Bladen
to Mr.
Dela-
faye, 11th
November,
1719.

chrétienne ne bâtiront pas des forts ny ne fairont des
établissmens sur aucune des Rivières qui se déchargent dans
la baye d'Hudson sous quelque prétexte que ce soit, et que le
cours et navigation entière de toutes lesd. rivières seront laissés
libres a, la Compagnie des Marchands anglois trafiquant en la
Baye d'Hudson et a tels indiens qui voudront trafiquer avec
eux.

Non signé.

No. 1542.

C

MR. BLADEN TO MR. DELAFAYE.¹

Paris, November 11th, 1719, N.S.

On Wednesday last, my Lord Stair and I delivered to the
Marechal d'Estrées the demand of the Hudson's Bay Company,
with respect to their limits, and by comparing the inclosed,
which is a copy of that demand, with the instruction upon this
head, you will perceive the same has been fully comply'd
with.²

So soon as I shall have the French Commissarys' answer
to our demand, I shall likewise take care to transmit you a copy
of it, to be laid before their Excellencys the Lord Justices.

¹ Reprinted from Joint Appendix, Ontario-Manitoba Boundary Case (P.C.), p. 511.

² Vide the last preceding paper.

No. 1543.

Mr. Pulteney to Mr.
Sec. Craggs, 4th
May, 1720.

MR. PULTENEY TO MR. SECRETARY CRAGGS.*

Paris, May the 4th, N.S., 1720.

My Lord Stair has spoke to the Regent, who said immediately that the Conferences shall be renewed whenever we please ; his Excellency then desired His Royal Highness would appoint a day, which he promised to do. This is what the Regent has promised my Lord Stair once every week, for four or five months past, without any effect, and His Excellency does not expect any more from the promise now, tho' possibly a Conference may be appointed for form sake. I have been here near six months, and have seen only one Conference, which was appointed by my Lord Stanhope's desire ; I think there had been two Conferences before I came ; at the first of them the Commissions were read, and at the second my Lord Stair and Mr. Bladen gave in a memorial about the limits of the Hudson Bay Company, to which no answer has been made I must own that I never could expect much success from this Commission, since the French interests and ours are so directly opposite, and our respective pretensions interfere so much with each other on the several points we were to treat about ; but that the French have not been willing to entertain us now and then with a Conference, and try how far we might be disposed to comply with any of the views they had in desiring the Commission, cannot, I should think, be accounted for, but by supposing they knew we came prepared to reject all their demands, and to make very considerable ones for ourselves I shall expect your further directions as to my stay or return ; I cannot help owning I heartily wish for the latter, but I shall always submit to what His Majesty likes best, and shall only desire in this case that I may have a supply from the Treasury, since I have not had the good fortune to be concerned in either of the Misiseppis.

* Reprinted from Joint Appendix of Documents, Ontario-Manitoba Boundary Case, (P.C.), pp. 511-12.

No. 1544.

[Jany, 1720.]

**FRENCH MEMOIRS, 1719-1720, RELATING TO THE
LIMITS OF HUDSON'S BAY UNDER THE
TREATY OF UTRECHT.**

EXTRACTS FROM TWO MEMOIRS OF M. D'AUTEUIL, RESPECTING THE
LIMITS OF HUDSON'S BAY, 1719-20.

C¹ E., VOL., 2 pp. 143-161 (Canadian Archives).

Mémoire général sur les limites de la Baye d'Hudson. Sans lieu Janvier
1720.

Baye d'Hudson.

Suivant l'article dixième du traité d'Utrecht, le Roy de France s'oblige a restituer à la Couronne d'Angleterre la Baye et le detroit d'Hudson avec toutes les terres, mers, rivages, fleuves et lieux qui en dépendent et qui y sont situés, sans rien excepter de l'étendue desd. terres et mers possédées présentement par les François.

Si Mgrs les Commissaires françois veulent arrêter les Commissaires anglois sur le terme de restituer dont on s'est servi dans le susd. article du traité, et leur faire remarquer que dans le 12^e article dud. traité, en parlant de l'Acadie, on a employé celui de céder, il leur sera facile de les embarrasser beaucoup. Effectivement la restitution suppose que ceux a qui on restitue ont le droit naturel et le plus ancien et que ceux qui restituent n'avoient ce qu'ils restituent que par invasion ou tout au plus par conquête. Or nous avons en main de quoi leur prouver que notre possession est la plus ancienne et que celle de l'Angleterre n'a jamais été légitime.

* * * * *

[The Memoir then discusses in detail the acts done by the English and French in the disputed territory.]

* * * * *

Tous ces faits posés dont Mgrs les Commissaires feront l'usage qu'ils jugeront a propos d'en faire, je viens a ce qui regarde les limites dans la supposition qu'il faille céder a l'Angleterre en vertu de l'article 10 du Traité d'Utrecht le fort Bourbon et tous les autres établissemens qui sont sur le bord de la Baye, et je dis :

1^o qu'il est bon de remarquer que les Anglois, dans tous les endroits de la d. Baye et du détroit qu'ils ont occupé, se sont toujours arrêtés au bord de la mer, faisant le commerce avec les Sauvages qui les y alloient trouver ; au lieu que les François dès le commencement de la Colonie du Canada, n'ont

cessé de parcourir toutes les terres et toutes les rivières qui aboutissent

p. 4084

a ladite Baye, prenant possession de tous les lieux et faisant partout des Etablissements et des Missions.

2° on ne peut pas dire qu'aucune terre, aucune rivière, aucun Lac dépendent de la Baye d'Hudson, car si toutes les rivières qui se déchargent dans cette Baye ou qui communiquent avec elle en dependoient il faudroit dire que toute la Nouvelle France leur appartiendroit. Le Saguenay et le Fleuve St Laurent communiquant a la Baye par les Lacs.

3° Que celà étant incontestable c'est a la France a régler ces limites de ce côté là et que pour peu qu'elle cède, elle cedera toujours du sien, les Anglois ne pouvant prétendre qu'a une très petite étendue de pays autour des forts qu'ils ont possédés au fond de la Baye. Cependant leurs prétentions ne vont a rien moins qu'a envahir presque tout le nord et l'Ouest de la Nouvelle France comme ils veulent faire du côté du midi, en étendant les limites de l'Acadie jusqu'au fort près de Québec, car voici les propositions qu'ont faites M^{rs} les Commissaires nommés par le Roy d'Angleterre mais qu'ils n'ont point signées.

Ils demandent que les limites du côté du Nord commencent depuis le Cap Nord de la Baye de Davis dans le 56^e degré de Latitude sur la Cote de Labrador, vers les terres de Rupert sur le continent d'Orient et de la Nouvelle Bretagne du côté des François et qu'aucun vaisseau françois, barque ou bâtiment quelconque ne puisse passer au nord du côté de l'Ouest, du Cap Nord de la Baye de Davis, vers ou dans le détroit ou Baye d'Hudson ; on tirera une ligne depuis led. Cap Nord de la dite Baye de Davis vers le grand Lac de Micosink, alias Mistevery, c'est le Lac des Mistassins séparant led. Lac en deux, et qu'a l'endroit ou lad. ligne coupera le 49^e degré de Latitude, une autre ligne commencera et sera étendue du côté de l'Ouest depuis led. Lac sur le 49^e degré de Latitude, au delà desquelles lignes les François ni aucune personne qu'ils employent ne passeront vers le Nord ni le Nord-Ouest, ni par terre, ni par eau ni a travers aucune rivière, lac ou pais, pour négocier ni bâtir aucun fort, ni faire aucun établissement et d'autant que les sujets de S.M.T.C. ont fait depuis la paix d'Utrecht un établissement a la source de la rivière d'Albani.

Les commissaires de S.M.B. insistent sur ce que les Commissaires quittent led. Etablissement et que le fort s'il y en a quelqu'un de bâti soit remis a la Compagnie des Marchands Anglois négocians dans la de Baye d'Hudson ; ils demandent aussi que les sujets de S.M.T.C. ne bâtiront pas des forts ni ne feront des établissements sur aucune des rivières qui se déchargent dans lad. Baye d'Hudson sous quelque prétexte que ce soit, et que le Cours et navigation entière de toutes lesd. rivières seront laissés libres à la Compagnie des Marchands Anglois négocians dans lad. Baye d'Hudson et a tous les Indiens qui voudront trafiquer avec eux.

La simple lecture de ces propositions fait voir qu'il n'y a

point d'autre réponse a y faire que de les rejeter absolument comme n'ayant aucun fondement qui les appuye. Effectivement de quel droit et en vertu de quel traité ces Messieurs cassent-ils le Traité de Bréda qui a placé nos limites au 60^e degré pour les placer au 49^e non seulement du côté de la Baye qu'on leur cède, mais en tirant a l'Ouest dans toute la longitude ; le traité d'Utrecht

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ne parle que de restitution. Que les Anglois montrent ce que les François ont pris sur eux et on le leur restituera, mais tout ce qu'ils demandent au delà ils le demandent sans aucune apparence de droit. L'article 10^e du Traité d'Utrecht restitue le dehors d'Hudson ; pourquoy vouloir que la limite de ce côté là commence au Cap Nord de la Baye de Davis dans le 56^e ½ degré de latitude, puisque ce Cap est a plus de 120 lieues du Cap de l'Isle Bouton par le 61^e degré ou environ qui est le commencement du détroit d'Hudson. Cet excédent emporteroit une grande partie des terres de Labrador que la France n'a pas cédées.

La ligne de séparation doit donc commencer au Cap Bouton, passer par le milieu du terrain qui est entre le fort Rupert et le Lac Nemiscau dont le Peres Albanes, Jésuite et M. de St Simon prirent possession au nom, du Roy en 1672 la suite a la même distance de la Baye tout le long de la Côte à l'Est, en sorte qu'elle coupe par le milieu le terrain qui est entre le Lac des Abitibys et le fort Monsony ou de St Louis et continuer a une distance pareille du bord de la Baye du côté de l'Ouest jusqu'au dela des rivières de S^{te} Thérèse et Bourbon.

Que si sur le terrain qui par ces lignes demeure a l'Angleterre, il se trouve des Etablissements François, ils seront détruits, mais ceux qui auront été faits sur nos terres nous demeureront. Chacun est maître chés soy.

No. 1545.

[Undated.]

OBSERVATIONS ET RÉFLEXIONS.

SERVANT DE RESPONSE AUX PROPOSITIONS DE MESSIEURS LES
COMMISSAIRES ANGLAIS AU SUJET DES LIMITES A RÉGLER POUR LA
BAYE D'HUDSON.

C¹ E., VOL 2, pp. 162-167 (Canadian Archives).

Sans lieu, ni date.

La première observation qui se présente est que par la paix de Bréda les limites de la Nouvelle France sont réglées depuis la rivière Saint-Georges jusqu'au 60^e degré de latitude nord. Ainsy toutes les terres, isles, bayes, lacs et rivières qui sont entre le 49^e degré ou environ qu'est située la rivière St Georges jusqu'au 60^e degré appartiennent incontestablement a la France depuis ce Traité de paix.

De cette proposition il resulte que ce n'est point a la France a prouver les possessions qu'elle a dans cette étendue de mers, terres, lacs et rivières, par ce qu'elle a la propriété du tout par ce Traité de paix générale aussi solennel que celui d'Utrecht.

Il n'y a donc que l'exception de l'article 10^e du traité de paix d'Utrecht qui donne un droit a l'Angleterre pour avoir le détroit et la Baye d'Hudson.

Ce droit ne doit pas être étendu au dela des propres termes du Traité puisque le Roy de France n'a voulu restituer aux Anglois que ce qui y est proprement dit.

On entend suffisamment par le mot de restituer que le Roi Très Chrétien n'a voulu remettre aux Anglois que ce qu'ils possédoient de la Baye de Hudson lorsque les Francois l'ont prise sur eux.

C'est donc aux Anglois a prouver ce qu'ils y possédoient alors réellement par des établissemens et non pas par imagination, comme de prétendre que parce qu'ils étoient placés à l'embouchure d'un fleuve ou d'une rivière, tout le cours de cette rivière, les lacs qu'elle forme ou d'ou elle sort, enfin, jusqu'à sa source fut a eux et tous les peuples qui l'habitent ou y naviguent, quoy que ces rivières et terres appartiennent a un autre souverain.

Toutes ces terres, lacs et rivières appartiennent a la France du moment qu'elles se trouvent renfermées dans les limites fixées par la paix de Bréda, et qu'elles ne sont point cédées ou données à l'Angleterre ny par la paix de Riswick ny par la paix d'Utrecht, par ce que les Anglois ne les possédoient pas quand les François se sont rendus maîtres des postes que

les Anglois occupoient dans cette Baye et par conséquent qu'elles ne font point partie des pays que la France a voulu restituer aux Anglois.

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Tous ces faits étant incontestables et M^{rs} les Commissaires Anglois rapportant eux-mêmes au commencement de leurs propositions les termes de l'article 10^e du traité de paix d'Utrecht dont ils désirent l'exécution, il semble qu'ils n'auroient pas dû étendre leurs demandes au delà de ce qui y est exprimé.

L'article 10 dit précisément que le détroit et la Baye d'Hudson seront restitués à l'Angleterre. Ainsi il ne paroît aucune raison de demander que les limites de ce côté là commencent au Cap Nord de la Baye de Davis dans le 56 ½ degré de latitude nord puisque ce Cap est à plus de 120 lieues du Cap de l'Isle Bouton par le 61^e degré ou environ qui est le commencement du détroit de Hudson, et cet excédent qu'ils demandent emporteroit une grande partie des terres de Labrador qui dépendent du gouvernement de Canada et que la France n'a pas cédé ny prétend céder.

Ainsi le commencement de la ligne de division doit être au Cap Bouton, qui est le premier Cap qui forme l'entrée du détroit d'Hudson ; et, comme il est expliqué par le précédent mémoire, cette ligne doit se rendre au milieu du terrain qui est entre le fort Rupert et celui de Memisco, ancien poste françois.

De plus leur demande de tirer une ligne du Cap Nord de la Baye de Davis jusqu'au grand lac des Mistassins, séparant ledit lac en deux, n'a pas plus de fondement puisque le Roi de France n'a point dit qu'il donneroit aucune partie des terrains dépendant du gouvernement de Canada mais restituer ceux qui dépendoient pas de la Baye d'Hudson Si les Anglois prétendent que le terrain qu'ils demandent leur appartient, ce seroit à eux à le prouver.

Enfin M^{rs} les Commissaires Anglois non contents de vouloir avoir la moitié du Lac des Mistassins demandent que la ligne continue jusqu'au 49^e degré de latitude nord et que de là il soit tiré une ligne à l'ouest sur ledit 49^e degré.

On ne voit pas sur quel fondement ces M^{rs} peuvent autoriser cette prétention et demander que la France perde tous les terrains qui se trouveront entre le 60^e degré qui lui appartient par le traité de Bréda jusqu'au 49^e degré dans toute la longitude découverte ou à découvrir. Aussi cette prétention est une nouveauté dont il n'est fait aucune mention dans l'article du traité de paix d'Utrecht.

Comme les François n'ont construit des forts que sur les terrains qui appartenoient à la France, si ces forts ou établissemens se trouvent par les lignes qui vont être réglées, sur le terrain qui appartiendra à l'Angleterre, les Anglois alors en disposeront comme il leur plaira mais si ils se trouvent sur les terres qui restent à la France, ils n'ont pas droit de vouloir exiger leur démolition, puisqu'ils n'ont été construits que par la permission ou suivant les ordres du Souverain de qui relèvent ces terres.

Sur le dernier article de leur demande, on observera qu'il n'est pas question de faire de nouvelles loix entre les deux nations, mais seulement d'exécuter l'article du traité d'Utrecht. Quand les lignes de séparation auront été réglées. l'Angleterre fera ce qui lui plaira sur ce qui lui appartiendra et la France

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pareillement sur ce qui luy restera pour le plus grand avantage de leur commerce.

Le précédent mémoire fait voir quels sont les Sauvages qui appartiennent a la Baye d'Hudson, ils sont nommés sur les cartes et renfermés dans la ligne qu'il propose. Il y a plusieurs nations qui restent aux Anglois, quant aux autres qui occupent ce grand continent elles ne sont point à l'Angleterre mais a la France par droit de découverte très ancienne et par le règlement des limites du traité de Bréda ; Ainsi M^{rs} les Commissaires Anglois voulant imposer une Loi au sujet de ces Sauvages vont au delà de leur droit et de ce qui a été promis par la France.

L'Angleterre ne peut demander a la France que la restitution de ce qui a esté promis et rien au-delà ; la France restituant ce qui est marquée par la ligne proposée suivant le précédent mémoire donne tout ce qui apparitent a la Baye d'Hudson. Ainsi elle satisfait pleinement à l'article 10^e du traité de paix d'Utrecht.

Au surplus la France demande comme l'Angleterre le fait que quand les lignes de séparation auront été réglées les sujets des deux Couronnes ne puissent les outrepasser par mer ni par terre ni sur les fleuves et rivières non plus que par les personnes qu'ils emploieront.

No. 1546.

[1750.]

French Memoirs
relating to Hudson's
Bay, 1750-61.
Galissonière on
French Colonies,
1750.

**FRENCH MEMOIRES AND PAPERS, 1750-1761,
RELATING TO THE LIMITS OF HUDSON'S BAY
UNDER THE TREATY OF UTRECHT.¹**

EXTRACTS FROM M. DE LA GALISSONNIÈRE'S MEMOIR ON THE FRENCH
COLONIES IN NORTH AMERICA, DATED DECEMBER, 1750.²

Having treated of Canada in general, we consider ourselves bound to enter into some details respecting its different parts, and shall commence with those of the north.

Hudson's Bay, which was one of its most lucrative establishments, has on French been *ceded* to the English by the Treaty of Utrecht, under the denomination or title of *restitution*. They carry on a profitable trade there, but the excessive cold and the difficulty of subsistence, will never permit them to form establishments there, capable of affording any uneasiness to Canada ; and if the strength of the latter country be augmented, as proposed, it will possibly be in a condition, in the first war, to wrest Hudson's Bay from the English.

Memoir April, 1755.

The Treaty of Utrecht had provided for the appointment of Commissioners to regulate the boundaries of Hudson's Bay ; but nothing has been done in that matter. The term *restitution*, which has been used in the Treaty, conveys the idea clearly, that the English can claim only what they have possessed, and as they never had but a few establishments on the sea coast, it is evident that the interior of the country is considered as belonging to France.

EXTRACTS FROM A MEMOIR, 1755, ON THE LIMITS BETWEEN FRANCE
AND ENGLAND, AS WELL IN SOUTHERN AS IN NORTHERN AMERICA.

(Copy obtained from the Archives of the Marine, Paris.)

The 10th Article of the Treaty of Utrecht has stipulated in favour of England, the restitution of the Bay and Strait of Hudson, with the lands, seas, coasts, rivers and places which appertain to them.

As the English have never occupied more than the lower part and mouth

¹ Reprinted from Joint Appendix of Documents, Ontario-Manitoba Boundary Case, (P.C.) pp. 514-516.

Private Instructions to
M. Vaudreuil, 1
April, 1755.

of the rivers, it is to that portion that the restitution which has been made to them has been limited. There are no indications that the English Commissaries who have been named to receive this restitution, have demanded or required that the French should abandon the upper part of the rivers and the lakes which they have occupied of old, or of those more recently occupied, and whose waters, nevertheless flow into Hudson's Bay.

The French have therefore preserved the settlements which they had there, and which have always been regarded as forming part of Canada. It seems that, among others, they have some actually on the Lake of the Abbitibis, and on that of the Mistassins, the waters of which are shewn on some maps as falling into Hudson's Bay.

EXTRACTS FROM THE PRIVATE INSTRUCTIONS TO M. DE VAUDREUIL,
DATED VERSAILLES 1ST APRIL 1755.*

By Article 10 of the Treaty of Utrecht, it had been agreed that Commissioners should be named on both sides, to settle the boundaries between the French and British American colonies.

On occasion of an expedition that the English fitted out in 1718, against the fishing posts which the French had in the Islands of Canso, the two Courts did, in fact, nominate Commissioners to decide the property of these islands. The Commissioners met at Paris. At the very first conference, those of the King of England, who claimed that the Islands of Canso were dependent on Acadia, which was ceded to the English by the Treaty of Utrecht, were convinced, on inspecting the map which they presented them-selves, that those islands were, on the contrary, included in the reserves expressed in the Article of the Treaty of Utrecht containing the cession of Acadia, and that, consequently, France had retained the property thereof. They withdrew, saying they required new instructions from their Court, and did not again make their appearance. Although there had been question on different occasions that since presented themselves, of naming other Commissioners in execution of the Treaty, the English had always eluded it until the last war ; and Sieur de Vaudreuil is better informed than any person how they abused the moderation which had always governed his Majesty's proceedings and views, since he has been a witness of their unceasing usurpations, on the Territory of Canada, during the long peace which followed the Treaty of Utrecht.

His Majesty did flatter himself that he should eventually succeed in placing bounds to their enterprises, and securing tranquillity to his colonies, by a definite fixation of the respective limits.

In consequence of the last Treaty of Aix-la-Chapelle, whereby that of Utrecht has been renewed Commissioners have been named on both sides,

* N.Y. Hist. Col., Vol. 10, pp, 290-3.

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and did meet at Paris, to regulate all the disputes concerning the French and British possessions.

But whatever earnestness and facilities His Majesty had lent to this settlement, the success of the labour of these Commissaries is far from corresponding, up to the present time, to the hopes he had entertained thereof, from the dispositions his Britannic Majesty had caused to be evinced in that regard.

As yet the Commissioners have not entered upon the limits of Canada, further than what regards Acadia. * * *

They [the English] have not yet explained themselves respecting the extent they propose giving their Hudson Bay boundaries. But it is to be expected that they will wish to stretch them to the centre of the Colony of Canada, in order to enclose it on all sides.

However that be, His Majesty is firmly resolved to maintain his rights and his possessions against pretensions so excessive and so unjust ; and whatever be his love for peace, will not make for its preservation any sacrifices, but those which will accord with the dignity of his Crown, and the protection he owes to his subjects.

Such is the principle on which his Ambassador at the Court of England has orders to labour in a negotiation that has been entered into with that Court, for the termination of all those differences, by a provisional or definitive treaty ; and it is also on that principle that His Majesty wills that Sieur de Vaudreuil do regulate his conduct, in relation to these objects, until the issue of that negotiation, whereof His Majesty will have him informed.

He is, in consequence, to be on his guard against all attempts the English might make against His Majesty's possessions ; carefully to avoid affording them any just cause of complaint ; to act on occasions wherein there may possibly be acts of violence, in such a manner that he might not appear the aggressor ; and to confine himself to the adoption of all possible measures to enable him to repel force by force.

His Majesty's intention is, in fact, that he confine himself to a strict defensive, so long as the English will not make any attack, which is to be regarded as a rupture on their part.

If, to ensure this defensive, he considers it necessary to make the Indians act offensively against the English, he will be at liberty to have recourse to that expedient.

But His Majesty desires that he do not determine on that course, except so far as the conduct of the English will render it indispensable for the safety and tranquillity of his government.

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M. Vaudreuil, 1
April, 1755.

Supposing, in the mean time, that, notwithstanding what ought to be naturally expected from the equitable and pacific dispositions whereof the King of Great Britain does not cease to give assurances hostilities on the part of England should reach the point that they must be regarded as a rupture he should not, in that case, confine himself to a simple defensive, and His Majesty wills that, in such contingency, he makes use of all the powers that have been confided in him, for the operations which will be best adapted to the good of his service and the glory of his arms.

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As these operations must depend on circumstances, His Majesty relies on Sieur de Vaudreuil's zeal prudence, and experience for undertaking those that will appear to him the most advantageous and the most honourable. He recommends only to him to observe, in the selection of those that he will think he can undertake, to give the preference to such as will have for object the English posts that can be wholly destroyed—such as that of Choueguen, and even Fort Beaubassin ; or will deserve to be preserved, after he shall have become master of them, either for the purpose of increasing the colony of Canada, as would be the case with Acadia ; or of being used for exchange, according to the circumstances which will possibly occur or happen, whenever there will be question of a peace, and such would be the capture of Hudson's Bay.

But before coming thus to operations of an open war, His Majesty desires that Sieur de Vaudreuil do assure himself that the English will have in fact committed absolute hostilities either against the French settlements or forts of Canada, or against some other colonies, or at sea.

In this category may be regarded the usurpations they will possibly attempt *on the unsettled lands of Canada*, and on which they have undertaken to set up unfounded pretensions. His Majesty's intention meanwhile is, that so long as they will confine themselves to operations of that sort, Sieur de Vaudreuil do content himself with opposing them, and even employ force for that purpose, only after he has protested and made the summons which time and circumstances will have possibly permitted And in this regard, His Majesty is very glad to enter into a fuller explanation of the pretensions of the English, in order to enable Sieur de Vaudreuil to act more understandingly, on occasions relative thereto.

Independent of the Hudson Bay boundary, of which there has, as yet, been no question with the English, their pretensions, as has been already observed, have for object, to extend the limits of Acadia, on one side as far as the south shore of the River St. Lawrence, and, on the other, as far as the frontiers of New England ; to include in those of Virginia the lands that reach to Lake Erie, and those of the Beautiful River [Ohio], and to penetrate into the Lakes of Canada : so that in this system they would wrest from the French all the posts the latter possess south of the River St. Lawrence; and the colony of Canada would find itself reduced to those they have on the

north of that river, and wherein it would be soon crippled, in consequence of the extension the English will not fail to desire to give the Hudson's Bay boundary.

[THE DUC DE CHOISEUL, in 1761, referring to the same boundaries of Hudson's Bay, says " Nothing was done."]

No. 1547.

[3 Oct., 1750.]

**MEMORIAL OF THE HUDSON'S BAY COMPANY TO
LORDS COMMISSIONERS OF TRADE,
3rd OCTOBER, 1750.**

HUDSON BAY COMPANY'S RECORDS.

To the Right Hon:^{ble} the Lords Commissioners of Trade and
Plantations

The Humble Memorial of the Governor and Company of
Adventurers of England Trading into Hudson's Bay

May it please your Lordships

The said Gov:^r & Co. in obedience to your Lordships
Orders of the 25th July last requiring them to lay before your
Lordships an Acc:^t of the Limits and Boundaries of the
Territorys Granted to them represent to your Lordships

That his late Majesty King Charles the 2^d by Letters
Patent under the Great Seal, bearing date the 2^d day of May in
the 22^d year of his Reign Reciting that Prince Rupert and
several others had undertaken an expedition for Hudsons Bay,
for the Discovery of a new Passage in the South Sea and for
finding some Trade for Furr and other Commodities ;—For
the encouragement of the design ;—was Graciously pleased to
Incorporate them, & grant unto them the sole Trade and
Commerce of all those Seas, Streights, Bays, Rivers, Lakes,
Creeks, and Sounds in whatsoever latitude they should be that,
lie within the Entrance of Hudsons Streights, together with all
the Lands and Territorys, the Countries Coasts and Confines
thereof, which were not then actually possessed by or Granted
to any of his Majestys Subjects or Possessed by the Subjects of
any other Christian Prince.

The description in the said Letters Patent of the Territorys
thereby granted being in General Terms is apprehended to
have been owing to those parts being but little known and to
have further proceeded from the Crown of England having in
View (amongst other things) by means of the said Grant to lay
a Foundation for this Nations claim and right to the said Bay &
whatever territorys might lye round the same, and to prevent
the French gaining any Right therein.

The said Streights and Bay commonly called Hudsons
Streights and Bay, are now so well known that it is
apprehended they stand in no need of any particular

description further than by the Charter Mapp herewith delivered to your Lordships and the Limits or Boundaries of the Lands and Countries lying around the same, comprised as your memorialists conceive

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in the said Grant are as follows, that is to say—All the Lands lying on the East side or Coast of the said Bay, and extending from the Bay eastward to the Atlantick Ocean & Davis's Streights and the Line hereinafter mentioned on the East and South-Eastward Boundaries of the said C:^{os} Territories—And towards the North all the Lands that lye at the North end or on the North side or Coast of the said Bay and Extending from the Bay Northward to the utmost Limits of the Land there towards the North Pole but where or how those Lands Terminate is hitherto unknown—And towards the West all the Lands that lye on the West side or coast of the said Bay, and Extending from the Bay Westward to the utmost Limits of those Lands, but where or how those Lands terminate to the westward is also unknown, tho' probably it will be found they terminate on the great South Sea—And towards the South all the Lands that lye at the South end or South side of coast of the said Bay the extent of which Lands towards the South to be Limited & Divided from the places appertaining to the French in those parts by a Line to be drawn for that purpose to begin from the Atlantic Ocean on the East side at an Island called Grimington's Island otherwise Cape Perdrix in the Latitude of $59 \frac{1}{2}^{\circ}$ on the Labrador coast and to be drawn from thence Southwestward to the great Lake Miscosinke otherwise called Mistoseny, and through the same dividing that Lake into two parts down to the 49th Degree of North Latitude, as described in the said Map or Plan delivered herewith, and from thence to be continued by a Meridian Line of the said Latitude of 49° Westwards.

The French before the Treaty of Utrecht in the time of Peace, under some pretended claim of Right disturbed the said Hudsons Bay Co. in the Quiet Possession of the Bay and Territoryes aforesaid, and in a Hostile manner with Ships of Warr and an Armed Land Force attacked and took several of the Hudsons Bay C:^{os} Ships in Harbour in the Bay, and also took, plundered and dispossessed them of several Factorys and Settlements on the Coast thereof, but those matters having been under consideration at the Treaty of Utrecht were in some measure Settled by the following Articles thereof.

By the 10th Article of the Treaty of Utrecht it was Stipulated that the French King should Restore to the Kingdom and Queen of Great Britain to be Possessed in full Right for Ever the Bay & Streights of Hudson together with all Lands, Seas, Sea Coasts, Rivers and Places scituate in the said Bay & Streights and which belong thereunto no Tracts of Land or Sea being excepted which were then possessed by the subjects of France And it was further agreed to determine by Commissarys the Limits which were to be fixed between the

said Bay of Hudson and the places appertaining to the French which both Subjects should be wholly forbid to pass over—and by the 11th Article of the said Treaty it was further stipulated that his most Christian Majesty should take care that Satisfaction should be given according to Justice and Equity to the said Hudsons Bay Co. for all damages and Spoil done to their Colonies Ships, Persons and Goods by the Hostile Incursions and Depredations of the French in time of Peace an Estimate

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being to be made thereof by Commissarys to be Named at the requisition of each Party.

That in pursuance of the said Treaty & the especial Commission of her said late Majesty Queen Ann dated 20th day of July 1713 the said Bay and Lands then in possession of the French were delivered up to Gov^r Knight and Kelsey who took possession thereof for the English Hudsons Bay Co. and Commissarys were appointed to settle the said Limits and Adjust the damages the Company had sustained which Damages as appears by an Acco:^t delivered to the then Lords Commiss:^{rs} of Trade amounted to upwards of £100,000 and proceedings were had by the said Commissarys towards settling the same but they were never able to bring the settlement of the said Limits to a final Conclusion nor did the said Hudsons Bay Co. ever Receive any Satisfaction for their said damages.

The Boundary line then proposed by the Hudson's Bay Company to be settled as the Limits on the Continent between them and the places belonging to the French at the South End of the said Bay as appears from several Memorials and a Map or Plan then presented by the said Hudsons Bay Co. to the then Lords Commiss:^{rs} of Trade and still remaining in your Lordships Office, was the same as the Line now proposed by your Memorialists for the south East and Southern Boundaries, and to avoid as much as possible any just grounds for differing with the French in agreeing on those Boundaries which lye nearest their Settlements it is laid down so as to leave the French in possession of as much or more land than they can make any just pretension to and at the same time leaves your Memorialists but a very small Tract of Land from the South End of the said Bay necessary for a Frontier.

The National claims of both the French and English with respect to Hudsons Bay and Territory round the same having been formerly discussed in a very particular manner by Commissarys appointed to settle the same and the Papers relating to those Transactions being new remaining in your Lordships office it is conceived that therein will appear the best State of the Rights of both Crowns that can be laid before your Lordships.

Since the Treaty of Utrecht the French and all other Nations have been effectually kept out of Hudsons Bay and Streights and have never offered to come into or Navigate on

the same with any Ship, Vessel or Boat nor have they had or made any Settlement on the Coast of the said Bay or carried on any Trade there, but the French since the said Treaty as has been reported to your Memorialists from their Factorys in the Bay have at different times made some settlements in different parts Inland to the West of the said Bay within the aforesaid Limits by means of Wood Runners in an Interloping way, both which are conceived and humbly represented to your Lordships as Incroachments on the British Territorys and Trade.

That your Memorialists have used the best endeavours in their power to prevent the French making any Incroachments on the British Territorys in those parts and particularly at the South End of the said Bay where by the Neighbourhood of the French there is most to be apprehended ; your

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Memorialists have made a Settlement many years since upon the principal River there called Moose River which runs from a great distance South into the Bay and have also erected a Fort, Mounted with Cannon for the defence of that settlement and preventing the French Entering the Bay by any Navigation down that River, and your Memorialists on another Principal River called Albany River that likewise falls into the Bay towards the South End thereof and comes a great way from the West Erected another Fort called Henley at the Distance of 120 Miles up that River your Memorialists thereby endeavouring to Guard their Territorys both to the South and West against the French Frontier and which Forts & Settlements of your Memorialists are maintained & supported by them at considerable Expence and your Memorialists have in like manner for their further Defence towards the West erected a Fort at Flamborough head on Fort Nelson River and have also several other Settlements of Forts at the Entrance of the principal Rivers that come into the Bay from the Westward particularly on Churchill River, Hayes River and the said Albany River and also on the East side of the Bay at Slade River and Artiwinepeck Bay—And have also several Ships and Vessels Navigating the Streights and Bay at proper seasons some of which remain there the whole Year ; and the Natives all round the Bay by means of the Rivers that fall into the same on breaking up of the Ice come down in Canoes from the Country several Hundred Miles inland to Trade with the Co. bringing with them large Quantities of Beaver and other Furrs the produce of that Cold Climate and taking in Exchange the British Manufactures which the Co. have allways ready to supply them with and which the Indians carry back with them for their own Consumption and use, and to dispose of amongst the other Natives there and which it is apprehended is better performed by them than could be done by Europeans, as the Rivers that Run into the Bay admit of no Navigation for Ships or other Vessels of Burthen at any considerable Distance up the same, and the Climate round the Bay is so Extreemly cold as to admit of no Agriculture the Indians in those parts being

altogether a Wandering People, wholly Subsisting themselves by Hunting, living on the wild Beasts they Kill and Bartering their Furrs.

That your Memorialists apprehend it will be for the Benefit of this Kingdom that the Limits of the Territorys granted to your Memorialists and the places appertaining to the French should be settled upon the footing herein before mentioned, and that the French should be obliged to remove all Incroachments they have made within the said Limits, by breaking up their Settlements and restraining their Wood Runners from Entering the same—And that no Ship or Vessel should be suffered to pass to the North-westward of the said Grimmingtons Island or Cape Perdrix or into the Bay or Streights of Hudson on any Pretence whatsoever—And that the French or any Employed by them should not come to the North or Northwestward of the aforesaid Line to be drawn from Grimmingtons Island on the South East and Southern Boundaries of the British Factories either by Land or Water, or through any Rivers, Lakes, or Countrys, to Trade or Erect any

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Fort or Settlement whatsoever, and that your Memorialists on the other hand should not pass that Line either to the South or South Eastward.

All which is most humbly submitted to Your Lordships.

(L.S.) Corn's Seal.

Hudsons Bay House,
3^d Octo., 1750.

By Order of the Gov. & Committee
CHAS. HAY Secy.

No. 1548.

[20 July, 1752.]

**MEMORIAL OF THE HUDSON'S BAY COMPANY TO
THE LORDS COMMISSIONERS OF TRADE,
20th JULY, 1752.**

HUDSON BAY COMPANY'S RECORDS.

To the Right Hon:^{ble} the Lords Cornmiss:^{rs} of Trade &
Plantations

The Humble Memorial of the Gov.
& Company of Advent:^{rs} of
England Trading into Hudsons
Bay

May it please your Lordships

In obedience to your Lordships Orders of the 9th of July Instant signifying unto your Memorialists, that your Lordships have under your Consideration a Petition of several Merch:^{ts} of London, Praying for a Grant of all that part of America lying upon the Atlantick Ocean on the East part, Extending South and North from 52 Degrees of Northern Latitude from the Equinoctial Line to 60 Degrees of the same Northern Latitude, called Laboradore, or New Britain, not at this time actually possessed by any of his Majestys Subjects, or the Subjects of any Christian Prince or State ; and requiring your Memorialists to inform your Lordships whether they claim any or what Right to the said Tract of Land.

Your Memorialists represent to your Lordships that his late Majesty King Charles the Second by his Letters Patent, under the Great Seal, bearing date the 2nd day of May in the 22nd year of his Reign, was Graciously pleased to Incorporate the said Gov^r. and Comp.^a and Grant unto them the Sole Trade and Commerce of all those Seas, Streights, Bays, Rivers, Lakes, Creeks and Sounds in whatsoever Latitude they should be that lie within the Entrance of Hudsons Streights, Together with all the Lands and Territories upon the Countrys Coasts and Confines thereof, which were not then Actually Possessed by or Granted to any of his Majestys Subjects or Possessed by the Subjects of any other Christian Prince.

That the said Tract of Land called the Laboradore throughout its whole Extent, on the North and West sides thereof, from the said 60th Degree of Northern Latitude down to the 52^d Degree lyes on Hudsons Streights and Bay, and forms the Coast thereof, from the first Entrance into the said

Streights running all along the South sides of the said Streights, to the Opening into the Bay, and from thence all along the East side of Hudsons Bay down to the Bottom or South End thereof ; and as all the Lands and Territories upon the Coasts and Confines of the said Streights and Bay,

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together with the sole Trade and Commerce thereof are by the said Letters Patent Granted to the said Governor and Company, your Memorialists Conceive they have a just Right and Claim under the said Letters Patent to the said Tract of Land called the Laboradore and the Trade thereof.

That your Memorialists have made and do maintain several Settlements on the said Laboradore on the East side of the Bay, and by means thereof, as well as by their Shipping carry on Trade and Commerce with the Natives there, and who come down the Rivers and otherways, many days Journey from within the Land to Trade with the Company and your Memorialists have been at very great Expence to Establish and Encrease a Trade there, and particularly within these few years have Expended £10,000 Sterling and upwards in making a new Settlement on the Eastern side of the Bay near the middle of the said Laboradore which they Expect will Command the whole Trade of the said Laboradore, even to the East part or Coast thereof and are at a continual great Expence in Supporting the same and have ordered Persons to be sent up into the country to Encourage the Trade thither from within the Land, and are in hopes of having some return from thence to Answer such their great Expence, tho' as yet they have Reaped little or no Benefit therefrom.

And your Memorialists beg leave to represent to your Lordships that the Laboradore is a most Barren Tract of Land, has few Inhabitants, Is Productive of little or no Beavers and of very few other Furrs or Merchandize of Value, Insomuch that your Memorialists cannot but be of Opinion, That whoever Petition for a Grant of Land there, must do it with a view of having an opportunity by means of the footing they will thereby Gain to draw from the said Hudsons Bay Company some of their Trade in those Parts and the Neighbourhood thereof, which it is humbly Hoped will not be Permitted to be done, but that your Memorialists Rights shall be Preserved to them.

All which is most humbly Submitted to your Lordships

30 Hudson's Bay House
20 July, 1752.

By Order of the Gov. and Committee of the Hudson's Bay
Co.

Presented same
day & C.H.

CHAS. HAY.

No. 1549.

[23 July, 1752.]

**REPORT OF THE LORDS OF TRADE UPON THE
PETITION OF THE MERCHANTS OF LONDON
CONTAINING PROPOSALS FOR OPENING NEW
TRADE AND MAKING SETTLEMENTS UPON
THE COAST OF LABRADOR, 23rd JULY, 1752.**

Vide Joint Appendix, Vol. III, p. 885.

No. 1550.

[19 Feb., 1755.]

**HUDSON'S BAY COMPANY TO SIR THOMAS
ROBINSON, SECRETARY OF STATE,
19th FEBRUARY, 1755.**

HUDSON BAY COMPANY'S RECORDS.

Sir :

I am Directed by, the Gov^r and Committee of the Hudsons Bay Co. to inform His Majesty's Ministers that in the Year 1752 by the Orders of the Lords of Trade they Laid before their Lordships a State of their Claim which has Subsisted ever since and in consequence of the Treaty of Utrecht, And as they are desirous to have your Assistance and Support, they Order me to inform you that they will be ready to give such further information as to their Rights, as may be wanted to prove the Justice of their said Claim, I am with the greatest Respect.

Sir,
Y^r most Obedient humble Servant,
H.

Hudsons Bay House,
19 Feb, 1755.

To the Right Hon^{ble} S^r Thomas Robinson one of his Majestys principal Sec^{ys} of State &c.

Inclosed in the above :

The Hudson's Bay Company claim the Lands to the Northward of a Line drawn from 59 ½ Degrees of North Latitude in the Atlantick Ocean South Westward to the Lake Micosink otherwise Mistoseny and through the same Lake down to the 49th Degree of North Latitude (as described in a Mapp delivered to the Lords of Trade) and thence continued by a Meridian Line of the said Latitude of 49 Degrees westwards.

These Boundaries together with a Demand of £108514: 19 : 8 Sterling were claimed by the Company in the year 1709 and afterwards by the Com missioners appointed by Virtue of the Treaty of Utrecht.

No. 1551.

[Nov., 1759.]

**EXTRACT FROM MINUTES OF THE COMMITTEE OF
THE HUDSON'S BAY COMPANY.**

HUDSON BAY COMPANY'S RECORDS.

November 7, 1759.

“ The Deputy Governor represented to the Committee that as affairs were then situated, it probably would not be long before peace is concluded. It was therefore expedient for the Company to lay claim to the debt due to them from the French, and also to use their endeavours that the limits between the Company and the French be settled. This was agreed to.”

November 21, 1759.

“ The Governor reported that he, the Deputy Governor and Robert Merry had waited on Lord Halifax, whose opinion it was that the Company should deliver in to the Board of Trade a memorial claiming the debt due to them from the French nation, and also to have their limits settled in conformity to the Treaty of Utrecht.”

No. 1552.

[6 Dec. 1759.]

**MEMORIAL OF THE HUDSON'S BAY COMPANY TO
THE LORDS COMMISSIONERS OF TRADE,
6th DECEMBER, 1759.**

HUDSON BAY COMPANY'S RECORDS.

To the Right Honble. the Lords Comm^{rs} of Trades and
Plantations.

THE HUMBLE MEMORIAL OF THE GOVERNOR AND COMPANY OF
ADVENTURES OF ENGLAND TRADING INTO HUDSONS BAY.

May It please your Lordships

In prospect of an approaching Treaty of Peace between this Nation and France, and in hope that the great Success his Majesty's Arms have been Blessed with, and the many Acquisitions that have been thereby Gained from the Enemy, will Enable his Majesty to secure to your Memorialists satisfaction for the Injuries and Depradations they have long since suffered from the French, which stand acknowledged by Treaty and are Stipulated to be made satisfaction for, But thro' the Perfidy of the Enemy and in disregard of the Treaty have thitherto remained unsatisfyed. In which the Honour of the Nation as well as Justice to the individuals Loudly calls for Redress. To that end your Memorialists beg leave to represent to your Lordships

That the French before the Treaty of Utretch in the time of Peace, under some pretended Claim of Right, disturbed the Hudson's Bay Company in the quiet possession of Hudsons Bay and the Territories thereto belonging and in a Hostile manner with Ships of War and an armed Land Force, attacked and took several of the Hudsons Bay Company's Ships in Harbour in the Bay, and also took plundered and dispossessed them of several Factorys and Settlements on the Coast thereof, which matters having been under Consideration at the Treaty of Utretch were admitted and agreed to be settled and Satisfyed by the following Articles thereof.

By the 10th Article of the Treaty of Utretch it was Stipulated that the French King should Restore to the Kingdom and Queen of Great Britain to be possessed in full Right forever the Bay and Streights of Hudson together with all lands, Seas, Sea Coasts, Rivers and places situate in the said Bay and Streights and which belong thereunto, no Tracts of Land or Sea being excepted which were then possessed by the

Subjects of France—and it Was further Agreed to Determine by Commissaries the Limits which were to be fixed between the said Bay of Hudson and the Places appertaining to the

p. 4104

French, which both Subjects should be forbid to pass over— And by the 11th Article of the Treaty, it was further Stipulated that his most Christian Majesty should take Care that Satisfaction should be given according to Justice and Equity to the Hudsons Bay Company for all Damages and Spoil done to their Colonies, Ships, Persons, and Goods by the Hostile Invasions and Depradations of the French in Time of Peace, an Estimate being to be made thereof by Commissarys to be Named at the Requisition of each party.

That in pursuance of the said Treaty and an Especial Commission of her said late Majesty Queen Ann Dated the 20th of July 1713 the said Bay and Lands then in possession of the French were delivered up to Governor Knight and Kelsey, who took possession thereof for the English Hudsons Bay Company, and Commissarys were appointed to settle the said Limits and Adjust the damages the Company had sustained, which for the Ships and Goods of the Company taken by the French, as appears by an account Stated in the year 1713 and delivered to the then Lords Commissioners of Trade and plantations amounted to upwards of £100,000 besides the Damages the Company Sustained by the Enemys burning 3 of their Forts and Factorys at Charlton Island, Moose River and New Severn, and proceedings were had by the said Commissarys towards settling the same, But they were never able to bring the Settlement of the said Limitts to a final Conclusion nor did the said Hudsons Bay Company ever Receive any Satisfaction for their said Damages.

That the papers which were laid before the said Commissarys and the Minutes of their proceedings as also a Memorial Relative to this Matter which in the year 1750 after the Conclusion of the last Warr was presented to your Lordships remaining as your Memorialists believe in your Lordships Office It is conceived from thence will appear the best State of the Rights of both Crowns and of the Territories and Claims of the said Company that can be laid before your Lordships, whereto your Memorialists beg leave to refer.

Del'd. & C.H.
Dec. 1759.

Your Memorialists therefore humbly hope In case any Treaty of Peace shall be set on foot between this nation and France, That your Lordships will interceed with his Majesty to take the premises into his Royal Consideration, And that he will be Graciously pleased to Cause your Memorialists to have full satisfaction made them pursuant to the said Treaty of Utretch for the aforesaid Depradations they are thereby acknowledged to have Sustained from the French in time of Peace, And for which Satisfaction is by the said Treaty Agreed to be made to the said Company, And that the Limits of the said Companys Territory may be Settled as by the said Treaty is also agreed.

All which is most humbly submitted
to

Your Lordships Consideration

By Order of the Govr. & Committee of the said
Co.

CHAS. HAY, Secy.

Hudsons Bay House, 6 Dec., 1759.

No. 1553.

[30 April, 1761.]

**SECRETARY OF HUDSON'S BAY COMPANY TO
RIGHT HONOURABLE WM. PITT, 30th APRIL, 1761.**

HUDSON BAY COMPANY'S RECORDS.

Sir :

The Governor and Committee of the Hudsons Bay Company apprehensive least your Indisposition should deprive them of an opportunity of Conferring with you in due time on the Subject matter of the said Companys Claim on the French Nation, and desirous of acquitting themselves to the satisfaction of the rest of their proprietors. Have signed a Petition and Directed me to enclose the same addressed to you, with their request that you will do them the Favour, to cause the same to be delivered to his Majesty.

Sir

Y^r most Obed^t Humble Serv^t.
CHAS. HAY, Sec.

Hudsons Bay House, 30th April 1761.

To Wood Esq., & who answ^d Mr. Pitt would appoint a day as soon as his Indisposition would permit.

No. 1554.

[1 June, 1761.]

**SECRETARY OF HUDSON'S BAY COMPANY TO
RIGHT HONOURABLE WM. PITT, 1st JUNE, 1761.**

HUDSON BAY COMPANY'S RECORDS.

Sir :

The Governor and Committee of the Hudsons Bay Company apprehensive least your Indisposition should deprive them of an opportunity of Conferring with you in due time on the Subject matter of the said Companys Claim on the French Nation, and desirous of acquitting themselves to the satisfaction of the rest of their proprietors. Have signed a Petition and Directed me to enclose the same addressed to you, with their request that you will do them the Favour, to cause the same to be delivered to his Majesty.

I am most respectfully, Sir,

Your most Obed^t Humble Serv^t.

C. H., Secretary.

Hudsons Bay House, 1 June 1761.

To the Right Hon^{ble} Wm. Pitt,
One of his Majestys Principal Secretaries of State.
Delivered at Mr. Pitt's House the same day by R. C.

Loves.

No. 1555.

[June, 1761.]

**PETITION OF HUDSON'S BAY COMPANY TO THE
KING, JUNE, 1761.**

(Enclosure in No. 1554, preceding document.)

HUDSON BAY COMPANY'S RECORDS.

TO THE KING'S MOST EXCELLENT MAJESTY

The Humble Petition of the Governor and
Company of Adventurers of England
Trading into Hudsons Bay

SHEWETH

That your Majesty having been pleased to Nominate plenipotentiaries to the Congress appointed to be held for a Treaty of Peace Your Petitioners Crave leave humbly to represent

That the French before the Treaty of Utrecht and in Time of Peace Took several of the said Companys Ships in Harbour in Hudsons Bay, And also took Plundered and Dispossessed them of several Factories and Settlements on the Coast thereof. Which Losses and Injuries being under Consideration at the Treaty of Utrecht were admitted, and agreed to be settled and satisfied by the following Articles thereof.

By the Tenth Article of the said Treaty it was Stipulated, That the most Christian King should restore to the Kingdom and Queen of Great Britain to be Possessed in full Right for ever, The Bay and Streights of Hudson together with all Lands, Seas, Sea Coasts, Rivers and Places situate in the said Bay and Streights and which belong thereunto, no Tracts of Land or Sea being excepted, which were then possessed by the Subjects of France. And it was further Agreed to determine by Commissaries the Limits which were to be fixed between the said Bay of Hudson and the places appertaining to the French which both Subjects were to be forbid to pass over. And

By the Eleventh Article of the said Treaty it is also Stipulated. That the most Christian King, should take care that Satisfaction be given according to Justice and Equity to the Hudsons Bay Company for all Damages and Spoil done to their Colonies, Ships, Persons and Goods by the Hostile Incursions and depredations of the French in time of Peace, an Estimate being to be made thereof by Commissaries to be Named at the requisition of each party.

In consequence of which Articles, Hudsons Bay with all the Coasts thereof then in possession of the French were delivered up and restored to the said Company And Commissaries were appointed to settle the Limits of Hudsons Bay and places belonging to the French as well as to adjust the Damages Sustained by the said Company amounting by an account delivered in the year 1713 to the then Lord Commissioners for Trade and Plantations, to upwards of one Hundred Thousand Pounds Sterling exclusive of the Damage Sustained by the Demolition of three of their Forts and Factories Namely, at Charlton Island, Moose River and new Severn, which the French Burnt, But the said Limits were never Settled, nor have the Company ever received any Compensation for the Damages they so Sustained.

That all the Subsequent Treaties between Great Britain and France have confirmed the Treaty of Utrecht so that the Hudsons Bay Company are still Entitled to the Benefits of those Articles made in their Behalf.

Your Petitioners therefore most humbly Pray That your Majesty will be Graciously pleased to Direct that Your Petitioners Rights may be considered and Settled at the approaching Congress, and that they may receive satisfaction agreeable to the Tenour of the said Treaty of Utrecht.

RICHARD BAKER BIBYE LAKE W. BAKER, Gov.

GEORGE SPURRELL ROBERT MERRY JOHN MERRY, Dep^y Gov.

SAM^L. WEGG WM. POSTON. JOHN ANTH^Y MERLE.

No. 1556.

[8 Sept., 1762.]

**EXTRACTS FROM MINUTES OF THE COMMITTEE
OF THE HUDSON'S BAY COMPANY.**

HUDSON BAY COMPANY'S RECORDS.

September 8, 1762.

“ The Governor acquainted the Committee that the occasion for calling them together at this juncture was to consider as a treaty of peace is entered upon ; whether it be not incumbent on them to claim the debt due to this Company from the French nation, which the Committee unanimously agreeing to,

Resolved that the Secretary do go up to the Earl of Egremont's office, and learn from Mr. Wood, his Lordship's deputy, the most certain means for some of the Committee to obtain a conference with his Lordship thereupon, and on matters relative to the Company's trade and settlements.”

October 20, 1762.

“ The Governor reported that Lord Egremont assured the Committee which waited on him that proper notice would be taken of the papers relating to the case, which were already in his office.”

No. 1557.

[23 March, 1763.]

**SECRETARY, HUDSON'S BAY COMPANY TO EARL
OF EGREMONT, SECRETARY OF STATE,
23rd MARCH, 1763.**

HUDSON BAY COMPANY'S RECORDS.

My Lord,

Having this Evening received from Mr. Rivers a Letter signifying Your Lordships desire to know as soon as possible what are the Limits upon the Coast between the Hudsons Bay Company and the Coast of Labrador, I have laid the same before Sir Wm. Baker as Governor of the said Company, who has Directed me to present his Complim^{ts} and acquaint Your Lordship, he will wait on You thereupon to Morrow Morning or at any other more convenient Time that shall be appointed.

I am most respectfully, My Lord,

Your Lordships most obed^t Humble Serv^t,
C. H.

H. Bay House, 23^d March, 1763.

To the Right Hon^{ble} the Earl of Egremont,
One of His Majesty's Principal Secretarys of State.

No. 1558.

[10 Aug., 1767.]

**REGULATIONS MADE BY GOVERNOR PALLISER
FOR THE ESTABLISHMENT OF THE BRITISH
SHIP FISHERY ON THE COAST OF LABRADOR,
10th AUGUST, 1767.**

Vide "Joint Appendix," Vol. III, p. 1010.

No. 1559.

**DOCUMENTS RELATING TO GRANT OF MINERAL
RIGHTS WITHIN THE LABRADOR PENINSULA
TO JOHN AGNEW AND HIS ASSOCIATES.**

1. PETITION OF JOHN AGNEW AND ASSOCIATES FOR
GRANT OF MINERAL RIGHTS IN THE COUNTRY
OF LABRADOR, 19TH MAY, 1773.

Vide "Joint Appendix," Vol. III, p. 1079.

2. REPORT OF LORDS OF TRADE ON PETITION OF
AGNEW AND HIS ASSOCIATES, 3RD JUNE, 1773.

Vide "Joint Appendix," Vol. III, p. 1080.

3. ORDER OF THE LORDS COMMITTEE OF COUNCIL
FOR PLANTATION AFFAIRS, DIRECTING
PREPARATION OF DRAFT OF LETTERS PATENT
FOR A GRANT TO JOHN AGNEW AND HIS
ASSOCIATES, 3RD JULY, 1773.

Vide "Joint Appendix," Vol. III, p. 1081.

4. ORDER OF THE LORDS OF THE COMMITTEE OF
COUNCIL FOR PLANTATION AFFAIRS,
APPROVING DRAFT OF A GRANT TO JOHN
AGNEW AND HIS ASSOCIATES, 2ND DECEMBER,
1774.

Vide "Joint Appendix," Vol. III, p. 1154.

5. IMPERIAL ORDER IN COUNCIL, DATED 2ND
DECEMBER, 1774, AUTHORIZING PASSING OF A
GRANT UNDER THE GREAT SEAL OF GREAT
BRITAIN CONFORMABLE TO THE SAID DRAFT.

Vide "Joint Appendix," Vol. III, p. 1156.

No. 1560.

[1775.]

**MAP OF THE BRITISH COLONIES IN NORTH
AMERICA BY JOHN MITCHELL (1775.)**

Vide "Canada's Atlas," No. 11.

No. 1561.

[May, 1815.]

**MEMORIAL OF THE HUDSON'S BAY COMPANY TO
THE SECRETARY OF STATE, MAY, 1815.**

HUDSON BAY COMPANY'S RECORDS.

Hudsons Bay House,
May, 1815.

To the Right Honourable Earl Bathurst,
Principal Secretary of State for the Colonial Department.

The Humble Memorial and Representation of the
Hudsons Bay Corporation

SHEWETH

That by their Charter granted by King Charles the 2nd bearing date the 2nd May 1669 they are authorized to make Laws both Civil and Criminal for the Government of their Territories in North America, so as such Laws be reasonable and not contrary to the laws of England but as near thereto as may be.

That no laws either civil or criminal for this purpose have hitherto been made except such bye laws of the Company as from time to time were found necessary for the Regulation of their Servants and immediate Dependants in their said Territories. But a considerable addition having been made to the Population thereof by a new Colony lately settled there which is likely to increase to a considerable extent it is become necessary that a more enlarged and comprehensive Code should be established for the good Government as well of the Company's Servants as of settlers & others within their Chartered Limits in North America.

That proposed Ordinances for this purpose have been prepared under the advice of Counsel (a printed copy of which is annexed) and are intended to be sent out to the Company's Settlements in Hudsons Bay by the Ships of this Season which will very shortly sail, but your Memorialists are anxiously desirous that such Ordinances should receive the sanction of His Majesty's Attorney & Solicitor General before they are acted upon.

Your Memorialists therefore humbly pray your Lordship that the said proposed Ordinances may be forthwith submitted to the consideration of His Majesty's Attorney and Solicitor General on behalf of Government that they may report thereon whether the same are in conformity with the said Charter as being reasonable and not contrary to the Laws of England but as near thereto as may be.

And your Memorialists shall ever pray &c. &c.

With Copy of Resolutions passed 19th May, 1815.

No. 1562.

[2 June, 1815.]

**HENRY GOULBURN TO MESSRS. BLEASDALE,
ALEXANDER & HOLMES, 2nd JUNE, 1815.**

HUDSON BAY COMPANY'S RECORDS.

Downing Street, 2nd June
1815.

To Messrs. Bleasdale, Alexander & Holmes,
Solicitors to the Hudsons Bay Company.

Gent/

I am directed by Earl Bathurst to acknowledge the receipt of the Memorial of the Hudsons Bay Corporation inclosing a Copy of the Resolution passed by them on the 19th May 1815 & requesting that they may be submitted to the Law Officers of the Crown on behalf of Government.

In reply I am directed to acquaint you that previous to taking any measures for approving or confirming the ordinances proposed to be made for the Government of His Majesty's Subjects in the neighbourhood of Hudsons Bay, Lord Bathurst feels it necessary to require from the Hudsons Bay Company a distinct specification of the limits of the Territory within which it is proposed that such ordinances should have effect and I am therefore to request that you would furnish his Lordship with this information.

I am, Gentlemen,
Your most obed^t Serv^t,

(Signed) HENRY GOULBURN.

No. 1563.

[8 June, 1815.]

**GOVERNOR OF HUDSON'S BAY COMPANY TO
EARL BATHURST, 8th JUNE, 1815.**

HUDSON BAY COMPANY'S RECORDS.

Hudsons Bay House,
8th June 1815.

To the Rt. Honble. Earl Bathurst &c. &c.

My Lord,

Messrs. Bleasdale & Co. have communicated to me a letter, which Mr. Goulburn had addressed to them the 2nd inst. in consequence of an application made by them on behalf of the Hudson's Bay Company. Mr. Goulburn having desired that your Lordship should be furnished with a distinct specification of the limits of the Territory within which the ordinances of the Hudsons Bay Company relative to the better administration of Justice are to have effect, I beg leave to transmit a Copy of the Charter, granted by King Charles the 2nd from which your Lordship will observe that the grant of the Territory includes all lands which lie upon the waters that run into Hudsons Bay The limits therefore can only be defined by the Height of land which divides these waters from those which run into the Sea in any other direction.

The geographical discoveries which have been progressively made by the Company's Servants for many years past have ascertained with great accuracy the situation of the height of land which is laid down distinctly in most of the recent maps of North America. On the South East of Hudsons Bay it divides the rivers that run into James Bay from various branches of the St. Lawrence. On the South west, it divides the waters of the Saskatchewan & Red River from those of the Missouri & Mississippi & on the North West, those of Churchill River from the Athapescow, & other rivers which flow to the Northward into the Frozen Ocean.

Within these limits the Governors of the different establishments have always exercised jurisdiction, so far as circumstances required but in consequence of the increasing population of the Country, new rights & varied interests have arisen, which call for a more regular & effectual administration of Justice.

For the satisfaction of all persons, living within the jurisdiction of the Company, it has been thought advisable to take the opinion of several eminent counsel of the different courts of Law & Equity who concurred in an unanimous

opinion that the Company have a complete title to all the Lands within the

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limit above mentioned & that within these limits their Governor & their Council appointed by the Company, are empowered by the Charter to administer Justice according to the Law of England. A copy of these opinions is inclosed for your Lordships information.

As these questions involve points of Royal Prerogative, we were anxious to obtain the opinion of the Law Officers of the Crown in addition to those of Sir Sam'l Romilly, Mr. Cruise, Mr. Holroyd, Mr. Scarlett, & Mr. Bell. The high sanction of their opinion would certainly have been a great satisfaction to the persons acting under the Charter but as the circumstances of the Colony require that an adequate provision for the administration of justice between man & man should be made without delay, the Board of Directors have felt it to be their duty provisionally to give Instructions to the Governor in Chief with his Council to try & determine according to the Law of England, all causes which may arise, & to administer Justice with all those precautions which have been recommended by the eminent legal authorities whom we have consulted trusting that we may yet be enabled to transmit to Hudsons Bay the opinion of His Majesty's Attorney & Solicitor General.

I have the honor to be &c., &c., &c.

(Signed) JOS. BERINS, Govr.

No. 1564.

[12 April, 1815.]

**HENRY GOULBURN TO GOVERNOR OF HUDSON'S
BAY COMPANY, 12th APRIL, 1815.**

Downing Street, 12th April 1815.

HUDSON BAY COMPANY'S RECORDS.

To Joseph Berins Esq.,

Sir :

I am directed by Lord Bathurst to acknowledge the receipt of your letter of the 3rd instant in which you communicate for the information of His Majesty's Government the intention of the Hudsons Bay Company to enrol arm & place under the orders of persons qualified to discipline & command them the Servants of the Hudsons Bay Company settled within their Territories in North America, & this for the express purpose of defending the settlement lately made at Red River & protecting what they consider to be the rights of the Company in that quarter. In reply I am directed to acquaint you that so long as a prospect was afforded of bringing the disputes of the Hudsons Bay & North West Companies to a judicial decision by the Trial of Mr. McDonell before the regular Tribunals of Canada Lord Bathurst was unwilling to exercise any interference which might have the effect of prejudging the question at issue. But as it subsequently appeared that there were legal objections to the mode of proceeding adopted against Mr. McDonell which precluded all hope of investigating in that manner the real rights of the Hudsons Bay Company Lord Bathurst thought it incumbent upon him to take other steps with a view to prevent those dangerous consequences with which His Majesty's Dominions in North America were threatened in consequence of the pretensions advanced by the Hudson's Bay Company & the resistance given to theist by the Agents of the North West Company. His Lordship had therefore, as a preliminary measure, and with a view to ascertain the extent of jurisdiction, which the Hudsons Bay Company can legally claim under their Charter, refered the case to the consideration of His Majesty's Law Servants. As soon as their report shall be received a communication of Lord Bathurst's views on the subject will be made to you.

In the interim his Lordship has only to express his decided objection to the measure announced in your letter of creating an Armed Force for the defence of a Territory, the title to which in the extent to which it is asserted is to say the least of it extremely doubtful. Nor can his Lordship believe

that under the circumstances stated, the company can have any disposition to incur the responsibility of persisting in the measure which you have announced to be in their contemplation. Downing Street, 12th April 1815.

I have the honour to be &c.

(Signed) HENRY GOULBURN.

No. 1565.

[19 April, 1816.]

**GOVERNOR OF HUDSON'S BAY COMPANY TO EARL
BATHURST, 19th APRIL, 1816.**

HUDSON BAY COMPANY'S RECORDS.

Hudsons Bay House,
19th April 1816.

The R^t Honble. Earl Bathurst &c., &c.

My Lord :

I have the honour to acknowledge the receipt of Mr. Goulburn's letter of the 12th inst. in which he informs me that your Lordship with a view to ascertain the extent of jurisdiction which the Hudsons Bay Company can legally claim under their Charter have refered the case to the consideration of His Majestys Law Servants & I have to assure your Lordship of the perfect readiness of the Hudsons Bay Company to afford to them every assistance which their documents may furnish & to facilitate by every means in their power the legal determination of so important a question.

I beg leave to recall it to your Lordships recollection that the Directors of the H.B.Co. have in former communications expressed an anxious wish for the opinion of the Law Officers of the Crown upon this question, that they might have either the additional weight of their authority as confirming the opinions of Mr. Justice Holroyd, Sir Saml. Romilly, Mr Scarlett, Mr. Bell & Mr. Cruise or that had His Majesty's Attorney & Solicitor differed from those great authorities, that means might have been found to bring these Chartered Rights at once before the King in Council.

In consequence of your Lordship having expressed decided objections to the formation of the Company's Servants & others into Volunteer Corps for their mutual protection, I have to inform your Lordship that the Hudsons Bay Company will suspend this measure upon the authority of your Lordships' Letter, in the firm reliance that His Majestys Government will take effectual steps for the protection of the lives & properties of the British Subjects settled within the Companys Territories, as the Board of Directors feel a very great responsibility in withholding the only protection which they have the means of immediately affording them.

I have the honour to be
(Signed) JOS. BERINS, Gov.

No. 1566.

[20 Oct., 1818.]

**CONVENTION BETWEEN GREAT BRITAIN AND THE
UNITED STATES, 20th OCTOBER, 1818, ARTICLE 1.**

Vide “ Joint Appendix,” Vol. V, p. 2102.

No. 1567

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NORTH AMERICAN FISHERIES ACT, 1819.

Vide “ Joint Appendix,” Vol, III, p. 1212.

No. 1568.

[12 May, 1820.]

**PETITION OF HUDSON'S BAY COMPANY TO THE
KING, 12th MAY, 1820.**

HUDSON BAY COMPANY'S RECORDS.

To the Kings Most Excellent Majesty in Council

The humble Petition of the Governor and Company of
Adventurers of England trading into Hudsons Bay

SHEWETH

That by Letters Patent of His late Majesty king Charles the second bearing date the Second day of May in the Twenty Second year of his reign and forming your Petitioners Charter of incorporation, your Petitioners, their Predecessors and Successors, as one body corporate and Politic, were and are impowered and authorized to receive possess and enjoy and retain Lands Rents Privileges Liberties Jurisdictions franchises and Hereditaments, and also to give grant demise alien assign and dispose lands tenements and heriditaments, and were and are invested with other large and extensive powers and authorities as in and by the said Charter will more fully appear.

That by virtue of a Grant contained in their said Charter your Petitioners are the true and absolute Lords and Proprietors (saving always the faith and allegiance due to your Majesty, your heirs and Successors) of the territories limits and places called Ruperts Land which by the said Charter is appointed to be one of your Majesty's Plantations or Colonies in America and includes all the lands and territories upon the Countries, Coasts and confines of the Seas, Bays, Lakes, Rivers, Creeks and Sounds which lie within the entrance of the Streights commonly called Hudsons Streights and your Petitioners humbly submit that the proper and only limits of the interior or inland parts of the said Plantation or Colony are the extreme heights from which any waters flow into the Sea within Hudson's Streights.

That the Validity of your Petitioners said Charter and particularly of the grant of territory therein contained has been on various occasions solemnly recognized by Parliament in its Statutes and by your Majestys royal predecessors in their treaties with foreign powers, and that your Petitioners and their Predecessors have constantly acted upon the same for nearly 150 years without any legal interruption or impeachment.

That during the greater part of the said period your Petitioners have traded and still continue to trade as well beyond as within the limits of the

territory granted to them and have erected Forts and established trading stations for their Servants to carry on the said trade.

That in Process of time and when the means and Opportunity offered to your Petitioners they were anxious to establish within their territories a Colony of independent Settlers to be employed in the pursuits of Agriculture and by whose cultivation of the soil the landed property of your Petitioners would eventually be rendered more valuable. Your Petitioners further considered that such establishment if successful would more effectually promote the objects of their Charter, by creating a new source of demand for British manufactures to the manifest advantage of this kingdom.

That the soil and climate in the immediate vicinity of Hudsons bay are unfavorable to Agriculture, but that the lands upon the Countries and Confines of the Lake Winipic and of the Saskatchewan, Assiniboine and Red Rivers all the waters of which flow into the Sea within Hudson Streights are rich and fertile the climate good and both well fitted for the Cultivation of grain. That the said Lands being within the limits of the Territory granted to them they were induced in the Year 1811 to grant a large tract of the same to the Earl of Selkirk for the purpose of establishing thereon an Agricultural Settlement only ; and with provision that the Settlers should not engage in the fur trade.

That in the Autumn of 1812 a number of Settlers sent by his Lordship arrived and established themselves on the Banks of the Red River, and these were followed in the two succeeding years by many others who all settled on the adjoining Lands. That the said Settlement was proceeding with every prospect of success when it was assailed first by the several manoeuvres, and afterwards by the open violence of certain partners, agents and dependants of a Canadian Association calling itself the Northwest Company of Fur traders of Montreal, The origin of which association was as follows. About the year 1770 some adventurers from Canada having succeeded in their undertakings near Lake Superior passed onwards to the Northwest and traded individually for furs with the Indians within the territory of your Petitioners, others about the year 1778 penetrated into the Athabasca country which lies beyond the said territory its waters falling into the Northern Ocean. The success of these individual undertakings sometime afterwards led to the formation of 2 Rival associations of Canadians with views of prosecuting the Northwestern furtrade, and these two bodies finally coalescing into one, constituted the aforesaid Northwest Company, the members of which however are not incorporated nor can they claim any rights which are not common to all other british subjects.

That the said Canadian traders pretending to believe that the Rights of territory and Jurisdiction granted to your Petitioners by their charter were altogether unfounded, encouraged their Servants and dependents to set the same at

nought and endeavoured to persuade both the Indians and Settlers to do the same, but failing in these attempts they at length resolved to have recourse to force, and in or about the month of April 1815 a party of them proceeded to plunder the settlement of the arms with which it had been

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furnished by your Majestys Government for defence. In the following June they again attacked it, arrested and carried away as Prisoner the Governor Mr. Miles McDonnel and ordered the other Inhabitants to leave the settlement. On this occasion many of the Settlers were fired at and wounded, one of whom died of his wounds. The farmhouse belonging to the Settlement was broken open and pillaged, several of the servants and Labourers were forcibly seized and detained as prisoners, the Horses were stolen and the cattle driven away. The remaining settlers being alarmed at these proceedings and fearfull of still worse extremities, abandoned their homes and put themselves under the protection of the native indians, by whom they were safely conveyed to Lake Winipic. The day after their departure, their persecutors burnt to the Ground the houses, together with the Mill and other buildings belonging to the Settlement—but the settlers being afterwards joined by a fresh body of emigrants from Europe they returned to their former settlement on the Red River. In the Month of June however in the following year vizt. 1816 a still more sanguinary attack was made on them by the half breeds clerks and Servants of the Northwest Company, when Governor Semple and about 20 of the settlers were massacred, the Colonists again driven off and their houses burnt to the Ground.

That the aggressions of the Northwest Company have not been confined to the Red River establishment, but have been committed with equal atrocity against your Petitioners and their Servants at places beyond the limits of their territory in Countries where in common with all british subjects your Petitioners have a full and undoubted right to trade. In the summer of 1815 your Petitioners fitted out an expedition from Canada to proceed with a large assortment of british goods for that part of the interior of North America called Athabasca, the Northwest Company used every means of obstruction, and the natives were kept out of the way, so as to prevent those who were employed by your Petitioners from obtaining Provisions in consequence of which eighteen of your Petitioners Servants were literally starved to death. The Survivors who threw themselves on the mercy of the Northwest Company were refused even food until they submitted to sign a contract binding themselves not to perform any work or service for your petitioners but to serve the Northwest Company, and to deliver up to the latter the property of your petitioners. Mr. Archibald Norman McLeod a magistrate for the Indian territory and a partner and principal agent of the Northwest Comp^y. collected all the Clerks, Servants and half breeds of that Company and attacked several of your Petitioners

Stations, overpowering their People and making them prisoners,. he seized the provisions, canoes, fishing nets, arms, &c. and all the goods belonging to your Petitioners whose people had thus no means left of providing themselves with food and when they remonstrated with Mr. McLeod, they were answered by his declaring that he would not let them have any provisions, unless they bound themselves by a written agreement not to return to the country for the space of two Years. These conditions were at first refused, but after having been kept for two and some of them for three days without food they were compelled to submit

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and accordingly subscribed an agreement to that effect. The performance of this agreement they were sworn to observe by an oath administered by Mr. McLeod as a Magistrate.

That while these aggressions were going on in one part of the country others of a similar nature were carried on in other parts of the interior, in March 1816 one of the trading Posts of your Petitioners at green Lake was attacked by about thirty armed servants of the Northwest Company headed by two persons named Ogden and Black clerks (the latter now a Partner) of the Northwest Company. This trading post was attacked in the night, their servants, eleven in number, seized and made prisoners and one of them (Mr. McDonald) beaten most unmercifully. The assailants afterwards seized and conveyed away all the arms and ammunition they could find together with the Stores, canoes, furs and other Goods belonging to your Petitioners after having been kept some days prisoners, they were marked off under a guard commanded by Black to Isle a la Crosse, where they found about twenty more of your petitioners Servants who had also been made prisoners and who were in great distress having eaten nothing for two days. They all continued there for a considerable time under the directions of a partner of the Northwest Company and they were afterwards joined by forty six other servants of your petitioners who had been imprisoned by Mr. McLeod as before mentioned, so that at that Period there were nearly one hundred of your Petitioners people illegally confined in the interior.

That in consequence of the circumstances already set forth various Memorials and other documents have been from time to time address'd to the Right Hon^{ble} Earl Bathurst your Majestys Principal Secretary of State for Colonial affairs, as well by your Petitioners as by the said Northwest Company. That by a Letter from Henry Goulburn Esq., dated 3d May, 1820, your Petitioners by direction of Earl Bathurst are inform'd that the said Memorials and documents have been some time since referred for the decision of Your Majesty in Council, and, that an opportunity is thus afforded to Your Petitioners to bring under Consideration of the Council the grounds upon which your Petitioners conceive their claims to rest.

Wherefore your Petitioners most humbly pray leave to refer to the said Memorials and documents and to exhibit other

evidence in support of this their petition and to be heard by Counsel therein and that your Majesty will be graciously pleased to declare that by Virtue of the said Letters Patent of His said Majesty King Charles the Second, your Petitioners are the sole and absolute Lords Proprietors of all Lands between the extreme heights from which any Waters flow into the seas within Hudson's Streights and the said Seas, and that Your Majesty will be pleased to appoint commissioners to run a Line along the said Heights or will otherwise determine more precisely the said boundary and that your Majesty will also be graciously pleased to declare that your Petitioners are justly entitled to have hold enjoy and exercise all the lawfull rights of territory and Jurisdiction granted in their said charter within the Boundary so defined or hereafter to be more precisely determined, and that means may be taken to Stop further outrages both

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within and without the aforesaid territory, and that such further relief may be granted to your Petitioners in the premises as to your Majesty in your Wisdom may seem meet.

And your Petitioners as in duty bound shall ever pray &c., &c.

By Order of the Governor &
Committee
of the said Company

W. SMITH, Secy.

Hudsons Bay House
London, 12th May 1820.

**MEMORIAL OF THE NORTHWEST COMPANY TO
THE KING, 1820.**

[1820.]

HUDSON BAY COMPANY'S RECORDS.

To the Kings Most Excellent Majesty

The humble Memorial of Messrs. Inglis Ellice and Company on behalf of themselves and others carrying on trade from Montreal in Canada to the Indian territory or Country under Style and Term of the North west Company.

SHEWETH

That His late Majesty King Charles the Second was graciously pleased by his letters Patent bearing date on the 2d of May in the 22nd Year of his reign, reciting that certain persons therein named had at their own costs and charges undertaken an expedition for Hudson's Bay in the Northwest parts of America for the discovery of a new Passage into the South Sea and for the finding of some trade for Furs, Minerals and other considerable commodities and by such their undertaking had already made such discoveries as did encourage them to proceed further in pursuance of their said design by means whereof there might probably arise great advantage to his said Majesty and to His kingdoms, and further reciting that the said undertakers for their further encouragement in the said design had humbly besought His said Majesty to incorporate them and grant unto them and their successors the whole trade and commerce of all the Seas, Streights and Bays Rivers Lakes Creeks and Sounds in whatever latitude they should be that lie within the entrance to the Streights commonly call'd Hudsons Streights, together with all the Lands Countrys and territories upon the Coast and Confines of the seas, Streights, Bays, Lakes, Rivers, Creeks and sounds aforesaid, which were not then actually possessed by any one of His Majestys Subjects, or by the Subjects of any other Christian Prince or State, did for himself, his heirs and successors give grant ratify and confirm unto the said persons in the said Letters Patent mentioned, that they and such others as should be admitted into the said Society as therein expressed should be one body corporate and politique in deed and in name by the name of the Governour and Company of Adventurers of England trading into Hudsons Bay, and them by the name aforesaid one body corporate and politique in deed and in name really and fully for ever for His Majesty his heirs and

successors did make ordain constitute establish confirm and declare by the said letters Patent and that by the same name of the Governor and Company of Adventurers of England trading into Hudsons Bay they should have perpetual Succession.

And that His said Majesty did by the said Letters Patent ordain that there should be from hence forth one of the said Company to be elected as therein set forth to be called the Governor of the said Company. And that the said Governor and Company should and might elect seven of their number as therein expressed which should be called the Committee of the said Company which said Committee of Seven or any three of them with the Governour or deputy governor for the time being should have the direction of the Voyages aforesaid for the said Company and the Provision of the Shipping and Merchandizes thereunto belonging, and also the Sale of all Merchandizes goods and others things returned in all or any the Voyages or Ships of or for the said Company and the managing and handling of all other business affairs and things belonging to the said Company.

And that to the end the said Governor and Company of Adventurers of England trading into Hudsons Bay might be encouraged to undertake and effectually to prosecute the said design His said Majesty did by his said Letters Patent, grant and confirm unto the said Governor and Company and their Successors the Sole trade and Commerce of all those Seas, Streights, Bays, Rivers, Lakes, Creeks and Sounds, in whatsoever Latitude they should be that lie within the entrance of the Streights commonly call'd Hudsons Streights, together with all the lands and territories upon the Countries, Coasts and confines of the Seas, Bays, Lakes, Rivers, Creeks and Sounds aforesaid that were not already actually possessed by the Subjects of any other Christian Prince or state.

And that furthermore his said Majesty did grant unto the said Governor and Company and their Successors that they and their Successors and their factors, Servants and Agents for them and on their behalf and not otherwise should for ever after have use and enjoy not only the whole entire and only liberty of trade and traffic and the whole entire and only liberty use and privilege of trading and traffic to and from the territories limits and places aforesaid but also the whole and entire trade and traffic to and from all Havens, Bays, Creeks, Rivers, Lakes and Seas into which they should find entrance or passage by Water or Land out of the territories limits and places aforesaid and to and with all the natives and people Inhabitants or which should inhabit within the territories limits and places aforesaid and to and with all other nations inhabiting any the Coasts adjacent to the said territories limits and places aforesaid which were not then possessed as aforesaid or whereof the sole liberty or privilege of trade and traffic was not granted to any other of His Majestys Subjects.

And that his said Majesty did further by the said Letters patent grant to the said Governor and Company and to their

Successors that neither the said territories limits and places thereby granted as aforesaid nor any part thereof nor the Islands, Havens, ports, Cities, Towns and places thereof

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or therein contained should be visited frequented or haunted by any of the Subjects of His said Majesty or of his heirs and Successors contrary to the true meaning of the said Letters Patent and by Virtue of His Majesty's Royal prerogative which he willed should not in that behalf be argued or brought into question His said Majesty did by the said Letters Patent Straightly charge command and prohibit that all the Subjects of His Majesty his heirs and successors of what degree or quality soever they might be should not directly visit haunt frequent or trade traffic or adventure by way of Merchandize into or from any the said territories limits places hereby granted or any or either of them other than the said Governor and Company and such particular persons as were then or from that time should be of that Company, their agents factors and Assigns unless it should be by the Licence and Agreement of the said Governor and Company in writing first had and obtained under their common seal to be granted, upon pain that every such person or persons that should trade and traffic into or from any of the Countries territories or limits aforesaid other than the said Governor and Company and their Successors would incur his Said Majestys indignation and the forfeiture and the loss of the said Goods, Merchandize and other things whatsoever which so should be brought into this Realm of England, or any the dominions of the same contrary to the said prohibition or the purport or true meaning of the said Letters patent, or which the said Governor and Company should find take or seize in other places out of his said Majesty's dominions, where the said Company their Agents factors or Assigns should trade traffic or inhabit by virtue of the said Letters Patent, as also the Ship and Ships with the furniture thereof, wherein such Goods Merchandize and other things should be brought or found, the one half of the said forfeiture to be to his Majesty his heirs and Successors and the other half thereof to the said Governor and company and their Successors.

And further that all and every the said offenders for their said Contempt should Suffer such Punishment as to His said Majesty his heirs and Successors, should seem meet or convenient and not to be in any wise delivered until they and every of them should become bound unto the said Governor for the time being in the sum of £1000 at the least, at no time then after to trade and traffic into any of the said places, Seas, Bays, Streights, ports, havens or territories aforesaid, contrary to his said Majestys express commandment in that behalf set down and published. And that further his Majesty did grant unto the said Governor and Company and their successors, that his said Majesty his heirs and Successors would not grant liberty Licence or power to any person or persons whatsoever, contrary to the tenor of the said Letters patent, to trade traffic or inhabit into or upon any of the Territories limits or places

afore specified, contrary to the meaning of the said letters patent without the consent of the said Governor and Company or the most part of them.

And that further his said Majesty did grant to and with the said Governor and Company that it should be lawful in all Elections and Bye Laws to be made by the General Court of the Adventurers of the said Company that

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every person should have a number of Votes according to his Stock in manner therein set forth.

And his said Majesty did further grant by his said Letters patent unto the said Governor and Company and their Successors full power and authority to seize upon the persons of all English or any other Subjects that shall sail into Hudsons Bay or inhabit in any of the Countries, Islands, or territories thereby granted without their leave or licence or should continue to disobey their orders and send them to England.

And Lastly by the said letters Patent, His Majesty straightly charged and commanded all and singular his Admirals Vice Admirals, Justices, Mayors, Sheriffs, Constables, Bailiffs and all and singular other his officers, Ministers, Liege-men, and Subjects whatsoever to aid, favor, help and assist the said Governor and Company and their successors and deputies, officers, factors, Servants, assignees and Ministers and every of them in the execution and enjoyment of the said Letters Patent, as well on Land as at Sea from time to time when any of them should thereunto be required, any Statute, act, ordinance, proviso, proclamation or restraint before made set forth ordained or provided, or any other matter cause or thing whatsoever to the contrary in anywise notwithstanding, as by the said letters Patent reference being thereunto had will among other things more fully appear.

That the Grant by His said Majesty of the sole and exclusive trade to the said Governor and Company contained in the said letters Patent within the Limits therein described, to the restraint and exclusion of all the other subjects of this realm amounted to a Monopoly, was beyond the power of the king to grant and was consequently wholly illegal and void.

That the establishment of a joint Stock for the purpose of carrying on the trade of the Company, under the management of a Committee who have the direction of the Voyages the provision of the Shipping and Merchandizes and the Sale of the Goods returned without the Consent of Parliament was beyond the Power of the Crown to grant and was consequently illegal and wholly void.

That the Power given by the said Letters Patent to the said Governor and Company to seize upon and send to England all such of the kings Subjects who should sail into Hudsons bay or inhabit any of the Countries thereby granted to the said Governor and Company without their leave and Consent was illegal and wholly void.

That the prohibition contained in the said letters patent of any of the kings subjects from visiting frequenting, trading or

trafficking by way of merchandize into or from any of the territories or places thereby granted without the licence of the said Governor and Company and the forfeiture of the Goods and Merchandize and other things which should by means thereof be brought into England or the Dominions of the same contrary to the said prohibition or which the said Governor and Company should find, take and seize in any other places out of the dominions of England, where the said Governor and Company should trade, traffic or inhabit by Virtue of the said

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Letters patent, as also the ships wherein the same would be found or brought and the furniture of such ships was wholly illegal and void.

That the punishment imposed on persons offending against the aforesaid provisions in the said letters patent without being delivered thereupon until they should become bound to the said Governor in the Sum of £1000 not to trade again within the limits aforesaid was illegal and void.

That the Power of dispensing with all Statutes and acts for the Purpose of enforcing the said grant of Territory and the exclusive right of trade was illegal and void.

That for very many years last past the said Governor and Company have made no attempt to discover any new Passage into the South Sea nor did they at any time make efforts to extend or improve the trade in furs minerals or other commodities within the limits aforesaid until after your Memorialists had extended and prosecuted the Trade originally carried on by the French in the interior of the Country by discoveries and establishments there, and the said Company have since that time obstructed and impeded the Progress of the said trade which but for such obstruction would have been carried on with much greater advantage to your Memorialists and other Subjects of His Majesty.

That in the Year 1811 the said Governor and Company conveyed to the Right Honorable Thomas Earl of Selkirk his heirs and Successors a very large tract of Land containing about 116000 square miles under Colour of the Authority of the said letters Patent, but without having legal power or authority so to do, whereby they have abused and misapplied His Majestys letters Patent and perverted the Powers and privileges thereby bestowed to other purposes than those for which the said letters patent were originally granted.

That under and by Color of the powers and privilege in the said letter' patent contained, the said Governor and Company and the said Earl of Selkirk have forcibly prevented the Subjects of his Majesty from carrying on their lawful trade and Bussiness both within and without the limits in the said letters Patent contained and have seized and carried away the Property and imprisoned the Persons as well of your Memorialists as of other subjects of Your Majesty and still threaten so to do. That your memorialists and their Partners in the said N.W. Comp^a have endeavoured by all the means in their power to have the rights of the Hudsons Bay Company

legally determined by the Courts in this Country, and have brought three several actions in the Court of Commonpleas at Westminster against the Earl of Selkirk but as your Memorialists remedies for the injuries they complain of can only be enquired into by the Courts here in actions brought against individuals the Validity of the said Charter or the rights exercised by the Hudsons Bay Company cannot by such actions be in any ways determined, and by the recent death of the Earl of Selkirk your Memorialists have been deprived of all remedy for the great loss of property they sustained by the wrongful acts of the said Earl.

Your Memorialists humbly submit the premises to your Majestys royal consideration and pray that your Majesty will be graciously pleased to issue your Royal Warrant to your Majestys Attorney General thereby authorizing and directing him to cause a Scire facias to be sued out in your Majestys name for repealing the said letters patent His Majesty king Charles the Second having been deceived in the original Grant thereof and the same being wholly illegal and void, and the powers and authorities therein contained having been wholly abused and misapplied whereby the said Letters patent have been forfeited and lost. Or that your Majesty will be pleased to grant such other relief in the premises as in your Majestys Wisdom shall seem just and proper.

And your Memorialists as in duty bound shall ever pray
etc.,

[7 June, 1820.]

No. 1570.

**CAVEAT OF HUDSON'S BAY COMPANY AGAINST
MEMORIAL OF NORTHWEST COMPANY,
7th JUNE, 1820.**

HUDSON BAY COMPANY'S RECORDS.

For the Governor and Company of Adventurers of England trading into Hudsons Bay against the Memorial of Messrs. Inglis, Ellice & Co. (on behalf of themselves & others carrying on trade from Montreal in Canada to the Indian Territory of Country under the style and firm of the North-West, Company, to the King's most Excellent Majesty, praying that the Warrant of his Majesty may issue directing him to cause a scire facias to be sued out for repealing the Letters Patent of His Late Majesty Charles the Second for incorporating the Governor & Company of Adventurers of England trading into Hudsons Bay

Notice to be given to

BLEASDALE, LOWLESS & CROSSE,

Threadneedle Street,

7th June 1820.

To

SIR ROBERT GIFFORD,
His Majestys Attorney General

SIR ROBERT SINGLETON COPLEY, Knight
His Majesty's Solicitor General.

No. 1571.**PETITION OF HUDSON'S BAY COMPANY TO THE
KING, 2nd AUGUST, 1820.**

[2 August, 1820.]

HUDSON BAY COMPANY'S RECORDS.

To the Kings Most Excellent Majesty in Council

The humble Petition of the Governor and Company of
Adventurers of England trading into Hudsons Bay

SHEWETH

That your Petitioners some time since presented a Petition to Your Majesty in Council refering to a Letter from Henry Goulburn Esquire dated the 3rd day of May 1820 whereby your Petitioners were informed that the several Memorials and documents which have from time to time been addressed to the Right Honorable Earl Bathurst, your Majestys principal Secretary of State for Colonial Affairs, as well by your petitioners, as by the North West Company had some time previously been submitted to Your Majesty in Council, and praying leave to refer to the said Memorials and, Documents, and to exhibit other evidence in support of their said Petition, and to be heard by Counsel thereon ; and that your Majesty would graciously be pleased to declare that by virtue of the Letters Patent of His Majesty King Charles the Second (therein set forth) your Petitioners are the sole and absolute Lords Proprietors of all Lands between the extreme heights from which any waters flow into the Seas within Hudsons Streights and the said Seas ; and that your Majesty would be pleased to appoint Commissioners to run a Line along the said heights, or would otherwise determine more precisely the said boundary ; and that your Majesty would also be graciously pleased to declare that your petitioners are justly entitled to have, hold, enjoy and exercise all the lawful rights of Territory and Jurisdiction granted in Your Petitioners said Charter, within the boundary so defined, or thereafter to be more precisely determined, and that means might be taken to stop further outrages both within and without the aforesaid Territory, and that such further relief might be granted to your Petitioners in the premises as to your Majesty in your wisdom might seem meet.

That your Petitioners are informed that the said North West Company have presented a Memorial to Your Majesty praying that your Majesty would be graciously pleased to give your Royal Warrant to your Majesty's Attorney General thereby authorizing and directing him to cause a Scire

Facias to be sued out in your Majesty's name, for repealing the said Letters Patent.

That the Memorial of the said North West Company has by an Order of Council been referred to Your Majesty's Attorney and Solicitor General to report thereon, & that your petitioners are informed that no proceeding will be taken by your Majesty in Council on your Petitioners said Petition until your Majesty's Attorney and Solicitor General shall have made their Report on the said Memorial of the North West Company.

That it is of the greatest importance to your Petitioners, and to the due protection of the lives and property of the persons now settled on your Petitioners said Territory, as also to that of the Servants & others employed in the Trade with the Indians, that the decision of your Majesty in Council, on the prayer of your Petitioner as set forth in their said Petition, and on the questions in dispute relating thereto, should if possible be obtained in the course of the present year.

Wherefore your Petitioners most humbly pray that your Majesty will be graciously pleased to direct, that Your Majesty's Attorney and Solicitor General be instructed to take the said Memorial of the North West Company into their early consideration, and to permit Counsel to attend them on the part of your petitioners in opposition to the said Memorial, and that your petitioners may be at liberty to lay before your Majesty's Attorney and Solicitor General evidence relating to the matters alleged in their said Memorial and that your Majesty's said Attorney and Solicitor General be further instructed to report on the whole at their earliest convenience.

And your Petitioners as in duty bound shall ever pray &c.

By Order of the Governor &
Committee
of the said Company,

W. SMITH, Secy. (L.S.)

Hudson's Bay House,
London, 2nd August, 1820.

[22 March, 1837.]

EXTRACT OF MINUTES OF EVIDENCE OF J. H. PELLY, CHAIRMAN OF HUDSON'S BAY COMPANY, BEFORE SELECT COMMITTEE ON ABORIGINES (BRITISH SETTLEMENTS), 1837.

PARLIAMENTARY PAPERS (IM.) 1837, VOL. VII, p. 68.

Mercurii, 22^o die Martii,
1837.

John Henry Pelly, Esq., called in ; and Examined.

328. Chairman.—YOU are chairman of the Hudson's Bay Company ?—

I am.

329. Can you state in general terms over what districts the power of hat company extends ?—It extends all the way from the boundaries of Lower and Upper Canada, away to the North Pole, as far as the land goes, Ind from the Labrador coast all the way to the Pacific Ocean.

330. Have you ever formed a conjecture as to the quantity of square miles there are in this territory ?—No, I have not ; the territory in property belonging to the Hudson's Bay Company is the height of land from which ,he water falls into the bay ; the other part is the property of Great Britain ; he part held by us exclusively is under grant from the Crown, under the Act If Parliament.

331. Which do you claim exclusively as your own ?—All the waters that empty themselves into Hudson's Bay, wherever there is a height of land rom which the water runs that way ; the waters that run the other way re in what is called the Indian country.

332. What do you suppose to be the native population of the districts ou peculiarly claim as belonging to your company ?—I have no idea of the umber of the native population ; there are the Esquimaux, and other tribes, of whom we do not know much.

No. 1573.

**EXTRACT FROM THE MINUTES OF THE EVIDENCE
OF THE HONOURABLE
WILLIAM HGENRY DRAPER, C.B.,**

CHIEF JUSTICE OF THE COURT OF COMMON PLEAS OF UPPER CANADA,
BEFORE THE SELECT COMMITTEE OF THE HOUSE OF COMMONS
(IMPERIAL) APPOINTED TO CONSIDER THE STATE OF THOSE
BRITISH POSSESSIONS IN NORTH AMERICA WHICH ARE UNDER THE
ADMINISTRATION OF THE HUDSON'S BAY COMPANY OR OVER
WHICH THEY POSSESS A LICENSE TO TRADE. (REPORT FROM
SELECT COMMITTEE, ORDERED TO BE PRINTED 17TH AUGUST,
1857.)

Vide Joint Appendix, Vol. V, p. 2290.

No. 1574.

**CORRESPONDENCE RELATIVE TO BRISTEED'S
APPLICATION FOR LICENSE TO SEARCH FOR
CRYOLITE ON COAST OF LABRADOR, 1868.**

[30 June, 1868.]

HUDSON BAY COMPANY'S RECORDS.

MR. FREDERIC ROGERS TO THE EARL OF KIMBERLEY, 30TH JUNE, 1868.

Downing Street,
30th June 1868.

The Earl of Kimberley.

My Lord,

I am directed by the Duke of Buckingham and Chandos to transmit to your Lordship the enclosed copy of a letter which has been received from Mr. W. G. Bristeed, requesting authority to search for and to work the mineral cryolite on the Northern shore of Labrador between 56° and 60° North latitude. I am also desired to enclose a copy of a report upon this application from the Commissioners of Land and Emigration, and a copy of the answer returned to Mr. Bristeed.

I am etc.

(sd) FREDERIC ROGERS.

No. 1575.*[Enclosure No. 1 in No. 1574.]*

[4 May, 1868.]

**Mr. GEORGE WALLACE BRISTEED TO THE DUKE
OF BUCKINGHAM AND CHANDOS.**

HUDSON BAY COMPANY'S RECORDS.

21 Commercial Street,
Boston.

4th May, 1868.

Honorable Sir,

I am with others desirous of obtaining from you a right to search for the Mineral Cryolite and when found to work the same subject to what royalty per ton as you may think such raw material is worth, between the latitude of 56 to 60 degrees North Latitude on the Northern shore of Labrador also to extend our search into Hudsons Bay and as the exploration will be attended with considerable expense to warrant us as we are willing to try to find the mineral, if we can obtain the right to work the same if found—We therefore pray you to give us such authority—would say that the Cryolite has not been found anywhere but at Greenland but we are of opinion that it can be found in Labrador or Hudsons Bay.

Most respectfully.

(sd) GEORGE WALLACE
BRISTEED.

P.S. We understand that you are the only one to give the authority required—We wish to start from here in June and hope to hear from you by that time.

P.S. Would say I am a British subject but long resident here.

No. 1576.

[Enclosure No. 2 in No. 1574.]

[27 May, 1868.]

Mr. T. W. C. MURDOCK, EMIGRATION OFFICE,
TO Mr. ELLIOTT.

HUDSON BAY COMPANY'S RECORDS.

Emigration Office.
27th May 1868.

Sir,

I have to acknowledge your letter of the 25th instant with one from Mr. G. W. Bristeed of Boston United States, applying for permission to search for and work Cryolite on the Northern part of Labrador, and in the Hudsons Bay Company's Territory between 56° and 60° North Latitude.

2. The Territory indicated by Mr. Bristeed is almost entirely within the territories of the Hudsons Bay Company. It would be necessary, therefore, under present circumstances that the formal authority to search for and work the mineral should be given in the name of the Company. I presume, however, that no difficulty would arise on that account. The essential question is, therefore, what conditions should be attached to the Licence and what royalty the Licensee should be required to pay.

3. We have endeavoured to ascertain whether Cryolite is known in this Country as an article of Commerce—and if so at what price it is sold. We are informed, however, in the City that it is not so known, and that no price could be named for it. It is a mineral composed of :

Soda	.....	36
Alumina	.....	23.5
Fluoric Acid	.....	40.5

has hitherto, as Mr. Bristeed states, been found only in Greenland, and even in Denmark to which it was first imported, has not we believe been much used.

4. Under these circumstances and considering the absence of inhabitants in the Country where Mr Bristeed proposes to search for the mineral, we must of necessity depend very much on the information he may himself supply for fixing the royalty he is hereafter to pay. It appears to me that the simplest course would be to grant him in the first instance permission to search for the mineral during two years—on an undertaking on his part to report the result of his search, and to attest his report

by a declaration before a magistrate. It might at the same time be promised that, if his

p. 4140

search is successful, a licence to dig mines and work the mineral over a certain extent of Country for 20 years should be granted him, on condition of payment of a royalty equal to one twentieth of the gross proceeds of his working. It is clear, however, that for the return of such proceeds it would be necessary to depend altogether on Mr. Bristeed.

5. I have proposed two years for the search and years for the duration of the License because on the Coast of Labrador and the Hudsons Bay territory between the 56th° and 60th° of latitude it would be impossible to work for much more than 4 months in the year—and practically therefore those periods are much shorter than their nominal duration. It is for this reason no doubt that Mr. Bristeed is anxious to obtain the permission he solicits as early as possible so as not to lose the only available season of the present year.

I have etc.

(sd) T. W. C. MURDOCK.

No. 1576.

[*Enclosure No. 3 in No. 1574.*]

[30 June, 1865.]

**Mr. FREDERIC ROGERS TO Mr. G. WALLACE
BRISTEED.**

HUDSON BAY COMPANY'S RECORDS.

Downing Street,
30th June 1868.

George Wallace Bristeed Esq.

Sir,

I am directed by the Duke of Buckingham and Chandos to acknowledge the receipt of your letter of the 4th ultimo requesting authority to search for and to work Cryolite on the Northern shore of " Labrador " between 56° and 60° North latitude.

I am desired to inform you that there will be no objection to grant you the leave for which you apply for any of the lands in question which do not fall within the territories of the Hudsons Bay Company, but as the district is almost entirely within the Territories of that Company, I am to state that, so far as their jurisdiction extends, it will be proper for you to apply to the Company for the permission which you require.

His Grace desires me to add that when you shall have come to an understanding with the Company no difficulty will be raised on the part of the Crown in arranging the terms of the necessary Licence.

(sd) FREDERIC ROGERS.

No. 1578.

[23 June, 1870.]

**RUPERT'S LAND ACT, 1868 (31-32 VICT., CAP. 105,
IMPERIAL).**

Vide "Joint Appendix," Vol. I, p. 219.

No. 1579.

C

**IMPERIAL ORDER-IN-COUNCIL, 23rd JUNE, 1870,
WITH ANNEXED SCHEDULES, INCLUDING
DEED OF SURRENDER BY HUDSON'S BAY
COMPANY, DATED 19th NOVEMBER, 1869.**

Vide "Joint Appendix," Vol. I, p. 221.

Section IX. Supplementary.
Supplement to Part IV Section IV.
(Documents relating to the Hudson's Bay Company.)

[24 Dec. 1835.]

EXTRACTS FROM THE HUDSON'S BAY CO. HEAD
OFFICE RECORDS.

No. 1580.

**G. SIMPSON'S LETTER FROM LONDON TO JAMES
McKENZIE, ESQ.**

London, 24th December 1835.

James McKenzie Esq.
Quebec.

Dear Sir,

I have to acknowledge your communications of August and November, and to thank you for the information you have collected, and furnished me with respecting the operations and views of our opponents in Esquimaux Bay. The Governor and Committee seeing the propriety of extending the Honble. Cos. trade to the Northward and Westward from the St. Lawrence as a means of protecting that of their own territories, have authorised me to proceed therewith this ensuing spring. The agreement entered into by Mr. Keith and Lampson, in regard to the non-interference of the Company with the trade of Esquimaux Bay has long ago fallen to the ground, so that it is unnecessary to revert to it, and if Mr. D. R. Stewart counted on protection from that agreement he must be undeceived.

* * * * *

[1836-7.]

**EXTRACTS FROM JOURNAL OF OCCURRENCES OF
THE POST OF ESQUIMAUX BAY—HAMILTON'S
INLET—AS LAID DOWN BY CHARTS. 1836-7.**

June, 1836.

* * * * *

Sunday 12th June. A stormy night. About 10 a.m. the wind became favourable, we weighted. Mr. Robertson gave me the Balances of a few of his Indians, as they visit the Upper part of Esqx. Bay or rivers of that place. We had fine sailing all day.

* * * * *

Saturday, June 18th . . . “ We are completely misinformed as to the direct place where we were bound to, when I left Quebec. The place now is called ' Ionctoke or Hamiltons' Inlet ' the Bay itself is 90 miles and about 20 to 24 miles broad. At the entrance of the Bay Mr. D. R. Stewart has an establishment called Rigolette, and another at the bottom of the Bay, at the entrance of North West River, also a post at Kibocock, 80 or 90 miles to the Northward of Esqx. Bay, along the Coast. Mr. McKenzie says that the best year in furs, that were collected here, was procured by himself say 200 lbs. Beaver & 1200 Martens from Indians and Planters.”

* * * * *

July, 1836.

* * * * *

Tuesday 19th July. We arrived at the entrance of Esquimaux Bay at 2 p.m. Here we found Mr. D. R. Stewarts' establishment, called Rigolette. A Mr. Brownson—a petty trader on his own account, invited us to his house, and offered us any assistance. Mr. McKenzie landed about 4 miles below this to see a party of Indians, belonging to North West River (where we are bound for) and endeavour to get them to embark with us. They are tented with a planter of the name of Thomas Groves, who has kept them together, expecting Mr. McKenzie or some one else.

Wednesday, 20th July. 5 Indians with their families & Canoes arrived, they were treated with Biscuit, Pork & Grog. The planters here seem dissatisfied wt. Stewart. Mr. Davis is in charge here. The two brothers Pinette came over and hired to the Co. at £20 Cy. per annum for 2 years. I had been directed to secure these 2 men. As they are attending to their fisheries, I leave them there for the present . . .

* * * * *

Tuesday, August 16th . . . “ Our opponents from the number of men which they have will establish

Moolagan	. . . . .	2 men
Kinimo River	. . . . .	2 ”
Grand River	. . . . .	2 ”
Norht West River	. . . . .	2 ”

These outposts to intercept Indians at the same time to hunt Martins. We will be obliged to do the same, but our operations will be late, as we have no buildings up as yet.”

* * * * *

Sunday, October 16th. Fine weather. William & John Mesher with their families arrived to be equipped by us. They are planters, the former to winter in Goose Bay. At the bottom of Esqx. Bay, and the latter up Grand River about 8 miles above Groves.

* * * * *

Monday, October 17th. Snow and sleet. Equipping the Meshers some of Comeau's people off up North West River (by rights this river ought to be called Hamilton, as laid down by Chart—as well as this Bay, instead of Esquimaux Bay) and 2 men in a boat for Kinimish. The men variously employed. Having sent McKay & Clouston to assist Groves to his ho. they returned today. Some Indians have cast up at Kinimo River but instead of going to see Mr. Nolin, they visited the opponents, and delivered best part of their furs. Mr. Nolin in the first place was outwitted in the Fall, for as soon as the opponents found Mr. N. along side of him, then they decamped, and built about half a league above him, but he ought to have followed them. This may account, that the Indians did not know where Mr Nolin was. This intelligence I received by a note from Mr. McKenzie today. McKay brought it.

* * * * *

January, 1837.

Saturday, January 7th, 1837. The planters off by break of day. They will have bad roads. The men working at various jobs. At 6 p.m. arrived old Ushita with 3 Nascopies, one of them is the Great Chief of that tribe. They were 13 days coming here, and left 5 more of their party about 4 days march off. They are not coming here. A voyage is now necessary to be made there. These Indians brought some furs. Stormy weather.

* * * * *

Monday, January 9th. Equipped the Nascopies and the following furs were recd. viz. 23 deer skins, 48 Martins, 1 Rat,

23 Sinews, 1 white fox, 1 Mink, 3 large Beavers, and 5 small Beaver. They say that they suppose that

p. 4146

Mr. Erlandson has a fort about 2 days march beyond Meshegamau Lake, for they observed smoke in the direction of Lake Pa Ki, she, que baw.

* * * * *

Wednesday, January 18th. Early in the morning I sent off the Indians of the 16th and I left the House in charge of Sinclair to go to Mesher to see if I can manage to get a House sawed in planks of 3 In. thick, I intend it should be 24 feet square, and to be placed at Rigolette. . . .

* * * * *

Wednesday, January 25th. Cold day, Alic went to Kinimish to gather leather and bring home a few Paris snow shoes. The men employed bringing fire wood. At night Mr. J. McKenzie and party cast up with 2 Nascapies. They were not altogether and he was obliged to go from one camp to another to collect what he brought. The first or second day after they left this, they killed some deer, which was put on a scaffold. We shall go for this meat in due time.

* * * * *

[1 Mar., 1844.]

**EXTRACT FROM LETTER FROM SIR GEORGE
SIMPSON TO WILLIAM NOURSE, Esq., NORTH
WEST RIVER, ESQUIMAUX BAY.**Lachine, near Montreal.
1 March, 1844.

5. In order that I may perfectly understand the appropriation of your people I have to beg that you embody in your letter (in order to avoid the necessity of reference to documents) a sketch as follows :

North West River . .	C.T. Nourse and Men			
Sandy Banks . .	Mr.	”	”	”
Rigolet . .	”	”	”	”
Gull Island . .	”	”	”	”
Kibokok . .	”	”	”	”
Schooner . .	”	”	”	”

Ungava distinguishing the posts, with the names of the persons in charge and number of men at each.

* * * * *

19. Under the foregoing follows :

North West River . .	C.T. Nourse			
Sandy Banks . .	D. Henderson			
Mainwan Lake . .	Geo. Alder			
Rigolet . .	G. Anderson			
Kibokok . .	J. Anderson	or B. Vernall		
Fort Nascopie . .	W. Kennedy			
Gull Island . .	J. Noku			
New Post . .	Person to be	replaced by H. Connolly		

* * * * *

21. In order to prevent confusion as to names for instance Ungava, Ft. Chimo, Ft. Siveright, &c. I have to beg that all the posts be included in the Esquimaux Bay district, and that the names of abandoned posts, such as Ft. Siveright, Georges River, Ft. Chimo names quite unauthorised be discontinued, as the great variety and chopping and changing of such names,

tends to perplex those who have to wade through the documents. The posts now comprehended in the district is to be understood are :—

North West River

Sandy Banks

Rigolet

Gull Island

Kibokok

Fort Nascopie

Mainwan Lake and

New post to be formed for the convenience of the Ruperts River Indians, which you will name after the Lake on which it is to be situated. And I have to beg that you transmit a rough chart of the district marking the situations of the several posts, placing them according to Lat: and Long: as nearly as may be agreeable to what their positions ought to be on Arrowsmith's Chart of which you have a copy.

* * * * *

[25th Oct., 1851.]

**EXTRACT FROM G. SIMPSON'S LETTER FROM
LACHINE TO ARCHIBALD BARCLAY,
SECRETARY HON. HUDSON'S BAY COMPANY.**

Lachine, 25th October, 1851.

. . . . “ One of the parties opposed to the Company in Esquimaux Bay has been appointed Justice of the Peace for Newfoundland, which gives him a great deal of importance in the eyes of the inhabitants, Whites & Natives, the Company's representative, since such appointment being considered an inferior person—which, to some extent, militates against the Company's interests. I shall, therefore, endeavour to get Mr. Smith appointed a magistrate and if he could likewise be appointed Lloyds' agent (which would not entail much trouble or responsibility) it would raise him still higher in the estimation of those by whom he is surrounded. This situation, to which it is understood no salary is attached, was obtained a few years ago for the Company's officers on the Gulf of St. Lawrence, and if it could be procured in like manner for Mr. Smith, I should consider it very desirable”

[G. Simpson's letter from La Chine. Recd. November 10/51.]

[26th March, 1852.]

**EXTRACT FROM SIR G. SIMPSON'S LETTER FROM
LACHINE TO B. HARDISTY, ESQ., AND
D. A. SMITH, ESQ.**

Lachine, 26th March, 1852.

. . . . “ After Mr. Hardisty's departure, Mr. Smith will of course take charge of North West River, Mr. McPherson I presume will be the fittest officer to succeed him at Rigolet, Mr. Grant remaining at Kibokok & Mr. Connolly at Fort Nascopie. All the officers at present in the district being thus employed & no one disposable for the purpose of establishing a Post at Indian Harbour or elsewhere, as circumstances may render necessary, with a view to checking the proceedings of the petty traders who are becoming more troublesome from year to year. I purpose sending by the 'Independence' a Postmaster or clerk, possessed of sufficient experience in the trade to supply the vacancy.”

* * * * *

[27th July, 1852.]

**EXTRACT FROM G. SIMPSON'S LETTER FROM
LACHINE TO D. A. SMITH AT
ESQUIMAUX BAY.**

Lachine, 27th July, 1852.

. . . . “ Herewith you will receive a commission appointing you a justice of the peace for the Province of Newfoundland, an appointment which I trust may prove of benefit not only to the Company's interests, but to the Community at large, by enabling you to enforce obedience to the laws and to maintain peace and good order. It would be proper that you should be sworn into office, and a document was to have been drawn up by the Attorney General to enable Mr. Hardisty or Captain Hoffman to administer the necessary oath, but has not come to hand in time to be forwarded by this opportunity. You may, however act under your commission without being sworn, but it is just possible that, in a case of importance, a technical legal objection might be raised on that ground, but such a difficulty is not likely to arise immediately, and next year I hope to forward the necessary documents to have you sworn in”

(Fm. Simpson's correspondence, 1st April, 1852-31st December, 1852, p. 99.)

**EXTRACT OF LETTER FROM G. SIMPSON TO
DONALD A. SMITH, ESQ.**

[23rd March, 1854.]

Lachine, 23rd March, 1854.

* * * * *

Owing to unfortunate circumstances which have retarded our affairs at East Main, it is necessary to postpone for 2 or 3 years the re-establishment of Ungava Bay ; consequently no change will at present be made in the arrangements connected with Fort Nascopie. We may possibly advance our Outposts from the Eastmain quarter in the direction of the height of land dividing it from Labrador but our object will be not to draw the Nascopies from their present post, but to hunt a section of Country supposed to be productive in valuable furs which is not now visited by the Indians from either side.

* * * * *

[15 Nov., 1856.]

**EXTRACT FROM LETTER TO JOHN SHEPHERD,
ESQ., SECRETARY, HUDSON'S BAY COMPANY,
LONDON, FROM G. SIMPSON.**

Confidential.

Lachine, 15 Novr., 1856.

* * * * *

7. With reference to your enquiry respecting the boundaries of the Company's territory on the Canada side, and the nature of the intervening country, an attempt is now being made to deprive the Company of a part of their territory on the ground that it was in the possession of the French, and formed part of Canada, at the time the Company's charter was granted, from which are specially reserved all lands in the actual occupation of any Christian Prince. It would be very difficult to make this claim good, or to skew that the Company's territory was ever known to the French, but it serves to indicate the anxiety to found a claim as a basis of operations. The boundary between Ruperts Land and Canada, that as we have always understood it, is the range of hills or height of land, that divides the waters flowing into Hudson's Bay from those which find their outlet by the St. Lawrence. The most easterly extremity of that dividing ridge is near Cape Chudleigh at the entrance of Hudson's Straits from whence it runs southerly through Labrador, the rivers flowing from one side into the Atlantic and from the other into Ungava Bay and Eastmain. It then takes a westerly course parallel with, but from 200-300 miles north of the St. Lawrence and its main tributary the Ottawa, near Temiscamigue when it approaches Lake Hudson, and then runs round Lake Superior into United States territory, where it is unnecessary to follow it. All the rivers which take their rise on the North side of the line of hills above traced flow into Hudson's Bay and we claim that the lands lying along all those rivers up to their very sources, are embraced in the Company's Charter.

* * * * *

[22nd July, 1863.]

**EXTRACT FROM LETTER FROM DONALD SMITH
TO THOMAS FRASER, ESQ., HUDSON'S BAY HOUSE,
LONDON.**Recd. Sept. 11/63.
Ansd. May 13/64.Cartwright, Sandwich Bay.
22nd July, 1863.

* * * * *

I would beg to bring to the notice of the Board a new branch of business which from the minute enquiries I have made, I feel convinced would be attended with considerable profit, and for carrying on which one of our stations in Esquimaux Bay is well adapted. I refer to preserving Salmon fresh in tins. This business has been carried on by Messrs. Hunt & Henley for several years back, and that it has been amply remunerative may be inferred from the fact that this season they have entered much more largely into it, intending to preserve not less than 50,000 lbs. but we are not left to conjecture on the subject for their agent Mr. Goodridge who for some cause, possibly owing to some recent changes in the conduct of their business, is at present more than usually communicative assures me that it is far the most profitable part of their business. . . .

* * * * *

[4th June, 1869.]

**EXTRACT OF LETTER FROM D. SMITH TO
WILLIAM G. SMITH, ESQ., SECRETARY, HONBLE.
HUDSON'S BAY COMPANY, LONDON.**

Montreal, 4th June, 1869.

Sir,

Mr. Hopkins will reply to your communication of the 20th May addressed to him, and I have to acknowledge receipt of your letter of the same date to my address, covering invoice of goods shipped per " Ocean Nymph " for Hamilton Inlet and conveyance by Mr. A. B. Hunt to the Company of his Fishing and trading establishments at Davis Inlet and Paul's Island. The latter document will be sent to Newfoundland for registration .

...

I am, Sir,

Your obedient Servant,

(Sgd) DONALD SMITH,

[2 Mar., 1775.]

Supplement to Part VII (Correspondence documents and papers relating to the history of the administration of the Coast of Labrador).

No. 1590.

**ROBERT HUNTER TO EARL OF DARTMOUTH,
CANADIAN ARCHIVES, 1885.**

[HALDIMAND PAPERS, B. 2-1, page 137.]

[2 Mar. 1775.]

My Lord—When I had the honor of seeing your Lordships yesterday relative to some difficulties likely to arise on the Coast of Labradore by the operation of the New Quebec Laws, you were so good as to permit me to state the same in writing, that your Lordship might thereby be enabled to give the necessary Instructions to Governor Carleton on that matter.

Immediately after the conquest of the Province of Canada some of the English Settlers became adventurers in the Seal, Salmon, and Cod fisheries on that Coast, Mr. Lymburner a correspondant of mine was one of the first and principal, he purchased from the French some sealing posts, and when Labradore was put under the Government and subjected to the fishing laws of Newfoundland he in virtue of those laws took possession of some other fishing posts which never had been occupied ; those have been settled at a very great expense and he had continued to hold them, by observing and complying with the different Regulations from time to time made by Governor Palliser and others, particularly in sending out a fishing Vessel annually from Great Britain. Mr. Lymburner has at present effects to the amount of £6000 at his different Posts on the Coast of Labradore and employs a great number of Men, and had he not been supported by me and supplied with large Sums of Money to carry him through this extensive undertaking, he must soon have failed in the prosecution thereof, which was the fate of most of the other adventurers.

In consequence of annexing the above Coast to the Government of Quebec, to take place in May some of the French Inhabitants have thought proper to lay claim to some of the Posts settled and now occupied by my correspondent, founded as they say on Grants formerly made to them of their predecessors by the French King.

I have therefore most earnestly to request your Lordship that directions may be given—when such claims have undergone a proper examination in Canada if found Valid for any of the Posts, that Mr. Lymburner may have a reasonable

time allowed him to withdraw his effects from such posts,
other-wise he will suffer a manifest injury.

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And with regard to those he now occupied, after having
settled at a great expence, which are not comprehended in any
grant and consequently not claimed by right—I pray your
Lordship will desire Governor Carleton to allow Mr.
Lymburner in the quiet possession thereof a preference with
regard to such Posts, he is in every respect entitled to.

I have only farther humbly to request your Lordship will
give the necessary Instructions on this matter as soon as may
be convenient.

I am etc.,

(Sgnd) ROBERT HUNTER.

10 Coleman St.,
March 2nd, 1775.

The Rt. Honble EARL OF DARTMOUTH.

**SIR FREDERICK HALDIMAND TO
VISCOUNT KEPPEL.**

[22 Oct., 1782.]

(HALDIMAND PAPERS, CANADIAN ARCHIVES, OTTAWA. B. 55, p. 223)

[22 Oct. 1782]

“ My Lord : I have the honor to enclose a petition from several merchants of this place, concerned in the fisheries and Indian Trade on the Labradore coast. In case their Lordships should upon consideration be of opinion that two or three small vessels might be usefully employed in the manner set forth in the petition, I have to recommend that they be sent out so as to arrive in the Gulph of St. Lawrence and be confined solely to that object, and be under the command of the Admiral or Officer Commanding at Newfoundland, who must be better judges of what is fit and necessary than Capt. Schanks or any other officer whose duty obliges them to reside at Quebec or elsewhere within this Province.”

**EXTRACT FROM SIR FREDERICK HALDIMAND'S
PRIVATE DIARY.**

[5 March 1786.]

(HALDIMAND PAPERS IN CANADIAN ARCHIVES, OTTAWA.)

March 5, 1786. (Extract.) “ Was at the Court with Major Mathews. . . . Met Sir Charles Douglas, whom I did not recognize. He told me that he had driven all the Americans from our posts, that is, that he had prevented them from cutting wood to melt the blubber of the whales they took in the Gulph ; that having received no instructions on the subject, he believed that the only means of proceeding was to be extremely exact in observing the Treaty of Peace ; and that if his successors would follow the example, American fisheries would be considerably embarrassed.”

Privy Council
Documents

Volume VIII
Contents

Supplement to Part VIII (Documents,
papers and correspondence relating
to acts of administration and occupa-
tion on the Coast of Labrador.

[22nd March, 1910.]

Enacting clause.

**B. REGULATION, CONTROL AND PROTECTION OF
FISHERIES.**

Fishery on Labrador
in steamer prohibited.

No. 1593.

NEWFOUNDLAND ACT, 10 ED. VII, CAP. XXXIV.

AN ACT TO PROHIBIT THE PROSECUTION OF THE LABRADOR FISHERY IN
STEAM VESSELS.

Recovery of penalties.

[Passed 22nd March 1910]

Appeal.

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

Saving treaty rights.

1. It shall be unlawful to prosecute the codfishery within
three marine miles of the coast of Labrador, and the islands
adjacent thereto, in vessels propelled by steam, under a penalty
not exceeding five thousand dollars, nor less than one thousand
dollars. Obtaining and distributing bait, and conveying crews,
gear and outfits to the said coast shall not be held to be
prosecuting the codfishery.

2. Penalties hereunder may be sued for and recovered in a
summary manner before a Stipendiary Magistrate.

3. Either party to an action may appeal from the Judgment
of a Stipendiary Magistrate to the Supreme Court, on giving
security to abide the result.

4. Nothing in this Act shall affect the rights and privileges
granted by treaty to the subjects of any State or Power in amity
with His Majesty.

No. 1594.

AFFIDAVIT OF F. C. BRIEN.

IN THE PRIVY COUNCIL.

[20th March, 1926.]

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND IN THE
LABRADOR PENINSULA.

I, FREDERICK COLMAN BRIEN, special Officer of the
Department of Finance and Customs of Newfoundland, make
oath and say as follows :

1. Acting under instructions of the Hon. Minister of
Finance and Customs to compile a statement from the various
Departments of the Government of the amounts paid on
account of public services for Labrador for the fiscal years
ending June 30th, 1924 and 1925, I have prepared the
statements attached hereto :

A summary statement marked " A,"
A detailed statement marked " B 1 to 11."

2. These statements are correct to the best of my
knowledge and belief, and give, as far as was possible for me
to ascertain from the various Departments, the amounts spent
by the Colony of Newfoundland in public services for
Labrador during these years.

F. C. BRIEN.

Sworn at St. John's, Newfoundland,
this 20th day of March, 1926.

D. O. KENT,
Commissioner S.C.

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A.

SUMMARY OF LABRADOR EXPENSES.

	1923-24	1924-25
	\$	\$
Labrador Steamship Service . .	44,582.43	54,049.98
Department of Marine and		

Fisheries	. .	6,554.50	28,282.50
Department of Public Charities :			
—			
Able bodied Pauper Relief	. .	34,416.29	12,670.32
Social Services and Public Health	. .	14,915.24	13,951.60
Labrador Steamship Subsidies	. .	89,170.08	38,671.66
Wireless Station Subsidies	. .	7,136.56	7,136.56
Postmasters as per list attached	. .	3,537.23	3,744.49
Couriers as per list attached	. .	2,155.00	2,075.00
Department of Customs :—			
Collectors' Salaries	. .	5,941.30	6,526.16
Tidewaiters' Salaries	. .	1,533.85	510.50
Office Expenses	. .	102.48	78.00
Travelling Expenses	. .	179.75	920.90
Board Expenses	. .	1,275.70	949.00
Boat Hire	. .	89.91	140.00
Department of Education :—			
Church of England	. .	4,304.00	5,607.00
Roman Catholic	. .	908.45	908.45
Methodist	. .	2,215.79	2,726.40
Department of Justice :—			
Legal and Travelling Expenses	. .	27,247.41	9,945.07
		\$246,265.97	\$188,893.59

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B 1.

STATEMENT OF EXPENSES
ON
ACCOUNT OF LABRADOR STEAMSHIP SERVICE

1923-24 AND 1924-25.

Season 1924	\$44,582.43
Season 1925	54,049.98

NOTE.—This service performed by
S.S. Sagona.
S.S. Meigle.

B 2.

MARINE AND FISHERIES.

LABRADOR SERVICES.

		1923-24	1924-25
		\$	\$
Fishery Warden, Straits (new service)	. .	—	330.00
Labrador Wardens do.	. .	—	1,104.00
Fishery Service, “ Earl of Devon ” Subsidy (new service)	. .	—	17,550.00
<u>Lighthouses :—</u>			
Double Island	. .	850.00	800.00
Domino	. .	544.00	694.00
Indian Tickle	. .	760.00	710.00
Cape North	. .	528.00	678.00
Pack's Hr.	. .	528.00	678.00
Cut Throat	. .	528.00	678.00
Winsor's Hr.	. .	540.00	690.00
Manuel's Is.	. .	540.00	690.00
Cape Harrison	. .	540.00	690.00
Ford's Harbour	. .	540.00	690.00
Red Bay	. .	656.50	726.50
Assize's Harbour, Construction	. .	—	1,574.00
		—————	—————
		\$6,554.50	\$28,282.50

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B 3.

DEPARTMENT OF CHARITIES.

		1923-24	1924-25
		\$	\$
<u>Able-bodied Pauper Relief.</u>			
Labrador, Edward Neill, Relieving Officer	. .	17,247.96	5,749.18
Hudson's Bay Co.	. .	6,152.34	599.60
Blanc Sablon, Jno. Butt, Relieving Officer	. .	11,015.99	1,208.42

Labrador, Lewis Dawe	.	.	—	1,315.86
Josiah Gosse	.	.	—	3,797.26
			_____	_____
			\$34,416.29	\$12,670.32
			_____	_____
Salary Relieving Officer	.	.	97.50	97.50
Orphanage Cartwright	.	.	1,559.34	1,251.25
Deep Sea Mission, Battle Harbour Hospital	.	.	2,000.00	2,000.00
Deep Sea Mission, Indian Hr. Hospital	.	.	1,000.00	1,000.00
Moravian Church Mission	.	.	200.00	—
Conveyance Sick Fishermen	.	.	5,126.20	4,024.65
Public Health	.	.	4,932.20	5,578.20
			_____	_____
			\$14,915.24	\$13,951.60
			_____	_____
Total	:		\$49,331.53	\$26,621.92
			_____	_____

B 4.

LABRADOR SUBSIDIES.

1923-24

July	. S.S. Sagona	. .	4,000.00
August	. S.S. Senef	. .	12,500.00
	S.S. Ranger	. .	7,035.00
	S.S. Sagona	. .	4,000.00
Sept.	. S.S. Seal	. .	11,625.00
	S.S. Sagona and Meigle	. .	8,000.00
October	. S.S. Senef.	. .	12,500.00
	S.S. Portia	. .	9,868.00
	S.S. Meigle	. .	8,000.00
	S.S. Watchful	. .	1,821.04
June	. S.S. Portia	. .	4,000.00
	S.S. Sagona	. .	4,000.00
	Proportion of costs operating Stag Bay, 10% paid by Department of Posts and Telegraphs		1,821.04
			<hr/>
			\$89,170.08
			<hr/>

B 5.

LABRADOR SUBSIDIES.

1924-25

July	. S.S. Sagona	. .	4,000.00
”	. S.S. Meigle	. .	4,000.00
August	. S.S. Meigle (2 trips)	. .	8,000.00
September	. S.S. Meigle (1 trip)	. .	4,000.00
October 14th	. S.S. Earl of Devon (a/c A.C. Peters)	. .	1,000.00
” 23rd	. S.S. H.A. Walker (Sept. 12 to Oct. 11 at \$115.00)	. .	3,450.00
” 31st	. S.S. Meigle (1 trip)	. .	4,000.00
Nov. 12th	. S.S. Earl of Devon	. .	3,650.00
Dec. 2nd	. S.S. Meigle (1 trip)	. .	4,000.00
” 12th	. S.S. H.A. Walker (Oct. 12th to 22nd—11 days)	. .	1,265.00

” 16th S.S. Wren (Aug. 24th to Sept. 16th—14 days) . 1,306.66

\$38,671.66

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B 6.

WIRELESS STATION SUBSIDIES.

	1923-24	1924-25
	\$	\$
Battle Hr. (Increase) on annual subsidy for this Station from 1922	2,500.00	2,500.00
Battle Hr.	—	—
Cape Harrison	—	—
Domino	—	—
Flat Islands	4,636.56	4,636.56
Grady	—	—
Holton	—	—
Macovick	—	—
Smokey	—	—
Venison Islands	—	—
	_____	_____
	\$7,136.56	\$7,136.56
	_____	_____

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B 7.

POSTMASTERS LABRADOR SERVICE 1923-24 AND 1924-25.

Name of Place.	Official.	1923-24.	1924-25.
Clerk Mail	T.B. LeGrow	658.42	694.13
	John Guppy	584.42	—
	Tobias LeDrew	—	270.00
	E.J. Dominy	—	666.53
Stag Bay	F.P. LeGrow	648.49	—
	Newfoundland Government Railway	—	316.10
Batteau	John J. Sheehan	21.95	24.38
Battle Harbour	J.T. Croucher	175.00	—
	S. Loveridge	—	260.00
Blanc Sablon	J. Butt	157.50	78.75
Black Island	Abram Snow	18.75	24.38

Black Tickle	S. Hampton	24.37	24.38
Bolsters Rock	Thos. H. Clarke	22.00	24.38
Cape Charles	Silas Pye	21.95	—
	M. Pye	—	24.38
Cartwright	Hudson Bay Company	60.00	67.50
Cape Harrison	William Baggs	18.75	—
Chatteau	William George	22.50	23.40
Chimney Tickle	George Stevenson	18.75	24.38
Comfort Bight	J.W. Hiscock	24.38	24.38
Dead Island	Prescott Parsons	21.95	24.38
Domino	Mrs. Thos. J. Nosworthy	21.95	24.38
Emily Harbour	Charles Butt	26.33	29.25
Fishing Ships Hr.	Lewis Dawe	18.75	24.38
Fords Hr.	William Ford	40.00	—
Forteau	A.A. Hart	70.20	39.00
Francis Hr.	Ed. B. Joyce	21.95	—
Georges Hr.	Ed. Snow	—	37.50
Griffins Hr.	Jos. Boone	27.50	—
Grady	John McRae	—	48.76
Hawkes Hr.	P.F. Sullivan	18.75	—
	T.D. Kennedy	—	24.38
Henley Harbour	John Stone	21.95	24.38
Hebron	F.E. McLeary	20.00	—
Holton	William Hiscock	21.95	—
	William Lahey	21.95	—
Hopedale	E.M. Perrett	30.00	30.00
Horse Harbour	John Seymour	21.95	24.00
Indian Harbour	C.A. Jerrett	26.33	29.25
Indian Tickle	Samuel Petter	21.95	24.38
Iron Bound Id.	J.C. Snow	21.95	19.50
Lance au Clair	Peter Beaudoin	—	19.50
Lance au Loup	William Cabot	32.76	36.40
Lance au Mour	George Davis	6.00	—
Lourdes	John V. LeGresley	25.00	25.00
Macovick	Bertha M. Anderson	20.00	20.00
”	Thomas Dunn	18.75	—
”	Thomas Anderson	—	26.00
Nain	T.N. Grubb	30.00	30.00
North West River	Hudson Bay Company	20.00	19.50
Occasional Hr.	Robert Dawe	21.95	24.38
		_____	_____
	Forwarded	\$3,127.10	\$3,152.20

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B 8.

POSTMASTERS LABRADOR SERVICE 1923-24 AND
1924-25 *contd.*

Name of Place.	Official.	1923-24.	1924-25.
	Brought forward	\$3, 127.10	\$3, 152.29
Pleasure Harbour	Samuel Allan	18.75	24.38
Packs Harbour	21.95 S. Dawson	21.95	24.00
	24.00 Wm. Dawson		
Ragged islands	Jas. Parsons, Sr.	21.95	24.38
Red Bay	39.00 W.Y. Pike	39.00	39.00
	39.00 Jas. Gibbons		
Red Point	Michael Kennedy	21.95	24.38
Rigolet	Hudson Bay Co.	20.00	77.12
Sandy Islands	A. Sheppards	18.85	24.38
Sand Banks and Griffins Harbour	John Boone	—	30.00
St. Francis Harbour	Ed. B. Joyce	—	24.38
Seal Islands	Mrs. H. Hopkins	20.00	20.00
Ship Harbour	Robt. Bradbury	21.95	24.38
Smokey	J.W. Hiscock	24.38	24.38
Snug Harbour	Thos. Finn	21.95	24.38
Spear harbour	Thos. Earle	20.00	24.38
Spotted Islands	Samuel A. Dawe	18.75	24.38
Square Islands	John Campbell	18.75	24.38
Turnavisk West	Wm. Barrett	18.75	24.38
Triangle Harbour	Frances Jeffers	—	12.00
Venison Island	22.50 J.A. Foote	22.50	24.38
	24.38 Harry Soper	—	—
Webbers Cove	Mrs. James Reid	22.00	24.38
	Samuel Brown		
West St. Modeste	Herbert Fowler	20.00	—
White Bears	E.G. Cramm	—	24.38
Wolf Islands	18.75 Levi Butt	18.75	24.38
	24.38 Ed. Fitzgerald		
		_____	_____
		\$3,537.23	\$3,744.49
		_____	_____

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B 9.

POSTAL COURIERS.

	1923-24	1924-25
	\$	\$
Blanc Sablon	300.00	300.00
Blanc Sablon and Battle Harbour	300.00	300.00
Hudson Bay Company Blanc Sablon	300.00	300.00
Battle Hr. and Hatters Cove	10.00	50.00
Battle hr. and Long Pond	195.00	225.00
Rigolet and North-West River	740.00	590.00
Rigolet, Macovick and Cartwright	310.00	310.00
	-----	-----
	\$2,155.00	\$2,075.00
	-----	-----

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B 10.

CUSTOMS EXPENSES, LABRADOR.

Name.	Port.	Salary.	Salary Tide- waiter.	Offices.	Travelling.	Board.	Boat Hire.	—
		\$	\$	\$	\$	\$	\$	\$
1923-24—								
J. Butt	Blanc Sablon	995.40	19.00	29.20	28.40	76.00	69.91	
M. Murphy	Cartwright	995.40	1,004.35	57.00	60.45	176.00	—	
Ed. Neill	Labrador E.C.	995.40	—	—	—	388.00	—	
William Parsons	Rigolette	995.40	510.50	16.28	73.30	312.00	20.00	
T. O'Brien	Straits Belle Isle	394.75	—	—	—	—	—	
M. Thomey	do.	328.95	—	—	—	—	—	
H.F. Hennessey	do.	261.00	—	—	—	101.70	—	
M. Bartlett	Battle Harbour	975.00	—	—	17.60	222.00	—	
		5,941.30	1,533.85	102.48	179.75	1,275.70	89.91	9,122.99
1924-25—								
J. Butt	Blanc Sablon	1,150.44	—	—	106.05	70.00	125.00	

M. Murphy	Cartwright	1,150.44	—	57.00	59.15	150.00	—
Ed. Neill	Labrador E.C.	1,150.44	—	—	485.40	40.00	—
W. Parsons	Rigolette	1,150.44	510.50	21.00	217.50.30	312.00	15.00
M. Thomey	Straits Belle Isle	949.40	—	—	—	135.00	—
M. Bartlett	Battle Hr.	975.00	—	—	52.80	242.00	—
		6,526.16	510.50	78.00	920.90	949.00	140.00
		12,467.46	2,044.35	180.48	1,100.65	2,224.70	229.91
							9,124.56
							18,247.55

p. 4173

B 11.

COST OF EDUCATION ON THE LABRADOR.

	1923-24	1924-25
	\$	\$
<i>Church of England</i>		
Grants to Boards	3,998.00	5,223.00
Augmentation Grant	306.00	384.00
	—————	—————
	\$4,304.00	\$5,607.00
	—————	—————
<i>Roman Catholic</i>		
Grants to Boards	658.45	658.45
Augmentation	250.00	250.00
	—————	—————
	\$908.45	\$908.45
	—————	—————
<i>Methodist</i>		
Grants to Boards	1,886.18	1,968.12
Augmentation	329.61	758.28
	—————	—————
	\$2,215.79	\$2,726.40
	—————	—————

Full figures for Roman Catholic not available.

No. 1595.

IN THE PRIVY COUNCIL.

[28th Sept., 1926.]

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND IN THE
LABRADOR PENINSULA.

1. EDWARD COLPITTS ROBINSON, F.R.G.S., of 32, Crescent Grove, Clapham Common, London, England, make oath and say as follows :—

(1) Between the years 1905 and 1916, I spent, altogether, about six years in Labrador, including two whole winters. I acted as Agent for the London and Labrador Corporation, which was a Lumber Company, and had areas totalling 1,000 square miles from the Newfoundland Government, located on both sides of the inner section of Hamilton Inlet, extending up the Mulligan, North West, Kennimmoo and Kenimish Rivers. I have travelled north as far as the most northern point, Cape Chidley, and south into Canadian territory. My work was prospecting. I have travelled inland 30 miles beyond the Muskrat Falls. I am the author of a book on Labrador entitled “In an Unknown Land,” published in 1909.

(2) I was acquainted with all the hunters and trappers on Labrador more particularly with those at the head of Hamilton Inlet, which is about 150 miles from the open coast. The hunters and trappers all live at the heads of bays and inlets and trap a long way inland, often as far up as the Grand Falls. I know several trappers who have talked to me of their journeys up there. The inhabitants of this district are all of British descent. Malcolm Maclean, who is the leading character in the district, came from the Orkney Islands and settled here some sixty years ago. The other inhabitants are descended from Britishers who settled in Labrador many generations ago.

(3) I was also familiar with the salmon fisheries near mouth of the Kenimish River in Hamilton Inlet and at Eagle River in Sandwich Bay. Newfoundland regulations forbid commercial fishing in any river, no nets being allowed in the rivers or within 200 yards of their mouths. In addition to salmon, there are thousands of seals in the inner part of Hamilton Inlet up to Grand River. The inhabitants catch these seals, use the skins for various purposes and also sell them to the Hudson's Bay Company.

(4) I have known instances of the Newfoundland criminal laws being enforced at North West River in Hamilton Inlet, and at the heads of other bays by Dr. Grenfell and others,

holding Commissions as Justices of the Peace from the Government of Newfoundland. On one occasion, I acted as policeman for the purpose of legal proceedings by Dr. Grenfell, against a

p. 4175

man who had contravened the liquor laws. He committed the offence up the Hamilton River, and Dr. Grenfell imposed a fine of \$100.00 on him, but the sentence was afterwards remitted by Governor MacGregor, when he visited the region. Newfoundland fishermen come up Hamilton Inlet and other bays to cut spars for their boats and timber for all fishery purposes. The liverymen also cut timber for house building and they supply wood to the Mission steamers and the fishing vessels for fuel and cooking purposes.

(5) The Indians, both Montagnais and Nascoopies, come out and sell their furs at Sandwich Bay, North West River and Davis's Inlet. I have met them at North West River and at Paradise River in Sandwich Bay, and I have known of them going from North West River to Davis's Inlet.

(6) In times of distress, relief is distributed among the inhabitants of eastern Labrador by the Newfoundland Government through the agency of the Hudson's Bay Company. In such cases, the persons relieved frequently cut timber and make boats which are sold and the proceeds credited to the Newfoundland Government to the best of my knowledge and belief. The Moravian settlements relieve the natives who are attached to them, and in return the Newfoundland Government allows the Moravians to import their supplies free of duty.

(7) Hamilton Inlet exists right up to the mouth of the River and the name Lake Melville is not known to the inhabitants. The mouth of Hamilton River is located in Goose Bay. Portions of Goose Bay have been rendered shallow by river deposits of sand, etc., which have been shifted about by the tides, but a passage always remains open for large vessels. I have myself seen a steamship of about 2000 tons, the "Briardene," at Mud Lake up the Hamilton River, from whence it took a cargo of lumber to England which was sold at Liverpool. The rise and fall of the tide is discernible in the Hamilton River up to the Muskrat Falls ; and about half way up to the Muskrat Falls there is some salinity in the water.

Sworn at No. 1 Lincoln's Inn Fields in the
County of London this 28th day of
Sept. 1926.

EDWARD C. ROBINSON.

Before me,
CHAS. T. NICHOLLS,
A Commissioner of Oaths.

Privy Council
Documents

Volume VIII
Contents

Hopedale, august
10th. 1856. pp. 101-
108.

10 Aug., 1856.

D. RELATING TO THE SETTLEMENTS AND WORK OF
THE MORAVIAN MISSIONARIES:

No. 1596.

**EXTRACTS FROM "PERIODICAL ACCOUNTS
RELATING TO THE MISSIONS OF THE
CHURCH OF THE UNITED BRETHREN,
ESTABLISHED AMONG THE HEATHEN."**

[Vol. XXII. London, 1856.]

LETTERS RECEIVED BY THE BRETHREN'S SOCIETY FOR THE
FURTHERANCE OF THE GOSPEL, IN THE YEAR 1856, FROM THE
MISSIONARIES ON THE COAST OF LABRADOR.

" Dear Brethren,

* * * * *

" We are sorry to state, that, on the 17th of July, an evil-
disposed Esquimaux, named Jacob, fired twice at Br. Elsner,
each time with two balls, because the latter had called him to
account for stealing. Through the Lord's gracious care, no
injury was done. We could not possibly allow this dangerous
character to remain on our land ; and, as he behaved almost
like a madman, we had him tied, and carried southwards in a
boat, with all that belonged to him. As we have here neither
magistrate nor police regulations, we scarcely know how to act
in such a distressing case as the above, fearing to be either too
forbearing on the one hand, or too severe on the other.

pp. 480-482.

* * * * *

" Commending ourselves and our congregation to your
sympathizing intercession, and with kind salutations, we
remain, your affectionate Brethren and Sisters at Hopedale.

“ FERDINAND KRUTH, A. F.
ELSNER,

“ H. G. KRETSCHMER.”

[Vol. XXVII. London : 1868.]

EXTRACT OF THE DIARY OF ZOAR, FROM
AUGUST 1869 TO AUGUST 1870.

* * * * *

On the 8th [January, 1870] a company of Indians visited
us in order to dispose of reindeer skins, &c. It was an old man
and his three sons, of whom the youngest appeared about
eighteen years of age. They slept at Daniel's,

pp. 52-57.

but spent the day chiefly in the company of a half-Indian, who resides here, though he has long ago forgotten the Indian language. They appeared at our meetings, and behaved with decorum. How glad we should have been to preach the blessed Gospel to them in their own tongue ! These, like very many Indians, professed to belong to the Romish church, but they seemed to lack all religious knowledge. They had come from a distance of several days' journey, and drew on the floor with chalk the outlines of the course they had taken. We gave them several presents for their wives and children, with which they were pleased. They left Zoar on the 11th.

VOL. XXXI. [London : 1878.]

REPORT OF THE MORAVIAN MISSIONS FROM JULY, 1877, TO JULY,
1878, ACCOMPANYING THE FINANCIAL STATEMENT FOR THE
YEAR 1877.

* * * * *

pp. 211-217.

About the middle of the year a family of Indians visited Hopedale from Ukjuktok Bay, who, as almost all the Neskopie Indians, are nominally connected with the Roman Catholic Church. The object of their visit was to obtain information about the differences between the Roman Catholic and Protestant beliefs. The Christian behaviour of our Eskimoes, who live near them, had made such an impression on their minds, that they desired to spend a Sunday with our congregation at Hopedale. An opportunity was afforded them of hearing the true way of salvation set forth, and they promised to return at Christmas.

Some Indians also appear to have visited the neighbourhood of Ramah, but they evidently did not wish to be seen, for it was only from the marks of their feet in the snow that their presence was perceived.

BRIEF SURVEY OF THE MISSION WORK OF THE BRETHREN'S CHURCH
DURING THE PERIOD BETWEEN THE GENERAL SYNODS IN
1869 AND 1879.

* * * * *

Zoar, July, 1881. pp.
113-114.

The year 1877 is reported to have been one marked by peace and prosperity, both externally and internally. Not a few anxiously sought for religious conversation with the missionaries, in evident concern for their souls. A family of Indians from the Ukjuktok Bay (Roman Catholics), having been favourably impressed with the behaviour of the Christian Eskimoes in their neighbourhood, came to Hopedale to spend a Sunday. They seemed much pleased, and promised to return at Christmas.

Zoar, pp. 120-122.

In February and March we had visits from companies of Nascopi Indians, who came to barter with us. How we regretted our inability to converse with them ! They were very suspicious in their dealings with us.

EXTRACTS FROM DIARIES OF CONGREGATIONS IN LABRADOR, JULY,
1880, TO JULY, 1881.

Zoar, pp. 359-368.

1881.—In February we were visited by eight men belonging to the Nascopi Indians. None of them understanding either English or Eskimo, conversation was impossible, and trading was no easy business. They remained a few days, and on leaving expressed their intention to renew the visit. Early in March a second company of Indians, belonging to the same tribe, arrived, this time with women and children. The Eskimoes with whom they lodged brought them to church with them, and it was evident from their demeanour that it was something utterly unknown to them.

Zoar, pp. 579-582.

EXTRACTS FROM THE DIARIES OF CONGREGATIONS IN LABRADOR, FROM
JULY, 1881, TO JULY, 1882.

A party of Indians appeared in December for trading purposes. They were the same who had been here before, but we were unable to converse with them for want of a language common to both of us. We observed that, contrary to their former practice, they carefully abstained from attending our service in church. A sewing machine in our house filled them with intense amazement.

EXTRACTS FROM THE DIARIES OF CONGREGATIONS IN LABRADOR, FROM
JULY, 1881, TO JULY, 1882.

The Indians from the interior paid us two visits ; on the latter they were accompanied by their wives and children, except those too weak for the journey, who remained in the camp. Again it was impossible for us to have intelligent intercourse with them on account of our ignorance of their language ; the Eskimoes understood them better, and appear to have lost a good deal of their old jealousy of the Indians.

In April a number of our people started on the reindeer-hunt, but were at once delayed by the soft snow, so that their provisions were exhausted before the hunting-grounds were reached. At length they reached the Indian camp, where they obtained food. On the return journey a few reindeer were killed, but the faces of the men on their return showed what terrible privations they had undergone.

LABRADOR.

An announcement has appeared in several newspapers, which is calculated to cause some disquietude to our friends. It is to the effect, that “ in consequence of the failure of the fishery last year, the inhabitants, consisting of about 12,000 Moravians and Eskimoes, are in danger of perishing from famine.” The borders of the country styled “ Labrador ” are apparently exceedingly elastic, as the word is sometimes taken to mean only the East Coast, between the 55th and 60th degree of North Latitude, sometimes a tract of country stretching south to the 50th degree N. L., and extending far inland. In the former very restricted “ Labrador ”—some 500 miles of coast line—there are living about 1,000 Eskimoes with their Moravian Missionaries. Here the fishery last year proved exceptionally abundant, so that we have not the slightest ground for anxiety as to possible famine existing. Whatever truth there may be in the above announcement, which further states that two provision-ships had been despatched from Quebec to relieve the distress, it must refer to a district in which no Moravian missions exist.

Zoar, pp. 473-482.

Annual Report of the
Mission Department
of the Unity's Elders
Conference. pp. 618-
619.

EXTRACTS FROM THE DIARIES OF CONGREGATIONS IN LABRADOR, FROM
JULY, 1884, TO JULY, 1885.

* * * * *

We were greatly surprised on Christmas Day by a visit from a company of nine Indians. Having found lodgings for them with some of our people, and provided them with food, we brought them into the mission-house to show them the Christmas-tree and other things relating to the joyous event we were then commemorating. Some impression may have been left on their minds by what they saw, but we found it impossible to converse with them. As they remained here some time for the purposes of trade, we gave a magic-lantern entertainment one evening, to the great delight of old and young.

pp. 583-
585.

LABRADOR.

The Indians, who had been wont to come to Zoar for trading purposes, paid three visits there. They brought skins for sale at Christmas. They behaved well and were welcomed by the Eskimoes, but for want of knowledge of their language little communication on spiritual matters could be held with them. In April thirty-four of them returned in an exceedingly pitiful condition, for scarlet fever had wrought ravages among the tribe. These were kindly cared for, fed and nursed, and after twelve days were sufficiently restored to go on their way. They left two Indian youths behind them, who were cared for in Eskimo households.

LABRADOR.

* * * * *

THE INDIANS OF THE INTERIOR.

M.D.S.F. work at
Hopedale. pp. 181-
183.

Heathen Indians repeatedly came to Zoar in their bark canoes by the streams and lakes of the interior in order to trade with skins Unfortunately our missionaries did not know their language, but they attended the services, and looked at Bible pictures with attention. Returning from Zoar after Christmas, 1884, many were attacked by scarlet fever, and the next Easter thirty-two of them were found near Zoar famished and ailing. They were received and cared for with great kindness by the Eskimoes. Two Indian lads remained some time in this congregation, but later on returned to their own people.

EXTRACTS FROM "PERIODICAL ACCOUNTS RELATING TO THE FOREIGN MISSIONS OF THE CHURCH OF THE UNITED BRETHREN."

VOL. II. [London: 1893-1895]

Dr. Grenfell continues

I mentioned last year that there is no law on this coast. We know five murderers, from their own confession to the missionaries, and the records of many crimes that there has never been any inquiry made into are common. So large a population as this whole coast constitutes surely deserve some provision for justice, yet actually none is made. It must (however law-abiding a people may be) encourage crime when it is known that no attempt whatever at punishment will ever be made. The weak live in terror of the strong, and there are men here on this coast whom missionaries and people long to see removed if possible from their peaceable communities. Yet nothing is done, and it is years since even a man-of-war of gunboat came down here. It is said the coast is dangerous and uncharted, and truly that is the case ; but we must consider it a disgrace to any civilized country that three thousand schooners and over should be allowed to come, year after year, with their precious human lives, to reap the rich harvest that they do, where at every step almost a new danger presents itself because no precautions have been taken.

Here are countless reefs, rocks, and islands—not one mark, not one buoy, not one light, not one foghorn along the whole coast. The dangers are rendered double by the constant fog, so that the peculiar shapes of islands are liable at any moment to become unrecognizable. Surely some survey should be made, or some marks erected, to render navigation more possible. North of Hamilton Inlet most of the Labrador fishing is done, except for the Straits of Belle Isle, and north of that the present survey is terribly incomplete ; while north of Hopedale there is practically no survey whatever, and not less than fifteen hundred craft go north of Hopedale fishing. So the presence of an occasional gunboat, or proper naval launch even, would confer an inestimable boon on these people, both in assisting navigation and letting it be known that there is some possibility of being punished for wrong-doing.

pp. 436-438.

* * * * *

Yours very faithfully,

WILFRED GRENFELL.

 LABRADOR.

“ THE OUTCASTS OF LABRADOR.”

This was the title of an article in the last number of the “ Illustrated London News ” for 1894. A representative of that paper waited on Dr. Wilfred T. Grenfell, the superintendent of the Mission to Deep Sea Fishermen, who has gained most useful knowledge of “ the Labrador ” by three years' cruises along it in their missionary vessels. The result of the interview is a forcible description of the state of things along that bleak and barren coast-line of 1,100 miles, which, says Dr. Grenfell, “ is the home of at least 25,000 Newfoundland fishermen and their wives and children during the three or four months of the cod-fishery each year.”

* * * * *

Dr. Grenfell makes generous and appreciative mention of “ the splendid services ” rendered by our mission among the Eskimoes dwelling along the northern strip of the Atlantic coast of Labrador. Here, too, as he says, the civil administration is represented by the flying and very occasional visits of a Newfoundland Customs officer. “ Were it not that the people are, as a rule, most law-abiding, the consequences might often be terrible. As it is, drunkenness is almost unknown, and crime is rare. Still, a travelling magistrate, to maintain a semblance of authority, is an essential need.”

p. 438.

* * * * *

LABRADOR.

FROM CAPE HARRISON TO CAPE CHUDLEY.

Under this title we will give the story of the last complete year of Christian work and experiences in the sphere of the Moravian Mission to the Eskimoes of Labrador.

“ Labrador ” is a term used, now with a wider, now with a more limited meaning. Taken in its widest geographical sense, it implies the vast peninsula to the north of Canada and Newfoundland, bounded by Hudson's Bay, Hudson's Straits and the Atlantic Ocean. To Newfoundlanders, however, “ the Labrador ” is that part of the rugged and desolate coast-line nearest their island, and along which their schooners cruise during the season of the cod fishery. Of late years numbers of these fishing vessels have come north of Cape Harrison and so within what we may call “ the sphere of influence ” of the venerable Moravian Mission established among the heathen Eskimoes, when their reputation for murderous savagery held all other white men at a distance.

F. COLLECTION OF REVENUE.

No. 1597.

[1 June, 1926.]

AFFIDAVIT OF MARTIN MURPHY.

IN THE PRIVY COUNCIL.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND IN THE
LABRADOR PENINSULA.

I, MARTIN MURPHY of Carbinear, Newfoundland, Justice of the Peace, Collector of Customs, make oath and say as follows :—

1. I am a resident of Carbinear, Newfoundland, and have been since 1913, Collector of Customs of Cartwright, Labrador, where I spend the fishing season from June to November every year.

2. I deal with all goods imported into Cartwright by any persons or firms. The Hudson's Bay Company is the chief importer and usually its steamers call at Cartwright first, and land there all the goods, not alone for Cartwright, but for Rigolet, North West River, and Davis Inlet. I collect the duty on all these goods and no question has ever been raised as to the jurisdiction of the Colony of Newfoundland.

3. The Indians (Mountaineers) come out every summer to Paradise, at the head of the Bay, 20 miles West of Cartwright, to sell their furs and to secure supplies. The fur buyers from Cartwright go to Paradise to trade with them, and sometimes parties of the Indians come to Cartwright and remain for a few days. They make their headquarters for the summer season at Paradise, where they camp and make canoes and do other work. I visit Paradise every summer while the Indians are there, to see, in my capacity of a Justice of the Peace for the Colony of Newfoundland, that order is observed and no irregularities practised.

In the same capacity I exercise jurisdiction over the residents in Sandwich Bay and deal with any cases that may occur. I enforce the Newfoundland Game Laws and punish violations of the same. We have always held that the jurisdiction of Newfoundland in regard to its Game Laws as well as to its laws generally, extends inland to the watershed, to the vicinity of which the trappers frequently go. I am assisted in this work by a Fishery Warden, whose powers include the enforcing of the laws as to the fur and feathered game on the land, salmon and trout in the rivers, and the

various fishes in the sea.

M. MURPHY.

Sworn before me at St. John's
Newfoundland this 1st day
of June 1926.

ROBERT ALSOP,
Commissioner supreme
Court of Newfoundland.

EXAMINATION OF JOSEPH O'REILLY, I.S.O.**IN THE PRIVY COUNCIL.**

[11 June, 1926.]

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND IN THE
LABRADOR PENINSULA.

Newfoundland.
Central District,
St. John's, S.S.

The examination of JOSEPH O'REILLY, I.S.O., who upon his
Oath saith :—

I am Assessor of Taxation under the Business Profits and
Income Tax Acts for the Colony of Newfoundland.

The Governor and company of Adventurers of England
trading into Hudson's Bay, and known as the Hudson Bay
Company, furnished to the Newfoundland Government, under
the Business Profits Tax Act, their General Balance Sheet and
Profit and Loss Account for the years from 1917 to 1920
inclusive, showing the profits derived from the following
agencies :—

At St. John's, Newfoundland.

- ” Rigolet, Labrador.
- ” North West River, Labrador. J. O'R.
- ” Davis Inlet, Labrador.
- ” Cartwright, Labrador,

and paid to the Newfoundland Government the Business Profits
Tax.

From January 1st, 1921, to December 31st, 1924, the
same procedure was adopted by the Company, that is, the
furnishing of statements and the paying to the Newfoundland
Government Income Tax computed on profits earned at the
before mentioned Agencies.

(Sgd.) JOSEPH O'REILLY.

Sworn before me this
11th day of June, 1926.

ROBERT ALSOP,
Commissioner

Court of

Newfoundland.

AFFIDAVIT OF STEPHEN BRADBURY.

[23 Aug., 1926.]

In re the Labrador Boundary.
Newfoundland
St. John's,
To Wit :

I, STEPHEN BRADBURY, of St. John's, In the Island of Newfoundland, at present Customs Sufferance Warehouse Keeper at St. John's, make oath and say as follows :

1. I was Collector of Customs at the Port of Rigolet, in the Dependency of Labrador, from 1905 to 1908 inclusive.

2. Duties were yearly paid to me by the Hudson's Bay Company at that port on goods imported therein for the North West River Trading Post for goods imported for the whole of Labrador.

3. During my occupancy of the position of Collector of Customs at the Port of Rigolet no protest was made to me by the Hudson's Bay Company's Agent, or any of the clerks or employees of the Company, against the payment of regular import duties as demanded by the Revenue Act of Newfoundland and its Dependencies.

(Sgd.) STEPHEN BRADBURY.

SWORN at St. John's, this 23rd day of
August, A.D. 1926, before me

(Sgd.) SIMON BUTLER,
Commissioner

AFFIDAVIT OF H. W. LE MESSURIER C.M.G.

[23 Aug., 1926.]

In re the Labrador Boundary.
Newfoundland
St. John's,
To Wit :

I, HENRY W. LEMESSURIER, of St. John's, make oath and say as follows :

1. I am Deputy Minister of Customs for the Colony of Newfoundland, and have held that office since the month of November, 1897.

2. Part of my duties would be the supervision and the control of the collection of Customs Duties, both import and export, in the Dependency of Labrador.

3. Since my appointment to date import duties have been paid yearly by the Hudson's Bay Company to the Newfoundland Customs through the Collector of Customs at Rigolet without any protest having been made to the Department of Customs, or as far as I know, to any official of the Department.

4. I have examined all the entries bearing on the importation of goods into the Labrador at any time, both prior to my assumption of office, and subsequent thereto, and I have found no protest by the Hudson's Bay Company against the payment of duties written thereon. As far as I can find from the records import duties have always been paid at Labrador Ports by the Hudson's Bay Company without protest.

(Sgd.) H. W. LEMESSURIER.

SWORN at St. John's, this 23rd day of
August, A.D. 1926, before me

(Sgd.) ROBERT ALSOP,
Commissioner

No. 1601.

AFFIDAVIT OF SIR P. T. McGRATH.**IN THE PRIVY COUNCIL.**

[20th Sept., 1926.]

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND IN THE
LABRADOR PENINSULA.

I, SIR PATRICK THOMAS McGRATH, of 6, Gower Street, St. John's, Newfoundland, President of the Legislative Council of Newfoundland, make oath and say as follows :—

1. With reference to the statement in the Historical Narrative, forming an annex to the Canadian Case, para. 35, page 84, that

“ Newfoundland levies no local taxation on the coast of Labrador, but when trade is active during the summer months, revenue officers collect a considerable sum, certainly not less than \$150,000.00 per annum, along the coast in the form of customs duties.

(a) I have prepared the appended Statement of Customs Revenue collected at Labrador by the Colony of Newfoundland, for the fiscal years from 1911-12 to 1924-25.

(b) The totals shown in each year are the result of adding together the amounts received at the four Customs-House Stations at Labrador Blanc Sablon, Cartwright, Rigolet, and Labrador, the latter being the designation of the Station maintained on the mail steamer during the summer months.

(c) These figures have been taken from the Printed Pamphlets of “ Newfoundland Customs Returns ” issued by the Department of Customs each year.

(d) I could not carry this record further back than 1911-12 because the volumes available in London only go that far.

(e) I ascribe the very low collections in 1915-16 and in 1916-17 to the partial commercial paralysis due to the war,

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(f) The statement is as follows :—

Year.	Revenue collected.
1911-12	\$4630.27
1912-13	6301.40
1913-14	6668.53
1914-15	5141.41
1915-16	1122.61
1916-17	2889.44
1917-18	6726.54
1918-19	4702.28
1919-20	11046.04
1920-21	11791.97
1921-22	11624.86
1922-23	10944.55
1923-24	14376.52
1924-25	10101.57

2. I find from the Newfoundland Customs Returns for 1924-25 and previous years, that supplies for the Deep Sea and Moravian Missions are admitted into the Colony and its Dependencies, free of duty, and I know of my own knowledge, that this has been the case for many years past.

3. With reference to the paragraph copied from the book entitled "Labrador" by Grenfell and Others, printed at the top of page 2580, Appendix of Documents, and reading as follows :—

“ In winter, residence in Labrador is especially discouraged by lack of communication, and the permanent population, except round the newly established mills, is decreasing entirely.”

I have extracted from the Census returns of Newfoundland, the following figures with respect to Labrador during the past three decades, as follows :—

(a)	Total.	North of Hamilton Inlet.	Whites.
1901 . . .	3,947 . . .	1,301 . . .	2,646
1911 . . .	3,939 . . .	1,226 . . .	2,713
1921 . . .	3,774 . . .	897 . . .	2,877

(b) The population of the area north of Hamilton Inlet is virtually altogether Eskimo, and I have deducted the population of this area from that of the remainder of the

region, thus exhibiting the approximate White and Eskimo populations as shown above.

(c) The decrease in the Eskimo population shown in the past decade, is due almost entirely to the ravages of influenza in the autumn

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of 1918, when the mortality was very great, some of the settlements being almost entirely destroyed.

(d) The allusion in the extract from Dr. Grenfell's book quoted above, to the lumber mills, shows that this refers to a period nearly twenty years ago. The mills have not been operating for the past sixteen years, and the lumber men, brought into the country in connection with the operations at these mills, left again as soon as the mills ceased operating, and as the starting and closing of these mills occurred between the Census years, 1901 and 1911, the figures shown above, represent the ordinarily normal population of the coast at the three Census periods, apart from the extraordinary decrease of the Eskimo population, due to influenza before 1921.

4. With reference to an extract from the book "Labrador" by Grenfell and Others, printed on page 2579 of the Appendix of Documents, and reading as follows :—

"Five Marconi stations have been placed on the coast, and these are of very great value. They cover two hundred miles of coast, but do not yet connect with Newfoundland, and only very indirectly with anywhere. When the Canadian station on Belle Isle is working, then Labrador can talk with the outside world via Canada. But none of these stations is opened except during the summer months. The power of the most southern station at Battle Harbour has been greatly increased and practically has put us now in touch with the outside world."

I have been in communication with the Manager of the Canadian Marconi Company at St. John's, and the Superintendent of the Newfoundland Postal Telegraphs at St. Johns, and find that :—

(a) There are nine Wireless stations on the Labrador coast, owned by the Newfoundland Government and operated on their behalf, by the Marconi Company, these stations being located as follows :—

Battle Harbour,
Venison Island,
Flat Island,
Domino,
Grady,

Smoky,
Holton,
Cape Harrison,
Makovik.

(b) The stations north of Battle Harbour are in operation from the opening of navigation to the close of the fishing season.

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(c) The station at Battle Harbour is in direct communication with the station at Fogo, on the north-east coast of Newfoundland, all the year round. Battle Harbour station has been kept open during the winter for the last 13 or 14 years. The Fogo station has always been kept open during the winter.

(d) The stations at Battle Harbour, Venison Island, Flat Island, Domino and Smoky were erected by the Newfoundland Government in 1904, and the cost of these, as far as can be ascertained, was \$5692.55. The Government operated these stations during the years 1904 and 1905, at a cost in each year, of roundly \$1500.00. The Marconi Company, in 1906, took over the operation, and the Government spent about \$2000.00 to put them in proper repair before handing them over to the Company. In 1910-11, the stations at Grady, Holton, Cape Harrison and Makovik were constructed at a cost of, roundly, \$9000.00. In all the years from 1906 up to date, the Government has paid the Company royalties in connection with the operation of these stations, increasing from, roundly, \$2500.00 in 1906-7 to \$9246.00 in 1922-23. The total expenditure up to the end of 1925 on construction and operation of these stations was \$118,292.50.

Sworn at 76 Victoria Street in the City of
Westminster this 29th day of September 1926.

P.T. McGRATH

Before me

J. G. DALZELL

A Commissioner for Oaths.

G. RELIEF OF DISTRESS.

[July, 1915.]

No. 1602.**EXTRACT FROM “ AMONG THE DEEP SEA
FISHERS.”***

* * * * *

July, 1915.

From the United States, besides financial aid, we have sent us for distribution much clothing, which the Newfoundland Customs allows to come in duty free, on condition that it is not sold for cash. But it is a cardinal point with us not to pauperize the people—therefore we try to get some return for everything. In the man, it may be labour ; as we travel hundreds of miles on the coast with dog teams, we can employ certain men as drivers and pilots, and when we are extending our stations we can offer well paid labour. The women are given an opportunity of earning their clothing, which they then value all the more highly, by such industries as spinning and weaving, and they can make up fancy work specimens out of any bits of fur, sealskin, or other things which their husbands cannot sell, and a market has been found for these in the United States.

The Newfoundland Government also makes us financial grants, and from time to time gives us supplies of building material to extend our stations ; and they entrust us with magisterial powers. Then we have many loyal helpers in St. John's.

* The following passage was written by Dr. Harry Paddon, Medical Officer in Charge of the Grenfell Mission Hospital at Indian Harbour.

H. MISCELLANEOUS ACTIVITIES (RELIGIOUS
MINISTRATIONS).

[20 Mar., 1851.]

No. 1603.

**EXTRACT FROM SIR G. SIMPSON'S LETTER FROM
LACHINE TO R. HARDISTY, ESQ.**

HUDSON'S BAY CO. HEAD OFFICE RECORDS.

Lachine 20th March 1851.

... “ The Moravians seem to be very successful and I would rather be disposed to hold out inducements to that sect to visit Esquimaux Bay unless the field be occupied by the English Bishop of Newfoundland, who has evinced much perseverance and energy of late in pushing his missions northwards along the Labrador Coast ”

(Fm. Smplsns. Crspndnee, 22nd January to 6th August 1851, p. 53).

[26 Mar., 1858.]

**EXTRACT FROM SIR G. SIMPSON'S LETTER FROM
LACHINE TO D. A. SMITH, ESQ., AT ESQUIMAUX
BAY.**

EXTRACT FROM HUDSON'S BAY CO. HEAD OFFICE RECORDS.

LaChine 26th March 1858.

With reference to the desire of the Bishop of Newfoundland to extend Missions of the Church of England to the Labrador Coast, and to His Lordships letter on that subject to your address dated 22 July 1857, I see no objection to your affording, to the best of your ability the information asked for in the Bishop's twelve queries. You will, however, inform his Lordship that the Hudsons Bay Company possess no Jurisdiction on the Coast of Labrador, where they carry on their trade on the same footing as other Merchants, Their interests in Missions would, therefore, only extend to their own servants and the Natives with whom they have dealings ; that the former are principally Roman Catholics, and that the latter express a preference for that faith, generally speaking ; those who are protestants obtain spiritual instruction from the Moravians. If, however, the Bishop should decide on himself visiting the Labrador Coast, or sending one of his Clergy there, you will be good enough to add that such hospitality as our means admit, will be shown at the Company's establishments ; and every assistance rendered, in collecting information as to the prospects the Coast affords for extending Missions thither”

(From Simpson's correspondence, 12th Decmbr. 1857 to 10th August 1858, p. 216-217)

[1863.]

**EXTRACT FROM “EXPLORATIONS IN THE
INTERIOR OF THE LABRADOR PENINSULA.”**

BY HENRY YULE HIND, M.A., F.R.G.S.

CHAPTER XXXIII.

CHURCH OF ENGLAND MISSIONS ON THE GULF AND LABRADOR COASTS.

In his journal of the voyage of visitation, on the coast of Labrador, in the Church Ship “Hawk,” during the summer of 1853, the Bishop of Newfoundland says : “ I am looking forward to a third visit to the Labrador coast, and to all the settlements on the north and eastern side of Newfoundland. In this visit I expect to celebrate the first consecration of a church, and the first confirmations on the Labrador, and I trust to mark many other signs and proofs of the Church's progress on that wild and desolate shore.”

Before the year 1818, no bishop of the Church of England had ever visited the Labrador coast proper, and no clergyman had ever gone beyond Forteau Bay, in the Straits of Belle Isle, ten miles east of Blanc Sablon. In 1848 the present Bishop of Newfoundland landed at Forteau and touched at different parts of the coast as far as Sandwich Bay. In 1849 the first clergyman (the Rev. Algernon Gifford) was placed in residence at Forteau. In 1850 a second clergyman, the Rev. H. Disney, M.A., went to reside at Battle Harbour. In 1851 the first church was commenced, and in 1853 consecrated in St. Francis Harbour. Since 1851 two clergymen have been almost constantly in residence, both winter and summer, at the places before named. In 1857, the first Esquimaux were confirmed and admitted to the holy communion at Battle Harbour. There are now three churches finished and consecrated, and two others nearly completed between Seal Island and Blanc Sablon. There is no resident minister of any other denomination between Blanc Sablon and Sandwich Bay, on the Atlantic coast about fifty miles east of Hamilton Inlet ; and only one Roman Catholic chapel, visited annually by a priest from Quebec. At Forteau Bay and Battle Harbour parsonages have been erected, and are now occupied by the resident ministers—a blessing not easily to be appreciated by those who have never felt the loneliness and apprehension which sometimes comes over the solitary families crouching under the bark roofs of their “tilts” on the Labrador.

In 1861 the Bishop of Newfoundland started on his annual visitation from St. John's, on June 27, in the Church Ship. The Bishop visited in succession Battle Harbour, St.

Francis Harbour, Square Islands, Dead Islands, Venison Tickle, Seal Island, Ship Harbour, Fox Harbour and Cape Charles. There is a consecrated church at Battle Harbour and St. Francis Harbour, and at Seal Island a store is used as a church, but at all places service was performed on board the well-named Church Ship.

No. 1606.

NOTES AND COMMENTS.

[July, 1916.]

EXTRACTS FROM “ AMONG THE DEEP SEA FISHERS.”

July 1916, p. 63.
St. John's, Newfoundland,
8th June, 1916.

Dear Editor,

A great many friends have asked me to put into the magazine some account of the labours of good men on the Labrador and northern Newfoundland before we came. I have not now the facts at my disposal nor time to devote to a description of their labours. Many and good they have been, unselfish and self-sacrificing and all the more like their Master, because having chosen the less populous parts of the world for their labours, they were content to forfeit the meed of praise they would have received in other parts of the world. It would be a very delightful task if some one would contribute the lives of good men in these fields before us. There is an old Latin phrase “ Vixere fortes ante Agamemnona,” and we ought perhaps to have realised beforehand that it would not be illspent time to study the lives of these good men. In Labrador, there were especially a number of Church of England clergy, some prominent Roman Catholic priests and ministers of other denominations, not forgetting our dearly beloved friend, Mr. Carpenter of the Congregational mission. No more heroic record of missionary labours exists in the world than those of the Moravian brethren in the Labrador. Nor has Labrador ever been the scene of the organised liquor traffic in the same way as in the “ civilised parts of the world ” ; nor to-day are we the only workers in the Labrador and northern Newfoundland. The Moravians have erected a nice little hospital at the north end of the country, and a devoted physician resides there and does good work among the Eskimos. The first visit of an English Church Bishop was in 1848, and since that day some excellent men have maintained their missions in the North. The names of Horwood, Colley, Quintin, Shears, Holmes, Bull, and many others are remembered with affection by the people of to-day. It has been our privilege to co-operate with those who carry on their work now—Mr. Gardner, Mr. Pitcher, Father Brown, Father March and others.

Dr. Levi Curtis has promised us an article on “ Worthies of the Methodist Church who worked in Labrador,” and Dr. Edgar Jones has promised one on “ Worthies of the Church of England.” I am hoping also to have one on the “ Priests of the Roman Catholic Church ” by a former worker.

Believe me to remain,
Sincerely yours,

(Sd.) WILFRED

T.

GRENFELL.

Part VIII. M. Documents relating
to the Government Services of
Canadian Labrador.

No. 1607.

18th Mar. 1926—**AFFIDAVIT OF CLUNY
MACPHERSON, M.D.**
(paras. 6 and 7).

Vide Vol. III, p. 1481.

No. 1608.

18th Mar. 1926—**AFFIDAVIT OF JOHN GRIEVE** (para. 5).

Vide Vol. III, p. 1483.

No. 1609.

2nd Apr. 1922—**VOLUNTARY STATEMENT OF CAPT.
J. G. JOY**
(exhibited to affidavit of Sir P. T. McGRATH)

Vide Vol. III, p. 1567.

No. 1610.

July 1896—**EXTRACT FROM LETTER BY Dr.
GRENFELL.**

Vide Vol. III, p. 1584.

No. 1611.

17th June, 1926—**AFFIDAVIT OF E. G. GRANT**
(paras. 7-12).

Vide Vol. III, p. 1633.

No. 1612.

**EXTRACTS FROM “ AMONG THE DEEP SEA
FISHERS.”**

[23 Oct. 1912.].

ITEMS FROM HARRINGTON.

January 1913, p. 9.

* * * * *

Harrington Hospital
23rd October, 1912.

It was not until June 20th that our first steamer arrived from Quebec, though what delayed her coming until that date no one knows except that it is part and parcel of the indifference that has always been shown ; it certainly was not ice.

* * * * *

Having only one steamer coming a month, mean's a whole month's wait to get anything one may be in need of, if it should happen not to make connection, which happens more often than necessary it seems.

In spite of the old saying “ Plenty ice, plenty fish,” this part of the Coast has had hardly a medium fishery, and as this follows two seasons of total failure it is not enough to put the men straight with their dealers ; that means a good many things to be done without, and all expenses cut down to the last cent. Nothing is left for clothing, and we have been short again this year, and have not had enough to nearly satisfy the demand. May I not beg for more next season ? It is badly needed.

* * * * *

We are all looking forward to the seal fishery, hoping that it may be a good one. For the past two winters the seals have failed on the coast, and now the people are almost barefooted for the winter, if the seals fail again. It is out of the question to use boots with hard soles in the intense cold, and many of the people cannot pay three dollars for a pair of shoepacks that are not watertight, so the failure to catch a few hundred seals is a serious thing for all the men.

If either of the members of parliament for this country would take the trouble to come along this part of the coast, even if, as yet, the people do not enjoy the franchise, and see for themselves under what disabilities the people whom they took their oath to look after have to live, and how easily their lot could be made brighter, surely they could not but give them a helping hand.

If any member will take the trouble to come, he may rely on me to give him all the help possible, and to tell him some truths as to how these Canadian people are neglected, and

taxed even though they have no vote.

(sd) H. MATHER HARE.

p. 4198

October 1917, p. 109.

* * * * *

A GLIMPSE OF LABRADOR LIFE.

By Dr. J. Hinson West.

* * * * *

Speaking more particularly of that part of the coast most familiar to the writer, the Canadian Labrador, (south and west of the Strait of Bell Isle), the crying need of the hour is better trading facilities. With the exception of Harrington, where a steamer from Quebec calls once a month, this section of the coast has no steam communication with the outside world. The people cannot buy from city merchants where they could get their needs supplied at the current prices of the day, nor can they sell their products where they can get full market value. The several trading schooners which do business here, use methods which they would have to abandon if there were open competition.

Two remedies for this state of affairs suggest themselves :

(1) The subsidizing of a steamer service between this portion of the coast and a convenient market, which would be the duty of the Canadian Government.

(2) The establishing of a co-operative enterprise to include the whole district, the launching of which, the Grenfell Association would gladly take in hand as soon as difficulties can be surmounted.

In the meantime, while a solution to the problem is being sought, the fisherman is struggling to make ends meet and frequently failing.

No. 1613.

EXTRACTS FROM DR. GRENFELL'S LOG.

[1901.]

Bonne Esperance.
July 13, 1901.

We have now been visiting Canadian Labrador for a week. I can only say that, as far as medical assistance goes, it is far worse off than the much more bleak, poor and less-populated regions under the jurisdiction of Newfoundland. There is no hospital east of Quebec, a distance of many hundred miles—twice as far as it is to St. John's hospital from any part of Newfoundland. Moreover, there is scarcely any method for a sick person to get off the coast to Quebec, if they want to. Indeed for the poor there is *none*. Instead of a weekly mail boat there is *no mail steamer at all*. The people must travel by boat or on a casual trader, and neither is a fit way for the sick person. The hasty and infrequent visits of a fishing boat, on which, some years, there is not a doctor—and when there is his chief business is the fishery and not doctoring—are absurdly inadequate for the requirements of the people. I am now taking up one fisherman to our hospital, and there are several cases more that need conveyance there. I very much doubt if any operations under anesthetics are done, or any facilities for the modern treatment of the sick provided at all for the Canadians on Canadian Labrador this side of Cape Whittle. The ridiculous argument has been put forward that it is quite enough for a sick person to go to Gaspé or Quebec for treatment. It might be advanced if there was any means to go, but there isn't any means and they don't and can't go. Giving a visit twice in the summer, for possibly half an hour only, does not meet the need ; and the mere doling out of pills and mixtures cannot be called civilized medical treatment. Yesterday I was called to a case of an unfortunate woman dying of cancer. She had never received any treatment whatever and had never seen a doctor. Another case yesterday was heart disease and dropsy ; this man had seen no doctor. Moreover, the same day I had to open four poisoned wounds of the hand and one of the knee, besides many minor cases. None of these had a hospital to go to, nor any doctor in reach. And what about the winter ? Well, Canadians between Blanc Sablon and Cape Whittle have to suffer and die without civilized skilled help ; that is all. What good is the fishery officer's visit then ? A small winter hospital near the larger centres of Harrington and Mutton Bay would receive support no doubt from the

people of the coast, who are far better off than those on the more northern parts. But the people are not able to build and support it, and they can't carry it on as it ought to be carried on by themselves.

St. Anthony.
July 1, 1923.

From the North reports of the furring are excellent so far. The trappers of Northern Labrador have been enjoying far better times than her fishermen. At a fair in Hamilton Inlet, held by the people for their hospital at North-west River, over \$500 in cash was realized.

The great drawback so far here has been the ill fortune of our mail steamers, which has made communication so poor. Our mail steamer service is so much better than on the Canadian Labrador that we cry out at once when we are left without a regular sequence.

July 18th, off Little Mecatine, Canadian Labrador.

We have now been cruising down in these waters for a few days and have been seeing quite a number of patients, who are quite beyond the reach of any medical help, except such as the casual visit of an already overbusy captain of the fishery steamer can render them. Judging by experience of these cases, it is perfectly obvious that nowhere is there need for a small hospital. For practically no serious help is expected unless they go to Quebec or Halifax, long and expensive journeys, far beyond the reach of many of the patients. One child of eight years, with tubercular disease of the knee, we have arranged to send to hospital for operation. One woman we are carrying up ourselves for immediate treatment. While many that need watching and extended treatment had to be left with written directions and with stock bottles of medicines. Whatever else can be said against the efficiency of the way in which the far-off people of Newfoundland are looked after, both in the matter of transport, mail service, and assistance in times of accident and sickness, they are, at least, a great deal better off than those on the Canadian soil.

SUPPLEMENT TO PART X (RELATING TO THE FISHERY
AT NEWFOUNDLAND AND ON THE COAST OF
LABRADOR.)

No. 1614.**EXTRACT FROM “ AMONG THE DEEP SEA
FISHERS.”**DR. GRENFELL'S LOG.

The poor schooner men waiting to get down North for their summer's “ fare of fish,” the bread and butter of their families, how anxious they too must be. We know the ice must be literally impassable or they would be down here. Meanwhile, the fish (that is the cod, the herring, the salmon, the capelin and the flat-fish) have all returned, almost on the exact day. The salmon arrived June 18th last year and June 17th this year.

Supplement to Part XI (Authorities
bearing on the meaning and
application of the term “ Coast.”)

[1926.]

No. 1615.**MEMORANDUM ON AREAS DENOTED BY THE
WORD “ COAST.”**

By J.A.J. DE VILLIERS, F.R.G.S. (late Deputy Keeper in the
Printed Books Department of the British Museum and
Officer in charge of Maps).

BARBARY COAST.

This terminology appeals to be but very little used in cartography. Barbary, Barbaria, Berbery are the most frequent appellations, and the only reputable map so far discovered that mentions the Barbary Coast as such is one by Sanson, dated 1655,¹ the legend on which runs :—

Partie de la Coste de Barbarie en Afrique ou sont les
Royaumes de Tunis et Tripoli et pays circomvoisins tirés
de Sanuto et d'autres.

This title clearly implies that the region covered by the term “ coast ” comprises in this case the whole of the Kingdoms of Tunis and Tripoli and much besides.

A map accompanying the “ Geografia ” of Livio Sanuto, published in 1588² gives as Barbaria the whole of the northern coast of Africa from the Red Sea to the Atlantic with an average depth of 250 miles.

COROMANDEL COAST.

The extent of this is well illustrated by the three following maps :—

A map of the Coast of Coromandel accompanying a History of the Military Transactions of the British Nation in Indostan, London, 1763.³

A new and accurate map of the seat of the late war on the Coast of Coromandel in The General History of the Late War,” by John Entick, London, 1775.⁴

A map of the East India Company's lands on the Coast of

Coromandel, from an actual survey made by Thomas Barnard Published by Alexander Dalrymple, 1778.⁵

In all of these the depth of the country known as the Coromandel Coast appears to be at least 120 miles.

¹B.M.K. 117.60. ²B.M. 15. d. 20. ³B.M. 800. 1. 16.

⁴B.M. 599. f. 18. ⁵B.M. 52615 (1.)

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GOLD COAST.

In “ Africa according to Mr. d'Anville ”—a map published by Robert Sayer in 1772¹—there is an inset giving “ A Chart of the Gold Coast improv'd from Mr. d'Anville.”

A note in the inset states that “ it takes its name from the vast quantities of gold that is imported from the inland countries and sold to the Europeans by the negroes, the shore itself producing but very little of that mineral. There is nothing on the map to indicate exploration inland for more than 60 miles.

In a map compiled by the well-known geographer E. G. Ravenstein, published in “ Ocean Highways,” in July, 1873,² and based on most authoritative sources, the territory shown on the Gold Coast as British protectorate has a depth in parts of about 80 miles.

The official survey maps issued by the British Government in 1907³ show the Gold Coast (including Gold Coast Colony, Ashanti and the Northern Territories) as extending along the coast line for 334 miles and inland at some points to a distance of 440 miles, with a total area of 78,650 square miles.

The Carte de l'Afrique Occidentale Française (Service Géographique des Colonies), officially issued by the French Government in 1919, shows this equally well, and a photostat of that map giving both the Gold Coast and the Ivory Coast (a French possession) has been included in the small Atlas accompanying this Memorandum.

IVORY COAST.

The extent of this territory is well shown in the two following maps :—

Côte d'Ivoire, accompanying the *Annuaire du Gouvernement général de l'Afrique Occidentale française*, 1913-14.⁴

Carte de la Côte d'Ivoire, accompanying a work by Gaston Joseph, entitled “ La Côte d'Ivoire,” a semi-

official publication. Paris, 1917.⁵

Both these maps give the eastern and western boundaries as the rivers Tanoe and Cavally respectively, whilst the inland boundary is at least 300 miles from the sea, thus giving to the territory—as in the case of British Guiana—considerably more depth inland than breadth along the shore ; its actual area is 126,100 square miles.

For the map included in the accompanying Atlas see the concluding paragraph on the Gold Coast (*supra*).

¹B.M. 184.g.2. (6.) ²B.M. P.P. 3947.i. ³B.M. 65330. (20.)

⁴P.P. 2578. e. ⁵10094. dd. 1.

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MALABAR COAST.

as the definition of a territorial district of the Indian Peninsula, had more significance in the eighteenth century than it has to-day, when it is included politically in the province of Madras. The district is bounded physically by the Western Ghats and its depth from the sea-shore is therefore seldom more than 50 miles.

A map by G. de L'Isle, published in Paris in 1723, entitled “ Carte des Côtes de Malabar,”¹ may be compared with a modern map of India in any Standard Atlas.

MOSQUITO COAST OR SHORE.

The best map to illustrate the extent of the territory comprised within the above appellation is that published in 1787 by William Faden, Geographer to the King, entitled : “ Mosquitia or the Mosquito Shore.”²

This shows Mosquitia as constituting quite a third of the modern political states of Honduras and Nicaragua and extending inland and westwards from the Atlantic Coast some 150 miles.

In a treatise entitled La Mosquitia by Dr. R. Beltran Rozpide, published in Madrid in 1910,³ occur the following passages :

“ The territory to-day known as Mosquitia or country and shore of the Mosquitos⁴ forms part of the Atlantic Coast of the ancient government and province of Honduras and of the early government of Veragua.

* * * * *

“ When independence was effected Honduras and Nicaragua entered into negotiations with Great Britain⁵ for the first mentioned to remain in possession of its own Mosquitia and for the second to acquire sovereignty over the Mosquitia of Veragua.

“ Great Britain in 1859 recognised as pertaining to Honduras the territory occupied or possessed by the Mosquito Indians within the boundary of the Republic, a

boundary which, according to an earlier treaty of 1856, runs along the middle of the River Wanks or Segovia, which disembogues at Cape Gracias-a-Dios.

“ Negotiations between Nicaragua and Great Britain resulted in the Treaty of Managua on Jan. 28, 1860, by virtue of which the Mosquito Reserve remained bounded on the north by the River Hueso, on the east by the sea, on the south by the River Rama, and on the west by the meridian from Greenwich 84° 15'.”

¹K. 115. 62. ²B.M. 78980. (7.) ³B.M. 09008. bb. 6. (2.)

⁴The name of the predominant native tribe, who were formerly under British protection.

⁵See the preceding note for an explanation of this.

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THE WILD COAST (GUIANA).

The signification of the term “ coast ” in the eighteenth century is well illustrated by the following extract from the work of an eminent Dutch writer on colonial history.

The work, which was much quoted during the arbitrations between Great Britain, Venezuela and Brazil, is accompanied by a map of the whole of the region formerly generally known as Guiana—practically an island bounded by the Orinoco on the north-west, the Atlantic on the north-east, the Rio Negro on the south-west and the Amazons on the south. In the centre of that region the cartographer has set the words “ Guiana Caribania or the Wild Coast.” This designation is also found fully a century earlier in a map compiled by le Père du Val, of Abbeville, “ Géographe du Roi,” entitled : “ La Guiane ou Coste Sauvage autrement El Dorado et Pais des Amazones,” 1654 ; this map was reproduced in the Atlas accompanying the British Case in the British Guiana—Venezuela Boundary Arbitration, 1898.

DESCRIPTION OF GUIANA OR THE WILD COAST, IN SOUTH AMERICA.
Compiled by JAN JACOB HARTSINCK, Amsterdam, 1770.¹

(The work is in Dutch ; the title and following extract have therefore been literally translated to facilitate an examination of their exactitude.)

CHAPTER I.

DESCRIPTION OF GUIANA OR THE WILD COAST.

The region called by the Indians *Guiana*, also by its inhabitants, mostly Caribs, *Caribania*, and by us the *Wild Coast*, lies in the north-eastern portion of South America, along the Ocean, between the rivers Viapari, called by us the Orinoco, and the Maranon, which we call the Amazons (which are regarded as the two largest rivers of South America, and, indeed, by many expert geographers, amongst the greatest of

the whole world), being at the River Orinoco side, in the latitude of 8° 20' north, and in 318° of longitude, and on that of the Amazons on the equator in the longitude of 329° 10'.

Its boundaries are therefore, on the north, the River Orinoco, and on the south that of the Amazons, being washed on the east by the ocean and bounded on the west by the Rio Negro or the Black River, so called by reason of the colour of its water : the latter is a fine, large and navigable river, uniting the two before-mentioned, namely, the Orinoco and the Amazons, so that Guiana, surrounded on the north, west and south by the said rivers

¹B.M. 10480. g. 8.
p. 4206

and shut in on the east by the ocean, comprises from north to south more than 125 miles of 15 in 1 degree, and from the east to the west, between Rio Negro and the ocean, more than three hundred miles and borders upon the new kingdom of Grenada, Peru and Brazil.

(END OF EXTRACT.)

The territories lying within the boundaries above described can best be defined according to modern political divisions as follows :—

All of Venezuela south of the Orinoco, approximately 181,864 square miles ;

The whole of British Guiana, approximately 89,480 square miles ;

The whole of Dutch Guiana, approximately 49,845 square miles ;

The whole of French Guiana, approximately 35,000 square miles ;

Brazilian Guiana (i.e., all of Brazil bounded by the Amazons on the S. and by the Rio Negro on the W.), approximately 190,000 square miles.

Total (approximately) of square miles in Guiana or the Wild Coast —550,000.

LIST OF MAPS

ACCOMPANYING THIS MEMORANDUM.

No. 1. BARBARY COAST. By Sanson. 1665.

No. 2. COROMANDEL COAST. From John Entick's " History of the Late War." London, 1775.

No. 3. GOLD COAST., IVORY COAST. Carte de l'Afrique Occidentale Française (Service Géographique des Colonies). Feuille 5. 3e édition. 1919.

No. 4. MALABAR COAST. By G. de L'Isle. 1723.

No. 5. MOSQUITO COAST. By Wm. Faden. 1787.

No. 6. WILD COAST. From J. J. Hartsinck's " Beschrijving van Guiana." 1770.

Privy Council
Documents

Volume VIII
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[1842.]

Supplement to Part XIII (Documents, other than Maps, showing the general belief and reputation as to the extent of the jurisdiction of the Government of Newfoundland on the Labrador Peninsula).

No. 1616.

EXTRACT FROM “NEWFOUNDLAND IN 1842.”

By Sir RICHARD HENRY BONNYCASTLE, Knt.
(Lt.-Colonel in the Corps of Royal Engineers).

PREFACE.

* * * * *

It may be alleged, that the vast territory of Labrador which is included in the government of Newfoundland ought also to have been treated of. But this would have increased the dimensions of the work too much, as another volume must, in that case, have been required ; such a volume, however, may possibly be produced at some future period.

[1863.]

**EXTRACT FROM “EXPLORATIONS IN THE
INTERIOR OF THE LABRADOR PENINSULA.”**

By HENRY YULE HIND, M.A., F.R.G.S.

CHAPTER XXXII.

GENERAL DESCRIPTION OF THE NORTH SHORE OF THE GULF OF ST.
LAWRENCE AND OF THE COAST OF LABRADOR.

* * * * *

The whole of the vast extent of country which extends from the Saguenay River to the Harbour of Blanc Sablon, a distance of 607 miles by the shore, and thence back to the dividing ridge which separates the waters flowing into the Gulf from those tributary to Hudson's Bay and the Atlantic, belongs to Canada, and is divided into three parts. First, the King's Posts, extending on the river and Gulf from Port Neuf to Cape Cormorant, 270 miles. Secondly, the Seigneurie of Mingan, from Cape Cormorant to the river Agwanus, 135 miles. Thirdly, the Labrador coast, from the Agwanus River, to Blanc Sablon, 156 miles.

* * * * *

No. 1618.

AFFIDAVIT OF S. K. HUTTON, M.D.

IN THE PRIVY COUNCIL.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF NEWFOUNDLAND IN THE
LABRADOR PENINSULA.

I, SAMUEL KING HUTTON, M.D., F.R.G.S., F.A.G.S., of Poole, Dorset, England, Medical Practitioner, make Oath and say :—

1. I was Medical Officer in charge of the Moravian Mission Hospital at Okak, Labrador, from 1903 to 1908, and from 1911 to 1913, and remained there for these two periods. I am the author of a book entitled “ Among the Eskimos of Labrador,” published in 1912, dealing fully with the conditions of life among these people.

2. In the Spring of each year, a large band of Eskimos went inland from Okak at varying distances, up to 200 miles, in quest of caribou. The trip would occupy up to two or three weeks. About the same time, other bands of hunters from Nain, Hebron and Ramah (until the Station was closed in 1908) went inland for the same purpose. They all made for the deer country, from 70 to 200 miles inland, and they frequently met in this region.

3. Their purpose in proceeding inland, was to secure venison for food, skins for clothes, and sinew for the stitching of boots and garments. Apart from this main deer hunt, individual groups of Eskimos from these Settlements, went varying distances inland, at frequent intervals during the Winter and Spring, for fur trapping and deer hunting, and in the Summer, they went by boat, up the inlets and into the rivers, to catch trout in the streams and ponds. They occasionally shot bears during these trips, and brought the meat back with them.

4. From the Eskimos, I learned that this annual deer hunt had continued for generations, and that the practice was to go inland until they found the deer, however far that may be ; and if they ran short of food they suffered great privations on the return journey.

5. I clearly understood that the Eskimos regard the whole country in which they hunted as part of the jurisdiction of Newfoundland, and themselves as subjects of that Colony. I

[27 Sept., 1926.]

never heard any suggestion from
p. 4210

the Eskimos at any time while I resided there, that Canada had any claim on the territory on which the Eskimos were accustomed to hunt. During my stay on the coast, Sir Wm. MacGregor, the Governor of Newfoundland, made an official visit there. He stopped at Nain, Okak, and Hebron, and was everywhere welcomed, and regarded as the head of the Colony to which the Eskimos belonged.

Sworn at Poole, in the County of Dorset,
this 27th day of September, 1926

SAMUEL KING HUTTON.

Before me,

ARCHIBALD H. YEATMAN,
A Commissioner for Oaths.

No. 1619.

AFFIDAVIT OF JOSEPH MICHELIN.

[10 Sept., 1909.]

IN THE MATTER OF the Enquiry into Newfoundland
Territorial Rights on the Labrador.

Labrador, Snook's Cove, to wit :—

I, JOSEPH MICHELIN, make oath and say as follows:—

I reside at Grand River, Hamilton Inlet, about 150 miles from the sea coast. I am 63 years of age. I have been living there over 30 years. I was born at Sabacho about 12 miles from the North West River and about 200 miles from the sea coast, and lived there until I was 21 years of age, when I went to St. John's, Newfoundland, where I stayed for a couple of winters and then came back and went up to where I now reside. I have gone into the interior about 120 miles from my home (about 300 miles from the coast) trapping and furring in the winter season : in the summer time I fish for salmon, trout and seals. My father was a French-Canadian, and was born at Three Rivers in Canada, and came to this country when quite a young man. I have always lived under the laws of Newfoundland and have paid revenue to the Collector of Customs from Newfoundland ever since the Government have collected it, as far back as I can remember—before I was married. I never in any way recognized or had anything to do with Canada or the laws or Canada, and no one from the Government of Canada ever imposed any restrictions on me. The first mention I heard of it was in Rigolet the other day by Mr. Schofield, Manager of the Hudson Bay Company, who had a communication from the Manager of the Indian Mission, whose headquarters are somewhere in Canada, and who told us that in future we would be under Canadian laws when we went into the interior, as the Indians were laying claim to the interior for their own special trapping and furring on the south side of Hamilton River and were wishing to exclude all whites. I have never had anything to do with Canadian authorities or laws, and have never obeyed them in the past. I have owned and occupied land to the extent of about fifty acres for over thirty years, residing on it, clearing it and living off it, and have held the same from the Newfoundland Government. I have always considered myself to be a citizen of Newfoundland, and have obeyed its laws and its Government officials.

(Sgd) JOSEPH MICHELIN.

SWORN before me at Snooks Cove aforesaid,

this 10th day of September A.D. 1909.

(Sgd) F. J. MORRIS,

Judge of the Court of Labrador.

**EXTRACT FROM “ THE STORY OF
NEWFOUNDLAND.”**

[1920.]

BY THE RIGHT HONOURABLE THE LORD BIRKENHEAD, LORD HIGH
CHANCELLOR OF GREAT BRITAIN. [LONDON, 1920.]

The author describes the situation and character of the
Island of Newfoundland, and then says :—

“ Its dependency, Labrador, an undefined strip of
maritime territory, extends from Cape Chidley, where the
Hudson's Straits begin in the north, to Blanc Sablon in
the south, and includes the most easterly point of the
mainland. The boundaries between Quebec and Labrador
have been a matter of keen dispute. The inhabitants are
for the most part Eskimos, engaged in fishing and
hunting. There are no towns, but there are a few
Moravian mission stations.”

* * * * *

Supplement to Part XVI (Documents descriptive of the physiography, geology and ethnography of the Labrador Peninsula).

No. 1621.**EXTRACT FROM “THE LABRADOR COAST.”**

BY A.S. PACKARD, M.D., Ph.D., 1891.

CHAPTER XIV.**THE GEOLOGY OF THE LABRADOR COAST.**

In its general features the peninsula of Labrador is an oblong mass of Laurentian rocks lying between the 50th and 60th parallels of latitude. It rises abruptly from the ocean as an elevated plateau, forming the termination of the Laurentian chain, which here spreads out into a vast waste of hills and low mountains. Thus, there is, except near Cape Chidley, no well-marked, single chain of mountains rising above spurs of smaller elevations, but simply an interior height of land with isolated peaks, irregular in its course, from which streams take their rise and flow by various directions into the ocean.

This plateau of hills and low mountains rises abruptly on the coast from the ocean to a height of from 500 to 1,000 feet, and inland continues to rise in peaks to a height of from 1,500 to about 6,000 feet until it reaches the watershed at a distance of 10 to 20 miles from the coast. On the western slope this plateau falls gradually away by an easy descent towards the shores of Hudson's Bay. Dr. Bell states that the northern coast increases gradually northward, “until within seventy statute miles of Cape Chudleigh, where it has attained a height of about six thousand feet above the sea.” Thence the elevations or peaks decrease in height to Cape Chidley or Chudleigh, where they are fifteen hundred feet in elevation. He adds that the highest land of the Labrador Peninsula forms a regular range of mountains parallel to the Atlantic seaboard, this range becoming progressively narrower from Hamilton Inlet to Cape Chidley. (Report for 1884, 10, DD.)

**EXTRACTS FROM “ THROUGH TRACKLESS
LABRADOR.”**

[1911.]

BY H. HESKETH PRICHARD, F.R.G.S. 1911.

The life of the Labrador is entirely predatory. It never has been anything else north of lat. 54, and unless mineral discoveries are made, never can be. Its inhabitants live by the chase. The bears, the caribou, the birds, the seals, the salmon, the trout, and the cod form the capital of the country, and the problem of existence is solved by successful destruction.

* * * * *

The Eskimo year is passed thus : In the spring the hunters kill seal, and, in the north, white whale and walrus ; in the summer they fish for cod and trout ; in the autumn they once more turn their attention to the seal hunting. Throughout the winter they trap, and just before the advent of spring, while the snow is still sound, they make long journeys after the deer by komatik or dog-sledge.

* * * * *

When in spring the Eskimo pass away inland on their annual deer-hunt, long distances are covered each day. The Nain Eskimo make their first camp at Pougasse, fifty miles from the Settlement. Here it is necessary to haul dogs, sledges and outfit up a steep rift to the higher level of the interior. After that there is good going over the snow for a great distance to the south-west. As far as I could gather from talking with the hunters, they have in some years when unable to find the deer, slept five or six times before turning back. This would take them some 200 miles in a south-westerly direction, and it was doubtless upon such a journey that they saw the “ great water, greater than any with which we Eskimo are acquainted,” and which was possibly Lake Michimakats or Michikamau.

In past days the Eskimo on their caribou-hunts used to push forward looking for the deer until the dog-food was exhausted; when that came to an end and they had so far failed to fall in with the herds, they ate the dogs and afterwards starved to death if they still could not kill game. This year-to-year history of the annual hunt, with its persistent tragedies, now only lives in tradition. The east coast hunting parties of recent times run little risk, as when the dog-food is half done they turn home again. It is no longer necessary to gamble with their lives in the finding of the deer, upon which formerly much of their winter provision depended, for now they have the Moravian Missions to apply to, and they know very well

that they will not be allowed to starve.

* * * * *

**EXTRACTS FROM INSTRUCTIONS TO
LORD COLVILL,**

[23 August, 1763.]

Adm. Sec. Out
Letters. Orders and
Instructions, 2/91,
p. 1.Instructions for
commanding in chief
in the river St.
Lawrence, along the
Coasts of Nova
Scotia, the Islands of
St. John and Cape
Breton and thence to
Cape Florida and the
Bahama Islands.

AS COMMANDER-IN-CHIEF OF HIS MAJESTY'S SHIPS AND VESSELS EMPLOYED, AND TO BE EMPLOYED, IN THE RIVER ST. LAWRENCE AND ALONG THE COASTS OF NOVA SCOTIA, ISLANDS OF ST. JOHN AND CAPE BRETON, ETC., PROVIDING FOR THE SUPERVISION OF THE FISHERY ON THE SAID COASTS, DATED THE 23RD AUGUST, 1763.

By the Commissioners for executing the Office of
Lord High Admiral of Great Britain and Ireland, &c^a.

WHEREAS, by our Commission of the 8th of June last, We have appointed you Commander in Chief of His Majesty's Ships and Vessels employed and to be employed in the River Saint Lawrence, and along the Coasts of Nova Scotia, the Islands of St^t John and Cape Breton, and thence to Cape Florida and the Bahama Islands ; And whereas we intend, that you shall hoist your Flag on board His Majesty's Ship the Romney, fitting at Plymouth, You are hereby required and directed to hoist your Flag on board that Ship accordingly ; And so soon as she shall be ready, you are to put to Sea in her, and make the best of your way to Halifax, in the Province of Nova Scotia.

And whereas the Ships and Vessels named in the inclosed List have been appointed by us to cruize upon the Stations expressed against their names, for guarding the Coasts of the Provinces within the extent of your Command, and protecting the Trade bound to and from those Provinces, and the Fishery upon the Coasts of some of them ; You will receive herewith Copies of the Instructions their Commanders are severally under, and you are to be very careful that they properly execute the same, as well as any others which you may think fit to send to them, if you shall find others necessary for more effectually answering the purposes of securing the said Provinces, Trade, and Fishery, from being molested ; And you are at liberty to change the Stations of the Ships and Vessels, from time to time, as you shall see occasion, in case you shall find that by doing so they can be better suited to the nature of the several Coasts, and that the service may be thereby better executed.

And whereas, by the 4th and 5th Articles of the Treaty of Peace concluded at Paris the 10th day of February 1763 (copies of which you will receive herewith) it is stipulated, that the Province of Canada with all its dependencies, as well as the Island of Cape Breton, and all the other Islands and Coasts in

all that depends upon them, shall belong to the Crown of Great Britain ; But His Majesty having, (by the said 5th Article) consented to leave to the Subjects of the Most Christian King the liberty of Fishing in the Gulph of Saint Lawrence, upon condition that they do not exercise the said Fishery but at the distance of Three Leagues from all the Coasts belonging to Great Britain, as well those of the Continent as those of the Islands situated in the Gulph of S^t. Lawrence, and as to the Fishery out of the said Gulph, it being thereby stipulated, that the Subjects of the Most Christian King shall not be permitted to exercise the said Fishery but at the distance of Fifteen Leagues from the Coasts of the Island of Cape Breton ; and that the Fishery upon the Coasts of Nova Scotia or Acadia, and every where else out of the said Gulph, shall remain upon the footing of former Treaties ; You are therefore to use your utmost care, diligence, and attention, that the several stipulations herein beforementioned be duly and strictly performed, according to the Tenor and intention thereof, as far as they shall come within the limits of your command ; as also to settle and guard the fishery of His Majesty's Subjects within those Limits, taking care to prevent the subjects of France from giving them any disturbance by Acts of violence or injustice, or by any evasion contrary to the spirit and intention of the said Treaties ; and likewise to prevent the French from catching Fish, except within the distances and in the manner beforementioned.

You are at the same time to be careful, that the Subjects of His Most Christian Majesty be permitted quietly and peaceably to enjoy the priviledge of Fishing within the distances herein beforementioned ; And to use your best endeavours to prevent His Majesty's Subjects from giving them any disturbance by Acts of violence, or injustice, or by any evasion contrary to the spirit and intention of the said Treaties.

And whereas, by the aforesaid Treaty of Paris, possession of the Islands of S^t. Peter and Miquelon is to be given up to France ; In case any endeavours shall be used to carry on an illicit Trade from those Islands with any part of His Majesty's Dominions in North America, you are to be particularly attentive to the same, and prevent all communication whatever between the said Islands of S^t. Peter and Miquelon, and any part of His Majesty's Dominions in North America.

And we having received information that three Ships are sent from Bourdeaux, laden with Wines and other French Commodities, to the amount of £30,000 Sterling, to the said Islands of Miquelon and S^t. Peter, to stay there 'til His Majesty's Ships have left the River S^t. Lawrence (which they expect will be the beginning of November) and then take the opportunity of the first Easterly Wind to push up as far as the lowest Settlements in Canada, such as the Island S^t. Barnabas the Isle of Beck, on the mouth of the River Tadasac, to dispose

of their Cargoes ; And it having been suggested to us that in order to defeat the intention of the Freighters of those Ships, some Men of War should be left to Winter at Quebec, and ordered to keep their Boats amongst the lower Settlements from the Isle of Barnabas as high as the Camariscas, until the Winter sets in so severe as to prevent

p. 4217

any Ships from attempting the River ; We do hereby signify the same to you, that you may, as far as you shall judge the same necessary, comply with what has been suggested as abovementioned, or take such other measures as may appear more effectual for entirely defeating any designs which may be formed by the French, or any other Foreigners, of carrying on any Trade with Canada, or with any other part of His Majesty's Dominions within the limits of your Command.

[The following paragraphs relate to the removal of people from the Northern Colonies to East and West Florida ; for a survey and charting of the Coasts and Harbours of Nova Scotia and of the Rivers and Harbours of Florida.]

Given &c^a the 23^d August 1763.

SANDWICH,
CARYSFORD,
HOWE,
DIGBY.

To the R^t Hon^{ble} Lord Colvill, Rear Admiral
of the White, and Commander in Chief of
His Maj^{ty}s Ships & Vessels employed and
to be employed in the River S^t. Lawrence,
and along the Coasts of Nova Scotia, the
Islands of S^t. John and Cape Breton, and
thence to Cape Florida and the Bahama
Islands.

By Command of their Lordships.
PH^p STEPHENS.

By Express to his Lordship at Plymouth,
the 24th at 10 o'Clo: P.M.

In the Privy Council

Privy Council
Documents

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**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA.**

BETWEEN

THE DOMINION OF CANADA of the one part

AND

**THE COLONY OF NEWFOUNDLAND of the other
part.**

VOLUME IX

OF

JOINT APPENDIX

CONTAINING

TABLES OF CONTENTS OF **VOLUMES I TO VIII,**
TOGETHER WITH **ALPHABETICAL INDEX.**

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Privy Council Documents

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PART VIII.

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821	1911 ..	C	Extract from " A Historical Geography of the British Colonies," Vol. V, Part IV, " Newfoundland," by J.D. Rodgers	1992
822	1920 ..	C	Extract from " Labrador," by William B. Cabot	1993
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832	28th Aug. 1765 ..	C	Rules, Orders and Regulations, establishing British Fishery on Labrador Coast	2011
833	1765 ..	C	Extract from general scheme of the Fishery and inhabitants of Newfoundland	2012
834	1st Aug. 1766 ..	C	Proclamation admitting vessels from Plantations to Fishery on Coast of Labrador, etc.	2013

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BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
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the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA.**

BETWEEN

THE DOMINION OF CANADA of the one part

AND

**THE COLONY OF NEWFOUNDLAND of the other
part.**

VOLUME X

CONTAINING

ADDITIONAL DOCUMENTS.

CHRONOLOGICAL INDEX.

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COMMISSION TO SIR WILLIAM JOHNSON, BART.,

TO BE COLONEL OF THE SIX NATIONS OF INDIANS AND AGENT AND
SUPER- INTENDENT OF THEIR AFFAIRS.

17 February 1756.

GEORGE THE SECOND, etc., To our trusty and well-beloved Sir William Johnson, Bart., Greeting.

We reposing especial trust and confidence in your loyalty, courage and good conduct, do by these Presents constitute and appoint you to be Colonel of our faithful Subjects and Allies, the Six United Nations of Indians and their Confederates in the Northern parts of North America, and you are to observe and follow such orders and directions from time to time, as you shall receive from our Commander in Chief of our forces in North America now and for the time being or any other your superior Officer according to the rules and discipline of War; and we do also constitute and appoint you our sole agent and superintendent of the said Indians and their affairs, with the Annual Salary of six hundred pounds sterling, payable quarterly at the four most usual feasts or days of payment in the year, out of such sums of money as shall be in the hands of the Commander in Chief of our forces in North America for the time being, applicable to the service of America ; to hold, exercise and enjoy the said office and employment with the several respective salaries, perquisites and advantages during our pleasure. And we do hereby direct our said commander in chief of our forces in America for the time being whose commands and directions you are punctually to observe in all matters relating to affairs of the said Indians to take effectual care, that the said salary of £600 be duly paid and satisfied to you according to our will and pleasure herein declared.

Given at our Court at St. James's the 17th day of February 1756 in the 'Twenty Ninth Year of our Reign.

By His Majesty's Command,
H. FOX.

[Similar Grant to Edmond Atkin, Esqre., to be agent for Indian Affairs.]

“appoint you to be our agent for and Superintendent of the affairs of our faithful allies the several nations of Indians inhabiting the frontiers of our colonies of Virginia, North and South Carolina and Georgia.”

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RECOMMENDATION BY THE LORDS OF TRADE

TO THE SECRETARY OF STATE FOR THE APPOINTMENT OF AND
AGENT FOR INDIAN AFFAIRS

13 May 1756.

To the Right Hon. HENRY Fox, one of His Majesty's
Principal Secretaries of State.

Sir, It appearing to us to be of great importance in the present conjuncture, That a proper person should be appointed by His Majesty to manage and conduct the Affairs of the several Nations of Indians upon the Frontiers of His Majesty's Colonies of Virginia, North and South Carolina and Georgia, by which means His Majesty's interests amongst the said Nations may be better cultivated and improved and the said Indians be engaged to join His Majesty's troops in such operations as may be undertaken for the defence and security of His Majesty's Colonies against the common enemy. We beg leave to desire you will move His Majesty that Edmund Atkin, Esq., may be appointed Agent and Superintendent of the Affairs of the several nations of Indians upon the frontiers of the several colonies above mentioned, with such salary and allowances to be paid by the Commander in Chief of His Majesty's Forces in America, as to His Majesty shall appear just and reasonable. And we herewith enclose a commission in the form which appears to us to be most proper for this purpose, in case His Majesty shall be pleased to approve of this our humble recommendation.

We are Sir, your most obedient and humble servants,

DUNK HALIFAX
JAMES OSWALD
T. TALBOT
SOAME JENYNS
W. G. HAMILTON.

Whitehall, May 13, 1756

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1 July 1756.

Letters to Governors of Virginia, North and South Carolina and Georgia, desiring them to give all proper countenance and support to Edmond Atkin, Esq., appointed Superintendent of Indian Affairs (set out).

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RECOMMENDATION BY THE LORDS OF TRADE

FOR THE APPOINTMENT OF SIR WILLIAM JOHNSON AS AGENT FOR
INDIAN AFFAIRS

11 March 1761.

To the Right Hon. WILLIAM PITT, EsQ., one of his
Majesty's principal Secretaries of State:—

SIR,

Sir William Johnson, baronet, having been appointed by his late Majesty to be Agent for the affairs of the Six United Nations of Indians and their Confederates in the Northern Parts of America, and appearing to us to be well qualified for that station, We desire you will be pleased to move his Majesty that the said Sir William Johnson may be continued in the said Office by His Majesty's Royal Appointment, and we beg leave to enclose a warrant which we have prepared to that effect, for his Majesty's signature in case his Majesty shall be graciously pleased to approve this our humble recommendation.

We are, Sir,
Your most obedient and humble Servants,

DUNK HALIFAX.
SOAME JENYNS.
W. G. HAMILTON.
W. SLOPER.
ED. BACON.

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COMMISSION TO SIR WILLIAM JOHNSON

TO BE AGENT AND SUPERINTENDANT OF THE SIX NATIONS OF INDIANS
IN THE NORTHERN PARTS OF NORTH AMERICA

24 March 1761.

SIR WILLIAM JOHNSON, Bart., Agent for the affairs of the
six Nations of Indians.

George the Third, etc., To our trusty and well-beloved Sir William Johnson, Bart., Greeting. We reposing especial trust and confidence in your loyalty, fidelity and ability, do by these Presents, constitute and appoint you to be our sole agent for and Superintendent of the affairs of our faithful subjects and Allies the Six United Nations of Indians and their Confederates in the Northern parts of North America, with the annual salary of Six Hundred Pounds sterling, payable quarterly, at the four most usual feasts or days of payment in the year, out of such sums of money as shall be in the hands of the Commander in Chief of our Forces in America for the time being applicable to the service of America, to hold, exercise and enjoy the said Office with the several salaries, perquisites and advantages thereunto belonging during our pleasure. And we do hereby direct our Commander in Chief of our Forces in America now and for the time being whose Command and Directions you are punctually to observe in all matters relating to the Affairs of the said Indians to take effectual care that the said salary of £600 be duly paid and satisfied to you according to our will and pleasure herein declared. Given at our Court at St. James's the 24th day of March 17 61 in the first year of our Reign.

By His Majesty's Command,

W. PITT.

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Colonial Office. 195/9.

Page 80.

REPORT OF THE LORDS OF TRADE TO THE KING

19th May 1761.

To the King's Most Excellent Majesty.

May it please Your Majesty

In obedience to Your Majesty's commands signified to us by the Right Honourable Mr. Secretary Pitt in his letters dated the 10th instant we have prepared a draft of. commission appointing JAMES GREAVES Esquire to be our Governor and Commander-in-Chief in and over Your Majesty's Island of Newfoundland in America in the room of JAMES WEBB Esquire which being in the same terms as the commission lately given by Your Majesty to the said James Webb we humbly beg leave herewith to lay it before Your Majesty and shall prepare the necessary instructions for Your Majesty's said Governor with all possible despatch.

Which is most humbly submitted

SANDYS
SOAME JENYNS
EDMUND THOMAS
GEORGE RICE

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Colonial Office. 195/9.

Page 81.

REPORT OF THE LORDS OF TRADE TO THE KING

22nd May 1761.

To the King's Most Excellent Majesty.

May it please Your Majesty

In obedience to Your Majesty's commands signified to us by the Right Honourable William Pitt one of Your Majesty's Principal Secretaries of State in his letter dated the 16th instant we have prepared a draft of instructions for THOMAS GREAVES Esquire whom Your Majesty has been pleased to appoint Governor of the Island of Newfoundland in the room of JAMES WEBB Esquire deceased which being exactly the same as the instructions lately approved and given by Your Majesty to the said James Webb, we humbly beg leave herewith to lay them before Your Majesty

Which is most humbly submitted

SANDYS
ANDREW STONE
SOAME JENYNS
GEORGE RICE
EDMUND THOMAS
EDWARD BACON

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Colonial Office. 324/40.
Grants and Warrants. Page 175.

COMMISSION TO JOHN STUART

TO BE AGENT AND SUPERINTENDANT OF THE INDIANS INHABITING THE
FRONTIERS OF VIRGINIA, NORTH AND SOUTH CAROLINA AND
GEORGIA.

5 January 1762.

JOHN STUART, ESQ., to be Agent for Indian Affairs.

George the Third, etc., To our trusty and well-beloved John Stuart, Esq., Greeting. We reposing special trust and confidence in your Loyalty, Fidelity and Ability do by these presents constitute and appoint you to be our agent for and superintendent of the Affairs of our faithful allies, the several nations of Indians inhabiting the frontiers of our Colonies of Virginia, North and South Carolina and Georgia and their Confederates, with the Annual Salary of £600 payable quarterly at the four most usual feasts or days of payment in the Year, out of such sums of money as shall be in the hands of the Commander in Chief of our Forces in America for the time being, applicable to the Service of America, To have, hold, exercise and enjoy, the said office and employment with the salary, perquisites and advantages thereunto belonging during our pleasure. And we do hereby direct our said Commander-in-Chief, of our Forces in America for the time being, whose commands and directions you are punctually to observe in all matters relating to the Affairs of the said Indians to take effectual care that the said salary of £600 be duly paid and satisfied to you according to our will and pleasure herein declared. Given at our Court at St. James's the 5th day of Jan 1762, in the second Year of our Reign.

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C.O. 194/15.

S.22.

**THE EARL OF EGREMONT TO THE LORDS OF
TRADE**

Whitehall, March 8th, 1763.

My Lords,

A Definitive Treaty of Peace between His Majesty, the Most Christian King, having been signed at Paris on the 10th February last, I send your Lordships, for your information, the inclosed copies of the fifth and sixth Articles thereof, relating to the Fishery at Newfoundland, and elsewhere in those particulars, and to the Cession of the Islands of St. Peter and Miquelon, as also an extract of the 24th Article of the said Treaty, fixing the Time for the Cession of those Islands ; and I am to signify the King's Pleasure to Your Lordships, that you do forthwith take the same into consideration, and that you do lay before the King in Council, any Alterations or Additions, that may appear to Your Lordships expedient to be made to the Instructions given to the Governor of Newfoundland, in order to conform them to the above-mentioned Stipulations of the Definitive Treaty.

I am, my Lords,

Your Lordships' Most Obedient, Humble Servant,

LORDS OF TRADE.

EGREMONT.

In the Privy Council.

IN THE MATTER OF THE BOUNDARY
BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
NEWFOUNDLAND IN THE LABR-
ADOR PENINSULA.

TRADE.

NEWFOUNDLAND.

Letter from the Earl of Egremont, Secretary of
State, dated 8th March, 1763, respecting some
articles of the Treaty of Peace, lately concluded
with the Crowns of France and Spain relating to
the Fishery of Newfoundland etc., and inclosing.

Received

Read March 9th, 1763.

S. 22.

BURN & BERRIDGE,
30, Great Queen Street
Kingsway, W.C. 2

C.O. 323
Page 205.

16.—PLANTATIONS GENERAL.

COPY OF A CIRCULAR LETTER TO THE GOVERNORS OF VIRGINIA, N.
CAROLINA, S. CAROLINA, GEORGIA, AND MR. JOHN STUART,
AGENT FOR INDIAN AFFAIRS IN YOUR DISTRICT FROM LORD
EGREMONT.

March 16, 1763.

Whitehall.

Sir,

As the removal of the French and Spaniards from the countries which extend from the Colony of Georgia to the river Mississippi, and which are now ceded to His Majesty, will undoubtedly alarm and increase the jealousy of the neighbouring Indians, the King judges it to be indispensably necessary to take the earliest steps for preventing their receiving any impressions of this kind, and for gaining their confidence and good will, without which it will be impossible for this nation to reap the full benefit of its acquisitions in that part of the world.

The French and Spaniards in Florida, and Louisiana have long and too successfully inculcated an idea amongst the Indians, that the English entertain a settled design of extirpating the whole Indian race, with a view to possess and enjoy their lands and that the first step towards carrying this design into execution, would be to expel the French and Spaniards, the real friends and protectors of the Indians ; In order to prevent the ill effect of these suggestions, which our taking possession of those countries will seem to verify, it is His Majesty's pleasure that you should, in concert with the Governors of Virginia, the Two Carolinas, and Georgia, without loss of time, immediately invite the chiefs of the Creeks, the Chactaws, Cherokees, Chickasaws and Catabaws, to a meeting with them and the Indian Agent for that department, at Augusta in the Province of Georgia, or any other place equally convenient for the several parties ; at which these chiefs are to be apprized in the most prudent and delicate manner of the change which is going to take place. In doing this, the King judges it to be absolutely necessary not only to avoid every expression which might awaken the fears or point out the dependance of the Indians upon us, but to use every means to quiet their apprehensions and gain their good opinion.

For this purpose it would be proper to recur to the original causes of the war with the French, to mention and dwell upon the several cruelties they exercised during the course of it, the arts they employed, the groundless

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stories they propagated among the Indians in order to excite their jealousies, to alienate their affections from this nation and to provoke them to commit such violences as His Majesty was at length compelled to resent, that by the same insidious arts they had so far wrought upon the credulity of the Spaniards, as to involve them in their quarrel, and its consequences, that thro' the special favour of providence, the wisdom of the King and the courage of His Troops, all these mischievous practices and designs have been discovered and defeated.

In order to prevent the revival of such disturbances and troubles by repetitions of the same dangerous proceedings, His Majesty found himself obliged to insist in the Treaty of Peace, that the French and Spaniards should be removed beyond the River Mississippi, to the end that the Indians and his White People may hereafter live in peace and brotherly friendship together ; That the English feel a particular satisfaction in the opportunity which their successes afford them of giving the Indians the most incontestable and substantial proofs of their good intentions and cordial desire to maintain a sincere and friendly correspondence with them ; That these proofs will consist, 1stly, in a total oblivion and forgiveness of all past offences, fully persuaded that they were entirely owing to the deceiving arts of the French, and no ways to be attributed to any ill will in them ; 2ndly, in opening and carrying on so large a traffick with them as will supply all their wants ; 3rdly in a continual attention to their interests and in a readiness upon all occasions to do them justice ; and lastly, in the most solemn assurances that those forts now ceded to us, by means of which the French really did intend to subvert their liberty, and accomplish those evil designs, which they artfully imputed to Us, shall never be employed but to protect and assist them, and to serve for the better convenience of commerce between the Indians and Us, and the cultivation of friendship and goodwill, between them and the subjects of His Majesty. And should the Indians retain any jealousy or suspicion that the forts situated in the heart of the Indian country, such as Albama, Tombegbi, and Fort Londoun, may be made use of for purposes not favourable to them and express a desire that they should be destroyed, I make no doubt but their representation on this head will be most graciously received by the King, and that His Majesty will readily comply with any reasonable request, in order to give the most satisfactory proofs of his intentions to fulfil the friendly declarations which you shall make in his name to the Indians, the sincerity of which it is highly important they should be convinced of, in order to prevent those evils which must necessarily happen, if a thorough confidence in His Majesty's government is not established

upon a solid footing.

I am, etc,

EGREMONT.

P.S. — I am to inform you that in order to try every method which may contribute towards so desirable an object, as that of gaining the good-

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will and the confidence of the Indians, His Majesty has thought proper to direct a certain quantity of goods to the amount of four or five thousand pounds to be purchased and sent to Charles Town in S. Carolina, to be distributed in such proportions and in such manner among the Indians as shall be judged proper, at the Meeting directed by this Letter to be held at Augusta, or elsewhere, a list of these goods (which are actually bought and will be soon embarked) will be sent with them to the Governor of S. Carolina.

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**THE EARL OF EGREMONT TO THE LORDS OF
TRADE**

Whitehall, March 17, 1763.

My Lords

I have the King's Commands to acquaint your Lordships, that his Majesty having taken into Consideration your Representation of the 15th instant, does not judge proper that any Steps should be taken there-upon until Your Lordships shall have fully complied with the Directions given you by His Majesty's Orders, in my Letter of the 8th. I am therefore commanded to signify to Your Lordships His Majesty's pleasure, that you do, without loss of Time, prepare a Draught of Instructions for the Governor of Newfoundland for this Year, with such alterations from, or Additions to, the Instructions, which have been formerly given in time of Peace, as Your Lordships shall judge necessary or expedient, in order to render them conformable to the Stipulations of the Definitive Treaty, which I have already transmitted to you.

As it is the King's Intentions that the Governor of Newfoundland shall sail as soon as possible, I am commanded to signify to Your Lordships His Majesty's Pleasure that you do acquaint me, for the King's Information, how soon he may expect the Draught of Instructions above-mentioned.

I am, my Lords,
Your Lordships' most obedient humble servant,

EGREMONT.

In the Privy Council.

IN THE MATTER OF THE BOUNDARY
BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
NEWFOUNDLAND IN THE LABR-
ADOR PENINSULA.

NEWFOUNDLAND.

Letter from the Earl of Egremont, Secretary of State, dated 17th March, 1763, acquainting the Board that His Majesty does not think proper to take any steps in consequence of their Representation, relative to the Newfoundland Fishery etc., until they have complied with the Directions of His Lordship's Letter of the 8th instant and desiring to know when the Instructions will be ready for the Governor of Newfoundland.

Received, March 18, 1763.

½ past 10 morning.

S. 29.

BURN & BERRIDGE,
30, Great Queen Street,
Kingsway, W.C. 2.

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Unbound Papers.

**EXTRACTS FROM REPORT OF THE LORDS
COMMISSIONERS FOR TRADE AND PLANTATIONS**

UPON A DRAUGHT OF NEW INSTRUCTIONS FOR THE GOVERNOR OF
NEWFOUNDLAND.

Received 21 March 1763.

30 Do. Read and approved.

To the King's most Excellent Majesty.

May it please your Majesty.

In obedience to your Majesty's commands signified to us by the Earl of Egremont, one of your Majesty's principal Secretaries of State, in his letter of the 17th instant, We have prepared and humbly beg leave herewith to lay before your Majesty, "a Draught of instructions for the Governor of Newfoundland for this year, with such alterations from or additions to the Instructions which have been formerly given, in time of peace, as we judge necessary or expedient, in order to render them conformable to the stipulations of the definitive Treaty " which has been transmitted to us by his Lordship.

It may be proper for us to observe to your Majesty that the Draught of Instructions does not extend to the islands of Cape Breton or St. Johns Islands or to any part of the coasts of Acadia, Canada or Labradore ; For those Islands and that tract of country having never been included within the limits of the Commission of the Governor of Newfoundland, to which we are confined by the words of the last reference made to us by your Majesty's Secretary of State,[sic] We have not thought ourselves at liberty to extend our consideration beyond the words of the Reference itself.

All which is most humbly submitted.

C. TOWNSHEND,
SOAME JENYNS,
E. BACON,
JOHN YORKE,
EDMOND THOMAS,
GEO. RICE,
ORNVELL.

Whitehall.

March 21, 1763.

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**THE EARL OF EGREMONT TO THE LORDS OF
TRADE.**

Whitehall, March 24, 1763.

My Lords,

The King having judged it proper that all the Coast of Labradore, from the entrance of Hudson's Streights, to the River St. John's which discharges itself into the Sea, nearly opposite the West End of the Island of Anticosti, including that Island, with any other small Islands on the said Coast of Labradore, and also the Islands of Madelaines, in the Gulph of St. Lawrence, should be included in the Government of Newfoundland, I am commanded to signify His Majesty's Pleasure to Your Lordships, that you do forthwith prepare, to be laid before the King for His Royal Approbation the Draught of a New Commission for Captain Thomas Graves, to be Governor of the Island of Newfoundland and of the Coast of Labradore, with several Islands as above-described ; and I herewith return to Your Lordships the Draught of Instructions for the Governor of Newfoundland transmitted in your Report of the 21st instant (which the King entirely approves) in order that your Lordships may make such Additions to the same as you shall judge expedient and necessary, to render them conformable to the New Commission above-mentioned..

I am, My Lords,

Your Lordships,

Most Obedient Humble Servant,

EGREMONT.

In the Privy Council.

IN THE MATTER OF THE BOUNDARY
BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
NEWFOUNDLAND IN THE LABR-
ADOR PENINSULA.

NEWFOUNDLAND.

Letter from the Earl. of Egremont,
Secretary of State, dated 17th March,
1763, acquainting the Board that His
Majesty does not think proper to take any
steps in consequence of their
Representation, relative to the
Newfoundland Fishery etc., until they have
complied with the Directions of His
Lordship's Letter of the 8th instant and
desiring to know when the Instructions
will be ready for the Governor of
Newfoundland.

Received, March 18, 1763.

1/2 past 10 morning.

S. 29.

BURN & BERRIDGE,
30, Great Queen Street,
Kingsway, W.C. 2.

Privy Council 1/50.
Unbound Papers.

**REPORT OF LORDS OF TRADE TO THE PRIVY
COUNCIL.**

25th March 1763.

Report of the Lords of Trade with a Draught of a Commission for Thomas Graves Esqr. to be Governor of Newfoundland and all the coast of Labradore from the entrance of Hudson's Streights to the River St. Johns which discharges itself into the sea, nearly opposite the West end of the island of Anticosti, including that island with any other small islands on the said coast of Labradore, and also the Islands of Madelaines in the Gulph of St. Lawrence.

Received 26 March 1763.

30 Do. Read and Approved.

To the King's most Excellent Majesty.

May it please your Majesty.

In obedience to your Majesty's commands, signified to us by the Earl of Egremont, one of your Majesty's Principal Secretaries of State, in his letter of the 24th instant, we have prepared, and beg leave humbly to lay before your Majesty, the Draught of a Commission, appointing Thomas Graves Esqr. to be Governor and Commander in Chief of the island of Newfoundland and all the coast of Labradore from the entrance of Hudson's Streights to the River St. Johns which discharges itself into the sea, nearly opposite the West end of the island of Anticosti, including that island with any other small islands on the said coast of Labradore, and also the islands of Madelaines in the Gulph of St. Lawrence.

And we shall prepare, with the utmost dispatch, such additions to the Draught of Instructions which your Majesty has approved for the Governor of Newfoundland, as shall appear to us to be necessary to render them conformable to the said Commission.

Which is most humbly submitted.

C. TOWNSHEND,
E. BACON,
JOHN YORKE,
GEO. RICE,
ORNVELL.

Whitehall,
March 25th 1763.

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Privy Council Register 2/109.
Page 546.

**COMMISSION FOR THOS. GRAVES TO BE
GOVERNOR APPROVED.**

30 March 1763.
NEWFOUNDLAND.

Upon reading at the Board a representation of the Lords Commissioners for Trade and Plantations dated the 15th of this instant, setting forth that, in obedience to His Majesty's Commands signified to him by the Earl of Egremont, one of His Majesty's Principal Secretarys of State, they have prepared the draught of a Commission appointing Thomas Graves, Esqre., to be Governor Commander in Chief of the Island of Newfoundland and all the coast of Labradore from the entrance of Hudsons Streights to the River St. John's which discharges itself into the sea nearly opposite the West end of the island of Anticosti, including that island, with any other small islands on the said Coast of Labradore, and also the islands of Madelaines in the Gulph of St. Lawrence, His Majesty this day took the said Representation together with the said draught of a Commission into his royal consideration, and was pleased with the advice of His Privy Council to approve the said draught, and to order, as it is hereby ordered that the Right Honourable the Earl of Egremont, one of His Majesty's Principal Secretarys of State do cause a warrant to be prepared for His Majesty's royal signature in order to pass the said draught of a commission under the Great Seal.

**INSTRUCTIONS FOR GOVERNOR GRAVES
APPROVED.**

NEWFOUNDLAND.

Upon reading at the Board a Representation of the Lords Commissioners for trade and Plantations dated the 29th day of this instant setting forth that in obedience to His Majesty's Commands signified to them by the Earl of Egremont one of His Majesty's Principal Secretarys of State, they have prepared a draught of instructions, for Thomas Graves, Esqre., whom His Majesty hath been pleased to appoint Governor and Commander in Chief in and over the Island of Newfoundland and all the Coast of Labradore, from the entrance of Hudson's Streights to the River St. John's, which

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discharges itself into the sea nearly opposite the West End of the Island of Anticosti, including that island, with any other small islands on the Coast of Labradore, and also the Islands of Madelaines in the Gulph of St. Lawrence and that in this draught the said Lords Commissioners have made such alterations as appeared necessary in order to render the instructions of His Majesty's said Governor conformable to the extent of His Commission— His Majesty this day took the said Representation together with the said draught of instructions into his Royal Consideration, and was pleased with the advice of his Privy Council to approve the said draught, and to order, as it is hereby ordered, that the Right Honourable the Earl of Egremont, one of His Majesty's Principal Secretarys of State, do cause the said draught of instructions to be prepared for His Majesty's Royal Signature.

**COPY OF THE CALENDAR TO THE PATENT ROLLS,
4 GEORGE III. PART 1, No.2.**

7th October, 1763.

A Proclamation concerning the bounds and limits and the appointment of Governors and other Officers within the countries and Islands ceded and confirmed to the Crown by Treaty and erecting them into four distinct and separate Governments styled and called by the names of Quebec, East Florida, West Florida and Grenada and for other purposes, dated the Seventh of October, 1763.

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**LETTER TO THE SUPERINTENDENT OF INDIAN
AFFAIRS**

FOR THE NORTHERN AND SOUTHERN DISTRICTS OF AMERICA ENCLOSING
PRINTED COPIES OF THE PROCLAMATION DECLARATORY OF THE NEW
ARRANGEMENTS IN AMERICA

10 October, 1763.

TO SIR WILLIAM JOHNSON, BART., SUPERINTENDENT FOR INDIAN
AFFAIRS.

Sir,

We have received his Majesty's commands to send you the enclosed printed proclamations and to desire you will cause the same to be forthwith made public in the several parts of your jurisdiction, taking especial care that you do exactly conform to the Orders and Regulations therein contained in so far as depends upon yourself, and that you do strictly enjoyn all persons whatsoever whom it may concern to pay a due obedience thereto on their parts.

We are, etc,

HILLSBOROUGH
SOAME JENYNS, etc.

" N.B.—A like Letter was sent to JOHN STUART, Esqr.
the other Superintendent for Indian Affairs."

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CONSIDERATION BY THE PRIVY COUNCIL

AS TO GRANT OF LAND TO SIR WILLIAM JOHNSON. — PRIVY COUNCIL
REGISTRAR 112.

New York 1767.

Board of Trade to reconsider their REPORT ON SIR WILLIAM JOHNSON'S MEMORIAL for a grant of lands on the North Side of the

Mohawk River ceded to him by the Indians, etc.

The Lords of the Committee this day took into consideration a Report made by the Lords Commissioners for trade and plantations, dated the 20th February last, upon a memorial of Sir William Johnson, bart., Superintendent of Indian Affairs for the Northern district of North America, praying amongst other particulars for a grant of a certain tract of land on the North Side of the Mohawk River, conceded to him by the Indians of that nation ; And the said report not containing information sufficient to enable the Committee to give any opinion to his Majesty with respect to granting the said lands, Their Lordships are hereby pleased to refer the said report back to the Lords Commissioners for Trade and Plantations, in order for them to report their opinion to this Committee upon the Authenticity of the said grant made to Sir William Johnson, and to ascertain in the best manner they are able the situation of the land granted and whether any and what part of the said lands so granted to Sir William Johnson lie within the lands reserved to the Indians for hunting ground by the proclamation of the 7th October 1763 or by any compact at any time made with them, together with any other circumstances they may think proper or necessary for the information of the Committee upon this occasion.

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LORD SHELBURNE TO THE LORDS OF TRADE.

October 5, 1767.

Whitehall.

My Lords,

Several memorials and petitions having been presented to His Majesty by merchants trading from hence to North America or residing in the Colonies, setting forth the present state of the Indian trade and representing the necessity of some new regulation, I have His Majesty's commands to transmit to Your Lordships copies of the same for your consideration.

His Majesty observing the expenses of North America to be enormous, and to arise in great measure from the present manner of managing Indian affairs, by the intervention of Superintendents, who necessarily have a power of drawing for such sums as they shall judge expedient, as well as from the number of forts subsisting ever since the late War ; and the distant stations in which the troops have remained for want of any regular plan or system having been adopted since the peace. I have it further in command to desire your Lordships to take into your consideration at the same time, how far the present expense, whether regarding the Indians or the disposition of the troops for Indian purposes, may with safety and propriety admit of being reduced ; and for this purpose your Lordships will state your opinion to His Majesty how far the appointment of Superintendents remains longer necessary, their first institution being supposed to be chiefly, if not solely, for the purpose of a general union of the Colonies, under His Majesty's immediate direction, to resist the encroachments of the French at the beginning of the last war ; or how far it may be right to strengthen the hands of these officers agreeable to their repeated applications, in order to give a more efficient strength to an institution independent both of the civil and military power. But as the general regulations of trade attempted to be carried into execution by the Superintendents are asserted in these petitions to be ill suited to the particular circumstances of the several provinces, and to serve rather to dog the trade with useless and vexatious restrictions, than to remove the evils of which complaint has been made ; and as it appears also from the correspondence that the Governors of several of the Colonies do not keep up a regular correspondence with these officers, paying little or no regard to the rules laid down by them, if your Lordships should think

their further continuance unnecessary you will then state your opinion to His Majesty in what method it may be proper to entrust both the trade and management of the Indians to the care of the Colonies themselves, leaving it to them to judge of their several interests with those people, and to pass laws which shall be adapted to the circumstances of the respective provinces and which must afterwards in course be sent over hither to be submitted to His Majesty for his royal approbation or disallowance (if found

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repugnant to the true interest of the Colonies or of Great Britain) subject always to such general restrictions as Your Lordships may judge proper to lay before His Majesty as expedient to be observed by the provinces, who must in consequence defray whatever expense they may judge necessary from time to time for their own quiet and security against Indian incursions.

And as the sole utility arising from the several forts which are now maintained appears to be the forming of a certain barrier against the Indians for the security of the colonies, your Lordships will take into consideration whether most of the posts now subsisting may not be reduced and others of them entrusted to the provinces themselves, in order to lessen the present heavy expense ; still preserving the necessary communications by means of a few posts remaining in the hands of His Majesty's troops on the great lakes and rivers which lead from Canada to the Mississippi and the frontiers of New York, which, together with a small number of vessels to command the navigation, may answer every intention of Government with regard to the Indians and at the same time secure an easy access for His Majesty's troops into the 'different provinces, keeping the forts of the army now collected and without hazarding its subordination and discipline.

His Majesty likewise commands me to refer to your Lordships extracts from several letters of Sir J. Amherst and General Gage, recommending the establishment of further new Governments on the Mississippi, the Ohio, and at Detroit, at one or more of which places a considerable body of French have been suffered to remain since the Peace without any form of Government ; also different proposals from private people for undertaking establishments in those parts. Your Lordships will consider the course of the several arguments which are brought in favour of these settlements, setting forth, That they will secure to His Majesty's subjects the command of the fur and peltry trade in preference to the French and Spaniards, preventing smuggling with them which, as appears by the extracts of General Gage's and Mr. Croghan's letters amounts to so considerable a sum annually as to become a national object ; That they will be an effectual check to the intrigues of those nations for gaining the effections of the Indians ; That

they will promote the great object of population in general and increase the demand and consumption of British manufactures, particularly by affording to the Americans an opportunity of following their natural bent for the cultivation of lands and offering a convenient reception and occupation for their superfluous hands, who otherwise cooped up in narrow bounds, might be forced into manufactures to rival the Mother country ; an event which any other way, it might be difficult to prevent ; That by raising provisions of all sorts to supply such interior garrisons as it may still be found necessary, to keep up they would greatly contribute to lessen the extra-ordinary expense accruing not only from the establishments of the different forts, and the various contingent charges, but also from the necessity of transporting provisions as well as stores to supply the garrisons from the provinces on the coast by the rivers and by the Great Lakes, as well as by Land Portage, all which not only occasions an accumulated expense, but also often reduces the Garrisons to great distress, and in case of an Indian

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war, when alone they can be useful, leaves them in a very precarious situation ; That these new colonies will prove in effect, a protection and security to the Old, forming of themselves an exterior line of defence, rendering most of the interior forts useless and equally contributing to diminish the present Indian and military expense. That being situated behind the other provinces they will be of singular use to keep the Indians in awe, and prevent their hostile incursions upon the frontiers to the East-ward, while those savages who are hemmed in by our Settlements on both sides must either become domiciliated and reconciled to our laws and manners, or be obliged to retire to a distance.

In case your Lordships should think it right to advise His Majesty to establish these new Governments, you will consider whether it will not be practicable to fall upon such a Plan as will avoid great part of the expense incurred by the estimates of the new Governments established after the Peace.

I send your Lordships all the Papers which can furnish any lights in these matters, which His Majesty desires that you will without lose of time take into your consideration in their fullest extent. Then, together with the materials in your Lordships' office, and the examination of such merchants as are most intelligent in the North American and Indian trade and such of His Majesty's Military Servants as have been in America (who will be ready to attend your Lordships and to give you every information in their power) will enable you to acquaint me for His Majesty's information in one or more reports in what manner your Lordships think these Points can be regulated so as most effectually to promote the prosperity and happiness of the several provinces, as well as the real and solid advantage of the Mother country ; objects which His Majesty has so much at heart.

I am, etc.,
SHELBURNE

LIST.

[Here follow about 40 enclosures.]

No. 1.— Memorial of Canada Merchants for the regulation
of Indian trade, etc.

Privy Council
Documents

Volume X

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Additional
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Additional
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COLONIAL OFFICE RECORDS
5 Vol. 69 Folio 119 etc.

**REPRESENTATION OF THE LORDS OF TRADE TO
THE PRINCIPAL SECRETARY OF STATE**

7 March 1768.

To The King's Most Excellent Majesty.

May it please your Majesty —

In obedience to your Majesty's command, signified to us by a letter from the Earl of Shelburne, one of your Majesty's principal Secretaries of State dated 5th of October last, we have taken into our most serious consideration the several memorials, letters and other papers therewith referred to us containing objections to, and observations upon the present Plan for the management of our commerce and connexions with the Indians in North America ; stating the great expense attending as well that Branch of Service as the present disposition of the troops for Indian Purposes, and urging the expediency and propriety, in various lights, of establishing certain new governments upon the Mississippi, the Ohio and at the Detroit between the lakes Erie and Huron : We have also conferred, upon this occasion, with such of your Majesty's military servants as have been employed in North America and with such Merchants and others as are most intelligent in the North American and Indian Trade.

Whereupon we humbly beg leave to represent to your Majesty,

That the subject matter to which these papers refer, and the Questions arising thereupon, stated to us in the Earl of Shelburne's letter, appear to us to lead to a consideration of no less consequence and importance, than what System it may be now proper for your Majesty to pursue with respect to that vast and extensive country in North America which on account of the Indian War raging within it was made by the Proclamation of the 7th of October, 1763, the object of mere provisional arrangements.

The advantages resulting from the Treaty of Paris, are in no part of it more distinguished than in these stipulations, which, by obtaining from France and Spain cessions to your Majesty of those important Possessions in North America, which by their situation, gave most alarm and annoyance to the British Colonies, laid the foundation of lasting security to your

Majesty's Empire in North America, and of relief to this country by a reduction of that heavy expense, with which it was necessarily burthened for the defence and protection of these colonies ; and, although the unfavourable impressions left upon the minds of the Indians by the Event of the War, and the Representations of the French that we meant to extirpate them, did for some time

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involve us in a war with them, that rendered necessary the continuance of a large military Establishment, yet, that war being happily ended, and Treaties of Peace and Friendship, to which all the various Tribes have acceded, having been finally concluded, it is now become of immediate importance to examine, how far the alteration which has thus taken place in the State of your Majesty's Dominion in North America, may require or admit of any proportionable alteration in the System by which that part of your Majesty's Service is to be carried on for the future.

The parts of the Service to which we are more immediately called upon by the Earl of Shelburne's letter to give our attention, are, First, the present civil establishments regarding the Indians ; Secondly, the disposition of the Troops for Indian Purposes ; and lastly the establishment of certain new Colonies.

With respect to the first of these Points, we are directed to state our opinion, how far the present expense of the civil Establishment regarding the Indians may with safety and Propriety be reduced, by the entrusting the Indian Trade and all other Indian affairs to the management of the several Colonies.

In considering this question it may be proper to observe that the Institution of Superintendents for the Affairs of Indians appears to have been a measure originally adopted principally with a view to counteract the Designs of the French in 1754 who by sowing the seeds of jealousy amongst the Indians and exciting them to resent injuries for redress of which they had in vain solicited the colonies, had well nigh entirely weaned them from the British Interest ; And at the same time by uniting the force and conducting the enterprise of the savages, had rendered them an over match for your Majesty's colonies standing single and disunited.

In order therefore to balance the danger arising from this more immediate union and co-operation of the French with the Indians, it became necessary to provide a more systematical as well as more extensive plan of defence for the colonies than had before been requisite ; A plan which might bear some proportion to the extent of the efforts then made by their Enemies, and which having for its object the preservation of all your Majesty's Colonies from the common danger could not otherwise be administered with safety, or with effect, than under the immediate control of their common Sovereign and Protector and the utility of such a Plan, under those circumstances, was soon manifested by its consequences and by the share it had in contributing to that success which ever

after attended the British Arms in America.

From this slight view of the original Causes of the institution of Superintendents and of the Consequence it produced, it cannot but appear evident, that every objection both to the expense and difficulty in execution was answered by the necessity of the case, and the importance of the object, but should it appear to your Majesty that the alteration in the State of America, since the Peace, has rendered the measure less necessary at least in its full extent, every consideration both of expense, and of difficulty in the execution, must now be carefully attended to, before a right judgment

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can be formed, as to the expediency of continuing either the whole or any part of it.

To maintain a good correspondence with the Indians is undoubtedly an object of great importance ; and upon a careful examination into the state of Indian affairs after the conclusion of Peace, it appears that the two principal causes of the discontent that still rankled in the minds of the Indians and influenced their conduct, were the encroachments made upon lands which they claimed as their Property and the abuses committed by Indian Traders and their servants. The necessity, which appeared in the then state of our interests with the Indians of making some immediate provision against these two causes of their discontent induced the Proclamation of October 1763, which very prudently restrained all persons from trading with the Indians without Licence, and forbid, by the strongest prohibitions, all settlement beyond the limits therein described as the Boundary of the Indian hunting ground, putting both their commerce and property under the protection of officers acting under Your Majesty's immediate authority and making their intervention necessary in every transaction with those Indians.

These, however, being as we have before observed mere provisional arrangements adapted to the exigence of the time, it is become now necessary to consider, what may be more permanently requisite in both the cases to which they apply.

The giving all possible redress to the complaints of the Indians in respect to encroachments of their lands and a steady and uniform attention to a faithful execution of whatever shall be agreed upon for that salutary purpose is a consideration of very great importance. It is a service of a general nature in which your Majesty's interest as Lord of the soil of all ungranted lands which the Indians may be inclined to give up, is deeply and immediately concerned, and with which the general security of your Majesty's Possessions there is in some measure connected ; it is an object comprehensive of a variety of cases, to which the separate authority and jurisdiction of the respective colonies is not competent, and it depends upon negotiation which has always been carried on between Indians and officers acting under your Majesty's immediate Authority, and has reference to matters, which the Indians would not submit to the discussion of particular Colonies.

For these reasons we are of opinion, that the execution of all measures and services respecting the complaints of the Indians touching their lands should be continued to be entrusted to the Superintendent at present acting under commission from your Majesty, reserving to the Governor and Council of every particular Colony, which may be interested in any measure that has reference to this general service, a right to interpose their advice, and making their concurrence necessary to the Ratification of every compact that shall be provisionally made until your Majesty's pleasure shall be known upon it.

In a plan for the management of Indian affairs prepared by this Board in 1764 the fixing a boundary between the settlements of your Majesty's subjects and the Indian country was proposed to be established by compact

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with the Indians as essentially necessary to the gaining their good will and affection, and to preserving the tranquility of the colonies.

This plan having been communicated to the superintendents, they have in consequence thereof, made the proposition of such a boundary line an object of their particular attention and of negotiation and discussion with the several tribes of Indians interested therein.

In the southern district a boundary line has not only been established by actual treaties with the Creeks, Cherokees and Chactaws, but has also as far as relates to the provinces of North and South Carolina, been marked out by actual surveys and has had the happy effect to restore peace and quiet to these colonies.

In the Northern district, the proposition appears to have been received by the Indians with the strongest marks of approbation and satisfaction ; and a line of separation was in 1765 suggested by them, in which Sir Wm. Johnson acquiesced, declaring at the same time that he would not finally ratify it without your Majesty's further directions.

The Paper (App. A) contains a description of the several lines as agreed upon in the negotiations to which we refer ; and to the end, your Majesty may have a more perfect view of them, we have annexed to such description a map (App. B) in which we have endeavoured to trace those lines out, with as much accuracy as the general maps of America will admit of.

Your Majesty will be pleased to observe that, although on the one hand the settlements in the new established Colonies to the South are con-fined to very narrow limits ; yet on the other hand the middle colonies (whose state of population requires a greater extent) have room to spread much beyond what they have hitherto been allowed, and that upon the whole one uniform and complete line will be formed between the Indians and those antient colonies, whose limits not being confined to the Westward have occasioned that extensive settlement, which, being made without the consent of the Indians, and

before any line was settled, produced the evil complained of. In comparing the map with the description in writing as taken from the Treaties with the Indians, Your Majesty will observe that the boundary line with the six Nations and their allies is made upon the map to terminate at that part of the Ohio where it receives the Connahway River, instead of continuing it down the Ohio to the Cherokee River, and up that river to its source, as described in the Treaty ; the reason for which is, that although the six Nations may have pretensions to the dominion of the country on the South side of the Ohio lower down than the Connahway River ; yet in fact it is more occupied by the Cherokees and other independant tribes, as their hunting ground ; and therefore the making any settlements beyond the Connahway River, or at least beyond a line drawn from the mouth of it, to where the Cherokee line now terminates, as marked on the map, would be altogether inconsistent with what has been settled and agreed upon with that nation ; for which reason we think that the line settled with the Southern Indians, and that which remains to be settled with the six nations ought to be united in the manner we have described.

Upon the whole it does appear to us, that it will be greatly for your

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Majesty's interest as well as for the peace, security and advantage of the colonies, that this boundary line should, as speedily as possible, be ratified by your Majesty's authority, and that the superintendents should be instructed and impowered to make treaties in your Majesty's name with the Indians for that purpose, and enabled to make such presents to the Indians as the nature and extent of the Concessions on their part shall appear to require ; care however should be taken in the settlement of this business that the agreement for a Boundary line be left open to such alterations, as, by their common consent, and for the mutual interests of both parties, may hereafter be found necessary and expedient.

If Your Majesty should be graciously pleased to approve what we have recommended, we humbly submit whether it may not be further necessary that the colonies should be required to give every sanction to the measure in their power, and to provide by proper Laws for the punishment of all persons who shall endanger the publick peace of the Community by extending settlements or occupying lands beyond such line.

What we have above stated in respect to the expediency of continuing the office of Superintendents is confined merely to negotiation with the Indians concerning a boundary line. But we humbly submit, that there are other branches of duty and service, which, though they be of less urgency, yet do, both from their nature and importance, require the intervention of officers acting under your Majesty's immediate authority ; and which, as they have reference to the general Interests of the Indians, independent of their connection with any particular colony, cannot be provided for by Provincial Laws ; such are

the renewal of antient compacts or covenant—chains made between the Crown and the principal Tribes of Savages in that country ; the reconciling differences and disputes between one body of Indians and another ; the agreeing with them for the sale or surrender of lands for publick purposes not lying within the limits of any particular colony ; and the holding interviews with them for these and a variety of other general purposes, which are merely objects of negotiation between your Majesty and the Indians.

These, may it please Your Majesty, are in our judgment Services of great importance, and to which it is essentially necessary, for the preservation of the British Interest with those Indians, and for preventing all foreign influence and connection. that strict attention should be paid.

Antecedent to the establishment of the present plan of Superintendents, the management of these Interests was entrusted to the governors of those colonies which were principally connected with the Indians ; but when we consider the dependant state of such governors, that the other duties of their station must interfere with this very important one, how greatly the objects of this service are increased by alliances with those numerous nations hereto-fore under the Dominion of France ; and how necessary it is, that a constant watch should be kept upon their motions and designs ; and that your Majesty's servants should be constantly and regularly informed of the true state of affairs, and of all transactions in the Indian country ; we cannot but be of opinion that these are reasons, which, joined to what we have

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already stated, do make it essentially necessary that the office of Superintendents should for the present be continued for these purposes, and that they should be enabled by a stated annual establishment confined to a certain sum, to make such presents as have been usual and customary and therefore are become absolutely necessary upon all occasions of treaties held with the Indians for publick purposes ; the expence of which, including salaries to the two Superintendents, need not, according to the calculations and estimates made by them, exceed eight thousand pounds annually.

Having thus fully stated to your Majesty the nature and extent of those services which relate to the management of Indian affairs, independent of the trade with them, we shall in the next place submit what has occurred to us upon the latter subject.

It must be admitted that a proper plan of trade with the Indians is an object deserving great attention, not only from the commercial benefits resulting from it, but also from the effect that its being ill- or well-governed must have upon the temper and disposition of the Savages ; and as it must consist of regulations that depend upon local situation and circumstances, and which require the authority of law to carry them into execution, it cannot be conducted with the same facility or be properly and effectually controlled by officers having no other authority than what they derive from your Majesty's Commission.

Upon the fullest examination into the effect and operation of the several propositions respecting the Indian trade, suggested by this Board in 1764, and adopted by the superintendents, it does appear to us that many of them have, in particular cases, and with respect to particular bodies of Indians, been attended with salutary effect ; we are convinced however upon the whole of this consideration,

First, that no one general Plan of Commerce and Policy is or can be applicable to all the different nations of Indians, of different interests and in different situations.

Secondly, that the confining trade to certain posts and places, which is the spirit and principle of the present system, however expedient and effectual with respect to the Southern Indians, is of doubtful policy with respect to those Indians more particularly connected with New York and Pennsylvania ; and that it is evidently disadvantageous, inconvenient, and even dangerous with respect to the much larger body of Indians, who possess the country to the Westward, and with whom your Majesty's subjects in Quebec in particular do carry on so extensive a commerce.

Thirdly, that, independent of this objection, and of any doubt that might attend the practicability of its execution in its full extent, the whole Plan does consist of such a variety of establishments, and necessarily leads to such extensive operations as to bring on an increasing expence, which, in

point of commerce, may exceed the value of the object to which it applies, and being greater than the trade can bear, must, if the present plan should be permanent, either fall upon the colonies, in which case it will be impracticable to settle the proportion each colony should bear, or become a burthen upon this country, which, we humbly conceive, would be both unreasonable and highly inconvenient.

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For these reasons, therefore, and under these circumstances, we are humbly of opinion, that the laying aside that part of the present plan which relates to the Indian trade and entrusting the entire management of that trade to the Colonies themselves will be of great advantage to Your Majesty's service as a means of avoiding much difficulty and saving much expence both at present and in future.

It is certainly true, that while the management of this trade was in the hands of the colonies antecedent to the establishment of superintendents, many abuses were committed by the Traders, little care was taken to subject them to proper regulations, and the misconduct of the colonies in this particular contributed not a little to involve us in the enormous expences of an Indian War.

If, therefore, it were probable that the like neglect or mismanagement would again take place, in such a degree as to expose us to the same consequences, we should not hesitate in declaring our opinion against the propriety of suffering the management of this concern ever to revert into the hands of the colonies.

But we trust, that the experience, which the old colonies have had of the ill effects of such inattention and neglect, will induce all of them to use more caution and better management for the future, and particularly to adopt such of the regulations established by the present Superintendents, as have evidently operated to the benefit of the trade, and to the giving that satisfaction and content to the Indians from which alone the colonies can hope to derive either immediate profit or lasting peace and security.

With respect to the question, How far the present expence, regarding the disposition of troops for Indian purposes, may with propriety and safety be lessened by reducing most of the posts now subsisting and entrusting others of them to the provinces themselves, we beg leave in the first place in general to represent it to your Majesty as our humble opinion, that it will be in the highest degree expedient to reduce all such posts in the interior country, as are not immediately subservient to the protection of the Indian commerce, and to the defeating of French and Spanish machinations among the Indians, or which, although in some degree useful for these purposes, cannot be maintained, but at an expence disproportioned to the degree of their utility. But before we apply this observation to the particular posts now subsisting, it may be proper to take a cursory view of the interests and situations of the several tribes

or bodies of Indians, whose commerce and connection are the objects of whatever establishments it may be thought necessary to continue.

The Indians included within the Southern district consist principally of the Chactaws, Creeks and Cherokees, the Chickasaws being reduced to a very inconsiderable number, and the Catawbias in great measure domiciliated within the settlements of North Carolina ; the commerce and connection with the Creeks and Cherokees have been, from the situation of their country, principally confined to the British colonies, of Georgia, North and South Carolina, and Virginia, whilst the commerce and connection with the Chactaws, whose country extends from the Alabama River to the Mississippi were for that reason altogether confined to the French colony of Louisiana.

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By the Treaty of Paris, France has renounced all pretensions to dominion in the Chactaw country, which is thereby become in respect to that stipulation a part of the British empire ; and consequently all Trade and intercourse between the subjects of France or Spain in Louisiana and those Indians, is, in fact, illicit and contraband ; and yet it is evident from the Reports made by the Superintendent of the Southern District, that such trade and intercourse is still continued to be kept up to a very great degree.

Such, may it please your Majesty, is the state of the commerce and connection with the principal tribes of Indians in the Southern district ; and as their commerce both from Louisiana and the British Colonies is carried on through a great variety of paths and routes, and does not depend upon rivers and lakes, forming, as in the Northern district, the only passes into the Indian country, it is evident that both the security and extension of it must depend upon the effect and operation of those regulations, under which it shall be carried on ; and that neither the trade of your Majesty's subjects can be protected, nor the connection and intercourse between Louisiana and the Indians prevented by forts or military establishments.

In the Northern district the principal Indians form themselves into two great confederacies ; the one composed of the Six Nations and their Allies and Dependents, the other, called the Western Confederacy, composed of a great variety of powerful tribes, occupying that extensive country, which lies about the Lakes Huron, Michigan and Superior, and to the West and North West.

The commerce and connection with the first of these bodies of Indians was antecedent to the War, confined chiefly to the province of New York, upon the frontiers of which their principal hunting ground lyes ; and the trade was carried on at fortified Truck houses upon the lake Ontario ; since the Peace a large share of this trade is carried on from Pennsylvania by the Channel of the Ohio, and from thence by Venango and Riviere aux Boeufs into Lake Erie.

The commerce and connection with those Indians which

form the Western confederacy, were, both from the situation of the country they occupied, and from the plan pursued by France for securing the dominion of it by posts upon the lakes, altogether confined to the French in Canada, and is now principally carried on from thence by your Majesty's subjects there, through the Channel of the Ottawa River and by the Lakes.

In this state, therefore, of the commerce and connection subsisting between your Majesty's subjects and the Indians in the Northern district, and of the channels through which the intercourse is carried on, it does appear to us, that the keeping up military establishments at Detroit, Michilimacina and Niagara, and the having two, or at most three armed vessels on the Lakes Erie, Huron, Michigan and Superior may be necessary for keeping up and preserving that good correspondence with the Indians, which is essential to the safety, improvement and extension of the trade with them.

Of these three establishments that at Detroit, which is the great center of Indian commerce, situated amongst many numerous tribes of Indians, and where a considerable number of French remain under the Faith of the

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Treaty of Paris, does appear to us to be by far the most important object, not being confined merely to the convenience of any particular colony, but embracing every advantage, upon which the safety and extension of our Indian commerce do depend.

The armed vessels proposed to be kept upon the Lakes, do also appear to us to be of the like general utility ; and therefore we are humbly of opinion, that both these establishments should be maintained upon a respectable footing ; the charge whereof we do not conceive needs to be very considerable, as the necessity of any large supply of provisions from the settled colonies which has always been a great article of expence attending (listant posts, will in great measure be taken off by the opportunity of their being furnished with corn 'and other provisions raised by your Majesty's new subjects settled at Detroit, who, as we are informed from the most undoubted testimony, have already made a very considerable progress in raising those commodities for that very purpose.

These, may it please your Majesty, are the only military posts and establishments that appear to us to be necessary, solely with a view to protect and promote our commerce with the Indians ; what further may be necessary for public safety in general, or for preventing that dangerous intercourse between the French and Spaniards at New Orleans, and the Indians under your Majesty's protection, stated in the papers referred to us to be carried on to a very great extent ; and which has been confirmed by those we have examined upon the subject, is a consideration, which, we humbly presume, more particularly belongs to your Majesty's servants in the military departments. But we cannot but be of opinion, that all such forces, as shall be judged necessary to be kept up for the security of your

Majesty's dominions against a foreign enemy, or for enforcing obedience to, and a due execution of the laws of trade, ought to be garrisoned by troops in your Majesty's pay commanded by officers appointed by your Majesty, as it would, in our humble opinion, be dangerous to public safety, and inconsistent with the true principles of this Government, that forts and military establishments, intended to answer such important objects should be entrusted to any other hands.

Upon the whole, we trust that the expence of the present disposition of troops for Indian purposes may be reduced without hazarding either the safety or the interest of your Majesty's subjects ; unless indeed it should be thought expedient to adopt the proposition, contained in some of the papers referred to us, of settling new colonies in the interior country ; for, in that ease, we should not venture to recommend any reduction of the military expence in the particulars above stated. This consideration therefore naturally leads us to the last Head of Inquiry referred to us by the Earl of Shelburne's letter, viz., How far the establishment of new governments on the Mississippi, the Ohio, and at Detroit, would contribute to answer the purpose of lessening either the present civil or military expence ; or would procure the several other important advantages set forth in the papers referred to us.

Now although it does not appear from the papers referred to us, that propositions have been made for the establishment of more than three new governments or colonies in the interior parts of America, viz., one at the

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Detroit between Lakes Erie and Huron ; one at or near the mouth of the Ohio ; and one in the Illinois country at or near the mouth of the river of that name ; and therefore by the strict letter of his Lordship's reference, the present consideration seems to be confined to these only ; yet, as it does appear, both from the nature of the arguments in favour of this measure contained in some of the papers, and from the manner in which others have been explained by the authors of the proposals themselves, that they are meant to support the utility of colonizing in the interior country, as a general principle of policy ; and that in fact they have nothing less in view, than the entire possession and peopling of all that country, which has communication with the rivers Mississippi and St. Lawrence, it does, in our humble opinion, open a much wider field of discussion, than might at the first glance seem to be necessary.

The proposition of forming inland colonies in America is, we humbly conceive, entirely new ; it adopts principles in respects to American settlements, different from what has hitherto been the policy of this kingdom ; and leads to a system, which, if pursued through all its consequences, is in the present state of this country of the greatest importance.

The great object of colonizing upon the continent of North America has been to improve and extend the commerce, navigation and manufactures of this kingdom, upon which its strength and security depend.

First, by promoting the advantageous Fishery carried on upon the Northern Coast ;

Secondly, by encouraging the growth and culture of naval stores, and of raw materials to be transported hither in exchange for perfect manufacture, and other merchandize.

Thirdly, by securing a supply of lumber, provisions and other necessaries for the support of our establishments in the American Islands.

In order to answer these salutary purposes, it has been the policy of this Kingdom to confine her settlements as much as possible to the sea-coast, and not to extend them to places inaccessible to shipping and consequently more out of the reach of Commerce. A plan, which, at the same time that it secured the attainment of these commercial objects, had the further political advantage of guarding against all interference from foreign powers and of enabling this Kingdom to keep up a superior naval force in those seas, by the actual possession of such rivers and harbours, as were proper stations for fleets in time of war.

Such, may it please your Majesty, have been the considerations inducing that plan of policy hitherto pursued in the settlement of your Majesty's American colonies, with which the private interest and sagacity of the settlers co-operated from the first. Establishments formed upon that continent, it was upon these principles, and with these views, that Government undertook the settling of Nova Scotia in 1749 ; and it was from a view of the advantages represented to arise from it in these different articles, that it was so liberally supported by the aid of Parliament.

The same motives, though operating in a less degree, and applying to fewer objects, did, as we humbly conceive, induce the forming the colonies of

Georgia, East Florida, and West Florida to the South; and the making those provisional Arrangements in the Proclamation of 1763, by which the interior country was left to the possession of the Indians.

Having thus briefly stated what has been the policy of this kingdom in respect to colonizing in America, it may be necessary to take a cursory view of what has been the effect of it in those colonies, where there has been sufficient time for that effect to discover itself ; because, if it shall appear from the present State of those settlements and the progress they have made, that they are likely to produce the advantages above stated, it will, we humbly apprehend, be a very strong argument against forming settlements in the interior country, more especially where every advantage derived from an established government would naturally tend to draw the stream of population ; fertility of soil and temperature of climate offering superior inticements to settlers, who, exposed to few hardships and struggling with few difficulties, could with little labour earn an abundance for their own wants ; but without a possibility of supplying ours with any considerable quantities ; nor would these inducements be confined in their operation to foreign emigrants determining their choice where to settle ; but would act most powerfully upon the inhabitants of the Northern and Southern latitudes of your Majesty's American dominions, who, ever suffering under the opposite extremes of heat and cold, would be equally tempted by a moderate climate to abandon habitudes peculiarly adapted to the production of those things, which are by nature denied to us, and for the whole of which we should without their assistance stand indebted to, and dependent upon other countries.

It is well known that antecident to the year 1749 all that part of the Sea Coast of the British Empire in America which extends north east from the Province of Main to Cauçeau in Nova Scotia and from thence north to the mouth of the St. Lawrence River lay waste and neglected, though naturally affording or capable by art of producing every species of naval stores and Seas abounding with Whale, Cod, and other valuable fish, and having many great rivers, Bays and harbours fit for the reception of Ships of War ; thus circumstanced, a consideration of the great commercial advantages which would follow from securing the possession of this country, combined with the evidence of the value set upon it by our enemies, who during the war which terminated at that Period, had at an immense expense attempted to wrest it from us, induced that Plan for the settlement of Nova Scotia, to which we have before referred, and which being prosecuted with vigour though at a very large expense to this kingdom secured the possession of that province, and formed these establishments which contributed so greatly to facilitate and promote the success of your Majesty's arms in the late war.

The establishment of government in this part of America having opened to the view and information of your Majesty's subjects in other colonies, the great commercial advantages to be derived from it induced a zeal for migration and associations were formed for taking up lands and making settlements in this province by principal persons residing in these colonies.

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In consequence of these associations upwards of 10,000 souls have passed from those colonies into Nova Scotia who have either engaged in fisheries or become exporters of lumber and provisions to the West Indies ; and further settlements, to the extent of 21 townships of 100,000 acres each, have been engaged to be made there by many of the principal persons in Pennsylvania whose names and association for that purpose now lye before your Majesty in Council.

The government of Massachusetts Bay, as well as the proprietors of large tracts to the Eastward of the province of Maine excited by the success of these settlements are giving every encouragement to the like settlements in that valuable country lying between them and Nova Scotia ; and the proprietors of twelve townships lately laid out there by the Massachusetts Government now solicit your Majesty for a confirmation of their title.

Such, may it please your Majesty, is the present state of the progress making in the settlement of the northern parts of the sea coast of North America in consequence of what appears to have been the policy adopted by this kingdom ; and many persons of rank and substance here are proceeding to carry into execution the plan which your Majesty pursuing the same principles of Commercial Policy has approved for the settlement of the islands of St. John and Cape Breton, and of the new established colonies of the south and therefore as we are fully convinced that the encouraging settlements upon the sea coast of North America is founded in the true principles of Commercial Policy, and as we find upon examination that the happy effects of that policy are now beginning to open themselves in the establishment of these branches of commerce, culture, and navigation upon which the strength, wealth and security of this kingdom depend, we cannot be of opinion that it would in any view be advisable to divert your Majesty's subjects in America from the pursuit of these important objects by adopting measures of a new policy at an expense to this kingdom which in its present state it is unable to bear.

This may please your Majesty being the light in which we view the proposition of colonizing in the interior country, considered as a general principal of policy we shall in the next place proceed to examine the several arguments urged in support of the particular establishment now recommended. These arguments appear to us reducible to the following general proposition, viz : –

1. That such colonies will promote population and increase the demands for and consumption of British manufactures.

2. That they will secure the fur trade and prevent all illicit trade or interfering of French or Spaniards with the Indians.

3. That they will be a defence and protection to the old colonies against the Indians ; and

4. That they will contribute to lessen the present heavy expense of supplying provisions to the distant forts and garrisons, and lastly that they are necessary in respect of the inhabitants already residing in those places where they propose to be established, who require some form of civil government.

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After what we have already stated with respect to the policy of encouraging colonies in the interior country as a general principle . . . we trust it will not be necessary to enter into an ample discussion of the arguments brought to support the foregoing propositions. We admit as an undeniable principle of true policy that with a view to prevent manufactures it is necessary and proper to open an extent of territory for colonization, proportioned to the increase of people as a large number of inhabitants cooped up in narrow limits without a sufficiency of land for produce would be compelled to convert their attention and industry to manufactures ; but we submit whether the encouragement given to the settlement of the colonies upon the sea coast and the effect which such encouragement has had, has not already effectually provided for this object as well as for increasing the demand for and consumption of British manufactures ; an advantage which in our humble opinion would not be promoted by these new colonies, which being proposed to be established at the distance of above 1,500 miles from the sea, and in places which upon the fullest evidence are found to be utterly inaccessible to shipping, will from their inability to find returns wherewith to pay for the manufactures of Great Britain be probably led to manufacture for themselves ; a consequence which experience shows has constantly attended in a greater or lesser degree, every inland settlement ; and therefore ought in our humble opinion to be carefully guarded against by encouraging the settlement of that extensive tract of sea coast hitherto unoccupied ; which together with the liberty that the inhabitants of the middle colonies will have (in consequence of the proposed boundary line with the Indians) of gradually extending themselves backwards will more effectually and beneficially answer the object of encouraging population and consumption than the erection of new governments. Such gradual extension, might, through the medium of a continued population, upon even the same extent of territory, preserve a communication of mutual commercial benefits between its extremest parts and Great Britain impossible to exist in colonies separated by immense tracts of unpeopled desert. As to the effect which it is supposed the colonies may have to

increase and promote the fur trade and prevent all contraband trade or intercourse between the Indians under your Majesty's protection and the French or Spaniards, it does appear to us, that the extension of the fur trade depends entirely upon the Indians being undisturbed in the possession of their hunting grounds ; that all colonizing does in its nature and must in its consequences operate to the prejudice of that branch of commerce ; and, that the French and Spaniards would be left in possession of a great part of what remained, as New Orleans would still continue the best and surest market.

As to the protection which it is supposed these new colonies may be capable of affording to the old ones, it will in our opinion appear upon the slightest view of their situation, that so far from affording protection to the old colonies, they will stand most in need of it themselves.

It cannot be denied that new colonies would be of advantage in raising provision for the supply of such forts and garrisons as may be kept up in the neighbourhood of them ; but as the degree of utility will be proportioned

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to the number and situation of these forts and garrisons which upon the result of the present enquiry it may be thought advisable to continue, so the force of the argument will depend upon that event.

The present French inhabitants in the neighbourhood of the lakes will in our humble opinion be sufficient to furnish with provisions what ever posts may be necessary to continue there, and as there are also French inhabitants settled in some parts of the country lying upon the Mississippi between the rivers Illinois and the Ohio it is to be hoped that a sufficient number of these may be induced to fix their abode where the same convenience and advantage may be derived from them, but if no such circumstance were to exist, and no such assistance to be expected from it, the objections stated to the plan now under our consideration are superior to this or any other advantage it can produce ; and although civil establishments have frequently rendered the expense of an armed force necessary for their protection one of the many objections to those now proposed ; yet we humbly presume there never has been an instance of a government instituted merely with a view to supply a body of troops with suitable provisions ; nor is it necessary in these instances for the settlements already existing as above described ; which being formed under military establishments and ever subjected to military authority do not in our humble opinion require any other superintendance than that of the military officers commanding at these posts. All which is most humbly submitted.

CLARE, THOMAS ROBINSON,
SOAME JENYNS, WM. FITZHERBERT.
ED. ELIOT.

Whitehall,

March 7th, 1768.

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Paper A.

EXTRACT FROM TREATY MADE AT A CONGRESS HELD AT MOBILE IN W. FLORIDA WITH THE CHICKASAMS AND CHACTUMS, MARCH 26TH, 1765.

And to prevent all disputes on account of encroachments or supposed encroachment committed by the English Inhabitants of this or any other of His Majesty's Provinces on the lands or hunting grounds reserved and claimed by the Chickasaw and Chachaw Indians and that no mistakes, doubts or Disputes may for the future arise thereupon, in consideration of the great marks of friendship, benevolence and clemency extended to us, the said Chickasaws and Chactaws Indians by His Majesty King George 3rd :—We the Chiefs and Head Warriors distinguished by great and small medals and Gorgets, and bearing His Majesty's commissions as Chiefs and Leaders of our respective nations, by virtue and in pursuance of the full right and power which we now have and are possessed of, have agreed and we do hereby agree that for the future the Boundary be settled by a line extended from Gross Point in the Island of Mont Louis by the course of the Western Coast of Mobile Bay, to the mouth of the Eastern branch of Tombeckbie River, and North of the course of said River to the confluence of Alibamont and Tombeckbi Rivers and afterwards along the Western bank of Alibamont river to the North of Chickianoce River, and from the confluence of Chickianoce and Alibamont Rivers, a strait line to the confluence of Banke and Tombeckbi Rivers, from thence by a strait line along the Western bank of Banke River till its confluence with the Jallateppe River ; from thence by a strait line to Tombeckbi River ; opposite to Atchatickpe and from Atchatickpe by a strait line to the most Northern part of Backatanne River, and down the course of Backatanne River to its confluence with the River Cascagonea— and down by the course of the River Cascagoula within 12 leagues of the Sea Coast, and thence by a due West line as far as the Chactaw Indian Nation have a right to grant.

And the said Chiefs for themselves and their nations give and confirm the property of all the lands contained between the above described lines and the sea, to H.M. the King of Great Britain and His Successors—preserving to themselves full right and property in all the lands to the Northward of said lines now possessed by them. And none of His Majesty's white subjects shall be permitted to settle on Tombeckbi river to the northward of the rivulet called Centibouck.

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**TREATY MADE AT FORT STANWIX ON THE
5th NOVEMBER, 1768**

PLANTATIONS GENERAL.

5 Nov., 1768.

To all to whom these presents shall come or may concern,
We the Suchems and chiefs of the six confederate nations and
of the Sharwanese, Delawarese, Mingoes of Ohio and other
dependant tribes on behalf of ourselves and the rest of our
several nations, the chiefs and warriors of whom are now here
convened by Sir Wm. Johnson. Bart., his Majesties
Superintendant of our affairs send Greeting. Whereas his
Majesty was graciously pleased to propose to us in the year
1765 that a boundary line should be fixed between the English
and us to ascertain and establish our limits and prevent those
intrusions and encroachments of which we had so long and
loudly complained and to put a stop to the many fraudulent
advantages which had been so often taken of us in land affairs
which boundary appearing to us as a wise and good measure
we did then agree to a part of a line and promised to settle the
whole finally whensoever Sir Wm. Johnson should be fully
empowered to treat with us for that purpose. And Whereas his
said Majesty has at length given Sir Wm. Johnson orders to
compleat the said boundary line between the provinces and
Indians in conformity to which orders Sir Wm. Johnson has
convened the chiefs and warriors of our respective nations who
are the true and absolute proprietors of the lands in question
and who are here now to a very considerable number. And
whereas many uneasiness and doubts have arisen amongst us
which have given rise to an apprehension that the line may not
be strictly observed on the part of the English, in which case
matters may be worse than before which apprehension together
with the dependant state of some of our tribes and other
circumstances which retarded the settlement and became the
subject of some debate, Sir Wm. Johnson has at length so far
satisfied us upon as to induce us to come to an agreement
concerning the line which is now brought to a conclusion the
whole being fully explained to us in a large assembly of our
people before Sir Wm. Johnson and in the presence of his
Excellency the Governor of New Jersey the Commissioners
from the provinces of Virginia and Pennsylvania and sundry
other gentlemen by which line so agreed upon a considerable
tract of country along several provinces is by us ceded to his
said Majesty which we are induced to and do hereby ratify and
confirm to his said Majesty from the expectation and

confidence we place in his royal goodness that he will graciously comply with our humble requests as the same are expressed in the speech of the several nations addressed to His Majesty through Sir Win. Johnson on Tuesday the first day of the present month of November wherein we have declared our expectations of the continuance of his Majesty's favour and our desire that our antient

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engagements be observed and our affairs attended to by the officer who has the management thereof enabling him to discharge all these matters properly for our interest that the lands occupied by the Mohocks around their villages as well as by any other nation affected by this our cession may effectually remain to them and to their posterity and that any engagements regarding property which they may now be under may be prosecuted and our present Grants deemed valid on our parts with the several other humble requests contained in our said speech. And Whereas at the settling of the said line it appeared that the line described by his Majesty's order was not extended to the Northward of Owegy or to the Southward of great Kanhawa river we have agreed to and continued the line to the Northward on a supposition that it was omitted by reason of our not having come to any determination concerning its course at the Congress held in 1765 and in as much as the line to the Northward became the most necessary of any for preventing encochements at our very towns and residences, We have given the line more favor-ably to Pennsylvania for the reasons and considerations mentioned in the Treaty. We have likewise continued it South to Cherokee river because the same is and we do declare it to be our true bounds with the Southern Indians and that line an undoubted right to the country as far South as that river which makes our cession to his Majesty much more advantageous than that proposed. Now therefore know ye that we the Sachems and Chiefs aforementioned, native Indians and proprietors of the lands hereinafter described for and in behalf of ourselves and the whole of our confederacy for the consideration hereinbefore mentioned and also for and in consideration of a valuable present of the several articles in use amongst Indians which together with a large sum of money amounts in the whole to the sum of £10,460-7-3 sterling now delivered and paid by Sir William Johnson, Bart., his Majesty's sole agent and Superintendant of Indian affairs for the Northern department of America in the name and on behalf of our sovereign lord George the Third by the Grace of God of Great Britain, France and Ireland, King defender of the faith the receipt whereof we do hereby acknowledge We the said Indians Have for us our heirs and successors granted, bargained, sold, released and confirmed and by these presents do grant, bargain, sell, release and confirm unto our said sovereign Lord King George the Third all that tract of land situate in North America at the back of the British settlements

Bounded by a line which we have now agreed upon and do hereby establish as the boundary between us and the British colonies in America beginning at the mouth of Cherokee or Hogohege river where it empty into the river Ohio and running from thence upwards along the South side of said river to Kittanning which is above Fort Pitt from thence by a direct line to the nearest Fork of the West Branch of Sasquehanna thence through the Allegany mountains along the South side of the said West branch until it comes opposite to the mouth of a creek called Tiadaghton thence across the west branch and along the South side of that creek and along the North side of Burnets Hills to a creek called Awandae thence down the same to the East branch of Sasquehanna and across the same and up the East side of that river to Owegy from thence East to Delaware river and up that river

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to opposite where Tianaderha falls into Sasquehanna thence to Tianaderha and up the West side thereof and the West side of its West branch to the head thereof and thence by a direct line to Canada Creek where it empty into the wood creek at the West end of the carrying place beyond Fort Stanwix and extending Eastward from every part of the said line as far as the lands formerly purchased so as to comprehend the whole of the lands between the said line and the purchased lands or settlements except what is within the province of Pennsylvania together with all the hereditaments and appurtenances to the same belonging or appertaining in the fullest and most ample manner and all the estate, right, title, interest, property, possession, benefit, claim and demand either in law or equity of each and every of us of in or to the same or any part thereof. To have and to hold the whole lands and premises hereby granted, bargained, sold, released and confirmed as aforesaid with the hereditaments and appurtenances thereunto belonging under the reservations made in the Treaty unto our said sovereign Lord King George the Third, his heirs and successors to and for his and their own proper use and behoof for ever.

In witness whereof we the chiefs of the Confederacy have hereunto set our marks and seals at Fort Stanwix the fifth day of November 1768 in the ninth year of His Majesty's reign.

Sealed and delivered and the consideration paid in the presence of (the words humble and notions between the 13th and 14th lines interline, the words Cherokee or Kehohega in the 30th line, the words above Fort Pitt in the 31st line being first wrote on an erasure, the words except what is within the province of Pennsylvania interline between being first written).

WM. FRANKLIN, Gov^r of New Jersey.

Pre : SMITH, Chief Justice of New Jersey.

THOMAS WALKER, Commissioner for Virginia.

RICHARD PETERS of the Council of

JAMES
PILGHMAN

} Pennsylvania.

The above deed was executed in my presence at Fort
Stanwix the day and year above-written.

W. JOHNSON.

[The Signs of the Indian Chiefs follow.]

Deed of Cession to the King From the Six nations executed
at Fort Stanwix Nov. 5, 1768.

Copy entd 110 } A true copy examined by G. JOHNSON,
Ind. Proc. } D. Ag^t
Vol. } and
10th Page 207 } Secretary.

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**ADDITIONAL INSTRUCTION TO GOVERNOR OF
PROVINCE OF LOWER CANADA RELATING TO
INDIAN AFFAIRS**

(C.O. Quebec 1795-1800. Vol. 3.)

16th July, 1800.

In Secy of State's despatch No. 7 of 12 July 1800.

ADDITIONAL INSTRUCTION TO THE GOVERNOR, LIEUTENANT
GOVERNOR, OR THE PERSON ADMINISTERING THE GOVERNMENT OF
OUR PROVINCE OF LOWER CANADA FOR THE TIME BEING. GIVEN
AT OUR COURT AT SAINT JAMES'S THE SIXTEENTH DAY OF JULY
1800 IN THE FORTIETH YEAR OF OUR REIGN.—

Whereas We judge it to be conducive to the better Regulation of Our Concerns with the Indian Nations within Our Province of Lower Canada, that the same should be conducted by the Person exercising the Government of Our said Province for the time being ; it is therefore Our Will and Pleasure that you do take upon you the Conduct and Management of Our Concerns with the said Indians within the Province of Lower Canada ; and that you do from time to time give to all Persons whom it may concern such Directions for the due Execution of these Our Instructions as occasion may require, such Directions nevertheless to be subject to any special Orders directed to you from such Person as shall at any time be constituted and appointed by Us to be Governor General of Our Provinces in North America.—And it is Our Will and Pleasure that all Persons holding Commissions in the Indian Department within Our Provinces of Lower and Upper Canada, so far as the same relates to the Province of Lower Canada shall follow such Orders and Directions as they shall from time to time receive from you in the Execution of this Our Instruction, any thing in the said Commissions to the contrary notwithstanding.—And you are in case of any vacancy in any Office of Place in the said Indian Department within Our Province of Lower Canada to transmit to Us by the first Opportunity through One of Our Principal Secretaries of State, the name of such Person, with an Account of his Character and services, as you shall esteem to be best qualified for fulfilling the Duties of such Office, for Our further Directions therein.

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Extract from MINUTES OF EVIDENCE CONTAINED IN THE REPORT FROM THE SELECT COMMITTEE ON THE HUDSON'S BAY COMPANY, 1857.

No 2.

EXTRACT FROM EVIDENCE OF HONOURABLE HENRY DRAPER, C.B., COPIED FROM THE REPORT OF THE SELECT COMMITTEE OF THE HOUSE OF COMMONS ON THE HUDSON'S BAY COMPANY, 1857.

4056. Taking the points in the order in which you have mentioned them ; first of all, with regard to the question of the limits of the province of Canada, are there any statements which you wish to lay before the Committee on that head ?—I should say with regard to that point that the view which is taken, be it sound or unsound, is this : at present it is understood by us that the Hudson's Bay Company claim as a legal right all the land which is drained by any streams, no matter how remote their sources may be, which flow into either the Hudson's Bay Straits, or Hudson's Bay. We consider that that is an ill-founded claim, principally upon this ground, that it is a claim of which we can find no trace until a very modern period, and is quite inconsistent with the claims advanced by that Company for nearly a century and a half. To save time I have prepared extracts from various documents, emanating from the Company themselves, with some few other documents; it is a paper which it would save a great deal of time to put in, because I can give every place where the extracts are taken from, and therefore reference to the original documents can always be had. I would also desire to say that in every extract which I have made, I have made it a complete extract of all that is stated on the question, and if it involves anything favourable to the Hudson's Bay Company, it will be found in those portions of which I have made the extract.

4057. Are those extracts made from documents which are accessible to every body ?—I believe I may say every one ; I think so ; easily accessible.

4058. Sir *John Pakington*.] They specify of course in every case what they are ?—Yes. (*The Witness delivered in the Paper.*)

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Extract from APPENDICES TO THE REPORT FROM THE SELECT
COMMITTEE ON THE HUDSON'S BAY COMPANY, 1857.

No. 3.

**LETTER ADDRESSED BY MR. CHIEF JUSTICE
DRAPER TO HER MAJESTY'S SECRETARY OF
STATE FOR THE COLONIES,**

BEARING DATE 6TH MAY 1857, TOGETHER WITH A COPY OF THE
MEMORANDUM THEREIN REFERRED TO.

33, Spring-gardens, 6 May 1857.

Sir,

IN the last interview with which you favoured me, I took occasion to advert to the question of boundary between Canada and the Hudson's Bay territory, as one which required to be settled as a necessary preliminary to many other very important inquiries involved in the matters submitted to a Committee of the last House of Commons, and, as I understood, to be again submitted to the new Parliament.

I alluded to the difference between the views of the Hudson's Bay Company, as expressed in former times, and those which are now, and have been within the last forty years, advanced by them on this point ; and I stated my readiness to submit a memorandum to you in relation thereto, which you were pleased to signify your readiness to receive and consider.

That memorandum I have now the honour to enclose. As the construction of the language of the charter, and the extent of the territory purporting to be granted are involved, it may be considered desirable that the matter should be referred to the Judicial Committee of the Privy Council. In this event, I venture to request, that counsel on the part of the Province may be permitted to attend to watch the argument, and, if it be deemed necessary, that they may be heard in support of those views which more immediately affect the interests of Canada.

I have suggested a reference to the Judicial Committee, because I think its opinion would command the ready acquiescence of the inhabitants of Canada as to their legal rights, and because I believe they entertain a very strong opinion that a considerable portion of the territory occupied or claimed by the Hudson's Bay Company will be found to lie within the proper limits of that Province.

Whether it would be desirable to sever this from the more general question of the legality and validity of the charter, is a matter I should

desire to leave for your consideration, but in any event I think it expedient that counsel should be permitted to attend to watch the interests of the Province.

I have, &c.

The Right Hon. H. Labouchere, (signed) *Wm. H. Draper*
&c. &c. &c.

MEMORANDUM ENCLOSED IN CHIEF JUSTICE *Draper's* LETTER
OF MAY 6TH, 1857, TO THE SECRETARY OF STATE.

It is not proposed at present to discuss the validity of the charter of the Hudson's Bay Company. A careful perusal of it will suggest many doubts whether it be not altogether void. But assuming that it may be sustainable for every or for any of the purposes for which it was intended, and, for the moment conceding that the indefinite description of the territory purporting to be granted does not vitiate the grant, there is a question as to the limits of that territory in which the province of Canada is deeply interested.

The parts of the charter bearing on this question are as follow :—

1. " All the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid " (stated in a preceding part to be those which lie within the entrance of the straits commonly called Hudson's Straits, in whatsoever latitude such bays, &c., should be), " that are not already actually possessed by or granted to any of our subjects, or possessed by the subjects of any other Christian prince or state, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the seas, bays, inlets and rivers within the premises ; and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems, and precious stones, to be found or discovered within the territories, limits, and places aforesaid ; and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America, called Rupert's Land : And, further, we do by these presents, for us, our heirs and successors, make, create, and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the saine territory, limits, and places aforesaid, and of all other the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties, and appurtenances

whatsoever, to them the said Governor and Company, and their successors for ever, to be holden of us, our heirs and successors, as of our manor of East Greenwich, in our county of Kent in free and common soccage."

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And, 2. " And furthermore, we do grant unto the said Governor and Company and their successors, that they and their successors, and their factors, servants, and agents, for them and on their behalf, and not otherwise, shall for ever hereafter have, use, and enjoy, not only the whole, entire, and only trade and traffic, and the whole, entire, and only liberty, use, and privilege of trading and trafficking to and from the territory, limits, and places aforesaid, but also the whole and entire trade and traffic to and from all havens, bays, creeks, rivers, lakes, and seas into which they shall find entrance or passage, by water or land, out of the territories, limits or places aforesaid, and to and with all the natives and people inhabiting within the territories, limits, and places aforesaid, and to and with all other nations inhabiting any of the coasts adjacent to the said territories, limits, and places which are not granted to any of our subjects."

Prior to this charter, there was little or nothing done within Hudson's Bay in the way of taking any actual possession of the territory granted. The bay had been discovered, several ships from time to time had entered it, and probably some interchange of commodities with the Indians had taken place while the vessels remained within the straits ; but nothing whatever was known of the interior. Charles the Second claimed, for it was no more than a claim, all the territory which the discovery of the straits and bay could confer on the British Crown. The French Crown in like manner had claimed, by reason of their actual settlement of Canada, and of their progressive discoveries and trade, not only all the western territory, including that now in dispute, but even the bay of the north, and thence to the Pole ; but neither French nor English had, in 1670, actually penetrated, so far as appears, within many hundred miles of the Red River.

The settlements made by the Hudson's Bay Company were at first confined to those on the shores of James Bay, and at the Churchill and Hayes Rivers. Henley House, which is about 150 miles up the Albany River, was not erected before the year 1740. The Company afterwards erected Fort Nelson, which is laid down on the maps at about 200 or 230 miles from the mouth of Churchill River, and the fort at Split Lake, which is represented as about 140 miles from the mouth of the Nelson River. It is believed that these two last-named forts are of comparatively modern erection, but that, at all events, for more than a century after the date of the charter, these, together with the forts on or near the shores of the bays, were the only settled posts of the Hudson's Bay Company.

This throws some light upon the view, which the Company

practically adopted, of the extent of their territories.

In many written documents they treat Hudson's Straits and Bay as the governing and principal matter, in reference to or for the purpose of securing which, the grant of territory was made to them.

In a petition addressed by the Hudson's Bay Company to Charles the Second in 1682, they say that his Majesty was graciously pleased

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to incorporate them, and to grant to them for ever all the said bay, and the straits leading thereunto, called Hudson's Straits, with all the lands and territories, rivers, and islands in and about the said bay, and the sole trade and commerce there ; and, referring to a letter of Monsieur De la Barre, the Governor of Canada, threatening to drive them out, they observe, they doubt not but that by the King's Royal authority and protection, they will be enabled to defend his undoubted right and their own within the bay, " wherein never any nation but the subjects of your Imperial Crown has made discoveries or had any commerce."

In a letter, dated 25 January 1696–7, they urge, " whenever there be a treaty of peace between the Crowns of England and France, that the French may not travel or drive any trade beyond the midway betwixt Canada and Albany Fort, which we reckon to be within the bounds of our charter."

In 1698, in a letter written by their deputy-governor to the Lords Commissioners of Trade, they repeat the same desire.

In a memorial, dated in June 1699, they represent the charter as constituting them the true and absolute proprietors of Hudson's Bay, and of all the territories, limits, and places thereto belonging. They further set forth the attacks made in 1682 and 1686 by the French from Canada, and their applications for redress, and the declaration made by James the Second that he, upon the whole matter, did conceive the said Company well founded in their demands, and therefore did insist upon his own right and the right of his subjects to the whole Bay and Straits of Hudson, and to the sole trade thereof ; and they pray the then King, William the Third, to insist upon the inherent right of the Crown of England and the property of his subjects not to be alienated, that so considerable a trade might not be lost, and the Hudson's Bay Company " be left the only mourners " in the peace of Ryswick.

At this time all their forts but one (Albany Fort) had been taken by the French ; some of them, indeed, while the two Crowns were at peace ; an act of aggression specially referred to by his Majesty in the declaration of war in 1689.

In January 1700, being called upon by the Lords of Trade and Plantations, they offered proposals for limits between them and the French in Hudson's Bay, insisting at the same time upon their undoubted right " to the whole Bay and Streights of Hudson." The proposed limits were, to confine the French

from trading or building any house, factory, or fort to the northward of Albany River situate in about 53° of north latitude on the west main coast, or to the northward of Rupert's River, on the east main or coast of the bay, binding themselves not to trade or build any house, factory, or fort to the southward of these two rivers "on any ground belonging to the Hudson's Bay Company." They urged that these limits should be settled ; stating, that if the French refused, they must insist upon their prior and undoubted right to the whole Bay and Straits of Hudson, which, they observed, the French never yet would strictly dispute or suffer to be examined into,

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though the first step of the eighth article of the treaty of Ryswick directs the doing of it. These limits would have given the French access to the bay by the Moose River.

The French ambassador did, however, in March 1698—9, set forth the claims of his sovereign in a long answer to the English memorial, among other things, observing that the different authors who have written about Canada or New France, gave it no limits northwards, and that it appeared by all the grants or letters of corporation made at several times by the kings of France to the companies settled in New France, and particularly in 1628, that all the Bay of the North is comprehended in the limits mentioned by the said grants.*

He also further suggested, that if the English had had any knowledge of the bay, or any claim thereto, they would not have failed to have insisted on it, and expressly to mention it in the treaty of 1632 (that of St. Germain en Laye) when they restored to the French New France. Admitting that the French neither then nor for a long time afterwards had any forts on the coasts of the bay, he explains it by saying, that being masters of the inland country, the savages, with whom they had a continual trade, brought their furs over lakes and rivers.

In April 1714, the Hudson's Bay Company thank the Queen "for the great care your Majesty has taken for them by the treaty of Utrecht, whereby the French are obliged to restore the whole Bay and Streights of Hudson ; the undoubted right of the Crown of Great Britain."

In August 1714, in reference to the same treaty, the Hudson's Bay Company proposed that the limits between the English and French on the coast of Labrador, should commence from the island, called Grinnington's Island or Cape Perdrix, in the latitude of 58 ½ ° N., which they desire may be the boundary between the French and English on the coast of Labrador ; and that a line be drawn south-westerly, to pass through the centre of Lake Mistassinnie ; and from that lake a line to run south-westward into 49° north latitude ; and that such latitude be the limit, that the French do not come to the north, nor the English to the south of it.

In another paper of about the same period, they give the following account of the motives which induced the formation of the Company, "It was, therefore, after the happy restoration

of King Charles II. that trade and commerce began to revive, and in particular that some noblemen and other public-spirited Englishmen, not unmindful of the discovery and right of the Crown to those parts in America, designed at their own charge to adventure the establishing of a regular and constant trade to Hudson's Bay, and to settle forts and factories there,

* L'Escarbot describes Canada at the period of the appointment of De la Roche in 1598, thus—" Ainsi notre Nouvelle France a pour limites du côté d'ouest les terres jusqu'a la Mer Pacifique au dela du Tropique du Cancer, au midi les îles de la Mer Atlantique du côté de Cuba et l'île Espagnole au levant la Mer du Nord qui baigne la Nouvelle France ; et au septentrion cette terre qui est dite inconnue vers la Mer Glacée jusqu'a la Pole Arctique."

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whereby to invite the Indian nations (who lived like savages many hundred leagues up in the country) down to their factories.”

In August 1719 the Hudson's Bay Company acknowledges the surrender by the French of the straits and bay, in such manner that they had nothing to object or desire further on that head. But they urged the settlement of the limits between the English and French territories without delay, since the French subsequently to the conclusion of the peace (in 1715) made a settlement at the head of Albany River, upon which the Company's principal factory was settled, whereby they interrupted the Indian trade from coming to the Company's factories. It was therefore proposed and desired, " that a boundary or dividend line may be drawn so as to exclude the French from coming anywhere to the northward of the latitude of 49°, except on the coast of Labrador ; unless this be done, the Company's factories at the bottom of Hudson's Bay cannot be secure, or their trade preserved."

Even in October 1750, they entertained the same views, while at that time they were pushing their pretensions, both to the northward and westward, to the utmost limits. They state that the limits of the lands and countries lying round the bay, comprised, as they conceived, within their grant, were as follow : All the land lying on the east side or coast of the said bay, eastward to the Atlantic Ocean and Davis' Straits, and the line hereafter mentioned as the east and south-east-ward boundaries of the said Company's territories, and towards the north, all the lands that lie on “ the north end, or on the north side, or coast, of the said bay, and extending from the bay northwards to the utmost limits of the lands there towards the North Pole ; but where or how these lands terminate, is at present unknown. And towards the west, all the lands that lie on the west side or coast of the said bay, and extending from the bay westward to the utmost limits of those lands, but where or how these lands terminate to the westward is also unknown, though probably it will be found they terminate on the Great South Sea. And towards the south, all the lands that lie on the south end, or south side of the coast of the said bay, the extent of which lands to the south to be limited and divided from the places appertaining to the French in those parts by a line,” &c., describing the line from Cape Perdrix to the 49th parallel, and along that parallel westward, as in their proposals of August 1719, excepting that they state the starting

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point to be in latitude 59½ N. They add, with regard to this boundary, that “ to avoid as much as possible, any just grounds for differing with the French in agreeing on those boundaries which lie nearest their settlements, it is laid down so as to leave the French in possession of as much, or more land than

they can make any just pretensions to ; and at the same time leaves your memorialists but a very small district of land from the south end of the said bay necessary for a frontier." It is worthy of remark, that this line would have given to France the southerly portion of the Lake of the Woods, Rainy River, and Rainy Lake, which are now claimed as within the Company's territories.

The foregoing extracts are deemed sufficient to establish that the Company considered their territorial rights in reference to their connexion with and proximity to Hudson's Bay itself. where they had planted their factories and desired to attract the Indian trade. They certainly show that neither after the treaty of Ryswick, nor that of Utrecht, when they stated the boundaries, they were either willing to submit to or were desirous of obtaining ; nor yet in 1750, when they set forth what they thought themselves entitled to claim under their charter, did they ever think of asserting a right to all the countries the waters of which flow into Hudson's Bay. Their claims to lands lying both northward and westward of the bay are entirely at variance with any such idea. Sir J. Pelly, before a Committee of the House of Commons in March 1837, seems to have adhered to the views expressed in 1750, when he said, " the power of the Company extends all the way from the boundaries of Upper and Lower Canada away to the North Pole, as far as the land goes, and from the Labrador coast all the way to the Pacific Ocean," though he afterwards explains that the Company claimed in fee-simple all the lands the water from which ran into Hudson's Bay.

It is submitted, that if this latter claim were well founded, the further grant in the charter of exclusive trade beyond the limits of the territories granted in fee-simple, would give colour to the assertion of the " power " of the Company extending to the Pacific ; assuming that the word " power " was used to designate the exclusive right of trade, and not the ownership of the territory. For if the charter gives the fee-simple of the lands to the Rocky Mountains, the Pacific is a " Sea," and Fraser's and M'Kenzie's are " rivers," into which " entry or passage by water or land out of the territories " actually granted may be found ; though in such case the application for a licence for the exclusive trade would, if the charter be in this respect valid, have been unnecessary.

The French Government, it appears, would not agree to the proposal which would have limited them to the 49th parallel. Colonel Bladen, one of the British Commissioners under the Treaty of Utrecht, wrote from Paris in 1719 in reference thereto, " I already see some difficulty in the execution of this affair, there being at least the difference of two degrees between the best French maps and that which the Company delivered us." No settlement of the boundary could be arrived at.

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If the later claim of territorial limits had been advanced

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during this negotiation, there can be no doubt it would have been resisted even more strenuously than the effort to make the 49th parallel the boundary was, not merely by contending that the territory so claimed formed part of Canada, and had been treated as such by the French long before 1670, but also that the French king had exercised an act of disposition of them, of the same nature as that under which the Hudson's Bay Company claim, by making them the subject of a charter to a company under the Sieur de Caen's name, and after the dissolution of that company had, in 1627, organised a new company, to which he conceded the entire country called Canada. And this was before the Treaty of St. Germain en Laye, by which the English restored Canada to the French. In 1663 this company surrendered their charter, and the king, by an edict of March in that year, established a council for the administration of affairs in the colony, and nominated a governor ; and, about 1665, Monsieur Talon, the intendant of Canada, despatched parties to penetrate into and explore the country to the west and north-west, and in 1671 he reported from Quebec that the " Sieur de Lusson is returned, after having advanced as far as 500 leagues from here, and planted the cross, and set up the king's arms, in presence of 17 Indian nations assembled on the occasion from all parts, all of whom voluntarily submitted them-selves to the dominion of his Majesty, whom alone they regard as their sovereign protector."

The French kept continually advancing forts and trading posts in the country, which they claimed to be part of Canada ; not merely up the Saguenay River towards James Bay, but towards and into the territory now in question ; in parts and places to which the Hudson's Bay Company had not penetrated when Canada was ceded to Great Britain in 1763, nor for many years afterwards.* They had posts at Lake St. Anne, called by the older geographers Alenimipigou ; at the Lake of the Woods ; Lake Winnipeg, and two, it is believed, on the Saskatchewan, which are referred to by Sir Alexander M'Kenzie in his account of his discoveries.

Enough, it is hoped, has been stated to show that the limits of the Hudson's Bay Company's territory are as open to question now as they have ever been, and that when called upon to define them in the last century, they did not advance the claim now set up by them ; and that even when they were defining the boundary which they desired to obtain under the Treaty of Utrecht, at a period most favourable for them, they designated one inconsistent with their present pretensions, and which, if it had been accepted by France, would have left no trifling portion of the territory as part of the province of Canada.

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* In the evidence given by the honourable Wm. M'Gillivray, on one of the North-west trials at York (now Toronto), in 1818, he stated that there were no Hudson's Bay traders established in the Indian country about lake Winnipeg or the Red River, for eight or nine years after he had been used (as a partner) in the North-west Company) to trade in that

So far as has been ascertained, the claim to all the country the waters of which ran into Hudson's Bay, was not advanced until the time that the Company took the opinions of the late Sir Samuel Romilly, Messrs. Cruise, Holroyd, Scarlett, and Bell. Without presuming in the slightest degree to question the high authority of the eminent men above-named, it may be observed that Sir Arthur Pigott, Serjeant Spankie, Sir Vicary Gibbs, Mr. Bearcroft, and Mr. (now Lord) Brougham took a widely different view of the legal validity of the charter, as well as regards the indefinite nature of the territorial grant, as in other important particulars.

Of the very serious bearing of this question on the interests of Canada, there can be no doubt. By the Act of 1774, the province of Quebec is to " extend westward to the banks of the Mississipi, and northward to the southern boundary of the territory granted to the merchants adventurers of England trading to Hudson's Bay."

And in the division of the Provinces under the statute of 1791, the line was declared to run due north from Lake Temiscamary " to the boundary line of Hudson's Bay ; " and the Upper Province is declared to consist " of or include all that part of Canada lying to the westward and southward of the said line."

The union of the Provinces has given to Canada the boundaries which the two separate Provinces of Upper and Lower Canada had ; the northern boundary being the territory granted to the Hudson's Bay Company.

It is now becoming of infinite importance to the Province of Canada, to know accurately where that boundary is. Plans for internal communication connected with schemes for agricultural settlements, and for opening new fields for commercial enterprise, are all, more or less, dependent upon or affected by this question ; and it is to Her Majesty's Government alone that the people of Canada can look for a solution of it. The rights of the Hudson's Bay Company, whatever they may be, are derived from the Crown ; the Province of Canada has its boundaries assigned by the same authority ; and now that it appears to be indispensable that those boundaries should be settled, and the true limits of Canada ascertained, it is to Her Majesty's Government that the Province appeals to take such steps as in its wisdom are deemed fitting and necessary, to have this important question set at rest.

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Extract from APPENDICES TO THE REPORT FROM THE SELECT
COMMITTEE ON THE HUDSON'S BAY COMPANY, 1857.

No. 4.

**PAPER DELIVERED IN BY MR. CHIEF JUSTICE
DRAPER, 28 MAY, 1857, RELATIVE TO CANADIAN
BOUNDARIES**

BOUNDARIES

Appendix No. 6

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p. 378.

ON 25th January 1696-7, not long before the Treaty of Ryswick (which was signed on the 20th September 1697), the Hudson Bay's Company expressed their " desire that whenever there should be a treaty of peace between the Crowns of England and France, that the French may not travel or drive any trade beyond the midway betwixt Canada and Albany Fort, which we reckon to be within the bounds of our charter."

The 8th Article of the Treaty of Ryswick shows that the French, at that time, set up a claim of right to Hudson's Bay, though that claim was abandoned at the peace of Utrecht, and was never set up afterwards.

In 1687, James the Second declared to the French Commissioners MM. Barillon and Bonrepos, that having maturely considered his own right, and the right of his subjects, to the whole Bay and Straits of Hudson, and having been also informed of the reasons alleged on the part of the French to justify their late proceedings in seizing these forts (Fort Nelson and Fort Charles), which for many years past have been possessed by the English, and in committing several other acts of hostility, to the very great damage of the English Company of Hudson's Bay, his Majesty, upon the whole matter, did consider the said Company well founded in their demands, and, therefore, did insist upon his own right, and the right of his subjects, to the whole Bay and Straits of Hudson, and to the sole trade thereof.

" The grants of the French king signify nothing to another prince his right, and they may name what they will in their grants places, known or unknown, but nobody is so weak as to think that anything passeth by those grants but what the king is rightfully and truly possessed of or entitled to, for nemo dat quod non habet, is a maxim understood of all ; but whereas the French would have no bounds to Canada to the north-ward, nor, indeed, to any parts of their dominions in the world if they could."—Extract from the Reply of the Hudson's Bay Company to the French Answer left with the English Commissioners, 5th June 1699, under Treaty of Ryswick.

Appendix No. 6

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In 1687 there were discussions between the English and French, respecting the right to the bay and straits, in which it was, among other things, submitted on the part of the Hudson's

“ It shall not be the fault of the Company of Hudson's Bay, if their agents and those of the Company of Canada do not keep within their respective bounds, the one pretending only to the trade of the bay and straits above-mentioned, whilst the other keeps to that of Canada ; and that the forts, habitations, factories, and establishments of the English Company be restored, and their limits made good, as the first discoverers, possessors, and traders thither.”

The Company having already waived the establishments of a right to Hudson's Bay and Straits " from the mere grant and concessions of the king. which, indeed, cannot operate to the prejudice of others that have the right of discovery and continued possession on their side, it is again averred that his Majesty's subjects only are possessed of such a right to the coasts, bays, and straits of Hudson."

“ The Hudson's Bay Company having made out his Majesty's right and title to all the bay within Hudson's Straits, with the rivers, lakes and creeks therein, and the lands and territories thereto adjoining, in which is comprehended Port Nelson as part of the whole.” 10 July 1700. The Hudson's Bay Company proposed the following limits between themselves and the French, in case of an exchange of places, and that they cannot obtain the whole of the straits and bay which of right belongs to them.

1. That the French be limited not to trade or build any factory, &c. beyond the bounds of 53° N. or Albany River, to the northward on the west or main coast, and beyond Rupert's River to the northward on the east main coast.

2. The English shall be obliged not to trade nor build any factory, &c. beyond the aforesaid latitude of 53° or Albany River, or beyond Rupert's River, south-east towards Canada, on any land which belongs to the Hudson's Bay Company.

3. As likewise that neither the French nor English shall at any time hereafter extend their bounds contrary to the aforesaid limitations . . . which the French may very reasonably comply with, for that they by such limitations will have all the country south-eastward, betwixt Albany Fort and Canada, to themselves, which is not only the best and most fertile part, but also a much larger tract of land than can be supposed to lie to the northward, and the Company deprived of that which was always their undoubted right.

By this document it appears the French were insisting on having the limits settled between York and Albany Fort, as in the latitude of 53 degrees or thereabouts.

22 January 1701-2. The Lords of Trade and Plantations asked the Company to say " whether, in case the French cannot be prevailed with to consent to the settlement proposed on the 10th July preceding by the Company, they will not consent that the limits on the east side of the bay to the latitude of 52° degrees." This proposal would have given the East Main River

and Rupert's River to Canada.

On the 29th January, the Hudson's Bay Company alter their

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proposals, offering the boundary on the east main, or coast, to be Hudson's River, vulgarly called Canute, or Canuse River (which I take to be the river now marked on the maps as the East Main River) ; but, they add, should the French refuse the limits now proposed by the Company, the Company think themselves not bound by this or any former concessions of the like nature, but must (as they have always done) insist upon their prior and undoubted right to the whole Bay and Straits of Hudson, which the French never yet would strictly dispute, or suffer to be examined into (as knowing the weakness of their claim), though the first step in the 8th Article of the Treaty of Ryswick, directs the doing of it. If either proposal had been accepted, the French would have had access to .Tames' Bay. The first, propositions left them the Moose River ; the second appears to have given up Rupert's River.

In February 1711-12, prior to the Treaty of Utrecht, the Hudson's Bay Company proposed, that the limits between them and the French in Canada, should begin " at Gremmington's Island or Cape Perdrix, in the latitude of $58 \frac{1}{2}^{\circ}$ north, which they desire may be the boundary between the English and French, on the coast of Labrador, towards Rupert's Land on the East Main and Nova Britannica on the French River." That a line be drawn from Cape Perdrix to the Great Lake Mistassing, dividing the same into two parts, beyond which line the French were not to pass to the north, nor the English to the South.

In August 1714, they renewed their application for the settlement of the limits, adding to their former proposition, that from the Lake Mistassing a line should run south-westward into 49° north latitude, and that such latitude be the limit, and that the French do not come to the north, or the English to the south of this boundary

In August 1719, in a memorial, they say, that " the surrender of the straits and bay aforesaid has been made according to the tenor of the treaty, at least in such manner that the Company acquiesced therein, and have nothing to object or desire further on that head." But they even then, complained that, since the conclusion of the peace, viz., in 1715, the French had made a settlement at the head of Albany River, " upon which very river our principal factory is settled, whereby they intercept the Indian trade from coming to the Company's factories ; and will, in time, utterly ruin the trade, if not prevented. It is, therefore, proposed and desired, that a boundary or dividend line may be drawn so as exclude the French from coming any where to the northward of the latitude of 49° , except on the coast of Labrador ; unless this is done, the Company's factories at the bottom of Hudson's Bay cannot

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be secure, or their trade preserved." This shows that the Company there sought to establish an arbitrary boundary, and that the object of it was, to secure the fur trade from the French.

The English Commissioners made the demand to have limits established according to the prayer of the Hudson's Bay Company, and for the giving up the new fort erected by the French ; adding a demand that the French should make no establishments on any of the rivers

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which discharged themselves into Hudson's Bay ; and that the entire course of the navigation of these rivers should be left free to the Company, and to such of the Indians as desired to trade with them.

The precise terms of the instructions to the Commissioners hardly seem to have contemplated the latter part of the demand, for they (the instructions of 3d September 1719) merely designate the boundaries beyond which the French and English respectively are not to cross. They contain this passage however : " But you are to take especial care in wording such articles as shall be agreed upon with the Commissioners of his Most Christian Majesty upon this head ; that the said boundaries be understood to regard the trade of the Hudson's Bay Company only."

Colonel Bladen, on the 7th November 1719, wrote to the Lords of Trade that the English Commissioners would that day deliver in the demand, and that he foresaw " some difficulty in the execution of this affair, there being at least the difference of two degrees between the best French maps and that which the Company delivered us, as your Lordship will perceive by the carte I send you herewith."

Colonel Bladen was right. After receiving the English demands, the French Commissioners, the Marechal d'Estrees and the Abbé Dubois, never met the English Commissioners again, and all the instances of the English Ambassadors failed to procure a renewal of the conferences.

The Company were again called upon on the 25th July 1750, to lay before the Lords of Trade, an account of the limits and boundaries of the territory granted to them. They replied, among other things, that the said straits and bay " are now so well known, that it is apprehended they stand in no need of any particular description than by the chart or map herewith delivered, and the limits or boundaries of the lands and countries lying round the same, comprised, as your memorialists, conceive in the said grant, are as follows : that " is to say, all the lands lying on the east side or coast of the said bay, and extending from the bay eastward to the Atlantic Ocean and Davis' Strait, and the line hereafter mentioned as the east and south-eastern boundaries of the said Company's territories ; and towards the north all the lands that lie at the north end, or on the north side or coast of the said bay, and

extending from the bay northwards to the utmost limits of the lands then towards the North Pole ; but where or how these lands terminate is hitherto unknown. And towards the west, all the lands that lie in the west side or coast of the said bay, and extending from the said bay westward to the utmost limits of those lands ; but where or how these lands terminate to the westward is also unknown, though probably it will be found they terminate on the Great South Sea and towards the south." they propose the line already set out by them, before and soon after the Treaty of Utrecht, stating that the Commissioners under that treaty were never able to bring the settlement of the said limits to a final conclusion ; but they urged that the limits of the territories. granted to them, and of the places appertaining to the French, should be settled upon the footing above mentioned.

Extract from APPENDICES TO THE REPORT FROM THE SELECT
COMMITTEE ON THE HUDSON'S BAY COMPANY, 1857.

No. 5.

**LETTER H. MERIVALE, ESQ., TO THE ATTORNEY-
GENERAL AND SOLICITOR-GENERAL**

Downing-street, 9 June 1857.

Sir

Appendix No. 9

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p. 402.
No.9, 17 Jan./57.
No. 23,
17 Feb./57

I AM directed by Mr. Secretary Labouchere to transmit to you, jointly with the (Solicitor-General—Attorney-General,) copies of two despatches from the Governor of Canada, enclosing the copy of a minute of his Executive Council, and extract from another minute of the same, in reference to the questions respecting the affairs of the Hudson's Bay Company, now under investigation by a Committee of the House of Commons.

You will observe from the former of these minutes that the Executive Council suggest, on the part of Canada, a territorial claim over a considerable extent of country, which is also claimed by the Hudson's Bay Company, as owners of the soil, and with rights of government and exclusive trade under their charter.

You will observe by the annexed Parliamentary Papers of 12th July 1850, that the " Statement " of the Hudson's Bay Company's rights as to territory, trade, taxation, and government, made by them to Earl Grey, as Secretary for the Colonies, on the 13th September 1849, was submitted to the then law officers of the Crown, who reported that they were of opinion that the rights so claimed by the Company properly belonged to them ; but suggested, at the same time, a mode of testing those claims by petition to Her Majesty, which might be referred to the Judicial Committee.

Appendix No. 9

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No.9, 17 Jan./57.
No. 23,
17 Feb./57

I am further to annex a Parliamentary Return made in 1842, containing the charter of the Company, and documents relating thereto ; and another of 23d April 1849, containing amongst other papers an Act of 2d William and Mary, " for confirming to the Governor and Company trading to Hudson's Bay their privileges and trade."

The rights so claimed by the Company have been repeatedly questioned since 1850, by private persons in correspondence with the Secretary of State, and are now questioned to a certain extent, as appears by these despatches, by the present local government of Canada.

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I am to request that you will, jointly with (Solicitor-General—Attorney-General.) take these papers into your

consideration, and report,—

Whether you think that the Crown can lawfully and constitutionally raise, for legal decision, all or either of the following questions :—

The validity at the present day of the charter itself.

The validity of the several claims of territorial right, of government, exclusive trade, and taxation, insisted on by the Company.

The geographical extent of this territorial claim (supposing it to be well founded, to any extent).

If you are of opinion that the Crown can do so, you are requested further to state the proper steps to be taken, in your opinion, by the Crown, and the proper tribunal to be resorted to ; and whether the Crown should act on behalf of the local government of Canada, as exercising a delegated share of the Royal authority, or in any other way.

And, lastly, if you should be opinion that the Crown cannot properly so act, whether you see any objection to the questions being raised by the local government of Canada acting independently of the Crown ; or whether they can be raised by some private party in the manner suggested by the law advisers in 1850, the Crown undertaking to bear the expense of the proceedings.

I am, &c.

The Attorney-General. (signed) *H. Merivale*

The Solicitor-General.

Extract from APPENDICES TO THE REPORT FROM THE SELECT
COMMITTEE ON THE HUDSON'S BAY COMPANY, 1857.

No. 6.

**LETTER RICHARD BETHELL AND HENRY S.
KEATING TO THE RT. HON. H. LABOUCHERE, M.P.**

Lincoln's Inn, July 1857.

Sir,

Appendix No. 9

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pp. 403-404.

WE are favoured with Mr. Merivale's letter of the 9th of June ultimo, in which he stated that he was directed by you to transmit to us copies of two despatches from the Governor of Canada, enclosing the copy of a minute of his Executive Council, and extract from another minute of the same, in reference to the questions respecting the affairs of the Hudson's Bay Company, then under investigation by a Committee of the House of Commons.

We were also requested to observe from the former of those minutes that the Executive Council suggest, on the part of Canada, a territorial claim over a considerable extent of country, which is also claimed by the Hudson's Bay Company, as owners of the soil, and with rights of government and exclusive trade under their charter.

We were also requested to observe, by the annexed Parliamentary Papers of 12th July 1850, that the "Statement" of the Hudson's Bay Company's rights as to territory, trade, taxation, and government, made by them to Earl Grey, as Secretary for the Colonies, on the 13th September 1849, was submitted to the then law officers of the Crown, who reported that they were of opinion that the rights so claimed by the Company, properly belonged to them ; but suggested, at the same time, a mode of testing those claims by petition to Her Majesty, which might be referred to the Judicial Committee.

Mr. Merivale was further to annex a Parliamentary Return made in 1842, containing the charter of the Company, and documents relating thereto ; and another of 23rd April 1849, containing amongst other papers, an Act of 2d William and Mary, " for confirming to the Governor and Company trading to Hudson's Bay their privileges and trade."

Appendix No. 9

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The rights so claimed by the Company had been repeatedly questioned since 1850, by private persons in correspondence with the Secretary of State, and were then questioned to a certain extent, as appears by those despatches, by the present local government of Canada.

Mr. Merivale was also to request that we would take those papers into our consideration, and report,—

Whether we thought the Crown could lawfully and constitutionally raise, for legal decision, all or either of the following questions :

The validity, at the present day, of the charter itself.

The validity of the several claims of territorial right of government, exclusive trade, and taxation insisted on by the Company.

The geographical extent of this territorial claim (supposing it to be well founded, to any extent).

And if we were of opinion that the Crown could do so, we were requested further to state the proper steps to be taken, in our opinion, by the Crown, and the proper tribunal to be resorted to ; and whether the Crown should act on behalf of the local government of Canada, as exercising a delegated share of the Royal authority, or in any other way.

And, lastly, if we should be of opinion that the Crown could not properly so act, whether we saw any objection to the questions being raised by the local government of Canada, acting independently of the Crown, or whether they could be raised by some private party in the manner suggested by the law officers in 1850, the Crown undertaking to bear the expense of the proceedings.

In obedience to your request we have taken the papers into our consideration, and have the honour to report,—

That the questions of the validity and construction of the Hudson's Bay Company's charter cannot be considered apart from the enjoyment that has been had under it during nearly two centuries, and the recognition made of the rights of the Company in various acts, both of the Government and the Legislature.

Nothing could be more unjust, or more opposed to the spirit of our law, than to try this charter as a thing of yesterday, upon principles which might be deemed applicable to it, if it had been granted within the last 10 or 20 years.

These observations, however, must be considered as limited in their application to the territorial rights of the Company under the charter, and to the necessary incidents or consequences of that territorial owner-ship. They do not extend to the monopoly of trade (save as territorial ownership justifies the exclusion of intruders), or to the right of an exclusive administration of justice.

But we do not understand the Hudson's Bay Company as claiming anything beyond the territorial ownership of the country they are in possession of, and the right, as incident to such ownership, of excluding persons who would compete with them in the fur trade carried on with the Indians resorting to their districts.

With these preliminary remarks we beg leave to state, in answer to the questions submitted to us, that in our opinion the Crown could not now with justice raise the question of the general validity of the charter ; but that on every legal principle the Company's territorial ownership of the lands granted and

the rights necessarily incidental thereto (as, for example, the right of excluding from their territory persons acting in violation of their regulations), ought to be deemed to be valid.

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But with respect to any rights of government, taxation, exclusive administration of justice, or exclusive trade, otherwise than as a consequence of the right of ownership of the land, such rights could not be legally insisted on by the Hudson's Bay Company as having been legally granted to them by the Crown.

This remark, however, requires some explanation.

The Company has, under the charter, power to make ordinances (which would be in the nature of bye-laws) for the government of the persons employed by them, and also power to exercise jurisdiction in all matters, civil and criminal ; but no ordinance would be valid that was contrary to the common law, nor could the Company insist on its right to administer justice as against the Crown's prerogative right to establish courts of civil and criminal justice within the territory.

We do not think, therefore, that the charter should be treated as invalid, because it professes to confer these powers upon the Company ; for to a certain extent they may be lawfully used, and for an abuse of them the Company would be amenable to law.

The remaining subject of consideration is the question of the geographical extent of the territory granted by the charter, and whether its boundaries can in any way and what manner be ascertained. In the case of grants of considerable age, such as this charter, when the words, as is often the case, are indefinite or ambiguous, the rule is, that they are construed by usage and enjoyment, including in these latter terms the assertion of ownership by the Company on important public occasions, such as the Treaties of Ryswick and Utrecht, and again in 1750.

To these elements of consideration upon this question must be added the inquiry (as suggested by the following words of the charter, viz. “ not possessed by the subjects of an other Christian prince or state ”), whether, at the time of the charter, any part of the territory now claimed by the Hudson's Bay Company could have been rightfully claimed by the French, as falling within the boundaries of Canada, or Nouvelle France, and also the effect of the Acts of Parliament passed in 1774 and 1791.

Under these circumstances, we cannot but feel that the important question of the boundaries of the territory of the Hudson's Bay Company, might with great utility, as between the Company and Canada, be made the subject of a quasi-judicial inquiry.

But this cannot be done except by the consent of both

parties, namely, Canada and the Hudson's Bay Company, nor would the decision of a Committee of the Privy Council have any effect as a binding judicial determination.

But if the Hudson's Bay Company agreed to the proposal of the Chief Justice of Canada, that the question of boundaries should be referred to the Privy Council, it being further understood by both parties, that the determination of the Council shall be carried into effect by a declaratory Act of Parliament, we think the proceeding would be

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the best mode of determining that which is, or ought to be, the only real subject of controversy.

The form of procedure might be a petition to the Queen by Chief Justice Draper, describing himself as acting under the direction of the Executive Council of Canada ; unless, which would be the more solemn mode, an address were presented to Her Majesty by the Canadian Parliament.

Counsel would be heard on behalf of Canada and of the Company.

We are, &c.

(signed) *Richard Bethell.*

The Right Honourable *Henry S. Keating.*

H. LABOUCHERE, M.P., &c. &c.

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IN THE MATTER OF THE BOUNDARY
BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
NEWFOUNDLAND IN THE LABR-
ADOR PENINSULA.

ADDITIONAL DOCUMENTS SUBMITTED
BY THE DOMINION OF CANADA.

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**IN THE MATTER OF THE BOUNDARY
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CANADA AND THE COLONY OF
NEWFOUNDLAND IN THE
LABRADOR PENINSULA**

BETWEEN

THE DOMINION OF CANADA of the one part

AND

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the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA.**

BETWEEN

THE DOMINION OF CANADA of the one part

AND

**THE COLONY OF NEWFOUNDLAND of the other
part.**

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MR. F. T. BARRINGTON-WARD,
K.C.

RT. HON. H. P. MACMILLAN, K.C.

MR. AIMÉ GEOFFRION, K.C.

}

on behalf of the Colony of
Newfoundland.

}

on behalf of the Dominion of Canada

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Thursday, 21 October, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. SIR THOMAS WARRINGTON.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF CANADA AND THE COLONY OF NEWFOUNDLAND IN THE LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

FIRST DAY.

21 Oct., 1926.

—
Sir John Simon.

*Counsel for the Colony of Newfoundland :—*The Rt. Hon. Sir
JOHN SIMON, K.C., Mr. F. T. BARRINGTON WARD,
K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland

Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by MESSRS. BURN & BERRIDGE.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTOX (of the Canadian Bar), instructed by MESSRS. CHARLES RUSSELL & Co.

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The Lord
Chancellor.

Sir John Simon.

Sir JOHN SIMON: My Lords, in this matter I have the honour to appear before your Lordships on behalf of the Colony of Newfoundland, the oldest Colony under the British Crown. With me, in presenting the case for the Colony of Newfoundland, I have my learned friends Mr. Higgins, who is Attorney-General of the Colony, Mr. Barrington Ward, Mr. Monckton and Mr. Pearson. For the Dominion of Canada there appear my learned friends, Mr. Macmillan, Mr. Doherty, formerly Minister of Justice in the Dominion, Mr. Geoffrion, Mr. Alexander, Mr. Stuart Moore and Mr. Plaxton.

The Lord
Chancellor.

Sir John Simon.

Your Lordships will perhaps have noticed that there is another name at the end of the Case for the Dominion of Canada, Mr. Lanctot. The Dominion have unfortunately had to forego his services because, as your Lordships know, after he arrived here he was summoned home owing to a domestic bereavement.

The LORD CHANCELLOR: We all heard of that with the deepest regret.

Sir JOHN SIMON: I am sure, my Lord, all of us at the Bar deeply regret his absence and the cause of it.

My Lords, this matter is one which my friends and I have been at pains to try to prepare so that it may be presented in the most convenient form, because the volumes before your Lordships, one red bound volume and I think seven green volumes, have a very formidable aspect.

The LORD CHANCELLOR: I think I have eight volumes besides the red one.

Sir JOHN SIMON: The eighth is an index. There will be more than these materials, I am afraid, before we finish. but we must begin at any rate with the eight. The first of them, Volume I, which is distinguished by being bound in a red cover, contains the Cases and Counter Cases, and also some of the principal documentary matter which has to be

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considered. The volumes which follow deal with various aspects of the controversy. The matter has been arranged in parts and sections rather from the point of view of subject matter than from the point of view of chronology, but I think it will be much the most convenient course for the Board, and it is the course which I have prepared myself to follow, if, at any rate in the first instance, I endeavour to present the case for the Colony of Newfoundland preserving a chronological order, tracing it from what perhaps is the most important date in the story and introducing from time to time some of the supplementary matter, but still all the time endeavouring to pass along in chronological fashion.

The first thing, of course, that your Lordships will want to see, will be the Terms of Reference under which the Board is sitting. If your Lordships will turn to page 125 in the red volume, you will there find printed as the first document in the Joint Appendix, the Terms of

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Reference to the Judicial Committee. There were, as a matter of fact, two documents which together constitute the Terms of Reference. The second agreement varied, in some respects, the language of the first. The Terms of Reference, as printed at page 125 and following, combine the two documents and present to the Board the actual effect of that combination.

The reference is, as your Lordships no doubt realise, under Section 4 of the Judicial Committee Act of 1833, that very wide section which has more than once been used, though never, I think, in circumstances quite like the present, the section which provides "That it shall be lawful for His Majesty to refer to the said Judicial Committee for hearing or consideration any such other matters whatsoever as His Majesty shall think fit, and such Committee shall thereupon hear or consider the same, and shall advise His Majesty thereon in manner aforesaid."

Viscount HALDANE: How was the 1884 boundary difference dealt with? Was it under that section?

Sir JOHN SIMON: The Ontario-Manitoba dispute, your Lordship means? I think it was under that section. The reason I said that the circumstances were not quite the same, was this. That was a reference of a matter in controversy between two Provinces of the Dominion of Canada.

Viscount HALDANE: Of the Dominion itself?

Sir JOHN SIMON: Yes. It all arose inside the admitted boundary of the Dominion of Canada, whereas in the present case—and this is what I think makes it of particularly striking importance—your Lordships are undertaking the very important duty of deciding a matter which is in controversy between two quite separate units under the British Crown, the Dominion of Canada on the one hand, which of course does

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not include Newfoundland at all, and the Colony of Newfoundland on the other. I do not think that particular situation has arisen under Section 4 before.

Now if I may just ask your Lordships' attention to what is material in the Terms of Reference, that will, I think, be the proper way to begin. The original agreement, your Lordships notice, was entered into on the 11th November, 1920, and the amendment to which I have referred was made by supplemental agreement two years later. "In the matter of the boundary between the Dominion of Canada and the Colony of Newfoundland in the Labrador Peninsula: The government of the Dominion of Canada and the government of the Colony of Newfoundland having mutually agreed to submit for reference by His Majesty to the Judicial Committee of His Majesty's Privy Council, for their decision, the following question, viz: 'What is the location and definition of the boundary as between Canada and Newfoundland in

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the Labrador Peninsula under the statutes, orders-in-council and proclamations?" Then what follows has to do with procedure.

Of course, your Lordships will at once observe two matters about the language of these Terms of Reference. One perhaps is a mere linguistic difficulty; the other is a very important matter of substance. Taking the more important one first: the character of the question which the Judicial Committee has to determine is the ascertainment of a boundary as defined by existing documents, statutes, orders-in-council and proclamations. In other words, this is not a case in which the Board of Arbitration (if I may so call it for a moment) is invited to settle such boundary as seems to them in all the circumstances to be good. Their task is the different task, whether easier or not time will show, of determining what the boundary is. I think it is necessary to bear that in mind, because it obviously has a bearing on some parts of the testimony and material here. I will not ask leave to discuss it in any detail; I only indicate the point in opening. Obviously the really important thing is to examine what is the effect of the statutes, orders-in-council and proclamations, and though no doubt how the two parties may have acted in questions of administration, occupation, and the like, will have a very proper place in the investigation as helping to throw light upon the interpretation to be adopted, still, of course, that plays a secondary part. I do not say that in any way because I think the putting of such matters in the second place is necessarily to the advantage of the Colony of Newfoundland, but it is only right to help the Tribunal as far as I can at once by pointing out that primarily the question is a question of construing and applying certain documents which are here on record.

The other matter, which I have no doubt has now suggested itself to your Lordships, is, why does the question talk about "location" and "definition," and what is the

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relation between these two different substantives. Perhaps as we go on it will not be found to be very important. My friend, Mr. Macmillan, may have a very clear view as to what is the exact distinction between these two things. It is very easy to suggest a distinction. but in the end I am quite confident your Lordships will find that the conclusion as to which His Majesty is seeking the advice of the Board will be the single conclusion as to where the boundary is to be found though no doubt your Lordships will indicate your view of the answer to that question by reference to some matters of principle. Your Lordships are not required, I apprehend, to visit the Labrador Peninsula and delimit the boundary for this extensive territory. But I make the point at once, because in my submission it is a matter of extreme importance throughout to remember that this boundary, wherever it runs, has to be settled on some principle. It is not a mere arbitrary thing to be arrived at by sitting down and thinking of a number and saying that will do. It has to be settled on some principle. We put forward what we conceive to be the right principle. The representatives of Canada do not accept our view, and suggest that what Newfoundland would be receiving if the answer was justly given would be a selvedge of one mile from the water's edge without even penetrating the land in places where there are inlets—as there are on

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this coast. Where anybody derives the figure of one mile, and why on earth that should be supposed to be what the statutes, orders-in-council and proclamations say, will be one of the most serious questions for the Tribunal.

Sir John Simon.

Viscount HALIDANE: Supposing the Judicial Committee was to make a declaration of the boundary, how would that have validity? You are not asking us to advise as to the exercise of the prerogative; you are asking us to give a judicial definition. Is the Colonial Boundaries Act, 1895, enough to give that the effect of law? Perhaps it is.

Sir JOHN SIMON: At any rate in addition to the jurisdiction which your Lordships are about to exercise on commission from His Majesty. you also have an agreement between the Dominion of Canada of the one part and the Colony of Newfoundland of the other that they will accept the conclusion.

Viscount HALDANE: An executory agreement. What is the force of the Colonial Boundaries Act for this purpose? According to my recollection it says that when the Sovereign has laid something down in an order-in-council or other declaration it has a statutory effect.

Sir JOHN SIMON: It had not occurred to me that it would be because of the operation of that statute. It would seem to me that the Dominion of Canada and the Colony of

Newfoundland having agreed together that this decision should bind, any necessary adjustment would follow automatically. The Colonial Boundaries Act is printed in this same volume, and it is quite useful to look at it now. It will be found at page 245. There is one purpose for which I am very glad to refer to it at once, though I may have to return to it later on. The Colonial Boundaries Act, 1895 (58 and 59 Victoria, Cap. 34), is, of course, a statute of the Imperial Parliament. Section 1 says : “Where the boundaries of a Colony have, either before or after the passing of this Act, been altered by Her Majesty the Queen by Order in Council or Letters Patent, the boundaries as so altered shall be, and be deemed to have been from the date of the alteration, the boundaries of the Colony.”

The LORD CHANCELLOR: There is no question of altering the boundaries here.

Sir JOHN SIMON: None at all. I would ask attention to Section 2 because in another connection, which I am afraid I shall not reach for a day or two, I shall have something to say about it. Section 2 says: “Provided that the consent of a self-governing Colony shall be required for the alteration of the boundaries thereof.” You will notice that the Schedule includes, as you would suppose, both Canada and Newfoundland. I will anticipate by saying it follows, of course, that assuming

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that the true boundary of Newfoundland territory on the mainland of Labrador is what we contend, nothing that has been done without the consent of the self-governing Colony of Newfoundland can possibly have had the effect of restricting that boundary at all. There comes a point, very late in the history, where that consideration is material.

I promised your Lordships to endeavour to present this to the Board from a chronological point of view, and therefore one must choose a date at which to begin.

The LORD CHANCELLOR: Would it be inconvenient if we looked at the map now?

Sir JOHN SIMON: Not at all. It is to be found in the pocket at the beginning of the red volume.

Mr. MACMILLAN: You might mention, Sir John, that it is a Newfoundland map which I do not agree with.

Sir JOHN SIMON: Yes, it is designed to show the view which the Colony of Newfoundland presents as to its rights in the matter.

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The LORD CHANCELLOR: Have you not been able to agree this map as representing the territory and the claim?

Mr. Macmillan.

Mr. MACMILLAN: No, my Lord.

Sir John Simon.

Sir JOHN SIMON: My friend I dare say will take an opportunity, without necessarily doing it in front of the Tribunal, of just letting me know in what respect he does not think it a proper picture.

Mr. MACMILLAN: Yes. I merely wanted to indicate that we have certain views on these lines, and we do not agree about them.

Sir JOHN SIMON: I am not talking about the lines at all. I am merely talking about the boundary of the coast—the physical fact that the coast has these indentations.

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Viscount HALDANE: Apart from the lines—for the rest is there much wrong?

Mr. MACMILLAN: I am afraid there is a good deal of disparity.

Sir JOHN SIMON: I shall in due course learn from my friend if there is anything the matter with the outline where the water touches the land. I use the most inoffensive expression, and say, where the water touches the land. I

really do not think there is. If your Lordships look at the map, the first thing that is important to appreciate is that Labrador is a peninsula. The map is described as a map of the Labrador Peninsula. The isthmus which cuts off the peninsula is to be found

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in the map indicated at the bottom left-hand corner. Certain colours are upon the map—yellow, green, pink and blue—but of course in addition to that there is much uncoloured area which is land, and which is here left white. The isthmus, speaking broadly, which cuts off the peninsula of Labrador is therefore the band of land which stretches from James's Bay, the southern part of Hudson's Bay, to the River St. Lawrence more or less in the neighbourhood of where the Saguenay River runs into it. I am not fixing precise termini, but what I want first of all to get before your Lordships as a matter of geography—as is no doubt well known to all your Lordships—is that Labrador is in that sense a peninsula. I think it is a matter of some 300 or 350 miles across the neck of the peninsula. I am not the least on political rights or boundaries for the moment. Your Lordships see that from that neck or isthmus of some 300 or 350 miles you have this great area swelling out. You do not get the whole of it on this map, because if you travel along the shore of James's Bay and Hudson's Bay you go off the map at the top before you have rounded the corner from Hudson's Bay into Hudson's Strait. It is a very considerable area, very far north of course. Then you find the coastline trending south-easterly again, and you come into this very large bay which is called Ungava Bay. Ungava is a name which at one time was a name used for a portion of this territory. Then trending north-easterly you come to a point where the colours begin, and your Lordships will notice Cape Chidley. Cape Chidley is one of the definite termini which are mentioned in the definitions which your Lordships have to consider, Cape Chidley, as your Lordships notice, being at the entrance to Hudson's Strait, if you regard yourselves as entering Hudson's Strait from the Atlantic. Then, trending broadly in a south-south-east direction, comes this long and extremely indented line, fringed with a great many islands, breaking into the land by some very considerable openings. I am quite deliberately avoiding the use of words like "inlets" or "estuaries"; I will call them openings. I refer, for instance, to such as Saglek Bay, which your Lordships will hear something about, and Hamilton Inlet, a very large opening indeed, and a whole series of other indentations. Then when you get very near to the right-hand edge of the map and towards the bottom of the green, you will find yourself approaching the Strait of Belle Isle. The Island of Newfoundland (which is not coloured) is, of course, on the opposite side of the Strait of Belle Isle. What you see there is the northern portion of the island of Newfoundland. Then if you regard yourself as sailing through the Strait of Belle Isle in a south-westerly direction, as some of us have

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perhaps done, you are now entering that part of the sea which is called the Gulf of St. Lawrence. Of course, it is not the River St. Lawrence, it is an immense part of the sea. In due course you pass along this pink area. I will call it, though incorrectly, for the moment the pink oblong. It takes a very important place in the argument, and I will indicate at once to your Lordships why the pink area is so important. The pink area is important because that pink area at one time did not form any part of the Province of Quebec. At a certain stage in the history it was added to the Province of Quebec,

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and a great deal turns in my submission, when we come to examine the language of these documents, on the way in which that transfer is described. It has a very close bearing on what is, in one sense, the issue of this case—the sense in which the word “coast” of Labrador is used.

Then we come to Anticosti Island, which those who approach the St. Lawrence by the summer route are accustomed, on a fine day at any rate, to see in the distance on the starboard hand. Then at the bottom of the area uncoloured you see the promontory on the southern side of the St. Lawrence estuary, which is ordinarily called “Gaspé.” You see Gaspé Bay. Perhaps you also notice two other things marked on this map—the Bay des Chaleurs, which is a bay on the southern side of the Gaspé Peninsula, and the Magdalen Islands which come in for a particular purpose.

Viscount HALDANE: Where is the entrance to the St. Lawrence?

Sir JOHN SIMON: The entrance to the St. Lawrence is between the blue area which is on the north side, and the uncoloured promontory of Gaspé, which is on the south side. Does your Lordship see Tadoussac, which is on the southern edge of the map?

Viscount HALDANE: At the mouth of the Saguenay River?

Sir JOHN SIMON: At the mouth of the Saguenay River. When you come to Tadoussac and the Saguenay River you are entering the St. Lawrence. At what point the St. Lawrence River may be said to begin and the Gulf of St. Lawrence to end is a thing about which opinions might differ. Your Lordships appreciate that this little map of mine by no means presents the area of the Province of Quebec. Quebec itself is beyond the map, and of course Montreal, and Three Rivers, and the rest of it. This is simply a map to indicate the peninsula of Labrador, because it is with reference to a fraction of that peninsula that the present dispute arises. If your Lordships would care for them, I would give your

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Lordships just two figures to get some sort of conception of the areas we are dealing with. Dealing with the Labrador Peninsula as being the area the boundaries of which I have just traced with you, and having this isthmus of from 300 to 350 miles at its neck, you may take it in round figures that the whole Labrador Peninsula is something like 511,000 square miles. I will not pledge myself as to an odd thousand, but that is about it.

Viscount HALDANE: Is that as claimed by you?

Sir JOHN SIMON: Oh, no. That is the whole Labrador Peninsula covered in this map, coloured or uncoloured, green, yellow, blue and pink, or not coloured at all. I am only giving your Lordships a very broad figure.

Sir THOMAS WARRINGTON: It takes in a good deal to the north as included in your figure?

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Sir JOHN SIMON: Yes. If you were to regard yourself as cutting off at the neck what is called the Labrador Peninsula, it is a matter of 500,000 square miles.

Viscount HALDANE: That is a great deal more than you claim?

Sir JOHN SIMON: That is a great deal more than we claim. The matter which is in controversy, which for the moment you may assume as being the green area, is about one-fifth of that. There again mensuration might bring it out rather differently, but call it that. It is about one-fifth, though it is a very large area, of course. But then Canada and the North American Continent under the British Crown is a very large place, as anyone who has been there is deeply impressed to observe.

That perhaps will give you for the moment a notion of the kind of subject matter. Now, if I may pass from elementary geography to equally elementary history, I would invite your Lordships for a moment to meditate on the year 1763. I shall have to go back a little bit earlier than that for one or two purposes, some of them quite important, but still the year 1763 is really the year upon which one needs in the first instance to concentrate. Your Lordships remember that that was the year of the Treaty of Paris, as the result of which the French lost their dominions.

Viscount HALDANE: In what year did Wolfe defeat Montcalm?

Sir JOHN SIMON: In 1759, on the morning of the 13th September. There was then a series of very interesting and important events, but the definite treaty which put in shape and reaped the fruits of that and other victories is the Treaty

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of Paris of 1763. Just to remind your Lordships in the first instance very broadly—the effect of the Treaty of 1763 (some terms of which we shall need to look at closely) was that the French surrendered to George III. the French dominions in North America so far as they were east of the Mississippi. In those early days what was west of the Mississippi might very well have been in some places a matter of speculation. Lord Finlay in particular will remember some people had already gone round Cape Horn and had found what there was in the region of what is now called British Columbia and Alaska; but if you regard yourself as exploring from the Atlantic and pushing in, though of course there was something known west of the Mississippi, a great deal of it was quite undiscovered territory, and one broad result of the Treaty of Paris of 1763 was, as your Lordships will recall, that the French gave up any claims to empire on the continent east of that, while they reserved certain rights to the west of the Mississippi.

Viscount HALDANE: Does any map show the course of the Mississippi?

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Sir JOHN SIMON: Oh, yes, we have some maps here which are very interesting from that point of view. It appears to me, and I am sure it will commend itself to your Lordships, that when we come to try and construe some of these documents—which are very difficult to construe—it may be very material to try and put ourselves as it were in the chair of the negotiators and draughtsmen, and for that purpose it may be important to see what sort of maps were available, because it may help us to understand what they were saving and doing. The exception, which is a trifling exception, under the Treaty of Paris of 1763 to the general proposition that the French withdrew altogether from North America east of the Mississippi, is that the French retained two islands—the Island of Miquelon, and the Island of St. Pierre, two islands off what is now called Nova Scotia.

That was the broad result. The result was that it became the duty of the British authorities to determine how this new territory was to be dealt with. It is perhaps not easy to state with precision exactly how much new territory the British Crown got, because, of course, Britain already had quite considerable interests in that region of the world. But what is quite clear is that the French, when they were definitely withdrawn, made an immense addition to what I may call the area to be disposed of, and what you will find is therefore that in connection with these new responsibilities the authorities at home made a series of new arrangements and adjustments, and it is in connection with those that you find the ancient Colony of Newfoundland getting an area on the mainland, while in about the same time you also find the carving out of other areas under the British Crown, such as, for instance, the Province or Government of Quebec.

There is another thing which I would venture respectfully to ask attention to at the outset on this historical side. Consider for a moment what were the British territories in that part of the world before the victory of Wolfe, and apart altogether from the cession of territory made by the French in the Treaty of Paris. There are several which must be most carefully borne in mind. The first one I would venture to mention is the Hudson's Bay Company territory. Your Lordships will remember that the Charter to the Hudson's Bay Company was a Charter granted by Charles II. in the year 1670. Therefore the Hudson's Bay Company was, of course, established in possession, and in what was very nearly sovereignty, over an immense solid area before ever these events in the middle of the eighteenth century took place. I think it is convenient now—it will have to be done at some time—to get a slightly clearer view of what the extent of that Hudson's Bay Company territory was. Of course it was vast. I have heard people sometimes in Privy Council cases talking about the Hudson's Bay Company having one-third of Canada, and it is, of course, most important for me that I should bring as clearly as I can before your Lordships' minds what were the other compartments of this area before we come to the question of what was done with the new and additional territory.

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Viscount HALDANE: We talk as though the Crown had established colonies in those places. A colony ordinarily understood is something with a defined area. Newfoundland was little more than a station for fishing and a station for which the Navy at home had to be recruited, and was under the rule of a British admiral. By degrees the Government of Newfoundland became crystallised into its present form, but that took a very long time. I was going to ask you this: when there was the setting up of Newfoundland as a possession of the Crown it may be that it was little more than the setting up of the rule of an admiral, but when you extend the boundaries of Newfoundland it may be that what would ordinarily look like a mere strip may be something much larger, an undefined area in which the Naval Governor is to operate. The whole point may be quite unimportant—I do not know—but all I ask you to do is to bear it in mind.

Sir JOHN SIMON: I have not only borne it in mind, but I have spent a good many months in endeavouring to prepare myself to present it to your Lordships.

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Viscount HALDANE: We shall get Mr. Higgins's criticism of some of these vague sections.

Sir JOHN SIMON: We have not come to any section yet. It would be of very great assistance, having to deal with a large mass of material, if I might ask your attention to the area of the Hudson's Bay Company, in the first instance. I am then going to pass to the other areas, not forgetting the one which your Lordship has already in mind. I take this because 1670 is a definite date and there happens to be a definite document, and it is rather convenient to get rid of that portion.

Viscount HALDANE: We have seen this before. Out of it a great deal of the north-west territory was carved.

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Sir JOHN SIMON: I must now ask your Lordships to turn to a green book, Volume II.

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The LORD CHANCELLOR: We are getting to the condition of things at the date of the Treaty of Paris.

Sir JOHN SIMON: That is the point, my Lord. I am going round, and will then fill it all up. Nobody could read the Treaty, and still less the arrangements made in connection with the Treaty, unless they had, as it were, blocked up the map. I was going to take the Charter of the Hudson's Bay Company and call attention to a map. The Charter is to be found in Volume II. on page 367. This is, as my Lord has observed, a document which has been before the Court many

times, and my excuse for dwelling upon it now is not because I think it is unknown to your Lordships. but because we are dealing here with very important matters, and probably it is as well to look at it afresh.

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Viscount HALDANE: It might be as well if we had a map of the whole of Canada in some shape or form, because so much of Canada was carved out of the Hudson's Bay territory.

Sir JOHN SIMON: That is quite true. I had prepared myself from that point of view. The difficulty is this: your Lordships would really need a map with no boundaries on it, and that is not quite the same thing.

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Viscount HALDANE: That is not quite the same thing. Still, we could see how the boundaries had been restricted.

Sir JOHN SIMON: I know your Lordship will trust me. I have had that in my mind, and I am going to call attention in a moment to a map which I think will help you. Might we look at the actual language of the document? It is a Charter granted by Charles II. It is interesting to notice the first name in the Charter at line 12 on the page is: "Our dear and entirely beloved cousin, Prince Rupert," which is the reason part of the land was called Rupert's Land. There are a number of other names, many of them interesting names to note to-day. It recites that Prince Rupert, the Duke of Albemarle, Lord Craven, Lord Arlington, Lord Ashley, and a number of other persons, John Portman, citizen and goldsmith of London, "have, at their own great cost and charges, undertaken an expedition for Hudson's Bay in the north-west part of America."

The LORD CHANCELLOR: The north-west part of America?

Sir JOHN SIMON: They did not know how much more west there was. It all depends upon how much further you think it goes. "For the discovery of a new passage into the South Sea, and for the finding some trade for furs, minerals and other considerable commodities, and by such their undertaking have already made such discoveries as do encourage them to proceed further in pursuance of their said design, by means whereof there may probably arise very great advantage to us and our kingdom: And whereas the said Undertakers, for their further encouragement in the said design, have humbly besought us to incorporate them, and grant unto them and their successors the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatever latitude they shall be, that lie within the entrance of the straits commonly called Hudson's Straits, together with all the lands, countries and territories"—I

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venture to think the next words may have a little importance—“upon the coasts”—that is one of the early instances of the use of this rather difficult phrase—“and confines of the seas, straits, bays, lakes, rivers, creeks, and sounds aforesaid”

Viscount HALDANE: It seems to suggest that there was granted the commerce of the rivers which flowed into the bay.

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Sir JOHN SIMON: I think so:—“which are not now actually possessed by any of our subjects, or by the subjects of any other Christian Prince or State.” That is all recital.

Viscount FINLAY: I think the word “coasts,” particularly in early English, was not confined to the coast of any piece of water.

Sir JOHN SIMON: I think not. One could give examples which actually go back to the authorised version of the Bible. There are many cases. What my Lord Finlay says is an extremely important consideration which I shall have to develop.

Sir THOMAS WARRINGTON: Here the expression is “coasts and confines of the seas.”

Sir JOHN SIMON: Your Lordship will see in a moment what is the area which, by common consent, was indicated by those terms. Those words are words of recital, but your Lordships had better have the words of the grant, which are on the same page, page 368. “And to the end the said Governor and Company of Adventurers of England trading into Hudson's Bay may be encouraged to undertake and effectually to prosecute the said design, of our more especial grace certain knowledge and mere motion we have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said Governor and Company, and their successors, the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid, that are not already actually possessed by or granted,” and so on. Then at line 24 it reads: “and that the said land be from henceforth reckoned and reputed as one of our plantations or Colonies in America, called 'Rupert's Land': And further we do by these presents, for us, our heirs and successors, make, create and

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constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places aforesaid.” Your Lordships know well that the authority of the Hudson's Bay Company in its area, whatever it is, was of an extraordinarily high degree; they are made absolute lords and proprietors of “the same territory, limits and places aforesaid” “To have, hold, possess and enjoy the said territory, limits and places, and all and singular others the premises thereby granted as aforesaid, with their and every of their rights,” and so on. Then there is rather an interesting acknowledgment of the King's overlordship which perhaps it is worth reading. It is at the bottom of the page: “paying yearly to us our heirs and successors for the same two elks and two black beavers whensoever and so often as we our heirs and successors shall happen to enter the said Countries Terri-

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tories and Regions hereby granted.” The word “coasts” is also used I think very much in the way Lord Finlay was suggesting, on the next page, page 369, “And furthermore,” and so on, “we have granted, and by these presents, for us, our heirs and successors, do grant unto the said Governor and Company, and their successors, that they and their successors, and their factors, servants, and agents, for them and on their behalf, and not otherwise, shall for ever hereafter have, use and enjoy, not only the whole, entire and only trade and traffic, and the whole, entire and only liberty, use and privilege of trading and trafficking to and from the territory, limits or places aforesaid; but also the whole and entire trade and traffic to and from all havens, bays, creeks, rivers, lakes and seas, into which they shall find entrance or passage by water or land out of the territories, limits or places aforesaid; and to and with all the natives and people inhabiting, or which shall inhabit within the territories, limits and places aforesaid; and to and with all other nations inhabiting any of the coasts adjacent to the said territories, limits and places, which are not already possessed as aforesaid.” I ask your Lordships to note the use of that word “coasts” there; it seems at any rate very plausible that in that particular connotation it is not even a maritime term at all; whether it is or not, it obviously indicates a substantial area. That, I think, is one of the documents which it is convenient to look at.

Sir Thomas
Warrington.

Sir John Simon.

Now might I ask your Lordships—you have indulged me so much in waiting for a map—to turn to the smaller atlas in the white cover, and, by way of illustration, to turn to one of the maps. I am quite deliberately taking this, because I think it satisfies for the moment one of Lord Haldane's suggestions. This is the Newfoundland atlas, and if your Lordships will turn to Map 26, I think it is what Lord Haldane had in mind. This is a map with a very interesting history. Perhaps I might just indicate what it is. There was a Committee of the House of Commons which was set up for the purpose of examining

the question as to whether the Hudson's Bay Company should continue to be proprietors administering this territory, or whether, on the other hand, the Hudson's Bay Company should be dispossessed and bought out.

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Lord HALIDANE: What date is that?

Sir JOHN SIMON: I think it sat in 1857. It was a very distinguished Committee. I was interested to notice that Mr. Gladstone was a member of it. Mr. Roebuck took a part in it, and quite a number of well-known parliamentary names appear.

Sir THOMAS WARRINGTON: I see it says "ordered to be printed."

Sir JOHN SIMON: Lord Warrington is quite right; you will get it from the bottom of this map: "Ordered by the House of Commons to be printed, 13 July and the 11 August, 1857." It is an Arrowsmith map. Arrowsmith was a very well-known cartographer in

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the middle of the last century. The House of Commons in connection with that Committee caused this map to be printed. The green area indicates what at any rate at that time was supposed to be the Hudson's Bay area. I am not concerned in the least whether the map in every other respect is right, but anyone who is interested in the boundaries of Alaska may observe that it gives a boundary for that. I think Lord Finlay has seen this map before, and has spent many hours on it. For the present purpose I am merely on the green area. You notice in the title to the map, which is on the left-hand side of the chart, it says, "Map of North America, drawn by J. Arrowsmith. On this map the territories claimed by the Hudson's Bay Company in virtue of the charter granted to them by King Charles II. are coloured green; the other British territories pink, and those of Russia yellow." What interests me, my Lord, and I think it is really important to notice it as we pass, is this, that you see here illustrated what undoubtedly was the prevailing view, that the Hudson's Bay territories extended to what you may call the height of land. It is a phrase more used in the New World than in the Old, but it means the watershed. You will notice the boundaries in the peninsula of Labrador between the green and the pink, between the Hudson's Bay areas and those not Hudson's Bay areas, are indicated by dotted lines, three dots and a space, and so on. It is evident, looking at that, the view was that you would get the Hudson's Bay territory running up to what is called the height of land.

Viscount HALDANE: Height of land is not marked.

Sir JOHN SIMON: No; but if you look at the way the rivers are drawn you will see that they are one way or the other; it is the watershed. In the whole series of areas under the British Crown in the 17th and 18th centuries, this principle of ascertaining the boundary is the principle which is found to be constantly applied. It is not that you get in the terms of the grant, the line traced, or even the words used. You can illustrate it again and again from the Continent of North America. If you had such a thing as a grant or claim to what was called a coast, in the absence of some other and precise artificial line, the view which prevailed, and the meaning attaching to the grant, was one which carried you up to a point which would thus be traced. Take, for instance, the ancient Colony of Virginia, going back to Queen Elizabeth. The coast of Virginia meant going up to a point where the watershed caused the rivers to flow. There is exactly the same thing in Carolina, a whole series of them. How far the Hudson's Bay Company went to the west has always been, as your Lordships know, a tremendous controversy, because the Hudson's Bay put forward very big claims which on one view might even have carried them to the Pacific, but so far as regards the area we are more intimately concerned with, which is the Labrador Peninsula, there is no doubt about this that if anybody sat down in the middle of the 18th century and said to himself "Now, how far is this area an area

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which is already territory of the Hudsons Bay Company”? I apprehend it would be said, when we look into it more closely. “There is no doubt the view would be that it would carry the Hudson's Bay territory back to that point.”

The LORD CHANCELLOR: Is this, what you call the height of land, on No. 26 practically your line?

Sir JOHN SIMON: Yes, my Lord. I will anticipate at once by saying our case is that the location and definition of the boundary to which Newfoundland is entitled in Labrador is a boundary which is to be ascertained by reference to the height of land. It has certain termini at either end. It has Cape Chidley at one end, and has a terminus which has differed from time to time at the other end. I am answering the Lord Chancellor's question more particularly. At one time the terminus at the lower end was not what it is to-day, because it also included the pink; the terminus was at the River St. John, which is the river between the pink and blue. What was shifted afterwards, quite deliberately, and a portion of the coast of Labrador (observe the extreme significance of this fact; I am most anxious that the stress of it should be appreciated) which had previously been attached to Newfoundland was annexed to the Province of Quebec and the result of that was that the pink oblong passed from the one jurisdiction to the other.

Viscount HALDANE: Do you say that was done by Statute?

Sir JOHN SIMON: Yes, my Lord. I will call attention to it. The reason that I am starting with these other illustrations is because I am anxious to present to the Tribunal this broad consideration, that in the absence of some other test, or some defined and artificial limit, you have, as a matter of fact, by the practice which was understood and incorporated in such distributions of territory, really a direction to go to the height of land. I have taken that out of its turn because it is one of the areas which you have to bear in mind. In a very similar way I would invite your Lordships to look at another map in this atlas. For the moment I will deal with this point more briefly. Will you take the first map in the Newfoundland atlas; it is a map of 1656. I have here the original of this map which is on a larger scale: it may save your Lordships' eyesight, because this is very small. There are two or three things on this map. Will you first of all just look at this for a moment. Observe the title: “Le Canada ou Nouvelle France.” Might I call attention to the legend which is very striking as showing the use of this word. He is going to say that different parts of the map are derived from different sources: he is going to say that the northern part comes from one source

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and the southern part comes from another source, and this is the way he says it: "Ce qui est le plus avancé vers le Septentrion est tiré de diverses relations des Anglois, Danois." He is saying: "My picture," as for instance Estotilande which was an

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old word used for "Labrador"— "is really due to what I have heard from Englishmen and Danes." It is most interesting to notice that there are extraordinary Dutch and Danish words in the northern part of the map. I am told (I do not know it myself) that the Dutch for "Turtle" is "Schild padde," and if your Lordship's eye runs up the coast of Labrador you will see "Schild padde," which is now known as Turtle Island or Bay. Then see how he goes on: "Vers le Midy les Costes de Virginie Nouvelle Suede Nouvelle Pays Bas et Nouvelle Angleterre sont tirées de celles des Anglois, Hollandois," and so on. When I look at that map, I find great difficulty in believing that the legend so written is really distinguishing between the mere margin of the Sea of Virginia and the land of Virginia, the territory of Virginia, which is at the back of the immediate margin of the sea. Does your Lordship see Virginia? It is edged in green near the bottom. Virginia, you will notice, is, by this cartographer "Sanson." A great deal of it may be imagination; I am not saying that the mountains are quite where he puts them. He says, this is the Colony of Virginia, and he takes it back to the height of land between those limits of the sea margin. The British Museum have been, as they always are, most helpful about this, and they have been good enough to let us have for your Lordships' inspection the original of this map which is a little clearer than the reproduction. Might I offer your Lordship the original? (Same handed to their Lordships.)

The Lord
Chancellor.

Sir John Simon.

I think your Lordship will see, if you take the original, that what I was submitting is justified as far as the map itself is concerned.

The Colony of Virginia is depicted as running back to the height of land. I rather think it is what was then called New Sweden. I think it is Delaware nowadays. In the same way with New England and what is now called the New York State. Broadly speaking there may conceivably be small exceptions, but it is quite plain that this at any rate is drawn on that principle and I pray in aid the interesting and striking circumstance that in the language of the cartographer at any rate you describe these areas in the south as Les Costes de Virginie, which I venture to think means the tract of land running back from the margin of the sea and understood to run back to the height of land.

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The LORD CHANCELLOR: I do not quite see how you get your height of land in every case. It looks like it in the case of Virginia, certainly.

Sir JOHN SIMON: Does your Lordship see there is rather

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a curious example which a little helps me? It is not French Florida, it would be Spanish Florida, on the extreme left-hand bottom corner of the map. He has there got his rivers—you only see their sources, they would run into the Gulf of Mexico if this map continued, and his notion is, apparently, right or wrong, you get your Spanish Settlement which is pushing up as it does from St. Louis and so on, and on the other hand you get French Florida on the Atlantic side. He goes on to say as far as the great

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Haldane.

river of Canada is concerned, or the St. Lawrence and “tous les environs”—these are according to the statements in the French—in the same way, I think I am justified in saying the boundary between what he calls terre de Laborador, or New Britain, because Bretagne in this connection does not mean Brittany in France, but our Britain—the boundary between that which is edged green and Canada, which was French at this time, which was edged yellow, appears to be based upon what I may call the height of land. There are exceptions. I am not wishing to carry the point too far.

Viscount FINLAY: Where, on this map, would the Alleghanys run?

Sir JOHN SIMON: I think it would be the western boundary of Virginia. There is there an indication of a continuous mountain range; one must remember always the cartographer possibly gave a little rein to his imagination. He not infrequently depicted mountain ranges very much more like railway lines than they really are in nature.

Viscount HALDANE: You notice in Spanish Florida the boundary line at the top is shown by a number of smaller hills edging up to what is apparently a mountain chain?

Sir JOHN SIMON: That is right.

Viscount HALDANE: That is what you mean by the height of land?

Sir JOHN SIMON: That is what I mean.

Viscount HALDANE: That is the only demonstration of the height of land in the map, because if you come up to Labrador—there is one in Virginia, too—there is not much of the same sort as far as height of land is concerned.

Sir JOHN SIMON: There is not much, but I venture to

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think there is a little if your Lordship would consider it. I do not want to carry it too far. I think, my Lord Haldane, the indications really do extend to the boundary between Labrador and French Canada. He draws a series of rivers in the area of French Canada which run to the St. Lawrence. On the other hand, he draws some rivers which run to Hudson's Bay, and he draws a line—I agree you cannot assert with perfect assurance he means it as a height of land, but it is entirely consistent with that notion. The same thing is striking in the case of Virginia, and I think also in the case of Nouvelle Angleterre.

Viscount FINLAY: What is the meaning of the term Estotilandé?

Sir JOHN SIMON: It is a very interesting enquiry and one upon which a great deal of learning and a labour has been devoted. Some

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Haldane.

people think that word really was in some way connected with Esquimaux, and it was an attempt to say Esquimaux land: it is a word used in these early maps, more particularly for the more northern part of this peninsula of Labrador.

Sir John Simon.

Viscount FINLAY: It is a merely a matter of conjecture.

Sir JOHN SIMON: It is merely a matter of conjecture. The same point arose as to the word "Labrador" itself: there are all sorts of views, and one possible view is that the word is really Portuguese, and some Esquimaux were taken over by the early Portuguese to Portugal and became labourers, and the land became known as the Labourers' Land. Neither of those two questions is capable of very confident answer. I am not wishing to put more emphasis on this than is right.

Viscount HALDANE: What you say, if I follow, is that "coast" is there used to denote what we should call the basin?

Sir JOHN SIMON: I think so, yes. What we shall ultimately have to determine is these two questions: First, what is comprehended in a grant of the coast or all the coasts of Labrador; and, secondly, even though at the time when the grant was made nobody was much concerned with anything except maritime matters, is there any reason for supposing that as between Quebec on the one hand, and Newfoundland on the other, you are left with a No-Mans-Land? Is not the true view that the meaning of the grant is such that it does carry you to the height of land, though, of course, I at once concede what Lord Haldane has been quick to point out, that the purpose to be served at the time when the grant was made was a purpose which was primarily, you may say if you like which was practically exclusively, a purpose closely associated with the sailor and the sea? It does not follow, of

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course, because the purpose which the grant may have been primarily directed to serve is a purpose which would be effected on a narrow selvedge, therefore, on the true construction of the grant a narrow selvedge is all that was granted; and the whole question here is, not what is the purpose which was primarily the object of the grant, but what is the construction to be applied to the language now. It has turned out in this back country that there is something which is of value. In these cases it is always, of course, the discovery of something of value which raises the trouble. Your Lordships, perhaps, would like to know what the particular thing is in the present instance. It is primarily due to the discovery that spruce-wood is very valuable for the purpose of making pulp, and though if you had asked anybody, whether a Quebecian or a Newfoundlander, a hundred years ago, what was the value of land, say, at the back of Hamilton Inlet, he would have told you, of course, it was nothing at all, no one had ever been there, and it was a perfectly useless place. A very considerable portion of this disputed area has got sprucewood on it.

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Viscount FINLAY: For making paper?

Sir JOHN SIMON: For making paper. Of course, in the early 'nineties (to go no further back) this began to be appreciated; and since this is public land—most of it has not got a private proprietor—of course, it is a matter of great importance to both of these great authorities, the Dominion of Canada on the one hand, and the Colony of Newfoundland on the other who it is, on the true construction of the documents which will be put before your Lordships, is to have the administration of this area. That is the origin of it.

Now, my Lords. I was going round this part of the world with the object of showing your Lordships first of all the Hudson Bay area, and, secondly, the other ancient British Colonies such as Virginia and New England, and others of the sort, to show how this conception that a unit of territory based upon a certain stretch of sea-board would be a territory that runs back to this natural limit, which is called the height of land, was common. It is, of course, noteworthy that neither in the case of Hudson Bay, nor I think in the case of these other Colonies, Virginia, and so on, was there anything which said so in express terms; it really was what was involved in the language used. Now if we take the area more immediately important, the area of Labrador, the position was this: Newfoundland claims to be, and is very proud to be, the oldest overseas Colony of the British Crown. It is said to have been discovered by Cabot—John Cabot, according to one view, and Sebastian Cabot according to another.

Viscount HALDANE: What was the interval between the Cabots?

Sir JOHN SIMON: They were really working more or less together, that is the reason there is some doubt about it.

Viscount HALDANE: Were they brothers?

Sir JOHN SIMON: No, they were father and son, Jean was the father and Sebastian was the son. They were Venetians, and they sailed from Bristol. They sailed under commission from King Henry VII. I dare say your Lordship will remember, one of the frescoes in the corridor of the Houses of Parliament is a very striking fresco of the grant of the Charter to Cabot by Henry VII.

Viscount HALDANE: What was the date?

Sir JOHN SIMON: I do not think the actual Charter is extant, but the hour and day of the discovery is recorded: it is the 24th of July—I am corrected, it should be the 24th of June, 1497, at 5 o'clock in the morning. That is said to be the moment at which Cabot first sighted it.

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Viscount HALDANE: Sebastian?

The LORD CHANCELLOR: Whichever it was.

Sir JOHN SIMON: I am much to blame for having said by a slip July, because the 24th June is St. John the Baptist's Day; the Bay was therefore called the Bay of St. John. I do not mean to say that nobody had ever any idea that there was any such place before, it goes back far before that, in a fragmentary and almost legendary history. For instance, as early as the year 1500, a Portuguese, his name I think was Gaspard de Corte Real, was supposed to have discovered it, whatever that means, for the King of Portugal.

The LORD CHANCELLOR: 1500?

Sir JOHN SIMON: 1500.

The LORD CHANCELLOR: That was not before.

Sir JOHN SIMON: It was just after, quite right.

Viscount HALDANE: All he did was to discover it. Did the King make any grant at the time?

Sir JOHN SIMON: Not for a little time. I am going to call attention to the nature of the settlement. In 1583 rather a famous and rather a tragic incident occurred. That was the year when Sir Humphrey Gilbert, the famous Elizabethan explorer, and I may say buccaneer, took possession of some portion of it for Queen Elizabeth. You may remember the very tragic story because Gilbert was drowned (I think his ship was called the "Squirrill") on the way home. In 1608 a man called Guy, also of Bristol, first colonised the Bay of Conception, which is one of the bays there; at any rate, it is a very very ancient British interest, the interest in Newfoundland. At the same time, on the American Continent, you had discovery going on mostly on the part of the French. For instance, the actual discovery of this immense river, the St. Lawrence, is usually attributed to Jacques Cartier, whose statue one has seen in various places in Canada. Jacques Cartier discovered the St. Lawrence in the early part of the sixteenth century, between 1524 and 1534. The gradual pushing in of the enterprising French explorers and traders and captains, of course, went on all through that century, and, as Lord Haldane observed, and, of course, most justly, in the early days especially when the geography of the whole region was of a nebulous character, you cannot very well, or at any rate, they could not at the moment, have drawn a very definite boundary, because very few people had a correct notion really of the lie of the land, apart from all

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other difficulties. I am anxious not to waste any time unnecessarily in this case on matters which do not matter. I do not myself really think that the very early history is important.

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It is important, of course, to appreciate that the Island of Newfoundland was British, and was being administered by Governors—we will look at the terms of their Commission in a moment—before the Treaty of Paris, but when you get the French Empire in North America withdrawn, and the immense concessions which then took place, a new problem arises which we now have to deal with.

Viscount HALDANE: You must remember the French obtained very very important rights long after that, long after the date you just referred to, the date of the Treaty of Paris.

Sir JOHN SIMON: Your Lordship means the fishing rights?

Viscount HALDANE: Yes, the fishing rights. It was a good deal more than that, they kept ships there, etcetera.

Sir JOHN SIMON: They had a right to land and dry their fish. There was a good deal of most lucrative controversy on subjects of that sort for a long time.

The point I have reached is this, I go off now to Hudson Bay and show the Board as well as I can how in the common understanding the Hudson's Bay Company, when it got Hudson's Bay, to use a convenient expression, was really becoming the authority that administered and almost the Sovereign of this great horse-shoe, which is limited by the height of land.

On the other hand, you have the discovery of the St. Lawrence by the French, you had the pushing up of the French north of the St. Lawrence, and you had collisions and constant collisions between the Hudson's Bay Company on the one hand and these enterprising French explorers on the other. If I may give one example, which it is useful just to bear in mind as a land mark, as early as 1627, which is before the Hudson's Bay Company's Charter, Cardinal Richelieu on behalf of Louis XIV. had established by Decree a French Company which was called the Compagnie de Canada.

Viscount HALDANE: Was that the great Cardinal Richelieu?

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Sir JOHN SIMON: Yes, my Lord the Company is sometimes called I think the Compagnie des Cent Associés,

Sir John Simon.

because there were a hundred of them associated together for settling New France as it was called, and that or other French Companies or Quebec Companies were most vigorously pushing north, and there were a series of collisions, as it were, between the parties; sometimes the British succeeded, sometimes the French succeeded. Consequently, you get in two Treaties before the victory of Wolfe, references to the adjustment of the boundary between Britain and France; one is the Treaty of Ryswick, which was in the year 1697, the other a more important one, in the Treaty of Utrecht, just at the end of the reign of Queen Anne, 1713.

Would your Lordships just turn in this volume, the red volume, to page 328, where you will see that amongst other provisions of the

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Treaty of 1697, there is a stipulation that: “The Most Christian King”—that means the King of France—“shall restore to the said King of Great Britain all countries, islands, forts and colonies wheresoever situated which the English did possess before the Declaration of this present war, and in like manner the King of Great Britain shall restore to the Most Christian King all countries, islands, forts and colonies wheresoever situated which the French did possess before the said Declaration of War.” Then in the next paragraph, paragraph 8, there is a reference to Hudson's Bay. “Commissioners shall be appointed on both sides to examine and determine the rights and pretensions which either of the said Kings hath to the places situated in Hudson's Bay, but the possession of those places which were taken by the French during the peace that preceded this present War and were retaken by the English during this War shall be left to the French by virtue of the foregoing Article.” Then, my Lord, the same paragraph at line 31 of that page: “And to this end the Commissioners so appointed”—you see Commissioners referred to just above—“shall within the space of three months from the time of the ratification of the present Treaty meet in the City of London and within six months to be reckoned from their first meeting shall determine all differences and disputes which may arise concerning this matter.” The idea was, therefore, that there would be Commissioners appointed who, amongst other things, would determine what were the respective stretches of land belonging on the one hand to Great Britain and on the other hand to France in this Hudson's Bay region.

Sir John Simon.

Viscount FINLAY: I see in your Map No. 1 in that atlas which you referred to, you have got the Mer Christiane. Is that name anything to do with the title?

Sir JOHN SIMON: I do not think so.

Viscount FINLAY: How came that name to be put in?

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Sir JOHN SIMON: I have noticed it on two or three of the maps. I have no doubt I can find out, but I do not think it had any such connection. I will ascertain and let your Lordship know. Your Lordship sees the idea; as the result of the Treaty in 1697 there were Commissioners who were going to find out the boundary.

Viscount FINLAY: That was only up in Hudson's Bay?

Sir JOHN SIMON: That was only up in Hudson's Bay, the district not very far from where I am interested. Under that Treaty, in spite of these precise stipulations about three and six months I do not understand, and I think it is not suggested, anything was done, but if your Lordship will take the Treaty of Utrecht on the opposite page, on page 329, you get a very similar provision, and you do get something done; moreover, the language which is used is of you interest I think.

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“The said most Christian King shall restore to the kingdom and Queen of Great Britain”—that is Queen Anne—“to be possessed in full right for ever, the Bay and Streights of Hudson, together with all lands, seas, seacoasts, rivers and places situate in the said Bay and Streights.” There is no boundary by latitude and longitude, it is interesting to see what people thought that meant—“and which belong thereunto, no tracts of land or of sea being excepted, which are at present possessed by the subjects of France.” Then there are some interesting provisions about returning munitions of war and things of that sort. Then at line 19: “It is however provided, that it may be entirely free for the Company of Quebec, and all other the subjects of the Most Christian King whatsoever, to go by land or by sea, whithersoever they please out of the lands of the said Bay, together with all their goods, merchandises, arms and effects of what nature and condition soever, except such things as are above reserved in this article.” The Company of Quebec, my Lord, the Compagnie de Quebec, was a Company rather like La Compagnie de Canada which Richelieu established; I think it was a subordinate Company which, as a matter of fact, was due to a creation by the Intendant of Quebec, but it was a French trading corporation which was one of those French enterprises which had pushed north and had actually established itself at certain posts which were in Hudson's Bay territory.

Viscount HALDANE: At this time Canada or Acadie was just a name for the whole of the French territory.

Sir JOHN SIMON: That is right.

Viscount HALDANE: And Hudson's Bay practically was the whole of the British territory.

Sir JOHN SIMON: With the exception, of course, of Newfoundland, leaving out Newfoundland.

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Viscount HALDANE: Yes.

Sir JOHN SIMON: And to a certain extent some area which is difficult to define in Labrador, that is entirely correct.

Viscount HALDANE: Labrador has not become prominent.

Sir JOHN SIMON: Not in the least prominent, it was known, and there were certain things done. Your Lordship sees it is important for my argument that one should pick out the words as I go along. You notice that this Company of Quebec is, of course, given liberty to withdraw out of the lands of the said "Bay"—they actually call the whole area really Hudson's Bay—and in the same way, of course, in the third line of the extract I have just been calling attention to, you get

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a reference to the land, seas, seacoasts, rivers and places situate in the said Bay and Streights which belong thereunto."

Now, of course, the question again arose how far back does that extend, and you will see that the article concludes by saying at line 24: "But it is agreed on both sides to determine within a year, by Commissarys to be forthwith named by each party, the limits which are to be fixed by the said Bay of Hudson and the places appertaining to the French, which limits both the British and French subjects shall be wholly forbid to pass over or thereby to go to either by sea or by land. The same Commissarys shall also have orders to describe and settle in like manner the boundaries between the other British and French Colonies in those parts."

Viscount HALDANE: It rather suggests to me that there were no defined boundaries.

Sir JOHN SIMON: There is not the slightest doubt there were lots of cases where both sovereigns claimed the same place. Of course there were. The interesting thing is that something was done under that, and in some of these maps in the early places in the Newfoundland Atlas, the one you have already opened, you will find traced a line which is the line which was laid down by the British Commissioners. As far as we have been able to discover, it does not appear that the French Commissioners and the British Commissioners actually agreed on the line, but the importance of it for my purpose is that it at any rate shows what was the view that was taken on the British side, and to give your Lordships one example of that, many might be given, if you will just again

Sir Thomas

Warrington.

open this Newfoundland Atlas and take one example only. Will you take No. 14?

Please do not trouble about the other things which you see here, but for the moment observe that upon that, and you will find upon many other maps, you get it indicated. It is just at the top of the various colours, and where you are approaching the white. You see Hudson's Bay, and then do your Lordships see the words: "Southern Boundary of Hudson's Bay Company's territories settled by commissaries after Treaty of Utrecht?"

Sir THOMAS WARRINGTON: I do not see "settled by," but I see the "Southern Boundary."

Sir JOHN SIMON: If you will just look a little bit to the right, you will see the words "settled by," and then you get "commissaries after the Treaty of Utrecht."

Sir THOMAS WARRINGTON: Yes, and it runs right up to the yellow boundary of Labrador.

Sir JOHN SIMON: Yes, my Lord, and indeed across it. I only indicate that, as showing that that, which occurs on quite a lot of maps,

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was a matter of record with the British commissaries at any rate. It is not quite certain that the French agreed. I am not asking for the moment that this map should be examined from any other point of view. There are several things that we shall have to look at in a further connection, but all that I am saying is that in the Treaty of Utrecht, there being this possible question of debate, there you get another illustration of the fact that in the early part of the eighteenth century, if you had to determine to what line to run back for the purpose of arriving at the grant of a bay or a piece of coast, that is the way in which it is done.

Now, with those preliminaries, which have rather departed from my strict chronological formula—

The LORD CHANCELLOR: The date of this map is 1763.

Sir JOHN SIMON: Yes, my Lord. I am just coming to that date.

Viscount HALDANE: Just at the time when there was great excitement.

Sir JOHN SIMON: I am just coming to the year 1763. I want your Lordships to take three dates in 1763, and to examine the documents which record what was decided on those three dates. The first date is the date of the Treaty itself. The Treaty of Paris was signed on the 10th February, 1763, and your Lordships will find the relevant extracts from the Treaty in the first volume at page 330. It is printed both in the French text at page 330 and in the English text at page 334; and I will take the English text on page 334 for convenience. There is no controversy about it.

Your Lordship has got to see what it is which as the result of the definite Treaty of Paris of the 10th February, 1763, France ceded to Britain. General Wolfe had led his famous assault, he had landed on the spit of land called the Anse de Foulon, just above Quebec, very late in the night of the 12th September. His 4,800 men, which is all that he had, on the Plains of Abraham, had defeated Montcalm at dawn; and soon after, on the 13th September, Wolfe, of course, and Montcalm too, had both been killed in the battle; or at least Montcalm had died of wounds incurred in the battle, immediately afterwards. Brigadier General Murray, who was one of his Brigadiers—another one being my learned friend's ancestor, Brigadier General Monckton—had assumed command in the now conquered City of Quebec. Between 1759 and 1763, General Murray administered the area under more or less temporary provisions. Now the seven years war was over, the policy of Pitt was completely successful, and here you have the definitive treaty of peace. “The Definitive

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Treaty of Peace and Friendship between His Britannick Majesty, the Most Christian King, and the King of Spain”—the King of Spain was always called in those days His Most Catholic Majesty, so that there you have the three—“Concluded at Paris the 10th day of February 1763. To which the King of Portugal acceded the same day.”

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Now the parts that matter are these: paragraph 4, at the bottom of page 334, says this: “His Most Christian Majesty renounces all pretensions he has heretofore formed or might have formed to Nova Scotia or Acadia in all its parts, and guarantees the whole of it, and with all its dependencies, to the King of Great Britain: Moreover, His Most Christian Majesty cedes and guarantees to his said Britannic Majesty, in full right, Canada, with all its dependencies, as well as the island of Cape Breton, and all the other islands and coasts”—“islands and coasts,” your Lordship will observe—“in the gulph and river of St. Lawrence”—that did not mean he was ceding a mathematical line, or, I should have thought, a strip a mile wide, but it meant an area bounded on the sea by the seashore.

Viscount HALDANE: Was there any definition of Acadia in the Treaty?

Sir JOHN SIMON: No, my Lord, but Acadia itself was a name which was used rather at that period, rather for what I should now call the maritime provinces of Canada than for the area around Quebec.

Viscount HALDANE: It was also used as a synonymous term for Canada?

Sir JOHN SIMON: Yes; you would sometimes have documents that talked about “Acadia or Canada,” but if you look at the old maps, and especially the French ones, you will find that Acadia is the term which is used for the maritime provinces, as we should call them now.

Viscount HALDANE: This Treaty was made in Paris. Sir George Murray remained on and became Lieutenant-Governor until he was succeeded by Sir Guy Carleton.

Sir JOHN SIMON: I am going to call attention to a very important illustrative document in the case. The language of the Commission which was given to Sir Guy Carleton, both when he was first appointed and when there was a new appointment given by which his administration was changed, is a very important point for the Newfoundland case, I think; but we have not reached that yet.

His Most Christian Majesty the King of France cedes all these things, and “all other islands and coasts in the gulph and river of St. Lawrence, and in general, every thing that

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spends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights acquired by treaty, or otherwise, which the Most Christian King and the Crown of France have had till now over the said countries, lands, islands, places, coasts, and their inhabitants, so that the Most Christian King cedes and makes over the whole to the said King, and to the Crown of Great Britain, and that in the most ample manner and form, without restriction, and without any liberty to depart from the said cession and guaranty under any pretence.”

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Viscount FINLAY: You are reading from the English version

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Sir JOHN SIMON: Yes, I was, but it is just the same.

Viscount FINLAY: Were three two originals?

Sir JOHN SIMON: I am not quite sure whether there was a stipulation whether either of them was the original; but the Treaty is to be found in a collection of Treaties, both in English and in French, and there is no controversy as to any difference of languages. Page 334 of Volume 1. gives you the English version, and it is paragraph IV. of that, beginning at the bottom of the page. And perhaps your Lordship will note, although I agree that it is not very important, that the word “coasts” is used in the bottom line of that page. It is not very important, and I am not laying any stress upon it.

The LORD CHANCELLOR: This is a translation. It is “cotes” in the French.

Sir JOHN SIMON: Yes, my Lord, but it was both in English and in French at this time. I am sure we shall satisfy your Lordships about that. Then he surrenders the whole of the French Enipire, and then there is a stipulation, which your Lordship will remember, I have no doubt, to protect the Roman Catholics who were thus passing under the jurisdiction of Britain. Then you will find that there is an exception.

I think that Lord Haldane would probably be interested in paragraph V, in view of something that he said a few minutes ago. You will see that it speaks of the “coasts of Nova Scotia or Acadia,” just as I said a moment ago. It begins by stipulating that “The subjects of France shall have the liberty of fishing and drying on a part of the coasts of the island of Newfoundland,” and so on. Then it says: “And his Britannick Majesty consents to leave to the subjects of the most Christian King the liberty of fishing in the gulph of St.

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Lawrence, on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continents as those of the islands situated in the said gulph of St. Lawrence.” There was a lot of controversy about that which does not matter now. Then at the end of paragraph V it says: “and the fishery on the coasts of Nova Scotia or Acadia.”

Viscount HALDANE: What was Nova Scotia then?

Sir JOHN SIMON: It was what it is now, with New Brunswick added. “The fishery on the coasts of Nova Scotia or Acadia, and everywhere else out of the said gulf, shall remain on the foot of former Treaties.”

Then, overleaf, at page 336, your Lordships will see the Mississippi mentioned. It is in paragraph VII, which says: “In order to re-establish peace on solid and durable foundations, and to remove for ever all subject

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of dispute with regard to the limits of the British and French territories on the continent of America: it is agreed, that, for the future, the confines between the dominions of his Britannick Majesty and those of His Most Christian Majesty, in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the River Mississippi, from its source to the River Iberville, and from thence, by a line drawn along the middle of this river, and the lakes of Maurepas and Pontchartrain to the sea; and for this purpose, the Most Christian King cedes in full right, and guarantees to his Britannick Majesty, the river and port of Mobile”—that is away down in Florida, as your Lordships will remember—“and every thing which he possesses, or ought to possess, on the left side of the river Mississipil except the town of New Orleans.” Your Lordships may take it, I think, because I have checked it quite carefully, and it is not a matter of great controversy, that the effect of it was that except for the two little islands of St. Pierre and Micquelon the French abandoned altogether the territories which lie to the east of the great river Mississippi, and any rights which they had left were to the west of that river.

Viscount HALDANE: Where does the Mississippi rise?

Sir JOHN SIMON: It rises quite close to the Great Lakes of Canada, but of course, rather to the west of them. As a matter of fact, at the time when this Treaty was made, they did not know exactly where the Mississippi did rise, and I rather think that they thought that if you went up the Mississippi right to the top, you would have reached the height of land, and you had there begun to get into the Hudson's Bay territory. That was their idea, as I think you will see from the documents. The Mississippi does, as a

matter of fact, rise to the west of Lake Superior.

Viscount HALDANE: Somewhere near Buffalo.

Sir JOHN SIMON: Further to the west than that, my Lord. It really rises somewhere below Winnipeg.

Viscount FINLAY: To the west of the Great Lakes?

Sir JOHN SIMON: Yes, and to the south of Winnipeg.

The LORD CHANCELLOR: Map No. 14 shows it.

Sir JOHN SIMON: Yes, my Lord, it does; I am much obliged.

Now your Lordships see what was the trouble which the British authorities had to tackle. They had got there a consolidated empire. It was no very important concern of theirs to decide exactly how much of it was British before, and how much of it became British only as a result of cession; but if you put the two things together, they had got the whole of it. Therefore, the next thing that happened was that they

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had to decide what was to be done, and now your Lordships will find that there follow—and I will take them strict chronological order—two other important dates in 1763. The first of them is a document of the 25th April, 1763, after the Treaty. That is to be found on page 149 of the first volume of the Appendix, and it is the Commission of the Governor of Newfoundland, Governor Graves. I will tell your Lordships at once what the other document is, as a matter of convenience. The other document, which is also in the year 1763, is a document which came into existence some months later, a document of the 7th October, 1763.

Viscount HALDANE: In which book shall we find this?

Sir JOHN SIMON: They are both in the first volume, and that one is at page 153.

I therefore desire to call your Lordships' attention in due chronological order to the Commission, which is on page 149, and to the proclamation which is on page 153, and I will take the Commission first. It is a very important document in our case. It is headed: "Commission passed under the Great Seal of Great Britain appointing Thomas Graves to be Governor and Commander in Chief in and over the Island of Newfoundland, the Coast of Labrador, etc."

Now let me explain what had been the position as far as Newfoundland and Governor Graves were concerned down to this point. Graves was already the Governor of the Island of Newfoundland. He was already that; he had got a commission for that.

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Viscount HALDANE: Was he a layman, or was he an Admiral?

Sir JOHN SIMON: He was an Admiral, my Lord; and you will find that these people are all Admirals. Your Lordship will not understand me to be avoiding this point at all; it is perfectly clear that the further object which the authorities had in mind, both in connection with the island of Newfoundland and in connection with the coast of Labrador, was an object which one may call maritime. There is not the slightest doubt about that. They appointed Admirals, and they were careful to select the man who was Governor of Newfoundland, and they secured at the same time that he was Commander in Chief of the Fleet on the Newfoundland station. They regarded Newfoundland as a nursery for seamen. They discouraged settlements as much as they could, because the experience of going backwards and forwards made British sailors experienced. They laid down rules that whenever the fleet went out they must take with them what was called "one green man in five." That does not refer to the uncomfortable experiences of crossing the Atlantic, but it means that they had to take someone who had not been there before; and there is not the slightest doubt that the purpose which was in the minds of those who made these arrangements was primarily a purpose which you may term maritime. I am not disputing that. Not only that, but at this time and for long afterwards

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the value of spruce at the top of Hamilton Inlet had never occurred to anybody. It is not until people have discovered that you can make paper out of pulp, and pulp out of spruce, that anybody begins to take acute interest in this.

Viscount HALDANE: There was the fishing, too. How was it done? The fish were caught; and were they dried?

Sir JOHN SIMON: There were several fisheries. The most important, although not the only one, was a cod fishery; and generally speaking with regard to that there was the process which your Lordship described, which involved landing, and having stages to dry the cod on, and so on. But in addition to that, there was an important salmon fishery.

Viscount HALDANE: In those days?

Sir JOHN SIMON: Yes, my Lord. You will find references to it, and you will come to it shortly. There was also a fishery of what was called the sea cow, which I think means the walrus, and there was a big whale fishery. So that although these things do not all bulk as important at the same moment, it is quite inaccurate to treat the fisheries associated with Newfoundland as being limited to cod.

Viscount HALDANE: If there was salmon fishery, the salmon would go up the river at certain seasons.

Sir JOHN SIMON: Certainly, my Lord.

Viscount HALDANE: And they would have to be caught up there.

Sir JOHN SIMON: I am going to show your Lordship in time how the Courts of Newfoundland have without protest dealt with complaints as to the obstruction of the salmon fishery at the mouth of the river, which is 120 miles back from the point which the Dominion of Canada says is the end of our property. So that there is plenty to show that at any rate we have conceived that we could go back. However, here is the Proclamation. As I have said, Thomas Graves, who was a sailor, a captain, was already Governor of Newfoundland; but down to this moment his Commission was, of course, limited to the Island of Newfoundland. Now your Lordship sees, the definitive Treaty of Paris having been signed, and the whole thing having now to be surveyed, one of the things done in the Treaty is that there is an area—I am not saying for the moment how big or how small it is, or how far it goes back—which is put under the Government of Newfoundland, and that is the origin of Newfoundland's interest in the mainland of Labrador.

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Perhaps your Lordships will look at the words of the Treaty. It is

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on page 149 of the first volume, and the whole of it is important: "George the Third," and so on, "to our Trusty and Well beloved Thomas Graves, Esquire, Greeting." Then it begins with a recital which we must read, because it is the most convenient way of seeing what was the extent of the earlier Commission of Thomas Graves. It says: "Whereas we did by our Letters Patent under Our Great Seal of Great Britain, bearing date at Westminster the twenty-ninth day of May in the first year of Our Reign"—that was in 1760, and therefore was before the Treaty of Paris; until you had the Treaty of Paris you could not do more—"appoint you the said Thomas Graves to be our Governor and Commander in Chief in and over Our Island of Newfoundland in America.

Our ffort and Garrison at Placentia"—that is at Newfoundland—"and all other fforts and Garrisons Erected and to be Erected in that Island for and during Our Will and Pleasure as by the said Letters Patent Relation being thereunto had may more fully and at large appear. Now know You that Wee have revoked determined and made void and by these Presents Do revoke determine and make void the said Recited Letters Patent and every clause Article and Thing therein contained. And Wee reposing especial Trust and Confidence in the Prudence Courage and Loyalty of you the said Thomas Graves of our especial Grace certain knowledge and meer Motion have thought fit to constitute and appoint and by these presents do constitute and appoint you the said Thomas Graves to be our Governor and Commander in Chief in and over our said Island of Newfoundland and all the Coasts of Labrador."

Now if I may present to your Lordships this case under the attractive guise of a short point, the short point of this whole controversy is: What extent of territory is to be understood as indicated by "All the coasts of Labrador"?

Sir THOMAS WARRINGTON: "From the entrance"—

Sir JOHN SIMON: These are mere lateral limits. I will com of them presently, but I want your Lordships for the moment to appreciate how we put our case. We say that just as "the coasts to Virginia" means a particular length of the Atlantic seaboard with the land associated therewith back to the height of land; just as "the area of the Hudson's Bay Company" is not Hudson's Bay, but goes back to the height of land which is drained into Hudson's Bay; just as you find—and I am going to give you many more illustrations both before and immediately afterwards—just as you find in other cases that this is the natural or logical or scientific boundary, and it is the only one which nature will give you, so we say here that when the grant was of "all the coasts of Labrador between two limits, it was not what our friends from Canada

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are now saying, very late in the day and in striking contradiction with the whole series of atlases and maps which have been put forward. It does not mean strip or selvedge the width of a piece of tape, or a mile wide, but it means something which has got a definite connotation without taking any artificial

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measurement, namely, the area which is indicated as running up to the height of land. That is the point of this case.

Viscount HALDANE: That is to say, he was invested with a commission without any definite boundaries at all. The whole thing was so vague at that time. Canada was vague, Acadia was vague, Hudson's Bay was vague.

Sir JOHN SIMON: Yes, my Lord, that is quite true; but this is at once the difficulty, and (as perhaps your Lordship may think) the attractiveness of the conundrum. I am only stating to your Lordship the suggestion that I most respectfully make to the Tribunal. There will be very great difficulty, I think, in anybody, whether on the other side or elsewhere, suggesting any other limit which is not vague.

Viscount HALDANE: You have not lessened our difficulty by telling us very emphatically that we are here not to draw a boundary, but to interpret an existing boundary.

Sir JOHN SIMON: I am bound to tell your Lordships so. Although I am sure, with the authority of Colony of Newfoundland, I would most gladly put this matter in your Lordships' hands for other and perhaps more summary treatment, it is not what you are told to do; so that we must do the same thing as well as we can.

Now that is the point of this case. We have to trace it rather carefully through the statutory history, and the history of the Orders in Council. You will find that this area, whatever this area is—let us call it X for the moment—becomes at one time the Dependency of Newfoundland, becomes at another time added to the Province of Quebec, becomes at a third time split into two parts—the pink part, your Lordship appreciates, and the rest, so that the pink part is given to Quebec while the rest remains with Newfoundland; and all the way through you will find one has to go back to this expression: “all the coasts of Labrador.”

Sir THOMAS WARRINGTON: It does not stop there, does it?

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Sir JOHN SIMON: No, my Lord, you are quite right. It is

perhaps dangerous to go through the rhetorical process of pausing there for a moment, because the moment may be rather unduly extended. It goes on: "All the coasts of Labrador from the entrance of Hudson's Streights to the River Saint Johns which discharges itself into the Sea nearly opposite the West End of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Madelaines in the Gulf of Saint Lawrence as also of all Our fforts and Garrisons Erected and Established or that shall be Erected and Established in our said Islands of Newfoundland Anticosti and Madelaine."

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Now, my Lords, I am most anxious to call attention to the significance of these lateral termini, because this point, of course, at once emerges: ever since 1670 the Hudson Bay Company had had an area, which, you will remember, by the language of its Charter, is an area "in the Bay of Hudson" and so on, lying within the entrance of Hudson's Streights. Therefore, when this Commission is drawn up, and it is desired to make provision for the territories we are now concerned with, in the light of the Treaty of Paris, it is not unnatural that the extension of the jurisdiction of the Governor of Newfoundland at any rate should not trench upon Hudson Bay territory, and your Lordships will notice, and I think it is well worth noting, that if you take page 149, line 31, you find the expression, "from the Entrance of Hudsons Streights," whereas if you will remind yourselves of the Charter of the Hudson Bay Company, which is in Volume 2 at page 367, you will find that the lateral limit from which this begins is, "The entrance of the Straits, commonly called Hudson's Straits." Taking this rather convenient little map, which I see Lord Finlay and others of your Lordships have before you, that is to say it is Cape Chidley. Now may I ask your Lordships to observe the extreme significance of that. Here were the British authorities, who knew perfectly well that this powerful Corporation, represented by distinguished citizens of London, and distinguished noblemen, had got already an area carved out which was theirs. When therefore you are now going to distribute these additional areas, and you begin by distributing "All the coasts of Labrador" to Newfoundland, you are careful to make the two areas fit, and at any rate get a common terminus a quo. Now, my Lords, this question then at once arises: Is it really to be supposed that the boundary of the Hudson Bay territory, starting from Cape Chidley and running on a certain course inland, is an Eastern boundary which is not coincident with the Western boundary of the other? Of course, if one is prepared to accept the test that a grant of coast in circumstances like these means that you run back from the margin of the sea to the point of the divide, the problem is solved, and you at once get, by a natural scientific formula, or provision, in theory, though possibly not at the moment located on the ground, a

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distribution of this area as between these two authorities; but on the other hand, if we are really to pay attention to the proposition that "All the coasts of Labrador" in this document meant something a mile wide or half a mile wide—I think the Dominion in their case suggests they have been a little generous about their mile—what an extraordinary thing! The first consideration on the construction of this document which suggests itself is this—it is so plain that the people who drew this document at any rate were careful at the one end to start at a place which really was prescribed for them by the limits of the Hudson Bay territory. This is a little bit confirmed by a further factor which I might mention now, which is, that in some later version of the defining of the area you get the words "Cape Chidley" used. Cape Chidley is, in fact, the prominent point here, which is, as it were, the spike

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of the headland. The other limit you will notice in this document is the River St. John, or St. Johns. Whatever the reason may be, that particular sort of appellation is constantly used in this part of the world ; and one of the things one has to remember in this case is, for example, that the River St. John is nowhere near another land mark which is referred to, the Lake St. John. They both come in in a definition which we shall reach very shortly; but they are not close to one another at all. You will find both on the little map. You will find that the Lake St. John is at the head of the Saguenay River; the River St. John, on the other hand, is a river which comes out into the Gulf of St. Lawrence at the point where the pink area meets the blue area.

The LORD CHANCELLOR: Just opposite the West end of Anticosti Island?

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Sir JOHN SIMON: Yes. my Lord; indeed it is so described in a document we are coming to in a moment. Now for a moment would you please consider also whether there is not any significance in the choice of a river as the boundary of the coasts of Labrador, with those who drew up the Commission of Thomas Graves, selected as the other terminus. Of course, if the Colony of Newfoundland is right in its contention, that whatever may have been the immediate purpose to be served, and I quite agree that was a mere maritime thing, this language of grant on its true interpretation would really embrace an area of territory which has such an extent of seaboard, and then runs up to a point, of course the choice of a river, which naturally will carry you up to the height of land, is quite appropriate. I do not mean to say that that is at all a conclusive argument.

Viscount HALDANE: Where do you say that Labrador stops, at the West of St. John?

Sir JOHN SIMON: I do not say so, but what I say is that I

am given the coasts of Labrador so far as those coasts lie between the entrance to Hudson Bay and the River St. John. That is the language of the grant.

Viscount HALDANE: Let us look at the language of the grant.

Sir JOHN SIMON: It is page 149. You will see the new territory, at line 30, is, "Our said Island of Newfoundland and all the Coasts of Labrador from the Entrance of Hudson's Streights to the River St. Johns which discharges itself into the Sea nearly opposite the West End of the Island of Anticosti." There is no doubt at all that Labrador is the peninsula and there is no doubt at all (I shall come to documents in a moment which show it) that you might quite properly speak, as Lord Haldane suggested, of the Coasts of Labrador as running more to the West than the River St. John. The point is that there being coasts

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of Labrador, whatever that expression may mean, that is to say, there being areas which drain into the sea, and the water flowing open, which will enter the sea at various points along the margin of the sea, you get a definition of an area prescribed, and definable with the help of geography and survey, once you are told that all the heights, so far as Newfoundland gets them, start at the point where the Hudson Bay territory begins, and ends at the point where the River St. John runs down to the sea.

Viscount HALDANE: Is not that a little difficult; you are claiming a good deal West of that; you are claiming the whole of the upper reaches of the Hamilton River which are within this, and the River St. John runs up no doubt to the height of land, but does the height of land go round?

Sir JOHN SIMON: Yes, my Lord, if it does not, then my claim must, on the ground, be amended; but your Lordship appreciates that my claim is a claim in principle to the height of land.

Viscount HALDANE: You say the height of land goes round up to this point here. (*Indicating.*)

Sir JOHN SIMON: It does, my Lord.

Viscount HALDANE: It goes right round, and then comes up.

Sir JOHN SIMON: Yes; I am going to show your Lordships a whole series of maps, many of them contemporary or very shortly after this point which actually mark a division of this sort.

Viscount HALDANE: Then you put your case this way: boundary up the River St. John and then round, including the height of land, to Cape Chidley.

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Sir JOHN SIMON: Yes, subject to this, which is a point we have not yet reached, that at a later stage in the history there was taken away from Newfoundland and added to the Province of Quebec, an area which is there, coloured pink, and it was taken away under the description of, "Part of the Coast of Labrador hitherto administered by or annexed to Newfoundland"; and, of course, when I come to it, I am going to argue that the way in which that excision of the oblong was expressed, and the area which was then added to Quebec under the denomination of "The Coast of Labrador," is a very strong indication that "Coast" is not this narrow selvedge, because that pink piece runs 40 miles inland at its Eastern edge. You notice there there is a place called Blanc

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Salbon and there is a line runs up that is 40 miles, consequently when you come to the Western side of the oblong, you have got a depth of something like 120 miles. That, of course, will be a consideration which comes later. There is the first

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of these two documents, and our submission about that document is that, upon its true construction when you have regard to the facts as they were at the time (perhaps one should rather say the facts as they were conceived to be at the time)—that is not the grant of a mere selvedge or lisière, but “all the coasts of Labrador,” as between these two lateral limits, does mean an area which runs up to the height of land, and that is the question.

Sir THOMAS WARRINGTON: If this is a question of the construction of the word “coasts” in this document alone, there is one difficulty, is not there, that reference is made to the Islands on the Coast of Labrador?

Sir JOHN SIMON: I noticed that, and it is very important. Whatever may be the difficulties, this contrast is at any rate plain: you sometimes use the word “Coast” as it were from the sea, and you sometimes rise it from the land. A man will say, “I went cruising this summer in my yacht on the Coast of Cornwall,” by which he does not mean, if he was a reasonably successful navigator, that his ship reached the dry land, but he means that he has been skirting the margin of the County.

Viscount FINLAY: I think, in your sense of the word, it is particularly in the plural, “Coasts.”

Sir JOHN SIMON: I think so, too. It is useful to remember that (I do not think it is too far fetched at all) in the Authorised translation of the Bible you get phrases like “The Coasts of Tyre and Sidon”; you get, in the Acts of the Apostles, the account of how St. Paul, and, if I remember rightly, St. Barnabas, when they were in the interior of Asia Minor, were “thrown out of those coasts”; and the word “Coasts” in the English of that period, and there were many illustrations of it, was not, I apprehend, at all limited to this frontage, such as is suggested; and once again one comes back to this difficulty, which your Lordships, I am quite sure, will in due course be impressed with, and have to deal with; after all, what is the alternative? If your Lordships were here commissioned in order to draw such line as occurs to you to be good, or to give such depth as you think to be reasonable or prudent, or what not, that is another matter; but your Lordships are not asked to do anything of the kind; and what

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is the alternative? On what conceivable principle of construction can it be said that, whatever "all the Coasts of Labrador" means or does not mean, it can plausibly be said to mean something you get by applying a measure of a mile back from the sea shore? You get at once into a difficulty which is the more striking because they already knew that this was part of the world where there were deep indentations from the sea. You get into the further difficulty that, in that event, is it suggested that this mere strip skips from headland to headland, or is it suggested that it goes round as a map-maker might take his brush and trace every indentation of the coast?

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That is to say, if I may for the moment remind Lord Finlay of another controversy. This is not a case like the Alaska case, where, at any rate, a large part of the outline may perhaps be supposed to have been so ambiguous that language may have been used which did not fit it. The people who made this bargain, and talk about "the coasts," knew perfectly well that along the boundaries of the sea there were deep inlets, because Davis, one of the famous early navigators in that region, had been into this part of the world, and there is on record in map after map, the fact that, on this very part of the coast, there was an inlet so deep that Davis, or somebody who was with him, had sailed up it and into it for 30 leagues, and had not reached the end of it; and one of the things which it was most important to ascertain was how far it went.

Viscount FINLAY: Of course, a line has no width.

Sir JOHN SIMON: A line has no width at all, and you must get the width somehow, otherwise it is length without breadth. While I am mentioning Davis, perhaps your Lordships would be interested to know that this very Governor Graves, at the same time as he got this Commission, was in terms, instructed that he was to make special investigation to discover how deep this particular inlet ran in.

Viscount HALDANE: Where is that?

Sir JOHN SIMON: That is to be found in the contemporary Instructions under the Sign Manual, which your Lordships will find in Volume 2 at page 393. May I just explain the relation of these documents. Your Lordships are familiar with the fact that the Governor General, or the Governor, of one of His Majesty's Dominions receives both his Commission under the Great Seal, which, of course, is the root of his Authority, and also receives Instructions under the Sign Manual, which are more detailed directions; and that practice prevails until to-day; would your Lordships observe paragraph 7; this is the contemporaneous Instruction to the same man: "It is our further Will and Pleasure that you do,

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from time to time, as the nature of the Service will allow, visit all the Coasts and Harbours of the said Islands and Territories under your Government, in order to inspect and examine the State and Condition of the Fisheries, which are or may be carried on upon the said Coasts and Islands; You shall also use your best Endeavours to procure accurate Draughts or Maps of the several Harbours, Bays and Coasts of Newfoundland, and the other Islands and Territories under your Government, and you are more particularly to direct the Officer of any Vessel under your Command, which may be appointed to visit that part of the Coast of Labradore which lyes between Hudson's Streights and the Streights of Bellisle," that is to say, the Northern half of what you may call his area, "to search and explore the great Inlet commonly known by the name of Davis's Inlet, in order to discover, whether the same has or has not any passage to Hudson's, Bay, or any other inclosed Sea."

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Viscount HALDANE: Is that the opening of the Hamilton River?

Sir JOHN SIMON: Yes, my Lord.

Viscount FINLAY: Davis's Inlet is what is commonly called Davis's Strait, is it not?

Sir JOHN SIMON: No. My answer to Lord Haldane was correct, though one of my learned friends I think thought it was misleading. In fact, they had not got the geography accurate, but the thing they were referring to when they said there was this penetration, which you went into as much as 30 leagues, but never got to the end, was the thing which is called Hamilton Inlet. It is very useful to do this at once; would your Lordships mind turning once again to the Newfoundland Atlas and looking at Map No. 9. Of course, they did not get the geography right in their map, but you can see what they meant. Map No. 9 is a very interesting map indeed; it was drawn up by an Englishman of the name of John Senex in 1710. Your Lordships may take it a good deal of his material was really got from a French map made by a very famous French cartographer, and a very distinguished man, whose name was De Lisle. There are a number of the De Lisle Maps in this Volume, but I take this one because it is the easiest one for your Lordships to read. If you run your eye up the margin of the "Territory de la Bradore or New Britain" about half-way up you will see "An entry discovered by Davis in 1586 into which he sailed 30 leagues and trafficked with the natives."

Viscount HALDANE: He never found the Hamilton River.

Sir JOHN SIMON: He never got so far; he never came to

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salmon. The interesting thing is this: here I am faced with a suggestion by the Canadian Government that the grant to me is a grant which is not only a grant of a mile strip, but that when you come to the Hamilton Inlet, the strip does not go back into the inlet at all, but crosses the jaws of it; I make myself plain, I think it is a familiar controversy in this class of case. Then you have the contemporaneous Instruction to Governor Graves, who is made amongst other things Governor and Commander in Chief of all the Coasts of Labrador, and he is particularly told in the exercise of his duties as such Governor to see how far this inlet goes in. You see what a queer state of knowledge the people had at that time, because there is another entry on the map; inside the land you see "A River which the savages say falls into the North Sea, after it has run 60 leagues, and the Great Bay according to the report of the savages." That is on the body of Labrador, just below the end of the word "Labrador."

Viscount HALDANE: That is Davis's entry?

Sir JOHN SIMON: This, of course, is speculation. It only shows, of course, that they did not quite know. The result was that when

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Finlay.

Captain Graves got his Commission, that is, amongst other things, what he is asked to do. Would you observe in the same way, the next paragraph, paragraph 8, "You are also to enquire and report to Us, by Our Commissioners for Trade and Plantations, whether any or what further Establishment may be necessary to be made, or Forts erected" now, "in any part of Newfoundland, or the other Islands or Territories under your Government, either for the Protection of the Fishery," which I quite agree was the primary object, "the security of the County, or the establishing and carrying on a Commerce with the Indians residing in or resorting to the said Islands or inhabiting the Coast of Labrador." I do not know whether it is going to be said that on the selvedge of the sea there was a population of Indians squatting on the sea shore. Of course, there was nothing of the kind, and surely it is quite obvious that when these documents were drawn they were referring to a substantial area very little known, thought to be of no particular value, which was believed to be sufficiently defined by the use of this language.

Viscount FINLAY: At the same time I do not think that the exploration of these inlets was so much with regard to the extent of land conveyed as it was with regard to what the value of the fisheries would be.

Sir JOHN SIMON: I think your Lordship is right. I only make the observation because, your Lordship appreciates, the case I have to meet is a case that there is only a narrow selvedge which does not go in round the inlet, but which

simply cuts across the mouth of it.

Viscount FINLAY: I do not suppose the case on the other side has been limited to that point.

Sir JOHN SLMON: On the contrary, that is their maximum concession; they say they have been, if possible, too generous to the Colony of Newfoundland. Of course, we shall see.

(Adjourned for a short time.)

Sir JOHN SIMON: My Lord, if your Lordships would be good enough to turn for one moment to Map No. 7 in the Newfoundland Atlas you will see that the map provides the answer to a question which one of your Lordships was good enough to put to me earlier in the day. It is the map immediately preceding the one which you looked at for the purpose of noting that record of the Deep Inlet.

The LORD CHANCELLOR: Not immediately preceding, is it?

Sir JOHN SIMON: It comes several times: your Lordship is quite right; as a matter of fact you looked at No. 9. No. 7 is a map of a few years earlier, which is to be found in several editions, made by a very distinguished geographer, who was Guillaume De l'Isle. He was by far

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the most eminent cartographer of his time; he was called Premier Géographe du Roi; he was a member of the Royal Academy of Sciences; Peter the Great took a special interest in him as well as the Kings of France. What I was going to call attention to is this. If your Lordships will look—more particularly perhaps Lord Finlay, since he put the question to me—to the description on that map of the sea which is called Mer Christiane, you will see immediately underneath it this note: “So named by Jean Munck, a Dane, in 1619.” There was a King Christian of Denmark, and I think we may assume that he named the sea after his his own sovereign. That I think answers that point.

My Lords, I made a slip in one statement at any rate this morning, which I will correct at once. I spoke in a casual phrase as though the Islands of Saint Pierre and Miquelon had ceased to be French. I was in error about that; I believe they are still French. Your Lordship sees this Map No. 7 gives again this opening which Davis in the time of Queen Elizabeth had found here. The inscription is not quite the same as it is in the English map which copies from this. It says: “Entrance found in 1586 by Davis, an Englishman, who trafficked there with people of the country, and into which Weymouth advanced 30 leagues.” It happens to give the name of the comrade Weymouth, who did that.

The Lord CHANCELLOR: I do not see the date.

Sir JOHN SIMON: There are several editions of this particular map. It has been worked out for us at the British Museum, and there is a series of notes to all these maps to be found immediately preceding Map No. 4. De Lisle was born in 1675 and died in 1726, and he was doing this about the year 1700. One or two of his maps do bear a date, but this particular one does not. Take the next map, No. 6, which is another part of the same map of De Lisle. You will see that the legend says that he is “premier géographe du roy.” It is published at Paris, “at the house of the author on the Quai de l’Horloge, avec privilège du roy pour 20 ans.” The date is 1700.

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Sir THOMAS WARRINGTON: It says he was born 1673 and died 1726, so that it must have been the early part of the eighteenth century.

Sir JOHN SIMON: That is right. There is no doubt that these maps, which I am told were maps of great authority in their day, might be regarded as a foundation of that map of Senex, an Englishman, which is Map No. 9, and which is dated 1710.

I am anxious that your Lordships should have before you, even if only in outline, the case in its essential compass; so

that I am not going at the moment, unless your Lordships wish otherwise, to read long passages from the instructions to Governor Graves, and other documents of that sort. I would sooner go at once to the other document of 1763

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which has to be examined for the purpose of seeing how this area has been parcelled out.

The LORD CHANCELLOR: That is the proclamation.

Sir JOHN SIMON: The proclamation. Your Lordships have my dates which are, of course, the pretext of the argument. The 10th February 1763 was the definitive Treaty of Paris, and the 25th April 1763 was this extended Commission to Thomas Graves which puts all the coasts of Labrador under his administration as between two termini.

Viscount HALDANE: You mean sign manual.

Sir JOHN SIMON: I mean the Commission under the Great Seal. That is the document at page 149 which we were looking at just before your Lordships adjourned. Your Lordships remember the words at page 149, line 31. There is thirdly the proclamation which is at page 153, dated 7th October 1763. There is a little history which accompanies this, which your Lordships will need to look at later. There is recorded the inquiries that were made by the Secretary of State, Lord Egremont, to the Lords of Trade and Plantations—I rather think they had been sitting in this building—who gave advice as to what should be done. All that I have in mind, but I am taking you to the accomplished fact. The accomplished fact is that a Royal Proclamation is made on the 7th October 1763, the terms of which I think it is most important carefully to observe. It is a document which carves out this area. We have the Hudson's Bay territory, we have all the coasts of Labrador with Newfoundland, and now of course we have the substantial remaining area mostly acquired from the French. The Proclamation says: "Whereas we have taken into our Royal consideration the extensive and valuable acquisitions in America, secured to our Crown by the late definitive treaty of peace concluded at Paris the tenth day of February last; and being desirous that all our loving subjects, as well of our kingdom as of our colonies in America, may avail themselves with all convenient speed of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation; we have thought fit, with the advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving subjects, that we have, with the advice of our said Privy Council"—those were the Lords of Trade and Plantations who in their turn, of course, had moved the Privy Council as a whole—"granted our letters patent under our Great Seal of Great Britain, to erect within

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the countries and islands ceded and confirmed to us by the said treaty, four distinct and separate governments styled and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz.:
Firstly.—The Government of Quebec, bounded on the Labrador Coast by the River St. John.” Your Lordships will see that is the same river which earlier in the year had been used as the

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limit westward of the Coasts of Labrador which Newfoundland assumed control over. Then it goes on to say: “and from thence by a line drawn from the head of that river”—would your Lordships kindly observe that that in itself involves the idea that the coast will run up to the head of the river—“through the lake St. John, to the south end of the Lake Nipissim.” I am going, if I may, in one moment to ask attention to a map—there are a number which might be used on which your Lordships could trace this—but I thought your Lordships would let me read the words first.

Viscount
Haldane.

The LORD CHANCELLOR: Is that map No. 16?

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Sir JOHN SIMON: If I might suggest it, I think we had better not look at map No. 16 just yet. That is rather later. The whole paragraph reads: “The Government of Quebec, bounded on the Labrador Coast by the River St. John, and from thence by a line drawn from the head of that river, through the lake St. John, to the south end of the Lake Nipissim; from whence the said line, crossing the River St. Lawrence and the Lake Champlain in forty-five degrees of north latitude, passes along the high lands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the sea: and also along the north coast of the Baye des Chaleurs, and the coast of the Gulph of St. Lawrence to Cape Rosieres, and from thence crossing the mouth of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John.”

Viscount HALDANE: Lake Champlain one knows to-day is south of the St. Lawrence.

Sir JOHN SIMON: Certainly.

The LORD CHANCELLOR: It takes in the land bordering on the St. Lawrence, including Gaspe.

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Sir JOHN SIMON: That is the idea. I am quite willing that your Lordship shall look at Map No. 16, but the actual one that I thought was convenient to take was map No. 12. What I would suggest to the Board is that what is really important is to see for this purpose how the geography was believed to exist at the time these boundaries were drawn. I

am not saying, of course, that you will not have to apply the definition to the facts on the ground as they really are, but it is at least rather interesting to see how they would apply if you were to take the maps as they were believed to represent the truth. A very good example of that is map No. 12. It is a map of 1755. I will give your Lordship the original as it is a better map than the reduced scale your Lordship has. That map is a map published in 1755, and I could produce others to the same effect. You observe, therefore, that it is just before the Treaty of Paris. It is a map which shows, and it is rather interesting to notice that it does show, the Hudson's Bay territory. The Hudson's

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Bay territory is shown tinged in yellow, and it does what so many people have done before and since, i.e., treated the Hudson Bay Territory as a territory which runs back from Hudson's Bay to the watershed. If you examine it, you will see it was drawn so on that map. They did not know exactly how these things were. They sometimes drew lakes which ran both ways. Indeed, there are a few cases on the maps where they record "This lake drains both ways."

Viscount FINLAY: But there are such lakes.

Sir JOHN SIMON: But I am not saying that they explored all along the boundary. It was to a large extent a work of imagination in detail, but what is important is to look at the principle of the thing. You have on a map such as this all the material to draw the line. If with this map before your Lordships, I may just refer to the passage again, you will see the whole thing. It says, the new Government of Quebec is to be bounded on the Labrador Coast by the River St. John. You will see the River St. John marked on the map. It is marked as running up a considerable way. We know it had just been used as the way of cutting off the coast of Labrador so far as Newfoundland administered it. You are to turn up to the head of that river. I do not know which of these various tributaries may be called the head, but at any rate you can see it carries you a very substantial distance inland. Then when you have reached the head of that river, you are to have an artificial line which is expressly defined—a straight line I suppose—which is to run from the head of the river through the lake St. John. The lake St. John is shown on the map.

Viscount
Finlay.

Viscount FINLAY: Is it on the river?

Sir JOHN SIMON: No.

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Viscount FINLAY: I think the lake St. John is a long way off?

Sir JOHN SIMON: I observed before the adjournment the lake St. John has nothing to do with the River St. John except that they are both called St. John.

Viscount FINLAY: Then what does this passage mean?

Sir JOHN SIMON: You are to draw a line from the head waters of the river, a line which will run many miles, till you reach a lake. The lake happens to be called Lake St. John, but that has nothing to do with it. It is as though you were to draw a line from the head waters of the Thames to Lake Windermere.

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Chancellor.

Viscount FINLAY: I forget which map it was which showed that Lake St. John was very clearly a very great distance away.

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Sir JOHN SIMON: This little green map that we have been using shows it.

The LORD CHANCELLOR: It is shown on map 16.

Sir Thomas
Warrington.

Sir JOHN SIMON: The Lord Chancellor will appreciate it is not that I have the smallest objection, but it seems to me if we are going to deal with the thing logically what one wants to see is the sort of map of which would be before the people when they laid down the line. What your Lordship is referring to is a map which was drawn afterwards.

The LORD CHANCELLOR: Immediately afterwards, as showing what the Proclamation did.

Sir JOHN SIMON: I am not in the least complaining, but I think it is not unreasonable to say, let us see what sort of map was available and see what they had before them. Returning to the point I was on—you are to join the headwaters of this river which happens to be called St. John by an imaginary straight line with the Lake St. John. Then you are to go from there to Lake Nipissim. This map calls it Lake Nipissing, while other maps call it Lake Nipissim. It is the same lake. That lake is very substantially further to the west.

Sir THOMAS WARRINGTON: Nearly in a straight line.

Sir JOHN SIMON: Nearly in a straight line.

Sir THOMAS WARRINGTON: In Map No. 16 it is put down almost in a straight line.

Sir JOHN SIMON: It is substantially that. When you get

to Lake Nipissim then the boundary—the thing being a lozenge shape—takes a very sharp turn, and the line will be found now crossing the St. Lawrence to Lake Champlain in 45° latitude. If your Lordships will find 45° latitude on the map which I invited attention to, you will see it running across the St. Lawrence and striking Lake Champlain. It struck me as a little significant that whatever may have been accurately or inaccurately known, at any rate it was on this map accurate to say that Lake Champlain is to be found actually cut by the 45th parallel of latitude. That is just what the man who drew up this Proclamation is saying. He says you are to draw a line from Lake Nipissing to Lake Champlain, and then you are to pass along the high-lands which divide the rivers that empty themselves into the River St. Lawrence. I think that is rather striking. We are dealing now with the Promontory of Gaspé, which is on the south side of the St. Lawrence. What he is saying is that this boundary is the line along what I may call the spine of the country, along the watershed. Having done that, then pass along the north-east coast

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of the Bay of Chaleurs. You may remember that the Bay of Chaleurs is just south of the Gaspé Peninsula. Then along the coast of the Gulf of St. Lawrence to Cape Rosières, just at the end of the Gaspé Peninsula, and from thence, crossing the mouth of the River St. Lawrence, by the west end of the Island of Anticosti, terminating at the River St. John.

I have taken the liberty of just roughly marking on my own copy what is involved on that map. Perhaps one of your Lordships would be so good as to look at it. (Handing map to their Lordships.) Lord Finlay will see that I have just roughly marked in blue chalk the area which is thus enclosed. I do not say I have done it precisely, but roughly. I want your Lordships, if you will, to observe what seems to follow. Do you notice that the Hudson's Bay territory cuts a great horseshoe out which takes up a portion of that area. We know that earlier in the year the Governor of Newfoundland had had added to his jurisdiction all the coast of Labrador as far as the River St. John. Is not the inference almost irresistible that what was being done was that they were making an area which they were going to call the Government of Quebec, which, so to say, fits into the map? Its boundaries, do you notice, correspond. The River St. John is at once the western boundary of the Newfoundland area and the eastern boundary of the Quebec area. It does not stop there. If, as a map like that suggested, you reached the height of land, if you went up to the high waters of the River St. John, and if in its turn the Lake St. John was a reservoir which ran down to the sea, you would be dividing the land which may be on one side of the watershed from the land which is on the other side of the watershed. The consequence is that you really are in this portion of the world dividing the country up. The alternative view, which I contest, is a view that although in 1763 the authorities here at home were plotting out an area which they called the Government of Quebec, at the same time all that they were doing on the coast of Labrador, as far as Newfoundland was concerned, was giving to Newfoundland this salvage. It seems to be a most far-fetched and curious hypothesis. If the business which had to be tackled was the business of dividing this country up, what an odd thing that you should define the boundary of the Government of Quebec by language which is precisely appropriate with the boundary of Newfoundland Labrador in my sense; that you should then trace its equivalent boundary on a principle which is, at any rate roughly, corresponding with what are known to be the already appropriated regions in that quarter, and that then you should make these provisions on the south and west. If one looks at that map, remembering that it was a map available immediately before the Treaty, one sees that it has upon it every single name which is used in this careful definition.

The LORD CHANCELLOR: In any case, we have a territory intermediate between the land which you are clamming from the height of land and the boundary of the Hudson's Bay territory; you have a thin strip. You have not shown it in your colours, but there is a thin strip between the new boundary of Quebec and the boundary of Hudson's Bay that runs up to the region of Cape Chidley.

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Chancellor.

Sir JOHN SIMON: Your Lordship may be right. If your Lordship would now turn over to one or two more of these maps you will see the way in which the geographers in the immediately following period dealt with the matter. For example, No. 14 is an interesting map. This is Gibson's map of 1763. The original is here, if you wish to see it. It is by Emanuel Bowen, geographer to His Majesty, and John Gibson, engraver, and it purports to give details according to the Treaty of 1763. This, my Lord, is the original of which No. 14 is a reproduction in part. If I may read the legend it is called this: "A new and complete map of all America, of the West Indies, and other islands dependent thereon, with a copious table fully showing the several possessions of each European Prince and State as settled by the definitive treaty concluded at Paris on February 10th, 1763, the clauses of which relative thereto are inserted by John Gibson, geographer." I think in this case the reproduction is as plain as the original. It is an attempt to indicate the new Province of Quebec; you can see Lake Nipissing quite well.

The LORD CHANCELLOR: They have made the St. John River very straight.

Sir JOHN SIMON: They have. It is not very well done. One can see it is not that at all; but geographers, like other people, can make mistakes. At any rate, they show the kind of thing; and as your Lordship was truly saying, there is an indication of a sort of passage-way between the lozenge which one calls the Government of Quebec, and the boundary, as marked, of the Hudson's Bay territory. Something may turn hereafter on this intermediate bit; it is a branch of the subject which has to be treated rather by itself. I will call it for the moment the branch of the case which deals with Indian territory. It will need to be dealt with in some detail. If I may, I will go on with my chronological story, because I think it is convenient for your Lordships.

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The LORD CHANCELLOR: Is that right; "the Treaty of Utrecht"? That is supposed to be the boundary between the Hudson's Bay and Canada.

The Lord
Chancellor.

Sir JOHN SIMON: No, my Lord. We saw this earlier in the day. Under the Treaty of Utrecht the commissaries were to be people of both countries. Commissaries were appointed by the British; and this line which starts a long way to the

left, “The southern boundary of the Hudson's Bay territory, settled by commissaries after the Treaty of Utrecht” was drawn by the British Commissaries.

The LORD CHANCELLOR: Is that a wrong line?

Sir JOHN SIMON: I am not saying it is wrong. I do not quite know why they should have carried it out across Labrador in the way

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they do. because that would not be—and as a matter of fact was not afterwards regarded as—Hudson's Bay territory.

The LORD CHANCELLOR: That is why I was asking you. That does not fit in with your theory that you were to have everything which Hudson's Bay had not got.

Sir JOHN SIMON: I should have said the real thing was this: it all depends upon where you regard Hudson's Straits as beginning. Later on it is perfectly plain, because the words are used that Cape Chidley is the point. That, you remember, was illustrated in the Arrowsmith map of 1857, where you had that green area, and where the point at which the boundary reached Hudson's Straits was at Cape Chidley. The other Governments which were carved out by the same proclamation, that is to say the Governments of East Florida and West Florida and Granada, have nothing to do with this case, and your Lordships, I think, except as a matter of interest, need not be troubled to search for them. The Granada one is the West Indies. In trying to use the time I have to get the scale complete, I would ask your Lordships to notice in this Royal Proclamation of the 7th of October, 1763, there is this paragraph. We have read the full definition of the countries and governments of Quebec and East Florida, and over the page West Florida and Granada. Now I want you to notice that this proclamation recognises the fact that the area of the Newfoundland administration is enlarged, because it goes on, on page 154, at line 14: “And to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador and the adjacent islands, we have thought fit, with the advice of our said Privy Council, to put all that coast”—this is really extracted—“from the River St. Johns to Hudson's Straits, together with the Islands of Anticosti and the Madelaine, and all other smaller islands lying upon the said coast, under the care and inspection of our Governor of Newfoundland.” That phrase “care and inspection” is a little striking. Of course, if the root of title of Newfoundland was this declaration on page 154, I could quite understand that an argument might be advanced to suggest that this shows something short of an actual extension of boundaries, but, of course, this is mere reference. The actual root of title, the thing which gives the area, is in the Commission passed under the Great Seal to

Thomas Graves on page 149. Your Lordships will really be relieved of any doubt on that score, because we shall come again and again to descriptions of the coast of Labrador as being annexed to Newfoundland, or as a dependency of Newfoundland.

The LORD CHANCELLOR: It is noticeable that in this paragraph the coast of Labrador is something upon which a fishery may be carried on.

Sir JOHN SIMON: Undoubtedly it occurs again and again. I hope your Lordships appreciate that I am conceding this in the fullest and frankest way: there is no doubt whatever that at the time the

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Newfoundland area was enlarged to the mainland, and for long afterwards, the primary object of the whole thing was to deal with fisheries. There is not the slightest doubt about it. The question in the case is really not that, which is really not a matter which is argued or arguable. The question in the case is whether, when you get a grant of all the coasts of Labrador (howbeit at the time it was first made probably nobody cared twopence what you would find if you went back some distance; it was a barren, non-occupied, useless land) and you come to try and ascertain what is the test which the grant prescribes, the test is not the test that you should go to the height of land. I have called attention to the most important parts of that document. My Lords, we have, therefore, this position. Your Lordship has been kind enough to keep some sort of chronological note, and this is the milestone. From 1763 down to 1774, for those 11 years, the British Province of Quebec—it was really called the Government of Quebec—was that limited lozenge which your Lordship just traced out, whereas all the coast of Labrador, from the entrance to the Hudson's Straits to the River St. Johns was annexed to Newfoundland. That lasted for those 11 years. Governor Murray, to whom my Lord Haldane referred, surrendered his post to Governor Guy Carleton, and Sir Guy Carleton was the Governor of the Province of Quebec in 1774. In 1774 there was passed a Statute, which is called the Quebec Act, which completely revised the distribution of areas, which enlarged the Province of Quebec enormously, and which threw into the Province of Quebec all that part of Labrador which had previously been annexed to Newfoundland. So that you have Newfoundland with what I may call continental areas between 1763 and 1774, and then there comes a period which begins in 1774 and which continues till 1809, when once again Newfoundland gets its continental area.

I think your Lordships may—of course, in time these things will become so familiar you will not need it—find it convenient to take these dates if you are making any notes.

The LORD CHANCELLOR: This is the Act at page 158.

Sir JOHN SIMON: Yes, I am going to give your Lordships four dates: 1763 to 1774, 1774 to 1809, and 1809 to 1825.

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Viscount HALDANE: These are the Statutes?

Sir JOHN SIMON: These are the three periods. Between 1763 and 1774, as I have already said, you had Newfoundland on the mainland to the extent to which the Commission to Governor Graves and his successors prescribed, whatever that is. From 1774—this is the Statute which, as the Lord Chancellor says, we are just going to look at, at page 158—down to 1809 you had no Newfoundland on the mainland, but the whole thing was in Quebec.

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Sir THOMAS WARRINGTON: The whole thing, coast and all.

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Sir JOHN SIMON : Yes. It is most striking what happens. What kind of an operation on the view of my friends happened—we shall have to consider it; I have a perfectly intelligible view of what happened. From 1809 to 1823 you get yet another stage in which Newfoundland goes back to where she was in 1763, and lastly, in 1825 comes the final change which has persisted till to-day, the change by which Quebec gets what I may call that pink oblong cut out and given back to it while the balance remains with Newfoundland.

Viscount HALDANE: It is most important that we should follow the words of these Statutes.

Sir JOHN SIMON: It is most important.

That gives the stages. Perhaps your Lordships will turn to page 158 and observe the language that is used in the Act of 1774. Here again the thing which is principally important for me is to see whether when what was previously attached to Newfoundland is added to this enlarged Quebec, it can possibly be supposed that what is thus being transferred is a mere selvedge or whether on the other hand the inference is very strong—I should have thought it was irresistible—that what is being transferred is not mere selvedge but on the contrary is a very substantial continuous area of territory. The recitals I am afraid must be read: “Whereas His Majesty, by His Royal Proclamation, bearing date the Seventh Day of October in the third year of his reign, thought fit to declare the provisions which had been made in respect to certain countries, territories and islands in America, ceded to His Majesty by the Definitive Treaty of Peace, concluded at Paris on the tenth day of February one thousand seven hundred and

sixty three,” which, as you know, is to be found at page 153, you have just been looking at it. “And whereas, by arrangements made by the said Royal Proclamation, a very large extent of country, within which there were several Colonies and Settlements of the Subjects of France, who claimed to remain therein under the faith of the said Treaty, was left, without any provision being made for the administration of Civil Government therein.”

My Lords, might we pause there for one moment, if you would look at the little sketch map which shows our green area, you will remember upon that we had marked not only the pink and the green, but we had distinguished between a portion which is coloured light blue, or slate colour, and portion coloured yellow. The portion that is coloured light blue is bounded by the line which runs from what is supposed to be the head of the River St. John to Lake St. John. You will remember that line was the northern boundary of the Government of Quebec. To take an example, obviously you see to the north of that there was this yellow patch. there may be more, but there is at least that, and, of course, it is quite plain there would be a large extent of country within which there were colonies and settlements of the Subjects of France who claimed to remain therein under the faith of the

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Treaty, that were left without any provision being made for civil government therein. I can give more illustrations, but that is one.

The LORD CHANCELLOR: It would not be the whole yellow patch because Hudson's Bay came rather near.

Sir JOHN SIMON: It is the whole if Hudson's Bay is to be regarded as limited by the area which drains into Hudson's Bay; that yellow area does not drain into Hudson's Bay, it drains into the St. Lawrence.

The LORD CHANCELLOR: I was thinking of Hudson's Bay as marked on this document; it does not matter, there is something there.

Sir JOHN SIMON: It is quite plain, therefore, when this lozenge which was the boundary of the Government of Quebec in 1763 was marked out there would be a large extent of country within which there were Colonies and Settlements of the Subjects of France, who claimed to remain therein under the faith of the said Treaty, and which was left, without any provision being made for the administration of Civil Government therein. Then it says: "and certain parts of the Territory of Canada, where sedentary fisheries had been established and carried on by the Subjects of France, inhabitants, of the said Province of Canada, under Grants and Concessions from the Government thereof, were annexed to the Government of Newfoundland." That refers to this fact: if you come down the River St. Lawrence and examine the character of the fisheries which are being conducted on the northern edge of that river and the Gulf, coming down from Tadoussac and generally pushing on till you come out to the Gulf of St. Lawrence on the side which is nearer to Quebec and furthest from the Atlantic, the fisheries were to a large extent what were called sedentary fisheries; that is to say, the people there actually settled there and built places there, they were working from a fixed locus, whereas the fisheries which were what I may call of the Newfoundland character were, as one of your Lordships observed earlier, really fisheries to which you came and went because the whole policy of the British Government at this time, and for long afterwards, was to discourage permanent settlement in Newfoundland and to insist that the fishing fleet must go out every spring and then occupy itself with the business for which it had come and return in the autumn. That was for a very long time the principle sought to be applied in connection with Newfoundland, and what you may call broadly Newfoundland Fisheries. This Act of Parliament is reciting that fact. You see that you have put under Newfoundland so large an extent of the coasts of Labrador as involved putting

some people who used to be French subjects of French Canada who were sedentary. This is one of the motives for changing the boundaries: "May it therefore please your most Excellent Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the advice
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and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same." Now comes a boundary of the most astonishing character. We have become so accustomed to the area of the United States that it gives one almost a surprise to find where the boundary of Quebec used to be. The boundary of Quebec which is now prescribed would include as I make out, some four and a half of the present states of the United States or five. The boundary may I explain is going to be traced beginning at the other end. You will remember when we had the boundary defined in the Proclamation of 1763 you were taken round this lozenge-shaped area and you finished up at the Bay of Chaleurs, and then were invited to cross the Gulf. At this time the Act of Parliament was going to trace a boundary beginning at the other end. It is very soon going to include much larger territories, but it starts the same. Your Lordship will see at line 27 on page 158. May I say I attach some importance to the word "bounded," because it seems to me extremely unlikely if the Act of Parliament is going to say a particular area, this enlarged province of Quebec is bounded by so-and-so, it does not enclose Quebec with a complete boundary; and if it encloses Quebec with a complete boundary you will find the Newfoundland case succeeds: "Bounded on the south by a line from the Bay of Chaleurs, along the High Lands which divide the rivers that empty themselves into the River Saint Lawrence from those which fall into the Sea"—that is what I call the spine of the Gaspé Peninsular—"to a point in Forty-five degrees of Northern Latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain." Down to there it is practically the same as before, you are retracing your steps—"until, in the same latitude it meets the River Saint Lawrence." Now we are going to go further afield: "From thence up the Eastern bank of the said river to the Lake Ontario; thence through the Lake Ontario, and the River commonly called Niagara." Your Lordship remembers Niagara lies between Erie and Ontario—"and thence along by the eastern and South-eastern bank of Lake Erie, following the said bank, until the same shall be intersected by the Northern boundary, granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said Northern and Western Boundaries of the said Province, until the said Western Boundary strike the Ohio; But in case the said Bank of the said Lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the North-western angle

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of the said Province.” Your Lordships need not trouble about the grant to Pennsylvania, because it was really in the form of a quadrangle; the whole point was whether the North-western angle of the quadrangle would, as a matter of fact, be struck by this new line at one point or another; this is the part which matters: “And thence along the Western Boundary of the said Province.” That is to say the Province of Pennsylvania; then it goes on: “Until it strike the river Ohio.” The River Ohio would come out on the Western side of the Province of Pennsylvania about half way down: “and along the Bank of the said River,

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westward, to the Banks of the Mississippi.” Your Lordships know the Ohio is one of the principal tributaries of the Mississippi—“and Northward to the Southern Boundary of the territory granted to the merchants adventurers of England, trading to Hudson's Bay.” That, you see, is the same idea as we had before. It is the idea that the Hudson's Bay Company has got an area which will run back from Hudson's Bay until it reaches the height of land. When you get the height of land and the water begins not to flow into Hudson's Bay, but to flow South, then you will have the sources of the Mississippi. That is the idea of it. Then most extraordinarily they say: “And also all such territories, islands, and countries, which have, since the tenth of February 1863, been made part of the Government of Newfoundland, be, and they are hereby during His Majesty's pleasure, annexed to, and made part and parcel of, the Province of Quebec.”

My Lords, it is impossible for anybody to follow the whole of that elaborate description in one's head. What I am anxious to do is to put the point which is the only relevant point as it seems to me in reading it.

Viscount HALDANE: Might not this include the whole of Newfoundland?

Sir JOHN SIMON: It would, except, of course, the island.

Viscount HALDANE: It says: “Also all such Territories, Islands and Countries.”

Sir JOHN SIMON: Obviously, I agree, it is my case. It does include territory, but since it is only the territories which have been annexed to Newfoundland since the 10th February, 1763, it is leaving out the island. My whole case is that what Newfoundland got was not a strip a mile wide, but it got a territory, and this territory is now being taken away from it. I want to put the point to the Board, and I can put it without any map, what in my understanding is the point and a very

important point to be made on this document.

Consider what the two contrasted cases or contentions here are.

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Viscount HALDANE: You notice the words “been made part of the Government of Newfoundland.”

Sir JOHN SIMON: I do. I want to put what I conceive to be the only relevant point which arises on this document, and it is most material to consider what the two cases or contentions are between which your Lordships are invited to choose. My case is that the area in the Peninsula of Labrador, which was for a certain number of years annexed to and made part of the Government of Newfoundland, is not a mere narrow ribbon, a mile or whatever it is, running along the sea-shore, but is a very substantial block of territory running into what is a natural boundary. The other view put forward is: No, all that Newfoundland had since the 10th February, 1763, is this little ribbon.

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When I read this document and discover that it is proposed to define the boundaries, that is why I emphasise the word “bounded,” at line 27 on page 158. When I am told this is a document which is going to set out for me how the enlarged Province of Quebec is bounded, I naturally assume when I have traced it all out, that I shall have got a consolidated area, but if my friends are right, all I have got is this: I have got an area, the boundary of which is defined from the Bay of Chaleurs, which then runs westerly by Lake Champlain, the St. Lawrence, the Great Lakes, down the side of the then Colony of Pennsylvania, along the Ohio reaching the Mississippi, then running right up reaching the Hudson's Bay boundary, but after that I am given no assistance whatever, except I am told “And this ribbon a mile wide is also to belong to you.” My submission is that that is most improbable.

Viscount HALDANE: Where do you get that ribbon on that construction?

Sir JOHN SIMON: You get it in the words on page 159, you are to go on till the River Mississippi hits the Hudson's Bay boundary. Then line 13: “And also” that is to say the new Province of Quebec is also to contain “all such Territories, Islands, and Countries, which have, since the Tenth of February, One Thousand Seven Hundred and Sixty-three, been made part of the Government of Newfoundland.”

The Lord
Chancellor.

Viscount HALDANE: That is everything.

Sir JOHN SIMON: Quite. Then your Lordship sees I am told all the Government of Newfoundland got was a thing a mile wide.

Viscount HALDANE: You say if that is the construction, the whole went to the Government of Newfoundland?

Sir JOHN SIMON: Nobody disputes it, that is not the controversy, nobody disputes whatever the Government of Newfoundland got on the mainland in 1763, that exact area, neither more nor less, passed by the Statute of 1774. The whole question is, How much was it?

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The LORD CHANCELLOR: This carries all the territories which belonged to the Crown of Great Britain in North America, bounded on the south by this line along Pennsylvania to the Mississippi, then it turns north and stops at the boundary of Hudson's Bay.

Sir JOHN SIMON: That is it.

The LORD CHANCELLOR: It is everything belonging to Great Britain, stopping at that boundary?

Sir JOHN SIMON: Yes.

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The LORD CHANCELLOR: You got everything between the southern line and Hudson's Bay?

Sir JOHN SIMON: That is right.

The LORD CHANCELLOR: What light does that throw upon the question what is covered by the words "And also the territories which have been made part of Newfoundland." Whatever that territory is, of course, it comes into this Grant, but how does that show what it is?

Sir JOHN SIMON: I agree it does not show it. This is merely a consideration. It is going to lie very much reinforced when we come to the pink piece; but I am only pointing out that the language of this document is entirely consistent with the view which I have been pressing, that is to say, if for a moment we might assume that "all the coasts of Newfoundland" means this solid green piece, then, of course, when you are told that you are going to bound the large Province of Quebec by this line, and are going to transfer all such territories, Islands and Countries as have been made part of the Government of Newfoundland, then, of course, the thing would fit. I quite appreciate what the Lord Chancellor puts to me. I cannot say that the other construction is either nonsensical or impossible, but to say

the least of it, it is very odd that it should be supposed that you are making a complete boundary of the Province of Quebec, if the other view is right, because it would necessarily involve this, that although you carry things up to—the Hudson's Bay boundary, where the Mississippi ends—which was not quite right geographically, but was nearly right—after that you are really throwing into the Province of Quebec not only the Newfoundland territory, but also the territory which had never been either Newfoundland or Quebec.

The LORD CHANCELLOR: It is all the territory of Great Britain between the southern line and Hudson's Bay.

Sir JOHN SIMON: It may be.

The LORD CHANCELLOR: All, including or adding to it the territory which had been granted.

Sir JOHN SIMON: It may be. I am not saying that that is contrary to the language, at all, or impossible.

The LORD CHANCELLOR: I do not say that this is conclusive.

Sir JOHN SIMON: There are very few things which are conclusive in this case, although I think we are coming to one or two things which are very striking. But one sees now why it is that you come to a stage in 1774, when this transfer was made.

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Viscount HALDANE: There had been in that territory some islands which had been made part of the Government of Newfoundland since 1763. Can you tell me the dates?

Sir JOHN SIMON: Yes; it had been done by the Commission to Governor Graves, the date of which your Lordship will remember.

Viscount HALDANE: That is the instrument which is referred to, is it?

Sir JOHN SIMON: Yes. The date is the 25th April, 1763.

Sir THOMAS WARRINGTON: Why does it say here: "Since the 10th of February," the date of the Treaty?

Sir JOHN SIMON: Because your Lordship remembers that that was the date of the Treaty.

Sir THOMAS WARRINGTON: I know; but that did not make it part of Newfoundland.

Sir JOHN SIMON: I know my Lord will forgive me: the point is this, that they say: "Of course the territory of Newfoundland as it has been known in the past before the Treaty of Paris is to remain as it is. We are not interfering with the Island of Newfoundland at all; but in 1763 in connection with arrangements made by the Treaty of Paris, we thought it right for the time being to add some mainland to Newfoundland."

Sir THOMAS WARRINGTON: All I mean is that that was done by the Proclamation. Why does the Act say that it has been since that date, the date of the Treaty, made part?

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Sir JOHN SIMON: May I suggest a slight correction? It was not done by the Proclamation; it was done by the Commission.

Sir THOMAS WARRINGTON: I meant the Commission.

Sir JOHN SIMON: Yes; it would have been right to say the date of the Commission, but I suggest that the whole Act of Parliament proceeds on the footing that since the definitive Treaty of Peace it was necessary to make arrangements which are now being revised, and they did use as the terminus a quo the date of the Treaty of Peace, although it would have been just the same thing if they had used the date a month or two later, when it was granted.

Viscount
Haldane.

Mr. MACMILLAN: May I suggest to my learned friend

that “since” means “after,” and not “from and after.”

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Sir JOHN SIMON: Yes; I am much obliged. It is post.

Sir THOMAS WARRINGTON: Since the Treaty.

Sir JOHN SIMON: Yes.

Viscount FINLAY: At a date later than the Treaty.

Viscount HALDANE: It makes no difference. Nothing which was added after 1763 goes over.

Sir JOHN SIMON: May I take advantage of the time just to get your Lordships' eye to the remaining stages. We have now reached 1774, and without at all claiming that we have identified what the green area is, whatever it is, it has been taken away again. Now we can go right on for this purpose—not for every purpose but for this purpose—from 1774 right down to 1809. There are some important intervening facts, but I am anxious to get the sketch complete to-day if I can.

Will your Lordships kindly turn now to page 190. In 1809 there was a reversal of policy, and in that year there was an Act which is called the Newfoundland Act of 1809. It was one of those statutes which really dealt with two things, and the title shows it. You will see that it is: “An Act for establishing Courts of Judicature in the Island of Newfoundland and the islands adjacent; and for re-annexing part of the Coast of Labrador and the Islands lying on the said Coast to the Government of Newfoundland.”

The second of those two legislative objects is carried out by Section XIV, which is on page 195. I shall have to read it more elaborately, perhaps, later on, but your Lordships will appreciate my desire to get the whole outline before you to-day. Perhaps it will be enough to say for the moment that whatever else Section XIV does, it does this; your Lordships will see the word “re-annexed,” three lines from the bottom of page 195. It was to “re-annex” to the Government of Newfoundland whatever it was which, in 1763, had been given to Newfoundland, and in 1774 had been taken away from Newfoundland.

The Lord
Chancellor.

Viscount HALDANE: We had better look at the words of it.

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Sir JOHN SIMON: If your Lordship wishes it; but I was very anxious if I could to show your Lordships the other things.

Viscount HALDANE: Just let us get it in our minds.

Sir JOHN SIMON: By all means, my Lord.

The LORD CHANCELLOR: I see that it recites the Proclamation, and it recites the Quebec Act.

Viscount
Haldane.

Sir JOHN SIMON: Yes, my Lord. Then in line 35 on page 195

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it says: “And whereas it is expedient that the said Coast of Labrador, and the adjacent Islands (except the Islands of Madelaine) should be re-annexed to the Government of Newfoundland; be it therefore enacted, That such Parts of the Coast of Labrador from the River Saint John to Hudson's Streights and the said Island of Anticosti, and all other smaller Islands so annexed to the Government of Newfoundland by the said Proclamation of the Seventh Day of October One thousand seven hundred and sixty-three”—it really should have been that it was done by the Commission to Graves, which was earlier in the year.

Viscount HALDANE: The operative words are “the said Coast of Labrador and the adjacent Islands (except the Islands of Madelaine)”—“be it therefore enacted, That such Parts of the Coast of Labrador from the River Saint John to Hudson's Streights”—that is, away up in the north.

Sir JOHN SIMON: Just the same as before, my Lord.

Viscount HALDANE: “And the said island of Anticosti”—

Sir JOHN SIMON: Just the same as before, my Lord.

Viscount HALDANE: “And all other smaller Islands so annexed to the Government of Newfoundland by the said Proclamation of the Seventh Day of October One thousand seven hundred and sixty-three, (except the said Islands of Madelaine) shall be separated from the said Government of Lower Canada.” It is just repeating it.

Sir JOHN SIMON: Yes, my Lord; it is purely giving it back, with the immaterial variation that the Madelaine Islands, which you will see on the little map at the bottom, do not go back.

But let it be clearly understood that whether my case is a good case or a bad case, the subject matter, the area, is an area which was first given to Newfoundland in 1763, and then taken away from Newfoundland in 1774, and then again

re-annexed to Newfoundland in 1809.

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Viscount FINLAY: Not exactly again re-annexed.

Sir JOHN SIMON: It was re-annexed; it was again annexed; and whatever the area may be, it is the same thing.

Now I want your Lordships to go to the last stage of the matter. You have been observing all day that we have a piece of pink on this map. Down to this moment, your Lordships have heard nothing which would make that oblong piece of pink significant for any purpose, because the boundary has been from first to last the boundary of the river St. John, which is to the west of the pink.

Now, if your Lordships will kindly turn to page 205, you will find the Statute of 1825, which, in my submission, contains language which very greatly assists the case that it is my duty to present to your Lord-

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ships. This again is an Act which is for more purposes than one, as you will see by its title. It begins by dealing with some questions of French titles and so on; but if you will turn to Section IX, you will find this extremely significant provision at the bottom of page 210: "And whereas under and by virtue of a certain Act" (namely the Act of 1809) and another Act—the second reference is not very accurate really—"the coast of Labrador, from the river Saint John to Hudson's Streights, and the island of Anticosti, and all the islands adjacent to the said coast, except the islands of Madelaine, are annexed to and form part of the Government of Newfoundland; and it is expedient that certain parts of the said coast of Labrador should be re-annexed to and form part of the province of Lower Canada."

Your Lordships will please observe that what they are going to do is to re-annex to Canada part of the said coast. Now let us see whether they are going to re-annex something which is a mile wide. The Act goes on in this way: "Be it therefore enacted, that so much of the said coast as lies to the westward of a line to be drawn due north and south from the bay or harbour of Ance Sablon, inclusive"—now this is a new point of departure—"so far as the fifty-second degree of north latitude, with the island of Anticosti, and all other islands adjacent to such part as last aforesaid of the coast of Labrador, shall be and the same are hereby re-annexed to and made a part of the said province of Lower Canada." Now it is a very interesting and extraordinary fact that the fifty-second degree of latitude was at the time, as I will now prove, approximately believed to be and recorded as the head of the river St. John.

Sir Thomas
Warrington.

Viscount HALDANE: Where is Ance Sablon on this map?

Sir JOHN SIMON: It will be at the extreme right-hand

end of the pink.

Viscount HALDANE: It is the end of the blue line.

Sir JOHN SIMON: It is, my Lord; and it is what I venture to think we have got left. I have examined this point as carefully as I can, and some of the old maps at this point put "Sandy Bay." "Ance," of course, really means a bay from that point of view; it is the handle.

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Sir THOMAS WARRINGTON: It is all that coast of Labrador to the west of that little line running north and south.

Sir JOHN SIMON: Yes, my Lord.

The LORD CHANCELLOR: Is it admitted by the Dominion that the whole of this pink passed under that Act?

Sir JOHN SIMON: I think they would like now to suggest that it does not; but I shall be able to show that they have asserted it,

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believed it, and recorded it, again and again from this time forward for the next fifty years or sixty years.

Sir Thomas
Warrington.

But for the moment, apart from any question of their admission or denial, let us consider the words. I am not saying that it is not conceivable that a man who wants to cut in two at a particular point a ribbon which is an inch wide, should say: "Take a pair of shears that are 40 feet long." It is perfectly possible to do so, but it seems a very improbable operation; and when I find directions in 1825, for —to use the language of the Section itself—carrying out what is declared to be expedient "that certain parts of the said coast should be re-annexed"; or, picking out the words on page 210 at line 43 "whereas it is expedient that certain parts of the said coast of Labrador should be re-annexed"; that being the thing which is to be aimed at, when I am told that this is the way to do it, I begin to wonder whether or not "the said coast" may not be something which is a little away from salt water.

Viscount
Haldane.

Sir THOMAS WARRINGTON: What you will say is this, that if it only intended to annex the coast strip, it would have been "so much of the said coast as lies to the westward of the bay or harbour of Ance Sablon."

The Lord
Chancellor.

Sir JOHN SIMON: One would have thought so, my Lord.

Viscount HALDANE: Can you tell me what is the breadth across the pink?

Sir JOHN SIMON: Yes, my Lord, I can. From Ance Sablon, which is the east end, you have to travel a good 40 miles before you reach the fifty-second parallel.

Viscount HALDANE: And it is three times that.

Sir JOHN SIMON: Yes, my Lord, it is three times that; it is at least 120 miles if you were at the River St. John.

The LORD CHANCELLOR: It is a great deal more than that.

Sir JOHN SIMON: I am talking about depth, my Lord. Now here is this interesting confirmation of the view that I am presenting, which I should like your Lordships also to have in mind. At that time the maps available went to show that the head waters of the River St. John were just about on the fifty-second parallel. Now, just see how all that fits in. If that is so, then when they made a grant of "all the coasts of Labrador down to the River St. John," they would be granting a depth of land which would run up to the head waters. When, at a later stage, it is decided that it is expedient that certain parts of the said coast should be re-annexed, and they wish to re-annex that area, the pink area (which, so far as the sea shore is concerned, stretches from Blanc Sablon, Ance Sablon to the River St. John) if I am right in my submission that the coast of Labrador runs back to the

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height of the land, then it was exactly right to say: "Take your scissors, cut the thing across until you hit the fifty-second parallel, and then travel westward, and then we shall have taken away, or in substance taken away, so much of the said coast as we want to take away." I am not saying that it is not a conceivable view, because, of course, it is conceivable, that all this elaborate reference to the fifty-second parallel was accidental or meaningless or all moonshine but it does seem to be a most extraordinarily improbable thing. If your Lordships would let me call attention to, at any rate, one map, which is in some respects, perhaps, the most authoritative map of its kind—

Viscount HALDANE: Before you do that, would you tell me if this is your interpretation, "Be it therefore enacted that so much of the said coast" that is the coast of Labrador really, because the said coast was the whole coast, "as lies to the westward of a line to be drawn North and South from Ance Sablon" which we see on the map, "as far," North that is, "as the fifty-second degree of North latitude, with the Island of Anticosti, and all other Islands adjacent, shall be re-annexed to and made part of Lower Canada." That means not only the whole of the blue, but, so far as any rectification is necessary to effect it, the whole of the light blue line along that, everything.

Sir JOHN SIMON: By light blue, does your Lordship mean the slate colour? That has been Quebec continually from 1763 to the present day; it has never ceased to be Quebec.

Viscount HALDANE: It only began there, according to this, in 1763. The words of the Statute are sweeping; it throws into Quebec all this.

Sir JOHN SIMON: It throws into Quebec the pink.

Viscount HALDANE: The words are wide enough to cover the slate.

Sir JOHN SIMON: It really is not so, with great respect.

Viscount HALDANE: Is not it?

The LORD CHANCELLOR: It is the word "re-annexed."

Viscount FINLAY: "Again re-annex."

Sir JOHN SIMON: The slate colour had never belonged to anybody but Quebec.

Viscount HALDANE: You apply “re-annexed” to that.

Sir JOHN SIMON: I do, my Lord.

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Viscount HALDANE: That is quite right.

Sir JOHN SIMON: There is a lot of controversy in this case, and I am not surprised that at the moment your Lordship should have speculated on that; I went through the same process myself, but, as a matter of fact, there is no controversy on it.

Viscount HALDANE: I understand there is no controversy; I was only taking the construction of this Statute.

Sir JOHN SIMON: We must be careful if that is so. I think your Lordship will find that, so far as regards that area on my map which your Lordship has called the blue, that is the slate colour, that portion was made part of the Government of Quebec in 1763, and it has never ceased to be part, at any rate, of the Province of Quebec ever since.

Viscount HALDANE: Anyhow, the pink is what is covered.

Sir JOHN SIMON: The pink is what is covered. Let me be perfectly fair and frank as regards the other view; the other view, as I conceive, is bound to be this; that though the coast was a mere selvedge, none the less Parliament has chosen to use language, unnecessarily, which carries your line 40 miles inland, though one mile is enough. Such a thing is a conceivable argument; I have heard many worse arguments. The question is: Is that right? Is not, on the other hand, the language of the Statute very very strong as going to show that the whole of that pink was regarded as coast? Before the Court adjourns for the day may I suggest a final and rather severe exercise, which would be to take the Canadian Atlas, and I will ask your Lordships to turn in that atlas to Map No. 11.

The Lord
Chancellor.

Viscount HALDANE: I gather you are keeping for us the Statute of 1825 till to-morrow morning?

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Sir John Simon.

Sir JOHN SIMON: This is in order to illustrate the Statute of 1825; I am not taking a new point. I want your Lordships to be good enough to look at a most interesting and remarkable map, which is No. 11. Your Lordships may be interested to know that if you were looking at the original of this map (which is here) it seems extremely probable that you would be looking at a map which was actually studied, and it may be marked by King George III.

The LORD CHANCELLOR: With his own hand?

Sir JOHN SIMON: Yes, his own actual copy, because when King George III died, George IV was so obliging as to allow George III's Library to go to the British Museum, and, amongst other very valuable documents, both maps and books, which then passed into the national custody at the British Museum, was this map. It is known as "John

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Mitchell's Map." John Mitchell was a very remarkable man. He was a scientific man, and his first interest in science was botany. You will find an interesting life of him in the "Dictionary of National Biography." He spent a certain portion of his life, the middle portion of his life, in the New World; as a matter of fact he lived in Virginia; and this map, which is known as "John Mitchell's Map," is a map which had a great reputation. What I want your Lordships to observe is this: supposing, for the sake of argument, we were considering what was to be done in 1825 in view of the expediency of re-annexing to Quebec so much of the said coast of Labrador as is defined by drawing a line from Ance Sablon, Sandy Bay, due North to the fifty-second parallel, and then really upon the fifty-second parallel. Now here is this Sandy Bay. I do not know whether your Lordships have observed it, it is very correctly placed, with a little Island at the mouth of it called Woody Island. It is not inaccurate, it is just about right: there is the place. Supposing you draw a line due North from that point, you will strike a parallel of latitude, fifty-two in fact. If you then travel due West along that parallel, you will notice that in due course you will come to the head waters of the River St. John, they little extend beyond it, but in substance that is so. And, what is also rather interesting, my Lords, this particular map, which there is some reason to think was George III's own copy, though that is not material, has got marked on it, in a slight wash, the old line which you may remember, which was the boundary of the original Government of Quebec, which you will recollect ran from the head of the River St. John to Lake St. John.

The Lord
Chancellor.

Viscount HALDANE: What is the date of this map?

Sir JOHN SIMON: This map itself, though its reputation continued long after its date, was a map of 1755.

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—
Mr. Macmillan.

Viscount FINLAY: This map No. 11?

Sir John Simon.

Sir JOHN SIMON: Yes, my Lord. I could give you other illustrations, but the interest of the thing, as it seems to me, and the value of it from the point of view of the case of Newfoundland, is this: therefore, if you are going to take that portion of the Coast of Labrador which it is expedient to re-annex—

The LORD CHANCELLOR: This cannot be 1755, this must be after 1763, must not it?

Sir JOHN SIMON: No, because the mark which you have called attention to was believed to be put on the map afterwards. I believe I am right in saying that John Mitchell had produced his map about 1755.

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Mr. MACMILLAN: The original map was 1755, and then a number of things were washed into the map afterwards.

Viscount
Haldane.

Sir JOHN SIMON: It was a sort of map of reference. What the Lord Chancellor not unnaturally noted, which indicated something later than 1755, was something put in. There are much later things than that in it, if your Lordship is interested to know. There is, for example, an extremely interesting thing; there is a reference to Mr. Oswald's boundary, the boundary as described by Mr. Oswald. It is that red line which runs through Lake Erie. Mr. Oswald was the British representative, or one of the British representatives, who took part in the negotiations which led to the Treaty of Versailles which ended the War of Independence and established the boundaries of the United States of America; so that was after 1783, and that is one of the reasons why I should rather have thought that King George III might have spent a few interesting hours on this document. I am only using it as an illustration. What I am pointing out to the Board, as well as I can, is: how very much this view of the geography strengthens my case. It is absolutely consistent with the view that "the said coasts of Labrador" in the document of 1763, did not mean a mere selvedge, but, on the contrary, meant the area of land draining to that sea.

Viscount
Finlay.

Viscount HALDANE: Labrador and New Britain meant all the green here?

Sir JOHN SIMON: I am not on the label; I am on the point that if you look at this map and then read the language of the Section in the Act of 1825, you begin to see why it is that they said "Go up to parallel 52 and cut off so much of the coast of Labrador as parallel 52 will cut off," because you observe, amongst other things, that the head waters of the River St. John are just about parallel 52. I may say this is the more striking because it has been discovered within the last few years, quite recently, since this controversy arose with Canada, that as a matter of fact the River St. John was not as long a river as people thought, and there had been for many years a confusion; it has been supposed that a river which lies in the upper part there, was the upper waters of the River St. John, whereas in truth and in fact it is the upper waters of another and adjoining river.

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Sir John Simon.

Viscount FINLAY: An adjoining river, not a tributary?

Sir JOHN SIMON: Yes, a separate river called the Romaine.

Viscount
Finlay.

Viscount HALDANE: The Romaine goes much further north according to the map.

Sir JOHN SIMON: I am dealing with the thing as it actually is to-day; whatever the name used to be, to-day you will find the

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St. John is quite a small stream, but we have to look at it with the eyes of 1825.

Viscount
Haldane.

Viscount FINLAY: My recollection of the map is what my noble and learned friend has stated; it would seem that the head waters of that river would take it a great deal further.

Sir JOHN SIMON: In fact, it is almost impossible to read that into it. Please do not for a moment pay any attention to my casual observation; I will check it. I was only telling your Lordship as a matter of fact that the course of the River St. John was not quite what these maps suppose.

Viscount HALDANE: You say on this map the St. John goes up apparently to the fifty-second parallel.

Sir JOHN SIMON: So it does in a great number; in fact I do not know of any map down to this where it does not.

Viscount FINLAY: It is a very odd sort of corner. Was it ever put on paper in the form of a map until this Atlas was put in?

Sir JOHN SIMON: I thank the Ministry of the Interior of Canada and the Ministry of Railway and every other Ministry that Canada has ever had, because they have been recording this boundary ever since with the greatest regularity.

Viscount FINLAY: In the same shape?

Sir JOHN SIMON: Certainly, there is nothing else. We will show you, if it is material, that they have in express terms stated that this is the boundary and it is derived from the Act of 1825.

Viscount HALDANE: They have always worked upon this map?

Sir JOHN SIMON: Always. What I am saying is: What

an extraordinary thing! You say in 1825 you are going to carry out the expedient purpose of re-annexing to Quebec a certain portion of the said coast, and that you should do it by travelling 40 miles inland and running along the fifty-second parallel, which the maps of the period show to be the height of land, and yet at the same time you come and tell me that the only subject matter Parliament was dealing with was this tape or strip.

Viscount HALDANE: When I referred to the green that is there, I did not quite appreciate the importance of the reference to the source

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of the St. John and the fifty-second parallel; on that map, the whole of the green is treated as part of the re-annexed land.

Sir JOHN SIMON: Quite true.

Viscount HALDANE: On a map which is of great repute.

Sir JOHN SIMON: Yes, my Lord.

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—
Sir John Simon.

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.

Thursday, 21 October, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)

THE RT. HON. VISCOUNT HALDANE.

THE RT. HON. VISCOUNT FINLAY.

THE RT. HON. LORD SUMNER, and

THE RT. HON. SIR THOMAS WARRINGTON

**IN THE MATTER OF THE BOUNDARY
BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
NEWFOUND- LAND IN THE
LABRADOR PENINSULA**

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

FIRST DAY

BURN & BERRIDGE,

Solicitors for the Colony of Newfoundland.

CHARLES RUSSELL & CO.,

Solicitors for the Colony of Canada.

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.

Friday, 22nd October, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. SIR THOMAS WARRINGTON.

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF CANADA AND THE COLONY OF NEWFOUNDLAND IN THE LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

SECOND DAY.

22 Oct., 1926.

—
Sir John Simon.

*Counsel for the Colony of Newfoundland :—*The Rt. Hon. Sir
JOHN SIMON, K.C., Mr. F. T. BARRINGTON WARD,
K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland

Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by Messrs. BURN & BERRIDGE.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Par), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTOX (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.

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MORNING SESSION.

Sir JOHN SIMON: My Lords, we took the liberty of having spread out for your Lordships, in case you cared to see it, the map from the British Museum. It is not in fact quite correctly reproduced.

Viscount FINLAY: Is this it?—(Indicating.)

Sir JOHN SIMON: That is it. It is not quite correctly reproduced in the Canadian Atlas. The copy in the Canadian Atlas contains marks which are not on the British Museum original. I am not saying it is material, I daresay it is some variation traced to some other source. At any rate, it is convenient, I think, to have the actual map before one. It is a map which was made in the year 1755, and was a very celebrated, and in many respects, a very remarkable map. It may well be supposed to have been used after that date for a considerable time in considering these difficult geographical questions. It is quite certain it was used, for example, when the Treaty of Versailles came to be drawn up after the independence of the United States was finally established. As I said yesterday, the name of Mr. Oswald, which you see written in several places on the map—the line is as suggested by Mr. Oswald—that name is the name of the British Commissioner who was engaged in negotiating the Treaty with the United States of America in 1782. In the same way it is a very convenient map, my Lord, to trace the extended boundary of Quebec, which your Lordship saw described in the words of the Statute of 1774.

The LORD CHANCELLOR: We only want the upper part of it.

Sir JOHN SIMON: I think, as a matter of fact, for 1774, it may go a little bit down.

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—
Sir John Simon.

Viscount FINLAY: Are there any material differences in this map as compared with that which we have?

Sir JOHN SIMON: Nothing, for the present purpose, which will matter at all. There is a branch of the case which is coming, which has to be dealt with really in one compartment, about Indian lands, where it may be important to observe the distinction.

Viscount HALDANE: 1755 was the date of this.

Sir JOHN SIMON: 1755 was the year in which Mr. Mitchell made or published the map. If you look at the letter-press on the map, the legend and notes, you will see with how much care he proceeded. If I may

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say so it is a very honest map, because you will find at the bottom of it what is a little amusing, you will find his statement that he does not know the exact latitude and longitude of a number of places, and he is inviting those who have the map before them to supply him with the additional information. The special merit of the map when it was made is this: instead of relying merely upon the tradition or the fancy of earlier cartographers, Mitchell, who really was a scientific man, used as his principal source of information, the observations that had been made on board ship, observations of latitude and longitude, and he gives a most elaborate table in which he described exactly how he got the points for a whole series of places.

The LORD CHANCELLOR: Did you say somewhere there was a note which might be in the handwriting of King George?

Sir JOHN SIMON: I did not say so. I could not help observing that the very abbreviated report in the "Times" newspaper this morning suggested I did. What I said was it came from King George the Third's library, and there was every reason to think it had been before the eye of King George the Third. I am not prepared to say that King George's writing is upon it. I do not think that is so.

Viscount FINLAY: I think all you said was it might be.

Sir JOHN SIMON: It might be. I think it would be useful to the Board, though it is going back for the moment, if, with that map before it, you would allow me to re-read the description of the extended boundary of the Province of Quebec, the boundary which is laid down in the Act of 1774. It is very easy to trace on that map, and it is useful to do so. The boundary you see in the first volume, the red volume, is, your Lordships will remember, by the Legislature, traced, beginning, so to say, at the other end, beginning at the Cape Gaspé end. If I may read the words to your Lordships, you will see how you can trace it very easily on this map. The

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words which are on pages 158 of now first volume are these: “All the Territories, Islands, and Countries in North America, belonging to the Crown of Great Britain, bounded on the South by a line from the Bay of Chaleurs”—just below the Gaspé Peninsula—“along the High Lands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea”—that is along the spine —“to a point in Forty-five Degrees of Northern Latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until, in the same latitude, it meets the River St. Lawrence; from thence up to the eastern bank of the said River to the Lake Ontario; thence through the Lake Ontario, and the River commonly called Niagara; and thence along by the Eastern and South-eastern Bank of Lake Erie following the said Bank.”

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Viscount Finlay: That does not correspond with the map, it is in the middle.

The LORD CHANCELLOR: This line is put on for another purpose.

Sir JOHN SIMON: Yes. Your Lordship is not understanding me to say that a particular line on this map will show you what the line is. I am only saying it is a very convenient map to trace what is meant. The reason, Lord Finlay, why the line you are looking at now ceases to correspond with the description is this, that the map before your Lordship is a map of the library of King George, which would have put upon it the boundary ultimately fixed between the British possessions and the United States of America, a thing that did not happen till 1782, and consequently you are now finding what it is which was lost in that part to the original or to the enlarged Colony of Quebec, owing to the Independence of America. You will find the Province of Quebec, as defined in 1774, embraced four or five States of the Union of the United States, Illinois for example.

The LORD CHANCELLOR: It is easy to follow.

Sir JOHN SIMON: It is easy to follow; following the bank on the south side of Lake Erie. Then, my Lord, the Legislature in 1774 was a little doubtful as to whether the line they were prescribing would cut off a portion of the Colony of Pennsylvania, they were not quite sure at what point the two ends would meet, so that the Legislature proceeds to provide an alternative description. I will read from that point, if I may, from Ontario: “Through the Lake Ontario, and the River commonly called Niagara; and thence along by the Eastern and South-Eastern Bank of Lake Erie, following the said Bank, until the same shall be intersected

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by the Northern Boundary, granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said Northern and Western Boundaries of the said Province, until the said Western Boundary strike the Ohio.” That great River, of course, ultimately flows into the Mississippi. Then alternatively the Legislature said: “But in case the said Bank of the said Lake shall not be found to be so intersected, then following the said Bank until it shall arrive at that point of the said Bank which shall be nearest to the North-western angle of the said Province of Pennsylvania and thence by a right line”—that means by a straight line—“to the said North-western Angle of the said Province.” Just going round the square.

The LORD CHANCELLOR: There might be a little interval at the corner.

Sir JOHN SIMON: That is what they had in mind: “Thence along the Western Boundary of the said Province until it strike the River Ohio.” You will see it is about half-way down.

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Viscount FINLAY: More than half.

Sir JOHN SIMON: More than half: “And along the Bank of the said river, Westward, to the Banks of the Mississippi, and Northward to the Southern Boundary of the Territory granted to the Merchants Adventurers of England, trading to Hudson's Bay.”

The LORD CHANCELLOR: It does not give the Northward line; is that supposed to be a straight line?

Sir JOHN SIMON: That is the Western Line. Then all it says is: “Striking until it reaches the Southern Boundary of the territory granted to the Merchants Adventurers of England, trading to Hudson's Bay.” That is to say that this boundary thus placed as it was laid down in 1774 would have included a portion of what is now the State of Ohio, it would have included Indiana, it would have included Illinois, it would have included Wisconsin, and it would have included a part of Minnesota. It is those areas I have just described using the nomenclature of the States of the United States which are cut out by the Treaty of Versailles in 1782. What you find marked on that map and I think is described in handwriting as the line of Mr. Oswald, or something of the kind, is the line which the British Commissioner negotiating with the United States was proposing as the boundary. It is very nearly, though not exactly, what the boundary was.

The LORD CHANCELLOR: In other words it fixes the Southern boundary and the Western boundary.

Sir JOHN SIMON: It does. Your Lordship sees it plainly treats the Southern boundary of the Hudson's Bay territory as being if not ascertained, ascertainable, and ascertainable on some principle.

The LORD CHANCELLOR: And as constituting the Northern boundary of New Canada.

Sir JOHN SIMON: That is right.

The LORD CHANCELLOR: You infer the Eastern boundary was the sea?

Sir JOHN SIMON: I think so.

The LORD CHANCELLOR: Or perhaps, apart from the words of title, the Eastern boundary was Labrador.

Sir JOHN SIMON: There is no doubt at all, it will not be a matter of dispute. The effect of this Act of 1774 was to throw inside the Province of Quebec, which now became a perfectly enormous area, the

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whole of Labrador, because Newfoundland ceased to have any area on the mainland at all.

The LORD CHANCELLOR: Unless some portion of it was held by Hudson's Bay. There is rather an ambiguous line.

Sir JOHN SIMON: Your Lordship is right about that. That is how the matter stands.

Still perhaps keeping that map for a moment. if I may ask it, before the Board, I would like to return to the point which I was endeavouring to make just before the Committee adjourned yesterday. When we come to the Statute of 1825, which your Lordships will remember you were considering shortly before you rose yesterday, you observe the very striking fact that the statute is re-annexing to Quebec, which in the meantime has shrunken again, a portion of the coast of Labrador. That is the language of the statute and one naturally assumes therefore that if you can identify the area which is thus being made the subject of transfer this will throw some light on what is the meaning of "coast" in this connection, and will help one to judge whether the coast is a mere narrow selvedge or whether, on the contrary, it goes hack to the height of land. Now, my Lord, with that in mind—your Lordships will have this map no doubt, the top of it, in recollection and can examine it again if you think right—one must I think, be struck with the fact that a map of this sort and other maps also at the time showed that, if you started from Sandy Bay or Anse Sablon, as you are directed to do, and if you drew a line due North from Anse Sablon to the 52nd parallel (which is there quite close on the top of the map), and then travelled due West, you were as a matter of fact going up to the height of land as this map showed, you were reaching a parallel, the 52nd parallel of latitude, in which according to this map the head waters of the River St. John were; and you were therefore describing, almost describing by metes and bounds, my pink area, this oblong. And you find as this map showed, and as the fact is, that so far from being a mere selvedge or strip along the sea-shore, this part of the coast of Labrador, to use the language of the statute, is at the Western and of the pink it deep matter of 40 miles or thereabouts.

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The LORD CHANCELLOR: Eastern?

Sir JOHN SIMON: East, yes, my Lord, and owing to the configuration of the coast line a deeper matter, say, 120 miles, when you come to the other end. I venture to think that that is a very significant thing and the actual language used in the section is language upon which I most strongly rely.

Viscount HALDANE: Where is the 120 miles, I just want

to see that?

Sir JOHN SIMON: I do not know whether your Lordship would allow me to stretch over and just point on the map. I can save your

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Lordship trouble, it is on the smaller map too. May I just point out what I mean, if I may use the original map for the moment? It is the same thing. What I mean, my Lord, is this, the 52nd parallel—

Viscount HALDANE: That is quite distinctly marked.

Sir JOHN SIMON: I do not think, if I may say so. the point I am putting is quite so easy for me to put on my little sketch map as it is on this original. The 52nd parallel is the parallel just at the top edge of this plan; the 52nd parallel is also the parallel in which the head waters of the River St. John are indicated as rising. If I take Sandy Bay, or Anse Sablon, which is here (indicating), opposite Belle Isle, and if I do what the statute tells me to do, namely, cut off a portion of the said coast by drawing a line due north from Sandy Bay till I reach the 52nd parallel—

Viscount HALDANE: That is Blanc Sablon.

Sir JOHN SIMON: It is, and then go west, I am, according to the information given me on that map, in fact, removing and annexing to Quebec something which I am told is coast, and which, according to the cartographer here and other similar maps, runs back to the height of land; and it is really very nearly meaningless to speak of this statutory re-transfer as a re-transfer of coast if, as a matter of fact, coast is this mere selvedge.

Viscount FINLAY: But where is such a selvedge defined?

Sir JOHN SIMON: Nowhere. Your Lordship means this mile?

Viscount FINLAY: Yes.

Sir JOHN SIMON: I do not, of course, desire to carry the argument into my friend's camp at this stage, but, of course, as I indicated to the Board yesterday, it does appear to me that when the turn comes for the Canadian case to be put before the Board, one of the most serious considerations to be weighed will be this: Where do you get this one mile—why one mile, why half a mile, why two miles? As I think Lord Finlay said yesterday, if you mean by a coast line a line, a line is a thing that has length without breadth.

But if, on the other hand, the word "coast," both in these documents of grant and in the reputable maps of the period

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Viscount Haldane.

and also, I think, in the proper use of the English language, at any rate in the 15th, 16th and 17th centuries, perhaps even later—if it constantly indicated the slope of the land down to the water, so that the use of the expression in itself carried you back to what you may call a scientific boundary behind, then the whole thing is explained.

Viscount HALDANE: You have told us nothing, so far, about the

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Sir John Simon.

Ashuanipi River and Lake; these, I take it, were inside, according to you, the height of land.

Viscount Haldane.

Sir JOHN SIMON: I would like to look at these. I have not the actual point of geography in mind. Are they on my little sketch map?

Viscount HALDANE: Yes, you see just about the blue line.

Sir John Simon.

Sir JOHN SIMON: In the green?

Viscount HALDANE: Yes.

Sir JOHN SIMON: I think it will be found that that does drain into the Hamilton River. That is the reason.

Viscount HALDANE: There is a group of them in the North East corner. I suppose you say all those are within the mountains?

Viscount Haldane.

Sir JOHN SIMON: Yes, my Lords. For the purposes of my argument, your Lordship will assume I have got here indicated correctly the way the water runs. Of course, it is a matter which could be checked on the ground.

Viscount HALDANE: I would have liked to have seen some representation of the mountains which formed the height of land; does that appear in any of the maps?

Sir JOHN SIMON: Yes, I am going to put before your Lordships some of those which show it. The land rises, and you have a very considerable rise, as you pass up the Hamilton River; in fact, as your Lordships probably know, because recently it has become a matter of great interest, there is a very splendid fall of water in the Hamilton River, one of the finest falls of water in North America, and, of course, very valuable; and I am not surprised that people cast

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rather envious eyes on this fall; but it does not alter the fact that the water is flowing into the Atlantic, and if I am right as to the meaning of "the said Coasts," that particular part is part of the territory which falls on my side of the line.

Viscount HALDANE: Will you tell me whether the hills and mountains which form the height of land run up to the, shall we call it, the green or the blue?

Sir JOHN SIMON: The green we will call it.

Viscount HALDANE: They go up round the height, and then do they come round to the East and follow the height right up to Cape Chidley?

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Viscount Haldane.

Sir John Simon.

Sir JOHN SIMON: Your Lordship will appreciate the test (and I submit the right test if my submission is right) is the test of what is the divide, which way the water goes. Of course, the thing is not sloping down like the roof of a house from the ridge to the eaves; naturally there are very great variations, but at the same time the point is that there is, and must be, of course, scientifically and geographically, and there is, of course, a continuous line of which you can assert that water from Heaven that falls on one side of it, will run down until it passes out into the Atlantic between Cape Chidley and Blanc Sablon, and water on the other side of it will either run down into the water of the Hudson Bay, and therefore will traverse a part of the old Hudson Bay area, or else will run down into the Gulf of St. Lawrence, and therefore was part of the old Quebec area; and given, of course, an irregular portion of the earth's surface—it is very mountainous, in fact the mountains go up to a considerable height—it follows necessarily that you are able in that way to divide the whole peninsula as between different (what we may call) natural units; and my case, and I venture to think much of the strength of my case, is this: that those responsible for attributing these different areas to one authority or the other were not leaving this whole thing to guesswork or fancy at some time hereafter, but they were using expressions which, by their very nature, provided the formula for a scientific boundary without the need of further direction.

Viscount Haldane.

Viscount HALDANE: I will tell you a thing which puzzles me: the George River, which is further North, seems to run through the heights of land.

Sir JOHN SIMON: If I may say so, that is either because my map is not quite so perfect or just because it is a little difficult to read. It is not so. The George River is not connected with the Fraser River. Does your Lordship see the Fraser River in the green? The Fraser River takes its rise in a lake there which is just at the height.

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Viscount HALDANE: That is what I followed. What is puzzling me is further towards the end of the George River.

Sir JOHN SIMON: The South, my Lord.

Viscount HALDANE: To the North the George River apparently runs up and gets towards Cape Chidley; before it gets to Cape Chidley it seems to run over the height of land.

Sir JOHN SIMON: No, with great respect, it does not.

Sir John Simon.

Sir THOMAS WARRINGTON: It falls into the Ungava Bay.

Sir JOHN SIMON: It has never been Newfoundland at all.

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Viscount HALDANE: It falls into Ungava Bay.

Sir JOHN SIMON: Yes.

Viscount HALDANE: Then that line is not the line of the upper part of the river, but the line of the Ungava Bay coast.

Sir JOHN SIMON: I see what it is; Ungava Bay is a great Bay inside Hudson's Straits, and Ungava Bay, and what I may call the coast of Ungava Bay, using "coast" in my sense, has never at any time been annexed to Newfoundland—never.

Viscount HALDANE: I see that the coast of Ungava Bay seems to run through the height of land just as you come to Cape Chidley.

Sir JOHN SIMON: You are getting, you see, to a very sharp promontory, that is all it is.

Viscount HALDANE: Yes, you are, the Cape Chidley promontory.

Sir JOHN SIMON: I am not for the moment asserting that the actual delimitation of this height of land is absolutely accurate, though we believe it is. I am only using my sketch map, which has been made as accurately as we can—as a matter of fact it is based on the materials of a very distinguished geographer, A. P. Low, who was in the Canadian Geographical Survey and surveyed this area—all I am saying is, assume for a moment that the rain from Heaven (if they have rain in that part of the world) when falling upon the earth will find its way, owing to the configuration of the surface, to Ungava Bay on the one hand or Hudson Bay, to the Gulf of St. Lawrence on the other, and to the Atlantic on the third hand, then I say the language which was used in the Statutes and in the particular documents of grant and definition, is intended to secure that you have this natural

boundary, ascertainable if not ascertained, and there is no ground for saying that the boundary is some wholly arbitrary strip or narrow confine”the language really does not admit of that because that would leave the whole problem in the air. That is the question. As against me, let me put the case as I understand it—no doubt my learned friend will put it much more powerfully—as against me, it is said, and said with very great force, the primary object, perhaps one may say the only object, with which arrangements were made in the Island of Newfoundland and on the Coast of Labrador for a very long period of time was what you may call a fishery object. That is perfectly true. Nothing that I am arguing is intended to deny it at all. It is perfectly true. It is not true that the fishery in question was merely a cod fishery, that is quite untrue; there was also a salmon fishery, a whale fishery, and what is called a sea-cow fishery: it is not in the least true that it was limited to cod; but it is absolutely true that the purpose, the thing to be served

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in the minds of those who legislated and directed, was unquestionably a fishery.

Viscount HALDANE: I suppose you say the purpose was not only to encourage fishing, but to provide a class of man from whom seamen might be recruited.

Sir JOHN SIMON: That is true also, though on this again I think it is necessary to say that what was primarily in the minds of the authority at home in those old days was that the British seamen, the people coming from Bristol and other places—South Wales a lot of them came from, and many Pembrokeshire men it will be interesting to some people to know—coming across the sea as Captains Courageous, as Rudyard Kipling puts it, or coming as “Pêcheurs d’Islande,” as Pierre Loti would say, acquired a skill and hardihood which made them desirable recruits for the British Royal Navy.

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Sir John Simon.

Viscount HALDANE: I think the French put a stress on that too.

Viscount Haldane.

Sir JOHN SIMON: They did. You will find documents among these documents (which are very interesting reading though they are not very relevant for the argument) in which a French Company like the Compagnie de Canada, are making representations as to the great importance of there being a grant on lease in this or that area, because they say: this is the way in which you will be able to get stout fellows for the purpose of the French Navy. There is no doubt at all, my point is, of course—it is familiar to every lawyer, and I do not want to spend time insisting on it—the fact that that may have been the primary purpose to be served, when the apportionment and grant was made, is no reason at all for saying that the language of the grant may not be such as to include that land, which at that time, and indeed for hundreds of years afterwards, was regarded as quite worthless.

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Sir THOMAS WARRINGTON: It is to be remembered too that Graves' Commission does talk about persons residing and settling.

Sir JOHN SIMON: Oh yes, my Lord.

Sir John Simon.

Sir THOMAS WARRINGTON: So that it clearly contemplates some land attached to the coast.

Sir JOHN SIMON: At present I have only been giving your Lordships, as well as I could, a sort of sketch of the case in chronological order; I am afraid I shall have to trouble the Board to go back, and when we go back, you will find again

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and again, though the important and main interest is on the sea board, the language of the instruction is such as to show quite clearly that justice was to be administered, natives were to be looked after, territory was to be borne in mind, and all that sort of thing.

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The LORD CHANCELLOR: Of course, you would have to assume that the framers of these documents in 1763, the Commission and the Proclamation, had in mind some definite area when they framed those documents.

Sir John Simon.

Sir JOHN SIMON: Yes, or at any rate, the language they used can be made certain now that it becomes important to see exactly to what point it goes back.

The LORD CHANCELLOR: I follow your point on the Act of 1825 so far.

Sir JOHN SIMON: I am sure your Lordship does.

The LORD CHANCELLOR: Of course the terms of that Act simply show, not only that the part which was cut off from Newfoundland territory was treated as coast, but that the part behind it, as far west as the St. John River at all events, may have come within that restriction.

Sir JOHN SIMON: I think so.

Viscount Haldane.

The LORD CHANCELLOR: To what distance is another question.

Sir JOHN SIMON: I quite agree, my Lord. I am not saying there is not a great deal to be said on both sides in a case of this sort, but I am very anxious you should see what are the main considerations.

Sir John Simon.

The LORD CHANCELLOR: Does this Lake Ashuanipi go into the River or into the bay? It is in the south-west corner of your plan.

Sir JOHN SIMON: It is not connected with the River at all. There is the height of land between them. The Ashuanipi there is a very complicated water system, and if you were to go up the Hamilton River you would be able to spread out and visit a great number of these lakes on either side, but the whole system of lakes carries down to the Hamilton River.

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Sir Thomas
Warrington.

Viscount HALDANE: Would you tell me before you leave that whether the Beech Lake and the Dyke Lake, the Beech Lake particularly, appear to drain down into the River running to the north, the George River, and that appears to go through the height of land.

Sir John Simon.

Sir JOHN SIMON: It really is not so. I can tell your Lordship it is not so, it is really due to the fact that this little hand map your Lordship has before you has got this blue line rather thickly and heavily coloured, and it is very difficult for the eye to penetrate what is under it. If your Lordship will turn for one moment to Map No. 42 in the Newfoundland Atlas you will see the actual survey, quite a modern survey, by a Canadian geographer.

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Sir THOMAS WARRINGTON: On your sketch map if you look at the dotted line running down, you will see that is so drawn, whether it is right or wrong I do not know, that it runs between two lakes.

Sir JOHN SIMON: I quite agree, but it is a little difficult for some eyes to see.

Viscount HALDANE: What does this map represent?

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Warrington.

Sir John Simon.

Sir JOHN SIMON: If I may be allowed to expound, I think it is useful to do this now. Mr. A. P. Low is a distinguished geographer who was in the service of the Dominion of Canada. If your Lordship looks at the typed note on the left-hand side you will see, "This map in four sheets accompanies the annual report, Volume 8, for 1895, issue in 1897, by the geographical survey of Canada, and illustrates, as one of the legends states, 'Facts obtained during A. P. Low's expeditions of 1892, '93, '94, '95, and '96.' Low was during those years an official of the Canadian Geographical Survey, became Director of that Survey in 1906, and a year later was made Deputy Minister of Mines." If we want to know what is the fact about this area—I am not for the moment talking about any political distribution or any historical matter—the fact is to be found most authoritatively here, and you will see it is this distinguished Canadian official who has dotted right through the map the approximate height of land. If you will start at the top of it, Cape Chidley, you will see there is a dotted line, a long stroke and a dot, which he labels "Limits of Approximate height of land," and he carries that dotted line carefully, it finds its way the whole way round, and improves and quite correctly improves these lakes about which Lord Haldane has been enquiring on the Newfoundland side.

Sir THOMAS WARRINGTON: The difficulty is that extremely complicated part on the left-hand side.

Sir JOHN SIMON: It is a very remarkable water system.

Sir THOMAS WARRINGTON: If you follow that dotted line, it does seem to divide rivers running one way from

rivers running the other.

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Sir John Simon.

Viscount Finlay.

Sir John Simon.

Sir JOHN SIMON: I daresay. If I may give your Lordship an illustration, which some of us at any rate may have observed, if your Lordship has ever had occasion to pass from Switzerland into Italy by the Bernina Pass, your Lordship will know that as you pass over the Bernina Pass, you come to two lakes; one I think is the Lago Nero and the other the Lago Blanco, if I remember rightly; in some portions of the year the distance between the two lakes is not more perhaps than the width of this room. One of them drains into the Black Sea and the other of them drains into the Adriatic, and that is the point, that is the divide of land; the one that drains into the Black Sea runs into a River

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which goes through the Engadine, and ultimately gets into the Danube and so into the Black Sea.

Viscount FINLAY: In Guiana I think there is a case of that kind, which really makes a sort of Island, because the water at a particular point runs both to the East and to the West.

Viscount Haldane.

Sir John Simon.

Sir JOHN SIMON: There is one instance as a matter of fact in the continent of North America, which is recorded in one of these maps, where the geographer has written, "At this point the water runs both ways"; and any of us who have been over the Canadian Pacific Railway will remember very well how you reach a particular point where you see the Great Divide, as you look out of the train—which means you watch the water outside the carriage window, and for a long time you see all the streams running one way, and then when you come to a level piece at the top you have the Great Divide, and beyond that the streams run the other way.

The Lord Chancellor.

Viscount HALDANE: When we have a dotted line, "approximate height of land," is there no map which shows what the contour of the height of land is?

Sir John Simon.

Sir JOHN SIMON: Yes; I will give your Lordship that. It is a little difficult because it is a sectional matter, but at any rate your Lordship may take it that Mr. A. P. Low is the most accurate authority on the fact of the height of land being at this point; therefore I think I made good what I was suggesting, that really my thick blue line on my sketch map is designed to indicate how it goes.

The LORD CHANCELLOR: This map rather spoils your point about the head of the St. John River, but that you say was owing to a mistake in the old geographies.

Sir JOHN SIMON: Yes.

The LORD CHANCELLOR: They thought it went up to the

fifty-second degree.

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Sir John Simon.

Lord Sumner.

Sir JOHN SIMON: One of the things which Mr. Low points out in his Report (I am going to read you an extract from it later on) is that down to this time everybody has believed that the St. John River is the River which goes up to this point, but, as a matter of fact, they had never traced it the whole way up, and unintentionally people have passed from one stream to another; but what your Lordship said is quite true, we have always had that in mind and, without in the least using this map No. 42 as though it amounted to any admission by Canada, or by some official of Canada, for any purpose whatever, disregarding the fact that he labels it, "Dependency of Newfoundland" (you see the description all along "Dependency of Newfoundland"), nobody had thought of this mile strip in Canada, I am quite certain, in 1895. Dismiss all that. at any rate you get the fact about the height of land. These

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people had continually traced it up and they had definitely the headwater on one River.

Sir John Simon.

Lord SUMNER: On the map of 1755, there is shown, according to Mr. Mitchell, approximately what he took to be the headwaters of St. John's River, which were in the region of 52; therefore, the line taken along the fifty-second parallel would roughly, you say, intersect the headwaters of various rivers including the St. John's River, and you say that appears from the map; but as I read it, it is clear that according to him, they went an indefinite distance further to the North, because they go clean out of the picture altogether, and, for anything the map shows, I might have supposed the headwaters of the St. John's River to be at 62 instead of 52.

Lord Sumner.

Sir JOHN SIMON: I think that is true, although I should not have said the map indicated they went indefinitely further.

Lord SUMNER: They are out of the picture altogether.

Sir JOHN SIMON: They are getting very attenuated, the line is becoming very spidery, but I agree, if I may say so, and that was the observation of the Lord Chancellor made to me in rather a different form.

Sir John Simon.

Lord SUMNER: It goes to the importance of the point you are putting about what was probably done on Mitchell's map, which was 1755; it was used in 1763 and probably down to 1825, and following the false geography got from that map we may read the descriptions of the various documents as meaning that the line is to run at where they supposed the height of land would be.

Sir JOHN SIMON: I quite agree.

Lord SUMNER: Unless you make out that Mitchell's map shows the height of land to be round about 52, which it does not show, I do not see how that argument is made out.

Lord Sumner.

Sir JOHN SIMON: I agree, and I am much obliged to your Lordship, because I think the real contention is more correctly put in a slightly different form. What your Lordship said clears up the point. What I am really concerned to insist on is that this pink piece was cut out of a greater whole, which is "The Coast of Labrador"; it is cutting out a portion of the Coast of Labrador.

Sir John Simon.

Lord SUMNER: As the Lord Chancellor said some time ago, that is a point you have made very clearly; you said it is idle to take 120-mile shears to cut a mile boundary line.

Sir JOHN SIMON: I think your Lordship's way of putting it to me is really the proper way. I agree I had not put it quite accurately. It is not necessary at all to my argument, and your Lordship has made this plain to me, to say that there would be nothing at all, as it were,

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Lord Sumner.

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behind the fifty-second parallel, behind the pink piece, which at any time would be regarded as the Coast of Labrador; what is necessary for my argument is to say: the Coast of Labrador was at any rate a thing of such depth that a direction to cut 40 miles into it, and then to cut straight along to the west, was taking out a portion of a whole.

Lord SUMNER: Still inside the Coast of Labrador, which is taken away altogether; but you want it, if you can make it good in any way, for another purpose, because supposing you displace this mile strip, which you are endeavouring to do at present, you have to show, somehow or other, that the height of land is the boundary. If you could have got out of Mitchell clear evidence that the height of land was, on this map, somewhere along the line 52, and then you found that the line 52 was adopted by the Act of 1825 and elsewhere, you have made a step in the direction of saying that the Legislature has laid down the height of land as the boundary to be adopted, although they did not know where it was.

Sir JOHN SIMON: Yes.

Lord SUMNER: But if Mitchell does not show that, you have to get your starting centre elsewhere. It does not follow that the height of land was the alternative to the mile wide strip.

Sir JOHN SIMON: There may be intermediate views.

Lord SUMNER: The importance of it is that the Order in Council of 1880 gives everything to Canada that is not Newfoundland.

Sir JOHN SIMON: Yes.

Lord SUMNER: Therefore, Newfoundland, in order to make out its case, has not only to go beyond the mile long, but it has got to fetch up at the point you reach.

Sir JOHN SIMON: This is not a case where there is what you can call an onus of proof; the thing stands equally balanced; but I quite agree that I am not at liberty to say: this is a no man's land, and now I want it. If it is no man's land it is not mine.

Lord SUMNER: You have to say that the area you want, whatever it is, is Newfoundland according to the Order in Council of 1880; so it rests on you to march inland and establish your line if you can.

Sir JOHN SIMON: Quite. Now if I may just point, from my own point of view, what results from your Lordship's

observation, for which I am much obliged, what I should really like to urge from that point of view is this: I do suggest, and I think this still stands, that

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examination of a map like Mitchell's map, goes to show that if you were going to cut the pink oblong from "The said Coast of Labrador," you would not be trying to take out of the total more than is in it. I quite see the point that the two things are not necessarily coincident. The point is that if you are directed to take a pint out of a quart pot, it is necessary to be sure that the quart is at least as big as the pint; and if the direction is that the pink oblong is to be taken out of "The said Coast of Labrador" then, "The said Coast of Labrador" must be at least as deep as the pink strip; and I use the map of Mitchell, I think, perhaps more accurately and more aptly, if I slightly vary the way in which I was putting the argument (I see the point entirely I think) when I say: Having regard to the maps available at the time and assuming that a map like Mitchell's might very well have been carefully examined, you can see at once that when Parliament said. "Now you are to take your shears and cut away, till you come to parallel 52," they were not telling you to cut away to such a depth that you passed the boundary of the Coast. That, I think to be the accurate way to put it. If I may say so, now that the point has turned up, and before we pass away from Map No. 42, you will observe this other thing, that if you take this Map No. 42, the approximate height of land, though indeed it is at one point not north of parallel 52, it then takes a curve upwards, and there is a bulge; and it is very interesting to notice that in the comparatively recent Canadian maps, of which, of course, there has been a great number issued, some of them, although recognising the boundary comes up to the 52nd parallel and then runs along the line, indicate this bulge as going into Canada, before we begin to run up the height of land towards Cape Chidley.

Now, perhaps, as your Lordships has this atlas before you. you will turn to two other maps, just to see what I mean. I will ask your Lordships to turn, by way of example, to Map No.39, which is a map prepared by the authority of the Minister of the Interior of Canada, and issued by the Department of the Interior at Ottawa in July 1890, with a series of sources for it, which are mentioned. Now your Lordships see that the map so drawn indicates very clearly the view of the Canadian Authorities. You will find in the top right-hand corner of the map "Prepared by authority of the Honourable Edgar Dewdney, Minister of the Interior. Department of the Interior, Ottawa, July, 1890." Would your Lordships observe the way in which it is done here: A red dotted line is used. Will your Lordships search for a moment for the boundary as it rises up from Blanc Sablon? You will see that there is a line which has got a red inscription "Due North and South Line," and it is carried up to the 52nd parallel. Then, although as a matter of fact they simply leave

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the parallel, the parallel is the boundary, as your Lordships see, until you come to this red variation in about the meridian 62. Then you get a red variation which wanders between the lakes, and which is labelled "Height of Land approximately"—this was, of course, before the survey by Mr. Low, so that they did not know the thing accurately then—and it gives the height of land

Viscount Haldane.

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approximately. It begins to go northerly, and it takes its way between the two water systems, and comes out at Cape Chidley.

Sir John Simon.

Viscount HALDANE: What is the line shown between where the red does not go any further north, and the red at the subsequent point?

Sir JOHN SIMON: It is parallel No. 52, my Lord.

Viscount HALDANE: That is not what I mean. You see that from parallel No. 52, the red line goes up.

Sir JOHN SIMON: Yes, my Lord.

Viscount HALDANE: And then it turns round, and there is nothing shown, red or anything else, between that point and the point of the red height of land further up.

Sir JOHN SIMON: I think, with great respect, that there is a continuous red line which runs right up to Cape Chidley from the point where your Lordship started from—a continuous line.

Viscount HALDANE: You follow it down until it turns the corner?

Sir JOHN SIMON: Yes, my Lord.

Viscount HALDANE: That explains it.

Sir JOHN SIMON: I do not in the least wish to stress this part of the case too much, although I must say that I think it is a little bit striking. Here you have the Minister of the Interior, the Ministry of the Interior, the very Ministry which is responsible in Canada for these matters, issuing with its authority, publicly, in 1890, an exposition of the relation between the Dependency of Newfoundland—your Lordship sees the words "Dependency of Newfoundland"—on the one hand, and the Province of Quebec on the other hand.

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The LORD CHANCELLOR: Where does it say that the height of land which is marked in red is the boundary?

Sir JOHN SIMON: I think nobody can read the inscriptions

Sir John Simon.

on this map. "Canada," "Dependency of Newfoundland" and "Quebec," without saying, "This is intended to indicate that the Peninsula of Labrador is distributed in that way."

The LORD CHANCELLOR: I am not sure.

Sir JOHN SIMON: I will only say that I do not see any other method.

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The Lord Chancellor.

The LORD CHANCELLOR: If that was so, you would expect the red line to continue until it joined the upright line from Blanc Sablon.

Sir JOHN SIMON: I really think that that is due to the fact that the 52nd parallel is the parallel that is being followed until you get it coloured. I will show your Lordship another map in a moment, showing that filled in. I do not want to press this unduly, but it seems to me that it is difficult to suppose that, as late as 1890, the Dominion authorities did not take this view. And I am going to prove it by despatches and by declarations of the most solemn kind.

The LORD CHANCELLOR: I doubt whether you can find much on this map. The red line continues from the corner right into what is admittedly Canada. There cannot be a boundary there.

Sir JOHN SIMON: I think your Lordship will find that I am right. Does your Lordship see the big word "Canada."

The LORD CHANCELLOR: I do.

Sir JOHN SIMON: Will your Lordship observe that that inscription is entirely to the left of the red line which is called "height of land"?

The LORD CHANCELLOR: That is right.

Sir John Simon.

Sir JOHN SIMON: Then just at the bottom will your Lordship kindly observe the inscription "Province of Quebec"?

The LORD CHANCELLOR: Yes.

Sir JOHN SIMON: That is entirely within the boundary which I am indicating to your Lordship.

The LORD CHANCELLOR: It crosses the indication of the height of land.

Sir JOHN SIMON: I am sure your Lordship will forgive me. It only crosses the indication of the height of land at a place where it is irrelevant for the purpose in hand.

The LORD CHANCELLOR: That is where the thing does not quite hang together.

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Sir John Simon.

Sir JOHN SIMON: May I make it quite plain to your Lordship what I mean? When your Lordship says that the word "Province," at the letter I, crosses the indication of the height of land, the height of land there is the height of land which divides the water that flows into the Hudson's Bay from the water which flows into the Gulf of St.

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The Lord Chancellor.

Lawrence. It does not matter which it does, for the purposes of the Province of Quebec.

Sir John Simon.

The LORD CHANCELLOR: I know that perfectly well.

Sir JOHN SIMON: I am sure your Lordship does.

The LORD CHANCELLOR: Yes; and that shows that that is not intended to be an inter-colonial boundary, or at all events not the whole of it.

Sir JOHN SIMON: If your Lordship pleases. I do not want to stress the thing a shade more than it ought to be stressed. If your Lordship thinks that it does not indicate any more than that, I am quite content, because I have plenty more.

I will just take one other at the moment, and then I think probably your Lordship would like me to resume the chronology. Perhaps your Lordships would now kindly look at Map No. 35. This is another map which is issued by order of the Minister of the Interior of the Dominion, and it is a map of the Dominion of Canada, published in 1878, by the Department of the Interior, Dominion Lands Office, Ottawa. Your Lordship will observe that so far as Canada is concerned, it is all coloured.

Viscount HALDANE: Coloured pink.

The LORD CHANCELLOR: This is not open to the observations which I made just now.

Sir JOHN SIMON: I think I may say that I have dozens which are not. Now I am going to ask your Lordship to be so good as to take the original of this map in your hand, because if your Lordship's copy is like mine, there has been a failure to colour a small portion of what is sea water. I do not know whether it is so in your Lordship's copy, but it is a mere mistake in the printing; the original is quite all right. I will hand the original to your Lordship. (Same handed.)

The LORD CHANCELLOR: What is the meaning of the words "Supposed boundaries."

Sir JOHN SIMON: It is what they say. I suppose that your Lordship will say whether the supposition is correct.

The LORD CHANCELLOR: It is a curious expression.

Sir JOHN SIMON: Oh, it is, my Lord, yes. I do not think that there can be any doubt at all that the the year when this was printed for public information by the Minister of the Interior, and the Dominion Lands Office—I suppose he was inviting enterprising people from the

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Sir John Simon.

Lord Sumner.

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old country to go and take up land in Canada—he did not conceive that he had got any—

Lord SUMNER: That map means that the height of land is not the boundary, because there is no height of land in the whole of the world that is straight for several degrees of west longitude.

Sir JOHN SIMON: With great respect—will your Lordship forgive me—what he is drawing is this: he is drawing the 52nd parallel until it strikes the height of land.

Lord SUMNER: That is it. And here it strikes another height of land.

Sir JOHN SIMON: But the height of land runs up, and that is the only place where the words “height of land” are used. He does not say with reference to the boundary of the 52nd parallel, “That is the height of land.” What he says is, “That is the line which the Statute cuts off and adds to Canada.”

Viscount HALDANE: I should have thought that somebody had made a map at some time showing not merely the mountains, but the hills and the rising land; but there does not seem to be any such map.

Sir JOHN SIMON: I am conscious that I am putting a great strain upon the patience of everybody. There are one or two, but, I am afraid, not what your Lordship would wish, that is to say, not such a good map as your Lordship would have of your native Scotland.

Viscount HALDANE: I should like to see a map like the map of the Grampians.

Sir JOHN SIMON: Yes, my Lord, but the mischief of it is that there is not on the coast of Labrador anyone who can say “My name is Norval, on the Grampian Hills my father tends his sheep.”

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Viscount HALDANE: It does not rise to that.

Sir JOHN SIMON: Well, my Lord, the truth is, of course, that we are dealing with a country which is very largely undiscovered.

Sir John Simon.

Viscount HALDANE: But still, there are geographers who do these things. They have done it in Africa, and I should have thought that it would have been done here.

Sir JOHN SIMON: I am going to give your Lordship all the

help that I can.

Lord SUMNER: You will find that the heights are put in in figures. There are plenty of them.

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Sir JOHN SIMON: I am not ignorant of that, my Lord, but it is a little difficult for the moment.

Viscount HALDANE: You are going to help us as much as you can.

Sir JOHN SIMON: Yes, my Lord. My Lord Summer's observation is perfectly just, and I had that in my mind; but I was a little afraid that we might get on to another part of the case. You do find in Low's survey a number of heights given, and if you look at it carefully you can reconstruct the height of the country for yourself from that. Now, if I may just repeat what I was saying, if you look at a map like that Map No. 35, I think it does reinforce the point in the form in which I tried to put it to you, in view of the observation which my Lord was good enough to make to me; that is to say, that the Statute did not take away necessarily from Newfoundland, as between these two lateral limits, the whole of what was called the Coast; there may have been some hinterland, which was still the Coast, but what they took away was what I have called, very inaccurately, an oblong, by which I mean an area the northern boundary of which is a straight line running along the parallel No. 52. And again and again that has been the view which has been taken officially in Canada. On the other hand, when you come to the boundary of Newfoundland and Labrador on the West, running up to Cape Chidley, there has been no Statute which has taken a ruler and tried to draw a straight line; and the consequence is that you must find some boundary which will have, of course, turns in it; and the boundary which we suggest, and the boundary which this map indicates, is the height of land.

Viscount Haldane.

Viscount HALDANE: I suppose the only question that we are dealing with now is a question of whether the description of the Statute of 1825 agrees with what is shown here as to the 52nd parallel and the height of land.

Sir John Simon.

Sir JOHN SIMON: Yes, my Lord, I think that is the way to put it.

Viscount HALDANE: I think that is the only question.

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Sir John Simon.

Sir JOHN SIMON: Yes, my Lord.

Mr. MACMILLAN: May I ask to see the original of Map No. 35, when my Lord has finished with it?

The LORD CHANCELLOR: I have only got the words, "Height of land and supposed boundary."

Sir JOHN SIMON: Yes, my Lord, that is right, and I will resist the temptation of asking your Lordship to look at a lot of other traps at the moment, because I want to keep to chronology, rather than to a

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lot of maps. With regard to the supposed boundary, this is an interesting point; it has no doubt been a matter of some hesitation as to whether or not, when you carry the boundary back on the 52nd parallel from the point where that north line strikes the 52nd parallel from Blanc Sablon, you go back in a straight line right away, or whether, when you meet the height of land which then begins to take a bulge inward, you follow the height of land. Some of the maps are maps which give that sort of bulge, and therefore I imagine that "Supposed boundary" may very well be referable to the doubt which undoubtedly has been felt as to which of those two things should prevail.

Sir Thomas
Warrington.

The LORD CHANCELLOR: That does not wholly explain it, because those words are used for the northward line.

Sir JOHN SIMON: I had not noticed that, my Lord.

The LORD CHANCELLOR: If you look at it you will see that it is so.

Sir John Simon.

Sir JOHN SIMON: I am sure your Lordship is quite right.

The LORD CHANCELLOR: It says "Height of land and supposed boundary."

Sir JOHN SIMON: Yes, my Lord, quite right.

Sir THOMAS WARRINGTON: But the Act tells you, Sir John. That really is the boundary under the Act, is it not, because the Act tells you to take the line northwards to the 52nd parallel and then take a line westward of that line, that is, to the west of every part of it; and it can only really be to the west of that line, if you are within the 52nd parallel.

Sir JOHN SIMON: You would think so, I agree, my Lord. I am only saying that there is not a complete consistency in the views taken by the map makers.

Sir THOMAS WARRINGTON: Then you go west along the

52nd parallel until you meet the other line.

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Sir John Simon.

Sir Thomas
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Sir John Simon.

Sir JOHN SIMON: Yes, my Lord. Now may I take one more example to show what I mean? Let us take a map like Map No. 41. I am not saying, and this is not a case where I could say, that these people are stopped. We are trying to find out what is the true construction. I am asking your Lordships' attention to Map No. 41, which illustrates the way in which it has been sometimes regarded. If I may say so respectfully, I agree with Lord Warrington that I should not have thought it was right, but still it is my duty to call attention to it. This again is an official Departmental map. It is one of many, and

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your Lordships will understand that it is not the whole map, but it is a section of it.

Sir THOMAS WARRINGTON: That part that bulges there, just after you leave the due north and south line, that first bulge, cannot be said to be to the west of the due north and south line.

Sir JOHN SIMON: No, my Lord, not in one sense. But it does illustrate another possible view, and it is the view which my Lord Sumner was criticising just now, that is to say that you undoubtedly go up to the 52nd parallel, and the idea is that that gives you a sort of starting off point. Then it would be an indication that Canada considered that from that point she can sweep in anything which the height of land gives her. But I am not much concerned with that detail, especially as that line is not very accurately drawn in any case; but what is interesting is that here again you get what you get again and again and again, a perfectly explicit assertion on the official and departmental map of the Dominion, that non-Canada—that is what I will call it, non-Canada—is very far from being this little selvedge, but apparently it is this very considerable territory.

Now I think your Lordships have had enough of these maps for the moment, because they have at some stage to be dealt with very systematically; and I want to invite your Lordships now to look at this. I have called attention to the language of the Statute of 1825 for the purpose of seeing what it is which Quebec is given by re-annexation. Now there is another way in which you may test the position as it was at 1825, and it is this: whatever Quebec then gained in the pink oblong, the Governor of Newfoundland lost; and, therefore, if you examine the Commission which is given to the Governor of Newfoundland after the change, you will see what is the language which is used for the purpose of describing the reduced limits in respect of which he has jurisdiction.

Viscount HALDANE: The Act of 1825 was a repeal *pro tanto* of the Act of 1809.

Sir JOHN SIMON: It was, my Lord.

The LORD CHANCELLOR: Where is this Commission?

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Sir JOHN SIMON: Your Lordship sees that I am approaching the same question, but from the other point of view. If your Lordship will, therefore, turn to the second volume, at page 718, you will find the Commission.

The LORD CHANCELLOR: It is 1825. This happened to be in the same year as the Act.

Sir JOHN SIMON: Of course, it had to be, my Lord, because there is a continuing authority addressed to the Governor for the time

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being, and the moment you take out something from his jurisdiction you must revise his Commission. He has already had one, as a matter of fact, and this is a new Commission to Sir Thomas Cochrane, who at that time was the Governor of Newfoundland. It is on page 718 of the second volume, and if your Lordships will just look down you will see what his new area is. It recites the old area, and then if your Lordships will carry your eyes down at once to line 28 on page 718—I will come back if necessary—you will see the words “to be our Governor and Commander in Chief, in and over, our Island of Newfoundland, and the Islands adjacent, and all the Coast of Labrador, from the entrance of Hudsons Streights, to a line to be drawn due North and South from Anse Sablon, on the said Coast, to the Fifty second degree of North latitude.” I am not saying that there may not be some difficulties of construction there suggested, but at any rate it is not very easy to suppose that a gentleman who was given a Commission in that form was a person who had nothing in the world to do with territory which was running back to the east of that line as far as the 52nd parallel.

Viscount HALDANE: Where is this passage?

Viscount Haldane.

Sir JOHN SIMON: It is in line 32. Now if I may put a case, just suppose that during the currency of this new Commission of Sir Thomas Cochrane, an individual were to commit a crime thirty miles back from the coastline, and five miles to the east of this imaginary line. Has Sir Thomas Cochrane got jurisdiction, or has he not? It seems almost impossible to suppose that the people who drew up this document imagined he would not have jurisdiction. There is a judicial system. I am going to show in due course that there were both judicial and administrative arrangements made by Newfoundland on Labrador; and whatever is or is not involved in this language of grant and authority, I should respectfully submit that it was very difficult to suppose that it did not cover that.

Sir John Simon.

Viscount HALDANE: Let us look at the words: "All the Coast of Labrador, from the entrance of Hudsons Streights, to a line to be drawn due North and South from Anse Sablon, on the said Coast, to the Fifty second degree of North latitude, and all the Islands adjacent to the said part of the Coast of Labrador." That, of course, does not give all that is in the boundary.

Sir JOHN SIMON: No, my Lord, but I want your Lordship just to consider the case that I put a moment ago. That being the language which is used in the authority to the Governor, suppose that an occasion arises for the exercise of his authority, judicial or administrative, at a point which is, say, 30 miles inland, and which is to the east of this line: it is difficult to suppose that the view was, "Oh, of course, I have got no authority there, because it is more than a mile from the sea shore." Does not this document, whatever else it does, just like the contempor-

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aneous Statute of 1825, imply a view that “the said Coasts of Labrador,” between whatever termini the jurisdiction of the Governor of Newfoundland for the time being may be measured, is a thickness of land, a depth of land, which at any rate is not exceeded at Anse Sablon by going back to the 52nd degree of north latitude. That is the only point. Perhaps it is convenient just to observe what is common with these Commissions, that on the next page, page 719, in line 5, you find the words “and our will and pleasure is that there shall henceforward be a Council within our said Islands and Territories.”

Sir THOMAS WARRINGTON: Where is it?

Sir JOHN SIMON: It is in the 6th line on page 719. “Territories” is a word that is constantly used for this mainland, your Lordships will find—“Islands and Territories.” In the same way, at line 31, you find the words “to take the usual oath for the due execution of the office and trust of our Governor and Commander in Chief in and over our said Islands and territories, and for the due and impartial administration of Justice.” In the same way at page 720, at line 7, “and give to all Judges, Justices of the Peace, Sheriffs, and other persons holding any Civil Offices or places of trust or emolument within the said Islands and territories.” On the same page, near the bottom, at line 36, you will find: “And it is our further will and pleasure that you shall and may keep and use the Public Seal of our said Island of Newfoundland and its dependencies for sealing all things whatsoever that pass the Seal of our said Island and its dependencies.” You will remember that the dependency of Newfoundland is an expression that you find again and again. Then at line 40 you find “Islands and territories.” On the next page, page 721, at line 10, there is: “And we do hereby give and grant unto the said Sir Thomas John Cochrane full power and authority by and with the advice and consent of our said Council to erect and appoint or set apart convenient Court Houses for the holding the Supreme Court and Circuit Courts within the said Islands and territories.” It cannot possibly have been that the Supreme Court was going to sit on the sands of the seashore. In the same way there are provisions about appointing to benefices in the territories, and so on.

It is perfectly fair to say, in answer to that, where the language used in formal documents may often be large, it may have very little practical application to some portions of the area indicated, and that is quite true.

Sir THOMAS WARRINGTON: There is another passage at the bottom of page 721: “And we do hereby likewise give and grant unto you full power and authority with the advice and consent of our said Council to settle and agree with the

Inhabitants of our said Islands and territories, for such lands, tenements and hereditaments as are now or hereafter shall be in our power to dispose of.”

The LORD CHANCELLOR: And just above that there is power to build cities and boroughs.

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Viscount Haldane.

Sir John Simon.

Sir JOHN SIMON: It would become quite a populous place if all this happened. I am not in the least, I hope, exaggerating this. I quite recognise that in the formal document you may get rather widespread language which, when it comes to the practical business of administration, may come to very little. It was a wild and almost uninhabited place. The number of people who were there might, I dare say, have been counted by hundreds. As a matter of fact, during the last century, for very considerable periods, the actual administration of justice on the mainland has been by Newfoundland, at one time by a Judge of the High Court, and at other times by other judicial officers. It is true that the actual administration has not gone very far inland. It has gone as far as the very inmost end of Hamilton Inlet, for example, which is 120 miles in from the general trend of the Coast. In the same way, when it comes to administration, no doubt it is true that the suppression of crime and the arrest of offenders, and all that, in the nature of things has been very limited, and the area in which it has happened has been comparatively small. That is not the point. The point is that when you examine, as you are required by His Majesty to examine, the Statutes, Orders in Council, and Proclamations, is not the true inference in point of construction that if the occasion arises when jurisdiction has to be exercised in this hinterland, which was at that time quite wild and uninhabited, the authority given to exercise it is given to the Governor of Newfoundland? That is really the point. I think it would be convenient to complete this sketch. I am afraid in some ways it must still be regarded as a sketch, the details of which must be filled up by chronology. I had got to 1825. Your Lordships will be glad to know that whatever has happened since 1825, there has been no further attempt either to enlarge or to diminish by statutory enactment the areas attributed either to Newfoundland or to the Canadian authorities.

Viscount HALDANE: How far can you make use of usage there? If there is a clear expression in a Statute, you cannot merely deal with what they have done on the map.

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Sir JOHN SIMON: I do not think you can. My own view, which I submit most humbly to the Board, is that what one has finally to do is to take the language of the formal documents, and that what has been done under them, though no doubt matters which your Lordships will carefully consider, is an entirely subordinate question. It is quite possible that it has been done in error or misunderstanding. In

so far as it has been done by common consent on both sides, and still more in so far as it has been conceded by one side to the other, probably your Lordships would think that a fact of rather more significance; but in the end we come back to the question as to what under the Statutes, Orders in Council, and Proclamations, in the area which is indicated by 45 the words used. All I am anxious to emphasise, even at the risk of much repetition, is that it is no answer to my case to say; Oh, but the

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thing that people were interested in was a fishery, and they were only bothering themselves about a few ships. That has nothing to do with it. It is an elementary proposition that the particular reason why you pass a particular piece of legislation, or exercise the prerogative—the motive, in other words, of what is done—may be a useful indication, but it does not cut down the proper meaning of the language used; for it may very well be that in an Act of Parliament, though your immediate purpose is addressed to a comparatively limited area, yet with the object of effecting your purpose you do as a matter of fact carve out a larger area, *a fortiori* in the case where the back land was regarded at the time and for many years afterwards as perfectly worthless. The alternative will have to be considered as to whether really there is any other indication of a narrower sort which the Tribunal can adopt and decide, always remembering that they are not invited to say what they think would be a convenient, or a reasonable, or an average boundary; they are invited to say what these documents say the boundary is.

Viscount Haldane.

Sir John Simon.

Let us take shortly the remaining chronology. In 1840, as your Lordships know very well, the Imperial Statute 3 & 4 Victoria, Chapter 35, was passed, which reunited the two Provinces of Canada, Upper Canada and Lower Canada, after Lord Durham's report. I rather fancy, going through the earlier history, I did not happen to mention the year in which the Province of Quebec was divided into two, but the year, as your Lordships probably recall, was, as a matter of fact, 1791.

Viscount Haldane.

Viscount HALDANE: Then came the reunion and representative government, and finally I think Lord Aitken brought in a responsible government in the 'forties.

Sir John Simon.

Sir JOHN SIMON: That is so. It is a point which is very often misunderstood. The passage from representative to responsible government, that all-important stage in dominion development, is not due to an Act of Parliament at all, but it is due to the decision that the composition of the Executive Council, which advises the King's representative, shall be of

one political colour on the recommendation of the chief adviser, and shall continue as long as it is able to command parliamentary support.

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Viscount HALDANE: That is so; but that apparently simple proposition took years to work out under Lord Durham, who was a very remarkable man, and had great tenacity of purpose, and it was not until about 1847 that a responsible government was established.

Sir John Simon.

Sir JOHN SIMON: Your Lordship is quite right. Perhaps one may say that Lord Grey of Reform Bill fame, had as much to do with it as anybody. There is a remarkable book called "Lord Grey's Colonial Policy." He sent to a very large number of His Majesty's Governors the despatches that directed them in choosing their advisers to choose from the body which was able to secure parliamentary support. In the case

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of Newfoundland you may take it that self-government in that sense began about 1855.

Viscount HALDANE: Will you just tell me this, with regard to the status of Newfoundland? It is described as a colony; but in what way is it short of a dominion? It has responsible as well as representative government.

Sir JOHN SIMON: It is a dominion, but I have been careful to use language which I believe is approved by Newfoundland opinion. Newfoundland takes great pride in calling itself the oldest Colony under the British Flag, and in no way resent, but rather applauds, the description of it as the Colony of Newfoundland. You will see this case is described as presented by the Colony of Newfoundland.

Viscount HALDANE: It is really a dominion. It first called itself a colony.

Sir JOHN SIMON: Its Prime Minister at this moment is attending the Conference of Dominion Premiers here.

Viscount HALDANE: Is there any technical distinction between a dominion and a colony?

Sir JOHN SIMON: No, my Lord; none.

Viscount HALDANE: Not that I know of.

Viscount Haldane.

Sir John Simon.

Sir JOHN SIMON: In statutory language there are many instances of the sort, such as the Colonial Boundaries Act, or the Colonial Laws Validity Act, where you have a schedule which shows which are the areas under His Majesty the King which are being dealt with.

Viscount HALDANE: It is a constitutional difference.

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Sir JOHN SIMON: That is it. I was saying that in 1840 was the reunion of Quebec and Ontario in the United Province of Canada. You may take it that 1855 is about the year when self-government, not merely representative but responsible government, began in Newfoundland.

Sir John Simon.

Viscount HALDANE: Do you happen to remember what was the name of the Governor before Lord Aitken? He was a well-known man who had great difficulties to contend with.

Sir JOHN SIMON: I will let your Lordship have the name shortly. Then, my Lord, perhaps you will take note of this date. In 1857 there was a Select Committee of the House of Commons on the Hudson's Bay Company's administration.

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Viscount HALDANE: I think Mr. Gladstone sat on that Committee.

Sir JOHN SIMON: He did, my Lord. It was in that connection, you will remember, that the Arrow smith map was produced which is numbered 26 in the book. It is the one with the very big green area. As your Lordships are good enough to turn to it, I may perhaps tell you one rather interesting and significant fact which came out in the course of the Committee's deliberations. Would your Lordships find on Map 26, just beyond the green, and in Labrador, a place called Naskopi, it is just over the border. One of the things that happened in the House of Commons Committee in 1857 was this. There were people who very hotly criticised the way in which the Hudson's Bay Company had administered their affairs. Mr. Roebuck was, I think you may say, the leader of the critics. You will see the significance of my asking the place to be identified in a moment. The House of Commons Committee behaved, as such Committees not unnaturally do, in this way: that they demanded to have all sorts of explanations from the Hudson's Bay officials as to why this, that, or the other, did not go better; and one of the witnesses they had before them was a very distinguished man whose name is known, not only in connection with Hudson's Bay, but also in connection with British Columbia, namely Sir George Simpson. He was Governor of the Company of Hudson's Bay at the time. One of the things about which he was very much challenged was the failure—so it was alleged—of the Hudson's Bay administration properly to punish a man who was said to have maltreated (I rather think to have killed) a native at Naskopi; and his answer again and again was: "Naskopi is not in Hudson's Bay jurisdiction; it is in the jurisdiction of Newfoundland." What Sir George Simpson said is not evidence, but it is an interesting circumstance that, in 1857, that was one of the matters which came out, and

Naskopi acquired considerable importance in the Committee for that reason.

The LORD CHANCELLOR: It did not matter to him whether it was in the jurisdiction of Newfoundland or Quebec, I suppose?

Sir JOHN SIMON: It did not, of course.

The LORD CHANCELLOR: The point was that it was not within the Hudson's Bay territory.

Sir JOHN SIMON: It is rather this: nobody suggested at the time that it could be anything else. He did insist that it was in Newfoundland. I am not attaching importance to it, but it does fit in, that in 1857, when that map was printed by the House of Commons as the result of the Hudson's Bay Inquiry (and it is rather interesting to notice), there was confirmation that that is where you get the dividing line. Lake Naskopi is the head of the waters that are running down. As a

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matter of fact, Sir George Simpson did again and again insist: "That is Newfoundland."

Viscount HALDANE: I do not believe anybody knew very accurately where the boundaries were. I remember when the late Lord Strathcona (then Mr. Smith) went out first about this time, he had to go a journey of nearly 1,000 miles on snowshoes to get to his post.

Sir JOHN SIMON: We shall come to some documents in which you will hear the exploits of Mr. Smith; and Mr. Smith in fact is Lord Strathcona.

That inquiry into the affairs of the Hudson's Bay in the year 1857 did not result in any immediate transfer of the Hudson's Bay Company. As your Lordships know, the British North America Act was passed in 1867 while the Hudson's Bay Company still retained its very large area of jurisdiction, and indeed almost of sovereignty. Here we are dealing with very familiar matters. I merely state them so that I may not be supposed to have overlooked them. Under the British North America Act, apart from the union of Canada by bringing into one Dominion four Provinces, you had, in Section 146, provision for the admission, within the Dominion of Canada, of the Colony or Province of Newfoundland, of Prince Edward Island and of British Columbia, as well as provisions which might admit Rupert's Land; that is to say, the Hudson's Bay territory and what was called the North-Western Territory. All that is very familiar. The ancient Colony of Newfoundland has continued to maintain its existence separate from the Dominion. Of course British Columbia came in, and Prince Edward's Island, and ultimately these other areas as well. Then, my Lord, in the next year, 1868, was passed the Rupert's Land Act, which your Lordships had better be reminded of. It is to be found in the red book, the first volume, on page 219. "Rupert's Land Act, 1868. An Act for enabling Her Majesty to accept a Surrender upon Terms of the Lands, Privileges, and Rights of 'The Governor and Company of Adventurers of England trading into Hudson's Bay,' and for admitting the same into the Dominion of Canada." There is the recital of the letters patent which created the charter of the Hudson's Bay Company in the time of Charles II in the year 1670. Then there is a recital: "And whereas by the British North America Act, 1867, it was (amongst other things) enacted that it should be lawful for Her Majesty, by and with the Advice of Her Majesty's most Honourable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such Terms and Conditions as are in the Address expressed and as Her Majesty thinks fit to approve." Then: "And whereas for the Purpose of carrying into effect the Provisions

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of the said British North America Act, 1867, and of admitting Rupert's Land into the said Dominion as aforesaid upon such Terms as Her Majesty thinks fit to approve, it is expedient that the said Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers and Authorities, so far as the same have been

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lawfully granted to the said Company, should be surrendered to Her Majesty, Her Heirs and Successors, upon such Terms and Conditions as may be agreed upon by and between Her Majesty and the said Governor and Company as hereinafter mentioned: Be it therefore enacted." This is not an Act which does effect the transfer; it only authorises it. Clause 3 says: "It shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty by any Instrument under Her Sign Manual and Signet to accept a surrender of all or any of the Lands, Territories," and so on, "upon such terms and conditions as shall be agreed upon by and between Her Majesty and the said Governor."

Viscount HALDANE: The jurisdiction of the Hudson's Bay Company extended to a good deal more than Rupert's Land proper; it was a very large part of the North-west Territory.

Sir JOHN SIMON: They claimed, of course, to go right back westwards to the Rocky Mountains; and that map of Arrowsmith with the green area will carry you back to the Canadian Rockies at one point.

Viscount HALDANE: And the boundary on the other side was the river that runs north of Ontario and falls into the Hudson's Bay.

Sir JOHN SIMON: That is quite right. On the other hand, when you approach the thing from the Pacific, you have in the meantime British Columbia as one of the independent settlements. Consequently these people meet at a particular point. We know there was a good deal of controversy as to what was exactly the boundary.

This Statute in 1868 authorised the Crown to accept the surrender. It goes on: "Provided, however, that such surrender shall not be accepted by Her Majesty until the Terms and Conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada." That having happened in 1868, I would just remind your Lordships that the actual operation of the powers took place in the year 1870 under an Order in Council of the 23rd of June of that year. You will find it printed on page 221. I do not think that any useful purpose is served by reading this in any detail; it is merely to get the scheme of the dates and facts right. It is an Order in Council of Queen Victoria's Council which scheduled the Address to Her Majesty which had been made by the Senate and House of Commons in Canada. All these

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things taken together had this result: that that immense green area, the Hudson's Bay territory, passed into the Dominion of Canada. It did not become at that moment any portion of any provinces; it became simply a territory of the Dominion which the Dominion thereafter disposed of. The Hudson's Bay Company were compensated by a money payment, and that is the end of the independent existence of the Hudson's Bay Company as a territorial quasi-sovereign.

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Viscount HALDANE: It still has rights of trade, and so on.

Sir JOHN SIMON: It has still continued as a most important and prosperous trading enterprise. That Order throws into the Dominion this immense area. Then I think the next thing is that the Canadian Legislature, by the exercise of its powers, formed out of these territories the Province of Manitoba.

Viscount HALDANE: What date is that?

Sir JOHN SIMON: The actual date of the Canadian Statute, I think, was 1870. It is 33 Victoria, Chapter 3, of Canada. It was the same year that the original Province of Manitoba was carried out of, and was a very small part of, the new and hitherto unorganised territories which had been acquired as the result of the cession of the Hudson's Bay Company's land. It was originally a much smaller area than the Province of Manitoba is to-day, and your Lordship may, perhaps, remember that it used to be called jocularly and familiarly "The Postage Stamp State," because it was in the shape of a postage stamp. Having regard to the immense area out of which it was carved, it was, of course, very much smaller than the whole. Since then it has been enlarged and is now, of course, the very important Province Manitoba, of which Winnipeg is the capital, as we know

There was a doubt entertained, apparently, by the authorities, as to whether the British North America Act, 1867, really empowered the Parliament of Canada to establish new provinces in those territories, and I dare say your Lordships recall that there was a further Imperial Statute, which is also called the British North America Act, in 1871. It is printed at page 242 of the book. That Act removed those doubts, and, by Section 2, provided that: "The Parliament of Canada may, from time to time, establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province."

Now, my Lords, I think the next matter which I should like to call attention to arose in 1874, and for this purpose I shall have to trouble your Lordships just to look at Volume V. I

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think this is the first time we have broken into this volume.

Viscount HALDANE: What page is it?

Sir JOHN SIMON: It is about page 2293; but I might ask your Lordships' help to this extent. I should like just to state uncontroversially what it was that happened, before I ask attention to the actual documents, because I really think the documents will then be easier to understand, especially as they are not printed in the right order. If I could so far ask for indulgence, I would really prefer to be allowed to

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state it for the moment; I really think if I can explain what this is about, it will save a little time.

The LORD CHANCELLOR: What we want to know is whether we can look at it. There is no question about that?

Sir JOHN SIMON: No question at all, my Lord.

The LORD CHANCELLOR: I see the heading.

Sir JOHN SIMON: Is there anything in the heading?

Mr. MACMILLAN: I do not raise any objection.

Sir JOHN SIMON: There is no question at all. The point is this. Your Lordship will recall that in 1871 the Treaty of Washington had been entered into between this country and the United States; it was in fact the Treaty which is most commonly called the Alabama Claims Treaty. It was the Treaty which was negotiated by Mr. Gladstone's Government and which, amongst other things, settled the Alabama Claims; but besides doing that, that Treaty contained a number of other provisions, some extremely complicated, which had to do with the rights of United States fishermen to exercise fishing rights in various places in this general area; the details do not matter. One of the things which was stipulated for in the Treaty of Washington was that commodities which were for the next fifteen years imported into the United States from either the Dominion of Canada or Newfoundland should not be subject to duty. There was a range of commodities, but the particular one that we are concerned with here was fish. That being the situation, there was a question in 1874, when Lord Dufferin was the Governor-General of Canada, when Mr. Fish was Secretary of State for the United States, and when our Ambassador at Washington was Sir Edward Thornton, as to whether certain consignments which were coming into America were or were not subject to duty. Mr. Fish, the American Secretary of State, addressed an official inquiry to the British Ambassador in Washington, who in his turn communicated not only with the Foreign Secretary here at home, but also with the

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Canadian Government, to ascertain what was the correct answer to the question. The question was this. Is there any part of Labrador which is neither Canada nor Newfoundland? and the answer was No. That answer was based upon information which passed from the Canadian Government, through the Government at home, to America. Therefore, again, although, of course, this proves nothing, it is a rather interesting instance of how this matter appeared to stand in the year 1874.

Now, my Lords, as I say, the letters are not in the right order, but you will find that the best way to approach the letters is to turn to page 2299, where you get in the first paragraph of Sir Edward Thornton's

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despatch a perfectly plain indication of what it was that Mr. Fish wanted to know. He is addressing Lord Derby, writing, of course, to the Foreign Office here from Washington. "On the 19th of June last Mr. Fish addressed me a note enquiring whether Labrador formed part of the Dominion of Canada, although he was under the impression that it was politically attached to Newfoundland. He also asked whether any part of Labrador was separated either from the Dominion of Canada or from Newfoundland." Your Lordships may take it—I have this morning examined the Treaty of Washington and I can give you the relevant Articles—that the point of that was that if the thing imported came neither from the Dominion of Canada nor from the Colony of Newfoundland, then it was not protected by the exemption which had been secured by the Treaty of Washington. That being the nature of the question, although indeed Sir Edward Thornton says he does not quite know what the reason for it was, if you look back to page 2293 you will see a little more in detail how the thing was deal with, though I do not think the letters are altogether in a convenient order. The first letter, No. 972, is: "I have the honor to acknowledge the receipt of your note of the 24th instant, and to express my great regret that it has been out of my power as yet to give a positive answer to your question with regard to the political position of Labrador. I can, however, assure you that the delay has not been caused by any neglect on the part of this Legation. From information which I have received this morning I am now enabled to state positively that the whole of Labrador outside the province of Quebec, the boundary of which is laid down in the Imperial Statute, 6 George IV, Cap. 59, is under the jurisdiction and Government of the Colony of Newfoundland, and is actually included in and forms part of the Colony."

The LORD CHANCELLOR: Which Statute is that?

Sir JOHN SIMON: That Statute is the Statute of 1825. What he is meaning is this. There was this pink oblong which was cut out and given back and re-annexed to Quebec, but apart

from that it is Newfoundland. Then at the bottom of the page:
“Sir, I have the honor to acknowledge the receipt of your note of yesterday's date in which you are pleased to state, in answer to the enquiry of this Department, that the whole of Labrador outside the Province of Quebec is under the jurisdiction and Government of the Colony of Newfoundland, and is actually included in and forms a part of the Colony. Thanking you for this information.”

Then on the next page, on the 23rd November, still in the same year, 1874, Sir Edward Thornton is saying this to Mr. Fish: “With reference to my note of the 26th ultimo, I have the honor to enclose copies of a Despatch and of its enclosures which I have received from the Governor-General of Canada, giving more precise details as to the boundary between Labrador and the Dominion of Canada, and the position

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of the former possession in relation to the latter or to the Colony of Newfoundland.”

Viscount HALDANE: I think you must read this, it is very interesting, but I cannot see how it can bear on the construction of the Statute.

Sir JOHN SIMON: My Lord, I think I have made that concession in very plain terms, and I hope I am not thought to be doing more than I should.

Viscount HALDANE: No.

Sir JOHN SIMON: I am quite prepared to accept the view that it is interesting rather than directly probative, but the interesting thing is that what is going to be enclosed is the actual report made to and by the Privy Council of Canada on this matter. That is the interesting thing; it is rather like the maps, in a way. Then he says: “A map showing the exact boundary on the coast and the assumed boundary in the interior, is also enclosed.” Then the enclosure is a Despatch from Lord Dufferin, that is at the bottom of page 2294: “With reference to your despatch of June 20th, and to subsequent correspondence making an inquiry on the part of the United States Government as to the position of Labrador in relation to the Dominion of Canada or Newfoundland, I have the honour to enclose, for the information of Mr. Fish, a copy of an Order of the Privy Council which contains the views of my Government on the subjects.” That puts it very justly, I think. It is only the views of the Government in 1874; it is not in any way estoppel. Then he says that appended is a map. I can show your Lordships the map; I have it.

Now this is what, after deliberation, in 1874 the Canadian Privy Council had got to say. They recite the despatch and then they say at line 10, on page 2295: “The Honourable the Secretary of State to whom this despatch, with enclosures, has been referred, reports that the boundary line between the Dominion of Canada and Labrador is a line drawn due north and south from the Bay or Harbor of Ance au Blanc Sablon, near the Straits of Belle Isle as far as the 52nd degree of north latitude; that Labrador eastward and northward from that point to Hudson's Straits.”

The LORD CHANCELLOR: I do not understand that.

Sir JOHN SIMON: I think it must be “Labrador lies eastward and northward.”

Sir THOMAS WARRINGTON: There is a line of something left out there.

Sir JOHN SIMON: I will have that checked. Then: "That the division-line in the interior separating Labrador from the Dominion of Canada has only been defined as far north as the 52nd degree of north latitude, but it has been assumed that the boundary line in the interior would have taken the direction laid down on the accompanying map, which follows the height of land."

Viscount HALDANE: That might be interesting, because there is a statement that there is a map which follows the height of the land.

Lord Sumner.

Sir JOHN SIMON: I am going to show your Lordships the map. "That Labrador, with the islands adjacent thereto, is annexed to Newfoundland, and under the Government of that Island." What is significant—I will not say anything more—is that this is what the Dominion of Canada says: "Attached to the Report of the Secretary of State are extracts from the Imperial Statute bearing on the question, and a map showing the exact boundary on the coast and the assumed boundary in the interior. The Committee recommend that a copy of this Minute with map and extracts from the Imperial Statute, above alluded to, be transmitted to Sir Edward Thornton for the information of the United States Government."

I cannot help thinking, therefore, that "assumed boundary," perhaps even "supposed boundary," may possibly be understood rather as indicating that people did not know where on the ground the height of land exactly was, as distinguished from throwing doubt upon the question as to whether or not it would be a boundary ascertained by reference to the height of land.

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Lord SUMNER: Is this a possible alternative? The Crown being entitled to the whole Peninsula of Labrador, however acquired, has at some time or other so dealt with it as that the whole of it is now territory of Canada or of Newfoundland and none remains unappropriated by the Crown, but the Crown has not yet directed what boundary between the two is to be drawn, and that may remain to be delimited possibly as a matter of legal inference from what has been done or possibly under some Act of State yet to be determined.

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Sir JOHN SIMON: I think your Lordship is quite right.

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Lord SUMNER: In the latter case we might delimit it.

Sir JOHN SIMON: No doubt it would be a short cut, though probably at this time of day there would be some difficulty.

The LORD CHANCELLOR: What does the map refer to?

Sir JOHN SIMON: I will show your Lordship in a moment; may I just finish my reading? What Lord Sumner says is,

however, important, and indeed it is a point which I am anxious to make. May I

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anticipate by saying that it is important for me to show, if I can, that in the disputable area you do get a distribution of the area as between these two. On the other hand, it would be a matter in my friend's favour, and I admit it quite frankly, if he was able to establish that there is a *tertium quid* in Labrador. The importance of this to me is not merely that the Dominion of Canada took the view that the height of land settled it, but that the Dominion of Canada, the Government here at home and everybody else said: "and that exhausts Labrador." The reason why that was the point was that if it did exhaust Labrador the Treaty of Washington of 1871 would not have been of any use. The Treaty of Washington did not say that for 15 years products of the British Empire should pass in free.

May I just give your Lordships the section; I have it here in the Collection of Treaties. The Treaty, which is the Treaty of 8th May, 1871, dealing with the Alabama Claims and with fisheries and with all sorts of things, contains two clauses. One clause is Clause 32. It says it is agreed by the provisions and stipulations that the operation of these articles, including Article 21, shall extend to the Colony of Newfoundland; and when you go to Article 21, it is agreed for the term of years mentioned in Article 33, that was for 15 years, that fish-oil, fish of all kinds, and a number of other things, being the produce of the Fisheries of the Dominion of Canada or of Prince Edward Island or the United States, shall be admitted into each country respectively free of duty. The point of the inquiry made by the Secretary of State for the United States was this: "Is there not a *tertium quid*? These things from Labrador; that does not tell me that they come either from the Dominion of Canada or from the Colony of Newfoundland, and if there is a No Man's Land, I shall still have to consider whether there is not duty to be paid." Therefore, as Lord Sumner truly says, it was not material for this purpose to determine exactly where the boundary lay. The important thing was to ascertain: Did the boundary on the one side of it give you Canada and on the other side of it give you Newfoundland? You will find that is the precise thing that Lord Derby, writing from the Foreign Office here after communication with Canada, says is the fact.

My Lords, may I just finish my reference to page 2295? The Minute of the Canadian Privy Council annexed or enclosed extracts from Statutes, including the Statute of 1825. Then at the bottom of page 2297, Lord Carnarvon is sending to Lord Dufferin, who was the Governor-General of Canada at the time, that is to say, the Colonial Secretary was sending to the Governor-General of Canada at the time, for his information, despatches. I need not trouble about those two pages. Then

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on page 2299, Sir Edward Thornton, reporting to Lord Derby, writing to the Foreign Office, says: "My Lord, in the 19th June last Mr. Fish addressed me a note enquiring whether Labrador formed part of the Dominion of Canada, although he was under the impression that it was politically attached to Newfoundland. He also asked whether any part of Labrador was separated either from the Dominion of Canada or from Newfoundland. Without knowing what might be the precise object

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of this enquiry, I forwarded it to the Governor-General of Canada. During His Excellency's absence from Ottawa, Mr. Watson, H.M. Chargé d'Affaires, received on the 11th of July a telegram" and so on. Then he says he had a further note. Then at line 30 he says: "The latter then at once communicated to Mr. Fish the contents of Mr. Scott's above mentioned telegram informing him at the same time that he would also convey to him the contents of a Despatch which he expected from Lord Dufferin as soon as he received it." Then he describes that there was some delay, and at the bottom of the page says: "It was only on my arrival at Washington that I learned from Mr. Cadwalader that these enquiries had reference to cargoes of fish which were arriving from Labrador and with respect to which the Treasury Department doubted whether they could be admitted free of duty under the Treaty of May 8, 1871"—that is the Treaty of Washington—"as coming either from the Dominion of Canada or the Colony of Newfoundland." Then the last paragraph: "Fortunately Lord Dufferin yesterday paid a visit of a few hours to Washington, when I stated the case to him. In reply His Excellency authorized me to inform Mr. Fish that Labrador is under the jurisdiction of Newfoundland and is included and forms part of that Colony."

Your Lordships see that was not quite accurate, and the very accurate officials of the Foreign Office observed the inaccuracy and corrected it. It was not true that it was all Newfoundland, because there was this distribution between Quebec and Newfoundland. If your Lordships will now observe the language of the document on page 2301, you will see it is most carefully stated and most accurately stated, from the Colonial Office to the Foreign Office: "I am directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 10th instant enclosing a copy of a Despatch from the British Minister at Washington respecting a question raised by the United States Government," and so on. "It appears from Sir E. Thornton's despatch that on the authority of the Governor-General of Canada he has informed the United States Secretary of State that Labrador is under the jurisdiction of Newfoundland and is included in and forms part of that Colony, but I am to point out for the Earl of Derby's information, said to have been given by Lord Dufferin (as it would seem in conversation and without

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having referred to his Government), does not appear to be altogether correct.” That ought to be: “but I am to point out for the Earl of Derby's information that the information said to have been given by Lord Dufferin.” Then: “The Act 6 Geo. IV. Cap. 59 settles the boundaries between Newfoundland and Canada, on the Labrador Coast, and Lord Derby will perceive on reference to the 9th sect. of the Act, a copy of which I am to enclose, that part only of Labrador belongs to Newfoundland and the rest to Canada. Lord Carnarvon apprehends, however, that the inaccuracy in Lord Dufferin's alleged statement is of no practical consequence so far as regards the particular question at issue, inasmuch as the whole of Labrador belongs either to Newfoundland or to Canada, and the produce

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of the fisheries both of Canada and of Newfoundland are entitled to be admitted free into the United States under the 21st and 32nd Articles of the Treaty of Washington.”

Now let me at once make the point: I make it both to help the Tribunal and because I do not want to be thought not to have observed it. Inasmuch as we are dealing with cargoes of fish, it is not a very extravagant assumption that the fish would come from either Newfoundland, Labrador or Canadian Labrador; I mean, you cannot get fish from a spruce forest. But at the same time it is really a very striking fact, exactly the same as these maps, there can be no doubt whatever about it, that after the most formal and careful and thorough consideration by all the authorities concerned who might be supposed to have had any possible temptation the other way, they asserted that all the rest of this is Newfoundland. Newfoundland takes no part in the discussion, but the Canadian Government, the Canadian Privy Council, the Colonial Office, the Foreign Office, all do.

Now the map that your Lordship asked about is to be found in our Atlas at No. 32a; there is a No. 32 and also a No. 32a.

The LORD CHANCELLOR: Is this the one?

Sir JOHN SIMON: This is the very one.

The LORD CHANCELLOR: It says in your Case that it has not been possible to trace it.

Sir JOHN SIMON: It has been traced since, my Lord. We have had the great advantage of the assistance of Mr. Hardy, of the Record Office, and he has found this map actually attached to the Despatch in the Record Office—I mean the thing from which this is reproduced. I can see at once that it may be said: “Well, but it is not quite right.” That, of course, is a perfectly fair comment to make, but it is a most curious thing that, at any rate, whether you should draw the line, as Lord Warrington was rather disposed to draw the line, along the 52nd parallel without allowing that bulge, or whether you

should allow the bulge in order to try to get back to the height of land, there cannot be any doubt at all that this is drawn on the principle that the Labrador Coast is between Cape Chidley and Anse Sablon, that is the green thing, and that the additional piece of the Labrador Coast which has been re-annexed to Canada, to the Province of Quebec as it was, in 1825, is the pink bit, and then Rupert's Land. On the map itself you will see "Land" over the yellow. That is the termination of the inscription "Rupert's Land." if you took the whole map.

The LORD CHANCELLOR: "Rupert's" is written in the margin.

Sir JOHN SIMON: Yes, in the way it is done for convenience sometimes to show how it is. Rupert's Land is this other area. It is a very interesting and curious thing.

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The LORD CHANCELLOR: I see the note in the book is that Labrador extends eastward and northward from that point to Hudson's Straits. It is on page 2295 of Volume V, about line 15.

Sir JOHN SIMON: I am very much obliged.

Viscount HALDANE: This certainly shows the real height of land.

Sir JOHN SIMON: There is no doubt of that; that is so.

Lord SUMNER: This is of some importance. In the red book at page 133 there is a small chart which shows very conveniently the exact position at that point. You see parallel 52. The words are that Labrador extends eastward and northward from that point to Hudson's Straits. It does not seem to take you very far in the direction of westward and northward.

Sir JOHN SIMON: I see what your Lordship means.

Lord SUMNER: The north line is on parallel 64. Then you are told it has to go to Hudson's Straits. If the word "extends" is pressed it may be of some importance.

Sir JOHN SIMON: Yes, my Lord, but may I make my comment in the same connection—I am sure I may? Your Lordship has, quite rightly, of course, called attention to the word, but whatever may be the word it is immediately followed in the same document by this: "Attached to the Report of the Secretary of State are extracts from the Imperial Statute bearing on the question, and a map showing the exact boundary on the coast and the assumed boundary in the interior." I am identifying the picture with the letterpress, therefore I suggest it is not unreasonable to say, though I quite agree eastward and northward is not a very happy expression, in fact you can hardly go either eastward or northward from that point—

The LORD CHANCELLOR: Not to Hudson's Straits.

Sir JOHN SIMON: No, my Lord, you could not go northward to Hudson's Straits from that point. I apprehend that what it really means is that it is not correct to say that the whole of Labrador is in one jurisdiction. That would not be correct because there is a Statute of 1825; but when you have taken out what the Statute of 1825 takes out, which we coloured pink, then though that takes out something which is westward of the line, you will have left what is eastward and northward of it; and that I suggest is not used in a very strict sense. It is

not with the accuracy with which the navigator refers to points of the compass.

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The LORD CHANCELLOR: It must trend towards the north, because you get the sentence: "That the division-line in the interior separating Labrador from the Dominion of Canada," and so on.

Sir JOHN SIMON: I think so. That little chart is very convenient, and we will look at it in time, but it is not a very good chart on which to operate for the reason that the line drawn there is drawn after the dispute has arisen, and it does not really represent anything at all. It is a highly controversial chart. I should have suggested, for what it may be worth, though I quite recognise it is only of a secondary order of importance, and quite subordinate to the actual language of the statutes, orders-in-council and proclamations, that really this little incident of 1874 is quite overwhelming to show that the view taken in 1874 is the view which you will find again illustrated in the official maps of the Dominion of Canada in 1890 and 1895.

Viscount HALDANE: It is almost enough for you to say that it indicates a large block of the interior of Labrador.

Sir JOHN SIMON: Yes, that is really the position. Again, in order that your Lordships may have at any rate the chronological data before you, may I tell your Lordships that there are two other subordinate branches of the case about which there is a good deal of material in these volumes. So far as regards the administration of justice in the area which Newfoundland administered there is an important history, which is more particularly important as between these two periods. I will tell your Lordships why these periods are important afterwards. The first period is from 1826 to 1834, and the second period is from 1863 to 1874. You will notice that 1826, beginning the first of these two periods, is immediately after the pink area is re-annexed to Quebec. Before 1826 the provision made for judicial administration on the coasts of Labrador, whatever that expression may mean in connection with Newfoundland, was by means of the issue of what are called surrogate Commissions. That is to say, the Governor of Newfoundland—Graves, for example, or any one of them—not only had the appointment of Governor of the Colony and its dependencies, but he also was Commander-in-Chief of the Fleet of the Newfoundland Station, and had independent 35 but contemporaneous instructions in a separate document from the Admiralty. He therefore filled the two offices, being Commander-in-Chief of the Newfoundland Station—Commander-in-Chief of the Blue, I think it was called—and at the same time he was, under the Great Seal, holding the Commission of the Governor of Newfoundland. It was within his competence to

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a point surrogates to administer, in any portion of the area he thought right, the judicial jurisdiction with which he was clothed. From 1763, Thomas Graves's time, right down to 1774 there were surrogate commissions issued to naval officers who were more particularly to look after the Labrador Coast.

Viscount HALDANE: Does this extend to both periods?

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Sir JOHN SIMON: No. That happened from 1763, and went on with various breaks for some time. But when you come to 1826 a change was made. If your Lordship will turn to Volume 1, page 307, you will find an Act now called The Newfoundland Act. That was an Imperial Act, and was an Act for the better Administration of Justice in Newfoundland. That statute deals with the Island of Newfoundland in the early part, but if you turn to Section 18, at the bottom of page 313 you will find the following passage. It is noteworthy that it comes in the Newfoundland Act. It is an incident, at any rate, of the government of Newfoundland. The section says: "And whereas it is expedient to make further provision for the administration of justice on the Coast of Labrador: Be it further enacted, that so much of an Act passed in the Fifty-first year of the reign of His said Majesty George the Third, intituled an Act for taking away the Public Use of certain Ship Rooms, in the Town of St. John's in the Island of Newfoundland, and for establishing Surrogate Courts on the Coast of Labrador, and in certain Islands adjacent thereto, as relates to the institution of Surrogate Courts, shall be, and the same is hereby repealed; and that it shall and may be lawful for the Governor or Acting Governor of Newfoundland for the time being to institute a Court of Civil Jurisdiction at any such parts or places on the Coast of Labrador, or the Islands adjacent thereto, which, in and by the said Act passed in the Fifty-first year of the reign of His Majesty George the Third are reannexed to the Government of Newfoundland, as occasion shall require; and such Court shall be held by one Judge, and shall be a Court of Record, and shall have jurisdiction, power and authority to hear and determine all suits and complaints of a civil nature arising within any of the said parts and places on the Coast of Labrador, or the Islands adjacent thereto; and the said Court shall be holden by a Judge, who shall be appointed from time to time by the Governor or Acting Governor of Newfoundland, and shall have a clerk and such other ministerial officers as the Governor or Acting Governor shall appoint; and the proceedings of the said Court shall be summary, and such forms of process, and such rules of practice and proceeding as shall be settled by the Chief Judge of the said Supreme Court, shall be followed by the said Court, and no other."

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Lord SUMNER: Is the word "parts" correct, or should it read "ports"?

Sir JOHN SIMON: It is parts. The word is twice repeated, occurring in line 3 and line 11. It is rather an odd thing that in his effort to describe the statute under which portions of the coast of Labrador came under the jurisdiction of the Governor of Newfoundland the draughtsman of Section 18 had fallen into error. It was not by an Act passed in the fifty-first year of the reign of His Majesty George III that anything was annexed to the Government of Newfoundland. That was done by an Act of 49 George III, Cap. 27, Section 14. You will find that in the same volume at the bottom of page 195. Your Lordships will remember that we went through that yesterday. It is by no means

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the only example of where, in framing these things, they had not got their references exactly right. There was a statute of the fifty-first year of His Majesty George III which dealt with the Government of Newfoundland, but it is a slip in reference in this particular case. Under the statute I have just read on pages 313-314 you will see that it abolishes altogether Surrogate Courts, and establishes not only a Court, but a Court of Record, with a Judge who is not a mere magistrate. He is what might be called a High Court Judge, a member of the Court of Newfoundland. The name of the Judge appointed was Mr. Justice Paterson. In Volume III, page 1396, you will find the proclamation of Governor Cochrane. You will recall that Sir Thomas Cochrane was the Governor the terms of whose Commission after 1825 I asked attention to a little time back. Here is the Governor's proclamation appointing the times and places for holding what he calls the Labrador Court.

The LORD CHANCELLOR: What is the nearest map to this date, do you remember?

Sir JOHN SIMON: Your Lordship wants to see the place Invuctoke on the map. I think sufficiently for the purpose your Lordship could see it in the little sketch.

Mr. MACMILLAN: It is the Eskimo name for Hamilton Inlet.

Sir JOHN SIMON: It is not the Eskimo name for Hamilton Inlet; it is the Eskimo name for sea-cow. As your Lordship will appreciate, this is a very modest circuit. It is no good going circuit to the wilds when there is nobody to try. You may take it at once that, not unnaturally, the places which are appointed for holding this Court are places which could be got at without much difficulty.

Viscount HALDANE: Close to the sea.

Sir JOHN SIMON Of course. The place you had better select, because the easiest one to take, is Invuctoke. That is the

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Eskimo word for a walrus—the same thing as a sea-cow, I am told by one of my Juniors, I do not profess to know myself. Invuctoke is, as my friend said, Hamilton Inlet. You will find in a moment that when Mr. Justice Paterson comes to exercise his jurisdiction he exercises it about a salmon river 120 miles further inland, but the place where he holds his Court, which you may call the assize town, is Invuctoke. I do not suppose it was a very big place. There are one or two things in the proclamation I should like to draw attention to, because I suggest they indicate not any mere jurisdiction on the littoral, but something you might call solid. At the top of page 1397 there is this passage: “And I do authorise, empower and direct the Judge of the said Court of Civil Jurisdiction, hereby instituted, from day to day and from place to place, or for any number of days within the term, session, or continuance of the said Court, to adjourn the said Court, to meet, re-assemble and sit again in

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the execution and discharge of the duties of the said Court, when and so often as by the said Judge may be deemed necessary or expedient for the due and proper fulfilment and discharge of such duties. And of these presents all Magistrates, the Sheriff and his deputies, all Bailiffs, Constables, Keepers of Gaols, and other officers of the Coast of Labrador, in the execution of their offices about the premises, are desired and hereby required and commanded to take due notice and govern themselves according.” The language is majestic, but I rather imagine if one had occasion to summon the whole regiment of officials they would not have been found to be very numerous. As a matter of fact there are instances where the Judge had to deal with one or two serious crimes where he adopted the convenient expedient of taking his convict on his ship to Newfoundland, where he could be safely confined. The actual commission—I suppose it is as well to mention it—is on the next page. The Act of Parliament created the Court and authorised the Governor to issue the commission, and here is the commission to William Paterson. He is a naval captain, though as a matter of fact he is also Mr. Justice Paterson, and does quite a considerable amount of judicial work, and reports about it for a number of years. It says: “Know ye that We having taken into our royal consideration the loyalty, integrity, and ability of our trusty and well-beloved William Paterson, Esquire, Captain in our Royal Navy and Companion of the most Honourable Military Order of the Bath, have constituted and appointed him the said William Paterson, Judge of our Court of Civil Jurisdiction in and for our Coast of Labrador.” On page 1399 your Lordships will notice that in addition to his being a High Court Judge, he and another gentleman are made Justices of the Peace for the Coast of Labrador. I will give your Lordships one illustration—it will be quite enough, and I have not many others I could give—of the actual exercise of this jurisdiction. In the same

Volume, at page 1406, Mr. Justice Paterson having thus received his commission, and Governor Cochrane having proclaimed the places where the Court in its itinerary would sit, you will find the following extract from the records of the Court. Would you observe that it is headed “Rigolet.” That is probably the best known name of a place in the Hamilton Inlet region. Sometimes it is spelled as here, and sometimes with the additional letters “te” at the end of it. I think it is important to see what is this case he is dealing with. The extract is as follows:—“J. O. Brunet & Co. of Quebec by their partners, Joseph Tourzeon, residing at Rigolet, also by petition set forth his complaint, stating that Mr. Joseph Bird of Sturminster, England, by his agent Timothy Craze of Tub Harbor”—I am going to ask attention to Mr. Low's map in a moment, where we shall get these places more accurately —“in this Bay and by the persons employed under him, have for these three years last past interrupted the complainants in their salmon fishery”—this is of a considerable importance because the suggestion against me is that the jurisdiction of Newfoundland on the Coast of Labrador is so limited that really a deep-sea cod fishery is all they are talking about—“at a place called Kinnamnon Brook in this

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Bay,” etc. I see in this Volume it is called “Kinnamon” Brook, but I believe Kinamou is the proper name for it.

Viscount HALDANE: Is it a large bay?

Sir JOHN SIMON: It is 120 miles inland, and Kinamou Brook is at the very head of it. The suggestion made by the Dominion of Canada against me is that I have no right to go there. They want Kinamou and everything else. If they are right, Mr. Justice Paterson had no more right to deal with this than he had to deal with an interference with nets in a Scottish salmon river. The extract continues: “by placing their nets in front of and very near to those of complainants, so as to intercept the salmon coming to them, whereby the complainants allege that they have sustained damages to the amount of five hundred pounds, and praying that process might be issued against the said Joseph Bird and Timothy Craze for the recovery of that sum. The Court complied with the prayer of the Plaintiffs' petition by granting a writ of summons at their suit against Joseph Bird and Timothy Craze in the sum of £500. But as it appeared that the Defendants could not this year be prepared with their evidences to defend the action”—there is a certain leisureliness about litigation in Labrador—“the Court directed that the writ should be made returnable at Rigolet on Monday the 13th day of August, 1827, or at such other time as the Court of Labrador might first sit at Rigolet.” Your Lordships will take it from me at the moment that the case was tried, and I will show you the record of it. You have therefore here a perfectly clear example of the unchallenged exercise of jurisdiction by the judicial authority of Newfoundland at a distance 120 miles further back than any point which the Dominion of Canada in this arbitration is willing to concede to me.

Viscount FINLAY: Can you show me the place on the map?

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Lord Sumner.

Sir JOHN SIMON: The most convenient map to take is Mr. Low's map in the Newfoundland Atlas, No. 42. Might we just look at Kinamou. Kinamou River runs up from the south, and runs into Hamilton Inlet at its upper or landward end. Here is the actual survey of the official Canadian authority, and as it is as recent of 1895, it may be taken as right. Rigolet, which you see on the map, is where the case was heard.

Viscount HALDANE: And Tub Harbor is a little lower down.

Sir John Simon.

Sir JOHN SIMON: Yes. So far as the Canadian suggestion is concerned, they say that upon the true construction of the statutes, orders-in-council and proclamations, the internal limit of any jurisdiction that Newfoundland has now, or ever has had, is some 120 miles further towards the east.

Lord Sumner.

Lord SUMNER: This is salt water right up above the mouth of the Kinamou River. I suppose most of the blue is salt water. According to this record the act complained of was done in the bay, or I suppose just at the mouth of the Kinamou River.

Sir John Simon.

Sir JOHN SIMON: I think it was done just above Epinette Point.

Lord SUMNER: Although that is a very forcible point, it is with regard to what is a very deep inlet, and it does not carry into the real inland parts.

Sir JOHN SIMON: That is so. I have not had a record of a case where he deals with a dispute which is 120 miles back from the general trend of the coastline in the heart of the primeval forest.

Lord SUMNER: Right or wrong at the time when the whole traffic on the Labrador coast was conducted in schooners, as I think it mostly is still, it is quite natural for the fishing people to carry on their operations up to the head of a salt water fiord. But that says nothing about rivers.

Sir JOHN SIMON: Your Lordship is perfectly right. I thoroughly appreciate that. If one is to draw a dividing line as between what you may call the river system and what my Lord has called a fiord, one would have to go, I have no doubt, to Goose Bay or something like that. I have here, and I dare say at some time some of your Lordships would like to see the Admiralty Chart, because one would like to see the nature of the thing—soundings, and so on. This is a very deep place notwithstanding the fact that at Rigolet you have narrows. It is extraordinarily narrow, as you will see, but it widens out again and becomes this very large inlet. Though, of course, the salinity of the water decreases, Lord Sumner is perfectly right that we are here dealing with a salt water fiord.

(Adjourned for a short time.)

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AFTERNOON SESSION.

Sir JOHN SIMON: My Lords, your Lordships were just looking in Volume 3 at page 1406, the record of the Civil Court for the Coast of Labrador, showing that this dispute about the salmon fishery at or near the mouth of Kinnamon Brook was made the subject of process before that Court. On the opposite page, page 1407, you will find the proclamation of Governor Cochrane—it is still Governor Cochrane—for the next year, 1826, in which he appoints various places at which Courts are to be held. Again you will find at line 24, “Indian Harbour, Indian Island, Rigolet, or Ivucktoke otherwise Gross Water, Mullins Cove, Tub Harbour,” and various other places. They are, my Lords, all of them, places that can be reached by water. Gross Water is the name that is given to the interior part of Hamilton Inlet, I mean it is another instance of the situation upon which my Lord Sumner made an observation just now, that is to say, it would be valuable to me, and is valuable to me, as showing the unchallenged jurisdiction right back to the head of Hamilton Inlet, but it does not carry me into the interior country. Again you get “Place or places,” and this time, my Lord, it is perhaps observable that at line 32 it says “Ports or places,” not “Parts or places.” I am not sure how that is. Then on page 1409 you get a rather different kind of document; this is a document recording the work of the Court of General Sessions in Labrador. Apparently at this time, in 1827, one at any rate of the gentlemen, I suppose the Chairman of the Court, was Mr. George Simms. He is making a report which includes this statement: “Timber of very large dimensions is said to abound at the head of Gross Water, on the Kinnamish and North West Rivers.” I daresay your Lordships observe the North West River is one of the great rivers that run into the head of Hamilton Inlet. “Mast pieces from 18 to 26 inches at the partners and crooked ships timber, spruce and birch, sufficiently large to build ships of four hundred tons burthen. Mr. Bird’s establishment intend building two large schooners at Kinnamish the ensuing winter. The following vessels are employed in the cod fishery at the different ports in Esquimaux Bay,” and then it gives a series of details, it seems to me a mere report. I am not attempting to go through every one of these documents at all exhaustively, especially as I want to complete my chronological sketch to-day. At page 1412 you get a record of this Court of Civil Jurisdiction showing that the Court had a view at Kinnamon Brook. “On Tuesday evening the 19th July, arrived at Rigolet, on the 20th July left Rigolet for Kinnamish. Tuesday 22nd reached Kinnamish where the Court viewed the Salmon Brook in dispute between *J. O. Brunet & Co. vs. J. Bird*, Thursday the

24th July arrived at North West Brook.” It is a kind of account of the Court's peregrination. On page 1414 that carries the matter slightly further; the last paragraph on that page shows that the Court was open—it was prepared

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to sit at the places there named, but there was no business apparently to be done. It was like opening the Commission of Assize and finding there were no prisoners to be tried. But the Court was prepared to sit at Kinnamarsh, which I think your Lordships take as the same place as one or other of those two. There is no doubt at all there has been a constant claim to exercise jurisdiction quite unchallenged for very many years, at any rate up in that region. Those instances are probably sufficient for this present purpose. What was found was that there was so little business for such a Court to do that, on page 1415, Governor Sir Thomas Cochrane is advising the Home Government, and he is saying, in effect, that he doubts whether the continuance of a branch of the Supreme Court in Labrador is needed; and the result was that in 1834 the Newfoundland Legislature abolished the High Court of Labrador, and that is the end of this first period. Then for a considerable time they relied on subordinate judicial officers, Justices of the Peace and the like. The actual form of the abolition is just a little curious, because what really happened was that it was an Imperial Act of Parliament that established the Court of Labrador, and, therefore, it would have been, perhaps, natural, at any rate at that stage in Dominion development, to take the view that only an Imperial Act of Parliament could abolish it. What happened was that there was an Imperial Act of Parliament passed which expressly delegated to the Newfoundland Legislature authority to deal with that matter if it liked; and your Lordships will find that in 1834 the Newfoundland Legislature, under the powers of an Imperial Act of 1823, abolished the Court of Labrador by repealing the Imperial Statute. Then, my Lords, in the interval between the end of my first period and the beginning of my second, between 1834 and 1863, such administration of justice as was called for was provided in subordinate judicial authority, Justices of the Peace and the like.

Mr. Macmillan.

Sir John Simon.

Viscount HALDANE: By surrogates?

Sir JOHN SIMON: Not formally surrogates, but Justices of the Peace.

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Mr. MACMILLAN: I think that is not right, because on page 1424 you will see it says, “The whole Coast of Labrador is now left destitute of a local civil jurisdiction.”

Sir JOHN SIMON: It looks as though it really was for the time being one of those ideal countries where no punishments were needed.

The LORD CHANCELLOR: It is only civil jurisdiction.

Sir JOHN SIMON: I think, independently, in the book I could show there was, as a matter of fact, the exercise of sonie jurisdiction. It does not matter very much, because when I come on to the beginning of my second period (I gave your Lordships, I think, 1863 as the be—

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ginning of my second period in 1863, as you will see if you turn on to page 1436 (there are various intermediate documents showing that there were Constables being appointed, and no doubt there was criminal jurisdiction) you get a Newfoundland Act, and it is worth while, perhaps, just to call attention to the title of it. The title of it contains an expression which, I am told by those who are instructing me from Newfoundland, is a very common expression in Newfoundland; it is “the Labrador.” Of course, I cannot enlarge the proper construction of “all the coasts of Labrador” by substituting any other phrase, but this is a very common phrase. It is an Act “to provide for collection of revenue and better administration of justice at the Labrador.” “Whereas it is expedient to provide for the collection of the Revenue and for the better administration of Justice at the Labrador: Be it therefore enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened as follows: I. It shall be lawful for the Governor, by Letters Patent under the Great Seal of the Island of Newfoundland, to institute a Court of Civil and Criminal Jurisdiction at the Labrador; and such Court shall be a Court of Record, and shall be presided over by one Judge, to be appointed by the Governor in Council and shall, over all such parts of the Labrador as be within the Government of Newfoundland, have jurisdiction, power and authority to hear and finally determine all Criminal Prosecutions for Assaults and Batteries, and for Larcenies without force to the person, committed within the limits aforesaid; and all Actions and Suits of a Civil nature” not exceeding, I think, £100. Then in Clause 4 there was to be an appeal from this Court to the Supreme Court in the Island, and in Clause 7 there was statutory authority by which any sentenced prisoner might be confined in any place of security within the limits aforesaid, that means on the Labrador, which the Judge may direct, or may be conveyed to any gaol in Newfoundland. Then in Clause 9, dealing with another subject matter, “It shall be lawful for the Governor in Council to appoint the said Judge or some other competent person to be Superintendent of the fisheries on the coast of Newfoundland and the Labrador, and to appoint the same or other competent person to be a collector of revenue on the Labrador.” I may tell your Lordships that I do not myself attach very much importance, one way or the other, to the material in these volumes on the subject of revenue collection (there is a good deal of

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material), and for this very simple reason: that, so far as I can see, the nature of the revenue collected was import duties; I should not have expected therefore, that very much light could be thrown on the question of the depth of the country inland by showing that there was an exercise of collection of that sort of revenue; if they had had an income tax it would have been another matter. There is a little material of another sort, but most of it is of that kind. That being the Statute, on page 1439 there was a Statute of the same year (the next chapter, it is 26 Vict. C. 3) providing this, "That the circuit Courts of Newfoundland shall have power to hear and determine all crimes and offences, informations, suits, and actions committed occurring or arising, on all such parts of the coast of Labrador as are within the Government of

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Newfoundland," that is apparently another jurisdiction which would make it easy to deal with Labrador cases in the circuit Courts. I do not think this carries it very much further. Then on the next page, page 1440, you get the actual institution, under the Statutes to which I have just referred, of the Labrador Court. You will observe on page 1440 that the Governor at that time was Sir Alexander Bannerman. He was Governor from 1857 to 1864, and he proceeds to set up the Court to be presided over by one Judge to be appointed from time to time, such Court to be a Court of Record, and so on "And shall be held for such terms and at such times and in such places at the Labrador as the Judge thereof for the time being may from time to time determine." Then there follow in the book (I can save your Lordships' time, and I think even save your Lordships' eyes, by putting it in this way) from page 1443, running on to 1460 or thereabouts, the Reports which were made of the proceedings of that Court, or extracts from them, a Court which was presided over at first by Judge Sweetland and subsequently by his successor Judge Pinsent. Those were the two, first Judge Sweetland and then Judge Pinsent. Perhaps your Lordships would just turn to page 1453, which shows pretty clearly that, at any rate, the salmon fishery was quite as much within the area as any cod fishery: "The salmon fishery was, this year, pretty good in Sandwich Bay and Hamilton Inlet, which are the principal places for what may be called the embayed fishery"; fishery, that is, taking place inside Hamilton Inlet. Then over the page "On the open coast the salmon fishery was not so successful"; apparently in this part of the world it is when you go into the inlets or the mouths of the rivers that you get salmon. Then there is an interesting reference to Mr. Smith: "The Hudson Bay Company have establishments in Hamilton Inlet, N.W. River and Rigoulette," just as they have, your Lordships know, in Winnipeg and other places. "Here we met Mr. Smith," that is Lord Strathcona, "the Deputy Governor of the Company and chief Manager of their business in this quarter; he arrived from Canada in the steamer 'Labrador,' a fine new vessel belonging to the concern. This Company received

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most of the salmon in the neighbourhood of their establishments, and cut them up and preserved them in small tin canisters for exportation to England and other countries.” If ever anybody is concerned to write a treatise on the history of salmon canning, I suppose this will take a place of honour in the first chapter. It is hardly worth while nowadays for a Judge on circuit in the North of America, I think, to report elaborately that someone has invented the ingenious plan of putting salmon into tins.

Sir THOMAS WARRINGTON: That shows they had an establishment in Hamilton Bay.

Sir JOHN SIMON: Yes, they had trading establishments. They are great people for having controversies about taxes, like all good business men are. A little lower on the same page there is a very good account of what is happening. He says, “The resident population of
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Labrador (as distinguished from the people who go there on the fishery in the summer only) from Blanc Sablon, in the Straits of Belle Isle to Indian Harbor Esquimaux Bay, which in the year 1864 was estimated by Judge Sweetland at 2026, may be considered as rather increased since that time. It is difficult for a transient visitor to ascertain, reliably, even the probable number of resident inhabitants, scattered as they are in so many places along this extensive coast; to take personally a census is impracticable. The residents are principally of English origin, including some from Newfoundland, but in Esquimaux Bay, Hamilton Inlet and that neighbourhood, there are several families of Esquimaux and half-breeds, the latter are descendants of European fathers and Esquimaux mothers; these people are occupied chiefly in the salmon fishery in summer and in furring during the winter.” No doubt the business of furring and trapping may not call for a very elaborate judicial organisation or administration, but there cannot be a doubt, I think, that the Newfoundland Government conceived that the Labrador jurisdiction they were exercising was in no sense limited to the deep-sea cod fishery. He gives an interesting account of these people. He says, “They are very docile and well-behaved, and, in their simple way, fond of learning; most of them can read, and some can write—taught by their fathers and by each other.”

Viscount HALDANE: What is the reference to furring?

Sir JOHN SIMON: The one I was giving is at page 1454, line 25. If your Lordship is kind enough to make a note, would you mind adding to it also what is a more important reference on the furring point, page 1448, at the top of the page. There are others, but this is rather an interesting one. I will take 1448 now, if your Lordship would not mind turning back.

This is in the Report of the earlier year, but it is the same thing. "In Sandwich and Esquimaux Bays, the inhabitants disperse themselves for the sake of furring in the winter," that means, of course, they go up into the woods, "and catching salmon in the summer. Very little can be done in the way of an established school." Then he goes on giving a lot of details as to the relief of a certain number of destitute people and so on, and some account about the churches that exist there; there are quite a number; the Moravians have an important mission, and other religious denominations have an establishment there. "The season was wet and cold, so much so that the usual crop of 'greens' could not be obtained; potatoes on the coast did not come to perfection. At the N.W. River at the head of Esquimaux Bay they produce green peas, new potatoes and radishes of immense growth; fresh butter," and so on. It is all very primitive, and is, of course, very unimportant on the point of population, but there is nothing whatever, I make bold to say, in these documents of the class I am dealing with now, which would suggest that the Newfoundland jurisdiction is a jurisdiction which can be in any way limited,

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artificially limited, in the way suggested; nothing whatever. I had dealt, I think, with page 1454.

Page 1460 is a page which is perhaps worth glancing at. Judge Pinsent is reporting what he did in the year 1869. He describes how he has dealt with some serious cases. At the bottom of page 1461 he says: "I sentenced the offenders to six months imprisonment with hard labour in Her Majesty's Gaol at St. John's." Then he says that he brought the men from Labrador to St. John's in the circuit vessel; so that apparently one of the gentlemen in question started his sentence by having two months on board a ship. He cannot have been very comfortable.

Then on page 1462, at line 18, there is an account given again of the salmon fishery, and in the middle of that page he says this: "I am gratified to be able to state, and I have good reason to believe, that the condition of the resident inhabitants of Labrador will next winter be much better with respect to food than it was last winter. These residents, not having vessels and other means of leaving their own localities, were last summer fortunately obliged to remain home, where they did much better in the fishery than if they had come to Cape Harrison and its neighbourhood; they have consequently been able, generally, to lay in a sufficient stock of provisions for the winter. The census of the resident population of Labrador, from Blanc Sablon to Cape Harrison inclusive, has this summer been taken by order of the Government. The total number is 2,479, comprising"—so and so. Then it goes on: "In this number about 300 Indians and half-breeds of the Esquimaux and Mountaineer races are included. They reside chiefly in the magnificent bay called Hamilton Inlet and that neighbourhood."—This is a little important for me, and it will help your Lordships if I indicate now why it is important.

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There is an important argument to be considered here in the Canadian case, suggesting that Labrador cannot be regarded as having been exhaustively dealt with by this allocation between Newfoundland and Quebec, because this would be wholly contrary to the policy (of which you may find considerable traces in some documents) of making provision for the Indian population. It is perfectly true that the provisions for what were called the Indian lands, when arrangements were made after the Treaty of Paris in 1763, are quite plain and prominent; but I am going to submit to your Lordships, and I think I can satisfy your Lordships, that the reference to Indian lands in these 18th century arrangements is not a reference to just a few people who are on Hamilton Inlet. It is hundreds and thousands of miles away from the area which is really being pointed to. The area of Indian

lands in the 18th century, though not very precisely defined, was a very important tract. There was a distinction drawn between the portion of the territory which you might call the territories of His Majesty, and the territory which you might call Indian lands. The reason for that (if I may tell your Lordships now, because it is very important to have it in mind) was this: during the 18th century, and during the conflicts which may be said to have

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come to a head at the time of the Seven Years War, but which, as far as the American continent had been concerned, had been spasmodic for some time before that, the English policy had been a policy—and we always prided ourselves upon it—that we were very careful not only to make bargains and treaties with the Indians, but to keep them. The well-known phrase “Bury the hatchet” as a matter of fact comes down from the time when one of these treaties was most solemnly entered into after there had been a controversy with the Indian tribes, and there was a solemn digging of a hole and burying of a hatchet. That is what that comes from.

But all that was on a wholly different area of country, which I can for the moment briefly describe as the area of the Great Lakes. If your Lordships remember Fenimore Cooper, and that sort of delightful literature, those Indian tribes with the splendid names were to be found in that area, very largely in an area which is now the United States. And really the notion that the authorities, when they were engaged in dealing with Labrador, a practically unpopulated region, were as a main object of their policy providing for Esquimaux on Hamilton Inlet, is quite fantastic.

The reason why I call attention to this on page 1462 about the Esquimaux and the Mountaineer races is this, that as a matter of fact these poor people, of whom there were very few and who were very degraded, I am afraid, or at any rate very undeveloped, are described as “residing chiefly in the magnificent bay called Hamilton Inlet and that neighbourhood. Most of them are connected with the Hudson Bay Company. The half-breeds, who have sprung of Europeans and Indians, are docile, decent and intelligent, they speak good English and are fond of learning to read and write. They are employed”—here we are again, Lord Haldane—“in the salmon fishery in summer, and in furring in winter, catching only a little cod in the fall of the year, for their own consumption. On the whole they make out a tolerably comfortable living. In the summer the coast of Labrador swarms with thousands of people from Newfoundland, who engage in the cod, herring and salmon fisheries during the season—and return in the Fall to their own country. They are, of course, not included in the Labrador census.”

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That is the picture which seems to me to be drawn by reading these documents as impartially as an advocate can. I am really trying to save the time of the Tribunal by giving them

what I think is the fair impression. The picture you get is that this area was an area which from very early times was regarded as principally, and almost exclusively, important as a nursery for seamen and as the site of a most valuable fishery. The fishery was far from being limited to cod, because there was also a fishery in salmon and other fish, for example, seals, which, of course, are found in the bay. This fishing population was migratory, or, rather, was in the nature of an annual visitant; they came in the spring and went away in the winter. That is the method that is employed. But side by side with that, there was a small body of people who were inhabitants in a permanent sense. There is a very curious word which you find used again and again, and which I am

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told is current in that part of the world: they are called "Livyers," meaning, apparently, people who live there; and these people, the permanent inhabitants, are there in quite small numbers. Naturally, of course, their base of operations is close to the sea water-line, but when their business calls for it they are to be found some distance inland; and there is a body of testimony to which I must call attention at some stage, which goes to show that there are people who are living, and permanently living, in what they always supposed to be Newfoundland jurisdiction, a long way up the various rivers, away altogether from the salt water, some of them living there permanently, some living there for half the year, and so on.

Therefore the problem is to apply to a peninsula which has those general features the language of these documents, statutory and prerogative documents. And, in doing so, is there any reason for denying what unquestionably was the understanding of everybody for a very long time, that one went up to the height of the land?

Now, my Lords, I had got as far as page 1462. Page 1464 is the report for the year 1870. I will try to save time about it, but it is referring again and again to the salmon fishery and so on, and on page 1466 it refers to the schools. In the middle of that page it gives you a list of the schools. They are on a very modest scale.

Then on page 1469 you get the report for the next year, and you get a mention now of a mail steamer. That is on page 1470. On that page, after again referring to the salmon and again referring to education, four public schools—the report says, at about line 25: "The medicines placed by the Government at my disposal I dispensed to all who required them." And then at line 28 it says: "The Mail Service for Labrador introduced by the Government last summer was doubtless of great utility and convenience generally to the merchants and fishermen engaged in the trade and fisheries of that coast; but I know that the mercantile house at Blanc Sablon, the southern extremity of our territory and the Hudson Bay Company at Rigoulette, Hamilton Inlet in the

North are dissatisfied that the postal steamer does not call on those places, as they are thus practically excluded from the advantages enjoyed by the rest of the mercantile community.”

Then it is rather interesting to see, on page 1475, that you do get migratory Indians who sometimes come across. In fact, there is a lot of material to show that some of these Indians, whose natural habitat is on the bank of the Gulf of St. Lawrence—they come, for instance, from places like Seven Islands, and Mingan, all in the Quebec territory—travel up the valleys; they make their way over the highlands and then trek or come down to the Labrador coast. Thus you get, for example, in 1873, on page 1475, this sort of report from Judge Pinsent: “This season we went in our vessel where I had not been before, to the N.W. River at the head of the magnificent bay called Hamilton Inlet”—your Lordships see where the North–West River is indicated—for the purpose of enabling Mr. Crowdy to vaccinate the Indians ”—apparently this is one of the blessings of civilisation which Newfoundland has been spreading in that part of the world —“to

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vaccinate the Indians belonging to the Hudson's Bay Company, who have their principal Labrador establishment there, and where Mr. Connolly, their chief officer, resides. It was owing to his representation and request last year that the Government determined to send a medical man to Labrador, for the purpose of vaccinating the inhabitants. Mr. Crowdy performed the operation on all the Indians here assembled, nearly two hundred men, women and children. These Indians are from Canada and the Mountaineer race—they speak the Indian language and follow the Indian mode of living. It was curious and interesting to see them encamped in their birchrind covered wigwams, at N.W. River, employed in building and repairing canoes and other work, preparatory to their journey into the interior of the country for hundreds of miles, on their annual furring expedition, for which purpose they are supplied by the Hudson's Bay Company. In these journeys all go—men, women and children; they travel by land and water, ascending rivers, crossing lakes and passing through woods and over barrens. They start from N.W. River in the summer and return the following spring with their catch of furs. They are Roman Catholics and are attended by a clergyman who comes down for that purpose every summer. These Indians are quite a different race from the Esquimaux who inhabit the north coast of Labrador, and who generally occupy themselves in catching fish and seals.” Then on the next page he reports that the mail service is improving.

Then, on page 1478, you get the report of another Judge, Judge McNeil, and again there is a great deal about the salmon fishery and the settlers. The idea that the

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Newfoundland Government is concerning itself with a merely transitory population is really utterly contradicted by these documents, and I do not think it can stand for a moment when they are examined.

Then on page 1480 comes a record which brings to an end my second period, namely, a record that the Newfoundland Executive decided to dispense with a separate Judge of the Labrador Court. They have relied, for a considerable time which follows this period, upon help given by medical missionaries or J.P.'s, and sometimes by other persons, and they have found, in the primitive condition of things, or they have thought, that that was satisfactory.

Then there follows an affidavit, and I think your Lordships may as well look at it now. It is the affidavit of Dr. Macpherson, and it is on page 1481. There is a very great deal of testimony of all sorts and kinds in these volumes. I am not going to offer to read more than a small part of it, but I will read what I think is significant. Here is Dr. Macpherson, who says: "I served as a medical officer on the Labrador"—he is using an expression which is so common—"for a period of nearly 3 years between 1901 and 1904. I went there originally as a medical missionary with Dr. Grenfell and was then employed by the Newfoundland Government to prevent the spread into Newfoundland Labrador of an outbreak of small-pox in Canadian Labrador. In the course of this work I vaccinated many persons in Newfoundland Labrador and made journeys into Canadian Labrador to treat small-pox

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cases, as there was no medical officer there. After this work I rejoined the Grenfell Mission until my return to general practice in St. John's Newfoundland, in 1904. While on the Labrador, Battle Harbour was my headquarters. I went as far West as Bradore, some 10 miles West of the boundary, between Newfoundland and Canada, and as far North as Rigolet." . . . Now, my Lords, "some 10 miles West of the boundary" means that he has passed from the green into the pink.

The LORD CHANCELLOR: Bradore is just to the left of the line.

Sir JOHN SIMON: Yes, my Lord, that is what he means by "Canadian Labrador." He says that he thought the disease was creeping up, and he is not only a person who has been dealing with the matter in Newfoundland Labrador, but he says: "I passed the boundary and I went as far as Bradore." Then he says: "I did not go further north, since there was a doctor at North West River, and another with the Moravians at Hopedale." That, you will find, is one of the bays further on. Your Lordship's eye will probably catch that.—"I used to spend both winter and summer on the Labrador. I exercised authority there under a commission appointing me a Justice

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of Peace. I was also appointed a Commissioner of the Newfoundland Supreme Court. I tried cases alone and in conjunction with Dr. Grenfell. There was never any difficulty in enforcing our decisions, which were accepted without question. I was also empowered by the Newfoundland Government as Relieving Officer to relieve cases of distress at the Government's expense when I thought such a course desirable. I frequently availed myself of this authority, the traders on the Labrador furnishing the necessary supplies at my order and claiming the price from the Government. I relieved Indians and Eskimos when necessary as well as white settlers. I further held the magisterial enquiries, which are equivalent in Newfoundland law to coroner's inquisitions, in the case of deaths in Newfoundland Labrador, when it seemed necessary. In my time the river at Blanc Sablon was generally assumed to be the boundary between Newfoundland and Canadian territories. Accordingly, when I was in 1902 trying to prevent the spread of small-pox, I had the bridge over the river destroyed and stationed a policeman on the Newfoundland side and also put up a notice prohibiting intercourse from the Canadian side. From my experience I should say"—I do not think that paragraphs in affidavits which say that one Government is the friend and the other is not, have anything in the world to do with it.

The LORD CHANCELLOR: I do not see what there is in this affidavit. He does not say how far up he went, or anything of the kind.

Sir JOHN SIMON: No, my Lord. I think the last paragraph is a little important, where he says: "I further say, from my experience of the Labrador, that the permanent settlers, who live at the heads of

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the bays, live in the winter almost entirely on hunting and trapping for furs, and that this occupation takes them, like the Indians, far into the interior. So far as I can see this must always have been so ever since settlers have been on the Labrador, for no other means of livelihood than furring is available for them in the winter.”

Then the next gentleman is Dr. Grieve, and his affidavit appears on page 1483. He is a gentleman who went up to the Northern districts; but there again I think your Lordship's comment is correct; he does not help one about how far he penetrates from the sea boundary.

Lord SUMNER: In paragraph 3 he speaks of travelling with dog teams. He could not travel from Anticosti to Okkak without going a very long distance.

Sir JOHN SIMON: Yes, my Lord; I am much obliged. I had not noticed that.

The next affidavit is one by Mr. Berteau. That is important, and, of course, so is the matter to which my Lord Sumner called attention. Mr. Berteau is the Comptroller and Auditor-General of Newfoundland, and he says: “In 1881 I was appointed by the Newfoundland Government Collector of Customs at Rigolet and Magistrate for Labrador, and held the appointment for nine years. During those years the Hudson's Bay Company were the principal direct importers to Labrador, but Nova Scotia traders also visited the coast. We made them all pay duties to the Newfoundland Government. As far as the Hudson's Bay Company was concerned, we collected duties in respect of goods intended for use at Rigolet, North West River, Cartwright, Davis Inlet, Nachvak, or for trading with the Indians in the interior.” Now observe what the contrast was, “but not on those intended for use at Ungava.” You will see, of course, that the Ungava Bay has never been, and we have never suggested it was, Newfoundland territory. Consequently, supposing you have goods calling at, let us say, Hamilton Inlet, and there are goods for Ungava Bay, they do not go inland; they go by sea round about. Then in that event, because they are going to Ungava Bay, they are not required to pay customs duty. I do not suppose that they have any elaborate system with bonded warehouses, but you see the reason: there is a significance in that, because you will observe what the distinction is. Here are your goods coming in. Where are they going to? If they are going to Ungava Bay, they are outside. On the other hand, if your goods are going “for trading with the Indians in the interior,” it is all, as far as we understand it, within the jurisdiction of Newfoundland. “When the goods for the Company were of American origin they were brought from Canada in bond and when they had been landed duty paid I cancelled the bonds. Tobacco and other material from

Canada on which excise duty would be payable if it was put into consumption was similarly dealt with. Where the goods were of Canadian production I levied duties on them just as if they were coming into a port in the Island of Newfoundland. 3. On several occasions I went up North West River and up the lakes and streams and saw the

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Indians who came out each summer. 4. I performed magisterial duties where necessary.” I told you this famous dispute about salmon was settled. Here it is. “I remember determining a dispute between Fortescue, chief factor of the Hudson's Bay Company, and McLean, in relation to the alleged barring by the latter of the River Kinnamish against salmon. I decided after inquiry that Fortescue's claim failed.” I think Mr. Berteau's testimony perhaps is required rather to fill in the picture.

If we might just go on in this volume to pick the matters up, page 1489 shows that as early as 1836 complaint was made by persons settled on the coast of Labrador, which may be summarised by saying they did not believe in taxation without representation. They were saying: You have a Legislature which is composed of persons elected from various constituencies in the Island of Newfoundland; you have not a system by which we who live in Labrador, have votes and members, and that being so, they went so far as to say: You cannot tax us. That was fallacious, but they said, at any rate, “You ought not to tax us.” You will observe here that Governor Prescott, who was the Governor at the time, is being pressed by Lord Glenelg, who was Colonial Secretary, and he says: “The Petitioners protest against the right of the Legislature of Newfoundland, in which they are not represented, to make laws binding on them, and record their belief that they are still under the authority of the King in Council, expressing at the same time their wish to remain so. In this view of their situation the Petitioners are evidently in error. By Statutes 49 George III. C. 27, & 6 George IV. C. 59, as well as by the Royal Commissions to Sir Thomas Cochrane and to yourself, the Coast of Labrador to the Eastward of a line drawn due north and south from the Harbour of Anse Sablon to the 52° north latitude is annexed to the Colony of Newfoundland. The authority, therefore, of the Legislature of Newfoundland to pass laws for the government of the settlers at Labrador”—nothing in the world to do with regulating a cod fishery—“cannot be disputed; but at the same time the claim of those settlers to be represented in the Colonial Legislature demands, and ought to receive, a deliberate consideration.” I cannot help sympathising with the complaint of these people for this reason, that if you look at that Commission, which you did glance at, to Governor Cochrane, in the previous volume, you will find that one of the things he is authorised to do is to convoke a legislative assembly of freeholders and

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householders within the Island and dependencies, and, as a matter of fact, when it came to the practical business of producing a Legislature, it was not, I suppose, found practicable, owing to the small population, or distance, or what not, and the only people who did sit in the Legislature came from the Island, I think it would be as well to appreciate that in Volume II, page 723, the Commission to Governor Cochrane authorised him to convoke a Legislative Assembly of freeholders and householders within the Island of Newfoundland and its dependencies. That is quite inconsistent with the idea, of course, that the only thing which the Newfoundland Government was doing on the dependencies or the mainland was simply

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having under its care and supervision a fishery. This complaint being made, it becomes a matter of controversy which does not really lead to much. You will see on page 1491 that there is a memorial at the bottom of the page addressed to the Principal Secretary of State for the Colonies, by merchants engaged in the fisheries on the coast of Labrador. These people are contending that really and truly there is only an Admiralty jurisdiction on the coast and that that is not, therefore, an area in respect of which the Legislature of Newfoundland can exact taxes. It encloses the document which follows, which is on page 1493, and the comment on it is on some pages which follow, and which are not in a very convenient order. On page 1495 Governor Prescott writes to Lord John Russell and acknowledges the dispatch and says: "The Memorial of certain merchants addressed to your Lordship on which my report is now required refers to Lord Glenelg's said letter and impugns His Lordship's reasoning, but until I am better informed I must believe that every part of this Government, in which a large portion of the Labrador Coast is included, is subject to the laws, whether fiscal or otherwise, of the Colonial Legislature—by an early Act of which the Labrador Court which had existed for several years was abolished in June 1834." They were complaining, also, that there was no constant Court there. On page 1496 comes a letter from the Secretary of State, signed, I think, by his representative, one of the officials of the Colonial Office, saying: "With reference to my letter of the 2nd of last March acquainting you that the Memorial enclosed in your letter of the 25th of February preceding, which complained of an attempt of the authorities of Newfoundland to levy duties on the Labrador Coast, would be referred to the Governor of the Colony for his Report, I am desired by Lord John Russell to inform you that the Report which has been lately received from the Governor gives His Lordship no reason to doubt that the Labrador Coast as a dependency of Newfoundland is subject to the same laws, whether fiscal or otherwise, to which every part of the Island is amenable; and that, although from the imperfect machinery of the Collection, some parties on the

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Coast of Labrador may have evaded the duties, no payment has been exacted that was not strictly due.” A number of documents follow, all of which I have read, but which I think I can save your Lordships the trouble of reading by saying that they reinforce that point rather elaborately, but do not, I think, add anything very material beyond that. On page 1533 you will see an indication in a letter from Mr. Donald A. Smith (who is, of course, Lord Strathcona) reporting to his own Governor—this is a letter between Mr. Smith and the Hudson's Bay Company—that he consents to pay duties on the coasts of Labrador under protest; a very good business to pay duties under protest; he does not give the reason that he wants to pay duties to somebody else. He says: “For the other goods from England and Canada, all of which were landed at North West River, the Jacques Cartier being there at the moment, I declined paying, holding that he and the Judge, who accompanied him to this place, had no jurisdiction at North West River. This he argued for some time, of course, professing to view the matter differently, but finally withdrew

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without receiving the duties.” If that is traced through, you will find the duties were paid. Protests were made at different times, and, so far as I can see, in the end you find that that particular controversy dropped. Whether that is so or not, there follow some documents which really put it beyond question. Will your Lordship just take these references to three of four of the statements that are included in this volume. On page 1559 you will find an affidavit by a gentleman named Mr. Blake; he is an old inhabitant and he gives a very interesting account of what he has been doing. “I, Thomas Blake, make oath and say as follows:—I live at Mulligan, about 20 miles below North West River”—that is to say, where the North West River comes out, I suppose—“and about 120 miles from the sea coast”—he means the general run of the sea coast—“I was born in Hamilton Inlet about 66 years ago. My father, William Blake, was born and lived and died here in the Inlet. He was 52 years old when he died. His father, William Blake, came from Devonshire, England, as a young man in the pioneer days of the fishing vessels sent out from England to fish on the coast during the summer season. My grandfather, my father and myself have lived in Hamilton Inlet about 140 years. I have gone into the interior about 184 miles from my home and lived there during the winter season trapping and hunting. I come out in the spring and fish for trout and salmon. I have been doing that for over fifty years. We have owned and occupied the land where I now reside during my father's lifetime and my own. Although living so far up the Inlet and in the interior of the country (being about 220 miles from the coast) I have always considered myself a citizen of Newfoundland, as my father did before me. We have been subject to the laws of

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Newfoundland and have paid revenue to the Customs ever since the first Revenue Collector came on the Labrador. I remember when the Court was held here at Rigolet by Judge Sweetland and afterwards by Judge Pinsent. I paid revenue to the Collector of Customs, or Customs official, that came with these Judges. I have never had anything to do with the Government of Canada, and I have never obeyed or been asked to comply with any of its laws or rules or directions in connection with the interior of the country, the game laws or fishery laws, nor paid any tax or revenue to any official of the Government of Canada. I have always believed that the land that I have resided on, trapped over and used in the interior, was the Dominion of the Government of Newfoundland and always looked to the Governor and Government of Newfoundland as the rulers of the country.”

Viscount FINLAY: Is there any conflict of opinion on these points?

Sir JOHN SIMON: Very little. I must not overburden the Board by reading more than is right; I am selecting out of a rather large body of evidence things which I think will put it most pointedly. Really the answer to your Lordship's question is, I really believe not. We are not able on our side, of course, to offer you proof of so detailed, persistent and thoroughgoing occupation and administration as, of course, you

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would have in a more developed country; of course not. Indeed, the place is wild, and there is a great deal of it which nobody knows much about even to-day. So far as I know, as against that, there is nothing in these volumes at all to show that the Canadian Government has ever taken an effective part in the jurisdiction, or in revenue matters, or the like, until some extremely belated attempts which, as you will see in a moment, are actually after the dispute has arisen. Since the dispute has arisen, it is wonderful how extraordinarily active the rival Government can be.

That is Mr. Blake. The next one that I thought would be useful is on the next page, Mr. Goudy. He gives an illustration of a very similar sort. This is Joseph Goudy, of North West River. He says: “I am 73 years of age, 70 of which I have lived in this Bay, about 140 miles from the sea coast. I have been a fisherman, hunter and trapper all my lifetime. I have gone into the interior hunting and trapping when I was a young man, but not so far in as my sons go now. There was no necessity then, as fur-bearing animals were much nearer. My sons, Allan aged 36 and Charles aged 34, go in regularly every winter a distance of between two and three hundred miles. They have got a house in there, and stay there all the winter season and come out in the spring; nearly all the young men residing about here, and further on, do the same to my certain knowledge. I own a range of

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houses and traps for a distance of about 30 miles inland”—traps, of course, for catching the furry animals. “My house, outhouses and gardens, in all about a couple of acres, I have occupied for over 60 years. I have always paid Customs duties to the Government of Newfoundland on all that I bought or purchased. I remember when Judge Sweetland visited Rigolet and held Court there. I also knew Judge Pinsent, and also Mr. Winter, the Collector of Customs, who came with the Court. I have paid duties to the Government of Newfoundland ever since duties have been collected. Although residing up here in the interior of the Labrador, I have always considered myself a citizen of Newfoundland, and subject to its laws and government. It is Newfoundland laws we have to go by. I have never had anything to do with Canada, nor any persons representing the Government of Canada, have never paid any duty to them, and have never obeyed any of their laws or rules and regulations.”

The next one I was going to take is page 1562, the affidavit of Mr. Parsons, now apparently of Montreal. He says: “I spent 25 years on the Labrador Peninsula. I was two years at Cartwright and five at Rigolet.”

Sir THOMAS WARRINGTON: Where is Cartwright?

Sir JOHN SIMON: It is south of Hamilton Inlet.

Sir THOMAS WARRINGTON: In the last affidavit, Goudy talks about land which he had bought and purchased in the interior and paid duty on. It would be very interesting

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and useful to know whether he bought it from the Government of Newfoundland.

Sir JOHN SIMON: I am going to show your Lordship that the Newfoundland Government had been making grants of public land.

Sir THOMAS WARRINGTON: He did not say from whom he bought it.

Sir JOHN SIMON: He does not in fact; but I can show it. The Newfoundland Government to-day is drawing a substantial revenue from the rent of timber limits in this area.

Sir THOMAS WARRINGTON: Was it doing so before the dispute arose?

Sir JOHN SIMON: Yes, my Lord. I do not say it was as large an amount as now.

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Mr. MACMILLAN: The statement which my learned friend makes with such confidence we traverse with equal confidence.

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Sir JOHN SIMON: Yes, but I happen to have the material.

Mr. MACMILLAN: So have I.

Sir JOHN SIMON: I was reading the affidavit of Mr. Parsons. "I then went to North West River and after that to Cartwright for four years. After that I went to the Ungava section of the Peninsula for nine years, being for two years of that time travelling at intervals from Quebec to St. Augustine's. Then I resided at St. John's, Newfoundland, and travelled in the Canadian and Newfoundland Labrador district which covers an area between Blanc Sablon and Port Harrison in Hudson Bay. During the last four or five years I have also travelled in the territory east of Montreal. I was at North West River for the three years 1905–7. The permanent settlers, who subsist principally on furring in the winter, used constantly to go inland hunting and trapping 150 miles or more, and often as far as height of land. There were some 200 or 300 Montagnais Indians definitely attached to North West River and they also travelled far into the interior on their hunting expeditions. Goods supplied to the settlers and Indians round North West River Post were brought up via Hamilton Inlet and duty was paid on such goods to the Newfoundland Government. The Newfoundland Game Laws were enforced against the settlers, and I remember a man residing on the Labrador Coast being fined \$100 for killing animals out of season. When I was at North West River lumbermen

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operating there used to work as far inland as Mud Lake, 40 miles from Sandy Point, the entrance to Goose Bay, and cruisers went much further up

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I myself travelled up the Nascopie or North West River about 40 miles from the Settlement and also went up Goose Bay and some 20 miles along the Hamilton River. In addition I went some 5 or 6 miles up the Kinamon. I should estimate that there were about 1,000 settlers in Hamilton Inlet when I was there. In the fall of the year the tide at North West River was very strong, and the water gets brackish." Lord Sumner will notice that; it has a bearing upon something he said to me.

Then would your Lordship just take two references in Volume II, which are of a similar sort, and then I will pass on.

In Volume II, page 384, there is an affidavit of Mr. William Ernest Swaffield, who apparently is now in Montreal. He is Manager of the Hudson's Bay Company's Fur Warehouse at Montreal. He says in paragraph 1: "I was for 29 years in the service of the Hudson's Bay Company on Labrador. I went to Davis Inlet in 1891 as Post Manager. After 9 years there I went to Cartwright for 5 years in the same capacity. I then went to Rigolet for 7 years and to Cartwright again for 8. During those last 10 years of my service on Labrador I was District Manager of the Labrador District consisting of 4 posts, viz.:—Cartwright, North West River, Davis Inlet and Rigolet." By "4 posts" he means, of course, four Hudson's Bay Company's posts. Paragraph 2: "As District Manager I visited North West River once a year for inspection. I recall that C. S. Porter & Company of New York established a fur trading post at Cartwright in 1916 at North West River in 1917, and at Rigolet in 1919, and that the Revillon Company"—I think that is a company which one knows of by repute as the place where ladies get furs in London—"established a post at North West River over 20 years ago, which they still maintain." Paragraph 3: "I always paid duties to the Newfoundland Government for each of the Hudson's Bay Company's posts in my District, and so to the best of my knowledge, information and belief, did my predecessor. I base this belief on my recollection of the Company's books and the fact that when I took over there was no suggestion that the duties had not been or ought not to be paid. The annual payment for the District ranged between 2,000 dollars and 5,000 dollars." Mr. Donald Smith was a very good business man, but whatever his protest may have been, the duty was paid. Paragraph 4: "About 1911 a census was taken for the Newfoundland Government and a little later I took a rough census of the two Bays, Sandwich and Eskimo, for the Canadian Government. To the best of my recollection there were about 350 people in Sandwich Bay and about 700 in Eskimo Bay." 1911 is after the controversy arose. When I said just now there was really no evidence of Canadian activity in this area, I had in mind the possibility it might be

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said: "Oh, yes, we took a census." Paragraph 5: "I used to send stores to Mud Lake, a sub-post of North West River, about eighteen miles further up the Bay situate at the entrance of Grand River. Mud Lake is about the end of Salt Water. When the tides come up it 'backs up' the River there in its flow outward." Paragraph 6: "The Indians used regularly to come to Davis Inlet from the interior. Sometimes considerable

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numbers of them, amounting to not less than about 100, came from Ungava Bay, and I often did 5,000 dollars of trade with them in one season." Paragraph 7: "Indians used also to come out to North West River every Summer and Winter. In the Summer they would camp there for weeks, make their canoes, dress their deer skins, and do other work, and in the Winter they would come out to trade. We opened accounts for many of them and made them advances every Fall against their Winter's catch of fur, and the number of them coming out is increasing in recent years. Our Company has recently bought the Revillon Company post at North West River and that Company had withdrawn from Labrador altogether." Paragraph 8: "During all the time I was on Labrador the Newfoundland Government always prohibited the cutting of timber within a three-mile limit from the sea"—of course, if the Canadians' case is right, that is going three times further inland than they had any right to go—"and forbade the Summer fishermen, the permanent settlers, the Eskimos or the Indians to trap for fur out of season." Paragraph 9: "The permanent residents, who numbered on the average some 3,000, always subsisted on furring in the Winter. Men, women, and children took part in it, and their hunting took many of them as far as the height of land." Paragraph 10: "At North West River the tide in the Fall of the year is brackish and the water too salt to be drinkable." Paragraph 11: "My Company was frequently called upon to relieve distress, and when this happened used to recover the money from the Newfoundland Government. Such relief was given not only to the white settlers but also to the Eskimos when required." Paragraph 12: "The whole of the Hamilton Inlet as far as Goose Bay is navigable by steamers." Goose Bay is, I think, at the extreme west. It is navigable by quite big steamers; I have the soundings to show to your Lordships. "The Newfoundland Government's mail steamers regularly go to North West River." I think for the present purposes that really indicates what I want to indicate on that sort of point. Now I should like to tell your Lordships how the present controversy arose and what is the area and what are the circumstances in which this suggestion that we had been wrong in our view comes up. Let me first get rid of a point which does not on analysis hurt me at all. In 1880, as your Lordships remember, there was an Order in Council (you will find it in the red volume at page 244) which annexes to Canada all British North America except Newfoundland and

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its Dependencies. "Imperial Order in Council of 31st July, 1880, annexing all British Territories in North America (except Newfoundland and its Dependencies) to Canada." Now it does not carry the matter a step further. I, of course, concede that I am not entitled to succeed in the present contention merely by saying this is No Man's Land, and I should have some of it. If it is No Man's Land it is not my land. But on the other hand, if the construction for which I am contending of the Statutes and Orders in Council is correct, neither does this Order in Council of July, 1880, reduce my rights by one bit. So that neither anything which has been done under the Order in Council—and may I

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add, and I do it with intention—nor anything that could be done by Canadian legislation, will reduce the area which is annexed to Newfoundland at all. I mention the possibility of Canadian legislation because after this controversy arose, when it was at an acute stage, the Dominion Parliament thought fit to pass legislation in which it purports to define the boundaries of Quebec in terms which I submit obviously invade my area. All I say about it is that in so far as it has done so it is perfectly nugatory and therefore we are ultimately thrown back to the question of what the Imperial Acts of Parliament and Grants effected.

The present controversy may be said to begin in 1888. When I say the present controversy I do not for one moment mean any controversy between the Dominion and Newfoundland. That did not arise until much later. The first thing that happened was that Mr. Justice Pinsent, who I rather think was the son of Judge Pinsent, whose name you have seen, thought it desirable to point out that it was just as well to have this thing cleared up; and if your Lordships will look in Volume II, at page 341, you will see that Mr. Justice Pinsent (the son, not the father) is writing to Governor Blake. It is really a Newfoundland Judge writing to the Newfoundland Governor. He is saying that it would be desirable to have this thing made quite clear. "Sir, I have the honour to bring under your Excellency's notice a matter of no little importance touching the territorial limits of Labrador as a dependency of this colony. Some years ago I submitted the point to Governor Sir John Glover, but either his illness or his removal about that time prevented his giving it much consideration. The matter is one not without importance in its general bearing upon the rights of government, but it comes to be of practical and essential significance when questions of either civil or criminal jurisdiction arise, and they may at any time arise, particularly on the northern circuit of the Supreme Court where I so frequently preside. The case in which the difficulty first became prominent was upon the trial in St. John's of an Eskimo Indian for the murder of his wife on the coast of Labrador. The question of the jurisdiction of the Supreme Court was then raised on behalf of the accused, and not without much force, but the locality of the offence was so

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near the coast that the court overruled the objection. The extent of the jurisdiction of the Government of Newfoundland in Labrador is thus defined by letters patent of the 28th March, 1876." Then he appends the extract from the letters patent which were then current. Then he says: "For the purpose of illustrating the matter clearly, I enclose portion of a map of the Dominion of Canada, published by Canadian official authority, in which all that part of the peninsula of Labrador coloured white is, as it were, allowed to belong to this Government, but if that area is compared with the description taken from the royal letters patent constituting the office of Governor and Commander-in-Chief of the island of Newfoundland and its dependencies, it will be seen that the territorial extent of (Newfoundland) Labrador represents a vast deal more than would be ordinarily intended by the term 'coast,' and,

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moreover, extends inland and west of the line drawn due north and south from Anse Sablon eight to nine degrees. This Canadian topography is, I think, quite correct so far as the limits of the Dominion territory are concerned, and the remainder of the coast of Labrador would thus quite naturally belong to this Government, but they are not so described and defined in the letters patent or commission of the Governor of this colony, and indeed the description falls very short of covering the whole ground, and when questions of jurisdiction arise the court has to determine in every case whether the particular locality is upon the coast of Labrador or not. The fact is, there are some settlements of importance far inland, e.g., notably in Hamilton Inlet, over 150 miles from the sea coast. The geographical reasons for the division given in the Canadian map are clear enough, as the north-western portion of Labrador, or that which drains into Hudson's Bay and Hudson's Straits, now forms the north-east territory of the Dominion of Canada, and the southern portion, draining into the Gulf of St. Lawrence, is incorporated with the Province of Quebec. At the same time the Canadian authorities are not certain or precise as to their boundary lines, and they are marked, as your Excellency will perceive, 'supposed boundary,' and possibly the course of the North West River, so far as it runs from the 52nd parallel, would, regarded naturally, be the more consistent and definite dividing line. The publication by Canadian official authority of the map in question or some such other may be useful as a definition of the rights of the Dominion of Canada, but it would not have the effect of conveying to Newfoundland British territory not included in its own, and which might, from not being by Imperial authority embraced in either, be a sort of 'no man's land,' over which neither of the colonies could exercise government nor their courts jurisdiction. I have therefore to submit to your Excellency and to Her Majesty's Government the desirability of so defining the territorial boundaries of that part of Labrador

intended to be attached to Newfoundland as a dependency of its Government, that no doubt may be left as to the jurisdiction of its courts and the authority of its officers.”

Viscount HALDANE: I think that is a very practical letter.

Sir JOHN SIMON: Quite, and his attention has been called to it because he has been trying an Eskimo, and the defence, having nothing to say on the merits, I suppose, took exception to the jurisdiction.

Mr. MACMILLAN: With much force.

Sir JOHN SIMON: Certainly with much force; it is sure to be forcible when you are defending a gentleman charged with an offence of that kind.

The LORD CHANCELLOR: I do not see what he means by the North West River running from the 52nd parallel.

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22 Oct., 1926.

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Sir John Simon.

Mr. Macmillan.

Sir John Simon.

Sir JOHN SIMON: I think the map he must have been referring to—in fact, I think we have identified it—is that one in our Atlas, No. 35, which your Lordship looked at earlier in the day, where you called my attention to the phrase “supposed boundary.” I think he must have had this map before him. It is on rather a small scale, and when you look at the map to see what it means, it is on so small a scale that you can hardly see it, but it looks as though it indicated some sort of water channel which cut across the yellow and got into the white.

Mr. MACMILLAN: That is quite a common feature of several of the maps. They did not know the location of the North West River in those days, and they drew it debouching into the Gulf of St. Lawrence. There are several instances of that.

Sir JOHN SIMON: There are, but at the same time I should hardly have thought they would not have known by the year 1878—

Mr. MACMILLAN: In 1888, ten years later.

Sir JOHN SIMON: I was saying I should hardly think that those persons in 1878 who were really devoting themselves to geography would not have found out that there was a North West River in Hamilton Inlet. However, it does not matter. It is rather plainer on this other one. I do not know whether your Lordship cares to see it.

The LORD CHANCELLOR: No, I can see it on this map.

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Sir JOHN SIMON: Now, my Lords, that is starting a chase which went on for some time, and, as sometimes happens, I think the cautious, and I dare say acute, judicial view which urges that something quite explicit should be done is not quite the same as the possibly dilatory but certainly vague policy which postpones the precise decision; and from this time forward Mr. Justice Pinsent for some time is pressing the point. At page 346 it is interesting to observe that at any rate Sir John Macdonald, who was Prime Minister of Canada, thought, and very properly thought, that his official map was perfectly right and that there was no difficulty about it. He quotes the Act and he says: “If any maps have been issued in Canada showing other boundaries than these they are inaccurate. The undersigned therefore recommends that this despatch be referred to the Minister of the Interior, with instructions to make full inquiries as to the issue of the said maps and to report as to the best means of correcting any such errors.” You will find in a moment he comes to the conclusion that there is not any error.

Mr. Johnston, a very well-known name in connection with map-making, on page 347 makes a memorandum. If I understand rightly, Mr. Johnston was the Canadian geographer. He was, I think, a relation, at any rate, of the very well-known Edinburgh firm, and I

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rather think that when Lord Dufferin went out to Canada, he took with him Mr. Johnston, who became Geographer, and there is no doubt Mr. Johnston's views on these matters are quite important. Mr. Johnston made memorandum which he addressed to an official in the Canadian Government. He says: "With reference to the memorandum of Sir John Macdonald hereunder (10th May, 1889) and the despatch of the Secretary of State for the Colonies (9th April, 1889), I find the jurisdiction of Newfoundland in Labrador more fully defined in the 'Imperial Letters Patent' (28th March, 1876)" and so on. Then he says at line 23: "On the sketch map which I have prepared to accompany this memorandum, taken from the maps of British North America, by Arrowsmith, of London, and W. and A. K. Johnston, of Edinburgh, it will be seen that the custom has been to make the boundary of Labrador, southerly, from Cape Chudleigh (at the ocean entrance to Hudson's Strait, along the height of land) to the undefined northern boundary of Lower Canada (now Quebec), thence easterly and south along the said northern boundary of Lower Canada and Anse Sablon. It does not appear that this line was intended by the geographers to represent the boundary of the territory in Labrador under the jurisdiction of Newfoundland, but must probably be the dividing line between Labrador and what was supposed to be Hudson's Bay Company's territory. The name 'Labrador' or 'Peninsula of Labrador,' in its full geographical application, has been generally understood to cover the whole region between the Atlantic Ocean and the east coast of Hudson's Bay, as evidenced by the earliest maps of the country. On the map of the Dominion, published from time to time by this department, the same system of drawing the Labrador line has been followed as on the British maps, but we have invariably taken the precaution to show it in a dotted line with the words supposed or undefined applied to it."

Mr. Johnston there is not quite accurate. They have done so sometimes, but not always. "My impression is that nothing more was intended than a comparatively narrow strip along the coast (coloured pink), which would include the fishing stations, missions, Hudson's Bay Company's posts, etc., and such a strip, probably, is all that is included in Imperial instructions to the Governor of Newfoundland, as indicated in his despatch to the Colonial Secretary, 27th February, 1889. He writes: 'The frontier laid down by the Dominion Government . . . does not correspond . . . with that laid down in my instructions, thus leaving a large tract between the two lines which is under no one.' The so-called neutral tract referred to here, I have no doubt, is that coloured yellow on

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the sketch map, and which is, beyond question, a part of the 'territorial transfer' made to Canada by the Imperial Government in 1880." Then he quotes Mr. Justice Pinsent. And then he goes on to say: "It is hardly necessary to remark that Canada has not defined any line between the two colonies, either on official maps or otherwise, and, so far as I am aware, the question is now placed before the Dominion Government by the Colonial Secretary for the first time. At present the best maps of the interior of Labrador (as might be expected) are very inaccurate and misleading in their character, being largely made up from the crude sketches of Hudson's Bay Company's officers,

The Lord Chancellor.

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Sir Thomas
Warrington.

supplemented by Indian reports. A map is now, however, being prepared in this department, under my own supervision, which will be ready for the printer in a few weeks, and which will contain the latest and most reliable information in relation to the geography of the Labrador region." What he encloses is something which he has prepared in which he draws a substantial coast selvedge cutting across at Rigolet, but in other respects, as far as I can see, including the backs of the bays; and then, having indicated a sort of watershed, he says of the yellow portion: "Presumed to be part of the 'territorial transfer' made to Canada by the Imperial Government in September, 1880." There is nothing whatever contemporaneous with the Order-in-Council of 1880, so far as I know, which indicates, or indeed suggests, that the motive of the Order-in-Council of 1880 had to do with this area. There were very large areas which no doubt were affected.

Sir John Simon.

The LORD CHANCELLOR: Is he right in saying that the wavy line along the heights corresponds with the eastern boundary of the Hudson's Bay territory?

Sir THOMAS WARRINGTON: I see on the map he says, at the line dividing the green from the yellow: "Watershed: formerly the easterly limits of H.B."

The LORD CHANCELLOR: Is he right in saying that?

Sir JOHN SIMON: I think what one can say about that is this. That is certainly the view that is expressed in the House of Commons map of 1857. That is in the Newfoundland Atlas Map No. 26.

Viscount HALDANE: What he is suggesting is that there is a definite transfer to Quebec, but all the rest is undisposed of.

Sir JOHN SIMON: That is what he is suggesting.

Viscount HALDANE: That is what his map shows.

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Sir John Simon.

Sir JOHN SIMON: His map is drawn to accompany his particular despatch. Nobody had ever done it before. I was just going to trace it back by reminding the Lord Chancellor, if I might, that I think it is reasonable to say that the green on Map No. 26 verges on the pink on the height of land. That is by no means limited to that, however. It is to be found again and again in the older maps so far as the Hudson's Bay is concerned. Indeed, it was one of the points that I was seeking to make earlier in the argument. For instance, it is put in an obscure form in some of the quite early ones, and in a more precise form later on. Take Map No. 12. That is a very important map. I am going to call attention to some commentary on it at some time. Map No. 12 is Bellin's map, 1755. Here you have, as you see from the legend: "Les possessions des François sont colorées en bleu; celles des Anglois sont colorées en

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Lord Sumner.

Sir John Simon.

Lord Sumner.

jaune." He therefore is colouring the Hudson's Bay territory by this verging yellow line, and though one cannot be quite sure, I think there is no doubt that that is intended to be the height of land. Would your Lordship observe the words "Hauteur des terres" on the boundary between the yellow and the blue on the meridian 95?

Lord SUMNER: You notice that to the left of the words "Hauteur des terres" there is also the phrase "Grande étendue de pays entièrement inconnue."

Sir JOHN SIMON: That is quite true, but the two things are not only not contradictory, but, if I may say so with great respect, deal with quite different points. The proposition that my territory goes back to the height of land is a proposition which is neither advanced nor impeded by the further proposition that I cannot tell you on this map how many miles that will be.

The Lord Chancellor.

Lord SUMNER: Oh, no; but it is indicated where the height of land is in a territory which is entirely unknown. If you content yourself by saying, wherever it is when it is found out in this unknown land, that will be the limit to your territory, then there will be no contradiction. He has not found it out.

Sir JOHN SIMON: Quite so. He is a more honest geographer than some.

Sir John Simon.

Lord SUMNER: I thought the point might be of some value to you yesterday in this connection as evidence that in those days, at any rate, it was taken for granted that the height of land was a natural frontier of a country, approaching from the

sea. Even although you could not tell where it was, there must be one. Therefore when you get there you will have discovered the undiscovered boundary.

The LORD CHANCELLOR: Explore another avenue. Your case is that the Coast of Labrador runs back to the height of land. It seems you may also say that at that point it runs back to the Hudson's Bay boundary. It is the same thing.

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Sir John Simon.

Sir JOHN SIMON : Yes.

The LORD CHANCELLOR : That is all there is of Labrador.

Lord Sumner.

Sir JOHN SIMON: Yes. If you remember, my Lord, I called attention to that view very early in the argument yesterday. Of course, when you have first the Hudson's Bay territory granted—which I asked the Board for the moment to assume meant the territory running back to the height of land—and then you proceed, by the Commission to Graves, to say that the Governor of Newfoundland is to have jurisdiction on the Coast of Labrador beginning at the entrance to Hudson's Straits,

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it perhaps is worth noting that that is, if I am right, beginning at the point where the Hudson's Bay territory ends, and if it was a question of going back and tracing the boundary, again if I am right, the same height of land serves both purposes.

Sir John Simon.

Lord Sumner.

Sir John Simon.

Lord SUMNER: I think you will find that in the sixteenth and seventeenth century geography "coast" is constantly used merely for that line that you approach from the sea. There were half-a-dozen separate coasts in the Bight of Benin—the Guinea Coast, the Slave Coast, the Gold Coast, the Ivory Coast, etc. There is the Coromandel Coast in Southern India, and there is the Mosquito Coast, and two or three others in the Gulf of Mexico, none of which, as far as I have understood, had any definition involving the proposition that you could not go extending into the interior. And if you come to consider the extension made in the eighteenth century by the American colonists, they claimed the right to proceed across the continent until they came to the sea on the other side as inherent in the fact that they were colonists upon an Atlantic coast.

Sir JOHN SIMON: True. But the last view, of course, is undoubtedly taking the thing on quite a different line. That is disregarding mountains, and it was a bad claim.

Lord SUMNER: It appears to have been the idea that you landed on a coast for the purpose of going into the interior when you were ready to go.

Sir JOHN SIMON: Yes. May I take up the illustration your Lordships give? We have prepared ourselves—and I have here the assistance of a whole book about them—instances like that for the purpose of showing to what extent the coast, in cases of that sort, really meant what you may call the basin drained as between two points on the coastline. Directly, in answer to the Lord Chancellor, I say that the view that the boundaries of the Hudson's Bay territory were discoverable, I will not say identified, is strongly confirmed by such a map as this. It is true that you find the words “Hauteur des terres” where the land is unknown, but it is material to observe that you get the words “Hauteur des terres” over again when you are getting to much better known land. You get it at the southern point, and I am not sure whether you do not get it a third time. Anyhow, there is no question that the line is drawn with the intention of showing how far the Hudson's Bay territory would extend, if this map indicates accurately the river systems running into Hudson's Bay. There is no doubt about that.

Then the next thing is this. That view prevailed so far as the Hudson's Bay Company was concerned throughout, and here I can give the Lord Chancellor the answer to a question he asked me yesterday which for the moment I was not able to deal with. If you look at the variation of the boundary which on some of the maps is called the

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Sir John Simon.

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—
Sir John Simon.

boundary of the Hudson's Bay territory as traced by the Commissaries under the Treaty of Utrecht, you will find, when you look at one of the volumes here, that the explanation is this. The Hudson's Bay Company were invited by the British Government to indicate not so much what their boundary was as how much of their boundary they really insisted upon if the French on the other side were difficult, because after the Treaty of Ryswick our position was very weak in this part of the world. The Hudson's Bay Company then propounded a line which no doubt would have given the French settlers much they might have liked on the James Bay part of the area, but compensated themselves by taking more than they were entitled to on the Coast of Labrador. Therefore I think it is correct to say that the view that has prevailed, though I thoroughly agree it has nowhere been said in so many words, is that such a grant as the Hudson's Bay Company had was really a grant to the height of land.

Perhaps I might indicate, before the Board rises for the day, when this controversy of Mr. Justice Pinsent's was carried on. On page 354 of Volume II is a further memorandum of his, and in that further memorandum he says that the Labrador boundary, I think, will be the height of land, or it will be a straight line which joins Cape Chidley to the high waters of the St. John. It is really that view which is illustrated in the little map found in Volume I, which I think Lord Sumner referred to, by which it would almost appear that Newfoundland and Labrador is in the nature of a right-angled triangle.

Then the thing having been left undecided (and hence the inquiry upon which we are now involved), in 1892 there was a Conference called the Halifax Conference, details of which are to be found in Volume II, page 362, when one of the subjects on the agenda as between the Dominion of Canada and the Colony of Newfoundland was the subject. There were a number of other subjects to be discussed, but whatever may have happened about the others, this subject never got dealt with except very perfunctorily. The matter was left as it was until in 1902 the Canadian Government take objection to a grant of timber leases which had been made by the Newfoundland Government to a company called the Grand River Pulp and Lumber Company along Hamilton River, the back behind the Inlet. Canada challenged this, and Newfoundland justified it. There was a good deal of correspondence. Both the Dominion and the Colony indicated their willingness that this matter should be disposed by reference to the Privy Council. The late Mr. Alfred Lyttelton, when Colonial Secretary some years ago, approved, and the interval has been occupied, I suppose, in preparing for trial.

Viscount HALDANE: There is another theory which is put

forward in Mr. Johnston's map, and that is that Canada never got any title until 1880, when the Order-in-Council was passed putting the whole of British North America, with the exception of Newfoundland, into Canada.

Sir JOHN SIMON: Quite so. Of course, if it could be said that before 1880 my boundaries were not upon their true application such as

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I say, and that there was down to 1880 a No Man's Land, I am not for a moment disputing that that No Man's Land was by the Order-in-Council thrown into Canada. My case is that there was not, and that the statutory history, and that the circumstances geographical and historical, combine to show the true conclusion to be reached is that the boundary is a boundary to be ascertained by reference to the height of land.

(Adjourned till Monday, 25th October, at 10:30 a.m.)

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Friday, 22nd October, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. SIR THOMAS WARRINGTON

IN THE MATTER of the BOUNDARY
between the **DOMINION of CANADA**
and the **COLONY of NEWFOUND-**
LAND in the LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

SECOND DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Dominion of Canada.

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Monday, 25th October, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. SIR THOMAS WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

THIRD DAY.

Counsel for the Colony of Newfoundland :—The Rt. Hon. Sir JOHN SIMON, K.C., Mr. F. T. BARRINGTON WARD, K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by Messrs. BURN & BERRIDGE.

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—
Sir John Simon.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P.

MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.
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MORNING SESSION.

The LORD CHANCELLOR: I presume, Sir John, you have completed your preliminary sketch.

Sir JOHN SIMON: Yes. I have covered a good deal of ground. and I hope it may save time now and later on. I think it would be convenient if I were to indicate now the compartments which I have to trouble your Lordships with in rather more detail. This is a case where I believe at this stage it is very easy to move from one branch of the case to another, but it might be convenient if I indicated the compartments I considered I should have to deal with.

I should like first of all to take up the question of the area of the Hudson's Bay territory a little more fully. I have had in mind one or two observations which the Lord Chancellor and others have made about the boundary indicated in the maps, and I think I am now in a position to deal with the remainder of that matter and dispose of it. It is a very important part of the case, I think. Then there is a thing which may, I am afraid, seem a little wearisome, hut it is really necessary. It will be necessary in another compartment to take the early and crucial document—the Commission to Thomas Graves in 1763—and in addition to the Commission itself to read some portions of the instructions which accompanied it, and also to read the documents which are on record and which were drawn up at the time, showing how the Lords of Trade and Plantations, as they were called—the predecessors of the Colonial Office—who looked after both trade affairs and what were called colonial affairs, approached and discussed the question of the redistribution of British land in America. There is a very important series of documents passing between the Secretary of State and the Lords of Trade and Plantations which show that questions like the new boundary for the Province of Quebec, and other things of that sort, were all being carefully discussed before this formal document appeared. A good deal of reliance is placed upon passages in this document by the other side, and I must call attention to them. Then the third compartment of the case, which also arises directly out of that, is the problem of the Indian lands.

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I indicate those three large heads—the Hudson's Bay Company matter, the contemporary documents associated

with the formal grants and definitions of 1763, and the Indian lands. I think those three heads will all be found to be of some importance.

I will take the Hudson's Bay Company matter first. Your Lordships have already a very clear view of the Hudson's Bay part of the case in the outline, and a number of things have already been noted in the course of the argument. But what is a little important to appreciate is this. The Hudson's Bay Company by their original charter of 1670 had, as

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we know, no interior line actually laid down by metes and bounds. That is not to say that the area of the Hudson's Bay Company is not one which by the terms of the definition could be ascertained, and my case is that the Hudson's Bay territory really was a territory that ran up to the height of land, and that there is a great deal which confirms that when one looks rather more closely at the documents. You will find that at a later stage the Hudson's Bay Company itself expounded its view as carrying up to the height of land, and that that view is acceded to by the British Government; and it is very important for me to show that this horse-shoe shaped piece of land round Hudson's Bay coloured green in the Arrowsmith map of 1857 is really defined by some such method, because, of course, it at once gives me a natural boundary at any rate at the Cape Chidley end.

The LORD CHANCELLOR: What number is that map?

Sir JOHN SIMON: The Arrowsmith map is No. 26 in the Newfoundland Atlas. This is the map which your Lordships will remember was ordered by the House of Commons to be printed in 1857 at the time when there was this Parliamentary inquiry. If your Lordships will examine the green area from the point of view of the height of land, you will see that on the eastern side it is plainly so indicated. There is no doubt at all that the green on the eastern side where it marches side by side with the pink of Labrador or with the pink of Canada East or Canada West is drawn in that way.

Sir Thomas
Warrington.

The LORD CHANCELLOR: Does it say so anywhere on the map?

Sir JOHN SIMON: No; but examining the indications of the rivers, you will see that at every point the rivers determine the colour, green or pink, which is used.

The LORD CHANCELLOR: I see what you mean.

Sir John Simon.

Sir JOHN SIMON: That is not so entirely on the western side. It is to some extent, but it might perhaps be said that there are some exceptions. I am not quite sure that they are very

material.

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Sir John Simon.

Sir THOMAS WARRINGTON: It is so with reference to the Chesterfield Inlet and the stream running into it. That seems to be pretty clear.

Sir JOHN SIMON: Yes, I think so.

Sir THOMAS WARRINGTON: It looks like it there.

Sir Thomas
Warrington.

Sir JOHN SIMON: Then, when you come a little lower down, there is a large lake, Wollaston Lake. Whether rightly or wrongly, I think it is indicated that there is a draining away from that height of water to

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Sir John Simon.

the Great Slave Lake in the north-west. My Lord is beating the bounds for the purpose of seeing why the boundary is put there. Then if you come a little further down between the letters "N" and "O" of the word "North" in "British North America," you see there is an uncoloured space which indicates apparently a big lake. and I think it looks as though that was draining north-west through the Slave River into the Great Slave Lake.

Sir THOMAS WARRINGTON: Wollaston Lake seems to have two outlets. It seems to have one on the north and one at the middle of the eastern side.

Sir JOHN SIMON: Yes. It is what I had in mind the other day when Lord Finlay said to me that there were places in North America where you get very near to that sort of thing.

Viscount FINLAY: The case I referred to was in South America.

Sir JOHN SIMON: In British Guiana.

Viscount FINLAY: Yes, in British Guiana.

Sir Thomas
Warrington.

Sir John Simon.

Sir JOHN SIMON: I thought I answered that by saying that there were apparently instances of that here too. When you trace it along between the green and pink, coming down nearer the Rocky Mountains, the same thing seems to be true until you come to the Rocky Mountains, and then it runs along the Rocky Mountains until it strikes the southern boundary, which has nothing to do with the height of land as such. That is the famous boundary of the 49th parallel, which was the subject of the most fierce contest as between the United States and Britain, and which ultimately resulted in the United States establishing that it had got, as from a

particular point south of Winnipeg right away to the Pacific, as its northern boundary the 49th parallel. That is not a boundary by reference to physical geography, but a boundary by reference to latitude.

Sir THOMAS WARRINGTON: There is a curious little inlet in the middle of the 49th parallel going round apparently the sources of Milk River, Porcupine River and White Fish River.

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Sir John Simon.

Sir JOHN SIMON: I observe that. That is a strong confirmation of the reading of the map. The meaning, I think, is this. As between the United States and Britain the question is whether it is the Stars and Stripes or whether it is the British Flag, and the boundary is the 49th parallel. But far as the Hudson's Bay grant is concerned, the Hudson's Bay grant went up to the height of land and no further. And if there did happen to be, therefore, a point in this part of the world where you got over the watershed before you reached the 49th parallel, it was difficult to see how the title of the Hudson's Bay Company would

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The Lord Chancellor.

give them that small portion. I think it confirms the general structure the map.

The LORD CHANCELLOR: But Canada would have that island.

Sir John Simon.

Sir JOHN SIMON: As a matter of fact, the whole thing was solved by the Hudson's Bay territory being thrown into British Canada, and there is an end of it. Then there is another fact which was mentioned, I think, by Lord Haldane, and which it is important to remember in this connection.

The LORD CHANCELLOR: Where does the line run along the Rockies? I see it as far as the Rockies. Does it run along the summit of them, or how?

Sir JOHN SIMON: I should not like to say at all.

The LORD CHANCELLOR: It is difficult to see.

The Lord Chancellor.

Sir JOHN SIMON: I always feel when one looks at a map first and then looks at the thing in Nature afterwards, one appreciates that the map-maker tends to make the mountains run in a very sharp easy ridge with the kind of appearance rather of a woolly caterpillar crawling along the map, whereas when you come to look at the mountains you always find there is range behind range.

Sir John Simon.

Viscount FINLAY: It looks much easier on the map.

Sir JOHN SIMON: It does. It did in the Alaska Arbitration.

The LORD CHANCELLOR: At the lower end it looks as though it stops short of the mountains. I cannot see where it runs in the intermediate space. It is not very clear.

Sir JOHN SIMON: I think I made good my point that so far as this matter is concerned, long after the grant, when this thing was investigated with great minuteness, and the Parliamentary Committee made its report, there can be no doubt at all that they took the view—I will show in a moment how consistent it is with a number of other things—that that was the way in which you found out to what distance back from the water the Hudson's Bay territory went.

There is another point which Lord Haldane happened to mention on Friday, and it is very important. There was, as my Lord truly said, another company at one moment—a rival company—which was called the North West Company. It was not a company which had a Royal Charter. That was not the nature of the North West Company. The North West Company was a company which was formed in Montreal, I think, in the Province of Quebec. A number of gentlemen, mostly Scotsmen, I think—I notice it is very often Scotsmen who make these

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adventurous expeditions—banded themselves together and got themselves formed into a company called the North West Company of Montreal with the object of trading with the Indians and exploiting the area in what was gradually being discovered to be the Further West. Of course, British Columbia and the Fraser River, and areas of that sort, were very little known at that time, but gradually enterprising people were appreciating how very important the North of America was to the west of Hudson's Bay. Exactly what the geography might be people did not know. Then what happened was this. This, I think, was what Lord Haldane was referring to. There was for a short time an extremely severe struggle between the Hudson's Bay Company and the North West Company. The Hudson's Bay Company complained to the British Government bitterly that the North West Company was invading their preserves. Things got to a very serious pass. The Hudson's Bay Company, which was a quasi-sovereign in this green area, proposed to exercise the powers which its charter gave it of appointing police and magistrates, and setting up an armed force, and by that method keeping the invaders, the North West Company, at bay and, indeed, driving them out. There was bloodshed, and a very serious situation arose. This was about 1815. The thing was ended, I think, in 1821 by the Hudson's Bay Company acquiring the North West Company's interests and rights whatever they might be. The North West Company came to an end, and the result was that this rival of the Hudson's Bay Company, pushing out to the west, was suppressed. That is the reason why, when you come to the later stage, you not only get Rupert's Land mentioned—Rupert's Land being the name that was used for the area the Hudson's Bay Company were primarily interested in—but you also get a reference to North West Territory. The two areas combined—Rupert's Land and the North West Territory—really are the two great areas which may be regarded as running together, which stood outside direct British administration, though, of course, under the British Flag, until the year 1870, and then in the year 1870 they fall into Canada as unorganised areas. That is the nature of the story. I have made my point, that the nature of the area, as far as that Map No. 26 is concerned, and therefore, I suppose, so far as indicated and approved at the time, was by reference to height of land. Would your Lordships observe the legend on the map before you pass from it? It is described in the left-hand bottom corner as “Map of North America drawn by J. Arrowsmith. On this map the territories claimed by the Hudson's Bay Company, in virtue of the charter granted to them by Charles II, are coloured green; the other British territories pink, and those of Russia yellow.” Again, just to remind your Lordships, as I am dealing with Hudson's Bay now a little more in detail, the charter is printed in the second

volume at page 367. The nature of the grant, so far as language goes, is vague, but in my submission it did indicate how to arrive at the internal boundary, though it did not state where it was to be found by latitude or longitude. It is "All those seas, straits, hays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits commonly called

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Hudson's straits, together with all the lands, countries, and territories upon the coasts land confines of the seas" there mentioned. It is on page 368. It may be said that the language there is a little more elaborate, perhaps a little easier to support the contention, but it certainly illustrates what I believe was very common at the time, namely, that the grant was (as Lord Sumner put it the other day) the grant of coastline, and that though you did not know how many miles back the language of the grant would carry you, it might still be that the nature of the grant was one which made that certain which could be rendered certain, because physical geography would answer the question, as and when you needed it, as to how far you went back.

Viscount HALDANE: There was no reference at this time to the height of land.

Sir JOHN SIMON: The words "height of land" are not used, but the really central question in this whole case is when the words "height of land" are not used, but—as, for instance, in Governor Graves's grant—the language "all the coast" (it is plain that that refers to an area; it does not refer merely to a portion of the sea coast or yet a line on the land) what do you mean by "coast"? I should have thought that this idea of going back to the height of land, though you do not say so, was almost inherent in comparatively sparsely populated areas. I should have thought it was so in the highlands of Scotland in the old days, when the chiefs of clans held this area or that area, and you passed from the land of one chief to the land of the other. When one speaks of the Breadalbane country round Loch Tay, one would have thought that that was almost necessarily a thing that went up to the top, as it were.

Lord SUMNER: It depends.

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Sir JOHN SIMON: That is when you get a conflict between one chief and another. Another instance, oddly enough, which suggests itself is this. If you consult a book like Murray's dictionary, "to coast" is a verb, and "to coast" more particularly in Canada, means to get up to the top of a hill, and, when you are at the top of the hill, to slide down. In fact, you call the operation coasting and you do it with a sledge. "To coast" means that you have to pull up until you get to the place where you get the divide, and then you get the slope

down. Keeping to the Hudson's Bay Company, you do find the word "coast" is used, and you find the interpretation, as I put it, is "going back to the height of land."

Viscount HALDANE: Is not it a little striking that the word should be used to include an area a good deal larger than Great Britain?

Sir JOHN SIMON: It is all a question of the dimensions of the
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whole thing. One may put it as an area a good deal larger than Great Britain. It is; but, on the other hand, one may put it as an extremely small part of the whole out of which it was taken, one-fifth of the peninsula, but probably one-fiftieth or one-hundredth of Canada.

Viscount HALDANE: It is in connection with the grant of fishing rights.

Sir Thomas
Warrington.

Sir JOHN SIMON: It does not seem to follow that because the immediate object and purpose to be served is, as I have already conceded, a maritime purpose, that therefore the interpretation and meaning of the language of the grant does not carry one further. As one may say, a man may only desire to own one field, but that is no reason why he should not acquire the farm; or, again, English law puts upon a grant of a piece of surface the right to the minerals underneath. It may well be that the reason why the grant was made by the Sovereign to some tenant in chief was that the tenant in chief might build a castle on the land, but that does not alter the fact, when you come to the question of who owns the coal underneath, that the man owns the coal who has the surface. It is a mere question of putting the proper legal interpretation upon the language used. Since several of your Lordships have looked again at this charter of the Hudson's Bay, your Lordship will allow me to point out that on page 369 you get the use of the words "Coasts adjacent to the said territories" at line 14, as well as the use of "coasts and confines of the seas," which is on the second line of page 368.

Sir John Simon.

Sir THOMAS WARRINGTON: The coasts there in the line just referred to deals with another matter : "with all other nations inhabiting any of the coasts adjacent to the said territories limits," and so on.

Sir JOHN SIMON: I rather think it is not maritime at all there; I think it simply means neighbourhood.

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The LORD CHANCELLOR: In this Map 26, what is the exact meaning of the dotted line which runs east and west?

Sir JOHN SIMON: Your Lordship means near Labrador?

The LORD CHANCELLOR: Yes.

Sir JOHN SIMON: I do not feel any doubt myself, but I am making a submission only, that it indicates a boundary, or a supposed boundary, by reference to the height of land between East Canada (which was Quebec) and what was not East Canada. You will observe, the map being a map of 1857, it brings in the line running due north from Ance Sablon (Ance Sablon is mentioned) to the 52nd parallel. It is true on the map you do not get the 52nd parallel, but you do get the

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50th and the 55th, and you will see that it is the 52nd; it then proceeds to carve out, by reference to the 52nd parallel, the northern boundary of the Province of Quebec.

The LORD CHANCELLOR: The straight part does that, and then it turns up north.

Sir JOHN SIMON: I think the reason for that is, whether they knew the geography or not, that they are indicating what they regard as the way in which the height of land would divide in that area the water that runs into the St. Lawrence and the water that runs into the Atlantic. I have no doubt that that is what they are saying there. May I put it in this way? You see where this dotted line turns up in the pink and strikes almost at right-angles the other dotted line where the pink would run into the green. Imagine that, if your Lordships would for the moment, as the apex of a three-sided pyramid; then one side of the pyramid painted pink and labelled Labrador would slope down to the Atlantic; a second side of the pyramid (also painted pink) would slope down to the St. Lawrence; and the third side of the pyramid painted green would slope into the Hudson's Bay, and I apprehend, whether it is right or wrong, and whether the position put on the map is right or wrong, that there is no doubt that that is an indication following on the idea that the boundary of the Hudson's Bay territory is limited by the height of land. In the same way the boundary between Quebec and Labrador is bound to be limited by the height of land. I am rather strongly supported, am I not, in drawing that inference by the fact that the curious dotted line to which the Lord Chancellor calls attention, when you trace it to its source, undoubtedly does indicate a boundary of the Province of Quebec. You get that kind of indication again and again.

The next thing that I want to remind your Lordships of, or, rather, to develop with regard to the Hudson's Bay boundary is this. There are two important stages in the story of the Hudson's Bay boundary: the first late in the seventeenth century and the second early in the eighteenth, before the conquest of French Canada by the British. One is after the

peace of Ryswick and the other is after the peace of Utrecht. In order to understand what it is that happened, we have to bear in mind that the position of Britain when the peace of Ryswick was secured was in this part of the world not very favourable. On the other hand, before we come to the Treaty of Utrecht in 1713, Marlborough's campaign had been fought in the Low Countries and he had won his series of great victories, and the position of British vis-a-vis the French in this part of North America was, I suppose, extremely strong. You will find that reflected very clearly in two documents emanating from the Hudson's Bay Company, because after the peace of Ryswick in 1697, the request of the British Government to the Hudson's Bay Company is: "How much of the territory to which you are really and truly entitled would

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you, for the sake of peace, be prepared to give up to the French?" They are trying to make terms. On the other hand, when Marlborough had won his victories, Malplaquet and so on, you come to the period before the Treaty of Utrecht, ultimately reached in 1713, when the British position was an extremely strong one, and the position then is: "How much would you, the Hudson's Bay Company, like to get at the expense of the French?" The contrast between the two things shows exactly that whereas there was what you may call the true boundary of the Hudson's Bay to be deduced from this charter, they were bound, in the difficult situation of 1697 and just afterwards, to give something up; whereas after the great and splendid success of Queen Anne they were able to suggest and to put forward a line which was even more than they were entitled to. Both of those two instances have an importance in considering what the boundary really is and how it was treated when it became necessary to divide the rest of the territory. I will take them in turn. As regards the first, the Treaty of Ryswick, I gave your Lordship a reference in the first volume to page 321, where there is an extract from that Treaty. There you get the provision in Clause 7: "The most Christian King"—that is to say, the provision of France—"shall restore to the said King of Great Britain, all countries, islands, forts and colonies, wheresoever situated, which the English did possess before the declaration of this present war; and in like manner the King of Great Britain shall restore to the most Christian King, all countries, islands, forts and colonies, wheresoever situated, which the French did possess before the said declaration of war." You may think that that is a very difficult thing to determine in terms. Then there are to be commissioners authorised to settle it, the commissioners referred to at the end of that first paragraph. Then in Clause 8 there is: "Commissioners shall be appointed on both sides, to examine and determine the rights and pretensions which either of the said Kings hath to the places situated in Hudson's Bay." As a matter of fact, the French Canadians had pushed up and unquestionably had established

themselves in very strong force in many parts of the area which Charles II had granted to the Hudson's Bay Company; in fact, they had reached the water, and they had established some very important posts; for example, posts high up on the left-hand side of Hudson's Bay, which are to be found in a map which I shall show your Lordships in a moment. "But the possession of those places which were taken by the French, during the peace that preceded this present war and were re-taken by the English during this war, shall be left to the French by virtue of the foregoing article." Your Lordships see at that date, 1697, the position of this country was by no means strong. Your Lordships, I daresay, remember the fact in history that those who negotiated this regulated peace were very severely criticised by a party in England who were all for what I think is sometimes called the knock-out blow; at any rate, there was a good deal of criticism. The result was that the Hudson's Bay Company were in a considerable difficulty. Then this arose. The English Government got into communication with the Hudson's Bay Company and, as I said

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just now, they in effect said: "How much will you give up for the sake of peace?" and the Hudson's Bay Company were in so weak a position at that moment that they were actually prepared to give up quite an important part of Hudson's Bay or James's Bay itself. If your Lordship would turn once again to that map which we called No. 26, I will indicate what it was that they were willing to give up. For the sake of peace at that time the Hudson's Bay Company were prepared to give up in James's Bay everything which would have been south of Albany River; they were prepared to say the French, and only the French, shall come up to Albany River, so long as they will withdraw north of Albany River. On the south side the Hudson's Bay Company were in so weak a position that they had to concede what we were willing to concede, that the French should come up certainly as far as Rupert's River, and at one time as far as East Maine River. That was the position then.

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Viscount Haldane.

Sir John Simon.

Viscount HALDANE: I have forgotten what it was that put an end to those negotiations. They, of course, ceased after the time of James II. There was some event which made a difference.

Sir JOHN SIMON: The main thing was this. The Commissioners, after the Treaty of Ryswick, never, in fact, got to grips. I do not think they ever sat. The Hudson's Bay Company were communicating to the British Government what they would concede; years were consumed in discussion, because, after all, this was only a small portion of the world at that time, and not a very important portion of the world, and before the thing was ever settled the Marlborough wars began again.

Viscount HALDANE: I think it was the Marlborough wars.

Sir JOHN SIMON: And ultimately England got very much better terms. If your Lordship would take one reference in this connection, still keeping this map open—

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Viscount HALDANE: It was always giving up things in the Mediterranean to keep things in North America.

Sir JOHN SIMON: There was a severe attack made on the Government of the day because it was said that they had made a shameful peace. You will see it is reflected in a most material way, if you will turn now to Volume VIII, the central page being 4044. There are one or two earlier pages which lead up to it, but 4044 is the material page, and you will no doubt think it convenient to look at it first. It is, I think, a very curious document indeed.

Viscount HALDANE: What is the document as a whole?

Sir JOHN SIMON: The section is: "A series of miscellaneous documents extracted from the Hudson's Bay Company." This gives you a glimpse of the other point. As I have said, the Treaty of Ryswick

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was a very unsatisfactory Treaty from the British point of view. As you will see, the Hudson's Bay Company had been asked more than once what they would be content with, and there was a good deal of controversy going on between the British Government and the Hudson's Bay Company. Here is a statement of the limits claimed by the Hudson's Bay Company, 22nd January, 1700, after the Treaty of Ryswick in 1697: "The limits which the Hudson's Bay Company Conceived to be Necessary as Boundaries between the French and them In Hudson Bay (in case of an Exchange of Places)"; that is, if the French are going to give up some posts which they have made far more in the north, a sort of compromise. "And that the Company cannot obtain the whole Streights and Bay which of Right belongs to Them." These are what they would be content with: "That the French be Limited not to Trade by wood Runners or otherwise, nor Build any House Factory or Fort, beyond the Bounds of 53 Degrees or Albany River, Vulgarly called Checkewan, to the Northward on the West Maine or Coast." I am not quite sure that the use of "coast" there is not of some significance. West Maine is the name which is constantly employed in that portion of the Hudson's Bay territory which lies on the west of Hudson's Bay. I rather think it means the west mainland. "West Maine or Coast" shows very plainly what they meant, that the coast was a great area. "2. That the French be likewise Limited not to Trade by wood Runners or otherwise nor Build any House Factory or Fort, beyond Ruperts River to the Northward on the East Maine or Coast. 3. On the Contrary the English shall be obliged not to Trade by wood Runners or otherwise, nor Build any House Factory or Fort, beyond the aforesaid Lattitude of 53 Degrees or Albany River vulgarly called Checkewan South East towards Canada, or any Land which belongs to the Hudson's Bay Company. As also the English be likewise obliged not to Trade by wood Runners or otherwise, nor Build any House Factory or Fort beyond Ruperts River to the South East towards Canada, on any Land which belongs to the Hudson's Bay Company"; and that neither of them is to make war on the other. Then: "Which the French may Verry Reasonably Comply with for that they by such Limitations will have all the Countrey South Eastward betwixt Albany Fort and Canada to Themselves which is not onely the Best and most Fertile part, but also a much Larger Tract of Land then can be supposed to be to the Northward, and the Company Deprived of that which was Always their indoubted Right."

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Viscount HALDANE: This was only three years after the Treaty.

Sir JOHN SIMON: They were still negotiating. They went on negotiating and nothing happened. The point is that the British Government are saying to the Hudson's Bay Company: "The French have invaded right up to the north." There is a reference here to York Fort. Would your Lordships like to identify where York Fort was? It was a very long way north indeed. York Fort on that map with the green area is on the west just below the letter "h" in "North" in the

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big inscription North America. What had happened was that the French traders had pushed right up; they had established themselves right up in the very heart of the Hudson's Bay country. Now comes the Treaty. The Treaty is: "You must give us what you took during the war"; and there is this attempt to create a compromise. Here is the Hudson's Bay Company rather wringing their hands and saying: "We will indicate what is absolutely necessary for us if these French people will withdraw at any rate to the 53rd parallel, or thereabouts, to the Albany River or Ruperts River, and let us have a bargain that they will not come further north than that." That is a short way of seeing the situation. After the Treaty of Ryswick, if you look back a page or two you will see that there had been quite a lot of discussion about it.

The LORD CHANCELLOR: This was for the use of the Commissioners under the Treaty of Ryswick?

Sir JOHN SIMON: Yes, my Lord. Will you look now at page 4033? The Hudson's Bay Company had been complaining most vehemently to the Government. "The state of the case of the Hudson's Bay Company with a narrative of their great sufferings by the French from their invasions ever since the year 1682." They here set out a most elaborate account of how the French had invaded places.

On page 4034, line 7, they are expressing their satisfaction—I think it was a rather modified satisfaction—that the Treaty of Ryswick would enable the Commissioners to settle the boundary. "And this invasion was then disowned by his most Christian Majestie and satisfaction directed, (and the manner of it) by Monseieur Calliere one of the Plenipotentiaryes at the Treaty of Riswicke." On page 4034 they go on saying, for instance at line 35: "That after all that could be said on either side had been heard and examined, the said English Commissioners made their report to his Majesty That it was their opinion that it plainly appeared his Majestie and his subjects had a right to the whole Bay and Streights of Hudson And to the sole trade thereof and that it might be fitt for His Majestie to support the Company of Hudson Bay." Then, at page 4035, line 11, after expressing loyal congratulations to King William III that he should have succeeded to the

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Throne, "Upon his present Majestie happy accession to the Throne," the Hudson's Bay Company revived their complaints by a memorial. Then they complain of what has been done at Fort Yorke and Port Nelson and various places, and I rather think the thing ends with a demand for compensation for moral and intellectual damage; certainly it is quantified later on.

Then again, at page 4037, the Hudson's Bay Company leave with Mr. Secretary Vernon their statement of their rights under the Charter. It is a very elaborate document, which I am sure your Lordships need not trouble to plough through in detail.

The LORD CHANCELLOR: There is nothing in all this so far bearing upon the extent of their rights inland.

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Sir JOHN SIMON: Not at all, my Lord; the contrast will be between what is said here and what is said when we come to a more happy period in 1713.

In the same way, at page 4042 they are addressing the Lords Commissioners appointed by His Majesty to treat with the French Commissioners, and they are saying at line 18: "The whole Bay and Streights of Hudson doth of antient right wholly belong to the Crowne of England, and consequently ought to be in the Companies possession as rightfull proprietore of the same." Then comes the document which your Lordships have in mind.

Now if you just carry your eye on over the next few pages you will see what happened is at page 4046: "Gentlemen, Upon consideration of what was this day offered to the Lords Commissioners for Trade and Plantations, by yourselves and other members of the Hudson's Bay Company, their Lordships have commanded me to acquaint you with their desire, that the Resolution of your Court may be taken and communicated to them, whether (in case the French cannot be prevailed with to consent to the settlement of the boundaries proposed in your general Court of the 10th July last), the said Court will not think fit to consent, that the limits on the east side of the Bay be extended to the latitude of 52½ degrees, with whatever further that Court may think advisable to propose, in reference to their own affairs, for the more easy settlement of all disputes between the Company and the French in Hudson's Bay." That is to say, if the French will give you what you say is your irreducible minimum, would you not on consideration give them a little bit more.

The LORD CHANCELLOR: On the East Coast.

Sir JOHN SIMON: Yes, it is a difference between the East Main River and Rupert's River or Hudson's River, as it is sometimes called. Then on page 4047, the Hudson's Bay Company to the Lords of Trade, there is a reply to that and they revise their terms in this way: "1st. That the French be

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limited not to trade by wood runners or otherwise, nor build any house factory or fort to the northward of Albany River vulgarly called Chechechewan on the West Maine or Coast.” There you have it again: apparently when you say “West Maine” or “East Maine,” “Coast” is a synonym. Then comes the second point. In line 22 the words “West Main” should be “East Main.” “That the French be likewise limited not to trade by wood runners or otherwise, nor build any house factory or fort to the northward of Hudson River vulgarly called Canuse on the East Maine or Coast.” I have identified it; it means that the French get a little bit more, the boundary is pushed a little lower down. Then the 3rd and 4th are corresponding clauses, and this time “East Coast” is right, and in other respects I think the matter is the same.

Now, my Lords, that is the first period. As one of your Lordships said, nothing happened. It is wonderful how long these negotiations can go on. Then war broke out again, and now you will see on

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page 4049 we have reached the year 1709. Now see how important the distinction is. 1706, if I am not mistaken, was the year of Ramillies, 1708 was the victory of Oudenarde, and 1709, though, I think, a little later in September, was the year of the victory of Malplaquet. Therefore by 1709 the Hudson's Bay Company were no longer going to concede things to the French, and now the question was if and when Queen Anne chose to grant peace to the French. For you find that sort of thing was usual. The war was still going on, but they think now is the time to make little preliminary overtures, so they begin addressing the Lords of Trade and saying that when Queen Anne in her clemency sees fit to concede peace to her enemies the French—a thing which did not happen for another four years—they want to have a discussion about what was the boundary of Hudson's Bay.

Sir John Simon.

Viscount HALDANE: There was negotiation with the King himself and Lord Somers with the authority of the Great Seal. That was over these matters.

Sir JOHN SIMON: It was, my Lord; it was before the formal peace.

Viscount HALDANE: Before the Peace of Utrecht.

Sir JOHN SIMON: Yes, that is right.

Viscount HALDANE: It must have been about the date of these documents.

Sir JOHN SIMON: It would be, my Lord, but do look at the difference in tone. It is the spirit of the thing which is so interesting, and it shows why now the Hudson's Bay Company is making such a very different claim. On page

4049, a letter of the 2nd April, 1709, addressed to Adam Cardonnell, as Secretary to the Duke of Marlborough, Her Britannic Majesty's Plenipotentiary at The Hague. The Peace does not really come for another four years. “Herewith you will receive a Booke of the Transactions between England and France anno 1687 Relating to Hudson's Bay”—that is complaining of very old injuries—“as also a map of the said coasts, which contain not only the whole Bay and Streights of Hudson, which the Company by their charter are Rightfully Entitled to, But likewise and of New France, Quebeck &c. belonging to the French, who have not only for many years been unjustly possessed of Yorke Fort alias Fort Nelson in the said Bay of Hudson but by that meanes may extend their settlements even to halfe that vast Tract of Land belonging to the Company, In their Humble Petition to the Queen they Prey that when ever Her Majestie in her great wisdom shall think fitt to enter into a Treaty of Peace with the French King, that the said Prince be obliged by such Treaty to Renounce all Right or Pretentions to the Bay & Streights of Hudson, to Quitt &

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Surrender all Ports & Settlements erected by ye French or which are now in Their Possession, as likewise not to saile any Shipp or Vessell within the Limitts of the Companies Charter & to make Restitution of what they Unjustly dispoiled the Company of, in times of Peace amounting to £108,514 19s. 8d. besides Interest amounting to much more than the Principall.”

The LORD CHANCELLOR: I wonder where that comes from; it is not an assessment of damages.

Sir JOHN SIMON: I understand it to be moral and intellectual damage. It occurs again and again; they were very particular even to pennies. They did not get anything. “Sir, you may upon casting your Eye on The Map observe a Line drawne Cross the Grand Lake Miscosinke Twixt Hudsons Bay & Canada, which may serve as a Boundary between the Two Nations. Viz, the French not to goe to the northward of that Line by wood Runners or otherwise or make any settlement from the same towards Hudsons Bay, nor the English in like manner to the Eastward of the said Line towards Quebeck, whereby both Nations may be Limited in Their Possessions, for the future I have not to Enlarge.”

May I just indicate the sort of line this was? It was a line which went round by pretty well the green boundary, but when you got to the Labrador side, instead of coming out at Cape Chudleigh, it came out at a point which is marked Cape Mugford or Grimington Island to Mistassini Lake. You see what they are doing now, if possible a little pushing out. It is also questionable whether the entrance to Hudson's Straits ought to be regarded as Grimington. There has been no document up to the present, so far as I know, which has ever defined the Hudson's Bay area as beginning at Cape Chudleigh, which is at the entrance to Hudson's Straits, and you can imagine a controversy.

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Now, of course, the Hudson's Bay Company being in a strong position, and, of course, knowing that the British would not be unwilling to claim all they could, is pushing its boundary down a bit, and the boundary it proposes is to run from Cape Mugford (Grimington Island) in a straight line to Lake Mistassini, and then going on very much as you see it now.

Your Lordships will find a reproduction of that actual map, which is very interesting because it is contemporary, not in the Newfoundland Atlas, but in the Canadian Atlas, the number of it being 24a. Of course it is not very accurate, but you will see there Hudson's Straits and you will see the point there which we have been accustomed to treat, and I think it is the correct point, as the entrance to Hudson's Bay, Cape Chidley, is not the point from which this line is drawn. Cape Chidley is a short distance further to the north-west. Then your Lordships see the line which they draw from

Grimington, and they draw it through the Great Lake of Micosink, and what they are saying is:

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“Now a satisfactory boundary, one which you might press for, is one which will keep the French to the east of this line and will treat everything to the west of it for ourselves.” It is a second illustration of the same thing, namely, that according to the way the wind is blowing, you get the Hudson's Bay Company either conceding that they will have a little less than they are entitled to, or asking for a little more.

Sir THOMAS WARRINGTON: Lake Micosink does not appear to be on Arrowsmith's map.

Sir JOHN SIMON: Yes, it is, my Lord; it is really Lake Mistassini. It is just inside the green on Map 26.

The LORD CHANCELLOR: Rupert's River runs out of it.

Sir JOHN SIMON: There is no doubt that in proposing a straight line this straight line is a conventional as opposed to a natural boundary; they are not so very far wrong, but what they are doing is that they are getting a little more than they are really entitled to. Then a very amusing thing happened.

After the Treaty of Utrecht, when it was signed, Commissioners were appointed and there were very considerable discussions, though nothing was ever settled, and the British Commissioner, though these were his instructions, acted very much as some counsel do when they are trying to settle a case. Having got his instructions to settle on certain terms, he thought it was prudent to ask for more than he was authorised to receive. So when the British Commissioners came forward, or one of them, at any rate, he did not propound this line, though it was his instructions to do so, but he drew the line still further to the south and east, and propounded a line which came out at Davis Bay—no doubt a very proper way to conduct the negotiations.

The LORD CHANCELLOR: I see the St. Lawrence is called the River Canada.

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Sir JOHN SIMON: Yes. In the early days it was called the Great River of Canada sometimes, and afterwards it was called Hochelaga.

Viscount FINLAY: What does Hochelaga mean?

Sir JOHN SIMON: I think it was an Indian word. I am not sure that one would not find it in Longfellow; I will look it up to see. It sounds as though it would have gone into hexameters.

If your Lordships will now turn on a page or two, you will see how the Commissioners dealt with this. At page 4049 is the

Hudson's Bay Company's letter. At page 4050 is a Petition supporting it, addressed to the Queen, still in 1709. I pick out two passages only. It is repetition of much the same matter, but there are two things I

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would like your Lordships to observe. It is petitioning, really, that the thing shall be settled. At the bottom of page 4051, line 37: "But soe it is May it Please your Most Excellent Majestie That the Company found Their Interest not Comprehended in the Treaty of Risewick, which they are far from attributeing to any want of care in That Gracious Prince of this Kingdomes Honour & Trade, and Rather Thinke Their Right & Claime was Then overweyed by matters of Higher Consequence depending in that Juncture, for By the said Treaty They found Their Condition much worse Then it was before." That indicates the attitude at that time. Then at page 4053: "The Premises Considered, when your Majestie in your high wisdome shall thinke fitt to give Peace to those Eenemies whome your Victorious Arms have soe Reduced & humbled, & when your Majesties shall Judge it for your Peoples good to Enter into a Treaty of Peace with The French King, your Petitioners Pray That the said Prince be obleiged by such Treaty to Renounce all Right or Pretentions to the Bay & Streights of Hudson, Quitt & surrender all Forts and Settlements Erected by the French, or which are now in Their Possession, as Likewise not to saile any Shipp or Vessell within The Limitts of the Companies Charter, & to make Restitution"—and here comes the bill. I think I was right, my Lord. I have made a note here that the victory of Malplaquet was won on the 11th September, 1709, and you see that this document was a document which was presented earlier in the year; the war was still going on.

Then there was another statement of the same thing, which need not be read, but merely noted, at page 4054. They repeat what they are claiming in 1711. Again there is a Memorial to the Lords Commissioners of Trade and Plantations in 1712 to the same effect, and again enclosing a map. These people did not fail for want of any repetition. Then at page 4057 the Lords of Trade address the Earl of Dartmouth (I think he was Secretary of State): "My Lord, In obedience to Her Majesty's commands, signified to us, we have considered the enclosed petition from the Hudson's Bay Company to Her Majesty, and are humbly of opinion that the said Company have a good right and just title to the whole Bay and Streights of Hudson. Since the receipt of which petition, the said Company have delivered to us a memorial, relating to the settlement of boundaries between them and the French of Canada, a copy whereof is enclosed, and upon which we take leave to offer, that as it will be for the advantage of the said Company that their boundaries be settled, it will also he necessary that the boundaries between Her Majesty's colonies on the continent of America and the said French of Canada

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be likewise agreed and settled; wherefore we humbly offer these matters may be recommended to Her Majesty's Plenipotentiaries at Utrecht."

My Lords, is it not a little striking—I suggest it is—that the persons who were drawing up these documents plainly thought that the Bay and Straits of Hudson, the subject-matter of the Caroline Grant, certainly did not involve a mere selvedge, but did unquestionably involve a great internal area, exactly how much or where is another thing, but it is plain that when he says they are entitled to the whole Bay and Straits

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of Hudson he does not mean that they are entitled to sail about in the Bay and land on shore, but they are talking, of course, with regard to a great territory.

Lord Sumner.

Lord SUMNER: This is what strikes me on the documents that you have read to us: that when the scales are turning in favour of the Hudson's Bay Company they do not say, as you might have expected: "Under our Charter we are entitled to land area up to a certain boundary; the French have come inside that boundary: we pray that they should be compelled to evacuate that boundary altogether and respect it in future." What they do claim is a reference to the Bay and Straits and the trade which may be done from the Bay and Straits. The desire is not to observe some natural feature as a territorial boundary, but to restrict the common use apparently of the woods and intercourse with the Indians by, not height of land, but some natural feature such as a river or possibly a parallel of latitude; but I have not yet seen anything except the convertible terms "Main" and "Coast" that seems to suggest that height of land has anything to do with the matter in anybody's mind. That may be possibly because they did not know it.

Sir JOHN SIMON: That is a very forcible criticism, of course. I think as we go on you will find that the expression "height of land" is actually used. I will deal with that later. But the way I should seek to put it for your Lordships' consideration would be this. I agree that this great Company does not talk about the height of land, and probably did not know exactly where it was, but my suggestion was that the view which was certainly taken later of the Grant of Charles II really involved that a natural boundary of that sort is implicit in what they are saying and almost was matter of course at this period; that when you spoke of granting people a coast you really meant that you granted them the slope.

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Lord SUMNER: Might I make a suggestion about this? At this stage in these countries, when you are not dealing with permanent settlements or mining or timber, but with traversing the woods for hundreds of miles, it is not the height of land that matters; it is the portage, and you can see that on some of these maps. The Indians have gone by ways

where there have been communications by water from one place to another, disregarding altogether which way the water is running. If you look at Lake Mistassini, that represents a water communication quite apart from mountains altogether. What they no doubt did was to keep careful track of the points at which they could begin a portage and get on to the portage on another river. There was no point in following one of these rivers up to its ultimate source, like you might the springs of the Thames, or anything of that kind. At a certain point they found out by experience that it was no good going any further with it, and then the portage begins to another river.

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>At present I do not think that the height of land was a feature that much mattered to anybody.

Sir JOHN SIMON: My Lord, I am much obliged. It helps me very much to have that indication. It is right, I think, that we should see how the documents now unfold. I quite appreciate your Lordship is not suggesting that we should not.

Lord SUMNER: It becomes very much stronger as you go along.

Sir JOHN SIMON: Yes, but at any rate your Lordship has to see how this matter stands, because unquestionably the view that is to be taken as to the proper limits of the Hudson's Bay territory has a bearing, whether it is for me or against me, on the question of my own boundaries; and that is, therefore, the reason I want to take these branches of the subject together. I will bear in mind what your Lordship has said, but two or three things do turn up later on, and I know how willing your Lordship always is to see how they fit into the scheme of things.

I had got as far as page 4058, yet another petition. In May, 1713, they were saying this: "That your Petitioners being inform'd that the Act of Cession is come over whereby amongst other matters thereby consorted, The french King obleiges himselfe to restore to Your Majesty (or to whom your Majesty shall appoint to take possession thereof) the Bay and Streights of Hudson Together with all the lands seas sea coasts rivers and places situate in the said Bay and Streights, as also all forts and edifices whatsoever intire and not demolished, Together with gunns shott powder and other warlike provisions, (as mentioned in the 10th Article of the present treaty of Peace) within 6 months after the rattification thereof or sooner if possible it may be done. Your Petitioners doe most humbly pray your Majesty will be graciously pleased to direct the said Act of Cession may be transmitted to your Petitioners, as also your Majestys Commission to Captain James Knight and Mr. Henry Kelsey to authorise them or either of them to take possession of the premises."

On the opposite page Lord Dartmouth, the Secretary of State, writes to the Company and says: “Gentlemen, I have laid your Petition before the Queen who desirs Comeing to any resolution upon the Severall Particulars therein contained”—it must be “who desirs not comeing.”

The LORD CHANCELLOR: I think it is “defers.”

Sir JOHN SIMON: Yes, I think it should be “defers comeing to any resolution upon the Severall Particulars therein Contained till the Councill of Trade Report their Opinion what is most proper to be done therein. In the meantime I am to acquaint you that her Majesty would not”—I think the word is “Accept” “of a Cession of the Country from the French King, because it belong'd of ancient Right to his Subjects as will appear by your Charter of which I am to Desire you to Send me an Authentick Cobby however it was Necessary to Procure an Order

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from the French Court for the delivery of the Possession.” I think it is a little important and bears a little on what Lord Sumner has just said to me that these documents certainly show that the view taken was: We are not getting anything from France; what we are doing is, we are recognising the fact that there is, by virtue of the language of the Charter of Charles II, a great area. Then at page 4060 there is a curious glimpse of it from the other side. This is from a French authority to De Vaudreuil, which is a famous name in the history of French Canada; it is directly handing Accadia over: “The King”—that is the French King—“haveing Thought fitt by the Treaty of Peace Concluded at Utrich the 11th of the Last month, to Grant to the Queen and Crowne of Great Brittain Accadia, the Island of Newfound Land & Hudsons Bay to be possessed henceforward in full Right (or Sovereignty) & His Majestie desiring That The Same should be punctually performed he has Commanded me to give you Advice Thereof & Lett you know That his Intention is That you should not obstruct or hinder ye same But on the Contrary That you should Conforme yrselve Thereunto.” Lord Haldane will notice the use of the word “Accadia” there. He said to me on the first day he thought Accadia was sometimes used as the equivalent of French Canada. No doubt it sometimes is, but the more proper use of it was to refer to what we now call Nova Scotia, and this is not a direction to hand over Canada—no one imagined they were going to hand over Canada in 1713—it is a direction to hand over Nova Scotia. Then on page 4061 you get repeated the same thing to the Lords Commissioners of Plantations as we had already to the Hudson Bay Company. Lord Dartmouth is insisting there “The Queen has commanded me to transmit to you the enclosed Petition of the Hudson's Bay Company, that you may consider of it and report your opinion, what orders may properly be given upon the several particulars mentioned. In the meantime, I am to acquaint you that the places and countries therein named, belonging of right to British subjects, Her Majesty did not think fit to receive any Act of Cession from the French King, and has therefore insisted only upon an order from that Court for delivering possession to such persons as should be authorised by Her Majesty to take it; by this means the title of the Company is acknowledged, and they will come into the immediate enjoyment of their property without further trouble.” Some details follow, which I do not think matter very much, both on the French side and the other side, and then on page 4067 you get another representation of the Hudson's Bay Company to the Lords Commissioners asking that the limits be settled by Commissaries, and on page 4071 you get who the Commissaries were. The principal one was a gentleman named Martin Bladen; Mr. Pulteney also had to do with it. The French Commissaries are also named, and they met.

When they met it was necessary, of course, for the British Commissioners to have instructions, and the instructions to the British Commissioners are on page 4075: "Instructions to Commissary Bladen." It is interesting to observe that Commissary Bladen is given the line which the Hudson Bay Company

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had propounded, that is what we may call the Grimington Line, and those are the terms of his Mandate; but when he comes to deal with the other side in the negotiation he betters his Mandate, as I daresay was prudent. Page 4075: "Instructions for Martin Bladen, Esq., appointed His Majesty's Commissary to Treat with the Commissary or Commissaries to be Appointed by the Most Christian King—Given. Together with those instructions you will receive His Majesty's Commission under the Great Seal of Great Britain, appointing you, the said Martin Bladen, to be His Majesty's Commissary for treating of and concluding with the Commissary or Commissaries on the part of the French King, all such matters and things as are referred to your cognizance and determination by the said Commission," and so on, "It being provided by the 10th Article of the Treaty of Utrecht, that the limits and boundaries between Hudson's Bay and the places appertaining to the French, be settled by Commissaries on each part, 'which limits both the British and French subjects shall be wholly for-bid to pass over, or thereby to go to each other by sea or by land,' you are to endeavour to get," I think the language is a little important, "the said limits settled in the following manner"; then they repeat what was the Hudson Bay demand. "That the same begin from the Island called Grimington's Island or Cape Perdrix, in the latitude of 58½ North, which the Company desire may be the boundary between the British and French subjects, on the coast of Labradore towards Rupert's Land, on the East Main, and Nova Britannia on the French side, and that no French ships, barque, boat or vessel whatsoever shall pass to the Northwestward of Cape Perdrix or Grimington's Island towards or into the Streights or Bay of Hudson, on any pretence whatsoever. And further, that a line be drawn from the South-westward of the Island of Grimington or Cape Perdrix (so as to include the same within the Limits of the Bay), to the great Lake Miscosinke alias Mistoveny, dividing the said lake into parts (as in the map to be delivered to you); and that where the said line shall cut the 49th degree of Northn latitude, another line shall begin, and be extended westward from the said lake, upon the 49th degree of northern latitude; over which said line, so to be described as above mentioned, the French and all persons by them employed, shall be prohibited to pass." That was the nature of the instructions to Mr. Bladen. Now if your Lordships will turn on page 4080 you will see what the boundary was which Mr. Bladen and the other English Commissioners put forward when they met the French Commissaries face to face. It is

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interesting to notice how much he bettered his instructions. Lord Stair is one of the Commissaries, you will see. It is addressed to M. le Maréchal d' Estrées. Take the second paragraph: "Les Commissaires nommes par Sa Majeste Britannique demandent que lesd. limites soient regles dans la maniere suivante, assavoir que les limites commencerent depuis le Cap Nord de la Baye de Davis," you see, "darts le 56½ degre de latitude," which was springing another degree and a half at least. If you go back, which is the right thing to do really, to the old maps, the effect of it

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was (perhaps you need not go back to the old map) that they were bringing the boundary down to just about Hopedale; anyhow, it is 56½ degrees. Then after that it goes on as before, you will see—"qui servira de limites entre les Anglois et les Francois sur la Cote de Laboradore vers les terres de Rupert sur le continent d'Orient, et de la Nouvelle Bretagne du cote des Francois," then he goes on stipulating. Then he carries on the line, after that, just as required, to Lake Miscosinke, and carries it on as proposed. I think your Lordships will see clearly what I mean if I may be allowed to turn my book round and draw. The line which the Commissioner was directed to stipulate for was a line which ran up at a certain point to Grimington. The line which they did ask for was a line which ran from that point to Davis Inlet; that is the origin of the line which you see on some of the maps described as the line as laid down by the Commissioners after the Treaty of Utrecht. It is not that it was ever made the subject of bargain or agreement—there never was a bargain—but the maps not unnaturally got upon them the line as put forward by the Commissioner Bladen. Lord Stair was with Mr. Bladen, and on page 4082 you will see that Mr. Pulteney is writing to Mr. Secretary Craggs from Paris, having been in Paris for about six months, and at line 12 he says: "I think there had been two Conferences before I came; at the first of them the Commissions were read, and at the second my Lord Stair and Mr. Bladen gave in a memorial about the limits of the Hudson Bay Company, to which no answer has been made . . . I must own that I never could expect much success from this Commission, since the French interests and ours are so directly opposite, and our respective pretensions interfere so much with each other on the several points we were to treat about; but that the French have not been willing to entertain us now and then with a Conference, and try how far we might be disposed to comply with any of the views they had in desiring the Commission, cannot, I should think, be accounted for, but by supposing they knew we came prepared to reject all their demands, and to make very considerable ones for ourselves." It was not a very hopeful opening for a Conference of Versailles or Paris. You see light thrown on it by the documents on the next page which show that on the French side not unnaturally memoirs were being drawn up which protested that that was a most

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grotesque exaggeration of any legitimate claim. You see M. D'Auteuil is discussing it and is saying it is all the most complete nonsense; and there are a lot of observations and reflections which follow which do not matter. The result of all that was that nothing was ever settled at all; and if you will turn to the Newfoundland Atlas and will kindly look at map No. 14 you will see a very good example of how this line of the Commissioners, which was never in fact agreed at all, a line, as your Lordships now know, deliberately exaggerated by Lord Stair and Mr. Bladen—

Viscount HALDANE: What map is this?
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Sir JOHN SIMON: No. 14 is an English map, a map by a cartographer called Gibson, which was published in 1763. In fact, it was one of the maps published to illustrate the arrangements made after the Treaty of Paris, some 50 years after the Treaty of Utrecht and just after the Treaty of Paris.

Viscount HALDANE: This shows the boundary between Britain and France.

Sir JOHN SIMON: That was not settled, that is the point.

Viscount HALDANE: That was not settled in the early part of the 18th century, but it was settled at the date of this map.

Sir JOHN SIMON: It was settled very satisfactorily, your Lordship remembers, after the victory of Wolfe and the Treaty of Paris; the French withdrew to the west of the Mississippi.

The LORD CHANCELLOR: There never was a real settlement till after this.

Sir JOHN SIMON: No. But what I want to look at this map for is what you will see at the top of the colour: you will see there "The Southern Boundary of the Hudson's Bay Company's Territories settled by Commissaries after the Treaty of Utrecht." Your Lordships see that inscription. What I am anxious to make plain—and this is rather a puzzle; I remember the Lord Chancellor asked me about it—is that is in fact not the line which the Hudson's Bay Company asked for, or the line which the British Government instructed the Commissioners to ask for, but it is the line which was propounded by Commissioner Bladen and his colleagues in order that he might be quite sure at any rate that he had asked, on the Labrador coast, enough; and if you wanted on

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this map No. 14, Gibson's map, to draw the line as the Hudson's Bay Company asked for it, what you would do would be this, you would join—does your Lordship see the word “Commissaries” in that inscription “The Southern Boundary of the Hudson Bay Company's Territories settled by Commissaries”?—what you would do is, after “Commissaries,” or perhaps after the word “after,” you would draw the line from the “w” in New Britain to just to the South of Cape Chidley—to the 58th degree instead of the 60th. That was the line which the Hudson Bay Company put forward. You do not get Grimington there, but you get Cape Chidley. Your Lordship may remember perhaps in the Canadian Atlas Grimington Island is a little to the south of Cape Chidley. In fact, the map was so drawn as to make it out that that place would be the proper starting point for the Hudson Straits.

Viscount HALDANE: I see names such as “New South Wales” there.

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Sir JOHN SIMON: Yes, that was a name which had been used for some time. There are a lot of indications that the Welshmen had a lot to do with the discoveries in Hudson's Bay. I happen to be a Pembrokeshire man myself, and I was interested to notice that there are two or three names quite well known to me in Pembrokeshire which are actually to be found quite far North in some of the maps. Those names must have been given them by Pembrokeshire sailors. I do not know if the point has ever been made before, but I noted it because I knew the names of the villages. All I am anxious to make quite plain, in answer to the Lord Chancellor and to any others who may have speculated (the Lord Chancellor asked me a question) is that “the Southern Boundary of the Hudson's Bay Company's Territories settled by Commissaries after the Treaty of Utrecht” was not settled; it was not even the line which the Hudson Bay was demanding, but was better than the line they were demanding; and, if you wanted to make it the line as they put it forward, you would have to cross the light yellow, which is there called “Labrador,” from the Lake, not to St. Peter's Haven, but to a point which is a little to the south of Cape Chidley.

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The LORD CHANCELLOR: They alter these names so often that it is very confusing.

Sir JOHN SIMON: Can I help my Lord to identify the name? I think I can tell your Lordship, with the help of my learned friends, most of the synonyms.

Sir John Simon.

The LORD CHANCELLOR: Where was St. Peter's Haven on your sketch map?

Sir JOHN SIMON: Will your Lordship take Davis Inlet on my sketch map? Of course they have not got the survey by latitude and longitude quite accurate, but I think your Lordship may take it Davis Inlet was the point to which Commissioner Bladen thought fit to get the boundary; he called it 56½. Of course, I do not suppose at that time they had taken astronomical observations in sufficient detail, but the language he uses indicates that.

Sir THOMAS WARRINGTON: Davis Inlet on the sketch map is a little south of 56, not a little north. St. Peter's Haven, which is marked on that map No. 14, to which the Utrecht line is made to run out, is not marked at all.

The LORD CHANCELLOR: There is no such place marked on Map 14.

Sir JOHN SIMON: You can identify it by putting together several things. May I just put them successively, though they are probably all in your Lordship's mind? Commissioner Bladen put forward a claim to

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take the line out at the water's edge at the Bay of Davis in 56½ degrees of latitude. That is his claim. In fact, the place called Davis Inlet, which I suppose is the same as Davis Bay, is a little more south than that. If your Lordship takes the parallel 56, you will find it strikes the green just at Davis Inlet.

The LORD CHANCELLOR: I expect St. Peter's Haven is not far from where they thought Davis Inlet was.

Sir JOHN SIMON: That is quite right.

Sir THOMAS WARRINGTON: I think if you mark the parallel 55 on No. 14 you will find St. Peter's Haven would be about 56½.

The LORD CHANCELLOR: Why is this yellow line pushed back? It is said to have been settled by the Commissioners, but that, I gather, was not true; it was put forward by the Commissioners, this line with the inscription along it. As a matter of fact, the Hudson Bay boundary, as I understand on this map, runs along north and south from this Lake. Was that arranged in some way?

Sir JOHN SIMON: No, I do not think that indicates any convention or settlement at all.

The LORD CHANCELLOR: What is this map?

Sir JOHN SIMON: This map is one of the maps of 1763, which was drawn for the purpose of showing what was the result of the Treaty of Paris and the arrangements that had been made under it.

Viscount HALDANE: I understand you to say that this map put things as settled which were not settled till after 1763.

Sir JOHN SIMON: Your Lordship has not quite got my point. This is a map which was published in 1763.

Viscount HALDANE: I know, but it did not show the things as settled then: it shows what had in fact been claimed, but was not settled in 1763.

Sir JOHN SIMON: It is not quite so, with respect, my Lord. This map shows, for example, the new Government of Quebec, the lozenge boundary which was carved out in 1763 as the result of the defeat of the French. It shows that in the same way that it shows, for instance, the boundary of East Florida and New Florida .

Viscount HALDANE: The Treaty of Utrecht left the whole of Labrador, except that to the north of a line which was not agreed, to France.

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Sir JOHN SIMON: That is right.

Viscount HALDANE: It was not till 1763 that Great Britain became possessed of the southern part of the Coast of Labrador.

Sir JOHN SIMON: Yes; and then no doubt there would have been a little disputing about that, for there would have been British settlements.

Viscount HALDANE: The Hudson Bay boundary was not settled in 1763.

Sir JOHN SIMON: I do not think 1763 is of any significance for settling the Hudson's Bay limit at all.

Viscount HALDANE: Was anything done then about Hudson's Bay?

Sir JOHN SIMON: Not about Hudson's Bay—that is to say, drawing it down on a map and agreeing this and that as the latitude and longitude of the boundary.

Viscount HALDANE: When do you say that was done?

Sir JOHN SIMON: Never. The case I make about Hudson's Bay, if I may summarise it, and it is convenient to do so now, is this: I say on the true meaning of the language of the grant of Hudson's Bay it was a grant to the Hudson's Bay Company of the Bay and the Coasts and the territories; and though, of course, you could not have drawn a map to show how far it went, that really was, in my submission, a grant of the basin. That is what I say. I say that really has been recognised again and again; I give your Lordship as an illustration the House of Commons map of 1857. I point out that at times the Hudson Bay Company had to put up with a smaller claim because they were being pressed by the French, and at another time they endeavoured to make a rather larger claim, as for instance, after the Treaty of Utrecht; but neither the smaller nor the larger claim was ever laid down or agreed or fixed: and when you look at such a thing as this map of 1763, which is designed to show the arrangement made after the Treaty of Paris, you must not be misled, if I may presume to say so, by this dotted line which is inscribed "The Southern Boundary of the Hudson's Bay Company's Territories settled by Commissaries after the Treaty of Utrecht," because it was not settled and, so far as the British Commissioners were concerned, it was not quite the line. That is all I say, and I say it now because when one looks at this map it creates

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confusion otherwise.

Viscount HALDANE: So that, according to that, really the Hudson Bay Company took as part of its territory land which had not become part of the British Crown.

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Sir JOHN SIMON: Yes. Again and again the internal boundary of the Hudson's Bay Territory has been regarded, not as an ascertained but an ascertainable boundary. Your Lordship recollects, for example, that when the Province of Quebec is enlarged by the Statute of 1774, it is enlarged by saying that it is to have such and such a Southern Boundary, and the Mississippi as a Western Boundary, and it is to go on until you reach the boundary of the Hudson Bay territories. In exactly the same way, when the Hudson Bay Territory is thrown into Canada in 1870, there is an express extension of Ontario, or Upper Canada, so that it actually reaches the sea water in James Bay. I will come to the moment when the Quebec authorities thought they would like to have an extension to James Bay as well, but my point is that though it has never been a thing which you could say had been fixed by latitude and longitude, or traced on the ground, right through the history the Hudson Bay area, in my submission—and I have a few documents coming now to show it—is treated as an area which is a basin, and the explanation of their sometimes departing from that principle, as, for instance, they do in the map of 1763, is not really that anyone suggested that it was not that, but that the situation at the time of the Treaty of Utrecht was one which gave an opportunity for a slight exaggeration of the claim.

Sir THOMAS WARRINGTON: Of course, if their claim, which at the time of the Treaty of Utrecht was a well justified claim, was they were going beyond the basin, they may not have thought they were that far really.

Sir JOHN SIMON: That is my point, my Lord. It is convenient, I think, at this moment to do what has already been slightly done—observe how in these maps the words “East Main” or “West Main,” as the case may be, are used. Your Lordships have noted how in the communications between the Hudson's Bay Company and the British Government, in the late years of the seventeenth and the early years of the eighteenth centuries, they speak about the West Main or Coast. Would your Lordships, in this connection, look at one or two maps, not many? Take, for instance, the map which is No. 15.

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The LORD CHANCELLOR: No. 14 also is an instance.

Sir JOHN SIMON: Yes; I have got “East Main” marked there.

The LORD CHANCELLOR: What is No. 15?

Sir JOHN SIMON: In No. 15 your Lordship again will find “East Main.”

The LORD CHANCELLOR: What is the date of No. 15?

Sir JOHN SIMON: The date of it is 1764. That is a rather
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important map from another point of view, which I will mention in a moment. A still more interesting one, in some respects, is No. 17. I shall be very grateful if your Lordships will kindly look at No. 17. Here undoubtedly is an exposition which is entirely in my favour, where you not only get “East Main,” but you get what I have not observed on any other map—you get the actual inscription “Labrador Coast.” Your Lordships see the word “Coast.” It is surely very, very striking. Incidentally you get what, no doubt, is a highly artificial and conventional indication, but you do get an indication, of a height of land running from Cape Chidley down and dividing the Labrador Coast and the East Main, though I agree it leaves a very considerable area on either side of the mountain.

Sir John Simon.

Lord SUMNER: It is just like the fifteenth and sixteenth century idea of the mountains of the moon.

Sir JOHN SIMON: Your Lordship does not misunderstand my argument; I am sure your Lordship does not. I am not saying the mountains are there, or that is the way they run; but if you are distinguishing between the East Main Coast on the one hand and the West Main Coast on the other, it is a very strong observation that there is a very strong indication, on a map of this kind, that they lie on respective sides of the line.

Viscount HALDANE: It must be borne in mind that the Crown was not dividing everything up. The Crown was making grants out of a territory which was, or had become, British territory, and therefore it may be that the Crown disposed of that.

Sir JOHN SIMON: It is quite possible, my Lord. That is an important view of it, and has always got to be carefully borne in mind.

Then will your Lordships kindly look at map No. 20? There you will find the East Main and Labrador very plainly distinguished, and as far as East Main is concerned, which I know has been treated as synonymous with “East Coast,” I get the clearest indication that it is a very substantial piece of territory.

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Sir THOMAS WARRINGTON: This is a latish map. It is 1822.

Sir JOHN SIMON: It is, my Lord.

Then the next matter touching Hudson's Bay, if I may try again to keep to chronology, is, I think, in 1752. In the year 1752 this important incident occurred: a petition was presented by a number of gentlemen, who were merchants in London, to the Crown (George the Second), asking for a grant of a portion of British America lying on the Atlantic Ocean; they were really asking for what I might call a Labrador grant. Now, if I am right, as long as you did not go up to the height of the land, you would not necessarily invade the Hudson's Bay territory because you made a grant of Labrador coast; but still it would be very natural, before

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the grant was made, to see whether the Hudson's Bay Company, which was an established company, strongly entrenched and, of course, deeply committed, had anything to say about it.

Now, if your Lordships will kindly turn to page 4098, you will see the way in which the Hudson's Bay Company dealt with an inquiry which was made to them. They seem to me, with all respect, not to have dealt with it very candidly. The geography was not very well known to everybody. They addressed the Lord Commissioners of Trade and Plantations in these terms on page 4098 in Volume VIII. If it is not inconvenient, I will ask your Lordships also to have available one other document which bears upon this, and that is the Report of the Lords of Trade and Plantations on the Petition of Merchants. It is in Volume III, and it is the first document in that volume; your Lordships will find it on page 883.

The LORD CHANCELLOR: I have read through this memorial in Volume VIII, and I think we might dispose of that first.

Sir JOHN SIMON: Yes, my Lord, only that you have to read that document with the other document.

Viscount HALDANE: What are you going to show by this?

Sir JOHN SIMON: I am going to show how it is dealt with, my Lord.

If I may say so, Lord Finlay, I have, of course, carefully examined the long article on "Coast" in Sir James Murray's well-known dictionary, and it may be that at some stage your Lordships will desire to have that referred to. I think I am right in saying that your Lordship was rather hoping to look at it at some stage.

Viscount FINLAY: At the moment I was looking for the

definition of “Main.”

Sir JOHN SIMON: That I have already looked at also. I will dispose of it now, and it can be checked.

Viscount FINLAY: It is most familiar in reference to the Spanish Main.

Sir JOHN SIMON: I confess that I have been rather under the impression—but I was wrong—that the Spanish Main was a phrase which referred to an extent of sea. It does not refer to that.

Viscount FINLAY: It refers to an extent of mainland, as distinguished from islands.

Sir JOHN SIMON: Yes, my Lord. In this connection the word “Main” is used for a continent, or mainland territory, as opposed to islands.

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Viscount FINLAY: It is an expression which is very familiar in connection with the history of the buccaneers—"the Spanish Main." Their operations were conducted there.

Sir JOHN SIMON: I read carefully through the article in Sir James Murray's dictionary about it, and I am sure that I am right in this. "Main" is, of course, used, in another connection, for the sea; but in the case of "the Spanish Main," or in the case of "East Main," or in the case of "West Main," it is used really for a piece of mainland. In the case of the Hudson's Bay Company, as in the case of the Spanish Main, the contrast may be said to be between islands on the one hand and the mainland on the other hand. In the case of the Spanish Main there were the West Indian Islands, for example Cuba, and then there was the main, and it is the same in the case of Hudson's Bay. Hudson's Bay had a grant of islands in the Hudson's Bay, but the use of the word "Main," in contradistinction to the word "Islands," means the mainland.

Viscount FINLAY: We do not seem to have the Oxford Dictionary here. We have got what is called "The Concise Oxford Dictionary," which you could put into your pocket.

Sir JOHN SIMON: Every Oxford man, I am sure, will deeply resent this.

Viscount HALDANE: I do not know that it would help us very much in this case. Above all, you must consider the purpose with which these words were used.

Sir JOHN SIMON: Yes, my Lord. Now I want your Lordships to have two documents available together: one is in Volume VIII and the other in Volume III. This has to do with the Petition of Merchants which I mentioned, who wished to get a grant from the Crown in the year 1752 in respect of a proposed enterprise on the Atlantic Coast. In Volume III it is the first document, and it is on page 883.

The Lord CHANCELLOR: The document in Volume VIII comes three days earlier in point of date than the one in Volume III.

Sir JOHN SIMON: It does, my Lord.

Viscount HALDANE: Which one shall we take first?

Sir JOHN SIMON: I will take whichever one your Lordships have got conveniently. Shall we take Volume III first, although I know that it is three days out of date?

Sir John Simon.

The LORD CHANCELLOR: I do not know really why you should do that, because the document in Volume VIII is the protest of the Hudson's Bay Company, and the document in Volume III is the action taken by the Lords upon the Petition and the protest.

Sir JOHN SIMON: I think your Lordship's order is the better.

Viscount HALDANE: Which document are we to look at?

Sir JOHN SIMON: I must apologise for changing my mind; it was only in an endeavour to help some members of the Court. Will your Lordships kindly look at Volume VIII, page 4098? That will be the first of the two documents, if we take them in order of chronology. It is rather necessary that this should be read, and read in connection with the other document, the reference to which I have given.

First of all, taking the document on page 4098, it is a "Memorial of the Hudson's Bay Company to the Lords Commissioners of Trade, 20th July, 1752," and it runs thus: "May it please your Lordships In obedience to your Lordships Orders of the 9th of July Instant signifying unto your Memorialists, that your Lordships have under your Consideration a Petition of several Merchants of London, Praying for a Grant of all that part of America lying upon the Atlantick Ocean on the East part, Extending South and North from 52 Degrees of Northern Latitude from the Equinoctial Line to 60 Degrees of the same Northern Latitude, called Laboradore, or New Britain, not at this time actually possessed by any of his Majesty's Subjects, or the Subjects of any Christian Prince or State; and requiring your Memorialists to inform your Lordships whether they claim any or what Right to the said Tract of Land. Your Memorialists represent to your Lordships that his late Majesty King Charles the Second"—

The LORD CHANCELLOR: Then they quote that.

Sir JOHN SIMON: Yes, my Lord, using the word "Coasts" and so on. Then it goes on: "That the said Tract of Land called the Labradore throughout its whole Extent, on the North and West sides thereof"—"North and West sides thereof," your Lordships will notice—"from the said 60th Degree of Northern Latitude down to the 52nd Degree lyes on Hudsons Streights and Bay, and forms the Coast thereof"—of course, that is right, the West—"from the first Entrance into the said Streights running all along the South sides of the said Streights, to the Opening into the Bay, and from thence all along the East side of Hudson's Bay down to the Bottom or South End thereof"—that is what we may call the East Main—"and as all the land and territories upon the Coasts and Confines of the said Streights and Bay, together with the sole Trade and Commerce thereof are by the said

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Letters Patent Granted to the said Governor and Company,
your Memorialists Conceive they have a just Right and Claim
under the said Letters Patent to the

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said Tract of Land called the Laboradore and the Trade
thereof”—your Lordships will see that the moment this
comes before the Lords Commissioners of Trade, they say,
“that is bad reasoning.”

The LORD CHANCELLOR: That is stretching it.

Sir JOHN SIMON: Yes, my Lord, and they say so at once.
They draw the distinction immediately.

Then it goes on: “That your Memorialists have made and do
maintain several Settlements on the said Labrador on the East
side of the Bay”—that is true, just as the Hudson's Bay
Company to-day has a great store at Winnipeg, but that has
nothing to do with sovereign rights.

The LORD CHANCELLOR: No; it is “on the East side of the
Bay.” That is right.

Sir JOHN SIMON: Yes, my Lord, I beg your pardon; so far it
is quite right—“and by means thereof, as well as by their
Shipping carry on Trade and Commerce with the Natives
there, and who come down the Rivers and other Ways”—
your Lordships will notice the words “come down the
Rivers”—“and other Ways, many days Journey from within
the Land to Trade with the Company and your Memorialists
have been at very great Expence to Establish and Encrease a
Trade there, and particularly within these few years have
Expended £10,000 Sterling and upwards in making a new
Settlement on the Eastern side of the Bay near the middle of
the said Laboradore which they Expect will Command the
whole Trade of the said Laboradore, even to the East part”—
observe the phrase that is used, my Lords—“even to the East
part or Coast thereof.” That is using the expression “East
coast” and “East part.” It is going on to the other side. Then it
goes on: “and are at a continual great Expence in Supporting
the same and have ordered Persons to be sent up into the
country to Encourage the Trade thither from persons within
the Land, and are in hopes of having some return from thence
to Answer such their great Expence, tho' as yet they have
Reaped little or no Benefit therefrom. And your Memorialists
beg leave to represent to your Lordships that the Laboradore
is a most Barren Tract of Land, has few Inhabitants, is
Productive of little or no Beavers and of very few other Furrs
or Merchandize of Value, Insomuch that your Memorialists
cannot but be of Opinion, That whoever Petition for a Grant
of Land there, must do it with a view of having an
opportunity by means of the footing they will thereby Gain to
draw from the said Hudsons Bay Company some of their
Trade in those Parts and the Neighbourhood thereof, which it

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is humbly Hoped will not be Permitted to be done, but that your Memorialists Rights shall be Preserved to them.”

Now, my Lords, that being the protest made by the Hudson's Bay Company—who, you will observe, are not saying anything which is

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inconsistent with my view, but are saying: “Our rights, as defined by the Charter, are given to us up from the East Main, and we do get into touch with the people on the other side”—just see how it is dealt with.

Viscount HALDANE: I do not know how far their claim would not have carried them.

Sir JOHN SIMON: No, my Lord, I do not, indeed.

Viscount HALDANE: Certainly the whole of what is to-day called Labrador would have come in.

Sir JOHN SIMON: Yes, my Lord, it would. But just see how it is dealt with by the Lords Commissioners of Trade, who, having thus enquired if the Hudson's Bay Company have got any objection, proceed to put the point exactly. This is the first document any objection, proceed to put the point exactly. This is the first document in Volume III, and it is on page 883.

Viscount HALDANE: That is a reply, from whom?

Sir JOHN SIMON: It is not a reply, my Lord; it is the report made by the Lords of Trade, who have now got before them the Petition of Merchants, that is to say, the Petition of these London Merchants, and also the attempt of the Hudson's Bay Company to stop them.

Viscount HALDANE: It is a report on both documents.

Sir JOHN SIMON: Yes, my Lord.

Viscount HALDANE: Who makes it?

Sir JOHN SIMON : The report is made by the Lords of Trade, and it is signed by Halifax, Townshend, Stone, and James Oswald, at Whitehall, 23rd July, 1752.

Sir THOMAS WARRINGTON: They did not take long, because the Memorial was only dated the 20th July.

Sir JOHN SIMON: That is right, my Lord; it is an excellent example of despatch. But, of course, they had the Petition long before that. They say this: “In obedience to your Excellencies commands signified to us by a letter from Mr. Anyand,” and so on, “we have taken into our consideration a

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Petition presented to your Excellencies by several Merchants of London, containing Proposals for opening a new Trade and making Settlements upon the Coast of Labrador or New Britain—“upon the Coast,” your Lordships will see—“in North America, between 52 and 60 Degrees of Northern Latitude, and praying that the said Grant of Land may be granted to them and

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their Associates in perpetuity with the sole Privilege in exclusion of all other His Majesty's Subjects, of carrying on a Trade and Commerce to this Country for any Term or number of years not less than sixty-three. We have also been attended by the Petitioners, and have heard what they had to offer in support of their Petition and by other Persons who appeared to us to be interested or concerned in the subject matter of it, or who might be able to give us any information relative thereto; whereupon we beg leave humbly to represent. That the Questions arising upon a Consideration of this Petition are, First how far the making of a Grant to the Petitioners of this Country, may or may not interfere with any claims either of Right or Possession, which has been made to it by any other Prince or State, or by any of His Majesty's Subjects by virtue of former Grants or Concessions. Secondly How far the End and Object of the undertaking, considered in a commercial Light, may be of national advantage or disadvantage, and Thirdly, whether, supposing it should be thought advisable to comply with this request, the Terms and Conditions proposed by the Petitioners are proper and reasonable. As these three questions appear to us to take in every Circumstance necessary for your Excellencies Consideration, We shall in the course of Our Representation confine ourselves to them, and shall state to your Excellencies in the most full and explicit manner We are able, whatever appears upon the Books of Our Office, or hath occurred to us relative thereto. As to the first Question we beg leave humbly to represent—this is a very interesting piece of contemporary statement—“That the country called Nova Britannia or Terra Labrador, and by some ancient Geographers Estoitland and Terra Corteraelis, lies on the North side of the Gulf and River of St. Lawrence, extending North and North West to Hudson's Streights and Bay, and bounded on the East by the Atlantic Ocean: Some Geographers, indeed, particularly the French, make the Southern Boundary of that Region to be a Line drawn from the Streights of Belle Isle, which divide Newfoundland from the Continent, due west across the said Continent, in order to separate it from the Settlements which that Nation has upon the Northern Banks of the Gulph and River of St. Lawrence. It does not appear that any permanent settlement has hitherto ever been made by any Nation in the Eastern Parts of this Country”—“Eastern Parts,” your Lordships will see—“for as on the one hand the English, who were the earliest navigators to that part of the World were led by the Hopes of

discovering a Passage to the East Indies to pursue their Voyages and Searches still further to the Westward, and to which We owe the discovery and Settlement of Hudson's Bay, so on the other hand, the French arrived, and restrained by the Inhospitality and implacable Enmity of the Natives, has not as yet had any settlements to the Northward of the Streights of Belle Isle. The first discovery of this country is said to have been made by some Danes from Friezeland many ages before Columbus's Discovery of America"—I think I have remarked to your Lordships before that on a very early map there are, as a matter of fact, Danish names, so that that seems to be very probable—"these Danes gave it the name of Estoitland, and that it was afterwards visited

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in the year 1390 by Nicholas and Antonio Zeni, two Venetians, who in a Voyage to the North were driven by Tempest upon this coast. This account is given by Hackluyt in the first Volume of his collection of Voyages; but as he cites no other authority for it than Hearsay, except the simple Testimony of Abraham Ortelius who published a Book of Cosmography called Theatrum Orleis in the year 1520; and as the Account itself and the manner in which it is related carried evident marks of Invention, there is great Room to doubt its Veracity, and indeed it seems to be rejected by all late historians, and particularly by Pere Charlevoix in his History of New France. As little credit ought for the same reason to be given to what is related by some other Writers of a Discovery of this Country by Francis Scanlon a Pole in the year 1477. The first authentic account we have of a Discovery of this Country was of that made by Sebastian Cabot in the year 1497, who had a Commission from Henry the Seventh to make Discoveries to the Westward. In the first Voyage he made in consequence of this Commission he fell in with the Land in Latitude 67 North, from whence he continued his course southward along the Coast of Labrador to Newfoundland and the Baccalaos Island ”—that, I think, means the Cod Islands—“and from thence down to Florida. At his Return to England he brought with him three savages whom it is said he took in Newfoundland; but as that Island is only visited by the Natives from the Continent at certain Seasons of the year, and then only on the Western Coast, it is most probable that he brought them from some part of the Coast of Labrador, and there is the greater Reason to believe this, as Gaslar Corterealis who is said to have visited this Coast in the year 1500, and from whence it has the name of Terra Corterealis, brought from thence a piece of a gilded Sword, and saw amongst the Natives several Toys, and other evident Vestiages of Europeans having been lately amongst them. After this several Voyages were made by the English to these Northern Parts of America, particularly by Martin Frobisher, John Davis, George Weymouth, and James Hill”—I dare say that your Lordships will remember that in the early maps Davis Inlet is indicated as a very big opening, and in some of the early documents it is said that it was not Davis himself, but Weymouth, who penetrated into the inland, that is, the main—“in the year 1576, 1577, 1585, 1586, 1587, 1588, 1602 and 1605; but as the Object of these Navigators was merely to discover a Passage to the Westward, it does not appear that any of them visited the Coast of Labrador, except John Davis, who in 1586, landed in a Harbour in Latitude 56, where he stayed trafficking with the Natives for several Days.”—There was confusion in the early maps. I think your Lordships have already noticed this. In the early maps there was confusion between the place which is merely called Davis Inlet, which your Lordships

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identified this morning, and Hamilton Inlet. There is no doubt that there was confusion between the two.—“This is the first authentic Account we have of any actual Possession being taken of that Country on the Eastern side. The rest of these Navigators pursued their course still further to the Westward giving English names to several places at which they touched. In 1610

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Henry Hudson sailed through Davis Streights into the Bay which has since been called by all Geographers of all Nations Hudson's Bay, of which he took possession in the name of the Crown of England, and stayed there a whole Winter. Possession was again taken in the name of the Crown of England of this Bay by Sir Thomas Button, who also wintered there in 1612 in a River called Nelson's River in Remembrance of his Captain who died there”—it is close to York.

The LORD CHANCELLOR: And you have the Button Islands?

Sir JOHN SIMON: Yes, my Lord. Then it goes on: “In 1631 Captain Luke Fox by command of King Charles the First made a voyage to Hudson's Bay, and amongst other places entered Port Nelson, and finding there a Cross which had been erected by Sir Thomas Button with the Inscription almost defaced and worn out, he erected it again with a new inscription declaring the Right and Possession of His then Majesty King Charles the First, and named the adjacent Country New North Wales”—that is why I said that New South Wales and New North Wales were quite early names on the maps, and they were not put in as late as the eighteenth century. It is as early as this: “Charles the First.” “The Troubles and Civil War, which broke out soon after this, put a stop to any further Undertakings of this sort, nor does it appear that any Voyages were made to this Country from the year 1631 until the year 1667, when Zachary Gilman being fitted out by the Merchants of London sailed thro' Hudson's Streights to the Bottom of the Bay and settled a Trade and built a Fort there, which is called Rupert's Fort in Honour of Prince Rupert who joined with the Merchants in the Adventure.”

Viscount HALDANE: Was that the beginning of the name Rupertsland?

Sir JOHN SIMON: Yes, my Lord.

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Viscount HALDANE: The Fort was so called, and they called the rest of the land Rupertsland.

Sir JOHN SIMON: Yes, my Lord, that appears in the Charter. The Charter was three years afterwards. Zachary Gilman—

Viscount HALDANE: He anticipated it by calling it a fort.

Sir JOHN SIMON: Yes, my Lord. He probably thought that it was a good plan to pay a compliment in high places. He gets there in 1667, and very prudently and properly labels it "Rupert's Fort." Then he goes back, and in 1670 the Sovereign grants a Charter to, amongst others, his entirely trusted and well-beloved Cousin Prince Rupert, who joined in the adventure. That is the way these things are done. Then it goes on: "In 1669 another Voyage was undertaken by the same Adventurers, and one Captain Newland entered there

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making a publick Declaration of His Majesty's Right, and affixing up the Arms of England as a mark of Sovereignty. In 1670 the Adventurers in the aforementioned Voyages were incorporated into a Company by Letters Patents, by which Letters Patents the sole Trade and Commerce of all those Seas, Streights, Bays, Rivers, Lakes, Creeks and Sounds, in whatsoever Latitude they shall be, that lye within the Entrance of the Streights commonly called Hudson's Streights, together with all the Lands and Territories upon the Countries, Coasts, and Confines of the Seas, Bays, Lakes, Rivers, Creeks and Sounds aforesaid, that are not already actually possessed or granted to any of His Majesty's Subjects or possessed by the Subjects of any other Christian Prince or State, with the Fishing of all sorts of Fish, Whales, Sturgeons and all other Royal Fishes in the Seas, Bays, Islets and Rivers within the Premises and the Fish therein taken, together with the Royalty of the Seas upon the Coasts within the Limits aforesaid, was granted to the said Company and their Heirs for ever. In consequence of this Grant the Company in 1672 appointed William Bayley to be Governor of all their Forts and Factories, who established a Trade with the Natives and made Settlements at Port Nelson and other Places. In the year 1682 in time of profound Peace the French sent two Ships from Quebec into Hudson's Bay and dispossessed the English of the Fort and Settlements in Nelson's River. They continued to make further Depredations until the year 1686, when all the Company's Factories and Settlements at the Bottom of the Bay were surprised and taken by a Party of French sent over land from Canada."—This, your Lordships will remember, is the subject of these grievous complaints which we were looking at earlier in the morning.—"In consequence of this Grant the Company in 1672 appointed William Bayley to be Governor of all their Forts and Factories, who established a Trade with the Natives and made Settlements at Port Nelson and other Places. In the year 1682 in time of profound Peace the French sent two ships from Quebec into Hudson's Bay and dispossessed the English of the Fort and Settlements in Nelson's River. They continued to make further Depredations until the year 1686, when all the Company's Factories and Settlements at the

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Bottom of the Bay were surprised and taken by a Party of French sent over land from Canada. Upon these repeated injuries and depredations several memorials were presented by the Company to King James 2nd and Complaints having been made to the Court of France they were referred to Commissaries appointed on both sides to meet in London in order to settle such Points as were then in dispute between the Crowns relative to America. This Negotiation however was of very short Duration and the Conferences, the chief object of which was the Redress of the Damages done in Hudson's Bay, were broke off by the happy Revolution, which took place soon after, and before any satisfaction could be obtained or the Points in Dispute adjusted." That explains why the Treaty of Ryswick—

Viscount HALDANE: This appears to have nothing whatever to do with it.

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Sir JOHN SIMON: I think it was a phrase that was not inappropriate in the mouths of the Lords.

Viscount HALDANE: It merely meant to say that the thing stopped then because of disturbances caused by the change of Government.

Sir JOHN SIMON: Yes, my Lord; but still, after all, the Lords of Trade were making a report to the prerogative authority, which, not unnaturally, was accustomed to hearing the revolution described as a happy revolution.

Viscount HALDANE: They liked the term.

Sir JOHN SIMON: Yes, my Lord. Happiness, I am afraid, is often a mere incident rather than anything else. "The happy Revolution, which took place soon after, and before any satisfaction could be obtained or the Points in Dispute adjusted. During the War which broke out a few years after between the two Nations the French took York Fort from the Company to which they then gave the name of Bourbon; the Company however recovered this Fort again in 1696, but it was soon after re-taken by the French, and the Peace which was made in 1697 put an End to all further Hostilities."

Then I think I can save your Lordships' time. The report quotes the article in the Treaty of Ryswick which your Lordships saw this morning, and then it says: "In Consequence of these Stipulations, Commissaries did meet at London, but the Peace was of so short a Duration as to prevent their coming to a final Determination upon any of the Points which were the subject of their Conference. It appears upon an Examination of the Memorials and other authentick Papers which were delivered by the Commissaries in support of their respective claims to Hudson's Bay as well in the Conferences in 1687 as those in 1699, that the English

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Commissaries insisted that all that part of North America, which comprehended Hudson's Bay, was discovered by Sebastian Cabot in 1497, that this Discovery conveyed a Right to the Crown of England to that Country, that that Right was afterwards established by the Discovery made and the actual Possession taken by the subsequent Navigators at times when no other Christian Princes or States had any Possession or even Knowledge of those Parts, the French in particular not having any Settlements in Hudson's Bay until 1682, and that this Right was further confirmed by the Treaty of Neutrality in 1686, by which it is stipulated that both Nations shall retain all the Dominion, Rights and Preeminencies in the American Seas, Roads and Waters in as full and ample manner as of Right belonged to them. In answer to this it is alleged by the French that this part of North America is called in all ancient Geography the Coast of Labrador, and was so named by the Spaniards who discovered it long before the English. That the Voyages mentioned to have been made by

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the English were merely the Discovery of a Passage to the South Seas, whereas they could prove an infinite number of Voyages to have been made at that time to the Coast of Labrador by the Normans and Basques, that the Possession taken of Hudson's Bay in 1612 was at a time when the French were in actual Possession of the Country, that the English did not know the Northern Country from the year 1497. That the several Authors who write of Canada give it no Bounds to the North; That all the Northern Bay was comprehended in the Limits set down in a Grant made in the year 1628, by which a Canada Company was established"—

That means La Compagnie de Canada, Cardinal Richelieu's Company. "And that if the English had had any knowledge of the Bay, or any pretention to it, they would not have failed to have reserved their Right in the Treaty of 1632, which restored Canada to France. That although the French had not at that time nor for a long time after any Forts in this country, yet they traded with the Indians and had settlements upon the Rivers which fall into Hudson's Bay, and they produced several Acts to prove the Indians acknowledged the Sovereignty of France before the English ever thought of going thither. The said Commissaries also referred to several Grants, Edicts and Letters Patent of the Crown of France in the years 1540, 1598 and 1627, by which all that part of North America including the coast of Labrador"—you see the ease with which this phraseology is used, "the coast of Labrador"; it cannot possibly mean a seashore—"and the Bay since called Hudson's Bay is granted to certain Companies and private Adventurers. The said Commissaries also refer to several subsequent Grants and Letters Patent of the like nature, from whence they argue an uninterrupted possession and therefore allege that the Treaty of Breda in 1667 and that

of Neutrality in 1686 favor their claim. The English Commissaries in their reply to the French Memorials, insist upon the right of the Crown of Great Britain founded upon prior discovery and possession, and although the discovery and possession upon which that right is founded might be made in search of a North West passage, yet that did not hinder that a discovery made and possession taken in such pursuit was rightful and proper. They further alleged that the Grants and Letters Patent cited by the French are of no force, there never having been any actual possession taken.” Then in the next paragraph 24: “That as to what has been alleged of Canada having no bounds to the northward it is plain by all Maps that Terra Labrador and Estoitland are in the North of Canada lying northward between Canada and Hudson's Bay, and they did never hear that the French had laid claim to these two Countries. That as to what had been urged with respect to this country not being reserved in the Treaty of 1632, there was no need of reserving that which was so remote and not so much as known to the French and that the Treaty of Breda favoured the English who were in actual possession before the 1st of January 1665. That as to what had been alleged by the French that the Normans and Basques made voyages to Labrador at the time of the first discovery of this Country by the English, it was not disputed, but that this country was three or four hundred Leagues, distant from the Bay.” That is all

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recital. Then the Lords of Trade go on to say: “It does not appear that any considerable alteration was made ill the state of things with respect to any part of this country during Queen Anne's War, at the conclusion of which, Hudson's Bay was ceded to the Crown of Great Britain by the 10th Article of the Treaty of Utrecht, which stipulates”—then he sets out the Article in the Treaty of Utrecht. which your Lordships had this morning, of 1713; then in the middle of page 889: “In 1719 Commissaries were appointed by both Crowns in order to settle and adjust the several points in dispute relative to America, which were referred to Commissaries by the foregoing Article, and by the Instructions given to His Majesty's Commissaries they were directed to endeavour to get the limits and boundaries between Hudson's Bay and the places appertaining to the French settled in the following manner.” Then he quotes those instructions to Commissary Bladen and Lord Stair which your Lordships know are to be found in Volume VIII at page 4075.

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Sir THOMAS WARRINGTON: There is a phrase there which may be important, from your point of view, at line 22: “Which the Company desire may be the boundary between the British and French Subjects, on the coast of Labradore towards Rupert's Land, on the East Main, and Nova Britannia on the French side.” That is to say, Labrador is divided into two parts.

Sir JOHN SIMON: That is right. I am obliged, my Lord. It is also to be found at page 4075. Then over the page, at line 10 on page 890: “A memorial agreeable to the foregoing Instruction was accordingly presented by the British Commissaries, but it does not appear that anything was done in consequence of it.” It looks as though the people who drew this up had not appreciated, when the British Commissaries presented their memorial they had bettered their instructions. Your Lordships remember the point; it is to be found by comparing the page I last gave a reference to with Volume VIII, page 4080: “From the foregoing state it will appear to your Excellencies, that the Right to the Eastern parts of Terra Labrador where the Petitioners propose to make a Settlement, had never been an object of particular dispute or discussion, with any other Prince or State, the disputes with the Crown of France in the years 1687, 1699 and 1719 being solely confined to Hudson's Bay and the Territory dependent thereon.” Now, my Lords, I do with some confidence submit that the people who said that undoubtedly thought that if you took Labrador and the Northern part and regarded it as breaking into two, one part dependent on the Bay of Hudson, the other part, the eastern part, not so dependent, they really were thinking of a natural boundary—I mean provided by the facts of physical geography, which created a complete

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partition. I do not think it can be doubted. I will read the words again, if I may. I do think this is an important passage, especially in view of what is coming. Your Lordships have in mind what is being dealt with. You have a Petition from the City of London Merchants to which the Hudson's Bay Company object, and here you have the Lords of Trade.

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with these documents before them, reporting to the Sovereign. What they say at page 890 at line 13 is—

Viscount HALDANE: It is quite important to know what they are reporting on. Were they reporting on the merits of the claims of the Hudson's Bay Company and the other Company respectively, or were they reporting on the general question of whether the Crown could properly make the grant?

Sir JOHN SIMON: It is important, but will you excuse me for saying they have been very careful to show what it is. If you will kindly turn back to page 883, they have propounded the question with the greatest possible neatness—in fact, they have propounded three questions, and they say they are dealing with the first.

Viscount HALDANE: I think it is a crucial point.

Sir JOHN SIMON: I think so, too. If you will look at page 883, line 26: “That the Questions arising upon a consideration of this Petition are, First”—this is the thing—“How far the making a Grant to the Petitioners of this Country”—that is the City of London Merchants.

Sir THOMAS WARRINGTON: No, that is the country they are asking for.

Sir JOHN SIMON: The Petitioners are the City of London Merchants. A grant of this country is a grant of the Labrador coast in my sense of the term. It goes on: “May or may not interfere with any claims either of right or possession, which have been made to it by any other Prince or State, or by any of His Majesty's Subjects by virtue of former Grants or Concessions.” Then, Lord Haldane, if you will kindly turn over you will see on page 884, line 8, they begin: “As to the first Question”—I am reading what they are saying on the first question; they are saying now the question then is: Whether or not the Petition of the City of London Merchants to get a settlement on the Atlantic coast of Labrador will interfere with the rights of ownership or possession of anybody else; having had this representation from the Hudson's Bay Company and the protest, they go on to say, on page 890: “From the foregoing state it will appear to your Excellencies that the right to the Eastern parts of Terra

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Labrador where the Petitioners propose to make a Settlement, had never been an object of particular dispute or discussion, with any other Prince or State, the disputes with the Crown of France in the years 1687, 1699 and 1719 being solely confined to Hudson's Bay and the Territory dependent thereon"—that surely indicates there is this natural partition between the two.—“But it does appear, however, that many of the arguments urged and the proofs offered on both sides in these disputes, do from the nature of them imply more extensive claims, and tend to affect the right to the

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whole of that part of North America, and it does not appear that these disputes have at any time been finally adjusted or a Boundary Line fixed between his Majesty's Dominions and those of His Most Christian Majesty in these parts. As to that part of the Question which has a relation to any claims of right to this country by any of His Majesty's subjects”—he is now coming to the other half of the first question—“we must beg leave humbly to represent: that the only persons which appeared to us to have any interest or concern therein are the Hudson's Bay Company. We therefore thought it proper to call upon them to inform us whether they claimed any or what right to the tract of land desired by the Petitioners. In consequence of which we have received from them a Memorial, a copy whereof is hereunto annexed, and to which we beg leave humbly to refer.” That is the Memorial which is in Volume VIII at page 4098. You will not find it annexed, Lord Finlay, but it is the one I read before: “Upon consideration of this Memorial”—this is very important for me—“it appears to us, that the Hudson's Bay Company seem to admit that the Eastern part of this country cannot be construed to be within the limits of their Charter, and their chief objection to this undertaking seems to arise from an apprehension that it may in its consequence interfere with and prejudice their Trade.” Then they go on to discuss whether in a commercial sense it would be an advantage to make such a grant.

Viscount Haldane.

Sir THOMAS WARRINGTON: This is the second question.

Sir JOHN SIMON: Now you have the second question. They say it is reasonable—63 years; then they say, on page 891, they “Have not assigned any Western limit to the territory of which they desire a grant, and therefore as the Hudson's Bay Company do, by virtue of their Charter, claim the Coasts, and confines of the Bay, it will be necessary if any grant should be made agreeable to the Prayer of the Petition, that such Grant should have a Western limit appointed, which will not break in upon the Charter and property of that Company.”

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Unfortunately nothing was done.

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Viscount HALDANE: In effect, that says there is no objection based on any territorial claims of the Hudson's Bay Company. There is no objection in making this grant.

Sir JOHN SIMON: That is what they say.

The LORD CHANCELLOR: They do not worry much about the claims of France.

Sir JOHN SIMON: I do not suppose they minded that a bit. The practical thing was, of course, whether two competing Corporations or Assemblies in the City of London were going to fight over it, or whether the one that was in possession, and a very powerful body, in

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Hudson's Bay were going to prevent the other people getting their grant.

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Sir THOMAS WARRINGTON: It does rather look as if the Crown considered they were entitled to the whole of the Peninsula, but the Hudson's Bay Company were only entitled to the western half of it.

Sir JOHN SIMON: That is right.

Sir THOMAS WARRINGTON: That is what we have got to settle.

Sir JOHN SIMON: You have. I am not for a moment saying this gets you out of your trouble.

The LORD CHANCELLOR: It only takes you a certain way.

Sir JOHN SIMON: It only takes us a certain way. I do think the document is important, not only for my side, but in the history of the thing, because it does show strongly that Hudson's Bay were not unnaturally insisting on the widest possible rights, but the Lords of Trade were saying: No, a grant of coasts and sea. Hudson's Bay, it is quite true, does give you quite extensive territory, but that is quite a different thing from what we called the eastern side. That is what happened in 1752, and one speculates—I can only speculate—whether, therefore, when, after Wolfe's victory, the French definitely withdrew from this area and passed to the west of the Mississippi, so there became a duty in the Government here at home to organise the consolidated area, one cannot

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help wondering whether this document, amongst others, may not have been in the mind of the persons concerned. The reason I say so is because in Volume VIII, page 4110, there is a curious little document from the Secretary of the Hudson's Bay Company to Lord Egremont. Lord Egremont was Secretary of State. I think in those days his office was Secretary of State for the Southern Department. Your Lordships know the Foreign Office at that time was shared between two Secretaries of State, of which the more important was called the Secretary of State for the Southern Department, and, in fact, the affairs of this area, which are fairly high latitudes, fell within the purview of the Secretary of State of the Southern Department. Does your Lordship notice on page 4110 this little note has been preserved? It is addressed to Lord Egremont by the Hudson's Bay Company. "My Lord. Having this evening received from Mr. Rivers a letter signifying your Lordship's desire to know as soon as possible what are the limits upon the coasts between the Hudson's Bay Company and the Coast of Labrador, I have laid the same before Sir William Baker as Governor of the said Company, who has directed me to present his compliments and acquaint your Lordship he will wait on you thereupon to-morrow morning or at any other more convenient time that shall be appointed."

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It rather looks as though the interview was verbal. It seems a pity there is nobody who can tell us exactly what passed.

Lord SUMNER: That sentence uses the word "coast" in two separate senses.

Lord Sumner.

Sir JOHN SIMON: It does obviously. I think what was really being considered at the moment was this: They were just preparing to enlarge the Commission of the Governor of Newfoundland. Perhaps your Lordships would contrast the dates. The date of this is the 23rd March, 1766, the date on which the Great Seal was appended to Governor Graves' extended Commission was the 25th April, 1763, the next month. They were considering whether or not, in defining the area of Labrador, which was going to be annexed to Newfoundland, they could describe the area as beginning in the north at some defined point. For instance, they might have said Cape Chidley or they might have said Cape Grimington, but the Charter of the Hudson's Bay Company, your Lordships will recall, described the Hudson's Bay area as beginning from the entrance of Hudson's Straits. Of course the point on the land which corresponds to the entrance to the Straits is necessarily a little ambiguous.

Lord SUMNER: Is the suggestion that a new Governorship was going to be created which, in the mind of the writer, was called the Governor of the Coast of Labrador, just as you might have had a Governor of the Gold Coast, and he wanted

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to know what were the physical limits between the old Hudson's Bay Company territory and the territory of the new Governorship at a particular point on the seashore?

Sir JOHN SIMON: I think that is what it means.

Lord SUMNER: It would solve a great many difficulties. You would only have to find out what the Governorship of the Coast of Labrador included. It would warrant you saying, in talking about a description of the boundaries of the new Governorship called the Coast of Labrador, you may read it with reference to the administrative convenience and necessities of a large area.

Sir JOHN SIMON: I would put it even a little further. I would suggest this: The Hudson Bay Charter, as your Lordship recalls, does not speak of the point on the seashore as being Cape Chidley or Cape Grimington; it speaks of the area thus granted to the Hudson Bay Company as being everything that is within the Hudson's Straits. Now, your Lordships know there have already been several different versions as to where that would bring you out on the Atlantic seaboard. I do not know whether anyone ever said Cape Chidley up to that time. We know that the Hudson's Bay Company, when they drew their line and offered it to the Commissaries before the Treaty of Utrecht, brought it out at Cape Grimington; there was also another place which Commissary Bladen had suggested. You must understand they were drafting

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the extended Commission for the Governor of Newfoundland, which was going to appear in another month. That would have tended to clearness. Just as you defined the southern boundary by using the expression “the River St. John,” which was a perfectly defined thing, so you would define the northern limit by saying “Cape Chidley.”

Lord SUMNER: Of course the difficulty is “C. H.” would not know much about it; he is only the Secretary of the Hudson's Bay Company who has got some information from this gentleman, who says it may be in a letter which is not forthcoming.

Sir JOHN SIMON: I agree it is very imperfect. You do, not unreasonably, infer this—that the Secretary of State in March, 1763, would have been glad to know what was the place where the Hudson's Bay boundary touched the seashore at the Hudson's Straits entrance, and if he could have got that, he could have drawn a Commission for Governor Graves which would not only have spoken of the River St. John as being the point drawn this way, but he could have spoken of something with a name as the northern limit.

Lord SUMNER: As far as that goes, it would have been equally appropriate whether it extended to the strip of seashore or whether you go back to the height of land.

Sir JOHN SIMON: I quite agree.

The LORD CHANCELLOR: Mr. Rivers, I suppose writing by command of the Secretary of State, had asked the Company to say what were the limits upon the coast, that is, upon the seashore, between the Hudson's Bay Company, that means the territories of the Hudson's Bay Company, and the Coast of Labrador. It is odd that the word “coast” there does appear to be used as meaning the territory of Labrador.

Sir JOHN SIMON: I think so.

The LORD CHANCELLOR: It must be, as Lord Sumner said just now, the word “coast” there is used in two senses.

Sir JOHN SIMON: I think so.

The LORD CHANCELLOR: Then, of course, evidently they were preparing the Commission of April, 1763?

Sir JOHN SIMON: I think so, yes.

Viscount HALDANE: The matter was in the hands of the Admiralty at this time for the specific purpose of helping the

fishermen and seamen. This is more a geographical than a political question.

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Sir JOHN SIMON: That is quite true. As a matter of fact, it was not the Admiralty who took the main part in 1763, it was the Secretary of State and the Lords of Trade. There are quite a lot of documents, if your Lordships would remind yourselves by looking at map No. 17. I use it merely because it is convenient for this purpose. You can see exactly what sort of enquiry was suggested. I am not suggesting this map was before Lord Egremont; it was not, but it illustrates the point exactly. There you get the thing labelled "Labrador Coast." I am not entitled to use this, of course, as though it was any interpretation on the document, but it shows what it may be supposed they meant.

The LORD CHANCELLOR: Those words run along by the sea; it does not come to very much.

Sir JOHN SIMON: No, but it means a substantial area; it does not mean the seashore. On the other hand, there was the Hudson's Bay area, which was known by the terms of the Charter to start from the entrance to Hudson's Straits. Now comes the question: What was the entrance to Hudson's Straits?

The LORD CHANCELLOR: Map No. 17 is obviously drawn after the Commission of 1763.

Sir JOHN SIMON: Yes.

The LORD CHANCELLOR: Is there a map drawn just before which was in use?

Sir JOHN SIMON: Certainly. Take, for example, a map like No. 12, that is a map of 1755. If we conceive Lord Egremont looking at that, you can well understand he was a little doubtful, because you notice the yellow colour is treated as running along the Detroit of Hudson as far as Cape Chidley, but the boundary half yellow and half green strikes Hudson's Bay rather to the west of it. On the other hand, if he compared that with such a map as the Hudson's Bay Company had provided the Government with when they were negotiating, or, rather, settling the details consequent upon the Treaty of Utrecht, he would have found a boundary which ran, not to the west, but to the east of Cape Chidley, so, not unnaturally, he examines the Charter of the Hudson's Bay Company and says: I see by the terms of your Charter that you are entitled to—you are granted all those seas, straits, bays, rivers, lakes, creeks, and so on, that lie within the entrance of Hudson's Straits. Now he is going to frame a Commission to Governor Graves, and one can quite understand for practical purposes, if you could do it,

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Sir John Simon. especially on the sea-border, it would be a very convenient thing to have got a fixed point.

Lord SUMNER: I suppose, on the Canadian argument, it might similarly be necessary to say: Can you tell me where the Labrador coast

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ends and Hudson's Bay begins, because clearly when you do get to Cape Chidley the Labrador coast stops, and it goes on again on the other side.

Viscount HALDANE : That is the Canadian case.

Lord SUMNER: It illustrates some of the practical difficulties which arise on both sides.

Lord Sumner. Sir JOHN SIMON: It does. I am only saying it is an interesting thing that just at that time, in 1763, this question should have been asked. As a matter of fact, they did not get a very illuminating answer. I should infer it might be said the Hudson's Bay people would not give up anything; on the other hand, the Government were not going to make a mistake. It is again a significant thing which helps me. The language used in the extended Commission to Governor Graves is an exact copy, or practically a copy, of the language used in the Hudson's Bay Charter, that is to say, the northern boundary is said to be the entrance to the Hudson's Straits, while in the case of the southern boundary you are able to use the much more definite expression "River St. John."

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Viscount HALDANE: In other words, they solve nothing.

Sir JOHN SIMON: In other words, they got out of the difficulty by repeating the ambiguity.

Lord SUMNER: I should think when Sir William Baker, the Governor of the Company, waited on his Lordship, he brought a copy of his Charter with him and said: Up to that point it is all ours.

Viscount Finlay.

Sir JOHN SIMON: The Lords of Trade knew the Charter very well. We have been reading an elaborate document which shows that they had been examining the document in detail just before.

The LORD CHANCELLOR: It shows what the Hudson's Bay Company meant by the entrance to the Straits.

Sir JOHN SIMON: They did not get an answer which resulted in complete agreement. The consequence is, when you look at the extended Commission to Governor Graves, instead of fixing on a curious little point like Cape Chidley, or

something of the kind, they repeat the expression “Entrance to Hudson's Straits.”

Viscount FINLAY: You observe, of course, the longish account given in the prefatory note to No, 17 of this mountain range delineated with some little hesitation in the map itself.

Sir JOHN SIMON: Yes, I have.

(Adjourned for a short time.)

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AFTERNOON SESSION.

Sir JOHN SIMON: Lord Finlay asked me what was supposed to be the origin or meaning of the word "Hochelaga." My Lord, a gentleman here who is kindly attending from the British Museum Map Department, Mr. de Villiers, has shown me an entry from the British Museum Catalogue from which it would seem that there is an early map, a map of Canada of 1609, a French map, in which there is a small circular enclosure marked "Hochelaga," and that is one of the earliest representations of what is now the town of Montreal.

Viscount HALDANE: Yes, it is the old name for Montreal. The great bank of Hochelaga exists to-day.

Mr. GEOFFRION: It has changed its name because in the United States it could not be understood what they were, so they take a more civilised name.

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Mr. Geoffrion.

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Viscount HALDANE: It is not wound up.

Mr. GEOFFRION: No.

Viscount HALDANE: Is it amalgamated?

Sir JOHN SIMON: I understand the suspicious citizens of the United States were not sure whether a bank with a name like that could be trusted, and the bank changed its name.

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Viscount HALDANE: The Hochelaga Bank is a bank of very long standing: I have heard about it for the last forty years.

Sir JOHN SIMON: I think I am right in saying, subject to correction by my learned friend Mr. Geoffrion, that the French Canadians in the old days sometimes used the word "Hochelaga" as referring to the St. Lawrence.

Mr. GEOFFRION: Very early.

Sir JOHN SIMON: It was an Indian name, or was believed to be an Indian name, for the St. Lawrence, but apparently, if you ask where is the place called Hochelaga, the answer is, it was a name given apparently to some settlement or enclosure on the site or near the site of what is now Montreal.

Mr. GEOFFRION: It was Jaques Cartier found when he came to Montreal.

Sir JOHN SIMON: That explains it.

I am going to mention Hudson's Bay in a moment again, but since chronology is really the safest guide here, I will ask leave to make a small departure from strictly Hudson's Bay matters and pass from the year 1763, ten years later, to the year 1773. I now want your Lordships please to turn to Volume III at page 1079. You will find there that a gentleman named Mr. Agnew and some other petitioners—I think they were Scotsmen—appealed to the King's Most Excellent Majesty in Council for a grant on the coast of Labrador. As the petition is quite short, I think it is worth looking at, partly because it illustrates what you mean by the coast of Labrador, but partly also for another and perhaps more important purpose. It is signed, you see, by Alexander Dun for John Agnew and others. Mr. Dun, I see by the documents, in fact, had been out there, and I think he was probably the person who moved his friends, who came, or most of them came, from Wigtownshire in the south of Scotland. “The humble Petition of John Agnew of Sheuchan and Associates in the County of Wigtown, North Britain. Sheweth That your petitioners have particular information that there are several places in the Island of Newfoundland and Coast or Country of Labrador”—you will notice it says “coast or country”—“between the River St. Lawrence and Hudsons Streights where Copper, Copper Ores, and other valuable metals and minerals may be procured which your petitioners conceive will be highly advantageous to Your Majesty's Kingdom if in the hands of proper persons. That your petitioners are willing to hazard a share of their private property in working such mines as now are or hereafter shall be discovered in the Island of Newfoundland and the said Country of Labrador”—they change it, it is simply “the said Country”—“at a certain limited distance not exceeding sixty miles from the sea or flowing of the sea water on any part of the said Coast of Labrador.” That illustrates the relation between these conceptions which I submit is relevant in construing the documents ten years earlier—they treat the Coast of Labrador as a substantial territorial area.

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Viscount HALDANE: Yes, but not exceeding sixty miles from the sea.

Sir JOHN SIMON: He is limiting himself to a request for a grant to that extent. It is rather like when the pink oblong was cut out of a greater whole which was called the coast of Labrador in 1825. “Your Petitioners therefore most humbly pray”—

Viscount HALDANE: It is “Labrador within the limits aforesaid.”

Sir JOHN SIMON: Then on the Petition having been presented, the matter, on the next page, came before the Lords of Trade, who were invited to report on it, and the

upon it on page 1080: “My Lords, Pursuant to your Lordships Order of the 19th of May 1773, we have taken into our consideration the humble Petition of John Agnew of Sheuchan and Associates in the County of Wigtown in North Britain, humbly praying, that His Majesty would be graciously pleased to grant unto them all mines, minerals, and metals already discovered in the Island of Newfoundland, and on the coast or country of Labrador, between the River St. Lawrence and Hudson's Streights, at a certain limited distance not exceeding sixty miles from the sea, or flowing of the sea–water.”

Then they go on to say: “Whereupon we beg leave to report to Your Lordships, That the proposition contained in the petition, which your Lordships have referred to our consideration, does not in the general view of it appeal liable to objection; we beg leave, however, to observe to your Lordships, that the description of the limits, within which the petitioners propose the Grant to be made to them, appears to us, so far as it regards the Labrador Coast, to be attended with some difficulty”—observe what the difficulties are—“for, as on the one hand the proposing the River Saint Lawrence as the boundary to the south is not sufficiently precise”—it might have carried them right up to Quebec or to Montreal—“so, on the other hand, by extending the Grant northward to Hudson's Streights, they will take in a very large part of what has been already granted to the Hudson's Bay Company, who are intitled by their Charter to all mines and minerals within the territories granted to them: But we see no objection to your Lordships advising His Majesty to grant to the Petitioners all mines and minerals, which either have been or shall hereafter be discovered by them or their Associates within the Island of Newfoundland, and upon the Coast of Labrador between the River Saint John's and the southern limits of the territory granted to the Hudson's Bay Company.” Your Lordship sees that entirely fits with my construction of the document ten years before, which is the document which extends the jurisdiction of the Governor of Newfoundland to the mainland of Labrador.

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The LORD CHANCELLOR: What are the southern limits?

Sir JOHN SIMON: I think what is meant is this. I hardly like to trouble your Lordship to look at a map for the purpose. They meant it might be that if you travel near Cape Chidley sixty miles inland you will get over into the Hudson's Bay territory, and so they say that is not a good way to define it. We do not see any reason why you should, and you must not treat our grant as giving you any portion of the Hudson's Bay territory.

The LORD CHANCELLOR: I quite follow that. But my

difficulty is the word “southern.”

Sir JOHN SIMON: Would the word “south-eastern” be better?

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Viscount FINLAY: Surely “southern” in a general way indicates the side of the Hudson's Bay territory with which they were concerned.

Viscount Haldane.

Sir JOHN SIMON: I thought that was what it was. I agree that the description “southern” is not quite right, taking it as a point of the compass, but I took it to mean that if you regarded yourself as standing on the divide, you would have an area which was north-west which would be Hudson's Bay territory.

Viscount HALDANE: They did not agree with the idea of the sixty miles.

Sir JOHN SIMON: They give that up. They say sixty miles may be too much in some cases, and, for all we know, it may be too little elsewhere, but so long as we are quite certain that there is no trenching upon the Hudson's Bay horse-shoe, if I may so describe it, they say that is all right. And the other thing that is important is that they say we ought to limit it to the southern boundary, namely, to the River St. John.

Viscount HALDANE: It says “within the Island of Newfoundland, and upon the Coast of Labrador between the River Saint John and the southern limits of the territory granted to the Hudson's Bay Company.”

Sir JOHN SIMON: May I give your Lordship a reference to a map which I think will show what is meant?

The LORD CHANCELLOR: They must mean the point at Davis Inlet or just about that.

Sir JOHN SIMON: Yes.

Sir John Simon.

Viscount HALDANE: They start in the preamble by saying the Petition is for “a certain limited distance not exceeding sixty miles from the sea.” It may be all right so long as it is east of the River St. John.

Sir JOHN SIMON: Yes.

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Viscount FINLAY: They follow the coast round from St. John's River until you come to the southern boundary.

Sir JOHN SIMON: I think that is the meaning of it.

Sir THOMAS WARRINGTON: It may mean the extreme

north of that peninsula.

Sir JOHN SIMON: Might I just refer to map No. 26 with reference to this? I understand the observation made to be this. They say the

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terms of the Petition are for a grant of land on the Labrador Coast which runs sixty miles inland. It is conceivable there may be places where that would run into the green. Sixty miles from the sea is, therefore, not a good way of talking about it. Neither is it a good thing to say that they want the grant bounded by the St. Lawrence, because how far is the St. Lawrence treated as running up? But they say, if you make the one limit the River St. John, which ten years before they had made the lateral boundary of the enlarged Newfoundland, and if you will say that they are not to go beyond the southern limit of the Hudson's Bay territory, then you are dealing with an area which is not already pre-occupied.

Viscount HALDANE: Yes, but they are dealing also with a limited distance not exceeding sixty miles from the sea.

Sir JOHN SIMON: The Petition asked for that, and the Lords of Trade say the Petition is in an objectionable form. They say they think the Petition might very well be acceded to, provided its terms are such that you secure there is no overlap in the two directions they indicate.

Viscount HALDANE: But only on the Coast of Labrador.

Sir JOHN SIMON: Only on the Coast of Labrador.

Viscount HALDANE: Not exceeding sixty miles from the sea.

Sir JOHN SIMON: That is perfectly true. I am not for a moment saying that this document shows affirmatively that the Coast of Labrador does go into the height of land. I could not say that. But I think I am entitled to say this is an application to carve out of the total which is called the Coast of Labrador something which is sixty miles deep, and that the only comment which has to be made on that application is: "That is all right; you can perfectly well cut sixty miles off the Coast of Labrador, but we must be quite clear you do not go further than the River St. John in one direction and do not trench on the Hudson's Bay territory in the other direction."

You will find that the Lords of Trade having made that comment, the grant is made. The grant is to be found in Volume III, page 1154.

Sir THOMAS WARRINGTON: There was an Order of the

Privy Council.

Sir JOHN SIMON: I am obliged to your Lordship. The Privy Council Order is worth noting. It is shown on page 1081. At line 28 you will see they recommend “a draft of a proper instrument to be passed under the Great Seal of Great Britain, containing a grant to the petitioners, their heirs and assigns, of all mines and minerals which either have or shall hereafter be discovered by them or their associates within the Island of Newfoundland, and upon the Coast of Labrador,

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between the River St. Johns, and the southern limits of the territory granted to the Hudson's Bay Company.”

Sir THOMAS WARRINGTON: That means the mines and minerals contained in an area of dry land described as the “Coast of Labrador.”

Sir JOHN SIMON: Yes.

Sir THOMAS WARRINGTON: And undefined in width.

Sir JOHN SIMON: Whether undefined I am not sure.

Sir THOMAS WARRINGTON: Not in terms defined.

Sir JOHN SIMON: I quite agree—not marked out by metes and bounds. Then, if your Lordships will kindly turn to page 1154, you will find there is a report in respect of the grant, followed on page 1156 by the grant itself. Lord Haldane will see that the point he made just now is made good on page 1156. The thing is carved out of a total piece of territory which is known as the Coast of Labrador, but it is to be sixty miles measured from the margin of the sea.

Viscount HALDANE: That is incorporated in the Order of the Privy Council.

Sir JOHN SIMON: That is right. It reads: “Whereas there was this day read at the Board, a report from a Committee of the Lords of His Majesty's Most Honourable Privy Council for Plantation affairs dated this day, upon considering the draft of a grant prepared by His Majesty's Attorney and Solicitor-General of all mines, minerals, metals and ores whatsoever within the Island of Newfoundland or upon such part of the sea coasts of Labrador, as lie within sixty miles of low water mark of the open sea, between the river St. John and the southern limits of the territory granted to the Hudson Bay Company unto John Agnew of Sheuchan in the county of Wigtown in Scotland, George Stewart of the county of Wighton and Alexander Dunn, collector of the customs of the Island of Newfoundland Esqre, their executors, administrators and assigns, for the term of nine hundred and ninty nine years, under the reservations and upon the conditions therein expressed and contained.” Alexander Dunn, you will observe, was a Scotsman who had gone into the New World and was collecting customs there, and while pursuing his professional and official avocations he noted that this was not a bad place for him and his friends from Wigtownshire, and he thereupon moved Mr. Agnew and others to join him, and they got the grant.

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Sir JOHN SIMON: I do not think so. That is a little instructive, I think, as showing what is meant. In the same way, slightly diverging from the strict Hudson's Bay matter, though having a hearing on it. I ask your Lordships to take one or two references to the enterprise of the Moravian Missionaries, very good people who devoted themselves to trying to Christianise the Eskimos in that area, and who combined, as of course was quite proper, the business of preaching the Gospel with the carrying on of a certain amount of trade. It is a very interesting and striking fact that the Moravians—I think it was called the *Unitas Fratrum*—on the recommendation of Governor Palliser in the first instance, who was the successor of Graves, and later by other grants, got four separate grants of land, together making the very enormous amount of 400,000 acres. These were grants of land upon the Coast of Labrador, and what is extremely significant is that nobody ever doubted that those grants were grants which were effected within the jurisdiction of the Governor of Newfoundland. If you are going to say that the Coast of Labrador, so far as it is annexed to Newfoundland, is a mere strip, then, of course, these grants to the Moravians become perfectly impossible. It is not left as a matter of inference; it is by the express provision in the documents in reference to the grants to the Moravian Missionaries that these things are done through the Governor of Newfoundland. I venture to think that is a very significant thing as showing the way in which the Coast of Labrador, so far as that description is applied to the area administered by Newfoundland, is to be understood.

The references are these. I could give you many more, but I have picked out the ones really significant. In Volume III, page 932, you will find Governor Palliser—who, as I told your Lordships, was the successor of Governor Graves, succeeding to the governorship in the year following Graves's extended Commission—addresses the Lords of Trade and gives an account of his proceedings to establish friendly relations with the Eskimo Indians. He is reporting in these terms in 1764: "In obedience to the 13th and 14th Article of His Majesty's instructions"—perhaps your Lordships might like to note in the margin that those instructions will be found in Volume II, page 422; they are explicit instructions to Governor Palliser that he is to get, on to the mainland and do these things—"in obedience to the 13th and 14th Article of His Majesty's instructions for endeavouring to conciliate the affections of the Esquemeaux savages on the Coast of Labrador"—the very thing, in my view, which the Newfoundland Governor had to deal with—"without the Streights of Bell Isle, and to introduce a commerce with them; before I left London meeting with a man named Hans Harven one of the Brothers of the Moravian sect who has lived some years amongst the savages of Greenland, and talks their language, which very probably is the same with

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the Esquemeauxs, and finding in him a strong disposition (to a degree of enthusiasm) to undertake to introduce some knowledge of religion amongst those savages,” etc. I rather fancy that in the eighteenth century enthusiasm in connection with religious fervour had not an altogether good meaning. Your Lordships remember the eighteenth-century tombstone of an old lady who was described as having

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filled her life with works of piety “without the slightest touch of enthusiasm,” meaning without frenzy or without too much excitement.

Viscount FINLAY: I think the Duke of Wellington recommended the Institution of Chaplains in his army in the Peninsula to attempt to keep down enthusiasm.

Sir JOHN SIMON: Yes, my Lord. In the eighteenth century enthusiasm in a religious connection had undoubtedly a rather bad sense. Governor Palliser says that this gentleman, Hans Harven, exhibited a degree of enthusiasm, and I might say that the documents which follow, which are not relevant, rather show that he did. The report of Governor Palliser goes on to say: “and finding in him a strong disposition (to a degree of enthusiasm) to undertake to introduce some knowledge of religion amongst those savages I encouraged him in it, and to come out here, where I have also encouraged some merchants to send a vessel with him to that Coast (having none of the Kings to spare this season) and in case he should be able to converse with those savages,” etc. That was the beginning.

Viscount HALDANE: So far there is no grant of land.

Sir JOHN SIMON: No, my Lord, but it is coming. This gentleman, Hans Harven, went out, and as the result, after about six months, there comes a petition (page 1311) from the Society of the Moravians to the Lords of Trade. It is a petition of the 23rd February, 1765. The petition is in the following terms:—“Sheweth, That the said Unitas Fratrum, desiring to the utmost of their power to propagate the Gospel of Our Lord . . . And that to the same end Jens Haven”—that is the same man as Hans Harven—“one of the above mentioned Petitioners, was sent last summer to Terra Labrador, in order if possible to find out whether the language of the so-called Eskimaux be the same with that of our Indian brethren in Davis's Straits, in which undertaking of his by the favour of the Lords of the Admiralty, and the kindness of Governor Palliser, he was enabled to make some progress, and found to our great satisfaction, that the language was the same, and met with an unusually kind treatment from those savages he came to the speech of. The endeavours of the said Jens Haven having met with so much success, the Unitas Fratrum also perceiving that this

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undertaking has been agreeable to the Lords Commissioners of Trade and Plantations (who were pleased to express a desire that the Brethren would settle in those parts) have after mature deliberation resolved in the name of God, and Our Lord Jesus Christ, to do everything in their power towards the conversion and civilizing the savage natives of that inhospitable country . . . But seeing the Esquimaux are not only a savage nation but even provoked by the former behaviour of the Europeans in general to such a degree, that even killing as well robbing and stealing is become their ordinary custom . . . Therefore, it is humbly hoped, that the English nation if they on their side ever

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wish to see the Fishery on that Coast secure from the depredations of those barbarous people by their becoming civilized will not only do all in their power to prevent our Mission among them from being disturbed or molested in any wise, but will also in all respects be inclined to wish well to the same, and readily grant us all needful and proper protection and assistance . . . Your Petitioners beg leave to make the following proposals.” They then propose that a vessel should be sent out, and there are one or two more proposals at the top of the next page. Then on page 1312, line 12, they make this proposal—a modest proposal. “That four different tracts of land on the Coast of Labrador for the use of the Mission be now beforehand allotted and secured to us by the Government . . . And as Terra Labrador is a country where hardly any other Europeans will make a fixed settlement . . . We desire that these four tracts of land in four different parts making altogether 400,000 acres may be granted to us in the above manner.” Of course 400,000 acres is a very substantial amount.

Viscount HALDANE: But you observe it does not follow that these were within the Coast of Labrador. They are petitioning the Crown.

Sir JOHN SIMON: I have observed that, my Lord. I am reading it because I am coming to that answer of the Crown which directs the Governor of Newfoundland to give them what they want. That is the point I want to make. It shows when you have a Governor with a Commission for the Coast of Labrador, it is quite plain that he is the person who is supposed to be able to deal with very large areas of territory. It is enough to read that at the moment.

Now would your Lordship go to page 1298, the second page of the report, which shows that a little later, April of the same year, Hugh Palliser, the Governor, is making an order reciting that “many and great advantages would arise to His Majesty by establishing a friendly intercourse,” and so on. Then at the bottom of page 1297 there is “and whereas I am endeavouring to establish a friendly communication between His Majesty's subjects and the said natives on the Coast of

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Labrador, and to remove these prejudices that have hitherto proved obstacles to it. I have invited Interpreters and Missionaries to go amongst them to instruct them in the principles of religion, to improve their minds, and remove their prejudices against us.” He is giving orders that everybody is to treat these people fairly, and, above all, not to supply them with strong liquor, the people being the natives. Skipping over one or two unimportant pages, on page 1314, almost at the same date, April, 1765, the Admiralty is directing “that a passage may be ordered in one of the ships of Commodore Palliser's Squadron, for the four Persons therein named, who are appointed by the Society of the United Fratrum, to establish a Mission on the coast of Terra Labrador, and that the Commander of such ship as may be appointed to visit that Coast, may have Orders to give them such Protection and Assistance.” The grant is on page 961.

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Viscount HALDANE: All that page 1314 says is that a ship shall take them out, and that they shall establish a mission on the coast.

Sir JOHN SIMON: That is all. I have not got to the grant yet, but I am coming to it now on page 961, in the year 1766. I venture to think that there is a passage in this document which is really striking.

The LORD CHANCELLOR: There is a great deal which you can pass over.

Sir JOHN SIMON: Yes, my Lord; I am going to do that.

Viscount FINLAY: The point of it is that they thought this enormous quantity of territory could be found on the coast of Labrador.

Sir JOHN SIMON: And the Governor of Newfoundland was the person to give it to them. It is said so in terms now. I will not read all this long document on page 961. It is a report. I would like your Lordship to note, to save going back to it, though it is for another purpose, that on page 962, at line 10, there is the definite assertion that it is not merely the cod fishery, but that it is the seal and sea cow fishery, which is also important there. Then on page 963, at line 32, there is: “It is unnecessary for us to trouble Your Majesty with every Circumstance relating to the Mission of the Society of the Unitas Fratrum; it will be sufficient to say, that the Object of it is so commendable in itself and the Conduct of those who went out last Year upon this difficult and Hazardous Service appears by the Report of Your Majesty's Governor to have been so meritorious and prudent, that, independent of Public advantage arising from the Discovery of a Coast hitherto unknown and unexplored”—people knew the littoral, the sea coast, quite well, but they did not know what was inland

—“does seem to us to recommend them to Your Majesty's further favour and Protection; and therefore we submit to Your Majesty whether it may not be advisable”—that is the Governor of Newfoundland; I can show it in terms in a moment, but it is, anyhow—“that Your Majesty's Governor should be instructed to allow this Society to occupy such a District of Land not exceeding one hundred thousand acres upon the Coast of Labrador as they shall think best situated.” The first grant they got, therefore, was a grant of 100,000 acres. The Order in Council itself followed upon that, and is on page 1321. This is the Order that is made upon that Report. I must just read the first recital: “Your Majesty having been pleased by your Order in Council of the 20th February last to refer unto this Committee a representation from the Lords Commissioners for Trade and Plantations setting forth that they have had under their consideration a memorial presented by the Earl of Hillsborough, one of Your Majesty's Principal Secretaries of State, on behalf of the Society of Unitas Fratrum, stating”—see how it runs—“that the said Society are desirous of prosecuting their intention or establishing a Mission on the Northern Coast of Labrador for the purpose of civilizing and instructing

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the Savages called Esquimaux, inhabiting that Coast, in which undertaking the Memorialists represent that they have already taken some steps in consequence of encouragement received from the Board in 1765, but that there is a necessity of having permission to occupy such a quantity of land on that Continent as may induce the Esquimaux to settle around the Missionaries”—it is quite plain that the northern coast of Labrador is being referred to really by “that continent” now—“that for this purpose they have pitched upon Esquimaux Bay and praying for a grant on that spot of one hundred thousand acres of land, or about 12 miles square.” Twelves miles square is 144, and I think there are 640 acres to a square mile; so it would come to about 100,000 acres. That is a quarter of the whole grant which they ultimately got. Thereupon they make the grant, and at the bottom of page 1323, line 40, they may choose “any 100,000 acres of land in such part of Esquimaux Bay on the Coast of Labrador as they may find most suitable for their purpose.”

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Viscount Haldane.

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Viscount FINLAY: I think there were four parcels.

Sir JOHN SIMON: Yes, my Lord, and this is the first. Then the last sentence of the document, on page 1324: “And the Governor or Commander in Chief of His Majesty's Island of Newfoundland and the Territories depending thereon for the time being, and all others whom it may concern, are to take Notice and Govern themselves accordingly.”

Viscount HALDANE: They are to give them reasonable assistance and support in forming the said establishment, and by proclamation. It is not a grant.

Viscount Haldane.

Sir JOHN SIMON: Forgive me, my Lord; I thought it was.

Viscount HALDANE: Where is the grant?

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Viscount Haldane.

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Sir JOHN SIMON: Am I wrong, my Lord?

Viscount HALDANE: A grant is by the King.

Sir JOHN SIMON: Certainly, my Lord. It could not, I think, at that time have been anything else. The Governor of Newfoundland, under his instructions as they were then, was not like the Governors of some places a hundred years afterwards. It was not within his commission to make grants in the name of the King.

Viscount HALDANE: I have no doubt that that is so.

Sir JOHN SIMON: You had to go to the King.

Viscount HALDANE: The King grants the hinterland, and grants

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the hinterland apparently quite irrespective of the Governor, who is directed, as the agent of the Crown, to protect it.

Viscount Haldane. Sir JOHN SIMON: I think the true position is this: The Governor of Newfoundland first of all gives these people facilities; he reports that it is desirable that they should be given facilities, and so on.

Sir John Simon. Viscount HALDANE: He has his ships.

Sir Thomas Warrington. Sir JOHN SIMON: I hope your Lordship will not think I am trying in the least to divert your Lordship's mind from that. The Petition is made, and it must be made, to the Sovereign, and, in the light of recommendations which are made by Palliser and other people, it is decided to do it. The grant is then a grant (your Lordship is absolutely right) by the prerogative of the Sovereign here of those 100,000 acres on the coast of Labrador, but I think both this and a subsequent passage will show it was treated from beginning to end as being within the actual area of the Government of Newfoundland.

Sir John Simon. Viscount HALDANE: The Governor is the actual person to give protection to any British subject there; he was the person who had the Fleet.

Sir JOHN SIMON: I am not disputing that at all. Just to illustrate why I think it really does come to a little more than that, I will take a later grant. Will you turn to page 1348?

Sir THOMAS WARRINGTON: It is obvious that it was the Governor of Newfoundland who was to have the administrative authority over the land granted to the Moravians, because he had power to appoint justices of the peace.

Sir JOHN SIMON: They all show it; but really the document on page 1348 is very clear.

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Sir John Simon. Sir THOMAS WARRINGTON: He does not make the grant because the land is not vested in him. If the land is vested in anybody it is vested in the King.

Sir JOHN SIMON: It was at that stage; but when you pass on to the early part of the nineteenth century and the instructions are varied. then it was the Governor who did it. If your Lordship will turn to page 1348 you will find the very thing.

Viscount FINLAY: Whichever way it was done, it comes to very much the same thing.

Sir JOHN SIMON: I wanted to meet the point which Lord Haldane was good enough to raise, because it is an important point, and page 1348

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Viscount Haldane. is worth looking at from that point of view. The position then was this: you had the Governor of Newfoundland, who at this time was Hamilton, on page 1348, addressing the Rev. Benjamin Kohlneuister, brother of the United Fratrum Society, and saying—we need not trouble about the first paragraph—“Captain Martin's reports to me of the result of your labours are no less pleasing than surprising, and as long as it may please His Majesty to continue me in this Government I shall feel a sincere pleasure in not only communicating but forwarding the views of your Society in every way within my power, agreeable to His Majesty's towards all his subjects, and who has commanded the Earl of Bathurst, his principal Secretary of State for the Colonies, to direct me”—Lord Bathurst, as Secretary of State for the Colonies, is directing him (that is, Governor Hamilton)—“to make a special grant of a considerable accession of territory to the Society of Unitas Fratrum, which has only been delayed for want of an eligible mode of conveyance.”

Sir John Simon.

Viscount HALDANE: Where was his authority to make any such grant? This is a very nice letter to write to the Rev. Benjamin Kohlneuister, but where was the authority of the Governor to grant territory outside the boundaries of Labrador?

Viscount Haldane.

Sir John Simon.

Sir JOHN SIMON: Forgive me, my Lord, is not your Lordship, in putting that question, a little bit assuming something against me?

Viscount Haldane.

Viscount HALDANE: No. He grants apparently as if he had authority. Where did Lord Bathurst direct him to make a special grant of a considerable accession of territory which might be beyond the coasts of Labrador?

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Viscount Haldane.

Viscount HALDANE: I am using the word “coast” in the narrower sense, but you are contesting it and saying it is up to the height of land.

Sir JOHN SIMON: I am putting a little emphasis on this because I should have submitted that the fact that these things happened was some indication that the true construction of the annexation of the coast of Labrador by Newfoundland was what I am contending for; it is entirely consistent with my contention.

Sir John Simon.

Viscount HALDANE: They did not leave it to the Governor of Labrador; they went to London to get what they wanted, and ultimately London made an Order which is quite logical; they made a grant and directed the Governor to protect the Moravians.

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Sir JOHN SIMON: This is not a direction to the Governor to protect at all; it is an Order to the Governor to make a special grant.

Viscount HALDANE: I am looking at the other document, and I am asking you: Where was the authority to do more than was contained in that direction? Where was the authority to grant what may have been the property of the Crown?

Mr. MACMILLAN: It is an Order of the Prince Regent in Council, which is referred to on the preceding page.

Sir JOHN SIMON: I am obliged. If I do seem not to have been dealing with your Lordship's point, it is not intentional on my part, but I have passed from the first grant to a later one, and I may have been a little obscure. If your Lordship would turn back one page to page 1347, the authority, so far as it is a document, is to be found there in the plainest terms: "Proclamation by Governor Hamilton." Your Lordship appreciates that I have now got to the year 1821. "Whereas His Royal Highness the Prince Regent in Council on the 13th May, 1818"—George III was indisposed at this time—"acting in the name and on the behalf of His Majesty was graciously pleased to authorise that every facility should be given to the Moravian Missionaries in Labrador for extending the beneficial influence which they have had upon the character of the Native Indians, and for spreading still further the benefits of the Gospel and to that end to permit and allow the Society of the 'Unitas Fratrum' to form a fourth settlement"—this is the fourth; I gave you two others, and this is the fourth.

Viscount FINLAY: From the first it was contemplated that there should be four?

Sir JOHN SIMON: It was, my Lord—"on the Eastern coast of Labrador and to occupy during His Majesty's pleasure 'that part of the said Coast to the North of Okkak'"—I can show you that on the map—"which comprehending the Bays of Kangertuksoak and Saglek reaches to the 59 degrees of N. Latitude, provided that the spots chosen by the said Society

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for its settlements may be such as in no respect to interrupt or annoy the fisheries carried on upon the said eastern coast of Labrador, I, the Governor aforesaid, do therefore hereby make known unto all whom it may concern that the said settlements of the Unitas Fratrum are under His Majesty's immediate protection and do hereby strictly enjoin all His Majesty's subjects to live in amity and brotherly love with the said settlers and the Native Indians inhabiting the country aforesaid, in no wise molesting, or disturbing the said Missionaries or those who shall settle with them; And I do further require that all His Majesty's subjects who shall come upon the coast of Labrador do act towards the said Missionaries and the Esquimaux Indians justly, humanely and agreeably to those laws by which His Majesty's subjects of all classes are bound throughout His Majesty's Dominions. And the

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Lord Sumner.

said Society of Unitas Fratrum are hereby enjoined to take especial care that spots it shall chuse for its Settlements be such as in no respect to interrupt, or annoy the fisheries carried on upon the said Coast of Labrador." All I am saying is that on four successive occasions, the first of them an occasion in 1766 and two intermediate occasions the dates of which I think I can give if you wish it, and the last, I think, an occasion in 1821, the Unitas Fratrum did acquire very considerable blocks of territory, 100,000 acres in each case, at four different points. Those blocks of territory were to be chosen as they pleased. The first one, in fact, was a square block. It would not appear to have gone beyond anything in the terms of the grant, if they had chosen a narrow oblong which ran further in, but it was a square block. All I am venturing to submit is that while the source of the grant is the Crown, it is plain that in these documents from first to last it is treated as being within an area which is called the coast of Labrador, which is the very phrase "all the coasts of Labrador which are annexed to Newfoundland," and, what is more, that the Governor of Newfoundland is the authority that is directed in that regard.

Lord SUMNER: This grant at Okkak apparently rests upon some coast, where fishing is going on, but it appears to carry you some miles into the interior, at any rate beyond the one-mile strip. It does not carry you far, but it is something for you.

Sir JOHN SIMON: It is. I would not trouble your Lordship if I did not think so.

Lord SUMNER: The other settlements may have been further inland or further up an inlet.

Viscount Haldane.

Sir JOHN SIMON: I have no real reason for saying so.

Lord SUMNER: I see they are shown on the map; I see that Hebron is marked. It does not show how far it goes in.

Viscount HALDANE: There are 400,000 acres.

Sir THOMAS WARRINGTON: The 100,000 acres you have referred to is only a part.

Sir JOHN SIMON: 400,000 acres, unless my memory of these things is quite wrong, would be something like 800 square miles.

Viscount HALDANE: I find in the document on page 1247 what is anticipated from the earlier document a direction to protect and look after; that is a very different thing from a grant of the hinterland. It seems to me there are only three parties interested: Canada, Newfoundland, and, in respect of that vast tract in between, the Crown.

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Sir JOHN SIMON: Quite possibly. On any view, what I have been calling attention to—I hope not at too much length—appears to me to have a very material bearing, because it does appear quite conclusively to show that all attempts to suggest some quite narrow strip break down on the conduct of all the parties, from the King downwards.

Viscount FINLAY: I think you said that these were square blocks.

Sir JOHN SIMON: It does appear that the first of them is a square block; the first one is described as a square block. It is to be found on page 963.

Viscount FINLAY: What page is this?

Sir JOHN SIMON: It is page 1321.

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Sir John Simon.

Mr. Macmillan.

Sir John Simon.

The LORD CHANCELLOR: Mr. Macmillan, which map are they on, can you tell me?

Mr. MACMILLAN: They are shown on one of the maps in our atlas, I think.

Sir JOHN SIMON: I did not know that they were.

Viscount Finlay.

Sir John Simon.

Mr. MACMILLAN: I am sorry. It is not in the atlas; it is a map which I have seen myself. May I say what we did? We inquired of the Government of Newfoundland what was the extent of those grants which they had made, and they were good enough to supply us with a map on which they show the precise territory. I have that map here, and I can show it. May I do so?

Sir JOHN SIMON: By all means. But I just want to give Lord Finlay the reference. At page 1321, at line 26, your eye will catch the phrase “or about 12 miles square.”

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Sir John Simon.

Viscount FINLAY: I had an impression that they failed to comply with the terms of the grant.

Sir JOHN SIMON: From the terms of the document I should have thought that they were given a discretion, but I should not have thought that they would have failed to comply with the terms of the grant if on one occasion they chose a long narrow oblong which went further in.

Viscount FINLAY: It would certainly have been within their discretion to give any shape they liked, but in one case they did give a square block.

Sir JOHN SIMON: My friend Mr. Macmillan has been kind enough to let me see what he says his clients got from the Newfoundland

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Government when they asked to be informed what were the grants which the Newfoundland Government had made on this coast.

Mr. MACMILLAN: That is what I understood; to the Moravians, of course.

Sir JOHN SIMON: Yes; the others we are coming to. Here they are, my Lord. It raises an interesting question in geometry as to whether any of these is a square. I should have said myself that one of them was rhombus.

The LORD CHANCELLOR: It need not be a square; it is so many square miles.

Mr. MACMILLAN: The furthest north is the last, I am told.

Sir Thomas
Warrington.

Sir JOHN SIMON: I do not think it is material to my case to decide exactly where they were or how big they were.

The LORD CHANCELLOR: They go beyond the mile.

Sir John Simon.

Sir JOHN SIMON: Not only that, but my argument, which your Lordships will weigh and give such force to as you think right, goes much beyond that. My argument, is that it shows that "coast of Labrador" is used in the sense in which I submit "Main" or "Coast" is used.

The LORD CHANCELLOR: I understand that, but in fact all these grants extend far beyond one mile.

Sir JOHN SIMON: Yes, and it is treated as beyond question that the person who will have authority in these matters will be the person who has jurisdiction over the Coast of Labrador.

Sir THOMAS WARRINGTON: If it has the description "part of the Coast of Labrador," you do not want to go any further, because it is the Coast of Labrador which the Governor has to govern.

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Sir John Simon.

Sir JOHN SIMON: If your Lordship pleases. The only other thing about Hudson's Bay which I have to say to complete it is this: In 1815, owing to the activities of this North West Company which I mentioned earlier in the day, the Hudson's Bay Company considered what course they should take, and they proposed to exercise quasi-sovereign rights in their own area to an extent they had never done before, and they reported their intentions to the Government of the day. The

Government of the day I do not think very much liked it. I do not suppose a Government very much likes a subordinate corporation setting out with an army of its own. There was a controversy, and in the course of the controversy the question arose as to what was the extent of

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Hudson's Bay territory. One or two letters passed. I do not say they were altogether in favour of my contention, but they are very material, and it is helpful, I think, to refer to them now.

The LORD CHANCELLOR: This happens to the west.

Sir JOHN SIMON: Yes, in 1815. There are two or three letters about that in Volume VIII, page 4114. Your Lordship will be interested to observe that the Hudson's Bay Company was advised by some very distinguished counsel. I have not, as a matter of fact, at the moment, seen their opinion; it would be very interesting to see it, but it comes in a moment. In May, 1815 (the day of the month is not given), addressing Lord Bathurst, who was Colonial Secretary, the Hudson's Bay Corporation write: "That by their Charter granted by King Charles the 2nd bearing date the 2nd May 1669 they are authorized to make Laws both Civil and Criminal for the Government of their Territories in North America, so as such Laws be reasonable and not contrary to the laws of England but as near thereto as may be. That no laws either civil or criminal for this purpose have hitherto been made except such bye laws of the Company as from time to time were found necessary for the Regulation of their Servants and immediate Dependants in their said Territories. But a considerable addition having been made to the Population thereof by a new Colony lately settled there which is likely to increase to a considerable extent it is become necessary that a more enlarged and comprehensive Code should be established for the good government as well of the Company's Servants as of settlers others within their Chartered Limits in North America." I am speculating, but I rather imagine that the New Colony there referred to was probably Fort Garry. "That proposed Ordinances for this purpose have been prepared under the advice of Counsel (a printed copy of which is annexed) and are intended to be sent out to the Company's settlements in Hudson's Bay by the Ships of this Season which will very shortly sail, but your Memorialists are anxiously desirous that such Ordinances should receive the sanction of His Majesty's Attorney & Solicitor General before they acted upon." The delegated power of legislation was rather a queer one. Their legislative power was limited by this: "So that such laws be reasonable and not contrary to the laws of England but as near thereto as may be;" so perhaps it was prudent for the Hudson's Bay Company to ask that the Attorney-General and the Solicitor-General should certify.

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Sir John Simon.

The LORD CHANCELLOR: Then Lord Bathurst says:
“What are your limits?”

Sir JOHN SIMON: On page 4115 Lord Bathurst says he wants a distinct specification of the limits of the territory within which it is proposed that such ordinances should have effect. Then the answer is on page 4116, on the 8th June, 1815. “Mr. Goulburn having desired

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that your Lordship should be furnished with a distinct specification of the limits of the Territory within which the ordinances of the Hudson's Bay Company relative to the better administration of Justice are to have effect, I beg leave to transmit a Copy of the Charter granted by King Charles the 2nd from which your Lordship will observe that the grant of the Territory included all lands which lie upon the waters that run into Hudson's Bay. The limits therefore can only be defined by the Height of land which divides these waters from those which run into the Sea in any other direction.”

Now I shall be much interested to see (and I have sent, for the paper, which I think is to be found) what was the opinion of Sir Samuel Romilly, Mr. Scarlett, Mr. Holroyd, Mr. Cruise and Mr. Bell, who are mentioned on the next page—a very distinguished team, anyway. “The geographical discoveries which have been progressively made by the Company's Servants for many years past have ascertained with great accuracy the situation of the height of land which is laid down distinctly in most of the recent maps of North America. On the South East of Hudson's Bay it divides the rivers that run into James Bay from various branches of the St. Lawrence. On the South West, it divides the waters of the Saskatchewan & Red River from those of the Missouri & Mississippi & on the North West those of Churchill River from the Athapescow, & other rivers which flow to the Northward into the Frozen Ocean. Within these limits the Governors of the different establishments have always exercised jurisdiction, so far as circumstances required but in consequence of the increasing population of the Country, new rights and varied interests have arisen, which call for a more regular and effectual administration of Justice. For the satisfaction of all persons living within the jurisdiction of the Company, it has been thought advisable to take the opinion of several eminent counsel of the different courts of Law and Equity who concurred in an unanimous opinion that the Company have a complete title to all the Lands within the limit above mentioned and that within these limits their Governor and their Council appointed by the Company, are empowered by the Charter to administer Justice according to the Law of England.” Probably the phrase about the height of land is to be found in the opinion. “A copy of these opinions

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is enclosed for your Lordships' information. As these questions involve points of Royal Prerogative, we were anxious to obtain the opinion of the Law Officers of the Crown in addition to those of Sir Samuel Romilly, Mr. Cruise, Mr. Holroyd, Mr. Scarlett, and Mr. Bell.”

Viscount FINLAY: Who were the Law Officers of the Crown at that time?

Sir JOHN SIMON: I am not sure; probably if one thought a moment one might find out.

Viscount FINLAY: It does not matter.

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Sir JOHN SIMON: “The high sanction of their opinion would certainly have been a great satisfaction to the persons acting under the Charter,” and so on.

Then there comes back a very cautious letter from Downing Street. May I warn your Lordships that it seems to me at least—I have no reason whatever to say so except from looking at the document—that the date must be wrong and there must be some intervening documents. I have sent to enquire if the next document was the 12th April, 1816. I think it must be 12th April, 1816, because it is referred to in the reply on page 4119, so that I think we ought to see what the intervening documents are. Apparently the Government did not like the idea of the Hudson's Bay Company starting this imperium in imperio. Line 28: “His Lordship has therefore, as a preliminary measure, and with a view to ascertain the extent of jurisdiction which the Hudson's Bay Company can legally claim under their Charter, referred the case to the consideration of His Majesty's Law Servants. As soon as their report shall be received, a communication of Lord Bathurst's views on the subject will be made.” Then follows this sentence, which your Lordships must not overlook: “In the interim his Lordship has only to express his decided objection to the measure announced in your letter of creating an Armed Force for the defence of a Territory, the title to which in the extent to which it is asserted is, to say the least of it, extremely doubtful. Nor can his Lordship believe that, under the circumstances stated, the Company can have any disposition to incur the responsibility of persisting in the measure which you have announced to be in their contemplation.” I infer that in between the two there was a gap, that things had got worse, because this Hudson's Bay Company was extremely vigorous. I rather infer that in the interval the Hudson's Bay Company were saying: “We are not going to make laws, but we are going to enlist an army.”

Then comes the answer on page 4119: “I have the honour to acknowledge the receipt of Mr. Goulburn's letter of the 12th

inst. in which he informs me that your Lordship with a view to ascertain the extent of jurisdiction which the Hudson's Bay Company can legally claim under their Charter has referred the case to the consideration of His Majesty's Law Servants, and I have to assure your Lordship of the perfect readiness of the Hudsons Bay Company to afford to them every assistance which their documents may furnish and to facilitate by every means in their power the legal determination of so important a question. I beg leave to recall it to your Lordships recollection that the Directors of the Hudsons Bay Company have in former communications expressed an anxious wish for the opinion of the Law Officers of the Crown upon this question, that they might have either the additional weight of their authority as confirming the opinion of Mr. Justice Holroyd"—he had been made a Judge in the meantime—"Sir Samuel Romilly, Mr. Scarlett, Mr. Bell and Mr. Cruise, or that had His Majesty's Attorney and Solicitor differed from those great authorities, that menus might hove been found to bring these Chartered Rights at once before the King in Council."

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Sir John Simon.

So they say: “As you do not like the idea of our enlisting a volunteer corps, we will suspend the measure.” I do not at present know—I do not know whether my friends do—whether the advice which may be supposed to have been sought from the Law Officers of the Crown was ever given, and, if so, what the advice was; of course these things are usually confidential. At any rate, there is a Petition on page 4121, which complains very bitterly of what the North West Company had been doing. I am not going to read it—it is very long—but might I ask your Lordships to pick out just two or three passages? On page 4122, line 21, you get an account of the beginning of the North West Company: “That in the Autumn of 1812 a number of Settlers sent by his Lordship”—that is Lord Selkirk, who, you will remember, got the grant some time earlier, in 1811, away up in the district now known as Selkirk—“that in the Autumn of 1812 a number of Settlers sent by his Lordship arrived and established themselves on the Banks of the Red River, and these were followed in the two succeeding years by many others who all settled on the adjoining lands. That the said Settlement was proceeding with every prospect of success when it was assailed first by the several manoeuvres, and afterwards by the open violence of certain partners, agents and dependents of a Canadian Association calling itself the North West Company of Fur Traders of Montreal.” They give an account of how that Association began, and so they say: “Here you have got all his rivalry going on.”

Then on the next page there is a complaint of the aggressions of the North West Company; and then on page 4142, at line 32, you get again the reassertion of the height of land. “Wherefore your Petitioners most humbly pray leave to refer to the said Memorials and documents and to exhibit other evidence in support of this their petition and to be heard by Counsel therein and that Your Majesty will be graciously pleased to declare that, by virtue of the said Letters Patent of His said Majesty King Charles the Second, your Petitioners are the sole and absolute Lords Proprietors of all Lands between the extreme heights from which any waters flow into the seas within Hudson's Streights and the said Seas, and that Your Majesty will be pleased to appoint Commissioners to run a line along the said Heights or will otherwise determine more precisely the said boundary.”

On the next page is a Memorial from the North West Company.

Now, my Lords, the matter, as far as I can see, was not ever settled. I am sure it was not settled by any Imperial Order. I do not see that the thing was carried any further. That is the contention, and it is well worth observation now that, when the thing does come before Parliamentary authorities to consider, in the year 1857, as your Lordships know, this view, which appears to have been the view expressed by Sir

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Sir John Simon.

Samuel Romilly, Mr. Scarlett and others, is the view which is perfectly plainly indicated on the map; but so far as regards the North West Territory, as I told your Lordships earlier in the day, the trouble was abated, because in 1821 the Hudson's Bay Company came to terms with this North West Company and took them over. That, so far as I am aware, gives the account of what is

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relevant in respect of the history of the Hudson's Bay Company, and the end of it is—this is not perhaps very helpful to your Lordships—that without there ever having been a legal decision as to what the limits of the Hudson's Bay Company were inland, in 1870 the Hudson's Bay Company is bought out, its quasi-sovereign rights come to an end, it remained a most important trading organization to do whatever was necessary, Hudson's Bay Company became Canada. So that the whole thing flows together without there ever having been a quite explicit decision on the point.

Lord SUMNER: It was bought out without any specification.

Sir JOHN SIMON: Yes.

Lord SUMNER: What they had was transferred to Canada.

Viscount Haldane.

Sir JOHN SIMON: Yes; that is, after there had been this House of Commons inquiry, where it is quite plain what the boundary was believed to be. There has never been, unfortunately, from your Lordships' point of view, any actual decision about that. I think that makes it convenient to call attention now to the efforts which have been made quite recently by legislation in Canada, or in Quebec, to enlarge the boundaries from the Canadian side. Your Lordships already have in mind, of course, that nothing which the Dominion of Canada could do, nothing which the Legislative Assembly or Council of Quebec could do, will take away from Newfoundland anything that it has got—that is, of course, quite plain from the language of the Colonial Boundaries Act—but, as I have said all along, if the right view was that in this part of the world there was a No Man's Land, no doubt it is quite true to say that the Order in Council to which your Lordships have referred me more than once, which brings into Canada everything which is not Newfoundland, would mean that the No Man's Land passed to Canada.

Sir John Simon.

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Sir John Simon.

Viscount FINLAY: Is there anything in the documents which hints at the existence of such a No Man's Land?

Sir JOHN SIMON: I find very little.

Viscount HALDANE: I think the expression “No Man's Land” is not a very good one; I mean that the British Crown

owns the land which is not owned by anybody else, and, of course, the Order in Council would operate on the Crown's title.

Sir JOHN SIMON: Of course, it was a mere familiar expression. May I tell your Lordships what happened, and I think in the time which I imagine your Lordships are going to use to-day, I can call attention to the necessary pages. In 1886, sixteen years after Hudson's Bay Territory had been thrown into Canada, the Quebec Legislative Assembly

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passed a resolution urging that the Quebec boundaries should be extended. They had this particular ground for urging it; that for reasons which are really rather technical (I will go into them if necessary, I know what they are) the boundary of the Province of Ontario had, after the Hudson's Bay Territory fell in, carried up to James Bay, so that Ontario—your Lordship knows that story very well—

Viscount HALDANE: That was the 1884 Arbitration.

Sir JOHN SIMON: Yes. The result was, incidentally, that the boundary of Ontario went up to the Albany River and the shore of James Bay; so Ontario was carried up there. The Quebec Council and the Quebec Legislative Assembly in 1886 passed this Resolution urging that the Quebec boundary should be extended. They asked for a new boundary. Now here is the curious thing (I am sure they did not appreciate it at the time), they, in fact, asked for a new boundary in terms which involve a denial of the proposition that the Quebec of 1774 acquired, by the addition of Newfoundland mainland, a mere little strip. Your Lordships remember the contention against me is that once you come to 1774, with the Quebec Act, really it is in virtue of the boundary then traced down, west of the Mississippi up to the Hudson's Bay Territory, that you get this immense Quebec of 1774, and, except for the purpose of clearing away doubt, the addition of the words "And also so much of the coast as was annexed to Newfoundland" would not matter at all. Their case, therefore, is that since they only had from Newfoundland this very narrow strip, it followed that when in 1809 the arrangement was reversed, and Newfoundland got back what it had before. Newfoundland only got back the very narrow strip. Now, if that is the view, it follows that Quebec, from 1809 onwards, was an area which did include already, thenceforward and for ever, all the land which lay to the north-east of the smaller province of Quebec, bounded, it is true, by the Hudson's Bay boundary on one side, but on the other side extending, not, indeed, actually to the salt sea waves, but extending to within a mile of them; and yet—here is the curious thing—the Quebec Legislative Assembly so completely misunderstood the case which was going to be made for Quebec in the year 1926, that when they passed a resolution urging that their

boundary should be extended, some of the things which they now want to throw into Quebec were some of the things which, according to this argument, were already there. The page is page 4005 of Volume VIII. I have not got the actual document of 1886 but it is recited in the document on page 4005 sufficiently for the purpose. The actual document on page 4005 is a document of some years later, and it is not a Quebec document, but a Dominion document; it is, indeed, a report to the Privy Council Committee of the Dominion in the year 1894, and it is in these terms (I think this page is very important) : “The Honourable the Commissioner of Crown Lands, in a Report dated the 21st of November instant (1894), sets forth: That the important question of the North and North-eastern Boundary of the Province of Quebec,

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although submitted on various occasions to the capital Federal Authorities at Ottawa, remains up to the present unsettled, notwithstanding the fact that the pretensions of the Province of Ontario for an analogous extension of territory have been recognised by the Parliament of Canada and the Imperial Parliament.” That refers to the fact that Ontario had got its boundary up to James Bay. “That as a matter of justice and right, the Province of Quebec is fully justified in persisting, as it does persist, in the views embodied in the resolutions of the Quebec Legislative Assembly of 1886 having reference thereto, copy of which has already been transmitted to his Excellency the Governor-General in Council, and in claiming, as it does claim for reasons similar or somewhat similar to those successfully urged by the Province of Ontario, for an extension to its boundaries, all the territory situate North of the height of land, as far as the Northerly limits held by the French Government at the time of the negotiations preliminary to the signature of the Treaty of Utrecht in 1713, and more particularly the Territory defined in the aforesaid resolutions, as follows”—now this is the resolution of 1886 by the Quebec Legislative Assembly—“All the country bounded on the West by a prolongation of the present boundary line between Ontario and Quebec to the South shore of James Bay, and by the shore line of this Bay as far as the mouth of East Main River, on the North by the right bank of East Main River from its mouth to its source, thence by a line drawn to the Northernmost waters of the Grand River Esquimeaux, Ashuanipi or Hamilton, and by the left bank of this river to its mouth in Rigolet Bay (Hamilton's Inlet) on the East and North-East”—I shall have to trouble your Lordships to trace this on a contemporaneous map in a moment—“on the East and North-East”—I call particular attention to these words—”by the Meridian of the Easternmost point of the source of the River St. Paul or Little Esquimeaux, and again on the East by this same river to the 52nd degree of North Latitude, following this parallel to its intersection by the Meridian of Anse au Blanc Sablon, the

present recognised Eastern boundary of this Province.” Now, it will take a little time just to trace that out, but you will find it involves this assertion: it involves the assertion that that parallel, the 52nd parallel of latitude, which your Lordships will remember is the top of the pink in my map, was in 1886 the boundary of the Province of Quebec. Now, if that is so, it follows that it is not true that the Coast of Labrador, which Newfoundland first had, then gave up, and then got again, was a mere narrow strip: but it follows, as your Lordships have already been disposed to infer from the Statute of 1825, that the Coast of Labrador was a thing so deep and thick that the pink oblong only cut out a portion of it, and what was behind the pink oblong, and further away from the sea, was still Newfoundland, and that is the very view which the Legislative Council of Quebec themselves put forward in 1886.

(Adjourned till to-morrow, at 11.30 a.m.)

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COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Monday, 25th October, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. SIR THOMAS WARRINGTON

IN THE MATTER of the BOUNDARY
between the **DOMINION of CANADA**
and the **COLONY of NEWFOUND-**
LAND in the LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

THIRD DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Dominion of Canada.

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Tuesday, 26th October, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. SIR THOMAS WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

FOURTH DAY.

26 Oct., 1926.
—
Sir John Simon.

*Counsel for the Colony of Newfoundland :—*The Rt. Hon. Sir JOHN SIMON, K.C., Mr. F. T. BARRINGTON WARD, K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by Messrs. BURN & BERRIDGE.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by MESSRS. CHARLES RUSSELL & Co.
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MORNING SESSION.

Viscount Haldane. Sir JOHN SIMON : My Lords, when the Board adjourned last night I was making a submission with reference to the Resolution of 1886 which is to be found at page 4005 of Volume VIII. It was a Resolution of the Quebec Legislative Assembly in 1886, and it was their proposal to enlarge the existing boundary of the Province of Quebec. My comment on it, which I mentioned last night, was that the view here taken by the Quebec Legislative Assembly as to their existing boundary is quite plainly based on the fact that down to that time the boundary of the Province of Quebec was the comparatively limited boundary for which we contend. I think I can make my point most plain if your Lordships will allow me to use my sketch map which your Lordships have. Your Lordships will see that I have my sketch map mounted on a board, and I have had the different coloured sections arranged so that they can be removed piece by piece. I should like to point out to your Lordships what the situation was in 1886, firstly as we contend, and secondly as Canada now contends against us. Canada contends with regard to the boundary of the Province of Quebec—which had been, of course, greatly enlarged in 1774 and had been carried right to the margin of the sea, covering therefore the green and the pink—that when in 1809 the policy was reversed and Quebec lost what had previously been attached to it by annexation from Newfoundland, all that Quebec had to give back to Newfoundland was a comparatively narrow strip running along the edge of the coast.

Viscount HALDANE: And also under the pink.

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Sir JOHN SIMON: And also under the pink. That is the contention against me as to what happened in 1809.

Viscount HALDANE: Just let us be quite clear about what it means. It means that these lines drawn up to the 52nd parallel to the height of land were not limited to the territory transferred, but limiting the area in which the coast was.

Sir John Simon.

Sir JOHN SIMON: Yes, that is quite right. That happened in

1825. Referring to the pink, the only other alteration, as my Lord has just said, was in 1825, when to a certain extent there was again a retracing of steps, and when there was given back to Quebec an area which was the pink.

Viscount HALDANE: You say there was given back an area, but you mean the coasts within that area were given back.

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Viscount Haldane.

Sir JOHN SIMON: If your Lordship pleases. That is quite right.

Sir John Simon.

Viscount HALDANE: You may be right, of course, about the meaning of "coast."

Sir JOHN SIMON: I quite follow. Your Lordship has put it more accurately than I did. I want your Lordships see what was the situation in 1886. On the view which is now presented against me and which it is suggested is the consistent view, Quebec would in 1886 have included a very great part of the green. In fact it would have included all the green except whatever small edge of it might be supposed to be included in the expression "coast."

Viscount HALDANE: They may have thought that, but there was another view that it was Crown land until the Order-in-Council of 1880 transferred it to Canada.

Sir JOHN SIMON: I quite appreciate that is an aspect I have to deal with, but for the moment I was directing attention to the view as to what would be the extent of the boundary of Quebec if the case against me is right.

Viscount HALDANE: Yes.

Sir JOHN SIMON: When, therefore, the Quebec Legislative Assembly in 1886 expressed this urgent desire to extend its boundaries, what are these boundaries which it wanted to extend? If the case against me is right Quebec already had substantially all the green. Now if your Lordships will kindly look at page 4005, you will see what is the extension which Quebec asks for. They want to enlarge it so as to make the enlarged Quebec be this—it is at line 25:—"All the country bounded on the west by a prolongation of the present boundary line between Ontario and Quebec to the south shore of James Bay, and by the shore line of this bay as far as the mouth of East Main River, on the north by the right bank of East Main River from its mouth to its source"—I will show your Lordships what is the contemporary view with regard to that—"thence by a line drawn to the northernmost waters of the Grand River Esquimaux, Ashuanipi or Hamilton"—I can show your Lordships in a moment that at that time, it was thought that the head waters of the Ashuanipi would be quite close to the head waters of the East Main River, and therefore

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—
Sir John Simon.

a short way across—“and by the left bank of this river to its mouth in Rigolet Bay (Hamilton's Inlet), on the east and north-east by the meridian of the easternmost point of the source of the River St. Paul or Little Esquimaux”—I do not think you will find that on the green of the map before you, but I can show it your Lordships on the contemporary map which was then being used—“and again on the east by this same river to the fifty-second degree of north latitude, following this parallel to its intersection by the meridian of

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Anse au Blanc Sablon, the present recognised eastern boundary of this province.”

If I now take out my green section from my sketch map you will find marked behind it what is the boundary which Quebec was asking to have as an enlargement of its existing area. It was running, as your Lordships know, along the head waters of the East Main River, then getting across to what were believed to be the head waters of the Ashuanipi, and then carried to where the river reached Hamilton Inlet. I have drawn in pencil a somewhat thick black line perpendicularly showing the meridian of the easternmost point of the source of the River St. Paul or Little Esquimaux as the latest map showed it. Then, striking that, it was to follow the course of that river till it met the fifty-second parallel, and then follow that until it hit the meridian at Blanc Sablon.

If your Lordships will turn to the Map No. 36 in the Newfoundland Atlas, a map of the year 1882, only four years before, you will find I have put substantially correct upon this model the easternmost point of the source of the River Little Esquimaux. Your Lordships will find Esquimaux River marked slightly to the west of Blanc Sablon, with the Hudson's Bay Company's post at the mouth. If your Lordships will carry your eye up that river you will observe it appears to have two sources. I mean to say, it splits. If you take the easternmost point it ends in a sort of lake. That lake your Lordships will find on the 60th meridian of longitude. If I may trace the boundary backwards, what you are told to do is to use the 52nd parallel till you strike the River Little Esquimaux, and you are then to go up the eastern tributary of that river to its eastern source which is in substantial line with meridian 60. You are then to mount straight north till you strike just about where this great river comes into the Hamilton Inlet, and then you are to trace back along that river and ultimately get across to the East Main River. I am far from saying that there is anything conclusive in this case, and least of all in the acts of the parties, but it is a most striking fact that in 1886 after the rather detailed and careful Canadian survey represented in the official map of 1882, you should have the view first of all presented by the Quebec Government to the Dominion, and then in its turn adopted by the Dominion and acted upon, that what Quebec needed was

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to enlarge the boundaries as you see them on my model (now that I have taken out the green section), by bringing into it first of all, a portion of the brown, which was due to the fact that Quebec had never got the advantage of the Hudson's Bay territory passing into Canada—Ontario had, and Quebec had not—and secondly, a very substantial portion of the green. On the view now presented to me the green, or all but a little portion of it, was regarded as Quebec already.

Sir John Simon.

Viscount HALDANE: By this time the claim was against the Dominion of Canada, but in 1884 Ontario had a large acquisition of territory in the north. They refer to it in the resolution. Before that

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the Hudson's Bay Company had surrendered all its title to the Dominion.

Sir JOHN SIMON: It had done that in 1870.

Viscount FINLAY: So that the Dominion is now the person claimed against.

Sir JOHN SIMON: Quite right. A map which shows that particular thing very well and exactly illustrates Lord Haldane's point is the map next to the one I last referred to in the same book, namely Map No. 35 in the Newfoundland Atlas. You will see the thing exactly. This is the official map published by the Canadian Government in the year 1878. You will notice Ontario is marked there and coloured green. The green of Ontario runs up to James Bay. A very curious thing happened. The Hudson's Bay territory was thrown into Canada in 1870, and when it was thrown into Canada nothing happened for a moment, but by 1878 Ontario had secured that the boundaries of that Province of Ontario, or Upper Canada, were extended northwards so that they struck the seawater in James Bay.

Viscount HALDANE: Can you tell us where Winnipeg is in this map?

Sir JOHN SIMON: It is to the extreme left of the green of Ontario.

Viscount HALDANE: What is the name of the lake close by Winnipeg?

Sir JOHN SIMON: The Lake of the Woods. That is just at the north-west corner of the green. Then your Lordship remembers the boundary of Ontario had been defined to run up to and then along the Albany River.

Viscount HALDANE: La Portage was the dividing point.

Sir JOHN SIMON: Then, your Lordship remembers, it ran along the Albany River. I submit respectfully that so far as the conduct by the authorities concerned can be said to have any value, even an illustrative value, this is certainly a very remarkable illustration of the undoubted truth that, instead of regarding the area which the Province of Quebec lost by returning to Newfoundland what was Newfoundland's as being a mere narrow maritime strip, the true view was that Quebec had been thrown back in the position, for example, shown in this map, where, your Lordship recollects, the white represents what is non-Canada. What Quebec is saying is, "Since we have only got this 52nd parallel and the meridian from Blanc Sablon as our present boundary in that part of our Province, surely it is time our boundaries were enlarged, for the boundaries of Ontario have been enlarged."

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The Lord Chancellor.

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The LORD CHANCELLOR: To whom is this sent?

Sir JOHN SIMON: The Resolution carried in 1886 was sent to the Dominion of Canada, because it would rest with the Dominion, of course, to enlarge it.

The LORD CHANCELLOR: How would it rest with the Dominion to enlarge Quebec as against Newfoundland?

Sir JOHN SIMON: It would not.

The LORD CHANCELLOR: Is there any consciousness in this Resolution that they are claiming something which they think belongs to Newfoundland?

Sir JOHN SIMON: I do not know how that is, but it is quite certain that they are taking the view that they have not themselves got this boundary. I see the importance of the point your Lordship puts.

Viscount HALDANE: This matter was agitating the Parliament of Quebec because of the great success Ontario had had.

Sir JOHN SIMON: Yes. After all, one is, I will not say jealous, but a little interested in the successes of one's neighbour. The reason why I say that at the time it was supposed that the head waters of the Hamilton River were close to the head waters of the East Main River, is partly because contemporary maps will show it—I will not delay now, but I could show it by two or three maps about that time—and partly because it is recorded as a matter of fact, and observed upon at page 4009, line 12, where the Dominion authorities comment by saying:—"At that time, if I am not very much mistaken, the sources of both rivers were assumed to be situated, geographically, in relative proximity to each other."

I do not feel justified in occupying too long in what, after all, is illustrative matter. It does not alter the true legal view, but I submit it rather throws strong light upon the suggestion that the Province of Quebec since 1774 has had this very great extension. On the contrary, it is quite plain that the Province was seeking to get something additional in 1886.

Might I mention, before we leave Hudson's Bay altogether, what perhaps might be interesting to your Lordships. You will remember that in the course of the history of the Hudson's Bay Company yesterday, with which I had to occupy your Lordships' attention for a long time, we came to the point in the year 1815 when the Hudson's Bay Company were in communication with the British authorities and were stating that they proposed to pass a code of laws for the area

which they administered, and that the question undoubtedly then did arise as to what was the extent of that area. The passage which I was referring to, which will be fresh in your Lordships recollection, is the

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passage on page 4115, and more particularly on page 4116. I have two pieces of information now, with the necessary documents, which I had not got last night. Your Lordships will remember that on page 4117 there was this passage: "As these questions involve points of Royal Prerogative, we were anxious to obtain the opinion of the Law Officers of the Crown in addition to those of Sir Samuel Romilly, Mr. Cruise, Mr. Holroyd, Mr. Scarlett, and Mr Bell." And at a later stage your Lordships will remember there was an indication that the Law Officers of the Crown were consulted. I am now in a position to inform the Board, and have the documents here, that what may be called both sides in the matter did take these opinions, and that the opinions concurred, the advisers of the Hudson's Bay Company being, as you see, Sir Samuel Romilly, Mr. Cruise, Mr. Holroyd, Mr. Scarlett and Mr. Bell, and the Law Officers of the Crown, who were not consulted for some years afterwards but whose opinion was actually before the House of Commons Committee in 1857, being Sir John Jervis, Attorney General, and Sir John Romilly, Solicitor General. It is at any rate a matter of some interest to lawyers that that should be the original opinion of these five eminent persons given to the Hudson's Bay Company, signed by their name; and that here should be the report to the Colonial Office by Sir John Jervis and Sir John Romilly, when the Law Officers in their turn were consulted. When I turn to the report of the House of Commons Committee in 1847, the Committee, you will remember, which authorised the publication of the House of Commons map which showed that green area, I see in that report that they record the fact that they had before them both the views which the Hudson's Bay Company had obtained and the views of the Law Officers of the Crown. I should ask whether I may, for the information of the Board if they think right, call attention to the very short statement which each of these sets of very learned authorities made on the subject, because it shows why it was that in 1857 at any rate, the House of Commons Committee, without any sort of question, took the boundary of the Hudson's Bay Company as being the height of land.

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Sir John Simon.

Viscount HALDANE: It is merely an opinion that the height of land was the boundary, and apparently it is founded upon documents and materials, and does not lay down any general question.

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Sir JOHN SIMON: My Lord, it is the advice given as to the true extent of the Hudson's Bay territories, having regard to the language of their charter.

Viscount HALDANE: For the purpose of administering justice?

Lord Sumner.

Sir JOHN SIMON: I most thoroughly appreciate that the view which hereafter your Lordships may be disposed to entertain on this subject is a view which is perfectly independent of, and no doubt of much higher authority than, the views that may have been offered on one side or the other in the middle of the last century; but the point I

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am making is not this; I am not seeking for the moment to cite to your Lordships these opinions as though they were legal authorities on points of construction, although the names are a little striking, but to show your Lordships that the map in 1857 was not a map which represented simply some unfounded claim, but was a perfectly deliberate laying down of the extent of the Hudson's Bay territory in the light of the consent and agreement of two sets of authorities, one advising the Crown and the other advising the Hudson's Bay Company.

Lord SUMNER: Did this concurrence of the Law Officers of the Crown in the view taken by the Counsel consulted by the Hudson's By Company, ever lead to any recognition by the Crown of the height of land?

Sir JOHN SIMON: I think it would have been perfectly open in litigation, or the like, for another view to have been taken. The Crown never followed up these views, or gave anything in the nature of definition. My point, my Lord, is that I want to show your Lordship how very strongly founded I am in the submission which I made, that this area, thus attributed to the Hudson's Bay Company, is an area which was really on both sides and from every point of view recognised as right.

The LORD CHANCELLOR: How is this opinion mentioned in the Report of the Committee?

Sir JOHN SIMON: It is mentioned in this way. I happen to have here the Hudson's Bay Company's volume from the House of Lords Library. It arises in this way. The Select Committee, containing some very well-known names—Lord John Russell, Mr. Gladstone, Mr. Lowe, and a number of others—made a report. It was appointed to consider “the state of those British possessions in North America which are under the administration of the Hudson's Bay Company, or over which they possess a licence to trade, and who were empowered to report their observations.”

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Viscount HALDANE: What is the date of the report?

Sir JOHN SIMON: 1857. It is the Select Committee of the House of Commons. Its actual terms of reference involved the question of what are those British possessions which are under the administration of the Hudson's Bay Company. The report says this, in paragraph 3: "Your Committee have received much valuable evidence on these and other subjects connected with the inquiry which has been entrusted to them." The previous paragraph refers to the Hudson's Bay material, and then paragraph 4 says: "Your Committee have also had the opinion of the Law Officers of the Crown communicated to them on various points connected with the charter of the Hudson's Bay Company." I have before me, my Lord, a copy of the opinion

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of Sir John Jervis and Sir John Romilly, who were the Law Officers in the year 1850, which was given at the express request of the Colonial Secretary, Lord Grey. I will not, of course, read it unless I am authorised to do so. It is only a couple of sentences which matter.

The LORD CHANCELLOR: What do you say, Mr. Macmillan?

Mr. MACMILLAN: I have no objection at all, my Lord; it is most interesting.

Sir JOHN SIMON: Then I would like to call attention to what it is. Sir John Jervis and Sir John Hominy were invited in the year 1850, or 1849 perhaps—their opinion is 1850—by Earl Grey, who was Colonial Secretary, to advise the Crown as to the extent of the territories of the Hudson's Bay Company, and as your Lordships well know, if I may say so respectfully, those particularly of your Lordships who have held the position of Law Officer, until comparatively recent times the form which an opinion of the Attorney General took when he advised, say the Colonial Office, was not as it is in recent years, merely a straightforward statement, "We are of opinion," so and so; the report began with the recital of the instructions and materials sent to the Law Officers. I think Lord Finlay will remember it was so even in his day, because I can remember seeing some of his. It was done really to record the instructions upon which the opinion was given. The nature of the report made by Sir John Jervis and Sir John Romilly upon this material is this: "My Lord We were honoured with your Lordship's commands contained in Mr. Hawes' letter of the 30th October last, in which he stated that he was directed by your Lordship to transmit to us the copy of a resolution of the House of Commons, that an address be presented to Her Majesty praying that measures may be taken for ascertaining the legality of the powers which are claimed or exercised by the Hudson's Bay

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Company on the Continent of North America. Mr. Hawes then stated that he was to enclose the copy of a letter from the Chairman of the Hudson's Bay Company, together with a statement and map, prepared under his direction, of the territories claimed by the Company in virtue of the charter granted to them by King Charles II." Then I think there is an immaterial paragraph. Then when we come to their opinion they say this: "In obedience to your Lordship's commands we have taken these papers into our consideration and have the honour to report that, having regard to the powers in respect of the territory, trade, taxation, and government claimed by the Hudson's Bay Company in the statements furnished to your Lordships by the Chairman of that Company, we are of opinion that the rights so claimed by the Company do properly belong to them. Upon this subject we entertain no doubt." We have here the material which was submitted, and the material is the other opinion, the opinion of Sir Samuel Romilly and his colleagues. Perhaps it would be interesting to see the originals. The first of the

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heads of opinion is this: "We are of opinion that the grant of the soil"—

Viscount HALDANE: What date is this?

Sir JOHN SIMON: This is the opinion of 1814. "We are of opinion that the grant of the soil contained in the charter is good and that it will include all the country, the waters in which run into Hudson's Bay as ascertained by geographical observation." That is signed—and it is interesting to some of us—by Samuel Romilly, William Cruise, G. S. Holroyd, J. Scarlett, and John Bell.

Viscount HALDANE: That is all the waters that run into the Hudson's Bay?

Sir JOHN SIMON: Yes.

Viscount HALDANE: Including the East Maine River, I suppose?

Sir JOHN SIMON: Yes. Would your Lordship care to cast your eye on the originals? (Same handed to the Lord Chancellor.) The position was that the Hudson's Bay Company had been contending (and said they were fortified by the opinion of these eminent persons) from 1814 onwards that that was the extent of their territory. In 1850 Sir John Jervis and Sir John Romilly, being asked by Lord Grey whether they agreed, said they entertained no doubt that that was the proper view.

Viscount HALDANE: No doubt about the powers claimed.

Did they say no doubt about the territory?

Sir JOHN SIMON: I think so, my Lord. It was the question they were asked. "Mr. Hawes concluded by stating that your Lordship requested that we would take these papers into our early consideration and inform you whether we are of opinion that the rights claimed by the Company do properly belong to them." Then your Lordship sees that being before the House of Commons Committee, the House of Commons Committee says, in 1857, in paragraph 4, "Your Committee have also had the opinion of the Law Officers of the Crown communicated to them on various points connected with the charter of the Hudson's Bay Company." Then they go on to speak of "a territory over which the Company now exercise rights"; and the map which your Lordship knows, of 1857, is the map ordered by the House of Commons to be printed, and its inscription shows that it is for the purpose of showing the territories which the Hudson's Bay Company claims. Without wishing to carry it too far, that does seem rather to show why there was not more controversy about it.

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Viscount HALDANE: Never a word to say about the Labrador side of the height of land.

Sir JOHN SIMON: Not a bit.

Mr. MACMILLAN: My Lord, I have asked my learned friend to let me have these papers to-night (I have not seen them before), and he has been good enough to agree.

The LORD CHANCELLOR: Certainly.

Sir JOHN SIMON: I did not trouble your Lordship with them, but we have got them all here. Here is Mr. Holroyd's opinion with his signature upon it, and this is the one from Mr. Scarlett. I think I have got them all. There are some rather interesting marks of a financial character upon each of them.

Viscount HALDANE: It would be interesting to know what they paid to Mr. Scarlett.

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The Lord Chancellor.

Sir JOHN SIMON: I can only say (I regret it very much, it is a long time ago). I see here is one: "To peruse, Mr. Scarlett, four guineas."

Viscount HALDANE: Times have changed since then.

Sir JOHN SIMON: I do not know, my Lord. I think it would be easy to spend time in elaborating it, but all that I am concerned to say is that it does appear that really this Hudson's Bay area which was, not unnaturally, a thing about which there might have been some doubt, was most carefully considered both from the Hudson Bay Company's point of view and from the point of view of the Officers of the Crown; and the reason why, when you come to 1857, the House of Commons Committee produces this map, without question or doubt is because they have before them two sets of opinions which, taken together, may be thought to be conclusive.

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Sir THOMAS WARRINGTON: It comes to this. The House of Commons in 1857 accepted the claim made by the Hudson's Bay Company in the letter of the 8th June, 1850.

Sir JOHN SIMON: Yes; and they say they did so having before them the opinion of the Law Officers.

The LORD CHANCELLOR: These claims were founded upon the fact that in the charter of the Hudson's Bay Company there is a grant of the rivers and the land upon the rivers.

Sir JOHN SIMON: Certainly, my Lord.

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The LORD CHANCELLOR: That is what carries you up to the height of land in that case.

Sir JOHN SIMON: I think so too, my Lord.

The LORD CHANCELLOR: You have not quite the same words.

Sir JOHN SIMON: I have some words which I will call attention to now. Now I have finished in rather a fragmentary and disjointed form what I have to say on that branch. I have now two other matters upon which I want to address the Board, and then I have finished what I think is necessary. I think it would be possible, forming the best estimate I can, to reach the conclusion of these two matters to-day—I hope so—and if that is the case, if your Lordship will be good enough to give me a short time when you resume for the purpose of submitting some propositions which I have reduced to writing, I shall have finished all I think it my duty to lay before the Board at this stage.

The next compartment which I was going to deal with—and it is a very important one—is the compartment which examined what in fact was done and how the Lords of Trade acted in 1763, as the result of which you get the grant of all the coasts of Labrador and Newfoundland on the one hand and you get the carving out of this lozenge, the Province of Quebec, on the other. I am sure my learned friend will agree with me, because I know that he attaches importance to this too; the documents of 1763 dealing with this matter I think must be admitted by everybody to be of very considerable importance. They do not alter the construction of the grant, but they throw a very close light. The other point which will be found cropping up when we read these same documents—but it is a separate point—is this: it becomes material to consider what was the area which passed by the name of “the Indian country,” which was quite a well-known phrase. I will at once tell your Lordships why it is material. My submission is that when you examine the maps and the documents you will find that the Indian country really means an area, not perhaps very precisely defined, which was round the Great Lakes; that, undoubtedly it was, and it may be also that it included the area which is represented as yellow on my sketch map; that is to say, a certain amount of territory which may have lain beyond the northern boundary of the Quebec of 1763, and which was unorganised. Your Lordships have noticed at any rate on some of the maps there did appear to be such a strip left. My submission is that there is really no ground at all for suggesting that the Indian country, in respect of which some special provision is made, is an area which

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would invade mine. I quite agree that you cannot draw an exact line, but there is nothing whatever to show that that is what was in the minds of those who dealt with the matter. The importance of it is that there were two views as to what should be done in 1763. Whether His Majesty King George III expressed a personal preference I do not know, the documents speak as though he had been consulted, but his

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view at first was that it would be a good thing to throw the Indian country into this new Province of Quebec and make it all a sort of British Canada straight off. The other view was that it would be better to have the Province of Quebec a much more limited area, as your Lordships know it was in the end; that there should be an area in which these French Canadians would naturally be found, and that the Indian country which lay round the Great Lakes and the back of the old coast colony, should not be part of Quebec. There were various arguments of a political kind, pro and con, and ultimately the view prevailed that Quebec should be the smaller rather than the larger area, and the Indian country was therefore left outside Quebec.

Viscount Haldane.

Viscount HALDANE: Did the alternative to that adopted involve the sheering of Hudson's Bay?

Sir John Simon.

Sir JOHN SIMON: No; it did not touch Hudson's Bay. The thing to remember is that we must put ourselves back in the position, interest and knowledge of the middle of the 18th century in this matter. Of course, the Indian country was a vastly important region from the point of view of the colonists and planters of the middle of the 18th century. They were the people who lived at the back of places like Virginia, Florida, and New England.

Viscount HALDANE: At that time the relations with the Indians were very important.

Sir JOHN SIMON: Very.

Viscount HALDANE: If they went against the French they were an enormous accession to our strength; if they went against us it might have been very serious.

Sir JOHN SIMON: That is exactly what I had in mind when I said we must put ourselves back in the atmosphere and the knowledge of the 18th century. The idea that this Indian country had to do with a few Esquimaux up here in Labrador is really quite unhistoric and fantastic. The thing they had in mind was the six nations of the Iroquois and they had treaties with these people, and some of the maps, for instance, the great map of 1755, indicate this Indian country. When George III, in 1763, and his advisers were debating whether he should throw the Indian country into Quebec or not, they

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were not talking about these frozen areas at all; they were talking about the immensely important areas which in those days were inhabited by Red Indians and are now inhabited by citizens of the United States. That being so, I am going to ask attention to a number of documents in the year 1763. I am afraid it will be necessary to turn to several. Would your Lordship first of all remind yourself, without troubling to turn back to it, that the Treaty of Paris itself became the definitive Treaty quite early in that year, on the 10th of February, and the

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consequence is that alterations are made in the instructions and commissions in respect of Newfoundland.

Viscount HALDANE: Who was Governor of Canada then—Sir George Murray?

Sir JOHN SIMON: Yes, my Lord; succeeded by Sir Guy Carleton very soon afterwards. Murray was the Brigadier, of course. If you take the second volume and turn to page 339, there is a letter from the Secretary of State, Lord Egremont (he was Secretary of State for the Southern Board and he had British North America under his supervision) and it is addressed to the Board of Trade from Whitehall on the 24th March, 1763: "My Lords, The King having judged it proper, that all the Coast of Labradore, from the Entrance of Hudson's Streights, to the River of St. John's, which discharges itself into the Sea, nearly opposite to the West End of the Island of Anticosti, including that Island, with any other small Islands on the said Coast of Labradore, and also the Islands of Madelaine in the Gulph of St. Lawrence, should be included in the Government of Newfoundland, I am commanded to signify His Majesty's Pleasure to your Lordships, that you do forthwith prepare, to be laid before the King for His Royal Approbation the Draught of a New Commission for Captain Thomas Graves, to be Governor of the Island of Newfoundland, and of the Coast of Labradore with the several Islands as above described: And I herewith return to your Lordships the draught of instructions," and so on. Your Lordships may be interested to notice that the 24th of March, 1763, the date of that document, is the day after that letter which you saw yesterday afternoon, the letter on page 4110 of Vol. VIII, which shows that Lord Egremont had asked for an interview with the Hudson Bay Governor in order to get more precise information as to how, as between Hudson's Bay and Labrador, the coast should be regarded as divided.

Viscount HALDANE: Was Lord Egremont at this time the Southern Secretary?

Sir JOHN SIMON: Yes, it was the more important one, as your Lordship knows. So that having done that, as you will

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see in Vol. VIII, on page 4110, on the 23rd of March, you get this which is very close to the language of the Commission ultimately drawn up, and this is the first thing which happens as the result of the Treaty of Paris. That being so, Graves's Commission is drawn up and passed under the Great Seal. Graves's Commission was dated the 25th April, 1763, and that is to be found in the red volume at page 149.

Viscount HALDANE: What sort of island is Anticosti? Is it an inhabited island?

Sir JOHN SIMON: Yes, my Lord.
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Viscount HALDANE: And the Island of Madelaine I would not find on the map.

Sir JOHN SIMON: You will find it in my sketch map at the very bottom, uncoloured.

Viscount HALDANE: A good way from Anticosti, which is further up.

Sir JOHN SIMON: Yes.

The LORD CHANCELLOR: I do not think Anticosti had a large population.

Sir JOHN SIMON: I do not suppose much. I thought you were asking about now. May I ask if your Lordship is asking how it stood in 1763?

Viscount HALDANE: I would like to know now.

Sir JOHN SIMON: Perhaps I might tell your Lordship that a very well known chocolate manufacturer of France, Monsieur Meunier, acquired the Island of Anticosti.

Viscount HALDANE: Does he make chocolates there?

Sir JOHN SIMON: He acquired it and subsequently sold it again.

Viscount HALDANE: Madelaine you cannot tell us about?

Sir JOHN SIMON: I do not imagine at the time it was anything other than a fishing station.

Mr. MACMILLAN: It is a little fishing station now.

Viscount HALDANE: And probably was even less in 1763.

Sir JOHN SIMON: Quite; I am not suggesting that this area

was a very populous place. Your Lordships have already had before you the Commission to Governor Graves at page 149 in Volume I. I am afraid we shall have to make a few references to it. Would it be convenient if I gave your Lordships the reference to the instructions? The instructions which accompanied that Commission (they are instructions under the Sign Manual) are rather more detailed instructions and are to be found in Volume II at page 391, and beyond any question those two documents are very important documents in the case.

(Adjourned for a short time.)

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AFTERNOON SESSION.

Sir JOHN SIMON: Your Lordships have the red volume, page 149, and I must now ask attention in rather more detail to the language of the Commission to Thomas Graves, the date of which is 25th April, 1763. It begins by reciting the earlier and more restricted Commission which is described as appointing “you the said Thomas Graves to be our Governor and Commander in Chief in and over our Island of Newfoundland in America.” The words of the grant or Commission begin at line 23: “Now know you that Wee have revoked determined and made void and by these Presents Do revoke determine and make void the said Recited Letters Patent,” and then: “And Wee reposing especial Trust,” and so on, line 29, “Do constitute and appoint you the said Thomas Graves to be Our Governor and Commander in Chief in and over our said Island of Newfoundland”—now come the new words—“and all the Coasts of Labrador from the Entrance of Hudsons Streights to the River Saint Johns which discharges itself into the Sea,” and so on. I have already called attention to the fact that the language would fit the Hudson's Bay. Over the page on page 150 there is a reference at line 6 to the instructions “herewith given to you.” Then it goes on at line 9: “And Wee Do further give and grant unto you the said Thomas Graves full Power and Authority from time to time and at all times hereafter by yourself or by any other to be Authorized by you in that behalf to administer and give the Oaths”—these are really oaths to attest the loyalty of citizens; and then at the end of the parenthesis on line 17, “to all and Every such Person and Persons as you shall think fit who shall at any time Or times pass into our said Islands or shall be resident or abiding there or upon the Coast of Labrador.” It appears, whatever else it is, to be some indication that the coast of Labrador is a place where people may have been residing. Then the next passage is line 20, going straight on: “And Wee Do by these Presents give and grant unto you full Power and Authority to constitute and appoint Judges and in Cases requisite Commissioners of Oyer and Terminer for the hearing and the determining of all Criminal Causes Treason Excepted”; and then a few lines lower down, “which Justices of the Peace so Authorized may and shall hold and keep General Quarter Sessions of the Peace in such Places as you shall appoint according to the Custom of this part of Great Britain called England and to adjourn such Session from time to time and from place to place as shall be most convenient and necessary for the peace and welfare of Our Subjects Inhabiting there.” Then there is a proviso: “Provided neither you nor they do any thing by virtue of this Commission or the Powers hereby granted contrary or oppugnant to the Act

Sir Thomas
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and Eleventh years of the Reign of King William the Third nor any way obstruct the powers thereby given and granted to the Admirals of Harbours or Captains of Our Ships of War or any other Matter or Thing either prescribed by the said Act.” I will call attention to the statute of William III in a moment. It is really a matter which Lord Haldane has once or twice referred to. The scheme was a very odd one. Under the Statute of William III the primary object undoubtedly of the British regime in Newfoundland was in order to encourage the fishery, and by the Statute of William III it was provided that the captain of the first fishing vessel which arrived at any given port or harbour should be the first admiral; that the captain of the second vessel which arrived should be the second admiral, and so on; and that is the meaning of the reference here to “not exercising your powers so as to obstruct the powers granted by the Statute of William III to the admirals of harbours.” I do not think the rest of that page matters, but will your Lordship take the three last words on page 150 and read on: “And all such Justices of the Peace and their Inferior Officers and Ministers whom you or they shall appoint amongst the Planters or Inhabitants Resident and abiding there are strictly required,” to do this, that, or the other.

Sir THOMAS WARRINGTON: If you look back, “there” takes you back to line 28 of the previous page, “the said Island and Coasts aforesaid”; “keeping the Peace and Quiet of the said Island and Coasts aforesaid.”

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Sir JOHN SIMON: Whether “coasts” is to be interpreted as implying a very narrow margin or a wide margin, there is no doubt these powers are common both to the Island and the Coast. On page 151 I think I can safely ask your Lordships to go down to the middle of the page, line 20, “which said Oaths and Declaration you shall administer and give or cause the same to be administered and given to all and every the Person and Persons who ought to take the same according to the Laws and Customs of this Kingdom And Wee Do hereby give and grant unto You the said Thomas Graves full power to Erect appoint and set apart one or more convenient Court House or Court Houses for the more orderly meeting of such Justices of the Peace in Order to hold such their Quarter or other Sessions with a convenient Prison adjoining thereto for the keeping of such Offenders.” And the new clause begins at line 30, on page 151: “And Wee Do hereby require and command all Officers Civil and Military and all other Inhabitants of our said Islands and the Coasts and Territories of Labrador and Islands adjacent thereto or dependent thereupon within the Limits aforesaid to be obedient aiding and assisting unto you in the Execution of this Our

Commission and of the Powers and Authorities herein contained and in Case of your Death”—of course, there being no means of immediate communication, you had

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to provide for it—“in Case of your Death Our Will and Pleasure is that the Person upon whom the Command of Our Ships under your Command shall devolve do take upon him the Administration of the Government of Our said Islands and Territories as aforesaid.” It is enough to submit that whatever might have been the primary object of this extended grant—and I concede from beginning to end that its object was official; there is not the least doubt about it—it is to be observed that the language throughout is language which treats the new area and the island of Newfoundland on exactly the same terms, the truth of the matter being, of course, that at this time the interior of Newfoundland was as worthless, and almost as little known, as was my green area on the coast of Labrador. In both cases the practical object to be served was a quite limited and maritime object; but that is not the question. The question is whether or not the language used in the extended Commission is apt to describe and include as a matter of application, the coast, in the sense which I suggest.

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Viscount HALDANE: What does the phrase “adjacent thereto” govern? Does it govern “territories” as well as “islands,” or does it govern only “islands”? It might be either.

Viscount FINLAY: Is that in line 32?

Viscount HALDANE: Yes.

Sir THOMAS WARRINGTON: I think that carries you back to the very beginning, does it not?

Sir JOHN SIMON: Yes, my Lord. I think your Lordship is right. “Adjacent thereto” I do not doubt does carry one back to the first page, page 149, at line 34, to the words “other small Islands on the said Coast of Labrador.” It was known, of course, to be a coast.

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Viscount HALDANE: Does “adjacent” cover “territories” as well as “islands”? It might be either.

Sir JOHN SIMON: Yes, my Lord, I see the point.

The LORD CHANCELLOR: I think it refers to both.

Sir JOHN SIMON: I rather think so, my Lord, and I think so because, following the words “adjacent thereto” is “dependant thereupon.” This document again and again describes the new area, the Labrador area, as being a dependency of Newfoundland.

Viscount HALDANE: Yes, the coasts.
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Sir JOHN SIMON: Yes, my Lord, whatever that may be supposed to cover.

Then the new paragraph on page 151 at the bottom is important. That says: "And Wee do hereby declare Ordain and appoint that you the said Thomas Graves shall and may hold Execute and Enjoy the Place of our Governor and Commander-in-Chief in and over Our said Island of Newfoundland and all the Coast of Labrador"—now your Lordships will observe the language—"from the Entrance to Hudson's Streights"—which is the same language as was to be found in the Hudson's Bay Charter, so that where the one ends the other begins—"to the River Saint Johns."

Viscount HALDANE: His jurisdiction is not only the island, but the whole island and the territories on the coast.

Sir JOHN SIMON: There is no doubt about that, my Lord. Your Lordship appreciates, as I think I mentioned in the opening sentences which I addressed to this Court some days ago now, I am afraid, that Labrador is a peninsula which is at least five times as big as the thing which I am talking about. There is no doubt at all that the Hudson's Bay Company already had a title to one portion of the coast of Labrador, namely, a portion of it which abuts on to Hudson's Bay. You can go on either side, of course.

Viscount HALDANE: That is East of Cape Chidley?

Sir JOHN SIMON: Yes, my Lord; and in the same way, of course, the coast of Labrador, if you regard yourself as passing up the Gulf of St. Lawrence, would not stop at the River St. Johns; it would go on further into the Gulf. But you have here a cutting out, from Labrador as a whole, of a portion. The whole question is: how much?

Now, my Lords, that being the nature of the grant—and I will not ask leave to spend time in discussing it, because your Lordships see the nature of it—you will find that a very important document accompanying it was the instructions; and that document is to be found in Volume II at page 391. I do not think that these instructions are important in great detail, partly because they contain comparatively little new matter, but they do contain some new matter. You will remember that just before your Lordships rose at the short adjournment, we were reading the document addressed to the Lords of Trade, in which they said that they had amended the instructions in view of the extended area now to be governed from Newfoundland.

The instructions on page 391 are passed under the Royal Sign Manual and Signet, as distinguished from a Commission, which passes under the Great Seal, and they are a document

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which, as your Lordships know, accompanies the Commission of a Governor to this day; there are always the two things. I suppose that if one spoke in the language of constitutional law, one would say that the authority of the Governor,

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vis-a-vis other subjects of the Crown, or the world at large, is to be found in his Commission. The instructions, constitutionally, perform a slightly different function: they indicate the methods by which, or the qualifications subject to which, the Crown looks to its servant to discharge his duty. Having begun again by calling them “Instructions to Our Trusty and Well Beloved Thomas Graves Esquire Our Governor and Commander in-Chief in and Over our Island of Newfoundland in America, and all the Coast of Labradore,” and so on, the document continues, at line 22 on page 391: “With these our Instructions you will receive Our Commission.” Now I will pick out, if I may, two or three things which seem to me to be material; there are not many of them. It would take a long time to read them all, because there are seventy or eighty paragraphs.

On the next page, page 392, there are cited certain passages from the Treaty of Utrecht, which was, historically, of course, the cause of the modifications in all these documents; and the passages recited dealt with a very complicated manner. I will try to state all that it is necessary to remember quite frankly, if your Lordships will trust me so far. The Treaty of Utrecht had this effect, that the French, although of course their empire ceased East of the Mississippi, none the less did retain a certain fishing facility on a portion of the coasts of the Island of Newfoundland. It was the North West Coast, the part which is more or less opposite Belle Isle. There is that recital, that on the coast of the Island, the French were, under the Treaty of Utrecht, to have certain fishing facilities; they were to be entitled to land and dry their fish, but they were not to have that right—if indeed they ever had had it—on the mainland, or at any rate not on the part of the mainland that we are concerned with here. That is recited, and it is one of the reasons why these Instructions take the form that they do take.

Then would your Lordships kindly remind yourselves of paragraph 7 on page 393, to which I had already called your attention, which says: “It is Our further Will and Pleasure that you do, from time to time, as the nature of the Service will allow, visit all the Coasts and Harbours of the said Islands and Territories under your Government, in order to inspect and examine the State and Condition of the Fisheries, which are or may be carried on upon the said Coasts and Islands.”

I quite understand that it may be said, “You see then how very narrow and how truly maritime is the use of the word ‘coasts’”; but, of course, the word “coasts” and the word “islands” go together in in this connection.

Then it goes on: “You shall also use your best endeavours to procure accurate Draughts or Maps of the several Harbours, Bays and Coasts of Newfoundland, and the other Islands and Territories”—“Territories” is a strong word there, because the territories are not on the islands, but they are elsewhere—“under your Government, and you are more particularly to direct the Officer of an Vessel under your Command which may be appointed to visit that part of the Coast of

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Labradore which lyes between Hudson's Streights and the Streights of Belleisle, to search and explore the great Inlet commonly known by the name of Davis's Inlet, in order to discover, whether the same has or has not any passage to Hudson's Bay, or any other inclosed Sea"—I called attention to some maps, and if your Lordships are disposed to make any sort of note in the margin of maps which should be looked at at some stage, they are the inset to Mitchell's Map

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The LORD CHANCELLOR: That is Map No. 9, is it not?

Sir JOHN SIMON: It is Map No. 11 in the Canadian Atlas, my Lord, and there is a little inset which shows this part. Then there is Map No. 9 in the Newfoundland Atlas, which is Senex, and also Map No. 11, which is Bellin. Those are very good instances to show that at this time it was not known. Those maps all illustrate that point, and they do show, as I said before, that whatever else was intended, it was certainly intended that under the authority of the Governor of Newfoundland there should be a penetration through this opening. Of course, it may be said that it still would be done on shipboard, but it was a thing which was known to go at least thirty leagues inland. As a matter of fact, Hamilton Inlet runs up something like 120 or 130 miles.

Sir THOMAS WARRINGTON: Is Hamilton Inlet what is called here the Great Inlet?

Sir JOHN SIMON: Yes, my Lord, it really means that. Davis's Inlet, or Davis Bay, is on the map to-day called Hamilton Inlet; but there had been confusion, and what was really referred to by these early explorers as Davis Bay was undoubtedly Hamilton Inlet.

Then the next one is paragraph 8, on page 393, which says: "You are also to enquire and report to Us, by Our Commissioners for Trade & Plantations, whether any or what further Establishment may be necessary to be made, or Forts erected in any part of Newfoundland, or the other Islands or Territories under your Government, either for the Protection of the Fishery, the Security of the Country"—so that it is not limited to fishery, although, of course, that was primary—"or the establishing and carrying on a Commerce with the Indians residing in or resorting to the said Islands, or inhabiting the Coast of Labradore."

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Then on the next page, page 394, will your Lordships kindly note incidentally—I will not develop it myself, but I think my learned friend Mr. Barrington Ward may have something to say on the fishery aspect of the matter—that there is a plain indication in paragraph 10 that apart altogether from the cod fishery, other fisheries are important; for instance, it says:

“Whale and Sea Cow fishery may be carried on in the Gulph of St. Lawrence and upon the Labradore Coast.” We shall come across the salmon in a moment.

Then the expression “Islands and Territories” occurs again in paragraph 12, and it occurs again at the bottom of page 395, in the last

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line of that page, where it says: “If anything shall happen which may be of advantage or Security to Our Said Islands and Territories.”

In one of the documents there is an interesting reference to the fact that the Lord Bishop of London had specially addressed the Sovereign and had stated that due provision should be made for the spiritual needs of the population.

Then on page 396 will your Lordships first of all look at clause No. 25, which says: “Whether any person, at his departure out of the said Country, or at any other time, do destroy, deface or do any detriment to the Stages, Cookrooms, Flakes, &c., or to the materials thereunto belonging, which had been possessed by himself or others, and whether they repair the defects, that may be in their Stages or other Conveniences, by Timber fetched out of the Woods, and not by committing any manner of Spoil or Waste upon the Stages already built.” There is no doubt at all that it was intended that this drying operation should be carried out with the use of timber from further back. In the same way he was to ask, in paragraph 33, about rinding of the trees and setting fire to the woods.

Then on page 399 there is a set of interrogatories of the most elaborate kind, which showed that the Governors of Newfoundland would be kept busy, and indeed they were. Governor Palliser sent the most elaborate answers. Just look at the sort of things that were wanted to be known in reference to the islands and territories. It begins about ships and boats, but will your Lordships just look at line 17, where it says: “The Value of Seal Oil and of Furs taken by the Inhabitants last Winter?” and in the same way at line 23: “The number of Inhabitants, and how many have been born or have died there, since the departure of the last year's Convoy”; and at paragraph 41: “In what manner the Inhabitants are subsisted, what Land is there improved? Whether the Country produces such Provisions as they want, and whether they have any number of Cows, Sheep and Swine, or whether they receive any Provisions from Our Plantations in America, of what sorts or kind, and the quantities thereof? Whether the said Inhabitants are wholly supplied with Sail Cloth, Nets and Tackle for their Fishery, and with Woollen, Linen, Leather and other Manufactures for their use and wear from this Kingdom,” and so forth.

Of course, the whole thing reflects what is to be found in a sentence in one of the speeches of the great Lord Chatham some twenty years afterwards, that the view taken of plantations and establishments such as these was that they

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were a double blessing to the mother country: in the first place they provided a market where it was possible to sell wool, linen, leather and other manufactures, and in the second place they provided things like fish and other things which were needed in the home market. Lord Chatham had a famous sentence upon the double value of these lands.

In the same way. on page 400, in paragraph 47, you get this: “Whether any Trade is carried on for Beaver and other Furs by the Inhabitants, or by any other who remain in the Country?” and in paragraph 48: “Whether the Houses, Buildings and Inclosures of the

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Inhabitants are at such distance from the water side as not to hinder or obstruct the Fishermen in making their Flakes, or in drying and curing their Fish?”

Now, my Lords, I do not propose to delay you any longer about that. I make a submission about it which I hope will be thought to be reasonable.

Viscount FINLAY: What are “flakes”? Are they nets?

Sir JOHN SIMON: They built up stages or platforms upon which or from which they dried the fish—they laid the fish out.

Mr. MACMILLAN: They cleaned and stripped and laid them out.

Sir JOHN SIMON: Yes; it was a sort of table; those were the flakes; and it was that kind of thing at the margin of the sea which the French were anxious to preserve so far as the island of Newfoundland is concerned.

Now my submission about it, to put it once and for all, upon my instructions, is this: I am not in the least disputing that the purpose and motive and governing consideration in all this business was the use of the margin of the sea in connection with fishing of different kinds. But with great respect, that is not the real question. The question is whether or not, when you get annexed to the island of Newfoundland—the whole island, most of the interior of which was quite unknown—an area described in this way, that does not give you what I will show your Lordships is called a natural boundary, and whether that natural boundary is not the height of the land.

Then, next to that, there comes another document on page 406, which is the Admiralty Instructions to Captain Thomas Graves, and the date of that, as your Lordships will see, is the 2nd May, 1763. May I make one observation about Admiralty Instructions, which I think may perhaps make their relation to the other documents a little clearer. In the case of Newfoundland, this rather curious practice was followed, that the man who was appointed Governor and Commander in Chief of the area—whether it was Newfoundland, or whether it was Newfoundland and the Coast of Labrador—was also,

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by an independent instrument, given the command of the Fleet, the King's ships on the Newfoundland Station; and what is very significant is that even after the Coast of Labrador was transferred to Quebec in the year 1774, so that the territorial jurisdiction would pass altogether from the Governor of Newfoundland, Admiralty Instructions to the Governor of Newfoundland (who from 1774 had nothing but Newfoundland to look after) still continued for the purposes of surveying and controlling affairs on the Labrador Coast.

I rely upon that fact, because it seems to me to show that, as a matter of fact, there were two jurisdictions, not coincident. The jurisdiction which you may call the purely Admiralty jurisdiction is a thing that goes on even after the Coasts of Labrador had been trans—

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ferred to the Governor of Quebec; and it is therefore very difficult to suppose that the jurisdiction which you may call the territorial jurisdiction is a jurisdiction which is the same thing as the Admiralty surveillance. It is a curious fact that at the very time when Governor Sir Guy Carleton, who was the Governor of the extended area of the Province of Quebec is in express terms given jurisdiction over the coasts of Labrador by transfer from Newfoundland—at that very time the Admiralty instructions to the Governor of Newfoundland that he is to keep the fleet protecting the fishing, go on just the same.

Viscount HALDANE: I suppose it was Imperial defence.

Sir JOHN SIMON: Of course, it was. I am only saying, my Lord, it is difficult to think that the two conceptions are not different, one the conception of the administration of the territory, which is called the coast of Labrador, and the other the Admiralty jurisdiction which your Lordship says was defence.

I do not think if that is clearly understood it is necessary to read much. You will notice at the bottom of page 406, in the first paragraph, you get: "And whereas you have received His Majesty's Commission appointing you Governor and Commander in Chief in and over the Island of Newfoundland, the Coast of Labrador front the entrance of Hudson's Streights to the River St. Johns"—then on the top of the page: "Taking care to prevent all illegal trade, during your continuing on that coast." Then in 2; "You are agreeable to an Act of Parliament of the 10th and 11th years of King William the Third," and 4: "And whereas the Lords Commissioners for Trade and Plantations have represented to us, that it is very prejudicial to this Kingdom, that the fishing ships do not bring home from Newfoundland the complement of men they carry out, many of them being enticed away to New England and others left in the country." I cannot help thinking the country there means the Newfoundland area—"for which reason they have desired We should give you

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directions to signify to the Masters of all British ships at Newfoundland that they take care to bring home the number of men they carry out.” Then 5 deals with foreign ships who are claiming to fish, directing them to take care that foreign ships do not do it except within their rights under the Treaty of Utrecht. Then on page 408 I think your Lordships will find paragraph 7 and on page 409 you will find paragraph 9 to be of some little use; 7 is: “And you are to exert your best endeavours to encourage and support the Whale Fishery, in the Straits of Belleisle and more particularly the Fishery in York Harbour and on the other parts of the Coasts of Labrador and to hinder any trade and intercourse being carried on by any persons whatever other than the Subjects of Great Britain with the inhabitants of that country, which of right belongs solely to His Majesty.” Evidently “that country which belongs solely to His Majesty” is what I may call a territory: “And you are likewise to protect the salmon and seal fishery along the Coasts, and likewise the fisheries carried on by His Majesty's subjects in the Gulph of St. Lawrence, near the Islands of Madelaine &c.”

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That answers Lord Haldane's question, the islands of Madelaine were really a fishing ground—“and to settle and guard the Fishery not only at Placentia and Saint Johns, but as far to the northward upon the coasts of Newfoundland, and upon those of the Continent of Labrador”—the expression “Continent” is used several times—“as His Majesty's Subjects shall be employed in catching and drying fish, taking care to prevent the Subjects of France from giving them any disturbance.” Then in paragraph 9: “And in Order that this service may be more effectually performed We have directed the Commanders of the four ships and sloops named in the margin at the beginning of the Instructions.” If your Lordship cares to turn back and look in the margin you will see the names of the vessels were the Pearl, the Tweed, the Terpsichore, the Lark, and one or two others—“carefully to visit the several Harbours, Coasts, and Fishing Grounds, as well those upon the coasts of Newfoundland as those upon the Coasts of Labrador, and to the Northward, with directions to them to prevent the French from drying their Fish.” Then it goes on to talk about making charts.

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Viscount HALDANE: You observe he is not to go beyond the tidal estuary for this purpose. He was not there as a ruler to do what he thinks, but he was to go there. It all points to Imperial defence.

Sir JOHN SIMON: I think it does. I do not quite catch the place.

Viscount HALDANE: 8.

Sir JOHN SIMON: “But not to remain there beyond the time

necessary for this purpose.” I think that means the French fishermen who have got certain rights reserved to them by the Treaty of Utrecht, who are therefore entitled to make a temporary use of the shore, are not to be allowed to stay there longer than is necessary for such user. May I just tell my Lord Haldane, because I think he will see I am conceding what is in his mind, there is no doubt at all these Admiralty Instructions of which we speak are really mere instructions for the operation of the Fleet. There is not the slightest doubt about it, and in this capacity as in those days it was called Commander in Chief of the Fleet—you might think that was a military title, but it really was a naval title—on the Newfoundland station there can be no doubt whatever in that character these operations were purely from the sea, purely a matter of supervision and regulation and the like. My point, my Lord Haldane, is, those are Admiralty Instructions. Side by side with that, and presumably different from that, is a Commission which does not come to him in his character as Commander in Chief of the Fleet on the Newfoundland station, but on the contrary comes to him in his capacity as Governor of an area; and the most striking thing is, I am sure your Lordships will think it has some significance, I repeat myself, that when you get the transfer of what I may call Newfoundland and Labrador from the Governor of Newfoundland to the Governor of Quebec, you will find the Governor of

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Quebec gets everything which Graves had in his character as Governor of Labrador, but the Governor of Newfoundland goes on in his character of Commander in Chief of the Newfoundland Fleet supervising the coast just as before.

Viscount HALDANE: You would expect that.

Sir JOHN SIMON: I think you would. It is a most practical arrangement, but it does appear rather to suggest there really was something over and above the care and surveillance of the fishing which was the subject of transfer to Governor Carleton. Now comes the document which I think is the one which perhaps is the most important document for the purposes of arriving at the true construction of the actual Commissions and Instructions immediately concerned. It is the report made by the Lords of Trade on the 8th of June, 1763, to the Secretary of State for the Southern Department recommending what should be done in the rest of the area, which as I have said was now consolidated by the victory of our Arms and by the withdrawal of the French to the west of the Mississippi. They have dealt with the Newfoundland area and the coast of Labrador. Now comes what was, of course, a far more important question as regards population and as regards organised trade than anything in these high latitudes could be. The point was: the French have ceded to us French Canada; add that to whatever British interests already exist in this part of the world; now how are we going to organise and administer this consolidated Empire? If your Lordships will now turn to Volume III, page 903, you will find a document of which a great many passages are of the greatest importance. It is a rather long document, but there is a great deal more in it when one reads it carefully than can be safely extracted in one or two short passages. It is the Report of the Lords of Trade, dated the 8th June, 1763, to the Earl of Egremont at the Foreign Office, as to what they suggest should be done. You will find in this some very striking indications, not only with reference to the immediate area, but in reference to adjoining areas, in support of the proposition that at this time, 1763, the area from the margin of the sea up to the height of land was properly regarded as coast for these purposes. There are very striking examples quite elsewhere on the map. "May it please your Majesty,— Having received Your Majesty's Commands, signified to Us by a Letter from the Earl of Egremont, dated May 5th, 1763, to take into Consideration, without loss of Time, those Articles of the late Definitive Treaty of Peace, which relate to the Cessions made by France and Spain, and to report Our Opinion by what Regulations the most extensive Advantages may be derived from them, and those Advantages rendered most permanent and secure to your Majesty's trading Subjects; And Your Majesty having further directed Us with

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regard to North America in general, to point out, what new Governments it may be necessary to establish, with the Form most proper for such Governments ”and a series of other things. Then line 5: “And Your Majesty having commanded that,

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particularly as to Canada and Newfoundland, after furnishing every Information in our power relating to the Fishery, We should consider the Encroachments made by the French in this Article contrary to the stipulations in the Treaty of Utrecht, and give our Opinion by what Means such Encroachments may be prevented in future, and any inconvenience which may arise from the Vicinity of St. Pierre and Micquelon, may be most effectually guarded against. That in respect to Florida, We should report upon it's Produce, the situation of it's Harbours, and Rivers, with the benefits which may arise from the free navigation of the River Mississippi,—That in regard to the Islands conquered in the West Indies, and Senegal on the Coast of Africa, We should state the means which appear to us most effectual for securing and improving the Commercial Advantages which may be derived from them:—But that upon the whole, it was Your Majesty's Pleasure (as some time would be required to examine and deliberate on the several Points referred to Us) that we should as soon as possible, report to Your Majesty Our Opinions on such of them as appear to Us most pressing, in order that Directions may be given without less of time; In Obedience to Your Majesty's Commands, We have taken the several points referred to us into our most serious Consideration, and are of Opinion that we shall best comply with Your Majesty's Intention and Directions by stating particularly the Advantages which severally result to Your Majesty' Colonies and the Commerce of your Subjects by the Cessions stipulated in the late Treaty, and then submitting Our Humble Opinion to your Majesty of the Means, which appear to us immediately necessary to be put in Execution for securing and improving those Advantages.” Then I can leave out the next paragraph. “The most obvious Advantages arising from the Cessions made by the Definitive Treaty are, The exclusive Fishery of the River St. Laurence”—we must distinguish here between the River St. Laurence and the Gulf of St. Laurence, because they do constantly—“on all the Coasts in the Gulph of St. Laurence and all the Islands in that Gulph. From all these Fisheries your Majesty's Subjects were hitherto entirely excluded; partly by the express Stipulations of the Treaty of Utrecht by which Cape Breton, St. Johns and the other Islands in the Gulph were dismember'd from Nova Scotia and ceded to France, partly by the Claim immediately set up by France to the whole Southern Shore of the Gulph.” That is an echo of the famous controversy which used to be called the Southern Shore controversy. “In consequence of this Claim,” and so forth. It was not till recently it could be enjoyed. Then about Line 10: “We have reason to conclude

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from the Spirit and Industry which Your Majesty's Subjects have shewn ever since the Reduction of Louisbourg that it will become equally valuable in their Hands, especially when We consider that, the Fishery of the River St. Laurence consisting of Whales, Seals, Sea-Cows, &ca has been in the short period since the taking of Quebec, carried to a much greater Extent by Your Majesty's Subjects, than ever it was by the French, during their possession of Canada.” Then they go on to explain

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how things have improved owing to the withdrawal of the French. Then at Line 29: “And by their possession of the whole Coast of Labrador.” May I, with great respect, invite your attention to this. If you want to see what the “Coast of Labrador” meant in 1763, it is not very immaterial to see how the Lords of Trade talk about it. “And by their Possession of the whole Coast of Labrador, they not only carried on an extensive trade with the Exquimeaux Indians in Oyl, Furs, &ca (in which they allowed Your Majesty's Subjects no Share) but by the vicinity of the Eastern Part of that Coast, to that part of Newfoundland, (where a permissive right of drying their fish, only during the Fishery Season, was granted by the Treaty of Utrecht) They assumed in some Measure an Exclusive Right to the Navigation in the Streights of Bellisle. These several Encroachments, will, We apprehend, entirely cease, on the one hand, by the compleat Settlement of Your Majesty's Colony of Nova Scotia, according to its true and ancient Boundaries, and on the other by the Annexation of the Labrador Coast to the Government of Newfoundland.” “Annexation” you notice it says, it is a definite transfer of definite territory—annexation—“and by the faithful execution of those Instructions, which Your Majesty has has been pleased to give to Your Governor of that Island.” They say the Islands of St. Pierre and Miquelon will be a certain difficulty, but they can get over it. I think your Lordships can now pass on to the middle of page 906. This again is an extremely important passage, because it refers to Hudson's Bay. “The next obvious benefit acquired by the Cessions made to Your Majesty is the Fur and Skin Trade of all the Indians in North America. The first of these Articles before the present Cession was enjoyed by the French almost entirely: The only Part left in the Hands of Your Majesty's Subjects, being that carried on by the Exclusive Company of Hudson's Bay, and a very inconsiderable quantity through the Province of New York. This Trade was acquired by virtue of the Possession which they had taken”—that means which the French had taken—“(contrary to the Stipulations of the Treaty of Utrecht).” Now, my Lord—“of all the Lakes in North America, communicating with the River St. Laurence, tho' the circumjacent Territory avowedly belonged to the Six Nations of Indians, acknowledged by the French to be Your Majesty's Subjects in that Treaty, and by virtue of the Claim which they afterwards set up and were suffered to maintain

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for a long time of forcibly excluding Your Majesty's Subjects from any Navigation in those Lakes.”

Now, my Lords, it is a little difficult perhaps for me to make plain to your Lordships why this passage is so important for me, you will find it in a moment; it is as a matter of fact one of the many indications that the area which passed by the name of Indian Country, which again and again will appear in a moment, as a matter of fact, is an area which is circumjacent territory to these great Lakes. I am going to show your Lordships in a moment a contemporary map which describes this very area in the plainest possible terms as the area so to be attributed. “But this trade which the French with the utmost industry had carried to the greatest

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extent, by means of numerous well chosen Posts and Forts sufficient as well as to overawe as to supply all the Indians upon that immense Continent, is now fallen intirely and exclusively into the hands of Your Majesty's Subjects and may be secured and communicated to all Your Majesty's Colonies according to the industry of each, by means of these Posts and Forts with proper Regulations for the Trade with the Indians, under the Protection of such a Military Force as may preserve their tranquility, not only against Indian Incursions but be ready for their Defence against any European attack.” That was fur. Then there is an observation about skins which I do not think matters. Then on page 907, at line 14, the new paragraph: “Another advantage attending the late Treaty”—there is a rather interesting use of the word coast coming now: “is the secure settling of the whole Coast of North America, as it's produce may invite, or Convenience for Settlement may offer, from the Mouth of the Mississippi to the Boundaries of the Hudson's Bay Settlements, with the whole variety of produce which is capable of being raised in that immense Tract of Sea Coast, either by the industry of Emigrants from Europe, or from the overflowing of Your Majesty's ancient Colonies.” May I pause a moment. That phrase “Your Majesty's ancient Colonies” had a perfectly definite connotation at the time, it meant a series of Colonies such as Virginia, New England, Maryland—a whole series—which ran down and were bordered on the one side by the Atlantic and on the other side by the Alleghanys, the continuation of that mountain chain. This expression “The ancient Colonies” occurs again and again, as referring to that very broad strip of territory, and what will be very significant is (when we look at some documents in a moment) as a matter of fact these very same ancient colonies are to be found contemporaneously described as the coast of America, between certain points, and they ran back to the height of land as I will satisfy your Lordships. But see how it goes on. They say it will be a great advantage to have the whole Coast of North America because he says “Your Majesty's Ancient Colonies appeared to be over stock'd with inhabitants, occasioned partly from an extremely increasing Population in

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some of those Colonies, whose Boundaries had become too narrow for their Numbers”; one asks oneself how far back did the boundaries go. You will see in a moment. “But chiefly by the Monopoly of Lands in the Hands of Land Jobbers from the extravagant and injudicious Grants made by some of Your Majesty's Governors, whereby a great many of your Majesty's industrious Subjects were either forced into Manufactures,” which at that period were not looked upon with favour in the Home Country, not being a use which the Home Government favoured, like at a later stage one has heard of a Schedule of Prohibited Industries for Australia; “being excluded from planting by the high Price of Land (A Situation which they otherwise would have preferr'd) or forced to”—forced to do what?—“emigrate to the other Side of the Mountains.” I can satisfy your Lordships if you will examine this document with the contemporaneous map. that there cannot be the least doubt that

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these ancient Colonies, which are sometimes described as “The Coast” as between one point and another, run back to the height of land as it was conceived, and if you went over the mountain top into the interior, you were emigrating outside of the Colony into the other side of the mountains; “where they were exposed to the Irruptions of the Indians as well as the Hostilities of the French. And though, on the one Hand, Your Majesty's Province of Nova Scotia according to its true and just Boundaries, and on the other, that of Georgia, would have contained many more of Your Majesty's Subjects than were in this disagreeable Situation, and more advantageously for the Trade and Interest of Your Kingdoms, Yet the Hostilities which the French contrived to excite at first, by the Indians in their Alliance, and at last by regular Troops in Nova Scotia, and a Dread of the like Calamaties on the Side of Georgia from the Indians and Spaniards, have hitherto prevented the salutary progress of these new Settlements, and the happy Consequences which otherwise might have been expected from them. We have already mentioned the great Scope and Room which there is for beneficial Settlements, in the Article of Fishery in Nova Scotia. Another great Advantage however, of the late Treaty, producing Strength to Your Kingdom and Riches to Your Subjects, is the future Supply which the new Acquisitions will afford of Naval Stores.” We need not trouble, I think, about that. Then on the next page they deal with the Province of Georgia, with sugar, coffee and cotton, and there is a rather interesting description of Senegal, though, of course, it is purely by analogy. On page 908, at line 29: “The last advantageous Consequence arising from the Cessions which We shall now lay before Your Majesty is that of securing the whole Gum Trade on the Coast of Africa from a Monopoly in the Hands of the French by means of the River Senegal as well as the Acquisition of a considerable Share.” Now the

have pointed out the advantages; then they are going to suggest what is to be done; and pages 909, 910 and 911, appear to me to be on the whole the three most important pages in these many Volumes for the purpose of a contemporary exposition. “Having thus stated the most obvious advantages resulting from the Cession made to Your Majesty by the late definitive Treaty, We submit to Your Majesty, as, “Our humble Opinion, that they can only be secured and improved by an immediate Establishment of regular Governments, in all such Places, where planting and Settlement, as well as Trade and Commerce are the immediate Objects. For in order to invite new Settlers to risque their persons and Property in taking up new Lands, as well as to secure the old Inhabitants in the Enjoyment of those Rights and Priviledges reserved to them by the Treaty, such regular Government appears, both from Reason and Experience, of absolute Necessity. And it seems likewise necessary for the same reasons, as well as to secure Your Majesty's Sovereignty and the Publick Tranquility, that a large Military force should be kept up in each Government, 'till by the increase of Inhabitants, each Colony shall be enabled to maintain their own Governments by their own internal Force. But, as no such regular civil Government is either necessary or indeed can be established, where

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no perpetual Residence or planting is intended ; It will there be sufficient to provide for the free Trade of all Your Majesty's Subjects under such Regulations, and such Administration of Justice as is best suited to that End. Such We apprehend to be the case of Newfoundland, where a temporary Fishery is the only Object, and this We suppose has been the reason, which induced Your Majesty to annex the Coast of Labrador ”—in a moment we shall see what that is likely to mean—“ to that Government ; Such is the ease of Senegal and the Principle upon which we suppose Your Majesty thought proper to put that River and Country under the Administration of the African Committee. And such we apprehend ”—this passage has some importance—“ will be the Case of that Territory in North America which in Your Majesty's Justice and Humanity as well as sound Policy is proposed to be left, under Your Majesty's immediate Protection, to the Indian tribes for their hunting Grounds.” Now, my Lords, it is suggested in the Case against me that my green area is larger than it ought to be because one ought to assume that a considerable portion of it is thus carved out for Indian hunting grounds. My Case is that that is completely to misunderstand both the geography and the history of the period, and that the Indian Country and the Indian hunting grounds will be found in the heart of the Continent of North America, and I think I can establish that. “ where no Settlement by planting is intended, immediately at least, to be attempted ” and so on. Now, at the new paragraph in the middle of page 909 “ We shall defer at present entering into any particulars, as to the number of Troops which it may be necessary to maintain for this purpose. The Number and Situation of the Posts and Forts, and the Regulations proper to be established for a free Trade from all Your Majesty's Colonies into the Indian Country ; ‘ till by further Information from Your Majesty's Commander in Chief of America, and from Your Majesty's Agents for Indian Affairs, We shall be enabled to make a more full and particular Report upon so interesting and important a Subject.” Now the next sentence : “ And We apprehend that no such Delay can be attended with any material Inconvenience, since, if Your Majesty shall be pleased to adopt the general proposition of leaving a large Tract of Country ”—now my Lords—“ round the great Lakes.” If that is a true description, it completely knocks out the idea that my green area is what is being talked about. “ Round the great Lakes, as an Indian Country,” which is a phrase I shall show your Lordships was used again and again with a particular connotation, “ open to Trade, but not to Grants and Settlements, the Limits of such Territory ”—now this is a most striking passage—“ the limits of such Territory will be sufficiently ascertained by the Bounds to be given to the Governors of Canada and Florida on the North and South,

and the Mississippi on the West ; and by the strict directions to be given to Your Majesty's several Governors of Your ancient Colonies for preventing their making any new Grants of Lands beyond certain fixed Limits to be laid down in the Instructions for that purpose. And We apprehend that in the mean time the Security of this Trade will be sufficiently provided for by the Forts already erected, and such Garrisons as Your Commander in

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Chief, may, at his Discretion, think proper to keep in them.” Then, over the page I do not think I need read the first two paragraphs. Now I come to line 11 on page 910. “ Canada as possessed and claimed by the French consisted of an immense tract of Country including as well the whole Lands to the Westward indefinitely which was the Subject of their Indian Trade ”—it is not in this green area at all, it is hundreds, perhaps thousands, of miles away—“ which was the Subject of their Indian Trade, as all that Country from the Southern Bank of the Rivet St. Lawrence where they carried on their encroachments. It is needless to state with any degree of precision the Bounds and Limits of this extensive Country ”—that means the Indian Country—“ for We should humbly propose to your Majesty that the new Government of Canada should be restricted, so as to leave on one hand, all the Lands lying about the great Lakes and beyond the Sources of the Rivers which fall into the River St. Lawrence from the North ”—you observe not “ the Gulf of St. Lawrence,” but “ The River St. Lawrence ”—“ to be thrown into the Indian country, and on the other hand, all the Lands from Cape Roziere to Lake Champlain, along the Heights where the Sources of the Rivers rise, which fall into the Bay of Fundy and Atlantic Ocean, to be annexed to Nova Scotia and New England in such a manner as upon any future directions after particular Surveys have been made shall appear most proper. If this General Idea shall be approved the future Bounds of the new Colony of Canada will be as follows.” Now I would most respectfully invite your Lordships to observe the way in which the Lords of Trade now trace out the future bounds of the new Colony of Canada, because you will find this very striking thing (Lord Sumner made an observation to me two days ago about this, and I think he may be particularly interested) you will find as far as the Lords of Trade were concerned they were undoubtedly tracing a height of land from the high waters of the River St. John. My Lord observed, of course, quite justly, that, if you look at the Map of Mitchell, it did not seem that merely by joining the height of the River St. John to the Lake St. John, you necessarily did so ; but observe the language here used : “ On the South East it will be bounded by the high Lands which range across the Continent from Cape Roziere in the Gulph of St. Laurence to that point of Lake Champlain above St. Johns which is in Latitude 45 Degrees North ” ; that, your Lordships remember, was running along the height of land South of the

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St. Lawrence.

Viscount HALDANE : I do not want to turn it up, but I would like the reference to Mitchell's Map.

Sir JOHN SIMON : That is No. 11 of the Canadian Atlas. There is another map in the Canadian Atlas which is perhaps even a better one, because I think it is the one that is referred to in a moment here ; but may we continue reading the description first “ which high Lands separate the heads of the Rivers which fall into the great River St. Lawrence from the heads of those which fall into the Atlantick Ocean or Bay of Fundy.” Now that is height of land evidently.

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Sir THOMAS WARRINGTON : Where were you reading then?

Sir JOHN SIMON : Line 28 on page 910. “ On the South East, it will be bounded by the high Lands which range across the Continent from Cape Roziere in the Gulf of St. Laurence ”— You will remember that is South of the St. Lawrence, “to that point of Lake Champlain above St. Johns which is in Latitude 45 Degrees North ; which high lands separate the heads of the Rivers which fall into the great River St. Lawrence, from the heads of those Which fall into the Atlantick Ocean or Bay of Fundy on the North West ”— now here is a curious thing—“ on the North West it will be bounded by a Line drawn South from the River St. Johns in Labrador ”—that is a different River, of course—“ by the heads of those Rivers which fall into the River St. Lawrence as far as the East end of Lake Nippissin upon the Ottawa River,” there can be no doubt at all that that was supposed to be indicating a slope ; “ and on the South West by a Line drawn due West to the River St. Lawrence from that point on Lake Champlain which is directly opposite to where the South Line falls in and so cross the said River St. Lawrence and pursuing a North West course along the Heights where the Rivers rise, that fall into the Ottawa River, to be continued to the East End of Nippisin Lake where the North Line terminates.” That is the origin of the description in the Proclamation which your Lordships remember was made a little later in the year, the Proclamation of October 7th, 1763, to which the reference is Volume I, page 153. That is the origin of that lozenge area. I will ask your Lordships, if you would think proper, to let me read down to the middle of the next page before we turn to the map. “ In order however that your Majesty may judge with precision of the Limits of Canada as above described, and also of those We shall propose for Florida, and of the Country we think right to be left as Indian Territory, We humbly beg leave to refer to the annex'd Chart in which those Limits are particularly delineated, and of which Your Majesty will have a clearer Conception than can be conveyed by descriptive Words

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alone.” We think we know which Chart this is a reference to, as I will show you in a moment. Now will your Lordships observe the language of the next half page, commencing at the top of page 911. “The Advantage resulting from this restriction of the Colony of Canada will be that of preventing by ”—by what ?—“ by proper and natural Boundaries,” that means by the answer which physical geography will give. “as well the Ancient French Inhabitants as others from removing & settling in remote Places, where they neither could be so conveniently made amenable to the Jurisdiction of any Colony or made subservient to the Interest of the Trade & Commerce of this Kingdom by an easy Communication with & Vicinity to the Great River St. Lawrence. And this Division ”—now the language is a little important—“ by the heights of Land to the South of the River St. Lawrence will on the one hand leave all Your Majesty's new French Subjects, under such Government, as your Majesty shall think proper to continue to them in regard to the

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Rights & Usages already secured or that may be granted to them ” : that is to say the French Canadians, Canadians whose origin is French, who speak French and have been accustomed to live under the French regime, will have their own seignories and their French law, and they want to have a boundary that will throw them into that area. Then see how it goes on : “ On the Other hand, the reannexing to Nova Scotia all that Tract of Land from the Cape Roziere along the Gulph of St. Lawrence with the whole Coast ”—“ coast ”—“ of the Bay of Fundy to the River Penobscot, or to the River St. Croix will be attended with this particular Advantage, of leaving so extensive a Line of Sea Coast to be settled by British Subjects ”—that will be thrown into Nova Scotia. If I may for the moment seek to demonstrate by the use of my Chart, I would like to show your Lordships what I understand them to be saying in that latter passage. In that latter passage the Lords of Trade are referring to the Gaspé Peninsula at the mouth of the St. Lawrence. What they are saying is: We propose that the boundary of this new British Government of Canada, or Government of Quebec, should run along the heights of land which divide the Rivers that flow North into the St. Lawrence from the Rivers which flow South in this direction, and they say by making the boundary run by the heights of land you will secure two objects. The first is that you will be throwing into your Province of Quebec people of French origin who will naturally want to be in that area, and on the other hand you will be returning to Nova Scotia an area which the French before they were defeated had very largely invaded, and you will be securing that there can be a settlement by British Subjects of the Coast which runs from the corner of Nova Scotia down to, it may be St. Croix or this River, the Penobscot. Your Lordships have, in this very

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document the implicit acknowledgement that the Nova Scotia Coast, regarded as an area of administration, goes up to the height of land, just as the height of land becomes the Southern Boundary of Quebec. You have on the previous page, page 910, a proposal which is not quite the proposal which is adopted in the Proclamation : The proposal that the boundary shall not be a mathematically straight line from the head waters of the St. John to the Lake St. John, but that it shall run to the heads of those Rivers which fall into the River St. Lawrence as far as the East End of Lake Nipissin. and there is left, as your Lordships will see, a very curious conundrum, and certain inconsistencies, I think I must call it, if the annexed chart is the one which is supposed (I will call your Lordships' attention to it now) because when you look at the annexed chart, which was being sent by the Lords of Trade, in order that your Lordships may have a clearer conception than can be conveyed by descriptive words alone, you will find that the proposed boundary of this new Province of Quebec does, it is true, start from something like the head waters of St. John, and does, it is true, pass through Lake St. John, but there does appear to be a certain area to the North of it, which you might still regard, and, if you looked at the map, you would think was still being drained into the St. Lawrence. That area, however (it is not very wide) is undoubtedly an

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area which the Commissioners seem to have thought might be left unorganised, and it may be that the Indian country, though I am satisfied your Lordships will think that the main Indian country is round by the great Lakes—but it is quite conceivable that the Indian country may have come up to some point here, so far as it is drained into the River St. Lawrence, but what I am contesting is the suggestion that there is any reason at all to suppose that the Indian Country comes into my green. Now the map which appears to be referred to under this description, “ The Annex'd Chart,” is in the Canadian Atlas, No. 27.

This map, which is by a cartographer called Bellin, Geographer to His Majesty, is “ a map of North America describing and distinguishing the British, Spanish and French Dominions, on this Great Continent, according to the definitive Treaty concluded at Paris on the 10th February, 1763.” Whether this is the actual document or not, does not appear to be quite certain, but would your Lordships observe, on the lower part of the chart, at the right hand side, just above the words “ Atlantic Ocean,” there is a note that has been made upon the map by my friends representing Canada, I understand : “ This map is the chart which accompanied the Report from the Lords of Trade and Plantations to the King, dated 8th June, 1763.”

Sir THOMAS WARRINGTON : That was put on for this litigation?

Mr. MACMILLAN : Yes.

Sir JOHN SIMON : My friend, Mr. Stuart Moore, seems to have had this compartment more particularly in his mind ; at any rate he has been kind enough to tell me that some few years ago, when the Record Office was visited for the purpose, there was a volume which contained amongst other things, this report of the Lords of Trade, and that at that time there was a map which I understand my friend to say corresponded to this, attached to or bound up with the report from which I have been reading. Apparently the searches at the Record Office have been such that the map is no longer attached to the report, but I will assume that it is the map.

Now, my Lords, just see how very striking, on the face of this map, is what is said on page 911 as to the advantage of a division by the heights of land south of Gaspé. It is the boundary between the pink and the green, and what the Lords of Trade are saying is: “ We draw a line”—your Lordships know Lake Champlain, we might take that in—“ along the heights of land ”—in fact you will see a succession there of eight little molehills, which no doubt represent that—“ and we draw it so that the water flowing into the St. Lawrence is in the pink, and the water flowing into the Atlantic Ocean is in the green” ; and they say “ by drawing it on the heights of land in that way we shall throw into the Province of Quebec the French-speaking population that ought to be in it, while at the same time we shall be reannexing to Nova Scotia all that tract of land from Cape Rozière

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along the Gulf of St. Lawrence, with the whole coast of the Bay of Fundy, to the River of Penobscot.” Your Lordships will find that it is very plainly shown on the white of the map, just below the Bay of Fundy; or alternatively to the River St. Croix, which is a little bit higher up. They say by doing that, they will leave “ so extensive a line of sea coast to be settled by British subjects.”

I do not think you could have a plainer contemporary proof that when you come to using words like “coast” or “sea coast,” you are really not referring to a mere marge of the sea, but you are referring to what is called higher up on the same page the area with proper and natural boundaries running up ; in other words, the height of land.

Viscount HALDANE : Can you tell me this, which I have been thinking of for some time? Does the height of land always mean the same thing? Is there one height of land running right down through all this?

Sir JOHN SIMON : I think so, my Lord. The only case of doubt—and it is a conceivable case—would be where when you get to the top, you have a crater, for example, which will fill with water and does not drain either way. No doubt that raises a refinement ; but you may put it in the form of a physical experiment. If you imagine yourself presented with a plaster of Paris model which accurately represents the undulations of the surface, and if you then proceed to pour water upon it so that it strikes different points, every drop of that water will find its way down a slope until ultimately it runs off at one edge or the other edge.

Viscount HALDANE : Then the height of land comes down from Hudson's Bay, it comes down to the 52nd parallel ; is there anything physical after that? Where does the chain continue? It comes down to the 52nd parallel of latitude ; you are touching the height of land there. Does the height of land run continuously after that down south?

Sir JOHN SIMON : I think your Lordship may take it that my pocket map indicates by the green colour what would be included within the height of land assuming the water is going to fall into the Atlantic, always remembering that the pink area has been cut out. However, for the moment I was not so much on what happened in 1825 or even earlier.

Viscount HALDANE : I was only asking you for general purposes.

Sir JOHN SIMON : I quite follow, my Lord.

Viscount HALDANE : Then is the height of land a chain that

comes right down to the St. Lawrence ?
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Sir JOHN SIMON : I should not think it is.

Viscount HALDANE : Where does it start?

The LORD CHANCELLOR : It turns the corner, I suppose?

Sir JOHN SIMON : Yes, it turns the corner.

Lord Sumner.

Viscount HALDANE : It goes to the west or both ways.

Sir JOHN SIMON : Yes, my Lord.

Viscount HALDANE : Then how does it get down to the south—the same height of land ? Does it begin again on the south side of the St. Lawrence ?

Sir JOHN SIMON : If you took ship and crossed the Gulf of St. Lawrence you would land at the level of the sea and you would find yourself slowly or rapidly climbing up whatever slope there may be. These are the heights of land on each side and you will continue until you reach what these Commissioners call the proper and natural boundary.

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Lord SUMNER : It depends on the level after reaching the top ; it may descend to another level on the other side. The height of land may be the edge of an enormous plateau with perhaps a very small fall or no escape of water off it, and when you come to decide where the height of land is, one side may say it is the east side of the plateau and the other side may say it is the west side of the plateau. Still, the best thing that you can do is to find out, as you say, where the main division between the water that falls about the plateau will be, so that some goes one way and some goes the other.

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Sir JOHN SIMON : Yes, my Lord.

Viscount HALDANE : Then coming south of St. Lawrence you come to Lake Champlain. I know that, because I have seen it. Where does the height of land run there? Does it run through the Adirondacks?

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Sir JOHN SIMON : Yes. If your Lordship will take this very map that is open before the Lord Chancellor now, it is indicated, not with absolute precision, but quite sufficiently for the purpose. If you will observe the green area, in substance you may take it that what we now call the Adirondacks and the Appalachees that was undoubtedly regarded, in the middle of the Eighteenth Century, as the limit of the

coast. I am going to call your Lordships' attention to a very interesting illustration; I am afraid it may not be possible to do it to-day, but I hope to spend very little additional time on this when you next sit. M. Bellin, who was one of the great map makers, not only drew his map but wrote a commentary, which indeed you were invited to buy when you bought the map ; he tells you that you should buy his commentary, and then you will understand all this. Well, we have got his commentary, and when you look at his commentary it is perfectly obvious that geographers who were speaking of the coast meant something that ran back to the Adirondacks and the continuation of the chain.

Viscount HALDANE : Including Lake Champlain?

Sir JOHN SIMON : No, my Lord, Lake Champlain drains into the St. Lawrence.

Viscount HALDANE : Yes, but it is on your left as you go south, and the Adirondacks are on your right.

Sir JOHN SIMON : That is quite true, but the main range which I am referring to is a range that is rather southerly of that. The point is that the greater part of this green area is what used to be called the Ancient Colonies. I will show you a very important map which simply labels them " Colonies."

Viscount HALDANE : I suppose there is a sort of spur from this height of land which we are speaking of?

Sir JOHN SIMON : If one had to deal with it from the Pacific and you were to consider what was the meaning of " all the Pacific Coast," whatever else may be said, you would have some difficulty in saying that it passed over the Rockies, because there is no doubt that it drains down there. However, we are dealing after all with a particular locus and my only point on this is that when you read this document, which is strictly contemporary, you will find one more illustration of the view that you did not need to inquire, if you wanted a proper or natural boundary, in what degree of latitude or longitude you would find yourself when you got to the interior limit ; because the conception of the age was that the coast was a thing that sloped down to the sea, just as you speak nowadays of coasting down a slope ; and though, of course, it is not so simple as the surface of an inclined plane, as Lord Sumner has said (it may be full of all sorts of irregularities ; behind the first range of hills you may find yourself dropping into a lower plateau before you rise) ; still, broadly speaking, there was a thing which you could always do ; you could draw a line which would go round the rivers, and by that means you could say, now that makes, whatever it is, the Atlantic Coast.

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Warrington.

Sir THOMAS WARRINGTON : They use that ; they do not use “ the height of land.” On page 910 they talk of the land “ beyond the sources of the rivers.” You will see the Indian country is to be the land “ beyond the sources of the rivers which fall into the River St. Lawrence from the north.”

Sir JOHN SIMON : Yes, my Lord.

Sir John Simon.

Sir THOMAS WARRINGTON : And so, later on, “ and on the other hand, all the lands from Cape Roziere to Lake Champlain, along the heights where the sources of the rivers rise.” It is not because it is a line of mountains, but it is where the rivers rise.

Sir JOHN SIMON : It is a water test, really.

Sir THOMAS WARRINGTON : Yes ; it is a short expression.

Sir JOHN SIMON: Let me point out to your Lordships one very curious situation which the colour on this map creates, about which I want to be perfectly frank to the Board. If, on the other hand, you look on the northern side of this proposed area of the Province of Quebec, in the first place it may be said that it is not very accurately drawn because, as a matter of fact, you start the red colour before you reach the head waters of the river St. John. It runs further up, but by this time it is sufficiently true of this map to say that there are some indications that there will be water which is in the white beyond the pink, brought up towards the top of the map which is the pink and which is still running into the St. Lawrence ; but I am not disputing that all. The point is quite clear, because you will find “ land's height.” May I give your Lordships the reference by regard to the meridians of longitude. Will your Lordships take on the map between 75 and 85 degrees ; it is very close to the binding of the book, at the top. If you run your eye down just below the first oblong where the parallel of, I think it is 45, crosses, you will see “ land's height ” and a dotted line. How you explain it may be a question, but there is no doubt at all that this map, if it was the map, did show that there was beyond the pink a certain area which would continue before you reach the land's height.

Lord Sumner.

Sir John Simon.

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—
Sir John Simon.

Lord SUMNER : That is consistent, is it not, with having an intermediate basin which drains into the Atlantic? It does not follow that there is only one height of land.

Sir JOHN SIMON: That is quite true, but I myself have found this a little puzzling ; you cannot expect everything to be plain in a case of this sort.

My Lords, there is one other thing in a map I would ask your

Lordships to look at at once. Kindly observe what is meant by the Indian country ; I think it is as plain as possible. I find in the Canadian Case a suggestion, and I think it is a perfectly despairing suggestion, that the Indian country means the Mitchell line ground. The Indian country in the middle of the eighteenth century was a tremendously important thing. We had all sorts of bargains with the Indians. We purchased land from the Indians. There were treaties—I will show a reference on the map—made in 1711, and later dates in that century, with various groups of Indians; and there was a great area which only had been acquired by the Crown of England by a series of treaties and bargains which they had made with, for instance, the six nations of the Iroquois. Those Indians were all round the Great Lakes. That was the area they were in. It is a complete mistake to suppose that they were talking about some unexplored and unimportant area. Let me give your Lordships the reference to another map which shows that perhaps more clearly than any other. It is the next map in the Canadian Atlas, Map No. 28. Here again my learned friends, who have devoted a great deal of ingenuity to this case, have thought fit to put a note on the map. Unfortunately this time their commentary is not, I think, quite so well founded. They have seen fit to print upon the map, merely in order to indicate their view, a note which you will find on the extreme right hand side. “ Note : To accentuate the notation ‘ Indians lands under His Majesty's Government ’ the lettering has been printed in red over the black of the original. On the original the ‘ DS ’ of ‘ LANDS ’ was omitted by the engraver. This error has been corrected in red.” The truth of it is that the inscription, or label, “ Indians,” is not related to the words “ Lands under His Majesty's Government.” The “ Lands under His Majesty's Government ” are in contrast and opposition with the words higher up, namely “ Hudson's Bay Company's lands.” You will see the type is a perfectly different size. “Indians” is an indication that that is where Indians live. It is quite general. But the inscription “Lands under His Majesty's Government,” which is to the south of that, is to be contrasted with an exactly similar use of type of the same size, which my friends have, of course, not reddened or blackened or emphasized. You can see “ Hudson's Bay Company's lands ” was designed to show that the Hudson's Bay Company ever since 1670 had a quasi-sovereignty in the north, and in the south there were lands which were under his Majesty's Government in a more direct sense. It is quite a mistake to suppose that “ Indians ” is an epithet having reference to the word “ lands,” and that the sentence is “ Indians lands tinder His Majesty's Government.” In the English language you do not happen to put the additional “ s ” to an adjective merely because the substantive is in the plural.

There is another thing rather difficult to pick out, and perhaps your Lordships would do it at once. I have had it picked out for me in one map. If you will take the colours of a series of colonies on the Atlantic coast, Nova Scotia which is in blue,

New England which is in green, New York which is in red.
and two or three other small ones, going

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Sir John Simon.

down to Virginia, you will find if you can pick out the words that that band of colonies is labelled “ Colonies.” There is a big “ C ” which is to the south of the yellow of Virginia. You then see the “ O.” You must go on some way in order to find the “ L,” but you will find it just above “ land ” in “ Maryland.” Then you will find the “ 0 ” is in the green. Then there is an “ N ” just below the “ L” in “ New England.” “England” is spelled “ Englad,” there being no room for the “n.” Then the letter “I” is at the further edge of the green, under the “d” in “ New England.” Then there is the “ E ” in the blue of “ Nova Scotia,” and the final letter “ S ” finishes up the word. The Ancient Colonies of the Crown in the middle of the eighteenth century was this band of ancient plantations. In contrast with that you had the new Province of Quebec which you see indicated in the yellow colour, and you had on the other side the Mississippi. Does your Lordship remember the passage in the book which I had just now, where the Lords of Trade say that the Indian country will be quite sufficiently defined if you regard it as enclosed between the Mississippi and the Hudson's Bay territory on the one hand, and the new Province of Quebec and the Ancient Colonies on the other. It is enclosed between the two. Therefore I venture to hope we have given the quietus to this far-fetched suggestion that the Indians are the people whose hunting grounds are reserved to them by the Lords of Trade in 1763 somewhere in the frozen fastnesses of Labrador. Of course, they were not doing anything of the kind. That being so, I really get rid of the suggestion that my green area is historically neither Newfoundland nor Quebec. There is no tertium quid so far as my green area is concerned, if I have made good my point on the height of land.

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Perhaps I might finish the document I had in mind. The document is in Volume III, p. 911. They go on to deal with other places, and the only passage which I think has any incidental value is at page 913, where at line you will notice, in a perfectly different connection, exactly the same implication for “ coast ” is to be found. “ West Florida to comprehend all the Sea Coast of the Gulph of Mexico, extending West ”—from a particular point towards a particular point.

Lord Sumner.

The LORD CHANCELLOR : There is nothing here about Labrador at all.

Sir JOHN SIMON : They had already disposed of Labrador. The only references to Labrador in this document are the references I have given, namely one on page 905, line 39, “ Annexation of the Labrador Coast to the Government of Newfoundland,” and the other at page 909, line 10, where they say “ which induced your Majesty to annex the Coast of Labrador to the Government of Newfoundland.” They are

dealing, of course, with a fait accompli, because this document is a document drawn up in the summer, in June, whereas, of course, the

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Newfoundland arrangements had all been made, indeed the Commission under the Great Seal and the instructions had been given, and as far as Governor Graves was concerned he was in the saddle.

Lord SUMNER : There is an observation on this, which I think may also arise here. They specify a number of areas—Quebec, and East and West Florida. If I do not mistake they completely describe the bounds all round. There is a complete description of the boundaries right round the area of Quebec, and of East and West Florida.

Sir JOHN SIMON : Yes, that is true.

Lord SUMNER : It looks, therefore, as if the plan was that the new Government should be once and for all entirely and completely described by limits.

Sir JOHN SIMON : Yes.

Sir John Simon.

Lord SUMNER : In the case of Labrador they certainly have not done it by description so completely, but unless we are to suppose for some reason there was an intention to leave the boundary gaping at a certain point the presumption would be that in the case of the Coast of Labrador also it was supposed that the proclamation contained a totally enclosed limit.

Sir JOHN SIMON : I think so.

Lord SUMNER : Then when you come to look for the limit enclosed, you say, “ What is there but such a natural feature as the height of land? ” It is of some importance as negating the idea that at that date it should be deliberately taken as an undefined tract unassigned to any Government, and not governed at all. Of course, “ Indians ” might be an explanation for it, but if you get rid of the “ Indians ” there is no explanation for leaving unassigned at that date to Labrador a space of land on a pattern not pursued in Florida or in Quebec at all.

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Sir John Simon.

Sir JOHN SIMON : That is entirely my case. Your Lordship has put it for me. Though it is a dangerous thing to embroider a point which has been put by a Member of the Tribunal merely to define it, let me add this. Your Lordship will think it is confirmation. Not only that, my Lord, but if I am to go back and try and find where my Coast of Labrador stops, I have these subsidiary indications. No one suggests that it runs into the Hudson's Bay territory. I hope I have satisfied

the Board completely that the Hudson's Bay territory was regarded as running up to the height of land as from Hudson's Bay. I have the

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Sir Thomas
Warrington.

Viscount Haldane.

Sir John Simon.

fact that Lord Egremont indeed was anxious to make quite certain before he arranged for the enlarged Commission of Governor Graves to be drawn up as to how that was. I have the further fact, which is surely very striking, that when you give me all the Coast of Labrador, you further say that it is to be on the one side as far as the River St. John, and immediately in the same year the adjoining Province of Quebec is described as a province with a boundary which runs up to the head waters of the River St. John, and that it is then to follow some heights of land. I have the fact that on the other side of the St. Lawrence you get the spine of the Gaspé Peninsula indicated, and you are told that the slope on one side comes into Quebec, and you are told the slope on the other side will therefore be left for the persons who are engaged in colonizing the coast of Nova Scotia. Could you have a more complete indication that according to the language of the time the Coasts of Labrador were what I say? And that is entirely consistent with what is done in 1825 when you cut the pink strip out of it, and it is entirely consistent with the view which has been taken as far as we can see by everybody until, as your Lordship says, somebody discovers there is something valuable there.

Sir THOMAS WARRINGTON : It looks as if in those days when they wanted to define a strip of land bordered by the sea they defined it by points which they knew on the sea—not knowing the inland—as Coasts between two points on the sea.

Sir JOHN SIMON : Certainly.

Viscount HALDANE : On the other hand, why did not they say “ Labrador,” instead of the “ Coast of Labrador ”? It is not as though it was a small coast ; it was an enormous territory.

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Sir JOHN SIMON : The answer may be—your Lordships will consider it at your leisure, I am sure—that Labrador is the name of a peninsula five times as big as anything that I am asking. I am not asking for Labrador. I am only asking for one of the Coasts of Labrador between certain termini. I am not asking for the pyramid.

Viscount HALDANE : To the height of land from the sea.

Sir JOHN SIMON : If your Lordship pleases. May I take it in the form of a pyramid. Would your Lordship imagine it for a moment in the form of a triangular pyramid. I am not asking for the pyramid, but for one slope of the pyramid as between

two lateral termini, which is to be ascertained by seeing, if water falls on the pyramid, will it run down to my sea.

Viscount HALDANE : Is there any evidence that the slopes of the pyramid except that on the east were ever called “ Labrador ” ?

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Sir JOHN SIMON : Certainly, there is overwhelming evidence. There is a lot of evidence to show, for example, that Labrador is a peninsula ; and, for example, that the Coasts of Labrador do not stop, as you go up the Gulf of St. Lawrence, at the River St. John. There is no reason why they should. My area stops there, because it is given me as a terminus.

(Adjourned till Thursday next at 10.30 a.m.)

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Tuesday, 26th October, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. SIR THOMAS WARRINGTON

IN THE MATTER of the BOUNDARY
between the **DOMINION of CANADA**
and the **COLONY of NEWFOUND-**
LAND in the LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

FOURTH DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Dominion of Canada.

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Thursday, 28th October, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. SIR THOMAS WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

FIFTH DAY.

28 Oct., 1926.
—
Sir John Simon.

*Counsel for the Colony of Newfoundland :—*The Rt. Hon. Sir JOHN SIMON, K.C., Mr. F. T. BARRINGTON WARD, K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by Messrs. BURN & BERRIDGE.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.
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MORNING SESSION.

Sir JOHN SIMON : My Lords, since the Board last sat to consider this matter, my clients have had an exhibit prepared which I will describe to your Lordships, because I think you will perhaps think it useful to inspect it at once. They have taken the sketch map, showing my green area which I claim, and with the help of the survey of Mr. Low and other modern surveys which give information as to the superficies of the Labrador Peninsula, they have made one of those raised models such as your Lordships have often seen with reference to different parts of the world. Though I quite agree that you can ascertain the general run of the land by inspecting Mr. Low's survey, because he gives heights, this puts the thing in a visible shape which makes it very easy to understand at any rate what we mean.

The LORD CHANCELLOR : How large is this model?

Sir JOHN SIMON : The same size as my little sketch map.

Viscount FINLAY : It is very difficult to get the elevations on a small model.

Sir JOHN SIMON : I think your Lordships will think it is a striking way of presenting the argument.

Lord SUMNER : Are the perpendicular heights and horizontal distance strictly in proportion?

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Sir John Simon.

Sir JOHN SIMON : Certainly not, my Lord ; they never are, in any such model. The object is merely to show them. So far as the perpendiculars are concerned, naturally they are very disproportionate. It shows what one means when one says there is an area or slope, as I have called it, which falls within Hudson's Bay area, and there is a slope, or coast, which is the coast of Labrador between particular points.

The Lord Chancellor.

The LORD CHANCELLOR : It is only to illustrate your argument?

Sir John Simon.

Sir JOHN SIMON : That is all. It is not any bigger than the sketch map. If your Lordship thinks it right to have it placed before you here, it would not be, I think, in your way. Could we have the model brought in, my Lord?

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The LORD CHANCELLOR : Yes. (Model produced.)

Sir JOHN SIMON : Your Lordships appreciate for the purpose of indicating what is meant there is, as there almost must be in such things, an immense disproportion of vertical as opposed to horizontal. (Their Lordships inspected the model.)

The LORD CHANCELLOR : The rise on the Hudson's Bay side is pretty abrupt and comes far inland, but the coasts of Labrador are steep at the sea ; you get what may be almost called a plateau.

Sir JOHN SIMON : You do, my Lord. I think that that is quite a fair remark. Will your Lordship allow me to use a pointer for a moment?

The LORD CHANCELLOR : Yes.

Sir JOHN SIMON : All your Lordships appreciate that when I speak of the Hudson's Bay territory, I mean the area which is bounded by the height of land running so, as your Lordships see. Thus on the model the area that is enclosed there on the Hudson's Bay, within the Hudson's Straits, all drains into that area. Your Lordships see what I mean when I speak of a corresponding area here. It is quite true, as the Lord Chancellor says—and it is an important fact—that you get, at any rate in the northern part, a very sharp rise almost immediately. Incidentally, I think one begins to appreciate why Lord Egremont may very well have wanted to know where it was, in the view of the Hudson's Bay Company, you had the entrance to Hudson's Bay, if he was going to authorise the striking out of a new unit to the west of it. Then your Lordship sees (Lord Haldane in particular was interested in this) why it is that the system of these lakes behind the Hamilton Inlet is a system which does drain into the Atlantic. There was a little difficulty in tracing it on my map, I quite agree, but that is the way it actually goes. Then, of course, the people who used this expression “ coasts of Labrador ” did not know, and indeed until quite recently it probably was not known accurately whether you might find the slope in that sense coming as far as it in fact does, or whether it would come to here. That is necessarily I think only to be discovered when what the Lords of Trade called the natural boundary is in fact tested on the ground.

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The LORD CHANCELLOR : Does that projection like a club

foot or dog's head appear on any of the maps ?

Sir JOHN SIMON : Yes, my Lord. Your Lordship remembers that there are some maps which do show a very similar bite out of the general boundary.

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The LORD CHANCELLOR : I do not remember any such turn to the west and down again in any of the maps before your sketch map.

Sir JOHN SIMON : We will test that, my Lord. There is a certain indication, though I agree not quite so pronounced. Perhaps your Lordship for a moment would think it useful to turn to the south of the St. Lawrence.

The LORD CHANCELLOR : Which is the St. Lawrence River ?

Sir JOHN SIMON : This is interesting, because this shows, and shows quite accurately, how the mistake arose when it was supposed that the waters of the St. John River came up further than they really do. There is in fact a slight prominence which means that the St. John River really is a smaller river, and that the high waters really belong to a separate stream ; that is the truth which Mr. A. P. Low discovered. There is another thing your Lordship will notice which is interesting. I am putting the pointer on Lake St. John. It is there. Therefore when you had the Lords of Trade proposing that you should have a line running along the height of land from the head waters of the River St. John along the head waters of the river running into the St. Lawrence, to Lake St. John, they imagined—inaccurately no doubt—that they were in fact tracing a straight line. Your Lordship remembers that some of the maps in the middle of the 18th century showed it. It is not accurate, because there was behind that an area which I am now pointing to which really was still draining into the River St. Lawrence. That is true enough. That is the area which, in my sketch map, is now yellow, and undoubtedly that area fell within the boundary of the Province of Quebec in 1774, and has never come Out of it again.

Viscount HALDANE : Where is the 52nd parallel?

Sir JOHN SIMON : My Lord, that you will find there. (Indicating.) Would your Lordships for a moment look to the south of the river and gulf of St. Lawrence? I venture to think that this model very plainly shows what the Lords of Trade meant when, in 1763, they were considering what ought to be the boundary of the British Government of Quebec and suggesting that it should run “ along the height of land.”

Viscount HALDANE : Is that Cape Chudley at the other end?

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Sir John Simon.

Sir JOHN SIMON : This is the cape. Your Lordships see what they were doing. Of course this is, as all such things must be, exaggerated vertically. The Lords of Trade were saying : We have Frenchmen on the south side of this waterway and they ought to be thrown into the new Government of Quebec. Therefore they say : Draw the line like this along the top of the height of land, and then you will get the Frenchmen who are on the south of this waterway thrown into the area to which they naturally belong, and they will enjoy the French law, and so

Viscount Haldane.

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on. Of late, before the British conquest, the French empire had endeavoured to push its way down on the south side, the Nova Scotia side of this slope, and the result is that the British Colony of Nova Scotia has been much restricted. They say : Draw the boundary there, and the result is that you will have a coast as they call it, of Nova Scotia, free for plantation and colonization, meaning from there up to the height of land on that side.

Viscount HALDANE : It is strange that they did not follow the height of land as regards the new Province of Quebec. They drew an absolutely straight line from here to here.

Sir JOHN SIMON : When the Proclamation was made, that is the way it was done, but your Lordships will have noticed—I called attention to it on Tuesday afternoon—the Lords of Trade in their recommendation spoke of that line, not as a straight line joining the head waters of the River St. John to the Lake St. John, but as a line starting from the head waters of the River St. John and then following along the head waters of intervening streams until it ran into the Lake St. John. When the Proclamation was drawn, no doubt because the maps of the period were not very accurate or complete, or perhaps for simplicity's sake, the thing is described, as the Lord Chancellor says, as a straight line. I think it is quite clear very soon, not at once, it was appreciated that there was some country which was to the north of that again, where I am resting the pointer now, which was country not in the Hudson's Bay territory. There was, in other words, a certain corridor here which indeed is the yellow on my sketch map. Of course, I am not at all disputing that that area—I am now moving my pointer more or less over the area in question—painted yellow in my sketch map undoubtedly fell into the Province of Quebec as soon as the Province of Quebec was enlarged in 1774. It is very curious to notice the language which Lord North used in 1774 when he was recommending the Quebec Act of 1774 to the House of Commons. If your Lordship would take the third volume of the book and would turn to page 1124, you will find what Lord North had to say. Let me remind your Lordships of the historical position.

1774, the year of the Quebec Act, was the year of the throwing of the tea into Boston Harbour ; that had happened earlier in the year. Parliament here in Westminster in the year 1774 was, for the greater part of the Session, engaged in considering an earlier Bill, which was called the Bill for the government of Massachusetts. There were those warnings uttered in the House of Commons which are famous in history as to what would happen in connection with Boston and Massachusetts Bay. Later in the year there was brought down from the House of Lords the Quebec Bill. It was a Bill which started in the House of Lords, and, as I see by reading the Annual Register, in the House of Lords it received comparatively little discussion. It is the first few words of Lord North's speech on page 1124. I think nothing could be more striking than his use of the

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phrase “ two countries.” “ On the Order of the Day, for the second Reading of the Bill ‘ for making more effectual provision for the government of the Province of Quebec in North America.’ ” The situation was that there had been a small area, what I call my lozenge-shaped Quebec, which had existed ever since 1763. I may add that after hearing evidence, as appears from the Annual Register, Lord North (the Prime Minister) is recommending this Bill in the Session of 1774 to the House of Commons. As he had people like Mr. Edmund Burke watching what he was doing, he was explaining why it was that they proposed to enlarge Quebec as they did. See what he said : “ The first thing objected to by the honourable gentleman ”—that, as a matter of fact, was Mr. Townshend, junior—“ is the very great extent of territory given to the Province. Why, he asks, is it so extensive ? There are added, undoubtedly, to it ”—that is my original lozenge of Quebec—“ two countries which were not in the original limits of Canada, as settled in the proclamation of 1763 ; one, the Labrador coast, the other, the country westward of the Ohio and the Mississippi ”—that must be “ the country between the Ohio and the Mississippi ”—“ and a few scattered posts to the west.” If I may again use the pointer, though I do not want to expatiate on the obvious, Lord North is saying this, though with a much less accurate knowledge of geography than we have to-day : The province of Quebec is a province of a lozenge shape, the bounds of which may be described as running up the River St. John to its head waters, then across to Lake St. John, then across to Lake Nipissing, then down across the St. John to Lake Champlain, and so on up along this line here, to Gaspé Point. Here is the House of Commons considering a Bill which the Government has carried through the House of Lords, which is going greatly to enlarge the boundaries of Quebec. The boundary in the new Bill started there, then carried along the same boundary for a time, then got down to Pennsylvania then ran down until it reached the Mississippi, then went up the Mississippi until it struck Hudson's Bay, and they say that is the new province. The effect of that was to do two things : to add to the original lozenge-shaped Province of Quebec two countries ; one of them is my coast of Labrador, and the other is this immense area away down to the junction of Ohio and Mississippi, a large part of which is now to be found in the United States of America. The case against me is : Not at all ; what was added was this great area down in the northwest. No doubt, but the other main thing that was added was something which was not the coast of Labrador, but was a thing which had never been under the government of Newfoundland, under that denomination. In so far as Newfoundland lost anything under the terms of the Quebec Act, 1774, it lost what was no doubt a strip. In substance, what was thrown into Quebec was something which never

belonged to Newfoundland before, and therefore was never given back to Newfoundland afterwards. What I find is this, and, I can repeat, after careful inquiry, because they had Governor Carleton there and a number of other people whom they consulted, Lord North after this Bill had been

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expounded and explained in the House of Lords is saying in the House of Commons “ we are adding two countries.” It is interesting to remember that the phrase “coast or country ” is a phrase we have had more than once already in this very connection. I do submit if Parliamentary exposition counts for anything, and I know sometimes it does not count for much, that at any rate is the strongest possible example of it I was asking your Lordships' attention on Tuesday to a document which seemed so extremely important, the document of the Lords of Trade which you will remember was to be found in Volume III, the same volume that is now before you, at page 903.

The LORD CHANCELLOR : The vigorous opposition to this Bill I suppose related to the large area towards the west, not to its coast.

Sir JOHN SIMON : The main point of contest had nothing to do with that area ; it is about the other. Mr. Townshend and others took objection; but the main contest, your Lordship recollects, was because the Quebec Act was an Act which provided that in this immense area there should be a new system of judicature ; that there should be the French law applied in civil matters, that there should be the English law applied in criminal matters, and that you should set up what was practically a French civilisation.

The LORD CHANCELLOR : Why did the Earl of Chatham call it “ a cruel, oppressive and odious measure? ”

Sir JOHN SIMON : That was nothing to do with area. I think what he meant was : As a matter of fact you are imposing upon a number of people in this immense area, who are really of British stock, a system which is essentially French. We have to remember that the Quebec Act was an Act which dealt with immensely important matters, nothing to do with area. That is the connection in which it is usually discussed by historians, and indeed by lawyers. It is the Act under which the Province of Quebec, whatever its geographical extent may be, acquired a very peculiar position so far as regards its system of law in the British Empire. What I think, therefore, that most eminent Parliamentary critic was commenting on was the fact that you would as a matter of fact be imposing upon people of British stock what was to them a foreign system.

There is an interesting book quite recently published by Professor Coupland, on the Quebec Act, but I do not think

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the subject of area is very precisely dealt with. I have had some inquiries made and I do not think that aspect of the matter was very prominent. It is a very interesting book.

Viscount HALDANE : I have read it. There is nothing about areas in it.

Sir JOHN SIMON: From the point of view of the historian and the student of institutions, the really important thing undoubtedly is

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this remarkable provision for most extensive jurisdiction, quite French in character, over a very large area of British America. I am not for a moment saying that the geographical point was the main point.

Will your Lordships allow me to read a very short extract from the Annual Register, which I looked at this morning to inform my mind. It is at page 75. Your Lordships know that the Annual Register has this peculiarity, that its paging begins over and over again when you come to a different topic. This is the paging beginning from the beginning of the book in the Annual Register for the year 1774. May I read this passage at page 75 right through ; “ The Session was drawing near to the usual time of recess, and the greatest number of the Members, fatigued with a long attendance on the American Bills, were retired into the country. In this situation a Bill which has engaged a great deal of the public attention was brought into the House of Lords ; ‘ A Bill for the making more effectual provision for the government of the Province of Quebec in North America.’ This passed through that House with very little if any observation. But when it came down to the House of Commons, it met with a very different response. A disposition immediately appeared in that House to criticise it with unusual severity. The party for the Ministry seemed to be a little alarmed at this spirit, partly because, from its easy passage through the House of Lords ; it was not to be expected ; but, particularly, because they apprehended it would create more uneasiness among the people out of doors than any of the former Bills. In this case the passions which had been excited by the disorders in America, did not operate in their favour.” Of course, you see the Boston Tea Party had naturally caused a consolidation of public opinion in this country, but the good people of Quebec had been so well behaved that nobody felt much sympathy with what was said. “ In this case the passions which had been excited by the disorders in America, did not operate in their favour, and as the Act had for a part of its objects establishments touching religion, it was far more likely to give occasion for popular complaint. The Ministry, therefore, found it necessary not to carry things with so high a hand as in the preceding Bills. They admitted that this Bill came down to the House of Commons in a very imperfect state ; and that they would be open to any reasonable alterations and

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amendments. This plan might be discussed more at leisure than that for regulating the Colony of Massachusetts Bay ; it[sic] that case it was necessary to show a degree of vigour and decision, or all government might be lost and all order confounded. But here they were not so much pressed : for though that Government wanted regulation extremely, yet the people were disposed to peace and obedience. A good deal of time was spent in going through this affair ; great altercations arose in the Committee ; many witnesses were examined. Among these were General Carleton, Governor of Canada ; Mr. Hay, Chief Justice of that Province ; Mr. Mazerés, Cursitor Baron of the Exchequer, late Attorney-General there, and Agent to the English inhabitants of Canada ”—of course, people of British stock were very

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unwilling to see French institutions put upon them, and that was the real subject of Parliamentary Debate—“ Dr. Marriot, the King's Advocate-General in England ; Mons. Lolbiniere, a French gentleman of considerable property in Canada. The principal objects of the Quebec Bill were to ascertain the limits of that Province, which were extended far beyond what had been settled as such by the King's Proclamation of 1763 ; to form a legislative Council for all the affairs of the Province, except taxation, which Council shall be appointed by the Crown, the office to be held during pleasure (and His Majesty's Canadian Roman Catholic subjects were entitled to a place in it) ; to establish the French laws and a trial without jury in civil cases, and English laws, with a trial by jury, in criminal ; to secure to the Roman Catholic Clergy, except the Regulars, the legal enjoyment of their estates, and of their tithes from all who are of their own religion. These were the chief objects of the Act. It was said in favour of them, that the French, who were a very great majority of the inhabitants of that country, having been used to live under an absolute government, were not anxious for the forms of a free one, which they little understood or valued. That they even abhorred the idea of popular representation, observing the mischiefs which it introduced in their neighbouring countries. Besides these considerations, it would be unreasonable to have a representative body, out of which all the natives should be excluded ; and perhaps dangerous to trust such an instrument in the hands of a people but newly taken into the British Empire ; ” that does not mean Indians, of course ; it means the original population from Europe : “ they were not yet ripe for English government. That their landed property had been all granted and their family settlements made on the ideas of French law. The laws concerning contracts and personal property were nearly the same in France and England. That trial by juries was strange and disgusting to them. That as to religion, it had been stipulated to allow them perfect freedom in that respect by the Treaty of Paris, as far as the laws of England permitted.”

Then the following passages go on to describe the arguments

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on one side. Then lower down it says ; “ To this it was replied, that a form of arbitrary government established by Act of Parliament, for any part of the British Dominions, as a thing new to the history of England. That it was of a most dangerous example, and wholly unnecessary. For either the then present form, such as it was, might be suffered to remain merely as a temporary arrangement, tolerated from the necessity which first gave rise to it, or an assembly might be formed on the principles of the British Constitution, in which the natives might have such a share as should be thought convenient.” And they proceeded on that line.

Your Lordships see, therefore, that the Debates on the Quebec Bill were primarily concerned with two questions of whether it was right or not that in an immense area such as this the people of British stock should be put, so far as civil rights were concerned, under the French law, and, secondly, whether the provisions of the Bill touching matters

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of religion were appropriate. Therefore, I am not suggesting that the main debate was as to areas. What I am pointing out is that one of the objects being that this immense Province was thus being carved out, Lord North, the head of the Government, defending the Bill, says : What we are doing is this. We are making it very big. Why? Because we are adding to what I have ventured to call the lozenge Province of Quebec two countries, one the coast of Labrador, the other the area lying between the Ohio and the Mississippi.

Now, my Lords, I was asking attention on Tuesday to the very important document at page 903 of Volume III, which is a long report of the Lords of Trade ; and I ask leave very briefly, as I have very nearly finished what I wish to say to the Board at this stage, to direct attention to two or three references to the Indian Country in order that I may, I hope, dispose of the idea which I venture to think is quite unhistoric and rather fantastic, that the reservation in respect of the Indian Country had anything to do with my green area here, which is practically uninhabited and which contains a few Eskimos, and a few Indians, who very largely came from across the River St. Lawrence. and had some trade in these parts. “ The Indian country,” as I think one of your Lordships observed on Tuesday, is a phrase which in the middle of the Eighteenth Century was a very familiar phrase. It had reference to an immense and extremely important area. It was used in reference to what was a fixed policy of this country, the policy, namely, of endeavouring to keep on the best possible terms with what were in those days extremely powerful and important Indian tribes. The Indian Country, as your Lordships saw in the map which I asked your attention to in the Canadian Atlas just before the Board rose on Tuesday, was, as a matter of fact, the country round the Great Lakes, and it may be to some extent running up in the area which I have called the yellow area.

Now, my Lords, the passages are these, if I may keep to the point about the Indian Country and give one or two more references on the same very important topic. Your Lordships have already noticed that there is a passage on page 906, at line 27. I am picking these out simply as passages and putting them, together without any argument now. “ This trade was acquired—”

The LORD CHANCELLOR : What trade is he speaking of ?

Sir JOHN SIMON : He is speaking of the fur trade. He is saying : “ This trade was acquired in virtue of the possession which they ”—that is the French—“ had taken (contrary to the stipulations of the Treaty of Utrecht) of all the Lakes in North America ”—by which he meant the Great Lakes, Lake Superior, Lake Erie, and so forth—“ communicating with the River St. Laurence, though the circumjacent territory avowedly belonged to the six Nations of Indians, acknowledged by the French to be your Majesty's Subjects in that Treaty.” I really am satisfied that I can establish to your Lordships that that is the area which is primarily known as the Indian Country. You will see it

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on maps and all sorts of documents of the time. Primarily it is round the Great Lakes ; it is an immense area indicated in the maps.

The LORD CHANCELLOR : You have read this, have you not?

Sir JOHN SIMON : My Lord, I am merely picking these passages out ; I am not going to read them at length.

Viscount HALDANE : He speaks of “ the exclusive Company of Hudson's Bay.”

Sir JOHN SIMON : He does, my Lord. Then at page 909—the Lord Chancellor truly says we have had this before, but I am not seeking to do more than put the passages together—at line 36 you will see this phrase : “ And We apprehend that no such delay can be attended with very material inconvenience, since, if your Majesty shall be pleased to adopt the general proposition of leaving a large tract of country round the Great Lakes as an Indian Country.” There really cannot, I think, be much doubt as to what that means.

Then the third passage in the document is at page 910, beginning at line 16. “ It is needless to state with any degree of precision, the Bounds and Limits of this extensive Country, for We should humbly propose to Your Majesty that the new Government of Canada should be restricted, so as to leave on the one hand, all the Lands lying about the great Lakes and beyond the Sources of the Rivers which fall into the River St. Lawrence from the North to be thrown into the Indian Country, and on the other hand, all the Lands from Cape Roziere to Lake Champlain, along the Heights where the Sources of the Rivers rise, which fall into the Bay of Fundy and Atlantic Ocean, to be annexed to Nova Scotia.” It is that passage which makes me think that it may very well be that the Indian Country, primarily circumjacent to the Great Lakes, may, for all I know, and I am not contesting it, have included what I call my yellow. That is to say, here is the River St. Lawrence ; of course, I distinguish between the River St. Lawrence and the Gulf of St. Lawrence. It may be that behind the area which has been thrown into Quebec there was a certain strip which ultimately fell into Quebec and is coloured yellow in my sketch map, which might be regarded as one of the outlying parts of the Indian Country.

I think those three passages show the position in this very important document. Now, I ask your Lordships to pass on and observe the way in which these recommendations of the Lords Commissioners were dealt with when they came before His Majesty George III. That is at page 915. Lord Egremont writes back to the Lords of Trade and says : “ My Lords, Your Report, dated the 8th of last Month, having been

laid before the King, and His Majesty having taken the same into consideration ; I am, in consequence thereof, to acquaint your Lordships, That the King approves the erecting three New Governments in North America, under the denominations your Lordships propose, of Canada,
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East Florida, and West Florida ; But, with regard to the limits of these Governments, as described in the Report, and marked out in the Chart thereunto annexed; Altho' His Majesty entirely concurs in your Lordships Idea, of not permitting any Grant of Lands, or New Settlements to be made, for the present, beyond the Bounds proposed by your Lordships ; Yet the King thinks, that great Inconveniences might arise, from so large a Tract of Land being left, without being subject to the Civil Jurisdiction of some Governor, in virtue of His Majesty's Commission, under the Great Seal of Great Britain.”

Viscount Haldane.

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Now my friends on the other side, if I may speculate, I think show some signs, not indeed in their Case, it never occurred to them, but in their Counter Case, of arguing that a passage like that refers to the interior of my green. It is quite obvious, I venture to submit, if you read the thing in its due order, that it refers to nothing of the kind. It refers to the Indian country round the Great Lakes which according to the scheme of the Lords of Trade was not going to be included within the Province of Quebec. It affords no ground or basis at all for arguing that the coast of Labrador means anything other than what Lord North thought it meant. The passage goes on : “ And that (besides the difficulties there might be, for want of such a Civil Jurisdiction, in bringing to justice criminals, and fugitives, who may take refuge in that country) their not being included within some established Government might, in time to come, furnish matter of dispute, with regard to the property : And other powers, who might hereafter find means of access to those countries, might take possession thereof, as derelict lands.”

The very fact that he thinks that by some means or other people might get to these countries, shows that he is talking about this area in the heart of America.

Viscount HALDANE : The importance of it is that they seem to say that the view of the King is that it means, do not divide it up completely and entirely, but divide it over the interior of these areas enough to enable someone to keep the peace.

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Sir JOHN SIMON : Very nearly that, my Lord. Might I respectfully suggest, as I have read the document through, that it perhaps can be put this way. It is very much what your Lordship has said. The King here is saying : “ You propose a boundary of Quebec and you propose that the Indian country round the Great Lakes shall be left outside the Province of Quebec.” The King is here saying : “ I think it would be a

better plan to treat the Indian country as separate from the Province of Quebec.” He says : “ I do not mean by that, that I think you ought to allow the grants of private land and settlements to colonials of the whole of the Indian country.” That, your Lordships appreciate, would have been a very gross breach of the Treaties and bargains that had been made with the Iroquois and these other great native tribes who are round the Great Lakes. He says : “ I am not suggesting you should allow the whole country to be open for colonisa-

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tion in that sense ; I think it should be within the jurisdiction of Quebec.”

Lord SUMNER: At lines 12 and 13 he says : “ and other powers, who might hereafter find means of access to these countries, might take possession thereof, as derelict lands.” The interior of Labrador is bounded by Hudson's Bay, the Labrador coast, and the interior of Quebec, not to mention ice, an interior of no real value to anybody ; what likelihood was there of any other power taking possession of it or staying there?

Sir JOHN SIMON : My Lord, it is perfectly plain. This document refers to the fact that there was means of access or there might develop means of access to these rich lands which at present formed the middle west of the United States, and on that side the thing was not boxed in : but to say that he was talking about this little green area of mine is really quite preposterous. He goes on at line 14 : “ The King therefore is of Opinion, that, in the Commission for the Governor of Canada, all the Lakes, viz., Ontario, Erie, Huron, Michigan, and Superior, should be included, with all the Country, as far North, and West, as the limits of the Hudson's Bay Company, and the Mississipi ; And also that all Lands whatsoever, ceded by the late Treaty, and which are not already included within the Limits of His Majesty's ancient Colonies, or intended to form the Governments of East and West Florida, as described in your Lordships Report, be assigned to the Government of Canada.” I am going to ask your Lordships, if you will, to turn to Mitchell's Map. If your Lordships would not mind having spread out perhaps one copy of the big map of Mitchell in the Canadian Atlas No. 11, you will see I think exactly what it was that King George III had in his mind and was expressing in this passage. It is such a big map that I hardly think your Lordships will want to have more than one copy. As I told your Lordships, there is a copy of this map—not indeed quite as reproduced in the Canadian Atlas—in the British Museum, which comes from the library of King George III, and we must remember that there are marks on this map which had not been made, and could not have been

made, at the time of the document. We are now reading, 1763. For example. there are marks upon it which describe the boundary as described by Mr. Oswald. That was Mr. Richard Oswald, merchant and politician, who was the Commissioner for Great Britain when, in 1872, there was negotiated the Teaty which separated the United States from British soil ; so, of course, that is all afterwards. This map was made by this most distinguished man of science, Mr. Mitchell, in 1755, and it is known to have been the most authoritative map of the period. Now would your Lordships first do something which is always difficult to do to a big map. The bigger the lettering the more difficult it is to see it. Would your Lordships kindly observe in the green area which is to the east and south-east of the Mississippi, you will find across the green area in very big letters “ SIX ” and then “ NATIONS ”

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and then just below “ OF ” and then “ INDIANS.” As a matter of fact, as Lord Haldane made this point the other day, it had been the policy of the British in the Continent of North America to deal with the Indians on this basis, that they made treaties, that they got cessions of territory and the like, secured them in their hunting grounds, and took particular care to observe very strictly the arrangements they had made. There had been, for instance, a treaty or contract or compact in 1711 ; there had had been another one in 1722 ; there were three or four more throughout the century. There was a very well-known one with the Indians which was called the Treaty of Easton or Easttown ; and it was a fixed policy in North America at that time that in respect of the area, which was at that time a populous area, principally occupied by these very powerful tribes of Indians, the Iroquois and others, you made treaties with them, and this boundary which your Lordships will see is also marked as “ boundary line between the English and French territories,” is a boundary which had more significance in connection with the Indian reservations.

The LORD CHANCELLOR : It is not “ Six Nations of Indians,” is it? It is “ Six Nations or Iroquois.”

Sir .JOHN SIMON: I beg your Lordship's pardon, that is right : “ Six Nations or Iroquois.”

Lord SUMNER : There were six separate tribes, but they were all Iroquois.

Sir .JOHN SIMON : There were, my Lord, and then there came to be a seventh and then there came to be an eighth, and there is a very interesting history attaching to this if we had to go into it.

Viscount FINLAY : They were said to be the ablest and most enterprising of the Indians.

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Sir JOHN SIMON : Yes, my Lord. Would your Lordship look at the blue which runs side by side with the red, south of Lake Michigan, just under the word “ Boundary ”? You will see this inscription : “ Western bounds of the Six Nations sold and surrendered to Great Britain.”

Viscount FINLAY : Where is that exactly?

Sir JOHN SIMON : I have a little difficulty in saying it by word of mouth, but if your Lordship would take the south of Lake Michigan you will see that running through it is a band of red and blue. It is buried in the blue which is below ; it is in rather small print, but it is there all right. I will read it again ; it begins nearly at the junction of the Mississippi ; if you go to the junction of that line with the Mississippi, it is really the Ohio and Mississippi, you will see “ Western bounds Six Nations sold and surrendered to Great Britain.”

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It is not the Ohio River ; it is the River Illinois. The thing which will make it quite plain and well founded will be this. You will also see on the light green a note printed just below where you last looked, to this effect :—“ The Six Nations have extended their territories to the River Illinois ever since the year 1672, when they subdued and were incorporated with the ancient Chaouanons, the native proprietors of these countries, and the River Ohio. Besides which they likewise claim a right of conquest over the Illinois, and all the Mississippi as far as they extend. This is confirmed by their own claims and possessions in 1742, which include all the bounds here laid down ” and so forth. There is an immense history about this, but it is really not material. I only want to make the point perfectly clear—and I believe it can be overwhelmingly established from all sorts of communications—that the Indian country, the country that King George III and his advisers were talking about, has nothing in the world to do with the interior of my green area.

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Lord SUMNER : Probably it is the case that the political policy concerned has confined itself to Indian country which lay between this country of the old authorities and the line of the Great Lakes which had long been explored from Quebec. But there is another aspect, is there not, in the possible humanitarian motive, even in the eighteenth century, in the interests of the savages themselves. The Esquimaux lived on the caribou, and the caribou was a migratory animal very difficult to follow up. If the interior of Labrador was not left undisturbed the Esquimaux might suffer, just as the Indians ultimately suffered by the extinction of the buffalo, And I think it is a fact that there was an annual movement of the Esquimaux into the interior to try to find the herd, and if they did not find the herd they starved. It may have been that some of the statesmen even in King George III's time might have

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been somewhat concerned for these people.

Sir JOHN SIMON : I think it is but justice to the memory of those statesmen to say that again and again through this volume you can see whether, as a matter of high policy, or as a matter of humane feeling, there cannot be the slightest question that they wished to provide this Indian country both from their own and the Indian point of view.

Lord SUMNER : I think the Indian country appears to have very little reference indeed to the interior of the Peninsula of Labrador, but at the same time the policy of leaving the country for the Indians may have had some effect.

Sir JOHN SIMON : It may. I rather suspect your Lordships will form the view when you have heard this case out that so far as the Coast of Labrador in my sense is concerned the thing really was of such trumpery importance as compared with these very important matters round the Great Lakes and Quebec, that really, once you have provided for the question of Labrador going to Newfoundland, there was nothing

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more to be said. Would your Lordships turn to page 28 of the same set of maps for a moment, and note what you have already seen. You have got there, of course, an Indian country vaguely indicated. See how striking it is when you are told that the country in question will be sufficiently described if you say that it is bounded on the west by the Mississippi, bounded on the north by the Hudson's Bay territory, and bounded on the east by the boundaries of the Government of Quebec, which is my yellow lozenge, and your Majesty's Ancient Colonies. " Ancient Colonies " means, your Lordships remember, that band of coast colonies which run down from Nova Scotia, New England, and so forth. That does, as a matter of fact, roughly enclose an area, and you will find in a moment that that is the very language which is used to describe the Indian country in the documents we are dealing with. They say we need not be too precise about its boundaries. It is quite enough to say you will find it shut in between the Mississippi, the Hudson's Bay territory, the new Government of Quebec and your Majesty's Ancient Colonies. That gives you, at any rate, an indication of an area which certainly does not touch the green area I am interested in.

If I may go back to the document, there is very little in this one that matters. It was one of the eases where King George III took one view and the Lords of Trade took another, and in the end the King gave up his view and the view of the Lords of Trade was the view which was adopted. We were reading at page 916. After having spoken of these matters there is a reference at the bottom of page 916, line 35, to the King's decision to appoint the Honourable James Murray to be Governor of Canada, and so on ; and on the next page you will get the phrase " the Ancient Colonies " which occurs again and again. It was a perfectly well understood phrase at that time. It meant those colonies on the Atlantic seaboard. Then a little lower down, line 19, it says : " His Majesty thinks it highly proper, that the Agents for Indian Affairs should correspond with your Lordships, in regard to the Indian Country." That being the view which is communicated to the Lords of Trade by the Secretary of State for the Southern Department, Lord Egremont, as being the Royal judgment, you get the highly respectful reply of the Lords of Trade on page 919. " May it please your Majesty— In obedience to your Majesty's commands contained in a letter from the Earl of Egremont, dated the 14th of July last, signifying to us your Majesty's most gracious approbation of our idea, that that large tract of country "—would your Lordships observe these words—" bounded by the Mississippi and the limits of the Hudson Bay Company on the one hand and on the other by the limits of Canada "—that means the lozenge of Quebec, whatever it is—" East and West Florida and His Majesty's ancient Colonies, should for

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the present be made subject to no grants of lands nor to any settlements." I attach great importance to the geographical comprehension of what is there said. It seems to me to be perfectly clear, therefore, that the subject matter is something which does not touch my green area at all. In those days the assumption was that if you went up the Mississippi to its actual source you would reach the height of land, and reach a point where you would begin to

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go down to the Hudson's Bay. Therefore, to trace it to this top of the Mississippi was the same thing the same thin as to strike the Hudson's Bay country. Your Lordships recollect we have already had that in another connection. That gives you, therefore, a complete enclosure on that side. If you run up the Mississippi to its source you will be impinging upon the Hudson's Bay country. The other enclosures are to be the limits of Canada—that is Quebec ; they called it Canada at first—and then, going a little out of the order because East and West Florida is going to the other end, you have East and West Florida, and the gap in the hedge is filled up by His Majesty's ancient Colonies. That is the area they are talking about. They say that is their idea, and they go on to say : “ But acquainting us, that it was your Majesty's pleasure, that it should be put under some civil jurisdiction, by a Commission under the Great Seal of Great Britain, so as to prevent any objection ”—and so on—and then the Lords of Trade take a very good point. This is an interesting piece of politics. This is what they say, if my Lords will let me put it in my own way in a sentence. They say, we quite understand your Majesty's notion, but there is this objection. If we did that, it might be argued hereafter that this immense area of the Indian country was British soil by a title which wa[s] derived from the French. They say that is quite untrue. Our title to it is quite independent of the French. It is really due to a series of contracts, purchases and treaties, made with Indian tribes. That is the reason they do not like the idea. At the bottom of page 919 they say : ‘ We are apprehensive that, should this country be annexed to the Government of Canada, a colour might be taken on some future occasion, for supposing that your Majesty's title to it, had taken its rise, singly from the cessions made by France, in the late Treaty, whereas Your Majesty's title to the Lakes ”—observe the expression “ Lakes ”—“ and circumjacent territory as well as to the sovereignty over the Indian tribes, particularly of the Six Nations,”—the first is geographical, the second is a matter of jurisdiction—“ rests on a more solid and even a more equitable foundation ;and perhaps nothing is more necessary than that just impressions on this subject should be carefully preserved in the minds of the Indians.” etc.

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Lord SUMNER : It is a subject on which just impressions should be preserved in the minds of the Indians whether the

title is derived by cessions and conquest, or whether it is derived from themselves by treaties.

Sir JOHN SIMON : Yes. It goes on : “ whose ideas might be blended and confounded, if they should be brought to consider themselves as under the Government of Canada.” There was this much in it of a more solid kind ; that since the Government of Canada was going to have what one might call a French complexion it might be a matter of most practical politics that these great Indian tribes accustomed to regard themselves as the allies and friends of Britain and who had taken part in the fighting against France, should not be put in a position where it might

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be supposed they were being grouped with the French element. There was that much in it. Then they give other reasons which do not matter much, and they therefore argue for their own view.

Now at the bottom of page 921 you see a striking proof of the fact that it is quite unjust to suppose George III an obstinate man. There Lord Egremont says :—“ My Lords . . . I am commanded to acquaint your Lordships that his Majesty, upon consideration of the reasons therein set forth, is pleased to lay aside the idea of including within the Government of Canada, or of any established Colony, the lands which are to be reserved, for the present, for the use of the Indians.” The phrase three lines from the bottom of the page is “ lay aside.”

Viscount Haldane.

This, though an interesting topic, is really only faintly relevant. The only point that matters is that I should satisfy your Lordships—really it is a matter rather for the other side than for me—that the lands which are to be reserved for the use of the Indians, or the Indian country, or the area surrounded by the Mississippi boundary, the Hudson's Bay, his Majesty's ancient Colonies, and the Government of Quebec, is not my green.

Sir John Simon.

Viscount HALDANE : Tell me what office Lord Halifax filled.

Sir JOHN SIMON : If your Lordship will turn to the bottom of page 923 there is a note which informs you as to that matter. “ Lord Egremont died suddenly from apoplexy, and the Earl of Halifax temporarily took over the duties of the department, being formally transferred to the Southern Department about September 9th.”

Viscount HALDANE : He was Secretary of State for the Northern Department. I suppose really what he did was this. The Southern Department had been in the hands of Lord Egremont, and the Southern Department was really advising

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the King, and it was thought necessary that the King should have a Minister who could independently take his instructions.

Sir JOHN SIMON : I may suggest to your Lordship, who knows the practice about Secretaries of State very well ; that it is an illustration of the ancient constitutional principle that any one Secretary of State can sign any document for any other. If I may venture to say so, a former Home Secretary remembers very well that he was probably the last person who ever signed a document for Lord Kitchener, because when the Secretary of State for War was out of the country some other Secretary of State had to sign the document. Of course, it was prepared in the War Department. It is a well known constitutional principle that the King has one Secretary of State who is divided into several persons. I trust you will think I have made good my point sufficiently for the moment, that this attempt to treat the Indian lands as though they had anything to do with my case will be found completely to break down. I have a lot of other material I might give, but I think I have probably done it sufficiently.

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I will give your Lordships one more reference which perhaps will clinch it. It is at page 1104. That is a document headed “ Proposed Extension of Provincial Limits,” and it is a commentary explaining what you find at the beginning of page 1099, namely a draught of the Quebec Bill.

The LORD CHANCELLOR : About what time is this ?

Sir JOHN SIMON : In 1774. It is the year of the Quebec Act. There is a draught of the Quebec Bill on page 1099, and, then on the following pages, page 1104 and so on, you get a sort of commentary. Will your Lordships look at the bottom of page 1104, line 23. You will see there the official view. “ The King's servants were induced to confine the Government of Quebec within the above limits ”—that is referring back to something which had taken place eleven years before—“ from an apprehension that there were no settlements of Canadian subjects, or lawful possessions beyond those limits, and from a hope of being able to carry into execution a plan that was then under consideration for putting the whole of the Interior Country to the westward of our Colonies”—that means our ancient Colonies—“ under one general control and regulation by Act of Parliament.”

Viscount HALDANE : That seems to be a plan for putting the whole of the west under a new Government.

Sir JOHN SIMON : It was so. If your Lordship reads the earlier documents you will see that is involved. The idea was that Quebec should be my lozenge-shaped area, and that the area to the west of the ancient Colonies, the Indian country,

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the area between the Mississippi, Hudson's Bay, and our ancient Colonies, should be under an administration separate from the Government of Quebec. The only point I am making is that it is treated, as your Lordship sees, as something separate. As a matter of fact, the Indian territories were to be under the administration of a Commissioner for Indian Affairs. There were two Commissioners, the southern one and the northern one.

Viscount HALDANE : Were they local ?

Sir JOHN SIMON : Yes, they were there. It is a very striking fact that the country we are here referring to is put under the jurisdiction of the southern one, which again is a proof that it has nothing to do with Esquimaux dressed up in furs, or an occasional Indian pursuing an animal on the Labrador coast. It has to do with the noble Red Man, the noble Savage, who at that time formed a numerous and very important body in the great interior of America That for the moment will make that point sufficiently, I think.

I have only one other reference which I wish to make in the book, and only one other reference I wish to make to a map, and then if

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Viscount Haldane.

your Lordships will allow me I should like to conclude my submissions here by offering to the Board the summary of submissions which we seek at this stage to make. We have been at some pains to reduce them into order, and I have got them on paper, and if your Lordships think it well, that paper will be available. I have put them into nine short sentences.

Sir John Simon.

Viscount HALDANE : I think we had better have copies of them.

Sir JOHN SIMON : When the time comes I will offer them to your Lordships. There is one other reference which I wish to make in the book itself. I want to make good this point, though I do not think it is disputed. It is suggested against me that the only thing on the Mainland of Labrador that the Governor of Newfoundland had was the Admiralty jurisdiction and the general looking after the fisheries from what you may call the sailor's point of view. That is the suggestion against me, and it is said that there was not, as I suggest there was, a second and independent thing, namely a territorial jurisdiction over a substantial area going back to the height of land, which I call the Coast of Labrador.

Viscount HALDANE : I think you must not assume that the dilemma which Canada seeks to put on your area is exhaustive. There may be a very large coastal territory under the name of " Coasts." How it is to be drawn may be a question. But that is a very long way from 110,000 square

miles.

Sir JOHN SIMON : Certainly. It may be that those who advise the Government of Canada are in this matter like Commissioner Bladen at the Treaty of Utrecht, and are asking for a great deal more than they think they are entitled to or expect to get. But after all, that will come afterwards. I am not for the moment talking about the miles. All I am saying is that my ease is that over and above the naval supervision and all the jurisdiction which attaches to that which undoubtedly was primarily in the jurisdiction exercised by the Governor of Newfoundland, my case, right or wrong, is that there was as between 1763 and 1774 a second subject matter which I may call territorial. Now what happened in 1774 ? What happened was admittedly that the area under the Government of the Governor of Quebec was very greatly enlarged. But the striking fact is that though the area under the government of Quebec was enlarged in that way, which seemed to swallow up my former territorial area, the duty on the part of the Governor of Newfoundland of continuing to watch over the fisheries and stop people trespassing and doing things they should not do, remained exactly the same. That seems a strong reason for saying that there is something quite over and above the mere supervision of the fisheries, a separate subject matter—X I will call it, because it may not be as much as 110,000 square miles—something which is passed to the Governor of Quebec and then is passed back at a later stage to the Governor of Newfoundland.

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I think I have stated accurately the effect of the documents. Perhaps I may now give your Lordships a couple of references, and then leave that point. The reference which is perhaps most illustrative for the purpose would be this. Turning to Volume II, page 834, you will find the terms of the instructions to Governor Sir Guy Carleton, which accompanied his enlarged Commission consequent upon the extension of the boundaries of Quebec.

Sir THOMAS WARRINGTON : The document begins at page 820. It is the year 1775. That is after the passing of the Quebec Act.

Sir JOHN SIMON : That is after the passing of the Quebec Act. The result of the passing of the Quebec Act was that you had to enlarge the area of the Government of Quebec, and you had to contract the area of the Government of Newfoundland. Here I am calling attention to the enlargement of the duties of the Governor of Quebec. I merely pick this out as an illustration—there are plenty more. I would like to take page 832, paragraph 30. “ The extension of the limits of the Province of Quebec necessarily calls forth your attention to a variety of new matters and new objects of consideration ; the protection and control of the various settlements of Canadian subjects, and the regulation of the Peltry Trade in the upper or interior country on the one hand, and the protection of the Fisheries in the Gulph of St. Lawrence, and on the Labrador Coast on the other hand, point to regulations, that require deliberation and despatch.” The most important extension was the extension west and south. The other one was comparatively small. Then paragraph 32 says : “ It is our Royal intention, that the Peltry Trade of the interior country should be free and open to all our subjects, inhabitants of any of our Colonies ” and so forth. All that refers, at any rate primarily, to the interior country. Then at page 834, line 37, we have this : “ We have mentioned to you the Fisheries upon the Coast of Labrador, as the main object of your attention ; but the commerce carried on with savages of that coast, and the state and condition of these savages deserve some regard.”

Viscount HALDANE : This is a part of the Labrador Coast which Quebec had got.

Sir JOHN SIMON : This is after 1774 ; your Lordship is quite right. It refers not to the Hudson's Bay area, but to time other area.

Viscount HALDANE : It refers to what Quebec had got.

Sir JOHN SIMON : I do not think it can be disputed, if my

argument is accepted as to the boundaries of the Hudson's Bay area, that the effect of 1774 was to make Quebec include everything which was to the south of the line I have just traced on the model. That, I think, is plain.

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Viscount HALDANE : That is the whole of the Labrador fisheries.

Sir JOHN SIMON : Always limiting yourself to the Atlantic side of Cape Chidley. No doubt that is true. The paragraph says : “ We have mentioned to you the Fisheries upon the Coast of Labrador, as the main object of your attention ; but the commerce carried on with savages of that Coast, and the state and condition of those savages deserve some regard ; the Society of Unitas Fratrum, urged by a laudable zeal for promoting Christianity, has already, under our protection, and with our permission, formed establishments in the northern parts of that Coast for the purpose of civilising the Natives, and converting them to the Christian Religion. Their success has been answerable to their zeal ; and it is our express will and pleasure, that you do give them every countenance and encouragement in your power ” and so forth. In paragraph 39 in the same way there are instructions about the timber. Side by side with that, however, you will find that the exercise of the Admiralty jurisdiction, the general preventing of the incursion of unauthorised persons interfering with the Labrador fisheries, remains with the Governor of Newfoundland. I will give your Lordships an illustration. You will see it in the same volume, Volume II. I could trace this out with a great many instances, but probably these are enough for the moment. Will your Lordships take page 498.

Viscount HALDANE : That is very peculiar, and it may be that there was a division in the Cabinet.

Sir JOHN SIMON : It is not for me to say whether there were divisions in the Cabinet in the middle of the eighteenth century.

Viscount HALDANE : We know there were.

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Sir JOHN SIMON : But I really think, if I may say so, that the explanation is a different one. I will not go into detail now. I think the explanation is that the Governor of Newfoundland down to a certain point had two things to do. Then in 1774 there is a change, as a result of which he ceases to have one of the two things to do, but he retains the other of the two things.

Sir John Simon.

Viscount HALDANE : It is very difficult to draw the line.

Sir JOHN SIMON : I have no doubt the point is that

somebody does draw it, and here it is at page 498. These are the instructions to Robert Duff, who was Governor of Newfoundland.

Viscount Haldane.

Viscount HALDANE : This was in 1775 ?

Sir JOHN SIMON : Yes. It is exactly contemporaneous with what I last read.

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Sir John Simon.

Lord SUMNER : These are Admiralty instructions.

Sir JOHN SIMON: Yes.

Viscount HALDANE : Emanating from the Lord High Admiral.

Sir JOHN SIMON: Yes. I have traced these things very carefully, and I find them carefully co-ordinated. I could give you a series of documents in the third volume showing this was discussed between Lord Dartmouth and the Admiralty, Lord Dartmouth and Governor Carleton, Governor Carleton and Governor Duff. It was all divided up very carefully.

Viscount HALDANE : At that time the Lord High Admiral was independent of the Cabinet. His superior was the King, and only the King. The King said “ I am superior to the Cabinet and my servants, and I will take the advice of which of my servants I think proper.”

Sir JOHN SIMON : On the other hand, Lord Dartmouth was not at the Admiralty, The thing begins, I can assure your Lordship—and if necessary I will give your Lordship the reference in Volume III—with a careful discussion between the Secretary of State and the Admiralty as to what will be the best way to divide it up.

Viscount HALDANE : Most probably. But they were not co-equals.

Sir JOHN SIMON : I have no doubt the Lord High Admiral was a very important person. It was not till long afterwards that he took the humble position of an ordinary seat in the Cabinet. Still, look at the language of it : “ Whereas we have appointed you Commander in Chief of His Majesty's Ships & Vessels employ'd and to be employed at and about the Island of Newfoundland the Islands of Madelaine & Anticosti and upon the Coast of Labrador.” Then they go on to say : “ Whereas you have received His Majesty's Commission appointing you Governor & Commander in Chief in and over the Island of Newfoundland and of the Islands of Madelaine in the Gulph of St. Lawrence, and of all the Forts &

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Garrisons erected & established in the said Islands, And also His Majesty's Instructions for your Government therein you are to take particular care"—to do so and so. His own Commission has been narrowed. Then over the page, on page 498, would you kindly note the language used in paragraph 7 ; this is the only point I am making on it. " You are to settle and guard the Fishery not only at Placentia & St. Johns but as far to the Northward upon the Coasts of Newfoundland & upon those of the Continent of Labrador as your command extends." My Lord, his Command extended up to Hudson's Straits, " And to exert your best endeavours to encourage & support the Whale Fishery in the Straits of Belle Isle, the Cod Fishery in York Harbour and on the other parts of the Coast of the abovementioned Continent, as also the Seal, Sea Cow &

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Salmon Fisheries on the said Coast ; And to hinder any Trade or intercourse being carried on by any Person whatsoever other than the Subjects of Great Britain with the Inhabitants of that Country which of right belongs solely to His Majesty ; and whereas the Coast of Labrador and the Islands adjacent have, by a late Act of Parliament been re-annexed." This is the territorial business, he has lost his territorial area—re-annexed to the Province of Quebec. And His Majesty hath by His Instructions to the Governor of that Province"—which is Governor Carleton, those are the very instructions I have just been reading.

Viscount HALDANE : " Upon the Coasts of Newfoundland and upon those of the Continent of Labrador," you say that is upon the coasts of Labrador.

Sir JOHN SIMON : I do.

Viscount HALDANE : They use the expression " the Continent of Labrador " as contrasted with coast.

Sir JOHN SIMON : I quite accept that. It is not quite, with great respect, the point I am making. The point is you get here apparently a sub-division of what was formerly in a single hand, and all I am urging is that that goes to show you cannot describe the sum total of the Newfoundland connection with, I will not say either coast or continent, but with the green area as being limited to the care and inspection of the fisheries and all these other things, because that goes on just the same : " After you have transferred to the Province of Quebec," that is Governor Carleton at line 10, the page I had previously read in the same volume. " Dated the 3rd of January last signified to him, that the Fisheries on the said Coast & Islands are objects of the greatest importance, not only on account of the Commodities they produce but also as Nurseries of Seamen upon which the strength & security of His Kingdoms depend," and so forth.

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The LORD CHANCELLOR : These are instructions to Governor Duff, not as Governor of Newfoundland, but as Admiral of the Fleet.

Sir JOHN SIMON : Your Lordship is quite right. Without turning them up now you might think it convenient to make a note of those references which will show how the two things are knitted together. In Volume III you will find, at page 1147, the letter of the Secretary of State, Lord Dartmouth, to the Admiralty, discussing what should be done. Ten pages on in Volume III, page 1157, you will find the letter from Lord Darmouth to the Admiralty in the following year, April, 1775, about it, and in the same volume, page 1162, you will find Governor Duff in communication with Sir Guy Carleton about it, and in Volume III at page 1163, you will find Governor Duff in communication with the Secretary of State, Lord Dartmouth about it. What the Lord

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Chancellor says is perfectly just, what it shows undoubtedly is Admiralty instructions. That is quite just. All I am saying is that it rather helps, if I need further help, to show that the persons who were dealing with this matter in the sixties and seventies of the 18th century—when they talk about the coast of Labrador they were not doing what very naturally suggests itself perhaps to some of us to-day, they were not, as a matter of fact, meaning the coast of Labrador for the purposes of territorial jurisdiction.

I have finished with the green books, I am sure your Lordships will be very glad, at any rate, at present. My friend, Mr. Barrington-Ward, who is going to follow me, is going more particularly to address an argument to the subject of fisheries ; that is a compartment which I am very very glad indeed, amongst others, to leave in his hands.

My other reference to you is to a map. I wish your Lordships to take, as a mere illustration, and I think a striking illustration, one of the maps in the Newfoundland Atlas, a map which is made by a well-known cartographer of the time which you have already looked at, namely Bellin, and as was not uncommon when Mr. Bellin, or other people of that sort, made a map, they accompanied the map by some sort of book which you could buy and read at your leisure. Here is the Book. (Producing same.)

The LORD CHANCELLOR : What is the number of the map?

Sir JOHN SIMON : Bellin's map is No. 12 of the Newfoundland Atlas and it was accompanied by a book which we have got from the British Museum.

Viscount HALDANE : What is the date of it?

Sir JOHN SIMON : 1755, map makers always tend to copy one another. I have here, and it is a very interesting book, the volume from the British Museum, and some extracts from it have been printed and are in the Record. It is called “ Remarques sur la Carte de l’Amerique Septentrionale ” between certain degrees of latitude “ avec une Description Géographique de cette Partie de l’Amerique ” and so on “ Par M. Bellin.” It is published at Paris at the Golden Bible in 1755.

Viscount HALDANE : That is not an official document?

Sir JOHN SIMON : Certainly not. If your Lordship cares to look at the note opposite Map No. 12 you will learn all about Mr. Bellin, he was a very considerable person in the French Officialworld.

The LORD CHANCELLOR : We have gone far beyond the rules of evidence in this case.

Mr. MACMILLAN : You notice I have not intervened at all.
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Viscount HALDANE : It is like the construction of a Treaty, you look into everything.

Sir JOHN SIMON : What I am going to say is, I think, a legitimate illustration of the meaning of the expression "The Coasts." That is what I am upon. If you have before you Mr. Bellin's map of 1755, No. 12, you will find that on page 6—I will hand the book, if I may, to the Lord Chancellor, I have made my notes sufficiently for the purpose. (Original book handed to the Lord Chancellor.) He is expounding his map, and he says on page 6 he divides North America into six principal parts, and he says he is going to discuss them in six sections of his book. I am relying now rather on my recollection, but I think that is how it runs. The word actually, I think, is six "articles." The interesting thing is to see how does he break up the Continent of America because these six things put together will make the Continent of North America as he knows it, and as you see it in his map. This is the way he does it. First, Hudson's Bay and the neighbouring country, which would include that part which Lord Sumner observed marked on the map "Unknown" and so on. You notice he has got on his map the Hudson's Bay Territory traced round with a line half yellow and half green, which, as your Lordships observed before, is really running on the heights of land, that is his first area. He cuts that out. Now, secondly, New France or Canada. He gives the two names ; he is going to say in a moment, in the text, something about Newfoundland and Labrador, but it is all included in his second compartment. Now, thirdly, this my Lord is what I should like your Lordships very much to observe. Perhaps Lord Finlay would observe it as the book is within reach of him. He is going on in the third compartment to deal with this : "Les Côtes Orientales de l'Amérique." It is one of his 6 divisions, he is going to describe it :—"depuis l'Acadie jusqu'à la Floride, contenant les pays possédés par les Anglois, entre les Montagnes des Apalaches & l'Océan." There you have a perfectly good contemporary illustration of what I conceive to be, and what such researches as we have made on the maps and otherwise show was constantly done at the time ; he is in terms saying now there is another section on the map which I have marked and he describes it as "The Coasts."

Sir THOMAS WARRINGTON : It is in the plural?

Sir JOHN SIMON : He says : "Les Cotes," the eastern coasts of America ; if you look at his map you see it is as a matter of fact that yellow area lying between Nova Scotia and Georgia, being in fact what used to be known as the ancient Colony and carrying them back to the height of land which means the Allegany's at the top and the Apalaches further down. I care

nothing at all whether the range of mountains is as a matter of fact straight as indicated on that map or not. All I am saying is : How can anybody feel a difficulty in believing that the coast of Labrador between certain points runs back to the height of land

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when it is perfectly plain in the language of geographers at the time breaking up the whole solid continent of North America into pieces, this, is to be described, just as you describe New France as a unit or Hudson's Bay as a unit, as " Les Cotes Orientale." Then he goes on : " (4) Florida ; (5) Louisiana "—you will notice how striking it is here—Florida is edged pink, a separate area, and then Louisiana is to be found marked in the north west of the pink and lastly " (6) New Mexico and neighbouring countries." Nouveau Mexique is marked there with the great river running down, but the outlet of it is not shown.

Viscount Finlay.

Viscount HALDANE : Do you rely on this as showing that the territory of Labrador extended up to the height of land?

Sir John Simon.

Sir JOHN SIMON : I do, by analogy. I am saying so far as we are at liberty to inform our minds, what in the ordinary acceptation of the term " All the Coasts " meant in that sort of connection. It is not without value to observe that a most distinguished geographer and writer at the time is in express terms saying if you were to take a fretwork saw and were to divide the Continent of North America into six parts and were to take this block, that is : " Les Cotes de l'Amerique," between two points on the sea border exactly as I say, the Coasts of America run back to the height of land between two points.

The Lord Chancellor.

Sir John Simon.

Viscount HALDANE : It does not say to whom the great Continent of Labrador belongs ?

Sir JOHN SIMON : No, for the moment I am only dealing with it as an analogy.

Viscount FINLAY : You are merely dealing with the point that this mode of dividing up the country was a natural system which presented itself as the best way for a geographer.

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The LORD CHANCELLOR : It is before the Treaty of Paris.

Sir JOHN SIMON : It is before the Treaty of Paris ; it is 1755. I have nothing to do with political boundaries ; I am merely dealing with nomenclature.

The LORD CHANCELLOR : You have got a rather strong expression on page 26. It says : " Les Cotes de Labrador, Grand et vaste Pays."

Sir JOHN SIMON : I marked it. Perhaps your Lordship would like to take an intermediate one, if you would take page 18 your Lordship will find he refers to Greenland ; he knew nothing about Greenland, but he distinguishes in the case of Greenland. He divides Greenland into two parts, and he says on page 18 that the “ Cote Occidentale,” the

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western coast of Greenland is called New Greenland. Now, if you would look at the map you will see where he writes “ Nouveau Greenland.”

Viscount HALDANE : At this date who would Greenland belong to?

Sir JOHN SIMON : I think at this date it was Danish. Perhaps you would notice on page 27, where he does deal with Labrador, the Lord Chancellor's eye will catch the page, if I remember rightly he says there—he knows a good deal about it—“ Between Cape Charles and St. Augustine the Coast of Labrador is watered by many rivers some of them considerable.” Now if you turn to page 71 there is incidental proof of what was understood by the “ Indian country ” at the time. He really was a very well-informed geographer—this man.

The LORD CHANCELLOR : He says Labrador means “ Terre du laboureur,” which he says was given to it by the Spanish.

Sir JOHN SIMON : Some say Spanish and some say Portuguese.

The LORD CHANCELLOR : The French had the sole rights in this area,

Sir JOHN SIMON : If you turn on to page 71, although this is on a topic which I have already dealt with (it is only an incident), you will find he says : “ On Lake Superior there is a Bourgade of Indians,”—a large town of Indians—“ which has become very large,” and he gives the names of the tribes of Indians, they are extraordinary names including names like Illinois and Hurons. They were established there for trading The whole context in which he uses this expression “ Les Cotes ”—he uses it again and again—goes, I submit, to show really there was not any straining of language at all ; on the contrary it was a perfectly natural thing at any rate at the time to describe “ all the Coasts of Labrador,” without troubling yourself further, as meaning whatever area would ultimately be found, which sloped down to the water's edge. Your Lordship has in mind that expression : “ The natural

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boundaries ” which occurs in one of the documents I have read.

Now, my Lords, I have occupied your Lordships' patience I am afraid very long, and I wish to make good my word and resist all temptation for saying anything more now, and I will submit, if I may, the propositions or the submissions.

Viscount HALDANE : Have you copies ?

Sir JOHN SIMON : Yes, if your Lordship will allow me, of course, I shall be very happy to read them out and hand in copies. We have taken a little pains about it. You may even find that the 9 propositions can be reduced. They have been checked and I hope they will not be found very wrong. (Copies handed in.)

I have put it in this form, I am conscious, of course, by using these

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Mr. Macmillan.

phrases I may unwittingly be reviving points of discussion and controversy, but I have tried to put them in language which covers all I am urging. First : “ The document primarily to be construed, which is the root of the title of Newfoundland, is Governor Graves' Commission of April 25th., 1763—‘ all the coasts of Labrador.’ ”

The LORD CHANCELLOR : “ cf.” I take it means “ compare ? ”

Sir JOHN SIMON : “ cf.” is meant to be “ compare ”—“ cf. in the same document the phrase ‘ the coasts of territories of Labrador.’ ” It should be “ or territories ” not “ the coasts of territories.”

The Lord Chancellor.

Viscount HALDANE : It makes a difference, it should be “ or territories ? ”

Sir JOHN SIMON : It really is “ the coasts and territories.”

Viscount HALDANE : It is really “ and.”

Sir John Simon.

Sir JOHN SIMON : “ And ” is right. The expression is to be found on page 151 at line 31. I will not go back on the argument.

Mr. MACMILLAN : My only objection to these statements is that these are not submissions, they contain argumentative matter as well.

Viscount HALDANE : They sum up the argument as well.

Mr. MACMILLAN : I can quite understand submissions and propositions being handed in, that is rather helpful, but I rather resent parts of arguments being put in for emphasis.

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The LORD CHANCELLOR : Why ? Sir John is here to argue this, if he likes to put them in writing, so much the better. It really would be impossible to submit points otherwise.

Mr. MACMILLAN : I thought it was a series of propositions my friend was making.

Sir JOHN SIMON : My friend, Mr. Macmillan, no doubt is using “ propositions ” as meaning propositions of law. I did not intend that. There is a good deal more to be said I am afraid, which I have not said, about the contents of this Commission and many of the other things, which are strongly in my favour. Then 2. “ After the area which had thus been annexed to the Government of Newfoundland had been taken away in 1774, and had been ”—I quote the words “ re-annexed to the Government of Newfoundland ”—“ in 1809, it was declared by the Statute of 1825 to be expedient ‘ that certain parts of the said coast of Labrador should be re-annexed to and form part of the Province of Lower Canada ’

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and so much of the coast as lies to the Westward of a line drawn due North from Anse Sablon to the 52nd parallel was re-annexed to and made part of the Province of Lower Canada and was thenceforward to be ‘subject to the laws of the said Province and none other.’” Now, my Lord, this is the submission. “ This treats the area transferred as cut out of a larger whole, so that the line of the 52nd parallel which forms the Northern Boundary of the area re-transferred must be regarded as lying within ‘ the coast of Labrador.’” That is the argument on the Statute of 1825. Then thirdly : “ The re-transfer of 1825 necessarily involved a corresponding reduction in the area administered by the Government of Newfoundland, and the language of the Commission to Sir Thomas Cochrane ”—which I called attention to—“ shows that his jurisdiction immediately to the East of Anse Sablon ran inland at least to the 52nd parallel.” If I may illustrate the thing for a moment on this plasticene model, if any occasion arose for the exercise of jurisdiction, let us say 35 miles inland immediately to the east of that meridian which is to run up to the 52nd parallel, can anybody doubt that Sir Thomas Cochrane and his judicial authorities would have the jurisdiction to deal with it. That is all I meant.

The LORD CHANCELLOR : He was to be Governor of Labrador from Hudson's Straits to the line drawn north and south of Anse Sablon.

Sir JOHN SIMON : That is right. Against me it is suggested that this is nothing more than a finger post, to which I can only respectfully say it is the longest finger post I have ever

heard of to indicate a point.

Viscount HALDANE : It is suggested that that only deals with coasts.

Sir JOHN SIMON : I know. I follow the suggestion. I am merely here to put one side of the argument.

The LORD CHANCELLOR : But it is down to the 52nd degree of latitude.

Sir JOHN SIMON : Which was known at the time (for instance Mitchell's map and the like) to involve a very deep cutting into the land.

Viscount HALDANE : Undoubtedly.

Sir JOHN SIMON : One asks oneself why 52nd? Then 4: “
The most authoritative maps available at the time (e.g. Mitchell, 1755, Canadian Atlas No. 11, Bellin, 1755, Newfoundland Atlas No, 12) indicated that the headwaters of the River St. John would be found approximately in latitude 52 or slightly further north, and consequently the Northern Boundary of the area re-annexed to Quebec in 1825 would reach approximately the apex of the original North Eastern corner of

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Quebec as defined in 1763.” Might I say on that since Lord Sumner made an observation to me when he inspected Mitchell's map some days ago, while I appreciate the force of what my Lord observed, that the map indicates that the River St. John goes back above the 52nd parallel, I think on re-inspection, my Lord will find he will agree with me in saying that it only indicates it goes back a very short way, for this reason : my Lord, I think, was only looking at the main map, in which case the thing goes off to the north, but in the left-hand top corner there is a smaller map on a smaller scale of the Labrador coast, and you will see if you examine that, and lay the 52nd parallel down across it, as a matter of fact the mark intended to indicate the River St. John begins just about there. Then fifthly : “ It is true that the primary object of the inclusion of a part of Labrador in the Newfoundland Commission was in order to secure that ‘ the open and free fishery ’ (not only cod but also salmon, seal, &c.) might be extended to and carried on upon the coast of Labrador, but it by no means follows that the area annexed to Labrador is limited to a mere fringe ”—it is a submission or proposition in the strictest Scottish sense—“ The motive which causes legislative and executive authorities to resolve to make a change in the law cannot be treated as limiting the effect of the language which is used when they in fact change the law. The grant may well be of an area from Cape Chidley downwards stretching to the height of land, so as to include the seaboard, the administration of which is the immediate reason for the change.”

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My Lords, sixthly, “ This conclusion,” I mean this larger interpretation, “ is the more easily reached in reference to an area which at the time and long afterwards was regarded as worthless.” Your Lordships, I think, have my point. It may be that a bibliophile urgently desires, or needs to acquire, one particular volume in a library, and it may be that when he makes his contract of sale and purchase he buys not the book, but the whole library ; you cannot say that he has not bought the whole library, because his object was only to buy one book ; and the probability of his buying more than one book is increased if the rest of it is thought at the time to be worth very little. Then 7, “ The words ‘ coast ’ and ‘ coasts ’ were constantly used in the 16th and 17th and 19th centuries,” I go no further, though I think it could go further, “ to indicate a territory with a defined sea frontage which stretched to the height of land. This language is employed even in cases where it was not known at the time how great a depth in mileage such a description might involve. Certum est quod certum reddi potest.” Then 8. “ Such an interpretation in the present case is confirmed by these three considerations,” I submit. “ (a) It secures that the additional area entrusted to Newfoundland does not trench upon the area already belonging to the Hudson Bay Company, for the height of

Lord Sumner.

land running South from Cape Chidley will be at one and the same time the Western Boundary of the one and the Eastern Boundary of the other (b) it explains why the area retransferred to Quebec in 1825, though bounded on the North by the 52nd parallel, was known to be part of the ' coast ' previously annexed to Newfoundland ; (c) it provides a scientific and prac-

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tical test which enables the actual course of the boundary to be delimited with precision by the application of a prescribed formula to the physical facts, as and when those facts become precisely ascertained." Then my Lords, 9. (I am sorry there should be so many.) " The view contended for by Newfoundland is supported by the official maps and public declarations of the Dominion of Canada right down to the time when the backland was known to be worth having." I said 9, but there are really 10, I had forgotten this one. " 10. No other interpretation leads to the ' location and definition ' of a boundary but at best would involve either a vague or an arbitrary conclusion." I most respectfully submit on behalf of the ancient Colony of Newfoundland, that the considerations which it has been my duty to endeavour to lay before the Committee should lead to the conclusion that the boundary is a boundary to be fixed by reference to the height of land.

Mr. Barrington-Ward.

Lord SUMNER : There is one small point I notice in one of the Cases, it is with regard to that Island at Anse Sablon ; the question is whether it is an island adjacent to the one coast or to the other ; is there anything you wish to say about that.

Sir JOHN SIMON : That is one of the compartments, it is really a minor compartment, which my learned friend Mr. Barrington-Ward was going to deal with ; and I did not think it was a question which justified the two of us dealing with it.

Lord SUMNER : I only wanted to know whether you had considered that point.

Sir JOHN SIMON : Yes, my Lord. My learned friend Mr. Barrington-Ward has some remarks to add.

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Sir John Simon.

Mr. BARRINGTON-WARD : May it please you, my Lords. For some days past have had the pleasure of listening to my learned friend developing the arguments before your Lordships' Board, which, of course, represent the combined consideration of himself and his juniors in this case. What we have tried to do is to supply Sir John with all the assistance that is in our power to enable him to deal, in every compartment, with the case so as to present it as a whole before your Lordships' Board ; and I do not think that I should be serving any useful purpose by trying to improve in any way upon the remarks that my learned friend has already made to you on the various topics which represent the agreed

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submissions of the Counsel concerned in the case. What I, with your Lordships' permission and approval, propose to do is to deal as concisely as may be, with one or two topics which emerge, such as the minor topic which my Lord Sumner mentioned just now, a point which is, of course, of comparatively minor importance in the case, and generally to conclude and fill in the argument which has already been presented to you, in the detail and with the lucidity, if I may say it respectfully, which my learned leader always commands.

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The matter which I particularly want to deal with in the first instance (I am not travelling outside the submissions which have been handed to you) is that which is contained in paragraphs 5 and 6 of this document, if I might just read them again so that you should have them in mind : “ It is true that the primary object of the inclusion of a part of Labrador in the Newfoundland Commission was in order to secure that ‘ the open and free fishery (not only cod, but also salmon, seal etc.)’ I pause there for one moment, just to make this observation : You will find in the Canadian Contention that the only fishery which they say is included by those words is the cod fishery. I shall have to develop that later on, and show that, at any rate so far as Labrador was concerned, the seal and the sea cow and the salmon fisheries loomed much larger than the cod fishery for a considerable and appreciable period of time.

The LORD CHANCELLOR : I do not see how seal and sea cow help you ; I can understand salmon.

Mr. BARRINGTON-WARD : Seal and sea cow help me in this way ; they are sedentary fisheries, and certainly with regard to the seal it is a seasonal fishery, and also with regard to the whale, it is a winter one. It goes on : “ But it by no means follows that the area annexed to Labrador is limited to a mere fringe. The motive which causes legislative and executive authorities to resolve to make a change in the law cannot be treated as limiting the effect of the language which is used when they, in fact, change the law. The grant may well be of an area from Cape Chidley downwards stretching to the height of land, so as to include the seaboard the administration of which is the immediate reason for the change,” and, my Lords, the pendant, if I may so call it, to that submission is, “ This conclusion is the more easily reached in reference to an area which at the time and long afterwards was regarded as worthless.” Now, my Lords, that submission immediately arises upon the passage in the proclamation of 1763. I am not going to read anything more than is necessary to your Lordships, if you will be good enough to have in mind the passage in the Proclamation by His Majesty of the 7th October, 1763. It is the first volume at page 153, and I am referring to the passage contained in page

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154 at line 14. On that I am going to make three submissions, and then endeavour to assume one and make good the other two. The words are, “ And to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador, and the adjacent islands ”—your Lordships will notice these words, “ we have thought fit, with the advice of our said Privy Council, to put all that coast, from the River St. John's to Hudson's Streights together with the islands of Anticosti and the Madelaine, and all other smaller islands lying upon the said coast, under the care and inspection of our Governor of Newfoundland.”

Viscount HALDANE : You notice the words, “ under the care and inspection.”

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Mr. BARRINGTON-WARD : That is why I want to make a remark straight away on that. Your Lordships see that those are words in the recital, they recite something which has happened ; they are not operative word at all. It is not a case of His Majesty saying, “ We hereby place the Coasts of Newfoundland under the care and inspection,” that would raise quite a different question altogether ; it is merely a recital of an event which has happened, and it is common ground between the parties in this case (there is no doubt about that at all) that the real problem is the true construction to be placed upon the word, not “ coast ” but “ coasts,” in the Commission to Captain Thomas Graves. It is very important to bear that in mind. The Canadian Pleadings brought that out very clearly in one of the passages which I can refer to if necessary. Something which is really common ground between the parties is, that the origin of the powers, whatever they were, of the Governor of Newfoundland over Labrador is to be found in the Commission to Captain Thomas Graves. I do not think so far your Lordships have had your attention very much called to the Pleadings, but it is rather significant to notice that that is stated by the Canadians at page 50 of their Case, and conceded by us at page 89 of the Counter Case.

Viscount FINLAY : It was in fact stated.

Mr. BARRINGTON-WARD : It will not take two or three minutes if I may read it, because you get the issue, or it is not an issue, you get the admission clearly defined, and that is the starting point of the argument which I am about to have the opportunity of addressing to your Lordships. If your Lordships would not mind looking back to page 50, it is rather a good summary of the true position on this part of the case. Perhaps I might begin to read at page 49, just to show you how those propositions are put forward ; I think my learned friend Mr. Macmillan, would agree that he has also used the word “ proposition ” in a sense which is the

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argumentative rather than the legal one. It is convenient to have this. “ Canada's Contention. . . . (1) The Extent of territory within the peninsula of Labrador to-day, subject to the authority of Newfoundland is the ‘ Coast ’ which by the Commission of the 25th April 1763, herein above recited, was as declared by the Royal Proclamation of the 7th October of that year, put under ‘ The care and inspection ’ of the Governor of Newfoundland.” Your Lordships see that quite accurately states, perhaps in better language than I use, the effect of those two documents—“ less the portion thereof re-annexed to the Province of Lower Canada ’—that Act of 1825 is commonly called the Canadian Tenure Act ; I have seen that short title used ; we have called it the 1825 Act.

Viscount HALDANE : It is Section 9.

Mr. BARRINGTON-WARD: Yes. Then the second proposition is very much in issue. I will just read that by way of finishing this part

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of the matter. This contention is, ‘ That the ‘ coast ’ so described, is a strip of maritime territory, extending from Cape Chidley, at the entrance to Hudson Strait, to the eastern headland of the Bay or Harbour of Blanc Sablon,” that, of course, raises Lord Sumner's point about Woody Island—“ on the Strait of Belleisle, and comprising, in its depth inland, only so much of the land immediately abutting on the sea, above low water mark, as was accessible and useful to the British fishermen annually resorting to that coast, in the ordinary conduct of their fishing operations, for the purposes of ‘ The open and free fishery,’ extended to that coast by the Royal Proclamation, and carried on there, and for those purposes only.” Of course, my Lords, that is very strongly controverted, and the statements and inferences there contained combated by the ancient colony of Newfoundland. The legal point is very clearly put at page 50, and I entirely accept this. “ The Newfoundland Act, 1809, constitutes Newfoundland's title to whatever rights within the Labrador Peninsula she to-day possesses, but the title which it confers is a title by relation—a title by relation to the Royal Proclamation of 1763, which, with the antecedent Commission, above cited, gives the definition of the extent of territory effected. This is made indisputably clear, by the terms of that Act. By it, such parts of the Coast of Labrador ”—I think that Lord Haldane has said in the course of the case, “ whatever it was ”—

Viscount FINLAY : “ By relation ” means, “ by reference.”

Mr. BARRINGTON-WARD : Yes, my Lord. “ By it, such parts of the Coast of Labrador as His Majesty by his Royal Proclamation of the 7th October 1763, had been pleased to declare, he had put under the care and inspection of the

Governor of Newfoundland were re-annexed ”—you notice the word “ re-annexed,” of course, we stress that word very considerably in the later Statutes. “ The parts of the Coast affected by this disposition, are not otherwise described or defined by the Act than by recital of and reference to,” Lord Finlay sees—“ the Royal Proclamation of 1763.” Then they set out the words again, and say, that is, “ a limitation which explicitly throws the interpreter back upon the languages of the Royal Proclamation. That Proclamation and the Commission of the 25th April, 1763, of which it proclaimed the effect, are, for the purpose of identifying and defining such parts of the Coast, Newfoundland's title. Her rights extend over precisely the extent of coast described in those instruments, less, of course, the part which the British North America (Seignorial Rights) 1825, withdrew,” and it winds up by saying, “ The Newfoundland Act, 1809, dealt solely with the extent of Coast (neither increased nor diminished), which the Legislation of 1763 had put under the care and inspection of the Governor of Newfoundland.” Now, my Lords, that proposition is accepted in the Counter Case of the Colony of Newfoundland, at page 89 ; so we can work from that as an accepted statement of the position. In paragraph 2, on page 89, Newfoundland says this : “ Newfoundland con-

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ceeds the first proposition advanced in the Canadian case, namely that the extent of territory within the peninsula of Labrador to-day subject to the authority of Newfoundland, is the “Coast” which, by the Commission, of the 25th April, 1763, was, as declared by the Royal Proclamation of the 7th October of that year, put under the care and inspection of the Governor of Newfoundland, less the portion thereof,” taken away in 1825. Then, my Lords, the Counter Case brings out that which my learned friend, Sir John Simon, has done already, and I do not propose to do it again, except to remind you of this, that we do submit “that the Canadian Case lays too much stress on the use of the expression, ‘care and inspection’ in a purely declaratory recital in the Royal Proclamation of the 7th October, 1763. while on the other hand it pays insufficient regard to the plain words of the Commission to Governor Graves, and the Acts of 1774, 1809. and 1825, which make changes in the Government of the Area in question. The Proclamation of the 7th October, 1763, though it created and established four new Governments, including the Government of Quebec, did not profess to effect any change in the pro-vision already made in reference to ‘all that coast’ (i.e. of Labrador) ‘from the River St. John to Hudson's Streights.’ By the Commission to Graves of Newfoundland, dated the 25th April, 1763, that area had been added to his Government. The words ‘care and inspection’ do not occur in the Commission or in the Acts of 1774, 1809 or 1825 already referred to. The Quebec Act of 1774 treated the Commission to Governor Graves as having ‘made’ the area in question ‘part of the Government of Newfoundland,’ while the Newfoundland Act, 1809, described the same area as having been ‘annexed to the Government of Newfoundland.’ Newfoundland submits that the interpretation thus given by the Statutes, is the natural meaning of the language of the Commission.”

Now, my Lords, with that preliminary introduction, in my submission three matters arise on that part of the Proclamation, which I am about to discuss. First of all, the first matter is, what does the term, “Coast,” or to be more accurate, “Coasts,” because it is used in the plural in Graves' Commission, mean in its context, having regard to the terms of the instrument as a whole. That, my learned friend. Sir John Simon, has so fully discussed before you that I do not feel justified in saying anything more about it. You have heard again this morning his submission, and his arguments re-enforced by reference to contemporary maps and books and practice to show that “coast” used in that instrument, at that time, in 1763, would be used in the ordinary 18th Century sense of “all the land lying between the shore and the watershed.” That has been fully discussed, and I do not think I can really add anything to it. One has to bear in mind that that really is the first matter which arises when one is

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considering the interpretation of this clause. The second matter arising there is the question of what you mean by “ the open and free fishery” ; I want to say something about that in a moment; and another question which arises, of course, is the position of the Governor ; is he merely the captain of a ship at sea, with no territorial jurisdiction

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at all, or has he vested in him, in addition to his Admiralty jurisdiction, actual territorial jurisdiction over the coasts so entrusted to him, under the terms of his Commission ? Those two matters really can be treated of together. I hope to satisfy you, by as concise an argument as I can, that the true position of the Commander-in-Chief, though the object or motive for sending him out there was one thing, that did not completely cover the whole ambit of his duties and responsibilities in that region. It is perfectly true, and it has been admitted over and over again, that the purpose with which the King's ships were sent out there in convoy of the fishing ships was to create a race of seamen for the Royal Navy. There is no question at all about that ; but I hope to satisfy your Lordships upon the true construction of that clause, that that is not the complete ambit of the duties and responsibilities of the Officer so appointed. I hope to satisfy you, by the facts of the case, that the people who were comporting themselves out there correctly understood his position, and in the fullest sense of the term he was Governor of the Island of Newfoundland and the Coasts of Labrador—in the sense in which the argument so far has proceeded. There is one other question which is a legal one, and I would ask your leave to cite not too many authorities, because in this type of case authority from purely municipal law is not always helpful, but I desire to make this submission : that it is a well known rule of construction, whether it be the preamble to an Act of Parliament or the recital in a deed, that the preamble or the recital cannot amplify or restrict operative words which are in themselves unambiguous, of course, if there is an ambiguity, you may always look to the preamble or recital to see what the words mean.

The LORD CHANCELLOR : You need not cite authority for that.

Mr. BARRINGTON-WARD : If your Lordship pleases. Sometimes one puts a proposition and it is convenient just to have one or two illustrations of it, but I am not going to trouble your Lordships with anything that is considered not necessary ; but there are one or two—in fact a great many books—but I have selected one from each class of case to show that that is well-accepted law.

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Mr. MACMILLAN : I shall not challenge that proposition.

Mr. BARRINGTON-WARD : I must have stated it correctly,

otherwise my learned friend would have done so. My submission is that, applying that doctrine to this clause, the mere fact that in something, which after all is a recital in itself, you get in the first part a motive assigned for a certain course, cannot be used to cut down the language used in the Commission, which has to be read into this Proclamation.

Mr. MACMILLAN : My learned friend is putting it differently now : it “ cannot be read to cut down unambiguous words.”

Mr. BARRINGTON-WARD : That is the first part of my sub-

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mission, that the words are not ambiguous at all : that the word “ coast ” has a perfectly clear meaning and has to be understood, putting yourself back, as it were, in the draughtsman's chair in 1763, in the sense that has been contended for ; that it cannot mean anything else. That is the basis of my submission. I submit there is no ambiguity about it at all ; in the 18th Century “ Coast ” means “ Coast ” and nothing more. You cannot say that by reason of the fact that a certain coast is added to a Government for a particular purpose that that is the only duty arising from the Commission granted to the Governor. Now, my Lords, it is often thought with regard to Newfoundland and Labrador, that, from the first, anything in the nature of a sedentary fishery was strongly put down by those responsible for the administration of that part. In my submission, by a few illustrations, I shall be able to satisfy you that that is not so ; that what was objected to was not the sedentary nature of the fishery but the sedentary nature of the inhabitants. So long as the inhabitants there complied with what Sir Hugh Palliser called “ That excellent Act.” nobody had the least objection to them settling and conducting sedentary fisheries either on the Coast of Newfoundland or upon the Labrador; they were encouraged in their possession, always provided that they complied with the terms of the 10th William III. I do not know whether your Lordships have had your attention called to that Statute, or whether you think it is sufficiently in your Lordships' minds to dispense with actually reading it over to you. but the reference to it is page 250 of the First Volume.

The LORD CHANCELLOR: It has not been read; it had been recited in some instruments.

Mr. BARRINGTON-WARD : The submission I make to your Lordships, rather, is this: That the subsequent legislation—I am not going to give your Lordships either a historical or academical discussion upon fisheries in general—I can state

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the subsequent legislation, because that will not affect the construction of the Proclamation which is now under our consideration ; what happened was that this Act remained in force with a number of existing Acts, Acts providing for annuities, and one special Act, your Lordships may remember, giving effect to that Treaty of Washington, of 1818. which gave France those fishing rights—which remained in force until 1824, when it was entirely repealed, and this view, which I may call the Palliser view, was definitely abandoned. I have the reference to the repealing Statute. it is page 300 in the First Volume. I do not propose to go back to this, so I give you that reference now. The Act of William III. remained in force till 1824 when it was repealed by the Statute at page 300, the 5th George IV. Chapter 51; and though restrictions were still placed upon the persons who could come to fish at Newfoundland, or the Coast of Labrador, or the Islands, the policy was definitely abandoned, the policy which had continuously existed, and been adopted, since the passing of the 10th of William III. What I think would be most convenient would

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be only to give you illustrative instances of the proposition for which I am contending. My submission, my Lords, is that the persons who engaged in the sedentary fishery there were protected in their possession, always provided that they complied with the terms of the Act ; and, my Lords, once you remember this, that on the Southern shores, there is no doubt at all that sedentary fisheries had existed for a very considerable time—your Lordships will remember one motive for passing the Act of 1825 was to put back into Quebec the people who had established themselves upon this coast—it was no new idea at all : a sedentary fishery. As early as the year 1719, on the Island of Newfoundland itself—I will give you that first of all—a gentleman of the name of Skeffington was protected in his post by having complied with, or not done anything contrary to, the spirit of the Act. I am not going to refer you to very many references, but will your Lordships kindly look for a moment at Volume IV, page 1901, with regard to that.

Just before dealing with that, may I first of all call your Lordships' attention to the Fishing Act. The Fishing Act is in Volume I at page 250, and if I may I will just deal with that first. Your Lordships will see that that Act is headed : “An Act to Encourage the Trade to Newfoundland,” and it recites that : “ Whereas the Trade and Fishing at Newfoundland is a beneficial Trade to this Kingdom, not only in the employing of great Numbers of Seamen and Ships, and exporting and consuming great Quantities of Provisions and Manufactures of this Realm,” and so forth,—I need not read the whole of it—it is enacted that “ it shall and may be lawful for all his Majesty's Subjects residing within this his Realm of England, or the Dominions thereunto belonging, trading or that shall

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trade to Newfoundland ”—now will your Lordships notice these words, which are very ample :—“ and the Seas, Rivers, Lakes, Creeks, Harbours in or about Newfoundland, or any of the Islands adjoining or adjacent thereunto, to have, use, and enjoy the free Trade and Traffick, and Art of Merchandise and Fishery, to and from Newfoundland, and peaceably to have, use, and enjoy, the Freedom of taking Bait and Fishing in any of the Rivers, Lakes, Creeks, Harbours, or Roads, in or about Newfoundland, and the said Seas, or any of the Islands adjacent thereunto, and Liberty to go on Shore on any part of Newfoundland, or any of the said Islands for the curing, salting, drying, and husbanding of their Fish, and for making of Oil, and to cut down ”—your Lordships will observe this—“ and to cut down Woods and Trees there for building and making or repairing of Stages, Ship-rooms, Trainfats, Hurdles, Ships, Boats, and other Necessaries for themselves,” and so forth, “ as fully and freely as at any Time heretofore hath been used or enjoyed there by any of the Subjects of his Majesty's Royal Predecessors, without any Hindrance, Interruption, Denial or Disturbance of or from any person or Persons whatsoever ; and that no Alien or Stranger whatsoever (not residing within the Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed) shall at any Time hereafter take any Bait, or use any Sort of Trade or Fishing whatsoever in Newfoundland, or in any of the said Islands or Places above-mentioned.”

Then there follow a number of provisions for preserving what
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you might call the amenities, and also the efficiency of the fishing arrangements.

As a matter of interest—I do not think I need trouble to go back to it, but your Lordships might like to have a note, just so that you may have it in your minds—the bulk of these regulations go further back, to the year 1634. The reference is Volume IV, page 1719.

Viscount HALDANE : What does that Act do ?

Mr. BARRINGTON-WARD : These are a series of Regulations made by His Majesty.

Viscount HALDANE : It is an Act empowering Regulations to be made, and the Regulations made, I suppose.

Lord Sumner.

Mr. BARRINGTON-WARD : Yes, my Lord, but I think these were made under the Prerogative, as far as I know. They were Star Chamber Regulations.

Viscount HALDANE : There was no Statute ?

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Mr. BARRINGTON-WARD : No, my Lord, but it is interesting to note that these provisions about not throwing ballast into the harbours or not burning the woods go back to

1634. I am not going to trouble your Lordships with much of these things, because, it would be only taking up time unnecessarily. It is only a matter of history, just to see where they come from.

Viscount HALDANE : They were created under the Prerogative ?

Mr. BARRINGTON-WARD : Yes, my Lord, and they were amplified by further Rules proceeding from the Star Chamber in 1660, the reference to which is in Volume IV, at page 1744. I only mention those in passing, so that in case anything should turn upon them, your Lordships will have the matter in your minds.

Lord SUMNER : One of the provisions is that “ no person do set up any tavern for selling of wine, beer, strong waters, cider or tobacco, to entertain the fishermen, because it is found that by such means they are debauched, neglecting their labours.” That is an early instance of prohibition.

Mr. BARRINGTON-WARD : I suppose that idleness might lead them into bad ways, and make them prone to succumb to the temptations that are mentioned there. Provisions are made about harbours and so on in Sections II and III, and the interesting thing is Section IV. because this shows the whole basis upon which the subsequent administration of these se various Governors was based.

Viscount FINDLAY : What page are you reading from now ?

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Mr. BARRINGTON-WARD : It is page 251 in Volume I, my Lord.

Viscount FINLAY : This is in the Statute ?

Mr. BARRINGTON-WARD : Yes, in the Statute itself. It says : “ And be it further enacted by the Authority aforesaid, That (according to the ancient Custom there used) ”—so that it had previously been there for some considerable time—“ every such Fishing Ship from England, Wales, or Berwick, of such Fishermen as shall, from and after the said twenty-fifth day of March ”—that was in 1685, I think ; that is the 25 March that is referred to—“ first enter any Harbour or Creek in Newfoundland, in Behalf of his Ship, shall be Admiral of the said Harbour or Creek during that Fishing Season, and from that Time shall reserve to himself only so much Beech or Flakes, or both, as are needful for the Number of such Boats as he shall there use.” You see that that is the privilege for being the first comer, so as to make him bestir himself.

Viscount HALDANE : It says that the ship is to be the “ Admiral.” That is a curious expression.

Mr. BARRINGTON-WARD : Yes, my Lord, and there are things which are still more curious. Even in those days titles were pleasant, and a merchantman, going out and finding himself the Admiral for the season, was not at all likely to be displeased, and I dare say that it might be taken as a little compliment to be a full admiral for, at any rate, the summer season.

Viscount HALDANE : I think it was merely so as to put him under the jurisdiction of the Commander in Chief out there.

Mr. BARRINGTON-WARD : Yes. Your Lordship will see that these various admirals to whom I am just going to refer had a certain limited jurisdiction, with a right of appeal to a captain of His Majesty's ships.

The LORD CHANCELLOR : What proposition are you leading up to now?

Mr. BARRINGTON-WARD : I thought that your Lordships ought to have before you the principle which my learned friend, Sir John Simon, has fully conceded, that the purpose of these arrangements in Newfoundland was to provide seamen or marines for His Majesty's Navy. If I have sufficiently stated that, I will not go any further with it ; but my point is that that was not the end of it ; there was a great deal more than that. My learned friend, Sir John Simon, pointed out this morning the difference between the

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The LORD CHANCELLOR : I remember all that, and about setting up the Courts, and about the Moravians, and so on ; but for what purpose are you reading this?

Mr. BARRINGTON-WARD : I thought your Lordships ought to have it before you, as your Lordships' attention had not been called to it before. But if your Lordships have it in mind, I think it does not matter, except perhaps the last Section. The second man who came out was called a Vice Admiral, and the third man was called a Rear Admiral, and they all had a light of appeal in cases of dispute.

Viscount HALDANE : Is there any section that you want to refer to?

Mr. BARRINGTON-WARD : The last Section to which I desire to call attention is the one on page 256, because that shows that even in Newfoundland, to which alone this Act applies—

The LORD CHANCELLOR : Yes, of course.

Mr. BARRINGTON-WARD : Governor Palliser got himself into some difficulties, and I think he was actually impleaded in the Court of King's Bench before Lord Mansfield from exercising powers under this Act in Labrador.

The importance of the last section is this : will your Lordships kindly look at page 256, line no. 6, where it says : “ And whereas some doubt has arisen, whether Oil, Blubber, and Fins, taken and imported by the Company of Merchants of London trading to Greenland, are not liable to the said Duty ; ’ Be it therefore enacted by the Authority aforesaid, That all Whale Fins, Oil, and Blubber, taken and imported by the Ships of the Company of Merchants of London trading to Greenland, were not, nor are intended to be charged or made liable to the Duty of twelve Pence for every twenty Shillings Value of Goods imported, charged in the aforesaid Acts, but that the Whale Fins, Oil, and Blubber, taken and imported as aforesaid ”—now, my Lords, these are the words : “ and also all Whale Fins, Oil, and Blubber of English Fishing, taken in the Seas of Newfoundland, or any of the Seas belonging to any of his Majesty's Plantations or Colonies, and imported into this Kingdom by any of his Majesty's subjects in English Shipping, were, and are hereby declared to be free of the said Duties, as all Fish of English taking.” The point about that, of course, is that when the Canadian contention is put forward that this Act simply related to cod only, and to nothing else, I venture to submit to the Board that it is quite plain that they had in contemplation whales as well as a subject of industry, and that involves a sedentary fishery.

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Mr. Barrington-Ward.

Lord Sumner.

Mr. Barrington-Ward.

The LORD CHANCELLOR : Whales do not go far inland.

Mr. BARRINGTON-WARD: No, my Lord, but I am going a little further with it.

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Lord SUMNER : What do you mean by a sedentary fishery for whales ?

Mr. BARRINGTON-WARD : I mean that people would have to remain behind there in order to catch whales at the appropriate season of the year.

Lord SUMNER : I understand that there may be a station ashore for the purpose of drying out the blubber, but I should have thought that you followed the whales.

Mr. BARRINGTON-WARD : Yes, my Lord, but what I mean is that it is rather different from the cod fishery, in which you come out in ships convoyed by ships of war, and you have a season, whatever it is, perhaps from May to September, and then return. This, on the other hand, involves a more or less continuous presence in the place. I will not adventure myself as an expert in the matter, but I only make that comment in calling attention to this Act, not because anything really turns upon it in the decision of this case, but because I thought your Lordships ought to have before you a matter which is constantly referred to in the few documents which I am going to read.

Sir Hugh Palliser, as I ventured to remind your Lordships a few minutes ago, described this as “ that excellent Act—”

Viscount HALDANE : What we rather want to get is the large principles of the thing.

Mr. BARRINGTON-WARD : If I might illustrate from the cases the principles from which I am contending, my submission is this, that both in Newfoundland and in Labrador the Governor was Governor in the fullest sense of the term that the nature of those territories would admit.

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Mr. Barrington-Ward.

Viscount HALDANE : He was not, because he had not the authority of an ordinary Governor's commission.

Mr. BARRINGTON-WARD : Yes, my Lord, he had a commission.

Viscount HALDANE : I said the ordinary Governor's Commission.

Mr. BARRINGTON-WARD : I do not know quite what your Lordship means by that.

Viscount HALDANE : Peace, order and good government is not given to him.

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Mr. BARRINGTON-WARD : I know that, my Lord, but he had a Commission, and he had jurisdiction, in my submission, over the whole of the territory, in the case of Labrador so far as it was known, of course ; and the instances which we have collected show you that jurisdiction was exercised and show in my submission conclusively that it did not extend to any strip of the coast at all, but it extended, so far as the nature of the country admitted, over the whole of the country. There was jurisdiction over the trappers and the hunters, and there was jurisdiction over the salmon fisheries, and complete control, both in Newfoundland and in Labrador.

Viscount HALDANE : There are no words to give him jurisdiction over the trappers.

Mr. BARRINGTON-WARD : My submission, my Lord, is that what was done is a fair—I will not say “ test,” but it is proper to be referred to as showing what the framers of the Commission meant.

Viscount HALDANE : It is fair to say that it was only very loose, and whatever he elected to do he was not prohibited from doing.

Mr. BARRINGTON-WARD : I am sure your Lordships will realise that I am going to observe economy of time, and I am going to endeavour not to go into any matters which are not material. Now will your Lordships just look at one or two illustrations of the proposition for which I am contending.

The first one that I wish to put before your Lordships is in the fourth volume, at page 1961 ; and your Lordships will observe that that is as early as 1719. This is valuable as showing that the Home Government were consulted about these matters. That is a case in which Mr. Skeffington, who was an inhabitant of Indian Bay, which is in Newfoundland, petitioned the King, setting forth : “ That your Petitioner hath for about Twelve Years past Improved the Salmon Fishery in two or three Rivers or Brooks to the Northward of Cape Bonavista ; and hath at very great Expense and Labour near fforty[sic] miles up the Country ”—

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Mr. Barrington-Ward.

The LORD CHANCELLOR : This is Newfoundland, not Labrador.

Mr. BARRINGTON-WARD : Yes, my Lord this is Newfoundland ; I am starting with that, because one has to bear in mind that the conditions prevailing in both these

territories were substantially the same. It says: “ And hath at very great Expense and Labour near fforty[sic] miles up the Country cleared Lands of the wood, and the said Rivers or Brooks”—I need not read any more of that ; but he most humbly prays : “ That he may be encouraged and protected in carrying

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on the said Fishery according to the Intention of the Act made in the 10 & 11th of King William the Third for Encouraging the Fishery of Newfoundland.” Then he asks : “ That he may use occupy and enjoy all such houses, Stages and other works made by him for taking and Curing of Salmon.”—It is not only cod, but even as early as that, it is salmon.

Then that was referred to the Lords Commissioners for Trade and Plantations, and on the next page there is a letter from a gentleman of the name of Richard West, who has the letters “ L. S.” underneath his name, which I think must mean Legal Secretary, because I do not think it can refer to a seal. It says this : “ In obedience to your Lordships commands, I have perused and considered the Annexed Petition of George Skeffington, and humbly certify to your Lordships, that I am of Opinion that the prayer of it is not Inconsistent with the Act made in the Tenth and Eleventh year of King William, for encouraging the trade to Newfoundland.”

Then your Lordships see that on page 1963 they set out what Mr. Skeffington had represented, and then they say at line 21 : “ We have upon this Occasion discoursed with the Petitioner and others who have appeared in his behalf, and take Leave to observe that the Places where he has begun this Fishery are between Bonavista and Cape John in the North East Part of Newfoundland, which Places have never been frequented by any Fishing Ships from this Kingdom. As the Petitioner is the first who has attempted to sett up a Salmon Fishery there, and as the Prayer of his Petition is no ways inconsistent with the Act for encouraging the Trade to Newfoundland, We humbly offer that His Majesty be graciously pleased to grant the Petitioner for the Term of 21 Years or such other time as His Majesty shall think fit the Sole Fishery for Salmon in the Places called Fresh Water Bay, Ragged Harbour, Gander Bay and Dog Creek between Cape Bonavista and Cape John, where he has already built Houses and other Conveniences for that Purpose, And that he have Liberty to cut Boards and Timber for his own Use in the Parts adjacent to those Rivers Brooks or Creeks for the said Fishery only.”

Viscount HALDANE : All that that means is that in Newfoundland there was nothing in his Petition considered to be inconsistent—

Mr. BARRINGTON-WARD :—with the Act ? Yes, my Lord. Now will your Lordships look at the distance, because what applied to Newfoundland must apply to Labrador.

There is no distinction between the two.

The LORD CHANCELLOR : It depends upon what Labrador is. Have you got any similar case in Labrador ?

Mr. BARRINGTON-WARD : Yes, my Lord ; I am coming to that next.

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—
Mr. Barrington-Ward.

The LORD CHANCELLOR : That is what I want.

Mr. BARRINGTON-WARD : Yes, my Lord. But would your Lordships mind noticing that he has liberty to cut timber in the “ Rivers, Brooks or Creeks for the said Fishery only, provided it be at Six miles distance from the Sea Shoar.” At any rate, he had to go six miles in.

Viscount HALDANE : There were fishery rights established there.

Mr. BARRINGTON-WARD : Yes, my Lord. With regard to Labrador, there are one or two cases, and if I may I will just give you short references to them. There is a case of Mr. Coghlan in Volume III, on page 1269. He is writing from a place called Fogo, which is in Newfoundland, to the Governor of the day, who was Governor Montagu. I think it will be quicker for me to read it. What he says is this : “ Having already done myself the Honour of writing you at large by this conveyance, being one of My Sealing Schooners called the Advice, I am under the disagreeable necessity of laying before you an Account of some Illegal proceedings which had happened of late at my Settlements on the N.E. Coast of Labrador ; referring to the farther relation of such given by my Agent at that place which I now hand you, and first begging leave to pray you will excuse my troubling you on this occasion, I shall take the liberty of communicating to you the Mode of my first establishing a Fishery at the former Coast, flattering myself that your Excellency, in your wise consideration will judge it equitable to confirm the possession granted unto me by your Predecessor, as you find in every respect I make use of the same to the no small Advantage of supporting so valuable a Nursery to the British Marine.” I submit that if that statement is correct, the submission that I am making to your Lordships is also accurate.

Viscount HALDANE : This is only the coast.

Mr. BARRINGTON-WARD : Yes ; it is a settled fishery on the coast. It is something on the coast which indicates a permanent settlement there. I will not read the whole of this, but just this one other passage, where he goes on to point out, that : “ Early in the Government of my very respected good friend Sir Hugh Pallisser, and by His recommendation I was the first English Subject that settled in the Seal Fishery at Chateaux, so long back as the year 65, and finding it most eligible to pursue the Cod and Salmon Fisheries farther North on the said Coast, I fitted out an armed Sloop to guard against the Esquimaux Indians ”—and then your Lordships see, he says : “ and having Lord Rutherford on board, then

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Mr. Barrington-Ward.

Lieutenant of the Niger, the late Sir Thomas Adams, Commander at Chateaux, the said Sloop proceeded on a Discovery from the former Port to Cape Charles, Alexis, St. Frances, and Porcupine Bays, on the North Coast of Labrador, and on her return encouraged by Sir Thomas Adams, I communicated my intentions to Sir Hugh Pallisser of Settling a Residence at the former places, for the purpose of carrying on a Cod and Salmon Fisheries, in whose answer to me on the occasion

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he says ‘ pursue your undertakings on the Coast of Labrador which are highly recommendary to me, and no after Commer, shall dispossess you.’”

Viscount Haldane.

Your Lordships see that that is something very different from a mere casual visit for a season, by somebody who is under a duty to return to England at the close of the season. This is a man who, provided he complies with the Act, is entitled to settle there ; and, I submit, to use the land as far back as he likes, for any purpose that he likes ; and there is no valid reason for saying that his user of the territory, where he is permitted to settle, is limited to one mile or forty milts of the coast. If he is allowed to settle there with the consent of the authorities, he is entitled to exercise any rights, so long as they do not invade the rights vested in other persons.

Mr. Barrington–Ward.

Then he goes on to point out that he has been disturbed in his settlement. I do not think I need read anything further on that page. There is a Report from his Agent showing what had happened, and how people had come and interfered with his salmon fishery. Then at the top of page 1272 he says this : “ and as I ever understood from my first settling on that Coast, that no Person had a right of Possession or residence there but such as were protected annually by Ships fitted out from Great Britain, as also that in Consequence of my having been one of the first settlers on the North part of said Coast, which I explored at a very great expence, my said Possessions were confirmed to me ”—He explored the coast, and could have gone in for any distance.

Viscount HALDANE : Just see what the Governor says. The Governor says : “ I have no jurisdiction, because this has gone to Quebec, but I will send you a Naval Lieutenant to take care that you are not molested.”

Mr. BARRINGTON–WARD : I am very much obliged to you Lordship for pointing that out, because that reinforces the point which was made by my learned friend, Sir John Simon, this morning, that there was all the difference in the world. The Governor knew it, and knew what his position was.

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Mr. Barrington–Ward.

Viscount HALDANE : Nobody disputes that. The Governor was commanding the local fleet there. He was a sort of policeman.

Mr. BARRINGTON-WARD : May I read what the Governor did say and then comment upon it for a moment. What he did say was this : “ I am to acquaint you that I have been obliged to appoint Lieutenant Schomberg Commanding the Labrador Schooner to be my Surrogate on that part of the Coast of this Island, laying between St. John's and Fogo, not being able to spare a Man of War, as has been customary. I am sorry to hear you are so unhappily circumstanced with respect to your Servants employed on the Coast of Labrador, and particularly so, as that Coast and Islands have by a late Act of Parliament been reannexed to the Province of Quebec ”—“ reannexed,” your Lordships see.

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It is not put under the care or inspection of anybody, but it is re-annexed—“ which puts out of my power as Governor to render you any Service.” Then he says : “ I have ordered Lieutenant Schomberg to attend you to your settlement.” The Lieutenant went up there and made a very fine order of a very drastic nature, which is on page 1274.

The point that I want to make about that is that here you have in 1775 a perfectly clear case of a settlement on the coast, not limited by metes or bounds, but you have here a gentleman entitled to take as much territory as he wanted, with no prohibition upon his doing so, and he is protected in his possession—that is the interesting thing, because it illustrates the other point as well—he is protected, not by the Governor, because the Governor had ceased to be a Governor.

Viscount HALDANE: He was a naval policeman.

Mr. BARRINGTON-WARD : Yes, my Lord ; but my submission upon that is this, that if this had happened in 1773, the position would_ have been quite different. Governor Palliser, in the cases with which he dealt, was dealing with them as Governor under his Commission, as the responsible officer for administering the affairs of that territory.

Viscount HALDANE : I do not know whether he was or was not. It may be that all through this there was a great deal of trouble.

Mr. BARRINGTON-WARD : Your Lordship will remember that Sir John Simon this morning gave you the references to two Letters in which this subject was most particularly discussed. There was not any confusion about it. When they put the territory of Labrador back into the territory of Quebec, they quite deliberately re-annexed it to Quebec ; they altered all the Commissions and they altered all the instructions, and they discussed between themselves as to how the different powers were for the future to be exercised. Governor Montague, writing there, has that in his mind ; he has been instructed to that effect, that he has no longer any

authority over Labrador. In my submission, before that time, he had authority, and so far as this settler in Labrador was concerned, he had a perfect right to settle there, and would have been entitled in the year 1773 to call for the Governor's protection, and not merely from the assistance of some Naval Police.

(Adjourned for a short time.)

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AFTERNOON SESSION.

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Mr. Barrington-Ward.

Mr. BARRINGTON-WARD : When your Lordships adjourned, I was just dealing with the case of Mr. Coghlan, and I do not want to go back to that. Your Lordships have it in mind now.

But there are one or two other cases which I had selected as illustrating the proposition that the administration of Newfoundland had occupied, so far as the nature of the country would admit it, the whole of that coast, assuming that our definition of that term is accurate.

Viscount HALDANE : Have you any cases dealing with inland ?

Mr. BARRINGTON-WARD : Yes, my Lord, I think there is rather an interesting case. There is one interesting document to which I should like to call your Lordships' attention, because it deals with furring, and that is the case of a certain Lieutenant John Cartwright, and I will give your Lordships the reference to it at once. It is in Volume III, at page 1142. That is rather an interesting case, because I think it gives you a view of what the country was like as long ago as the year 1774.

Sir THOMAS WARRINGTON : Is that the date of this document ?

Mr. BARRINGTON-WARD : Yes, my Lord ; and I will tell your Lordship how I trace it. The date is the 23rd May, 1774, and the way in which I am able to trace that date is that that letter was enclosed with another letter.

Viscount HALADANE : It refers to the Labrador Fisheries.

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Mr. BARRINGTON-WARD : Yes, my Lord. Lieutenant Cartwright was the brother of a certain George Cartwright whose name also appears in these papers, and he obviously was on such terms that he could communicate with Lord Dartmouth at home. This was sent to Lord Dartmouth in a letter of that date, and the reference for the purpose of fixing that is Volume V, page 2250. He says this : “ When Labrador first came into our hands and the arrangements we had spoken of took place, it still required some consideration and prudence to be able to turn this acquisition to the best account. Having already as extensive a fishery in Newfoundland, as we could well occupy, it was not immediately apparent by what means we should avail ourselves of those of Labrador. We there found a few

Canadians scattered along the coast in the Gulph of St. Lawrence, and along the Straits of Belleisle, who carried on the seal and salmon fisheries ; and we understood besides,

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that the french had occasionally fished for cod from a few particular parts. The prospect of meeting other salmon streams along the unoccupied parts of the coast was encouraging, and the sealing posts, affording specimens of a fishery which depended not upon the accident of there being freshwater rivers, and in all probability abounding more in proportion as we should advance towards the north, promised no inconsiderable returns to the adventurer ; but the informations concerning the cod fishery, carried with them no reasons for believing it was worth while to quit the certainties of Newfoundland, for the hopes of better things in Labrador.”

Viscount HALDANE : That is to the North, along the coast ?

Mr. BARRINGTON-WARD : Yes, my Lord.

Viscount HALDANE : It is not up the rivers.

Mr. BARRINGTON-WARD : Of course, it does refer to the rivers, does it not, my Lord ? Then it goes on : “ Besides, there was ample room in Newfoundland for its improvement.” Then at the bottom of the page he says : “ The protection of the King's Ships in 1764 and 1765, together with that spirit of enterprise which distinguishes the commercial part of the british nation, induced some few to make trial of the cod fishery about Chatteau Bay.” Then at the top of page 1143 it says : “ Thus, then, it was now thought to be seen how we might best begin to avail ourselves of Labrador ; by making its cod fishery an appendage to that of Newfoundland ; and the seal and salmon branches subordinate again to the cod fishery ; and Henley Harbour, defended by Chateau Island, was approved of as a convenient port for mooring the ships and manufacturing the fish.” Then he explains what they did there, and you will find, just a little bit lower down, at line 15 : “ The country likewise produced ”—“ the country,” your Lordships will notice —“ The country likewise produced good samples of fur, besides which there was a traffick opened with the Eskimaux Indians ”—your Lordships see that that is inland —“ and some reason to look for the establishment of a Whale-fishery ; so that, upon the whole, the merchants promised themselves, from appearances, no inconsiderable advantages, as soon as they should be able to effect proper settlements, and be put in a capacity of reaping the benefit of their labours by suitable assistance and protection from government.” I submit that that is a very valuable passage.

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Mr. Barrington-Ward.

The LORD CHANCELLOR : It is the first time that you get a reference to a mile from high-water mark. I see that at line 35.

Mr. BARRINGTON-WARD : Yes, my Lord. “ Experience hath taught us, on the contrary, that the seal fishery is the grand staple of Labrador ; every successive season showing its great importance more and more ; and that the next in rank and consequence is the salmon

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fishery, as abounding to a considerable degree, and not being subject to much uncertainty ; while the cod fishery is so expensive, and so precarious, except at a few particular stations westward of Chateau, as to make it the height of rashness for anyone to practice it, unless it be in a subordinate way, as employment for the labourers during the intervals in their other occupations.” Then, this is where I think, as the Lord Chancellor pointed out a moment ago, the idea of the mile must come from ; I do not know where else it does come from.

These are proposals for legislation ; “ That all the land backwards through the whole extent of every sealing post, to the distance of one mile from highwater mark, shall be accounted as part of such post and belong in full right to the proprietor ; except that a right be reserved of cutting wood for the use of His Majesty's Ships or Forts ; and a general right of free passage to all through every uninclosed part of the same ; and excepting also that a right be reserved to any cod-fisher of erecting upon and adjoining to the same; every building and work necessary in the cod fishery ; and of cutting wood sufficient for such buildings and works upon the shore, and for fuel ; but nothing more. But the Seal-fisher being the proprietor of the soil, that his necessary works and erections shall not be encroached upon, or interfered with, by those of the cod-fisher, nor he be any way obstructed by him in the execution of any part of his business.”

Then he deals with salmon fisheries inland at line 14, and he says : “ Every distinct river, rivulet, and brook shall be accounted a separate salmon fishery ; and the inferior shall never be esteemed dependent upon the superior except united in the possession and real occupancy of the same proprietor ; so that the minor streams, if unoccupied, may be taken possession of by another, notwithstanding the principal river into which they empty themselves shall be in the hands of a proprietor. But then the proprietors of these lesser streams shall confine themselves in fishing to the same ; and the proprietors of the rivers into which they flow shall not by nets or works of any kind block up the mouths of these lesser streams so as to prevent the salmon from running into the same ; but shall leave a clear passage into them wide enough at least for a skiff to row in and out with room for her oars on each side.” I submit there, that as early as 1774, this, gentlemen, is clearly contemplating an entry into the heart of

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—
Mr. Barrington-Ward.

the country up the various rivers.

Viscount HALDANE : It does not say anything about the heart of the country.

Mr. BARRINGTON-WARD: No, my Lord ; that was my gloss on the effect of that passage. But there is no limitation there as to the user of any rivers in Labrador. I do not think there is anything else on that page that I need read. I am very anxious, as your Lordships will quite understand, not to read anything which is unnecessary ; but will your Lordships kindly look at page 1145, line 10, where it says ; “ That every proprietor of land under the sanction of any of the fore-
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going clauses shall have the sole right of durring, hunting, and shooting within the same. Second, That in the unappropriated part of the Country, the Furrier shall have a permanent property in all death-fall paths, pit falls, traps and snares; in all tilts, huts, and other works necessary or useful to a furrier which he hath made, raised or constructed, on condition of continuing to occupy the same.”

Viscount Haldane.

Sir THOMAS WARRINGTON: Did anything come of this ?

Mr. BARRINGTON-WARD : No, my Lord.

Sir THOMAS WARRINGTON : This is merely a suggestion by a private person ?

Mr. Barrington-Ward.

Mr. BARRINGTON-WARD : Yes, my Lord, but I am only using it as an expression of the views of a gentleman who was living there as long ago as 1774, which I venture to submit to the Board seems to show that even in that rather early time they were contemplating a general user—that is all—a general user of this somewhat unknown and rather wild country, for furring, fishing and the like.

Now, my Lords, I think I can shorten this part of the matter, if your Lordships will permit me just to give you a reference to two other acts of occupation, without going into them, because they are very long, and are not easy to summarise. Perhaps I may just give your Lordship the two references.

Viscount HALDANE : This is very inconclusive. This is a memorial, and it does not appear what was done with it, or what it was.

Mr. BARRINGTON-WARD : Does your Lordship mean the one which I have just read ?

Viscount HALDANE : Yes.

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Mr. Barrington-Ward.

Mr. BARRINGTON-WARD : That was a suggestion by this Lieutenant to Lord Dartmouth as to how this country of Labrador should be administered.

Viscount HALDANE : How the coast should be administered ?

Mr. BARRINGTON-WARD : No, my Lord, the country.

Viscount HALDANE : Well, the coast.

Sir Thomas
Warrington.

Mr. BARRINGTON-WARD : I am saying, the country.

Viscount HALDANE: There is nothing that goes beyond the coast.

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Mr. BARRINGTON-WARD : I was treating the matter as showing that the contemporary view of the extent of the territory was that it was not limited to any narrow limits on the sea shore.

The LORD CHANCELLOR : Certainly his suggestions go up the rivers.

Mr. Barrington-Ward.

Mr. BARRINGTON-WARD : If your Lordship pleases ; that is the purpose for which I used it. I think I have made good the proposition that settlers were not discouraged in Labrador, provided that they complied with the Fishery Act.

Lord Sumner.

Sir THOMAS WARRINGTON : Except that it contemplated going up the rivers, there is nothing else in it except in Line 11, where he talks about furring.

Mr. Barrington-Ward.

Mr. BARRINGTON-WARD : Yes, my Lord.

Sir THOMAS WARRINGTON : He talks about marking beaver houses. I suppose that means the erections of the beavers themselves up the rivers, does it not ?

Mr. BARRINGTON-WARD : Yes, my Lord.

Mr. BARRINGTON-WARD : I have read that passage on page 1145, line 12 ; that is the right of furring, hunting and shooting. I am submitting that that country not being in any way developed, being entirely wild, that is the only sort of occupation and user that could possibly take place.

Lord SUMNER : I suppose you may say a right of furring naturally implies a pretty wide range of country in which to lay your traps ; the fur-bearing animals are not so plentiful as all that.

Mr. BARRINGTON-WARD : I am obliged, my Lord ; that is

the view I am endeavouring to submit to the Board, that, in answer to the suggestion made in the Canadian Case, that we are limited to a mile, I am submitting we are not limited by any metes and bounds except the natural bounds for which my learned leader has contended this morning.

The LORD CHANCELLOR : That was not sent to the Governor of Labrador.

Mr. BARRINGTON-WARD : That was sent home to Lord Dartmouth, His Majesty's Secretary of State for the American Department. For what it is worth, it is evidence of the position at that date. May I give your Lordships the reference to Cartwright & Pinson (it is not a legal case ; they are the gentlemen concerned in the matter) at page 1059, Volume III. It is rather long, and I do not want to go

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Mr. Barrington-Ward.

through the whole of it. In Cartwright's Memorial he is praying for a grant of land. If your Lordship would look first at page 1065 he is setting out a number of good reasons why in his view a grant of land should be made to him, and if you look at line 31 on page 1065 he says this : “ Your Lordships ”—that is Lord Dartmouth, who was His Majesty's Secretary of State for the American Department.

Sir THOMAS WARRINGTON : This man is a merchant.

Mr. BARRINGTON-WARD : This is a brother. He is asking this : “ to command that a Royal grant be made to this Memorialist and his heirs of the small tract of the said coast of Labrador which lies between Cape Charles and Cape St. Lewis.” That is what he is asking for. If you would not mind now turning back to page 1059 he says : “ In the Spring of the year 1770 when no British subject in Labrador would venture to reside further northward than Chatteau Bay and the islands immediately adjacent. Your Lordship's memorialist, at great hazard and expense, settled himself in the River Charles on the said coast in order to establish Seal and Salmon fisheries ; to fish for Cod ”—this is important—“ to carry on the furring business ; to open a friendly and commercial intercourse with the Exkimaux Indians with whom we were then upon very bad terms.” What I rely upon there is that it is not only cod fishing ; the first thing he wants to do is seal and salmon, and also to carry on a furring business.

The LORD CHANCELLOR : This again is not sent to the Governor of Newfoundland ; it is sent to the Home Government.

Mr. BARRINGTON-WARD : I submit that that has equal advantages in respect of our contention that at that time both the Home Government and the various Governors knew all about it.

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—
Lord Sumner.

Viscount HALDANE : Knew all about what ? An application for something that might have been inland to some extent ?

Mr. BARRINGTON-WARD : And knew that in this wild and unexplored territory which they called the coast of Labrador there was furring going on.

The LORD CHANCELLOR : How does that show that the Government granted it to Newfoundland in 1763 ?

Mr. Barrington-Ward.

Mr. BARRINGTON-WARD : In my submission, whether it is under Quebec or whether it is under Newfoundland, it is the acts done which are only consistent with the view that the

Commission has that interpretation.

Lord SUMNER : What you want it for, surely, is to negative the idea that it was the cod fishing alone that mattered, and among the

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circumstances is included the fact that furring and salmon up the rivers were objects of gain. That may be some ground for saying we have no reason for limiting “ coast ” to the mere cod-fishing on the coast. That seems to me to be the real point. It does not so much matter whether they got a grant or not, or even whether they went up the rivers or not, but that there was a desire for fur trade and fur catching, and salmon.

Viscount HALDANE : The Esquimaux may have come down to the coast ; I do not know.

Mr. BARRINGTON-WARD : My Lord, I was going to read an excerpt from this on page 1062. He deals in this memorial with seal fishing and salmon fishing, and on page 1062, at line 15, he says this : “ The furring business requires a thorough knowledge of the interior part of the country which, on account of the deep snows and the rigour of the furring season is only to be acquired by slow degrees. The country furnishes no other subsistence to the furrier than what his traps provide him, and these require a wide extent of ground to have any tolerable success in order to penetrate to any distance, each furrier (for they all separate and hunt singly) must, at short distances one from another, build himself huts to live in, proof against bad weather, so that he shall never be far from shelter in case of storms. Hence, it is easy to conceive, that to fur that country properly each adventurer should have an exclusive right : and otherwise that it never will be practiced except in a very insignificant manner just around the Sealing Posts, by way of something to do at idle times.” I submit that that does bear out the view that these gentlemen are not limited to cod fishing only ; they were entirely free to engage in any operation which the nature and the character of the country would allow. He deals with the shore whale fishery there and he deals with the Indian trade ; but I do not think I will take up your Lordships' time in reading that. He asks for a grant. He had a good deal of trouble with these people, Noble and Pinson. They petitioned the Lords of Trade, and if you would be good enough to look at the top of page 1069 you will see again this point that I am trying to make. In the way Lord Sumner is good enough to put it for me, it is not cod fishing only in this particular part of the territory ; it is seal and salmon rather than cod. They say : “ Your petitioners now beg leave to assure your Lordships that the cod fishery on that coast cannot be carried on with advantage, unless connected with

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the Salmon and Seal Fisheries.” Then they ask for conformation of the sealing posts near Cape Charles which they now occupy.

Viscount HALDANE : They heard the other side.

Mr. BARRINGTON-WARD : That is right, my Lord.

Viscount HALDANE: And on page 1070 there is the decision.

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Mr. BARRINGTON-WARD : Page 1071 we need not trouble about. That is an order directing a draft representation to be prepared, and the draft, as I conceive it to be, is on page 1069. This was after they had the memorials of Cartwright, Noble and Pinson, praying that they be confirmed in the sealing posts, and this is their conclusion : “ Having been attended by several memorialists in person and entered fully into an examination of the Nature and circumstances of the fisheries for seal and salmon in the rivers and bays upon the coast of Labrador, as likewise of the fishery for cod by ships fitted out from Great Britain, it does appear to us from the different seasons proper for these fisheries and the different modes of carrying them on, that they may not only be conducted without interruption and detriment to each other, but that the only method of making these undertakings an object of consideration to the public, or of advantage to individuals concerned in them, will be by thus carrying them on in connection with each other by ships annually fitted out from Great Britain, and as it does further appear to be manifest, that actual residence and continued possession are essentially necessary to the carrying on the seal and salmon fisheries on the coast of Labrador, we beg leave humbly to submit to your Majesty the following regulation as proper for securing the possessions of persons concerned in the said resident fisheries of seal and salmon on the above coast, namely, that such of your Majesty's subjects of Great Britain and Ireland who have taken or shall hereafter take such actual possession in any of the rivers and bays—”

Sir Thomas
Warrington.

Viscount HALDANE : “ Rivers and bays ! ”

Mr. BARRINGTON-WARD : Yes, my Lord—“ on the coast of Labrador to the north of the Streights of Bellisle, and who have erected or shall hereafter erect houses and warehouses, and have made or shall hereafter make, other establishments necessary to the carrying on the seal and salmon fisheries, shall be protected in such possession, provided such persons do for the future annually fit out from Great Britain one or more ship or ships to be employed in the cod fishery on the said coast of Labrador and provided also, that the greatest care be taken that the proprietor or proprietors of such fishing posts do not claim or occupy a greater extent of the coast

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within the said bays or rivers, than shall in the judgment of Your Majesty's Governor of Newfoundland or the officer by him deputed, be thought absolutely necessary in proportion to the number of vessels or men employed at the said posts.”

Lord Sumner.

Sir THOMAS WARRINGTON : That, of course, is really the important passage, that whatever is done there it is the Governor of Newfoundland who is to settle the details.

Mr. BARRINGTON–WARD : Yes, my Lord.

Sir THOMAS WARRINGTON : Otherwise it would leave entirely open the question whether, assuming this was a British possession, it was under the Governor of Newfoundland.

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Mr. BARRINGTON–WARD : Yes, my Lord.

Viscount HALDANE : It refers to the Governor of Newfoundland.

Mr. BARRINGTON–WARD : The same would apply mutatis mutandis if it was the Governor of Quebec. This is 1773. That document alone gets rid of any idea that the authorities at home did not care anything at all about sealing or salmon fishing ; that all they were concerned with was the cod fishing. They were saying : This is a valuable thing, but it must not interfere with the principles laid down in the Act of William III.

Lord SUMNER : There is a curious expression at line 30, on page 1070: “ Provided also that the greatest care be taken that the proprietor or proprietors of such fishing posts do not claim or occupy a greater extent of the coast within the said bays or rivers, than shall in the judgment of Your Majesty's Governor of Newfoundland or the officer by him deputed be thought absolutely necessary.”

Mr. BARRINGTON–WARD: I should submit that that meant what we have contended for. It is not coast or bays, it is within the rivers as well.

Viscount HALDANE : It may help to get rid of the notion that a mile was enough.

Mr. BARRINGTON–WARD : I can only proceed by stages, my Lord. Of course, naturally in an inquiry of this kind one does not want to take up your Lordships' time in going into too much detail in what, after all, as Lord Haldane said earlier in the day was a question of principle. On this

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The Lord Chancellor.

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argument it is a pure question of principle. This part I am addressing myself to really is only valuable, in my submission, as showing what people at or about the time thought it meant. In the same way that my learned friend used the atlas, so I use this. Here you have letter after letter—I can read any number of them—which are only consistent with the view that so long as you comply with the Act and fit out your ships you can do as you like, there is no restriction that you must not go somewhere, there are restrictions that you must not do things within a distance from the shore, six miles, and that sort of thing, but there is no restriction preventing any inhabitant in Labrador from going into the country furring, meeting the Esquimaux, and getting as far up as the boundary of Hudson's Bay if he was so minded. That I submit is valuable as contemporary action on the part of the inhabitants, throwing light on what was meant by the term “coast,” and what the term “coast” meant in the various documents. I would like to call attention to one or two matters, unless I have made good my point already, that it was not only cod, because the Lords of Trade went into this question with very considerable care, and at different times different views prevailed.

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The LORD CHANCELLOR : As far as I am concerned you have made the point good (subject to what we hear after) that it was not only cod, but it was also seal and salmon.

Viscount HALDANE : I have never doubted it myself.

Mr. BARRINGTON-WARD : It is rather instructive to see that it was not until the 27th of March, 1766, that the Lords of Trade ever had any idea that the cod fishing was any good. I can give the references if necessary, without reading unnecessary matter. The first set of Lords of Trade were told that what was really of value in Labrador was the sealing and the salmon. Would you be good enough to look at Volume III, the 27th of March ? I am cutting out all the intervening part.

Sir THOMAS WARRINGTON : That is page 961, and we have had part of that read before.

Mr. BARRINGTON-WARD : Part of that, my Lord, has been read before. Would you mind looking at page 962. I will only read an excerpt from it at line 10. This is where they change their views from those on page 940, if your Lordships would make a cross reference there. I will come back to that in a moment. The new Lords of Trade had just been appointed, only one member of the old board being left, a certain Mr. Rice. They say this : “ It appears to be the opinion of your Majesty's Governor that the greatest Object of commercial Benefit to be derived from this coast is that of a Cod Fishery,

more abundant and more advantageous in every respect than that carried on upon the coast of Newfoundland ; and that the Seal and Sea–Cow Fishery which our Predecessors in Office appear in their Representation to Your Majesty to have considered as the principal Object of commercial Regulation in these Territories, neither has been nor ever can be other than a secondary Object of Attention, confined to particular Parts of that Coast, and carried on at a Season when it will not interfere with the other more important Fishery for Cod ; for, although it be true that the French had established several exclusive Posts upon the Coast of Labrador for the purpose of carrying on in the Winter Season a Fishery for Seals and Sea–Cows, and a Traffick with the Savages ; yet the Governor represents, that a considerable Ship, Fishery for Cod was carried on upon the Coast of Labrador by Ships fitted out from the Ports of old France.” Up to that time the Lords of Trade had taken quite a different view. My Lords, I am venturing to do something which I am sure your Lordships will quite approve of, to endeavour not to go into too much of these details. I think I have given your Lordships sufficient to found my proposition that so far as Labrador was concerned all kinds of fishing mere contemplated, and any kind of furring, without any limitation of any kind. Your Lordships will remember one illustration which came in the list of judicial acts. You will remember Judge Paterson some time in 1827 gave leave for a writ to be issued returnable on the 13th of August, 1827, for the trial of an alleged obstruction of the salmon in

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the big inlet, the Hamilton inlet. That shows judicial acts were being done in the interior country. One also has to bear this in mind, that the regular population there was very much increasing. It is set out in a compendious form in the Counter Case of Newfoundland. I will not go back to the document, because it is not necessary. May I conclude what I want to say.

My submission is that the white population in Labrador always regarded themselves as subject to the laws of Newfoundland, and that they subjected the interior of that country to all the development of what it was capable, bearing in mind that it was not a country which could in any way be made the subject of cultivation. I submit that on evidence that I have given you, of trapping fur-bearing animals, hunting the deer, and later on by something which I shall be coming to in a moment, the granting of timber leases—of course, that is in more recent times—they have effectually used the country which in our submission is subject to the Commission of the Government of Newfoundland.

If your Lordships would not mind looking at page 92 of the red volume, which is the Counter Case of Newfoundland, it is rather instructive just to see the sort of population there was. There are references at the sides but I need not trouble about referring to them. The Case says at page 92, line 11 : “ Moreover as in Newfoundland, so on the Coast of Labrador, though the cod-fishery was always the main, it was never the exclusive object of the Government's interest. There was not from the first any attempt to prevent, fishermen from fishing for salmon in the rivers or from hunting or trapping for fur. Nor was there at any time a rigid enforcement of Statutes or regulations prohibiting settlement. In 1679 1,700 persons were resident in Newfoundland. In 1765 Governor Palliser reported 16,000 as the number of men remaining in Newfoundland during the winter.” Then there is a reference to the Commission of Governor Graves, and then : “ Between the years 1763 and 1809 the resident population of Newfoundland increased, and by the 24th April, 1817, has risen to between 40,000 and 50,000.”

Pausing there for a moment, the reason I cite that is to show that this idea of Newfoundland being empty in the winter is, I submit, wholly illusory and what is true of Newfoundland is equally true of Labrador ; there is no difference in principle between the two ; they are both subject to the same administration ; there are people there to whom the administration is left when the Governor has to leave by reason of having to go home. The Governor, being also Admiral, was obliged to take the King's ships home ; they could not keep them all in the ice ; they would have been destroyed. But his administration was only temporarily suspended, and he left the administration of Newfoundland

and Labrador to those Justices of the Peace who, your Lordships heard some days ago, were carrying out their functions in both those countries. Of course, at an early time one gets established jurisdictions in Newfoundland and also Statutes passed creating jurisdictions for Newfoundland as well. For all those reasons I submit that it is no good saying that the Commission of the Governor did not extend in the fullest sense of the term to the

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administration of that part of the Peninsula of Labrador as well as to the Island of Newfoundland.

Your Lordships know the trouble that has arisen in this case was due to the discovery of those valuable spruce trees in the interior. We shall no doubt hear from my learned friend, Mr. Macmillan, later on, what part, if any, Canada took in developing that industry. It does not come before your Lordships definitely in the evidence, but there is evidence, and I found myself upon it, to show that we were granting timber leases to a number of residents there within the territory. The reference is Volume III, page 1641. If your Lordships will be good enough to look at that page I will give you some illustrations ; I am not going through them all. You will see applications were made as long ago as 1898, before the dispute had arisen, and I think before the Statute passed by Canada purporting to extend its boundary had ever been made law. It is long before the dispute.

Sir Thomas
Warrington.

Mr. Barrington-Ward.

On the 7th, May, 1898, applications were approved. Your Lordship will see at line 10, A. Le C. Berteau, over 153 square miles on the southern side of the Grand Lac of the North West River. That is right in the heart of the country. Then E. H. Berteau the same ; that is Hamilton Inlet ; I think those are all Hamilton Inlet ; some are on the coast. There are a number ; I am not going to read them all out, but it shows that people were applying for timber allotments, and there were people who approved or did not approve them. If you look at line 32 of page 1642, you will see some were not approved. The point is not whether they were approved or not approved. The deciding authority was the Executive Council of the Colony of Newfoundland.

Sir THOMAS WARRINGTON : Surely that only comes to this, that at that time the Executive Council of Newfoundland assumed that they were the proper authorities ; that is all.

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Mr. BARRINGTON-WARD : That is right, my Lord. Your Lordship remembers I said just now that the evidence did not come before you in any very convincing way. What I mean is that it is only the fact that we did it, and you will find negatively that the Canadians at that time, as far as I know, never took any objection to it.

Viscount HALDANE ; That is 1898.

Mr. BARRINGTON-WARD : Yes, my Lord, I took that, because when you get later on, the evidential value gets very considerably less. naturally, once the dispute has arisen. Sir William Macgregor, the Governor, at page 1647, points that out quite clearly in 1906, in approving some Minutes which I need not read, but which you will find in Volume V at page 2257; I am not going to trouble with them ; they are merely recommendations of grants. What Sir William Macgregor says at page 1647 is this : “ I have approved of these Minutes in the usual way, though I have grave doubts as to the desirability of granting

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leases to cut timber over large areas on the Labrador Coast without a report.” Obviously as late as 1906, for what it is worth, he interprets the area of his jurisdiction in the sense for which we contend. You do not find Canada, as far as I know, making any objection.

I am reminded that perhaps I was not quite accurate in saying that the dispute had not arisen ; it had arisen a little earlier ; but the point I make about it is, whether there was a dispute or not, the only authority you find making any sort of attempt to use this new found wealth is the administrative authority of the Colony of Newfoundland.

Now, on the other point, your Lordship was good enough to say, at one time, at any rate, that you did not want authority for the contention which I was putting forward. It is not a matter which can be elaborated at any great length. It is on page 154 of the red volume. Your Lordship has the point in mind ; I am going back to the Proclamation just to finish this. My submission is as to the meaning, upon ordinary principles of construction, of the word “ Coast ” there ; and may I adopt Lord Finlay's expression, by reference back to Thomas Graves' Commission, that is at page 149, “ and appoint you the said Thomas Graves to be our Governor and Commander-in-Chief in and over Our Island of Newfoundland and all the Coasts of Labrador.” I submit one has to read those words into the Proclamation.

Sir Thomas
Warrington.

Sir THOMAS WARRINGTON : The Proclamation is only stating there what has been done by the Commission.

Mr. Barrington-Ward.

Mr. BARRINGTON-WARD : That is right, my Lord ; and therefore the operative words are the words of the Commission. My submission is that it is not a valid argument to say that because the Commission is granted in the language which is used, it must be cut down and curtailed by reason of the purpose for which it is granted. My submission is that any argument founded on this : “ Oh, you have got nothing more than a sort of Admiralty jurisdiction,” is, as a matter of construction, entirely unsound. The jurisdiction that the Governor gets is no more and no less than what is conferred upon him by the Commission over “ all the coasts

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of Labrador,” and so one is back again on the question which really is the question in this case : What do you mean by the “ coasts of Labrador ” ? In determining that, my submission is that you cannot look at this purpose of the free fishery at all ; it is not wanted.

Sir THOMAS WARRINGTON : When the Proclamation says that the territory, whatever it is, is to be put under the care of the Governor, it is doing nothing more than saying that he has been appointed Governor.

Mr. BARRINGTON-WARD: That is all. Therefore the document which wants construing is the document on page 149, quite free and untrameled from any limitation supposed to be put upon it by the introductory words at page 154. I only want to make the point, but I

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submit that any argument founded on that is unsound and that the problem still remains, What do you mean by the expression “ the coast of Labrador ” ? That I have told your Lordships already, and I do not propose to say anything more about it.

My Lords, there is a little evidence on the question I have been discussing, and I think possibly I ought to indicate what it is. Perhaps I ought to call attention to one or two affidavits in Volume V, just to show what was happening in the country. Will your Lordships be good enough to turn to Volume V, page 2312. There are a good many of them, but I am not going to read them all ; it is just to give you an idea of what was going on during the last upwards of 30 or 40 years in Labrador. Mr. Finger says : “ I was born on the Labrador and have lived at Nain all my life and my father before me. I am forty-three years of age. I have hunted and fished since I was ten years of age, going in over one hundred miles into the interior. I have been in the interior almost as much as I have been in Nain, spending part of the winter and part of the spring in there. I have always lived under the laws of Newfoundland, and have always recognised the Governor and Government of Newfoundland. I have never had anything to do with the laws of Canada or Quebec, and do not know anything about them. I claim to be a subject of Newfoundland and nobody from any other country has ever interfered with me or objected.”

Then Mr. Kopek, on page 2313, says : “ I am fifty-six years of age. I have lived in Nain all my life and my father before me. I have been in the interior of the country summer and winter, trapping and hunting. I have gone in over a hundred miles, living in snow-houses in the winter and in tents in the summer. Nobody have ever interfered with me or been up there. I have always obeyed Newfoundland laws and have recognized Newfoundland authority as being over us.”

Sir Thomas
Warrington.

Viscount HALDANE : He was very fortunate ; nobody meddled with him.

Mr. Barrington-Ward.

Mr. BARRINGTON-WARD : Dr. Grenfell, holding a Newfoundland Commission as Justice of the Peace, frequently administered justice there and he did it very effectively. I do not know how he enforced his sentences, but he certainly did administer justice in that country up till quite recently ; and also—I am not saying this in any captious sense, there is no doubt from the papers in the case and from what we know of Dr. Grenfell, that the work he did has been very beneficial and of value to the nation. Whatever the evidential value may be, I am not going to read that now, because at some later stage, when your Lordship is being put in possession of the Canadian point of view, no doubt my learned friend will call attention to it.

Sir THOMAS WARRINGTON : I see these people lived in Nain, and Nain has a bigish river coming down into it.

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Mr. BARRINGTON-WARD : Yes, my Lord.

Sir THOMAS WARRINGTON : The first one says : “ I have hunted and fished since I was ten years of age, going in over 100 miles into the interior.” That river goes a great deal more than that.

Mr. BARRINGTON-WARD : Yes, my Lord. Then at page 2314 is a gentleman of better education, but his evidence is none the less valuable. He is Christian Schmidt, the Trade Superintendent of the Unitas Fratrum Mission Store. He says : “ (1) I have been resident in Nain for the past 19 years, and am well acquainted with the habits and customs of the Esquimaux and natives of the Labrador, some of whom, in winter-time, go as far as three hundred miles into the interior for the purpose of hunting, trapping, etc. (2) As far as I know the natives have always obeyed the laws of Newfoundland, and have always considered themselves to be under Newfoundland Jurisdiction.” Another thing he says which is also very important : “ We have never paid duties to any Canadian authorities and have never been required to do so. We have been exempt from duties by the Government of Newfoundland.” That is the very old exemption, your Lordships will remember, of the Moravian Brethren who were exempted from duties in the Eighteenth Century. Then he says : “ So far as I know, the Government of the Dominion of Canada or the Province of Quebec have never made any attempt to claim jurisdiction on this portion of Labrador. (4) Two years ago, when in conversation with Captain Bernier, an Official of the Canadian Government, and Mr. Duncan, a Customs Officer, they stated that ‘ they were willing enough to enforce Canadian laws on the Ungava

side of the Bay, but they did not wish to interfere with anything on the Labrador Coast.”

Then the next one, Mr. William Ford, is very much the same. That is on page 2315. He says : “ I am 65 years of age and reside at Black Island. I have been residing on the Coast all my lifetime. My father came from Devonshire, England. He came here at the age of about 16, and lived at Paul's Island most of his life. He has been dead over 30 years. Sometimes he visited England and came out again. He fished, trapped, and hunted on the Coast, and had five or six English servants. He used to go into the interior about 150 miles trading with the Indians. I often went hunting for my father during his lifetime.” I do not think that means hunting for him in the sense of trying to find him ; I think it means hunting as representing him. “ I have been inland over 150 miles hunting deer. I have always recognised the Newfoundland Government and Newfoundland laws.”

Sir THOMAS WARRINGTON : This man comes from the mouth of the Hamilton Inlet apparently.

Mr. BARRINGTON-WARD : Yes, my Lord, that is right. There are a great many affidavits of that kind which of course cannot be put on one side in so far as they have any evidential value upon the problem

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that you have to determine. It is their story that up to this extent at any rate you do not find very much Canadian administration ; and it will be interesting to hear how that part of the matter is developed on the other side, but I do not propose to go into it further at the moment. I shall have something to mention to your Lordships a little later on about earlier acts done by the early Canadian authorities, but I do not propose to develop this matter any further.

Your Lordships have there very good evidence of hunting all over the country without any interruption, and if you find somebody fishing and hunting and this going on not only for 100 years but for very nearly 150 or more years, without any sort of protest or objection, without any attempt to set up any rival Government, and you find a particular Government acting in that way; it is an extraordinarily good illustration of the authority which is charged with the administration of that Coast, in a dispute as to whether it is that authority or some other authority which has rights. I quite agree it all comes back eventually to the Commission and on that part of the case I submit that we have clearly made our position good.

My Lords, I had thought at one time of giving your Lordships some evidence about the topography of Labrador, but I think this morning this model has really put before you in as good a form as it could be put with Sir John Simon's exposition of it, the essential features.

I will not take up time by explaining whether a particular letter is “ o ” or “ a,” whether it is “ fiord ” or “ fiard.” I think that is more a matter which would probably come from the other side who are seeking to restrict our boundary. Therefore I do not think I should be justified in reading to you, much as I would like to have done, Dr. Low's report. Dr. Low, as you know, is the eminent Canadian who made his report at the time when he was making that map in 1895. We have had Dr. Low's map referred to so often. It is Map No. 42 of the Newfoundland Atlas. I hope your Lordships will bear in mind when looking at that map, that it is only a quarter map. It is not a complete map. It is the top quarter only. That is the map which forms the subject matter of Map No. 42. In case any of the Tribunal would like to look at Dr. Low's report I have not the slightest objection to reading it, because although it is a document coming from the other side it is one which, in my submission, entirely supports our view. It is to be found in Volume V, page 2590. It is useful to read the report if one wants to understand the map which he then made. With your Lordships' permission, now you have got that explained, it is quite plain how the general lie of the country is. This shows the contours far better than any verbal exposition by Counsel could show them, and taking up time by reading the book I do not think would be justified at this stage. Dr. Low's report is in two parts. There is a geographical report, and a geological report. We are not

concerned on the present argument with any scientific evidence. Our argument does not involve any scientific evidence. It is only that your Lordships should have before your minds the picture of this country, which we say was parcelled out in the way it was parcelled out by the Government of the day.

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I also have refrained, and designedly so, from saying anything about the big arm of the sea which is called by various names—Hamilton Inlet, and so forth. Your Lordships know where that is. Of course, if our argument is correct and we are entitled to have up to the height of land, I need not discuss the question as to the precise character of that piece of water. No doubt you will hear from the other side considerations about it, and at a later stage we shall be able to deal with the arguments so addressed to you, and if necessary, call your attention to the scientific evidence in these volumes.

The only other actual point that I have to deal with is this point which Lord Sumner reminded us of, the point as to the precise position where the line which the Statute requires to be drawn has to be placed. It is partly in Volume III, and partly in Volume VIII. I think I shall be able to deal with the point quite shortly. Your Lordships will also want Map No. 52 of the Newfoundland Atlas before you. Taking Volume VIII, the page in that volume which I am going to consider in a moment is page 3954.

Sir Thomas
Warrington.

Sir THOMAS WARRINGTON : Is this a question about Ance Sablon.

Mr. BARRINGTON-WARD : Yes. The precise question is this. Under the Act of 1825 your Lordships know that line has to be drawn due north and south from the bay or harbour of Ance Sablon inclusive ; and the problem is at what particular point on the shore do you draw the line. If you want the reference to the Statute I can give it you. The particular section of the Act of 1825 is Section 9, and it is to be found in Volume I, page 210. It is “ So much of the said coast as lies to the westward of a line to be drawn due north and south from the bay or harbour of Ance Sablon, inclusive, as far as the fifty-second degree of north latitude,” etc.

Mr. Barrington-Ward.

Sir THOMAS WARRINGTON : Then there is a sketch map facing page 3954 in Volume VIII. That is not the line at the head of the bay where the Blanc Sablon River runs.

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The Lord Chancellor.

Mr. BARRINGTON-WARD : The map facing page 3954 shows the rival contentions.

Mr. Barrington-Ward.

Sir THOMAS WARRINGTON : There happens to be a river running in at the head of the Bay of Blanc Sablon. Why is it not that ?

The Lord Chancellor.

The LORD CHANCELLOR : The section says “ Ance Sablon inclusive.”

Sir THOMAS WARRINGTON: I see.

Mr. Barrington–Ward.

Mr. BARRINGTON–WARD : The Lord Chancellor has, if I may say so, anticipated the fence which I am going now to endeavour to surmount.

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The LORD CHANCELLOR : That means in the land to be re–annexed to Canada is included the bay or harbour of Ance Sablon, does it not ?

Mr. BARRINGTON–WARD : Would it not depend to a certain extent upon the history of the matter as to where you put your point ? What is inclusive is all the land the other side of the line, is it not ?

The LORD CHANCELLOR : Surely it is enacted that so much of the coast as lies to the westward of a line to be drawn due north and south from the bay or harbour of Ance Sablon, inclusive, as far as then fifty–second degree of north latitude has to be re–annexed to Canada.

Mr. BARRINGTON–WARD : Could not that be read as leaving open the point from where you draw your line. But when you have once got your point everything to the west of that is included in Canada.

The LORD CHANCELLOR: Where do you draw the line?

Mr. BARRINGTON–WARD : My submission is this. We are, perhaps, like our friend, Mr. Bladen, who has been referred to so much, a little ambitious in asking to have it drawn at Lazy Point. I have consulted with my colleagues in this case about the matter, and with the representatives of the Newfoundland Government, and they would prefer me to argue the case on the basis that the line should be drawn from the River. That is what has been the practice for the last 60 years at least, and I will show you from one or two documents in a moment that the line should be drawn from the River. While you have the map before you, may I refer you to the Woody Island—Isle au Bois. There is nothing to say that the line is to be projected into the sea. It rather seems that the person who wins on the line will get the island on the ground that it is adjacent—because the section says : “ and all other islands adjacent to such part as last aforesaid of the coast of Labrador.”

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—
Mr. Barrington–Ward.

The LORD CHANCELLOR : What you are claiming is from the River ?

Mr. BARRINGTON–WARD: Yes.

The LORD CHANCELLOR : That is from the River that runs in at the top ?

Mr. BARRINGTON–WARD : Yes.

The LORD CHANCELLOR : Do you claim part of the island ?

Mr. BARRINGTON–WARD : Yes, we claim it should be shared in the proportion of two–thirds and one–third. It no doubt could be the

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Viscount Finlay.

subject of adjustment hereafter. That is the submission I am instructed to make.

Mr. Barrington–Ward.

The LORD CHANCELLOR : What about the word “ inclusive ” ?

Mr. BARRINGTON–WARD : I submit “ inclusive ” means every bit of the land lying to the westward of the imaginary line.

The LORD CHANCELLOR : What does that add ?

Mr. BARRINGTON–WARD : It might be almost a contradiction in terms to say a line, which has no parts, might be excluded. My submission is that where you have a phrase like this “ from the bay or harbour of Ance Sablon, inclusive ” it does not necessarily mean that you give them all the bay.

Viscount FINLAY : It cannot possibly mean that. The line drawn shows what point you take, and, of course, all you are to take is included in that.

Mr. BARRINGTON–WARD : I can summarise the dispute. This dispute arose as long ago as the sixties. There is a great deal of correspondence about it, because the unfortunate people living on the bay, carrying on their avocations there, were in this position. It is bad enough to be visited by one tax collector, but to get a visit from two tax collectors and have to pay both, would be extremely unpleasant. There was not much chance for them there, either in the one case or the other, because the tax collector came in a good sloop and on one occasion arrived with the Judge, I think Judge Sweetland. The difficulty arose as to who should be paid. What was settled was this—I think I am stating it accurately—about 1864 or some time of that sort. The Newfoundland customs house is just to the right of this line

Lord Sumner.

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—
Mr. Barrington-Ward.

Lord Sumner.

drawn up the river, and they have collected on that side of the river, and Canada on the other, in cases where it was proper to collect dues. That is the position. The matter arose as long ago 1860. If your Lordship will cast your eye on page 3995, you will see the Governor of Quebec, Sir Edmund Head, wrote to the Duke of Newcastle raising the point and arguing it and referring to a chart. I do not think any useful purpose will be served by my going through this. The Canadian authorities took the opinion of the Attorneys-General for Lower Canada and Upper Canada, at page 3964, and they took the view that that Woody Island was within the limits of Canada. As I say, this dispute went on. I have a great many illustrations of it here. A very practical conclusion was arrived at, and I do not know even now whether in a matter of this kind—it is a minor point—it might not be possible to adjust it.

Lord SUMNER : Do you, on behalf of Newfoundland, attach any meaning to the word “ inclusive,” and, if so, what ?

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Mr. Barrington-Ward.

Mr. BARRINGTON-WARD : I think it is a word put in for better security only. The draughtsman of the statute had this line drawn inclusive.

Lord SUMNER : As security, you mean, to occupy us for the afternoon ?

Mr. BARRINGTON-WARD : Oh, no, not for that !

Lord Sumner.

Lord SUMNER : What does it mean ? I can understand it if it means “ including the same.” You are now defining what is to be given to Quebec, and it is to start from this line which starts at Ance au Blanc Sablon inclusive. That might be including the same, that is to say, the bay. But what it means from your point of view I fail to perceive at present.

Mr. BARRINGTON-WARD: Could it not mean inclusive of the space on which the line is drawn, if it is not in fact drawn ?

Viscount FINLAY : But a line has no dimensions at all.

Mr. Barrington-Ward.

Mr. BARRINGTON-WARD : When I say drawn, I mean actually put on the ground. I submit it might possibly mean that, when you come to do the task—which you have not to do in this case—of putting the defined boundary on to the territory, it would cover the space where that line is drawn.

The LORD CHANCELLOR : It is an imaginary line ; it is not a physical line.

Lord SUMNER : Would you tell me what authority there is in the statute for dividing the island ? I thought islands adjacent were granted as entire islands, according as they were, or not, adjacent to the coast. Is there any authority in the wording of the statute for prolonging this imaginary line to the south so that there may be a partition of the island ?

Mr. BARRINGTON-WARD : I should not be right in taking up your Lordships' time in trying to argue it. It is not so.

Lord SUMNER : Then what is your contention ?

Mr. BARRINGTON-WARD: Let me put it in this way. When the boundary comes to be marked out, the actual physical soil that is used is included in the territory of Canada. It is open to draw the line at any point which is regarded as a proper place, and I should submit the customary practice of the parties should determine that. I quite agree with what Lord Sumner says. I will not attempt to argue any division of the island. It is quite obvious under the construction of the

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statute, though that might be a very reasonable arrangement, it is not an arrangement which the statute seems to have in view.

The LORD CHANCELLOR : Then you draw the line at the river. Would you then dispute that this island is adjacent to the part annexed to Canada ?

Mr. BARRINGTON-WARD : I think it would be very difficult to determine. That would be a matter really for physical observation, or perhaps measurement.

The LORD CHANCELLOR : Surely not. Take it on the map.

Mr. BARRINGTON-WARD : My only authority for having any doubt, I think, is confirmed if you look at page 3957. Canada were quite confident it was annexed to them, but the Secretary of State says, at line 21 : “ On referring to this chart ”—that is Bayfield's Chart of 1832-34—“ I cannot say that I think it so conclusive on the question of proximity as it appears to yourself.” I am in that state of mind also. It is very difficult to say. Of course, if your Lordships should be against our contention on the main point as to where the line should be drawn, then cadit quaestio—I could not argue it.

I hope I have not taken up too much of your Lordships' time this afternoon in dealing with this matter. It is always a little difficult when one has had a case exhausted by one's leader, to add anything of use to the discussion. I just want to mention two other things so that your Lordships should not think anything has been forgotten. I told you about the topography. The greater part of two volumes have been taken up with two matters, one known as King's posts, in Volume VII, and another with the religious activities exercised from the Canadian side, in Volume VI. We have carefully considered the matter, and though naturally we should be glad to explain the subject to your Lordships we do not quite see the relevance of either of those matters at the present moment, and in consultation with my learned Leader I was asked to mention them to your Lordships so that it should be realised that every document, so far as anything relevant can be found in these eight volumes, has been brought to the attention of the Board.

Mr. MACMILLAN : My Lords, I am happy at the outset of this case to find myself in agreement with Sir John Simon, all the more so because I am afraid as I proceed our ways will be found to part pretty widely. I agree with Sir John Simon, that your Lordships are not sitting as a Boundary Commission. Your Lordships' task is not to create a new boundary between the Colony of Newfoundland and the Dominion of Canada, but to declare an existing boundary between the Dominion

and the Colony. That is, of course, a very broad and important distinction with regard to the task imposed upon your Lordships. It leaves the matter not at your arbitrement as to what you think would be the best boundary, but you are charged with the task of ascertaining what is the

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existing boundary which exists as a legal entity at the moment, and we are all engaged in the search for that line. It is implicit in certain documents, and from these documents the line has to be extracted.

My Lords, I am further in agreement happily with Sir John that the means for the ascertainment of this existing boundary are to be found in certain specified documents. These documents are the relative Statutes, Orders in Council, and Proclamations which are to be found in the red volume, Volume No. I, on page 149 and the following pages. The question for the Board has been so framed as to make the answer dependent upon the interpretation to be placed upon those documents, and amongst those documents in particular. I think I may say, we are also agreed that the question will have to be determined upon the view taken by your Lordships of five documents : (1) A Commission, Captain Graves' Commission of the 25th of April, 1763, (2) a Proclamation, the Royal Proclamation of the 7th of October, 1763, (3) a statute, the Quebec Act of 1774, (4) also is a Statute, the Newfoundland Statute of 1809, and, lastly, the Lower Canada Act of 1825.

It is, my Lords, upon a sound construction of these documents that the solution of the present problem turns. While your Lordships are not sitting as Boundary Commissioners, neither are your Lordships engaged in hearing a litigation, and I accordingly propose in my address to the Board not to confine myself to replying to the points taken by my learned friend, Sir John Simon, but rather to open the case for the Dominion of Canada as a substantive case. I conceive it will be in accordance with your Lordships' wishes, therefore, that I should not, as one would do in replying in an ordinary litigation, deal with the points that have been taken against me by Sir John Simon, but preferably I should put before your Lordships the substantive case of Canada, and of course incidentally to that I will take up and emphasise the points which Sir John Simon has brought before you and do my best to answer them.

Viscount Haldane.

I think it might be useful if I, in what remains of this afternoon, indicate at once to your Lordships my conception of this enquiry. The task is a task of interpretation. It is a task of interpreting written documents, and as always happens where written documents are under interpretation, what one is in search of is the intention. What do those who used this language mean thereby to effect.

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—
Viscount Haldane.

Viscount FINLAY : What does the language they used mean ?

Mr. MACMILLAN: That is true, my Lord, it is putting it the other way round.

Mr. Macmillan.

Sir THOMAS WARRINGTON : What implication is to be derived from that language.

Viscount HALDANE : There is also a distinction to be drawn in the case of diplomatic documents, you have always a great advantage

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in ascertaining the points from which you start because they are laid down in the books of international Law.

Mr. MACMILLAN : Yes, one is not confined to the ordinary aids.

Viscount HALDANE : At the same time there is a large and intermediate matter to which both rules apply, and the question is always how much one applies to the other, for instance, taking historical considerations into account how far would they impress you.

Mr. MACMILLAN: No doubt. I am sure I have your Lordships' assent to this : primarily the task is, given certain words, what do those words mean.

Viscount HALDANE : Yes.

Mr. MACMILLAN : What is the intention which is to be derived from those words as used by the person who used them.

The Lord Chancellor.

Now, my Lords, may I so to speak give the scheme of what I propose to put before your Lordships, thus : There are two means whereby intention may be ascertained. You may ascertain it first of all from intrinsic evidence, the terms of the documents themselves. What in the present case is the inference to be drawn from the language used in the documents as to the scope of the right conferred thereby on Newfoundland. If the meaning of those documents is intrinsically clear, as we submit it is, then, of course, it is unnecessary to go beyond the documents at all, but if, on the other hand, the language of the documents be found on examination to be obscure or ambiguous or inconclusive then and then only is it legitimate to resort to extrinsic evidence. In the present case it has interested me to note that in my learned friend's address he has confined himself almost entirely to what one may call the secondary class of evidence. His examination of the documents has been comparatively

Sir Thomas

Warrington.

brief, but his exposition of what really is after all extrinsic evidence has been prolonged and detailed.

8 Oct., 1926.[sic]

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Sir Thomas
Warrington.

The LORD CHANCELLOR : Do not you put that too high, Mr. Macmillan, if the document on the face of it is ever so clear, are you prevented from knowing the conditions in which it was signed, and the circumstances existing at its date ?

Mr. MACMILLAN : I would submit that if the document is absolutely clear then you need nothing more.

Viscount FINLAY : You may want to know what the circumstances were for the purpose of seeing whether it is absolutely clear.

Mr. MACMILLAN : No doubt.

Mr. Macmillan.

Sir THOMAS WARRINGTON : But you see, Mr. Macmillan, if the

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documents are clear, as I understand the rule about extrinsic evidence, then you do not admit extrinsic evidence at all ; it is because there is what English law would call a latent ambiguity, that is to say, the document may appear clear on the face of it, but when you know the circumstances there is doubt.

Mr. MACMILLAN : Yes, you may have to look at the surrounding circumstances to set up the ambiguity. That is perfectly clear.

The LORD CHANCELLOR : I think you were putting it a little too high.

Mr. MACMILLAN : I am quite prepared to take it down a peg if I may. I am anxious to make the distinction between the two classes of evidence which one invokes in interpreting documents, because it is a very important distinction for the present purpose. I think I shall have your Lordship's agreement that the first duty is to see whether the documents themselves decide the question, but if you find the documents to be indecisive, then you may, legitimately, indeed you must, resort to extrinsic aids, but, my Lord, may I say this with regard to extrinsic evidence, that extrinsic evidence is of many kinds and of very varying value. There are certain forms of extrinsic evidence as has already been alluded to by my Lord Finlay, which are of the highest value, there are certain other forms of extrinsic evidence which may be of exceedingly little value, and in the present case it is of some interest to classify the aids which have been provided for your assistance in these documents in the nature of extrinsic

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Mr. Macmillan.

evidence in the different categories into which they fall. I have attempted to do so in this way. First of all there is the evidence to be derived from the surrounding circumstances at the time when the documents were drawn up. To put the matter in its ordinary colloquial form, I exhort myself to put myself in the position of the authors of these documents. To do so in the present case we have to consider the antecedent history. We have to consider the existing administrative position, and we also have, as part of the material, the preliminary reports and other written documents which led up to the formal executive or legislative acts. All these matters are of importance, they are extrinsic to the documents themselves, but they are all of value as enabling us to put ourselves in the position of those from whom those documents emanated, be they executive or legislative acts ; therefore to gauge the purpose which they had in mind when one is considering the language which they used to effectuate that purpose so ascertained, that class of extrinsic evidence may be of very great importance and may be of very great assistance—evidence of surrounding circumstances—put yourselves in the place of those persons who used that language. The second type of extrinsic assistance which one may get is from what is known as contemporary exposition. The document has come into being, be it a Proclamation or Statute, or some other executive instrument, and the law has always regarded the

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interpretation which in practice has been put upon the document at the time as of value, probably for several good reasons, the reason that occurs at once is this, that those who were acting on the documents at or about the time, were nearer the position of affairs. They were still speaking the same language, if one may put it so, as the authors, and they had perhaps a better means of knowing the purpose and intent of the document than we have. Looking back at them through the mists of time, the contemporanea expositio has always been regarded as of value, as an aid in the interpretation of written documents, at any rate, if they are of somewhat venerable age. Then the question comes to be : How did those to whom these documents were addressed interpret them by their actions or their writings at or about the time the documents were in existence ; of course, by this time the question is : How were they acted upon ?

My Lord, these two classes of evidence are conspicuous in these volumes, and I should be far from belittling their value, but there is a good deal more material before your Lordships, much of which I should suggest is of much less value. There is a considerable amount of material which is not contemporary at all ; it is information as to things done, things said, and things written, frequently many years after the time, not contemporary exposition but exposition long subsequent to the time when the documents came into existence, and that kind of evidence, for which a very large

part of these volumes is responsible, is necessarily of very varying value indeed. There may be, here and there, clues to be found that may be worth following up, which may be of some value, but in this matter one must discriminate among the different categories. These three types of evidence, evidence of surrounding circumstances at the inception of the documents, evidence of what was done by way of contemporary exposition at the time, and evidence of the subsequent exposition, by act, word or deed later on, exhaust the three main categories of evidence which can be invoked for the purpose of arriving at an interpretation of these documents. There is always available, of course, another type of aid, I mean the ordinary aids of interpretation which are to be found in dictionaries, in judicial decisions, in arbitration precedents, and, if you please, in general principles of law ; in so far as these may be usefully invoked here, some have been invoked by my learned friend, and again a considerable amount of material of that sort has also been taken out and printed in these volumes. Now, I think, my Lords, I have in these categories, exhausted all the various forms of aid which one may call into play in the task of interpreting these documents ; and my own submission to your Lordships would be this, in the first place : that upon a fair reading of the documents, taken by themselves, it is abundantly plain that the subject matter of those documents was not, as Sir John Simon suggests, a large territory extending inland to the height of land, but was a maritime strip of coast necessary and proper for the pursuit of the fishery industry on the coast of Labrador. My Lords, may I put the problem in its precise legal setting, first of all, and I think I may best do it in this way : if you take the year 1808, at that time, it will be conceded on

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all hands, the Colony of Newfoundland had no interest whatever in the Peninsula of Labrador ; it had no territorial jurisdiction and no rights of any kind whatsoever. That is conceded.

The LORD CHANCELLOR : That is the year before the Act.

Mr. MACMILLAN: That is the year before the Act of 1809. I choose that advisedly. We start, if I may so put it, with a clean sheet in 1809 ; at that moment when the Act of 1809 was passed Newfoundland had nothing on the Continent. The Act of 1809 gave Newfoundland something, and when one turns—

Viscount HALDANE : Did Quebec run up to Cape Chidley in those days ?

Mr. MACMILLAN : That is our submission. It is not necessary for my case to say so, but that is my submission. The start of the matter, therefore, in logical order, is to be found in Section 14 of the Newfoundland Act of 1809, which is in the red Appendix at page 195.

Sir THOMAS WARRINGTON: You say that the Act of 1809 gave Newfoundland an interest on the Continent; it is quite true that at that moment Newfoundland had no interest, but it had had an interest, and the Act expressly re-annexes it.

Mr. MACMILLAN: I am sure your Lordship will not anticipate what I have to say. I wish to keep the matter in perfect logical order. What one starts with in 1809 is that at the moment of that enactment Newfoundland was not on the Continent at all ; then one looks at the Act to see what introduces Newfoundland at that stage to the Continent, and that is done in Section 14 ; that does this : it annexes to the Government of Newfoundland certain rights and interests, and it does so, as my Lord is good enough to remind me, by a historical reference; that is how it set about it, and it thus defines what is to be given to Newfoundland. Newfoundland is to have “ such parts of the Coast of Labrador, from the River St. John to Hudson's Straights and the said Island of Anticosti and all other smaller islands so annexed to the Government of Newfoundland by the said Proclamation of the seventh day of October One thousand seven hundred and sixty three.” My Lords will note, first of all, that the annexation is there stated to have been effected by the Proclamation and not by the Commission.

The LORD CHANCELLOR : Was not that an inaccurate recital ? In fact, the first recital in the very section says the Proclamation declared “ that he had put the Coast of

Labrador.”

Mr. MACMILLAN : I was drawing attention to that, my Lord, not in order to make a point upon it favourable to myself, but rather to dicte that at that time the Commission and the Proclamation were

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regarded really as associated acts, and that, I think, probably the more important public document seems to have predominated in the minds of those who were drawing this Act ; but it is true that before this the Commission of 1763 had confided to the Governor of Newfoundland whatever it had confided to him before the Proclamation was made ; therefore, in one sense it is not accurate to say it was annexed to the Government of Newfoundland by the Proclamation, but the Statute has so chosen to say it.

Viscount FINLAY : What is the most convenient reference to that Statute ; it is more than once set out ?

Sir Thomas
Warrington.

Mr. MACMILLAN : The one that I am now reading, which is page 195 of the red volume. It is Section 14 of the Act of 1809, and I was trying, if I could, to keep the thing in precise logical order. One starts in 1809 with no rights on the part of Labrador on the Continent, and then an Act comes along which confers rights, but it does so by, so to speak, a revival of a state of matters which had existed before ; it does not start de novo. This matter has a history behind it, and, in defining what it is to be annexed to the Government of Newfoundland, it does so by referring you to other documents for their contents.

Mr. Macmillan.

The LORD CHANCELLOR : That is the root of the existing title of Newfoundland.

Mr. MACMILLAN : That is really the way to start it, and we start from there, and then, of course, one brings in all the other documents, to which this document refers you for the content of this document.

Sir THOMAS WARRINGTON : It does not very much matter, does it, that the Statute says “ annexed by the Proclamation,” because when you go back to the Proclamation you find what is referred to is that which was comprised in the Commission to Governor Graves ?

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Mr. Macmillan.

Mr. MACMILLAN: I, personally, do not make very much of it, but I think I am entitled to say this : that the Commission and the Proclamation together seem to have been regarded by the authors of this Legislation as the important document.

Sir THOMAS WARRINGTON : Yes, taken together.

Mr. MACMILLAN : I should not like to put it any higher than that, my Lord. Now, my Lords, that title which I have just read to your Lordships, is described in our Case as “ a title by reference,” that is to say, it is a title which is not itself explanatory or exhaustive, it requires you to refer to certain other documents in order to find out what was the content of the Section. My Lords, I might at this stage clear the ground further by saying this, that when one turns

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back to the series of transactions which you find embodied in the documents of 1763, 1774, 1809, and 1825, I humbly submit that the subject matter which was being dealt with in all those documents, statutes, or proclamations, was the same subject matter. I think again I find myself in agreement with Sir John Simon there. Something is being bandied about between Newfoundland and Canada ; what exactly it is that is being bandied about is the question ; but that something was in transaction between those two Governments is undoubted ; and the series of transactions which took place I think one must regard as transactions referable to the same subject matter. I do not think it was a different subject matter, it was the same subject matter. Then, my Lords, if that be the subject matter, one is referred therefore back by this Statute to the Proclamation of the 7th day of October, 1763, to see what, by that Proclamation (and I read Proclamation in its wide sense as including the Commission to which it refers) was annexed to the Government of Newfoundland then, and one turns back, therefore, to the Proclamation, which you will find in the same volume on page 154.

(Adjourned till to-morrow at 10.30 a.m.)

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COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Thursday, 28th October, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. SIR THOMAS WARRINGTON

**IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA
and the COLONY of NEWFOUND-
LAND in the LABRADOR PENINSULA**

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

FIFTH DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Dominion of Canada.

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COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Friday, 29th October, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

SIXTH DAY.

29 Oct., 1926.
—
Mr. Macmillan.

*Counsel for the Colony of Newfoundland :—The Rt. Hon. Sir
JOHN SIMON, K.C., Mr. F. T. BARRINGTON WARD,
K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland
Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON,
instructed by Messrs. BURN & BERRIDGE.*

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.

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MORNING SESSION.

Mr. MACMILLAN : My Lords, yesterday afternoon I suggested that the proper approach to this question was through the Act of 1809, for this reason: that, immediately prior to the passing of that Act, it is common ground that Newfoundland had no interests in Labrador ; and, therefore, one finds the first Statutory title of Newfoundland in the terms of that Act. I also, of course, made plain that the terms of that Act referred you to earlier documents for the measure of the right which Newfoundland acquired by Statute in 1809. I drew attention to the terms of the Act of 1809, which my Lord Chancellor suggested might have been merely a mis-recital, and very possibly was a mis-recital, because the measure of the right of Newfoundland is to be found in what was annexed to the Proclamation of the 7th day of October, 1763. It is rather interesting to note that that seems to be the view of Newfoundland itself, because I observe in their Pleadings at page 30 they describe the Royal Proclamation of the 7th day of October, 1763, as “ The source of Newfoundland's original jurisdiction on the Labrador.” Frankly, my Lords, I do not think there is much more than a verbal point there, because when you look at the Proclamation, it, in terms, refers you to the Commission, and therefore the proper approach to the question, probably, is by looking at the transaction as a whole, and the record of the transaction is to be found in the Commission and Proclamation. The Commission is at page 149. My Lords, the critical year in this matter is the year 1763, for in that year there occurred all the transactions which constitute the foundation of Newfoundland's Claim. Whether it be the Proclamation that is the source of their rights, or whether, as expressed by my learned friend, Sir John, it is in the Commission—may I just use his exact words—“ In the Commission that you find the actual root of title ”; whether it be in the one or the other of those documents, they are both in 1763, and to that year, therefore, we must look for the ascertainment of this boundary.

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My Lords, I thought that perhaps your Lordships would find it convenient to have the Calendar of 1763. The sequence of

events there is very significant, and, as will appear shortly, I found upon that sequence as being a very pregnant sequence. On the 10th February, 1763, was passed the Treaty of Paris (Volume I, page 330). On the 29th March, 1763, the Instructions to Captain Graves were passed (Volume II, page 391). On the 25th April, 1763, Captain Graves' Commission was issued (Volume I, page 149). On the 2nd May, 1763, Captain Graves' Admiralty Instructions were issued to him, and the text of those Instructions will be found in Volume II., page 406. On the 23rd August, 1763, Instructions were issued to Lord Colvill, which I shall refer to and explain shortly, in Volume VIII, page 4215.

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Lord WARRINGTON : Those we have not had yet ?

Mr. MACMILLAN: No, we have not had these, these relate to fishery also. Then the next date is the 7th October, 1763, the Proclamation (Volume I., page 153). The last significant date in the year is the 21st November, 1763, when the Commission was issued to General Murray as Governor of Quebec (Volume II, page 756). My Lords now have the sequence of events.

Sir JOHN SIMON : My learned friend is leaving out the Report of the Lords of Trade and so on ?

Mr. MACMILLAN : I am certainly.

Sir JOHN SIMON : They come in the middle.

Mr. MACMILLAN: I wanted to get what you might call the cardinal dates of executive documents of one sort or another. The other documents, to which my learned friend alludes, I shall deal with, of course ; but they were either preliminary to, or subsequent to, the critical documents.

Sir JOHN SIMON : Or in the middle of them.

Mr. MACMILLAN : Or in the middle of them. My Lords, that being the Calendar of events, the first thing that is necessary to appreciate is the situation which had been created by the Treaty of Paris, of 1763. The Government of this country was confronted with an administrative problem of the first magnitude. The result of the Peace was to bring within the ambit of the British Empire the vast interests of France in Canada (I use the very largest terms at this moment, and without any specific definition) and the anxiety of the Government was as to the method of bringing under control these vast new interests. They were interests not merely Continental, but also Maritime. They were interests not merely on the main land, but upon the seas ; and, on both elements, very large new interests had been created in the

hands of Great Britain, and it was manifest that the subject had to be taken in hand at once. The dates will show already to my Lords with what despatch the Government addressed themselves to the problem, because the Treaty of Paris was only signed on the 10th February, 1763, and, before the ensuing month had elapsed the Instructions to Captain Graves had already been adjusted and prepared. My Lords, the point I propose to make, and it may be convenient to state it before I take your Lordships to the detailed documents, is this: That the Government addressed itself to two entirely distinct problems ; it addressed itself to these problems in the order of their urgency, and the first problem which the Government took up was a purely fishery problem. It

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was not until the question of the regulation of the new fisheries which had come into the British hands had been disposed of that the Government addressed itself, in turn, to the question of territorial Government upon the mainland ; and, in order that your Lordships may appreciate the historical sequence, I would ask your Lordships to look at once at Volume II, page 386, where we get the first light shed upon this question. Apparently His Majesty had addressed to the Lords of Trade a letter requesting them to take into consideration certain matters and advise His Majesty upon them. “ In Obedience to Your Majesty's Commands, signified to Us by the Earl of Egremont, one of Your Majesty's Principle Secretaries of State, in his Lordship's Letter of the 8th Instant, We have taken into Our Consideration,” then follows a quotation, no doubt embodying the Commands of his Majesty: “ The Copies of the 5th and 6th Articles of the Definitive Treaty, relating to the Fishery of Newfoundland, & elsewhere in those Parts, and to the Cession of the Islands of St. Peter & Miquelon ; as also an Extract of the 24th Article of the said Treaty, fixing a Time for the Cession of those Islands, and directing Us to lay before your Majesty such Alterations & Additions, as shall appear to Us expedient to be made, to the Instructions given to the Governors of Newfoundland in order to conform them to the abovementioned Stipulations of the Definitive Treaty.” My Lords, the 5th and 6th Articles of the Definitive Treaty, to which the attention of the Lords of Trade was thus directed, are to be found in the first Volume at page 335, and you will observe at once that they are Articles of the Treaty relating to Fishery Matters. The 5th Article of the Definitive Treaty, in the middle of page 335, runs thus: “ The subjects of France shall have the liberty of fishing and drying on a part of the coasts of the island of Newfoundland, such as it is specified in the XIIIth Article of the Treaty of Utrecht ; which Article is renewed and confirmed by the present treaty, (except what relates to the island of Cape Breton, as well as to the other islands and coasts in the mouth and in the gulph of St.

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Lawrence): And his Britannick Majesty consents to leave to the subjects of the Most Christian King the liberty of fishing in the gulph of St. Lawrence, on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent as those of the islands situated in the said gulph of St. Lawrence. And as to what relates to the fishery on the coasts of the island of Cape Breton, out of the said gulph, the subjects of the Most Christian King shall not be permitted to exercise the said fishery but at the distance of fifteen leagues from the coasts of the island of Cape Breton ; and the fishery on the coasts of Nova Scotia or Acadia, and everywhere else out of the said gulph, shall remain on the foot of former treaties.” Article VI. “The King of Great Britain cedes the islands of St. Pierre and Macquelon, in full right, to his Most Christian Majesty, to serve as a shelter to the French fishermen ; and his said Most Christian Majesty engages not to fortify the said islands; to erect no buildings upon them but merely for the conveniency of the fishery ; and to keep

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upon them a guard of fifty men only for the police.” My Lords, the Principal Secretary of State having observed the presence in the Definitive Treaty of those two Articles, the 5th and 6th, and observing that they related to the regulation of the fisheries for the future in these waters, transmitted to the Lords of Trade an enquiry as to “ what additions should be made to the Instructions to be given to the Governor of Newfoundland in order to conform them to the above mentioned stipulations of the Definitive Treaty.” That is the inception of the modifications, which you find on Captain Graves' Commission after 1763 as contrasted with his Commission before 1763. They proceed to take up the subject of their remit and say : “ After considering the Subject with that Attention & Exactness which the Nature & Importance of it so highly deserve, We humbly beg Leave to submit Our Opinion to your Majesty both with respect to the Plan of the Instructions, as they are now annually given to the Governor of Newfoundland and to such additional ones as may be thought requisite, from the Provisions, & Acquisitions of the Definitive Treaty.” Your Lordships see the task to which the Lords of Trade directed themselves ; they learned from the Treaty of these important new fishery regulations under the Treaty ; they were instructed to consider how these could be most efficaciously managed in future, and they proceed to advise His Majesty upon the matter. “ The Instructions hitherto given to the Governor of Newfoundland have been principally formed upon the Provision of the Statute of the 10th and 11th of William the Third, for regulating this Fishery ” ; my Lords, that is the Act of 1699, printed in the first Volume, at page 250. I shall have a little to say about it later on, because it really, I think I may say, contains the Code of Law which the Governors of

Newfoundland administered. The Instructions, as the Lords say, have hitherto “ been principally formed upon the Provision ” of that Statute, “ for regulating this Fishery and the Method prescribed to the Governor, of annually enquiring into, and reporting the State of the Fishery, is so very regular and practicable, that it rather wants to be enforced than changed, and if it be true, as it certainly is, that the Representations of the State of the Fishery have hitherto been imperfect, that Deficiency has arisen more from Circumstances in the Execution of the Plan, than any Defect in the Plan itself. With respect to the Necessity of any additional Instructions upon which We are directed to give Our Opinion, We beg leave humbly to represent to your Majesty, that Your Subjects employed in the Fishery at Newfoundland, having of late engaged more extensively in the Fishery on the North eastern Part of Newfoundland, upon which Coast the French have also a Right, by the Treaty of Utrecht, to catch and dry Fish during the Season, under certain Restrictions ; The great and extensive Whale Fishery in the Streights of Belleisle, with the other Branches of the Salmon & Seal Fishers, attending the Coast from the Mouth of those Streights to the River St. Lawrence, and the Fishery of the River St. Lawrence itself, of Gaspee, of Canceaux, the Madelain Islands, St. John's & Cape

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Breton being now annexed to His Majesty's Dominions by the Definitive Treaty ; The general Fishery of Newfoundland, and the Gulf and the Coasts with it, is become a Matter of infinite Extent, and of the utmost Importance; at the same time, that the preventing the French from partaking of the Benefit of these Fisheries (they being permitted to come within three Leagues of the Coasts & Islands within the Gulph) seems to us to make some Additional measure and Additional Instructions in the Execution of the Definitive Treaty, referred to Us, absolutely necessary for the securing the exclusive Possession of these valuable Fisheries to Your Majesty's Subjects." Therefore what the Lords advised was that the scheme for the protection of fisheries and for regulating the fisheries was quite a good scheme. There may have been some defects in the execution of it, but it was an excellent scheme. But it was necessary to make some additional measures and to give some additional instructions consequent on Articles 5 and 6 of the Definitive Treaty of Paris.

“ As to the Concurrent Fishing on the North East Coast of Newfoundland, in case any of your Majesty's Subjects should engage in it, much will depend upon the Temper, Judgment, & Discretion of the Officer of the Navy, who shall be appointed to superintend the Fishery, and who certainly should be instructed to adhere to the due Sense & Execution of the 13th Article of the Treaty of Utrecht with Justice to the Subjects of both Crowns ”—the 13th Article of the Treaty of Utrecht is printed in Volume V at page 2181—“ Upon the Coast of Labrador, it will be impossible to prevent the French continuing to have the full Benefit of their former Commerce with the Indians of the Coast, unless some British Settlement should be made there, or sufficient Cruizers stationed with Instructions to the Commanders to seize all french Ships coming within a certain Distance of the Coast.”—Two methods were contemplated, either that we should have a settlement there, or that we should have an adequate naval patrol of the coast.—“ The same Observation is equally applicable to all the Coast from the Streights of Bellisle to the River St. Lawrence, from thence along the whole Coast of Canada and Acadia, and the Fisheries annexed to these Coasts which lye within the Gulph, the exclusive Possession of all which Fisheries in our Judgment depends entirely upon the Effiiccacy [sic] of whatever Plan shall be now followed, and the additional Instructions which shall be now given by the proper Boards to the proper Officer in the Execution of this great and essential Measure. The Situation of the Islands of St. Peter & Miquelon, so convenient for carrying on an illicit Trade with North America, calls for particular Caution, and it were earnestly to be wished that the Communication between these Islands & Newfoundland could be prevented,

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from which the Inhabitants of St. Peter will otherwise receive the double Advantage of getting easily & cheaply the Materials for building their Boats, and of circulating french produce & Manufactures amongst the British Fishermen. These Points naturally arising out of the Words of the Reference made to Us by your Majesty's Secretary of State, We have presumed to submit to Your

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Majesty's Consideration without in any Degree taking upon Ourselves actually to prepare any Plan for the Accomplishment of Measures, the grounds of which are so very imperfectly before Us, which, if ever They should take place, must be determined with an Attention to other Measures, and make a Part of one general Plan ; The framing which will depend so much upon the united Labour and Experience of different Departments of Government ; and the Execution of which will at last depend upon Orders to be issued from other Offices and to Officers not subject to our Controul."

Sir John Simon.

My Lords, I think I am justified in saying upon that document that the topic to which the Lords of Trade were addressing themselves had nothing whatever to do with territorial government at all. They were concerned to see how the provisions of the Treaty relating to fisheries might best be put into execution, and they were advising what additions or alterations to the existing instructions to the Governor of Newfoundland were requisite to effect that end. They addressed themselves to that matter, and to that matter only ; and you will find, my Lords, that the result of their labours is reported on page 390.

The Lord Chancellor.

It might be well, in passing, lest it should be said that I had omitted anything, to mention that on page 389, there is a letter of the 24th March, 1763, from Lord Egremont, directing the Lords of Trade to make such additions to the draft of Instructions to Newfoundland " as you shall judge expedient, & necessary, to render Them conformable to the new Commission abovementioned." That is in consequence of " The King having judged it proper, that all the coast of Labradore, from the entrance to Hudson's Streights," (and so on, using the appropriate language) " should be included in the Government of Newfoundland."

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The Lord Chancellor.

Sir JOHN SIMON : It is more than that. Page 389 is a letter which required the preparation of the draft of a new Commission. Look at line 19.

Mr. MACMILLAN : No doubt it is.

Sir JOHN SIMON: A Commission.

The LORD CHANCELLOR : They had recommended that, as one way of preventing the French from getting the trade with the Indians. Labrador, some settlements should be made.

Mr. MACMILLAN : Yes, my Lord ; that was an alternative which was not adopted.

The LORD CHANCELLOR : Is that so ?

Mr. MACMILLAN : Yes, my Lord, The other alternative was, I think, to station sufficient cruisers there. At least, that is my reading of it, but your Lordships, of course, will judge.

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The LORD CHANCELLOR : The next document to their first advice is this letter of the 24th March, in which the King states that he had decided that the coast of Labrador shall be included under the Government of Newfoundland.

Mr. MACMILLAN : That is perfectly right, my Lord.

The LORD CHANCELLOR : And then comes page 390.

Mr. MACMILLAN : Yes, my Lord, and with regard to page 390, you have to observe that the Lords of Trade had before them that letter of the 24th March, 1763, the preceding letter, in which the King's instructions as to the inclusion in the Government of Newfoundland of that area, or of those rights, as I shall call them for the moment, had been indicated.

The document says this: "In Obedience to Your Majesty's Commands signified to us by the Earl of Egremont, one of Your Majesty's principal Secretaries of State, in his Letter dated the 24th instant, We have prepared, and humbly beg leave to lay before Your Majesty, a Draught of Instructions for Thomas Graves Esquire, whom Your Majesty has been pleased to appoint Governor and Commander in Chief in and over the Island of Newfoundland and all the Coast of Labradore, from the Entrance of Hudson's Streights to the River St. Johns, which discharges itself into the Sea nearly opposite the West end of the Island of Anticosto, including that Island, with any other small Islands on the said Coast of Labradore, and also the Islands of Madelaines in the Gulph of St. Lawrence"—now you get the operative effect of it—" In this Draught We have added to that lately approved by Your Majesty, the 1st, 3rd, 10th & 11th Articles, and made such Alterations, as appeared necessary, in order to render the Instructions of Your Majesty's said Government conformable to the Extent of his Commission."

Those are the documents which led up to the alterations of Captain Graves's Commission in view of the changed circumstances ; and the main alterations are alterations, as they indicate, or additions, as they indicate, of four new Articles.

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Lord WARRINGTON : Those are the instructions.

Mr. MACMILLAN : Yes, my Lord, those are the Instructions. They precede the date of the Commission, as your Lordships will notice in the calendar that I gave you. I am taking it chronologically as far as I can.

It is interesting to look at the draft of the Instructions, which follows on page 391 and the subsequent pages, in order to see what are the new Articles which have been added. The first new Article is to be found at the foot of page 391, and it is in these terms : “ First : You are therefore to fit yourself with all convenient speed, and to repair to your said Command ”—the expression used, your Lordships will notice,

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is “ Command,” for Captain Graves—“ and, being arrived, you are to take upon you the Execution of the place & Trust We have reposed in you, and, as soon as conveniently may be, to assemble the principal Inhabitants in the Island of Newfoundland, and in such other places as you shall judge proper or necessary within your said Government, and with all due Solemnity to cause Our said Commission under Our Great Seal of Great Britain, constituting you Our Governor & Commander in Chief as aforesaid, to be read and published.” So far there is nothing very striking in the way of novelty ; the only word to which I would rather call your Lordships' attention is the word “Command ” as descriptive of what his function is.

The LORD CHANCELLOR : Of course, he is appointed Governor and Commander in Chief.

Mr. MACMILLAN : Yes, my Lord ; but it is noticeable that his sphere is described as a sphere of command.

Then the third Article at once goes to this matter of fishing, to which their attention had been drawn by the King. It says : “And whereas by the said 5th Article of the Treaty lately concluded at Paris, We had consented to leave to the Subjects of the Most Christian King the Liberty of fishing in the Gulph of St. Lawrence, on Condition that the Subjects of France do not exercise the said Fishery but at the distance of three Leagues from all the Coasts belonging to Great Britain, as well those of the continent as those of the Islands, situated in the said Gulph St. Lawrence, You are hereby required to carry the Stipulations of the said Clause into full Execution, within the Limits of your Government.”

Viscount HALDANE : What page is that ?

Mr. MACMILLAN : That is page 392, my Lord ; and it is Article 3 of the Instructions. That is new matter.

The two other additions are Articles 10 and 11, which are to be found on page 394. Article No. 10 runs thus : “And

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whereas We have been informed that a very considerable and advantageous Whale and Sea Cow Fishery may be carried on in the Gulph of St. Lawrence and upon the Labradore Coast, it is therefore Our Will and Pleasure, that you do give all possible encouragement to such Fishery, and report to Us, by our Commissioners for Trade & Plantations, your opinion in what way, and by what means, so valuable a Branch of Commerce may be extended and improved. (11) You are also to make a very particular enquiry into, and report to Us as aforesaid, the actual State and nature of the Fisheries carried on by the Subjects of France in every distinct Branch thereof, as well that which is carried on for *Morus Verte* upon the Banks without the Gulph St. Lawrence, as the dry Fishery carried on at Miquelon and St. Peter's upon the Coast of Newfoundland, from

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Bonavista to Point Riche, or in other parts of the Gulph of St. Lawrence, and you are to be as particular as may be in Your Accounts of the Number and Nature of the Ships and Boats employed on those different Fisheries, the Number of Men, the Quantity of Fish caught, cured and carried to Market, and, in general, of every other Circumstance that may furnish a precise State of this Branch of the Commerce of France.”

The Lord Chancellor.

Now, my Lords, I respectfully attach the greatest importance to this chapter of the transaction. The question of the regulation of the fisheries was a question which was in the mind of both persons, both of His Majesty's Principal Secretary of State and of the Lords of Trade, and of those who framed the Instructions : and it is of the utmost significance that when the Governor of Newfoundland was—let me try and use neutral language for the moment—given new duties, the only additions which were required to his existing Commission, that is to say the only operative additions which were thought necessary to be made to his existing Commission, related to three topics only, all of which were fishery topics and nothing else.

Mr. Macmillan.

Sir JOHN SIMON : Forgive me, Mr. Macmillan ; you do not mean “ Commission,” you mean “ Instructions.”

Mr. MACMILLAN : I am afraid, Sir John, that I must ask you to extend the same indulgence to me, as I extended to you. In a case such as this, I am afraid I shall be certain to make some mistakes. I did not even venture to challenge some of your own little errors which I thought were not material, but I shall, of course, welcome any correction if I should really go wrong.

The LORD CHANCELLOR : There is also this alteration made, both in the Commission and in the reference to it here, that the Governor is made Governor and Commander in Chief of the Island of Newfoundland and the Coast of

Labrador.

Mr. MACMILLAN : Yes, my Lord. Pray do not think that I had omitted that, but I wanted for the moment to call attention to what I have described as the additional clauses. I was not going to pass over that matter. It was necessary then to introduce Labrador, or else it would not have been complete ; but I am thinking for the moment of what was the inception of this matter.

The Treaty had been taken in hand, and the Treaty contained the most important fishery additions. The inception of this matter is this : how can this then be regulated ? And various suggestions are made. Then it is necessary at once to deal with it through the medium of some alteration in the Commission to be given to the Governor of Newfoundland.

Now, what are the topics of concern ? The topics of concern are the fisheries ; and the additions made to his Commission in those three Articles to which I have referred relate to fisheries, and relate to the

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carrying out of Articles 5 and 6 of the definitive Treaty of 1763. There are other alterations in the Commission. It was necessary, of course, in obedience to what His Majesty had said, and also in consequence of the facts, to introduce Labrador ; and the way in which that is done is this, that at two or three places, in the course of the Commission, they add the words “all the coasts of Labrador ” to “Newfoundland” in the terms of the Commission.

But it surely is of great moment to observe with what purpose and intent that was done. I shall have some comments to make a little later on upon what was the ambit of his duty as the Governor of Newfoundland, apart altogether from Labrador ; but it is manifest that this fishery question, which absorbed the attention of the Lords of Trade at the very outset, and which they thought that they had disposed of in this manner, was a totally different class of subject from the subject to which they proceeded to address themselves when they came to the parcelling out of the Continent of Canada. That was not what they were thinking of at this time at all, and yet the suggestion made by my learned friend is that being minded to do what they were minded to do as they have told us here, they, by these documents, carved out of the Continent of Canada—and I use it in its widest possible extent just now—they carved out of the mainland of Canada a large area, an administrative area, defined by ascertained or ascertainable metes and bounds, and constituted in that way an entirely new governmental territory on the mainland of Canada, comparable to Quebec or any of the other governmental areas which were subsequently delimited with such care, and entrusted the government of the whole territory, through the means of this instrument, to the Governor of Newfoundland, in the same way as they entrusted the whole of the Quebec Territory to the Governor of Quebec.

Your Lordships will see in the sequel how very differently the Lords of Trade and the authorities addressed themselves to the question of the parcelling out of Canada, in contradistinction to the way in which they addressed themselves to the question of the regulation of the fisheries, in the Commission to Captain Graves.

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I am very anxious to make that point, in order that your Lordships may appreciate it in its due proportions. Humbly, it appears to us to be a matter of very great assistance in considering whether or not, before the Government had addressed itself to the question of territorial jurisdiction of the mainland at all, and before they had set the bounds to the Province of Quebec or the other Provinces that were the result of the Proclamation, it had first of all made what was in effect a new provincial Government in Labrador and entrusted its administration to the Governor of

Newfoundland.

That is the length and breadth of the claim that is now submitted, namely that this was a complete territorial disposal of this large area, and confided to the Governor of Newfoundland a territorial administration, three times the size of the Island of Newfoundland which was already under his jurisdiction. One would not have thought that that

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was very probable, nor does it appear from the documents themselves that those who framed them had any such conception as that that was the result of what they had done. These are the documents which precede the issue of the Commission, and the Commission, if your Lordships will have the calendar in front of you, followed very soon after. It followed on the 25th April, 1763. I shall recur both to the Commission and to the Instructions, but you will see that this Commission on page 149, in Volume I, again contains little novelty, except, of course, the addition, wherever it is necessary, to “the Island of Newfoundland,” of “all the Coasts of Labrador,” and the usual phrase which follows ; that is to say, the limits are defined. But so far as the Commission itself is concerned, the formal executive document, as distinguished from the instructions to this gentleman as to what he was to do on these coasts, there is no significant alteration, so far as I am aware, upon the Commission which he had as Governor of Newfoundland, except the introduction at appropriate places of the new limits.

You will find on page 149, in the words of appointment, that whereas in the recital his previous appointment had been that he was to be “Governor and Commander in Chief in and over Our Island of Newfoundland,” it is now stated in this way : “ Our Governor and Commander in Chief in and over Our said Island of Newfoundland and all the Coasts of Labrador from the Entrance of Hudson's Streights to the River Saint Johns which discharges itself into the Sea nearly opposite the West End of the Island of Anticosti including that Island with any other small Islands on the said Coast of Labrador and also the Islands of Madelaines,” and so on.

Then I think you will find that over the page there is another reference to Labrador. That is with regard to all Our efforts and Garrisons Erected and Established or that shall be Erected and Established in Our said Islands of Newfoundland ”—then, of course, there are included the new ones—“ Anticosti and Madelaine,” and it goes on : “ or on the Coast of Labrador within the Limmitts aforesaid.” Then it says that he is to conform to the Instructions : and then I think Labrador is introduced again at line 19, where it says that he is to administer the oath to persons who “ pass into Our said Islands or shall be resident or abiding there,” and then, of course, it was necessary to put in Labrador, and so it says ; “

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or upon the Coast of Labrador within the Limmitts aforesaid.” Then you have the words “ the said Island and Coasts,” and then you have a very important direction, which is fundamental to the duty of the Governor of Newfoundland, that he is to conform himself in every way to the Act of 1699, which is the Fishery Act. Then he is given certain powers, and he is to aid “ the Commander of Our Ships of War,” and so on, and to help the various Admirals. Those are not the Naval Admirals, but the Admirals who got their rather quaint title by being first on the scene. He is to help them in carrying out “ the several good Rules and Orders prescribed by the said Act for encouraging the Trade to Newfoundland.” That is the Act previously referred to.

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Viscount HALDANE : Those are the merchant commanders.

Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord. “ The Trade to Newfoundland ” is a well recognised phrase ; it occurs constantly ; and that trade is, in our submission, the cod fishing trade carried on by ships which came from the West Coast of England, spent the summer in Newfoundland, and returned with their catch.

Lord WARRINGTON : But this is clear, is it not, that whatever authority he had as Governor of Newfoundland, he had as Governor over “the Coast of Labrador,” whatever that phrase means ?

Mr. MACMILLAN : I think that must be so, my Lord.

Lord WARRINGTON : That is so. Whatever authority, territorial or otherwise, he had in the Government of Newfoundland, he also had over whatever it was that was added to his governorship.

Mr. MACMILLAN : Yes, my Lord.

Lord WARRINGTON : It is exactly the same.

Mr. MACMILLAN : Yes, my Lord ; and perhaps I might just say at once something which may possibly help a little. A certain amount of confusion has I think arisen in this way, that it has been suggested that certain acts by the Governor of Newfoundland on the coast of Labrador in some way or other are inconsistent with my case. Of course, they are not inconsistent with my case, because we accept the position that the Governor of Newfoundland had a jurisdiction on the coast of Labrador which was a real jurisdiction. I will say something about that in a minute or two ; but that he had a jurisdiction on the coast of Labrador is, of course, conceded on both sides here. The whole question is, how far inland it extended. A great many of the acts which have been referred

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to, and which are not indeed historically recorded in these volumes, are acts which are not in the least significant for our present purpose, because, indeed, the Governor of Newfoundland would have been remiss if he had not done those acts. Therefore we are back again at the question—

The LORD CHANCELLOR : Of how far in it extended.

Mr. MACMILLAN : Yes, my Lord, exactly.

The LORD CHANCELLOR : It is material to observe how far in the acts were done.

Mr. MACMILLAN : Yes, my Lord ; and that is exactly what I want to bring out. There are, I am afraid, hundreds of pages there,

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telling your Lordships about acts which have been done ; but when you come to discriminate, and to eliminate those which we admit were proper things for the Governor of Newfoundland to do (that is to say, which were referable to the “ coast,” whatever that means), you will find that those which relate to matters penetrating into the interior of this Province are exceedingly few and far to find. My learned friend, Sir John Simon, mentioned several of them, and I think he rather gave your Lordships the impression that they were samples chosen at random from a bulk ; but in our humble submission they are practically the whole of the instances. I knew them all, and I listened with interest to their being brought out one after the other ; but so far from being samples from bulk. they constituted, I think, practically the whole of the ones that I had also noticed as being significant in any way of a penetration by the Governor—whether legitimate or not is another question—beyond what I might call a coastal jurisdiction.

I wanted to make that observation, because one is so apt, I think, to assume here, perhaps against me, that we are seeking to drive Newfoundland into the sea. That is not the position which we take up at all. The whole question is, how far inland does this undoubted jurisdiction, which was a jurisdiction accompanied no doubt with the same powers as the Governor had in Newfoundland territory—how far does it extend ? Therefore, with great respect, it does not dislodge me from my position to say that he had, with regard to what was added at this time to him. the same powers as he had with regard to his original territory of Newfoundland.

But it is significant to observe, in connection with the question of what was the depth inland, with what mind those powers were given to him. It was a new area. whatever it was, but why were those powers given to him, and with what end ? If your Lordships accept the submission that I am making, that the whole purpose of this matter was— as I think I have vouched from the documents—to fulfil and to

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carry into execution the Fishery articles of the Treaty of Paris, then you get what I venture to think is an exceedingly valuable pointer to the extent of the territory which was confided to the Governor of Newfoundland to be administered by him along with his original jurisdiction of the Island of Newfoundland.

Lord Warrington.

That is, in my humble submission, the real significance of this chapter of the case, and therefore I do not in the least flinch from the fact that the coast of Labrador was added as an adjunct to the Island of Newfoundland ; but it is of the greatest moment to see with what object that was done, and it is also of the greatest importance to see why the Governor of Newfoundland was selected for that. I shall submit later on, when we examine the position of the Governor on these documents, that he was selected because he was just the person, having regard to his existing powers and experience, to whom the carrying out of these provisions of the Treaty might best be confided by this means of giving him a coastal jurisdiction over Labrador. Your Lordships see the scheme upon which I propose to develop this line.

Mr. Macmillan.

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Lord WARRINGTON : We have not got his original Commission as Governor of Newfoundland, have we ?

Mr. MACMILLAN : I asked for that, and I could not get it, my Lord.

Lord WARRINGTON : It looks as if the only alteration made in the new Commission was to introduce the expression describing the coast of Labrador, whatever that is.

Mr. MACMILLAN : Yes, my Lord. I think I can help your Lordship with regard to that, because I had the same research. It occurred to me that it would be interesting to see whether, as often happens, these people, in putting words in of extension, did so without quite seeing what they were doing. We have one document among the papers. There is a Commission to Francis William Drake, a Governor of Newfoundland, printed in Volume IV, at page 1844. That is the only one that I can find. The date of it is 1750, and it is therefore quite a good date to take. It is thirteen years before this. It might have been better if we could have got the actual one which was recited.

Lord Warrington.

Sir JOHN SIMON : It could be got, I think.

Mr. MACMILLAN : No doubt it could. It would be useful, just to see what the draftsmen had done.

Mr. Macmillan.

Viscount HALDANE : We know the date of the first one.

Mr. MACMILLAN : Yes, my Lord, Graves's first Commission is recited. It was dated the 29th May, " in the

first year of our reign,” which would be 1760, so that the date is the 29th May, 1760, three years before ; but I have looked through this one which is on page 1844 of Volume IV, and I cannot find any great novelty in the Commission to Captain Graves after 1760 other than the introduction at the appropriate places of “ Labrador.” I think that is fair ; I would not like to commit myself to it, because I have not had them read over textually, but that is my impression, that it was just a case of taking the existing Commission, and then, where it was appropriate, putting in the words “ the Coasts of Labrador,” with the definition.

Lord WARRINGTON : It merely emphasises the position that whatever authority he had given to him by the Commission over Newfoundland, he also had given to him over “the coasts of Labrador,” whatever that expression means.

Mr. MACMILLAN : Yes, my Lord. I do not think any point will arise between us upon that, because he had undoubtedly some jurisdiction. The limits of it are a different matter, of course.

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Mr. Macmillan.

Viscount HALDANE : He must have been there for a very long time. Here is a Commission of 1750.

Mr. MACMILLAN : That, my Lord, is a Commission to William Francis Drake, and not to Captain Graves. That is another Governor, a predecessor, thirteen years before. The general term of office was about three years if I remember aright. It is always, I think, helpful if one indicates just at once what one's point is upon the documents in order if possible to draw attention to what the significance is. In our submission the significance to which I drew attention just now is the concentration in the minds of those people upon a fishery problem, a method of dealing with it, and they selected as a method of dealing with it the invocation of the Governor of Newfoundland, and to that Governor they confided certain new powers and duties with the intention of thereby effectuating the Treaty clauses relating to fisheries. It is for the purpose of measuring the territory which was confided to this Governor under the name of " Coasts " that I think the inception of the whole matter becomes of so much importance, it is for that purpose and it is in aid of that problem, I adduce this historical investigation.

Sir John Simon is good enough to give me a list of the Newfoundland Governors and Captain Drake, whose Commission my Lord has just been looking at was 1750 ; then there intervened four gentlemen, four captains intervened, and then in 1761 comes Captain Graves. Then his Commission had to be altered, it was taken in hand, you can see the very tiring being done, you can see his Commission being put on the Table, and they are saying : What alterations have we to make, and the draftsman is at work. This was the result. Here we are at the very root of the whole matter, what was it that was then done ? The rival contentions, my Lord, emerge almost at once. My learned friend, Sir John Simon, says there was thereby confided to the Governor of Newfoundland a territory extending to what is now called the height of land far into the interior, and he thereupon became Governor in addition to Newfoundland of an area some two or three times in amount including this great territory which was an ascertained or an ascertainable territory confided to his administration and Government then and there, before any of the other administrative areas on the mainland were carved out at all.

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Viscount Haldane.

Mr. Macmillan.

My submission is, that that is most unlikely. The real intention of the whole matter is : What plan is the best plan for carrying out the Treaty, what plan is the best plan for regulating these fisheries, what plan shall we adopt ? The plan adopted was to put the coasts of Labrador under the jurisdiction of an existing functionary out there selected for the purpose because of his special fitness and proximity to

the place, and what was confided to him was a coastal jurisdiction the precise ambit of which is measured by the purpose for which it was conferred.

Viscount HALDANE : There were two things added later ; it was to protect the Moravians ?

Mr. MACMILLAN : Yes.

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Viscount HALDANE : The Moravians would naturally be upon the coast, obviously it would be quite impossible to prevent the Moravians trying to deal with the Esquimaux further in.

Viscount Haldane.

Mr. MACMILLAN : There is a most interesting thing in this case of which your Lordship has heard nothing about at all—that is, the whole question of the ethnographic distribution of population in this area. I shall have to come to that ; it is a most interesting chapter ; it is closely cognate to the Moravians. I propose to give your Lordships chapter and verse for all that a little later on, because there is a most interesting chapter of the case upon that which will require to be really opened new for the first time.

Mr. Macmillan.

You see now the plan that was adopted to effectuate the Treaty of Paris in this matter of the fisheries and the plan adopted was to extend the Governor of Newfoundland's ambit to include the coasts of Labrador. The inference I therefore take from that at once is just this, that was not intended to make him administrator of a vast territory where furring and other native industries of that sort were carried on, and to make him Governor over the Red Indians in the Interior right up to the height of land, that was far beyond anything which can have been in contemplation at that time.

Viscount HALDANE : Just remind us, Mr. Macmillan, of the nature of the title of the Crown to the Island of Newfoundland. It dates back to when ?

Sir John Simon.

Mr. MACMILLAN : It is a very early title, I suppose it was a title by discovery originally. My learned friend is good enough to tell me 1497.

Viscount HALDANE : Then it was an island which was annexed just as any discovered island is.

Mr. MACMILLAN : Yes, The French were on it for part of the time, you find traces of that in the references to Placentia.

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Viscount HALDANE : How did the French surrender it ?

Sir JOHN SIMON : Any rights they had they surrendered by Treaty.

Viscount HALDANE : Which Treaty was that ?

Sir JOHN SIMON : The Treaty of Utrecht. The French were more particularly in the Southern part of the island. Placentia was in the South, it is a very big place. Under the Treaty of Utrecht you will find one of the terms was an acknowledgment of the French ceded in the language of cession that they no longer had anything to do with Newfoundland.

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Viscount HALDANE : They gave up their territorial right in Newfoundland and retained fishery rights.

Mr. MACMILLAN : Yes. May I suggest, if your Lordship is interested in this subject, we have in Volume IV, at page 1667, and the following pages, a sketch of the history of Newfoundland up to 1809. I cannot claim authority for that, it professes to be based on the documents hereinafter[sic] printed and is only therefore of value in so far as it is vouched by the documents printed, but it is like many of the other papers in these Volumes, in the nature of an essay. There are quite a number of interesting essays contributed on both sides which are of exceedingly interesting reading. This is our essay.

Sir JOHN SIMON : It has, in my view, a slightly tendentious quality.

Mr. MACMILLAN : I should not be surprised if it had. I noticed your speech had a very tendentious character.

Viscount FINLAY : Where does it come from ?

Mr. MACMILLAN : It has come from our office, it has been compiled for us by one of the officials. One of the officials of the Government at Ottawa compiled this ; be it tendentious or not, it is at least an attempt to state the history and much of it, I think, can scarcely be regarded as tendentious.

Viscount HALDANE : It is a summary of other documents.

Mr. MACMILLAN : It professes to be that. Pray do not for a moment think I am asking any authority for it beyond this, that it is an attempt by a person conversant with the documents to state the history ; therefore, if your Lordships want the history of Newfoundland, with that caution, that it emanates from us, you will find it there.

Viscount HALDANE : Does this tell us what the size of Newfoundland was ?

Mr. MACMILLAN : Between 40,000 and 50,000 squares

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miles.

Sir JOHN SIMON : Round about 50,000.

Mr. MACMILLAN : I had noted this area, if added to Newfoundland, would be about two or three times the existing size of the Island.

Sir JOHN SIMON : It is over twice, but not as much as three times.

Viscount HALDANE : You mean Labrador.

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Mr. MACMILLAN : The Labrador area claimed on behalf of Newfoundland was about 110,000 square miles, therefore that would be about twice or thrice.

Sir JOHN SIMON : Rather over twice.

Mr. MACMILLAN : It may be appropriate at this stage just to look a little at the definition of the new limits as you find them in the Commission at page 149. I may here again forecast a little of what will be my ultimate position. It is quite manifest that the controversy in this case turns largely upon the ambit of this word " coast " or " coasts." The first thing one notices is that those two words are used indifferently. It is striking that even in this Commission, within four lines, one finds " coasts " and " coast " apparently used as signifying the same thing. I do not know that much comfort can be derived by me in that variation in terminology. Possibly the word " coasts " rather suggests a maritime seaboard, but I do not think a great deal can be made of that. Still, for what it is worth, the " Coasts of Labrador " suggest, I submit, a maritime seaboard ; they have a maritime flavour about them, more pronounceable perhaps than the expression " Coast of Labrador." We do not talk of the " Gold Coasts," if you take an example given against me, or the " Guinea Coast," it is the " Gold Coast," and the " Guinea Coast," the " Cote d'azur" and the " Cote d'or " and so on. I do not think there is very much in that.

Viscount FINLAY : It strikes me that " coast " has rather more of a maritime flavour.

Mr. MACMILLAN : It is a matter of impression. Is not the truth of it this, when one comes down to the realities of it, that the word " coast " is one of those words of ambiguous import, of which there are many in these matters, and you can find examples throughout these books of the use of the word " coast " in the sense I would like it, and quite a large number of examples in the sense in which Sir John Simon would like it. I am trying, my Lord, to poise it as fairly as I can. The

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word is one of those words of ambiguous use, and, therefore, it is one of those words whose content must be found in its context ; that it is a word apt to describe the area which I maintain it did describe, cannot be refuted. On the other hand, that it can be read to include a relatively large area of land, not necessarily even maritime, is, I humbly submit, quite true. Your Lordships will not hear from me any argument to the contrary. Our submission is that the word being susceptible of more than one meaning, you must derive its content in this case from its context, the context not merely of the documents in which it occurs, but also the surrounding circumstances, and in this case our humble submission will be that you get a remarkably good indication of the way in which that word was used in this case from the purpose of the Commission and from the surrounding circumstances.

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Viscount HALDANE : You will have to tell us a little about that one-mile line ; I take it that is a mere suggestion, and I presume you are going to tell us about the Hamilton Inlet ?

Mr. MACMILLAN : I am afraid I have many things to tell your Lordships about. I regret that they should be so numerous, but I have endeavoured, to the best of my ability, to arrange the matter in a convenient form, I rather think they will come in their place. The difficulty is here so often you get a side light from another chapter of the case upon the one one is handling at the moment, one cannot be entirely logical, and I have a method which may commend itself to your Lordships as we proceed. I am afraid I am harping too much on this matter, but I cannot over-estimate its importance, because it seems to me we are at the very heart of the problem, we have a certain formula used, and your Lordships are concerned to examine that formula in all its minuteness, to see what is the true meaning and intent of this phraseology which is used. What did those who used that language have in mind ; what was the object they sought to achieve ; what were the circumstances in which they sat down to the table to alter the Commission of Graves ? It was this which I was so anxious to have brought prominently before you, my Lords, in order that you may approach it with an air of reality, and not merely with an air of a draughtsman who was carrying out instructions.

Viscount Finlay.

Mr. Macmillan.

Viscount FINLAY : Does it come to this, that whatever was not comprised within your meaning of the word “ coast ” would not be British territory ?

Mr. MACMILLAN : No, my Lord, far from that, it is Indian territory it is the Crown reservation ; that I hope to make very clear.

Viscount FINLAY : It is vested in the Crown ?

Mr. MACMILLAN : Yes.

Viscount FINLAY : They were holding it in trust for the Indians. That is your position.

Mr. MACMILLAN : Yes, until 1774, when the Boundaries of Quebec were extended so as to embrace the whole of Labrador up to the Southern boundary of Hudson's Bay, whatever that means, but there was an extension made in 1774. One of the points in issue is what exactly that extension achieved. Your Lordships will see there is a period from 1763 to 1744 which I have to account for. That this was all British territory, my Lord, after 1763 there is no question at all ; therefore it was a question as I put it, I am afraid more than once, of this : Being confronted with all the problems this area presented, such as problems of administration, how were they to be dealt with, what was the plan of administration which was to be adopted ? As I say, the significant thing is that they addressed

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themselves, first of all, to Fishery, and then disposed of Fishery in this way. I will come back again on the question of what was the position of a Governor of Newfoundland, just taking him as a functionary, but I have made, to the best of my ability, the first point on this matter.

My Lords, the next matter was this, having disposed of the fisheries, the Lords of Trade addressed themselves next to an entirely different subject, as I submit,. They addressed themselves next to the question of parcelling out the Continent of Canada, which had now become a matter of administration by Great Britain, and you look therefore to the documents which preceded the proclamation, because the proclamation was the document which parcelled out territory in contradistinction to what I suggested before, namely, the regulation of fisheries, and this matter is all later than the fishery matter. Would your Lordships be good enough to turn to what I venture to call a new chapter, Volume III, page 899. This is May 5th. My Lords will always be good enough to look back to the calendar I gave at the beginning ; you notice Captain Graves is now out of the question, he has got his commission and Labrador is disposed of so far as the coast of Labrador is concerned. Here at page 899 you find a very important letter. This is addressed by the Secretary of State, Egremont, to the Lords of Trade, and just as the Lords of Trade had been directed earlier in the year to concerning themselves with the question of fishery arising under Articles 5 and 6 of the Treaty, so now they considered other matters, matters, as I suggest, of territorial administration. “ My Lords, His Majesty having brought the negotiations with France & Spain to a happy Conclusion, and having given the necessary Orders for carrying into Execution the several Stipulations of the late Treaty, is now pleased to fix his Royal Attention upon the next important Object of securing to his Subjects, and extending the Enjoyment of the Advantages, which Peace has procured.” You observe transition embodied in that sentence, he has closed one chapter and is now addressing himself to what I venture to call the problems of administrations of his new territory : “ His Majesty therefore, upon the same Principle of Solicitude for the Interests of His Colonies, which engaged him in a just & necessary War, in support of their Rights, and obliged him to insist on such Terms of Peace as he thought peculiarly calculated for the future Security of that important Object, directs me to transmit to Your Lordships herewith the Definitive Treaty of Peace ; and I am commanded to signify to your Lordships His Majesty's Pleasure, that You do, without Loss of Time, take into your most serious Consideration, those Articles which relate to the Cessions made by their Most Christian & Catholick Majesties, & that You do report Your Opinion. By what Regulations, the most extensive Commercial Advantages may be derived from

those Cessions, and how those Advantages may be rendered most permanent & secure to His Majesty's Trading Subjects. The Means of arriving at these desirable Ends, will perhaps be most distinctly pointed out, by considering, separately, the several Cessions stipulated by the Articles of Peace and examining the different Circumstances by which each Cession becomes more or less susceptible of the great

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The Lord Chancellor.

Advantages of Commerce & Security above mentioned.”

Mr. Macmillan.

Then comes the questions : “ North America naturally offers itself as the principal Object of Your Lordships Consideration upon this Occasion, with regard to which, I shall first obey his Majesty's Commands in proposing to your Lordships some general Questions, before I proceed to desire you will furnish that Information, which His Majesty expects from your Lordships, with regard to the Northern or Southern Parts of this Continent considered separately. The questions which relate to North America in general, are, 1st. What New Governments should be established & what Form should be adopted for such new Governments ? and where the Capital, or Residence of each Governor should be fixed ? ” My Lords, one new Government in North America had already been fixed according to my learned friend, Sir John Simon ; a very large territory in North America, to wit, the whole territory of Labrador up to the height of land had already been placed under a new Government in North America, and the form of it fixed, which was a considerable addition to the duties of the Government of Newfoundland.

Sir John Simon.

The LORD CHANCELLOR : That was not part of the cession made by the Treaty of Paris as I understand. If Labrador had been ceded at all it had been ceded by the Treaty of Utrecht some years before.

Mr. MACMILLAN : I think not, with great respect. We got this territory certainly under the Treaty of Paris, at least I always assumed so.

The LORD CHANCELLOR : I thought from the answer you gave just now that it was not so.

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Sir John Simon.

Mr. MACMILLAN : I think what your Lordship has in mind is this, under the Treaty of Utrecht the Hudson's Bay territory was British, but then the Hudson's Bay territory was territory of ambiguous boundary and below that in Labrador it was all French.

The LORD CHANCELLOR :. I have not read this history.

Sir JOHN SIMON : Perhaps I might just say I have before me the relevant Article of the Treaty of Utrecht, which had to do with the Island of Newfoundland. Perhaps I may just read it, it is Article 13 ; I am afraid it is not printed in the book. “ The

Island called Newfoundland with the adjacent Islands shall from this time forward belong of right wholly to Britain and to that end the town and forts of Placentia and other places shall be yielded and given up." It was not under the Treaty of Utrecht the Island of Newfoundland was as a whole ceded, most of it was British already, but there was a certain French settlement on the south of it. I think my friend is right therefore when he says this Article of the Treaty dealt with the Island of Newfoundland.

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Mr. Macmillan.

Sir John Simon.

The LORD CHANCELLOR: There is another Article dealing with the Hudson Bay territory.

Mr. Macmillan.

Sir JOHN SIMON : Certainly, I do not, of course, say the area on the coast of Labrador was as between Britain and France admittedly all French, still it would not be correct to say that Article 13 of the Treaty of Utrecht was dealing with anything but the Island of Newfoundland.

Mr. MACMILLAN : There were undoubtedly disputes as to whether the English had part of Labrador.

Sir JOHN SIMON : That is right.

Mr. MACMILLAN : The position was this I think, that any such disputes necessarily evaporated under the Treaty of 1763 because then France gave up anything it had including any claims it might have.

Sir JOHN SIMON : That is quite right, therefore there was a consolidation, it did not matter from which of two sources anything came.

Viscount Haldane.

Mr. MACMILLAN : Therefore, my Lord Chancellor will take it the territory which on my friend's contention constituted what I may call the Government of Labrador was part of the territory which it was the duty of the Lords of Trade to advise His Majesty how to parcel out.

Mr. Macmillan.

The LORD CHANCELLOR : That is what I understand.

Mr. MACMILLAN : I do not wonder at my Lord asking that because the significance of it is, very great. We were looking at the administration just now of a large area, I suggest to my Lord that here you have a most remarkable contemporary document. It says : Now we have disposed of all those fishery questions, let us consider the question of governing the mainland of Canada, the land which has been confided to us for the first time. The first question is what new Government shall be established.

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Lord Warrington.

Viscount HALDANE : Is there anything which throws lights on the question whether they were proposing at this time to

dispose of the newly acquired territory as a whole exhaustively, or piece by piece ?

Mr. MACMILLAN : This also appears ; there were questions whether the whole should be put under new Governments that were to be constituted or whether there should be portions of them left for the time being until more was seen. You will see that comes out quite clearly in the documents.

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Lord WARRINGTON : You have got to remember in that part of North America the Hudson's Bay territory had by the Treaty of Utrecht been restored wholly to the British Crown, at least to the Hudson's Bay Company.

Mr. Macmillan.

Mr. MACMILLAN : That is quite right, I will deal with that later on.

Lord WARRINGTON : So that the territory lying to the west was not a new cession by France, they merely retired from what they had during the war possessed.

Mr. MACMILLAN : Anything that belonged to Hudson's Bay was ours already before 1763.

Lord WARRINGTON : The Treaty of Utrecht gave “ all the lands, seas, sea-coasts, rivers and places situate in the said Bay and Streights.”

Mr. MACMILLAN : Let me be exact and I hope also just. My learned friend, Sir John Simon, contended that the Hudson's Bay territory ended at Cape Chidley and followed down the height of land you may remember. He maintained therefore what he got in 1763 was the whole of this area because he said Hudson's Bay was not in this area. I think I put this fairly ?

Lord WARRINGTON : Yes.

Mr. MACMILLAN: Therefore his submission would be this, the whole of that area included no Hudson's Bay territory and was all territory which was placed under the Government of Newfoundland as being territory which at the moment was territory which had to be provided for and was so provided for. Now it is most significant to see up to this date His Majesty has not instructed his Lords of Trade to consider the question of Government at all, he has instructed them most carefully to deal with fishery questions, and to give him a plan for dealing with fishery questions, a plan was devised, fisheries were disposed of, now he asks for advice from the

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Lords of Trade : How shall I govern my new territories, forgetting apparently, on my learned friend's contention, that he had already disposed of territory more than twice the size of Newfoundland on the mainland and installed the Governor of Newfoundland as the monarch of that area with his Commission and instructions and the complete apparatus of Government so far as more or less primitive territory like that could be governed. His Majesty asks : “ 1st What new Governments should be established and what form should be adopted for such new Governments ? and where the Capital, or Residence of each Governor should be fixed ? 2ndly What Military establishment will be sufficient ? What new forts should be erected ? and which, if any, may it be expedient to demolish ? 3rdly In what mode least burthensome and most

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palatable to the Colonies can they contribute towards the support of the additional expense, which must attend their civil and military establishment, upon the arrangement which your Lordships shall propose ? Under the first of those heads, viz. What new Governments shall be established ? It will be proper to examine, what privileges are reserved to His Majesty's new subjects by the terms of their Capitulations ; I therefore send your Lordships herewith the Capitulation of Quebec and Montreal.”

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Mr. Macmillan.

Viscount HALDANE : Before you go into that, it is obvious there were large tracts of territory which were reserved to the Crown. For instance, there were the Indian lands. The Indian lands were not put under the administration of any other power as far as I remember and from what I have been told. The radical title of the Indian lands was in the Crown, and it is to this hour. The system under which the Indian reserves were ultimately set aside was that the radical title remained in the Crown, and was neither in the Dominion nor the Province. At the time you are speaking of huge tracts of British North America must have been left without any administration, but with the title in the Crown. And there may have been other parts left alone for subsequent settlement.

Mr. MACMILLAN : On this very shore of the St. Lawrence there was the very important establishment known as the King's Posts. I will go into that later on. If we are right about that, the King's Posts extended into a considerable part even of the cherished green. But I should have to show that, of course. But whether I succeed in showing that or not, I shall be able to show that there were Indians there under the special protection of His Majesty, and Trading Posts which were known as King's Posts, the revenues of which were obtained by His Majesty, being farmed out. However, that is rather beside the question, except for this. What the Government is engaged on here obviously is this. How are we to govern these extensive new territories confided to us ?

That was the problem. When one looks at this document it is a very odd thing if by anticipation a large portion had already been put under settled government in the hands of the Governor of Newfoundland. The first question the Lords of Trade proceed to examine is shown at page 900. “ Under the first of those heads, viz. What new Governments shall be established ? It will be proper to examine, what privileges are reserved to His Majesty's new subjects by the terms of their capitulations ; I therefore send your Lordships herewith the capitulation of Quebec and Montreal. It may also be a proper object of consideration, how far it is expedient to retain, or depart from the forms of government which His Most Christian Majesty had established in those Colonies ; and in order to furnish your Lordships with those lights, which may enable you to form a just opinion on this head, I send herewith copies of the several reports of Governors Murray, Burton and Gage.” Governor Murray's report your Lordships will find exceedingly helpful on this

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problem a little later on, because you will see the information they had. Governor Murray's report is printed at page 893, if my Lords wish to Mr. Macmillan. side-note it.

“ The second question, which relates to the security of North America ”—observe in its largest terms—“ seems to include two objects to be provided for ; the first is, the security of the whole against any European Power ; the next is the preservation of the internal peace and tranquility of the country against any Indian disturbances. Of those two objects, the latter appears to call more immediately for such regulations and precautions as your Lordships shall think proper to suggest.”

Viscount HALDANE : That is Imperial defence.

Mr. MACMILLAN : Yes. The peace and tranquility of the country. “Though in order to succeed effectually in this point, it may become necessary to erect some forts in the Indian country, with their consent, yet His Majesty's justice and moderation inclines him to adopt the more eligible method of conciliating the minds of the Indians by the mildness of his Government, by protecting their persons and property and securing to them all the possessions, rights and privileges they have hitherto enjoyed, and are entitled to, most cautiously guarding against any invasion or occupation of their hunting lands, the possession of which is to be acquired by fair purchase only ; and it has been thought so highly expedient to give them the earliest and most convincing proofs of His Majesty's gracious and friendly intentions on this head, that I have already received and transmitted the King's commands to this purpose to the Governors of Virginia, the Two Carolinas and Georgia, and to the Agent for Indian Affairs in the Southern Department, as your Lordships will see fully in the inclosed copy of my Circular Letter to them on this subject. Having thus executed the King's commands, with regard to such questions as relate to North America in general, I am to signify to your Lordships His Majesty's further pleasure that you do take into consideration the following Queries, which concern some parts of that Continent in particular. The first and most important object is the Fishery, with regard to which your Lordships will furnish all the lights you possibly can in order to skew :—Whether the French had made any incroachments with regard to the Fishery, contrary to what is stipulated, on this head by the Treaty of Utrecht ? How those incroachments may be most easily prevented by such timely precautions, as may most effectually obviate all disputes between the subjects of both Crowns, in those parts and preserve peace and tranquility there for the future ? What inconvenience or disadvantage may arise to His Majesty's

Northern Colonies, or to the Fishery in those parts, from the vicinity of St. Pierre and Michelon, ceded to France, under certain restrictions by the 6th Article of the Definitive Treaty ? And by what precautions may that inconvenience be most effectually guarded against, either with respect to our Fishery, or a contraband trade with our Colonies.”

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Then follows a lot about Florida, and then at the foot of the page there is this : “ Having thus gone through the several points relative to North America, upon which His Majesty desires to have the opinion of your Lordships, the obvious application of most of the same Queries to the other cessions made to His Majesty by the peace, makes it unnecessary to repeat them ”—and then he goes on to ask about Senegal and so on. Then on page 902, among the material handed to the Lords of Trade to enable them to consider what new Governments should be established, and to give answers on this and the other matters they were asked to busy themselves upon, there is Governor Murray's report, which is given on page 893 ante. It was in reply to that letter, which I do not think your Lordships had before you, that the letter printed upon page 903 and following pages was returned by the Lords of Trade, dated 8th June, 1763. These are the Lords of Trade who have already dealt with the question of Labrador, and are now addressing themselves to this second task. “ May it please your Majesty, Having received your Majesty's commands, signified to us by a letter from the Earl of Egremont, dated May 5th, 1763, to take into consideration ”—and so on—“ And your Majesty having further directed us with regard to North America in general, to point out, what new Governments it may be necessary to establish, with the form most proper for such Governments and the places most convenient for the Capitals : what military establishments will be sufficient for that country ; “—and so on—“ And your Majesty having commanded that, particularly as to Canada and Newfoundland, after furnishing every information in our power relating to the Fishery, we should consider the encroachments made by the French in this Article, contrary to the stipulations in the Treaty of Utrecht ”—and then they recite the powers to which I have already alluded, and say : “ In obedience to your Majesty's commands, we have taken the several points referred to us into our most serious consideration, and are of opinion that we shall best comply with your Majesty's intention and directions by stating particularly the advantages which severally result to your Majesty's Colonies and the commerce of your subjects by the cessions stipulated in the late Treaty, and then submitting our humble opinion to your Majesty of the means, which appear to us immediately necessary to be put in execution for securing and improving those advantages.” Those are new means over and above the means already put into execution through the Commission to Captain Graves. “ The most obvious advantages arising from

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the cessions made by the Definitive Treaty are, The exclusive Fishery of the River St. Lawrence on all the Coasts in the Gulph of St. Lawrence and all the Islands in that Gulph.” I think I am entitled to say, for what it is worth, that there “ Coasts ” has a maritime flavour. “ From all these Fisheries your Majesty's subjects were hitherto entirely excluded; partly by the express stipulations of the Treaty of Utrecht by which Cape Breton, St. Johns and the other Islands in the Gulph were dismembered from Nova Scotia and ceded to France, partly by the claim immediately set up by France to the whole southern shore of the

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Gulph under pretence that it had never been made a part of Nova Scotia, but had always been considered as a separate district of New France. In consequence of this claim and of the possession instantly taken of that territory by the French. which till the late war they were permitted to retain, they established their most valuable fisheries in the different and most convenient bays of that country, as well in respect to catching and curing of fish and fitting out boats, shallops and other vessels, as to raising provisions at the cheapest rates. From all these circumstances this fishery upon the Coast of the Gulph and of the Islands in the Gulph of St. Lawrence, well known by the name of La Peche Sedentaire, has ever since been deemed one of the most valuable parts of the French Fishery and we have reason to conclude from the spirit and industry which your Majesty's subjects have shown ever since the reduction of Louisbourg that it will become equally valuable in their hands, especially when we consider that, the fishery of the River St. Lawrence consisting of whales, seals, sea-cows, etc., has been in the short period since the taking of Quebec, carried to a much greater extent by your Majesty's subjects, than ever it was by the French, during their possession of Canada. This claim. and the possession in consequence of it, of the whole Southern Coast of the Gulph of St. Lawrence, from the Streights of Canceau to Cape Roziere, at the mouth of the river, appears to us to have been the chief encroachment made by the French in violation of the stipulations in the Treaty of Utrecht ; but the monopoly of the Fishery which they endeavoured to establish upon this encroachment was greatly strengthened by other circumstances.”

I do not think I need read again till I come to line 30 : “ And by their possession of the whole Coast of Labrador, they not only carried on an extensive trade with the Esquimaux Indians in oil, furs, etc. (in which they allowed your Majesty's subjects no share) but by the vicinity of the eastern part of that Coast, to that part of Newfoundland, (where a permissive right of drying their fish, only during the fishery season was granted by the Treaty of Utrecht) they assumed in some measure an exclusive right to the navigation of the Streights of Bellisle. These several encroachments, will, we apprehend, entirely cease, on the one hand, by the complet

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settlement of your Majesty's Colony of Nova Scotia, according to its true and ancient boundaries, and on the other by the annexation of the Labrador Coast to the Government of Newfoundland, and by the faithful execution of those instructions, which your Majesty has been pleased to give to your Governor of that Island." They say, as to the fishery we think the purpose has been achieved. We have disposed of that matter, and we think successfully. We have devised a good plan for dealing with that.

Then they go on, on page 906, to say this : " The next obvious benefit acquired by the cessions made to your Majesty is the fur and skin trade of all the Indians in North America. The first of these articles before the present cession, was enjoyed by the French almost entirely ; the only part left in the hands of your Majesty's subjects, being that carried on by the exclusive company of Hudson's Bay, and a very inconsiderable quantity through the Province of New York. This trade was

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acquired in virtue of the possession which they had taken contrary to the stipulations of the Treaty of Utrecht of all the lakes in North America, communicating with the River St. Lawrence, though the circumjacent territory avowedly belonged to the six nations of Indians, acknowledged by the French to be your Majesty's subjects in that Treaty, and by virtue of the claim which they afterwards set up and were suffered to maintain for a long time of forcibly excluding your Majesty's subjects from any navigation in those Lakes." Those are the great Lakes to the west, Ontario, Huron and so on.

May I go now to line 14 of page 907. "Another advantage attending the late Treaty is the secure settling of the whole Coast of North America, as its produce may invite, or convenience for settlement may offer, from the mouth of the Mississippi to the boundaries of the Hudson's Bay settlements, with the whole variety of produce which is capable of being raised in that immense tract of sea coast, either by the industry of emigrants from Europe, or from the overflowing of your Majesties ancient Colonies. Previous to the late war, nothing is more certain than that many of your Majesty's ancient Colonies appeared to be overstocked with inhabitants, occasioned partly from an extremely increasing population in some of those Colonies, whose boundaries had become too narrow for their numbers, but chiefly by the monopoly of lands in the hands of land jobbers"—and so on. There is no suggestion there that this large area—which, of course, is included in that, because this is a tract of sea coast to the boundary of the Hudson's Bay Settlements, which according to my learned friend is Cape Chidley up in the north—has already been provided for by the previous Commission. It is a problem still, and is not a matter that has been dealt with and disposed of so far as that portion is concerned.

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I think I may now pass to page 908, the last paragraph. “ Having thus stated the most obvious advantages resulting from the cession made to your Majesty by the late definitive Treaty, we submit to your Majesty, as our humble opinion, that they can only be secured and improved by an immediate establishment of regular Governments ”—that is the first suggestion of the establishment of regular Governments in North America to deal with the territory.

Lord WARRINGTON : But will you read on.

Mr. MACMILLAN : Yes, my Lord. “ In all such places, where planting and settlement, as well as trade and commerce are the immediate objects.”

Lord WARRINGTON: That is where the new Governments are to be.

Mr. MACMILLAN : Yes, my Lord. “For in order to invite new settlers to risk their persons and property in taking up new lands, as well as to secure the old inhabitants in the enjoyment of those rights and privileges reserved to them by the Treaty, such regular Government appears, both from reason and experience, of absolute

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necessity. And it seems likewise necessary for the same reasons, as well as to secure your Majesty's sovereignty and the public tranquility, that a large military force should be kept up in each Government, till by the increase of inhabitants, each Colony shall be enabled to maintain their own Governments by their own internal force.” The next paragraph is of very great significance. “ But as no such regular civil Government is either necessary or indeed can be established, where no perpetual residence or planting is intended ; it will there be sufficient to provide for the free trade of all your Majesty's subjects under such regulations, and such administration of justice as is best suited to that end. Such we apprehend to be the case of Newfoundland, where a temporary fishery is the only object, and this we suppose has been the reason, which induced your Majesty to annex the Coast of Labrador to that Government. Such is the case of Senegal and the principle upon which we suppose your Majesty thought proper to put that river and country under the administration of the African Committee: And such we apprehend will be the case of that territory in North America which in your Majesty's justice and humanity as well as sound policy is proposed to be left, under your Majesty's immediate protection, to the Indian Tribes for their hunting grounds; where no settlement by planting is intended, immediately at least, to be attempted and, consequently where no particular form of civil government can be established. In such territory we should propose. that a free trade with the Indian Tribes should be granted to all your

Majesty's Colonies and subjects under such regulations as shall be judged most proper for that end ” and so on. “ We shall defer at present entering into any particulars, as to the number of troops which it may be necessary to maintain for this purpose. The number and situation of the posts and forts, and the regulations proper to be established for a free trade from all your Majesty's Colonies into the Indian Country ; till by further information from your Majesty's Commander in Chief of America, and from your Majesty's Agents for Indian Affairs, we shall be enabled to make a more full and particular report upon so interesting and important a subject. And we apprehend that no such delay can be attended with very material inconvenience, since, if your Majesty shall be pleased to adopt the general proposition of leaving a large tract of country round the great Lakes as an Indian country, open to trade, but not to grants and settlements, the limits of such territory will be sufficiently ascertained by the bounds to be given to the Governors of Canada and Florida on the north and south, and the Mississippi on the West ; and by the strict directions to be given to your Majesty's several Governors of your ancient Colonies for preventing their making any new grants of lands beyond certain fixed limits to be laid in the instructions for that purpose.”

Then on page 910, line 10 : “ Canada as possessed and claimed by the French consisted of an immense tract of country including as well the whole lands to the westward indefinitely which was the subject of their Indian trade, as all that country from the southern bank of the River St. Lawrence where they are carried on their encroachments. It

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is needless to state with any degree of precision the bounds and limits of this extensive country, for we should humbly propose to your Majesty that the new Government of Canada should be restricted, so as to leave on the one hand all the lands lying about the great Lakes and beyond the sources of the rivers which fall into the River St. Lawrence from the north, to be thrown into the Indian country, and on the other hand, all the lands from Cape Roziere to Lake Champlain, along the heights where the sources of the rivers rise, which fall into the Bay of Fundy and Atlantic Ocean, to be annexed to Nova Scotia and New England in such a manner as upon any future directions after particular surveys have been made shall appear most proper. If this general idea shall be approved the future bounds of the new Colony of Canada will be as follows. On the South East it will be bounded by the high lands which range across the Continent from Cape Roziere in the Gulph of St. Lawrence to that point of lake Champlain above St. Johns which is in latitude 45 degrees north ; which high lands separate the heads of the rivers which fall into the great River St. Lawrence from the heads of those which fall into the Atlantic Ocean or Bay of Fundy. On the North West it will be bounded by a line drawn south from the River St. Johns in Labrador by the heads of those rivers which fall into the River St. Lawrence as far as the east end of Lake Nipissin upon the Ottawa River, and on the South West by a line drawn due west to the River St. Lawrence from that point on Lake Champlain which is directly opposite to where the south line falls in and so cross the said River St. Lawrence and pursuing a North West course along the heights where the rivers rise, that fall into the Ottawa River, to be continued to the east end of Nipissin Lake where the north line terminates. In order however that your Majesty may judge with the greater precision of the limits of Canada as above described and also of those we shall propose for Florida, and of the country we think right to be left as Indian territory, we humbly beg leave to refer to the annexed chart in which those limits are particularly delineated, and of which your Majesty will have a clearer conception than can be conveyed by descriptive words alone." The chart referred to is Chart No. 27 of the Canadian Atlas, by Bowen & Gibson. Perhaps we may postpone looking at it for the moment, as I am on the text at present. "The advantage resulting from this restriction of the Colony of Canada will be that of preventing by proper and natural boundaries, as well the ancient French inhabitants as others from removing and settling in remote places, where they neither could be so conveniently made amenable to the jurisdiction of any Colony nor made subservient to the interest of the trade and commerce of this Kingdom by an easy communication with and vicinity to the great River St. Lawrence. And this division by the heights of land to the

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south of the River St. Lawrence will on the one hand leave all your Majesty's new French subjects under such Government, as your Majesty shall think proper"—I do not think I need read that further. That is the boundary along the Spine of the Gaspé Peninsula, as Sir John called it, where the height of land is made the express boundary.

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I had not noted for comment anything more in that document, and I think your Lordships might now look at the next important document on page 915.

The Lord Warrington.

The LORD CHANCELLOR : Do you attach importance to the words, on page 910, "beyond the sources of the rivers which fall into the River St. Lawrence from the north" ?

Mr. MACMILLAN : Oh, yes. My submission upon it is going to be that they contemplated territory right up to the north. Of the rivers that fall into the River St. Lawrence from the north a very good example is the River St. John itself. It falls into the River St. Lawrence from the north.

The LORD CHANCELLOR : It says the land beyond the sources of those rivers. That means the land beyond that height of land is affected.

Mr. MACMILLAN : Yes, that is so. There is a good deal more about this later.

The LORD CHANCELLOR : Of course, it stops at the River St. John, as its eastern boundary.

Mr. MACMILLAN : Quebec does.

Mr. Macmillan.

Lord WARRINGTON : When they say "the rivers that fall into the St. Lawrence" they do not mean the rivers that fall into the Gulf of St. Lawrence.

Mr. MACMILLAN : It is very difficult to say exactly where the gulf ends and the River begins.

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Lord WARRINGTON : We are not considering here the rivers on the south coast of Labrador which fall into the River St. Lawrence.

Mr. MACMILLAN : I am not sure, my Lord.

Lord WARRINGTON : I think you will find they are dealing with the boundaries of Quebec.

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Sir JOHN SIMON: My friend will notice the word "Gulf" comes immediately afterwards, and also before.

Mr. MACMILLAN : Yes, but I do not forget that I am

seeking for a line of demarcation between the Gulf and the River. It has been a highly contentious topic. I do not know whether one can get it out of this.

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Lord WARRINGTON : What are they setting themselves to define in that paragraph which begins : “ It is needless to state,” are the boundaries of Canada as possessed and claimed by the French. You will see in the previous paragraph it says : “Canada as possessed and claimed by the French consisted of an immense tract of country ”—and so forth. Then they say : “ It is needless to state with any degree of precision the bounds and limits of this extensive country.” That is what they are setting themselves to define in that paragraph.

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Mr. MACMILLAN : Yes, but may I suggest to your Lordship that Canada as possessed and claimed by the French included the whole of Labrador other than the Hudson's Bay territory. There is no doubt about that.

Lord WARRINGTON : I am not sure whether the French called that Canada.

Mr. MACMILLAN : I could show your Lordship that later on, I think.

Mr. Macmillan.

Sir JOHN SIMON : Governor Murray's report said it was not so.

Mr. MACMILLAN : Somebody else said the other thing.

The LORD CHANCELLOR : That expression in line 20 might be taken to refer to all land north of this height of land to a certain distance east, but I am not quite sure how far east. It is only north of the rivers which fall into the River St. Lawrence ; so that it might stop at this point, or a little bit further east, but would not go certainly beyond the River St. John.

Mr. MACMILLAN : Fortunately, I do not need to rely upon this for my point there, my Lord.

The LORD CHANCELLOR : It is rather obscure.

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Mr. MACMILLAN : I am not going to be dogmatic upon it, my Mr. Macmillan. Lord. I am not going to be dogmatic upon any point in this case. I am going to be, I hope, of assistance rather than a dogmatist, who never is of any assistance to anybody. I think you have this conception there. I suggest that you are parcelling out Canada as possessed and claimed by the French, and that you are considering this question of Government. You are recognising that certain

portions of it do not require the same elaboration of government as other parts, because they were more primitive, and some portions may be left to the Indians. The point I am concerned with at this stage is to show from a perusal of these documents that the Lords of Trade did not consider that they had relegated already a large part of Canada as possessed and claimed by

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the French to Newfoundland. That is what I want to bring out if I can.

Lord Warrington.

Lord WARRINGTON : But did they not recognise that on page 909, where they say : “ This we suppose has been the reason which induced your Majesty to annex the Coast of Labrador to that Government,” that is the Government of Newfoundland. Then when you look and see what the Coast of Labrador was, it was from the Hudson's Strait to the River St. John. Therefore, when they are settling the boundary of Canada that has to be, they are obviously not dealing with that which has already been annexed to Newfoundland.

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Mr. MACMILLAN : You will see how they parcelled it out. The significance of that is this. Here this Coast of Labrador has been annexed. Why ? Because a temporary fishery is the only object.

Lord Warrington.

Lord WARRINGTON: Oh, yes, I know the reason. I am only saying when you come to the definition of boundaries, on page 910, it must be fairly clear that they are not dealing with either the River St. John or anything to the east, because that territory they have already referred to—whatever “territory ” may mean. That is at issue, of course.

Mr. MACMILLAN : They have disposed of the coast of that territory. May I qualify it in that way. May I say the coast of that territory, because I attach great importance to that. The hinterland and interior, in my submission, are dealt with otherwise. My Lord will reserve judgment upon that for the moment.

Mr. Macmillan.

Lord WARRINGTON : I am only saying that the boundaries referred to on page 910 were not the boundaries of the territory which has already been annexed to Newfoundland, whatever it may be.

Mr. MACMILLAN : Of course.

Lord WARRINGTON : And it must be the rivers west of St. John's River, and not those to the east of it.

Mr. MACMILLAN : I think that probably is uncontrovertible.

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Your Lordships are, very naturally, possessed of the alluring propositions of my learned friend at present, which it is my humble endeavour to displace. The suggestion that your Lordship has in mind is naturally prompted by what you have already heard. If we pass to the reply on the 14th July, 1763, this whole matter is still under consideration. What are we to do in these new territories ? His Majesty is pleased to communicate his views. The passage is to be found at the foot of page 915. “ My Lords, Your Report, dated the 8th of last month, having been laid before the King, and His Majesty having taken the same into consideration ; I am, in consequence thereof, to acquaint

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your Lordships, that the King approves the erecting three new Governments in North America, under the denominations your Lordships propose, of Canada, East Florida, and West Florida.”

Viscount HALDANE : These are Crown Colonies.

Mr. MACMILLAN : There was provision made in Quebec for the calling of an assembly as and when times permitted.

Viscount HALDANE : That is all right. In the first instance they were Crown Colonies. We know that Sir George Murray had great trouble with the germ of the idea, and Sir Guy Carleton had after his time. There was a tremendous strife up to the days of Lord Durham which was finally settled about 1860.

Mr. MACMILLAN : That interesting historical statute which Sir John referred to, the Quebec Act, is exceedingly interesting reading on that subject. His Majesty approved of three new Governments, and they are suggested to be called Canada, East Florida, and West Florida. Then it goes on to point out : “ Yet the King thinks that great inconveniences might arise, from so large a tract of land being left without being subject to the Civil Jurisdiction of some Governor, in Virtue of His Majesty's Commission, under the Great Seal of Great Britain.” He has observed the boundaries proposed, but he says that that may mean a great deal of territory without civil jurisdiction. “ And (besides the Difficulties there might be, for Want of such a Civil Jurisdiction, in bringing to Justice Criminals and Fugitives, who may take refuge in that Country). Their not being included within some Established Government might, in time to come, furnish matter of Dispute, with regard to the Property; And other Powers, who might hereafter find Means of Access to those Countries, might take Possession thereof, as derelict lands ; the King therefore is of Opinion that, in the Commission for the Governor of Canada, all Lakes, namely, Ontario, Erie, Huron, Michigan, and Superior, should be included ’—that is the five lakes—“ with all the Country, as far North and West

as the Limits of the Hudsons Bay Company and the Mississippi.” Note the next very significant words, my Lord,—“ And also that all Lands whatsoever, ceded by the late Treaty, and which are not already included within the Limits of His Majesty's ancient Colonies, or intended to form the Governments of East and West Florida, as described in your Lordships Report, be assigned to the Government of Canada, unless your Lordships should suggest any other Distribution, which might answer the purpose more effectually ; On which matter your Lordships will lose no time in making a Report to His Majesty.” Now these are significant words, my Lord, “also that all Lands, whatsoever, ceded by the late Treaty, and which are not already included within the limits of His Majesty's ancient Colonies, or intended to form the Governments of East and

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West Florida, as described in your Lordships' Report, be assigned to the Government of Canada." There is a sort of rounding-up there of everything that has been acquired. He has dealt with the territory which my learned friend is so interested in, the territory round about the lakes ; he has made his suggestion about those, and he also goes on to say : Let us have a general round-up so that there shall be nothing left over.

The LORD CHANCELLOR : There must be an implied exception there of the coast of Labrador, whatever that means.

Viscount HALDANE : He includes that in the words which are used there, " which are not already included within the Limits of His Majesty's ancient Colonies, or intended to form."

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Mr. MACMILLAN : No, my Lord ; with great respect I think not. I do not think the exception is there. If it is there at all, it is an implied exception. Your Lordships will see where my point comes in there. I think as one reads these documents, looking at them in their true historical perspective, the impression which one forms is this, that Newfoundland was not regarded as having acquired territorial jurisdiction to any material extent at all. It is true that it did acquire, and we have accepted the position that it acquired, certain territorial jurisdiction ; but I venture to suggest for my Lords' consideration whether the whole idea was not merely, as the proclamation talks of itself,—“ care and inspection ” I think were the words.

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This question of the territorial aspect of Newfoundland and the main land was really negligible ; that was not considered of any importance. What was of importance was the vigilant observance of fisheries on its coast. You find throughout when they are dealing with the parcelling out of this territory of French Canada which had been ceded to us, a conspicuous omission to refer to any territory of Newfoundland in that area. It is always treated as if the Newfoundland Government is seated there, but as an institution of fishery interests, and therefore it is really irrelevant to the question of the parcelling out of the territory for territorial jurisdiction. You will see how that comes in in the proclamation. It fits the language of the proclamation extremely accurately, but on the generality of the language you do observe the suggestion of His Majesty was (of course, it was not carried out) that “ all lands whatsoever, ceded by the late Treaty ” be joined to the Government of Canada. That certainly would embrace, in my submission, the territory which my learned friend now claims and which, according to his view, had already been

excised from the ceded territory and confined to the Government of Newfoundland. “ Having thus informed you Lordships of the King's Intentions with regard to the Extent of the New Governments to be erected in North America ; I am now to repeat to you, That His Majesty entirely concurs in your Lordships idea, of not permitting, for the present, ally Grant of Lands, or New Settlements, beyond the Bounds proposed in your Report ;

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“Now—observe the words—“ And that all the countries, beyond such bounds, be also, for the present, left unsettled for the Indian Tribes to hunt in ; but open to a free Trade for all the Colonies : And the King; would have the Instructions to the Three New Governors in North America, formed so, as to contain the strongest Injunctions and Restrictions for this purpose.” Then they are told to get ready commissions for Governor Murray and the others. Then he deals with the ancient Colonies on page 917. I need not trouble with those, we know what they are. Then he thinks that the Agents for Indian affairs should “ correspond with your Lordships, in regard to the Indian country, and transmit information.” Following upon that, my Lord, you have the report of the Lords of Trade at page 919: “ In Obedience to your Majesty's Commands contained in a Letter from the Earl of Egremont, dated the 14th of July last signifying to US Your Majesty's Most Gracious Approbation of Our Idea, that that large Tract of Country, bounded by the Mississippi and the Limits of the Hudson Bay Company on the one hand and on the other by the Limits of Canada, East and West Florida and His Majesty's ancient Colonies, should for the present be made subject to no grants of Lands nor to any Settlements, But acquainting us, that it was Your Majesty's Pleasure, that it should be put under some civil jurisdiction, by a Commission,” and so on, for certain objects given, and “ that the whole of this Territory should be inserted in the Commission of the Governor of Canada.” Then they give reasons why it would be better to adopt another policy. My learned friend read the first paragraph there in order to emphasise that the adjacent territory around the lakes was what was in mind, particularly the six nations. Then he says : “ If these objections ”—that is to the King's proposal—“ should appear of Weight to Your Majesty, We would humbly propose that a Commission under the Great Seal, for the Government of this Country, should be given to the Commander in Chief of Your Majesty's Troops for the time being adapted to the Protection of the Indians and the fur Trade of your Majesty's subjects.” Then at the bottom you find the inception of the proclamation : “ In the meantime we humbly propose that a Proclamation be immediately issued by Your Majesty as well on Account of the late Complaints of the Indians and the actual Disturbances in Consequence, as of Your Majesty's fixed Determination to permit no grant of Lands nor any settlements to be made within certain fixed

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Bounds, under Pretence of Purchase or any other Pretext whatever, leaving all that Territory within it free for the hunting Grounds of those Indian Nations, Subjects of Your Majesty, and for the free trade of all your Subjects, to prohibit strictly all Infringement or Settlements to be made on such grounds.” My Lord, I pause here just to remind your Lordships of what are the two cardinal points of my learned friend's case which I have in mind as I am reading these documents, and which are no doubt present to your Lordship's mind. His case hinges upon two points, first, that the Hudson's Bay country was the height of land ; secondly, that there was no Indian territory reserved to His Majesty in the area

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he claims, that is to say, in the green area. These are the two cardinal matters, and that explains the anxiety with which he addressed himself to the ascertainment of the Hudson's Bay boundary on the one hand, because it was a height of land boundary, and the even greater insistence which he placed upon the identification of the hunting grounds of the Indians which were reserved to the Crown. If his case breaks down on either of those points, then the claim collapses, and he finds himself driven from the height of land to some place else. Where he might find a rest for the sole of his foot is a question which your Lordships may have to determine. If he is once dislodged from the height of land on which he has for the moment perched himself, then he will have to journey towards the coast in my company, however unwillingly, and find himself arrested at some particular point which will be the point your Lordships will determine ; it may be one mile, or more, or less, but it will be some point other than the height of land. Then he will be confronted with precisely the difficulty which he is pleased to taunt me with, that I suggest a boundary which is indefinite and unascertainable, while he is able to present to your Lordships a physiographical boundary, attractive, therefore, because ascertainable by scientific means and not merely ascertainable by legal means, as my boundary is. One can understand therefore his anxiety on these two topics of the Hudson's Bay boundary and the Indian territory, because if he fails upon either of those he is dislodged from the peak—I should not say “ from the peak ” ; there are no peaks there—from the plateau upon which he is at the present moment perambulating the bounds. These documents bring one to the Proclamation. I am in your Lordships judgment as to whether I have not made good this up to date, that the fishery matter, with its attendant disposal of the coast of Labrador, was out of the way ; that the survey was being made now of Canada, the ceded territories, with a view to seeing what should be done with them ; that there had been a transaction—I am using the most neutral language—with regard to the coast of Labrador, but that that was over, and that the question still remained, what was to be done for the Indians, and what was to be done with regard to the

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parcelling out of this vast area ceded to Great Britain. It was the second chapter upon which they were embarking in this matter, and it was the sequel to the second chapter that the proclamation was published. My learned friend has said that the proclamation is the root of their title ; in point of fact it must be in the commission ; and there we are agreed, because Sir John has put it now upon the Commission and not upon the Proclamation.

Mr. Macmillan.

Viscount Haldane.

Viscount HALDANE : Was not there a good deal more of what is now within Canada to be disposed of ? You have talked of Canada. Canada consisted then of the Provinces of Quebec and Montreal on the one hand, and a rather indefinite Province called Ontario. Beyond that there was the whole of the north-west territory ; the Hudson's Bay made some kind of claim to it under the name of Ruperts Land, and there was also what is now British Columbia. Is there any trace of attention to the fact that the British Possessions in North-west America

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extended to this vast tract ? There is not a word of attention to it in the documents you have read.

Mr. MACMILLAN : To the Northwest tracts ?

Viscount HALDANE : Yes.

Mr. Macmillan.

Mr. MACMILLAN : I thought Sir John made his point good, if I may respectfully say so, when he pointed to the great territories round the lakes and to the northwest from there.

Sir JOHN SIMON : And to the northwards also.

Mr. MACMILLAN : It was the great Indian territory.

Sir John Simon.

Viscount HALDANE : There was a much larger territory away beyond that, extending to Alaska now. Nobody knew what the boundary was. Russia came in at one stage, but all that was in dispute between us and the French.

Mr. MACMILLAN : We got all the French had, but what the French had they did not themselves know.

Sir JOHN SIMON : That is right.

Mr. Macmillan.

Viscount HALDANE : I think that that is very likely. Consequently you do not find any systematic attempt to dispose of it, but it was vested in the Crown.

Mr. MACMILLAN : You do find this, that “ All lands whatsoever ceded by the late Treaty should be assigned to the Government of Canada.” That was the King's proposal. It

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was not carried out because the Quebec territory was not such as to embrace it all.

Mr. Macmillan.

Viscount HALDANE : What were the words in the Treaty ?

Lord Warrington

Sir JOHN SIMON : Would your Lordship permit me to say that I cannot help thinking for the purpose of the matter in hand, the western limits would be the Mississippi, because your Lordship recollects that by the terms of the Treaty the French withdrew to the west of the Mississippi, and how the Sovereign rights might be distributed west of the Mississippi I fancy will be out of the picture. Is not that a fair suggestion ?

Mr. Macmillan.

Mr. MACMILLAN : As always, my learned friend puts it quite fairly. The French did still retain under the name of Louisiana—which partly ran up there, but it was something very different to what is now the State of Louisiana—a large area there in what is now the United States to the west of the Mississippi.

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Viscount HALDANE : It may have extended up to the Arctic Circle.

Mr. MACMILLAN : The actual boundaries between France and the British Dominion are set out on page 336 in Section 7 of the Treaty. There it is done by frontiers, and a frontier is laid clown.

Lord WARRINGTON : The cession is in clause 4 of the Treaty. and the actual boundary is laid down by clause 6. In clause 4, Canada and all its dependencies is ceded.

Viscount Haldane.

Mr. MACMILLAN : I think I am therefore justified in saying that all that France had in that region was given, whatever it was. This is the definitive Treaty of Paris, and I will read it, if I may. “ His Most Christian Majesty renounces all pretensions which he has heretofore formed or might have formed to Nova Scotia or Acadia in all its parts, and guaranties the whole of it, and with all its dependencies, to the King of Great Britain.” I think my learned friend read this.

Sir JOHN SIMON : Yes, we went through this.

Viscount HALDANE : Does “ Acadia ” there mean Canada ?

Mr. MACMILLAN : This is the real Acadia of the French. Then it goes on : “ Moreover, his Most Christian Majesty cedes and guaranties to his said Britannick Majesty, in full right, Canada, with all its dependencies.” Acadia was sometimes used for Canada in some of the old maps, but it is not so used there. They really mean Nova Scotia and, I think,

New Brunswick also.

Sir JOHN SIMON : Yes ; the peninsula.

Mr. MACMILLAN : “ Canada with all its dependencies, as well as the island of Cape Breton, and all the other islands and coasts,” and so on. It is in the most all-embracing terms.

Viscount HALDANE : I observe two things in it. In the first place, there is no reference to Hudson's Bay at all there. Whether they thought it was not necessary to provide for that. I do not know, but Ruperts Land being a very wide place you would have thought that they would have put something in.

Mr. MACMILLAN : We had already recovered for Britain, under the Treaty of Utrecht, the whole of the Hudson's Bay territory.

Viscount HALDANE: Including Rupert's Land ?

Mr. MACMILLAN: Yes, whatever that was.

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Mr. Macmillan

Viscount HALDANE : Another thing I do not notice is any definition of Louisiana.

Mr. MACMILLAN : It comes out in this fashion. If you look at the frontier as set out in Article 7, you will find there the reference to the River Mississippi, and it is to the west of that that the French keep.

Sir JOHN SIMON : It is Article 7, I think.

Viscount HALDANE : Extending indefinitely north.

Mr. MACMILLAN : No, my Lord, not indefinitely north, but indefinitely west of that point. " In order to re-establish peace on solid and durable foundations, and to remove for ever all subject of dispute with regard to the limits of the British and French territories on the continent of America, it is agreed, that, for the future, the confines between the dominions of his Britannick Majesty and those of his Most Christian Majesty, in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the River Mississippi, from its source to the river Iberville, and from thence, by a line drawn along the middle of this river, and the lakes Maurepas and Pontchartrain to the sea, and for this purpose, the most Christian King cedes in full right, and guaranties to his Most Britannick Majesty the river and port of the Mobile, and every thing which he posses, or ought to possess, on the left side of the river Mississippi, except the town of New Orleans." That does not exhaust the boundaries.

Sir JOHN SIMON : Forgive me, that is a matter of argument. If you will assume, as I suggested in opening, that the River Mississippi was regarded as rising on the height of land which was the southern boundary of the Hudson's Bay then it follows you have got a cutting off of the French Empire entirely to the west of that line. It was part of the proposition which I made.

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The LORD CHANCELLOR : On that map which we have been using, which was nearly of that date, the boundary of the Hudson's Bay territory fixed under the Treaty of Utrecht is marked by straight lines. The whole territory would be treated there as Hudson's Bay territory. There is also marked " Parts unknown."

Sir JOHN SIMON : No doubt.

Viscount HALDANE : That may be the explanation of it.

Mr. MACMILLAN : It is also shown by this, in the second

Article. The Treaty of Utrecht is confirmed. Under the Treaty of Utrecht there was "Hudson's Bay territory," whatever that was. It is one of the difficulties in this case that lines were never drawn ;

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territories were described. The Hudson's Bay territory, whatever that means, was British at that time, but all French Canada was ceded to us. Your Lordships are not really, if I may say so, much troubled with the question of the Hudson's Bay boundary to the west; it is the Hudson's Bay boundary on this side of it, to the east side, that is of moment in the present case. I shall have a good deal to say about it later on, but in the meantime my suggestion is that my learned friend's green area was part of the Canada which had been French and became ours, and was dealt with as we have seen. Referring again to the document in front of us, your Lordship has my view upon the two chapters of the Commission and the proclamation. Will your Lordships now look at page 921 ? There is one other letter to be taken, I think, along with this. We are still before the date of the Commission, which was the 7th of October. This is a letter from the Lords of Trade to the Earl of Halifax, who had succeeded Egremont.

The LORD CHANCELLOR : If you are taking them in order of date, are not the instructions to Lord Colville before this?

Mr. MACMILLAN : The instructions to Lord Colville are found in Volume VIII, page 4215. The relevance of that is this, my Lord, that Lord Colville also got instructions to see that the 4th and 5th Articles of the Treaty of Paris were carried out. It is only necessary for the purpose of filling it in and accounting for everything here. This is the Commission to Lord Colville, whose command, so to speak, fitted in with Captain Graves's command, and he also is exhorted to see to the carrying out in the waters under his charge of the 5th and 6th Articles of the Treaty of Paris, the fishery Articles, just as Captain Graves's Commission had been altered when he got his new commission. In order to effectuate that, this instruction was given to Lord Colville " as Commander in Chief of His Majesty's ships and vessels employed, and to be employed, in the River St. Lawrence and along the coasts of Nova Scotia, Islands of St. John and Cape Breton, etc., providing for the supervision of the fishery on the said coasts."

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Lord WARRINGTON : These are the Admiralty instructions.

Mr. MACMILLAN : Yes, my Lord. " By the Commissioners for executing the Office of Lord High Admiral." He is a purely nautical person. He is instructed under a reference to the 4th and 5th Articles of the Treaty of Peace. It is line 32. Captain Graves's was 5 and 6 ; this is 4 and 5. Four related to

the gulf and river of St. Lawrence.

Viscount HALDANE : You see what it was that he was to do at line 21 ; he was to guard “ the coasts of the provinces within the extent of your Command, and protect the trade bound to and from those Provinces, and the Fishery upon the coasts.” It was purely defence.

Lord WARRINGTON : He was in no sense a Civil Governor ?

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Mr. MACMILLAN : No.

Lord WARRINGTON: He was admiral.

Mr. MACMILLAN : He was to pay attention to those Articles of the Treaty. On page 4216, line 12, you will see : “You are therefore to use your utmost care, diligence, and attention, that the several stipulations herein before-mentioned be duly and strictly performed, according to the Tenor and intention thereof, as far as they shall come within the limits of your command; as also to settle and guard the fishery of His Majesty's Subjects within those Limits, taking care to prevent the subjects of France from giving them any disturbance by Acts of violence or injustice ; or by any evasion contrary to the spirit and intention of the said Treaties ; and likewise to prevent the French from catching Fish,” and so on. He was to look after elicit trade, and then there were paragraphs about moving people from the northern colonies to East and West Florida. He had some things to do on shore ; he had to make surveys and charts, and all the rest of it. That really had completed the arrangements that were necessary to look after the fishing matters under the Treaty, and that is all disposed of before the Proclamation is issued. There also precedes the issuing of the Proclamation, the letter of the Earl of Halifax to the Lords of Trade on the 19th September, 1763, page 921: “ Having laid before the King Your Lordships Representation of the 5th of August last, transmitted to the late Earl of Egremont in your Letter of the same Date, I am commanded to acquaint Your Lordship that His Majesty, upon Consideration of the Reasons therein set forth, is pleased to lay aside the Idea of including within the Government of Canada, or of any established Colony, the Lands which are to be reserved for the present, for the Use of the Indians. And His Majesty thinks proper to direct that the Extent of the Commission, which Your Lordships are to prepare for the Honourable James Murray, shall be exactly such as is marked out in your first Report of the 8th of June last, and in the Map

thereto annexed, under the Denomination of Canada. That such Government be described in the Commission, as comprehending all such Part of Canada on the North Side of the River St. Lawrence, and all such parts of His Majesty's ancient Colonies of Nova Scotia, New England, and New York, on the south side of the said River, as lie within the Limits above mentioned, and that It be called the Province of Quebec. His Majesty approves Your Lordships' Proposition of issuing immediately a Proclamation, to prohibit for the present, any Grant or Settlement within the Bounds of the Countries intended to be reserved for the use of the Indians.”

Viscount HALDANE : The Indians got a mere occupancy title ; they got no legal title. The title was in the Crown.

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Mr. MACMILLAN : That is so. The Privy Council dealt with the proclamation, and on page 925 you have a record of their approval of the proclamation. I do not read it, because I do not want to delay unduly. It was approved by the Privy Council and was directed to be issued, and then you have this very important document, the Royal Proclamation. The first topic dealt with in the Royal Proclamation on page 153, in the Red Volume, is the erection of four distinct and separate Governments, Quebec, East Florida, West Florida, and Grenada, three on the main land, and one among the islands. The Government of Quebec is first of all described as “bounded on the Labrador Coast by the River St. John, and from thence by a line drawn from the head of that river ”—pray note the difference there ; it is “ from the head of that river, through the lake St. John, to the south end of the Lake Nipissim ; from whence the said line, crossing the River St. Lawrence, and the Lake Champlain in forty-five degrees of north latitude, passes along the high lands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the sea ”—that is right down to Cape Rosieres, and it is still called the River St. Lawrence—“ and also along the north coast of the Baye des Chaleurs and the coast of the Gulph of St. Lawrence to Cape Rosieres, and from thence crossing the mouth of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John.” I just paused a moment because I was not quite sure that I had done justice to the point :—“ passes along the high lands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the sea.” Yes, that is one the south side ; I was afraid for a moment I had done an injustice to the description.

Sir JOHN SIMON : That is right ; you will see it on your big map.

Mr. MACMILLAN : I used it for the moment for showing

that the River St. Lawrence went down to Cape Rosieres, and I was not sure that I was justified in saying that.

Sir JOHN SIMON : It is just about opposite the River St. John.

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Mr. MACMILLAN : Just about opposite. Now, my Lords, that is the description of the Government of Quebec. The Proclamation proceeds to set up three other Governments, East and West Florida, and Grenada, with which we need not delay.

Then comes, on page 154, what I venture to suggest is one of the most important of all the statements which we have in this critical year 1763 ; “ And to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador, and the adjacent islands, we have thought fit, with the advice of our said Privy Council, to put all that coast, from the River St. John's to Hudson's Streights, together with the islands of Anticosti and the Madelaine, and all other smaller islands lying upon the said coast, under the care and inspection of our Governor of Newfoundland.”

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Viscount HALDANE : The phrase is very curious : “ care and inspection.”

Mr. MACMILLAN : If my view as submitted is sound, that the whole matter of concern at this time was a vigilant observance of fishery rights and their protection from encroachment by the French, then the language is exceedingly apposite. It was a care and inspection of fisheries that was confided to this Governor. He was selected for the very reason that he had experience in caring for and inspecting fisheries ; that was his job in Newfoundland. He was selected to do that thing, and here you have an express declaration in a document of the highest authority, a document described as the source of Newfoundland's original jurisdiction in the Labrador. In that document you find the express statement by the very persons concerned in this whole distribution of administration, of what they have done ; because this is a recital of something accomplished already —“ We have thought fit ” ; this is not the instrument which does it ; it is a record of what has been done ; and observe how it is done. It is done in association with this question of Quebec. Then you will find, a few pages further on, that we have got Quebec, we have got this care and inspection of the coast, and then we have still got to deal with the Indians, and we have dealt with that.

Lord Sumner.

Viscount Haldane.

Lord SUMNER : I understand your case to be that some territory was assigned out of the general land of the Crown by this Proclamation.

Mr. MACMILLAN : Yes, my Lord.

Mr. Macmillan.

Lord SUMNER : Then all the rest of it “ to the end that ” and “ under the care and inspection of,” appear to go not to the quantum of the territory, but the policy. That is what he has to do with it ; it is a description of the territory as opposed, it may be, to its area.

Viscount HALDANE : They were gradually progressing from administration by the Crown, to Crown Colony government. You had got something like Crown government in the Island of Newfoundland itself, and you had got it in Quebec, but here there was a gradual progress in which it was not necessary to do anything more than to put certain coasts and islands under care and inspection. They did not become Crown Colonies. They became under the custody of somebody, who might be the Governor of another Colony or who might be someone else.

Mr. MACMILLAN : That may have been the general survey, but it does not leave me quite comfortable in answer to my Lord Sumner. I would like to meet that point as it was expressed to me, in this shape ; it is a point I ought to meet. If there is a territorial content in this already, then the mere fact that you describe the purpose with which you have confided that territory to the Governor of Newfoundland will not necessarily limit the extent of it. I think I have your Lordship's point correct.

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Mr. Macmillan.

Lord Sumner.

Lord SUMNER : Not only “ not necessarily.”

Mr. MACMILLAN : I will not at all limit it. I should like to deal with that, because I think that goes very intimately into this case. May I suggest, first of all, that if I have made any impression in the direction in which I have sought to make an impression, namely, that this conception of dealing with the coast of Labrador was not a territorial conception at all in its origin, but was a naval survey, it is quite true, and I cannot blink this, that as you progress, the documents use language which has made it inevitable that we should concede that there is some land. In its inception, had it not been for the language used in these later instruments, my submission would have been that he was not entitled to be on land at all any more than the French were. But one is driven to this, that you see a certain progress through the documents in the language used, and it is because of that language used, particularly in one or two of the later documents, that we have felt bound to admit that there is something territorial.

Lord SUMNER : If the whole purpose is to see that the English get the codfish and the French do not, that is a matter that requires no landing on the shore at all. If, in the next place, the fishers coming from England or any other English Colony are to gut and dry their fish, they must land upon the coast, and what is more, they do, whether you say they may or not ; but that need only give a kind of servitude. The exercise of jurisdiction over these casual landing parties and their temporary occupation might be in the Admiral or the Governor of Newfoundland in either capacity in the form of a licence to land, in the exercise of the jurisdiction, without it being necessary that there should be any assignment of the soil to Newfoundland at all. But as soon as you come to the conclusion that there was an assignment of the shore, so that there is a strip of land that is Newfoundland and is not anything else, from which I suppose Newfoundland could exclude Quebec—as soon as you get that, then the purpose and the policy and the care and inspection and the vigilance and all that, become of relatively small importance. You may be astonished that a man who had to keep an eye on the east coast should be given the land up to the height of land. It seems perhaps too liberal, but still if it is done, the fishery part of it does not matter. I am not quite sure in my own mind that we have got to the heart of this thing.

Mr. MACMILLAN : My Lord, may I offer this suggestion ? It is so easy now to exact from those legislators of this period a precision which they did not have. If I may say so, one is always to certain extent impatient in construing a document with things that are not precise and have not sharp definite

edges. The trouble about them is that in so many human affairs, particularly administration affairs, people have not thought exactly and have not thought with precision. I think probably we have here in this interesting episode of our Colonial history just one of those cases where people did not sit down to solve

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the problem with precisions, and one cannot summon from these documents the precision which one would like to find in them. It is always a comfort to one's mind when one can be precise.

Lord SUMNER : I think it might be said in your favour that if the question had been put to the Lords of Trade : “ How far into the interior is the Governor to go ? ” their answer would promptly have been : “ No further than he can do it cheaply.” The first idea in this stage of colonisation is to run it as cheaply as you can, and that is one reason why the Home Government has constantly been so lavish with land on the map ; but the problem is not how little they would have liked to give, but from their words can you extract an intention not to give as much as the words cover.

Mr. MACMILLAN : The whole question is, what do the words cover, and one can only adduce those aids which both of us have been trying to do, each in our own interest, from the surrounding circumstances. to interpret what the words cover ; the words themselves are ambiguous.

Lord SUMNER : And yet the words appear to have been intended to mean something definite.

Mr. MACMILLAN : My humble submission is this, my Lord. Now I propose entering a little on the region of speculation. I think that your Lordship has put your finger upon what probably was the original conception of this whole matter. It is a mere coincidence, but it is exactly what I said to my clients in consultation on the subject. This looks exactly like a mere servitude or easement in its inception. I hope I am not disclosing anything that one ought not to disclose, but it seemed to me that this really was some kind of servitude right. It was a fishery that was to be conducted, it was to be guarded from the sea, but fishers must make landfalls in those places, seeing that they have to have places for their fish and so on. That was the kind of idea ; it was a fishery question which dominated the minds of these people, and with a view to that they said : “ We will put the coast of Labrador, the place where the fish come, under the care of the Governor of Newfoundland, he is at sea there ; we will give him the coast.” The reason why the Dominion's case is not put in that way is because, I say in perfect candour the language is too strong for me, the language has gone on to use terms which are not consistent with mere servitude.

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The LORD CHANCELLOR : It is called territory.

Mr. MACMILLAN : Yes, my Lord, and, as your Lordship would expect from me, I admit that at once ; but none the less does it help one to consider what is the extent of territory if the intention of the whole thing was to subserve a particular purpose.

Lord SUMNER : I can quite understand your showing excellent

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historical grounds for saying "Coasts," which is a vague term. ought to be read in a strictly limited sense, because it would have been very foolish under the circumstances to annex to Newfoundland anything but the least amount of territory required for the purpose. That would be an argument, I think, which would have weight except for the fact that there are a good many counter reasons for saying there was no ground why they should not let them have as much as they liked.

Mr. MACMILLAN : Your Lordship has not yet been furnished by the Dominion with those other reasons. This is a point, if I may say so, that is most cogent, but I think it will lose a considerable degree of its cogency when certain other considerations in this case are developed; but up to this point it is most cogent.

Now, my Lords, there is this sentence, and as I submit a very pregnant sentence. Your Lordship noted, I am sure, Sir John Simon's insistence several times upon a proposition which of course was very necessary for his argument. He asked you to disregard the purpose altogether in interpreting the grant. There is a certain confusion in these matters. I do not want to be metaphysically Scotch and over refined, but there is a difference between motive and purpose. Motive is admittedly not a matter that you can examine as an aid in the same way that you can purpose.

The LORD CHANCELLOR : Intention.

Mr. MACMILLAN : I was going to say, my Lord, that purpose is merely a synonym for intention, and I have always understood that the one thing one was in search of in construing a document, was, what was its intention, what was its purpose ? Therefore I think perhaps my learned friend will not resent my saying that he is hardly entitled to say that the purpose of a grant can be disregarded in the construing of it. He might still say that the motive is a different matter, but as

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to the purpose, that is the very thing of which everyone is in search when they seek to interpret words of grant. If you are in search of the purpose of it, if you are seeking to ascertain the intention from the words used, that is the proper source from which to ascertain it in the first place; you are generally left to infer intention from the words used. The curious position here is that we do not require to infer it from the words used, because the authors of this document have expressed their purpose in set terms. Therefore we are not reduced to the expedient of groping for intention. The intention is expressed on the very face of this document; but I am not losing sight of the fact that this is not a document of grant; it is a document of recital of a grant. At the same time it is the document which is referred to as the annexing document ; it is the document which is described by my friends as the foundation of their title and it is in a sense co-related with the Commission, because it is a disposal of the whole matter ; it is a comprehensive document bringing things all together.

Mr. Macmillan

Lord Warrington.

Lord WARRINGTON: This is not really intention. What they
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are doing here is, they are expressing what they think will be, and what they desire to be, the result of what they have done. That would certainly not exclude territorial jurisdiction, because some territorial jurisdiction over the interior might assist the subjects in carrying on the fishery.

Mr. MACMILLAN : My Lord will not think I am over refining when I say that if you are in search of the contents of the coasts of Labrador here referred to, it is quite a proper guide to invoke : What was the intention with which the coasts of Labrador were confided ?

Viscount Finlay

Lord WARRINGTON : What do you say about this ? I have in my mind the Hamilton Inlet. The fisheries might be very material and very important there. Is it inconsistent with the end that the fishery of our subjects there may be carried on ? Does that exclude territorial jurisdiction ?

Mr. Macmillan

Mr. MACMILLAN : The Hamilton Inlet is really for this purpose no different from anything else. My learned friend says it is coast, and the whole question will be whether it is an inlet of the sea or an inland lake ; therefore it does not really complicate this general question, in my humble submission. May I put it for the moment in this way ? We are in search of the intention of those who used that language at that time, and the remarkable circumstance here is that we are not left to grope for the intention, because they have expressed the intention, and, as so often happens, that expressed intention—not an inferred intention but an expressed intention—coincides with all that I have been reading to your Lordships, which indicates that the whole

intention of this plan was with fishery intent.

Vicount FINLAY : That is the end in view, but do you not think also there was in view as one of the means to that end the establishment of a certain Government, a certain control of the particular territorial area ?

Mr. MACMILLAN : Certainly, my Lord.

Viscount FINLAY : I think that is admitted under one head of your argument, and the whole question comes to be, what is its extent ?

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Mr. MACMILLAN : I hope I am not unduly contentious on this topic. It seems to me, if you want to find out what is the extent of the coast the first thing you want to ask is this : Why did they give any coast ? One wants to find out what was in the minds of those who did that. At the moment we do not know how much coast it is ; nobody knows until your Lordships have pronounced upon it. The first thing one would ask is, what was the coast given to Newfoundland for ? There you get a measure founded on possession ; but it is in aid of interpretation of “ coast ” that I am making the whole of this submission.

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Viscount FINLAY : The motive might be in order that the fishery on that coast might profit, but still that does not control the grant.

Mr. MACMILLAN : No, it does not control the grant, but it assists in interpreting the grant. That is all that I put on the subject ; you are dealing with ambiguous words.

There is a very excellent passage in Maxwell on the Interpretation of Statutes, on this subject of general words, from which I will venture to read a sentence or two, because it seems to me to embody my argument. He says : “ But it is in the interpretation of general words and phrases that the principle of strictly adapting the meaning to the particular subject matter in reference to which the words are used finds its most frequent application. However wide in the abstract, they are more or less elastic and admit of restriction or expansion to suit the subject matter. While expressing truly enough all that the Legislature intended, they frequently express more in their literal meaning and natural force ; and it is necessary to give them the meaning which best suits the scope and object of the Statute, without extending to ground foreign to the intention. It is therefore a canon of interpretation that the words if they be general and not express and precise, are to be restricted to the fitness of the

matter. They are to be construed as particular if the intention be particular ; that is, they must be understood as used in reference to the subject matter in the mind of the Legislature and strictly limited to it.” My Lords, that may sound rather a commonplace, but it expresses very accurately what I have in mind : that we are dealing with a word which may be bandied about between us here for all time ; it has all manner of meanings.

LORD SUMNER : What is the page of that ?

Mr. MACMILLAN : This is the 4th Edition, page 89. The reference is Chapter II, Section I. Sentences of that sort merely express, much better than I can express, what I have in mind. Then he says again : “ The words of a statute are to be understood in the sense in which they best harmonise with the subject of the enactment and the object which the Legislature has in view.”

The LORD CHANCELLOR : It is page 95 of the 6th Edition.

Mr. MACMILLAN : If your Lordship pleases. I shall just quote and adopt one other sentence, this time a sentence from Lord Blackburn : “ In all cases the object is to see what is the intention expressed by the words used. But from the imperfection of language it is impossible to know what that intention is without inquiring further and seeing what the circumstances were with reference to which the words are used and what was the object appearing from these circumstances which the person using them had in view.” That is a quotation from Lord Blackburn in *The Wear Rivers Commissioners v. Adamson*, in (1877) 2 Appeal Cases, at page 743.

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The LORD CHANCELLOR: There is an interesting instance on record with regard to the payment of an ecclesiastic to purchase provisions at Rome. It was held that it did not mean that he was to buy food at Rome, but it meant that he was to buy benefices.

Mr. MACMILLAN : There are instances of words which may have all sorts of meanings ; you must find out from the context what the meaning is.

(Adjourned for a short time.)

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The Lord Chancellor.

Mr. Macmillan.

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AFTERNOON SESSION.

Mr. MACMILLAN : My Lords, I was directing attention to the sentence on page 154, upon which both sides have concentrated so much criticism. I utilise it as affording a key to the minds of those who were engaged in framing these material documents. On the question of interpreting a document it is, of course, quite true to say that if the language is unambiguous the purpose or motive, either of them, is quite immaterial because you cannot go beyond the accepted meaning of the language itself ; the language contains the effective will of the person who has used it, and if there is no ambiguity, then purpose is irrelevant. But the whole problem that we are confronted with here is a problem where the critical word is ambiguous, and it is in these circumstances that I humbly maintain that the ascertainment of the purpose is of the greatest value in enabling you to ascertain with what intention this word of vague and general meaning was used in this particular context, and that the word should not be extended beyond what is necessary to effectuate that purpose. Now, my Lords, the word here used as it was used in the Commission, is “ coast ” or “ coasts.” Among documents in these volumes much learning has been reprinted from dictionaries and other sources on the subject, but I do not think your Lordships would welcome very much investigation of it, because after all the word “ coast ” is known to your Lordships, as it is known to all who use the English language, and I think I put it with reasonable accuracy when I say that in the ordinary acceptance of the term it does mean a maritime edge or margin. When one uses the word “ coast ” in the general case it relates to a margin of ground or territory bordering upon the sea. It is not used of rivers, nor is it used of lakes ; it is used of the sea. But etymologically, of course, it has its origin in a word which means an edge or

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Viscount Finlay.

side merely. You see it in that use in French, of course, also, and you have examples which have been recorded in this book from the Bible and elsewhere, the best sources of English, where it used even of countries that are entirely inland. I am not contesting that in the least.

Mr. Macmillan.

Lord WARRINGTON : You talk about the West Coast Route, but you do not mean that it runs along the sea shore.

Mr. MACMILLAN : And the East Coast Route also. That is

Viscount Finlay.

one of the very examples that occurred to myself when I was thinking of it; on the other hand, when I say that I am going to the coast your Lordship would be surprised to find me at Derby.

Lord WARRINGTON: That is another thing.

Mr. Macmillan.

Mr. MACMILLAN : Exactly, it is another thing, and it is, of course, just the question. We are dealing with a word whose meaning varies with the circumstances in which it is used.

Viscount Finlay.

Viscount FINLAY : The current use of the word is limited. There is a sort of archaism about speaking of the coasts of an inland place. Undoubtedly in the instances to which you are referring in the authorised version it is used as having no relating whatever either to sea or land.

Mr. MACMILLAN : Yes, my Lord, it is ; there are examples of that ; but when it is used here, applied to a place which is bordering upon the sea, and you are talking of the coast of Labrador, in this context your Lordship may extend or narrow that according to what you think right.

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Viscount Finlay.

Mr. Macmillan.

Viscount FINLAY : Yes, at the same time you want to have settled order and administration of justice in an area very considerably for the prosperity of the fishers. You must have such control and administration of justice as will give security to those who are engaged there ; and that cannot be confined merely to the edge. There may be a question how far back you could carry your setting up a jurisdiction.

Mr. MACMILLAN : Yes, there, of course, I am entirely in your Lordships' hands, but I suggest that to carry it back to the height of land is to carry it to a region infinitely remote from the necessity of a jurisdiction intended to control fishermen.

Viscount FINLAY : If that were the only object. But suppose the sentence had been a little broken up ; it is put all in one sentence here on page 154, but suppose it had been divided into two sentences and it was said in one sentence that the fishery had very much extended and that it was necessary to provide some settled governments in those parts and then it went on to say, in the language of the latter part of

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this paragraph, just about line 20 : “ under the care and inspection of our Governor of Newfoundland.”

Mr. MACMILLAN : Yes, my Lord, but then the difficulty is

this, that we are just told in one of the preceding documents that it is not the intention to establish any settled government there.

Viscount FINLAY : The whole thing had to be put under some establishment of administration of justice.

Mr. MACMILLAN : I read from page 909 of Volume III : “ But as no such regular civil Government is either necessary or indeed can be established, where no perpetual Residence or planting is intended ; It will there be sufficient to provide for the free Trade of all your Majesty's Subjects under such Regulations, and such Administration of Justice as is best suited to that end. Such We apprehend to be the case of Newfoundland, where a temporary fishery is the only Object, and this We suppose has been the reason, which induced your Majesty to annex the Coast of Labrador to that Government.” So that the idea of any settled government of this territory is disclaimed in terms.

The LORD CHANCELLOR : That applies to Newfoundland also ?

Mr. MACMILLAN : Certainly, it does, my Lord.

Viscount FINLAY : That is rather startling. That must mean that it does not want anything so elaborate.

Mr. MACMILLAN : Your Lordship will see in the sequel that granting of any territory in Newfoundland was forbidden absolutely, and that the one effort of the British Government was at all hazards to prevent it becoming a Colony ; the one thing to be preserved was as if it were a ship afloat at sea and no one was to settle there ; it was never to become a Colony.

I will read the passage later when I come to describe Newfoundland, but it is most significant to see that there was to be no settled government at all ; there was to be an officer on a ship. But, my Lords, why should we endeavour to extend this language to the height of land ? If any object were to be served by it, I could understand it ; but as it seems to me, when you satisfy completely the purpose which everybody had in mind at the time, when you satisfy the language as used by themselves, when you satisfy the object they themselves expressed, what is the necessity or what is the desirability for according a vastly greater area than was ever in the contemplation of the parties themselves and which would be absolutely useless for the purposes indicated ? I suggest that the natural approach to the problem is by the avenue by which I have humbly ventured to suggest it should be approached, and approaching it from that avenue, the whole thing forms a consistent whole and you get a complete view of the proposed administration.

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Now, my Lords, on the language which is repeated there, I say that prima facie the language is in my favour, that prima facie " coast " means the margin of the sea, and that prima facie, therefore, we are dealing with a margin. I give my friend, with both hands, the admission that you can find plenty of illustrations of the use of the word " coast " as implying some depth, and considerable depth, not by any manner of means always depth in to the height of land, but often behind the height of land, and often short of the height of land. I am sure the Côte d'Azur does not extend to the height of land, in the Mediterranean. There are innumerable examples in the use of the word " coast," and it may have a context of depth according to the circumstances in which it is used, but the whole problem here is, in this context what depth, if any, is to be attached to the coast, having regard to these purposes which are expressed ?

Lord Warrington.

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Lord Warrington.

Your Lordships will notice that the description is entirely by points on the sea shore ; and that is rather striking. Unlike the descriptions which precede it and the descriptions which are given of Quebec and the other Governments, here the only fixed termini are points admittedly on the coast. The entrance to Hudson's Straits is a point on the coast ; the other terminus is the River St. John. And your Lordships will notice that it is rather interesting that in the Commission as distinguished from the Proclamation the point is described with this definition added : " to the River St. John's which discharges itself into the sea nearly opposite the west end of the Island of Anticosti including that island." Those words " which discharges itself," you do not find in the paragraph on page 154 ; it is simply " from the River St. John's " ; but in the Commission the use of this language " which discharges itself into the sea nearly opposite the west end of the Island of Anticosti," indicates, I suggest, that the point is the point on the coast where the river discharges itself just opposite Anticosti. And you have the striking contrast when the boundaries of Quebec are described, that you are to carry the boundary up to the head of the River St. John's and then by a certain line. So that you have that contrast between the head of the River St. John's and a strip which is defined simply by two termini, one at one point of the coast and one at another. Then you have the numerous islands on the coast at several points, all giving a maritime flavour to this description of what was confided to the Governor of Newfoundland.

Lord WARRINGTON: The boundary of Quebec was to go to the River St. John's ?

Mr. Macmillan.

Mr. MACMILLAN : To the head of the River St. John's.

Lord WARRINGTON : Then a line between the head of the River St. John's and the sea; would form the boundary between what lies to the east of it and the new Province of Canada.

Mr. MACMILLAN : Certainly, my Lord.
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Lord WARRINGTON : Does not that indicate what was included in the coast, from the River St. John's. When you look at the boundary of Canada, does it not mean that on the other side of that boundary was the land that was allotted to Newfoundland ?

Mr. MACMILLAN : With great respect, I should think not.

Lord WARRINGTON : Then what happened to it ? I confess it looks to me rather as if the people who were claiming that boundary from Canada thought that the River St. John's formed the boundary between what they were laying down and an adjoining country.

Mr. MACMILLAN : That would not suit my learned friends at all. Perhaps that is not a complete answer to your Lordship, but it would not suit their case at all, because then the boundary of the Coast of Labrador for their purpose would be eastward of the head of the River St. John's.

Lord WARRINGTON : The head of the River St. Johns as it is known now.

Lord Warrington.

Mr. MACMILLAN : As known then, it must be. Your Lordship means that you would look at both sides of the River St. John's : Look on this side and you are in Quebec, and then your Lordship says, Now look on the other side and then you are in NewfoundlandLabrador. That would not suit my friends' book at all, because that would give them a coastal strip, no doubt much broader ; it would give them a strip as far as the River St. John's along the coast, but it would not carry them up here at all.

Mr. Macmillan.

The LORD CHANCELLOR : It would include more.

Mr. MACMILLAN : It would include what was behind Quebec in Labrador, this strip of land that is away up north of the line between Hamilton Inlet and the Hudson's Bay boundary.

There is a great deal of territory, an enormous territory, there that, would not have been covered on that hypothesis, my Lord.

Lord WARRINGTON : I am not quite sure about that, because the Hudson Bay Company would have come in ; on the whole of that upper part belonging to Labrador, you would have Hudson Bay coming in.

Mr. MACMILLAN : I think I could explain it by the map, but I am afraid I cannot tell you, because the River St. John is the boundary of Quebec, and all that lies to the East of that is

Quebec.

Lord WARRINGTON : It formed part of the boundary of Quebec, of course, but the boundary of Quebec is taken round.

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Mr. MACMILLAN : It forms the Eastern boundary of Quebec.

Lord WARRINGTON : It forms part of the Eastern boundary.

Mr. MACMILLAN : With great respect it forms the whole of the Eastern boundary.

Lord WARRINGTON: Does it ?

Mr. MACMILLAN : Yes, my Lord, it is the Eastern boundary. Following my Lord as well as I can, your Lordship suggests : let us take the River St. John, all to the west of that is Quebec ; then your Lordship suggests ; and therefore all to the East of that is Coast of Labrador.

Lord WARRINGTON : Well ?

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Mr. MACMILLAN : That would only carry my learned friends along to the East of that till they reached the sea.

Mr. Macmillan.

Lord WARRINGTON : I see what you mean.

Viscount Haldane.

Mr. MACMILLAN : It would not give them this great extent of inland territory at all ; they have to invoke something else for that ; they would then have to invoke this : that on the North East shores they are entitled to get their boundary by going to the height of land.

Mr. Macmillan.

Viscount HALDANE : Do you say that the River St. John's is really a longitudinal line which is to be carried up to there, and further if necessary, but there is no grant of the land East of that line.

Mr. MACMILLAN : No, my Lord, that was the boundary of Quebec and it was originally fixed with this idea : that it would include all the seignoirs that had been granted and were dependent on Quebec.

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Viscount HALDANE : On the East of that line further territory may be granted by another substantive title, or may be left in the Crown.

Mr. Macmillan.

Mr. MACMILLAN : Undoubtedly. You remember the Labrador business had all been disposed of by this time ; Newfoundland had got what it was to get on the Coast, and then when the territory of Quebec was carved out, “ the River St. John to its head,” was selected as the boundary of the Province of Quebec. Therefore, the two things they were dealing with were entirely different, the one was a boundary for a settled Government, for a settled population, the other

was a grant of something (X. as my learned friend put it) to enable the fishery to be protected.

Viscount HALDANE : It is not only a line.

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Mr. MACMILLAN : That is all it is defined by ; that is on my side of the account : that you have in Quebec something which is described by superficialities, and in the other case something which is described only by termini. Now no one suggests that it is merely a line which has length without breadth that we are dealing with here at all ; it is conceded it has some content, but, as to how much, one does not get much help from that contrast, I am afraid. The first point, as I say, is on the language itself, and I suggest to your Lordships the fact that two points on the coast are selected is very significant. I might just take along with that, what Governor Palliser thought. Governor Palliser was the most energetic of Newfoundland Governors, and he was extraordinarily active ; he got into a good deal of trouble in consequence of his activities, and what he said in answer to an enquiry upon which he had to report (I shall come back to this later on)—he was asked to report on various things, and you will see, at page 956 in the third volume, one of the things he was asked to report upon was this : “ What is the capital extent of the Coast of Terra Labrador under Your Government ” that is “Heads of Enquiry respecting the State of that part of the Coast of Terra Labrador ” on page 956.

The LORD CHANCELLOR : This is 1766.

Mr. MACMILLAN : Yes, my Lord.

The LORD CHANCELLOR : Three years after.

Mr. MACMILLAN : Yes, Governor Palliser succeeded Governor Graves.

Lord SUMNER : Who puts this question ?

Mr. MACMILLAN : The Government. The question was put to him in his Commission. You will observe that the Enquiry is, “ What is the extent of the Coast of Terra Labrador ”—not “ Coast of Labrador.” My learned friend would have to say, if one were to read it in his view, “ What is the extent of the Coast of Labrador,” because “ the Coast of Labrador ” is coincident with “ Terra Labrador ” in his view. The answer is “ From River St. John, which is the Western Boundary to Cape Charles, which is the Eastern Extremity, is 150 leags & from Cape Charles to the Entrance of Hudsons Streights is 160 Leags more, making together an extent of 310 Leagues of Sea Coast.” What he has in mind when he is asked, “What is the extent of Terra Labrador under your Government ? ” is that he is asked what is the extent of your jurisdiction, and he

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says, "I have 310 leagues of sea coast to look after." There is no suggestion there that he is going away into the height of land, he did not so conceive it ; and you will find that Governor Palliser was not a person who was in the least inclined to under-estimate

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the extent of his jurisdiction, because he got into very considerable trouble owing to his zeal.

Sir JOHN SIMON : Might I ask my learned friend : is not the second question one which bears on it ?

Mr. MACMILLAN : " What is the Nature of the Soil and Climate ; what are its natural or improv'd Productions & are any, or if any, what Parts thereof Adapted to Inhabitancy." The answer is " The Climate is much the same as in Newfoundland, is too severe to Admit of any Cultivation or Improvements, the Summers being so Short, that nothing except a little Garden Stuff can ever be brought to Maturity ; it is not capable of any Produce to Subsist European Inhabitants, therefore no part of it is adapted to Inhabitancy, its natural Produce is nothing but Woods, there is great tracts without any Wood, being nothing but bare Rock, or covered only with a deep Moss." Now that is exactly consistent with our case. It is 310 leagues of sea coast where the climate is too severe to admit of any cultivation and improvement. That exactly answers our description of the sea coast there, where all these other things cannot be done. On the other hand, the climate inside is quite different, as your Lordships will hear a little later on. You get there a most accurate description of the nature of the sea coast at that point ; it is the natural kind of thing that Palliser would have thought and reported upon. Of course, my Lords, no controversy has arisen here, as to the purpose of this whole arrangement. My learned friend, observing the seriousness of the point, was quick to disclaim it, and to interpret it. He said, as I noticed, twice over, this : " The whole question here is not what is the purpose which was primarily the object of the grant, but what is the construction to be applied to the language now it has turned out in this back country that there is something which is value." How the construction of the language used in 1763 under any proper interpretation can change according as we find out, 100 years afterwards, that there is something of value or not, I fail to understand.

Viscount FINLAY : Where are you reading that from ?

Mr. MACMILLAN : From Sir John Simon's address at page 241, He said, " The whole question here is not what is the purpose which was primarily the object of the grant, but what is the construction to be applied to the language now it has turned out in this back country that there is something which

is of value.” How the construction can change when you find out there is something of value, I am quite at a loss to understand. He says, further, at page 78, “ it is absolutely true that the purpose, the thing to be served, in the minds of those who legislated and directed, was unquestionably a fishery.” It is right to add that he said also, “ though not only a cod fishery.” He would not have said that, no advocate would have said it, unless he felt himself compelled to say it, and that is the impression which any

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person would draw from these documents ; therefore, he has to say : although that is the avowed purpose and we are all agreed that was in the minds of everybody, you must discard that assistance in interpreting the document before you now that it has turned out that there is something of value there. I suggest, on the contrary, that if you look at the documents, and you discover any ambiguity there, then the very thing to go to is the thing which Sir John would discard, the thing which he admits was the purpose, and the thing to be served, in the minds of those who legislated and directed ; it is the very topic, the one thing to address one's mind to, if they are in search of a canon of interpretation.

Now I would ask my Lords that you would next pass over to page 156 of the Proclamation and carry in your minds, if my Lords are good enough to do so, the point which we had reached. We have got the Labrador fishing question disposed of. We have got the Government of Quebec with its territory set up, and at that point my learned friend stops and says, “ Now you have disposed of the whole Peninsula of Labrador.”

Sir JOHN SIMON : No, I do not say that.

Mr. MACMILLAN : From the height of land.

Sir JOHN SIMON : Between the particular termini.

Mr. MACMILLAN : From the height of land ; yes, I think I am right—from the height of land on the West, Cape Chidley on the North, right down to the boundary of Quebec on the West ; you have disposed of this whole great tract of territory now, when you have done these two things, when you have given the Commission to Captain Graves and when you have delimited Quebec, then there is nothing more left over. My Lords, I suggest you have a great deal left over. You will find on page 156 this, “ And whereas it is just and reasonable and essential to our interests and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them, or any of them, as their hunting-grounds ; we do, therefore, with the advice of our Privy Council, declare it to be our Royal will and

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pleasure that no Governor or Commander-in-Chief in any of our Colonies of Quebec, East Florida or West Florida, do presume upon any pretence whatever to grant warrants of survey, or pass any patents for lands, beyond the bounds of their respective Governments, as described in their commissions." The bounds of Quebec, of course, in the view of the Colony, boarded upon Newfoundland territory for a large part, " As also that no Governor or Commander-in-Chief in any of our other colonies or plantations in America do presume for the present, and until our further pleasure

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be known, to grant warrants of survey, or pass patents for any lands beyond the heads of sources of any of the rivers which fall into the Atlantic ocean from the West and North West, or upon any lands whatever which, not having been ceded to or purchased by us as aforesaid, are reserved to the said Indians or any of them." My Lords, I pause there, first of all, because it is plain, upon the papers for the Colony which are before us, that they have misread these words about "any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the West and North West." It is plain that their first view, at any rate, was that that applied to this territory in Labrador, and that, as they were not to pass any patents for these lands, and as you come, lower down, to a reference to " all the land and territories lying to the Westward of the sources of the rivers which fall into the sea from the West and North West as aforesaid," somehow or other that supported the impression that all in Labrador to the Eastward of the watershed fell into Newfoundland ;that I am accurate in saying that, my Lords. I think appears from one of the maps, No. 17 in the Newfoundland Atlas, if your Lordships would look at it for a moment. It is a most curious error that the Colony has fallen into here. This map, No. 17 that was referred to, shows that backbone running through the pink, that non-existent backbone, was apparently assumed by Newfoundland to be the dividing line between the land and territories lying to the Westward of the sources of the rivers which fall into the sea from the West and North West as aforesaid," in the Proclamation. Your Lordship will see in the printed note upon the left hand side of that Atlas the concluding words : "As laid down in the Proclamation of the 7th October, 1763: ' There was reserved to the Crown . . . all the lands and territories not included . . . within the limits of the territory granted to the Hudson's Bay Company ; as also the lands and territories lying to the Westward of the sources of the rivers which fall into the sea (i.e. the Atlantic Ocean) from the West and North West.' By implication or exclusion, then, all that lay Eastward and South Eastward of the watershed delineated on this map must be 'under the care and inspection of the Governor of Newfoundland ''"; and in their Case they have put forward the same grounds.

Lord Warrington.

Mr. Macmillan.

Lord WARRINGTON: The real fact is, that when they are talking about the rivers running Westward into the Atlantic they are talking of the rivers running through the old Colonic, down on to the Atlantic Coast.

Mr. MACMILLAN: That is exactly so.

Lord WARRINGTON: They are not talking about this country at all.

Mr. MACMILLAN: That is why this note is wrong. That is why the Case, as based on that contention—it is part of their case here, if your Lordships will look at page 10 of their Pleadings , they quote it : “There was reserved to the Crown ‘for the use of the Indians, all

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the lands and territories not included within the limits of our said three Governments' (i.e. E. and W. Florida and Quebec) 'or within the limits of the territory granted to the Hudson's Bay Company ; as also the lands and territories lying to the Westward of the sources of the rivers which fall into the sea' i.e. the Atlantic Ocean) 'from the West and North West.'" Then they go on to say, "The effect of the Proclamation, according to the submission of the Colony of Newfoundland, was to place under the Government of Quebec, the area coloured blue, and under the Governor of Newfoundland, the area as coloured green and red on the map marked " A " ; so that it is quite plain, I think, that they have misapprehended that position. Sir John did not fall into that mistake ; he carefully avoided it, of course. He did not make the mistake which had been made by the cartographer who had suggested that. It is manifestly wrong. I listened with interest to see how Sir John would deal with that, and, of course, he saw that that related to the ancient colonies, and what is referred to there as " the rivers which fall into the sea from the West and North West as aforesaid," carries you back to the previous passage at line 18, where the phrase " the heads or sources of any of the rivers which fall into the Atlantic Ocean from the West and North West," is repeated, and that is in relation to " our other Colonies or plantations," to wit, " our ancient Colonies," so there can be no question whatever that that has nothing whatever to do with this.

Well, then, my Lords, what is there ? "And we do further declare it to be our Royal will and pleasure, for the present as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians, all the land and territories not included within the limits of our said three new Governmen[sic], or within the limits of the territory granted to the Hudson's Bay Company." Would your Lordships be good enough to pause there just for a moment ? There is no mention made of the territory of Newfoundland ; and the Indians, therefore, are to have reserved for them in this area all that is not Quebec and all that is not Hudson's Bay. There is no exclusion at all of what is Newfoundland.

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Mr. Macmillan.

You have, therefore, I suggest, a further recognition of what I have been maintaining, that so far from anybody conceiving that there was a territorial region of Labrador appertaining to Newfoundland at this time, there was nothing but a strip of coast ; and that was dealt with separately, and it was not necessary to exclude that here at all when they were considering the case of the Indians other than those in the territory of Quebec or those in the territory of Hudson's Bay. There is no exception of Newfoundland territory at all.

Of course, if I am right, the strip along the coast, the maritime strip, was not hunting grounds, and was not Indian territory in that sense at all ; it was an Esquimaux place and not an Indian place, and it is quite proper, therefore, to take no

notice of it here, because the Indians really were not affected, territorially, by what had been given to the Governor of Newfoundland, at all,[SIC]

One saw, of course, why they were so anxious, why whoever it was who was concerned in these pleadings originally were so anxious to avail

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themselves of the next sentence, where it says : “ As also all the land and territories lying to the westward of the sources of the rivers.” One sees now why it was that they were so anxious to get that in, because otherwise there is something unaccounted for here. There is no mention, therefore, of Newfoundland at all there.

Then it goes on : “ And we no hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our[SIC] special leave and licence for that purpose first obtained. And we do further strictly enjoin and require all persons whatsoever, who have either wilfully or inadvertently seated themselves upon any lands within the countries above described, or upon any other lands which, not having been ceded to or purchased by us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements.” Then the next is important also, where it says : “ And whereas great frauds and abuses have been committed in the purchasing lands of the Indians, to the great prejudice of our interests and to the great dissatisfaction of the said Indians ; in order, therefore, to prevent such irregularities for the future, and to the end that the Indians may be convinced of our justice and determined resolution to remove all reasonable cause of discontent, we do, with the advice of our Privy Council, strictly enjoin and require that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians within those parts of our colonies where we have thought proper to allow settlement ; but that, if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians, to be held for that purpose by the Governor or Commander-in-Chief of our colony respectively, within which they shall lie : and, in case they shall be within the limits of any proprietary Government they shall be purchased only for the use and in the name of such proprietaries conformable to such directions and instructions as we or they shall think proper to give for that purpose : and we do, by the advice of our Privy Council, declare and enjoin that the trade of the said Indians shall be free and open to all our subjects whatever, provided that every person who may incline to trade with the said Indians, do take out a licence for carrying on such trade, from the Governor or Commander-in-Chief of any of our colonies respectively, where such person shall reside.” Now, my

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Lord Warrington

Mr. Macmillan.

Lords, there is no record of any licence ever having been granted by Newfoundland to anybody to trade with Indians.

Lord WARRINGTON : Probably not, because I expect Newfoundland did not consider that this referred to them at all.

Mr. MACMILLAN : It did not refer to them at all.

Lord WARRINGTON : If you compare this proclamation with the document which preceded it, it becomes pretty evident, I think, that

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this part of the proclamation did not refer to Newfoundland at all, or to any Indians there.

Mr. MACMILLAN : No, my Lord ; and yet you will see in the sequel, some rather curious episodes. You will find Governor Palliser, of Newfoundland, founding upon this proclamation in order to complain that certain occupation was taking place on the territory under his charge, and he is invoking the proclamation.

Lord WARRINGTON : I daresay.

Mr. MACMILLAN : The confusion becomes pretty serious as one gets on, but for the moment I am anxious to show what your Lordship has been good enough to put for me, that we are dealing with two entirely different things altogether : On the one hand we are dealing in this Proclamation with the Government which has been set up and all that is necessary to be done, and the regime of the Indians who are upon their borders ; and on the other hand we have been dealing with something with a marine flavour in the previous Commission and instructions. Now, my Lords, if I have made good the distinction between the two regions in which the Government was operating I have made a considerable point.

At this stage I think it might be useful to consider the Indians' position a little more closely. I confess that I was a little bit surprised to hear my learned friend Sir John Simon give utterance to this sentence : " The idea that this Indian country had to do with a few Esquimaux up here in Labrador is really quite unhistorical and fantastic." Of course, I must address myself to my contention with some trepidation when what I am about to say has been characterised as " quite unhistorical and fantastic," and also, I think, as " preposterous " ; but I can only assume from the violence of the epithets that were used, that the argument which they were intended to support must be a weak one. I say that because I think your Lordships will appreciate that the argument that I am about to submit to your Lordships is neither unhistorical nor fantastic nor preposterous.

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which was before these persons who prepared the proclamation. Governor Murray's report was transmitted, as your Lordships will remember, for the consideration of those who prepared the proclamation. Governor Murray's report was sent by the Secretary of State to the Lords of Trade on the 5th of May, 1763, in order that, in preparing this very proclamation, they might have that report before them. Governor Murray's report is printed on page 893 in Volume III, and it is a very interesting document, and one which has not yet been before your Lordships.

Your Lordships are now going to hear about the few Esquimaux up in this district : “ My Lord, In obedience to his Majesty's Commands signified in Your Lordship's dispatch to Sir Jeffery Amherst of the 12th December last I have the honor to transmit the following account of His Majesty's Government of Quebec and the dependancies thereof.”

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—Will your Lordships kindly note the date of this document, which is the 5th of June, 1762, before Quebec had been defined ; and, therefore, they are dealing with old Quebec here, and not the Quebec as delimited in the proclamation 1763.—“ I have the honor to transmit the following account of His Majesty's Government of Quebec and dependancies thereof.”—Then, my Lords, he is anxious to tell all that he can, and he deals with the matter under several heads. The sixth head is “ Indian Nations ” ; and on page 894 he deals with the Indians thus : “ Indian Nations residing within the Government. In order to discuss this point more clearly I shall first take notice of the Savages on the North shore of the River St. Laurence from the Ocean upwards, and then of such as inhabit the South side of the same River, as far as the present limits of the Government extend on either side of it.”

Viscount HALDANE : When the word “ Indians ” is used in this document, does it always include Esquimaux ?

Mr. MACMILLAN: Not always, my Lord; there is a distinction.

Viscount HALDANE : Here it does.

Mr. MACMILLAN : Sometimes, I am bound to confess, you have a reference to “ Esquamaux Indians ” ; that expression does occur, but there is a quiet recognised distinction, racial and in every other way, between the Esquimaux and the Red Indians. They belong to a different people. Now he deals with this in the following way at the top of page 895 : “ 1st, The Savages on the North shore. The first to be met with on this side are the Esquimaux, these are the wildest and most untamable of any, and are emphatically stilled by the other Nations, Savages. They never dress their food but eat fish rotted in the Sun and drink the oil it produces.”

Viscount HALDANE : Evidently General Murray did not like either their food or their drink.

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Mr. MACMILLAN : They were in a state of nature, where life was what might be known as “ short, brutish and ”—I forget the rest of what Hobbs says. Then it goes on : “ Travellers represent them hardy, active and expert navigators. In the summer they come with their whole Families in Chaloups to fish in the streights of Belisle, these they leave in the Bays, and go out themselves to a considerable distance in Canoes made of skins wherein they sew themselves up. Their clothes and sails of their Vessels are made of the skins of wild beasts ; They are reckoned treacherous, and have had many encounters with the French and Canadians employ'd on the fisheries in those parts. Their Language is not understood but a few words they make use of nearly resemble the dialect of some of the most northern European Nations. A few here have trafficked with them and make a considerable advantage by it, but they never agreed well together ; and trade with the Esquimaux

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however must be precarious ; The Coast is rocky and difficult of access, the seasons for navigation short, and the risks too great to entice adventurers ; they have never been known to come on this side of La Forteau.”

The LORD CHANCELLOR : Where is that ?

Mr. MACMILLAN : That is close to Blanc Sablon, in the Straits of Belle Isle, my Lord.

Now, these are the Esquimaux. As you will see later on, they are a nation of coast dwellers, who do not penetrate into the interior, who speak a different language from the Red Indians altogether, and who, ethnologically, are thought to be associated rather with the Mongolians.

Viscount FINLAY : They are as different as any two races could be.

Mr. MACMILLAN : They are, my Lord ; and your Lordships will find later on that there was intense hostility between them and the Red Indians inside—a constant feud. The interior nations are quite different. These are the Esquimaux on the edge, and these are the people, for the most part, to whom the Moravians administered in their settlements on the shore.

Lord SUMNER : It says here that their language nearly resembles the dialect of some of the most northern European Nations.

Mr. MACMILLAN : Yes, my Lord. I suggested that they

were of the Mongolian type ; they were Laplanders.

Lord SUMNER : It does not say anything about that.

Mr. MACMILLAN : Well, my Lord, I do not know whether it was their diet which suggested that.

Now comes the second class, and your Lordships will pray note the distinction : “ The Montagnais or Monsonies inhabit a vast tract of Country from Labrador to the Saguenay ; they are again distinguished into those who live in the inland parts, call'd Nascapies, and the inhabitants of the water side, for this reason stilled Chuchouxlapishouets[SIC]. They take as many different names as they have Villages but are all the same people, and speak the same language. As in the interior parts of the Country there are many Lakes and Rivers which communicate with Hudson's bay, the former often trade on that side, which the latter also would have been obliged to do, if the interruption caused by the War, had continued for any time, tho' from the more convenient situation, they would have ever reverted to those who were Masters of the River St. Laurence, those are the mildest and most tractable of all Savages and never enter into War. Tho' their country is extensive their number is inconsiderable ; From Labrador to Mingan the Traders do not reckon more than from Eighty to one Hundred Families, and of those who resort

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to the King's Posts, there may be about 220 Families in all, but as their habitations are easily moved they are ever changing and shifting from one place to another. A Jesuit Missionary meets them at Tadousac when they come there for the trade and he resides in the neighbourhood all the Year.”

I need not deal with the coast territory, because those people were Hurons, who lived quite close to Quebec ; there was a special settlement of them there. Here you have a contemporary account of the two types of natives on this coast and in this interior : On the coast you have the Esquimaux; in the interior you have the two Indian tribes, the Montagnais and the Nascapies. These are people who are engaged in trade, and they come down to the St. Laurence posts, the trading posts, which are the French fur posts there, annually, on their migrations, for the purpose of exchanging the furs that they have got for food and guns and various other articles of trade. Sometimes they prefer to go to the Hudson's Bay side, because they are located up on this great plateau, where all these many lakes are, these many lakes and rivers in the interior ; so that sometimes they go down to the Hudson's Bay post on the Hudson's Bay side. But their natural direction, as your Lordships will see from the many other records in these books, was that they came down to the posts on the St. Laurence side. The King's posts were all down there, and they made their annual migrations down to that place. The great gathering ground was the Sandgirt Lake, in the head waters of the Hamilton River ; it was there they used to meet. Some of them came down to the Hamilton Inlet side. That there was a very considerable number of Indians in this territory, and that they carried on furring, is, I submit, beyond doubt ; but this matter of the natives in this region, that is to say in the Labrador region, was therefore before the framers of this proclamation, and in this proclamation they made provision for what the Governor of Quebec was to do in the matter of Indian administration.

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Now, my Lords, is it suggested that these Indians were in the territory of Newfoundland ? If so, you will not find any provision made for Newfoundland granting licences to trade with them, nor will you find any such provisions as are made with regard to Quebec, to enable Quebec to deal with these Indians who were outside their territory. Does the prohibition with regard to purchasing land not apply to them ? No such proclamation is addressed to Newfoundland. Could Newfoundland have taken the hunting grounds from these Indians, these Montagnais in Labrador ? Could the Governor of Newfoundland have contravened all these directions which are designed to protect the Indians on their hunting grounds ? I submit, my Lords, that you have only to read it to see that it is perfectly plain that these Montagnais and Nascapies were just as much under the protection of His Majesty as any of

the Indians round the Lakes and to the west, where no doubt there were a great many more. But why these unhappy Indians should be excluded, or why they should be called “ a few Esquimaux,” which I think they would probably have resented, I am quite at a loss to understand.

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May I just say this also, that if your Lordships will kindly turn to page 10 of the Newfoundland Case, you will get a description of the original inhabitants of the Labrador Peninsula, which might be useful to put alongside my learned friend's observations on page 231 of his speech. At page 9 of the Newfoundland Case they tell us with considerable accuracy the state of matters in the interior of Labrador. It is paragraph 6, and it says this : “ The aboriginal inhabitants of the Labrador Peninsula have altered very little, either in numbers or otherwise, since 1763. They may be roughly divided into three tribes : First the Esquimaux, to be found along the coast, particularly north of the Straits of Belle Isle (there are now no Esquimaux south of the Hamilton Inlet) ; next the Mountaineers, living further inland than the Esquimaux, and principally south of the Hamilton River, with their main huntinggrounds near the North West River, though they hunted on both sides of the height of land ; and thirdly, the Nascopies, occupying the central portion of the area south of the Hudson's Straits. The number of these native inhabitants varied probably between two thousand and four thousand in all. These Indians (apart from the Esquimaux who depended principally upon fishing) lived by hunting and trafficking in furs. The Mountaineers and Nascopies (particularly the latter, who had a large admixture of Red Indian blood) had had but little connection with white men.”

Now, my Lords, how it can be said in view of that statement, that in the territory to the north, the interior of Labrador, including the green area which embraces the Hamilton Inlet referred to here and the Hamilton River, there was nothing but a few Esquimaux there who did not require any protection from His Majesty, I am at a loss to see, but there is a great deal more, I am sure my learned friend's attention can hardly have been drawn to these matters, when I read the passages. If your Lordships would take Volume V, the volume containing the illustrations, page 2640. there is another contemporary account of the country of Labrador. This is a rather interesting document. It is “Extracted from the papers of Lieutenant Roger Curtis, of His Majesty's Sloop the . ‘Otter,’ with a plane-chart of the Coast. Communicated by the Honourable Daines Barrington. The people of this country form various nations or tribes ; and are at perpetual war with each other. Formerly the Esquimaux, who may be called a maritime nation, were settled at different places upon the sea coast quite down to the River St. John's ; but, for many years past, whether it has been owing to the quarrels with the Mountaineers, or the encroachments of the

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Europeans, they have taken up their residence far to the north. A good way up the country live a people distinguished by the appellation of Mountaineers, between whom and the Esquimaux there subsists an unconquerable aversion. Next to the Mountaineers, and still farther westward, you come to a nation called the Escopies. The Mountaineers are esteemed an industrious tribe ; and, for many years, had been known to the French traders ”—that is the Quebec traders. “ Their chief employment is to

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catch fur, and procure the necessaries of life. They are extremely illiterate, but generally good-natured; and are reckoned to be less ferocious than any other of the Indians. This softness of their manners is owing to their long intercourse with Europeans; and the other nations will doubtless lose their savage disposition, in proportion as they imbibe our customs.”

Sir JOHN SIMON : It was not the imbibing of customs which did it.

Mr. MACMILLAN: I am afraid what they imbibed in other ways rather brought their ruin than their civilisation. “They come every year to trade with the Canadian merchants, who have seal-fisheries on the southern part of the coast, and have the character of just dealers. They are immoderately fond of spirits, for which blanketing, fire-arms (in the use of which they are remarkably dexterous), and ammunition, they truck the greatest part of their furs. Their canoes are covered with the rind of birch ; and, though so light as to be easily carried, yet sufficiently large to contain a whole family, and their traffic. By means of the multitude of amazing ponds throughout the country, they convey themselves a vast distance in a very little time. Whenever they find a pond in their way, they embark on it, and travel by water ; when its course alters, and by following it they would lengthen their distance anything considerable, they land, place their canoe on their head, and carry their baggage on their shoulders, until other water gives them an opportunity of re-embarking. They are most excellent travellers. They bear inconceivable fatigue with astonishing patience, and will travel two days successively without taking any sort of nourishment. These Indians are of a deeper colour than the Esquimaux. They are low of stature. Though of a robust constitution, their limbs are small, and extremely well adapted to the rocky country they are continually traversing.” Then he passes on to the Esquimaux. “The Esquimaux Indians, inhabiting the sea coast of the northern part of Labradore, are indisputably from Greenland. They are a very deep tawny, or rather of a pale copper-coloured complexion. . . . They live always upon the sea shores, from their dread of the Mountaineers.” My Lords, notice the date of that, that is 1774. This is a contemporary

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account of the Indians of Labrador. Then the next author I can invoke also happens to be of this period, and it is extracted from a "Journal of Transactions and Events during a Residence of nearly Sixteen Years on the Coast of Labrador," by George Cartwright. It follows the document I have just been reading, and its date is 1792. "The native inhabitants are two distinct nations of Indians ; Mountaineers and Esquimaux. The Mountaineers are tall, thin, and excellent walkers ; their colour greatly resembles that of our gypsies ; probably occasioned by their being constantly exposed to the weather and smoky whigwhams. In features they bear a strong resemblance to the French, which is not to be wondered at, since they have had an intercourse with the Canadians for so many years, that there are few, I believe, who have not

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some French blood in them. These people inhabit the interior parts of the country, which they traverse by the assistance of canoes, covered with birch-rinds, in the summer ; and of rackets, or snow-shoes, in the winter," and so on. It goes on to describe them at great length. It is interesting to note at, page 2643: " They profess the Romish Religion; but know no more of it than merely to repeat a prayer or two, count their beads, and see a priest whenever they go to Quebec."

My Lords, these are two more or less contemporary accounts. There are a great many other accounts given of the Indians which are not so old as that, but I think you might take a reference to one or two modern accounts, because as is stated in the Newfoundland Case, there had been practically no change since the period of 1763, the state of the inhabitants has been very much the same. There are several reports on the ethnography of this district, which are of some interest, they are printed in the same volume, first of all at page 2606. Mr. Low, of the Geological Survey of Canada, who has been already introduced to your notice, with compliments on his accuracy by my learned friend, gives his account of the population, and does so in very considerable detail, explaining again this difference between the Esquimaux and the Red Indians, but you will find the description of the Red Indians at the foot of page 2609. "The Indians of the Labrador Peninsular belong to tribes of the Algonkin family."

The LORD CHANCELLOR : Have you got the date of this ?

Mr. MACMILLAN : It is quite modern ; it is 1895.

Viscount HALDANE : He was a cartographer.

Mr. MACMILLAN : He was a Geological Surveyor. It is a Geological survey of Canada.

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Sir JOHN SIMON : He was also a cartographer.

Mr. MACMILLAN : He was also a cartographer. We both seem anxious to lavish compliments on his learning when it suits us ; in the last line but one he says : “ The Indians of the Labrador Peninsula belong to tribes of the Algonkin family. The principal tribes of Labrador are the Montagnais, the eastern and western Nascaupees, and the coastal Indians of Hudson Bay. The Montagnais inhabit the country extending south of a line drawn westward from Hamilton Inlet, to the headwaters of the St. Maurice River.”

It must be very shocking to my learned friend, but we are in the green territory here where there are only a few Esquimaux. We are right in the heart of the green country : “ The Nascaupees inhabit the interior country north of this line, or from the bottom of James Bay eastward to Hamilton Inlet. The northern limit of their territory is marked by the Koksoak River, from its mouth to the Hillwater Branch,

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and by this stream westward to its head on the neighbourhood of Clearwater Lake, and thence westward to Richmond Gulf on Hudson Bay. This line divides the Indian territory from that of the Eskimo, and the boundary is well observed, the latter keeping far to the north of it, when hunting deer inland, and the Indians rarely crossing it from the southward.” Then page 2611, at line 20 : “ A large majority of the Indians of Labrador are Christians, the Montagnais of the St. Lawrence and Hamilton Inlet being Roman Catholics, while the Indians of the western watershed have been converted by the missionaries of the Church of England.” That is what Mr. Low says, but he also, at page 2619, says something more about them, talking about trade : “ The post at Rigolet” — that is in Lake Melville—“ consists of about a dozen houses and stores, and trade for fur and fish is carried on with the Eskimo and ‘ planters.’ The trade of the post at Northwest River is made with the ‘ planters ’ living about the upper part of the inlet, and with the Indians, who hunt in the country drained by the Hamilton and Northwest rivers, as well as with those hunting to the southward in the Mealy Mountains.” We are right in the green area. “ A Roman Catholic chapel was erected some years ago near this post, and a missionary priest from the St. Lawrence used annually to visit the Indians there, during the summer, and so on. Then page 2627 in the last paragraph : “ The religion of the country is professedly almost wholly Christian. The people trading around Hudson Bay are Protestants, while all the Montagnais are Catholics, cared for spiritually by the various missions of the Gulf and the Saguenay.” Lest Mr. Low be thought to be tainted in any way with a Canadian view in writing, so in 1895 you will find the Smithsonian Institute Report on page 2628 on the ethnology of this district, on the ethnology of the Ungava district. You will find in that at page 2630 a sketch of the Esquimaux, and the Indians which is very interesting, and tells us all about the Montagnais and the Nascaupees, and about their religion and habits, and all the

rest of it. The upshot of it all comes to be this, in this territory, this territory of Labrador, the native population consists of two tribes, the Esquimaux inhabiting the coast and the Indians, the Red Indians, inhabiting the interior, and the Red Indians again being divided into two types of Montagnais and the Nascaupees, and these Red Indians are people who have been in contact with Canadians—Quebec people—for a wry long period, indeed, they have been visited by the Jesuit missionaries and have been ministered to in matters both of commerce and religion from the Quebec centre. Their industry is the industry of pelts, they inhabit this great inland plateau. My Lord has heard a good deal about the height of land and the watershed, but this excellent relief map shows that in this country you have not got any distinct line of demarkation at all. The whole of the hinterland in there is a great mass of high lying land, the fall of the Lakes, the fact that all these Lakes are lying there is in itself an indication that you are not dealing with a ridge of mountains and watershed falling one way or the other, it is a great plateau on which this Lakes lie.

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Viscount HALDANE : I observe from the photographs nearly every where the land falls sharply to the sea.

Mr. MACMILLAN : It is shown very well here, in the northern part it certainly does most of the way, it is pretty abrupt : But the interior land is not a place where there is a great divide or ridges, and these Indians took no cognizance of the height of land or anything of that sort, because they roamed over the whole of this interior territory, these were their hunting lands where they got their skins, which they brought down to trade at St. Lawrence, and sometimes they went to Hudson's Bay, sometimes they went down to the posts on the Hamilton Inlet or on Lake Melville, therefore, you have got here a well-recognised Indian population, and my Lord, if that is so, what became of these people under this new regime. The Governor of Newfoundland has had no instructions as to granting licences or preventing the settlement in these Indian territories—were their hunting grounds at mercy ? Could any person get the lands of the Montagnais and Nascaupees while he could not get an inch of land in the six nations—in any of the others. All the provisions you remember of the Proclamation, the anxious provisions of the Proclamation of 1763, on my learned friend's view have no application whatever to the unhappy Indians of Labrador, and of course he can say that with comfort because he thought there were only a few Esquimaux there. He had not realised that we were dealing here with tribes whose existence was brought prominently before the authors of the Proclamation by General Murray's report upon them of 1762, which was expressly remitted to the authors of the Proclamation. The unhappy Governor of Newfoundland finding himself charged, on my learned friend's hypothesis, with all the Montagnais and Nascaupees—all their affairs now subject to him—could grant no licenses to trade with them, he could if he pleased, I suppose, have made grants of land there because the embargo upon Indian land in the Proclamation had no application to him. The whole code of the proclamation for the protection of the hunting grounds of the Indians had no application to the Governor of Newfoundland and found no place in his Commission.

This is one of those small things which so often are rather indicative of the truth. When you look at the instructions to the Newfoundland Governor you find that he is to preserve liberty of conscience in religious matters for everybody except Papists. I will give you the reference to that because it is a little unfortunate for the poor catholic Montagnais who were apparently to be persecuted by the newly imported Governor. It is in volume 2 at page 423. I will take this *en passant*, it is not a very big point, but sometimes these things are a little significant. The instructions to Hugh Palliser, Governor of Newfoundland, at page 423 in Article 21 are as

follows : “ You are to permit a free exercise of Religion to all persons, except Papists.”

The LORD CHANCELLOR : It is the same thing in Captain Graves' Commission.

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Mr. MACMILLAN : It is the same thing in Captain Graves' Instructions. I have my reference to Captain Graves' Instructions.

The LORD CHANCELLOR : I noticed it the other day.

Mr. MACMILLAN : You observe the unhappy Governor of Newfoundland, amongst other unpleasant duties in his situation, was bound to break the Capitulation of Montreal. I will now give you the Articles of Capitulation. Turning to volume 6, page 2754. here are the Articles of Capitulation of Montreal, the 40th Article in the Articles of Capitulation [sic] of Montreal reads as follows : “ The Savages or Indian allies of his most Christian Majesty, shall be maintained in the Lands they inhabit ; if they chuse to remain there ; they shall not be molested on any pretence whatsoever, for having carried arms, and served his most Christian Majesty ; they shall have, as well as the French, liberty of religion, and shall keep their missionaries. The actual Vicars-General, and the Bishop, when the Episcopal see shall be filled, shall have leave to send to them new Missionaries when they shall judge it necessary.—‘ Granted except the last article, which has been already refused.’” That is about Vicars-General, and so on. But they were to have the same freedom of religion as the French. Your Lordship remembers how important that was in connection with the new Government of Quebec. Not only so, but in the instructions to the Governor of Quebec, in Murray's instructions and also in Carleton's instructions, attention is specially drawn to this matter of religion. In Volume II, page 772, article 28, are the instructions to Governor Murray, Governor of Quebec. “And whereas we have stipulated, by the late Definitive Treaty of Peace concluded at Paris the 10th day of February 1763, to grant the liberty of the Catholick Religion to the inhabitants of Canada, and that we will consequently give the most precise and most effectual orders, that our new Roman Catholic subjects in that Province may profess the worship of their religion, according to the rites of the Romish Church as far as the laws of Great Britain permit. It is therefore our Will and Pleasure, that you do, in all things regarding the said inhabitants, conform with great exactness to the stipulations of the said Treaty in this respect.” But the Governor of Newfoundland was not to tolerate papists, and the Governor of Newfoundland found himself suddenly the Governor of the Montagnais, an excellent Indian tribe, industrious, and engaged in the fur trade, accustomed to go down to the St. Lawrence for the purpose of getting goods, and to be

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administered to by a Jesuit priest. They were not to be tolerated by the Governor of New foundland, because he was to extend no tolerance to papists. His new subjects were actually to a very large extent papists, in so far as the Montagnais were papists, and that was their only religion. He was not to tolerate papacy among them. It is not manifest that the whole code of Indian Administration which was appropriate for the Quebec side. had nothing whatever to do with the Newfoundland side

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of this matter. When they were thinking of cod and whale and sea-cows and how these might best be got, and how that fishery might best be protected, they were never thinking of questions of administration, and difficult questions of administration, such as arise when an Indian territory is taken over, and when its tribes have to be administered. The Governor of Newfoundland, I submit, was never entrusted with the administration of the affairs of the Montagnais, and never given a territorial jurisdiction over this whole territory, including the green territory, where these Indian tribes were housed, I suggest that that argument could only have been submitted to your Lordships upon the apprehension, which I think must have been a mistake, that this Indian country had to do with a few Esquimax up here in Labrador. There must be some mistake about that.

That being so, I have shown to your Lordships that there was here a very important Indian settlement of roving Indians, with hunting grounds extending all through this green territory, accustomed to wander round about this plateau, without any regard to the height of land whatever, and who came down from Hudson's Bay to the Gulf of St. Lawrence, or sometimes eastward to the outlet of the North West River, with their trades, on their annual migrations. These people were for the most part natives accustomed to the ministrations of the Jesuit missionaries, and they were in touch with Canada from the earliest days. Those were the people they knew, and no others. But apparently, if my friend is right, they have been transferred together with a large part of their hunting grounds to the regime of this naval officer on board his ship—the Governor of Newfoundland. I suggest to your Lordships that that is exceedingly improbable. If I have established that there was an Indian population to be catered for and to be governed, and that the Governor of Quebec was the person to whom those duties were entrusted, then I have gone a very long way indeed to displace my learned friend from the height of land. In my friend's Jigsaw puzzle—I hope I shall be pardoned for calling it so—in which he had different bits put in, I am going to put in another bit. We know that so often in trying to do these puzzles there is a bit you cannot fit in anywhere, and my friend could not fit in one bit. I am going to fit it in for him. There is the Indian reservation. Looking back to the terms of the Proclamation, look at the position. He says there is no tertium quid, but

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there is. The tertium quid is largely composed of this green area which he says was Newfoundland. This was all reserved. How ? If you look at Volume I, page 156, we have these words : “And we do further declare it to be our Royal will and pleasure, for the present as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians, all the land and territories not included within the limits of our said three new governments, or within the limits of the territory granted to the Hudson's Bay Company ”—I omit the next words because I think it is now agreed they have no application—“ and we do hereby strictly

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forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our especial leave and licence for that purpose first obtained.” Then the next article enjoins everybody to remove from those reserved areas.

My Lords, if you look at the preamble of that, the reason is given again at the top of page 156. “And whereas it is just and reasonable, and essential to our interest and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them, or any of them. as their hunting-grounds ”—therefore these Crown reservations of Indian territory are created with that motive. Were the Montagnais not protected ? Were the Naskapis not protected ? Surely they were brought within the ambit of this protection. They were not entirely in Quebec, though some of them did come down into the Province of Quebec ; and they were certainly not entirely in Hudson's Bay territory ; and the territory contemplated here is Indian, not in Quebec and not in Hudson's Bay territory.

Now where are these Indians ? These Indians are, among others, the Montagnais and the Naskapis, and therefore it is perfectly plain that there is something reserved for those Indians in this territory. My learned friend had one piece of his puzzle, the yellow piece, which he found difficulty in fitting into his scheme, and he said that might be an Indian corridor. I am afraid that is a little too ingenious. A corridor of that sort is no particular use to roving Indians whose hunting grounds extend over the whole of the hinterland area, and they would be little benefited by a stretch of territory of that sort as a hunting ground for the Indians, to which the language of this embargo should apply. In any case, if that were all the territory to which this language were to apply, the whole of the green, on my friend's view, would be exempt from it, and the unhappy Indians there would not be permitted to practice the rites of their religion because, being papists, they would not be under the liberty of conscience

clause in the Governor of Newfoundland's instructions, and apparently they would not be protected by any of the other clauses in the Proclamation.

On these grounds I submit with confidence that at least my contention is not unhistoric, nor perhaps will your Lordships think it either fantastic or preposterous. I venture to suggest it has a good deal to be said for it. It accounts for a great deal. It accounts for the whole of the regime of this part of the Labrador Peninsula, and it accounts for it on a satisfactory basis. We have the coast, with its fishery interest, confidence to the Governor of Newfoundland. We have Quebec, a settled territory, put under the territorial sovereignty of the Governor of Quebec. And we have the Indian territory where the Montagnais and others roam over these trackless plateaus, pursuing their trade, and portaging from one part to the other. We have their rights preserved, and their hunting grounds kept to them under the

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provisions of the Royal Proclamation, a Royal Proclamation which has no application to the Governor of Newfoundland. And then he, poor unhappy man, if my friend's contention be right, is put suddenly in the position of being Governor of all those inland Indians whom I have now discovered—my friend did not discover them—for your Lordships' consideration. He is made Governor of all those Red Indians from the deck of his ship off the Labrador Coast. An argument such as that almost merits my learned friend's epithets—only applied to his argument rather than to mine—but I prefer not to use such strong epithets on any opponent's argument.

That is not all. I want to turn next to the other element in the Labrador Peninsula—the Hudson's Bay Company. I propose to do my best to fit the pieces together there also. Nothing could have been more interesting than my learned friend's method of demonstrating how he partitioned Labrador. I am engaged in exactly the same occupation, but my result will be somewhat different.

The LORD CHANCELLOR : If you are beginning a new topic, we will adjourn now.

(Adjourned to Monday next, at 10.45 a.m.)

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Friday, 29th October, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON

IN THE MATTER of the BOUNDARY
between the **DOMINION of CANADA**
and the **COLONY of NEWFOUND-**
LAND in the LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

SIXTH DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Dominion of Canada.

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Monday, 1st November, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

SEVENTH DAY.

*Counsel for the Colony of Newfoundland :—The Rt. Hon. Sir
JOHN SIMON, K.C., Mr. F. T. BARRINGTON-WARD,
K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland &
Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON,
instructed by Messrs. BURN & BERRIDGE.*

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Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.
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MORNING SESSION.

Mr. MACMILLAN : My Lords, may I be permitted to say that I am happy this morning in having the assistance of Mr. Doherty, who has just arrived from Canada. He was unfortunately detained by illness and has only now arrived. Your Lordships will recall that the task which I set myself in the first stage of my argument was to apportion the Labrador Peninsula—and I use the term advisedly in its full extent—to apportion the Labrador Peninsula in conformity with the combined effect of, first, Captain Graves' Commission, and, second, the Proclamation. Those two documents are now fully before the Board, and the problem is to apportion the Peninsula of Labrador in conformity with those two documents.

My Lords, I should like, with your Lordships' leave, to recapitulate for a moment. Prior to 1763, when those two documents came into existence, the whole area of the Labrador Peninsula was in two hands, and two hands only. When I speak of the whole of the Labrador Peninsula I speak of the half million square miles to which Sir John Simon referred at page 9 of his speech. One part of the Peninsula was in the hands of the Hudson's Bay Company; the other part was in the hands of the French. The Hudson's Bay Company and France between them accounted for the whole Peninsula of Labrador. I repeat that, because I am afraid I was a little hesitant on the subject the other day, but I have been reassured by finding that this is common ground in the Case ; and it is nowhere set out with greater clearness or accuracy than in the principal Case for the Government of Newfoundland, at page 7. It is the passage headed " D.—The position in Newfoundland and on the Labrador Peninsula in 1763." It says : " The Labrador Peninsula connotes all the area, some 420,000 square miles in all " (that is the half million square miles) " east of a line joining St. James' Bay and the River St. Lawrence. No further modifications in the position between France and Great Britain in Newfoundland or Canada or on the Labrador Peninsula were made by Treaty between 1713 and 1763, and accordingly though the war which was concluded by the Treaty of Paris involved the capture of Quebec by the British in 1759 after the battle of

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the Heights of Abraham, and the capture in 1762 of St. John's, Carbonear and Trinity by the French and their recapture in the same year by Lord Colville"—now here are the significant words—"yet the situation which the Treaty of Paris was designed to modify was that established as a result of the Treaty of Utrecht. That position was that the island of Newfoundland itself was subject to the British Crown, but that the only territories on the Labrador peninsula subject to the British Crown were

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those granted to or acquired by the Hudson's Bay Company under their Charter of 1670," and then it goes on.

Lord WARRINGTON : The next is rather important ; at least it may be.

Mr. MACMILLAN : Yes—"and that though the boundaries of those territories of the Hudson's Bay Company were not definitely ascertained, they did not extend anywhere (save possibly in respect of the area between Cape Chidley and Cape Grimington) further into the interior than the height of land, which formed their boundary in 1857." I postpone that for a moment, because I am going to recur to it in connection with the Hudson's Bay boundary. I want, first of all, to make the point clear that it is common ground here, that in 1763 the position was that there were two authorities, and two only, in the Labrador Peninsula : (1) The Hudson's Bay Company, and (2) France. It is true that the frontier between those two jurisdictions was not ascertained at that time. Indeed, in my submission, it has never been ascertained.

Viscount HALDANE : There is nothing to show the origin of the name "Labrador," or what it means in old days, is there ?

Mr. MACMILLAN : My learned friend, Sir John, gave an explanation of it which I think is the historically accepted one, that it was probably from the Portuguese "labradore."

Viscount HALDANE : But is there no definition attaching to the name ?

Mr. MACMILLAN: No, my Lord. I have read a little about it, and one finds that there are various conjectures as to the origin of it, but they all seem, I think, to have this feature in common, which is, that it is derived from a word which means a labourer; and one suggestion was that the land was first sighted by a farmer on one of the ships.

Lord SUMNER : That may be consistent with La Bradore Bay.

Mr. MACMILLAN : That is possible, my Lord, because it is La Bradore, as if it was two words. As far as the origin is

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concerned, I think I have said all that need be said about it ; it appears to be a little vague ; on the whole I think that what Sir John said is correct.

The LORD CHANCELLOR : It was in that book shown to us the other day, by Bellin.

Mr. MACMILLAN : Yes, my Lord. Then, my Lords, what was the problem that the British Government was confronted with in the Labrador Peninsula ? The problem was to deal with that portion of

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the peninsula other than the Hudson's Bay portion, being the part acquired from the French under the Treaty. In this position of affairs we have the Government of Quebec established by the Proclamation, with an area carefully defined in extent by precise boundaries. That is my learned friend's " lozenge." All the rest of the peninsula other than this area delimited for Quebec, according to my learned friend's submission, was composed of Hudson's Bay territory and Newfoundland territory.

The LORD CHANCELLOR: I do not think he said that ; I do not think he said that part of that yellow was Newfoundland.

Mr. MACMILLAN : I stand corrected, my Lord, to that extent, that there was a small portion left over, the yellow corridor, as my learned friend described it. Let me be precise ; he accounted for all the remainder of the Labrador Peninsula other than the yellow territory as being territory either of the Hudson's Bay Company or of Newfoundland. My effort at this stage is to establish to the satisfaction of the Board that there was another area situated in Labrador as a result of the combined effect of the Proclamation and the Commission ; and that other area is the Indian reservation ; lands reserved in the hands of His Majesty in order that the ancient hunting grounds of the Indians might not be disturbed. My parcelling out of the Labrador Peninsular is thus somewhat different from my friend's, and when I have completed my exposition of the materials available for this purpose, it will appear that the Labrador Peninsular, as a result of the combined effect of the two documents to which I have alluded, will be found to consist of Newfoundland and Quebec (the lozenge), the Hudson's Bay territory, whatever that is, the Indian reservations, whatever they are, and the rights and interests of Newfoundland on the coast of Labrador, whatever they are.

I introduce, therefore, into this area, a very important additional feature, the Indian reservations, and my learned friends, of course, appreciate how important it is from my point of view to establish the presence of that terbium quid,

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as my learned friend described it. There is no doubt of the importance which my learned friend attached to this subject, because at page 106 of the proceedings, on the first line, he said ; “ It is important for me to show, if I can, that in the disputable area you do get a distribution of area as between these two. On the other hand, it would be a matter in my friend's favour, and I admit it quite frankly, if he was able to establish that there is a tertium quid in Labrador.” It would be perhaps more accurate to say that there is a quartium quid in Labrador, because in my view there were four parties interested in the Labrador Peninsula as the result of the combined effect of those two documents.

Lord WARRINGTON : Who were the four ?

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Mr. MACMILLAN: The four were the Hudson's Bay Company, Quebec, the Indian reservations, and Newfoundland. I have adduced for your Lordships' consideration a certain body of evidence to show that when the Proclamation refers to lands of the Indians which are to be reserved for the present—will your Lordships kindly note the words, they are rather striking—which are to be reserved for the present for the Indians—

Viscount HALDANE : Where is that ?

Mr. MACMILLAN : The actual words I am quoting are to be found at page 156, line 23 : “ And we do further declare it to be our Royal will and pleasure, for the present as aforesaid, to reserve under our sovereignty, protection and dominion, for the use of the said Indians all the land and territories not included within the limits of our said three new governments ”—the only relevant government for our purpose is Quebec because the two Floridas do not come in—“ or within the limits of the territory granted to the Hudson's Bay Company.”

Viscount HALDANE : Do “ Indians ” include Esquimaux ?

Mr. MACMILLAN : That is a searching question, my Lord. It is very difficult to say, and I cannot answer it definitely because on some occasions they refer to Esquimaux as Indians. My submission here is that these Indians are not Esquimaux, and for a very good reason which you will see at the top of page 156, line 10. The purpose is that they shall not be disturbed in their hunting grounds. The Esquimaux had no hunting grounds of that sort. They were a marine people. The beneficiaries of these reservations were “ the several nations or tribes of Indians with whom we are connected and who live under our protection.”

Viscount FINLAY : Is that common ground that the Esquimaux are not spoken of as “ Indians ” in these documents ?

Mr. MACMILLAN ; No, I do not think it is common ground.
That is my submission.

Viscount FINLAY : It is the sort of impression that one gets
on reading the papers.

Mr. MACMILLAN : I always prefer, if I may, not to say a
thing is common ground unless I am sure, because it always
leads to controversy, and it is perhaps easier to make it as a
submission. Your Lordships will judge between us, if my
learned friend challenges it. My submission is that when you
are speaking of the hunting grounds of Indians you are
speaking of Red Indians, and not of Esquimaux. When it was
desired to retain these hunting grounds for the present under
the sovereignty,

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protection and dominion, for the use of the Indians, what was contemplated was the Indian hunting grounds.

Viscount HALDANE : I suppose that means that the territory of the Indian lands is vested in the Crown subject to Indian occupation ?

Mr. MACMILLAN : Exactly. They had no title at all. But as you will see in the sequel they were exceedingly jealous of their hunting grounds. They had themselves recognised areas in which they hunted.

Lord SUMNER : Does the expression “ the said Indians ” in line 25 go back to the “ several nations or tribes of Indians with whom we are connected and who live under our protection ” in lines 6 and 7 ?

Mr. MACMILLAN : I submit it does.

Lord SUMNER : Those words are limitative of “ the said Indians ” ?

Mr. MACMILLAN : Yes.

Lord SUMNER : Before 1763 I do not think we have heard of any connection between His Majesty King George III and the Montagnais or Esquimaux ?

Mr. MACMILLAN : Yes, my Lord. I have the passages establishing that. I will come to that in a few minutes, if your Lordship will allow me. There was a most intimate relationship before 1763 between the Indians of Labrador and previously the French King, and thereafter our King. I will give your Lordship the passages a little later. I am very anxious for the moment to keep the general position before my Lords, because it is apt to be a little elusive. I was concerned, as my Lords recall, to show the presence of Red Indians in the green area, and to show there were not merely a few Esquimaux there. I was concerned to show further that the Indians contemplated in the Proclamation, while they undoubtedly included, and primarily included, I should think, the Six Nations, and other Indians who were, of course, much more numerous in the north-western portion, certainly did not intend to exclude the Naskapis or Montagnais in Labrador. The suggestion of my learned friend is given at page 121, line 40. Dealing with the position which I am now examining, he says : “ The reference to Indian lands in these eighteenth century arrangements is not a reference to just a few people who are on Hamilton Inlet. It is hundreds and thousands of miles away from the area which is really being pointed to.”

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Lord WARRINGTON : You said just now that you submitted the Proclamation does not exclude the Labrador Indians.

Mr. MACMILLAN : I am putting it at its very lowest.
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Lord WARRINGTON : It may not include them, without expressly excluding them.

Mr. MACMILLAN : That is so, my Lord. It is always best rather to understate than to overstate. But my learned friend says it is inapt to distinguish them.

Viscount FINLAY : In the ordinary use of language at that time would an Esquimaux be spoken of as an Indian ?

Mr. MACMILLAN : Why I hesitate to accept that at once is that in the papers in these books I find a description several times occurring of “ Esquimaux Indians.” That has embarrassed me in answering your Lordship, naturally, because the terminology was not very precise. But that the distinction between the Red Indians on the one hand and the Esquimaux on the other was well known at that time, I am going to demonstrate this morning. It would not however, be accurate to say there was not some confusion of terminology, because I do find the expression “ Esquimaux Indians.”

The LORD CHANCELLOR : You say this refers to the several nations or tribes of Indians.

Mr. MACMILLAN : Who have hunting grounds that ought to be protected.

Viscount HALDANE : Is that the Six Nations ?

Mr. MACMILLAN: No, it is all the tribes of Indians, not merely the Six Nations to the west. The Six Nations were round the lakes.

Viscount HALDANE : At the top of page 153 the words are : “ the several nations or tribes of Indians.”

Mr. MACMILLAN : That includes, of course, the Six Nations, but it also includes the Montagnais and Naskapis. And I am going to show in a moment that the Montagnais were a branch of the great Red Indian tribe of the Algonkians. I have already read a passage about that, but I will refer to it more conclusively in a moment. I am combating just now my learned friend's suggestion that the words “ Indian lands ” is not a reference to just a few people on Hamilton Inlet, and that it is hundreds and thousands of miles away from the area which is really being pointed to. In

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order to rebut that, I am really indebted to my learned friend for the prominence which he has given to the House of Commons Report in 1857 on the Hudson's Bay question. My learned friend brought before your Lordships as a document of much significance a plan which is appended to that Report. You may remember that he introduced the Report to your Lordships as a report of a Select Committee upon which Mr. Gladstone sat.

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Lord SUMNER : That is the Arrowsmith map ?

Mr. MACMILLAN : That is the Arrowsmith map. I have the actual Government paper in front of me. My friend also emphasised that the plan to which I have alluded was ordered by the House of Commons to be printed on the 31st July and 11th August, 1857. May I say that the fact that a document is ordered to be printed by a Select Committee does not in the least mean that the Select Committee has adopted the contents of that document. It will be within the experience of your Lordships when sitting on Committees and Commissions that there is much material printed in a report by way of an appendix that does not necessarily reflect the views of the Committee.

Viscount FINLAY : What is ordered to be printed may be a fallacy.

Mr. MACMILLAN : Certainly. I have myself directed papers to be printed in an appendix which I should be very sorry to be taken as representative of my own views of the matter I was examining. My learned friend, when he was examining that map appended to the Hudson's Bay Committee's Report, cannot have turned over the page.

Viscount FINLAY : Have we got this map ?

Mr. MACMILLAN : It is Map No. 26., My friend cannot have turned over the page, because the very next map appended to the Hudson's Bay Committee's Report, and bearing, I am interested to see, the same imprimatur on which my friend relies so much as a guarantee of authenticity—"ordered by the House of Commons to be printed"—is described as "An aboriginal map of North America, denoting the boundaries and locations of various Indian tribes." That map is No. 33 of the Canadian Atlas, but I prefer to take the actual map. I have it in my hands now, and I will put it before the Lord Chancellor. It shows precisely what I have indicated to your Lordships, that the territory right up to the coast of Labrador, or selvedge of Labrador, is occupied by the Indian aboriginal tribes ; and it shows the Algonkian Indians stretching right across the area well into Sir John's green territory. I doubt if my learned friend can have turned over the page, because otherwise he would have put this document

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before your Lordships.

Lord SUMNER : We have a copy of this map.

Mr. MACMILLAN: It is a coloured map, and I think it is more important to see the actual document itself. In case there should be any question of the colouring not being actually reproduced, I thought it better to produce the original. The copy is also only a portion of the map. If my Lord Sumner would look at the map before the Lord Chancellor he will see the whole of the Indian territory coloured in

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green. It corresponds exactly with the description I ventured to give your Lordships—Esquimaux along the coast, and Red Indians in the interior. The Red Indians shown there are the Algonkian tribe, a large tribe of whom the Montagnais are a part, and the Naskapis further to the north.

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The LORD CHANCELLOR: What is the boundary between the two ?

Mr. MACMILLAN : It is only a difference in the wash, I think. There is no line as far as I know.

The LORD CHANCELLOR : Oh yes, there is. It corresponds not exactly with the change of colour, but very nearly. It looks as if the Esquimaux for their purposes, whatever they were, had penetrated for some miles into the country, although obviously not so far as the Indians.

Mr. MACMILLAN : Certainly. What I am concerned to establish for your Lordship's satisfaction is that my description was accurate, that the Esquimaux are a nation inhabiting the coast, that the Red Indians are people inhabiting the interior, and that at the material date there were Red Indians in the area which my learned friend says was handed over to Newfoundland up to the height of land.

The LORD CHANCELLOR : I see Naskapis Indians are noted on the map.

Mr. MACMILLAN : That is the other tribe I mentioned. I mentioned the Montagnais and Naskapis. The Montagnais are a branch of the Algonkians.

Lord SUMNER : The Algonkians covered half of North America, so that it is a very general term.

Mr. MACMILLAN : Yes.

Lord SUMNER : Probably your point is that no Indians are

found on the Coast of Labrador.

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Mr. MACMILLAN : I am commenting on the suggestion that there were no Indians to be provided for in this territory with hunting grounds dealt with under the Proclamation of 1763. My Lords will note who is the author of that map. My learned friend was concerned to show what a valuable cartographer Mr. Arrowsmith was. That map was by Mr. Arrowsmith. That map was ordered to be printed by the House of Commons and, therefore, it is introduced to your Lordships' notice with

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exactly the same commendation from me as my learned friend introduced the map of 1857 to be found appended to the same volume.

The LORD CHANCELLOR : I see that under the heading of Indian nations. are included Esquimaux as well.

Mr. MACMILLAN : I am much obliged, my Lord, I had not noticed that. The real value of that map is this. It shows pictorially exactly what I have been describing to your Lordships from contemporary descriptions. namely that the Esquimaux tribes are to be found along the coast, and the Red Indians are to be found inland. It is an exact pictorial representation of the state of matters at the material time, showing in a map what I have done already from contemporary and subsequent records. Lest it be said that that may have been the position of matters in 1857, but how do we know that it was the position of matter in 1763, which is the material date I first suggest that the Indians have certainly not been extending between 1763 and 1857. But again I am relieved by the indulgence of my friends from making any point about that because they state at page 9 of their case, "The aboriginal inhabitants of the Labrador Peninsula have altered very little, either in numbers or otherwise, since 1763." Therefore we may take it that the representation upon that Map No. 33 of the Canadian Atlas, a copy of which, as appended to the House of Commons Report, has just been before my Lord, represents the state of occupation of Labrador so far as the Red Indians were concerned, and shows the Red Indians as a people in occupation of the green territory, and therefore in occupation of a territory where they had their hunting grounds, and that those hunting grounds were handed over to the Governor of Newfoundland and were not reserved to the King under the Proclamation of 1763. I shall have to recur to that volume a little later on for another and perhaps even more important purpose, but for the moment your Lordships see the object I have in view.

There are one or two passages I would merely ask your Lordships to note in passing, confirmatory of the view which I submitted on Friday, and which I think is further vouched

by the map which has just been in your Lordship's hands. Mr. Hesketh Prichard in Volume V, page 2646, an explorer in Labrador. gives an interesting account of what he saw.

Viscount HALDANE : What date is this ?

Mr. MACMILLAN : It is quite recent. Mr. Prichard's book is published in 1911.

Lord SUMNER : Do you know who he was ?

Mr. MACMILLAN : He was a very well-known officer. Unhappily he is dead, as your Lordship knows. But he had a distinguished career. This was his book giving an account of his explorations through

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Labrador. He tells us about the conditions, and one reads it bearing in mind the exhortation of Newfoundland that the conditions of matters as regards the aboriginal inhabitants is now practically the same as it was in 1763. That excuses my reference to so modern a book. He talks of the great plateau which lies between the Atlantis and the George River, and of all the difficulties he encountered. Then he says, at line 17 : “ The present population of Labrador falls naturally into four divisions. The first is the permanent white community. which includes the Moravian Brethren and their families, the Hudson's Bay Company's factors, and the liveyeres (live heres) as the white settlers are called. These all dwell by the salt water. The second division is made up of the men belonging to the fishing–fleets, who are summer visitors only, coming up through the ice from Newfoundland and the south in the early days of July and leaving in October. The lives of these men are hard and stern, and in them again we find the predatory record. From the day on which they put out from Newfoundland in their schooners to that on which they return, they toil savagely, catching and curing fish, living meanwhile in wooden shanties on the barren windswept islands or on the shores of lonely inlets. With the third division we reach the real children of the coast, the Eskimo tribes. All along the eastern littoral, from Makkovik northwards, they exist, cared for and preserved by the Moravian Brethren, whose wise policy it is to encourage them to live as nearly as possible on the lines that Nature intended. The Moravians have done a great and heroic work, to which I have tried to bear witness in the latter part of this book. The Eskimo are altogether predatory, a race of hunters and fishers. Fish in the summer, fur in the winter, and seal, walrus and white whale are their quarry from one year's end to another. In the early springtime, while ice still holds the land ironbound. they make long journeys by komatik, or dog–sledge, after the herds of Barrenground caribou, the branch of the vast reindeer family which inhabits the barren uplands of North and Central Labrador. Now, we are left with the fourth, the Indians of the interior. Their numbers were, some time ago, computed to be four thousand in all, but the large majority of these hunt and trap in the southern part of the peninsula, massing at various points, and coming out with their furs to the water of the St. Lawrence. More to the North, in the central country are the lodges of two tribes, the Montagnais, and the Nascaupees. Here we find the dominant instinct of Labrador, the predatory instinct, at its fullest development. These tribes owe their food, clothing, and their habitations to the creatures of the chase, and they live a life of hardship and freedom such as was more common in the world of a hundred years ago.” Then with regard to the distinction between the coastal strip and the interior country, pray note the language used in the

last paragraph of the page, at line 38. " In fact, few things have struck me more than the almost universal fear which lay upon the fisher population of this barren coast with regard to the great hinterland upon whose eastern lip they live. It was the one subject upon which their imaginations never

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failed them. To lose the way, to be drowned in some rock-staked torrent, to die miserably of starvation—in such glib phrases they voiced their many forebodings."

Viscount HALDANE : I see he uses a new phrase at line 20 of page 2646. Speaking of the white community, he says : " These all dwell by the salt water."

Mr. MACMILLAN : Yes. I read that with an intentional emphasis. On page 2649 the author proceeds under the heading of " The Indians of the Labrador " to say this : " The Indians of the interior are probably a diminishing people whose numbers it is difficult to compute, for they live for the most part withdrawn behind their fastnesses of wilderness and stony desert. According to the most reliable estimates they may be counted as some four thousand in all. The large majority of these hunt and trap in the southern part of the peninsula, coming out with their furs to the waters of the St. Lawrence. In the central country are the lodges of two tribes—the Montagnais to the south and the Nascaupes further north. They have parcelled out certain districts of the interior into hunting grounds, each of which is regarded as a hereditary belonging, passing from father to son. They call no man master, and they live a life of hardship and freedom such as was more common in the world of a hundred years ago."

Your Lordships have there, I think, a very accurate description of a recent explorer in this territory showing that the conditions now are just the same as those which Lieutenant Curtis found at the end of the eighteenth century at the time this material document came into being ; and the same conditions, again, as are reflected in the map appended to the House of Commons Report of 1857.

The LORD CHANCELLOR : Have we had a reference to Lieutenant Curtis ?

Mr. MACMILLAN : Yes, your Lordship had that on Friday.

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The LORD CHANCELLOR : Oh yes, I have it. It is in the same volume, page 2640.

Mr. MACMILLAN : Yes. I also gave your Lordship Cartwright, who was also at the end of the eighteenth

century. So far as I have been able to examine the matter the whole position seems to be quite consistent, and it has the great advantage of coinciding with the pleadings—I mean the written as distinguished from the oral pleadings—of Newfoundland in this case.

There are other passages of great interest, and perhaps I might just make one further reference to the Indians apropos of a question my Lord Sumner raised. Your Lordships will realise that when we succeeded to this good heritage in Labrador we were not succeeding to a territory which was entirely unknown, or whose inhabitants were entirely

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unknown. There was a great unexplored hinterland, it is true, where the Indians had their hunting grounds, and where they roamed at large. But the Indians had to come to the coast, they had to come down from their plateau in order to trade ; and it is a characteristic of these tribes that they frequented the various posts, which were established at suitable places, in order to barter the skins which they had taken during the winter season for food, guns, knives, and other manufactured commodities, at the posts which had been established to trade with them. Those Indians with whom I am dealing had posts on three sides of them. They had the Hudson's Bay posts to the west, they had the well-known King's Posts on the St. Lawrence to the south, and they had certain posts which the Hudson's Bay Company had established to the east, the North-West post, and Rigolet post, and other posts about that region. Therefore, the Indian had a choice where he would take the peltries—to Hudson Bay, the St. Lawrence, or east to the Hudson Bay posts on the eastern side of the divide. There are traces of considerable competition to induce the Indians to come in one or other of those different directions. Some of that history is recorded in these volumes, but from a date long antecedent to the signing of the Treaty of Paris the value of this fur trade with the Indians of the interior of Labrador, had been recognised and had become a monopoly of the French King, a monopoly to which our King succeeded in turn in what is known as the King's Domain, or the King's Posts, situated upon the north bank of the River St. Lawrence, and comprising a large number of posts established, some on the coast of the river, and some further inland, being the posts to which the Indians from the interior, particularly the Montagnais—and it may be to some extent the Naskapis also, though they were a more northerly and rather more elusive tribe—regularly resorted for the purpose of bartering the skins they had taken with the traders established in those posts.

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Viscount HALDANE : Was there any port there from which the skins could be taken away to Europe ?

Mr. Macmillan.

Mr. MACMILLAN : I do not know what development there had been. There were primitive harbours there, of course. They really were taken from there to Quebec.

Lord SUMNER : They would go back on the same vessels that came in ?

Viscount Haldane.

Mr. MACMILLAN : Quebec was the entrepot for the trade, and it is significant that it was conducted entirely by Canadians. It was not a Newfoundland trade in any sense of the term.

Mr. Macmillan.

Viscount HALDANE : Was there any road, or any way of getting to Quebec ?

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Mr. MACMILLAN : Only by sea. The Red Indians came down the rivers in their canoes. They were able to effect portages in this territory, which was so completely equipped with water communications that they could pass from one part of it to another by canoe. It was not a case of going over the Rockies at all. On this plateau you find a great number of lakes and rivers often separated by a very short distance, and they effected their transits from this country by short portages.

Viscount HALDANE : In those days there was no distinction between the coast of Labrador and the interior, so that they could come across at any point they wanted.

Mr. MACMILLAN : In 1763 there was no distinction at all. It was all France. If you would wish to have one or two references on this subject, General Murray tells us a little about the Indians on page 2760 of Volume VI : “ The posts of the Kings Domain vizt. Tadoussac, Islets de Jeremie, Chicoutimy and Sept Isles situated on the north side of the River St. Lawrence were during the French Government under the immediate management of the Director thereof who was appointed to that charge by the Governor and Intendant of Canada. He furnished them at the Kings expence with the merchandize and effects proper for the Indian trade or fisherys which were carried on at these several Posts, and received from thence likewise upon the Kings account, the furs, oyl, fish or other produce of the same. They had formerly been farmed but the lease expiring in 1756 they were advertised and no one bidding for them on account of the war the Intendant lest the savages should quit their usual haunts ordered them under the before mentioned direction, which continued until our arrival altho the expence far exceeded the produce. When they were let out to farm the highest rent paid for them under the French government was 7,000 livres or £291-13-4 sterling.”

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The LORD CHANCELLOR : Where is Tadoussac ? Is that in the green ?

Sir JOHN SIMON : No; none of them are in the green ; they are in the River St. Lawrence.

Mr. MACMILLAN : None of these places mentioned are in the green, but some of the King's Posts I shall show were in the green.

Sir John Simon.

Lord WARRINGTON: I have Tadoussac and Sept Isles. Where are Islets de Jeremie and Chicoutimy ?

Sir JOHN SIMON : They are further up the river than Sept Isles.

Mr. MACMILLAN : Between Sept Isles and Tadoussac.
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Lord WARRINGTON : There is nothing east of Sept Isles amongst these that are mentioned.

Mr. Macmillan.

Mr. MACMILLAN : No, my Lord, I do not think so, but I shall be able to give your Lordships the extent of the King's Domain ; they extended to Cape Cormorant, that is the limit.

Lord WARRINGTON: Sept Isles was pretty close to that. Where is Chicoutimy ?

Sir JOHN SIMON : Chicoutimy is on the Saguenay, about half way between the mouth and the Lake St. John. If your Lordship would like to identify the Islets de Jeremie, they are, as a matter of fact, on my sketch map just about on the meridan of 69.

Lord WARRINGTON : Then they would be north-east of Tadoussac ?

Sir JOHN SIMON : That is right, my Lord. I think that is approximately right.

Mr. MACMILLAN : That is, of course, where one would expect them to be, because they came down in their canoes. There was no other method of transport.

Viscomit HALDANE : They never came round the coast ?

Mr. MACMILLAN: No, my Lord.

Viscount HALDANE : They only had canoes ?

Mr. MACMILLAN : Birch-bark canoes. The whole of that territory, without discrimination, by such a line as is indicated in blue there, was all one great territory so far as the

Indians were concerned ; they had no notion of Newfoundland's present claim at all.

Viscount HALDANE : Nor of the height of land, I suppose ?

Mr. MACMILLAN : No ; the whole thing was a rolling plateau. There is interesting evidence to show that sometimes people had to drop a leaf in a stream to see which way it was flowing. Up on the plateau you are in a great extent of land, with the huge lakes all over it, honey-combed with lakes, so that until you get a long way from the centre of it, it is difficult to know which way the water is going. General Murray, in 1767, is telling us about the posts of the King's domain, and at page 2761 he says : “ After the reduction of Canada in 1760 the Indians of the Domain deputed their Chief and Missionary to address General Murray in their favor, and represented to him that they were in the utmost misery and distress since the Conquest,

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destitute of provisions and every necessary, begging that they might be taken under the protection of His Britannick Majesty and supply'd and maintained in the same manner they had been in the time of the french.” If my Lord, will link that language up with the language of the proclamation, these are Indians coming to Murray, our Governor on the spot, seeking to be taken under the protection of His Britannick Majesty and pleading their cause. “ The General after enquiring into the nature and establishment of the Domain”—he knew nothing about the domain, it was a French domain—“ reported the state of it to General Amherst who ordered it to be continued on the same footing as formerly, and an Agent or Director was appointed to supply them with merchandize, etc., and to receive the returns on the King's account.” Then there is some more about it. Then at line 30 there is : “ His Majesty was pleased to issue His Royal Proclamation signifying his pleasure with regard to North America and enjoining that the Trade with the Indians described therein might be free and open to all His Subjects.” General Murray is dealing with the King's posts ; that is to say posts to which the furs were brought down in the land of Labrador, and General Murray is invoking the proclamation of His Majesty, the document of 1763, enjoining that the trade of Indians described therein might be free and open to all his subject. General Murray's view was rather different to the view put forward now by Newfoundland, which is that the Indians referred to in the proclamation were hundreds of thousands of miles away. So far from being hundreds of thousands of miles away, they were at the very doors of Quebec and the trade with these posts was one of the most important things to which we succeeded. We succeeded to a well-established regime whereby the benefits of the fur trade in the interior of Labrador had been acquired and developed by the French King, and our King in turn, His Britannic Majesty, succeeded to that asset as one of the assets under the Treaty of 1763. “ General Murray issued a proclamation in consequence of that of the King last mentioned setting forth the hostilities were now ceased with the several Indian nations who had lately appeared in arms against His Majesty and a friendly intercourse between His Majesty's subjects and them thereby restored, declaring that the trade with the several Indian nations living under his protection was free and open to all His Subjects under the restrictions mentioned in the said Royal Proclamation ” ; and so on. If my Lord would look at General Murray's letter to the Lords of Trade on page 2766 you will find some more light upon this. It is a letter of the 26th May, 1767.

Lord SUMNER : Did you read the last paragraph on page 2761 ?

Mr. MACMILLAN : No, my Lord, I did not. Shall I read it ?

Lord SUMNER : It touches the point you were making, that the Indians trading from the green interior were among those who had been

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in arms, or appeared to have been enemies of King George III. You know these things better than I do. It may not be so good as some other things.

Mr. MACMILLAN : If I may say so, I think on the whole it is not so favourable to me, for this reason : it will appear to your Lordships a little later on that these Montagnais did not fight against us ; they had been civilised in their contact with the French and had really become commercialised to some extent. Apparently I have committed a dreadful solecism. I thought they had not fought, but I am told by those behind me that they had fought. I thought that these were a more docile people in this part. That was my impression, but I must be wrong. It is not very material for our present purpose. If your Lordships would look at page 2766 there is an interesting letter of the 26th May, 1767. “ The lands of the King's Domain were never ceded to nor purchased by the French King, nor by His Britannick Majesty ; but by compact with the savages inhabiting the said lands, the particular Posts or Spots of ground, whereon the King's buildings are erected and now stand, were ceded to the French King, for the purpose of erecting storehouses and other conveniences for the Factors, Commis or Servants employed to carry on the trade ; and the savages residing within the limits of the Domain, and who resort to the said Posts of His Majesty at certain seasons of the year, were adopted as Domicile Indians under the sole and immediate protection of the King, and so remained till the reduction of the Province, and a Missionary was sent to reside constantly among them. The lands of the Domain therefore, are to all intents and purposes reserved, as hunting grounds to the savages, of which they are ever jealous, on the least appearance of an encroachment even among themselves. With what propriety, therefore, could the Governor have complied with Mr Alsops petition for grants of land there ? would it not have been in direct contradiction to His Majesty's Proclamation ? and I flatter myself the contempt he has shown to the said Royal Proclamation of His Majesty's Government, will be far from entitling him to the favour he claims from the King's servants here.” This was a person who wanted to get a grant of land.

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Lord WARRINGTON : Not in Labrador ?

Mr. MACMILLAN : In the King's Domain.

Lord WARRINGTON : What is the King's Domain ?

Mr. MACMILLAN : I will tell your Lordship in a moment.

The Lord Chancellor.

The territory of the King's Domain is very difficult of ascertainment, because it was a domain not measured by metes and bounds, it was a domain in which the King had established

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posts for the purpose of attracting the Indians from the interior. The drainage area, if I may so call it, of the King's posts was naturally a very much larger thing than the territory actually occupied by the King's posts themselves. The domain was not defined by metes and bounds, but you find a series of posts established to which the trade came from all the hinterland. I have one or two clues to the size of the King's domain, but I am not going to say that it is ever satisfactorily delimited in any way. I do not require to do so, because my only concern is to show that there were posts on the St. Lawrence, and inland from the St. Lawrence, to which the Indians from the interior resorted. No one would suggest that those Indians occupied solely the yellow strip on my learned friend's map.

The LORD CHANCELLOR : Where did furs which were here at the head of the Hamilton River and taken there go to—over the mountains ?

Mr. MACMILLAN : Yes, my Lord ; some went there. There is a very interesting story later on, of somebody wanting to get a grant down in the region that my Lord is pointing to, and it was opposed on the ground that if a grant was obtained there it would drain away the Indians from their resorting to the St. Lawrence and take them that way, and to that extent injure the King's domain, or the St. Lawrence Post. I submit, on the fair reading of the documents, there is no doubt we are dealing with a great region of Indian hunting lands there. There was a certain competition among the various posts to get the Indians to resort to them ; in fact one is sorry to see the temptation of fire water used in many instances to attract the Indians. They were most liable to go to the posts where they got most drink. They did not go beyond Cape Cormorant.

Viscount HALDANE : Were the only King's posts those on the way to Quebec ?

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Mr. MACMILLAN : These are four mentioned by General Murray. There are more posts than these further inland.

Lord WARRINGTON: They are all west of the territories with which we have to deal.

Mr. MACMILLAN : Not so, if I may say so. The King's

domain——

Lord WARRINGTON : But the King's posts are all west of the River St. John.

Lord Warrington.

Mr. MACMILLAN : All west of the River St. John ?

Lord WARRINGTON : Or the longitude of the River St. John.

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Mr. MACMILLAN: I think so, my Lord, I am not quite positive. They are dotted about in what is called the King's domain.

Lord WARRINGTON : I know.

Lord Sumner.

Mr. MACMILLAN : For my present purpose your Lordship sees that that is not very material. If posts had even been at Quebec it would have been good enough for me, if I could show that the Indians from this territory resorted to them.

Lord WARRINGTON : General Murray was Governor of Quebec, and his authority would only extend to that which was within his own Province.

Mr. MACMILLAN : Under the proclamation he was directed to deal with the Indians outside his own Province.

Lord WARRINGTON : In the reserves.

Mr. MACMILLAN : In the reserved portion.

Lord SUMNER : I quite see your picture of a very limited number of hunting Indians trapping and hunting over a vast area in an unknown interior and trickling down for the purpose of barter and consideration to coast places which were naturally those where there were established trading posts ; therefore the hinterland is the feeding ground for the King's posts more or less on the St. Lawrence.

Mr. MACMILLAN : Yes, my Lord.

Lord SUMNER : But that does not seem to be entirely inconsistent with the back lands of Labrador including all this hunting area, so long as there is no grant of special ground to individuals, and so long as there happens to be no trading post of importance on the Atlantic coast. The natural tendency of the Indians to come down to the St. Lawrence shore remains as it had been from the beginning of the world.

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If you could find the Governor of Newfoundland directed to establish roads and posts and intersect this hunting ground, or if it had been suggested that that is what would have been done, there would have been an obvious inconsistency between respecting the rights of the Indians who were attached to Quebec, and giving the Governor of Newfoundland that kind of power extending inland from the Atlantic shore ; but there is nothing of the kind, and for the purposes of some kind of definition to an area which would otherwise have been gaping open over a frontier of hundreds of miles they might have used language which covered the hinterland up to the height of land, and yet be quite consistent with taking the enjoyment of trade with the Indians south through the St. Lawrence,

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Mr. MACMILLAN : The stages, of course, through which one's mind passes are these ; first of all, are there any Indians there at all ?

Lord SUMNER : Yes.

Mr. MACMILLAN : It has been submitted to your Lordships that there are none.

Sir JOHN SIMON : That is no part of my case.

Mr. MACMILLAN: “ A few esquimaux up there ” is my learned friend's expression, and the Indians dealt with in the proclamation are Indians hundreds of thousands of miles away. I want to take the stages with your Lordships, if I may respectfully do so. First of all, Indians established there. The question is : Are those Indians under Newfoundland, or are they under Quebec, under Canada, or are they in the King's hands ? I find in the proclamation of 1763 a design to maintain the Indians in their hunting ground as in a Crown reservation, and I find a code providing for dealing with the Indians. First of all, Indians are not to have their land purchased by anybody ; there are to be no grants. Secondly, I find this : that if there are any people who have encroached upon the Indians they are to remove and leave the Indians free. Next I find a system provided whereby traders may get licenses from the Governor of Quebec to trade in the Indian territory. I find, in short, a code provided and handed to the Governor of Quebec. I find no such code handed to the Governor of Newfoundland. He is not authorised to grant any licences ; he is not enjoined to prevent people purchasing or acquiring portions of the Indian reservation. I find on one side of my argument a code adapted to a Crown reservation for Indians appropriate to a westward-looking jurisdiction, and pro contra I find nothing on Newfoundland's side appropriate to this at all. There is a direction that he is to encourage commerce, and so on, and I will deal with that in

Lord Sumner.

a moment, because that is another very instructive part of the case, but at this moment I am concerned to establish the presence of Indians there who were in a reservation, and that there was no gaping space at all, because the whole of this Labrador Peninsula is accounted for under these categories : Hudson's Bay, Quebec, reservation for the Indians, and such rights as Newfoundland may have had, whatever they were.

Lord SUMNER : There is still a gap somewhere between Cape Chidley and Ance Sablon, although you put it so very much nearer to the shore. No one has ever filled that up yet.

Mr. MACMILLAN : One must go by stages. I think you will find that I can account for that also.

Lord SUMNER : Doubtless, but still at the moment I think it is

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important to see that if there are settlements to be prevented and squatters to be turned out, it appears to be the Governor of Quebec who is to do it. If there are settlers licenses to be granted they are got at Quebec. There is no application at all to the Governor of Newfoundland in any of these matters, and there is an established and valuable trade to be fostered from Quebec and valuable to Quebec. All those things are very significant.

Mr. MACMILLAN : I am content to leave it there, and I do not wish to press it further at this stage.

Lord SUMNER : You must remember they are not quite as significant as they would be if, in 1763, there had been Imperial Statutes laying down so-called areas for different self-governing Dominions. These are, after all, only dependent on Commissions which could be cancelled or superseded whenever it was considered necessary to do so. They are only dealing with the current administration of an area which would take more than two men to administer.

Mr. MACMILLAN : It is quite true that in this area the only territory which was defined by superficial measurements or boundaries was Quebec, which was actually defined. Beyond that, we have nothing but the general description of Hudson's Bay territory, which is not a description by boundaries, but a description by the names of places, by lands, rivers, and so on. As regards Newfoundland, its rights, whatever they are, are admittedly not defined beyond two termini on the coast. Therefore we are in this position in this area. We have one settled Government whose boundaries are precisely ascertainable and ascertained, but for the present—and my Lords will appreciate what I am working up to—I am destroying, if I can, my learned friend's contention. The land on this side of the peninsula up to the height of land was all Newfoundland, was his case, and he was concerned to show that there were no Indians there, to whom this proclamation referred. That was the point. He said the Indians to which the proclamation referred were hundreds of thousands of miles away. If I can show that there are Indians there, and that the proclamation refers to those Indians, then I get the reserved Indian territory and I dislodge my learned friend from the height of land ; that is the course of my argument.

Lord WARRINGTON : Speaking for myself, that is the difficulty that I feel ; not that there were no Indians there, but that the proclamation extended to them.

Mr. MACMILLAN : May I take it again by stages ? How far have I got ? I have got this fixed : I have shown that there

were King's posts. As regards those posts, who were the Indians who came to them ? They were Indians who came down these rivers to the posts, and they came from the hinterland, and they were the people to trade with whom

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licences would be given by the Quebec Governor, and they were, therefore, people who had hunting grounds jealously preserved in the Labrador Peninsula, and just the people to whom the proclamation would apply. I am sorry I do not carry conviction, but perhaps my Lord will reserve judgment upon it until the rest of the matter is put before his Lordship,

Lord WARRINGTON : Certainly.

The LORD CHANCELLOR : Would the furs which were taken by the Naskopi, who were the most northerly of the Indians on the land coloured green, come down the St. Lawrence at all, or would they go into Lake Melville and down to the coast ?

Mr. MACMILLAN : There is not much evidence of Naskopis coming down with furs, it is mostly Montagnais.

The LORD CHANCELLOR : Was there much Montagnais ?

Mr. MACMILLAN : Yes. I have tried, my Lord, to get some idea of the extent of the territory which was known by King's posts. About the best I can get, I think, is the description in the Memoir of Monsieur Cugnet in 1766, Volume VII, page 3254 ; that was just three years after the Peace of Paris. This Memoir was sent by Governor Carleton of Quebec to Lord Shelburne, who apparently wanted to know about the 20 King's posts. There is a great deal of material about the King's Posts, but it is a little bit vague.

Viscount HALDANE : He must have succeeded in 1766.

Mr. MACMILLAN : Yes, my Lord, he was the second Governor, who was afterwards Lord Dorchester.

Viscount HALDANE : He became Lord Dorchester afterwards ; but, I think, not while he was there.

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Mr. MACMILLAN : Yes, my Lord. Now, this document is written in French, and there is a translation at the foot, which says this : “ The King's Posts and trades commonly known as the *Traité de Tadoussac*, begin at Cape aux Oyes, adjacent to Les Eboulements and extended along the north shore of the river as far as cape Cormorant, fifteen leagues above Seven Islands.”—Then there is a description of them, and in the bottom line it says this : “ *Tadoussac*, 14 leagues lower than

Malbaye, was always the chief post. Chicoutimy”—now we have the description of it—“ 40 leagues further inland, ascending the Saguenay river. Lake St. John is situated 40 leagues above Chicoutimy. After leaving Lake St. John two posts are to be found, namely, Mistassin, to the N.N.W., 150 leagues from its mouth, and Chobmonchouane, to the W.S.W., 60 leagues

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from the lake. Note.—The above three posts are dependencies of Chicoutimy post. Isle-de-Jeremie, 25 leagues lower than Tadoussac. Point-da-la-Crox or Havre St. Nicholas, 18 leagues distant. Note.—The last-named post is dependent on Isle-de-Jeremie. my father having reunited Mille Vaches to the Domaine, which thus formed part of that post. This deed of reunion should be in the records of the office of the Intendant. Presumably, the Aubert family, heirs of that seignior, incurred losses from that time. Seven Islands or River Moisy was also reunited to the Domaine at my father's request,” and so on. Now comes his description : “ This forms an extent of land along the river of 97 leagues in front by some 190 leagues in depth as known.”

Now will your Lordships just see what was considered. It was this : 190 multiplied by 3 is 570 miles inland, and there is 97 leagues of river frontage. You will notice that it is all called “ river ” down to Cape Cormorant. That is 291miles along the coast, and 560 miles in depth. It is rather interesting to take, along with this, my learned friend's map, and see where it would take one to.

Sir JOHN SIMON : The river frontage, as I think you will agree, is all to the west of Tadoussac.

Mr. MACMILLAN : No, all to the east of Tadoussac. If your Lordships will run a line up from Cape Cormorant for 570 miles inland, you will see where it brings you to.

The LORD CHANCELLOR : It would take you up to Ungava Bay.

Mr. MACMILLAN : No, my Lord, not quite so far that, but it takes you right up into the green, to the famous Sandgirt Lake, which was the gathering ground of the Indians.

Lord SUMMER : Is it due north, or north west ?

Mr. MACMILLAN : I can only say that it is the depth.

Lord SUMMER : It is at right angles to the Gulph of St.

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Lawrence, in which case it would clear the green, or is it due north ?

Mr. MACMILLAN : I cannot say, my Lord. It only says : “ in depth.”

The LORD CHANCELLOR : This scale is 200 miles, the whole thing ?

Mr. MACMILLAN : Yes, my Lord.

The LORD CHANCELLOR : Then 570 miles would take you a long way up ?

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Mr. MACMILLAN : Yes, my Lord, but there is some better material coming in a moment. If one went right in, this would take one right up, very nearly to Ungava Bay. Your Lordship is right. That is what Mr. Cugnet, who was the son of the Director of the Posts, said in 1766, and that is the information that was sent on by Governor Carleton to Lord Shelburne. But fortunately we are able to dispose of the difficulty about where he got inland, because I think, if you will just turn over the page—

Viscount HALDANE : Is it page 3256 ?

Mr. MACMILLAN : We get a little more light on it on page 3210, which is an Ordinance of Intendant Hocquart, on the 23rd May, 1733, re limit of Traite of Tadoussac. The Traite of Tadoussac was the King's Posts.

Now will your Lordships just look at page 3208. After going through a great deal of preliminary material, he says this : “ And the whole being considered ; We have fixed the limits of the domain of the King called the Traite de Tadoussac, that is to say, on the north bank of the river Saint Lawrence from the lower end of the seignory of Eboulemens, which is opposite the north-east point of isle-aux-Coudres, to cape Cormorant, being about ninety-five leagues of front, with the isle-aux-Oeufs and other isles, islets and shoals adjacent thereto ; on the western side, by an imaginary line drawn east and west, to commence from the lower end of the seignory of Eboulemens to the height of land at the portance of lake Patitachekao, latitude 47 degrees 15 minutes, on which portage the said Sieur Normandin has affixed four fleur-de-lis, on four balsam firs, from which lake Patitachekao the river Metabetchouamon takes its rise, and discharges into lake St. John, whence it falls into the Saguenay ; further to the west by lakes Spamoskoutin, Sagainin and Kaouakounabiscat, at the height-of-land, in the latitude of 47 degrees 27 minutes, where the said Sieur Normandin has also affixed four fleur-de-lis on four balsam firs, the said lake Kaouakounisbiscat forming other lakes, and the river Quiatechouanon, which discharges into the Saguenay through

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the said lake St. John, which two lakes form the boundary of the hunting country in the rear of Batiscan ; and running still to the west, towards the region of Three Rivers, and in depth by the height-of-land, about two leagues from the Little lake Patitaouaganiche, latitude 48 degrees 18 minutes, where the said Sieur Normandin has also placed four fleur-de-lis on four balsam firs, which lake flows through lake Askatiche,” and so on. It is perhaps not worth while reading all that until you get to the bottom line, where it says : “ within which boundaries are the posts of Tadoussac, Malbair, Bondesir, Papinachois, Islets-de-Jeremie and Pointe-des-Bersiamites, Chekoutimy, Lake St. John, Nekouhau, Chomonthouane, Mistassins, and behind the Mistassins as far as Hudson's Bay ; and, on the lower part of the river, the Domaine will be bounded, in consequence of our said ordinance of the twelfth of the present month, by cape Cormorant as far as the height of land, in which extent will be comprised the river Moisy, the lake of the Kiches—

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tigaux (lake Pletipi), the lake of the Naskapis (lake Ashuanipi), and other rivers and lakes which discharge therein.”

Now, my Lords, the lake Naskapis is the wine as lake Ashuanipi, which is shown on the green on the map.

Sir JOHN SIMON : It is treated as discharging into the Moisy.

Mr. MACMILLAN : But the point is : was any part of the green territory at the time in the hands of the King's Posts. Part of the territory claimed by my learned friend was actually part of the land which was in the King's domain, and actually with a post there.

The LORD CHANCELLOR : The line does seem. to be carried as far as the height of land.

Mr. MACMILLAN : Yes, my Lord.

The LORD CHANCELLOR : And Ashuanipi is only included because it is considered to discharge into the River Moisy.

Mr. MACMILLAN : Yes ; but your Lordship follows the point : These posts were up to that region, but the Indians who came to them came from beyond. There were Indians on the slope of the St. Lawrence ; but is it going to be suggested that the Indians did not come over from above that to trade at these posts ? What is the use of putting a post at the extreme limit, if there are no Indians to draw down to it. These posts are put inland, it is true, but they are put there for the purpose of attracting the Indians from the interior.

Viscount HALDANE : Do you say they came from Ungava

Bay ?

Mr. MACMILLAN : I do not know how far they came from, my Lord. They came from their hunting grounds, which apparently embraced practically the whole of this interior plateau.

Viscount HALDANE : Then the King's Domain extended right up. But there is no map which shows it.

Mr. MACMILLAN : We have drawn a map, but it is an ex parte map. It is Map No. 21, and, of course, it is open to the comment that it is a map which we have prepared.

Sir JOHN SIMON : I do not mind the Tribunal seeing it..

Mr. MACMILLAN : No ; it is one of the productions in the case, no doubt, but I prefer if possible to make my case on my opponents' documents, because it is always so much more satisfactory.

Sir JOHN SIMON : Your Lordships will see it later on.

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Mr. MACMILLAN : It is shown on Map 21, which is one of the Canadian maps ; I will show it to your Lordships. (Map produced). Here is what is shown as our conception of the Traite de Tadoussae—(indicating).

Viscount HALDANE : Does that show Ungava Bay ?

Mr. MACMILLAN : No, my Lord. That is our conception of what the Domaine du Roi was.

Viscount H ALDANE : About how far does that rise from the St. Lawrence ?

Mr. MACMILLAN: I will have that measured, my Lord. It is certainly goes well over the height of land. Here is the height of land line, at this point, and this part of it is above the height of land—(indicating). It is very debatable about there.

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The LORD CHANCELLOR : That plainly does not agree with Hocquart's Ordinance.

Mr. MACMILLAN : No, my Lord, it does not. Your Lordships will see the different posts marked there. And one must not leave out of sight also the fact that there was a ten league belt of land around each of them.

The LORD CHANCELLOR : I do not know what this is. This does not include much of the green land.

Mr. MACMILLAN : No, my Lord, not much.

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Sir JOHN SIMON : If Ashuanipi was to drain into Moisy, in fact, would it include any ? I do not think it would.

Mr. MACMILLAN : I do not know. But my purpose is not to show that the King's posts were in the green ; my purpose is to show that there were posts there for the purpose of attracting people who were in the green. My real object is to show that posts were put there for the purpose of attracting people from the interior. It is not going to be suggested, I suppose, that these posts received only Indians living around those posts. These were foci, intended to attract the Indians. The Indians did not live in these posts at all ; they were for the purpose of getting the trade with the Indians, and therefore it is perfectly accurate to say that the sphere of influence is miles beyond the place where the post itself is situate. There is some indication of that in line 40 on page 3210, where there are orders forbidding others coming into this territory “ to trade, hunt, fish or carry on any commerce

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under any pretext whatever, directly or indirectly, whether by themselves or by sending in merchandise, victuals, liquors, and ammunition, through friendly Indians, in any part of the country designated by our present ordinance, and generally any rivers or lakes the waters of which flow through the Saguenay river, and the river Moisy, though they may not be specially names in our said ordinance ; to treat the Indians who live in the same extent of country, or to draw them away in any manner, or even to approach within ten leagues of the limits above drawn in the lands, for the purpose of trading with the Indians or other establishments, without the express permission,” and so on.

Sir JOHN SIMON : I do not want to interrupt you, of course, because this is much too big a case ; but I dare say you would call attention to the reference to foreign Indians in line 39 on page 3210, just above where you were reading. Of course, this is a document in the time of the French regime, and it rather looks as if they were prohibited. It is a curious reference to foreign Indians. I did not want to interrupt you.

Mr, MACMILLAN : Oh, please, I am genuinely interested in the problem, and I want to get it all. Let me read it. It says this : “ We ordain that the said M. Pierre Carlier, his successors, fermiers of the western domain, their attorneys, clerks and foremen, continue to carry on alone, to the exclusion of all others, the trade, hunting and fishing, in the whole extent of the country, included within the limits above designated. We forbid all persons of whatever quality and condition, as well merchants as habitants of the colony, captains and masters of fishing-boats, bateaux and other vessels, the men employed to manage them and passengers, and all others whomsoever, even foreign Indians ”—these are the words.

Sir JOHN SIMON : That is what struck me.

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Mr. MACMILLAN: “ Even foreign Indians who do not reside in the lands of the Domaine, to trade, hunt, fish, or carry on any commerce under any pretext whatever, directly or indirectly, whether by themselves or by sending in merchandise, victuals, liquors, and ammunition, through friendly Indians, in any part of the country designated by our present ordinance, and generally in any rivers or lakes the water of which flow through the Saguenay river, and the river Moisy, though they may not be specially named in our said ordinance ; to treat the Indians who live in the same extent of country, or to draw them away in any manner, or even to approach within ten leagues of the limits above drawn in the

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lands, for the purpose of trading with the Indians or other establishments without the express permission in writing of the said Carlier, the lessees, his successors,” and so on.

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Lord WARRINGTON : This is a concession to M. Carlier. Is not that what it is ?

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Viscount HALDANE : It is a monopoly.

Lord WARRINGTON : That is what I mean. It is a concession in the shape of a monopoly.

Sir JOHN SIMON : That is right.

Lord WARRINGTON : It begins : “ Having examined the petition presented to us by M. Pierre Carlier, Adjudicataire—General of the united farms,” and so on.

Lord HALDANE : It was given in 1733.

Mr. MACMILLAN : I think in its inception it was a monopoly. The history of it is that it constituted a royal monopoly ; and then it was let out to lessees—it was farmed out. That process continued for some time, and then it was abandoned again.

But, my Lords, pray do not misconceive my argument. What I am concerned with is to show, not necessarily that these posts were in the green area, but that these were posts which were established for dealing, among others, with the Indians in the green area to whom I am referring.

Sir JOHN SIMON : Foreign Indians.

Mr. MACMILLAN : I have been giving your Lordships, with regard to this matter of the King's Posts, some reference to what Murray said, and I think I might also refer to page 2766. I read the passage about the lands of the domain, and I need not read that again, but would your Lordships just take a reference also to Cabot's description of this place. That is in Volume V at page 2651. It is enough to draw attention to it as showing the distinction. This is an important book. I am not going to ask your Lordships to delay over it, but merely to take the reference to it, because I am told that this is an author of some authority, and he gives you a description of the Indian families at the back of the country and the Esquimeaux on the shore.

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Viscount HALDANE : This is Hesketh Prichard. Is he quoting him ?

Mr. MACMILLAN : I have given your Lordships the reference to Hesketh Prichard. I am now quoting Cabot.

The LORD CHANCELLOR : He describes the warfare between the Esquimaux and the mountaineers. That is rather curious.

Mr. MACMILLAN : Yes, my Lord. There is a great deal of evidence of that. They fought, apparently, constantly ; it was a hereditary feud between the men of the sea and the men of the mountains.

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My learned friend read a few affidavits as being of importance, or at least of some importance. I have a few statements also, and perhaps your Lordships might look at one of them which is in Volume VIII at page 3739, for what it is worth. This is a statement of one Raoul Thevenet, and he says : “ I am the manager of the fur trading post of Revillon Freres Trading Co. Ltd., which is situated at the mouth of the Northwest River in Lake Melville,”—so, of course, we are right in the green. “ This post was established in 1901 for the purpose of trading in furs with the Montagnais and Nascaupée Indians but more particularly with the former, sometimes called the Gulf of St. Lawrence Indians, which we knew were ‘ hunting ’ in the country in and about Lake Melville and its tributary rivers. I took charge of the post in 1909. (2) Re Indian Trade : The Indians with whom we trade are mostly Montagnais. We see also a few Nascaupées but only a few families make North West River their headquarters.”—Your Lordships see now why I said that the Nascaupées did not resort there to the same extent.—“ All the others, the Montagnais, come from St. Augustine, Mingan, Seven Islands and Nascarow, on the Gulf of St. Lawrence. These we see only during the winter months.”

Lord WARRINGTON : Then they come north.

Mr. MACMILLAN : You will see in a moment, my Lord. I do not think it means that these are people who are in Mingan, that is to say, Indians at Mingan, but I think it means people who resorted to these places. But we will read it.

Sir JOHN SIMON : None of those are in the green.

Mr. MACMILLAN : No, none of them are in the green. It says this : “ These we see only in the winter months when they come out to replenish their provisions, it being too far for them to go and come back to and from their original trading posts to their hunting grounds in the same season. The territory at and around North West River as far as Hopedale towards the coast has been the best of the Indian hunting ground for generations past, but these last few years the so-called Natives (half-breeds) and Newfoundlanders have been making a regular business of trapping, some of them having as many as three to six hundred traps set during

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the hunting season. In doing this they have overrun the Indian hunting grounds. The Indians are continually complaining to me about the matter, for, as hunting is their only means of living, they are getting poorer every year. Indeed, but for the relief which has been given them at the expense of the Government of Canada, some of them would surely have starved. They are becoming very bitter against the white trappers and any year trouble may break out. No relief whatever has been given to the Indians by the Newfoundland Government. The North West River Posts get only a small share of the Indian fur trade ; by far the largest part goes to the posts on the Gulf of St. Lawrence.”

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Viscount HALDANE : I should like to see just for a moment the course of the North West River. Is it on your map ?

Mr. MACMILLAN : Yes, my Lord. It is at Lake Melville.

Lord WARRINGTON : It runs into Lake Melville.

Mr. MACMILLAN : Yes, my Lord.

Viscount HALDANE : It runs into Lake Melville, and so goes down into the Atlantic.

Mr. MACMILLAN : Yes, my Lord. “ The North West River Posts get only a small share of the Indian fur trade ; by far the largest part goes to the posts on the Gulf of St. Lawrence. Perhaps this is accounted for, in a large measure, by the fact that the Indians for generations past have been devout Roman Catholics and have been in the habit of going out each year to the Gulf posts to meet the priest in charge of the Missions which have been long established at these posts. In former times, a Roman Catholic priest from Quebec used to visit North West River ”—this is rather significant—“ and for some time there was a Roman Catholic Mission here ; but for some reason unknown to me the priest discontinued his visits about thirty years ago, telling the Indians to meet him thereafter at the Missions on the Gulf.” So that these people were in the habit of going either to the Gulf of St. Lawrence or to the North West River, according as they thought fit, but they were the people of the interior, and accordingly the people who had hunting grounds in this territory. These are the Catholics with regard to whom the Governor of Newfoundland is placed in the awkward position of (I suppose) persecuting them, because he is to give no tolerance to Papists.

Lord SUMNER : Does that continue ?

Mr. MACMILLAN : We are dealing here solely with 1763, as I am so frequently told by my learned friend.

Lord SUMNER : Do you know when that disappeared ?

Mr. MACMILLAN : I do not know, my Lord, but it must have disappeared early in the nineteenth century. I think the Catholic emancipation legislation was about 1825, or somewhere about then.

Viscount FINLAY : Is that construed as applying to Roman Catholics who came there merely as visitors for the purposes of trade ?

Mr. MACMILLAN : Your Lordship has misapprehended my point, I think. This is a Roman Catholic population who practise the rites of the Roman Catholic Church, and they see the Priest when they go there to trade, and then they go back ; but these Catholics are put under a

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Governor who is not to extend tolerance to Papists, if my learned friend is right.

Now there is another rather good statement of the same kind by Mr. W. Ewing on page 3736 in the same volume. I content myself with giving the reference.

Now I am going to pass from this question of the Indians. It seems to be a controversial topic, and the question between us is quite a simple one. When the Proclamation of 1763 was framed, did it, or did it not, reserve in the language of reservation to the Indians any part of the green territory ? That is the problem. My submission is that I have shown, contrary to my learned friend's submission, that that proclamation did refer to an Indian reservation in this district.

Viscount HALDANE : Before you pass wholly away from Ewing's document, I see at the bottom of page 3736 he says : " These Indians now come from Ungava (their headquarters) to Davis Inlet and from there get enough grub to enable them to resume their hunting back to Ungava." It looks as if they crossed the height of land.

Mr. MACMILLAN : I am afraid that they did not think much of the height of land in those days. There is no doubt that they roamed over the whole of the interior plateau.

I am sure that your Lordships have noted in passing the significant omission on page 156 of Volume I. When the King declares it to be his " royal will and pleasure, for the present as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians " certain lands and territories, he describes them as " all the land and territories not included within the limits of our said three new governments, or within the limits of the territory granted to the Hudson's Bay Company." That is to say, the lands and territories not included within the limits of Quebec, or within the limits granted to the Hudson's Bay Company. The strange thing is this : If Newfoundland was seated in this region as well as the Hudson's Bay Company and the Quebec Government, why did he not also say " or within the territory which I have assigned to the Government of Newfoundland " ?

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The LORD CHANCELLOR : That is what troubles me. I thought it was common ground that something was annexed to Newfoundland.

Mr. MACMILLAN : I think the explanation is quite simple, my Lord. At least, I should not say that anything is quite simple in this case, but the explanation I think is at least a tenable one, and it is this, that if I am right, the Governor of Newfoundland had a coastal jurisdiction, and no concern with the Indians at all. He was concerned, if you please, with

Esquimaux, whom he encountered in connection with the fishing, but he had no concern with Indians at all ; and my submission keeps him to the coast, keeps him to a territory where, as that map shows, there were no Indians at all, but there were Esquimaux, a different class of people altogether. Therefore I have accounted for

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the situation quite satisfactorily. The omission is intelligible in my view, because no Esquimaux territory was reserved to the Indians, but it is unintelligible upon my learned friend's hypothesis.

The LORD CHANCELLOR : You read this as meaning that all the lands and territories are reserved to the Indians, not included in the limits of the three governments ?

Mr. MACMILLAN : That suggestion is attractive, if I may say so respectfully, and it rather links itself up with what one may call the preamble at the top of the page, where it says : “ And whereas it is just and reasonable and essential to our interest and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories, as, not having been ceded to or purchased by us, are reserved to them as their hunting-grounds.” That suggestion, which your Lordship was good enough to make, rather links itself with that, they are thinking of Indian territory.

The LORD CHANCELLOR : I am trying to understand what your argument was. I did not want to make a suggestion of my own.

Mr. MACMILLAN : I quite understand. On my view, there you have an intelligible view, it was riot necessary to exclude the lands handed to Newfoundland, because they were not, on my hypothesis, Indian lands.

From that topic I pass now to what is a matter of importance for my case in this connection, that is the question of the Hudson's Bay Territory. I had indicated to your Lordships my learned friend's two main contentions were as I conceive them the green area is all mine, for two reasons, first, there are no Indians in it to whom the Proclamation applies, and therefore there is no separate piece of territory to be accounted for, secondly, the green area east of the Hudson's Bay boundary is all mine, and there is no gap there, the boundary of Newfoundland and Hudson's Bay are coincident boundaries and that boundary is the height of land.

May I ask your Lordship's examination of that topic for a moment. The suggestion offered to your Lordships then is that after the Commission and Proclamation of 1763 the

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boundaries of Newfoundand and the Hudson's Bay Company were coincident boundaries and the frontier was the height of land from Cape Chidley following the blue line southwards. That is the submission. These two Territories were then exhaustive in that region of all the Governments or jurisdictions or whatever one likes to call them, and my learned friend's argument culminated as my Lord may remember in his consideration of the Hudson's Bay Committee Report in 1857. Now, my Lord, would you kindly turn, because this is a little important, to the passages

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where my learned friend dealt with this matter, which are to be found on pages 224 to 230 of his address.

Viscount HALDANE : We have not got the printed proceedings before us.

Mr. MACMILLAN : They are available.

The LORD CHANCELLOR, : I think we should follow it the better if through that medium you refer us to the documents which Sir John referred to.

Mr. MACMILLAN : If your Lordship pleases. The argument culminates in a passage as follows about line 30. My learned friend had been expounding the Select Committee's Report of 1857, and had been indicating its importance to your Lordship, and in particular you may remember he brought some most interesting original documents, opinions of Law Officers and so on, under your Lordship's notice, and I think the matter came really to a point in the comments of my Lord Warrington of Clyffe at page 229 where my Lord was good enough to say this, addressing Sir John : " It comes to this. The House of Commons in 1857 accepted the claim made by the Hudson's Bay Company in the letter of the 8th June 1850." This was how my learned friend formulated the position to you, my learned friend replied : " Yes ; and they say they did so having before them the opinion of the Law Officers." My Lord, I confess in my simplicity what I took from that question and answer was this, that if I went to the Hudson's Bay Select Committee's Report I would find two things, first, that the Committee passed upon the subject of the Hudson's Bay boundary, and came to a conclusion upon it in the sense my friend indicates, namely, that the height of land was the boundary of Hudson's Bay. I further took from that statement this inference that they did so in reliance upon the opinion of the Law Officers before them, which law officers my learned friend has indicated were Sir John Jervis and Sir John Romilly. At page 225 he refers to " The Law Officers of the Crown who were not consulted for some years afterwards but whose opinion was actually before the House

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of Commons Committee in 1857, being Sir John Jervis, Attorney General and Sir John Romilly, Solicitor General.” And he says at page 225, line 30 : “ In 1857 at any rate, the House of Commons Committee, without any sort of question, took the boundary of the Hudson's Bay Company as being the height of land.” And there are other references and also an indication of who the Law Officers were. I have before me a copy of the opinion of Sir John Jervis and Sir John Romilly who were the Law Officers in the year 1850. And at the foot of page 227 he says : “ We have here the material which was submitted, and the material is the other opinion, the opinion, of Sir Samuel Romilly and his colleagues. Perhaps it would be inferesting[sic] to see the originals.” I assumed therefore if I examined this Report

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to which I was directed I would find these two things. I have examined the Report and I am now going to ask my Lords to consider it a little carefully because I propose to establish to your Lordships' satisfaction two propositions on this, first of all, that the Select Committee never passed their imprimatur on the height of land as the boundary of Hudson's Bay at all, and, secondly, that the opinion of the Law Officers to which they allude was not the opinion of Sir John Jervis and Sir John Romilly at all, but was another opinion, and I undertake to demonstrate both of these matters from the Report itself. The Report, my Lord, is commendably brief, it occupies two pages.

Viscount HALDANE : What year was it ?

Mr. MACMILLAN : 1857, it is dated the 31st July, 1857, and it is the Report of a Select Committee appointed to consider the state of those British Possessions in North America which are under—

Viscount HALDANE : What Government was that ?

Mr. MACMILLAN : I cannot say my Lord. My learned friend, Sir John Simon, suggests it was Lord Aberdeen, but I am not sure.

Lord WARRINGTON : That was the year of the Indian Mutiny.

Mr. MACMILLAN : We can easily find it.

Viscount HALDANE : I will find it in “ Whitaker.”

Mr. MACMILLAN : I observe my Lord Chancellor has the actual Report before him. Perhaps my Lord will be good enough to follow my comment with the text before him. This is : “ The Report of The Select Committee appointed to

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consider the state of those British Possessions in North America which are under the Administration of the Hudson's Bay Company, or over which they possess a License to Trade, and who were empowered to report their Observations, together with the Minutes of Evidence taken before them, to The House : Have considered the matters to them referred, and have agreed to the following Report.”

Now, my Lord, for my purpose, of course, it would be my duty to read the whole of this Report, the two pages of the Report, in order to demonstrate that they came to no finding at all on the height of land, but I do not propose to do that if your Lordships will take it from me, and the Lord Chancellor will check it from me, I find from beginning to end of their Report no finding upon this subject at all—none.

What I do find on the other hand is certain interesting information which I shall show is entirely counter to my learned friend's submission. Paragraph 3 of the Report runs thus : “ Your Committee have received much valuable evidence on these and other subjects connected with the Inquiry which has been entrusted to them, and especially have had the advantage of hearing the statements of Chief Justice Draper, who

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was commissioned by the Government of Canada to watch this Inquiry. In addition to this, Your Committee have received the evidence taken before a Committee of the Legislative Assembly, appointed to investigateur this subject, containing much valuable information in reference to the interests and feelings of that important Colony, which are entitled to the greatest weight on this occasion.” Then comes the passage on which my learned friend relied. “ Your Committee have also had the Opinion of the Law Officers of the Crown communicated to them on various points connected with the Charter of the Hudson's Bay Company.”

My Lord, I confess I assumed from that that that was the opinion of the Law Officers of the Crown, being Sir John Jervais and Sir John Romilly. I am sure, I am in your Lordship's judgment, that was the impression your Lordships formed also, but it was not so. The Committee consulted the Law Officers.

Viscount HALDANE : I want to see who were the Law Officers.

Mr. MACMILLAN : I have got their names, Mr. Bethell, as he then was, and Mr. Keating. This is a very important point, I pray your Lordships will take the references to this passage in Article 4, because it has a most intimate bearing on my learned friend's whole argument.

Viscount HALDANE : It was Sir Richard Bethell and Sir John Romilly.

Mr. MACMILLAN : You will see that when I bring you to the Law Officers' Opinion in a moment. If you will be good enough to turn in the Report to page 402 in the Appendix to the Hudson's Bay Report, here is the Opinion. It was given by the Law Officers of the Crown, on the instructions of Mr. Secretary Labouchere, and you will see there a letter addressed from Mr. Merivale, I suppose he must have been the Secretary to the Committee, to the Attorney-General and the Solicitor-General, with enclosure. He says he is directed by Mr. Secretary Labouchere.

Viscount FINLAY : What is the date of this letter ?

Mr. MACMILLAN : 1857, it was during the period of the investigations they were making, the 9th June, 1857 ; “ I am directed by Mr. Secretary Labouchere to transmit to you, jointly with you (Solicitor-General—Attorney-General) copies of two despatches from the Governor of Canada enclosing the copy of a Minute of his Executive Council, and and[sic] extract from another Minute of the same, in reference to the questions respecting the affairs of the Hudson's Bay Company, now under investigation by a Committee of the House of Commons. You will observe from the former of the Minutes that the Executive Council suggest, on the part of Canada, a territorial claim over

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a considerable extent of country, which is also claimed by the Hudson's Bay Company, as owners of the soil, and with rights of Government and exclusive trade under their Charter. You will observe by the annexed Parliamentary Papers of 12th. July, 1850, that the 'Statement' of the Hudson's Bay Company's rights as to territory, trade, taxation, and government, made by them to Earl Grey, as Secretary for the Colonies, on the 13th. September 1849, was submitted to the then Law Officers of the Crown who reported that they were of opinion that the rights so claimed by the Company, properly belonged to them ; but suggest, at the same time, a mode of testing those claims by Petition to Her Majesty, which might be referred to the Judicial Committee. I am further to annex a Parliamentary Return made in 1842, containing the charter of the Company, and documents relating thereto ; and another of 23rd. April, 1849, containing amongst other papers an Act of 2nd. William & Mary, ' for confirming to the Governor and Company to Hudson's Bay their privileges and trade.' The rights so claimed by the Company have been repeatedly questioned since 1850, by private persons in correspondence with the Secretary of State, and are now questioned to a certain extent, as appears by these despatches, by the present Local Government of Canada. I am to request that you will, jointly with (Solicitor-General—Attorney-General) take these papers into your consideration and report.—Whether you think that the Crown can lawfully and constitutionally raise, for legal decision, all or either of the following questions :—The Validity at the present day of the Charter itself ”—that is the Hudson's Bay Charter—“ The Validity of the several claims of territorial rights, of government, exclusive trade, and taxation, insisted on by the Company. The geographical extent of this territorial claim (supposing it to be well-founded, to any extent). If you are of opinion that the Crown can do so, you are requested further to state the proper steps to be taken, in your opinion, by the Crown, and the proper tribunal to be resorted to ; and whether the Crown should act on behalf of the Local Government of Canada, as exercising a delegated share of the Royal authority, or in any other way.” This was the invitation of the Select Committee on Hudson's Bay matters to the Law Officers of the Crown, to advise them upon these matters communicated by their Secretary to Mr. Attorney-General and Mr. Solicitor-General of the day, and there follows on pages 403 and 404 the Opinion of the Law Officers, being the Opinion of the Law Officers of the Crown referred to in their Report. One would have expected in view of the submissions of my learned friend that one would have found the Law Officers of the Crown saying the boundary of Hudson's Bay is without doubt the height of land. That is what one would have assumed. What they do say, on page 404, after dealing with the questions of the validity of the

Charter itself, because this was often in question because of its vagueness, is : “ The remaining subject of consideration is the question of the geographical extent of the territory granted by the Charter, and whether its boundaries can in any and what manner be ascertained. In the case of grants of considerable age, such as this Charter, when the words, as is often the case, are indefinite or

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Sir John Simon.

ambiguous, the rule is, that they are construed by usage and enjoyment, including in these latter terms the assertion of ownership by the Company on important public occasions, such as the Treaties of Ryswick and Utrecht, and again in 1750. To these elements of consideration upon this question must be added the inquiry (as suggested by the following words of the Charter, viz. : ‘ not possessed by the subject, of any other Christian Prince or State ’), whether, at the time of the Charter, any part of the territory now claimed by the Hudson's Bay Company could have been rightfully claimed by the French, as falling within the boundaries of Canada or Nouvelle France, and also the effect of the Acts of Parliament passed in 1774 and 1791. Under these circumstances, we cannot but feel that the important question of the boundaries of the territory of the Hudson's Bay Company, might with great utility, as between the Company and Canada, be made the subject of a quasi-judicial inquiry. But this cannot be done except by the consent of the parties, namely, Canada and the Hudson's Bay Company, nor would the decision of a Committee of the Privy Council have any effect as a binding judicial determination. But if the Hudson's Bay Company agreed to the proposal of the Chief Justice of Canada, that the question of boundaries should be referred to the Privy Council, it being further understood by both parties, that the determination of the Council shall be carried into effect by a declaratory Act of Parliament, we think the proceedings would be the best mode of determining that which is, or ought to be, the only real subject of controversy.”

Mr. Macmillan.

That is the opinion of the Law Officers to which allusion is made in the Report. I am sure my learned friend must have been in error when he suggested what I think we all assumed, that the Opinion in question was the Opinion of Sir John Jervis and Sir John Romilly.

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Sir John Simon.

Sir JOHN SIMON : I am much obliged to my friend. Of course, I had not appreciated this, else I would have told the Board ; at the same time, as we are clearing it up, let us clear it up completely. I notice that the letter which was addressed to the Attorney-General and Solicitor-General, which I venture to think is not from the Secretary of the Committee, it was from some Government Department, I am not sure, but I notice it begins by saying : “ You will observe by the annexed Parliamentary Papers of 12th. July, 1850, that the ‘ statement ’ of the Hudson's Bay Company's rights as to

territory, trade, taxation, and Government, made by them to Earl Grey, as Secretary for the Colonies, on the 13th. September, 1849, was submitted to the then Law Officers of the Crown.”

Mr. Macmillan.

That document, subject to my friend's correction, included the Opinion of Sir Samuel Romilly, Mr. Cruise and all the rest of them.

Mr. MACMILLAN : My friend is really doing me rather an injustice. I was going to come to that in a moment ; it is the next matter in the note that was before them, but my point now is the question whether the

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The Lord Chancellor.

Opinion of the Law Officers of the Crown referred to in the Report is the Opinion of Sir John Jervis and Sir John Romilly.

Sir JOHN SIMON : My friend has made his point perfectly right, but I thought from his manner and peroration, he was passing from it. It appears that Sir John Jervis's Opinion was before Sir Richard Bethell at the time.

Sir John Simon.

Mr. MACMILLAN : It is all coming.

Viscount HALDANE : Does it matter whether it was Sir Richard Bethell or Sir John Jervis ?

Mr. MACMILLAN : It matters vitally to my friend, because he invoked this as being the Opinion of the Law Officers which said the height of land was the boundary, therefore he was able to say he had the Opinion of a Committee of the House of Commons, confirmed by the Opinion of the Law Officers at the time, that the height of land was the boundary.

Mr. Macmillan.

The LORD CHANCELLOR : If this recital is correct, then the Law Officers, to whom this statement was submitted, did confirm it, not these two, not Bethell and Romilly, but the earlier Law Officers referred to.

Mr. MACMILLAN : Yes, I was going to bring it out in a moment.

Lord Sumner.

Sir JOHN SIMON : May I put myself right, because Mr. Macmillan is correcting a statement which one might well be supposed to have intended to make. I want to be quite fair about it, I am not saying my friend has not thrown new light upon the matter, but allow me to say the important point is not that some Law Officers have expressed an Opinion, but that the House of Commons Committee sat and when they published their Report, they did as a matter of fact, as far as I

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appreciate, not throw any doubt on the area so far as their report was concerned. There may be material which my friend has got which shows they did, but that is my point.

Mr. MACMILLAN : That is a little different from the statement that the House of Commons without any sort of question took the boundary of the Hudson's Bay Company as being the height of land, and did so, having before them the Opinion of the Law Officers. I may have drawn a wrong inference from what my learned friend said, but I confess in my simplicity I had no difficulty at all.

Mr. Macmillan.

Lord SUMNER : It sounds like this, that two Law Officers under some circumstances agreed, and I do not know how many other Counsel advised it, that the Hudson's Bay Company's boundary was the height of land. Then the House of Commons, having that amongst other learned

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Opinions before them, of course, they had further Opinions before them, did not say they agreed, but they did not say they disagreed. The last state of the matter was that Mr. Bethell and Mr. Keating said the best thing was, if they consented, to remit this dubious question to a quasi-judicial authority, and that does not seem to have been done.

Mr. MACMILLAN : There is a good deal more to come.

Lord SUMNER : It is only to see if I follow you as far as you have got.

Mr. MACMILLAN : As far as I have got I have got this, I am in search of two things, a statement in their report that they had passed upon this subject and come to a conclusion. Your Lordship is quite right, the report is blank upon the subject. Secondly, I was in search of the opinion of the Law Officers which they say they had before them. This is the opinion of the Law Officers. I was now going to point out to your Lordships the history of the position. It is quite true that the Law Officers referred to in the Report, when the papers were before them to advise, had their attention drawn to the fact that the previous Law Officers in 1850 had expressed that opinion, but that was not the opinion which was before this Committee. The opinion of 1850 was brought to the notice of the Law Officers who advised this Committee, and the significance of it to my mind is this, that the Law Officers who advised this Committee, did not say the matter is clear and the boundary is the height of land, but they said the matter is quite in a different position. They suggested other methods of ascertaining what was the boundary and they said that : " In the case of grants of considerable age, such as this Charter, when the words, as is often the case, are indefinite or ambiguous, the Rule is, that they are construed by usage and enjoyment, including in these latter terms the assertion of

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ownership by the Company on important public occasions, such as the Treaties of Ryswick and Utrecht, and again in 1750." In short so far from subscribing to the view that the height of land was the boundary of the Hudson's Bay territory, now a generally accepted boundary, as to which there need be no question, the learned Law Officers of the day consulted by this Committee, said nothing of the sort, they said on the contrary, having before them the opinion of their predecessors of 1850 upon which my friend relied, and which he thought was the opinion upon which this Committee acted, they said there are quite a number of considerations to be kept in view in determining where the boundary is and we think it is a fit matter for the Privy Council, but the topic may be pursued a little further, and I propose to do that. They did allude also in their report to Chief Justice Draper's statement which they say they have had the advantage of hearing.

Viscount FINLAY : I only want to see to what point we have got[sic] As I understand it you say you have now shown that this had no

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Viscount Haldane.

bearing, it left the question entirely open about the effect of the height of land.

Lord Warrington.

Mr. MACMILLAN : Yes, in 1857 entirely, and my learned friend was very naturally misled because he thought this Committee had before them an opinion of the Law Officers of the Crown saying there was no doubt about the height of land ; whereas the Law Officers of the Crown who they consulted reported in the sense I have indicated. It is quite true these Law Officers had before them the opinion of their predecessors.

Mr. Macmillan.

Sir JOHN SIMON : Which is recited in the opinion they had before them.

Mr. MACMILLAN : I know.

Viscount HALDANE : Tell us how it was on your theory that the Hudson's Bay Company got established the reputation of the boundary up to the height of land ?

Mr. MACMILLAN : The history of that is most interesting and was quite accurately told to your Lordships by Sir John Simon.

Lord WARRINGTON: Is not really for our purpose the question not what the boundary was in 1857 of the Hudson's Bay Company, but what in 1763 the parties regarded as the territory of the Hudson's Bay Company.

Mr. MACMILLAN : My Lord, I can only deal with my

learned friend's argument in detail, but your Lordship may remember great emphasis was placed by Newfoundland on this matter. I am surely not to be debarred from showing that he is not entitled to any aid from this at all, because it is all based on a misapprehension. May I most humbly subscribe to your doctrine, I think 1763 is the important thing, but I am coming to that in a moment. I must first of all dislodge my friend on one front, I cannot deal with all fronts at the same time.

Viscount FINLAY : What at present you are contending is that what happened was the matter was left entirely open at that time.

Mr. MACMILLAN : Yes, entirely open. Would your Lordships pass to what Chief Justice Draper said, this was before this Committee. First of all there is his oral testimony at page 212, if your Lordships would look at one paragraph. This is the person whom they referred to, they had the special advantage of hearing him as the Agent of Canada : “ Taking the points in the order in which you have mentioned them, first of all, with regard to the question of the limits of the province of Canada, are there any statements which you wish to lay before the Committee on that head ?—I should say with regard to that point that the view which is

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taken, be it sound or unsound, is this : at present it is understood by us that the Hudson's Bay Company claim as a legal right all the land which is drained by any streams, no matter how remote their sources may be, which flow into either the Hudson's Bay Straits, or Hudson's Bay. We consider that that is an ill-founded claim, principally upon this ground that it is a claim of which we can find no trace until a very modern period and is quite inconsistent with the claim advanced by that Company for nearly a century and a half. To save time I have prepared extracts from various documents, emanating from the Company themselves, with some few other documents ; it is a paper which it would save a great deal of time to put in, because I can give every place where the extracts are taken from, and therefore reference to the original documents can always be had. I would also desire to say that in every extract which I have made, I have made it a complete extract of all that is stated on the question, and if it involves anything favourable to the Hudson's Bay Company, it will be found in those positions, of which I have made the extract." This was a Judge, who although my friend reminds me was representing Canada, was a person who investigated the whole topic for himself.

Viscount HALDANE : Was he Chief Justice of the United Province ?

Mr. MACMILLAN : He was Chief Justice of the Court of Common Pleas in Upper Canada. Now, my Lords, we have the advantage of his statement, which you will find in the appendix at page 347, and it is a very valuable memorandum prepared by the Chief Justice on the whole subject. May I just refer—one must not delay too long over this—to page 378 where, having canvassed the whole topic, and he professes to have looked at it judicially by putting in everything pro and con, this is what he says : “ Enough, it is hoped has been stated to show that the limits of the Hudson's Bay Company's territory are as open to question now as they have ever been, and that when called upon to define them in the last century, they did not advance ”—and this bears directly upon my Lord Warrington of Clyffe's point, the question of 1763 “ was not advanced until the time that the Company took the opinions of the late Sir Samuel Romilly, Messrs. Cruise, Holroyd, Scarlett and Bell ” ; that is the imposing but inadequately remunerated team to which my learned friend referred. “ Without presuming in the slightest degree to question the high authority of the eminent men above named, it may be observed that Sir Arthur Pigott, Serjeant Spankie, Sir Vicary Gibbs, Mr. Bearcroft and Mr. (now Lord) Brougham took a widely different view of the legal validity of the Charter, as well as regards the indefinite nature of the territorial grant, as in other important

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particulars. Of the very serious bearing of this question on the interests of Canada, there can be no doubt," and so on he goes. Then the great question is : How shall we have it settled ? Shall we have a Privy Council case upon it ? This is Chief Justice Draper, and there is the opinion which, as my learned friend most justly

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said in his address, was the foundation of the height of land. Is that right, Sir John ?

Sir JOHN SIMON : I do not think so.

Sir John Simon.

Mr. MACMILLAN : Then I will withdraw that statement, I will put it differently. There is the opinion of Sir Samuel Romilly and his confreres to which my learned friend alluded and in which he found the height of land accepted by these learned persons as the boundary of Hudson's Bay. That was the first assertion of it, and that was what date ? 1814. We are dealing with 1763 my Lords. That is what the Chief Justice says on the subject, and that is his Report and statement referred to by the Committee as " the valuable evidence which they had from Chief Justice Draper." My Lords, I have looked up these other opinions which were obtained at the same time as Sir Samuel Romilly was consulted, and my learned friend gave you Sir Samuel Romilly's opinion, your Lordships will remember he produced it at the Bar of your Lordships' Board. I am afraid the discoveries after all are not so very novel, because I find that the whole of these documents were before your Lordships' Board in the Manitoba case, and are all printed there, all of them, including the original of Sir Samuel Romilly's opinion ; therefore, I am afraid we cannot claim originality in getting new documents to put before the Privy Council. because every one of them is there for a reason which will appear shortly. The Opinion of Sir Samuel Romilly of the 10th June, 1814, is in the Manitoba Appendix before the Board at page 47 ; that is the Opinion, and here is the material part of it.

Mr. Macmillan.

Sir JOHN SIMON: I do not know whether it is convenient to your Lordships or whether my learned friend would see any objection, but thinking that someone might possibly like to see the Case and Opinion we have had some copies printed.

Mr. MACMILLAN: Of course, I am delighted if you can help in any way.

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Sir JOHN SIMON: I am quite indifferent whether they are handed in.

Mr. MACMILLAN : It cannot all be in that.

Sir JOHN SIMON : Here is the Case.

Mr. MACMILLAN : Unfortunately, my Lords, there are two or three paginations, because there is, first of all, the Joint Appendix, then there is the Appendix for Ontario first, and then the Manitoba Appendix.

Viscount FINLAY : What is this : the Manitoba Report ?

Mr. MACMILLAN : These are the papers that were before the Privy

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Council. This is called, “ Copy Queries and Opinion of Mr. Justice Holroyd, Sir Samuel Romilly, Mr. Cruise. Mr. Scarlett and Mr. Bell.” The matter is dealt with very shortly, but none the less emphatically by these learned gentlemen in the sense that my learned friend stated to you. The first question is: “ Whether any objection can be made to the grant of the soil contained in the Charter, and whether the grant will include all the country the waters of which run into Hudson's Bay, as ascertained by geographical observation”; now that is the height of land.

Viscount FINLAY : This is the Charter of the Hudson's Bay Company ?

Mr. MACMILLAN : This is the case put by the Hudson's Bay Company before these learned persons.

Viscount FINLAY : But the Charter there referred to is their Charter ?

Mr. MACMILLAN : Yes, of 1670. That is the question put, and that is the plain question : Have we territory up to the height of land ? and the answer is : We are of opinion that the grant of the soil contained in the Charter is good, and that it will include all the country the waters of which run into Hudson's Bay, as ascertained by geographical observation.” So that my learned friend was quite right when he said that these learned persons, consulted in 1814 and being invited to say whether the grant included up to the height of land, said that it would include it.

Viscount HALDANE : Treating it as the watershed.

Mr. MACMILLAN : Treating, it as synonymous with that, my Lord. The Opinion of Sir Arthur Pigott, Lord Brougham and the others is in the Ontario Appendix at page 153.

Viscount HALDANE : Who took that opinion ? the other was

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the Hudson's Bay Company.

Mr. MACMILLAN : Probably it would be the North West Company of Montreal, the rivals of the Hudson's Bay Company,[sic] This is a very much longer Opinion, but I do not know that it is any the better on that account. It is dated 1816 and it deals, of course, at great length with the question of whether the grant contained in the Hudson's Bay Charter was good at all.

Lord SUMNER : Who are the Counsel ?

Mr. MACMILLAN : Sir Arthur Pigott. Mr. Spankie and Lord Brougham.

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Viscount FINLAY: Who was Sir Arthur Pigott; what was he afterwards ?

Mr. MACMILLAN : I cannot say, my Lord.

Viscount FINLAY : There was a Baron Pigott whom I remember very well ; I only wanted to know who this is.

Mr. MACMILLAN : I cannot say.

Viscount FINLAY : Mr. Spankie was afterwards Serjeant Spankie.

Mr. MACMILLAN : This was in 1816, after the Hudson's Bay Company had obtained their advice in the sense that they desired ; this Opinion was taken and is largely devoted to the question whether the grant is good at all. Then they say at page 154: " We think that the Hudson's Bay Company and their grantee, Lord Selkirk, have extended their territorial plains much farther than the Charter or any sound construction of it will warrant," and they say at page 155: " It is plain, therefore, that the Territorial grant was not intended to comprehend all the lands and territories that might be approached through Hudson's Straits by land or water. The Territorial grant then appears to be limited by the relation and proximity of the territories to Hudson's Straits."

The LORD CHANCELLOR : This is rather interesting.

Mr. MACMILLAN : Shall I read it on, my Lord ?

The LORD CHANCELLOR : A little further, if you would.

Mr. MACMILLAN : " The general description applying to the whole, is the seas, etc., that lie within Hudson's Straits, and the land, etc., upon the country's coasts and confines of the seas, etc., that is reddendo singula singulis, the lands upon

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the countries, coasts, and confines of each of the seas, rivers, etc., naturally including such a portion of territory as might be reasonably necessary for the objects in view ; but it is not a grant of all the lands and territories in which the seas, rivers, etc., lie or are situated, or which surround them to any indefinite extent or distance from them. Still less is it a grant of all the lands and territories lying between the seas, straits, rivers, etc., though many hundred or thousand miles or leagues of land and territories might lie between one sea, strait, river, lake, etc., and another sea, strait, river, lake, etc., and though the quantity of land comprised in this interior situation and far distant from any coast or confine of the specified waters, might exceed in dimensions the extent of many existing powerful Kingdoms or States. Within the Straits, must mean such proximity to the straits as would give the lands spoken of a sort of

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affinity or relation to the Hudson's Straits and not such lands as, from their immense distance (in this case the nearest point to Hudson's Bay being 790 miles, and from thence extending to a distance of 1,500 miles from it) have no such geographical affinity or relation to the straits, but which are not even approached by the Canadians through or by the Straits in question. The whole grant contemplates the straits as the access to the lands and territories therein referred to ; and, as there is no boundary specified, except by the description of the coasts and confines of the places mentioned, that is the coasts and confines of the seas, etc., within the straights such a boundary must be implied as is consistent with that view, and with the professed objects of a Trading Company, intending, not to found Kingdoms, and establish States, but to carry on fisheries in those waters, and to trade and traffic for the acquisition of skins and peltries, and the other articles mentioned in the Charter; and in such a long tract of time as nearly 150 years, now elapsed since the grant of the Charter, it must now be, and must indeed long since have been, fully ascertained, by the actual occupation of the Hudson's Bay Company, what portion or portions of lands and territories in the vicinity and on the coasts and confines of the waters mentioned and described within the straits, they have found necessary for their purposes, and for forts, factories, towns, villages, settlements or other such establishments, in such vicinity, and on such coasts and confines, as pertain and belong to a Company instituted for the purposes mentioned in their Charter; and necessary, useful, or convenient to them within the prescribed limits for the prosecution of those purposes. The enormous extensions of land and territory now claimed appears, therefore, to us not to be warranted by any sound construction of the Charter ; if it could be so, we do not know where the land and territory of the Hudson's Bay Company, granted by this Charter, terminated, nor what are the parts of this vast Continent, on which they have taken upon them to grant

116,000 miles of territory, exempted from their proprietorship under their Charter.”

Lord WARRINGTON : Who are the signatories to this ?

Mr. MACMILLAN : Sir Arthur Pigott, Mr. Spankie and Mr. Brougham.

Viscount HALDANE : It is said that it is interpretative.

Mr. MACMILLAN : You have now, I think, got the three Opinions ; and may we just range them in their order : 1814 Sir Samuel Romilly and others had given a decided opinion that the claim to the height of lands put forward by the Hudson Bay Company then was a good claim. The Law Officers of the day, 1850, said with equal emphasis that they agreed. That Opinion is in the joint Appendix of Ontario and Canada on page 26 ; I will read the words in order that my learned friend may have the advantage of the full emphasis of the matter.

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Sir JOHN SIMON : Without troubling you to trace it I am sure you will agree with me they had before them, as a matter of fact, the early Opinion.

Mr. MACMILLAN : I was going to show that in a moment, if I may, I think the whole matter on this occasion will be quite fully put forward. On page 26 of the Joint Appendix, this is rather interesting, there is a letter from Sir John Jervis, and Sir John Romilly to Earl Grey, and this is the opinion which my learned friend thought was the opinion of the Law Officers referred to in the Report of the Select Committee : “

We were honoured with your Lordship's commands contained in Mr. Hawes's letter of the 30th October last, in which he stated that he was directed by your Lordship to transmit to us the copy of a Resolution of the House of Commons, that an Address be presented to Her Majesty, praying that measures may be taken for ascertaining the legality of the powers which are claimed or exercised by the Hudson's Bay Company on the Continent of North America. Mr. Hawes then stated that he was to enclose the copy of a letter from the Chairman of the Hudson's Bay Company, together with a statement and map, prepared under his direction, of the territories claimed by the Company in virtue of the charter granted to them by King Charles II.” I omit a passage or two then, and go on, “ In obedience to your Lordship's command, we have taken these papers into our consideration, and have the honour to report, that, having regard to the powers in respect of territory, trade, taxation and government, claimed by the Hudsons Bay Company in the statements furnished to your Lordship by the Chairman of that Company, we are of opinion, that the rights so claimed by the Company do properly belong to them. Upon this subject we entertain no doubt,” so that you have a most emphatic opinion by these two learned gentlemen in support of the view which Sir Samuel Romilly and his colleagues had taken in 1814 ; and therefore you have the genesis of the approbation of the height of land theory of the Hudson's Bay Company.

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Viscount FINLAY : What is the date of that last Opinion ?

Mr. MACMILLAN : This is 1850.

Sir JOHN SIMON : We have had this all printed in case your Lordships want it ; but I am not offering it unless it is wanted.

Viscount HALDANE : It comes to this ; there was a controversy about it, and then comes the definite opinion which you have just read.

Viscount Haldane.

Mr. Macmillan.

Mr. MACMILLAN : This opinion was given by Sir John Jervis and his colleague before the opinion of the Law Officers of 1857, which I have read, and having this before them—because that is what my learned friend was concerned to bring out—and which I was just going to read—
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Viscount HALDANE : This is seven years before.

Mr. MACMILLAN : Yes, and the only way in which that previous Opinion was before the Committee of 1857 was through the circumstance that when they consulted their Law Officers of the day those Law Officers had before them this Opinion.

Viscount HALDANE : And those Law Officers did not say they entertained no doubt.

Mr. MACMILLAN : Not at all.

Viscount HALDANE : On the contrary they left the thing alone, they invoked the authority of Sir John Romilly to give it an air of respectability.

Mr. MACMILLAN : Your Lordship has embroidered my address, but there it is. What I am concerned with is this, that surely the impression which one had gathered from the bringing together of these documents, that the House of Commons Committee in 1857 definitely pronounced upon this matter, based on the Law Officers' opinion, has gone by the board. The reason why I address myself with some anxiety to this is the very precise language in which the impression was conveyed which is to be found in my learned friend's address.

Viscount FINLAY : It comes to this : We have to make up our own minds as to what the proper answer to the question is.

Mr. MACMILLAN : I am glad to say there is a little more assistance for your Lordships, as I shall show in a moment. I do not know whether your Lordships will have to determine for the first time in history the boundaries of Hudson's Bay.

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Viscount FINLAY : We shall have to do it now.

Mr. MACMILLAN : I do not know that it will necessarily be for your Lordships to do it, in the view I am going to present.

Viscount HALDANE : In your view it is not necessary.

Mr. MACMILLAN : No, but it is necessary for my learned friend's case, of course.

Lord SUMNER : In the Indian Territory you get what is called the Hudson's Bay.

Mr. MACMILLAN : I do not want to put it as a bribe, because that is most improper, but my learned friend's case must bring his boundaries together at the height of land : the Hudson's Bay Territory is to meet

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the Newfoundland Territory and say : “ Here we are, at the parting of the ways” ; he must get them there, and they must coincide ; and that explains the great effort that has been made to establish the height of land, because, of course, it is cardinal to their case. I am only here to show that, so far as the Law Officers' Opinion is concerned, my learned friend's submission is unfounded—so far as these documents are concerned.

Viscount HALDANE : If it were a question between Indian Territory and Hudson's Bay Territory there would be a precise question.

Mr. MACMILLAN : Yes.

Viscount HALDANE : And there would be if Canada had succeeded to Indian Territory ; that may arise some day.

Viscount Haldane.

Mr. MACMILLAN : I do not know whether Lord Warrington would be good enough to help me on a point ; I have had great difficulty in tracing what was in your Lordship's mind in a question addressed to my learned friend, Sir John Simon, when you said, The House of Commons in 1867 accepted the claim made by the Hudson's Bay Company in the letter of the 8th June, 1850. I cannot find any letter of the 8th June, 1850 ; but what I have found is a statement of 1850.

The LORD CHANCELLOR : That must mean 1815.

Mr. MACMILLAN : It is a misprint probably, my Lord.

The LORD CHANCELLOR : That is the date, 8th June, 1815 ; it is referring to the Opinion.

Lord WARRINGTON : Yes, that is so.

Mr. MACMILLAN : I puzzled over it a long time to find out what it was.

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Lord WARRINGTON : It is hardly my fault.

Viscount HALDANE : Will you tell me this, to satisfy my mind ; in 1884 which I begin to remember only dimly, the great case, in which I was Junior Counsel, settled the

boundary of Ontario.

Mr. MACMILLAN : Yes, my Lord.

Viscount HALDANE : As running up the Albany River, and, of of course, it got to the point where it became co-terminous with the Hudson Bay, or very nearly so ; did it touch the boundary ?

Mr. MACMILLAN : It did a most significant thing—but that
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comes at a later stage of my argument—which I think was to disregard the height of land altogether.

Viscount HALDANE : This height of land ?

Mr. MACMILLAN: Yes, the Hudson's Bay height of land.

Viscount HALDANE : It disregarded it.

Mr. MACMILLAN : It disregarded it.

Viscount HALDANE : Was it considered ?

Mr. MACMILLAN : That is why all these Opinions are in the Manitoba and Ontario Appendix ; the whole topic was this, and I have got some most interesting side lights from it which I hope respectfully to distribute to your Lordships a little later on. For the moment I am concerned to give your Lordships the whole of this material and put it in its proper perspective ; therefore, I think we see now just where this matter of the height of land came into being. It is for the first time brought forward by the Hudson's Bay Company in 1814. It receives the highest approbation at that time from Counsel of eminence, and in 1850 receives a further imprimatur from the Law Officers of that day. Upon that my Lords, it is a little interesting to note that the map which was before the Law Officers who advised in 1850 was not the Arrowsmith's Map of 1857 which was printed by Order of the House of Commons, it was another map. Your Lordships remember the instructions given to Sir John Jervis and his colleague to advise, on page 26 of the Joint Appendix, said, " Mr. Hawes then stated that he was to enclose a copy of the letter from the Chairman of the Hudson's Bay Company together with a statement and map prepared under his direction." The map which those Law Officers considered was not the Arrowsmith map of 1857 which is printed as an Appendix to the House of Commons Committee's Report ; of course, it could not be, it was another map ; we have printed it and it is No. 31 of our atlas.

Viscount HALDANE : When was this printed ?

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Mr. MACMILLAN : It was ordered by the House of Commons to be printed in 1850 ; so that this map is another of those maps which has upon it the authoritative words, “ Ordered by the House of Commons to be printed, 12th July, 1850 ; ” and this time, what Sir John Jervis and his colleague had before them, was, not the 1857 map going up to Cape Chidley, but was another map showing a boundary upon the East Coast of Labrador.

The LORD CHANCELLOR : That cannot have been the map ordered to be printed in 1850, because the Opinion is dated January

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1850. This shows what the map was, it was a map prepared by the Hudson's Bay Company showing their Claim.

Sir JOHN SIMON : I think there is no doubt about it.

Mr. MACMILLAN: I think I can trace it, my Lord.

The LORD CHANCELLOR : If you look at page 26 you will see “ annexed to this statement was a map.”

Mr. MACMILLAN : I am still right, with great respect, my Lord ; there was put before the Law Officers a statement and a map, does not it say so, my Lord ?

The Lord Chancellor.

The LORD CHANCELLOR : Yes.

Mr. Macmillan.

Mr. MACMILLAN : Now I have got the statement, and the statement is in this series of Parliamentary Papers, and has annexed to it the map ; the statement and map to which this relates are the statement and map which were submitted to the Law Officers in 1850.

The LORD CHANCELLOR : 1849 as a matter of fact.

The Lord Chancellor.

Mr. MACMILLAN : It was not ordered by the House of Commons to be printed till the 12th July, 1850 ; that is my reading of it, and I think that is right.

The LORD CHANCELLOR : I daresay that is so, but it was not printed for the Committee ; it was printed by direction of the House of Commons.

Mr. Macmillan.

Mr. MACMILLAN: This is long before the Committee of 1857 was set up ; and what had been done at this stage was the obtaining of an Opinion from the Law Officers in 1850, and an Opinion upon a statement and a map ; we have the statement and we have the map, and then these documents were all subsequently ordered to be printed.

The LORD CHANCELLOR : It is only a question of whether the map submitted to these Law Officers in 1850 was the map as printed by order of the House of Commons in 1850. You read some description of it. It must have been printed before the Opinion. It may be a similar map.

Mr. MACMILLAN : What I am concerned to do is to identify the map submitted to the Law Officers with the map which was ordered to be printed on the 12th July, 1850. At any rate, I have the map here, and, if your Lordships will look at it, it differs, and differs substantially, from the famous Height of Land Map put forward as the Claim in the 1857 proceedings. It is very vague, and for one thing has no height

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of land line drawn at all ; it has got a washed colouring, which, as your Lordships will see, ends a considerable distance short of Cape Chidley. So that again one must be very careful really in assuming that these are the same. In 1850 at any rate there was ordered to be printed by the House of Commons, a map which differs from the map which was ordered to be printed in 1857, and the map of 1857 cannot have been the map which was before the Law Officers.

Viscount FINLAY : Being printed by order of the House of Commons, gives no special authority, it only identifies the document.

Mr. MACMILLAN : I thought not, but I gathered from my learned friend referring to that circumstance at least three times that he thought it gave it some authority. What is the materiality to our present case is this : that instead of there being a height of land line ascertained and approved by everybody in 1857, I think I have at least got this length, that I have got it quite loose.

Lord SUMNER : I see Mr. Arrowsmith is also the engraver of the 1850 map ?

Mr. MACMILLAN : My submission, therefore, on that map, at this stage is : that so far from anything that happened in 1850 or 1857 having established the boundary of the Hudson's Bay Company, I submit I have really made my point that we are at large.

(Adjourned for a short time.)

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AFTERNOON SESSION.

Viscount HALDANE: Are you now going on to a new matter ?

Mr. MACMILLAN: I am still pursuing, I am sorry to say, the elusive boundary of the Hudson's Bay Company, but I will pass now altogether from the contentious atmosphere of the House of Commons Select Committee's Report of 1857. Bearing in mind my Lord Warrington's exhortation, I remember that 1763 is really the important date, and I am frankly once more indebted to my learned friends for putting this matter really beyond question, so far as they are concerned, in their Case. If your Lordships would be good enough to look at the Newfoundland Case, on page 8, line 10, this is Newfoundland's view of the accepted Hudson's Bay boundary in 1763. " It is indeed probable that those responsible for the Royal Proclamation of the 7th October 1763 accepted as the Southern Boundary of the Hudson's Bay Company's territories the line shown on the small map inset in Mitchell's map (1755) of the British Colonies in North America, which represents the British proposal after the Treaty of Utrecht." So Newfoundland's view in their pleadings is that the Hudson's Bay boundary is to be found upon a map, that is to say what was before the people who were considering the Proclamation, and that is the really relevant matter for our present purpose. Now would your Lordships be good enough to look at this map, Mitchell's map, which is No. 11 in the Canada Atlas; it has been before your Lordships before, it is what is called the King's Map ; it is the interesting map which came from King George's library, and bears upon it the marks of having been used for the purposes of showing the results of various important transactions. My Lords, the inset map to which they refer is the little map up in the corner, the small map inset in Mitchell's map of 1755, and there you will see a line drawn transversely through the Peninsula of Labrador, and the letterpress on it is, " Proposed limits of Hudson's Bay." That coincides, of course, precisely with the exact language used in the Pleadings. They refer to this line as representing the British proposal, after the Treaty of Utrecht, so there can be no doubt, whatever that, so far as Newfoundland is concerned, their case to your Lordships is that the Hudson's Bay boundary, so far as it was in the minds of the framers of the Proclamation of 1763, is the line shown in red and blue in Map No. 11, the King's map. My Lords, that plainly is not a height of land line. Would your Lordships see how that map fits into the big map. May I try to assist a little in the understanding of the map ; my Lords will notice on the large

map towards the top a blue and red line, a straight line right across the map.

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Viscount FINLAY : Not right across.

Mr. MACMILLAN : I mean extending across transversely, at an obtuse angle it goes off to the North East, and the inset map red and blue line is the continuation of that line ; and that line is lettered in red ink “ Boundary between the lands granted to the Hudson's Bay Company and the Province of Quebec,” that is along the top of the blue and red line in red ink, and that is the line whose prolongation through the inset map is described by Newfoundland in its Pleadings as the line which was probably before the framers of the Proclamation of 1763, as the Southern Boundary of Hudson's Bay Territory. My Lords have only to look at it to see that in no sense it is a height of land line.

The LORD CHANCELLOR : That is only a proposed line, it is not put as an existing boundary.

Mr. MACMILLAN : No, my Lord, but the point is that the statement of Newfoundland is that that is the line which was accepted as the Southern boundary of Hudson's Bay by the framers of the Proclamation.

Sir JOHN SIMON : Not the statement, I think.

Mr. MACMILLAN : May I read it : “ It is indeed probable that those responsible for the Royal Proclamation of the 7th October, 1763, accepted as the Southern boundary of the Hudson's Bay Company's Territories the line shown on the small map inset.”

Viscount FINLAY : If that were the case it would destroy the view of the height of land.

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Mr. MACMILLAN : Of course it would, my Lord, and that is why I quote it.

Viscount FINLAY : The effect is purely negative.

The LORD CHANCELLOR: What is the authority for that assumption ?

Lord Warrington.

Mr. MACMILLAN : That question, with great respect, should be addressed to Newfoundland, and not to me; it is their considered statement on their Record. Addressing it to me, my Lord, I think it is a very good one, for this reason, I just recall what I had read from the Opinion of the Law Officers in 1857, who said that, for the purpose of ascertaining the true boundary of Hudson's Bay territory, it would be proper to have regard to what was claimed after the Treaty of

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Utrecht, and 1750. There are other lines of interest upon that map.

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Sir JOHN SIMON : There is a height of land just above.

Mr. MACMILLAN : I recognise, of course, the importance of reconstituting, if one could, the position in 1763. After all, what happened after that may be important, but what we are anxious to see is, is it not : what did those who used the language of the Proclamation of 1763 conceive to be the territory to which they were alluding as excluded from the Indian reservations, to wit, the Hudson's Bay territory.

Sir John Simon.

Lord WARRINGTON : You need not go so far as that ; it may be that they did not assume a boundary at all : they were not concerned with settling the boundary of the Hudson's Bay property at that time, they may very well have assumed the boundary of the Hudson's Bay Company and then dealt with the rest.

Mr. Macmillan.

Mr. MACMILLAN : Of course, my Lord, it was not necessary, on my view, that they should find a Hudson's Bay boundary at all, because they had general language which was sufficient to include all that was not in Hudson's Bay, and all that was not in Quebec, in Indian territory, without any exception of Newfoundland ; but I am, for the moment, really taking the considered statement of my learned friend's Case as to what it conceived to be the assumption. I will not put it higher than that, in the minds of the framers of the Proclamation of where the line of the Hudson's Bay territory was, and they say that it was probable that the authors of the Proclamation accepted as the Southern Boundary the line shown on the small inset map. Now, my Lords, the line shown on the small inset map, is not the height of land line, but is a different line ; it does not come: out at Cape Chidley, it comes out at, I think it is, Grimington Island.

Sir JOHN SIMON : My learned friend will have observed that the map does show, and shows in the neighbourhood, a height of land line.

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Mr. MACMILLAN : And disregards it.

Sir JOHN SIMON : It describes it as the height of land line as fixed by the Treaty of Utrecht.

Mr. MACMILLAN : That is quite right “ bounds of Hudson's Bay by the Treaty of Utrecht ” ; that is the green and red line,

the wavy line.

Sir JOHN SIMON : That is also labelled, “ Lands Height,” you will notice.

Mr. MACMILLAN : And also labelled, “ Lands Height.” I could have understood my learned friend saying that that line was the line which was in the minds of the framers of the Proclamation; but having

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that map in front of them they rejected that line and said that the line that they had in mind, which makes it all the more prominent, was the red and blue line ; therefore, having before them a height of land line, they deliberately disregarded that and said that the boundary which was in the mind of the framers of the Proclamation was not the height of land line on the same map, but was the red and blue line. I do not know whether that is regarded as making too much of a Pleader's point—I do not want to make too much of a Pleader's point—but still it is rather significant that the statement made there varies so very widely from what is subsequently put before your Lordships in argument ; but my Lords will take this along with it, which has now been made abundantly plain, that in 1763 the height of land claim had not been advanced. It was in 1814 that the height of land contention of the Hudson's Bay Company (I read to you to-day the passage vouching that) was put forward and was canvassed and discussed.

It was approved by some persons ; other persons disapproved of it. But if the Newfoundland statement be true, it makes a most serious inroad into their contentions—if their own statement be true, and I can only assume for the moment that it is true, until it is disclaimed.

My Lords, there are other indicia of considerable value upon this question of Hudson's Bay in relation to the height of land. I shall have to refer to this map and the Quebec boundary question, later on ; meantime I thought it proper to bring it before you in relation to the pleadings of the Colonies. May I take one of those smaller matters which are sometimes indicative, more than would seem at first. My learned friend, at page 95 of his address, passing from the formal documents themselves, as to which he had expressed a view, with which I am almost in agreement, says, “ My own view, which I submit most humbly to the Board, is that what one has finally to do is to take the language of the formal documents, and that what has been done under them, though no doubt matters which your Lordships will carefully consider, is an entirely subordinate question.” I should think that view commends itself to my Lords as it humbly commends itself to me. He points out, of course, that the significance of these entirely subordinate matters varies very much according to the circumstances, and that where he can give an example of common consent, it has more weight than

if it were really *exparte*. He classifies the different kinds of subordinate things, but it is remarkable that he selects as apparently the very first of those subordinate matters—certainly very early, because it is at page 98—as an example of one of these subordinate matters which assists him in the case of his height of land contention, the case of Fort Nascopie, and that topic was thus introduced to your Lordships.

My learned friend said that Sir George Simpson, a prominent official of the Hudson's Bay Company, being examined before the House of Commons Committee in 1857, had brought to his notice an incident which had taken place at Fort Nascopie. One Kennedy had said that a murder of Indians had taken place there and this incident was brought up against Sir George Simpson for the purpose of discrediting the

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efficiency of the Hudson's Bay Government, and it was said : “ How comes it that these crimes can take place in Hudson's Bay Territory ? ” Sir George Simpson disclaimed the locus, Fort Nascopie, as being in Hudson's Bay territory, and my learned friend thus put the point : “ One of the things about which he was very much challenged—”

Viscount FINLAY : You are reading Sir John's statement, are you ?

Mr. MACMILLAN : If your Lordship pleases ; I prefer to put his exact language, rather than to paraphrase it. “ One of the things about which he was very much challenged was the failure—so it was alleged—of the Hudson's Bay administration properly to punish a man who was said to have maltreated (I rather think to have killed) a native at Nascopie ; and his answer again and again was ‘ Nascopi is not in Hudson's Bay jurisdiction ; it is in the jurisdiction of Newfoundland.’ What Sir George Simpson said is not evidence, but it is an interesting circumstance that, in 1857, that was one of the matters which came out, and Nascopie acquired considerable importance in the Committee for that reason. (The LORD CHANCELLOR) : It did not matter to him whether it was in the jurisdiction of Newfoundland or Quebec, I suppose ? (Sir JOHN SIMON) : It did not, of course. (The LORD CHANCELLOR) : The point was that it was not within the Hudson's Bay territory. (Sir JOHN SIMON) : It is rather this : nobody suggested at the time that it could be anything else. He did insist that it was in Newfoundland. I am not attaching importance to it, but it does fit in, that in 1857, when that map was printed by the House of Commons as the result of the Hudson's Bay Inquiry ”—your Lordships notice how the 1857 map is referred to as “ Printed by the House of Commons as the result of the Hudson's Bay Inquiry.” Then Sir John continues : “ (and it is rather interesting to notice), there was confirmation that that

is where you get dividing line. Lake Nascopie is the head of the waters that are running down. As a matter of fact, Sir George Simpson did again and again insist : ‘ That is Newfoundland.’”

My Lord, we have the evidence of Sir George Simpson, and you will find it printed in Volume V, at page 2280. On that page your Lordships will see that my learned friend is quite right in saying that Sir George Simpson was insistent on Fort Nascopie being in Newfoundland ; but to say that nobody suggested at the time that it could be anything else, is a little remarkable in view of the topic being pursued as it was with Sir George Simpson. After he had, as my friend pointed out, said, I think twice if not oftener, that it was in Newfoundland, he is asked this at Question 1572, on page 2280 : “ (Q.) Do you know whether that fort belongs to the Hudson's Bay Company ?—(A.) It does ; it is a post or establishment called the Post of Nascopie. These posts are moved from time to time according to circumstances. (Mr. Roebuck) : Can you remove a fort ?—(A.) A fort is half-a-dozen log huts, and may be erected by half a-dozen men in about a week ; that is what we call a fort. (Q.) It bears the same name wherever it travels ?—(A.) We call it

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either a post or a fort. (Q.) Do you mean to say that you move a fort about ?—(A.) We call it an outpost, a trading post. I do not call it a fort. (Q.) It is called a fort here ?—(A.) It may be so ; it is a misnomer. (Q.) Do you mean to say that you have no Fort Nascopie ?—(A.) We have an outpost called Nascopie. (Q.) You have no fort called Nascopie ?—(A.) We have not. (Mr. Grogan) : It is a station ?—(A.) It is a station. (Mr. Edward Ellice) : And those stations depend upon the time they are occupied ?—(A.) Exactly so. (Mr. Grogan) : Has that station ever been abandoned ?—(A.) I really cannot tell; I think it is very likely. (Q.) But has it been abandoned ?—(A.) I really cannot tell; we move an establishment according to circumstances. If the fish and the other means of subsistence are not sufficiently abundant, we move it to another point, 10, 20 or 30 miles distant.—(Q.) Mr. Roebuck put a question to you about the death of a great number of natives adjoining a fort, which at first you were under the impression was in Labrador ?—(A.) Yes. (Q.) Now it appears that it is in the Hudson's Bay Company's territory ?”

Sir JOHN SIMON : It did not appear at all.

Mr. MACMILLAN : No, but his answer is the significant thing : “ I am not quite sure that it is ; I am rather disposed to think it is not.” That is the gentleman who, we are told, said again and again, that Nascopie is not in the Hudson's Bay jurisdiction, it is in the jurisdiction of Newfoundland, and insisted on that again and again, and that nobody suggested at the time it could be anything else.

Sir JOHN SIMON : I am quite sure that in this matter, as in all others, you would wish to do me justice. Really unintentionally you are not correctly reproducing the observation I made. I said, and quite accurately said, that Sir George Simpson said Nascopie was outside the Hudson's Bay territorial boundary and therefore in Newfoundland. Then there were a number of questions put to him based on this idea that the Hudson's Bay Company could have no establishments outside their own territory, which of course was a mistake. When the Lord Chancellor said it did not matter whether it was in Newfoundland or anywhere else, I said in answer to the Lord Chancellor that nobody suggested it was anywhere else, meaning, of course—and I am sure I was understood at the time to mean—that nobody suggested it was in any tertium quid. I am sure you do not want to do me an injustice.

Mr. MACMILLAN : Certainly not.

Sir JOHN SIMON : My comment was perfectly justified.

Mr. MACMILLAN : We were not at the moment discussing a tertium quid.

Sir JOHN SIMON : Indeed, the Lord Chancellor was.

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Lord WARRINGTON : It is made quite plain at Question 1591: “ (Q.) It just now belonged to Labrador ?—(A.) Upon the coast of Labrador ; we have establishments upon the coast of Labrador.”

Mr. MACMILLAN : My Lords, the point I am making is that it is suggested that Sir George Simpson insisted again and again that it was in Newfoundland and that nobody suggested the contrary. My submission is that he did suggest the contrary.

Viscount HALDANE : There is a significant question and answer at the end.

Mr. MACMILLAN : My Lord, I was going on if I might. This is Question 1585 at page 2280 : “ (Mr. Roebuck :) You distinctly said that Nascopie was a station belonging to the Hudson's Bay Company ? (A.) Yes. (Q.) This account speaks of Nascopie ? (A.) Yes. (Q.) Therefore it belongs to the Hudson's Bay Company ? (A.) It did belong to the Hudson's Bay Company. (Mr. Grogan :) Has it ever been abandoned ? (A.) I do not even know whether it is at present occupied or not. (Mr. Edward Ellice :) It is still occupied ? (A.) Yes. (Mr. Roebuck :) So that it still belongs to the Hudson's Bay Company ? (A.) It always has belonged to the Hudson's Bay Company, when it has been occupied. (Q.) It just now belonged to Labrador ? (A.) Upon the coast of Labrador ; we have establishments upon the coast of Labrador. (Mr. Blackburn :) Are these posts sometimes in Labrador, and sometimes in the Hudson's Bay territory? (A.) They are moved as circumstances may render advisable. (Mr. Roebuck:) But they are always under the command of the Hudson's Bay Company ? (A.) Yes. (Q.) So that wherever they are moved to they belong to the Hudson's Bay Company ? (A.) Hudson's Bay establishments are under the control of the Hudson's Bay Company, but there are other establishments in the immediate neighbourhood.”

Now if your Lordships would look at Volume I, page 240, you will see the position of Fort Nascopie, because here you have the actual deed of surrender by the Hudson's Bay Company of their territories. You will find Fort Nascopie entered as in Labrador under the heading “ Montreal Department, Rupert's Land.” This document is the surrender that was made by the Hudson's Bay Co. to the Queen in pursuance of the Act of Parliament that your Lordships may remember, whereby Rupert's Land might be surrendered and become incorporated in Canada ; and the formal deed of

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surrender contains a schedule ; the schedule is made part of the deed of surrender at page 235, and among the forts surrendered is Fort Nascopie described as being in Labrador Montreal Department, Rupert's Land.

Lord SUMNER: Is “ Montreal Department ” a description of the territory or of the authority under which it is ruled ?

Mr. MACMILLAN : I think it must be only the Hudson's Bay Co.'s denomination of the way in which they divided up their districts.

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Lord SUMNER : “ Labrador ” is intended to describe, I suppose, the territory that it is in.

Mr. MACMILLAN : But the heading is “ Rupert's Land.” That is, of course, the important heading. These are Labrador posts in Rupert's Land and, in my submission, they include a considerable amount of Labrador.

Lord WARRINGTON : This is only a list of posts which belong to the Hudson's Bay Co. situate in Labrador.

Lord Warrington.

Mr. MACMILLAN : With great respect, I was looking to see if that was so. You will not find Rigolet or these other outposts included in this ; you will find this post Fort Nascopie is taken in. It is one of those posts unlike places which they had beyond their own territory, beyond Rupert's Land. They had a number of posts that were beyond the height of land to the east ; there is no question of that ; they came down to the east coast ; but these were not the places they were surrendering, because they were only surrendering posts that were within their boundaries ; and they got, as you know, a grant of land with each of their posts. There is a distinction between places to which the Hudson's Bay Company men may have gone in the course of business and the formal surrender of the posts in their territory, in Rupert's Land. Therefore when the Company is surrendering in respect of a payment of £300,000 that series of their posts and enumerating them carefully, you find there that they put a series of posts in Rupert's Land, Labrador, and Fort Nascopie is one of them, and they are to have a grant of 75 acres of land with Fort Nascopie. Will your Lordships look at the same time at the other posts marked in Labrador, because they are rather interesting ? Fort Nascopie and its outposts are the first lot. Then Fort Chimo in Ungava ; that is right away up at the top of the map.

Lord WARRINGTON : In the first column is the district. I suppose for the purposes of administration of the Hudson's

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Bay Company, Labrador is one of the districts within the Department of Montreal.

Mr. MACMILLAN : And inside Rupert's Land.

Lord WARRINGTON : A good deal of the Peninsula of Labrador was certainly to the west of the height of land.

Mr. MACMILLAN : Certainly, my Lord.

Lord WARRINGTON : And these other places, as far as I can see, except Fort Nascope are all to the west.

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Mr. MACMILLAN : No, my Lord, with great respect.

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Lord WARRINGTON : Are they not ?

Mr. MACMILLAN : I was going to show that.

Lord WARRINGTON : I was looking as far as I could on the sketch map and I thought they all were.

Lord Sumner.

Mr. MACMILLAN : I think not, my Lord ; I may be wrong.

Lord WARRINGTON : Whale River, George River ; they are all to the west.

Mr. MACMILLAN : I was just going to show your Lordships where they all are ; but my first point upon it is this. This is a territorial surrender by the Hudson's Bay Company of the posts in its territory.

Lord SUMNER : Are you quite correct ?

Mr. MACMILLAN : I hope I am right, my Lord ; I may be wrong.

Mr. Macmillan.

Lord SUMNER : In the document to which this schedule is annexed, on page 235, paragraph (2) it says : " The Company to retain all the posts or stations now actually possessed and occupied by them or their officers or agents whether in Rupert's Land or any other part of British North America, and may within twelve months after acceptance of the said surrender select a block of land adjoining each of their posts or stations, within any part of British North America, not comprised in Canada and British Columbia in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the annexed schedule." I assume that to mean that this was an agreed list of the land that they were entitled to retain at each of their posts whether those posts were in Rupert's Land or in any other part of British

Lord Sumner.

Mr. Macmillan.

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Mr. Macmillan.

Lord Sumner.

Mr. MACMILLAN : True, but I am emphasising the fact that this particular post is put in under the heading of Rupert's Land. Rupert's Land is the definition in the original Charter of 1670 the Territory of the Hudson's Bay Company.

Lord SUMNER : It is on either Rupert's Land or North–West Territory, and if it was not North–West Territory it was, as a matter of nomenclature, in Rupert's Land apparently.

Mr. MACMILLAN : I may be quite wrong, but the thing that seemed to me to be important was this, that when I look at these Forts and places which are referred to, they do not seem to include a number of what might be called outposts, extra territorial places ;

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because I find, for instance, on the green area there was a well known post, North–West River.

Lord SUMNER : Is not the reason that in regard to those they omitted the posts they did not want to retain or had not got an agreement that they should retain any land around the post.

Mr. MACMILLAN : That may be, my Lord.

Mr. Macmillan.

Lord SUMNER : Perhaps there was something that will explain this a little more definitely, but from the language of this section it does not suggest to me that because Rupert's Land is the heading of the section and Labrador is the district inside, therefore it is an admission that Fort Nascopie is in that part of Labrador which is part of Rupert's Land.

Mr. MACMILLAN : Very good, my Lord. I am putting it too high obviously.

Lord SUMNER : I do not quite see that you have gone far enough yet.

Mr. MACMILLAN : I am only putting it as it occurs to me. So often under examination one's points do not seem so good as one thought them. When I read that I thought it was perhaps better than it is. It is rather interesting to follow out the posts mentioned, described as being in Labrador and Rupert's Land perhaps erroneously. Fort Nascopie, we know, is the Fort inside the green, just at the corner. Then we have Fort Chimo, shown on my learned friend's map just at the bottom of Ungava Bay. There can be no doubt it is well inside Rupert's land. The South River outposts are well to the west of the height of land. Your Lordship sees Koksoak

Lord Sumner.

River flowing into Ungava Bay. If you follow up that river, just after the confluence with a river coming in from the south-west, the South River Outposts are there—well to the west of the height of land.

Viscount FINLAY : Whereabouts is it with reference to Fort Chimo ?

Mr. MACMILLAN : Map No. 1 of our Atlas shows it.

Lord SUMNER : They are all in the Koksoak basin.

Mr. MACMILLAN : Yes.

Lord SUMNER : Whale River and George River are not actually in the Koksoak basin, perhaps, but they run next to it into Ungava Bay. Chimo and the place you have just mentioned are actually in the basin, are they not ?

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Mr. MACMILLAN : Yes, my Lord. Then George's River and Whale River are also both to the west of the watershed. Then North's River, on the other hand, is to the east of the watershed. North River is marked on the map near the Moravian settlement of Okak.

Lord WARRINGTON : Are you quite sure that those two are the same. It is called North's River in the document you showed us just now, and this is North River. Are you sure it is the same ?

Mr. MACMILLAN : Well, my Lord, it is the only one I know.

Sir JOHN SIMON : I think it is the same, my Lord. It is not a case where concession is of any value, but we think it is the same.

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Mr. Macmillan.

Lord Warrington.

Mr. Macmillan.

Mr. MACMILLAN : North River settlement is there, and my learned friend is good enough to say that he agrees, just to the east of the watershed. Then False River is just at the bottom of Ungava Bay, practically at the mouth of the Koksoak River. The only importance of that is that that is to the west of the watershed.

Lord SUMNER : They are all west of the watershed except North River.

Mr. MACMILLAN : And, if I am right, Fort Nascopie. Would your Lordship bear this in mind. I said this was not a very big point, but it is rather significant. North River is inside the boundary of the Hudson's Bay territory as set down in Mitchell's map, and so also is Fort Nascopie. So that we have here a case where they were surrendering their territory as Rupert's Land—after what your Lordship has indicated I cannot put too much stress upon that—but at least it is a document professing to surrender land in Labrador which is also in Rupert's Land, and which is also within the Hudson's Bay territory. As my learned friend said, the framers of the Proclamation of 1763 accepted that boundary as the Hudson's Bay boundary.

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Mr. Macmillan.

My Lord, I leave the Nascopie point, and come to another point on the height of land. The question of the position of the height of land arose in the Ontario–Manitoba case of 1884. May I explain how it arose. The main contest in that case was between the Dominion of Canada and the Province of Ontario. The Province of Ontario desired that its boundaries should be fixed well to the north. The Dominion of Canada desirous of retaining as much land unallocated to any Provinces as it could at that stage, contended that the northern boundary of the Province of Ontario was the

southern boundary of the Hudson's Bay Company, and that the southern boundary of the Hudson's Bay Company was the height of land. Therefore, said they, Ontario cannot legitimately claim any territory north of the height of land because, were it to do so, it would be claiming half of the Hudson's Bay territory under their Charter. Lord Haldane's recollection is no doubt being

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revived on this point. The contention of Canada, my clients to-day, was that the old Province of Quebec, which included Upper and Lower Canada, was by the Quebec Act of 1874, which your Lordships have had put before you, described as bounded on the north by the southern boundary of the Hudson's Bay territory. They said : How can you, Ontario, claim to pass over the height of land ? If you do, you pass into Hudson's Bay territory. Therefore, it was argued, Ontario has no legitimate right to anything north of the height of land. Ontario replied : Whatever be the southern boundary of the Hudson's Bay Company, we maintain that we are entitled to pass over and beyond any such line, and claim territory to the northward of the height of land. I do not wish to go into the thing in detail, because it is a complicated story, but I am giving, I think, an accurate outline of it. They said : If you will look at other documents not less important, you will find on the left side of the map there is a line up to the Lake of the Woods, which was the boundary between the United States and Canada, and upon the other side there was a line which went up to James Bay in Hudson's Bay.

Viscount HALDANE : Was that the Albany River ?

Mr. MACMILLAN : The Albany River was the left side of James Bay.

Viscount HALDANE : Where did the Albany River flow ?

Mr. MACMILLAN : It flowed into James Bay from the west. In that case Canada maintained the sanctity of the height of land as the boundary of the Hudson's Bay territory with might and main. I have looked through the pleadings of the parties, and a wealth of learning is expended upon this question of the height of land. Every form of learning is ransacked. I am glad to say we have been spared here writers on international law, hut authors on international law are quoted in that case, and the whole topic of the height of land is put forward with great vehemence, not so forcibly as put forward now by my learned friend, but as well put forward as it could be, and put forward as a natural and proper boundary. It is so interesting to find almost all the epithets applied to the height of land boundary at that time repeated now. It was put forward as a natural and proper boundary, and all the rest of it. But what did the Privy Council do ? They entirely disregarded the height of land. They gave a boundary to

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Lord Warrington. Ontario which transcended the height of land, and carried the territory of Ontario right up to James Bay ; and it came round the south shore of James Bay to the mouth of the Albany River, and so to the west, and included in Ontario, therefore, a large amount of what would ex hypothesi have been Hudson's Bay territory, because it was north of the height of land. It is true, of course, that they did so, not moved merely by the question of the ascertainment of the point of the height of land, because there were these other very cogent considerations which controlled the

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situation—the point about the Lake of the Woods, and the other line at the other end. But what is of significance is the attitude taken up by your Lordship's predecessors at that time on this topic of the height of land, urged as it was upon them with every circumstance of urgency. and with a great apparatus of learning. My Lords, it received, I may say, scant courtesy. There are a few references to that question which I propose, with your Lordships' leave, now to refer to.

Lord Warrington. Lord WARRINGTON : Would you mind telling me what were the Privy Council doing then ? Were they ascertaining where the boundary was in fact fixed, or were they fixing a boundary as arbitrators ?

Mr. Macmillan. Mr. MACMILLAN : They were considering the validity of an award which had been pronounced in Canada. The matter had been arbitrated in Canada first of all, and it came over here on the question, among others, of the binding character of the award.

Lord WARRINGTON : It came over here as an appeal ?

Mr. MACMILLAN : No, my Lord. It did not come as an ordinary appeal. It came as a special reference also.

Lord WARRINGTON : But still as a reference of a different kind to that which we have to deal with.

Mr. MACMILLAN : My Lord, I would like to give the actual terms of the reference in a matter of this sort.

Lord WARRINGTON : You see what I mean. If they rejected the height of land on the facts ,it may be of one importance ; but if they merely refused to adopt it for the purpose of fixing a boundary, it may be of quite a different importance.

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Mr. Macmillan. Mr. MACMILLAN : Your Lordship is concerned to know whether it was a declaratory process such as we are engaged in here, or whether it was one in which they had the right to say another boundary would be an expedient boundary.

Lord WARRINGTON : Yes.

Mr. MACMILLAN : Subject to correction—my learned friends might check me upon this—it looks to me as if it was a declaratory process like this, because I see that the Special Case which was put before the Privy Council is this. “ The Province of Ontario claim that the western boundary of that Province is ”—not should be—either so—and—so, or so—and—so, “ and the Province of Manitoba claim that the boundary of that Province and the Province of Ontario” is so—and—so. “ It has been agreed to refer the matter to the Judicial Committee of Her Majesty's Privy Council, and an appendix has been prepared.” Then here are

Sir John Simon.

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the questions. “ The questions submitted to the Privy Council are the following:—(1) Whether the award is or is not under all the circumstances binding ; (2) In case the award is held not to settle the boundary in question then what, on the evidence, is the true boundary' between the said Provinces ?” Therefore the task on which they were engaged is the same as now.

Mr. Macmillan.

Viscount FINLAY : Did they hold the award binding ?

Mr. MACMILLAN : No, they held it not binding.

Viscount FINLAY : And they declared the boundary ?

Mr. MACMILLAN : They declared it.

Sir JOHN SIMON : The third question was whether, in case legislation is needed to make the decision in the case binding or effective, certain legislation already passed would do it.

Mr. MACMILLAN : And I think they passed an Act afterwards.

Sir JOHN SIMON : The whole thing was disposed of finally by Act.

Mr. MACMILLAN: And we may need an Act here possibly ; we do not know. My Lords, there they were as here, in search of a legally existing boundary assumed to exist at some place. The attitude of the Board to the Ontario claim is, I venture to say, rather instructive. Volume V, page 2135, contains “ Extracts from proceedings before the Judicial Committee of Her Majesty's Privy Council in the Ontario–Manitoba Boundary Case re ‘ Watershed ’ contention, taken from the transcription of notes.” What is of, interest to note is the effort of Counsel for the Dominion. The effort of Counsel for the Dominion was to persuade their Lordships that the height of land was the boundary on the north, and could not be

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transcended, and for that purpose a considerable amount of law was invoked which I respectfully think has little to do with the question, and upon which I was rather relieved to notice that friend Sir John did not rely in his opening in support of the watershed theory. If we get into the region of international law we get into a mare magnum on these matters, and my submission would be that there is no accepted doctrine of international law on the subject. I have read a considerable number of authors, and found they differed with even more acerbity than usual on this topic. Counsel on behalf of the Dominion was insisting there as a doctrine of law that “ the discovery of a coast line, and the occupation of that coast line, give to the discoverer an entire right to all the territory that is drained there.” That is page 2136, line 14.

It submits as a doctrine “ the international law on the subject is this, that the discovery of a coast line, and the occupation of that coast line,

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give to the discoverer an entire right to all the territory that is drained there.” That doctrine is really remote, even if sound, from our present question, because we are dealing with an alleged discovery of the coast here and what right it gives to the discoverer, what depth of land it gives him a right to. We are dealing with the interpretation of land. It was invoked there as being in some way helpful to the contention that the height of land was the sacrosanct boundary, and the doctrine submitted was the doctrine which I have just read. Then it is suggested that it is in accordance with reason and law. These strong words appear at the top of page 2137. The same type of submission was made upon it. The Lord Chancellor, who was then Lord Selborne, intervened at line 20, on page 2137, and said : “ There seems to be about as much foundation for the one idea as for the other. If you say that because you take possession of a few miles of the coast of Africa, you take possession of all the country which is drained by a river which goes three thousand miles, it is so absurd that I cannot conceive it to be laid down by any writer on international law. However, it has very little bearing upon this question. (Sir Robert Collier) : Whether it is so or not is of very little consequence. (The Lord President) : What do you conceive to be the bearing of all this ? (Mr. McCarthy) : The bearing of all this is that the charter did give to the Hudson's Bay certain definite limits. If it did not give to Hudson's Bay certain definite limits, the charter was void for uncertainty. Now what were those limits ? (Sir Robert Collier) : I am speaking about that charter, under which was the only possession that the English had in all this north country. The Hudson's Bay Company represented the Crown of England, and the charter purported to give them all the lands which drained into the Bay.” The very case is being put there. “ Now, either it was void for uncertainty, and a piece of waste

paper—and I am not required to admit that—or it did give to the Hudson's Bay Company certain definite limits. Where are those definite limits ? Can my learned friends on the other side suggest any definite limits to the Hudson's Bay grant.” The familiar device of putting your adversary in a difficulty was regarded, and this point was strongly made, that it was a doctrine of law as much as of reason, that if you had a right on the coast, that gave you a right to the entire hinterland up to the height of land.

Viscount HALDANE: That arose from certain contentions which the German Government were putting forward at that time.

Mr. MACMILLAN : I think the first real inception is when Mr. Monroe put it forward in 1805 in the Louisiana case. Be that as it may, I should humbly agree that it is not relevant here, but what is sought ? The learned Chancellor characterises the doctrine, as claimed, as perfectly absurd.

Sir JOHN SIMON : The thing that is perfectly absurd is not quite this proposition.

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Lord Warrington.

Mr. Macmillan.

Mr. MACMILLAN : Not your proposition ; no. I do not suggest that for a moment, but I do suggest this, that the attempt (so to speak) to bolster up the height of land as the legal and just boundary because it has the support of international law as well as of reason, failed in that case. It is put again with an insistence which I am afraid we Counsel too often exhibit on page 2139, for Mr. McCarthy, returning to the charge, says : “ I mean this, and your Lordship will say whether I am to go on or not.” Counsel is getting into difficulties, and is anxious to ascertain whether he is to go on with his topic.

Viscount HALDANE : Mr. McCarthy was an advocate of immense energy.

Mr. MACMILLAN : I gathered so from the written page. “ I mean this, and your Lordship will say whether I am to go on or not : but what I understand is this, that from time to time nations have agreed upon certain well known rules for settling matters of this kind, and that this question as to the water shed, and as to the territory which one nation that discovers becomes entitled to, has in that way—by conventions, by arguments adduced at those conventions, by settlements made upon references—been so firmly established that it may be accepted as a well known rule of international law.” That is not at all unlike what my learned friend Sir John is putting forward, that it is an accepted legal view that the height of land is the boundary which you are to adopt.

Lord WARRINGTON : I do not think Sir John put that forward at all as an accepted legal view, that the height of land was to be adopted.

Mr. MACMILLAN : My impression was that he said it was founded in both reason and principle.

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Mr. Macmillan.

Sir JOHN SIMON : I must answer for my own argument, and I know of no reason why I should answer for Mr. McCarthy's.

Mr. MACMILLAN : My Lord was asking me as to your argument. I thought you had submitted that it was a boundary founded in both reason and principle. I may have misquoted. If it is both unprincipled and irrational, I will not trouble with it.

Viscount FINLAY : If they agreed to it, there it is.

Mr. MACMILLAN: At page 2144, on the sixth day, the Lord Chancellor says this, and this is on the Hudson's Bay

question you will notice : “ Then, when different nations are disputing about boundaries, they have recourse to abstract reasoning and certain principles, and so on; but to represent that as a rule of international law—and especially

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as a rule of international law which had any existence or was imagined by anybody at the time we have to consider in this inquiry—is surely a proposition which cannot be maintained. You might just as well go back to the time at which the Pope was supposed, by international law, to be able to give away whatever districts in the world he pleased. Those words ‘ international law ’ are very misleading. There are certain principles generally accepted amongst nations ; there are particular reasons which have been constantly resorted to when disputes have taken place, about boundaries or otherwise, between nations, as the best available means of settling those disputes ; but to say that there is any general international law that gives to the first discoverer of the mouth of a river and a certain line of coast, as against all other nations, whether he occupies it or not, or without regard to what extent it is occupied or not, a right to all the country that is watered by any of the rivers that come in there, is a proposition which no amount of modern books will prove. (Mr. Robinson) : Well, I am not desirous for one moment of arguing this question at length, or expressing any opinion of my own. All that I can say is that I find it laid down in the clearest language in the book which my learned friend has referred to, and your Lordship will find that confirmed. (The Lord Chancellor) : We really cannot have the laws of the world made by gentlemen, however learned, who have published books within the last twenty or thirty years.” I do not know whether that is Sir Travers Twiss or Sir Robert Phillimore. Then Lord Aberdare makes an interposition which is rather interesting : “ It must be borne in mind that Charles II was utterly unaware of the enormous bearing of such a proposition as yours.” My Lord, I suggest that in 1763 the framers of this proclamation were utterly unaware of any suggestion that by putting the coast of Labrador under the “ care and inspection,” they were inherently invoking a doctrine of reason which subjected the whole territory up to the height of land to the Governor. The Lord Chancellor says : “ It is quite certain that France never recognised any such idea, nor can I perceive that it was ever suggested on the part of the Hudson’s Bay Company in the early stages. We first meet with it in the Selkirk grant of 1814 ”—my Lord, 41 years after the proclamation which, according to my learned friend, gave the Governor of Newfoundland the whole territory of Labrador up to the height of land upon the east side.

Viscount Haldane.

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Viscount HALDANE : Mr. Christopher Robinson was an admirable advocate, but he was not at all combative, in my

recollection ; he gave the thing up.

Lord Sumner.

Mr. MACMILLAN: I do not know whether you commend that example to me, or deprecate it.

Lord SUMNER : Whether he gave it up or did not give it up, made no progress with it.

Mr. MACMILLAN : The only point about that is this. My learned

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friends in their Pleadings appear to rely upon the Manitoba ease. It is referred to at some length in their Pleadings, although my learned friend has not made a point of it. I invoke it in turn for this purpose as showing that a sacrosanct height of lands boundary of the Hudson's Bay received very scant commons at the hands of the Privy Council in the 1884, and although at that time it was sought to be supported with learning (no doubt inferior to that of my learned friend, but at that time the best learning of the day) it did not succeed.

Lord Sumner.

Lord SUMNER : I do not think I understood Sir John Simon to be resting his height of land upon any legal principle. I understood it roughly to be this, that when you have two administrations, both under the British Crown, who between them divide somewhere a great unexplored and savage tract, you get a boundary at some time or other, and in default of agreement on the parallel and longitude or something of that kind, what is there better than a watershed which at any rate can be discovered if you are sufficiently self-sacrificing to spend a few winters in this appalling climate.

Viscount Finlay.

Mr. Macmillan.

Mr. MACMILLAN: It would have been more formidable for me to meet it had it been put in that form, but I think it was put much higher. It was put in this way, that there was a boundary of Hudson's Bay and a boundary of Newfoundland, coincident boundaries, meeting on the height of land. It was put in that form against me.

Viscount Finlay.

Mr. Macmillan.

Lord SUMNER : So I understood. Assuming there was nothing intervening and they did join with one another somewhere, it is none the worse for the fact that learned Counsel advised that the height of land is the right one ; but still, the point as I understood it was that where you come to the end of Hudson's Bay you begin the Labrador part.

Viscount FINLAY : Would you read the terms in which the question is put ? Is not it : Where, having regard to the effect of the various documents referred to, or some of them, is the boundary to be fixed

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Mr. MACMILLAN: What is the location and definition of the boundary as between Canada and Newfoundland in the

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Labrador Peninsula under the Statues, Orders in Council and Proclamations ?

Viscount FINLAY : We are not to find out what a good boundary would be; we are to say whether or not a certain boundary has been laid down by these documents.

Mr. MACMILLAN: That is exactly it, my Lord ; the same point in the Ontario and Manitoba ease. There also the Privy Council was ascertaining a legally existing, though unknown, boundary.

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Viscount HALDANE : That was the reference to arbitration in Manitoba, was it not ?

Viscount Finlay.

Mr. MACMILLAN: The arbitration award was brought up here on the question of its validity. Question that it was invalid ; then what was the true boundary ?

Mr. Macmillan.

Viscount HALDANE : So the substantive question was raised ?

Mr. MACMILLAN : The substantive question was raised.

Viscount HALDANE : The Committee departed from the findings in Canada.

Mr. MACMILLAN : No, my Lord, they confirmed the award of the arbitrators.

Viscount FINLAY : Must it not ultimately resolve itself into a question of agreement ? Did the parties agree on this? Can you infer from these documents that their agreement was that the boundary should be so and so ?

Mr. MACMILLAN : If one were in the region of contract, but this is not a case of the two parties contracting with each other. It is a case of a regime imposed upon a territory, and therefore the construction is very much the same question, no doubt, but it is a question of what was done.

Viscount FINLAY : I agree ; but the question must be : “ Was this boundary fixed ?”

Mr. MACMILLAN : Yes, my Lord.

Viscount FINLAY : In that way ?

Mr. MACMILLAN : Yes.

Viscount FINLAY : Or at any time. It might be done at any time, of course, by agreement.

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Mr. MACMILLAN : We are agreed, fortunately, here among many things in disagreement, that the root of title (I use advisedly my learned friend's expression) of Newfoundland is in Graves's Commission. The case is sought in the proclamation. I think one may reconcile these two by saying that the combined effect of the proclamation and the commission constitute the title which this honourable Court is now interpreting.

Lord WARRINGTON : The commission is really the operative document

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Mr. MACMILLAN : The other is recital.

Lord WARRINGTON : It refers to the result of the commission having been effected.

Mr. MACMILLAN : One has in a sense to carry them together, because what was done in the proclamation was done in the light of what had been done under the commission, and therefore one is dealing with the disposal of this whole problem there and then. As I say, my learned friend and I are in agreement that there is the centre of this controversy ; what was done then ; what was in the minds of those who, in 1763, disposed of this territory ; how did they do it ?

Viscount FINLAY : What do the words which they used fairly mean ?

Mr. MACMILLAN : What did they effect by the words they used ? What is the true interpretation of those words ? I have been concerned up to this time to contest, to the best of my ability, the height of land point. My Lord, if I have established two points they are, if I may say so, very vital to the case against me. If I have established, first of all, the presence of Indians to whom the proclamation related, I have introduced the tertium quid into this area which my learned friend so strenuously combated. If I am able further to show that the height of land, the blue line coming down from Cape Chudley, was not in the minds of those who framed the proclamation or the commission as the boundary of my learned friend's interests on the main land, whatever they were, that the height of land was not known at that time even as a contention in that district, and was advanced at a much later period in consequence of the opinion obtained in 1814, then I have got a long way to show your Lordship that when the coast of Labrador was put under the care and inspection of the Governor of Newfoundland, and when there was added in the Commission to Captain Graves the coast of Labrador within certain termini upon the coast of Labrador, there was no intention whatever, and upon a sound construction of the

language used there is no necessary inference that what was intended to be done was to include the whole area right up to the height of land ; and if my learned friend's case is right, actually to take from Hudson's Bay part of Hudson's Bay territory, because the land drained across on the inset map of Mitchells falls short by a long distance of Cape Chudley, and what he got was a jurisdiction, in my submission, on the shores of that district, but did not get a jurisdiction extending inland. Nevertheless, putting together these two statements of my learned friend (1) that Newfoundland went to the height of land, and (2) that the authors of the proclamation had before them as the boundaries of Hudson's Bay the diagonal line across Labrador, the result is that my learned friend's case drives him to this : that they actually gave Newfoundland part of the Hudson's Bay territory in 1763. My Lords, on those two matters, I submit that I have given your

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Lordship ground or material for holding that my learned friend is not entitled to the blue line. The significance of that, if I am right, is enormous. It makes a complete breach in the case against me.[sic] because the moment that my learned friend has to depart from the height of land, his problem, like mine, is the ascertainment of the depth of the coast. It not being the height of land, where else is it ? Of course, my learned friend may have much larger ideas as to what is meant by “ the coast,” as a second part of his case. We have not heard that yet but we shall hear it in reply, possibly. But, if it is not the height of land, my learned friend, has to find a meaning for “ the coast ” also, and he and I are in pari casu in the problem what is the true extent of coast which was placed under the care and inspection of the Governor of Newfoundland, and included in Captain Graves' Commission as a new element.

Now I should like to pass to a rather different topic, but, I venture to think, an instructive one. Why is it that in 1763, this critical year, when the Government was considering the disposal of these territories and these fishery rights, they selected the Governor of Newfoundland as the person to whom they would entrust whatever they did entrust to him ? My suggestion to your Lordships has been this, that although in certain of the later Acts—and, indeed, early on, because I think it is in the Proclamation too—you find language used which connotes territorial jurisdiction, the primary intention of the whole thing was the regulation of the fisheries. I am not going back upon all that I have said with regard to that matter, but I want now to suggest to your Lordships why it was that the Governor of Newfoundland was the person selected for this task, whatever that task was.

Now, my Lords, what was the state of Newfoundland at this time ? It is very interesting to consider it. The State of Newfoundland at that time, I venture to think, justified completely the wisdom of the selection of the Governor of Newfoundland as the custodian of the coast of Labrador and its fishery interests. It was perfectly natural that Captain Graves should be selected for this task. It would have been quite unnatural to select him as Governor of Indian territories and of large areas extending far inland.

The history of Newfoundland is a very peculiar one, and much of it is told with a considerable degree of accuracy in the printed papers for Newfoundland itself. We have a historical sketch in Volume IV at pages 1667 to 1690, for which I claim no inspiration, but which professes to be based upon documents, and your Lordships will take it with all reserve as a summary of the historical position. But I have some contemporary material here which can put before your Lordships. There are a good many papers, which are of such value as your Lordships may be pleased to attach to them. We have a very interesting description in Volume IV at pages

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1847, of the kind of Government that went on in Newfoundland.

Lord WARRINGTON : That is an extract from an Act.
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Mr. MACMILLAN : It is headed: “ Extract from ‘ An examination of the Act of Parliament relative to the trade and government of the American Colonies,’” and it is by James Abercromby.

Viscount FINLAY: Is that the one that begins: “ Having thus stated the different and particular constitutions of Government” ?

Viscount Finlay.

Mr. MACMILLAN : Yes, my Lord, that is exactly it. This is interesting, because it says : “ This treatise was prepared for the use of Pelham, First Lord of the Treasury, and Granville, President of the Council, and contains an elaborate survey of the charter and constitution of each of those Colonies.” Therefore, this account of the Colony was prepared by some person who had a special duty to investigate it. He was writing in May of 1752, and he describes the Newfoundland Government thus: “ Having thus stated the different and particular constitutions of Government in all these Colonies, For as to that of Newfoundland tho. Rank'd amongst the Best, and first, In point of Property belonging to this Kingdom, from the Discovery thereof by Cabot, for Henry the 7th in the year 1497; Yet the object of that Government relates to a kind of Police amongst Fisher Men, and to them only.”

Then in the same volume, at page 1908, you have a picturesque description of it in the evidence given by one William Knox, before a Committee appointed to enquire into the state of trade to Newfoundland in the year 1703. This gentleman says : “ That the Island of Newfoundland had been considered, all former Times, as a great English Ship moored near the Banks during the Fishing Season, for the Convenience of the English Fishermen. The Governor was considered as the Ship's Captain, and all those who were concerned in the Fishery Business, as his Crew, and subject to Naval Discipline while there, and expected to return to England when the Season was over.” Then it says : “ The English had then no Rivals,” and so on. There is a picturesque contemporary description of the sort of person that the Governor of Newfoundland was regarded as being.

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Viscount FINLAY : It is impossible to take that as being a complete description. No doubt the fishery started it, but Newfoundland came to be a colony in every sense of the word.

Mr. MACMILLAN : Not at this time, my Lord.

Viscount FINLAY : It was coming to be that.

Mr. MACMILLAN : There were the most resolute efforts made to prevent it becoming a colony.

Sir JOHN SIMON : It was called a colony by Abercromby.

Mr. MACMILLAN: I shall give your Lordships the passages on that subject later on ; there is any number of them.

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Viscount FINLAY : It is perfectly correct as regards the inception of it, but at what particular time it transcended the conception which is a mere fishing station, is a question of particular enquiry.

Mr. MACMILLAN : Yes, my Lord.

Viscount HALDANE : I think it was in eighteen-fifty—something, that it got its status. Was there not some Act ?

Mr. MACMILLAN : It was rather earlier than that, my Lord. I think it was in 1832 that it got a Representative Assembly.

Mr. Macmillan.

Sir JOHN SIMON : That was not by Act of Parliament, I think.

Viscount FINLAY : But apart from representative government altogether, when did it become a settled community as distinguished from a mere fishing station ?

Mr. MACMILLAN : I cannot say, my Lord. It will be necessary to look at the historical account here.

Viscount FINLAY : That seems to be the point of this. Perhaps it is in the account that begins on page 1667.

Mr. MACMILLAN : Yes, my Lord.

Viscount HALDANE : It was a military and fishing establishment for some time.

Mr. MACMILLAN : May I just give your Lordships a reference which may help, which is page 1943. Here is a letter from the Earl of Bathurst addressed to the Attorney and Solicitor-General, from Downing Street, on the 4th of March, 1825. It says this : “ Gentlemen, You are aware that the Island of Newfoundland was long regarded merely as a Fishing Station, and that in order to prevent Colonization there, various provisions were made by Parliament to insure the Return of the Fishermen to England at the close of the Fishing season. In consequence of this Policy, the Island was for a great number of years destitute of all these civil Institutions which have been generally established in the

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other Colonial possessions of the Crown. There has never been any internal Legislature, nor until a comparative recent period, was there even a Court of Civil Justice. Indeed the peculiar system of Maritime Government, and Maritime Jurisdiction, which was so long maintained in Newfoundland, cannot be said to have been abolished before the Enactment of the Acts of the last Session of Parliament, 5 Geo. 4th C. 51, and 67." I am not quite sure what year that was.

Sir JOHN SIMON : 1824.

Viscount Finlay.

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Mr. MACMILLAN : 1824: So that in 1763, which was 60 years before this, the system was a peculiar system of Maritime Government. Nothing could be more authoritative than this, because this is a case for the Attorney and Solicitor-General on the very topic of the Acts of Parliament in force in Newfoundland.

Mr. Macmillan.

Viscount HALDANE: That is in the case for the Lords.

Mr. MACMILLAN : It is a letter by Lord Bathurst addressed to the Attorney and Solicitor-General and dated the 4th of March 1825, my Lord; and he there describes the position, I think accurately, and answers the point put to me by Lord Finlay, when he says that down to the last session the peculiar system of Maritime Government, and Maritime Jurisdiction, persisted.

Viscount FINLAY : That is directly on the point to which I was calling attention; but what is there said may be qualified by other parts of the case.

Mr. MACMILLAN : Yes, my Lord, no doubt.

Viscount FINLAY : But that directly bears on the question.

Mr. MACMILLAN: Yes. my Lord ; and your Lordships will see that this is an independent document altogether, and it is not one which emanates from either of the parties here.

Now we have a somewhat racy witness on this subject in the Chief Justice of Newfoundland, who gives evidence in 1793 before the Committee appointed to enquire into the state of trade to Newfoundland. This is how he describes Newfoundland. I am not going to read very much from his evidence, but on page 1916 in Volume 4 there is a passage to which I should like to refer.

The LORD CHANCELLOR : This is Mr. Reeves.

Mr. MACMILLAN : Yes, my Lord, the Chief Justice of

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Newfoundland. I am going to pick out a sentence or two. In the fifth line on page 1916 he says : “ Notwithstanding the Increase of Inhabitants, Newfoundland is still nothing but a great Ship, dependent upon the Mother Country for every Thing they eat, drink, and wear, or for the Funds to procure them ; the Number of Inhabitants seems to me rather to increase this Dependence, inasmuch as their Necessities are thereby increased.”

My Lords, at the foot of that page after discussing questions about the inhabitants and what that resulted in he said : “ I take the Liberty of doubting whether this Reason was a good one. I never can be brought to think, but that placing a Governor there, whose Business it should be to prevent People settling, would have been a more probable Method of preventing it than continuing the present floating Government,

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which has no regular Authority to send Persons Home, and which departs from the Island just at the Time when the Seamen and Fishermen are hesitating whether they shall stay the Winter or not, and might be easily turned in their Resolution by the Apprehension of any Interposition from Authority. The Consequence has been, that Newfoundland has been peopled behind your Back ; you have abandoned it to be inhabited by any one who chooses, because you thought appointing a Governor would constitute a Colony and encourage Population. The Western Merchants, who found out the Reason that ‘ a Governor would make a Colony,’ knew perfectly well what they were about in urging it ; they knew that the Presence of a Governor would interfere with their Plan, winch was to go on without Inspection or Control ; they over reached those who heard them, and succeeded in the only object they proposed themselves.” In the meantime they, among the rest, proceeded to take all the advantages they could by adding to the Number of Residents every year. Just look at at this comment at line 19: “ The present floating Government seems to me so constituted, as to confer the least possible Advantage of a Government. The Governor's Appointment continues for Three years, the Term of his Station ; the Captains of the Squadron, who are his Surrogates, are often changed during the Station. It happens, therefore, that the Governor has One Year to see and learn, another to execute his Authority with some knowledge, and a Third Year with some little more.” I observe Mr. Burke's description of him is : “ A military gentleman living on board a Man-o-War.” That is quoted from Volume III, page 1139. That was the kind of person so far from being as General Murray or Governor Carleton was to be, a person on the spot, Governor in the ordinary sense with a territorial jurisdiction, the Governor of Newfoundland was a person who was only there from April till October. He lived on board a ship, and his period on his station was coincident with the period of the

fishing. That was the kind of person who was seeking to be Governor of whatever was given into his hands by the Commission of 1763 on the coast of Labrador.

My Lords, I think I am entitled to say that the gentleman to whom the coast of Labrador was confided was a gentleman of certainly a maritime character. He lived on a ship ; he was a Captain ; he came to and fro during periods which coincided with the fishery and he escorted the ships out and saw them home with their catch at the end of the season. If it were desired to do what I humbly submit it was desired to do, to secure after 1760 (a) that the French should be prevented from encroaching beyond the terms of the Treaty in the matter of fishery in the Gulf of St. Lawrence on this coast and on the Islands, to ensure (a) that, and (b) on the other hand that our own fisheries on this coast were developed under proper control and some regulation the choice of the Governor of Newfoundland for such a task was dictated by every consideration of common sense and propriety. He was already engaged in controlling fisheries, his business really was that of a fisheries Patrol Officer of a somewhat exalted kind, and therefore he was a person eminently fitted to discharge the duty of being Governor of a fishing

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coast, but, my Lord, was he a fit person to be selected for the purpose of governing Red Indians with their hunting grounds inside this great territory up to the height of land ? Do you not find, my Lords, the case adequately met by my submission which is that the Labrador coast was given to this gentleman primarily from the point of view of having a fishery upon that coast regulated by an appropriate officer who knew about these things, and who, being already engaged in a business of the same sort would find there a congenial occupation and be able to see on the one hand that the French were kept out and that we were kept in, and we had an industry under such control as was necessary. My Lords, I suggest that is an attractive conception of the position, and notice now how the thing all seems to fit completely. You have Hudson's Bay on the one hand, you have Quebec, the settled portion with its established government there, and a landed Governor, though he had certain responsibilities in the Gulf of St. Lawrence, you had the hinter land of the Indians in the centre, then you had this coastal jurisdiction concerned with what ?—concerned with the control of this great cod fishery along the Labrador coast, and the land, if any, that went with it was just so much land as was necessary for the purpose of conducting a fishery industry.

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The conception, my Lord, of rights upon land with no defined boundary in the way of depth was quite familiar in this part of the world at that period. The French had important fishing rights in Newfoundland, but, my Lords, they had also a right to land upon the coast and dry their fish there. There was no territorial limitation on that right, they could land on the coast, and these people were quite familiar with the type of right, namely, a right to fish plus a right to use land, a right of disembarkation on the land, and there carry on the uses of the land which were necessary in connection with fishing. Would anybody suggest that because the French had the right to use what after all is the territory of this country for a fishing purpose, to land there and dry their fish, that would have given any right to these Frenchmen to walk 50 miles inland searching for the height of land in Newfoundland and say : Oh, well, I am entitled to land on this coast and I am entitled to land for the purpose of fishing, and there is nothing to say how far inland I may go ; I propose to pursue my promenade to the height of land where I shall meet Sir John Simon ; an attractive vista, but not, I think, what was in the minds at all of the framers of any such regulation. The importance of it is this, of course, I am taunted, I mean properly taunted, it is a good advocate's point, that we do not suggest any precise territorial line along the coast. “ You are driven to say a mile,” but then the familiar device is used : Why not say half a mile or two miles. I have often employed that device, it do not carry you very far, but there are many cases in which the

law has chosen to leave matters in that position, for example, in the use of the fishing coasts of Labrador, it left it exactly in that position, and was, therefore, quite well known in this area which we are dealing with, it was perfectly familiar to those dealing with it ; a right to fishery, coupled with a right to use land of indefinite extent inwards, but

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Lord Sumner.

the extent inwards was measured by the use and if a Frenchman could show he was using the land for the purpose of drying his fish, and for purposes incidental to that, no one could say him nay ; this charter, indefinite though it be, nevertheless gave him the right to assume usufruct of the land for that purpose. No one said it was void because it was indefinite, nor did anyone suggest it took him up to the height of land, but everyone understood it was bounded outwards by the sea, and as long as he used it for fishing, no one could say him nay. They could have come before your Lordships to know what are the inward bounds, how far may the Frenchman go and dry his fish, if he conceived it to be desirable to go further inland, he wanted to cure the fish he was smoking, he might find it necessary to go, within limits, further inland, a question may have arisen, how far should he go in. It would have been a question then for your Lordships to determine, or whatever competent Court there was to determine the question : Well, what was the extent of this strip which the Frenchmen may use for this purpose. The criterion of its width would then be the necessities of the case ; what is a reasonable coastal area to place at the disposition of the French fishery-men to enable them to carry out the purpose of the grant to them, the grant to carry on the fishing industry and use the land so far as it was necessary for that purpose. Therefore I do not in the least flinch from the suggestion or from the criticism that because I cannot say exactly how broad it is and because I say that the breadth of it has to be measured by the use of it— I do not in the least flinch from that criticism because it is a criticism which might have been levelled at other grants in this district. It makes it more difficult to find the boundary than if you were to take a geographical boundary like the height of land, as my friend would suggest, but it would not deter your Lordships from considering the question where the boundary should be.

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Lord SUMNER : Is there any comparable instance of a grant of territory, roughly a parallelogram, bounded on the one side and not bounded at all except by a point on the coast on any of the other sides ?

Mr. MACMILLAN : I do not think I know of any.

Lord SUMNER : I quite follow your analogy, and the same observations might be made to the matter of bathing on the foreshore, that does not prevent you from drying yourself by

walking inland, but when it comes to territory within which the Governor is to arrest and imprison criminals, and within which he is to be entitled and bound to collect customs and to prevent poaching, and maintain a close tie, and all those things which are done by the Governor of Newfoundland, and you are told the sea is there, and rights upon the actual sea-coast are there, and all the rest which is undefined and deliberately so, it is a little difficult to understand how that is to work to begin with.

Mr. MACMILLAN : It is interesting to see how the Governors

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addressed themselves to it, perhaps I may indicate to your Lordships to-morrow how the Governors addressed themselves to their task.

The LORD CHANCELLOR : You are going to deal no doubt to-morrow with the language of the Acts of 1774, 1809, and 1825 ?

Mr. MACMILLAN : It is very important, my Lord.

The LORD CHANCELLOR : Also the Moravian question ?

Mr. MACMILLAN : Yes, my Lord, these are the main things left for me to do. I am afraid I have dwelt very long on 1763. I have done so as far as I could, from our aspect of it, to put your Lordships in possession of all the contributory considerations.

(Adjourned till to-morrow at 10.30.)

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Monday, 1st November, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON

IN THE MATTER of the BOUNDARY
between the **DOMINION of CANADA**
and the **COLONY of NEWFOUND-**
LAND in the LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

SEVENTH DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Dominion of Canada.

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Tuesday, 2nd November, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

EIGHTH DAY.

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—
Mr. Macmillan.

*Counsel for the Colony of Newfoundland :—The Rt. Hon. Sir
JOHN SIMON, K.C., Mr. F. T. BARRINGTON-WARD,
K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland
Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON,
instructed by Messrs. BURN & BERRIDGE.*

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.

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MORNING SESSION.

Mr. MACMILLAN : In answer to my Lord Haldane's question yesterday, I have now ascertained that the Prime Minister between the years 1855 and 1858 was Viscount Palmerston, he was preceded by the Earl of Aberdeen, who held office from 1852 to 1855, and was succeeded by the Earl of Derby, who held office from 1858 to 1859.

Now, my Lords, at the conclusion of yesterday's proceedings, my Lord Sumner was good enough to address to me a question as to whether I could instance any other case where jurisdiction, civil and criminal, was given over a territory without some definition of the area within which the jurisdiction was intended to operate. I answered his Lordship by saying I could not give an instance, but I had hardly said that before it occurred to me that in the present case we have an example very comparable in the instance of the Hudson's Bay Company itself. The Hudson's Bay Company, as my Lords may remember, had a title under their Charter of 1670, the material passages of which will be found in Volume II, at page 367, in which the area was not defined by metes and bounds, but by descriptive words, and, indeed, the controversy has raged practically from that day down to the present, of the Hudson's Bay Company's jurisdiction, as to the precise line of demarcation. Now, in that instance my Lord, you had confided to the Hudson's Bay Company, the adventurers, a very extensive jurisdiction, a civil and criminal jurisdiction, as well as an administrative jurisdiction, and the extent of that jurisdiction was left to be inferred from words of general description. In that case the words, however, were, of course, much more extensive than the words which we find in the case of Newfoundland, because the description of the territory, although it was not described by boundaries, was very comprehensive. You remember the grant was of "the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits commonly called Hudson's Straits, together with all the lands, countries and territories upon the coasts and confines of the seas, straits, bays, lakes, rivers, creeks, and sounds aforesaid, which are not now actually possessed by any of our subjects,

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or by the subjects of any other Christian Prince or State.” The Charter proceeded to give the property of the same territory to the Hudson's Bay Company. It made them “ the true and absolute Lords and proprietors of the same territory, limits, and places aforesaid.” There is a contrast, and a contrast upon which I rely, between the words which were used in the case of the Hudson's Bay Company and those which were used in the case of Newfoundland. It must, I think, logically be so, that the content of the words used in the case of the Hudson's Bay Company on the content of Newfound–

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land must be the same as the content of the words used in the Proclamation and Commission, because on the one hand, as it is maintained, the Hudson's Bay description takes them to the height of land from the west, it is equally maintained for Newfoundland that their description takes them to the height of land from the east, and, therefore, logically, Newfoundland is constrained to argue that the description of the Hudson's Bay Company, which takes them to the height of land, may be equiponderated with the description of Labrador, which takes Newfoundland to the height of land, but when you contrast the language of the Hudson's Bay description, which it is said takes them to the height of land, you find very different language, indeed very comprehensive language, describing as has been put, the basins of all these rivers. On the other hand, Newfoundland only gets something that is described as the Coast of Labrador, and yet these two descriptions are said both to have the same effect, they take the one party to the height of land from the one direction and the other party to the height of land from the other direction.

My Lords, there is rather a curious result, because if proceeding on the east side, the title of Newfoundland carries them to the height of land, the whole of the height of land on the east side is coast, by parity of reasoning, the whole of the land upon the west side is equally coast, and the result is, upon my learned friend's submission, this entire Peninsula of Labrador consists of two coasts, and two coasts only, because there is nothing but coast ; in short, in this entire peninsula, there is no interior in the ordinary sense of the term, there is an east and west coast and nothing else, and the language described in the Hudson's Bay Charter, and the language in the Commission and Proclamation which must be equiponderated for this purpose are entirely distinct. There are other illustrations of somewhat indeterminate boundary being given in the cases of the Colonies upon the Atlantic Coast, the old Colonies of Virginia and other Colonies down there, because you may remember those Colonies were bounded originally by so much of the sea–coast, and at different times different extents inland, and ultimately it became from sea to sea, but the language was used in the widest possible way there, and at this time it was not apparently so unusual to use language of large extent.

My Lords, it is of some interest in connection with this

matter, to follow up the conception of an area which is described in terms of the use to which it is to be put, but not by boundaries. I instanced yesterday the ease of the French rights in Newfoundland, prefacing, of course, that instance with the caution that there you were not dealing with a territorial right but were dealing with what might be properly described as a servitude or easement, really a right of resort to the shore incident to the rights of fisheries. An attempt was made, I had forgotten it at the moment, to delimit the territory, the shore territory appropriate as an appendage of the sea fishery. Would your Lordships be good enough to take iii your hands for the moment Volume V, in order that I may bring before your Lordships the discussion

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on this topic. There are extracts given from Official correspondence at page 2185 of Volume V. Negotiations were on foot at this time for the purpose of defining inter alia on the Newfoundland coast the depth inland that should measure the rights of the French on the Newfoundland shore. At page 2185 you have first an extract from a memorandum from Newfoundland on the fishery negotiations, July 21st, 1852, by Sir Anthony Perrier. “ Sir A. Perrier will therefore submit to Her Majesty's Government the expediency of his making a counter proposal embodying all the conditions contained in Lord Aberdeen's instructions of March 14th, 1846. He will also suggest that he be instructed to hold out (in the event of refusal to entertain the English proposal, or of the French Government insisting upon the removal of British settlers within the French limits) that Her Majesty's Government will enforce the strict observance of all the stipulations of the several treaties which concede to France a temporary right of fishery upon certain parts of the coast of Newfoundland; that the French will be restricted from fishing, curing and drying, and to board Stages and Huts necessary for these purposes, that they will be prevented taking Salmon or any other fish, in any part of the rivers, streams, or other water not bona fide on the coast.” Then there is an asterisk giving Johnson's definition of coast : “ The edge or margin of the Land next the sea ; the shore. It is not used for the Banks of less waters.”

The LORD CHANCELLOR : Is that in the original ?

Mr. MACMILLAN : It is in the original, my Lord. The author of the paper had apparently added a footnote. Then comes an enclosure with Confidential despatch of the 19th of August, 1853. “ Colonial Office, Downing Street, 4th June, 1853. Sir, In pursuance of the instructions given to us by the Duke of Newcastle, to take into consideration the project of Treaty which you have suggested for negotiation with France, in reference to the Newfoundland fisheries, and communicate with you on the subject, we transmit to you, herewith, a

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statement of such amendments of the project as we think, after the discussions which we have had with you, to be advisable, together with observations in explanation of them.” Then comes in parallel columns : “ Project of proposal to France for the Settlement of the Newfoundland Fishery Question.” on the left hand column and on the right hand column suggested amendments. It is very interesting to see how the topic was approached. “ 2nd—The term coast (the literal meaning of which is the shore or margin of the sea) being vague and open to contradictory interpretation, it is proposed to determine its signification with reference to the fishery rights in question, as follows : The word Coast, so far as it relates to French fishing, curing, or drying, and erection of scaffolds and huts for fishery purposes at Newfoundland, shall be understood to mean the strand and the ground extending inland one quarter of a mile from high-water mark ; and where any river, creek, arm of the sea, or other opening, less than three miles wide, intervenes, then a straight line

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drawn from headland to headland, across this aperture, shall be considered as equivalent to high water mark.” Upon that the comment, the possible modification, in the column on the right runs thus : “ We would suggest, in place of the first part of this proposition, Article 3 of our separate papers. This latter part of the proposition would shut out the French from several of the harbors now used by them. But as between Cape John and Bonne Bay there are no large river, nor any in which we understand the tide flows beyond a short distance, we suggest, instead of this latter passage, the insertion of a provision that the right of fishery shall in no case be enjoyed by the French in any creek, river, or stream, the flow of the tide, and shall be limited to salt water only, as in Article 2 of the separate paper. The following further concessions may be agreed to by Sir A. Perrier, if he can thereby bring his French Colleague to a final adjustment of this question :—1. Half a mile to be the Coast limits instead of a quarter of a mile.” Comment on the right hand : “ A quarter of a mile appears to us sufficient, but we see no particular objection to half a mile if desired by the French.” Then there is a third enclosure in that letter I think I might read the third paragraph of at line 22 : “ The operations in connection with the fishery, which the French shall have a right to conduct on shore, shall be limited to a strand bordering upon the waters in which the French shall have a right to fish as above defined, and extending inland a quarter of (or half) an English mile from high water mark. The French, however, shall be allowed to cut wood for the purposes contemplated in the British Declaration, attached to the Treaty of 1783, upon unoccupied land at such further distance inland from the strand as may not be inconvenient to the British Government.” Then there is an extract from a Despatch by the Rt. Hon. H. Labouchere to Governor Darling, dated 16th January, 1857, relative to the

Convention between Great Britain and France of January 4th, 1857. “ The remaining stipulations of the Treaty may, as I believe, be classed not as concessions or alterations of existing rights, but as an endeavour to put into as definite a shape as the subject admitted, the right which usage, founded on the above-mentioned Treaties and Proclamations, has already sanctioned.” There was a legal right, but what was necessary to do because of controversies which had arisen was to convert the general terms into specific terms, and then you find on page 2188 and page 2189 : “ Extract from Convention between Great Britain and France”—I need only refer to Article X on page 2189 : “ The strand reserved for French exclusive use for fishery purpose shall extend to one-third of an English mile inland from high water mark, from Rock Point to Bonne Bay, inclusive, and at the four reserved harbours, south of Bonne Bay ; and from Bonne Bay to Cane St. John, to half an English mile inland from high water mark.” My Lord, that Convention never became operative because, it was not ratified, but so far as I can trace the reasons for its non-ratification did not depend at all on this Article. However, I cannot invoke it as a concluded and ratified Convention. It was agreed I take it between the Plenipotentiaries or between the representatives but did not become an International

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Mr. Macmillan.

Convention, but it is very interesting, my Lords, because those engaged in this matter at the time were concerned in delimiting by measurement a right which under Treaty was not bounded at all but which was being delimited here in terms of use.

The LORD CHANCELLOR: It was only a temporary right of fishery that was in question. There was no territory put under the French Government.

Mr. MACMILLAN : Yes, my Lord. It is rather striking, it caught my eye as I read it. “ A temporary right of fishing.” That echoes down from the terms of the Lords of Trade's Report where they said all that is contemplated is a temporary right of fishing in Labrador. It actually happens to be as far as I remember the very words that were used there.

The point was put to me as a difficulty that I was seeking here to suggest a boundary which had no precise physical definition. I submitted respectfully that that is no obstacle, that many rights have been conferred, even the Hudson's Bay Charter itself, one of the most important in our history, was conferred without any boundary at all, and the boundary becomes a matter of ascertainment as and when it is necessary to ascertain it, and the criterion for its ascertainment when the question does arise is to be found in the use—the necessity and use—you look at the nature of the grant and give all that is necessary to make the grant effective, which is the ordinary principle of interpretation of law, and you also use the practice and possession which has followed upon a grant, both of these are indicative of the extent of the grant which was proposed to be given, and as an illustration I suggest the French rights are interesting. My Lords, throughout those papers before your Lordships there are various distances indicated as the distances above high water mark necessary to be reserved for fishery purposes.

I might give two instances, one from the Instructions to Governor Elliot of Newfoundland in 1786, Volume II, page 549. That document from which I am about to read is the Instructions for John Elliot as Governor and Commander in Chief in and over the Island of Newfoundland, dated 2nd June, 1786, and in Article 7 on page 548 there is a recital that persons have been claiming “ as their private property large Tracts of Land and Beaches commodious for the Fishery upon the Coasts, and within the several Harbours and Rivers of the said Island and the islands adjacent contrary to Law. In order therefore, to prevent such unwarrantable practices in future ; It is Our Will and Pleasure that you do not upon any pretence whatsoever allow any Person or Persons to take as private property any Land, Rivers, or Islands on the Island of Newfoundland or the Coasts thereof,” between certain limits, “ and you are to take care that the Ancient Ship Rooms and

Fishery Rooms do continue under the provisions of the Act of Parliament passed in the 10th and 11th Years of the Reign of King William the Third Cap 25 for the encouragement of new Adventurers,” and so on. May I pass now to the top of page 549, “ And it is Our further Will and Pleasure that the remaining

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Shores of Newfoundland shall be held by such of Our Subjects resorting thither from Our Dominions in Europe who shall first arrive and take possession of the same, for the like purpose of carrying on the Fishery in proportion to the number of Ships and Boats they shall employ, and they shall continue to hold the same in like manner and for the like purpose, so long as they shall continue to carry on the Fishery there” : the right on land is an appurtenant to the fishery ; it ceases when they cease to fish.

Viscount HALDANE : They there distinguish between “ Island ” and “ Coasts.”

Viscount FINLAY : It says “ the shores.”

Mr. MACMILLAN : The actual words here are, “ the remaining Shores of Newfoundland,” but up above, your Lordship is quite right, they refer to the Islands, “ to take as private property any land, Rivers, or islands on the Island of Newfoundland or the Coasts thereof.”

Lord WARRINGTON : That is confined to Newfoundland.

Mr. MACMILLAN : Certainly my Lord ; I thought that was quite clear. This is for the purpose of showing that the problem of delimiting the area necessary for the purpose of carrying on a fishery was no new problem.

Lord Sumner.

Sir JOHN SIMON : This was in 1786, when Newfoundland, of course, had not got any Labrador at all.

Mr. MACMILLAN: Yes. “ And you are not to allow or suffer any Buildings to be erected (except Fishing Stages, Cook Rooms, Ship Rooms and Flakes or such erections as shall be absolutely necessary for curing, salting, drying and Husbanding of Fish) within 600 Yards distance from High Water Mark, and you are not to allow any possession, as private property, to be taken of, or any right of property whatever acknowledged in any Land whatever even beyond that distance.” Now that was the position of the Governor of Newfoundland at this time.

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Mr. Macmillan.

Lord SUMNER : It would appear there that the word “ Coasts ” of Newfoundland is treated as equivalent to “ Shores.”

Mr. MACMILLAN : It is my Lord, I think.

Lord Sumner.

Lord SUMNER : Because they use the word “ Shores ” on page 549. Of course, the presence of a word like that in this instrument would have a much more limiting effect.

Mr. MACMILLAN : No doubt, my Lord.
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Viscount HALDANE : There was a reason for it, it was for the drying and curing of fish.

Mr. MACMILLAN : And getting wood, and water also. I am not putting this as a case where you will find a stretch of shore territory delimited by the use to which. it was proposed to be devoted. The area is still further restricted in Governor Gower's Instructions in 1804, in the same Volume at page 621. This time we are in 1804, but this time the distance is fixed at 200 yards from high water mark.

Mr. Macmillan.

Lord SUMNER : It comes to this, does not it : That when the Governor was instructed to deal with private persons with the object of defining what the private person may do, they find it necessary to give an actual limiting distance, but it does not carry one any further with regard to the Instructions of the Sovereign to the Governor on whom he is confirming jurisdiction, criminal and civil, and subsequently, I suppose, fiscal, over an area within which alone he is authorised to exercise it.

Mr. MACMILLAN: No, my Lord.

Lord SUMNER : It may be that it was not found necessary to be so particular in that case as with a fisherman who was given an area in which to fish ; but they surely must have regarded the words “ Coast of Labrador ” as something that would tell the Governor how far he could pursue a criminal and where he could arrest him, and bring him to St. John's for trial, and where they must recognise him as having a place beyond his jurisdiction.

Lord Sumner.

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Lord Sumner.

Mr. Macmillan.

Mr. MACMILLAN : That was the difficulty Judge Pinsent felt ; he said in his correspondence ; I have got a criminal to deal with and the plea is taken that it is not within my jurisdiction and I have to consider what is the meaning of the word “ Coasts.” I am sure your Lordships will appreciate the purpose for which I am citing this. It is said, Why a mile ? Why not two miles ? Why not 50 miles, or why not half a mile ? I am merely for this purpose citing instances in which you get the criterion of measure. When a strip of shore is required as an appurtenant of a fishery right it is no new problem to have to delimit the extent of shore which is appropriate to be reserved for the fishery.

Viscount FINLAY: That is the essential thing, but it is a

pendant to the fishery right.

Mr. MACMILLAN : Certainly.

Lord SUMNER : I can quite understand if there is a grant to private persons in these terms you might say, “ It is void for uncertainty ” ; but when you come to an instruction to one of His

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Majesty's Governors, subsequently adopted as the phraseology of a Statute, when you use that expression in a Statute it is hardly open to you to say it is void for uncertainty, it is only difficult to construe.

Mr. MACMILLAN : That is the position which I would humbly accept : It is difficult to construe ; I am not submitting it is void for uncertainty.

Lord SUMNER: At the same time it is put to us to construe, and it has a construction which we have to express.

Mr. MACMILLAN : That is so. Of course, the difficulty of defining a boundary of that sort was nowhere better exemplified than in the case of Hudson's Bay where also there was an implicit boundary, that no one has yet discovered, and it has been the subject of much legal investigation ; now it will not require to be defined ; the end of the controversy was that it was not defined. It is my unhappy lot to argue to your Lordships how these things should be defined.

Lord SUMNER : I do not know that yours is the unhappy lot.

Lord FINLAY : We have to find out how it has been determined.

The Lord Warrington.

Mr. MACMILLAN : That is what it is, to ascertain something which is physical by means of language which is not physical.

The LORD CHANCELLOR : I think it was proposed at one time to determine the Hudson Bay Boundary in this Court.

Mr. MACMILLAN : It was, my Lord. Your Lordships appreciate exactly where I am trying to put it, I hope neither too high nor too low, I want to get it poised in a proper point of view in order that your Lordships may be in a position to pass judgment on our rival contentions with a full appreciation of our rival implications. For the moment I was dealing with the topic of the difficulty of defining a boundary when called upon to do so by something which in the text is

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not defined but is described, and I use the distinction advisedly : something which is not defined, but described, and what is to be done here is to elicit from a description the definition.

The Lord Warrington.

Lord WARRINGTON: The thing they are dealing with here is not so much the boundary, but they are delimiting the extent of the right which is conferred by the right of fishery, delimiting what is incidental to the right of fishing.

Mr. MACMILLAN : I accept that.

Mr. Macmillan.

Lord WARRINGTON : In this Commission, we have administrative powers granted to the Governor, which is not quite the same thing.

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Mr. MACMILLAN : I only used that language because it accorded with the language of the question put, which is “ the location of the boundary between Newfoundland and Canada,” therefore for the moment I slipped into that language, but your Lordship is quite right ; when one is looking at the grant to Newfoundland, the question is : what did Newfoundland get.

Lord WARRINGTON : It is very much like if I had a servitude, an easement or right to fish on another man's land, and I asked him to define with me what things there are I can do incidental to that right ; amongst other things it might be : How far into his land am I entitled to go.

Lord Sumner.

Mr. MACMILLAN : That is a type of problem that I am sure the Courts have often had to deal with. May I leave it in this position : If my learned friends is not able to satisfy your Lordships—I mean satisfy your Lordships conclusively—that the height of land inwards is the boundary, or is the measure of the grant, putting it in either form, this height of land for which he contends, if I can dislodge him from that position, and if your Lordships are not satisfied that 1763 that was implicit—my learned friend's word was “ inherent ”—in the grant ; if your Lordships are not satisfied that it was inherent in the grant to Newfoundland in that accepted view, that this height of land line was the Westward limit of Newfoundland, then my learned friend and I will become engaged in exactly the same question, we will both be persons determining the extent of the coast, it not being limited by the height of land, but being limited by some other criterion. If my contention hitherto has affected your Lordships mind at all, in the direction of displacing this height of land, as the then, the 1763, contemplated boundary, then your Lordships will have to consider the problem from Newfoundland's side and from Canada's side with no criterion except the criterion of what is the amount of coast which was intended to be given to the

jurisdiction of Newfoundland, what was put under the care and inspection of the Governor of Newfoundland in 1763, having regard to the purposes with which he was installed there and having regard to the extent of the use and exercise of powers in the territory which was confided to him.

Lord SUMNER : Let me see if I follow. If you get rid of the height of land to the West, then you have the whole limit between that line and the sea shore in which the boundary is latent, and always has been latent since 1763, and we have to bring it to the surface. We have no guidance, apparently, except the convenience or the requisiteness of a particular line for the fishery upon the sea shore as from the sea, and we are somehow or other to venture into a wilderness which we have never seen, and which the eye of civilised man has only very imperfectly seen, and discover where in 1763 they caused a line to be latent in the Proclamation and Commission.

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Lord Sumner.

Mr. Macmillan.

Mr. MACMILLAN: The height of land is said to be latent in 1763.

Lord SUMNER : It is there, but the line seaward is still more latent, because where it was in 1763 we do not know.

Mr. MACMILLAN : It is not for me to contend with your Lordship, but I can only suggest : take the case between France and Britain with regard to the shore rights. they are not proprietary rights, but rights with regard to which, had we not been able to come to some agreement, there might have been a casus belli, and an equally serious tribunal might have had to consider the question of delimiting the sufficiency of the margin of Newfoundland to answer the rights which the French had there.

Lord SUMNER : Under a different form of reference we might have had to do it, and could have done it if we were Boundary Commissioners, or geographers, by parallels of latitude and longitude ; but here we have to say what was meant in advance, by people who did not know where it would be convenient for the line to go back, because the fishery along there was a thing which was new as far as the Governor was concerned—where they conceived it to be latent. It is like the famous black hat in a dark cellar which was not there.

Lord Sumner.

Mr. MACMILLAN : I do not belittle the difficulty of the problems, but on the other hand I do not think it would be legitimate to seek refuge in my learned friend's contention merely because it happens to be an easier one to adopt. I admit the attractiveness of it presented as attractively as it was. After all, if you take the Hudson Bay case, there there was a latent boundary also, a latent boundary which has never been discussed and which down to 1814, when the Opinion was obtained, was considered to be elsewhere; and indeed prior to 1763, as the Newfoundland case tells us itself, it was not regarded as the height of land.

Lord SUMNER : In that case they were able to show it.

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Mr. Macmillan.

The Lord Chancellor.

Mr. MACMILLAN : It re-appeared again in the Ontario-Manitoba case; it was insisted on there with vigour as it is insisted on here, and it was answered : No, it shall not prevail against possession, there have been French possessions beyond the line ; that was one of the considerations. There was also the consideration of the Lake of the Woods point and the other point ; but these things had the effect that the Hudson's Bay height of land boundary had to give way ; they said, “ You have not proved that is the Hudson's Bay Boundary.”

Mr. Macmillan.

Lord SUMNER : What is the evidence of possession here ? If what we are seeking was latent in 1763, how does the possessory exercise of this by the Governor of Newfoundland operate ?

Mr. MACMILLAN : Only in this sense, that if the grant be indefinite in extent, it may be necessary to render it definite, then you
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are entitled, as in the case of prescription, to resort to the extent of the possession as the badge of the ownership. I am only invoking that doctrine.

The Lord Chancellor.

The LORD CHANCELLOR : It depends on what the possession is ; it depends on what the nature of the grant is, I suppose ; although, of course, the possession down to modern times might be used.

Mr. Macmillan.

Mr. MACMILLAN : Your Lordship recalls the terms of one of the Opinions I read yesterday where the point was put quite clearly that you must have regard to possession, and then came the Opinion of the Law Officer, Mr. Bethel, as he then was, where he said that you must have regard to claims that were put forward at the Treaty of Utrecht and Ryswick and 1750 ; all these are relevant matters in considering what is the territorial boundary of Hudson's Bay. All that shows, does it not, that the relatively easy refuge of the height of land, however attractive it may be, is not necessarily conclusive of this matter, and that the mere difficulty of ascertaining and bringing to the surface a latent boundary by the use of those criteria, which I suggest, namely, the purpose of the grant and the possession had under the grant—

The LORD CHANCELLOR : It does not mean that the whole of the land claimed must have been possessed in the ordinary sense of possession but rather that there are acts of possession.

Mr. MACMILLAN : Your Lordship corrected me quite properly. It is not quite like private ownership, where you are describing the content of private properties. In territorial possession it is true certain acts of possession may be treated as the badge of a much larger acquisition ; and one has in mind certain much canvassed doctrines of international law on that subject, which we are not relying on here ; but I am much concerned with this aspect of the case, because I see how your Lordships are impressed with it : the contrast, on

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the one hand, with the suggestion which is inherent in this, ab initio, that it was an ascertainable boundary of the height of land although such a boundary was not mentioned and though the terms, in my humble submission, were not apt to designate that—

Viscount FINLAY : It has not been urged that the possession up to the height of land was necessary for the fishing rights ?

Mr. MACMILLAN : No, it was not put that way ; it was put this way with much force: you must assume an interior boundary, because it is conceded that this is not merely a notional mathematical line. We start in agreement there, that there is some depth. Then I am confronted with this : “ Well, it being common ground that there is some depth inland, what is to arrest my progress as Governor of Newfoundland until I reach the height of land. May I not proceed in my own Government until I reach the height of land ; what else is there

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The Lord Chancellor.

to stop me ?” and since that it is said that this physiographical boundary was inherent or implicit in the language used in 1763, and that if that had been written at large it would have been “ That you shall be Governor of the Coast of Labrador from the Sea Coast to the height of land.” That is as the grant is now expounded. Are your Lordships minded to hold that if the problem had been presented in that way to the framers of Captain Graves' Commission in 1763, that his Commission would ever have been framed in such language ; that he was to be Governor from the sea coast to the height of land ? My Lords, it is certainly curiously inconsistent with the terminology of the Proclamation. The Proclamation you may remember excludes two things from this territory, it excludes Quebec and it excludes Hudson's Bay ; and Hudson's Bay at that time, according to the Mitchell Map which was before them, cut off a considerable bit of the North End towards Cape Chidley, yet there is no exclusion of Newfoundland at all, although, ex hypothesi[SIC], Newfoundland has got that grant, which is now being invested with all the authority of a territorial grant, which may be still of equal validity with the Hudson's Bay grant seated in this place at the time the Proclamation is made. There is no exception of anything ; you have given jurisdiction to Newfoundland.

Mr. Macmillan.

The Lord Chancellor.

Mr. Macmillan.

The LORD CHANCELLOR : I feel great doubt about that map being before them. I think if they imagine that Hudson's Bay had jurisdiction some distance down from Cape Chidley, they could hardly have put that part of the coast under the jurisdiction of the Governor.

Mr. MACMILLAN: One can find support for almost any point in these volumes. I can answer your Lordship, if I may say so, almost to the letter on that question, if any Lord will

be so good as to pardon me trying to answer your Lordship's point.

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Mr. Macmillan.

The LORD CHANCELLOR : I remember your reading it from the case for Newfoundland, but I feel some doubt whether that particular sentence could justify it.

Mr. MACMILLAN : May I try and do it in an altogether different way, not that way ; this is again one of those small things which are often significant. Will your Lordship turn to Volume III for the moment, to see if I can answer it. As your Lordship has raised the point, I should like to see if I can do it. If you turn to Volume III, page 1080, what is happening there is that in the year 1773, and we are just at this period therefore, the Lords of Trade are considering an application by one John Agnew for a grant of minerals on the Coast of Labrador. Would your Lordships look at the second paragraph of that document. Perhaps I should read first what he asked for.

Sir JOHN SIMON : I read it.

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Lord Warrington.

Mr. MACMILLAN : But the significance of it, I think, was not brought out, and I did not intervene when it was being read. On the “ Coast or country of Labrador between the River St. Laurence and Hudson's Streights at a certain limited distance not exceeding 60 miles from the sea”—now that is what Agnew wanted. This is the reply : “ That the proposition contained in the Petition, which your Lordships have referred to our consideration, does not in the general view of it appear liable to objection : we beg leave however to observe to your Lordships, that the description of the limits, within which the petitioners propose the Grant to be made to them, appears to us, so far as it regards the Labrador Coast, to be attended with some difficulty ; for, as on the one hand the proposing the River St. Lawrence as the Boundary to the South is not sufficiently precise ; so, on the other hand, by extending the Grant Northward to Hudson's Streights, they will take in a very large part of what has been already granted to the Hudson's Bay Company,” now observe the significance of that ; this is the attitude of the Lords of Trade at this time, in 1773. What is before them ? An application for a coast grant from the River St. Lawrence to the Hudson's Streights.

Lord WARRINGTON : And 60 miles inland.

Mr. Macmillan.

Mr. MACMILLAN : And 60 miles inland.

Lord WARRINGTON : May it not be that it was the 60 miles inland which would encroach on the Hudson's Bay territory, up at that top part ?

Mr. MACMILLAN : With great respect that part at the North there chimes exactly with Mitchell's Map.

Lord WARRINGTON : If you look at the scale, if you go south from Cape Chidley 60 miles would take in the whole of that promontory and rather more. I only suggest it may be explained by that.

Sir JOHN SIMON: That was the suggestion I made at page 195 of the Shorthand Notes ; we look at it from that point of view.

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Mr. MACMILLAN : Would your Lordships look at it from my point of view for the moment. My point of view is that there was an authoritative map hanging in the King's Library at that time which shows that boundary which—I do not hold my learned friends to their Pleadings too much—but which they at least thought was in the minds of everybody at the time, and which fits exactly with the idea expressed in 1773. If you are going up to Hudson's Straits you will take in a very large part of what has already been granted to the Hudson's Bay Company, “ who are entitled by their Charter to all mines and minerals within the territories granted to theme.” That would be exactly so if Mitchell's Map was the map these gentlemen were looking at ; because

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Lord Warrington.

the moment they look at Mitchell's Map they would see the inset map which shows that would necessarily take in a large part of what Hudson's Bay had.

Viscount HALDANE : What was the exact date of Mitchell's Map ?

Mr. MACMILLAN : 1755, but it was brought down to date by all those additions marked upon it ; it was used, so to speak, as the basis map by which His Majesty was informed from time to time of what was going on.

Viscount HALDANE : This was after the Treaty of Utrecht.

Mr. MACMILLAN : Yes. Oswald's line is marked on it also.

Mr. Macmillan.

Lord WARRINGTON : That was after the Treaty of Utrecht, and after the discussion had taken place in consequence of that Treaty, when certain proposals were made with regard to the boundary ?

Mr. MACMILLAN : Yes, my Lord.

The LORD CHANCELLOR : Your case is that in 1763 there was granted to Newfoundland the whole of this very area.

Lord Warrington.

Mr. MACMILLAN : A coastal strip, yes, my Lord.

The LORD CHANCELLOR : Which they thought was under Hudson's Bay.

Mr. Macmillan.

Mr. MACMILLAN : They thought that, my Lord, and you will see, in a moment, why they thought it, because at this time, my submission is going to be, the Lords of Trade were thinking in terms of “ care and inspection ” only, and were not thinking in territory at all. I shall be able to vouch that, I think explicitly, from certain of their reports I am coming to. However, your Lordship asked me if I could suggest anything better than the map, and I humbly offer that for my Lord's consideration.

Lord WARRINGTON : Then there is the act of 1774 ; Parliament, in 1774, thought there was a good deal more than “ care and inspection ” involved.

Mr. MACMILLAN : It is for your Lordships to judge. In order to complete my account of Newfoundland I should give your Lordships a reference to three documents in Volume IV. My Lord Finlay asked me yesterday to indicate when Newfoundland really changed over from the fishing station idea to the idea of a residential colony and I gave, you may remember, a letter of Lord Bathurst's, which your Lordship was good enough to say dealt with the point ; but you will find in the

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Reports of the Lords of Trade at this period, some very striking observations about Newfoundland which indicate, as I have said, the whole aspect of the Governor of Newfoundland. What was in the minds of the Lords of Trade was the aspect of him as a person in charge of fisheries, and that Newfoundland's interests were really fishery interests.

Then at page 1848 there is a representation from the Lords of Trade to His Majesty, which is dated the 29th of April, 1765. There your Lordships will find a discussion. I am not going to read it, because it is too long ; but I will content myself with giving your Lordships a reference to it. You will find a discussion on the position of the fisheries, and of Newfoundland itself.

Then at the foot of page 1850, after the discussion, you will find a recommendation at line 42, and the recommendation is : “ That Your Majesty's Governor should be instructed not to allow any exclusive Possession to be taken of any Lands, Rivers or Islands, as private Property, in the northern Parts of Newfoundland, upon Pretence of the aforesaid Proviso in the Act of Parliament”—the proviso related to fishing places on the shore—“ or of Grants from Governors, who never had any Authority by their Commission to make such Grants ; and that he take Care, that the fishing Ships do choose their Stations as they respectively arrive, and do take up, subject to his Controul, such Space only of Beach as shall be proportioned to the number of their Boats ; conformable to the Directions of the Act of King William ”— that is the Act of 1699. Then passing down to line 18 on the same page it says : “ The Consideration of what may be ultimately proper to be done for establishing the whole of this valuable Branch of the national Commerce and Possessions upon such a Basis, and under such Regulations, as that Your Majesty's Subjects may derive all the advantages they are capable of affording, is of very great Extent, and depends upon a great Variety of Facts and Circumstances, which have as yet been but little known or understood ; and therefore it will be our Duty to proceed to lay before your Majesty as briefly as possible, what appears to be in general the present State of the Island of Newfoundland.” Now, my Lords, there you find set out the present state of the Island of Newfoundland, and of the territories lately annexed thereto, and of the fisheries belonging to each of them respectively.

Viscount HALDANE : Line 31 is rather instructive, and the three or four lines which follow it.

Mr. MACMILLAN : Yes, my Lord. The whole thing will be found there, but I do not delay over it because it is more or less familiar to your Lordships.

Lord WARRINGTON : This is in the year 1765 ?

Mr. MACMILLAN : Yes my Lord, 1765, at which time Newfoundland had a Labrador coast.

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Lord WARRINGTON : The expression “ the territories lately annexed thereto ” means Labrador, whatever the extent of it may be.

Mr. MACMILLAN: Yes. my Lord, I think so that ; phrase is frequently used.

Then it goes on to tell you what is the state of matters there, and about the ships coming, and that they are to go back and all the rest of it. Then they say that the original scheme because to some extent encroached upon by people upon staying on the island ; and after setting out the state of matters there, they say, at line 29 on page 1853: “ Such, may it please Your Majesty, is the melancholy Picture, which Your Majesty's Governor draws of the State of the Island of Newfoundland, and we fear, in most parts of it hears but too just a Resemblance ; this alone therefore we trust is sufficient to evince the Necessity of an immediate Attention to so important a Part of the national Interest,” and so on.

The Lord Chancellor.

Then they say : “ The Principles, upon which the Newfoundland Fishery was established and carried on under the great Western Charter and which the Act of King William attempts to restore, are, as far as they extend, so true in Policy, and the Arguments in Support of that Plan are so plausible, that it should seem at the first View of it to admit of no Competition ; since by confining the Fishery to Ships from Great Britain, and requiring those Ships to take out and bring back a certain Number of Green Men every year, it not only supposes a large Increase of Sea Men, but also offers to ensure to these Kingdoms the exclusive and immediate Supply of every Article of Consumption in this Branch of Trade.” That is all the cod fishery, the sea fishery.

Mr. Macmillan.

Then it goes on to point out that the scheme had failed in its execution because it was impracticable by regulations to prevent that inhabitancy which was beginning to take place in the island.

The LORD CHANCELLOR:. It is a question of altering what has been called the Palliser policy, is it not, and allowing settlement in some parts of the island ? Is not that the point that they are discussing?

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Mr. Macmillan.

Mr. MACMILLAN : They are discussing that, my Lord, but they are discussing whether, there having been a departure de facto to some extent from the regime, it should be made legitimate. They do not give their commendation to it there, but they say that it is a difficulty. But in their next report of the 17th March, 1786, which is to be found on page 1868, they go further into the matter and become more precise. In passing, will your Lordships just kindly note page 1861,

where you find Governor Palliser's remarks on the present state of management of the Newfoundland fishery, because there I find the expression, " the open and free fishery," which you may remember is the language used in the Proclamation as evincing the object of it. If I may read from page 1861 at line 6. it says this : " Upon the Whole, if no Inhabitants were allowed, but the Fishery to be laid open and free to all the King's

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Sir John Simon.

Subjects, and carried on by Ship Fishers, or even if the Ship Fishery were only restored to the original Footing, as directed by the Act of the 10th and 11th of William the Third, it most certainly would occasion double the Quantity of Fish to be taken, a Yearly Return of more Men to England than now returns to France, instead of Two or Three thousand Men, as at present, we should have, in Time of Danger, a Yearly Return of 30,000 always ready for our Fleets ; this Addition of Wealth and Strength to the State would always be increasing." You observe how the Governor is looking at the matter: his concern is to preserve the regime under which Newfoundland was made a nursery for seamen for the British Navy, and the fishery he is speaking of, and which he thinks should be open and free, is the open and free fishery which it was the purpose of the annexation to Newfoundland to effectuate.

Sir JOHN SIMON: He is talking of Newfoundland itself.

Mr. MACMILLAN: Yes, Newfoundland itself, at that stage. —well, I am not absolutely sure, Sir John. Is he? It is in 1765, when you had some of Labrador, you know. It may be so. I think he is speaking of the fishery generally, but for my present purpose it is not material. Then I think that they come to rather closer grips with the question.

Mr. Macmillan.

Sir JOHN SIMON: If I may interrupt for one moment, the reason why I thought so was because in this document, as in the previous one, you get an indication as to the population. If you look at the bottom of page 1858, in line 29, you see that it says : " We have, according to the Accounts I have collected, 16,000 People remaining in that Country during the Winter, but I am satisfied they are 20,000 of which 10,000 are Men who are all totally lost, for they (a very few excepted) have no Employment During the Winter," and so on. I think that must have meant the island of Newfoundland.

Mr. MACMILLAN: Yes.

The LORD CHANCELLOR: There is a reference to Labrador on page 1860.

Sir JOHN SIMON: An incidental one, yes, my Lord.

Mr. MACMILLAN: What I am concerned with at the moment is depicting the state of Newfoundland.

Then on page 1868 the Lords of Trade recur to the matter, and this time they have considered it with some precision, because a Bill has been brought in the House of Commons in the last Session of Parliament to make more effectual an Act made for the encouragement of the fisheries carried on from Great Britain Ireland and the British Dominions in Europe; and they went into this matter very closely.

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On page 1869 you get the considered opinion of the Lords of Trade in the year 1786, with regard to the Newfoundland Fishery position. Perhaps I ought to read from line 29 on the preceding page, where it says : “ And the Committee having perused and considered a Representation of the Lords Commissioners for Trade and Plantations, made to his Majesty King George the First in 1718, which gives a very full account of the State of the Newfoundland Fishery, previous to that Period, and of the Policy which the Government and Legislature of this Kingdom had from the First Establishment of that Fishery adopted and pursued in respect to this great Object—do concur in General in the Opinions entertained by the said Lords Commissioners on the following Points : First. That the Newfoundland Fishery ought to be carried on as much as possible by Ships fitted out from Your Majesty's European Dominions; that by the Yearly Return of the Sailors and Fishermen to the said Dominions, Your Majesty may have it in Your Power to avail Yourself of their Services for manning Your Royal Navy, when Occasion may require. Secondly”—now, my Lords, I venture to ask that this may be underlined—“That your Majesty's Subjects who may from Time to Time reside in Newfoundland, ought never to be allowed to form themselves into a Colony, and with that View to possess in Fee any Landed Property there. Thirdly. That the Shores of Newfoundland, the Beaches, and other convenient Fishing Places, ought to be carefully reserved for the Accommodation of Your Majesty's Subjects, resorting thither from Your Majesty's European Dominions, for the Purpose of carrying on the said Fishery. And Fourthly. That Your Majesty's Subjects who so resort Annually to the said Island of Newfoundland should be induced and compelled, by every wise and proper Regulation, to return to Your Majesty's European Dominions at the End of every Fishing Season.”

Now, my Lords, that is the kind of policy which was in the mind of this country with reference to Newfoundland at this period when the Governor of Newfoundland was selected to

be the Governor of the coast of Labrador. He was a person whose policy in Newfoundland was to be governed by a series of considerations deliberately adopted. There was to be no Colony in Newfoundland; there was to be no possession in fee of any landed property at all—

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Mr. Macmillan.

Viscount HALDANE: Some of them were to remain during the winter to keep the thing going.

Mr. MACMILLAN: Yes, my Lord, there was a permission to do that, but there was to be no property acquired by any British subject in Newfoundland in fee at all. There was to be a carrying on of the Newfoundland fishery, and the shores of Newfoundland were to be carefully reserved for the accommodation of His Majesty's subjects.

Now will your Lordships look again, if I may suggest it respectfully, at how that chimes in with the conception that I am endeavouring to place before your Lordships. A Governor whose

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system of administration was such as this, has an extension, has something added to his governorship. It is the coast of Labrador. According to my learned friend, it is a territory extending right in to the height of land, when the matters which this Governor was concerned with were to see that nobody settled and that no property was acquired, and he was to superintend the fishery and the carrying out of the Regulations of the Act of 1699. No civil government seems to be contemplated there at all in that policy.

In this connection, it is interesting to notice on page 1870 at line 28 that they “ advise Your Majesty to give Your Governor of Newfoundland the following Instructions on this Subject: First. That the ancient Ship Rooms and Fishing Rooms should continue under the Provisions of the Act of Parliament passed in the 10th and 11th Years of the Reign of King William, Cap. 25, for the Encouragement of new Adventurers, that they may be sure of finding proper and convenient Places for curing, salting, drying, and husbanding their Fish, whenever they resort thither”—that is cod fishing again. “ Secondly. That the remaining Shores of Newfoundland should be held by such of Your Majesty's Subjects, resorting thither from Your Majesty's European Dominions, as shall first take Possession of them, for the Purpose of carrying on the Fishery, in proportion to the Number of Ships and Boats they shall employ; and that they shall continue to hold the same for the like purposes, and in like Manner, so long as they shall carry on their Fishery there; but that in case they shall neglect so to carry on their Fishery there for One entire Season, such Shores, or Parts thereof, as shall be so neglected or deserted, shall be held for the like Purpose and in like Manner, by any other of Your Majesty's Subjects resorting thither from Your Majesty's

European Dominions, who shall first occupy the same for the purpose of carrying on the Fishery, and that the Governor should put and maintain such Person or Persons in Possession thereof. Thirdly. That the Governor should not suffer any Buildings to be erected (except Fishing Stages, Cook Rooms, Ship Rooms, and Flakes, or such Erections as shall be absolutely necessary for curing, salting, drying and husbanding their Fish) within Six hundred Yards distance of High Water Mark, and that Care should be taken that no Right of Property be acknowledged in any Land or Building, even beyond that Distance,” and so on. Then at line 30 on page 1872 it says : “ And it is still more necessary not to depart from these Distinctions with respect to Newfoundland, as it would tend to encourage Residence there, which, as before stated, it has ever been the Policy of the Government of this Kingdom to prevent.”

Then there is one more Report of the Lords of Trade on page 1876, which is dated the 10th May, 1790. There is a complaint by traders there that a Court had been established in the Island of Newfoundland by Vice Admiral Milbanke, His Majesty's Governor of the Island, and the question comes up from consideration by the Lords of Trade. Curiously enough, it does not come up upon a complaint that there is no Court, but upon a complaint by the merchant adventurers that there is a Court there.

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Viscount HALDANE : Is there anything to show by what law that Court was set up ? Was it a Court established by the Lord High Admiral ?

Mr. MACMILLAN : I think it purported to be a Court of Vice-Admiralty.

Viscount HALDANE : And it probably was. Was it called a Court of Common Pleas ?

Mr. MACMILLAN : Yes, my Lord, consisting of four Commissioners.

Lord WARRINGTON : The original Commission authorised the setting up of a Court.

Mr. MACMILLAN : Yes, my Lord.

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Viscount Haldane.

Viscount FINLAY : Apparently the Court was kept open daily for the constant interruption of the fishery trade by continually issuing orders.

Viscount Finlay.

Mr. Macmillan.

Sir John Simon.

Mr. MACMILLAN : Yes, my Lord; this obnoxious Court seems to have caused a good deal of trouble. I think the legality of the Court was questioned, and its existence at all; but I have not got the reference to that now, and I may be mistaken about it.

Mr. Macmillan.

Now, my Lords, the Committee came to be of opinion at page 1878, line 10, “ that a proper Court of civil jurisdiction should be established in the Island of Newfoundland, specially constituted for the Purpose of trying such Questions as are not now provided for by any Act of Parliament ” —

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Mr. Macmillan.

Sir JOHN SIMON : The answer to the question put by my Lord Haldane I think must be that by the terms of the successive Commissions to the Governors of Newfoundland, one of their express authorities, delegated to them, was to appoint Judges and Courts ; so that it was within the terms of the Commission, both before the Commission extended to Labrador and afterwards. Is not that so ?

The LORD CHANCELLOR : And I think in the Instructions also.

Sir JOHN SIMON : In the Instructions also, my Lord.

Viscount HALDANE : The Court of Common Pleas created by Vice Admiral Milbanke may be just a Common Law Court.

Mr. MACMILLAN : Probably so, my Lord. I am afraid I am

not sufficiently familiar with it. He was to appoint Commissioners of Oyer and Terminer.

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Sir JOHN SIMON : Here is the passage : “ appoint Judges and in Cases requisite Commissioners of Over and Terminer.”

Mr. MACMILLAN : Yes. Mr. Attorney and Mr. Solicitor were consulted by the Lords of Trade, and at the foot of page 1878 you find this : “ Mr. Attorney and Solicitor-General are desired to take Notice, that the Government of this Country, having always considered the Trade of Newfoundland merely as a Fishery, to be carried on solely by the Subjects of His Majesty's European Dominions, it has always been the Wish of Government to bring back the Fishermen at the End of every Season to the Ports of the said Dominions, and to prevent their establishing themselves as a Colony in Newfoundland. With this View no Civil Commission was given to the Governor, who goes out Annually, till about the Year (blank), and no Court was established for trying Crimes of any Sort till about the year (blank), but all Criminals were to be brought Home to Great Britain, to be tried under the Authority of the Act of 10th and 11th W. III. Ch. 25. That of late Years a greater Number of His Majesty's Subjects continue to reside at Newfoundland during the Winter, after the Fishing Season is at an End, than formerly. That the Committee of Privy Council see this Circumstance with Regret, thinking it contrary to ancient Policy, and the true Interests of this Country, and wish to prevent it as much as possible. The Attorney and Solicitor General are desired also to take Notice, that much the greater Number of the Fishermen are extremely poor and ignorant, and thereby very much exposed to be defrauded by those with whom they deal.” Now the learned Lord Officers returned an opinion, and it is rather interesting to see what their opinion was. This was what I had in my mind : “ That the Court of Common Pleas erected last Year by Your Majesty's Governor is not founded on any Authority legally given to the said Governor, and cannot be supported or justified by Law.” That is on page 1879. I thought there was something about it. So that the Merchants were justified in complaining of being brought to a Court which, in the opinion of the Law Officers, had no jurisdiction at all.

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Mr. Macmillan.

Viscount FINLAY : They wasted their time.

Mr. MACMILLAN : Yes. It was a Court which had no authority, according to the Law Officers of the Crown. I thought there was a passage to that effect, but I hesitated to state it categorically until I had had it verified; but here one lights upon it by accident : “ That the Court of Common Pleas erected last Year by Your Majesty's Governor is not founded on any Authority legally given to the said Governor,

and cannot be supported or justified by Law. That they do not find that any Court of Judicature is established in the Island of Newfoundland, excepting in the Special Cases mentioned in the Acts of Parliament 10th and 11th W. III. Ch. 25; and 15th and 26th of Your Majesty, Ch. 31 and 26; And that as Your Majesty is not precluded, by any Provision in the Acts before mentioned, nor by any other Acts with which they

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are acquainted, from so doing, Your Majesty may, by virtue of Your Royal Prerogative by Commission under the Great Seal, establish a Court of Civil Judicature for the Purpose of hearing and determining all Questions that may arise of the Nature hereinbefore mentioned. And they further report”—This is the Law Officers—“ They further report, that after paying due Attention to the peculiar Policy of this Kingdom, with respect to the Territory of Newfoundland, which has always been directed to discourage the Subjects of these Kingdoms from establishing themselves in that island, and to encourage the Return of the Fishermen and Seamen to these Kingdoms, they had prepared, conformably to the Directions of the Committee, a general Outline of a Court of Civil Judicature, in Cases not yet provided for by any Act of Parliament which is as follows” ; then they set out a plan for a Court, and they say that it may be advisable to erect a Court of Civil Jurisdiction.

Your Lordships might just note, along with that, a reference to page 929 in Volume III. This is the 25th November, 1763, after Governor Graves had got his Commission. This is addressed by the Lords of Trade to the Committee of the Privy Council for Plantation Affairs, and it says : “ My Lords,—Pursuant to your Lordships Order on the 31st of December 1762, we have considered the Memorial of Richard Gridley a reduced Captain of General Shirley's first Regiment of Foot, now on half pay, praying that His Majesty would confirm to him by grant his possession of the Islands of Madelaine in the Gulph of St. Lawrence Where he alleges to have made an Establishment, and improved a considerable Fishery for Seals and Sea Cows; and we beg leave to report to your Lordships, that tho' we think that all possible encouragement ought to be given to every usefull undertaking of this King, and that the petitioner may have merit in the improvements he has made, yet, as His Majesty has not thought proper to establish any Form of Civil Government in the Lands and Islands comprized within the Commission of the Governor of Newfoundland, it does not appear to us to consist with propriety to make for the present the grant prayed for by Captain Gridley.” You will notice there that the Island of Madelaine was one of the islands that had been annexed to Newfoundland in 1763.

Lord Sumner.

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Lord SUMNER : What is the inference which you draw from that ? That is two months after the Proclamation.

Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord.

LORD SUMNER : The other was antecedent to the Proclamation.

Mr. MACMILLAN : Yes, my Lord.

Lord Sumner.

LORD SUMNER : What is the conclusion to be drawn from it ? Is it that he should not have the grant which he asked for, namely, confirming him in his possession of the Madelaine Islands, because His Majesty has not thought proper yet to establish any civil government ? Is that because the whole territory, islands and all, was to be regarded as a

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sort of camp occupied by armed forces, and therefore, it would be out of place.

Mr. MACMILLAN : I rather thought this, that it was to be a place to which fishermen should resort, and the Government was the government of the Governor of Newfoundland, confined to keeping order among the fisherman there during the period when they were there, and, of course, incidentally, regulating the disputes which must have arisen among them with regard to their rights along the coast of Labrador. There was to be no private property at all, but there must be somebody there to prevent rows breaking out among the people as they arrived there and planted themselves on the coast for the season.

The Lord Chancellor.

Lord SUMNER : It may mean that it is premature to give a civil proprietary grant until there is a civil government to enforce it, and able to protect him.

Mr. Macmillan.

Mr. MACMILLAN : But it was added to Newfoundland, and I have read the passages where it stated that there was no proper civil administration there at all, and one Court which was set up was held to be illegal.

Lord SUMNER : But that is the representation, that until there is a civil government, it is no use giving a proprietary grant ?

Mr. MACMILLAN : Yes, my Lord.

The LORD CHANCELLOR : Is it not rather confirmed by the previous letter, which is even closer to this case ?

Mr. MACMILLAN : Page 928, my Lord.

The LORD CHANCELLOR : The letter where they speak of Labrador, and say : “ There is yet no civil government established in this country.”

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Mr. MACMILLAN : Yes, my Lord, and apparently none could be. I rather underline the words “ comprised within the Commission.” The Commission does not authorise the setting up of a system of civil government in the Islands.

Sir JOHN SIMON : Surely the phrase “ comprised within the Commission ” governs “ lands and islands,” does it not ?

Mr. MACMILLAN : Well, it is not a large point, but there it is. I propose now, having given your Lordships a picture of the Governor of Newfoundland to the best of my ability, and clothed him with the powers that he has, and indicated to your Lordships what was the purview of his task in the Island of Newfoundland, and that he was a

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person who was selected to have the Coast of Labrador handed to him, to suggest the motive of doing that, which was the motive expressed, and that motive—to the end the fishery may be carried on—abundantly justified the selection of the Governor of Newfoundland, and there was extended to him the charge of the fisheries, with rights on the land comparable with those which were extended to him in his original jurisdiction on the coast of Newfoundland.

Now I want to pass to another question which is rather an interesting one. The Commissions and Instructions which were given to the Governors of Newfoundland at this critical time have been alluded to by my learned friend, and I, in my turn, want to make one or two comments upon them. Your Lordships will remember that the first Governor of Newfoundland, under the new regime was Captain Graves. His period of office was so short that we have practically no record of what he did, because his Commission, which is to be found in Volume I, at page 149, was dated the 25th April, 1763, and he came out on his ship and remained on his ship, and in October, 1763, he returned to this country; so that in that year he had barely time to address himself to his task, and, therefore, there seems to be very little record of what he did.

But his successor in office was a person of much vigour. Hugh Palliser obtained his Commission on the 9th April, 1764, and that is to be found in Volume II, on page 411. For the next four or five years after that he annually went out to Newfoundland, and remained there in the usual way throughout the fishing season. He was Governor until 1768, and he must have left Newfoundland for the last time, as far as I can gather, in October 1768, because the Commission to his successor is in the following spring, the year 1769. He was there for a long time. He had a rather troubled reign, because he came into conflict with Quebec at a very early stage of his career, and there is an exchange of amenities between him and the Governor of Quebec. But the instructions which were given to Governor Graves, and which were repeated and amplified in the instructions given

to Governor Palliser, contain some matter of interest. My learned friend made his text on Governor Graves's Instructions, but you will find corresponding articles in Governor Palliser's Instructions. I am taking Governor Graves's Instructions first of all, because that was that series to which my learned friend alluded. The Instructions to Governor Graves are to be found in Volume II at page 391. This document has been before your Lordships more than once, but I have to take up a point or two with regard to it, lest it should be thought that I have overlooked my learned friend's comments about it. I have already referred to these instructions for the purpose of showing that the prime consideration, the first topic which was dealt with, was the enforcements of the provisions of the Treaty of Utrecht. That was a purely fishery matter, as your Lordships see, and was the matter upon which attention was concentrated before the Lords of Trade addressed themselves to the territorial question at all. My learned friend drew

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attention to Articles 7 and 8 in particular, and I must in passing controvert, or at least suggests that it is possible to controvert, the suggestion of my learned friend with regard to line 30 on page 393.

My learned friend seems to think that Davis's Inlet and Lake Melville or the Hamilton Inlet were being confused there. That was the suggestion. It is enough for me at this moment to say that I respectfully differ, because on the maps at this period you find both Davis Inlet and Esquimaux Bay, which is Hamilton Inlet. I only say that in passing lest it be taken that I have admitted my learned friend's interpretation, but it is not for that purpose that I have alluded to this.

The LORD CHANCELLOR : On one map the Inlet is shown running right through the hills. It is purely imaginary, of course.

Mr. MACMILLAN : Yes, my Lord. There is a very interesting little bit of history attached to it. One knows the anxiety which was felt in maritime circles at that period to see if it was possible to get a North–West passage; and any opening on the North Coast of America was always hoped to be an avenue to the North–West passage. Indeed, there are Acts of Parliament at this time, two of them, offering a reward of £20,000 to anybody who would find a North–West passage. It was made a matter of parliamentary sanction at this time.

This Naval gentleman is told to “ visit all the coasts and harbours of the said islands and territories,” and so on, and make maps and surveys of them. It seems to be a most excellent task to give to this Naval officer. Then he is to see if he can find out if Davis's Inlet be or be not the North–west passage. But the matter is of a very maritime flavour indeed.

My learned friend commented upon Article 8, and his comment was this. May I read it first ? It is on page 393 : “

You are also to enquire and report to Us, by our Commissioners for Trade and Plantations, whether any or what further Establishment may be necessary to be made, or Forts erected in any part of Newfoundland, or the other Islands or Territories under your Government, either for the Protection of the Fishery, the Security of the Country, for the establishing and carrying on a Commerce with the Indians residing in or resorting to the said Islands, or inhabiting the Coast of Labradore.” The comment that my learned friend made upon that was this : “ Here you have a reference to a commerce with the Indians residing in or resorting to the said Islands, or inhabiting the Coast of Labrador, and from that he inferred that this Governor was instructed to deal with matters relating to the interior part of the country. It is rather curious that stress of argument appears to have necessitated a certain inconsistency of attitude as to the Indian position in

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the interior. When it was desirable to show that under the proclamation of 1763 no Indians in the hinterland of Labrador were being considered and protected by the constitution of an Indian reservation there, the inhabitants of the interior were described by my learned friend as a few Esquimaux. Now the emphasis is a little different, because it is desirable, when you

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are construing Captain Graves's commission, to suggest that there is a commerce with Indians in the interior and something important, therefore, for the Governor of Newfoundland to deal with. From the one point of view it is desirable to minimise, as I say, in the stress of argument, the Indian element; from the other point of view it becomes equally important to emphasise it. When it was necessary to minimise it, there were a few Esquimaux ; when it was necessary to emphasise it one finds that this is what was suggested. It is asked on the publication of Article 8 whether it is going to be said that the Indians contemplated there were Indians squatting on the coast; I think they were the words; the inference rather being that that was an unfounded suggestion, that these Indians were persons squatting on the coast, but that plainly it referred to Indians in the interior. I will get the exact words in a moment.

Viscount FINLAY : Are you quoting from paragraph 8 ?

Mr. MACMILLAN : Yes, my Lord.

Viscount FINLAY : The words there are—

Mr. MACMILLAN : Indians inhabiting and residing on the coast of Labrador. It was desirable there, of course, to suggest that that could not mean merely a strip of sea shore, and the point was put as a submission that this could not apply ; “ Is it going to be said ”—I think was the expression—“ that this applied to Indians squatting on the shore of Labrador ? ” the inference being : “ Of course not ; it applied to Indians in the interior. ” The curious thing is this : that when you come to Palliser's activities you find that he had no doubt at all what these Indians were; they were the Esquimaux. My Lord once or twice asked me yesterday as to whether I could say that the terms “ Indians ” and “ Esquimaux ” were used as mutually inclusive. They are not; they are sometimes used in combination, and sometimes as distinct; but that there was a profound distinction between the two type is, of course, absolutely plain. I asked leave to refer to one or two passages in Volume III, first of all to Governor Palliser's proclamation of the 1st of July, 1764, which is to be found in Volume III at page 930. I have now fortunately found the reference to the precise words which I was dealing with. It was at page 40 of my learned friend's address when commenting on Article 8. After reading these words : “ The

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security of the Country, or the establishing and carrying on a Commerce with the Indians residing in or resorting to the said Islands, or inhabiting the Coast of Labradore,” my learned friend said : “ I do not know whether it is going to be said that on the selvedge of the sea there was a population of Indians squatting on the sea shore of course, there was nothing of the kind.” Here is Captain Hugh Palliser, with his commission in his hand, proceeding to deal with the

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situation. First of all on page 930, on the 1st July, 1764 (that is the first year of his office) as one of the first matters to which he addresses himself, we find him dealing with the Esquimaux Indians. The proclamation of 1st July, 1764, runs : “ By His Excellency Hugh Pallisser Governor and Commander in Chief in and over the Island of Newfoundland in North America, etc., etc. Whereas many and great Advantages would arise to His Majesty's Trading Subjects”—I submit there, as always throughout, the trading subjects are fishery people—“ if a Friendly Intercourse could be Established with the Esquimeaux Indians, Inhabiting the Coast of Labradore and as all Attempts hitherto made for that Purpose have Proved Ineffectual owing in a great Measure to the Imprudent Treacherous or Cruel conduct of some People who have resorted to that Coast by Plundering and killing several of them from which they have Entertained an opinion of our Disposition and Intentions being the same with respect to them, as theirs are towards us that is to circumvent and Kill them; and whereas such Wicked Practices are most contrary to His Majesty's Sentiments of humanity to his Conciliating their Affections and his Endeavours to induce them to Trade with his Subjects. In Conformity to these His Majesty's Sentiments, I hereby Strictly forbid such Wicked Practices for the Future, and declare all such as are found offending herein shall be Punished with the Utmost Severity of the Law. And whereas I have taken Measures for bringing about a Friendly Communication between the said Indians”—that is the Esquimaux Indians inhabiting the coast of Labrador—“ and His Majesty's Subjects and for removeing those Prejudices that have hitherto proved obstacles to it. I hereby Strictly enjoin and require all His Majesty's Subjects, who meet with any of the said Indians to treat them in the most civil and friendly manner.” My Lords will appreciate there that that language is, of course, entirely inappropriate to the Red Indians. The Red Indians were people who had been in communication with white men. The Montagnais and the Red Indians had been in communication with French traders for generations. These are the Esquimaux Indians inhabiting the coast of Labrador, and his proclamation is issued with reference to them, and his language plainly applies to them. But we come nearer to it, my Lord, on the next page. On the 1st September, 1764, in the first year of his governorship, he reports to the Lords of

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Trade giving an account of his proceedings to establish friendly relations with the Esquimaux Indians, and this time I am able to attach it to the very article which my learned friend construed as he did, because the Governor, at line 9, proceeds to say : “ In obedience to the 13th and 14th Article of His Majesty's instructions”—these were Pallisser's instructions, and the 13th and 14th articles of Pallisser's instructions correspond to Graves's 8 and 9, and therefore you have here an exposition in fact by Pallisser of his interpretation of Article 8 of Graves's commission, and the corresponding Article 13 of his own commission. Here is what he says he did in obedience to that article, the article which my learned friend said in fact referred to a

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population of Indians squatting on the sea shore : “ In obedience to the 13th and 14th Article of His Majesty's Instructions for endeavouring to Conciliate the Affections of the Esquemeaux Savages on the Coast of Labrador without the Streiglits of Bell Isle, and to Introduce a cornmerce with them ; before I left London meeting with a Mann Named Hans Harven one of the Brothers of the Moravian sect who has lived some years amongst the Savages of Greenland, and talks their Language, which very probably is the sanie with the Esquemeauxs, and finding in him a Strong disposition (to a degree of Enthusiasm) to undertake to introduce some knowledge of Religion amongst these Savages I encouraged him in it, and to come out here, where I have also encouraged some Merchants to send a Vessel with him to that Coast, (having none of the Kings to Spare this Season) and in case he should be able to Converse with those Savages, I have furnished him with a writing to be explained and distributed amongst them, to serve as an Introduction to Encourage them to Trade with us.” Then you will find on the next page, 933, a further reference to those Esquimaux subjects; it turns out that this Moravian, to the great astonishment of the Esquimaux, was able to talk to them. The language of Greenland which this Moravian could speak was found to be the same language on the Labrador coast, and therefore the Moravian was able to converse with the Esquimaux subjects and was a means of communication. Then he goes on to say : “ I am of opinion Measures may be taken for opening a friendly Communication with them, for gratifying them with what they want in the way of traffick and thereby”—again observe the motive—“provide a Security for our Fishers for Cod, Whale and Seal upon that Coast. Every encouragement to a Ship Fishery there and the North part of Newfoundland seems to me a Consideration worthy of Attention.” My Lord, he was setting about this : he was setting about establishing a friendly communication with the Esquimaux because, so long as they were upon the coast of Labrador and were hostile, they constituted a menace to the ship fishery, which was under his charge. It was the Esquimaux Indians to whom he directed himself at once, on his own contemporary

interpretation of Article 8, that he was to establish a friendly communication with the Indians. These were not Red Indians. You required no Greenlander to communicate with the Red Indians. The language of the Red Indians was entirely different. He gets a Moravian, who knows Esquimaux language, to put him in touch with the Esquimaux. He says : I am obeying His Majesty's instructions in trying to establish a trade with the Esquimaux and get on a friendly footing with them. Why ? Because if I do not conciliate the inhabitants on the coast I shall find myself embarrassed in regulating the ship fishery under my charge, and it will be discouraged. In those circumstances can I not justly say there was a population of Indians squatting on the shore in the way Pallisser understood it—Esquimaux Indians. He goes on at page 934 in his own report. The matter becomes abundantly plain as one proceeds. These are fairly long reports, and though there may be other matter which

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I should read, may I read the passage I have selected on page 935 : “ Having said a fishing Colony is best defended by a Naval Force, which is supposed to spring from it, I take leave to add my humble Opinion, that under the present Management of our extensive one at Newfoundland it does not afford that annual Return of Seamen to England that is generally imagined, not near the Number it might, nor scarce above half the Number the French have from their limited Fishery which I have explained in my Answer to the 16th Article and as appears by the general scheme of the French and English Fisheries for this Year sent herewith. Upon the Coast of Labradore, which is inhabited by Savages, some Posts, I judge, will be necessary as well for introducing a Trade with them for Fur, &c.”—these again I submit are the Esquimaux—“ as for securing our People from their Attacks and Plunder and I am informed those inhabiting the Coast within the Streights of Bell-Isle are a docile People much inclined to traffick; those along the Coast Northward without the Streights have never been in Friendship with any Nation, but from the Interview had with them this Year, as mentioned in my letter of the 9th of October, I am of Opinion a friendly Intercourse might be easily introduced and I would recommend an advanced Post as far to the Northward as possible for a trucking Place, where those Savages may be stopt from coining further Southward by supplying them there with what they want or will be most useful to them and we may procure what we want of them and thus keep the rest of the Coast open and free for our Adventurers”—the same language, “ open and free ” fishery—“ to try whether it affords a Fishery which I have good Reason for believing it does, both for Cod and Whale, and also for Seal which is said to be here in great Abundance.” There it is plain that he is considering the relationship with the Esquimaux.

Sir JOHN SIMON : I do not know whether my learned friend would read the next sentence, if it does not inconvenience him.

Mr. MACMILLAN : Certainly. “ The whole Trade for fur and the Fishery, upon that part of the Coast lying within the Streights of Bell-Isle”—that is round the corner—“ are carried on by a few Merchants from Quebec, who having had grants from General Murray for exclusive Privileges for that whole Coast, have prevented any other Adventurers that way. They employ none but Canadians in that Trade and Canadian Vessels having Passes from the Governor of Quebec to come to the Fisheries.” These people are the people whose presence necessitated the passing afterwards of the Acts of 1774 and 1825.

The LORD CHANCELLOR : I wonder if you know how far in the Esquimaux did live. I was rather struck by the map which you produced to us, the aboriginal map attached to the Report of the House of Commons Committee. That shows that the Esquimaux inhabited a tract of considerable depth.

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Mr. MACMILLAN : It is very difficult to say. Of course, that is only washed; it is not done by a precise boundary.

The LORD CHANCELLOR : There is also a dotted line marked.

Mr. MACMILLAN : I had not noticed that, my Lord.

The LORD CHANCELLOR : It is taken right round the coast into Hudson's Bay. I was wondering if you had anything to throw light upon that. It is in your atlas, but it is clearer here.

Mr. MACMILLAN : Yes, my Lord ; that is why I ventured to ask my Lord to look at it yesterday.

The LORD CHANCELLOR : This map shows the whole of Hamilton Inlet included in the Esquimaux region.

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Mr. MACMILLAN : There were certainly at one time some Esquimaux settlements within the narrows. I have some evidence of their having been inside the narrows.

The LORD CHANCELLOR : By “ narrows ” you mean the Straits of Belle Isle ?

Mr. MACMILLAN : No, my Lord, within the Straits of Hamilton Inlet. My Lord there is a good deal of evidence as to the habits of the Esquimaux and their residence. It is difficult to summarise the thing fairly without exposing oneself to criticism, but I think it might be fairly put that their main life was spent upon the Lighlands along the Labrador shore, and on the shore—I use the word “ shore ” advisedly—of Labrador; that they were at constant enmity with the Indians in the interior, that their language was so different that there could be no communication between them at all; that they took every opportunity of murdering each other when they met. The Esquimaux sometimes went inland to hunt. I found one passage where it said they went after caribou, but they were liable to receive a very hot reception when they did so, from the Red Indians who regarded that territory as their province. The diet of these people was quite different and their habits were quite different. They were a totally different kind of person from the Red Indians who lived in wigwams and were hunters. Governor Pallisser at page 949 has an interesting paragraph upon this. He is still talking about his experiences with the Indians whom I will venture to call the population of Indians squatting on the sea shore.

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Viscount FINLAY : Do you include under “ Indians ” Esquimaux?

Mr. MACMILLAN : Only Esquimaux on this point. “ For enabling me to make proper reports in Order to your Lordships forming a

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Judgment of the nature and Disposition of those People”— who are those people ? Those are the people whom he was attempting to conciliate in the execution of His Majesty's instructions—“ of the nature and Disposition of those People and of what Advantages His Majesty's Subjects may hope to reap from that Coast, I went there myself, and met with a party of between four and five hundred of those savages”— these were Esquimaux, my Lord—“ who come yearly from the north down to the Streights of Bell Isle and by means of the Brethren of the Unitas Fratrum I had many interviews and conversations with them, for an account of the informations we got from them.” As interpreters they could speak Esquimaux.

Viscount HALDANE: I suppose these Brethren were Protestants ?

Mr. MACMILLAN : Yes, Lutherans. They were not Catholics, of course, and they did not know the Indian language. They could not speak the Red Indian language. Their mission was to the Esquimaux on the coast ; not to the Indians of the interior. You will find in some of their records they say they were very sorry they could not propagate the Gospel among the Indians because they did not know their language.

Viscount Haldane. Lord WARRINGTON : “ Unitas Fratrum ” is another word for Moravians.

Mr. Macmillan. Mr. MACMILLAN : Yes, my Lord. Here we have these identified absolutely. We have these 400 or 500 Savages, the people he was to conciliate, as he conceived it, under his instructions to conciliate Indians ; they came down to see him, and he was able to communicate with them through the Moravian, because the Moravian had learnt Esquimaux in Greenland, and the language was found to be so similar that he was able to communicate with them, and he had the advantage of talking to the Esquimaux. “ I refer your Lordships to a narrative of what passed at the interviews I had with them, which I shall lay before you at my return to England ; therefore will here only add my opinion that those people who have hitherto been so much dreaded may in a very short time by kind treatment and fair dealing be made exceedingly usefull people to His Majesties Subjects, they are expert whale catchers and naturally fishers, are almost amphibious creatures, living constantly on little Islands along the coast, and subsist almost wholly upon fish.”

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Viscount HALDANE : That is rather instructive. They use the islands to live upon, they live on fish, they are almost amphibious, they are what we hear of Esquimaux being elsewhere, where they live on the ice a good deal, and they belong essentially to the coast line.

Mr. MACMILLAN : I cited that in answer to my Lord Chancellor's question as to whether I could give any indication of the extent of the Esquimaux inhabitants on the coast. I cannot do so by any measure—

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ments, I can only do so by a description of their habits ; and here is Governor Pallisser's description of the kind of people he is dealing with, and here are the people whom he conceived it to be his duty to conciliate under his instructions, because if he does not do that, then they will be a constant menace to the carrying on of the open and free fishery which it is his duty to foster. I do not think anything could be more descriptive than that, because that is telling you what the people were without any particular motive one way or the other, and that is his description of those people.

Lord SUMNER : Have they changed ?

Mr. MACMILLAN : No, my Lord, except I think that they have diminished. The unhappy thing is that they are diminishing like almost all aboriginal races.

Lord SUMNER : It is their fate.

Mr. MACMILLAN : It is their fate to be exterminated. I am in my Lord's judgment upon this : Is it not abundantly plain that this is nothing to do with the Red Indians at all ? This is all Esquimaux ; and Pallisser is talking of the Esquimaux alone. He did not know the Red Indian language ; he had not any interpreters in the Unitas Fratrum. Throughout the Moravians were a Protestant Mission to the Esquimaux on the coast of Labrador. They expressed their interest when they had one or two visits from Red Indians, but they could not speak to them, and only wished they could, because there was a new field for the propagation of the Gospel. The demarcation was not only a line of demarcation ; it was a linguistic demarcation ; it was a line of demarcation marked out by all ethnographical distinctions and differences in habits and everything else. No two tribes could be more distinct.

Lord SUMNER : I thought the Indians, properly so-called, were then Christians.

Mr. MACMILLAN : The Moravians were Protestants, and the Indians were Catholics. They record their Catholicity is of the very primitive type, and does not do them much good. They got one or two of them into their mission rooms, and they were greatly interested in looking at a sewing machine, but the Jesuits, as usual, were extra-ordinarily active, and they were wonderful explorers in those days. Passage after passage establishes that the Red Indians of the interior, the Montagnais, were Catholics, and they came down to be ministered to by the Jesuit Priests in the Gulf of St. Lawrence.

Viscount HALDANE : Besides the Montagnais were there any others who were Catholics ?

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Mr. MACMILLAN : The Naskopis too. They were further away to the north, and were in the upper part, and it appears were less civilised than the Montagnais, who, for a long time, long before we came on the scene, had been in constant contact with the Quebec merchants.

My Lords, I have recited these passages, if I might, in order to show that there is another aspect of this instruction given to Graves and Palliser as to commerce with the Indians, from that which was suggested by my learned friend. I am courageous enough to suggest that there is on the selvedge of the sea a population of Indians squatting on the seashore. This Governor found them there; he calls them the Eskimo Indians, and he proceeds, in the execution of his Commission, to try to establish commerce with them and to try to conciliate them, with the objective which was always the objective in mind, in order that free fishery might be carried on without the menace of Eskimos on the shore who might at any time raid their temporary fishing establishments along the coast.

Your Lordships have never, I think, had occasion to look at the Act of 1699, which is the key to the whole position in Newfoundland. That Act is printed in Volume I at page 250, and I do not delay over it, only desiring to emphasise that this is an Act dealing with Newfoundland trade. It is referred to over and over again in the instructions to the Governors of Newfoundland.

The LORD CHANCELLOR : Yes, we did look at this.

Mr. MACMILLAN : Your Lordships have considered it already ; my learned friend Mr. Barrington-Ward referred to it. It has certain aspects which are worth bringing to the surface, which I do not think have been noted. The Act is “ An Act to Encourage the Trade to Newfoundland.” I said a little earlier this morning that when the word “ trade ” is used in relation to Newfoundland, one must be careful not to

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confuse it—it is attractive to the counter contention to confuse it—with furring and things of that sort, commerce at large. The trade that is referred to in relation to Newfoundland is the codfish trade ; and you see the preamble begins : “ Whereas the Trade and Fishing at Newfoundland is a beneficial trade to this Kingdom, not only in the employing great numbers of seamen and ships, and exporting and consuming great quantities of provisions and manufactures of this realm, whereby many tradesmen and poor artificers are kept at work, but also in bringing into this nation, by returns of the effects of the said fishery from other countries, greater quantities of wine, oil, plate, iron, wooll, and sundry other useful commodities, to the increase of His Majesty's Revenue, and the encouragement of trade and navigation.” The trade and fishing at Newfoundland, which is described as a beneficial trade, is the cod fishing. Then it goes on to say : “ It shall and may be lawful for all his Majesty's subjects residing within this his Realm of England, or the Dominions thereunto belonging, trading or that shall trade to Newfoundland, and the seas, rivers lakes, creeks, harbours in or about Newfoundland, or

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any of the islands adjoining or adjacent thereunto, to have, use, and enjoy the free trade and traffick, and art of merehandize and fishery, to and from Newfoundland, and peaceably to have, use, and enjoy, the freedom of taking bait and fishing in any of the rivers, lakes, creeks, harbours, or roads, in or about Newfoundland, and the said seas, or any of the islands adjacent thereunto.” Now no doubt it will be said that rivers and lakes are referred to there, and it will be said that my knowledge of natural history must be very deficient if I suggest that cod are to be found in rivers and lakes. Of course they are not to be found in rivers and lakes; but when you look at these terms here they are all controlled by the idea of carrying on the trade and fishery of Newfoundland; and no one has suggested that this Act has an application to inland salmon fisheries or to any other fisheries but cod fisheries, and the extensive enumeration of terms had reference, of course, to this, that you had got an indented coast, you may have river mouths, and so on, and there is to be no question about the maritime area in question. I equally retort that you do not take bait for cod fishing in lakes and rivers. Then it continues : “ And liberty to go on Shore on any part of Newfoundland, or any of the said Islands for the curing, salting, drying, and husbanding of their Fish, and for making of oil, and to cut down Woods and Trees,” and so on. All that language is applicable to the cod fishing industry and to no other. You do not get oil from salmon, and all this is to be done as something useful or advantageous to their fishing trade.

Then comes a whole series of provisions which constitute really the code of Newfoundland. It contains all the provisions about boats and the Admirals and what rights they

are to have when they come, and throughout this is really the instruction that the Governor of Newfoundland gets. You will find records throughout these volumes of the Governor of Newfoundland being instructed to take this Act as his guide. This contains all the regulations that he has specially to attend to, and his Commission expressly says that he shall do nothing repugnant to the Act of 1699. That is his instruction with regard to administration; it is all about ballast and harbours and by-boats, and all manner of things related to the cod fishing, and to nothing else. It is rather interesting that there is jurisdiction given under it, a statutory jurisdiction, because this is in the Act of 1699. Now here is a jurisdiction as to which it might well be said that it was of a somewhat vague type. This is on page 255, Section XV : “ And be it further enacted by the Authority aforesaid, That in Case any Difference or Controversy shall arise in Newfoundland, or the Islands thereunto adjoining, between the Masters of fishing Ships and the Inhabitants there, or any By-boat Keeper, for or concerning the Right and Property of fishing Rooms, Stages, Flakes, or any other Building or Conveniency for Fishing or curing of Fish, in the several Harbours or Coves, the said Differences, Disputes and Controversies, shall be judged and determined by the fishing Admirals, in the several Harbours and Coves : and in Case any

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of the said Masters of fishing Ships, By-boat Keepers or Inhabitants, shall think themselves aggrieved by such Judgment or Determination, and shall appeal to the Commanders of any of his Majesty's Ships of War, appointed as Convoys for Newfoundland, the said Commander is hereby authorized and empowered to determine the same, pursuant to the Regulation in this Act.”

Viscount HALDANE : It was an Admiral's ship.

Mr. MACMILLAN : Yes. Now Palliser was not quite sure whether this applied to the coast of Labrador, because you see it is in terms Newfoundland. Labrador had been annexed to him and he was in some difficulty to know whether these regulations applied in terms, and he wanted an Act of Parliament passed to extend the Act of 1699 to the coast of Labrador; but his Commission had told him to apply it to the coast of Labrador, and, if I remember aright, he did not get an Act of Parliament. Perhaps my friend can remember whether there was an Act.

Sir JOHN SIMON : No ; he pressed for it, but did not get it.

Mr. MACMILLAN : Because it was already in his Commission.

Sir JOHN SIMON : That would not have been a good reason as against a complainant.

Mr. MACMILLAN : The interesting thing is this. He has not sure whether these regulations applied or not, although his Commission told him to do nothing contrary to these regulations, and he wanted an Act of Parliament to clear it up, and he did not get it—for what reason we do not want to inquire further.

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This, then, is my submission upon these Commissions. I am still completing the picture of the Newfoundland position. You have got the Governor of Newfoundland armed with these powers, placed in the care and inspection of this coast, with its native Indian inhabitants who were Esquimaux, with no contact with the interior Indians, with whom he was unable to communicate because he did not even know their language, and concerned with the coast and subordinating everything that he did to this purpose of maintaining the fishery on that coast. It only emphasises the intent and purpose as expressed by the Proclamation that this whole transaction is to the intent that the open and free cod fishery of Newfoundland may be extended to this coast, and may be extended to this coast under a person already conversant with this class of business and suited, therefore, to carry on a coastal administration over a temporary fishery such as this

was.

My Lords, I now propose to leave that chapter altogether and to come on to the next legislation. I have dwelt so long upon 1763, for this reason, that we are all agreed that that is the critical year. We are all agreed that from the language employed it is that we are to find out

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the extent of the jurisdiction of Newfoundland, and to get the key to the answer to the question proposed to my Lords ; and we are further agreed that it is the subject matter—we will call it X — of the Commission and Proclamation, which was in turn bandied back and fro between Newfoundland and Quebec, maintaining throughout its identity ; because it has always been by reference, it is always the same thing which is passing from one hand to the other : if we find out at the start what that thing is, or at least find sufficient indicia to enable us to define it, then one approaches the subsequent Acts with this in mind : What is the subject matter of the 1763 transaction ? Because whatever was that subject matter was also the subject matter of the subsequent Acts of 1764, 1809 and 1825. Therefore one has to proceed to those other Acts, bearing in mind that throughout, this X, this unknown quantity, to which the territory of Newfoundland on the mainland, had been defined in 1763 ; the root of title was in 1763 ; the others were all documents of transmission, not documents of origination.

I approach, therefore, now the next episode in this history, the Act of 1774, the Quebec Act. There is a most important Order in Council which heralded the passing of the Act of 1774. That is in Volume III, at page 1075, and its recitals contain so complete an account of the reason for the passing of the Act that I find myself absolved from the necessity of going into it otherwise to any extent.

Your Lordships recall that the jurisdiction which had been given to the Governor of Newfoundland extended, as we are all agreed, from the River St. John to Cape Chidley. The Governor of Newfoundland proceeded to frame regulations for his fishery (these are in the volume), regulations which were adapted to the enforcement of the Act of 1699, and he proceeded most rigorously to enforce these along the coast within his jurisdiction. In the course of doing so he encountered on the coast the sedentary fishermen who carried on seal fishing and to some extent also salmon fishing on the shore of the St. Lawrence, and who held grants, some of them from the French period, and some of them grants made by General Murray ; and their indignation at Palliser's action in seeking to enforce a cod fishery régime applicable to temporary fisheries and with maritime inspection of these people who were seated on the shore with their grants and carrying on the sedentary fisheries, was so great that a large amount of trouble arose over that matter and it came to be recognised that this confiding of that part of Labrador to the Governor of Newfoundland was a complete mistake ;

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because he was a gentleman who was well adapted to protecting cod fisheries and had all the means and energy to do that, but his regulations, which he was bound to conform to, were quite inappropriate to deal with the sedentary population of seal fishers entitled to remain there during the winter, because they held actual titles, they held grants, and his jurisdiction was totally unsuited for the sedentary fishermen who exercised the seal fisheries on that coast. Consequently great complaints were made and the result was that they took from Newfoundland the whole of the Labrador Coast ; but as subsequently appears,

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they went too far, because the grants held by those people along the south coast did not extend away up to the north coast, and the north coast was a proper place for a cod fishery. The mistake was, as seems to have been recognised in subsequent legislation, to hand the whole of it over ; because that was overdoing the thing ; the remedy was too large ; a less drastic remedy would have been sufficient ; and it just happens that at the end you have the matter brought to the position that it should have been brought to earlier. The way they did it was this. I draw particular attention to the Order of His Majesty in Council. It is a most important document, for this reason, that it shows the attitude of the Government at home to the position and the attitude of Newfoundland. You will notice, as I proceed to read it (because I am going to take it a little slowly) that the conception of the Governor of Newfoundland, in the minds of the Privy Council, was not a conception of a territorial magnate in Labrador at all, but of a person looking after cod fishing on the shore.

Now I have to vouch that, and I propose to ask my Lords to read it and see if I am right. This Order of His Majesty in Council is on page 1075. It is dated the 22nd April, 1773, the year before the passing of the Quebec Act. “ Your Majesty having been pleased by Your Order in Council of the 8th of July 1772 to refer unto this Committee a Representation of the Lords Commissioners for Trade and Plantations, dated the 24th of June, 1772, Setting forth, That they have had under their Consideration a Paper Communicated to them by the Merchants of Great Britain interested in the Trade Seal Fisheries on the Coast of Labrador and their Lessees ; as also of the possessors of certain Seal Fisheries on that Coast under Grants from the Governor of Quebec, describing the particular nature and Circumstances of those Fisheries, and Stating the great Loss and Detriment which have ensued, by those fisheries being made Subject to such Rules and Regulations, as the Governor of Newfoundland has thought necessary to be laid down for the Fisheries of Cod and Wale, since the said Coast of Labrador has been annexed to that Government.”

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My Lords, those regulations are printed at page 937, if my Lords care to note it in the margin ; and you will see that they

are regulations of that type—cod and whale regulations. “ That they have likewise taken into their Consideration a Memorial presented to Guy Carleton Esquire, Your Majesty's Governor of Quebec, and signed by Sundry Inhabitants thereof, Subjects of your Majesty, to the like Effect, Where upon the said Lords Commissioners represent That while Canada remained in the Hands of the French, and the Coast of Labrador was considered as a dependency thereupon, a Fishery for Seals was amongst other objects of National concern, attempted and brought to a Degree of perfection, and the returns from this branch of the Exports of Canada amounted annually to about Ten thousand pounds Sterling ; In consequence of these Attempts, Grants of several Islands in the River and Gulph of St. Lawrence and some Tracts on the Main Land, with the exclusive Privilege of Seal

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Fisheries &c. were made in times past by the Crown of France to certain persons and the rights of Property thereby vested in them have passed as Inheritances, and been Sold and Leased to Tenants at pleasure ; Various other Species of Claims have been exhibited as derived from French Tenures, which it is needless now to Enumerate and which have passed by Succession through different Hands ; and since the Cession of Canada, these fisheries[sic] have been again taken up, & sundry of your Majesty's Subjects have Possessed themselves of Posts, and Settlements, either in virtue of Leases from proprietors under French Titles, or by Grants from your Majesty's Governor of Quebec for a Term certain, or until such time as your Majesty's pleasure should be known ; In Confidence of the validity of these Tenures, it is stated that many Adventurers have followed the Established practice of Canada by Purchasing from the former Grantees the whole of their Dwelling Houses, Fishing Implements, Utensils and Warehouses, appropriated to particular Posts or passes, and large Sums are said to have been employed in re-establishing these fisheries[sic] ;—That the Fishery for Seals it is asserted, cannot be prosecuted in the Open Seas, and made general like those for Cod and Whales, but is practised in a manner widely different from any other fishery[sic] in the Gulph or River St. Lawrence, and requires much judgment and circumspection, it is chiefly formed by the contiguity of small Islands or Rocks to the main Land, which Occasion Strong Currents called Passes, where only such fisheries[sic] can be exercised and to which the make and Contexture of the Nets must be particularly fitted ; it is chiefly followed in the winter Season, and the immediate Operation of Catching these Animals commences in December and lasts only about fifteen Days ; but the fishers[sic] employed in the Business must be at their Station in the course of the Month of September, and cannot get away from it before the end of May. That this is in brief the nature of the fishery[sic] for Seals, and these the Circumstances of the People engaged in that Business, that

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by your Majesty's Royal Proclamation of the 7th of October, 1763, Your Majesty thought fit to put all the Coast of Labrador from the River St. John to Hudson's Straits together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the Care and Inspection of your Governor of Newfoundland, to the End as your Majesty therein graciously declares, that the open and free ffishery[sic] of Your Majesty's Subjects might be extended to, and carried on upon the said Coast of Labrador and the adjacent Islands, and from this period the Posts and Settlements on the above Coast and ffisheries[sic] thereupon depending were detached from the Government of Quebec, and became Subject to the Ordinances and Regulations of Your Majesty's Governor of Newfoundland.”

My Lords, I attach great importance to that passage. Again, you find at this contemporary period that the Privy Council, when they are seeking the origin of the rights of the Government of Newfoundland, say that the rights are derived from the Proclamation ; and they recite the Proclamation. Therefore, when I have thought fit several times in the course of my address to speak of the Governor of Newfoundland as a

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person having the care and inspection, that was not merely an advocate's device of repeating a phrase frequently in order to impress it ; it was using the contemporary language of the Privy Council as they themselves used it when they were describing the position of the Governor of Newfoundland at the time.

Viscount HALDANE : It was an explicit policy.

Mr. MACMILLAN : Yes. my Lord. I cannot sufficiently emphasise the point there ; because here you have a different type of fishery in existence upon these shores, the sedentary fishery, and you have brought in contact with this class of person the Governor of Newfoundland. You have a reference to the Proclamation, and what the Privy Council are pleased to say is : “ That this is in brief the nature of the ffishery[sic] for Seals, and these the circumstances of the People engaged in that Business, that by your Majestys Royal Proclamation of the 7th of October 1763 Your Majesty thought fit to put all the Coast of Labrador from the River St. John's to Hudsons Straits together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the Care and Inspection of your Governor of Newfoundland.” That was what the Privy Council conceived to be the position ; that was not a territorial jurisdiction to the height of land, as I humbly submit. It is : “ Under the Care and Inspection of your Governor of Newfoundland, to the End as your Majesty therein graciously declares, that the open and free ffishery[sic] of Your Majesty's Subjects might be extended to, and carried on upon the said Coast of Labrador and the

adjacent Islands, and from this period the Posts and Settlements on the above Coast and fisheries thereupon depending were detached from the Government of Quebec, and became subject to the Ordinances and Regulations of your Majesty's Governor of Newfoundland ;” not in order that there might be constituted a new territorial administration to the height of land in Labrador, but for a specific and Limited purpose, and the primary ambit of his duties was care and inspection ; so at least thought the Lords of the Privy Council at the time. Then they went on : “ That from the foregoing Account of the nature and Circumstances of these Posts and the fisheries[sic] depending thereon it will, as the said Lords Commissioners conceive, appear, that to Subject them to the same Rules and Regulations, as may be well adapted to the fisheries[sic] for Cod and Whales, is in effect to destroy them : That the Seal Fishery being of necessity a sedentary fishery[sic], requiring great Expence, Nets of a particular quality and Construction, immediately fitted to the pass they belong to, employing materials of a bulky nature, and requiring Houses for wintering the fishers[sic], cannot be made open and general in the manner of fishers[sic] above mentioned.” You cannot have an open and general seal fishery : therefore the Proclamation was inappropriate to this part of the territory altogether, because the Proclamation said that the annexation was in order that an open and free fishery can be carried on. You cannot have an open and free seal fishery according to the Privy

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Council. “ Nor can the Posts Occupied by Adventurers in the Business be quitted at pleasure, or Transferred to first Comers, as is practised in the Newfoundland ffishery[sic] ; and accordingly they find not only from the papers under present Consideration but from various other Documents in the Plantation Office, that many and great Complaints have been preferred against the Rules and Regulations, which have been extended to this Coast, since it has been annexed to the Government of Newfoundland ; and which rules being calculated with a view to encourage the two great ffisheries[sic] for Cod and Whale, and contrived to Quicken the Activity and emulation of Adventurers of Great Britain, by laying the several Posts and Passes open to the first Arrivers, have been found absolutely incompatible with the principles on which the Seal ffishery[sic] can alone be conducted ; to prevent therefore any further disturbance to Individuals in their private Claims and Possessions and to save the Mother Country the Advantages to be drawn from this branch of Commerce, which seems to be no inconsiderable object : The said Lords Commissioners Submit whether it may not be advisable for your Majesty to cause to be reannexed to Your Government of Quebec such parts of the said Coast of Labrador, as are situated between the River St. John's and the Straits of Bellisle, together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coasts” ; then, my Lords, note the following words—“ for altho' your Majesty, from such information as was before your Majesty, when the Proclamation of the 7th of October 1763 was published, did, upon the gracious motives therein Set forth, and with the Advice of Your Privy Council” (the same people who are now speaking) “ think fit to put that part of the Coast of Labrador under the Care and Inspection of Your Governor of Newfoundland ; yet the experience of succeeding times, and the various inconveniences, which have since Occurred, and which could not at that period be foreseen, have, as the said Lords Commissioners conceive, reversed the policy of that Measure, and made it for Your Majesty's Service and the welfare of your Subjects to restore the said Coast, so far as the Streights of Bellisle, to its' dependency on the Government of Quebec, leaving for the present at least that part of the Coast of Labrador, which lies between the Straits of Bellisle and Hudson's Streights, and where there are very valuable Cod fisheries, under the Government of Newfoundland.”

My Lords, again I cannot refrain from drawing attention to the incongruity of all that, with the idea of a great territorial district extending to the height of land. These are the people concerned in the framing of the documents we have been pursuing of 1763 ; here they are revealing to us the whole policy of the matter and what they have in mind ; and they

accordingly think that as there are very valuable cod fisheries up this coast it would be better not to re-enact the whole thing, not to put the whole thing into Quebec.

My Lords, it does not end there. “ The Lords of the Committee in

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Obedience to your Majesty's said Order of Reference, did on the 19th of December 1772, take the said Representation into Consideration, and thought proper to refer the same back to the Lords Commissioners for Trade and Plantations, to conferr with Your Majesty's Governor of Newfoundland, on the Subject of the said Seal Fisheries carried on upon the Coast of Labrador, and Report their Opinion to this Committee, how far the Seal Fisheries on the said Coast, may be relieved from the great loss and detriment, which are represented to have ensued by those ffisheries[sic] being made Subject to such Rules and Regulations as the Governor of Newfoundland has thought fit to be laid down for the Fisheries of Cod and whale, since the said Coast of Labrador has been annexed to that Government.”

I pause again; he could not put in force any rules and regulations, because his Commmision required him to conform to the Act of 1699, which was an Act relating to the cod fisheries. Then they go on : “ Without prejudice to those Considerations of Policy which induced your Majesty by Your Royal Proclamation of 7th October 1763 to put all the Coast of Labrador from the River St. John's to Hudson's Streights together with the Islands of Anticosti and Madelaine and all other smaller Islands lying upon the said Coast under the Care and Inspection of the Governor of Newfoundland.”

Again, the Lords of the Privy Council say that it was done by the Royal Proclamation, although it would be more strictly accurate to say that it was done by the Joint Commission. But this is their conception of the position; it was done by the Royal Proclamation, and the considerations of policy to which they allude are those disclosed in the Royal Proclamation, and it was in consequence of them, what was done, that the coast was placed under the care and inspection of the Governor of Newfoundland.

“ Whereupon the said Lords Commissioners have reported to this Committee. That they have in pursuance of the said Order re-considered the proposition made for re-annexing to the Colony of Quebec such part of the Coast of Labrador, as lies between the River St. John and the Streights of Bellisle, with the Islands thereunto belonging, and having conversed with your Majesty's Governor of Newfoundland on the subject of the Seal Fishery carried on upon the said Coast of Labrador the said Lords Commissioners are clearly of opinion that the regulations, which have been made for the encouragement of the fisheries for cod and whales, are in their present state incompatible with that permanent

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residence and continued possession, which are essential to the Seal and Salmon Fisheries, and that those fisheries cannot be relieved from the loss and detriment, which the proprietors of the different posts upon that Coast complain of, whilst the regulations above mentioned are continued in force ; It was not however upon this ground altogether that they recommended the annexing to Quebec, that part of the Coast described in the Representation above mentioned ; for, when it appeared upon examination, that a great part of it was claimed as private property under Grants from the Government of Canada, and that your Majesty was bound by Treaty to admit those claims, the

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consideration of policy was out of the question.” Then they said : “ These claims do not appear upon further examination to comprehend all the Coast between the River St. John and the Streights of Bellisle, and that they extend no further than the Ance des Espagnols or Bay Philippeaux ; whatever therefore lies to the eastward of that limit may very properly continue within the Government of Newfoundland.”

The LORD CHANCELLOR : Which is the Ance des Espagnols ?

Sir JOHN SIMON : It is practically Brador Bay. It is at the corner.

Mr. MACMILLAN : “ Whatever therefore lies to the eastward of that limit may very properly continue within the Government of Newfoundland, and the disadvantage in point of fishery, of re-annexing the remainder to the Government of Quebec (if any) will be the less. as by far the greater part of it is rocky and inaccessible, and therefore can be of no use to the Cod Fishery ;—The Lords of the Committee upon mature consideration of this matter, do humbly report to your Majesty, that they concur in opinion with what is proposed by the said Lords Commissioners for Trade and Plantations, and to that end, do agree humbly to advise your Majesty to direct your Attorney and Solicitor-General, to prepare and lay before your Majesty in Council a draught of an instrument proper to be passed under the Great Seal of Great Britain, for re-annexing to the Government of Quebec, such parts of the said Coast of Labrador as are situated between the River St. John and the Ance des Espagnols or Bay Philippeaux, together with the Islands of Anticosti and Madelaine, and all other smaller Islands upon the said Coast.” There you have the genesis of the Act of 1774, and if I may say so, it throws a flood of light upon what was in the mind of those who framed the Act of 1774.

The LORD CHANCELLOR : But the Act went much further.

Mr. MACMILLAN : The Act went much further. It went so

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far that the balance had to be redressed later on. I now ask attention to the Act itself.

Viscount HALDANE : Does the Act of 1774 authorise a grant under the Great Seal ?

Mr. MACMILLAN : No, my Lord. The Act of 1774 re-annexed. It simply ousted Newfoundland.

Viscount HALDANE : But it does not do it by authorising a grant ?

Mr. MACMILLAN : No. It simply ousted Newfoundland altogether. That was too radical a cure, because in doing so Parliament really

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contravened the recommendation of the Privy Council, who said there is a cod fishery to the North which ought to be under the Government of Newfoundland, and therefore we do not recommend what ultimately became to be the law, we recommend something much less drastic and radical, namely to take from the Governor of Newfoundland this south of Labrador where his code, which he has to administer, is entirely unsuitable and leave him to his proper province, the cod fishery on the northern part of this coast. That is the language plainly of persons who are thinking in terms of a coast, and not thinking in terms of a territory at all, whose eyes are upon the cod fishery and nothing else.

Viscount HALDANE : That was the coast between the River St. John and Ance Sablon ?

Mr. MACMILLAN : Yes. There were there these seal fisheries many of them with very ancient rights.

Viscount HALDANE : Quebec people.

Mr. MACMILLAN : Yes, who bitterly resented the Governor of Newfoundland coming along with his cod fishery rights, and who said they had no business to stay there. He tried to oust some of them, and burned a lot of their possessions, and did other unkindly acts of that sort. I want now to come to the Act itself.

Sir JOHN SIMON : The Act was a much more elaborate document.

Mr. MACMILLAN : But I think at this stage my Lords were considering this aspect of it only.

Sir JOHN SIMON : Quite true.

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Mr. MACMILLAN : It was a very comprehensive Act, and very important. The 1774 Act is in Vol. 1, page 158. “Whereas His Majesty by his Royal Proclamation, bearing date the seventh day of October, in the third year of his Reign, thought fit to declare the provisions which had been made in respect to certain countries, territories, and islands in America, ceded to His Majesty by the definitive Treaty of Peace, concluded at Paris on the tenth day of February, One thousand seven hundred and sixty-three”—that is the Proclamation which set up the Quebec Government—“And whereas, by the arrangements made by the said Royal Proclamation, a very large extent of country, within which there were several Colonies and Settlements of the subjects of France, who claimed to remain therein under the faith of the said Treaty, was left, without any provision being made for the administration of civil government therein ; and certain parts of the territory of Canada, where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said Province of Canada, under grants and concessions from the Government thereof, were annexed to the Government

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of Newfoundland, and thereby subjected to regulations inconsistent with the nature of such fisheries”—subjected, as I suggest, to a cod fishery regime—“May it therefore please your most Excellent Majesty, that it may be enacted ; and be it enacted by the King's most Excellent Majesty, by and with the advise and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that all the territories, islands, and countries in North America”—and then follows a description showing they were bounded in certain ways. At page 159, line 12, it says : “And also all such territories, islands, and countries, which have, since the tenth of February, One thousand seven hundred and sixty-three, been made part of the Government of Newfoundland, be, and they are hereby, during his Majesty's pleasure, annexed to, and made part and parcel of, the Province of Quebec.” Anything that Newfoundland had got since the 10th February, 1763, was to be resigned to Quebec.

Lord WARRINGTON : Territories, islands and, countries.

Mr. MACMILLAN : I use even a stronger term. It was intended to cover anything there could possibly be on any conceivable interpretation of that grant. They were to resign everything. It was proper to use, therefore, the most extensive language when it was designed to cover everything that could possibly be pretended by Newfoundland. I omitted the intervening description of the new boundaries of Quebec because it is very important to determine under what title Quebec got, as we submit it then got, this important territory in Labrador. My learned friends say that at that time the

operative effect of the Act of 1774 was to annex to the Government of Quebec the whole of the green area as comprised within the expression “ all such territories, islands and countries which have since the 10th February, 1763, been made part of Newfoundland.” My friend says that I have to invoke those words in order to give me from 1774 onwards a title to the green area, the hinterland of Labrador, in so far as it was hinterland. My submission is quite different. My submission is that the hinterland of Labrador was handed to Quebec in terms of the descriptive boundaries which precede, that we got the interior of Labrador to the north under the actual description of the new boundaries of Quebec. I refer, my Lords, to line 12, of page 159, where you will see that the draughtsman, beating the bounds of the new Province, concludes on his return journey by giving you the northward boundary thus : “ Northward to the southern boundary of the territory granted to the merchant adventurers of England, trading to Hudson's Bay.”

Sir JOHN SIMON : You do not mean that, surely.

Mr. MACMILLAN : I mean that precisely. That was contended also in the Manitoba case, and it is a well known contention. My submission upon that is that you have clear language there that the

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northern boundary of the new Province of Quebec is the southern boundary of the territory granted to Hudson's Bay.

Sir JOHN SIMON : I see what you mean. I thought you said the word " northward " indicated a northern boundary. It would not in itself.

Mr. MACMILLAN : If you please. That is quite true. I was not so exact as I should have been.

Lord SUMNER : From the point where Hudson's Bay territory ceased to have a southern boundary and had a boundary which was roughly north and south, or somewhere between north and north-east, what becomes of the back land ? Is it that Quebec acquired under this a mere shell from the River St. John along the line of the coast to Cape Chidley, and that the back land, until you come to Hudson's Bay territory again, is not assigned to it or to anybody ?

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Mr. Macmillan.

Mr. MACMILLAN : No, my Lord, that is not my interpretation.

Sir John Simon.

Lord Sumner.

Mr. Macmillan.

Lord SUMNER : Then under what words is it that that back land between the Atlantic coast and the more or less north-and-south Hudson's Bay boundary is now, under this Act 1774, given to Quebec ?

Lord Sumner.

The Lord Chancellor.

Mr. Macmillan.

Mr. MACMILLAN : There is implicit in your Lordship's question the suggestion that there was a north and south boundary of Hudson's Bay. With great submission, there was no such boundary. There was the boundary which you see in Mitchell's map at that time. At that time the accepted line of Hudson's Bay was that which went off to Grimington Bay, and all southward of that passed to Quebec.

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Lord SUMNER : I was thinking that the boundary of Hudson's Bay might be described roughly as north and south. Taking it from the corner to Grimington Island, that leaves a large triangle of back land between that line south-east and the two seashores down to the Strait of Belle Isle, and then round the corner as far as the River St. John. How has that triangle got into Quebec under the words of this Act ?

The LORD CHANCELLOR : You imply the words " and thence along the southern boundary of Hudson's Bay." You imply those words ; they are not found there.

Lord Sumner.

Mr. MACMILLAN : May I express it in this way. If you take the map, it is much easier. According to this map, what are you to take ? You begin like this. All the territories, islands and countries in North America within certain boundaries are

to come in. May I read just them. On page 158, it says : “ All the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded

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on the south by a line from the Bay of Chaleurs.” What is happening is the draughtsman is going round, and he comes up the Mississippi, and then comes northward, and he strikes the Hudson's Bay boundary and he say : “ northward to the southern boundary of the territory granted to the merchants adventurers of England, trading to Hudson's Bay.”

Lord SUMNER : May I take the answer briefly. You refer to the southern boundary, and by implication you say, “ and thence along that southern boundary.” That means up to Grimington Island ?

Mr. MACMILLAN : Yes.

Lord SUMNER : Very well. It is not an east and west line. Hamilton inlet, for example, is in a space which, in your view, never was included in Labrador, and it is not included in the Hudson's Bay so-called southern boundary. Is that left unassigned ?

Mr. MACMILLAN : No, my Lord. I am afraid I have not yet made my meaning plain. When I get to the southern boundary of the territory granted to the merchant adventurers of England trading to Hudson's Bay, I then follow that southern boundary. It is true it diverges to the north-east, but I follow it till it strikes the sea. It is all the lands and territories within that.

Lord SUMMER : You are treating that southern boundary as going right up to Grimington Island ?

Mr. MACMILLAN: Yes. It is not strictly accurate, according to the points of the compass, to call it the southern boundary ; but it is a great bight which is taken as the southern boundary.

The LORD CHANCELLOR : Then you say along the coast back to the Bay of Chaleurs. That may well be implied.

Mr. MACMILLAN : It may well be implied, for this reason. If you do not imply that, you leave a curious gap.

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The LORD CHANCELLOR : Yes, you would have a territory with only two boundaries—south and west.

Mr. MACMILLAN : I have to take a boundary. When you

take the boundary of Quebec, it says it is bounded by the River St. John. It also says the southern boundary of the Hudson's Bay territory. What is always in mind is that there is the Hudson's Bay territory to the north—I do not know quite where—but it was assumed to be at that time up to about Grimington Bay. That of course cannot be brought into Quebec, but once we have reached the Hudson's Bay southern boundary we are home, so to speak. After

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that there is a boundary already in existence, and that is described as “ northward to the southern boundary of the territory granted to the merchants adventurers of England trading to Hudson's Bay.” Of course if I stop there, I have not defined a boundary at all, and I assume : “ and thence along that southern boundary.” That southern boundary runs up and issues ultimately at the sea at Grimington Bay. Therefore I have got here the transference to Quebec of the whole of this area. Observe how this fits my theory. Your Lordships may find this to be all wrong, but it is at least consistent. Then they say, we must remember that Newfoundland got something along this coast ; at least the coast was put under the care and inspection of the Governor of Newfoundland, and he has some territorial claim along there. We must not forget that. And therefore they say : “ and also all such territories, islands and countries which have since the 10th February 1763 been made part of the Government of Newfoundland.” After all, we did give the Governor of Newfoundland some locus there, and lest we have omitted anything, as we have now encountered the Governor of Newfoundland at this part, they say, “ and also anything he had is taken from him.”

Viscount HALDANE : All the territory.

Mr. MACMILLAN : All the territory.

Viscount HALDANE : And all the rights taken away ?

Mr. MACMILLAN : Everything was taken away except what was given back to him. No legal rights were given back to him, but he was told to continue patrolling the coast because he could do it better than Quebec.

Viscount HALDANE : But only as Admiral.

Mr. MACMILLAN : One of the reasons why Newfoundland got it back again was because a ship was taken, and there was no Vice-Admiral at the Court of Newfoundland with jurisdiction, and Quebec was far away, and inaccessible during a large part of the year, and it was said, here is an embarrassment in carrying on this coastal jurisdiction why

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Mr. Macmillan.

should not Newfoundland get back this bit of coast ? And it got it back. Therefore you see my interpretation of this. Again it can at least be said of it, cannot it, that it does not offend any canon of interpretation. If my theory be accepted, I have at least the merit of consistency, because I account for the whole thing on this principle: that the new territory of Quebec is defined in language apt to include the whole of this hinterland of Labrador.

Viscount HALDANE : And to sweep away all that was given in 1763.

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Mr. MACMILLAN : Precisely. Notice what is to come in : “ All the territories, islands and countries in North America belonging to the Crown of Great Britain”—bounded in such and such a way. If the boundary of the Hudson's Bay territory were, as my learned friend suggests, the height of land, why did the author of this description—who quite well knew how to describe the height of land when he desired to do so, and did so, when he described what my learned friend called the spine of the Gaspé Peninsula a few lines before, with precision as a watershed line for a boundary—when he came to the northern part and got into Labrador, why did he not say “ and bounded there by the height of land” ? He said no such thing. He chose to select as his boundary there, not the height of land, although he had just been seeing how appropriate it would be, and had applied it in the south. But when he came to the north, when my friend says he applied a height of land boundary, really he did nothing of the sort. He selected the southern boundary of Hudson's Bay. According to my learned friend, the Hudson's Bay boundary was a height of land one, although no-one knew it at that time, and although at that time it was shown on contemporary maps issuing at Gape Grimmington, which was not a height of land at all. But if in fact a height of land boundary, why not say so in terms ? On the contrary it was treated as a conventional boundary, and not as a physiographical one. When they strike the boundary of the Hudson's Bay territory, they say, we have got home now ; here is the Hudson's Bay boundary, and from here onwards it is plain sailing. But then as they come to the coast, they say : here is the coast of Labrador, and we must remember Newfoundland, and they say : “ As also anything that Newfoundland got since 1763 shall be given back.” In the most comprehensive language they say “ All such territories, islands and countries” shall be given back.

Viscount Haldane.

Viscount HALDANE : Does that include the Indian lands too ?

Mr. MACMILLAN : Yes, my Lord. As far as I can gather the position seems to change after that with regard to the Indian reservations generally, but I have not been able to track that down with anything like the precision I should like to.

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Viscount HALDANE : There is this obscurity about the Indian lands. The height of land does not appear to have been a boundary against the Indians in any sense. The Indian land title was one of antecedent standing to Hudson's Bay.

Mr. MACMILLAN : Yes. The nature of their tenure was described by Lord Watson as a usufructory[sic] right under the protection of the King.

Viscount HALDANE : The radical title was in the Crown.

Mr. MACMILLAN : Yes.

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Viscount HALDANE : And it could not be taken from them. It was not an individual right in each person ; it was the right of the tribe

Sir John Simon.

Mr. MACMILLAN : Yes.

Viscount FINLAY : On what map or maps can one best follow the description that you have just been reading on pages 158 and 159 ?

The LORD CHANCELLOR : Sir John Simon took us round this part on some map.

Mr. Macmillan.

Sir JOHN SIMON : I afterwards called attention to Mitchell's Map, but it is such a big one for the purpose. I think I did as a matter of fact take you first of all through the description with Map No.12 in the Newfoundland Atlas, merely because it enables you to trace the points.

The Lord Chancellor.

Viscount FINLAY : What do you say, Mr. Macmillan, is the best map for this purpose ?

Mr. MACMILLAN : I suggest your Lordship might look at Map No.11 in the Canadian Atlas—Mitchell's Map. Might I suggest for the assistance of the Board that it might be pinned up upon the neutral territory indicated on the large map, so that it might be conveniently displayed before your Lordships.

Sir John Simon.

The LORD CHANCELLOR : I should have thought it might be common ground that you got all the territory you speak of by this Act. The point is what you gave back again.

Mr. MACMILLAN : It is important under what title I got it.

Sir JOHN SIMON : My friend says he got a tertium quid, which he has never mentioned from beginning to end. He may be right, but that is the argument.

Mr. MACMILLAN : I have gathered my friend does not think much of my contention.

(Adjourned for a short time.)

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AFTERNOON SESSION.

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Sir John Simon.
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Sir JOHN SIMON : I understand the map that has been pinned up is one of the versions of the map of 1755, No. 11. I have not made any point of it, but we have examined it and it does not quite coincide with what is in the British Museum. I do not think, however, the difference is material.

Mr. MACMILLAN : There is nothing material in the difference. It may be used.

Sir JOHN SIMON : Certainly. The difference is not material. But it is not, in fact, the British Museum map without alteration. Here is the British Museum map which is uncoloured. That map contains a lot of lines which are put on, I suppose, for the information of persons who wanted to know about boundaries. We have a great big map without those colours upon it.

Mr. MACMILLAN : May I draw attention to one thing ? There is a diagonal line across Labrador. It is not a line put on, as many of the other coloured lines are put on, as showing somebody's opinion after the map was brought into existence, because on the inset map up in the corner it says " proposed limit of Hudson's Bay." That is the blue and red line traversing Labrador.

Viscount FINLAY : That is part of the original map.

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Mr. MACMILLAN: Yes. That is in contradistinction to many of the lines put on for information, and reflecting subsequent transactions. In the original map itself this diagonal line is drawn. It is a diagonal line showing the proposed limit of Hudson's Bay. The only point I am making is that that was not one of the lines added subsequently by some person to indicate some subsequent transaction, but it is in the plate. My Lord Finlay was desirous of following the metes and bounds of the new Province of Quebec. If I may say so, I think that my Lord Warrington had perhaps assisted Lord Finlay to do that on the map.

Lord WARRINGTON : We did try together, but so far as I am concerned I got completely stuck when I got down to the words " Forty-five degrees of northern latitude, on the eastern bank of the River Connecticut," and then tried to keep " the same latitude directly west, through the Lake Champlain, until, in the same latitude, it meets the River Saint Lawrence."

Mr. MACMILLAN : May I adopt, as I think I safely may, Sir John's account of this matter as being accurate. Some days ago Sir John took your Lordships round these boundaries, and he and I went on quite happily for a long part of the journey, and we did not leave company till quite late when he began to draw inferences.

Lord WARRINGTON : I thought he went on to talk about getting to Pennsylvania.

Sir JOHN SIMON : That is exactly what this is. I went through every word of this.

Mr. MACMILLAN : I remember your doing so. And I thought you bridged the difficulties, and carried one round very well. It was only as to our inferences at the end that we were in divergence.

Viscount FINLAY : You are just about to take us round again.

Mr. MACMILLAN : We start with : “ All the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs.” Will your Lordships start with the Bay of Chaleurs, and then you will be able to follow on the map the description as I read it from the book. “ All the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs, along the high lands which divide the rivers that empty themselves into the River Saint Lawrence from those which fall into the sea, to a point in forty–five degrees of northern latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until, in the same latitude, it meets the River Saint Lawrence : from thence up the eastern bank of the said river to the Lake Ontario ; thence through the Lake Ontario, and the river commonly called Niagara ; and thence along by the eastern and south–eastern bank of Lake Erie, following the said bank, until the same shall be intersected by the northern boundary, granted by the Charter of Province of Pennsylvania, in case the same shall be so intersected, and from thence along the said northern and western boundaries of the said Province, until the said western boundary strike the Ohio ; But in case the said bank of the said lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north–western angle of the said Province of Pennsylvania, and thence, by a right line, to the said north–western angle of the said Province ; and thence along the western boundary of the said Province, until it strike the River Ohio ; and along the Bank of the said River, westward, to the banks of the Mississippi and northward to the southerly

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Sir John Simon.

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boundary of the territory granted to the merchants
adventurers of England, trading to Hudson's Bay."

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Sir John Simon.

The LORD CHANCELLOR : That means up the Mississippi.

Mr. MACMILLAN : I think up the Mississippi. It is called "
northward," but northward means generally a northward
direction.

Mr. Macmillan.

Sir JOHN SIMON : My friend will remember that was one of
the things discussed in the Ontario–Manitoba case. It came
up in the course of the discussion that it was really due to the
drafting of Mr. Edmund Burke that this arose.

Mr. MACMILLAN : Yes, he was responsible for the
boundaries, but it seems to me to have been taken there up
the river till it comes to what is called the southern boundary
of the Hudson's Bay territory.

Sir JOHN SIMON : I am not at all satisfied really it conics to
strike a line which is due east and west there in view of the
fact that the map itself shows just above the boundary of the
Hudson's Bay territory it traces that rather irregular line along
; it might be a question whether it struck the boundary of the
Hudson's Bay territory when it reached the height of land.

Mr. MACMILLAN : I was just inquiring, my Lord, it might
be important on that last topic whether that straight line as
distinguished from the height of land here was shown on the
original plate of 1855, or whether it was one of those lines
put on like many of the lines which were put on.

Sir John Simon.

Sir JOHN SIMON : There is no doubt it was on ; there cannot
be any question about it.

Lord WARRINGTON: The other one is not on it at all.

Sir JOHN SIMON : I am much obliged to my friend because I
see now the distinction may be important.

Mr. MACMILLAN : That red line marked as the southern
boundary I do not find on the map of 1855.

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The LORD CHANCELLOR : That is what I should have
thought.

Sir JOHN SIMON : You do find, on the other hand, on the
original, the bounds of Hudson's Bay, the wavy line, which I
ventured to describe as the height of land.

Mr. MACMILLAN : And you also find in the inset map the

straight line going right north-east to Grimington Bay.

Sir John Simon.

The LORD CHANCELLOR : On the original ?

Mr. MACMILLAN: On the original.
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The LORD CHANCELLOR : Is it printed on ?

Mr. MACMILLAN : It is in the original plate.

The Lord Chancellor.

The LORD CHANCELLOR : That is marked : “ Proposed Boundary.”

Mr. MACMILLAN : Proposed limits of Hudson's Bay.

Mr. Macmillan.

Sir JOHN SIMON : My friend will remember the historical origin of it, it is to be found in the Hudson's Bay documents, which I read to the Board last week in connection with the Treaty of Utrecht.

Mr. MACMILLAN : You referred also to two or three maps which showed the wavy line.

The LORD CHANCELLOR : I cannot see the relevance of it. It seems to me whatever was given to Newfoundland by the Commission and the Proclamation was taken away by the Act of 1774, and whatever was taken away by the Act of 1774 was restored by the Act of 1809.

Mr. MACMILLAN : May I humbly suggest the relevance of it is this. The new Province of Quebec is being constituted, this northern boundary is no longer the straight line from the head-waters of the River St. John to Lake St. John, its boundary northwards is now a thing called the Southern boundary of Hudson's Bay and also it includes all that Newfoundland had given to it in 1763. What happened was, as you see on the King's map, you see the old boundaries of Quebec, the 1763 boundary, still surviving in a shadowy form on that map. You see the line of it which was subsequently washed out after 1774, and the whole of the territory north then falls into Quebec. My submission is it does so under the boundary description of Quebec. My friend says : Not at all, you got that under the words : “ and also all that Newfoundland had.” That was the Act of 1774 and what is of the greatest importance in my opinion is the report upon which it proceeded, in which you have the whole policy of this matter declared in those words I have read. I think I am entitled to say this, that the insistence throughout these

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documents upon the rights of Newfoundland being derived from the Proclamation—because that occurs over and over again—is not without some intention ; The Proclamation is a document of higher importance than the Commission, and I should submit that it ought to be taken as the ruling document in this matter rather than the Commission, the Royal Proclamation is a document of higher authority than the Commission, and that if and in so far as you find any difference of phrasing in them, the Proclamation is the more authoritative undoubtedly, not only in Parliamentary language, but also in the language of the Lords of the Privy Council. This matter is referred for its inception to the Proclamation and not to the Commission.

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Viscount HALDANE : The Proclamation was the act of the Sovereign.

Lord Warrington.

Mr. MACMILLAN : Yes, although it is quite true, as I have been reminded more than once by my Lord Warrington, that the Commission is the constituent document, that is not how it is put either by Parliament or by the Lords of Trade. It is what was done by the Proclamation verbally ; of course, it is true that the Proclamation recites it as something which has been done but the authoritative contemporary documents derive the position of the Governor of Newfoundland from the Proclamation and insist in terms that the policy of the whole thing is care and inspection, words which are inappropriate to territorial administration.

Now, my Lords, one has got to the Act of 1774 it becomes necessary to pass on to the next stage, that next step is the Act of 1809, the Act of Restoration, and here we get again a certain amount of information from the preceding documents.

Lord WARRINGTON : May we go back for a moment to the Proclamation, Mr. Macmillan. It rather occurred to me that was merely a recital and the operative part was to be found in the Commission. I am not quite sure that is so.

Mr. MACMILLAN : I must respectfully say that I was attracted by the way your Lordship put it.

Lord WARRINGTON : I am not quite so sure that expression “ We have also thought fit with the advice of our Privy Council ” to put all that coast and so on, is not part of the Proclamation itself, because if you turn back to the Commission you will find the Commission is not issued by and with the advice of the Privy Council at all.

Mr. MACMILLAN : That is very striking if I may say so.

Lord WARRINGTON : The Commission is simply issued apparently on the authority of the King himself without resorting to the advice of the Privy Council. What he says is

that the Proclamation is with the advice of the Privy Council, the same language as is used with regard to the four new Provinces.

Mr. MACMILLAN : I was just following that up. That is most informative. There is no doubt Quebec derived from the Proclamation—

Lord WARRINGTON : There again that is a little difficult, they derive from the Letters Patent which are to be issued ; it says : “ and by these Presents Do revoke determine and make void the said Recited Letters Patent and every Clause Article” and so on. I suppose technically it was the Letters Patent which did it.

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Lord Warrington.

Mr. MACMILLAN : That would be the Executive instrument.

Lord WARRINGTON : Yes, it looks rather as if the Proclamation was intended to be operative so far as Newfoundland was concerned.

Mr. MACMILLAN : I am much obliged, I had read it, I confess, grammatically as language of narrative rather, that is why I made perhaps what was rather a concession on my part in the early part of my case.

Lord WARRINGTON : It may not make any difference.

Mr. MACMILLAN : Well, it does explain all this, and all those references I have been reading since from Statutes and other documents where it always puts it on the Proclamation as the effective instrument are probably right. If this be the effective instrument, then my Lords will, I respectfully think, go this length with me that if that is all that Newfoundland effectively got it sounds much less impressive than the language of the Commission and contrasts in the most marked way with what was done for Quebec.

Now as to the documents preceding the framing of the Statute of 1809, fortunately there is not very much upon that. I will ask reference to Volume III, page 1194. It began to appear before very long that this annexation business had been over done so far as Quebec were concerned, and that the Lords of Trade had been right when they said that what you ought to withdraw from the care and inspection of the Governor of Newfoundland is that part of the coast from the River St. John to Cape Phillipeaux instead of which Parliament were more generous to Quebec and just handed the whole thing back, then the kind of trouble which had been anticipated arose and at page 1194 you will find a letter from Governor Holloway of Newfoundland to Lord Castlereagh suggesting re-annexation to Newfoundland. There was a difficulty about the American fishing boats resorting to the coast and a difficulty about the want of jurisdiction in Newfoundland, and vessels could not be sent up to Quebec. The last paragraph of the letter is all I need at the moment read : “ The Coast of Labrador was formerly annexed to this Government, and, I understand by my Papers from the Admiralty was removed to Quebec on account of a few Grants to Individuals, which extended but to a small District, I therefore humbly beg leave to suggest to your Lordship the advantage which will arise to His Majesty's Government by annexing the Coast of Labrador to this Command as the most effectual mode of suppressing this Illicit Trade which otherwise will prove a great evil to the Trade of Great Britain.”

Now this illicit trade is the illicit trade carried on by the

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Americans who carry “ Great quantities of provisions as well as other contraband articles which they sell and barter to the British merchants.” There must have been some kind of bootlegging going on at this time, and it was thought it would be better to transfer the coast of Labrador to this command, the Newfoundland Command, as an effectual mode of suppressing this

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illicit trade by these ships that were infringing the customs regulations. That was the inception of the re-transfer.

Lord WARRINGTON: I see it was said the offence which was committed on the coast of Labrador was committed without the jurisdiction of the Government of Newfoundland.

Mr. MACMILLAN : Yes, that was the difficulty, Quebec was too far to go.

Lord WARRINGTON : They took an American vessel and they could not deal with it.

Mr. MACMILLAN : That was the trouble as I have already suggested. There are one or two other letters about it. Page 1198 refers to this same matter. It is a letter from Governor Holloway to Cottrell enclosing papers re seizure of American schooner “ Malinda,” and at line 20 it says : “ I therefore have to solicit their Lordships that the whole of these Papers may be laid before Sir William Scott, that he may see the hardship of the case, and decide thereon accordingly, in order that the Captors might be exonerated from any consequences that might be incurred by this unavoidable delay.” Now the trouble is the disposal of this vessel detected in carrying on an illicit trade. Then I do not think it is necessary to delay further, there is very little other material. The result was the Act of 1809.

Now one turns to it next at page 190. This of course as I started with saying is the beginning of the title of Newfoundland's present rights. One has merely been retracing matters back to the references ; now we come to the starting point in 1809, and not much is to be got out of this because after a recital it simply says it is expedient that the said coast of Labrador and the adjacent islands should be re-annexed to the Government of Newfoundland. We are all agreed it is the same subject-matter as we started from which is being handled here and being handed back : “ For re-annexing Part of the Coast of Labrador and the Islands lying on the said coast to the Government of Newfoundland.” Would my Lords look over the page at what is interesting as a matter of jurisdiction, section 15 of the Act of 1809 enacts : “ And be it further enacted, That it shall be lawful for the said Supreme Court of Judicature of the Island of Newfoundland to hold Plea of all Crimes and Misdemeanors committed, and of all suits and complaints of a civil nature arising within

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such parts of the Coast of Labrador from the River Saint John to Hudson's Streights and the said Island of Anticosti, and all other smaller Islands so re-annexed to the Governor of Newfoundland or on the Islands, Seas and Harbours, to which ships and vessels repair from the Parts of the Coasts of Labrador and the Island and Islands so re-annexed to the Government of Newfoundland for carrying on the Fishery, in the same manner as the said Supreme Court holds plea of crimes and misdemeanors committed." Again you have the same

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but a shorter recital of the purpose for which this whole thing was being handled, and it talks of the ships and vessels repairing from the parts of the Coast of Labrador, and the Islands so re-annexed to the Government of Newfoundland for carrying on the Fishery. The whole atmosphere of it again is preserved, the atmosphere of a Fishery, and fishery purposes. Then, my Lords, I may go now to the last statute which we have to consider, namely, the Act of 1825. The Act of 1825 has now to be considered and it is in the Red Volume at page 205, at page 211.

Sir JOHN SIMON : Pages 210 and 211, I think.

Mr. MACMILLAN : Pages 210 and 211. First of all, I am going to go through some of the preliminary documents. Would your Lordships first look at page 1218 in Volume III ? This is a Memorandum submitted by James Irvine of Quebec on the 1st February 1821, and he discusses the position which had arisen from the Act of 1809. He is a Quebec person, and he is disturbed by the results of what has happened by the re-annexation of the coast of Labrador to Newfoundland, and at page 1221, after setting out his reasons, he says, " For the reasons herein set forth, and others that might possibly be urged, it is hoped that the said Act, in so far as relates to the Coast and Islands in question may be repealed, and the said Territories re-annexed to the Province of Lower Canada, to which they appear naturally, and of right, to belong." This is the proposal to reverse what had been done in 1809. My Lords, there is just a small sidelight on page 1220, the small print matter is an embargo which was put on by a Proclamation in 1813, and it is rather interesting that that embargo excepts from its operation certain vessels. Reading from the small print on page 1220, " And we do hereby strictly prohibit and forbid the sailing or departure of any ship or ships, vessel or vessels, having on board any of the before-mentioned articles, from any port or place aforesaid, in and within our said Province of Lower Canada, to any such place, Country, Kingdom, Dominion or Territory aforesaid, save and except such vessels having on board so much of the before-recited articles, as may be necessary only for the supply of those parts of the Coast of Labrador, which

are occupied as Trading Posts and Fisheries and have recently been annexed to our Government of Newfoundland” ; you have a very good indication there of what were the things that had been recently annexed to our Government of Newfoundland—“ parts of the Coast of Labrador, which are occupied as trading posts and Fisheries” ;—“ and also in like manner necessary for the supply of the settlements of our Island of Anticosti ; in the Gulph of St. Lawrence” ; and if I may go back, just for a moment, to that critical paragraph, which my Lord Warrington was looking at a moment ago, in the Proclamation, and just read that up with this, there, on page 154, it is also “ to put all that coast,” and “ that coast,” is that coast which had been put under the care and inspection of the Government of Newfoundland, and is that coast upon which an open and free fishery may be carried on ; and therefore, the thing which is

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being handled is a coast on which a fishery may be carried on. It is merely here and there you find it emphasized. This gentleman (who I see writes from Edinburgh, but was a Canadian merchant) asks for the repeal of they Act of 1809, complaining that the jurisdiction of Newfoundland was operating to his detriment. At page 1223, Lord Dalhousie submits to Lord Bathurst, on the 10th March 1824, a despatch in these terms, “ I have the honour to transmit to Your Lordship, copy of an address presented to me by the Legislative Council of this Province setting forth the evils and inconveniences that have arisen from the Separation of a Portion of the Coast of Labrador and the adjacent Islands from Lower Canada of which they once formed a part, and praying that the same may be re-annexed to this Province ; And as I am myself convinced that this representation is well-founded in every respect, I beg leave to give it my strongest recommendation and support” ; and then follows the address of the Legislative Council of Lower Canada to Lord Dalhousie, which I shall not read, complaining of the result of this re-annexation which had taken place. Then on page 1226 there is a letter from Mr. Cochran to Lord Dalhousie on the 25th March 1825, “ My Lord, I had yesterday the honour of receiving your Lordship's letter of the 21st I am obliged now to trouble you with a matter which 'though of very little importance in itself requires your Lordship's decision. It relates to the application made by the Legislative Council, by an address in the Session of 1824, for the re-annexation of the whole coast of Labrador, up to Hudson's Straights, to the Province of Lower Canada. I have drawn up a statement of the pretensions advanced on the part of Lower Canada and of Newfoundland, which I enclose. The question is whether the claims of the former should not be cut down, and confined to that part of the coast lying West of Bay Forteau—Isle au bois, or Ance à Sablon, inclusive.” I may just pause a moment there, because I will not go back to

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it, on the point of whether Woody Island is included or not, you see there, my Lords, where the word “ inclusive ” came from, “ Isle au bois or Ance à Sablon inclusive,” the word which troubled my learned friend Mr. Barrington-Ward when he was addressing your Lordship on that small point in the ease, “ Isle au bois, or Ance à Sablon, inclusive (it is no matter which boundary is taken) so as to comprehend the last Canadian Fishing post of any importance on that Shore, and to leave to Newfoundland its most Westerly fishing establishments.” What strange language to use if you are dealing with large territorial claims ! This is a matter of relatively small importance, as he said, but there are claims before us, and I suggest that you just cut this bit of the coast in two, and see that you do it in such a way as to give to Canada the last fishing post of any importance on that shore and leave to Newfoundland—what ? : “ Its most Westerly fishing establishments.” Therefore, we are dealing with fishery establishments, and all this trouble had arisen about conflicting jurisdiction among fishing men and fishing establishments, and this is saying : but the thing so as to leave on one side the fishing stations, which properly belong to Newfoundland, which ought to

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be under the Governor of Newfoundland, and the stations to the West or the Quebec fishing stations, leave to Quebec. There is the foundation of the whole matter as to how it is to be done : you must see that you comprehend the last Canadian fishing post by the point selected to the Eastward, and the most Westerly establishment of Newfoundland is to be left to Newfoundland, and there you get your point. Then the next passage is at page 1231, on the question of the re-annexing of the coast of Labrador. This is from Newfoundland on the 20th May 1825, to the Under-Secretary of State for the Colonial Department : “ Sir, in the absence of His Excellency the Governor, I beg to transmit to your care a Memorial from the Chamber of Commerce to the Right Hble Earl Bathurst relative to the re-annexing the coast of Labrador to the Government of Canada—a subject, which is considered so intimately connected with the welfare of the Trade and Fisheries prosecuted by many of the Inhabitants of the Island that I flatter myself it will obtain His Lordship's consideration, and be a sufficient apology for the trouble I again give to you.” Of course, the Newfoundland point of view was the opposite side. Then comes what is more important for our purpose, the Memorandum by the Colonial Under-Secretary on the proposed Bill, on page 1234. The writer first deals with the question of the feudal position in Canada, and we need not pause over that ; then there is a question as to the form of land tenure in the second article, and then this is the third topic at page 1235: “ Certain parts of the Coast of Labrador, were settled by French Canadians, & the Lands are held upon French tenures.—It is therefore

highly convenient that this part of the Labrador Coast should be annexed to the Government of Canada, But the Act of 1747”“that should be 1809—“ annexes the whole of this Coast to Newfoundland. Therefore, without the assistance of Parliament, it is impossible to carry this object into execution.—The Bill therefore provides, that the Coast shall be divided at a point which the Governors of the respective Colonies have fixed upon.—The point of division is the point at which the Canadian Settlements end.” Now my Lords, that is where you get the Ance Sablon point. It was assumed, although as we have since found not entirely accurately, to be the Eastern terminus of the Canadian fishing stations, and all beyond it were Newfoundland fishing stations. I think subsequent investigation has found that was not entirely so, but that was the endeavour of the Legislature at that time : to get the point on the shore where, at one side. you had Canadian fishing stations, and on the other side Newfoundland fishing stations, and thus end this unhappy controversy which had arisen in consequence of the application now of Newfoundland and now of Canadian Legislation to persons who did not appreciate that administration. It was following upon that that there was passed the Act of 1825, and it is Section 9 which is of importance for the present purpose, at page 210 of the red volume. After recitals, the Statute proceeds at line 42, “ and it is expedient that certain parts of the said Coast of Labrador should be re–annexed to and form part of the Province of Lower Canada : be it therefore enacted, that so much of the said

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Coast as lies to the Westward of line to be drawn due North and South from the Bay or Harbour of Ance Sablon inclusive, as far as the fifty-second degree of North latitude, with the Island of Anticosti, and all other Islands adjacent to such part as last aforesaid of the Coast of Labrador, shall be and the same are hereby re-annexed to and made a part of the said Province of Lower Canada, and shall henceforward be subject to the laws of the said Province, and to none other.” That is at the foot of page 210 and the top of page 211. Now, my Lords, again it is agreed that we are dealing with the same subject matter throughout. What is now being dealt with is what was being dealt with in 1763, and what is being parcelled out here is a part of the same coast, whatever that may mean ; and much stress was laid by my learned friend upon the method in which the line of demarcation is drawn between Canada and Newfoundland. He points to the fact that the line of demarcation is according to the Statute, a line to be drawn due North and South from the Bay or Harbour of Ance Sablon as far as the fifty-second degree of latitude. My Lords, he has, I venture to say, extracted from that much more than it contains. Of course, this has, in my submission, nothing to do with the question of height of land at all. My learned friend sought in one part of his case to suggest that the origin of the fifty-second degree of latitude was in some way associated with height of land. I will have to deal with that a little later, but I wish to keep close to my text for the moment. Where he sought support from this enactment was in the use of the fifty-second latitude, and that the line that was to be drawn from the coast was to be to that latitude; and then, in an admirable figure of speech, he said : It is an odd way to clip a strip, which is only a mile long, to do so by shears which are 10 leagues long ; and in that dramatic form he puts before your Lordships a point with which I have to deal. At the best, it would only take him this length : that, in the conception of those who were framing this Statute, the Coast at that point was forty miles deep inland—at that point. That would not carry him anywhere near his height of land. That would not carry him to his height of land, my Lord, but the suggestion is taken from it : Well, we cannot be legislating about a mere mile, a mere selvedge, if we have, in order to divide a portion of it, to draw a line which is no fewer than 40 miles across, and you are drawing a ridiculous line—indeed my learned friend called any contrary suggestion nonsensical, and several other epithets. My Lords, is it really so ? There is undoubtedly some small territory involved. If your Lordships were confronted with the task of drawing a line upon a coast for the purpose of dividing two rival interests on the coasts—my Lords, will for the moment forgive me using that language ; I am putting my case for the moment—if you were designing to separate off two compartments of coast and to see that on the one side of that

line of demarcation, you had the Newfoundland fishermen, and on the other side of that line of demarcation the Canadian fishermen, and both of them were seated on the shore to this extent, that both of them used the shore, you would necessarily have not merely to state the point of division as a point

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upon the coast, but you would also need to give an indication of the direction of the line which was to divide these two strips, however broad they were. Never mind how broad they are for the moment, if you were going to divide two coastal areas, you would have to indicate the direction which the line is to take, because a point, again, has only position, but no magnitude ; and the Colonial Governors had said the thing to do is to find the point ; not a word about any depth at all. The point was found by agreement at Ance Sablon ; then the draughtsman, because there is not a word to be found in any of the previous documents at all, that there is any proposal to widen or alter the boundaries of the coast, or to define them—in one view this might be taken against my learned friend as defining “ coast ” as only to the fifty-second degree of latitude inland—in that aspect of it it is against him—that “ coast ” cannot be away up into the interior, because it is only to the fifty-second degree of latitude, which I shall show shortly does not correspond with any height of land at all—but my explanation to your Lordships is this, that the draughtsman said : We are dealing not with a mere mathematical point, we are dealing with interests upon the shore, it is necessary to let fall a perpendicular to get a boundary, or else who is to say a yard inshore on which side of the territory you are ? You are dealing here with a strip along the coast, but you must let fall a perpendicular in order that you may get a line. Then I ask myself this question : why stop at the fifty-second degree of latitude unless that had some special significance ? My Lords, if it had simply said a line due North and South here what would have happened would have been this very remarkable thing, that if you drew a line North and South of Ance Sablon you would throw a very large part of the Coast of Labrador into Canada. You draw the line to the first degree of latitude which is encountered, and looking at the map at the time, you can see exactly how it came about ; it is the first degree of latitude North of this point, you drop your perpendicular (this is my nonsensical suggestion) from the point which the Colonial Secretary said was to be adjusted between these two people in order that you may get your line of partition between what is the fishing station of Newfoundland on the one side and what is the fishing station of Canada on the other, but it might have been said : Do that simply by drawing a line North and South and that will be all right ; instead of doing that they dropped the perpendicular on the fifty-second latitude and it ends there, because if you draw it further it would throw a large part of this Coast into Canada.

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Viscount HALDANE : Why did they go so far ?

Mr. MACMILLAN : It was the first degree of latitude on the maps of the day—the most natural thing to do.

Mr. Macmillan.

Sir JOHN SIMON : Which map ?

Mr. MACMILLAN : If you look at that map which is displayed there.

Lord Sumner.

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Sir JOHN SIMON : I quite agree.

Lord SUMNER : You say the first parallel of latitude ?

Mr. MACMILLAN : Shown on the map.

Lord SUMNER : Not in the inset, or shown in the margin.

Mr. MACMILLAN: It was the first to the North.

Lord SUMNER : It may be the first that was drawn here ; in the margin they are all shown.

Mr. Macmillan.

Mr. MACMILLAN : I suggest to your Lordship that what he had before him was a map—I do not know whether that one shows it very well or not—

Lord SUMNER : Yes, it is the next degree drawn across, but the others are shown in the margin.

He is going to say now that we can deal wholly with mathematics. The point on the shore is fixed. Then you have got to make your line of partition, and drop your perpendicular from the first degree of latitude which you encounter. As I say, it is a point which, if a point can be double-edged, is rather a double-edged point, because if this was intended to shear off two section of coast, then here we have the long-sought definition of “ the coast ” : it is 40 miles inland from the shore.

Lord WARRINGTON : Just there it is, but at the other end it is a great deal more.

Mr. MACMILLAN : Yes, my Lord ; and therefore you really get very little assistance from this at all as to what is really meant by “ the coast.” Apparently all that is interior means “ coast,” according to the view of my learned friend.

Lord WARRINGTON : But it certainly assumes that a big pink strip here was annexed to Newfoundland in 1809.

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Lord Warrington.

Mr. MACMILLAN : With submission, my Lord, may I suggest another view ? The other view is this, that what was

annexed to Newfoundland in 1809 was the coast there, and in so far as it was not coast it already belonged to Quebec, who had got it in 1774.

The LORD CHANCELLOR : Then how would it be “ re-annexed ” ?

Mr. Macmillan.

Mr. MACMILLAN : What was re-annexed was again coast only, my Lord.

Lord WARRINGTON : Then, how do you say that the pink ought

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to be delineated ? Do you say that you should not go along the fifty-second parallel at all ?

Lord Warrington.

Mr. MACMILLAN : Certainly not, my Lords. Along the coast.

The LORD CHANCELLOR : Then you would go 40 miles along the coast.

Mr. MACMILLAN : Not necessarily that distance at all. I suggest to your Lordships that the line of the first degree of latitude is not a measurement of depth at all, but it is merely a standard of division. It is the coast to the east and west of a line so drawn. In order to get your line, you must get a direction for the line, but “ the coast east and west ” does not necessarily mean that it is far on top of the line. You set up your standard, and you say “ all that is to the east and west.” You see an interesting example of that sort of conception in Map No. 27, which your Lordships have open there.

Mr. Macmillan.

Lord WARRINGTON : I still do not understand why, if you only wanted to get a point on the coast, you did not say “ Anse Sablon ” at once. Why draw a line ?

Mr. MACMILLAN : I have suggested a reason, which may not be a good one, of course.

The LORD CHANCELLOR : Why not say “ a line north and south,” and stop there ?

Mr. MACMILLAN : You have got a point on the coast. You are dealing here with rights which are not merely maritime, because I have conceded that there are certain rights on the shore. You are desirous of dividing the coast. Having got your point on the coast, how are you going to say, inland, whether you cut the selvedge that way, or cut the sevedge straight, or cut it this way ?

The LORD CHANCELLOR : I could understand their saying

“ a line drawn due north and south.”

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Mr. MACMILLAN : Yes, my Lord.

Mr. Macmillan.

The LORD CHANCELLOR : But I am puzzled by the later words referring to the 52nd degree.

Mr. MACMILLAN : May I take it in this way : I do not assume, for the moment, that your Lordships have thought that that was the right decision, but I have been taking your Lordship on that point for the moment, and taking it that your Lordship says you could conceive of a person who was desirous of dividing the coast line, doing it by

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Lord Sumner.

drawing a line north and south. But that would not mean all the coast up to the north pole, plainly ; it would merely mean that you would set up that line as your dividing line.

Then you say “ Why pause at the 52nd degree of latitude ? Why not say ‘ north and south ’ ? ” Let us take a line due north and south from Anse Sablon : Do your Lordships see what it would do ? If you said : “ All the coast of Labrador west of a line drawn due north and south from Anse Sablon, it would have put the whole of that coast of Labrador there (indicating on the map) into Canada. That would have been the result of saying : “ All the coast to the west or east respectively of that line.”

Mr. Macmillan.

Lord SUMNER : But if “ the coast ” means a one-mile strip, or a strip of any other distance you like, say half a mile, then by saying, “ so much of the coast as lies to the westward of that line,” you have defined what is transferred, whether your line is 100 yards or ten miles, or ten thousand miles ; because you are saying : “ I give the coast that way to one, and that way to the other, and this is nothing but a strip.” A post would have done quite as well, or two posts, each a mile from the other. But when it puts in “ as far as the 52nd degree of north latitude,” it is a purely vicious and superfluous addition if it merely means to mark a point in a line of coast the width of which is already fixed by the consideration of what “ the coast ” is meant to include.

Mr. MACMILLAN : May I suggest this ? I am fully sensible of the point, of course.

Lord Sumner.

Lord SUMNER: Yes.

Mr. Macmillan.

Mr. MACMILLAN : May I suggest that at this time no one knew, any more than we know in this room, where this line was to be. That will not be known until your Lordships have decided this case. At that time what was known was that Newfoundland had interests on the coast. Nobody knew what was the extent of those interests, and nobody could partition them. You could not have put up a post at the interior point,

because no one knew where it was. Their method of dividing the coastal interests was to let fall a perpendicular on the nearest latitude, and say that that would make clear where the dividing line was.

Lord SUMMNER : I could understand that if somebody had given instructions by shewing a map and saying : “ Do you see Anse Sablon ? ”—“ Yes.”—“ Well then, where do you run up to ? ”—“ The 52nd parallel.”—“ Very well ; then I will describe this line as marked in pencil on the map.” If they were doing that, I could follow it.

Mr. MACMILLAN : Very possibly your Lordship has reconstructed the situation. One naturally has puzzled very much to find out why this thing has appeared here for the first time, because it is the first time it appears in the history of this matter. Its inception is completely wrapped in mystery.

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Lord SUMNER : He evidently had that letter, because he slavishly copied the wording of it when he was doing it.

Mr. MACMILLAN : That was the whole origin of the thing. The Legislature has done it, and it is one of the most puzzling things in the case. Its origin none of us can get at. My learned friend has an ingenious theory, which I shall have to deal with in a moment ; it is one which is well worthy of consideration, of course, as all his submissions are, but for the moment the position is very peculiar. No one has ventured, up to this point, to say what is the depth of the coast. No one has ventured to say that. We have always been dealing with terminii on the coast, hitherto. Now, here is a draughtsman who has fitted himself out with shears of this length for the purpose of dividing this coast, and my learned friend Sir John Simon's suggestion is : “ Here at least is a person who knows how deep a coast is.”

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Mr. Macmillan.

The Lord Chancellor.

Mr. Macmillan.

The LORD CHANCELLOR : I do not think he says that. I think he says : “ Here is a person who knows how deep is the coast which is to be re-annexed to Quebec.”

Sir JOHN SIMON: Yes ; that is what I said.

The LORD CHANCELLOR : And he draws an inference.

Sir JOHN SIMON : Look at Mitchell's Map and you will see it.

Mr. MACMILLAN : How deep is the portion of the coast that is to be re-annexed ? It is a portion of the same thing that we are dealing with throughout. It is always a certain “ X ” ; a thing known as “ the coast.” Its depth is unknown to us just now, but we are dealing with the same thing throughout. I rather thought that it came to this, that in parcelling out this thing, whatever it be, or this coast, whatever be its depth, between us, it was necessary to take a pair of scissors with a 40-mile blade, because otherwise you would not completely sever this coast at this point. That was how I conceived it.

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The Lord Chancellor.

Viscount FINLAY : Is it necessary that the coast should be of a uniform width ?

Mr. MACMILLAN : No, my Lord, probably not.

Viscount FINLAY : I thought, from something that you said, that you implied that it should be so.

Mr. MACMILLAN : At this point, apparently, “ the coast ” which these people were sharing between themselves, if the line is of any real significance, is 40 miles deep. I think I am

entitled to say that.

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The LORD CHANCELLOR : I do not understand it. You may be entitled to say so, but I do not understand it. I only understand that they are going to re-annex to Quebec a part of the coast of Labrador which is bounded on the east by this 40-mile line.

Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord.

The LORD CHANCELLOR : That is how it is treated in all the maps.

Mr. MACMILLAN: They are going to re-annex a portion of the coast.

The LORD CHANCELLOR : But it does not follow that that is the full depth of the coast.

Mr. MACMILLAN : With great respect, my Lord—

The LORD CHANCELLOR: It may be much deeper, and yet they may only re-annex 40 miles of it.

Mr. MACMILLAN : May I suggest to your Lordship that that runs counter to what both of us are accepting here, namely, that the subject of annexation, re-annexation, and re-reannexation is, throughout, the same subject matter.

The LORD CHANCELLOR : Indeed it is not. I am assuming that.

Mr. MACMILLAN: If it be the same subject matter that I am getting back a bit of what I had to give away. It is not a bit of a bit of a bit of the thing itself that I gave away that I am getting. It is a bit of the same thing as I gave away.

The LORD CHANCELLOR : A piece of it, certainly.

Mr. MACMILLAN : And as we are agreed that it is the same thing, that may be like this pointer that I hold in my hand, a bit being taken away and then given back again. Then it, is said : “ We know how thick it is, because we can see that the bit that you are going to get back is 40 miles thick, and that gives us an index of the thing that we have been handling all along, the depth of which we did not know.”

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Mr. Macmillan.

The LORD CHANCELLOR : I think what Sir John Simon says is that it is at least 40 miles thick.

Mr. MACMILLAN : If it is that thickness, then I did not get back all that Newfoundland got from me, because then we are departing from what has been the keynote of our debate

hitherto, that it is one and the

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same thing. whatever it be that is being bandied backward and forward between us.

Now, your Lordship said that it was conceivable that you could say : “ All that lies to the east and west of a meridian,” or as it would be in this case, “ upon the east and west of a particular line drawn.” My suggestion to your Lordships is that if you had not stopped at the first latitude, and dropped a perpendicular on that, but had simply said : “ All the coast of Labrador east and west of a line drawn north and south of Ance Sablon,” that line would have come very much where my pointer now stands on the map, and it would have thrown into Canada the whole of the coast down to here—(Indicating), all of which is west of a line drawn north and south from Ance Sablon. No explanation has been offered for the selection of that latitude except one, for which, so far as I can find, there is no basis except conjecture.

Just let me examine it for a moment. Your Lordships will recall that my learned friend does not complete his case by establishing the Hudson's Bay watershed on the north ; he has to get a watershed on the south also, in order to complete his line. Now, if one looks at his map, there are two watersheds involved. There is first of all his watershed down through Labrador, and for that he invokes Hudson's Bay. But he has also to get another watershed which is not the Hudson's Bay watershed at all. Perhaps it has not been made sufficiently plain hitherto, that in order to get his triangle, as I may roughly call it, he parts company with Hudson's Bay somewhere down about here in the elbow—(Indicating) : and then he has got to switch himself on to someone else. He cannot here invoke the Hudson's Bay height of land. he has got to get somebody else to guide him along this part. It is a very curious position of matters, as it is now exemplified in the claim. The blue line drawn along this latitude unhappily does not coincide, even on his own map, with the height of land. Your Lordships see this large bulge here in both of these places (indicating), in which my learned friend proposes, if you please, to absorb into Newfoundland a considerable part of the territory which actually drains into the St. Lawrence through Quebec land. So far from the 52nd degree of latitude, this line along here, being a watershed line, it is a purely arbitrary line drawn along there, and it is not related to the watershed at all.

Will your Lordships just take, along with that, Map No. 27, Gibson and Bowen, to which my learned friend referred. There you get a very interesting sidelight upon this matter. That map shows that, so far from the northern boundary of Quebec having been fixed in relation to the height of land, it was not fixed in relation to that at all. For my own purposes I have hatched in a portion in Gibson's map between the pink (which was to be the Quebec boundary) and the height of

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Mr. Macmillan.

land. Now this map your Lordships see “Lands height.” That is just to the north of the new Quebec, the pink Quebec.

Viscount FINLAY : Is it that slanting line ?

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Mr. MACMILLAN : You Lordship sees first of all the pink line, the irregular pink line of the proposed boundary for Quebec. Does your Lordship see this line here ? (indicating)

The LORD CHANCELLOR : Yes.

Mr. MACMILLAN : Then does your Lordship see a line here, away up to the north, as much again away from the St. Lawrence, marked “Lands Height” ?

The LORD CHANCELLOR : Yes.

Mr. MACMILLAN : That is the lands height mark shown on the map. So far from the northern boundary of Quebec having been proposed on the basis of that height of land, it is shown that it is only taking about half of what is marked as the height of land into Quebec. Then on the southern margin of the proposed Quebec, where you have the spine in the Gaspé Peninsula, my learned friend said that you have got there an example of how to do it. You take the height of land, and then you get what is the right way of setting about the task. But, unfortunately, when you go up into Quebec and see the proposed boundary, instead of having any relation to the height of land at all, it is miles away from the height of land. What was actually done was not to take the boundary as you see it, because that is a wavy line. I have drawn on my own map (and your Lordships can do the same thing, so as to see what I mean) the real boundary from the head waters of the St. John down to Lake St. John. I have drawn that line, and if your Lordships would just for one moment glance at my copy of the map, that is the line that I have drawn. Therefore, that line as it was ultimately arranged, was not intended to be coincident with the height of land at all, and it was not related to the height of land.

No, my Lords, my learned friend's effort has been this, he has said : “Why the 52nd degree ?” and like myself, if I may venture to say so he has probably been puzzled by the selection of that line. It is puzzling. Why the 52nd degree ? And his search for an explanation is all linked up with this question of the height of land, and it is very ingenious. He says first of all : “In those days they did not really know what the source of the St. John was, and they assume another river, the Romaine which runs into the St. Lawrence, not far from the St. John River, to be, in its upper waters, the

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Mr. Macmillan.

continuation of the River St. John. The St. John, of course, in reality falls short in its head waters of the 52nd degree of latitude; but if you pray in aid the head waters of the River Romaine, then you will find that you have got up into the region of the 52nd degree." He cannot say that it is the actual 52nd degree. Then the suggestion goes on to say that that corner of the lozenge was really intended to be at the 52nd degree, and then he says : " Now I get the explanation, because, if I draw the line from the 52nd degree right along, then I come opposite to Ance Sablon and draw down a

Sir John Simon.

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perpendicular there, and then I shall get a satisfactory explanation of the line." But it is a line which is associated, as he would have it, as far as I can understand it, at any rate, with the height of land.

Sir JOHN SIMON : If I may interrupt for a moment—

Mr. MACMILLAN: I shall be very glad indeed to be helped about this. I am not sure that I really follow it.

Mr. Macmillan.

Sir JOHN SIMON : If I may say so, it is not, as my learned friend says, my ingenuity. As a matter of fact, it is to be seen on the face of the documents. If you look at Mitchell's Map, the one that is now put up, you see the wash which indicates the outline of the lozenge, and you will see that the apex of the lozenge is approximately on the 52nd parallel. Then, if you carry your eye along the 52nd parallel to the east, you will find that you are approximately running along what appears to be the source of the water. That is all it is. It is not my invention, but it is all there on Mitchell's Map.

Lord Warrington.

Mr. MACMILLAN : I thought your intervention was to assist me, Sir John. I have heard your argument, and I have no doubt their Lordships have retained it.

Sir JOHN SIMON : My point was that it really is the Mitchell Map.

Mr. MACMILLAN : In point of fact, there is not a single map which shows the headwaters of the St. John, as then known on the 52nd degree.

Mr. Macmillan.

Lord WARRINGTON : Is there any map or document which fixes that angle of the grey on the sketch map ? The angle purports to be actually on the 52nd parallel. If it is on the 52nd parallel one can understand why they ran the boundary of what is called the land to the west, or the coast if you like, the coast to the west of that line, along the 52nd parallel, because it would bring it in accurate connection with the eastern boundary of the then existing Province of Quebec.

Mr. MACMILLAN : My answer to it is, I hope, complete. In

the first place, the headwaters of the River St. John are not on the 52nd degree. This map, of course, is conveniently drawn to suggest that they are. You get lost in a broad belt of blue there. I have had these maps most freely examined, and your Lordship may remember at the very start of the case my Lord Sunnier, I think it was, drew Sir John Simon's attention to the fact that the upper waters of the St. John do not coincide on the 52nd. I have gone through map after map for the purpose of seeing how this looks. First of all, let us take this very map. Before look at the map would your Lordship allow me to say one further word of caution : it is nothing to the purpose for my learned friend to say that the geographers of those days were mistaken as to where the St. John was, or that they selected the St. John

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Mr. Macmillan.

headwaters as they knew them. It is quite true that the present St. John waters are not nearly up to the 52nd, but the headwaters of another river, the Romain, are up to the 52nd and a great deal beyond it ; whereas the St. John is not up to the 52nd degree of latitude. If you add together a bit of the Romain to a bit of the St. John it is true you will get the 52nd. That would be delightful for my learned friend's point if it would only stop there, but this unfortunate river on the map (and it was the map that they were considering) will not obey logic, and it will persist in coming from a place a great deal beyond the 52nd degree of latitude. My learned friend said that all the maps bear it out. Shall we just look at one or two of the maps, and see ? It is on the map that is exhibited there. If my Lord Warrington would look for a moment at the top apex of Quebec, which my learned friend said several times shows it on the map, you will see that that wash in Quebec is shown, even on that map itself, extending to what, on the scale, is miles beyond the 52nd degree of latitude. (Their Lordships examined and discussed the Map.)

Lord SUMNER : I think if you look at the inset it is not quite so clear.

Mr. MACMILLAN: It is a little difficult to judge from the inset and you do not get the advantage of the wash, as you do here. If your Lordship looks at the wash on that map, it is carried right up beyond the 52nd degree.

Lord WARRINGTON: I forget where it is you get the upper waters of the St. John as fixing the apex of that.

Mr. MACMILLAN : In the 1763 proclamation it is : “ Hence from the headwaters of the River St. John to the Lake St. John.”

Sir JOHN SIMON : I do not want to interrupt my learned friend in his argument, but may I say this while your Lordships are looking at the map. If you take the inset you will observe that the inset itself has the indications of the parallels of latitude quite precisely ; not only is there the 50th and the 55th, but you can pick out at once the 52nd. If you draw a line across joining 52 on either side, you will see how very closely it comes to what is there depicted as the headwaters.

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Mr. Macmillan.

Lord SUMNER : 52 is about there. You mean joining the two there ?

Mr. MACMILLAN : If you take a small enough scale you can make them coincide. You can make Great Britain and America look only an inch apart from one another, if you

make the scale small enough. If you get the big map on which the persons concerned with this matter have actually drawn in the limits of Quebec, you will see there the shadow of the former Quebec on the map, and you will see it running up diagonally past the 52nd degree of latitude, because the River St. John is shown on that map beyond the 52nd.

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Lord SUMNER : It runs up on the map as far as the river runs.

Mr. MACMILLAN : The point is that it is beyond the 52nd degree. As far as I can find, there is no suggestion anywhere that the 52nd degree of latitude had anything whatever to do with the northern boundary of the Province of Quebec as established in 1763. I know it is a point that my learned friend is most anxious to establish, because I gather from his interest in the subject that he regarded it as vitally important. If you take the maps one after the other (and we have been through, I think, all of them) you will not find that the headwaters of of the River St. John, as depicted on those maps, bear out my learned friend's contention in any way, that the headwaters are the 52nd degree.

Viscount HALDANE : Is there any document that suggests why the 52nd parallel was suggested ?

Mr. MACMILLAN : I do not quite appreciate.

Viscount HALDANE : Is there any document which throws any light upon why they came to the 52nd ?

Lord Warrington.

Mr. MACMILLAN : I can point to none. If there had been any, I am sure the researches of one side or the other would have found it. My learned friend has not found any, and I have found none, and therefore we are each groping for a reason. My learned friend's reason is that that the old Quebec boundary was at the headwaters of the St. John ; the headwaters of the St. John are the 52nd latitude, and therefore if you draw a line along, look how well the whole thing fits in.

Viscount HALDANE : It was not so.

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Mr. Macmillan.

Lord Warrington.

Mr. MACMILLAN : It was not so in fact on any map shown at that time, and by 1825, my Lord, the old boundary of Quebec had long disappeared off the map, because that boundary washed in there up to the headwaters of the St. John had ceased to be the northern boundary of Quebec in 1774. I think that is right, my Lord. Therefore this idea that in 1825 it was desirable to select a latitude which would bring you to a certain point of contact with the imagined position of the upper waters of the River St. John, which was a terminus of a now obliterated boundary, seems, with great respect, to

be a little far-fetched.

Mr. Macmillan. Lord WARRINGTON : Taking the maps as we assume they knew them, and assuming that the River St. John shown on those maps was intended to be, so far as it extended, the eastern boundary of the old Quebec, then it extended, according to those maps, up to at all events the 52nd parallel.
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Lord Warrington. Mr. MACMILLAN : Not in every case even up to it. The curious thing is that they showed such a diversity ; some fall short of it, and some overshoot it.

Mr. Macmillan. Lord WARRINGTON : Taking it that it extended up to the 52nd parallel, they want to re-annex to Quebec the bit of land which is assumed to be referred to in the Act of 1825, and if they take that 40 miles up to the 52nd parallel, they do not say what the northern boundary is to be—they do not say that at all—but they simply say the coast west of that. They do not say what the western boundary of it is to be, obviously for the reason that when you get far enough you come against the boundary of Quebec. Is it not natural to suppose that what they really meant is what is delineated in the sketch map there as the boundary ?

Viscount Haldane.

Mr. Macmillan.

Mr. MACMILLAN : That is the attractiveness of argument put against me. It is that that I am endeavouring to show is founded on a series of fallacies.

Lord Warrington. Lord WARRINGTON: What do you say they did—take a line from the top where the northern line hits the 52nd parallel and measure 40 miles all along the coast ?

Mr. Macmillan. Mr. MACMILLAN : No, my Lord. My conception of the matter is that all along they were dealing with a strip of coast, and that is what they dealt with there, a strip of coast.

Viscount HALDANE : You are dealing with coast and nothing but coast, and according to you they took a line to bisect it, and it was the coast and the coast alone ?

Mr. MACMILLAN: It was not a line north and south. If you did that you would get it drawn too far. It was a perpendicular line. There is no light to be thrown upon this mystery by any document. If you could only get something from them it might be helpful.

2 Nov., 1926. Lord WARRINGTON : Still, I do not see why they should draw the line there ; I do not see why they should not draw

Mr. Macmillan. the line westward from Anse Sablon.

Lord Sumner. Mr. MACMILLAN : They had the opportunity of saying, the terminus on the west, because they could have said the River of St. John where it debouches on to the sea. No depth of land was specified there, and similarly Cape Chidley is given and no depth is given. It is true they might have said Anse Sablon as a point on the coast, but the draughtsman, for some reason or other discharged his task in that way ; he is the author of the puzzle. But my learned friend cannot find in any contemporary document anything which vouches his theory at all ; and for the moment

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I was examining his theory to see whether it was a satisfactory theory which would account for the position. His theory is this : if you draw a line on the 52nd degree of latitude, then you go along to the corner of Old Quebec ; and in that way you will get an explanation, which is at least plausible, of what was done.

Viscount Haldane. Lord SUMNER : Prima facie, as it is a line with a very carefully measured length, it is a dimension. You have first of all to establish that it is nothing but a mode of describing more carefully the meaning, and then you say it is not a dimension at all ; the existence of the line shows nothing one way or the other as to what had been meant previously by the word “ Coast.” I think that is what you have to make out, is it not ?

Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord, that is so.

Lord SUMNER : Otherwise you may be faced with the contention that at any rate that portion of the back land which lies eastward of this line up to the 52nd parallel is part of the coast as previously understood in the previous Acts.

Lord Sumner.

Mr. MACMILLAN : Yes, my Lord.

Viscount HALDANE : It is not a dimension, any more than the Equator is a dimension. If the Equator had happened to be a convenient line to select, it would have been selected.

Mr. MACMILLAN : It says “ so much of the said coast as lies to the westward of a line to be drawn due north and south.” May I pause there for a moment ? Suppose it had simply been that, I think one could not have said it would have been a dimensional line at all, because no one would suggest that when you are dividing a place by saying “ all that lies to the west of a particular degree,” it does not mean the whole world to the west of it.

Lord SUMNER : It would be such a line as was sufficient for

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Mr. Macmillan.

the purpose. A line drawn north and south would be such a north and south line as would be required to divide it into two. When it goes up to the 52nd parallel the Legislature must have had some reason for it.

Mr. MACMILLAN : There it is, and your Lordship is charitable enough to say that the legislature must have had some meaning.

Lord SUMNER: Not charitable.

Mr. MACMILLAN : Loyal enough to say that ; and we must assume that.

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Lord SUMNER: There is no logic in it, because you are only dealing with the coast.

Mr. MACMILLAN: It will not do if you are not dealing with the coast, if you are dealing with the interior. I do not think Sir John is going to say—he disclaimed it when I suggested it some time ago—that the coast is 40 miles deep only and they are going to gain only a bit of the selvedge back and not the whole selvedge. If you are to interpret the word “ coast ” as used in 1763 onwards then if it is not as I said, what is it ? The scissors are only 40 miles long in the shear and the scissors are not going to cut the whole coast. Therefore the only aid he can get from it is that the coast is 40 miles wide if you are dividing the thing between two parties, or else you have not divided the whole thing between the two parties. I do not conceal for a moment that it is a very puzzling thing ; this is its only appearance in the whole Grant.

Viscount HALDANE : There is nothing to show that the 40 miles was intended to be the boundary of Quebec.

Mr. MACMILLAN : No.

The LORD CHANCELLOR : It may have been put in by the Committee of the House of Commons for all we know.

Mr. MACMILLAN : That has been ransacked, my Lord ; everything has been ransacked, and we cannot get any light. The most likely thing is that it is the draftsman who has done it, if we may conjecture.

Viscount FINLAY : The general culprit.

Mr. MACMILLAN : The general culprit, my Lord, and probably he did it from over ingenuity. He may have had in mind what one has in mind from one's early school days : Drop a perpendicular to the nearest line, and he has dropped his perpendicular and said, one side of that is to be the coast of Newfoundland.

May I suggest that your Lordships should just look at Map No. 27 again for a moment ; I would like to make a point upon that. This is one of the maps that Sir John has shown and that I have shown you also. Your Lordships may remember that although it professes to represent the definitive treaty concluded at Paris, the boundary of Quebec does not correspond with the statutory boundary, which is this straight line down here. This is more or less accurate here, because it is up to the head waters of the St. John, but this is Newfoundland under the Proclamation of 1763. All that is shown as appurtenant to Newfoundland in this map, as a contemporary conception of the thing, is not that Newfoundland starts from the same depth up this line ; but

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this is Quebec, and Newfoundland, so far as one can see, is merely tinted as a coastal belt of indefinite length.

Viscount HALDANE : Where would the 52nd parallel stop in that map ? It would not be at the top, would it ?

Mr. MACMILLAN : I am not quite sure, and I do not want to make a mistake. It would not be up to the top.

Viscount HALDANE : Then it is not prima facie a dimensional line ?

Mr. MACMILLAN : Probably not, my Lord.

Viscount HALDANE : It does not fit Quebec only and it does not fit Labrador.

The LORD CHANCELLOR : That is earlier than 1805, is it not ?

2 Nov., 1926.

—
Mr. Macmillan.

Viscount Haldane.

Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord, this is 1763. It is a Board of Trade map, the one that accompanied their report. What I am concerned to show is this. There is, if I may say so, an attractiveness in saying that if you put a boundary down on paper, the things on each side of the boundary are the same breadth. If you sever a piece of tape you get a piece of tape on each side of the same size ; but what the Lords of Trade had in their minds at this time was the Quebec which goes to the head waters of the St. John, but on the other side was a coast, whatever it is ; it is not suggested to be of the same breadth at all or up to the St. John ; all that is done is to colour in the map there a coastal bit ; it shows that on one side there is not the whole breadth at all but merely a colouration upon the coast.

Viscount HALDANE : It does not fit, according to you, if it was meant to define the amount of coast. It only fits for the purpose of a line to one side of which you proceed to confine the coast.

2 Nov., 1926.

—
Mr. Macmillan.

Mr. MACMILLAN : That is so, my Lord. As Lord Sumner put it a moment ago, if one could reconstitute the thing you could say ; Now here is the point Anse Sablon, east of that the Newfoundland fisheries and to the west the Canadian. Now there you are; that is a line drawn in, but the line is left indefinite. The first thing to do is to drop your perpendicular to the 52nd degree of latitude ; then you may say, carry your line so far or carry your line north and south up beyond that, and you may then find that you get out into the sea ; drop your perpendicular there and then all the fisheries to the east of that go one way and all the fisheries to the west go the

other way. That is, in my humble submission the way of putting that. I also say, further, that no amount of maps which have been

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drawn—and there are maps in this case which show every conceivable view of every conceivable problem—can be used for this purpose of altering the territorial boundaries of these provinces. If this question, for example, had been postponed for another 150 years and had come up then, your Lordship's unhappy successor would have found a wealth of modern maps showing the boundary of Labrador in every conceivable kind of form ; but the territory is not at the disposal of these people, in the sense that cartographers can be bandying it about ; the thing has to be dealt with on the terms of these Statutes.

Viscount FINLAY : My impression is that that has nothing to do with the width of the coast at all.

Mr. MACMILLAN : My Lord, I am comforted to hear that.

Viscount FINLAY : That is my impression.

Mr. MACMILLAN : I have heard so impressive an argument to the contrary, that I feel it my duty to do my best to counter it. I felt it was just a notional line drawn there for the purpose of showing, as the authors of the Act intended, something whereby you could see on the one side Canadian fisheries, and on the other, Newfoundland.

My Lords that really will conclude my exposition of the Statutes. There are a few topics to be taken up apart from one or two matters that I propose to leave to Mr. Geoffrion, and may I just add what your Lordship overlooked yesterday in reminding me of the matters to be dealt with : that there is one chapter which has not been opened yet at all. Be it that the line is a coast line only : then the question comes, Where is the coast line of Labrador? We are agreed that the coast line is to follow all the sinuosities, that is to say, all the bays. You are not going to be troubled, if I may say so, with the Alaska Bay question in the same form. I cannot say we are agreed, but the position is this, that if we discard the height of land and get down to the coast, then the depth of coast, whatever it may be, is to be measured by a line following the sinuosities of the coast right down to Anse Sablon from Cape Chidley.

2 Nov., 1926.

Mr. Macmillan.

The LORD CHANCELLOR: What about the inlets ?

Mr. MACMILLAN : Following all the inlets except one, which in our view is not an inlet at all, namely, Lake Melville. We only raise one question upon the definition of the coast line. We say that Lake Melville is not an inlet of the sea, but is an inland lake.

Viscount FINLAY : Is Lake Melville salt water ?

Mr. MACMILLAN : It is partly, my Lord.

Lord SUMNER : Commonly called brackish.

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Mr. MACMILLAN : Not very, my Lord. Your Lordship will read an interesting account of it and that you can make tea with its water. I have tried making tea with salt water, but it is the most appalling compound that I know.

Sir JOHN SIMON : Do the Esquimaux drink it ?

Mr. MACMILLAN : No ; it was a white trader who made tea up there. My Lords, the question will be a quite interesting one and not a very long one. It is simply a question of whether that is an inlet of the sea or whether it is not.

Viscount FINLAY : Are you going to deal with that ?

Mr. MACMILLAN : Yes, I shall deal with that, my Lord.

(Adjourned till Thursday morning next at 10.30.)

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Tuesday, 2nd November, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON

IN THE MATTER of the BOUNDARY
between the **DOMINION of CANADA**
and the **COLONY of NEWFOUND-**
LAND in the LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

EIGHTH DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Dominion of Canada.

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Thursday, 4th November, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON.

IN THE MATTER of the BOUNDARY between the DOMINION of CANADA and the COLONY of NEWFOUNDLAND in the LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

THE COLONY OF NEWFOUNDLAND (of the other part).

[*Transcript of the Shorthand Notes of MARTEN, MEREDITH & Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.*]

NINTH DAY.

4 Nov., 1926.
—
Mr. Macmillan.

Counsel for the Colony of Newfoundland :—The Rt. Hon. Sir JOHN SIMON, K.C., Mr. F. T. BARRINGTON-WARD, K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by Messrs. BURN & BERRIDGE.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ

GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.
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MORNING SESSION.

Mr. MACMILLAN : My Lords, I am afraid I can contribute nothing further as to the origin of the reference to the 52nd degree of latitude in the Act of 1825 beyond this. My learned friend, Mr. Alexander, who is with me, has been through the papers in the House regarding the progress of that Bill of 1825, and it is, perhaps, a matter of interest that he informs me that in the Bill as introduced it stops at the critical point and simply says : “ at a point . . .,” leaving a blank to be filled in. So that the Bill as originally introduced apparently had not the 52nd degree of latitude, and it must have been introduced at some subsequent stage of the Bill because it is now in the Act.

The LORD CHANCELLOR : I never saw a Bill like that.

Mr. MACMILLAN : It is an interesting point. I have sent for the Bill if your Lordships would care to look at it. It must have been introduced at a later stage. So far as my friend's researches have gone, it has not been possible to find in any proceedings, in Committee or otherwise, what its origin was. I do not say anything more about that. It is merely a contribution to the history of the matter.

Would your Lordships this morning be good enough to consider for a few minutes the question of the southern boundary of the territory now claimed by Newfoundland ? Attention has been largely concentrated upon the boundary which has been coterminous with the Hudson's Bay Company's boundary, but I venture to think a short examination of the contention of Newfoundland with reference to the southern boundary of the area is useful. Your Lordships will see upon the map the claim as indicated by the blue line is that the boundary between Canada or Quebec and Newfoundland, on the south proceeds from the point of contact of this line drawn to the 52nd degree of latitude in a straight line westward until it reaches a point, as your Lordships see, just above the slate and yellow. Then it proceed, to deviate from the straight line and follows a dotted line up to a point where there is a divergence in the dotted

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Mr. Macmillan.

line, and then it takes a right hand turn and goes up north.

Lord WARRINGTON: That is following what appears on the map to be the watershed.

Mr. MACMILLAN : Yes.

Lord WARRINGTON: Because the Ashuanipi Lake appears to be the head of the watershed going first northwards.

Mr. MACMILLAN : Yes. I think it is designed to follow the
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Lord Warrington. watershed line there. Upon that if your Lordships would look at the written claim which is stated on the first and second pages of the Case for Newfoundland, you will see they put it thus : “ The Colony of Newfoundland, submits that the correct answer to the question referred to in paragraph 1 hereof is that the boundary should be a line drawn due north from Anse Sablon ”—so that we start at that point—“ as far as the fifty–second degree of North latitude, and should be traced from thence northwards to Cape Chidley along the crest of the watershed of the rivers flowing into the Atlantic Ocean. This line of boundary is shown coloured blue on the map marked ‘ A ’.” There is a curious hiatus. We are first taken up to the point of the fifty–second degree of latitude, and it says, “ shall be traced front thence northwards.” I think in order to read that fairly, that must be taken from the fifty–second degree of latitude. But one would have expected that it would have conformed with the map, that having reached that point, then it would be along the fifty–second degree of latitude until that degree cuts the watershed line, thence following the St. Lawrence watershed line until it encounters the Atlantic watershed line, and thence north.

Mr. Macmillan.

Lord Sumner. Lord WARRINGTON : They made it quite clear after the next line or two, because they say : “ This line of boundary is shown coloured blue on the map marked ‘ A,’ which will be found in the pocket of, and forms part of, this Case.” So that they make it quite plain what they mean.

Mr. Macmillan. Mr. MACMILLAN : The difficulty of the description is this. The crest of the watershed until you come to the turning point to the right is not the crest of the watershed of the rivers flowing into the Atlantic Ocean, but is the crest of the watershed of the rives flowing into the St. Lawrence. Therefore there is a curious gap in their description perhaps made advisedly. You will observe the watershed on the south is a watershed of rivers flowing into the St. Lawrence, and not the Atlantic watershed. The Atlantic watershed begins at the other point.

Lord SUMNER : Supposing the Newfoundland Case was

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Mr. Macmillan.

very much better for the Hudson Bay watershed than the St. Lawrence boundary, and that the Hudson Bay watershed as the proper line could be established, but that there was an insoluble ambiguity about the gap between the intersection at the 52nd degree of latitude and the intersection of the 52nd degree of latitude with the Hudson Bay watershed. How would the result be affected ? Do they fail in toto ? Do they succeed in part ? Or do you succeed ?

Mr. MACMILLAN : I think it would be for them to formulate what they maintain to be their claim in the Labrador Peninsula. So far as my contention is concerned I have to put it this way. My case is a complete case ; I do not accept either of these boundaries. But I

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appreciate the difficulty. Suppose they are able to get a boundary at one point with a degree of precision which would satisfy your Lordship, but not at another, and leave it vague, I think at all events I would be entitled to say. What do you do with your boundary there ?

Lord SUMNER : You say they fail in toto if they fail there.

Mr. MACMILLANT : No doubt that would be putting the issue in its sharpest form. On this point of the southern boundary there is a considerable amount of vagueness all, it is plain that when the northern boundary of old Quebec in 1763 was constituted by the line drawn from the Headwaters of the River St. John to the Lake St. John that was not a watershed line. It contrasted that respect to the watershed line on the Gaspé Peninsula.

Viscount FINLAY : That could not be.

Mr. MACMILLAN : No, my Lord, because no watershed is a straight line in nature. Therefore this was a purely arbitrary line drawn on the northern boundary of Quebec. That appears equally from the other map, No. 27, where the Quebec boundary is shown not as a straight line but as your Lordships may remember, as a waving line with the height of land at a considerable distance beyond it. So that I think one may say that so far as the original conception of Quebec in 1763 is concerned, it was at no time contemplated that that line should be a watershed line from that post. Starting with that circumstance, my learned friends are much concerned to establish that the Head-waters of the River St. John were selected as the terminus a quo for the boundary of Quebec in 1763, because that line was in some way related to the 52nd degree of latitude. My submission upon that is that the 52nd degree of latitude had nothing whatever to do with the fixation of that point, and that it was not in the mind of any person at, that time that they were relating the proposed

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Mr. Macmillan.

boundaries of Quebec to the 52nd degree at all. One has to remember this. Those who framed the boundaries of at that time must have had some maps before them. Such maps as relate to that period are before my Lords in the two Atlases, and it is not by ex post facto examination of the true length of the River St. John that the intention of 1763 is to be gauged, but by the material and the information which were before those in 1763 who addressed themselves to the problem. And in 1763, so far as my researches go, there is no map that shows that the headwaters of the St. John, that is to say the terminus a quo, coincides with or is even near the 52nd degree of latitude.

The matter goes a little further, because one of the maps I have been looking at, and to which my learned friend referred, viz., Map No. 16 in the Newfoundland Atlas, shows an extraordinary discrepancy in this matter. Would your Lordships look at the description of that map. It is this : “ A new map of the Province of Quebec according to the
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Royal Proclamation of the 7th of October, 1763, from the French Surveys connected with those made after the war by Captain Carver and other officers in His Majesty's service.”
Would your Lordship look at that map, which is a contemporary map, and which had in view this very Proclamation which settled the boundaries of Quebec; and look at the River St. John as there delineated, no doubt incorrectly delineated, because as we know it was a comparatively short river. There was another river near it, called the Romaine River, which went very much further. But there is the conception at that time of Captain Carver and the other officers who made that map. You observe that the corner on the north-east of Quebec runs right up to the 53rd degree of latitude, and not to the 52nd degree. There is thus a large corner of Quebec which is north of the 52nd parallel. Similarly, if one looks at the other maps one finds the same thing. I will not weary your Lordships by going over them again, but the large map which is called the King's map, and which is before your Lordships, and is fastened to the cartoon, again shows the River St. John going up beyond the 52nd parallel. The result of going through the whole series of these maps is to find an extraordinary divergence in the ideas as to where the River St. John was. A considerable number of the maps show the headwaters of the River St. John falling short of the 52nd degree of latitude, while quite a number show the river passing beyond. The result is that so far from the 52nd degree of latitude being a line which would pass through the north-east corner of old Quebec, it would do nothing of the sort, and would leave a projection north-east of the old Province. Of course, in 1825 my Lords remember that the boundaries of 1763, had, so to speak, disappeared off the map, because the boundaries of 1763 had been superseded by the extension of 1774, and consequently in 1825 the old boundary of Quebec was a matter of past

history. It had subsisted from 1763 to 1774, but from 1771 onwards that old boundary of Quebec had disappeared.

Would your Lordships also note Map No. 27, which was the map before the Lords of Trade in 1763. I have already referred to Map No. 11. From none of those maps will my learned friend be able, I submit, to establish that the headwaters terminus of the River St. John inland was at a point on the 52nd degree of latitude. I am not going through the actual figures, but I have had them all measured out on map after map, and there is an extraordinary discrepancy among the figures. My submission is that the 52 degrees have nothing to do with this matter at all, and that the St. John must be looked at through the eyes of those who looked at it with the knowledge of those days and not with the more precise knowledge of geographers of the present day. That being so, we come to a point as far as the north-east point of the old Quebec apex, which is not hit by the 52 degree and cannot be the point which was aimed at by the person who selected the 52 degree, as if it would give a neat gnsset with the boundary which has ceased to exist as a real boundary.

Lord WARRINGTON: Tracing along the 52nd parallel, the land

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lying to the westward of the line, taking that line up to the 52nd, and then due west along the parallel, would be all within the boundary of Quebec.

Mr. MACMILLAN : It would be the pink area, would it not ?

Lord WARRINGTON : Substantially the pink ; only the apex would have gone beyond it.

Mr. MACMILLAN : I am anxious to make that point, because I think the impression was rather conveyed that it was, so to speak, aiming at that point.

Lord WARRINGTON : It may be ; it is so on the sketch map, certainly.

Mr. MACMILLAN : The sketch map is only a diagram for the purpose of the Newfoundland case.

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—
Lord Warrington.

Mr. Macmillan.

Lord Warrington.

Mr. Macmillan.

Lord Warrington.

Lord Sumner.

Lord WARRINGTON : It would add a rectangle, more or less, of land to Canada, the western boundary of which would be the eastern boundary of Canada as laid down by the proclamation.

Mr. MACMILLAN : If the point were taken against me that on each side of the River St. John you were dealing with territories of the same depth, because my submission is this : that what came back in 1774, what one was handling throughout, was not a strip of coast, and that the map is erroneous, (indeed some of my own maps are erroneous) in showing that pink strip as the subject-matter of a transaction ; that we got a large part of that. What was not, in my designation, coast came to us by the re-transfer. We had already got the greater portion under the 1774 Act.

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—
Lord Sumner.

Lord WARRINGTON : For the present case there are Canadian maps of authority that do rather show that black of land as being part of Quebec.

Mr. MACMILLAN : Quite a number.

Mr. Macmillan.

Lord SUMNER : You pointed out a line from the 52nd parallel to this intersection at the height of land somewhere to the south-east. That is what, so far, has been Newfoundland's Case ; but is it consistent with the terms upon which the reference has been agreed that Newfoundland should say : “ Well, the argument of Canada has convinced us that the 52nd is more than we are able to, establish, but we would put forward as an alternative, at our own expense, of course, the height of land which is dotted along there.

Mr. MACMILLAN : I have hatched the portions on my own map; they resemble two humps.

Lord Sumner.

Lord SUMNER : Is it, in your view, competent for Newfoundland to shift its ground and say : “ Well, the theory of the height of land is a theory equally applicable to the South as to the west up to what we call Labrador, and therefore we fall back upon that.”

Mr. Macmillan.

Mr. MACMILLAN : If I may say so, I think it would be quite competent for Newfoundland to ask at your hands less than they do claim. There might be difficulty if they were asking for more than they claim ; but if the Board were not satisfied with the reasoning of Newfoundland, as to its boundary on the west, I do not think I could take up reasonably the attitude that your Lordships could not locate the boundary in a direction or in a line that gives them less than they claim ; that would be an unreasonable position.

Lord SUMNER : The whole case might be put upon the view that as the boundary must go to somewhere, and, all other ways have failed, let us have the height of land all round.

Mr. MACMILL : Your Lordship will appreciate the practical importance of what I am putting just now, because this line up here does not go up to the height of land. My learned friend left it with a curiously rugged boundary at this point, and I am testing their principle of the height of land all over by the history of the matter as exhibited in the maps and documents.

Lord SUMNER : There has always been an Achilles heel.

Mr. MACMILLAN : And the Achilles was killed. I rather thought at this point that I almost had my learned friend's assent on page 83 of the proceedings. When your Lordship pointed this out on Mitchell's Map, and that the argument could not be made out, I rather thought Sir John agreed. However, that is neither here nor there. The topic was very fully discussed at that point and rather rapidly left. May I just add one other point on the southern boundary of some importance. If my Lords would pray take in hand Volume III for a moment and turn to page 910 (this is the report of the Lords of Trade of the 8th June, 1763) there are words there that perhaps have not received at my hands so full an exposition as they deserve. They are at about line 14 : “ It is needless to state with any degree of precision the Bounds and Limits of this extensive Country, for We should humbly propose to Your Majesty that the new Government of Canada should be restricted so as to leave on the one hand all the Lands lying about the great Lakes and beyond the Sources of the Rivers which fall into the River St. Lawrence from the North, to be thrown into the Indian Country.” Pausing there

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—
Mr. Macmillan.

Sir John Simon.

the sources of the rivers which fall into the River St. Lawrence, from the north ?” First of all, for this purpose one must see what they were talking of as the River St. Lawrence. Fortunately that is made clear beyond any doubt. The point of division between the River St. Lawrence and the Gulf of St. Lawrence is just on the West end of Anticosti. That is made quite clear by two references which I shall give, showing that the River St. John is treated as a river flowing into the River St. Lawrence. Perhaps the best reference for that is Volume I, page 153.

Sir JOHN SIMON : I do not know if I could help my learned friend by any sort of admission, because I think we are rather disposed to agree on this. I have looked at this carefully too. I think a fair view, as far as one would form one at the time was, without drawing a precise boundary they were rather disposed to call whatever was to the west—

Mr. MACMILLAN : This is how I show it on my map.

Sir JOHN SIMON : I have drawn a similar line. I think if you join Gaspé to the River St. John, I make a fair concession to my learned friend if I say there is a good deal to indicate that they call what was to the west of that the river, and what was to the east of that the gulf.

Mr. MACMILLAN : If you please, my learned friend is very kind.

Sir JOHN SIMON : It is not quite consistent, but that is the substance.

Mr. MACMILLAN : I think you may remember the River St. John is described as a river which flows into the River St. Lawrence rather than the Gulf. There is always a question, there is a question looming here, when does a river cease to be a river and become the sea ? If that be so, would your Lordships just pursue it a little further ? All that lies to the north of the rivers flowing into the St. Lawrence is to be reserved to the Indians. The result of that, my Lords, is this. This is, of course, a more modern map, and therefore more accurate, no doubt, but the point arises on any of the maps : If you take the River St. John as the terminus of the River St. Lawrence, then all the rivers which flow into the River St. Lawrence westward of that point are rivers which you have to consider for the purpose of this description “ beyond the sources of the rivers which fall into the River St. Lawrence from the north.” The River St. John flows into the Lawrence from the north, and so do all these other rivers. The Moisie is

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Mr. Macmillan.

one of the best known, which you see beyond that ; all the territory north of that is to be thrown into the Indian country. Let me do it mathematically and draw up a line thus ; you will cut right into the green, and all the land to the north is to be reserved for the Indian territory. You cut right into the green territory ;

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and therefore the contemplation at the time cannot have been that the Newfoundland territory was to include what the Lords of Trade expressly contemplated should be thrown into the Indian territory. quite a large part—that elbow of green—is by these words, in my submission, excluded.

The LORD CHANCELLOR : The word is “ beyond,” not “ to the north of.”

Mr. MACMILLAN : “ Beyond the sources of the rivers.” Am I stressing it too much when I say that “ beyond the watershed ” means the land to the north of it there, because the watershed is east and west generally. There again some difficulties emerge, I respectfully suggest, for my learned friend's case. He does not take the watershed line. He says that the 52 degrees is not truly related to the watershed line, but is a line which he gets by simply drawing straight along the latitude of this point of contact with the perpendicular to the 52nd latitude. All these things show, I respectfully submit, that on this part, at any rate, of their boundary, they cannot present to your Lordships' Board any precise boundary at all. The various reasons and suggestions that they have made fail, when they are probed, and they do not and cannot derive from any of the documents before the Board the boundary which they seek to establish.

Lord WARRINGTON : What you are now suggesting is excluded from Newfoundland is that square inset ?

Mr. MACMILLAN : The elbow, yes; this bit. Again I am using all this, and I pray my Lord to have it in mind, as critical material directed to showing that the boundary here suggested was not the boundary in the minds of those who transacted this subject in 1763. That has been throughout my address to your Lordships—I am afraid at wearisome length—the point which I have been seeking to establish. If I can break down my learned friend's suggested boundary at point after point, which I humbly submit I have been able to do, then I get him dislodged from what is generally a height-of-land contention and placed in the position of a person with rights on the shore, indefinite but possible of definition. My learned friend, if I may say so, did not deal with the yellow

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Mr. Macmillan.

strip in a manner which, if he will pardon me saying so, was so clear as the rest of his case ; and I personally do not quite understand yet what is the position with regard to the yellow territory except that it was the territory, I think, that was supposed to satisfy the language of something to the north that was to be Indian territory.

Viscount FINLAY : Which is the yellow territory ?

Mr. MACMILLAN : To the north of this slate coloured strip.
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Viscount HALDANE : You say that is all the same as Indian territory ?

Mr. MACMILLAN : Yes, my Lord ; that is part of the Indian territory. I do not quite know where we are with regard to that, or whether it is conceded that that bit is Indian territory, but that it stops at the height of land on this southern height of land. At any rate, with great respect to my learned friend, I have not been able to derive so clear an impression from his address with regard to this part as I have on his other part. It is between the height of land and Old Quebec. Where, and what is it ? It was upon this that it was suggested that the Act of 1774 could operate, and this only. It is not north of the rivers flowing into the River St. Lawrence.

The LORD CHANCELLOR : Not north of all of them.

Mr. MACMILLAN: Is it north really of any, with great respect ? The blue line cuts right through river after river all the way along.

Lord WARRINGTON : Then the yellow comes up to what are here marked as the sources of the rivers falling into the River St. Lawrence.

Mr. MACMILLAN : It leaves all this territory here up to this height of land. What exactly is the theory of that, I am afraid I have not quite appreciated, but it abuts upon the limits of Newfoundland's claim, as you notice, in the corner there. The yellow forms part of the boundary, whatever be the legal denomination of that boundary. I gathered that the suggestion was that that was what was thrown into the Quebec area in 1774. I pass from that with the suggestion that on this part of the boundary the case has not been made out. My Lord, there is an aspect of the case which has not been much discussed, and which I do not propose to spend much time upon, but it is interesting to look at the variations in the commissions and instructions issued to the Governors of Quebec and Newfoundland. You find that the commissions and instructions reflect the variations in their legal position on this coast. There are the periods 1763 to 1774, 1774 to 1809,

and 1809 to 1825, and certain variations appear in the commissions and instructions from time to time reflecting the change in the position. It would be sufficient for my purpose, I think, to make one particular reference to Governor Carleton's instructions in Volume II, because of the detail with which this matter is dealt with at page 820. This was after the Act of 1774 ; and after the Act of 1774, my Lords will recall that all that Newfoundland had had was re-annexed to Quebec. At Volume II, page 820, you find the instructions to Guy Carleton as Captain General and Governor in Chief of the Province of Quebec. In smaller print at the foot of the page, you will see an extract from certain official papers. Apparently, the general instructions had been drawn up in draft, and at line 21,

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this appears : “ ‘ This draught ’ they say”—that is the Lords of Trade—“ ‘ contains not only such instructions as are usually given to other governors, so far as the same are applicable to this Province under its New Constitution of Government, but also such other directions for the establishment of Judicature ; the reform and regulation of Ecclesiastical matter ; and the arrangements proper to be made in respect of the Coast of Labrador, and the interior Country, as appear to us to be necessary in consequence of the Act passed in the last Session of the late Parliament.’” My submission, of course, has been upon that Act that we got the interior country under the descriptive words, and that we got the coast of Labrador under the “ as also ” clause. If you turn to the instructions on page 832, line 34, Article 30, you will see how it is dealt with when this change was brought about. “ The Extension of the Limits of the Province of Quebec necessarily calls forth your Attention to a Variety of new Matter and new Objects of Consideration ; The protection and control of the various Settlements of Canadian Subjects, and the regulation of the Peltry Trade in the upper or interior Country on the one hand, and the protection of the Fisheries in the Gulph of St. Lawrence, and on the Labrador coast on the other hand, point to Regulations, that require deliberation and dispatch.” My Lords will note the contrast between the two things. The interior country with its fur trade carried on by Canadians, and the fisheries on the Labrador coast. Then : “ The institution of inferior Judicatures, with limited Jurisdiction in Criminal and Civil Matters for the Illinois, Poste St. Vincenne, the Detroit, Missilimakinac, and Gaspée has been already pointed out, and the Appointment of a Superiintendent at each of these Posts is all, that is further necessary for their Civil concerns ; But it will be highly proper, that the Limits of each of those Posts, and of every other in the interior Country should be fixed and ascertained ; and that no Settlement be allowed beyond those Limits; seeing that such Settlements must have the consequence to disgust the Savages ; to excite their Enmity ; and at length totally to destroy the Peltry Trade, which ought to be cherished and encouraged by every means in your Power.” This was a Governor who had, up to that time, had merely the slate-coloured territory. His territory had had this large extension given to it in 1774, and he is directed to two matters, an interior question and a coastal question. “ It is our Royal Intention, that the Peltry Trade of the interior Country should be free and open to all Our Subjects. Inhabitants of any of Our Colonies, who shall, pursuant to what was directed by Our Royal Proclamation of 1763, obtain Licences from the Governors of any of our said Colonies for that purpose.” My Lords will recall the proclamation of 1763 which contemplated the issuing of licences to trade with Indians by the Governor of Quebec. “ Those Regulations,

therefore, when established, must be made public throughout all Our American possessions, and they must have for their object the giving every possible facility to that Trade, which the nature of it will admit, and as may consist

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with fair and just dealing towards the Savages, with whom it is carried on. The fixing stated times and places for carrying on the Trade, and adjusting modes of settling Tariffs of the prices of Goods and Furs, and above all the restraining the Sale of Spirituous Liquors to the Indians will be the most probable and effectual means of answering the ends proposed. These and a variety of other regulations, incident to the nature and purpose of the Peltry Trade in the interior Country, are fully stated in a Plan proposed by Our Commissioners for Trade and Plantations in 1764, a copy of which is hereunto annexed, and which will serve as a Guide in a variety of cases, in which it may be necessary to make provision by Law for that important Branch of the American Commerce.” My Lords, here you see this large addition which has been made and which, in my humble submission, included that whole strip of Indian territory which had been reserved. All sorts of things are brought to the attention of the Governor. He has now to govern the extended area, and it is necessary for him to attend to those matters which arise in the administration of a primitive people, which the Indians were.

The most striking contrast was that the Governor of Newfoundland, when the coast is re-transferred to him, never gets any instructions of this sort at all. Then comes the next matter, Article 33 : “ The Fisheries on the Coast of Labrador, and the Islands adjacent thereto are objects of the greatest Importance, not only on account of the Commodities they produce, but also as Nurseries of Seamen, upon whom the Strength and Security of Our Kingdom depend. Justice and Equity demand, that the real and actual property and possession of the Canadian Subjects on that Coast should be preserved intirely ; and that they should not be molested or hindered in the exercise of any Sedentary Fisheries they may have established there.” It was those sedentary fisheries along the north coast of the St. Lawrence and the River St. Lawrence which had caused all the trouble, because Palliser proposed to apply to them his regulations under the Act of 1769. “ Their Claims however extended to but a small District of the Coast, on the greatest part of which District a Cod Fishery is stated to be impracticable. On all such parts of the Coast, where there are no Canadian Possessions, and more especially where a valuable Cod Fishery may be carried on, it will be your Duty to make the Interest of Our British Subjects going out to fish there in Ships fitted out from Great Britain the first object of your care, and, as far as circumstances will admit, to establish on that Coast the Regulations in favour of British fishing Ships, which have been so wisely adopted by the Act of Parliament passed in

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the Reign of King William the Third ‘ for the encouragement of the Newfoundland Fishery ’ ; and you are on no account to allow any possession to be taken, or sedentary fisheries to be established upon any parts of the Coast, that are not already private Property, by any persons whatever, except only such as shall produce annually a Certificate of their having fitted out from some Port in Great Britain. We have mentioned to you the Fisheries upon the Coast of Labrador, as the main object of your attention ; but

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- Lord Warrington. the Commerce carried on with Savages on that Coast, and the state and condition of those Savages deserve some regard”—these are not the people with whom the peltry trade is to be carried on and who have been dealt with before, the interior people—“ the Society of Unitas Fratrum, urged by a laudable Zeal for promoting Christianity, has already, under Our Protection, and with Our Permission, formed Establishments in the Northern parts of that Coast for the purposes of civilizing the Natives and converting them to the Christian religion. Their success has been answerable to their Zeal ; and it is Our express Will and Pleasure, that you do give them every countenance and Encouragement in your power, and that you do not allow any Establishment to be made, but with their consent, within the limits of their possessions.” All that matter was proper and suitable to be addressed to the Governor of Quebec when he ceased to be the Governor merely of the late area, the lozenge, and became the Governor of a great interior country, particularly a country where peltry trade was carried on with the Indians, and when, at the same time, there was handed to him all the coast of Labrador, with the fisheries thereon.
- Mr. Macmillan.
- Lord Warrington.
- Mr. Macmillan.
- Lord Warrington. Lord WARRINGTON : The Act of Parliament handed to him, not the coasts, but such territories, islands, and countries as have since 1763 been made part of the Government of Newfoundland.
- Lord Sumner. Mr. MACMILLAN : It first handed him something else ; it gave him the southern boundary and then it went on : “ As also.” If my Lord's point is on the words I have used, may I make a general admission at once. When I use the word “ coast ” I am maintaining the consistency of my argument. I am perfectly aware that constantly the words “ lands territories islands,” and so on, are used.
- 4 Nov., 1926. Lord WARRINGTON : They are used here exclusively ; the word “ coast ” is not used at all. The words are “ territories islands and countries which have since 1763 been made part of the Government of Newfoundland.”
- Lord Sumner. Mr. MACMILLAN : Quite, my Lord. The whole question is what was made part. My point is that the territories, countries and islands which were made part were the coastal.

Lord WARRINGTON : I am only referring to the phraseology. It is quite true when they come to the instructions they talk about fisheries on the coast, because they were on the coast.

Lord SUMNER : At any rate, this makes your argument on the Quebec Act quite crucial. For success in establishing that argument, it is necessary to make the point you are now making on the instructions, and the point appears to be whether you can make good your claim to the interior country dealt with in the instructions under the words

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“ and northward to the southern boundary of the territory granted to the merchants of England trading with Hudson's Bay ” and no more.

Mr. MACMILLAN : May I suggest there a very small point which arises on Agnew's grant. Your Lordship may remember I was rather, if I may say so, unhorsed by a suggestion my Lord made, that the 60 mile point I might have misinterpreted. There is one place where there can be no misinterpretation of what was then assumed to be the southern boundary of the Hudson's Bay territory there, because if you will look, the contrast between what was asked and what was actually given is rather interesting. Agnew asked for 60 miles of the sea coast of Labrador from Hudson's Straits right round to the River St. John. There was a report upon that, my Lord, which said that to give him that 60 miles might trench upon Hudson's Bay territory ; it might, because nobody quite knew what it was. It was suggested to me that might be so, consistently with another view than the view which I was taking, namely, that the 60 miles inland, at a place where admittedly the territory was so narrow that you are running up to a point there, might go over the height of land at that point and into Hudson's Bay, assuming that to be the boundary. When the Lords of Trade gave the grant, as they ultimately did, they made it in these terms. It is Volume III, page 1156. the 2nd December, 1774.

The Lord Chancellor.

“ Whereas there was this day read at the Board, a report from a Committee of the Lords of His Majesty's most Honourable Privy Council for Plantation affairs dated this day, upon considering the draft of a grant prepared by his Majesty's attorney and solicitor general of all mines, minerals, metals and ores whatsoever within the island of Newfoundland or upon such part of the sea coasts of Labrador, as lie within sixty miles of low water mark of the open sea, between the river St. John and the Southern limits of the territory granted to the Hudson Bay Company.” Now there “ the Southern limits of the territory granted to the Hudson Bay Company,” has been selected in lieu of “ Hudson's Straits,” which had been suggested by the Applicant, and that I think chimes in

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with my suggestion that what they were considering at that time was such a boundary as is shown on the King's Map, that is to say a boundary going to Cape Grimington, and thus indicates a contemporary view, I submit, that the boundary was there and that that was the Southern boundary of the Hudson Bay territory in the acceptance of the time, as indeed is said in the Newfoundland Case.

Mr. Macmillan.

The LORD CHANCELLOR : Will you just make clear to me your point upon this document, the instructions ? These were given after the transfer to Quebec.

Mr. MACMILLAN : Immediately after the transfer.

The LORD CHANCELLOR : Therefore, it was natural that they should have instructions both as to the fisheries and as to the interior.

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Mr. MACMILLAN : That is so, my Lord.

The LORD CHANCELLOR : Is your point this : that as regards the interior, no similar authority had been given to Quebec as had been given to Newfoundland ?

Mr. MACMILLAN : That is one of my points, my Lord ; the other is this : that I am concerned to show, as I think one of your Lordships was good enough to point out was part of my argument, that Quebec derived its title at this time to the eastern portion of Labrador, from two sources. It derived its title to the interior part under the general description of Quebec ; it derived its right to the coastal area under the words “ as also all that Newfoundland had.”

The LORD CHANCELLOR : You mean under the general description of British North America they got the interior ?

Mr. MACMILLAN : The boundary was the southern boundary of the Hudson Bay Territory ; they went right up to that. It seems to me attractive to visualise it. They are going round these boundaries ; then they come to the Hudson Bay boundary ; then they say : Now we have reached a boundary, the exact location may not have been very definite, but it was at any rate a boundary that followed that boundary right along, and then all that would go into Quebec ; it is what is described as the southern boundary of the Hudson Bay territory ; and this is the language of the Privy Council.

The LORD CHANCELLOR : I am accepting that for the moment, and under that they got everything.

Mr. MACMILLAN : Except what Newfoundland had.

The LORD CHANCELLOR : It was plus what Newfoundland

had, was it not ?

Mr. MACMILLAN : May I just complete it, my Lord ? Then they got all that, but as you carried your eye along the southern boundary you encountered a strip of Newfoundland down to the coast ; you came to something which was in the hands of Newfoundland ; whereupon the draughtsman says : “ as also all that Newfoundland got shall be added under you.” Therefore they derived this title which we get in 1774, in two ways ; it did not come en bloc. The Newfoundland part of it came under the “ as also,” but the interior of it, the great part of it where the Indians were, all came to us under the extension “ to the Southern boundary of Hudson Bay.”

The LORD CHANCELLOR : That is quite true, but with regard to whatever Newfoundland had previously had, I thought your point was

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to contrast these instructions with those given to the Governor of Newfoundland.

Mr. MACMILLAN : My Lord is good enough to appreciate what I have said ; but my learned friend is very much concerned to show throughout these matters that the whole of the green territory was one thing throughout ; it was it that was being handed back and forward. My submission is, No, what was being handed back and forward was the coast, and the interior country was under these other titles and came to us in this other way. I am only concerned to make that clear. It is rather interesting to note the instructions to the Governor of Newfoundland, after 1809 (Duckworth was his name) after Newfoundland had got back the Coast of Labrador, which upon my friend's view included all this added area where the Governor of Quebec had been told to look after the interests, both spiritual and spirituous, of the inhabitants. The instructions to Sir .John Duckworth are at page 641. If one looks at his instructions, you will see that the only Indians he is to concern himself with are the Indians of Newfoundland.

This, the 5th June, 1810. This is after Newfoundland has got back what I venture to call the coast of Labrador, bearing in mind that I use the word “ Coast ” as the equivalent of what is sometimes called the territories, land and countries. I turn to page 662, and here is a contrast. Here the Governor of Newfoundland has got back a bit ; but is he instructed to do all these things about granting licences for trade and looking after these people ? Not at all. He has got the whole of this green area right up to the watershed and right down to the head waters of the St. Lawrence, according to the plans before my Lords, and this is what he is told to do : “ You are to use your best endeavours to encourage a friendly intercourse with the Indians residing in our Island of Newfoundland or resorting thither, using your best endeavours to conciliate their affections so as to induce them to trade with our Subjects,” and so on. Then he tells you on the other side what he has done. This is a case in which, as in many of the cases, the Governor has used his instructions as his text and then he tells you in parallel what he has done. He says : “ I have issued a Proclamation as directed by this Article respecting the Native Indians ; (Appendix B) and have given every attention to this interesting subject which it assuredly deserves.” Then he proceeds to discuss it ; he deals entirely with the Newfoundland Indians and points out what is, of course, true, that they are very small in numbers. If your Lordships will look at page 663, the left hand column, he says at line 35 : “ The number of the Native Indians remaining does not appear to be known, nor can I find the means of forming any judgment of what it may be : but the prevailing idea is that they are about five hundred. A few families of the Micmac Indians from the Coast of Canada

have been long settled in the neighbourhood of St. George's and Fortune Bay ;”—that is in Newfoundland—“ but they do not amount to more than seventy or eighty persons and the only Trade which they carry on is in the Sale of a few furs occasionally to the Merchants.

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Other Indians from Nova Scotia and Canada come over occasionally to the northern parts of this Island to hunt ; and perhaps it would be quite as well if they were prohibited from doing so, as little advantage is gained from an intercourse with them, and they destroy great numbers of animals for the sake of their furs, even when with young. A few of the Esquimaux also came over from Labrador, but our settlements are so remote that they do not frequently visit them. With these latter Indians I am informed that the Society of Unitas Fratrum carry on a considerable trade on the Continent, and I am sorry to add, impose upon them in a very shameful degree if the reports which have been made to me are founded in truth.”

The LORD CHANCELLOR : That is very disappointing.

Mr. MACMILLAN : It is, my Lord, and I do not think it is true so far as I have read the papers. My Lords, is not that very striking ? I have brought to my Lordships' notice what was done under the provisions that were made in 1774, when Quebec got the green area, I say under two titles.

Sir JOHN SIMON : And also got the whole Indian country.

Mr. MACMILLAN : Of course, Sir John, I am not forgetting that, and I do not think their Lordships are either. They got the whole Indian country.

Sir JOHN SIMON : Ohio.

Mr. MACMILLAN : Ohio ; the Six Nations and all the rest of it. Elaborate instructions were given to this Governor to look after these people in every conceivable way and to grant licences for trading with them, and so on. Then when part of the same area is handed back to Newfoundland the Governor of Newfoundland is enjoined in 1810, the first Commission, at the time when this matter must have been fresh in the minds of those dealing with it. There are no such instructions as are given to Guy Carleton, but he is told to look after the Indians of Newfoundland. That is a most striking contrast, and in my submission reflects very useful light upon the whole situation and the distinction between the interior and the coast.

On the question of the Indians in this area, my Lords have once or twice, I think, raised the question of how many of them there were. There are some interesting figures given in Volume III, at page 3729.

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Viscount HALDANE : That is Indians where ?

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Mr. MACMILLAN : Indians in Labrador. This Census which I am looking at was a Census of 1871, and may I draw attention to a paragraph or two there ? Your Lordships will see it on page 3729 at line 17 : “ Census of 1871. In the report of this census, the returns for the south-eastern part of the Peninsula east of the Bersimis River included under the Province of Quebec, in census district No. 152, ‘ Labrador.’

The detailed returns are given for various sub-districts lettered from A to H, identified with the names of places along the north shore of the St. Lawrence and comprising in all a superficial area of 38,856,353 acres. These returns include for : Sauvages des Sept Isles, 190 ; Sauvages Betsiamites, 552; Sauvages de Mingan, 530 : total 1032[sic].

These figures indicate that the census contained an enumeration of a very considerable portion of the Indians inhabiting the interior country of the south-eastern half of the Peninsula. The census, however, contained a special return of the aboriginal population of Canada, which shows that the whole of the Indians within the Labrador peninsula were enumerated as subjects of Canada. This return was set forth in the form of a table with an accompanying illustrative map indicating the territory occupied by each aboriginal group. Extracts from this table with the map are given below.” Then your Lordships see “ The Esquimaux, In. ” “ In ” means “ Innuite ” ; that is the Eskimo name for themselves. “ Description of places inhabited : Littoral of the North Sea from Labrador to Alaska, the northern shores and islands of Hudson's Bay, with the islands of the Arctic Ocean.” Then “ Population 4,000,” and “ Territorial Superficies in English square miles, 600,000.” Then “ The Naskapis Al.” “ Al ” means the Algonquin race. “ Interior of Labrador, South-east Watersheds of Labrador, Rupert's Land to the east of Hudson's Bay, and the Mistassin Country.” The population is 2,500 with an area of 330,000 square miles. Then “ The Montagnais, Al.” The description is : “ North shore of the Gulf and mouth of the St. Lawrence, valley of the Saguenay River.” The population is 1,745 and the area is 115,000 square miles.

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The map which was prepared as the key map to this is printed, Of course, it is only a diagrammatic map, but it is to show generally the districts. There you will see the Peninsula, the whole of Labrador with the various aboriginal tribes inhabiting it. The Montagnais are the southern portion, the Naskapis are in the middle, and the Esquimaux are in the north. These are the people with respect to whom, as I submit, among others, the important duties were confided to Guy Carleton in his instructions after that territory was added unto him in 1774.

My Lords, there is a curious matter. I am really not quite sure

what its import is, but it is worth mentioning. Your Lordships will find that least two of the Newfoundland Commissions do not give the Newfoundland Governor the Coast as far as the River St. John at all. The origin of that I think I have ascertained, but I am not sure. Will your Lordships be good enough to look at Volume II, page 685 ; it is one of the curious puzzles in this case ? Will your Lordships look at the description of the jurisdiction of the Governor of Newfoundland ?

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This is in 1816, after 1809, when the whole of the coast has been given back to Newfoundland. You will see his territory at line 29, on page 68. “ To be our Governor and Commander in Chief in and over our said Island of Newfoundland and the Islands adjacent and all the Coast of Labrador from Mount Joli to the Entrance of Hudsons Streights the Island of Anticosti and all other Adjacent Islands.”

In 1816 the Commission is cut down and if you look at Mount Joli, which is shown upon the small map, you will see that from Mount Joli to Mingan Island is not included in his Commission at all. The suggestion that I make is that that was a sequel to an alteration in the Admiralty instructions. The Admiralty had altered the station, and the Commission to the Governor of Newfoundland in these matters is regarded as being so entirely a matter related to the Admiralty that they actually took the liberty of confining the Governor, after the Admiralty has changed the limits of its station, to the same limits. You will find that in the instructions from the Admiralty to Sir Richard Goodwin Keats, on page 683. He was the Governor of Newfoundland in 1813, and these are the Admiralty instructions to him as Commander-in-Chief of His Majesty's Ships on the Newfoundland Station. At page 683, line 19, you will find his station defined : “ You are to consider the limits of your Station to be as follows, viz. : At and about the Island of Newfoundland, but having for its Western boundary a straight line drawn from the Latitude of 40 degrees North and Longitude 50 West to a position midway between Cape Ray on the Newfoundland Coast & the Island of St. Paul off the Northern point of Cape Breton Island ; & from thence in a direct line to Mount Joli, of the Labrador Coast ; and you are to restrict your Cruizers to these limits accordingly.”

The LORD CHANCELLOR : There seems to be a strip of coast without a Governor at all.

Mr. MACMILLAN : This same thing happens again with regard to Sir Charles Hamilton, in Volume II, at page 716. What I suggest to your Lordships is this, that in the eyes of those who were concerned in the administration of this Coast, its administration was regarded as so entirely a matter related to Admiralty concerns that when the Admiralty alter the cruiser station the Commission to the Governor of

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Newfoundland contracts in the same way, and he is made Governor only over the area to which his Admiralty instructions relating his stations for his cruisers extend.

Viscount FINLAY : From the St. John River to Mount Joli, roughly speaking, is opposite the Island of Anticosti.

Mr. MACMILLAN : Very nearly ; it is about 100 miles long, I think About 100 miles of coast, as my Lord points out, were withdrawn from the Governor of Newfoundland, and it may be that it is left derelict.

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My point is this, that the whole point in the view of those concerned in dealing with these matters was the Admiralty aspect of it, and that the Commission merely follows what the Admiralty has done, and consequently you find that as the Admiralty limit the scope of their cruisers, so also the Governor's scope is limited. Whether that is done legitimately or not, I cannot say, but it reflects the attitude of mind of those who deal with these matters. Those two Governors had no jurisdiction over that bit of coast during that period.

The LORD CHANCELLOR: It must have been an oversight, but as you say, it throws a light upon the attitude in which they looked at it.

Mr. MACMILLAN : I think that is the most valuable inference I can draw. There are other points arising on the various Commission's instructions, but I do not propose to go into them further. I have naturally taken the best one for myself, unlike my learned friend, who always takes the worst one for himself. I have taken the best one for myself ; there are others which help me, too, but which are not so helpful to my argument, and I therefore do not labour them further, but my Lord has my point.

Now, my Lords, I propose to leave these large matters, and I propose to say a little about certain of what my learned friend called the very subordinate matters. It is, of course, vital, and on that we are agreed here on both sides of the bar, to consider what was done in 1763. What has been done since then more or less close to the time, is helpful as a contemporary exposition, but what has been done a hundred years after becomes of necessarily very much less value. There are a great many matters which have been collected and are printed in these volumes, some of which I venture to think help me and some help my learned friend's argument, but which I think we are both agreed, if I have gauged the position of my learned friend accurately, are of relatively less importance—the varying views that have been taken by different people at different times, and the things they have done when this boundary was not an ascertained thing and

when nobody quite knew where it was. There are certain more or less outstanding incidents, however, which, as my learned friend said, are interesting to look at, and they are worth perhaps a little discussion, and I should not like it to be thought that I had not an answer upon those points. It might be said, if I did not say something about them, that I might have left them to go by default. I propose, therefore, to look at one or two of the more prominent of those matters to which my learned friend alluded, because he derived assistance from them though they have perhaps another aspect, as so many questions in this case have. May I take first the instance with regard to Judge Pinsent. The relevant papers are in the second volume. They show the extraordinary dubiety of mind at this time among those who had to consider the position as to where exactly this boundary was. Of course, it is true that when we are dealing with

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1888, we are more than a century away from 1763, but to suggest that by this time the boundary had become an ascertained and known thing as being the height of land, is, I think it is abundantly clear, incorrect.

The matter starts with a letter from Lord Knutsford to the Governor-General, on the 18th July, 1888. I take this letter first, but it really refers to some other letters following. This is at page 339, the first document in the second volume. It is addressed to the Governor-General of Canada by Lord Knutsford : “ My Lord, I have the honour to transmit to your Lordship herewith a copy of a despatch from the Governor of Newfoundland respecting the uncertainty of the boundary between Canada and the territory belonging to Newfoundland on the Labrador coast. This boundary was fixed by the Imperial Act, 6 Geo. 4, cap. 59, sec. 9 ”—that is the 1825 Act—“ but the boundary inland from the coast line is not clearly defined. This would appear to be a question which might very properly be discussed between the governments of the Dominion and Newfoundland when the delegates from the latter colony visit Canada in connection with the question of union.

Then follow two enclosures. The Governor of Newfoundland had written to Lord Knutsford : “ My Lord,—I have the honour to forward a letter from Mr. Justice Pinsent on the subject of the boundary between this colony and the dominion of Canada. The matter does not appear to be of pressing importance, but having regard to the population now settled along that coast, it might be well that the extent of jurisdiction should be more clearly defined ” ; and here is Judge Pinsent's difficulty. He had written to the Governor on the 22nd May, 1888 : “ I have the honour to bring under your Excellency's notice a matter of no little importance touching the territorial limits of Labrador as a dependency of this colony.” Then he says he has submitted the point to his predecessor, but it was not gone into. Then : “ The matter is one not without importance in its general bearing upon the rights of government, but it comes to be of practical and essential significance when questions of either civil or criminal jurisdiction arise, and they may at any time arise, particularly on the northern circuit of the supreme court where I so frequently preside. The case in which the difficulty first became prominent was upon the trial in St. John's of an Eskimo Indian for the murder of his wife on the coast of Labrador. The question of the jurisdiction of the supreme court was then raised on behalf of the accused, and not without much force, but the locality of the offence was so very near the coast that the court overruled the objection.” It seems a very sensible view. Then : “ The extent of the jurisdiction of the government of Newfoundland in Labrador is thus defined by letters patent of the 28th March, 1876.” Then he sets it out, and then says : “ For the purpose of

illustrating the matter clearly, I enclose portion of a map of the dominion of Canada, published by Canadian official authority, in which all that part of the peninsula of Labrador coloured white is, as it were, allowed to belong to this government, but if that area is

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compared with the description taken from the royal letters patents constituting the office of governor and commander-in-chief of the island of Newfoundland and its dependencies, it will be seen that the territorial extent of (Newfoundland) Labrador represents a vast deal more than would be ordinarily intended by the term ' coast ' : and, moreover, extends inland and west of the line drawn due north and south from Anse Sablon eight to nine degrees." So Judge Pinsent, having before him the description of the Governor's jurisdiction and a map which showed in white the whole of the area to the east of the height of land—there was a large white triangle there—said if that is Canada's idea of Labrador, as it may be—" coloured white is, as it were, allowed to belong to this Government "—well, it is very generous, because it represents a vast deal more than would be ordinarily intended by the word " Coast," so that Judge Pinsent when he is dealing with this matter, says : " I think I may safely try an Eskimo on this coast because if I have any jurisdiction within the coast at all, this fellow must be in it; but would it not be better to have a more precise line drawn ? " Then he says : " I have a Canadian map here which shows the whole of this triangular space white. If that means to include this as Newfoundland—Labrador it certainly is not what would be ordinarily intended by the word " Coast," which is what the Governor gets in his Commission."

The LORD CHANCELLOR : How was he concerned with the government of Labrador at that time ?

Mr. MACMILLAN : He was a Newfoundland judge, my Lord.

The LORD CHANCELLOR : How did he come to be interested ?

Mr. MACMILLAN : Because it was his jurisdiction. He was troubled about this, that people were taking the plea when occasion arose : " It is not within your jurisdiction, because it is inland." He was in the difficulty of not knowing how far inland his jurisdiction extended and he had had a murder case : he says the plea was taken there, not without much force, that he had no jurisdiction. and he says : " Please tell me what jurisdiction I have inland."

The LORD CHANCELLOR : About what distance from the line of the water was the point at which this crime was said to be committed ?

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Mr. Macmillan.

Sir John Simon.

Mr. MACMILLAN : I cannot say exactly ; it was very near the coast. “ But the locality of the offence was so very near the coast that the court overruled the objection,” says the Judge.

Lord WARRINGTON : Do you know which of the maps he is referring to ?

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Mr. MACMILLAN : Yes, my Lord, I have this map. It is Map No. 35 the Newfoundland Atlas. Your Lordships see a large white area marked “ Labrador.”

Mr. Macmillan.

Sir JOHN SIMON : I did call attention to it ; the reason that Mr. Pinsent calls it “ Official ” is because it is published by the Minister of the Interior of Canada. That helps to identify it.

Lord WARRINGTON : This is the one which has the Southern Boundary ?

Sir JOHN SIMON : May I remind your Lordships, as it is some time ago, that we found, when we looked at the original, that the original has not been quite correctly reproduced in the Newfoundland Atlas (I think it is the only slip we have observed), because the blue colouring for the sea has not been carried so as to separate the Island of Newfoundland from the edge of the land on the other side.

Mr. MACMILLAN : It is a little difficult to follow for that reason. We both pencilled it in, or I pencilled it in in our copy in blue.

Sir JOHN SIMMON : I produced the original, I am afraid a long time ago, for the purpose of showing how that was.

Mr. MACMILLAN : It is not on that that the point arises. Your Lordships have seen that map. He says this first of all : If that be the conception of what is Newfoundland Labrador, then it represents a vast deal more than would be ordinarily intended by the term “ Coast.” Then he goes on : “ This Canadian topography is, I think, quite correct so far as the limits of the Dominion Territory are concerned, and the remainder of the coast of Labrador would thus quite naturally belong to this Government, but they are not so described and defined in the Letters Patent or commission of the Governor of this colony, and indeed the description falls very short of covering the whole ground, and when questions of jurisdiction arise, the Court has to determine in every case whether the particular locality is upon the Coast of Labrador or not. That fact is, there are some settlements of importance far inland, e.g., notably in Hamilton Inlet over 150 miles from the sea coast. The geographical reasons for the division

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Mr. Macmillan.

given in the Canadian Map are clear enough, as the North Western portion of Labrador, or that which drains into Hudson's bay and Hudson's straits, now forms the North East territory of the Dominion of Canada, and the Southern portion, draining into the gulf of St. Lawrence, is incorporated with the Province of Quebec." Our view is that a great deal more was incorporated in the Province of Quebec. " At the same time, the Canadian authorities are not certain or precise as to their boundary lines, and they are marked, as your Excellency will perceive, ' supposed boundary,' and possibly the course of the North–West River so far as

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it runs from the 52nd. parallel, would, regarded naturally, be the more consistent and definite dividing line. The publication by Canadian Official Authority of the Map in question or some such other may be useful as a definition of the rights of the Dominion of Canada, but it would not have the effect of conveying to Newfoundland, British Territory not included in its own, and which might, from not being by Imperial Authority, embraced in either, be a sort of ' No–man's–land,' over which neither of the Colonies could exercise government nor their courts jurisdiction. I have therefore to submit to your Excellency and to Her Majesty's Government the desirability of so defining the territorial boundaries of that part of Labrador intended to be attached to Newfoundland, as a dependency of its Government, that no doubt may be left as to the jurisdiction of its courts and the authority of its officers."

Lord WARRINGTON : The boundary in that map, shown in pink, is what is described as the height of land, I do not say it is accurate.

Mr. MACMILLAN : That is so.

Sir JOHN SIMON: The original is more clear on that point, if I may offer it to Lord Warrington.

Mr. MACMILLAN : How it is lettered is thus : " Height of land," on the one side of the Hudson Bay line, and on the other side is " Supposed boundary."

Lord WARRINGTON : That is on the South.

Mr. MACMILLAN : And on the North also, both sides.

Sir JOHN SIMON : They do not know where the height of land is, and so they put " supposed."

— Mr. MACMILLAN : It is not “ supposed height of land.” it is “ supposed boundary.”

Sir JOHN SIMON : Quite right.

Mr. MACMILLAN: And you will also observe, my Lords, that it does not go up to Cape Chidley ; the white area is larger, it goes right into Ungava Bay. The whole of that drawing is, as I submit, merely an attempt at this time to indicate what was then described as “ Labrador ”

Lord WARRINGTON : That may have taken the height of land wrongly, but they do take the height of land as the supposed boundary.

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Mr. MACMILLAN : Between the East and West, on the South they do not.

Lord SUMMNER : They take the 52nd parallel.

Sir John Simon. Mr. MACMILLAN : On the South it is “ supposed boundary.”

Lord WARRINGTON : That goes to the parallel of latitude.

Mr. MACMILLAN : Yes, my Lord.

Lord WARRINGTON : Then Judge Pinsent is really arguing the point that we have to decide.

Mr. Macmillan. Mr. MACMILLAN : He is, my Lord ; and he is arguing, curiously enough, in my favour, though lie is a Newfoundler.

Lord WARRINGTON : He says : If that is true, “ coast ” is used in a very extensive signification.

Sir JOHN SIMON : I think we could both take comfort from it, if indeed it was an authoritative pronouncement, because he says, you see, “ the Canadian topography is quite correct so far as the limits of the Dominion Territory are concerned ” ; of course, that is entirely in my favour.

Mr. MACMILLAN : I am not sure whether it is.

Viscount FINLAY : Apparently the question of whether a man is to be hanged or not may depend on it.

Mr. MACMILLAN : I am not at all sure that it is in my learned friend's favour. If the question was, as apparently this Judge thought it was, in drawing these lines, not to get the boundary between Newfoundland and Canada, but to get the Boundary between Canada and Labrador, then the point is made clear ; and that seems to be, I think, what this writer has

in mind. “ This Canadian topography is, I think, quite correct so far as the limits of the Dominion territory are concerned and the remainder of the coast of Labrador, would thus quite naturally belong to this government, but they are not so described and defined in the letters patent or commission of the governor of this colony, and indeed the description falls very short of covering the whole ground ” ; and it goes on to say it cannot be that.

The LORD CHANCELLOR : There is confusion here, because at that time all that was not Newfoundland was Canada.

Mr. MACMILLAN : I know, my Lord ; and that is why one must take all these maps cum nota, because people at that time had not

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investigated these maps at all, and various lines were drawn, of one sort and another, all over the place.

Lord SUMNER : That map was 1878, I think ?

Mr. MACMILLAN : Yes, my Lord. That is the way in which Judge Pinsent approached this. This Newfoundland Judge says : Really, my Governor certainly has not jurisdiction over the whole of this white area by the terms of his grant.

Lord SUMNER : Perhaps the answer to Judge Pinsent's point may be found in the Order in Council of 1880 ; he was relieved after that, according to you, of any question of pursuing malefactors into the interior.

Mr. MACMILLAN : Yes.

Lord SUMNER : Because if Canada has not that white area under the Quebec Act it must have got it under the Order in Council of 1880.

Mr. MACMILLAN : Exactly.

The LORD CHANCELLOR : He is writing in 1888.

Mr. MACMILLAN : He is writing in 1888, but the map was an 1878 map ; he is writing after the map. You will find considerable doubt on the part of Quebec as to whether the hinterland came to them in 1774, or came to them in 1880. It was not necessary to determine under which title it was derived. I will read one or two passages later on which will show they were not clear whether it came to them under the Order in Council of 1880 or the Quebec Act of 1774. I think the 1774 Act is the title myself, but that is only my submission ; it is not necessary for my case to state it dogmatically, because under one or other title it comes. My learned friend, I think, thinks that it came under the 1774 Act ; it is a question of whether there were two bites at the cherry.

Sir JOHN SIMON : I should be very glad to be relieved of dealing with a thing which follows necessarily, I think, in logic, if my learned friend and I take the same view. I quite understand his view that in 1774 the Province of Quebec was enlarged so that it swallowed up everything, and subsequently all that has gone back from the Province of Quebec is a narrow selvedge. That is quite an intelligible view, and, of course, that may be right ; but, of course, from 1774, whatever may have been the case before, there cannot have been anything which was neither Newfoundland nor Quebec in this area, because the story is : Quebec gets the whole in 1774, and then only loses so much as she gives back

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Mr. Macmillan.

Lord Sumner.

Mr. Macmillan.

Sir John Simon.

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to Newfoundland.

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Mr. MACMILLAN : I do not put it quite in that language. I put it that Quebec in 1774 got the whole, but got it in two sections; it is quite true it got the whole, and it gave back one of the thing it got, but things not the other.

Sir John Simon.

The LORD CHANCELLOR : At that date, according to your view, all that was not in Newfoundland in Labrador was in Canada.

Mr. Macmillan.

Sir JOHN SIMON : I think that is logical.

Mr. MACMILLAN : The point is that no one seemed quite to know that.

Sir JOHN SIMON : But the logic will remain, I am afraid.

Mr. MACMILLAN : It will remain, but if we are considering the effect of administrative acts (I am dealing now with what was done since) when one is considering what has been done since, one has to consider what they thought, however erroneously.

Sir JOHN SIMON : A point which was common ground on both sides really, now one has considered the history, is that from 1774 this disputable area must, every square yard of it, either be Canada or Newfoundland.

Mr. MACMILLAN : Will it satisfy my learned friend if I say “ I think so too,” but at the same time I do not require to assert that as my proposition in law. If there are any gaps in it, it is picked up by the 1880 Order in Council. Might I carry this just a little bit further ; that is Judge Pinsent, and then the matter goes on ; at page 344 Lord Knutsford to Lord Stanley, “ I have the honour to transmit to you for your consideration, a copy of a despatch from the Governor of Newfoundland regarding the boundary line between that colony and Canada. I shall be glad if your Lordship will be good enough to furnish me with the views of your Ministers on this question.

The boundaries of Canada and Newfoundland on the Labrador coast appear to be defined by the Act,” of 1825. My Lords, we are still in search of them. Then Sir T. O'Brien to Lord Knutsford, “ My Lords, I have the honour to forward herewith copy of a letter from Mr. Justice Pinsent, relative to the boundaries of this colony and of Canada in Labrador. The frontier laid down by the Dominion government, which line is quite acceptable to Newfoundland ”—of course it is, but it is not laid down for that purpose at all—“ is quite acceptable to Newfoundland, does not correspond, as your Lordship will observe, with that laid down in my instructions, thus leaving a large tract between the two lines which is under no one.” Now he did not understand that the 1774 Act had given us

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Mr. Macmillan.

everything. There was no such large tract between the two lines which is under no one but this Governor thought there
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The Lord Chancellor. was ; it was under Quebec by the 1774 Act—" hence a question of jurisdiction might at any time arise, which might lead to a miscarriage of justice, or other complications." Mr. Pinsent rather warms to the task at page 345 and goes on, " Referring to my conversation with your excellency touching the Labrador boundary line, when you informed me that no change had been made in the commission or royal instructions, I have the honour again to suggest the desirability of a more definite description of that boundary. The reasons are fully set out in my letter of May last to Governor Blake," this is the new Governor who is taking up the thread. " I would only add that no question or dispute arises in this matter between the Dominion of Canada and Newfoundland," which seems to be a rather remarkable view.

Mr. Macmillan.

Viscount HALDANE : It is an extraordinary proposition.

Mr. MACMILLAN : " The former has defined its line in official maps "—yes, it has defined its line, it has drawn it mistakenly, of the boundary of a thing called " Labrador " ; but it has certainly not committed itself to the view that all that is white on that map is not Canada.

Viscount HALDANE : According to the Order in Council of 1880, everything that is not Newfoundland is Canada.

The Lord Chancellor.

The LORD CHANCELLOR : I do not want to stop anything that is material ; but are not we rather getting to the French system of evidence, by finding out what somebody thought ?

Mr. Macmillan.

Mr. MACMILLAN : May I just refer to one other matter ; I at once take your Lordship's hint on the matter not to pursue it further, but I am in a little difficulty because my learned friend has read all these letters and put his gloss on them, I suppose with the purpose of influencing your Lordship's mind, most properly ; but I feel it a little difficult to leave them with that impress upon them without an explanation of them ; there are two ways of reading them, one could read them with emphasis on one part or another, and no one is more adroit than my learned friend in giving an attractive reading.

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Mr. Macmillan.

The LORD CHANCELLOR : He was giving us the history, but I think he knows we would not be influenced by the view this gentleman took in 1888.

Mr. MACMILLAN : If your Lordship reassures me to that extent, I can deal with it very shortly. This map which was produced by Mr. Johnston is rather interesting, at the time of

this controversy, at page 348 of that volume, because it just shows what an extraordinary confusion people are in. Mr. Johnston is the cartographer of Canada, and he tells us about this map at page 347 : “ On the sketch map which I have prepared to accompany this memorandum, taken from
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the maps of British North America, by Arrowsmith, of London, and W. & A. K. Johnston, of Edinburgh, it will be seen that the custom has been to mark the boundary of Labrador, southerly, from Cape Chudleigh (at the ocean entrance to Hudson's strait, along the height of land) to the undefined northern boundary of Lower Canada (now Quebec), thence easterly and south along the said northern boundary of Lower Canada to Anse Sablon. It does not appear that this line was intended by the geographers to represent the boundary of the territory in Labrador, under the jurisdiction of Newfoundland but most probably the dividing line between Labrador and what was supposed to be Hudson's Bay Company's territory. The name ‘ Labrador,’ or ‘ Peninsula of Labrador,’ in its full geographical application, has been generally understood to cover the whole region between the Atlantic Ocean and the east coast of Hudson's bay, as evidenced by the earliest maps of the country.” Then the first paragraph on page 348, “ On the maps of the Dominion, published from time to time by the Department, the same system of drawing the Labrador line, has been followed as on the British Maps, but we have invariably taken the precaution to show it in a dotted line, with the words, supposed or undefined applied to it. It does not appear that it was contemplated by the Imperial Government that the colony of Newfoundland should possess any such large extent of territory on the main land as is represented by the yellow tint on sketch map (herewith), the Labrador of Modern maps. My impression is, that nothing more was intended than a comparatively narrow strip along the coast (coloured pink), which would include the fishing stations, missions, Hudson's Bay Company's posts, etc., and such a strip, probably, is all that is included in imperial instructions to the governor of Newfoundland, as indicated in his despatch to the colonial secretary, 27th February, 1889. He writes : ‘ The frontier laid down by the Dominion government . . . does not correspond . . . with that laid down in my instructions, thus leaving a large tract between the two lines which is under no one ’.” Now line 23 “ It is hardly necessary to remark that Canada has not defined any line between the two colonies, either on official maps or otherwise.”

Lord Warrington.

Mr. Macmillan.

Lord WARRINGTON : But he does point out, you will see, that that[sic] so called neutral tract was part of the land that

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went to Canada in 1880.

Mr. MACMILLAN : I was coming to that, my Lord, in a moment. “ It is hardly necessary to remark that Canada has not defined any line between the two colonies, either on official maps or otherwise, and, so far as I am aware, the question is now placed before the Dominion government, by the Colonial secretary for the first time.” This yellow territory, of course, is shown in Mr. Johnston's map as annexed by the Order of September 1880, and he has before him the Governor of Newfoundland's conception that there is a large tract between the two lines which is under no one, and accordingly he says

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there is a large tract between the two lines, and on that hypothesis that area would have been taken in under the 1880 Order because it was left over ; therefore, his position is quite logical, and he shows a strip down the coast. Then, my Lords, there is a good deal more about it, but the only letter that seems to me of final importance in this matter is one which my learned friend did not read on the Pinsent incident (it is at page 356), because it is from the Colonial Office to Mr. Pinsent ; it is, I venture to think, rather important as showing the official view in 1890 after this whole matter was before Downing Street : “ I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 11th inst., respecting the boundary between Canada and Newfoundland, on the Labrador coast. Lord Knutsford desires me, to observe that the effect of the Acts 14 George III. Cap. 83, and 43, Geo. III., cap. 138 ‘ was to give Canadian Courts jurisdiction over the whole of the dominions of the crown in North America not forming part of any of the provinces.” The Act of 1809 only re-annexed to Newfoundland part of the coast of Labrador and the subsequent Acts and instruments all speak of the coast only as belonging to Newfoundland. What may be the exact extent inland of the coast appertaining to Newfoundland, may be a question, but the most liberal interpretation of the term ‘ coast,’ could hardly in Lord Knutsford's opinion, include all the part coloured yellow in Mr. Johnston's sketch ”—in short, the very part we are contending for.

Viscount Haldane.

Mr. Macmillan.

The LORD CHANCELLOR : Lord Knutsford was a very distinguished man, but, after all, even what he thought is not evidence.

Mr. MACMILLAN : I think if one is to read the Pinsent correspondence, if it assists my learned friend, it is surely right to read what was the Colonial Office view at the time.

Viscount HALDANE : He makes a very safe observation : if the two Governments of Canada and Newfoundland were to agree on a line, the Government would be prepared to give

effect to their decision.

Sir JOHN SIMON : It would save a lot of trouble, my Lord.

Mr. MACMILLAN : The matter came up again in what was called the Halifax Conference, and there the parties differed from each other, and I do not think it is worth pursuing it at all. The topic comes up on the Agenda, and nothing much seems to have happened except that Sir John MacDonald said that no map which is not in conformity with the description in the Act is any use at all, and that does not carry one any length at all : and there were disclaimers of certain maps which were produced. I think that is a fair enough representation of that. There is another matter which my learned friend dwelt on which is what I call the Duffryn incident in 1874. I am a little at a loss from your Lordship's indication to me on this matter, how far I am entitled to go into it ; that was founded on by my learned

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friend as being the recognition by Canada itself—an identification and recognition by Canada itself, that something corresponding to that large area was Newfoundland. It arose in this way (I will deal with it very shortly) that a cargo of fish had come down to the United States (it was consigned from Labrador) and the question arose. Is it entitled to free admission ? All fish from Canada and Newfoundland was entitled to free admission, and the question was, therefore, was this fish entitled to free admission ? The real question was whether Labrador was in one or the other ; it was not necessary for the purpose of that controversy to determine in which it was.

Sir JOHN SIMON : I quite agree with you.

Mr. MACMILLAN : But the importance of the incident from my learned friend's point of view is that the matter was then considered domestically by Canada, and they came to a conclusion in terms of a map which my Lords have seen, and which is favourable to my learned friend's contention.

The LORID CHANCELLOR : Which map is that ?

Mr. MACMILLAN : It is Map No. 32A in the Newfoundland Atlas. It is not, of course, the area now claimed, but a different area ; but still it is drawn in a more or less large sense ; and what had been said by Lord Duffern, who had apparently dropped in at the Embassy at Washington, was that Labrador belongs to Newfoundland, the question being whether fish from Labrador was entitled to get in free or not. He said Labrador belongs to Newfoundland, till the question was taken up more closely. This map received the approval of the Canadian authorities at that time. First of all, of course, neither the Governor General of Canada nor his Privy Council nor anyone else could fix the boundary one way or another ; they could express their views of it, but they could do no more than that.

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Sir John Simon.

Lord WARRINGTON : This map is wrong anyhow, because it gives the shore of Ungava Bay to Newfoundland.

Mr. Macmillan.

Mr. MACMILLAN : I know, my Lord.

Lord WARRINGTON : That is wrong, anyhow.

Mr. MACMILLAN : The map is wrong, anyhow. It is rather a good point for my learned friend because he is able to say : Now what did you think of it yourself at this time ? I have shown you, my Lords, that much later on, at the time of the Halifax Conference, the whole thing was still in issue ; this was not taken as a concluded matter, domestically, by us at

all. My learned friend desires nie to draw attention to the fact of that large “ A,” which he regards as of importance, it is on the pink area, as being the termination of “ Canada.”

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Sir JOHN SIMON : I only mean that we have reproduced a little bit, and the big “ A,” in Quebec, is the last letter of “ Canada,” which runs across the map.

Mr. MACMILLAN : The matter concluded with a letter from he Colonial Office at home, saying : Lord Duffryn has gone too far in saying that Labrador belongs to Newfoundland, in point of fact, part of Labrador belongs to Newfoundland, but the question is of no importance, because either it is Newfoundland or Canada, if it comes from one or the other, this fish is entitled to free entry ; and there the matter drops. Such point as my learned friend gets from it, he does, but it is not his present claim, and I submit it is quite erroneous, and was not carried forward, and. as you see, in Pinsent's time, people do not found on that map or on anything that was done at that time, and at Halifax Sir John MacDonald's position is, if I remember rightly : Look at the Act and we will see what the boundary is. Your Lordships are looking at it.

Viscount FINLAY : In map 32A what does the word “ land,” which is in very large letters mean ?

Sir JOHN SIMON : That is the end of “ Rupert's Land.”

Mr. MACMILLAN : Now I will take your Lordship's admonition and not dwell over these matters. The Agnew grant I have made my comment on. Perhaps it might be worth while to say a word about the Moravian Grants, if your Lordships please. May I consider, first of all, with what object these are relied on by my learned friend. They are relied on, I take it, for this purpose : to show that “ coast,” here, means something more than a narrow selvedge, because grants were made to the Moravians of part of the Coast of Labrador, and the whole cannot be less than the part ; therefore, if you find grants made of extensive tracts of territory these give you some idea of what was in the minds of people who talked about “ the coast of Labrador ” when they made these extensive grants. First of all, with submission, what I have to say with regard to this is that, of course, that has nothing whatever to do with the height of land at all. It does not assist my learned friend there at all; it may assist him on the question of what is the depth inland of the sea coast of Labrador, but it is of no value to him at all on the question of the height of land. The first matter upon it is to draw your Lordship's attention to the map, which has already been before you, showing the four grants that were made to the Moravian Brethren.

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Viscount FINLAY : Where is that map ?

Mr. MACMILLAN : It has not been reprinted.

Viscount HALDANE : You produced a copy of it.

Mr. MACMILLAN : Your Lordships have had it. I have in my

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hand the original which was supplied to us very courteously by the Government of Newfoundland when we asked them, “ What are these Moravian settlements on the Coast ” ? We received this and we must assume it is accurate.

Viscount HALDANE : Are they all to the North ?

Mr. MACMILLAN : Yes, my Lord, all four are to the North.

Lord SUMNER : How far inland does this go ?

Mr. MACMILLAN : I cannot find that any of them is at any great distance from the shore, my Lord. I looked for that very point ; it is the Northernmost one as shown here, that rhomboid.

Viscount HALDANE : How far in was this ?

Mr. MACMILLAN : They are drawn in this way, that they include a very broken coast, and it is very difficult to say exactly how far inland you get. I take it from the largest stretch of land intervening between any point of those boundaries and the nearest sea ; if I do it that way I think that the point where that occurs is in the Hebron Settlement, that is the Northernmost one, and the Northernmost one is the biggest. I want to find the point included in any one of those irregular figures which is most remote from the sea. That is what I am looking for at the moment, and I understand that is what Lord Sumner desires. As far as I have seen, that seems to be about the furthest.

Viscount FINLAY:: Is that on the Rhomboid ?

Mr. MACMILLAN : My point for the moment is to get what portion within these grants is furthest away from the sea.

Lord WARRINGTON : From the nearest water of the coast.

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Mr. MACMILLAN : Yes, the nearest sea coast. My learned friend will perhaps cheek me on this ; I cannot see any of the others which go further. (After conferring with Sir John Simon) My learned friend persuades me to do it a little more favourably than I thought I would ; his persuasive urbanity causes me to do it.

Viscount HALDANE : Is that the Hebron ?

Mr. MACMILLAN : Yes, My Lord, the Hebron. I think it is between 25 and 30 miles. That is one point only, and I have taken the furthest possible point inland.

Viscount HALDANE : Is that from the easternmost boundary, to the back ?

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Mr. MACMILLAN : I am putting the problem to myself in this way, my Lord : How far could I get away from salt water in any of the territories granted to the Moravians ?

Viscount HALDANE : That is going inland ?

Mr. MACMILLAN : Yes, my Lord, inland. How far inland would I get ?

Viscount HALDANE : But how far is the easternmost boundary the one nearest to the sea ?

Mr. MACMILLAN : It goes right into the sea, my Lord. The grants are grants of sea water and islands as well ; and one must bear this in mind, that these grants are only grants of areas, and not of boundaries. I am taking this as set down by my learned friends themselves on this map, for the purpose of my test. But all that was done was to give grants of so many acres, and those have been construed, apparently, as involving large amounts of water. They were really locations for the Moravians, and intended to be a sphere of operations for them. I do not think, therefore, that very much turns upon whether it is 25 miles or 30 miles, or even 40 miles.

Lord Sumner.

Viscount HALDANE : The Hebron territory ran into the sea, as I understand it.

Mr. MACMILLAN : It was on the sea.

Mr. Macmillan.

Viscount HALDANE : I know ; and it came down into the sea, and it goes back for 25 to 30 miles to the other boundary.

Mr. MACMILLAN : Towards the west, my Lord.

Lord SUMNER : According to that map, a grant appears to have been made, without challenge, of land situated between 25 and 30 miles from the nearest sea water.

Mr. MACMILLAN : Yes, my Lord.

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Lord SUMNER : It may not have been much land that was as far back as that, and it may be that most of it was much nearer ; but still they did get it as far back as that, without challenge.

Mr. MACMILLAN : As I understand it, my Lord, it was not, granted *eo nomine* ; they were given so many acres ; and it has been laid down in that form. The whole significance of it disappears when it is remembered that these grants were not made by the Governor of Newfoundland at all, but, like Agnew's grant, were matters dealt with by the proper department to deal with them. These grants were

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made to the Moravians, not by the Governor of Newfoundland at all, but they were made by the Privy Council at home here.

The Lord Chancellor.

The LORD CHANCELLOR : But were they not made through the Governor of Newfoundland ?

Mr. Macmillan.

Mr. MACMILLAN : He only commended the Moravians, and he only commended them for this reason, that they were doing useful work up there, and they provided him with an interpreter to interpret between himself and the Esquimaux, who were a practically amphibious people on the margin. The Mission was to the fishing people, and not to the people of the interior. The Governor was told to look after them and to encourage them in the good work that they were doing, and he recognised that and said, “ They are doing very useful work, and if we could get these people Christianised, then we shall not have the trouble on our coast which we had had with our fisherman getting into contests.”

Viscount Haldane.

Mr. Macmillan.

The LORD CHANCELLOR : I think the recommendation was that Your Majesty's Governor, the Governor of Newfoundland, should be instructed to allow the Society to occupy these acres.

Mr. MACMILLAN : Yes, my Lord, but that instruction emanates from the Privy Council, does it not ? The Governor is very properly told, “ We propose to give these people a seat upon your territory, and therefore we are communicating with our Governor and he is to allow those people there.” That is how I conceive that it came about.

Viscount HALDANE : It leaves open the question as to how he was acting. Was he acting as the instrument of the Crown, or was, he acting as the person in authority, to keep the peace ?

Mr. MACMILLAN : Yes, my Lord. It is interesting with regard to this point to look at page 1347. Will your Lordships

observe the Proclamation by Governor Hamilton of Newfoundland as to the grant to the Moravians. It says this :
“ Whereas His Royal Highness the Prince Regent in Council on the 13th of May, 1818, acting in the name and on the behalf of His Majesty was graciously pleased to authorise that every facility should be given to the Moravian Missionaries in Labrador for extending the beneficial influence which they have had upon the character of the Native Indians, and for spreading still further the benefits of the Gospel and to that end to permit and allow the Society of the ‘ Unitas Fratrum ’ to form a fourth settlement on the Eastern coast of Labrador and to occupy during His Majesty's pleasure ‘ that part of the said Coast to the North of Okkak, which comprehending the Bays of Kangerhuksoak and Saeglek reaches to the 59 Degrees of N. Latitude, provided that the spots chosen by the said Society for its settlements may be such as in no respect to interrupt or annoy the

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fisheries carried on upon the said Eastern Coast of Labrador.'
I, the Governor aforesaid, do therefore hereby make known unto all whom it may concern that the said Settlements of the 'Unitas Fratrum' are under His Majesty's immediate protection."

Viscount FINLAY : What Volume are you reading from ?

Mr. MACMILLAN : It is Volume III, page 1347.

Lord SUMNER : The grant was made as a grant by the Crown of Crown Lands, and not as an exercise of jurisdiction conferred by the Commission of the Governor of Newfoundland.

Mr. MACMILLAN : Yes, my Lord.

Lord SUMNER : But then there comes a further difficulty. Is not that, in that case, a grant by the Crown at the expense either of the Hudson's Bay Company or of Quebec ?

Mr. MACMILLAN : I think it must have been.

Lord SUMNER : And if there is no communication either with the Hudson's Bay Company or Quebec, is not that some ground for saying that the view of the advisers of the Crown was that really it was not within the jurisdiction of the Governor of Newfoundland, although it might be proper under the circumstances.

Mr. MACMILLAN : But, my Lord, see how tenuous the point becomes. I should agree most respectfully that Newfoundland was properly consulted, because Newfoundland had a coast, and this did embrace a part of what we ourselves concede was Newfoundland.

Viscount HALDANE : In the year 1818 ?

Mr. MACMILLAN : Yes, my Lord.

Lord SUMNER : All these points become more tenuous.

Mr. MACMILLAN : That does not, unhappily, absolve one from the duty of dealing with them.

The Moravian position, therefore, does not seem to advance matters very much, but what is very striking is this, that whatever the Moravians were, they were a coastal mission. That is quite clear. They did not know the language of the interior at all, and they were missionaries to the Esquimaux. They were Protestants. Your Lordships will find some very interesting passages in the last volume.

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Mr. Macmillan.

Lord Sumner.

Mr. Macmillan.

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Viscount Haldane.

Mr. Macmillan.

Viscount Haldane.

Viscount HALDANE : I suppose that Newfoundland had that
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Sir John Simon.

territory where the Moravians were, if they had it at all, in virtue of the Proclamation of 1763. You will remember that the Statutes took away from Newfoundland what it had got since 1763.

Mr. MACMILLAN : I have always maintained that it was the same subject matter that was being transacted with, back and forth, namely, the fishery coast.

Viscount HALDANE : The coast, yes ; but the only part of the coast that was taken away under the Statute was such part of the coast as had been given to Newfoundland since 1763.

Mr. MACMILLAN : Yes, my Lord.

Viscount HALDANE : The words are express.

Mr. MACMILLAN : Yes, my Lord, they are.

Sir JOHN SIMON : If my learned friend will forgive me, I think it may be that Lord Haldane is for the moment thinking of a later date, perhaps. The matter that we are dealing with is a matter which arises in the year 1766. It is therefore before the Act of 1774.

Viscount HALDANE : You mean this incident ?

Sir JOHN SIMON : Yes, my Lord. I beg my learned friend's pardon for interrupting, but this happened before 1774.

Mr. MACMILLAN : Is that the Moravian letter ?

Sir JOHN SIMON : Yes.

Mr. Macmillan.

Mr. MACMILLAN : Then Newfoundland would be interested in this. After 1774, it would not be.

Sir JOHN SIMON : The point, for what it is worth, is this : it really is not much, but it is in Volume III, at page 963, at the bottom of that page, where the Lords of Trade say that they recommend your Majesty's Governor to be instructed to allow this Society to occupy—so and so.

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Viscount HALDANE : What is the date of that ?

Sir JOHN SIMON : That is 1766, my Lord, and therefore it is after Newfoundland has got the coast, whatever “ the coast ” means, and it is before 1774. It is at the bottom of page 963 in Volume III.

Mr. MACMILLAN : I was pointing out that these Moravians were missionaries and coastal people, and coastal people only, and they were therefore persons who would naturally be seated on the coast, and there—

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fore persons who would naturally be commended to whoever was in charge of the coast. The Christianizing of these Esquimaux, who had been very savage and had caused a great deal of trouble with the fishermen resorting to that place, was very important. It was pointed out by Governor Palliser that it was very important to get them tamed, because otherwise we could not carry on the fishery, and the Moravians were an instrument of taming these people. But they had nothing to do with the interior Indians at all, and therefore the Moravian settlements do not affect the question of the interior, but they may affect the question of how far inland it was proper to consult the Governor of Newfoundland about, when you were dealing with any part of these coasts. Beyond that, there is not anything much in it. Will your Lordships take a reference to pages 4176 to 4182, where your Lordships will see in records of the Moravians that they did not know the Indian language at all and were not able to carry on their missions in that territory.

The Lord Chancellor.

Mr. Macmillan.

Viscount FINLAY : I think you read a passage.

Mr. MACMILLAN : I have not read this at all, my Lord.

Viscount FINLAY : No, but you did read a passage to that effect, I think.

Mr. MACMILLAN : Yes, my Lord. These pages are interesting because they speak about the Indians coming from the interior, and they are strangers ; they do not know about them.

The LORD CHANCELLOR : Of course, this does not come to very much, because these missionaries often begin with a little or no knowledge of the native language, and then learn it.

Mr. MACMILLAN : But your Lordship will notice that up to 1868, when they had been there for more than one hundred years on the coast, they had not learned it. First of all, apparently, in 1850, when the coast of Labrador was undoubtedly in the hands of Newfoundland, they cannot have been doing very much for it, because the unhappy Moravians complain, on page 4176, at line 20, that “ we have here neither magistrate nor police regulations, we scarcely know how to act in such a distressing case as the above, fearing to be either too forbearing on the one hand. or too severe on the other.”

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Then they tell us this incident about a company of Indians

coming down to dispose of reindeer skins, and they tell us this about it on page 4177, in line 2 : “ They appeared at our meetings, and behaved with decorum. How glad we should have been to preach the blessed Gospel to them in their own tongue ! These, like very many Indians, professed to belong to the Romish church, but they seemed to lack all religious knowledge. They had come from a distance of several days' journey, and drew on the floor with chalk the outlines of the course they had taken. We

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gave them several presents for their wives and children, with which they were pleased.” Now, my Lords, here is a very picturesque little incident. The Esquimaux missionaries are receiving a visit from Red Indians. They cannot converse with them, but have to use the language of signs, and they are very interested in seeing these people.

Then the next extract is in the year 1878, and with regard to that it says this, in the middle of page 4177 : “ About the middle of the year a family of Indians visited Hopedale from Ukjuktok Bay, who, as almost all the Neskopie Indians, are nominally connected with the Roman Catholic Church. The object of their visit was to obtain information about the differences between the Roman Catholic and Protestant beliefs.”—I take respectful leave to doubt whether that was the real reason, and whether their interest led them to that.—“ The Christian behaviour of our Eskimoes, who live near them, had made such an impression on their minds, that they desired to spend a Sunday with our congregation at Hopedale,” and so on.

Then your Lordships will find various little human incidents of that sort, on page 4178, for instance : “ In February and March we had visits from companies of Nascopi Indians, who came to barter with us. How we regretted our inability to converse with them ! They were very suspicious in their dealings with us.” Then a little lower down, at line 28 on the same page, it says : “ Again it was impossible for us ”—this is the same year, 1882—“ to have intelligent intercourse with them on account of our ignorance of their language ; the Eskimoes understood them better, and appear to have lost a good deal of their old jealousy of the Indians.”

There are several more extracts to the same effect. There is rather an interesting little note taken from Dr. Grenfell, who, of course, has been so much associated with Labrador and has done such wonderful work there. That is on page 4182, and there are other extracts from Dr. Grenfell's works among the papers, and he has some very interesting observations to make from his long experience of the coast. There is one passage in which he points out that there are no houses more than 250 yards from the shore of the Labrador Coast, but in this passage here he is talking of the vernacular acceptation of Labrador. This is on page 4182, and he says : “ ‘ Labrador ’ is a term used, now with a wider sense, now with a more limited meaning. Taken in its widest geographical sense, it

implies the vast peninsula to the north of Canada and Newfoundland, bounded by Hudson's Bay, Hudson's Straights and the Atlantic Ocean. To Newfoundlanders, however, ' the Labrador ' is that part of the rugged and desolate coast—line nearest their island, and along which their schooners cruise during the season of the cod fishery. Of late years numbers of these fishing vessels have come north of Cape Harrison and so within what we may call ' the sphere of influence ' of the venerable Moravian Mission established among the heathen Eskimoes, when their reputation for murderous savagery held all other white men at a distance." I say no more about the Moravians ; and I think one other topic will exhaust these matters that I have to pick up.

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My learned friend referred to a certain resolution of 1886 as affording some support to his case. That was the resolution which preceded the Canadian Acts of 1898, extending the boundaries of the Province of Quebec ; and the point, put quite shortly, is this : If the territory in the interior was already the property of Quebec, under the Act of 1774, was it not idle to extend the Province of Quebec in 1898 so as to take in what was already included in it ?

The Resolution is to be found in Volume VIII at page 4005, and a little examination of it is, I think, worth while making. It was quoted more especially, I think, for the words below line No. 30, the description of the proposed boundary being there set out, and its concluding words are : " again on the east by this same river to the fifty—second degree of north latitude, following this parallel to its intersection by the meridian of Anse au Blanc Sablon, the present recognised eastern boundary of this province." The point of Anse Sablon is certainly the Eastern boundary ; but as to what is the depth, is a different matter. Then the proposal was legislation. My learned friend, unless I mistook him, said that that view was adopted by the Dominion and became the law. On page 222 of the Shorthand Notes, my learned friend laid great emphasis upon this, and said : " It is a most striking fact that in 1886 after the rather detailed and careful Canadian survey represented in the official map of 1882, you should have the view first of all presented by the Quebec Government to the Dominion, and then in its turn adopted by the Dominion and then in its turn adopted by the Dominion and acted upon, that what Quebec needed was to enlarge the boundaries as you see them on my model," and so on.

Now, my Lords, what happened was this, that upon this matter coming up for consideration, the boundary was not so fixed by the Legislature. Would your Lordships just look at the foot of page 4006, where there is a letter from Mr. Burgess, the Deputy Minister of the Interior, to the Minister of the Interior, Mr. Mayne Daly. It says this : " I have the honour to report that I have, in accordance with your request, given careful consideration to the various references which

have been made from Council of despatches from His Honour the Lieutenant Governor of Quebec, having relation to the subject of the Northern, North-western and North-eastern boundaries of that Province. The views of the Provincial authorities as to what these boundaries should be are set forth in a report, dated 4th June, 1886";—that is the one upon which my learned friend is relying—" made by a select committee of the Legislative Assembly ' to consider the question '"—and so on. Then the correspondence is referred to and this description is given : " This proposal, with the correspondence arising out of it, was referred to the Department of the Interior in December, 1889. I then reported that next to nothing was known about the East Main and Hamilton Rivers ; that like all other rivers they undoubtedly had several sources and branches, and that before they could be adopted as a boundary it would be necessary to determine in each case which of the branches is to be adopted as the dividing line." Then a survey was ordered and made, and then comes the

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position on page 4008, at line 10 : “ I do not contend that the boundary proposed is a legal boundary, but on the contrary admit that it is a conventional one. The true limit of the Province of Quebec on the North would probably be the boundary between New France and the territories of Great Britain on the northern part of the continent”—in other words, Hudson's Bay Territory—“ There was some difference of opinion between France and England as to where the boundary should be, and the commissioners appointed to decide the question never reported. Even if that boundary had been finally established it could not now be adhered to, because in the interval, after an arrangement and a rearrangement, the Imperial Government finally detached from the Province of Quebec and placed under the jurisdiction of Newfoundland the strip along the Atlantic coast extending from Anse Sablon to Hudson Strait described by ‘ Letters Patent ’ dated 28th March, 1876, as follows : ‘ The Coast of Labrador from the entrance of Hudson's Strait to a line to be drawn due north and south from Anse Sablon on the said coast to the 52nd degree of north latitude, and all the Islands adjacent to that part of the Coast of Labrador.’ What therefore is now aimed at is a conventional line which will also be convenient and easily ascertained, and it is believed that in the description appended to this memorandum that aim has been attained, the only portion of the lines it describes which would appear to require to be established by any further actual survey being the right line connecting the waters of the East Main River with the waters of the Ashuanipi,” and so on. Then comes the description of the proposed North-eastern boundary of Quebec from the purpose of this conventional, though not necessarily legal, boundary.

Sir JOHN SIMON : I did not follow that. Did you read line 12, where it says : “ At that time, if I am not very much mistaken’ ?

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Mr. MACMILLAN : I do not know whether I read that or not, but you can have an opportunity of reading it later on.

The LORD CHANCELLOR : It was read.

Sir JOHN SIMON : It rather throws light upon the reason why they suggested what they did.

Mr. MACMILLAN : At the foot of page 4099 there is the proposed description of the boundaries of Quebec for this conventional purpose, recognising Newfoundland there, “ and thence easterly along the middle of the said bay or inlet ”—that is along the Hamilton Bay or Inlet—“ until it strikes ”—now, my Lord, what ?—“ the Westerly Boundary of the

territory under the jurisdiction of Newfoundland and thence southerly along said boundary to the point where it strikes the north shore of the Anse Sabion in the Gulf of St. Lawrence, the said boundary being shown in red as far as Hamilton Inlet on the map

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hereto attached.” So that what was done by the resolution of 1886 was not, as my learned friend said, that the Dominion adopted in turn what had been reported, but on the contrary the Dominion considered the matter fully, got a survey and report, and then said : “ The boundary which we propose (which is not really a legal boundary, because technically we have got all this already probably under the Quebec Act, but it is an administrative boundary for which we want, legislative sanction) we will carry along until we come, on the frontier to the boundary of Newfoundland, a coastal strip of Newfoundland, and then we will run down that line until we come to Anse Sablon, where Newfoundland terminates.” That was what was done ; and how it can be said that the Dominion adopted what was proposed in the Resolution of 1886 I fail to see. The Legislations that followed the Act are, first, that of the Province of Quebec in Volume VIII at page 4015, and the legislation of the Dominion in Volume I, page 247.

Now, my Lords, of course, it is quite right to say that that was in 1898, and if Canada, or its Province of Quebec, was legislating then in territory which was the territory of Newfoundland, it was acting ultra vires, quite plainly. But to say that the resolution of 1886 was the basis of these Acts is inaccurate. What was actually done was to recognise—it may have been erroneously—where the Newfoundland frontier was, but to recognise a frontier on the Labrador coast, and to carry the boundary of Quebec, as proposed to be conventionally extended, down alongside that boundary, preserving to Newfoundland the territory within its jurisdiction.

The LORD CHANCELLOR : Is that map anywhere which is referred to in the Quebec Statute ?

Mr. MACMILLAN : Yes, my Lord, it is in our Atlas.

The LORD CHANCELLOR : I should like to look at it, just to follow this boundary.

Viscount HALDANE : I suppose, strictly speaking, the Dominion was taking advantage of the Order in Council.

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Mr. MACMILLAN : It really followed upon this, that after the decision of the Ontario–Manitoba case, it was thought desirable to carry up the boundary of Quebec to a line in continuance of that, and that is how the matter came up. It

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came up in 1886 first of all, and then there was a certain proposal as to what should be done, and this very point about whether it was not legislation which was superfluous because it was already in Quebec under the Act of 1774 was raised. Then they said : “ Let us have a conventional boundary of Quebec for administrative purposes.” That is the boundary that they have fixed and which recognised the selvedge. They recognised that Newfoundland was seated on the coast, and they recognised that in their Act of 1898

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Lord SUMNER : Which number is it ?

Mr. MACMILLAN : No. 12, my Lord.

Viscount Haldane.

Viscount HALDANE : Assuming that the territory in question was not Newfoundland, but was territory which had not been allotted at all, this legislation of 1880 gives it to Canada.

Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord, if it was no-man's-land, it became Canada's then. Then they stopped the boundary at where they conceived, and where we are now to submit, was the boundary of the coast of Newfoundland, at the Hamilton Inlet. It is very near the coast. The description is : “ thence easterly along the middle of the said bay or inlet until it strikes the Westerly Boundary of the territory under the jurisdiction of Newfoundland, and thence southerly along the said boundary to the point where it strikes the north shore of the Anse Sablon.” So that they recognised at that time, and the Legislature recognised, the presence of Newfoundland, and they said : “ We must of course stop short of the strip of land which Newfoundland has got.” That I think was the last of the subjects which my learned friend prayed in aid, and I quite accept his view that they are all subordinate ; but I could not, as I have said, leave them without making my comments upon them.

Viscount HALDANE : Before you wholly pass away from these things, will you tell me, on your general map, about the distances. Have you got them ? For instance, take the broader part from the blue line across to Cape Harrison, or wherever you like. How much is that in miles ?

Mr. MACMILLAN : I will get the geographer to tell me the distance. There is a scale there. First of all, from the blue line to Cape Harrison, a perpendicular. Would your Lordship like that ? We can easily do that.

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Viscount HALDANE : From the blue line, a line west and east.

Mr. MACMILLAN : As near as may be, it is 300 miles, my Lord, if your Lordship means what I have measured, which is

a perpendicular line dropped from Cape Harrison to the blue line.

Viscount HALDANE : I did not mean that, I meant across.

The LORD CHANCELLOR : Horizontally.

Mr. MACMILLAN : The depth inland ? From Cape Harrison to the nearest point on the blue ?

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Lord SUMNER : Somewhere about 220.

Mr. MACMILLAN : As near as may be about 230 miles.

Sir John Simon.

Lord WARRINGTON : That is just under the 55th parallel.

Mr. MACMILLAN : 230 miles to the nearest point of the blue, the ribbon.

Viscount HALDANE : Let us look where the Moravians were, at Hebron. That is much shorter.

Mr. MACMILLAN : I take the middle of the blue and I take the letter " H " at Hebron. I make that roughly about 50 miles.

Sir JOHN SIMON : Is my friend now measuring from the head of the inlet or from the general trend of the coast.

Mr. Macmillan.

Mr. MACMILLAN : No, I was measuring from the " H " at Hebron to the middle of the blue line.

Sir JOHN SIMON : My friend's 50 miles is from what I may call the general trend of the coast, not from the head of the inlet ; when he gave ou the number of miles from the sea, it was from the head of the inlet concerned.

Viscount HALDANE : From Cape Chidley down to Anse Sablon, a line down to the 52nd parallel, what is that roughly ?

Mr. MACMILLAN : From Cape Chidley to Anse Sablon Point is about 650 miles roughly.

Viscount FINLAY : From where to where ?

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Mr. MACMILLAN : From this point, I have taken the corner here, to Cape Chidley, I have just drawn a line direct across

there. (Describing.) Then the greatest depth inland would naturally be from about the point here, you are coming round the corner at Belle Isle, from about there to there, that would be the greatest depth inland. (Describing on on plan.) I will just measure that also. I am told 417 miles as near as may be. The greatest depth inland from the coast in the area shown green is under 450 miles.

Mr. Macmillan.

When I told your Lordships this morning about the terms of the Bill, I had not the actual terms before me, but it is quite plain there was a blank. It is : “ so much of the said coast as lies to the westward of a line to be drawn due north and south from the bay or harbour of Anse Sablon, inclusive, as far as the ”—then comes a blank—“ degree of north latitude, with the island of Anticosti.”

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The LORD CHANCELLOR : In the Bill, is it brought in ?

Mr. MACMILLAN : Yes, the Bill of 1825.

The LORD CHANCELLOR : If I conjecture rightly, that word was put in in committee in one House or the other.

LORD SUMNER : How does it continue after the blank ?

Sir JOHN SIMON : My friend will read the words, it only leaves out the ordinal, it leaves out 52nd ; everything else is clear.

Mr. MACMILLAN : That is quite right, the “ inclusive ” precedes that ; it runs thus : “ that so much of the said coast as lies to the westward of a line to be drawn due north and south from the bay or harbour of Anse Sablon, inclusive, as far as the ‘ blank ’ degree of north latitude.”

The LORD CHANCELLOR : It has got “ degree.”

Mr. MACMILLAN : Yes.

The LORD CHANCELLOR : It is simply that the word “ fifty-second ” is left out.

Mr. MACMILLAN : Yes. “ With the Island of Anticosti, and all other islands adjacent to such part ; ” it does not advance matters much one way or the other.

I have concluded my main argument to your Lordships, and I propose to take up the question of Lake Melville. That point arises in this way, it assumes success on my part in my argument that the coast of Labrador within the meaning of the constituent documents is a strip of coast. I admit that it has a depth inland, but that depth inland measured by the purpose of the grant and the use to which the land is appropriated under the grant. Whether it is one mile or less, as seems to have been considered by the Commissions to the

Governors of Newfoundland, or in the French delimitations, or whether it is more, my measure of the trip is the purpose and the use, but that assumes a coast and a measurement inland from that coast. We are in agreement as to where that coast, in the sense of the shore line of Labrador is. All those Islands dotted down the coast of Labrador, are all of them Newfoundland. The coast, in my sense of the term, is also Newfoundland, and we are in agreement with Newfoundland that we do not invoke here the doctrine of jumping across bays which are less than 6 miles in width, we do not invoke any of those Chapters of the law which were discussed in the Alaskan case. We admit the coast. from which the measurement inland is to be made follows the sinuosity of the Labrador coast, it follows the bays, and, therefore, the distance inland would

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follow, whatever it may be, the sinuosities of the coast all the way down. Your Lordships, therefore, are not embarrassed with that muchdebated question of what is meant by a coast in the sense of international law.

Viscount HALDANE : How does that affect our minds ?

Mr. MACMILLAN : It does not, with great respect, because we are willing to give them their ribbon all the way down, a mile limit all down the coast, all the way along.

Viscount HALDANE : What about the limitation inland ?

Mr. MACMILLAN : I am coming to that point about Hamilton Inlet. In our submission, Hamilton Inlet is not the coast at all. The question is, what is the nature of the coast at that point Where are you to draw the coast. The submission will be upon that matter, we have not heard it yet, because this has not been opened, naturally, by Newfoundland—the question is : Where is the Coast line. When you come up Hamilton Inlet there, does it or does it not follow right round to the head of Lake Melville and come out again, or does it cross, does the coast line cross at the Narrows. The whole question is : and it is a very large question I may tell your Lordships at once, if it be the case that Newfoundland has a right to a strip, whatever breadth it be, round the coast, when you come down to the Narrows, are you to go inland right up to the top of Lake Melville, indeed up to the top of the little place behind called Goose Bay and come round there, or are you to cross at the Narrows and continue down ? Where, in short, is the coast line of Labrador at that point.

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Viscount HALDANE : We have heard very little about the Narrows. Could ships go up.

Mr. MACMILLAN : Yes, ships could go up.

Viscount HALDANE : How broad are they.

Mr. MACMILLAN : At the narrowest point one mile.

Mr. Macmillan.

Viscount HALDANE : Is it fresh water ?

Mr. MACMILLAN : Fresh water comes out. The whole drainage of that enormous hinterland passes through the Narrows.

Viscount HALDANE : Are they tidal.

Mr. MACMILLAN : The tide runs right up into Goose Bay, at the very top, at the very end.

Lord WARRINGTON : Right through Lake Melville ?

Mr. MACMILLAN : Right through Lake Melville, the whole of Lake Melville, the tidal influence is felt right up there.

Viscount FINLAY : Is the water brackish ?

Mr. MACMILLAN : It is more or less fresh water at the surface and salt in the under parts, salt water goes to the bottom as it always does, the fresh is on the surface being of less specific gravity.

May I before going to the physiographical details of it just give your Lordships first of all a general description. The problem is to say where the coast begins, and the land ends. Of course, dotted along many shores there are inland waters which are in communication with the sea, which nevertheless are not the sea, and the question really is, putting it in its broadest form, whether Lake Melville is an arm of the sea ; that is probably as fair and as general a way to put it as one could, or, on the other hand, is it an expansion of the River Hamilton, a part of the Hamilton River system. There have been many controversies upon similar questions both at law and elsewhere as to when exactly you pass from the region of a river into the region of the sea. Expansions of this sort in the course of a river are quite common. They arise generally from geological conditions, and frequently is the effect of the ice erosion, and just as you have in the higher waters of these Rivers great Lakes of enormous depth which have been gouged out by the glacial action, so also you may have those near the shore. The question really is, whether this large stretch of water falls into the category of a lake which is an expansion of this river as it nears the sea, or, on the other hand, is truly part of the sea itself in the same sense as all those other inlets down the coast which we are accepting are part of the sea. There is a large map which shows the whole of the Hamilton Inlet and also Lake Melville.

Viscount HALDANE : There is the opening of the water at the North West River.

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Mr. Macmillan.

Mr. MACMILLAN : Yes, that is undoubtedly a fresh water lake, that is a little up from the Lake. That is a typical example there of a stream as it reaches close to its outlet, in this case into the Lake, it expands itself into a great big lake.

Viscount HALDANE : Do you say this is fresh water ?

Mr. MACMILLAN : Yes, no one would claim that Lake was the sea. There are maps, I do not know which is the best map.

Sir .JOHN SIMON : There is an Admiralty chart.

Mr. MACMILLAN : There is both an Admiralty chart and a map.

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I think probably if you had a detailed map, this one is as good as any (Producing same). It is the Lake Melville map, No. 13 in the bib atlas.

Viscount HALDANE : The Canadian atlas.

Mr. MACMILLAN : In the Canadian atlas. This is a representation of Lake Melville after the survey by Captain Anderson and other assistant hydrographers, 1921, published under the Orders of the Minister of Naval Service of Canada. I would rather have had a larger one that showed Hamilton Inlet as well, because you would then see on the outside of the Narrows you have the typical features—it is off the map unfortunately—after you just pass the Narrows on this side you get into one of these typical wide funnel-shaped openings where you encounter a large volume of water which debouches into the sea, and you have there a typical bay. We, of course, admit at once that Hamilton Inlet is part of the sea, but when you get into the Narrows and come into what is shown here as Lake Melville, you are getting into a different region altogether, and the question is whether that sheet of water is sea or not.

Viscount FINLAY : Let me understand. Where is the precise point that you say the controvesy arises ?

Mr. MACMILLAN : Ticoralak Head.

The LORD CHANCELLOR : I suppose in your case Double Mer Point is the point.

Mr. MACMILLAN : It is a little below that.

Lord WARRINGTON : Does your line take in Ticoralak as part of Canada ?

Mr. MACMILLAN : Yes, part of Canada. You will see if my Lord would look at the large cartoon which probably shows it as well as anything.

The LORD CHANCELLOR : What do you say of Double Mer ?

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The Lord Chancellor.

Mr. Macmillan.

Mr. MACMILLAN : It is inside, not on the coast.

LORD SUMNER : How wide ?

Mr. MACMILLAN : Two miles.

Viscount FINLAY : From where to where ?

Mr. MACMILLAN : Between Ticoralak and Turner Headlands it is two miles across. There is an Admiralty chart which does show it.

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The LORD CHANCELLOR : I was taking it from your Case on page 60 : “ That the coast–line crosses the river below a line connecting Lester and Double Mer Points.”

Mr. MACMILLAN : Yes, there it is. “ Where this line is to be located cannot be stated with exactitude, but the conditions all indicate that the coast–line would be properly drawn between Ticoralak and Turner Headlands.” These two headlands are shown on the Admiralty chart, this is No. 35. That is an Admiralty chart. (Same handed in.)

Sir JOHN SIMON : There is a full–sized Admiralty chart of the neighbourhood.

Sir John Simon.

Mr. MACMILLAN : I have underlined the two places on the chart. Your Lordship sees there I have ventured to underline in blue on that chart two things, one called Ticoralak, and in the corner there are two headlands, there are two jaws ; it is across there that we suggest for our case the coast–line should properly be drawn.

Lord WARRINGTON : Is that further down than Double Mer ?

Mr. Macmillan.

Mr. MACMILLAN : Yes, it is further down.

Sir JOHN SIMON : I do not know whether it is a convenience or not, but we have another copy of the Admiralty chart if anybody wants it.

Mr. MACMILLAN : I shall be obliged if you would furnish that to their Lordships. (Same handed in.)

Sir JOHN SIMON : I think the separate charts are the convenient ones, because the atlas is so small a scale.

Mr. MACMILLAN : As your Lordships will see, these are levels, you are down to the sea–level as contrasted with the level of Lake Melville. Lake Melville is higher than the sea. The water runs out through the Narrows, as far as we have been able to gauge, the point where it ceases to be in the Lake region and reaches what you might call the sea region is just about there ; it is not determinable with precision any more than you can determine on the St. Lawrence, where the River St. Lawrence ends and the Gulf of St. Lawrence begins, but that you are passing from one region to another is in our submission manifest—one class of region to another.

Our whole case is this is river till it empties itself through the Narrows to the sea.

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Mr. Macmillan.

Lord WARRINGTON : You say that is a line two miles long.

Mr. MACMILLAN : Two miles across at that point. Your Lordship notices that beyond that line, the line joining Ticoralak and Turner

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Headlands, you have a trumpet-shaped opening, an opening out such as one is familiar with in the ordinary case where a river joins the sea. You have got the Ivucktoke or Hamilton Inlet, from the sea there that is all plainly sea, we say you come round there and you leap the headlands at that point because these headlands are really the mouths of the river Hamilton. That is where the river Hamilton joins the sea. Then you come into the real bay, the inlet, which has a trumpet-shaped opening in the coast, such as one is familiar with in many other situations. The reason no doubt of there being a controversy about this is because this particular Lake is going near the sea and is connected with the sea by this channel which runs through the Narrows ; at its narrowest point it is a mile wide, it is wider at other points, if it had been further inland I do not suppose there would have been any question at all, that it was not the sea, but being so near, the suggestion is, this inlet, you have to pass through the Narrows and you are still in the Hamilton Inlet and still in the sea till you have got right up to the top of it, and at the top of Lake Melville you are still on the sea-coast of Labrador, indeed the top of Goose Bay, if you are standing on top of Goose Bay you are still on the sea-coast of Labrador. Our submission is that you are not, you are on the coast of a lake, called Lake Melville.

Lord Sumner.

Mr. Macmillan.

Lord SUMNER : Supposing your boundary runs across there (describing), that is like your boundary on the land.

Mr. MACMILLAN : Yes.

Lord SUMNER : A line that you cannot pass without consent, so you are cut off from navigation connecting you with the sea by this invisible boundary.

Mr. MACMILLAN : I would even be in a worse position if the boundary went round the top of Lake Melville, because it is quite true it is an incident of this boundary, but they would be entitled to say that one is not to pass.

Lord SUMNER : Quite. I only wanted to be sure you did not draw any distinction.

Mr. MACMILLAN : I wish I could.

Lord SUMNER : For the purposes of Canada Lake Melville is an inland place.

Mr. MACMILLAN : Yes, perfectly, your Lordship is quite right ; it is of cause a feature of this boundary.

Lord SUMNER : For the purposes of those who want to convey wood pulp from the interior forests without the consent of Newfound—

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land they must all go over land and over the height of land, either to Hudson's Bay or to the River St. Lawrence, or down to Ungava Bay, and wait till the Straits are free of ice.

Mr. MACMILLAN : If Newfoundland chose to close its doors to Mr. Macmillan commerce. We had the evidence that in the past Newfoundland found it very profitable to have Customs tariffs and the goods which passed through that strip of Newfoundland had to pay taxes as they came into the interior.

Lord SUMNER : In 1763 that must have been, in the minds of those who appreciated the language used, the result.

Mr. MACMILLAN : Yes, that there was a strip along the coast.

Viscount HALDANE : I suppose they thought it was Indian territory ?

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—
Lord Sumner.

Mr. Macmillan.

Lord Sumner.

Mr. Macmillan.

Mr. MACMILLAN : Yes, it was a tributary to these hunting posts, they did not mind as far as I can see, at that time it did not concern them, but it is quite true this boundary is a strip along the coast which would entitle them to say to any person moving from the interior outwards “ you cannot pass over this without paying toll to us,” or “ you shall not pass at all if we like to prohibit you.”

Lord SUMNER : It is a strip of uniform width all the way, whether it is drawn along the face of a cliff or the top of a cliff ; where is it drawn, from high water or low water ?

Mr. MACMILLAN : High water mark. As I have said over and over again my measure is the utility of the land and the purpose. You have various measurements, for instance, Newfoundland itself has chosen to reserve ; it has made a number of grants of timber rights since the matter has been in controversy, therefore, as they cannot naturally found upon and have not founded upon——

Lord SUMNER : The materiality is in the uniform width.

Mr. MACMILLAN : Your Lordship will see it was to that they were directing it in those leases. Newfoundland has uniformly retained a strip of five miles. They seem to consider that five miles must be kept free from these timber concessionaires in order that that may be reserved for fishery interests, I take it, it is not an uncommon problem to have to consider. In those five miles also they may have to pass over cliffs and other things.

(Adjourned for a short time.)
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AFTERNOON SESSION.

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—
Mr. Macmillan.

Viscount Haldane.

Mr. Macmillan.

Mr. MACMILLAN : My Lords, I may first lay on one side this aspect of the case. We are concerned in ascertaining the coast, and I think it will be clear that the word coast has no application to a river. If I am in a position to demonstrate that the River Hamilton persists to the Narrows, then the banks of that River, whether wide or narrow, are not coasts in the sense of sea coasts. The word coast has no application to a river, but it is the proper word applied to the sea. I am using there language of the highest authority, Lord Stowell's language, who used these words : " Coast, a word very strangely applied to a river, but the proper word applied to the sea." That doctrine causes no difficulty in acceptance. Another quotation I have is that " the term coast, in its popular sense is, we believe, applied to the land fronting on the open sea, or inlets off the sea, or bays, but is never applied to that fronting on rivers." If, therefore, you were satisfied we are dealing here with a river, then the word coast would be non-applicable to the banks of a river. On the other hand, the question of when a river passes into the sea, it merges into the sea, is necessarily a question to some extent of degree, and it presents difficult problems. An elementary case is the one that presents itself in the St. Lawrence. Where does the River St. Lawrence end and the Gulf of St. Lawrence begin ; what, in other words, are the criteria of a river as distinguished from inlet of the sea because you are constantly confronted with this state of matters, and as a river flows into the sea there is necessarily contact between these two things, the point at which a river ceases to be within banks and emerges into the sea.

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Mr. Macmillan.

Viscount HALDANE : Can you take this as an abstract question as you are putting it, after all in 1763 they were considering what was required for the establishment and the protection of fisheries.

Mr. MACMILLAN: Yes.

Viscount HALDANE : On the Labrador coast, it was a naval question.

Mr. MACMILLAN : I shall show shortly that the cod fishery cannot be prosecuted inside here at all, the sea cod which are the object of the Newfoundland fishery do not go in there.

Viscount HALDANE : They do not go into Hamilton Inlet.

Mr. MACMILLAN: No, they stop short of that, but there are

many other features as well. Your Lordships will ask me this, what are the criteria whereby one can distinguish a river from a strait or a bay or an inlet of the sea. Various criteria have been suggested and various criteria have been rejected also judicially because the problem has had to be considered more than once in other contexts. Possibly a criteria that is most reliable is the existence of a difference of level, consequently of current. As long as you can have a river current you are still in the region of water that is emptying itself out into something else. The sea in popular acceptance is level, one talks of the sea level, it really is not, but in the popular acceptance one talks of the sea as a level plane, into that you have the waters of the land flowing from a height, and as long as there is a current, a flowing current into the sea, then you have something not the sea but which is adding itself to the sea by flowing into it.

The LORD CHANCELLOR : At low water from the rivers.

Mr. MACMILLAN : At low water from the rivers, curiously enough the matter has been before your Lordships' house in the House of Lords more than once, generally in Scottish cases. The question has had to be considered at various points.

Lord SUMNER : Do you mean as far as there is a natural outflow it is not sea.

Mr. MACMILLAN : As long as there is a current flowing from a higher to a lower level. I say that advisedly, because there are several good examples perhaps my Lord has in mind you can get fresh water, for example, in the Amazon about 150 miles out, and in the Rhone in the Mediterranean you can dip your bucket into the water there and get fresh water, but that has ceased to be a current, you are undoubtedly, indubitably, in the sea at that point. The existence of a flow or current of water from a higher level, which is the source to a mouth where it discharges, is one of the most predominant criteria, and one of the most reliable. The point of level is therefore one of considerable importance. There are other tests which have been suggested which are not reliable at all. The fact that a river is tidal, for example, is no criterion. The Thames is tidal opposite the door of this Council Chamber just beyond us here.

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Mr. Macmillan.

The LORD CHANCELLOR : Up to Teddington.

Mr. MACMILLAN : Up to Teddington, which is really Tideendington in derivation. Nobody is going to suggest that we are maritime dwellers on the sea-coast here in London because we are on the River Thames. The circumstance that the tide ebbs and flows in the River Thames does not make

that portion of the Thames the sea. That test has been suggested more than once as a test for discriminating between the sea and the river, but manifestly that will not do. Another

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test which has been suggested is navigability. That test also cannot be regarded in any way as conclusive, as we may again exemplify. There is a constant volume of traffic up and down the Thames here, which is purely river traffic. Navigability is not the test. Solidity, composition of the water again is not a test.

The LORD CHANCELLOR : If it is tidal.

Mr. MACMILLAN : The consequence of it being tidal is that salt water goes up and permeates the river bed. Curiously enough, this question of the degree of solidity was discussed in a well-known Scottish case of *Horne v. Mackenzie* which came before the House of Lords on the question of where does the river reach the sea. Quotations from the case of *Horne v. Mackenzie* (1839) will be found in Volume V. page 2415. It will perhaps be convenient for your Lordships to know that the documents relating to this tonic of Hamilton Inlet in all its aspects, legal and physiographical, are to be found at two places, viz., Volume V, pages 2319 to 2522. and Volume VIII pages 3789 to 3949.

The LORD CHANCELLOR : Is the case of *Horne v. Mackenzie* reported ?

Mr. MACMILLAN : Yes. my Lord. It is reported in Maclean & Robinson (House of Lords), page 977. It is a Scottish appeal. The case came before the House of Lords on an alleged misdirection by the Judge to a Jury. The question had been before a Jury, and the question was whether the Jury had been misdirected in law as to the principle of law they were to apply. There is a very long extract from that case at page 2415, but I am not proposing to delay over it. Much learning was expended upon the question of when you are in an estuary, and when are you in a river.

Viscount HALDANE : Who was Lord Chancellor then ?

Mr. MACMILLAN : Lord Cottenham. There is much discussion of the question upon whether the prevalence or presence of salt water is a criterion to discriminate between sea and river.

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Mr. Macmillan.

Sir JOHN SIMON : They were really construing some statutes, were they not ?

Mr. MACMILLAN : Yes, but it was necessary for that purpose that they should address themselves to the inquiry.

For my present purposes I was enumerating the possible tests, and I had pointed out that the fact that there is tide, navigation, and salt water are none of them conclusive criteria that you are in the sea. All these may be present, and are constantly present in rivers properly so-called, and therefore none of these is a determining factor. It is very difficult to find what is truly a determining factor. Apparently the best test is the

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difference of level combined with what I may call the general physiographical details—the whole concomitants.

Viscount FINLAY : The difference of level make the current.

Mr. MACMILLAN : Necessarily because there is a difference of level.

Viscount FINLAY : If there is a difference of level there is a current.

Mr. MACMILLAN : Yes. Here you are dealing admittedly with the outlet of a fresh water draining from an enormous interior land. All that water-covered land drains into this Inlet. The drainage basin of the Hamilton Inlet is an enormous area. All that water passes through the Narrows. It must necessarily pass through the Narrows into the sea. It is true that the counter-effect of the tide rising, as it so often is, is to affect the stream at the flood tide. It keeps it back, and also travels up into the body of the water, just as it does in the Thames. But the salt water, being heavier, goes to the bottom, and you will find in Lake Melville—at least this is the description that we have—the surface is at many places almost fresh, and on the other hand, if you were to take a sample of water from the lower holes—because there are very deep parts of this Lake—you would get practically salt water which had come in and had not gone out again.

There are in addition to this question of the current certain other indicia which are of importance. There are a great number of reports in the parts of the Volumes to which I have just given a reference dealing with the various aspects of Lake Melville from different scientific points of view. Those are very illuminative. If one could post oneself on the shore of this Lake and look round one judged by the surroundings would one say that one was on the sea-shore—like a loch in Scotland with which one is so familiar—or would one say one was on the shore of an inland lake which runs out into the sea ? The passages I am going to read will be designed to show that the surrotnulings of this lake, when you are standing on the bank of it, are all suggestive of an inland sheet of water to which the sea has access rather than of an ordinary branch of the sea. The kind of things which are regarded are, for example, the presence or the absence of ordinary sea fish, the character of the fauna and flora, the

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Mr. Macmillan.

climatic conditions, the character of the water itself, the geological conditions, and a great number of other things, taken altogether, will give your Lordships a picture of what sort of sheet of water we have to deal with here. The scientific gentlemen who have applied themselves to this matter have supplied us with a vast amount of material. There are arrayed on the two sides of this controversy many names of considerable eminence in geology and other branches of science, and they have all taken the opportunity of expressing themselves at great length on their particular hobbies. It is very difficult to handle such a large amount

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of material, and I should never think for a moment of inflicting it upon your Lordships. It is difficult to give the gist of long scientific disquisitions in short paragraphs, but I propose to do my best to select one of their summaries where they have described their views. One report I would particularly suggest for your Lordships' consideration—not that I am going to read it, but if I may say so it seemed to me to put our case probably as well as any of the essays—because they are really essays that are contributed to this volume—is Professor Johnson's report in Volume VIII, page 3789. I will not read it now, it is far too long, but I suggest if your Lordships would be good enough to look into this matter you will find that Professor Johnson's paper is from our point of view as good a summary as one can get.

Viscount FINLAY : What Professor Johnson is it ?

Mr. MACMILLAN : Professor Douglas Johnson is Professor of Physiography in Columbia University, New York City. During the World War he made special geographical studies in Europe for the Department of State of the American Government and for the American Geographical Society. At the Peace Conference in Paris, 1918–19, he served as Chief of the Division of Boundary Geography of the American Commission to negotiate Peace, as member of several international territorial Committees dealing with boundary problems, and as a geographical adviser to President Wilson and the Department of State in the Adriatic and other boundary disputes. He has specialized in shoreline and coastal studies, having published two volumes on these subjects (“ Shore Processes and Shoreline Development ” and “ The Nature and Origin of Fjords ”) and having received a number of native and foreign distinctions for his work. Therefore he is an expert in this branch of science. He has supplied us with a disquisition on the physiographic aspects of this problem. I do not know whether I am asking too much of your Lordships' indulgence in requesting that your Lordships will look into that paper as containing, in summarised form, on this part of the case, a very accurate and fair representation of our case.

Viscount HALDANE : I see he says Lake Melville is not a bay ; Lake Melville is a true lake.

Mr. MACMILLAN : Yes, my Lord. There is a good deal of that. And he gives his reasons such as they are, and I think he does so with moderation. Your Lordship will judge of that, however. May I take one or two of the other papers from which I may be able to extract certain summaries.

Viscount HALDANE : What is his view about fiords ?

Mr. MACMILLAN : There is an immense amount of learning to be found among these papers. Among other things which frankly I had

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Viscount Haldane.

not known before, one finds that there are three different things : fiords. fiards and rias. Professor Gregory of Glasgow University, a well known geologist, and various other geologists, have occupied a great deal of time and paper in discussing these things.

Viscount FINLAY : I should like to appreciate Professor Johnson's view. Put very shortly, what is his reason for the conclusion you have stated ?

Mr. MACMILLAN : He has had put before him all the other scientific aspects of the case, and he has, so to speak, brought them to harmonise. He says : Having regard to all these things I do not, as a physiographer, regard this as an inlet, but as an inland lake.

Viscount HALDANE : It is right to say that he goes very much on geological considerations in what he says.

Viscount FINLAY : I do not think there is much doubt, taking any particular case, whether it would be right to call a thing a lake or an inlet, but it is extremely difficult to extract a principle which is capable of application in the great majority of cases.

Mr. MACMILLAN : May I most humbly accept that view. It is rather like the question one so often has in questions of degree. You are unable to define, but you are able to say in the given individual case. It is like the problem of saying whether something has happened in the day time or in the night time. It may have happened in the twilight, and no one can say when the twilight begins and ends. There is often a debatable region. Here we are in one of those cases where it may be said we are here on the dividing line between sea and river.

Viscount FINLAY : If Professor Johnson had professed to lay down some infallible test which would fix it, I should have rather distrusted his treatise, because I doubt whether it is possible to do that.

Mr. MACMILLAN : He has not attempted to do so. He has rather collected all the relevant data with regard to this sheet of water, and he says : If I take all this into account, it appears to me as a person who has had to deal with physiographer questions of that sort, I would stamp this not as a part of the sea but as an inland lake.

Viscount HALDANE : At page 3835, I see he says : “ Lake Melville and the Narrows are terrestrial water bodies, a true lake and a true river, merely modified to a limited extent by

accidental entrance of the sea. Remove the sea and they remain intact. Hamilton Inlet is a marine water body, a true arm of the sea, dependent on the sea for its very existence. Remove the sea and it disappears entirely. The point

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where the true sea inlet ends and the Hamilton River system begins is thus clearly indicated. It is at the inner end of the disappearing bay, at Tikoralak Head." That is the substance of what he says.

Mr. MACMILLAN : Yes, my Lord.

The LORD CHANCELLOR : I see the Admiralty cartographers call the whole thing Hamilton Inlet.

Mr. Macmillan.

Mr. MACMILLAN : " Lake Melville " is written by the Admiralty cartographers across the lake.

The LORD CHANCELLOR : And " Hamilton Inlet " is written along the edge of it.

Mr. MACMILLAN : That is quite true, my Lord. But the sheet of water itself is called " Lake Melville."

The LORD CHANCELLOR : But the whole thing, including what you admit to be an estuary, is called " Hamilton Inlet."

Mr. MACMILLAN : That is quite true. It is written along the top of it.

Viscount HALDANE : Professor Johnson goes on the principle that if you remove the sea the lake would be there just the same ; but if you remove the sea the Inlet will not be there.

Mr. MACMILLAN : That is rather a good test, because if it is a lake it will still be there although there is no sea. Supposing you lower the level of the sea, then Lake Melville will still be there, though the water would have a longer fall before reaching the sea. I gather from the description here that this is one of those basins of erosion that have been scooped out from an old river valley by the passage of the water, and it has made one of those expansions which are so common a feature in river basins.

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Mr. Macmillan.

Viscount Finlay.

Lord WARRINGTON : It is very much deeper than the falls leading into and out of it. I notice it is 100 fathoms in one place.

Mr. MACMILLAN : That is clue to the gouging action.

Lord WARRINGTON : Take away the sea and you would

still have a lot of water there.

Mr. MACMILLAN : You would have big pools of water. A very good example is Loch Morar on the west coast of Scotland. That is one of the deepest holes in the British Isles, and it is only separated from the sea by a little ridge of about half-a-mile or a mile. It

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happens to be one of the best fishing places I know. Therefore you have far deeper holes in the fresh water of Loch Morar than in the sea outside.

Viscount FINLAY : Not far from Edinburgh there is a quarry adjoining the sea, and I think about some 50 years ago the barrier separating that quarry from the sea was broken through in a storm, and ever since that time, at least for a long time, the tide used to run into the basin of the quarry. I do not know whether it is now annexed as part of the sea, or whether anything has been done by way of turning the sea out.

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Mr. MACMILLAN : That is near Granton, where the stone came from for the building of Edinburgh.

Viscount FINLAY : Craig Leith Quarry. Do you happen to know whether that has happened to be annexed as an inlet of the sea ?

Mr. MACMILLAN : No, my Lord.

Viscount HALDANE : Craig Leith Quarry is a long way from the place where stone came from for the building of Edinburgh.

Mr. MACMILLAN : But I think a lot of the old stone came from there.

Viscount FINLAY : The storm broke down the barrier, and the tide rose and fell in there.

Mr. MACMILLAN : There are numerous examples in Scotland. There is one close to Inverary Castle, which my Lord may remember, called the Dhu Loch. It has a little stream connecting it with the sea, and you can row up it at high tide.

Lord SUMNER : Have you any examples in Lancashire ?

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Mr. MACMILLAN: I have not. I am afraid that is my misfortune.

Lord SUMNER : Perhaps Lancashire does not have these things.

Mr. MACMILLAN : It is less likely to have them because it has not a coast of the same indented type. This gentleman has considered all the various data which have been put before him, and he says : Having all these in view, it partakes of the character of an inland lake rather than of a branch of the sea. In doing so he has had before him a considerable amount of information. May I try and vouch one or two of the important data. First of all, take the question of the slope of water. That matter is investigated by several scientific

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gentleman. At Volume V, page 2319, you have a report by the Chief Hydrographer of Canada. He tells us he was stationed there and made certain gauges and that these were under observation for a long time. At page 2320 he says : “ At Lake Melville, as an average, high water occurred 3 hours 33 minutes and low water 3 hours later that at Leslie Point, showing a considerable retardation in the progress of the tidal wave for so short a distance, the channel between these two points is deep and extends nearly the whole width of the inlet, so that this retardation cannot be ascribed to friction against a rapidly rising bed. Mean tide level, obtained at each gauge location, from over 2,800 simultaneous half-hourly readings, shows a mean tide level slope of 419 of a foot, or 5 inches, between the Lake Melville and the Lester Point gauges. At each instant of time there is a definite slope of the surface of the water between the two gauge points. The mean slope was calculated at springs and neaps and showed that at springs the outgoing mean slope was 40 per cent. At neaps when there is less influx from the sea, the difference is still more pronounced ; the outgoing slope being being double or 8 inches more than the incoming slope, with three hours more duration. The inference to be drawn from this is that on the ebb there is a considerably greater volume of water discharging through the Narrows than can be accounted for by the influx of flood tide.” There are certain diagrams in our Atlas. We show there the slope in the Hamilton, Ottawa, St. Lawrence, and Hudson Rivers. The vertical scale is exaggerated. It is No. 14 in the Canadian Atlas. The top one shows the slope between Lake Melville and Hamilton Inlet, using Hamilton Inlet as the sea. These are cross sections on two scales. The horizontal scale is, of course, different from the vertical scale. The horizontal scale is six and two-third miles to an inch, and the vertical one, one foot to an inch. The top one shows diagrammatically the Hamilton River slope and fall. Then we have given one or two illustrations of

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other rivers. If you take the St. Lawrence between Kingston and Prescott you see the amount of fall there on the same scale, and the Ottawa River from Ottawa to Grenville, and the River St. Lawrence, Quebec to Tadousac, and the Hudson River, Albany to New York, all to show the extent of fall on established rivers as compared with the fall which we have ascertained to exist between these two points in the River Hamilton before it reaches the sea.

Lord WARRINGTON : Where the slope comes down in this diagram that is the Rigolet Lester Point.

Mr. MACMILLAN : The back way is not quite clear, because the gauge was not put exactly at the same point. The gauges were so placed by these hydrographers as to ascertain as well as they could whether there was a difference of fall between Lake Melville and the sea outside, in the bay. That was the result, and they ascertained as the result of 2,800 half-hourly readings that they got a difference of fall which compares, as you see on that series of sections, with the slope of certain well known rivers.

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Mr. Montgomery at page 2324 tells us that he took part in this work : “ he definite object of these operations was to ascertain by direct measurement whether Lake Melville was above mean sea level, To determine the exact elevation of Lake Melville on mean sea datum was not attempted. Time was not sufficient, nor did the purpose that actuated this expedition require this more exact information.” After telling you what he did, he satisfied himself that there was a difference oi[sic] elevation. Mr. Jones, at page 2333, also tells us of his participation in this task, and after giving you the data upon which he proceeds he says at line 18 : “ From the foregoing facts regarding the current, its strength and duration of flow in the two directions, it is evident that the mean level of the water in Lake Melvillo must be appreciably above the mean sea level.” The first element there[sic] of slope or fall, with its necessary concomitant of current, is established. Would your Lordship look at Dawson in Volume V, page 2320, for a very useful summary. This is a paper by Dr. W. Bell Dawson. I think I shall read the whole of this, because it is only to pages, and it is a useful summary. I should explain his qualifications ; he is Superintendent of Tidal and Current Survey, Canada, and is a Doctor of Science, and so on. “ The Hamilton River enters a large Lake (Lake Melville) which in turn connects with the ocean through the narrows at Rigolet. The lake is practically fresh water at the surface, although sea water at the freezing temperature penetrates below this, at the greater depths. Regarding the Rigolet Narrows, and the bay opening eastward from them towards the ocean, the question from the physical standpoint is whether they resemble an ordinary inlet of the sea, or show the characteristics of an estuary or

river mouth, as indicated by the tidal conditions. (I) In an ordinary estuary the rise of the tide increases until the tidal undulation reaches the mouth of the river proper, when the rise begins to be cut off and decreased by the river slope. In the case of Hamilton Inlet, our investigations show that in the outer bay with shores which converge from the open ocean towards the Narrows, the tide maintains the same rise from Indian Harbour at the mouth of this bay, almost to the Narrows ; notwithstanding the inflow into the large expanse of Lake Melville. This indicates a resemblance between the outer bay east of the Narrows, and an ordinary estuary. The tendency of the tide to increase its range in its progress up the bay, is counteracted by the inflow during the rise into the immense expanse immediately within the Narrows. The estuary conditions in this respect thus manifest themselves as far as the configuration permits ; for the tide is able to maintain its full range to the head of the bay (at Ticoralak Island) notwithstanding the adverse influence of the inflow through the Narrows. In Lake Melville itself, the rise of the tide falls to a small amount, as may naturally be expected in the circumstances. (II) It is usual in river mouths for the sea water to find its way along the bottom, especially during the rise of the tide ; whereas the fresher water of the river itself keeps to the surface. When the tide begins to rise, there is thus inflow along the bottom while the surface flow is still outward; and it takes some time before the surface flow is checked and reversed.

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When the tide is falling, the undercurrent is the first to be checked and reversed, because of the bottom friction and its greater density. This inflow of an undercurrent of salter water in river mouths whenever the tide begins to rise, has been verified by the investigations of the Tidal Survey in St. John Harbour at the mouth of the St. John river, and in the delta”—that is, of course, the St. John in New Brunswick ; not the St. John we have been talking of so much here—“ of the Fraser River on the Pacific Coast ; and it appears to be a general feature of river mouths. This is what occurs here in the Rigolet Narrows. During the fall of the tide, the conditions are more apt to be modified, as in the case of a river in freshet as contrasted with its summer behaviour ; or as at Rigolet where there is a large expanse above the Narrows. The behaviour during the rise of the tide, however is very typical and characteristic. (III) In both estuaries and tidal rivers, the outward flow or ‘ ebb stream ’ during the fall of the tide, is stronger and continues for a longer time than the inward flow or ‘ flood stream,’ which is weaker and of shorter duration because opposed to the current of the river. As a rule, also, the vertical movement of the tide shows the same inequality between the duration of rise and the duration of fall, as the horizontal movement does. In the observations obtained by the Tidal Survey at Rigolet, special efforts were made to verify these features ; and although a steamer was not available for the work, a scow was moored in the middle of the Narrows (where much exposed) to avoid any local disturbance of the main current if nearer shore. The observations were frequently continued day and night to obtain balanced observations. A spar-buoy placed near the north side also afforded more extended observations to supplement those in mid-channel. The three features of a tidal river were thus made manifest : (1) The longer duration of the outward flow, (2) the much greater strength of the current on the ebb than on the flood, and (3) the longer period in the fall of the tide than in the rise. To make the verification complete, the observations were taken under all the various phases of tidal conditions during the lunar month. (IV) The longer duration and greater strength of the flow during the ebb than during the flood, make it clear that the average level of Lake Melville must be at a higher elevation than the average or mean tidal level of the bay to the eastward of the Rigolet Narrows. The amount of the flow is one of the surest indications of difference of level, even where a direct measurement of the difference may be difficult to determine.” My Lords, on the question of density, solidity, and temperature of the water, duration of the tidal rise and fall, and progress and amplitude of the tide undulations, Mr. Jones and Mr. Kindle give us their conclusions in passages to which I shall give references : Jones at 2331 and 2390, Kindle at 2394 and 2395, and also at 2360. The result of

those gentlemen's investigations is that when compared with the sea water outside, ordinary sea water, the water content in Lake Melville is less dense, less salt, and of higher temperature.

The LORD CHANCELLOR : Was your last reference right, 2360 ?

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Mr. MACMILLAN : That is a Table, I think. It was under the head of duration of tidal rise and fall. It gives you the rise and range of tide in that table at these different points. Indian Harbour is out in the sea ; Rigolet is just beyond the Narrows. These other points are further inland.

The LORD CHANCELLOR : Do you say that that is part of Mr. Kindle's evidence ? Kindle begins on 2362.

Mr. MACMILLAN : It cannot be, my Lord. I thought that was one of the tables he had before him, but I may be wrong. That table was compiled by the Tidal Survey Branch of the Naval Survey, my Lord, but I think, unless my note deceives me, it must have been part of the material which Dr. Kindle had before him, although I would not like to say for certain. Dr. Dawson also, at page 3876, provides us with further information. His summary is there. His second report begins at page 3871, and he says, I think very truly, in the opening words of it : “ In the discussion of the question whether Lake Melville is an arm of the sea or part of a river system, it may be well to note at the outset that this can only be decided by considering the physical conditions which characterize the waters of true inlets and river estuaries.” Then he goes through all the features again. It is not a long report. Pages 3872 and 3873 are all very much to the purpose, and so is page 3874. He summarises the position afresh at page 3876: “ The conditions in Lake Melville and the Narrows that connect it with the ocean may be summarised as follows : The rivers that flow into Lake Melville dilute the sea water to such an extent that sea fish do not enter the lake ; the volume of the inflowing rivers is so great that it maintains the level of the lake above sea-level, and modifies the ordinary tidal action of the sea ; this higher level, together with the large river volume, causes the outflowing ebb in the Narrows to be stronger than the flood; and the point where the tide attains its maximum range is outside the Narrows, which shows that the river system extends as far as this point. The features are all those of a tidal river, as distinguished from an inlet or arm of the sea ; and accordingly the Lake Melville area may properly be considered part of the Hamilton river system, with the mouth of the river at the outer end of the Narrows.” At page 3900 Mr. Kindle collects together certain data. At line 10 he says : “ The contention of the Dominion that Lake Melville should be regarded as an expansion or widening of the Hamilton river rather than as an inlet of the sea is

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supported by at least four separate classes of facts. The character of the water in the lake, the physiography of the shore and outlet, the distribution of the plant life, and the character of the animal life in the water all strongly support the classification of Lake Melville as a part of the Hamilton river drainage system or as an integral part of the river. Perhaps the most satisfactory, as well as the simplest way, to decide whether Lake Melville should be classed as a part of the Hamilton river drainage system or as an inlet of the sea is to taste the

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water. This simple test I applied by cooking and making tea with the lake water for two days at one of my camps near McLean Point east of Goose Bay. This test happened to be made because a camp site convenient in other respects was remote from any small stream. The water was found entirely usable—a statement which certainly could not be made of the water of any true marine inlet or bay.” Then the conditions are different at different seasons. “ The physiographic considerations which lead me to consider Lake Melville a part of the Hamilton river drainage system may be briefly stated as follows :—The Hamilton river, in common with hundreds of other rivers throughout the glaciated parts of North America, has had parts of its valley transformed by glacial scour or by morainal damming into lakes during the Glacial period. One of these lakes, called Lake Winokapau, is located about 200 miles above the Narrows and has a length of 34 miles and a depth of 427 feet. Lake Melville differs from Lake Winokapau chiefly in having been formed so near the old river outlet that the tide comes in and makes it brackish. The slight width of the Narrows through which Lake Melville empties into Hamilton inlet, about one mile, and their length, approximately 12 miles, are dimensions which perfectly fit the conception of a river channel. Its junction with the head of the trumpet-shaped enbayment called Hamilton inlet appears to be the most suitable point to designate as the mouth of the river. A careful inspection of the shores of the Narrows at low tide shows that the sea weeds of various kinds, including Fucus, gradually become scarce and disappear altogether after passing the entrance to Lake Melville. The molluscan life characteristic of the intertidal zone reacts to the changed environment at the outlet of the lake in the same way. Two of the most abundant creatures in the shallow water everywhere along the Atlantic coast of Canada are a small shell called Littorina and the common barnacle. These are found on the seashore wherever it is rocky, hundreds of individuals to the square foot often being present. Both of these hardy shells grow scarce in approaching the head of the Narrows from the sea. But a few stragglers persist to the vicinity of Henrietta Island, where they completely disappear.” Henrietta Island is that island like a cork in the mouth of the lake : “ Briefly summarised, Lake Melville is a part of the inland waterway with a long

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narrow outlet of the river type. The water is fresh enough towards the western end to drink, and completely excludes such characteristic marine fish as the cod and the common marine creatures and plants of the intertidal zone which can be seen at low tide anywhere seawards from Rigolette.”

The LORD CHANCELLOR: I see that he, like Professor Dawson, fixes upon the outlet of the Narrows as the point where the sea is.

Mr. MACMILLAN : Yes, it is a little above. They seem to think that that is the embouchure of the river. I do not know whether it is interesting, my Lords, for you to look at one or two diagrams in that volume. If you will just turn back a page or two you will see what Dr. Dawson has to say about one or two examples of rivers, and how

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they go into the sea. He gives us first the Thames. That is supposed to end, as shown there. It is from the British Tide Tables ; it is after page 3876 ; it is just an inset.

The LORD CHANCELLOR : Where does it end ?

Mr. MACMILLAN : It ends where the blue ends—Foulness. “ The Thames is considered to extend to Foulness ; and the Nore light-ship is off its mouth.” That is all taken from the British Tide Tables. Then the River Forth, the next one, is taken to extend down to the Forth Bridge ; beyond that you are in the sea. The River Shannon is shown on the next page.

Lord WARRINGTON : On the Thames the river is not considered to go down to the Nore, is it ?

Mr. MACMILLAN : Yes, my Lord.

Lord WARRINGTON: I fancy the Southend people would not agree.

Mr. MACMILLAN : These are all taken, at any rate, from the British Tide Tables. They are not prepared by us specially. For instance, if you look at the River Forth : “ The whole expanse, above the Forth Bridge, is included with the River Forth, as a part of it.” It is the Forth to where the river narrows at the bridge, and beyond that is the sea : but there is a large expanse, of course, where the water is salt above the Forth Bridge, up to Rosyth.

Viscount HALDANE : What does he say about the Tay ?

Mr. MACMILLAN: The Tay is not among our examples here. I could not say whether it is above the Tay Bridge or not. It begins to get very shoal above the Tay Bridge ; there

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are a great many sand-banks there. You Lordships' House had to consider the question in the Dundee Harbour cases, where the wrecks took place, some time ago. Then the Shannon. is given next ; it is not very illuminative. Then the Maas is given on the next page. There you see a great lot of tidal navigable inland water is treated as part of the River Maas. The River Amazon is on the next page and there is an enormous area of water there which is still in the River Amazon. Then the Rio Grande, on the next page, is a very curious one ; it is the sixth of the illustrations there. The Laga dos Patos is a lake running practically parallel with the sea coast, and, as you notice, communicating with it by a little neck. The Laga dos Patos is part of the Rio Grande ; the Rio Grande runs out there at that point, but of course that is affected by the tide, and that is called the Rio Grande. Then the next illustration is the James river, and then the St. Lawrence.

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Lord SUMNER : That is interesting.

Mr. MACMILLAN : Yes, my Lord, the point there, you notice, is much higher up the river than the point that Sir John and I agreed upon this morning for the question of the rivers flowing into the St. Lawrence. For tidal purposes, or navigation purposes, you are said to be in the River St. Lawrence when you get across the line between Point des Monts and Sta. Anne des Monts.

Viscount HALDANE : Where is that ?

Mr. MACMILLAN : It is considerably up ; a good way up.

Lord WARRINGTON : According to that view, the Gulf of St. Lawrence extends much beyond the west end of the Isle of Anticosti ?

Mr. MACMILLAN : Yes, much. Of course, up there, although it is shown in blue, it is eminently navigable, it is thoroughly salt, and it is tidal, and yet it is the River St. Lawrence.

As to the geological features, Dr. Kindle reports on them at page 2362 in Volume V. He describes the visit that he paid. After discussing the various considerations, his conclusion, at line 20 on page 2364, is : “ that Lake Melville can be more properly regarded as a lake-like expansion of the Hamilton than as a fiord.” At line 34 he says : “ Since neither the lake nor The Narrows conforms even approximately with the definition of a fiord, The Narrows may be technically regarded as the mouth or outlet of great Hamilton river enlarged by the waters of Grand lake, Kenamu and Kenemnich rivers (which join the Hamilton north and east of Goose Bay). From the standpoint of a physiographer the term

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seacoast would, therefore, not be applicable beyond or southwest of the junction of The Narrows and Hamilton inlet.” Then he describes the geological features at considerable length and explains how valleys of that sort come to be made.

Another expression, this time by Dr. Low, describes it as the sub-marine portion of a river valley. That is at pages 2598 and 2600.

Viscount HALDANE : My criticism of all this is that it is physiographical. It does not give the naval point of view of 1763.

Mr. MACMILLAN : I appreciate the criticism ; and it is that which has made it so difficult to handle this material, because it has been so attractive a topic for these scientific gentlemen to range over.

Viscount FINLAY : The witnesses you have mentioned so far all agree to treat it as a lake and not as an inlet. What is said by the witnesses on the other side ?

Mr. MACMILLAN : The witnesses on the other side controvert practically every one of the witnesses' statements that I am giving,

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They say it is a fiord and that a particular law of Canada had called it a fiord.

Lord SUMNER : I suppose they are all of equal authority ?

Mr. MACMILLAN : I suppose these experts will be introduced to your Lordship with the same prestige ; the only difference perhaps that I might point to is that they were not there and mine were.

Mr. BARRINGTON-WARD : Dr. Low was there.

Mr. MACMILLAN : Dr. Low was there, but he was one of mine.

Mr. BARRINGTON-WARD : He calls it a fiord.

Mr. MACMILLAN : He called it a fiord, and that almost put the heather on fire, because one finds then that valiant champion, Dr. Gregory, of Glasgow—a valiant expert Witness if there was one—and another of the experts, crossing swords as to what is a fiord ; they say that science has advanced so much that Dr Low's vocabulary is out of date. These are things which scientists say about each other, and with much determination. But, my Lords, there are certain facts of nature which do not alter, however much scientists may say about them ; and one of the facts of nature is that there is a flow of current at this place, that there is a predominance of fresh water on the surface, that there is an absence of marine life in this sheet of water, as I will call it, that the fauna and flora are such as you would expect to get on the shores of a lake as contrasted with a coast of the sea.

Viscount FINLAY : So that these points may be excepted from the catalogue on points on which they are in conflict with your witnesses ?

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Mr. MACMILLAN : Subject to this, that two botanists have fallen out very badly as to whether a particular plant is one that requires salt water or not. That has occupied a good deal of time, perhaps unnecessarily for the present purpose. But certain plants are selected as being typical of the sea coast. Every botanist, however elementary, knows that there are plants which cannot grow on the sea coast at all, there are others that can grow only on the sea coast, and there are others which tolerate both conditions.

Viscount FINLAY : They are amphibious.

Mr. MACMILLAN : They are amphibious. The best example of all, perhaps, is the ordinary sea pink which is found along

the cliffs. That is found on the very tops of mountains, but it is not found in the intermediate zone, which is a very curious thing. But apart

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from minor controversies of that sort, the fact that the types of vegetation to be found along the banks of this sheet of water are characteristic predominantly of inland water shores rather than of a sea coast, is, I think, if I may so, established by the actual reports of those who went there and who know about these things. The cod are not to be found there. That I have thoroughly established and that perhaps is more important because it has a bearing on what my Lord Haldane has in mind : what were people thinking about in 1763? A. In 1763 people were thinking in terms of cod, as they style it, in the Newfoundland Banks. It has been judicially held in the Courts of Newfoundland that when you use the word “ fish ” you mean cod. That has been judicially found under an insurance contract; and salmon has been held not to be a fish, which is a rather remarkable decision. but it has been so held on the vernacular of Newfoundland ; and a person there has been known to say : “ If you cannot give me fish, I will take a little halibut.” That is perhaps a type of criterion that is of more importance.

I will venture to give my Lords a few references to the question of the denisons of Lake Melville. At page 2385, line 30, Dr. Kindle says : “The cod is unknown in The Narrows and the waters west of them. Cod fishing is confined to the waters adjacent to the islands in the eastern part of Hamilton Inlet. Commercial fishing in Lake Melville and the western part of Hamilton is confined to salmon fishing.”

The LORD CHANCELLOR : Is this disputed ?

Mr. MACMILLAN : I think it is, my Lord, because there is some evidence, I think, that they get rock cod in the Narrows. I do not know whether my learned friend disputes that the ordinary cod of Newfoundland is not found in Lake Melville. Perhaps I ought not to ask my friend whether he admits it or not ; at any rate I can only proceed with the evidence with regard to it. He says at page 2394: “ A consideration of the fish fauna of these waters leads to a similar conclusion The cod, which is a typical salt–water fish, is not known west of Rigolet. The caplin, which are extensively used as codfish bait are common at Rigolet, but were not seen west of Henrietta island. West of this island salmon trout are the only fish taken by the fishermen.”

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Lord SUMNER : On page 2385, at line 34, he says : “ The grampus whale may be seen daily near Rigolet.”

Mr. MACMILLAN : Would your Lordship just cast your eye

down a few lines further. He says at line 43 : 'It will be seen from these notes that typical marine animals like the guillemot, grampus whale, and cod are unknown west of The Narrows, the cod not even extending into The Narrows.'

Lord SUMNER : I see he contradicts himself a little later. He says

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the grampus whale is unknown west of the Narrows. At any rate Rigolet and the Narrows I think are to the west of your line.

Mr. MACMILLAN : To the west of my line, but I think probably the gentleman is quite consistent. He says he sees them at Rigolet and Rigolet is in the Narrows, but he does not see them west of the Narrows.

My Lords, I was reading at page 2394: " The absence of typical marine fishes west of Henrietta Island, and the disappearance of the marine intertidal fauna in that vicinity, both indicate the considerable change in the composition of the water which occurs near the eastern end of Lake Melville. West of Henrietta island the waters of Lake Melville, though somewhat saline, are too fresh to support a marine fauna in the intertidal zone." Then Mr. Jones, at page 2336, lino 38, says : " Enquiries were made with regard to the fishing of cod-fish and it was learned that occasionally, and late in the fall only, they were caught in the vicinity of Double Mer Point, presumably for food supply, and not as an industry. The strength of the current makes Fishing difficult, and it is not customary to make the attempt. Thus, one party said that three years ago cod-fish were caught here, and another said that none to his knowledge had been caught in the last five years."

Then at page 2399 is a Memorandum from the Dominion Commissioner of Fisheries on the subject : "The results which were obtained in regard to temperatures and salinities in Labrador waters, included in the work of officers of the Hydrographic Survey, during July, August and September, 1921, are sufficient to satisfy an expert Marine Biologist that the conditions existing in Lake Melville are so unfavourable for cod that neither their spawning, nor their life-development, nor their adult life would be possible in the waters referred to." Then some of the life history of the cod is given and it is agreed that the cod is a typical salt water fish.

Then Dr. Hjort, of Kristiania. at page 2403, says he has had this information before him, and this statement is put to him (line 11) " that the conditions existing in Lake Melville are so unfavourable for Cod, that neither their spawning nor their life-development, nor their adult life would be possible in the waters referred to," and he goes into the subject at great length. He is a Norwegian expert, and he says that all the conditions are such as to render these waters unsuitable for cod.

Then Dr. Grenfell, speaking more as a layman, at page 2566 says, as to the extent of fisheries up estuaries and rivers : “ The fact that cod fish are not fished commercially in fresh water precludes their being fished far up long estuaries into which flow many large rivers, such as Hamilton Inlet and Sandwich bay. The former has, besides the Hamilton, some twenty other rivers at least, while Eagle, White Bear, Dove Brook, Paradise, Muddy, and other rivers make Sandwich bay at its head of no value for cod fishing. It is safe to say that few cod fish enter Melville bay, a fact that is attested by the Eskimo cod fishery at Caravalla. This is at ‘ the Narrows,’ or only entrance to Lake Melville, and is about 20 miles inside Rigolet. They have always led me to understand that all

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they get are Rock cod, a fish that so far has no value for Newfoundland fishermen. They are accustomed to reject these when taken by mistake amongst the cod on the outside. That no cod fishery by Newfoundlers or Canadians, or anyone, except for rock cod by native Labrador men, further up the Hamilton Inlet than the Narrows, or ever has been, is fairly certain. At any rate, during the past 32 years I would assert with great confidence that none has been.” My Lords, the climatic conditions are entirely different also. As your Lordships are probably aware, the peculiarity of this area is that the shore is washed by the Arctic stream carrying the icebergs South from the Polar regions, and is entirely cold. The cold water, of course, passing down these shores keeps the temperature down, with consequent results on both the flora and fauna of the coastal belt ; but inland, on the other hand, there is quite luxuriant vegetation ; and one of the Reports says : It is like passing from winter to summer to pass from the coastal belt into the interior. You there get away from this cold douche of the Arctic current, and in the summer time you get very high temperatures indeed in the inner part of Labrador and very luxuriant vegetation, beautiful flowers, and altogether a very different type of climate from what you get along the cold rock-bound coast washed by these Arctic water. The sides of the shores of Lake Melville have all those pleasant attributes of an inland lake climatically when you pass from the cold outer zone into the interior and warmer zone.

Viscount HALDANE : Is Hamilton cold ?

Mr. MACMILLAN : Yes, my Lord, it is actually on the sea coast, there is no doubt about that.

Viscount HALDANE : It is cold in the same way.

Mr. MACMILLAN : The cold currents wash past there. If you come inland to the margin of Lake Melville, you there find

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yourself in a different climate in contrast to the outer porch, if one may so call it, of the opening into the sea. There are a great many passages dealing with the flora, and I do not know whether my Lords would be good enough to take one or two references rather than I should detain your Lordships by reading them. Flora is dealt with at page 2369, fauna at 2384, the trees at 2380, the seaweed at 2376 ; and, apparently what is regarded as very distinctive, the presence or absence of barnacles and periwinkles at page 2392. The distinctive climate is dealt with at pages 2368 and 2380, where the expression is used : “ There are the two Labradors,” the Labrador of the Coast and the Labrador of the interior ; and a very good description, which rather embodies my submission., is given by Dr. Kindle at page 2396, where he summarises the position by saying that in his estimation this sheet of water is an inland lake with direct marine connections rather than a bay or inlet of the sea. Of course, one knows that, geologically, there are lochs or lakes which have been formed by land and ultimately emerge into the

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sea by geological submergence ; on the other hand, you have the equally familiar phenomenon of a branch of the sea becoming an inland lake. That is well exemplified in two well-known instances—Lough Neagh in Ireland and Loch Lomond in Scotland. Lough Neagh has herrings in it which are imprisoned there and fished for, and they are descendants of the original marine herrings which were entrapped there when the geological cataclysm shut them in ; and from the deep holes in Loch Lomond they have dredged up marine zoophytes and other primitive forms of life left undisturbed from the time when there was a connection between Loch Lomond and the sea. These are the freaks of geology. This is one of those cases of an inland lake communicating with the sea rather than a branch of the sea which has been shut off by the land ; it is a sheet of water which looks to land rather than looks to sea, and flows out into the sea. These are all the factors as I submit them to your Lordships ; they are, I frankly confess, traversed, and vigorously traversed, by scientific gentlemen on the other side. I have endeavoured, without exaggerating the importance of the evidence from our side, to give your Lordships the important facts physiographically on this matter, and from the scientific aspect. As to the nomenclature, I do not know that your Lordships will attach very great importance to the nomenclature part of it.

Viscount Finlay.

Viscount FINLAY : It all depends on whether the names are rightly given.

Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord ; of course, the names may be said to be some indication to reflect to some extent the popular impression of the place. On this, I do not know that either my learned friend or I can get very much comfort,

because in some old maps the word “ bay ” is used, and in others “ river ” is used ; but many of those maps are imperfect maps in the respect that they do not show the extent of this inland sheet of water. There is an opening shown and some of them show a larger or smaller inland sheet of water, but in some instances it is right to say that the word “ bay ” is used, and in other instances “ river.”

Viscount FINLAY : Is there any witness's evidence, which lies within reasonable compass, which summarises the point of view of those who say that this is an inlet of the sea.

Mr. MACMILLAN : If my learned friend will tell me which is his best authority, I will read his summary. Do you think Professor Gregory ; he is a very eminent person.

Mr. BARRINGTON-WARD : We would rather deal with this ourselves completely.

Mr. MACMILLAN : My learned friend would rather deal with it

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himself. Professor Gregory is an eminent geologist, and he thinks it is a fiard [sic].

Lord WARRINGTON: “ Fiord.”

Mr. MACMILLAN : He says “ fiord,” does he ? There is a very strenuous battle over that question between the geologists ; it probably does not matter very much what you call it, it is much more important to know what are its features. Then there is a contest about the flora, but I do not think it would be right to take up your Lordships' time at any great length upon it. I suggest that the absence of the cod fish from it, is one of the most distinctive things for our present purpose. I suggest that the ordinary surroundings of this sheet of water. if one were able to place oneself on the shores of it, would lead you to describe yourself not as being “ on the coast of Labrador,” but one would say : “ What a charming lake this is,” rather than regard it as merely a sheet of water attached to the shore. It is upon that material, as I say, that the nomenclature varies vary much, but perhaps I may just give an example or two. Take the first map of Ballin, that is in 1669, the name “ Bay Sauvage,” is applied to the present Hamilton Inlet.

Viscount FINLAY : That you would not quarrel with.

Mr. MACMILLAN : It depends on what you call “ the Hamilton Inlet. ”

Viscount FINLAY : I thought the Hamilton Inlet was separate from the Hamilton Lake.

Mr. MACMILLAN : If the expression “ Inlet ” is confined to the seaward portion, I have no objection to its being called the Bay Sauvage, if it is intended to extend on to the Lake Melville region, then I say that is an inaccurate name to apply. I am afraid these early maps are really of no use, because they do not show anything in sufficient detail. If you come to No. 7 in the Canadian Atlas, I think we there get a little more.

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Viscount FINLAY : Is this called “ The Legend on the Map ? ”

Mr. MACMILLAN : Yes, my Lord. the nomenclature on the map. I am sorry that that map I have given you, No. 7, does not show Lake Hamilton at all, it merely shows an opening, but it calls the opening “ River Kessessaskion ” ; perhaps that is of importance as showing that that part was regarded. as the outlet of river ; it is a river month that is entered there at a point outside the Narrows.

Lord WARRINGTON : That is the sea part of it.

Mr. MACMILLAN : Ballin's map, which is perhaps important, shows

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the River Kessessaskiou as the interior waters flowing into the Bay St. Louis or Bay des Esquimeaux, ciding, Bay de Kessessaskiou ; that is perhaps one of some authority from a geographers point of view

Lord WARRINGTON : Which number is that ?

Mr. MACMILLAN : That is No. 19 of Canada's Atlas. Your Lordship will see in Ballin it is the entrance. Does your Lordship see River de Kessessaskiou, that is all seaward of Lake Melville, and that is what flows into the sea according to Ballin.

The LORD CHANCELLOR : Where are the Narrows ?

Mr. MACMILLAN : I think the Narrows are probably at that place where you see the peninsula, and immediately upward from there is an island which is probably Henrietta Island. The drawing is very imperfect, of course.

Viscount FINLAY : After all, these are merely pictures drawn on more or less imperfect knowledge.

Mr. MACMILLAN : Yes, my Lord.

Viscount FINLAY : We now have surveys which put beyond controversy the physical features.

Mr. MACMILLAN : That is much more important, my Lord, for the purpose of assisting your Lordship, I recognise that. I do not know whether the language used by a navigator is of any interest, but the Log of H.M. Brig "Clinker," which entered the Narrows on the 13th July, 1821, as appears from the Appendix, Volume 8, page 3862, records itself as having entered the River Ivucktoke ; and the Arrowsmith in No. 29 map of Canada, applies the names "Hamilton Inlet," "Lake Melville" and "Hamilton River" for the first time, and applies them to the bodies of water now known by those names. Arrowsmith is a person who is regarded as of some authority ; and in the Admiralty Charts this body of water is described as "Lake Melville" ; but it is right to remind your Lordships, as the Lord Chancellor has reminded me, that there is marked along the whole thing "Hamilton Inlet," but the actual body of water itself is described as "Lake Melville." Now the word "Lake," of course, is not applied to arms of the sea at all, it is applied to fresh water bodies.

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Viscount FINLAY : But that is a very near relation to a lake.

Mr. MACMILLAN : It is, my Lord. It is regularly used. There are sea loughs on the West coast of Scotland, and in Ireland also ; but I think I am right in saying that the word “ lake ” is never applied to salt water.

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Viscount FINLAY : The term “ lough ” is sometimes applied to fresh water.

Mr. MACMILLAN : Yes, my Lord ; but the interesting thing is that there is only one lake in Scotland, namely, Lake Monteith. That is the only one.

Viscount FINLAY : And that is a long way from the sea.

Mr. MACMILLAN : Yes, my Lord ; but there is no other “ lake ” in Scotland. I think I am on very firm ground when I say that nobody ever describes the sea as a lake. Therefore you have here the ordinary acceptance of persons who describe this place, without any motive either one way or another, and they describe it as “ Lake Melville,” whereas all the other places on the coast are described as “ bays ” and “ inlets,” and so on—all language of a maritime character.

Viscount FINLAY : Certainly a lake is a lough in the ordinary way.

Mr. MACMILLAN : Yes, my Lord, ordinarily it is so. It is used for both.

Viscount Finlay.

On these grounds, my submission to your Lordships is this, that the measurement inland of the depth of coast to which the jurisdiction of Newfoundland is confined, is a measurement which should be made from the coast of Labrador, and that at Lake Melville, from some place about the narrows—we think the headland of Ticoralak is the place which the evidence rather supports as being the real point of transition from river to sea—you come across from one side to the other ; and that the depth inland should be measured, not round Lake Melville, but from a line drawn across the entrance to what we call the expansion of the Hamilton River.

Mr. Macmillan.

Viscount HALDANE : That is, treating the Inlet as coast.

Mr. MACMILLAN : Certainly, my Lord, treating the Inlet as coast and the rest of it as the river.

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Viscount FINLAY : That proceeds on the assumption that, by convention, I suppose, or by agreement, a certain strip of a certain width is to be conceded to those who have these rights on the coast.

Mr. MACMILLAN : This all assumes that my learned friend has not succeeded in establishing his right up to the height of land. If he has established that, then this question does not arise ; but if, on the other hand, your Lordships are satisfied that the coast of Labrador, as I have so frequently insisted, is a coastal strip, then your Lordships have to determine how far inland it goes. That is the question put by Lord Knutsford, how far in you are to go.

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Viscount FINLAY : As regards that, a question will arise in each case whether it falls fairly within the limits of the use of the coast.

Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord ; and it is upon that that I have ventured to give your Lordships some indications. I say that it is measured by the use and requirements of the fishing industry. Then I have given your Lordships the facts as to what was done in the French case, where you have an actual determination (by convention no doubt, and not actually ratified) of a quarter or half a mile. as being a sufficient amount.

Viscount FINLAY : And it would be a very convenient thing if, after a sufficient experience of the working of any system on the coast, you came to the conclusion that a particular distance was a fair distance to allow.

Mr. MACMILLAN : So far as Canada is concerned, our view would be this, that we would be quite content with any line which the Board thought would cover the maximum requirements of the fishery industry. I gave an example. I said that Newfoundland itself had selected 5 miles inland in all its recent leases ; a whole lot of them are given.

Lord Warrington.

Lord WARRINGTON: It is supposed that that boundary was made in 1763.

Mr. MACMILLAN : Yes, my Lord.

Mr. Macmillan.

Lord WARRINGTON : That is the assumption.

Mr. MACMILLAN : That is the assumption.

Lord WARRINGTON : That it was made then.

Mr. MACMILLAN : Yes, my Lord.

Lord WARRINGTON : Then supposing it was a boundary which depended upon the necessities of the fishing industry, that would be a constantly varying boundary, because in one

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part of the coast there might be no necessity whatever for going more than 100 yards inland, and in another part you might have to go several miles inland, and you might be entitled to go several miles inland.

Mr. MACMILLAN : That my Lord, is exactly the problem which Newfoundland had to face when it had to consider what should be the fishing zone round Newfoundland. It is the same problem as the Governor was faced with when he was told that he was to keep 200 yards or 600 yards safe for fishing. It is a question simply of what is a reasonable zone. Dr. Grenfell discusses it, and perhaps I should have

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read to your Lordships the passage where he says that you will find no houses along there more than 250 yards from high water mark.

Viscount FINLAY : The proper width of such a zone may vary from time.

Mr. MACMILLAN : Yes, my Lord.

Lord Warrington.

Lord WARRINGTON : It may vary very much, too, from century to century.

Mr. MACMILLAN : And so also may the height of land.

Mr. Macmillan.

Lord WARRINGTON: There are alterations in the methods and facilities of communication and so on.

Mr. MACMILLAN : And so also may the height of land vary ; not to the same extent, but it may vary, and I know of instances of that.

Lord WARRINGTON : I only mean that it may alter by the usages of mankind. You have said that the climate in the upper part is better than the climate on the shore, and it may be that the fishing population, with modern methods of communication, may be able to get up to the liner climate.

Mr. MACMILLAN : I am sure that my Lord is not less sympathetic to my view than to that of my learned friends at the moment. The height of land was also present to the minds of those people in 1763 ; but I suggest that what was more likely to be present to their minds than the height of land was the question of the necessities of the thing that they were thinking of, namely, the cod fishery.

Lord WARRINGTON : The necessities then would be very different from the necessities now.

Mr. MACMILLAN: The same thing might have been said

with regard to the French rights on the shore which they got by treaty, and which they regarded as being intensely important. This was at a time when the whole attention was devoted to the question of fisheries, rather than to the question of territory. However, it is not for me to urge the matter more fully than I have done, but your Lordships appreciate the outlook.

Lord WARRINGTON: Yes.

Mr. MACMILLAN : There are two ways of looking at it, and they both imply that there was something present to the minds of those who wrote in 1763. My learned friend says that what was present in their minds was the height of land ; I say that what was present to their minds was what was necessary for the fishery.

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The LORD CHANCELLOR : You were referring to the leases. What is the reference to that ?

Mr. MACMILLAN : It is Volume V, page 2257, and it is rather interesting, because it shows how Newfoundland itself on the coast is setting about matters. That is quite important, and my learned friend, quite properly, does not use it against me as showing what is the position, but it is showing what has been done by Newfoundland in granting great concessions with regard to timber, and in every case you will notice that a reservation of land within 5 miles of the sea and main rivers is made. There are five examples given there. Therefore, I think I may say fairly enough that the Government of Newfoundland would regard five miles inland from the sea as being a sufficient reservation for any maritime purposes or any fishery purposes.

There is another reference that I may give, if your Lordship is interested in this topic. Will your Lordships please note page 2169, where there is what is called an “ Extract from report of an official visit to the coast of Labrador by the Governor of Newfoundland.” The Governor of Newfoundland went there in August, 1905, and this what he reports : “ The conservation of the forests of this Island in the interests of the fishermen is so well recognized and understood that a three mile margin is preserved for them all round the Island on all the Crown lands of the Colony.” That is on Newfoundland that they reserved a three mile line, but apparently, on the coast of Labrador, as is shown on page 2257, they practically standardised the distance of five miles as being the depth to which they might reserve their land for the purposes of the fishery and other interests.

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Now, my Lords, I think I may conclude. The whole of my argument to your Lordships upon the main case really comes back to what is stated in comparatively brief summary in the printed case which is in your Lordships' hands. The whole of my address has been directed to supporting what is there stated in summary, and the propositions there set out. My submission upon the whole matter is this, that those who, in the year 1763, used the critical language of the Proclamation, did so having regard to fishery questions and fishery questions alone ; that they entrusted to the Governor of Newfoundland, who was a naval officer on a ship, the very proper duty of supervising the fisheries of this coast, which had now come into British hands ; that they selected him because he was a suitable person for the purpose, suitable to receive this jurisdiction ; and that what they gave him jurisdiction over was “ the coasts of Labrador,” meaning the maritime coasts of Labrador, seaward and landward ; seaward so far as necessary to patrol the fishing boats which resort there, and landward so far as necessary to enable the fishing industry to be carried on there ; and that that subject

matter, the subject matter of those transactions in 1763, preserved its identity throughout the whole series of transactions in 1763, 1774, 1809 and 1825 ; and that in none of those cases was the subject matter of transaction the great green territory, twice, nay, nearly three times the size of Newfoundland, and larger than the whole area of Great Britain; and

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that no one ever thought that this maritime official was being entrusted with jurisdiction over that great territory of land, for the management of which he was entirely unsuited, and which was entirely unnecessary having regard to the end and purpose with which the coasts of Labrador were placed under his care and inspection.

My learned friend, Mr. Geoffrion, who is to follow me, will take up one compartment of the case principally, which your Lordships may have noticed that I have not dealt with, namely. Acts of administration on the part of Canada and Newfoundland respectively in the disputed areas. There is a great amount of material collected in these books ; I think Mr. Geoffrion will not delay your Lordship very long over it, but as my learned friend, Sir John Simon, has dealt with some of it, we have thought it proper to put before your Lordship our argument upon that matter. My learned friend, Mr. Geoffrion, also has some arguments to offer on the general case, but he will probably not detain your Lordships for very long.

(Adjourned till to-morrow morning at 10.30.)

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1
Thursday, 4th November, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE).
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON

**IN THE MATTER of the BOUNDARY
between the DOMINION of CANADA
and the COLONY of NEWFOUND-
LAND in the LABRADOR PENINSULA**

BETWEEN
THE DOMINION OF CANADA
(of the one part)

AND
THE COLONY OF NEWFOUNDLAND
(of the other part).

NINTH DAY.

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Dominion of Canada.

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Friday, 5th November, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

TENTH DAY.

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—
Mr. Geoffrion.

*Counsel for the Colony of Newfoundland :—*The Rt. Hon. Sir JOHN SIMON, K.C., Mr. F. T. BARRINGTON-WARD, K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by Messrs. BURN & BERRIDGE.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.

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MORNING SESSION.

The Lord Chancellor.

Mr. GEOFFRION : May it please your Lordships, I feel much inclined to apologise for inflicting another address upon your Lordships after all this time ; but the case is so extremely complicated with all sorts of facts and from all sorts of angles that I hope I shall be pardoned for believing that I can still offer some useful suggestions to your Lordships. I will, however, offer your Lordships one small consolation : your Lordships' Order provides for a third address on the part of Quebec. There will not be any third address. It may be that that is because my observations to your Lordships will be in the nature of a merger of the junior Dominion brief and the Quebec brief—because I was retained by Quebec specially—and also because I cannot see, and none of us can see, that there is the slightest difference between the cases. The question is whether the piece of territory that is in dispute falls into Canada or not ; and the reasons why it should fall into Canada, may and should all be given by Canada.

Mr. Geoffrion.

The LORD CHANCELLOR : It was not put to us in that way when we were asked to give leave for a third speech ; but no doubt you have reconsidered the matter since then.

Mr. GEOFFRION : If your Lordship pleases, I will cover whatever there is to be said both as Junior for Canada and in the name of Quebec ; and therefore I am instructed on behalf of Quebec to waive any privilege in that respect.

Now may it please your Lordships, my suggestion, which I think is admitted, is that this is primarily, and one might almost say exclusively, a question of construction of the relevant documents of 1763, in the light of the then existing circumstances, and with the aid, the interpretative aid, of contemporaneous interpretation ; and therefore this case must be decided upon the meaning of the words used in the proclamation, contemporaneous utterances from the King, with (to a certain extent although to a lesser degree) the interpretation given to it immediately afterwards and in the three subsequent Statutes of 1774, 1809 and 1825.

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I suggest that all the rest is, if not entirely, almost completely irrelevant. Your Lordships have frequently had before you

what I would suggest to you is an analogous ease. Over and over again your Lordships have had to pass upon the construction of the British North America Act, as to where the Dominion had a provincial jurisdiction, and your Lordships have never been embarrassed by the construction put in Canada, or construction put by the Legislature, upon it. There are many instances where what has been confirmed and claimed by the Dominion, and acquiesced in by the Provinces for years and years, has

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afterwards been declared, upon the proper construction of the British North America Act, to be Federal, jurisdiction. I could give many examples of your Lordships holding, and unquestionably—it is impertinent for me to say “ properly ”; but your Lordships have held that you were there to construe a will superior to that of the Parliament, namely, the Imperial will.

Now, my Lords, if that is right as to the construction of an Imperial Act as to the division of legislative jurisdiction between Dominion and Province, is not the reasoning equally sound as regards the construction of Imperial proclamations and Statutes with regard to the territorial division between Canada and Newfoundland ?

I therefore suggest to your Lordships that the question is necessarily (and, as I say, almost exclusively) the question of what was meant in 1763, chiefly by the Proclamation (which I will come to in a moment) and, of course, what light is added by contemporaneous exposition and what light is added by subsequent Imperial legislation. If that is the case, then 90 per cent. at least of the argument of my learned friend Sir John Simon becomes irrelevant. He almost admitted it.

The LORD CHANCELLOR : I hope you are not addressing that observation also to Mr. Macmillan.

Mr. GEOFFRION : I am in a difficult position my Lords, because he did what I myself shall have to do, that is to say, not assume that the points that I have made have been accepted by your Lordships, and go on answering the argument which we suggest is irrelevant. We do suggest that this is irrelevant, but we are going to answer it all the same.

Now, my Lord, if that is the case, it is important to come first of all to the Proclamation. I wish to emphasise the Proclamation, notwithstanding the interesting debate as to whether the commission is the germ, or whether the Proclamation is the germ, and for this reason, even if we do not have any decided view upon the question as to whether the germ or origin of the Newfoundland jurisdiction is the Commission or the Proclamation, I do not think it makes much difference or needs to be decided. There is one thing that is certain, and that is that the paragraph in the Proclamation is more than a mere recital : it is the first authoritative Proclamation by the King to his subjects of

what he has done. There is a big difference, I suggest to your Lordships, between the recitals of what has already been promulgated, as in the preamble to a Statute referring to previous Statutes, and the first announcement by the King to his subjects that he has done something. This is his authoritative and well-considered definition of what he has done; it is his announcement to his subjects of what they should understand that he has done ; and, therefore, these words stand at least as high, if not higher, than the words of the Commission, regardless of the question of where, on the metaphysical aspect, we decide that the germ of the Newfoundland jurisdiction is to be found.

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Now, my Lords, if that is the case, then I will come to the next point, and that is as to the proper way of construing the paragraph on page 154 of Volume I, which has been so often read to your Lordships, at about line 13 or line 14. I have to apologise for the fact that I shall have to ask your Lordships to look at this text, and the text on the following page again in a few moments, although your Lordships have unquestionably looked at them often before. I suggest that the germ, and perhaps the answer to the whole question, is there. My suggestion to your Lordships is that we must in that Proclamation contrast all the time, for the purpose of construction, what the King says at page 154, line 14 : “ and to the end that the open and free fishery of our subjects,” and so on (which I will read in a moment) with what the King says on page 156 at line 23, namely, the clause respecting the Labrador coast and the clause respecting the Indian reserve ; because in this document the King says what he gave to Newfoundland and he says what he reserved to himself. We cannot easily presume that there is a conflict. Surely, what he gave he did not reserve, and what he reserved he did not give. Therefore I suggest to your Lordships that the proper atmosphere in which to approach this question is to contrast primarily—I will not say exclusively—the paragraph at line 13 on page 154, with the paragraph at line 23 on page 156. It is by contrasting those two paragraphs that we can get at the meaning of each of them. Each of them is on the same footing. One has quite as much importance as the other, and each must be construed by the other ; because what the King gave he did not reserve, and what he reserved he did not give. Now, with your Lordships' permission, I will read, perhaps for the twentieth time, the passage on page 154 at line 14. It says this : “ And to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador, and the adjacent islands, we have thought fit, with the advice of our said Privy Council, to put all that coast”—I desire to emphasise the word “ that ” for the moment ; I will come to it later—“ from the River St. John to Hudson's Streights, together with the islands of Anticosti and

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—
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the Madelaine, and all other smaller islands lying upon the said coast, under the care and inspection of our Governor of Newfoundland.” Now, my Lords, the first point that strikes one is that the word “ coast ” is used. The case on behalf of Newfoundland may be stated, brutally, in this way : “ Coast means watershed.” That must be their case, upon the main point.

The first suggestion that occurs to one is : “ Why did not they say ‘ watershed ’ ? ” Nobody will deny that the word “ coast ” is an ambiguous word. Why did they not say “ watershed,” which was so easy for them to say ? A little earlier in the Commission they refer to the height of land, and I should suggest to your Lordships that this is rather an illustrative argument. If your Lordships will look at page 153, line 25, your Lordships will see that in giving the limits of Quebec, just a few lines before this, they say “ from whence the said line, crossing the River St. Lawrence, and the

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Lake Champlain in forty–five degrees of north latitude, passes along the high lands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the sea.” There is one thing that is noticeable. There is “ high land ” there. In the Gaspé Peninsula you have the highest land of the Province of Quebec ; you have a well known chain of mountains, a well known geographical feature, supplying a convenient political division. The Appalachian Mountains start in the Gaspé Peninsula, and they go down into South Carolina ; and there the King took the height of land as the watershed. I protest against the idea that your Lordships can find anywhere the suggestion that the watershed is the universal boundary, or the implied boundary. The watershed is the boundary when it is the convenient boundary ; a river is the boundary when it is convenient ; and when neither the watershed nor a river is convenient, they take a geographical line, as a rule. But here they take the watershed, because there was a well–marked watershed present in Gaspé, and I would point out that when they chose to take a watershed as the boundary, they said so. It seems to me to be fair to suggest that if they intended to put the watershed under the control of the Governor of Newfoundland, they might have used the expression here, namely, “ the coast from the River St. John to Hudson's Straits, or the high land that divides the rivers emptying themselves,” and so on. I would not mind the use of the word “ coast.” In the proper context you can give a meaning to the word “ coast ” ; you can give it the meaning that you want. Here the context is against my learned friend, and it narrows the meaning of the word “ coast ” instead of broadening it. I will come back later on to the meaning of the word “ coast ” ; but I would now like your Lordships to turn to the words that I desire to contrast, and to which I attach importance, on page 156, at line 23.

A good deal has been said by my learned friend, Sir John

Simon, about the lakes, and things of that sort, and about the noble Iroquois, the noble Redskins, and things of that kind ; but very little has been said about the precise and special wording of this paragraph. I suggest that, logically speaking, the first thing to look at in order to find out what the King intended to reserve to himself, is what he said. Just let us see it : “ And we do further declare it to be our Royal will and pleasure, for the present as aforesaid ”—your Lordship will note that it is a temporary measure—“ to reserve under our sovereignty, protection, and dominion ”—therefore not in Newfoundland—“ for the use of the said Indians ”—we will see what they were in a moment, my Lords ; we see by the previous paragraph that they were Indians—“ all the land and territories not included within the limits of our said three new governments, or within the limits of the territory granted to the Hudson's Bay Company.”

Now, my Lords, I pause there, because I consider that the rest of it is immaterial. Your Lordships will note that, contrasting with the putting of a certain coast on which a fishery could be carried on under the care and inspection of an Admiral of a ship who is there for six months and who is made Governor, you have here the giving for the

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present, as a temporary measure only, until further informed, of a residuum.

I am sorry that I forgot, in respect of the other text, to suggest an argument which I think may be drawn from the use of the word “ that.” The words on page 154 are : “ all that coast.” Now, if your Lordships will look at “ that ” coast, it is the coast referred to in the second line of the paragraph. What is that coast ? It is a coast on which an open and free fishery for British subjects may be carried on. Is not that more than suggesting that the fishery is a motive, and was a purpose, or a reason ? Is not the coast that is put under the care and inspection of this Admiral, who is the Governor of Newfoundland, a coast upon which a free and open fishery for British subjects may be carried on ? We know that the only free and open fishery that could be carried on there was a cod fishery, because the salmon fishery is not free and open. You must occupy land and monopolise a space for salmon fishery, and it is the same with whale fishery and seal fishery. But neither seal, whale nor salmon add anything to my learned friend's case, as I will show later on, because they all were at that time strictly confined to the coast.

Now, my Lords, going back to the grant to Newfoundland, I suggest that it is “ that coast ”; and therefore it is ex definitio, by the definition, a coast on which a free and open fishery of British subjects may be carried on. I respectfully suggest that this is doing more than making the fishery a motive rather than a purpose or an end, although I hardly support the argument that the purpose is material when there is ambiguity. But I go further. This is part of the definition.

Now, my Lords, going back to the Indian question, I want to point out that it is a residuum. The attitude of the King is very easily understood. They must have assumed that the information as to that territory and the Indian situation was very incomplete ; and, historically, we know that at that time the Pontiac rebellion had broken out and the Indians were giving trouble.

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Viscount FINLAY : What rebellion is that ?

Mr. GEOFFRION : The Pontiac rebellion. The Pontiac was a chief who almost, immediately after the English conquest started rebelling in the west.

Viscount FINLAY : In the west ?

Mr. GEOFFRION : Yes, around the great lakes. I will point out to your Lordships later on that in a petition to Governor Murray, it was affirmed that the Montagnais were probably the only people who remained loyal to the British Crown at that stage. But that is another branch of the case. I am only

pointing out now the probable reasons why the King did not limit his reservation to the land around the great lakes, or to any particular ground, and did not even make his reservation depend upon whether it was hunting ground of the Indians, or whether they were under his protection. The King, I presume, after

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Lord Warrington.

due consideration, took words entirely different from those which my learned friend Sir John Simon found when he looked for them elsewhere than in the material documents. The King used words that he wanted to be over-cautious by reserving too much rather than not enough, and by reserving a residuum subject to certain well-defined exceptions. The reason is obvious : his reservation was “ for the present as aforesaid,” which, referring to the previous paragraph, means for the present and until our further pleasure be known. That is line 17. Therefore it is not a decision of what he will do, but it is a keeping back to consider a situation, a keeping back to consider a situation to reserve a residuum, which implies that he purposely used the broadest language possible, and he did it, my Lords, because any wise governor would do it if he was really inclined, for humanitarian, political, and legal reasons. There were legal duties towards these Indians, I think, under international law ; there were political reasons in not irritating them ; and there were humanitarian reasons in not harming them. Therefore, not being peculiarly interested in giving hundreds of miles of hinterland for cod or whale fishery, he reserved it in the broadest terms, being sure that he could always undo it, and announcing that he could always undo it. He wanted to be over-cautious and that is the reason why he reserved everything in sight. He did not wait to enquire.

Mr. Geoffrion.

Lord WARRINGTON : But how far do you say it goes, because you see, read literally, the whole of Newfoundland itself, and the coast, whatever is meant by that, is not included in the limits of the three new governments, or the limits of the Hudson's Bay territory.

Mr. GEOFFRION : Your Lordship appreciates that islands are clearly excluded. There are no Indians on the islands.

Lord WARRINGTON : But, reading these words quite literally, they would include everything not in the three governments or in the Hudson's Bay territory.

Mr. GEOFFRION : Yes, my Lord.

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Lord WARRINGTON : I only want to know how far you go.

Mr. GEOFFRION : The objection—we use the word “ objection,” but I do not know whether it is the proper word—the difficulty suggested by your Lordship is one that I

intended to answer later on, but I will deal with it now. The suggestion made involves both Newfoundland proper and the coast. As regards Newfoundland proper, I think it can be disposed of in this way : there is no dealing with islands in this part, and the reason is that it does not except Grenada, the fourth government, which was an island. There could be no question of taking care of the islands, because nobody suggested that there was any Indian problem in respect of the islands. The difficulty, however, remains, I confess.

The Lord Chancellor.

My learned friend suggests to me another excellent answer, namely,

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that what he is dealing with is “ the security of our Colonies.”—That is line 8 :—“ and that the several nations or tribes of Indians with whom we are concerned, and who live under our protection. should not be molested or disturbed.” Therefore, again, Newfoundland not being a colony at that time—on the contrary, it was a fishery—a temporary fishery was the only object, and not a plantation. and therefore there would be no reason to except it. But the island idea is out of it, and that is, I suggest, clearly demonstrated by two factors : first, that there is no Indian population there ; and second, that Grenada, which is the fourth government, is not mentioned, because in that case it was too clear. Nobody could conceive or imagine that Grenada would be involved. But the objection remains for the coast.

The LORD CHANCELLOR : Do you say that the whole of Labrador was reserved, and that no territory was granted to Newfoundland on Labrador ?

Mr. GEOFFRION : I was only trying to meet the island part of the difficulty. Now I must meet the coast part of the difficulty. All that I have to say as to islands is that the islands are clearly excluded ; but I have not yet eliminated the difficulty, and I will now try to do so. In that respect I have two distinct answers. The first answer is : If we are right in our view, then at that stage there was a jurisdiction given, and that is all. We spoke of easements and proprietary rights and territory, and so on, but there was a jurisdiction given of an extremely limited nature, on such part only on the coast as was necessary for the fisherman to land, dry their fish, cut a few trees to make necessary repairs, and so on. It was such a coast as, for example, was given to the French in Newfoundland at the same time—a matter upon which I want to dwell later on—and there can be no conceivable curtailment of any imaginable hunting ground. The Iroquois had been allies of the English for centuries, and the English were fairly informed of the situation ; and there is no conceivable conflict between the use of any coast for fishing

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The Lord Chancellor.

and the use of the territory for hunting, because these Indians hunted fur animals in the thick forest where they must live. These Indians are not seal hunters ; they are fur animal hunters in the hinterland ; and your Lordships have literature before you, which I will not read again, showing that the big divide was between that barren, cold coast, and the comparatively warm hinterland, between the Esquimaux sea dweller and the Red Indian hinterland dweller, which I might amplify by pointing out that the boats of the Esquimaux were fitted for the sea and not for inland rivers, while the boats of the Indians were fitted for the inland rivers and not for the sea. I think your Lordships have appreciated that ; and therefore, there was a clear distinction between that coast (which as we know was inhabited by Esquimaux, but which was reserved exclusively for fishing purposes, for salt water or sea-fishing purposes), and the hunting grounds of the Indians, and no one could any more conceive that there was an

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infringement on the hunting territories of the Indians if that alone was reserved, then he could conceive that there was an infringement of the hunting grounds of the Indians by not including Grenada, which is left without special mention. If it goes to the watershed any Government with any sort of caution would have said : Well that may very well be, and any Governor with General Murray's report before him would have said there probably is a large hunting ground there of people which I am affecting.

The LORD CHANCELLOR : You mean “ all the land and territories ” means all the land and territories used as hunting grounds, or are capable.

Mr. GEOFFRION : That might be possibly used.

The LORD CHANCELLOR : Capable of being used as hunting grounds.

Mr. GEOFFRION : It may be.

Viscount FINLAY : In what line is that ?

Mr. GEOFFRION : Lines 23, 24, and 25, the King reserves “ for the present as a-foresaid ”—which means for the present and until—“ our further pleasure.” Then comes : “ All land and territories not included within ” certain limits. I am possibly over-cautious, but the form I prefer to that suggested is anything that might possibly turn out to be needed for the Indians was reserved, and of course there was no use except the fishing coast we suggest, which was in their minds, because there is no conceivable conflict in that respect. As regards Newfoundland my learned friend Mr. Macmillan suggests to me another point. It comes in a branch

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of the subject I intend to treat, it is that this Proclamation deals here with lands ceded or confirmed to the King by the Treaty of Paris, and that was not Newfoundland ; but that adds an argument for the exclusion of the Island to the argument in respect of Grenada. I quite appreciate that is not the biggest difficulty, the coast is the biggest difficulty.

The LORD CHANCELLOR : There must be an implied exception of whatever had been granted.

Mr. GEOFFRION : My first argument is we are dealing with intentions not with mathematics, it is much more easy to presume that the King would not think worth while mentioning an extremely narrow strip that could not in any way under any view be a hunting ground.

The LORD CHANCELLOR : Do you mean there is an implied exception of that territory whatever it is ?

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Mr. GEOFFRION : I think I must concede there is an implied exception. In dealing with intention is not the tremendous significance, or the absolute insignificance of the exception valuable in other words, do not I diminish the argument to fading point according to the principle that if you take grains of sands away from a pile you would only have one grain left. I think it is a very important consideration when dealing with intention, it is far more easy if you paint the picture of what the King is trying to do, taking care of the Indian problem, saying I am not yet informed, I refuse to deal with it now, I am thinking about it, I would rather reserve too much than grant too much and have to cancel my grant, therefore I am going to make a sweeping reservation. Is not it more easy to presume that he overlooked a bare fishing coast particularly with Murray's report before him, than to presume he overlooked the whole hinterland north of Quebec, because the Hudson's Bay Company being excluded, on my learned friend, Sir John Simon's view, there was nothing north of Quebec.

The LORD CHANCELLOR : There is something north of Quebec.

Mr. GEOFFRION : The yellow, yes, but my learned friend, Sir John Simon, cannot say that, because I remember his distinctly saying this line was drawn to approximate to the height of land ; my learned friend must try and make his arguments consistent, because he has not always succeeded ; it is pardonable, perhaps I may not do it either.

The LORD CHANCELLOR : This map shows the corridor.

Mr. GEOFFRION : I am going to deal with the corridor

question later on.

The LORD CHANCELLOR : He has said in his sketch that there is such a corridor.

Mr. GEOFFRION : He suggested in his argument, I could give your Lordship the page, in the view of the framers of the Proclamation they probably thought this straight line from the head of the St. John River would be fairly close to the hinterland, and as a matter of fact the Lords of Trade on which he relies preferably to the King, on whose words he relies preferably to the words of the Proclamation—the Lords of Trade do not suggest that straight line, they suggest the height of land so in their minds there was no corridor. We have no enlightenment very much on that. At all events I will rather leave the corridor aside because I think later on that can be answered.

I am trying, to deal now with the allegation based on the in that I must admit front the point of view of Land Surveyors and lawyers looking at this with a microscope that there should be an additional exception. I am trying to suggest as bearing on the probable intention of the, King that that was such an obvious and such an insignificant exception that it was not worth mentioning specially, and it might

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be overlooked, while if the hinterland goes with the rest extending to Hudson's Bay boundary, then, of course, it is quite different. I have another answer, this drags me into another argument, I am following the objections rather than my own plan. It is this, that is a clear case illustrative of the case we are treating with, the Hudson's Bay problem. This brings me on to the Hudson's Bay question. I suppose I can start with this, nothing is clearer than this, there could be no intention to affect the Hudson's Bay Company's rights ; the Hudson's Bay Company's rights were both Governmental and proprietary, it was a proprietary Government, therefore while the King might more easily be persuaded to restrict the commission to a Governor he could not be so easily persuaded to curtail the proprietary rights of a Company. If it was necessary I would show your Lordships how careful he is as regards the Hudson's Bay Company in this very paragraph I am dealing with. I could show your Lordships how the Government was always careful in other instances of the Hudson's Bay Company, when they give a grant to Agnew, I will not refer your Lordships to the documents, your Lordships probably remember them, when a grant was made to Agnew a few years after, the Hudson's Bay Company is excepted, when these traders in 1752 tried to get all the Atlantic lands between Cape Chidley and Belle Isle Straits and though they got a favourable report from the Lords of Trade they never got the grant. There was a good deal of reading by my learned friend, Sir John Simon, of the Report of the Lords of Trade favourable to the grant, but the grant was never made for some reason or another. There again the Lords of Trade in recommending the grant reserved the rights of the Hudson's Bay Company. I can give your Lordships the reference, but I will assume your Lordships will not doubt, unless it is argued against it, there could be no intention of affecting the rights of the Hudson's Bay Company. I hate to talk to your Lordships of precedents where they have always done it, but it is a very significant point here there is no reservation in the grant to Newfoundland of the Hudson's Bay Company's rights. I want to emphasise the point made by my learned friend, Mr. Macmillan, that at that time there was no suggestion of the heights of land being the limits of the Hudson's Bay Company's rights. It is worse for my learned friend, Sir John Simon's argument, there was a definite persistent suggestion of another line, the suggestion of Grimington Island, a line to be drawn from there south westward to Lake Miscosincke down to the 49th parallel, and then going west along the 49th parallel, a line essentially different from the height of land line, in every way ignoring it, which was first made by the Hudson's Bay Company to the Government after the Treaty of Utrecht in view of the delimitation that took place between

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the French and the Hudson Bay Company's interests under that Treaty and was renewed in 1759 in view of this Treaty. If your Lordships will look at Volume VIII, page 4104, the letter begins at page 4103, it is a memorial of the Hudson's Bay Company of the 6th December, 1759. Your Lordships know the Battle of the Plains

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of Abraham between Wolfe and Montcalm had been fought then. The letter is addressed to the Lords of Trade it opens : “ May it please your Lordships. In prospect of an approaching Treaty of Peace between this nation and France.” Then at line 23 on page 4104 they say : “ That the papers which were laid before the said Commissarys and the Minutes of their proceedings as also a Memorial relative to this matter which in the year 1750 after the Conclusion of the last war was presented to your Lordships remaining as your Memorialists believe in your Lordships Office it is conceived from thence will appear the best state of the rights of both Crowns and of the Territories and claims of the said Company that can be laid before your Lordships, whereto your Memorialists beg leave to refer.” Now the Memorial is at page 4093, it is the 1750 Memorial as they call it, and it begins by quoting the grant. Then the last line of the page : “ Comprised as your Memorialists conceive ”—they are going to give the definition—“ in the said Grant are as follows, that is to say— all the lands lying on the East side or coast of the said Bay, and extending from the Bay eastward to the Atlantick ocean,” and so on and so on. “ And towards the North all the lands that lye at the northend or on the north side or coast of the said Bay and extending from the Bay northward to the utmost limits of the land there towards the North Pole but where or how those lands terminated is hitherto unknown—And towards the west all the lands that lye on the West side or coast of the said Bay,” and towards the south, line 13, this is where I wanted. Lord Sumner may remember he asked during the argument, what was meant by the south boundary of the Hudson's Bay Company, “ And towards the south all the lands that lye at the south end or south side of coast of the said Bay the extent of which lands towards the south to be limited and divided from the places appertaining to the French in those parts by a line to be drawn for that purpose to begin from the Atlantic Ocean on the east side at an island called Grimington's Island otherwise Cape Perdrix in the latitude of $59\frac{1}{2}^{\circ}$ on the Labrador coast and to be drawn from thence Southwestward to the great Lake Miscosinke otherwise called Mistiness, and through the same dividing that Lake into two parts down to the 49th Degree of North Latitude, as described in the said map or plan delivered herewith, and from thence to be continued by a meridian line of the said latitude of 49° Westwards.”

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Viscount HALDANE : Where is Mistoseny ?

Mr. GEOFFRION : It is the great lake Miscosinke which is now known as lake Mistoseny.

Viscount HALDANE : On the general map is Mistassini then the same lake ?

Mr. GEOFFRION : Yes, exactly, if you will look at this map you will find Grimmington then a straight line to Mistassini, the

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middle of it. Any map will do, because this map is geographically accurate.

The LORD CHANCELLOR : It was never more than a proposed line, as it is called on that map.

Mr. GEOFFRION : My argument is that it is a proposed line that was never accepted, but it was semi-endorsed,—I use the word advisedly,—by being made the basis of the negotiations by the Plenipotentiaries of England after the Treaty of Utrecht for a settlement. I am leaving aside the line further south, the Davis Inlet, of which your Lordships have heard, which was proposed as the trading line, but the line these Plenipotentiaries were told to propose was the Grimmington Island line. There is this in it, while it was not binding on the Crown, it has certainly not been condemned by the Crown. It had a sort of quasi endorsement because if the Crown had obtained it under the Treaty of Utrecht, it would automatically have been the Hudson's Bay Company's land. The Crown could never have argued that what they could get from France after the Treaty of Utrecht was not Hudson's Bay Company's, since the Treaty of Utrecht provided there will be a line between the Hudson's Bay lands and the French lands, and therefore, everything England claimed under the Treaty of Utrecht was to be Hudson's Bay lands, it was only Hudson's Bay lands claimed.

The LORD CHANCELLOR : Is this after the Treaty ?

Mr. GEOFFRION : Yes, I am saying this land, therefore, got a semi-official endorsement from England by being taken as the land they were to get. It is only semi-official, it is not binding, I admit, but it shows this, there was a line which is consistent, it was the only claim of the Hudson's Bay Company from 1712 down to 1763, and it apparently remained, as far as we can see, its claims until 1814. I will explain to your Lordships why, in 1814, they thought of a new line. The Northwest had been discovered, and the new line went to the Rocky Mountains, that is why, it was an idea of genius to suggest the height of land, but in 1759, 1763 and after 1763, since 1712, there had never been a suggestion of the heights of land as the boundary of the Hudson's Bay

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The Lord Chancellor.

Company by the Government or by the Hudson's Bay Company. The only suggestion made and consistently made from 1712 to 1759 was this line from Cape Grimington, persisted in consistently, and apparently not abandoned until we reach 1814, when the discovery was made that the watershed of Hudson's Bay went to the Rocky Mountains, which put new ideas into the heads of the Hudson's Bay Company. At that time your Lordships will note the Westward boundary was insignificant ; they said 49 degrees westwards, they did not care where that stopped. That line is not a line which the King in dealing with Newfoundland for a fishery purpose would have treated as certainly preposterous and condemned. I do not say he admitted

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it, but he would not have condemned it. It was no function of his nor any desire of his to decide ; I throw that line to the winds and I choose own accord Cape Chidley.

The LORD CHANCELLOR : What are you arguing, are you arguing that nothing was granted to Newfoundland north of that line ?

Mr. Geoffrion.

Mr. GEOFFRION : No, nothing could really affect even the trading right of the Hudson's Bay Company, nothing was granted to Newfoundland that could really be construed as affecting the substantial trading rights of the Hudson's Bay Company by going to Cape Chidley, although it was going north of what was a known claim and a not disallowed claim of the Hudson's Bay Company.

The LORD CHANCELLOR : The Hudson's Bay Company had more than trading rights, they had the land, they had a grant of the land within their territory.

Mr. GEOFFRION : Certainly.

The LORD CHANCELLOR : It is difficult to conceive if the Crown had considered that the Hudson's Bay Company's rights came down to Grimington Island they could have granted to Newfoundland the whole coast up to Cape Chidley ?

Mr. GEOFFRION : Quite.

The LORD CHANCELLOR : You are not asking us to say that Newfoundland has nothing ?

Mr. GEOFFRION : No, I am simply suggesting it throws tremendous light on the suggestion that what they were given was something which really could not prejudice the Hudson's

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Lord Warrington.

Bay Company. There is no other way out, because I do not think it can be suggested that they intended to condemn the Grimington line irrevocably. There is nothing to suggest it, not a word, they were not dealing with that. They do not show any evidence of wanting to do that even in 1774, when Agnew in 1774 asked for a grant up to Cape Chidley but adding 60 miles deep for hunting and mining, they say that means mining rights have been granted to Newfoundland. I think it is useful to refer to that in Volume III at page 1080; if you will look at pages 1080 and 1081, your Lordships will see that what was done there with the Agnew grant. It has been referred to, your Lordships, and your Lordships have noted it before ; it has been referred to several times. Would your Lordships note about line 25, on page 1080 : “ so, on the other hand, by extending the Grant Northward to Hudson's Streights, they will take in a very large part of what has been already granted to the Hudson's Bay Company, who are entitled by their Charter to all Alines and Minerals, within the Territories granted to them.” It was a claim for mining rights 60 miles from the coast by extending it northward, not by

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extending it in depth 60 miles, and then if your Lordships look at page 1081, line 27, the Grant is : “ and upon the coast of Labrador, between the River St. John's, and the southern limits of the territory granted to the Hudson's Bay Company.” Your Lordships will notice they are dealing with the coast line there between the River St. John and the southern limits of the territory.

Lord Warrington.

Lord WARRINGTON : Mr. Geoffrion, surely if there is one thing clear it is that on the east coast of Labrador up to that top point from Hudson's Bay Straits, the Hudson's Bay Company had no interest in the coast from Hudson's Bay Straits southwards. It there is one thing clear it is that.

Mr. GEOFFRION : It is clear on the words of to-day.

Lord WARRINGTON : No, it is clear on the Commission, the Proclamation, and everything else.

Mr. GEOFFRION : No.

Mr. Geoffrion.

Lord WARRINGTON : From Hudson's Straits, there was no interest of the Hudson's Bay Company.

Mr. GEOFFRION : I am suggesting that was not the view then. I am not concerned with what is the considered view of Judges or lawyers to-day, I am considering what was the expressed view then and that is why I am emphasising the claims of the Hudson's Bay Company at the time, and the way they were dealt with.

Lord WARRINGTON : But surely what was included in

Captain Graves' Commission was all the coasts of Labrador, whatever " coasts " means, from the entrance of Hudson's Straits to the River St. John.

Mr. GEOFFRION : Yes, I did not put my argument clearly.

Lord WARRINGTON : It was not intended to interfere in any way with the Hudson's Bay Company.

Mr. GEOFFRION : I am suggesting that if it only means the fishing coast there is no interference, or such a very insignificant, unsubstantial one, since the Hudson's Bay Company were not in the fishing business, that it may be conceived the King would not have bothered, but that whenever there was a suggestion of a grant up to Cape Chidley, which clearly did involve going inland, the rights of the Hudson's Bay Company were expressly protected.

My argument is this, that whenever there has been a grant suggested or a grant made that went up to Cape Chidley and that went inland, the rights of the Hudson's Bay Company have always been expressly protected. Therefore, if there had been an intent to grant any—

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thing here inland, the rights of the Hudson's Bay Company would have been protected, but I suggest while it is not mathematically accurate, as I admit, as in the case of the Indians, so in this case, the King may have thought by merely granting that fishing jurisdiction,—because it is a fishing jurisdiction, it is not a grant of territory, he was not interfering enough either with the hunting rights of the Indians or with the trading rights of the Hudson's Bay Company to give any attention to it. Your Lordships have my argument in a nutshell. It cannot be challenged, I am trying to save quotation, I do not think it can be challenged, that from 1712 to 1759, in view of this Treaty, the Hudson's Bay Company made one claim, and but one claim, and had made none before except to coast posts under the Treaty of Ryswick, and one claim and no other claim, that claim was Grimington Island towards Mistoseny to the 49th degree, no western limit because the west was nothing then.

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Mr. Geoffrion.

Lord Warrington.

Mr. Geoffrion.

Lord SUMNER : Did I catch you to say just now that the effect of the Proclamation of 1763 as regards the coast of Labrador is the grant not of territory but only of fishing jurisdiction.

Mr. GEOFFRION : Yes, that would be my point.

Lord SUMNER : If that is the point, I thought it had been conceded all through that, however narrow the strip of grant uniformly laid out along the sea coast, there was a grant of territory whether it was revocable or not.

Mr. GEOFFRION : I will try to explain, there was no contradiction in my mind, I take it the grant to a Governor is nothing but a grant of jurisdiction. The jurisdiction has developed to-day, and Newfoundland has become a self-governing colony.

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Mr. Geoffrion.

Lord SUMNER : I follow if you mean the grant to a Governor.

Mr. GEOFFRION : Yes.

The LORD CHANCELLOR : It is not only to-day but the Acts of 1774 and 1809.

Mr. GEOFFRION : Annexed to the Government.

The LORD CHANCELLOR : And 1825, they all talk there of territory, of annexing and re-annexing.

Mr. GEOFFRION : Yes, by talking of annexing territories to

the Government of Newfoundland what I mean is the territory remains in the King ; and the jurisdiction, more or less broad, is given to the Government. There is no doubt for practical purposes we may call it

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territory to-day, now these Colonies are self-governing, but there is no doubt, that the King of England had quite a considerable jurisdiction within the same jurisdiction as that given to the Governor. It was at that day a fishing jurisdiction over a certain territory, that has evolved into the jurisdiction of a self-governing Colony over the same territory, there has always been a territory involved, but that territory was always in the King, and is still in the King, but a fishing jurisdiction was first given over that territory in those days, and was a very narrow one if you look at the instructions, and now a complete self-government jurisdiction is given to that Government. That is the evolution, the evolution has gradually taken away the appearance of what is a sort of jurisdictional easement, if I can use the word, and converted it into what is a sort of proprietorship, but in reality it is only an extended jurisdiction front that of fishing controller, because that is all the Governor of Newfoundland was, to that of a self-governing country ; that is a representative instance. It is on the same territory all the time, therefore we are concerned in order to know what territory Newfoundland has, to find out on what territory that Government got a fishing jurisdiction.

I suggest there is no other way of conciliating these two documents, and the words about the Indians and the words about the Hudson's Bay Company ; there is no other way of conciliating them, except the way I suggest, that the fishing jurisdiction granted by that Council was so limited to fishing—and there are instructions there showing it was fishing and nothing else—this Governor had no jurisdiction to do anything in the hinterland by the things he is told to do ; he is given only fishing jurisdiction—I am not speaking of the Instructions to inquire into the facilities for trade and conciliating Indians, which is rather a fishing jurisdiction, because it was to secure the coast to the fishermen, but he is given a limited jurisdiction for fishing purposes on the coast, and in that view it is easily conceivable that the King would have thought that he was not interfering, except in a theoretical way, with the trading rights of the Hudson's Bay Company, or with the hunting rights of the Indians. He was theoretically interfering with those rights, but not practically ; but if he gave jurisdiction to the height of land he was very materially interfering with the Hudson's Bay claims unless their claims were to be disallowed immediately, and he was very materially interfering with the Indian Reserves, and perchance, a thing which he must have supposed, in view of Murray's report, and which undoubtedly was a possibility in his eyes, with the possible hunting rights of the Indians there, I suggest that in the principle *de minimis non curat lex*—it

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might be de minimis non curat rex—I get at the applicable principle to the interference—that the right is so insignificant that one can easily understand the King overlooking it ; but the interference is so substantial both as regards the Hudson's Bay Company and the Indian that it cannot be suggested that it has been overlooked in the case of Newfoundland—I hope your Lordships

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Viscount Haldane.

Mr. Geoffrion.

will excuse my elaborating it ; I want to suggest that I cannot concede the proposition that there is nothing more clear than that the height of land, or Cape Chidley, was the Newfoundland limit. The documents, on that point are conclusive : I gave your Lordships Volume VIII, page 4014, and pages 4093 and 4094 ; then if your Lordships like to go backwards, page 4068 in the same Volume shows the same claim. These are representations, of the Hudson's Bay Company in regard to the line to be drawn under the Treaty of Utrecht, and your Lordships know that this line was given to the plenipotentiaries of England as the line to fight for. Therefore. I suggest in those dates, first the Hudson's Bay Company did not bother about any Western limit, its limits were 49 South : Grimington Inlet and so on to the 49th parallel. In 1815 the Hudson's Bay Company began to concern itself about the height of land, and it is quite obvious why : the tremendously wealthy North West had been explored, and it had been discovered that the rivers which started at Alberta emptied into the Hudson's Bay ; so the Hudson's Bay Company, by that new idea in 1814, was getting the new North West, a theory which was never admitted, and which was condemned by your Lordships in the Ontario–Manitoba and Government of Canada Boundary Case : but in 1763 it had not been dreamed of, and it is another line. It is difficult to suppose that no one would have mentioned, in the correspondence about the Treaty of Utrecht, the height of land, if the height of land had been any material point. I can easily understand why it NI as not mentioned because the height of land is a land surveyor's idea, and it has never concerned diplomats and statesmen, unless it was a good natural boundary, and that is another matter.

Viscount HALDANE : It was the boundary between the Hudson Bay Company and a hostile Power, namely France. In that ease you would have a defined boundary, not a mere vague natural one.

Mr. GEOFFRION : It would be rather important for the Hudson's Bay Company to have—it would be very important to have a good boundary.

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Viscount HALDANE : Exactly.

Mr. GEOFFRION : Even against a Governor like the Governor of Newfoundland.

Viscount HALDANE : But it was particularly against a hostile Power that it was done.

Mr. GEOFFRION : But it is generally in the case of hostile Powers that the height of land is taken as a boundary.

Viscount HALDANE : It depends on how you put it.

Lord Warrington. Mr GEOFFRION : It depends on what is a good geographical picture. My whole case is that nobody thought of the height of land

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then. The height of land, as I say, grew when the North West had been discovered and the Rocky Mountains and the Drainers Basin. Then no one thought of it because there is no height of land there, because all these traders knew that the height of land is a most unnatural boundary to cut up the trading of these Indians, who, according to their caprice or whom, go to the St. Lawrence, Hamilton Inlet or Hudson's Bay. No one thought of it, that is why it was not mentioned. I have no need to speculate on why it was not mentioned, it was not mentioned, and it cannot be supposed that the Imperial Government, which had taken so much care in the Agnew Grant to protect the Hudson's Bay Company, good or bad, from Grimington Inlet to Cape Chidley, by saying that the North Boundary of Agnew's Grant would not be Cape Chidley, as he asked, but would be the Southern limits of the territory granted.

Mr. Geoffrion. Lord WARRINGTON : I thought, as I said just now, that if there was one thing clear it is that the Hudson's Bay Company did not claim anything on the coast of Labrador, whatever that means, beyond the entrance to Hudson's Straits, and I remembered that Sir John Simon mentioned that some enquiries were made of the Hudson's Bay Company before the Commission ; but I was unable to find the letter ; I have found it now, it is in Volume VIII at page 4110, and it is a letter from the Hudson's Bay Company to Lord Egremont, dated in March : " Having this Evening received from Mr. Rivers a Letter signifying Your Lordships desire to know as soon as possible what are the Limits upon the Coast between the Hudson's Bay Company and the Coast of Labrador, I have laid the same before Sir Wm. Baker as Governor of the said Company, who has Directed me to present his Compliments and acquaint Your Lordship, he will wait on You thereupon to Morrow Morning or at any other more convenient Time that shall be appointed." Now that was on the 23rd March, and the Commission was granted in April 1763. Now surely it is a natural inference to draw that the

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Mr. Geoffrion.

result of that conversation was that the entrance to the Hudson's Straits was the extent of the claim of the Hudson's Bay Company with regard to the Coast of Labrador.

Sir John Simon.

Mr. GEOFFRION : May I be allowed to say something on that remark, my Lord ; my remark is this : the inference is based on silence, because we have nothing between the two.

Sir JOHN SIMON: Forgive me, we have something between the two.

Lord WARRINGTON: Lord Egremont is enquiring what are the limits of the Hudson's Bay Company's claim as regards the Coast of Labrador ; he is told that the Governor will see him, and a few days afterwards he grants the Commission giving to Newfoundland the Coast of Labrador from the entrance to the Hudson's Bay Straits.

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The Lord Chancellor.

Mr. GEOFFRION: But your Lordships are facing, if I may be allowed to suggest it, two documents, and I should like to draw attention to them. I suggest there is an answer, if I may point out the answer.

Mr. Geoffrion.

Sir JOHN SIMON : Would my learned friend allow me to correct a misstatement of fact. It is not accurate to say there is nothing between the two. I would point out that the day after the letter of the 23rd March, on the 24th March, you will find in Volume II, at page 389, the exact consequence of that interview—the very next day. The Secretary of State having got his information, as that letter shows, the very next day communicates with the Lords of Trade.

Mr. GEOFFRION : I maintain my assertion.

Lord WARRINGTON : Yes, it is the 24th March, written by Lord Egremont.

Sir JOHN SIMON : The very man to whom this other letter was written.

The Lord Chancellor.

The LORD CHANCELLOR : That was the limit laid down in the Charter of the Hudson's Bay Company itself in 1670 ; it is as old as that.

Mr. GEOFFRION : It is the limit, my Lord.

The LORD CHANCELLOR : They tried to get more, of course.

Mr. GEOFFRION : That is the limit, my Lord, that is put in the Proclamation. This letter I suggest does not add to the Proclamation, it says what the Proclamation later says, so

that, in so far as that is concerned, this letter does not add anything material, since it only announces in a letter what the Commission does contain. If that is the case I come to my previous statement that all we have is a statement, of which we know nothing except the wording of the Commission after ; but I remain with two points which I would like to put forward, one is, that later, in 1774, they were disallowing, as regards Agnew, that limit. I have evidence both before and after my Lords, in writing.

The LORD CHANCELLOR : All that was said as regards Agnew was that his concession was to go to the Southern limits of the Hudson's Bay Territory, without saying what the Southern limits were.

Mr. GEOFFRION: But he had asked up to Hudson's Straits.

The LORD CHANCELLOR : I know, but he did not get them ; the Southern limits wherever they were.

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Mr. GEOFFRION : Let us see what is on pages 1079, 1080 and 1081, to put the facts before your Lordships ; as I suggest he asked from the Hudson's Straits to the River St. Lawrence on page 1079, and he is told at page 1080 : if you get the grant North of the Hudson's Straits, that will take in a large part of what has already been granted to the Hudson's Bay Company, and then comes page 1081 : “ Upon the Coast of Labrador between the River St. John and the Southern limits of the territory granted to the Hudson's Bay Company.” I say that therefore you have the picture that in 1774 they were still unwilling to grant in express terms up to the Hudson's Straits.

The LORD CHANCELLOR : This is a very small part of your case.

Mr. GEOFFRION : Your Lordships have my argument.

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Mr. Geoffrion.

The Lord Chancellor.

Mr. Geoffrion.

The LORD CHANCELLOR : You will take much longer to persuade me that that line which you call the proposed line was ever confirmed. However, as I say, it is a small part of your case.

Mr. GEOFFRION : It is, as regards the Indian Reserves and the Hudson's Bay Company. I suggest coming back to the Indian Reserves that it was dealing with what you call a residuum ; coming back to the Reserves, it is a residuum for the present ; it is significant by the exceptions it mentions, and much more even by the exception it does not mention. I have dealt with the exception it does mention, Newfoundland ; but the exception not mentioned is the Hudson's Bay Company. The Hudson's Bay Company there was no reason to except at all for many reasons. The Hudson's Bay Company was not in territory dealt with by the Proclamation, because it had not been territory ceded to or conferred on France under the Treaty of Paris. The point I wanted to make was escaping me: the territory of the Hudson's Bay Company is quite clear, so how could they overlook the other. On my learned friends theory the territory of the Hudson's Bay

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Company is just near alongside the territory of Newfoundland, but my learned friend says the Reserve did not deal with that part of the world, it dealt with the Great Lakes. I will have to suggest later to your Lordships why it does not deal with the great Lakes ; but, may it please your Lordships, it is noticeable as I pointed out a minute ago, that in 1759 the Hudson's Bay Company were not concerned with its Western limits. The limits it was concerned with, and the limits which were then claimed, were the limits Grimington Inlet to 49 degree and stopping there, so that when the Proclamation refers to the limits of the Hudson's Bay Company, they are the very limits in the Labrador Peninsula,

because the others were not yet a concern to anybody, and if they were the limits in the Labrador Peninsula, then how can it be suggested that this Reserve did not apply to the same territory ; how can it be suggested that this Peninsula was so far considered to be included as to make it necessary to exclude the Hudson's Bay Company, and that it was so far not included as to make it unnecessary to reserve

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the Newfoundland Grant ? I suggest that since the exception applies to the Hudson's Bay Company, which is just a neighbour, it is almost inconceivable that Newfoundland would not have been mentioned if the hinterland had been intended to be given. My Lords, I suggest that the maps about Indian territories to which my learned friend has referred, help us in so far as they play a part, particularly the map introduced by my learned friend Mr. Macmillan on that point, which is very strong, but it seems first that where we must look for the reservation is in the terms of the Proclamation, and the thing did not reserve what was occupied by Indians conditionally on its being occupied by Indians. It reserved it completely. I can make the same remark to the various phrases to which my learned friend refers in the letters of the Lords of Trade. It is true the Lords of Trade speak of lands around the Great Lakes. I might answer " but it happens that the King did not take those words, he was not satisfied with those words, and used other words," and therefore, their value as a contribution to the interpretation is very slight ; but there is more : If these words of the Lords of Trade were discarded as insufficient—probably they were not suggested with the intention that they would be accepted, but only as a description—if they are to be considered, I find something in my favour in them. I must come back again, my Lords, to that phrase which has often been read to your Lordships (I will say only a few words about it) in Volume III, at page 910, line 20, where they suggest a reserve of the lands lying about the Great Lakes and beyond the sources of the rivers which flow into the River St. Lawrence. Now, my Lords, I take it that " Lands beyond the sources of the rivers " in the plural, which fall into the River St. Lawrence, are lands beyond the height of land ; I cannot conceive of an area behind the sources of the rivers which is on this side of the height of land ; if there is, it is because you use the distinction between a river and a brook and a stream, and say, there is the river's source, and there is a brook beyond. Obviously, this is the way of defining the height of land—

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Mr. Geoffrion.

Viscount HALDANE : You say it is interior waters.

Mr. GEOFFRION : I say it must be a name for a watershed substantially, and your Lordships must not forget that at that moment the Lords of Trade were suggesting as the boundary, not the boundary ultimately accepted, of a straight line for Quebec, but the height of land. Having suggested the height

Lord Warrington.

of land as a boundary, they then suggest a reserve of the land lying about the Great Lakes and beyond the sources of the rivers which fall into the River St. John from the North, to be thrown into the Indian country. Now that is beyond the water shed : when they were suggesting the North water shed was as the limit of Ouebec. It cannot be in Hudson's Bay Territory, because Hudson's Bay Territory is excepted in anything, and the King would not purport to put that in the Indian lands, so there is nothing left, not either the whole of or a part of the disputed territory, in that Peninsula, when you have taken the Hudson Bay watershed, the

Mr. Geoffrion.

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Lord Warrington.

Atlantic Ocean water shed, and the St. Lawrence water shed, you have excluded that ; in fact, one of the peculiarities of the use of the word “ coast ” by my learned friend is that except in very exceptional parts of the world, like the Caspian Sea, all Continents are composed of coasts.

Lord WARRINGTON: You must pay some attention to what the Lords of Trade are talking about.. In this paragraph they are talking about the settlement of the boundaries of the New Government of Canada. That is what they are talking about, not of Newfoundland or Labrador, or anything of that sort ; they are considering what shall be the boundary of the New Government of Canada, and in settling those boundaries, they say certain lands should not be included, but left to the Indians, that is what they are talking of.

Mr. GEOFFRION : They are clearly dealing with it, if I may suggest it, in view of the Proclamation they are going to draft, and in that Proclamation there is to be a Reserve of the rights of the Indians ; there has been a discussion about it, and the Reserve for the Indians cannot be in Newfoundland.

Lord WARRINGTON : I was proposing to ask you at some time or other what really is the effect of the reservation. Is not it reserved so as to prevent—the words of the last clause of the Proclamation seem to show it, the acquisition of ownership in the land that is reserved : settlement and ownership.

Mr. GEOFFRION : Of course, my Lord, this is going to the root of my argument.

Lord WARRINGTON : It is still reserved to the King, you see the King has jurisdiction and must administer it through some agent.

Mr. GEOFFRION: No, my Lord, if I may suggest, the correspondence which was read to your Lordships——

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Lord WARRINGTON : Just look at the words of the

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Proclamation again.

Mr. GEOFFRION : I have them before me, my Lord.

Lord WARRINGTON : It seems to me they are important. You see that paragraph which we have read so often on page 156, the reservation is expressed in these terms, “ To reserve under our Sovereignty, protection and dominion, for the use of the said Indians,” and then it ends with the words, “ and we do hereby strictly forbid ” and so on, “ our loving subjects from making any purchase or settlements whatever, or taking possession of any of the lands above reserved.” That is not a reservation, surely, directed to saying that the land shall not be invaded by the settlers.

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Mr. GEOFFRION : It is more than that, if it was that, it would be a definite policy. May I suggest that it is a reservation “ for the present as aforesaid.” The King, as the correspondence shows, had not made up his mind ; he dissented with the Lords of Trade at first ; the Lords of Trade wanted him to keep the Indian lands under his dominion ; he wanted to give the Indian lands to Quebec : he yielded, but only temporarily, because we find him doing it in 1774. He yielded to the Lords of Trade suggestion in 1763 by keeping the land under his dominion, but, during his pleasure, “ for the present as aforesaid,” until his further pleasure is known, and we know his further pleasure was known in 1774 when he gave it to Quebec.

Lord WARRINGTON : Yes.

Lord Warrington.

Mr. GEOFFRION : Because he discovered, quite naturally, that Quebec was the only Government which could really handle the Indian problem on account of its previous experience in the matter ; but at all events, I suggest that this is not consistent with its inclusion in the Newfoundland Government ; I do not see how you can reconcile, after having said We will put the coast of Labrador under the care of an inspection of the Governor of Newfoundland, saying, “ We reserve under our sovereignty protection and dominion for the use of the Indians,” all the following lands. It cannot be suggested that he was thereby putting the same territory (that is my suggestion) under the Newfoundland Government and at that same time reserving it under his sovereignty protection and dominion for the present as aforesaid. Of course, that goes to the root of my argument, but my suggestion is that there is incompatibility between the two.

Mr. Geoffrion.

Lord WARRINGTON : Up above, where he first says “ for the present,” he says, “ no Governor or Commander in Chief in any of our other Colonies or plantations in America, do presume for the present, and until our further pleasure be known, to grant warrants of survey, or pass patents for any

land beyond," certain limits. I agree he is talking there about the Governors of the old Colonies, but the object of the King in reserving the land, appears to be to prevent any ownership of the land so reserved being established by other people.

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Mr. Geoffrion.

Mr. GEOFFRION : This provides for the free trade with these Indians, my Lord.

Lord WARRINGTON : Yes.

Viscount Haldane.

Mr. GEOFFRION : That involves regulation. Regulation is required for the free trade with the Indians. For these Indians, this was their protection ; they should not be curtailed by settlement, but there was not only that, they should be protected against the white man's raids and lawlessness, apart from settlement. Their trade should be regularised, there were a lot of things to do, and the King knew he

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was not in a position to shape a policy then, and he reserves it for the present, and later places it on the Government of Quebec, but I suggest it cannot be said he was reserving it to himself, or giving it to Newfoundland. That is my point. at all events.

Mr. Geoffrion.

Viscount HALDANE : Let us see what has been the issue of this. The Indian lands when Confederation took place in 1867 were handed over, not to the Provinces, but to the Dominion, and the Dominion had to keep them, the same lands, but if by arrangement with the Indians they were sold to the Provinces, then it was decided by this Board that the title would be in the Province and not in the Dominion ; the Indian lands, in other words, were taken out of the ambit of the Dominion of Canada ; they were encased by themselves and could not be got rid of except by special arrangement with the Indians, and then they became Province lands. The Indian lands have always been kept apart from the Provinces ; and that condition in the regulation of 1867 was inherited from the policy of the arrangement with Quebec before, so one would expect here the Indian land would remain under the Crown subject to special arrangement for the benefit of the Indians, and would not have been transferred either to Quebec or any other of the Provinces. As a matter of fact, they got into Quebec later perhaps because Quebec was an enormous Province, including what is now known as Lower Canada, and it was thought convenient to take not so much out of the boundaries of Canada. The policy seems to have been to withhold the Indian Lands from the Provinces of Canada.

Mr. GEOFFRION : It was the policy undoubtedly, in 1763. 1774 gets a little more doubtful. The question whether it was in 1774 or 1880 that these Indian lands fell into Canada is an interesting question, our suggestion is it was in 1774, but there has been considerable doubt on that and other views are

maintained. It is not material to our ease, because we got it anyway if it was reserved. All I say is that in 1763 this was reserved by the King provisionally, because his mind was not made up, and in the broadest widest possible words, and he cannot have given it to Newfoundland under those words. I next say if our view of the 1774 Act is right, in 1774 it was thrown into Quebec, including Ontario presumably, because they discovered that there was a whole routine in Quebec for taking care of these people which was non-existent anywhere else ; they used to come to trade down to the Quebec shores. Then we come to consider, Quebec having been cut into two Provinces in 1791, that this matter, which belongs to the old Ontario and Quebec, was transferred to the Dominion by the Confereration Act or it may have been transferred to the Dominion only in 1880. That is the other question. But there is undoubtedly an express decision or policy to keep the Indian lands for the Indians out of any control in 1763 : it is admittedly a provisional decision which was possibly altered in 1774.

Viscount HALDANE : Is there any information to be obtained

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from the case in which Lord Watson delivered the judgment in regard to the Indian right being a usufructory right.

Mr. GEOFFRION : The case is the *St. Catherine's Milling & Lumber Co. v. The Queen* on the Information of the Attorney-General for Ontario. That is the case where they decided the Indians right was a usufructory right. That is reported in Law Reports, 14 Appeal Cases, at page 46 ; the passage begins at page 53.

Mr. MACMILLAN : There is also a reference in the judgment of Mr. Justice Duff, in the case of *The Attorney-General for Quebec v. The Attorney-General for Canada*, which is reported in Law Reports (1921) I, Appeal Cases at page 401, on the subject of the Indians carrying forward what Lord Watson said. It is merely a passing reference to the effect of the Proclamation there, in the judgment of Mr. Justice Duff ; it was not necessary for his judgment, but it was mentioned incidentally ; the incidental reference is to be found at page 410.

Lord WARRINGTON : What is the name of the case ?

Mr. GEOFFRION : It is *The Attorney-General for Quebec v. The Attorney-General for Canada*.

Sir JOHN SIMON : There are two cases running with that title, my Lord ; it is the first one of the two.

Mr. GEOFFRION : They are dealing with the Act of 1850, and I want to begin at the beginning of the phrase, near the bottom of page 410 :—“ and the view that the Act was passed for the purpose of affording legal protection for the Indians in the enjoyment of property occupied by them or appropriated to their use, and of securing a legal status for benefits to be enjoyed by them, receives some support from the circumstance that the operation of the Act appears to extend to lands occupied by Indian tribes in that part of Quebec which, not being within the boundaries of the Province as laid down in the Proclamation of 1763, was, subject to the pronouncements of that Proclamation in relation to the rights of the Indians, a region in which the Indian title was still in 1850, to quote the words of Lord Watson, ‘ a personal and usufructory right dependent upon the goodwill of the Sovereign.’”

My point is, and that definition by Lord Watson of the right of the Indians supports my suggestion, that on the words of this proclamation the King was reserving to himself provisionally, until his further pleasure be known, all these lands.

Viscount FINLAY : For the benefit of the Indians.

Mr. GEOFFRION : For the benefit of the Indians ; and he was not fully informed yet, and that is why he did not take the narrow words suggested by the Lords of Trade.

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Mr. Geoffion.

Viscount HALDANE : At page 59 of Lord Watson's judgment (14 A. C.) he says this : “ It was urged that the exclusive power of legislation and administration carried with it, by necessary implication, any patrimonial interest which the Crown might have had in the reserved lands. In reply to that reasoning, counsel for Ontario referred us to a series of provincial statutes prior in date to the Act of 1867 for the purpose of showing that the expression ‘ Indian reserves ’ was used in legislative language to designate certain lands in which the Indians had, after the royal proclamation of 1763, acquired a special interest, by treaty or otherwise, and did not apply to land occupied by them in virtue of the proclamation. The argument might have deserved consideration if the expression had been adopted by the British Parliament in 1867, but it does not occur in Section 91 (24), and the words actually used are, according to their natural meaning, sufficient to include all lands reserved, upon any terms or conditions, for Indian occupation. It appears to be the plain policy of the Act that, in order to ensure uniformity of administration, all such lands, and Indian affairs generally, shall be under the legislative control of one central authority.” The Indian title was defined by Mr. Justice Duff, quoting the words of Lord Watson, as “ a personal and usufructory right dependent upon the good-will of the Sovereign.” The Sovereign retained control.

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Mr. Geoffion.

Mr. GEOFFRION : May it please your Lordships, I dealt with Volume III, at page 910. As I said this is beyond the height of land ; it cannot be in Hudson's Bay territory, so the suggested Indian Reserve must be in the controverted territory. It therefore suggests that it was not the corridor which the people were thinking of then, because it is beyond the corridor ; I call the corridor the yellow area to the height of land. The only answer that was made was based on the use of the words “ the source of the rivers which fall into the River St. Lawrence,” and therefore it excluded the rivers that fall into the Gulf of St. Lawrence. This suggestion, I respectfully submit, is putting an undue precision on a mere letter of recommendation that was only descriptive, generally and did not intend to suggest the very words. Then any idea that the Reserve would stop east of the rivers falling in the River St. Lawrence, once we have decided where the river stops, seems untenable. You first determine where the River stops. Let us assume, as was suggested during the argument, that it stops at the River St. John ; then you must determine in what direction your straight line will be drawn. Will it be due north

from the source of the River St. John ? If it is, it takes in all the western extension of the watershed ; it takes in all these sources and the big lakes at the lead of the River. Your Lordship will notice that if you extend the River St. John all that sort of appendix to the Newfoundland claim would be in the Indian Reserve. Now it cannot be seriously suggested that the Lords of Trade wanted to cut it up by that illogical

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line, and that the mere use of the words “ rivers flowing into the River St. Lawrence,” meant that they wanted to put into the Indian Reserve the part of the Atlantic watershed shown by a line cutting off that appendix that your Lordships see on the sketch map, leaving the rest of the watershed to Newfoundland. It is a preposterous Indian Reserve to make. It is obvious that my learned friend is in great difficulty with his watershed theory the moment that he does not stop at the height of land, and it is obvious that on that phrase on page 910, the Lords of Trade were dislodging him from the most substantial and perhaps the most valuable part of that height of land.

The Lord Chancellor.

My learned friend, Mr. Macmillan kindly draws my attention to the fact that the prolongation due north of a straight line from the source of the River St. John would take Sandgirt Lake into that Indian Reserve, the line passing somewhat to the eastward. I will read an extract from Low's Report on Explorations in the Labrador Peninsula, which your Lordships will find at page 2644 of Volume V : “ Sandgirt Lake is an important gathering place for the Indians of the interior, on account of the number of routes that centre here.” It is a place where they gather, whether they want to go to Hudson's Bay, Esquimaux Bay, or Melville Bay or the St. Lawrence, and the suggestion would be that the Lords of Trade would have intended by those words to limit the Indian Reserve by a straight line drawn due north from the head of the River St. John.

Mr. Macmillan.

I suggest that view is untenable, and my learned friend, once he is dislodged from the height of land, starts down away close to the sea ; and undoubtedly this phrase of the Lords of Trade, if it had been repeated in the Proclamation, would have dislodged him from the height of land and would have taken away a very notable proportion of the watershed which he now claims. Of course, the words are even broader than that, but the real answer is that these words were not used.

Sir John Simon.

The LORD CHANCELLOR : I rather incline to your view that they did not intend to draw a precise definition between the River and the Gulf. If that distinction were material I am quite satisfied myself that the River is not so far down as Anticosti. You remember we had yesterday a discussion about the Hamilton Inlet, and there was a map produced showing the River St. Lawrence coming at the Point des Monts. I remember there was a discussion about it, and Sir

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Sir John Simon.

John accepted it.

Mr. MACMILLAN : My Lords, may I say the reason I think we both had in mind was that the River St. John is described as falling into the River St. Lawrence, in the contemporary language, and I think that probably was in my friend's mind.

Mr. Geoffrion.

Sir JOHN SIMON : I am much obliged : I am not seeking at all to qualify it, though I think I did guard myself by saying that I did not agree the use of the term had been consistent throughout.

Mr. MACMILLAN : It has not.

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Sir JOHN SIMON : I thought for the purpose of my friend's present point he was not putting it, if I may say so, unfairly, and I did not want to quarrel with him about what is necessarily a vague line. I do not think the use of the language is quite consistent.

The LORD CHANCELLOR : I do not think it matters very much, but I thought it, right that attention should be called to it.

Sir JOHN SIMON : At any rate I do not think anybody would say it goes down further down.

Mr. GEOFFRION : I am going to say it in a minute ; I am going to find it in the Report of the Lords of Trade. My argument, of course, is that the Lords of Trade could not have intended to base their limits of the Indian line on the east on such a hazy expression as the rivers emptying into the River as distinguished from the rivers emptying into the Gulf.

Therefore my learned friend gets into difficulties, because if they take part, they want to take the whole. It is my case that there is no importance in the distinction. If the pursuit of the subject be interesting your Lordships will find in the same report of the Lords of Trade a definition of what they called the River St. Lawrence, rightly or wrongly. That is at page 905, line 16. " This Claim, and the Possession in consequence of it, of the whole Southern Coast of the Gulph of St. Lawrence, from the streights of Canceau to Cape Roziere, at the Mouth of the River, appears to Us," and so on. Now from the position of Cape Roziere, I think that will carry it probably to the western end of Anticosti. As I say, my argument is that the Lords of Trade cannot have intended to base the eastern limits of the reserve on such a hazy basis as the distinction between the river and the gulf ; not only hazy in law but drawing an absurd line in the Indian territory. Therefore the moment my learned friend is dislodged by this phrase from part of his territory, he is in trouble with respect to all his territory.

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My Lords, this brings me to the second branch of the Indian argument, on which we may be wrong, but to which we attach very great importance. I have been arguing on the assumption that it is irrelevant whether there were at that place Indians under the protection of the King of England, whose hunting ground the territory was. That was my first point that I have been trying to develop ; that the King made a provisional measure and wanting to be on the safe side, did not condition his reserve on that, but reserved his decision. I now come to the second point, which was so brilliantly developed by my learned friend, Mr. Macmillan, but to which I have another chapter to add ; that is the chapter with regard to the history and possession and occupation, namely, that there were there not only some Indians, but relatively to the other tribes, a substantial number of Indians whose hunting ground it was. They were unquestionably under the protection of the King of England. They were the first Indians of whom the French and English would have thought,

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and the last ones they would forget. and it was their livelihood which was involved.

Viscount HALDANE : How far north did they come ?

Mr. GEOFFRION : There are two tribes, there are two subdivisions of the immense Algonquin tribe. That starts from Lake Superior practically, or perhaps west of that.

The LORD CHANCELLOR : There were the Montagnais ; I am not quite sure about the Nascopies.

Mr. GEOFFRION: The Nascopies are practically Montagnais, and Nascopie is a word of contempt ; they are further north because they have been beaten.

The LORD CHANCELLOR : They are called Cree in this map.

Mr. GEOFFRION: The Algonquins are Crees, my Lord.

The LORD CHANCELLOR : They are distinguished on this map.

Mr. GEOFFRION : They are obviously of the same stock. Montagnais is a name given by the French ; it means mountaineer ; it was not their Indian name. Each tribe had an individual unpronounceable name that soon went into disuse in French mouths, and these were given the name of mountaineers because they came from the mountains behind—the plateau which we are dealing with here. What was read by my learned friend, Mr. Macmillan, and I hate to read it over again, describes the situation. The Indians, previous, of

course, to the coming of the white people, lived exclusively on hunting for themselves ; they killed for their food, for their clothes and for everything. The coming of the white people, the French, in that region introduced a considerable change in their habits ; they killed to barter and they lived on the things they got that way. This introduced a new factor. I do not say that they did not still kill for their food at all ; but in both cases they killed and they hunted, and therefore their hunting ground was like the farm to a farmer in Europe ; it was their livelihood. These Indians had defined hunting territories, much as we have defined kingdoms and republics here, settled by immemorial usage. There were wars about them undoubtedly, like there are sometimes here, but at all events that was the position and the Montagnais hunting ground is described as being south of the Hamilton River and north of the St. Lawrence.

Sir JOHN SIMON : What description are you referring to ?

Mr. GEOFFRION : It was read in argument. My learned friend seems to doubt that, and I will get the page again.

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Mr. Geoffion.

Sir JOHN SIMON : I am not doubting it. I am asking what date you are quoting from. If you are quoting from a finite recent thing, I understand, but I thought you were referring to things hundreds of years ago.

Mr. GEOFFRION : I am content to base my argument on what my learned friend, Mr. Macmillan, read, I think, on the first day of his argument on that question. There is much more material. There are hundreds of pages. The Nascopies were north of Hamilton River; it was a marvellous natural boundary ; and the Montagnais were south. There is no suggestion anywhere of the Montagnais' hunting ground being cut up by any height of land. The character of the height of land and of the country would be against such a suggestion. It was a very flat place, and the passage by portages and the method of these Indians of travelling by light bark canoes which they carried on their backs would be against such a suggestion.

Viscount HALDANE : Do you say the Montagnais were exclusively to the east ?

Mr. GEOFFRION : The Montagnais went to Lake Mistassini. We find posts showing that they went to the Mistassini River.

Viscount HALDANE : Then the height of land was not their boundary ?

Mr. GEOFFRION : No, the height of land was nobody's boundary as regards the Indians.

Viscount FINLAY : I very much doubt whether, in determining the hunting ground, the height of land would form the boundary.

Mr. GEOFFRION : There is no doubt that the Indians of the west always would have their boundaries made by the Rocky Mountains. Here according to the passage read by my friend, and according to an inspection of this relief map and a knowledge of the Indians' habits, the watershed did not and could not play any part in the hunting ground question. It is proved in various ways. It is proved that the same tribe of Indians comes to trade at three places, the St. Lawrence River, Esquimaux Bay and Hudson's Bay. Later on, when discussing another aspect of the question, I will point out to your Lordships passages in ancient authorities indicating that for all these Indians the three posts were competing posts ; the Hudson's Bay post, the Lake Melville post on the Atlantic and the St. Lawrence River post were competing posts. When Widow Furnell, in the dying days of the French regime (I

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will give the reference later), asked for a concession at Lake Melville for trade, the objection made by the lessee of the King's Post is that this post at Lake Melville would draw away the trade which he gets at the St. Lawrence post. Well, if the hunters would hesitate between going

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to that Lake or going to the St. Lawrence, is there any better evidence against the view that the watershed was the factor ?

The LORD CHANCELLOR : Do you know the elevation of what you call the height of land, above the sea, at the part that you call the appendix ?

Mr. GEOFFRION : I cannot say at the moment, but I can get that for your Lordship.

Mr. MACMILLAN : I think you may take it generally as described as a flat plateau.

Sir JOHN SIMON : I can tell your Lordship at once.

Sir John Simon.

Mr GEOFFRION : May I give your Lordship something that may be illuminating, not as to the level, but as to the incline. In Volume V. at page 2603, is a report by Mr. Low on the geology. He says : “ The strong glaciation of the highest hills in the interior, on the edges of the neve region, the constant directions of the striae over hill and valley, and the fact that the general slope of the plateau from the interior outwards is very slight and does not exceed two or three feet per mile until within a few miles of the coast, all point to a considerable thickness of ice in the interior such as to cause the strong, radial flow of the ice evidenced by the glaciation of the region.”

Sir JOHN SIMON : I can answer my Lord's question, if he would care for it ; the figures are here, if my friend does not mind.

Mr. GEOFFRION : Not at all.

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Sir JOHN SIMON : If, for instance, you take the lake which is called Attikonak Lake, that is to say, at the southern end of that, you will find that the lake has a height above the sea of 1,700 ft ; if, on the other hand, your Lordship travels a little north-west to the extreme western limit of my enclave, I see that 1,750 ft. is the height of the water running into the Lake Menihek ; in the same way I see there is a little lake called Flour Lake or Lobstick, which is 1,630 ft., and close by it is 1,650 ft. I think your Lordships may take it that is the kind of height.

Viscount FINLAY : 1,600 or 1,700 ft. ?

Sir JOHN SIMON : Yes, my Lord, 1,600 or 1,700 ft. above the level of the sea.

Mr. Macmillan.

Viscount HALDANE : What is the breadth of the plateau ?

Sir JOHN SIMON : It slopes down. There is evidently a fairly
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Mr. Geoffrion.

sharp drop at certain points. That, of course, would mean a most significant drop to the falls of the Hamilton River, which is very substantial indeed.

The LORD CHANCELLOR : Otherwise it looks rather like a gradual incline.

Sir JOHN SIMON : I believe it does, my Lord, I believe that our little Plasticine model has been made, as far as proportions go, pretty accurately ; it was made very carefully.

Mr. MACMILLAN : I happen fortunately to have collected the phrases about this matter from both sides, and I find that Professor Gregory, the geologist, described that as a plateau country, while Dr. Low described it as a high plateau, almost flat.

Mr. GEOFFRION : With regard to what my learned friend, Sir John Simon, said about Hamilton Falls, I would point out that Hamilton Falls fall into a deep gorge ; therefore, it does not mean that the level of the land changes so abruptly as he suggests. If your Lordships wanted details of the level, your Lordships have them at page 2594.

My Lords, I was approaching the question of the character of the Indians, and so on. The Montagnais was name given by the French to a branch of the Algonquins, because they lived in the mountains behind Quebec. They had their hunting grounds indefinitely in the direction of the Atlantic ; there was nobody to stop them in that direction ; they were the only ones ; and to the Hamilton River north, the Naseopies, their cousins, being beyond, and it is suggested that they sought to stop at the mouth of the St. Lawrence River to the west ; the western boundary is not very important. What we are concerned with is the eastern boundary. The height of land between the Atlantic and Hudson's Bay, or the St. Lawrence and the north, played no part in the limiting ground. Its character would prevent it. But the fact that there was competition between posts for the trade would show it, and the description of the area of the hunting ground is across it. These Indians, as I will point out later on, were first the allies and subjects of the King of France. The connection was

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established in 1603, before the founding of the Province of Quebec. They were the continuous allies of France down to the capitulation, and were the closest neighbours of Quebec and were thus better known, and they must be those who were principally thought about when in the capitulation of Montreal a clause was inserted for the protection of the Indians.

Viscount FINLAY : Are you talking of the Montagnais ?

Mr. GEOFFRION : I am speaking of the Montagnais. They were in the hunting grounds all across that watershed. All this territory was unmistakably connected with and under the protection of—

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to use the words of the Proclamation—the King of France. I suggest that both under the capitulation and under the ordinary rules of international law those who were under the protection of the King of France passed under the protection of the King of England by the Treaty of Paris, unless the King of England chose to treat them as enemies, or as Lord Campbell says, “ put them all to the sword,” which is not the method practised in these modern days. What I desire to point out is that that was the understanding when Governor : Murray came, and that was the attitude of the new Government. But this point cannot be treated except by reference to the historical chapter, and my friend left me the historical chapter to deal with. For the present I will suspend that point.

I now want to say a very few words about the Commission of Captain Graves. A good deal has been said about the word “ Coasts ” being in the plural. I should have thought that was an extremely narrow point, but I suggest it is answered by pointing out that the singular and the plural are used indifferently in the Commission.

A good deal has been said in respect of the phrase which is to be found at line 32 on page 151, Volume I, in the Commission to Captain Graves, “ the coasts and territories of Labrador.” The phrase is important because my learned friends have quoted it expressly in their final memorandum. They have quoted this phrase as helpful to their case. I however wish to draw attention to the fact that the quotation is incompletes. I would like to complete it, because in my humble suggestion it is very material to complete it. The words really are : “ and all other inhabitants of our said islands, and the coasts and territories of Labrador and islands adjacent thereto.” It is quite probable that the “ coasts ” apply to Labrador, and the “ territories ” to the islands, because they have been speaking all the time of the coast of Labrador and nothing else. I see my learned friend, Sir John Simon, smiles. I do not see why when the word “ territories ” is introduced for the first time it should not be presumed to

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refer to something else than Labrador, when elsewhere where Labrador is spoken of, the phrase “ coasts of Labrador ” is always used. It would seem therefore when they speak of “ territories ” they are speaking of the islands themselves. At all events it Aras worth while putting the text accurately in the final memorandum. However, it is not a very important matter, because we concede that the jurisdiction was territorial. It was for fishery purposes and limited to the fishery district, but was undoubtedly in a certain sense territorial. It does not seem to me that the Commission adds very much to the solution of the question, and where we must look for the key to the situation is where the King announces to his subjects in the Proclamation what he has done.

Going back to the Proclamation therefore, my learned friends have put forward an argument against us based on the description of the Government of Quebec at page 153. My learned friends point out that there it says the Government of Quebec is “ bounded on the Labrador Coast by the River St. John, and from thence by a line dawn from the head of that river, through the lake St. John, to the south

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end of the Lake Nipissim.” My learned friend, Sir John Simon, says the River St. John is therefore a boundary in depth, and it must also be presumed to be a boundary in depth in the grant to Newfoundland referred to at page 154. I have two short answers to make to that, which I think are worthy of consideration. When you come to page 154 the River St. John is contrasted with Hudson Strait. It is “ all that coast from the River St. John's to Hudson's Streiglrts.” If the River St. John is a boundary in depth, there, why is not Hudson Strait not a boundary in depth ? There is no reason why one should be any more than the other. I do not think my learned friend can draw much satisfaction from the suggestion that the River St. John is to be deemed a boundary in depth there, and I do not suppose that even the description of the territory of Quebec the River St. John when first referred to is taken as a boundary in depth.

Viscount Finlay.

Viscount FINLAY : What do you mean by a “ boundary in depth ” ?

Mr. GEOFFRION : I mean a boundary that does not stop at the coast but goes right up to the source of the river. My friend's argument, as I understand it, is this. When you say “ bounded by the River St. John ” you mean bounded by the whole of the River St. John, and not only by the mouth of the River St. John. He says, therefore, the coast went as far as the head of the river.

Mr. Geoffrion.

Viscount FINLAY : “ Bounded by the River St. John ” would be equally applicable whether you are talking of the whole extent of the river, or of only a part of it.

Mr. GEOFFRION : That would be my answer. The word is ambiguous, and does not advance the matter.

Lord Warrington.

Viscount FINLAY : Any part of the River St. John might bound a territory.

Mr. GEOFFRION : This expression, in my submission, does not refer either to the mouth or to the whole river, and you must be governed by the context. But my learned friend tries to say that it is the whole river, and therefore the coast goes up to the head of the river.

Sir JOHN SIMON : If I might suggest it to my friend. I think he should read the next three or four words in the sentence.

Mr GEOFFRION : I am coming to them.

Lord WARRINGTON : Surely it is the River St. John itself which is referred to as the boundary. It is bounded on the Labrador coast by the River St. John, and the next step is to go to the head of that river and take the line.

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Mr. GEOFFRION : But I am dealing with the meaning of the words “ River St. John ” in the boundary of the Newfoundland jurisdiction. My learned friend's argument consists in transferring the meaning of the “ River St. John ” in the Quebec boundary to the place where the “ River St. John ” is referred to in the Newfoundland boundary.

The LORD CHANCELLOR : We have got this point, I think. You said you were going to deal With the historical point, and I am very much interested in that. I do not want to curtail your argument in any way, but the historical point does interest me.

Mr. GEOFFRION : I was only intending to say a few words on other points, and I will do it as briefly as I can, my Lord. Of course I will not dwell on the words “ care and inspection.” I suggest that while they do really involve annexation in the sense that it is put under jurisdiction, nevertheless it is an indication of the limited character of it in the intention of the grantor. I want your Lordships now to contrast two grants. I am really trying to answer a remark made by Lord Sumner when he asked whether a grant could be found anywhere with no limit specified. I want to refer your Lordships to two grants which I wish to try and demonstrate are applicable to this point. One of those grants is the grant to the Hudson's Bay Company. The other one is the Treaty respecting the French shore. As regards the Hudson's Bay Company may I suggest it supplies in my humble view an answer to the objection, and a formidable argument against my learned friend with regard to the meaning of the word “ coast.” If my friend is right when he said they were given the coast of Hudson's Bay and Strait, and stop there, particularly as they were given it in full property, particularly as it included governmental authority most ample, and given it for the purposes of trade and commerce—if the putting under the care and inspection of the Governor of Newfoundland of a coast fit for a public and free fishery involves the hinterland, the Governor having only very limited fishing control powers, how much more would the giving of the coast of Hudson's Bay and Strait to the Hudson's Bay Company, who were to be full proprietors with full power of government and for the purpose of doing not fishing but trade and commerce, carry with it the hinterland Nevertheless they were so little satisfied that they had a page of description added, which shows how completely insufficient the word “ coast ” is. Your Lordships will find the grant in Volume II, page 368. I suggest that there is there a contrast, if you consider the words used. There is a broader jurisdiction given to the Hudson's Bay Company than to the Governor of Newfoundland, and the

purpose is for trade and commerce, and not for fishery. The words are : “ Do give, grant and confirm, unto the said Governor and Company, and their successors, the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance

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of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts and confines of the seas, bays, hives, rivers, creeks, and sounds aforesaid.”

Viscount FINLAY : But it is a tradeable land.

Mr. GEOFFRION : Your Lordship will see they are given first the sole trade and commerce of all these territories including the land and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, and so on ; and they are to be lords and proprietors of all the said territories places and limits ; and then later they are given governmental powers of a vast character. They were a plantation. Here is a grant where the word “ coast ” is not found sufficient, although it is for trade and commerce, and not only for fishing, and although they are to have full governmental powers and not merely incidental governing powers are given. In answer to Lord Summer's difficulty, no limit was given there, and it was a grant. So that there is nothing so unheard of in that, after all. In fact I would ask my friend to indicate a grant of the coast pure and simple, or for fishing purposes, that has ever been carried by interpretation to the watershed. Your Lordship will bear in mind that notwithstanding all these words the idea of the height of land being the limit of the Hudson's Bay grant arose only in 1815 when the beauty of the north-west territory from the trading point of view had been discovered, and also when Mr. Munroe, President of the United States, first suggested in the Louisiana, fight that the watershed was a good theory for the solution of international problems, but not in the year 1763.

When we come to the French coast point, I quite appreciate that that is a Treaty, but it is more important there should be a definite limit in the grant by Treaty by the King of England to the King of France of the subjects and rights on the coasts because, when once that is done, it is irrevocable. That is a Treaty binding by international law and conscience, and it is very much more important to settle the jurisdiction than when you are dealing with the King's own property, the fishing industry on the shore and an impenetrable wilderness behind. Your Lordships have appreciated what sort of impenetrable wilderness that was from the Atlantic. The Indians never came to the coast on account of the Esquimaux. There was a war of hatred between them, and a difference of climate on the way. But beyond that there were only the missionaries, and very few of them managed to go there. It was most

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important, it seems to me, that there should be something definite as to the extent of the territory to which the subjects of France had an easement, if I might call it so, by the Treaty of Paris for fishing. Is not the analogy very close ? This is the grant of the use of a coast for fishing purposes, and it is of great importance that its extent be defined. But they are content to leave it at “ coast,” and thus restrict it to a very narrow margin. Here we have a grant of very limited jurisdiction for fishing purposes only, on a coast. Why should they not be content to leave it undefined ?

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Lord Warrington.

Lord Sumner has put another idea into my head which may possibly be useful. His Lordship has said there are tremendous difficulties in marking out jurisdiction. There might be judicial, civil or criminal, or fiscal duties to perform. I might first answer by saying the same problem arises for the French shore. It was a very important administrative point to keep the French at a certain distance. Can I, then, suggest this problem did not exist ? In those days it was the definite policy under statute to keep settlers away, but it did not succeed. Squatters came in and no grants were made. Those squatters were evaders of the law, but they were tolerated. A few miles from the coast it was practically impossible for any white man to live long. It was the domain of the Indians. The Indians did not come to the coast, and the Esquimaux did not go inland through mutual fear of each other. What the Governor was supposed to do was to come on his ship during the summer season to see that peace was maintained among the fishermen in the boats, or when they landed on shore for fishing purposes. If a criminal escaped from the coast and went inland he could be safely left to come back, or die there. There was no jurisdiction for the Governor to take his marines off the ship, and go and hunt for that man in the wilds. The man was gone. So that no difficulty arose in that way in those days.

Mr. Geoffrion.

Now I want to say a few words about the Act of 1774. Yesterday something was said about the use of the words “ territories, islands and countries ” as applied to what had been annexed to Newfoundland. I think Lord Warrington will remember that difficulty being raised. The words occur at line 15, page 159.

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LORD WARRINGTON : You mean these words : “ All such territories, islands, and countries, which have, since the tenth of February 1763, been made part of the Government of Newfoundland, be and they are hereby, during his Majesty's pleasure, annexed to, and made part and parcel of, the Province of Quebec.”

MR. GEOFFRION : Those are the words. I want to deal with the words “ territories, islands, and countries.” Your Lordship will see it is a formula repeated throughout the Act. It has not originated in that place. It is to be found at line 9, page 158,

and then again at line 26, page 158. The only point I want to make is that there was this expression running through the Act, and therefore it can be of very slight importance in deciding what happened in 1774 from what was intended in 1763.

That brings me to the Act of 1825. I have very little to say on this point. The reference is to be found on pages 210 and 211. I will not repeat what my learned friend has so ably argued on this point. It is sixty years after. They were not then in a very much better position to know what was meant in 1763 than we are, and they do not purport to construe or alter. They expressly purport not to change.

Then there is the point made by my learned friend, that this is merely a landmark and stops short of the indefinite north, because as

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your Lordships will readily see it would give, nearly all the Atlantic coast to Quebec if you produced the line further.

The LORD CHANCELLOR : That is the point Mr. Macmillan made.

Mr. GEOFFRION : Yes, I suggest, alternatively, my Lord, this : Assuming for the present everything my friend Sir John Simon claims, what does it show ? Assuming that this is a depth line, it does not show that Parliament was then of the opinion that the coast did go deeper. It only shows that Parliament's opinion was that it might go deeper. In other words, that Parliament was having some of the difficulties which we are unmistakably having to-day, of construing, 62 years afterwards, what was the meaning of the word " coast," where it went to at a time when the watershed idea had become a well known idea, and therefore whether the watershed—which was not thought of in 1763 I suggest—was being thought of there. We can assume that if they had the slightest doubt as to the possibility of that going to the watershed, they professed not to decide it, but to leave it open. They simply re-annexed all the coast, leaving, as Lord Haldane said, it to mean what it meant in 1763. But they said, if perchance that coast goes north to the 52nd parallel we stop you there. That does not advance the matter at all. It leaves your Lordships a point to settle which they did not professionally intend to settle.

The Lord Chancellor.

In view of your Lordship's suggestion I have just taken the most important points, and this brings me to my last point, the point of possession. There are three branches of that subject. I have devoted considerable thought to trying to make them as short as possible.

Viscount HALDANE : You mean the point of possessory title

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Mr. GEOFFRION : Yes. But nevertheless I must deal with the Newfoundland possession, the French regime possession, which is very important on the Indian question, and the Canadian subsequent possession. I will begin with the Newfoundland possession. May I suggest first that except for the possession by Newfoundland contemporaneous practically with 1763, the rest is of a very doubtful relevancy. The fact that Newfoundland may have claimed a jurisdiction—I will go further and say the fact that Canada might not have challenged that jurisdiction—could not really alter the Imperial will. Contemporaneously it is an indication of how those who lived then understood what had been said, and it throws light on what they meant. But afterwards, I suggest, it becomes irrelevant.

The LORD CHANCELLOR : The act of possession has always been accepted as some evidence of title. That is why I think this chapter may be of use.

Mr. GEOFFRION : I am prepared to meet it entirely. The question is purposely drafted so as not to let the construction of the

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legal document be influenced by anything of that sort. Your Lordship will read the question as drafted. It is expressly limited. It is not, What is the title of Newfoundland on the Labrador coast ? But it is : “ What is the location and definition of the boundary as between Canada and Newfoundland in the Labrador Peninsula under the statutes, orders-in-council and proclamations ? ” It was decidedly not limited, because there was no intention to let in possession.

The LORD CHANCELLOR : Is that common ground. Ought we not to look at Acts ?

Viscount Haldane.

Mr. GEOFFRION : Contemporaneous ones are quite different. Your Lordships have the form of suggestion.

Viscount HALDANE : The suggestion put by you is that it is very long usage.

Mr. Macmillan.

Mr. GEOFFRION : And very intense usage. Could I put it in this way— ?

The LORD CHANCELLOR : Lord Warrington points out the special provision in paragraph 7 on page 127, which seems to

give greater latitude than you suggest.

Mr. GEOFFRION : That is what the Board may look after, but the question they must decide is the formal question. In so far as possession may be a good help to the construing of these documents, I concede it. My point is it must be only such possession as is relevant to the intention of the documents.

Viscount HALDANE : Of course, you cannot by admission put into the Statute, but you may by very long possession and usage put a conventional interpretation, and it is taken to be the original meaning of the Statute. There is a case in the House of Lords in which it was laid down what amount of usage would suffice to ascertain the construction of an Act of Parliament.

Mr. MACMILLAN : The matter was discussed in *Laird v. The Clyde Navigation Trustees*. That is a leading case. There was a very interesting case of that sort in connection with the Caledonian Canal, where there was an early statute.

Viscount HALDANE : Do any of those cases lay down the proposition of the length of time it takes ? It takes a long time.

Mr. MACMILLAN : It is generally recognised that the usage must be definite and prolonged.

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Viscount Finlay.

Mr. Geoffrion.

Viscount HALDANE : Simple admissions will not do against the statute.

Mr. MACMILLAN : No. It must be in relation to an ancient document, and it must be contemporary.

Viscount HALDANE : Where is the case of *Laird v. The Clyde Navigation Trustees* reported?

Sir JOHN SIMON : It is in 8 Appeal Cases. It is a matter for consideration whether, in an inquiry of this sort, a rather wider rule may not be applied.

Viscount FINLAY : The words are : “ What is the location and definition under the Statutes, Orders in Council, and Proclamations ” ; but that does not mean that you cannot hear as legitimate evidence any evidence of possession which may throw light upon the question. Paragraph 7 is on the same lines. I should have thought that they could have had long continued possession, being a possession under the Statutes, Orders in Council, and Proclamations.

Lord WARRINGTON : Paragraph 7 is very wide : reference may be made to any evidence of which judicial notice may be taken or which (having regard to the nature of the case and the parties to it) the Judicial Committee may think material and proper to be considered.”

Viscount FINLAY : That is merely to exclude the idea that they are only to look at printed papers, if by oral testimony any fact could be added which might throw light on that question and what the definition was.

The LORD CHANCELLOR : Lord Watson said this : “ When there are ambiguous expressions in an Act passed one or two centuries ago it may be legitimate to refer to the construction put upon these expressions throughout a long course of years by the unanimous consent of all parties interested, as evidence of what must presumably have been the intention of the Legislature at that remote period.”

Mr. GEOFFRION : I do not challenge that at all. My point is not that you cannot look at possession. I did not mean to make it a big point. You have only one thing to do, and that is to construe these documents. Your Lordships can construe them by all the tests that the law recognises for their construction. That is my point, my Lord.

Viscount FINLAY : If you are dealing with documents which lead you to a conclusion inconsistent with the long continued practice of parties professing to act under those documents,

you would find it very
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difficult indeed, I should think, to establish such a construction which would vary with the acts of the parties.

Mr. GEOFFRION : Your Lordships have been doing that with the Act of 1857 for Canada as regards the distribution of powers in the provinces. The Confederation started with the idea that all the powers were in Ottawa, and the provinces had hardly anything. A big fight began many years ago and an appeal to this Board gained for the provinces quite a number of powers which, there was obvious evidence in the legislation of Canada, had never been dreamed of, either by the Dominion or the Provinces, for the first 20 years of the Confederation. Now, my Lord, I made that as an opening point. I intended to discuss possession, and I hope to satisfy your Lordships that it might have been a very happy result if your Lordships decided that we do not need to. As regards the contemporaneous Acts of 1763 by Newfoundland, may I sum them up. Curiously enough the Government did not succeed in getting control of the narrow margin within the Straits of Belle Isle. The Canadian position was so well established that your Lordship will see as regards the margin from the Straits of Belle Isle towards the River St. John the Government of Newfoundland practically never got its foot in, which, according to the Statute, it should have. The lessees of the Canadian Government continued, and the Indians who came down from there from the far away hinterland continued to trade with those Canadians beyond any Newfoundland control. The Newfoundland control being essential, there would be no sedentary fishery there outside the Belle Isle Straits. There are some things which are all absolutely consistent with the narrow margin of the sea as an incident of the fishery. It is an open and free fishery which is referred to. Nobody would suggest that cod fishing would cause acts of possession as far as the hinterland. Cod is being fished, as it has always been fished, and they need a very narrow margin to dry their fish, and occasionally to cut trees.

Viscount Finlay.

Viscount FINLAY : I suppose that margin may vary from time to time. The fishery may develop. The more fish there is, the more there is to be done on the margin at a particular point.

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Mr. GEOFFRION : The margin would extend in length more than in depth.

Viscount FINLAY : It seems to me it may extend in depth also.

Mr. GEOFFRION : Very little, my Lord.

Mr. Geoffrion.

Viscount FINLAY : Little or much does not matter ; the question is the principle, whether the margin is to be taken as definitely fixed in point of depth.

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Mr. GEOFFRION : The margin should be ascertained by what would be needed by any prosperous cod fishery.

Viscount FINLAY : Yes. In some years the fishery is prosperous ; in others it is not.

Mr. GEOFFRION : I quite appreciate that the margin must be fixed, on our view—

Viscount FINLAY : If you have a run of good years the margin may become wider.

Mr. GEOFFRION : The margin must be fixed for the maximum prosperous fishery of cod. Whale and seal will not carry my learned friend very far inland. The salmon fishery, which is not mentioned in the instructions but appears in correspondence very shortly after, is apparently an afterthought that arose very soon ; but salmon fishery does not carry my learned friend any further. The salmon fisher is not a sportsman fishing with a fly and rod in the upper streams of the rivers ; salmon fishery is the netting of fish at the entrance to the river. They might cast their nets a little higher or a little lower, but the condition of the country as well as the chief interests of the men there would compel them to put their salmon nets right at the entrance, because they were cod fishermen conducting a cod or whale or seal fishery, and going to the salmon fishery as an incident, and this salmon fishery would be where they had their seal fishery. The seamen, who were seafaring men coming over from Devonshire and other coasts, were not likely to go inland ; the forbidding character of the inland would keep them near the shore.

My learned friend spoke of the fur trade. It is important that your Lordships should have in your present memory the distinction between the fur trade and trapping. The fur trade is the buying of furs from those who trap ; trapping is what the Indians did, and what some Canadians started to do much later. Reference to the fur trade means meeting the Indians on the coast, because that is where the trade is always done.

Viscount FINLAY : The trade is disposing of the article which has been produced by trapping.

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Mr. Geoffrion.

Mr. GEOFFRION : Here the fur trade for the white people was exchanging European produce for the furs of the Indians, but the taking of the furs was the Indians' work inland. The fur trade was done on the coast. I do not see anything else that is even suggested at that date. I have looked, and nothing else is suggested, except shortly after the Moravian Missions

were established. The Moravian Missions open a chapter upon which I shall have to add a few words. May I point out to your Lordships a few additional points in respect of the
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Moravian Missions ? One of the grants, the later one, which you will find on page 1347, Volume III, contains no area whatever. They are told to settle on the coast. The two other grants on pages 1321 and 1331 mention areas of 100,000 acres. There are three such grants, and the grant on page 1331 gives two areas of 100,000 acres north and south of the Hamilton River. As a matter of fact, they did not settle there ; they settled further north. These areas marked on these maps have no warrant whatever in the Imperial grant, and I doubt if they have any justification in possession ; I will come to that in a minute.

Viscount HALDANE : Will you give me the references.

Mr. GEOFFRION : Pages 1321 and 1331 and 1347. I do not like to take your Lordships through them. I have read them carefully and I find no area in one of them, and 100,000 acres as to three areas in two of them.

Sir JOHN SIMON : I think that is right.

Viscount HALDANE : What did the grant say ? Did it grant them property ?

Mr. GEOFFRION : I will give your Lordships the wording.

Viscount FINLAY : Will you take one typical grant ?

Mr. GEOFFRION : The operative part is on page 1323: “ His Majesty taking the same Report into Consideration was pleased with the advice of his privy Council to approve thereof and accordingly doth hereby permit and allow ” the gentlemen whose names are set out “ In Trust for the Unitas Fratrum and its Society for the furtherance of the Gospel, to Occupy and possess during his Majesty's pleasure one hundred thousand Acres of Land in such part of Esquemaux Bay on the Coast of Labrador as they shall find most Suitable to their purpose.” That is one with an area.

Viscount Haldane.

The LORD CHANCELLOR : Then he directs the Governor of Newfoundland.

Mr. GEOFFRION: I am now dealing with the area, my Lord. I will give a reason why it has to be that, it could not be

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otherwise. I want first to point out that they were to go on the coast.

Viscount HALDANE : You notice they have pitched upon Esquimaux Bay and pray for the grant of an area of 12 square miles. It is very curious thing. There is no grant to these people, but they have authority to possess and occupy there during His Majesty's pleasure. That, of course, would be perfectly intelligible if the Indian lands had been reserved. It is on Esquimaux Bay.

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Mr. Geoffrion.

Mr. GEOFFRION : On the coast. We consider that Esquimaux Bay is the coast.

The LORD CHANCELLOR : If you spread out 100,000 acres into a one-mile strip it would be a very long one.

Mr. GEOFFRION : Your Lordship will see that they did not go inland ; they built along the coast. There are four parcels in all.

Viscount FINLAY : The buildings would be scattered.

Mr. GEOFFRION : I do not think any sensible mission would have taken that square, because under the conditions it would have been absurd.

Lord Warrington.

The LORD CHANCELLOR : Would any sensible mission have extended 100,000 acres into a long strip along the coast ?

Mr. GEOFFRION : For the Esquimaux that is just it. The picture is lacking. For the Esquimaux it was the only way of doing it.

Viscount HALDANE : Is Esquimaux Bay a very large bay ?

Mr. GEOFFRION : Yes, my Lord, it is Hamilton Inlet.

Mr. Geoffrion.

Lord WARRINGTON : What they asked for was this : “ They have pitched upon Esquimaux Bay and praying for a grant on that spot of one hundred thousand acres of land, or about twelve miles square.”

Mr. GEOFFRION : Yes, my Lord.

Lord WARRINGTON : That seems to have been granted to them, but not in those terms. The actual grant was that they might “ occupy and possess during His Majesty's pleasure one hundred thousand acres of land in such part of Esquimaux Bay on the coast of Labrador as they shall find most suitable to their purpose.”

Mr. GEOFFRION : I am trying to demonstrate that 12 miles square does not mean a square of 12 miles, for good reasons. I am trying to get to the operative part of the grant. We have in the third grant no area at all. The two first grants involve three areas of 100,000 acres which in one phrase is called 12 miles square, which is a mathematical calculation.

The LORD CHANCELLOR : It is 200,000 acres in one grant.

Mr. GEOFFRION : That is why there are three areas and two grants. There are four areas in all, although there are three

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grants, because one is for two separate places : but the principle does not change.

Viscount FINLAY : The licence is to occupy during His Majesty's pleasure.

Mr. GEOFFRION : It was an Imperial grant. Then, my Lord, I need not point out that there is nothing that determines what will be the depth. Might I again remind your Lordships of the fact that it was essentially an Esquimaux mission, because these men had boasted that they knew the Greenland Esquimaux and they thought that they might be able to approach these men whose language nobody knew. It was for the purpose of preventing fights between the fishermen and the Esquimaux ; and the Esquimaux being coast dwellers the mission was useful on the coast. The boats could not go inland ; they could go hundreds of miles on the sea, but they were not built for going inland.

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Mr. Geoffrion.

Lord SUMNER : For what purpose do you understand the fact that 100,000 acres were required ? Was it for tillage ?

Lord Sumner.

Mr. GEOFFRION : No, my Lord, there was no tillage.

Lord SUMNER : What did they want it for ? How many Moravian brethren could have their cabins and places of worship erected on the 100,000 acres ?

Viscount Finlay.

Mr. GEOFFRION : May I give your Lordship a suggestion? All I can say is that in those days they were very generous in areas.

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Mr. Geoffrion.

Lord SUMNER : I am unable to understand why 100,000 acres are granted to one of these missions in a way that is consistent with its being confined to a strip nowhere more than one mile from high water mark. It seems to me they could not plough the fields, they could not fell timber because there was no timber, and unless they occupied themselves in catching fish, which would be to the exclusion of other people, I do not see what it could be for.

Viscount HALDANE : It was granted out of Crown Land, according to this.

Lord SUMNER : It is apparently not a fixed area of 100,000 acres, but they were to select ; so there appears to be a good deal of ground for thinking that they were to go some distance inland.

Viscount FINLAY : They seem to have contemplated a sort of Esquimaux settlement under the care of the Moravian

Missionaries, a sort of town.

Mr. GEOFFRION : And several of them, possibly. Your Lordship

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Viscount Haldane.

Mr. Geoffrion.

must appreciate that these Esquimaux dwell in length, if I may use that expression. They do not go inland. They travel fast along the shore. The intention of the Moravians may have been to choose the best places along the shore where the bulk of the 100,000 acres would have been useful. Tilling is out of the question in one mile and two miles. I think I can suggest that the King was thinking of having granted only one mile ; but one mile, two miles, or three miles would give them timber in all the valleys—not very big timber, but enough timber for their needs. They would have to choose certain good places along a tremendously long shore. Your Lordships have photographs in this book of that shore, and you could have a very long area of two or three miles in depth where there would be comparatively few havens to select missions for the Esquimaux. These Moravians' own information was slight. They had scarcely been there at the time. They were not established there ; it was a venture. They had discovered only one thing, which was that these Esquimaux were cousins of the Greenland Esquimaux, and therefore spoke the same language, and they could probably be approached by these Moravians who had been to Greenland. They would ask for a big strip of land, which would be granted, and no Government in England would think that they were seriously encroaching on any hunting ground of the Redskins by giving 100,000 acres where the Esquimaux could be reached, considering that the Esquimaux, with their training habits, mode of life, and enmity of Red Indians, do not go inland at all. Dr. Grenfell says in Volume V at page 2568, that he knows of no building that was ever further than 250 yards from the coast along the Labrador shore ; and Dr. Grenfell is a very great authority.

Viscount HALDANE : I am not very much troubled about how far it extended, because, after all, the Governor of Newfoundland was the person who had the military forces of the Crown there under his command, and he was the person to protect people, even if they were not in his own jurisdiction.

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Mr. Geoffrion.

Mr. GEOFFRION : Your Lordships appreciate that the main answer is the answer made by Mr. Macmillan ; but a lawyer may be pardoned if he tries to give an alternative answer when he does not know whether the main answer has been successful. That is why I am making this point. The main answer is an Imperial grant. I want to challenge the idea that there was an intention of going very far inland ; they would not go inland on account of their purpose.

My last point is : Was the Governor of Newfoundland

specially delegated by Imperial instructions as to this ? Who else could be ? There was no government ; it was under the direct home Government. The only access to the territory was by sea. Who else could be chosen to bring these men there, to see to their welfare, to their protection, control them, and so on, except the Governor of Newfoundland ? Certainly not the Governor of Quebec.

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Viscount HALDANE : There was no one else with any troops.

Lord Sumner.

Mr. GEOFFRION : It was not troops, my Lord, it was ships.

Viscount HALDANE : But there are ships full of troops.

Mr. GEOFFRION : It would have been beyond the jurisdiction of the Governor of Quebec anywhere except when you come to the last grant, the grant of 1818, when it would have been in Quebec ; partly, not all. But the first two grants where the areas are mentioned were made when the hinterland was Imperial property and not Quebec property.

Viscount FINLAY : But these Esquimaux were children of the sea ; you never find them going far.

Mr. Geoffrion.

Mr. GEOFFRION : They cannot. They feed on sea products, they live on the sea shore, except in certain climatic conditions ; they have not the canoes to travel inland.

Lord SUMNER : Dr. Grenfell says, on page 2569 : “ Esquimo Indians, natives, are in an entirely different category. They must have winter houses, and these must be in, or near, woods. Distance from high water no longer matters, for good transportation is afforded by sledges over the snow and ice.” He points out on the previous page : “ Since the nearness of timber to the landwash recedes as one goes north, it is obviously impossible to draw any line that would be suitable for all regions. North of Cape Mugford, wood is not cut by Newfoundlanders at all ; north of Hebron there is none to cut.” So apparently the Esquimo Indians who must live in or near the woods in winter had to go some distance inland.

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Mr. Geoffrion.

Mr. GEOFFRION : Your Lordship will notice when I made my statement I qualified the season. I had that part in mind and I qualified the season. My point was exclusively the canoe navigation proposition. Then I come to the winter. In winter they need not go 12 miles inland in that area of Esquimaux Bay to find wood. When you get to Ungava Bay the amount of wood that grows there is extremely scarce you are in the desolate regions, but though the Esquimaux live where there is hardly any wood, they prefer a forest if they can get it. According to Dr. Grenfell, the Moravians built

houses near the sea. I might say the hinterland was nobody's until 1774, according to our view. From 1763 to 1774 we say that the hinterland was Imperial; when I say it was nobody's, I mean Imperial. From 1774 onwards we say it is Canadian, unless we are wrong on the Quebec Act. and then it remained Imperial until 1818. But could it be suggested that in the earlier grant, when admittedly Quebec had no right there, the
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Governor of Quebec would be ordered to take care of these people or both Governors jointly ? It had to be the Governor of Newfoundland. That is what I have to say on this particular question, my Lord.

(Adjourned for a short time.)

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AFTERNOON SESSION.

Mr. GEOFFRION : May it please your Lordships, I had reached 1826. I suggest that until 1826, subject to what I said with regard to the fishery and fur trade and Moravians, there is nothing in any Newfoundland action that can be suggested as bearing on the question. I gave my reasons why neither of these aspects were of any help to Newfoundland. 1826 is pretty far away from 1763, sixty-three years after. We found one thing. Would your Lordships refer to Volume III, at pages 1406 and 1412 ? All the Newfoundland possession is contained in Volume III.

Lord WARRINGTON : This is a complaint about a salmon fishery ?

Mr. GEOFFRION : We have it that he was recently appointed by the Newfoundland Governor as a Judge under some recent legislation providing for the better administration of justice on that coast.

Lord WARRINGTON : This is the salmon fishery in Rigolet.

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Mr. Geoffrion.

Mr. GEOFFRION : Yes ; it is litigation about the Kinnamon Brook salmon fishery. We find there, my Lord, that the Honourable William Paterson of the Royal Navy has been made a Judge. I wish to dwell upon that. It is suggestive of the sort of jurisdiction. This Naval Officer was made a Judge, and so the Court must chiefly have sat in ships, although not exclusively. The fact against us suggested is that he is applied to by Brunet of Quebec through their partner, Tourzeon, which is a well known French name, who resides at Rigolet. He wants to sue Joseph Bird of Sturminster, England, by his agent Timothy Craze of Tub Harbour in this Bay (Tub Harbour is in the bay outside of Rigolet) about the trespass of some sort upon the salmon fishery in Kinnamon Brook. In 1826 we find this Naval gentleman being a Judge, authorising the suit, and on page 1412 we find him visiting the property. Beyond that the thing ends ; he never gives judgment apparently.

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Sir JOHN SIMON : I called attention to a passage where Judgment is recorded.

Mr. GEOFFRION : I am sorry ; I must have missed that. I am under the impression that there is none. If I am mistaken, I apologise to your Lordships, but I do not think there is any.

The Lord Chancellor.

Sir John Simon.

At all events, my learned friend will correct me if I am wrong. It is not very material, because that is not my point. It is not part of my argument whether he did or not. I am instructed that he did not give Judgment in this case. My argument is this : Brunet is one of the several Canadians who were in Lake Melville long before the Newfoundland Government knew it existed and had been there very shortly after the conquest. He has a fishery there, and some gentleman who lives in England and who apparently has a fishery on the coast proper at Tub Harbour, where he has an agent is guilty of trespass on that river. It is the most natural thing in the world that Brunet's agent living at Rigolet should apply to a Judge who happens to come for the first time, and who has jurisdiction over Tub Harbour on the coast, where the Defendant trespasser has property, and ask him to adjudicate. I do not exactly see what use a suit in Quebec would have been to Brunet against Mr. Bird living in Sturminster, England, and having an agent at Tub Harbour on the Newfoundland Labrador coast. It is a case where the plaintiff, trespassed upon in his property (I do not care where it was) applies to the first Judge he finds coming from Newfoundland, to get his remedy out of the property of the Defendant which is all, in my submission on the Newfoundland-Labrador Coast. I do not think that there is any significance in that particular point.

Then, my Lords, that is the judicial function that we find. My learned friends will find reports of that Judge in that year going round visiting various places.

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Mr. Geoffrion.

The LORD CHANCELLOR : I do not think, Sir John, that you gave us the reference. I have got a note of your argument at that point, and I find these pages noted up to page 1412, and then my record ceases.

Sir JOHN SIMON : I very much regret it if I failed to do so, my Lord, but I know that there is such a passage. Very possibly my memory has taken the place of my words.

Lord SUMNER : There is another judge, several years afterwards, who deals with the case.

Sir JOHN SIMON : Certainly. I am certain that I read that to your Lordships.

Mr. GEOFFRION : But that is 60 years afterwards, in 1880, and it is another Judge and another suit. That is something else. I

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am going to deal with that point later on, but I am speaking of the incident of 1826 and not the 1880 incident.

The LORD CHANCELLOR : The Court was abolished in 1834.

Mr. GEOFFRION : Yes, my Lord. That is another Court entirely.

The LORD CHANCELLOR : It was abolished in 1834, and it was set up again in 1863.

Mr. GEOFFRION : Yes, my Lord. I have seen elsewhere in this record, information about the visits of Captain Paterson to various place, and his staying at various places, but I have not noticed that he has suggested having exercised any jurisdiction or done anything in respect of what we claim is not the coast.

I might point out to your Lordships that we are not interested in challenging acts of jurisdiction upon what we admit to be the coast. I am willing to admit that there is here a suggestion of Rigolet on the coast, and I am willing to admit that it is, in so far as it goes, a microscopic argument in favour of Newfoundland's jurisdiction of Rigolet proper, because this Captain apparently moored his ship in Rigolet harbour, heard the complaints of this Rigolet resident against the Tub Harbour resident, which we admit is on the coast, and possibly he did something in his judicial capacity whilst at Rigolet. No doubt he was on board his ship and not in the most uncomfortable houses there ; but at all events, this was insignificant and it is not worth while dwelling upon it. I do not see that it is a great affirmation of jurisdiction to Newfoundland that, being asked to adjudicate in respect of a trespass committed in Canada, he would go and visit the scene of the trespass. That is all that there is there. Otherwise, I do not deny that you can find passages where this gentleman says that he went to many places ; but I do not see that he has done anything anywhere except this, and we do not hear of him any more.

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Mr. Geoffrion.

Now, my Lords, I should not like to take your Lordships through every point which was mentioned by my learned friend, and I can only give my general answer, answering individually only those points referred to by my learned friend which seem to me to be of the most significance. I suggest that, with regard to this period round about 1826, this is the biggest point that can be made against me. Even if it involved Rigolet slightly, it certainly involved nothing else ; and there is a debatable question as to whether Rigolet is still on the coast or within the margin of the coast, and so on. Rigolet is one of the most doubtful points, certainly.

I will not take up your Lordships' time by dealing with an incident in 1863, when a certain doctor on a ship went in and vaccinated the Indians at the head of Lake Melville. I take it that humanity, and not the assertion of jurisdiction, would be involved in that.

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Then I do not think that I need concern myself much with

what happened after the year 1890. In 1888 Judge Pinsent was warned by an objection to jurisdiction taken about a murder. Your Lordships no doubt remember the passage, and the dispute upon the question, and the correspondence which took place, which has been read to your Lordships, and which I will not refer to again. Sir John Macdonald asserted Canada's position. A few years afterwards they met at the Halifax conference, where the question was made open; and anything that happens after 1890, I venture to suggest, cannot be very illustrative. I am always trying to reduce the question to essential proportions.

Sir John Simon.

Previous to the year 1880, I have dealt with the vaccination incident and the Kinnamish River incident. I do not think I need deal much with the argument which was put forward by my learned friend, Sir John Simon, based upon a lot of affidavits about residents on the coast who say that they go and trap inland. To what extent is that an assertion of jurisdiction, or an opinion upon political limits from anybody? Gradually, through the Hudson's Bay posts and otherwise, people have, without grants from anybody at all, settled in these wild coasts. When the winter comes, they go and earn their living as they see the Indians doing, by going trapping and furring. It might be the United States or it might be China or anywhere else. Is the fact that these men go trapping inland, an assertion of jurisdiction by Newfoundland? Is it a recognition of jurisdiction in Canada? Is it the opinion of these gentlemen as to where the jurisdiction of Newfoundland stops? And even if it were, what would it be worth? I suggest that that group of facts does not bring us anywhere. But I have found two documents, or at any rate one, which I think will be very helpful upon another aspect of the matter.

Mr. Geoffrion.

Sir JOHN SIMON : Will your Lordships allow me now to give the reference that I had in my mind? I think I did read it. Lord Sumner's memory about it was quite right. It was a separate and later judge. The passage that I had in my mind, and which I thought that I had read, is at the top of page 1486. It has reference to a judicial officer of the name of Berteau in the year 1881. He says : " I performed magisterial duties where necessary. I remember determining a dispute between Fortesque, chief factor of the Hudson's Bay Company, and MacLean, in relation to the alleged barring by the latter of the River Kinnamish against Salmon." That is the passage I had in my mind, and I thought that I had read it.

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Mr. Geoffrion.

Mr. GEOFFRION : I had that in mind, and I was going to answer it, but I maintain what I have already said, that it has no conceivable relation to the matter of 1826 of Judge Paterson, which was never disposed of

Sir JOHN SIMON : I thought my learned friend said that there had been no judicial determination of the matter.

Mr. GEOFFRION : Upon that point.

The LORD CHANCELLOR : It cannot have been a judgment in that suit.

Sir JOHN SIMON : I did not mean to say so, my Lord. All I said was that it was not correct to say that it had never been judicially determined.

Mr. GEOFFRION : I did not say that. I said that that case had never been determined. Those people were dead, and other litigants arose. It is not the same people who are fighting this trespass here. It was not the trespass previous to 1826 which was under consideration here.

Now, my Lords, it may be that perhaps in an over-zealous endeavour to save time, I had skipped this exercise of jurisdiction, which, as your Lordships will see, is from 1881 to 1890. We do not know when, but it is 9 years from 1881. I think it is so very close to the material period that its significance is extremely slight, and I thought that I might not refer to it ; but at all events, the arguments that I have given as regards the first apply to the second : and I cannot deny that there has been some exercise, or some claim, of jurisdiction on Rigolet. My claim is that the maximum of Newfoundland's claim to possession consists of isolated and very spasmodic exercises of jurisdiction on Rigolet, and it stops there.

With regard to the two documents to which I was going to refer your Lordships—

Viscount HALDANE : Upon what point is this ?

Mr. GEOFFRION : I am trying to dispose in bulk of all the affidavits, by saying that they deal with hunters generally, and that they are opinions, and that they are too late. But I want to ask your Lordships to look at page 1559, the affidavit of Thomas Blake, which gives your Lordships something which I suggest, and when it is put with what I will read later on upon the Indian question, is very illuminating. He says, at line 33 on page 1559: “ I never heard of any claim of Canada until four or five years ago, when there was a dispute between some of the trappers amongst our people and the Indians residing in the interior in connection with the fur ground which the Indians claimed to have been their fathers and grandfathers and they now wish to exclude us.” That is an indication of the Indian tradition that this hinterland was traditionally from ancient times their hunting ground. That is all that I want to make out upon that point. Alone, it does not amount to much, but it will link up with what I will read to your Lordships later on at page 1475 in the same volume, Volume III, and what is interesting there is the description of these Indians. I am going to emphasise the Frenchified—if I may use such an expression—and Catholicised character of

these Indians, as being one of the

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strongest pieces of evidence of long and intimate connection with the French regime ; and your Lordships are only referred to that as one of the very numerous passages that I could read in support of that proposition that these Indians were all Catholicised. I do not care how deep their Catholicism is. That is not material to my question.

Lord WARRINGTON : I suppose that these Roman Catholics were probably Montagnais, who were constantly visiting Canada.

Mr. GEOFFRION : Yes, my Lord.

Lord WARRINGTON : They were the people who traded with the St. Lawrence, the King's posts.

Mr. GEOFFRION : Yes, my Lord ; and since the Hudson's Bay Company opened a post up at Lake Melville, some of them took that direction also. That is illuminating, with regard to the Frenchified or Roman Catholicised character of these Indians ; and I might suggest to your Lordships that your Lordships may assume that “ Catholic ” and “ French ” here mean the same thing. In those days the religion was part of the Government. In Canada at least the evangelising of the Catholic religion was part of the activity of the King to make them French allies ; and it is so much that I do not think they would understand or know what is an English-speaking Roman Catholic priest.

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We have a very interesting illustration of that in a debate between the Archbishop of Newfoundland, who was a Roman Catholic archbishop, and the Archbishop of Quebec, The Archbishop of Newfoundland, when this shore was given to Newfoundland, had to recur to the help of the Archbishop of Quebec and ask him to fulfil his function to go and meet these people when they came down to the coast. For these Indians, and for the French Government, “ French ” and “ Roman Catholic ” are the same thing. We have that piece of evidence, and that also shows how unimportant in commercial and ethnological matters the divide is. These people were going to the coast when there was no post at Lake Melville, and now that there is one, they go to Lake Melville.

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With regard to the point about the administration of justice in Newfoundland, I find in the same volume a series of pages, showing that from 1834 to 1863 the justice was a blank.

The LORD CHANCELLOR : We have had that. The Court was abolished.

Mr. GEOFFRION : Yes, my Lord, but beyond that there were appeals and complaints and so on ; there was disorder, and

everybody was complaining, but that made no difference. I suppose that your Lordships will accept my summary of it, but I have the pages and can refer to them if necessary. They are pages 1425, 1426, 1427, 1430 and 1492.

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Now, my Lords, the Customs Duties Department of Newfoundland is the only point that I have not yet dealt with. My suggestion is that that remained until 1863. There was an attempt made in 1841 to collect duties, and your Lordships had the correspondence read to you about it, where the merchants complained against Newfoundland exacting Customs duties, and the Imperial Government ruled in favour of the Newfoundland Government. But if your Lordships will turn to page 1514, at about line 20, you will see that it there says : “ About fifteen years since a similar demand was made by the Governor of Newfoundland ; the parties interested in the trade on the coast of Labrador, applied to the Imperial authorities by petition and otherwise on the subject, since which no demand was made by the Governor of Newfoundland.”—15 years ago is 1841, the time of the correspondence whereby the Labrador merchants complained that Customs should not be paid. Then you read, in line 23, that “ It was considered the right then asserted to collect duties on the coast was abandoned.” I am suggesting, therefore, that the effort of 1841 to collect duties was very weak. I do not say that they did not get a few dollars, but at all events it was not much.

Then, if your Lordships will turn to page 1518, you there have the first indication of a systematic endeavour to collect Customs in 1863. Therefore, we have the Customs question arising in 1863. How does that really have any influence upon the point that we are considering, namely the interpretation of the document made, resulting from continuous and lengthy action by one party, acquiesced in by the other ? I am trying to give a definition in my own words of what I suggest is a paraphrase of the judgment.

In 1863 they began to collect the Customs, and I am not challenging their right to collect Customs. They own a barrier there unquestionably, separating Canada from the coast. They can be as discriminating as they like. They can say : “ We will not insist upon Customs going to Ungava, but we will insist, upon Customs going to Ashuanipi.” But as far as Canada is concerned, Canada has nothing to say. The barrier must be passed, and Newfoundland can require what it likes for letting it be passed. It is a barrier, and we must submit to whatever the position is.

Viscount FINLAY : What pages were you referring to ?

Mr. GEOFFRION: Pages 1514 and 1518. This, I suggest, gives your Lordships what is material on the Customs question, with my admission that they have the right to collect Customs. They have their post at Rigolet, and to that

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extent it is an assertion by them, possibly that their jurisdiction went to Rigolet, but nothing more. There was no interest for Canada going and saying : “ Move your post further out.” It would not have changed the situation at all. Therefore, I suggest broadly that on analysis, and when it is sifted, the Newfoundland chapter on possession, in so far as it has a bearing on the question, as to throwing light by common and constant and

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lengthy action, upon the meaning of the legislation, is remarkable by its insignificance. There is no doubt that starving Indians were aided in the recent times, and perhaps earlier ; but I do not know who would not do that.

Now, my Lords, this brings me to what I suggest is an extremely important chapter.

Lord WARRINGTON : May I interrupt you for one moment, just to go back to page 1519. You will see there that there is a notice issued by the Colonial Secretary, or at any rate by the Government of Newfoundland that “ revenue will be collected on that part of the Labrador Coast lying within the Government of Newfoundland and the proceeds applied so far as may be necessary to the expense of protecting the fisheries on that Coast and of the maintenance there of a court of Limited Civil and criminal Jurisdiction.” That seems to be protested against, but only by merchants, including, I think, the authorities of Hudson's Bay. It is not a protest by Canada.

Lord Warrington.

Mr. GEOFFRION : I do not see exactly how they would be hurt very much. Your Lordship must appreciate the position. Canada's claim was, and still is to-day, on Indian hunting grounds ; and, of course, the news of Customs duties would not travel very much over there. Your Lordship must not forget that this is still a wilderness and still an Indian hunting ground inland. The position has changed very slightly there. The hunting grounds elsewhere have disappeared, and the Indians are hemmed into the reserves. The Montagnais are one of the few tribes that still remain at large, because this territory has not been invaded by the white people. Your Lordships must re-remember that an act of that kind would have to be very emphatic to have reached Canada ; and particularly, also, the protest was wrong. Canada could not object, in our view, to duty being collected. How could Canada have said that Newfoundland could not put up its Customs barrier on this boundary, when the boundary was being crossed ? It might have been done by an agreement for payment of duty in bond, but that is another matter.

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My Lords, I suggest therefore that the possession chapter if considered in the light of the two considerations, first, that we do not deny that there is an absolute control of a strip of coast, secondly, that what is required is a sort of action

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acquiesced in, emphatic and serious enough to show an understanding on the subject, and long enough to be used as interpreting the documents, and if you remember how wild and remote that part was from Canada there is nothing I suggest, there that in any way advances the Newfoundland claim to the land,

Now I intend to come, with your Lordships' permission, to a very important chapter. the French regime chapter of Canadian possession, and then my last chapter will be the Canadian continuance of it. The French regime part is important in my humble view from two points of view, first from the point of view that it is a circumstance existing at the time of the Proclamation, it was previous to it, and second from the

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point of view that it is a circumstance bearing on the Indian question which in itself I suggest bears on the coast question, When I say "the coast" question I mean the meaning of the word "coast" as regards the matter of the extent of the Indian reservation because your Lordships will appreciate this, being the Indians' hunting ground ex hypothesi, the relations with the Indians will be the evidence of the French jurisdiction, possession and control.

The LORD CHANCELLOR : I do not quite see why it is important yet, it was all French at that time except the Hudson's Bay Territory.

Mr. GEOFFRION : Not from the point of view of possession strictly, but from the point of view of the question whether these were Indians under the protection of the King, and connected with him, and so on. The possession previous to the Canadian regime cannot be said to be strictly important on that branch, it is important on the other branch, because I say it throws some light indirectly on the other question because undoubtedly when you see how deep and how ancient were the ties between these Indians and the French-Quebec Government it is difficult to assume that it was all broken asunder in 1763, and there is evidence that it was not. The second branch is the least important, the first one is the more important of the two, but I want to treat both together.

In this respect I have to challenge very seriously the suggestion on the historical field of my learned friend Sir John Simon. If your Lordships will turn back to page 2704 in Volume VI, the bulk of my references will be from that volume. I can sum it up in a few words, it is part of the relation of Champlain who published a book of his voyages and so on. You will notice there that there was concluded at Tadousac, or a place quite near to Tadousac an alliance as early as 1603 between the Indians of that district anyway and their enemies who were the Iroquois. The scene is picturesquely related : There was the smoking of the pipe and so on, I will not delay your Lordships' time on all these

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details, the essence of it. is that in 1603, five years before the finding of Quebec, Champlain made an alliance with the Algonquins represented evidently by the Montagnais against, the Iroquois, and it rather suggests that it was the turning point in the conflict that ended on the Plains of Abraham in 1763. It may seem to your Lordships far fled, but I want to show the importance of that alliance as starting the political relations. What we have therefore is in 1603 the alliance. Your Lordships know where Tadousac is, Tadousac is on the eastern side of the Saguenay River right where was the Head Office of the King's Posts, therefore the chief rendezvous of these Montagnais Indians and whatever Naskapis could come down from a distance for the very simple reason say like the St. John's and the rivers above were the best navigating channel to go through the woods. When Champlain penetrated there before he found Quebec he found Indians on that coast, listened to their story, and possibly mistakenly made an alliance which was the foundation of the history of New France afterwards.

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Before I go on and show the importance of it may I ask your Lordships to turn to page 2712. Your Lordships will bear in mind these are the Montagnais, they cannot be any other, with some Naskapis.

Sir JOHN SIMON : Does my friend say that page 2704 records the making of an alliance, because I do not see the line at the page.

Mr. GEOFFRION : Lines 18 and 19 : “ Faire paix avec leurs ennemis (qui sont les Iroquois), ou leur enuoyer des forces pour les vaincre.” Later on after the “ Ho, ho, ho,” that is approval, that means, Oui, oui, “ Luy, continuant toufiours saditte harangue.” That is the Indians answering.

Sir JOHN SIMON : I should have thought it was a party.

Mr. GEOFFRION : It is lines 18, 19 and 20.

Sir JOHN SIMON : It is a festivity.

Mr. GEOFFRION: It is a festivity, they all did their things in festivities.

The LORD CHANCELLOR : They had taken some natives to France, and one of them made a harangue to the natives, they listened in great silence and finally said : “ Ho, ho, ho,” which means, “ Yes.”

Mr. GEOFFRION : The point is it was stated that he would get peace from their enemies, who were the Iroquois, or would help them to defeat them. Your Lordships will see

what happened afterwards. They thanked him. Line 19 is that the alternative to peace is war, and at line 20, war, because I suppose the Indians in answering were quite convinced there was no peace. I can quite see the Ambassador for France speaking of peace or war at line 18, and then I can quite see the Indians speaking only of war because they had had experience of peace. One can understand how Treaties were made, they did not write them.

The LORD CHANCELLOR : It is translated “ Festival ” up above.

Mr. GEOFFRION : “ Faire paix avec leurs ennemis (qui sont les Iroquois), on leur enuoyer des forces pour les vaincre.” Then, of course, that is the starting point ; there is no doubt a Treaty between Champlain and these Indians could not be a formal document of this sort, but it was followed up very seriously by battles which ended in endless wars. All I want to say is there we have the fact of Champlain telling them we will either get peace from your enemies, the Iroquois, or we will help you to defeat them, and they are asserting we are glad you are going to help us defeat them. I take it that that is as high a treaty as you could make with these people then. Page 2712 is from another point of view. Page 2712 may seem perhaps rather beside the question, but I

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think it is very material. We are as far back as 1664. Of course, there has been a long series of intercourses and things of that sort to which I will refer in a moment. What is important is these people are always Indians, you have got there Tekwerimat head of the Algonquins of Quebec, these are the Montagnais you will see later on.

The LORD CHANCELLOR : What is that letter which looks like 8 ?

Mr. GEOFFRION : It is a “ W.”

Viscount FINLAY : Where is that ?

Mr. GEOFFRION : Line 18.

The LORD CHANCELLOR : It keeps on occurring.

Mr. GEOFFRION : If you look at line 13 you will see the answer to the doubt your Lordship expressed : “ des sauvages nos alliés, lesquels ignorent nos lois et les piénes ordonnées.” There is no doubt about the alliance. Then the difficulty was this, I will try and sum it up again, all these Indians were there for a very serious question, a certain Indian had committed rape on a French woman and they wanted to punish him. The Indians, who are not as bad lawyers as all that, said : That is not correct, under our laws it is not a crime, and you should not punish a man who did something which he did not know was a crime. The French accepted the view and let the man off with a mere civil indemnity in consideration of these leaders agreeing on behalf of their followers in the future to approve the criminal laws. It was an acceptance of the criminal laws of France as regards these Indians. “ Et Jean-Baptiste Pipouikih, capitaine Abnakiouis, afin de répondre pour le dit Robert Hache et voir dire que, pour réparation du dit viol, le dit Robert Hache auriot méritç d'être pendu et étranglé.” The Indians knew that murder was a criminal offence, but not this.

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Sir JOHN SIMON : Not for a first offence apparently, if you look at line 31.

Mr. GEOFFRION : Yes. It is an acceptance by the Indians, the question is whether these Indians are connected with the French regime. I will then come to the point whether they pass to the English regime afterwards. You have here Frenchmen asserting the right to impose their criminal law on the Indians, and you have the Indians agreeing to have them imposed in the future.

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Viscount HALDANE : It is all French territory.

Mr. GEOFFRION : I am trying to justify that they were Indians under the King of France and connected with the King of France.

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Viscount HALDANE : Naturally they were.

Mr. GEOFFRION : If that is granted, well and good, but what I am dealing with is those who were under the protection of the King of France, would become automatically by the Treaty of Paris, at all events they became expressly by the capitulation of Montreal under the protection of the King of England and if they were wards of the King of England in 1763 they are among the very persons designated for whose benefit the reserve is made.

Lord SUMNER : There seem to me to be two points on this, whether the Indians in the region in question were entitled to the benefits of the Articles of Capitulation which were extended to the Indians, that is one point ; the other point is whether the recitation on page 156 of the Proclamation : “ that the several nations or tribes of Indians with whom we are connected, and who live under our protection ” constructively goes back to people who had lived under the protection of the Most Christian King, that is to say, by operation of international law, the Most Christian King having been defeated and conceded these territories, those who had been under his protection are now under the words of the Proclamation of 1763.

Lord Sumner.

Mr. GEOFFRION : Practically I suggest there could be no others. My suggestion is that this is a pure and simple case ; of course, I must undoubtedly establish the link suggested, there is material. I can certainly argue—I think I can argue, that by the Treaty of Cession, automatically the Indians who had been Indians under the French King, whether they actively did or did not participate in the War against England, the moment the War was ended, peace was made. If they were Indians who were wards of the French Government in the sense in which all these Indians had become, then by having their natural livelihood conditions changed, these Indians became wards of the English King, I suggest automatically, particularly when I show your Lordships later on that these Indians, provided that they became Catholics, were automatically French subjects. Of course, I cannot make all my points in one document ; when they became Roman Catholics they became automatically French subjects. They were protected by legislation and they were legislated against

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also. They were therefore connected with the King of France under his protection ; they were the nearest Indians to the Quebec settlement, the Capital, the first ones who would have been thought of, the first ones General Murray would meet, the others were much further away. All these Indians in this territory were French citizens, having been with France because, as I pointed out, the Iroquois, who my learned friend suggests were Indians, could not be dealt with by this Proclamation. They had been taken care of long ago, they did not live in New France, but in New York. That is the whole argument ; I cannot approach the point without taking the documents one by one. These things are not said in one document alone, but my point is, if I can generalise it, that from 1603, continuously to 1759 till the

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close of the war which was ended by the Treaty in 1763, all these Indians were subjects of the King of France by law and by practice, being legislated both against and for, and being declared French citizens. Further, apart from the political relation, which is very intimate, as your Lordships will see, there was the religious relation. It had been part of the instructions to Champlain by his King to turn them Catholics, because if they became Catholics they would be considered to be allies or followers and devoted supporters of the French cause, in fact, French citizens, and that was given to those who were Catholics, and the missionaries activities were so fruitful, that we find even to-day in Esquimaux Bay, they will not go to trade there unless a French priest comes up from Quebec

Lord WARRINGTON : Mr. Geoffrion, if we can make anything of this at all, if it is any use at all, we want to know who these Indians are. Now you see they are enumerated in that document on page 2712.

Mr. GEOFFRION : Yes.

Lord WARRINGTON : They do not come from Labrador at all.

Mr. GEOFFRION : The Chef de Tadoussac was necessarily the head of the Montagnais.

Sir JOHN SIMON : What if he was.

Lord WARRINGTON : They are described as the Chief of the Algonquins of Quebec, the Chief of the Tadoussac, the Chief of the “ sauvages Nepissiriens.”

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Sir JOHN SIMON : That is Lake Nipissing.

Lord WARRINGTON : Lake Nipissing, Chief of the Iroquois, and then Chief of the Abnakiouis ; they are the Indians assembled there.

Sir JOHN SIMON : That is Lake Nipissing.

Lord WARRINGTON : The chief of Iroquois, those are the Indians assembled there.

Mr. GEOFFRION : I am going to try to suggest to your Lordship that the chief of the Algonquins, and the chief of the Abnaquiois, are instances of two sub-divisions of these people. I would ask your Lordships to bear in mind there is no ethnological difference in the heights of land behind Quebec. Then starting from that, these Indians came down for trading at the shore and are met there, chiefly at Tadousac ; they could not trade where they hunted, and they could not hunt where they traded ; they go back to hunt in the hinterland, and they trade at Tadousac, though later on they traded further down ; they traded

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at Tadousac and the “ Compagnie ” had their chief post there. Tadousac was the chief meeting point of these people. Then the Algonquins of Quebec in those days must have been the Algonquins behind Quebec ; they could not have been North of the Lake Superior line ; so therefore we have them identified in two ways, and we have them identified further. May I ask your Lordships to turn to page 2719. It deals with the replacing of a leader, and this leader, your Lordships will notice at line 37, is Noel Tekouerimat, who is, at page 2712, the head of the Algonquins of Quebec, the ones we spoke of a minute ago. He is replaced. and who is there for the election ? Line 27, on page 2720 : “ La se trouverent les Francois, les Algonquins, les Montagnais, les Gaspesiens. les Abnaquiois,” and so on “ les Nipissiriniens & les Hurons.” He is the supreme leader of all these tribes, including the Montagnais, and when he is elected, line 42, page 2720, all these Captains salute this newly elected man, who had taken the name of his predecessor. He being dressed in French apparel with a stick in his hand, and so on goes to salute the Governor de Courcelle and acknowledge him as his superior, and seek protection of the King of whom he is a subject. Then, my Lords, on page 2707 is the Ordonnance, paragraph 17, “ Ordonnera Sa Majeste que les descendans les Francois.”

Viscount FINLAY : That is going back six pages.

Mr. GEOFFRION : Yes, my Lord, I gave that last reference because it connected with the other one, dealing with the same chief. “ Ordonnera Sa Majeste que les descendans des Francois qui s'habitueront au dit pays, ensemble les sauvages

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qui seront amenes a la connoissance de la foi et en feront profession, seront censes et reputes naturels francois, et comme tels pourront venir habiter en France,” etc., etc., etc. Now, my Lords, you begin with the alliance, as I call it. You next come to the acceptance of the Criminal law. You next come to the election of the chief who goes and makes his homage to the Governor and admits that he and his wards are subjects ; and you have the declaration of the Ring of France that these people are French subjects if they are Catholics, to all intents and purposes. This is only a development of the first branch of my argument, namely, that you have established an extremely intimate political connection between the Government of France, through Quebec, and these Indians. I say these are the Indians who are sometimes described as Montagnais, and sometimes as sauvages de Quebec ; in the early days they could not be called Montagnais, that could not be their name, because that was given by the French, and sometimes as Algonquins de Quebec, the three names obviously indicating these, they cannot indicate any other ; I do not know how they would indicate others ; the question is if these are indicated. If we consider that these were hunting all up the Hamilton Inlet, but coming down to trade to Tadousac mainly, and later on more to the East, it seems that the identification is established completely. Then I could read you page after page where legislative action is taken : 2709, 2716, 2722, 2724, line 20, are some of the illustrations, but only some of legislative action in respect of Indians.

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for or against them, taken by the Government. I quite admit that this legislation is general and does not refer specially to these particular Indians. Then, my Lords, this is the political connection. Now can I ask your Lordships to take what is some information from the Encyclopaedia Britannica as regards the recognised historical view of this situation. It is an article in volume 14 of the Encyclopaedia Britannica at page 476, the lower part of the second column begins, “ Algonkian and Iroquian.[sic]

Sir JOHN SIMON : Would my learned friend tell me what is the subject of the Article ; where shall I find it ?

Mr. GEOFFRION : “ Indians, North American.” There is a very lengthy article, I shall not try to read it all, it is a very lengthy and very detailed.

Lord WARRINGTON : Which Edition is this ?

Mr. GEOFFRION : 1910 my Lord.

Viscount FINLAY : Is that a French Edition ?

Mr. GEOFFRION : No, my Lord, it is the Encyclopaedia

Britannica, the 11th Edition, published in New York, apparently.

Viscount FINLAY : Then it is the American Edition of the Encyclopaedia Britannica.

Mr. GEOFFRION : Yes my Lord.

Viscount HALDANE : It might almost be called an American book now.

Mr. GEOFFRION : What I am going to give from there I could give from other books. It is school history with us, only it is shortly stated in a source which cannot be the subject of bias. It is very short, and I thought it might be useful to give the general situation.

Viscount FINLAY : Is it printed in the Appendix.

Mr. GEOFFRION : No, my Lord, I wish it were. “ Southward, along the Atlantic Coast, the period of actual settlement by the whites in large numbers was preceded by numerous conflicts with the Algonquin Indians in which all too often the whites (adventurous, fishermen, etc.) were principally at fault, the natives being sometimes carried off as slaves to Spain and elsewhere in Europe.” That is earlier “ When Champlain, very shortly after the founding of Quebec, decided to help his Algonquin neighbours against their Iroquoian enemies, an

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alliance was entered upon which had much to do with the final defeat of France in North America ;”—this is the alliance—“ the Battle fought and won by Champlain near Ticonderoga in 1609 made the Iroquois the lasting antagonists of the French, and since the former held a large portion of what is now the State of New York, the latter were effectually prevented from annihilating or destroying the English Colonies to the South. The Iroquois alliance with the English in New York was preceded by one with the Dutch. Another result of the feud between the Iroquois and the French was the destruction of the confederacy of the Hurons ”; your Lordships will see that the Hurons, whose hunting ground was one of the big Lakes, had been annihilated, therefore, there was no hunting ground for them anywhere —“ themselves a people of Iroquoian stock, established in the region between Lakes Ontario, Erie and Huron, over a large portion of what is now the Province of Ontario, although the antagonism between Hurons and Iroquois had existed even before the coming of Cartier and the inevitable conflict had already begun. As an outcome of Champlain's visit to the country of the Hurons, in 1615, the Jesuit Missionaries have established themselves among these Indians and for 35 years laboured with a devotion and sacrifice almost unparalleled in the history of the Continent. The struggle elided in the campaign of 1648-1649, in which the Iroquois destroyed the Huron settlements and practically exterminated the people, the French priests in many cases having suffered martyrdom ” and so on. “ Such of the Hurons as succeeded in escaping ” made settlements, and Quebec is about the only one left. Now there is the picture : the Iroquois are in New York State, something which has never been part of New France ; the Iroquois was always the enemy of France, except in peace time, of course, since that fight. It started after that alliance when Champlain, to redeem his promise went to fight the Iroquois at Ticonderoga, which is in New York State, where he found The Iroquois in their home. They are not residents of any territory affected by this Proclamation ; they are not people who were to be dealt with, and they are not people that the Proclamation was dealing with. They had been allies of the English for a very long time, and their rights were long ago settled, and there was nothing to be done about them or about their territory ; they were not in Canada. The Iroquois were out of the question. There were the Hurons, who had the Province of Ontario, between Lake Huron and Lake Erie, who had been exterminated, and they were all gathered as general Murray's Report shows, into a little bit of a village near Quebec, and turned into ordinary farmers, following the French civilisation view. They are still there. There were the Algonquins, beyond that from Lake Superior to the Atlantic ; and there were the groups which are South of the St. Lawrence in New Brunswick and therefore not important.

How can it be suggested they were Montagnais, part of the Algonquins and part of the Iroquois, through out were firm allies, and who would be excluded from the protective clauses. Who were included, only the Western Iroquois, or

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the Eastern Iroquois. Why, the Eastern Iroquois, are the ones they knew best ; the Hurons have ceased to exist as having a hunting ground. The Iroquois were English allies always, and they were not within the territory dealt with in the Proclamation. I respectfully suggest that, by elimination, of necessity this short history shows your Lordships first how strong was the connection, and how great was the connection, established in those early days, between that Iroquois group, including the Montagnais, and the Canadian Government, and that unmistakably these particular tribes were certainly included in it, and probably the principal one, and only other one, which could have been included was the Western Iroquois, and why, the Western Iroquois who were far away from the Eastern ; therefore I respectfully suggest, on that branch of the case, that the political connection has been established, and that so far as the first branch of my argument is concerned, we have unmistakably these Indians connected with the King of France, living under his protection, and that it is only Indians coming from the French regime, which could be dealt with by the Proclamation : and do not think we could construe the capitulation as limiting the protection engagement to only those who actually fought. I might say to your Lordships that we have no clear evidence one way or the other, whether the Montagnais fought the English during the French wars or not ; I do not think there is any evidence of that ; what we have is, that a few years afterwards, when Penstock revolted, the Montagnais refused to revolt and remained loyal. That is before 1763, and is pointed out by the Memorialists to the English Government in Quebec ; but we do not know whether they fought with the French ; it is extremely likely they may have, because the French would have called on anyone they could get ; and if any of these Indians fought with the French, they must include these Montagnais. It is only an inference, we have no evidence ; I do not know that I can suggest they were under the protection of the King of France, and protected by him, but I suggest the capitulation does not make it a condition that they should have fought against the English ; they have included the most important class they wanted to protect, but it is not saying you can do what you like with those who did not fight at all, but are nevertheless under our protection. Your Lordships must not forget that the conditions of the Indians had been materially altered by the advent of the white man. They had been hunters, and had become accustomed to the needs of civilisation, so we had modified their ways of living, so that they needed that protection, and they were French subjects. What reason is there why they should not have passed to the control of the English, and is that control to ill-treat them, to

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persecute them, and administer them like every other Government is supposed to administer their authority ? Can it be denied that these Indians became subjects of the British Crown, and if they became subjects of the British Crown, can it be denied that the British Crown owed its duty to these Indians as well as any other Indians: and why distinguish between these Indians because the Coast of Labrador was put under the care and inspection

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of the Governor of Newfoundland ? The duty which was owed to them must certainly have been in the mind of the Government or of the capitulating parties. That is the political aspect. I need not say that this political connection lasted for some 150 years, from 1603 to 1759, and it was a very intimate one. Added to that is the religious aspect. I now propose to deal briefly with the religious aspect.

The LORD CHANCELLOR : If this is going to be a long topic, this will be a convenient point at which to adjourn.

(Adjourned till Monday next at 10.30.)

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Friday, 5th November, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON.

IN THE MATTER of the **BOUNDARY**
between the **DOMINION** of **CANADA**
and the **COLONY** of **NEWFOUND-**
LAND in the **LABRADOR PENINSULA**

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

TENTH DAY.

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Dominion of Canada.

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Monday, 8th November, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

ELEVENTH DAY.

*Counsel for the Colony of Newfoundland :—The Rt. Hon. Sir
JOHN SIMON, K.C., Mr. F. T. BARRINGTON-WARD,
K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland
Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON,
instructed by Messrs. BURN & BERRIDGE.*

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—
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Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.

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MORNING SESSION.

Mr. GEOFFRION : May it please your Lordships, the point on which I would like to say a few words now is this. Your Lordships had a statement in opening that there were only a few Indians in those parts, and my learned friend, Mr. Macmillan, gave you the Murray Report, which suggests that coming to the St. Lawrence there are only 300 families ; 300 families might seem to your Lordships to be an insignificant number, and I do not know whether your Lordships might be impressed with the idea that that is in Indian terms an insignificant number. I want to point out to your Lordships by a few figures, if it is thought useful, that they were in population fully up to the standard of all Indian tribes. Your Lordships will appreciate that the test of density of population was very different in those days in that country from what we understand to-day. The Indian was a hunter, nothing but that, and a careless hunter, and, naturally, he wanted a tremendous area to live on, an area that depended on the quantity of fur animals living in the given territory, the matter of forests, and so on. General Murray says in his report that something like 300 families came to the King's Post and other posts on the St. Lawrence. The average generally taken for Indian families would be five per family ; that would be about 1,500. I wish to point out in the first place that there were really more Indians than that. The war obviously had directed Indians in other directions or in no direction at all, probably keeping away ; and in addition to that, I want to point out that if you had 1,500 they would have been fully up to the average of the other tribes.

On the first point, the Hudson Bay Census, at Volume V, page 2287, gives the population at various posts at something like 4,000 for all Labrador.

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Lord WARRINGTON : Where is it on page 2287 ?

Mr. GEOFFRION : I can give your Lordships something more easy than this reference. This reference, I am instructed, is taking the various posts in Labrador at about 4,000, but I can save your Lordships trouble by turning to Low's Census in 1895.

Viscount FINLAY : Have you gone away from this ?

Mr. GEOFFRION : My learned Junior will give me the precise reference in a minute ; I will suspend it and if I can conveniently give your Lordships the line I will do so presently. I would ask your Lordships, therefore, to eliminate that reference now, because I cannot

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put it in a convenient form. I would ask your Lordships to look at page 2608, line 8.

Lord WARRINGTON : What is the date of this ?

Mr. GEOFFRION : This is 1895, but it is common ground and historical fact undoubtedly that the Indians do not progress; the conditions are not such that they can do so. There were 3,500 Indians in the Labrador Peninsula.

Lord WARRINGTON : This is in the whole of the Peninsula, is it ?

Mr. GEOFFRION : Yes, my Lord. That includes, therefore, Hudson Bay territory also, but your Lordships remember that the Indians there, leaving out the Eskimos, are purely and simply Naskopis and Montagnais.

Viscount FINLAY : Who were the whites ?

Mr. GEOFFRION : That was in 1895. They were Hudson Bay traders and there were fishermen along the fringe of the coast. These men are right on the coast ; they do not play any part in the argument I am making. Bell, in 1895, gives 3,000, at page 2653.

Viscount FINLAY : You were on page 2608.

Mr. GEOFFRION : Yes, my Lord, page 2608, line 8.

Viscount FINLAY : You have done with that, have you ?

Mr. GEOFFRION : Yes, my Lord. I am now at page 2653, 1895 ; that is Bell. The Indians are shown in the last line on the page. They number 3,016.

Lord WARRINGTON : The white population is very much larger than that. It is 13,000 out of 18,000.

Mr. GEOFFRION : I will confess that the censuses are not

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made very accurately ; perhaps the truth is to be found in the next reference, from the great Labrador authority, Cabot, who says it is from 3,000 to 4,000 ; that is at page 2622, line 1[sic].

Viscount FINLAY : The date of that is 1922.

Lord Sumner.

Mr. GEOFFRION : Yes, my Lord. The only dates for which we can now get figures of these Indians are recent, but I think it is common ground, and it is a historical fact, that Indians do not increase and have not been increasing since the white man came. This is only one branch.

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Lord WARRINGTON : He says : “ Of these, the Montagnais, who are all tributary to Gulf or Saguenay trading stations, make up more than half.”

Mr. GEOFFRION : Yes, my Lord. Then there are the Naskopis to be added.

Lord SUMNER : Just finish the sentence : “ It is difficult to arrive at a census of such a wandering people, for in one year and another some of them appear successively upon coasts remotely apart.” That appears to show that their habits are such that they could not be said to be particularly attached to any one district, because sometimes they visit one coast and sometimes another.

Mr. GEOFFRION : Certainly, My Lord ; that is part of our case : that the watershed plays no part in the hunting ground. These men go to trading posts on either coast, indifferently ; their hunting ground is in the middle, athwart all the plateau ; they can go as easily to one coast as to the other, they go to where the trading posts are. Of course in this period the Hudson's Bay Company has established and developed important trading posts at the head of Esquimaux Bay and Hamilton Inlet and therefore, naturally, at that period and since quite a while, quite a number of these Indians went to the trading posts at Esquimaux Bay, possessed by the Hudson's Bay Company. But we do not say that they are attached to the trading posts on the St. Lawrence, on the contrary, we say that these men had as a hunting ground, all the plateau, from which they could approach either coast easily.

Now, my Lords, coming to the second branch of this argument, we have obtained from the British Museum a book entitled “ The Eleventh Census of the United States ; 1890.” What is useful in it is that it contains the result of the census taken in 1764 by Colonel Bouquet.

Sir JOHN SIMON : A very famous man.

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Mr. GEOFFRION : Yes. I want to read from the first page of the introduction ; it is not paged, but it would be page 3.

Viscount FINLAY : Is that document in the books ?

Mr. GEOFFRION : No. my Lord.

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Lord SUMNER : Is that census all in one volume ?

Mr. GEOFFRION : My Lord, the part I am going to refer to is all in this volume.

Lord SUMNER : But I want to know how to get the volume, in case I should desire to do so.

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Mr. GEOFFRION : It is the Eleventh Census of the United States, 1890.

Lord SUMNER : It is all included in one volume, is it ?

Mr. GEOFFRION : Yes, my Lord. I will give the title of the book : “ Report on Indians taxed and Indians not taxed in the United States, except Alaska, on the Eleventh Census, 1890.”

Lord WARRINGTON : But that is in the United States.

Mr. GEOFFRION : That is the heading of the book ; but when I come to the list here, I can deal with something that goes back to 1764.

The LORD CHANCELLOR : Let us hear it.

Mr. GEOFFRION : The Algonquins number 300 warriors, which would amount, on the average of five to a family, to 1,500 people. The Nipissings were 400 warriors ; that is also on the same page. The Abenakis were 350 warriors. Then the Shawnees on the St. Lawrence ; they are in New Brunswick and South Quebec ; they do not play any part here, because the St. Lawrence was an effective barrier between the two sorts of Indians. Then the Micmacs were 700 ; they were also south of the St. Lawrence.

The LORD CHANCELLOR : Are those all Algonquins ?

Mr. GEOFFRION : No, my Lord, the Algonquins are about 300.

The LORD CHANCELLOR : Is that all they were ?

Mr. GEOFFRION : Those are the western Algonquins : they are the same as the Montagnais.

Viscount FINLAY : I find some difficulty about this. This has not been printed, as I understand ; it is not in the papers before us.

Mr GEOFFRION : There is nothing very much in it, either way ; it is an endeavour to avoid the possible impression that the Montagnais, whose numbers are given in the record, would be a comparatively insignificant race. I am trying to suggest to your Lordships that if one bears in mind the mode of living of these Indians, it is the normal population of a tribe. It is extraordinary how thinly populated North America was when the white man came ; people do not appreciate it until they go into the figures. That is really all : it is a very minor point ; it is only in case it might be suggested that these people were so few that they need not be bothered about.

Sir JOHN SIMON : If my friend has finished with it, might I just

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look at the United States Census, to which he was referring—the Report of Colonel Bouquet ?

Mr. GEOFFRION : Yes.

Sir JOHN SIMON : Colonel Bouquet was in command of Fort Pitt. He was a very famous military officer in the Indian war.

Mr. GEOFFRION : Then as to the Iroquois, one must not forget the facts about them. The Iroquois were a confederacy of six nations. The point I will put to your Lordships in a minute is that the six confederate nations of the Iroquois, who alone defeated all the other nations and destroyed completely the Hurons, contained 1,550 warriors. That is all I wish to say on that point ; as I say, it is an incidental matter.

Viscount FINLAY : It is an illustration of the extremely sparse population.

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Mr. GEOFFRION : The danger of the Indians in North America was not their numbers, it was the shelter that the forests gave them, when they could pounce unawares on anybody. Any organised band of white men could deal with them easily if they were got ready, but as they could not spend all their time under arms, a hundred Indians could make tremendous havoc. The population was extremely sparse, and I would not like your Lordships to be impressed by the numbers here as meaning something relatively insignificant, and in relation to the Indian problem these Indians who were the closest, the most near-by, the most civilized, were certainly as important in point of numbers as the others.

Now, my Lords, I will be extremely brief on the religious branch. On this point we have already given your Lordship a reference to Volume VI, at page 2707, where citizenship of France is conditional on being Roman Catholic. I make a point that it links these activities to political activities. At the bottom of page 2705 of Volume VI you will see that Champlain, the first Governor, is instructed as part of his duties as Governor to convert to Christianity these Indians. This is only to suggest to your Lordships that the foundation of religious activities was laid early and was part of the political effort.

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Viscount FINLAY : Do you call attention to anything on this page ?

Mr. GEOFFRION : At the bottom of page 2705, line 32 : “ Et par le moyen de ce, et de toutes autres voies licites, les appeler, faire instruire, provoquer et émouvoir à la

connaissance et service de Dieu et à la foi et religion catholique, apostolique et romaine.” Then follows what I have already quoted at page 2707, whereby the Indians who were

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Catholics were French subjects, and this links the religious effort with the political effort.

Now, my Lords, I will not give your Lordships the enormous mass of evidence gathered here showing the activities of the missionaries, but I will try to indicate the result by three short references. In 1774 we find at page 2772, line 40 : “ Our Shalloway is this instant return'd from Sandwich Bay ”—

Viscount FINLAY : What is “ our Shalloway ” ?

Mr. GEOFFRION : It must have been an officer's boat, I think.

Viscount FINLAY : A despatch boat.

Mr. GEOFFRION : Presumably. I confess I have not looked that up. “ Our Shalloway is this instant return'd from Sandwich Bay where she left our Furriers in possession of the Salmon Rivers ; they saw no sign of any Uropean having dwelt there ; it is a place much frequented by the Nescaupick Indians, a People who subsist by hunting, they are good Furriers, speak broken French, are Roman Catholics, and have traded with the Canadians many years. One family have been here this Summer and sold us about fifty pounds worth of Fur.”

This is George Cartwright's report to Lord Dartmouth in 1774. Therefore in 1774 we have the Nascopis, the most northern ones, speaking broken French and having traded long with the Canadians and being Roman Catholics.

Lord WARRINGTON : He writes from Charles Harbour ; where is that ? is that on the coast of Labrador ?

Mr. GEOFFRION : It is on the Atlantic coast of Labrador, south of Eskimo Islet.

Lord WARRINGTON : Cape Charles : I suppose it is there, is it ?

Mr. GEOFFRION : Yes, my Lord.

Lord WARRINGTON : Just south-west of Belle Isle.

Mr. GEOFFRION : Yes.

Lord SUMNER : It is about 1½ in. south of Rigolet on the map.

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Lord WARRINGTON : That is another one, then.

Mr. GEOFFRION : The one I know would be south of Rigolet on the Atlantic coast ; it is another bay south of Eskimo Bay.

Lord WARRINGTON : The only one I can see is much further

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south than that ; it is just north of latitude 52 : Cape Charles and St. Charles River. I do not suppose it much matters ; at any rate, it is on the coast.

Mr. Geoffrion.

Mr. GEOFFRION : Nothing turns on it, my Lord. I confess I am not prepared to answer your Lordship on that difficulty, because I did not consider it material.

Sir JOHN SIMON : There are other documents in the Record which show that this gentlemen, Mr. Cartwright, when he speaks of Charles River, is referring to the more southerly one of the two, I can check it, I know it is so. There is a good deal about furring and about salmon fishing.

Mr. GEOFFRION : I confess I have not looked up that branch because I do not think it is material to what I am now putting.

The LORD CHANCELLOR : It is explained in this very letter at page 2771.

Mr. GEOFFRION : The next reference I would ask your Lordships to take is at page 2797. Incidentally, I might answer now a query put by the Lord Chancellor, by reading something at the very top of this page : “ The Mountaineers, whose hunting-grounds are in the vicinity of the Bay, are a branch of the Cree Nation.” Cree and Algonquin are for some reason or other loosely used as being the same thing.

Lord WARRINGTON : It says : “ They are very much reduced in number.”

Mr. GEOFFRION : Yes, my Lord ; these men shifted. I might point out to your Lordship, and as you will see, there is some evidence of it, that there was some reluctance on the part of these Mountaineers to go to Eskimo Bay until they could be provided with a priest, and the Hudson's Bay Company, on the pressure of Sir Donald Smith, had to arrange to have a priest come over the Atlantic to Eskimo Bay, because they were accustomed to go down to the St. Lawrence, where the Bishop of Quebec sent a priest. It is only indicative of the firmness of the link established.

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Now, if your Lordships look at the bottom of page 2797, your Lordships will see on extract from Governor Simpson to William Nourse in 1845 : “ If the indians persist in a desire to visit Mingan ”—Mingan is on the St. Lawrence, where the Bishop of Quebec sent a missionary— : “ in order to meet a Roman Catholic Priest, you may state that, if they defer it for another year, we will endeavour to send a Priest to their own lands, without putting them to the trouble or inconvenience of so long a journey. This can be done hereafter without inconvenience when the vessel winters in the St. Lawrence ; but, if the Priests were to go this season by the second trip of the ‘ Marten ’ his stay would necessarily be

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so short, that he could only see a few of the Indians immediately round Rigolet.” Therefore your Lordships have here the Hudson's Bay Company considering as essential to the prosperity of their post at Rigolet that arrangements be made to bring a priest round there, because otherwise as the priest went to the St. Lawrence and only there, the Indians would not go to Rigolet.

Then, my Lords, we have, at the bottom of page 2820, the same language again. That is in 1862. They are dealing with the same problem, and I will not read this to your Lordships. I could give your Lordships from pages 2966 to 2084 on the missionary activities, but it seems to me that the point is sufficiently met for this case, without my further trespassing on your Lordships' time, by stating the starting point and the end. The first was the instruction to Champlain. Then we have unquestionably the activities to which references are being made everywhere ; we find these Indians are all Naskopis and speaking broken French, but French nevertheless, in 1774, at Sandwich Bay, in 1842 at Eskimo Bay, and so on. We prove, therefore, the identity of the group that went to Eskimo Bay and to the St. Lawrence, and we prove thereby the depth of the connection between them and the King of France ; and if I am right in my proposition that the King of England is successor to the King of France, it proves that they came under the English King.

Now the last branch, on which I shall be brief, is the trading branch : trading, commercial and political. On the trading branch there are three groups ; I will take them each very briefly ; I am only subdividing in order to be systematic. I am going now to refer your Lordships to Volume VII, at page 3337, line 10. I want to read this paragraph first in connection with the Fornel Grant, of which your Lordships have heard and will hear a little more in a minute.

Lord WARRINGTON : This is an application for a concession.

Mr. GEOFFRION : It is a report by a Mr. Cugnet, who apparently is lessee of the King's posts and who there objects to an application by a Mr. Fornel for a grant at Eskimo Bay,

around Hamilton Inlet. He says at line 10 of page 3337 : “ Le veritable But du projet du Sr. Fornel avoit Etè de former d'ans la profondeur des Terres au dessus de la Baie St. Louis ”—that is Eskimo Bay.

Lord WARRINGTON : Otherwise Hamilton Inlet.

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Mr. GEOFFRION : Yes, my Lord—“ vn Etablissement de Traitte pour y attirer les Sauvages qui commercent d'ans les Postes fur la Coste du Nord su flueve St. Laurent, at Encore plus ceux qui vent d'ans les Postes du Domaine ”—your Lordships will see in a minute that there were trading posts on the St. Lawrence, North Shore, some belonging to private individuals and some within the King's domain. There were

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also inland posts far inland belonging to the King's domain : “ Et par le S'approprier a l'Exclusion des fermiers ”—the spelling is not good.

Lord WARRINGTON : Is it “ fermiers ” ?

Mr. GEOFFRION : It must be “ fermiers,” my Lord ; I cannot see any other possible meaning.

Sir JOHN SIMON : You will see at the bottom of the page it is translated “ lessee.”

Mr. GEOFFRION : The translator then agreed with my translation : “ et des Concessionnaires des Postes de la Coste du Nord la Traitte avec Ies Sauvages Rependus dans cette partie du Canada.” That is of importance—that their were posts of the King's domain for trading inland, there were posts on the St. Lawrence, and application is made in 1749, late in the day but nevertheless early for this case, to establish a post around Hamilton Inlet, and the objection is made by the lessee of the King's post : “ You are creating a competitor for our post.” indicating again how indivisible that area is. Now if your Lordships turn to the last line on the same page, he is referring to the posts of the domain and he gives a list at the top of the following page : “ et En a En Effet actuellement d'Etablis sur les Lacs des Maskapis, atchouanipi, manikouagan, Mistaseins, et Chobnouchouiane.” I will not take up you Lordships' time beyond saving that Atchouanipi is in the Atlantic watershed in the disputed territory, and Mistaseins is in the Hudson's Bay watershed.

It is enough for my point at present. I am trying to give only what I think I need. I say the King's Domain, or the King's trading monopoly, if we prefer to call it by that name, had one post in the very heart of the disputed domain at Lake Ashuanipi, not very far, relatively speaking, from the Indians of the Eskimo Bay intended post, and had another post at

Mistassini, the big lake which we know to be in the Hudson's Bay watershed.

The Fornel grant is to be found in Volume VII, page 3330.

This grant was made, and I think it is of importance. The granting words are at the top of page 3331 : “ Nous avons concédé et concédons par ces présentes à la dite Dame veuve Fornel la dite Baye des Esquimaux dite Baye St. Louis pour le temps et espace de 12 années à compter du présent jour, à prendre depuis et compris le Cap St. Gilles situé au nord de la dite Baye en remontant au Sud jusques à la Rivière des Sables icelle comprise, ensemble la Rivière Kessessakiou située au font de la dite Baye et qui se décharge jusques à la hauteur des Terres, avec les isles et islots qui se trouvent tant en dedans de la dite Baye St. Louis qu'an devant de l'étendue de terrain cy dessus concédé ; pour en jouir par la elite veuve Fornel pendant le dit temps et y faire un ou plusieurs etablissemens de pesche à loup marin ainsi que la chasse ” etc. We therefore have a grant very definitely of the Hamilton River up to its source, and of the Bay for fishing and hunting in 1749. Now this grant

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was carried into effect, and possession was taken. Your Lordships will find the evidence of that at page 3351, line 10 et seq. I presume the establishment was destroyed or abandoned during the war that followed shortly after, because we do not hear very much of it afterwards.

On this branch I should like to ask your Lordships to look at the Map No. 21 of the Canadian Atlas, of which the map in front of me is a detached copy.

Viscount HALDANE : Is that the whole of Labrador ?

Mr. GEOFFRION : No. This is purely to include the posts. I have given your Lordships so far the Fornel post, and some of the King's posts ; but apart from that there were a large number of Canadian concessions all on the St. Lawrence. Your Lordships will see first each side of Lake Melville and Hamilton Inlet you have the Bay des Esquimaux concession in 1749. That is the Hamilton River watershed. Then your Lordships will see a little bit to the left the Domaine du Boy, or the King's Posts. I am not concerned with the limits of the posts. The limits of the posts play a very small part. The Indians hunted where they liked. Nobody tried to restrain them. Certain definite restricted areas were built on where people could receive and exchange the furs : these were the posts; but the large area around meant nothing except that in the large territory around those posts nobody could compete with the grantee of the territory. So that all these limits do not play much part. The important thing is the physical position of the trading post, where the trading post was to which the Indians were to come.

I have pointed out to your Lordships where some of the King's Posts were. Then the third point for which I need this map is this. If your Lordships will take the north shore of the St. Lawrence from the eastern limit of the King's Posts, and follow the shore, your Lordships will see a large number of smaller grants. They are trading grants as well as fishing grants, and there were posts there. So that thereby these Indians had three groups of places to which they could come. They could come to the King's Posts either inland, or at the shore at Tadoussac, they could come to Fornel at Lake Melville, or they could come down, as fancy suited them, to any of the posts on the lower St. Lawrence. Nobody followed the Indians in the woods to decide where they went. What I have pointed out to you were really competitors. but they were the commercial activities of the French down to 1763.

The LORD CHANCELLOR : I want to know what I am to infer from all this.

Mr. GEOFFRION : I ask your Lordship to infer purely and simply that that is an instance of what were necessarily the

Indian relations with the French Government, at the time of the conquest. I have now finished with that branch of the case.

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Mr. Geoffrion.

The LORD CHANCELLOR : The reference you have given shows there was a concession to Widow Fornel of territory which surrounded the whole of the Hamilton area.

Mr. GEOFFRION : Yes, my Lord.

The LORD CHANCELLOR : That was granted, of course, by the French because it was their country at that time. It ran up to the height of land as far as I can see.

Sir JOHN SIMON : The terms of the concession make use of the expression " height of land " in terms. Your Lordship will find that on page 3331.

Mr. GEOFFRION : I read that passage in fact.

The LORD CHANCELLOR : The date of this was 1749, just before the change ?

Mr. GEOFFRION : Yes, my Lord. Then this concession lapsed during the war, because there is no successor to it. It died. The war killed it, and nothing came of it afterwards. Whether the Fornel family were destroyed in the war, or went back to France we do not know.

That closes the French regime, but now I have a little to say on the last chapter of my argument—the Canadian regime. With regard to the Canadian regime, may I put it in this way.

I start with a presumption that all these numerous connections cannot have been suddenly broken. The Indians cannot suddenly have changed all their habits, the posts cannot suddenly have all disappeared, and the missionaries cannot all have quitted. I want to add something to that presumption. As regards the missionary work I will say only these few words. The dates I gave your Lordships a minute ago go down to 1862, so that the missionary influence continued till 1862. As regards the commercial part, we ask your Lordships to remember what has been read to your Lordships already about Palliser's troubles with the traders in the St. Lawrence part of his government. Palliser found the French Canadians, the Quebecers, or whatever he calls them, installed all along the St. Lawrence part of the Labrador coast. They were stubborn and fought and defended themselves to the extend that they at first carried the day, and carried too much of it in 1774 by obtaining that the coasts should be given back to Quebec. They lost ground in 1809

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—
Mr. Geoffrion.

when the coast was taken away from them, but they succeeded finally in getting what was theirs in 1825 when they had the coast reconveyed to Quebec up to Ance Sablon. There is nothing more eloquent to demonstrate that the Canadian possession of the posts down to Blanc Sablon continued down to the conquest, and was never interrupted, because after 1825 there was no reason to interrupt it.

Sir John Simon.

The Esquimaux Bay or Hamilton possession is a little more interesting. Your Lordships will find it referred to in Volume III,

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Mr. Geoffrion.

page 1222. There is a passage there I would like your Lordships to note because I suggest it is of some importance.

Viscount FINLAY : You refer to the letter of the 24th July ?

Mr. GEOFFRION : Yes. It is apparently, as far as I can gather from this record, the first time any Newfoundlander visited inside Esquimaux Bay. This is a report.

Viscount FINLAY : Where is Ivertoke Inlet ?

Mr. GEOFFRION : Esquimaux Bay, Hamilton Inlet, Lake Melville.

Sir John Simon.

Sir JOHN SIMON : Lord Finlay will perhaps remember it is said that the Eskimo word for “ walrus ” is “ ivertoke.” That is said to be the reason. I do not know any Eskimo myself.

Mr. Geoffrion.

Mr. GEOFFRION : The Moravians are the only ones who do. We are embarrassed by the constant change of name in respect of Hamilton Inlet. We have four names, but that is not our fault. It was something bequeathed to us.

Sir JOHN SIMON : Now my friend wants to call it Lake Melville.

Mr. GEOFFRION : Esquimaux Bay and Lake Melville is something different. Lake Melville my learned friend wants to call Groswater Bay. The passage I want to read begins at line 17 of page 1222.

Sir JOHN SIMON : Perhaps my friend would not mind reading from a little higher up, beginning with the words “ From the 13th to the 23rd.”

Mr. GEOFFRION : Certainly, I will read from that point. “ From the 13th to the 23rd I have been employed in ascertaining the extent and source of this inlet. I run up in the

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Lord Sumner.

Mr. Geoffrion.

Lord Sumner.

Brig 140 miles from N.N.W. to W. & S. distance across from 3 to 20 miles in widest part, thence I proceeded in a shallop (which a Canadian Merchant kindly offer to accompany us) with Canoes to the source, where we arrived at a Grant Waterfall or rapids, one backing the other 90 feet high. I have had communication with the Red Indians, at first they hid themselves from us, after a little coaxing and as far as we were able gave them to understand we came to assist them, they became in a short time familiar, next day I prevailed on them to come on board ; 7 Canoes of them visited us. I regaled them with plenty of beef, pudding and grog, three accompanied us up the river, 50 miles from the Brig. The Canadians have extensive establishments in the salmon fisheries, but their principal gain is the fur trade with the Red Indians. The fishing (cod) establishments up the river for 40 miles are numerous, principally americans for the season.”

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Lord SUMNER : Might I ask you this on that. If as late as 1821 there were seasonal cod fisheries up the river for 40 miles enjoyed by Americans, I suppose those would be the class of person whom the Governor by his Commission was to keep out of the Esquimaux coast if he could ?

Mr. GEOFFRION : We must first know where he starts his river. Then secondly my answer is this. No doubt he would try to keep them from getting on the coast, but once on the coast they could go as far as they liked.

Mr. Geoffrion.

Lord SUMNER : Your view is that if they eluded his vigilance and landed, and got past his strip, as you say they could go as far as they liked and fish for cod wherever they could find it ?

Lord Sumner.

Mr. GEOFFRION : The evidence is that you cannot fish cod fish inside Lake Melville.

Lord SUMNER : Whatever fish there was. I am quite sure that the Americans did not go there for pleasure. They found something to fish. Whatever it was, your view is that the Governor of Newfoundland could not stop them.

Mr. Geoffrion.

Mr. GEOFFRION : My view is that when the King in 1763 gave his Proclamation he was not thinking of the possibility of Americans finding one fiord bringing them into a river and getting into there.

Lord SUMNER : It is quite impossible for us to ascertain what passed through the royal mind in 1763. Your proposition to-day, if I follow you, is that the duties of the Governor of Newfoundland under this Commission to prevent Americans enjoying British possessions upon the Labrador Peninsular, would not enable him to follow up these gentry and turn them out ?

Lord Sumner.

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—
Mr. Geoffrion.

Mr. GEOFFRION : I think we must first determine where the jurisdiction stops, and it would be for the King, on report, to take the proper measures if he reserves the territory behind. I suggest that the possibility of some Americans eluding the vigilance of the Governor and going beyond the boundary will throw very little light on what the King intended as between the Indians and the fishery.

Lord SUMNER : I understand your point to be, for what it is worth, that whoever was to bring those Americans up that river to book, it was not the Governor of Newfoundland ?

Mr. GEOFFRION : I would have to know first where they were.

Lord SUMNER : Wherever this place is.

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Mr. GEOFFRION : That is the difficulty. I cannot say whether these particular Americans whom he saw fishing cod would be brought under the jurisdiction of the Governor of Newfoundland, or the King directly, because since they were fishing cod if they were beyond what was intended to be the coast I must be logical and say that, of course, the Governor could not go there unless he got special powers. The only point I am making is that the Canadians were established there extensively in the fur and fishery when the Newfoundlanders came. We find the Fornel there in 1749, and we find the Canadians there in 1821, and the Newfoundlanders certainly had not been there in the meantime.

Coming to Volume VII, beginning at page 3356 and going right down to page 3420, we have what I will call an almost complete chain of title. I will not say it is absolutely complete. There are a few gaps, but that is not surprising. It is, however, an almost complete chain of title from 1785 down to 1835 in respect of posts in Hamilton Inlet, and Esquimaux Bay, dealt with by Canadians in Quebec. I will simply refer to page 3356, and then leave it to your Lordships. On page 3356 we have a licence by the Quebec Government in 1784 as a starting point, to Pierre Marcoux and Louis Marchand, to trade and traffic with the Indians in Esquimaux Bay. We have them in possession in 1821, and we have a succession of titles down to 1835. I must confess that we have a gap from 1749 to 1784. There is no evidence either way. Apparently till 1749 this had been a wilderness. We have one grant to Fornel in 1749. Then we have a licence in 1784, and then a few years afterwards we begin a

succession of titles which brings us down to 1835. To be perfectly accurate, I think the titles begin in 1821 and go down to 1835. I think that is really the series of titles your Lordships will find.

Viscount FINLAY : Where is the first of these titles ?

Mr. GEOFFRION : The licence is a sort of title, my Lord. That is at page 3356.

The LORD CHANCELLOR : I would point out to you that there is nothing in that, because it was all Quebec.

Mr. GEOFFRION : Certainly. I am simply giving your Lordship the chain.

The LORD CHANCELLOR : What is the next link ?

Mr. GEOFFRION : At page 3401. That brings you down to the period when there could be no doubt—that is in 1815.

Viscount FINLAY : That is 30 years after the first title.

Mr. GEOFFRION : Yes. I have been asked to give dates when

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the Newfoundland regime was in force, and therefore I am told, and properly so, that 1774 down to 1809 is irrelevant because it was ours.

Sir JOHN SIMON : I wish my friend would make plain what page 3401 has to do with the matter. It appears to be the sale of some ship and gear. What is that a title to ?

Mr. GEOFFRION : I am sorry, I have given the wrong page. The page I want to refer to is 3398. That is a notarial deed in Quebec between Quebecers.

The LORD CHANCELLOR : Why should not a Quebecer have an establishment ?

Mr. GEOFFRION : It is only an indication of possession. It is an indication that the transfer of rights in Newfoundland would not be made exclusively by these people in Quebec, staying there, the Newfoundland Government being completely ignored. This is only an element in the matter. All I intended to say was that this is an indication of possession. I have documentary evidence here of Canadians being in possession in that period.

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—
Mr. Geoffrion.

Sir John Simon.

Mr. Geoffrion.

Lord Sumner.

Sir John Simon.

Lord WARRINGTON : They might have had the grant while it was all Canada, because this is only a lease to somebody else.

Mr. GEOFFRION : The way this grant got there is extremely obscure. We find no trace of any grant.

Lord WARRINGTON : This is not a grant by Canadian authority.

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Mr. Geoffrion.

Mr. GEOFFRION : No. It is a transaction between Canadians. I am dealing with possession by Canadians. I am not dealing with grants by the Canadian Government.

Lord WARRINGTON : They may have obtained possession at the time when it was all Canada.

The Lord
Chancellor.

Mr. Geoffrion.

Lord SUMNER : This document is executed at Quebec. The chattels may have been in Quebec, the chose in action that seems to have been dealt with may have been outside Hamilton Inlet, and I have not at present found anything whatever to show that this is not consistent with a transaction entirely in Quebec in every sense of the word.

Sir JOHN SIMON : I think my learned friend will abandon this point if I point out to him this. If you look at page 3399

the title is based on a will made before a notary in Quebec in 1807—at a time when Newfoundland had nothing to do with it.

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Viscount Finlay. Mr. GEOFFRION : My point is exclusively that this was a Canadian possession. My learned friend has been suggesting arguments, which I have to meet, such as this. That the squatters of Newfoundland who went fur trading in the interior were possessing for Newfoundland. My friend has given affidavits.

Mr. Geoffrion. The LORD CHANCELLOR : Why should there not be a Canadian possession in Newfoundland ? There might have been a Dutch possession.

Mr. GEOFFRION : If your Lordship pleases. I am merely answering a suggestion by my learned friend that a squatter on the Newfoundland shore who goes inland to trade with the Indians is possessing for Newfoundland. My argument which I have suggested on possession is one which may not help, but it is on an equal footing with 75 per cent, of my learned friend's arguments on possession. That is all. I do not put it higher than that. When my learned friend suggests that a squatter on the Labrador coast that goes inland to trap is therefore showing that this was Newfoundland, I give my answer and say that if that is the case the Canadian who settles there would show to the same extent that this is Canada. That is my argument.

Viscount FINLAY : I understand your position to be that your opponent's argument is bad, but that is no particular reason for your deducing another argument equally bad.

Mr. GEOFFRION : I put it forward in ease I have not succeeded in convincing your Lordships. If I knew all that was passing through your Lordship's mind my argument would be much shorter. In case of my not being able to convince your Lordship on this matter, I say if my friend's argument seems, in your Lordship's view, to be good, I have the same argument on the other side. That is all I want to say about that.

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— Then I need not give your Lordships the fact that the King's Posts continued to be leased by the Government of Quebec. Your Lordships have had that. I think that is challenged. You have evidence in regard to that in Volume VI, page 2761. This is simply to show the posts which were an actual monopoly were being leased by the Government down to 1861. As these King's posts extended into the disputed territory—there were posts as far as Lake Ashuanipi—it is

Mr. Geoffrion.

evidence of Governmental possession within that territory. That is all the argument is.

The LORD CHANCELLOR : Which of these posts is in that disputed territory ?

Mr. GEOFFRION : The Ashuanipi one. I gave your Lordship the list of them.

The LORD CHANCELLOR : Is that mentioned in this document ?

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Lord Sumner.

Mr. GEOFFRION : No, my Lord. It is simply the King's Posts, that is all.

The LORD CHANCELLOR : I see they are named here. They are Tadoussac, Islets de Jeremie, Chicoutimy and Sept Isles.

Mr. GEOFFRION : All the King's Posts were leased, my Lord. Then the last branch of this case that I want to take up is that the Government of Canada has been consistently helping all these Indians with government activity. The records of payments are gathered together in Volume VI, pages 2835 to 2965. They are all shown in detail. Those are the payments for the support of these Indians. Then you have the table of payments, very lengthy tables, following this document, and it begins at page 2837.

Viscount HALDANE : What is the date of this ?

Mr. GEOFFRION : They begin in 1851.

Mr. Geoffrion.

Lord SUMNER : Note A is of some value ; it states : “ Since the year 1851 the Province of Canada and the Dominion of Canada through the office of the Superintendent-General of Indian Affairs and the Department of Indian Affairs have continued to furnish relief annually, to the Montagnais Indians at Lake St. John, on the Saguenay River and on the north shore of the Lower St. Lawrence. The next paragraph is : “ These Indians, for the most part, make their living by fur hunting in the interior of the Labrador Peninsula, leaving for their annual hunt as early as August and September and returning with their furs in the following spring. All the able bodied Indians go on these trips taking their families with them, only the sick and infirm being left behind. (Dr. McDuff makes mention of this on several occasions.) Since the year 1893 this relief has been extended to the aborigines at the trading posts in the northern and eastern portions of the peninsula where the Esquimaux and the Montagnais and Naskopi Indians foregather. It was the custom of the

Viscount Haldane.

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—
Viscount

Haldane.
Mr. Geoffrion. Department for years to send annually to Father Armand 55 pairs of blankets for distribution to destitute Indians on the north shore of the Lower St. Lawrence. In 1897 this number was increased to 75 pairs.”

Mr. GEOFFRION : But the point I want to make is this, the Indians trading in the St. Lawrence were Indians from everywhere in the hinterland. On my learned friend's theory they were subjects of Newfoundland whenever they were on one side of the watershed, and we were simply on that theory relieving their subjects.

Viscount Haldane. Viscount HALDANE : What is your theory about all this ? At that time Canada had not any grant of the hinterland of Labrador and you say Newfoundland had not got it. Well then, is your theory that

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the Crown making use of whatever Government was convenient asked Canada to take in hand the relief of these Indians ?

Mr. Geoffrion.

Mr. GEOFFRION : I put it this way ; it is a big question whether at this time the hinterland was Imperial or Canadian because your Lordships remember the doubt whether the Act of 1774 gave us this territory, or whether it was given to us in 1880 by the Order in Council. The view we contend for is it was given us in 1774.

The Lord Chancellor.

Viscount HALDANE : You were excluded from it by the Act of 1825 by a line.

Mr. GEOFFRION : In 1825. The question of the meaning of the limits has been dealt with by my learned friend.

Viscount HALDANE : I am not suggesting that line gave it to Newfoundland, I am only suggesting it limited you. It seems to have a large tract undisposed of which was in the Crown and the Crown asked any convenient Government to take in hand the relief of the Indians within that region. What is your theory ?

Mr. Geoffrion.

Mr. GEOFFRION : My theory fundamentally was that it was at the beginning, this possession question is irrelevant. I am simply trying to meet the objection of the other side. Our case is independent of whether this hinterland was then in Quebec, or in the Crown. All we need to say is it was not in Newfoundland.

The LORD CHANCELLOR : I do not see how the fact that the Government of the Province of Canada as it then was sent some blankets to some Indians in disputed territory who were in distress has any bearing at all on the title.

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Mr. Geoffrion.

Mr. GEOFFRION : Then I am quite satisfied with that.

Sir JOHN SIMON : That began in 1893, the year after Canada discovered that this place was valuable.

The LORD CHANCELLOR : 70 years after the document we have to construe.

Mr. GEOFFRION : I am quite satisfied with that because it disposes of some arguments of my learned friend which are more than 70 years after the documents.

The LORD CHANCELLOR : More than 70 years, it is 130 years.

Mr. GEOFFRION : My learned friend gave us evidence of 1810. The next thing I want to deal with is in respect of the rather

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important question, as I think, of the Montagnais dealing with the new. Government immediately after the Conquest. General Murray, on page 3234, at Volume 7, in 1761, writes to William Pitt. He is dealing with the murder of two Tadousac Indians at line 14 by John Collins master of a New York schooner. They are two Tadousaz Indians, I take it Tadousac Indians are the Indians of the hinterland there who came to Tadousac to trade because Indians did not live at Tadousac.

Lord WARRINGTON : That was before the Treaty.

Mr. GEOFFRION : Yes.

Lord WARRINGTON : This is in 1761.

Mr. GEOFFRION : Yes, it is.

Sir JOHN SIMON : Apparently near the mouth of the River Saguenay.

Viscount Haldane.

Mr. GEOFFRION : That is not the point I am dealing with. If your Lordships would let me put my argument, then it can be dealt with or discarded. What I mean is they were Tadousac Indians who had been murdered and we find at line 20 : “ By the intercession of the Hurons of Lorrette this affair has been accommodated to the satisfaction of the Savages consistant with the safety of the Prisoner and the dignity and justice of the British Government. In the course of this treaty the Savages desired I would acquaint all the King's subjects that they having submitted (61) to his Majesty's Government expected his protection and be exempted for the future from the insults of the crews of the ships trading in the river. I

have in consequence begd of Genl Amherst to publish this request in the manner he shall think proper to his Majesty's Colonies, and if it was hinted to the vessels from Europe disorders may be prevented which when they happen alienate the affections of the Indians and confirm them in the bad opinion of the English nation the French have assiduously endeavoured to instill into them.”

Viscount HALDANE : Mr. Geoffrion, let us see what bearing this has. The English had won their victory over the French at this time, but there had been no disposition of the territory taken, the documents of 1763 had not come into operation, so everything was in the state of the greatest confusion. General Murray took whatever course he thought was wisest, he dealt with the case whether he had technical jurisdiction or not ; he was a military Governor.

Mr. GEOFFRION : Exactly.

Viscount HALDANE : It was his business to do the best he could.

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Mr. Geoffrion.

Mr. GEOFFRION : My point is this, it is that we have there these Indians, these very Indians, the Tadousac Indians coming and saying : We want to be placed under the protection of the Conqueror and General Murray gives a Proclamation confirming that, and he reports to William Pitt. I say, there is, therefore, additional evidence, if any is needed, of the fact that these Indians who had been under the protection of the King of France, even if they had not passed by International law, under the Treaty and the Capitulation, under the protection of the King of England, were taken under his protection then. We have on page 2761 the same thing, I will not read it to your Lordships, and we have, finally, evidence how it was understood when the Pontiac Rebellion broke out, a rebellion of Indians generally, the Montagnais understanding from what had happened they had been taken in as citizens or subjects of the British Empire remained loyal. That appears at page 3243. That is all I wish to say on the question except one point, which I forgot to make in my opening remarks the other day, which I will make very briefly, and then I will retire. I may seem stubborn, but I am dealing with the conversation between Lord Egremont and the Governor of the Hudson's Bay Company just before the Proclamation was issued. My suggestion is that the more likely view of that conversation is not that the Governor then and there abandoned the Grimmington Island line and accepted the height of land as a limit, because that is my friend's case, when previously, even in 1759, and ever since 1713, they had been writing and formally insisting on the Grimmington–Mistoseny line, and particularly later, in 1774, as regards the Grimmington grant Mr. Agnew was asking up to Cape Chidley, and it was curtailed wherever the Hudson's Bay line may happen to be. My suggestion is the more likely view of that conversation is when the Governor knew, as undoubtedly was the fact, the coast for fishing purposes was under the control of the Governor of Newfoundland, as they had no coast fishing interests, or even coast fishing rights, they said : We do not care, go as far as you like. There is further this, in that respect, it is incredible, I suggest, in view of the fact that in every other grant made around that time, where the rights of the Hudson's Bay Company are always expressly mentioned and guarded, and in view of the uncertainty of the depth line of the Hudson's Bay Company, leaving aside the Cape Chidley–Grimmington question, it is incredible that this grant to the Governor of Newfoundland should not have contained similar words as we find in the Agnew grant, and as we find everywhere saying that the grant, if there was to be hinterland, would go to the limits of the Hudson's Bay Company, or rather they would have said : We grant to the Governor of Newfoundland the whole of the Labrador Peninsula except what belongs to the Hudson's Bay

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—

Mr. Macmillan.

Company, or Quebec, which is really what my learned friend claims.

On the question of Woody Island, as I understand it, we suggest our view being that we have the Anse Sablon line inclusive.

This, my Lords, concludes my argument.

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The LORD CHANCELLOR : We understand that.

Mr. MACMILLAN : It was lest nothing was said about it at all, it might be said to have gone by default.

The LORD CHANCELLOR : You dealt with it.

Mr. MACMILLAN : I am afraid I did not. Mr. Barrington-Ward dealt with it, but I did not personally deal with it. I did not want it to go by default.

Sir JOHN SIMON : I do not understand my friend to have conceded it. That point is left entirely open.

Mr. MACMILLAN : Quite so, but you might very properly have said, as nothing has been said about it at all, that we accepted your argument.

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BETWEEN THE DOMINION OF CANADA
AND THE COLONY OF NEWFOUNDLAND IN
THE LABRADOR PENINSULA**

BETWEEN

THE DOMINION OF CANADA of the one part

AND

**THE COLONY OF NEWFOUNDLAND of the other
part.**

VOLUME XII

ORAL PROCEEDINGS

SPEECHES IN REPLY BY

RT. HON. SIR JOHN SIMON, K.C., on behalf of the Colony of Newfoundland

RT. HON. H.P. MACMILLAN, K.C., on behalf of the Dominion of Canada

REPORT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL.

THE APPROVAL OF THE KING'S MOST EXCELLENT MAJESTY.

Pages 748A-1027.

[1927lab]

In the Privy Council

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF CANADA AND THE COLONY OF NEWFOUNDLAND IN THE LABRADOR PENINSULA.

ORDER OF MATTERS DEALT WITH IN SIR JOHN SIMON'S SPEECH IN REPLY FOR THE COLONY OF NEWFOUNDLAND.

[NOTE. - The letters A.D.N. refer to the Additional Documents submitted by the Colony of Newfoundland, and printed in Vol. X after the Chronological Index.]

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787-789	Prof.Gregory's Report	V, 2489, 2508.
788	" Coast " in British Columbia	V, 2505.
789-790	Reports of Dr. Kindle, Prof. Tate Regan, Prof.Fernald	V, 2362, 2509. VIII, 3936.
790	The physiographic character of Hamilton Inlet	
790-791	Commission to Graves, 1763	I, 144.
	Proclamation of 7th October, 1763	I, 153.
791-792	Orders in Council of 30th March, 1763	X, A.D.N. 14.
792-797	The Proclamation of 7th October, 1763	I, 153.
793-797	<i>The Indian Country</i>	
803-838	<i>The Hudson's Bay Co.Boundary-" The Height of Land "</i>	
804-808	The Charter of 1670	II, 367
805-806	" Height of Land " or " watershed "	
808	The Ontario-Manitoba Boundary Arbitration	V, 2135-2151.
808-811	Mitchell's Map of 1755	(Brit.Mus.C.C.10.)
809-811	Treaty of Utrecht	I, 329
811-813	Sanson's Map of 1656	N.A. 1.

GUIDE TO SIR JOHN SIMON'S SPEECH IN REPLY—*Continued.*

Pages.	Subject.	Reference in Printed Documents.
813	Bellin's Remarques sur la carte de l'Amerique Septentrionale	VIII, 3774.
814-815	Coronelli's Map of 1689	N.A. 1
815-818	Mortier's Map of 1693	N.A. 3.
819	De l'Isle's Maps	N.A. 4-8
819-821	De l'Isle's Map of 1703	N.A. 8
820-821	Instructions to Graves (Art.7) Hamilton Inlet	II, 393
822	Maps of Sensex and Bellin	N.A. 9-12.
822-824	Bellin's Map of 1755	N.A. 12.
824-828	Bellin's Remarques	VIII, 3774.
828	Berlin's Map of 1755	N.A. 12
829	Statement of Limits Claimed by the Hudson's Bay Company in 1711	VIII, 4054.
829-832	Memoir of Intendant Hocquart	VII, 3208
832-837	Legal Opinions, etc., with reference to the Hudson's Bay Company, 1814-1857	VIII, 4114-4134.
838-865	<i>The Calendar of 1763</i>	
839	Treaty of Paris (10th Feb.)	I, 330.
839	Representation of the Lords of Trade (15th March)	II, 386.
839	Change of Policy, in March 1763, with regard to Newfoundland and the mainland	
840	Lord Egremont to the Lords of Trade (17th March)	X, A.D.N. 10.
840-841	Representation of the Lords of Trade (21st March)	X, A.D.N. 11.
841	Secretary of H.B.Co to Earl of Egremont (23rd March)	VIII, 4110.
841-842	Lord Egremont to the Lords of Trade (24th March)	II, 389.
842	Representation of the Lords of Trade (25th March)	X, A.D.N. 13.
842	Representation of the Lords of Trade (29th March) Submitting Draft Instructions	II, 390. II, 391.
843-844	Orders in Council (30th March)	X, A.D.N. 14.
844-845	<i>Change of Policy in March, 1763</i>	

845	Commission to Graves Sealed, 25th April	I, 149.
845-846	Admiralty Instructions, 2nd May	II, 406.

GUIDE TO SIR JOHN SIMON'S SPEECH IN REPLY —*Continued.*

Pages.	Subject.	Reference in Printed Documents.
846-871	<i>The Indian Question</i>	
846-849	Lord Egremont to the Lords of Trade (5th May)	II, 809.
849	Representation of the Lords of Trade (8th June)	III, 903.
849	The two Agents for Indian Affairs	
850-852	Lord Egremont's Circular Letter (16th March)	X, A.D.N. 9.
852-861	Representation of the Lords of Trade (8th June)	III, 903.
858	Bowen's Map	C.A., 27.
861-863	Lord Egremont to the Lords of Trade (14th July)	III, 915.
863-865	Representation of the Lords of Trade (5th August)	III, 918.
864	Labrador Acquired by Cession from French	
866	Outside boundaries of Labrador Peninsula known in 1763	
866-869	Conspiracy of Pontiac, as described in Parkman's book on that subject	Not printed
869-870	Letter of Geo. Washington (21st Sept., 1767)	Writings of G.W. (not printed.)
870	Representation of the Lords of Trade (7th March, 1768)	X, A.D.N. 19.
871	The Proclamation, 7th Oct., 1763	I, 153, 156.
872, 876-877	The Bill of 1825	Not printed, but cf. I, 205.
878-900	<i>The Indian Question</i>	
878-880	Fortescue's History of the British Army	
880-881	Commission to Sir William Johnson (17th Feb., 1756)	X, A.D.N. 1.
881	Representation of the Lords of Trade (1756)	X, A.D.N. 2.
881-882	Representation of the Lords of Trade (1761)	X, A.D.N. 3.
882	Commission to Sir William Johnson (1761)	X, A.D.N. 4.
882	Commission to John Stuart (5th Jan., 1762)	X, A.D.N. 7.
882	Mitchell's Map of 1755	Brit. Mus. C.C.10
883	Treaty with Indians	Record Office

883-891	Representation of the Lords of Trade (7th March, 1768)	X, A.D.N. 19.
884	The Proclamation of 7th Oct.1763	I, 153.

GUIDE TO SIR JOHN SIMON'S SPEECH IN >REPLY—*Continued.*

Pages.	Subject.	Reference in Printed Documents.
885-887, 890	Map showing agreed boundaries of Indian lands	Not printed
890	Plan for management of Indian affairs (1764)	II, 840.
891-895	Instructions to Sir Guy Carleton of 3rd Jan.1775	II, 820, 832.
891-892	Reference in Lord North's speech to the two countries—the Coast of Labrador and the Interior Country	III, 1124.
893-894	Plan for the management of Indian affairs (1764)	II, 840.
894-895	List of Indian Tribes Census Map of 1870	II, 846. VIII, 3731
896	Representation of Lords of Trade on Sir W.Johnson's Application for Grant of Land (1767)	X, A.D.N. 17.
896	Grant of land to Moravians	III, 1321.
896	Representation of the Lords of Trade as to grant of mines in the country adjacent to Lake Superior	Not printed.
897	Grant of mineral rights to Agnew	III, 1080.
898	The Boundaries of the Indian Country	III, 919, 1. 8. 920, 1. 44. 923, 1. 20. II, 820,832, 833, 840, 846.
898-899	<i>(Indian Argument not in Canadian Case)</i>	
899-900	Census of the United States	Not printed
900	The Abroignes Map in H.B.Co.Report	C.A. 33
901-902	The Southern Boundary Claimed by Newfoundland	cf. I, 210-211.
902-903	The two Rivers St.John	I, 153.
903-906	Conclusion. In 1763 the watershed was the only available boundary in the interior	
904	The outline was then known	
904	The Newfoundland claim is confirmed by Canadian official maps	N.A., 35, 39, 41.
904	And by the view of the Home Government in 1774	V, 2293-2308.
906	Canadian acts of occupation negligible	VI.
906	Boundary claimed by Newfoundland	

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In the Privy Council

IN THE MATTER OF THE BOUNDARY BETWEEN THE DOMINION OF CANADA AND THE COLONY OF NEWFOUNDLAND IN THE LABRADOR PENINSULA.

ORDER OF MATTERS DEALT WITH IN THE SPEECH OF THE RIGHT HON. H.P. MACMILAN, K.C., IN REPLY FOR THE DOMINION OF CANADA.

Pages.		Reference in Printed Documents.
906-908	Importance of ascertaining the purpose of the Sovereign in placing coast of Labrador under care and inspection of Governor of Newfoundland, on which there is nearly complete agreement between counsel.	
909-910	Contrast between words used in Hudson's Bay Company's charter as regards territorial grant, and those used in instruments alleged to grant to Newfoundland territory extending to watershed.	Vol. II, p. 367 ; Vol. I, pp. 149, 154.
910-911	Extent of disputed territory as compared with that of Newfoundland	
911-914	Questions as to whether, with purpose disclosed, coast could mean more than margin of the sea.	Vol. III, p. 909 ; Vol. I, p. 154.
914-917	Discussion of modes of expression in the Proclamation, Oct. 7, 1763	Vol. I, pp. 153, 154.
917-920, 924-928	Relative values of Commission to Graves and Proclamation ; dependence of one or the other for interpretative purposes.	Vol. I, pp. 149, 153.
920-924	Discussion as to whether a sudden change of policy took place by which a mere fishing jurisdiction was converted into a territorial jurisdiction.	Vol. II, p. 387 ; Vol. I, pp. 331-332; New documents, 10, 11.
929-933	North-eastern limits of Hudson's Bay Company's territories	Vol. VIII, p. 4110.
933-934	Limits of territory confided to Governor of Newfoundland coastal points.	
934	Instructions to Governor of Newfoundland unaltered when Labrador coast was included, except where necessary to interpolate " Labrador Coast. " No toleration for Roman Catholics.	Vol. II, 395.

Pages.		Reference in Printed Documents.
934-943	Discussion of term " coast " as used in words " Coast of Labrador "	Vol.I, pp. 149, 153, 250, 334 ; Vol. V, pp. 2181, 2185-2189.
943-945	Reservation of hinterland for use of Indians	Vol.I, p. 156,
945-948	Views of Lord Knutsford, Justice Pinsent, and Governor of Newfoundland as to extent of territory on Labrador Coast, attached to Newfoundland. . .	Vol. II, pp. 339-361.
949-957	Limits of Hudson's Bay Company's territories in Labrador Peninsula not a watershed	Vol.VIII, pp. 4030-4142 ; King's Map, 1755 ; Map 14 (Nfld.) ; Vol.I, p. 159,
957	Uncertainty as to location of entrance to Hudson's Straits	
958	Ontario-manitoba Boundary case in relation to watershed question	Vol. V, p. 2145
960-962	Chief Justice Draper's opinion as to boundaries of Hudson's Bay territory(1859).	Can. Suppl. Docs. 2-6.
962-972	Consideration of Mitchell's Map (1755), as bearing on Hudson's Bay company's boundaries and watershed.	
972	Consideration of Bowen and Gibson Map	Maps 27 (Can.)and 13 (Nfld.).
977	Indian reservations	
977	Report of Governor Murray on Labrador Indians	Vol. III, p. 893.
979	Canadian Census Returns for Labrador Peninsula	Vol. VIII, pp. 3727-3735.
979	Bureau of American Ethnology on Labrador Indians	Vol.VI, pp. 2829, 2830.
980	Territory comprised within Indian reservations	Vol. III, p 910; Vol. I, pp. 156, 157.
983	Comparison of instructions to Governors of Newfoundland and Quebec.	Vol. II, pp. 391-405, 781.
983	Reference to Indians whose territories were adjacent to old English colonies.	
985	Labrador Indians within scope of Proclamation of Oct. 7, 1763	Vol. VI, p. 2761.
988	Comparison of instructions to first Newfoundland Governor of Labrador Coast, to Governors of Quebec after Quebec Act ; and to first Newfoundland Governor of Labrador Coast after Act of 1809,as respects Labrador Indians.	Vol. II, pp. 391, 662, 882, 878. Canadian additional document.

SPEECH OF THE RIGHT HON. SIR H. P. MACMILLAN, K.C.—*Continued.*

Pages.		Reference in Printed Documents.
989	Natural reading of Proclamation of Oct.7, 1763, is reading contended for in Canadian case. Whole area ceded by France distributed under Proclamation, Governor of Newfoundland being given limited territorial jurisdiction between defined points on Labrador Coast.	
991	Discussion of width of strip granted to Newfoundland on Labrador Coast, necessary to satisfy terms of Proclamation of Oct 7, 1763.	
996	Discussion as to whether shores of Lake Melville are " coast " in sense of terms of controversy.	
998	Test of question is, is Lake Melville essential for carrying on an open and free fishery which, it is contended, is solely a cod fishery.	
1000	Overriding consideration is observance of Act of 1699	
1000	Conclusion	

In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Monday, 8th November, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. SIR THOMAS WARRINGTON.

**IN THE MATTER OF THE BOUNDARY
BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
NEWFOUNDLAND IN THE
LABRADOR PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

8 Nov., 1926.

—
Sir John Simon.

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

The Lord
Chancellor.

ELEVENTH DAY.

Sir John Simon.

Counsel for the Colony of Newfoundland :—The Rt. Hon. Sir JOHN SIMON, K.C., Mr. F. T. BARRINGTON WARD, K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by Messrs. BURN & BERRIDGE.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTOX (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.

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MORNING SESSION.

Sir JOHN SIMON : There are very few things which have not been dealt with.

Now, my Lords, I am acutely conscious of the fact that the matters which are material in this important Inquiry have been canvassed before your Lordships and have been considered by the Board in great detail, but at the same time there is a good deal which I should wish to present with some brevity on the case, in view of the elaborate arguments that have been presented on behalf of the Dominion.

8 Nov., 1926.

Sir John Simon.

The LORD CHANCELLOR : Sir John, I daresay you have got your plans made, and I do not want to disturb them, but I would be very grateful if, at some time or other, you would go through these maps, especially the maps prior to 1763, and go through them if you will, in order of date, so that I may know just what may have been before the authors of these documents when they were framed.

Sir JOHN SIMON : It is one compartment I had down ; your Lordship will not ask me to deal with it immediately, because I have got some other things to deal with.

The LORD CHANCELLOR: Certainly.

Sir JOHN SIMON : I was going to suggest to the Board, with great respect, perhaps in the first instance, now you have heard elaborate arguments from both sides, what is well to be done is to see how far there is common ground which is material for the purposes of assisting the just conclusion ; and without in any way making an exhaustive list, it appears to me that there are four matters, at any rate, which can now

fairly be claimed to be common ground as between the two sides, or at any rate, to be so far indisputable, that I may fairly treat them as undisputed. There are four rather important considerations which I think are now no longer matters of controversy—there may be others. The first one is this : it is not now any matter of controversy at all that the events of 1763 annexed to the Government of Newfoundland territory on Labrador. It is very tempting, of course,

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to make play with the idea that the primary object was, as it undoubtedly was, to supervise and control fishing operations on Labrador. That does not make any difference to what fishing operations now common ground. My learned friend, Mr. Macmillan, of course, has admitted, as you would have expected, most frankly that what we are dealing with when we are speaking of Newfoundland's rights on the Labrador Peninsula is territorial rights, and indeed, my Lords, this is a very striking fact which I have checked, and which I am going to develop if I may : the word " territories " which you will find used again and again in various documents defining and describing Newfoundland's rights on Labrador, so far as we have been able to trace it and check it, is a word which is only introduced and used after Newfoundland has this Labrador addition. We cannot find in any document, any formal document, grant, Commission or Order in Council—or what you please—it is a mere coincidence, but we do not find the word " territories " at all in the formal documents that were being used down to 1763. When you come to the enlargement of the Newfoundland territorial area you will find this word " territories " used again and again, and indeed when you come to the Quebec Act of 1774 and it became a question of transferring back, from Newfoundland to Quebec, territory which had previously been Newfoundland's, your Lordships will be struck with the circumstance that not only is the language used in the Act " territories " but the word " coast," the possibly rather ambiguous word " coast," does not appear in the Act at all. That is the first matter which is a matter of common ground and which I venture to think is worth noting.

8 Nov., 1926.

—
Sir John Simon.

Viscount HALDANE : Which Act are you referring to ?

Sir JOHN SIMON : The Quebec Act of 1774, which transfers to Quebec everything in the green area whether it is properly to be regarded as Newfoundland or not. If your Lordships would be kind enough to look at this particular point now, I should be grateful. It is in the red volume at page 158. As far as I have checked it, I think I am right, you will not find in the Quebec Act of 1774 the word " coasts." In fact we may very well conceive that when the Legislature is dealing with this process of transfer—

Lord WARRINGTON : The words on page 159 are “ Territories, Islands and countries.”

Viscount HALDANE : There is no more there than in 1763.

Sir JOHN SIMON : Not a scrap. Please do not understand me to say so, I am merely observing on the first point I am making (which I venture to suggest is well worth nothing) we are not only dealing

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here with a territorial transfer, but at a time when I can well understand there may possibly have been some opportunity for doubt, the actual language is extremely specific.

Viscount HALDANE : “ Territories ” is a very general word.

Sir JOHN SIMON : I am not saying more. Would your Lordships allow me to ask attention to the actual passages ; you will find, my Lord, the word is on page 159 at line 14 : “ And also all such Territories, Islands, and Countries, which have, since the Tenth of February One thousand seven hundred and sixty–three, been made Part of the Government of Newfoundland.” Now, my Lords, with that in mind, I still keep to my first point, my first observation about “ territories.” Would your Lordships allow me to take, I think, two references in another volume, in order to show how this word “ territories ” first comes to be used. If your Lordships will please turn to the second volume at page 393—I am afraid this is a passage which is becoming very well worn, I am sorry, but one cannot help it—there you get paragraphs 7 and 8 of the instructions issued to Governor Graves consequent upon the re–arrangement. I am putting the matter together to the best of my power. If your Lordships would look at line 29, you may take it, because I have had this carefully checked, that this expression which you find there : “ Other Islands and Territories under your Government,” and in the same way in the following paragraph at line 39 : “ Islands or territories under your Government,” that that expression is an expression which was expressly introduced into the Instructions of the Governor of Newfoundland, and was an entirely new expression not to be found in any previous document. The suggestion, which has been made rather faintly by my learned friends on the other side, that the stress I have put on the use of the word “ territories ” is overdone because it might perhaps refer to something other than Labrador, is quite unfounded. I have had the documents compared as before 1763 and after 1763, and your Lordships may take it, with quite complete confidence, I think, that the use of this word “ territories ” again and again is introduced specifically in reference to the Labrador area. I am going in a moment to show your Lordships the very striking change which is made in the Commission of Governor Graves on the

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—
Viscount
Haldane.

Sir John Simon.

Lord
Warrington.

Sir John Simon.

same point. My learned friend Mr. Barrington-Ward has taken some special pains about this, and it is very striking. I am going to hand your Lordships, if I may, a copy of the Commission to the Governor of Newfoundland as it was before 1763, in order that your Lordships may observe what is the nature of the alterations made in that Commission when in 1763 he also gets duties at Labrador, and if your Lordships will kindly take this copy, you will see very conveniently the red ink in the margin shows the changes. (Document handed in.) They did it, as I imagine draughtsmen will do it nowadays.

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Viscount HALDANE : There is a reference to the Coast of Labrador just a few lines down on page 393.

Sir JOHN SIMON : Yes, there are a number of references.

Viscount HALDANE : “ And carrying on a Commerce with the Indians residing in or resorting to the said Islands, or inhabiting the Coast ,of Labradore.”

Sir JOHN SIMON : Quite. I hope your Lordship will not think for a moment I am suggesting the word “ coast ” is not used. The point is that the word “ territories ” is a new word, and must be read as specifically referring to Labrador.

Lord WARRINGTON : I think you are right ; he is directed to visit “ All the coasts and Harbours of the said Islands and territories under your Government.”

Sir JOHN SIMON : That is it.

Lord WARRINGTON : The coast of Labrador is one of these coasts, that is to say, “ The coasts of the territories under your Government.”

Sir JOHN SIMON : That is right. In exactly the same way we can see, if we look through the draft of the framers of the Commission, how the word “ territories ” is inserted. If I might ask your Lordships' indulgence and ask for that to be examined, it has been checked and has been put on a single piece of paper.

Viscount FINLAY : The instructions after are at page 391.

Sir JOHN SIMON : Yes. I was passing for a moment from the instructions, which, as your Lordship knows, may be regarded as an internal and domestic set of documents, to the Commission, which as your Lordship knows is a

contemporary document and is the authority.

Viscount FINLAY : Surely for the purpose of comparison one must take instructions with instructions. Page 391 is the instructions after.

Sir JOHN SIMON : Your Lordship is quite right.

Viscount FINLAY : Where are the instructions before ?

Sir JOHN SIMON : I have had them examined and I have also got them here ; I was rather observing, to save your Lordships' time, that you may take it, as I have carefully checked it, that the word “ territories ” does not occur in the instructions before.

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8 Nov., 1926.

—

Sir John Simon.

The Lord
Chancellor.

Sir John Simon.

Lord Sumner.

The LORD CHANCELLOR : You have reconstructed the words of the draughtsman.

Sir JOHN SIMON : I have exactly. I have taken the documents as they were before 1763 and have compared them with the documents after 1763, and with the help of my friend Mr. Barrington-Ward I have had put in red ink in the margin what the changes were. When you look at them you see quite clearly, the man who was dealing with the document, which is now in the Lord Chancellor's hands, was plainly addressing himself to an extended territorial jurisdiction, and indeed I think, my Lord, in the margin in red ink you will find the word " territories " popping up. It used to be " The said Island," and it is now changed into " The said Island and territories." I do not wish to labour the point or occupy further time about it, but I think I am quite right in what I am indicating about it.

Viscount FINLAY : Would you give me the page on which the special instructions are ?

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—

Sir John Simon.

Sir JOHN SIMON : 391 are fresh instructions, your Lordships have them before you.

Viscount HALDANE : These relate to the " Island of Newfoundland and all the coast of Labrador."

Viscount FINLAY : As compared with the earlier instructions, what page are they on ?

Sir JOHN SIMON : They are not printed, and therefore I am afraid for the moment I must ask your Lordships to take my word for it, but there is no difficulty in going further.

The LORD CHANCELLOR : On page 5 of this copy the words put in are " And the coasts and territories of Labrador and islands adjacent thereto," and a little later on " said islands," and somebody has put in " and territories."

Sir JOHN SIMON : That is right ; it shows plainly that " territories " is a new word. I have now ventured to put before the Lord Chancellor what Lord Finlay was asking for, namely, the earlier instructions which have in the same way been compared with the later instructions and exactly the same observation applies.

Lord SUMNER : He does not use the words " coasts," which may be the property of the islands as well as of the continent,

but he uses the word “ territories.”

Sir JOHN SIMON : Lord Sumner, I think, is putting it a little bit higher than I am entitled to claim. He uses the word “ territories,”

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and as I have pointed out the use of that word can be associated with and exclusively with, the new area, but, of course, there are passages where he also uses the phrase “ coasts of Labrador.”

Lord SUMNER : Quite, the new area is to be preserved as the coast of Labrador.

The Lord
Chancellor.

Sir JOHN SIMON : Your Lordship has put it quite right. I do not suggest the word “ coasts ” does not also occur. My argument on this point is simply, we are dealing here with territorial annexation, but it is, I think, a striking fact that the way in which it was done was to take the Instructions as they previously existed and the Commission under the great Seal as it previously existed and then to proceed to put in, as the Lord Chancellor says, reconstructing the words of the draftsman, additional phrases and clauses and references which show quite plainly that “ territories ” really may be said to mean a portion of Labrador.

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—
Sir John Simon.

Lord Sumner.

Sir John Simon.

There is another rather interesting and striking circumstance, which is this : if your Lordships take the Instructions, if my Lord Chancellor looks at the last page of them, you will find that even such a phrase as “ Rivers ” is a new insertion. Would your Lordships take Volume II, page 404, at the bottom of the page—it is the same document that Lord Finlay was asking about just now. These Instructions, as your Lordships know, are very long, they deal with an immense variety of matters, there are probably 80 or 90 paragraphs ; but would your Lordships please look at page 404, paragraph 74, at line 42 ? The Governor of Newfoundland after 1763, under his extended Instructions, is told to do this : “ and, if there be any Fishing in any other River or Harbour in Newfoundland, or the other Islands and Coasts under your Government, not in this Scheme mentioned, you are to add a Column or Columns for the same, and insert therein the best Account you can get.” Now here is a striking fact : if you will look at my comparison of the Instructions, you will find that the phrase “ River ” is put in for the first time when Labrador came in ; it had never been in the Instructions before ; so that so far is it from being true that this extension of the jurisdiction of the Governor of Newfoundland to Labrador is a mere matter of maritime police, he is, for the first time as it happens, when these Instructions are thus enlarged, given an explicit direction to have regard to fishing, not merely on the coast, but in the rivers. I do not know whether my Lord Chancellor has the exact passage before him.

The LORD CHANCELLOR : Yes, it is put in afterwards ; where he comes to Newfoundland, he has put in the words “ or the other islands or coasts under your Government.”

Sir JOHN SIMON : I think I am right in saying that “ river ” is itself a new word. I do not think it is open to doubt if you make a

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Careful comparison between the pre-1763 and post-1763 Instructions and Commissions that what the authorities at home conceived they were dealing with was a territorial extension, which was far from being a mere dealing with the sands of the sea shore, but which embraced rivers and embraced an area which is called indifferently “ Territories ” and “ Coasts.”

Lord SUMNER : What is the exact point about this word “ River ” ? I suppose the object is to extend the word “ Coast,” if it is preceded by territories, but does the mention of “ Rivers ” in Labrador, and not in Newfoundland, mean there were no rivers, or fishable rivers, in Newfoundland ?

Sir JOHN SIMON : Your Lordship has not quite got my point ; it is not a big one, but I think it helps my case that the language of the Instructions to the Governor of Newfoundland before 1763, in this paragraph 74, contented itself with a general direction about “ if there is any fishing in any harbour.”

Lord SUMNER : No doubt it included any fishing if there was any.

8 Nov., 1926.

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Sir John Simon.

Sir JOHN SIMON: I have no doubt the moment when “ river ” became specifically mentioned, is the moment when the Labrador mainland is added.

Lord SUMNER : It seems to show that this gentleman is very careful.

Sir JOHN SIMON : I hope your Lordship will not think I am making more of it than that. That is my first point of common ground ; I say it is no matter of dispute now, that we are dealing here with a material territorial annexation, though, of course, how deep, remains to be decided. The second point I wish to make, which again is common ground I think, is this, and it is one which has been strangely over-looked in a great deal of the argument I have heard from my learned friends: Whatever be the depth to which this territorial jurisdiction extends on Labrador, the nature of the jurisdiction, the quality of it, is exactly the same as the quality of the jurisdiction in the island of Newfoundland itself. I have heard

a great deal of argument during the last week or two that has seemed to suggest, that you had the Governor of Newfoundland established in his island in complete and undoubted sway, and that then there is added to him some incidental duty which is of a qualified kind. Nothing of the sort. The documents, if they are compared, show quite conclusively, and it cannot be disputed, that in point of quality, once you have ascertained how deep you go, the duties are exactly the same in the two cases. Let me give your Lordship one very striking illustration of that. Again and again, you will remember, stress has been laid on the fact, and it is the fact, that the Governor of Newfoundland, in

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relation to the coast of Labrador, was told that he was to conduct himself so as to have due regard to the Imperial Statute 10 and 11 William III ; you will remember it comes in the Instructions, and it is all over the place. The Imperial Statute 10 and 11 William III, was passed for the Island of Newfoundland and applied to the Island of Newfoundland, and what is more it never applied to anything else except the Island of Newfoundland. Therefore, if any stress is going to be laid on the circumstance that the Governor of Newfoundland, in dealing with this Labrador area, was to have primary regard to the particular and rather curious fishing regime which goes on there, it is to be remembered that that is exactly the thing which he was directed to do in reference to the Island of Newfoundland, and the truth of the matter, of course, is this : it is all very well for my learned friends to emphasize the undoubted truth that until quite recently there were not more than a handful of white people on the Labrador Coast, save quite close to the salt sea waves, but the thing is equally true about the Island of Newfoundland, and if anyone was to look (I rather think it is in the book somewhere,) at the census of Newfoundland, you will find that the Island of Newfoundland was an exactly similar place, it was a place where you had not any white people except in the rarest case within more than a mile or two from the waves until quite recently, and indeed the interior of it was to a very large extent unknown, just as the interior of Labrador was unknown.

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Lord WARRINGTON: It was the policy of the Imperial Government to prevent the settling of Newfoundland.

Sir JOHN SIMON : It was, my Lord. All I say is, my second point, which is really common ground now we have discussed the case, is : you may dispute as much as you like, and it is a serious and difficult question, how deep back you go, but let us realise we are not only dealing with a territorial jurisdiction, but we are dealing with a territorial jurisdiction of a quality which is exactly the same as the quality in Newfoundland itself.

Viscount HALDANE : You say the jurisdiction is not distinct, but at line 14 on page 154 the purpose is given, “ And to the end that the open and free fishery of our subjects.”

Sir JOHN SIMON : Yes, your Lordship is perfectly right ; I am going to deal with that rather carefully in a moment ; though even there, my Lord Haldane, I would beg leave to say exactly the same thing might have been said at that date with regard to the Island of Newfoundland itself. The policy of the Imperial Government in 1763 was to secure in reference to the Island of Newfoundland itself the very same thing; and therefore it is fallacious to draw this suggested contrast between a completely organised and effective Government, which passed over the whole of this immense area of the Island, and compare that or contrast that and set that against a more limited and casual

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exercise of authority on the coast of Labrador. The two things are the same.

Viscount HALDANE : Still you have a permanent residence for the Governor in Newfoundland at St. John's.

Sir JOHN SIMON : I am not at all sure that the Governor did not live on a ship ; he came back every winter. You will find, my Lord, as a matter of fact, that in April 1763 Captain Thomas Graves, Governor of Newfoundland, was in London. He came back along with everybody else in the Autumn of the year, and he went out as Commodore of the fishing squadron in the month of April. I know the day, that he started back, within a day or so, in 1763.

Viscount FINLAY : He went on a ship, but when he arrived he did not remain at anchor, rolling up and down on the waves.

Sir JOHN SIMON : I do not know how uncomfortable it may have been, but I do not think he had a luxurious Government house there.

Viscount FINLAY : I do not say that.

Sir JOHN SIMON : Your Lordships have a little confirmation of this point of mine, though really, as I say, the point is common ground, and it is this : you remember that Governor Palliser, the Governor who succeeded Graves, found himself in a difficulty, because he had got instructions which told him that in administering the Labrador area he was to act on the lines of the Imperial Statute 10 and 11 William III, and the good man therefore, when he found people who were saying they were entitled to hold land on the Labrador coast, was

minded to turn them out, because he said : “ Oh no, the Statute of 10 and 11, William III. does not allow things like that.” He got himself into this difficulty, that the people who were on the Labrador coast took some good advice, and it was pointed out quite accurately, with some acuteness, that 10 and 11 William III did not apply to Labrador, but only applied to the Island of Newfoundland, and your Lordships I daresay remember in these Volumes, that Governor Palliser reports his difficulties to the authorities at home, and says, “ Here I was, acting on my instructions to deal with these people on the Labrador Coast, as I should certainly have done with them if I met them on the Island of Newfoundland, and now I am threatened with an action.” I daresay your Lordships will remember from the documents that it was proposed at home to have a new Act of Parliament which would extend 10 and 11 William III in express terms, so that it applied, not only to Newfoundland, but to Labrador. That was never in fact done. All that point goes to show that as soon as you said to Governor Palliser : “ Now go and do on Labrador what you have been doing in the Island of Newfoundland,” he did his best to do it, but there was this technical difficulty, that 10 and 11

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William III did not really apply to the new area. However, that my Lords, is my second point, which I just want to mark down before we come to controversial matters.

The third point which I suggest is also worth noting as a matter of common ground is this, and here I am afraid for the moment Lord Haldane may not be disposed to agree with me, but I am sure he will if I have rightly appreciated how the argument must go ; it ought to be common ground, and on reflection I think it will be common ground : that ever since 1774 in my green area there never has been, and there never could have been, any undistributed middle, if I may presume to use a phrase of formal logic in quite a different sense ; that is to say, in 1774 the Statute threw into Quebec the whole of my green, including any portion, whether it be broad or narrow, which had previously been Newfoundland, and from that moment, Newfoundland was ousted for a certain period of time from the mainland altogether, and any area which Newfoundland might formerly have had, whether it be narrow or broad, was included in the extended Province of Quebec. Now what has happened since ? Nothing whatever has , happened since which could possibly cause the springing up in this green area of a tertium quid, a no-man's-land, an undistributed middle, or whatever you call it, because all that has happened since is——

Viscount HALDANE : I do not call it a No-man's-land.

Sir JOHN SIMON : I quite know ; your Lordship has warned me of that already : there has never been an undistributed area since. From that moment it has either all belonged to Quebec, or all belonged to Newfoundland, or partly belonged to the one and partly belonged to the other.

The LORD CHANCELLOR : I think Mr. Macmillan took that view.

Sir JOHN SIMON : He did, my Lord ; I am only anxious to nail it down, if I may, because, of course, the moment that that is conceded, and what is more important, if I may say so, the moment it is appreciated that must be the logical conclusion, all questions about the Order in Council of 1880 go clean out of the case.

Viscount HALDANE : I am not satisfied yet, but I will hear you about it.

The LORD CHANCELLOR : It all depends on whether, when the boundary is brought up to the Southern boundary of

Hudson's Bay, it travels along that boundary to the sea.

Sir JOHN SIMON : Yes, that is quite true.

Viscount HALDANE : Of course, it is clear that, when Quebec was

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extended in 1825, there was a line drawn which showed what belonged to Quebec.

Sir JOHN SIMON : I appreciated your Lordships would want to have this matter put before you, and we have taken the liberty of preparing for your Lordships inspection, if you will be so good as to look at it, what is my original hand chart with this difference : that we have put upon it, I think in rather a generous way, a band of brown which will indicate what we understand to be the view presented by Mr. Macmillan. His view is that all that Newfoundland got—he concedes it got territory, but all it got was something which was of a certain width,—I am not for a moment discussing a mile or not—which runs round the coast and the inlet with the exception and the curious exception I think, of the largest inlet of them all, and therefore his view would be, that what I have now got marked on this in brown is all that Newfoundland acquired on Labrador in 1763.

Viscount FINLAY : By the brown you mean the fringe to the zone ?

Sir JOHN SIMON : Yes, my Lord. If I may give your Lordships one or two copies, you will see exactly what I mean. I am only concerned to show, what I think must follow, that since at one period in 1774, Newfoundland was expelled from Labrador, and since after that all that has happened is that Quebec has given up as much as Newfoundland has regained, there is not and there never has been, any space between Quebec territory and Newfoundland territory, which could possibly belong to neither the one nor the other.

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Viscount HALDANE : In 1825 they gave to Newfoundland all the part not belonging to Quebec ?

Sir JOHN SIMON : Might I put it for a moment in my own way, with your Lordship's kind help. If you would not mind looking at my map, I could explain my meaning on the map very plainly. This is all subject to one observation, which the Lord Chancellor made to me just now, which I thoroughly appreciate. But assume, my Lords, for a moment, if you would, that the uncoloured portion of the chart now before your Lordships, is Hudson's Bay territory—I quite appreciate that that is a separate question, but assume it for the purpose

in hand

Viscount FINLAY : You mean to the West ?

Sir JOHN SIMON : Yes, my Lord, the uncoloured portion at the West ; your Lordship is quite right. Then your Lordships remember you get the old Province of Quebec, as defined in 1763, limited by the River St. John running up to its source on the West, and then by a line which unites the head waters of the River St. John, whatever they may be, with Lake St. John, and so forth—my lozenge. Now, my

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Lords, I may be right or I may be wrong when I suggest that Newfoundland at the same time got the green—indeed, it would be at that moment the green and the pink.

Viscount HALDANE : Are you talking of 1825 ?

Sir JOHN SIMON : No, I am talking of 1763 ; I want to take the things in order. I say I may be right or I may be wrong, my 1763 Newfoundland may be too big (your Lordships will decide), but suppose for the moment it was so small that it is nothing more than the selvedge which I have coloured here in a brown edging—supposing that is all Newfoundland got, then the position in 1763 was this, that Quebec for the moment was nothing more than this slate-coloured lozenge (of course, it is not all shown on this map, it goes down to Quebec and Montreal), and Newfoundland on this view would be nothing more than this little brown trimming or fringe. Then comes 1774. Now 1774, whatever else it does, does this : it expels Newfoundland from Labrador altogether, and it adds to Quebec, not only what Newfoundland had, but everything else which is cut off by running that immense boundary round, you recollect, down to Ohio, the Mississippi, and coming to the boundary of the Hudson's Bay territory ; and it therefore leaves you with this enormous tract all called Quebec. That, therefore, is all Quebec, in 1774 onwards until the next change. Therefore, even if Mr. Macmillan is right when he says that the Newfoundland area was limited to this fringe, the result of 1774 was that the green, the pink, the slate colour and the yellow were all New Quebec. Now what has happened since ? Nothing has happened since except this, that Quebec has lost to Newfoundland what Newfoundland previously had. She has not given anything up to any third party, and consequently if you will now give me back what I formerly had, whether it be merely this narrow fringe which is painted brown, or whether it is the larger area which I claim, it follows necessarily that what I have got, leaves a remnant which is all Quebec. Consequently, there cannot have been between 1774 and the present day any intermediate area which could be the subject matter of an Order in Council in 1880 or otherwise ;

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the Order in Council in 1880, as Lord Haldane knows very well, was an Order in Council which applied to all the unappropriated land all over British North America. For example it brought into Canada places in the extreme North like Baffin's Land, in enormously high latitudes—it brought in, for all I know, and I think my Lord would say it did bring in, some areas unappropriated or unorganised areas of land. It was not addressed specifically to Labrador at all.

Sir John Simon.

Viscount HALDANE : It was the territory to which the Crown was entitled.

Sir JOHN SIMON : I quite agree. This is where the Lord Chancellor brings in the perfectly just qualification, if I may presume

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to say so : it may be that it had an operation on something which was previously Hudson Bay ; very likely ; but my point is that if I am discussing as to the appropriation to-day of an area which was not Hudson's Bay, but was in Labrador, it may be Newfoundland to-day, or it may be Quebec to-day, but it is mere want of logic to suggest it could possibly be any third thing to-day, because whatever Quebec has lost to Newfoundland, Newfoundland has got, and whatever Newfoundland has not got from Quebec, Quebec has got.

Viscount
Haldane.

Viscount HALDANE : But can you assume that—take this 1825 Act—Quebec has got a Western boundary, Quebec has nothing in the green ?

Sir John Simon.

Sir JOHN SIMON : That is right, I think, my Lord.

Viscount HALDANE : Very well. Where do you find that the green has been disposed of by the Crown, except in the original documents of 1763, and what I call the temporary subsequent Statute ?

Sir JOHN SIMON : I am afraid I have not quite conveyed my point to your Lordships. It is my fault entirely. The point is simply this : Was there anything in this area which could be operated on by the Order in Council of 1880 ? That is the question.

Viscount HALDANE : If the Statute was out of the way, so far as it affects it, Quebec had not got it, Newfoundland had not got it, and the Crown had got it.

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Sir JOHN SIMON : It is my fault entirely ; your Lordships will forgive me for repeating a little. Your Lordship says,

Quebec had not got it, or Newfoundland had not got it ; surely, my Lord, one or the other of them had got it for this reason ; that 1774 threw the green into Quebec, nothing has ever taken it out of Quebec.

Sir John Simon.

Viscount HALDANE : That Statute has gone as regards that, but the boundary of Quebec has been subsequently fixed, in 1825, in a way which precludes Quebec it seems to me coming outside that boundary.

Sir JOHN SIMON : With great respect—it is my fault entirely—I have failed to put what I wish to say. We are just taking the critical dates ; 1763, 1774, 1809 and 1825. In 1763 I quite agree Quebec's boundaries were so limited that, of course, there was a very considerable extent of country outside them, and it is a matter of dispute whether so much of my map as is painted green and pink, being outside Quebec, was at that date inside Newfoundland ; that is the controversy. Be that as it may, quacumque via, when I come to the next matter, 1774, the boundaries of Quebec are so extended, that you get Quebec now running right up to the water's edge, the whole way round there, and

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therefore in 1774, 1775, and 1776 and so on, the green area beyond any question, is Quebec, and so is the pink area.

The LORD CHANCELLOR : You recognise that you are not dealing with Mr. Macmillan's point that in 1763, as set up by the Proclamation of 1763, the back part of your green area was in reserve for the Indians.

Viscount
Haldane.

Mr. Macmillan.

Sir JOHN SIMON : That, of course, I am going to deal with under the subject of, What is the Indian Country ? The point I am making is merely that I want to get this Order in Council of 1880 clean out of the case, because, with very great respect, I think it is plain it cannot have anything to do with it. The Lord Chancellor is pointing out the distinction—I quite understand there will be a very important discussion as to whether the Indian country, an expression which I think I can quite easily expand into a different area, includes anything in the green ; if it does, so much the worse for me. But my point merely is, my Lords, that so far as any Order in Council goes, which issued in 1880, any area in the British North American Continent, that was not inside a Province, was put into Canada. That cannot have had any operation in this area, because if I pass from 1774 onwards, the whole area was Quebec ; when I come to 1809, as Lord Haldane has just kindly pointed out, it is perfectly true there was a cutting off from Quebec of a something, and when I come to 1825, there is a returning from Quebec of so much of Quebec as formerly was Newfoundland, but it leaves Quebec with everything that was not formerly Newfoundland ;

consequently the Order in Council of 1880 does not touch the point, though, of course, what has been said by the Lord Chancellor, Lord Haldane, and other members of the Board about the question as to whether any portion of my green is to be regarded as the Indian country, is a very important question indeed.

Viscount HALDANE : It is only important for the purpose of showing why they wished to retain that territory unallotted. You must remember that here the Crown has the whole, and it was disposing of it progressively, and these Statutes were successive stages in the disposition. See what it says in 1825.

Mr. MACMILLAN : I do not know if it would be of any assistance if I were to offer a word now ; my learned friend invites me to do so, because he has put it on common ground. I think the position was this, on our side, as contrasted with Sir John Simon's, that in 1763, there were four persons or four bodies interested in the Labrador Peninsula : Hudson's Bay, Newfoundland, Quebec and the Indian Reservation. My learned friend eliminates the fourth one, and says there were three persons interested only. After 1774 our primary position is that there were three persons there, Hudson's Bay, Quebec and Indians.

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Sir John Simon.

Sir JOHN SIMON : I am sure we cannot have any controversy on this ; I am not discussing the Indian Reservations at all.

The LORD CHANCELLOR : After 1774, Newfoundland was out.

Mr. MACMILLAN : Yes.

The LORD CHANCELLOR : So in those years, there were only two ?

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Haldane.

Mr. MACMILLAN : Yes, subject to that distinction ; your Lordships see what I mean.

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Sir John Simon.

Sir JOHN SIMON : I am saving my learned friend's point entirely. If I may say so respectfully, I understand his point, but when it is put against me for the moment that, inside my green, there is something you ought to call Indian country, of course, I dispute it altogether. But that is a separate point. But assume it makes no difference. Once you come to 1774, that turns it into the Province of Quebec and it has never come out of that again, unless indeed it was part of Newfoundland, in which case it has been returned to Newfoundland ; that is all.

Viscount HALDANE : In those days the Crown had the prerogative, and it fixed the boundaries sometimes by Statute and at other times it was done by orders ; you all seem to assume that a complete disposition was intended at each stage, but I doubt that very much. It was not so with regard to parts of Canada, and I do not see why it should be so here. Now I turn to Section 9, on page 210, in the Act of 1825. Will you read that to us ?

Sir JOHN SIMON : I will read it with pleasure ; your Lordship means the cutting out of the pink oblong.

Viscount HALDANE : Yes. First of all, they are dealing with the Statutes.

Sir JOHN SIMON : Yes, they recite them, and then this says : “ The Coast of Labrador from the River St. John to Hudson's Streights.”

Viscount HALDANE : Let us go a little slowly : “ Whereas under and by virtue of a certain Act.”

Sir JOHN SIMON : That is the Act of 1809.

Viscount HALDANE : “ The Coast of Labrador, from the River Saint John to Hudson's Streights, and the Island of Anticosti, and all the islands adjacent to the said coast, except the islands of Madelaine, are annexed to and form part of the Government of Newfoundland ; and it is expedient that certain parts of the said Coast of Labrador should be re-annexed to and form part of the Province of Lower Canada.”

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Where do you say that any title to anything that formed part of Labrador besides that is given ?

Sir JOHN SIMON : Will your Lordship kindly turn to page 158 ? I am going to ask your Lordships just to let me put up a large map which I think will assist us. If you turn to page 158, you will of course remember that in the Statute of 1774 there is a new boundary of the Province of Quebec defined. The word “ bounded ” is on page 158 at line 27.

Viscount HALDANE : “ So bounded.” That is in the recital.

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Haldane.

Sir JOHN SIMON : I do not think so, with great respect, my Lord. It is not recital.

Viscount HALDANE : “ Bounded on the South by a line from the Bay of Chaleurs,” and so on.

The LORD CHANCELLOR : If you follow the whole line round, you get round by the Mississippi to the boundary of Hudson's Bay.

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Sir JOHN SIMON : Yes, my Lord.

Sir John Simon.

Viscount HALDANE : It is on page 159.

Sir JOHN SIMON : Yes, my Lord. I think this map that I have here will make the matter entirely plain, and I think it is a useful map to have.

Viscount HALDANE : Yes. Now you will tell us about it, Sir John.

Sir JOHN SIMON : Yes, my Lord. I have a map here, which I think may do just what we want. The map that is now being put up on the screen is, in its right-hand top corner, a reproduction of my little hand map ; it is just the same. All the rest of it is on the same scale, but it carries you further to the south and the west. If your Lordships will kindly look at all the colours that are on that map, the yellow, the slate, the pink and the green, and, if you were to imagine a brown selvedge to the green, the brown as well, everything that is coloured on that map became a portion of the Province of

Quebec under the Statute of 1774—everything.

Viscount HALDANE : Just let us see. The expression in the Act of 1774 is “ northward to the southern boundary of the Hudson's Bay territory.” I want to know what that southern boundary is.

Sir JOHN SIMON : I think that the map will be found very convenient for the purpose.

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The LORD CHANCELLOR : This is the boundary—(indicating on the map).

Sir JOHN SIMON : Yes, my Lord. Now if I might read it, perhaps the Lord Chancellor would not mind seeing if I have got my colours right. It says this : “ bounded on the South by a Line from the Bay of Chaleurs, along the High Lands which divide the Rivers that empty themselves into the River Saint Lawrence from those which fall into the Sea, to a Point in Forty-five Degrees of Northern Latitude, on the Eastern Bank of the River Connecticut, keeping the same Latitude directly West, through the Lake Champlain, until, in the same Latitude, it meets the River Saint Lawrence ; from thence up the Eastern Bank of the said River to the Lake Ontario ; thence through the Lake Ontario, and the River commonly called Niagara ; and thence along by the Eastern and South-eastern Bank of Lake Erie, following the said Bank, until the same shall be intersected by the Northern Boundary, granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected ”—then around Pennsylvania, and then : “ thence along the Western Boundary of the said Province, until it strike the River Ohio ; and along the Bank of the said River ”—It is the Ohio—“ West-ward, to the Banks of the Mississippi, and Northward to the Southern Boundary of Territory granted to the Merchants Adventurers of England, trading to Hudson's Bay.” Now, my Lords, I quite agree that it is a matter of controversy where that is. But it is somewhere ; and my point is that that boundary, thus defined, throws into Quebec an enormous area which included the yellow, the pink and green, as well as the slate colour. Therefore, from 1774 the whole of that coloured area on my map is Quebec.

Now, my Lords, what has happened since ? Nothing has happened since in Labrador except this, that there has been handed back to Newfoundland whatever Newfoundland had in Labrador before 1774. That may be much or it may be little, but whatever it is, it leaves Quebec Labrador, with all the rest. Consequently, the Order in Council of 1880 cannot have found any subject matter upon which it could operate in the peninsula of Labrador.

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Sir John Simon.

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Viscount HALDANE : When was the territory granted to the

merchant adventurers for trading to Hudson's Bay ? Was it 1670 ?

Sir John Simon.

Sir JOHN SIMON : Yes, my Lord, it was 1670, by the Charter of Charles the Second.

Viscount HALDANE : The southern boundary, then, is the 1670 southern boundary, which was created then ?

Sir JOHN SIMON : Yes, my Lord.

Viscount HALDANE : And then : “ all such Territories, Islands,

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and Countries, which have, since the Tenth of February, One thousand seven hundred and sixty-three, been made Part of the Government of Newfoundland.”

Sir JOHN SIMON : Yes, my Lord. That, as your Lordship will remember, is the date of the Treaty of Paris, and it only means such things as have been added to Newfoundland in 1763.

Viscount HALDANE : Yes, it says so.

Lord
Warrington.

Sir JOHN SIMON : So that it gives back to Newfoundland, the Island of Newfoundland and certain islands around, and it leaves the mainland.

Sir John Simon.

Viscount HALDANE : “ Territories, Islands, and Countries, which have, since the Tenth of February, One thousand seven hundred and sixty-three, been made Part of the Government of Newfoundland.” That is since 1763.

Sir JOHN SIMON : Yes, my Lord, but it does not make the Island of Newfoundland any part of the Province of Quebec.

The Island of Newfoundland has always remained independent in that sense, and quite independent of Canada.

Now your Lordships have my point, and I think it is an obvious point, and I have perhaps spent too long over it ; but the point that I want to be clear about is that although no doubt the Order in Council of 1880 may have had effective operation, for all that I know, in other parts of British North America it could not have an effective operation in the part that is coloured on the map, subject to the point of which the Lord Chancellor was good enough to remind me, that I may not have got the boundaries of Hudson's Bay right. But if you will assume that I have got them right, wherever they are, then the rest follows.

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Lord WARRINGTON : In 1774 the authorities did not define that.

Sir JOHN SIMON : No, my Lord. Of course, I have a compartment of my argument in reply which is going to deal with that.

Lord WARRINGTON : What you mean is that there went into Quebec everything that was not Hudson's Bay territory as far as Hudson's Bay territory extended, and in addition to that, whatever it was, that had been attached to Newfoundland ?

Sir JOHN SIMON : Yes, my Lord ; and all that has happened since that is that Newfoundland has got back what it had before, together with the pink, remembering that the pink is in. And therefore, be it small or be it great, the result is merely that you have put at one time into a common pot two different quantities of liquid, and you have

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subsequently poured out of that pot one of the two component parts. You are therefore necessarily left with the other, and it is no good looking inside the pot to discover if some third liquid exists there, because, of course, it does not.

Therefore, although the argument about an Indian boundary is a most important argument, and one which I am not going to minimise or overlook, it does not involve any reference to the Order in Council of 1880, which has no effect on the position at all. There is also a second reason why it should not, which is this, that it would be quite incompetent for such an Order in Council to transfer territory from a Governor of a Colony such as Newfoundland, and no one suggests that that was its operation. Its operation was to respect all boundaries of existing Colonies, but to deal with unallotted or unappropriated areas. Consequently it may have had, and undoubtedly did have, the effect of enlarging the superficies of Canada ; and if one went up to the frozen North, for all that I know it added the North Pole, if that is in North America ; it certainly added Baffin's Land and other areas. But it did not and could not have any operation in Labrador, because the part of Labrador that I am talking about was already earmarked as either one or other of the two things.

Lord WARRINGTON : If it is Newfoundland, it is expressly excepted.

Sir JOHN SIMON : Yes, my Lord, and if it is not Newfoundland, then it was already Quebec. Then I come to my fourth point of common ground. I am just noting these things first of all.

Viscount HALDANE : I have got two of your points.

Sir JOHN SIMON : I had intended to mention three, my Lord.

My first is that it is common ground that the addition made to the Government of Newfoundland is a territorial addition, an addition to its territory.

Viscount HALDANE : Yes, I have that.

Sir JOHN SIMON : My second point of common ground was this, that so far as quality is concerned——

Viscount HALDANE : The quality is the same.

Sir JOHN SIMON : Yes, my Lord, it was the same, whether you are dealing with the Island of Newfoundland or with Labrador.

Viscount HALDANE : What is the third point ?

Sir JOHN SIMON : The third is that ever since 1774 there is not and cannot have been any portion of the area now under discussion

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which was neither Newfoundland nor Quebec. It has always been either one or the other, and therefore the real question in this arbitration is where you should say, on the proper construction of these documents, that the line between Newfoundland and Quebec is.

The fourth point is upon a quite different subject matter. I gratefully accept any concession from the Dominion of Canada. The fourth point is this, that in this case at any rate, it is not disputed that the Newfoundland area, whatever the width of the band may be, is an area which includes the sinuosities of the coast, which runs round the heads of the inlets. That is not disputed, and indeed I should think, having regard to the fact that fishery was uppermost in people's mind, it would be ridiculous to suggest the contrary. Curiously enough. Canada seeks, I think without any warrant, to make an exception to that general proposition ; it takes the largest of the inlets, an inlet which has been called an inlet, as your Lordships noticed this morning, from the very earliest times when it was explored, and it says : “ No ; this inlet goes in 140 miles, and we wish to set up a case that properly speaking it is not an inlet at all.” I find a certain amount of difficulty in knowing how far I ought to deal with that contention, because, of course, my case, which I in no way retract, is that the height of land is the relevant consideration. But I can very briefly summarise the considerations which I think go to show that this attempt to treat Hamilton Inlet in a different way from the other inlets on the coast is a hopeless attempt.

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Viscount FINLAY : What exactly do you mean by “ Hamilton Inlet ? ” Do you mean merely the inlet next to the sea ?

Sir JOHN SIMON : No, my Lord. If your Lordship takes the Admiralty chart, as I think the Lord Chancellor pointed out the other day, the whole thing has been constantly called “ Hamilton Inlet.”

Viscount FINLAY : You include the lake in the expression “ Hamilton Inlet.”

Sir JOHN SIMON : What is called the lake, certainly, my Lord. This attempt to say that the inlet stops somewhere—I do not know exactly where it stops, but at some point which my learned friend suggests—and that inside of that you have something which is not inlet, is contradicted by all the most important considerations in this case.

Viscount HALDANE : This is your fourth point ?

Sir JOHN SIMON : Yes, my Lord, this is my fourth point.

The LORD CHANCELLOR : This is your first disputed point ?

Sir JOHN SIMON : Yes, my Lord, I am taking the exceptions to the sinuosities.

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Viscount HALDANE : What was your fourth common ground ?

Sir JOHN SIMON : It was this, my Lord, that it is agreed by Canada that the area to which I am entitled is an area which follows round and includes all the sinuosities of the coast, and does not seek to jump from headland to headland, with the exception—and here is the controversial matter—of Hamilton Inlet,.

Viscount HALDANE : I see ; and therefore Hamilton Inlet is the first disputed point ?

Sir JOHN SIMON : Yes, my Lord. Now I am coming to the first disputed point. I was just observing that there is a great deal of material about this in the books, and indeed this is rather entertaining reading, because nothing is more entertaining to the unscientific mind than to read the way in which scientific men treat one another. There is some extremely controversial matter here. It appears that a gentleman, as to whose high qualifications in his own field I raise no question—he was a geologist—was able to assist the Government after this dispute arose by a most elaborate essay on the marine flora of the inlet ; and there is a document in the book where he deals in great detail with the botany of the subject. The only difficulty in his way is that he does not know any botany, and consequently it was necessary for us to produce the evidence of two of the greatest botanists in the world, who took his list and pointed out that he was wholly and absolutely in error, firstly in supposing that a number of plants were marine plants, and secondly in his description of the habitat of a great number of these interesting natural products. It is one of the few things which has given me a little relief. I reminded myself of the saying attributed to Lord Dundreary when the British Association met at Oxford, and distinguished men conducted a heated controversy. I think it was the occasion when Disraeli said he was on the side of the angels—I am told it was not the same occasion, but at any rate it, was one occasion; and Lord Dundreary appeared on the scene, and said that really we were infinitely obliged to these scientific gentlemen for quarrelling so amusingly before us. There is really a delightful passage in one of these documents, exhibiting to the judgment of posterity the

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botanical achievements and qualifications of some of the witnesses.

Lord SUMNER : The same sort of entertainment is afforded by the disputes of other learned gentlemen.

Sir JOHN SIMON : Yes, my Lord ; except that the other disputes are commoner and not so enlightening.

Viscount HALDANE : I think the occasion which you were referring to was a Church Conference.

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Sir JOHN SIMON : I saw, from a warning from one of your Lordships, that I had mentioned the wrong occasion.

Now, perhaps, I may state some points categorically, because I have collected them on a piece of paper. The first point that I make about Hamilton Inlet is this : the question is not whether the waters of Lake Melville call it Lake Melville without prejudice—not whether the higher waters are particularly saline or brackish—one question is whether people can make tea out of them—but the question is whether the land adjoining those waters is coast or not. Secondly, I would suggest this : this question has to be approached from the point of view of the draughtsmen and other authorities of 1763, and not from that of experts or supposed experts in botany, geology, hydrography, zoology, and any other ologies, in 1926. Then, thirdly, approaching it in this light, even if one was to confine one's self to the primary object of regulating fisheries, it can hardly be suggested that the area is so limited as to embrace less than the margin of all waters where, by English law, a public right of fishery would exist. Here we are getting on to territory which is very familiar to some of your Lordships. As we know in some of the fishery cases which have been before this Board, matters have been most elaborately explained, especially in the second fishery case, in the Judgment of Lord Haldane. Of course, a public right to fish extends to all waters within the flow and re-flow of the tides ; it is not limited by asking a botanist or a zoologist whether a particular sea shrimp or flower grows there. It is a perfectly elementary proposition that the public right to fish, the thing which was the primary interest undoubtedly of those who were legislating in 1763, extends to all waters within the flow and re-flow of tides, whether such waters are rivers or not.

If your Lordships care for any references, although I do not trouble your Lordships to turn them up, they are to be found in Volume V, or, at any rate, most of them. Lord Haldane Judgment in the second fishery case in 1914 is printed in Volume V, at page 2165 ; and on the immediately preceding page, as Lord Warrington has been good enough to turn it up, there is a very well known authority, a gentleman of the name of Moore.

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Viscount HALDANE : I do not know whether it makes any difference, but I think it is right to say that the second fishery case was Quebec law.

Sir JOHN SIMON : That was the third case, my Lord.

Viscount HALDANE : You mean the second one, which was —

Sir JOHN SIMON : British Columbia, my Lord.

Viscount HALDANE : That was English law, all right, yes.

Sir JOHN SIMON : Yes, and I deliberately chose the second

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case. I had the honour of appearing before your Lordship in one or two of these cases, and I chose that one.

Viscount HALDANE : In the third case it was French law.

Sir JOHN SIMON : Yes, it was, my Lord ; and it was decided that none the less the result would be the same. However, I was talking about the second case.

On the immediately preceding page, in Volume V, on page 2164, there is a very simple passage which I think comes from my learned friend Mr. Stuart Moore's well-known book on fisheries.

The LORD CHANCELLOR : This is rather familiar.

Sir JOHN SIMON : Yes, my Lord. I was going to say that we might pass from Stuart Moore to Hale ; it is within a page or two. On page 2165 there is a convenient extract which comes from the Law Reports, 1914, Appeal Cases.

Viscount HALDANE : It could only be done by a grant prior to Magna Carta.

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Sir JOHN SIMON : That is the only way, my Lord. Your Lordship and I have been through this, if I may say so, from the two sides here, more than once. The passage is at the bottom of page 2165, and your Lordships will appreciate that this is reprinted from the Appeal Cases. If I may, I will just take a sentence or two from my Lord's Judgment. He was, of course, Lord Chancellor, in giving the Judgment. At line 30 he says this : “ But in the case of tidal waters (whether on the foreshore or in estuaries or tidal rivers) the exclusive character of the title ”—that is to say, the private title—“ is qualified by another an paramount title which is prima facie in the public. Lord Hale i his De Jure Maris, in a passage cited with approval by Lord Blackburn in his judgment in

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Neill v. Duke of Devonshire, states the law as follows : ‘ the right of fishing in this sea ’ (i.e., the narrow seas adjoining the coasts) ‘ and the creeks and the arms thereof, is originally lodged in the Crown, as the right of depasturing is originally lodged in the owner of the waste whereof he is lord, or as the right of fishing belongs to him that is the owner of a private or inland river. . . . But though the King is the owner of this great waste, and as a consequence of his property hath the primary right of fishing in the sea ’ ”—that is the narrow seas adjoining the coast—“ ‘ and the creeks and the arms thereof, yet the common people of England have regularly a liberty of fishing in the sea or creeks or arms thereof, as a public common of piscary, and may not without injury to their right be restrained of it, unless in such places, creeks, or navigable rivers where either the King or some particular subject hath gained a propriety exclusive of that common liberty ’ ” ; and then it goes on to say : “ Their Lordships are in entire agreement with him on his main pro—

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position, namely, that the subjects of the Crown are entitled as of right not only to navigate but to fish in the high seas and tidal waters alike. The legal character of this right is not easy to define.”

Then my Lords answer the first question which is put to them lower down on the page, where they say : “ These considerations enable their Lordships to answer the first question, which reads as follows : ‘ Is it competent to the Legislature of British Columbia to authorize the Government of the Province to grant by way of lease, license or otherwise the exclusive right to fish in any or what part or parts of the waters within the railway belt—(a) as to such waters as are tidal, and (b) as to such waters which, though not tidal, are navigable ? ’ The answer to this question must be in the negative. So far as the waters are tidal the right of fishing in them is a public right subject only to regulation by the Dominion Parliament.”

The LORD CHANCELLOR : Is not your point not whether there is a right of fishing, but whether there is a coast ? I suppose you do not talk of the “ coasts ” of Loch Lomond, but you talk of the “ coasts ” of Loch Fyne, which is a sea lake.

Sir JOHN SIMON : Yes, my Lord, I think so ; but I am not aware that there is a public right of fishing in Loch Lomond, for the reason that it is not tidal.

The LORD CHANCELLOR : Is not the point whether the word “ coast ” applies ?

Sir JOHN SIMON : I think that your Lordship has not quite got the proposition that I was making. What I was saying was

that the question is whether or not the land adjoining these waters is coast. Then, this is my proposition : I say that in the light of the main object which was aimed at in 1763, which is the regulating of the public right of fishery, it is extremely difficult to suppose that those who were concerned could have been providing for the Government of an area which would not embrace the margin of all waters where there is by English law a public right of fishery.

The LORD CHANCELLOR : Unless they are right in saying that “ fishery ” means “ cod fishery.”

Sir JOHN SIMON : Yes, my Lord ; I quite agree in that case it would be so. But assuming that I make good the point—and there are endless illustrations of it—that the fishery is not limited to cod, then it is difficult to suppose that, however limited, in 1763, is the construction to be put on the words used, the primary object of the thing was going to be bisected in this very odd way.

(Adjourned for a short time.)

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AFTERNOON SESSION.

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Viscount HALDANE : A new map has been put before us.
What is it ?

Sir JOHN SIMON : It is not a new map, my Lord. It was handed in in the course of the argument of my learned friend Mr. Macmillan in order that your Lordships might see the Admiralty Chart of Hamilton Inlet ; and as I am going to address your Lordships for a short time on this aspect of the case, I thought that in the first instance it might be convenient if the chart was handed in to your Lordships.

Viscount HALDANE : Is this Hamilton Inlet the same as Davis Inlet ?

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Sir JOHN SIMON : No, my Lord. I thought perhaps it might be of service if I indicated to your Lordships the way in which I had sketched out the compartments for my reply. I hope to bear in mind the observations of my learned friend Mr. Geoffrion and to avoid unnecessarily irrelevant matter, whether 90 per cent, or 70 per cent.

The compartments were these : I must deal with the Hamilton Inlet point, and I would deal with it first. I am going to deal with that point first, just to get it out of the way, because it really, in my view, does not call for minute consideration in view of the larger claim which I hope to establish.

Then the other compartments would be these ; I must ask your Lordships' attention to some considerations connected with the Hudson's Bay boundary, and I more particularly wish to attack, and I hope to dislodge, the proposition which has again and again been asserted on behalf of Canada, that the height of land in connection with Hudson's Bay was a new invention which came into the mind of somebody in the nineteenth century. I propose to show your Lordships, by taking it in chronological order, that that is quite inaccurate.

Then I wish to deal with what my learned friend Mr. Macmillan called the calendar of documents in 1763, and in that connection perhaps I may tell Lord Warrington more particularly that I hope to be able to establish, and I think I can conclusively establish, that the governing document is the Commission, and not the Proclamation. I might tell your Lordships at once that I am in a position now to show the Board that the Commission to Governor Graves, and the instructions to Governor Graves, came before the Privy Council, and were both approved by Order in Privy Council,

and both operated from the same date. Therefore the Proclamation, which came afterwards so far as that is concerned, is mere announcement.

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Then there is the important question of the maps, which I have to deal with in a separate compartment for the convenience of your Lordships and everybody, and I will as far as possible avoid looking at atlases in the meantime, although I am afraid I shall be unable to avoid that altogether. Then comes the question of what is the meaning of the Indian country upon which so much has been said, my broad proposition being this, that it is nothing whatever to the point to establish that there were aborigines in the green territory. No doubt there were aborigines all over the continent of North America at one time. But the question is not that at all ; the question is whether there was not an area which was perfectly well understood at the time as being Indian country, which was associated with some very famous and important historical events between 1759 and 1763. Therefore I was well warranted, when I ventured to say that the view that this green territory is the Indian country, or any part of it, is quite unhistorical. Those are the main compartments which which I am afraid I must trouble the Board in reply.

First of all, with regard to the Hamilton Inlet, I had already made the submission that the question really is whether the land which is around this piece of water is within the description of “ coasts of Labrador ” or not. I had also made the submission that that, I apprehend, has got to be considered, not from the point of view of zoologists or botanists, but from the point of view which may fairly be assumed to be in the minds of those who were acting in 1763. I had then made my third point about it, reminding your Lordships that beyond any question the public right of fishing, the free and public right of fishery (which by the law of England, by the law of every place in which British law operates, is one of the public rights), is a right which is not in any way limited by the distinction between something which is river-like and something which is ocean-like ; but on the contrary, is a right that exists and is exercised within the flow and re-flow of the tides, as a matter of fact, whether such waters are rivers or not.

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Viscount HALDANE : That is by the Common Law of England ?

Sir JOHN SIMON : Yes, my Lord. I had reached the point where your Lordships might like to be reminded of some of the authorities in Volume V. Lord Haldane's Judgment on page 2561 in that volume brings the matter together most conveniently, of course.

Then on the immediately preceding page there is an extract from a work which no doubt cannot yet be quoted in a Court

of Law, because the learned author is still living, and indeed is one of the Counsel appearing on behalf of Canada here ; but none the less it is a very valuable way of formulating it. At the bottom of page 2164 this learned author observes : “ There was formerly an erroneous impression that where a river was a public navigable river, although not tidal, the public had a prima facie right to fish. It was, in fact, contended that the navigability of the river imparted the public right, and that it was not necessary

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that the river would be also tidal. In one case, the claim of the public to fish was made as to the River Itehen, a none-tidal river made navigable by means of a canal system. The point has been definitely decided, and is summed up Grove, B., and Huddleston, B., thus : ‘ The distinction is clear upon the whole current of authorities in this country and in Ireland that, when a river is navigable and tidal, the public have a right to fish there as well as to navigate it ; but that when it is navigable but not tidal ’ ”—that is what my Lord pointed out in the fishery case—“ ‘ no such right exists.’ ” There cannot be any doubt, of course, that that is the English law.

Viscount HALDANE : I think Lord Hersehell said much the same thing find the first fishery case.

Sir JOHN SIMON : He did, my Lord and incidentally, the second fishery case, your Lordship quoted a passage from his judgment, if I remember rightly. The old authority of Hale is also quoted in this book. Your Lordships will not desire me to read it at length, but you will find the passages extracted, beginning at page 2156.

Viscount HALDANE : He was a little bit loose in that case because he lived in the narrow seas.

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Sir JOHN SIMON : Yes, my Lord, that is right. Your Lordship remembers the case very well. There cannot be any doubt that that would be the view ; and consequently, if we were, in the construction of the ambit of the territorial additions made to Newfoundland, to confine ourselves—which I am by no means willing to do—to the primary purpose indicated, in view of the fact that it was the regulating and control of the exercise of the fishing rights, it seems to me to be extremely unlikely that the largest and most important body of water on the whole of the coast is a thing upon which you are to suppose, in 1763, that the authorities drew an invisible line, with the curious result, as one of your Lordships pointed out this morning, that although it would be the duty of the Governor of Newfoundland, if he could, to prevent an invader from passing that invisible, line, yet, if he once got over the invisible line and was engaged in his operations on the other side of it, he would be

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permanently isolated, unable to get in or out, and nobody could control him or had any jurisdiction over him. The same thing is illustrated again and again in the English Statute books. Your Lordships will be interested to remember—and I am sure my learned friend, Mr. Macmillan, will remember—that “ the coasts of Scotland,” in the Scotch Herring Fishery Acts, is defined, as a matter of fact, by the Statute : “ shall mean and include all bays, estuaries, arms of the sea, and all tidal waters within a distance of three miles from the mainland,” and in the same way in the case of the Irish fisheries, you get a similar definition. But I do not rely on statutory definitions ; I am only observing that if indeed one had to confine one's self to the primary object to be served, I submit that it is impossible to suppose

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that if you presented this Admiralty chart to those who were framing the documents in 1763, they would have said, in reference to Hamilton Inlet : “ You must draw a line between here, and my jurisdiction begins at one point and goes no further.” Lord Finlay will see Hamilton Inlet marked on the Admiralty chart, and although I do not wish to stress it, I am entitled to repeat what one of your Lordships observed, that on the Admiralty chart Hamilton Inlet as a description is attached to the whole thing. It is not the funnel-shaped entrance at all.

Lord WARRINGTON : The words “ Hamilton Inlet ” are actually over the eastern part of Lake Melville.

Sir JOHN SIMON : Yes, my Lord.

Viscount HALDANE : There is one observation that I should like to make. You may be right in saying that the Order in Council of 1880 had nothing to operate upon ; but that is hardly the question which has to be considered. The question is : “ What did the word ‘ coasts ’ mean in 1763 ? ”

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Sir JOHN SIMON : I think your Lordship is quite right. I accept that issue entirely. I was conscious of the fact that I was probably forcing an open door in what I said, as long as I have it clear, as I think my learned friend Mr. Macmillan concedes, that really the Order in Council of 1880 does not alter what would otherwise be the truth. But I have still got to tackle the real point, which is the point which your Lordship mentioned, namely : what did “ the coast of Labrador ” mean in these documents ? I think that is the true issue.

Then I was next going to observe this on the subject of Hamilton Inlet : I suggest that it could hardly be supposed that the framers of the Proclamation or the framers of the documents of 1763 meant to exclude Newfoundland from any waters which were accessible from the open sea in sea-going ships of considerable tonnage and draught, which

would be a resort of fishermen, merely because it might turn out that cod did not often go there.

The exact extent to which cod did go into the more interior waters of Hamilton Inlet is difficult precisely to define. It is true that they are not to be found there in the same quantities in which they are to be found on the banks of Newfoundland ; but it is interesting perhaps to note the very same passage which asserts that, asserts the same thing is true of Sandwich Bay. Would your Lordship turn to Volume V ? Immediately following some of these pretty pictures which are in this volume there is a report on the Labrador fisheries beginning on page 2564 by Dr. Grenfell, the well-known medical missionary in Labrador. There is an elaborate account written of it, and on page 2566 near the top of the page he discusses the subject of the extent of fisheries up estuaries and rivers. I do not suppose there is anybody who knows so much about it as Dr. Grenfell. He says : “ The fact that cod fish are not

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fished commercially in fresh water precludes their being fished far up long estuaries into which flow many large rivers, such as Hamilton Inlet and Sandwich Bay. The former has, besides the Hamilton, some twenty other rivers at least, while Eagle, White Bear, Dove Brook, Paradise, Muddy, and other rivers make Sandwich Bay at its head of no value for cod fishing. It is safe to say that few cod fish enter Melville Bay, a fact that is attested by the Eskimo cod fishery at Caravalla.” All that I am saying is that this attempt to put Hamilton Inlet into one category and the others into another from the point of view of cod fishing breaks down the moment you examine the material. The truth is that the cod prefers a very definite saline water. Whenever you come to an arm of the sea which is being fed by a series of important rivers, which is the receptacle for important rivers, you get a mixture of the fresh water from the hills with the salt water at sea level, and the cod prefers to go further out. That is true, but it is quite untrue to say that Hamilton Inlet stands in one category and other inlets stand in another. It is true of every inlet. I do not think very much could turn on that. In point of fact—and this I want to collect now in two or three passages—though cod fishery is no doubt the thing of the most importance and is in the forefront throughout, it is not true at any stage that the cod fishery is the only fishery. May I give your Lordships four references ; one in 1719 (which you see is before any question of Newfoundland's claim to the coast), one in 1773, one in 1777 and one in 1821. I could take others, but I will take those. Now, my Lord, will you take first the earliest date, 1719 ? This, I quite agree, is not a Labrador and could not be a Labrador instance ; it is an instance from the Island of Newfoundland, and in Volume IV at page 1961 you will see a petition signed George Skeffington addressed to King George. The year is 1719. “ The humble petition of George Skeffington inhabitant of Indian Bay in Newfoundland, Humbly Sheweth.”

The LORD CHANCELLOR : We have had this.

Sir JOHN SIMON : Your Lordship will forgive me for putting them together, because it is important for me to show, once and for all, that salmon fishery comes in. “ That your Petitioner hath for about twelve years past Improved the Salmon Fishery in two or three Rivers or Brooks to the northward of Cape Bonavista ; and hath at very great Expence and Labour near fforty miles up the Country cleared Lands of the wood, and the said Rivers or Brooks of rocks and stones and other obstructions ; built houses, Stages, ffatts, Works and other Conveniences for catching and Curing Salmon, which said Brooks or Rivers were never before Employed frequented or occupied by any person whatsoever, and far distant from any place where any ffishing[sic] Ship hath used to fish—Your Petitioner therefore most humbly prays that he may be encouraged and protected in carrying on the said Fishery according to the Intention of the Act made in the 10th & 11th of King William the Third for Incouring ”—that word means “ encouraging ”—“ the fishery of New—

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foundland.” That being his petition, if your Lordship just glances over the next two or three pages (I need not delay, because my learned friend Mr. Barrington–Ward read it) you will see on page 1963 that it is done. The point of it is this : not that that is Labrador, but that it is a claim put forward, acknowledged and made good under the ambit of the Statute 10 and 11 William III.

Mr. MACMILLAN : No, it is not inconsistent with that Act.

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Sir JOHN SIMON : I think my learned friend is right : “ To be not inconsistent with that Act.” It is no good reading 10 and 11 William III as though it gave exclusive protection to cod. The truth is that even before there was any question of Labrador, there were other fisheries which, side by side with cod, were being established in this part of the world. I take as my second instance in Volume III the case of Cartwright. This again your Lordship has had a reference to, and I will not delay. It is page 1059. There were two people called Cartwright, and this was George. This was a long petition. I can pick out what matters in it very briefly, and it is very important. It was a memorial of George Cartwright which showed : “ In the spring of the year 1770, when no British subject in Labrador would venture to reside farther northward than Chatteau Bay ”—your Lordship remembers where that is—“ and the islands immediately adjacent, your Lordships’ Memorialist, at great hazard and expence settled himself in the River Charles on the said Coast, in order to establish Seal and Salmon Fisheries ; to fish for Cod : to carry on the Furring Business ; to open a friendly and Commercial intercourse with the Esquimaux Indians with whom we were then upon very bad terms ; and to commence, if possible, a Shore Whale–fishery.” Having set that out, in the following pages he deals with the different kinds of fishery, and on page 1061 he says : “ The Salmon Fisheries of Labradore are extremely numerous.” I think your Lordship has already had that paragraph, and on page 1062 he deals with the furring business. Then on page 1063 he talks of the importance of the English getting sealing and salmon fishing crews, and so on. The consequence of it all is this : if you look at page 1066 you will see that these having come before the authorities at home—I remember the Lord Chancellor pointing out that this was a document addressed to the authorities at home—it is endorsed, do you observe, “ Newfoundland,” it was docketed or ticketed at the end. On page 1070 you get the way in which it is dealt with by the Lords of Trade to whom it had been referred. Page 1069 begins : “ Representation of Lords

of Trade to the King upon Memorials presented by Cartwright,” and so on ; and the way in which it is dealt with is this. There is a very remarkable passage on page 1070, “ That having been attended by the several Memorialists in person, and entered fully into an examination of the nature and circumstances of the Fisheries for Seal and Salmon in the rivers and bays upon the Coast of Labrador ”—observe the rivers upon the coast of Labrador—“ as likewise of the

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Fishery for Cod by Ships fitted out from Great Britain, it does appear to us from the different Seasons proper for these Fisheries, and the different modes of carrying them on, that they may not only be conducted without interruption and detriment to each other, but that the only method of making these undertakings an object of Consideration to the Public, or of advantage to Individuals concerned in them, will be by thus carrying them on in connection with each other by Ships annually fitted out from Great Britain.” The idea was that these annual excursions from Great Britain would be excursions by people who were going to fish salmon as well as cod. “ And as it does further appear to be manifest that actual residence and continued possession are essentially necessary to the carrying on the Seal and Salmon Fisheries on the Coast of Labrador ”—we shall see in a moment whose business it was to deal with this actual residence on the Coast of Labrador—“ We beg Leave humbly to submit to your Majesty the following regulation as proper for securing the possessions of persons concerned in the said resident Fisheries of Seal and Salmon on the above coast, namely, That such of Your Majesty's Subjects of Great Britain and Ireland who have taken or shall hereafter take such actual possession in any of the Rivers and Bays ”—no sort of distinction between salinity or marine fauna—“ on the coast of Labrador to the North of the Streights of Bellisle, and who have erected, or shall hereafter erect Houses and Warehouses, and have made or shall hereafter make other Establishments necessary to the carrying on the Seal and Salmon Fisheries, shall be protected in such possession, provided such persons do for the future annually fit out from Great Britain one or more Ship or Ships to be employed in the Cod Fishery on the said Coast of Labradore, and provided also ”—I ask attention to these concluding words, on line 28, on page 1070 —“ and provided also that the greatest care be taken that the Proprietor or Proprietors of such fishing Posts do not claim or occupy a greater Extent of the Coast within the said Bays or Rivers.” There you have, as I think Lord Sumner observed the other day, a phrase that you are not to “ occupy a greater extent of the coast within the rivers.” What does that mean, unless it means that the person who drew up this document conceived the coast, in this connection, as being a slope that went down, through which various rivers might run—“ than shall in the Judgement of Your Majesty's

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Governor of Newfoundland –"it is in terms treated as a matter in the jurisdiction of Newfoundland–" or the Officer by him deputed, be thought absolutely necessary in proportion to the Number of Vessels." I know your Lordships have had that passage before, and I respectfully submit that it is a very striking passage occurring, as it does, in the year 1773 ; that is to say within a very short time, a very few years, in ten years, of the beginning of this very annexation. I have not myself observed any other passage which bore directly on this instance of Cartwright, and I am indebted to my learned friend Mr. Geoffrion for the remaining reference in Volume VI. I am indebted to my learned friend for his candour in reading it, because obviously, so far as it had any bearing upon the case, it was

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entirely opposed to the interests of Canada. At page 2772, of Volume VI, this same man, George Cartwright, in the following year, is reporting what he is doing. Your Lordship sees where we have got to. Cartwright mentions this claim, that he ought to be confirmed in the possession of territory in Labrador for the purposes of a salmon fishery. He is told by the Lords of Trade that his claim is good and that the Government of Newfoundland will grant it. Then on page 2770 of Volume VI you get in the following year his own report to the authorities, and he describes what he has been doing, and all about the salmon season on the Charles River, This man, George Cartwright, was the most important person in Sandwich Bay, an area which my learned friend does not suggest should be taken from me. I want to see what kind of things he is doing there. On page 2771 he gives an account of how he was getting on in his sealing and salmon posts and how he has fixed up a sealing and two salmon posts. Over the page, 2772, at the bottom of the page, George Cartwright is reporting : " Our Shalloway is this instant returned "–that is some sort of vessel–" from Sandwich Bay where she left our Furriers in possession of the Salmon Rivers." Reading that with the document of the previous year, which is, as we see, to be regarded as the granting of a title which is to be conferred on him through the Governor of Newfoundland, how is it open to serious dispute that salmon, and, for the matter of that, furring is quite as much an affair in this neighbourhood as cod? The third date I selected is 1777. The name of the man is again Irish, like Skeffington, it is Coghlan, and you will find in Volume III, at page 1269, a passage which again my learned friend, Mr. Barrington–Ward, called attention to. I will only deal with it, therefore, in this connection, very briefly. In the year 1777 Coghlan is saying : " Early in the Government of my very respected good friend, Sir Hugh Pallisser "–he was the Governor of Newfoundland–" and by His recommendation I was the first English Subject that settled in the Seal Fishery at Chateaux, so long back as the year '65, and finding it most eligible to

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pursue the Cod and Salmon Fisheries farther North on the said Coast, I fitted out an armed Sloop to guard against the Esquimaux Indians, and having Lord Rutherford on Board, then Lieutenant of the Niger, the late Sir Thomas Adams, Commander at Chateaux, the said Sloop proceeded on a Discovery from the former Port to Cape Charles, Alexis, St. Francis, and Porcupine Bays, on the North Coast of Labrador.” He is referring to Sir Hugh Palliser, and he says Sir Hugh Palliser is the man who has encouraged him to do this, and he is describing how he went to various places on the Coast of Labrador, which he names, Cape Charles, Alexis, St. Francis, Porcupine Bay on the Coast of Labrador, “and on her return encouraged by Sir Thomas Adams “–he was the deputy–“ I communicated my intentions to Sir Hugh Palliser of Settling a Residence at the former places, for the purpose of carrying on a Cod and Salmon Fisheries, in whose answer to me on the occasion he says ‘ pursue

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your undertakings on the Coast of Labrador which are highly recommendary to me, and no after Commer, shall dispossess you”’. That is, the Governor of Newfoundland was saying that. “ Still the Difficulty of getting Proper people at that time to reside at the said Places was a hard task, however in 1769, being join'd by a Captain Cartwright, of the Army, and a Lieut. Lucas of the Navy, who were acquainted on the Coast, we formed a Settlement at Cape Charles, and fitted out an Armed Schooner to go among the Northern Tribe of the Esquimaux Indians to trade, the said Schooner having been unluckily lost, and Lieut. Lucas in her, who was a Man of Honour, I thought it most advisable to dissolve my connections with Mr. Cartwright having been subject to a heavy loss, each Persons settlements being allotted on the Coast of Labrador ”–the two partners separated ; one partner got his settlement at one point, and the other partner got his settlement at the other point : –“he remained with Cape Charles and Sandwich Bay Rivers, confirmed by Lord Dartmouth, then at the head of the Board of Trade, and I kept possession of Alexis and the other Rivers to Porcupine Bay, a little at this side of Mr. Cartwright ” ; and he gives a description of what he is doing. It follows, therefore, quite plainly, I think, from the instance of Mr. Coghlan, that with regard to the Alexis and other rivers–and there are a series of them ; they run down to the sea just south of the exit of Hamilton Inlet–there is no question, I should apprehend, that as a matter of fact all parties treated this area as an area in which salmon fishery and seal fishery and the occupation of rivers, establishing yourself to that extent inland, was perfectly within the jurisdiction of the Governor of Newfoundland.

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I will give your Lordships one other instance, in 1821, and then I am content to pass from the point ; I could give more. In 1821, you find in Volume III, at page 1222, a passage

which again my friend Mr. Geoffrion read this morning. I am not myself clear what was the purpose in support of any case of Canada for which it was read ; it appears to me to be a very strong instance the other way. This is Captain William Martin, who is a gentleman who was sent by a Governor Hamilton to explore Hamilton Inlet—this very area of water about which we are talking. If you will turn back to page 1215, you will see the origin of it. My learned friend Mr. Geoffrion did not refer to page 1215. This is in the year 1820. Now from 1809 onwards, Newfoundland was the authority over an area—I suggest over the green, but whether over the green or not, in 1820 this is what is happening. Governor Hamilton, the Governor of Newfoundland, is reporting to Lord Bathurst, who was Colonial Secretary : “ My Lord, it has also been represented to me that there is an extensive inlet on the coast of Labrador called Gross Water ”—now Gross Water is one of the names by which Lake Melville goes—“ which is said to abound with very fine fir Timber fit for Naval purposes, and it is my intention, if the force sent out will admit of it, to employ Captain Buchan whose experience and abilities are well adapted to such an expedition on this service next summer. I have lately heard that he is safely moored and covered over in the River Exploits.”

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Lord WARRINGTON : I was looking at Martin's report ; which is the one you are reading ?

Sir JOHN SIMON : I was reading at page 1215, as showing how it came about that there was an exploration of the Hamilton Inlet. The explanation is that at page 1215 Governor Hamilton was reporting to Lord Bathurst that there was this extensive inlet on the Coast of Labrador called Gross Water ; and Gross Water is an alias for Lake Melville. He is saying : “ I am going to send one of my naval officers to explore it.” The officer he did send was Captain William Martin, and now see what this gentleman, Captain William Martin, reports to his chief, Sir Charles Hamilton. He says at page 1222: “ I arrived in the entrance of this inlet the 12th instant, having but light and variable winds ” ; then he gives some navigating details, and then he says, at line 13 : “ From the 13th to the 23rd I have been employed in ascertaining the extent and source of this inlet.” That is this very thing which my friend wants to call a lake: “ I run up in the Brig 140 miles from N.N. W.” It runs about 140 miles inland.

Lord WARRINGTON : I think 140 miles goes to the entrance of Goose Bay.

Sir JOHN SIMON : Yes. There can be no doubt what this navigator was doing. Then he says : “ Thence I proceeded in a shallop (which a Canadian merchant kindly offer to

accompany us) with Canoes to the source, where we arrived at a Grand Waterfall or rapids." Those were the Grand Falls of the River Hamilton, which I suppose were then for the first time visited by a white man. That, of course, is not merely the head of Hamilton Inlet ; it is going up the River. There is a great fall of water at a point your Lordship appreciates which I need not indicate on this model, but it is higher up. I do not think on my little hand chart it is actually indicated, but I can tell your Lordships approximately where it is. If I am not mistaken, it is about the word " Hamilton " in the description " Hamilton or Grand River."

Mr. MACMILLAN : At the letter "H" of "Hamilton."

Sir JOHN SIMON : Yes, between the "H" and the "M" ; I am not quite sure. It is somewhere near the first syllable of the word "Hamilton" in the inscription " Hamilton or Grand River." What this officer is doing, therefore, is this : the Governor of Newfoundland reports to Lord Bathurst that there is a great inlet and that he proposes in the next year to have it properly explored and surveyed. You then get his deputy, Captain Martin, going up and making this report and nobody can doubt that from the point of view of the navigator acting for the Government of Newfoundland he, at any rate, imagined that he was going upon an arm of the sea, and then he got up to, as my Lord says, Goose Bay perhaps.

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Lord WARRINGTON : At any rate, your view may be that he was going up through territory, all of which had been annexed to Newfoundland.

Sir JOHN SIMON : Of course, that is my contention, but for the moment I am going purely on interior lines and endeavouring to dispose of this suggestion. It does not support the view that the jurisdiction of Newfoundland ends at the Narrows. That is what I am attacking ; I am saying that the whole story here is quite inconsistent with any such artificial construction.

Mr. MACMILLAN : May I just say that I do not agree with your view that the Grand Waterfall there means the Grand Falls on the river ? I do not think he could possibly have got up to there.

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Sir JOHN SIMON : I am told that my friend is quite right. There are some other falls called Musk Rat ; there are some intermediate falls ; I am no doubt wrong. Of course, there are degrees of grandeur ; if one has only seen a Musk Rat Fall it appears to be grand, but it does not appear so when you have seen Niagara. Then he says : “ I have had communication with the Red Indians,” and so on. My Lords, I am told it is 27 miles in from Goose Bay that you arrive at Musk Rat Falls.

Now, my Lords, all those passages go to this : With the action taken about Skeffington, which is only analogy, in the Island of Newfoundland in 1719, with the action taken about George Cartwright in Sandwich Bay in 1770 and 1773, with the action taken about Coghlan in 1777 on the River Alexis and the like, and with the conduct of Captain Martin in 1821, is it surprising that when Graves' instructions were revised there was the express insertion in them, as your Lordship noted this morning, that he was to pay particular attention to exploring the rivers ? And not only were those his instructions, but he did as he was instructed to do, as you will find in Volume II.

Lord WARRINGTON : I suppose it may be said on both, not only this one but on the one which you previously read, the reference at page 1070, that the rivers were on the coast. They are described there as being rivers on the coast ; and if the rivers were included in that territory, then they would be in that territory which had to be included.

Sir JOHN SIMON : I think so, my Lord. Could we not perhaps carry it a shade further by using the actual expression

used ? My recollection is that the actual expression used is not so much that the rivers are on the coast but that the coast is within the rivers, which must surely mean that an area which is being drained by the river is to be regarded as part of the coast of Newfoundland. My Lord, I was referring to page 1070. I think Lord Warrington's eye had caught line 8 : " Rivers and Bays upon the coast."

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Lord WARRINGTON : Yes.

Sir JOHN SIMON : Then your Lordships observe at line 30 you get this expression : " Do not claim or occupy a greater extent of the coast within the said Bays or Rivers," and so on. All I am saying is that this severely maritime flavour which my friend's delicate perception detects in these documents must surely be qualified when we find that things go as far inland as that.

Then, my Lords, I was going to say that not only was the language of the instructions to the Governors of Newfoundland expressly altered so as to direct them to attend to the rivers, but they did it, as your Lordships will see if you look at Volume II, page 387. This is not the report, but this shows what under this head the Lords of Trade consider to be important. This is a document which must be looked at again from another point of view. You will see, beginning at line 12, the Lords of Trade are saying : " With respect to the Necessity of any additional Instructions upon which We are directed to give Our Opinion, We beg leave humbly to represent to your Majesty, that Your Subjects employed in the Fishery at Newfoundland, having of late engaged more extensively in the Fishery on the North eastern Part of Newfoundland, upon which Coast the French have also a Right, by the Treaty of Utrecht, to catch and dry Fish during the Season, under certain Restrictions ; The great and extensive Whale Fishery in the Streights of Bellisle, with the other Branches of the Salmon "—this idea that the salmon is an afterthought is quite contrary to the document—" and Seal Fishery, attending the Coast from the Mouth of those Streights to the River St. Lawrence, and the Fishery of the River St. Lawrence itself, of Gaspee, of Canceaux, the Madelain Islands, St. Johns & Cape Breton being now annexed to His Majesty's Dominions by the Definitive Treaty ; The general Fishery of Newfoundland, and the Gulf and the Coasts with it is become a Matter of infinite Extent "—I am not going to argue that that is there used in a geographical sense—" and of the utmost importance " ; it means that they have got all sorts of ramifications.

So, my Lords, I think I have made good the point on the documents that there is no reason at all for supposing that the framers of the documents of 1763 had any desire at all to exclude Newfoundland from any waters that were accessible from the open sea, and more especially is there no reason to

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think so when it appears that even if cod prefer a greater salinity, none the less some cod may sometimes be found, and there are other fisheries of great importance.

Now, my Lords, all this is strongly confirmed by the contemporary maps, but I think it would consult the convenience of your Lordships if I do not trouble you at this moment actually to take the atlas in your hand, because as the Lord Chancellor said, I have to take the maps for another purpose. Perhaps your Lordships will be good enough to take this from me, and I will make it good when I do turn to the maps. If you do take the contemporary maps, the weight of the contemporary maps is altogether in favour of regarding the whole of this water area

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as far as Goose Bay, as forming part of an Inlet. I do not say that there is no instance to the contrary ; the practice of geographers of course varies, but I do not think there is any doubt at all, whether you take the Newfoundland Atlas or the Canadian Atlas, that the contemporary maps treat this disputable area of water as being Gross Water Bay; that is the ordinary expression ; I suppose that means Great Water Bay. You will find it so in Bellin; you will find it so in Rocque; you will find it so in quite a number of maps at the time.

Now, as against that, which seems a very strong prima facie case, with regard to the case which my learned friends for Canada seek to set up, I do not wish in any way to speak harshly of the material which is at their disposal and which of course has been displayed to the Board by Mr. Macmillan with a persuasiveness which gains a great deal from his moderation ; but the fact of the matter is this : that the whole of the Canadian expert evidence has been procured for the purpose of this case, and after it has been realised that the head waters of the Hamilton Inlet are surrounded by extremely valuable woods. Their map of Lake Melville, which my friend so artistically introduced to you as though it would be the natural standard reference for this area, is a map which has been expressly made for the purposes of arguing this case, unlike the Admiralty Chart, which was not expressly made for this purpose. Their surveys and their scientific material have been expressly collected for the purpose—I do not wish to attribute motives—I will say in the hope that it might support their case. Therefore if I were to have regard to the views of a Canadian expert, I not unnaturally should prefer the views of a Canadian expert who has this advantage, that he said what he had to say and wrote what he had to write before this controversy arose ; and who could there be better than Professor A. P. Low, who was responsible for the survey of this neighbourhood and whose map, you recollect, your Lordships have already seen ?

Now if your Lordships will take Volume V, you will find what this distinguished authority has to say about it, at page 2593. I am quoting a Canadian authority ; he is none the

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worse for that ; he is a very distinguished man and has the great advantage of having been there. I think Lord Finlay will be interested in this passage, because he asked for a description of the place. This is what Professor Low has got to say, at page 2592, line 35 : “The eastern coast of the Labrador Peninsula extends north–north–west, from the Strait of Belle Isle to Cape Chidley, a distance of about seven hundred miles, or from latitude 52 degrees to latitude 60 degrees 30 minutes, fronting the North Atlantic. The northern boundary from Cape Chidley to Cape Wolstenholme, at the entrance of Hudson Bay, in a straight line, is nearly five hundred miles long, and runs about west–north–west in direction, forming the southern shore of Hudson Strait including Ungava Bay. A line drawn from Cape Wolstenholme to the bottom of James Bay, runs nearly north–and–south for eight hundred

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miles, and corresponds closely to the eastern shore–line of the peninsula.” This distinguished authority seems to have thought that that might be so. “ The southern boundary is arbitrary but has been taken as a straight line extending in a direction nearly east from the south end of James Bay near latitude 51 deg., to the Gulf of St Lawrence near Seven Islands in latitude 50 deg. This line is nearly six hundred miles long and passes close to the south end of Lake Mistassini. From where the line reaches the Gulf coast, in the neighbourhood of Seven Islands, the shore–line forms the southern boundary to the Strait of Belle Isle with a length of somewhat over five hundred miles.” That is a description of the peninsula. “ The total area embraced within these boundaries is approximately 511,000 square miles, of which, previous to the present explorations, 289,000 square miles were practically unknown.”

Viscount HALDANE : What is the square mileage of Great Britain, do you remember ?

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Sir JOHN SIMON : I wrote it down for comparison. The area of Great Britain is 89,000 square miles. Your Lordship will remember I gave you one or two figures in order to get the proportion. The whole Labrador Peninsula being some 511,000 square miles, the green area which is the matter now in litigation is 100,000 or 102,000 square miles. It does not matter exactly what it is– call it 100,000 square miles. It is substantially one–fifth of the whole, and is, of course, a very large area.

I wanted your Lordship to see how Professor Low dealt with this Hamilton Inlet. He says, at line 14, page 2593: The Atlantic coast is exceedingly irregular, being deeply cut by many long narrow bays, or fiords, so that the coast–line exceeds many times the direct distance from Belle Isle to Cape Chidley. Hamilton Inlet is the largest and longest of

these inlets, extending inland over one hundred and fifty miles from its mouth.” According to the Dominion of Canada, assisted by some expert evidence of the last few years, it is not an inlet at all, but is something of a perfectly different character. This gentleman says : “Hamilton Inlet is the largest and longest of these inlets, extending inland over one hundred and fifty miles from its mouth. Among others, Sandwich, Kaipokok, Saglek and Nachvak bays are from thirty to fifty miles deep. These narrow fiords are surrounded by rocky hills that rise abruptly from the water to heights ranging from 1,000 feet to 4,000 feet. The water of the inlets is generally deep and varies from ten to one hundred fathoms.” That is not peculiar to Hamilton Inlet at all. That is a perfectly common, and, indeed, an inevitable consequence of the physical history of this part of the world. You will get very deep cavities in these bays before you reach the shallower ground, and get out into the Atlantic. “ A fringe of small rocky islands extends almost continually along the coast, with a breadth of from five to twenty-five miles. Outside the islands, the inner banks

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extend seaward for an average distance of about fifteen miles, and on them the water is rarely over forty fathoms deep. From this it will be seen that the fiords, as a rule, have greater depths than the banks outside the island fringe.” I have always understood that you talk about the “bank” of Newfoundland because, as a matter of fact, it is part of the sea where the actual depth is not so great as in other places, but there is not the smallest indication in Professor Low's treatise that he thinks he is dealing with something quite different from all the other inlets.

In the same volume if your Lordships will turn to page 2486, your Lordships will see an extract from a book which is very often used in circumstances like this in the Admiralty Court and elsewhere, known as “ The Newfoundland Pilot.” Your Lordships know there are issued official volumes for different parts of the world. There is the “ North Sea Pilot,” the “ Newfoundland Pilot,” and so on. And, of course, they are kept and consulted by navigators, and they contain a description of the places you might meet. Observe the way in which this perfectly impartial document describes Hamilton Inlet.

Viscount HALDANE : Do you say it is official ?

Sir JOHN SIMON : Oh, yes ! It is a thing you will find in the locker of a schooner. Anyone who goes yachting on the south coast of this country usually provides himself with a “Pilot,” because it gives him some indication as to where he is likely to get an anchorage, as well as giving him a chart. It is a thing of regular usage. The extract at page 2486 says : “ Hamilton Inlet (Ivuctoke or Grosse Water Bay) is entered

between Tub Island and Pompey Island, which bears 2° true, distant 15 miles. It extends west–south–westward 35 miles to the Narrows, the intervening space containing several islands. Within the Narrows which are 3½ cables wide, the inlet extends south–westward 90 miles, opening to the width of 18 miles in Lake Melville, and narrowing again at its head “–that is, the head of the inlet–“ into which Gillesport (Hamilton or Grand) river, a large stream, flows. Hamilton Inlet is the largest of the many long fiords which indent the north–east coast of Labrador.” I will not delay your Lordships by reading the rest of this passage, but there is a minute description of it, and so far as I have observed there is not the slightest ground for supposing that this particular sinuosity is different in character from any other sinuosity except that it is bigger and more valuable. I am not aware of any other distinction which is material in this case.

As against all that I next submit this. You have, it is true, a perfectly definite test as to how far the public right of fishery extends. The English law provides you with that. But it has nothing to do with how much tide there is, or how salt the water is. The question is whether or not there is a flow and re–flow of tide. There is, in fact, all things considered, a quite substantial rise and fall of tide in this particular disputed water, because it rises a matter of four feet. There is in fact quite a considerable degree of salinity. For example, it is a great deal more salt than the

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Baltic. If you are going to say a thing cannot be an arm of the sea because cod are not caught there, then the Baltic is not an arm of the sea. The truth is that if both the rise and fall of the tide and the degree of salt in the water, as shown in the documents we have put in in the case, were indeed tests, and if they proved that Lake Melville is not an arm of the sea, then the Baltic is pure fresh water. But as against that, if we are going to deal with the thing in a scientific way, there is material which is available in these volumes. I will only indicate it without seeking to read it, and if your Lordships will be good enough either to read the pages, or hereafter to consult the Shorthand Notes to get them, that is all that is necessary.

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On geology perhaps the best material I can present to the Board is advanced by Professor Gregory, and that is in Volume V, page 2489. Professor Gregory, as your Lordships may know, is Professor of Geology at Glasgow University, and I do not think anybody will dispute that he is one of the principal living geologists. So far as geology goes, beginning at page 2489, he gives a most careful account of this area. Incidentally I think Lord Finlay might like to know that in the view of Professor Gregory you do get what I may call a unity in the area I am speaking of. He contrasts what I call my green area, the Atlantic slope, with the slope on the other side, and suggests that there are certain elements of unity in the area I am speaking of. But I do not press that. Then there is a summary which I ask leave to call attention to. That is in Volume V, page 2508. I think if I may read the summary, I will leave your Lordships, if you think right, to consult the details.

Lord WARRINGTON : Was this written by Professor Gregory for the purposes of this case.

Sir JOHN SIMON : Yes, my Lord. Professor Gregory had put before him the material which had been filed or presented, which is partly due, I think, to the observations of a gentleman called Professor Kindle.

Lord WARRINGTON : I thought that must be so because I see on page 2505 there is a discussion on the meaning of the word "coast."

Sir JOHN SIMON : Oh, yes, my Lord. There is no question about it.

Lord WARRINGTON : We had not been referred to it.

Sir JOHN SIMON : I think one of your Lordships asked when one of my learned friends on the other side was arguing, what was the best summary on our side, and I think if I had to pick one and only one I should take Professor Gregory's summary.

Viscount FINLAY : I think it was I who asked for that.

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Sir JOHN SIMON : That naturally may be discounted as being the view of one distinguished man only.

Lord WARRINGTON : But still it gives an example in Canadian geography of where “ coast ” is used.

Sir JOHN SIMON : In British Columbia there is an actual compartment which is called “Coast,” and it is a very considerable area. But I am not concerned so much with analogy, as with the facts here. On page 2508 there is the conclusion of this gentleman who has been examining the thing from a geological point of view. He says : “ The Peninsula of Labrador consists of two main sections—an eastern belt facing the Atlantic, which is high and mountainous, and is deeply indented by many arms of the sea (fiords and fiards).” I do not know whether your Lordships happen to know the refinement which distinguishes a fiord from a fiard. I gather from reading these papers that if the chasm in the structure of the earth fills up with water to a limited extent it is a fiord, but that if in the process of nature, because the whole skin of the earth sinks, you get water welling up to a higher level —of course it keeps its own level, but the ground is sinking —the thing changes in its character and becomes what the geologists call a fiard. A fiard is a drowned fiord. That is the sort of distinction.

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Viscount FINLAY : If it is drowned it is not there.

Sir JOHN SIMON : It is not all drowned.. Perhaps one should say that a fiard has the appearance which is presented if the ground which surrounded a fiord has been further immersed. “ The western section is a plateau with a comparatively gentle undulating surface sloping downward to Hudson Bay and Ungava Bay. The high mountains and arms of the sea in the western section give it a distinct geographical entity. This belt has been called, as by some Canadian geographical authorities, the coastal region, and that term is in accordance with geographical and Canadian usage, as may be illustrated by the wide areas assigned to ‘Coast ’ in British Columbia.”

Mr. BARRINGTON-WARD : The word “western,” in line 19,. is a misprint.

Sir JOHN SIMON : Yes, that is so. The word “ western ”

should “ eastern,” of course. It should read : “ The high mountains and arms of the sea in the eastern section give it a distinct geographical entity.” Then the Summary goes on : “ The Hamilton Inlet has been generally accepted as a fiord, and as the longest fiord in Labrador. Its entrance is not a ria, but a fiard ; and the inner (Lake Melville) is the essential part of Hamilton Inlet, and to it the name inlet was first applied.” It is rather a striking fact that “ Inlet ” as a label is first attached to the Grosse Water Bay part. “ As a deep basin filled with seawater below a thin

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layer of freshwater, it is an arm of the sea. Its branch, the Double Mer, is accepted as a fiord, and Lake Melville has still better title to the name fiord. The Labrador inlets were neither cut by ice nor by ancient rivers. Their arrangement shows that they were due to the fracturing of the eastern coast of Labrador during the earth-movements which upheaved the Labrador coastal mountains and led to the foundering of the floor of the North Atlantic basin. The inlets are true fiords ; their arrangement is essentially different from that of river valleys, the normal arrangement of which is illustrated by the river valleys on the Labrador plateau. Labrador is strikingly similar in structure to Scandinavia, both peninsulas which in each consist of blocks of ancient rocks are found on both sides of the watershed. The watershed is the main boundary between the fiord-river mountainous region of Norway and the gentler slope of Sweden to the Baltic.” That will show your Lordships the kind of material available in much greater detail in the pages which precede.

Immediately following that—and I direct a little attention to it—is the comment made by Mr. Tate Regan (who is the Keeper of Zoology at the British Museum), which is one of the documents on which Canada relies. With regard to Dr. Kindle's effort to prove by reference to botanical specimens and the like that the inner waters which I call Hamilton Inlet should be regarded as Lake and not as marine, I forbear to read the document, but if your Lordships will cast your eye through it you will observe that with much deliberation, and more in sorrow than in anger, Mr. Tate Regan points out that it is quite obvious Dr. Kindle knows nothing about it. And a rather amusing thing is if you read Dr. Kindle's account of the botany of this place, he vouches as the gentleman who has catalogued or helped to list his specimens a gentleman who as a matter of fact was a student. If you turn to page 2370 you will see in this extremely elaborate botanical excursus of the Canadian Professor, he says : “ The plants in this list were collected by R. H. Wetmore. Determinations were made by R. H. Wetmore under direction of Professor M. L. Fernald, of Harvard University.” I will show in a moment that Professor Fernald of Harvard University knows all about this, and has also had dealings with Mr. R. H. Wetmore, and puts the matter in its true aspect. Professor

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Fernald is Professor of Botany at Harvard, and what he says is to be found in Volume VIII, page 3936.

The LORD CHANCELLOR : Are you going into this at length ?

Sir JOHN SIMON : No, my Lord, indeed I am not. When one comes to page 3936, Professor Fernald of Harvard University, who was Fisher Professor of Natural History (Botany) at that University, deals with all this elaborate table and catalogue of the plants of Hamilton Inlet, and says at page 3937: " Dr. Kindle's party contained a student, Mr. R. H. Wetmore, subsequently one of my students, who was instructed to collect specimens of all flowering plants seen." And then he proceeds to deal in detail with all sorts of specimens, and points out

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that there has been a misapprehension on the Canadian side. The real reason why some of these things he catalogues are not to be found blossoming or growing at, let us say, Goose Bay, is not because Goose Bay is not sufficiently saline, but it is because Goose Bay is not sufficiently boisterous. Those are things that grow on exposed places, and when you get into Goose Bay I believe they even grow cranberries there, and various fruits.

So that I leave these gentlemen to fight their battles out in these interesting volumes more in detail. My submission is that there is nothing whatever in this attempt to try and secure that, Hamilton Inlet is to be dealt with under a sort of contracting-out clause. There is not the smallest ground known to me on examination of these documents, why it should be supposed that in 1763 those who were responsible wished to draw any such distinction. In so far as this distinction is suggested to arise from scientific conditions, while wishing to give all due weight to anything said on the other side, it would appear as though the weight of testimony, so far at any rate as it is uncoloured by the controversy having arisen, is entirely in favour of the whole inlet being called Hamilton Inlet. There is an appreciable ebb and flow ; there is great depth ; there are steep wall-like sides ; there are undoubted and admitted fiords alongside, such as Double Mer ; there is navigability, there being not the slightest difficulty in very considerable ships getting up there ; the basin is permanently salt. The surface is salt in spite of the very large contribution of fresh water which is of course always engaged in diluting it. The Hamilton River, as a river, debouches into Goose Bay or the head of the inlet, and there you do find the bar, the natural river bar at its mouth, for the bar of Hamilton River and the North West River is in Goose Bay, not 140 miles further down at all. Lake Melville receives not one river, but many rivers, and perhaps one may describe it as an ante-room of the sea. If you look at this

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Admiralty chart its true character, at any rate the view of those who issue impartial directions and who are experts, is plain enough, it is to be regarded as an inlet. I say that in order to get rid of the suggested case against me, but, of course, it is no part of my own case, because I am relying upon tests which are much more fundamental than that.

Now, my Lords, if I might have regard to the time, I think I could usefully use the time which I imagine remains to-day, if I were to point out to your Lordships why I say that the Proclamation of the 7th of October, 1763, is not the controlling document and that the document which in fact does control the matter is the Commission. We have been led to make a little further investigation on this subject because of the observations made by some of your Lordships in the course of the argument. One of your Lordships pointed out that if you take the Proclamation (printed, of course, as your Lordships know, in the first Volume at page 153) you see an indication that there has been the advice of the Privy Council. You find the passage, for example, at page 153.

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The LORD CHANCELLOR : You get it again at page 154.

Sir JOHN SIMON : That is the particular one I am coming to. On page 153 you get it at line 12: “ We have thought fit with the advice of our Privy Council ” ; then, as the Lord Chancellor says, and it is more immediately important, you get it at page 154, line 17 : “ With the advice of our said Privy Council.” That suggested what I confess I myself had not in the first instance observed, namely, this question, whether the Commission to Graves which your Lordship remembers is to be found printed immediately before this document on page 149 could be regarded as being issued with the advice of the Privy Council, because if you examine the language of the Commission, the actual language of the document itself does not say so, and indeed no Commission under the Great Seal would say so. If your Lordship looks at the end of the Commission at page 152 you will, observe it is a Commission “ By writt of Privy Council,” which means as your Lordships know, or did at least in that period of our constitutional history, the Privy Seal is used as an authority for the purpose of requesting the impression of the Great Seal, then the Great Seal in its turn is used. Of course, we are now living in times where the use of the Privy Seal as a condition precedent to the imposition of the Great Seal is obsolete. I think the Statute is 1884, the Great Seal Act, which provided that there shall be no case in which the use of the Great Seal is to be conditional upon the use of the Privy Seal, but in these days, in the days of George the Third, the Privy Seal was constantly used as the way of securing or requisitioning, regularising, the use of the Great Seal.

Lord WARRINGTON : This comes from the Patent Roll?

Sir JOHN SIMON : Yes.

Lord WARRINGTON : There is a note at the head.

Sir JOHN SIMON : What we have discovered is this, the Registry or Index of the Privy Council documents has been available (indeed it is in this building), enquiries have been made and we have discovered what we did not know before, that on a particular day and on the same day there was an Order-in-Council made in terms which authorised and approved both the Commission and the Instructions. The document, your Lordship, is a document of the 30th March, 1763. I told my Lords these documents will be actually available in print to-morrow morning. Perhaps I may just make my point now, because it does fill up a small gap which was remarkable. If I may just read from the Privy Council Register the record of the 30th March, 1763, it is in these terms : “ Newfoundland. Commission for Thomas Graves to be Governor. Approved.” And the next document with the same date is “ Instructions for Governor Graves. Approved.” I will just read the first document. “ Upon reading at the Board a representation of the Lords Commissioners for Trade and Plantations

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dated the 15th of this instant, setting forth, in obedience to His Majesty's Commands signified to him by the Earl of Egremont, one of His Majesty's Principal Secretaries of State, they have prepared the draught of a Commission appointing Thomas Graves, Esqre., to be Governor and Commander in Chief of the Island of Newfoundland and all the coast of Labrador from the entrance of Hudson's Streights to the River St. John's which discharges itself into the sea nearly opposite the West end of the island of Anticosti, including that island, with any other small islands on the said Coast of Labrador, and also the islands of Madelaines in the Gulph of St. Lawrence, His Majesty this day"—that is to say the 30th March—" took the said Representation"—that is the representation of the Lords Commissioners for Trade and Plantations"—together with the said draught of a Commission into his royal consideration, and was pleased with the advice of His Privy Council to approve the said draught, and to order as it is hereby ordered that the Right Honourable the Earl of Egremont, one of His Majesty's Principal Secretary's of State do cause a warrant to be prepared for His Majesty's royal signature in order to pass the said draught of a commission under the Great Seal.' Then follows a similar one about the instructions. Your Lordships see this clears up two points, which, I quite agree, at the moment were a little doubtful. In the first place it brings the Commission and the Instructions together. The documents which are before your Lordships, the Commission, which is at page 149, of the first volume, and the Instructions, which are in the second volume at page 391, would appear to bear different date, but the explanation is, those are merely the drafts, and they being both ready in draft on one and the same day, namely, the 30th March, 1763, they are both brought before the King in Council and there are two Orders-in-Council, consecutive Orders-in-Council, made which record that they are approved by and with the advice of the Privy Council. That is one thing that it does ; it brings the two things together in point of date. I might observe on this, it is rather an interesting sidelight, that although the Order-in-Council was, as you see, or the Orders-in-Council were those made on the 30th March, 1763, they did not in fact issue the Commission and Instructions for nearly another month, and though I am not able to assert this from anything I have read, I venture respectfully to suggest as a probable explanation, that the salary of the Governor began as from the moment when the Commission was issued, and as he did not in fact leave this country until, I think, the 2nd May, it was not until the 25th April, if I remember the date rightly, that the document was

passed under the Great Seal, which shows that the principles of national economy had not been entirely forgotten in the year 1763. That is one thing it does. Now the other thing, which is perhaps more important, is this : I venture to think that this additional Order-in-Council does establish, I trust it establishes quite clearly, and conclusively, that the Proclamation of the 7th October is not the operative document or the root of title, and perhaps I might use the next few minutes to point out to your Lordships what I am

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afraid at a little later date I must develop—I wish to point out as clearly as ever I can, what it is which the Proclamation of the 7th October, 1763, was primarily directed to do. It consists, as your Lordships have noticed, very largely of recitals ; but the object of the Proclamation of the 7th October, 1763, was to secure a publication to the Tribes of Indians in the Indian country, who had been the Allies of George the Second's Army till 1760, and had been dependent upon and associated with George the Third's Army, with the British—in order to issue to them in the most formal and effective shape the assurance that what Britain was now going to do, after the War had ended in the triumph of British arms, was not going to involve the appropriation for private purposes of the Indian country. The rest of the document is mere recital, and (as I will, I think, establish to your Lordships quite clearly when we come to deal with it more in detail) the reason why this document of the 7th October, 1763, was issued, was in order to give in the most effective and solemn way the assurance that the Indian country, which I will establish to your Lordships is a perfectly well understood conception, was not going to be purloined from those tribes of Indians who had been our allies, and who had fought on our side. And the reason for that (I shall have to go into this again rather more in detail, but I mention it now), is this : Your Lordships know, no doubt, the history very well, but I must still, I am sorry to say, and I hope in rather more polite terms, insist that the view to the contrary put up forensically for the Dominion of Canada is woefully inconsistent with the true historical view. The reason is this : in the year 1763, the persons who were responsible for our Colonial government were in a state of very acute anxiety, because after defeating the French, after Wolfe and others had defeated the French, they were in the gravest possible danger of finding there was going to be another and a much more terrible danger develop, namely, a tremendous and successful Indian War. It is very much as though, after having defeated the Boers, you were threatened with a Kaffir rebellion, and the history of the year 1763 really is that these statesmen and counsellors of George III, and I daresay the King himself, were in a position of most acute anxiety because the French, who had been defeated, were going about in the Indian country (places for example like Fort

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Detroit, which was in the Great Lakes, or like Fort Pitt, which is now Pittsburg, all this area which was round the Great Lakes), and they were spreading the suggestion amongst the Indians there that these Indians who had been dependent upon Britain and associated with Britain were going to be betrayed. As your Lordships no doubt will remember, there was as a matter of fact a most fearfully dangerous development in the heart of America on that account. There was the Indian revolt and there was the Pontiac War about which Dr. Parkman has written two volumes which I read recently, which describes the whole story ; the reason why on the 7th of October, 1763, the authorities here were so anxious to issue this Proclamation, was not because by the Proclamation they were defining the character of the jurisdiction of the Governor, which did not matter

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a pin, but because they were faced with the most terrific danger of the smash-up of British sovereignty in the heart of North America, after the French had been beaten, by the Indian tribes. And when my friend Mr. Geoffrion in the course of his interesting sketch was saying that in his country it was all school history and everybody knew it, when he was representing to your Lordships the other day how the French had made friends with a certain number of Indians of Tadoussac and the like, he was perfectly right, but he was arguing my case. What happened was, the French, as it turns out very short-sightedly, made friends with a certain number of the tribes about there, with the result that they threw the great mass of the warlike Indian tribes into the arms of the British. And it was the central point of British policy from 1756, from the beginning of the Seven Years War right down to 1763, to give such assurances to these very powerful tribes of warlike Indians, capable of the most appalling enormities, in the heart of America, as would save the Empire which they had just won from the French.

That is the real reason, of course, why the Proclamation was issued ; and that is the reason why the Lords of Trade, in the document I shall have again to ask your attention to, describe the Indian country as they do. They describe the Indian country, you remember, as being that country which is bounded on the one hand by the Mississippi, and Hudson's Bay, and the boundary of the original Province of Quebec, and bounded on the other hand by His Majesty's ancient Colonies, which means the thirteen colonies which were on the Atlantic seaboard ; and inside that area there was enough combustible material to throw the whole of British North America into a terrible conflagration ; and the idea that these kindly people, be they many or be they few—I notice that one of the Governors of Newfoundland who is not quite so good at English spelling as he probably was in other respects, describes them as – pusillanimous ”–which he spells in an

Lord
Warrington

Sir John Simon

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extraordinary way—the idea that these poor people were the people who were causing all the principal statesmen of our Mother Country here in Whitehall and Downing Street to issue this Proclamation, is, I say quite deliberately, one of the most astonishing misunderstandings of Canadian history of which one would have thought anyone could have been capable.

Viscount FINLAY : At what page is the Proclamation ?

Sir JOHN SIMON : The Proclamation, at which we shall have to look a little in detail later, is in the first Volume at page 153.

Lord WTARRINGTON : And I suppose, too, the match which might have set fire to all this explosive material, or one of the matches, was the possible encroachment by our settlers on Indian land.

Sir JOHN SIMON : Yes. It is a very interesting and curious thing that though the undoubted British policy here at home in the 60's of the 18th century was all in favour of discouraging the appropriation of land, say behind the Alleghanies and the like, the view that was taken

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by many Colonists in the old Colonies of Britain—the view indeed which was taken by George Washington himself—was the exact contrary ; and what was really happening was that while people here were looking at the thing from the Imperial point of view, and were saying : “ We must make a Proclamation which will secure that the people in the Indian country round the Great Lakes, at the back of the ancient Colonies, will believe that Britain is not going to despoil them of their lands,” there was at the same time a very active movement going on inside the ancient Colonies of Britain, in which the distinguished name of George Washington oddly enough appears, in which he is extremely indignant at this British policy, so that one almost begins to suspect that it was not only the tax on tea, but possibly some other thing too, that caused a feeling of resentment in the breasts of some very estimable people in the Ancient Colonies of Britain. All this has nothing in the world to do, with the greatest respect, with this green area ; and the idea that at that time of day, in 1760, Whitehall was in a state of the most tremendous excitement and alarm on account of the Nippiscans or Montagnais is really a thing which it is difficult to describe in reasonable and moderate terms. The whole story is a perfectly different story, and though I will not delay about it now, I, of course, will substitute chapter and verse for mere bold assertion ; still, I must make entirely good my point, and I venture to think I can make absolutely good that “ the said Indians,” in the Proclamation, the Indians who are dependent

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people and associated with British arms, are not the people in Labrador at all, but are people who are in the heart of the Continent. If your Lordships would remind yourselves for a moment, or would turn to look at the map which we last put up on the screen, your Lordships will appreciate, of course, that the yellow area there, and more particularly the yellow area round the Great Lakes, was the centre of the Indian country. It is so described on the maps of the time. That is the area where you had Indians who were round the Great Lakes and to the West thereof, and the real anxiety of Britain was how to calm the population living there, and to assure them that they were not going to lose their property ; and that was why in 1763 the Lords of Trade urged that Quebec should be limited to the comparatively small slate-coloured lozenge, whereas, apparently, George III, or the Secretary of State, was at one time rather disposed to think that you ought to include the whole section. And observe what the particular reason was why the Lords of Trade resisted the King's view, and finally carried their point. Their reason was this ; you will remember they said : “ If we were to do what you suggest, we should give some colour to the idea that Britain has acquired this Indian territory in virtue of its conquest of the French, whereas,” they said, “this Indian territory is territory which is ours, not in virtue of any cession from the French at all, but in virtue of the various Treaties and bargains and purchases which we have entered into with different Indian tribes.” Now comes the Dominion of Canada, and, through the mouths of my learned friends, Mr. Macmillan and Mr. Geoffrion, they want to persuade you that when the Lords of Trade were saying that,

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they were talking about the area which they themselves admit was ceded by the French, which was not the subject of any sort of Treaty with any Indian tribes, and which, therefore, by its very description, could not possibly be what the Lords of Trade were talking about. I want at some period to make that point good, by a certain number of definite references, because I quite realise that reference is one thing and assertion is another; but I listened with great attention, of course, to the way in which this case on the Indian territory has been presented on the other side, and it is obviously my duty to the Colony of Newfoundland to do anything I can to present a different and, as we think, a truer view. Let me just add this: running through the whole argument, even of my learned friend Mr. Macmillan, who very seldom allows any fallacy to lurk, there appears to be a fallacy. He argues as though he had to resist some proposition which suggests that there were, or were not, some natives in this green area. I agree I used an expression about “ two or three Esquimeaux,” and I did not observe his own wise practice of moderation in statement. No doubt that was putting it much too low. But that is not the point. The question here is not an ethnological

question, it is a geographical question. The question is not whether if you had searched North America in 1763 you would not have found Montagnais or Algonquins, or whatever they are, specimens of that race, living a miserable life in some wigwam and starving every winter ; that is not the question, the question is not an ethnological question, the question is a geographical question : what is the area in respect of which it was felt so important, by the statesman of 1763, to offer an assurance in the most formal shape to those who conceived they had an interest in it ? And there cannot be the slightest doubt, when one examines the documents, that, if that is the question, there is a great deal of material to indicate that “ the Indian country” would include no doubt a great deal more to the West than is there marked, but it would indicate, in substance, the yellow, or at any rate the main part of the yellow, round the Great Lakes, that might or might not run up into what I call the corridor, but there is not, as far as I have been able to read it, the smallest grounds for saying the green area was affected at all. As a matter of fact, people at that time knew very little about it, and the people who were living there were not people who were likely to give any trouble. Therefore, it is no answer to my case to say that you propose to establish by references to the Census, some of which I notice were very hastily dropped by Mr. Geoffrion—we will have the Census back and look at it in a minute—it is no good to say : By reference to the Census I will show there were so many families in the green area. I do not care. What I want is the answer to the geographical question : What is it that the Lords of Trade are talking about ? and when I find what they are talking about I shall be able to appreciate whether or not this Proclamation damages my case in the least. There is one general consideration, which is this, and again there is a second fallacy which seems to me to lie behind a great deal of the argument for the Dominion ; they talked as though including some Indian Reserve inside the boundaries of

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a Province would automatically deprive the Indians of their right. If I may address Lord Haldane, with very great respect, it is a point, I think, which sometimes has a little pressed him, so perhaps I may repeat myself : the argument has often been put against me here as though including some area, which was an Indian Reserve, inside the geographical boundary of a Province would deprive the Indians of their rights. Well now, of course, my Lord has pointed out in another connection that really could not be so. The radical title, as my Lord has said in a very classical judgment, is, of course, in the Crown, and the Indians had something in the nature of a usufruct for the time being in their area. But their area might be inside a Province or it might not, and if you wanted to know whether the Indians were going to be protected in their rights, the thing that mattered was not whether their hunting grounds were within the geographical boundaries of a Province, but whether the authorities were at liberty to give their hunting grounds away to private settlers. And in view of the fact that the Government of Newfoundland as we know, on Labrador, was a Government which was not to do so, save under very stringent conditions, it follows necessarily that even if you are to assume, irrespective of the number of families of Indians there, that some were up there at the back of my coast, they do not suffer any sort of harm, because the area is geographically included in Newfoundland. It does not touch the point. The thing that matters to them is not whether there is some Provincial Governor who has authority over an area which includes their hunting grounds, but whether or not the authorities who are administering the neighbourhood are free to make grants of soil to people in terms which will dispossess them. You see, of course, an illustration of that in the history of the boundaries of Quebec. When Quebec was my slate coloured lozenge, the yellow area which was outside it was not within the jurisdiction of the Governor of Quebec ; and it was not, very largely, of course, because it was Indian hunting grounds. But when you enlarge the Province of Quebec to include these things, that did not mean that you deprived the Indians of every hunting ground, it merely meant that the provincial jurisdiction was exercised over a wider area, though inside that area there would be Indian hunting grounds or Indian Reserves existing there, as there are in Canada to this day. For those reasons, I submit it will be found, when you look at this thing rather more in detail, to show the relation between these documents of 1763 and the reservation of Indian territory, that the case for Newfoundland really is perfectly well founded in reason and in history.

Viscount FINLAY : Are there any documents which show the effect that this Proclamation, and the passage in it to which you particularly referred, had upon the Indian tribes ?

Sir JOHN SIMON : Yes, my Lord, there are some passages.

Mr. Macmillan

Viscount FINLAY : I mean, upon the Indian tribes from whom danger was apprehended.

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Sir JOHN SIMON : I have some passages which will bear on that ; I have some, but not many.

The LORD CHANCELLOR : Have we now reached a point on which it is possible to form some idea as to how much longer this reference will last ?

Sir JOHN SIMON : My Lord, I propose to deal, when we resume, with the Hudson Bay boundary from the point of view of deciding whether the height of land was a late invention, or whether, on the other hand, it was not inherent in contentions and descriptions from quite an early period. That will not take very long, but I have a compartment which I am anxious to use, because your Lordships have heard again and again the suggestion that it only arose in 1814. Then I must deal with this Indian matter by chapter and verse, I daresay all the more briefly because I will confine myself to documents and will not make merely general assertions. I am anxious to elaborate a little bit the calendar of 1763, to show the exact relation of the documents, because I think I can now fill up all the gaps, and there are one or two new facts which I do not think have been observed or noted, and lastly, I have got to go through the maps down to 1763. Those are the matters I have to deal with, and I am afraid all that material may carry me through the whole of to-morrow ; but I am quite confident, my Lords, that my own part of the matter ought not to extend more than a very short time beyond that. It may be that I shall be able to concentrate and shorten those matters, so as to finish to-morrow. I should very much like to be able to give your Lordships a confident assurance that I should finish to-morrow, but it is difficult to be quite sure.

Mr. MACMILLAN : I do not know whether it will be any inducement, but I will undertake to finish on Friday if my learned friend finishes to-morrow afternoon.

(Adjourned till to-morrow morning at 10.30.)

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1
Monday, 8th, November, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON

**IN THE MATTER OF THE BOUNDARY
BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
NEWFOUND- LAND IN THE
LABRADOR PENINSULA**

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

ELEVENTH DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Colony of Canada.

[1927lab]

In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Tuesday, 9th, November, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

9 Nov., 1926.

—
Sir John Simon.

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

TWELFTH DAY.

*Counsel for the Colony of Newfoundland :—The Rt. Hon. Sir
JOHN SIMON, K.C., Mr. F. T. BARRINGTON-WARD,*

K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by Messrs. BURN & BERRIDGE.

The Lord
Chancellor.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.

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MORNING SESSION.

Sir John Simon.

Sir JOHN SIMON : My Lords, may I inform the Board that the two sides, Newfoundland and Canada, are binding up the Shorthand Note in case it may be thought hereafter convenient for any of your Lordships to have it for reference : and in each case the Juniors have made a short index of subject matters, which has been bound into the end of the Report, so that I think it is very easy to find, in case it is needed, where the different topics have been dealt with on either side. I think it will be convenient to have two volumes. The one I hold in my hand is the one which has already been prepared of the case for Newfoundland.

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Viscount FINLAY : That is one half ?

Sir JOHN SIMON : Yes, my Lord , and it ends (I am indebted to my learned Juniors for doing it, and it seems to be very conveniently done) by an index of subject matters, so that if anybody does wish to turn up any part of the argument it can be easily done. Your Lordships will say whether or no you think it worth while to be provided with the Shorthand Note in that form.

The LORD CHANCELLOR : Speaking for myself, I am so conversant with the matter now that I think I know the page of every important document.

Sir JOHN SIMON : I thought it extremely likely your Lordships would take that view, and I am not pressing it on you.

Viscount FINLAY : I think the index may be very useful.

Sir JOHN SIMON: It will be available for any of your Lordships if you wish it: I am not doing more than saying it is available.

Viscount FINLAY : I have a document here headed "Submissions."

Sir JOHN SIMON: That, your Lordships will remember, was the way in which I was allowed to present to the Board, at the end of my argument (now I am afraid some time ago), ten propositions which I suggested would be sound.

Viscount FINLAY : I thought perhaps this document was something new.

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Sir JOHN SIMON : No, my Lord. Now, my Lords, if I may just take the compartment which I propose to deal with next, and will deal with as briefly as I may, the compartment is the Hudson's Bay compartment of the case, which I wish to deal with, not for the purpose of going over old ground, with which, as the Lord Chancellor has said, your Lordships are now all painfully familiar, but for the purpose of addressing myself quite specifically to a suggestion, or rather two suggestions, which have been made by the Dominion of Canada in argument on the other side. There are two things which my learned friends have advanced on this part of the case which I wish to challenge, and which I think I can overthrow. The first is the suggestion that a height of land as the limit of the Hudson's Bay area is a new-fangled nineteenth century invention ; if I may quote the language of my learned friend, Mr. Geoffrion, in the Shorthand Note at page 676 at line 20, that "in 1763 it had not been dreamed of," or, if I may again quote him at page 669 at line 35, where he says, " There was no suggestion of height of land being the limits of Hudson's Bay until quite recently."

The LORD CHANCELLOR : Until 1815.

Sir JOHN SIMON : Yes, my Lord, 1815 or 1814 ; or, in a third passage, where he says : " The Hudson's Bay Company thought of a new line," meaning the height of land, " in 1814 " ; and, indeed, I think suggests that they borrowed it from President Monroe. I am going, I hope, to satisfy the Board, and it is material that I should, that that view completely overlooks, and indeed shuts one's eyes to, material which I propose to take in order ; and I think I can satisfy the Board, in fact, that though, of course, the Charter of the Hudson's Bay Company, as we all know, did not in express terms take you back to the landward boundary which I suggest, still I think I can satisfy the Board that contemporaneous maps, maps at the material time, and documents at the material time, both most strongly indicate that that was the view. The second point which has also emerged in the course of the argument for the Dominion of Canada on this, is this : My learned friend, Mr. Macmillan, examined some material, which at a late stage had come to the notice of the parties,

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which had to do with the way in which this question of the extent of the Hudson's Bay territories was dealt with in the first half of the nineteenth century, and down to that House of Commons Committee in 1857. Your Lordships will remember that my learned friend examined the various legal opinions which were given at that time, and suggested that the result was quite inconclusive. I agree, of course, that that is much less important than the first point I have just mentioned, because it arises later, it arises after the event ; but I propose to show your Lordships, and I hope to satisfy your Lordships, that, as a matter of fact, the view that the Hudson's Bay territory extended to the height of land was a view which not only prevailed, as I have already said, in the

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eighteenth century, but that, when the matter came to be considered by legal authority on the one side and on the other, the British Government itself came to the definite conclusion, and announced it to the Hudson's Bay Company, that they accepted that as the true view of the matter ; and that is the reason why in 1857, when the House of Commons Committee investigated the proceedings of the Hudson's Bay Company, you will not find in the volume, though it is a most elaborate enquiry, a lot of discussion about the extent of the territory, because as a matter of fact it had already been accepted, and in terms asserted, by the British Government, to be the area which we claim. Now those are the two points that I wish to make about Hudson's Bay.

Viscount FINLAY : Was that by agreement ?

Sir JOHN SIMON : I will call attention to a document, issuing from the Colonial Office to the Hudson's Bay Company, in which they say so in terms. That is the reason it did not become controversial afterwards. To take the first of these two matters first (and, of course, it is the more important) how does it really stand ? Is it correct to suggest that “ the height of land,” “ the sources of the rivers,” and limits of that sort are a nineteenth century new-fangled notion which has been inserted into this argument at a stage so late as to be quite unimportant ? It is quite contrary to the facts and documents which are available to the Board. It is to be observed in the first instance (I will summarise my points) that, of course, the language of the Charter of 1670 itself (your Lordships remember it is in Volume II, page 367, but I do not ask your Lordships again to look at it unless you wish to) the Carolian Charter, indicates, or at any rates suggests, an area which is limited by some such consideration, because it grants in terms “ lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, etc. flowing into Hudson's Bay,” so that you start with this, that the actual text of the Charter—of course, I am not saying that this does not still call for exegesis—

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The LORD CHANCELLOR : The actual words are on page 368.

Sir JOHN SIMON : I only remind your Lordships because I know very well, as the Lord Chancellor said, these things are becoming very much trampled and well worn ; but it is to be noted, in this connection, that the very language of the document itself, its express terms, speaks of “ lands and territories upon the countries coasts and confines of the seas, bays, lakes and rivers,” that is on page 368, line 14, “ Together with all the lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid.” Now if you will carry your eye back, you will see that the “ seas, bays, lakes, rivers, creeks and sounds aforesaid ” are to be found a few lines higher up as being, “ All those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits.”

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Lord WARRINGTON : It seems to me very important to bear in mind that what they got was the lands and nothing else, the lands within the entrance to the Hudson's Straits.

Sir JOHN SIMON : Yes, that is it, my Lord.

Viscount FINLAY : There are two grants, are there not, there ? There is the grant of the sole trade and commerce of all those seas and straits within the entrance, and then there is a grant of land.

Sir JOHN SIMON : Your Lordship is quite right, the monopoly of the Hudson's Bay Company was, as Lord Finlay points out, really a double monopoly : it was a monopoly which was territorial in a semisovereign sense, so much so that, by the terms of their Charter, they were at liberty to set up a police force, and perhaps an armed force and, of course, to administer justice (they were much more than a Province or a Colony, they were an imperium in imperio, like the British South Africa Company was at one time) ; in the second place, over the corresponding area, there was a monopoly of trade ; those were the two things. I do not want to spend time on those, unless it is the wish of your Lordships, but I do point out, in the first instance, that there is nothing very surprising in supposing that people who had to draw a map or expand the language and meaning of this Charter should have supposed that it went to the height of land. The case of the Hudson's Bay Company is an easier

case for height of land, than my case ; no doubt it is.

Viscount FINLAY : It is different altogether.

Sir JOHN SIMON : Whether different altogether your Lordships in due course will determine ; I am saying, at any rate the language is more elaborate, and therefore it is easier to reach the conclusion.

Viscount HALDANE : There is no evidence to show there was the height of land which they thought there was.

Sir JOHN SIMON : I may perhaps be wrong, in these scientific matters one is easily misled, but I should have thought that dealing with a country which was known not to be as flat as a table, but to be a country of a very considerably mountainous character, très accidentéas the French might say, I thought it followed inevitably there was a height of land.

Viscount HALDANE : It does not tell you there is a height of land in the document.

Sir JOHN SIMON : It does not.

The LORD CHANCELLOR : The words are, “ on the rivers which lie within.” That carries you up.

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- Sir JOHN SIMON : One is clear that water would run down hill even in Labrador. Therefore, if you give people the land upon the rivers—
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- Lord Warrington.
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- Sir JOHN SIMON : Sometimes the rivers are frozen in that district.
- Sir JOHN SIMON : I agree, and sometimes for the greater part of the year, but even then water will not run up hill.
- Viscount HALDANE : The source of a river and the land in which it lies may be of various kinds. It may be mountains, it may be high up and it may be a height of land, or it may be just sufficiently not flat to enable the river to flow.
- Sir JOHN SIMON : Your Lordships will understand me throughout to be using the expression “height of land” not in order to suggest any pinnacle or peak, but in order to use a phrase, common I believe in the New World, for describing what we ourselves would describe as a watershed. I think watershed is a much better word.
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- Viscount HALDANE : If they had said watershed, it would have been understood.
- Lord SUMNER : It means the same thing.
- Sir JOHN SIMON : It means the same thing ; I only use this expression, which is a new expression to me, because I gathered in the New World it is used instead of watershed.
- Viscount FINLAY : I had never heard it before.
- Sir JOHN SIMON : Nor I, my Lord, but in English and in French it is to be found in the maps. Let me use “ watershed, ” because that is what I mean ; I only used it because I desired, as much as might be, to adapt our linguistic peculiarities to those of the New World.
- Lord WARRINGTON : In some instances, although there is a watershed, there is hardly any height of land. I am thinking particularly of the watershed between the Thames and the Avon in the neighbourhood of Bristol.
- Sir JOHN SIMON : Your Lordship is, of course, quite right ; in other words, the slope of a roof of a shed may be very steep-pitched, or it may be a very shallow slope.

Viscount FINLAY : It is difficult to argue from one case to another. The grant in the case with which we are concerned is of “ the coast. ” In the Hudson Bay case the grant is “ together with all the land and territories upon the countries, coasts and confines of the seas,

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lakes ” and so on “ aforesaid, not already possessed by any Christian Power.” That is very different language indeed from the language that we have to deal with, applicable to Newfoundland and to Labrador.

Sir JOHN SIMON : Yes, my Lord. And may I make this observation to my Lord Finlay, who has been good enough to make that comment ? I am sure that my Lord appreciates quite clearly that I am addressing myself, in a compartment, to a question as to the nature and extent of the Hudson's Bay territory ; and it is really impossible for me to argue the case except in such a compartment.

As regards the question of whether or not you ought to use such language as “ territory on the coast of Labrador,” your Lordships will recall that yesterday afternoon I was calling attention to a number of passages in which the word “ territory ” is used ; but I agree with Lord Finlay, if I may be allowed to say so, quite definitely (and indeed I conceded the point a few minutes ago), that the language of the Hudson's Bay Charter leads one more easily and readily to the watershed than the language of the documents which your Lordships have to construe.

For the moment, however, I am not doing that. I am not reading this passage in order to prove what my “ coast ” means. I am reading this for the purpose of saying that the Hudson's Bay territory did in fact run up to the watershed ; and that it is not true that the Hudson's Bay Company invented that notion in the nineteenth century, but it has in fact always been the true view, and, indeed, it is asserted contemporaneously in both maps and documents.

That is my point, your Lordships see, because, of course, as Lord Finlay remembers, although it is a long time ago now, when I opened this case I built up my case by treating the peninsula of Labrador as a defined area, the boundaries of which, or the outline of which, was more or less known. So that we are not dealing with some terra incognita in urging that you had already got appropriated to the Hudson's Bay Company one slope, that you had already got appropriated to Quebec another slope, and that therefore there was an inference to be drawn in construing difficult words as regards a third slope. But, of course, what I am now saying is addressed to the area which is called the Hudson's Bay area. Your Lordships appreciate the point, which is not directly bearing on the question of what is the grant upon which I have to rely. I conceive that it is not necessarily in my favour, as my Lord has pointed out ; but I was observing that the first

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thing to notice is that the actual language of the grant in the Hudson's Bay Charter would naturally indicate that at any rate territory upon rivers or upon the coast of rivers was included. I hope that your Lordships will recall how yesterday afternoon a very similar expression, which is on page 1070, was noted by your Lordships, and more particularly by Lord Warrington in reference to the Labrador Newfoundland itself. Your Lordships will remember this phrase which we had twice over about

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territory on the coasts of Labrador ; but that, of course, will come later on.

Lord WARRINGTON : And you may add to that that the territory which was given to Hudson's Bay by the Charter is uninterrupted territory. It is not merely narrow strips by the side of the rivers, but it is uninterrupted territory, because it was to be called Rupert's Land. The whole area was so called.

Sir JOHN SIMON : It was, my Lord.

The LORD CHANCELLOR : They got an express grant of minerals.

Sir JOHN SIMON : Yes, my Lord, they got an express grant of minerals, and I am going to call attention to a very interesting contrast between the two things. I understand Lord Warrington to be observing that whether I am correctly tracing out the landward boundary or not, at any rate it is clear that you get a continuous sheet of territory.

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Lord WARRINGTON : Whatever the boundaries are, it is a continuous sheet of territory inside them.

Sir JOHN SIMON : Yes, my Lord. That is the first point that I want to make upon this.

Now, my Lords, when does " height of land," or rather " watershed," expressly appear ? Is it true that it appears only in the year 1814, or the like ? I have ventured to challenge what my learned friend, Mr. Geoffrion said, but if I may be allowed to say so, he had just excuse, because in that passage which was read from the ManitobaOntario argument, interlocutory comments, the then Lord Chancellor, Lord Selborne, did suggest that it was a nineteenth century idea. But that only shows that the matter was not at that moment being presented upon very full information as to the old

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history, because it is quite contrary to the facts.
Now will your Lordships kindly observe the map which, with the permission of the authorities, we have put up on the board there. There is the original British Museum map of John Mitchell of the year 1755. It is better than the one which Lord Sumner has before him, because, of course, it has not got the later marks upon it. Your Lordships have only to inspect that map—and if I may say so I think it really merits inspection upon this point—in order to see that there is actually there indicated in 1755 a line which is marked “ height of land.”

Lord Sumner.

The LORD CHANCELLOR : “ Land's height” is what it says on the map here.

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Sir JOHN SIMON: “Land's height.”

Viscount HALDANE : It does not show you much of Labrador.

Sir John Simon.

Sir JOHN SIMON : No, my Lord. I am, of course, dealing with Hudson's Bay, as your Lordship appreciates.

Viscount FINLAY : On this map of Mitchell's, do you regard the expression, “ line of height,” which you say appears there, as denoting the watershed ?

Sir JOHN SIMON : Yes, my Lord. The expression is “ land's height,” the genitive. The inscription is this : “ Bounds of Hudson's Bay Territory,” I think. Then immediately afterwards you get “ Land's height.” It is not a question of private opinion ; but anyone who inspects the map and observes the way in which the rivers are depicted, can see at once that the line, which is a wavy line, and which is marked as “ Bounds of Hudson's Bay,” is, in fact, a line which is designed by the cartographer to indicate where you get a watershed.

Lord SUMNER : It actually does go round the heads of two streams. You have the words “ Bounds of Hudson's Bay ” and the words “ Land's height.”

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Sir JOHN SIMON : I am much obliged to your Lordship.

Lord SUMNER : That is in King George's map.

Sir JOHN SIMON : Yes, my Lord.

Viscount HALDANE : Does that come into Labrador ?

Lord Warrington.

Sir JOHN SIMON : It is the same in both. Now, as your Lordships are so kind, will you, before you leave that map, allow me to add this : if your Lordships inspect the map, you will see that that wavy line, which beyond all question is a watershed line, has got attached to it in Mitchell's map the statement : “ Bounds of Hudson's Bay under the Treaty of Utrecht,” a Treaty of 1713. While the map is before your Lordships, I was just proposing to read the Treaty of Utrecht, and see what it said. It is on page 329 of Volume I, and it says this : “ The Most Christian King shall restore to the Kingdom and Queen of Great Britain to be possessed in full right forever ”—now, my Lords, what ?—“the Bay and Streights of Hudson, together with all lands, seas, seacoasts, rivers and places situate in the said Bay and Streights, and which belong thereunto.” So that here you have as plainly as possible, the contemporary exposition of what Hudson's Bay territory is and upon John Mitchell's map of 1755—which is probably the most authoritative map available at this critical

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period—you have this wavy line, which beyond all question is a watershed. Of course it is a watershed. No one can inspect this map for five minutes without seeing that ; and it is in terms stated upon the map to be the boundary under the Treaty of Utrecht. How, after that, it can really be seriously said by anybody who has studied the documents in this case that the watershed or height of land in this case is a new-fangled invention which nobody ever dreamed of in connection with Hudson's Bay until 1814, passes my comprehension. The fact is that both the maps and the documents are full of this suggestion, and whether it is right or wrong—because it is perfectly open for a tribunal in 1926 to say that it is wrong ; nobody has ever decided judicially that it is right—to say that it was not a common understanding at the time, is to say something which is quite contrary to the recorded facts.

Lord WARRINGTON : The Treaty of Utrecht used almost the words of the Charter.

Sir JOHN SIMON : It did, my Lord, deliberately.

Lord WARRINGTON : “ All lands, seas, seacoasts, rivers and places situate in the said Bay and Streights, and which belong thereunto.”

Sir JOHN SIMON : It did that deliberately, my Lord.

Lord WARRINGTON : Then it says “ no tracts of land or of sea being excepted.”

Sir JOHN SIMON : Yes, my Lord. A very amusing diversion has been attempted by my learned friend Mr. Macmillan with

regard to this point. I watched his performance with the greatest admiration, as I need hardly say. He has been anxious to lay all the stress on the effort of the Hudson's Bay Company after the Treaty of Utrecht to get rather more than the watershed or the height of land gives them. But if your Lordships will recall what it was my duty to address to the Board about a fortnight ago, I spent a good deal of time, and I trust that I did not unduly weary the Board, in pointing out the explanation which is written quite plainly upon the documents. The explanation is that when the Treaty of Utrecht came, the British position was so strong, and the French position was so weak—the Marlborough Victories had driven the French to their knees—that for some years before the Treaty of Utrecht, you actually find the Hudson's Bay Company doing what in the circumstances was very natural, namely, trying to prompt the British Government to make an extended claim on their behalf to a boundary, which indeed in the documents is not described as the boundary to which the Hudson's Bay Company is entitled, but it is described as the boundary which they would like to have. No doubt it is perfectly true that they then proceeded to say to the British Government : “Now you have got the

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French thoroughly squeezed, and when the time comes for the Commissioners to draw our line, what we should like on the Atlantic side would be to have a line which would go up to Cape Grimington, somewhere here." I have not disputed for a moment that that was going beyond the proper interpretation of the Hudson's Bay Charter.

Lord WARRINGTON: Because it is outside Hudson's Streights.

Sir JOHN SIMON : Because it is outside Hudson's Streights, yes, my Lord ; and the only possible excuse would be this : we must not, of course, attribute to the Hudson's Bay Company or to the statesmen of the early years of the eighteenth century, so accurate a knowledge of geography in the neighbourhood of Cape Chidley as we have to-day; and when you look at the maps which existed at the end of the seventeenth century and the beginning of the eighteenth century, it is fair to say that the maps did not indicate with the same precision exactly the boundary. Indeed, they showed this knob or elbow on the northern border, in various and rather inaccurate outlines.

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I venture to think, therefore, that I have absolutely made good my point that so far as regards this map of John Mitchell—which is admittedly a map of the first authority in this age—it is perfectly obvious that the Hudson's Bay Company was regarded as having a boundary which was governed by the watershed.

Now I am afraid that I must put the Board to the trouble of looking at the Newfoundland Atlas, for the purpose of examining the other maps. But, my Lord Chancellor, if it is convenient, I will try to save your patience and trouble by also at the same time making one or two other observations upon the maps in question.

Sir John Simon.

Will your Lordships now be good enough to see how these matters are treated by the cartographers before 1763, in the Newfoundland Atlas. The members of the Court will appreciate that I may be making one or two comments which are not upon the Hudson's Bay point : but I am doing so in order to save your Lordships the trouble of turning to these maps again. I think that the earliest maps in the atlas are of very small importance, but still, I think perhaps we had better look at them.

If you take the first one of all, Map No. 1, I will then go through each of them until I have come to the Treaty. Map No. 1 is Sanson's, and it is dated 1656. Will your Lordships kindly notice that, early as this map is—long before the expulsion of the French from Canada—in 1656, a whole

century before the victory of General Wolfe on the Heights of Abraham—even here you have indicated as between the Terre de Labrador on the one hand, which is edged green, and le Canada ou Nouvelle France, which is edged yellow—even here you have a rudimentary watershed or height of land indicated. The notion that this is some new-fangled and far-fetched geographical boundary is really quite contrary to the evidence of all the early maps.

The LORD CHANCELLOR : Does that Bay Sauvage correspond to anything ?

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Sir JOHN SIMON : I do not see that at the moment, my Lord.

Mr. BARRINGTON-WARD : I think it is where the yellow meets the green.

Sir JOHN SIMON : I can tell the Lord Chancellor about that. It is as I thought. “ Bay Sauvage ” is an expression which is used in some of the early accounts for what we call Esquimaux Bay.

Lord WARRINGTON : Hamilton Inlet.

Sir JOHN SIMON : “ Savage ” probably meant “ Esquimaux,” and so they called it Bay Sauvage. I am not saying that it is right, but the point is that if you look at every early map, you will observe in fact that the notion of geographical boundaries being found by reference to watersheds is written not only between Labrador and Canada, but it is written all over it. Will your Lordships kindly observe, for example, the cartographer's notion of how Florida is divided from New France. You can see there all these rivers which are running down to the Bay of Mexico, and it is quite obvious that they are depicted as rising in an extremely mountainous region which is the watershed throwing the water into the Bay of Mexico instead of allowing it to flow northward or eastward. Exactly the same thing appears to be true of Virginia, and there is plenty of independent evidence that that was the view about the coastal colony of Virginia.

So that I start with this, that even when I begin with so early a map as that of Sanson, I get a sort of recognition that this is a proper boundary to take. Now, I am repeating myself, but may I remind your Lordships, before we turn away from this map, of an observation which seemed to me to be worth making once, and which therefore I hope I may be excused for making in reply, in regard to the legend of the map. Will your Lordships observe the inscription, the legend, which is rather striking. This is Sanson's map : “ Le Canada ou Nouvelle France ”— then he is dividing the thing into two, as regards the sources —“Ce qui est le plus avancé vers le

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Septentrion ”—that is the northern part of the map—“ est tiré de diverses Relations des Anglois, &c.”—that is his material for Labrador—“ Vers le Midy des Costes ”—that is the southern part of the map. Will your Lordships kindly notice the use of the French words “ les Costes ”—“ les Costes de Virginie, Nouvelle Suede, Nouveau Pays Bas, et Nouvelle Angleterre, Sont tirées de celles des Anglois, Hollandois, &c.” They are drawn from accounts given by Englishmen and Dutchmen. He does not mean a boundary between the salt water and the sea shore ; he means “ les Costes ” in the sense in which “ the coasts ” is constantly used in this period both in English and in French.

Viscount FINLAY : It is the old English.

Sr JOHN SIMON : Yes, my Lord, it is the old use of it, both in

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English and in French ; and, as I pointed out to your Lordships before, when you actually read the treatises of the geographers, you see it. I put before your Lordships a copy from the British Museum of Bellin's remarks on his map, where he actually divides America into six compartments, one of which he describes as “Les Costes Orientales,” between certain termini ; and when you inspect the map, it is quite plain that by that description he is indicating a series of colonies which go back to the height of land. So I think, in every one of these early maps, it is a curious fact that you will find some incidental support for one or other of the propositions, either that the height of land or the watershed is a boundary which you would look for, or that the word “ coasts ” indicates a substantial tract of territory.

Viscount FINLAY : Of course, it cannot be confined to a case where it goes back to the height of the land. The word “ coasts ” is used so constantly as denoting a certain portion of land.

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Sir JOHN SIMON : I am not at all disputing that, my Lord ; but, of course, in the present case, there is a strong inference to be drawn that the words “ all the coasts of Labrador ” have got a definite content, if you can find it, because the area in question is one which is to be located and delimited in fact, and is not to be settled by speculation.

Viscount HALDANE : Where do you get a delimitation in fact which you say is contemplated ?

Sir JOHN SIMON : I get that in the submission which I make

that “ all the coasts of Labrador” will be found to mean an area like my green area, which is limited by the watershed.

Viscount HALDANE : Ah, yes, but that is argument. There is nothing in the documents which speaks of delimitation.

Sir JOHN SIMON : No, my Lord. If there was, I imagine that your Lordships would not have been given all this trouble.

Viscount HALDANE : Yes, I know ; we have to interpret the word “ coasts,” as used in 1763.

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Sir JOHN SIMON : Yes ; and that is what I am endeavouring to help your Lordships to do ; and therefore, to see the early maps, as the Lord Chancellor suggested yesterday probably may give us a little help or light.

Then I think probably you would wish to take the next map, would you not, my Lord Chancellor ?

The LORD CHANCELLOR: Yes.

Sir John Simon.

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Sir JOHN SIMON : Yes, my Lord. Taking the next one, we have now reached a map of 1689, and, of course, a very imperfect or inaccurate map it is. It is a very interesting map to study, although I do wish that the printing upon it was not so small, because it contains all sorts of notes on the face of it which are worth reading.

Lord SUMNER : The original is larger.

Sir JOHN SIMON : Yes, my Lord, and they are all available if your Lordships care to look at them. Again, may I invite attention to the fact—it is all that I say, and all that I am invited to say on this point, I think—that if you look at this map it is quite plain that, whether it be accurately or inaccurately drawn, the dividing line between the green, which is called “ Estotilande, on The New Bretagne et Tierra de Labborador,” and the yellow, which is marked “ Saguenay,” and so on, there is no doubt about it that that dividing line is—I will be modest and say—at least entirely consistent with the notion that you find the dividing line by tracing the watershed which throws the water into the St. Lawrence. You see all these rivers running down, and I do not think it can be doubted by any reasonable person that that is what the geographer is doing.

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The LORD CHANCELLOR : This is rather a better map for you than the last one, because instead of carrying the line to Bay Sauvage, which I daresay is Hamilton Inlet, it brings it further down.

Sir JOHN SIMON : It does, my Lord.

The LORD CHANCELLOR : And more in accordance with the facts of to-day.

Sir JOHN SIMON : Yes, my Lord. Of course, I am not relying on these early maps as if they gave a picture of what in fact existed. I am relying on them merely for the purpose of seeing what is the method of division which is adopted. If a map is entirely imaginary, and yet the division adopted is a watershed, it would apparently have some value for me.

May I also point out in the same way that at any rate for the most part—there are one or two cases which are a little difficult to reconcile with this ; but for the most part—the same thing seems to be true of the Atlantic seaboard. Therefore, again I have the fact that in the year 1689 (when, of course, I quite recognise, was my Lord Haldane I think is rather suggesting, that people had the vaguest ideas about boundaries) the fact remains that, just as in the case of the Hudson's Bay map which is up there on the stand, people who were dealing with areas of this sort, having no other boundaries which were available, constantly drew boundaries by reference to the watershed. Lord Sumner observed that the map in its full size was available, and I do not know whether your Lordships would wish to see it for the

Lord
Warrington

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purpose of this further point. Would your Lordships observe that the word “ coast ” again occurs on this map, as it happens. It occurs in a place near the bottom of the map on the left hand side.

Sir John Simon.

Viscount FINLAY : Is that where it begins: “ Les Anglais ” ?

Sir JOHN SIMON : Yes, my Lord. May I just read it. It says : “ Les Anglais possèdent sur la Côte de l'Amérique Septentrionale les pays ou provinces de Nouvelle Ecosse.” I am not stressing that too much, but it does show again—and indeed I can establish it abundantly from the documents as well as from the maps—that “ the coast ” is, amongst other things, an area within which you will find the thirteen ancient Colonies of Britain. And again and again you will find that this is described as “ les Côtes Orientales de l'Amérique.” On this map there are all sorts of other notes which are quite interesting from the historical point of view. For instance, there is a note as to the early discovery of Newfoundland, and again as to the early establishments of New France, and so on ; but I confine myself to the matters on the map which seem to me to be directly relevant.

Viscount FINLAY : It says that the river of Canada or St. Lawrence was called Hochelaga by Jacques Quartier.

Sir JOHN SIMON : Yes, my Lord, who first discovered it.

Your Lordship remembers that “ Hochelaga ” was found to be an Indian word for some settlement close to Montreal, I think.

Lord WARRINGTON : The distinction between the Gulf of St. Lawrence and the River St. Lawrence was shown as we have always supposed that it was.

Sir JOHN SIMON : Yes, my Lord, it comes again and again.

Lord WARRINGTON : It comes into the western end of Anticosti, which is the end of the river, or thereabouts.

Sir JOHN SIMON : Yes, my Lord ; and I think that the more common practice is to take the Cape at the end of Gaspé as being the extreme point of the river. I do not think that much can be made of it, because I should have thought for my purposes that you were in the gulf before that. But if we are dealing with nomenclature, I think my learned friend Mr. Macmillan was making a fair claim when he said that they used the word “ River ” instead of “ Gulf ” as far as that. I agree about that.

Now if your Lordships will take the third map, it is a Dutch map, and the Dutch, of course, were very vigorous explorers at this period.

The LORD CHANCELLOR : The second one was a Venetian map, was it not ?

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Sir JOHN SIMON : Yes, it was. There is a date on this map which I wish to call attention to ; it is the Mortier map of 1693. I do not know any map in the series, if carefully inspected, which more clearly establishes the proposition that at this period the watershed was constantly sought for and used as a boundary. 1693, your Lordships appreciate, is after the Hudson's Bay Company had got their Charter, but it was before the Hudson's Bay Company had made any very extensive or effective settlement, and it is first of all striking to observe, if your Lordships will kindly follow what I am suggesting, on the lefthand side of the Hudson's Bay there is a place called Port Nelson, and there is an inscription which is written upon the land side of Port Nelson : “ Poste François decouvert et occupé par la Compagnie qui s'est formée en Canada pour la Baye de Hudson.” The Company that is there referred to is not the Hudson Bay Company which Charles II founded, but it is a rival French Company due to the efforts of the French Authorities in French Canada to promote trading relations in that part of the world, and it illustrates the fact which your Lordships know culminated in the most violent controversy on the shore of Hudson's Bay, the fact that you had French traders and explorers pushing their way up there, while you had the British enterprise of the Hudson's Bay Company resisting them with all their might. That is one of the reasons, your Lordships remember, why when the very unsatisfactory Treaty of Ryswick was entered into only four years later—it was in 1697—the British position then being a very weak one, the Hudson's Bay Company were constrained to give up some parts of the rights which they really had if they simply relied upon the grant of Charles II. Then would your Lordships please observe a very very remarkable thing that follows; there you get a dotted line which I assert, and I think can prove, to be an indication of the watershed. Would your Lordship carry your eye along the dotted line from the left till you reach an inscription, “ Lac des Temiscaming.” Just at the word “ Temiscaming,” or just above it rather, you will notice the inscription “ Separation des Eaux.” That is an indication by the cartographer—which I daresay is quite contrary to the physical facts, but it does not matter—at that sort of place the waters are running both ways, or rather, it is divided there. I am not saying whether it is right or not, I am only saying this is the method adopted by everybody.

Lord SUMNER : It is a good line. The next thing the line does is to charge direct into the line of mountains.

Sir JOHN SIMON: I quite agree. Would your Lordships carry your eyes along this dotted line with all those imperfections

Sir John Simon.

or inaccuracies—there is a very remarkable inscription immediately underneath the bottom of Hudson's Bay. I am sorry the print is so small, but I think I can read it. “Poste pour couper les Sauvages par le haut de la traite de Tadoussac et les empêcher de descendre a La Baye de Hudson.” That is a very remarkable indication : it indicates as I apprehend this ; the French King, of course, who was the Sovereign on the St. Lawrence,

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Lord Sumner.

granted, as your Lordships know well, farming rights and leases and monopolies of trade in this area called the Traite de Tadousac, and no doubt was much disposed to grant more than he had got. I should not be at all surprised if he sometimes authorised people to go further than, according to British ideas, they ought to go. But on the other hand, there were the British enterprises on Hudson's Bay which were pushing uphill from the north just as the French traders were pushing from the St. Lawrence uphill from the south.

Sir John Simon.

Viscount FINLAY : Where do you understand the post which that legend relates to was situated. The legend covers an enormous amount of territory.

The LORD CHANCELLOR : There is a little square mark above it.

Sir JOHN SIMON : There is a little square mark. I think, Lord Finlay, in this map they mark the posts with a little square, and then with a cross in between. You will find a similar use of that marking on the post near Port Nelson.

Lord WARRINGTON : It is the same if you look through a magnifying glass. It is either a cross or a fleur-de-lis, I am not sure which.

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Sir John Simon.

Sir JOHN SIMON : The third illustration of the same sort is to be found on the extreme left of the map, also on the dotted line, where you get the rather remarkable inscription : Poste du Sr Duluth pour empêcher les Assiniboels et autres Sauvages de descendre a la Baye de Hudson.” All I am saying is, I think it is pretty plain that that dotted line, however imperfectly drawn, was thought to be indicating roughly, at any rate, some sort of height of land or a watershed, and if I am right about that, then observe the significance of the dotted line rather more to the east, where you get “ Labrador ou Terre des Esquimaux,” and a dotted line with “ Nouvelle France ” marked below.

Lord SUMNER : I should have thought personally these posts which checked the descent of the savages towards Hudson's

Bay were really posts upon a navigable stream by which they must descend.

Sir JOHN SIMON : I think that is true, that is a very practical observation. At the same time, my Lords will attach whatever weight they think proper to the inscription which specially struck me, namely “ Poste pour couper les Sauvages par le haut de la traite de Tadoussac.”

Lord SUMNER : How do you exactly translate that.

Sir JOHN SIMON : I prefer to read it, however imperfectly, in the language in which it is written. At any rate I rather understand it to

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mean, if I translate it absolutely literally it evidently is, “ at the height.”

Lord SUMNER : Of the Treaty ?

Sir JOHN SIMON : No, “ traite de Tadousac.” The word “ traite ” means there “ trading.”

Viscount FINLAY : Would you kindly just read the words of the French. I got down to “ Post pour couper les Sauvages ” –

Sir JOHN SIMON : “–par le haut de la traite ”–by the height.

Viscount HALDANE : What is that that follows ?

Sir JOHN SIMON : “de la traite de Tadousac.” Your Lordships will, I daresay, remember that the French King granted an area which was called indifferently the Royaume du Roi or was called “ la traite de Tadousac,” or was sometimes called “ les pontes du Roi.”

The LORD CHANCELLOR : The “ traite ” is a tract of land ?

Sir JOHN SIMON : I think they used “ traite ” as “ trade ” ; it constantly occurs in these old documents ; I think it is the trading area.

The LORD CHANCELLOR : Quite incorrectly you find the accent put on it in some of these documents.

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Sir JOHN SIMON : Yes, I have been rather puzzled with the word, and I have read a good many of these French documents for the purpose of the case. Constantly you find “ traitor avec les Sauvages,” to trade with them. I do not wish to spend too much time on it, because I quite agree we cannot go on too far.

The LORD CHANCELLOR : The dotted line from that point onwards runs above the rivers, except one river, where it seems to cut it.

Sir JOHN SIMON : Yes, I could not possibly attach exaggerated importance to the smaller things. It is quite obvious, whoever did this did not spend very long doing that dotted line, it was quite a rough thing ; all I am saying is, to say the least, it is not inconsistent with the notions which I have ventured to put before the Court.

Viscount HALDANE : You do not expect exactitude.

Sir JOHN SIMON : Indeed there was not much good in it, as nobody knew what was there. Now there follow three or four maps which I should like to group together. You will find it convenient to turn to the last of them, because they really are editions of the same map,

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they are the maps of a very distinguished man, my Lords, Guillaume de L'Isle. Guillaume de L'Isle was a cartographer in Paris, who was the official adviser in these matters to Louis XV, and who was consulted by Peter the Great ; he bore the title of “ Premier Géographe du Roi.” He was undoubtedly a geographer of distinction.

Viscount HALDANE : It was published at Amsterdam.

Sir JOHN SIMON : Yes, some of them were, that is quite right, but he carried on his work in Paris very largely. Your Lordships I think will find it convenient to take 4, 5, 6, 7, and 8; they are all editions of Guillaume De L'Isle's maps. I have no objection to examining them in detail, I have done it personally with the help of my friends, but I think for the purposes of any point I need to make, you get the clearest indication if you go to the later one, because there you get colours which rather help your Lordships.

Lord WARRINGTON : 4 seems to be a later one ; it is 1708. No. 6 is 1700

Sir JOHN SIMON : That is right.

Lord WARRINGTON : They extend from 1700 to 1708, or thereabouts.

Sir JOHN SIMON : Yes, as a matter of fact the inscription we have printed opposite the first of them gives you the details if you want them. All I am concerned with is to see what Guillaume de L'Isle had got to say about this thing so far as he could be regarded as any sort of authority. Would your Lordships think it convenient to take No. 8. First of all would

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your Lordships notice this : No. 8 I think is the map of 1703, and this one, Lord Haldane, was published at Paris at “ le Quai de l'Horloge ” and the “ Golden Eagle.”

It was a grand thing when Messrs. Stanfords sold their maps by signs of that sort hung up outside their shops. There are several things worth noticing about this map. First of all would you observe this is one of the maps which on the right hand side indicates this large body of water which penetrates the general trend of the land on the Labrador seaboard, and there you get the inscription which is repeated in many maps but you get it in its fullest form, these are the words “ Entrée trouvée en 1586 par Davis Anglais.”

Viscount FINLAY : Where is that. Take “ Terre de Labrador.”

Lord WARRINGTON : It is here (indicating on the map).

Viscount FINLAY : I do not read it in that way.

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Sir JOHN SIMON : I read it in this way : “Entrée trouvée,” then. you see the figures—“ En. 1586 par Davis ”—the British sailor —“ Anglais qui trafiqua ”—it is the same thing there—“ AVEC ceux du pays ”—with the people of the. country—“ et dans laquelle ”—in which Inlet—“ Weymouth s'avança 30 lieues,” that is 30 leagues. It was not Davis himself who went 30 leagues up the Hamilton Inlet ; it was one of his lieutenants or companions whose name was Weymouth. That kind of inscription occurs again and again. It is a little striking that that should be the kind of picture which at the beginning of the eighteenth century you got of the break in the Atlantic seaboard of Labrador when you remember that when the instructions come to be drawn up for the Governor of Newfoundland, Governor Graves, on the occasion when all the coasts of Labrador are annexed to his jurisdiction, one of the instructions which is specifically given is this, that he is to explore the Davis Inlet for the purpose of ascertaining more accurately the character of what is within.

The Lord
Chancellor.

Viscount FINLAY : What do you suppose that corresponds to on the maps of the present day ?

Sir John Simon.

Sir JOHN SIMON : We have had this point, your Lordships will remember, before. Really the matter is quite clear, and in the documents, if necessary, I can prove it ; I state it categorically, the Inlet that is there being described as running 30 leagues in is, in fact, Hamilton Inlet. There was for some time a confusion of nomenclature ; the thing which is now called Davis Bay, or Davis Inlet, is not the same thing as Hamilton Inlet, but was to the north of it.

The LORD CHANCELLOR : You see “ Baye des Esquimaux,” down below. I think that is probably Davis Inlet, but they fitted the facts which, related to Hamilton Inlet to Davis Inlet.

Sir JOHN SIMON : Your Lordship puts it quite right, that is what it is.

Viscount FINLAY : Davis occurs in connection with Davis Straits, which is a good deal further to the north.

Sir JOHN SIMON : It is the same man.

Viscount FINLAY : It is the same man, certainly, but the place is a good deal to the north.

Sir JOHN SIMON : Davis was an explorer and navigator. Your Lordship has in mind the passage I was referring to in the instructions. I do not invite your Lordships to turn to it unless you wish, but I may give you the reference because it is useful to write it against this sort of inscription on the map. When Thomas Graves was given his instructions, in view of the fact that the Labrador territory was being

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added to Newfoundland, one of the things he is particularly told is this, that he is to make his best endeavours “ to procure accurate Draughts or Maps of the several Harbours, Bays and Coasts Sir John Simon. of Newfoundland, and other Islands and Territories under your Government.” I have already proved to your Lordships that “ territory ” there is a new word and refers to Labrador—“ and you are more particularly to direct the Officer of any Vessel under your Command, which may be appointed to visit that part of the Coast of Labrador which lyes between Hudson's Streights and the Streights of Bellisle, to search and explore the great Inlet commonly known by the name of Davis's Inlet, in order to discover, whether the same has or has not any passage to Hudson's Bay, or any other inclosed Sea.” Now your Lordships see the position would have been a curious one if it turned out to be true, because the Hudson's Bay Company had got an area which we know is to begin at the entrance of the Hudson's Straits. But here we are dealing with a more southerly aperture, as we see in map after map that sort of inscription. I venture to think it is very difficult to suppose that the people who drew up the document of 1763 can ever have meant to accept the view of the Dominion of Canada so persuasively presented by my learned friend that when you came to Hamilton Inlet you are to skip across from one headland to the other and leave the 30 leagues of water inside this invisible line as a land-locked or at any rate a juristically locked area of water.

Viscount FINLAY : It is clear they knew very little about the conformation of the land. Look at the delineation of that Inlet ; it is widely separated.

Sir JOHN SIMON : Very widely.

The LORD CHANCELLOR : What do you say about these maps, because they do not seem to me to bear very much on the point.

Sir JOHN SIMON : Would your Lordship bear with me while I suggest one thing it does. Your Lordships see “ Canada ou Nouvelle France ” in big letters across the map. Would you kindly carry your eye about one-third of an inch below the letter “ E,” the final letter in “ Nouvelle,” and there you will find a dotted line which is marked “ Hauteur des Terres.”

Lord SUMNER : A dotted line which strides across streams.

Sir JOHN SIMON : I still think, however inaccurate it is, it

indicates an intention—

Lord SUMNER : The point, to my mind, is that the person who drew that line and marked it across the waters did not understand what the height of land was, or did not think it mattered.

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Sir JOHN SIMON : If your Lordship pleases, I can save your Lordships' time. The next map, No. 9, is an English map ; it is produced by a man called Senex. It is really, I think, very largely based upon de L'Isle. Your Lordships will now read very easily the corresponding inscription in the opening : “ An entry discovered by Davis in 1586 into which he sailed 30 Leagues and trafficked with the natives.” It is not quite correctly translated ; it was not Davis who sailed there ; it was Weymouth who sailed, otherwise it is much the same. In the same way I do not wish to make small points ; there are some small points I could make on it, but it does not matter. No. 10 is the first of a number of Bellin's maps. Your Lordship remembers the name of this man ; I desire to save your Lordships' time in the same way. No. 10, No. 11 and No. 12 are all maps by Bellin, and if your Lordships think it adequate I should propose to take the last of them, just as I did in the case of de L'Isle's maps.

Now, again, my Lord, I do not wish, I am sure, to make more of the point than it will fairly justify, but I cannot help noticing that the Bay of Hudson in this map which is edged in yellow undoubtedly is indicated as an area—it is thought to be an area where you get the watershed. Your Lordship remembers, of course, that the expression “ The Bay of Hudson ” or “ Hudson's Bay ” without using the expression “ territories ” is an expression often used for the territory of the Hudson's Bay Company ; it is so even in documents passing between Britain and France. Would your Lordships notice, you see the boundary which is edged yellow on the one side and green on the other, would you kindly perambulate it with me for a moment, starting on the western side where, of course, the country was extremely little known, and you will find that you come twice over to a crossing place where you might be disposed to say, as Lord Sumner said just now, this geographer most cheerfully goes walking across the Rivers. Well, in this case he does not, he indicates with arrows that there is water which is running down to Hudson's Bay to the right and there is water which is running, say the River Bourbon, to the left. If your eye catches the arrow which is just in front of the “ R ” of “ River Bourbon,” would your Lordship then carry your eye past the description “ Grande etendue de Pays entierement Inconnue.” You will see first “ Hauteur des Terres ” ; then still carrying your eye along the boundary, when you get at the lowest point below James's Bay you will find again “ Hauteur des Terres,” and if you will then continue to carry your eye up you will see that the

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general scheme of the thing is throughout to indicate that sort of boundary.

Lord WARRINGTON : There are arrows here again ?

Sir JOHN SIMON : Yes, whether such things existed as frequently as this gentleman thought is not the point. There cannot be the slightest doubt I venture to think that in 1755 which is a very important year for me—

Sir John Simon.

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Lord WARRINGTON : This was 1755.

Sir JOHN SIMON : This was 1755.

Lord WARRINGTON : The earlier one was 1743.

Sir JOHN SIMON : It is becoming so critical. Here we are on the eve of the outbreak of the Seven Years' War ; here are the expeditions being fitted out, one of which, under the command of General Wolfe and Admiral Saunders, won the great victory at Quebec. Here we have the stage set for a great fight between the French Empire and the British Empire in British North America. Is it to be supposed that the most authoritative French map of the moment, when it colours the “ Baye de Hudson,” an expression which occurs again and again in the French documents for 50 years as meaning Hudson's Bay Territory—is it to be supposed that he was not really indicating the contemporary view, as far as this very authoritative man was concerned, that you really had to find these boundaries by reference to the watershed.

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Lord SUMNER : I think his little black arrow routes are useful on this map because what he is doing is to say “ From Janssen, whom I consulted, I find you go from James's Bay up a river and then down another river, and then there is a part which leads to somewhere. That is what I am told. Then I know that there is a height of land somewhere, I can more or less indicate the stream from Janssen, but exactly where the water stops and the land appears I cannot say, so I will draw my colour to that point.” Its importance is it is a boundary of the Hudson's Bay country.

Mr. Macmillan.

Sir John Simon.

Sir JOHN SIMON : That is exactly the point. Might I tell Lord Sumner an incidental confirmation which occurs to me as he has taken that point ? I can put my hand on the page I think, I know there is a document, and a document which was shortly before this time, where the French Traders in French Canada were saying it was quite impossible to accept the view of the Hudson's Bay Company that they were entitled to

everything—to all the land which you could get at from Hudson's Bay by water because at that time it was believed there really was a water connection between the St. Lawrence and Hudson's Bay. They give that actual reason, they say it is quite impossible for us to admit that the Hudson's Bay Company has got this territory which includes all the land which you can reach by water from Hudson's Bay because they say if that is the case they would have the St. Lawrence and the whole thing. I think I am justified in saying in 1755 at any rate on the French side—you will see the English side in a moment—in the very same year that was the view. Would your Lordships, while the map is before you, please observe exactly the same principle appears to be indicated in other parts of the map, for instance, take what are commonly called the ancient colonies which are bounded in yellow on the Atlantic shore. Your Lordship sees what I mean by that yellow area.

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You have already had the point, my Lord. If you read Bellin's Commentary—you will remember I had the book from the British Museum—you will find he says with reference to this identical map that one of the vast compartments of North America is “*Les côtes orientales*,” and he identifies that as being this yellow area containing, for instance, Virginia and Georgia, and North and South Carolina. He in terms describes that in his contemporary document as “*Les côtes orientales de l'Amerique*.”

Mr. MACMILLAN : I wonder whether I might draw attention to one matter. At the end of the legend the geographer says : “*Note qu'on n'a point marqué de limites*.”

Sir JOHN SIMON : I think that is rather like an inscription which you read on an ordnance survey. You must not take the fact that a right of way is marked on the map as conclusive proof that it is.

The LORD CHANCELLOR : Perhaps this refers to the western boundary, where the line breaks.

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Mr. MACMILLAN : I do not know, my Lord.

Sir JOHN SIMON : I think my friend is quite justified in raising the point. I think he really means that if you take the green line which bounds Louisiana, or again, the yellow and green line bounding Hudson's Bay, you reach a point west where you do not get on the limits.

Lord SUMNER : I fancy he means he does not know whether it is land or sea. It is absolutely unknown.

Sir JOHN SIMON: Yes. Would your Lordships turn now to Volume VIII. I have a reference in that volume which bears I think directly on this point, and then I think I have finished all I wish to say about these maps. The reference is Volume VIII, page 3774. That is a part of the book which contains some extracts from that commentary which M. Bellin invites us to buy so attractively in his map. It is headed “ Extracts from ‘Remarques sur la carte de l’Amerique Septentrionale.’” That is this very Map No. 12. This is the handbook to it. In those days when you bought a map you bought a handbook with it, and you looked at the map and looked at the handbook and found out from the handbook more about what was on the map. After the preliminary self-advertisement of a rather striking character, he says the early geographers were always writing down things that they did not know, but he is adopting a better plan. He criticises remorselessly some people's maps, and having done that, he says, at page 3775, line 28:—I will endeavour to translate as I go along—“ Such are the rules that I have imposed on myself, and now it is for the public to judge if I have departed

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Viscount Finlay.

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from them.” Then he goes on to say : “ After these preliminary reflections which have seemed to me essential in the present circumstances, I am going to enter upon the geographical discussion”—of what ?—“of the principales Parties de l’Amerique Septentrionale, renfermées entre le 28 and le 72 degré de latitude.” He does not deal exactly with the Isthmus of Panama, neither is he dealing with the North Pole. Then he says : “To do it in some sort of order I have divided this great stretch of country into six principal parts beginning in the north and following towards the south, which is the natural order in geography ”—and these form a number of different articles or sections. Here they are : “The Bay of Hudson and the surrounding country.” Your Lordships will observe that the label on his map is: “ Bay of Hudson ” edged in yellow. The next one is “ New France, or Canada.” The third is: “ Les Côtes Orientales de l’Amerique, depuis l’Acadie ”—which is Nova Scotia—“ jusqu’a la Floride, contenant les Pays possédés par les Anglois, entre les Montagnes des Apalaches et l’Ocean.” So that you have in 1755 at the very outbreak of the Seven Years' War, a contemporary assertion on the French side that the “ parties,” the solid territory, are properly to be called “ Coasts ” if they go back to the watershed. There you have it in express terms illustrated by the map.

Viscount HALDANE : What are the Apalaches ?

Sir JOHN SIMON : They are the continuation of the Alleghany Mountains. The Alleghany Mountains are the boundary in the upper half, and the continuation was known

as the Apalaches. What I am saying is that anyone who studies the treatment of this subject on the French side at the outbreak of the Seven Years' War, I venture to submit, is driven to the conclusion first that " Les Côtes" was at the time constantly used to indicate the band of territory which you would measure laterally by going back to the watershed, and secondly that the height of land, or the watershed, or whatever the expression may be, was at the time regarded and treated as the boundary which would divide competing and adjoining territories.

Viscount FINLAY : It was an elementary fact with regard to these colonies that they were all between the range nearest the Atlantic Coast, that is to say the Alleghanies with their continuation, and the sea.

Sir JOHN SIMON : Your Lordship is perfectly right. In that respect his geography is correct, but, of course, what is important for me is not whether he made a correct picture, but taking his assumptions, how he uses his language. I have made my point absolutely good on the French side, your Lordships see. Now if once again your Lordships will remind yourselves of the map on the stand, your Lordships will appreciate that that map—

Viscount FINLAY : That is Mitchell's map.

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- Sir JOHN SIMON : Yes, but it is made in exactly the same year.
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Viscount Finlay.
- Lord SUMNER : Before you leave the passage you have been referring to, I see at the top of page 3777 there are some words which I think you have referred to before. It is a quotation from Bellin's book, I think. " Au nord du Detroit de Belle-Isle sont les Côtes de Labrador, grand et vaste pays, que les Francois avaient nommé anciennement nouvelle Bretagne." Of course, it is only Bellin.
- Sir JOHN SIMON : It is only Bellin, I quite agree. That is the passage the Lord Chancellor picked up when he saw the book. I will tell your Lordship this. Of course, I do not wish to do other than serve the Board. I suppose it is conceivable that it might be said that " grand et vaste pays " qualifies Labrador as distinguished from " Les Côtes." I do not say it is right, but I should have thought it did as a matter of fact refer to " Les Côtes."
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- Lord WARRINGTON : A little lower down he describes Esquimaux Bay, but he does not say anything further than simply saying that it goes back 40 leagues.
- Sir JOHN SIMON : Yes.
- Lord SUMNER : I notice also he says that before 1713 Newfoundland belonged to the French, and it was then they ceded it to the English.
- Sir John Simon.
Lord Warrington.
Sir John Simon.
- Sir JOHN SIMON: There was, as your Lordship knows, under the Treaty of Utrecht, a cession of so much of Newfoundland as was in the possession of the French. The fact was that the French had some settlements on one part of the Island, whereas the British had settlements on the other part, and actually in terms the Treaty of Utrecht does contain a cession of Newfoundland to Britain. There was, your Lordship will remember, in the actual British Museum book another passage not printed here, which seemed to some of us to be material. It is only another illustration of the same thing. I may remind your Lordship of it. He says when he deals with Greenland, for example, that the western coast of Greenland is called " New Greenland," and I remember I pointed out to your Lordships that looking at his map one saw what he labelled New Greenland. He is obviously using the word "Coast " there in my sense. And other illustrations could also be given.
- It is enough for me to say now I have gone through in my

atlas the maps which preceded the making of the new areas, whatever those areas were, in 1763.

Viscount FINLAY : With regard to line 8, on page 3777, what do you understand to be the " great Bay " that is referred to in the

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sentence : " A la Cote Orientale de ce Pays, on trouve la grande Baie des Esquimaux ? "

Sir JOHN SIMON : That is Hamilton Inlet, which is also called Esquimaux Bay, and sometimes Ivortoke Bay.

Viscount FINLAY : It says " granted to the inhabitants of Quebec by the Governor of Canada."

Sir JOHN SIMON : Of course, your Lordship appreciates this is in the time of the French regime, before Wolfe's victory. Indeed, it was the fact that you had French Canadians who had, as they thought, certain rights in that corner of the world, that added so much to the complications of Governor Palliser's administration.

Lord WARRINGTON : Now we find a further name for Hamilton Inlet, because it goes on to say : " Le sieur Joliet, qui fut envoy  en 1694 par M. de Frontenac, Gouverneur du Canada, pour visiter la C te de Labrador, la nomma Baie S. Louis."

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Sir JOHN SIMON : That is the fourth or fifth name for the same thing. Lord Cave will observe on the following line the word " traite " as meaning " dealings."

Viscount FINLAY : Of course, the Slave trade was always known as " La traite."

Viscount Haldane.

Sir JOHN SIMON : That is another example. In the same way your Lordship will notice at line 25 the use of the expression " La C te " again, which quite plainly means the whole band, as it describes it as being watered by rivers. " La C te " means there the whole band of country. That kind of thing could be gone into in more detail, but I have now been through every map in my atlas down to the time of the critical documents. It may be said there are some more maps, though I think I may say of them that they are so very ancient that they do not help at all. One of them looks to me as if very likely it was the map which Shakespeare undoubtedly had seen when he described a famous character's appearance as like the new map of the Indies—it is drawn all over with

Sir John Simon.

lines. The principal addition is the map on the screen—which is Mitchell's map. So that you have this situation. If you were to imagine the English authorities as examining the most authoritative English map . they would see upon it an indication quite clear that the boundaries of the Hudson's Bay Company were boundaries to be traced along a watershed, and indeed the further assertion that that merely illustrated the Treaty of Utrecht which had said that the French were to withdraw behind the boundaries of the Bay of Hudson. If, on the other hand, you were to regard yourself as examining the most authoritative

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Lord Warrington.

maps on the French side in exactly the same year, at the outbreak of the Seven Years' War, you would find that the most authoritative map was the map of Bellin, Map No. 12. And if you went further and were disposed to consult the latest and most authoritative treatise on the geography of this part of the world you would have read the "Remarques " of Bellin, and you would have found he used the word "Coasts " over and over again with the definite annotation, meaning " the slope of land down from a watershed." The question is whether in those circumstances I have not shown on the maps that it is completely wrong to suggest that a reference to " watershed " in reference to the area of Hudson's Bay is a nineteenth century invention which, as Mr. Geoffrion says, nobody dreamed of until President Monroe put it into somebody's head. So much for the maps.

Sir John Simon.

Viscount HALDANE : Would you tell me before you pass from the maps, what is that cluster of lines in the left-hand corner of Labrador ? I am looking at Map No. 12. What does that stand for ?

Sir JOHN SIMON : Does your Lordship mean under the word " Nouvelle " in "Nouvelle Bretagne " ?

Viscount HALDANE : Yes.

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Sir JOHN SIMON : That is intended to indicate first a certain number of lakes, the names of which are given, as, for instance, the " Lac du Loup Marin," which I think is marked " inconnu." Secondly, it is designed to indicate a space enclosed between the series of lakes, by rivers and the like ; and thirdly it is supposed to indicate that in that part of the area the mountains reach a considerable height. In that respect it is right. You will notice there is a curious irregular outline which is intended to be a lake. I suppose my friend, Mr. Macmillan, would say it had a maritime flavour, because it is called " Le Lac du Loup Marin." The Lake below that is " Le Lac de la Loutre," which would be the Lake of the Otter.

Lord WARRINGTON : There is a note under that, which says : " The whole of this country is filled with lakes and rivers. The detail is not too well known."

Sir JOHN SIMON : Yes, that is the answer to my Lord Haldane. That is the actual inscription upon it, which my Lord Warrington has just been able to read. " All this part is filled with lakes and with rivers, of which the detail is not too well known."

Viscount HALDANE : I think that explains it.

Viscount FINLAY : I think that is borne out by the map.

Sir JOHN SIMON : Yes. Considering he was a geographer, he

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was giving nothing away. So much for the maps. I am sorry to have had to trouble your Lordships so much with them.

Now I want to take the supplementary matter on the same head, namely the documents. I think it is a complete mistake to suppose that the Hudson's Bay Company failed to put forward this contention, or that it was not recognised as their contention, and that it has remained in dubio. It has remained in dubio only in this sense. There has never been an actual judicial interpretation of their claim to any extent. I will show your Lordships now that as a matter of fact it has not only been put forward again and again by the Hudson's Bay Company—and, of course, as we know, has been the advice given both to them and to the British Government—but that the British Government inquired whether the persons who challenged it had the smallest intention of challenging it effectively, found that they did not, and wrote a document which they addressed to the Hudson's Bay Company in which they said, " that being so, the British Government accepts this as the area." That is the reason why in 1857 you do not find anything about it.

Viscount FINLAY : That is the letter you referred to some time ago ?

Sir JOHN SIMON: I am coming to it eventually. Now may I give your Lordships one or two references. Will your Lordships take Volume VIII and look at page 4054. You will see there one of the documents which I referred to before, in which in anticipation of the triumphant Treaty of Utrecht the Hudson's Bay Company were putting their claims so high as to push to Grimmington Island, which they were not entitled to do. At line 18, they asked "that a line be supposed to pass," and so on, and "that the French shall not come or any others

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employed by them, to the north or northwestward of the Land Lake or supposed Line by land or water, on or through any rivers, lakes, or settle on any river leading towards or into the Bay of Hudsons to trade or erect any forts or settlements whatsoever, and the English on the contrary not to pass the said supposed Line either to the southward or eastward."

I have conceded from the very beginning that the Hudson's Bay Company at that stage took advantage of their opportunity to put forward an exaggerated line, but even then they were insisting upon the main principle that there should not be any invasion of the area which was drained by any river leading into Hudson's Bay. In the same way on the French side, if your Lordships will take this reference, the Intendant, as he was called, the French Governor of Quebec, Intendant Hocquart, in 1733 was treating the French area, the King's Posts, as running back on the south side to the watershed. You will find that in Volume VII, page 3205. Volume VII is the volume which I think has been least quarried in the course of the argument, but I will resist the temptation, though there is a great deal in it which I think is interesting. The document I refer to begins at page 3202, and it is the Ordinance issued by Intendant Hoc quart, who is the French

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Governor of Quebec. You will see that this is in 1733, at a time when the French Empire in Canada was flourishing, on the limits of the Traite de Tadoussac. I am not saying that there are not indications in some places that he was disposed to proclaim the boundaries of this French trading area to a point which would have infringed or impinged upon the Hudson's Bay area. That, of course, was natural, because these were competing Sovereigns, and each of them granted as much as ever he thought would sound plausible without any regard to the claims of people of another nation—just as the King of Spain or the King of Portugal would cheerfully appropriate the whole of the New world. But still it is striking that even at the time when the French were in strongest power on the St. Lawrence, Intendant Hocquart is really still treating the watershed as being the boundary up to which these operations are likely to go. For example, you will see on page 3205, he says at line 32—taking the translation—"We have ordered that, at the suit of Sieur Cugnet, an exact map of the extent of the said Domaine shall be prepared ; on which map shall be shown the banks of the river St. Lawrence from the lower part of Isle aux Coudres to and including the river Moisy and, in the hinterland of the said tract of country, the rivers and lakes which discharge into the Saguenay river, with their magnetic bearings, the extent of the country traversed by them, from their sources to their mouths"—those are all rivers coming down in the end to the St. Lawrence—"and the names of the principal posts where trading is or can be carried on with the Indians. To which

end, we have, under the said ordinance, commissioned Sieur Louis Aubert de la Chenaye to survey and traverse the banks of the river Saint Lawrence, comprised in the extent of the said domain of His Majesty, from the lower part of Isle aux Coudres to and including the river Moisy, as well as the Saguenay river, and the rivers and lakes which discharge into it." So far as there was any international understanding about these things, it is not unreasonable to see on the French side that in the same way that was treated as the position, because this is long after the Hudson's Bay charter had been granted by Charles II. At the bottom of page 3208 you will get the formal definition of the "Traite de Tadoussac " by this French authority.

Viscount FINLAY : But " La Traite de Tadoussac " means the trading area ; it does not mean the territory.

Sir JOHN SIMON : No, my Lord, it does not. The French system, as your Lordship knows, was this. In the days of the French Empire in Canada, the French system was to grant a monopoly of trade to, it might be, an individual or a company, and then indicate the area within which that monopoly would be enjoyed. One of the most famous of them was the "Traite de Tadoussac" based no doubt on Tadoussac in the River St. Lawrence.

Viscount FINLAY : That was their trading area.

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Sir JOHN SIMON : Your Lordship is right. If you will look at page 3208, the translation is at the bottom of the page, and it is I think very well done, so that I will take that if you please. It says : "And the whole being considered ; We have fixed the limits of the domain of the King called the Traite de Tadoussac, that is to say, on the north bank of the river Saint Lawrence from the lower end of the seignory of Eboulemens"—there then follows a lot of description. I have traced it. It is as a matter of fact arranging the boundary at the Quebec end.

Viscount FINLAY : I wish you would indicate to me on the map where these places are.

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Sir JOHN SIMON : Will your Lordship take my map. The actual detail at the beginning of this passage does not matter much. It is marked in a red line on the map. What I want your Lordship to see is not so much the names of the places as the method which is followed. What is his method is the point. After all, the question is not a geographical question, but a linguistic question. Would your Lordship look at the text. It goes on to say : "which is opposite the north-east point of isle-aux Couches, to cape Cormorant, being about ninety-five leagues of front, with the isle-aux-Oeufs and other isles, islets and shoals adjacent thereto ; on the western side, by an imaginary line drawn east and west, to commence from the lower end of the seignory of Eboulemens to the height of land at the portage of lake Patitachekao " —and so on—and then he describes the portage. You are to go on by the fleur-de-lis " and so on, "further to the west by lakes Spamoskoutin, Sagaigan and Kaouakounabiscat, at the height of land, in the latitude of 47° 27', where the said Sieur Normandin has also affixed four fleur-de-lis on four balsam firs" —apparently if you went into the backwoods you would find balsam firs ornamented with the fleur-de-lis—" and running still to the west, towards the region of Three Rivers, and in depth by the height of land, about two leagues from the Little lake Patitaouaganiche," and so on, down to line 42, where it says : "all of which lakes and rivers pass through Lake St. John into the Saguenay "—therefore being in the drainage area of the St. Lawrence—" and form the boundary which separates the lands of the Domaine from the hunting country of Three Rivers. I am not saying more than this. It is perfectly plain. In the flourishing days of the French Empire in Canada where the French were engaged in marking out the boundaries in which they were proposing to grant a monopoly of trading rights, I do not suppose they had been squeamish about allowing Frenchmen to invade the Hudson's

Bay territory, but the thing to do was to mark out a boundary, and that they did. In that respect the map which Lord Finlay has before him and which comes from a Canadian atlas, and which, so far as the marks on it are concerned, has been prepared for the purpose of this case, is not very accurate, because although it is drawn with great accuracy so far as regards the beginning and the end, the gentleman who has drawn it, once he has got into the interior, has allowed either his pen or his imagination to

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take charge and has gone charging away not to the height of land but beyond it, for which there is no justification at all.

Mr. MACMILLAN : Perhaps you will help me in one respect. I am a little puzzled. I quite see the point about the watershed being shown and indicated by this description, but I do not take it that you are suggesting, are you, that the watershed was the southern boundary of the Hudson Bay territory ?

Sir JOHN SIMON : No.

Mr. MACMILLAN : I. was a little confused.

Sir JOHN SIMON : What Lord Finlay put to me was, if I may say so, a perfectly just correction. I am not saying in this passage the height of land. is being indicated as being a Hudson's Bay boundary, but, I am saying that this shows from the French side, dealing with a country of this sort which, of course, was unsurveyed and largely, therefore, unknown, that really *faute de mieux* if you want to have a boundary at all, this is the sort of boundary you have.

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Viscount FINLAY : It is obviously a physical feature.

Sir JOHN SIMON : And I do not know any other. Your Lordship sees what I mean by saying they have gone a little wild. I am content now to conclude this, and I will keep myself to this, the remaining point about Hudson's Bay, by taking what your Lordship knows in several pieces already, 1815, the year in which the Hudson Bay Company got the advice of Sir Samuel Romilly, and so on, 1849, the year in which the Colonial Office got the advice of Sir John Jervis, and 1850, the year in which the Government of the day, having got the view of the Law Officers that the Hudson's Bay claim was perfectly right, announced, as I shall show, to the Hudson's Bay Company that they felt bound to accept it. Of course, these things, though they are interesting, do not prove the case at all. It is merely that I am anxious to get these particular events in their proper sequence. First, we have had printed, and I think it is convenient that your Lordships should have the document which I produced in original and which my learned friend afterwards inspected,

the document of 1814. I do not think your Lordship will regard the time as being unfairly occupied if we look just for a moment at this. It contains some very interesting matter. (Handing document to their Lordships.) What I am handing you is, on the front page, the opinion of Sir Samuel Romilly, Mr. Cruise, Mr. Holroyd, Mr. Scarlett and Mr. Bell, on the first point asked, and inside you will find the case submitted. If you look at the Case, there are some interesting things in it, showing how the Hudson's Bay Company regarded their own rights. Will you please observe that after making an extract from the Act they say, on page 2, "The description in the grant

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made to the Hudson's Bay Company by their aforesaid Charter has been held by the most eminent Geographers to include all the country lying upon the waters which run into Hudson's Bay." I have established, I hope, this morning, that that was a perfectly just statement. It is perfectly true of Bellin, de L'Isle and Mitchell ; everybody you can think of. Then they go on at the bottom of page 2 and say this, which is very interesting and was rather new to me : " In the year 1745 an Act of Parliament was passed granting a reward for the discovery of a North West passage through Hudson's Bay, but with a saving clause reserving the rights of the Company. In the year 1748 Mr. Dobbs and some other gentlemen, who were associated to prosecute this discovery, made an attempt to set aside the Company's Charter. They alleged that the grant of land was originally annulled "—he means was originally null—" because it was not limited by any definite countries "—it was void for uncertainty, you see—" and that the grant of an exclusive trade was illegal as a monopoly. They also alleged that the conduct of the Company had been such as to vacate any right they might have had ;that they had neglected to occupy, settle or improve the country, to extend its trade, to prevent the encroachments of the French from Canada or to prosecute the discovery of a North West passage—on these grounds Mr. Dobbs and his associates applied to the Crown for a grant of part of the country within Hudson's Bay with various privileges." Then this will interest Lord Haldane, I think. " This petition was referred to the Attorney and Solicitor General." If your Lordships search your memory you will, I have no doubt, remember that the Solicitor General was no less a person than Sir William Murray, the Lord Mansfield of whom Lord Campbell says, " He was the first Scotsman who ever gained distinction in the profession of the law in England." The Attorney, I think, was Sir Dudley Rider, but the Solicitor was undoubtedly Sir William Murray, and they " reported that 'Considering how long the Hudson's Bay Company had enjoyed and acted under this Charter without interruption or encroachment, they did not think it advisable for His Majesty to make any express or implied declaration

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against the validity of it, till there had been some judgment of a Court of Justice to warrant it and the rather because if the Charter was void in either respect there was nothing to hinder the Petitioners from exercising the same trade which the Company now carried on.' "Therefore the matter was left unsettled. That is said, and I think fairly. Then they go on in their case on page 3 to refer to the Peace of 1763 and they say : " They have frequently passed the Canadians into the country within the limits of the Hudson's Bay Company and even made some fixed establishments near the source of the rivers which run into Hudson's Bay." Then they describe the matters which had followed on that, and then they finally put this question on the fifth page : " Under these circumstances the opinion of Counsel is requested as to the rights of the Hudson's Bay Company on the following points :—1. Whether any objection can be made to the grant of the soil contained in the Charter and whether the grant will include all the country, the waters of which

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run into Hudson's Bay, as ascertained by geographical observations." Now what happened. Because it is the sequence that matters now. That being the opinion which the Hudson's Bay Company obtained, they sent that opinion to the Colonial Secretary, Lord Bathurst. The reference is in Volume VIII, page 4117, at the top, about the second or third line of the page, where they say : "We enclose the opinion." It is the third line : "A copy of these opinions is inclosed for your Lordships information." They call it "these opinions" because they had consulted several Counsel. I am anxious to show what is new matter, namely, that the Government adopted it; not merely the Law Officers, but the administrative and executive authority. They then went on to say that they hoped the Law Officers would be consulted as to whether that is right.

Lord WARRINGTON : The letter which accompanied the opinion makes the claim founded upon the height of land.

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Sir JOHN SIMON : In plain terms, my Lord. I was trying to show your Lordship, and I hope I have done so, that it was a misapprehension to say that this was a new invention. This has happened all the time. It was not a thing invented because President Monro suggested it. They said they would like to have the Law Officers' view, and I gather they would be content to have it. The Law Officers' view was not taken at the time, and my learned friend, Mr. Macmillan, was perfectly right when he corrected what was rather a gross chronological error of mine. I had given the impression, I think—I had not meant to—that the Law Officers' opinion followed at once. As a matter of fact, neither in 1815, nor, indeed, in 1820, was an opinion obtained from the Crown advisers. If you turn to page 4124, you will see that in 1820

the Hudson's Bay Company is still saying they do want to have a declaration that this is their boundary. This is the nature of the petition at the bottom of page 4124.

Viscount HALDANE : It looks as if there had been some other questions submitted and answered, but perhaps they are immaterial.

Sir JOHN SIMON : I have looked at them, my Lord, they are perfectly immaterial, they do not bear upon this at all.

Mr. MACMILLAN : I agree with my learned friend.

Sir JOHN SIMON : My learned friend has looked, and he agrees. Then you will look at page 4124. 1820 follows 1814, and the Hudson's Bay Company are saying : " Wherefore your Petitioners most humbly pray leave to refer to the said Memorials and documents and to exhibit other evidence in support of this their petition and to be heard by Counsel therein and that your Majesty will be graciously pleased to

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declare that by Virtue of the said Letters Patent of His said Majesty King Charles the Second, your Petitioners are the sole and absolute—Lords Proprietors of all Lands between the extreme heights from which any Waters flow into the seas within Hudson's Streights and the said Seas, and that Your Majesty will be pleased to appoint commisioners to run a Line along the said Heights." They are still pressing for the thing to be done. Nothing was done. What happens next you will find conveniently collected in the other little print which I have here, which includes the opinion of Sir John Jervis. This happened as late as 1849. These are command papers which were included in a return to the House of Commons. Now see what happened. It is a piece of Parliamentary history which is very easily overlooked. In July, 1849, the House of Commons " Resolved that an humble address be presented to Her Majesty, praying that Her Majesty will be graciously pleased to direct that such means as to Her Majesty shall seem most fitting and effectual, be taken to ascertain the legality of the Powers in respect to Territory, Trade, Taxation and Government, which are or recently have been claimed or exercised by the Hudson Bay Company," and the address is therefore given to Her Majesty. Then, of course, what happened is what you would suppose, that the Law Officers are consulted, and your Lordship has on the next page, page 2, the opinions of Sir John Jervis and Sir John Romilly, written from The Temple, in January, 1850, in a form which was familiar and usual then and long afterwards. As Lord Finlay knows, you started by reciting all the instructions you got. They proceed to say at the bottom of page 2 that : " having had the statements furnished to your Lordship by the Chairman of that Company "—which, as your Lordship knows, included the opinion of these learned

advisers in 1814—" we are of opinion that the rights so claimed by the Company do properly' belong to them. Upon this subject we entertain no doubt." Now, so far we are merely dealing with the Law Officers on the one hand, and private legal advisers on the other. Now see what happened.

Mr. Hawes is writing from Downing Street—he is the Under-Secretary of the Colonial Office, Under-Secretary to Lord Grey, the Lord Grey of the Reform Bill—to Mr. Isbister, who is the gentleman who had made himself particularly objectionable on the subject of what is the extent of the Hudson's Bay territories, and he is informing him that there has been this address from the House of Commons, that there has been a statement obtained from the Company, that this has been put before the Attorney General and Solicitor General, and that they advise that the Hudson's Bay Company is quite right. Then follows what I had not sufficiently appreciated when I addressed the board before, namely, a letter from the Colonial Office, Downing Street, of the 6th June, 1850, to Sir John Pelly, who was the Chairman, the Governor, as it is called, of the Hudson's Bay at the time, in which he says this : " With reference to your observation that it would be of the utmost importance if the decision of the Privy Council on the rights and privileges of the Company

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were sent to Hudson's Bay by one of the ships appointed to sail on the 8th instant, I am to remind you that the proceedings for the purpose of giving effect to the Resolution of the House of Commons of 5th July, 1849, have not led to any reference to the Privy Council, and that the question raised by that resolution stands in the following position: Steps having been taken as you are aware, to obtain from the Hudson's Bay Company a statement of its claims, that statement was duly submitted to Her Majesty's Law Advisers, and Her Majesty's Government received from them a report that the claims of the Company were well founded. It was observed in that report that, with a view to the fuller satisfaction of the House of Commons, and the parties interested, it would be advisable to refer the inquiry to a competent tribunal, and that the proper method of raising a discussion upon it would be for some person to address a petition to Her Majesty, which petition might then be referred either to the Judicial Committee, or the Committee of Privy Council for Trade and Plantations." The last paragraph, which I have no doubt you have observed already with your eye, is very important for me. It is : "Such a petition was therefore essential to the complete prosecutions of the inquiry, Lord Grey accordingly gave to certain parties in this country, who had taken an interest in the condition of the inhabitants of the Hudson's Bay Company's territories, and had questioned the validity of the Company's Charter, an opportunity to prefer the necessary petition if they were so disposed, but, for the reasons which it is unnecessary to repeat, they respectively declined to do so." Then observe how it ends : "Lord Grey"—that is the Secretary of State—"having, therefore, on behalf of Her Majesty's Government, adopted the most effectual means open to him for answering the requirements of the address"—the House of Commons says, what is the boundary?—"has been obliged, in the absence of any parties prepared to contest the rights claimed by the Company, to assume the opinion of the Law Officers of the Crown in their favour to be well-founded." I therefore make entirely good, I trust, the second point which I sketched to your Lordships this morning. I have not only shown, I trust, that this conception of the Hudson's Bay area being bounded by a watershed or height of land is as old as the middle, at least, of the eighteenth century, and was not at all a new-fangled invention, but I trust that it is now plain that the Government of the day, not the Law Officers, the Secretary of State, accepted in 1850 that this was the boundary.

The LORD CHANCELLOR : It was re-opened in 1857, you remember.

Sir JOHN SIMON : I do, my Lord ; I have not forgotten it ; but if you examine what it is which is asked in 1857 it is really this. I quite appreciate that Sir Richard Bethell says in 1857 it would be well to have this decided by the Privy Council. The real question he is asked is this : Would it be proper for the Crown, first, to challenge the validity

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of the grant, and, secondly, if machinery were to be adopted to ascertain what its true ambit is, what machinery should that be ?

The LORD CHANCELLOR : What are the geographical limits.

Sir JOHN SIMON : I meant that.

The LORD CHANCELLOR : It is not very important, because, after all, what happened in 1857 is not the important thing ; it is the view which was taken in 1763.

Sir JOHN SIMON : I quite agree, my Lord. I thought it my duty to do what I could to show in a consecutive form to what extent it may be fairly claimed by the Hudson's Bay Company that the kind of boundary they had insisted upon was a boundary which was not only approved of by the Law Officers—I speak of them with all respect, but they do not always decide matters of policy—but was formally adopted by the Secretary of State. I think I am right in saying (the Lord Chancellor has it before him and I have a copy here) in 1857 what is really being asked of Sir Richard Bethell is this : it is suggested that this charter of Charles II, could be impeached on various grounds, vagueness, illegality, and all the rest of it. The first question is, is it not, Would it be proper ? It is page 402: " Whether you think that the Crown can lawfully and constitutionally raise for legal decision all or either of the following questions." That is the question asked Sir Richard. He is not asked his advice on the facts ; he is asked whether he thinks it is lawful and constitutional for the Crown to raise the question. He says as regards the question of the validity of the charter, " I do not think you ought to raise it at all." Then he says as regards the validity of the territorial claim, if that was to be raised it would have to be decided by the Privy Council. I might perhaps observe in passing—and my learned friend, Mr. Macmillan, will forgive me—that it was a slip to describe the author of this letter from Downing Street as though he was the Secretary of the Hudson's Bay Committee, House of Commons ; This letter is signed H. Merivale, and he is Mr. Herman Merivale, a very important public figure in the middle of the last century, at one time Under Secretary for the Colonies and later on extremely well known in a Public Department as well as

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being a man of letters. I only want to show that the real question that Sir Richard was asked was not really to express a view as to whether the area was or was not what was suggested ; he was asked a question of constitutional propriety and he advised by saying that it would be quite improper to challenge the claim of these people to have a charter, and as for what its area is, the only judicial conclusion to be reached about that would be to ask the Privy Council.

Viscount FINLAY : Nobody would take it on.

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Sir JOHN SIMON : I quite agree, if I may say so, with the Lord Chancellor, that these matters are only incidentally relevant, but I trust that I have at any rate established all I wanted to establish with regard to the Hudson's Bay Territory, and I claim to have established it ; first, that in 1763 the statesmen and draftsmen who were contemplating dealing with newly-acquired areas, having before them, as we must suppose, such a map as the map of 1755, or what you please, must be treated as having regarded the Hudson's Bay territory as a territory which, on the Hudson's Bay side, went up to the watershed. If I make good that point, then, of course, I have gone one very important step on my way, because it would be rather a remarkable circumstance (if I may use the pointer) if there already was, in the view of the statesmen of 1763, a horse-shoe shaped bite taken out of this territory here, and when they come to make the grant of what is admittedly territory which is going to be annexed to Newfoundland, starting as they do at exactly the same point that The Hudson's Bay territory started from, because they do not start from Cape Chidley, they start from the entrance to Hudson's Straits---

Viscount FINLAY : What is that ?

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Sir JOHN SIMON : That is Cape Chidley. It is exaggerated vertically many times in order to give your Lordships a proportional view. It would be a remarkable thing if the statesmen dealing with the situation as it was, did not proceed on this view, that you already had a line which was running notionally along the watershed, which would mark the divide between the area which threw the water into Hudson's Bay and the area which threw the water on to the Atlantic Coast, and still more remarkable when you remember that the language they use is " The coast of Labrador from the entrance to Hudson's Straights," which is the precise language that is used by the Hudson's Bay charter. Therefore, unless you are to suppose that they contemplated starting from this part where I am resting the pointer, and travelling along some different line with the result that you get a sort of curious undistributed middle, the inference is, I venture to

think, a strong one (if the language is one which can be fairly so interpreted) that by the coast of Labrador beginning from the entrance to Hudson's Straits, they meant, on the top, the other half of this. That is all I wish to say about Hudson's Straits. I am sorry it has occupied as long as it has.

Might I put before you in a rather more complete way what my learned friend, Mr. Macmillan, very usefully called the calendar of 1763. My learned friend, of course, was quite accurate in the references which he made, but he did not include them all, and I have taken the liberty of having a little calendar drawn up in order of date for the year 1763 with a second column which gives the references in the green book or red book to the document, and a short description of the different documents. Your Lordship will observe at once that it was an extremely busy year. The reason that so much had to be done was, as I indicated to your Lordships briefly yesterday afternoon, that when you came to

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the midsummer of this year 1763 you would have found Whitehall and Downing Street in a fever of anxiety about the situation in British North America, in view of the Indian war. I am going later on to ask your Lordships to have this table of dates before you, that you may see what was the information that was reaching this country ; because it explains very clearly indeed why the proclamation of October came to be made. Would your Lordship just glance down this diary ? You will observe that I have one or two extra documents to introduce. First of all February 10th, as we all know, on page 330 of the first volume, is the actual date of the Treaty of Paris. Then the next document of March 15th, has been read to the Board, but now that we have this matter, I trust, in a more complete shape, I venture to think the gloss put on it by my learned friend Mr. Macmillan is not quite accurate. It is Volume II, page 386. I am not quite sure whether it has been appreciated, I confess I had not appreciated it myself, that as a matter of fact there was a very sudden change of policy in reference to the relations between Newfoundland and the mainland which, when you go through these documents in the months of March and April, will become evident. Your Lordships may have observed it, I must admit I had not myself. It is this. Down to a very late date in March there was no intention of putting any territory in Labrador under the Governor of Newfoundland at all. All that was intended was just to have some cruisers inspecting the coast. That was the conception which was carried down to a particular point, when, within the course of quite a few days, three or four days, the policy was changed, and the alternative policy was adopted of securing for Newfoundland a territorial footing upon Labrador.

You will find that this is quite clear when one takes these documents in order. If you will take page 386 you will perhaps remember that in that document the Lords of Trade

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indicated an alternative. They said : “Now as far as regards this Labrador coast, we shall have to do one or other of two things ;” and my friend Mr. Macmillan urged that at the date that they wrote this document the alternative which was ultimately adopted was the second of these two alternatives. My friend is wrong about that, I think. At page 387, line 32 : “As to the Concurrent Fishing on the No. East Coast of Newfoundland, in case any of your Majestys Subjects should engage in it, much will depend upon the Temper, Judgement and Discretion of the Officer of the Navy, who shall be appointed to superintend that Fishery, and who certainly should be instructed to adhere to the Sense & Execution of the 13th Article of the Treaty of Utrecht with Justice to the Subjects of both Crowns. Upon the Coast of Labrador” — now this was the view on the 15th March— “it will be impossible to prevent the French continuing to have the full benefit of their former should be made there.” I do not think the stress there is upon private occupation ; it really means, unless you treat it as you may treat a plantation in a colony. “Or sufficient Cruizers stationed with instructions to the Commanders to seize all French ships coming Commerce with the Indians of that Coast, unless some British settlement within a certain Distance of that Coast.” What happened was

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that originally the second of those alternatives was adopted ; there was no idea of extending territorial jurisdiction on the mainland of Newfoundland at all, and that suddenly a change was made, because it was realised that a more complete authority upon the mainland was necessary. That will be made clear by the documents which follow. First, there is a new document ; I am sorry I have to introduce it, to complete the story. That is the 17th March. I must now hand your Lordships these new documents. It is from Lord Egremont to the Lords of Trade. There is a bundle here of some new documents, and in these new documents the communication from Lord Egremont of the 17th March, 1763, is Document No. 10.

Mr. MACMILLAN : We have not seen these.

Sir JOHN SIMON: You will find that several of them have already been read, we have already printed them ; but as a matter of fact this one is a new one, March 17th, 1763: " My Lords, I have the King's Commands to acquaint your Lordships, that his Majesty having taken into Consideration your Representation of the 15th instant,"—that is to say, having taken into consideration the document I read last in Volume II, at page 386—" does not judge proper that any Steps should be taken thereupon untill Your Lordships shall have fully complied with the Directions given you by His Majesty's Orders, in my Letter of the 8th. I am therefore commanded to signify to Your Lordships His Majesty's

pleasure, that you do, without loss of Time,"—now see what it was—" prepare a Draught of Instructions for the Governor of Newfoundland for this Year, with such alterations from, or Additions to, the Instructions, which have been formerly given in time of Peace, as Your Lordships shall judge necessary or expedient, in order to render them conformable to the stipulations of the Definitive Treaty, which I have already transmitted to you. As it is the King's Intentions that the Governor of Newfoundland shall sail as soon as possible"—they usually left this country in the month of April— "I am commanded to signify to Your. Lordships His Majesty's Pleasure that you do acquaint me, for the King's Information, how soon he may expect the Draught of Instructions above-mentioned."

At that stage there is no request to draw a Commission or to make instructions which will include anything but the Island of Newfoundland. Then if you will go back to my Calender you wilt find that on March the 21st, Document No. 11, the Lords of Trade reply. They say : "In obedience to your Majesty's commands signified to us by the Earl of Egremont, one of your Majesty's principal Secretaries of State, in his letter of the 17th instant, We have prepared and humbly beg leave here—with to lay before your Majesty, 'a Draught of instructions for the Governor of Newfoundland for this year, with such alterations from or additions to the Instructions which have been formerly given, in time of peace, as we judge necessary or expedient, in order to render them conformable to the stipulations of the definitive Treaty' which has been transmitted to us by his Lordship. It may be proper for us

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to observe to your Majesty that the Draught of Instructions does not extend to the islands of Cape Breton or St. John's "—St. John's is Prince Edward Island in this connection—" or to any part of the coasts of Acadia, Canada or Labradore ; For those Islands and that tract of country "—you will observe that the coast of Labrador is regarded as a tract of country—" having never been included within the limits of the Commission of the Governor of Newfoundland, to which we are confined by the words of the last reference made to us by your Majesty's Secretary of State, We have not thought ourselves at liberty to extend our consideration beyond the words of the Reference itself."

That, therefore, is what happened on the 21st March. On the 23rd March, in Volume VIII, at page 4110, following the strictest chronology, you come to the next document, and, of course, we see now the full significance of it. I have always observed that it came immediately before the operative draft of the Commission, but I had never appreciated until these documents were supplied that this really indicated a prospective change of policy. Down to this moment what Lord Egremont has got is a draft which is simply going to give the Government of Newfoundland what he had before, with a few frillings. Lord Egremont is beginning to think in his own mind : " Well, I am very much disposed to think that the Governor of Newfoundland ought to have this tract of Labrador." He then says to himself : " But if I am going to give the Governor of Newfoundland a tract of Labrador I must be careful that I do not impinge upon the Hudson's Bay Company." So on the 23rd March, 1763, it appears that Mr. Rivers had written a letter, which is here acknowledged, signifying Lord Egremont's desire to know as soon as possible what are the limits upon the coast between Hudson Bay and the coast of Labrador. If he had been examining some of these maps with a Grimington line on it he may very well have wanted to know, because, of course, he had to be careful that he did not overlap territory which the Government never had touched. That is the real significance of that. Then having presumably had his interview, which was apparently by word of mouth (there is no record of it), on the next day, March the 24th, in Volume II, at page 389, you get the communication to the Lords of Trade, who were the draftsmen in this business, of the change of policy ; and this is the first moment in any document where you can find the record of an executive intention to include what has been called the tract of Labrador in the territorial area of Newfoundland. Lord Egremont has had his interview the day before and he has thought it over ; so now you see he is describing a quite different plan, which involves changing the

instructions. " The King having judged it proper, that all the Coast of Labradore, from the Entrance of Hudson's Stieights." Where did he get those words from ? He got those words, of course, from the interview with the Hudson Bay Company the day before. " To the River of St. John's, which discharges itself into the Sea, nearly opposite to the West End of the Island of Anticosti." If

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you imagine Lord Egremont looking at that map now on the screen, which is probably the most authoritative map at the moment, you can see it ; the River St. John, nearly opposite the west end of the Island of Anticosti--

The LORD CHANCELLOR : The interview was not the day before ; it was that morning.

Sir JOHN SIMON : I am obliged to your Lordship ; it was the same day. "Including that Island, with any other small Islands on the said Coast of Labradore, and also the Islands of Madelaine in the Gulph of St. Lawrence, should be included in the Government of Newfoundland—that is the significant thing—"I am commanded to signify His Majesty's pleasure to your Lordships, that you do forthwith prepare to be laid before the King for His Royal Approbation the Draught of a New Commission for Capt. Thomas Graves, to be Governor of the Island of Newfoundland, & of the Coast of Labradore." As I said yesterday, the quality of the jurisdiction is exactly the same in both cases—" with the several Islands as above described : And I herewith return to your Lordships the Draught of Instructions for the Governor of Newfoundland, transmitted in your Report of the 21st Instant (which the King entirely approves) in order that your Lordships may make such Additions to the same as you shall judge expedient, & necessary, to render Them conformable to the new Commission above-mentioned."

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These people did certainly work at it ; on the next day, March the 25th, you will find in my bundle of new Documents No. 13, the Report of the Lords of Trade sending the new document to the Privy Council. What they are doing is this. It is the 25th March, 1763 : "In obedience to your Majesty's commands, signified to us by the Earl of Egremont, one of your Majesty's Principal Secretaries of State, in his letter of the 24th instant, we have prepared, and beg leave humbly to lay before your Majesty, the Draught of a Commission, appointing Thomas Graves Esqr. to be Governor and Commander in Chief of the Island of Newfoundland and all the coast of Labradore from the entrance of Hudson's Streights to the River St. Johns," and so forth. That is the explanation of the new Commission, and your Lordships remember that Mr. Barrington-Ward marked out yesterday for me what the alterations were.

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The LORD CHANCELLOR : There seem to have been some midnight conferences.

Sir JOHN SIMON : I cannot help thinking that my temptation to envy the ease and leisure of the Eighteenth Century has been perhaps a days later, in Volume II, at page 390, after more midnight conferences —because it was a much longer document—in four more days or nights they have concocted the new instructions which your Lordships little misplaced. They were working very hard at this. Then four remember was a horrible affair of 80 or 90 paragraphs, some of which I

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rather relied upon in what I said to your Lordships yesterday. So they are saying : "In obedience to your Majesty's commands, signified to us by the Earl of Egremont, one of your Majesty's Principal Secretaries of State, in his letter of the 24th instant, we have prepared, and beg leave humbly to lay before your Majesty, the Draught of a Commission, appointing Thomas Graves Esqr. to be Governor and Commander in Chief of the Island of Newfoundland and all the coast of Labradore," and so on. That is the way in which the draft turns up and the draft itself follows, and is a document extending page over page, introducing for the first time the word "territories" and introducing the word "rivers" and doing a good many things which your Lordships have already noticed. On the next day (this is a matter I mentioned yesterday, my friend will remember) we have now ascertained there was a meeting of the King in Council, the 30th March.

Viscount FINLAY : Why is that letter of the 24th March reprinted ? I suppose it is merely copied again in this connection ? There is nothing in that.

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Sir JOHN SIMON : I am sorry, my Lord. I have not followed what your Lordship is asking.

Viscount FINLAY : This is the same letter which we have of this reprint No. 12. It appears at page 389 of Volume II.

The LORD CHANCELLOR : You made your extract complete.

Sir JOHN SIMON : I am sorry, my Lord ; we ought not to have printed that. I did not mean to print anything which was already printed. That is a slip.

Viscount FINLAY : It does not matter.

Sir JOHN SIMON : It is the same. It is a little difficult in putting them together quite to see what is new and what is old.

The LORD CHANCELLOR : I think one is a draft and the other is a letter. This is called a draft in the book.

Sir JOHN SIMON: Yes, I think that is right. At any rate it does not, I think, matter, as my Lords agree. Now see how it goes on, because this is the pinch of the thing. If you turn to document No. 14 of my new documents, there exists in 5th Privy Council Register a Record which shows that on the 30th March there was a meeting of the King in Council, and before the King in Council were brought both the draft Commission and the draft Instructions. The Record is : "Upon reading at the Board a representation of the Lords Commissioners for Trade and Plantations dated the

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17th of this instant, setting forth that, in obedience to his Majesty's Commands signified to him by the Earl of Egremont, one of His Majesty's Principal Secretarys of State, they have prepared the draught of a Commission appointing Thomas Graves Esqre., to be Governor Commander in Chief of the Island of Newfoundland and all the Coast of Labradore from the entrance of Hudson's Streights to the River St. John's which discharges itself into the sea nearly opposite the West end of the island of Anticosti, including that island, with any other small islands on the said Coast of Labradore, and also the islands of Madelaines in the Gulph of St. Lawrence, His Majesty this day took the said Representation together with the said draught of a Commission into his royal consideration, and was pleased with the advice of His Privy Council to approve the said draught, and to order"—now this is why I said the operative document of these earlier documents is not the Proclamation— "and to order, as it is hereby ordered that the Right Honourable the Earl of Egremont, one of His Majesty's Principal Secretarys of State do cause a warrant to be prepared for his Majesty's royal signature in order to pass the said draught of a commission under the Great Seal."

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There is a corresponding record about the instructions. With regard to those two documents I should like, if I may, to make my grateful acknowledgments. They were discovered for me when I made an inquiry in this building about the middle of the case. A gentleman was so kind as to give his attention to it ; he produced an index which they had in this building, of the Orders in Council which had been made, and he was able at once to tell me that at this particular date there would be found in the Record Office the Order in Council—which was found within half an hour.

Lord WARRINGTON : A Commission had to be passed under the Great Seal.

Sir JOHN SIMON : Yes, my Lord, and in order to be complete you had a Privy Seal, which was the authority for putting the Great Seal on.

Therefore, my Lord, I think this makes good this proposition : that first, there was a change of policy, and secondly, that the 30th March was the date when these two documents and the instructions, outside world, the other the regulation of the powers as between the Sovereign and his servant, were authorised to come into existence. Consequently I venture to think that when my friend, Mr. Macmillan, marching side by side, the one, of course, the authority vis-à-vis the said in reference to page 387 that, there being two alternatives, it was the second alternative, namely, sufficient cruisers stationed with instructions to commanders to seize all French ships, that was adopted, that really was a mistake. That was the original idea, but the idea was abandoned, and I suppose abandoned because the Secretary of State thought : Here was an area which he called a tract, whatever he may

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have meant by it, in which it may be necessary to annex territory to the Government of Newfoundland.

Viscount FINLAY : I think you indicated that you considered that this change of policy was connected with the apprehensions with regard to a very extensive rising of the Indians.

Sir JOHN SIMON : Not this change of policy ; that is an entirely separate matter. In my reply I am going to deal, in a compartment, with that question of what is the Indian country, and in that connection I hope to be able to show your Lordships that it is not the green area.

Viscount FINLAY : It has nothing to do with this?

Sir JOHN SIMON : It has nothing to do with this. This merely shows that there was a change of policy by which it was determined, not as was at first intended, simply to have cruisers, as they called them, which were inspecting or watching this coast or controlling fisheries or preventing the French from coming ; that was the first idea, but that idea was abandoned and instead of that, in the late days of March, under considerable pressure and haste apparently, a completely different scheme was adopted, which involved annexation of territory, whatever " territory " is, to Newfoundland.

Now may I just finish my little Calendar, which I can do now more rapidly, I hope. On April 25th, nearly a month later, the Commission was sealed. That is the date when it passed

under the Great Seal. Your Lordships will find that in the first volume. I think myself it was held back because they did not get the Commission until just before the ships were starting. Your Lordships appreciate—it is interesting to remember these things—that Thomas Graves was afterwards a very distinguished man ; I rather think he was Second in Command on the Glorious First of June, and he was a very distinguished man ; you will find all about him in the Dictionary of National Biography. I think he ended with a peerage. The Newfoundland Governorship was only a stage in a very distinguished career. The Commission was sealed on April 25th. The Admiralty instructions were an entirely subordinate thing, and indeed came to him in another character. Your Lordships have observed that, because, while he is Governor and Commander-in-Chief of the Island of Newfoundland, he is also under the directions from the Admiralty, who, as my Lord Haldane said, were disposed to be a very independent body in those days. He has got, really in quite a different character, instructions from the Admiralty, which are not given him as Governor and Commander-in-Chief of Newfoundland, but are given to him as Commander-in-Chief of the Fleet on the Newfoundland Station, which is a different thing ; and, indeed, as your Lordships remember, he continues to be that, or his successors do, notwithstanding that later on the territory here is added to Quebec ; it does not make any difference to the Admiralty or the ships of the station at all. That follows on the 2nd May. I think I have seen somewhere—I have forgotten where

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—an indication that he sailed just at that time ; I am pretty sure that that is so, but I cannot give you the page. The spring has come, the ice is beginning to break up and they leave the country about the end of April.

Lord WARRINGTON : He is directed to put to sea and take great care to do so without a moment's loss of time.

Sir JOHN SIMON : That is so ; he is a little later than usual ;they usually went about the end of April. Then on May the 5th comes the matter which introduces my Indian question. That is in Volume III, at page 899.

Lord WARRINGTON : You have finished with the Commission of Newfoundland and you are beginning a new subject altogether ?

Sir JOHN SIMON : Yes, that is right. In my humble submission (your Lordships will decide in the end whether I am right) what had happened was that by May you had got this much done. You had got already what I have called the horseshoe of Hudson Bay carved out long ago and, if there was any doubt about it, Lord Egremont had had some information. You had got, as I humbly submit, the carving out, whatever it may turn out to be on the ground, of an area which was to be ascertained on similar principles on the Atlantic coast and indeed down to the St. John, because it was before the pink was cut out. Now comes the question : "We have really settled this Labrador business. Part of it is Hudson's Bay and the rest of it we have settled ; we have disposed of that , now we want to address ourselves to the question of what is the proper way in which to deal with these important and fruitful possessions which are the result of our victories over the French." This is why I have, I am afraid, so frequently repeated that it seems to me to give quite a wrong historical balance to the case to suppose that, in reference to that second and different subject matter and all the troubles about the Indian wars and all the rest of it, they were really thinking about this icebound strip. You will find when you look at it that everything that is done now is done in reference to an area which is to the west and to the south. The maps which are drawn are maps which do not even include Labrador. The officials that are appointed Commissioners of the Indian territory are Commissioners over areas which do not include Labrador, and the whole thing now from beginning to end is shifted into a perfectly different part of the country. That is the reason why these documents in Volume III now become of such extreme

importance. I will do my best to keep to Volume III for a little bit. In Volume III, as your Lordships know well, is the origin of this new inquiry which one of your Lordships has just said appears to be a separate inquiry. It is May 5th, 1763. Lord Egremont did not give these unfortunate Lords of Trade much rest ; they are now turned on to their new mission. Would your Lordships look at line 11 : "is now pleased to fix His Royal Attention upon the

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next important Object." It is a new object and it has reference to a new area. If you had asked Dr. Johnson, who was living at the time, where it was that the French had formerly had the trading interest and the enjoyment of the advantages of the French Empire, and where it was that Britain had got it instead, he would never have said in Labrador, in Naskopiland ; he would have said in the valley of the Ohio and the Mississippi ; and, of course, he would have been right.

(Adjourned for a short time.)

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AFTERNOON SESSION.

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Sir JOHN SIMON : My Lords, I now ask attention to the concluding entries in the Calendar of the year 1763, and I have just approached the documents which bear on the matter I indicated in advance, as to which Lord Finlay enquired—the part of the case which bears upon the Indian territory. Your Lordships have noted in Volume III, at page 899, how on the 5th May, the Lords of Trade were instructed to consider and recommend how the remainder of the acquisitions of the British Crown on the North American mainland were to be dealt with ; and I had asked your Lordships to note line 11 on that page.

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Viscount FINLAY : Which page do you say it is ?

Sir JOHN SIMON : Page 899, and there are a number of pages which follow. I hope to be able to save your Lordships from much shifting about between book and book now. Your Lordships notice on page 899, in the first paragraph, the nature of the inquiry addressed to the Lords of Trade : "His Majesty having brought the Negotiation with France & Spain to a happy Conclusion, and having given the necessary Orders for carrying into Execution the several Stipulations of the late Treaty, is now pleased to fix His Royal Attention upon the next important Object of securing to His Subjects, and extending the Enjoyment of the Advantages, which Pease has procured." He transmits the definitive Treaty of Peace and he asks a large number of questions ; and the question which comes first, as shown on the top of page 900 is : "What New Governments should be established & what Form should be adopted for such new Governments ? and where the Capital, or Residence of each Governor should be fixed ?" I am most anxious, if I can, to con

centrate my own argument, and if I may be allowed to say so, to secure your Lordships' attention to the passages in this and the following documents which deal with the Indian country. It seems to me to be most critical to adjust our attention to the whole case. Of course we are still reading the instructions. At the bottom of page 900 is the 5 first reference that I have observed to "the Indian country." Will your Lordships kindly pick out the words on page 900, at line 34, "the Indian country."

Viscount HALDANE : It is an observation that may be in your favour, that that applies not only to Labrador, but to a great many other 10 places.

Sir JOHN SIMON : That is, as your Lordship has justly said, an observation in my favour. My argument is going to be that "the Indian country," if we just compare three or four documents now, will be found easy to be identified as being not Labrador but a very different 15, area, and I am going to call attention to maps which so describe it.

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Viscount FINLAY : I am not sure that it excludes Labrador.

Sir JOHN SIMON : That would naturally depend on the contents of the documents

Viscount FINLAY : It might include it.

Sir JOHN SIMON : I am merely anticipating, my Lord ; I am making no assertion.

Viscount FINLAY : Certainly Labrador was not "the Indian country" par excellence.

Sir JOHN SIMON : Your Lordship will forgive me, I am sure ; 25 I am endeavouring to call your Lordships' attention to a series of documents which now follow, which I trust will enable your Lordships to find out without difficulty what "the Indian country" is. I am making no assertion about it at all ; it is all here in the pages which follow. "The Indian country" is referred to at line 34. Now may I just read 30 the paragraph, because it is very important for my purpose : "Tho' in order to succeed effectually in this Point, it may become necessary to erect some Forts in the Indian Country, with their consent"— you see, it is treated as an area known as "the Indian Country," in which forts could be erected with the consent of the Indians. There are just 35 three or four passages, which, taken together, have, in my humble submission, a perfectly definite connotation, and their meaning is not, if I may say so, to be ascertained by speculations, as to what "the Indian Country" might be supposed to mean. Documents are coming on which show what those words mean. Then at line 34 : "Yet His 40 Majesty's Justice & Moderation inclines Him to adopt the more eligible

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Method of conciliating the Minds of the Indians by the Mildness of His Government, by protecting their Person & Property & securing to— them all the Possessions, Rights and Privileges they have hitherto enjoyed, & are entitled to, most cautiously guarding against any Invasion or Occupation of their Hunting Lands, the Possession of which is to be

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acquired by fair Purchase only ; and it has been thought so highly expedient to give them the earliest and most convincing Proofs of His Majesty's Gracious and Friendly Intentions on this Head";— now here is a geographical indication— "that I have already received and transmitted the King's Commands to this Purpose"—now, to whom ? —to the Governor of Newfoundland and all these people who are already existing ?—No, but "to the Governors of Virginia, the Two Carolinas & Georgia, and to the Agent for Indian Affairs in the Southern Department."

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I will show your Lordships in a moment that there were two Agents for Indian Affairs ; one was the Agent for Indian Affairs in the Southern Department, and the other was the Agent for Indian Affairs in the Northern Department ; and I have got the Commissions for each of them, and I shall be able to show your Lordships within what areas their duties range and I will satisfy the Board, if I do not misunderstand the material which I have done my best to put together and study, that it has no reference to Labrador from beginning to end. Then on the top line of page 901: "As Your Lordships will see fully in the inclosed Copy of my Circular Letter to them on this Subject." I quite agree that, reading that paragraph by itself, one might remain in some doubt ; but now will your Lordships kindly turn to the next document, which is on page 903, and comes in the Calendar next, June 8th. There are at least three passages in the next document, which is a long document, dealing with the Indian Country, which will go a very long way to identify it.

Viscount HALDANE : Before you pass from that, will you tell me who is the Agent for Indian Affairs in the Southern Department ? The reference is at page 901 ; is that the Southern Department of State ?

Sir JOHN SIMON : No, my Lord. I meant to convey that there were in this part of the world two Agents for Indian Affairs, one of whom was for the more southerly portion of the Indian Country, and the other of whom was for the northerly portion. The Agent for the southerly portion at the moment was a gentleman named Stuart ; it had previously been a man named Atkin ; the Agent for the Northern Department was Sir William Johnson, who lived at a place called Johnson Hall, which we are going to identify on the map, on which your Lordships will find the area within which they each operated identified with quite sufficient precision.

The LORD CHANCELLOR : These instructions, I suppose, are No. 9 in your book of new documents ?

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Sir JOHN SIMON : Yes, they are, my Lord.

The LORD CHANCELLOR : I see them there.

Sir JOHN SIMON : I am much obliged. Would your Lordships be good enough to turn to my additional documents, document No. 9. That is a document of 16th March, 1763. This answers Lord Haldane's question. It is a circular letter to the Governors of Virginia, North Carolina, South Carolina and Georgia. Your Lordships have no need to turn to the map, but, of course, it is quite obvious that that is hundreds or thousands of miles away from Labrador and it is to "Mr. John Stuart, Agent for Indian Affairs in your District"—that was the Southern District—"from Lord Egremont." The instructions I think, are worth just looking through. They refer to what was at this moment becoming the most serious anxiety, namely, the state of rebellion and hostility which was developing in that area. "As the removal of the French and Spaniards from the countries which extend from the Colony of Georgia to the river Mississippi, and which are now ceded to His Majesty, will undoubtedly alarm and increase the jealousy of the neighbouring Indians, the King judges it to be indispensably necessary to take the earliest steps for preventing their receiving any impressions of this kind, and for gaining their confidence and goodwill, without which it will be impossible for this nation to reap the full benefit of its acquisitions in that part of the world."

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Now, my Lords, I should tell you that we are going to travel further north than the Colony of Georgia in a moment, but at any rate we see what is being dealt with here : "The French and Spaniards in Florida, and Louisiana have long and too successfully inculcated an idea amongst the Indians, that the English entertain a settled design of extirpating the whole Indian race"—I do not imagine anybody supposes that that piece of propaganda had been carried on in Labrador—"with a view to possess and enjoy their lands and that the first step towards carrying this design into execution, would be to expel the French and Spaniards, the real friends and protectors of the Indians ; In order to prevent the ill effect of these suggestions, which our taking possession of those countries will seem to verify, it is His Majesty's pleasure that you should, in concert with the Governors of Virginia, the Two Carolinas, and Georgia, without loss of time, immediately invite the chiefs of the Creeks, the Chactaws, Cherokees, Chickasaws and Catabaws, to a meeting with them and the Indian Agent for that department." That answers Lord Haldane's question ; there is a South and a North Department : "at Augusta in the Province of Georgia"—these places can all be identified on the map, if needed—"or any other place equally convenient for the several parties ; at which these chiefs are to be apprized in the most prudent and delicate manner of the change which is going to take place. In doing this, the King judges it to be absolutely necessary not only to avoid every expression which might awaken the fears or point out the dependance of the Indians upon us, but to use every means to quiet

their apprehensions and gain their good opinion. For this purpose it would be proper to recur to the original causes of the war with the French, to mention and dwell upon the several cruelties they exercised during the course of it, the arts they employed, the groundless stories they propagated among the Indians in order to excite their jealousies, to alienate their affections from this nation and to provoke them to commit such violences as His Majesty was at length compelled to resent, that by the same insidious arts they had so far wrought upon the credulity of the Spaniards, as to involve them in their quarrel, and its consequences, that thro' the special favour of providence, the wisdom of the King and the courage of His Troops, all these mischievous practices and designs have been discovered and defeated. In order to prevent the revival of such disturbances and troubles by repetitions of the same dangerous proceedings, His Majesty found himself obliged to insist in the Treaty of Peace, that the French and Spaniards should be removed beyond the River Mississippi"—your Lordships remember they were shifted entirely to the west—"to the end that the Indians and his White People may hereafter live in peace and brotherly friendship together ; That the English feel a particular satisfaction in the opportunity which their successes afford them of giving the Indians the most incontestable and substantial proofs of their good intentions and cordial desire to maintain a sincere and friendly correspondence with them ; That these proofs will consist, 1stly, in a total oblivion and forgiveness of all past offences, fully persuaded that they were entirely owing to the deceiving arts of the French, and no ways to be attributed to any ill will in them ; 2ndly in opening and carrying on so large a traffick with them as will supply all their wants ; 3rdly in a continual attention to their interests and in a readiness upon all occasions to do them justice ; and lastly, in the most solemn assurances"—now here are the forts—" ; that those forts now ceded to us"—the question of forts is important. I may tell your Lordships what the forts were, or some of them. There was a fort further north, for example, at what is now called Detroit, which was the name originally given to the Narrows between two of the great lakes ; there was a fort at Fort Pitt, which is now called Pittsburg ; there were forts further south, and the Indians were naturally deeply concerned at seeing the English taking these forts under their control ; they thought that these were points of vantage from which they were going to be attacked ; and so you get this : "and lastly in the most solemn assurances that those forts now ceded to us, by means of which the French really did intend to subvert their liberty, and accomplish these evil designs, which they artfully imputed to Us, shall never be employed but to protect and assist them, and to serve for the better convenience of commerce between the Indians and Us, and the cultivation of

friendship and goodwill, between them and the subjects of His Majesty. And should the Indians retain any jealousy or suspicion that the forts situated in the heart of the Indian Country——"

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One can only arrive at the conclusion as to what "the Indian country" is, by observing the way in which it is described. It is going to be described by "metes and bounds" in a minute. Your Lordships will find it has nothing to do with Labrador at all. It is an expression which (I am sure I can satisfy your Lordships of this) had at the time a definite connotation, "such as Alabama, Tombegbi and Fort Londoun;" I think they can be pointed out if your Lordships wish ; they are in the Southern part.

Viscount HALDANE : This is a document with regard to the South.

Sir JOHN SIMON : Yes, my Lord.

Viscount HALDANE : Was there a document with regard to the North ?

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Sir JOHN SIMON : Yes, my Lord, I am coming to that next. Although it goes further North to the Great Lakes and Detroit, there is not the remotest reason, when you examine the documents and the maps, to suggest otherwise. "I make no doubt, but their representation on this head will be most graciously received by the King" and so forth. So far, as my Lord Haldane has just said, we are dealing with the South. My Lords, going back, if I may, to Volume III, which I am sorry to have carried you from, you will observe that we come now to this important Report of the Lords of Trade at page 903.

Viscount HALDANE : Is this the North document ?

Sir JOHN SIMON : No, my Lord, this is the reply of the Lords of Trade to the document I read last from the immediately preceding pages, 899 to 902. May I say, so that we may get the scheme of it right, that, in its turn, your Lordships will notice, is followed by another request to them, and is followed by yet another document on page 919. Would your Lordships indulge me by turning to page 919 at once, in order to see why I am so confident that when we read these things through we shall find out what "the Indian country" is. It is described in the first sentence on page 919, in the fourth line, in these words, "That large tract of country bounded by the Mississippi." It starts, "In Obedience to Your Majesty's Commands," and so on, "that that large tract of Country

bounded by the Mississippi and the Limits of the Hudson Bay Company on the one hand and on the other by the Limits of Canada, East and West Florida and his Majesty's ancient Colonies." Now, my Lords, observe, of course, that if we might assume that the Lords of Trade had that map which is now on the stand before them, it is obvious, on an inspection of it, that is describing a particular area, and it is bounded on every side. The

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ancient Colonies are the thirteen ancient Colonies of the Coast ; the two Floridas turn the corner at the bottom, the Mississippi runs right up the centre (as your Lordships remember it was treated as running up to the Southern boundary of Hudson's Bay), and therefore you get the whole area thus marked round in that description, and you will find that that exactly corresponds with the maps of the time, and exactly corresponds with the Instructions to the Administrator in the South and the Administrator of the North added together, because I am going to give you the Instructions to the Administrator of the North, and it is therefore found, when one reads the documents, really not to refer to this green area at all. That is what I have in mind when I say I am sure I can satisfy you on these documents. Now, if your Lordships would be good enough to turn back to the document on page 913, I will pick out the passages which deal with the Indian question, because, of course, it deals with a great many other things as well. The passages are these : the first passage is on page 906, the second passage is on page 909, and the third passage is on page 910. There are three passages in this document which deal with it : 906 at about line 22 ; 909 at about line 30, and 910, which I at once admit is a more difficult passage accurately to construe, about line 17. Now would your Lordships look at them in order. At page 906 your Lordships see that the Lords of Trade are saying—of course, this has been read before, but I am afraid I must ask leave to read it again— "The next obvious Benefit acquired by the Cessions made to your Majesty is the Fur & Skin Trade of all the Indians in North America," and they treat that as two branches, the fur trade first and the skin trade second. "The first of these articles," that is the fur trade, "before the present Cession, was enjoyed by the French almost entirely ; the only part left in the Hands of Your Majesty's Subjects, being that carried on by the Exclusive Company of Hudson's Bay, and a very inconsiderable Quantity through the Province of New York. This Trade was acquired in virtue of the Possession which they had taken" —that is the French— "(contrary to the Stipulations of the Treaty of Utrecht) of all the Lakes in North America, communicating with the River St. Laurence, tho' the circumjacent Territory avowedly belonged to the six Nations of Indians, Acknowledged by the French to be Your Majesty's Subjects in that Treaty, and by virtue of the Claim

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which they afterwards set up and were suffered to maintain for a long time of forcibly excluding Your Majesty's Subjects from any Navigation in those Lakes. But this Trade which the French with the utmost Industry had carried to the greatest Extent, by means of numerous well chosen Posts and Forts" (there is the same idea, that they had Forts) "sufficient as well to overawe as to supply all the Indians upon that immense Continent." I am not disputing at all that there were aborigines who, for all I know, may be described as Indians—I do not mind the ethnology of it at all—on this Labrador area, but it could not possibly be supposed, I apprehend, that this passage has any reference to them ; nobody suggests there were any Posts there and nobody suggests that they were supplied or over-awed at all— "is now fallen intirely and exclusively into the Hands of Your Majesty's Subjects

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and may be secured and communicated to all Your Majesty's Colonies according to the Industry of each, by means of those Posts and Forts with proper regulations for the Trade with the Indians, under the Protection of such a Military Force as may preserve their tranquility, not only against Indian Incursions but be ready for their Defence against any European Attack." Then, my Lords, the second passage, as I pointed out, is to be found on page 909, where again you will find the connotation of the phrase "the Indian Country," quite clearly set out in the lower half of the page. The second passage is this : "We shall defer at present entering into any particulars, as to the number of Troops which it may be necessary to maintain for this purpose. The Number and Situation of the Posts and Forts, and the Regulations proper to be established for a free Trade" —now— "from all Your Majesty's Colonies into the Indian Country ; "that refers, my Lords, to the fact that these ancient Colonies, which were always called" Your Majesty's Colonies"the thirteen of them on the Atlantic Seaboard, were Colonies which had got a hinterland into which the settlers, including George Washington himself, were extremely anxious to penetrate. You see, "from all Your Majesty's Colonies into the Indian Country; 'till by further information from Your Majesty's Commander in Chief of America, and from Your Majesty's Agents for Indian Affairs.'" Lord Haldane will notice that it is "agents" in the plural, because there are two of them, neither more nor less, just two. "We shall be enabled to make a more full and particular Report upon so interesting and important a Subject. And We apprehend that no such Delay can be attended with very material Inconvenience, since, if Your Majesty shall be pleased to adopt the general proposition of leaving a large Tract of Country, round the great Lakes as an Indian Country, open to Trade, but not to Grants and Settlements, the Limits of such Territory will be sufficiently ascertained by the Bounds to be given to the Governors of Canada and Florida on the North and South, and the Mississippi on the

Lord Sumner.

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West." In this particular passage he does not put in what is really implied : "And Your Majesty's ancient Colonies."

Lord WARRINGTON : But he goes on.

Sir JOHN SIMON : "And by the strict Directions to be given to Your Majesty's several Governors of Your ancient Colonies" —I am much obliged, my Lords, he does— "for preventing their making any new Grants of Lands beyond certain fixed Limits to be laid down in the Instructions for that purpose." That is the second passage, my Lord.

Lord SUMNER : "And we apprehend that in the mean time the Security of this Trade will be sufficiently provided for by the Forts already erected."

Sir JOHN SIMON : "and such Garrisons as Your Commander in Chief may, at his Discretion, think proper to keep in them." My own?

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eyesight does not serve me at this distance, but I am under the impression that there is a reference to "the Indian country" in the Mitchell Map ; it mentions a series of Indian Nations at any rate. If your Lordships would turn to the Canadian Atlas, it really is quite clear if your Lordships would take the sort of map which is No. 28, you see the thing at once. What is so striking is that this is, your Lordships see, a map of 1763, upon which has been put the indication of some of the adjustments made in that year, and here you will find exactly the boundary which is necessary ; that is to say, you will find that you will have the boundary of the new Province of Quebec, which is in yellow ; you will have the boundary of the ancient Colonies, you will have at the bottom the boundary of the two Floridas, and you will have on the West the boundary of the Mississippi, and you have at the top the boundary of Hudson's Bay ; and without saying that you get there what is an absolutely continuous line, it is quite sufficient to justify the general view that you are dealing with that country which, I will show you in a moment, is described as "The interior country," and the country which cannot be got at in any other way, and the Forts in question are all Forts in this neighbourhood. That is what these gentlemen, I venture to think, are quite plainly talking about. It may be necessary to look at one or two other maps in a moment. The third passage on page 910 is, I quite agree, a little more difficult for me ; I think on any view (I do not know whether my learned friend agrees) it is rather a difficult passage to construe. The suggestion has been made to me, and I think it is an ingenious and it may be a helpful suggestion, that the passage on page 910, when it speaks of a particular area as "beyond the sources of the rivers" is really using the word, as you may say, from the London point of view. In ancient

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Rome, if you wanted to describe that part of Gaul, which lies about Marseilles, you called it Trans-Alpine Gaul, and if you wanted to describe that part of Gaul which is the Italian Riviera, you called it Cis-Alpine Gaul, and that was because you were speaking from the point of view of Rome ; and I rather think when you are reading this passage on page 910, that really the passage is to be understood as though you were, so to say, in London, and looking across to the Continent of America. So read, it becomes quite intelligible, because what it says at line 10 is : "Canada as possessed and claimed by the French consisted of an immense Tract of Country including as well the whole Lands to the westward indefinitely which was the Subject of their Indian Trade" — to the Westward you notice, the illimitable West, that is going right away— "as all that country from the Southern Bank of the River St. Lawrence where they carried on their Encroachments. It is needless to state with any degree of precision the Bounds and Limits of this extensive Country, for We should humbly propose to Your Majesty that the new Government of Canada should be restricted, so as to leave on the one hand, all the Lands lying about the great Lakes and beyond the Sources of the Rivers which fall into the River St. Lawrence from the North, from Cape Roziere to Lake Champlain, along the Heights where the Sources of the Rivers rise, which fall into the Bay of Fundy and Atlantic

Sir John Simon.

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Ocean, to be annexed to Nova Scotia" ; your Lordships know there is a rather curious geographical puzzle as to exactly how you fit this phrase into the maps of the time on any view. I do not say it either hurts or helps me ; it is a difficulty. It has been suggested to me by my friend, Mr. Pearson, that really if you consider that they were speaking of this whole country looking at it, as it were, from London, it may very well be that just. as they speak in line 12 of "Lands to the Westward indefinitely," so in the same way the indication, admittedly vague, is an indication that, standing here, you see it beyond the rivers which run into the St. Lawrence. It does not hurt me on any view, it might perhaps bring in my yellow.

Lord SUMNER : If you read the "lands" in line 19 as qualified by two particulars, one, that they lie about the Great Lakes, and the other that they lie beyond the sources of the Rivers which fall into the River St. Lawrence from the North, they may be two categories of lands.

Sir JOHN SIMON : I rather think it is a single description, given by two phrases in combination.

Lord SUMNER : If the lands dealt with are such as can be said only to lie about the Great Lakes, and to lie beyond the sources of the rivers which fall into the St. Lawrence from

the North, they at any rate seem to be West of any land of Montagnais and Naskapis ; if, on the other hand, the first refers to land about the Great Lakes, and the second, a separate category, is lands which lie beyond the sources, then you have to deal with this question about "beyond the sources of the Rivers which fall into the River St. Lawrence."

Sir JOHN SIMON : Yes, my Lord, I think that is very just ; and in support of the view that this is a complicated description of a single subject matter, I have the fact that I have already had the subject matter described in the same document at page 906 and in the same document at page 909, and that as soon as I get the reply to the document I get the reply, on page 919, in terms which show that what the Lords of Trade were understood to mean is an area which is a large tract of country bounded by the Mississippi and the limits of the Hudson's Bay Company on the one hand, and on the other by the bounds of Canada, East and West Florida and His Majesty's ancient Colonies ; so that I really have within the four corners of the document, an indication, apart altogether from the supplementary matter I am now going to call attention to, that this, as a matter of fact, means this interior country.

The LORD CHANCELLOR : I have some difficulty in accepting this suggestion, if you compare this and the next paragraph.

Sir JOHN SIMON : Yes, I follow, my Lord.

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Chancellor.
- Sir JOHN SIMON : That is quite true, my Lord.
- Sir John Simon.
- Viscount Finlay.
- Sir John Simon.
- The LORD CHANCELLOR : Then in the next paragraph you get this as the boundary, "On the North West It will be bounded by a Line drawn South from the River St. John's in Labrador by the heads of those rivers which fall into the River St. Lawrence." If you take those words, "Sources" and "Heads," it rather looks as if it might be not beyond the Rivers themselves, so to speak, but above the sources and heads of the rivers.
- Lord
Warrington.
- Sir JOHN SIMON : It is quite possible.
- Sir John Simon.
- The LORD CHANCELLOR: It may be that one ought to have put some emphasis on the word "Rivers." Of course, if you do that, you really start at the St. John River.
- Sir JOHN SIMON : You do. I have taken the view myself, my Lord Chancellor, and I think what you are putting is the same view (I suggest it for consideration) that on one reading of these words, it might very well be right to bring in what I have sometimes called my yellow. I do not mean the yellow on the big chart, but the yellow on my little hand chart ; whereas on another view, "the Indian country" would not extend even to that, but in neither view, in my respectful submission, is it carried into any area which is material to me.
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- Viscount FINLAY : It is a little obscure for a precise boundary, but does it really much matter for the present purpose ? We do not at all doubt that the Indian country was a sort of definition
- Sir JOHN SIMON : I do not think it matters at all ; and when I ask your Lordships' attention, as I shall have to do quite briefly, both to the way in which this was dealt with as an executive act—at present this is mere advice, but it was followed up by executive action in respect of both the Indian lands in the Southern and the Northern areas—and there are the maps, and really, when you examine the maps, it is not open to question that Labrador has got nothing to do with it at all.

Lord WARRINGTON : It looks rather as if they were dealing not with Labrador at all, because that is referred to on page 909 as being something already done.

Sir JOHN SIMON : Yes, my Lord. That is why I thought it was important to call attention to the fact that when they start on this topic, it is regarded as an entirely new topic.

Lord WARRINGTON : They are dealing with something different.

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Sir JOHN SIMON : Yes ; they have got rid of Labrador, and now they are dealing with a totally different subject matter. Your Lordship remembers that at the bottom of that page, 910, you get this further reference : "In order however that Yr Majesty may judge with the greater precision of the Limits of Canada as above described and also of those We shall propose for Florida, and of the Country we think right to be left as Indian Territory, We humbly beg leave to refer to the annex'd Chart in which those Limits are particularly delineated, and of which Your Majesty will have a clearer Conception than can be conveyed by descriptive Words alone."

Viscount FINLAY : Have we got that ?

Sir JOHN SIMON : Yes, my Lord ; it is No. 27 in the Canadian Atlas, but whether an inspection of it makes it so absolutely clear is another thing.

The LORD CHANCELLOR : What is the actual date of this map ? It is evidently just after 1763.

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Sir John Simon.

Sir JOHN SIMON : Yes, my Lord. This is, as your Lordship sees, a map by Bowen, but in spite of the note which has been made on the face of it, which you will see just above the word "Atlantic" in "Atlantic Ocean" and which says "The chart which accompanied the report," and so on ; and in spite of the careful enquiry which has been made, which I quite accept in all good faith, I rather wonder whether or not these can be the actual colours of it. If you inspect it, you can see in a sense what the Indian Country is, because you carry your eye up the Mississippi, and you come across something or other, whatever it may be, which is the Hudson's Bay boundary in the present case, rather suggesting that it was this straight line which your Lordships remember occurs in some maps. You get the great lakes, and you get, around them, the names of the tribes, like the Sioux, and the Algonquins—Your Lordships will notice where they are put. They are put round between Lake Superior and Lake Huron. Then the Iroquois are put between Lake Michigan and Lake

The Lord

Chancellor.

Sir John Simon.

Huron, and there is a whole series of names further down in the conquered country, and so on. I apprehend that if you looked at this map, you might not unreasonably say : "Without getting a precise boundary, I know that the boundary of the Indian country is the Mississippi, the Southern boundary of Hudson's Bay." And would your Lordships observe that on this map the actual expression is "Southern Boundary" ; the word "Southern" is used. So that when I get a description, I am a little disposed to think that it means some portion of the boundary thus marked ; and I find that that runs very nearly—though, I agree not quite—to the corner of the pink. Then you get the Province of Quebec, and then you get a boundary which is the boundary of the thirteen ancient colonies, and then at the bottom you get Florida.

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The LORD CHANCELLOR : Again you get the clear distinction between the St. Lawrence River, which is above Anticosti, and the Gulf which is below.

Mr. Macmillan.

Sir JOHN SIMON: You do, my Lord ; and I think your Lordship was justified in saying that my acceptance of the view that the St. Lawrence River runs up as far as the Western end of Anticosti may perhaps, on some of the maps at any rate, have been carrying it a little far. The practice is not consistent ; but I made the concession because I think for the purpose of any point in the case we might take that. It would not hurt me..

Sir John Simon.

The LORD CHANCELLOR : In your Geologist's map it is put higher up. You have a series of them somewhere.

Mr. MACMILLAN : I produced some maps.

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The LORD CHANCELLOR : Yes ; when you were arguing the Hamilton Inlet point. There is a map of the St. Lawrence River which makes the St. Lawrence cease there.

Mr. Macmillan.

Sir JOHN SIMON : I think you cannot settle it at any moment, and I do not know why you should. When you come to describe the limits of a harbour in the United Kingdom you get all sorts of curious and rather artificial lines, determining, for instance, what is the Thames and what is something else.

But, reading the documents of 1763, it is hardly possible to suppose that a map of this sort, dealing with these very severe anxieties which prevailed in the summer of 1763 in reference to the Illinois and the Federated Nations and the Confederacy, and those forts which were up here in the heart of the United States—it is hardly possible to suppose that they were harking back to a frozen area where there were no forts, and which at that time was not regarded as being of any value to anybody, and where, as far as I know, there was never any systematic relation between the French and these

Lord Warrington.

people at all.

Sir John Simon.

Mr. MACMILLAN : I do not know whether your Lordships would allow me to call attention to the use of the phrase "the mouth of the River St. Lawrence" in the Proclamation on page 153 of Volume I, because I think that is very relevant on this particular matter. It is in the same Proclamation, and it is called "the mouth of the River St. Lawrence," and it is "by the west end of the Island of Anticosti." I do not know that it is a concession.

Sir JOHN SIMON : I beg your pardon for calling it a concession. All that I meant was that I was not seeking to dispute it. I will give you another, if you like.

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Mr. MACMILLAN : As many as you like.

Sir JOHN SIMON : I will give you this one : You will find a passage in which Cape Rosieres is described as being at the mouth of the River St. Lawrence.

Mr. MACMILLAN : I think I had already called attention to that. I cannot regard that as a concession, either. Now, perhaps, you will give me something which is of value.

Sir JOHN SIMON: I can only offer you the truth, and although the truth is valuable, it is not valuable to Canada.

Lord WARRINGTON : Do you say that the rivers which are referred, to there, the rivers falling into the St. Lawrence, mean the Rivers to the west of the River St. John ?

Sir JOHN SIMON : I think so, my Lord.

Lord WARRINGTON : The rivers on the pink part of that map.

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Sir JOHN SIMON : Yes, my Lord. There are two views, as my Lord Sumner said just now. One view would be this, and as far as one can take a view apart from being a mere advocate—I do not know whether one can—it seems to me to be rather an attractive view. There is a great deal to be said for the view that the description of this land which was around the great lakes and beyond the sources of the rivers, is really to be regarded as meaning "trans" or "ultra" as opposed to "cis." It is like saying "Trans-alpine Gaul" instead of "Cis-alpine Gaul." It depends upon the point from which you are paragraph immediately above, or two other passages in the same document which do not give rise to this difficulty at all. looking. That is confirmed by the reference to "westward" in the paragraph immediately above, or two other passages in

the same document which do not give rise to this difficulty at all. the

Viscount FINLAY : I do not see how you apply the Trans-alpine and Cis-alpine analogy to this.

Viscount Finlay. Sir JOHN SIMON : I was endeavouring to explain it, my Lord. The point is this, at line 19 on page 910 in Volume III

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Lord. WARRINGTON : They fulfil both the conditions. They lie around the Great Lakes and are limited to this side.

Sir JOHN SIMON : Yes, my Lord. I should like Lord Finlay to see it, because I know he takes an interest in these classical analogies. It is only a suggestion, but I think myself that there is a good deal in 35 it. The question, my Lord Finlay, if I may put it in that way, is : What exactly are you to understand, in line 19, by the word "beyond?"

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Sir John Simon. Viscount FINLAY : Yes.

Sir JOHN SIMON : Now, if you regard yourself as one of the Lords of Trade who is describing this Indian country (which you already have described, you know, as being in the heart of the continent and around the Great Lakes), may it not be that the description here, "all the lands lying about the Great Lakes and beyond the Sources of the Rivers which fall into the River St. Laurence from the north," really means' that if you proceeded from here, you would have to pass those rivers in order to get into the country in question. In that sense it is exactly like the way in which a Roman administrator spoke of Gaul on this side of the Alps or Gaul on the other side of the Alps or beyond the Alps. But it does not very much matter, because, upon any view— I think I have made the point plainly and I will not repeat it—it does not invade my green area at all.

Viscount FINLAY : I do not know what difference it makes, but it seems to me that you are supposed to be going up the rivers which fall into the river St. Lawrence from the north.

Sir JOHN SIMON : Undoubtedly that is true, my Lord, yes.

Viscount FINLAY : Then you would get beyond their sources.

Sir JOHN SIMON : Yes, my lord. The whole question is, whether you are to regard yourself as travelling up the river or standing on this side of it.

Viscount FINLAY : Travelling up the river, certainly.

Sir JOHN SIMON : Your Lordship has your view, and I have nothing more to say. It seems to me to be rather doubtful which it is, but it does not matter to my case, I think.

Now, the next document is on page 915, where again you see this interesting conflict of view as to what was the right policy. On page 915 I have now got, in my chronological statement, to July the 14th, 1763. Let me remind the Board, if I may, of what it is that happens. The Lords of Trade have said : "We think that the Province of Quebec should be this lozenge-shaped, slate-coloured province," such as your Lordships remember that I have got there ; and the Secretary of State, taking the name of the King, is saying : "Everything that you have said is very good, and of course I quite agree that we ought to preserve this interior country and not allow it to be the subject of private acquisition or settlement ; but ought you not to throw the interior country, the yellow, inside the boundaries of Quebec ?"

That leads me to repeat what I ventured to say to your Lordships yesterday afternoon, that there is surely a very great fallacy in supposing that you are depriving the natives of any rights that they may have in hunting grounds or the like, merely because.

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you extend the boundary of some particular Colonial unit, so that their hunting grounds fall within it. As I think Lord Haldane pointed out the other day, it has always been the case in Canada, that, of course the radical title remaining in the Crown, Indian reserves may well fall within the boundaries of a province, and the Indian enjoyment of the Indian rights in the Indian reserves is not in any way forfeited or taken away because that is so.

Therefore, the question between the Lords of Trade and King George III was not whether you should deprive the Indians of their rights—in fact, it was a fundamental point of British policy to do nothing of the kind, and to assure them that you were never thinking of it—but the question was : would it be wiser to make the boundary of Quebec this limited, lozengeshape, slatecoloured area, so that the area beyond, the interior country, remains unorganised, or would it not be better to throw this interior country into the Province of Quebec, while at the same time you continue to insist upon the policy that there is to be no private appropriation of Indian lands ?

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That is exactly what Lord Egremont says at the bottom of page 915, in a very instructive passage which is to be found there. He says : "Your Report, dated the 8th of last Month, having been laid before the King, and His Majesty having taken the Same into Consideration ; I am, in Consequence thereof, to acquaint your Lordships, That the King approves the Erecting Three New Governments in North America, under the Denominations your Lordships propose, of Canada, East Florida, and West Florida ; But, with regard to the Limits of these Governments, as described in the Report, and marked out in the Chart thereunto annexed ; Altho' His Majesty entirely concurs in your Lord- ships Idea, of not permitting any Grant of Lands, or New Settlements to be made, for the present, beyond the Bounds proposed by your Lord- ships ; Yet the King thinks, that great Inconveniences might arise, from so large a Tract of Land being left, without being Subject to the Civil Jurisdiction of some Governor, in Virtue of His Majesty's Com- mission, under the Great Seal of Great Britain ; And that, (besides the Difficulties there might be, for Want of such a Civil Jurisdiction, in bringing to Justice Criminals, and Fugitives, who may take Refuge in that Country,) Their not being included within some established Government might, in Time to come, furnish Matter of Dispute, with regard to the Property" —he means the radical title to the property, the Royal Title— "And other Powers, who might hereafter find Means of Access to those Countries, might take Possession thereof, as derelict Lands."

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Of course, nothing is more certain than that, as long as the Governors of Newfoundland are in the effective charge of the Atlantic coast of Labrador, and the Hudson's Bay Company is in effective charge of the Hudson's Bay side of Labrador, and the Quebec authorities are in effective charge of the north bank of the River St. Lawrence—nothing is more certain than that you will never be able to get any foreigner coming into my green area until somebody invents an aeroplane. So that it can hardly be that they are there saying : "If we do not include some part of the green, it may be that foreigners will find their way in."

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They are not referring to that at all, but to the interior country, which you would get at by going up the Mississippi, or perhaps from the Rocky Mountains side

Viscount HALDANE : I think the serious point is this, that it deals expressly with solicitude, with not disturbing the Indians or causing suspicion in their minds ; and the general policy, whether it prevails in the appointed territories or not, is the general policy of the King. One must bear that in mind in construing any allocations.

Sir JOHN SIMON : If I may say so, I think that is a very just observation, and I try to do so ; but, of course, at the same time, one has to see what is the actual subject matter that they are dealing with more particularly, my Lord Haldane, because I may fairly claim that here they have passed from a previous subject, Labrador, and have now entered upon a new topic ; or at least that is my submission.

Now just let us see how the King goes on. As you will notice, he says : "It is not that I want to permit anybody to appropriate as private property the lands in the Indian country ; but would it not be better to throw that into Quebec ?" Therefore he says : "And other Powers, who might hereafter find Means of Access to those Countries, might take Possession thereof, as derelict Lands : The King therefore is of Opinion" —Now, my Lords, see what it is that he proposes to do in order to solve this difficulty— "that, in the Commission for the Governor of Canada," —they had not yet decided whether to call it Quebec or Canada. It was the same thing— "all the Lakes, viz., Ontario, Erie, Huron, Michigan, and Superior, should be included, with all the Country, as far North, and West, as the Limits of the Hudsons Bay Company, and the Misissippi."

I will read on in a moment, but you must imagine His Majesty, through his Secretary of State, as having before his eyes the map which your Lordships have just been examining, namely Bowen's map. He looks round, and he sees the five great Lakes ; he sees the names of the Indian tribes all about, the Iroquois, and so on ; and he says : "This is an area which I do not like to leave unorganised, because

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people can approach it from the south and west," and so he says : "We ought to put that into the Commission," and he goes on, at about line 15, "And also that all Lands whatsoever, ceded by the late Treaty, and which are not already included within the Limits of His Majesty's ancient Colonies, or intended to form the Governments of East and West Florida, as described in your Lordships Report, be assigned to the Government of Canada, unless your Lordships should suggest any other Distribution, which might answer the purpose more effectually."

Now let us see what happens. There is an answer, which you will find on page 919, from the Lords of Trade, in which they, at any rate, are under no misapprehension as to what the Indian country is. They say : "Well, it is all very well to say that you ought to throw this Indian country into the Quebec Commission, but that would seem to be acknowledging that the Indian country was obtained by cession from France, whereas in fact the Indian country was never obtained by cession

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from France ; it was obtained as a result of treaties and purchases which we had entered into with the Indian tribes." Now that language does not fit the interior of Labrador at all.

My learned friend insisted that, so far as Labrador is concerned, we did get it by cession from France. That is the whole point. Not only that, but it is not true to say, of course, that it ever was acquired by contract or purchase from the Indians. Here is the letter : "May it please Your Majesty. In Obedience to Your Majesty's Commands contained in a Letter from the Earl of Egremont, dated the 14th of July last signifying to Us Your Majesty's Most gracious Approbation of Our Idea, that that large Tract of Country"—marked yellow on my map up there on the screen — "bounded by the Mississippi and the limits of the Hudson Bay Company on the one hand and on the other by the Limits of Canada, East and West Florida and His Majesty's ancient Colonies, should for the present be made subject to no grants of Lands nor to any Settlements, it should be put under some civil Jurisdiction, by a Commission under the Great Seal of Great Britain, so as to prevent any But acquainting us, that it was Your Majesty's Pleasure, that objection, which might be formed, as to the property of it, or its being considered as abandoned or derelict, or it's becoming a refuge for Criminals and Fugitives, and for these Reasons, that the whole of this Territory should be inserted in the Commission of the Governor of Canada"—How can anybody say that the words I have just read, if they are this territory, include my green ? Of course, they cannot— "and assigned to that Government, unless we should suggest to Your Majesty some disposition which would answer these Purposes more effectually and directing us on this Matter. . . ." Then they say : "We have taken it into consideration," and they say " we do not think it

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is a good plan." Look at their reason : "We are apprehensive that, should this country"—that is the Indian country—"be annexed to the Government of Canada, a Colour might be taken on some future occasion for supposing that Your Majesty's title to it, had taken it's rise, singly from the Cessions made by France, in the late Treaty"—I should like to know, Is it or is it not the case of the Dominion of Canada that the title of His Majesty King George the Third to the green area was obtained by Cession from Canada ? Of course, it is their case, yet it is perfectly obvious the people who wrote this were dealing with an area the title to which was not so derived. They say : "Whereas as to the Sovereignty over the Indian Tribes, particularly of the Six Nations, rests on a more solid and even a more equitable Foundation ; and perhaps nothing is more necessary than that just Impressions on this Subject should be carefully preserved in the Minds of the Indians, Your Majesty's Title to the Lakes and circumjacent territory as well whose Ideas might be blended and confounded if they should be brought to consider themselves as under the Government of Canada." Then, my Lord, most important, on page 920, they go on to say under the third head : "If this great Country should be annexed to the Government of Canada, we are apprehensive, that the Powers of such Government could not be carried properly into execution, either in respect of the

Mr. Macmillan

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Indians or British Traders, unless by means of the Garrisons at the different Posts and Forts in that country, which must contain the greatest part of Your Majesty's American Forces, and consequently the Governor of Canada would become virtually Commander in Chief or constant and inextricable disputes would arise, between him, and the commanding Officers of Your Majesty's Troops." Then they go on to say : "If these Objections should appear of Weight to Your Majesty, we would humbly propose" —this is what was done — "that a Commission under the Great Seal, for the Government of this Country, should be given to the Commander in Chief of Your Majesty's Troops for the time being adapted to the protection of the Indians and the fur trade of Your Majesty's Subjects." Would your Lordships be good enough to turn over to page 923 at line 20, and you will observe that their recommendation is in the next document described as a Commission to the Commander in Chief for the Government of the Interior country. So it is quite clear when you read these documents, granted the geographical description is not minute and precise to a point, that the area in question was an interior country, as indeed it is constantly called in the Instructions to which I will call attention in a moment. My humble submission is, therefore, that when one takes these documents, which I have now reached the end of, that there is no ground in the documents themselves for supposing that there was such an exclusion of any portion of

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the green as my learned friends have been at pains to suggest.

Sir John Simon.

Mr. MACMILLAN : Do you say, Sir John, I shall find the Commission given to the Commander in Chief for the Government of the Interior country, because I do not find that.

Sir JOHN SIMON : I am going to deal with that. I did not say you would find it, I said you would find the words described as "the Interior of the Country."

Mr. MACMILLAN : Was any such Commission granted ?

Sir JOHN SIMON : I will look for it.

Viscount HALDANE : It may be that they did not deliberately make out any Commission for a Commander in Chief of this country, because it may be they thought : "we have got a Naval Commander in Chief close at hand, there are no enemies, it is enough to be able to give instructions to proceed if necessary to the Interior of Labrador to keep order."

Sir JOHN SIMON : I rather think that is the true view. What is coming now, Lord Haldane, as you have anticipated, as indeed I have observed, is when you examine what was the centre of anxiety, and just consider as I am going to put before the Board shortly, the Pontiac Rebellion, and when you look at the documents for the purpose of

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crushing that Rebellion and introducing peace in the country, every one of the documents is addressed into the heart of this interior country, so much so that when they draw a chart for the purpose of showing what is the area to which the Indians have been secured, they do not even trouble to include on the chart the piece of ground which is Labrador at all.

Viscount HALDANE : It may be, if the theory is true, they thought it better not to make any civil allocation of territory, but to leave it as it was.

Sir JOHN SIMON: A thing which always seems to me to be a little important on this aspect of the case is this ; of course, there were plenty of areas in the world in the middle of the Eighteenth Century where the grant of all the coasts, interpreted as is suggested it might be interpreted, might conceivably involve travelling back hundreds of miles ; I quite appreciate the good sense of the criticism that you would need extremely strong language to make out such a case. That would be true, for example, if you were to grant all the coasts on the Pacific ; at this stage nobody knew how the

land lay at all, or how far back it was. It would be true if you took tropical Africa in the Eighteenth Century, or South America. But the point is, when I come to my Peninsula of Labrador, though, of course, nobody knew what was inside it, they knew pretty well the line of its Atlantic seaboard, they knew very accurately indeed the Hudson's Bay boundary, they knew the width of the Isthmus, therefore they were not adventuring into a void and giving a man an authority which, when it came to be worked out, might conceivably involve millions of square miles, but they were giving him a portion of the whole, the outside boundaries of which were perfectly well known ; when you add to that, the land would be perfectly worthless, it does not seem an extravagant view to take, as your Lordship said just now : Well, the Governor of Newfoundland will deal with that. Now let us turn to the really serious matter, which was the Pontiac Rebellion.

I do not know how I can most conveniently and briefly put my next point, but if your Lordships will allow me, I would venture to do it in this way : I am anxious to remind your Lordships, and I can do it in a very few minutes, of the salient features of this trouble in the Indian country. It is an interesting piece of history ; the authorities for it are well known ; there is an extremely good book which I have had the privilege of reading for the purposes of this case (and I am very glad to have been called upon to do it), which is Mr. Francis Parkman's two volumes on the Conspiracy of Pontiac

Viscount HALDANE : Is it a Canadian Book ?

Sir JOHN SIMON : American, but it was published by Macmillans. Dr. Parkman is admittedly a great author on this period. It contains, incidentally, an extremely interesting map from which you are able to

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identify nearly all these places. Nobody can read that book through and imagine that Labrador has anything to do with it. I want very briefly to give what I understand to be the historical situation. My friend, Mr. Geoffrion, in his very interesting argument, of course, quite correctly said that what the King was dealing with, especially in the summer of 1763, was the security of our ancient Colonies, that was the real trouble. Then you had these well-established Colonies, 13 of them, along the Atlantic seaboard, and their security was very seriously threatened. The thing that was threatening their security was the Pontiac rebellion—Pontiac was the name of an Indian Chief, the head of it—to which my learned friend, Mr. Geoffrion, also referred as a matter of history in the Shorthand Note at page 664, line 30. It is not for me to appraise Mr. Geoffrion's statement on the subject of Canadian history, naturally he knows a great deal more about it than I know, but, as I understand it, he quite correctly described the Pontiac rebellion in that passage in the Shorthand Notes at page 664 as a rebellion in the west and round the Great Lakes. My friend said in his part of the world it was school history, you can well understand it would be. It was a rebellion which started after the Treaty of Paris and before the Proclamation of October, that is to say, it broke out in the Spring and Summer of 1763. It is quite elaborately and most interestingly dealt with in Dr. Parkman's book, including a most terrible story of a massacre which took place in the last chapter of the first volume, one of the most frightful pieces of reading of a historical kind, outside the story of the Indian mutiny, I have ever heard of—it was a terrible business—and the conspiracy of Pontiac from which it broke out shows it, I think, quite clearly to be a conspiracy which was confined to the area between the ancient colonies and the Mississippi, it had nothing to do with the Labrador Peninsula at all, absolutely nothing.

The story may be put in a few sentences like this, and I have got my learned Mr. Monckton to check me ; he has read the book, and so have I ; I believe I am making an impartial summary or synopsis of what I learn in this and similar authorities.

Viscount HALDANE : Has the book been published in England ?

Sir JOHN SIMON : Yes, my Lord, it is published by Macmillans. Dr. Parkman, of course, is a very well known Canadian historian—my friend corrects me, it ought to be American historian, but I think you would describe the book

as a standard book for students of the period. Your Lordships might be interested perhaps just to handle the volume. (Same handed in.) This is the story in the briefest outline. During the fighting between the French and the English in North America between 1755 and 1760, in the seven years war, there were very important Indian tribes that sided with the British and there were other tribes that sided with the French. The Hurons, the Abenakis, several of the Algonquin tribes supported the French ; the Iroquois, for example, supported the English.

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Viscount FINLAY : The Six nations were the Iroquois.

Sir JOHN SIMON : They were the Iroquois ; it included six nations. Viscount FINLAY : They were steadily English.

Sir JOHN SIMON : Their names were the Mohawks, the Cayugas, the Senecas, the Onondagas, the Oneidas and the Tuscaroras, those were the six nations ; there was also a confederacy further west. It was a point in the British policy in North America in the Seven Years' War that they should do their utmost to keep these very important and amalgamated Indian tribes in the Indian country friendly to us ; on the other hand, after victory was won, of course, that did not mean you drove everybody with French sympathies out of Canada,, it only meant that French Imperialism in North America came to an end ; you had all over this area French Canadians resentful, as they naturally were, at the defeat of the flag and King, who were engaged in telling the Indians that the British, it is quite true, had won, but the British would betray them, and these tribes who had been dependent upon and associated with the British—I think I am using the language of one of the documents, of the Proclamation indeed—would find that they had been betrayed. That was the story of the French who did everything they could, not unnaturally, to encourage that view. So after the final defeat of the French in 1760 the English began to take possession of the area where the French had had their forts, and, of course, as far as the English advanced into this Indian country and took possession of the forts, the impression was further created in the minds of these Indian tribes in the interior that they were going to lose from the new conqueror what they had been promised. The French had erected their forts, and the most important forts you will see in Dr. Parkman's book were these, they were Fort Presqu' Isle on Lake Erie, Fort Detroit which is between Lake Huron and Lake Erie, of course—they called it Detroit, it meant straits—and there was a fort with a most astonishing name and the scene of a most appalling massacre, Fort Michillimackinac, between Lake Michigan and Lake Huron. The Indians looked with great suspicion on the cession by the French King to the English of this immense area, everything to the east of the

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Mississippi, because not unnaturally and I should think with some justice the Indians considered the country belonged neither to the French nor to the English, but to themselves. And between 1760 and 1763 an Indian Chief called Pontiac, who was an influential Chief of the Ottawas, prepared a revolt. Two and a half months after the Treaty of Paris was signed—it was signed you see in February—on the 27th of April 763 this Chief Pontiac held a council of the Indians near Fort Detroit, and in May 1763 the rising took place. It was one of the most formidable dangers from which the British Empire ever suffered at the hands of native races. Observe how this chimes in with my chronology. That was in May 1763, the thing had broken out. The influence of Sir

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William Johnson—I gave your Lordship his name—who was the Administrator for Indian Affairs in the northern half, prevented five—of the six nations from joining in the revolt, but the sixth nation, the Senecas, did so as well as a great many of the tribes further west. Sir William Johnson conducted his operations from a place which was called Johnson Hall, I think—probably you will find it on that map—which is, as a matter of fact, on the River Mohawk which runs into the River Hudson in New York State. You will find it in Dr. Parkman's book, you will see Johnson Hall on the River Mohawk running into the River Hudson. He had been appointed on the 14th May, 1756, therefore he was just in time to use his influence and he seems to have had great influence. By the end of June, 1763, you can imagine the reason, why King George and his Secretary of State were a little anxious to know what was the right thing to do with the Indian country. Fort Presqu'Isle and Fort Michillimackinac as well as two other important forts, Fort Ouatanon and Fort Miamis which were to the west, had fallen into the hands of the Indians. Fort Detroit and Fort Pitt, which is now Pittsburg further south, were besieged by the Indians, the revolt was still at its height and Fort Detroit was still invested at the time of the Proclamation. Now the question is, that being the situation, that being the news which was coming home here—of course, not as rapidly as it would come to-day, still it was reaching here steadily in a stream from the interior of the British North American continent—what was the position, what was the policy ? Why, of course, their position was this, they said : "We have beaten the French who after all are civilised people and gentlemen ; now we are threatened with a much worse affair than that, we are threatened with a tremendous and overwhelming revolt, we must do everything in our power to stop it."

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I humbly submit that if anybody went to Lord Egremont, or George III, or the Lords of Trade in July, 1763, and said "What are we to do about these pusillanimous aborigines in the interior of Labrador ?" they would have regarded him as talking perfect nonsense. The conclusion is this. The

rebellion was not finally crushed until 1765, though the flame had died down, and it was almost over in 1761. You will find in Dr. Packman's book (the first volume, page 176) he points out the thing that most contributed to the growing discontent of these Indians was the intrusion of settlers from these ancient Colonies beyond the mountains and into their lands. And indeed it is quite plain if you look at it, that there was a very sharp conflict of view between the Home Country here, thinking perhaps of Imperial security, and the view taken by many persons of high character in the Dominion itself. I happen to have here—and it has interested me very much—the second volume of the Writings of George Washington. The title is : "The Writings of George Washington," collected and edited by Worthington Chauncy Ford, published by Putnam in America. I read that in 1767 George Washington is writing from Mount Vernon to a correspondent, and he is using this language with reference to the policy of the Home Government, which was trying to prevent the settlers on the Coast Colonies from passing into the Indian country. He says : "The other

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matter just now hinted at and which I proposed in my last, to join you in attempting to secure some of the most valuable lands in the King's part "—as you might say in the Royaume du Roy, where the radical title is in the King—" which I think may be accomplished after a while, notwithstanding the Proclamation "—he thinks if he waits a bit the Proclamation of the 7th October, 1763, is not likely to be maintained—"hat restrains it at present, and prohibits the settling of them at all; for I can never look upon that Proclamation in any other light (but this I say between ourselves) than as a temporary expedient to quiet the minds of the Indians, and must fall, of course, in a few years, especially when these Indians are consenting to our occupying the lands." That is page 220 of the second volume of this collection of the Writings of George Washington.

Viscount HALDANE : What was the date ?

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Lord Sumner.

Sir JOHN SIMON : The letter is written on the 21st September, 1767, the Proclamation to which he refers being, of course, the Proclamation of the 7th October, 1763. I could give your Lordships other indications which show that the Colonists in the Ancient Colonies of the King did not at all like this Imperial policy which secured the interior for the natives.

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Viscount HALDANE : I think Lord Egremont died in August, 1763, and then Lord Halifax took up ?

Sir JOHN SIMON : Yes, that is quite right. If your Lordships will take my new documents, and look at Document No. 19,

you will find a sidelight of the same sort. It is a very long and extremely illuminating document. It is the representation of the Lords of Trade to the Principal Secretary of State, and if I may take one example of what it says, I would ask your Lordships to look at page 3 of the document. The Lords of Trade are writing a tremendously long account of what is to be done, and they say at the top of page 3 : "To maintain a good correspondence with the Indians is undoubtedly an object of great importance ; and upon a careful examination into the state of Indian affairs after the conclusion of peace, it appears that the two principal causes of the discontent which still rankled in the minds of the Indians and influenced their conduct, were the encroachments made upon lands which they claimed as their property and the abuses committed by Indian traders and their servants. The necessity, which appeared in the then state of our interests with the Indians of making some immediate provision against these two causes of their discontent induced the Proclamation of October, 1763." That is a very long report made by the Lords of Trade to the Principal Secretary of State in March, 1768. There is a great deal in it which throws light on the subject, and there is a great deal to the same effect as I have read.

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Lord SUMNER : It is interesting that the arrangements of 1763 were only provisional arrangements adapted to the exigencies of the time.

Sir JOHN SIMON : George Washington was right, my Lord.

Viscount FINLAY : The process of absorption went on all the same.

Sir JOHN SIMON : Yes, my Lord. Indeed, as your Lordship remembers, we only have to come to 1774 when my small slate coloured lozenge of Quebec is enlarged to take in the whole of the yellow, when—though I quite see that it is not necessarily contradicting the policy of keeping the new area free for the Indians—there was, as a matter of fact, a steady pressure on these uncivilised people, which ended, as such things always do end, in the survival, I trust, of the fittest, but certainly of those who are best provided with guns and ammunition.

Viscount FINLAY : Unfortunately the measures which the Indians took were rather vile.

Sir JOHN SIMON : They were of the most appalling character. There are passages in Parkman which show the amazing violence and treachery which they displayed. The conclusion I reach, therefore, is this. It is obvious that the reservation, which was recommended by the Lords of Trade, and which is incorporated in the Proclamation, is an attempt

to keep "the several nations or tribes of Indians with whom we are connected"—that is the language of the Proclamation — "satisfied that they would not be encroached upon." If your Lordships will look at the first Volume, page 156, and observe the language of the Proclamation, it becomes plain that the "said Indians" is merely a phrase which is intended to go back to a description of the particular Indians that were most immediately affected. On page 156, taking the paragraph beginning at line 22, which had been suggested to be against me, it does not say "Indians," but it says "the said Indians." The paragraph reads : "And we do further declare it to be our Royal will and pleasure, for the present as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians, all the land and territories not included within the limits of our said three new governments," etc. Where do you get the previous reference to "Indians " there ? You get it higher up on the page, at line 5 : "And whereas it is just and reasonable, and essential to our interests and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection,"—that is a way of describing the forces that had at first been our allies, and had afterwards rebelled— "should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them, or any of them, as their hunting-grounds." My respectful submission is that this historical matter, setting

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the documents I trust in their true light, makes it reasonably clear that what we have to deal with is the Indian country in that internal sense. I am going to call attention to the instructions which follow, which make it even clearer still that that is so. Then I want to call attention to the appointments of the two Agents for Indian Affairs, and a map which indicates their boundaries. I am glad to have the opportunity of showing this to my friend, and giving him all the time I can for it. Then I have completed this part of the case, and can make my submission upon it

There only remain one or two very short matters, almost isolated matters, and I could dispose of one straight away. Your Lordship was interested by the fact that when one looked at the Bill of 1825 you did not find "fifty-second" inserted in the clause, whereas when you look into the Act you do find it. This is not due to the fact that it was only in the haste of Committee that somebody thought of a suitable number and put it in. It was due to a parliamentary, or at any rate a House of Commons practice, which obtained at that date, and indeed long afterwards, and in a rather different form obtains to this day. Every Bill which was introduced into the House of Commons at that period omitted in the printing of it any numeral or number. Supposing, for instance, you were providing that the penalty for a certain offence should be £5, you printed the Bill in this way : "The penalty for this offence shall be. . . pounds ". If your Lordship would care to look through that little volume which I think my learned friend, Mr. Alexander, procured, you would see in Bill after Bill there is a blank of that sort. Indeed, in principle the thing remains to-day.

Viscount FINLAY : Supposing the penalty were two years imprisonment, was it left blank ?

Sir JOHN SIMON : The number "two" was left out. And if I may say so, it is in a sense the practice to-day, because there is still a rule in the procedure of the House of Commons which provides that you shall not in Committee put to the vote anything which merely fills in a figure. It is actually one of the Standing Orders of the House.

(Adjourned till Friday next, at 10.30 a.m.)

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In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Friday, 12th, November, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

12 Nov., 1926.

—
Sir John Simon.

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

THIRTEENTH DAY.

*Counsel for the Colony of Newfoundland :—The Rt. Hon. Sir
JOHN SIMON, K.C., Mr. F. T. BARRINGTON-WARD,*

K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by Messrs. BURN & BERRIDGE.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.

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MORNING SESSION.

Sir JOHN SIMON : My Lords, the matter which I mentioned just when the Board was rising the other day, can be verified in a moment, if I may hand to the Board a volume of Public Bills. Your Lordships will see, looking at that volume, which contains the Public Bills of 1825, that on page 177, you get the Bill of 1825 as introduced into the House of Commons. Immediately following it, in the same volume, you will find the Bill as amended in the Committee. The amendments in Committee consisted in putting into the print a whole series of numbers, but it is not by any means limited to the 52nd parallel. If your Lordships, for instance, will look at page 179 and page 180, you will see, as introduced the Bill was "within weeks," which is filled up "within three weeks," and there are instances all over the place.

Viscount HALDANE : It would not require a separate resolution if it was put in in Committee.

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Sir JOHN SIMON That is what I observed just before the Board rose the other day. I was saying that the practice was in 1825 and for many years afterwards, that a Bill as introduced into the House of Commons omitted every number, and the numbers were then put in and it was a rule of the House—this is what Lord Haldane was referring to—and it is still a rule of the House, that you do not require actually to put the Question and take a Vote for filling in the figures.

Viscount HALDANE : A Bill may be introduced in that form and then filled up in Committee.

Sir JOHN SIMON : It was, there is no doubt.

Viscount HALDANE : If it were amended, it would require a resolution.

Viscount
Haldane.

Sir JOHN SIMON : Yes, there is no question on that. All I wanted to clear up was that it is really not correct to suppose, at any rate at that period, that the fact that the Bill as introduced contained that blank, indicates that the matter was not already deliberated upon, and, so far as the Government was concerned at any rate, determined. It is merely because it was the practice of the House ; and you will find literally hundreds of instances in that volume. Lord Finlay asked me, if, for instance, a penalty was to be imposed, whether the practice was to leave out the figure of the penalty. There are instances there ; I have had some marks put in to show them.

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Lord WARRINGTON : There is one at the end of that very page.

Sir John Simon.

Sir JOHN SIMON : There is. Just to complete it—because it is not worth delaying on a technical point—the Standing Orders of the House of Commons to-day contain, amongst others, Standing Order 37, which is to this effect : " In going through a Bill no question shall be put for the filling up of words already printed in italics and commonly called blanks, unless exception be taken thereto, and if no alterations have been made in the words so printed in italics, the Bill shall be reported without amendments unless other amendments have been made thereto." The old practice was that you physically had a blank, with nothing to tell you what the figure should be. The more modern practice as any of us who are or have been Members of the House of Commons know, is that the Bill does in fact contain the figures, though the theory used to be that they were not there, and that is why they were printed in italics.

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Viscount HALDANE : The effect of it is merely the same as underlining the words in italics. They are in the Lords Bill and the Lord Chancellor puts a motion that amendments be made, the effect of which is that the words which are there underlined are put in italics and they are treated not as not there, nor yet as there, and to say that the Bill does not require amendment.

Sir JOHN SIMON : You, so to say, look through the paper and you see behind, in italics, what would be there if at that stage it ought to be there.

Viscount HALDANE : The position is a little ambiguous.

Sir JOHN SIMON : Yes. The curious thing is that a hundred years ago the House of Commons literally applied this rule and left an absolute blank. Nowadays both Houses in this respect follow the same general rule, that is to say, clauses or phrases which could not constitutionally or according to our practice be there to begin with, are put in italics, and it is not,

in that case, until after you have got the resolution of the Committee that they are in.

Viscount FINLAY : Putting them in italics means that they are not there, but merely suggested.

Sir JOHN SIMON : That is so. I merely wanted to show what I think is now clear, that there is no ground for supposing that because in the Bill of 1825 you find a blank, that indicates that " 52 " or " 57 " was inserted per incuriam or without thought. It would all be ready, and then, of course, the practice would be to leave it out. I need not say any more about that.

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My Lords, there are just two or three matters, I am afraid, which follow on this Indian Country, and I am very anxious not to be tempted to go back on it in the remarks I am going to add this morning, when I hope to conclude. Perhaps I could just refer to the matters which do remain to be dealt with.

My Lords, in addition to the book of Parkman's, which I think Lord Finlay saw, another very interesting account, which I think may be regarded as a safe guide, is to be found in Mr. John Fortescue's well-known " History of the British Army," which is now coming out in volumes. In the third volume of the " History of the British Army," by the Hon. J. W. Fortescue, which deals with the period between 1763 and 1793 (it is a book published by Macmillan) you will find, beginning at page 11, a couple of pages which put the picture of the thing very well indeed, and I think really show the strength of my contention that the Indian Country, the scene of all these disturbances, was nowhere in the neighbourhood that we are discussing to-day. The learned author, Mr. John Fortescue, puts it in this way at the bottom of page 11. He describes how at the end of the war there was the usual agitation for economy (which is apparently a universal phenomenon) and that in the House of Commons at that time all sorts of people, Mr. Edmund Burke and others, were urging that the military establishment in America should be immediately cut down. After describing what happened and quoting Edmund Burke as speaking of the huge increase in the military establishment—there was obviously an economy campaign going on—Mr. Fortescue says this at the bottom of page 11: " Within a month of the voting of the new establishment, a sudden movement in America threw startling light on the -vexed question of Colonial Defence."

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Viscount FINLAY : When was this ?

Sir JOHN SIMON : This was in 1763, after the Treaty of Paris had been signed in February. The House of Commons met in the Spring and the subject of reducing the expenditure

of the troops in America became very prominent. At the end of the Seven Years' War there had been what in those days was regarded as a tremendous outlay, there was a National Debt, and retrenchment was the order of the day. Mr. Fortescue says : "Within a month of the voting of the new establishment, a sudden movement in America threw startling light on the vexed question of Colonial Defence. It will be remembered that after the fall of Montreal in 1760, Major Rogers, the famous ranger, had been sent with a few troops to enforce the capitulation of the French posts on the Great Lakes and at the back of Canada. During his progress he was met by an Ottawa chief named Pontiac, who asked him what he did there, who being answered that the French had surrendered the entire country to the English, seemed to acquiesce in the new state of affairs. None the less, the whole of the Indian tribes were galled to the quick by the thought that the territory, which they claimed as their own, should have

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been transferred by one white nation to another, without a word of consultation with them. French traders and French adventurers who had penetrated into these remote regions, where they lived a half-savage life among the native tribes, lost no opportunity of inflaming the resentment of the Indians against the British ; while the British on their side took small pains to conciliate their new subjects. Finally Pontiac, who went near to be a man of genius, planned a great confederation of all the Indian tribes, to attack the whole of the British posts simultaneously, and to drive the hated intruders, as his ignorant followers hoped, into the sea. His emissaries flew far and wide to the various chiefs, northward to the head of Lakes Michigan and Huron, southward to the very mouth of the Mississippi, and by the spring of 1763 the weapon of offence was forged and Pontiac ready to strike. On the British side the chances of parrying such a blow were slender indeed. Amherst's force had been reduced to a mere skeleton." General Amherst was Commander-in-Chief in America and took a very light-hearted view of this trouble ; he ultimately retired from ill health. " Amherst's force had been reduced to a mere skeleton by the costly expeditions to Martinique and to Havana ; thousands of men had died and as many thousands had been rendered unserviceable by sickness. The consequence was that the posts for security of Indian territories were held with ridiculous weakness, though there was hardly one of them within distance to support another. Beginning at Niagara and following the southern shore of Lake Erie, there came in succession Forts Presquile, Le Boeuf and Sandusky ; while Fort Detroit guarded the passage to Lake Huron ; and Michillimackinac, now called by the shorter name of Mackinac, the Strait between Huron and Michigan with a small outpost, Sault St. Marie, a few miles to the northward, in the south-east corner of Lake

Michigan on the Wabash, while Fort Miamis on the Maumee preserved communication between Ouatanou and Lake Erie. Finally, there was a chain of posts on the line from Pennsylvania to the Ohio, Forts Cumberland, Bedford, Ligonier and Pitt, all of them familiar to us since the days of Braddock, with Fort Venango north-wards of Fort Pitt, to secure the passage to Presquile and Niagara."

Your Lordships see, therefore, this tells you what these forts were, and, of course, Labrador is a long way off. I forbear to read the next passage, which is detail and very interesting detail. He goes on to describe how on the 7th May, 1763, Pontiac and 65 other chiefs entered Fort Detroit ; and your Lordship will observe the date, it is May, 1763 ; and you may take it that in July, 1763, the people in London were in a state of grievous anxiety; hence those documents that I was reading the other day.

That is what the Indian country is, and the meaning of the Proclamation that was issued. Then the author goes on at pages 13, 14 and 15 to describe in a great deal of detail the events of August and September. He describes how Amherst appealed to the Provinces, to the old Colonies, to produce levies for their defence. It is perhaps interesting to notice that the State of Pennsylvania refused to provide a single soldier—whether because of the convictions of its original founder

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or not it is a little interesting to speculate. The British soldiers from this island had to do the whole thing ; the Colonials did not help the least bit.

Then there is an account of how various people, including Colonel Bouquet, whom my friend incidentally mentioned—a most gallant and a very famous Officer—did their very best to overthrow this revolt ; and the revolt did end in 1764; but nobody can read that chapter, I think, without being impressed by the fact that the view taken that Labrador was the Indian country or a place where the Indian disturbances were, is what I venture humbly to call unhistoric and fantastic ; it has nothing to do with it.

Viscount HALDANE : What strikes me very much was their reckless and easy way of going on. They were leaving the vast territory of Labrador to be defended by an Admiral ; I think that is very extraordinary.

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Sir JOHN SIMON : That is a consideration which it is very important to bear in mind. Of course, if your Lordships will consider, as a matter of fact Labrador, so far as it was not a perfectly frozen wilderness, was very effectively surrounded on every side by British organisation.

Lord Haldane was asking me the other day about these Commissions to the two Commissioners for Indian Affairs. Your Lordships remember I said there was one for what was called the Southern Area and one for the Northern Area, and if your Lordships would kindly take this additional bundle of new documents which you had the other day, you will find the necessary documents in the additional bundle are Nos. 1, 2, 3, 4 and 7.

Lord WARRINGTON : Johnson was a famous General, was he not ; he took a very active part in the Seven Years' War ?

Sir JOHN SIMON: Yes, he did. He was Sir William Johnson, Baronet, and he lived at a place called Johnson Hall, which was on the River Mohawk, which runs into the Hudson. I am not quite sure whether it is marked on the map or not.

The first of these documents is a document of the 17th February, 1756; it is therefore before the victory of Wolfe. It is the Commission to Johnson, and in it he is described as "Colonel," later on he was called "Agent and Superintendent." This is the first document in the bundle, No. 1. It is a document of 1756, and therefore before the Wolfe victory : "We, reposing especial trust and confidence in your loyalty, courage and good conduct, do by these Presents constitute and appoint you to be Colonel of our faithful

Subjects and Allies the Six United Nations of Indians and their Confederates, and you are to observe and follow such orders and directions from time to time, as you shall receive from our Commander-in-Chief of our Forces in North America now and for the time being or any other your Superior Officer according

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to the rules and discipline of War." Then he gets a salary. Then at the bottom of the page your Lordships will see in the last three or four lines the corresponding appointment, which was a month or two later, of Edmund Atkin. He was appointed to be " Our Agent for the Superintendent of the Affairs of our faithful Allies the several Nations of Indians inhabiting the Frontiers of our Colonies of Virginia, North and South Carolina and Georgia." That is the southern one. On the next page, Document No. 2, which is the day before the Commission to Mr. Atkin, you see the recommendation by the Lords of Trade, Lord Halifax and others, to the Secretary of State, addressed to Henry Fox : " Sir, It appearing to us to be of great importance in the present conjuncture That a proper person should be appointed by His Majesty to manage and conduct the Affairs of the several Nations of Indians upon the Frontiers of His Majesty's Colonies of Virginia, North and South Carolina and Georgia, by which means his Majesty's interests among the said Nations may be better cultivated and improved, and the said Indians be engaged to join His Majesty's troops in such operations as may be undertaken for the defence and security of His Majesty's Colonies against the common enemy. We beg leave to desire you will move His Majesty that Edmund Atkin, Esq., may be appointed Agent and Superintendent." That is why on the following day Atkin was appointed.

Now that gives you the two Indian Areas, one the Southern Area, which as you see is the Colonies of Virginia, North and South Carolina and Georgia (I will give you the map in a moment which shows where they are), and the other, which is called the Northern Area, which for the moment is only traceable as being the area of the Six United Nations of Indians and their Confederates.

Viscount HALDANE : He is called " Agent and Superintendent."

Sir. JOHN SIMON : At first Sir William Johnson was called " Colonel," but very shortly afterwards he was called " Agent and Superintendent."

Viscount HALDANE : He was a Colonel in the Army, seconded possibly to that position.

Sir JOHN SIMON : Yes, my Lord.

Viscount HALDANE : He was primarily an army officer ?

Sir John SIMON : He was undoubtedly. Now will your Lordships just take the third document. Document No. 3 is a document of March, 1761. It really merely illustrates a familiar constitutional fact, that upon the demise of the Crown, it was necessary to appoint people over again, as it was until recent Statutes modified that general rule. George II has died, and so the Lords of Trade are saying this : "Sir William Johnson, baronet, having been appointed by His late Majesty to be Agent for the Affairs of the Six United Nations of Indians and their Confederates in the Northern Parts of America, and appearing

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to us to be well qualified for that station, We desire you will be pleased to move His Majesty that the said Sir William Johnson may be continued in the said Office by His Majesty's Royal Appointment."

Consequently, on the next page, Document No. 4, you get the fresh Commission signed W. Pitt : " George the Third, etc., To Our trusted and well beloved William Johnson, Bart., Greeting. We, reposing especial trust and confidence in your loyalty fidelity and ability, do by these Presents constitute and appoint you to be our sole Agent for and Superintendent of the Affairs of our faithful Subjects and Allies the Six United Nations of Indians and their Confederates in the Northern Parts of North America."

Viscount HALDANE : You observe the Commission is not to the Commander-in-Chief.

Sir JOHN SIMON : Yes, my Lord, and that enables me to answer a question which my learned friend, Mr. Macmillan, asked me when the Board last sat. I refer to the fact that there seems at any rate at the time to have been a suggestion that the Commander-in-Chief in North America might take this matter under his control. My friend asked whether there was any Commission, as suggested, to show it. We have checked that. There was a Commission to the Commander-in-Chief in 1759, the ordinary military Commission ; there was another one in 1761, and then when General Amherst withdrew, General Gage took his place in 1764. But in none of these three cases was the scheme carried out which had been suggested of giving to the Commander-in-Chief this special duty.

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Viscount HALDANE : They took an Officer in the Army.

Sir JOHN SIMON : Yes, my Lord. Then I would like your Lordships to turn to Document No. 7 of this bundle, which is the Commission to John Stuart. John Stuart succeeded Edmund Atkin, in the southern area. This Commission is

dated 5th January, 17 62. " We reposing special trust and confidence in your loyalty, fidelity and ability do by these presents constitute and appoint you to be our agent for and superintendent of the Affairs of our faithful allies, the several nations of Indians inhabiting the frontiers of our Colonies of Virginia, North and South Carolina and Georgia."

Lord WARRINGTON: The first man has the Iroquois, the Six Nations, and the other man has the other tribes.

Sir JOHN SIMON : Yes. Your Lordships will remember that in Mitchell's map, which is the British Museum map of 1755, you find in very big letters " Six Nations or Iroquois." It is over the area to the east of the Mississippi to the south, running up to the Great Lakes, and then on its eastern side coming to the hinterland of t he Ancient Colonies. So that for the moment it is pretty plain the sort of areas that are being

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dealt with. But it does not stop there. It was thought desirable as a matter of public policy to try and get the same definite understanding with the Indians in question. The gentleman who has helped me so much, Mr. Hardy, who is so familiar with the Record Office, has actually got here in the building a specimen of the treaties made with the Indians. It is a most remarkable document in which their signatures or attestations took the form of totems.

If your Lordships will now turn to the rather long document, No. 19, you will see that the Lords of Trade had a specific recommendation to make about this. I am afraid I must trouble the Board to read several portions of this document. It is a most remarkable document. It is dated 7th March, 1768.

In order to save your Lordships' time, perhaps I might indicate the passages which are material ; it would take a very long time to read it all. Taking document No. 19 would your Lordships please notice the paragraph about the middle of the first page : "Whereupon we humbly beg leave to represent to your Majesty, That the subject matter to which these papers refer, and the Questions arising thereupon, stated to us in the Earl of Shelburne's letter, appear to us to lead to a consideration of no less consequence and importance, than what system it may be now proper for your Majesty to pursue with respect to that vast and extensive country in North America which on account of the Indian War raging within it was made by the Proclamation of the 7th of October, 1763, the object of mere provisional arrangements."

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Viscount HALDANE : This is in 1768.

Sir JOHN SIMON : Yes, my Lord. This is reviewing it at a later date, but the document contains passages which I think are useful to read. It is an identification of the area dealt with in the Proclamation of the 7th October, 1763, as being the

area within which the Indian war was raging. I am going to come to quite a precise map, but I think that is a fair comment to make first of all. At the very bottom of the same page your Lordships will catch this phrase : “and, although the unfavourable impressions left upon the minds of the Indians by the event of the War, and the representations of the French that we meant to extirpate them, did for some time involve us in a war with them, that rendered necessary the continuance of a large military establishment, yet, that war being happily ended, and Treaties of Peace and Friendship, to which all the various Tribes have acceded”—it was quite a definite thing— “having been finally concluded, it is now become of immediate importance to examine, how far the alteration which has thus taken place in the State of your Majesty's Dominion in North America, may require or admit of any proportional alteration in the system by which that part of your Majesty's Service is to be carried on for the future.” Then they say : “The parts of the Service to which we are more immediately called upon by the Earl of Shelburne's letter to give our attention, are, First,

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the present civil establishments regarding the Indians ; Secondly, the disposition of the troops for Indian purposes ; and lastly the establish- ment of certain new Colonies.” That last branch is an interesting piece of history. There were people at home who thought the best way to deal with this subject at the end of the Indian war was to plant new plantations and colonies in the interior, like the states in the Middle West, for example. It was a policy which was rejected, but it was a view.

On that same page there is a reference to the Superintendents of Indian Affairs just above the middle of the page. “In considering this question it may be proper to observe that the institution of Superintendents for the Affairs of Indians appears to have been a measure originally adopted principally with a view to counteract the designs of the French in 1754”—and so on. I do not think there is anything else on that page which is of importance.

Then on page 3 they say : “To maintain a good correspondence with the Indians is undoubtedly an object of great importance ; and upon a careful examination into the state of Indian affairs after the conclusion of Peace, it appears that the two principal causes of the discontent that still rankled in the minds of the Indians and influenced their conduct, were the encroachments made upon lands which they claimed as their property”—there can be no doubt at all that that is penetration from the Ancient Colonies— “and the abuses committed by Indian Traders and their servants. The necessity, which appeared in the then state of our interests with the Indians of making some immediate provision against

these two causes of their discontent induced the Proclamation of October 1763”—that is the Proclamation in Volume I, page 153.

Viscount FINLAY : " Indian Traders and their servants " means persons trading with the Indians ?

Sir JOHN SIMON: I think so. It is just like one says " an East Indian Merchant." One does not mean by that a merchant with a coloured skin, but a man who deals with the East Indies. This is really an exposition of the true meaning of the Proclamation, and it is from the very same persons who recommended the Proclamation. It was induced by these causes. " The necessity, which appeared in the then state of our interests with the Indians of making some immediate provision against these two causes of their discontent induced the Proclamation of October, 1763, which very prudently restrained all persons from trading with the Indians without licence, and forbad, by the strongest prohibitions, all settlement beyond the limits therein described as the Boundary of the Indian hunting ground"—I have already called your Lordships' attention to the fact that the document had given a boundary --" putting both their commerce and property under the protection of officers acting under your Majesty's immediate authority and making their intervention necessary in every transaction with those Indians."

Then I leave out the short paragraph in the middle of the page, and

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come to this passage : " The giving all possible redress to the complaints of the Indians in respect to encroachments of their lands and a steady and uniform attention to a faithful execution of whatever shall be agreed upon for that salutary purpose"—this document is inspired by the notion of standing by your contract which you have made with the Indian tribes—" is a consideration of very great importance." Then at the bottom of the page there is a reference which I shall have to fill up. "In a plan for the management of Indians affairs prepared by this Board in 1764 the fixing a boundary between the settlements of your Majesty's subjects and the Indian country was proposed to be established by compact with the Indians as essentially necessary to the gaining their good will and affection, and to preserving the tranquility of the colonies." I will refer to that in a moment, if I may. " This plan having been communicated to the superintendents"—that is to say, Sir William Johnson and the southern superintendent—" they have in consequence thereof, made the proposition of such a boundary line an object of their particular attention and of negotiation and discussion with the several tribes of Indians interested therein. In the southern district a boundary line has not only been established by actual treaties with the Creeks, Cherokees and Chactaws, but has also as far as relates to the provinces of North and South Carolina, been marked out by actual surveys and has had the happy effect to restore peace and quiet to these colonies. In the Northern district, the proposition appears to have been received by the Indians with the strongest marks of approbation and satisfaction ; and a line of separation was in 1765 suggested by them, in which Sir William Johnson acquiesced, declaring at the same time that he would not finally ratify it without your Majesty's further directions." A very remarkable passage follows which makes the thing really quite plain. " The Paper (Appendix A) contains a description of the several lines as agreed upon in the negotiations to which we refer ; and to the end, your Majesty may have a more perfect view of them, we have annexed to such description a map (Appendix B) in which we have endeavoured to trace those lines out, with as much accuracy as the general maps of America will admit of." Bound up with this, in the Record Office, is the map. I hand to your Lordships copies of the map. This is the whole map ; it is not an extract, but the whole thing. The first thing that strikes one about the map is this. As this is the whole map it was thought necessary to draw for this purpose, where is Labrador ? The answer is that Labrador is off the map altogether.

Lord WARRINGTON : There is the boundary shown that

goes through Quebec.

Sir JOHN SIMON : Oh yes, my Lord. There is a bit of Quebec, but where is Labrador ? If this part of the world had anything to do with my green area, you would expect to find it included in this map. But it by no means stops there. They trace the line. Reading at the

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middle of page 4, we have this : “Your Majesty will be pleased to observe that, although on the one hand the settlements in the new established Colonies to the South are confined to very narrow limits”—would your Lordships notice how the yellow line, and to some extent the brown line which runs round some distance from the sea in West Florida and East Florida, leaves a comparatively narrow strip ; they are reserving to the Indians whatever is inside the line ; so that in Florida apparently what is left for settlement is a comparatively narrow strip. Then they go on and say, observing that, “yet, on the other hand, the middle colonies (whose state of population requires a greater extent) have room to spread much beyond what they have hitherto been allowed.” That means he has now drawn this dotted line rather behind the height of land. The red line and the light blue line are really cutting back into the interior to some extent. This is all the result of treaties made with different tribes of Indians, which are executed by the Indian chiefs.

Viscount HALDANE : Not necessarily with the whole of the Indians.

Sir JOHN SIMON : Oh, no. Only one at a time. You cannot treat Indian tribes as though they were settled upon a given spot of earth, in the sense in which a modern civilised community of Europe may have settled.

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Viscount HALDANE : We know there were numbers away to the north-west.

Sir JOHN SIMON : Oh certainly. I hope your Lordship does not think I am stressing this too much, but it seems to me so important that we should appreciate what the Proclamation of 1763 may fairly deal with. Then he goes on to say : “and that upon the whole one uniform and complete line will be formed between the Indians and those antient colonies, whose limits not being confined to the westward have occasioned that extensive settlement, which, being made without the consent of the Indians and before any line was settled, produced the evil complained of.” Your Lordships remember George Washington's letter which I read the other day. “In comparing the map with the description in writing as taken from the Treaties with the Indians, your Majesty will observe that the boundary line with the six Nations and their allies is made upon the map to terminate at that part of the

Ohio where it receives the Connahway River, instead of continuing it down the Ohio to the Cherokee River, and up that river to its source, as described in the Treaty,"—the Treaty is the Treaty with the Six Nations— "the reason for which is, that although the six Nations may have pretensions to the dominion of the country on the south side of the Ohio lower down than the Connahway River ; yet in fact it is more occupied by the Cherokees and other independent tribes, as their hunting ground and, therefore, the making any settlements beyond the Connahway River, or at least beyond a line drawn from the mouth of it to

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where the Cherokee line now terminates, as marked on the map, would be altogether inconsistent with what has been settled and agreed upon with that nation ; for which reason we think that the line settled with the Southern Indians, and that which remains to be settled with the six Nations ought to be united in the manner we have described."

Then they say : "Upon the whole it does appear to us, that it will be greatly for your Majesty's interest as well as for the peace, security and advantage of the colonies, that this boundary line should, as speedily as possible, be ratified by your Majesty's authority, and that the superintendents should be instructed and impowered to make treaties in your Majesty's name with the Indians for that purpose." And at the bottom of the same page your Lordships will catch the phrase : " all transactions in the Indian country." At the time it was a phrase with a connotation.

On page 6 they are making some observations, and one of the observations marked " Secondly " is worth reading. " Secondly, that the confining trade to certain posts and places, which is the spirit and principle of the present system, however expedient and effectual with respect to the Southern Indians, is of doubtful policy with respect to those Indians more particularly connected with New York and Pennsylvania "—that is what they really meant by the northern area—" and that it is evidently disadvantageous, inconvenient, and even dangerous with respect to the much larger body of Indians, who possess the country to the westward," — there were an immense number of them—" and with whom your Majesty's subjects in Quebec in particular do carry on so extensive a commerce."

Then on the next page, page 7, in the middle of the page, there is what I think is a very striking passage, because it is a passage which has nothing to do with the Montagnais, or Nascopies, or Esquimaux. This is what they say : " With respect to the question, How far the present expence, regarding the disposition of troops for Indian purposes, may with propriety and safety be lessened by reducing most of the posts now subsisting and entrusting others of them to the provinces them-selves, we beg leave in the first place in general to represent it to your Majesty as our humble opinion,

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that it will be in the highest degree expedient to reduce all such posts in the interior country "—your Lord-ships will find the phrase interior country " is quite frequently used as an alternative for the phrase " the Indian country " as are not immediately subservient to the protection of the Indian commerce, and to the defeating of French and Spanish machinations among the Indians, or which, although in some degree useful for these purposes, cannot be maintained, but at an expense disproportioned to the degree of their utility. But before we apply this observation to the particular posts now subsisting, it may be proper to take a cursory view of the interests and situations of the several tribes or bodies of Indians, whose commerce and connection are the objects of whatever establishments it may be thought necessary to continue."

Without wearying your Lordships with reading it all, you may take it—though your Lordships will, of course, check it if you wish—

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that there was nothing whatever about the Montagnais or Nascopies or Esquimaux. This is all a different part of America. You get the thing at a point on page 8, in the third paragraph : " In the Northern district the principal Indians form themselves into two great confederacies ; the one composed of the Six Nations and their Allies and Dependents, the other, called the Western Confederacy, composed of a great variety of powerful tribes, occupying that extensive country, which lies about the Lakes Huron, Michigan and Superior, and to the West and North West." There you have the identification. "The commerce and connection with the first of these bodies of Indians"—that is to say, the Six Nations and so on— "was antecedent to the War, confined chiefly to the province of New York, upon the frontiers of which their principal hunting ground lyes; and the trade was carried on at fortified Truck houses upon the Lake Ontario ; since the Peace a large share of this trade is carried on from Pennsylvania by the Channel of the Ohio, and from thence by Venango and Riviere aux Boeufs into Lake Erie. The commerce and connection with those Indians which form the Western confederacy"—that is the other half of the northern area—"were, both from the situation of the country they occupied, and from the plan pursued by France for securing the dominion of it by posts upon the lakes, altogether. confined to the French in Canada, and is now principally carried on from thence by your Majesty's subjects there, through the Channel of the Ottawa River and by the Lakes. In this state, therefore, of the commerce and connection subsisting between your Majesty's subjects and the Indians in the Northern district and of the channels through which the intercourse is carried on, it does appear to us, that the keeping up military establishments at Detroit, Michilimacinac and Niagara, and the having two, or at most

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three armed vessels on the Lakes Erie, Huron, Michigan and Superior may be necessary for keeping up and preserving that good correspondence with the Indians, which is essential to the safety, improvement and extension of the trade with them. Of these three establishments that at Detroit, which is the great centre of Indian commerce, situated amongst many numerous tribes of Indians, and where a considerable number of French remain under the Faith of the Treaty of Paris, does appear to us to be by far the most important object.”

Sir John Simon.

Then at the bottom of page 9 they discuss the question as to whether it would be a good plan to establish new colonies in the interior parts of America—which was one proposal at the time—and they recommend against it. On page 10 you will find they are discussing, about the second paragraph, the position of forming inland colonies in America. Then at the bottom of page 10 there is a useful passage as showing how “interior country” is constantly used as the analogue of “Indian country”. You will find this passage : “The same motives, though operating in a less degree, and applying to fewer objects, did, as we humbly conceive, induce the forming the colonies of Georgia, East Florida, and West Florida to the South ; and the making those provisional arrangements in the Proclamation of 1763, by which the

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interior country was left to the possession of the Indians.” They argue, therefore, against that.

I had also picked out a passage on page 12, the third paragraph, which is as follows : " Such, may it please your Majesty, is the present state of the progress making in the settlement of the northern parts of the sea coast of North America in consequence of what appears to have been the policy adopted by this Kingdom." They mean by " the northern parts of the sea coast of North America " the sea coast of Connecticut, New York, New Jersey, and so on, and perhaps even further south than that.

That is the end of it. It is a very long document, but I think it is a most instructive one.

Viscount Finlay.

Viscount HALDANE : I see on page 12, there is a statement as to commercial policy. " The encouraging settlements upon the sea coast of North America is founded in the true principles of Commercial Policy." It shows their attention was called to that.

Sir JOHN SIMON : Your Lordship is right. They are arguing against the idea of internal colonies. It was a very hot dispute, and they give a series of reasons which are very interesting to anyone interested in public affairs to-day. They are arguing, for example, that you will get an area which will consume British manufactures, which after all was one of the eighteenth century objects, if you have colonies on the coast ; but if you plant these people right in the interior, where will

Birmingham sell its products ?

Viscount HALDANE : There is another reason, and that is that the garrison in the interior cannot be relieved. In fact there were certain troops kept for very many years in Canada. They were there so that they might be useful in case of war about the frontier line.

Sir JOHN SIMON : Of course, your Lordship knows all about this so very well through the public duty you have discharged. Your Lordship no doubt remembers that the 60th Rifles, a very famous and gallant regiment, were originally called the Royal American Regiment.

Viscount HALDANE : They were somewhere in the west of Canada. When did they come back ?

Sir JOHN SIMON : I am afraid, though I have done my best to study some American history for the purpose, I have not carried it up to quite the time of your Lordship's personal recollection.

Viscount FINLAY : What is the history of the line indicated here, partly a red dotted line, and partly uncoloured ? It runs down some distance from the Atlantic and goes down to Florida.

Sir JOHN SIMON : That is what is referred to in the passage from

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the long document, where you will find, about the middle of page 4, this paragraph : "The Paper (Appendix A) contains a description of the several lines as agreed upon in the negotiations to which we refer ; and to the end, your Majesty may have a more perfect view of them, we have annexed to such description a map (Appendix B) in which we have endeavoured to trace those lines out, with as much accuracy as the general maps of America will admit of." Then following it comes a very important passage, in which the Lords of Trade are saying, to this effect : " If you examine the map, you will notice that this yellow line round by Florida only leaves a comparatively narrow band for British settlement." It cuts very deep, you will see. y But as you pass northerly, when you pass from the yellow to the blue or pink, " You will find," they say, " we have given more elbow room. The middle colonies will be able to push out into the interior, and have a bigger boundary than before."

Viscount FINLAY : By the " middle colonies " I think they mean Carolina ?

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Sir JOHN SIMON : They mean North Carolina, South Carolina, and Virginia. The map, your Lordship sees, traces this boundary. Your Lordship will have noticed that the boundary does not quite end so as to cut off an area. It ends at a place called Owege. That was subsequently settled in a document which follows in a moment, principally owing to the efforts of Sir William Johnson at Johnson Hall, where he negotiated with the Indians and made a bargain which carried on the boundary—I have had it traced in detail—to Fort Stanwix.

Viscount FINLAY : Where is that ?

Sir JOHN SIMON : It is not marked. Does your Lordship see where " Mohawk River " is written, which runs into the Hudson just to the east of Lake Ontario. Fort Stanwix, your Lordship will take it, is close by the letter " M" in " Mohawk." Johnson Hall, which is the place where Sir William Johnson lived, and where he met these Indians and negotiated with them, is also on the River Mohawk. You may take it as practically being just at the end of the word " Mohawk." There was a subsequent negotiation which just rounded off that corner.

Your Lordships will remember that in this long document I have read, there was at the bottom of page 3 a reference to a plan for the management of Indian affairs, and I promised to give the reference. The reference is in Volume II, page 840.

This is what they referred to as " A plan for the management of Indian affairs prepared by this Board in 1764."

Lord WARRINGTON : The long document was 1768.

Sir JOHN SIMON : Yes. They are referring to something which

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had already happened. They say in the plan prepared three years ago various things happened. We have here the plan. In Volume II, on page 840, is a plan which is enclosed in the instructions which were sent to Sir Guy Carleton. Will your Lordship turn back to page 820 ; I think it is convenient to begin at that page. Will you observe the date ? The date is the 3rd January, 1775. The Quebec Act of 1774 had just become law. The boundaries of the Province of Quebec had by that Act, as your Lordship knows, been extended from our original slate coloured lozenge, which is on the map over there, so that it included the whole of the yellow as well as taking in the green and the pink. There being this immensely extended area, Sir Guy Carleton has been given new instructions. I will put it in this way. I am really adopting an observation of Lord Haldane. Sir Guy Carleton, who, down to that moment had been what you might call Governor of Lower Canada, was now, whilst still remaining Governor of Quebec, becoming Governor of Upper Canada.

Viscount HALDANE : Right to the west.

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Sir JOHN SIMON : It is important to remember that, because you will find in the instructions sent to Sir Guy Carleton, in 1775, the expressions "the interior country" or "the Indian country," or "the upper country" are used indiscriminately. When they talk about these things they are not talking about the things nearer the Atlantic, but things back the other way. If your Lordship takes page 820, I will pick out three or four instances which show it at once. At line 20, on the page there is an extract from the Canadian Archives : " The Board of Trade submitted to the King the draught of a new Commission for Governor Carleton with such formal changes only, as compared with the last, as were required by the terms of the Quebec Act. On December 22nd "—that is only about ten days before the thing was —ssued—" the Board of Trade laid before the King the draught of the General Instructions for Governor Carleton. " This draught" they say " contains not only such instructions as are usually given to other governors, so far as the same are applicable to this Province under its New Constitution of Government ; but also such other directions for the establishment of Judicature ; the reform and regulation of Ecclesiastical matters ; and the arrangements proper to be made " in respect of two areas, in respect of one, ' the Coast of Labrador,' and two, ' the interior

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country.' " Your Lordship remembers the passage from Lord North's speech in the House of Commons when he introduced the Quebec Bill in which he said, " some Honourable Members have criticised tin Government because they are making Quebec so big," and he said : "We are adding two new countries."

Viscount HALDANE : The interior country was not the interior of Labrador.

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Sir JOHN SIMON : He says two new countries, one of them being the Coast of Labrador, which he calls one of two countries, and the other the interior country. It is something which is now the United States of America.

Viscount HALDANE : A great deal.

Sir JOHN SIMON : It makes up to-day something like five and a half of the States of the Union, if you look at a modern map.

Viscount HALDANE : Did Sir Guy Carleton himself become Lord Dorchester, or his son ?

Sir JOHN SIMON : He himself became Lord Dorchester. My impression was that Graves ultimately become a peer, and I was right : he finished up by being an Irish peer.

Viscount HALDANE : Lord Dorchester was not Lord Dorchester of Dorset, but he was Lord Dorchester of Dorchester, Oxon, which afterwards became famous ecclesiastically.

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Sir JOHN SIMON : My learned friend says in 1786 Sir Guy Carleton became Lord Dorchester. If we look at these instructions we have to remember that a man who, down to that moment, had been the Governor administering what might be called Lower Canada, is now getting this immense extension of upper country.

Viscount HALDANE : And away to the south.

Sir JOHN SIMON : And away to the south. I will not trouble about intermediate matters, but will your Lordships turn on to page 832, with that in mind, and see what is the nature of the language used in the instructions to Sir Guy Carleton as soon as Quebec is extended in this way. It is at line 30, at the bottom of the page. "The extension of the limits of the Province of Quebec necessarily calls forth your Attention to a Variety of new Matter and new Objects of Consideration ;

The protection and control of the various Settlements of Canadian Subjects, and the regulation of the Peltry Trade"—observe the language "in the upper or interior country," on the one hand ; that is one of the two ; "upper or interior" are rather striking words— "and the protection of the Fisheries in the Gulph of St. Lawrence, and on the Labrador Coast on the other hand, point to Regulations that require deliberation and despatch."

Viscount HALDANE : This took in a good bit of what afterwards became the Northwest territory.

Sir JOHN SIMON : I think my map there puts it quite fairly. Your Lordship will see what I mean. If you take the different colours I here it is right; the slate colour was the old Province of Quebec in 1763

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(what I have called inaccurately a lozenge) ; the yellow is the very large extent to the west and south which was involved in the new boundaries. As we know at the same time there was "and also the Coast of Labrador" ; and the question for your Lordships will be whether that did not in the circumstances really mean the green and the pink. At any rate, there is no doubt as to what he means by the upper or interior country, because "upper" means "go up the St. Lawrence" ; it is Upper Canada. I was going to read No. 31 again.

The LORD CHANCELLOR : This has all been read.

Sir JOHN SIMON : I am not stare that the point was made when my learned friend read it. I do not think the point was clearly made ; I did not hear it ; that each one of these posts that is here referred to is right up in the interior country. In the same way—without delaying you —No. 32 deals with the peltry trade of the interior country, and at line 25 speaks of "are fully stated in a plan proposed by our Commissioners." I do not think your Lordship's attention has been called to the plan. The plan is on page 840: " That the Trade and Commerce with the several tribes of Indians in North America under the protection of His Majesty shall be free and open to all His Majesty's subjects, under the several Regulations and Restrictions hereafter mentioned, so as not to interfere with the Charter to the Hudson's Bay Company. That for the better Regulation of this Trade, and the Management of Indian Affairs in general, the British Dominions in North America be divided into two Districts, to comprehend and include the several Tribes of Indians mentioned in the annexed Lists A and B." Then : " That no Trade be allowed with the Indians in the southern District, but within the Towns belonging to the several Trades included in such District ; and that in the Northern District the Trade be fixed at so Many Posts, and in such Situations,

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as shall be thought necessary." 4 and 5 may not matter. No. 6 : " That the Agent or Superintendent for the Northern District shall be allowed three Deputies," and so on ; " the agent and superintendent for the Southern district two deputies." No. 7 is rather interesting : " That there shall be a Commissary, Interpreter, and Smith "—the Smith, I rather fancy is the armourer, perhaps the gentleman who sharpened the arrows —" appointed by His Majesty to reside in the Country of each Tribe in the Southern District and at each Post in the Northern District."

The LORD CHANCELLOR : He might have been for the horses.

Sir JOHN SIMON : I thought of that, my Lord, but I am not quite sure that the natives had any horses. It is obvious that they would want some assistance of a mechanical kind for sharpening all sorts of tools. On page 845 you get paragraph 42 : "That proper Measures be taken, with the Consent and Concurrence of the Indians, to ascertain and define the precise and exact Boundary and Limits of

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the Lands, which it may be proper to reserve to them, and where no Settlement whatever shall be allowed." That is the thing that was being done so elaborately three years afterwards by this map. That fits the whole thing together. Then, my Lord, on the last page, 846, you get the list of Indian Tribes in the northern and then in the southern districts. The first six under List A are what were sometimes called the Iroquois, the Mohocks, and so on. The rest, my Lord, are what we call the western confederacy. The southern district contains those people who are mentioned more elaborately in the report I have referred to, document No. 19 in my new documents, and your Lordship notices that there are no Esquimaux, Naskopis and Montagnais at all.

Lord WARRINGTON : Algonquins are mentioned.

Sir JOHN SIMON : They are certainly mentioned. If your Lordship would like to see what is presumably meant I will take a much later document which has the advantage that it comes from Canadian official sources and is in Volume VIII at page 3731. This is much later, but apparently some census of a general sort was taken, surveying the whole North American continent in 1870. Your Lordship has only been given a small extract. My learned friends have provided us with the map, and when I look at the map I can see what the Algonquins are supposed to be ; they are No. 11.

Viscount HALDANE : It is marked " Census of 1881 " at the bottom of page 3731.

Sir JOHN SIMON : Has your Lordship the map ?

Viscount HALDANE : I have the census, and I have the map in front of me.

Sir JOHN SIMON : If your Lordship would kindly look at the bottom right-hand corner you will see it says : " Accompanies Census of Canada, 1870-71."

Viscount HALDANE : It may be that the census took a long time to make.

The LORD CHANCELLOR : On page 3729 it is headed " Census 1871."

Sir JOHN SIMON : I am not for a moment so much on the date ; I am merely asking your Lordships to observe what at any rate on this map is regarded as the area of the Algonquins. Though it may be perfectly true that as a matter of racial origin or similarity you may regard them as cousins or illustrations of some more widely spread stock (I dare say it is so), the question is whether it is reasonable to suggest that in the list attached to the plan which I have just read

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the Algonquins are to be regarded as sweeping in every member of the aborigines in the Labrador Peninsula.

Viscount HALDANE : What do the red lines represent ?

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Sir JOHN SIMON : They are intended to represent boundaries between the different tribes.

Lord Sumner.

Viscount HALDANE : I see the Esquimaux begin at the side of Hudson's Bay. I do not know whether that is the height of land.

Sir John Simon.

Sir JOHN SIMON : No. The Esquimaux would be spread over the northern portion of Labrador.

Viscount Finlay.

Viscount HALDANE : That is the northern portion of Labrador ?

Sir JOHN SIMON : Yes, my Lord. In the middle bit there are people marked Naskopis ; then there are Montagnais. All I am saying is that you will observe those are treated as quite distinct from the tribe called the Algonquins, whom you will find numbered 11.

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Viscount HALDANE : I think it is quite likely that there are different Indian tribes there.

Sir JOHN SIMON : I do not doubt that for a moment. I should have expected at any rate at an early stage in the history of the North American continent you would have found Aborigines of some sort all over it. It is nothing to do with any case that I am contending for, to suggest the contrary. I am saying that it is all very well to state the Algonquins race is a race that is spread all over Labrador ; that is a question for science.

Lord SUMNER : I do not think " Algonquins " is the name of a Lord Sumner. tribe at all ; it is the name of a great family of tribes spreading very widely over North America. It is like the Bantu Race in South Africa.

Sir JOHN SIMON : It does not seem very likely when we have these Sir John Simon. lines here. Knowing what we know (possibly I have been too elaborate about it) was the area which was dealt with as being the area of the Northern Commissioner, with lines drawn and all the rest of it, I respect-fully suggest that there is no ground for saying that the Algouquins in this particular connection are intended to

sweep in every man in Labrador, which in any event would have to be read with the qualification——

Viscount FINLAY : You observe the line drawn below Esquimaux Viscount Finlay. is printed three times, and it confines the Esquimaux to the proximity of the northern portion.

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Sir JOHN SIMON : I do, my Lord. I will not delay longer on that. The only other thing which seems to me to matter on this subject—and I will then pass from it, I hope, altogether—is this. If your Lordships will look at my document No. 17 in the new documents, you will see there that consideration is being given to an application by Sir William Johnson for a grant of land, and this is the way, in 1767, that that is dealt with by the Lords of Trade. I want your Lordships to observe the contrast between what happens when Sir William Johnson wants a piece of land in an area which is the Indian country, and what happens when people want a piece of land in what is undoubtedly Labrador. The method adopted is decidedly different. When Johnson applies, the Lords of Committee say they have "taken into consideration the memorial of Sir William Johnson, superintendent of Indian Affairs for the northern district of North America, praying amongst other particulars for a grant of a certain tract of land on the north side of the Mohawk River conceded to him by the Indians of that nation ; and the said report not containing information sufficient to enable the Committee to give any opinion to His Majesty with respect to granting the said lands, their Lordships are hereby pleased to refer the said report back to the Lords Commissioners for Trade and Plantations, in order for them to report their opinion to this Committee upon the authenticity of the said grant made to Sir William Johnson, and to ascertain in the best manner they are able the situation of the land granted, and whether any and what part of the said lands so granted to Sir William Johnson lie within the land reserved to the Indians for hunting ground by the proclamation of the 7th October, 1763." Observe, my Lord, the contrast between that, which is the way in which Sir William Johnson's application is dealt with for what is undoubtedly Indian country, and the way in which the Moravians are dealt with. I will not trouble your Lordships to go back to it. Your Lordship remembers the matter ; it is in Volume III round about page 1321. No such question arises at all. I will give your Lordship a second example. There was a representation to the Lords of Trade asking for mineral rights near Lake Superior. I have the. document here. It is the only additional one that I hope I am going to inflict upon anybody. It is in 1768, which is almost exactly the same time when Agnew was making a similar application for mineral rights in Labrador. This is the way it is dealt with ; and look at the contrast : "Representation of the Lords of Trade to His

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Majesty re grant of mines in country adjacent to Lake Superior." Apparently there had been this application in 1768, and the report is : "that copper is an article of great importance in the manufactures and commerce of this Kingdom and as there is great reason to believe from the Reports made of the Country described in the Petition, that it does abound with Mines of Copper Ore of a very rich and valuable quality, we are of the opinion that it will be very advisable to give all reasonable encouragement to the Discovery and Working of such Mines to persons of Substance and Ability under such Restrictions and Regulations as shall be judged expedient for your

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Majesty's Interest and Advantage ; But as the system adopted by Your 12 Nov. 1926. Majesty's Proclamation of the 7th October, 1763, does pre-clude all Establishment in the interior country adjacent Sir John Simon. to the Great Lakes, and as your Majesty's Interests in that Country do appear, from the Representations given of the present Temper and Disposition of the Indians, to be in a precarious State," and so on. They say full inquiry shall be made. Will you contrast with that the way in which Agnew was dealt with ? I will not trouble to turn to it ; Agnew is in Volume III, page 1080.

Lord SUMNER : Did they ultimately refuse these copper mines ?

Sir. JOHN SIMON : I have not been able to find out that.

Lord SUMNER : They are there now of incalculable value ?

Sir JOHN SIMON : It just shows how very far back it was appreciated. I think there are precious metals as well. Agnew's is an interesting case, because it is almost at exactly the same time, and the application comes before the same people in Volume III, at page 1080. When the application of Agnew comes, the Lords of Trade never say : We must be careful because we may be invading the interior or Indian country. Here in 1773 is the recommendation that Agnew is to have not exceeding 60 miles depth of area in Labrador for the purposes of minerals. Those seem to me to be illustrations, and I must not expand the argument further on this general proposition.

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Viscount Finlay.

Viscount HALDANE : Where is the description of the area ?

Sir John Simon.

Sir JOHN SIMON : In this representation just where the two words " does preclude " are written in ; " as the system adopted." I am merely contrasting the different way in which the same body at the same time deals with corresponding applications, in the one case which would involve penetrating into Labrador, and in the other case would involve

penetrating into what is undoubtedly Indian country.

Viscount HALDANE : And it is done, not by the Governor General, but by the Sovereign.

Sir JOHN SIMON : Never in either case is it done by the Governor of his own right ; always is it done otherwise. That question was asked by one of your Lordships the other day, and I have checked it so far as Newfoundland is concerned. I will give your Lordship one reference in a moment. You may take it that it was about 1825 when you got, in the case of the Governor of Newfoundland, an authority by which he could make grants of land within his jurisdiction ; not limited to the island, but within his jurisdiction.

To sum up, my point is this : I say that if you take the documents which are in Volumes II and III and ask yourself what is meant by the

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Indian country, you will find, if you fit them together, that that Indian country is a defined area which is not regarded as including anything that is immediately in dispute here, but on the contrary is described and defined as bounded and enclosed within limits which make it this interior country.

Viscount FINLAY : The defined limits are not very exactly traced, but as to the general situation of the Indian country there dealt with there can be, I should think, no doubt.

Sir JOHN SIMON : I do not want to go back, because one tends to go over the same ground, but if your Lordships will forgive me, I have called attention to passages which define the boundaries in most express terms. The passage, which I should regard as most obviously doing that, is the one which your Lordship will remember very well in Volume III. I am conscious that we have had this, but I am merely answering your Lordship's question. The most obvious extract is page 919 at line 8. This is a passage which has become very much trampled over, but there are heaps of instances, and this is as good a one as any. The first sentence on page 919 is a perfectly definite description. Anyone who looks at the map can see it. It is "that large tract of country bounded by the Mississippi and the limits of the Hudson's Bay Company on the one hand, and on the other by the limits of Canada" — that is the lozenge—" East and West Florida, and His Majesty's ancient Colonies." Subject to what I have always conceded, the question about what I call the corridor, that little strip of yellow that runs up between the line on the northern boundary of my old Province of Quebec and the Hudson's Bay territory, there is no doubt at all that that is

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defining an area by boundaries. There are many other instances. The other instances are these, my Lord, if I may just repeat them in case anybody hereafter cares to look at the note. The Indian country was a defined area within definite boundaries, and that follows from these passages taken together : Volume III, page 919, line 7 ; Volume III, page 920, line 44 ; Volume III, page 923, line 20 ; Volume II, page 820—that is the passage about Carleton and the interior country—Volume II, page 832, line 34 ; Volume II, page 833 ; Volume II, the plan that is referred to on page 840 ; and Volume II, page 846. For those reasons I submit that we really get rid of this which has been a very elaborate and, I am afraid, rather a long-winded analysis. It appears there is no difficulty in my way on that point ; there were no British encroachments on the aborigines in Labrador ; there was no complaint of any encroachment ; there was no rising of the aborigines in Labrador. We must all speak here with hesitation' of historical propositions, but I still submit with some confidence this view : that it is quite unhistorical to regard Labrador as part of the Indian country in the sense in which that phrase was being used in 1760, or thereabouts, and I would observe in conclusion on the point (and it is my excuse for being so long-winded in reply) that in the Canadian Case, the main printed Case, there is not one word to

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suggest this ; there was not a single document which was exhibited or extracted by the Canadians in their Case, or in connection with their Case which put forward any such proposition. It was not until we had filed our Case and they had filed their Case and each side had had the opportunity of a second shot, so to speak, and you come to their Counter-Case, that they put in a paragraph making this suggestion which I have humbly called " far-fetched," that the Indian country is a country or includes a country in my green, and that this in some sway supports their contention. My respectful submission is that it is not only an after-thought, but it is an after-thought without any historical foundation, as your Lordships will always remember. It really is fallacious, as a matter of argument. Supposing (which I altogether dispute) that you were to regard for some purposes hunting grounds, or the like, as included in Newfoundland Labrador, what would happen then ? The Indians do not lose their hunting grounds any more than the Indians lost their hunting grounds by extending they boundary of Quebec to include all the yellow. If the proposition is that it would be horrifying to treat the documents here in such a way as to deprive the natives of their hunting grounds and that therefore the coast of Labrador given to Newfoundland cannot cover any more, you might just as well argue that it was horrifying in 1774 to extend Quebec so as to cover the whole of this annexed area to the west and south, because that per se would extend to the

Indian hunting grounds, which it does not do. I submit on both ways of looking at it, on that point I am well-founded.

I have only to deal now with two or three matters which I must just pick up and dispose of. Reference was made to the American census. I could not help but observe that though my learned friend produced it he dropped it rather hastily. As it was referred to I have looked at it. As a matter of fact, this document, which is in the introduction on the very first page of the Eleventh Census of the United States, which deals with natives in the North American Continent, has got a very curious bearing upon the case. It does not show, as my learned friend, Mr. Geoffrion, seemed to think that it did when it was put into his hand, that all over the Continent the number of Indians was exceedingly small ; and, indeed, that is quite contrary to the fact. This is a very interesting document indeed. I did not know it before, but it appears that Thomas Jefferson took a great interest in this subject, and that in the year 1782 he drew up, with the assistance of other people, a sort of table or synopsis giving information upon the aborigines ; and that was based upon three previous reports, namely, reports by George Croghan in 1759, Colonel Bouquet in 1764, and Captain Hutchins in 1768. There are the names of the tribes, a long list of them, covering thirty pages, and in each case it gives, according to these different authorities, both where they reside and the sort of numbers that there are of them. So far as I have inspected it, when I do read it, I certainly do not get the impression that the Indians were a small folk ; but, on the contrary, there are all sorts of views as to how many of them there

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were. For example, in the year 1822, the report of Jedediah Morse, a special United States Indian Commissioner, stated that there were 471,417 of them. That is a precision in enumeration which is really quite surprising. I really do not think that when one looks at this United States Census, there is anything in it which will help my learned friend.

Then some reference has been made to the Hudson's Bay Committee report or map which immediately followed the Arrowsmith map to which I have made some reference, namely, the Aborigines Map. My learned friend, Mr. Macmillan, urged that there was a strange oversight on my part in having referred to the one without having referred to the next ; but the two documents have very different degrees of authority. I do not know whether my learned friend has traced — he could hardly be supposed to have omitted to have traced—where this map of the aborigines comes from. It is due to the fact that a most praiseworthy society, with which the family of Buxton will always be honourably associated, namely the Aborigines Protection Society, was anxious to take the opportunity in the year 1867, as it is upon all such occasions, to do its best to protect the interest of the Aborigines, a most admirable object. The consequence is that apparently this map was enclosed in a sort of petition or memorandum which was sent to the Committee and printed in the Appendix, from Sir Fowell Buxton and other gentlemen associated with him. They produced this map in order to put forward their view of where the different aborigines were to be found. No doubt it is, from that point of view, ethnologically speaking as well as speaking from the point of view of Christian humanity, a very interesting document ; but it has no further authority than that.

I think the Lord Chancellor has his own copy before him, and if I look at it, it is to be observed that when I look at the list of nations, I find that amongst other things the Esquimaux are called " Indian nations." I find that all around what I think is admittedly my Labrador I have Esquimaux marked ; and, therefore, if the proposition is that whatever is shown on this Aborigines Map is holy ground, which no European Government can safely trench upon, there seems to be no spot of earth in this part of the world upon which any Government of any British Colony could safely stand.

This, of course, is not a picture of land which is reserved as a hunting ground for Indians ; it is a picture of the supposed ethnological distribution of a number of native tribes. No doubt the Algonquins in that sense, as my Lord Sumner stated, are really a great branch of the human race, and they are properly depicted as the exclusive occupants of an area which runs down to the junction of the Ohio and the

Mississippi, almost, and runs up to nearly the top of Hudson's Bay. But with great respect it does not prove anything, once it is understood that the map is a humanitarian map, put forward from the ethnological point of view, in which these distinguished gentlemen were urging the Committee in dealing with the Hudson's Bay Company to think of the poor Indian,

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which is, of course, a very proper thing to do. Other people did so too. Alexander Pope, I think, has an excellent couplet :

"Lo, the poor Indian, whose untutored mind

Sees God in clouds, or hears Him in the wind."

But I do not apprehend that those considerations decide any subject of any political boundary whatever.

Now, my Lords, I think that the only other point that I want to deal with for a moment is the suggestion that I have not been definite as regards the southern boundary of my green area. My learned friend Mr. Macmillan has kindly said that I have made the matter clear to him as regards the suggested boundary between what might be Hudson's Bay and the green, but he was not quite so clear as to my view about the southern boundary. At any rate, let it be quite clear. Whether it is right or not it is not for me to say, but my submission is this, that if you read the Statute of 1825 you are driven to the conclusion, and there is no way out of it, that that Statute of 1825, which is cutting off that pink, is cutting off a piece of the coast. The side note of the Statute says so ; the language of the Statute says so ; and nobody reading it without the map in front of them could question that that is what it is doing. It is therefore, a rather valuable parliamentary exposition of what " coast " means, because " the coast " at certain places is 120 to 130 miles deep.

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I submit, therefore, that if that is right, I am confirmed in my view that before 1825 the coast of Labrador, which was annexed to Newfoundland, is at any rate a stretch of territory running back from the sea water, which goes as far as an area such as that. My learned friend says, and says quite justly : " Of course, the height of land, the watershed, is not and cannot be a mathematically straight line running for a distance of from 100 miles to 200 miles." Of course, that is quite true. I apprehend that it was arrived at as an approximation, and though I quite agree that the maps are not entirely consistent, I imagine that the people of 1825 who examined them knew that they could not be treated as if they were really as accurate as a portion perhaps of the Survey of the mother country, and they knew that it was done generally. Still I think it is fair to say this : inspect the maps ; inspect the Mitchell map and other maps of authority, and you get very strong indications that if you went up to the 52nd Degree of

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North Latitude, you would not at any rate be going over the tops of the mountains, but you would in fact, be going very close to what was then believed to be the head waters.

That being so, I think that this question of the situation of the pink, as such, is only interesting because it throws light upon the original conception ; and I conceive that it shows this, that the parties were dealing—and in this sense accurately dealing—upon this basis, that if you did travel down from the North from Cape Chidley and along the height of land, you would in fact reach a height where you would be looking, as it were, down to the Gulf of St. Lawrence, and they were satisfied that you could continue to travel along the watershed between

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the waters that run into the Hudson's Bay and the waters that run into the Atlantic, until you would at any rate come upon the 52nd parallel. And you do in fact ; Low's survey shows it. That gives me all that I want. I come down till I hit the 52nd parallel, and then I turn to the East and travel along it to the end.

The LORD CHANCELLOR : Of course, the interval which Mr. Macmillan dwelt upon between the 52nd parallel and the height of land, you still claim ?

Sir JOHN SIMON : Yes, my Lord ; I put forward that claim, and I ask the Board to consider whether it is not right.

The LORD CHANCELLOR : You had both sides of the water- shed there. You had the watershed looking up from the Atlantic and you had the watershed looking up from the Gulf of St. Lawrence.

Sir JOHN SIMON : Yes. Of course, your Lordships appreciate perfectly well how one arrives at a conclusion logically and argumentatively. It would be reached, of course, in this way. Imagine yourself to be without the pink, for a moment, and ask yourself, upon my view of it, what then would be the coast of Labrador between Cape Chidley and the River St. John. Well, you would then get this dotted line which the Lord Chancellor has just pointed to. Now, what has happened since ? In my submission nothing has happened since except that Parliament, being minded to take a pair of shears and shear out from my coasts of Labrador a portion, has done it by taking shears which first of all chop at Blanc Sablon thirty miles back, and then chop along the 52nd parallel, and finally take out the piece bounded by the River St. John. If that is so, the result would be, as a mere matter of construction, that I should be left with what I think my learned friend referred to as the two humps.

On the other hand, it may be that the true view of the matter is that as soon as ever, in travelling to the West along the 52nd

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parallel, I impinge upon the height of land, thereafter I am at once put upon that line of rails, rather than the other. That is a matter for your Lordships to determine. I do not recognise anything which is either illogical or obscure in the view which is being presented by the Government of Newfoundland. It seems to me to be quite clear, and I trust that the logic of it is intelligible ; but of course, whether it is right, or not, is a matter which I have not to determine.

Then there was one incidental observation which my learned friend made on the subject of the River St. John. He said : Now, notice, when you read the way in which in the Commission of Governor Graves the coast of Labrador is limited laterally at one end and the other ; the way in which they dealt with the River St. Johns is not to say that it was bounded by the River St. Johns, but to say that it is bounded—this is page 149—by "the River St. Johns, which discharges itself into the sea nearly opposite the west end of the Island of Anticosti." My learned friend Mr. Macmillan said on page 396 of the Shorthand Note :

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" Now observe, that is indicating a point. It is not indicating a line," he said. " It is indicating a point, namely the point of discharge."

Unfortunately for my learned friend, the real explanation is quite plain the moment that you investigate any map of the period. Mitchell's map will do very well. I do not know how it came about, but there are a great many places called " St. John " in this part of the world. St. John's day, is I think, the 24th of June, and that is the day, so we are told, when Cabot first sighted the Island of Newfoundland, and that is why the Capital of Newfoundland is called St. John's to this day. But if you examined the map, you would find that there was a River St. John's on the same map, which was flowing into the Bay of Fundy, which is just on the other side of the Gulf of St. Lawrence. I think the thing to do in reference to the phrase " the River St. Johns which discharges itself into the sea nearly opposite the west end of the Island of Anticosti " is to make quite certain that we know which River St. John you are talking about. If my learned friend is concerned to rely on the precise language of the Commission, no doubt he will be pleased to notice that the Commission described the River St. John not as flowing into the River St. Lawrence, but as flowing into the sea.

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There are many other things upon which one might occupy your Lordships' time, and I am far from thinking that I have dealt with everything. But I have done my best to obey the injunction of my learned friend, Mr. Geoffrion, and not to introduce too large a percentage of irrelevant matter. I hope I have dealt with the main points of the case.

I will not ask leave to repeat the ten propositions which your Lordships have, of course ; but I humbly submit that the case for Newfoundland may still be regarded as standing upon that

ground, and it has not really been dislodged.

Now, my Lords, what I would like to say in conclusion is this : this is one of those cases where there is such a mass of detail that it is perhaps not always easy, even for the very best and the most trained minds, to get the essential facts ; and so I am going to try to conclude by stating the essential fact, as we regard it, in as uncontroversial terms as I can.

This, I suggest, is the true conclusion ; the true conclusion I suggest is that 160 years ago, or a little more, the area which is now in dispute, this green area, was on all hands regarded as practically worthless. That is the key to the case : it was regarded as practically worthless by everybody. It was, therefore, quite natural, when annexing a portion of Labrador to Newfoundland—this is my submission—to act with a generous hand. And the only internal physical boundary which was available or which would suggest itself was the height of land, the watershed, the sort of boundary which contemporary maps again and again indicated as the limits of the Hudson's Bay, and which geographers and statesmen in the eighteenth century constantly regarded as the internal limits of a coast.

As against that, this comment is made, and one or two of your Lordships one or twice have pointed it out as a serious consideration,

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and no doubt it is. It is said : "Well, but surely, to treat the prerogative grant, the executive distribution, as giving you an area that runs back to a watershed, is to contemplate, possibly, an almost illimitable extent of territory." Now, my Lords, I think, and I suggest, that the answer is this : The peninsula of Labrador—I am not speaking of my green territory now, but of the peninsula itself—the peninsula of Labrador was not, so far as its outline was concerned, a terra incognita. It was not like tropical Africa ; it was not like the Far West ; and if you told men that they were to have a jurisdiction which started at the salt water and went back to the watershed you were not, by using such language, giving them a perfectly indefinite and possibly inexhaustible march. The peninsula of Labrador was known at the time. It was known to be bounded on the one side by Hudson's Straits, and surveyors, traders and other people had marked that out by this time very definitely. There is, in fact, an interesting document in this case in which you may read how the coast of Labrador was surveyed by Captain Cook. Captain Cook is the circumnavigator ; and he was present, or at any rate was on the scene, at the time of the Battle of the Plains of Abraham. It was Captain Cook who was in the boat with James Wolfe, together with Mr. Robison, the Glasgow student, whom the history books describe as the Young Lieutenant. Captain Cook was there, and he was interested in this part of the world, and there is a document in the case which shows that Captain Cook was surveying in this part of the world. So you had Hudson's Bay perfectly well marked as

a boundary. You had a fringe which was quite well ascertained and known, although not explored in its inner recesses, and you had the other boundary from Belleisle running up from the shore of the St. Lawrence, both from French and English sources.

Having got, therefore, a peninsula which turned out to be something like 500,000 square miles in extent, the position was this, that the thickness of the isthmus, 300 miles, was known pretty accurately, because John Mitchell had got all these latitudes and longitudes carefully fixed. Therefore it is not true that they were dealing with a terra incognita. What they were doing was, that they were dealing with a country, the value of the interior of which was believed to be quite negligible, but the boundaries of which were known. And although therefore the value of the interior was never ascertained, and although its actual contours, mountains and hills and so on, were unsurveyed, there was really nothing extravagant or illimitable in allotting the Atlantic coast, in this wide sense, to Newfoundland. And, of course, although this is quite a subordinate consideration, Canada never questioned the allocation until it became worth Canada's while to do so. On the contrary, Canada affirmed it in a series of official maps, Nos. 35 in my atlas, 39 in my atlas, and 41 in my atlas ; and when they were asked about it on an occasion when the Secretary of State for the United States, Mr. Fish, was anxious to know how things stood, the Privy Council expressly so informed Lord Dufferin, and the Colonial Office so agreed ; and right down to the time when it was discovered

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in the early 'nineties that the forests and water power of this part of Labrador were valuable, there really was not any challenge.

Well, my Lords, what has happened since ? There was this desperate attempt to peg out claims ; first of all to extend the boundary by Quebec legislation and Canadian legislation, all of which is perfectly inoperative, because, of course, if Quebec had already got it she did not want it, and if she had not got it and somebody else had, then she could not get it by legislation.

Viscount
Haldane.

Viscount HALDANE : It is not important from the point of view of your argument, but how many times larger is Labrador than Newfoundland ?

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Sir JOHN SIMON : The part I am talking about is about twice the size, my Lord. Newfoundland would be about one-third of the whole.

Viscount HALDANE : From the coast to the height of land ?

Sir JOHN SIMON : Yes, my Lord, my green. Roughly speaking, you may say that it is twice the size.

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Then in the same way you get this to some extent on both sides, but I am much struck with the Canadian ones. I have not spent time in pointing out how very oddly some of them have been procured, but there is a great effort to produce affidavits, and perhaps I may say that that culminates by the presentation by my learned friend, Mr. Geoffrion, on page 744 of the Shorthand Notes of the very striking fact that since 1897 Canada has actually distributed 75 pairs of blankets to some Indians. That was one of the acts of occupation which your Lordships were invited to consider from the Canadian point of view, five years after the dispute arose. The answer is, of course, that naturally both sides want the territory. Newfoundland wants it quite as much as Canada.

Mr. Macmillan.

Your Lordships will perhaps remember, one of the later Latin poets satirised the tendency of Imperial Rome, wherever it found some hidden inlet or some other territory that might perchance produce gold. at once to start a dispute and claim it :

"Si quis sinus abditus ultra, Si qua foret fellus,
fulvum quae mitteret aurum, Hostis erat."

There is no danger, of course, of hostile feelings arising

between Canada and Newfoundland—

The LORD CHANCELLOR : Who was it who said that ?

Sir JOHN SIMON : It was Petronius Arbiter, my Lord. It is one of the poetical passages.

As I say, there is, of course, no danger of any hostile feelings arising between Canada and Newfoundland. The great Dominion and the ancient Colony are good friends and neighbours under the British Crown, and they will remain such ; but even the friendliest of neighbours sometimes find it necessary to secure an impartial award which will fix

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the exact boundary between them, and I confidently submit to your Lordships that when you make your report to His Majesty, that report should declare, in answer to the question in this case, as to what is the location and definition of this boundary, that the boundary between Canada and Newfoundland in Labrador is located and defined by a line starting at Cape Chidley, at the entrance to Hudson's Straits, running along the watershed or height of land which divides the waters that flow into the Atlantic from the waters that flow into Ungava Bay or Hudson's Bay, until it reaches the 52nd parallel of latitude ; when it reaches the 52nd parallel of latitude, that the boundary then runs due east along that parallel until it reaches the meridian at Blanc Sablon, and thence it runs down south to the Gulf of St. Lawrence, including Woody Island.

Mr. MACMILLAN : May it please your Lordships, for thirteen days the Board has been engaged in hearing debated here the question of the true interpretation to be placed upon the words " all the coasts of Labrador," as used in certain documents in 1763.

My Lords, it is a tribute to the ambiguity of the English language that an apparently simple phrase such as that should have afforded material for so prolonged and so elaborate a debate. The resources of history, of geology, even of botany, of geography and physiography, and almost all the sciences, have been ransacked in order to assist or impede your Lordships in the decision of this question. But nevertheless, at this late stage of the debate, and notwithstanding the note of confidence—I might even say the note of triumph—with which my learned friend Sir John Simon has concluded his address to your Lordships, I have still the temerity to submit to you that his contention is not a sound one, and that the position of the Dominion of Canada in this matter is supported, and is both historic and accurate.

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The question cannot be dismissed as one which is so abundantly clear as to leave no room for controversy. We should not have been engaged upon it for all these days had it been so clear a question as that. The topic has been discussed and canvassed with many of the papers which are before the Board, and the problem which your Lordships are asked now to solve is very much the same problem as Judge Pinsent puzzled his head over in the year 1867, and which he at that time found was difficult of solution.

In approaching the solution of the problem, I am happy to be able to start from a common ground with my learned friend. On the question of the sound interpretation of these critical words, these five words with which we have had to deal, I have been very much struck throughout by this feature, that my learned friend Sir John Simon has said, and said frequently, not as a matter of concession to me but as a matter not susceptible of argument, and as one of the common grounds in this case—I had better use his own language so as to do him no injustice—" I am not in the least disputing that the purpose and motive and governing consideration in all this business was the use of the margin of the sea in connection with fishing of different kinds."

Now, my Lords, subject only to the qualification that I should read " cod fishing " for " fishing," I am in entire agreement with my learned

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friend there. But the significance of the statement, coaling from Newfoundland, cannot be overlooked, nor, indeed, I think, can it be over estimated. Notice how far reaching it is: "The purpose, the motive, the governing consideration, in all this business;"—that is to say, this business of allocating some jurisdiction of the mainland of Newfoundland— "was the use of the margin of the sea in connection with fishing."

My learned friend says, and says, of course, quite properly, that that is not 'the question. Quite true; that is not the question. The question is : what does the language used mean ? But when you are in search of a meaning to be paced upon language, I should have thought that the most conclusive guide to its interpretation was to be found in "The purpose, the motive and the governing consideration in all this business."

It is very curious that although my learned friend sought to brush aside the importance of that common ground, he has spent hours before your Lordships in endeavouring to extract from documents what was the purpose of the fixing of the Indian Reservations, in order that your Lordships might thus be aided to interpret the territory which was reserved to the Indians under the Proclamation of 1763; and great industry and much pains has been expended in endeavouring to satisfy

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your Lordships as to what was the exact purpose and aim of that reservation of Indian territory. It appears to me that there is a slight inconsistency in saying that with regard to the question of what Newfoundland got you are to have no regard to the purpose, the motive or the governing consideration, but that when you come on the other hand to construe another portion of the same document, the document that deals with the territory reserved to the Indians, then it becomes of paramount importance to tell your Lordships all the history, and to put before your Lordships all the documents of the time in order to do what?—to illustrate the intentions of those who were dealing with Indian reservations.

Sir John Simon.

My learned friend cannot have it both ways. If intention is important for the purpose of ascertaining what was the Indian reservation, intention is equally important when you are dealing with the question of what was the nature of the grant to Newfoundland in 1763. Therefore I would emphasise again the emphatic language which my learned friend has used upon to matter, because, after all, what is the position? If language used is susceptible of only one meaning, then, of course, there is no difficulty, and my learned friend should simply have said, "The documents speak for themselves." But no one before your Lordships has confined himself to that simple method, and we have both proceeded from this common starting point, that the language which is used, the language which has to be construed, owing to the very generality of the word "coast" or "coasts," leads to ambiguity, and that therefore it is necessary to find in some intrinsic material the necessary aids to the interpretation of the word as used here. My Lords, if a word of ambiguous content is used, and it is necessary

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to ascertain its content from its context, then again I say that the context which is most predominant and most useful is the context which is to be found either in the document itself, or in the documents of the same period, or in the surrounding circumstances of those who used that language.

It is perhaps to repeat myself to say that the effort always is to ascertain the intention and that when you have, as you have here, an admission as to what was the intention and the governing consideration of the whole matter, your Lordships are absolved from the search for the intention, because it is already before your Lordships. We know what was the intention.

Sir JOHN SIMON : I have never made any admission about intention. I thought that my learned friend gave me a lecture upon the philosophical distinction between motive and intention.

Mr. MACMILLAN : If my learned friend is really making this very fine distinction as to the difference between purpose and intention I am willing to present him with that. His language was : " The purpose, the motive, and the governing consideration."

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Sir JOHN SIMON : And is that inaccurate ?

Mr. MACMILLAN: If my learned friend now says that is inaccurate, I am sorry ; but I do not suppose that he wants to interrupt my speech about that.

That, my Lords, is the keynote of the situation, and, it being common ground that there is ambiguity in the expression under interpretation, my submission is that you there get the best of all possible guides to the meaning of the term which your Lordships now have to construe.

Of course, my Lords, if the word " coast " or the word " coasts "—because the singular and the plural are used indifferently in these documents--if either the word in the singular or the word in the plural had by necessary implication a certain content, then it would be irrelevant for either of us to refer to anything else, because a word which has a definite and precise meaning is not susceptible of interpretation at all. Its content is known. It is only because its content is not known that it is necessary to resort to external and extrinsic aids.

Now we are agreed that the word " coast " here has not by necessary and universal implication the meaning that it includes all land from the shore to the height of land or the watershed. No one has submitted that when I use the expression " coast " I am necessarily referring to a territory which is bounded on the one side by the seashore and on the other side by the nearest watershed. Nobody suggests that that is not the suggestion. The suggestion here is that in the circumstances of this particular case, having regard to the circumstances in which this language was used by those who used it, your Lordships should attribute to the word " coast " here the meaning

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of a territory which extends from the seashore to the watershed. But that at once gets one into the process of interpretation, and at once calls for resort to these aids to interpretation which are available for the purpose ; and, of course, in this case, the primary aid to interpretation is "the purpose, or intention, or motive, or governing consideration of the whole business," and that governing consideration is " the use of the margin of the sea for fishing purposes."

Now, my Lords, what is the operative effect, now that one can survey the Newfoundland argument ? It is very difficult, in a case of this sort, to observe a due sense of proportion. Topics emerge, and for the time being are treated as of very considerable consequence, but perhaps at the end of the day they may rather fade into insignificance. I personally have

found, in endeavouring to bring together at this stage the main considerations, some little difficulty in preserving that due sense of proportion ; but I think I may fairly say that the operative effect of the argument which my learned friend has addressed to your Lordships so attractively and with so much learning, really comes down to this, that on a sound construction of Governor Graves's Commission of the 25th April, 1763, his Majesty thereby annexed to and incorporated with the Government of the Island of Newfoundland a certain mainland territory. I am trying to put it as accurately and as fairly as I possibly can when I say, "A certain mainland territory" and it was a mainland territory which, as it happens, is more than twice the size of the whole of the Island of Newfoundland and considerably larger than the whole of Great Britain. That circumstance may not be so impressive in this region, where we are dealing, so to speak, on a more wholesale scale than we are accustomed to deal with boundary questions in our own domestic tribunals here. It is quite true that we are dealing in a continental area, and so I do not think that that is of itself so important, yet it is at least significant. But the main contention is that on a sound construction of that particular document, that was annexed to, and incorporated with, the government of the Island of Newfoundland, the green area.

Then, my Lords, the next stage of it is that His Majesty did so by an executive act, which His Majesty himself contemporaneously described, in the Proclamation of the same year, as a putting under the care and inspection of the Governor of Newfoundland of a portion of the coast of Labrador between two points on the coast in order that an open and free fishery may be carried on upon that coast. I then carry on to the next stage : that His Majesty did so, not because it was necessary to effectuate the purpose in view, but because he used, advertently or inadvertently, language which, although admittedly ambiguous, must nevertheless in this case be held inherently to imply a much wider grant than was necessary to effectuate the purpose in view ; a grant namely, from the shore up to the watershed ; and finally that His Majesty, by using the language used in Grave's Commission has, on the East side of the Peninsula of Labrador, achieved precisely the same effect as His Majesty achieved in 1670 in the

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Mr. Macmillan.

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Haldane.

Mr. Macmillan.

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Charter to the Hudson Bay Company, on the interpretation which my learned friend puts upon the Hudson's Bay Charter, and which was put upon it by the Law Officers whose opinions he has printed, that " all the coasts of Labrador " between these two points, that short description, has the same content, and precisely the same content, as the elaborate description of lands and confines and countries, and so on, which you find in the Hudson's Bay Charter of 1670. I hope I do not weary your Lordships by reminding you of the exhaustive enumeration of particulars in the Hudson's Bay title, a title which embraced rivers, coasts and bays, and all the rest of it, a very elaborate enumeration indeed of countries, lands and so on ; but the case now submitted to your Lordships is that by the shorthand use of the words " all the coast of Labrador " there is confided to Newfoundland exactly the same thing upon the East side of the watershed as he had, by his grant of 1670, confided to the Hudson Bay Company on the West side, because if from the height of land in this area to the Eastern shore passes under the description of " the coast of Labrador," so equally, the area to the West, that is to say, from the great sea known as Hudson's Bay up to the watershed from the West, is equally, of course, " coast "—but in that case the Western coast of the Peninsula of Labrador is contrasted with the Eastern coast of Labrador, which it was said was given to Newfoundland ; consequently, you have this remarkable position, that taking the watershed in this vast area of over 500,000 square miles, it is composed entirely of two coasts and two coasts only, a coast confided to the Hudson's Bay Company on one side and a coast confided to Newfoundland on the other side. My Lords, it is surely unlikely that, had His Majesty been minded to confer this large territorial grant upon Newfoundland, he would have chosen to do it in such shorthand language as the words which we have before us, " all the coasts of Labrador," when it was found necessary, in days when people were perhaps even less exact in the use of language, to describe what was given to the Hudson's Bay Company, on the other side of the watershed, by the most careful and full enumeration of territory, which careful and full enumeration of territory now means, according to my learned friends and according to the Law Officers of 1849, a grant of lands up to the watershed.

Mr. Macmillan.

Viscount HALDANE : Can you give us the mileage of the disputed territory and of the Island of Newfoundland ? I think 111,000 square miles is the disputed territory in Labrador.

Sir JOHN SIMON : We think it is 102,000, my Lord.

Mr. MACMILLAN : I think I can answer his -Lordship. Newfoundland is 40,200 square miles ; the area claimed in the Labrador Peninsula by Newfoundland is 113,000 square miles.

The LORD CHANCELLOR : You say less, Sir John ?

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Sir JOHN SIMON : That is why I interrupted my learned friend.

Mr. MACMILLAN : Of course, you may correct me, if I am wrong.

Sir JOHN SIMON : We arrived at a figure of 10 2,000, but it is enough to say it is more than twice the size.

Mr. MACMILLAN : Shall we say 100,000 ; we are dealing wholesale here, Sir John ; it is not a retail trade.

Sir JOHN SIMON : Is that a firm offer ?

Mr. MACMILLAN : I daresay you would like it.

Viscount FINLAY : You do not stand on a matter of 10,000 square miles in a matter of this sort.

Viscount HALDANE : Anyhow, it is more than twice as large.

Mr. MACMILLAN : I think it is fair to say, is it not, that we are Mr. Macmillan. dealing here with territories on a very large scale, and it is not so impressive a point for me as it might be in other circumstances.

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Mr. Macmillan.

Sir JOHN SIMON : We are dealing with it on an American, if not on an astronomical scale.

Mr. MACMILLAN : I prefer, where I can, not to make too much of a point which is not really of very great consequence, but it is, of course, significant.

The LORD CHANCELLOR: What proportion does it bear to North America as a whole ?

Mr. MACMILLAN : It is a very small thing ; but, of course, I contend it is a very large area when you come to the word " coast," but I am glad to say I do not have to rely on a mere ad captandum argument of that sort. That is the operative effect, really, of the argument which has been addressed to your

Lordships, and it is now my duty very shortly to combat it to the best of my ability. My Lords, I said that you are here furnished (and it is an unusual position) with an admission as to the purpose of this whole business ; what was intended ; and it is surely rather an odd thing that the grant should be sought to be construed as if it had inadvertently included something more than was necessary to effectuate the purpose. Ordinarily one construes a grant so that it shall be effective. You ask : what was the purpose which it was desired to effect ? We are told that it is common ground that it was to secure a margin of the sea for a fishery. It may be, of course, and my learned friend is entitled to say this, that the person who was minded to secure a margin of the sea for a fishery may

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have used language which, upon a subsequent interpretation, may be found to be very much larger than the language which was necessary to effectuate the purpose in view, then the grant would be effective and would convey more than was necessary ; but it is not to be lightly inferred that the person setting out with a definite and admitted object in view has inadvertently used language which, although ambiguous, must nevertheless be held, as against the grantor, to be a grant inclusive of something infinitely greater than was necessary to effectuate the purpose in view, which could indeed have no relation to the purpose in view at all. I say again, if such language is used, of course, it must have its effects, but your Lordships are engaged here, are you not, in doing what I am afraid so often falls to the lot of a Court in construction—your Lordships are being asked to impose upon persons more than 100 years ago—may 150 years ago—an intention which very probably they never entertained. It is often one of the most distressing duties of a Court to have to say that a Testator has used certain language, and therefore certain results must follow on the canons of interpretation, although every one is well satisfied that the Testator contemplated no such thing. It is a painful duty, but one from which the Court does not flinch when it is necessary ; and the question often arises in connection with the interpretation of contracts as well : if persons choose to use language which has an accepted connotation, a necessary connotation, even although the Court may be satisfied that that was not the real intention of the parties, nevertheless the Court will attribute to the persons the intention which their language on a proper interpretation bears. My Lords, it is only a branch of the general principle of law ; that people are taken to intend the consequences of their acts ; they are taken to intend the consequences of their words.

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Viscount HALDANE : It is only when the words are ambiguous that you are said by the Courts to have to sit yourself down in the Testator's armchair.

Mr. MACMILLAN : Yes, that is the position which the Court adopts at times. It is a very important point to have the grant here, and I think it is really inherent in my learned friend Sir John Simon's argument, he almost went so far as this—I hope this is not a travesty of his submission—he said nobody cared twopence about this place (that is his actual colloquial phrase, I noted it at the time) now it has become of value and now that your Lordships are called upon to scrutinise this grant, you are to infer, or you are to impose upon the authors of this language an intention with regard to that for which they at the time cared nothing—for which they did not care twopence—you are to impose upon them an intention now, not in order that the purpose of the grant should be effectuated, but in order that there should be held to have been a transfer of territory in 1763 unnecessary for the purpose in view, and not contemplated by the persons who were the authors of these documents. That seems to me the most striking feature of this case, and one which is not to be lost sight of when the argument submitted is really

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this : that you are to impose upon the authors of these writings an intention which they did not entertain at the time, and could not have entertained at the time, when their minds were concentrated upon one object and one object only, namely, the carrying out of certain articles of the Treaty of Paris and ensuring that this great new asset, the cod fishery on the Labrador coast, should be properly administered. My Lords, it is a feature, I think almost a unique feature, of this case, that you have got to rest on conjecture as to the intention of the whole business. Apart from my learned friend's admission, and he now suggests that his statement was inaccurate, but Sir John is not generally inaccurate at critical parts of the case—apart altogether from the merely ad hominum method of selecting a phrase from one's friend's speech, which may be an unkind way of founding one's argument, and I prefer to rely on what is very much more important : the authors of this phrase now on the table for interpretation—the very authors of this phrase—have at the time they use this phrase told you what was in their minds when they used it, and why they used it. My Lords, the Lords of Trade, who were the active agents in this matter, had no doubt about it ; they speak with no uncertain voice on the subject. On the 8th June 1763, they made a Report and, in Volume 3 at page 909, this is what they said after discussing " the advantages resulting from the Cession made to your Majesty by the late definitive Treaty " —they are there considering the new assets of the British Empire—and they state at the top of page 909, "But as no such regular civil Government is either necessary or indeed can be established here no perpetual Residence or planting is intended ; It will there be sufficient," that is to say in places of that sort : "to provide for the free Trade of all your Majesty's Subjects

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under such Regulations, and such Administration of Justice as is best suited to that End. Such We apprehend to be the case of Newfoundland, where a temporary Fishery is the only object, and this We suppose has been the reason, which induced your Majesty to annex the coast of Labrador to that Government." Can anyone without sophistication read that passage without having it brought home in the most emphatic fashion that the reason which operated in the annexation of the coast of Labrador to Newfoundland was this : the object of the fostering of the temporary fishing. Now "temporary fishing" is a word of fixed significance ; it is the cod fishery that is the fishery by the people who came out from this country, and it is distinguished from the resident fishery, which was the fishery which was carried on by the people who had to remain on the coast, mostly for seal, but also to some extent for walruses and other animals which came about the shores.

The LORD CHANCELLOR : The sedentary fishery.

Mr. MACMILLAN : Sedentary was the word, but the temporary fishery was the fishery which was the great fishery carried out from the Ports of England, and necessary for seamen for our navy ; and there you have the Lords of Trade, who were the very persons, participants both

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in the preparation of Graves' Commission and the Proclamation, the persons who were consulted on this matter, telling you, in this very year of Grace 1763, what was the reason of the annexation. The reason of the annexation to Newfoundland was that, as in Newfoundland the temporary fishery was the only object, hence there was apparently annexed, the coast of Labrador. Now, my Lords, that from the Lords of Trade is a significant voice, but my learned friend has said very very little to your Lordships upon the even more emphatic language of His Majesty himself in his Proclamation of the 7th October 1763. I should have thought that this is a matter upon which your Lordships would have expected more assistance from the other side of the Bar, because it is obviously at the very heart of the whole question. It is a passage on page 154, where this very matter—I shall come back on this a little later, but for the moment, I am furnishing your Lordships with the contemporary interpretation by the authors themselves of the language they used—and what is said in that Proclamation is this, " and to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador " ; now I pause there just for a moment, my Lords ; of course, there you are dealing with something that can be carried on upon—what is my learned friend's phrase ? —" a margin of the sea " ; " and the adjacent islands we have thought fit, with the advice of our said Privy Council, to put all that coast,

from the River St. John's to Hudson's Straights together with " certain islands, " under the care and inspection of our Governor of Newfoundland." Again, my Lords, I ask that passage to be read without sophistication ; any person reading that at the time would say : I see the coast of Labrador is very important for this open and free fishery, and in order that it may be carried on there, the Governor of Newfoundland has been invoked, and we have put the coast of Labrador where that fishery can be carried on, under the care and inspection of our Governor of Newfoundland. My Lords, I do not want to re-open or rediscuss the question which is perhaps of some little importance, as to which is really the ruling document here, whether it is the Proclamation or the Commission. It is not for me to say what my own view on the matter is, but I confess my own feeling about it has veered once or twice from one side to the other. The Proclamation is, of course, a document of a different type from the Commission. The Commission, is addressed to the individual who is entrusted with duties, it is his warrant to carry out duties ; it is therefore an executive instrument of importance ; on the other hand, the Proclamation is the announcement of what His Majesty has been pleased to do ; it is cognate in some sense to a Statute, although it has a different legal status ; but it is an announcement to the world of an executive act of the Sovereign. At one stage of the argument my Lord Warrington was good enough to call attention to the language of it, with a suggestion which I have, of course, studied with all the respect with which one would a suggestion coming from that source, and I do not know quite yet, if I am satisfied with the view which I am going to suggest to your Lordships. If you notice, the whole Proclamation runs in the past tense, but that is a feature which is common

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mon to Proclamations. It is the announcement of a fait accompli, and if you look at the language which is used with regard to Quebec, His Majesty says on page 153, line 12 " We have thought fit, with the advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving subjects, that we have, with the advice of our said Privy Council, granted our letters patent under our Great Seal of Great Britain, to erect within the countries and islands ceded and confirmed to us by the said Treaty, four distinct and separate governments, styled and called by the names of Quebec " and so on. Notwithstanding the form in which that language is used, I think there can be no doubt that the Government of Quebec was created by the Proclamation. There are no Letters Patent under the Great Seal creating this new Government of Quebec. What there is is a Commission issuing to each of the new Governors.

Viscount HALDANE : You will notice a material circumstance that the new Governments are created, in the language on page 153, " Within the countries and islands ceded and confirmed to us by the said Treaty."

Mr. MACMILLAN : Yes, my Lord.

Viscount HALDANE : On the next page, when you are dealing with fisheries, they are not referred to, and could not be referred to, as having been ceded or confirmed.

Mr. MACMILLAN : Yes, my Lord, but it was appurtenant, of course, to the lands that we got. The French were really ousted from the fishing rights they had, and therefore it came to us in that sense.

Viscount HALDANE : No doubt that was so, but at the same time it is not put there as something which is created ; it is a sort of appendage to the existing island of Newfoundland.

Mr. MACMILLAN : That is quite true ; but, for the moment, I was really on what I might call a grammatical question. It has been said that this passage upon page 154, from line 14 onwards, is a recital of something already done by something else, and I confess that I had rather read it that way myself until my Lord Warrington suggested that that might not be accurate.

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Lord WARRINGTON : I did not know then there was an Order in Council approving of the Commission, so that the Commission was passed on.

Mr. Macmillan.

Mr. MACMILLAN : With great respect, I am not sure that that really alters the position. If you take the language, for example, with

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regard to Quebec, because I want to get what you might call the style of the document, the currency of the document, you will find there that the King erects the Government of Quebec, and although it is true he says that with the advice of the Privy Council that has been settled——

Lord WARRINGTON : He says he has by Letters Patent.

Mr. MACMILLAN : And there are none ; there are just Commissions to Governors.

The LORD CHANCELLOR : What is the date of the first Commission ?

Mr. MACMILLAN : The first Commission would be to Murray ; he was the first Governor.

Viscount FINLAY : It is in the terms recited at about line 12 on page 154.

Mr. MACMILLAN : I asked that that search should be made, and there seems to be no such thing.

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Viscount HALDANE : On page 153 he had got the whole of that enormous territory ceded and confirmed by the French King, the title being in the King of England ; that would be in some form of Commission.

Mr. MACMILLAN: The question for the moment was, what this recital means that " we have granted our Letters Patent " ; naturally, one would ordinarily assume that His Majesty had granted Letters Patent, and one was put on search to see whether he had granted any Letters Patent.

The LORD CHANCELLOR : There was a Commission to Murray on the 21st November, 1763.

Mr. MACMILLAN : That is the Commission, my Lord ; that is the first Commission to the Governors, but it is after the date of the Proclamation, and therefore historically it is not accurate to say there were Letters Patents which had been granted.

The LORD CHANCELLOR : On page 176, we have that fact mentioned.

Lord

Viscount FINLAY : The letters Patent were merely to erect

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four distinct and separate Governments in the ceded territory.

Mr. Macmillan.

Mr. MACMILLAN : But one was looking to find if there were any such, and there do not appear to be any Letters Patent. It is done

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through the medium of giving a Commission to the Governor, and it is in that form it goes before the Privy Council.

Mr. Macmillan.

The LORD CHANCELLOR : I think there must have been some Letters Patent although they are not now forthcoming.

Mr. MACMILLAN : I can only say I have instructed that a search should be made, they have been looked for, and cannot be found.

Viscount FINLAY : Does it make any difference ?

Mr. MACMILLAN : I do not think it does, my Lord.

Viscount HALDANE : They may have been brought up at the same time.

Mr. MACMILLAN : The point I was on was whether when the Proclamation uses the language in the past tense, " we have done something or other," that is recital or executive action. That is what I was on.

Lord WARRINGTON : It does not really much matter, because you must go back to the Commission to see what he did. You do not get the details without going back to that.

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Mr. MACMILLAN : Your Lordship has, I know, done me the credit of seeing that I have always said so with the most complete candour throughout this case.

Lord
Warrington.

Viscount HALDANE : The King at that time intended to make a complete and exhaustive disposition of the whole of the territory he had got, he sets up four governments, and if you like, annexes to Newfoundland, an easement on the coast, whatever that means of Labrador, but it is an independent area outside the bounds of what he has got from succeeding the French King, and it is quite independent of setting up the four Governments.

Mr. Macmillan.

Mr. MACMILLAN : My learned friends in their printed Case have stated that this Proclamation is the root of their title and is the foundation of Newfoundland's jurisdiction, and my learned friend has been anxious to get away from the position not unnaturally, because if the Proclamation is the root of his

title, it certainly gives a title which is very much less comprehensive in its terms than the language to be found in the Commission ; therefore, one can understand the desirability, from his point of view, of shifting his ground from his pleading, and saying that this was the foundation and the other was not, but at the same time. you cannot leave outside the Commission and I am now going to go to the Commission, and it has been present to my mind, it always

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struck me that my learned friend referred to this so very little, while harping on the Commission, that I am going to take them both together, which is much sounder.

Lord
Warrington.

Lord WARRINGTON : There must have been some sort of Letters Patent ; look at line 32 on page 154, " We have thought fit to publish and declare by this our Proclamation that we have in the Letters Patent under our Great Seal of Great Britain, by which the said Governments are constituted, given express power and direction to our Governors."

Mr. Macmillan.

Mr. MACMILLAN : That is the Commission: they are Letters Patent. Would your Lordship, before concluding the matter, just look at page 159 and see how, in 1774, this is described by Parliament, at line 18 "the Province of Quebec as created and established by the said Royal Proclamation of the 7th of October."

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Warrington.

Lord WARRINGTON : Certainly.

Mr. MACMILLAN : Therefore, the Statute says the Province of Quebec was created and established by the Proclamation.

Viscount FINLAY : Is that at page 159 ?.

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Mr. MACMILLAN : Yes, my Lord, at line 18. I do not want to be controversial on this and to develop it at great length, but I want to show that you cannot do, as my learned friend does, treat this Proclamation as if it were comparatively negligible in the matter of its description of the grant, when it is referred to over and over again, by Parliament and elsewhere, as itself the very source of the rights.

Mr. Macmillan.

Lord WARRINGTON: But it is a very curious thing that the Proclamation in that part that you refer to here, states that something has been done, and in other parts it directly gives orders and directions to the person to whom it is addressed.

Mr. MACMILLAN : Far be it from me to try to penetrate these recondite matters; I can only tell your Lordships what I know myself.

Lord WARRINGTON: We have here " we strictly enjoin and require."

Mr. MACMILLAN : That is de futuro, is it not, my Lord ?

Lord WARRINGTON : It is more than that. Then there is another one, "and we do hereby authorise, enjoin and require the Governors and Commanders in Chief of all our Colonies respectively as well those under our immediate Government" and so on, "to grant

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certain lands" and so on. There are certain parts of it which are direct commands.

Mr. MACMILLAN : But the thing, which frankly, was puzzling me, was that certain passages in the Proclamation, seem to be rather in the nature of a recital of acts already done than to be themselves executive acts. I am going to leave the matter with this observation : that apparently Parliament regarded the Proclamation as an executive document, and not merely a reciting document in the matter both of the setting up of the Government of Quebec and also in this very matter of the annexation of the coast of Labrador to Newfoundland. You find that, of course, in the Act of 1809, on page 195, where you will find that the Coast of Labrador was " annexed to the Government of Newfoundland by the said Proclamation of the seventh day of October, one thousand seven hundred and sixty three " ; therefore, in the minds, at any rate, of the people who were framing this legislation, there was present the conception that it was the Proclamation that was the effective instrument that had done it, and therefore the draughtsman of these measures, where the language occurs, would have before him the Proclamation, and in this matter of Labrador, what he would read would be what the Proclamation contained on the subject, and what did it contain on the subject--be it either an explanation or an executive act itself : that a certain coast had been put under the care and inspection of our Government of Newfoundland. My Lords, as I stated, I am not greatly concerned whether my learned friend's first view or his second view is right, because if the Proclamation be the executive act, your Lordships are undoubtedly entitled to resort to the Commission to help to construe it ; if on the other hand the Commission be the executive act, by parity of reasoning, you are entitled to refer to the Proclamation for assistance ; therefore, it does not greatly aid your Lordships to carry on a discussion upon this matter, but I did not wish to leave it in this position : that I accepted the view that the Commission was the sole executive document and that the Proclamation could be treated as lightly as my learned friend had treated it ; now he puts it as something that was a mere recital, and possibly an inaccurate and incomplete recital of

what had been done. My Lords, it is a contemporaneous exposition by the very same person; His Majesty who had granted the Commission also made this Proclamation, and he did it by and with the advice of the same persons as the Proclamation was issued, by and with the advice of the Privy Council, with whose advice and consent the Commission and Instructions were equally framed ; therefore, you have here a complete picture of the minds of those persons, and what they thought they were setting about, what their object was, and what they thought they had done, because we have the advantage, first of all, not merely the intention and the purpose disclosed to us, but we have what they did, and then we have the statement that this is what we have done, so that your Lordships are supplied here with an apparatus of interpretation of an exceptional

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character; you have the very voice of the persons who wrote these words speaking, and speaking in contemporary documents, as to their intention and as to what they thought they had achieved. That is why I say the problem here is considerably facilitated in contrast with problems of interpretation generally, when you have to go in search of the purpose. Here you are told the purpose, and you are told it not by extrinsic documents, you are told it actually by the documents them-selves, which are the foundation of the right claimed. My Lord, I will leave that controversy with that submission, and the position, therefore, is one of very exceptional character in that respect.

Viscount FINLAY : I cannot see what difference it makes?

Mr. MACMILLAN : No, my Lord.

Viscount FINLAY : It comes to the same thing.

Mr. MACMILLAN : Exactly, but it will not do to dissociate the two documents.

Viscount FINLAY : Oh no, that is clear.

Mr. MACMILLAN : That is why I say it is so important that we should have their own declaration of what was intended. I shall recur to that a little later on, but I want to take up one point where I differ from my learned friend. He produced a few additional documents, and announced that, in his submission, they evidenced that there had been a very sudden change of policy in reference to the relations between Newfoundland and the mainland. My Lords, the documents, on examination, disclose no such sudden change of policy at all, and I will ask your attention to them for a moment, because it perhaps has a little importance. The suggestion, of course, that lay behind it was this : that whatever may have been the idea of His Majesty originally, in dealing with this matter through his advisers, if it was at first an idea to protect and preserve a fishery, there was some volte face took place, and in consequence of that, it was made a territorial jurisdiction. My Lords, I find, as I say, no sufficient evidence of that in the documents which my learned friend produced, and would your Lordships just consider this for a moment—it is again not a very important topic, but I cannot afford to let it go without my comment on it. You may remember that the Lords of Trade, in Volume II, page 387, had spoken of the coast of Labrador with regard to the fishery " upon the coast of Labrador, it will be impossible to prevent the French

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continuing to have the full Benefit of their former Commerce with the Indians of that Coast, unless some British Settlement should be made there or sufficient Cruizers stationed with Instructions to the Commanders to seize all french Ships coming within a certain Distance of that Coast." Now it is quite true that there two methods of preventing the French continuing to have the full benefit of their former commerce with the

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Mr. Macmillan.

Indians of that coast are mentioned. It is equally, I think true to say that neither of the methods was, in the event, adopted—neither. What the Lords of Trade are dealing with is, if I may remind your Lordships, the putting into force of the fifth and sixth Articles of the definitive Treaty relating to the fishery at Newfoundland. Where I do agree with my learned friend is that the matter was taken up first, before they came to the question of Governments at all; but my agreement with him there results in a very great divergence from him the moment after wards. I do agree with him that this topic of the Labrador Coast was dealt with first of all and laid on one side as a completed matter ; but observe what they were dealing with : they were dealing with the question of the fifth and sixth Articles of the definitive Treaty relating to the fishery at Newfoundland, and they were considering the question of what alterations should be made in the Instructions to the Governor of Newfoundland in order to conform them to the above mentioned stipulations of the definitive Treaty. That is what they were considering there. They were considering the question of fishery alone, and the remit to them was to consider how that can best be dealt with, what alterations must be made in the Instructions to the Governor of Newfoundland in order to ensure that these fifth and sixth Articles of the Treaty of Paris, which had just been concluded, relating to the fishery, may be effectively carried out ; and the Lords of Trade, as I say, were concerned with the problem of how that might be done.

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Viscount HALDANE : You notice that at this juncture it is either that British settlements may be made there or British cruisers sent, as if it was the same thing.

Mr. MACMILLAN : Well, my Lord, I think there are alternative suggestions there, are there not ?

Viscount HALDANE : They are alternative, but the point is that the settlement and the cruiser is treated as having the same effect.

Mr. MACMILLAN : For the object in view, yes ; you could secure it either by having British settlements or British cruisers ; that is quite true. The next document we are referred to is New Document No. 10, of the 17th March,

1763. Here is Lord Egremont writing to the Lords of Trade that he has the King's Command to acquaint their Lordships that their representation has been taken into consideration, and he says, " I am therefore commanded to signify to Your Lordships His Majesty's pleasure, that you do, without loss of Time, prepare a Draught of Instructions for the Governor of Newfoundland for this Year, with such alterations from or Additions to, the Instructions, which have been formerly given in time of Peace, as your Lordships shall judge necessary or expedient, in order to render them conformable to the Stipulations of the Definitive Treaty, which I have already transmitted to you," he had transmitted to them the fifth and sixth Articles of the Definitive

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Treaty. Then, my Lords, on the 21st March there is Document No. 11 which is said to have evoked the change of policy. Would your Lord-ships look at it a little more closely. The Lords of Trade are replying to His Majestys and they say they have obeyed his instructions with regard to the draft.

Sir John Simon.

Sir JOHN SIMON : And they forward it.

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Mr. MACMILLAN: And they forward it ; then they say this : "It may be proper for us to observe to your Majesty that the Draught of of Instructions does not extend to the islands of Cape Breton or St Johns or to any part of the coasts of Acadia, Canada, or Labradore ; For those Islands and that tract of country having never been included within the limits of the Commission of the Governor of Newfound-land, to which we are confined by the words of the last reference made to us by your Majesty's Secretary of State, We have not thought ourselves at liberty to extend our consideration beyond the words of the Reference itself" ; therefore, what is happening is that these gentlemen having read the words of their reference on page 10, prepare a draft of Instructions for the Governor of Newfoundland for this year, and conceive themselves, rather pedantically as I submit, disabled from putting in anything about Labrador or putting anything in Labrador into the hands of the Governor of Newfoundland, because they were dealing with Instructions which they considered were limited to Newfoundland. My reading is different from my learned friend's. They say they have not felt themselves at liberty to go beyond the words of the Reference, because the Instructions to prepare a Draft of the Instructions to be given to the Governor of Newfoundland and if they had done so in their view would have been to exceed their Reference, so they drew attention to the limitation, and it is then that His Majesty, in Document No. 12, which is also printed in Volume 2 at page 389, tells them that he has judged it proper that all the coast of Labrador should be included in the Government of Newfoundland, whereupon they resume their task and they complete the draft

of the Instructions by writing in "the Coast of Labrador " at all the appropriate places.

Sir JOHN SIMON : It is not to interrupt you that I am intervening, I assure you, but you will find that the last letter you referred to which you summarise, said : I want a new Commission to Graves, not only for Newfoundland, but also for the Coast of Labrador. Surely, the explanation is the relation between the Instructions and the Commission ; if the Commission was only going to be for the Island of Newfoundland, the Instructions could not have a bigger ambit, and it is because they want a bigger ambit that they have to alter the Commission. Is not that how it goes ?

Mr. MACMILLAN : I do not think so.

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Sir JOHN SIMON : You did not read it.

Mr. MACMILLAN : I will read all that is necessary, "It may be proper for us to observe to your Majesty that the Draught of Instructions does not extend to the islands of Cape Breton or St. Johns or to any part of the coasts of Acadia, Canada or Labradore ; For those Islands and that tract of country having never been included within the limits of the Commission of the Governor of Newfoundland, to which we are confined by the words of the last reference made to us by your Majesty's Secretary of State. We have not thought ourselves at liberty to extend our consideration beyond the words of the Reference itself" ; I suggest that these persons having a remit to deal with the Instructions to the Governor of Newfoundland found themselves in this position, that the existing Commission is, of course, a Newfoundland Commission only, and they cannot frame Instructions going beyond Newfoundland for a person whose existing Commission is for Newfoundland unless the Commission is expanded also ; therefore, they are not saying here this ought not to be done, they are simply saying : Within the terms of our remit we cannot do that until we get some Instructions as to what is to be done with regard to Labrador.

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Mr. Macmillan.

Viscount FINLAY : I think that is rather a narrow view.

Mr. MACMILLAN : If your Lordship pleases.

Viscount FINLAY : I am only speaking for myself, of course ; it is my individual impression.

Mr. MACMILLAN : It is no doubt a matter of impression. I should have thought what they were in difficulty about was this : how can we prepare Instructions for a Governor whose Commission limits him to Newfoundland which runs in Labrador.

Viscount FINLAY : But since that the Governor of Newfoundland has had imposed on him a certain bit of coast.

Mr. MACMILLAN : Not by this time, my Lord. With great respect, this was all before that was done. The whole point about this is that my learned friend sought to get that emphasis which I thought was not well founded.

Viscount HALDANE : This is written early, this is March.

Mr. MACMILLAN : Yes, the point of it, or at least I assume it was the point, it must have had a point, was to suggest that there had been a reconsideration of the policy with regard to Labrador at some point here, and that if one read these letters, one would find evidence of a change of policy between the Lords of Trade's Report, the first document

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I have read, and the issue of the Commission. My submission is that there is no such abrupt change of front, or change of policy at all, and there is nothing more here than the question of how is this Labrador matter to be dealt with, and His Majesty says, " Put the coast of Labrador into the hands of the Governor of Newfoundland," and that is the object with which it is to be worked out, and that is what happened, of course—but that there is some startling change of policy in reference to the relation between Newfoundland and the Mainland, is in my humble submission, not supported at all.

(Adjourned for a short time.)

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AFTERNOON SESSION.

Viscount
Haldane.

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Viscount Finlay.

Mr. Macmillan.

Mr. MACMILLAN : My Lords, it may perhaps be of interest in connection with the authority attaching to the words of the Proclamation, to say I find that Lord Watson, in reference to this very Proclamation, treats it as being tantamount to an enactment and not merely a declaration, in the case that has already been referred to by my learned friend of St. Catherine's Milling and Lumber Co. v. The Queen, in 14 Appeal Cases, at 54, I find that Lord Watson discussing this Royal Proclamation and its effect says, " The Proclamation also enacts that no private person "—and there are other instances of the same sort, where the authority which is attached to a Royal Proclamation of this sort is regarded as practically tantamount to the authority of an enactment.

Viscount
Haldane.

Viscount HALDANE : Does he give any reason for that ?

Mr. MACMILLAN : No, my Lord.

Mr. Macmillan.

Viscount HALDANE : There was, of course, the reason that in those days it was the prerogative of the King to deal with boundaries; of course, here it was done in the Act of 1774, but usually it was constitutional to do it by Proclamation.

Mr. MACMILLAN : Certainly, my Lord, it was a public executive act by the Crown.

Viscount FINLAY : I do not think this amounted to an enactment. You may have a Proclamation declaring an Act to be unlawful, and I

The Lord
Chancellor.

think Lord Coke says that aggravates the guilt of disobedience to the Statute, but it was the Statute which had made it illegal, and a Proclamation cannot make it illegal if its not illegal in law.

Mr. Macmillan.

Mr. MACMILLAN : Certainly not in such a case, because that is merely making clear what the legislature has done, informing the public, so that they may not plead ignorance of it ; but where the executive instrument itself is the Proclamation, then it is the most authoritative document 'you can have ; it is not preceded by an Act of Parliament which is subsequently the subject of a Proclamation, but it has its own

inherent force.

Viscount
Haldane.

Viscount HALDANE : But is within the prerogative ; we had a discussion about it in regard to Heligoland ; Lord Salisbury did it by Statute and Mr. Gladstone took great exception to it, and there was a very learned debate as to the prerogative, and in the result the thing was done not by Proclamation but by Statute. Again, in the boundary case of 1884 Lord Selborne asked us how we would wish it done, and we said by the prerogative, but it was said, No, this is 1884, and it is better that it should be done by Statute.

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Mr. Macmillan.

Mr. MACMILLAN: Of course, it removes all possible doubt, but this act was an act within the competency of His Majesty as a proper executive act, and no other authority was needed ; it stood on its own footing as an executive act, therefore it is of the highest importance and of the highest significance—indeed everyone has agreed, I think, that in Canadian history this Proclamation which has been discussed so much before your Lordships is one of the most important and fundamental documents of the whole history of Canada ; therefore, it is not a document which can be lightly dismissed; it is a document whose significance is of the greatest importance in the administration of these newly ceded territories.

The LORD CHANCELLOR : I am very far from suggesting that you should curtail anything you desire to say, but, for our convenience, how long do you think you are likely to require to complete your argument ?

Mr. MACMILLAN : I anticipate that I will readily finish on Monday ; in fact, I shall make a point of doing so. I am endeavouring at this late stage to select for treatment some of those topics that seem to be more outstanding, and I was greatly concerned with the question of the approach to this question and the critical materials available to your Lordships in assisting in its proper interpretation.

Viscount HALDANE : What you want to show is that an enormous tract of territory had been conceded to the Crown and the Crown made disposition of it with reservations.

Mr. MACMILLAN : Yes. May I perhaps add to that, that they

proceeded by two stages. The first stage was the stage which I will call the Labrador stage in order to use a neutral term ; the second stage was the governmental stage. The first stage was to put in operation the 5th and 6th Articles of the Treaty—a fishery question. That was what they were dealing with there

; they disposed of it in the manner indicated. How they disposed of it is for your Lordships to judge, but they did dispose of that by itself and then passed on to the governmental areas. That is to my mind another and most significant element in this case, because if my friend is right, they had, in the Labrador part of this administrative programme, wittingly or unwittingly, dealt with a great governmental question ; because the result of what they did was to subject this green area to the Newfoundland Government just as effectually as any part of the Province of Quebec is subject to the administration of Quebec.

Lord Sumner.

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Therefore they did in effect in 1763, by virtue of the Commission and Proclamation, on my learned friend's construction, deal, not with the mere fishery question but with a delimitation of frontiers of the governmental area and expanded the Government of Newfoundland so as to embrace every bit of the green area and submit it to its jurisdiction, in exactly the same way and to the same extent as any part of the Province of Quebec is subject to the jurisdiction of the Government of Quebec at this moment. That is their contention : that they have the govern-mental disposition of this area in exactly the same way as the Government of Quebec has the surveillance of its territory, and that therefore the first stage was not truly a stage of dealing with a fishery matter, but was a stage of dealing with a governmental area ; my learned friends have to bring it up to that.

Lord Sumner.

Viscount FINLAY : You have not read what Lord Watson said yet.

Mr. MACMILLAN : Yes, my Lord ; I said that he had used the word " enacting " of this Proclamation ; that is all.

Viscount FINLAY : Is that all you say on that ?

Mr. MACMILLAN : Yes, my Lord.

Viscount FINLAY : Where is the reference ?

Mr. MACMILLAN : It is in 14 Appeal Cases at page 54. It may be said to be a small point, but it is the language used by a very exact lawyer when he is describing the effect of this Proclamation.

The LORD CHANCELLOR : The expression has found its way into the headnote, too.

Mr. Macmillan.

Lord SUMNER : I think one might say that there is nothing which is in the nature of a grant, in words, but the Governor is to exercise his authority in that territory. The land is not granted.

Mr. MACMILLAN: It merely defines, does it not, the area within which he is to operate ?

Mr. Macmillan.

Lord SUMNER : It tells him within what area he is to operate ; it is not actual annexation of the territory. Personally I should have expected to find it in the Proclamation, not in the Commission, but if you read them together the operative words are the same ; it is only for the attendant expression that you want to rely on one or the other.

Lord
Warrington

The LORD CHANCELLOR : Constitutionally the Order in Council is the authority.

Mr. MACMILLAN : Yes, no doubt the Order in Council approving the Proclamation.

Sir JOHN SIMON : The Order in Council approving the Commission.

The LORD CHANCELLOR : I am not sure that this Proclamation was approved by Order in Council.

Mr. MACMILLAN : Yes, it was, my Lord. I never myself saw the reason for the importance that my friend attached to it. The Commission came, and so did the instructions, before the Privy Council.

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Lord
Warrington.

Mr. Macmillan.

Viscount HALDANE : This was a military officer ; it directed him to exercise care and inspection over the Coast of Labrador. Strictly speaking, one would have expected that would have been done by the Lord High Admiral, but here the Lords of Trade do it, and apparently they communicate with the Admiralty and attach a Commission drawn up by them ; it was done in both cases.

Mr. MACMILLAN : Yes ; the only importance of it is the approach to the problem. Is the document for construction, the document which we find in the Proclamation at page 154, to be interpreted with the aid of the Commission and the other documents, or is the document to be interpreted the Commission, which is to be interpreted by the aid of the Proclamation ?

The Lord
Chancellor.

Lord WARRINGTON : The Proclamation by itself really does nothing at all, because there is no appointment of the Governor. The appointment of the Governor of Newfoundland and the Coast of Labrador is the essential feature in the administrative action.

Mr. MACMILLAN : In order to carry it into effect.

Mr. Macmillan.

Lord WARRINGTON : This appointment of the Governor comes first, and by the time the Governor was appointed, he was appointed both of Newfoundland the Coast of Labrador,

whatever it means, before

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the Proclamation. He had been there six months performing his functions as Governor.

Mr. MACMILLAN : If the Proclamation was the document that effected the annexation, then the carrying out of that annexation through the medium of Commissions and so on, was merely executory of the announced decision of His Majesty. It must not be overlooked, I think, that the Legislature's view of it was that it had been done by the Proclamation. The only point about it is this ; it is not a very large point, but it is important, I think, to consider where you start in this case. Do you start with the Proclamation and use the Commission 10 to help you to interpret it, or do you begin with the Commission and use the Proclamation to help you to interpret it ? Whichever way you start, you have to consider them both.

The LORD CHANCELLOR : I do not remember the Order in Council approving the Proclamation. It is not in Sir John Simon's Calendar.

Mr. MACMILLAN : You get it in the narrative : " We have thought fit, with the advice of our Privy Council, to issue this our Royal Proclamation." The whole of them were before the Privy Council.

My Lords, I was just pursuing to some extent the same line as my learned friend. He said there had been a very sudden change of policy. My submission is that there was no very sudden change of policy ; that there was merely a further consideration of how to carry out this conception of carrying into effect the 5th and 6th Articles of the Treaty. His Majesty says : " You must put all the Coast of Labrador into these instruments." Whereupon, through the documents which have been recovered by my learned friend, we see the draughtsman at work. He has done just what you would expect. He takes his red ink pen and at every place where he comes to " Newfoundland, " he puts in " the Coast of Labrador " and all the rest of it—exactly what one would expect the draughtsman to do. In the Commission that is naturally inserted at several places. I think my learned friend said that the word " rivers " had been put in also. I remember he thought that was of importance.

Viscount HALDANE : I think he laid more stress on the words " care and inspection."

Mr. MACMILLAN : I am going to lay a good deal of stress on those words in a moment; I am merely leading up to it on the question of the material available. Therefore when you look at the Commission before and after the alteration, it is

simply that the coasts of Labrador have been put in, as they necessarily had to be put in, in the circumstances ; and in the instructions you find the same thing done.

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I think my learned friend said he found the word " rivers " was added and he thought that was of some materiality.

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Mr. Macmillan.

Sir JOHN SIMON: " Territories " was the word I mentioned.

Mr. MACMILLAN : No, it was " river " I was thinking of.

Viscount
Haldane.

Sir JOHN, SIMON : I did mention both ; it was quite a small point.

Mr. Macmillan.

Viscount HALDANE : In those days there was a Privy Council, and what corresponded to the Cabinet of to-day was a Committee of the Privy Council, selected very loosely ; sometimes the Lord Chief Justice sat on it and sometimes he did not. At any rate the King is beginning a Cabinet or semi-Cabinet ; he appointed his own Cabinet.

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Mr. Macmillan.

Mr. MACMILLAN : There is no doubt that constitutionally everything was correctly done according to the forms of the day. The question is, what was done. Then the two documents having passed through the draughtsman's hands are issued, and then there is a warrant for the new Commission which was authorised by the Privy Council on the 30th March, 1763. What effect that has, I do not follow. It was very proper that it should be authorised by the Privy Council, and it was issued to him.

Then one point my learned friend thought was of much consequence was the fact that there is a letter in the 8th Volume, at page 4110, from which he derived much satisfaction. That really comes into a later part of my address, but as it is brought in at this stage before the Commission was issued, it is perhaps important to look at it.

The LORD CHANCELLOR : That is a letter from the Hudson's Bay Company.

Mr. MACMILLAN : That is a letter from the Hudson's Bay Company's Secretary to the Earl of Egremont. It was the most natural thing in the world for those who were considering at this time the placing of the coast of Labrador under the Government of Newfoundland to enquire : "Where do the Hudson Bay rights on the coast terminate, lest we inadvertently subject to the Government of Newfoundland a part of the coast which is already in the hands of the Hudson's Bay Company, who have their own independent jurisdiction." Therefore, the question was a very natural one indeed, and here is how the matter is put : "Having this

Evening received from Mr. Rivers a letter signifying Your Lordships desire to know as soon as possible what are the Limits upon the Coast between the Hudsons Bay Company and the Coasts of Labrador, I have laid the same before Sir Win. Baker as Governor of the said Company, who has directed me to present his Compliments and acquaint your Lordship, he will wait on You thereupon

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to Morrow Morning or at any other more convenient Time that shall be appointed."

If your Lordships will reconstruct the situation : Assuming that the Executive was minded to place part of the coast of Labrador under the Governor of Newfoundland, it was essential for them to ascertain whether they might not be giving way a part of the coast of Labrador that was already in the Hudson's Bay territory, and the language is most significant, they asked : What are the limits upon the coast between the Hudson's Bay Company and the coast of Labrador ? " In that case I think one may say that the word coast " plainly has the meaning of the seaward margin. In many places I quite admit it has the larger connotation, but here I should submit, without doubt it means upon the coast in the sense of the seaward margin. Then we shall assume as my learned friend did, that the information was obtained, that they were told that the Charter of the Hudson's Bay Company gives the Hudson's Bay Company, as you remember, the land within the Straits of Hudson Bay. What happens, therefore, is this. The person concerned in fixing what are called the limits of the coast to be confided to Newfoundland, selects, without necessarily knowing precisely where it is geographically, the term which is used of the Hudson Bay boundary, namely, that it is the entrance to Hudson Straits, and says : " Now all the coast from that point down to St. John's River we shall give to Newfoundland and if we give that part of the coast to Newfoundland we shall plainly not be infringing any rights of the Hudson's Bay Company." They were not concerned to say where the precise entrance to Hudson Straits was. They took the definition of the Hudson's Bay Company's territory, and then they say : " Anything that is not within the Hudson Bay portion of the coast we shall confide to the Governor of Newfoundland."

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Lord
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Mr. Macmillan.

Lord
Warrington.

Mr. Macmillan.

Therefore this letter, I submit, so far from being hostile to my submission, on the contrary supports me very much, because it shows a person who is dealing with the coast and who says : "But there is somebody already on this coast ; now tell me, upon the coast, where do the Hudson Bay people end ?"—"Oh, their limit is the entrance to Hudson Straits."—"Well, if I give the coast from the Hudson Straits down to St. John's River I shall not invade any portion of the Hudson Bay territory." That was the source of the words, but, if I may say so, it is a tremendous leap to take from the fact that on the coast the Governor of Newfoundland has, as one of his

limits, the entrance to Hudson Straits—it is a tremendous leap to jump from that fact, which is, of course, true, to this : that the territory confided to the Governor of Newfoundland was coterminous with the Hudson Bay boundary right down into the interior. Because the inference drawn from it is this ; that if you find out where the Hudson's Bay Company is up there and then you are told that the coast from there right down to the River St. John's is to be given to the Governor of Newfoundland, in some way you are assuming that that brings in along with it the whole of the interior of the Hudson Bay territory.

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Viscount Finlay.

Lord WARRINGTON : The materiality of it, so far as it strikes me, is this : that it shows that the Hudson's Bay Company did not claim over the watershed. They exclude Hudson Bay from the Atlantic watershed.

Mr. Macmillan.

Mr. MACMILLAN : Will your Lordship pardon me if I venture to traverse for a moment that suggestion ? It is very striking that you do not find Cape Chidley mentioned at all ; they simply use the expression ' the entrance to Hudson Straits.

Lord WARRINGTON : They did not give the whole coast. If the Hudson Bay were claiming that proposed line of 1713 then they, would have been claiming a bit of the actual selvedge of the sea as part of their territory ; but they were not claiming that.

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Mr. Macmillan.

Mr. MACMILLAN : Your Lordship, I am afraid, has assumed rather against me that at the time they were speaking of this they had completely made up their minds as to where the entrance to Hudson Straits was. Now I rather agree with my learned friend, Sir John Simon, in that matter. He said that in the rather imperfect maps of those days it was not very clear where the entrance was. Therefore, instead of taking a very fine point or Cape Chidley they said the entrance to Hudson Straits. Then that language was imported into the Commission for the purpose of defining the portion of the coast that was to be confided to the Governor of Newfoundland ; but as to where precisely the Straits begin is a different question altogether. It is comparatively easy to look at the map as you see it now and say you have got an exact apex here which is very easy to see. That is the threshold of Hudson Bay, but if your Lordships look at some of the earlier maps you will see that so far from it being a definite point like that ; it was very dubious where it was.

Viscount FINLAY : The real materiality to my mind is that attention is concentrated on the coast. It obviously means the line of water in that connection.

Mr. MACMILLAN : In that connection undoubtedly it does. I hope I make clear my point, that the mere fact that the two, so to speak, meet upon the coast, does not mean that they keep company down to the watershed. Now that puts my position in a sentence.

Viscount FINLAY : In fact, it implies rather the contrary.

Viscount Finlay. Mr. MACMILLAN : It may well do so, but I think I could not put it more clearly than that. The mere fact that they meet here does not necessarily mean that they both go down to the watershed together in company, hand in hand ; and I say that meeting as they do at the entrance to Hudson's Straits, the coast really is understood. I am

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Mr. Macmillan.

going to submit a little later on that the Hudson Bay people did not know where they could go at that time, but even if they did, their line was down at the Watershed and they parted company there. My learned friend said that when one gets them starting from the same point, for some reason or other they would both go down the watershed together. It is there that you have such a hiatus in my learned friend's submission. Therefore so far from the Egremont letter being one of the considered documents in this case, if anything it rather supports me, as it indicates that what they were concerned with was to see where the Hudson Bay territory ended upon the coast, in order that they might give no Hudson Bay coast to the Newfoundland Governor.

Viscount Finlay. The LORD CHANCELLOR : I do not know whether you would agree : is the word " Coast " used in two different senses in that letter ?

Mr. MACMILLAN : I think Sir John might maintain with some show of reason that " the Coast of Labrador," in line 3, was one of those cases where it might be said to have the larger meaning.

The LORD CHANCELLOR : It looks a little odd, otherwise ; the frame of the sentence rather points to that.

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Mr. Macmillan.

Mr. MACMILLAN : Yes.

Viscount FINLAY : I should have read that in this way : What are the limits upon the coast between the Hudson's Bay Company and the Coast of Labrador ? The Coast of Labrador is a thing the care and protection of which was handed over to the Governor of Newfoundland.

Viscount Haldane.

Mr. MACMILLAN : I should like at once to assent, my Lord, but the Lord Chancellor put it to me that you are considering there two 2 territories, the Hudson Bay territory and the

Mr. Macmillan.

Labrador territory, and the Labrador territory is described as " the Coast of Labrador." That is the suggestion. Then you are asked, what are the limits upon the Coast ? Now I think I will have your Lordships' assent to this : that it is plainly upon the littoral. These two things are referred to : Hudson's Bay Company and the Coast of Labrador, and it would be quite a tenable position to say that that is two territories meeting on the Coast.

The LORD CHANCELLOR : It is : Where upon the Coast do those two territories meet ?

Mr. MACMILLAN : Yes, that is how it would be put.

Viscount FINLAY : It struck me that the " Coast of Labrador " is used as being the territory of which the care and protection was confided to the Governor of Newfoundland.

Lord
Warrington.

Mr. MACMILLAN : That, of course, is quite true. I do not know

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whether it is much more than verbal ; it is after all only a letter, which is not a considered document to which one would attach the same importance. There are many other instances of the same sort of thing and your Lordships will not hear from me the suggestion that the word "Coast" is not frequently used in the sense of territory.

Viscount HALDANE : There is no reference here to the Coast of Hudson Bay ; it is the limits between Hudson Bay and the Coast of Labrador.

Mr. MACMILLAN : Yes, I quite appreciate the point. There is a point there for my learned friend and there is a point for me, and there-fore we may perhaps call quits ; on the whole I think I have perhaps the best of the point. Your Lordships do notice throughout that the area confided to the Governor of Newfoundland is always spoken of as between certain limits. Those words are rather striking. It is always "between the said limits." Now the only limits which are mentioned are the entry to Hudson Straits on the north and the River St Johns on the south. These are the only limits and the coast is always referred to as the coast within these limits. They are the only indications of boundary which we get. We have no interior boundary at all ; we have something that is to be found between two limits, two fixed points upon the coast, associated with appointments and so related to the fishery question, which is to be put under the care and inspection of the. Governor.

Lord WARRINGTON : Is that quite true of the Proclamation ? First of all, the River St. John is first mentioned in the description of the boundaries of Quebec : "The Government of Quebec, bounded on the Labrador Coast by the River St. John, and from thence by a line drawn from one head of that river" and so on. Now quite clearly there the line of the river is the line of the boundary of Quebec, not some point.

Mr. MACMILLAN : Quite, because it is drawn from the head of it.

Lord WARRINGTON : It is drawn from the head of it. Then you go back to where the Proclamation refers to the Coast of Labrador and you get the words "all that Coast, from the River St. John's to Hudson's Streights." Now surely that means all the coast from the boundary of Quebec.

Mr. MACMILLAN : As your Lordship appreciates Newfoundland was disposed of before the Quebec boundaries were thought of.

Lord WARRINGTON : I know, but they may have fixed the boundary of Quebec by the boundary of Newfoundland.

Mr. MACMILLAN : And moreover, here, instead of saying "from

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the River St. John and the head thereof," as they have said in the Quebec boundary, it is simply "from the River St. John." So much for the famous letter of the 23rd March, 1768. The alterations, as I say, in the Commission and Instructions, merely consist in putting in " Labrador coast," and nothing much turns upon that except that I may just call attention to this. No revisal takes place with regard to the clause about religion, no alteration is made upon the instructions, so that a large number of Catholics were going to be subjected to the Governor of Newfoundland on my learned friend's submission. The Governor of Newfoundland had still to extend tolerance to everybody except Papists. It is rather interesting to note that in the alterations in the instructions this question of religion is apparently quite present to the mind of the draughtsman, because you will find in the red ink matter upon the instructions they direct a query to the Governor of Newfoundland : What number of Irish Catholics is there in all the towns of Newfoundland, and what proportion do they bear to the Protestants ? That was put in at that time in red ink. They did not authorise him to relax in any way the religious tolerance in favour of those who practised the Catholic religion.

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Now the act which was disposed of first of all was in conformity with the instructions given to the Lords of Trade, the putting into force of the fifth and sixth articles of the Treaty of Paris through the medium of a new arrangement which had to be devised, which was devised, and which is contained in the Commission to the Governor, That is the way in which it was to be done. It was done by putting all the coasts of Labrador within the limits specified under the Governor of Newfoundland.

Now I would ask for a little attention to what, after all, are the important words we have to deal with here. Before we go outside the ambit of the material documents themselves it is necessary to scrutinise these documents in order to see whether they really raise a doubt or difficulty at all. It is only if a doubt or difficulty emerges from the language used in the constituent documents that it is necessary to resort to all the other apparatus which has been collected here. Taking the Commission first of all, the material words are : "All the coasts of Labrador from the entrance of Hudsons Streights to the River Saint Johns which discharges itself into the Sea nearly opposite the West End of the Island of Anticosti." It is true that my learned friend can produce instances—there are quite a number—where territorial areas are described as a coast, e.g., Coast of Guinea, Slave Coast, Niger Coast, and so on ; but when you are using that word in that sense I do not

think you use it in the plural. When you talk of the coasts of a place I do not think that that is ever used as a territorial designation in the way in which the Coast of Virginia was used. My learned friend had a very good example of the word in the "Coast of Virginia."

The LORD CHANCELLOR : Is there not a scriptural instance where the word is used in the plural ?

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Viscount FINLAY: Oh, yes, there is the "Coasts of Caesarea Philippi."

Mr. MACMILLAN : But I was meaning was there any case where you can get a geographical term like "Coast of Virginia," "Gold Coast," "Coromandel Coast," and a host of other examples, with the word used in the plural? I cannot recall any place which is called "So-and-So Coasts" as a geographical term. I know of plenty of instances of the word "Coast" in the singular.

Viscount FINLAY : Take the case of the " Coasts of Caesarea Philippi." That denotes a certain territory.

The LORD CHANCELLOR : I thought I saw it quoted somewhere in one of the cases.

Mr. MACMILLAN : Well, my Lord, some of your Lordships thought that the word " coast " in the singular was more indicative of a littoral, and some that the word " coasts " in the plural was more indicative of a littoral. In those circumstances I think perhaps, I had better leave the question. Words have their own significance. The fortune of a word is in the ear that hears it. The impression on my ear of the word " coasts " in the plural rather suggested a littoral area than " coast " in the singular. But here, of course, both are used. The area which is confided to the Governor of Newfoundland—both the " coasts of Labrador " and the " coast of Labrador " because both terms are used indifferently with regard to it—as I say, whatever it is, must be something which is bounded by two points on the coast. " The entrance to Hudsons Streights " is undoubtedly a coastal point. It is some place on the sea-shore. The entrance to a bay is on the sea-shore. The River St. John is also, in my submission, here used as indicating a point on the shore. When you want to use the river along its whole length as a boundary you have an example of how that is done in the boundary of Quebec, where it says that you go up to the top of the St. John, and then from the head-waters of the St. John carry your line. Here the boundary is from one place plainly on the coast, namely the entrance to Hudsons Strait, to another place. And you naturally assume that if one of those places is upon the coast, the other place will also be on the coast. There can be

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no dubiety that the entrance to Hudson's Strait is on the littoral. You are therefore embarked upon a perambulation of the coast in the sense of being on the shore, and you naturally terminate on the shore ; and where you terminate is at the River St. John being a point on the coast, and you have no instruction thereafter to follow up the River St. John to its head. You have arrived at your destination when you have arrived at that point on the coast.

It is striking that no depth whatever inland is mentioned. No depth whatever inland was necessary to be mentioned, having regard to the purpose of the whole undertaking, what was called the governing

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consideration of the whole matter, namely the securing the margin of the sea for fishery purposes.

Beyond that there is nothing as it humbly seems to me, of importance in this case for my learned friend excepting the use of the word " territories," which occurs two or three times in the course of the Commission. That word has been much underlined by my learned friend. It is the appropriate word to use of any area of jurisdiction. And as the Governor of Newfoundland was entrusted with a territorial jurisdiction on the shore of Labrador it is difficult to conceive what other word could have been used, for " territory " is the appropriate word to use for any jurisdiction over any area. But it does not carry you any length as to the depth inland of the territory over which the jurisdiction is constituted. It is the appropriate word to use for what was entrusted to the Governor of Newfoundland, which was, as we concede, a territorial jurisdiction. How else it could have been described is a little difficult to imagine. Therefore that word in itself is not very material, as I submit. It is perhaps important to notice that the Commission expressly enjoins this Governor that he is not to do " anything by virtue of the Commission or the powers hereby granted contrary or oppugnant to the Act for Encouraging the Trade to Newfoundland." That is the Act of 1699, which I shall have a little to say about later when I come to the open and free fishery question. This Governor is expressly directed that he is not to do anything contrary to that Act for Encouraging the Trade to Newfoundland. The Trade to Newfoundland, as I will show shortly, was the cod fishery and nothing else. That was to control all his actings. He was in no way to infringe that Statute relating to the cod fishery of Newfoundland, which was extended in its operation to the new coast.

The contrast, when you pass from this matter of the regulation of the fishery through this particular arrangement, to the setting up of the new Governments, is an exceedingly important one. I am going to ask your Lordships to be good enough to reconstitute the position with me for a moment if your Lordships would kindly do so. The sketch map which we have always found useful in this case, which is contained in the pocket of the red book, is apt, if I may say so, to confuse

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the issue to some extent. It presents the problem in an attractive form, but it does not present it by stages. I would ask your Lordships to consider for a moment what I think is an exceedingly important consideration. If you take the little hand-map and obliterate all the colour upon it, that is the position upon which the executive Acts of 1763 supervened.

In this area ceded to us there had been the French settlements, and a certain amount of French trading going on, and some fishing ; but apart from the Hudson's Bay area, whatever that was, the whole of it was at the disposition of the British crown. Pray note what is suggested, my Lord. It is suggested that the first thing that was achieved was the carving out of this territory of the green area as we now see it, plus the pink area. If you can conceive that map with everything else deleted, and the first stage of the trans-action pictorially represented on the map, what would be the

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result of the Commission ? Take the Commission by itself first, without the Proclamation. What would have happened ? According to my learned friend you would have drawn upon that map a large territory the boundaries of which, as I am going to show your Lordships in a moment would be very difficult of ascertainment at certain points, and you would have dedicated the whole of that to Newfoundland and submitted the whole of that to Newfoundland for all time as effectively as the Quebec territory was submitted to Quebec. And therefore when the Government proceeded to the next stage of setting up the Governments in the ceded territory, they had already passed and completed a delimitation of one governmental area.

If you take in your hand the map without any colouring, and then take in your hand the instruction to the Governor " All the Coast of Labrador " between these points, and then proceed to try and draw a boundary, might I suggest your Lordships would see how it could be done. Let us assume that my learned friend is right, and that at that time the watershed was the known eastern boundary of the Hudson's Bay territory. You would start then from the entrance to Hudson's Strait. He would ask, let us say, a Hudson's Bay man, to accompany him down the watershed. Observe that his destination is the St. John's River. I submit he would never have reached the St. John's River on that route. He would have gone down the watershed, and when he had got a certain length his Hudson Bay companion would desert him because his Hudson's Bay companion would bear away to the west and leave him. How does he get to St. John's River, and what right has he to create a boundary there of any sort whatever ? He has followed the Hudson's Bay boundary down the watershed, but his destination is St. John's River. How does he get to the St. John's River point on the shore ? My Lord, it is not a possible proposition. He has no directions to do it. He is not going to follow the height of

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land, because if he followed the height of land he would never reach St. John's. The best way to look as it is to look at my learned friend's map without any colouring upon it at all. You see what happens. According to him he had both the green and the pink given to him definitely by the Commission. Suppose he is going down the watershed in company with the Hudson's Bay man — I suggest he would not have gone down that line at all at that time, but I want to concede as much as I can to test it—how does he get from there to the mouth of the River St. John at all ? What are his sailing directions between these two points ? As long as he is working round the coast he will come to his destination, but if he embarks inland and walks down the watershed it is certainly not the Hudson's Bay watershed which will conduct him to St. John's, because the Hudson's Bay watershed is miles away from there. The only thing he could do would be to come down—taking my friend's lines as if they were accurate for the moment—to the point where the Hudson's Bay man would go to the west. He might say " I encounter the height of land. It is not the Hudson's Bay watershed, but another watershed this time, a watershed of rivers going down to the St. Lawrence." He might say, "I propose to walk

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along that." But if he walks along that I ask him in the first place what is his authority, because this time it cannot mean that he is to be bounded by Hudson's Bay territory. It must be because he likes being on watersheds, and therefore proposes to walk along a watershed whenever he meets one. He could then walk along that, I suppose, in search of the upper waters of the St. John's River, and then if he ever met it up there he would, I suppose, walk down that to the coast. But what sanction is to be found in the language of this grant— " all the Coasts of Labrador" between these two points—for drawing upon this map an area which must now be supposed to be then as definite as . your Lordships are asked to declare it to be now, and for colouring it, and saying, now that is disposed of we shall proceed to deal with the Quebec area.

The LORD CHANCELLOR : I want you to develop this point. May not this be suggested ? This part of Labrador had an Atlantic coast and a St. Lawrence coast. Now for the purpose of defining the Atlantic coast he takes all the rivers that run into the Atlantic, and carries his coast up to the watershed of those rivers. For that purpose he would, when he had left his Hudson's Bay friend, go on round the watershed of the rivers running into the Atlantic ; he would go perhaps theoretically down to Cape Charles, over these bumps that you have marked. But then he has still got the St. Lawrence coast of Labrador to deal with up to St. John's River. For that purpose he would travel back along his watershed until he found the River St. John. In that way that would give him some kind of warrant.

Mr. MACMILLAN : Some kind of warrant, true, but is not that a very complicated inference to draw out of a dedication to Newfoundland of all the coasts of Labrador ?

The LORD CHANCELLOR : It may be so, but you were looking for an answer to the question.

Mr. MACMILLAN : I still have some difficulty in seeing exactly how he would do it. It would mean this. Wherever you have a coast it connotes a watershed. I suppose physically that is so. Therefore, if you get a coast which fronts upon two seas you will in each case take the watershed which drains to the sea-board as your boundary. But then, unfortunately, he does not do it on his map before your Lordships. He now claims along the 52nd degree of latitude.

The LORD CHANCELLOR : He cuts across this watershed.

Mr. MACMILLAN : Yes, he cuts across the watershed. I am anxious for the moment to constitute the position upon which the Proclamation operates. Your Lordship follows my point. You see the importance of it, because it suggest that there was constituted a

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governmental area which is as important, and has all the attributes of a closed area then and there delimited, upon which all the functions of the Governor of Newfoundland, whatever those might come to be, are to operate, and which is now as much Newfoundland as any part of Quebec is Quebec, and that that was done by the use of the language I have quoted. On the other hand, my suggestion to your Lordship is that I meet the whole language quite naturally and simply by saying : Well, if you want to get from one point on the coast of Labrador to the other you naturally go round the coast until you come to the other place. How are you to ascertain the precise point of confluence of those two water-sheds in the great rolling plateau ? It must be scientifically ascertainable ; it must exist. Where you have an interior country you must have a watershed. To suggest that it was in the minds, or must be inserted in the minds of those who framed these documents, that they had in contemplation these two watersheds away in the interior, one of which was Hudson's Bay country and the other of which was not, but which was utilised for this purpose, and to suggest that that is to be elicited from the use of the words " coast of Labrador," I suggest is an exceedingly difficult inference to draw. The contrast between what was done when they were dealing with Governmental areas and when they were dealing with coast for fishing purposes is so conspicuous in the Proclamation of 1763 that it is worth looking at for a moment. Having passed from the question of Labrador, having passed from the question of how the Treaty of Paris was best to be carried out in its fishing articles, then, says my learned friend, they pass to another and very important subject. I drew the same contrast as he did between the two stages and I quite agree with him that it is a very important transition, and that the transition is marked by the most distinct change of language. I ask your Lordships to note the contrast between the precision with which the limits of a Governmental area are defined in the proclamation, with the vague and general language employed in the commission, by which it is said that the area in question was annexed to Newfoundland. My Lord, the proclamation on page 153 proceeds upon a preamble of " the extensive and valuable acquisitions in America secured to our Crown by the late definitive treaty of peace concluded at Paris the tenth day of February last." That includes the whole of this Labrador Peninsula in so far as it is not Hudson Bay territory. He has taken that into his consideration and then : "being desirous that all our loving subjects," and so on "may avail themselves with all convenient speed of the great benefits and advantages which

must accrue therefrom to their commerce, manufactures, and navigation ; we have thought fit, with the advice of our Privy Council, to issue this our Royal Proclamation"—I am omitting the intervening words— "to erect . . . four distinct and separate governments styled and called" so and so. My Lords, did His Majesty overlook the fact that he had already created a distinct and separate government in part of the extensive and valuable acquisitions in America which he is setting out to partition ? I should have thought the preamble would then have run : "Whereas we have taken into our Royal consideration

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the extensive and valuable acquisitions in America, secured to our Crown, by the late definitive treaty of peace, and whereas by our commission of date (so and so) we have assigned to Newfoundland a large territory of 110,000 square miles of the ceded territory, and whereas we have still to dispose of the remaining ceded territories, therefore we propose to set up these further governments." Not so. What he sets out to do is to dispose of these extensive and valuable acquisitions in America, and then he does so with precision, and when His Majesty is minded to set up a Governmental area he does so in each instance in precise language by metes and bounds. First of all he sets up the Government of Quebec, the lozenge as my learned friend calls it, and he tells you exactly how it is bounded. He gives you directions how you are to go : "Bounded on the Labrador Coast by the River St. John and from thence"—whence, I ask ? From the Labrador coast—"and from thence by a line drawn from the head of that river through the Lake St. John to the south and of the Lake Nipissing."

Lord WARRINGTON : Thence from the River St. John, by a line drawn from the head of that river.

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Mr. MACMILLAN : I should not have so read it, but no doubt it must be susceptible of that reading. "Bounded on the Labrador Coast by the River St. John and from thence by a line drawn from the head of that river." You have to go up the river to the top of it ; then you take your point of departure. However, it does not matter. The point is this : whatever it be, they are precise limitations. You know exactly where to go, until you get a completely enclosed territory, and that is to be the Government of Quebec. Then you find East Florida and West Florida dealt with in the same way, and the Province of Grenada is dealt with by the enumeration of islands. That is the way His Majesty set about the fixing of territorial jurisdiction, and yet all the time, apparently unwittingly, possibly intentionally—my learned friend I think must say "intentionally"—he has already constituted an important mainland jurisdiction in the ceded territories which he is pro-posing to distribute and allocate,

and upon his map there should already be shown a coloured area which is so extensive as to include the whole of the Labrador Peninsula other than what the Hudson's Bay Company have. My Lord, if my learned friend is right, what His Majesty had to consider at the second and important stage was not how much territory he could give to Quebec, because so far as that is concerned he had already found that Newfoundland was in possession, he had already given up to Newfoundland a very large area, and therefore in considering his boundaries of Quebec the matter had already been determined so far, at any rate, as the eastern boundary was concerned, and he could not go north any further with Quebec because he would be right into the territory already given to Newfoundland. It is upon that state of matters that the proclamation was to operate in carving out the Government, and there is not a word or suggestion that His Majesty had already carved a large area out of this ceded territory and had dedicated it to another Government.

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On the contrary ; having set out the four governmental areas, he then uses this very striking language. Seeing that of course I have had to deal with the fishery question, and that that is a question affecting this area, and that I have disposed of that area already, this is how I have done it : " And to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador, and the adjacent islands, we have thought fit, with the advice of our said Privy Council, to put all that coast, from the River St. John's to Hudson's Streights, together with the islands of Anticosti and the Madelaine, and all other smaller islands lying upon the said coast, under the care and inspection of our Governor of Newfoundland." He is rounding off the position there. He said : Here are my new Governments ; here is Quebec set up and established under this proclamation. I do not over-look the fact that I have put under the care and inspection of my Governor of Newfoundland for a specific purpose the coast of Labrador in order that the open and free fishery may be carried on thereon I have not overlooked that I have done that, and I recite that as a thing to be remembered as part of my distribution of this area. Yet this language here used at the time is apparently, in my learned friend's mind, sufficient to connote a dedication of this area to the Government of Newfoundland ; as important in its effect and as final and definitive as the dedication to the Government of Quebec of the territory which was included in Quebec, because the effect is exactly the same. At the present moment the claim made by Newfoundland over the green territory is just the same claim as the Dominion of Canada makes over any other part of Canada. Yet the recital of what had been done at that time is that certain coast between two points on the coast had been placed under the care and inspection of our Governor of Newfoundland. Why should one be, so to speak, attracted by

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the contrary interpretation ; more by token when it is said by my learned friend that it was not at all worth bothering about at the time, that it was not the main consideration, the governing consideration in their minds at all. In those circumstances I should have thought one would have selected the interpretation which was consonant with the object in view, which presents no difficulties of interpretation at all, is consonant with the ordinary use of language and is also consonant with the intention and purposes expressed at the time by those who were conversant with the whole matter. The word " coast " I do not think I need discuss at much greater length, but I do want to remind your Lordship of what was said with regard to the French shore when the question came up there. I have already dealt with it, but I would like just to remind your Lordship of that, because it is a very useful comment on the use of the word " coast " in the mouths of persons who were not considering this particular case that we are concerned with at all. Will your Lordship look first of all at the Treaty of Paris itself ? The translation is in Volume I at page 334. I refer to it for the rights of fishing that are alluded to in Article 5, one of the Articles remitted to the Lords of trade

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for consideration in order to alter the commission to Governor Graves : "The subjects of France shall have the liberty of fishing and drying on apart of the coasts of the Island of Newfoundland." I pause there for a moment. There is no doubt whatever that there, in the Treaty of Paris, the coasts of the Island of Newfoundland alluded to are sea coasts, and the place where they are to have the liberty of fishing and drying is a margin of the sea. They are to fish in the sea and to have the use of the margin of the coast for the purpose of drying. There you have, in connection with this very topic of fishing (and, if you please, drying the produce of fishing) a reference to part of the coasts of the Island of Newfoundland such as is specified in the 13th Article of the Treaty of Utrecht. Nobody seems, when drafting that Treaty Article, to have felt embarrassment because they were not defining the inward depth of it, the thing regulated itself by the purpose, and although this was an inter-national matter, much more a grave matter than a matter between two friendly parts of the Empire such as ours, yet they were content to give the right to the subjects of France, or to retain for the subjects of France, a right of resort to a part of the coasts of the Island of Newfoundland without any definition of depth whatever. It did become important later on to consider, just as it has become important to consider now what is the depth appropriate for a fishing shore, and in Volume V, on page 2181, you find first of all the necessary extracts from the Treaty of Utrecht ; then you find the Treaty of Paris which I have just read, the fifth article, and important material is there collected. Then you come to the official correspondence

which arose, and it is very interesting to notice page 2185, my Lord.

Lord WARRINGTON : The 13th article of the Treaty of Utrecht is printed on that page 2181 ; it is referred to in the fifth article.

Mr. MACMILLAN : The fifth article of the treaty of Paris.

Lord WARRINGTON : All that the subjects of France were allowed there was the right of catching fish and using such part of the land, and that only, as was required for drying and so forth.

Mr. MACMILLAN : I thought I had made that abundantly clear.

Lord WARRINGTON : That is mere servitude.

Mr. Macmillan.

Mr. MACMILLAN : I thought I had said so several times, my Lord. The point, however, is this : you might just as well have a war about the extent of a servitude as you might have a war about the extent of property. The purpose for which I cited this was that there was there given and taken, as between two nations, a servitude right upon the shore, the extent of which was left to be determined by the purpose for which the servitude was granted.

Lord Sumner.

Lord SUMNER : In the case of the Treaty the definition was only

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possible by the consent of the high contracting parties, and very possibly they did not manage to agree, and it could not be carried any further ;whether it contained the seeds of future war or not, they had to leave it there. Here is a case where His Majesty's advisers might recommend any boundary that they thought fit, and it was in his power to adopt it with a stroke of the pen, so that in the present case you have either to content yourself with saying : " Is coast " big enough to go all that way inland ? No. There is an end of it. Or to say : Let us look at all the circumstances and see whether it did go in all that distance. One of the circumstances would be that your contention has to impute to the English administration a desire to have an immense interior in Labrador unassigned to anybody, useless to England, a burden, not an advantage, and which might involve the security of a fishing coast if it was not provided with some manner of administration.

Mr. MACMILLAN : I think if that were my case I would

have very little difficulty in deciding it against myself.

Lord SUMNER : Your theory of one mile and then the length inside does leave the length undistributed ; as Sir John called it, an undistributed area.

Mr. MACMILLAN : My submission is going to be quite the contrary, and has been already throughout the case. I am afraid I must have failed lamentably to make it clear. Our submission is that the hinter-land was reserved for the Indians.

Lord SUMNER : Reserved for the Indians ; I quite appreciate that ; but not granted to anybody, not administered by anybody, left unappropriated, for the Indians to make peace and war and scalp and smoke the pipe of peace in freedom.

Viscount HALDANE : The statesmen of those days might have thought the time would come (and it has come) when it would become an important question, and it would be better not to prejudice it.

Lord SUMNER : That is your best answer, I think, Mr. Macmillan.

Mr. MACMILLAN : If I may answer myself, my answer is this : that the hunting grounds of the Indians, being just virgin territory of that sort, were the very places that were intended to be preserved for them intact at this time. Will your Lordship look at the language a little later on ? The view, apparently, of the Governor of New found-land himself was that there was a no-man's-land in there. That is probably inaccurate ; I do not think there was a no-man's-land in there, or a hiatus, the expression used by one of the others.

Lord SUMNER : None of these metaphors help one ; but the fact remains that it was territory unassigned to any Governor appointed

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by His Majesty and remained vested in the Sovereign although he was content that the use of it should be in the Indians.

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Lord Sumner.

Mr. MACMILLAN : Indian reservations, my Lord.

Lord SUMNER : Yes; well, that may be a sufficient explanation to get over the difficulty of leaving this idle territory with no one to look after it, but it is a different case from the one that you are putting about the French coast, the fishing coast.

Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord ; it is different. If it had been the same, of course, that would have been a most valuable precedent for me. It is only an indication of how these matters were dealt with in boundary delimitation questions. Whether it was in the stress of, negotiation or otherwise, they chose to leave it in that position, and I say that this was left also, and that it was a fishery right, with a position on the shore which was necessary for prosecuting that industry.

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Viscount Haldane.

That was the position in which the French found themselves on the coast of Newfoundland, and when the matter came up for consideration, as it did later on in 1853, you find on page 2186 a very sound statement, where it says : "The term coast (the literal meaning of which is the shore or margin of the sea) being vague and open to contradictory interpretation, it is proposed to determine its signification with reference to the fishery rights in question, as follows" : Then they go to make a suggestion. It is true that it was a matter for negotiation, but they go on to suggest what would be a reasonable delimitation, now that it had become necessary to delimit the fishing coast, or what would be a reasonable way of going about it,

It was in consequence of that, that discussions took place as to whether it should be half a mile or a quarter of a mile, and the convention was ultimately made, on pages 2188 and 2189, which was not, however, ratified, but which represents what the Plenipotentiaries had come to as a proper decision on the matter.

Mr. Macmillan.

It says this on page 2189: " The strand reserved for French exclusive use for fishery purposes shall extend to one third of an English mile inland from high water mark. from Rock Point to Bonne Bay, inclusive, and at the four reserved harbours south of Bonne Bay ; and from Bonne Bay to Cape St. John, to half an English mile inland from high water mark." That was the conclusion that they came to as to what

stretch of littoral it would be necessary to reserve for the exclusive use of the French for fishery purposes in order to make effectual the reserve of the rights on the coast of Newfoundland.

At this time it was not necessary, in Labrador, to define with precision the extent inland of the Governor's jurisdiction, and therefore it was left to be determined by the purpose of the grant.

As regards the hinterland, which my Learned friend himself has suggested as being—I think his general expression is—"The frozen regions of Labrador," I do not think he would have been so appalled at the

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prospect that that was being left without administration; but on the other hand, those lands were appropriately left to the Indians who hunted over them.

Viscount HALDANE : There was great difficulty in making definite reservations in the Constitution of Canada. The lands reserved to the Indians were put to be under the jurisdiction of the Dominion, but they were within the Province, territorially, and the result was that when the Indians came to deal with them, there arose a series of complicated litigations as to what the rights were.

Mr. MACMILLAN : Yes, my Lord.

Viscount HALDANE : And it was not until this Board had given several decisions that these things were settled. I do not anticipate that it can be taken that in those old days they foresaw that, but they were very sensible people, and they did not commit themselves too definitely.

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Mr. Macmillan.

Mr. MACMILLAN : I think, my Lord, that when one really looks at the language of this Proclamation, instead of looking at a lot of other history books dealing with the position generally, the position is quite clear as far as the Indians are concerned. But that may be because I prefer to keep my eye on the terms of the Proclamation.

Now, my Lords, I want to point out this, that when this question as to what is the meaning of the word " coast " in this context, came before a number of people—people, if you please, of adverse interest to Canada—it was recognised by all of them that it would not, in its natural connotation, include this large green area. It is rather striking, I think. People approaching it without the assistance of Counsel, or the impediment of Counsel, and looking at it just as business men or administrators, at once recognised that the expression

" Coasts of Labrador " could not possibly mean all the territory up to the height of land.

May I give one or two examples of that. There is a letter from Lord Knutsford in Volume II, on page 356, which is interesting. That is the one with which the Pinsent incident closes. Your Lordships will remember Mr. Justice Pinsent, who was puzzled about the Boundary. Lord Knutsford, through Mr. Herbert, says this, in January, 1890: "I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 11th instant, respecting the boundary between Canada and Newfoundland, on the Labrador coast. Lord Knutsford desires me to observe that the effect of the Acts 14 George 3, Chapter 83 and 43, George 3, Chapter 148, 'was to give Canadian Courts jurisdiction over the whole of the dominions of the Crown in North America not forming any part of the provinces.' The Act of 1809, only re-annexed to Newfoundland part of the coast of Labrador and the subsequent acts and instruments all speak of the coast only as belonging to Newfoundland, What may be the exact extent inland of the coast appertaining to Newfoundland,

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may be a question, but the most liberal interpretation of the term "coast" could hardly, in Lord Knutsford's opinion include all the part coloured yellow in Mr. Johnston's sketch." Your Lordships will see that the part coloured yellow in Mr. Johnston's sketch is, roughly speaking the height of land line. His sketch is on page 318a.

Then you find the Governor's view, on page 344, in the same volume, and it is rather interesting to see what he has to say about it himself. On page 344, writing in 1889 to Lord Knutsford, Mr. T. O'Brien says : "My Lord, I have the honour to forward herewith copy of a letter from Mr. Justice Pinsent, relative to the boundaries of this Colony and of Canada in Labrador. The frontier laid down by the Dominion Government, which line is quite acceptable to Newfoundland," —That was their interpretation of the white area, corresponding roughly to the green area, which they assumed to be Canada's idea of Labrador— "does not correspond, as your Lordship will observe, with that laid down in my instructions" —he has been reading his instructions, which give him the coast of Labrador between two points— "thus leaving a large tract between the two lines which is under no-one ; hence a question of jurisdiction might at any moment arise, which might lead to a miscarriage of justice or other complication."

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Mr. Macmillan.

That is the Governor. He has got his Commission in front of him, and he has got a map rather like this green map ; and he says : "Well, if that is really, what Newfoundland has got on the mainland, it does not correspond in the least with my Commission, because my Commission would leave a large tract under no one.

Then Judge Pinsent is also of the same mind in 1889. He is a

judicial person, and he writes to Mr. T. O'Brien on this topic, and then he refers to this map on which the territory was shown in white." On page 345 he says : "The former has defined its line in official maps, and with that there is no fault to be found on the part of Newfoundland. The difficulty lies in the imperfect and insufficient description of that part of Labrador annexed to this colony, causing an apparent hiatus between Newfoundland Labrador and Canadian Labrador."

Lord WARRINGTON : He had not had the benefit of the argument that we have had.

Mr. MACMILLAN : No, my Lord. His mind, in short, was not obscured by Counsel's arguments.

Lord WARRINGTON : I hope not " obscured."

Sir JOHN SIMON : Let us do the memory of Mr. Pinsent justice. He writes on page 354 after some reflection, and he says : "It appears to me that the presumptions are all in favour of the entire yellow as well as pink part being the dependency of Newfoundland, and for the following reasons." So that it looks as though he had arrived at the truth without the argument.

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Mr. MACMILLAN : Now will your Lordship look at page 341.

Sir JOHN SIMON : That is going back.

Mr. MACMILLAN : May I not go back if I wish ? On page 341 I desire to draw attention to a passage which I think is instructive. It is the inception of this whole matter, and it arose in consequence of a difficulty about jurisdiction.

At the foot of page 341 Mr. Justice Pinsent says this : " For the purpose of illustrating the matter clearly, I enclose portion of a map of the dominion of Canada, published by Canadian official authority, in which all that part of the peninsula of Labrador coloured white is, as it were, allowed to belong to this government,"—That, again, is roughly the green area—" but if that area is compared with the description taken from the royal letters patents constituting the office of governor and commander-in-chief of the island of Newfoundland and its dependencies, it will be seen that the territorial extent of (Newfound-land) Labrador represents a vast deal more than would be ordinarily intended by the term ' coast,' and, moreover, extends inland and west of the line drawn due north and south from Anse Sablon eight to nine degrees." Then on the same page he goes on : " This Canadian topography is, I think, quite correct so far as the limits of the Dominion territory are concerned, and the remainder of the coast of Labrador would thus quite naturally

Sir John Simon.

belong to this government, but they are not so described and defined in the letters patent or commission of the Governor of the Colony, and indeed the description falls very short of covering the whole ground, and when questions of jurisdiction arise the court has to determine in every case whether the particular locality is upon the coast of Labrador or not." Then he refers to Hamilton Inlet, and 150 miles inland from the sea coast, and he says how desirable it would be.

Then I see that he uses the expression " no man's land." He says : " The publication by Canadian official authority of the map in question or some such other may be useful as a definition of the rights of the Dominion of Canada, but it would not have the effect of conveying to Newfoundland British territory not included in its own, and which might, from not being by imperial authority embraced in either, be of the sort of ' no man's land,' over which neither of the colonies could exercise government nor their courts jurisdiction."

Viscount HALDANE : It was only a no-man's-land so far as the two Colonies were concerned.

Mr. MACMILLAN : Yes, my Lord.

Viscount HALDANE : There was the Crown with its troops.

Mr. MACMILLAN : It is a figurative language, of course, my Lord ; but the interesting thing is that there you find the Governor, a Judge,

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the Colonial Secretary, and all these people who have read the Commission and read the description of the coast of Labrador in that Commission, all saying : " Well, if Newfoundland really is to go away up into this large area in the interior, it is certainly going to some place where the Commission will not carry it." That is what I say is the reading of these people who were looking at it, without, I agree, the apparatus which has been provided before your Lordships for the purpose of looking at it.

Viscount HALDANE : Without bias, of any kind.

Sir JOHN SIMON : Forgive me, Mr. Macmillan, but you are always so frank and so fair that I am sure you will allow me to say this. You are representing to the Board, as the considered opinion of Mr. Justice Pinsent, something which Mr. Justice Pinsent, slightly later on, in a quite elaborate treatise, repudiated. You are entitled to say that that does not matter, but you are not entitled—

Viscount FINLAY : Where is that ?

Sir JOHN SIMON My learned friend said that he could go back if he liked. I agree, he can go back ; he can go anywhere ; but I know that he would wish the Board to be aware of the fact that Mr. Justice Pinsent, a little later on, in fact came to a contrary conclusion.

Mr. MACMILLAN : What Mr. Justice Pinsent said has been read already.

Sir JOHN SIMON : As long as you do not think that you are misleading anybody as to Judge Pinsent's considered view, I do not mind.

Mr. MACMILLAN : I did not read it just now, for the reason that I only wanted to show that a number of people who had read this, have read it as I would read it. A great many people decided differently at the end of the day, that is true ; and if you please, Mr. Justice Pinsent took another view later on. I am sorry that I omitted to say that, but I wanted to show that a number of people, reading this document had taken the view, when reading it for the first time, that it did not correspond with the language of the Commission.

Sir JOHN SIMON : That is quite fair.

Mr. MACMILLAN : Now, my Lords, were not these people right when they so read the word " coast " ? Were they not right when they read it as confined to the narrow strip of the coast, and in so reading it, were they not reading it in consonance with the grant and with the interpretation placed upon it at the time in the Proclamation ?

Now, my Lords, I should like to address myself next to an aspect of the case which has been much elaborated, and perhaps even more

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elaborated by my learned friend than by myself, namely, two questions of the Hudson's Bay boundary and the Indian territory.

I am not quite sure where those two questions ought to be placed as regards their importance. In one aspect of the case they may be very important ; in another aspect of the case they may be less important. I take it that their importance, the importance of those two topics which have become so very prominent, and, if I may say so, so very controversial, in this case, is because of their bearing upon the disposition of the hinter-land of Labrador at this time.

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As my learned friend said, if I can prove that the Proclamation dealt with land in the interior and reserved it for the Indians, I have presented at any rate a serious difficulty in his way, because in that case I would have explained how part of this territory had been disposed of by the Proclamation, and I would have made it much more difficult for him to maintain that he had a complete stretch right up to the watershed. On the other hand, the Hudson's Bay boundary seems to be in a slightly different position. I rather apprehended that it was used by my learned friend chiefly for the purpose first of all of showing that it was a watershed boundary, and that, being a watershed boundary, it was a natural and proper boundary ; and then, secondly, that if you had a recognised watershed boundary, therefore the presumption was that when you were disposing of Labrador territory on the other side, the west side, you would naturally give the whole of the land up to that same boundary. I hope that I do not do any injustice to the submission ; but it seemed to me to be generally upon those lines, and therefore it becomes a matter of some importance to examine them more closely.

First of all I should like to say this that as regards the Hudson's Bay Company's boundary of course one does not need the Hudson's Bay Company or any other company to shew that a watershed is a natural physical boundary. When you are on the look-out for a boundary you naturally take a physical feature. The sea is one of the best boundaries of all. The salt, unchanging sea gives you a limit of territory. Rivers also are often selected as boundaries. A watershed is equally a well-known physical feature, and is therefore a feature which will be naturally enough, selected when you are in search of boundaries. But it does not require any very great research or any very great argument to convince anyone, or even to convince me—if my learned friend is interested in convincing me—that a watershed is a natural boundary. It is a profound and impressive truth, no doubt, but at the same time it is not one which one would be prepared to admit

instantly.

But, my Lords, what is its bearing upon our present problem ? I am unrepentant, my Lords. I agree that it is an unfortunate position to be in ; but notwithstanding the learning that has been lavished by my learned friend upon this topic, I am still maintaining at your Lord-ships' Bar that, at least as regards the lands with which we are concerned here, there was no claim by the Hudson's Bay Company to a height of land line there at all. I shall have to make that good. Indeed, I think I might with accuracy go a little further. I have tried to get down to

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the facts of the matter. No doubt I have not, perhaps, so efficient an equipment as my learned friend, but so far as I can find out, there is no document of claim by the Hudson's Bay Company claiming that their boundary is the height of land boundary, at any part of their boundary.

Sir JOHN SIMON : At any time ?

Mr. MACMILLAN : I cannot find it, and I should like very much if you could refer me to one.

Sir JOHN SIMON: At any time ?

Mr. MACMILLAN : No, before 1763, but, of course, that is the material point. Now, just to show that I am really trying to be fair—

Sir JOHN SIMON : I am quite sure about that.

Mr. MACMILLAN : Let me say that what you do find is that in a number of maps there is a line which is undoubtedly a height of land line. Whether that line was claimed by the Hudson's Bay Company, of course, is quite a different thing, because what one has got to remember is this, that many of these lines that were drawn on the map represented contentions and desires rather than ascertained boundaries. The early maps were often more tendencious than modern maps, and often the wish was father to the thought, and lines were drawn rather as persons would wish to have them, than as they were entitled to draw them. But nothing is more extraordinary than the history of the boundaries, the supposed boundaries, the suggested boundaries, the proposed boundaries of Hudson's Bay. We have put in a map at the end of our Atlas which has been there all the time, in which all the different suggestions of the Hudson's Bay boundaries are shown. It is like an arterial system ; there are any number of lines drawn all over the place, and the thing fluctuated. Indeed, that is my learned friend's own case, and he said that the boundary receded or progressed with the fortunes of war. The maps to which my learned friend referred were the maps

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of de L'Isle and Bellin, chiefly, before 1763, because I am bearing in mind that we must concentrate upon that time. De L'Isle and Bellin were French map-makers who were concerned to crib, cabin and confine Hudson's Bay as closely as they could. On the other hand, it is equally true that the effort of the Hudson's Bay Company was always to get as large an interpretation as they could. Indeed—I hope I am going to state this accurately—when the Treaty of Utrecht was signed, there was undoubtedly laid down subsequently upon a map, a line of authority, that being the map which has been put up by my learned friend. It is not the King's map, not the one from the Royal Library, but it was the one which was used in the Royal Library, and used for putting down all the things that subsequently happened.

If you look at that map you will see upon it an undulating line.

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I do not know quite how to describe it, but it runs along the northern part of the map there. That line is described as "Bounds of Hudson's Bay by the Treaty of Utrecht." Then again it is described as "Bounds of Hudson's Bay," and then at two places in this map the words "The land's height" are repeated. Neither of those legends of land's height, as far as I can make out, are actually placed upon the line, although the one to the left might be said to be upon the line. They certainly do not represent the ordinary watershed line, but because of the conformation of the line, my own impression is that the author of that line did mean to draw a watershed line. I think that must be what he was trying to draw, although he has not been very fortunate in doing it ; and, of course, the important thing, from my learned friend's point of view and from my point of view as well, is that he was trying to draw a water-shed line, whether he succeeded or not, because that would show what his purpose was.

But when you come to the area with which we are concerned, the striking thing is that in that area you do not find the height of land line. The inset map is a map which continues the boundaries, and if you look at the inset map, on the same map, if you care to look at the original one, this is the line that is on the original map of 1755. You will see marked there a perfectly straight line running from Grimmington Island and marked " Proposed limits of Hudson's Bay." So that, even if the geographer, Mr. Mitchell, who in 1755 compiled this map, had the view that the Hudson's Bay people were limited by the height of land line in this region, that is to say the region which is dealt with in the main map, the same gentleman perfectly plainly shows there that in Labrador there was no height of land line, but there was a perfectly straight line drawn through Lake Mistassini to Grimmington Island, and that line is engraved upon the original map of 1755.

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Mr. Macmillan.

Sir JOHN SIMON : It is " proposed boundary ?"

Mr. MACMILLAN : " Proposed boundary," yes. This line which, I agree, looks like a watershed line, is not continued up into the small map at all.

Sir JOHN SIMON : And it is not labelled " proposed boundary," but it is labelled " boundary."

Mr. MACMILLAN : So that it is not possible for my learned friend to say that this map of 1755 shows, in Labrador, a watershed boundary claimed by the Hudson's Bay Company. What it shows is a straight line drawn to Grimmington Island. But what is of more consequence is this, that if you take the King's map—my learned friend for some reason preferred to remove the King's map which was here, and he placed the 1755 map before your Lordships. I shall not be guilty of any such lese majeste, and I propose to put the King's map back again.

Sir JOHN SIMON : The only difficulty is that that is after 1763.

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Mr. MACMILLAN : It is not.

Sir JOHN SIMON : The marks upon it are. Mr. MACMILLAN : How do you know ?

Sir JOHN SIMON : Because some of them were by Mr. Oswald.

Mr. MACMILLAN : " Some of them " is quite a different thing, The purpose of the King's map is very interesting. The purpose of it was to show, for His Majesty's information from time to time, the progress of events in His Majesty's dominions, and when you come to this map it is very striking to notice that upon this map there is drawn the line which your Lordships remember.

Viscount FINLAY : Where is Grimmington ?

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Mr. MACMILLAN : It is up here, my Lord (indicating on the map). There is drawn a perfectly straight line across, which goes off, as your Lordship remembers, at an angle. We pick up the angle again in the inset map, and it is continued, and what you have therefore is 1 this as a boundary, and that is lettered upon the King's map, " Boundary between the lands granted to the Hudson's Bay Company and the Province of Quebec."

Now, my Lords, here is an authoritative map showing the

deliberations of parties, and intended to record decisions. It is quite true that it introduces this difficulty, that you have the upper wavy line, which is also called "Boundary of Hudson's Bay by the Treaty," but you have this lower line superimposed upon it, and therefore obviously showing a later view of the matter of the "boundary between lands granted to Hudson's Bay Company and the Province of Quebec."

Then it is interesting to take, along with that, the Newfoundland map, which I may just ask my Lords to look at, because it is a very interesting map. It is No. 14, and if your Lordships will be good enough just to look at it for a moment, it will complete all that I have to say this afternoon. This is a map of the year 1763. Now we are just at the critical time, and it is rather interesting for that reason. It is produced by my learned friends, and they think, as their note shows on the left hand side of it, that this map was compiled between the drafting of the Treaty in February—that is the Treaty of Paris—and that of the Proclamation in October. I do not know that that can have been so, because the boundaries of Quebec are shown upon it, and they were not created in the Proclamation.

Sir JOHN SIMON : I think that is very just.

Mr. MACMILLAN: I think that is so.

Sir JOHN SIMON : I quite agree.

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Mr. MACMILLAN : It is 1763.

Sir JOHN SIMON : It is after the Proclamation.

Mr. MACMILLAN : The date of this is 1763, and it is a map by John Gibson, who I think is the same gentleman who was associated with Mr. Bowen in the Bowen and Gibson map, and who was introduced as being a rather important geographer.

Now will your Lordships kindly look at what is the southern boundary of the Hudson's Bay Company's territory there ? "Southern boundary of Hudson's Bay Company territory as settled." It is very small type, unfortunately. All my learned friend's maps are in such small type that it is difficult to read them—"As settled by the commissaries after the Treaty of Utrecht."

Now, of course, the commissaries did not settle it, as your Lordships will remember, but that line which goes right across the map there is practically the same line as you find going across the King's map, subject to this, that towards the right hand side it takes a little bulge to the south, and begins after that to go more or less irregularly. But the part against which are written the words "Southern boundary of Hudson's

Bay Company territory " is practically coincident with the Treaty line on the King's map, which will be put up before Monday morning for your Lordship's inspection.

I think, therefore that I am well entitled to say this, that so far as the Labrador Peninsular is concerned and the map material available at that time, nobody had a map before them which showed the height of land boundary of the Hudson's Bay Company as a line to be reckoned with at that time. Its point of departure was known to be the entrance of Hudson's Straits, but where precisely that was nobody quite knew, and as to whether it was a height of land line or a watershed line, no decision whatever had been come to at that time, and any contemporary maps that may have been in the hands of those who were advising about this matter, would not have shown a height of land line in the Labrador Peninsula.

(Adjourned till Monday next at 10.30.)

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1
Tuesday, 9th, November, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON

**IN THE MATTER OF THE BOUNDARY
BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
NEWFOUND- LAND IN THE
LABRADOR PENINSULA**

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

TWELFTH DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Colony of Canada.

[1927lab]

In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1
Friday, 12th, November, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON

**IN THE MATTER OF THE BOUNDARY
BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
NEWFOUND- LAND IN THE
LABRADOR PENINSULA**

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

THIRTEENTH DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Colony of Canada.

[1927lab]

In the Privy Council

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1.
Monday, 15th, November, 1926.

PRESENT :

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE),
THE RT. HON. VISCOUNT HALDANE,
THE RT. HON. VISCOUNT FINLAY,
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON.

**IN THE MATTER of the BOUNDARY between
the DOMINION of CANADA and the COLONY
of NEWFOUNDLAND in the LABRADOR
PENINSULA**

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

15 Nov., 1926.

—
Mr. Macmillan.

*[Transcript of the Shorthand Notes of MARTEN, MEREDITH &
Co.,
8, New Court, Carey Street, London, W.C. 2, and CHERER &
Co.,
2, New Court, Carey Street, London, W.C. 2.]*

FOURTEENTH DAY.

*Counsel for the Colony of Newfoundland :—The Rt. Hon. Sir
JOHN SIMON, K.C., Mr. F. T. BARRINGTON-WARD,*

K.C., The Hon. W. J. HIGGINS, K.C. (of the Newfoundland Bar), Mr. W. T. MONCKTON and Mr. C. H. PEARSON, instructed by Messrs. BURN & BERRIDGE.

Counsel for the Dominion of Canada :—The Rt. Hon. H. P. MACMILLAN, K.C. (of the Scottish Bar), The Rt. Hon. C. J. DOHERTY, K.C. (of the Canadian Bar), Mr. AIMÉ GEOFFRION, K.C. (of the Canadian Bar), Mr. MAURICE ALEXANDER, K.C. (of the Canadian Bar), Mr. H. STUART MOORE and Mr. C. P. PLAXTON (of the Canadian Bar), instructed by Messrs. CHARLES RUSSELL & Co.

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MORNING SESSION.

Viscount Finlay.

Mr. MACMILLAN : If your Lordship pleases, I was dealing, your Lordships will recollect, with the question of what was known as the Hudson's Bay boundary in Labrador at the material date of 1763. May I say that I quite recognise that it is not essential to my learned friend, Sir John Simon, to establish that part of the case.

It is fair to remind your Lordships that he has quite an independent argument, independent of the ascertainment of the Hudson's Bay boundary. As I appreciated that argument it was this : That in the circumstances of this case a grant of " all the coasts of Labrador " inherently implied a watershed as the interior boundary ; that is to say, by the force of the term itself, having regard to the circumstances, the expression implied inherently that a watershed was the natural boundary. On the other hand, he appreciated, and I appreciated, the importance of ascertaining whether there was, in fact, known at that period a watershed boundary, because I think it would facilitate his argument if he were able to say not only is that inherent in the words of the Grant that a watershed is implied as the landward boundary, but also there was to hand a known watershed boundary at this time which might fairly be considered as having been in the minds of those who issued the Commission and Proclamation, and, therefore, my Lords, the Hudson's Bay question, important as it is, as I recognise, is not essential to my learned friend's argument.

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Viscount FINLAY : Very far from it, I should think.

Mr. MACMILLAN : I should have thought so.

Viscount FINLAY : Because what was settled there, whatever it was, was the boundary of the Hudson's Bay Territory.

Mr. MACMILLAN : Yes.

Viscount FINLAY : And whether what was beyond that was

left for disposition by the King ultimately or was to go into Newfoundland is a totally different question.

Mr. MACMILLAN : If your Lordship pleases.

Viscount FINLAY : That is how it strikes me.

Mr. MACMILLAN : If I may say so with great respect, that is exactly how I had noted it to put it to your Lordships. I was going to

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indicate he was indeed specially concerned to show the existence of a recognised Hudson's Bay Boundary in Labrador at this time, but that even if he established a notorious height of land boundary in Labrador for Hudson's Bay that would still leave him to bridge the gulf between the Grant to the Governor of Newfoundland and that boundary, because it is so striking that although the use of the Hudson's Bay boundary as a boundary was apparently familiar to those who were dealing with this matter at this time : Witness, for example, the Act of 1774 where extended Quebec is described as being bounded by the Southern Boundary of the Hudson's Bay Company territory, there is no such language here, and it would have been easy for those concerned in this matter had they intended that the boundary of the Hudson's Bay Territory upon the east should be the boundary of the coast of Labrador upon the west to have said so in so many words as they did in 1774, but they defined the boundary of Quebec by the express mention of the Hudson's Bay boundary.

My point was this, that the mere selection by description of the point at which the Hudson's Bay territory began on the coast does not carry one any length to the decision that not only was this to be your starting point upon the coast but you were to pursue the internal boundary of the Hudson's Bay Company right down to the height of land as being the implied internal boundary of the coast of Labrador.

My Lords, I asserted, I hope not too definitely, but as the result of my studies, that there is no evidence to show that in 1763 when the coast of Labrador was placed under the care and inspection of the Governor of Newfoundland, and when the new Province of Quebec was carved out, at that time those responsible for these arrangements had before them, or had in mind the Hudson's Bay boundary in Labrador as a boundary following the watershed. Even if they had, they avoided making the watershed the boundary of Newfoundland, they chose a point on the shore as the limit and not Cape Chidley, may I remind your Lordships, but they chose a point on the shore with the reference to the language of the Hudson's Bay Charter. They took the expression "The entrance to Hudson's Straits." My Lord, at that time I think I am fairly entitled to say that the precise point at which the

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entrance to Hudson's Straits actually and physically lay was not clear, and I rather agree with the suggestion that my learned friend threw out that some of these varying lines which were put forward at different times on behalf of the Hudson's Bay Company, and perhaps most prominently the Grimington line were the outcome of a view that the entrance to Hudson's Straits was not at Cape Chidley, but was further along the coast.

Looking at the present-day maps, it would be difficult to appreciate that view, but looking at the earlier maps there are one or two examples in the Atlas to which I shall not refer at the moment; it is much more easy to assume that the entrance to Hudson's Straits was not necessarily at Cape Chidley in view of the fact that the lie of the coast of Labrador at that time had not been ascertained and those earlier maps show it.

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lying in a rather different direction. That suggestion of Sir John's may well have some foundation; at any rate what was put forward at this time was not Cape Chidley, but the entrance to Hudson's Straits where ever that is, because undoubtedly from that point the jurisdiction on the coast of the Hudson's Bay Company commenced.

My Lords, as I say I have found no document or map prior to 1763, or at or about 1763 showing in the Labrador Peninsula a watershed, an internal watershed boundary as the boundary of the Hudson's Bay Company's territory.

The question of claims made in respect of territory may be a 10 different matter, but, first of all, my learned friend is good enough to accord me at least this foothold, that in the most emphatic way Lord Selborne in the course of the Manitoba-Ontario case said—

Sir John Simon.

Viscount FINLAY: Would you please give me the reference ?

Mr. MACMILLAN : It is Volume V, page 2145.

Viscount HALDANE : There was no judgment.

Mr. MACMILLAN : There was no judgment, there was merely a finding such as your Lordship, would pronounce here ; Lord Selborne no doubt incidentally but touching upon a matter which was in that case of vital concern dismissed the strong argument that had been put forward, 20 that the boundary of the Hudson's Bay Territory was the watershed. In that case the topic was of great materiality.

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Mr. Macmillan.

The LORD CHANCELLOR : Was that an interlocutory observation ?

Mr. MACMILLAN : That was an Interlocutory observation, yes, 2 following upon the argument. As my learned friend said, I am entitled to whatever advantage that gave me.

Sir JOHN SIMON : On the last point I know you would not fail to take a map if you thought it was against you ?

Mr. MACMILLAN : Surely not.

Sir JOHN SIMON : If you are making a statement that there was no map which indicates the height of land shortly before 1763 have not you omitted Bellin ?

Mr. MACMILLAN : As the boundary of the Hudson's Bay Territory ?

Sir JOHN SIMON : Yes ; it shows it in the plainest way in 1755. It is Map No. 12.

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Mr. MACMILLAN : That is the yellow and blue line.

Sir JOHN SIMON : I do not want to go back, but I thought I had better mention that.

Mr. MACMILLAN : I will correct myself to this extent ; I thought I had used precise language that there was no claim by the Hudson's Bay Company.

Sir JOHN SIMON : I thought you said there were no maps.

Mr. MACMILLAN : I think I did say there were no maps, and I must take that back ; I should say there were no maps which were in evidence before the people dealing with this subject matter. I really tried to get the phrase in as accurate a form as I could, and I am much obliged for the correction.

Sir JOHN SIMON : I thought you had not intended to omit it.

Mr. MACMILLAN : I was perhaps rather obsessed with the idea that this was a French map, and represented the French view rather than the British view.

Viscount HALDANE : When you say there were no maps, do you mean in the 1884 reference ?

Mr. MACMILLAN : No, my Lord, I mean at the material date, 1763 ; that is, of course, the material date for our purpose. I was just saying that I could, at least, invoke the authority of Lord Selborne on the matter of the location of the Hudson's Bay boundary. It was in the Ontario-Manitoba case a most critical point in the case, as one at least of your Lordships will recall, because the question was whether Ontario went North of the height of land line shown for the Southern boundary of Hudson's Bay. My Lords will recall that the Northern boundary of Upper Canada was the

Southern boundary of Hudson's Bay ; therefore, it became a point of very considerable importance. The only comment I would make on that is this, that my learned friend suggested that Lord Selborne's dismissal of that argument proceeded upon, shall I say, a less complete knowledge of the situation than is available to my Lords now. An investigation of the papers laid before the board in the Manitoba-Ontario case (here, again, I am in the recollection of at least one of your Lordships) shows that they contained a most ample collection of material upon this topic ; and a great many of the documents, Opinions and so on, which we have been resorting to in this case, are actually printed in that case ; therefore, the matter was investigated then as a material point, and the suggestion that the height of land at that part was the acknowledged Southern boundary of the Hudson's Bay Company followed ; and in the decision (of course, there were other elements in

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the decision naturally) that line was not taken as the Northern line of Ontario.

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Viscount HALDANE : Was that affected by the decision ? If the river was the Northern boundary of Ontario, that was decided in that case, how far to the North East did the river run ?

Viscount
Haldane.

Mr. Macmillan.

Mr. MACMILLAN : That river ran into St. James' Bay ; it ran from the Lake in the Woods, and the counter argument for Ontario there was : " Oh, but we have a line on the West which runs up to the Lake in the Woods, and we have a line to the East which was a line of demarkation described as ending at St. James' Bay " ; and it was said by Ontario that the intermediate territory, the height of land line, ran behind that ; the height of land was Canada's contention in that case, the roles were reversed ; they contended that the height of land was the limit upwards of Ontario. No, said your Lordships in deciding the matter, the other material here enables us to disregard that ; and in any event the principle of the height of land was not accepted at that time. But again, if I may say so, the view expressed at that late date, even by so authoritative a body, is not so material for our purpose as what was the state of knowledge in 1763. The endeavour of both of us has been to reconstruct the position. One can do so in the simplest form. A question arose as to how this great new territory placed in the hands of the British Sovereign was to be allocated. The map material available must, of course, have been before those persons who were dealing with the question, and I am going in a moment to ask attention to one or two of the maps. Before, however, I leave the subsequent matter, which I recognise is of less importance, I think it is at least desirable that your Lordships should have not merely the opinions of Sir Samuel Romilly and the Law Officers which my learned friend gave you, but I ask your Lordships' acceptance also of a paper which I communicated last week to my learned friends, which completes the matter by giving you Chief Justice Draper's letters and papers and the Opinion of Sir Richard Bethel and the Solicitor-General in 1857.

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Mr. Macmillan.

Viscount FINLAY : Will you give me the references to all these?

Mr. MACMILLAN : These will be handed in, my Lord.

Sir JOHN SIMON : They are in the Hudson's Bay Report, are not they ?

Mr. MACMILLAN : They are all in the Hudson's Bay Report, and it is merely for convenience that I have had them extracted in order that your Lordships may see the whole story.

Viscount FINLAY : What do you call them ?

Mr. MACMILLAN : "Documents for the Dominion of Canada,"

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Documents 2 to 6 ; Document 1 is in a different category. I told my learned friend last week that we desired to complete the papers by putting these in. You now have all the documents which my learned wishes to put forward and which I wish to put forward. These documents, Nos. 2 to 6, carry the matter to its completion, and show the state of knowledge of the House of Commons Committee in 1857, when they passed upon this question generally ; and I do draw some attention, my Lords, to what the Chief Justice of Canada, Chief Justice Draper, stated in the papers I have handed in. I am not going to read them, your Lordships will prefer, no doubt, to look at them a little more at leisure.

Viscount FINLAY : I think you had better just refer to the point you are making.

Mr. MACMILLAN : What I was going to do was this—I will run through them rapidly, that will be the most convenient way. First of all, there is the passage which I have already read from the evidence of the Chief Justice before that Committee, and that passage is set out in the second of my documents. It is to show your Lordships that this Judge went into the matter with great care and with every effort to be impartial. " Taking the points in the order in which you have mentioned them ; first of all, with regard to the question of the limits of the province of Canada, are there any statements which you wish to lay before the Committee on that head ?— I should say with regard to that point that the view which is taken, be it sound or unsound, is this : at present it is understood by us that the Hudson's Bay Company claim as a legal right all the land which is drained by any streams, no matter how remote their sources may be, which flow into either the Hudson's Bay Straits, or Hudson's Bay. We consider that that is an ill-founded claim, principally upon this ground, that it is a claim of which we can find no trace until a very modern period, and is quite inconsistent with the claims advanced by that Company for nearly a century and a half. To save time I have prepared extracts from various documents, emanating from the Company themselves, with some few other documents, it is a paper which it would save a great deal of time to put in, because I can give every place

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Mr. Macmillan.

where the extracts are taken from, and therefore reference to the original documents can always be had. I would also desire to say that in every extract which I have made, I have made it a complete extract of all that is stated on the question, and if it involves anything favourable to the Hudson's Bay Company, it will be found in those portions of which I have made the extract." So that this learned gentleman, at least, was desirous of putting the position impartially ; whether he succeeded or not is a different matter. The papers that follow he put at the disposal of the Committee ; in document 3 you will find the Memorandum in which he sets out the Charter, it is a very convenient grouping of the whole of this controversy. Then he sets out the whole history of it and what were the different

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claims that they have been made at different times, and then he supplemented that with another paper, delivered in by Chief Justice Draper on the 28th May 1857, which is document No. 4, again on the question of boundary ; and in that pair of papers your Lordships will get, I humbly submit, an admirable conspectus of this whole question ; and the result of it is that the boundary was not an ascertained boundary, that the Hudson's Bay Company did not put forward the claim in any definite form to the height of land until after 1814, and that what they were claiming in 1750— if I might read just a sentence from the third paragraph on page 8 of these documents : " Even in October 1750, they entertained the same views, while at that time they were pushing their pretensions, both to the Northward and Westward, to the utmost limits. They state that the limits of the land and countries lying round the bay, comprised, as they conceived within their grant, were as follows : All the land lying on the East side or coast of the said bay, eastward to the Atlantic Ocean and Davis' Straits, and the line hereafter mentioned as the East and south-eastward boundaries of the said Company's territories." Now that is so late as 1750. My Lords, that examination, no doubt made at a later date, so late a date as 1857 again is open to the observation that it is not a contemporary exposition ; on the other hand, it is an effort to gather together impartially all the material from the beginning of this controversy, My Lords, it is noticeable now, when you turn to the maps of the period, of the period of the Commission and the Proclamation, that you find on what I venture to regard as one of the most important maps, namely, the Mitchell Map of 1755, the map upon which both of us have been relying, that in that map the line drawn across Labrador, as representing the division between the Hudson's Bay Company's territory and the remainder of Labrador, is an angle almost of 45 degrees, which reaches the Atlantic Coast at Grimington Island. I think we cannot over-estimate the importance of that, because that map, the Mitchell map, is a contemporary record

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of the most unusual significance. It was first prepared in 1755 by Mr. Mitchell, and it was used at that time and thenceforth as a document of record. The King's Map, which is now upon the cartoon, is that map of 1755 with a considerable number of additions of later date. It therefore comes before your Lordships as what I may call a working map. It is the map upon which people concerned with this matter at that time were laying down lines indicative of arrangements made or contemplated ; and it is therefore placed before your Lordships now as this kind of evidence; this was a deliberative matter, a matter of policy ; it was a matter which must have been considered in the light of maps, because the territory was to a large extent unknown, and we are in the fortunate position here of having a map upon which the progress of these very questions is delineated for us, as it was delineated then for the person concerned, namely, His Most Gracious Majesty, who was then disposing of the great accessions which had been made to his Empire.

The LORD CHANCELLOR : Will you give me the date of that map?

Sir John Simon.

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Mr. MACMILLAN : 1755.

Sir JOHN SIMON : I am told not, that there has been substituted on that screen for the map which I put, the map on which my learned friend now relies. Mr. De Villiers of the British Museum is here, and I have made enquiries about it. The map I put on the screen was a map of 1755, and this map he tells me is a map of 1775. I quite appreciate my learned friend's point that subsequently to that there has been other lines put on it, but the map itself is a publication of 1775 I am told.

The Lord
Chancellor.

Mr. MACMILLAN : That may well be.

Sir JOHN SIMON : But you said 1755.

Mr. MACMILLAN : I thought it was the 1755 map used as a basis on which other lines might be drawn at a subsequent date. Those lines are subsequently embodied.

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Sir JOHN SIMON : But Mr. De Villiers tells me the map I put on the screen is 1755 and this is 1775.

Lord Sumner.

The LORD CHANCELLOR : Is that cross line on the inset ?

Sir JOHN SIMON : I think it is on both, but the other line is not.

The LORD CHANCELLOR : That is marked, if I remember

rightly, " proposed boundary."

Sir JOHN SIMON : Yes.

Viscount HALDANE : Who was Mitchell, does anybody know ?

Sir JOHN SIMON : I did give some information to the Board about him, some little time ago. Mitchell was a very distinguished man who was a Scotsman ; his actual interest, or his principal interest, was the interest of botany, but he lived, in the middle part of his life, in Virginia, and one of the things he did was, he concerned himself in making what was the most accurate map of that part of the world.

Sir John Simon.

Viscount FINLAY : Virginia ?

Sir JOHN SIMON : Yes. You will find all about him in the Dictionary of National Biography.

The LORD CHANCELLOR : I could never understand how Grimington Island could be said to be at the entrance to Hudson's Straits.

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Mr. MACMILLAN : If you look at one of the maps, you will get a little light on it, you will see this coast is slewed round to the North.

Lord SUMNER : Let us get this cleared up ; I have understood all along that the map on which the Union Jack painting was put was the map of 1755. You are now instructed that it was put on a map of 1775.

Mr. MACMILLAN : So my learned friend says.

Lord SUMNER : There is nothing on this except a statement signed by John Pownall, to show that this is 1755, "This map was undertaken with the approbation and at the request of the Lord's Commissioners for Trade and Plantations, And is chiefly compiled from draft charts and actual surveys on different parts of His Majesty's Colonies and Plantations in America, great parts of which have been lately taken under their Lordships order and transmitted to this office by the Governors of the said Colonies and others." I cannot find 1775 on it, and by 1775 I should have thought the Treaties of Ryswick and Utrecht were ceasing to interest statesmen.

Sir JOHN SIMON : I have Mr. De Villiers here, and I am merely repeating what he states to me. He is in charge of the Map Department of the British Museum, and he tells me that the original map of Mitchell was a map of 1755, and it was the one which was on the screen the other day, the map with

the pink colour. That plate was used for subsequent editions of the map. The British Museum has the contemporary catalogue which shows that this edition, which is now on the screen, is an edition produced in 1775, using the old plate but adding some other material. That is what I think I conveyed to the Board, and that is what Mr. De Villiers tells me.

Viscount FINLAY : 1775 is 1755 plus some additions ?

Sir JOHN SIMON : It is, my Lord. The catalogue can be got.

Viscount FINLAY : What is the nature of those additions?

Sir JOHN SIMON : One of the additions, your Lordship appreciates, is this, that the straight line that is drawn along the particular parallel of latitude there, which Lord Warrington is now pointing to, is added. That is not on the 1755 map, and your Lordships will remember you had it before your eyes for some days when I was addressing the Board——

The LORD CHANCELLOR : If that is not there, how comes the diagonal line to be there ?

Sir JOHN SIMON : One can only say that it is on both.

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Lord WARRINGTON : That red line going through Lake Erie and Lake Ontario was not on the original map of 1755?

Mr. MACMILLAN : No, I do not think so.

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Lord SUMNER : The 1755 map was uncoloured except that large tracts were tinted.

Mr. Macmillan.

Mr. MACMILLAN : Yes.

Sir John Simon.

Sir JOHN SIMON : I have the 1755 one here, of course.

Mr. Macmillan.

Mr. MACMILLAN : We need not go into any controversy about that. The point I was making at the moment was this : your Lordship said it was difficult to understand how this line to Grimington Bay was taken as the possible entrance to Hudson's Bay, but on Map 24A it does not look quite so difficult ; there, instead of the coast going down like that, it is slewed round in this way. (Describing.) They sailed to Grimington Island when they were making their course from this side ; that was one of the things which would account for it ; this was the land to which they set forth, and they laid their course to the Grimington Island when they were making their way to Hudson's Straights. That may account for it. This is a Hudson's Bay map, of course, and it contains this which is written on it—the legend which is written on it is : " The French not to come Westward of this line, the English not to come Eastward of this line," and that is the line to Grimington Island.

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Mr. Macmillan.

The Lord
Chancellor.

Mr. Macmillan.

Sir JOHN SIMON : I do not think there can be any doubt about how it arose, if you would allow me to suggest it. This case has lasted so long that it is difficult to keep it all in mind ; but my Lords will remember in 1712 and 1713 the Hudson's Bay Company addressed to the British Government a series of Memoranda urging that they should get a line to Grimington Island ; there can be no doubt about that.

Lord WARRINGTON : That is why it is called " proposed boundary."

Mr. MACMILLAN : Yes, my Lord, but the point I am concerned with at the moment must not be complicated with these considerations. The point I am concerned with at this moment is : Was there upon any map which was before, or likely to be before, those who were dealing with this matter in 1763, a height of land boundary shown in Labrador as between Hudson's Bay and the other territory ? and upon

that, my Lords, I am entitled to say—and this, I think, must be non-controversial—that there is no evidence of any map having been before those who in 1763 were concerned with this problem, here in official

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circles, which shows a line running down the watershed as the claimed or the recognised or the proposed boundary of Hudson's Bay in Labrador.

The LORD CHANCELLOR : I think it is true, even of Bellin's map to which Sir John Simon referred, that although they show the height of land boundary as the South Hudson's Bay boundary that line is not carried to Cape Chidley.

Mr. MACMILLAN : But I think my learned friend is entitled to say this, is not he (I am very anxious to put it at the lowest) that there was what he called his horse-shoe of Hudson's Bay territory, although it is quite true the terminus on the North was a point which he would now maintain was a point further to the West, I think it would be pressing the matter against him perhaps a little hard to say that that was not intended to be a watershed line; I am not sure. That was the impression left on my mind; that the person who was drawing that line very probably intended to draw the rough watershed line, because he was anxious, of course, to keep the Hudson's Bay people in as close as possible. These were French maps, and were to that extent tendentious, no doubt. I think my learned friend would be entitled to say that, and that is why' I at once accepted his emendation of my general observation. But the real point, when one strips it of all these complications, is this : what was the map knowledge which was presumably before those persons who in 1763 were dealing with this matter, and I do submit with confidence on that that my learned friend cannot show that there was before the official persons dealing with this matter in 1763 a map showing the boundary of Hudson's Bay as a watershed boundary in Labrador. On the contrary, on the map, the 1755 map, which we are told now was, although originally prepared in that year, brought down to date and re-issued in 1775, the important thing is this, that in 1755, the undoubtedly original edition from the British Museum which was on that cartoon stand last week, the only line shown athwart Labrador is that line, labelled, no doubt, "proposed boundary," but that is the only line which would be in the eyes of those people who were considering this very question : Now where shall we make the coast of Labrador ? Is it to be suggested that with that map before them, with that line drawn upon it in 1755, they nevertheless must be taken to have employed as the boundary of the coast of Labrador, which they were then assigning to the Government of Newfoundland, not that line, but a height of land line ? That is my submission, 'made with confidence upon that; but I can carry the matter, I think, perhaps a little further. Would your

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Mr. Macmillan.

Lordships note upon that map, what I was just about to draw attention to as giving it its special authority, and let me take the 1755 apart altogether from the added matter, it bears this legend--

Viscount FINLAY : Which map bears the legend ?

Mr. MACMILLAN : The 1755 one, and this one also.

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Viscount FINLAY : The 1755.

Mr. MACMILLAN : Yes, both of them bear it. My Lord Sumner was good enough to draw attention to it, and I was just going to quote it : " This map was undertaken with the approbation and at the request of the Lords Commissioners for Trade and Plantations and is chiefly compiled from draft charts and actual surveys of different parts of His Majesty's Colonies and Plantations in America, great parts of which have been lately taken under their Lordships' order and transmitted to this office by the Governors of the said Colonies and others. John Pownall, Secretary Plantation Office, February 13th 1755." Now this map, therefore, comes before you with the highest possible imprimatur. It is the map of the Lords of Trade prepared for the use of the Lords of Trade, and, presumably, therefore, the map upon which they proceeded. It is for that reason that I lay so much stress upon it, and I am fortunately in the position, as to the locus in quo in Labrador, of being able to rely on a line which is not complicated by any of those questions of subsequent colouration, because, engraved upon the 1755 Map, is a line which is not the watershed line, but a line to Cape Grimington ; therefore, my learned friend cannot suggest, I think, that in the official map of the Lords of Trade of that period, there was a watershed line that must be taken to have been present to the minds of those issuing executive documents on the subject, and adopted by them, and now to be affirmed by your Lordships, as the original intention of those officials at the time. My Lords, I wish to make another observation upon this map. while it is before your Lordships. It really comes at a rather later point, but it might be convenient just to dispose of it while the map is before your Lordships. As I say, this is a progressive map, progressive in the sense that it records the progress of events in the disposition of His Majesty's new territory. It contains many lines of great significance ; but I would draw attention to one or two features on it for a moment. It is only the upper portion my Lords need trouble with. First of all, your Lordships will notice that the boundary of Quebec as fixed by the Royal Proclamation is indicated upon that map by a faint ghostly line, which is still there, but which has obviously been subsequently washed out, but the track of the line is still quite clearly available. It follows, therefore, that

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after 1763, after the Proclamation, this map has had shown upon it the boundaries of Quebec as fixed by the Proclamation. My Lords, is it not striking, that if it was the intention of those who were dealing with this matter, to place this vast territory of Labrador now claimed by Newfoundland under the Governor of Newfoundland, that you do not find any indications upon that map of a dedication to Newfoundland of the territory not comprised within the Quebec limits ? There is no evidence of any line of Newfoundland territory having been drawn upon that map, and when you come to look at it, in its relation to the 1774 Act, you have this important guidance, what they did then was to wash out the lozenge and to lay down upon this map (I am endeavouring to reconstruct what must have

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happened) a line which is in red and blue and marked "boundary between the land granted to the Hudson's Bay Company and the Province of Quebec." Now, my Lords, that, of course, is not the Province of Quebec as constituted by the Proclamation of 1763. That is the Province of Quebec, embracing everything that was not Hudson's Bay, embracing what Newfoundland had got as well.

Viscount HALDANE : You are quoting from the 1774 Act ?

Mr. MACMILLAN : Yes, my Lord, and this line, therefore, which proceeds North East and is continued through Labrador, shows that in the minds of those at the time what happened was this : that the comparatively restricted boundaries of the lozenge of 1763 were then washed out, and there was included in Quebec the whole of the original Quebec plus the territory then added, bounded by what ?—because it is bounded by the Hudson's Bay boundary—bounded by that diagonal line which runs to Grimington Island.

Now that was the mind of those who were desirous of representing pictorially what had happened in 1774. They did not represent Quebec as going up to Cape Chidley or along a watershed line, which must be the implication of my learned friend's argument, because he says that, ab initio, Newfoundland got up to the watershed, and what was given to Quebec in 1774 was all that Newfoundland had got ; Ergo, it got all up to the watershed line. But if you look at the original map of the time, you see that instead of getting up to a watershed line, Quebec got, in 1774, up to a line drawn to Grimington Island, and not to the north point, Cape Chidley.

Then there is another matter which your Lordships might take notice of in passing, and that is that the River St. John, as shown there, passes, of course, beyond the 52 degree. My Lord Sumner pointed out that at an early stage of the case. But there is another and significant thing to be noticed, which

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Lord
Warrington.

will come into my point upon the Indians. Your Lordships will notice that above the word " Labrador," at the top of the map, there is a printed word showing that the Nascopies were lying to the north of the sources of the river falling into the St. Lawrence. You have, therefore, the Nascopies shown as an Indian tribe lying to the north of the old Quebec. There are a number of other Indian tribes who are shown on this map as lying to the north of this part, and for my own convenience I have underlined them. There is one tribe of Indians ; here is another ; here is another ; and here is another. (Indicating on the map.) Therefore the north part is shown as being in the occupation of quite a number of Indian tribes at that time. Now, my Lords, the only other map that I think one ought to look at is the Bowen & Gibson map.

Lord WARRINGTON : I should like to ask you just one question about this map, if I may.

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Mr. MACMILLAN : I wish your Lordship would be so good.

Mr. Macmillan.

Lord WARRINGTON: Do you know, or can you say, when that red and green line, which is apparently a height of land line, was placed on the map ?

Lord
Warrington.

Mr. MACMILLAN : That was on the original map of 1755.

Lord WARRINGTON : Was it ?

Mr. MACMILLAN . Yes, my Lord ; it is not coloured, but it is shown.

Sir JOHN SIMON: Your Lordship remembers that when this map was on the screen, it was found there.

Mr. MACMILLAN : Surely my statement is good enough, is it not ? I say that it was.

Sir JOHN SIMON : I only wanted to identify it.

Mr. MACMILLAN : I do not think it is coloured on the map, but it is engraved on the map.

Lord WARRINGTON : Cape Chidley, on this map, is rather indicated as being the entrance of Hudson's Straits. If you look at the inset map you will see that Cape Chidley is immediately to the south of the " S " in Hudson's Straights, and besides that, if you draw the entrance up here, Cape Chidley is the entrance to Hudson's Straits.

Mr. MACMILLAN : It may be, my Lord ; but it is not the terminus of the boundary.

Lord SUMNER : If you look at the line describing Cape Grimington, it looks like an explanation why it was chosen.

Mr. MACMILLAN : On the 1755 map, the height of land line is shown drawn with a hatched line together with a band of brownish colour along it.

Lord WARRINGTON : That is right. Unfortunately, the top of the peninsula of Labrador is not shown excepting in the inset map, and in the inset map the continuation of that watershed line is not shown.

Mr. MACMILLAN : No, my Lord, it is not.

Lord WARRINGTON : One has to assume that this watershed line runs up somewhere. We do not know where, but it runs up somewhere along that northern part.

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- Mr.MACMILLAN : Why should one assume that, if it was not drawn by the geographer ? The geographer draws the line that is of importance for him.
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Lord
Warrington.
- Lord WARRINGTON : So far as he makes the map, yes.
- Mr. MACMILLAN : Yes, my Lord, and, of course, he was making it for the Lords of Plantation, who, apparently, were not interested in the watershed in Labrador, but in the line shown on the map.
- Mr. Macmillan.

The Lord
Chancellor.
- Lord WARRINGTON : He obviously knew very little of the conformation of the northern promontory, because the inset map is unlike anything that we know now.
- Mr. Macmillan.

The Lord
Chancellor.
- Mr. MACMILLAN : But, my Lord, is the question a question of the reliability or unreliability of the map, so much as what it indicated to those who were dealing with the matter at the time. That is my submission.
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- Viscount FINLAY : The line stops abruptly.
- Mr. MACMILLAN : Yes, my Lord.
- Mr. Macmillan.

Viscount FINLAY : It runs north east, and then there is nothing more.
- Mr. MACMILLAN : Yes, my Lord.
- The LORD CHANCELLOR : It is plain, is it not, that the grant to Newfoundland of 1763 went beyond that line and up to Cape Chidley ?
- Mr. MACMILLAN : In 1763 you may remember that they did not define it by Cape Chidley, but by the entrance to Hudson's Straits.
- The LORD CHANCELLOR : Yes, but Lord Warrington has just pointed out that on this map Cape Chidley is plainly shown as being on one side of the entrance to Hudson's Straits.
- Mr. MACMILLAN : Yes, my Lord, no doubt that is so ; but the point is that they advisedly did not say, "Cape Chidley," but they advisedly said, " the entrance to Hudson's Straits," wherever that may be.
- Lord
Warrington.
- The LORD CHANCELLOR : If they were using this map for

ono purpose, one must assume that it was before them for all purposes, and this map seems to show quite plainly Cape Chidley at the entrance.

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Mr. MACMILLAN : I should certainly say that it was the portal of the Bay.

Lord WARRINGTON : It was one of the two gateposts on the eastern line.

Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord, but the point is this : that may be manifest to one's eye, but if at that time the Hudson's Bay Company were claiming down to Grimington Island, the concern of those who were dealing with the Newfoundland matter was to say: "We do not define where in truth the Hudson's Bay line begins or ends, but if we say : 'At the entrance to Hudson's Straits,' which is the boundary, we shall be safe, and we shall not be prejudging any claims made by the Hudson's Bay Company to anything beyond Cape Chidley."

Lord WARRINGTON : There is another remark to be made about the green and red line which is also on the map of 1755.

Mr. MACMILLAN : Yes, my Lord.

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Mr. Macmillan.

Lord WARRINGTON : If it shows nothing else, it does show this, that there was a watershed line in the eyes of the geographer, which did extend somewhere up that promontory. It is quite true that it is not shown beyond what he delineates, and it does not take in the promontory, but it shows the watershed line going that way.

Mr. MACMILLAN : Yes, my Lord, I think so ; but it is not continued, although for what reason we do not know.

Lord WARRINGTON : And he does not continue the map up there. The inset map does not show it.

Mr. MACMILLAN : He continues one of the lines in the inset map but not the other line.

Lord WARRINGTON : He continues the line which was not a natural line, but which represented a proposed boundary.

Mr. MACMILLAN : And, my Lord, am I not entitled, having placed that material before you, to invoke the fact that this is the view of Newfoundland itself, because in the original case of Newfoundland, on page 8 of Volume I, they say : " It is

indeed probable that those responsible for the Royal Proclamation of the 7th October, 1763, accepted as the Southern Boundary of the Hudson's Bay Company's territories the line shown on the small map inset in Mitchell's Map (1755) of the British Colonies in North America, which represents the British proposal after the Treaty of Utrecht." I come into Court, therefore, so to speak, with that as their

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statement of what they themselves assumed. It is also what we assumed ; and the effort of my learned friend has now been to get rid of their first assumption and to substitute for it a different assumption, although their original assumption and ours correspond.

Then the other map which is of importance at this period is, of course, the Bowen & Gibson series. There are two maps to which I ask the attention of your Lordships, and they are No. 27 in the Canada Atlas and No. 13 in the Newfoundland Atlas. This Map No. 27 of Canada is also of considerable interest, but it should be taken along with the Map No. 13 of Newfoundland.

Now first of all, turning to Map No. 13 of Newfoundland, this is a map which professes to be "An accurate map of North America. Describing and distinguishing the British, Spanish and French dominions of this great Continent ; According to the Definitive Treaty concluded at Paris, 10th February, 1763. Also all the West India Islands belonging to and possessed by the several European Princes and States. The whole laid down according to the latest and most authentick Improvements, By Eman Bowen, Geographer to His Majesty, and John Gibson, Engraver."

The geographer, in compiling this map, has adopted the expedient of printing upon the face of the map itself the articles of the Definitive Treaty, and he has not only done that, but he has also, under the heading of " The Province of Quebec," printed this paragraph, which I should like to read to your Lordships. Do your Lordships see, just up underneath Newfoundland on the map, some printing which is headed " The Province of Quebec " ? It is almost illegible, but may I read it. It says this : " The Province of Quebec is bounded on the Labrador coast by the River St. John and from thence by a line drawn from the head of that River through the Lake of St. John to the South end of the Lake St. John from whence the said line, crossing the River St. Lawrence and the Lake Champlain in 45 Degrees of North Latitude, passes by the high Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea and also along the North Coast of the Baye des Chaleur and the Coast of the Gulph of St. Lawrence to Cape Rosieres and from thence crossing the Mouth of the River St. Lawrence by the West End of the Island of Anticosti terminates at the aforesaid River of St. John." That is the Province of Quebec. Then it goes on to say this, and this is an

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interesting contemporary record : " All the Coast of Labrador from the River St. John to Hudson's Streights, together with the Islands of Anticosti and Madelaine, and all other smaller Islands upon the said Coast, are under the care and Inspection of the Governor of Newfound-land. St. John's Island, with that of Cape Breton and the lesser Islands adjacent thereto, are annexed to the Government of Nova Scotia."

Lord WARRINGTON : That is taken from the Proclamation, that last statement.

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Mr. Macmillan.

Mr. MACMILLAN : Yes, my Lord.

Lord WARRINGTON : It is almost word for word.

Mr. MACMILLAN : Almost word for word, my Lord. That is his record.

Viscount FINLAY : Is all that you have just read contained in this very small print on the map ?

Mr. MACMILLAN : Yes, my Lord. It is like printing the Lord's Prayer on a sixpence. It is very small.

The LORD CHANCELLOR : It is really all taken from the Proclamation.

Mr. MACMILLAN : Yes, my Lord, and he has put that down on his map. Now will your Lordships kindly look at Map 27, which is another copy of the same map, but this time a coloured one.

The LORD CHANCELLOR : Before you leave that map, I see : "Southern Boundary of Labrador" marked, just underneath the words "Terra de Labrador."

Mr. MACMILLAN : Yes, my Lord.

The LORD CHANCELLOR : I suppose that it is the 52nd parallel, is it not.

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Lord
Sumner.

Mr. MACMILLAN : Not quite, my Lord, but very nearly. Of Mr. Macmillan. course, we have both rather disregarded that line, and for this reason, that it would not suit what was done, because undoubtedly Newfound-land got, under the name of " Coasts of Labrador," territory which was to the south of that boundary line. Otherwise, if that was the southern boundary of Labrador, the coast of Labrador would run from the point at which that line meets the Atlantic, but, of course, Newfoundland got more than that. It got along the north coast of the St. Lawrence.

Mr. Macmillan.

Lord SUMNER : May I ask you this : this is evidently a map after the end of the year 1763.

Mr. MACMILLAN : That is so, my Lord,

Lord SUMNER : It is after the Proclamation ?

Mr. MACMILLAN : Yes.

Lord SUMNER : Then apparently the most that this does is for this gentlemen to get together the material documents, print them,

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and then draw his notion of a plan which will show, as on a chart, what is the effect of those documents ?.

Mr. MACMILLAN : I think so, my Lord.

Lord SUMNER : That is all, is it not ?

Mr. MACMILLAN : Yes, my Lord, I think so.

Lord SUMNER : Then how is that, as you say, a contemporary exposition ?

Mr. MACMILLAN : I had not completed my observation, my Lord. I was asking your Lordships to refer to Map No. 27, taking it along with this, because it is by the same people. They had that material before them, and in the Map No. 27, you will see a rather remarkable thing. This is fortunately a coloured map.

Viscount FINLAY : It is the lower part of Map 27.

Mr. MACMILLAN : Map 27, my Lord, and it is a map by the same people. It is known as Gibson's Map, and it is coloured. We have 15 placed upon it this inscription, which is not on the original map : " This map is the chart which accompanied the report from the Lords of Trade and Plantations to the King dated 8th June 1763." That is printed in square type.

Viscount FINLAY : Where is it ?

Mr. MACMILLAN : Just above the word "Atlantic" of "Atlantic Ocean."

Viscount FINLAY : Yes, I see it.

Mr. MACMILLAN : We wrote that upon it ; that is ours. This was a copy of the map as recovered from the original records. This 25 map is a little different, but it is the coloration of it which is so significant. These geographers who were

preparing this map, and who had before them, as I have shown your Lordships, the precise language of, the Proclamation, which they printed upon ,the Newfoundland Map No. 13, have not reproduced that legend upon this map ; but what they 30 have done is this : they have sought to show the new Quebec in red, and then, to the east of that, your Lordships will notice a significant difference, namely, that instead of colouring the whole of the territory to the east of that as Newfoundland territory (which according to my learned friend's view it was, because the whole of that was just 35 as much Newfoundland as the red was intended to be Quebec), they have shown a tinting along the sea margin, the same colouring as Newfoundland, not extending up the River St. John,

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but representing pictorially our very case, namely, that the coast of Labrador was to be under Newfoundland. If the contemporary interpretation had been that the whole of this area to the east of the pink Quebec had been intended to become Newfoundland for all purposes, as my learned friend submits, then is it not odd that the contemporary representation of this is a coloured strip along the coast, indicative of what had been annexed to Newfoundland, at least in the mind of the King's geographer.

Lord SUMNER : As coloured there, I should think the yellow goes fifty or a hundred miles into the interior, whereas in the other part they have indicated the actual coast line with the deeper pink. Therefore it was not that they took a broad brush to indicate the coast line. The geographer is taking it into the interior somewhere.

Mr. MACMILLAN : Yes, my Lord, but the point is that, unlike his treatment of Quebec, where he colours the whole area confided to the new Government, he does not colour it solid at all, but he colours it along the coast. The depth is a different question.

Lord SUMNER : I am afraid I do not follow that.

Mr. MACMILLAN : I am sorry if my point is not clear to your Lordship. If you look at Anticosti, which was annexed to Newfoundland, the whole of that was coloured yellow.

Lord SUMNER : I appreciate what you are saying. As far as it goes, I can understand what the boundaries of Quebec are, but I am not sure what the boundaries of Labrador are.

Mr. MACMILLAN : I am content to leave that, because your Lordships are now settling it ; but the suggestion against me is that, on the contrary, there was in the minds of those people at that time quite a different thing, namely that right up to the height of land, the whole of that green territory and pink together had been transferred to Newfoundland as an entity.

Lord SUMNER : So far, I follow your point.

Mr. MACMILLAN : That is all that I really want, my Lord ; but the important thing is that these are contemporary maps. Now there is one other point to be looked at here, and it again comes in with regard to the Indians. If I might trouble your Lordships just to look at the map for a moment, upon a

different aspect of it, you will observe that the geographer does show a height of land to the north west of Quebec. Do your Lordships see the words " Land's height " running along at a considerable distance from the boundary of Quebec as shown there ?

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Viscount FINLAY : Which boundary is that ? I do not follow you.

Mr. MACMILLAN : It is only a dotted line, but it is labelled "Land's height".

Viscount FINLAY : Whereabouts is it ? Is it on Map 27 ?

Mr. MACMILLAN : Yes, my Lord. Does your Lordship see Quebec, the part coloured pink ?

Viscount FINLAY : Yes.

Mr. MACMILLAN : Then if your Lordship will carry your eye about half an inch to the north-west from practically any part of that pink line, you will see the word "Mistassine," and below that you will see " Great Mistassines," which is an Indian tribe ; and then you will see the words "Land's height" running along.

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Viscount FINLAY : Yes.

Mr. MACMILLAN : Now will your Lordships bear that in mind, that there is a "land's height" there shown which is considerably to the 15 north west of the proposed Quebec boundary. This boundary, which is shown on Map No. 27, is not, of course, an accurate boundary of Quebec, because the accurate boundary of Quebec was a straight line drawn from the headwaters of the St. John to the lake St. John, and therefore this representation of the north boundary of Quebec as a wavy line is not the boundary as ultimately fixed ; but it shows that it was not fixed in relation to the height of land, because there is intervening between the boundary of Quebec on the north west, and the height of land, almost as much territory again as there is between the north west boundary of Quebec.

Viscount FINLAY : Yes, I have that. That is plain.

Mr. MACMILLAN : Yes, my Lord. The bearing of that will appear when I come to read, a little later on, the definition of the land thrown into Indian country.

Viscount FINLAY : The definition given where ?

Mr. MACMILLAN : In the Proclamation, my Lord, when I

come to that. I only wanted to save your Lordships from having to turn to that map again.

My submission therefore is this, that there is not a watershed line running down the peninsula of Labrador known and recognised in the maps which were before the persons dealing with these matters at the time. Also, there is, upon these contemporary maps, no indication

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purporting to show that the result of the arrangement of 1763 was to assign to Newfoundland, in the same sense as Quebec had assigned to it its territory, a territory upon the mainland ascertained by metes and bounds. Of course, even if there had been, as I say, it is a long step to take from that fact, the existence of Hudson's Bay boundary there, to say that it was intended to be the boundary of Newfoundland on the mainland.

In any event, it is only a boundary which would meet my learned friend's case upon the western side of the Labrador coast. If he went inland from the Atlantic coast, as he claims, until he encountered this watershed, he has still to invoke the watershed again, and this time without the aid of the Hudson's Bay recognised or supposed boundary, when he comes to the south. For the south portion of his boundary he has to maintain that irrespective of any aid to be got from the Hudson's Bay contentions or suggestions (which I submit have not been established) he has independently got, inherent in the Newfoundland grant, the conception of a height of land ; and therefore he has to resort to a composite watershed in order to arrive at his complete rounding off of his territory. Of course, in point of fact, when the pink was taken in, it was not truly a territory bounded by a watershed, because, with the pink added to the green, you might have the Hudson's Bay watershed as a boundary no doubt upon the west, but upon the south you have the coast of Labrador, and the boundary line, a watershed, a St. Lawrence watershed, was, of course, disregarded there altogether, and he has to pick it up at the top of the River St. John, in order to give you guidance, round to the point where he re-encounters the Hudson's Bay boundary of the watershed.

All these difficulties which are attendant upon my learned friend's view seem to me, if I may say so respectfully, to destroy the conception I that there was inherent in this grant an acceptance of what I submit was a non-existent Hudson's Bay boundary at one part, and a watershed line at another part. on the south.

The next matter to which I address myself is the question of the Indian reservations. I gather from the elaboration with which my learned friend treated that topic that he regarded it as of very great importance, and it is of very great importance, because it also, if I am in a condition to satisfy your Lordships that his view is unsound, destroys his access to the watershed.

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We approach this matter from different points of view. I hope very shortly to satisfy your Lordships that our original contention upon this matter is still unaffected by anything that my learned friend has said. Will your Lordships be good enough to take it in this chronological order : before either the Commission or the Proclamation was issued, this matter of the Indians in this district, the green district, the Labrador district, was brought expressly to the notice of the Lords of Trade. In Volume III, at page 893, Governor Murray sent in a report on the state of the government of Quebec in Canada. He is transmitting an account of His Majesty's Government of Quebec and the

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dependencies thereof, and he is writing on the 5th June, 1762, the year before the critical year.

Now, my Lords, at this time the new boundaries of Quebec had not been fixed at all, and therefore when he is speaking of his Majesty's Government of Quebec and the dependencies thereof, he is speaking of a wider area than the ultimately delimited Quebec of 1763. The sixth of the topics with which he deals on that page, as you will see, is " Indian Nations."

On page 894 and the following pages he gives a full description of the Indian nations residing within the Government, and at the bottom of page 894 he says : "In order to discuss this point more clearly, I shall first take notice of the Savages on the North shore of the River St. Laurence from the Ocean upwards, and then of such as inhabit the South side of the same River, as far as the present limits of the Government extend on either side of it."

Then he takes the savages on the North shore, and he deals with the Esquimaux and tells us all about them. Then in the second paragraph on page 895 he says : "The Montagnais or Monsonies inhabit a vast tract of Country from Labrador to the Saguenay ; they are again distinguished into those who live in the inland parts called Nascapies, and the inhabitants of the water side, for this reason stilled Chuchouxlapishouets. They take as many different names as they have Villages but are all the same people, and speak the same language. As in the interior parts of the Country there are many Lakes and Rivers which communicate with Hudson's bay, the former often trade on that side, which the latter also would have been obliged to do, if the 26 interruption caused by the War, had continued for any time, tho' from the more convenient situation, they would have ever reverted to those who were Masters of the River St. Lawrence, those are the mildest and most tractable of all Savages and never enter into War. Tho' their country is extensive their number is inconsiderable ; From Labrador to Mingan the Traders do not reckon more than from Eighty to one Hundred Families, and of those who resort to the King's Posts, there may be about 220 Families in all, but as their habitations are easily moved they are ever changing and shifting from one place to another. A Jesuit

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Missionary meets them at Tadousac when they come there for the trade and he resides in the neighbourhood all the Year."

Now, my Lord, there we have these Indians who are being reported upon in connection with the Government of Quebec and its dependencies. Then you have an admirable description of them most accurately set out in the Newfoundland Case itself at page 9 of the red volume. I do not know that these Montagnais lived actually in the green area. "The aboriginal inhabitants of the Labrador Peninsula have altered very little, either in numbers or otherwise, since 1763. They may be roughly divided into three tribes : first, the Esquimaux, to be found along the coast, particularly north of the Straits of Belle Isle (there are now no Esquimaux south of the Hamilton Inlet) ; next, the Mountaineers, living further inland than the Esquimaux, and principally south of the Hamilton River, with their main hunting grounds near the North West River, though they hunted on both sides of the height of land"—

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this is my opponent's description that I am reading — "and, thirdly, the Nascopies, occupying the central portion of the area south of the Hudson's Straits. The number of these native inhabitants varied probably between two thousand and four thousand in all. These Indians (apart from the Esquimaux who depended principally upon fishing) lived by hunting and trafficking in furs. The Mountaineers and Nascopies (particularly the latter who had a large admixture of Red Indian blood) had had but little connection with white men." That is the state of matters as alleged by my learned friend. May I just take one other point. I think it must have been an oversight. My learned friend referred to a map accompanying the census of 1871 in Volume VIII, page 3729. Would your Lordship look at that for just a moment ? For the purposes of his argument he asked your Lordships to look at this little map which accompanied the census. It faces 3730. My learned friend said if you look at that map you will see the Algonquins are a long way away from the part of the territory we are interested in. Does your Lordship see a little compartment marked II. On the other hand you see two compartments numbered 2 and 3, Nascopies and Montagnais, corresponding generally to the distribution of these people as we have heard it. He suggested, therefore, that we did not get in this region the Algonquin Indians. Would your Lordship, however, look at the letterpress upon page 3730. Your Lordship will notice there the Naskapis and Montagnais. The Naskapis inhabit the "interior of Labrador, southeast watersheds of Labrador, Rupert's Land to the east of Hudson's Bay, and the Mistassin Country." Then just below the Montagnais inhabit "the North shore of the Gulf and mouth of the St. Lawrence valley of the Saguenay River." My learned friend must have omitted to notice under

the words "Naskopis" and "Montagnais" there appears "Al." If you turn to the next page, page 3731, you will see at line 11 : "Al. for the Algonquin race," so that I think I am entitled to say that the Montagnais and the Naskopis are regarded, and were regarded in 1871, as a branch of the Algonquin Indians inhabiting this interior of Labrador. One other very useful and neutral description of this matter is in Volume VI, at pages 2829 and 2830. These are papers from the Bureau of American Ethnology describing the Montagnais and Naskapi Indians. I will not delay over them, but I may say that this American writer describes the Montagnais as related to the Algonquins also, and he gives a description of them and the missionary work among them, and so on. This, of course, is modern, it is Washington 1907. It comes from quite a neutral source and tells us about these two groups of Indians, where they are, and about their religion, and all the rest of it, their hunting, and so on. I have given these references not because I need dwell upon them very much, because I think it is now agreed that there is not in the interior of this country merely a few Esquimaux, but well established Indians with hunting grounds known to the people of Quebec, and who resorted annually

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either to the Hudson's Bay or to the East, or came down to the St. Lawrence to trade in the peltries which they had got in their hunting grounds. That is the first stage I desire to make ; and the next step is this : that the document of Governor Murray was expressly transmitted by Lord Egremont to the Lords of Trade when they were entering upon this question of framing the proclamation and fixing the new Government areas. At page 902 of Volume III you will find a list of the enclosures accompanying Lord Egremont's letter with his instructions to the Lords of Trade as they are about to enter upon the next important object. The fourth document which was transmitted was General Murray's account. It was in that state of matters that the Lords of Trade proceeded to deal with it. Would your Lordship now look at page 910 of Volume III ?

Viscount HALDANE : We have been through this rather care-fully.

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Mr. MACMILLAN : Yes, my Lord, but there is a point upon this of very great moment, if I may respectfully say so. This was the passage which my learned friend, Sir John Simon, said presented some difficulties to him. I respectfully submit it presents no difficulty to a person who approaches it from my point of view. " It is needless to state with any degree of precision the Bounds and Limits of this extensive Country, for We would humbly propose to Your Majesty that the new Government of Canada should be restricted, so far as to leave on the one hand all the lands lying about the great Lakes "—that is a place where the bulk of the Indians were—" and beyond the Sources of the Rivers which fall into the River St. Lawrence from the North, to be thrown into the Indian Country." What is being contemplated there is this, as there are all these Indians to the north of the St. Lawrence, the ones they have heard about, that territory beyond the sources of the rivers which fall into the River St. Lawrence should be thrown into the Indian country ; I underline the words " thrown into the Indian country." It is upon that that you find the proclamation dealing, as I submit, with the matter quite clearly, legislating. There was a controversy, you may remember, between His Majesty and the Lords of Trade as to whether everything should be thrown into the Governments or not. The King was apprehensive that territories might be left derelict ; the Lords of Trade did not take that view ; they thought it was better not to dispose of everything and to give definite boundaries to Quebec and these other provinces at that time, leaving over for the present the question of the disposal of the Indians. It is in the light of that information

that I ask your Lordship to look for a moment at the proclamation itself on page 156. My learned friend's submission was that the paragraph which we find on page 156 deals not with any of these Indians in whom I am interested in Labrador, but with Indians hundreds of thousands of miles away.

Viscount FINLAY : I do not think he said hundreds of thousand.

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Sir JOHN SIMON : "Hundreds or thousands."

Mr. MACMILLAN : At any rate, shall we say a long way off ? I ask attention to this because it is very critical. " Whereas it is just and reasonable and essential to our interests and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories, as not having been ceded to or purchased by us, are reserved to them, or any of them, as their hunting-grounds "—the word " ceded " there is nothing to do with the ceding by France ; it is ceded by the Indians—" are reserved to them, or any of them, as their hunting-grounds ; we do, therefore, with the advice of our Privy Council, declare it to be our Royal will and pleasure that no Governor or Commander-in-Chief in any of our Colonies of Quebec, East Florida, or West Florida, do presume upon any pretence whatever to grant warrants of survey, or pass any patents for lands beyond the bounds of their respective governments as described in their commissions." I pause there, my Lord. The next part of it is dealing with Indians in quite a different place. " As also that no Governor or Commander-in-Chief in any of our other colonies or plantations in America do presume for the present, and until our further pleasure be known, to grant warrants of survey, or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west and northwest, or upon any lands whatever which, not having been ceded to or purchased by us, as aforesaid, are reserved to the said Indians or any of them." Two things are dealt with there. First of all the embargo placed upon the Governor or Commander-in-Chief of our Colony of Quebec. We may disregard the others for the moment. Secondly an embargo placed upon the Governor of our ancient colonies. These are the New England Colonies, Virginia, South Carolina, Georgia, and all the others. The Governors of these other colonies are not to " grant any warrants of survey or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west and northwest " ; that is to say, up to the height of land, if you please, in the interior of our ancient colonies, but beyond that the land is to be reserved

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for the Indians. Then he goes on : " And we do further declare it to be our Royal will and pleasure, for the present as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians, all the land and territories nor included within the limits of our said three new governments, or within the limits of the territory granted to the Hudson's Bay Company." Then comes again a second limb : "as also all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and northwest as aforesaid ; and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our especial leave and licence for that purpose first

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obtained." Then any who have settled in these lands are to remove. Then provision is made as to doing trade with them ; the trade with the said Indians at line 12 on page 157 is to be "free and open to all our subjects whatever, provided that every person who may incline to trade with the said Indians, do take out a licence for carrying on such trade."

Viscount HALDANE : You read "falling into the sea" as including the St. Lawrence ?

Mr. MACMILLAN : No, my Lord ; these are to the west of the rivers running down from the Alleghany to the sea. My learned friend has brought a great deal of learning and most interesting investigation to bear upon this matter, and he has always told you the main concern was with an Indian country inhabited by a large number of Indians round the lakes and extending over what you might call the central portion of North America generally. He said that that was what occupied the attention and anxiety of those who were framing this proclamation, because these had been the turbulent Indians who required to be conciliated or subdued, that it was always looking in that direction, looking westward rather than northward, and that the comparatively insignificant and friendly Indians in the Labrador Peninsula were entirely disregarded in this matter. My Lord, the language is not apt for that purpose ; the language deals with two cases and two cases quite distinctly. It deals first with Quebec, and it says now that we have delimited Quebec, our Governor is prohibited from making any grant outside the limits of his territory, because the territory outside his limits, the lozenge, is reserved to the Indians, and the trade with them is to be free and open to all our subjects, provided that they take out a licence. Now, will you turn to the document which my learned friend produced for the purpose of showing that it was not the Labrador Indians that we were concerned with, but other Indians.

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Lord
Warrington.

Mr. Macmillan.

The LORD CHANCELLOR : Before you leave this page, under which words do you include the Labrador Indians ?

Lord
Warrington.

Mr. MACMILLAN : I include them as the persons inhabiting lands and territories not included within the limits of Quebec or within the limits of the territory granted to the Hudson's Bay Company ; that is on page 156.

The LORD CHANCELLOR : Literally that would include the whole of the coast

Mr. Macmillan.

Mr. MACMILLAN : It would include the whole of the coast, and the explanation of that is that the same proclamation had said that the coast of Labrador was to be under the care and inspection of the Governor of Newfoundland. Looking at it purely from the question of coastal jurisdiction, it would not interfere with the working out of

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the Indian reservation. It is the same proclamation that talks of care and inspection.

Lord WARRINGTON : Is there any inconsistency in saying that the Governor of Newfoundland was to exercise jurisdiction over the land so reserved ? It might still be reserved to the Indians, and the sovereignty and the protection of the Sovereign might be exercised by the Governor of Newfoundland. There was no trace of any attempt by settlers or others to encroach upon the Indians in Labrador ; at least there was no settlement : They had not the trouble that they had about the great Lakes where there were first French settlements and then the English settlements.

Mr. MACMILLAN : My answer is that when you look at the instructions to the Governor of Newfoundland and contrast them with the instructions to the Governor of Quebec, instead of finding the Governor of Newfoundland equipped to grant licences to trade and all these things regulating the Indians, the Governor of Quebec has all those powers and the Governor of Newfoundland has not any of them.

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Lord WARRINGTON : There is no doubt that the Indians with whom the Governor of Quebec would come in contact were a much more important set of men, and there was much more trouble with them, but we know that in May, 1763, the conspiracy of Pontiac broke out, and it had been smouldering for a long time. The reason for it are known.

Mr MACMILLAN : Your Lordship will perhaps suspend judgment until I complete this. My Lord, there are two or three other points entering into the picture, and then I will try and see whether these assist or not. Would your Lordship take the bundle of documents first of all that my learned

friend put in ? You will see at once that they have nothing to do with the first branch of the proclamation ; they deal with the Indians who are referred to under the words " as also." Will you take the very first document : " Commission to Sir William Johnson." He is to be " Colonel of the six united nations of Indians and their confederates in the northern parts of North America." These were not people in Labrador at all. Will you observe what is said at the foot ? This is his successor, I take it, Atkin.

Sir JOHN SIMON : His colleague in the south.

Mr. MACMILLAN : He is appointed to be "Our agent for and superintendent of the affairs of our faithful allies the several nations of Indians inhabiting the frontiers of our colonies of Virginia, North and South Carolina and Georgia." Then if you look at the next one here is a recommendation by the Lords of Trade, "It appearing to us to be of great importance in the present conjuncture, That a proper person should be appointed by His Majesty to manage and conduct the Affairs of the several Nations of Indians upon the Frontiers of His Majesty's Colonies

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of Virginia, North and South Carolina and Georgia, by which means His Majesty's interests amongst the said Nations may be better cultivated," and so on. Then they beg leave to desire "that Edmund Atkin be appointed agent and superintendent of the affairs of the several nations of Indians upon the frontiers of the several colonies above mentioned." Then below it is noted that letters were sent to those Governors. These Indians, "the several nations of Indians upon the frontiers of the several colonies above mentioned," Virginia, North and South Carolina and Georgia, are those who were protected by the reservation of all land lying to the west of the rivers falling into the Atlantic from the north and northwest. That is the frontier that is being guarded there, and if you look again at No. 7 : "Commission to John Stuart to be Agent and Superintendent of the Indians inhabiting the frontiers of Virginia, North and South Carolina and Georgia," that is the reservation which is under the second head on page 156, and with great respect it seems to me that what is being considered there (no doubt a very anxious matter) is the conciliation of these Indians, undoubtedly the most important Indians, who lived to the west of the Alleghandys ; you are dealing there with the ancient colonies and the people who lived beyond the sources of the rivers falling into the Atlantic from the west and northwest. These Indians with whom I am concerned do not live there ; they do, on the other hand, live beyond the sources of the rivers falling into the River St. Lawrence which the Lords of Trade had suggested should be thrown into the Indian territory in that communication which preceded the issue of this very proclamation. Therefore you

are dealing with two sets of people altogether ; you are dealing on the one hand with people who are found about Quebec and who are to be protected, in so far as they are outside the limits of Quebec, by this embargo upon approaches and who are to be traded with under licences ; on the other hand, you have this great body of Indians to the west of the Alleghandys. I am not concerned to dispute that the Indians round the lakes were a much more anxious proposition, but it seems a strange doctrine that because those Indians who were in Labrador had manifested friendliness to us, that our friends were to be disregarded in any protective proclamation, while our enemies were to have the privileges given to them of conciliation and protection. That these Indians in Labrador were in mind at this time is, I submit, plainly shown by this circumstance : that Governor Murray himself dealt with them. First of all, in Volume VI, page 2761, you find a paper with Governor Murray's signature to it.

Lord WARRINGTON : This is 1767.

Mr. MACMILLAN: Yes, my Lord ; it is within four years of the proclamation being issued. The importance of this is to show that he was dealing here with the Indians of the King's domain. On my learned friend's view the proclamation of 1763 had nothing to do with Indians in this part of the world at all ; it was concerned with the six nations,

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the Iroquois and all these other people. So far from that being the view which Governor Murray took of the situation, he regarded the pro- clamation of 1763 as dealing necessarily with the Indians of the King's posts. Now, the King's posts that are referred to there are posts along the coast. Four of them are mentioned, and these are four of the posts to which the Indians from the interior resorted.

Viscount HALDANE : You are referring to this for the construction put upon, it by Governor Murray ?

Mr. MACMILLAN : Yes, my Lord, at the time ; and to negative the view that when Indians are referred to in the proclamation they are not Indians in this neighbourhood at all. Will your Lordship see now what this document is ? It is first of all a discussion of the posts and then he says at the top of page 2761 : " After the reduction of Canada in 1760 The Indians of the Domain "—these are Indians in the Labrador area.

Sir JOHN SIMON : That surely is the question.

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Mr. MACMILLAN : They are Indians on the St. Lawrence ; they are not Indians hundreds or thousands of miles from the coast.

Viscount HALDANE : They might have been Indians in the west.

Mr. MACMILLAN : These are the Indians who resorted to these posts on the St. Lawrence. These are Indians in this neighbourhood, if you will let me put it at its lowest. "After the reduction of Canada in 1750 The Indians of the Domain deputed their Chief and Missionary to adress General Murray in their favor, and represented to him that they were in the utmost misery and distress since the Conquest, destitute of provisions and every necessary, begging that they might be taken under the protection of His Britannick Majesty and supply'd and maintained in the same manner they had been in the time of the french."

Lord WARRINGTON : The posts are all within Quebec as laid down by the proclamation.

Mr. MACMILLAN : I am afraid I am not putting my point clearly. I am combating now the suggestion that the Indians which were in contemplation in the proclamation were not only the western Indians, but were Indians about this

neighbourhood and in the neighbourhood of Quebec. "The General after enquiring into the nature and establishment of the Domain, reported a state of it to General Amherst who ordered it to be continued on the same footing as formerly, and an Agent or Director was appointed to supply them with merchandise etc. and to receive the returns on the King's Account." Then it talks about the leases that had been given on the posts of the King's domain, and then at line 31, "His Majesty was pleased to issue His Royal Proclama-

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tion signifying his pleasure with regard to North America and enjoining that the Trade with the Indians described therein might be free and open to all His Subjects. General Murray issued a proclamation in consequence of that of the King last mentioned setting forth that hostilities were now ceased with the several Indian nations who had lately appeared in arms against His Majesty's and a friendly intercourse between His Majesty's Subjects and then thereby restored, declaring that the trade with the several Indian nations living under his Protection was free and open to all His Subjects under the restrictions mentioned in said Royal Proclamation. The General having been doubtful whether the King's domain in Canada and the lease thereof granted on behalf of His Majesty was or was not affected by the King's proclamation as no express mention was therein made of the same, had reported his thoughts on that subject to the Board of Trade and received for answer in general terms that the fate of the Posts of the King's Domain was determined by the said Royal Proclamation of 7th October, 1763." Then he goes on to explain that a number of persons in Quebec were annoyed about this, because they had hoped that they would get this trade and that the King's domain would be thrown open. It was then decided that the King's domain must still be kept for the King's lessees, and therefore that the trade which was to be opened was to be outside, or beyond, the King's domain, because the King's domains were still to be kept for the lessees of the King trading in that particular part. Two things emerge from that, and two things of great importance : first of all, it is manifest that at this time included among the Indians who were then to be covered by the proclamation of 1763 were Indians who were in the King's posts ; that is to say, Indians who were at posts on rivers falling into the River St. Lawrence, the rivers that come in from the interior of Labrador. These Indians were regarded as being entitled to the benefits of the proclamation of 1763. General Murray regarded them as Indians within the purview of that Proclamation. That is very significant, because it shows, just as one would have expected, that these Indians were not omitted from consideration, and it chimes in perfectly with the language on page 156, where you have the two classes of Indian, those who are to the west of the Alleghanies and those who have been thrown into the Indian territory, namely,

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those who have their hunting grounds to the north of the rivers that fall into the River St. Lawrence and who come down those rivers to trade at these posts. Those Indians were regarded by General Murray as the Indians to whom the Proclamation applied.

Therefore I get a contemporary admission of the applicability of this Proclamation to persons who resorted to these posts ; and, so far from being Indians a long way off, they were Indians who were very much at home, and Indians closely associated with Quebec who, in the French period, as Mr. Geoffrion pointed out, had been carrying on a long and very intimate connection with these missionaries ; they had traded with them and at times had relieved them. Why, I ask, should these Indians have been kept from consideration ? My learned friend's point that possibly this yellow corridor might be the Indian territory, dis-

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appears at once when you look at the language, which shows that what is to be drawn into the Indian territory is the land lying to the north of the sources of the rivers falling into the St. Lawrence.

Your Lordships will recollect why I pointed to Map No. 27. When you looked at Map 27, you saw that the land north of the height of land there, is also land north of the yellow corridor shown on my friend's map. Therefore, what was contemplated as to be thrown into the Indian territory for the purposes of the Proclamation, was not that yellow strip, because that is to the south of the sources of the rivers falling into the St. Lawrence, but a territory to the north of the sources of the rivers falling into the St. Lawrence. It is at least common ground that the River St. John falls into the River St. Lawrence. The River St. Lawrence is a term not of precise connotation, but at least the River St. John falls into it. The land lying to the north of the River St. John was inhabited by the Indians, who came down in their canoes to trade their furs, and who came down from their hunting grounds in the green area, and these are the people with whom the Governor of Quebec was to allow free and open trade, subject to this, that in the portion of it known as the King's domain, the King's lessees had a monopoly ; but beyond that, it was an open and free trade where he might grant licences to all and sundry to trade.

My Lords, in these circumstances, why should not one go to the language of the Proclamation for its plain intention ? The language hardly admits of controversy. The Proclamation says : "Under our sovereignty, protection, and dominion, for the use of the said Indians." How these are "the several nations or tribes of Indians with whom we are connected, and who live under our protection." Indians from this very territory had come and asked General Murray to be put under his protection. I read the passage where it explained the difficulties they had been in since the Declaration of Peace.

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Mr. Macmillan.

They had been Indians in close touch with the French, our predecessors, and they were the people who were connected with us and who had asked to live under our protection. The said Indians are to have reserved to them what ?— "all the land and territories not included within the limits of our said three new Governments or within the limits of the territory granted to the Hudson's Bay Company." There are two people recognised as concerned in the Labrador peninsula. There is our new Governor of Quebec—the lozenge ; there is the Hudson Bay territory, whatever that may be, and so far as Newfoundland's interests are concerned in that neighbourhood, they have been in the mind of the framer of this Proclamation, but they have been in the mind of the framer of the Proclamation from this point of view, that His Majesty has placed a coastal strip from the River St. John to the Hudson Strait under the care and inspection of our Governor of Newfoundland. I am reading the document in the light of its own context. The fact that the coast of Labrador between these points had been put under the care and inspection of Our Governor of Newfoundland would cause no interference with this reservation of the interior lands and

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territories : not Hudson Bay on the one hand and not Quebec on the other, and the hunting grounds of the Indians in the interior.

My Lords, if it be suggested that the Governor of Newfoundland was as suitable a person to have a territory in which there were Indian reservations—a point, if I may say so, well worthy of consideration—the answer to that is this : that whereas the Commissions to the Governor of Quebec recognise the duties which he has towards Indians, you will search in vain for any comparable directions to the Governor of Newfoundland.

On that point I can give one or two short references, and that will practically conclude what I have to say on the Indians. My Lords, I put it in this way. Contrast the instructions given to Guy Carleton when the hinterland was thrown into Quebec in 1774, to be found in Volume IT, at page 832, with the trade in the interior—contrast those instructions with the instructions given to the Governor of Newfoundland, Captain Graves, in 1763, when he had, according to my friend, the same thing as Quebec got in 1774. At page 391 of the same volume you find the instructions given to Governor Graves. I only pray in aid the comparison between the two because it is the same area, according to my friend, which is passing under the two documents of 1763 and 1774. Contrast Graves at page 391 with Carleton at page 832. Then, my Lords, contrast again the instructions given to the Governor of Newfoundland when, in 1809, Newfoundland got back, according to my friend, the whole hinterland from Quebec : contrast those instructions with the instructions which

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persisted for the Governor of Quebec. The most striking thing is this

Viscount HALDANE : What is the reference to that ?

Mr. MACMILLAN : It is Volume II, page 662. My Lord will permit me to offer this suggestion upon that point ; that when you look at Volume II, page C62, and see the instructions given to the Governor of Newfoundland when, for the second time, according to my friend, there was included in the Government the whole of this hinterland, it is astounding : the only instruction given to him is to have regard to the Indians in Newfoundland. He is expressly told in the 11th Article of his instructions : "You are to use your best endeavours to encourage a friendly intercourse with the Indians residing in Our Island of Newfoundland or resorting thither." Those instructions were given to a Governor who, as my friend would submit, had restored to him jurisdiction over a huge hinterland right up to the watershed including all these Montagnais and the Nascopies, of whom we have heard—he is told, if you please, "to encourage a friendly intercourse with the Indians residing in Our Island of Newfoundland"

Viscount FINLAY : What has that passage to be contrasted with?

Mr. MACMILLAN : It has to be contrasted with the instructions given to the Governor of Quebec. The instructions to the Governor of

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Quebec, on the other hand, first of all in 1774, when he was given this area, are at Volume II, page 832, which your Lordships already have. He was elaborately instructed in this matter about the peltry trade, and so on ; I have read all the passages already and I do not propose to trouble your Lordships with them again.

The instructions to the Governor of Quebec and, after 1791, to the Governor of Lower Canada remain the same regarding the pelty trade and Indians ; and that will be found vouched at Volume II, pages 878 and S82. ' Then one matter I think concludes it : that after 1791, as my Lords remember, the whole of Upper Canada was severed from the jurisdiction of the Governor of Quebec. There was then in 1791 a division of Canada into Upper and Lower Canada. Thereafter also Canada ceased to contain the lakes at all ; the lakes were then in Upper Canada and the Governor of Quebec was shut off so far as his administration was concerned, from the very places where my friend said the important Indians were congregated. The lakes were removed from his jurisdiction and put in the jurisdiction of another Governor, the Governor of Upper Canada.

Yet notwithstanding that, you find in the first of my additional

documents—and that is the only one I have to refer to—an "additional instruction to the Governor, Lieutenant Governor, or the Person administering the Government of Our Province of Lower Canada for the time being." That is after the severance in 1791. "Given at Our Court at St. James's the 16th day of July, 1800, in the Fortieth year of our reign." Then it says : "Whereas we judge it to be conducive to the better Regulation of Lower Canada"—now these are not the Indians round the lakes at all—"that the same should be conducted by the Person exercising the Government of Our said Province for the time being," and so on ; then he goes on to give general instructions about that matter. But here is the Governor of Lower Canada, after it has been severed from his jurisdiction altogether, given instructions as to how he is to deal with the Indians of Lower Canada, not the Indians round the lakes at all.

My Lords, the natural reading of the Proclamation of 1763 at page 156 is the reading I have put upon it. You have there an outlook upon Indians from two points of view. You may look at this as the Indian territory to the west of the Alleghanies ; that is all dealt with by the instructions to the Governors along that coast, and that was in pursuance of the Treaty which had been made with those very Indians, the Treaty of Easton in 1758 ; that is Volume VI, page 3089. These people had had an arrangement made for their protection, and the second branch of the reservation, at page 156, ensures that, that shall be carried out. On the other hand, there had been thrown into the Indian territory those Indians, whose very name, the Naskopies, was on the map, there had been thrown into their territory the district to the north of the sources of the rivers falling into the St. Lawrence—a good general description of the hinterland in this district from which the Indians came down the rivers to trade at coastal points. That that

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did not apply to the King's domains, the Governor himself said, but the King's domains were reserved to lessees of the King, and the open and free trade in the peltries which was to be given to all His Majesty's subjects on licence was beyond those domains and not within those domains, those domains being reserved for His Majesty.

My Lords, I ask your Lordships accordingly to place upon this Proclamation the interpretation which it naturally bears on examination. The result is this, that you have in this area no undistributed middle, that you have in this area a complete disposition of the whole matter. You have it, of course, varying at different stages, but the subjects which at different stages figure in the apportionment, are, first of all, the Hudson Bay territory, secondly the Quebec territory, thirdly the Indian reservations, and fourthly, not always, of course, coincidentally, but I am taking them as at different periods they figure in the drama—fourthly, the Governor of Newfoundland, with a costal territorial jurisdiction designed to preserve the open and free fishery of His Majesty's subjects along this shore, which is designated contemporaneously by His Majesty as a placing of that coast under his care and inspection, which would not interfere with the Indians in the interior or their hunting grounds at all. These are the dramatis personae, I submit, in this epoch of the distribution of the Labrador territory, and if you have this in mind, the whole of this process of handing back and forward falls into a completely consistent whole.

Might I just say a word upon one point which my Lord Sumner suggested to me as a possible difficulty ? It is true that these Indian reservations would not be subject to any precise or definite government; but so, of course, would they be in any part which was reserved for the Indians , because the whole essence of it was that these were places to be reserved as a natural reservation for these people to carry on their own business. They were not subjected to a definite government in these places at any part, wherever it was, whether it was at one part or another ; and the reservations remained in the hands of the Crown under the direct personal responsibility of His Majesty, sometimes exercised through various officers or Commissioners to whom duties were assigned.

My Lords, the upshot of all this comes to be, as I humbly submit, this : that the watershed line down to the backbone of Labrador, which my friend maintains was the implied boundary of the coast of Labrador, and the line along the coast above the St. Lawrence, which my friend also claims as his boundary, have not been established, in the next step I have shown that there was an Indian territory there which

was reserved to the Crown. That again fits in with my humble submission at the outset, that these matters were not in the minds at all of the persons whose governing consideration was the use of the margin of the sea for an open and free fishery. The submission which I make that the grant was limited to the preservation and fostering of an open and free fishery by giving a limited territorial jurisdiction along the coast between two points on the coast, is not only the most natural, but the most appropriate interpretation of this grant, and involves none of the difficulties in which my learned friend would seek to involve the question.

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Lord
Sumner.

My Lords, if we are away from the watershed and if I have established that it was a littoral jurisdiction which was accorded, then, of course, I am open to the observation, with which I have been more than once confronted, that I am not able to say whether it is one mile or half a mile or five miles. I am fully sensible of that. It is a difficulty which had been present to many of the people who were dealing with those very shores of Newfoundland and Labrador and with the question of how much is really necessary for the purpose of the fishing industry. I gave your Lordships, at an earlier part of my address, many passages dealing with the matter, and varying views were taken from 200 yards up to, in the French Convention, half a mile or one-third of a mile. We assumed that if we said a coastal strip of a mile inland, a mile in from the coast, following the sinuosities of the bay, we could have covered what one might call the maximum. I think it is the largest figure which we find mentioned in any of the documents, except the modern Newfoundland leases, where there is a reservation of five miles from the sea shore.

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Mr. Macmillan.

The LORD CHANCELLOR: I see in one place it is put at some-where between three to five miles.

Mr. MACMILLAN : It is, for the getting of the timber. It is said there are no houses more than 200 or 300 yards from the shore, but in order to get the timber dragged down you may have to go as much as five miles inland. What we are anxious to ensure is, what in the minds of your Lordships is the fair littoral to subserve the maximum requirements of this jurisdiction, that should be accorded to Newfoundland; and while we have suggested a mile on a survey of the needs of this industry as indicated in the various attempts to delimit the coast, which have appeared in these papers, the matter is in your Lordships' hands, upon the evidence before you, as to what would be a fair figure which would include every fair view, which would be a maximum. As far as my clients are concerned, whatever figure your Lordships thought was a maximum so as to ensure the embracing of as much territory as could on any reasonable view be appurtenant to this jurisdiction, would in no sense be resented by my clients at

all.

Lord SUMNER : I can see a little difficulty about that ; perhaps you can remove it. The question to us, as I read it, implies that there is a boundary described in the Proclamation and Statutes, and that we can find it and tell you, and that whatever we tell you, is something that is meant by the words used in those documents. I could conceive it being said that the words meant one mile from the shore or meant the watershed; but it is a little difficult to say that it meant in 1763 as much back from the shore as we, who know nothing at all about it, may be pleased to think is good enough to cover everything.

Mr. MACMILLAN : My Lord, I am fully sensible to that point, and I am fully sensible of the pressure of that point on my argument. Let

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Viscount Finlay.

Mr. Macmillan.

me endeavour to answer it, as your Lordship invites me to do. May I assume for the moment that the watershed is not the boundary. Of course, if the watershed is the boundary, it is quite easy, and I say so at once. But if the watershed is not the boundary, your Lordships would have exactly the same problem to solve, if you simply had the language here—and suppose there was an admission—let me put it in that form—that the watershed is not the boundary—your Lordships might have had precisely the same question addressed to you : "Where is the boundary ?" Your Lordships have as its measure a use, and you can declare the boundary to be a boundary which is limited by the use for which the littoral was confided to Newfoundland.

Lord SUMNER : Of course there is no difficulty in agreeing it.

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Viscount Finlay.

Mr. MACMILLAN : The difficulty is that your Lordship suggests that unless you take the watershed it is not possible to answer the question at all or to get a boundary at all.

Lord SUMNER : I do not say it is not possible ; I want you to say how we are to define the innocent little word "posts."

Mr. Macmillan.

Mr. MACMILLAN : May I put it argumentatively in this way ? It may be that it is not the watershed. If it is not the watershed, then it must be somewhere else. If it is somewhere else, it is a coastal strip. Then the question is, what is the extent of the coastal strip. Your Lordships then would be judicially considering what is the meaning of a coastal strip on the shores of Labrador having regard to the intention of the grantors in the year 1763. Now that is problem which might quite well be submitted to a judicial tribunal, the problem, namely, of ascertaining what, in the

minds of those who wanted a coastal strip but did not choose to define it by metes and bounds, was the depth or extent of it. Upon that, of course, a court would have to pass with the material which it has ; and here it has this material, that this very topic of what is a littoral of sufficient width to meet the requirements of the fishing, has been considered in various ways, and the figure which we suggest would be a figure which would represent a maximum of those varying contentions.

Lord Sumner. Viscount FINLAY : I suppose it would not be said that it was the amount that would have been sufficient in 1763, regard having to be had to future developments.

Mr. MACMILLAN : We are rather met here by the hypothesis that they had in 1763 an intention to confide something to Newfoundland ; but there again I do not think any difficulty would arise, because there is no suggestion in the papers before your Lordships that there has been an extension.

Mr. Macmillan. Lord FINLAY : There is not, as a matter of fact, but we have

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not got the materials for saying what amount of extension there has been.

The Lord
Chancellor.

The LORD CHANCELLOR : It must be a boundary which was fixed in 1763 ; it cannot be a varying floating boundary.

Mr. MACMILLAN : I think not, my Lord.

Viscount FINLAY : My point is whether, in fixing that boundary, you are to have regard to probable future developments, which may require a little more than was actually used in 1763.

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Lord Sumner.

Mr. MACMILLAN : My Lord, I think the form of question rather restricts me to answering it in the way that the Lord Chancellor indicated ; because it is as put by the Statutes, Proclamations and Orders in Council. Therefore these are the documents. If these documents do not implicitly mean watershed, then equally they mean coast not up to the watershed ; and if I have established that the Hudson Bay watershed was not in the minds of these people, then I am afraid the problem does become a problem of saying now what in the minds of those people who submitted the coast to the care and inspection of the Governor of Newfoundland was the limit which they had in mind or which we must impose upon them as their intention.

Lord SUMNER : One might think the answer to that would be that the meaning of the word "posts" in the documents is that the line which in the mind of His Majesty in 1763 was traced through the woods and wildernesses of Labrador and is still unknown, limits the necessary user for the purpose of the coast fishery. Now there is the answer : "Go away and find that line."

Mr. Macmillan.

The LORD CHANCELLOR : That would be very helpful to both sides.

Lord Sumner.

Mr. MACMILLAN : I think if we knew that the view was that it was a purely littoral strip we would be a very long way to a solution of this problem. The main contest here is between a coastal strip and the hinterland.

The LORD CHANCELLOR : Still you would have the trouble of deciding what a littoral strip means. A littoral strip means a strip determined by the coast.

Viscount HALDANE : And there are the inlets to be considered.

Mr. MACMILLAN : There is only the Hamilton Inlet ; that is an excrescence on the coast ; we follow the coast all the way along.

Lord SUMNER : I do not know whether recent maps are supposed

Mr. Macmillan.

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to indicate tendentiously what was at the time meant or not, but the two recent maps that I have looked at are, first the "Times" Atlas, which cuts across the mouths of two inlets far to the north as well as Hamilton Inlet, and, secondly, the map in the Cambridge Modern History, which cuts across Hamilton Inlet, but somehow makes Hamilton Inlet an inlet of Hudson Bay, which seems odd. They may only represent someone's notion of what the position was. Would you mind helping me on this. If you take that Newfoundland claim on which you go as your claims appear now, I understand you to say with regard to Hamilton Inlet that your boundary going across the mouth there represents a line which is impassable except by the consent of Newfoundland.

Lord Sumner.

Mr. Macmillan.

Mr. MACMILLAN : That we would have to go through Newfoundland territory. I do not know what the law would be about an open inlet of that sort—whether it would be entitled to, or not.

Lord SUMNER : When I asked you the question before, I understood you to say that it was the same as if the line was drawn on land. At any rate, now, if you look at the top of the

map you will see that according to that Cape Chidley is on an island. The centre of that island belongs to Quebec. The whole of the line round the coast goes to Newfoundland. How is Quebec going to get inside the island ?

Mr. MACMILLAN : I think there are many anomalies of that sort to be shown by the map.

Lord SUMNER : The same thing applies to some of these capes which have a very narrow peninsula and then bulge out ; but take any of those instances, how is a rigid line drawn along the coast of sufficient depth to be reconciled with the lakes which form an enclave ?

Mr. MACMILLAN : Almost the same problem arose in the case of the Alaska boundary. Your Lordship may remember that there was a difficulty there about getting access, and there, of course, it was wider because it was the crests of the nearest mountains or 12 miles inland. Twelve miles was taken there as being the width of the littoral. It was the same problem there, and it was fixed on that basis by agreement. It is an awkward thing, of course, to have, so to speak, to hoop round the territory.

Lord SUMNER : We should have to say that although there were these difficulties, that is what His Majesty meant in 1763. Perhaps it may be so. I am very far from saying it is not.

Mr. MACMILLAN : One might confront it with this. That is an argument *ab inconvenienti*—which is always an impressive argument—but on the other hand the height of land, with great respect, seems to be just as unlikely.

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Lord Sumner.
 Lord
 Sumner.
Mr. Macmillan.
 The Lord
 Chancellor.
Mr. Macmillan.
- Lord SUMNER : It is not so difficult in the narrow upper parts of Labrador to say the height of land. It is not so very far from the sea. It might be accepted there. It is when you get into this deep bulge round the basin of the Hamilton Inlet that there may be difficulty.
- Mr. MACMILLAN : May I try another answer. When they were thinking of the entrance to Hudson's Straits and thinking of the territory, they were thinking of Grimington Island.
- The LORD CHANCELLOR : I suppose it is probably impossible to-day to try and ascertain the territory occupied by these Indian tribes in 1763 ?
- Mr. MACMILLAN : You cannot, my Lord. They were all over this plateau.
- The LORD CHANCELLOR : You are only using the Indian argument for the purpose of destroying the height of land ?
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- Mr. MACMILLAN : I also humbly suggest it is not really inconsistent with the idea of the Esquimaux coast, the coast being under the care and inspection—that is the concomitant idea of the territorial jurisdiction—of the Governor of Newfoundland.
- Viscount Finlay.
- The LORD CHANCELLOR : I gather if the Board thought that five or ten or twenty miles were necessary for the fishing purposes, you would acquiesce ?
- Mr. MACMILLAN : I should regret it if your Lordships took so generous a measure, but at the same time our view is this. It is a fishing coast, and they are entitled to a fishing coast—a littoral which is measured by the reasonable requirements—we would say the maximum requirements—of such industry. Whatever would be the figure that commended itself to your Lordships we should, of course, loyally accept.
- Viscount HALDANE : You do not suggest they went more than 250 yards ?
- Mr. Macmillan.
- Mr. MACMILLAN : No ; but it is true to say that for getting wood they were in the habit of going further.
- Viscount HALDANE : They went up into the woods, and cut timber and brought it down in the form of logs.

Mr. MACMILLAN : I might also add that there is no timber in the north part. There is a zone beyond which no wood can grow. In the north part you get beyond the region where any pines will grow.

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Viscount HALDANE : How far up is the timber ?

The Lord
Chancellor.

Mr. MACMILLAN : I do not know, but I imagine that all this promontory in the north is beyond the woody part.

Viscount FINLAY : The element of wood seems to exclude any view of there being only 250 yards, if you were to bring that into account.

Mr. Macmillan.

Mr. MACMILLAN : We had not suggested 250 yards, of course.

Viscount FINLAY : In fact it is very difficult to suggest any fixed limit to apply all round the coast because the circumstances as regards wood may vary infinitely ?

Mr. MACMILLAN : No doubt.

Viscount FINLAY : By the way, are you going to add something on the question of indents of the sea ?

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Mr. Macmillan.

Mr. MACMILLAN : Oh, yes. I think I have reached the stage now where I should say a word about that. I am not going to attempt componere lites, to enter into a renewal of the scientific questions. After all, as I think Sir John put it, and as I think my Lord was good enough to put it, is not the real question this : Are the shores or banks of Lake Melville "coast" in the sense of the critical words ? One does not use the word "coast" of the shores of a lake at all. Is the true criterion not rather this ? This is the one I have kept before my eyes the whole time. It is a coast for the purpose of a cod fishery, and if the banks or shores of Lake Melville have not shores to which it is necessary to resort for the purpose of a cod fishery, then this inland lake, as I submit, is not part of the Coast of Labrador within the meaning of the words of grant.

The LORD CHANCELLOR : It is all one body of water communi-cating with the sea. True, it is rather narrower at one point than at another, but there is no interruption. It is not an inland lake in the ordinary sense of the word.

Mr. MACMILLAN : It is in truth, as I should submit, an

inland lake which happens to be so near the sea that it is very nearly at sea level, but not quite. Its outlet is The Narrows, which is really the continuation of the river.

Viscount FINLAY : I suppose the other side will put it against you that it is so near the sea that it has become part of it.

Mr. MACMILLAN : Yes, that is the converse way of putting it.

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Lord WARRINGTON : And it is affected by the tides.

Mr. MACMILLAN : Of course, lots of river expansions are affected by the tide.

Viscount HALDANE : It is partly salt water, is it not ?

Mr. MACMILLAN : I think a fair way to say it is this. The bottom half of it is salt, the heavier water where the tides comes up underneath ; but the top part is brackish or fresh.

Sir JOHN SIMON: It is more salt than the Baltie.

Viscount Finlay.

Mr. MACMILLAN : That may be an interesting fact. We have heard that statement before. But the question surely is, does it subserve the purpose of the grant ? Does it subserve the general governing consideration of the reservation of a margin of the sea for fishing ? The question is, is it a margin of the sea ? It is noticeable geographically and physiographically that the rivers here have the habit of expanding into lakes. If your Lordships look at the green map you will notice that the whole of the hinterland is composed of great lake surfaces which are really en route of the rivers. They expand into large expansions, and then resume their course. Those large expansions are taking place, why ? Because a river in the course of its journey has encountered a large flat basin. It expands into that and fills it all up, and then looks like a lake. Then it resumes its journey at the other end and proceeds on. You have that conformation. If you have river expansion nearer the sea you will then have much more appreciable tidal effect upon it. You have a tidal effect right up the St. Lawrence River as far as Three Rivers.

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Viscount Finlay.

Mr. Macmillan.

Viscount FINLAY : Where is that ?

Mr. MACMILLAN : Between Quebec and Montreal. The Lake of St. Peter is one of those expansions of the River St. Lawrence. The River St. Lawrence flows into Lake St. Peter, and then flows out of it. It comes to be a question whether this is not merely one of those cases where a river no doubt on approaching the sea has encountered a large basin over which it has spread itself, and the true outlet of the river is

Viscount Finlay.

the Narrows. But the question, which I think will be more important to your Lordships than mere physiography or any of the other sciences, is the question whether it is part of the sea-coast or not. I suggest the criterion for that is, is it essential for carrying on the open and free fishery.

Viscount FINLAY : Can one introduce that qualification ? Is it part of the sea-coast, you can say. But then if you immediately go on to qualify that by saying, "so far as it will be used for the purposes of

Mr. Macmillan.

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carrying on sea fishers," you get into a different region. I doubt whether you can introduce that there.

Mr. MACMILLAN : I pray it in aid for this reason. The actual language of the Proclamation is : "And to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador, and the adjacent islands, we have thought fit . . . to put all that coast. under the care and inspection of our Governor of Newfoundland." Therefore I naturally examine the words "open and free fishery of our subjects," that being the end with which the thing has been done. The governing consideration has been the open and free fishery.

Viscount FINLAY : What strikes me as a difficulty in the way of that view is this. What is given must be plain in its terms. It is no doubt with a view to controlling the fishery, but what is granted is the use of the coast, and therefore what fairly falls within the term "coast" is taken to be granted. No doubt the motive is in order to enable the fishery to be carried on, but I doubt whether you can cut down the grant here, there, and in a third place, by saying "Oh, this bit is not really wanted for fishery."

Mr. MACMILLAN : I submit the language rather aids me, because you may remember it is : "We have thought fit . . . to put all that coast . . . under the care and inspection of our Governor of Newfoundland" ; and "that coast," reading backwards, is the coast upon which "the open and free fishery of our subjects may be carried on."

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Mr. Macmillan.

Viscount FINLAY : Yes, upon the coast of Labrador, but, of course, "coast" is a great entity.

Mr. MACMILLAN: I am fully aware of that difficulty. That is the cardinal difficulty of the case., May I just conclude that part of the case by saying this. I start with "the open and free fishery" there contemplated. I submit that on the plain interpretation of the words used at page 154 that has whatever nothing to do with salmon or any other animals but cod. I say that with confidence. I agree in law with my

learned friend. The Common Law of England, as I understand, gives a right to fish in tidal waters.

Sir JOHN SIMON : An open and free right.

Mr. MACMILLAN: An open and free right—as my learned friend would like me to use the words—up to the limit of the tides. I am not at all sure that that is so in Scotland, but we are perhaps less enlightened there. In England, however, that is the law, and this no doubt was framed in the light of the Common Law of England. But that does not carry you very far. The question here is what was "the open and free fishery of our subjects" which was intended to be "extended to and carried on upon

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Sir John Simon.

the coast of Labrador." For the purpose I desire to make one or two references. First of all, I am interested to find that my learned friend is once more my best assistant, as he has been throughout in many of my arguments, in his written as contrasted with his oral arguments. If you will look at a sentence of his in his Counter-Case, page 91, I derive much sustenance from it. At the foot of that page he says : "In the island of Newfoundland itself the law regarded the interest of the cod-fishery only and forbade colonization, and the purpose of the Government was the development of the cod-fishery." That seems a very straight and definite statement. A person goes from an island where "the law regarded the interest of the cod-fishery only and forbade colonization, and the purpose of the Government was the development of the cod-fishery."

Mr. Macmillan.

The LORD CHANCELLOR : You ought perhaps to read the sentence at the top of the next page.

Mr. MACMILLAN : I was going on to read that. "Nor was any substantial interest taken in the interior land : yet no one would suggest that the Governor was not Governor of every part of the island." That is the argumentative part of it, but the statement of fact is that in the island of Newfoundland the law regarded the interest of the cod-fishery only.

Sir JOHN SIMON : I do not know whether my learned friend would think it right to read the passage at line 11 of the next page.

Mr. MACMILLAN : "Though the cod-fishery was always the main, it was never the exclusive object of the Government's interest."

Sir JOHN SIMON : I think it should be read as clearly as the first passage you read. "Moreover, as in Newfoundland, so on the Coast of Labrador, though the cod-fishery was always the

main, it was never the exclusive object of the Government's interest. There was not from the first any attempt to prevent fishermen from fishing for salmon in the rivers or from hunting or trapping for fur."

Mr. MACMILLAN : It is a little difficult to reconcile that with the statement that "in the island of Newfoundland itself the law regarded the interest of the cod-fishery only." But there may be an inconsistency in the pleading. However, I do not rest upon merely a pleading.

Viscount HALDANE : Of course, there is the pulp industry, and there are many other things now.

Mr. MACMILLAN : Of course, there is the pulp industry. But the point I desire to make, and which I can make quite shortly, is this.

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—
Mr. Macmillan.

15 Nov., 1926.

Mr. Macmillan.

Sir John Simon.

15 Nov., 1926.

—
Sir John Simon.

The Lord
Chancellor.

Throughout the whole of this business you find that the controlling matter is the observance of the Act of 1699. That was the great Act for encouraging the trade to Newfoundland, and it was that Act which the Governor of Newfoundland was exhorted to carry out. It was an Act which related to cod-fishing, and did not relate to salmon or any other such fishing. The trade to Newfoundland which was there sought to be encouraged was a fishery trade, and no other trade. It was the trade which was carried on by the ships that left the ports of England and went out there and really were such a nursery for our Navy. The Government of this country have always considered the trade of Newfoundland merely as a fishery. So say the Lords of Trade on the 10th May, 1790, Volume IV, page 1878. That was the Statute which was to control all that the Governor of Newfoundland did. It was a Statute which had no relation to salmon fishing, and which had only relation to cod fishing. My learned friend said that that Act did not apply to the coast of Labrador. It is true that the Governor of Newfoundland apparently had some doubt about it, but it is noteworthy that in point of fact this Act of 1699 expressly is referred to in the instructions to Guy Carleton in 1775. He is to regulate himself by it. In 1775, as you remember, the whole of the coast was put in the hands of Guy Carleton. After the 1774 Act, he was instructed to conform himself to the Act of 1699. And so was Graves, the Governor of Newfoundland, when he was in charge. I observe, moreover, that Hugh Palliser, the energetic Governor of Newfoundland, had no doubt in his mind that it did, or at least ought to apply. So says he at Volume III, page 1041, and it was because he was applying it with such rigour that he got into trouble with the old French sedentary fishermen on the north bank of the St. Lawrence. If you have all these things in mind, and have in mind that the cod do not resort to this lake, it seems plain, does it not, that the "open and free fishery" which is to be encouraged and extended is the cod fishery regulated by the Act of 1699; and for the purpose of carrying on that open and free fishery for which a coastal territory is confided to Newfoundland, it was unnecessary to include any part of this great inland sheet of water which possesses the attributes rather of a lake, which seems to be almost invariably called a lake in contradistinction to a sea, and which has not coasts in the sense of "sea-coast" at all

Sir JOHN SIMON : I do not think it was called a lake until 1820.

Mr. MACMILLAN : It was called a river at one stage.

Sir JOHN SIMON: I do not think it was called a lake before 1820.

Mr. MACMILLAN : If you say that I will accept it.

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Sir JOHN SIMON : The Melville in question was First Lord of the Admiralty in 1820.

Mr. MACMILLAN: In fact, it was only discovered by Newfoundland in 1821, but that would not affect the interpretation of it.

Sir JOHN SIMON : I quite agree.

Mr. MACMILLAN : I think it must be right if it is called after Lord Melville.

Sir JOHN SIMON : It was called after the second Lord Melville.

Mr. MACMILLAN : I think I have now really concluded all the topics on which I ought to address your Lordships. It is not necessary for me to say anything about Woody Island. There is always a Derby dog at a race, and that very small topic is one which I need not once more trot out across the course. My submission is that on the Woody Island point I succeed.

One has now come to the conclusion of this long debate. I need not rehearse again to your Lordships the submissions I respectfully make on behalf of the Dominion of Canada. They must be truly present to your Lordships' minds, and the importance of those considerations, I am sure, will be weighed by your Lordships along with the impressive arguments which my learned friend has submitted from the other side.

Sir John Simon at the end of his address spoke in happy phrases of the good friendship and neighbourliness existing between the Dominion of Canada and the Ancient Colony. My Lord, I, in turn, would like to express my appreciation of the spirit in which this controversy has been conducted. In the words of Shakespeare : " We may have striven mightily as adversaries do in law, but we are prepared to eat and drink as friends." In ancient Rome, my Lord, the God of Boundaries was honoured at the great annual festival of the Terminalia. In these days we are more prosaic, but the decision which your Lordships are going to pronounce will, I doubt not, be hereafter a memorable one in the annals of the British Empire.

My Lord, I have no Latin quotation to grace my concluding words, but there is consolation in the reflection that on neither of us can rest the curse pronounced on him who

removes his neighbour's landmarks, for no one can be guilty of removing boundaries whose existence your Lordships have yet to ascertain.

Sir JOHN SIMON : I do not know whether I might mention the case my learned friend quoted in reply. The well-known case of St. Katherine's Milling Co. has in fact since been before the board. If I might draw your Lordship's attention to it, there is the Judgment of Mr. Justice Duff in the case called *Attorney-General for Quebec v. Attorney-*

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General for Canada, in 1921, 1 Appeal Cases, page 401. There is an incidental reference to the Proclamation at page 410.

The LORD CHANCELLOR : Their Lordships will take time to consider the advice which they will tender to His Majesty on this Reference. In the meantime I desire to acknowledge on behalf of the Board the great care and research which has been used in preparing the case for the Board, and also our indebtedness to the able arguments of Counsel on both sides.

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In the Privy Council.

COUNCIL CHAMBER, WHITEHALL,
LONDON, S.W.1
Monday, 15th, November, 1926.

PRESENT:

THE RT. HON. THE LORD CHANCELLOR (VISCOUNT CAVE)
THE RT. HON. VISCOUNT HALDANE.
THE RT. HON. VISCOUNT FINLAY.
THE RT. HON. LORD SUMNER, and
THE RT. HON. LORD WARRINGTON

**IN THE MATTER OF THE BOUNDARY
BETWEEN THE DOMINION OF
CANADA AND THE COLONY OF
NEWFOUND- LAND IN THE
LABRADOR PENINSULA**

BETWEEN

THE DOMINION OF CANADA
(of the one part)

AND

THE COLONY OF NEWFOUNDLAND
(of the other part).

FOURTEENTH DAY

BURN & BERRIDGE,
Solicitors for the Colony of Newfoundland.
CHARLES RUSSELL & CO.,
Solicitors for the Colony of Canada.

In the Privy Council

Council Chambers, Whitehall,
London, S.W.1.

IN THE MATTER of the BOUNDARY between the DOMINION of CANADA and the COLONY of NEWFOUNDLAND in the LABRADOR PENINSULA

BETWEEN

THE DOMINION OF CANADA (of the one part)

AND

**THE COLONY OF NEWFOUNDLAND (of the other
part).**

REPORT OF THE LOARDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL,
DELIVERED THE 1ST MARCH, 1927.

Present at the Hearing:

THE LORD CHANCELLOR.
VISCOUNT HALDANE.
VISCOUNT FINLAY.
VISCOUNT SUMNER.
LORD WARRINGTON OF CLYFFE.

[*Delivered by* THE LORD
CHANCELLOR.]

The Government of the Dominion of Canada and the
Government of the Colony of Newfoundland having
petitioned His Majesty to refer to the Judicial Committee of
the Privy Council the following question: -

"What is the location and definition of the boundary as between Canada and
Newfoundland in the Labrador Peninsula under the Statutes, Orders in Council
and Proclamations?"

that question has been referred to this Board under the Statute 3 and 4 Will. IV, c. 41, s. 4, for its consideration and advice. The Board has

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accordingly heard evidence and arguments upon the matter, and has now arrived at a conclusion.

The Orders in Council and Proclamation upon which the decision must mainly depend were made in the year 1763, and it may seem strange that a question which affects (as it now appears) the jurisdiction over 5 more than 100,000 square miles of territory has remained so long undecided. But an explanation is to be found in the fact that the region in dispute consists mainly of dense forests and bleak and inhospitable table-lands, of which the greater part is uninhabited (except by a few Indian families) and was until recently unexplored, being visited only 10 occasionally by a few trappers in search of furs. The country has accordingly been regarded as having little or no value, and it is only in recent years, when the growing demand for -paper has attracted attention to the vast quantity of timber suitable for pulping, that a serious controversy as to its ownership has arisen. The question of boundary 15 was first raised in or about the year 1888, and was the subject of discussion at the Halifax Conference of 1892; but no solution was then reached, and it was not until the year 1903 that the Government of Canada, having been informed that the Government of Newfoundland had issued a licence for cutting timber in the neighbourhood of the 20 Hamilton River, raised the question in a serious form. Since that time the matter has been the subject of close and skilled investigation, and it now comes before this Board for decision. The issue so raised is, as Lord Hardwicke said in another connection, of a nature " worthy the judicature of a Roman Senate " (Penn v. Lord Baltimore, 1750, 1 Ves. 25 Sen. 444) ; but the duty of the Board is not to consider where the boundary in question might wisely and conveniently be drawn, but only to determine where, under the documents of title which have been brought to their notice, that boundary is actually to be found.

The capture of Quebec in the year 1759 was followed by other British successes; and by the Treaty of Paris, signed on the 10th February, 1763, the Most Christian King ceded to His Britannic Majesty in full right " Canada with all its dependencies as well as the island of Cape Breton and all the other islands and coasts (côtes) in the gulf and river of St. Lawrence and in general everything that depends on the said 35 countries, lands, islands and. coasts "—a description which included the whole of the great peninsula of Labrador, except such parts of it as had been already granted to the Hudson's Bay Company by their charter of 1670 and confirmed to them under the Treaty of Utrecht. British sovereignty over the whole of the vast region which had 40

belonged to or been claimed by France having been thus secured, it became the duty of the advisers of King George III to consider what government or governments should be established in the territories so acquired; and the Lords of Trade (a name then usually given to the Lords Commissioners for Trade and Plantations) first turned their attention to Labrador. On the 15th March, 1763, in reporting to the King upon the steps proper to be taken for the protection of the fisheries upon the coasts of Newfoundland and in the gulf and river of St. Lawrence, they observed that "upon the coast of Labrador it will be impossible to prevent the French continuing to have the full benefit

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of their former commerce with the Indians of that coast unless some British settlement should be made there, or sufficient cruisers stationed with instructions to the Commanders to seize all French ships coming within a certain distance of that coast." Shortly after receiving this report the Secretary of State (Lord Egremont) caused a letter to be written to the Hudson's Bay Company, whose territory extended to the entrance of Hudson Straits at the extreme northern end of the peninsula of Labrador, expressing his desire to know as soon as possible "what were the limits upon the coast between the Hudson's Bay Company and the coast of Labrador" ; and on the morning of the 24th March Sir William Baker, the Governor of the Company, waited on the Secretary of State and had an interview with him. Immediately after this interview, namely, on the 24th March, the Secretary of State wrote a letter to the Lords of Trade informing them that the King had "judged it proper that all the coasts of Labrador from the entrance of Hudson's Straits to the River of St. John's, which discharges itself into the sea nearly opposite the west end of the island of Anticosti, including that island with any other small islands on the said coast of Labrador, and also the islands of Madelaine in the gulf of St. Lawrence, should be included in the government of Newfoundland," and requesting them to prepare for the King's approval the draft of a new Commission for Captain Thomas Graves (who was then Governor of Newfoundland) to be "Governor of the island of Newfoundland and of the coast of Labrador with the several islands as above described," and revised Instructions for the Governor's guidance. Drafts were accordingly prepared, and on the 30th March both drafts were submitted to the King in Council and approved for issue in regular form. On the 25th April the revised Commission was duly sealed and the revised instructions signed by the King; and, armed with these documents, and also with separate Admiralty instructions issued to him as Commander in Chief of His Majesty's ships on the Newfoundland station, Captain Graves. sailed on the 2nd May to take up his duties.

By the Commission as passed under the Great Seal on the

25th April, 1763, in accordance with the Order in Council of the 30th March, King George III revoked the former Commission (dated the 29th May, 1761) by which Captain Graves had been appointed Governor and Commander-in-Chief of the island of Newfoundland and constituted and appointed him to be the King's " Governor and Commander-in-Chief in and over our said island of Newfoundland and all the coasts of Labrador from the entrance of Hudson's Straits to the river St. John's, which discharges itself into the sea nearly opposite the west end of the island of Anticosti, including that island with any other small islands on the said coast of Labrador and also the islands of Madelaines in the gulf of St. Lawrence, as also of all our forts and garrisons erected and established or that shall be erected and established in our said islands of Newfoundland, Anticosti and Madelaine, or on the coast of Labrador within the limits aforesaid," and required him to conform to the Instructions given or to be given to him. By the same document power was given to the Governor to administer the oath of allegiance to all persons who should at any time "pass into our said islands or shall be resident or abiding there or upon

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the coasts of Labrador within the limits aforesaid"; to constitute and appoint judges and justices of the peace for the administration of justice and keeping the peace and quiet of "the said islands and coasts," with power to hold Quarter Sessions and adjourn the same as might be convenient "for the peace and welfare of our subjects inhabiting 5 there"; and to erect and set apart court-houses for such justices of the peace and prisons for the keeping of offenders. The Commission required all officers, civil and military, "and all other inhabitants of our said islands and the coasts and territories of Labrador and islands adjacent thereto or dependent thereupon within the limits aforesaid," to be 10 obedient, aiding and assisting the Governor in the execution of the Commission.

By the Instructions to Captain Graves, as passed under the Royal Sign Manual in accordance with the same Order in Council, the Governor was directed (among other things) to use his best endeavours 15 to prevent aliens or strangers from fishing or drying fish " on any of the coasts or in any of the harbours of the islands and territories under your government " except as allowed by the 13th Article of the Treaty of Utrecht and the 5th Article of the Treaty of Paris; to visit all " the coasts and harbours of the said islands and territories under your 20 government " in order to inspect and examine the state of the fisheries carried on there; to endeavour to procure accurate maps of " the several harbours, bays and coasts of Newfoundland and the other islands and territories under your government," and in particular to cause a vessel under his command to " search and explore the great inlet commonly 25 known by the name of Davis' inlet, in order to

discover whether the same has or has not any passage to Hudson's Bay, or any other enclosed sea." The Instructions also required the Governor to enquire and report " whether any or what further establishment may be necessary to be made or forts erected in any part of Newfoundland or the other islands or territories under your government either for the protection of the fishery, the security of the country, or the establishing and carrying on a commerce with the Indians residing in or resorting to the said islands or inhabiting the coast of Labrador."

It is worthy of notice that in these two documents, which are of 35 primary importance for the purposes of this enquiry, no distinction was made between the island of Newfoundland and the coast of Labrador, both being included in identical terms in the territories placed under the care of the Governor, and the powers applicable to one being equally applicable to the other.

The business relating to Captain Graves's command having been thus disposed of, Lord Egremont turned his attention to the ceded territory in general, and by a letter dated the 5th May, 1763, requested the Lords of Trade to consider and report upon a number of questions relating to that territory, including the question what new governments 45 should be established and what form should be adopted for such new governments. In the same letter he called attention to the desirability of conciliating the Indians in the " Indian country " by protecting their persons and property and securing to them the rights and privileges which they had hitherto enjoyed. The Lords of Trade replied by an

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elaborate report dated the 8th June, 1763, in which, after setting out the advantages which, in consequence of the cession of French Canada, would accrue to the fishing and fur trades and the planting and settlement of North America, they recommended that three new governments should be erected under the names of Canada, East Florida and West Florida, with certain boundaries indicated in the report, and that certain lands outside those limits—described in the report as "all the lands lying about the Great Lakes and beyond the sources of the rivers which fall into the river St. Lawrence from the north"—should be left as an Indian country, open to trade, but not to grants or settlements. After some discussion as to the boundaries of the proposed new government of Canada (which it was decided to call Quebec), the King agreed to the proposals of the Lords of Trade, with the addition of a provision that the "interior country" to be reserved for the use of the Indians should be placed under the control of a military commander-in-chief. A draft Proclamation for giving effect to this decision was accordingly prepared by the Lords of Trade, and was approved for issue at a meeting of the Privy Council held on the 5th October.

By this Proclamation, which was dated the 7th October, 1763, the King declared that he had, with the advice of his Privy Council, granted letters patent under the Great Seal to erect within the countries and islands ceded and confirmed to him by the Treaty of Paris, four distinct and separate governments styled and called by the names of Quebec, East Florida, West Florida and Grenada. The limits and boundaries of these governments were defined by the Proclamation, those of the government of Quebec being described as follows :—

"Firstly.—The Government of Quebec, bounded on the Labrador Coast by the river St. John, and from thence by a line drawn from the head of that river, through the Lake St. John, to the south end of the Lake Nipissim; from whence the said line, crossing the river St. Lawrence, and the lake Champlain in forty-five degrees of north latitude, passes along the high lands which divide the rivers that empty them-selves into the said river St. Lawrence from those which fall into the sea; and also along the north coast of the Baye des Chaleurs, and the coast of the gulph of St. Lawrence to Cape Rosieres, and from thence crossing the mouth of the river St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid river St. John."

After defining the boundaries of the three other new governments, the Proclamation proceeded :—

"And to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador and the adjacent islands, we have thought fit, with the advice of our said Privy Council, to put all that coast, from the river St. John's to Hudson's Streights, together with the islands of Anticosti and the Madelaine and all other smaller islands lying upon the said coast, under the care and inspection of our Governor of Newfoundland."

The Proclamation also contained the following further declarations :—

"And whereas it is just and reasonable, and essential to our interest and the security of our colonies, that the several nations or tribes of Indians with whom we are connected and who live under our protection, should not be molested or disturbed

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in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them or any of them as their hunting grounds; we do therefore, with the advice of our Privy Council, declare it to be our Royal will and pleasure, that no Governor or Commander-in-Chief in any of our colonies of Quebec, East Florida, or West Florida, do presume upon any pretence whatever to grant warrants of survey, or pass any patents for lands beyond the bounds of their respective governments as described in their commissions; as also that no Governor or Commander-in-Chief in any of our other colonies or plantations in America do presume for the present, and until our further pleasure be known, to grant warrants of survey, or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west and northwest, or upon any lands whatever which, not having been ceded to or purchased by us as aforesaid, are reserved to the said Indians or any of them.

And we do further declare it to be our Royal will and pleasure, for the present as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians, all the land and territories not included within the limits of our said three new governments or within the limits of the territory granted to the Hudson's Bay Company; as also all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and northwest as aforesaid; and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our especial leave and licence for that purpose first obtained."

It is to be noted that this Proclamation, although sometimes referred to in the later documents as if it were the origin of the title of Newfoundland to its territory in Labrador, was in fact only declaratory of an annexation which had already been effected by the Commission approved by the Order in Council of the 30th March and issued to Captain Graves; and it is plain that the statement in the Proclamation that the coast of Labrador had been placed "under the care and inspection" of the Governor of Newfoundland was not intended to take anything from the rights conferred upon the Governor by his Commission. In the Commissions issued to the Governors of Newfoundland who succeeded Captain Graves, the language of the original Commission was retained unaltered.

The annexation to Newfoundland of the southern coast of Labrador bordering on the Gulf of St. Lawrence soon led to difficulties. It had been the policy of the British Government not to encourage planting and settling in Newfoundland or to establish a form of civil government there, but rather to treat the island as a base to which fishing vessels should proceed in each season and which they might use for drying and curing their fish and for other purposes connected with the fishing industry; and, in pursuance of that policy, it had been the practice to appoint as Governor a Naval officer who was also charged, under instructions issued by the Admiralty, with the protection of the free fishing rights of British subjects, such local administration as was required being entrusted to "Admirals of Harbours," who were in fact

masters of fishing vessels selected in the order of their arrival in the island harbours. Indeed, the Newfoundland of that day was sometimes spoken of as resembling a great ship provisioned and fitted out by the mother 50 country, and moored off the American continent for the convenience of English fishermen, and its government as a "floating government."

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When the Labrador Coast was added to Newfoundland, the same policy was applied to that coast; and Hugh Palliser, who in 1764 was appointed to succeed Captain Graves as Governor of Newfoundland and the coasts of Labrador, applied that policy to the added territory, including the northern shore of the gulf of St. Lawrence. He forbade all persons from Quebec or any of the Colonies to winter on the coasts of Labrador under his government; and ultimately, by a regulation dated the 28th August, 1765, he went so far as to order that no person whatever should resort to Labrador to fish or trade except ship fishers annually arriving from His Majesty's Dominions in Europe and carrying men engaged to return to those Dominions after the season was over. These restrictions led to serious complaints from the "sedentary fishermen," mostly of French nationality, who had long been settled on the north shore of the gulf of St. Lawrence and had been engaged in the seal and 15 salmon fishery there, and some of whom had received grants of land from the French Government; and early in the year 1766 these settlers and some Quebec traders presented memorials to the Lords of Trade praying to be reinstated in their rights and possessions. These memorials were taken into consideration, and after a considerable correspondence with Governor Palliser (against whom some of the complainants brought an action at law in London) the Lords of Trade, by reports dated the 24th June, 1772, and the 2nd March, 1773, recommended that the part of the coast of Labrador between the river St. John and the Ance des Espagnols or Baie Phillippeaux near the Straits of Belleisle—being the part of Labrador, with which the settlers and traders were concerned—should be taken from the government of Newfoundland and restored to its dependence on the government of Quebec. This proposal was apparently approved by the King's advisers, and on the 22nd April, 1773, an Order in Council was passed for the preparation of the instruments necessary for carrying it into effect; but it was ultimately determined that the matter should be dealt with by a provision to be inserted in the Bill for the Quebec Act of 1774, which was then under consideration. In the course of the preparation of that Bill the proposal made by the Lords of Trade was enlarged so as to provide for the transfer 35 to the Province of Quebec not only of the coast of Labrador from the river St. John to the Ance des Espagnols, but of the whole of the territory in Labrador which had been annexed to Newfoundland. The clauses of the Bill relating to

Newfoundland were strenuously opposed by Mr. Edmund Burke, Admiral Saunders and others, but were ultimately carried into law. Accordingly, by the British North America (Quebec) Act, 1774, after reciting (among other things) that by the arrangement made by the Proclamation of 1763 "certain parts of the territory of Canada where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said Province of Canada, under grants and concessions from the Government thereof were annexed to the Government of Newfoundland and thereby subjected to regulations inconsistent with the nature of such fisheries," it was enacted that the territories therein described and also "all such territories, islands and countries which have since the 10th February, 1763, been made part of the Government of Newfoundland" be annexed to

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and made part of the Province of Quebec as created and established by the Proclamation of the 7th October, 1763.

Soon after the passing of this Act it became apparent that in transferring to the Government of Quebec, not only the parts of Labrador where the "sedentary fishery" for seal, sea-cow and salmon had been carried on, but also those parts facing towards the Atlantic where the great cod and whale fisheries had flourished, a serious blunder had been committed. Complaints were made that the Government of Quebec paid no attention whatever to the cod fisheries on the Atlantic coast, and that "in truth there was no government whatsoever on that coast"; and, ultimately, by the Newfoundland Act, 1809, section 14, it was enacted:

"That such parts of the coast of Labrador from the river St. John to Hudson's Straights, and the said Island of Anticosti and all other smaller islands so annexed to the Government of Newfoundland by the said Proclamation of the seventh day of October One thousand seven hundred and sixty-three (except the said islands of Madelaine), shall be separated from the said Government of Lower Canada and be again re-annexed to the Government of Newfoundland; any thing in the said Act passed in the Thirty-first Year of His present Majesty's Reign, or any other Act, to the contrary notwithstanding."

It would seem that, in so restoring to Newfoundland the whole of the coast of Labrador originally annexed to that government, Parliament omitted to have regard to the position of the sedentary fishermen in the gulf of St. Lawrence which had given rise to so many complaints before the passing of the Act of 1774; and, as might have been expected, these complaints were soon renewed, with the result that in the year 1825 effect was at last given to the counsel tendered by the Lords of Trade in 1773. By the British North America (Seigniorial Rights) Act, 1825, S.9, after reciting that under and by virtue of the Acts of 1774 and 1.809 the coast of Labrador from the river St. John to Hudson's Straights and the islands above referred to were "

annexed to and form part of the Government of Newfoundland," and that it was expedient that "certain parts of the said coast of Labrador should be re-annexed to and form part of the province of Lower Canada," it was enacted :
—

"that so much of the said coast as lies to the westward of a line to be drawn 35 degrees north and south from the bay or harbour of Alice Sablon, inclusive, as far as the fifty-second degree of north latitude, with the island of Anticosti and all other islands adjacent to such part as last aforesaid of the coast of Labrador, shall be and the same are hereby re-annexed to and made a part of the said province of Lower Canada, and shall henceforward be subject to the laws of the said province and to no other."

The bay or harbour of Ance Sablon referred to in this section lies a little to the east of the Ance des Espagnols or Phillippeaux Bay.

The statute of 1825 is the last of the documents directly affecting the annexation to Newfoundland of a part of Labrador; but it may be here mentioned that by an Act passed in the year 1840 the provinces of Upper and Lower Canada, into which Quebec had been divided in the year 1791, were united to form one province of Canada; that, in the year

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1854 Newfoundland, in which a representative Government had been established in 1832, became a responsible self-governing Colony; that by the British North America Act, 1867, the Dominion of Canada was set up, Lower Canada becoming the Province of Quebec; and that by an Order in Council made in 1880 it was ordered and declared that :—

"From and after the first day of September 1880, all British territories and possessions in North America not already included within the Dominion of Canada, and all islands adjacent to any of such territories or possessions, shall (with the exception of the Colony of Newfoundland and its dependencies) become and be annexed to and form part of the said Dominion of Canada, and become and be subject to the laws for the time being in force in the said Dominion in so far as such laws may be applicable thereto."

Thus either by the statutes already cited or by the last-mentioned Order in Council, the Dominion of Canada, and particularly its Province of 15 Quebec, has become the next neighbour to the dependencies in Labrador of the Colony of Newfoundland, and the question of boundary falls to be determined as between the Dominion and the Colony.

At this point it is desirable to set out the contentions of the two parties. The contention of the Dominion is that the "coast" which by the Commission and Proclamation of 1763, as modified by the subsequent statutes, was annexed to Newfoundland, is

"a strip of maritime territory, extending from Cape Chidley at the entrance to

Hudson Strait, to the eastern headland of the bay or harbour of Blanc Sablon on the Strait of Bellisle, and comprising, in its depth inland, only so much of the land immediately abutting on the sea, above low-water mark, as was accessible and useful to the British fishermen annually resorting to that coast in the ordinary conduct of their fishing operations, for the purposes of 'the open and free fishery' extended to that coast by the Royal Proclamation and carried on there and for those purposes only" ;

but, recognising that it may be found impracticable to lay down such a line upon the land, Canada suggests "that the boundary be located as a line to be drawn from the eastern headland of the bay or harbour of Blanc Sablon on the south to Cape Chidley on the north at a distance from high-water mark on the seacoast of the peninsula of Labrador of one mile."

On the other hand, the contention of the Colony of Newfoundland is that the boundary should be "a line drawn due north from Ance Sablon as far as the fifty-second degree of North latitude, and should be traced from thence northwards to Cape Chidley along the crest of the watershed of the rivers flowing into the Atlantic Ocean."

In order to make the matter clear, a sketch-map illustrating the two claims is annexed. On this map the territory proposed by the Dominion as the land to be allotted to Newfoundland is indicated by a thick black line following the line of the seashore, while the boundary claimed by the Colony is marked by a broken line with a hatching over it.

It may be added that the Colony contends that, in the event of the Dominion establishing its main contention, the littoral strip of land

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which would then represent the territory annexed to Newfoundland should not cross the mouth of the great Hamilton Inlet as shown on the sketch-map, but should be carried along the northern shore of that inlet and round the head of Goose Bay and so back along the southern shore of the inlet to the seacoast.

Before examining these claims in detail, their Lordships think it desirable to formulate two propositions which appear to be common to both sides, and which indeed are beyond dispute. First, the word "coast" or "coasts" (for both are used in the documents) is a word of undefined meaning; and while it is usually to be understood in the sense which is given to it in Dr. Johnson's and other dictionaries, that is to say, as meaning "the edge or margin of the land next the sea" or "the shore," there are many examples of its being used to denote a considerable tract of land bounded by and looking towards the sea. In Murray's Oxford Dictionary (1891) it is 15 stated that the term "is familiarly applied in different regions to specific littoral districts, in India especially to the Coromandel coast"; and in the "Encyclopaedia Britannica (12th edition, 1922) that the word is sometimes applied to the

bank of a river or lake and sometimes to a region (cf., Gold Coast, Coromandel Coast), which may include the hinterland." In the Appendix of documents used in this inquiry a number of extracts are given from the Old and New Testaments and from well-known authors, in which the word "coast" is used as signifying a whole country, sometimes extending from the sea to the sources of the rivers running into it; and it is plain that the word is susceptible of more constructions than one, and that its precise meaning must depend on the subject and context.

The second proposition which appears to be beyond dispute in this case, is that the effect of the Orders in Council, Proclamation and Statutes which have to be construed, was to give to the Government of 30 Newfoundland, not mere rights of inspection and regulation exercisable upon a line of shore, but territory which became as much a part of the Colony as the island of Newfoundland itself, and which was capable of being defined by metes and bounds. This is evident from the form of the Commissions issued to Captain Graves and his successors, by which they 35 were appointed Governors of the island of Newfoundland and of the coast of Labrador in identical terms, and, indeed, in one and the same sentence, and in which reference is again and again made to the "territory" of Labrador comprised in the Commission. If there remained any doubt upon this point, it would be set at rest by the language of the statutes of 1774, 1809 and 1825, which refer to the territory in Labrador as being "annexed" first to the Government of Newfoundland and then to the Government of Quebec, and afterwards as being "re-annexed" to Newfoundland and partly "re-annexed" to Lower Canada. Stress was laid by Counsel for Canada on the declaration in the Proclamation of 1763 that the Labrador coast had been put under the "care and inspection" of the Government of Newfoundland; but this ambiguous expression cannot affect the plain inference to be drawn from the other documents cited that what was added to Newfoundland was a tract of land, having a boundary which

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can be located and defined. Indeed, this is assumed by the terms of reference to this Board, to which the parties have agreed.

In these circumstances the question to be determined is, not whether Newfoundland possesses territory upon the peninsula of Labrador, but what is the inland boundary of that territory. Is it to be defined by a line following the sinuosities of the shore at a distance of one mile or thereabouts from high-water mark, or is it to be found at the watershed of the rivers falling into the sea on that shore ? No third alternative has been suggested by any person.

When the material documents are considered from this point of view, it is evident that they contain much which supports the contention that the word "coast" is to be construed as including a considerable area of land. The Commissions issued to Captain Graves and his successors until 1774 refer to the "territories" of Labrador and to the planters or inhabitants resident there; and they authorise the Governor to appoint judges and justices of the peace for keeping the peace of the coasts and for holding Quarter Sessions at places convenient to the inhabitants. The instructions issued during the same period direct the Governor to erect upon the "coast" court houses for the trial of offenders and prisons for their detention; and it is plain that a criminal jurisdiction limited to a narrow coastal strip, so that offences committed beyond that limit would not be justiciable and offenders escaping from it could not be apprehended, would be very difficult to exercise. Further, the same instructions require the Governor to report, not only as to the protection of the fishery, but also as to the security of the country and the establishing and carrying on of commerce with the Indians inhabiting the coasts of Labrador; and the directions for protecting the timber from waste and for reporting as to the number of the inhabitants and of the furs taken by them and the improvement of the land, which apply to Labrador as well as to the Island, are appropriate to a government extending into the interior.

With regard to the limit in depth of the country which may be described as "coast," where that term is used in the wider sense, it is argued that the natural limit is to be found (in the absence of special circumstances) in the watershed which is the source of the rivers falling into the sea at that place ; and there is much to be said in favour of that view. It is consistent with the doctrine of international law by which the occupation of a seacoast carries with it a right to the whole territory drained by the rivers which empty their water into its line (see Hall's International Law, 5th edition, page 104; Westlake's International Law, Part 1, page 112; and

Lawrence's Principles of International Law, 3rd edition, page 151); and it is certainly difficult, in the absence of any specified boundary or of any special feature (such as a political frontier), which could be taken as a boundary, to suggest any point between the seashore and the watershed at which a line could be drawn.

Further, the use of the watershed or "height of land" as a boundary was undoubtedly familiar in British North America at the period in question, and it is shown as a boundary in many of the maps of that time. Thus, in some of the pre-annexation maps of French Canada which have been produced (Sanson 1656, Coronelli 1689, and Mortier

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1693), the watershed running westward from Cape Charles is shown as the boundary between Labrador (or Nouvelle Bretagne) and Nouvelle France. In Bowen's map of 1763 the southern boundary of Labrador appears to run along the fifty-second north parallel of latitude, roughly corresponding with the same line of watershed; and the same feature is reproduced in Rocque's map of about the same date. In Bellin's map of 1755 the "hauteur des terres" is indicated as the boundary between the possessions of the Hudson's Bay Company and the territory (then in French ownership) of Labrador or Nouvelle Bretagne; and the same observation applies to Gibson's map of 1763. In the Proclamation of 1763 the province of Quebec thereby constituted was defined as bounded on the south by "the high lands which divide the rivers that empty themselves into the said River St. Lawrence from those which flow into the sea." It may well be, therefore, that in allotting to Newfoundland the "coast" of Labrador the framers of the documents of 1763 had in mind as a boundary the "height of land" from which the rivers ran down to that shore—though without any accurate conception of the distance of that boundary from the sea.

The contention that the territory annexed to Newfoundland was intended to run back to the watershed is supported by the fact that in the Proclamation of 1763 the province of Quebec is described as bounded on the north by a line drawn from the head of the river St. John to the westward—a description which leads to the inference that the land on the east or left bank of the river St. John from its head to the sea had been already allotted to the government of Newfoundland. It has been ascertained by recent surveys that the river St. John here mentioned does not in fact rise near the watershed, but at some point between the height of land and the sea; but it is plain from contemporary maps that the sources of the river Romaine, which rises at the watershed and runs parallel with the St. John, had been taken for the sources of the latter river, and that the eastern boundary of the new Province of Quebec at this point was intended to follow the course of the river Romaine from the watershed to the sea.

A further argument for the adoption of the watershed as

the boundary of Newfoundland-Labrador is based on the position at that time of the Hudson's Bay Company. That Company had always claimed to be entitled under its charter to the land reaching to the watersheds from which the rivers ran into Ungava Bay, James Bay, and Hudson's Bay, and this claim was ultimately conceded by the British Government. Upon this footing the line of the watershed running from Cape Chidley southward was for a considerable distance the eastern boundary of the Hudson's Bay territory, and so that watershed might for that distance form a political as well as a natural boundary for the "coast" of Labrador.

But perhaps the strongest argument in favour of an extended construction of the grant to Newfoundland is to be found in the terms of the Act of 1825 above quoted. By that statute, after a recital that it was expedient that "certain parts of the said coasts of Labrador should be re-annexed to and form part of the province of Lower Canada," it was enacted that "so much of the said coast as lies to the westward of

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a line to be drawn due north and south from the bay or harbour of Ance Sablon inclusive as far as the fifty-second degree of north latitude" should be re-annexed to and made part of that province. Now a line drawn due north and south from the bay of Ance Sablon to the fifty-second degree of north latitude would penetrate the interior of the country for a distance of about 40 miles, and the land to the westward of such a line would in some of its parts cover a distance of over 100 miles from the sea; and this being so, it would seem that the language of this enactment, construed in its plain and natural meaning, points directly to the inference that the expression "coasts of Labrador" as used in 1763 and 1809 was understood by Parliament in 1825 to have comprised the interior of the country back to those limits. It is suggested in the case for the Dominion that the line to be drawn north and south as far as the fifty-second degree was merely the draftsman's device for effecting the division of the coastal strip of one mile at Ance Sablon, and was probably intended to serve as a "boundary monument, as it were," for that purpose; but, having regard to the terms of the statute, their Lordships find great difficulty in accepting that construction.

While these arguments make a formidable case in favour of the contention of Newfoundland, it is obvious that the Canadian claim presents great difficulties. A grant of "so much of the land immediately abutting on the sea above low-water mark as was accessible and useful to the British fishermen annually resorting to the coast," even if expressly made in those terms, would have been so vague and indefinite as to be hardly capable of taking effect without some further and clearer definition. Under a grant in those or similar terms, would regard be had only to the needs of the fishermen resorting to the coast at the date of the grant, or would it be necessary to take into account the possibly

greater needs of future generations of fishermen ? And in case of doubt, upon whom would the duty fall of determining what extent of land was "accessible and useful" to the fishermen? The case for Canada admits that it may be found impracticable to lay down such a line upon the land, and suggests that, in order that neither party may suffer by reason of this difficulty, the boundary should be drawn along the coast at a distance of one mile from high-water mark; but their Lordships cannot think that in adopting such a proposal they would be performing the duty cast upon them by the terms of reference to determine the boundary " under the Statutes, Orders in Council and Proclamations." In any case they could not regard the line proposed as accurately defining the territory accessible and useful for the fishery. Of the ribbon of land along the coast which it is proposed to concede to Newfoundland, a great part lies at the summit of high cliffs not accessible from the sea, and this part of the area proposed would be of no use to fishermen. On the other hand, in places where, owing to the existence of a sea beach or of an inlet, opportunities for landing are available, a limit of one mile would often be found insufficient. Dr. Wilfred T. Grenfell, who has an unequalled knowledge of the country to which he has rendered such devoted service, states that he knows of no building in Labrador 'which is more than 250 yards above high-water mark, and that all nets are spread and fish dried within that distance from the sea; but his report makes it clear

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that, for the purpose of obtaining wood for repairs, an allowance of three miles on the average or five miles as a maximum would not be excessive. This view is confirmed by Minutes of the Executive Council of Newfoundland, from which it appears that it has been the practice in leasing the right to cut timber in the island to reserve a margin of three (or sometimes five) miles from the sea in the interest of the fishermen. Further, there are places where a broad peninsula is joined to the main-land by a neck not more than two miles in width, and in each of these instances the one-mile strip would meet in the neck of the peninsula and cut off by an interposed barrier of Newfoundland soil all access to the Canadian enclave on the broader part of the promontory. These considerations seem to show that on any view of the construction of the grant an allowance of one mile from high-water mark would be inadequate, and that any allowance of that kind which might be made would certainly be arbitrary and would probably be insufficient. Indeed, it may be doubted whether any person, noting upon the sketch-map the configuration of the coast as proposed by Canada to be defined, would conceive that the Crown can have intended to annex to Newfoundland an area of shape and character, to refer to it as a "territory," and to establish a form of Government there; and if, as the Colony forcibly contends,

the shores of the great Hamilton Inlet must be treated as a part of the sea coast, so that the one-mile strip would pass up the northern shore of that inlet and round the head of Goose Bay and would then return along its southern shores, the fantastic character of the boundary proposed would become even more apparent. It is also to be observed that the effect of allotting to Newfoundland a continuous one-mile strip along the shore would be to seal off the hinterland up to the watershed from all contact with the shore, from which access to it would naturally be sought ; and it cannot be supposed that the statesmen of 1763 intended, while setting up a new form of Government in the interior, to put that Government entirely at the mercy as regards customs duties and otherwise of the Government of Newfoundland.

The principal arguments urged on behalf of the Dominion were based on the terms of the Proclamation of 1763, and particularly (1) on the declared purpose for which the government of the coast of Labrador, was entrusted to Newfoundland and (2) on the provision made in the Proclamation for the Indians residing in the hinterland. It is true that the actual annexation of part of Labrador to Newfoundland was effected by the Commission issued to Graves under the Order in Council of the 30th March, 1763, which was prior in date to the Proclamation of the 7th October; but the Proclamation is referred to in some of the statutes as a document of great importance, and no doubt regard must be had to its terms so far as they bear on the construction of the Commission of the same year.

As to the purpose of the grant, great stress was laid on the declaration in the Proclamation that "to the end that the open and free fishery of [the King's] subjects might be extended to and be carried on upon the coast of Labrador and the adjacent islands," that coast with the islands has been put under the "care and inspection" of the Governor of Newfoundland. Attention was also called to a number of passages in

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letters and reports of about the same date, in which the control of the fishermen and the prevention of encroachments by the French were referred to as the principal objects to be attained. Having regard to these expressions, it was said the grant of the " coast " must be held to include only so much of the land as was accessible and useful to the fishermen resorting to that coast in the ordinary conduct of their fishing operations.

There is no doubt that the fisheries supplied the principal, if not the only, motive for the annexation of the coast of Labrador to Newfoundland. Labrador, like Newfoundland, was to be a base for fishing and a nursery of British seamen. But although this was the principal motive of the annexation, it does not follow that it was the measure of the grant. The free right to fish off the shores of Labrador, and the right of British fishermen to land there for the purpose of curing and

drying their fish and repairing their ships and tackle, was already secured by statute or Order in Council; and the instructions regularly given to the Admiral in command of the Fleet provided for the protection of British subjects and the prevention of foreign intruders. What King George III and his advisers desired was that there should be a government on the coast, with power to administer justice, to imprison offenders, to encourage trade, and to erect forts for the purpose of defence; and it was for these purposes, which went beyond the regulation of the fisheries, that the coast of Labrador was subjected to the government of Newfoundland on the same terms as the island of Newfoundland itself.

Further, the fishing industry would not have been fully provided for by the grant of jurisdiction over a narrow strip of land near the shore. In addition to the cod and the whale which were caught off the Atlantic coast, and to the seal and sea-cow which were found mainly in the gulf of St. Lawrence, the salmon and salmon-trout had to be considered. The salmon fisheries are mentioned in the Instructions given to Captain Graves, and the special importance of those fisheries in the gulf of St. Lawrence, and in the rivers running into the gulf, is apparent from many references in the documents produced in evidence. The salmon fishery could only be fully protected by the grant of jurisdiction over the rivers and inland lakes as well as over the seashore; and from this point of view the reference to the fisheries tends rather to extend than to limit the grant.

But it was pointed out that the Proclamation of 1763 contained a declaration (quoted above) reserving under the sovereignty, protection and dominion of the King for the use of the Indians, the lands and territories not included within the limits of the three new governments of Quebec, East Florida and West Florida, or within the limits of the territory granted to the Hudson's Bay Company; and it was argued that this reservation applied to the territory occupied by the Indian tribes 45 who were settled between the Atlantic seaboard of Labrador and the watershed, and was evidence that this territory was not intended. to be included in the "coast" granted to Newfoundland. The Indians living in this territory consisted of Nascopies who lived north of the Hamilton River, and Montagnais who ranged to the south of that river ; and if it were established that those tribes were intended to be included

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among the Indians in whose favour the reservation was made, the argument would undoubtedly have much force. But it does not appear to their Lordships to be made out that the declaration in question referred to the lands occupied by these two tribes. The reservation is confined to lands occupied by "the said Indians"—that is to say, those who are referred to in the next preceding paragraph of the Proclamation as nations or tribes of Indians with whom the King was connected and who lived under his protection; and it appears from the report of the Lords of Trade, dated the 8th June, 1763, on which the Proclamation was based, that the Indians so described consisted of those tribes of the Six Nations who were settled round the great lakes or beyond the sources of the rivers which fell into the river St. Lawrence from the north. This description would not include Indians residing beyond the sources of the rivers which flow into the gulf of St. Lawrence or into the Atlantic. It is true that the exception of lands and territories included in the three new governments or the Hudson's Bay territory does not apply to lands in the "coast" annexed to Newfoundland; but if the Indians in the "coast" territory were not included in "the said Indians," it was unnecessary to except them. Nor would the lands occupied by these Indians fall within the general description contained in the Proclamation, as "lands and territories lying to the westward of the sources of the rivers which fall into the sea from the west and north-west." Further, the Nascopies and Montagnais, so far as they had taken any part in the Anglo-French conflict, had sided with France, and they were not connected with or under the protection of the King before the cession of the French territory to him. The instructions given to Governor Graves in the earlier part of the same year had required him to report as to the establishing or carrying-on of a commerce with the Indians "inhabiting the coast of Labrador"—a direction which was repeated in the Instructions to the Governors appointed immediately after the Proclamation, but which was omitted in those given after 1774 when Labrador was withdrawn from the government of Newfoundland; and such a direction would have been out of place if the Indians settled in Labrador had been altogether excluded from the Governor's jurisdiction. Upon the whole, their Lordships are of opinion that this argument, although well deserving of consideration, is not well founded.

It is said that the territory claimed by Newfoundland is of great extent, being about twice the size of Newfoundland itself; and no doubt this is the case. But the territory in question, when compared with the vast regions with which the British Government was dealing at the time, 40 was

relatively small in area and infinitesimal in value.

The colony of Newfoundland claimed to support its case founded on the documents by a reference to evidence showing that the annexation of the "coast" had from the year 1763 onwards been understood and treated by everyone as including the whole area, lying between the sea and the watershed or "height of land"; and there is no doubt that, where a document is ambiguous, evidence of a course of conduct which is sufficiently early and continuous may be taken into account as bearing upon the construction of the document. In this case the events of the sixty years next after the year 1763 have a special relevance, as the

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statute of 1809 (under which the present title of Newfoundland directly arises) and the statute of 1825 may be assumed to have been passed with knowledge of the public events which had occurred before their passing. It may be added that it was a term of the agreement between the two governments that in the discussion before this Board reference might be made to any evidence which (having regard to the nature of the case and the parties to it) the Board might think material and proper to be considered; and that throughout the discussion, which was conducted in the most friendly spirit, both parties were desirous that no available material which might possibly bear upon the question to be decided should be excluded from consideration.

In this connection the following facts, which were proved, appear to their Lordships to be material and proper to be considered :—

(1) In the year 1765 the *Unitas Fratrum*, a Society of Moravian missionaries, petitioned the Lords of Trade for the allotment to them of four tracts of land on the coast of Labrador containing together about 400,000 acres, with a view to the settlement there of missions to the Eskimos; and with the approval of the Lords of Trade missionaries were sent out by the Society and received the support and protection of Governor Palliser. At a meeting of the Privy Council held on the 3rd May, 1769, upon a report of the Lords of Trade recommending that a grant of land should be made to the Society, the King in Council authorised certain British subjects as trustees for the *Unitas Fratrum* to occupy and possess during His Majesty's pleasure 100,000 acres of land in such part of Eskimo Bay on the coast of Labrador as they should find most suitable to that purpose, and directed the Governor of Newfoundland to give them all reasonable assistance and support in forming their establishment. This grant was duly made, and early in the year 1774 two other similar grants to or in trust for the Society of 100,000 acres each were sanctioned by the Privy Council and committed to the Governor of Newfoundland to be carried out. In the year 1821, after the retransfer of Labrador to Newfoundland, a fourth grant of a like nature was made to the same Society.

The lands so granted to the Society of Unitas Fratrum penetrated into the country far beyond the suggested limit of one mile from high-water mark, and in the case of the most northerly of them to a distance of about 30 miles from the shore. It would appear that these grants, connected as they were with the Government of Newfoundland, were consistent only with the existence of a Newfoundland jurisdiction extending beyond the littoral strip ; and it is hard to believe that when, in the year 1809, Parliament restored to Newfoundland the coast of Labrador, it intended to divide the Moravian settlements then in existence, placing a small fraction of them (one mile in width) under the jurisdiction of the colony, and leaving the remainder to Canada.

(2) In the year 1774, John Agnew and others having petitioned for a grant of mines and minerals to be discovered on the "coast or country of Labrador" between the river St. Lawrence and Hudson's Straits, the King in Council approved of the grant to them of all such mines and minerals "upon such parts of the sea coasts of Labrador as lie within 60 miles of low-water mark of the open sea" between the river St. John

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and the southern limits of the territories granted to the Hudson's Bay Company. This grant appears to treat the "coasts" as extending far inland from the shore.

(3) The administration of justice in Labrador has throughout been under the direction of the government of Newfoundland. In the early years after the annexation it was found sufficient, as in the case of Newfoundland itself, to administer justice by the agency of Naval Surrogates exercising their functions on board their vessels or from some place close to the sea shore. But by the Act of 1809 (section 15) it was enacted that the Supreme Court of Judicature of Newfoundland might hold sittings for criminal and civil cases in the parts of the coast of Labrador by that Act re-annexed to Newfoundland; and by an Act of 1811 the institution of surrogate courts for that purpose was authorised. By an Act of 1824 the government of Newfoundland was empowered to institute a court of civil jurisdiction on the "coast" itself, and to appoint a judge of such court; and Judge Patterson, the Judge so appointed, exercised his functions at various places in the Labrador territory, including Rigolet, Kimmamish and North West Brook, places which would have been far outside his jurisdiction if it had been limited as suggested by the Dominion in this enquiry. In 1834 the Legislature of Newfoundland, which had then been established, abolished the court in Labrador on the ground of expense; but by an Act of the same Legislature passed in 1863 the Governor was empowered to institute "at the Labrador" a court of civil and criminal jurisdiction to be presided over by one judge to be appointed by the Governor in Council, and with an appeal to

the Supreme Court of Newfoundland, and to appoint such judge to be a collector of revenue on the Labrador. This court was duly set up and was presided over by Judges Sweetland, Pinsent and McNeil successively; and it continued to function until 1874, when it was discontinued. Each of these judges, in addition to performing his judicial duties, made reports from time to time to the Governor on a number of questions relating to the territory of Labrador, including roads, schools, churches and the fur trade. Among other incidents may be mentioned a visit of Judge Pinsent in 1873 to the North West river (about 100 miles from the open sea), when a Government official vaccinated a number of Montagnais Indians coming there for trade.

(4) Customs duties have been levied on behalf of the government of Newfoundland on goods disembarked in Labrador from about the year 1826 until the present time, and the right of the government to collect such duties has from time to time been affirmed by the Secretary of State. In the year 1864 Mr. Donald Smith (afterwards Lord Strathcona), who was in control of the Hudson's Bay Company's trading station at North West river, agreed after some demur to pay the duties on goods landed at that place; and such duties have since been regularly paid.

It may be added that a considerable trade in fur was carried on by traders settled at or near the seashore or on the shores of the Hamilton inlet with the Indians in the interior, and was fostered by the Governor of Newfoundland; but a trade of this character would easily reach beyond the territory of the traders themselves, and it has little bearing

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on the question of boundary. A similar observation applies to the trade carried on by the Indians with the King's Posts in the Province of Quebec, on which counsel for Canada relied. No evidence was given of any exercise of a Canadian jurisdiction in any part of the territory in dispute.

It seems desirable to add some observations on the maps, of which a large number (some of great antiquity and interest) were produced by the parties.* Maps published by private persons must, of course, be received with caution, as such persons depend to a large extent upon information obtained from general and unauthoritative sources; but a map issued or accepted by a public authority, and especially by an authority connected with one of the governments concerned, an inference may not improperly be drawn.

The maps issued before 1763 have no direct bearing on this case, although some of them have been already referred to as instances of the use of a watershed or "height of land" as the boundary of a territory; and the later maps down to the year 1842 are of little use, except that they clearly indicate the whole course of the river St. John as the eastern boundary between Quebec and Labrador. Arrowsmith's map of British North America (N 24), published in 1842, is interesting as

showing a line drawn from Ance Sablon northward to the fifty-second degree of north latitude and then along that parallel to the head of the St. John river as being at that point the boundary between Lower Canada and Labrador, thus indicating that the construction of section 9 of the Act of 1825 now put forward by Newfoundland was then adopted by the cartographer. The same indication of boundary appears, with greater authority, in the map (N 25) prepared in 1855 by T. C. Keeper, C.E., on the instructions of the government of Canada for the use of the Canadian Commissioners at the Paris Exhibition. Arrowsmith's map of 1857 (N 26) has some authority as having been ordered to be printed by the House of Commons for the purposes of the Hudson's Bay Committee of that year, and as having been selected as an exhibit in the Alaska Boundary case; and that map not only has a similar indication as to the southern boundary of Labrador, but assigns to that territory the exact boundaries now claimed for it on behalf of Newfoundland. The same observation applies to a map (N 31) prepared in 1871 by two Canadian officials (Russell and Mare) on the order of the Canadian Minister of Agriculture, and to a map (N 32a) compiled by Desbarats in 1873 and sent by Lord Dufferin as Governor-General of Canada to the British Ambassador in Washington as showing "the exact boundary on the coast and the assumed boundary in the interior." The despatch of the Governor-General transmitting this map enclosed a copy of the report of a Committee of the Privy Council approved by the Governor-General in Council on the 12th November, 1874, which was in the following terms :—

In a despatch dated 20th June, 1874, from Sir Edward Thornton to Your

*The maps contained in the collection put in by the Dominion are referred to by their numbers following a C, and those contained in the atlas put in by Newfoundland by their numbers following an N.

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Excellency, inclosing a communication from the Hon. Hamilton Fish, Secretary of State at Washington, desiring to be informed whether any part of Labrador is separated from the jurisdiction of either the Dominion of Canada or that of Newfoundland.

The Honourable the secretary of State to whom this despatch, with enclosures has been referred, reports that the boundary-line between the Dominion of Canada and Labrador is line drawn due north and south from the Bay or Harbor of Ance au Blanc Sablon, near the Straits of Belle Isle, as far as the 52nd degree of north latitude; that Labrador extends eastward and northward from that point to Hudson's Straits.

That the division-line in the interior separating Labrador from the Dominion of Canada has only been defined as far north as the 52nd degree of north latitude, but it has been assumed that the boundary-line in the interior would have taken the direction laid down on the accompanying map, which follows the height of land.

That Labrador, with the islands adjacent thereto, is annexed to Newfoundland, and under the Government of that Island.

Attached to the Report of the Secretary of State are extracts from the Imperial Statute bearing on the question, and a map showing the exact boundary on the coast and the assumed boundary in the interior.

The Committee recommend that a copy of this Minute with map and extracts

from the Imperial Statute, above alluded to, be transmitted to Sir Edward Thornton for the information of the United States Government.

The terms of this report appear to their Lordships to be significant.

The maps subsequent to 1874 are not less interesting. The boundary now claimed by Newfoundland is assigned to Labrador by a map (N 35) prepared by Johnston in 1878, signed by the Surveyor-General of Canada and published by order of the Ministry of the Interior; in a map (C 36 and N 36) prepared by Johnston and Edmunds in 1882 and issued by the Canadian Department of Railways; and in a map (N 38) compiled by two French-Canadians (Tache and Genest) and issued by the 30 Department of Railways of Quebec in 1883. In a map (C 37 and N 39) prepared by J. Johnston by authority of the Minister of the Interior and issued by the Department of the Interior at Ottawa in July, 1890, the height of land now claimed by Newfoundland as a boundary is shown by a red line; and though it is not clear on that map whether it is intended to be taken as the boundary between Canada and the Dependency of Newfoundland, no other boundary is indicated. This observation does not apply to a map (N 41) issued by the Department of Railways and Canals of Canada in 1891 and signed by the Chief Engineer of Government Railways, for in that map Labrador is clearly shown as bounded by the height of land; nor to a map (N 43) published by the Map and School Supply Company of Canada, Limited, and registered with the Department of Agriculture, in which "Labrador (Dependency of Newfoundland)" is depicted in bold colours as containing (subject to a slight difference to be mentioned hereafter) the precise area for which Newfoundland is contending. In the important map (N 42) prepared by Mr. A. P. Low, an official of the Canadian Geographical Survey, as the result of a careful survey of the country and issued by that Department in 1896, the approximate height of land is shown, though not as a boundary; but the line drawn due north from Alice Sablon to the fifty- second parallel is shown and marked "boundary line." No other boundary of Labrador is indicated in that map. It is not until the year

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1900 that the boundary now claimed by Canada is found upon any map; but it then appears upon a map (C 39) issued by the Department of the Interior, where a dotted line is drawn along the line of the shore and is marked " boundary undefined." It is also found in later maps; but as these were published after the dispute had arisen, no importance attaches to them.

The maps here referred to, even when issued or accepted by departments of the Canadian Government, cannot be treated as admissions binding on that Government; for even if such an admission could be effectively made, the departments concerned are not shown to have had any authority to make it. But the fact that throughout a long series of years, and until the present dispute arose, all the maps issued in Canada either supported or were consistent with the claim now put forward by Newfoundland, is of some value as showing the construction put upon the Orders in Council and statutes by persons of authority and by the general public in the Dominion.

Upon the whole, their Lordships, having considered the facts and arguments put before them with the care which is necessary in a matter of such grave importance, have come to the conclusion that the claim of the Colony of Newfoundland is in substance made out; but there are two points of detail to be mentioned.

First, in many of the maps issued after the year 1882, and particularly in the official maps above mentioned and numbered N 38, 41 and 43, and in maps issued by W. and A. K. Johnston (N 37) and by Stanford (N 40), the southern boundary of Labrador is shown as running, not from the point where the north and south line drawn from Ance Sablon meets the fifty-second parallel, and in a straight line along that parallel, but from a point where that north and south line would reach the watershed north of the fifty-second parallel and along that watershed as far as the head of the Romaine river. A boundary so drawn along the watershed would no doubt be more convenient than one which follows the arbitrary line of the fifty-second parallel, and would have the advantage of throwing into Canada the whole course of the rivers which run into the gulf of St. Lawrence. But their Lordships would not feel justified in adopting a boundary which, however convenient in itself, is not warranted by the terms of the statute of 1825; and they are of opinion that the line must be drawn along the parallel as far as the supposed river of St. Johns, namely, the Romaine river. According to the claim of the Colony as illustrated by the sketch-map, the line would be continued westward across the river until it met the height of land; but there is no warrant in the statute of

1825 for such a continuation of the line, the effect of which would be to give to Newfoundland a part of the original province of Quebec as constituted under the Proclamation of 1763. The line should follow the parallel only until it meets the river, and should then turn north to the watershed.

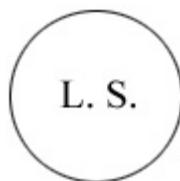
Secondly, a small island called Woody Island, lying opposite to the bay of Ance Sablon, is claimed both by Canada and by Newfoundland. In their Lordships' opinion the transfer to Canada by the Act of 1825 of so much of the coast as lies to the westward of a line drawn due north and

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south from the bay or harbour of Ance Sablon " inclusive," with the islands adjacent to that part of the coast, carries with it Woody island, which accordingly belongs to the Dominion.

For the above reasons their Lordships are of opinion that, according to the true construction of the Statutes, Orders in Council and Proclamations referred to in the Order of Reference, the boundary between Canada and Newfoundland in the Labrador Peninsula is a line drawn due north from the eastern boundary of the bay or harbour of Ance Sablon as far as the fifty-second degree of north latitude, and from thence westward along that parallel until it reaches the Romaine river, and then northward along the left or east bank of that river and its head waters to their source and from thence due north to the crest of the watershed or height of land there, and from thence westward and northward along the crest of the watershed of the rivers flowing into the Atlantic Ocean until it reaches Cape Chidley; and they will humbly advise His Majesty accordingly.

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AT THE COURT AT BUCKINGHAM PALACE.

THE 22ND DAY OF MARCH, 1927.

PRESENT:

THE KING'S MOST EXCELLENT MAJESTY

LORD PRIVY SEAL

SECRETARY SIR SAMUEL HOARE

MASTER OF THE HORSE

LT.-COL. WILFRID ASHLEY.

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 1st day of March 1927 in the words following, viz. :—

" WHEREAS by virtue of Your Majesty's Order in Council of the 24th day of July 1925 there was referred unto this Committee for their hearing and consideration the question, viz. :—What is the location and definition of the boundary as between Canada and Newfoundland in the Labrador Peninsula under the Statutes, Orders in Council and Proclamations ?"

"THE LORDS OF THE COMMITTEE in obedience to His Majesty's said Order in Council have taken the said question into consideration and having heard Counsel on behalf of the Government of the Dominion of Canada and the Government of the Colony of Newfoundland Their Lordships do this day agree humbly to report to Your Majesty as their opinion that according to the true construction of the Statutes, Orders in Council and Proclamations referred to in the Order of Reference, the boundary between Canada and Newfoundland in the Labrador Peninsula is a line drawn due north from the eastern boundary of the bay or harbour of Ance Sablon as far as the, fifty-second degree of north latitude, and from thence westward along that parallel until it reaches the Romaine river, and then northward along the left or east bank of that river and its head waters to their source and from thence due north to the crest of the watershed or height of land there, and from thence westward and northward along the crest of the watershed of the rivers flowing into the Atlantic Ocean until it reaches Cape Chidley."

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof all persons whom it may concern are to take notice and govern themselves accordingly.

M. P. A. HANKEY.